



COUNTY OF SONOMA

575 ADMINISTRATION
DRIVE, ROOM 102A
SANTA ROSA, CA 95403

SUMMARY REPORT

Agenda Date: 2/25/2025

To: Sonoma County Board of Supervisors

Department or Agency Name(s): Permit Sonoma

Staff Name and Phone Number: Tennis Wick (707) 565-1925, Scott Orr (707) 565-1754

Vote Requirement: Majority

Supervisorial District(s): Countywide

Title:

10:05 A.M. Code Updates for Land Use Public Hearings and Procedures- Creation of Zoning Administrator and Additional Changes

Recommended Action:

Hold a public hearing. After closing the public hearing, take the following actions:

- A) Adopt a Resolution introducing, reading the title, and waiving further reading of an ordinance titled "An ordinance of the Board of Supervisors of the County of Sonoma, State of California, amending Sonoma County Code Chapters 2, 3, 13, 23A, 25 and 25C to establish a County Zoning Administrator; allocate land use hearing authority and related duties to the Zoning Administrator and Planning Commission, and eliminate redundant hearing bodies; update references to hearing bodies and make minor related changes to land use procedures; and determining that CEQA does not apply to the action and in the alternative that the action is CEQA exempt"
- B) Adopt an Ordinance amending Sonoma County Code Chapter 26 (Zoning regulations) to Implement Zoning Administrator hearings and processes; allocate hearing duties between the Planning Commission and Zoning Administrator; modify provisions governing expiration of approved use permits; add a procedure to expire inactive permit applications; and clarify and modify appeals and other land use processes and procedures; and finding that the action is not a CEQA project per CEQA Guidelines § 15378(b)(5) and in the alternative is exempt from CEQA per CEQA Guidelines § 15061(b)(3)
- C) Adopt an Ordinance amending Sonoma County Code Chapter 26C (Coastal Zoning), the Local Coastal Program (LCP) Implementation Plan, to implement Zoning Administrator hearings and processes; allocate hearing duties between the Planning Commission and Zoning Administrator; eliminate redundant hearing bodies; modify provisions governing expiration of approved use permits; and clarify and modify other land use processes and procedures; and finding that the amendment to the LCP is exempt from CEQA per CEQA Guidelines § 15265, and further that the entire action is not a CEQA project per Guidelines § 15378(b)(5) and in the alternative is CEQA exempt per Guidelines § 15061(b)(3)
- D) Adopt a Resolution authorizing submittal of amendments to Sonoma County Code Chapter 26C, the Local Coastal Program Implementation Plan, to the California Coastal Commission and finding that the

action is exempt from CEQA per CEQA Guidelines § 15265

Executive Summary:

A formal management review of Permit Sonoma was completed in January 2023 and a follow-up implementation plan was approved by the Board of Supervisors as part of the Fiscal Year 23-24 budget.

This item would update Sonoma County regulations pertaining to the public hearing process and related administrative procedures. The most significant change in procedure is the creation of a Zoning Administrator public hearing process. The authority of the Board of Zoning Adjustments (BZA) and the Project Review and Advisory Committee (PRAC) would be shifted to the Planning Commission (PC) for major items and Zoning Administrator for minor items, and the BZA and PRAC would be eliminated. Additionally, the proposed code changes include clarifications on appeal processes in Chapters 26 and 26C; extending the standard permit term from 2 years to 4 years for applicants in the Coastal Zone to meet their project Conditions of Approval; removing the standard 2-year period for permit expiration inland; and codifying a procedure to close out inactive planning applications.

The proposed changes were shared with development community stakeholders in the Management Review Process Improvement Team and the reception has been positive. There is an appreciation of removing barriers to successfully developing projects, especially at the end of the permitting process.

Each set of proposed code amendments would be adopted by the Board of Supervisors as ordinances. The ordinance amending Chapters 2, 3, 13, 23A, 25, and 25C and the ordinance amending Chapter 26 would not be operative until five months after their effective date. The ordinance for Chapter 26C specifies that its operative date will be the date of Coastal Commission approval if the Coastal Commission has not approved the amendments by the otherwise applicable operative date. Ordinances are normally effective and operative on the 31st day after the ordinance is adopted or finally passed on second reading. The later operative date allows adequate time to prepare for implementation.

Planning Commission Recommendation

On November 7, 2024, the Planning Commission reviewed and recommended amendments to Chapters 26 and 26C, which pertain to zoning regulations. The Planning Commission provided advisory comments on Chapter 2 (Administration), suggesting that permits for telecommunications facilities over 40 feet and cannabis use over 10,000 square feet should be reviewed by the Planning Commission instead of the Zoning Administrator. The Planning Commission also recommended that event thresholds be considered cumulatively rather than incrementally and that peak-hour trips be used as a project evaluation metric instead of average daily trips.

Discussion:

Zoning Administrator

The proposed code changes facilitate an increase in capacity for permit processing by creating a streamlined path for minor and noncontroversial projects while at the same time allowing the Planning Commission to

focus solely on more complex discretionary projects.

Staff looked at several examples of a Zoning Administrator (ZA) as part of developing the proposed code changes. These examples included Santa Rosa, Contra Costa County, and Marin County as similar jurisdictions that have a Zoning Administrator process. There are two approaches to deciding what project types would be appropriate for a ZA: threshold/criteria-based or permit type. Jurisdictions using a threshold or criteria-based approach set parameters for when a project is of a certain scale that it is appropriate for the ZA and, if the thresholds are exceeded, when it should go directly to the Planning Commission. Alternatively, jurisdictions using a permit type-based approach use their land use tables to label every use as either requiring a Minor Use Permit (MUP) or Conditional Use Permit (CUP). As a comparison, the Sonoma County land use tables display the use permit requirement as just the letter "C"-denoting a Conditional Use Permit is required.

Of the two approaches, staff recommends the criteria-based approach. The criteria-based approach does a better job of filtering out projects based on scale and potential physical impacts. For example, an agricultural processing operation that allows for full day visitor-serving uses and tasting has a greater likelihood of inducing impacts on a community compared to zero, or limited, public hours. With a criteria-based approach not only would the Department make the permit hearing path easier for smaller scale projects that would fit into existing communities more straightforward, thus encouraging it over large scale developments, but it is significantly less staff intensive for long term code maintenance and implementation than the MUP/CUP approach. Re-categorizing each use in every zoning district as either a MUP or CUP would have to be undertaken regularly to better align with industry standards and changes in technology or social practices. Categorizing as MUP/CUP is also an additional level of discretion as to where the cut off should be, what the exceptions might be (if any), and code maintenance would be burdensome as each individual district and zone would need individual attention for the same use.

After identifying the criteria-based approach, staff started the process of determining which criteria would best inform the correct path for a permit to follow. Different criteria were considered for thresholds including the number of visitor-serving uses, trips, tree removal, hours of operation, groundwater availability area, and others. Ultimately, staff determined that the best indicator of project size is the Average Daily Trips (ADT). The use of ADT is a singular number that is easy to understand and directly informs on the potential for impact of many of the other criteria listed above.

As a starting point, staff selected the number of 25 average daily trips as that is the threshold used by Sonoma County Public Infrastructure to determine whether a project requires a traffic study. Staff surveyed the 2023 hearing calendar for the Planning Commission and Board of Zoning Adjustments to estimate what the impact would have been if this new approach had been implemented a year ago using 25 ADT as the threshold. Staff found that 6 of the 9 Board of Zoning Adjustment items would have instead gone to the Zoning Administrator. These items include a use permit modification for an existing winery (14 ADT), a use permit for 7 annual events at a lavender farm (4 ADT), a front yard fence variance (0 ADT), two separate telecommunications tower use permits (0 ADT each), and the legalization of a 6-foot tall fence (0 ADT). The three projects that would have been directed to the Planning Commission with the 25 ADT threshold include the Guerneville Resort project (749+ ADT), a use permit modification for increasing agricultural processing capacity from 250,000 cases to 2.5 million cases (62 ADT), and a new winery on River Road (392 ADT). The Planning Commission had 28 items and none of those items would have gone to the Zoning Administrator. In Summary, there would have been a reduction in hearing items by approximately 15% overall and 67% from items

destined to go to the Board of Zoning Adjustments.

Public hearings conducted by the Zoning Administrator will be required to comply with the same public notice and public participation requirements for quasi-adjudicative land use hearings that currently apply to those hearings when conducted by the BZA, PRAC, Planning Commission, and the Board of Supervisors. As a single-member hearing body a Zoning Administrator is not a “legislative body” under the Brown Act, and therefore not subject to Brown Act requirements, including restrictions on when meetings may be held via teleconference (such as Zoom). However, the intent is for the Zoning Administrator hearings to be in person.

Staff has discussed the proposed Zoning Administrator changes with the North Central Coast District Office of the California Coastal Commission and no preliminary concerns were raised. Changes to Chapter 26C would require California Coastal Commission certification before taking effect.

Project Review and Advisory Committee

The Project Review and Advisory Committee (PRAC) serves as a technical advisory authority for projects governed by the Subdivision Map Act such as minor subdivisions (4 lots or less), major subdivisions, lot line adjustments, and certificates of modification to existing maps. PRAC is a Brown Act decision-making body comprised of technical experts from Permit Sonoma, Sonoma County Public Infrastructure, and Agriculture / Weights & Measures. PRAC currently has decision-making authority on minor projects and advisory authority for major projects. The existence of PRAC creates internal issues due to Brown Act rules that prevent a majority of the voting members from participating in topics pertaining to their authority, which in this case, are the permits that many of the individuals review during the regular course of business. For example, a project planner could not hold a meeting with the county surveyor, traffic engineer, sewer engineer, and health specialist or it would create a Brown Act violation, even though all are county employees that are required to comment on a project, absent a publicly noticed Brown Act meeting of PRAC for these types of routine staff communication. This is not practical. While these rules have been followed by county staff, it is not an efficient use of resources as it results in project delays with no positive trade-off for either applicants or the public.

Additionally, one of the original benefits of PRAC was to provide a setting for the efficient exchange of and discussion about complex project information, which in the past included large scale paper maps and plans reviewed and discussed at in person meetings. This information can now be easily transmitted electronically, through email and electronic permitting systems making efficient communication less dependent on in person meetings. The recommended code changes to create a Zoning Administrator would remove the PRAC hearing body from county code and shift decision-making authority to the Zoning Administrator. There would be no substantive change to the advisory comments provided by county technical experts to the Planning Commission as this would occur as part of normal permit processing, instead of during normal permit processing, by certain staff, and then again at PRAC, by PRAC members.

Supporting Chapters not under Planning Commission Authority

References to the Board of Zoning Adjustments and/or Project Review and Advisory Committee exist in Chapter 2 (Administration), Chapter 3 (Airport), Chapter 13 (Fire Safety Ordinance), Chapter 23A (Environmental Quality Act of 1970 Implementation), Chapter 25 (Subdivisions), and Chapter 25C (School Facilities Fee/Dedication Ordinance). The proposed amendments to Chapter 2 establish the office of Zoning Administrator pursuant to state law and provide the jurisdictional foundation to enable the Zoning

Administrator to function as a hearing body under various chapters of the County Code. Proposed amendments in Chapter 2 modify the existing text regarding commissioner service rotations on the Planning Commission as an entity and the BZA. The proposed edits in these chapters provide consistency with the changes in Chapter 26 (Zoning) and 26A (Surface Mining) for the purposes of Zoning Administrator creation. The draft amendments to Chapter 2 would continue with a similar appointments and membership structure as is currently used for the Planning Commission/BZA, where two commissioners are appointed for each supervisorial district. Instead of rotating between the Planning Commission and BZA, however, commissioners would serve rotating terms as active and alternate commissioner, retaining flexibility but continuing the existing rule that for any public hearing, only one commissioner from each district may participate at a time. The amendments to the remaining chapters not within Planning Commission's recommendation authority primarily replace PRAC and BZA as hearing bodies with the Zoning Administrator or Planning Commission, depending on the item, and are intended to make the minimum changes necessary to effectuate the transition and maintain consistency in key processes or procedures referenced in multiple code chapters.

Clarifying Appeals Processes and Hearing Waivers

The proposed clarification regarding appeals is intended to more effectively communicate the decisions that can be appealed. Section 26-92-040 "Hearings-Appeals of administrative decisions-Questions on permitted uses." is titled misleadingly and implies all administrative decisions made by the director (the department) are appealable while the content of the section outlines discretionary appeals and the hearing waiver process. As proposed, the language of this section, and similar language in Sec. 26C-331, clarifies that a discretionary order, requirement, permit, or determination made by the planning director is appealable. With the creation of a Zoning Administrator, the hearing waiver process will also be removed from the county code and the process retired. Projects that would previously have had the public hearing waived will instead go to a noticed public hearing before the Zoning Administrator. With the end of the hearing waiver process there will no longer be a hearing waiver calendar on the Planning Commission agendas.

Timelines for Utilizing Approved Permits

The proposed change would extend the time allowed for approved permits to be "used," or begin operating under the permit. The term "used" in this context means that the applicant has acted upon their permit, meeting the conditions of approval, and receiving final clearances from Permit Sonoma. Permits currently allow for a 2-year period to meet Conditions of Approval with a one-time extension of an additional year for a maximum of 3 years. The proposed changes would remove this 3-year maximum, and the entitlements would remain unless the project is subject to the permit revocation process. This change is intended to encourage beneficial use of property with the realities of modern development, which is increasingly arduous, as increasing permit complexity necessitates additional requirements while at the same time financing projects has become more complicated. Additionally, approved projects have received multiple blanket extensions as a result of the wildfires of 2017, 2019, 2020, and COVID-19 pandemic. Removal of the standard period of time to meet Conditions of Approval for permits outside of the Coastal zone would not preclude the Planning Commission or Board of Supervisors from conditioning timelines into individual permits. These extensions were critical to the success of the development community in weathering periods of heightened uncertainty but were a substantial administrative burden. In the Coastal Zone, the amendments would increase the time allowed for permit use from a maximum of 3 years to a maximum of 5 years for standalone projects.

Expiration of Inactive Permit Applications

County code is silent on the expiration of inactive land use entitlement applications. Inactive, in this context, means that no significant forward progress has been made on the application and that it cannot be moved forward by county staff without input from the applicant. These projects can linger for years, often due to ownership transfers or financial uncertainty, and create an administrative burden for the department as it works to bring projects forward for decision. Ideally when an applicant no longer wishes to proceed with a permit, they submit a request to withdraw their application and it can then be closed out; however, when the applicant is no longer involved with the project, this may never occur, and the project will be stuck in queue indefinitely. The proposed amendment would allow for the expiration of projects that remain incomplete and inactive for 6 months, unpaid for a year, or are otherwise unresponsive for a continuous period of a year. At such time when an applicant wishes to restart their project, they would submit for a new application including current fees and payment for the remaining unpaid balance, if any, of their expired permit.

Chapter 26C-Process and Scope of Amendments

The amendments to Chapter 26C are intended to make changes only as needed to implement the shift in hearing bodies from PRAC and the BZA to the Zoning Administrator and Planning Commission, and to make only minimum additional changes to maintain some consistency with processes and procedures that apply outside the coastal zone. Acknowledging that Chapter 26C is in need of other updates, a larger update is beyond the scope of this effort and will be addressed in the upcoming comprehensive update to implement the newly certified Local Coastal Plan.

As noted, the Coastal Commission must approve the amendments to Chapter 26C before the ordinance amending Chapter 26C can take effect. Depending on the timing and substance of Coastal Commission review, the ordinance amending Chapter 26C may not become operative until after the two related ordinances.

Implementation

The ordinance amending Chapters 2, 3, 13, 23A, 25, and 25C and the ordinance amending Chapter 26 provide for an operative date five months after the ordinances' effective dates. The ordinance for Chapter 26C specifies that its operative date will be the same as the related ordinances, or the date of Coastal Commission approval if the Coastal Commission has not approved the amendments by the otherwise applicable operative date. Ordinances are normally effective on the 31st day after the ordinance is adopted or finally passed on second reading. The later operative date allows adequate time to prepare for implementation, including the development of Zoning Administrator bylaws, amending Planning Agency bylaws, updating information for the public, and working with the California Coastal Commission on certifying the updates to the Coastal Zoning Code in Chapter 26C.

Environmental Determination

Permit Sonoma determined that collectively, adoption of the ordinances amending Chapters 2, 3, 13, 23A, 25, 25C, 26 and 26C is not a project under CEQA, pursuant to Public Resources Code § 21065 and CEQA Guidelines § 15378(b)(5). Under CEQA a "project" is "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (Pub. Resources Code, § 21065). "Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment" are expressly excluded from the definition of "project." (CEQA

Guidelines, § 15378, subd. (b)(5)).

The Code amendments do not change zoning, permitted uses, density or intensity, or development standards for any parcel in the county. They do not change any discretionary approvals to non-discretionary approvals. As discussed above, the amendments make organizational changes to hearing bodies (i.e., establishing a Zoning Administrator and retiring the BZA and PRAC); reallocate duties and authority among hearing bodies; change administrative procedures relating to processing and review of applications and appeals; clarify confusing and burdensome timelines (e.g., clarifying when use permits and similar discretionary approvals expire); codify processes to address ongoing problems (such as a process to expire inactive permit applications) where neither the problem nor the proposed solution have any potential for physical impacts; and make other similar changes. Accordingly, the Code amendments are “organizational and administrative activities of government” that will not result in any direct or reasonably foreseeable indirect physical changes in the environment, and per CEQA Guidelines Section 15378(b)(5), CEQA does not apply to adoption of these amendments.

In the alternative, if the Code amendments are considered a project under CEQA, the action is exempt from CEQA pursuant to Guidelines Section 15061(b)(3), known as the “common sense exemption.” Under the common sense exemption, “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment,” the project is exempt from CEQA. For the same reasons that staff determined the Code amendments will not cause either a direct or foreseeable indirect physical change in the environment, it can be seen with certainty that there is no possibility that the Code amendments may have a significant effect on the environment. Therefore, while Permit Sonoma concluded that adoption of the amendments is not a project as discussed above, if adoption of the amendments was a project, the action would be exempt based on Guidelines Section 15061(b)(3).

Separately, the amendments to Chapter 26C, which constitute an amendment to the Implementation Plan of the Local Coastal Program, are covered by the statutory exemption from CEQA for activities and approvals by a local government pursuant to the California Coastal Act necessary for the preparation and adoption of a local coastal program.

Planning Commission Recommendation

On November 7, 2024 the Planning Commission considered the proposed amendments to Chapters 26 and 26C, and adopted a resolution recommending that the Board of Supervisors adopt the amendments to Chapters 26 and 26C as proposed. Under state law and the County Code, the Planning Commission purview does not extend beyond Chapters 26 and 26C, and the Board of Supervisors holds final approval authority. To fully effectuate the proposed policy changes, and ensure consistency across the County Code requires modifying portions of the Code beyond the Zoning Ordinance (Chapter 26) and Coastal Zoning Ordinance (Chapter 26C). Consequently, preliminary drafts of the following additional amended chapters were included in the materials for the Planning Commission to provide the broader context of the amendments.

Chapter 2: Administration

Chapter 3: Airport

Chapter 13: Fire Safety Ordinance

Chapter 23A: Environmental Quality Act of 1970 Implementation

Chapter 25: Subdivisions

Chapter 25C: School Facilities Fee/Dedication Ordinance

The Planning Commission offered advisory comments on Chapter 2: Administration for Board of Supervisors consideration, acknowledging that Chapter 2 is related to but not within their authority. These advisory comments included a recommendation that telecommunications facilities over 40 feet tall and cannabis use permits over 10,000 square feet should go to the Planning Commission instead of the Zoning Administrator. Additionally, the commission recommended the Board consider event thresholds for a property as cumulative, rather than incremental, and that peak hour trips for a project should be the metric used over average daily trips.

Strategic Plan:

N/A

Racial Equity:

Was this item identified as an opportunity to apply the Racial Equity Toolkit?

No

Prior Board Actions:

[6/16/23 <https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=6254473&GUID=C284C77D-C125-4BED-B7ED-8C57CD865422&Options=&Search=>](https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=6254473&GUID=C284C77D-C125-4BED-B7ED-8C57CD865422&Options=&Search=>): Approved FY 23-24 Budget with allocation for positions and contracts necessary for Management Review Implementation.

[5/16/23 <https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=6199642&GUID=4A04F976-2BC6-4A61-8AA7-CB8A22BA04D2&Options=&Search=>](https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=6199642&GUID=4A04F976-2BC6-4A61-8AA7-CB8A22BA04D2&Options=&Search=>): Received revised Management Review Implementation timeline and approach from Permit Sonoma.

[1/31/23 <https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=6004431&GUID=BD398424-DE1C-4406-A6BD-BC950CEC56D0&Options=&Search=>](https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=6004431&GUID=BD398424-DE1C-4406-A6BD-BC950CEC56D0&Options=&Search=>): Received findings from the management review of Permit Sonoma; requested Director of Permit Sonoma to return to the Board with an implementation schedule for the Board’s consideration.

[5/24/22 <https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=5654030&GUID=D6B12DF9-105B-46CD-B3A9-D991243FFFDE&Options=&Search=>](https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=5654030&GUID=D6B12DF9-105B-46CD-B3A9-D991243FFFDE&Options=&Search=>): Authorized contract with Berry Dunn McNeil & Parker LLC (dba BerryDunn) to conduct a Management Review of Permit Sonoma.

FISCAL SUMMARY

Expenditures	FY24-25 Adopted	FY25-26 Projected	FY26-27 Projected
Budgeted Expenses			
Additional Appropriation Requested		\$305,273	
Total Expenditures		\$305,273	
Funding Sources			
General Fund/WA GF		\$305,273	
State/Federal			
Fees/Other			
Use of Fund Balance			

Contingencies			
Total Sources		\$305,273	

Narrative Explanation of Fiscal Impacts:

Staff estimate that \$10,000 in commissioner stipends will be saved annually as a result of the dissolution of the BZA. This is based on an average of 16 meetings held per year and stipends of \$125 per meeting for each of the five commissioners. Some of these savings may be utilized to offset possible increased Planning Commission stipend costs due to a higher number of, or longer, Planning Commission meetings to hear additional matters that will be absorbed by the Commission. The dissolution of the PRAC, which meets an average of 15 times per year and requires approximately 126 hours in annual Permit Sonoma staff time split among 7 county staff, will allow the department to redirect staffing capacity to other high priority work in the department.

The department is evaluating position requirements for the Zoning Administrator and will be requesting a time-limited Supervising Planner allocation as part of the fiscal year 25-26 budget hearing process. The estimated annual cost of the position is \$305,273, which includes salaries and benefits, internal services rate costs and administrative overhead. After the first year, Permit Sonoma will reassess workload and staffing capacity to determine whether a permanent position is required, including a potential Add/Delete to replace a Planner III allocation with the Supervising Planner position, if warranted.

Narrative Explanation of Staffing Impacts (If Required):

Should the Board approve creating a Zoning Administrator, the department will prepare a position allocation request to the Board as part of the fiscal year 25-26 annual budget hearing process.

Attachments:

- Attachment 1: Resolution Introducing, Reading the Title Of, and Waiving Further Reading of An Ordinance Amending Sonoma County Code Chapters 2, 3, 13, 23A, 25, 25C
- Attachment 2: Ordinance Amending Sonoma County Code Chapters 2, 3, 13, 23A, 25, 25C
- Attachment 2: Exhibit A Chapter 2
- Attachment 2: Exhibit B Chapter 3
- Attachment 2: Exhibit C Chapter 23A
- Attachment 2: Exhibit D Chapter 25
- Attachment 3: Ordinance Amending Sonoma County Code Chapter 26
- Attachment 3: Exhibit A Chapter 26
- Attachment 4: Chapter 26 Amendments Full Redline
- Attachment 5: Ordinance Amending Sonoma County Code Chapter 26C
- Attachment 5: Exhibit A Chapter 26C
- Attachment 6: Resolution for California Coastal Commission Submittal
- Attachment 7: Planning Commission Staff Report
- Attachment 8: Planning Commission Resolution
- Attachment 9: Presentation

Related Items “On File” with the Clerk of the Board:

N/A