
From: Roger Peters <rjp2ca@aol.com>

Sent: Monday, May 5, 2025 5:07 PM

To: Tennis Wick <Tennis.Wick@sonoma-county.org>; Scott Orr <Scott.Orr@sonoma-county.org>

Cc: Lynda Hopkins <Lynda.Hopkins@sonoma-county.org>; Chris Coursey <Chris.Coursey@sonoma-county.org>; James Gore <James.Gore@sonoma-county.org>; Rebecca Hermosillo <Rebecca.Hermosillo@sonoma-county.org>; David Rabbitt <David.Rabbitt@sonoma-county.org>

Subject: Zoning Administrator Proposal: Agenda Item 39 May 6, 2025

EXTERNAL

Tennis and Scott,

I have a few comments on Agenda Item 39:

1. Creation of Zoning Administrator:

A. I support this proposal in general and have had some experience with this model. As with most everything it will be important to get the right Deputy Zoning Administrators (DZAs) and provide adequate staff support and proper training on administrative hearing process and procedure. It will also be important for the DZAs and the public to understand the scope of the DZA authority and relationship relative to the Permit Sonoma Director. The expectation and requirement should be that the DZA will act independently.

To that end I suggest the wording of Section 2-79B be modified to read that a Director may "replace, remove or change employees designated to act as zoning administrator, in the director's discretion *properly applied and for good cause.*" In subsection 2-79D, on the independence of the DZA, the first sentence should be revised to read in pertinent part "An employee designated to act as zoning administrator "shall not be *subordinate to or* under the supervision, direction or control of the planning director when carrying out the quasi-adjudicative functions of the zoning administrator, but shall be subordinate...in the performance of all other duties. This symmetrical framing creates the right context to empower the DZA.

B. Appeals from DZA decisions: If I am reading sections 26-92-040 and 26-92-160 together correctly, all appeals from the zoning administrator and the planning commission go to the Board. That could change the volume of appeals that go to the Board. It may be that there is a subset of DZA actions that should be appealed to the planning commission initially. That is a workflow issue, but is an important one.

2. Rewording of Appeals from Director and others:

Section 26-92-040 (a) starts with a cross-reference that is unclear (1-7.3). Section 26-92-040(b) covers discretionary actions by the planning director and other administrative actions (but not those of the DZA) and sends them to the Planning Commission. for appeal. It then provided that the Planning Commission decisions on those actions is not appealable. It is not clear what authority exists for that result. This rewording needs a better background discussion before it is adopted.

Section 26-90-040(d) provides an appeal route for the applicant to challenge a finding by the director that an application is "incomplete." There is no similar provision that allows a challenge by an opponent to an application where there is a finding that an application is "complete.." Why?

I'm sorry that these comments are late. I think the comments on the zoning administrator can be addressed tomorrow. I'm not sure that is the case for the appeal questions in section 2.

Roger
415-686-8530

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From: Eric Koenigshofer <Eric.Koenigshofer@sonoma-county.org>
Sent: Monday, May 5, 2025 3:45 PM
To: Lynda Hopkins <Lynda.Hopkins@sonoma-county.org>; Tracy Lyons <Tracy.Lyons@sonoma-county.org>
Cc: Eric Koenigshofer <ejklaw@yahoo.com>; Tennis Wick <Tennis.Wick@sonoma-county.org>
Subject: Zoning Administrator - BOS meeting 5/6/25

Good afternoon Supervisor,

I write to provide focused comment on the Zoning Administrator (ZA) item on your agenda tomorrow. Earlier today I met with Tennis Wick and we discussed the ZA proposal. I proposed two modifications of the staff proposal. As our conversation concluded he and I agreed I would report the outcome to you, since he agreed with both suggestions to improve the proposed course of action.

First: Appeal of ZA decisions are proposed to go directly to the BOS for resolution. Appeals should be sent to the PC not directly to the BOS so most of these appeals can be resolved without consuming BOS agenda and BOS member time.

It is proposed a ZA position be established and the Board of Zoning Adjustments (BZA) be terminated. Once this is done development applications which are deemed to be without controversy and somewhat routine (specifics TBD) will be subject to public hearing before the ZA. Other more complex or controversial matters will go to the Planning Commission (PC) for public hearing. As proposed, once the ZA has issued a decision on an application the matter can be appealed. The proposal before you would send ZA appeals directly to the BOS without the matter first going to the PC. The proposal should be modified to direct appeals of ZA decisions first to the PC so these appeals can be heard and resolved without first going to the BOS. Given the target of sending only routine, non-controversial matters to the ZA, giving the PC a shot at resolving such appeals will protect the valuable time and agenda space of the BOS.

Modification: Appeals of ZA decisions should be heard by the PC not the BOS. The PC will resolve most if not all of the appeals making it unlikely many appeals would advance

to the BOS, and if some did it would certainly be fewer than having all appeals of the ZA go directly to the BOS.

Second: The proposal anticipates one of your PA appointees being the "primary" member of the retained PC and the second appointee being "alternate" member. The proposal imagines the two appointees rotating as "primary" and "alternate" on a schedule yet to be determined. This system will be disruptive and will be inefficient use of appointees.

Establishment of the ZA will result in elimination of the BZA and retention of one five member PC. Since each Supervisor currently appoints two members of the Planning Agency (PA) who rotate between PC and BZA annually, this change will render one appointee as "primary" member of the PC and the second appointee as "alternate" member of the PC. The proposal before you imagines these two rotating between "primary" and "alternate" which will result in one of the appointees being in a suspended state of inaction for some lengthy period of time (TBD) during which they may never be called to participate. This could go on for months or even a full year. This uncertainty and period of inactivity, acting only as alternate, will surely result in members being "out of the loop" and if called upon to fill-in they may not be available or, even if available, they may find it a challenge to be up to speed in short order.

Modification: Having two panels of the PC engages all appointees in an ongoing role. This is a better use of each appointee and a better way of retaining members ready to fill-in as needed. Each panel, PC1 and PC2, would sit for every other meeting. For example, PC1 sits this week while PC2 sits at the next meeting, perhaps in two weeks. Each PC would have a separate agenda and would hear matters start to finish. In the event an item needs to be continued it would be set for a future agenda of the applicable body, PC1 or PC2. This approach also provides staff more flexibility in setting the schedule of hearings by spreading the work load between PC1 and PC2 rather than loading all work on one 5 member PC. If one PC has a full agenda, or a member has planned absence, the matter can be set for the other PC.

Additional matters not discussed today with Director Wick:

The only other pressing matter has to do with the criteria determining which applications go directly to the PC and not the ZA. To begin, the approach should be cautious and review of how this system works should be monitored closely.

Some categories of projects should not go the the ZA. Top of this list is applications for cell facilities. These should go to the PC. It is important to note the application process for these facilities is currently under review. Only after this review is completed should a

decision be made as to how they will be processed.

Second, cannabis. These applications should go to the PC not the ZA. Average Daily Trips is not an appropriate measure of complexity. Once your new ordinance is completed revisiting this type of application can occur with better information.

Thank you. Eric