

From: [Mark McDonald](#)
To: [BOS](#)
Subject: Planned Action
Date: Monday, February 24, 2025 6:48:59 PM

EXTERNAL

Dear Sonoma County Supervisors-

I am writing today to request a postponement of the vote regarding the County Zoning ordinance. This vote is being rushed through with insufficient public notice. These proposed revisions will have a huge impact for the citizens of Sonoma County! These changes will significantly reduce public participation, transparency, and due process.

As a citizen of Sonoma County, I ask that you respect the people you have been hired to represent and postpone the vote until the public has had the opportunity to be part of this decision

--

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From: [Becky Boyle](#)
To: [BOS](#)
Subject: Fwd: Please postpone your pending vote for tomorrow on zoning ordinance, and CEQA
Date: Monday, February 24, 2025 7:12:24 PM

EXTERNAL

Hello, I'm not sure my prior email had completely correct addresses so I am resending the message below to this group BOS email address. Thank you. Please see below.
-Becky

Begin forwarded message:

From: Becky Boyle <beckyboyle@icloud.com>
Date: February 24, 2025 at 3:53:56 PM PST
To: district5 <district5@sonoma-county.org>, district3@sonoma-county.org, district4@sonoma-county.org, district2@sonoma-county.org, district1@sonoma-county.org
Subject: Please postpone your pending vote for tomorrow on zoning ordinance, and CEQA

Hello valued BOS's,

I just saw that tomorrow at your upcoming Board of Supervisors meeting. You have an impending vote with respect to zoning ordinance and CEQA. Rushing and pushing this vote through is detrimental to public participation via notification & input.

I kindly ask you postpone this vote until the public has been provided out due opportunity to be heard in this important decision making process.

Thank you,
Becky Boyle
Forestville

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From: [Bridget Breese](#)
To: [BOS](#)
Subject: Please postpone this vote on th zoning. The public has an inherant interest on right to have input.
Date: Monday, February 24, 2025 8:08:04 PM



Thank you, Bridget Breese

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From: [Frear Stephen Schmid](#)
To: [BOS](#); [David Rabbitt](#); [district4](#); [district5](#); [Chris Coursey](#); [Lynda Hopkins](#)
Subject: File #: 2025-0142 Code Updates for Land Use Public Hearings and Procedures- Creation of Zoning Administrator and Additional Changes
Date: Tuesday, February 25, 2025 1:20:28 AM

EXTERNAL

Dear Supervisors,

Regarding the above reference matter, we request that the proposed amendments be rejected as contrary to the California public policy of transparency and public participation in land use matters. The vesting of all power zoning power in the director of Permit Sonoma is simply undemocratic and removes checks and balances provided by Board of Zoning Adjustments. Further, the proposed amendments require CEQA review.

CEQA is required

The executive summary asserts:

“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.”

It also asserts that: “The Code amendments do not change zoning, permitted uses...”. These assertions are definitely and categorically incorrect.

The proposed elimination of the Board of Zoning Adjustments (BZA) will de facto and de jure amend numerous existing land use permits that expressly have as a standard condition that, other “than for minor adjustments to respond to unforeseen field constraints”, any modification, alteration, and/or expansion of the use authorized by the use permit requires the prior review and approval of the Board of Zoning Adjustments. The condition further provides: “Such changes may require a new or modified Use Permit and additional environmental review, if warranted.”

Also, standard language in issued use permits is as follows:

This permit may be subject to revocation or modification by the Board of Zoning Adjustments if: (a) the Board finds that there has been noncompliance with any of the conditions or (b) the Board finds that the use for which this permit is hereby granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26-92- 120 and 26-92-140 of the Sonoma County Code.

Topanga Assn. for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506, 517-518 states:

A zoning scheme, after all, is similar in some respects to a contract; each party foregoes rights to use its land as it wishes in return for the assurance that the

use of neighboring property will be similarly restricted, the rationale being that such mutual restriction can enhance total community welfare. [Citations.] If the interest of these parties in preventing unjustified variance awards for neighboring land is not sufficiently protected, the consequence will be subversion of the critical reciprocity upon which zoning regulation rests. Use permits are “struck from the mold of the zoning law.”

The wholesale modification of existing use permits by the proposed ordinance amendments by elimination of the BZA will definitely lead to the modification of land use and the contractual restrictions imposed in favor of neighbors and the community limiting the land use and violating vested land use rights and protections. And it will cut-off the right to CEQA review attendant to any modification.

The current Sonoma County Code provides that the board of zoning adjustments is responsible for issuing use permits Section 26-92-070 provides: “Use permits may be issued by the zoning adjustments for any of the uses for which such permits are required by this chapter, except in the PC district.” Section 26-92-080 provides:

In order to grant any use permit, the findings of the board of zoning adjustments shall be that the establishment, maintenance or operation of the use or building applied for will not under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort or general welfare of persons residing or working in the neighborhood or to the general welfare of the area. The board of zoning adjustments may designate such conditions in accordance with the use permit, as it deems necessary to secure the purposes of this chapter and may require such guarantees and evidence that such conditions are being or will be complied with.

The foregoing County Codes are all incorporated into use permits heretofore issued, and changing the law premised upon a BZA clearly has a substantial effect on land use in the County.

Further, historically, there is a vast difference between discretionary approvals by the BZA and the County employment of its so-called Waiver of Hearing (Sonoma County Code 26-92-040(d)), a slight of hand used by Permit Sonoma to avoid the hearings of various permits required to be considered by the BZA. Gov. Code § 65901. See Gov. Code § 65905:

(a) Except as otherwise provided by this article, a public hearing shall be held on an application for a variance from the requirements of a zoning ordinance, an application for a conditional use permit or equivalent development permit, a proposed revocation or modification of a variance or use permit or equivalent development permit, or an appeal from the action taken on any of those applications.(b) Notice of a hearing held pursuant to subdivision (a) shall be given pursuant to Section 65091.

The proposed ordinance amendments will eliminate development and zoning oversight from the hands of a public hearing before the BZA, and put it all in the hands of director of Permit Sonoma:

The director of Permit Sonoma shall be the zoning administrator. In that capacity the director may designate one or more Permit Sonoma employees to

act as zoning administrator and carry out the duties and functions of the zoning administrator. The director may also replace, remove or change employees designated to act as zoning administrator, in the director's discretion. Where "zoning administrator" is referenced anywhere in this code, the term shall include any employee designated and acting as zoning administrator (New Section 2-79b)

The BZA board members have the virtue of being representatives of each supervisorial district appointed by the supervisors, thus affording an indirect democratic input into decision making versus hearings by an unelected zoning administrator who will be subject to the well-known phenomenon of Regulatory Capture, also known as "the economic theory of regulation. The theory was introduced to the world in the 1970s by George Stigler, a Nobel laureate economist at the University of Chicago. Stigler noted that regulated industries maintain a keen and immediate interest in influencing regulators, whereas ordinary citizens are less motivated. As a result, even board of though the rules in question, such as pollution standards, often affect citizens in the aggregate, individuals are unlikely to lobby regulators to the degree that regulated industries do.

The transparency that zoning and related processes are supposed guarantee the public will be hidden in the depths and political machinations of Permit Sonoma, completely exercised by and in the control of the Zoning administrator, who is one and the same as the director of permit Sonoma with no meaningful external oversight, heretofore provided by the BZA. For clarity of the immense power to be vested in the one individual the proposed ordinance provides the director may:

2. Adopt and amend, as necessary and desirable, rules and procedures for the conduct of public hearings conducted by the zoning administrator, and any other policies and procedures necessary or desirable to carry out the functions of the zoning administrator.
3. Perform any other responsibilities assigned by the director.

E. Referral. The zoning administrator shall hear and decide applications assigned to the zoning administrator by this code, provided that the zoning administrator may, in his or her discretion, refer any matter to the jurisdiction of the planning commission for hearing and action. **A zoning administrator referral to the planning commission shall not require prior notice or hearing, is final and jurisdictional, and not subject to appeal.** (emphasis added)

None of the foregoing vesting of power into one individual, i.e. the director of Permit Sonoma can rationally be considered to foster public participation, open government or transparency as required by California law for zoning. See e.g., *Penn-Co v. Board of Supervisors* (1984) 158 Cal. App. 3d 1072, 1078:

There is a clear policy in this state to involve the public and affected property owners at every level of the process when land use decisions are being made. The Legislature has declared that "California's land is an exhaustible resource, not just a commodity, and is essential to the economy, environment and general well-being of the people of California." (Gov. Code, § 65030.) And further,

“[t]he Legislature recognizes the importance of public participation at every level of the planning process. It is therefore the policy of the state and the intent of the Legislature that each state, regional, and local agency concerned in the planning process involve the public through public hearings, informative meetings, publicity and other means available to them, and that at such hearings and other public forums, the public be afforded the opportunity to respond to clearly defined alternative objectives, policies, and actions.” (Gov. Code, § 65033.).

Hearings by and before the BZA are inherently more democratic and exposing the process to “sunshine”, instead of behind closed doors approach of a unitary decision by a single zoning administrator, all in the complete control of one bureaucracy under the control of one unelected individual, the director of Permit Sonoma. It is the combined thought processes and inputs from the BZA board members that provides transportation.

The BZA provides public participation which serves a well-established brake on Permit Sonoma’s predisposition to routinely grant development without regard to CEQA and without required hearings. There can be no doubt that the upshot of the proposed ordinance will be manifestly far greater and rapid development in the county, and indeed this is the agenda behind the proposed zoning law modifications. It defies reality to think these major changes to the County’s zoning code will not have a substantial impact on development, thus CEQA review is required. *Union of Med. Marijuana Patients, Inc. v. City of San Diego*, 7 Cal.5th 1171, (Cal. 2019)

The executive summary further asserts:

“ 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.”

There is no evidence presented that common sense would exempt the ordinance from CEQA. To the contrary, as set forth above, common sense makes clear that the ordinance amendments will have a major impact on development in the County. *Union of Med. Marijuana Patients, Inc. v. City of San Diego*, 7 Cal.5th 1171, 1196 (Cal. 2019) (“the commonsense exemption "presents an issue of fact, and ... the agency invoking the exemption has the burden of demonstrating it applies."")

Accordingly, the ordinance amendments require a CEQA review process before it can be considered for approval. Equally important is that the ordinance is a slap in the face to open and transparent government and application of zoning in the County.

Please vote **no** on the proposed amendments and vote to require a CEQA review. Failing that, please vote to reschedule the hearing on the proposal to allow additional public input. Thank you.

Very truly yours,

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