



# City of San Leandro

Meeting Date: June 4, 2018

## Staff Report

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**File Number:** 18-164

**Agenda Section:** ACTION ITEMS

**Agenda Number:** 10.C.

**TO:** City Council

**FROM:** Jeff Kay  
Interim City Manager

**BY:** Tom Liao  
Community Development Director

**FINANCE REVIEW:** Not Applicable

**TITLE:** Staff Report Regarding Discussion of a Potential Merger of the Planning Commission and the Board of Zoning Adjustments

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### SUMMARY AND RECOMMENDATIONS

Merging the Planning Commission and Board of Zoning Adjustments would result in measurable efficiency and cost-saving benefits and would bring the City's entitlement process in line with the majority of other cities and counties in California. For these reasons, Staff recommends that the City Council direct Staff to return to the City Council with the necessary legal and procedural actions for a merger of the Planning Commission and Board of Zoning Adjustments beginning in 2019. If so directed, Staff would then return to the City Council with a draft ordinance and resolution as necessary to formalize the merger.

### BACKGROUND

Under State law (California Government Code Section 65100, *et seq.*), every city and county in California must have a planning agency with the authority to fulfill functions and decisions related to planning and zoning laws as established by the City Council. The City Council's authority includes the ability to establish (or disestablish) a planning commission, board of zoning adjustment, board of appeals, zoning administrator, and/or hearing officers. Each of these bodies has a specific purpose and function defined under State law. If neither a board of zoning adjustment or a zoning administrator has been established, State law stipulates that the planning commission is responsible for their functions and duties. (Gov. Code Section 65902.)

Of these bodies, a board of zoning adjustment (BZA) can be established for the specific purpose of hearing and deciding upon conditional use permits, variances and any other permits granted by local ordinance. (Gov. Code Section 65901.) In San Leandro, the BZA has the added responsibility of approving certain Site Plan Review applications and Parking Exceptions. The BZA primarily decides on current planning applications and, in most instances, is the final

deciding authority.

In San Leandro, the Planning Commission (PC) primarily serves as a recommending body focused on long-range planning and complex applications. The PC makes recommendations to the City Council on Planned Developments, Rezoning, General Plan Amendments, and Tentative Tract Maps. With the rare exception of a denied appeal (San Leandro Zoning Code Section 5-2810), the City Council is the final deciding authority on all applications heard by the PC.

San Leandro is one of the few remaining cities in the State of California to have both a PC and a BZA. Of the other cities in California, only Berkeley, Modesto, Bakersfield, Norco, and Perris are known to have a similar arrangement. Alameda County and Sonoma County are the only counties known to have a separate PC and BZA. The cities of Merced, West Sacramento, Folsom, and Beverly Hills and Santa Clara County have merged their BZAs into their PCs.

### Analysis

There are number of practical and cost-saving benefits to merging the PC and BZA. Preparing hearing notices, mailings, and agenda packets for separate meetings requires a substantial amount of staff time. Merging the two would require the PC to serve as both a recommending and deciding body.

### Approval Streamlining

There are currently a number of potential situations where a project application could be required to go before the BZA, PC and City Council for approval. For example, if an applicant wishes to develop a new condominium project, the applicant's Site Plan Review and Conditional Use Permit would need to be approved by the BZA, but the Tentative Tract Map would need a recommendation by the Planning Commission with final approval by the City Council. This process adds about two extra months to the application processing timeline because public hearings are required before three different deciding bodies. In these situations, staff is required to prepare three different sets of hearing notices, staff reports, findings, resolutions, and conditions of approval. A shortened timeframe and reduced uncertainty through the approval process can be a significant factor in making San Leandro a desirable location for developers interested in constructing projects that are consistent with the City's planning goals.

### Fewer Meetings

The workload between the PC and BZA is typically uneven. In recent years, the BZA has had two or three agenda items scheduled for each hearing while the PC has only one item. In the past five years, the PC has canceled half of its regularly scheduled public hearings for lack of items, while the BZA has canceled approximately 43% of its meetings. Both bodies have scheduled about the same number of special meetings over the past five years. Merging the two bodies would not require scheduling two hearings each month. Holding one meeting per month would reduce comp time and overtime hours for staff, providing cost savings for the City and applicants.

### Administrative Staff Resources

The Planning Services Division currently prepares agenda packets and advertises public hearings for the BZA and PC twice a month. Cancelled meetings also require public noticing. Preparing legal notices and mailing agenda packets for a public hearing, which are often times large in size, can take anywhere from half a day to two full days of staff time for the Planning Division's shared administrative assistant, who also provides support for two other divisions. Merging the two bodies together would eliminate duplicative administrative tasks and reduce the amount of preparatory time by as much as half. The City Clerk's staff would also benefit from a merger with fewer appointees to process, train and monitor.

### Training and Conference Participation

It is a substantial challenge and expense for the City to send members of the PC and BZA to outside training and conferences. For example, sending all 14 members to the annual California League of Cities' Planning Commissioners Academy or the State Planning Conference, including registration, lodging, transportation and per diem costs, would exceed \$30,000. To save money, the Planning Division currently hosts a joint PC-BZA meeting each year to provide in-house training for members of both bodies. It is more efficient and effective to focus the City's limited resources on fewer members to ensure that they receive proper training to become an informed and effective decision-maker. Increased training will provide valuable support to the Commissioners and may contribute to improved outcomes for the community and applicants who come before the Commission.

### Terms Ending

The timing for a merger of the BZA and PC is optimal. At the end of December 2018, four board members and four planning commissioners will complete their term. The remaining three members on each body will complete their term on December 31, 2020 (see attached BZA & PC term roster).

### Merger Scenarios

Below are two options for merging the BZA and PC:

#### #1 - Clean Slate (Staff recommends this option)

- End the term of the remaining six Board Members and Planning Commissioners two years early. Begin a selection process for a new unified PC and BZA to be seated in January 2019. Maintain the current staggered terms and district methodology by appointing a representative from Districts 1, 3, 5 and At-Large to a four-year term and Districts 2, 4 and 6 to a two-year term. After an initial two-year appointment, Districts 2, 4 and 6 would resume as four-year appointments.

#### #2 - Two Year Delay

- Maintain the BZA and PC for two more years and merge both bodies into one beginning in January 2021. One of the next two appointees selected from Districts 1, 3, 5 and At-Large will be assigned a two-year term on either the BZA or PC and the other appointee will be

given a four-year term to continue as a member of the merged body.

### Related Code Updates

The PC and BZA are governed by regulations found in the Municipal Code, Zoning Code and Administrative Code. The City Council must revise these codes in order to formalize a merger. Until that happens, the newly combined PC would have a dual role serving as both boards. During this interim period, the combined PC would function similarly to when the City Council also served as the former Redevelopment Agency. In this temporary role, the combined PC would effectively conduct a dual hearing, opening and closing the hearing as one body or the other until agenda business is completed. The necessary changes to City codes would be addressed through a future comprehensive Zoning Code Update. The Administrative Code and Municipal Code require fewer changes than the Zoning Code in order accommodate a merger.

### Committee Review and Actions

The City Council Rules Committee considered the merits of a potential merger of the PC and BZA at its February 26, 2018 meeting, attended by Councilmembers Ballew and Thomas. There were no public comments. Both committee members in attendance were supportive of the concept of a merger. Councilmember Ballew supported continuing the current structure and methodology of having one member from each district sit on a merged body, supplemented by at-large positions and sought a smooth transition. Councilmember Thomas was also supportive of the concept and had concerns as to the impact of timing a merger. Councilmember Thomas suggested considering alternating Planning Commissioners and Board Members during a transition period. The Rules Committee supported further consideration of the topic by the City Council, directing staff to schedule the item for a future agenda, include a presentation of the pros and cons of such a merger, and provide further discussion of the methodology and timing.

### Applicable General Plan Policies

**Policy ED-5.5** - Quality Services and Accessible Government. Maintain and promote the high quality of City services and the accessibility and responsiveness of City government to prospective businesses and new employees.

**Action LU-7.3.A** - Zoning Review. Regularly review the Zoning Code to respond to real estate market and development trends, as well as changes in technology.

### Environmental Review

A merger of the PC and BZA does not constitute a project under the California Environmental Quality Act and is exempt from environmental review.

### Legal Analysis

The subject has been reviewed and approved by the City Attorney.

### Fiscal Impacts

A merger of the PC and BZA would result in substantial cost savings to the City due to the reduced number of hearings, public notices, and staff time involved.

**ATTACHMENT(S)**

- Current roster and term limits for the PC and BZA

**PREPARED BY:**

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| <b>Board Member</b>      | <b>Term Ending</b> | <b>District</b> |
|--------------------------|--------------------|-----------------|
| Tom Fitzsimons           | December 31, 2018  | At-Large (5)    |
| Marguerite Mazzitti      | December 31, 2018  | 1               |
| Jeffrey Falero           | December 31, 2020  | 2               |
| Rick Solis               | December 31, 2018  | 3               |
| Catherine Vierra Houston | December 31, 2020  | 4               |
| Mike Santos (Chair)      | December 31, 2018  | 5               |
| Dylan Boldt              | December 31, 2020  | 6               |

| <b>Commissioner</b> | <b>Term Ending</b> | <b>District</b> |
|---------------------|--------------------|-----------------|
| Ken Pon (Chair)     | December 31, 2018  | At-Large (1)    |
| Tony Breslin        | December 31, 2018  | 1               |
| Thomas Baker        | December 31, 2020  | 2               |
| Denise Abero        | December 31, 2018  | 3               |
| Richard Brennan     | December 31, 2020  | 4               |
| Jim Hussey          | December 31, 2018  | 5               |
| Esther Collier      | December 31, 2020  | 6               |