



City of San Leandro

Meeting Date: November 19, 2018

Staff Report

File Number: 18-561

Agenda Section: CONSENT CALENDAR

Agenda Number: 8.P.

TO: City Council

FROM: Jeff Kay
City Manager

BY: Tom Liao
Community Development Director

FINANCE REVIEW: Not Applicable

TITLE: Staff Report for a City of San Leandro City Council Ordinance to Enable Concurrent Appointments to the City of San Leandro Planning Commission and Board of Zoning Adjustments and a Resolution to Discontinue the Terms of Office of Certain Appointed Members to the City of San Leandro Planning Commission and Board of Zoning Adjustments Related to the Merger of the Planning Commission and Board of Zoning Adjustments

SUMMARY AND RECOMMENDATIONS

Staff recommends approval of an Ordinance to enable a single appointee to concurrently serve on both the Planning Commission and the Board of Zoning Adjustments; and a Resolution to end the terms of appointed office of six Commissioners and Board Members, effective December 31, 2018. This action relates to the eventual merger of the Board of Zoning Adjustments and the Planning Commission, consistent with prior City Council direction.

BACKGROUND

The City Council directed staff to proceed with a merger of the Planning Commission (PC) and Board of Zoning Adjustments (BZA) at its June 4, 2018 meeting. This direction was followed by the City Council's approval of Resolution No. 2018-033 on October 15, 2018 to align the meeting dates of both bodies beginning in 2019 and after the 2018 municipal election, when the circumstances for a merger will be optimal for new appointments. Staff will return to the City Council with a follow up action at a future meeting regarding the reappointment process for new appointees to the combined hearing body. The June 4, 2018 and October 15, 2018 staff reports (attached) provide further background information.

Analysis

Tonight's proposal before the City Council is the third step to formalize a merger of the PC and BZA, ending the terms of the remaining six members of both bodies at the end of this year and codifying a provision in the Municipal Code to enable future appointees to serve concurrently as both a planning commissioner and board member.

Section 1-3-105 of the Municipal Code grants to the City Council the power to terminate an appointee to any board or commission without cause, notice, or hearing. To that end, staff prepared an Ordinance to amend the Boards and Commissions provisions of the Municipal Code to enable concurrent appointments to the PC and BZA, and a Resolution to end the terms on December 31, 2018 of the remaining six appointees whose terms end December 31, 2020. BZA and PC members were made aware of this process at prior public hearings and meetings.

The City Councilmember's Handbook (Pg. XV-2) states that a member of any board or commission may not serve as a member of any other board or commission. In order to proceed with a merger of the PC and BZA, this guideline will be discontinued if this Ordinance passes in order to allow future appointees to the PC and BZA the ability to serve a dual role as both a commissioner and a board member.

Until the Zoning Code and Municipal Code can be further updated, the combined PC and BZA will function similarly to when the City Council concurrently served as the Redevelopment Agency Board of Directors. A dual meeting agenda will be published and called, and public hearings will be opened and closed as one body or the other until agenda business is completed. Upon this Ordinance's passage, future appointees will serve the dual role of both planning commissioner and board member.

The City Clerk will announce the call for nominations to the unified Planning Commission and Board of Zoning Adjustments in December. Beginning next year, the new appointees will serve as both a planning commissioner and board member. With approval of the proposed resolution, the remaining six board members and commissioners will end their terms prematurely. This action does not disqualify them from future appointment. Current Planning Commissioners and Board Members are eligible for appointment.

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. Both committee members in attendance were supportive of the merger concept. On June 4, 2018, the City Council considered the matter and directed staff to proceed.

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 City Attorney continues to advise staff on the process. The City Attorney reviewed and approved this staff report, the associated ordinance, and resolution.

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.

ATTACHMENTS TO STAFF REPORT

- Current roster and term limits for the PC and BZA
- October 15, 2018 Staff Report for a City of San Leandro City Council Resolution to Approve an Adjustment to the Planning Commission's Regular Meeting Dates
- June 4, 2018 Staff Report Regarding Discussion of a Potential Merger of the Planning Commission and the Board of Zoning Adjustments

PREPARED BY:

Andrew J. Mogensen, AICP
Planning Manager

Board Member	Term Ending	District
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

Commissioner	Term Ending	District
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



Legislation Details (With Text)

File #: 18-164 **Version:** 1 **Name:** Staff Report Discussion of Merger of PC and BZA
Type: Staff Report **Status:** Filed
In control: City Council
On agenda: 6/4/2018 **Final action:** 6/4/2018
Enactment date: **Enactment #:**

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

Sponsors: Tom Liao

Indexes:

Code sections:

Attachments: 1. Terms of the PC and BZA, 2. Merger of the PC and BZA 6-4-18

Date	Ver.	Action By	Action	Result
6/4/2018	1	City Council	Received and Filed	

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

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:

Andrew J. Mogensen, AICP
Planning Manager
Community Development Department



Legislation Details (With Text)

File #: 18-477 **Version:** 1 **Name:** CC Staff Report Adjusting PC Regular Meeting Date
Type: Staff Report **Status:** Filed
In control: City Council
On agenda: 10/15/2018 **Final action:** 10/15/2018
Enactment date: **Enactment #:**
Title: Staff Report for a City of San Leandro City Council Resolution to Approve an Adjustment to the Planning Commission’s Regular Meeting Dates
Sponsors: Tom Liao
Indexes:
Code sections:
Attachments: 1. Merger of PC BZA CC Staff Report 6-4-18

Date	Ver.	Action By	Action	Result
10/15/2018	1	City Council		

Staff Report for a City of San Leandro City Council Resolution to Approve an Adjustment to the Planning Commission’s Regular Meeting Dates

SUMMARY AND RECOMMENDATIONS

Staff recommends amending the City’s Administrative Code to establish the regular meeting date for both hearing bodies to be on the first Thursday of each month. This action relates to the merger of the Board of Zoning Adjustments and the Planning Commission, consistent with City Council direction.

BACKGROUND

Following a recommendation by the City Council Rules Committee, the City Council considered a merger of the Planning Commission (PC) and Board of Zoning Adjustments (BZA) at its June 4, 2018 meeting. The circumstances for merging the two bodies will be optimal at the end of this calendar year, given that both bodies have a total of eight pending vacancies (four on each). The City Council plans to reopen a new appointment process so that future appointees will serve as both a planning commissioner and a board member. Staff will return to the City Council with a follow up action regarding the reappointment process for both hearing bodies. The attached June 4, 2018 staff report provides further background information.

Analysis

Tonight’s proposal before the City Council is the second step in formalizing a merger of the PC and BZA, by establishing the regular meeting date for both bodies to fall on the same evening in the City’s Administrative Code. Staff recommends the Planning Commission’s regular meeting date be changed to occur on the first Thursday of each month beginning next year, consistent with the regular date of the BZA. The first Thursday of the month is optimal for hearing items that need to be

scheduled for follow-up before City Council the following month. The proposed change will have no impact on the processing or timing of any applications in progress.

In the future, the City Council will need to authorize the City Clerk to announce the call for new nominations. The new appointees beginning next year will serve as both a planning commissioner and a board member. The remaining board members and commissioners would end their two-year terms prematurely but would be eligible for re-nomination.

During this interim period, the bodies will function similarly to when the City Council also served as the former Redevelopment Agency. A dual hearing will be held, opening and closing the public hearing as one body or the other until agenda business is completed. With approval of tonight's resolution, both hearing bodies will meet concurrently on the first Thursday of each month beginning in January 2019.

Committee Review and Actions

The City Council Rules Committee considered the merits of a potential merger of the Planning Commission 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 and forwarded the item for further consideration by the City Council on June 4th, 2018.

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 City Attorney continues to advise staff on the process. The City Attorney reviewed and approved this staff report and the associated resolution.

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)

- 18-479, Resolution Approving an Adjustment to the Planning Commission's Regular Meeting Date
- 18-164, June 4, 2018 Staff Report Regarding Discussion of a Potential Merger of the Planning Commission and the Board of Zoning Adjustments

PREPARED BY:

Andrew J. Mogensen, AICP
Planning Manager



City of San Leandro

Meeting Date: November 19, 2018

Ordinance

File Number: 18-562 **Agenda Section:** CONSENT CALENDAR

Agenda Number:

TO: City Council

FROM: Jeff Kay
City Manager

BY: Tom Liao
Community Development Director

FINANCE REVIEW: Not Applicable

TITLE: ORDINANCE Adding Section 1-3-135 to Title 1, Chapter 1-3 of the City of San Leandro Municipal Code to Enable Concurrent Appointments to the City of San Leandro Planning Commission and Board of Zoning Adjustments

The City Council of the City of San Leandro does **ORDAIN** as follows:

WHEREAS, State planning law (California Government Code Section 65900 *et al.*) grants every city and county in California the authority to establish and organize themselves with any board or commission deemed necessary to carry out the functions and decisions of a planning agency; and

WHEREAS, on June 4, 2018, the City Council directed staff to proceed with a merger of the Board of Zoning Adjustments and Planning Commission; and

WHEREAS, regular public meetings of the merged Board of Zoning Adjustments and Planning Commission are to be held concurrently on the first Thursday of the month, as per Resolution 2018-133; and

WHEREAS, in order to proceed with a merger of the Board of Zoning Adjustments and Planning Commission, it will be necessary for the City Council to designate a single appointee to serve as both a Planning Commissioner and a Board Member; and

WHEREAS, the City Council finds that the proposed Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment (Section 15060(c)(2) of the California Environmental Quality Act Guidelines); and

WHEREAS, this agenda item was noticed in accordance with the Ralph M. Brown Act (72 hours in advance of the public meeting) and the item appeared upon the agenda for this meeting which was duly noticed in accordance with the Municipal Code.

SECTION 1. Incorporation of Recitals. The City Council finds that the aforementioned recitals are all true and correct and are incorporated herein by reference.

SECTION 2. AMENDMENT OF CODE. Title 1, Chapter 1-3-135 of the City of San Leandro Municipal Code is hereby added as identified on Exhibit "A," attached hereto and incorporated herein by this reference.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

SECTION 4. EFFECTIVE DATE AND PUBLICATION. This ordinance shall take effect thirty (30) days after adoption. The City Clerk is directed to publish the title once and post a complete copy thereof on the City Council Chamber bulletin board for five (5) days prior to adoption.

Exhibit A

San Leandro Municipal Code
Chapter 1-3 Boards and Commissions
Article 1. General Provisions

§1-3-135 Members - Concurrent Appointments

The City Council may designate a single appointee to serve concurrently as both a Planning Commissioner and Board of Zoning Adjustments member.



City of San Leandro

Meeting Date: November 19, 2018

Resolution - Council

File Number: 18-563

Agenda Section: CONSENT CALENDAR

Agenda Number:

TO: City Council

FROM: Jeff Kay
City Manager

BY: Tom Liao
Community Development Director

FINANCE REVIEW: Not Applicable

TITLE: RESOLUTION of the City of San Leandro City Council to Discontinue the Terms of Office of Certain Appointed Members to the City of San Leandro Planning Commission and Board of Zoning Adjustments

WHEREAS, on June 4, 2018, the City Council directed staff to proceed with a merger of the Board of Zoning Adjustments and Planning Commission; and

WHEREAS, in order to proceed with a merger, the terms of those members of the Board of Zoning Adjustments and Planning Commission with terms ending on December 31, 2020 will be discontinued two years early on December 31, 2018, and

WHEREAS, the term of any member of a board or commission appointed by the City Council may be discontinued without cause, notice or hearing in accord with Chapter 1-3 of the San Leandro Municipal Code; and

WHEREAS, the City Council of the City of San Leandro greatly values the public service of those individuals who have volunteered their time to represent the community on the Planning Commission and Board of Zoning Adjustments; and

WHEREAS, all of the Members and Commissioners ending their term of service shall be eligible for consideration for reappointment in the future.

NOW THEREFORE, the City Council of the City of San Leandro does **RESOLVE** as follows:

That the term of Jeffrey Falero as the District 2 Member of the Board of Zoning Adjustments shall end December 31, 2018; and

That the term of Catherine Vierra Houston as the District 4 Member of the Board of Zoning Adjustments shall end December 31, 2018; and

That the term of Dylan Boldt as the District 6 Member of the Board of Zoning Adjustments shall end December 31, 2018; and

That the term of Thomas Baker as the District 2 Representative of the Planning Commission shall end December 31, 2018; and

That the term of Richard Brennan as the District 4 Representative of the Planning Commission shall end December 31, 2018; and

That the term of Esther Collier as the District 6 Representative of the Planning Commission shall end December 31, 2018.