

**COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS
WEDNESDAY, FEBRUARY 27, 2019**

MINUTE ORDER NO. 2

**SUBJECT: NOTICED PUBLIC HEARING:
ZONING ORDINANCE UPDATE NO. 31 AND COUNTY CODE AMENDMENTS
(POD 17-004; REZ 18-008) (2/27/19 - FIRST READING; 3/13/19 - SECOND
READING) (DISTRICTS: ALL)**

OVERVIEW

This is a request for the County of San Diego (County) Board of Supervisors (Board) to consider and adopt Zoning Ordinance Update No. 31 and the associated County Code amendments (Zoning Ordinance Update). In conformance with State law and the County General Plan (General Plan) Implementation Plan, Planning & Development Services (PDS) proposes periodic Zoning Ordinance amendments for consideration by the Board. The Zoning Ordinance authorizes the Director of PDS to initiate requests to amend the Zoning Ordinance and associated County Codes as necessary to implement and ensure consistency with the General Plan.

This update proposes 21 total changes: 17 to the Zoning Ordinance, one property zoning change, one change to the County Code of Regulatory Ordinances, and two to the County Code of Administrative Ordinances. The amendments to the Zoning Ordinance include changes to definitions, development regulations, general regulations, and one zoning change to a particular property to ensure consistency with the General Plan. The amendments to County Code of Regulatory and Administrative Ordinances include changes to definitions, new regulations for ex-parte communications, and the addition of new permit fees for ministerial review of small wireless facilities in accordance with a recent Federal Communications Commission ruling.

Today's request requires two steps. On February 27, 2019, it is requested that the Board consider the amendments to the Zoning Ordinance and complete the first reading of the changes to the County Code of Regulatory and Administrative Ordinances. If the Board takes the actions recommended for February 27, 2019, then on March 13, 2019, it is requested that the Board submit the amendments to the County Code of Regulatory and Administrative Ordinances for further Board consideration and adoption (second reading).

**RECOMMENDATION(S)
PLANNING COMMISSION**

On January 25, 2019, the County of San Diego's Planning Commission considered Zoning Ordinance Update No. 31 and the associated County Code amendments (Zoning Ordinance Update), and the Program Environmental Impact Report (EIR) Addendum. The Planning Commission made the following recommendations to the Board of Supervisors (Board):

1. Find that it has reviewed and considered the information contained in the Final Program EIR, dated August 3, 2011, on file with Planning & Development Services (PDS) as Environmental Review Number 02-ZA-001, the Draft Addendum thereto, dated August 3, 2018, on file with PDS as PDS2017-POD-17-004; PDS2018-REZ-18-008, and the Environmental Review Update Checklist Form, dated January 5, 2018, on file with PDS as Environmental Review Number PDS2017-POD-17-004; PDS2018-REZ-18-008, prior to making its recommendation on the Zoning Ordinance Update. The revisions to Sections 375 and 375.10 (Ex-Parte Communications) of the San Diego

County Administrative Code are not a project as defined under the California Environmental Quality Act (CEQA) because they are an administrative action. This ordinance change is not subject to CEQA and is not included in the Addendum to the General Plan EIR.

2. Adopt the attached Form of Ordinance: AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE RELATED TO DEFINITIONS, ACCESSORY USE REGULATIONS, GENERAL REGULATIONS, AND PROPERTY ZONING (POD 17-004; REZ 18-008) (Attachments A and B, on file with the Clerk of the Board).
3. Adopt the attached Form of Ordinance: AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OF APN 183-074-04-00 WITHIN THE COUNTY OF SAN DIEGO RELATED TO THE ZONING ORDINANCE UPDATE (POD-17-004; REZ 18-008) (Attachments C and D, on file with the Clerk of the Board).
4. Adopt the attached Form of Ordinance: AN ORDINANCE AMENDING ARTICLE 21A, SECTIONS 375 and 375.10 OF THE SAN DIEGO ADMINISTRATIVE CODE RELATED TO EX-PARTE COMMUNICATION (POD 17-004; REZ 18-008) (Attachments E and F, on file with the Clerk of the Board).
5. Adopt the attached Form of Ordinance: AN ORDINANCE ADDING SECTION 71.614 TO THE SAN DIEGO COUNTY REGULATORY CODE RELATING TO SMALL CELL WIRELESS FACILITY PERMITS (POD 17-004; REZ 18-008).
6. Defer Zoning Ordinance Amendment Item No. 4 – Section 3125 – Racing Pigeons; Item No. 9 – Section 6118 – Health Care Trailers; and Regulatory Code Amendment Item No. 1 – Regulatory Code Title 5 – Light Pollution and return to the Planning Commission for further consideration.

DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES

Planning & Development Services concurs with the Planning Commission's Recommendations to the Board of Supervisors (Board) and further recommends that the Board:

7. Find that the Final Program Environmental Impact Report (EIR) dated August 3, 2011 on file with the Department of Planning & Development Services as Environmental Review Number 02-ZA-001 was completed in compliance with the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines and that the Board of Supervisors has reviewed and considered the information contained therein and the Addendum thereto dated January 30, 2019 on file with PDS before approving the project; and,
8. Find that there are no changes in the project or in the circumstances under which the project is undertaken that involve significant new environmental impacts which were not considered in the previously certified Program EIR for the General Plan Update dated August 3, 2011, that there is no substantial increase in the severity of previously identified significant effects, and that no new information of substantial importance has become available since the EIR was certified, as explained in the Environmental Review Update Checklist dated January 30, 2019.
9. Approve the introduction of the proposed Administrative Code amendment (first reading), read title and waive further reading of the following ordinance: AN ORDINANCE AMENDING ARTICLE 21A, SECTIONS 375 and 375.10 OF THE SAN DIEGO ADMINISTRATIVE CODE RELATED TO EX-PARTE COMMUNICATION (POD 17-004; REZ 18-008) (Attachments E and F, on file with the Clerk of the Board).

10. Approve the introduction of the proposed Administrative Code amendment (first reading), read title and waive further reading of the following ordinance: AN ORDINANCE ADDING SECTION 71.614 TO THE SAN DIEGO COUNTY REGULATORY CODE AND AMENDING SECTIONS 362.1 AND 362.2 OF THE ADMINISTRATIVE CODE RELATING TO SMALL CELL WIRELESS FACILITY PERMITS (POD 17-004; REZ 18-008) (Attachments G & H, on file with the Clerk of the Board)

If on February 27, 2019, the Board takes the actions recommended in Item Nos. 1 - 7, then, on March 13, 2019:

1. Submit the Ordinance for further Board consideration and adoption (second reading): AN ORDINANCE AMENDING ARTICLE 21A, SECTIONS 375 AND 375.10 OF THE SAN DIEGO ADMINISTRATIVE CODE RELATED TO EX-PARTE COMMUNICATION (POD 17-004; REZ 18-008).
2. Submit the Ordinance for further Board consideration and adoption (second reading): AN ORDINANCE ADDING SECTION 71.614 TO THE SAN DIEGO COUNTY REGULATORY CODE AND AMENDING SECTIONS 362.1 AND 362.2 OF THE ADMINISTRATIVE CODE RELATING TO SMALL CELL WIRELESS FACILITY PERMITS (POD 17-004; REZ 18-008).

FISCAL IMPACT

Funds for the proposed establishment of a ministerial process for small cell wireless facilities permits, including a new inspection deposit and annual fee, are not included in the Fiscal Year 2018-19 Operational Plan in the Department of Public Works (DPW). If approved by the Board, these recommendations are expected to result in total additional projected costs and revenue of \$7,500 for Fiscal Year (FY) 2018-19 and estimated annual costs and revenue of \$30,000 beginning in FY 2019-20. These fees are consistent with the September 26, 2018 FCC Small Scale Wireless Report and Order (FCC-18-133), and are estimated in an amount sufficient to recover full cost as required by Board Policy B-29: *Fees, Grants, Revenue Contracts-Department Responsibility for Cost Recovery*. Accordingly, there is no projected unrecovered cost and a waiver of Board Policy B-29 is not needed. The funding source is fees paid by customers. If approved, costs and revenue for future fiscal years will be included in future years Operational Plans in DPW. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ACTION 2.1:

Noting for the record that an Errata was submitted; ON MOTION of Supervisor Jacob, seconded by Supervisor Fletcher, the Board of Supervisors referred Zoning Amendment item numbers 7 “Section 4115 – Computation of Permitted Number of Dwelling Units,” and 8, “Section 4315 – Exemptions for Building Type Schedules,” back to the Chief Administrative Officer to work with Planning Groups.

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

ACTION 2.2:

ON MOTION of Supervisor Jacob, seconded by Supervisor Fletcher, the Board of Supervisors approved the staff recommendations for Zoning Amendment item numbers 10a, “Section 6156 – Accessory Dwelling Unit (ADU) Regulation,” and 10b, “Section 6156 – Junior ADU Regulations,” and directed the Chief Administrative Officer to develop a ministerial checklist of guidelines to ensure the Accessory Dwelling Unit is compatible with the main unit and the surrounding area, make the setback consistent with the main dwelling unit unless it is a conversion of an existing structure, and remove the owner-occupancy requirement for the main house.

AYES: Cox, Jacob, Fletcher, Desmond

NOES: Gaspar

ACTION 2.3:

ON MOTION of Supervisor Desmond, seconded by Supervisor Gaspar, the Board of Supervisors approved the staff recommendation for Zoning Amendment item number 12, “6350, 6360, and 7400 – Density Bonus.”

AYES: Cox, Gaspar, Fletcher, Desmond

NOES: Jacob

ACTION 2.4:

ON MOTION of Supervisor Desmond, seconded by Supervisor Fletcher, the Board of Supervisors approved the staff recommendations for the following Zoning Amendment item Numbers:

- 1 – “1006 – Applicability of the Zoning Ordinance ”
- 2a – “1100 Definitions”
- 2b – “1100 Definitions”
- 3 – “1265 Group Residential”
- 5 – “4010 – Specific Plans”
- 6 – “4011 & 6903 Legal Lots with Split Zoning”
- 10c – “6156 – Residential and Agricultural Uses (Guest Living Quarters)
- 10d – “6156 Residential and Agricultural Uses (Ministerial Permits)
- 11 – “6157 – Farm Employee Housing”
- 13 – “9787 Location of Parking,” and
- 14 – “6910 – Wholesale Limited, Boutique and Small Wineries”

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

ACTION 2.5:

ON MOTION of Supervisor Cox, seconded by Supervisor Desmond, the Board of Supervisors approved the staff recommendation for Zoning Amendment item number 15, “6980 – Federal Communication Commission (FCC) Small Wireless Facilities,” and directed the Chief Administrative Officer to return to the Board within 180 days with additional requirements including options to reduce cluttering, study avoidance of sensitive sites, how the county can encourage co-locating small cell wireless facilities with existing infrastructure, the distance between poles, the placement of the utility box that powers the equipment on the poles, residential preferred locations, undergrounding equipment, and additional public noticing; and adopted Ordinance No. 10592 (N.S.) entitled: AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE RELATED TO DEFINITIONS, ACCESSORY USE REGULATIONS, GENERAL REGULATIONS, AND PROPERTY ZONING (POD 17 004; REZ 18 008).

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

ACTION 2.6:

ON MOTION of Supervisor Cox, seconded by Supervisor Gaspar, the Board of Supervisors took the following actions:

1. Approved the staff recommendation for Zoning Amendment item number 16;
2. Found that it has reviewed and considered the information contained in the Final Program EIR, dated August 3, 2011, on file with Planning & Development Services (PDS) as Environmental Review Number 02-ZA-001, the Draft Addendum thereto, dated August 3, 2018, on file with PDS as PDS2017-POD-17-004; PDS2018-REZ-18-008, and the Environmental Review Update Checklist Form, dated January 5, 2018, on file with PDS as Environmental Review Number PDS2017-POD-17-004; PDS2018-REZ-18-008, prior to making its recommendation on the Zoning Ordinance Update. The revisions to Sections 375 and 375.10 (Ex-Parte Communications) of the San Diego County Administrative Code are not a project as defined under the California Environmental Quality Act (CEQA) because they are an administrative action. This ordinance change is not subject to CEQA and is not included in the Addendum to the General Plan EIR.
3. Deferred Zoning Ordinance Amendment Item No. 4 – Section 3125 – Racing Pigeons; Item No. 9 – Section 6118 – Health Care Trailers; and Regulatory Code Amendment Item No. 1 – Regulatory Code Title 5 – Light Pollution and return to the Planning Commission for further consideration.
4. Found that the Final Program Environmental Impact Report (EIR) dated August 3, 2011 on file with the Department of Planning & Development Services as Environmental Review Number 02-ZA-001 was completed in compliance with the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines and that the Board of Supervisors has reviewed and considered the information contained therein and the Addendum thereto dated January 30, 2019 on file with PDS before approving the project.
5. Found that there are no changes in the project or in the circumstances under which the project is undertaken that involve significant new environmental impacts which were not considered in the previously certified Program EIR for the General Plan Update dated August 3, 2011, that there is no substantial increase in the severity of previously identified significant effects, and that no new information of substantial importance has become available since the EIR was certified, as explained in the Environmental Review Update Checklist dated January 30, 2019.
6. Approved the introduction of the proposed Administrative Code amendment (first reading), read title and waive further reading of the following ordinance: AN ORDINANCE AMENDING ARTICLE 21A, SECTIONS 375 and 375.10 OF THE SAN DIEGO ADMINISTRATIVE CODE RELATED TO EX-PARTE COMMUNICATION (POD 17-004; REZ 18-008).
7. Approved the introduction of the proposed Administrative Code amendment (first reading), read title and waive further reading of the following ordinance: AN ORDINANCE ADDING SECTION 71.614 TO THE SAN DIEGO COUNTY REGULATORY CODE AND AMENDING SECTIONS 362.1 AND 362.2 OF THE ADMINISTRATIVE CODE RELATING TO SMALL CELL WIRELESS FACILITY PERMITS (POD 17-004; REZ 18-008); and introduced Ordinances for further Board consideration and adoption on March 13, 2019.

8. Adopted Ordinance No. 10592 (N.S.) entitled: AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE RELATED TO DEFINITIONS, ACCESSORY USE REGULATIONS, GENERAL REGULATIONS, AND PROPERTY ZONING (POD 17-004; REZ 18/008)
9. Adopted Ordinance No. 10593 (N.S.) entitled: AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OF APN 183-074-04-00 WITHIN THE COUNTY OF SAN DIEGO RELATED TO THE ZONING ORDAINCE UPDATE (POD-17-004; REZ 18-008)

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

State of California)
County of San Diego) §

I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.

DAVID HALL
Clerk of the Board of Supervisors



Signed
by Marvice Mazyck, Chief Deputy