Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

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TO: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
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REPORT TO THE BOARD ON FACILITATING SECONDARY LAND USES ON UTILITY RIGHTS OF WAY (Motion of May 13, 2014—AGENDA. NO. 3)

BACKGROUND

On May 13, 2014, on a motion by Supervisor Ridley-Thomas, the Board instructed the Department of Regional Planning, in collaboration with the Fire Department, to study and provide recommendations for an appropriate permitting process for plant nurseries, row crops, and other secondary land uses that are considered appropriate in utility rights of way (ROWs). This initial report is prepared in response to the Board's request.

CURRENT POLICIES

State Law

Section 316.6 of the California Fire Code states that for establishing secondary uses within utility ROWs and easements:

- Structures shall not be constructed within the utility easement beneath high-voltage transmission lines, except for restrooms and unoccupied telecommunication structures of noncombustible construction less than 15 feet in height.
- Outdoor storage within the utility easement underneath high-voltage transmission lines shall be limited to noncombustible materials. Storage of hazardous materials is prohibited, however, certain kinds of combustible storage, such as vehicle and fuel storage for backup power equipment serving public utility equipment, is allowed provided that a site plan showing storage configuration is submitted and approved.

County Regulations

In implementing the State Fire Code regulation above, the County Fire Department developed Regulation #27 (Requirements for Building Construction and Land Use Within or Adjacent to High Voltage Transmission Lines), which states that only the following secondary uses are approved to be placed underneath transmission lines:

- New and/or existing agricultural and recreational uses may continue as long as no new permanent structures are constructed;
- New and/or existing outside storage of combustible materials, with an approved storage configuration site plan; and
- New and/or existing vehicle parking storage, provided that a site plan that depicts parking is approved by the Fire Department, with some restrictions on what types of vehicles may be parked.

Utility Company Regulations

In Los Angeles County, Southern California Edison (SCE) and the Los Angeles Department of Water and Power (LADWP) are the primary owners of a majority of utility ROWs. Their real estate departments have allowed only the following secondary land uses to be established on properties leased from them, in compliance with the California Fire Code:

- Nurseries, horticulture and agriculture, but not including community gardens
- Landscaping
- Construction staging
- Trucking operations
- Vehicle parking, including overflow parking
- Telecommunication facilities
- Greenbelts
- Trails
- Temporary activities, including filming.

These secondary uses comply with County Fire Regulation #27, in that these uses do not involve nor require permanent structures to be established in conjunction with the uses.

County Zoning Requirements

The County has established the following permitting requirements for the following uses allowed by the utility companies as secondary land uses in the zones that are commonly assigned to the utility ROWs throughout the unincorporated areas of the County:

Land Use	Zones										
	A-1	A-2	R-1	R-2	R-A	C-1	C-2	C-3	M-1	O-S	IT
Plant nurseries (with sales)	CUP	CUP	-	-	-	P	P	P	P	-	-
Crops, nursery stock (no sales)	P	P	CUP	CUP	P	P	P	P	P	P	-
Building materials storage (adjacent)	A	A	A	A	A	A	A	A	P	-	A
Construction materials storage (off-site)	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	-
Truck storage	-	-	-	-	-	-	-	-	P	-	-
Vehicle parking*	TUP/ PP	TUP/ PP	TUP/ PP	TUP/ PP	TUP/ PP	TUP/ PP	TUP/ PP	TUP/ PP	TUP/ PP	TUP/ PP	TUP/ PP
Telecommunication facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Parks	CUP	P	CUP	CUP	CUP	P	P	P	P	CUP	CUP
Trails	DR	P	DR	DR	DR	P	P	P	P	P	-
Temporary events	TUP	TUP	TUP	TUP	TUP	TUP	TUP	TUP	TUP	TUP	TUP

Key:
P = Permitted
A = Accessory
DR = Director's Review
CUP = Conditional Use Permit

Key:
PP = Parking Permit
TUP = Temporary Use Permit
- = Not Permitted

Note:
*Vehicle parking: The permit type depends on how often the lot in the ROW is to be used for parking – TUP if parking is in conjunction with a temporary use or special event on another site, and PP if the lot is to be routinely used for off-site parking to serve another use.

The Department has determined that "plant nurseries" as listed in Title 22 (Planning and Zoning Ordinance) are establishments that may engage in either retail or wholesale sale of nursery stock on-site. *"Crops,"* which may include the growing of *"field, tree, bush, berry and row crops, including nursery stock,"* are operations that propagate plants on or in the ground, which are then sold off-site. On-site sales of nursery stock would be an activity prohibited in all Residential Zones.

ISSUES

Financial Burden

The current fee for a Conditional Use Permit (CUP) is $8,724.00 and all utility ROW's with a Residential Zoning designation require CUPs for nurseries. Utility lessees who wish to grow nursery stock crops have complained that the cost is too high to acquire a CUP and conduct environmental determination to establish or continue such operations.

Utility companies which lease the ROW properties do not offer financial assistance, as a matter of policy, to cover the cost for acquiring entitlements, so the lessees must absorb the fees themselves. They are requesting relief for the cost of obtaining entitlements.

Regulatory Issues

Several utility ROW corridors in the unincorporated urban areas do not have adequate fencing or security controls. Absent of other secondary uses, many of these ROWs have attracted undesirable activity including illegal dumping and homeless encampments. The Department's Zoning Enforcement Section has had some success in abating these encampments, but the effort required considerable resources from multiple County agencies. The property owners, in this case LADWP, have done little to improve security in or near these ROWs and therefore it is likely that problems will eventually return. Since 2013, two enforcement actions were filed on two separate utility ROW parcels that had illegal encampments and accumulations of trash.

The ROW parcels located within unincorporated territory that are owned by LADWP presents unique regulatory issues and also potential opportunities to develop recreational facilities. These corridors are municipally-owned yet surrounded by unincorporated land, where there is little political desire or community benefit to the City of Los Angeles to develop these parcels as community parks. If the parcels are not to be leased out for crop growing and similar activities, the County may have an opportunity to form partnerships between LADWP and the County Department of Parks and Recreation to invest in these parcels for the benefit of the surrounding unincorporated communities.

Analysis of County Zones for Utility ROWs

The County's current zoning strategy in unincorporated urban areas is to zone ROWs similar to the zoning of adjacent areas. The strategy is intended to create consistent land use patterns between ROWs and adjacent areas, however the result often leads to inconsistent uses permitted within the ROWs themselves. As shown on the table on Page 3, the growing of nursery crops is allowed by-right in Zone R-A, and all Agricultural and Commercial Zones (except Zone C-H). However, all Residential Zones (except Zone R-A) require a CUP in order to grow nursery crops and a significant number of urban unincorporated ROWs are zoned R-1 or R-2 because the adjacent areas are zoned similarly. There are exceptions to this strategy. One corridor is currently zoned IT (Institutional), which does now allow crops, however nurseries were approved with CUPs within this corridor prior to it being rezoned from Zone R-3 to Zone IT. This creates another regulatory challenge to those nurseries once the CUPs expire.

The following table breaks down the number of ROW parcels by zone, based on data from the Assessor and the California Energy Commission for 2,258 parcels within the unincorporated areas of Los Angeles County that were identified to contain "major" above-ground electric transmission lines (lines that carry higher than 115 kV of power):

Zones	Total Number of Parcels	Utility-Owned Parcels	Privately or Other Govt-Owned Parcels
R-1 through R-4, RPD	97	64	33
R-A	104	66	38
A-1	623	294	329
A-2	988	406	582
C-H	0	0	0
C-1 through CPD	37	15	22
M-1 through MPD, B-1	80	28	52
O-S	77	21	56
W	198	4	194
IT	26	26	0
R-R	9	1	8
SP (Specific Plan)	19	2	17
Total	**2,258**	**927**	**1331**

Zone A-2 is far the most common zoning designation for the utility corridors in the unincorporated areas of the County, followed by Zone A-1. The next most common zones to a much lesser extent are Zones R-A and W. All of these zones allow crops and tree farms by right.

Residential Zones

Of 2,258 qualifying parcels, 97 are identified with Zones R-1 through R-4 and Zone RPD designations. Sixty-four of these residentially zoned parcels are owned by SCE and LADWP. The remaining parcels are either owned by local municipality-owned companies or by private individuals where there are utility easements. Not all residentially-zoned parcels are currently used for crops or nurseries, however crops are the most common land use. A number of residential parcels are used either as open space or parkland. A few parcels included in the data are single-family residences, where the utility easements may encroach on portions of the lot.

Comparative Analysis of Zoning of Other Jurisdictions

A comparative analysis was done on twelve municipal jurisdictions within the County to note whether residential zones were commonly assigned to the utility ROWs. Staff checked aerial photos in GISNET to identify locations of the utility ROW corridors, and then checked the municipalities' zoning maps to confirm the zones that are assigned to these corridors. The municipalities' online zoning codes and filing fee schedules were then accessed to complete the analysis. Nurseries listed in the municipalities' zoning codes may include either retail and/or wholesale sale of nursery stock as well as propagation of nursery stock, as the interpretation of the use may differ from jurisdiction to jurisdiction. The findings are shown in the table below:

Jurisdiction	Zoning for Utility ROWs	Nurseries and crops allowed?	Sales allowed?	Permitting Type	Cost of CUPs
Carson	O-S, MH	Yes in O-S	No	By-right	-
Compton	HM, RA, RL	Only RA and HM	No	By-right	-

Torrance	M-1, M-2, A-1	Yes	Yes, wholesale only	By-right	-
Redondo Beach	P-ROW and P-PRO	Yes	Yes, both retail and wholesale	CUP	$2,100
Long Beach	PR, IG	Crops as accessory use; Tree farms and nurseries as primary use	-	By-right	-
Bellflower	O-S	Yes	-	By-right for crops, CUP for greenhouses	$2,000
Paramount	Various, including R-1	Yes	No retail sales	By-right, with screening, and greenhouses allowed for propagation only.	-
Lakewood	O-S	Yes	Retail sales allowed only with a CUP	By-right	$770
Montebello	R-1	Yes – just crops	-	By-right	-
Rosemead	O-S, P	Yes	-	By-right	-
San Gabriel	PF/OS and C-3	Unclear	-	"Unspecified uses" require a CUP in PF/OS	$1,750
Los Angeles (City)	PF (mostly), R-1 and R-2 in one neighborhood	Yes	No retail sales in R zones.	By-right in PF, CUP in R-1/R-2	$5,358
Los Angeles (County)	Various, including all R zones	Yes for most except IT	No in all Ag, R Zones and C-H	CUP required in R-1 and R-2, DR in C-H, by-right in others	$8,724
- Indicate no information provided from initial research.					

Out of the twelve municipal jurisdictions analyzed, just four – Compton, Paramount, Montebello, and the City of Los Angeles (to a very limited extent) – assign residential zones to some of the utility ROW parcels. Incidentally, with the exception of the City of Los Angeles, the other three jurisdictions permit the growing of crops and nurseries by-right in the residential zones. The City of Los Angeles requires a Conditional Use Permit, but the costs for permits and environmental determination for a categorical exemption are substantially lower than at the County. The three other jurisdictions that require CUPs for these uses have fees that are less than half of the County's fees.

Three of the twelve jurisdictions expressly allowed sales, either retail or wholesale or both, in conjunction with crop growing and nurseries. One jurisdiction requires a CUP if sales are conducted on site in conjunction with the use. The remaining jurisdictions either expressly prohibit sales or do not include this information in their zoning codes.

NEXT STEPS

We are still consulting with the Fire Department and representatives from the utility companies. We intend to meet with the Board Deputies in the next two months before we will prepare a follow-up report with options and recommendations on regulating secondary uses in the utility ROWs for the Board's consideration.

Should the Board have any questions about this report, please contact Bruce Durbin in the Ordinance Studies Section at (213) 974-6432 or bdurbin@planning.lacounty.gov.

RJB:DS:JS:BD:as

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