



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: February 7, 2017

TO: Mayor and Councilmembers

FROM: Administration, Housing and Human Services Division, Community Development Department

SUBJECT: Request From Mayor Schneider And Councilmember Dominguez To Review Community Development Department Noticing Requirements

RECOMMENDATION: That Council receive a staff presentation regarding Community Development Department noticing procedures, and provide direction to staff regarding the inclusion of tenants on future noticing.

DISCUSSION:

Over the last year, City action has taken place after which members of the community requested expanded noticing by the City. Currently, most tenant households do not receive mailed notices; therefore, Mayor Schneider and Councilmember Dominguez have requested a review of the Community Development Department noticing requirements, including geographic reach, household inclusion, timing, and types of notices.

State Law Requirements

The California Government Code implements constitutional due process by requiring public notice for certain actions by the Planning Commission and City Council. Specifically, Section 65905 states that "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." That section further states that the notice of such a hearing shall be given pursuant to Section 65091 of the Government Code.

Government Code Section 65091 states, in part, that notice of the public hearing shall be mailed or delivered at least 10 days prior to the hearing to:

- the owner of the subject real property, the owner's authorized agent, and the project applicant;

- each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected; and
- to all owners of real property as shown on the latest equalized assessment roll within 300 feet of the real property that is the subject of the hearing. If the number of owners to whom notice would be mailed or delivered pursuant to this paragraph is greater than 1,000, a local agency, in lieu of mailed or delivered notice, may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the local agency in which the proceeding is conducted at least 10 days prior to the hearing.

If the notice is mailed (as opposed to posted in a display ad), the notice shall also be published in at least one newspaper of general circulation within the local agency in which the proceeding is conducted at least 10 days prior to the hearing (i.e., legal ad), and posted at least 10 days prior to the hearing in at least three public places within the boundaries of the local agency, including one public place in the area directly affected by the proceeding.

Furthermore, Section 65091 states that “in addition to the notice required by this section, a local agency may give notice of the hearing in any other manner it deems necessary or desirable.”

Pursuant to Government Code Section 65094, the notice must include the date, time, and place of the hearing; the identity of the hearing body or officer; a general explanation of the matter to be considered; and a general description of the location of the real property that is the subject of the hearing.

For projects located in the City’s Coastal Zone and that require a Coastal Development Permit, a notice of the public hearing shall be provided as above, and shall also be mailed to occupants of residences, including apartments, on or within 100 feet of the subject property, and to the California Coastal Commission. Notices for these projects must also provide additional content, including the process to file appeals of local decisions.

City of Santa Barbara Requirements

The Community Development Department (Department) provides public notice for development project-related hearings before the City Council, Planning Commission, and Staff Hearing Officer in accordance with the above state law (Attachment 1). As allowed by Section 65091, the Department also provides public notice for certain development projects that are heard by the Architectural Board of Review (ABR), Historic Landmarks Commission (HLC), and Single Family Design Board (SFBD). Santa Barbara Municipal Code (SBMC) Sections 22.22.132, 22.68.040, and 22.69.040 list the types of projects that require notice of a public hearing at the HLC, ABR, and SFDB, respectively.

In addition to the required mailed notice to property owners within 300 feet of the real property that is the subject of the hearing, the Department may also require additional

noticing for certain projects. Additional noticing may include, but is not limited to, posted notice on the project site (Attachment 2) and/or additional notice delivered to the tenants of any of the 10 to 20 lots that are closest to the project site. The Department also mails notices and/or agendas to interested parties who request to be notified of specific projects. Notices are mailed ten days in advance consistent with state and city requirements, and agendas are mailed 72 hours in advance of a meeting, consistent with Brown Act requirements.

Although tenants make up sixty percent of the population of the City of Santa Barbara, state regulations do not require that they be directly notified of a project in their neighborhood, and city regulations only require notices for tenants of the 10 to 20 closest lots for design review hearings. Until recently, the City had no way of identifying multiple-unit or mixed-use developments, and there was no effective way of obtaining addresses for tenants in the 300-foot radius using the City's centralized Geographic Information System (CGIS) software program, which has the parcel owner and address information, but does not contain other addresses associated with the parcel. Currently, tenant addresses for any project requiring tenant noticing are obtained by the applicant, and are typically obtained by walking the neighborhood.

Recent Developments

The City has recently invested in new land development application software, Accela, which will be used throughout the City by various departments. As part of this upgrade, City Information Technology staff are developing a new layer in CGIS to link all valid City mailing addresses to the parcel. This will enable us to include tenants in the department's noticing procedure. A master address list has been purchased through a third-party vendor, and Information Technology anticipates having this mailing address layer completed and available for use before the end of 2017. Once the layer is available in CGIS, staff will be able to identify if a lot is a multiple-unit or mixed-use development and will have the ability to include tenants when mailing notices for projects in the City. The mailing address layer will contain addresses and associated parcel information only and will not include tenant names.

In order to avoid costly processing delays in the event of minor noticing errors affecting tenants, the City Attorney's Office advise that the tenant noticing should be made "directory" rather than "mandatory." The Constitution does not require tenant noticing, so allowing a hearing to go forward despite minor noticing errors affecting tenants can be allowed.

BUDGET/FINANCIAL INFORMATION:

There will likely be increased costs and impacts related to noticing of tenants on all development projects. These costs include postage, additional staff time to copy and send the notice, additional staff time to respond to public inquiries and comments, and additional time at hearings due to potential additional public comment. The hard costs (postage and staff time) could be recuperated by an increase in development fees; however, projects may also be delayed because design review hearings may not be able to accommodate as many projects on an agenda.

ATTACHMENT(S): 1. City of Santa Barbara Noticing Distance Requirements
2. City of Santa Barbara On-Site Posting Instructions

PREPARED BY: Mia Martinez, Administrative Supervisor

SUBMITTED BY: George Buell, Community Development Director

APPROVED BY: City Administrator's Office



City of Santa Barbara

NOTICING DISTANCE REQUIREMENTS

Public noticing is required to provide neighboring property owners an opportunity to be heard at a public hearing regarding development proposed in their neighborhood. The following is a list of the public noticing distance required for discretionary review projects.

TYPE OF PROJECT*	OWNERS	TENANTS/ OCCUPANTS
Coastal Development Permit (Appealable Jurisdiction)	300 feet	100 feet
Coastal Development Permit (Non-Appealable Jurisdiction)		
Local Coastal Plan Amendment		
Coastal Development Permit (No Public Hearing)	100 feet	100 feet
Design Review (ABR/HLC/SFDB) ONLY Projects:* <u>New Structures:</u> single residential units, duplexes, multiple residential units, mixed use buildings, or non-residential buildings; <u>Additions:</u> ➤ New Units: any addition or alteration that results in an additional residential unit; ➤ Over 500 square feet of net floor area to a single residential unit, duplex, or multiple residential unit; or ➤ New story, or an addition to an existing second or higher story of a single residential unit, duplex, or multiple residential unit; ➤ Development Plans: small non-residential additions of 1,000 to 3,000 sq. ft. (cumulative); <u>Other:</u> ➤ <u>Grading</u> in excess of 250 cubic yards outside the main building footprint; ➤ <u>Exterior lighting</u> with the apparent potential to create significant glare on neighboring parcels; ➤ Projects previously noticed which have been significantly or substantially changed , in the judgment of the ABR/HLC/SFDB or the Community Development Director, may require an additional mailed notice; <u>Other Possible Noticing:</u> ➤ <u>Neighborhood markets</u> in residential zones improvements or upgrades that require discretionary review by the City per SBMC§28.87.030.E.2.c; ➤ <u>M-1 zone residential property</u> improvements or upgrades that require discretionary review by the City per SBMC§28.87.030.E.3.b.	300 feet	10 Closest Lots**

*If a project requires both Design Review approval **and** approval by City Council, Planning Commission, or Staff Hearing Officer, all public notices shall comply with the notice requirements for the greatest distance.

**Single-family residential projects subject to mailed noticing at the SFDB or HLC have an additional hand-delivered tenant/occupant noticing requirement for the first Design Review meeting.

Noticing Distance Requirements

TYPE OF PROJECT*	OWNERS	TENANTS/ OCCUPANTS
Condominium Conversion	300 feet	Project Site
Conditional Use Permit	300 feet	Not Required
Development Plan		
General Plan Amendment		
Large Family Day Care		
Lot Line Adjustment		
Modification		
Neighborhood Preservation Ordinance Review by Planning Commission		
Performance Standard Permit		
Specific Plan, Transfer of Existing Development Rights		
Subdivision (including New Condominiums)		
Variance	100 or 300 feet	Not Required
Zone Change, Annexation		
P-R Zone (<i>See SBMC§28.37.010 for noticing and posting requirements.</i>)		
*If a project requires both Design Review approval and approval by City Council, Planning Commission, or Staff Hearing Officer, all noticed hearings shall comply with the notice requirements for the greatest distance.		
**Single-family residential projects subject to mailed noticing at the SFDB or HLC have a hand-delivered tenant/occupant noticing requirement for the first Design Review meeting.		



City of Santa Barbara

ON-SITE NOTICE POSTING INSTRUCTIONS

(To Be Distributed with Posting Materials)

The public noticing requirements (SBMC §28.87.380) allow the City to require a posted notice on the project site as an additional method of providing notice to the public of an upcoming hearing.

At the time of submittal for a project that is required to be noticed, Staff will provide the applicant with a yellow on-site posting sign and a metal stake on which to mount the sign. The applicant is responsible for installation of the on-site posting sign, following the directions below.

1. On the yellow sign, fill in the following information in large printed letters using a **BLACK** permanent marker (*see example below*):
 - a. Project Address
 - b. Case Number (MST #)
 - c. Applicant's Name & Phone Number
 - d. Staff Contact - If the project has been assigned a Case Planner, please provide their name. Otherwise please list one of the following: ABR Staff, HLC Staff, or SFDB Staff.
 - e. Date that the notice was first posted on the site.
2. The sign must be placed within two feet (2') of the property line of the subject site, so that it can be easily viewed from the public right-of-way. For properties accessed only by a private easement, post the sign on the easement so that it is clearly visible from the closest public roadway.
3. The applicant must install the sign at the site no later than ten (10) days prior to the first public hearing date.
4. At the time of application submittal, the applicant shall sign an affidavit stating that he or she will post the sign per these instructions.

Note: The on-site notice may be removed between required, noticed public hearings, although you are encouraged to keep it up during the entire planning review process. Please **KEEP** the sign and metal stake given to you for installation of the sign, as they will be used for the next noticed, public hearing. If you wish to recycle the metal stake, you may return it to the Planning & Zoning Counter.

Example Sign:

	<h2>NOTICE OF DEVELOPMENT</h2>
<p>A PERMIT APPLICATION FOR DEVELOPMENT ON THIS SITE IS ON FILE WITH THE CITY OF SANTA BARBARA</p>	
Address: <u>630 Garden Street</u>	Case # MST: <u>2009-00121</u>
Applicant: <u>John Doe</u>	Phone: <u>(123) 555-1212</u>
Staff Contact: <u>HLC Staff</u>	Date Posted: <u>4/9/09</u>
<p>For more information, please contact (Para información sobre este permiso de desarrollo favor de llamar): City of Santa Barbara Planning Division at (805) 564-5470 www.SantaBarbaraCA.gov → "Find Permit Status"</p>	