



AGENDA REPORT

Meeting Date: April 22, 2014

Item Number: F-2

To: Honorable Mayor & City Council

From: Susan Healy Keene, AICP, Director of Community Development

Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO REVISE THE REQUIREMENTS FOR PUBLIC NOTICING OF PLANNING APPLICATIONS

Attachments:

1. Ordinance
2. Ordinance (Changes in Strikeout/Underline)
3. Planning Commission Resolution No. 1712
4. May 23, 2013 Planning Commission Report
5. October 10, 2013 Planning Commission Report (without attachments)
6. Map depicting Central, Trousdale, and Hillside Areas of the City
7. Proposed Notice Requirements Table
8. Draft Director's Guidelines for Public Noticing

RECOMMENDATION

Staff recommends that the City Council move to waive the full reading of the ordinance and that the ordinance entitled "an ordinance of the City of Beverly Hills City Council amending the Beverly Hills municipal code to revise the requirements for public noticing of planning applications" be introduced and read by title only.

INTRODUCTION

Public noticing requirements in the zoning code are intended to ensure that community members are informed of certain upcoming land use and permit decisions in the City. City Council members, community members, commissioners, and staff have expressed a desire to comprehensively review noticing requirements and practices and evaluate the expansion of noticing requirements in the City in order to increase transparency and provide the public with

more information on development applications. This effort is the result of a City Council FY 13-14 budget priority item.

On May 23, 2013 the Planning Commission held a study session on public noticing for planning applications and provided direction to staff to return with a draft ordinance addressing issues identified with current noticing standards. Key issues identified by the Planning Commission include:

- Notice requirements are spread throughout the zoning code, which can make it difficult to determine the proper noticing for an application.
- There is a lack of consistency in noticing requirements. For example, in some cases the code calls for mailing notices to property owners and in other cases the code calls for mailing notices to property owners *and* occupants. Additionally, there are cases in which mailed noticing requirements vary based on the zone of the subject property. Improving consistency will help ensure interested parties are notified of an application and make requirements easier to follow and implement.
- Mailed notice areas should be expanded and there are occasions where some property owners on a block receive a notice when others do not.
- On-site posted notices could be used more to inform the public of pending applications and the City lacks consistent standards for posted notices.
- The City currently does not have policies on the use of the website, social media, or email to notice the public regarding planning applications.
- There is a desire to balance the need for more noticing with the potential for “notice fatigue”.

Staff returned to the Planning Commission on October 10, 2013 with an ordinance outlining proposed changes to the municipal code consistent with Planning Commission direction. At this public hearing, the Planning Commission unanimously voted to recommend that the City Council adopt the attached ordinance. The changes proposed in the ordinance were presented to the Architectural Commission and Design Review Commission for their comments. Comments from the two commissions are presented in this report for City Council consideration.

BACKGROUND

Current public notice requirements for development applications are summarized in this section to provide context and background for the proposed ordinance¹.

Current Requirements

Currently, public notice requirements for planning related projects are located throughout the zoning code based on application type. The type of notice required for an application depends on the type of review required (planning review, design review, architectural review, or cultural heritage review) and level of review required (director level or commission level). The current public notice requirements have been developed over time as new permits and applications

¹ The proposed ordinance under consideration only addresses the noticing requirements for planning applications, which are applications associated with development on private property. The City also provides noticing for other types of projects and applications, however, changes to these noticing requirements are not addressed by this ordinance.

have been introduced into the zoning code, and for this reason, there is a lack of consistency among the requirements. For each application, one or more of the following types of notice may be required:

- Mailed Notices. Mailed notices are useful to notify residents and property owners in close proximity to a property with a pending application.
- On-Site Posted Notices. On-site posted notices are posted on the subject property and are useful for to inform those who may pass by the property, especially those who may not receive a mailed notice.
- Newspaper Notices. Newspaper notices are useful to inform the entire community of a pending application. Newspaper notices are generally used for applications that have the potential to impact a larger number of community members.

Each type of notice has an intended audience and an effective noticing strategy involves the use of all three types of noticing as appropriate. Each type is described in more detail below.

Mailed Notices

The City's requirements for mailed notices regulate:

- when a notice must be mailed,
- to whom the notice must be mailed (owners, occupants, or owners and occupants of a property), and
- the distance from the subject property within which property owners, or property owners and occupants are notified (mailing radius).

When a mailed notice is specified for a planning application, the notice is typically required to be mailed at least ten-days prior to a hearing or decision on an application. Generally, current regulations require notices to be sent to owners or owners and occupants of properties within 100-, 300-, or 500- foot radius from the subject property, depending on the type and level of review required for the application. There are also requirements that detail the information that is required to be included in the mailed notice including information on the time and place of a public notice. Currently, mailed notices are required for most planning applications, all commission level design review applications and sign accommodation applications heard by the Architectural Commission.

On-Site Posted Notices

On-site posted notices are currently required for the following applications:

- R4 Permits
- Minor Accommodations
- Notice of Overnight Stay
- Second Unit Permits
- Open Air Dining Permits
- Design Review (commission level).

For these permits, the site must be posted three days after an application is deemed complete, and the notice must be posted for at least ten days before a decision can be rendered. It is unclear why these particular applications require notices and other applications do not. There are few regulations in the current code that outline specifics of the notice to be posted. This lack of regulation has led to a lack of consistency in the aesthetic look of posted notices and unclear standards about the information that should be provided on the posted notices.

Newspaper Notices

The City's code currently requires newspaper announcements for Amendments, Variances, Conditional Use Permits and Tentative Maps, which is consistent with State law. The notices must be published in a local newspaper once, at least ten days prior to the hearing. City policy has been to publish notices in the two local newspapers, which are costs borne by applicants. During the study session and public hearing, the Planning Commission determined that current newspaper notices are sufficient and the proposed ordinance does not change the requirements for newspaper noticing at this time.

For more detailed information on current noticing requirements please see Attachment 4, Planning Commission Report from May 23, 2013.

DISCUSSION

The ordinance recommended by the Planning Commission includes the following key elements:

1. Mailed notice distances for some applications are expanded and for others extended to block-faces and mailed notice requirements are standardized,
2. Posted notice requirements are expanded to include posting for all planning applications, all commission level design review applications, and multi-family architectural commission applications. The content of the posted notices are also standardized,
3. Noticing requirements are consolidated into one municipal code section,
4. Public Notice Guidelines are created to complement the code provisions and outline specific requirements for public noticing and establish policies for website and email noticing.

Below is a summary of the key elements the public noticing ordinance.

1. Mailed notice requirements are standardized and radii are expanded to block-face

Key Changes: Mailed notices will be sent to all properties on a block-face if any property on the block receives a notice. In areas of the City where there are not blocks (Hillside and Trousdale areas), the mailed notification radius is set at 300 feet for director level review and 500 feet for commission level review.

In order to address concerns that there is a lack of consistency in noticing requirements for mailed notices, the mailed noticing requirements have been standardized for nearly all applications^{2,3}. For commission level cases (Planning Commission, Design Review

² Consistent with Planning Commission direction, there are no proposed changes to Cultural Heritage noticing requirements. The Cultural Heritage program is relatively new (established in 2012) and noticing requirements for this program were established at this time.

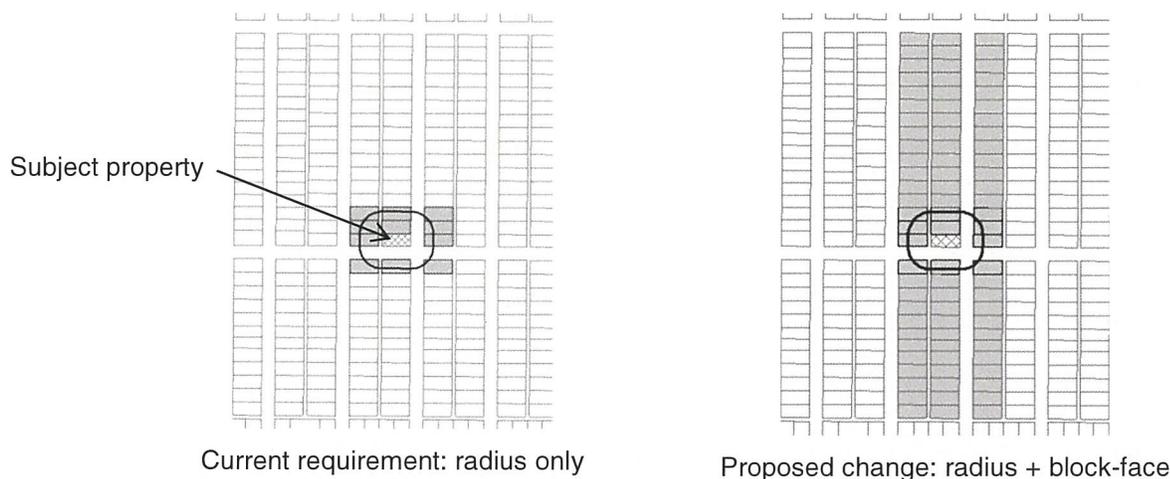
³ There are several applications that require different notice requirements due to State regulations on public notices that supersede local regulations, such as: Common Interest Developments, Large Family Daycare Permits, Reasonable Accommodation, Resolution of Public Convenience and Necessity, and Tree Removal Permits. The Planning Commission determined these requirements to be adequate and there are no proposed changes to these applications at this time.

Commission and Architectural Commission) that require mailed notices, all mailings will be required to be sent ten days in advance of a public hearing, consistent with current standards⁴.

For director level cases that require mailed notices, a mailing will be sent ten days prior to a decision and again five days after a decision has been made to notify owners and occupants of a final Director determination, consistent with current standards. All mailings will be sent by first class mail to property owners and occupants within the mailing area.

To ensure that all properties on a given block receive a mailed notice, the ordinance includes provisions to increase the mailed notice area to include all homes along the block face of a block with any property that falls within the notification radius of the project site in the Central Area of the City (where streets are oriented in blocks). The illustrations below depict an example of a 100-foot radius mailing. On the left is the current standard, which requires the applicant to send notices to the properties that fall within the 100-foot radius surrounding the subject property. Below is a depiction of the requirements in the proposed ordinance, which would require an applicant to send mailed notices to properties within the 100-foot radius as well as all properties located on a block that contains a property that is intersected by the radius. The shaded properties in the images represent properties that would receive a mailed notice under the current and proposed regulations.

Figure 1: expanded mailing notice to block-face



Because streets are not oriented in blocks in the Hillside and Trousdale areas of the City, the mailing radius is proposed to be adjusted in these areas to a size that approximates the block-face mailing area that would be required in the Central Area⁵. As depicted in the illustrations on the following page, the proposed new radii for mailed notices are generally larger for commission level cases than director level decisions. This reflects the fact that cases that are

⁴ A sign accommodation notice is required for certain signs in commercial areas that are reviewed by the Architectural Commission. Under the proposed ordinance, sign accommodation applications would no longer require mailed notices. Approximately three sign accommodations are considered at each Architectural Review meeting, and over the past ten years, there has been one member of the public who has responded to a sign accommodation notice by appearing at an Architectural Review meeting, who had comments unrelated to the sign in question. Generally, the mailed notice requirement can delay projects and cost applicants money. Further, there are provisions in the code that protect single-family homes that are adjacent to commercial properties from negative impacts related to sign accommodation applications, such as restricting signs facing residential properties and regulating the intensity of lighting on signs near residential properties.

⁵ Please see Attachment 6 for Map of the City demarcating these areas.

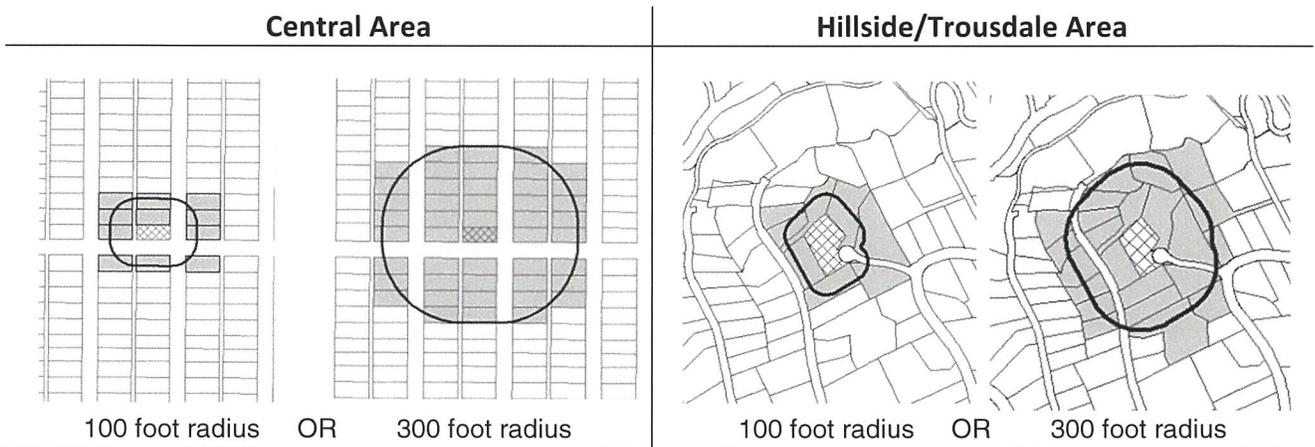
reviewed by a commission are generally more likely to have the potential to impact neighboring properties.

Mailed notices are required for planning review applications considered at the director level, planning review applications considered at the commission/City Council level, and design review applications considered at the commission level. Requirements for these applications are illustrated below.

Director Level Planning Review Applications

Current Requirements

Current mailing radius requirements for director level planning review applications are 100 foot radius or 300 foot radius depending on the application. Several applications only require noticing to adjacent properties.



Proposed Requirements

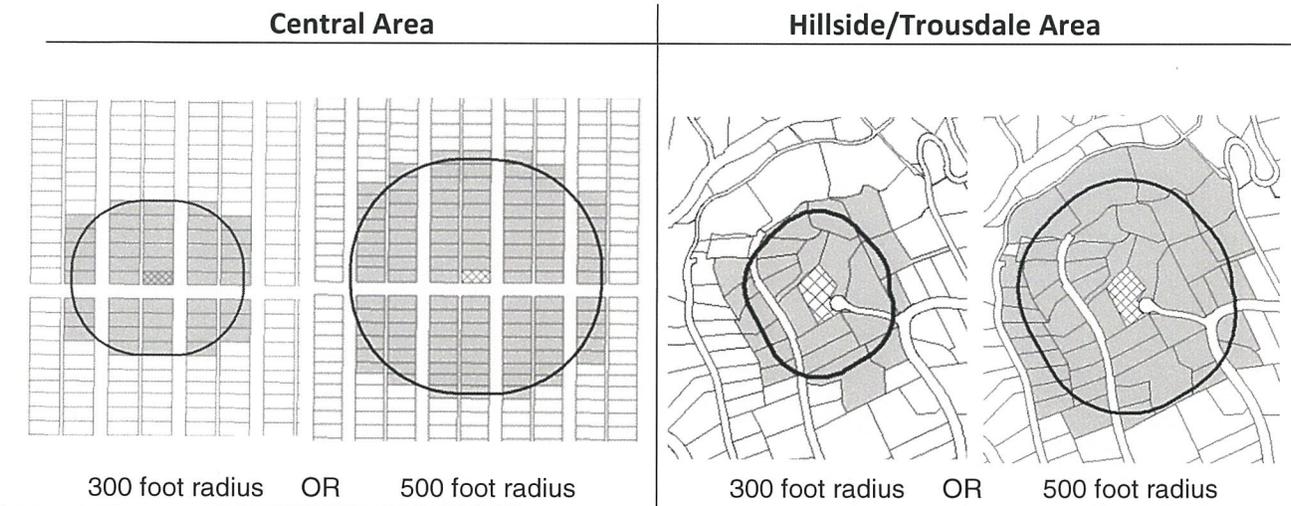
Proposed mailing requirements would differ based the location of the project. In the Central Area all mailings would be sent to properties within a 100 foot radius as well as those properties along blockfaces intersected by the radius. In the Hillside/Trousdale Areas the mailings would be sent to properties within a 300 foot radius.



Commission/City Council level Planning Review Applications

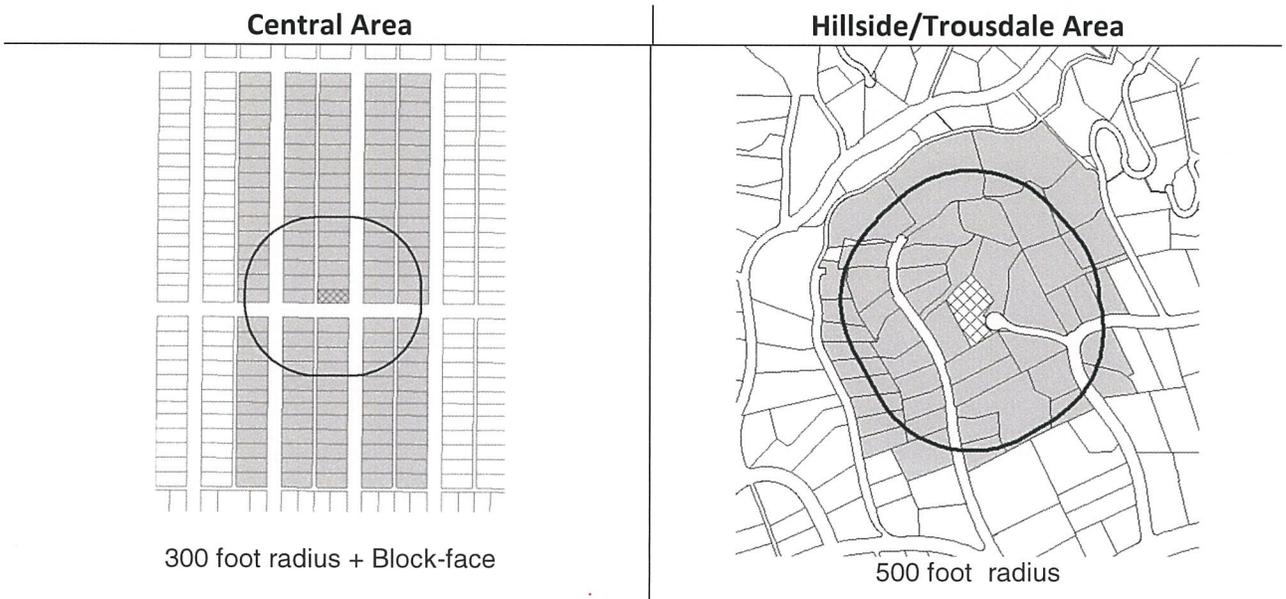
Current Requirements

Current mailing requirements for commission level planning review applications are 300 foot radius or 500 foot radius depending on the application.



Proposed Requirements

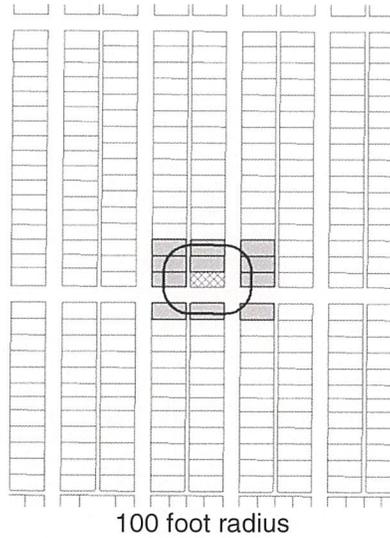
Proposed mailing requirements for commission level planning review applications would differ based the location of the project. In the Central Area mailings would be sent to properties within a 300 foot radius as well as those properties along blockfaces intersected by the radius. In the Hillside/Trousdale Areas the mailings would be sent to properties within a 500 foot radius.



Commission Level Design Review Applications

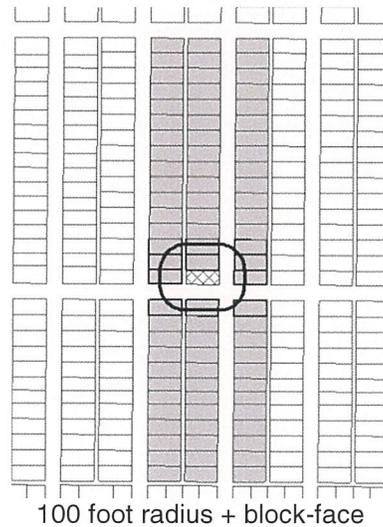
Current Requirement

Current mailing requirements for commission level design review Applications are 100 foot radius.



Proposed Requirement

Current mailing requirements for commission level design review Applications are 100 foot radius as well as those properties along blockfaces intersected by the radius.



A table outlining the types of applications requiring mailed notices and the notice areas is provided in Attachment 7.

2. On-Site Posting Requirements Expanded and Standardized

Key Changes: proposed code changes include requiring on-site posting for the following applications:

- *Architectural Review: Multi-family cases in residential zones,*
- *Design Review: All commission level design review cases,*
- *Planning Review: All director and commission level planning review cases*

The Planning Commission expressed a desire to see more on-site posting of public notices to provide information to community members and interested parties that may not receive a mailed notice about an application.

On-site posted notices are not being proposed for architectural review applications in commercial areas. Adding on-site posted notice requirements result in the need to verify that a notice is posted correctly and in a timely manner. It was determined that due to the volume of commercial architectural review applications and the desire to move projects efficiently through the approval process, the addition of a posted notice requirement could negatively impact applicants by prolonging the application processes and potentially delaying review for some applicants. Posting such applications could also add to sign clutter in commercial areas. Additionally the commission rarely has public input on commercial architectural review applications. If the City Council wishes to include provisions to require the on-site posting of notices for architectural review applications in commercial areas, staff will amend the Ordinance.

Specific requirements pertaining to the size, design, content and location of posted signs are outlined in the proposed Public Notice Guidelines. The design, manufacturing, and posting of signs are proposed to be standardized to ensure that signs are professional and effective. Postings for projects that involve significant physical changes to a property (such as design review) would include renderings of the proposed changes. Two sizes of site postings are proposed, depending on whether the property is commercial or residential. Due to the fact that most commercial buildings are not set back from the property line and are therefore located closer to the public right of way, commercial applications would have a smaller posting that may be placed in a window adjacent to the right of way (11"x17") at each street facing facade. Residential signs would be required to be larger so they may be viewed from the public right of way (18"x24") and located within five feet of the property line on each street frontage.

Posted notices will contain information about the application, contact information for the project planner, a public hearing date and time (when applicable) and a rendering of the proposed project (when applicable). The posted notices would be required to be placed on the property for at least ten days before a decision is made and removed within ten days after the appeal deadline. An example posted notice for a Design Review Commission case is provided on the following page.

Proposed On-site Posted Notice for Design Review Application



NOTICE OF PENDING DESIGN REVIEW PERMIT

The owner of this property intends to seek a Design Review Permit for the construction of a new two-story single-family residence

<p>Public Hearing : October 12, 2014 at 1:30 PM</p> <p>Location of Hearing: Room 280A 455 N. Rexford Drive, Beverly Hills, CA 90210</p> <p>For more information Jane Smith, Associate Planner & to submit comments: (310) 285-1191 jsmith@beverlyhills.org www.beverlyhills.org/planning</p> <p>Scan here with your  smartphone:</p>	<p>Proposed Project</p>  <table style="width: 100%; border-collapse: collapse;"><tr><td style="width: 50%;">Site Address:</td><td>123 Rodeo Drive</td></tr><tr><td>Height:</td><td>30'-8"</td></tr><tr><td>Size:</td><td>3,952 square feet</td></tr><tr><td>Applicant:</td><td>John Doe</td></tr></table>	Site Address:	123 Rodeo Drive	Height:	30'-8"	Size:	3,952 square feet	Applicant:	John Doe
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3. Noticing Requirements are consolidated into one code section

Key Change: All public noticing requirements will be consolidated into one section of the Beverly Hills Municipal Code.

To address concerns that public noticing requirements are difficult to locate in the code and can be hard to understand, the draft ordinance consolidates all public noticing requirements into one new code section provided in Attachments 1 and 2 (Beverly Hills Municipal Code 10-3-253). In this new code section, the noticing requirements are organized into tables to make them easier to understand. The code language in this new section also references the new Public Notice Guidelines document that provides more direction to applicants on specific actions required to fulfill the noticing requirements.

4. Public Notice Guidelines Established

Key Change: Guidelines that clearly outline the public noticing requirements and outline the City's commitment to use technology to enhance noticing will be provided to the public.

The Public Notice Guidelines, which are referenced in the ordinance, are meant to supplement the zoning code by providing step by step instructions to fulfill public noticing requirements. The guidelines are intended to:

1. Provide the public with an easy to understand summary of public notice requirements,
2. Instruct applicants on how to meet the requirements, and

3. Outline additional actions, beyond the code requirements, that the City will take to notify residents and interested parties of applications and projects including the use of the City website, email and social media.

Specifically, the guidelines include:

- Tables depicting the type of noticing required for each application,
- Size and dimension requirements for site postings and instruction on how to post signs,
- Instruction on required recipients of mailed notifications,
- Policies on posting notices on the City website, and
- Guidance on informing neighborhood groups, homeowners associations, and other community groups of pending applications.

Including notice instructions in the guidelines allows flexibility because the guidelines may need to be amended from time to time as improvements in technology and other changes require updates to the standards.

Through the Guidelines the City is committing to develop policies to use the City website and email to make information about pending applications available to the public. The Community Development Department anticipates making a budget request for technology funds to develop content and provide information to the public via the website. Additionally, staff is currently working on other administrative changes to ensure those who have requested notification would receive paper and electronic notices for applicable cases. The City will also develop policies to provide more information to the public through social media.

Comments from the Architectural Commission and Design Review Commission

Staff attended the Design Review Commission meeting on March 6, 2014. Members of the Commission were supportive of the proposed changes and provided the following comments:

- Supported inclusion of a project rendering on required posted notices.
- Recommended that the proposed changes do not go into effect for several months to provide the City with enough time to inform applicants of changes and provide staff with time to conduct outreach and produce application materials. If approved the ordinance would likely go into effect on the 31st day after the second reading. If the second reading occurs in May, 2014 the ordinance would go into effect sometime in June. The City Council may wish to recommend that the ordinance go into effect on July 1.

Staff attended the Architectural Commission meeting on March 19, 2014. Members of the Commission were supportive of the proposed changes and provided the following comments:

- Supported the idea of expanding the mailed notices to the end of block-faces, and
- Suggested that projects on commercial properties considered by the Architectural Commission that are adjacent to residential properties, or within a certain radius of residential properties, also have on-site posted notices, because of potential impacts to residential properties. The draft ordinance considered by the Planning Commission only requires projects in residentially zoned areas considered by the Architectural Commission to be noticed using an on-site posted notice.

The City Council may wish to integrate changes based on the comments from the Architectural or Design Review Commissions.

Pros and Cons

The pros and cons of adopting an ordinance to amend the public notice guidelines are outlined below.

Pros

- Expanding public noticing, and providing noticing through a variety of means (mailed, on-site posted notice, newspaper, website) will increase transparency and public awareness of pending applications and development projects
- Expanding mailed noticing to include mailings to properties on the block-face in the Central Area of the City ensures that all properties on a block receive a notice
- Expanding the use of on-site posted notices and providing more detailed requirements for the notices will result in more noticing of projects to individuals who may not live close enough to a project to receive a mailed notice and will ensure that posted notices look professional and provide adequate information to the public
- Creating more consistent, consolidated requirements in one section of the municipal code will make it easier to determine what noticing is required for applications
- The Public Notice Guidelines document will provide the public with easy to understand instructions for fulfilling the public noticing requirements for an application and also detail actions the City will take to provide more information to the public online

Cons

- Applicant fees associated with noticing for applicants may increase nominally as more mailed notices and posted notices will be required for most applications
- Increasing the amount of noticing required for planning applications could lead to “notice fatigue” of the public and potential enforcement issues if applicants do not remove their on-site posted notices in a timely manner.
- Changing noticing requirements will require extensive outreach to applicants to inform them of pending changes and new requirements, which will require staff time and other resources

GENERAL PLAN CONSISTENCY

The Amendments are consistent with the objectives, principles, and standards of the General Plan. General Plan Policy “LU 16.11 – Community Engagement” encourages engaging all segments of the community in planning decisions. It calls for the maintenance and enhancement of the public involvement process to assure transparency and enable the public to be well informed. The General Plan also includes “Implementation Program 8.1 Public

Information and Involvement,” which requires the City to continue to make information available to residents and businesses regarding key community issues.

ENVIRONMENTAL ANALYSIS

The amendments included in the draft ordinance have been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. It can be seen with certainty that there is no possibility that the adoption and implementation of the Ordinance may have a significant effect on the environment. The Ordinance does not authorize construction. This Ordinance is exempt from the environmental review requirements of CEQA pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

PUBLIC NOTICING AND COMMENTS

This public hearing was noticed in the Beverly Hills Courier on April 11, 2014, and the Beverly Hills Weekly on and on April 17, 2014. The Public Hearing held by the Planning Commission on October 10, 2014 was noticed in the Beverly Hills Weekly and the Beverly Hills Courier prior to the hearing. Additionally, meeting agendas for both public hearings, as well as the presentations to the Architectural Commission and Design Review Commission have been posted at City Hall, the Library, and Civic Center Parking Garage, in addition to the City’s website. Staff also contacted Home Owners Associations, community groups, the Chamber of Commerce and members of the Southeast Task Force.

FISCAL IMPACTS

With regard to implementing the ordinance, there would be staff costs associated with the development and maintenance of the public notice guidelines and planning application materials to ensure consistency with the new public notice standards. There would also be an additional cost to project applicants for the posted signs and additional mailed notices required under the proposed ordinance. Each posted sign is expected to cost between \$40.00 and \$100.00 and the cost of additional mailings will vary depending on the number of mailings required (each notice mailed costs approximately \$1.30 for materials, staff time and postage).

Susan Healy Keene, AICP
Director of Community Development

Approved By

