

Attachment 5

October 10, 2013 Planning Commission
Report (without attachments)



City of Beverly Hills

Planning Division

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Planning Commission Report

Meeting Date: October 10, 2013

Subject: Public Noticing Requirements

Recommendation: Adopt a resolution recommending to the City Council an ordinance amending the Beverly Hills Municipal Code to revise the public notice requirements for various planning applications.

REPORT SUMMARY

The purpose of this public hearing is to consider a resolution recommending that the City Council adopt an ordinance revising the public notice requirements for planning applications. On May 23, 2013, the Planning Commission held a study session on public noticing for planning applications. During this study session the Commission discussed shortcomings of current requirements and provided feedback on potential changes to requirements. The Commission expressed a desire to see expanded noticing of applications and more consistent noticing requirements in the zoning code. A resolution of the Planning Commission (Attachment 1) recommending the City Council adopt the public noticing requirements provided in the draft ordinance (Attachment 2) is included with this report. Additionally, Public Notice Guidelines are being developed to provide further direction on noticing in the City and a draft of the guidelines is provided (Attachment 3). Once further refinements to the document have been made, it will return to the Planning Commission for review.

BACKGROUND

Noticing requirements in the zoning code are intended to ensure that community members are informed of upcoming land use and permit decisions in the City. The Fiscal Year 2012/13 Budget included a work plan task to evaluate expanding public noticing. City Council members, community members, and staff have expressed a desire to comprehensively review noticing requirements, and have raised concerns regarding public notice requirements, including:

- Mailed notices should be sent to all properties on a block to avoid situations where some properties on a block are noticed, while others are not, and to ensure all interested parties are noticed,
- More extensive use of on-site postings could be an effective way to keep the public informed of pending applications,
- 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, and

Attachments:

- 1 – Planning Commission Resolution
- 2 – Draft Ordinance
- 3 – Draft Guidelines on Public Noticing
- 4 – May 23, 2013 Staff Report

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- The City currently does not have policies or regulations on the use of the website, social media, or email to notice the public.

On May 23, 2013 the Planning Commission held a study session and provided direction to staff. A noticed public hearing scheduled for August 12, 2013, was continued to October 10, 2013. During the study session on May 23, 2013, the Planning Commission reviewed current requirements and agreed upon the following actions:

- Consolidate notice requirements into one code section
- Expand mailed, posted, and online noticing
- Standardize mailing distances, recipients, and time periods for mailed notices
- Standardize requirements for posted notices
- Create Public Notice Guidelines to complement the code and outline specific requirements for public noticing
- Balance the need for expanded noticing with the potential for “noticing fatigue”

DISCUSSION

Based on Planning Commission direction, staff developed a draft ordinance and a Public Notice Guidelines document that improves the consistency and comprehensiveness of noticing in the City. This following section provides an overview of the proposed changes.

New Code Section

The draft ordinance consolidates all public noticing requirements into one new code section (BHMC 10-3-253). This new public notice section (found on page 3 of the draft ordinance) will present the requirements in two tables to make the requirements more readable and understandable. Language in the public notice code section specifically addresses contents of notices, required recipients, noticing for appeals and revocations, and other pertinent details. Consolidating all public notice information, and increasing the consistency of noticing for planning applications will make the noticing process easier to understand and implement. Because current public notice requirements are included throughout the code, based on application type, language will be added to each of these sections to refer to the new public notice section. Language changes made to these sections are provided in Section 6 through Section 37 of the draft ordinance. The new code language also references the new Public Notice Guidelines that provides more direction to applicants on fulfilling the noticing requirements.

Public Notice Guidelines

Staff is developing guidelines to provide additional information on the department’s public noticing requirements (Attachment 3). The guidelines are meant to:

1. Provide the public with a summary of public notice requirements
2. Instruct applicants on how to meet the requirements
3. Outline additional actions, beyond the code requirements, that the City will take to notify residents of applications and projects

Specifically, the guidelines include:

- Tables depicting the type of noticing required for each application,
- Size and dimension requirements for site postings (staff anticipates two different sizes depending on whether the project is residential [larger sign] or commercial [smaller sign]),
- Instruction on how to post signs on property and where signs shall be posted in relation to property line,
- Policies regarding posting notices on the City website,
- Policies/guidance on informing neighborhood groups, Home Owners Associations, and other community groups of pending applications, and
- Required contents and form (i.e. letter, postcard) of mailed notices

The guidelines also outline actions that the City will take to keep the public informed about planning applications and projects beyond what is required in the code. This includes posting notices on the internet, expanding the use of email for noticing, and exploring the use of social media. The standards that are included in the guidelines have not been included in the zoning code because the guidelines may need to be amended from time to time as improvements in technology and other changes require updates to the standards.

Modified Noticing Requirements

The following table provides a summary of the proposed requirements for public noticing. The table references planning applications with special notification requirements (marked with an asterisk). The requirements for these applications have not changed and do not conform to the proposed standard noticing requirements because of state law, or the unique nature of the application. Requirements for these applications can be found in Beverly Hills Municipal Code (BHMC) Section 10-3-253(B) of the draft ordinance and include:

- Common Interest Development,
- Large Family Daycare Permit,
- Reasonable Accommodation,
- Tree Removal Permit,
- Certificate of Appropriateness,
- Landmark and Historic District Designation
- Resolution of Public Convenience and Necessity, and
- View Restoration

Table 1. Public Notice Requirements for Development Applications		On-Site Posted Notice 10-Day	Newspaper Notice 10-Day	Mailed Notice 10-Day
Architectural Review				
Director level projects can be processed administratively and include: minor landscape approvals, some commercial signs, and minor exterior changes to multi-family and commercial buildings (paint color changes, replacing like for like elements). These permits are generally processed at the planning counter.	Director	None	None	None
Commission level projects must be reviewed by the City's Architectural Commission (AC) and include: sign accommodations, some commercial signs, façade remodels for commercial and multifamily buildings, new construction of commercial and multifamily buildings, and landscaping for commercial and multifamily projects.	Commission	Only projects in Multi-Family Residential Zones	None	None
Cultural Heritage				
Director level projects can be processed administratively and include Certificate of Review for District Non-Contributor and Director's Determination of Ineligibility.	Director	None	None	None
Commission level applications are reviewed by the City's Cultural Heritage Commission (CHC). The CHC recommends to the City Council on Landmark or Historic District Designation* nominations and Mills Act Contracts. The CHC acts on Certificates of Appropriateness for Designated Landmarks and Contributing Properties*.	Commission	None	None	Owner/Applicant
* Special noticing requirements apply, See Section 10-3-253(B)				
Design Review				
Director level projects can be processed administratively and include single family home remodels and new homes in the Central area of the City that are designed by a licensed architect and determined to be a eligible for Track 1 review.	Director	None	None	None
Commission level applications are reviewed by the City's Design Review Commission (DRC) including single family home façade remodels and new homes in the Central area of the City (Track 2).	Commission	Yes	None	Central Area: 100 ft. radius + block-face

Table 1. Public Notice Requirements for Development Applications	On-Site Posted Notice 10-Day	Newspaper Notice 10-Day	Mailed Notice 10-Day
<p><u>Planning Review</u></p> <p>Director Level includes applications that can be reviewed and approved by staff, however many of the applications may be referred to Planning Commission. Commission/Council Level applications are reviewed or approved by the Planning Commission or City Council. Applications include:</p> <ul style="list-style-type: none"> • <u>Amendment (General Plan, Streets Master Plan, Specific Plan, Zone Text, Zoning Code)</u> • <u>Conditional Use Permit</u> • <u>Common Interest Development*</u> • <u>Density Bonus Permit</u> • Development Plan Review • <u>Extended Hours Permit</u> • Game Court Fence • <u>Game Court Location</u> • In-Lieu Parking • Large Family Daycare Permit* • Lot Line Adjustment • <u>Maps: Tentative and Parcel</u> • Minor Accommodation • Open Air Dining • Overnight Stay Permit • Planned Development Review • Reasonable Accommodation* • Resolution of Public Convenience and Necessity* • R1: Hillside, Central and Trousdale • R4 Permit • Second Unit Use Permit • <u>Specific Plan</u> • Tree Removal Permit* • <u>Variance</u> • View Restoration* <p><u>Underlined Applications are reviewed at the Commission/Council level only</u></p> <p>*Special noticing requirements apply, See Section 10-3-253(B)</p>	<p>Director Level</p> <p>Yes</p>	<p>No</p>	<p>Hillside & Trousdale: 300 ft. radius</p> <p>Central Area: 100 ft. radius + block-face</p>
	<p>Commission/Council Level</p> <p>Yes</p>	<p>Amendments (General Plan, Streets Master Plan, Specific Plan, Zone Text, Zoning Code)</p> <p>Conditional Use Permit</p> <p>Specific Plan</p> <p>Maps (Tentative and Parcel)</p> <p>Variance</p>	<p>Hillside & Trousdale: 500 ft. radius</p> <p>Central Area: 300 ft. radius + block-face</p>

Mailed Notice Standards

Current Standards

Currently, an applicant can be required to mail a notice to adjacent properties, or properties within a 100-foot, 300-foot, or 500-foot radius from the project site, depending on the type of planning application. For several planning permits, single family residential zones are noticed at a distance of 500-feet, while commercial or multi-family areas are noticed at 300-feet. In some cases, the code requires the notification of property owners, and in other cases it requires the notification of property owners and residential occupants.

Proposed Changes

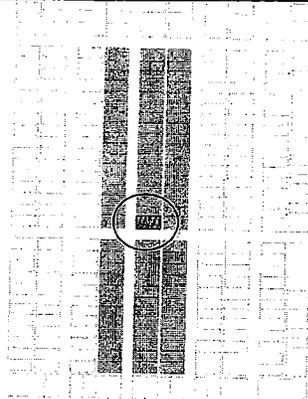
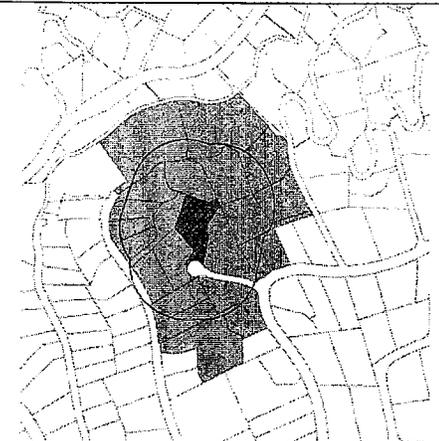
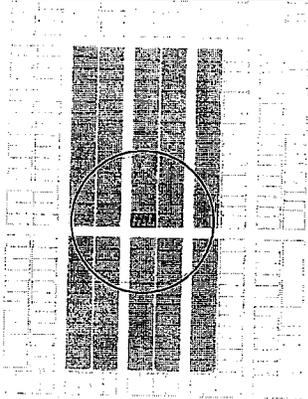
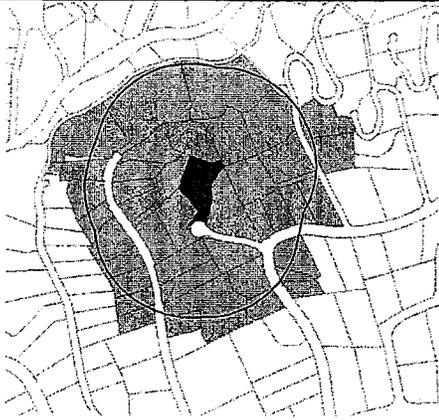
Based on Planning Commission direction, the mailed noticing radii and requirements have been standardized for nearly all permits¹. For Commission level cases all mailings will be required to be sent ten days in advance of a public hearing. For Director level cases, a mailing will be sent 10 days prior to a decision and again five days of a decision to notify owners and occupants of final Director determination. The mailing radii will not vary based on whether property is in a single-family, multi-family, or commercial zone, but does change based on geography.

Mailing areas have been increased 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). Because streets are not oriented in blocks in the Hillside and Trousdale areas, the mailing radius has been increased in these areas to a size that approximates the block face mailing area that would be required in the Central Area. 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 reviewed by a commission are generally more likely to have the potential to impact neighboring properties (see table on pages 4 and 5 for more information).

Sign accommodation applications, which are heard by the Architectural Review Commission, would no longer require mailed notices. Approximately three sign accommodations are considered at each Architectural Review meeting, and for the past 10 years no opponent has provided correspondence to the City or attended a meeting to speak on an application. The mailed notice requirement can delay projects and cost applicants money. 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.

The following illustrations depict the proposed mailing area of most director level and commission/council level projects in the central and Hillside/Trousdale areas of the City.

¹ As explained on page 3, the requirements for several applications have not been modified due to the unique nature of the application or state law. See new section 10-3-253(B)

	Central Area	Hillside/Trousdale Area
Director Level Review	 <p>100 ft. radius + Block-face</p>	 <p>300 ft. radius</p>
Commission/Council Level Review	 <p>300 ft. radius + Block-face</p>	 <p>500 ft. radius</p>

Under the modified requirements, projects considered at the director level would require the mailing of a notice of application/pending action prior to the decision as well as a notice of action after a decision has been made to all properties that fall within the notice area. Commission level projects would only require the mailing of a notice of public hearing prior to the hearing date.

Cost

Increasing the required mailed noticing area may increase the number of recipients for each mailing and the cost to the applicant to send public notices. This cost will vary depending on the number of properties that must be noticed.

On-Site Posting Standards

Current Standards

On-site posted notifications are currently required for the following permits:

- R4 Permits,
- Minor Accommodation,
- Notice of Overnight Stay,
- Second Unit Permits,
- Open Air Dining Permits, and
- Design Review

Currently, there are no requirements in the zoning code that pertain to the size or design of the posted notice, and the standards related to the placement of the sign on the property are vague.

Proposed Changes

During the May 23 study session, the Planning Commission expressed a desire to see more posting of public notices on project sites. Based on Planning Commission input, proposed code changes include requiring on-site posting for the majority of applications (see table on page 3), and establishing standards for on-site postings.

Specific requirements pertaining to the size, design, content and location of posted signs are outlined in the proposed Public Notice Guidelines. Staff is developing a process for the design, manufacturing, and posting of signs to ensure that signs are standardized, professional and effective. Postings for projects that involve significant physical changes to a property (such as design review) will include renderings of the proposed changes. It is anticipated that there will be two sizes of site postings, 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, commercial applications will have a smaller posting that may be placed in a window adjacent to the right of way.

Applicants of projects considered at the Director level will be required to post a notice of pending action. Applicants of projects considered at the Commission level will post a notice of public hearing. The posted notices will be required to be placed on the property for at least ten days before a decision is made (consistent with current standards) and removed within 10-days after the appeal deadline.

Cost

Requiring more extensive site posting will increase cost to the applicant to notice a project. Staff is exploring several options to reduce cost to the applicant and limit staff time required for production of signs. It is anticipated that a modest performance bond may be required to encourage sign removal within an appropriate timeframe.

Newspaper Notice Standards

Current Standards

A limited number of permits either require a newspaper notice, or provide a newspaper notice as an option, as required by State law or the City's current code. These permits include:

- Amendments,
- Variances,
- Specific Plans
- Conditional Use Permits,
- Tentative and Parcel Maps, and

When a newspaper notice is required, it must be published in a local newspaper at least ten days prior to the hearing.

Proposed Changes

Staff is not proposing to expand the use of newspaper noticing. This is consistent with the direction given by the Planning Commission at the May 23 study session.

Cost

Staff is not proposing changes to newspaper noticing requirements, so cost to the applicant will not change.

Use of Website and Email

Current Standards

Currently, the code does not address the use of the City website or email for public noticing.

Proposed Changes

Staff is developing a process through which notices will be posted to the City's webpage. The Public Notice Guidelines document includes language about the use of the internet to provide information on projects and applications. Staff will also explore the use of QR codes on posted notices to direct smart phone users to a project website, more extensive email noticing, and the use of social media to inform the public of pending applications and upcoming meetings. Policies governing the use of these technologies for noticing will be incorporated into the Public Notice Guidelines.

Cost

Posting all public notices to the website will likely not pose an additional cost to the project applicant. Staff time will be required to maintain an up-to-date website of public notices.

Other Considerations

Staff is seeking Planning Commission input on the expansion of mailed public noticing requirements to all owners and occupants. As currently written, the draft ordinance states that mailed public notices shall be sent to all owners and *residential* occupants. Commercial occupants have not been included in noticing requirements because commercial spaces in large office buildings can be difficult to identify. In the past, the City has not required the notification of commercial occupants. Staff welcomes Planning Commission input on the inclusion of commercial occupants in noticing requirements.

Environmental Review

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 Outreach

This public hearing was noticed in the Beverly Hills Weekly on August 1, 2013, and the Beverly Hills Courier on August 2, 2013. The Planning Commission has continued to a date certain this item at staff's request from prior meetings. Additionally, meeting agendas have been posted at City Hall, the Library, and Civic Center Parking Garage, in addition to the City's website.

Representatives from several mapping companies were contacted regarding the proposed code changes, especially as they relate to mailed notices. These representatives confirmed that it is possible to extend noticing to the end of the block face. They also noted that increasing the number of properties, and expanding the noticing to both owners and occupants would increase the cost to provide the notices. This cost would be passed on to the applicant.

RECOMMENDATION

Staff recommends that the Planning Commission adopt the attached resolution recommending that the City Council adopt the ordinance amending the Beverly Hills Municipal Code to revise the requirements for public notice of various planning applications.



Report Reviewed By:
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