

**COUNTY OF EL DORADO DEVELOPMENT SERVICES
PLANNING COMMISSION
STAFF REPORT**



Agenda of: August 13, 2015

Staff: Aaron Mount

ORDINANCE AMENDMENT

FILE NUMBER: OR14-0001/Public Notification of Land Development Applications and Public Hearings

APPLICANT: El Dorado County

REQUEST: Adopt Ordinance OR14-0001 amending County Code Titles 120 and 130 expanding the public notification of public hearings for land development applications.

ENVIRONMENTAL DOCUMENT: Exempt pursuant to State CEQA Guidelines Sections 15060(c)(2-3) and 15378.

RECOMMENDATION: Staff recommends the Planning Commission forward a recommendation to the Board of Supervisors to take the following actions:

1. Find that the proposed Zoning and Subdivision Ordinance amendments are exempt from CEQA pursuant to State CEQA Guidelines Sections 15060(c)(2), 15060(c)(3), and 15378; and
2. Adopt Ordinance OR14-0001 amending the County Code Sections 120.24.085, 120.48.065, 130.04.015, 130.10.020, 130.10.040, and 130.22.200 expanding the public notification of public hearings for land development applications.

BACKGROUND

Public involvement in the planning and CEQA review process is critical for the overall framework of informed decision making. Public review serves as a check on accuracy in analysis and public comments inform agencies about public opinions and values.

On April 2, 2013, the Board of Supervisors (Board) discussed the need to improve policies for public notice of land development applications and public hearings. Under existing regulations, El Dorado County advertises public hearings through legal advertisement in the local newspaper

and direct mailing to all owners of real property within 500 feet of new land development projects, exceeding the State noticing requirement of 300 feet (Government Code Section 65091).

Staff prepared seven options for expanding public notifications in a memo to the Board dated July 30, 2013. Those options were summarized into four separate areas of discussion: amendments to Title 120 and Title 130 of the County Code, and revisions to Resolution 61-87-County Manual for Implementation of CEQA, Development Services Division's (DSD) policy on application distribution, and DSD's website.

On August 6, 2013 the Board held a public hearing and discussed the seven options identified in the July 30, 2013, staff memo.

On September 30, 2013 the Board took the following actions:

1. Direct staff to return with a final draft Resolution of Intent to start the process to change the County Code;
2. Direct staff to initiate adoption process for an amendment to Resolution 61-87;
3. Direct staff to develop a policy for early notification for large residential subdivisions; and
4. Direct Development Services Division to expand new County development project information on the County website.

The following is a status report of these requests:

1. Directed staff to return with a final draft Resolution of Intention to start the process to amend the County Code;

Status: This was **completed** by adoption of Resolution Number 154-2014 on September 23, 2014. The Resolution of Intention authorized staff to work on ordinance amendments, now labeled file number OR14-0001, the subject of this staff report. This ordinance amendment will change parts of the Subdivision Ordinance and Zoning Ordinance to expand public notice procedures.

2&3. Directed staff to initiate the adoption process for an amendment to Resolution 61-87. Direct staff to develop a policy for early notification for large residential subdivisions; and

Status: **Completed.** The Board requested that notification of the EIR process be the priority as several large projects were close to completing their respective Notices of Preparation. Resolution Number 183-2014 was adopted by the Board on October 21, 2014 amending Resolution 61-87 the Environmental Manual for Implementation of the California Environmental Quality Act. The amendment requires direct mailing to all property owners within one mile of the boundaries of a project for a 1) Notice of Preparation to inform them of the lead agency's intent to prepare an EIR, and 2) a Notice of Completion of the public review draft EIR. Additional revisions to Resolution 61-87

were approved by the Board on December 16, 2014 with adoption of Resolution Number 241-2014, excluding County-initiated policy projects that did not result in actual development. Capital Improvement Projects were included in the expanded notification requirements.

Three projects in the El Dorado Hills and Cameron Park Community Regions have recently complied or are in the process of complying with the CEQA EIR Notice of Preparation notification process adopted by the Board requiring one mile notification.

4. Directed the Development Services Division to expand public access to new County development project information on the County website.

Status: This has been **completed** and is ongoing as the County web pages have been expanded to include new development projects. The following information is available on the County website:

- A. Posting of all public notices on County webpage.
- B. Posting of large projects on County and Planning Services homepage.
- C. Public notice subscription.
- D. Project information on Planning Services webpages for all project applications as they are received.
- E. Searchable database of approved and pending projects on Planning Services webpages.
- F. Announcement of County notices on social networking sites such as Twitter and Facebook.

PROCESS

These amendments are being processed before the adoption of a new zoning ordinance because the Board and the public have expressed that public notification is a priority and because it also involves Title 120, the Subdivision Ordinance.

Amendments to the Subdivision and Zoning Ordinances require two public hearings, one with the Planning Commission making a recommendation to the Board. This is the first public hearing and staff is recommending the Planning forward the following ordinance amendments to the Board.

PROJECT DESCRIPTION

The proposed ordinance changes would provide increased public notice by increasing mailed notice from 500 feet to 1,000 feet from the project parcel(s) boundaries for all projects and increasing to 0.5 mile and one mile for larger residential projects depending on lot. Requirements for physically posting notice onsite for larger projects and additional public outreach were also included. Condominium conversion projects would be exempt from additional notice beyond 1,000 feet as they involve existing development and only change the ownership of the property and not the use on it.

Proposed Amendments

Staff proposes ordinance amendments listed below, with deletions from existing County Code shown by ~~strikeout~~ and additions shown with underline:

1. Subdivisions Ordinance (Title 120)

This code amendment would apply to all Subdivisions (except condominium conversions):

“120.24.085. - Notice requirements and procedure.

- A. Action by the Planning Commission pursuant to Section 120.24.075.A shall be made after a public hearing for which notice has been given as follows:
1. Mailed or delivered at least ten days prior to the hearing to the applicant and all owners of real property as shown on the latest equalized assessment roll within ~~five hundred feet (500')~~ one thousand feet (1,000') of the property which is the subject of the hearing excluding condominium conversions. Expanded notice would be required as follows:
 - a. 2,640 feet (half a mile) notice for residential applications creating between 300 through 999 lots;
 - b. 5,280 feet (one mile) notice for residential applications creating 1,000 lots or more;
 2. Physical posting of notice on the property proposed for development so as to be visible to the public;
 3. For land development with 300 dwelling units and larger, the project application may require a public outreach plan, as determined by the Development Services Division Director, to be conducted by the applicant to further provide early public notice and input on the development application, subject to review and approval by the Development Services Division Director; and
 4. ~~2.~~ Published once in at least one newspaper of general circulation at least ten (10) days prior to the hearing.”

This Code amendment would apply to all residential Parcel Maps except condominium conversions:

“120.48.065. - Notice requirements and procedure.

- A. Action by the Development Services Division Director pursuant to Section 120.48.060.A shall be made after a public hearing for which notice has been given as follows
1. Mailed or delivered at least ten (10) days prior to the hearing to the applicant and all owners of real property as shown on the latest equalized assessment roll within ~~five hundred feet (500')~~ one thousand feet (1,000') of the property which is the subject of the hearing with the exception of condominium conversions.”
 2. Published once in at least one (1) newspaper of general circulation at least ten days prior to the hearing.”

2. Zoning Ordinance (Title 130):

This Code amendment would apply to all Planned Developments:

“130.04.015. - Notice requirements and procedure.

- A. Action by the Planning Commission pursuant to Section 130.04.005.B.1 shall be made after a public hearing for which notice has been given as follows:
1. Mailed or delivered at least ten (10) days prior to the hearing to the applicant and all owners of real property as shown on the latest equalized assessment roll within ~~five hundred feet (500')~~ one thousand feet (1,000') of the property which is the subject of the hearing or:
 - a. 2,640 feet (half a mile) notice for residential applications creating between 300 through 999 lots;
 - b. 5,280 feet (one mile) notice for residential applications creating 1,000 lots or more;
 2. Physical posting of notice on the property proposed for development so as to be visible to the public;
 3. For land development with 300 dwelling units and larger, the project application may require a public outreach plan as determined by the Development Services Division Director, to be conducted by the applicant, to further provide early public notice and input on the development application, subject to review and approval by the Development Services Division Director; and
 4. Published once in at least one newspaper of general circulation at least ten (10) days prior to the hearing.”

This code amendment would apply to all Zoning changes (rezoning):

“Sec. 130.10.020. - Commission hearing.

Following the filing of a verified petition as provided for in Section 130.10.010.A, the executive secretary of the Planning Commission shall designate the time and place of the public hearing on the petition as may be required by law, and shall give notice of the hearing as required by law, subject to the provisions under Section 130.04.040.

The failure of any property owner to receive such notice shall not invalidate the proceedings.”

“130.10.040. - Board hearing.

- A. Upon receipt of the report from the planning commission, the clerk of the board of supervisors shall set the matter for public hearing after notice thereof and of the proposed amendment, given as provided by law, and in addition thereto shall give notice of the time and place of the hearing by mail to all property owners within

500 one thousand feet of the property proposed to be rezoned, excluding condominium conversions, and:

1. 2,640 feet (half a mile) notice for residential applications creating between 300 through 999 lots;
2. 5,280 feet (one mile) notice for residential applications creating 1,000 lots or more;
3. Physical posting of notice on the property proposed for development so as to be visible to the public; and
4. For land development with 300 dwelling units and larger, the project application may require a public outreach plan as determined by the County, to be conducted by the applicant, to further provide early public notice and input on the development application, subject to review and approval by the Development Services Division Director.

The notice shall state the location and present zoning of the property and the nature of the proposed amendment. The notice shall be mailed at least ten days prior to the date of the hearing. The failure of any property owner to receive the notice shall not invalidate the proceedings.

After the conclusion of the hearing, the board of supervisors may adopt the amendment or any part thereof as approved by the planning commission or take any other action it deems appropriate and consistent with the general plan. (~~Ord. 3806 §15, 1988; prior code §9470(d).~~)”

This code amendment would apply to all Specific Plans:

“130.22.200. - Notice of hearings.

Notice for all hearings held pursuant to this chapter shall be given in accordance with the provisions of Government Code Section 65091 (Ord. 4589 §§2, 5, 2001) and as follows:

- A. Action by the approving authority shall be made after a public hearing for which notice has been given as follows:
 1. Mailed or delivered at least ten (10) days prior to the hearing to the applicant and all owners of real property as shown on the latest equalized assessment roll within one thousand feet (1,000’) of the property which is the subject of the hearing.
 2. Published once in at least one newspaper of general circulation at least ten (10) days prior to the hearing.
 3. For Specific Plans the following notification applies:
 - a. 2,640 feet (half a mile) notice for residential applications creating between 300 through 999 lots;
 - b. 5,280 feet (one mile) notice for residential applications creating 1,000 lots or more;
 - c. Physical posting of notice on the property proposed for development so as to be visible to the public;
 - d. For land development with 300 dwelling units and larger, the project application may require a public outreach plan as

determined by the Development Services Division Director, to be conducted by the applicant, to further provide early public notice and input on the development application, subject to review and approval by the Development Services Division Director.”

Expanded Public Notice

Physical Posting of Notice on the Property:

The Board requested that notice be provided to the persons who may be affected by a development project as soon as possible. In one of the options, staff recommended posting notice on the property proposed to be developed at the time an application is filed for development. The following process would be implemented after approval of the ordinance amendments:

A sign company (vendor) would be contracted by the County to install notification signs within the first 30 days of receiving an application for a discretionary project, and to remove it after the project is approved. An appropriate fee would be required for the sign posting. Sacramento County's fee is \$366 for installation and removal of the notification sign. An amendment to the fee resolution would be required to add an appropriate fee based on the sign company contract approved by the County.

As part of the contract terms, the vendor will provide signs to the following specifications:

1. The size of the sign shall be a minimum of four feet by four feet.
2. The sign shall be black letters on a white background and read as follows:

NOTICE OF DEVELOPMENT
AN APPLICATION FOR DEVELOPMENT OF THIS PROPERTY HAS BEEN FILED WITH
EL DORADO COUNTY
PROJECT NO. _____
FOR MORE INFORMATION CALL THE COMMUNITY DEVELOPMENT AGENCY-
PLANNING DIVISION AT
(530)621-5355

3. A minimum of one sign shall be posted facing each road on which the property has frontage.
4. The sign shall be posted no more than 20 feet from the edge of road and shall be visible and readable from the road for the entire time of its posting. The Transportation Division may review the sign location to ensure it is not within road right-of-ways or have line of sight issues.
5. Where the property does not have street frontage or is not easily visible from the road, the sign(s) shall be posted in a location deemed suitable by the Director.
6. The sign(s) shall remain posted until final action has been taken on the application.
7. The sign(s) shall be removed within 30 days of the final action.
8. The sign(s) shall be constructed of materials suitable to remain standing during the estimated posting time and to hold up to the weather.

The vendor will provide verification that the sign has been installed and the County will contact the sign vendor for removal of the sign after the appeal period for a project is over. The assigned project planner will ensure proper placement of the sign when they do their required site visit to the project site.

Proposed Expanded Public Notice Analysis:

Three projects in the El Dorado Hills and Cameron Park Community Regions have recently complied or are in the process of complying with the CEQA EIR Notice of Preparation notification process adopted by the Board requiring one mile notification (Exhibits 1-4). The average number of parcels that required notification for the three projects was 2,000. The average actual cost of materials and staff time is detailed below:

Actual Material Costs:
\$0.02 per envelope * 2,000 = \$40.00
\$0.01 per sheet of paper (cost of paper plus cost of copying) average of two sheets * 2,000 = \$40.00
\$0.48 first class mail for each mailing * 2,000 = \$960.00
Total material cost for 2,000 mailings: \$1,040
Average staff time for each mailing of 2,000 notifications 22 hours at an hourly rate of \$100.00.
Total cost of staff time for 2,000 mailings: \$2,200
Total cost of materials and staff time for 2,000 mailings: \$3,240

It is anticipated that the additional costs of expanded public notification will be borne by the applicants, so there should be no added costs for the County. Projects that billed as time and materials would be billed the actual cost of materials and staff time as part of the project, and fixed fee projects would require an additional notification processing fee based on the size of the project. An amendment to the fee resolution would be required in order to charge these additional fees.

Saratoga Estates (TM -14-1520, 316 lots, Exhibit 1) recently mailed out over 4,000 notification letters for an EIR Notice of Preparation. At the end of the comment period the County received approximately 45 public responses for an approximately one percent return rate. Due to the project's location, mailings were also sent to the property owners and residents in the City of Folsom and five responses were received. Dixon Ranch (TM11-1505, 605 lots, Exhibits 2 and 3) mailed out 1, 566 notification letters and received approximately 42 responses of which several were from the same property owners. Ponte Palmero Phase II (PD11-0003, 115,650 square foot assisted living facility, Exhibit 4) is in the process of publishing a Notice of Preparation and when notification is sent out it will require 2,486 mailings. Physical distributions of comments received are shown in Exhibits 1 and 3. The distributions of comments received are primarily within the one-half mile range from the project site. In the case of Dixon Ranch and Saratoga Estates, several comments were received well outside of the one-mile range.

The amendment to the Environmental Manual requires the one-mile notification to happen twice for a project that requires an EIR process: (Notice of Preparation and Notice of Completion). Public hearing notifications would require a third and a possible fourth mailing.

As detailed above, these mailings would require significant staff time with an average of 22 hours for a mailing of 2,000 notifications. Due to time sensitivities and department workload, the mailings for the Saratoga Estates project were completed by the applicant's EIR consultant. The notification process was expedited but there was a loss of control by the County in allowing the consultant to complete the process. Also, there may be a perception of impropriety by the public when notification is processed by an entity other than the County. With the Dixon Ranch project, the County prepared the NOC and gave the NOC and the envelopes to a consulting firm that Dixon Ranch paid directly to mail out. The consultant cost was approximately \$3,000 which included their material costs of printing the notices and postage, as well as staff time.

Keeping the process in-house is complicated by current low administration staffing coupled with an increase in processing of large projects. One option could be to have the County contract with a printing service that would be capable of processing the mailings. The County would retain control of the process and it would be processed in a time sensitive manner which is required for notifications of EIRs and hearings. The printing service would submit a bill that would be collected by the County from the applicant, utilizing additional staff time for bill preparation and collection.

Conclusion:

As stated previously, public involvement in the planning and CEQA review process is critical for the overall framework of informed decision making. As the proposed amendments go well beyond the minimum State posting requirements, the Planning Commission and Board of Supervisors need to evaluate the benefits of increased notification versus the costs, rate of return of comments, and physical distribution of comments.

Recommendation:

The Board has recommended increased notification for large residential subdivisions and the proposed amendments reflect this request. Half-mile and one-mile notifications are limited to subdivisions, zone changes, planned developments, and specific plans proposing greater than 300 lots. The expanded notification from 500 feet to 1,000 feet is adequate for projects smaller than 300 lots. As discussed above and shown on the exhibits, increased notification does not always - correlate with a significant increase in received comments.

Board Policy J-2 requires priority treatment for commercial and industrial projects to assure that the future tax base of the County is provided in a timely manner. The increase in notification to 1,000 feet will ensure those property owners that are directly affected by commercial and industrial developments are noticed while ensuring that the project is processed in a timely manner as required by Board policy.

Staff is recommending no physical posting for small projects such as parcel maps, special use permits, design reviews, and variances as the increased notification range of 1,000 feet from the project parcel is adequate notification for the public.

The Planning Commission may want to find that a distance less than a mile would be adequate for notification of large projects due to the cost of distribution, staff workload, and increased processing time. As discussed above the average cost for a one-mile mailing is \$3,240 and takes staff an average of 22 hours to process. Large projects requiring an EIR and a zone change would have to process four one-mile notification mailings. This a potential total expense of \$12,960 and expenditure of 88 staff hours for notification of a project. Based on currently processed one-mile mailings, the responses came for the most part from residents within a half mile radius. Staff recommends that for standard applications, the 1,000 foot radius is sufficient and for those projects creating 300 lots or more, the half mile radius along with physical posting of the project site would be more than sufficient. Expansion of our web page information and the option of subscribing to public notices allow the public every opportunity to access project information.

ENVIRONMENTAL REVIEW

The proposed amendments to Title 120 and Title 130 are not subject to the California Environmental Quality Act (“CEQA”) pursuant to Section 15060(c)(2) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and pursuant to Section 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) since it has no potential for resulting in physical change to the environment, directly or indirectly.

SUPPORT INFORMATION

Exhibit A.....	Saratoga Estates Notification Map and Distribution of Comments
Exhibit B.....	Dixon Ranch Notification Map and Distribution of Comments
Exhibit C.....	Ponte Palmero Phase II Notification Map