



**COUNTY OF EL DORADO  
COMMUNITY DEVELOPMENT AGENCY**

**INTEROFFICE MEMORANDUM**

---

Date: September 23, 2013 09/23/2013

To: Board of Supervisors

From: Roger Trout, Development Services Director

**Subject: Public Notification of Land Development Applications and Hearings**

---

On April 2, 2013, the Board of Supervisors discussed the need to improve policies for public notice of land development applications and hearings. Current laws and practices require direct mailing to all owners of real property within 500 feet of a new land development projects. On August 6, 2013 the Board held a public hearing and discussed options identified in Staff Memo dated July 30, 2013. The Board provided direction to return in five weeks with more specific recommendations on expanding the County public notice procedures.

Staff had prepared seven options in the July 30, 2013 staff memo that the Board generally directed to be incorporated into this next stage in the policy development process. All seven options outlined in the staff memo can be summarized into four separate areas of discussion: the County Code, the County CEQA Resolution, Development Services Division's (DSD) policy on application distribution, and DSD's website.

1. Staff Memo July 30, 2013, Options 1, 5, 6 and 7:

Revise the County Ordinance Code to:

- a. Expand 500 foot mailed public notification distance to 1000 feet for all applications.
- b. Expand to 2640 feet (half a mile) for large residential applications creating between 100 and 999 lots.
- c. Expand to 5280 feet (one mile) for residential applications creating 1000 lots or more.
- d. Allow County staff discretion to expand notice to property owners that may be affected by expansion of existing roads or development of newly proposed roads.
- e. Require physical posting of notice on the property proposed for development.
- f. Require an outreach plan to be submitted with large development applications.

2. Staff Memo July 30, 2013, Option 2:  
Amend County CEQA Resolution 61-87 to expand the public notice for Notice of Preparation and Draft Environmental Impact Reports to the same as in Item 1, above.
3. Staff Memo July 30, 2013, Option 3:  
Change Agency policy to provide public notice when DSD distributes the applications for initial agency consultations.
4. Staff Memo July 30, 2013, Option 4:  
DSD to provide more land development application information on-line.

The following section discusses the process, cost, and timing for each of the four areas and provides a recommended course of action.

### **Discussion**

1. Revision to County Ordinance Code:

There is a specific process required by State law and local ordinance to amend the County Ordinance Code. For changes to Title 17, the Board is required to hold a hearing and adopt a Resolution of Intention (ROI), directing work to amend the Ordinance. Staff has prepared a draft ROI and a Draft Ordinance for discussion and further direction (attached). Once the ROI is approved, the draft ordinance will be refined and scheduled for the Planning Commission public hearing. The Planning Commission is required to review the draft ordinance and make recommendations to the Board. The Board will then hold a public hearing and take final action. The Ordinance would be effective 30 days after adoption. This process will take about six months to a year, depending on staff workload and priorities.

On August 6, 2013, the Board discussion included interest in expanding the public notification distance from 500 feet to 1000 feet (and more) depending on the size of the proposed project. Staff recommends expanding most notification to 1000 feet, with additional notification to half-a-mile for residential projects with between 100 and 999 lots, and increased notification to a full mile for residential projects 1,000 lots and larger. The primary reasons for this graduated increased notification standard are practical, logistical, and financial.

Larger applications are generally more controversial, create wider felt impacts, and are likely to benefit from an expanded public notification.

Expanding notification from 500 feet to 1000 feet generally increases staff time and cost by about two to three times. This level of increase can be absorbed by existing fee schedules and staffing. Expanding notification to half mile and full mile distances generally increases the cost between fifteen to thirty times. Larger subdivisions of 100 or more lots happen a few times a year and could be accommodated by the existing fee schedules and staffing. However, to require all applications to meet this level of public notification would simply overwhelm budget and staffing levels.

Increased costs for larger applications proposals are directly charged to the applicant. The cost of public notification (direct mailing: paper, envelope, postage) of an average application is less than \$100 (Staff costs are not included). Expanding notification to one mile may result in direct mail costs of \$3,000. Staff time needed to prepare direct mail notifications would increase proportionally.

By expanding public notification on the majority of projects to 1000 feet, the County is providing better notification while maintaining control over costs and staffing. The Preliminary Draft Ordinance to change the public noticing also includes posting of the property, which may be a more efficient and economical process than direct mailing. Further expanding notification distances to half-a-mile and up to one mile for the largest subdivision applications provides the necessary higher standard of public notification while controlling demands on staff and budgets.

*Recommendation:* Direct staff to return with a final draft ROI to start the process to change the County Code. A preliminary draft ROI is attached to this report, along with a preliminary draft Ordinance.

## 2. Amend CEQA Resolution 61-87:

In order to address the CEQA public notification processes, the Board may amend the existing County policy on CEQA processing which is reflected in Resolution 61-87. The primary opportunities for public notice of CEQA documents are with an Environmental Impact Report (EIR). The first opportunity is with the Notice of Preparation, which starts the EIR process. The second opportunity is the release of the Draft EIR. There would be separate public hearings on the project and EIR scheduled later, and would follow noticing procedures described in Item 1. A Preliminary Draft Board Resolution on CEQA is attached for further review and direction. The Preliminary Draft CEQA Resolution may need further revisions and is subject to review by County Counsel. Upon finalizing the document, it will be re-scheduled for a Board meeting for action. The Resolution would be effective immediately upon adoption. This process will take about 10 weeks, depending on workload and priorities.

*Recommendation:* Direct staff to initiate adoption process for an amendment to Resolution 61-87.

## 3. Change Agency policy to provide public notice of all applications when DSD distributes the applications for initial agency consultations

It is DSD's practice to distribute new applications to affected public agencies for their comments. Agencies include County Departments, Fire Departments, Schools, CSD's, and State and federal agencies. The comments received from these agencies are used to prepare the staff report, conditions, findings, and CEQA documentation. The Department distribution policy does not include a public notification at this stage of the

permit process, although some community groups and advisory committees are included in the normal distribution list. It was discussed in the August 6, 2013 staff report that this step in the process could be an opportunity for earlier public notification of new land development applications. Staff recommends the Board direct DSD to provide additional public notice of applications at the time when the DSD distributes the applications for initial agency consultations. This process will take a few weeks to create new standardized letters and implementation process but requires no formal resolution or ordinance to implement.

This process would increase the cost of processing the permit and place additional demands on staff, as describe in item 1. It is recommended that this process be limited to residential subdivisions of 100 lots or more. Larger subdivisions potentially have wider scale impacts and are seen as controversial and warrant this early notification process. Most other applications, such as for smaller subdivisions, commercial development, and special use permits, have reduced need for early notification. All projects will receive expanded notification for public hearings, as identified in Item 1.

Early notification of project applications provide opportunities for public participation in the development review process, early opportunity for staff to hear neighborhood concerns, and the potential for applicants to address those concerns. However, it also increases the time and cost of processing development applications. The current policies require public notification only for the public hearing of a development project. There is comprehensive information on the development project prepared for that public hearing, including a staff report, conditions of approval, recommended findings, and a CEQA analysis. Early notification of development applications can create frustrations because the development process is not well understood, and the lack of staff report, conditions, findings, and CEQA tends to create more questions than answers. The public inquiries stimulated by early notification may create significant demands of time for County staff that would have to be charged to the applicant. Update of the Planning Services fee schedule may be needed to address additional project processing time.

At this time, it would be appropriate that the Board provide more specific direction on what should be the scope and magnitude of early notification policy. Limiting the early notification to large residential subdivisions is recommended by staff to maintain control of noticing costs and staff hours. Large residential subdivisions appear to be the most controversial types of development projects in the County.

*Recommendation:* Direct staff to develop a policy for early notification for large residential subdivisions.

4. DSD to provide more land development application information on-line.

DSD currently provides application and development information on the County website. By viewing the Planning web page for "Projects" the public can view some basic

information on projects that have been approved, as well as those in the process. The public can sort the list by Supervisor District and by type of application. Earlier this year, a new "public notice" page was added. As with other webpages, the public can subscribe to this page and receive email notification when new public notices are posted. The public notices are for public hearings for land development applications through DSD only.

The Board could direct that additional information be provided to assist the public's review of pending applications. This expanded information could include the early consultation letters, application submittal information, and other relevant documents. In addition, the "public notice" function can be linked to the County main page as well as the Planning page.

This process to improve the webpage would occur incrementally and take some time to fully implement. Some information can begin to be added as new permit applications are submitted and as different information becomes available. Other steps require coordination with IT Department and potentially other Departments or Divisions. Future improvements are anticipated with a replacement of the Land Management Information System (LMIS), which is not expected for a couple of years. There are minimal costs for posting information that is easily scanned, but a future LMIS replacement will likely be a significant cost.

*Recommendation:* Direct DSD to expand new County development project information on the web.

The staff recommendation:

1. Direct staff to return with a final draft ROI 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
4. Direct DSD to expand new County development project information on the web.

Attachments:

- Preliminary Draft Ordinance ROI
- Preliminary Draft Ordinance
- Preliminary Draft CEQA Resolution

**Preliminary Draft ROI:**

**RESOLUTION NO.**

**OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO**

**RESOLUTION OF INTENTION TO AMEND THE EL DORADO COUNTY CODE**

**WHEREAS**, notice requirements for public hearings is contained in State law and local ordinances, including but not limited to Sections 16.24.085, 16.48.065, 17.04.015, 17.10.040, and 17.22.200; and

**WHEREAS**, requirements of State Law have changed over time and the different section of County Ordinance have not been comprehensively amended; and

**WHEREAS**, on April 2, 2013, the Board expressed a desire for better notification to property owners of upcoming land development projects; and

**WHEREAS**, on August 6, 2013 the Board of Supervisors directed staff to return with options pertaining to expanded public notification options as outlined in the Staff Memo dated July 30, 2013; and

**WHEREAS**, on September 30, 2013, the Board of Supervisors discussed options for expanded public notification for various land development applications; and

**NOW, THEREFORE, BE IT RESOLVED** that the El Dorado County Board of Supervisors will set a public hearing to consider amending the El Dorado County Code, pursuant to Chapter 1.04 and Section 17.10.010, to expand public hearing notice procedures for land development applications in Title 16, Subdivision Ordinance, and Title 17, Zoning; and

**BE IT FURTHER RESOLVED**, the Board of Supervisors hereby authorizes the Community Development Agency to proceed with the preparation for the above-said hearing.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by the following vote of said Board:

Attest:

James S. Mitrinis

Clerk of the Board of Supervisors

Ayes:

Noes:

Absent:

By: \_\_\_\_\_  
Deputy Clerk Chairman, Board of Supervisors

## **Preliminary Draft Ordinance Code for Public Hearings:**

### **Amending Section 17.22 and addition to Title 16**

#### **PUBLIC NOTICE REQUIRED.**

A. Where public notice is required in Title 16 and Title 17, the notice shall be given in all of the following ways:

1. Notice of the public hearing shall be mailed or delivered at least 10 days prior to the public hearing to the owner of the subject real property or the owner's duly authorized agent, and to the project applicant.
2. Notice of the public hearing shall be mailed or delivered at least 10 days prior to the public hearing to 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.
3. Notice of the public hearing shall be mailed or delivered at least 10 days prior to the public hearing to all owners of real property as shown on the latest equalized assessment roll within 1,000 feet of the real property that is the subject of the public hearing.

Expand to half a mile for residential applications creating between 100 and 999 lots.

Expand to one mile for residential applications creating 1000 lots or more.

For applications that will utilize access over existing or newly proposed roads, the County may expand notice to property owners that may be affected.

4. At least three public hearing notices shall be clearly posted at three different public places on and near the subject property. The notices shall be accessible and visible to the public.
5. In-lieu of utilizing the assessment roll, the County may utilize records of the County Assessor or County Tax Collector which contain more recent information than the assessment roll.
6. If the number of property owners to whom notice would be mailed or delivered pursuant to this Chapter is greater than 1,000, the County, 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. This section shall not apply to residential development of more than 100 dwelling units.
7. If the public hearing notice is mailed or delivered pursuant to paragraph (3), the notice shall also be published in at least one newspaper of general circulation within the area, at least 10 days prior to the hearing.

B. The failure of any person or entity to receive notice given pursuant to this Title shall not constitute grounds for any court to invalidate the action on any permit pursuant to this Title for which notice was given (GC 65093).

#### **PUBLIC HEARING NOTICE CONTENTS.**

The contents of a public hearing notice shall contain at a minimum the following information:

- A. Date, time and place of the public hearing;



B. The identity of the Appropriate Authority;

C. A general explanation of the matter to be considered at the public hearing; and,

D. A general description, in text or by diagram, of the location of the real property, if any, that is the subject of the public hearing.

#### **OUTREACH PLAN REQUIREMENTS**

For land development with 100 dwelling units and larger, the project application shall include a public outreach plan, 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 Planning Director.

## **Preliminary Draft CEQA Resolution**

Amend Section 5.2 – Notice of Preparation

Add Section F:

Public Notice: Public notice of the NOP shall be consistent with public notice for public hearings as identified in the Zoning Ordinance Section 17.22.

Amend Section 5.4 – Public Review of a Draft EIR.

Amend Section B:

The Lead Department shall provide notice of public review for a draft EIR upon filing the Notice of Completion to the State Clearinghouse. Direct notice shall be given to all organizations or individuals who have previously requested such notice. Notice shall be given through publication at least once in a newspaper of general circulation in the County. Notice ~~may~~ shall also be given ~~by posting of site or direct mailing as provided in Section 15087 of the State CEQA Guidelines~~ consistent with Section 17.22 of the County Code.