

**COUNTY OF EL DORADO DEVELOPMENT SERVICES
BOARD OF SUPERVISORS
STAFF REPORT**



Agenda of: September 23, 2014

Staff: Roger Trout

ORDINANCE

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

APPLICANT: El Dorado County

REQUEST: Adopt Resolution of Intention to amend County Code Titles 16 and 17 expanding the public notification of public hearings for land development applications.

ENVIRONMENTAL DOCUMENT: Statutorily Exempt from CEQA pursuant to Sections 15060(c)(2-3) of the CEQA Guidelines

RECOMMENDATION: Staff recommends that the Board of Supervisors take the following actions:

1. Adopt the Resolution of Intention to amend Titles 16 and 17 of the County Code expanding the public notification of public hearings for land development applications.

BACKGROUND

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. This was not included in the Targeted General Plan Amendment and Zoning Ordinance Update process and is therefore being considered separately. 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.

Staff prepared seven options in a July 30, 2013, memo for expanding public notifications. Those options can be summarized into four separate areas of discussion: amendments to Title 16 and Title 17 of the County Code, changes to the County CEQA Resolution 61-87, 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. The Board provided direction to return in five weeks with more specific recommendations on expanding the County public notice procedures.

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

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 Board also provided direction to add flexibility with regards to distance of notification relative to project size and impacts. The Board directed staff to ensure that posting of upcoming projects have consistent information and that these early notification procedures be applied to Capital Improvement Projects.

STAFF ANALYSIS

Pursuant to Section 17.10 of the County Code, the process to amend Title 17 begins with the adoption of a Resolution of Intention (ROI). Staff has prepared the draft ROI for Board action on September 23, 2014.

Staff has also prepared draft ordinance amendments to Title 16 and Title 17, and draft CEQA resolution changes for the Board's policy consideration and direction. These items are not ready for action today, but will be reviewed by the Planning Commission at a public hearing and return to the Board for further discussion and final action.

The ordinance would become effective 30 days after Board approval.

The proposed changes are intended to provide increased public notice by increasing the mailed noticing distance 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; require posting notice onsite for all projects; and projects of 100 or more parcels would require additional public outreach.

The draft changes are listed below, with deletions shown by ~~strikeout~~ and additions shown with underline, with staff notes in *italics*:

This amendment is for Subdivisions:

1. Subdivisions Ordinance (Title 16)

“16.24.085 Notice Requirements and Procedure.

- A. Action by the planning commission pursuant to section 16.24.075.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 with the exception of the following:
 - a. Expand to 2,640 feet (half a mile) notice for residential applications creating between 100 and 999 lots;
 - b. Expand to 5,280 feet (one mile) notice for residential applications creating 1,000 lots or more;
 - c. Expand notice to property owners that may be affected by proposed utilization of existing roads or development of newly proposed roads, as determined by the County;
 - d. Physical posting of notice on the property proposed for development so as to be visible to the public;
 - e. 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; and
 2. Published once in at least one newspaper of general circulation at least ten (10) days prior to the hearing.”

This amendment is for Parcel Maps:

“16.48.065 Notice Requirements and Procedure.

- A. Action by the planning commission pursuant to section 16.48.060.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 the following:
 - a. Expand to 2,640 feet (half a mile) notice for residential applications creating between 100 and 999 lots;
 - b. Expand to 5,280 feet (one mile) notice for residential applications creating 1,000 lots or more;
 - c. Expand notice to property owners that may be affected by proposed utilization of existing roads or development of newly proposed roads, as determined by the County;

- d. Physical posting of notice on the property proposed for development so as to be visible to the public;
 - e. 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; and
2. Published once in at least one (1) newspaper of general circulation at least ten days prior to the hearing.”

These amendments are for Planned Developments:

2. Zoning Ordinance (Title 17):

“17.04.015 Notice requirements and procedure.

- A. Action by the planning commission pursuant to Section 17.04.005B1 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 and:
 - a. Expand to 2,640 feet (half a mile) notice for residential applications creating between 100 and 999 lots;
 - b. Expand to 5,280 feet (one mile) notice for residential applications creating 1,000 lots or more;
 - c. Expand notice to property owners that may be affected by proposed utilization of existing roads or development of newly proposed roads, as determined by the County;
 - d. Physical posting of notice on the property proposed for development so as to be visible to the public;
 - e. 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; and
 2. Published once in at least one newspaper of general circulation at least ten (10) days prior to the hearing.”

These amendments are for Zoning changes (rezoning):

“17.10.040 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 ~~five hundred~~ one thousand feet of the property proposed to be rezoned and:

1. Expand to 2,640 feet (half a mile) notice for residential applications creating between 100 and 999 lots;
2. Expand to 5,280 feet (one mile) notice for residential applications creating 1,000 lots or more;
3. Expand notice to property owners that may be affected by proposed utilization of existing roads or development of newly proposed roads, as determined by the County;
4. Physical posting of notice on the property proposed for development so as to be visible to the public; and
5. 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.

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)).”

These changes are for Special Use Permits, Design Reviews, Variances, and Specific Plans:

“17.22.200 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 and as follows (Ord. 4589 §§2, 5, 2001):

- 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 and:
 - a. Expand to 2,640 feet (half a mile) notice for residential applications creating between 100 and 999 lots;
 - b. Expand to 5,280 feet (one mile) notice for residential applications creating 1,000 lots or more;
 - c. Expand notice to property owners that may be affected by proposed utilization of existing roads or development of newly proposed roads, as determined by the County;
 - d. Physical posting of notice on the property proposed for development so as to be visible to the public;

- e. 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; and
2. Published once in at least one newspaper of general circulation at least ten (10) days prior to the hearing.”

These changes are for any Environmental Impact Report:

3. Amend Resolution 61-87 as Superseded by Resolution 179-99 (Amendment to the El Dorado County Environmental Manual for Implementation of the California Environmental Quality Act (CEQA))

“5.2 – Notice of Preparation

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

“5.4 – Public Review of a Draft EIR

- 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.”

Conclusion: Adoption of the ROI will initiate the formal process for updating the County Code to expand public notification of land development projects. The next steps will include at least one Planning Commission hearing before returning to the Board for final action.

The general policy direction from the Board has been to increase the area subject to public notification and includes potential physical posting of the property. There are many details that have yet to be worked out. The future public hearings before the Planning Commission and Board will work out those details.

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.

The Ordinance amendments that will be considered in the future would also affect County CEQA Resolution 61-87. It is staff’s recommendation to amend the County CEQA resolution to reflect the noticing procedures that are adopted in the Ordinance for consistency. Staff will bring both the Ordinance amendments and the CEQA Resolution to the Board for concurrent action.

ENVIRONMENTAL REVIEW

The proposed Resolution of Intention to amend the CEQA Resolution, Title 16 and Title 17, is 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.