



PLANNING COMMISSION AGENDA REPORT

DATE: May 25, 2006

AGENDA OF: June 1, 2006

ITEM NO: **Ordinance Amendment** **05-217**
Amendment to Title 23 (Subdivision Ordinance) and Title 24 (Zoning Ordinance) of the Santa Cruz Municipal Code and the Local Coastal Implementation Plan, regarding requirements for public hearing notification. (Environmental Determination: Exempt from CEQA). AK

RECOMMENDATION: That the Planning Commission recommend to the City Council approval of amendments to the Subdivision and Zoning Ordinances relating to public hearing notification with a finding that said amendments, in accordance with Zoning Ordinance Section 24.06.040, serve and further the public necessity, and the general community welfare, and good zoning practice and that the amendments are in general conformance with the principles, policies and land use designation set forth in the General Plan, Local Coastal Plan and any adopted area or specific plan which may be pertinent.

BACKGROUND

In 2005 the Santa Cruz Neighbors discussed with staff a perceived problem relating to the insufficiency of public hearing notifications. Santa Cruz Neighbors requested the City to amend the Municipal Code to improve public notification. The Planning Commission directed staff to prepare the background and analysis on the public notification topic that would help the Planning Commission understand the issues involved and make recommendations on how to change the Municipal Code to the City Council.

History of Notification in the City

Prior to 1976 public notification for variances or use permits consisted of publication in a newspaper of general circulation 10 days prior to a hearing. No mailing or posting appeared to be required. A zoning map amendment required a 300 foot mailing from the exterior limits of the proposed amendment.

In 1976 the Zoning Ordinance was rewritten allowing the Zoning Administrator to post the property if deemed necessary or desirable. Also one notice was required to be sent to the property owner or his agent.

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In 1982 the Zoning Ordinance required publication in a newspaper of general circulation at least seven calendar days from the hearing; posting on the site; and mailing to all property owners within a 300 foot radius of the property.

Existing Regulations

In 1985 the Zoning Ordinance was revised and reorganized and the public hearing requirements the City of Santa Cruz is currently utilizing today were adopted.

Chapter 24.04.100 states for cases requiring a public hearing that notice be given not less than ten days prior to the public hearing. This notice shall be given by publication in a newspaper of general circulation, posting on the site, and notification to all property owners and tenants within 100 feet of the project site.

An exception to the above for General Plan and Zoning Ordinance text amendments initiated by the City is allowed for notice of public hearings to be in newspapers of general circulation only. In the case of a zoning map amendment initiated by the City and affecting 100 or more properties notice may be by publication in a newspaper of general circulation only. It should be noted that in the General Plan (Table I-3) it states that General Plan and Local Coastal Program Amendments for individual amendments should have notification of all property owners within 300 feet of the subject property. This was never codified in the Zoning Ordinance.

Chapter 24.08.2560 states that for Development Agreements that notice shall be given to property owners within 300 feet of the subject property. If the number of owners is greater than 1000 then the planning director may provide notice by publication in a newspaper of general circulation only.

Chapter 23 of the Municipal Code is the Subdivision Ordinance. This section of the code also discusses public noticing for tentative maps. Chapter 23.16.050.1 states that for tentative subdivision maps that notice be given not less than ten days prior to the public hearing. This notice shall be given by publication in a newspaper of general circulation and notification to all persons, businesses, corporations, and or other public or private entities owning property within 300 feet of the proposed subdivision. This section of the Code was added in 1976 and has not changed since then except for the section number.

DISCUSSION

The purpose of the public hearing requirements is to involve the public in the planning process. Public participation is very important to the decision making process for planning and subdivision cases. From discussions that have occurred over the past year and a half the community is concerned with our current public notification procedures. It has been proposed increasing the distance noticed and the amount of time a notice is mailed as well as the type of poster that is posted at a subject property.

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Staff has surveyed 19 other cities and one county (Santa Cruz County) to see what other jurisdictions do with public notification. The survey is attached for your review. Staff has also done graphic and numerical analysis of what is gained when we expand the radius around a property. How many properties and person would the City increase in notifying if the City went from 100 feet to 300 feet or 500 feet or greater. Also what are the costs associated with the increase in radius.

Staff is proposing the attached ordinance for Planning Commission and City Council approval. The proposed revisions attempt to:

- A. Provide uniform notification standards for all subdivision and zoning cases to make it easy for staff and the public to know and remember the standards.
- B. Increase the opportunities to do public notification with utilization of new technologies.
- C. Encourage partnership with neighborhood groups to be part of the public hearing process.
- D. Provide the opportunity to increase public participation in the decision making process.
- E. Minimize the impacts of increased notification on staff time and costs.

SUMMARY OF PROPOSED CHANGES

Time

The current code states notice shall be given not less than ten calendar days prior to a public hearing. Staff publishes the legal notice in the paper, posts the notice of public hearing on the property and sends notices in the mail usually ten days in advance of the hearing. It has been commented that ten days is too short of time in advance of a hearing to provide notice. Also, when the notices are mailed ten days prior to a hearing they really arrive nine or eight days from the hearing date further reducing the notice period.

Our survey of different jurisdictions found that the majority used the ten day noticing period. Two communities had tier noticing from ten to 20 days depending on the cases. Two communities had 14 days noticing period. All of the surrounding jurisdictions in Santa Cruz County used ten day noticing period.

The proposed ordinance recommends that public notice be given not less than 14 days prior to the public hearing. Staff would publish the legal notice in the paper, post the notice of public hearing on the property and sends notices in the mail not less than 14 days in advance of the hearing. The mailing part is still depended on the delivery of the United States Postal Service but the notice should arrive in ten to 12 days in advance of the hearing which would be better than what is currently happening. Moving the noticing procedure four days longer would not have an

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impact on staff resources or significantly increase the length of time it takes to get a case to hearing as would increasing the noticing period to a longer period such as 21 days.

Mailing Radius

The current code requires all property owners and tenants within 100 feet of the periphery of the project be notified as well as the owner of the property and any other person requesting notice. It has been commented that the 100 feet limit is too small to provide meaningful notification to an affected neighborhood. This 100 foot distance really only notices the immediate neighboring properties but what about the greater neighborhood? If the subject lot is on a large street right-of-way the properties across the street may not be notified. Also there are differences in notification distance in different sections of the Zoning Ordinance and with the Subdivision Ordinance.

Staff found it interesting in researching the history on public hearing notification that at one time the City did provide public notice at 300 feet to property owners as recently as 1984. The Zoning Ordinance rewrite adopted in 1985 reduced this radius to 100 feet adding to the mailing notification tenants as well as property owners. From discussion with staff that was with the City at that time, the decision to reduce the radius was a workload decision. The inclusion of tenant notification with property owner notification was thought to be a good trade off to ensure adequate public notice while reducing the radius. It should be noted that in 1984 the State of California enacted provisions intending to provide basic public hearing notification requirements for cities and counties. One of the provisions was to require mailing to property owners within 300 foot of the property that is subject to the hearing. The City of Santa Cruz was not required to meet this State law because it is a Charter City.

In the survey conducted by staff the majority of jurisdictions have at least a 300 foot radius notification. Six jurisdictions provide notification from 500 to 600 feet. Half the jurisdictions provide notification to both property owners and tenants and the other half just to property owners.

The proposed ordinance is recommending that the public notification be increased to 300 feet and continue to notice both property owners and tenants. Increasing the notification from 100 feet to 300 feet would greatly increase the number of people notified for a public hearing and it would also bring the City notification regulations in line with the State law distance requirement. Staff studied whether to have a two tiered notification process where "simpler or minor" Zoning Administrator cases remained noticed at 100 feet and Planning Commission/City Council cases were noticed at 300 feet. However it has been shown that cases that seem "simple or minor" may have larger neighborhood consequences and they should have the larger notification radius. Another reason for not having multiple notification requirements staff believes is that there is less opportunity for notification mistakes if there is only one requirement for all cases.

There is also a cost issue involved with the recommendation. As the notification gets larger there is more staff time involved with the case planner looking up the properties to be notified and the support staff preparing the notification cards. Then there is a larger cost for postage with the

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larger number of notification. Of course one could say that the City can and will pass any cost on to the applicant. Many of the City's applicants are homeowners and keeping the cost reasonable while providing adequate notice to neighboring properties was a consideration.

With the growth of neighborhood involvement staff has committed to work with Santa Cruz Neighbors to get specific neighborhood groups noticed where public hearings are occurring so they can provide their own notice to their neighborhood list if they wish to. This, along with the increase from 100 feet to 300 feet will further the noticing opportunities in the city. Staff has been working with Santa Cruz Neighbors to develop the list and map of groups to provide such notice.

Finally there will be extraordinary circumstances where certain zoning cases should provide a larger notification. The proposed ordinance allows for the Zoning Administrator to provide for a greater radius than 300 feet and other forms of notice if deemed desirable and necessary.

Posting

The current code states posting shall be provided by the applicant or his/her representative on the subject property of the public hearing not less than ten calendar days prior to a public hearing. Staff prepares the public hearing poster on card stock that is either 11 inches by 14 inches or 17 inches by 22 inches. It has been commented that there are no specifications as to size, color lettering size of the posters in the code so they are virtually unreadable. Also there have been comments that the posters disappear soon after they are posted by weather or vandals and larger project deserve larger posters.

The proposed ordinance tries to codify what is expected with on-site posting. Regulations for posting signs such as where on the site, how many, what color and how they a displayed are included. Staff has proposes to require larger signs for applications developing lots of 20,000 square feet or more or of tenant space greater than 16,000 square feet. For these larger projects a sign of 12 square feet (three feet by four feet) would be displayed on the property. The City would construct these signs in advance and have them available when needed. For all other applications the City would commit to one size of poster 17 inches by 22 inches which staff would continue to print.

It should be noted that these smaller signs (and even the larger one) are not expected to be readable from a passing car. They are meant to attract notice so people interested will stop and read the sign. Theft, vandalize or disappearance of signs will probably remain an issue however if notified the City will ask the applicant to replace the sign prior to a public hearing. The theft, vandalize or disappearance of a sign would not preclude a case from proceeding to public hearing unless it was determined the applicant failed to post the sign.

Additional Changes

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The proposed ordinance has additional changes bringing our notification procedures in compliance with State law. These include the alternative to mailing provisions and additional drive-through facility notification requirements. Also amendments to the Subdivision Ordinance provide clarification and consistency to the public hearing requirements for all types of subdivisions.

FINDING - SECTION 24.06.040

The Planning Commission must make the following finding for its recommendation to the City Council:

That the public necessity, and the general community welfare, and good zoning practice shall be served and furthered; and that the proposed amendment is in general conformance with the principles, policies and land use designation set forth in the General Plan, Local Coastal Plan and any adopted area or specific plan which may be pertinent.

The recommended ordinance amendment will revise the Zoning Ordinance to clearly address public hearing requirements in the City that allows for the public necessity, the general community welfare, and good zoning practice to be served and furthered. The recommended amendments will allow the City to provide clear and adequate public hearing notification to its citizens. The purpose of the public hearing requirements is to involve the public in the planning process. Public participation is very important to the decision making process for planning and subdivision cases. The recommended ordinance amendment will be in general conformance with the principles, policies and land use designation set forth in the General Plan, Local Coastal Plan and adopted area or specific plans within the City.

ENVIRONMENTAL REVIEW

The code amendment has been determined to be exempt from the California Environmental Quality Act (CEQA) in that the activity is covered under the general rule that CEQA applies only to projects, which have the potential for causing significant effect on the environment. The proposed amendment is to provide clear and adequate public hearing notification to its citizens. It is consistent with and serves to implement the City's General Plan and Local Coastal Program. In fact, the amendment will provide the standards for the notification of public hearings to further involve the public in the planning process. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is exempt from CEQA per Section 15061 (b)(3).

SUMMARY

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The proposed ordinance amendment addresses the issue of public hearing notification in a very complete way. The proposed ordinance adequately protects the best interests of the City residents while also being reasonable with staff resources. Staff recommends that the Planning Commission carefully review the ordinance and recommend its **approval** to the City Council.

Submitted by:

Alex Khoury, Acting Director of
Planning and Community Development

Attachments:

- Proposed Ordinance
- Survey
- Sample radius maps