

**COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT**

MEMORANDUM

TO: Montecito Planning Commission
County Planning Commission

FROM: Dianne Meester Black, Assistant Director
Pat Saley, Planner

DATE: April 16, 2007

RE: **Discussion of County Public Noticing Procedures**

Background

In the last two years, the County has redoubled its efforts to make the planning process more efficient while maintaining its integrity. Changes have been made in three basic areas:

- **Public notice** – Previously the only “notice” of Land Use Permits was three posted notices on a project site after the application was approved and before the appeal period had run. This sometimes resulted in late appeals that were contentious. Ordinance changes were approved in late 2005 to continue to require posting of a project site, but mailed notices are now provided to neighbors earlier in the review process. Noticing for Coastal Development Permits is also proposed to be changed to be consistent with LUP noticing pending approval of an amendment to the County’s Coastal Plan. Notices of discretionary applications have not changed.
- **Appeal process** – In early 2006, revisions to the appeal process were approved that generally provide for an earlier appeal of a decision and clearer criteria for filing an appeal. The earlier appeal provides more flexibility in redesigning a project to address a concern. The criteria for filing an appeal has reduced the frivolous appeals and made those that are filed more relevant.
- **Zoning Clearance in lieu of Land Use Permit** - Also in early 2006, the Board approved the creation of a “Zoning Clearance” which involves the same application submittal material and staff analysis as a Land Use Permit, but no public notice and opportunity for appeal. The Zoning Clearance process has been applied to tract maps approved since January 1990 and for projects in the Orcutt Community Plan area. The idea is that the discretionary review process to approve a tract map is rigorous and the conditions comprehensive and the follow up permits for the individual lots should not involve public notice or appeals as the time to be involved and/or appeal a project is during the discretionary phase, not the follow up permit. If an application is consistent with the discretionary approval and all conditions are met, it should not have a duplicate notice and hearing process. In the Orcutt area, if the application meets the criteria of the Community Plan, it should get a permit without additional public notice and the potential for an appeal. To date, about fifty Zoning Clearances have been submitted, mostly in the North County.
- **Improved website and email notification** – Planning and Development has coordinated with other County departments to improve the public’s access to project information. In addition to providing agendas online, anyone can request email notification by zip code or specific projects through the Department’s website. This is an important tool to keep people informed throughout the development review process.

Discussion

In the last month, the two Commissions have reviewed proposals to extend the Zoning Clearance process to applications following two discretionary approvals, Conditional Use Permits and Development Plans. Your Commissions have also discussed revisions to the Coastal Development Permit (CDP) process to allow for only one appeal process where both a discretionary action and a CDP are required. In the course of these discussions, the Commissions have asked questions about existing noticing procedures as you are all concerned about involving the public in discussions of proposed projects, ideally as early in the review process as possible.

Staff has compiled an overview of the County's noticing procedures as shown in the attached table. These are arranged by application and process, e.g., ministerial, discretionary (including design review) and environmental documents. The types of noticing generally include the following:

- **Posting of project sites** – All Land Use Permits (LUPs), Coastal Development Permits (CDPs), and Board of Architectural Review (BAR) applications are posted on the project site, usually for at least 10 days prior to the decision on the project (for LUPs and CDPs) or before the application is heard by the BAR. Especially in the case of the BAR review, this provides early notice of a project and the opportunity for a neighbor or interested party to get involved.
- **Posting at County offices and on website** – Notice of most applications is provided at County offices and, for the larger projects, on the County's website.
- **Mailed notices** – All applications, including notices of availability of environmental documents, have some sort of notice mailed to neighbors. The distance ranges from adjacent parcels for some LUPs to 1,000 feet for Environmental Impact Reports. In the Coastal Zone, all tenants within 100 feet of a proposed project are also noticed.
- **Legal notices** – A legal notice is placed in a local newspaper of general circulation for CDPs that are appealable and for all discretionary permits heard by the Zoning Administrator, Planning Commission and Director.
- **Display ads** – Where the number of people potentially affected or interested in an application exceeds 1,000 (e.g., certain ordinance amendments), a display ad is often placed in a local newspaper of general circulation to reach as many people as possible. These ads are a minimum of 1/8 page to ensure their visibility.

Staff is researching how other jurisdictions handle noticing, especially of smaller projects. We will bring examples to the Commission meetings for your review.

We look forward to discussing noticing with the two Commissions at the April 18th and April 25th meetings.

Attachment – Overview of Santa Barbara County Noticing Procedures

Overview of Santa Barbara County Noticing Procedures
 April 16, 2007

Type of Permit/Action ¹	General Noticing Requirements ²	Specific Requirements	Source of noticing requirement
Ministerial			
Coastal Development Permit (not Appeals Jurisdiction)	Notice must be mailed and posted by the applicant at least 7 days prior to the decision to approve or deny the CDP (no public hearing); the posted notice must remain posted a minimum of 10 days following the approval or denial of the CDP so a total of at least 17 consecutive days. Note LCP amendment is pending to increase noticing consistent with Land Use Permit requirements (see below)	<ul style="list-style-type: none"> • Mailed notice to: <ul style="list-style-type: none"> • All property owners within 100 feet of the site • All residents (occupants) within 100 feet of site • The Coastal Commission • Anyone who has requested notice at least 7 days prior • Posted notice on site - The applicant shall also conspicuously post notice on at least 3 separate locations on or around the project site including one location that can be viewed from the nearest street. Notice remains posted for 17 days. • Posted notice at County offices 	<ul style="list-style-type: none"> • State Gov't Code Sections 65090 - 65096 • California Coastal Act • Article II Sec. 35-181.3 (until Coastal Commission certifies LUDC)
Land Use Permit	The applicant must mail the LUP notices & post the site no later than 15 days following the filing of a complete application, but in no case shall the notice be mailed or posted less than 10 days prior to the initial review by the BAR or action by the Director to issue a LUP	<ul style="list-style-type: none"> • Mailed notice to: <ul style="list-style-type: none"> • All property owners adjacent to the site • Anyone who has requested notice • For certain projects, all property owners within 300 feet if: <ul style="list-style-type: none"> • Design review is required • SFD with 2nd or 3rd story elements (including new homes or additions) • Accessory buildings that exceed 120 sq. ft. (including additions) • Change of use • Home occupations where clients come to the home • Residential second units • Large Family Day Care Homes • Non-residential Child Care Centers • Commercial and non-commercial telecom facilities & additions • Certain wineries • Posted notice on site - The applicant shall also conspicuously post a minimum of one notice at the project site for at least 10 days prior to approval of the LUP • Posted notice at County offices 	<ul style="list-style-type: none"> • County LUDC Sections 35.106.050 & 35.106.060 • Montecito LUDC 35.496.030 & 35.496.040 • Toro Plan - LUDC Section 35.106.060.A.2.a(1)

Type of Permit/Action ¹	General Noticing Requirements ²	Specific Requirements	Source of noticing requirement
Zoning Clearance	None	No public notice is required	
Board of Architectural Review			
BAR (outside Coastal Zone)	<ul style="list-style-type: none"> Posted notice - The County posts the BAR agenda in a public location a minimum of 72 hrs. before the hearing Projects that require BAR generally also require a Land Use Permit & are noticed together per the LUP requirements discussed above. 	<ul style="list-style-type: none"> Toro Canyon Plan area - Notice of design review applications shall be provided to owners within 500 feet of the site. Montecito area – Mailed notice of the initial concept review is provided to owners within 300 feet of the project site. The administrative practice is to also notice occupants within 300 feet of the site. 	<ul style="list-style-type: none"> Gov't Code Sections 65090 - 96 Co. LUDC Section 35.106.060 Montecito LUDC Section 35.496.040
BAR (in Coastal Zone)	<ul style="list-style-type: none"> Posted notice - The County posts the BAR agenda in a public location a minimum of 72 hrs. before the hearing 	<ul style="list-style-type: none"> Summerland Coastal Zone - Mailed notice to all owners of affected properties & to owners within 100 ft. radius of the property at least 10 days prior to the meeting. Montecito Coastal Zone – See Montecito above. Coastal Zone portion of Toro Canyon – See Toro above. 	<ul style="list-style-type: none"> State Gov't Code Sections 65090 - 96
Discretionary			
Coastal Development Permit (Appeals Jurisdiction)	<ul style="list-style-type: none"> Mailed notice to: <ul style="list-style-type: none"> All property owners within 300 feet of site Occupants within 100 feet of site The Coastal Commission Anyone who has requested notice Posted on County website 	<ul style="list-style-type: none"> Notice of intent to waive a public hearing must be sent 15 days prior to intended action Mailed and published 10 days prior to hearing or action Legal ad published in local newspaper of general circulation Where appealable CDP follows a discretionary action, a Notice of Final Action (NOFA) is sent to the Coastal Commission at the end of the County's appeal period. The day after the Commission receives the NOFA, the Coastal Commission will begin their 10 working day appeal period. 	<ul style="list-style-type: none"> State Gov't Code Sections 65090 - 96 California Coastal Act Article II Sec. 35-181.2
Discretionary permits (e.g., Conditional Use Permit, Development Plan, Subdivisions, etc.)	<ul style="list-style-type: none"> Mailed notice to: <ul style="list-style-type: none"> All property owners within 300 feet of site or display ad (see footnote 2) 1000 feet for Tier 4 Telecom Facilities that include new freestanding antennas located within 1000 feet of a residential zone 	<ul style="list-style-type: none"> Posted on County website Mailed notice to applicant, property owner (if different) & anyone who requested notice Mailed and published 10 days prior to hearing or action Legal ad published in local newspaper of general circulation 	<ul style="list-style-type: none"> Gov't Code Sections 65090-96 County LUDC Sec. 35.106.020 Montecito LUDC Sec. 35.496.020 State Subdivision Map Act & Co. Code Ch. 21 for subdivisions, lot line adjustments, etc.

Type of Permit/Action ¹	General Noticing Requirements ²	Specific Requirements	Source of noticing requirement
<i>Environmental Documents</i>			
Categorical Exemptions	The Notice of Exemption is posted in the Clerk of the Board's office	The notice remains posted for 30 days after the decision.	CEQA
Negative Declarations	<ul style="list-style-type: none"> • Property owners within 300 feet & contiguous occupants (& occupants within 100 feet in Coastal Zone). Many NDs have display ads in the newspaper depending on the project, its level of controversy & public interest. • Legal ad 		CEQA
Environmental Impact Reports	Same as for Negative Declarations		CEQA

1 - There are many types of permits & only the most common are explained in this table.

2 - "Display ad" - The Government Code allows that if the number of owners & residents to whom notice would be mailed is greater than 1,000, the County may instead provide notice by placing a display ad of at least 1/8 page in at least one newspaper of general circulation within the County at least 10 days prior to the scheduled hearing or action. See Section 35.106.020.B of the LUDC.