



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Adam Rush, Community Development Director

MEETING DATE: February 27, 2024

SUBJECT: Consideration of Modifying the City of Banning's Public Hearing Notice Requirements for Development Applications

RECOMMENDATION:

Discuss and Consider Modifications to the City of Banning's Public Hearing Notice Requirements for Development Applications, as specified by Banning Municipal Code Chapter 17.68, and Provide Direction to the Community Development Director.

BACKGROUND:

The City Council and the Planning Commission each act in their individual capacities as decision-making bodies (or a recommending body in some instances for the Planning Commission) for zoning and development applications authorized under Title 17 of the Banning Municipal Code (BMC), otherwise referred to as the "Zoning Code." These types of applications are unique in the sense that they require detailed noticing procedures that are specified under California State Planning and Zoning Laws (Government Code Sections 65090, 65091, and 66451.3, to name a few).

Planning and Zoning Laws state that the Council can provide for more notice than the minimum requirements. For example, if the minimum State law requires mailing to a 300-foot radius, the Council can choose to go beyond that and notify property owners in a larger radius like 500 or 1,000 feet. Or if State law requires a minimum of 10-days advance notice of a hearing, the Council can expand that and require 15-days advance notice.

The City's Zoning Code incorporates the minimum requirements established under State law. Project types that require public notification currently include the following application types (See Title 17 of the BMC):

- General Plan Amendments (GPA)
- Specific Plans (SP)
- Specific Plan Amendments (SPA)
- Zone Changes (ZC)
- Zoning Text Amendments (ZTA)
- Development Agreements (DA)
- Conditional Use Permits (CUP)
- Design Review (DR)
- Tentative Parcel Maps (TPM)
- Tentative Tract Maps (TTM)
- Appeals of Director's Decision to Commission (CD-Appeal)
- Appeals of Commission Decision to Council (PC-Appeal)

- Surface Mining Permits (SMP)
- Reclamation Plans (RCL)
- Street/Road Vacations (Vacation)
- Variances (follows "parent" case)

While this list represents the majority of planning project applications that the City currently processes, it is not exhaustive as additional applications are considered "Ministerial" or "Administrative." Meaning, these types of applications are processed in a similar technical manner but they do not require a public hearing before the either the City Council or the Planning Commission in order to be reviewed and acted on.

Recently, the City Council requested that Community Development staff research alternatives and explore options to enhance the City's community engagement procedures for planning projects. Staff has contacted eleven (11) other Cities, but only received feedback from six (6) of them detailing their community engagement procedures.

However, prior to exploring potential changes the City could implement, a brief summary of the existing procedures is provided for reference:

- Applications must be processed in a manner consistent with Government Code Sections 65090, 65091, and 66451.3.
- Public notice must be given at least 10 days prior to the scheduled public hearing date (all days measured in calendar days).
- Public notice must be mailed to the owner of the subject real property or the owner's authorized agent at least 10 days prior to the hearing.
- Notification is required by two (2) methods:
 - (1) Publication in the Record Gazette newspaper (the City is required to use this paper by law); and
 - (2) Mailing of public notices to all property owners within a 300-foot radius of the subject property, postmarked at least 10-days prior to said hearing.
 - Each notice must state the nature of the request, the location of the property (text or diagram), the date, time, and place of the scheduled hearing, and the hearing body.
Notice is deemed received two (2) days after date of postmark.

If the Council wishes to enhance the City's community engagement procedures, then the variety and combination of options is plentiful. As discussed, the minimum mailing radius is 300-feet, as required by State law; however, the City can expand this radius to 500 or 1,000-feet from the project boundary. The property owner labels are already prepared by the project applicant's Title Agent, so requesting an expanded boundary is not difficult.

As previously mentioned, the minimum timeframe in which a public notice must be postmarked is 10-days; however, the Council can increase this timeframe, say to 14 days. *It should be noted that CEQA notification timelines already increase notification timeframes for comments on environmental documents to either 21 or 30-days depending on the particular action.*

Alternatively, the City may add an additional requirement of posting a "large-format" message board containing the same information required on the public notice, i.e., Project Name, Location, Date and Time of Hearing, etc. This message board could be a 4'x8' board, mounted on wooden 4"x4" studs, sunk into the ground, and required to remain for the duration of the public notice period.

In addition, some other options that could be added to these new procedures would be the notification of tenants that live within a predetermined boundary from a project site. These situations existing "in-mass" if an apartment building or mobile home complex is situated within the radius notification distance from the Application.

While notification of tenants is a primary concern of the Council, it remains the most logistically difficult method of delivery as a comprehensive list of all tenants does not exist from a government issued source. Further research is necessary to explore the feasibility of this notification method.

Lastly, many cities contacted by staff indicated that a standard requirement for development applications is to post notices on City-sponsored Social Media Pages and/or Message Boards. With the addition of a Communications Manager, the City offers social media posts for Projects of Regional Importance, e.g., General Plan Updates, Specific Plans, etc., but it is not a standard practice that applies to all development applications.

Below is a spreadsheet of the Cities contacted and a summary of their notification procedures:

Public Notice Process- Surrounding Cities

| City Name | Pop(2021) | Phone # | Newspaper | Mail to PO |
|--------------------|-----------|------------------------|-----------|-----------------------------|
| Banning | 30,273 | (951) 922-3125 | Yes | Yes-300ft-10days |
| Norco | 26,077 | (951) 270-5661 | | |
| Hemet | 90,436 | (951) 765-2375 | | |
| Wildomar | 37,189 | (951) 677-7751 ext 203 | | |
| Desert Hot Springs | 32,716 | (760) 329-6411 | Yes | Yes-300ft-10days |
| San Jacinto | 55,290 | (951) 487-7330 | Yes | Yes-300ft-10days |
| Calimesa | 10,893 | (909) 795-9801 | | |
| La Quinta | 38,181 | (760) 777-7023 | Yes | Yes-500ft-10 days |
| Eastvale | 71,375 | (951) 703-4460 | Yes | Yes-300ft-14days |
| Yucaipa | 54,739 | (909) 797-2489 | Yes | Yes-300ft-14days |
| Jurupa Valley | 106,941 | (951) 332-6464 ext 134 | | |
| Palmdale | 165,761 | (626) 267-5200 | Yes | Yes & Tenants -500/700/1000 |

JUSTIFICATION:

Intent and purpose. It is the intent of this discussion to enhance the City’s Community Engagement Plan, increase transparency with the public, and provide more opportunities for public input, discourse, and participation. The intended purpose of requiring developers to present and engage in a public outreach during the entitlement process is to address potential issues of concerns with the public prior to an approval of their Project.

Scope of regulations. The updated Ordinance provisions that result from any Council direction received must be applied to establish policies related the City’s Public Notice and Hearing Procedures.

FISCAL IMPACT:

The preparation of this Staff Report was prepared by the Community Development Director under the normal course of duties and responsibilities. No additional costs were incurred.

If and when the City Council initiates a Zoning Text Amendment (ZTA) to modify and incorporate changes to the City's Public Notice and Hearing Procedures, an Ordinance will need to be drafted by the City Attorney's Office, reviewed by the Community Development Department and the City Manager and then scheduled before the Planning Commission at a public hearing for their review, input, and recommendation to the City Council.

At the time that an Ordinance is considered by the Council, another public hearing will occur and the Introduction of the First Reading, and then the Second Reading is required. This process will require the support of City Staff (namely the Community Development Department, Deputy City Clerk, City Attorney, and City Manager).

While a specific dollar amount is unknown at this time, preliminary estimates are calculated at approximately:

- \$5,000 to \$12,500 in legal costs; and
- \$7,500 to \$15,000 in total staff support costs

The anticipated timeframe for this entire process is approximately six (6) to eight (8) months.

Both the costs and timeframe are ***widely subject to change***, based upon the degree and complexity of input requested by the City Council.

ALTERNATIVES:

1. Provide direction to staff regarding additional research, but delay initiation of the amendment.
2. Continue this item off calendar and without discussion.

ATTACHMENTS:

1. [Chapter_17.68___HEARINGS_AND_APPEALS.docx](#)
2. [Public Notice_SurrAreas.pdf](#)