File #: 20-291, **Version:** 1

TO: **Chair and Members of the Planning Commission**

THRU: **Anna Pehoushek, Assistant Community Development Director**

FROM: **Vidal Márquez, Assistant Planner**

1. SUBJECT

Public Hearing: An ordinance amending procedures for noticing and posting requirements.

2. SUMMARY

An ordinance amending Title 17 of the Orange Municipal Code (Zoning) to update the general administrative procedures for noticing and posting requirements.

3. RECOMMENDED ACTION

Adopt Planning Commission Resolution No. 19-21 entitled:

A Resolution of the Planning Commission of the City of Orange recommending that the City Council adopt an ordinance amending Title 17 of the Orange Municipal Code (Zoning) to update noticing and posting requirements.

4. AUTHORIZING GUIDELINES

Orange Municipal Code (OMC) Table 17.08.020 authorizes the Planning Commission to review and make a recommendation to the City Council on Zoning Ordinance amendments. OMC Section 17.10.020 establishes procedures by which the Planning Commission reviews ordinance amendments and makes recommendations to the City Council.

5. PROJECT BACKGROUND

In recent years the City Council, the Planning Commission, the Design Review Committee, and members of the public have inquired about the public notification related to various land use applications. For some land use application types, the noticing process is established by the California Government Code. In others the City has the discretion to determine whether certain applications warrant notification and the manner of noticing.

In an effort to better inform the public about changes to a property that could affect the surrounding neighborhood, staff conducted a review of current notification practices, the list of permits in OMC Chapter 17.08 General Administrative Procedures, and the posting procedures for certain project notifications.

In conjunction with this review, staff prepared a survey of current practices of neighboring Orange County cities and of other larger cities outside Orange County. The intent was to determine how Orange's notification requirements and procedures compare to other cities for certain administrative approvals and public hearings. Generally, the City's practices are similar to neighboring Orange

County cities for public hearing notification by mail and site posting. A comparison table is provided in Attachment 3 showing the existing noticing and posting practices of other cities in Orange County and a select few outside of the County.

State Noticing Requirements
The Government Code prescribes the minimum noticing requirements associated with certain public hearings. It establishes a 10-day public noticing time frame prior to action on specified application types. Public hearing and noticing procedures for certain land use application types are found in Government Code Sections 65090 to 65096 and are applicable to such actions as general or specific plan amendments, zoning ordinance amendments, zone changes, conditional use permits, variances, special use permits and similar entitlements. Notification procedures may include one or more of the following:

- Posting public hearing notices in at least three public places (including the project site);
- Publishing hearing notices in a local newspaper for certain legislative actions (e.g. General Plan Amendments, Tentative Tract Maps); and
- Mailing public hearing notices to potentially affected property owners within 300 feet of the project site.

With respect to newspaper publication and direct mail notification, the Government Code provides the City with the option for doing one or the other for certain types of applications.

City Noticing Requirements and Practices
The City adheres to State noticing requirements but there are certain types of applications where the City has latitude to establish its own notification processes. In addition to the State noticing application requirements, the City has established noticing requirements for applications such as design review in historic districts, development agreements, and minor site plan review.

OMC Chapter 17.08 (General Administrative Procedures), Table 17.08.040 (Notice of Hearings) provides a table of procedures specific to application types. The procedures include mailed notice to surrounding property owners, publication and/or posting depending on the type of application. Staff practice has generally been to post when the option is provided to either publish or post.

6. PROJECT DESCRIPTION
The proposed ordinance would amend Title 17 (Zoning) of the OMC to modify the General Administrative Procedures for noticing and posting requirements.

The ordinance amends Chapters 17.08 and 17.10 to establish procedural requirements for noticing and posting that will ensure the City is providing property owners and residents with expanded opportunities to comment on proposed projects that may affect their properties prior to final determination on the projects. Certain types of applications are not addressed, such as Administrative Design Review for properties outside of historic districts.

7. ANALYSIS AND STATEMENT OF THE ISSUES
Recommended Noticing Procedures
In order to better, inform residents and property owners about pending applications on nearby properties, staff is recommending the following:

- Require mailing of notices for certain project types not currently specified in Table 17.08.040,

including all design review applications, and administrative design review.

Notification of certain types of administrative approvals (minor site plan review and administrative design review) would be provided prior to Community Development Director action rather than after the action, as is presently the case.

Additionally, staff recommends simplifying and clarifying the notification process to ensure consistency in City practice as follows:

- Replacing the current option for newspaper publishing or posting with posting of public hearing notices on the project site only. Newspaper publication would be deleted.

Recommended Posting Procedures
The OMC does not describe or provide specifications for what the notice design entails, only that a physical notice be posted in at least three public places within the City. Not all applications require posting of a notice on the property. For those that do, the design of the notice and procedure for posting has traditionally been on a standard 8½ x 11 inch page of yellow or orange paper, laminated, and staked on site. Because the small size of the posted notices often causes them to be overlooked, or the stakes that they are posted on may be inadvertently removed, staff is recommending a new notice format of 18 x 24 inch white coroplast sign to be posted at project sites. Based on staff research (Attachment 3), staff believes the recommended changes to the City's site posting procedures would better serve to notify the public about proposed changes to properties by being more prominent and sturdy.

8. PUBLIC NOTICE
On July 8, 2021, the City published a Public Hearing Notice in the Anaheim Bulletin newspaper.

9. ENVIRONMENTAL REVIEW
Per California Environmental Quality Act (CEQA) Guideline 15378, the draft Zoning Ordinance is not a project, because project noticing is an administrative activity of a local government that does not have the potential to result in a direct or reasonably foreseeable indirect physical change to the environment. Because the Ordinance is not a project, it is not subject to the provisions of CEQA and no public environmental review is required.

10. ADVISORY BOARD ACTION
None

11. ATTACHMENTS
- Attachment 1 Planning Commission Resolution No. 19-21 including draft Ordinance (clean)
- Attachment 2 draft Ordinance (redline)
- Attachment 3 Matrix of Surveyed Cities
- Attachment 4 Posting Procedures