

# CITY OF LONG BEACH

# H-3

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 4<sup>th</sup> Floor Long Beach, CA 90802 (562) 570-6428 Fax: (562) 570-6205

June 16, 2009

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

## RECOMMENDATION:

Receive the supporting documents, conclude the public hearing, and declare the Ordinance amending the Zoning Regulations related to noticing of hearings read for the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

## DISCUSSION

On October 16, 2007, the City Council adopted an emergency ordinance adding additional noticing requirements for all planning permit applications for an interim period of one year (ORD-07-0050). To address residents' concerns over lack of sufficient notice for discretionary hearings, the emergency ordinance requires the following: (1) expansion of the existing 300-foot noticing radius to 500 feet plus two linear block faces in each direction, (2) posting of each subject site using a 30- by 36-inch sign, and (3) notification of all occupants, instead of property owners only, within the radius plus two blocks. In addition, Council directed staff to study the impacts of the interim noticing requirements and recommend amendments to the Zoning Ordinance to provide for increased noticing.

Staff held a community forum on October 1, 2008, to discuss the proposed changes with neighborhood group leaders and interested members of the community. At the forum, staff presented the proposed changes and received comments and opinions from the public. In order to align the changes more closely with the desires of the community, staff made several revisions to the recommendations before moving forward.

On November 6, 2008, the Planning Commission heard this item, and after public testimony, made recommendations that City Council take the following actions: (1) Adopt a requirement for a 500-foot radius, (2) Adopt a requirement that both owners and occupants within this radius be noticed, (3) Change the way the radius is measured, to use the subject site property boundaries instead of the far side of the adjacent public right-of-way, and (4) Adopt a requirement that a 22- by 34-inch notice poster be posted at project sites, with the poster and posting method to be designed by staff. The Planning Commission did not recommend retaining the interim ordinance requirement to notice all properties on two linear block faces from the subject site, as staff has found that it is seldom effective due to the City's irregular street patterns (Exhibit A – Block Pattern Maps). Planning Commission recommended adoption

of the slightly reduced poster size on staff's finding that it is more common and will be cost-effective to mass-produce, while still being large enough to be very visible to passers-by as intended.

After further consideration, staff recommends that the City Council increase the Planning Commission's recommended 500-foot radius to 750 feet to provide additional noticing to encompass those areas that would have fallen within the 2-block distance. At the Planning Commission meeting, members of the public spoke against increasing the noticing size to 750 feet as recommended by staff, due to the increased cost to applicants. Others, however, commented that the radius should be increased to 1,000 feet. Furthermore, staff recommends increasing the poster size adopted by Planning Commission from 22 by 34 inches to 30 by 40 inches. Staff has considered several prototype poster designs, and currently feels that this larger sign will be most effective.

This letter was reviewed by Assistant City Attorney Michael Mais on May 27, 2009 and by Budget and Performance Management Bureau Manager David Wodynski on May 27, 2009.

#### TIMING CONSIDERATIONS

The interim ordinance adopted on October 16, 2007, had a one-year duration. This ordinance has expired, but staff has continued applying the standards from the interim ordinance until new requirements are adopted permanently.

#### FISCAL IMPACT

Increased costs associated with the new requirements are paid by the applicants through the permit process. There is no net impact to the General Fund (GP).

#### SUGGESTED ACTION:


Approve recommendation.

Respectfully submitted,



CRAIG BECK  
DIRECTOR OF DEVELOPMENT SERVICES

APPROVED:

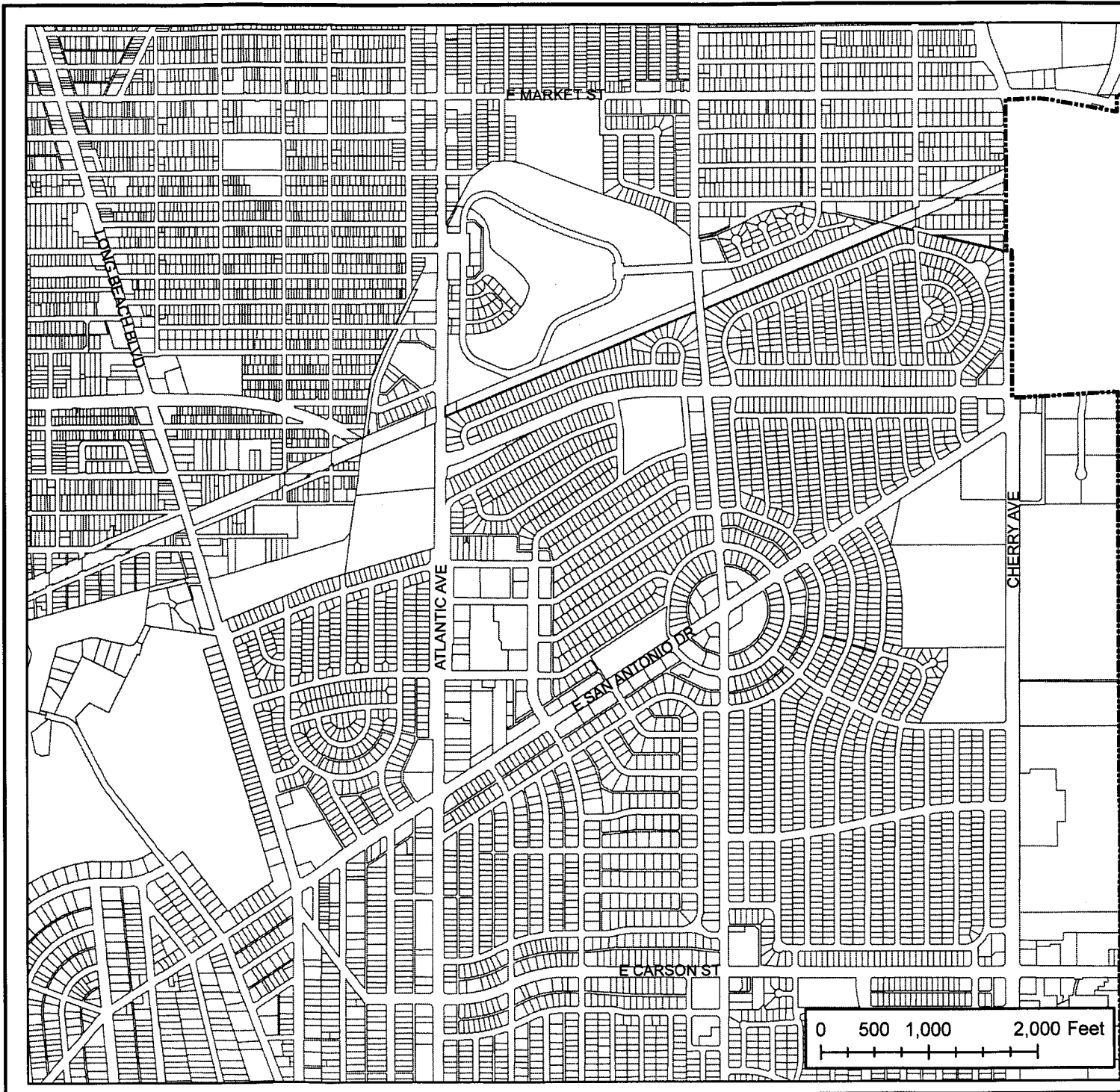


PATRICK H. WEST  
CITY MANAGER

CB:DB:SK

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Attachments: Exhibit A – Block Pattern Maps and Radius Example Maps and Table  
City Council Ordinance



# Example of Typical Long Beach Block Pattern: Bixby Knolls

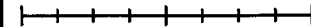
Exhibit A

This map illustrates the problems inherent in applying a 2-block requirement to a given property in the City. A stretch of 5 contiguous blocks is necessary in order for the 2-block requirement to work as intended, but the lot pattern is so varied that such a situation is rare in Long Beach.

N



0 500 1,000 2,000 Feet



# Example of Typical Long Beach Block Pattern:

## Los Altos & East Side

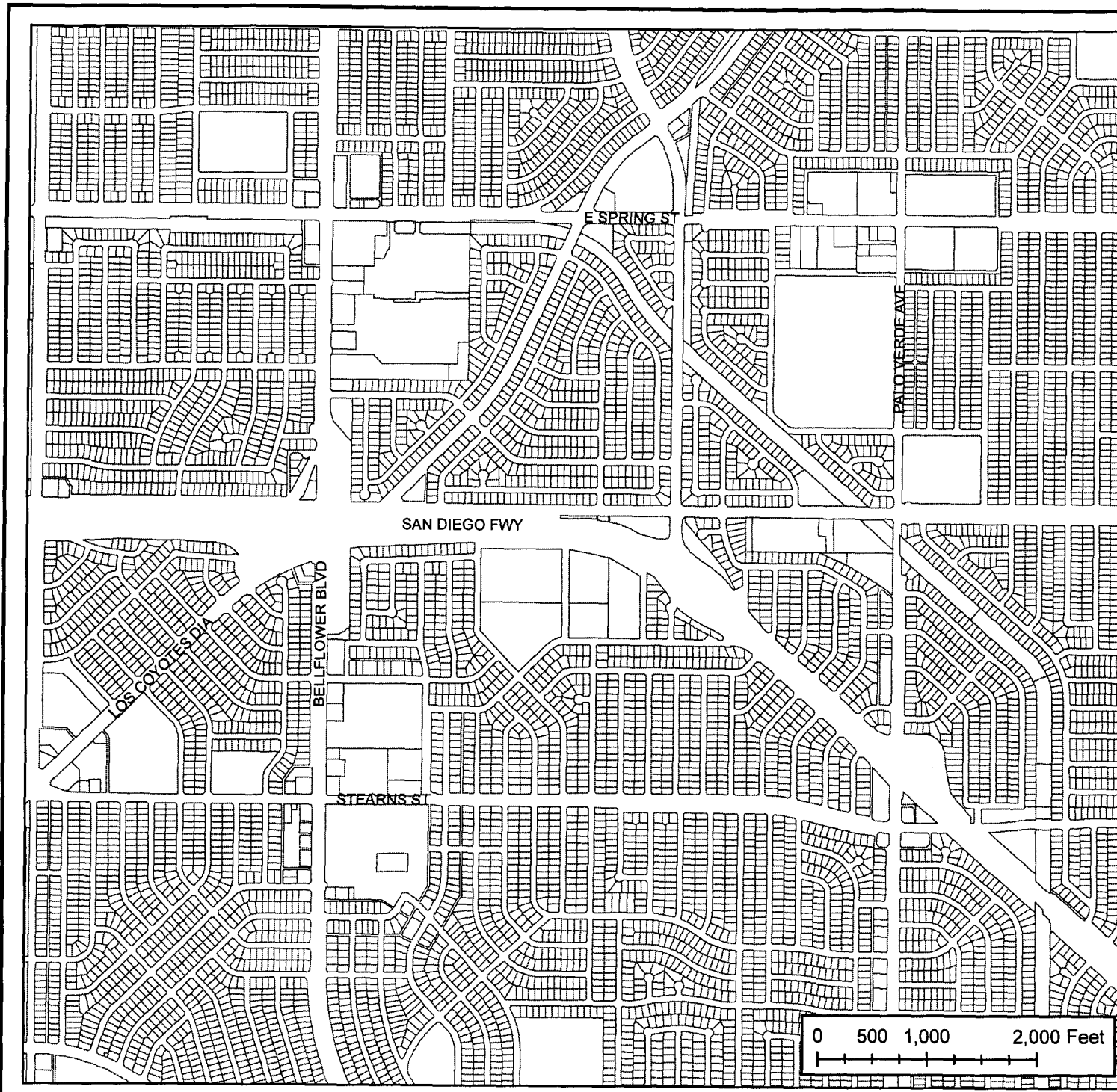
Exhibit A

This map illustrates the problems inherent in applying a 2-block requirement to a given property in the City. A stretch of 5 contiguous blocks is necessary in order for the 2-block requirement to work as intended, but the lot pattern is so varied that such a situation is rare in Long Beach.

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0 500 1,000 2,000 Feet



## Radii

Address	300'	500'	750'	1000'	
249 Bennett Ave	<b>61</b>	<b>136</b>	<b>269</b>	<b>444</b>	# of Lots
	77	177	430	826	# of Mailable Addresses
3730 Gaviota Ave	<b>68</b>	<b>131</b>	<b>269</b>	<b>423</b>	# of Lots
	69	134	292	468	# of Mailable Addresses
3825 Linden Ave	<b>48</b>	<b>87</b>	<b>168</b>	<b>282</b>	# of Lots
	58	103	232	412	# of Mailable Addresses
4120 Country Club Dr	<b>47</b>	<b>100</b>	<b>199</b>	<b>326</b>	# of Lots
	47	101	205	349	# of Mailable Addresses
6068 Lido Ln	<b>40</b>	<b>65</b>	<b>94</b>	<b>138</b>	# of Lots
	45	78	150	243	# of Mailable Addresses
4000 Olympic Plz	<b>21</b>	<b>68</b>	<b>151</b>	<b>266</b>	# of Lots
	153	415	726	1180	# of Mailable Addresses

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Law Office of Kim Savage  
Post Office Box 41580  
Long Beach, California 90853  
Phone: (562) 930-1113  
Facsimile: (562)930-0003

FILE COPY

November 6, 2008

Via Facsimile

Chair and Planning Commissioners  
City of Long Beach  
333 West Ocean Boulevard  
Long Beach, California 90802

Re: Application No. 0807-16 (Agenda Item 3) – Amendment to Increase Public Notification Requirements

Planning Commissioners:

The Law Office of Kim Savage represents affordable and special needs housing developers and service providers within the City of Long Beach. This letter recommends that the Planning Commission retain the 500-foot public noticing radius currently in effect on an interim basis and reject the more recently proposed increase to a 750-foot radius. The City is currently operating under a temporary ordinance that increases the public hearing notification radius well beyond the state mandate but it has not presented evidence to support a more than doubling of the notification radius.<sup>1</sup> Furthermore, the proposed amendment would be financially burdensome to many non-profit organizations, small businesses and individuals who must apply for discretionary approvals from the City.

During the past year, the City responded to some concern that its public hearing noticing requirement is insufficient, despite that it conforms to state law. In October 2007, the City Council adopted an emergency ordinance which increased the longstanding 300-foot public hearing noticing requirement to 500-feet. The Development Services Department in its August 21, 2008 report to the Planning Commission recommended adoption of a noticing requirement of 500-feet plus two linear block faces in each direction, generally doubling the number of residents notified of a public hearing. Increased signage was also recommended by the Development Services Department. Staff reported to the Commission at the conclusion of the 10-month interim ordinance that the notification increase was beneficial.

<sup>1</sup> Government Code 65091 has multiple public hearing noticing requirements including publication in the newspaper, signage and mailing to property owners within 300-feet of the subject property.

Chair and Planning Commissioners  
November 6, 2008  
Page Two

Now, in its November 6<sup>th</sup> report to the Planning Commission, Development Services recommends, without a single basis, increasing the noticing radius to 750 feet. The staff report concludes that "[i]f the Council desires notification of more residents, staff recommends simply increasing the notification radius." Simply stated, there is no evidentiary basis for increasing the noticing requirement to more than double of state law. A statewide sampling of municipal zoning codes found no 750-foot noticing requirement making the City of Long Beach out of step with other jurisdictions.

Public participation is a cornerstone of the municipal land use and planning process; however, this must be balanced with access to the approval process, including financial considerations. City of Long Beach fees for discretionary approvals are steep and increasing the notification radius to 750-feet only heightens the financial burden. The City of Long Beach charges \$8,930 to apply for a conditional use permit, \$3501 for a remodel variance and \$5341 for a new construction variance. The application fee for an administrative use permit is \$5341. The cost of mapping and preparing the addressee roster is an additional expense. Quotes obtained from two mapping companies in the City's referral list of consultants indicate at least a doubling of the fee should the City increase the notification requirement to 750 feet.<sup>2</sup> For individuals, small businesses, and non-profit organizations, these fees create a further barrier to seeking discretionary approvals and deter development that is beneficial to the City.

The Planning Commission should approve the 500-foot noticing radius and reject an increase to 750-feet as there is no evidence to support a more than doubling of the state law public hearing notification requirement. Thank you for your consideration of this important issue.

Sincerely,



Kim Savage  
Attorney At Law

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<sup>2</sup> Zoning & Land Use Solutions reported that a 300-foot noticing requirement generally costs \$250-350, depending on density; the fee increases to \$500-\$650 for a 500-foot radius and the cost is estimated to be \$650-700 for a 750-foot radius mapping. This firm stated that it offers the lowest rates of any company. A second firm, Susan Case, Inc., estimated that mapping a 750-foot radius would likely be \$1500 at the low end and would increase based on density. The mapping fee for a 300-foot requirement is in the range of \$400 to \$1,000. Both firms indicated that they know of no municipality that requires a 750-foot notification.

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH AMENDING THE LONG BEACH  
MUNICIPAL CODE BY AMENDING SECTION 21.21.302  
RELATING TO NOTICING REQUIREMENTS FOR  
HEARINGS

The City Council of the City of Long Beach ordains as follows:

Section 1. Section 21.21.302 of the Long Beach Municipal Code is amended to read as follows:

21.21.302 Noticing requirements for hearings.

A. General. Notice shall be given for all hearings requiring notice as set forth in Table 21-1 not less than fourteen (14) days nor more than forty-five (45) days prior to the hearing. In addition to the notice required by this Section, the City may give notice of the hearing in any other manner it deems necessary or desirable, but, in any event, notice shall be given by the means set forth in this Section.

B. For Noticing of Zone Changes and Other Specified Procedures. For noticing of a zone change, conditional use permit, standards variance, administrative use permit, planned development district, local coastal permit, special setback lines, density bonus, or any other planning or zoning matter not otherwise specifically provided for herein:

1. Owners and Occupants. Notice of hearing shall be mailed or delivered to the owner of the subject real property or to the owner's duly authorized agent. One (1) notice of hearing shall also be mailed or delivered to each tenant household or to each commercial



1 tenant as applicable, of the subject real property;

2 2. Project Applicant. Notice shall be mailed or delivered to  
3 the project applicant;

4 3. Local Agencies. Notice of the hearing shall be mailed or  
5 delivered to each local agency expected to provide water, sewage,  
6 streets, roads, schools, or other essential facilities or services to the  
7 project, whose ability to provide those facilities and services may be  
8 significantly affected;

9 4. Surrounding Property Owners.

10 a. (1) Notice of the hearing shall be mailed or  
11 delivered to all owners of real property as shown on the latest equalized  
12 assessment roll within seven hundred and fifty feet (750') of the real  
13 property that is the subject of the hearing. Notice of hearing shall also be  
14 mailed or delivered to all tenant households or commercial tenants, as  
15 applicable, of real property that is located within seven hundred and fifty  
16 feet (750') of the real property that is subject to the hearing.

17 For notices on City-owned property in the Port of Long Beach and  
18 the Long Beach Airport, notices shall also be mailed and delivered to the  
19 leasehold interests on those properties. Notices sent to leaseholders shall  
20 count in determination of the twenty (20)-notice minimum.

21 In lieu of utilizing the assessment roll, the City may utilize records of  
22 the county assessor or tax collector which contain more recent information  
23 than the assessment roll. In no event shall less than a minimum of twenty  
24 (20) nearest property owners, or owners and leaseholders as specified  
25 above, be notified.

26 (2) Notice of the hearing shall also be mailed  
27 or delivered to resident managers of any multifamily residential rental units  
28 where the property owner is not an on-site occupant when the fact of non-

1 occupancy is known to the person charged with the responsibility of  
2 mailing or delivering notice.

3 (3) Measurement of the seven hundred and  
4 fifty foot (750') distance for notification pursuant to this subsection shall  
5 begin at the property boundary of the real property that is the subject of  
6 the hearing.

7 b. In a City-initiated zoning remapping program, if the  
8 number of owners to whom notice would be mailed or delivered pursuant  
9 to this Subsection is greater than one thousand (1,000), the City, in lieu of  
10 mailed or delivered notice, may provide notice by placing a display  
11 advertisement of at least one-eighth (1/8) page in at least one (1)  
12 newspaper of general circulation within the local agency in which the  
13 proceeding is conducted at least ten (10) and not more than forty-five (45)  
14 days prior to the hearing; and

15 5. Posting.

16 a. Notice of the hearing shall be posted at least  
17 fourteen (14) days prior to the hearing in at least three (3) public places  
18 within the boundaries of the City, including one (1) public place in the  
19 area, if any, most directly affected by the proceedings. In addition, the  
20 applicant or owner of the real property which is the subject of the hearing  
21 shall post a sign of at least thirty inches (30") by forty inches (40") on each  
22 street face of the real property that is the subject of the hearing, the  
23 content of which sign shall be subject to the prior approval of Development  
24 Services staff.

25 b. Building height variance applicants shall erect  
26 story poles which accurately represent the full extent of the proposed  
27 structure to the satisfaction of the Director of Development Services,  
28 including decks and eaves, at least fourteen (14) calendar days prior to

1 the first public hearing and remain in place through the end of the appeal  
2 period.

3 6. Noticing of Actions in the Coastal Zone. Additionally,  
4 when notice is required to be given for any matter in the coastal zone, in  
5 addition to any and all other notices required by this Subsection, notice  
6 shall be mailed to the California Coastal Commission and to all persons  
7 requesting notice for the individual matter or for all coastal zone hearings,  
8 and to all residents within one hundred feet (100') of the site.

9 C. For noticing of a zoning ordinance amendment:

10 1. Publishing Advertisement. Notice of the hearing shall be  
11 published pursuant to Section 6061 of the California Government Code in  
12 at least one newspaper of general circulation within the City;

13 2. Posting. Notice of the hearing shall be posted at least  
14 fourteen (14) days prior to the hearing in at least three public places within  
15 the boundaries of the City, including one (1) public place in the area, if  
16 any, most directly affected by the proceeding; and

17 3. Mailing. Notice of the hearing shall be mailed, together  
18 with all proposed changes, additions, modifications or deletions to all City  
19 libraries and to anyone requesting such notice.

20 4. Amendments in the Coastal Zone. For any matter in the  
21 coastal zone, in addition to any and all other notices required by this  
22 Subsection, notice shall be mailed to the California Coastal Commission  
23 and to all persons requesting notice for the individual matter or for all  
24 coastal zone hearings, and to all residents within one hundred feet (100')  
25 of the site.

26 D. For Noticing of Appeals:

27 1. Responsibility for Noticing. A notice of the public hearing  
28 on the appeal shall be mailed by the Department of Development Services

1 for appeals to the City Planning Commission, and by the City Clerk for  
2 appeals to the City Council.

3 The notice shall contain the same information as the original notice  
4 except that it shall also give the appellant's name and state that the  
5 hearing is an appeal.

6 2. Persons to be Noticed. Notice of the hearing shall be  
7 mailed to the applicant and to all persons entitled to mailed notice and to  
8 any known aggrieved person, as specified in Section 21.21.302B, not less  
9 than ten (10) days prior to the hearing. A person shall not be considered  
10 aggrieved for purposes of receiving this notice if the only indication of  
11 interest is the signing of a petition unless that person indicates on the  
12 petition that he wishes to receive notice.

13 3. Appeals in the Coastal Zone: For any matter in the  
14 coastal zone, in addition to any and all other notices required by this  
15 Subsection, notice shall be mailed to the California Coastal Commission  
16 and to all persons requesting notice for the individual matter or for all  
17 coastal zone hearings, and to all residents within one hundred feet (100')  
18 of the site.

19  
20 Section 2. The City Clerk shall certify to the passage of this ordinance  
21 by the City Council and cause it to be posted in three conspicuous places in the City of  
22 Long Beach, and it shall take effect on the thirty-first day after it is approved by the  
23 Mayor.

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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2009, by the following vote:

Ayes: Councilmembers: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Noes: Councilmembers: \_\_\_\_\_  
\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
City Clerk

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664