



THE CITY OF SAN DIEGO

MEMORANDUM

DATE: February 15, 2013

TO: Members of the Community Planners Committee

FROM: Amanda Lee, Senior Planner, Development Services

SUBJECT: Amendments Related to Appeals of Environmental Determinations

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Staff is requesting that the Community Planners Committee provide a recommendation to the City Council regarding proposed amendments to Land Development Code (LDC) Sections 112.0310 and 112.0510 to clarify the City's process for issuance of a Notice of Right to Appeal an environmental determination and the required time for filing an appeal of an environmental determination made by the Planning Commission or Hearing Officer.

The City's procedures for environmental notification and appeals are intended to implement the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, and to provide accurate, objective, timely, and orderly evaluation for disclosure of potential environmental effects of proposed projects in the City. The City requires that a Notice of Right to Appeal (NORA) be prepared for all categorical and general rule exemptions as defined by State CEQA Guidelines and for environmental documents associated with a project decided by the City Manager. LDC Section 128.0207 requires that the Development Services Director determine if a project is exempt, and that a NORA be posted in accordance with LDC Section 112.0310. The environmental determination is subject to the appeal procedures in LDC Section 112.0510.

The City's current procedures provide for greater notification than is required by the LDC or CEQA by providing notice to any persons who request notification, the community planning group, and Council office for the Council District in which the project is proposed to be located, and the posting of notice on the City website, in addition to the posting of a hard copy notice in the lobby of the Development Services Department. On January 9, 2013, the City Council Rules and Economic Development Committee recommended that the City's current practice for issuance of a Notice of Right to Appeal an environmental determination be formally incorporated into the code. The Committee requested that staff return within 90 days with a draft ordinance (tentatively scheduled for Rules Committee on March 20).

Following is a description of the amendments included in the proposed ordinance:

The proposed amendments to LDC Section 112.0310 clarify that the NORA procedures apply to City Manager determinations that a project is exempt and to environmental determinations for projects that do not require a public hearing or that are decided at the Process Two decision making level. Environmental documents that are prepared for projects decided in accordance with Process Three, Four, or Five are not subject to the NORA noticing requirements in Land Development Code (LDC) Section 112.0310. Instead, the public is notified at the time of public hearing of the right to appeal a Process Three (Hearing Officer) or Process Four (Planning Commission) decision to adopt or certify an environmental document. Process Five decisions (City Council) are not appealable because they reflect the final action of the legislative body.

The ordinance also clarifies details regarding the location where the notice must be posted, who the notice must be distributed to, and the timing and duration required for availability of the notice. NORAs will continue to be required to be posted at the Development Services Department in a location easily accessible to the public. The amendments clarify that notice shall also be posted on the City website and distributed to the community planning group and Council office for the council district where the project is proposed, and to any interested person that requests notification. This type of notice is required to be posted for 15 business days and provided by electronic mail (or United States mail if electronic mail is unavailable) at least 15 business days before the date of decision on the project.

The proposed amendments to Section 112.0510 clarify that an appeal of an environmental determination that is made by the Planning Commission or Hearing Officer must be filed with the City Clerk within 10 business days of the date of decision to adopt or certify an environmental document. The proposed ordinance is expected to clarify the resources available for interested persons that are seeking to review this type of environmental notice and clarify the process for filing an appeal of an environmental determination. If you have any questions, please feel free to contact me at (619) 446-5367 or [ajohnsonlee@sandiego.gov](mailto:ajohnsonlee@sandiego.gov).



Amanda Lee  
Senior Planner

Attachment: Draft code language