



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 20-555

July 14, 2020

Introduced: 7/2/2020

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

- a. Receive response to Board Referral 2020.07 requesting the Resource Management Agency (RMA) to investigate modification/expansion of noticing requirements for proposed wireless communication facilities; and
- b. Accept proposed RMA Standard Operating Procedure to require a notification by mail within a distance of 1,500-feet or more of a proposed wireless communication facility if determined necessary by the Chief of Planning to meet the purpose of public notification in the Farmland, Rural Grazing, Permanent Grazing, Resource Conservation, and Open Space zoning districts.

Location: County Wide

Proposed CEQA Action: Not a project pursuant to Section 15378(b)(5). of the CEQA Guidelines

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Find that implementing existing regulations is not a project pursuant to section 15378(b)(5) of the CEQA guidelines; and
- b. Receive response to Board Referral 2020.07 requesting the Resource Management Agency (RMA) to investigate modification/expansion of noticing requirements for proposed wireless communication facilities; and
- c. Accept proposed RMA Standard Operating Procedure to require a notification by mail within a distance of 1,500-feet or more of a proposed wireless communication facility if determined necessary by the Chief of Planning to meet the purpose of public notification in the Farmland, Rural Grazing, Permanent Grazing, Resource Conservation, and Open Space zoning districts.

SUMMARY:

On February 4, 2020, the Board of Supervisors issued Referral 2020.07 for the Resource Management Agency (RMA) to investigate modification/expansion of noticing requirements for project applications for wireless communication facilities (i.e.: cell towers). In accordance with both state law and County regulations, notice of public hearing of proposed land use projects in Monterey County is provided using three methods: direct mail, notice published in a newspaper of general circulation, and posting at the project site. Direct mail is sent to property owners within 300-feet of the project site. In rural areas, due to the size of parcels, typically only the abutting properties fall within the noticing radius. Additionally, the agenda of Land Use Advisory Committees (LUACs)'s agendas are posted per the Brown Act, but RMA also mails the LUAC agenda to properties within 300 feet of the proposed project site.

The purpose of notification of the public hearing on a land use project application is to notify the public

of a proposed project and provide opportunity for the public to observe and provide testimony to the County decision maker. The applicable notification regulations establish a minimum standard, meaning that staff can provide greater notification in cases where it is warranted. In response to this referral, RMA developed a Standard Operating Procedure (SOP) to increase the mailing radius of public hearing notices for wireless communication facility projects to 1,500 feet or more if determined necessary by the Chief of Planning in rural zoning districts of the County (Farmland, Rural Grazing, Permanent Grazing, Resource Conservation, and Open Space) and also increase the mailing radius of LUAC meeting agenda on the same terms if a wireless communications facility application is on the agenda. The SOP, set forth in Attachment A, would become the new standard for notification for wireless facility projects.

DISCUSSION:

With the growth of cellular networks across the country, wireless communication facilities are being installed in remote areas in an effort to provide complete coverage. These towers can range anywhere from 50 to 150 feet tall. Many of the rural areas in Monterey County have large parcels, which can present issues relating to public hearing notice. Locating towers at higher elevations (e.g. mountains) allows for greater coverage with fewer towers but creates visual impacts from farther distances within the valleys.

County Zoning generally requires notice of a public hearing on land use project applications to be mailed to property owners within 300-feet of a project. (See Chapters 20.84 (coastal) and 21.78 (non-coastal) of the Monterey County Code. This mailed notice is in addition to a notice posted at the project site and published in one newspaper of general circulation. When a project is proposed on a rural property surrounded by large multi-acre parcels, the 300-foot requirement may provide mailed notice to only a handful of property owners. This can result in residents who may have concerns regarding the installation of these towers not receiving notice of the pending hearing.

California Government Code Section 65091, which is applicable to several types of land use entitlements, requires hearing notices be mailed to all property owners within 300 feet of the property that is the subject of the hearing at least 10 days prior to the hearing, unless the number of owners exceeds 1000 persons, in which case a display advertisement of at least one-eighth page must be published in a newspaper of general circulation. Monterey County Code sections 21.78.040 (Inland) and 20.84.040 (Coastal) mirror this State requirement, also requiring notice be mailed to all properties within 300 feet of a project. In all cases, this noticing radius is the minimum requirement, not a limitation. Section 65091(c) of the California Government Code states: *"In addition to the notice required by this section, a local agency may give notice of the hearing in any other manner it deems necessary or desirable."* The Resource Management Agency (RMA), in consultation with the Office of County Counsel, interprets this language to mean that notice can be expanded above the required minimum without any change to County ordinance.

Procedures adopted by the Board of Supervisors for Land Use Advisory Committees (LUAC) require LUAC meeting agendas to be posted in compliance with the Brown Act. (Monterey County Land Use Advisory Committee Procedures, sec. 11.b.) RMA also mails the LUAC agenda to the 300-foot property list.

In an effort to better notify the public of hearings on wireless communication towers, the RMA will be implementing a new Standard Operating Procedure (SOP) to expand the mailing radius for public hearings on wireless communication towers in zoning districts of the County with typically larger parcel sizes (**Attachment A**). To provide notice to neighboring owners who may be impacted from the installation of tall wireless towers but who are farther than 300 feet from the project site, the noticing radius will be expanded from 300-feet to 1,500-feet (just over 1/4-mile) or more if determined necessary by the Chief of Planning. Zoning districts where expanded notice for wireless communication facilities will be applied include:

- Farmland (F)
- Rural Grazing (RG)
- Permanent Grazing (PG)
- Resource Conservation (RC)
- Open Space (O)

This SOP will be posted on the RMA website and distributed to RMA staff to inform everyone of this expanded noticing practice (**Attachment A**). The SOP will be applicable to all publicly noticed hearings on wireless communication facility projects and meetings at which wireless communication facility projects are on the agenda including, but not limited to: Land Use Advisory Committee, Administrative Permit Decision (Chief of Planning), Zoning Administrator, Planning Commission, and Board of Supervisors.

CEQA:

This action is not a project under section 15378(b)(5) of the CEQA Guidelines because the new SOP being implemented in response to a Board Referral is an administrative activity of government that will not result in direct or indirect physical changes in the environment.

OTHER AGENCY INVOLVEMENT:

RMA consulted the Office of County Counsel on this matter.

FINANCING:

Funding for staff time associated with modifying this RMA policy is included in the FY2020-21 Adopted Budget for RMA. County Counsel does not charge their time directly to County General Fund Units as these costs are accumulated and allocated through the Countywide Cost Allocation Plan (COWCAP).

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This SOP is intended to provide effective communication with the residents of the County to ensure participation in the public process.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Brandon Swanson, RMA Planning Services Manager
Reviewed by: John M. Dugan, FAICP, RMA Deputy Director of Land Use and Community
Development/Acting Chief of Planning
Approved by: Carl P. Holm, AICP, RMA Director

Attachments:

Attachment A - RMA SOP -Wireless Communication Facilities Notice

cc: Front Counter Copy; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); John H. Farrow; Janet Brennan; OCEN Tribe; South County LUAC