


TOWN OF CARRBORO

NORTH CAROLINA

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MEMORANDUM

TO: Mayor Mark Chilton and the Board of Aldermen
David Andrews, Town Manager

FROM: Martin Roupe, Development Review Administrator 

DATE: May 7, 2013

SUBJECT: Report of Communications Related to Land Use Issues

Carrboro's Land Use Ordinance (LUO) includes provisions regarding how and when the Town is required to communicate information to citizens regarding development projects and related matters such as LUO text amendments. Additionally, staff and the Board have implemented and consistently adhered to some additional measures as a part of the review process, even though they are not technically included in the LUO. These matters are described herein, along with ideas for the Board's consideration regarding potential changes and improvements.

Required Notifications:

LUO Article VI, Hearing Procedures for Appeals and Applications, is where the bulk of required measures are found in the LUO (attached). Specifically, LUO Section 15-102 requires that notice be given within specified timeframes for the various land use permits and related matters requiring public hearings, as follows:

- Notice regarding public hearings for special use permits is sent to neighbors within 500-feet of the subject property. Such notice must be sent not later than ten (10) days before the hearing.
- For conditional use permits, the notice area extends to 1000-feet from the subject property. Again, the notice must be sent not later than 10 days before the hearing.
- For all other development project matters (appeals, variances, and special exceptions), notice is sent to neighbors within 150-feet. These notices also must be sent not later than 10 days before the hearing.
- Subsequent to a concern raised by a student living in an apartment, the Town amended the LUO, in March 2002, to require that staff make reasonable efforts to also notify renters of property within the same distances otherwise specified in LUO Section 15-102. Additional

commentary regarding this matter is found later in this report, under the 'Ideas for Consideration' section.

- For all aforementioned situations, this section also requires that notice of the public hearing be posted via signs placed on the subject property not less than seven (7) days prior to the hearing.
- For CUPS, notice must also be published in a newspaper with general circulation in the Carrboro area. This notice must be published not less than 7 nor more than fifteen (15) days prior to the hearing.
- Of note, North Carolina General Statutes (NCGS) do not establish minimum hearing notice requirements for quasi-judicial zoning matters. Accordingly, all stated requirements established by Carrboro meet what is required by NCGS.

Notice related to both LUO text amendments and rezoning requests are outlined in LUO Article XX, Section 15-323 (attached), as follows:

- Notice of possible text amendments must be published once a week for two successive weeks in a newspaper with general circulation in the Carrboro area. The first notice must be published not less than 10 days nor more than 25 days before the hearing.
- Notice for zoning map amendment requests must be mailed to both property owners and renters within 1000-feet not less than 10 nor more than 25 days prior to the hearing. Notice is also posted on site, though no specific timeframe is identified.
- The requirements established by Carrboro exceed what is required by NCGS regarding mailed notifications. For reference, the statutes only require that the property owner and owners of all abutting properties receive written notification for map amendments, and if more than 50 owners / properties are involved, the statutes allow for published notice in lieu of written notice. Carrboro's LUO is consistent with NCGS regarding published notice, posted notice on site, and referring matters to the Planning Board.

Additional Notifications, not required by the LUO:

The Town has a longstanding practice of notifying citizens of land use matters in other ways as well that are not required by the LUO, as summarized below:

- For several years now, staff has posted 'Z' signs on subject properties to give notice to anyone viewing the sign that a land use matter is pending. The signs have a consistent color theme (yellow and black), along with a prominent capital Z. The consistency is important so that citizens over time may grow accustomed to the significance and meaning of the sign when they see it at various locations. Just below the Z, a title block is included to note what the pending matter is, i.e. rezoning request, conditional use permit, etc. Below the title block, all signs include an explanatory statement inviting citizens to call the Planning Department for additional information. The signs seem to provide a good way of communicating, broadly speaking, to lots of citizens as they are viewable to anyone passing by the site. They

tend to remain on the site throughout the review process, though they do disappear from time to time typically due to weather or theft. Staff replaces them upon discovering they are no longer in place. Current practice is to install the sign around the time the formal submittal package is received.

- Staff also posts signs on site regarding the Joint Advisory Board Review Meeting. This is the meeting that typically takes place on the first Thursday of a given month, with the public hearing typically scheduled to take place on the fourth Tuesday of the same month. Though not required by the LUO, staff always attempts to follow the same timeframes noted earlier for public hearings.
- Staff also sends mailed notice of the Joint Advisory Board Review Meeting to everyone that will receive notice of the public hearing itself. This allows citizens the opportunity to share comments with the advisory boards prior to the public hearing, if they so choose. When the notification calendar allows, staff often combines notice of the advisory boards meeting and public hearing in one mailing.
- Neighborhood Information Meetings (NIMs) are strongly encouraged for all SUP and CUP projects. The purpose of the meeting is to share with neighbors what the applicant has in mind. In doing so, the applicant has an opportunity to learn about concerns neighbors may have, and hopefully incorporate suggestions and / or mitigate concerns as they move forward. Since the LUO does not require the meeting however, the applicant retains some degree of freedom regarding how and when the meeting takes place, as well as how and when notice of the meeting is given. Staff always suggests that at least two weeks notice be given for the meeting, and that the notice be sent to everyone that ultimately will be invited to the hearing. A form must be completed by the applicant prior to the public hearing explaining whether they chose to hold the meeting or not. The form also requires that the applicant disclose whether notice was given to the full range of citizens that will receive notice of the public hearing. Most applicants tend to hold this meeting relatively early in the process, often prior to submitting their formal application. Some applicants, however, choose to submit their formal application and go through at least one formal review round prior to the NIM. Staff has heard from applicants choosing this route that they like to feel reasonably certain that their project design will work before presenting it to neighbors. Of note, LUO Section 15-179 requires that a NIM be held for proposed day care homes and facilities. This is the only use for which a NIM is currently required.
- The Board—Manager Memo also provides a means for staff to communicate information about projects directly to the Board. This is usually only utilized for quick and relatively simple pieces of information. As an example, staff communicates the day, time, and location of the aforementioned NIMs when the information is available in time to do so. When especially time sensitive information needs to be conveyed directly to the Board, email is often used.
- Staff also maintains an Active Projects Report available for viewing or printing on the Town's website. The report includes basic information about active SUP and CUP projects, including details about any upcoming meetings. Based on anecdotal feedback, the report seems to conveniently convey a sense of where projects are in the review process for those

that follow or check the report on a regular basis. A number of citizens and developers alike have complimented staff on the report as a relatively easy way to quickly understand where review of a project stands and give them some sense of when it may be moving to a public hearing.

- As referenced above, Carrboro's LUO is consistent with NCGS requirements relating to referring text amendments and rezonings to other review bodies. For several years now, staff has followed an established protocol exceeding the NCGS requirements relating to what other bodies will review and / or receive notice. This includes referring applicable matters to Orange County to review for consistency with the Joint Planning Area Plan. Additionally, staff also submits a resolution to the Board of Aldermen, for Request to Set Public Hearing Agenda Items, that allows the Board to determine what parties should review the information prior to the public hearing (see attached example). The applicable advisory boards are identified, and two blank spaces are also provided. Staff typically suggests which advisory boards should receive the materials, but obviously the Board may choose to add or delete from the selections offered by staff. The Board may also choose to specify at that time, through one or both blank spots, other parties they would like to receive the information. In other words, if the Board knows as of receiving the agenda item that they would like for parties not named to receive the information, then those parties may be identified. An example of this would be downtown business and property owners for a proposed amendment that may significantly affect the downtown area in some manner. Staff does not typically complete this section of the resolution.
- Staff always welcomes inquiries (by phone, email, or in person) from citizens interested in following the progress of an application. It has been deemed quite difficult to date to create a manner for tracking such requests from citizens so that staff might proactively contact such individuals. Some ideas regarding this matter are included in the 'Ideas for Consideration' section.
- Staff also posts notice of certain hearings on the Town's website, when the Board of Aldermen requests such action, as well as completing additional mail-out notices when the Board determines such actions should take place. As an example, the Board has requested on more than one occasion that business owners and nearby neighbors be notified when a text amendment (not requiring specific mailed notice) potentially would affect a specified area (e.g. downtown).
- Hearings are also published in newspaper ads announcing the agenda for Board of Aldermen meetings and via the Town's Listserv.

Ideas for Consideration:

Staff has been considering some additional measures that, if implemented, may improve upon the Town's ability to effectively communicate with its citizens regarding land use related matters. Some of the ideas under discussion are identified below, for the Board's consideration:

- Staff has been considering the creation of a land use related Twitter account and / or Listserv. Either approach would allow citizens the opportunity to sign up (and delete) for notices of their own choice. The Town Manager has developed a policy and procedure for use of the Town's social media accounts and those protocols will be followed if this idea moves forward. This idea seems reasonably easy to accomplish and may provide a good avenue for conveying information in a timely manner. A positive associated with this idea is that the information would automatically show up either in a citizen's Twitter feed or their inbox in the case of a Listserv. A concern is the possibility of criticism if staff inadvertently does not post information regarding a matter. The Town already maintains a Twitter account, which could be utilized for this information, but staff is considering whether a separate, development-specific account may be better so as to not overload the account intended for community wide information.
- Staff has contemplated making all project review comments publicly-accessible via the Town's website. While not all that common, this approach has been tried in other places. All the information is a matter of public record anyway, so privacy is not necessarily a concern. It would involve some level of coordination however, and work to set up the capability on the website. Possible benefits associated with this approach include a central location for all the information that could be viewable anywhere an Internet connection is available.
- Alternate means of communicating information with renters about projects and hearings may prove more effective. Specifically, additional signage posted on and near sites where an application is under consideration may be a better way to convey information than the current practice of attempting to notify nearby renters by mail. Anecdotal evidence, i.e. phone calls to the Planning Department suggests that a good number of citizens do see the Z signs posted on site. From staff's perspective, increasing the number of signs posted and perhaps extending the timeframe when they are posted back to the concept plan submittal stage may produce better results than mail. With around 10 years of experience now available, it is fair to say that mailing to renters has proven to be an inaccurate and costly practice. More often than not, at least 30-40 percent of the pieces of mail sent are returned undeliverable. Reasons for the returns vary from a mistakenly-identified address to the address being vacant at the time, among other reasons. When a nearby, large apartment complex is identified as well, an inordinate number of pieces of mail tend to be returned. A single, large apartment complex can produce the need to send several hundred pieces of additional mail not otherwise required. This situation is doubled or worse when multiple apartment complexes happen to exist within the prescribed notification area. Such mailings have involved more than 700 pieces of mail for certain projects whereas only 200 or so would be required to notify owners of property. These mailings are very labor intensive regarding staff time involved, and add (sometimes significantly) to the costs associated with developing in Carrboro. Staff also notes that there has not been any appreciable increase in calls or inquiries from renters over the years as a result of mailed notifications. If the Board is agreeable to the possibility of exploring alternate means of communicating with renters, then staff requests that the matter be referred back for additional information and a recommendation. A formal proposal would then be developed for the Board's consideration, with additional signage as an option. Other options may be identified as well, including the opportunity to make use of the new Granicus system's ability to allow citizens to receive information via various social media outlets of their choice and to utilize the upcoming website refresh to also allow citizens the opportunity

to gain access to development related information at their request. Of note, a text amendment would be needed to modify the applicable existing LUO language related to notifying renters by mail. In short, staff feels that good options exist, other than stamped mail, for informing all citizens (renters included) about development projects with an emphasis on utilizing available social media outlets, including the Town's website. Viewing statistics to date show that the Town's existing Twitter and Facebook accounts are widely-viewed, and information often shared with others.

- Earlier posting of signs regarding potential applications has also been discussed. The general idea discussed has been to consider posting the Z signs on site when a concept plan is formally submitted for review. Some certain threshold, such as a concept review submittal, seems important because staff explores many different ideas with potential applicants that never move forward to even the concept stage. Staff empathizes with concerns expressed by some citizens about not hearing about a project until a potential applicant is multiple months into considering what they want to do with a subject property. However, it does not seem plausible to place a Z sign on every site, every time an inquiry is made, for a variety of reasons.