

ACTION REQUEST FORM

DATE: May 24, 2017
TO: The Honorable Mayor and City Council
FROM: A. Paul Norby, Director of Planning and Development Services

COUNCIL ACTION REQUEST:

Request for Public Hearing on an ordinance amendment proposed by Planning and Development Services

SUMMARY OF INFORMATION:

- A. Public hearing on an ordinance amendment proposed by Planning and Development Services revising Chapter B of the *Unified Development Ordinances* to require neighborhood meetings/neighborhood outreach for certain zoning cases (UDO-279).
- B. Approval of Ordinance.

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: UNANIMOUS
AGAINST: NONE
SITE PLAN ACTION: NOT REQUIRED

STAFF REPORT

DOCKET # UDO-279

STAFF: [Aaron King](#)

REQUEST

An ordinance amendment proposed by the Planning and Development Services Department revising Chapter B of the *Unified Development Ordinances* to require neighborhood meetings/neighborhood outreach for certain zoning cases (UDO-279).

BACKGROUND

The UDO currently has no requirement for applicants to communicate with surrounding property owners when a rezoning is proposed. Planning staff has discussed the issue of requiring neighborhood/outreach for zoning cases with City Council in the past, most recently in 2010. At that time, Council opted not to require neighborhood meetings/outreach for zoning cases; however, staff did implement several changes (based on discussion with Council) to improve notification efforts:

- More extensive rezoning sign posting policy
- Showing upcoming rezoning cases on TV13
- Seeking assistance in reaching neighborhood contacts from Community Assistance Liaisons
- Sending out a letter to neighborhood organizations suggesting they appoint a “zoning lookout” to check the website listing of new cases, and
- Enhance the City’s website to provide email notification of pending zoning cases.

In addition to the measures listed above, the City Council and Board of County Commissioners did adopt a text amendment requiring notification letters to be sent to all property owners located within 500 feet of the subject rezoning property. Along with the formal policies listed above, staff also continues to urge all applicants to have some level of neighborhood outreach prior to the Planning Board hearing. Staff also encourages all applicants to contact their respective Council Member to discuss their request and also to include the respective Council Member on invitations for any planned neighborhood meetings.

This method of informally encouraging applicants to reach out to neighbors has produced mixed results. While some applicants make a solid commitment to engaging neighbors, other times the results end up falling short of the expectation.

Staff has noted several issues created by the current informal system of encouraging neighborhood outreach. These issues have made it more difficult on citizens who are trying to participate in the process. First, there have been rezoning cases where the applicant may have conducted some form of outreach but it was held only 1-2 days before the Planning Board. This timeframe gives neighborhoods little time to discuss and fully understand the information presented to them. Second, there have been cases where no neighborhood outreach has been

conducted. In this case, the concerned neighbors have no knowledge of the project at all. Third, when inadequate neighborhood outreach has taken place, it requires the concerned neighbors to make arrangements (taking time off work, scheduling daycare, etc) to attend additional meetings. Lastly, the current process is not clear for the applicant. While they receive advice from staff to reach out to neighbors, there is no formal requirement for such.

ANALYSIS

Staff has proposed this text amendment as a way of formalizing the need for communication with residential areas on pending rezoning requests. By formalizing this item, it provides clarity and definition to the applicant and to concerned neighbors. The intent of this proposed ordinance is to ensure that neighborhood outreach is taking place and that it is done so in a timely manner.

Ordinance Components

500' Radius – The proposed ordinance would require a neighborhood meeting/outreach for all rezoning requests (including site plan amendments) located within 500' of residential zoning. This radius coincides with the City's requirement for mailed notification for zoning cases.

Meeting/Outreach – The proposed ordinance sets forth the requirement for either a neighborhood meeting or acceptable form of outreach. Staff proposes to allow for other forms of outreach (other than meetings) such as mailed letters or door-to-door communication as staff has seen these types of outreach proven to be successful in a number of instances.

Written Summary – UDO-279 proposes a requirement for a written summary of outreach efforts to be provided to staff. This summary would be included in the staff report provided to the Planning Board and Elected Body. Said written summary would be required to be provided to staff at least eight (8) days prior to the scheduled Planning Board public hearing. This deadline would allow staff to include the outreach efforts in the staff report and do so by the time the agenda packets are mailed to Planning Board members.

Automatic Continuance – This proposed text amendment includes a provision for automatic continuance when the applicant fails to submit the required summary at least eight (8) days prior to the Planning Board meeting. The intent of this provision is to provide clarity to neighbors who are concerned about a request. It allows staff the ability to advise them that the item is automatically continued and therefore relieves them of having to make arrangements to attend the Planning Board meeting.

Staff believes that formalizing the requirement for neighborhood meeting/outreach will be a benefit to the rezoning process. This text amendment sets forth clear expectations for when outreach is required and also establishes a penalty for when it has not taken place. UDO-279 provides greater clarity to applicants and neighbors alike.

RECOMMENDATION

APPROVAL

**CITY-COUNTY PLANNING BOARD
PUBLIC HEARING
MINUTES FOR UDO-279
MAY 11, 2017**

Aaron King presented the staff report.

PUBLIC HEARING

FOR: None

AGAINST: None

WORK SESSION

During discussion by the Planning Board, the following points were made:

Brenda Smith: If a meeting cannot be scheduled before the eight day deadline, even if they submit materials showing what they tried to do, does this mean it still has to be continued?

Aaron King: Yes. We asked the three big design firms that we deal with frequently and they raised that concern as it does require a little bit more front end planning. However we need to see something so we can tell you that there's been some neighborhood outreach or a neighborhood meeting that's taken place.

Arnold King: I'd like to see staff have the authority to accept one in less than eight days if you still had time to process it but you're saying you wouldn't even do that if you don't get it eight days prior? Paul Norby: We want to get the information in your books so you have it and we also want to have the time to let citizens know that it's going to be continued.

Melynda Dunigan: There was an email from the Neighborhood Alliance that made a couple of suggestions and I just wanted to get your take on those. One is that the petitioner add a list of the names and addresses they mailed the notification to and the second is that the Council Member be notified along with the neighbors. Aaron King: For the last several years we have been telling petitioners when they bring their rezonings in that they need to meet with the neighbors and need to invite the Council Member if you're going to have a neighborhood meeting. We will continue to do that. Staff has concerns about codifying that in ordinance language because that puts us in the position of trying to verify it. Do we have to contact the Council Member and ask if they have been contacted? Also, this is a City/County ordinance so it has to go to the County Commissioners. We would rather not have a City version and then a different County version. We will continue to advise applicants that they need to notify the neighbors and contact their Council Member. But we would have concerns about putting it in the Ordinance language.

Melynda Dunigan: On an earlier case there was some concern about the neighbors not being notified. Do you routinely suggest that in these kinds of cases? Aaron King: That was a case where we learned we need to incorporate that in what we advise applicants to do and explain that it may not be enough to meet with the owner of the property, but they may need to work with the owner and reach out to the tenants of those properties. The tough part is that we have no way of knowing who lives in a building. It's not like property owners where we can get that information from the Tax Office. We will continue to advise the applicants to meet with the folks in those buildings.

Brenda Smith: If someone doesn't do the neighborhood meeting but mails letters or goes door to door, is the expectation that they would do that to everyone within that 500' notification area or how is that going to be evaluated? Aaron King: We would not nail that down. We send letters to everybody within that 500'. We would leave it up to the applicant. I don't want to get so specific in this ordinance that we mandate they absolutely have to go to every single person within that 500' feet since not everybody in that area may be affected by this. Paul Norby: All we're asking the applicant to do is to describe for us what they did qualitatively. Then we will provide that information to you. Should you find out at the public hearing that there's a problem with the notification, you can discuss that with the applicant.

Aaron King: I think the other point in the email was that we should require a roster of everyone who was reached out to. I provided some language that could be an option for you. It says, "The written summary shall describe the scope of outreach along with the issues discussed and be provided..." Again, the problem with getting very specific in these things is that it creates some unintended consequences. We can have some language we can point to when we talk to these folks to say, "Here's what the Planning Board is looking for: Who did you work with? What were the issues?" Melynda Dunigan: I like your language because it's very broad, but it also gives the applicant something to hone in on as what they need to do.

Arnold King: If the applicant had the location, time, date of their meeting scheduled before you send your letter to the 500', would you include that in your letter as a service to the applicant? That way the folks were notified by you? Aaron King: Currently the letter that we send out includes all our information and also the contact information for the applicant - their email and phone number. Jason Grubbs: What if instead you include language that there may be a neighborhood meeting. For information contact this person. Chris Murphy: I don't think we want to be specific because if for unforeseen reasons their meeting has to change and we've told them in this letter... Paul Norby: I wouldn't want us to suffer some liability because we didn't communicate everything exactly the way the petitioner did.

Brenda Smith: Where does the eight days deadline fall in relation to the other submission deadlines? Aaron King: It's essentially going to line up with the day you have to get your revised site plans turned back in. We're trying to get both those items nailed down so it's in your books when they are sent to you. Brenda Smith: When you have to get the revised site plan in you wouldn't have had time to have a neighborhood meeting about the revised site plan. Paul Norby: They wouldn't necessarily need to have another meeting about a revised site plan. They

just need to do their neighborhood outreach at the same time they are working with us in terms of our review of the site plan. They are getting us the revised site plan that addresses specific interdepartmental comments. At the same time they might be making revisions to their neighborhood input too but we're mainly concerned with them getting us any revisions they are planning so that you have that current information.

MOTION: Clarence Lambe moved approval of the ordinance amendment with the revised language to add under (H) (2) Written Summary between "The written summary" and "shall be provided to Planning" the language "shall describe the scope of outreach along with the issues discussed and"

SECOND: Allan Younger

VOTE:

FOR: Melynda Dunigan, Jason Grubbs, Arnold King, Clarence Lambe, Chris Leak, Brenda Smith, Allan Younger

AGAINST: None

EXCUSED: None

A. Paul Norby, FAICP
Director of Planning and Development Services

UDO-279
AN ORDINANCE REVISING
CHAPTER B OF THE *UNIFIED DEVELOPMENT ORDINANCES*
TO REQUIRE NEIGHBORHOOD MEETINGS/NEIGHBORHOOD OUTREACH FOR
CERTAIN ZONING REQUESTS

Be it ordained by the City Council of the City of Winston-Salem, North Carolina, that the Zoning Ordinance of the *Unified Development Ordinances* is hereby amended as follows:

Section 1. Chapter B, Article VI of the *UDO* is amended as follows:

Chapter B – Zoning Ordinance
Article VI – Administration and Amendments

6-2 ORDINANCE AMENDMENTS: ZONING TEXT AND OFFICIAL ZONING MAPS

6-2.1 GENERAL USE DISTRICTS

- (H) ~~**Reserved.**~~ **Neighborhood Meeting/Outreach.** A neighborhood meeting/neighborhood outreach shall be required for all rezoning requests when any portion of the subject property is located within five-hundred (500) feet of residential zoning. All measurements shall be made by drawing a straight line from the nearest point of the lot line for the subject property to the residential zoning line.
- (1) **Meeting/Outreach.** The applicant shall conduct a neighborhood meeting or another appropriate form of neighborhood outreach. Examples of acceptable forms of neighborhood outreach include, but are not limited to, mailing informational letters, going door-to-door, or distributing flyers.
- (2) **Written Summary.** The applicant shall provide a written summary (email is an acceptable form) to Planning staff that provides a detailed explanation of the neighborhood meeting/neighborhood outreach. The written summary shall describe the scope of outreach along with the issues discussed and shall be provided to Planning staff at least eight (8) days prior to the date of the Planning Board meeting for which the subject rezoning is scheduled.
- (3) **Automatic Continuance.** If the applicant fails to provide the required written summary to Planning staff at least eight (8) days prior to the date of the Planning Board meeting for which the subject rezoning is scheduled, the subject request shall be automatically continued to the next scheduled Planning Board public hearing meeting.

Section 2. This ordinance shall be effective upon adoption.

-----Original Message-----

From: Eric Bushnell [<mailto:Eric.Bushnell@ieee.org>]

Sent: Thursday, May 11, 2017 9:19 AM

To: Aaron King

Subject: WSNA, UDO-279

Aaron, and Planning Board members,

The Winston-Salem Neighborhood Alliance has long advocated for improved communication and neighborhood outreach about zoning cases. We are pleased to see that UDO-279 strengthens requirements for neighborhood outreach.

We urge two clarifications or additions to this amendment:

First, that the petitioner provide to Planning staff the the list of recipients (names and addresses) who were notified, to be saved in the case file. Since this list would be necessary to contact neighbors anyway, this should not pose a problem to petitioners.

Second, we ask that the appropriate City Council representative be included in the notification along with adjacent neighbors.

With those additions, WSNA supports UDO-279, and we thank Planning Staff for drafting these standards.

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Eric Bushnell

on behalf of the Winston-Salem Neighborhood Alliance

APPROVAL
STATEMENT OF CONSISTENCY WITH COMPREHENSIVE PLAN
UDO TEXT AMENDMENT 279 AMENDING CHAPTER B OF THE *UNIFIED
DEVELOPMENT ORDINANCES* TO REQUIRE NEIGHBORHOOD
MEETINGS/NEIGHBORHOOD OUTREACH FOR CERTAIN ZONING CASES

The proposed UDO Text Amendment 279 (“Text Amendment”) amending Chapter B of the UDO to require neighborhood meetings/neighborhood outreach for all rezoning requests located within 500’ feet of residential zoning is consistent with the *Legacy Comprehensive Plan* and approval of the Text Amendment is reasonable and in the public interest because said Text Amendment, if approved, will provide clarity, in writing, to the applicant and neighbors regarding the outreach process by applicants for the aforementioned rezoning cases and ensure that timely outreach by applicants takes place concerning aforementioned rezoning cases.