



## Memorandum Department of Planning & Public Works

**To:** Planning and Public Works Committee

**From:** Aimee Nassif, Planning and Development Services Director

**Date:** June 4, 2010

**RE:** Public Notification Policies and Procedures

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At the November 19, 2009 Planning and Public Works Committee meeting Staff was asked to review and provide information on the City's policies and procedures for public notification and to report on Missouri State Statute requirements.

There are nine (9) different categories for items/projects which require public notification: Zoning Requests, Telecommunications Facilities Siting Permits, Residential Tear Down and Additions, Municipal Zoning Approvals, Vacation of Subdivisions, Variance Requests, Protest Petitions, Grants, and Unfit Building Proceedings. From all the research and data collected, it appears **that in all cases, we either meet or exceed State Statute requirements.** With that being said, there is also room for improvement and consolidation of our procedures. A breakdown of each of these categories and the corresponding policies and procedures for public notification is provided below.

### I. Application Special Procedure

Applications for special procedures must adhere to public notification requirements found in the Zoning Ordinance and Chapter 89 of the Missouri Revised Statute (RSMo) and additional policies set by Council. Special procedure projects include requests for: a change of zoning (map amendment), ordinance amendment to a site-specific ordinance, conditional use permit, residential business use procedure, and designation as a landmark preservation area; all of which require a Public Hearing before the Planning Commission. Public notification requirements for these types of projects are found in:

- A. City of Chesterfield Zoning Ordinance, Section 1003.300.4 (procedures in general)

- B. City of Chesterfield Zoning Ordinance, Section 1003.300.6 (procedures for petitions not involving a particular parcel such as a text amendment to the Zoning Ordinance)
- C. City of Chesterfield Zoning Ordinance, Section 1003.300.7 (procedures for petitions involving a specific parcel such as change of zoning or CUP)
- D. Section 89.050, RSMo , 1986 as amended
- E. Chapter 493.050 RSMo, 1986 as amended
- F. Department Policy & Procedures

**A. Section 1003.300.4 Public Notice Requirements (general)**

- 1. Notice must adhere to Chapter 493 RSMo 1978, as amended.
- 2. Notice shall contain legal description, street location/address if possible, name of petitioner, present zoning classification and zoning classification sought.
- 3. Publication in some daily, tri-weekly, semi-weekly or weekly newspaper of general circulation. Publication must be at least **15** days prior to the hearing date.

**B. Section 1003.300.6 Public Notice Requirements (non-parcel specific)**

- 1. Publication in some daily, tri-weekly, semi-weekly or weekly newspaper of general circulation. Publication must be at least **15** days prior to the hearing date.
- 2. Notice must adhere to Chapter 493 RSMo 1978, as amended.
- 3. Notice shall contain legal description, street location/address if possible, name of petitioner, present zoning classification and zoning classification sought.

**C. Section 1003.300.7 Public Notice Requirements (parcel specific)**

- 1. For special procedures involving a particular parcel notice of said hearing shall be sent to **all** newspapers distributed within the County Council district not less than **20** days prior to the hearing.
- 2. Notice must adhere to Chapter 493 RSMo 1978, as amended.
- 3. A copy of said notice shall be given to MSD, Missouri State Highway Commission and distributed to the other Departments within the City not less than **18** days prior to said hearing.
- 4. Notice shall contain legal description, street location/address, name of petitioner, present zoning classification and zoning classification sought.
- 5. For special procedures involving a particular parcel: Signage measuring 20" by 26" is to be placed on each subject site at least

15 days prior to hearing. Posting to be nearest the right of way abutting said land and be clearly visible.

**D. Section 89.050, RSMo**

1. The legislative body of a municipality shall provide for the manner in which regulations, restrictions, and district boundaries are to be determined, established, amended, changed, and enforced. No such regulation, restriction or boundary shall become effective until after a public hearing. Notice of the hearing shall be given at least **15** days prior to the meeting and shall be published in an official paper or paper of general circulation.

\*Section 89.050 does not specify who shall be sent notice of the public hearing. Most, if not all municipalities in the area(including Chesterfield) rely on Section 89.060 RSMo which requires that all property owners within 185 of the subject site receive notice for a protest petition and use this distance now to cover any/all public hearing notices. Over 5 years ago, the City of Chesterfield in order to ensure all affected parties receive notice, increased this area to 225 feet.

**E. Section 493.050, RSMo**

1. All public advertisements shall be published in some daily, tri-weekly, semi-weekly, or weekly newspaper of general circulation in the county where the site is located.

**F. Department Policy and Procedures**

1. Notice is sent to both the St. Louis Countian and Suburban Journal for all public hearings **15** days prior to the hearing.
2. Postcards are mailed to all subdivision trustees within a **one (1) mile** radius and all property owners within **225 feet** of the subject site.
3. Notice is posted on the City's website (on the home page under "public notices") and outside City Hall.
4. Notice is sent to the Applicant via registered mail.
5. Project date of public hearing is listed on Active Projects Database on the City's website.
6. Notice is sent to HBA, MSD, St. Louis County Department of Highways and Traffic (as applicable), MoDOT (as applicable), Monarch Levee District or Howard Bend Levee District as applicable, Spirit of St. Louis Airport, Fire Protection District, and School District which the subject site is located when request pertains to residential development.

7. Signs are posted on subject site along all rights of way abutting the property. Signs include the project name, description of the request, contact information and hearing date and time.
8. Notices contain legal description, street location/address, name of petitioner, present zoning classification and zoning classification sought, and requested uses. (If the list of uses is extensive and does not fit on the postcard, we advise in the notice that any interested party may contact the project planner for a description of said uses).
9. The Applicant is required to notify all adjacent property owners of said hearing 7 days prior to the public hearing. The Applicant attests to this by signing the public notification section of the application.

### **Analysis and Recommendations**

If any amendments or changes are to be made in the Zoning Ordinance, Staff recommends consolidation of Sections 1003.300.4, 1003.300.6 and 1003.300.7. In addition, we would recommend that public notice continue to be provided to all subdivision trustees within one mile and to property owners within 225 feet and this practice be codified into the Zoning Ordinance. ***Advertisement for said hearing should occur in one paper of general circulation. Due to the amount of readership that is provided with the Suburban Journal as compared to the St. Louis Countian, we recommend advertising in the Suburban Journal only.*** Eliminating publication in multiple papers would also decrease the cost to the Applicant for advertising and decrease the expense and time spent by Staff preparing said notice and contacting the Countian. In addition, Section 1003.300.7 does not include all appropriate agencies which may be impacted by a petition; therefore we recommend amending this section to add all appropriate agencies.

Over the last several months the Department has updated a few of our standard practices pertaining to mailings of notices. First, we have begun using postcards instead of mailing letters. This has helped save on staff time in preparation of said notices and reduced costs for supplies. Additionally, several months ago the Department contacted the agencies which receive public notices to see if they would accept electronic submittals in lieu of paper copies. Most of these agencies have agreed and now receive an email with the appropriate documents attached instead of additional time and money being spent on preparing and mailing hard copies.

## **II. Variance Requests**

***The City of Chesterfield's Board of Adjustment*** is empowered to hear area and use variance requests, and appeals of administrative decisions.

The Board of Adjustment is governed by City of Chesterfield Ordinance Number 834, and Chapter 89 RSMo. Section 89.100 RSMo requires that public notice be given of the hearing and notice is provided to all parties of interest. Ordinance Number 834 provides additional regulations for public notice by stating that notice of the public hearing shall be given at least **5** days prior to the meeting and notice shall be sent to the Appellant by registered mail and notices provided to any other interested parties.

Department Policy requires that public notice be provided in the St. Louis Countian, public hearing notices are mailed to the applicant, all adjacent property owners, and all subdivision trustees. Notices are also posted at City Hall and on the City's website. All these items reference above must be accomplished at least **5** days prior to the public hearing. In addition, the project is included on the Active Projects Database on the City's website which also provides the date of the upcoming hearing.

#### **Analysis and Recommendations**

***Staff recommends advertising in the Suburban Journal instead of the St. Louis Countian in order to increase the amount of people that will receive said notice.*** In addition, Staff recommends increasing the fee for Board of Adjustment Petitions from the flat fee of \$75.00 to \$75.00 plus the cost of advertising. This is consistent with the fee structure established for all other projects which require a public hearing and would also help the City recover the costs for preparation and advertising. Staff would also recommend amending the current ordinance which governs the Board of Adjustment to include the fee structure.

***The City of Chesterfield's Public Works Board of Variance*** is empowered to hear variance requests and appeals from decisions of the Director of Planning and Public Works pertaining to public improvement items.

The Public Works Board of Variance is governed by City of Chesterfield Ordinance Number 306. Section 7 of this Ordinance requires that notice be given in a newspaper of general circulation no later than **7** days prior to the public hearing.

Department Policy and Procedures require that notice be sent to the property owner of the public hearing. In addition, notice of said hearing is posted on the City's website and at City Hall.

#### **Analysis and Recommendations**

Staff recommends that the Department Policy be amended so the public notification requirements for Board of Variance Petitions match those of the Board of Adjustment. This includes inclusion of a \$75.00 fee for each petition in addition to reimbursement of advertisement costs.

### **III. Protest Petitions**

Section 89.060 RSMo provides the regulations for protest petitions. This Section states that, "In case, however, of a protest against such change duly signed and acknowledged by the owners of 30% or more, either of the areas of the land (exclusive of streets and alleys) included in such proposed change or within an area determined by lines drawn parallel to and 185 feet distant from the boundaries of the district proposed to be changed, such amendment shall not become effective except by the favorable vote of two-thirds of all the members of the legislative body of such municipality. The provisions of section 89.050 relative to public hearing and official notice shall apply equally to all changes or amendments".

In addition to meeting the requirements described above, the Department also posts notice of the hearing at City Hall and on the City's website.

#### **Analysis and Recommendations**

Staff recommends that the Department continue to provide notice for these types of projects in the current fashion.

### **IV. Residential Tear Downs and Additions**

Residential Tear Downs and Residential Additions are governed by Section 1003.126 of the City of Chesterfield Zoning Ordinance. This Section requires that documentation be provided to all adjacent property owners and subdivision trustees of the proposed project.

Department policy also requires that when this type of project requires review by the Planning Commission, the Applicant is to provide the adjacent property owners and subdivision trustees with notice of the meeting date.

The final step in the process for a residential addition or tear down is submitting an application for Municipal Zoning Approval (MZA). The MZA requires the Applicant attest that he/she has notified the subdivision trustees and adjacent property owners of the MZA submittal. In addition, the Department sends notice of the MZA submittal, via email, to all subdivision trustees.

#### **Analysis and Recommendations**

Staff recommends that the Department continue to provide notice for these types of projects in the current fashion.

### **V. Application for Municipal Zoning Approval**

The City of Chesterfield contracts with St. Louis County for the issuance of all building permits. The first step in receiving a building permit is obtaining an MZA. MZA submittals for exterior residential work require

that the applicant notify adjacent property owners and subdivision trustees of the project. This must be attested to on the MZA application. In addition, the Department sends a message to all subdivision trustees, via email, of any MZA submittal for exterior or interior residential construction, remodel or alteration.

MZA submittals for any type of construction, remodel, or alteration on commercial, office, or industrial sites require authorization and signature from the property owner.

#### **Analysis and Recommendations**

Staff recommends that the Department continue to provide notice for these types of projects in the current fashion.

#### **VI. Telecommunications Facilities Siting Permits (TSP)**

Chapter 30 of the City of Chesterfield Municipal Code governs the placement of Wireless Telecommunications Facilities. Per Section 15, a public hearing is required for requests that constitute a material modification. The Applicant is required, at least 3 weeks prior to the date of the public hearing, to provide notice to all landowners whose properties are within 1,500 feet of any property line of the lot on which the TSP is proposed. In addition, notice is provided in a paper of general circulation no less than **15** days prior to the public hearing.

In addition to the requirements listed above, the Department of Planning and Public Works follows the same procedure it has established for special procedure petitions as described in Section I. "Application for Special Procedure", Department Policy and Procedures.

#### **Analysis and Recommendation**

There is definitely a duplication of efforts being done here with the notices that are sent out by the Applicant and the notices sent out by the City. Staff recommends that as the ordinance requires, **the Applicant be required to send notices to all property owners within 1,500 feet of any property line of the subject site.** With this being done, there is no reason for the City to continue to send notices as well. The Application for TSP should be amended to state that the notice sent out by the Applicant must contain the following information:

1. The date of the Public Hearing
2. Brief Explanation of Applicant's request
3. What change, if any, the proposal will create to the existing appearance, array, or height of existing towers or structures
4. In the case of a new facility, provide a copy of the elevation of the proposed structure
5. Applicant name and contact information
6. Address of proposal

In addition, the Applicant should be required to provide the City with a copy of said notice. Currently, Staff publishes notice of the hearing in both the St. Louis Countian and Suburban Journal. Since the ordinance only requires publication in a newspaper of general circulation; **Staff recommends we amend our department policy and only send notice to the Suburban Journal.**

## **VII. Vacation of Subdivision**

When a petitioner seeks to vacate a subdivision in whole or in part, such as a street or easement, their project is subject to Section 1005.140 of the City of Chesterfield Subdivision Ordinance. This Section requires advertisement by the City Clerk in the same manner provided for in Section 1003.300.4 of the Zoning Ordinance. There is no public hearing before the Planning Commission; however **15** days must pass from publication date in the newspaper and action by the City Council. If there is any opposition to the request, a public hearing is then held before the City Council.

Section 71.270 RSMo states that public notice must be given at least **15** days prior to the public hearing in a newspaper published in the County or printed notices be posted in **5** public places within the County. This Section of the Missouri Revised Statutes also explains what is to be included on the public notice which is as follows:

1. the nature of the petition
2. when it is to be made
3. what "street, avenue, road, alley, public easement, public square or common or part of such street, avenue, road, alley, public easement, public square or common, is proposed to be vacated."

In practice, the Department of Planning and Public Works receives all requests for subdivision vacation and there is no involvement by the City Clerk in their advertisement. Staff advertises all requests for vacation of subdivision in the St. Louis Countian. Once 15 days from publication date passes and there is no objection, Staff forwards the legislation and the appropriate exhibits to the City Council for action.

### **Analysis and Recommendation**

Staff recommends amending Section 1005.140 of the Subdivision Ordinance to reflect the practice currently in place. In addition, **publication should be provided in the Suburban Journal instead of the St. Louis Countian.**

## **VIII. Grants**

Grant applications set forth their own requirements for public notification and hearings. There is no municipal or statutory general requirement for execution or making application for a grant. A grant may require the City



to develop and follow a detailed plan that provides for and encourages citizen participation/notification; while another may provide no requirement for public notice or hearing. The City of Chesterfield adheres to all requirements established in framework for each Grant to which we make application to.

#### **Analysis and Recommendation**

Notification requirements are established by individual grants; therefore Staff recommends that the Department continue to provide notice for these types of projects in the current fashion.

### **IX. Unfit Building Proceedings**

The City of Chesterfield follows Chapter 523 RSMo for Unfit Building Proceedings and Section 7-017 of the City Code.

Section 523.030 states that notice shall be given to the property owner at least 10 days prior to the hearing date. This section also states, "If the name or residence of the owner is unknown, or if the owners, or any of them, do not reside within the state, notice of the time of hearing the petition, reciting the substance of the petition and the day fixed for the hearing thereof, shall be given by publication once each week for three consecutive weeks prior to the time of hearing the petition, in a newspaper published in the county in which the proceedings are pending, if one is published in the county...."

Notice for unfit buildings procedures is contained in Section 7-017 of the City Code. The language in this section is provided below. The City Attorney and Staff recommend inclusion of the following language in bold font:

"Upon declaration of a public nuisance under this article, the City shall notify all affected parties that a public nuisance has been declared. Such notice shall be **posted on the property**, served by personal service or certified mail, return receipt requested, to all affected parties **or by such other means as are reasonably necessary in the opinion of the Planning and Public Works Director to provide adequate notice**. If service cannot be had by either of those modes, service will be by publication."

#### **Analysis and Recommendations**

Staff recommends that the Department continue to provide notice for these types of projects in the current fashion and that Section 7-017 be amended as suggested above.

## SUMMARY OF RECOMMENDATIONS

As a whole, the Department not only meets, but exceeds, Chesterfield Policies and Missouri State Statute Requirements. While we are doing an excellent job in all categories of providing timely and informative notification to the public; there is room for improvement. Minor adjustments have been identified to how the Department of Planning and Public Works manages its notifications and public hearing processes which will result in a cost savings as well as savings to staff time.

The first area of improvement pertains to residential subdivision trustees. We notify the residential subdivision trustees of all public hearings within their subdivision and any application for an MZA. However, often times subdivisions do not keep the City updated when names or contact information changes. **I would suggest that once a year we send out a postcard to one subdivision trustee in each of the subdivisions in the City and request that they contact us with the names of all members to ensure that our lists are kept up to date. We could also write an article in the Chesterfield Citizen newsletter once a year regarding this matter.**

The second area of improvement pertains to the papers of circulation which we advertise in. State Statute requires that we advertise in a single paper of circulation however in almost all instances we advertise in multiple papers. For consistency and efficiency purposes, I recommend we advertise in one paper of general circulation. Due to the amount of readership that is provided with the Suburban Journal as compared to the St. Louis Countian, I recommend advertising in the Suburban Journal only. Currently, all projects or items which require public notice are advertised in the St. Louis Suburban Journal. Only one procedure, the "Goods and Services" procedure, utilizes the Business Journal. Eliminating publication in multiple papers will also decrease the cost to the Applicant for advertising and decrease the expense and time spent by Staff preparing multiple notices. A chart showing the readership and costs to advertise is provided below.

Paper	Number of Subscriptions	Cost to Advertise
St Louis Business Journal	18,958	\$10.45 per line
St. Louis Suburban Journal (West Co)	15,416	\$6.69 per line plus \$10 for on-line ad
St. Louis Countian	300	\$1.40 per line

Below is a summary of the recommendations for improvement to specific categories as described earlier in this document.

✓ **Special Procedures**

Staff recommends consolidation of Sections 1003.300.4, 1003.300.6 and 1003.300.7. In addition, we would recommend that public notice continue to be provided to all subdivision trustees within one mile and to property owners within 225 feet and this practice be codified into the Zoning Ordinance. In addition, Section 1003.300.7 does not include all appropriate agencies which may be impacted by a petition; therefore we recommend amending this section to add all appropriate agencies.

✓ **Variance Requests**

Staff recommends increasing the fee for Board of Adjustment Petitions from the flat fee of \$75.00 to \$75.00 plus the cost of advertising. This is consistent with the fee structure established for all other projects which require a public hearing and would also help the City recover the costs for preparation and advertising. Staff would also recommend amending the current ordinance which governs the Board of Adjustment to include the fee structure. In addition, the procedures for the Board of Variance for Public Works should be amended to be consistent with the procedures for the Board of Adjustment.

✓ **Telecommunications Siting Permit**

Staff recommends that as the ordinance requires, the Applicant be required to send notices to all property owners within 1,500 feet of any property line of the subject site. With this being done, there is no reason for the City to continue to send notices as well. The Application for TSP should be amended to state that the notice sent out by the Applicant must contain the following information:

1. The date of the Public Hearing
2. Brief Explanation of Applicant's request
3. What change, if any, the proposal will create to the existing appearance, array, or height of existing towers or structures
4. In the case of a new facility, provide a copy of the elevation of the proposed structure
5. Applicant name and contact information
6. Address of proposal

In addition, the Applicant should be required to provide the City with a copy of said notice.

✓ **Unfit Building Proceedings**

Staff recommends an amendment to Section 7-017 of the City Code as provided for on page 9 of this report.

✓ **Vacation of Subdivision**

Staff recommends amending Section 1005.140 of the Subdivision Ordinance to reflect the practice currently in place.

Please let me know if you have any questions or concerns regarding the information provided in this memo. Thank you.