MEMORANDUM

To: **City of Dunwoody Community Council**

From: **Community Development Staff**

Date: **August 13, 2009**

Subject: **Discussion of Public Noticing Requirements**

Based upon continuing discussions begun in June among the Council membership and the community development staff, it is agreed that at this time it would be prudent for the City of Dunwoody to examine and potentially amend its previously approved procedure for noticing requirements regarding zoning actions at both the Mayor & City Council meetings and for Zoning Board of Appeals meetings.

Staff has examined current policy for public notice and its relationship to both the Zoning Ordinance and the State of Georgia Zoning Procedures Act.

Zoning Procedures Law, O.C.G.A. §36-66-4, which reads in part: "A local government taking action resulting in a zoning decision shall provide for a hearing on the proposed action. At least 15 but not more than 45 days prior to the date of the hearing, the local government shall cause to be published within a newspaper of general circulation within the territorial boundaries of the local government a notice of the hearing. The notice shall state the time, place, and purpose of the hearing."

This state statute is the source of City of Dunwoody's Ch. 27, §5A-18(a) and §5D-16(c), which are portions of the binding codes related to the public hearing notification process for Zoning Map amendments (commonly referred to as 'rezonings'), Zoning Ordinance text amendments, Comprehensive Plan Land Use Map amendments, Special Land Use Permits, Variances, Special Exceptions, Appeals of Administrative Decisions and Annexations.

The later sub-parts of those Zoning Code sections (§5A-18(b) §5D-16(a & b) entail the posting of Public Hearing signs on site and staff mailings informing adjoining property owners of a proposed action. Signage content requirements are based on select portions of §36-66-4.

These two codes, §5A & §5D, are the guide currently used by staff for the noticing of zoning actions. In the interim between submission and the hearing, staff completes or observes opportunities for:

- a preliminary review
- the applicant to submit revised and/or amended plans if necessary (pursuant to §5A-6)
- newspaper advertisements
- property owner mailings
- on-site signage
- a substantive, multi-departmental review
- a staff memo to be written and delivered to the Board assigned to hear the application.

The schedule for these reviews and actions was developed by staff and approved by the City Council, pursuant to §5A-6(a). The most-recent discussions about the process and procedures center around the time at which the applications are made public, the frequency of the notices, and the size of the signs posted on site when required.

The items specifically addressed by the City Council that need to be addressed by this Public Hearing process are:

- Amend current code language to create a size requirement of on-site signage of 12sqft (§5A-18(b)(2)(b) and §5D-16B). *Staff is currently researching the price for these new signs, both materials and labor. Staff further recommends that the applicant pay for the installation of these signs and show evidence that the sign was successfully and properly erected on site.*
- Amend the requirement to increase the size of the text on signs to 4 inches (§5A-18(b)(2)(b) and §5D-16B).
- Amend the distance for mailings to increase the distance to 500 feet from 250 feet. (§5A-18(b)(1) and §5D-16A).
- Require the posting of the agenda and board packages to the website for all boards. *This is currently department policy, but not specifically codified in the zoning ordinance. Staff has been cautioned on more than one occasion by the City Attorney against codifying more stringent requirements than required by State Law with regard to noticing and the dissemination of information in a public manner.*
- Require that the posting of agenda with backup info to the web be posted to the web at the time that signs are posted/letters mailed/Crier ads run. *It is not anticipated that this would be a challenge to implement as a policy change, but staff cautions against implementing the procedure as a code requirement.*
- Signs for the ZBA and signs for the Mayor & City Council process should be different colors for viewer clarity. *Again, it is not anticipated that this would be a challenge to implement as a policy change, but staff cautions against implementing the procedure as a code requirement.*

Attachments

1. O.C.G.A. §36-66-4
2. Dunwoody schedule of application deadlines