



OFFICE OF THE CITY AUDITOR COLORADO SPRINGS, COLORADO

Jacqueline M. Rowland
City Auditor, CPA CFE PMP

24-13 City of Colorado Springs Land Use Review Division Public Notice

April 2024

Purpose

The purpose of this audit was to determine the prescribed processes were followed for land use application notices and public input opportunities. Additionally, we performed limited benchmarking of other jurisdictions.

Highlights

We conclude the Land Use Review Division was in compliance with the Unified Development Code (UDC), Article 7.5.406 Public Notice and their former Chapter 7 Planning, Development, and Building Code, Article 7.5.902 Public Notice. Our review identified two observations and two opportunities for improvement. See pages 3 and 4 for more information on the observations and opportunities.

Background

The Land Use Review is a Division of the Planning and Neighborhood Services Department. The Land Use Review Division reviewed development applications to ensure that the land uses created by new development met the standards and were consistent with the Zoning Code, Subdivision Regulations and the City's Comprehensive Plan.

On February 14, 2023 the City Council approved the UDC. The UDC was effective June 5, 2023 and revised the Zoning and Subdivision Ordinance in Chapter 7 of City Code. The goal was to establish a new, modern, and more user-friendly UDC. Applications that were submitted prior to the effective date had the option of being reviewed under Chapter 7 regulations or the new UDC per the UDC Implementation Policy.

The purpose of public notice in the UDC was to inform vicinity property owners, neighborhood associations, and the community of pending development projects along with the date, time, and place of public hearings including appeals of development projects. In addition, it outlined the minimum content that should be included on a notice and the types of notices that were permitted.

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Management Response

Management was in agreement with our recommendations.

Recommendations

1. Ensure processes related to public notice are fully documented and reflect current procedures.

Implement guidance for criteria on the project description and development proposal.

2. Implement a process for documenting deviations from the application processing schedule and retaining documentation related to the dissemination of public notices.

Opportunities for Improvement

1. Implement a process for disseminating Neighborhood Association Responsibility in City Code and a review of the neighborhood association verification in the quality control process.

2. Implement a review process for the content of public notices and consider additional resources that could be provided to increase awareness and educate the public.

City Council's Office of the City Auditor

City Hall, 107 North Nevada Ave. Suite 205, Mail Code 1542, Colorado Springs CO 80901-1575

Tel 719-385-5991 Fax 719-385-5699 Reporting Hotline 719-385-2387

www.ColoradoSprings.gov

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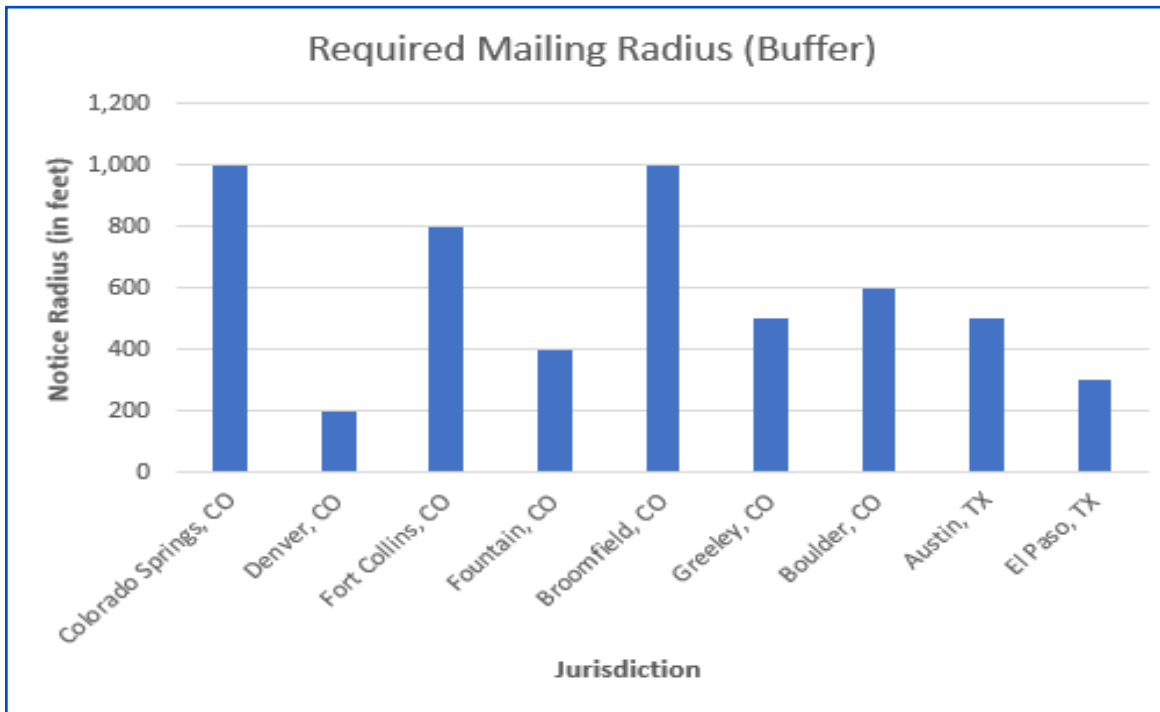
Once an application was submitted to the Land Use Review Division, a public notice occurred. The application may then require additional notices such as neighborhood meetings, City Planning Commission public hearings, City Council public hearings, and appeals.

In 2023, the Land Use Review Division received and processed approximately 557 applications; approximately 357 applications required public notice.

What We Did:

A sample of applications were selected that required public notices from January 1, 2023 through December 31, 2023. These applications were reviewed for the initial review, neighborhood meetings, City Planning Commission public hearings, City Council public hearings, and appeals as applicable. Notices including postcards and posters for these applications were reviewed to ensure previous and current City Code were being followed and effective in meeting City objectives. Additionally, processes related to public notices were reviewed to identify areas for improvement to increase public input opportunities.

We also compared City Code notices to six other jurisdictions within Colorado and two in Texas. We noted the City's notification mailing radius (also known as a buffer), which requires 1,000 feet, compared to eight other jurisdictions was generally larger. In addition, we reviewed the Land Use Review Division and six other jurisdictions public hearing postcards to compare the content. Overall, the City's public hearing notice postcards provided more information to the public than other jurisdictions. The types of notices for other jurisdictions were comparable.



Source: Prepared by the Office of the City Auditor with data from jurisdictions websites

We would like to recognize and thank the Land Use Review Division staff for their assistance and support during this review.

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Observation 1

We noted documentation for the quality control review of public notices did not include:

- Guidance on content that should be reviewed.
- A sign-off process to verify reviews were completed.
- Creation of new public notice for each required notification.

The procedure document related to handling of public comments was not current. There were applications that did not appear to follow the current process.

The Planner was tasked with creating the language for the project description or development proposal on the public notices, but guidance was not available to maintain content consistency and decrease subjectivity. Further, initial public notices were being replicated to create additional public notices.

A fully implemented quality control process would help to minimize errors.

Management Response

The Planning Department was in receipt on October 9, 2023, of a memo from City Administration, in collaboration with City Council, to draw attention to areas of improvement for quality assurance in our public notice process. In response to this memo Planning Department began looking at areas of improvement around several aspects of our public notice process and specifically to quality checks. Since this time, we have implemented a review and sign-off process to ensure public notices are reviewed prior to publication to minimize errors. We are additionally working with the Communications Department in establishing new public notices that will allow for less human error in the transfer of information. Furthermore hope to have this process automated by the end of 2024. We are working with the City's Information Technology Department to identify the best software for the automation to work with the City's permitting software. Automation will likely require licensing costs.

We recognize the area of improvement to more clearly align language used in describing applications on our notices and will work to implement further guidance by establishing new policies on this content no later than the end of 2024. The new policies will establish standardized language which will be included the Land Use Division's Standard Operating Procedures.

Recommendation

Management should:

- Ensure the quality control process is fully documented to include what should be reviewed, a sign-off for completed reviews, and require creation of new public notifications.
- Update the procedure related to public comments to reflect the current process and ensure the process is consistently followed by staff.
- Implement guidance for criteria on the project description and development proposal.

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Observation 2

We noted instances in which public notice support was not available or retained as follows:

- The posting affidavit submitted by the applicant.
- Support that postcards had been mailed.

The Unified Development Code (UDC), Article 7.5.406 Public Notice, 2. Posted (Sign) Notice requires at least one poster providing notice shall be placed along each street or right-of-way frontage of the property subject to the application. The applicants were required to provide an affidavit that posting requirements were met.

Management Response

Public notices are tracked and follow City Code required posting timeframes. Staff will continue to track these application timeframes with the submitted affidavits that are submitted from the developer. Further the Planning Department will aim to improve our retention and organization of documentation related to the dissemination of notices to Office Services, this will be updated in our Public Notice Standard Operating Procedures no later than the end of 2024.

Recommendation

Management should implement a process to ensure documentation is retained for poster affidavits and mailing of public notices.

Opportunity 1

Some neighborhood associations (associations) within the notification radius for an application could not be verified in applications tested.

The department did not disseminate the responsibilities of associations to provide and update their contact information. The Land Use Review Division relied on a third-party contractor to disseminate the Neighborhood Association Responsibility outlined in City Code to their contacts for associations. The associations may not be aware of their responsibilities.

The quality control process did not include verifying that the correct association had been identified for the application. Improper verification of an association could lead to notification not being made as intended.

Management Response

As part of the above-mentioned review and sign-off (Observation 1), the Planning Department will review the database of neighborhood associations with third-party contractor. The Planning Department relies on third-party contractor and neighborhood associations to provide updated contact information. There have been times when the Planning Department has not received updated information.

The Planning Department sends notices to known neighborhood associations. The third-party contractor provides extended notification – often beyond the 1000-foot notification boundary. We will request of third-party contractor evidence/confirmation of their dissemination of additional information to neighborhood associations. As part of Planning Department’s efforts to expand our outreach and ease of communication to residents, a new Development Tracker website has been established which allows for easier access to development proposals, public meetings, and tips on how to be part of the Planning process.

Recommendation

Management should implement a process for the following:

- Dissemination of Neighborhood Association Responsibility in City Code to association contacts.
- Review the association verification as part of the quality control process.

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Opportunity 2

The public notice postcards and posters were reviewed from the perspective of a reader with limited experience. Opportunities for improvement were identified to ensure the communications were clear, concise, intuitive, and helpful.

There were areas of the public notice that lacked proper guidance and/or additional detail to better assist the reader in navigating to websites, how to comment, or understanding the purpose of the notification. The use of some terms were inconsistent in the postcard, which could lead to confusion. Accommodations for all recipients was not apparent on the notifications, such as alternative languages, to increase opportunities for public participation.

Management Response

In further alignment with the previously mentioned memo for land development process improvements some of the work related to this Opportunity has already begun. The Planning Department collaborated with the Communications Department to develop a new poster and postcard that will allow us to more clearly and effectively communicate information in a clear, concise and helpful way. The notices will now include a website and a QR code where residents may navigate to the new Development Tracker. The Planning Department's website will include helpful tips to walk residents through the details of the land development process and how they can get involved. Our work on the notices will continue alongside Communications as they implement further opportunities for alternative language and other ADA accommodations.

As mentioned above (Observation 1) Planning Department will be updating our guidelines for the creation of clear and consistent content of project descriptions in our Public Notice Standard Operating Procedures no later than the end of 2024. The review process of public notices will remain in place for accuracy and consistency.

Recommendation

Management should consider the following changes to public notices:

- Develop a review process for accuracy and consistency of public notice content. In addition, ensure the content easily guides the reader to obtain additional information.
- Consider additional resources that could be provided to increase awareness and educate the public.
- Ensure accommodations, such as alternative languages, are available.