

TO: Mayor Lee Kyriacou and City Council Members

FROM: Etha Grogan for Planning Board Chairman Gunn and Planning Board Members

RE: City Council request to review Proposed Local Law regarding Noticing of Public Hearings

DATE: April 15, 2020

At the April 14, 2020 Planning Board meeting, members reviewed proposed amendments to Chapter 223, Section 61.3 regarding Noticing of Public Hearings as requested. A comprehensive review and discussion about the proposed amendments took place with City Attorney Jennifer Gray.

Members discussed adding language to the local law to authorize the approval authority to waive or modify certain public notice requirements if warranted by the circumstances. For example, the approval authority should have discretion to modify the public hearing requirements not otherwise required by State law in the event an applicant misses the deadline for posting a public notice sign by a day or two. Otherwise, this de minimus variation would require the public hearing to be delayed for a month until the next Planning Board meeting. Members also questioned why the deadline for sign posting would be different for each board, as proposed in the local law. The current deadline for posting public notice signage is 14 days prior to the public hearing. That is also the submission deadline for applications before the Planning Board. Practically speaking, this means that on that date the Applicants are submitting their materials to the Building Department, the Building Department is preparing signs for pick up by the Applicant, and the Applicant is posting the signs all on the same day. If the Applicant is unable to post the sign that day the public hearing cannot open two weeks later. For these reasons, the Planning Board discussed making the sign posting deadline consistent with the proposed deadline for applications before the City Council – 10 days prior to the public hearing. Lastly, the Planning Board was curious about the Council’s intent to increase the notification radius for certain types of applications. The Board recommended clarification of the language because as drafted it could be construed to mean the notice radius is based on the classification of the recipient of the notice, not the classification of the application for the subject property.

The Planning Board’s discussion resulted in the following recommendations:

1. The deadline for public notice sign posting should be changed to 10 days for applications for all boards.
2. Add the following waiver provision: “Modifications to notification requirements. The approval authority may modify or waive the notification requirements as described herein unless required elsewhere by county or state law.”
3. Clarify language in Section 223-61.3(B) to make clear that the classification of the application for the subject property determines the public notice radius – not the classification of the recipient.

After careful consideration of the purpose of proposed amendments, members recommended the aforementioned items should be considered when the matter is addressed by the City Council. Should you have any questions or require additional information, please feel free to contact me.