



# Property owner notification Council Request

*August 1, 2022*

7/26/2022



- What the state requires.
  - NCGS 160D requires “Abutting” property owners be notified.
- What is the City of Fayetteville practice?
  - Past and current practice is to exceed the “abutting”
  - Current practice is First Class mail to property owners within 500 feet of perimeter of area under review.
  - We also include a QR Code in the letter that links to details of the project as found on the city website.

## 160D-602(a)

- State enabling requires land owner and abutting property owners (as shown on county tax abstracts) to be sent notice of the hearing.
- Abutting is across a street, railroad, or other transportation corridor
- Mailed “at least 10 but not more than 25 days” prior to the date of the hearing.

## 160D-602(b) [Large-scale zoning map amendments]

- State does not require any first-class mailing if
  - Greater than 50 properties
  - Owned by at least 50 different property owners
  - Local government uses expanded publishing notice (half-page newspaper advertisement)
  - And property owners outside of newspaper circulation still get first class letters

## 160D-602(C ) Posted Notice

- Property under review to have a sign

### § 160D-602. Notice of hearing on proposed zoning map amendments.

(a) Mailed Notice. – Subject to the limitations of this Chapter, an ordinance shall provide for the manner in which zoning regulations and the boundaries of zoning districts are to be determined, established, and enforced, and from time to time amended, supplemented, or changed, in accordance with the provisions of this Chapter. The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. If the zoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction under G.S. 160D-202, a single hearing on the

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zoning map amendment and the boundary amendment may be held. In this instance, the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing.

(b) Optional Notice for Large-Scale Zoning Map Amendments. – The first-class mail notice required under subsection (a) of this section is not required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the local government elects to use the expanded published notice provided for in this subsection. In this instance, a local government may elect to make the mailed notice provided for in subsection (a) of this section or, as an alternative, elect to publish notice of the hearing as required by G.S. 160D-601, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement is effective only for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (a) of this section.

(c) Posted Notice. – When a zoning map amendment is proposed, the local government shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required but the local government shall post sufficient notices to provide reasonable notice to interested persons.

(d) Repealed by Session Laws 2020-25, s. 13, effective June 19, 2020.

(e) Optional Communication Requirements. – When a zoning map amendment is proposed, a zoning regulation may require communication by the person proposing the map amendment to neighboring property owners and residents and may require the person proposing the zoning map amendment to report on any communication with neighboring property owners



## Special Use Permits ("or any other quasi-judicial decision")

1. 160D-406(b) Notice to
  - person or entity subject to the hearing.
  - to owner of property if they did not initiate the hearing
  - all land owners abutting the parcel of land
  - "... any other persons entitled to receive notice as provided by the local development regulation.
2. All other the same as zoning map amendments.
3. Board may continue an evidentiary hearing without further advertising

### **§ 160D-406. Quasi-judicial procedure.**

(a) Process Required. – Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision.

(b) Notice of Hearing. – Notice of evidentiary hearings conducted pursuant to this Chapter shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

# What happens in the rest of the County, in practice?

Cumberland County, by practice – not ordinance, REZONINGS

When in a town or a MIA (municipal influence area) 600'-800'

When in the balance of the unincorporated areas 1,100'- 1,300'

Cumberland County, by practice – not ordinance, OTHER (variances)

Abutting property owners only

- First-class mail to owner, and all property owners within 500' of parcel(s) boundary.
- Sent to all regardless of if greater than 50 parcels and more than 50 owners.
- Letter included details of case, time and place of hearing, a Quick Response/“QR” code that links more details as found on website, phone number, and number for any impairment or English as second language barrier removals.
- Multiple signs on property, including QR code link.
- SAME Standard for ZONING and QUASI-JUDICIAL

- 30-2.B.12c Public Notification, Mailed Notice
- Notes that the City follows NCGS 160D-406, 160D-602
- Also sending notice to “Organizations and persons that have registered to receive notice in accordance with Section 30-2.B.12.f., Registration to Receive Notice by Mail.
- When a site plan or subdivision approved by the Technical Review Committee will result in a new street connection to an existing street or street stub (landowners within 500 linear feet of the street connection)
- The City may expand notice in some cases without invalidating the proceedings or notice
- Fort Bragg is notified on land use cases and subdivisions within five miles of their perimeter
- We also prepare an affidavit affirming the notice and content required were mailed.

## **On subdivisions and site plans, First-class mail notification when**

- landowners within 500 linear feet of a new street connection to an existing street or street stub (30-2B.6) are to be notified by first class mail.
- Applicant is also required to post notice on the property beside each existing street or street stub – 10 days before the neighborhood meeting

**Neighborhood meetings** are required under any of the four types of applications:

- Rezoning or Conditional Rezoning from CD to MR-5, OI, NC, LC, CC, MU, DT, BP, LI, or HI
- Conditional Rezoning proposed on 3 acres or less from residential or business to another more intense residential or business zoning district
- Planned Developments
- Site Plans or Subdivision Plans that result in a new street connection to an existing street or street stub serving an existing single-family residential neighborhood.



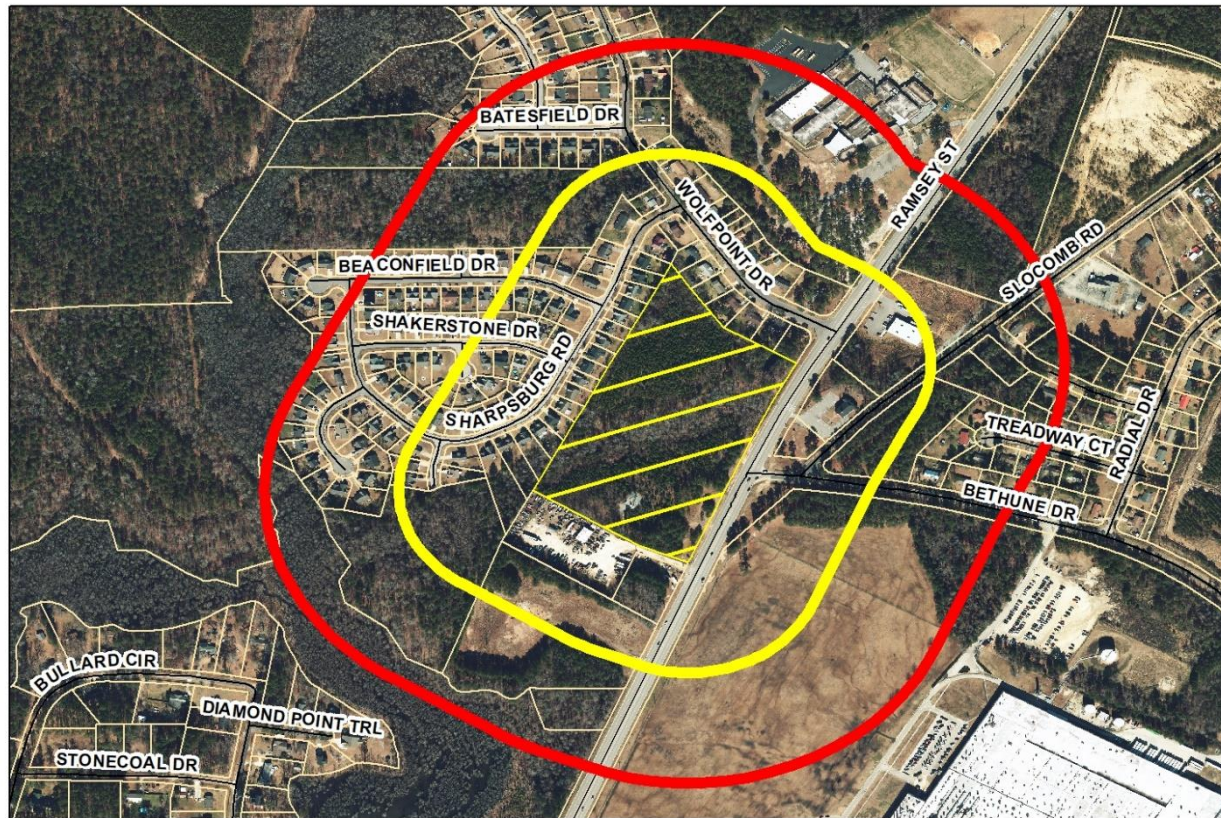
- What are the implications and impacts?
  - Legal- Issue of “standing”
    - If we send notification are we implying those sent are affected and have legal standing to appeal?
  - Technical- just the numbers of 500’ to 1,000’ (Area =  $\pi$  Radius Squared; four-fold increase of area)
    - Minimum of 500 foot notification is 5.7 acres
    - Minimum of 1,000 foot notification is 23 acres
  - Practical-
    - Opportunity for more community awareness
    - Higher costs of notifications (personnel preparing, answering, postage)

- Practical PROS and CONS-
  - + Opportunity for more community awareness & potential input (depending on type of action)
  - + Potential for additional “Crowd sourcing” options
  - Higher costs of notifications (personnel preparing, answering, postage)
  - Creating impression of anyone sent notice is an interested party and has legal standing to appeal
  - May create an expectation of community “denying” projects that are Administrative approval

- Need to further elaborate types and purposes of input and notifications
- Professional staff & **Administrative approvals** meeting standards
  - information only,
  - input and adjustments,
- Attend and be heard at Council meetings
  - **Legislative** Hearings,
  - Legislative Hearings and options for reasonable and related **conditions** agreed by property owner- stays with land, and
  - Quasi-Judicial (**Evidentiary Hearings**) where decision is matched to set standards and evidence presented at the official evidentiary hearing.



Annexation Notifications/Initial Zonings- AX22-08 Ramsey (82 to 164); AX22-05 Saddle Ridge (124 to 299)



Aerial Notification Map

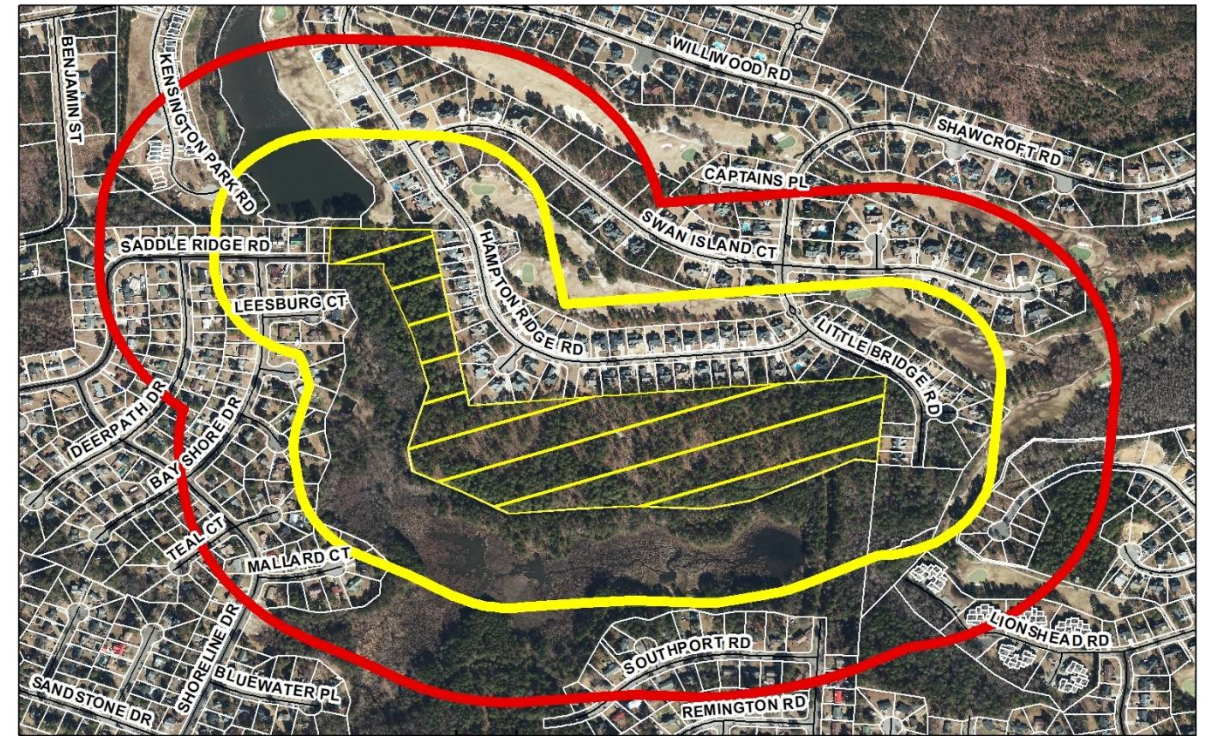
7/26/2022

Owners within 500' - 82

Legend



Letters are being sent to owners within the 500' but property is shown in the hatched pattern.



Aerial Notification Map

Owners within 500' - 124  
Owners within 1000' - 299

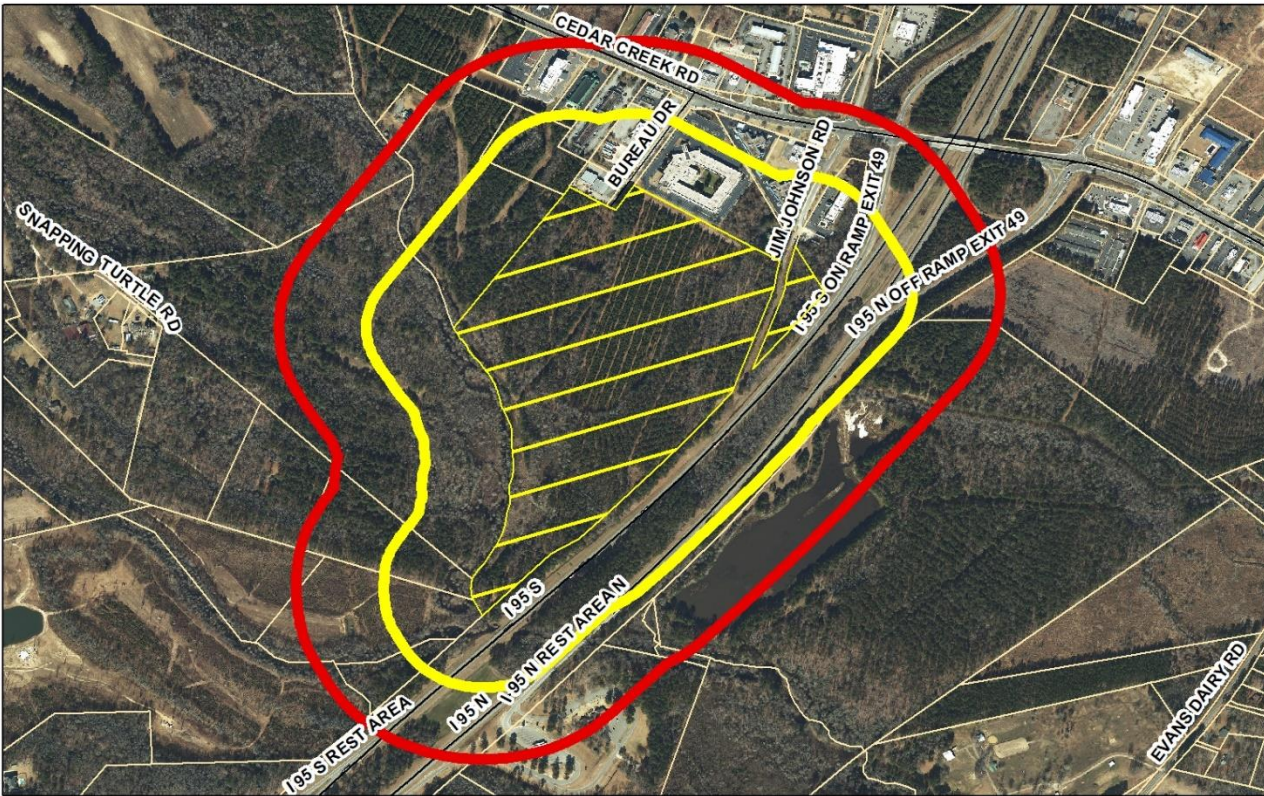
Legend



Letters are being sent to all property owners within the 500' buffer. Subject property is shown in the hatched pattern.



## Annexations AX22-06 Cedar Creek/Initial Zonings (15 to 36); AX22-07 Next Chapter (75 to 124)



Aerial Notification Map

Owners within 500' - 15  
Owners within 1000" - 36

### Legend

- 1000' Notification Area
- 500' Notification Area
- Lots



Letters are being sent to all property owners within the 500' buffer. Subject property is shown in the hatched pattern.



Aerial Notification Map

Owners within 500' - 75  
Owners withing 1000" - 124

### Legend

- 1000' Notification Area
- 500' Notification Area
- Lots



Letters are being sent to all property owners within the 500' buffer. Subject property is shown in the hatched pattern.



Example of a recent rezoning notification (500' was 130, 1,000' would have been 380).



Aerial Notification Map

Owners within 500' - 130  
Owners within 1000' - 380  
7/26/2022

## Legend

- 1000' Notification Area
- 500' Notification Area
- Parcels



Letters are being sent to all property owners within the 500' buffer. Subject property is shown in the hatched pattern.

1. Continue the existing practice of 500 foot notification of letters for annexations, rezonings, initial zonings, Special Use Permits, conditional zoning.
2. Increase notification to 1,000 feet for all items requiring notification by utilizing the already existing option in the Code of Ordinances, Chapter 30-2.B.12.c.1.c (Public Notification, c. Mailed Notice, 1 *Recipients*, c.) that permits flexibility to provide expanded notice.
3. Change the City Ordinances' text language to reflect a higher standard of first-class notification from the existing 500' to 1,000' for all cases requiring mailed notification per NCGS 160D-602 and 160D-406.
4. Separate the notification requirements to match the other jurisdictions in Cumberland County (only abutting property owners on SUPs, increased and variable on rest)

**RECOMMENDATION: OPTION 2 and continue full notification up to 1,000' for all cases requiring first class mailings for items coming to the City Council**



