

## PLANNING COMMISSION STAFF REPORT

March 25, 2009

**Petition #PLNPCM2009-00106:** Noticing and Appeals Text Amendment

**Staff:** Bill Peperone (535-7214, [bill.peperone@slcgov.com](mailto:bill.peperone@slcgov.com))



**Address:** N/A City Wide

**Type of Request:** Zoning Text Amendments

**Current Zoning:** N/A City Wide

**Lot Size:** N/A

### ***Request***

The Salt Lake City Planning Commission has requested that the Planning Division bring forward amendments to Sections 21A.10.010, .020, .030 and other related sections of the city's Zoning Ordinance that pertain to public noticing and appeals requirements. The purposes of these amendments are to improve the city's process and requirements for noticing public meetings and to make our ordinances more consistent with changes that have taken place in the state law.

### ***Recommendation***

Based on the findings of fact listed in the staff report, the Staff recommends that the Planning Commission forward a favorable recommendation to the City Council to adopt the proposed text amendments for Noticing and Appeals Requirements.

### ***Potential Motions***

**Approval:** I move to forward a positive recommendation to the City Council for approval of PLNPCM2009-00106 for the proposed amendments to Sections 21A.10.010, .020, .030 and other related sections of the Salt Lake City Zoning Ordinance pertaining to public noticing requirements with the following findings:

1. That the proposed amendments will improve internal consistency within the Zoning Ordinance as it relates to public noticing requirements;
2. That the proposed amendments are consistent with changes in Utah State law that have taken place since the Zoning Ordinance was adopted in 1995;
3. That the proposed amendments will allow for improved customer service pertaining to fulfilling application requirements; and
4. That the proposed text amendments will continue to allow multiple opportunities for public input and participation through the public hearing process.

**Denial:** I move to recommend to the City Council, denial of petition PLNPCM2009-00106 for the following reasons:

- 1.
- 2.
- 3.

## ***Vicinity Map***

Because this amendment is of city-wide application, there is no vicinity map.

## ***Project Information***

The proposed amendment language is too lengthy to be included in the body of this staff report, therefore, it has been attached to this report as Exhibit "A". A summary of the proposed changes, in table form, has been attached to this report as Exhibit "B". The more significant changes that are proposed as part of this amendment include the following:

- Timeframe for noticing public hearings would be reduced from 14 days to 12 days. This will allow agenda items to be re-advertised and placed on the next planning commission agenda, when so directed by the planning commission. With the current 14 day requirement, an item cannot be re-advertised and heard at the next meeting, if the next meeting is two weeks away. Additionally, currently, the 14-day notice results in "overlapping" agendas. The Planning Division sends out the agenda for a meeting, two weeks prior, a day before another planning commission meeting. Therefore, there are two agendas simultaneously in circulation before a planning commission meeting occurs. If a planning commission agenda needs to be amended, it is amended the day before the meeting (Tuesday) which is the same day the agenda is sent out for the planning commission meeting two weeks away. This can be very confusing, even for the staff, much less for the public.
- Notice to the Community Councils would remain the same (45 days) but a written position of the Community Council would no longer be required for an application to be deemed "complete". Some community councils do not submit written comments to the city. Additionally, the staff would like to use open houses to provide public information and to obtain public comments for specific types of requests, such as city-wide text amendments. While notice would still be sent to the individual community councils, the first opportunity for public input would be the open house.
- Decisions would become final, and the appeal period would begin, the day following a decision by a board or commission. The day following a public meeting or hearing where a decision is rendered by a city commission or board, a Record of Decision will be posted on the city's web site. Additionally, the applicant will be sent a formal Record of Decision by the staff planner assigned to that application. This will create a clear approval date and a clear appeal period for anyone desiring to appeal an administrative decision.
- The timeframe for an appeal of an administrative decision would be reduced from 30 days to 10 days, which is consistent with state law. The staff suggested reducing this appeal period because the city no longer issues building permits during the appeal period and this further delays the building permit process.
- Timeframe for an appeal to the district court would remain at 30 days: No change in the state law or to the city's 30-day appeal period to district court.
- Board of Adjustment is now referred to as the Appeal Authority in the state law. Cities now have the ability to appoint various appeal boards to hear different types of appeals. The city's Board of Adjustment would continue to hear requests for variances, special exceptions and appeals of administrative decisions. Appeals related to historic structures would be heard by the Historic Landmark Commission, as has been the city's practice.
- Notice to condominium developments could be sent to the Homeowner's Association rather than to each, individual homeowner, unless there is no HOA.

- Board of Adjustment agendas would no longer be published in the newspaper.

Salt Lake City's current noticing includes the following:

- Send actual notice to owners of property within a specific radius based on the type of project, at least 14 days prior to each public hearing
- Post the property with an on-premise sign
- Send the agenda to individual on the Planning Division Listserve (1,421 in total). This includes community council chairs, business groups, citizens active in the planning process, media groups, all commissions and board members, etc.
- Post the agenda on the State Website and the Planning Division Website
- In some cases, public notice in a newspaper of general circulation (i.e. Master Plan amendments, etc.)
- For Board of Adjustment, we currently publish the agenda in the newspaper

State law has changed so that only the following are required:

- Post on the State Website
- Send actual notice 10 days prior to first public hearing on the matter
- Publish certain types of projects in the newspaper

Using the Planning Commission meetings as an example, from October 2008 to March 2009, the Planning Division sent out 3,357 notices to adjacent or surrounding property owners. In addition to these, for each public meeting advertised by the Planning Division, the 1,421 individuals or groups are on the Planning Division's Listserve were also noticed. The agenda for all Planning Division public meetings (i.e. Planning Commission, Board of Adjustment, LUAB, Historic Landmark Commission, administrative hearings, etc) is sent to all 1,421 names on the Listserve. Therefore, for the Planning Commission for the six month period from Oct. 2008 to March 2009, a total of 20,409 notices will be sent to publicize Planning Commission public meetings. As of the date of this staff report, approximately 214 individuals have attended the Planning Commission meetings. This equates to one percent of those people noticed. It is the intention of the Planning Division to continue to exceed requirements of state law for noticing the public, while still be sensitive to the cost and effectiveness of noticing the public.

## ***Background Information***

### **Project History**

On June 8, 2005, the Salt Lake City Planning Commission directed the Planning Staff to bring forward suggestions for amendments to the city's public noticing requirements. In addition to Zoning Ordinance Sections 21A.10.010,.020, and .030, there are other sections that are effected by these amendments. Those sections include 21A.06.030 (Planning Commission), 21A.06.040 (Board of Adjustment), 21A.06.050 (Historic Landmark Commission), 21A.54.060 (Procedures), 21A.54.155 (Administrative Consideration of Conditional Uses and 21A.54.160 (Appeal of Planning Commission Decisions).

Over the years, various provisions within these sections have become problematic, inefficient, or inconsistent with changes that have taken place in state law. For example, the current ordinance requires

applicants to go to the Salt Lake County Recorder's Office to obtain mailing labels for property owners in proximity to a proposed development. Upon receiving these notices, city staff must verify the names.

The city's Geographic Information System has the ability to produce the same required mailing labels. If the city produces them, then staff does not have to go back and verify them. This saves staff time plus it is more convenient for the applicant by not having to visit the County Recorder's Office.

### ***Department Input***

This proposed amendment was routed to Public Utilities, Engineering, Transportation, Permits, City Attorney and Property Management. No comments were received from these departments.

### ***Public Participation***

#### **Open House**

Because this is an issue of city-wide impact, the Community Councils were made aware of this petition through advertisement of an Open House that was held at the city hall on February 19, 2009. Notice of this Open House was also sent to those individuals and organizations included on the Planning Division's List Serve and notice of the Open House was posted on the city's web site. There were three written comments received at the open house. These comments have been included in this staff report as Exhibit "C".

#### **Task Force**

A Task Force was also created with representatives of many stake-holders within the city. There were three areas of concern raised by the Task Force:

1. The time-frame for noticing,
2. Sufficient notice being provided to the business community, and
3. Appeals that need to be filed within ten days should still have twenty additional days to turn in all research and supporting documentation for the appeal.

#### **Business Advisory Board Comments**

Staff met with the Business Advisory Board on March 11, 2009 to discuss better methods for obtaining input from the Board, and other business organizations, within the city. It was proposed by the BAB that the staff send notice of planning projects to the BAB on the same schedule that these types of notices are sent to the Community Councils. The BAB will form a subcommittee that will filter the applications and requests that they receive from the Planning Division and the subcommittee will decide which items will warrant discussion by the entire Board. The Planning Division will adopt and follow this process.

### ***Analysis***

#### **Standards of Review**

A decision to amend the text of this title or the zoning map by general amendment is a matter committed to the legislative discretion of the city council and is not controlled by any one standard. However, in

making its decision concerning a proposed amendment, the city council should consider the following factors:

**A. Whether the proposed amendment is consistent with the purposes, goals, objectives, and policies of the adopted general plan of Salt Lake City;**

**Discussion:** The community master plan land use policies define neighborhood, community and regional land use locations and characteristics. The proposed amendments relate to policy for advertisement of public notices, appeals time frames and other related and text amendments.

**Finding:** No conflict exists between the proposed amendments and the purposes, goals, objectives and policies of the community master plan land-use policies.

**B. Whether the proposed amendment is harmonious with the overall character of existing development in the immediate vicinity of the subject property;**

**Discussion:** The proposed amendments are not site specific. Therefore, they will not interfere with the character of specific properties. The proposed amendments reflect minor text amendment issues and do not modify any intent or purposes of the existing city code.

**Finding:** That standard “B” does not apply to the proposed text amendment as the proposed amendment is not site specific. The proposed amendments are part of a citywide effort to improve the Zoning Ordinance through processing a series of text amendments. The proposed amendments do not impact the overall character of existing development. The revisions to the noticing and appeals regulations will insure adequate notice while improving efficiency.

**C. The extent to which the proposed amendment will adversely affect adjacent properties;**

**Discussion:** Because this standard is geographically specific and this proposal is for text amendment of city-wide influence and is not site-specific, this amendment will not adversely affect any specific property.

**Finding:** That the proposed text amendments will not adversely affect any parcel within the city.

**D. Whether the proposed amendment is consistent with the provisions of any applicable overlay zoning districts which may impose additional standards; and**

**Discussion:** The proposed text amendments do not specifically relate to, or impact, any provisions of an adopted overlay zone.

**Finding:** The proposed text amendments are consistent with the provisions of all applicable overlay zoning districts that may impose additional standards.

**E. The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, parks and recreational facilities, police and fire protection, schools, stormwater drainage systems, water supplies and wastewater and refuse collection.**

**Discussion:** The proposed ordinance changes do not relate to provisions governing public facilities and services.

**Finding:** That proposed ordinance changes should not impact the adequacy of public facilities and/or services.

### ***Notification***

On March 10, 2009, the March 25, 2009 Planning Commission agenda was published on the Planning Division's website and listserv, and the State of Utah's Public Meeting Notice website. On March 11, 2009, this item was published in the newspaper. The staff report was published on March 20, 2009.

### ***Attached Exhibits***

- A. Exhibit "A" Proposed ordinance
- B. Exhibit "B" Summary table of significant amendments
- C. Exhibit "C" Written comments from the Open House
- D. Exhibit "D" Task Force Notes



***Attachment B***  
Summary Table

***Attachment C***

Written comments received at the open house

***Attachment D***

Written comments received at the open house