



Provo City Planning Commission

Report of Action

July 12, 2017

ITEM 5* Provo City Community Development Department requests an Ordinance Amendment to Section 14.02.010 to make city noticing requirements consistent with state law. *City-Wide Impact*. 17-0014OA, Brian Maxfield, 801-852-6429

The following action was taken by the Planning Commission on the above described item at its regular meeting of July 12, 2017:

RECOMMENDATION TO APPROVE

On a vote of 4:0, the Planning Commission recommended the Municipal Council approve the above noted application.

Motion By: Ed Jones

Second By: Deborah Jensen

Votes in Favor of Motion: Ed Jones, Deborah Jensen, Maria Winden, Jamin Rowan.

Jamin Rowan was present as Chair.

The motion includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is consistent with the Staff analysis and determination.

PLANNING COMMISSION RECOMMENDED TEXT AMENDMENT

Attached as "Exhibit A."

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Key points addressed in the Staff's presentation to the Planning Commission included the following:

- The main purpose of the amendment is to bring the City's requirements into accord with the State Statutes.
- The amendment would also further facilitate overall changes to the City's noticing process to make the process more consistent and comprehensive.

CITY DEPARTMENTAL ISSUES

None

NEIGHBORHOOD MEETING DATE

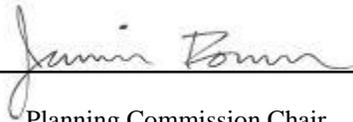
This is a City-wide application with all Neighborhood Chairs receiving notification.

NEIGHBORHOOD AND PUBLIC COMMENT

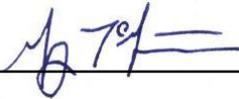
No comments were made by either neighborhood chairs or the general public.

PLANNING COMMISSION DISCUSSION

Ed Jones commented that it was a good idea to be consistent with State Law.



Planning Commission Chair



Director of Community Development

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees, to the Community Development Department, 330 West 100 South, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

1 EXHIBIT "A"

2 **14.02.010. Hearings - Notice and Procedure.**

3 (1) ~~The first public hearing before the Planning Commission to consider the adoption or modification of a~~
4 ~~land use ordinance or~~ Notice of a public hearing specifically required by this Title before the Board of
5 Adjustment, the Planning Commission, or the Provo Municipal Council shall be noticed in accordance with Utah
6 Code §10-9a-205(2), and shall be noticed in accordance with Utah Code §10-9a-205(30), ~~given at least~~
7 ~~fourteen (14) calendar days before the hearing in the manner hereinafter set forth. Such notice shall:~~

8 ~~— (a) state the time and place of the hearing;~~

9 ~~— (b) include a general explanation of the matter to be considered and general description of~~
10 ~~the area affected;~~

11 ~~— (c) be posted in at least three (3) public places within Provo City; and~~

12 ~~— (d) be published at least once in a newspaper of general circulation within Provo City.~~

13 (2) If the City mails notice of a proposed zoning change to property owners within the City within a
14 specified distance of the property on which the zoning change is being proposed, it shall also mail equivalent
15 notice to property owners of an adjacent municipality within the same distance of the property on which the
16 zoning change is being proposed.

17 (3) This Section is not intended to preclude the giving of additional notice that may be deemed necessary
18 by the Planning Commission, Board of Adjustment or Municipal Council.

19 (4) If notice given under authority of this Section is not challenged as provided in ~~Section 10-9-101, Utah~~
20 ~~Code Annotated,~~ Utah Code §10-9a-801 within thirty (30) days from the date of the meeting for which notice
21 was given, the notice shall be considered adequate and proper.

22 (5) Hearing procedure shall be as set forth in the bylaws of the Municipal Council, Planning
23 Commission and Board of Adjustment.

24 (a) All written documents and evidence from the applicant shall be received by the
25 Community Development Department at least fourteen (14) days in advance of the public hearing.

26 (b) An issue which may be a basis for appeal shall be raised in person or by letter before the close of
27 the public hearing. Failure to raise an issue during the hearing precludes appeal on that issue.

28
29 END



**Planning Commission
Staff Report
Ordinance Amendment
Hearing Date: July 12, 2017**

ITEM 5* Provo City Community Development Department requests an Ordinance Amendment to Section 14.02.010 to make city noticing requirements consistent with state law.
City-Wide Impact. 17-0014OA, Brian Maxfield, 801-852-6429

Applicant: Community Development Department
Staff Coordinator: Brian Maxfield

Property Owner: N/A

Parcel ID#: N/A

Current General Plan Designation: N/A

Proposed General Plan Designation: N/A

Current Zone: N/A

Acreage: N/A

Number of Properties: N/A

*Council Action Required: Yes

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is July 26, 2017, at 5:30 p.m.*

2. **Recommend Denial** of the proposed ordinance amendment. *This would be a change from the Staff recommendation; the Planning Commission should state new findings.*

Relevant History:

None

Neighborhood Issues:

City-wide Application. To date, no comments from Neighborhood Chairs have been received.

Summary of Key Issues:

- The desire to make Provo City noticing requirements consistent with State Code.
- The desire to eliminate confusion caused by the different noticing requirements of the State Code and the Zoning Ordinance.

Staff Recommendation:

Recommend Approval of the proposed ordinance amendment to Section 14.02.010 of the City Code as shown on the attached Exhibit "A", establishing noticing requirements consistent with state law.

This action would be consistent with the recommendation of the Staff Report. Any additional changes should be stated with the motion

OVERVIEW

This item is a proposed amendment regarding the noticing requirements for Planning Commission and the Municipal Council, to make them consistent with the requirements contained in the State Code.

STAFF ANALYSIS

Provo City Code Section 14.02.020(2) sets forth the following guidelines for consideration of ordinance text amendments:

Before recommending an amendment to this Title, the Planning Commission shall determine whether such amendment is in the interest of the public, and is consistent with the goals and policies of the Provo City General Plan. The following guidelines shall be used to determine consistency with the General Plan:

(a) Public purpose for the amendment in question.

The proposed amendment addresses an inconsistency between City and State laws regarding noticing requirements for Public Hearings and Public Meetings.

(b) Confirmation that the public purpose is best served by the amendment in question.

It is important to clarify or eliminate possible confusion caused by conflicting requirements for noticing.

(c) Compatibility of the proposed amendment with General Plan policies, goals, and objectives.

As stated in the Vision 2030 Document:

Goal 14.1 - Make local government as transparent and as easy to access as possible by citizens.

Objective 14.1.3

Simplify and clarify the processes for citizens to become involved in government issues and decision-making with elected bodies.

(d) Consistency of the proposed amendment with the General Plan's "timing and sequencing" provisions on changes of use, insofar as they are articulated.

The amendment would cause no conflict.

(e) Potential of the proposed amendment to hinder or obstruct attainment of the General Plan's articulated policies.

The amendment would not hinder nor obstruct attainment of the General Plan's articulated policies.

(f) Adverse impacts on adjacent land owners.

The amendment would have no effect on adjacent land owners as noticing of items would still be as required by State law.

(g) Verification of correctness in the original zoning or General Plan for the area in question.

Does not apply to an ordinance amendment.

(h) In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.

Does not apply to an ordinance amendment.

CONCLUSIONS

Staff believes the proposed amendment is beneficial to the City through making the noticing requirements consistent with state law and eliminating confusion caused by different noticing requirements listed within the State Code and the Zoning Ordinance.

STAFF RECOMMENDATION

Recommend Approval of the proposed ordinance amendment to Section 14.02.010 of the City Code establishing noticing requirements consistent with state law, as indicated in the attached Exhibit "A."

EXHIBIT "A"

14.02.010. Hearings - Notice and Procedure.

(1) ~~The first public hearing before the Planning Commission to consider the adoption or modification of a land use ordinance or~~ Notice of a public hearing specifically required by this Title before the Board of Adjustment, the Planning Commission, or the Provo Municipal Council shall be noticed in accordance with Utah Code §10-9a-205(2), and shall be noticed in accordance with Utah Code §10-9a-205(30). ~~given at least fourteen (14) calendar days before the hearing in the manner hereinafter set forth. Such notice shall:~~

~~(a) state the time and place of the hearing;~~

~~(b) include a general explanation of the matter to be considered and general description of the area affected;~~

~~(c) be posted in at least three (3) public places within Provo City; and~~

~~(d) be published at least once in a newspaper of general circulation within Provo City.~~

(2) If the City mails notice of a proposed zoning change to property owners within the City within a specified distance of the property on which the zoning change is being proposed, it shall also mail equivalent notice to property owners of an adjacent municipality within the same distance of the property on which the zoning change is being proposed.

(3) This Section is not intended to preclude the giving of additional notice that may be deemed necessary by the Planning Commission, Board of Adjustment or Municipal Council.

(4) If notice given under authority of this Section is not challenged as provided in ~~Section 10-9-101, Utah Code Annotated,~~ Utah Code §10-9a-801 within thirty (30) days from the date of the meeting for which notice was given, the notice shall be considered adequate and proper.

(5) Hearing procedure shall be as set forth in the bylaws of the Municipal Council, Planning Commission and Board of Adjustment.

(a) All written documents and evidence from the applicant shall be received by the Community Development Department at least fourteen (14) days in advance of the public hearing.

(b) An issue which may be a basis for appeal shall be raised in person or by letter before the close of the public hearing. Failure to raise an issue during the hearing precludes appeal on that issue.

END