PLANNING COMMISSION

Planning & Development Services Department • 201 N. Stone Ave. • Tucson, AZ 85701

Date: November 13, 2019

To: Planning Commission

From: Scott Clark
Executive Secretary, Planning and Development Services

Subject: C8-19-01 Notification Text Amendment (City Wide)

Issue – The purpose of this public hearing is to review and discuss the proposed text amendment to the Unified Development Code (UDC) which would change the required notification areas for land use processes.

On May 10, 2017, the state legislature passed a law adding the requirement to include a right-of-way abutting a subject property in the measurement of the notice area for protest notifications and calculations. The current City of Tucson notification process for a given land use application, including rezonings, skips over a right-of-way that abuts the subject property and begins the calculation of the required notification area on the opposite side of the abutting right-of-way. This ensures that owners of property that are across a right-of-way abutting the proposed project are notified of any proposed project across the street (see Attachment A for the current calculation process). Mayor and Council has directed Planning and Development Services Department (PDSD) staff to reconcile the UDC with the state mandate while maintaining the number of property owners notified at or slightly above current levels. Please note this amendment only pertains to the notification distance and does not change the state mandated protest distance or measurement method, which is determined pursuant Arizona Revised Statutes 9-462.04.

Recommendation – Staff recommends that the Planning Commission recommend approval of the Unified Development Code (UDC) amendment to modify the required notification area to include an abutting right-of-way and extend the required distance to allow for a similar number of individuals to be notified of the project. Please see Attachment B for the proposed amendments to the UDC.

Background – On May 10, 2017, the state legislature passed HB 2116 adding the requirement to include municipal right-of-way in the measurement of rezoning protests and calculations (see Attachment C for adopted amendments). This has resulted in two different methods for calculating rezoning protests and notification of rezoning projects. Initially, staff held off on pursuing any amendments to the UDC, as there was discussion at the state level of making additional revisions to these provisions. However, those efforts fell through during the 2018 legislative session, and it appears the measurement methods adopted in HB 2116 will remain for the foreseeable future.

The current calculation of notice area for land use processes is governed by Article 3 of the Unified Development Code. Section 3.2.4 of the UDC requires the notification area to be calculated as a measurement from the property line of the applicant's property, except where a public right-of-way adjoins the property. If the subject property abuts a right-of-way, the distance is measured from the right-of-way boundary line opposite the property line. In other words, the current UDC process skips a right-of-way that is abutting a subject property and begins the measurement of the notification area from the opposite side of the right-of-way. House Bill 2116 requires the inclusion of an abutting municipal right-of-way in the measurement of rezoning protest calculations. Tucson's relevant zoning protest regulations under UDC Section 3.5.3.J.5 are currently in direct conflict with the state mandate.

In June 2019, staff was directed by Mayor and Council to create a required notification process that is in line with the state mandate. Specifically, staff was directed to amend the current process in such a way that would reduce confusion and maintain consistency between state regulations and Tucson zoning regulations, while maintaining notification at or slightly above current levels. Staff was also directed to develop an approach that would allow the process of drawing the notification area to create maps and mailing labels for each land use case to be automated and streamlined.

Since receiving this direction from Mayor and Council, staff has conducted public outreach which included one stakeholder meeting and two public meetings. The goal of this approach was to provide a diverse representation of geographies and perspectives (residents, business owners, developers, etc.) in developing this code amendment. At those meetings, proposals to include an abutting right-of-way in the calculation of the required notification area and to increase the distance of the required notification area for land use processes was reviewed. Some of the feedback received at these meetings was related to:

- Ensuring the same or more individuals are notified of the land use process;
- Freeing up PDSD resources by creating an automated process for mailing labels and maps for public notification;
- Increasing the notification for limited distance projects from 50' to 100';
- Increasing the notification for increased distance projects from 300' to 400';
- Including flexible language which would allow for PDSD staff to notify additional property owners in cases where all four sides of a project are not notified due to a large right-of-way; and
- Leaving the notification for Neighborhood Associations at one (1) mile from the subject property, where applicable.

See Attachment D for a more detailed overview of those meetings.

On September 25, 2019, the Planning Commission held a study session to review the Notification Text Amendment. Staff presented the proposal and the Commission asked questions related to the scope of the proposal, how changes would impact the notification process and whether the number of notified parties would remain the same. At that meeting, the Planning Commission voted 7-0 to set the Notification text amendment for a public hearing on November 13, 2019.

Present Considerations – Under current notification standards there are generally two distinct measurement procedures, a 50' procedure and a 300' procedure. The 50' notice procedure is generally for projects that are smaller and have the potential to impact neighboring properties, such as a Development Design Option (DDO). The 300' notice procedure is generally for larger projects that have the potential to impact a larger area beyond neighboring properties such as rezonings, plan amendments and certain special exceptions.

In order to notify a similar number of properties using this new calculation method that would include right-of-ways (ROW) that were previously excluded, staff proposes increasing the standard notification distance for each of these notification types.

Staff conducted an analysis of four (4) Design Development Option (DDO) applications and six (6) rezoning applications (see Attachment E for the analysis). Staff analyzed each application type to compare the current applicable notification area standards with potential increases including the ROW. Under current standards, DDO applications require notification to property owners within 50' of the subject property, skipping any right-of-way abutting the subject parcel. Staff analyzed each of the applications with potential notification areas of 75' and 100' with the abutting right-of-way included in the calculated notice area. Staff found that because of fluctuations in the size of right-of-ways, increasing the notification area to 100' is necessary to ensure that the same or more property owners are notified of the project.

Current standards for rezoning applications require a 300' notification area, skipping any right-of-way abutting the subject property. Staff analyzed the six rezoning applications with potential notification areas of 400' and 450' including any abutting right-of-way in the calculated notice area. Staff found that increasing the notification area to 400' was sufficient to notice the same or more property owners as current conditions provide.

Additionally, by including an abutting right-of-way in the calculation of the required notification area PDSD can work with the Information Technology department to create a streamlined process for creating mailing labels and maps for land use processes. Due to limitations of our spatial analysis tools, notification areas are currently calculated manually in order to exclude any rights-of-way (the width of which can vary). Changing this requirement so that notification boundaries use a standard distance that includes the right-of-way would allow PDSD to automate the process for providing mailing labels to applicants

and calculating rezoning protests. This would allow PDSD to improve efficiency of our operations and reallocate staff time to other tasks.

Based on the feedback from our stakeholder group, the public meetings, and the analysis conducted, staff is proposing the following changes to the UDC:

1. Inclusion of an abutting right-of-way in the required calculated notification area for all land use processes.

2. Increase the required calculated notification area to 400' for land use processes which currently require a 300' calculated notification area.

3. Increase the required calculated notification area to 100' for land use process which currently require a 50' calculated notification area.

Application types that require notification to neighborhood associations, such as rezonings and plan amendments, will maintain the existing required notification distance (generally one mile). Please note this amendment only pertains to the notification distance and does not change the rezoning protest distance or measurement method.

See Attachment B for the proposed text changes to the UDC.

Plan Tucson Consideration(s) – This item is related to the Plan Tucson Element of Governance & Participation. Specifically, this item is supported by the following policy:

- *G1 – Provide the public with regular communication and sufficient information regarding policy, program, and project planning and decision-making via multiple methods.*

- *G2 – Offer opportunities for productive public engagement in City policy, program, and project initiatives from the beginning of and throughout the planning and decision-making process.*

- *G11 – Facilitate opportunities for neighborhood representatives, business organizations, not-for-profit organizations and agencies, and other stakeholders to meet regularly with and obtain information from City staff and City initiatives and activities.*

Attachments:

A – Current Notification Calculation Process
B – Proposed UDC Text Changes
C – Text of Arizona House Bill 2116
D – Minutes from Stakeholder and Public Meetings
E – Analysis of Impact of Notification Text Amendment