



# COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

**TO:** City Council Members

**FROM:** Nick Tarbet, Policy Analyst

**DATE:** September 29, 2020

**RE: Text Amendment: Early Notification  
PLNPCM2016-00300**

## PROJECT TIMELINE:

Briefing 1: February 4, 2020  
Briefing 2: March 3, 2020  
Briefing 3: Sept 29, 2020  
Public Hearing 1: March 3, 2020  
Public Hearing 2: Oct 6, 2020  
Public Hearing 3: Oct 20, 2020  
Potential Action: TBD

## WORK SESSION SUMMARY

During the September 29 work session, the Council's discussion focused mainly on which items should be listed in 2.60.50.C. Since the Planning related items from this section are being moved to 21A and will continue to be required to go through the early notification process, the remaining list is what the Council is deciding what will be required to go through that process.

Based on the discussion, The Council provided direction to staff to come back with recommendations that would

- Use option #1 as the basis (moving planning items to 21A)
- Include options from other sections of code such as changes to building code, parks, streets, etc.
- Be more specific than "city code amendments"
- Keep the other items not stricken in the draft ordinance:
  - Major changes to street capacity or travel modes
  - Major upgrades to public facilities and structures
  - New construction of major public facilities and structures

The public hearings were set for October 6 and 20. The Council can continue the public hearings so the public can provide additional comments on these amendments.

*The following information was provided for the September 29 work session. It is provided again for background purposes.*

#### **ISSUE AT-A-GLANCE**

The Council will be briefed about a proposal that would make changes to various sections of the *Salt Lake City Code* relating to early notification of the public and recognized community organizations of land use projects. Title 21A (Zoning Ordinance), Title 2-Chapter 2.60 (Recognized Community Organization Ordinance) would be amended.

The Council initiated this petition to clarify early notification regulations for public outreach. The purpose of the proposed changes is to increase awareness and participation by the public of various types of City projects while still providing a timely review process for applicants.

The Planning Commission forwarded a positive recommendation to the Council.

#### **ADDITIONAL INFORMATION**

The Council held the first briefing for this application on February 4 and a follow-up briefing on March 3. Summaries of those briefings are provided below.

#### **March 3 Work Session Follow-up Briefing**

During the March 3 work session, the Council had a follow-up briefing on the early notification ordinance. The Council asked about open houses replacing presentations at community council events (*This change applies when a project is on the border of multiple community councils, or if the community council doesn't request a meeting within 14 days of notifying.*) Planning staff explained the community council can still request the developer attend and quite often they do. It can be a resource/time issue for Planning Staff to attend many different community meetings about the same project – thus the open house idea. Planning said they could work on a division policy to guide this decision.

The Council talked about the potential need for full-time community outreach staff to work exclusively on community outreach and potential ways to invest in funding for technology upgrades to increase public outreach/engagement.

The Council also expressed general support for the technical changes which are outlined in the staff report below under, “February 4 Work Session summary.”

Additionally, the Council asked staff to bring back some options to consider pertaining to the potential issues identified below to Chapter 2.60 Recognized Community Organizations. As mentioned in the staff report below, any changes to City Code, such as budget adoption and amendments, would technically have to follow the early notification requirement due to the provision “All City Code Amendments.”

Staff coordinated with the Attorney's Office and they provided the following three options for the Council to consider.

***The council may wish to consider which of the following option is the preferred option to include in the final ordinance***

- **Option 1:** adopt only planning related amendments to 2.60 that are pending before the Council. Leave the rest of 2.60 as is.
  - Amend Chapter 2.60.050.C: RESPONSIBILITIES OF CITY:
    - ~~Alley vacation~~
    - City code amendments
    - ~~Conditional use~~
    - ~~Demolition of contributing structures located within a local historic district or landmark sites~~
    - Major changes to street capacity or travel modes
    - Major upgrades to public facilities and structures
    - ~~Master plan amendment or policy amendments to be adopted by the city council~~
    - ~~Master plan or policies to be adopted by the city council~~
    - New construction of major public facilities and structures
    - ~~Planned development~~
    - ~~Zoning map amendment~~
- **Option 2:** adopt planning related amendments to 2.60 AND narrow the scope of early engagement so it applies to Major City Code Amendments.
  - "Major City Code Amendments" would need to be defined
  - This option also carves out certain exceptions to the engagement requirements (emergency, pending litigation, requirements under state law, etc.).
  - Amend Chapter 2.60.050.C: RESPONSIBILITIES OF CITY:
    - ~~Alley vacation~~
    - Major City code amendments
    - ~~Conditional use~~
    - ~~Demolition of contributing structures located within a local historic district or landmark sites~~
    - Major changes to street capacity or travel modes
    - Major upgrades to public facilities and structures
    - ~~Master plan amendment or policy amendments to be adopted by the city council~~

~~Master plan or policies to be adopted by the city council~~

~~New construction of major public facilities and structures~~

~~Planned development~~

~~Zoning map amendment~~

- **Option 3:** adopt planning related amendments to 2.60 AND remove specific requirements for early engagement, leaving early engagement up to the discretion of the departments.

- Delete 2.60.050.C: RESPONSIBILITIES OF CITY:

~~Recognized Community Organization Notification And Response: The city will send a notice to the applicable recognized community organization chair(s) for the following types of projects:~~

~~Alley vacation~~

~~City code amendments~~

~~Conditional use~~

~~Demolition of contributing structures located within a local historic district or landmark sites~~

~~Major changes to street capacity or travel modes~~

~~Major upgrades to public facilities and structures~~

~~Master plan amendment or policy amendments to be adopted by the city council~~

~~Master plan or policies to be adopted by the city council~~

~~New construction of major public facilities and structures~~

~~Planned development~~

~~Zoning map amendment~~

### **March 3 Public Hearing Summary**

During the public hearing three people spoke. Their comments included:

- require signage postings for properties be placed closer to the sidewalk/street
- Community Councils should be informed when community activities in their areas are posted to the City's Facebook page.
- Lots of work goes into proposals, project can be made better because of community outreach

The Council closed the public hearing and deferred action to a future Council Meeting.

***The following information was proved for the February 4 work session briefing. It is provided again for background purposes.***

## FEBRUARY 4 WORK SESSION SUMMARY

During the work session briefing, planning staff told the Council there were a few changes that needed to be made to the final ordinance. These were identified after the ordinance had been transmitted. Attached A is the updated ordinance with the proposed changes. Those changes are identified below with the red text underlined and highlighted.

1. During the briefing Council Member Johnston expressed concern a public hearing might be held very early in the process. Staff has suggested the following language that would ensure a public hearing could not be held any sooner than 14 days after the early notification was sent.

Page 3 - Early Notification: The city shall provide notice of a pending land use application to the individuals stated in this section. The city shall provide at least forty-five (45) days for the recipients of the notice to provide comment on the pending land use application before a decision approving or denying the application is made by the applicable land use authority, or recommendation is made if the approval authority is the city council. No public hearing shall be held sooner than fourteen (14) days after the notice has been provided.

2. Clarify notice the City's GIS will be used to identify the property owners and tenants who will receive the notification

Page 3 - Property owners and tenants within three hundred feet (300') of property subject to a pending land use application utilizing available information from Salt Lake City geographic information system records. City-wide zoning map amendments are exempt from this requirement.

3. Clarify that a community outreach event may be held instead of a meeting of the recognized community organization as long as it meets the requirements listed

Page 5-6 - The city will schedule the item for an outreach event to educate, engage, and receive input from the public. An outreach event will be held instead of the recognized community organization meeting when:

- (1) A recognized community organization does not respond within fourteen (14) days of when the notice of pending land use application was sent as to whether it wants to review the matter;
- (2) Within fourteen (14) days of receiving the notice of pending land use application, the recognized community organization does not schedule the item for a recognized community organization meeting;
- (3) The recognized community organization will not meet within forty-five (45) days of receiving the notice from the city;
- (4) The project is within six hundred feet (600') of the boundaries of another recognized community organization's district;
- (5) The subject property is located west of 2200 West;
- (6) The project is a master plan or master plan amendment that impacts multiple recognized organizations;
- (7) The project is a text amendment to the zoning ordinance.

4. Clarify notice the City's GIS will be used to identify the property owners and tenants who will receive the notification for the community outreach event. And what notification will include the type of event, how to participate and location.

Page 6 - The City will also notify the public, property owners and tenants within three hundred (300') feet of subject property, and recognized community organizations who may be affected by the project or who have specifically requested notification of the outreach event for those situations noted in section 2a. of this subsection. Notices will be sent utilizing available information from Salt Lake City geographic information system records. The notice shall include information detailing the type of outreach event, how to participate, when it will occur and the location if applicable.

5. Clarify that mailings for public hearings are for properties within 300' of the property line and the City GIS system will be used to identify the property owners and tenants who will receive the notification

Page 6-7: Mailing For Public Hearing: Notice by first class mail shall be provided: a minimum of twelve (12) calendar days in advance of the public hearing to all owners and tenants of the land as shown on the Salt Lake City geographic information system records within three hundred feet (300') from the property line subject to the application, inclusive of streets and rights of way, or one thousand feet (1,000') of the property line subject to an application for sexually-oriented business requiring conditional site plan review pursuant to Chapter 21A.36 if this title. Mailing labels shall be generated by the city at the time of application submittal and created using the Salt Lake City geographic information system records unless as stated otherwise in this title. Notice by first class mail for zoning text amendments shall only be required if a notice requesting the mailing is received by the planning director.

6. An Outreach Event is given a more robust definition:

Page 12: OUTREACH EVENTS: Outreach events are opportunities for members of the public to learn about and provide comments on land use applications and proposed amendments to land use regulations. An outreach event includes but is not limited to an open house, online forums, presentations at community events, social media posting and dialogue, or other events determined appropriate by the planning director. These events are used to expand involvement opportunities for community members by providing a chance to ask questions and provide comments on an issue or have involvement in the decision-making process.

## **Potential Changes to Chapter 2.60 - Recognized Community Organizations**

The proposed ordinance would copy portions of Chapter 2.60 - Recognized Community Organizations, related to public noticing and codify them in title 21A-Zoning. However, Chapter 2.60 would largely remain in effect.

Section 2.60.50 outlines the responsibilities of the city pertaining to noticing the public on city actions/projects. The Attorney's Office noted the current ordinance requires the city to send a notice to the

applicable recognized community organization chair(s) for the following types of projects. Most of these are planning related; however, the highlighted items have a much wider impact.

- Alley vacation
- City Code amendments
- Conditional use
- Demolition of contributing principal buildings located within a local historic district or landmark sites
- Major changes to street capacity or travel modes
- Major upgrades to public facilities and structures
- Master Plan amendment or policy amendments to be adopted by the City Council
- Master Plan or policies to be adopted by the City Council
- New construction of major public facilities and structures
- Planned development
- Zoning map amendment

The following notification requirement applies to these changes listed above:

***The recognized community organization Chair(s) have forty-five (45) days to provide comments, from the date the notice was sent. A public hearing will not be held, nor will a final decision be made about the project within the forty-five (45) day period.*** Where a project is within six hundred feet (600') of the boundaries of another recognized community organization's district, when more than one recognized organization has requested a presentation of the matter, when the subject property is located west of 2200 West, or when the project is a text amendment to the City Code, the City will schedule the item for an open house and notify the public, including those recognized community organizations who may be affected by the project or who have specifically requested notification of the public open house.

This means, any changes to city code, such as budget adoption and amendments, would technically have to follow this early notification requirement.

The provision, "All City Code Amendments" and other highlighted sections are not included in the new ordinance being proposed for 21A. Planning Staff has proposed to only include the changes related to zoning/planning issues.

Since the petition is currently before the council, it would be possible for the Council to further amend Chapter 2.60. For example, the requirement to notice "city code amendments" could be removed, amended or some exceptions could be added. *Planning staff included three exceptions to the early notification process that will apply to land use items: Recently enacted legislation, temporary land use regulations changes due to natural disaster or other emergency situations.*

If the Council would like to further discuss potential changes to this Chapter, it is possible to move forward by adopting the ordinance as related to 21A, but keep open the petition to address potential changes to Chapter 2.60.

- ***Does the council want to consider making changes to Chapter 2.60 to make changes to clarify the intent of the noticing requirements?***

***The following information was proved for the February 18 work session briefing. It is provided again for background purposes.***

**ISSUE AT-A-GLANCE**

The Council will be briefed about a proposal that would make changes to various sections of the *Salt Lake City Code* relating to early notification of the public and recognized community organizations of land use projects. Title 21A (Zoning Ordinance), Title 2-Chapter 2.60 (Recognized Community Organization Ordinance) would be amended.

The Council initiated this petition to clarify early notification regulations for public outreach. The purpose of the proposed changes is to increase awareness and participation by the public of various types of City projects while still providing a timely review process for applicants.

The Planning Commission forwarded a positive recommendation to the Council.

**Public Process**

Pages 2-4 of the Transmittal letter outlines the public process Planning Staff conducted to get feedback on the proposed ordinance. The process included events such as: former applicant focus group, posted on Planning Division website and Open City Hall, held four open houses, staff attended three Salt Lake Community Network meetings, survey sent to executive board member of community councils, updates were sent out via Planning Division email lists.

**ADDITIONAL INFORMATION**

Planning Staff notified Council Staff that after the Planning Commission forwarded their positive recommendation, the Attorney’s Office noted a few edits to the language needed to be made. Most are grammatical and intended to make the ordinance more understandable.

Planning Staff will give a short summary of those changes during the work session briefing. Additionally, Council staff will review those changes and if staff notes any items that need further review, staff will bring it to the Council’s attention via email.

**Summary of Changes**

Planning Staff provided the following table which outlines the proposed changes compared to the current ordinance.

**Early Notification Text Amendment – Revision Summary**

Topic	Current Language	Proposed Changes
<i>Notification requirements for land use applications</i>	The current ordinance is vague and is not clear on land use notification requirements.	Create new section within the Zoning Ordinance to address public engagement/early notification requirements
<i>What Requires Early Notification?</i>	The following applications currently require early notification: <ul style="list-style-type: none"><li>• Alley Vacations</li><li>• Changes to City Regulations</li><li>• Conditional Uses</li></ul>	Proposed changes include the existing list with the addition of the following: <ul style="list-style-type: none"><li>• Design Review (depending on scope of review)</li><li>• New Construction of principal structures for</li></ul>



	<ul style="list-style-type: none"> <li>• Demolition of contributing structures in local historic districts and Landmark Sites</li> <li>• Master Plans and Master Plan Amendments</li> <li>• Planned Developments</li> <li>• Re-zonings</li> </ul>	multi-family and non-residential uses in local historic districts
<i>Engagement Period</i>	No public hearing or decision can be held/made within the 45-day period.	No decision could be made within 45-day period, but a public hearing or briefing could be held.
<i>Notice to stakeholders</i>	Only requires notice to recognized community organizations	Requires notice to: <ul style="list-style-type: none"> <li>• Applicable recognized community organization(s)</li> <li>• Property owners within 300 feet of subject property</li> <li>• Additional stakeholders may be noticed given type of application and potential impacts</li> </ul>
<i>Posting of property</i>	Sign posting is not required when an application is received.	Once a complete application is received, City would post a sign on the subject property giving notice of the pending land use application with instructions on how to obtain additional information
<i>Response from recognized organizations</i>	Recognized organizations are not required to notify the city whether or not they would like to review the project.	Recognized organizations would be required to let the City know within 14 days of receiving the notice whether they would like to review the project.
<i>Engagement activity (recognized organization meeting v. open house/outreach event)</i>	A recognized organization meeting or open house would be held for certain projects. If a recognized organization does not schedule the item for a meeting, no additional engagement activity is required.	A recognized organization meeting or open house would be held for certain projects. If a recognized organization does not schedule the item for a meeting within 14 days, the item would be scheduled for a city-sponsored outreach event.
<i>Outreach event</i>	Current language states an open house can be held in certain circumstances.	Updates “open house” to “outreach event”. New definition created for an “outreach event” that will allow city staff to use best engagement practices given the scope of the project and

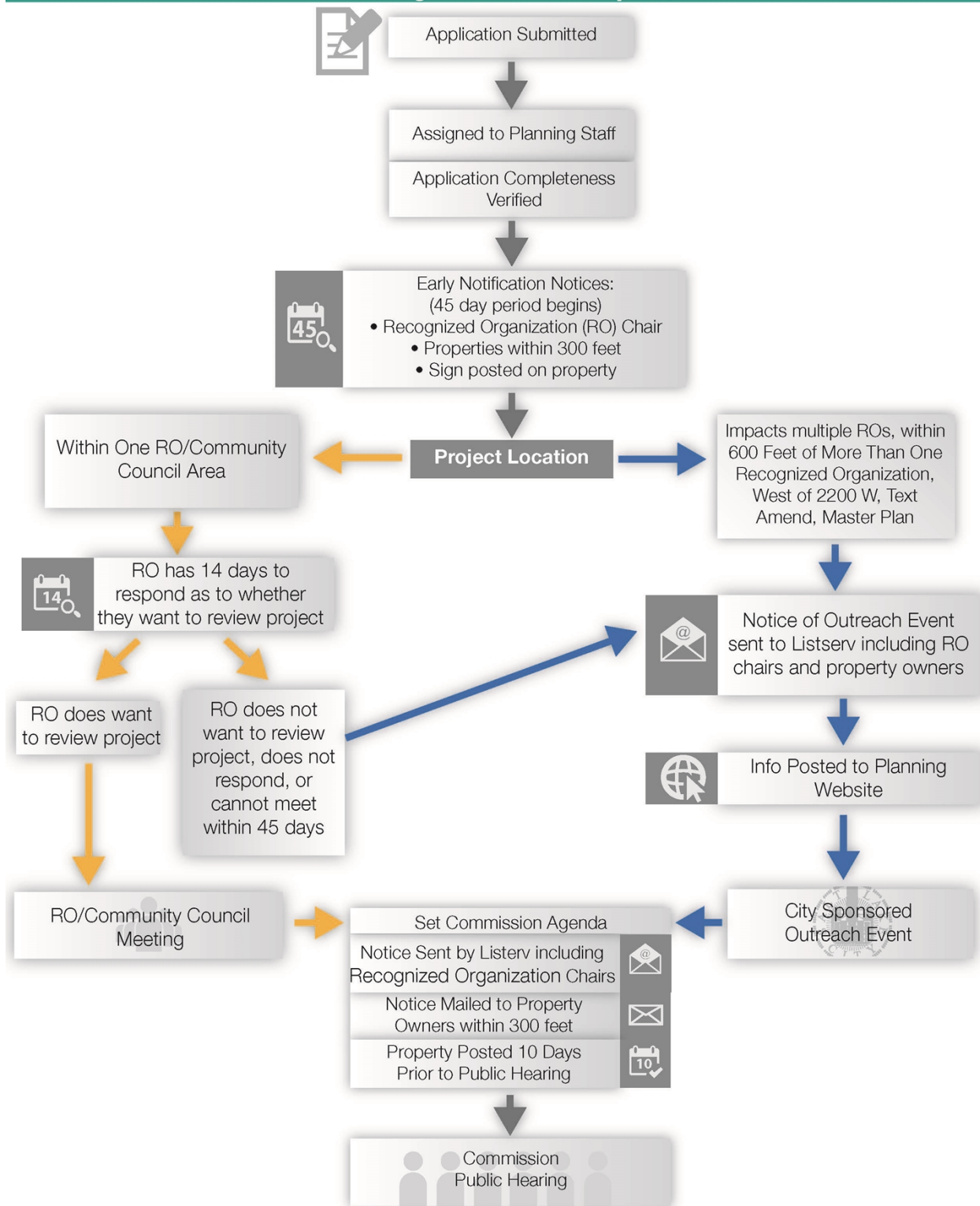
		will not limit the City to only hold “open houses”.
<i>Open House Notices</i>	Open house notices are not required to be sent to property owners and tenants within 300 feet of the subject project.	Open house notices would be sent to all property owners and tenants within 300 feet of the subject project.
<i>Exceptions</i>		List of exceptions added such as items subject to adoption deadline, items responding to emergency situations.
<i>Language clarification</i>		Minor changes to clarify language in various chapters in zoning code. Language clarification and reference changes.
<i>Subdivision clarifications</i>	Regulations are unclear regarding notice to recognized organizations.	Remove the requirements for subdivision processes. Subdivisions under state law are very technical in nature, if they meet technical aspects, it must be approved. Street/alley closures or vacations will still require notice to recognized community organizations.

### **Process Flow Chart**

Attachment B, of the Planning Commission staff report includes the following flow chart that outlines the Early Notification process.

## Proposed Early Notification Process

### Planning Commission January 2019



### Policy Questions:

1. The proposed ordinance provides the following exemptions from the early notification process:
  - a. Amendments related to recently enacted legislation if the code amendment are:

1. subject to an adoption deadline or action date set forth in the legislation;
  2. related to funding City-related projects; or
  3. Are necessary for essential City functions.
- b. A temporary land use regulation meeting the requirements of Utah Code Section 10-9a-504 or its successor.
- c. City code amendments proposed to respond to a natural disaster or other emergency potentially affecting the safety or well-being of individuals.
- d. City code amendments to mitigate the City's exposure to liability where prompt action is reasonably necessary.
- e. The timeframe for the early notification process identified in Sections 21A.10.015.C 1 and 2 may be modified where a land use applicant requests in writing that a decision be made as per Section 10-9a-509.5 (or its successor) of the Utah Code.

***Currently there are not exemptions from the notification process***

***Does the Council support including exemptions from the early notification process?***