



City of San Antonio

Agenda Memorandum

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Agenda Item Number: 3.

Agenda Date: 1/26/2016

In Control: Housing Commission to Protect and Preserve Dynamic and Diverse Neighborhoods

DEPARTMENT: Development Services

DEPARTMENT HEAD: Roderick Sanchez

COUNCIL DISTRICTS IMPACTED: All

SUBJECT:

Briefing on Procedures for Rezoning Notification for Renters and Tenants within 200 feet of a Proposed Rezoning

SUMMARY:

This item includes a briefing on the options and risks to the City of San Antonio regarding the notification to renters and tenants within 200 feet of a property to be rezoned.

BACKGROUND INFORMATION:

The Housing Commission was briefed at the November 17, 2015 meeting regarding the proposed amendments to the Zoning Change Notification Process as recommended by the Mayor's Task Force on Preserving Dynamic and Diverse Neighborhoods. The Commission made several recommendations regarding mailed notices and signage.

The Commission recommended increasing the size of the zoning signs. Staff was also asked to look into translating the sign into Spanish and providing information regarding the applicant's purpose and contact information for the zoning request. There was discussion regarding additional placement for signs, however, the signs must be located on the subject property. Staff currently posts signs in areas of the subject property with the most visibility.

Additional notices mailed to the tenants of property that is the subject of a zoning request was recommended by the Commission. The applicant would be required to provide the tenant addresses for the subject property as

part of the zoning application. The Commission requested information regarding the cost to the applicant for the additional notices. The costs would be associated with the additional staff time and mailing costs. Staff would need to develop a distinct notice for tenants because property owners receive notice that includes a cutout form to mail back to staff regarding their support or opposition. This is a state law requirement regarding written opposition received that triggers the requirement of a $\frac{3}{4}$ vote by City Council to approve a rezoning. There is room for error if the wrong type of notice is sent to a property owner versus tenant.

The Mayor's Task Force recommended a procedure to notify renters and tenants within 200 feet of the property being rezoned. Discussion by the Commission members centered around legal risk to the city as no other Texas City has implemented this procedure and there are concerns related to the collection of the renter or tenant information. There is no accurate public database that maintains tenant address information. The Commission asked to table this item to the December Meeting to allow Development Services staff to work with the City Attorney's Office to determine risks to the city if this procedure was adopted.

ISSUE:

Staff and the City Attorney's Office reviewed several options to provide notification to renters and tenants within 200 feet of a proposed rezoning. The current process to acquire property owner information includes collecting the information from Bexar County Appraisal District (BCAD) to meet the requirements of the Texas Local Government Code for proper notification. BCAD data only includes property owner name and owner address. The City currently does not have accurate data listing all suite or tenant addresses. Acquiring this information would require the city to rely on external companies and their procedures to collect accurate and reliable data that could withstand court challenges. The following outlines options, potential issues, and level of legal risk to the city.

- A. Applicant provides information as part of the zoning request and attests with an affidavit that the information is accurate.

Although this method of collection does not require any additional staff time or resources to collect, the legal risk to the city is high. Applicants are subject to the same or greater limitations in their ability to obtain accurate information as the City. Relying upon the applicant to provide this information may result in the lack of consistent notification to renters and tenants, as the information provided may not be accurate (i.e. missing tenant addresses due to no knowledge of an additional renter in a household or a rental unit that is not clearly visible).

- B. The City contacts property management companies for residential and business tenant addresses, as well as conduct site visits for possible renters within residential structures.

This option carries with it several risks, both legal and to the city employee. First, for residential structures, staff would utilize the information from BCAD to determine the properties where owners address are not the same as the physical address within the notification area. Staff would then need to conduct site visits to determine total tenant addresses (i.e. knocking on doors to determine number of different tenant households). This information could be difficult to collect and may pose a risk to the employee. For property management companies, staff could contact the companies to gather tenant addresses, but the management companies may opt not to provide the information. This haphazard collection method poses a great legal risk to the city in that renter and tenant addresses could potentially not be notified. This random and arbitrary notification process creates the legal risk for the City. Additionally, this option will add additional time to the zoning process due to longer site visits to gather address information or the length of time it takes for the property management company to respond to

requests.

- C. The City could enter into a contract with a mailing list company to receive renter/tenant addresses for each zoning request.

This option allows the city to rely upon the mailing list company and the procedures it has adopted to acquire the renter or tenant addresses. The legal risk to the city is minimal. The legal challenge by tenants that did not receive notice could occur, however, the procedure to collect is done by the mailing list company and the City would be utilizing a consistent and systematic process. This option could be costly, depending on the terms of the contract. For example, costs may be assessed by total number of requests and any overages per request could result in additional charges for every address over the contracted amount. Additionally, the city would need to verify the information, with site visits to ensure the company captured all properties with multiple tenants or renters. This will add additional time to the process as well as potential error if the site analysis missed tenants. Multi tenant addresses may be difficult to determine, especially for residential structures. Staff has reached out to several mailing list companies and several unknowns still exist such as to how the information is collected and accuracy of the data.

- D. The City could provide one (1) notice to the physical address if the property owner address is different.

As mentioned, the current process to acquire property owner information includes collecting the information from BCAD. A courtesy notice to the physical address only, without tenant information, when the owner's address is different from the subject property, presents no risk to the city. However, without knowledge of the total number of tenants for each structure, not all tenants would receive the courtesy notice. This process was implemented by the department between 2000 and 2003, however, there was no significant increase in public input. The practice was dropped for savings and efficiency during the economic downturn.

ALTERNATIVES:

As a bigger sign with more information regarding the rezoning request has been recommended by the Housing Commission in order to increase the public awareness of changes in zoning, the Commission could recommend no change to the current notification process for renters and tenants within 200 feet of the rezoning request.

FISCAL IMPACT:

Recommendations that change the zoning notification process could result in increased expenses. This could result in an increase in application fees.

RECOMMENDATION:

Staff does not recommend changes to the current notification process for properties within 200 feet of the rezoning request. As the objective of the Task Force was to enhance the transparency of the zoning process to increase public awareness and involvement, moving forward with an increase to the size of the sign and adding more information regarding the specific request, could reach the same result. Currently, zoning cases that have extensive public involvement are a direct result of the current sign posted on the property, as well as

communication among neighbors and/or neighborhood associations.

Stakeholder outreach will be conducted over the next few months. Staff will provide a recommendation to the Housing Commission, Zoning Commission, Planning Commission and City Council according to the proposed timeline below:

December 2015: Stakeholder Outreach

January 2016: Draft Policy Recommendation (continue stakeholder outreach)

February 2016: Finalize Policy Recommendation (continue stakeholder outreach)

March 2016: Housing Commission and City Council Housing Committee Presentation and Consideration

April 2016: Zoning Commission/Planning Commission Hearings (with PCTAC Recommendation)

May 2016: City Council Consideration