

**PLANNING & ZONING COMMISSION**  
REGULAR MEETING RESULTS



**DATE:** August 2, 2022

**TO:** Honorable Mayor & City Council

**FROM:** Planning & Zoning Commission

**VIA:** Eric Hill, AICP, Senior Planning Manager acting as Secretary of the Planning & Zoning Commission  
Christina D. Day, AICP, Director of Planning

**SUBJECT:** Results of Planning & Zoning Commission Meeting of August 1, 2022

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**AGENDA ITEM NO. 3 – ZONING CASE 2022-010**  
**APPLICANT: CITY OF PLANO**

Request to amend Article 4 (Amendments) of the Zoning Ordinance to reaffirm historic notice requirements and practices regarding publication of notice of text amendments to ensure compliance with state law after a recent legal decision. Project #ZC2022-010.

**APPROVED:** 7-0

Speaker Card(s) Received	Support:	<u>0</u>	Oppose:	<u>0</u>	Neutral:	<u>0</u>
Petition Signatures Received:	Support:	<u>0</u>	Oppose:	<u>0</u>	Neutral:	<u>0</u>
Other Responses:	Support:	<u>0</u>	Oppose:	<u>0</u>	Neutral:	<u>0</u>

**RESULTS:**

The Commission recommends approval as follows (additions are indicated in underlined text; deletions are indicated in strikethrough text):

**Amend Section 4.300 (Planning & Zoning Commission Public Hearing) of Article 4 (Amendments), such portion of section to read as follows:**

- .4** Notice of a public hearing shall, at a minimum, meet ~~or exceed~~ the requirements of the general laws of the State of Texas. Before the 20th day before the hearing date, written notice of each public hearing before the Planning & Zoning Commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail. If the property within 200 feet of the property on which the change is proposed is located in territory annexed to the municipality and is not included on the most recently approved municipal tax roll, the notice shall be given before the 20th day before the date of the hearing, and notice of the time and place of the hearing must be published in an official newspaper or newspaper of general circulation in the municipality. Notwithstanding requirements of state statute, ~~When~~ any amendment relates to a change of a zoning regulation or to the general text of this ordinance, notice

of the public hearing of the Planning & Zoning Commission shall be given by publication in a newspaper of general circulation in the city of Plano without the necessity of notifying property owners by mail. The notice shall state the time and place of the hearing and the nature of the subject to be considered, which time shall not be earlier than 20 days from the date of publication.

MS/kob

cc: Eric Hill, Senior Planning Manager  
Christina Sebastian, Land Records Planning Manager  
Melissa Spriegel, Lead Planner  
Glenn Greer, Planner  
Cassidy Exum, GIS Technician  
Jeanna Scott, Building Inspections Manager  
Dorothy Alatorre, Sr. Administrative Assistant - Neighborhood Services

CITY OF PLANO  
PLANNING & ZONING COMMISSION

August 1, 2022

**Agenda Item No. 3**

**Public Hearing:** Zoning Case 2022-010

**Applicant:** City of Plano

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**DESCRIPTION:**

Request to amend Article 4 (Amendments) of the Zoning Ordinance to reaffirm historic notice requirements and practices regarding publication of notice of text amendments to ensure compliance with state law after a recent legal decision. Project #ZC2022-010.

**SUMMARY:**

The purpose of this request is to respond to recent state legal decisions and reaffirm notice requirements and practices regarding the publication of notice for text amendments. The amendments are in conformance with the recommendations of the Comprehensive Plan and do not change current notification practices. For these reasons, staff recommends approval.

**REMARKS:**

The Commission called a public hearing on June 20, 2022, to consider amending the Zoning Ordinance regarding the case of *The City of Austin v. Francisca Acuña*, in which a Texas Court of Appeals recently ruled that the statutory requirements for notice of zoning changes are not limited to changes affecting specific properties or areas, but also apply to changes to the text of the zoning ordinance. However, the court noted that the city had the option of adopting a different notice procedure by a supermajority vote (two-thirds vote) of their city council.

Based on this legal decision, staff recommends amending the Zoning Ordinance to reaffirm Plano's current practices and ensure those practices are consistent with the ruling. Current notice practices are not proposed to change. The Zoning Ordinance text is intended to align with both the long-standing notice practices of the city expected by property owners and the legal standards established by this court case.

Current Practices

Plano's current requirements for noticing changes to the text of the zoning ordinance date back to 1971 and were last modified in 1996 to state that "*notice of the public hearing of the Planning*

*& Zoning Commission shall be given by publication in a newspaper of general circulation in the city of Plano without the necessity of notifying property owners by mail” and that this notice is required at least 20 days before the public hearing. This is consistent with state law, which requires notice of the time and place of the hearing to be published in an official newspaper at least 15 days before the hearing. However, this court case has ruled that changes to the text of the ordinance may also be subject to property owner notices, as is the case for land-based zoning changes since state law does not limit the application of either notice type to specific properties or limited areas. At the same time, the court reaffirmed that state law provides for adopting an alternative noticing procedure. By a two-thirds vote (6 of 8 members for Plano) of their city council, cities may adopt alternative standards for noticing when written notice is overly burdensome, whereby the property owner noticing requirements defined in state law would not apply. The costs to change to sending citywide, mailed notices are estimated at \$80,000 per zoning case for the printing and postage. An average of five zoning text amendments have been approved annually over the past three years, resulting in approximately \$400,000 in annual mailing costs, which are not currently part of the city’s budget. Processing a mailing of this magnitude would require significant staffing resources, the resources for which are also currently unbudgeted. For comparison, the average cost to publish notices in the newspaper under the current process is under \$400 per case.*

As it exists today, the noticing standard for a change to the text of the ordinance serves as this alternative procedure allowed by the court. Staff recommends additional language be added to the ordinance to reaffirm this. Numerous other zoning notification tools are in place to inform property owners, including the [Active Zoning Petitions webpage](#), the [weekly city email newsletter](#), and user-customized [zoning case email alerts](#). Acknowledging that the city is satisfied with the notice requirements customary today, the current noticing practices are not proposed to change.

### **Conformance to the Comprehensive Plan**

**Guiding Principles** – The set of [Guiding Principles to the Comprehensive Plan](#) establishes overarching themes that apply to all policies and actions and express values for Plano Today, Plano 2050, and Plano Together. Since the principles do not stand alone but are used in concert with one another and carry across the Plan as a whole, each principle must be judged through a lens that incorporates all other principles to be fully and accurately understood. As such, the Commission is encouraged to review the full list of Guiding Principles and judge zoning requests through the lens of all principles.

**Land Use Action 1 (LU1)** – *Review and evaluate the Zoning Ordinance and make appropriate amendments based on guidance from the Comprehensive Plan.*

This proposed amendment will maintain current practices while ensuring compliance with state law regarding noticing zoning text changes intended to support the development goals in the Comprehensive Plan. This request is in conformance with this action statement.

**Community Involvement & Participation Policy** – *Plano will proactively seek civic participation from all ages, ethnicities, and cultures and provide residents with information, education, and opportunities to increase citizen involvement.*

The proposed amendment maintains the current communication methods utilized for zoning case notification while reducing expenses that could be incurred by adding a costly means of notice. This request is in conformance with this policy.

**Community Involvement & Participation Action 3 (CIP3)** – *Provide the public with regular communication and sufficient information regarding policies, programs, and decision-making using traditional outreach methods and social media marketing.*

The proposed amendment maintains the communication methods utilized for zoning case notification. This request is in conformance with this action statement.

#### **SUMMARY:**

The purpose of this request is to respond to recent state legal decisions and reaffirm notice requirements and practices regarding publication of notice for text amendments. The amendments are in conformance with the recommendations of the Comprehensive Plan and do not change current notification practices. For these reasons, staff recommends approval.

#### **RECOMMENDATION:**

Recommended for approval as follows (additions are indicated in underlined text; deletions are indicated in strikethrough text).

**Amend Section 4.300 (Planning & Zoning Commission Public Hearing) of Article 4 (Amendments), such portion of section to read as follows:**

#### **4.300 Planning & Zoning Commission Public Hearing**

- .4** Notice of a public hearing shall, at a minimum, ~~meet or exceed~~ the requirements of the general laws of the State of Texas. Before the 20th day before the hearing date, written notice of each public hearing before the Planning & Zoning Commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail. If the property within 200 feet of the property on which the change is proposed is located in territory annexed to the municipality and is not included on the most recently approved municipal tax roll, the notice shall be given before the 20th day before the date of the hearing, and notice of the time and place of the hearing must be published in an official newspaper or newspaper of general circulation in the municipality. Notwithstanding requirements of state statute, ~~When~~ any amendment relates to a change of a zoning regulation or to the general text of this ordinance, notice of the public hearing of the Planning & Zoning Commission shall be given by publication in a newspaper of general circulation in the city of Plano without the necessity of notifying property owners by mail. The notice shall state the time and place of the hearing and the nature of the subject to be considered, which time shall not be earlier than 20 days from the date of publication.