

PLANNING AND ZONING COMMISSION

AGENDA OF A REGULAR MEETING FOR THE PLANNING AND ZONING COMMISSION OF THE CITY OF PEARLAND, TEXAS, TO BE HELD ON OCTOBER 18, 2004 AT 6:30 P.M., IMMEDIATELY FOLLOWING THE JOINT PUBLIC HEARING IN THE SECOND FLOOR CONFERENCE ROOM OF CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS

- I. CALL TO ORDER
- II. NEW BUSINESS

A. CONSIDERATION & POSSIBLE ACTION – ZONE CHANGE APPLICATION NO. 1195

Request for an amendment to the Land Use and Urban Development Ordinance of said City from classification Suburban Development District (SD) to Single Family Dwelling District (R-1), on the following described property, to wit:

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Legal Description: 1.00 acre tract of land, Tract 9A5A, Abstract 546, H.T. & B.R.R. Company Survey, Brazoria County, Texas (Located at 6313 Terrell Drive)

Owner: Jose Carlos Saldivar
6313 Terrell Drive
Pearland, Texas 77584

B. CONSIDERATION & POSSIBLE ACTION – ZONE CHANGE APPLICATION NO. 1198

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Request for an amendment to the Land Use and Urban Development Ordinance of said City from classification Suburban Development District (SD) to Single Family Dwelling District (R-1), on the following described property, to wit :

Legal Description : 1.6053 acres, being the remainder of Lot 8, Hickory Place Subdivision, Abstract 310, H.T. & B.R.R. Company Survey, City of Pearland, Brazoria County, Texas (Generally Located on the South Side of Hughes Ranch Road (CR 403), and East of Bryan Court)

Owner : Afis and Nichole Olajuwon
656 Wilcrest Drive
Houston, Texas 77042

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C. CONSIDERATION & POSSIBLE ACTION – ZONE CHANGE APPLICATION NO. 1196

Request for an amendment to the Land Use and Urban Development Ordinance of said City from classification Suburban Development District (SD) to General Business District (GB), on the following described property, to wit :

Legal Description: 3.394 acres of land, being a part of Lot 7 of the Allison Richey Gulf Coast Home Company's Suburban Gardens Subdivision of Section 21, H.T. & B.R.R. Company survey, Abstract 309, Brazoria County, Texas, according to the plat as recorded in Volume 2, pages 23 and 24, Plat Records of Brazoria County, Texas (Generally located on the South Side of Broadway Street (FM 518) and on the East Side of Ower Lane).

50
Owner : Charles W. Kennedy, Jr., Trustee
2764 Bingle
Houston, Texas 77055

Applicant : Brazoport Cardiology
215 Oak Drive South, Suite L
Lake Jackson, Texas 77566

D. CONSIDERATION & POSSIBLE ACTION –ZONE CHANGE APPLICATION NO. 1193

Request for an amendment to the Land Use and Urban Development Ordinance of said City from classification Suburban Development District (SD) to General Business District (GB), on the following described property, to wit :

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Legal Descripton : 1.00 acre tract out of the North 1/2 of Lot 22, Allison Richey Gulf Coast Home Company Subdivision, Section 81, H.T. & B.R.R. Company Survey, Abstract 300, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 2, Page 98, of the Plat Records of Brazoria County, Texas (Generally located on the South Side of Future Broadway Street (County Road 92), and on the East Side of Glosson Road)

Owner : William C. Walsh
P. O. Box 760
Pearland, Texas 775878

PLANNING AND ZONING COMMISSION

Applicant : Melinda Rosinski
6220 Gardnia
Pearland, Texas 77581

E. CONSIDERATION & POSSIBLE ACTION – ZONE CHANGE APPLICATION NO. 1194

Request for an amendment to the Land Use and Urban Development Ordinance of said city from classification Single Family Dwelling District 9R-4) to Commercial District (C), on the following described property, to wit :

Legal Descripton : 0.34 acre tract of land located in the W.D.C. Hall Survey, Abstract 70, City of Pearland, Brazoria County, Texas (Generally located South of Broadway Street (FM 518), and West of Liberty Drive)

Owner : Donya LLC
13630 Beamer # 107
Houston, Texas 77089

Applicant : Osborn and Vane Architects
2000 Bering Drive, Suite 410
Houston, Texas 77057

F. CONSIDERATION & POSSIBLE ACTION – ZONE CHANGE APPLICATION NO. 1197 & SPECIFIC USE PERMIT NO. 136

Request for an amendment to the Land Use and Urban Development Ordinance of said City from classification Suburban Development District (SD) to Single Family Dwelling District – Specific Use Permit (R-1(S)), on the following described property, to wit :

Legal Description : 5.00 acres of land being the west half of Lot 19, Allison Richey Gulf Coast Home Company's Suburban Gardens Subdivision of Section 80, H.T. & B R.R. Company Survey, Abstract 564, Brazoria County, Texas, according to the Plat recorded in Volume 2, Page 98 of the Plat Records of Brazoria County, Texas (Located at 12216 West Broadway Street)

Owner : Pearland New Harvest Christian Fellowship, Inc.
12216 W. Broadway Street
Pearland, Texas 77584

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Applicant : Pastor Keith Anderson
P.O. Box 1211
Pearland, Texas 77588

G. CONSIDERATION & POSSIBLE ACTION –ZONE CHANGE APPLICATION NO. 1174

Request for an amendment to the Land Use and Urban Development Ordinance of said City from classification Single Family Dwelling District (R-4) to Planned Unit Development (PUD), on the following described property, to wit :

Legal Description : 29.3049 acres of land out of Tract 162 of the W. Zychlinski Subdivision of Section 28, H.T. & B.R.R. Company Survey, Abstract 551, according to the map or plat thereof recorded in Volume 29, Page 9, of the Deed Records of Brazoria County, Texas, and being a part of the lands described in deed to R. West Development Co., Inc. Recorded under Brazoria County Clerk's File No. 99-040666, and a deed to Ravenwood Section 3, Ltd., recorded under Brazoria County Clerk's File No. 02-037050, both of the Official Public Records of Brazoria County, Texas (Generally located on the West Side of Future Pearland Parkway, and North of Industrial Drive)

Owner : R. West Development Company, Inc.
6302 Broadway, Suite 205
Pearland, Texas 77581

H. CONSIDERATION & POSSIBLE ACTION – A variance request on behalf of Darlene Tuyet, owner, Estates of Dixie Farm, to request waiver of payment for sidewalk fees until a later date when the street widenings have been completed.

I. CONSIDERATION & POSSIBLE ACTION – Final Plat of the Estates of Dixie Farm, a tract or parcel of land containing 3.0245 acres out of Lots 83 & 84 of George W. Jenkins Subdivision in the W.D.C. Hall League, Abstract 70 in City of Pearland, Brazoria County, Texas

J. CONSIDERATION & POSSIBLE ACTION – Preliminary Plat of Silver Pear 518 Business Park being a subdivision containing 6.0917 acres of land (0.5921 acres in roads) out of Lot 44 and 45 of the Allison Richey Gulf Coast Home Company Subdivision of Section 20, H.T. & B.R.R. Co. Survey, Abstract 506, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 2, Page 23 of the Plat Records of Brazoria County, Texas, City of Pearland.

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K. **CONSIDERATION & POSSIBLE ACTION** – Preliminary Plat of Orchard Plaza being a subdivision of 6.7430 acres in the H.T. & B.R.R. Company Survey, Section 19, Abstract No. 234, City of Pearland, Brazoria County, Texas.

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L. **CONSIDERATION & POSSIBLE ACTION** – Final Plat of Gonzalez Subdivision, 1 Block, 1 Lot, 1.7992 acres in the H.T. & B.R.R. Company Survey, Abstract 243, City of Pearland, Brazoria County, Texas.

M. **CONSIDERATION & POSSIBLE ACTION** – Final Plat Avalon Terrace Section 1, a subdivision of 32.4160 acres of land out of the H.T. & B.R.R. Company Survey, Abstract-505, Brazoria County, Texas *put*

N. **DISCUSSION ITEM** : Planning Conference – Texas Chapter American Planning Association

NEXT MEETING DATES: November 1, 2004 - Regular P & Z
November 15, 2004 – JPH & Regular P & Z

III. ADJOURNMENT

This site is accessible to disabled individuals. For special assistance, please call Young Lorfing at 281-652-1655 prior to the meeting so that appropriate arrangements can be made.

10/18/04 meeting

**MEMBERS OF THE PLANNING & ZONING COMMISSION
as of 08/04**

<u>MEMBER</u>	<u>TERM EXPIRES</u>	<u>PHONE #'S</u>
RUBY SANDARS, Chairman 2402 Frances Dr Pearland, TX 77581 sandarsr1@houston.rr.com	November, 2004 <i>left msg</i> <i>yes</i>	Phone:281-485-1509
TODD IOCCO, Vice-Chairman 3510 Shadycrest Pearland, TX 77581 Tlocco@Houston.RR.com	November, 2005 <i>left msg</i> <i>no</i>	Office: 281-997-3747 Mobile:281-923-8633 Fax: 281-403-1433
NEIL WEST 2218 Shadycrest Pearland, TX 77581 neilwest@ev1.net	November, 2004 <i>yes</i>	Home: 281-997-8898
SHERYL GREINER 2607 Rip Van Winkle Pearland, TX 77581 Sheryl.Greiner@compsol.com	November, 2004 <i>left msg</i> <i>no</i> <i>arriving late</i>	Office:281-486-4844 Home:281-997-1203
DAVID RANSOM 1108 Chesterwood Pearland, TX 77581 dransom@ev1.net	November, 2005 <i>yes</i>	Office:281-226-5957 Home: 281-648-1869
JOE MCWHORTER 2322 Hawk Meadows Pearland, TX 77581	November, 2006 <i>yes</i>	Office: 713-691-6521 Home: 281-997-9560
PETER DUMONT 8321 Diamond Way Pearland, TX 77581 pdumont@tracerindustries.com	November, 2006 <i>no</i>	Office: 713-868-5500 Home: 281-412-7412

JPH

10/18/04

www.dictaphone.com

called to order 6:33 pm

Present

Richard Tetam

Neil West

Woody Owens

Ruby Sanders

Tom Reid

Joe McWhorter

Larry Marcot

David Ransom

Kevin Cook

Mark Finan, Darrin Coker, Nghiem Dan

Richard Kell

Absent 12. Charles Vickrin, Doug Knapp, Sheryl, Todd

6:35

2C 1195

II RS read purpose with the record

IIIa - Staff report

T.G. Senior Planner gave a description of case

owner - add to exist home - request R1 zone

land is compatible - can have R-1 or RE (etc.)

recommend approval R1 - consist with exist use

b no applicant

IV P.C.

no P.C.

V - Staff

no comments

VI Adjourn 6:40

6:41 pm 1198

RS read purpose with hearing

IIIa

T.G. gave a description of zone change

zoned SD - plans to construct residence - 3 bdr

Comply as RE instead R1 - because size allows

RE

		minis	width	front	
difference	RE	- 1/2 ac	- 120 ft	40	setback 15'
	R1	8800 sq ft	- 80	25'	setback 5'

rechip R1 - record RE ^{8,400 sq ft} general trend lot size type
lots

B applicant - no

IV - P.C.

no P.C.

V Council / Staff

Larry Mancat - is this east of school

T.G. yes - West Bay Area

Kevin Cole - can P-2 go w/ RE - is accept

Darin C - yes

Kevin Cole - Advice go with R1 - have problem with
what someone

T.G.

R.T. - is RE design accept

Mr. Clayman - yes is ok w/ me

Wendy Myers previous R1 - why not RE

T.G. has exist house 20 ft setback

Neil West - of subdivided into large tract - could be

Sft Short

T.G.

IV Adj 6:50

1194

RS read purpose into record

IIIa - Staff rep

T.G. - gave a description of area

has been undeveloped - summer area is zoned general bus

Complan - Retail of a row

applicant dedicate ROW from Overline + Summer meadow

lane - may have to provide TIA

recurrent approval

IIIb Applicant - no

IV P.C.

non

V Staff / Council

Kevin Cole - is applicant aware of ROW dedication

T.G. - yes

RS - how much going up -

TC over the left ROW

Swing over a little to summer

line over summer COL

Larry Mart. is there enough land left for

drop on S18

L.K. may be issues - applicant is aware

Woodman - could chip corner to line up

VI adjourn 7:00pm

T:01 2c 1195

RS read purpose

IIIa

T.G. read descrip of request
does not meet GB - property to north -
combine

F.L.U. shows 1/2 low density 1/2 Bus park
glossm - divide low density + Bus park
recommend approval to GB because conform
to GB plan + future bus in

III b applicant -

IV - P.C.

none

V Staff / Council

Larry Mancini - why we did not put in Glossm
T.G.

Rich Tetaler - diagonal line shown

T.G. OH trans

RS - affect details of property

Woody - Blw out assessment

Larry M - if 2c is approved - enter into Resident
or Bus Park last of meet

TC - may have to re-eval

SC deeps out of line

FM - how deep resident to east

TC 150-200 ft

may be part - visible

V Adj 7:09

7:10

2C 1194

RS read purpose

IIIa Staff

Lata Krishna - gave presentation regarding Purpus
land used - subject R4-SF north GB
applicant use for commercial use

ultimately joint w/ parcel to east - all parcel

C - replace all FLU - Strauss semi public
uses believe COT used own property but sold

FLU may not be appropriate

once joint w/ other parcel use exist cut cuts on Broadway + Liberty

staff recommends approval

consistent w/ exist use

IIIa applicant

al Osborne - Osborne + Van

plan to go forward w/ replace

IV P.C.
no comment

IV Council

Richard Tetam - is this next purchase really
purpose for detention

- swapped

Dominick - Kensi

detention

Jay Sawadi

just 79,000 so land - use for parking

purchase of site detention

Darin Carter - stated for detention

represented as use for detention

RS - ownership map

parking or Build

Jay - build a build

Darin Parking lot

LE would look into parking lot

WO get clarified - 1 detention + park

DE - with parking & drainage addressed at plat

RS - confusion proposed as one thing

ND - Sound

Next - send him PCZ

IV adjourn 7:26

7:27 ZC 1197 SU 136

RS read purpose with new

IIIc L.K. gave a presentation

add church related educational facility
church is allowed in R1 zone with specific use
at time of platting additional dedication may be required

ISSUES Staff has - facade - Saemri

staff see SU Permit Appendix & if correct describe
analysis

b applicant

IV PC

non

V Staff / Council comments

non

VI Adjourn 7:39

7:20 ZC 1174

RS read purpose with hearing

L.K. gave presentation

MF PUD/9.36 WPA

RH PUD 11.4 WPA

PUD 9.15 WPA

less than R1 PUD

2 issues - use & density

use - non conform

density conform

Staff feels in use

staff in favor

PUD presenter L Pr 2 10/14
rec 1 comment form - in favor

III b applicant

Rene West + McCain 2401 Country Club
Plan Build retirement community

IV P.C.

Shawn ³⁹¹⁴₂₉₁₃ Travis Lake Wood

quarter - 80s and 55 older - wife children live the
density - how many

R4 - v. lupae visited 9.5 rem. 1/2

opposed

Tommy Gambini - over Pine River Pine

Concern about road - buffer zone -

affected bus - there since 89

8 ft masonry fence - when 10ma answer to gent

V Staff comments

Larry Mancotti - Concern making noise at night 24/7

20 ft fence & noise

Picture of house

residents minimal affect on traffic

R. West - most people retired -

90s 5 ft apt

Kevin Cole - 8ft masonry fence along Smith

EWat - have beam along Fender trg - trees

houses double panel - well insulated

Larry Mardot - solid ~~masonry~~ wall - trees

Rene West - double panel steel

PS - when fence

Sheryl - access road -

Larry M. - 30 home a row ~~less~~ more than ~~100~~ 1 way as

LIC - 100% sprinkler - OIC w/ FM

Kevin Cole - 80% done rest

Dave - done the rest

Word of Am - think real good development

creative use of land

Adj 8:12 p.

P42

8:22 pm

A David motu app
Joc second

app 5-0

B David motu RE zone
Sheryl second

5-0

Can't subdivide due to not enough footage

C David motu
Neil 2nd

5-0

PS - discussion regard alignment of the

D David motu oppena
Sheryl 2nd

5-0

David - general quest

Joc - Buffer

David for
1-4

E David motu
Neil 2nd

A.D. - rd large amount

have RE & put subdetentia

discussion regarding distance

Because parcel not large enough for C

David - not consider well next to the

Ruby - stated use

Joe - clarify for lizen

Neil - name S for detacher

F. Neil apper

Joe 2nd

Table

Sheryl - had parked comment regarding

Ruby - attach facade - x-ming

walk way through fence

r - any developments non resident

Build facade.

Sheryl motin table

Joe 2nd

G. Neil apper

Joe 2nd

Sheryl - too many outstanding issues

David - agree

Six outstanding items

1. overall density - net density + lot coverage

- very important

Joe Specific pages

David clear table in plan

2. Show location of massing form on site plan

- feet required are

8ft high fence - built along property - south side

↳ 11 ft high in along - Ruest pass

Wall on property line

berm is optional

3. Develop requirement of minimum
important Land use - like deer

4. TIA required

Plat require

Need add requirement R4 vs R24 then TIA

5. discrepancy of Square footage
- correct

6. S.P. relocate
not important

7. Provide additional Parking

state clearly in document

8. access rights

resident must fees

Very important

9. nothing else

10. room reduced in density

9.5 occup

rust, Joe ok

Ruby - Sheryl

- 8. NO input
- 9. add all accounts sh /
not issue
- 10. Pld access
needs to be indicated
- 11. Sign parking bill
needs to be stated
not important
- 12. address del restriction

commission fees - these are agreed upon
before it goes to council

David must take
Sheryl 2nd

non

11. Richard explain Pass 2BA

I Richard Keller
outstanding item on Splanack
Sheryl must deny plat
oppose 50

David motion w/shel 50
Joe 2nd

J. 3rd Standie etc
show dividie lin
mutual users bits #2

David met Staff
Sheryl

5-0

K. 3 minutes - Freedom D1

David met w/ St
Sheryl 2nd

SV

L. David met
Sheryl 2nd

SVU

M. Puller

N. Dissios

Adyana 10:11p



CITY OF PEARLAND PLANNING & ZONING

AGENDA ITEM

DATE: October 29, 2004
TO: Planning and Zoning Commission
FROM: Planning Staff
SUBJECT: City of Colleyville's Commissioner Orientation and Training Guide.

Please find attached a copy of Commissioner Orientation and Training Guide prepared by the City of Colleyville.

This training guide was awarded the Current Planning Award at the recent American Planning Association Conference in Austin, TX. Chairperson Ruby Sanders had requested staff get to a copy of the guide for Planning & Zoning Commission's review.

City of Colleyville

Planning and Zoning Commission



Commissioner Orientation and Training Guide

*Commissioner Orientation
And
Training Guide*

Revised June 1, 2004

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Appendix

- **Texas zoning enabling statutes, Section 211, Texas Local Government Code**

- **Conflict of interest statutes, Section 212.017, Texas Local Government Code**

- **Colleyville Oath of Office form**

- **Conflict of interest affidavit**

- **Planning and Zoning Commission Rules of Procedure**

1.

Getting Started as a New Commissioner

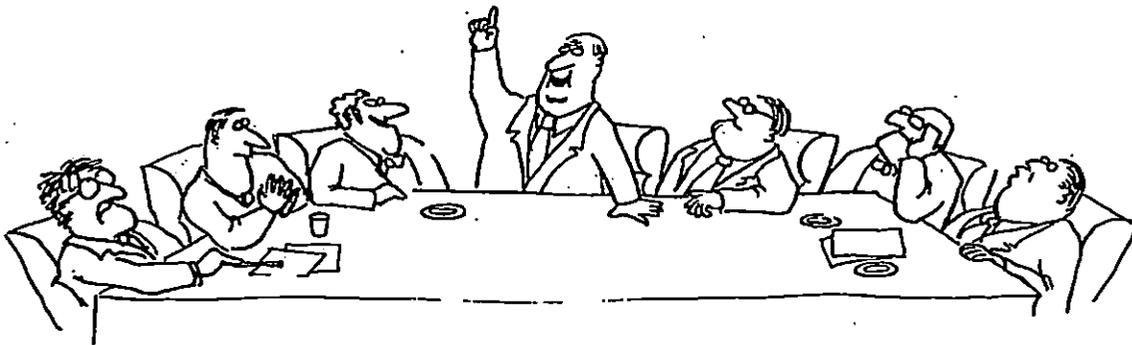
You have just been appointed to the Colleyville Planning and Zoning Commission and you may be thinking, "What do I know about planning and zoning laws, and subdivision regulations?" Perhaps the real reason you decided to be appointed to this volunteer position is to become more involved in the decisions affecting the community, that planning should be represented by someone with roots in the community and not just left to the planning professionals.

Prior knowledge of planning and zoning is not an essential prerequisite for becoming a good Commissioner. What makes for a good Planning and Zoning Commissioner is someone with common sense, an interested listener, and knowledge of community concerns. Staff's job is to provide support to the Commission with the necessary professional expertise.

The Colleyville Planning and Zoning Commission meets twice each month on the second and fourth Mondays at 7:00 p.m., unless

there are no items requiring action by the Commission. Staff delivers the agenda packets on the Friday preceding the meeting, to allow the Commissioner ample time to review the materials prior to the Monday night meeting. All meetings are held in the City Hall.

This Commissioner Training and Orientation Guide has been prepared to give the new commissioner a quick overview of the planning process, public hearing procedures and an awareness of the legal and ethical issues associated with the responsibilities of a planning commissioner. Contained in the Appendix section of this training manual are copies of the Texas zoning statutes, conflict of interest statutes, conflict of interest affidavit, oath of office form and the Colleyville Planning and Zoning Commission Rules of Procedure. Other documents that will be furnished the new commissioner, but not included in this training guide, are the current master plan, land development code and a current zoning map.



Legal Authority of the Planning and Zoning Commission

A. Texas Local Government Code

The authority for establishing a Planning and Zoning Commission is found in a specific chapter of the Texas Local Government Code (see copy of Chapter 211.007 LGC in the appendix of this document). Additionally, most city charters contain provisions for creating the Planning and Zoning Commission or else the authority may be established within the text of the Zoning Ordinance and/or the Subdivision Regulations.

Chapter 212The Texas Local Government Code is the enabling legislation which gives municipalities the authority to adopt zoning regulations and it further states that a home-rule city must appoint a zoning commission to exercise zoning powers. The law allows cities to create separate commissions for zoning and for planning, but most cities, much like Colleyville, assign these two areas of responsibility to a single-bodied Planning and Zoning Commission to handle both zoning and planning related issues.

B. City Charter

The Colleyville City Charter contains authorizing language, which creates the Planning and Zoning Commission as a seven member board and specifies the role and authority for this body. Terms of the Commission are for two years, with three members appointed during odd numbered years and four members appointed in even number years. The Commission is required to elect a Chairman and shall meet in the City Hall at least once each month. Attendance requirements are the same as for members of the City Council, which requires attendance at 75% of the meetings.

The City Charter also contains a provision which allows the creation of a separate Planning Commission upon approval of an ordinance by the City Council at such time as deemed in the best interest of the citizens. The following is a copy of the portion of Article XI from the Colleyville City Charter which addresses the role and composition of the Planning and Zoning Commission.

Excerpts from the Colleyville City Charter

Section 11.01 The Planning and Zoning Commission:

There shall be established a Planning and Zoning Commission, which shall consist of seven (7) citizens of the City of Colleyville. Members of said Commission shall be appointed by the Council for a term of two (2) years. Three (3) members of the Planning and Zoning Commission shall be appointed each odd numbered year and four (4) members shall be appointed each even numbered year. The Commission shall elect a chairman from its membership and shall meet in the City Hall not less than once each month. The Chairman of the Commission shall be a voting member. Vacancies shall be filled by the Council for the remainder of the term. A majority of the members shall constitute a quorum; however, no action shall be approved with less than four (4) affirmative votes. Attendance requirements for members and alternates shall be the same as for members of the Council. The Commission shall keep minutes of its proceedings which shall be of public record. The Commission shall serve without compensation. (Amended January 18, 1992)

Section 11.02 Powers and Duties:

The Planning and Zoning Commission shall:

- (a) Recommend a City Plan for the physical development of the City.*
- (b) Recommend to the Council, approval or disapproval of proposed changes in the Zoning Plan.*
- (c) Exercise control over the platting or subdividing of land within the corporate limits of the City and outside same corporate limits to the extent authorized by law; provided, however, this grant of authority shall not limit the City Council's right to provide that the Council shall have final approval of plats, as provided in Vernon's Annotated Texas Statutes, Article 974a. (Amended April 4, 1981)*

The Commission shall be responsible to and act as an advisory body to the Council, and shall have and perform such additional duties as may be prescribed by ordinance.

Section 11.06 Separation of Planning and Zoning Commissions:

The Council may by ordinance, at such time as deemed in the best interest of the citizens of Colleyville, create a separate Commission to perform the duties of Planning. This Commission shall have the same structure as provided for the Zoning Commission in Section 11.01, and will perform all duties listed in Section 11.01 through 11.05, for Planning only. The Zoning Commission will perform only the duties described in the same Sections for Zoning, and as advisory board to the Planning Commission.

The Zoning Process

A. Historical Perspective

Municipalities adopt zoning ordinances to regulate land use by dividing the community into several zoning districts and establishing development regulations for each district. This section of the Commissioner Training Guide explains the zoning procedures and provides a brief overview of the origin of zoning in this state.

In Texas, the authority for a city to adopt a zoning ordinance is contained in Chapter 211 of the Texas Local Government Code, which states that a municipality is authorized, but not required, to adopt zoning regulations and to divide a city into zoning districts. The enabling legislation further states that zoning regulations must be uniform throughout each zoning district, but the regulations in one district may be different from those in another district. Land use regulations contained in a zoning ordinance may only be applied to those properties located within the city limits and not in the area outside the city known as the extraterritorial jurisdiction.

The process of municipal zoning in Texas came about during the early part of this century and was largely borrowed from similar land use regulatory processes that were already in place in other states. In 1927, the Texas Legislature enacted the first zoning enabling act which gave cities the authority to adopt zoning regulations. Prior to the time when municipalities began adopting zoning regulations, during the early 1900's, land use control was generally a function of private deed restrictions, imposed on a particular development by a developer. Deed

restrictions gave potential property owners some assurance that adjacent properties would be built upon and used in a manner compatible with nearby uses. However, not all properties were deed restricted, and those that were, may still have potential incompatible land use issues to deal with. For example, to enforce a deed restriction, it would be the burden of an unhappy property owner to take legal action in a court of record against a violating property owner. And since deed restrictions are privately imposed, municipalities generally have no enforcement authority. It is through the adoption of local zoning ordinances that land use regulation in this country has become the most effective and generally accepted method at the municipal level.

Over the years, the constitutionality of public land use controls has survived persistent legal challenges. Courts have generally ruled in favor of zoning's necessity because of the ever-expanding number of complex land use issues and the growing urban problems of municipalities. However, in recent years, state legislatures have chipped away at existing land use enabling legislation due to pressures from special interests groups. In Texas, for example, pawn shops and sexually oriented businesses have been successful in getting legislation passed to specifically limit local zoning authority over these types of uses. Additional challenges have come from property owners who claim that some land use regulations go too far, and are viewed as taking property rights without just compensation.

In Texas, public control over the use of private property has still not been universally accepted. Many Texans trace their roots back to those who moved to the State for its wide-open spaces and the ability to use land as they saw fit. This "sovereign property rights attitude" often creates legal challenges from persons who claim they have been denied the right to do whatever they want on their property when denied a rezoning request. However, zoning advocates claim that regulations offer a balance of limited property development rights in exchange for the protection from incompatible land uses.

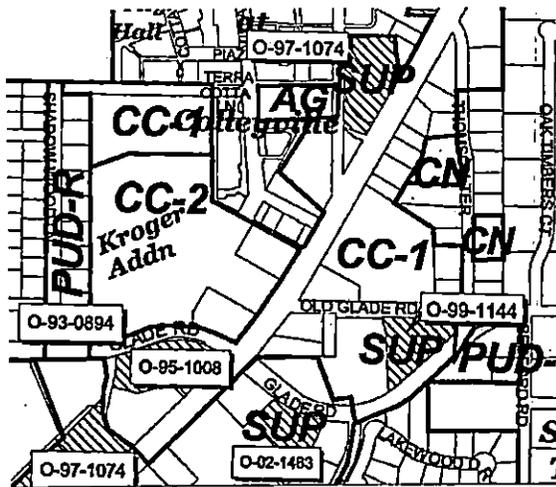
The real estate industry frequently uses the phrase "highest and best use of the property" when challenging a zoning regulation. However, as a Planning and Zoning Commissioner, a better phrase in support of zoning control should be "the most appropriate use" or "the most compatible use" according to the comprehensive plan of the city.

The purpose of zoning is to prevent the mixing of incompatible land uses which may have adverse or detrimental effects on adjacent properties, including the negative impacts on property values. Another purpose of zoning is to guide development of the community in a manner that supports the comprehensive plan, its elements, and promotes the general welfare of the public.

Zoning regulations are adopted by ordinance and contain (1) a zoning map, which shows the boundaries of the different zoning districts, and (2) the zoning text, which describes the development regulations for each zoning district. Zoning regulations to be declared legal, must be reasonable and not go too far. The majority of early court cases that challenged zoning questioned its reasonableness. In other words, zoning must be neither arbitrary nor so unreasonable as to prevent any reasonable use of the property.

B. Types of Zoning Cases

During the infant years of public land use regulation, zoning was relatively simple. Typically, a zoning map divided the community into various zoning districts, each district having a set of straight forward requirements. If the development plans of a property owner were consistent with the zoning, a building permit could be issued. However, if the development plans are inconsistent with the zoning regulations for the property, the owner would be required to submit a request to change the zoning from one district to a district classification where the proposed use is allowed. This type of zoning case is generally known as a straight zoning request. Approval by the City Council merely changes the zoning classification from one district to another. Once the new zoning



Section of Colleyville Zoning Map

classification was in place, the property owner could enjoy the benefit of all the regulations that applied to the specific zoning district.

However, as the industrial revolution of the early 1900's extended the urbanization process across the country, it brought new manufacturing jobs closer to the central city and the matrix of land uses became more complex. Residential areas suffered from the effects of nearby business and industrial activities. Citizens complained to public officials over noise, traffic and other issues related to business activities. Municipalities needed flexibility in writing zoning ordinances and the ability to customize the development regulations specifically for the problems associated with development proposals that didn't fit the regulations of a straight zoning ordinance. In response to this need evolved zoning classifications for planned unit developments and procedures for approving special use permits, which offered flexibility for elected officials in crafting a zoning ordinance that would be specific to a particular proposal.

Colleyville, like most cities, utilizes the following three different types of zoning cases, which are explained in this section:

- straight zoning cases
- planned unit developments
- special use permits

Straight Zoning Cases – A straight zoning case involves a request, usually by a property owner, to rezone a piece of property from one zoning classification to a different classification deemed more suited to the development needs of the applicant. In Colleyville, there are fifteen separate zoning districts. Each district has its own set of regulations, such as, front, side and rear yard set-back requirements. Each zoning

district also has its own set of allowed land uses, such those districts that only allow residential and those that permit different types of commercial development.

Planned Unit Development Cases – Another type of zoning request is called a planned unit development. This type of request consists of rezoning a piece of property from one zoning classification to a zoning category whereby the regulations are "customized" within the text of the ordinance to meet the specific needs of the property. Not only can this approach best address a unique development need, and one that may not properly fit within one of the existing zoning categories, but it also allows elected officials to address concerns of adjacent property owners.

Planned development rezoning requests are considered and approved in the same manner as any other zoning district change. It should be approved by an ordinance that includes a thorough description of the development standards that apply to the area, a map showing the boundaries of the planned development district, and with references to those sections of the zoning regulations where normal regulations are applicable.

Special Use Permit Cases – The third type of zoning case usually considered by a Commissioner is a request for a special use permit. This type of zoning case refers to a request for a particular use that may or may not be appropriate for the requested location unless certain conditions are placed on the approval to mitigate neighborhood concerns. Zoning ordinances typically contain a list of land uses which are "allowed by right" within each zoning district.

The term "allowed by right" means that the use is allowed to function and operate within the zoning district without any further action by the Planning and Zoning Commission or the City Council. Whereas a use listed as requiring approval of a special use permit is intended to give the city an option to decide if the use is appropriate at the requested location or if special conditions should be imposed to address concerns of nearby property owners. This is particularly true where a non-residential zone is adjacent to a residential zone. Certain land uses, such as an auto repair shop, may have certain characteristics which require special consideration by the city prior to the establishment of the use on the site. Neighbors may feel that a masonry screening wall or the relocation of a driveway curb cut to another location would enhance the site's acceptability within the neighborhood. A car wash is another example of a use which many cities require "Special Use Permit" approval before issuing a building permit prior to construction. These are just a few examples of the types of conditions that can be imposed on a special use permit request.

The special use permit procedures allow the city to address site specific issues and attach certain performance standards to the approval of the ordinance. Performance standards may include requirements for hours of operation, fencing, lighting, or other operational related issues. Citizens surrounding the site are given notice of the request similar to the process used for a routine zoning change. This gives the Planning and Zoning Commission and the City Council an opportunity to identify neighborhood concerns and tailor the approval to the needs of the area. A special use permit request is advertised in the newspaper and notices sent to property owners having property within 200 feet just as though it were a routine zoning request.

C. Rezoning Procedures

Changing a zoning regulation or rezoning a piece of property may be initiated by either the City Council, by the Planning and Zoning Commission, or by a property owner. The rezoning process usually starts with the filing of an application with the city by a developer and the payment of the filing fee to cover the costs of advertising and notification. An application is necessary to (1) identify the applicant, (2) identify the boundaries of the property being rezoned, (3) list the official owners of the property, and (4) determine the nature of the rezoning request. If a rezoning request is made by a realtor, developer, or someone other than the property owner, a letter must be obtained from the property owner authorizing the applicant to seek the rezoning request.

Upon receipt of the rezoning application, staff reviews the tax rolls to generate a list of property owners of all properties located within 200 feet adjacent to and surrounding the property where the requested zoning change is being proposed. State zoning laws require the mailing of written notice to all owners of real property located within 200 feet of the property being rezoned to advise them of the date, time and place of the public hearing where the proposed zoning change will be considered by the Planning and Zoning Commission. A minimum of ten day's notice is given prior to the public hearing before the Planning and Zoning Commission and fifteen days prior to the public hearing of the City Council.

Once the rezoning request has been scheduled for the public hearing before the Planning and Zoning Commission, city staff prepares an agenda listing those items requiring action by the Commission. Staff also prepares an agenda

briefing, which provides a general description of the applicant's request and the associated planning issues.

D. Public Hearings

According to state zoning laws, no rezoning request may be considered by the City Council until the Planning and Zoning Commission has forwarded its recommendation. No action on a zoning case can be taken by the Planning and Zoning Commission until a public hearing has been held to allow the public to offer comment on the proposal. While public hearing procedures may vary from one community to another, a good practice is to first allow the applicant an opportunity to present his request. Oftentimes, citizen's comments and concerns are addressed by the applicant before actually being raised by the citizen. Citizens are then given opportunity to offer comment to the Commission. To avoid back and forth conversations at the public hearing, questions from citizens are not generally responded to until all citizens have been given opportunity to speak. When all citizens have been given opportunity to speak, the applicant may be given opportunity to respond to any citizen concerns or to answer questions of the Commission.

Frequently, residents who are not property owners, but who reside within the 200 foot area become upset because they did not receive any written notice of the public hearing. However, State statutes only require that written notice be sent to the property owners, not the residents, located within 200 feet of the property being considered for rezoning.

After the public hearing, the Planning and Zoning Commission votes to forward its recommendation, either in favor or against the proposed change, to the City Council. The City

Council is prohibited from considering any zoning case until it receives the recommendation from the Planning and Zoning Commission. The City Council holds a public hearing as a part of its consideration of the zoning change request.

In Colleyville, a rezoning request that has been denied by the Planning and Zoning Commission is not automatically forwarded to the City Council. The applicant must submit a written request to be placed on the City Council agenda within ten days from the date of the denial action by the Planning and Zoning Commission. A three-fourths favorable vote is required by the City Council to approve a zoning request that has received a denial recommendation from the Planning and Zoning Commission.

E. Citizen Petitions

Occasionally, citizens from the area surrounding a rezoning proposal file a written protest to the Planning and Zoning Commission or to the City Council hearing. When this occurs, the city must take special action to determine if the rezoning case requires a three-fourth's affirmative vote of all the members of the City Council for approval. If the protest is signed by property owners of at least 20 percent of either the area being rezoned or from within the 200 notification area, then the "supermajority" vote of the City Council is required for approval.

F. Contract Zoning

A Planning and Zoning Commissioner may at some time hear the term "contract zoning" and wonder what this term means. Contract zoning might be explained as follows; if a City Council were to approve an ordinance to change the zoning on a tract of land, and in the ordinance agree not to change the zoning again within the

next three years, this would be considered illegal contract zoning. It is illegal because a City Council can not contract away the governmental function authority of zoning change and inhibit a future City Council from rezoning the property. Another example of illegal contract zoning is to include a "reverter" clause in a zoning ordinance, whereby a zoning district change is approved, but the zoning reverts back to the original zoning classification if the developer fails to initiate construction of the proposed project within a prescribed period of time. Zoning can not change automatically, it requires public notification, a public hearing, and action by both the Planning and Zoning Commission and the City Council. Every zoning change must be given proper due process.

G. Spot Zoning

A term periodically heard by a Planning and Zoning Commissioner is "spot zoning." While spot zoning is not an official legal term, it suggests that something is wrong with the approval of such a zoning request. Planning commissioners usually hear claims of spot zoning from citizens at a public hearing who may speak in opposition to a particular zoning district change. Spot zoning is difficult to describe and the courts have found it equally difficult to determine precisely what constitutes spot zoning, but spot zoning is best described as when the approval of a zoning request would grant a privilege to a property that would not be considered on surrounding tracts with similar characteristics. In other words, the requested zoning is out of character of the neighborhood, not consistent with the master plan and is essentially an island of one zoning category, surrounded by contrasting zoning districts.

When determining whether a proposed zoning district change is appropriate, the following criteria should be examined by the commission:

Criteria for Evaluating a Zoning Change

- Consistency with the master plan
- Compatibility with surrounding land uses
- Changes in traffic conditions
- Effects on surrounding property values
- Changes in population densities
- Preserving or changing neighborhood characteristics
- Will a special privilege be granted to an individual, i.e. "spot zoning"
- Effects on public facility capacities, i.e. water, sewer, drainage, streets, etc.
- Neighborhood support or opposition

H. The Zoning Board of Adjustment

In Texas, the statutes giving municipalities the authority to adopt zoning regulations states that a City Council may, but is not required, to appoint a Board of Adjustment. However, the creation of a separate body to handle requests for variances and appeals from the zoning regulations is highly recommended by most professional city planners. According to an opinion issued by the Texas Attorney General's Office in 1989, "When a municipality establishes a Board of Adjustment, it must be a separate body from the City Council." Furthermore, the provision for a separate Board of Adjustment is a key element in the Standard Zoning Enabling Act published by the U. S. Department of Commerce in 1926. It is the Board of Adjustment that "rounds out the rough edges" imposed by zoning regulations that may not apply themselves fairly to all pieces of property in a community. The composition, authorities and voting requirements for the Board of Adjustment are contained in Sections 211.008 through 211.011 of the Texas Local Government Code.

In Colleyville, the Zoning Board of Adjustment is specifically created by the City Charter which states in part under Section 11.05 the following:

Section 11.05 Board of Adjustment.

There shall be a Board of Adjustments as specified in Article 1011G, Chapter 4 Title 28, Revised Civil Statutes of Texas of 1925 as now or hereafter revised.

The Board of Adjustment, according to State statutes, must consist of at least five members appointed for a term of two years by the City Council to provide certain relief and appeal functions with regard to zoning matters. Statutes allow municipalities to appoint four alternates to serve in the absence of a regular member. When an alternate serves as a regular member, the alternate assumes the same voting rights and privileges of a regular member. A member can only be removed for cause, on written charges and only after being given a public hearing. A vacancy on the board is filled for the unexpired term of the vacant member.

The authority granted to the Board of Adjustment is quite similar from state to state because each state basically used the same language contained in the Standard Zoning Enabling Act. Without a Board of Adjustment, a citizen denied a building permit because a proposed construction project is not consistent with zoning regulations would have to seek relief from the City Council.

Drafters of the Standard Zoning Enabling Act felt that a City Council that hears frequent appeals on zoning matters would find it difficult to grant relief without the temptation of constantly changing the regulations, or else give the

appearance of being arbitrary in their actions. Some of the early proponents of zoning argued during constitutional challenges that by granting occasional variances, continued pecking at the "taking private property rights issue would be minimized and help to keep from undermining the intent of zoning which is to preserve and protect private property rights. Drafters of state zoning enabling legislation also felt that the board of adjustment would be more immune to the political environment than a City Council and could exercise its decision making authority as a quasi-judicial administrative function rather than as a legislative action.

Authority of the Zoning Board of Adjustment

- To hear and decide appeals when error is alleged in any order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance.
- To hear and decide special exceptions to the terms of the zoning ordinance in appropriate cases and, subject to appropriate conditions and safeguards, when the ordinance requires the board to do so. Special exceptions must be consistent with the general purpose and intent of the ordinance and in accordance with any applicable rules contained in the ordinance.
- To authorize on appeal variances from the terms of the ordinance that will not be contrary to the public interest, when because of special conditions a literal enforcement of the ordinance will result in unnecessary hardship, so the spirit of the ordinance will be observed and substantial justice done.

The Board of Adjustment is given the statutory authority to approve variances to the zoning ordinance, approve special exceptions, and to hear appeals from an administrative official. Members of the Board of Adjustment should be leery of applications for variances which attempt to circumvent a zoning district change. In Texas, a "use variance" is a violation of zoning

regulations because it circumvents the rezoning process.

The Board of Adjustment has special quorum and voting requirements imposed by the Texas statutes in Chapter 211.008 and 211.009 of the Local Government Code. State statutes require every case considered by the Board of Adjustment to be heard by at least four members. Additionally, the concurring vote of four members of the board is necessary to (1) reverse an administrative order, (2) rule in favor of an applicant on a zoning related issue, or (3) authorize a variance from the zoning ordinance.

Applicants appearing before a Board of Adjustment often raise questions because the requirement for four concurring votes appears confusing. For example, when a motion is made to approve a request and the ensuing vote is 3-2 in favor of the motion, many applicants feel a denial of due process because the majority ruled in their favor. However, the statutes are very clear in the requirement for the four concurring votes.

Due to the nature of their position as a public body, members of the Board of Adjustment should be very cautious in the manner in which they deal with persons with whom they are related to or on issues in which they have personal financial interest.

Many Boards of Adjustment operate in violation of the statute requirement regarding rules of procedure. State zoning laws require every Board of Adjustment to adopt written procedures and have them available upon request. Citizens have the right to know what is expected of them and to know how the Board of Adjustment operates when hearing a case. Having a set of written rules and procedures to give to an applicant being heard can help prevent misunderstandings and hard feelings during the

presentation of testimony. While there are various different examples of rules of procedure available for a Board of Adjustment to adopt, the easiest concept to remember is to assure that each citizen having a case before the board is given due process, which means that the proceedings are open and fair to all concerned.

I. Development Review Committee (DRC)

The Development Review Committee, commonly known as the DRC, is a group city staff used to review and comment on development proposals prior to placing the item on the official agenda for action. In Colleyville it is comprised of representatives from the following departments: Community Development, Engineering, Public Works, Fire, Police, and Building Inspection. Although representatives from the utility companies are generally invited, their attendance depends on the nature of the development proposal.

The Committee's main charge is to review all aspects of development in Colleyville. These usually take the form of plats, zoning exhibits (drawings for changing zoning) and Site Plans normally for commercial development.

The Community Development Department takes the lead as the primary staff to this committee, and is responsible for organizing and running the meetings, soliciting comments from the other departments, taking notes as needed and following up on the reviews with necessary correspondence to the applicants in each case. This staff committee reviews each case and prepares written comments and provides these comments to the developer. The developer is requested to modify his proposal according to staff comments and provide a written response addressing the staff comments.

DRC meetings are held twice-monthly. When a site plan has been modified, each DRC member is asked to review the "final" set of plans and sign-off that the plans are now ready for construction. Also after construction is complete the individual DRC members are asked to review built projects in the field for compliance with the approved plans.

J. Site Plan Review

In Colleyville, all commercial projects are required to obtain site plan approval prior to submitting application for a building permit. This is a staff function in Colleyville and site plans do not require approval by the Planning and Zoning Commission or the City Council. The primary purpose of the site plan approval process is to ensure that the building footprint, parking and landscaping satisfy all city code requirements. Adjustments to the site plan can be made before the applicant submits for the regular building permit. Staff also reviews the exterior building elevations as a part of the site plan approval process. This review assigns a score based on the criteria contained in the Colleyville Land Development Code.

As noted above, once the plans have been initially reviewed by DRC members, comments are forwarded to the applicant to make any needed changes to bring the project into compliance with the city codes and ordinances. After these changes are made, new sets of plans are forwarded back to the staff for a secondary review. If the plans are in compliance, they are initialed by DRC members and forwarded to the Building Inspection Department. After the building plans are reviewed for compliance with the city building codes, a building permit is issued to the applicant to allow construction of the project.

The DRC review process consists of making certain plans adhere to the many city codes that impact a building project in the city, such as: landscaping; building design ordinance; drainage ordinance; setbacks, land uses and parking standards in the zoning ordinance, the sidewalk ordinance, as well as other city standards for street construction.

K. Building Design Criteria

The City of Colleyville adopted building design guidelines in February 1996 by Ordinance #O-95-1013. This ordinance was a part of multiple ordinances that changed commercial zoning in Colleyville. The ordinance was titled as the "Comprehensive Commercial Zoning Ordinance" and included the new zoning districts of CC-1, CC-2 and CC-3, a revised list of permitted uses and other regulations effecting commercial development.

The Building Design Ordinance has five (5) parts, each of which is designed to encourage building features that provide visual interest and character to the external appearance of commercial buildings. The five ordinance parts are:

- A. Facade Articulation
- B. Vertical Departure
- C. Shade Coverage
- D. Horizontal and Diagonal Roof Planes
- E. Fenestration

Points are assigned in each category. To avoid uninteresting buildings, such as one with a flat front wall, points are gained by providing front façade articulation, additional window and door openings, canopies, or complex roof shapes. Structures which have multiple corners, various architectural features, and creative rooflines

receive higher scores than do structures with plain or straight facades. After a design is scored, the points in each category are added together.

To be approved, a building must gain a minimum number of points and the minimum score varies for each commercial zoning district. If a building does not achieve a sufficiently high enough design score, the staff rejects the plans and advises the applicant of the deficiencies. The applicant makes the necessary modifications and resubmits the revised plan for further review. The Land Development Code allows an applicant to appeal a site plan or building design score to the Planning & Zoning Commission which may deny or approve the design.

COMPREHENSIVE PLANNING

A. Relationship to Zoning

Chapter 211.004 of the Texas Local Government Code states that zoning regulations "must be adopted in accordance with a comprehensive plan". For many years in Texas, the comprehensive plan was interpreted by the courts as being the official zoning map. However, in 1997 the Texas Legislature added language to the statutes which states that "the policies of a comprehensive plan may only be implemented by ordinances duly adopted by the municipality and shall not constitute land use or zoning regulations or establish zoning district boundaries." It is this new language that, for the first time in Texas, establishes a comprehensive plan as being a separate document from the zoning ordinance.

Unfortunately, the Texas statutes offer absolutely no criteria for preparing a comprehensive plan, whereas, several other states do have specific guidelines for cities to follow. Prior to 1997, only the reference to comprehensive planning in the zoning enabling statute did cities feel comfortable about adopting comprehensive plans.

A comprehensive plan, at a minimum, is a written document that describes the physical characteristics of a community, identifies development issues, establishes public policies and contains a future land use map. Most comprehensive plans are generally more inclusive than just a land use related document. A comprehensive plan may be a single document or a series of reports that relate to the future development of the city, including,

thoroughfare locations, housing densities, water and sewer facilities, drainage systems, public buildings, park facilities population distributions and business / economic studies. Some comprehensive plans even include sections for electrical utilities and social services, but the list of elements is only limited by the number of issues facing a community.

Preparing a comprehensive plan may take place by a citizen group, city staff or by a private consultant. The planning process is best described as the method used by a public entity to assess its physical, social and economic characteristics, establish a future development scheme and identify actions necessary for its implementation. It is this process where the different ideas, goals and opinions of the citizens are put into the melting pot to produce a plan which best represents public attitudes of the community. The comprehensive plan becomes the foundation upon which zoning related decisions are made. Approval of a zoning request that is consistent with the comprehensive plan or denial of a request which is not consistent with the plan places the city in the best position to defend its zoning actions.

B. Elements of a Comprehensive Plan

A comprehensive plan may not be a single document, and it generally isn't in most communities that have been involved in planning programs for a period of time. There may be several documents that ultimately comprise the comprehensive plan, and each should relate to the other. As the needs of the community

change, or as new information becomes available, or as public policies change, then certain components or elements of the plan may need to be revised. Fundamentally, the comprehensive plan represents a statement of what the community is trying to do with its future physical arrangement.

Land use planning is a function of the physical environment and its arrangement of residential, commercial and industrial land uses. Every comprehensive plan should have an analysis of existing land use relationships as its major component. However, other factors must be considered as well as land use relationships. It should include a study of population trends and forecasts, housing development patterns, commercial building locations, traffic patterns and the utility needs of the community. The analysis of existing land uses should contain thorough descriptions of the various neighborhoods, such as typical lot sizes, average home sizes, major thoroughfare routes, parks and other significant features.

The location of future major thoroughfares is another major concern of the commissioner when evaluating a new development. Because of this and other concerns, the Planning and Zoning Commissioner will see the need to have these planning elements incorporated into the comprehensive planning effort to compliment the land use plan.

A plan for a city must be a reflection of the interests and desires of the community and the only way to assure this is to provide adequate opportunity for citizen input in the development of the plan. Citizen participation is as important a component in the planning process as any other phase in the development of a comprehensive plan. Simply having public meetings won't necessarily guarantee citizen

participation if nobody from the community attends. Notices of public meetings placed in the legal notice section of the newspaper will virtually assure poor attendance at the meetings. The number of key elements may vary from one city to the next according to the different needs that exist. The following is only a suggested list of elements typically found in a master plan for a community in Texas:

Typical Elements of a Comprehensive Plan

- A brief history of the community and its development
- A demographic analysis
- An analysis of factors influencing future development
- A review of existing and projected land uses
- An analysis of the thoroughfare system
- A plan for future water, sewer, and drainage
- Elements regarding parks and public buildings
- Public notification and plan adoption process

Once the comprehensive plan is completed, it is appropriate for the governing body to adopt the plan, either by ordinance or resolution, as the official document or guide for decision-making purposes on development related issues. Adopting a comprehensive plan in this manner gives a proper focus on the planning process, but does not impose any regulations or establish any building restrictions.

Some cities fear that taking such action will bind the hands of the decision-makers and inhibit their ability to be flexible when considering a future development proposal. However, the comprehensive plan should be referred to as merely a planning document, and when it no longer reflects current policy, the opinion of the community, or its elected officials, then the plan should be modified. A comprehensive plan can be adopted or amended at any time.

Too many plans "lay collecting dust," as the saying goes, because they are not referred to on

a regular basis. The City Council and the Planning and Zoning Commission should make an annual review and evaluation of the comprehensive plan a regular feature of their January agendas.

C. City Charter Requirements

A Planning and Zoning Commission may hear the terms "master plan", "the general plan" or "comprehensive plan" during discussions about the future plan of the city. In Colleyville, the City Charter uses the term "Master Plan", but this falls under the umbrella of comprehensive planning as the term is used by city planners.

The Colleyville City Charter specifies that the adoption of a Master Plan must first be recommended by the Planning and Zoning Commission. The charter also states that the Master Plan has certain legal effect on planning and zoning actions. Generally speaking, subdivision plats or other physical developments in the community must be consistent with the Master Plan and submitted to the Planning and Zoning Commission for approval. In the event the Commission recommends negatively, the City Council may overrule such disapproval by a three-fourths affirmative vote of the City Council. The following is a copy of the portion of the City Charter pertaining to the Master Plan.

Excerpts from the Colleyville City Charter

Section 11.03 The Master Plan:

The Master Plan for the physical development of the City of Colleyville shall contain the Commission's recommendations for growth, development and beautification of the City. A copy of the Master Plan, or any part thereof, shall be forwarded to the Council, which may adopt this plan in whole or in parts, and may adopt any amendment thereto after at least one (1) public hearing on the proposed action. The Commission shall act on such plan, or part thereof, and again forward it to the Council for consideration.

All amendments to the Master Plan recommended by the Commission shall be submitted in the same manner as outlined above to the Council for approval, and all other recommendations affecting the Master Plan shall be accompanied by a recommendation from Planning and Zoning Commission.

Section 11.04 Legal Effect of the Master Plan:

Upon adoption of the Master Plan by the Council, no subdivision, street, park, or any public way, ground or space, public building or structure, or public utility, whether publicly or privately owned, which is in conflict with the Master Plan shall be constructed or authorized by the City until and unless the location and extent thereof shall have been submitted to the Commission and approved by the Council. In case of Commission disapproval, they shall communicate their reasons to the Council, which shall have the power to overrule such disapproval by a three-fourths (3/4) vote, and upon such overruling, the Council shall have the power to proceed. The widening, narrowing, relocating, vacating, or change in the use of any street, alley, or public way, or ground, or sale of any public building or real property, shall be subject to similar submission and approval of the Planning and Zoning Commission and failure to approve may be similarly overruled by the Council. (Amended April 7, 1979)

SUBDIVISION REGULATIONS

A. Public Improvements

Explaining the term "plat" to a citizen can be a difficult task, since a plat is merely a drawing of a parcel of land showing its dimensions, the boundaries of the parcel and the location of any public right-of-way dedications or easements for utilities and drainage facilities. But, the term "to plat" is also a process. The process of approving a subdivision plat is also the legal mechanism whereby cities require property owners to improve and dedicate portions of their property for public rights-of-way and to install the public improvements necessary to support the new development as a prerequisite for obtaining a building permit for a new structure and to extend the public improvements to the boundary of the development, so as to make the streets and utilities available to the next property.

Planning and Zoning Commissioners frequently confuse the procedures for approving subdivision plats with those associated with zoning requests. While at first appearing similar, subdivision regulations are quite different from zoning regulations and each serves a different, role in the city planning process. Where zoning is a discretionary action pertaining to the use of a piece of property, subdivision regulations, on the other hand, are development standards adopted to ensure that building lots are established which have sufficient public street access, adequate public facilities, and proper drainage.

Chapter 212 of the Texas Local Government Code provides the statutory authority for cities to adopt local subdivision standards. The statutes

also state that a municipality must approve any subdivision plat which meets all standards. The approval by the city can not be a discretionary act, nor can additional requirements be imposed which are not applicable to all subdivision plats.

The act of dividing a piece of property into two or more parcels for purposes of development triggers the need to have a subdivision plat prepared, although a single parcel may also require platting to gain approval of a building permit. Furthermore, if a parcel has been purchased in the past from someone who divided the tract into two or more parcels at a prior time, a plat is still required even though the current owner may not be dividing the one particular tract at the current time. The approval of the plat by the city provides the opportunity to assure that proper public facilities, such as water, sewer, streets and drainage, have been installed according to minimum standards established by the local authority. The Planning and Zoning Commissioner will quickly learn to distinguish between platted and unplatted property.

Prior to the time when a subdivision plat became the proper mechanism in Texas for conveying property, land was transferred from one person to another using a written "metes and bounds" description. Metes and bounds property descriptions evolved from the original survey system of land grants offered by the Republic of Texas to reward the families of veterans who fought in the battles for independence from Mexico. When subsequent divisions of a parcel of land occurred, the metes and bounds description would refer to the previous

description of the larger parent tract or to one of the corners of the original patent survey. It is very easy to understand the difficulty in locating a piece of land after this process became repeated many times as properties were sold and later divided into smaller parcels. In addition, properties sold by metes and bounds generally made no provisions for public street right-of-way and had to rely on the common laws of the land for gaining access to landlocked tracts. A plat, on the other hand, is a drawing of the property showing the locations and dimensions of all lots, blocks and streets in graphic picture form with portions designated for streets. The location of each block, lot or parcel is assigned a number and when combined with the name of the subdivision, any particular lot can be conveyed any number of times from one person to another with reference to this information.

The adoption of subdivision regulations is the proper legal method used by cities to guarantee that the necessary public facilities exist prior to the time when a structure is authorized to be built on the site. In other words, a building site should not be created nor a house or business constructed on a lot that has no water or sewer services or street access. State statutes which provide guidelines for cities to follow when establishing local subdivision regulations are contained in Chapter 212 of the Texas Local Government Code. State statutes authorize cities to extend their subdivision regulations to the area located outside their city limits known as the extra-territorial jurisdiction.

B. Approval of Plats Mandatory

It is very important to note that the statutes require a municipality to approve a plat that satisfies all the technical requirements of the city. Any subdivision regulations adopted by the

city should include minimum technical specifications for public improvements such as water, sewer, streets, sidewalks, storm drainage facilities, fire hydrant coverage, street lighting and similar facilities. Many cities have inadequate technical specifications and tend to rely on unwritten policies or internal procedures. "This is the way we've always done it" is a phrase regularly used that leads to uncertainty and embarrassing surprises in the development process in those cities without well-written specifications. Without such minimum specifications, the sizing and quality of construction will become subjects for wide ranges of interpretation and provide opportunity for the developer to claim that he can't comply with regulations that are not written. Policies regarding oversizing for future development and cost sharing with city participation should be explained in these technical specifications.

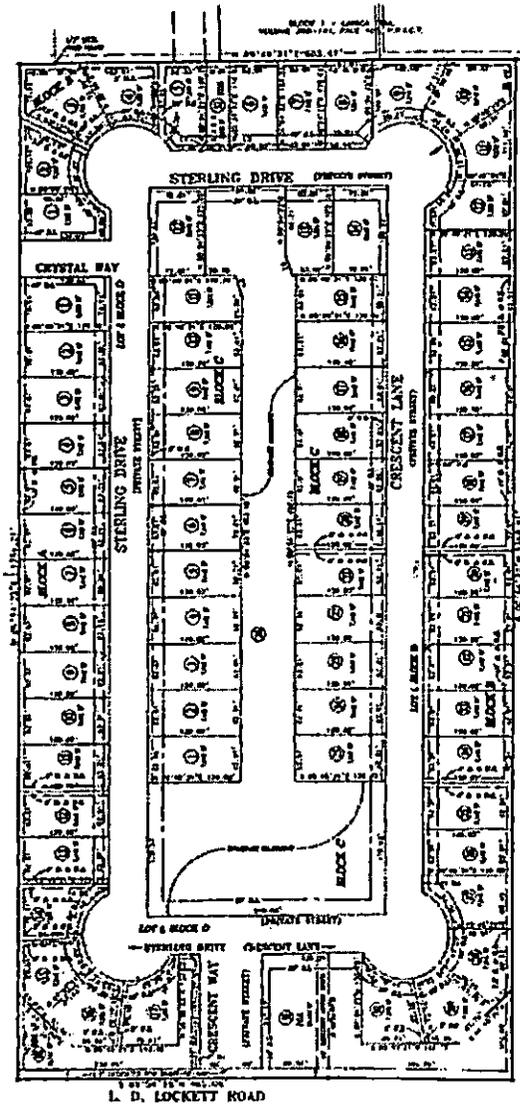
C. The 30 Day Rule

State statutes designate the planning commission as the municipal authority responsible for approving subdivision plats. If a city has no planning commission, then the governing body of the city is given this approval responsibility. However, the statutes give cities the authority to require City Council approval of plats in addition to the approval of the planning commission. The city must act on a plat within 30 days after the date the plat is filed at the city for review.

The problem faced by most cities is determining when a subdivision plat application is complete and ready for review by the planning commission. Many cities start the 30 clock when the application is placed on the Planning and Zoning Commission agenda and since the agenda must be posted 72 hours prior to the

meeting, that would seem a reasonable time to begin the 30 statutory review period.

The statutes state that if the governing body is required to act on a subdivision plat in addition to the planning commission, then the governing body must act on the plat within 30 days after the date the plat is approved by the commission.



D. Preliminary Plats

There is no requirement within the statutes referencing preliminary plat approval. Preliminary plats are usually required by most cities to provide the developer with the need for public improvements early in the development process. This allows a developer to identify what public facilities will be required and determine the feasibility of the development before proceeding to the expensive phase of preparing engineering plans for the final plat.

In Colleyville, preliminary plats must be approved by both the planning commission and the City Council. Whereas, some cities only require planning commission approval of preliminary plats. This reduces the process by one step and shortens the overall time frame for subdivision plat approval. Once a preliminary plat is approved, a developer can proceed with preparation of a final plat, which must be generally consistent with the preliminary plat.

E. Final Plats

A final plat is the official drawing of a subdivision which upon approval is signed by the planning commission chairman and the mayor. The plat is then filed in the deed records of the county. Once filed in the deed records, property can then be conveyed to a builder. Final plat drawings are usually submitted along with engineering plans for all the required public improvements. The city engineering department reviews the public improvement plans to determine if the improvements will adequately

serve the public needs of the development and provide for continuity to adjacent areas.

F. Minor Plats

The Colleyville subdivision regulations allow the planning commission to approve a minor subdivision plat without the additional approval of the City Council. A minor subdivision plat contains less than five acres, has no more than five lots, does not require extension of public street right-of-way to provide access to any lot created, and does not require a waiver from any drainage or utility requirements.

G. Combination Plats

A combination plat is a term affixed to a plat where the developer has elected to combine the preliminary plat and the final plat into a single submittal when the tract of land is to be divided without change of street locations or is so situated that the pattern of streets is predetermined by the streets in the adjacent subdivisions.

H. Replats

When a development has been previously platted into lots and blocks, but the configuration of the lots do not match the current development needs, a developer may submit a replat application to change the arrangement of the development. A replat is reviewed and approved in the same manner as a final plat. However, replats of properties which have been zoned for single or two family residential purposes within the past five years require written notification sent to all property owners within 200 feet of the area being replatted and within the original subdivision. A public hearing is also required on these types of replats.

I. Amended Plats

Amended plats in Colleyville may be approved by city staff without the additional approval of the Planning and Zoning Commission or the City Council. The statutes provide for review and approval of amended plats to correct an error or omission from the original plat drawing or to move a lot line.

J. Reviewing a Subdivision Proposal

Staff input regarding a subdivision plat is extremely important to the Planning and Zoning Commission because staff reviews subdivision plats from a technical perspective. It is staff's responsibility to identify any deficiencies from accepted standards and provide comments to the developer. The developer is given the opportunity to modify the plat to conform to accepted standards or provide written justification for any waivers. The planning commission reviews the plat for conformity with the overall plan of the community and evaluates the merits of any waiver requests.

When reviewing a subdivision plat, whether it be a preliminary plat or a final plat, there are some key factors to consider. For example, the subdivision should conform to the comprehensive plan of the city. The streets should align with any existing streets and provide for extensions of these streets into adjacent vacant properties. The development should provide for the continuation of water and sewer services into adjacent vacant properties. The subdivision should adequately provide for drainage and water run-off concerns. If any portion of the subdivision is located within a flood prone area, then provisions should be made to assure that the lots are removed from the flood area or that each lot contains a buildable site outside the flood area. The lots should be of at least the minimum required size

for the type of zoning applicable for the area. Particular attention should be given to corner lots or to lots situated on cul-de-sacs. Additional lot area should be required in these two situations to assure that each lot provides a suitable building site. Easements, whether for utilities or for drainage purposes, are also potential problem areas that should be looked at very closely to prevent the lot from becoming undesirable. Every lot should be large enough, whether it be a corner lot, cul-de-sac lot, or a lot with an easement, to provide equal building potential as any of the other lots in the subdivision.

Open Records and Open Meetings

A. Posting Meetings

A written notice stating the date, hour, place and subject of each meeting shall be posted in city hall in a place readily accessible to the general public at all times. The notice must be posted at least 72 hours prior to every meeting. The notice must be generally clear about the subject matter being discussed and the greater the public interest in a particular matter, the more specific the posted notice should be. Notices of all public meetings are posted on the two outdoor bulletin boards at the Colleyville City Hall. One of the bulletin boards is located adjacent to the front door and another near the back door.

B. Open Meetings

The Texas Open Meetings Act applies to the Planning and Zoning Commission in the same manner as it does to the City Council. The Office of the Attorney General states that a meeting that is "open to the public" under the Open Meetings Act is one that the public is permitted to attend. While the public is not entitled by the Act to choose the items to be discussed or to speak about items on the agenda, the Planning and Zoning Commission may allow members of the public an opportunity to speak at a public meeting. The Commission may set reasonable limits on the number, frequency and length of presentations before it, but it may not unfairly discriminate among speakers for or against a particular point of view.

All meetings and any related actions of the Planning and Zoning Commission must always be open to the public. Only where it is necessary to consider pending litigation or a legal matter on which the city attorney may have a duty to advise the Commission can there be a session closed to the public. However, any action by the Commission which is discussed in a closed meeting, must be taken during a session open to the public.

Failure to comply with the Open Meetings Act may make any action that was taken at the meeting invalidated by a district court. Additionally, Commissioners that participate in illegal closed meetings or violate other provisions of the Open Meetings Act may be subject to criminal prosecution.

C. Minutes and Official Records

Minutes of every meeting are prepared after each official meeting of the Commission where action is taken. Meetings are generally recorded and transcribed into written summaries which state the subject of each deliberation, identifies those persons presenting testimony, the motions and seconds of actions proposed by the Commission and the vote of those Commissioners in attendance. The minutes are public records and are available for public inspection and copying upon request. A person in attendance may record all or any part of an open meeting by means of a tape recorder or video camera.

Conflicts of Interest and Ethics

A. Statutory Requirements

This section is divided into two parts, the legal aspects of voting actions and the ethical issues associated with a case before the Commission. The Texas Local Government Code spells out the legal implications of conflicts of interest. The rules outlined in Chapter 171 of the Texas Local Government Code are very specific as they apply to a Planning and Zoning Commissioner when considering an action on either a zoning case or a subdivision plat. Chapter 171 states that if a Planning and Zoning Commissioner has a substantial interest in a business entity or a tract of land being considered by the Commission, the member shall file an affidavit, before the vote on the matter, stating the nature of the interest and shall abstain from further participation in the matter. A copy of the affidavit is included in the Appendix of this manual. The law generally identifies an "interest" if:

- The Commissioner owns 10 percent or more, or a \$5,000 interest, in the market value of the business entity appearing before the Commission;
- The Commissioner receives more than 10 percent of his gross income from the entity appearing before the Commission;
- The Commissioner has an ownership or equitable interest of \$2,500 or more in the real property being considered by the Commission;
- The Commissioner is related within the first degree to a person who has an interest of the nature described above.

Chapter 212.017 of the Local Government Code which deals with subdivision plats prohibits a Commissioner from voting or participating in the discussion of a plat if the Commissioner acts as the developer of the tract. A violation of this Act does not void an action of the Commission unless the action would not have passed without the vote of the member who violated the Act.

One question that frequently arises is can a Commissioner vote on a rezoning case if the Commissioner owns property within the 200 foot notification area? The Texas Attorney General's office has issued an opinion which states that this situation will not necessarily preclude a Commissioner from voting on a zoning matter, but the Commissioner must abstain only if it is reasonably foreseeable that the action on the matter will have a special economic effect on the value of the property owned by the Commissioner, distinguishable from its effect on the public.

B. Ethical Dilemmas

The City Council of the City of Colleyville adopted the ethics ordinance, number O-02-1382. The new Planning and Zoning Commissioner is encouraged to obtain a copy of the ethics ordinance from the City Secretary.

Ethical questions are more complex and difficult to identify. Planning Commissioners are often personally contacted prior to meetings by developers or individuals who have special interests in zoning matters. Although such contacts are not illegal, many city attorneys encourage Commissioners to advise these persons to attend the public meetings and voice

their comments where all the Commissioners are present. Commissioners must guard against private meetings in which they discuss zoning matters with other Commissioners or City Council members to avoid the appearance of

circumventing the Open Meetings Act. Generally speaking, it is a good idea to avoid giving even the appearance of an unethical action.

8.

Parliamentary Procedure

A. Due Process

Many zoning cases are struck down as invalid because of "due process" challenges from unhappy applicants or citizens who may feel as though they were not treated fairly. Applicants and citizens expect to receive fair and equal treatment by the actions of the Planning and Zoning Commission. The chairman should provide everyone the opportunity to speak on an item, but may limit the amount of time a person speaks so as to allow time for everyone to

speak. It is important that the chairman not lose control of the meeting by allowing someone to filibuster or have personal exchanges between citizens and an applicant.

Planning and Zoning Commissioners should avoid making comments about a development or a developer before all the evidence and testimony has been presented to prevent the appearance of pre-judging an agenda item.

Good Public Hearing Conduct

- Read the caption of the item under consideration
- Ask staff to present the facts of the case
- Allow the applicant to explain the request
- Open the public hearing, if applicable
- Allow those supporting the request to speak
- Allow those opposed to the request to speak
- Ask if there are any others wishing to speak
- Allow applicant to respond to comments
- Close the public hearing

B. Taking Action on an Item

Since the Planning and Zoning Commission is an official public body, the public expects a certain level of expertise when conducting a public meeting. Action on items should be taken in a manner which is clear to those in attendance at the meeting and for the recording secretary. Once the citizens have completed their questioning and the planning commission is ready for action, a motion for action should be made and seconded regarding the item under consideration. The chairman may entertain discussion among the members to determine if everyone understands what is being voted on. Voting should be taken by show of hands so the recording secretary can note the proper vote on the item.

APPENDIX

- **Texas zoning enabling statutes, Section 211, Texas Local Government Code**
- **Conflict of interest statutes, Section 212.017, Texas Local Government Code**
- **Colleyville Oath of Office form**
- **Conflict of interest affidavit**
- **Planning and Zoning Commission Rules of Procedure**

Section 211 – Texas Local Government Code

**TITLE 7. REGULATION OF LAND USE,
STRUCTURES, BUSINESSES, AND
RELATED ACTIVITIES**

**SUBTITLE A. MUNICIPAL REGULATORY
AUTHORITY**

**CHAPTER 211. MUNICIPAL
ZONING AUTHORITY**

**SUBCHAPTER A. GENERAL
ZONING REGULATIONS**

Section	Purpose.
211.002	Adoption of Regulation or Boundary Includes Amendment or Other Change.
211.003	Zoning Regulations Generally.
211.0035	Zoning Regulations and District Boundaries Applicable to Pawnshops.
211.004	Compliance With Comprehensive Plan.
211.005	Districts.
211.006	Procedures Governing Adoption of Zoning Regulations and District Boundaries.
211.007	Zoning Commission.
211.0075	Compliance With Open Meetings Law.
211.008	Board of Adjustment.
211.009	Authority of Board.
211.010	Appeal to Board.
211.011	Judicial Review of Board Decision.
211.012	Enforcement; Penalty; Remedies.
211.013	Conflict With Other Laws; Exceptions.
211.014	Panel of Board of Adjustment.
211.015	Zoning Referendum in Home-Rule Municipality.
211.016	Continuation of Land Use in Newly Incorporated Areas.
211.016	Zoning Regulation Affecting Appearance of Buildings or Open Space.

[Sections 211.017 to 211.020 reserved for expansion]

**SUBCHAPTER B. ADDITIONAL ZONING REG-
ULATIONS IN MUNICIPALITY WITH POP-
ULATION OF MORE THAN 290,000**

211.021. Additional Zoning Regulations.

**SUBCHAPTER A. GENERAL
ZONING REGULATIONS**

§ 211.001. Purpose

The powers granted under this subchapter are for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

**§ 211.002. Adoption of Regulation or Boundary
Includes Amendment or Other
Change**

A reference in this subchapter to the adoption of a zoning regulation or a zoning district boundary includes the amendment, repeal, or other change of a regulation or boundary.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 211.003. Zoning Regulations Generally

(a) The governing body of a municipality may regulate:

- (1) the height, number of stories, and size of buildings and other structures;
- (2) the percentage of a lot that may be occupied;
- (3) the size of yards, courts, and other open spaces;
- (4) population density;
- (5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and

(6) the pumping, extraction, and use of groundwater by persons other than retail public utilities, as defined by Section 13.002, Water Code, for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health.

(b) In the case of designated places and areas of historical, cultural, or architectural importance and significance, the governing body of a municipality may regulate the construction, reconstruction, alteration, or razing of buildings and other structures.

(c) The governing body of a home-rule municipality may also regulate the bulk of buildings.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 731, § 2, eff. Sept. 1, 2003.

**§ 211.0035. Zoning Regulations and District
Boundaries Applicable to Pawn-
shops**

(a) In this section, "pawnshop" has the meaning assigned by Section 371.003, Finance Code.

(b) For the purposes of zoning regulation and determination of zoning district boundaries, the governing body of a municipality shall designate pawnshops that have been licensed to transact business by the Consumer Credit Commissioner under Chapter 371,

Finance Code, as a permitted use in one or more zoning classifications.

(c) The governing body of a municipality may not impose a specific use permit requirement or any requirement similar in effect to a specific use permit requirement on a pawnshop that has been licensed to transact business by the Consumer Credit Commissioner under Chapter 371, Finance Code.

Added by Acts 1991, 72nd Leg., ch. 687, § 18, eff. Sept. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 62, § 7.81, eff. Sept. 1, 1999.

Section 22 of the 1991 Act provides:

"A pawnshop legally operating in a municipality as a permitted use or as a nonconforming use on March 1, 1989, is entitled to relocate to another site in the same zoning district or classification in which it is located on March 1, 1989, provided the relocation is completed before the first anniversary of the date that the pawnshop ceased doing business at the previous location."

§ 211.004. Compliance With Comprehensive Plan

(a) Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

- (1) lessen congestion in the streets;
- (2) secure safety from fire, panic, and other dangers;
- (3) promote health and the general welfare;
- (4) provide adequate light and air;
- (5) prevent the overcrowding of land;
- (6) avoid undue concentration of population; or
- (7) facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.

(b) Repealed by Acts 1997, 75th Leg., ch. 459, § 2, eff. Sept. 1, 1997.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 458, § 1, eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 459, § 2, eff. Sept. 1, 1997.

§ 211.005. Districts

(a) The governing body of a municipality may divide the municipality into districts of a number, shape, and size the governing body considers best for carrying out this subchapter. Within each district, the governing body may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) Zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration,

among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land in the municipality.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 211.006. Procedures Governing Adoption of Zoning Regulations and District Boundaries

(a) The governing body of a municipality wishing to exercise the authority relating to zoning regulations and zoning district boundaries shall establish procedures for adopting and enforcing the regulations and boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

(b) In addition to the notice required by Subsection (a), a general-law municipality that does not have a zoning commission shall give notice of a proposed change in a zoning classification to each property owner who would be entitled to notice under Section 211.007(c) if the municipality had a zoning commission. That notice must be given in the same manner as required for notice to property owners under Section 211.007(c). The governing body may not adopt the proposed change until after the 30th day after the date the notice required by this subsection is given.

(c) If the governing body of a home-rule municipality conducts a hearing under Subsection (a), the governing body may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of the public hearing. Notice requirements prescribed under this subsection are in addition to the publication of notice required by Subsection (a).

(d) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the governing body. The protest must be written and signed by the owners of at least 20 percent of either:

- (1) the area of the lots or land covered by the proposed change; or

(2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

(e) In computing the percentage of land area under Subsection (d), the area of streets and alleys shall be included.

(f) The governing body by ordinance may provide that the affirmative vote of at least three-fourths of all its members is required to overrule a recommendation of the municipality's zoning commission that a proposed change to a regulation or boundary be denied. Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 211.007. Zoning Commission

(a) To exercise the powers authorized by this subchapter, the governing body of a home-rule municipality shall, and the governing body of a general-law municipality may, appoint a zoning commission. The commission shall recommend boundaries for the original zoning districts and appropriate zoning regulations for each district. If the municipality has a municipal planning commission at the time of implementation of this subchapter, the governing body may appoint that commission to serve as the zoning commission.

(b) The zoning commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the governing body. The governing body may not hold a public hearing until it receives the final report of the zoning commission unless the governing body by ordinance provides that a public hearing is to be held, after the notice required by Section 211.006(a), jointly with a public hearing required to be held by the zoning commission. In either case, the governing body may not take action on the matter until it receives the final report of the zoning commission.

(c) Before the 10th day before the hearing date, written notice of each public hearing before the 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 in the manner provided by Section 211.006(a).

(d) The governing body of a home-rule municipality may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of a public hearing held jointly by the governing body and the zoning commission. If notice requirements are prescribed under this subsection, the notice requirements prescribed by Subsections (b) and (c) and by Section 211.006(a) do not apply.

(e) If a general-law municipality exercises zoning authority without the appointment of a zoning commission, any reference in a law to a municipal zoning commission or planning commission means the governing body of the municipality. Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 211.0075. Compliance With Open Meetings Law

A board or commission established by an ordinance or resolution adopted by the governing body of a municipality to assist the governing body in developing an initial comprehensive zoning plan or initial zoning regulations for the municipality, or a committee of the board or commission that includes one or more members of the board or commission, is subject to Chapter 551, Government Code, regardless of whether the board, commission, or committee has rulemaking or quasi-judicial powers or functions only in an advisory capacity.

Added by Acts 1993, 73rd Leg., ch. 881, § 1, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, § 5.95(82), eff. Sept. 1, 1995.

§ 211.008. Board of Adjustment

(a) The governing body of a municipality may provide for the appointment of a board of adjustment. In the regulations adopted under this subchapter, the governing body may authorize the board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance and in accordance with any applicable rules contained in the ordinance.

(b) A board of adjustment must consist of at least five members to be appointed for terms of two years. The governing body must provide the procedure for appointment. The governing body may authorize each member of the governing body, including the mayor, to appoint one member to the board. The

appointing authority may remove a board member for cause, as found by the appointing authority, on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(c) The governing body, by charter or ordinance, may provide for the appointment of alternate board members to serve in the absence of one or more regular members when requested to do so by the mayor or city manager. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.

(d) Each case before the board of adjustment must be heard by at least 75 percent of the members.

(e) The board by majority vote shall adopt rules in accordance with any ordinance adopted under this subchapter. Meetings of the board are held at the call of the presiding officer and at other times as determined by the board. The presiding officer or acting presiding officer may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

(f) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records.

(g) The governing body of a Type A general-law municipality by ordinance may grant the members of the governing body the authority to act as a board of adjustment under this chapter.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 126, § 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 724, § 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 383, § 1, eff. Sept. 1, 1997.

§ 211.009. Authority of Board

(a) The board of adjustment may:

(1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or an ordinance adopted under this subchapter;

(2) hear and decide special exceptions to the terms of a zoning ordinance when the ordinance requires the board to do so;

(3) authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship and so that the spirit of the ordinance is observed and substantial justice is done; and

(4) hear and decide other matters authorized by an ordinance adopted under this subchapter.

(b) In exercising its authority under Subsection (a)(1), the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination and for that purpose the board has the same authority as the administrative official.

(c) The concurring vote of 75 percent of the members of the board is necessary to:

(1) reverse an order, requirement, decision, or determination of an administrative official;

(2) decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance; or

(3) authorize a variation from the terms of a zoning ordinance.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 126, § 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 724, § 2, eff. Aug. 28, 1995.

§ 211.010. Appeal to Board

(a) Except as provided by Subsection (e), any of the following persons may appeal to the board of adjustment a decision made by an administrative official:

(1) a person aggrieved by the decision; or

(2) any officer, department, board, or bureau of the municipality affected by the decision.

(b) The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a reasonable time as determined by the rules of the board. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

(c) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.

(d) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time.

(e) A member of the governing body of the municipality who serves on the board of adjustment under Section 211.008(g) may not bring an appeal under this section.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 363, § 2, eff. Sept. 1, 1997.

§ 211.011. Judicial Review of Board Decision

(a) Any of the following persons may present to a district court, county court, or county court at law a verified petition stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality:

- (1) a person aggrieved by a decision of the board;
- (2) a taxpayer; or
- (3) an officer, department, board, or bureau of the municipality.

(b) The petition must be presented within 10 days after the date the decision is filed in the board's office.

(c) On the presentation of the petition, the court may grant a writ of certiorari directed to the board to review the board's decision. The writ must indicate the time by which the board's return must be made and served on the petitioner's attorney, which must be after 10 days and may be extended by the court. Granting of the writ does not stay the proceedings on the decision under appeal, but on application and after notice to the board the court may grant a restraining order if due cause is shown.

(d) The board's return must be verified and must concisely state any pertinent and material facts that show the grounds of the decision under appeal. The board is not required to return the original documents on which the board acted but may return certified or

sworn copies of the documents or parts of the documents as required by the writ.

(e) If at the hearing the court determines that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence as directed. The referee shall report the evidence to the court with the referee's findings of fact and conclusions of law. The referee's report constitutes a part of the proceedings on which the court shall make its decision.

(f) The court may reverse or affirm, in whole or in part, or modify the decision that is appealed. Costs may not be assessed against the board unless the court determines that the board acted with gross negligence, in bad faith, or with malice in making its decision.

(g) The court may not apply a different standard of review to a decision of a board of adjustment that is composed of members of the governing body of the municipality under Section 211.008(g) than is applied to a decision of a board of adjustment that does not contain members of the governing body of a municipality.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 363, § 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 646, § 1, eff. Aug. 30, 1999.

§ 211.012. Enforcement; Penalty; Remedies

(a) The governing body of a municipality may adopt ordinances to enforce this subchapter or any ordinance or regulation adopted under this subchapter.

(b) A person commits an offense if the person violates this subchapter or an ordinance or regulation adopted under this subchapter. An offense under this subsection is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the governing body. The governing body may also provide civil penalties for a violation.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this subchapter or an ordinance or regulation adopted under this subchapter, the appropriate municipal authority, in addition to other remedies, may institute appropriate action to:

- (1) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- (2) restrain, correct, or abate the violation;

(3) prevent the occupancy of the building, structure, or land; or

(4) prevent any illegal act, conduct, business, or use on or about the premises.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 211.013. Conflict With Other Laws; Exceptions

(a) If a zoning regulation adopted under this subchapter requires a greater width or size of a yard, court, or other open space, requires a lower building height or fewer number of stories for a building, requires a greater percentage of lot to be left unoccupied, or otherwise imposes higher standards than those required under another statute or local ordinance or regulation, the regulation adopted under this subchapter controls. If the other statute or local ordinance or regulation imposes higher standards, that statute, ordinance, or regulation controls.

(b) This subchapter does not authorize the governing body of a municipality to require the removal or destruction of property that exists at the time the governing body implements this subchapter and that is actually and necessarily used in a public service business.

(c) This subchapter does not apply to a building, other structure, or land under the control, administration, or jurisdiction of a state or federal agency.

(d) This subchapter applies to a privately owned building or other structure and privately owned land when leased to a state agency.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 476, § 1, eff. June 18, 1999.

Section 2 of Acts 1999, 76th Leg., ch. 476 provides:

"The change in law made by this Act applies only to a lease of privately owned land or a privately owned building or other structure that is executed on or after the effective date of this Act. A lease executed before the effective date of this Act is governed by the law in effect when the lease was executed, and that law is continued in effect for that purpose."

§ 211.014. Panel of Board of Adjustment

(a) This section applies only to a municipality with a population of 1.18 million or more.

(b) A board of adjustment shall consist of one or more panels of five members each to be appointed for terms of two years. If more than one panel of the board is appointed, the board consists of the regular members of all of the panels. The board may adopt rules for the assignment of appeals to a panel.

(c) If the board consists of more than one panel, only one panel may hear, handle, or render a decision in a particular case. A decision of a panel of the board on a case constitutes the decision of the board.

(d) Meetings of a panel of the board are held at the call of the presiding officer of the panel and at other times as determined by the panel or the board.

(e) A panel of a board of adjustment:

(1) has the powers and duties that a board of adjustment has under Sections 211.008, 211.009, 211.010, and 211.011; and

(2) is to be treated as a board of adjustment for purposes of the requirement imposed by Section 211.008(d).

Added by Acts 1993, 73rd Leg., ch. 126, § 3, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 402, § 12, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 669, § 73, eff. Sept. 1, 2001.

Section 5(b) of the 1993 Act provides:

"The provisions of Section 3 of this Act apply only to a case filed with a board of adjustment on or after the effective date of this Act."

§ 211.015. Zoning Referendum in Home-Rule Municipality

(a) Notwithstanding other requirements of this subchapter, the voters of a home-rule municipality may repeal the municipality's zoning regulations adopted under this subchapter by either:

(1) a charter election conducted under law; or

(2) on the initial adoption of zoning regulations by a municipality, the use of any referendum process that is authorized under the charter of the municipality for public protest of the adoption of an ordinance.

(b) Notwithstanding any procedural or other requirements of this chapter to the contrary, the governing body of a home-rule municipality may on its own motion submit the repeal of the municipality's zoning regulations, as adopted under this chapter, in their entirety to the electors by use of any process that is authorized under the charter of the municipality for a popular vote on the rejection or repeal of ordinances in general.

(c) The provision of this chapter shall not be construed to prohibit the adoption or application of any charter provision of a home-rule municipality that requires a waiting period prior to the adoption of zoning regulations or the submission of the initial adoption of zoning regulations to a binding referendum election, or both, provided that all procedural

requirements of this chapter for the adoption of the zoning regulation are otherwise complied with.

(d) Notwithstanding any charter provision to the contrary, a governing body of a municipality may adopt a zoning ordinance and condition its taking effect upon the ordinance receiving the approval of the electors at an election held for that purpose.

(e) The provisions of this section may only be utilized for the repeal of a municipality's zoning regulations in their entirety or for determinations of whether a municipality should initially adopt zoning regulations, except the governing body of a municipality may amend, modify, or repeal a zoning ordinance adopted, approved, or ratified at an election conducted pursuant to this section.

(f) The provisions of this section shall not authorize the repeal of an ordinance approving land-use regulations adopted under the provisions of this chapter by a board of directors of a reinvestment zone under the authority of Section 311.010(c), Tax Code.

Added by Acts 1993, 73rd Leg., ch. 126, § 4, eff. Sept. 1, 1993.

§ 211.016. Continuation of Land Use in Newly Incorporated Areas

*Text of section as added by Acts 2003,
78th Leg., Ch. 279, § 1*

(a) A municipality incorporated after September 1, 2003, may not prohibit a person from:

(1) continuing to use land in the area in the manner in which the land was being used on the date of incorporation if the land use was legal at that time; or

(2) beginning to use land in the area in the manner that was planned for the land before the 90th day before the effective date of the incorporation if:

(A) one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and

(B) a completed application for the initial authorization was filed with the governmental entity before the date of incorporation.

(b) For purposes of this section, a completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant.

(c) This section does not prohibit a municipality from imposing:

(1) a regulation relating to the location of sexually oriented businesses, as that term is defined by Section 243.002;

(2) a municipal ordinance, regulation, or other requirement affecting colonias, as that term is defined by Section 2306.581, Government Code;

(3) a regulation relating to preventing imminent destruction of property or injury to persons;

(4) a regulation relating to public nuisances;

(5) a regulation relating to flood control;

(6) a regulation relating to the storage and use of hazardous substances;

(7) a regulation relating to the sale and use of fireworks; or

(8) a regulation relating to the discharge of firearms.

(d) A municipal ordinance or rule in conflict with this section is void.

Added by Acts 2003, 78th Leg., ch. 279, § 1, eff. Sept. 1, 2003.

*For text of section as added by Acts 2003,
78th Leg., ch. 524, § 1, see § 211.016, post.*

§ 211.016. Zoning Regulation Affecting Appearance of Buildings or Open Space

*Text of section as added by Acts 2003,
78th Leg., Ch. 524, § 1*

(a) This section applies only to a zoning regulation that affects:

(1) the exterior appearance of a single-family house, including the type and amount of building materials; or

(2) the landscaping of a single-family residential lot, including the type and amount of plants or landscaping materials.

(b) A zoning regulation adopted after the approval of a residential subdivision plat does not apply to that subdivision until the second anniversary of the later of:

(1) the date the plat was approved; or

(2) the date the municipality accepts the subdivision improvements offered for public dedication.

(c) This section does not prevent a municipality from adopting or enforcing applicable building codes

or prohibiting the use of building materials that have been proven to be inherently dangerous.

Added by Acts 2003, 78th Leg., ch. 524, § 1, eff. Sept. 1, 2003.

For text of section as added by Acts 2003, 78th Leg., ch. 279, § 1, see § 211.016, ante.

Section 2(b) of Acts 2003, 78th Leg., ch. 524 provides:

"Sec. 2. (b) The change in law made by this Act applies only to a residential subdivision plat approved by a municipality on or after the effective date of this Act. A residential subdivision plat approved by a municipality before the effective date of this Act is governed by the law in effect when the plat was approved, and the former law is continued in effect for that purpose."

[Sections 211.017 to 211.020 reserved for expansion]

SUBCHAPTER B. ADDITIONAL ZONING REGULATIONS IN MUNICIPALITY WITH POPULATION OF MORE THAN 290,000

§ 211.021. Additional Zoning Regulations

(a) The governing body of a municipality with a population of more than 290,000 that has adopted a comprehensive zoning ordinance under Subchapter A may, by ordinance, divide the municipality into neighborhood zoning areas after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

(b) The mayor of the municipality, with the approval of the governing body, may appoint a neighborhood advisory zoning council for each of the neighborhood zoning areas. Each zoning council must be composed of five citizens who reside in the neighborhood zoning area. A zoning council member is appointed for a term of two years.

(c) Each neighborhood advisory zoning council shall provide the zoning commission with information, advice, and recommendations relating to each application filed with the zoning commission for zoning regulation changes that affect property within that neighborhood zoning area.

(d) On the filing of a zoning change application with the zoning commission, the zoning commission shall provide the appropriate neighborhood advisory zoning council with a copy of the application. The zoning council shall conduct a public hearing on the application and must publish notice of the time and place of the hearing in an official newspaper or a newspaper of

general circulation in the municipality before the 10th day before the date of the hearing.

(e) At or before the zoning commission's hearing on the zoning change application, the neighborhood advisory zoning council shall submit to the zoning commission any information, advice, and recommendations relating to that application that the zoning council considers proper. The zoning commission may not overrule a recommendation of the zoning council with respect to the disposition of the application unless at least three-fourths of the members of the zoning commission who are present at the meeting vote to overrule the recommendation.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

Section 212.017 – Texas Local Government Code

§ 212.017. Conflict of Interest; Penalty

(a) In this section, "subdivided tract" means a tract of land, as a whole, that is subdivided. The term does not mean an individual lot in a subdivided tract of land.

(b) A person has a substantial interest in a subdivided tract if the person:

(1) has an equitable or legal ownership interest in the tract with a fair market value of \$2,500 or more;

(2) acts as a developer of the tract;

(3) owns 10 percent or more of the voting stock or shares of or owns either 10 percent or more or \$5,000 or more of the fair market value of a business entity that:

(A) has an equitable or legal ownership interest in the tract with a fair market value of \$2,500 or more; or

(B) acts as a developer of the tract; or

(4) receives in a calendar year funds from a business entity described by Subdivision (3) that exceed 10 percent of the person's gross income for the previous year.

(c) A person also is considered to have a substantial interest in a subdivided tract if the person is related in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to another person who, under Subsection (b), has a substantial interest in the tract.

(d) If a member of the municipal authority responsible for approving plats has a substantial interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the municipal secretary or clerk.

(e) A member of the municipal authority responsible for approving plats commits an offense if the member violates Subsection (d). An offense under this subsection is a Class A misdemeanor.

(f) The finding by a court of a violation of this section does not render voidable an action of the municipal authority responsible for approving plats unless the measure would not have passed the municipal authority without the vote of the member who violated this section.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 624, § 3.01, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 561, § 38, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, § 5.95(27), eff. Sept. 1, 1995.

STATE OF TEXAS:

COUNTY OF TARRANT:

AFFIDAVIT

The undersigned, as a member of the City of Colleyville (name of board or commission) _____ makes this Affidavit relative to item number _____ on the _____ agenda dated the _____ day of _____ 20____, and hereby on oath states the following:

I, and/or a person or persons related to me, have a substantial interest in my own business, or in the below names business entity, that would be peculiarly affected by a vote or decision of the Colleyville (name of board or commission) _____ as those terms are defined in Section 171.001, etc. seq., Texas Local Government Code.

The business entity is (name) _____ located at (address) _____

I, and/or such relative or relatives have a substantial interest in this business entity for the following reasons: (Check all which are applicable.)

- () Own 10% or more of the voting stock or shares of the business entity or of the fair market value of the business entity. The business entity is likely to receive an economic benefit if a title insurance policy is issued on the property in the above entitled case.
- () Own \$5,000 or more of the fair market value of the business entity.
- () Funds received from the business entity exceed 10% of my and/or such relative's or relatives' income for the previous year.
- () Real property is involved and I, and/or my relative or relatives have an equitable or legal ownership with a fair market value of at least \$2,500.
- () A relative of mine has a substantial interest in the business entity or property that would be affected by a decision of the public body of which I am a member.

Upon the filing of this Affidavit with the City Secretary of the City of Colleyville, I affirm that I will abstain from voting on any decision involving this business entity and from any further participation on this whatsoever.

SIGNED this _____ day of _____, 20____.

Signature of Official

Title

BEFORE ME, the undersigned authority, this day personally appeared _____, and on oath stated that the facts hereinabove stated are true to the best of his/her knowledge or belief.

Sworn to and subscribed to before me on this _____ day of _____ 20____.

Notary Public in and for the State of Texas

My Commission Expires: _____

In the name and by the authority of

The State of Texas

OATH OF OFFICE

I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God.

Affiant

SWORN TO and subscribed before me by affiant on this _____ day of _____, 19_____.

(Seal)

Signature of Person Administering Oath

Printed Name

Title

**RULES OF PROCEDURE
PLANNING AND ZONING COMMISSION
OF THE CITY OF COLLEYVILLE, TEXAS**

ARTICLE I – DECLARATION OF POLICY

It is hereby declared to be the policy of the Planning and Zoning Commission of the City of Colleyville, Texas that members are appointed to serve the City of Colleyville and the community. Members of the Commission are to attend and participate in the proceedings of the Commission. The Commission shall conduct itself in accordance with all applicable law.

ARTICLE II - ORGANIZATION

Section A. Officers.

The officers of the Commission shall be a Chairman and a Vice-Chairman. The membership of the Commission shall be in accordance with Article XI, Section 11.01 of the Charter of the City of Colleyville. The Commission shall elect its Chairman and Vice-Chairman from among its members once a year, at its first regular meeting following the appointment of its new members, or as deemed necessary.

1. The Chairman shall preside at all meetings. The Chairman shall call special meetings as may be needed for the orderly conduct of the business of the Commission. The Chairman also signs the minutes of each meeting of the Commission and all Plats.
2. The Vice-Chairman shall preside at commission meetings in the absence of the Chairman and shall fulfill all the duties of the Chairman. Should the Chairman resign, or that office become vacant for other reasons, the Vice-Chairman shall act as Chairman until election of a new Chairman.
3. The Commission shall appoint a Recording Secretary to record the minutes of the proceedings of every meeting. The appointment shall be made at time of re-election of officers.

ARTICLE III - MEETINGS

Section A. Arrangements

1. **Time and Place.** The regular meeting place of the Commission shall be in the Council Chamber in the City Hall. The Commission shall, from time to time, set a schedule for its regular meetings which shall not occur less frequently than once a month. Special meetings may be called by the Commission or by its Chairman. All meetings shall be open to the public.
2. **Quorum.** Four (4) members present shall be necessary to constitute a quorum of the Commission.
3. **Preparation.** The Chairman shall secure from staff all such materials and analyses as may be useful to the Commission in considering any matter before it.

4. **Work Session.** Work sessions of the Commission shall be at the call of the Chairman. The meeting place for work sessions shall be at the discretion of the Chairman. All work sessions shall be open to the public.
5. **Representation.** Any person seeking a change in zoning or presenting any other matter to the Commission shall appear before the Commission in person, by agent, or by attorney.
6. **Rules of Procedure.** The Commission hereby adopts Robert Rules of Order as the rules of procedure which shall govern the business proceedings of the Commission, whenever they are not in conflict with the provisions of these Rules of Procedures.

Section B. Conduct of Meeting.

1. Hearings.

- a. The Chairman shall call for each application or proposal. The Chairman shall read the public notice and request staff to present the facts on the application or proposal. The Chairman will subsequently open a public hearing therefore.
- b. The applicant and any experts, invited by the applicant, of said application shall have up to 20 minutes to present their case for adoption of their application.
- c. The Commission shall hear other interested parties, individually and separately. Each person shall be allowed no more than five (5) minutes to address the Commission. No debate shall be permitted except among members of the Commission.
- d. The applicant shall be permitted up to a five (5) minute rebuttal.
- e. Following the rebuttal, the Commission may direct questions to the applicant, proponents, opponents or staff.
- f. The Chairman may request a recommendation from the city staff.
- g. The public hearing shall then be closed by the Chairman after which the applicant or citizens may NOT present additional testimony unless the public hearing is reopened by the Commission.

Section D. Voting Procedure.

1. When the question is put, the Chairman shall call the roll in place number sequence with each member answering "Aye," or "Nay," or "Not Voting." Any member of the Commission "Not Voting" shall give a statement of his reason for not voting. On completion of the roll call, the Chairman shall announce the results and the effect of the motion.
2. The Planning and Zoning Commission shall comply with all applicable conflict of interest laws.
3. Members may abstain from voting on the adoption of minutes if they have been absent from the meeting or work session.

4. Members shall not leave the meeting table to discuss pending matters with members of the audience, nor shall members of the audience discuss matters with individual Commission members during the meeting.

ARTICLE IV - AMENDMENTS

These rules of procedure may be amended after introduction of the proposed amendment at a regular meeting and voted upon at the next meeting and shall become effective upon an affirmative vote of the Commission.

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**PASSED AND APPROVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF COLLEYVILLE ON THE 23<sup>rd</sup> DAY OF OCTOBER, 2000. (AMENDED THE RULES OF PROCEDURE PREVIOUSLY APPROVED ON THE 27<sup>th</sup> DAY OF JULY, 1987.)**  
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ADOPTED:

ATTESTED:

Signed: Tom Hart

Signed: Janet E. Levy

Chairman

Board Secretary

Filed in the Office of the City Secretary this 31st day of October, 2000.

Signed: Cynthia Singleton

City Secretary