

AGENDA – WORKSHOP OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF PEARLAND, TEXAS, TO BE HELD ON APRIL 17, 2006, AT 6:30 P.M., IN THE COUNCIL CHAMBERS OF CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS.

I. PURPOSE OF THE WORKSHOP:

PLANNING AND ZONING INPUT AND DISCUSSION: *Planning and Zoning Orientation, by Deputy City Attorney Nghiem Doan*

II. 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.

Planning & Zoning Orientation

I. Role

A. Recommending body to City Council

1. amendments under the UDC
 - a. text changes to the UDC
 - b. changes to the Comprehensive Plan
 - c. changes to the zoning map
 - 1) requests for rezoning
 - a) is it the highest and best use of that land?
 - b) consistency with the comprehensive plan & zoning map
 - 2) requests for conditional use permits (CUPs)
 - a) uses that are generally compatible with the permitted uses
 - b) allows review of each case to ensure appropriate location
 - 3) requests for Planned Development districts
 - a) allows creativity in designing development by relaxing regs
 - b) must ensure that City enjoys benefits in return
 - c) does not open up the whole project for P&Z "redesign"
 - d. effect of recommendations
 - 1) if for approval, Council can overturn & deny with simple majority
 - 2) if for denial, Council must have super-majority (75%) to approve
2. other duties under city charter
 - a. building code
 - b. capital improvement projects
3. no other authority to inquire into broader issues – not a "Council-lite"

B. Final approval authority

1. platting required for any subdivision of land within the City
2. final plats – no Council action needed
3. no discretion
 - a. if plat meets requirements of LGC 212, must approve
 - b. must act on a final plat within 30 days or else automatically approved
4. variances (petitions for waiver) to subdivision regulations (Ch. 3 of the UDC)
 - a. to waive application of a standard (a regulation) on a plat
 - b. high threshold for approval

- 1) in essence a request for permission to violate the regs
- 2) must show that the reg imposes a greater burden than on others
- 3) this "undue hardship" cannot be financial in nature
- 4) cannot have been caused in whole or part by the applicant

II. Liability

A. governmental immunity exists

1. governmental function
2. cannot be arbitrary & capricious, like denying a conforming plat

B. City provides defense if sued for official acts

C. Open Meetings Act

1. P & Z Commission is subject to the Act
2. requirements
 - a. meetings are public and notice must be posted in advance for public
 - 1) a "meeting" consists of a quorum of the body, which is four
 - 2) cannot meet in numbers less than a quorum to circumvent the Act
 - 3) cannot discuss City business in a setting where a quorum is present
 - b. can only discuss items on the agenda that was posted in advance
3. the Act provides criminal sanctions for violations

Section 6.22. Franchise ordinances.

Nothing contained in this article shall be construed to be in conflict with any of the provisions of Article 9 of this charter, pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder.

ARTICLE 7. MUNICIPAL PLANNING AND ZONING***Section 7.01. Planning and zoning commission.**

The city council shall appoint a city planning and zoning commission, consisting of seven (7) members, who shall be residents of the City of Pearland, real property owners, and shall not be employees of the city.

- (a) *Term of office:* Seven (7) members will be appointed in 1971 within thirty (30) days after the regular city election. The first two (2) members will be appointed for a one-year term. The next two (2) members will be appointed for a two-year term. The last three (3) members will be appointed for a three-year term. All reappointments after the original appointments will be for three-year terms.
- (b) *Rules of procedure:* The commission shall elect, annually, one (1) of its number chairperson and shall establish its own rules of procedure which shall include the following: A quorum shall consist of a majority of the members of the commission and an affirmative vote of a majority of those present shall be necessary to pass upon pending questions. All meetings shall be open to the public and a record of all proceedings shall be kept

by the person performing the duties of the city secretary and shall be a public record.

- (c) *Vacancies:* Members on the planning and zoning commission shall be accompanied by active participation in the activities of the commission, and any member who is absent from three (3) consecutive meetings of the commission without valid excuse as determined by the commission, shall automatically be dismissed from membership. The commission shall at once notify the city council that a vacancy in the commission exists. Vacancies occurring in the commission, for whatever reason, shall be filled within thirty (30) days by appointment by the city council for the remainder of the unexpired term.
- (d) *Powers and duties:* The commission shall have the power and shall be required to:
- (1) Amend, extend and add to the master plan for the physical development of the city.
 - (2) Recommend, approve or disapprove plats of proposed subdivisions submitted in accordance with city ordinance as adopted or hereafter amended.
 - (3) Recommend to the city council approval or disapproval of proposed changes in the zoning plan.
 - (4) Make and recommend to the city council for adoption, plans for the clearance and rebuilding of slum districts and blighted areas which may develop within the city.
 - (5) Recommend to the city council the amendment, extension and revision of the building code, which code shall include the minimum standards of construction

*Code reference—Subdivisions, Ch. 27.

for building, the minimum standards for plumbing and the minimum standards for wiring.

- (6) Submit annually to the city manager, not less than ninety (90) days prior to the beginning of the budget year, a list of recommendations for capital improvements which, in the opinion of the commission, are necessary or desirable to be constructed during the forthcoming five (5) years. Such list shall be arranged in order of preference, with recommendations as to which projects shall be constructed in which year.
- (7) Meet no less than once each month, meetings to be held at the city hall unless prior notice of change of meeting place be given by publication in a newspaper in general circulation in the City of Pearland.
- (8) Planning commission to be granted all powers as outlined by civil statutes of the State of Texas.
- (e) *Liaison with city council:* The city manager or his/her representative shall attend the meetings of the planning and zoning commission and shall serve as liaison between the commission and the city council.

(Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90)

Section 7.02. Reserved.

Editor's note—Res. No. R94-22, §§ I(17), III, ratified May 7, 1994, approved May 9, 1994, provided for the deletion of Sec. 7.02, Zoning board of adjustment, as amended by Res. No. R90-14, § III, ratified May 5, 1990, approved May 7, 1990; and Res. No. R94-22, § I(16), III, ratified May 7, 1994, approved May 9, 1994.

Section 7.03. Platting of property.

Hereafter, every owner of any tract of land situated within the corporate limits of the City of Pearland or its extraterritorial zones, who may divide the same in two (2) or more parts for the purpose of laying out any subdivision or any addition to the city shall comply with all applicable provisions contained in the code of ordinances of the city, as adopted or hereafter amended.

(Res. No. 78-9, § 4, ratified 4-1-78, approved 4-3-78)

Section 7.04. Development of property.

The city council shall cooperate in every manner possible with persons interested in the development of property within or beyond the city limits. No expenditure of public funds, however, shall be authorized for the development of privately owned subdivisions situated within or beyond the corporate limits of the city, except for the extension of utilities or services to such areas.

ARTICLE 8. MUNICIPAL FINANCE

Section 8.01. Fiscal year.

The fiscal year of the City of Pearland shall begin at the first day of October and shall end on the last day of September of each calendar year. Such fiscal year shall constitute the budget and accounting year.

Section 8.02. Preparation and submission of budget.

The city manager, between sixty (60) and ninety (90) days prior to the beginning of each fiscal year, shall submit to the council a proposed budget, which budget shall provide a complete financial plan for the fiscal year and shall contain the following:

- (a) A budget message, explanatory of the budget, which message shall contain

Sheryl opened @ 8:00

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Present:

Nghiem Doan

Neil

Sheryl

Darrell

Henry

Susan

Jerry

Nick

Lata

TAG

Judy

Planning & Zoning Orientation

I. Role

A. Recommending body to City Council

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 - 3) requests for Planned Development districts
 - a) allows creativity in designing development by relaxing regs
 - b) must ensure that City enjoys benefits in return *Parks, Hiking Trail, PEDC, Amenities*
 - c) does not open up the whole project for P&Z "redesign" *Road Enhancements*
 - d. effect of recommendations
 - 1) if for approval, Council can overturn & deny with simple majority
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2. other duties under city charter
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III. Procedural Matters

A. Robert’s Rules

B. making motions in the affirmative

C. conflicts of interest

1. LGC Ch. 171 applies
2. must file an affidavit & abstain from participation and vote if substantial interest
 - a. ownership of 10% or \$15,000 of fair market value of business, or
 - b. received funds from business that exceeds 10% of previous year’s income

D. abstentions

1. required if conflict under LGC
2. may also be used to avoid appearance of impropriety
3. otherwise, Council wants a decision made

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