

Importance of Planning

What you need to know about
Planning and Development Regulation

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“If you don’t have a plan for where you are going, you might end up somewhere else”

--attributed to *Casey Stengel*

“If you want to predict the future, create it.”

-- *Peter Drucker*

“The will to win is nothing without the will to prepare.”

-- *Runners World*, April, 1991

“A vision without a plan, is a hallucination.”

-- *Dallas Mayor Ron Kirk*, November, 2000

Planning is Important

National Survey (APA)

Likely voters want:

- Professional planners in their community (81%)
- Adequate schools and educational facilities (76%)
- Availability of public services (74%)
- Create and protect parks and recreation areas (67%)
- Preserve farmland and open space (67%)
- Protect wetlands and other natural areas (65%)
- Create affordable housing options (64%)

Statewide Survey (TXAPA, 2002)

Likely voters want:

- Important to have community planning (85%)
- Protect open spaces, coastal areas and parkland (88%)
- Provide incentives for affordable housing (85%)
- Create transportation options like light rail, bus transit and bicycle trails (81%)
- Support right of local communities to make decisions for private property (81%)

Definition of Planning

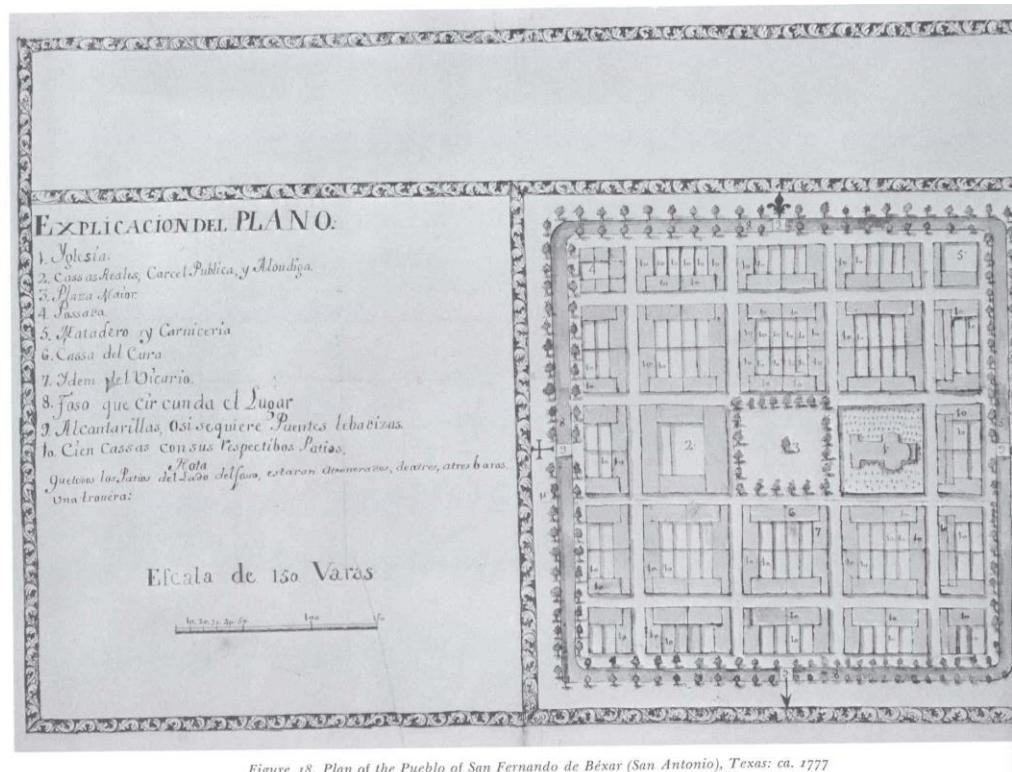
Planning: a process that seeks to engage all members of a community to create more prosperous, convenient, equitable, healthy, and attractive places for present and future generations.

Major Types of Planning

- Physical Planning
- Rational Planning
- Comprehensive Planning
- Strategic Planning
- Capitol Improvements Planning

Physical Planning

Process of graphically designing the future development of the City. Modernism espoused that social ills could be mitigated through proper design.



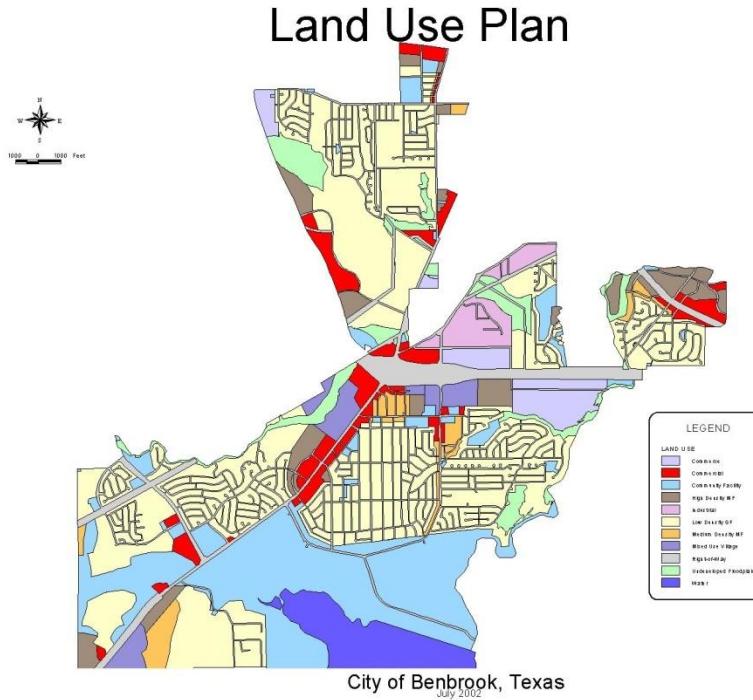
The Rational Planning Process

The Rational Planning Process is a decision-making process of evaluating alternatives.



Comprehensive Planning

Comprehensive Planning looks at more than just the physical design of the community, but also looks the interrelationship of land use, infrastructure, community facilities, and other community programs.



Strategic Planning

More focused short-term planning effort that identifies:

Mission of organization

Internal strengths and weaknesses

External opportunities and threats

Future possible scenarios over next three to five years

Specific goals and objectives to achieve mission.

Objectives should be “SMART”

Specific

Measurable

Attainable

Results-based

Time bound

Types of Planning Processes

Comprehensive Planning

- Long range, 10-20 years
- Comprehensive (geographical)
- Comprehensive (physical, economic, social)
- Value oriented
- A policy guide
- Designates future land use
- Implementation tools (regulations, funding)
- Continuous

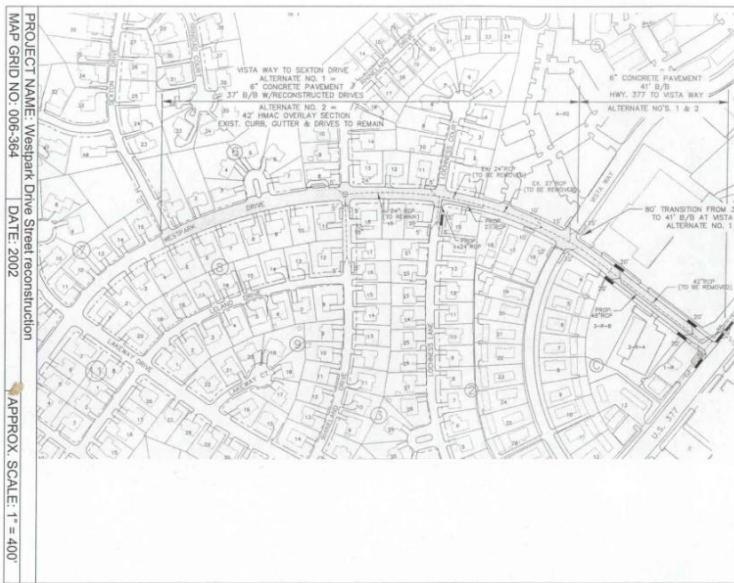
versus

Strategic Planning

- Short range, 1- 5 years
- Realistically targeted
- Market oriented
- Action oriented
- Identifies strengths, weakness opportunities, and threats
- Mission directed

Capital Improvements Planning

CIP is a plan for the investment of public funds in public infrastructure. It identifies construction projects (typically streets, drainage, water, sewer, parks, and public buildings) that will be built over the next one year, five years, 10 years and beyond. It also guides the budgeting of funds for capital expenses, debt service, and bonding capacity.



Importance of Public Participation

- Planning is a political process when you consider that politics is the “process by which **groups of people make decisions**”
- Opportunity for consensus building.
- Common techniques:
 - Surveys
 - Public meetings
 - Citizens advisory committees
 - Charrette/Workshop
 - Social Media Outreach

Brief History of Planning in Texas

- 1573 – First Law of the Indies for Spanish settlements
- 1785 – Northwest Ordinance establishes one-mile grid and sections
- 19th Century – Railroad townsites
- 1893 – Worlds Columbian Exposition promotes Modern Physical Planning
- 1911 – Dallas adopts Kessler Land Use Plan
- 1920s – Adoption of zoning and subdivision regulations
- 1956 – Interstate Highway System

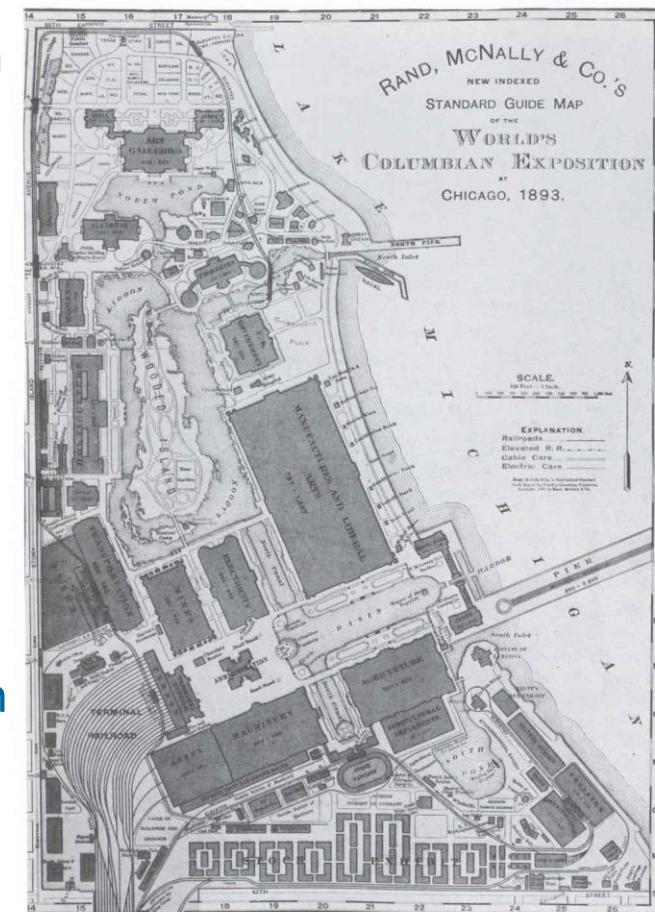


Figure 297. Plan of the World's Columbian Exposition in Chicago, Illinois: 1893

Planning versus Development Regulation

Planning is the vision of the future.

Development regulation is one of the tools used to achieve that future by directing private development.

Development regulations can include:

zoning regulations

subdivision regulations

site planning regulations

sexually-oriented business regulations

sign regulations

landscaping requirements

architectural regulations

Legal Basis and Authority for Development Regulations

- Most authority provided by general police powers (protect health, safety and welfare) plus specific statutory authority.
- Zoning authority provided in Chapter 211, Texas Local Government Code
- Subdivision authority provided in Chapter 212. LGC
- Comprehensive planning authority in Chapter 213, LGC
- Differences between home rule cities and general law cities (Dillon's Rule)
- Authority within city limits versus authority within extraterritorial jurisdiction

Limits on Authority to Regulate Development

- Legislative (zoning) versus administrative (platting) acts
- Arbitrary and capricious decisions
- Ultra vires – regulating beyond your authority
- Takings – results from overregulation that denies all use of property
- Procedural due process (error in notice, denial of hearing, Open Meetings Act violations, conflict of interest)
- Vested Rights – Chapter 245 LGC – rules are vested at time of initial application for project
- Manufactured Housing
- Religious Institutions (RLUIPA of 2000)
- Group Homes

Planners (and by logical extension) planning commissioners are guardians of the future.

Mitchell Silver, AICP, PP, President, American Planning Association

Discussion and Questions

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Roles, Ethics and More

Responsibilities of Elected and Appointed Officials

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Based on "Ethics and the Planning Commissioner", *A Guide to Urban Planning in Texas Communities* published by the Texas Chapter of American Planning Association and *Everyday Ethics for Practicing Planners* both by Carol Barrett, FAICP, and APA Ethics Toolkit including *Ethical Principles in Planning*

Planning Process

The planning process exists to serve the public interest. While the public interest is a question of continuous debate, both in its general principles and in its case-by-case applications, it requires a conscientiously held view of the policies and actions that best serve the entire community.

Planning issues commonly involve a conflict of values and, often, there are large private interests at stake. These accentuate the necessity for the highest standards of fairness and honesty among all participants.

Those who practice planning need to adhere to a special set of ethical requirements that must guide all who aspire to professionalism.

Who are the Participants in the Planning Process

City Council	Planning Consultants
City Manager	Utilities (water, gas, electricity, telephone, cable)
Planning and Zoning Commission	Representatives and Facilitators
Zoning Board of Adjustment	Developers and Builders
Other Boards and Commissions	Citizens/Property Owners
Planning Staff-Current and Long Range	Neighborhood Organizations
Engineering	State DOT
Transportation	School District
Building Inspections and Permitting	Transit
Code Compliance/Enforcement	Post Office
City Attorney	Arborist
City Secretary	Neighboring Cities
Public Works	County
Parks and Recreation	The City as a Whole
Public Safety (Police and Fire)	

The Planning Commission

In Texas, a *Planning Commission* is:

- A group of citizens appointed by the legislative body that performs both required and discretionary functions in land use matters.*
- May also include zoning matters and be called ***Planning and Zoning Commission.***
- There many even be separate commissions for zoning and planning
- Generally a recommending body, except may have final approval of plats



(*Texas Local Government Code 211.007)

What is a Zoning Board of Adjustment?

In Texas, a *Zoning Board of Adjustment* is:

appointed by governing body, to make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance ordinance.*

May also be called the BOA, ZBOA

Please note that the Zoning Board of Adjustment is a quasi judicial board. This means that any appeal of its decision is to a district level court.

(*Texas Local Government Code 211.008)

Participants in the Process

Mayor and City Council - elected to make the rules; formulate policy, adopt of codes and ordinances; approve or deny zoning cases; point of contact for frustrated citizens.

City Manager - in charge of the day to day operations of the City. **Expectation:** that everyone will do their job

Planning Staff - from department head to receptionist they are professionals with education or on the job experienced in stating the rules, interpreting ambiguities and providing guidance to applicants and boards and commissions.

Participants continued

The staff of a **Building Inspection** department works to ensure compliance with established adopted construction standards and enforcing City codes. Reviews plans, perform inspections

Code Compliance or Enforcement check on and determine compliance with the rules and ordinances generally responsible for enforcing city ordinances related to Housing, Zoning, Signs, Litter, Illegal Dumping, Weeds, Parking and Animal Control violations, responds to citizen requests, conducts reactive and proactive inspections and special projects, and provides education on code enforcement. New name tries to suggest a kinder, gentler approach.

Participants continued

Engineering is responsible for reviewing subdivision plats and private and public development engineering plans, and overseeing the construction to ensure that the City's infrastructure is built to City codes and design standards and adheres to approved plans and contract documents May be part of Planning or vice-versa. May include flood management

Public Works –responsible for engineering and implementation of projects

Transportation –oversees the street network

More....

City Attorney - states, interprets and provides guidance as to the federal, state and local statutes and local codes.
Generally there to keep you out of trouble.

City Secretary - official records keeper, posts agendas
commission paper work

Parks and Recreation - oversees parks etc.— may look at parkland dedication requirement with plats

Public Safety - Police, Fire particularly for emergency access
Utilities (water, gas, electricity cable and telephone) for service provision and easements and Post Office

Other government types players: Sanitation, TXDOT, Animal Control,, School District, Transit System

And more....

Facilitators or “the Suits” - consultants that know the ropes as to how to get through the system. Lots of former city staff, attorneys, engineers and even surveyors.

Developers and Builders - often they initiate the processes for a particular project

Citizens/Property Owners want what they want, but do not always know how to go about it. Process should be logical, defined and transparent

Neighborhood and interested community groups involved directly or as affected bystanders

The good of the City as a whole.

Roles of the Planning Commission

- Develop and update the comprehensive plan
- Implement land use patterns
- Monitor current zoning ordinance
- Make recommendations on zoning changes
- Recommend approval of (or approve) subdivisions
- Make recommendations for annexation
- Interface with public on community values through public meetings, focus groups, and neighborhood organizations

The Commission

Creation of the Commission

- Usually by city charter or ordinance

Responsibilities and Purpose Established

Rules and Policies

- If not in the ordinance, these should establish a schedule for meeting dates, time, and place

Officers

Voting Procedures

Committees

Relationship to City Council

Code of Ethics/Ethical Principles

Understanding the Job

(applies to both elected and appointed officials)

Be familiar with your job responsibilities/expectations. Start with a

Review local sources

- City Charter
- Municipal Code of Ordinances
- Established policies and procedures
- Planning Commission by-laws or rules

Review enabling statutes in State law (*Texas Local Government Code*)
for planning and zoning for

- General Law cities
- Home Rule cities

Roles of the Planning Commission continued

- Recommend a Capital Improvements Program
- Coordinate with economic development activities
- Encourage and monitor the “visual image” through urban design
- Adopt an annual work program and prepare an annual report
- Use base data on population, land use, utilities, and topography in decision making

Duties of the Zoning Board of Adjustment

- 1) hear and decide special exceptions to the terms of a zoning ordinance when the ordinance requires the board to do so;
- 2) 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
- 3) hear and decide other matters authorized by an ordinance adopted under this subchapter. *
- 4) 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;

(*Texas Local Government Code 211.009)

Working Effectively as a Commission or Board

- Use rules of procedure and operate accordingly
- Comply with Open Meeting requirements
- Conduct fair public hearings
- Hear the facts and assess their accuracy
- Balance obligations
- Consider concerns of all who testify
- Assess the request against the standards in the ordinance
- Render a decision



Traits for Successful Elected Officials, Planning Commissioners and Board Members

- Visionary
- Has a feel for the assets, problems and potentials of the city
- Can see the big picture without missing the details
- No conflicts of interest
- Impartial and objective
- Works toward the common good
- Places community interest first
- Comes to meetings prepared
- Appreciates dialogue and enjoys collaboration
- Practical, yet creative
- Consistent

Understanding the Job

Become familiar with your responsibilities/expectations both on and off the Commission

Orientation -- begin to grasp:

- Legal issues – open meetings act
- Basic elements of planning
- Comprehensive Planning
- Zoning Ordinance
- Subdivision Regulations
- Enabling statutes in state law for planning/zoning

Be familiar with your own responsibilities and expectations both on and off the commission

Review local sources

- Charter
- Code of Ordinances
- By-laws or rules of procedure

Understanding the Ethical Dimension

Ethics: the principles of conduct governing an individual or a group –

Merriam Webster

Ethical behavior is not always easy to achieve.

There are common standards for ethical conduct:

- Your city's Code of Ethics
- APA Statement of Ethical Principles and AICP Code of Ethics
 - Serve the public interest
 - Strive to achieve high standards of integrity and proficiency
- Your own moral compass

What Are the Standards for Ethical Conduct?

American Planning Association Statement of Ethical Principles
(for Participants in the Planning Process)

A. Serve the Public Interest:

- Recognize the rights of citizens to participate in planning decisions.
- Give citizens full, clear, and accurate information.
- Expand choice and opportunity for all persons.
- Assist in the clarification of community goals.
- Ensure that information available to decision makers is also available to the public.
- Pay special attention to the interrelatedness of decisions and the long-range consequences of present actions.

APA Statement of Ethical Principles (Continued)

B. Strive to achieve high standards of integrity and proficiency:

- Exercise fair, independent, and honest judgment.
- Publicly disclose any personal interests.
- Define personal interest broadly.
- Abstain from participation in a matter in which you have a personal interest and leave the chamber when the matter is being deliberated.
- Seek (nor accept) gifts or favors.
- Abstain from participating as an advisor or decision maker on any plan or project in which you have previously participated as an advocate.
- Serve as advocate only when the objectives are legal and serve the public interest.

APA Statement of Ethical Principles (Continued)

- Not participate as an advocate on any plan or program in which you have previously served as an advisory or decision maker, except after full disclosure and in no circumstance earlier than one year following termination of the role as advisory or decision maker.
- Not use confidential information to further a personal interest.
- Not disclose confidential information.
- Not misrepresent facts or distort information.
- Not participate in any matter unless prepared.
- Respect the rights of all persons.

Local Ethics Ordinances

Prohibited conduct:

- Solicitation/acceptance of gifts
- Misuse of position
- Conflict of interest (generally financial)
- Ex parte communications (*any oral or written communication outside the record of the hearing with either proponents or opponents of a pending proceeding*)
- Serial meetings (attended by less than a quorum of members to discuss a public issue in private.)

Disclosure:

- Forms and/or procedure provided by the City
- Does not have to be very detailed

What Constitutes a Conflict of Interest?

If you....

- Live in the notification area
- Have a close family member has interest (determined by your city)
- Have financial interest in real estate involved in case
- Have financial investments that exceed the local cap
- Work for someone that has financial involvement in the case
- Have oversight of client's accounts
- Sit on Board connected to the case

What to do? State that you have a COI, file necessary statement and LEAVE THE ROOM!

Conflict of Interest Sample Form



DISCLOSURE OF CONFLICT STATEMENT

This statement is filed in accordance with Chapter 12A of the Dallas City Code. Copies of the applicable code sections and additional copies of this form may be obtained from the City Secretary's office.

Please print or type all information. Attach additional pages if more space is needed.

Check One		Fill In Appropriate Information
<input type="checkbox"/>	Elected Official	Office Held
<input type="checkbox"/>	Appointed Official	Board or Commission/ Title
<input type="checkbox"/>	City Employee	Title/Department

1. Name of Employee/Official: _____

I _____ have a conflict as defined in Chapter 12A, Article II, of the Dallas City Code in the following matter:

Nature of Conflict:

As a result of this conflict, I will not take any official action in regard to the matter stated above.

Signature of Employee/Official

Date

BEFORE ME, the undersigned authority, on this day personally appeared

_____, who on oath stated that the above facts are within _____ personal knowledge and are true and correct.

SWORN TO AND SUBSCRIBED BEFORE ME on this _____ day of _____, 20_____, to certify which, witness my hand and seal.

<NOTARY SEAL>

Signature of officer administering oath *Printed name of officer administering oath Title of officer administering oath

Other Considerations

- When there is a social event where a quorum may be present, it is generally OK as long as cases or issues are not discussed.
- Texas is a community property state, therefore spouses are considered as one in matters that may be a conflict of interest.
- Do not use position title to request special treatment by city employees or private interests.
- When rescuing—leave the room.

Beware of the Serial Meeting

Commissioner A meets with Commissioner B and discusses an item that is currently or is expected to be in front of the Commission. Commissioner B delivers the A+B consensus to Councilmember C who agrees and delivers it to Commissioner D. Commissioners A+B+C+D constituted a quorum, but they did not physically "meet" as a quorum in the same space or time. Still, they conducted an illegal serial meeting. They effectively met, deliberated, and arrived at a decision (euphemistically called a "consensus" by public officials who try to rationalize their violation of law) when public attendance was impossible.

NOTE: A serial meeting need not be a face-to-face meeting or even occur in real time. It can be a series of communications (direct communication, personal intermediaries such as staff members, or technological methods such as email or telephone calls), with each unique communication involving less than a quorum, but which taken as a whole involves a majority of the body's members. A serial meeting occurs when there are systematic communications on a particular matter involving a quorum of the body acquiring information, engaging in debate, discussion, lobbying, or any other aspect of the deliberative process.

What is Ex Parte?

A discussion where only one side is presented...

Example 1: A developer has a rezoning coming up before the planning commission or city council. She contacts the chair and asks if she could have a few minutes of their time to show the decision maker why she needs the site rezoned. The chair says, “sure come right over!”

Example 2: Staff person agrees to meet with neighborhood group concerning a rezoning and does not invite the developer to attend. (but planning staff does have the professional responsibility to meet with proponents and opponents IN their OFFICE; it is NOT the same as a recommending body or decision maker (Planning Commissioner or City Councilmember) meeting privately with proponents and opponents)

Scenario 1

Through the course of your duties you form a friendship with a local landowner who periodically calls with questions about planning and zoning. He invites you to eat lunch and he buys—is this okay?

You have not suggested that an actual application over which you have some control is pending.

If that were the case, the answer would be “no.” It is always best to keep such relationships at arms-length.

Take great care to not permit public or private perception of favored action.

If you meet, each should pay for the meal ordered.

Equally, care must be taken to not discuss matters that are better suited for staff or open meetings.

Scenario 2

Someone from church is asking you to provide help or guidance and even a favorable decision on a re-zoning case.

How can you help without violating pure objectivity?

It is completely appropriate to provide guidance to an applicant regarding the procedural and submittal requirements for an application. It is also appropriate to explain that you can't pre-judge or promise any favorable action. If the planner believes that his or her objectivity is compromised, then the decision on the application should be delegated to another, if possible.

Scenario 3

A fellow commissioner calls you to discuss a case and says he has talked to other commissioners. What do you say to him?

What is the problem with talking to him?

Ex parte?

Serial meeting?

What about emails? Text? Twitter? Facebook?

Scenario 4

You are an appointed official. Your business has been slow but is now taking off. You have to travel sometimes for your business and are missing meetings.

What should you do?

Scenario 5

A developer wants to develop a new single-family subdivision
in an area currently zoned for industrial uses.

What would you need to know?

What steps would need to be taken to allow it?

Scenario 6

An older gentleman wants to build a carport in front of his house. Over the front building line. He is advised to go to the Board of Adjustment for either an special exception or a variance.

Which one is appropriate?

What is his justification?

Scenario 6

You are a surveyor and your company works in the community and surrounding cities. You prepared a plat that will be considered by the Commission?

What is your role?

What should be your actions?

**Thank You
and now
Questions and Discussion**

Other Sources of Information

Training and Resources for Planning Commissioners:

- City orientation and training for new Commissioners
- APA Texas Chapter
 - Regional and Local Workshops for Planning Commissioners
 - Annual Short Course for Elected and Appointed Officials
 - State Planning Conference
 - www.texasplanning.org
- American Planning Association – publications and conferences
 - *Planning Magazine*
 - National Planning Conference
 - *The Commissioner* quarterly newsletter
 - Ethics Toolkit – on website
 - www.planning.org
 - CD-ROM training packages
 - www.planningbooks.com
- Planning Commissioner's Journal - online subscription
- Texas Municipal League

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The Comprehensive Plan

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Based on *A Guide to Urban Planning in Texas Communities* of the Texas Chapter of American Planning Association.

What is a Comprehensive Plan?

A Comprehensive Plan is a long-range plan intended to guide the growth and development of a community for 20 to 30 years, if not for ultimate development. Plan elements generally include the physical characteristics of the city (e.g. land use, transportation and community facilities), support infrastructure (e.g. water, sewer, drainage, waste disposal, etc.), design (e.g. urban design, historic preservation, etc.), and social programs (housing, education, health care, senior citizens, etc.)

Comprehensive Planning

What is planning with a Comprehensive Plan?

- Guide to the decision-making process
- Means to a future
- Evaluation of alternatives
- Means of reaching consensus



"I want you to draw up plans
for a city that can be built in a day."

Legal Authority for Comprehensive Plans in Texas

Standard City Planning Enabling Act (1926)

- Platting portion adopted by Texas,
- Zoning legislation in Texas in 1934
- Comprehensive Planning portion was not until 1997

Chapter 213 of the *Texas Local Government Code**

213.001. Purpose

The powers granted under this chapter are for the purpose of promoting sound development of municipalities and promoting public health, safety, and welfare.

213.002. Comprehensive Plan

- (a) The governing body of a municipality may adopt a comprehensive plan for the long-range development of the municipality. A municipality may define the content and design of a comprehensive plan.

*Chapter 213 replaced 219 in 2001

Chapter 213 (continued)

- (b) A comprehensive plan may:
 - (1) include but is not limited to provisions on land use, transportation, and public facilities;
 - (2) consist of a single plan or a coordinated set of plans organized by subject and geographic area; and
 - (3) be used to coordinate and guide the establishment of development regulations.
- (c) A municipality may define, in its charter or by ordinance, the relationship between a comprehensive plan and development regulations and may provide standards for determining the consistency required between a plan and development regulations.
- (d) Land use assumptions adopted in a manner that complies with Subchapter C, Chapter 395, may be incorporated in a comprehensive plan.

Chapter 213 (continued)

213.003. Adoption or Amendment of Comprehensive Plan

- (a) A comprehensive plan may be adopted or amended by ordinance following:
 - (1) a hearing at which the public is given the opportunity to give testimony and present written evidence; and
 - (2) review by the municipality's planning commission or department, if one exists.
- (b) A municipality may establish, in its charter or by ordinance, procedures for adopting and amending a comprehensive plan.

213.004. Effect on Other Municipal Plans

This chapter does not limit the ability of a municipality to prepare other plans, policies, or strategies as required.

213.005. Notation on Map of Comprehensive Plan

A map of a comprehensive plan illustrating future land use shall contain the following clearly visible statement: "A comprehensive plan shall not constitute zoning regulations or establish zoning district boundaries."

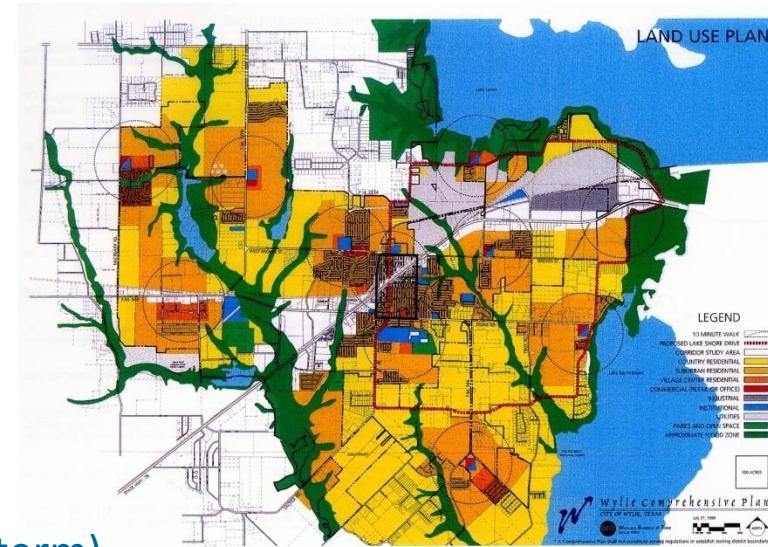
Comprehensive Planning

Types of Plans

- Traditional map-based plans
- Functional plans
- Policy plans
- Strategic plans
- Integrated plans

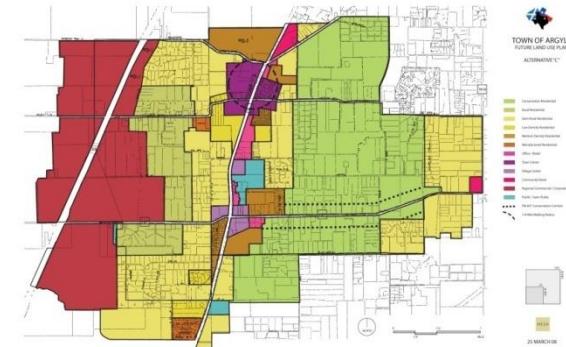
Planning perspectives

- Time Span (long-range vs. short term)
- Geographic extent (regional or citywide and/or neighborhood)
- Topical coverage (comprehensive vs. strategic)



A Comprehensive Plan is:

- Visionary;
- Focuses on physical development, taking into account socio-demographic characteristics;
- Long range (focus on 10-20 year horizon)
- Inclusive;
- General but sufficiently detail to develop goals, objectives and policies;
- Relate major physical development proposals to basic land use policies;
- In a form suitable for public review and understanding;
- Represent community consensus;
- Be updated every 5 years or so;
- Dynamic; and
- **Be a guide to every day decisions**



A Comprehensive Plan:

- States the community's values, goals and objectives;
- Is a policy guide for development;
- Provides an orderly basis for decision-making;
- Allows fiscally responsible decisions;
- Establishes policies for providing public facilities and services;
- Provides a series of action steps to achieve the community vision and goals.

Public Participation in Planning Process

To be effective, planning must be a part of the political process.

Techniques for citizen involvement:

Surveys/interviews

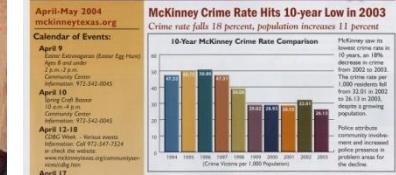
Workshops

Citizen advisory committees

Design charrettes/workshops

Public meetings

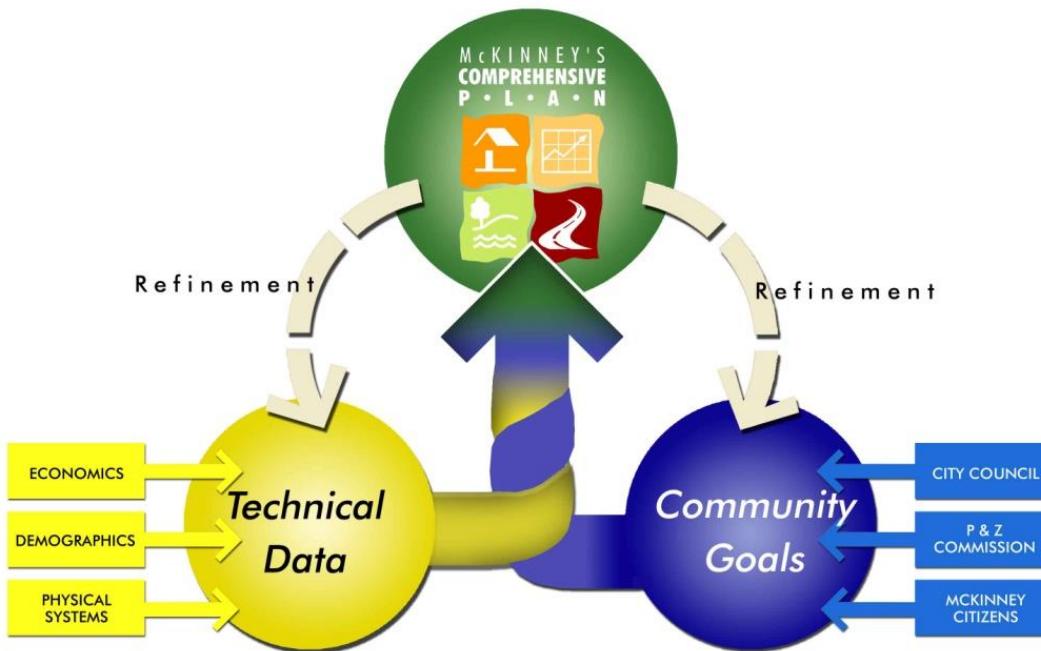
Public Hearings



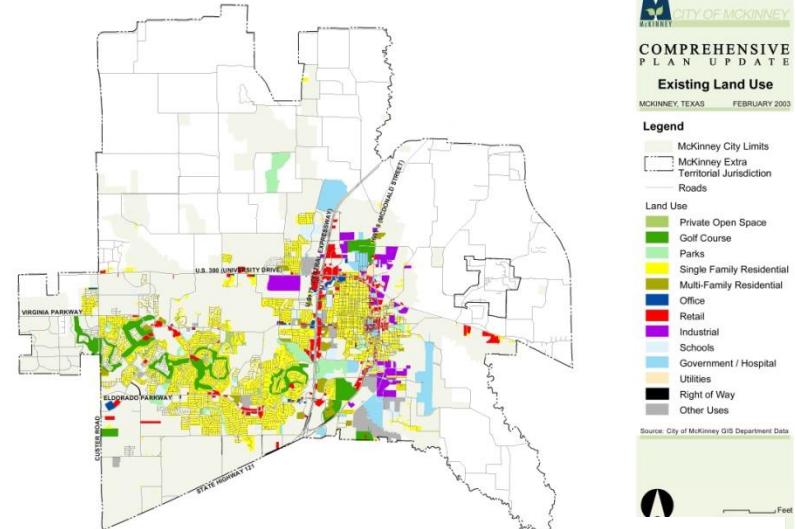
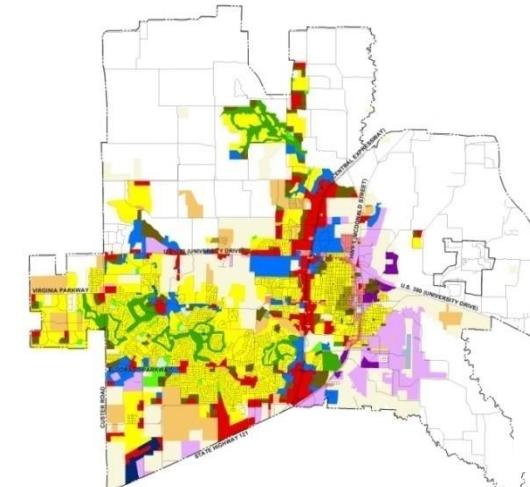
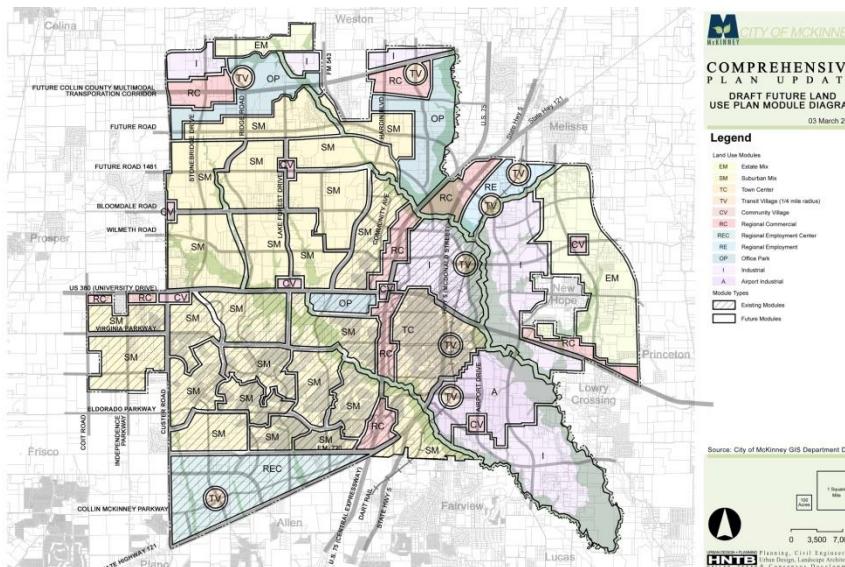
Plan-making Participants

COMPREHENSIVE PLANNING PROCESS

The Blending of Technical Data and Community Goals to Shape Tomorrow



Future Land Use versus Zoning



Reasons for Citizen Involvement

- ✓ Citizens have a right to participate in decisions that affect them.
- ✓ Provides citizens with opportunities to identify issues and express their goals, needs, concerns, and possible solutions.
- ✓ Enables governmental agencies to better respond to the needs and desires of the community.
- ✓ Builds trust, understanding, and open communication between local officials and the community.
- ✓ Generates a constituency of persons interested in seeing the plan implemented.
- ✓ Ensures the community's values are integrated into the plan's direction and recommended implementation plan.



Comprehensive Plan Preparation and Update

Who should be involved in plan preparation and amendments?

- Planning Commission
- Elected officials
- Other appointed officials
- City staff
- Consultants
- Neighborhood associations & interest groups
- Chamber of Commerce
- Supporters and detractors
- In short, everybody



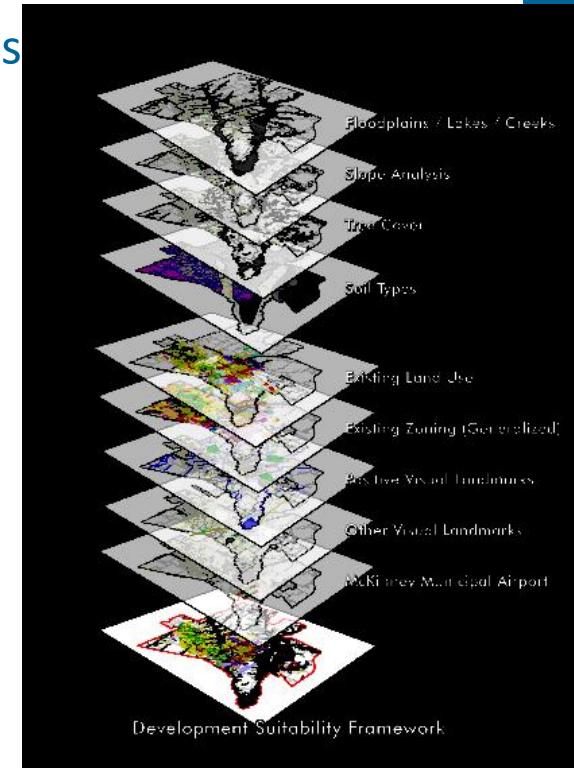
The Plan-Making Process

1. Evaluate Existing Conditions
 1. Current conditions and trends
 2. Population and Employment projections
 3. Threats, opportunities and issues
 4. Alternative Scenarios
 5. Vision statement
2. Goals, objectives and policies
3. Land Use and Transportation Plan
 1. Determine broad areas for urban development, conservation, and rural preservation
 2. Determine land requirements for residential and commercial development



The Plan-Making Process (cont.)

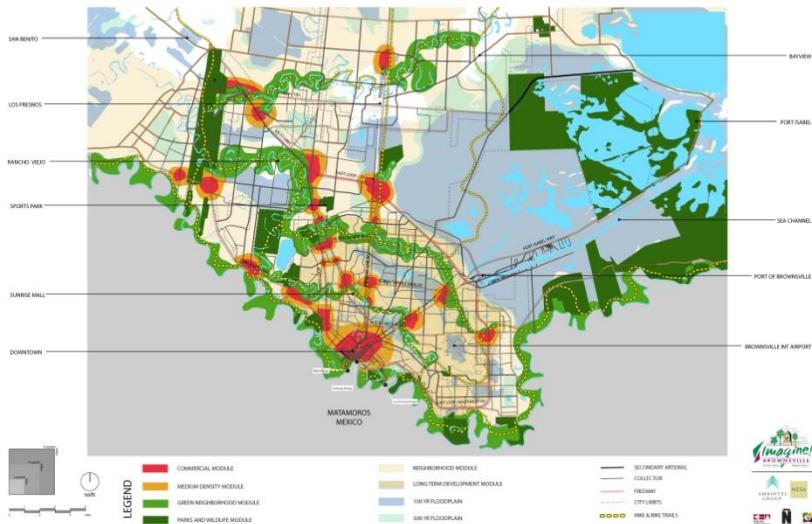
4. Develop spatial arrangements of future land uses
 - a. Determine location principles for manufacturing, distribution, office and service industries.
 - b. Determine location principles for residential neighborhoods
 - c. Determine location principles shopping and entertainment areas
 - d. Determine transportation needs
 - e. Determine community facility needs
5. Map suitable locations for each major land use
6. Estimate space requirements
7. Analyze holding capacity
8. Design future land use plan
9. Plan for infrastructure



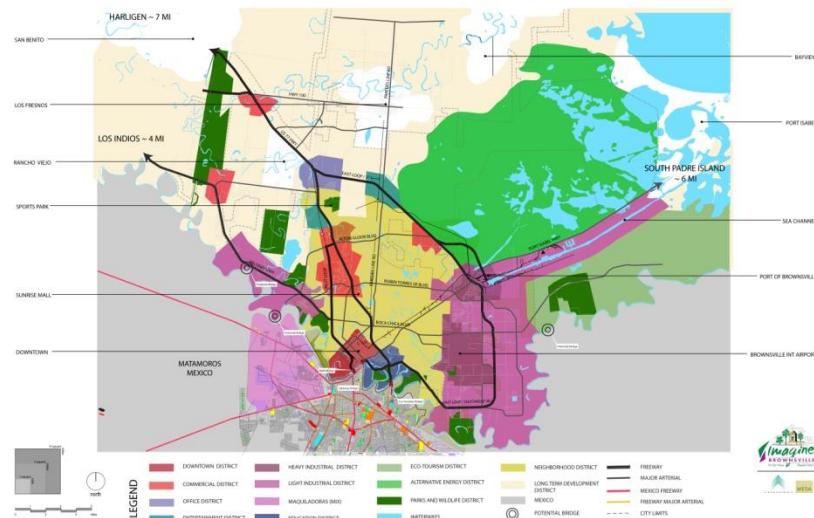
The Plan-Making Process (cont.)

Alternative Scenarios

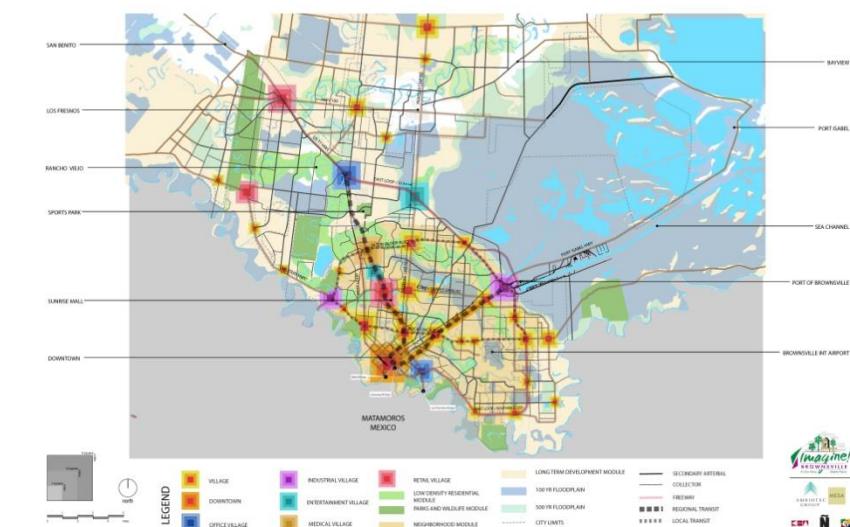
BROWNSVILLE COMPREHENSIVE PLAN *sub regional - environmental scenario*
MAY 2008



BROWNSVILLE COMPREHENSIVE PLAN *regional scenario*
MAY 2008



BROWNSVILLE COMPREHENSIVE PLAN *sub regional - village scenario*
MAY 2008



Establishing Goals and Objectives

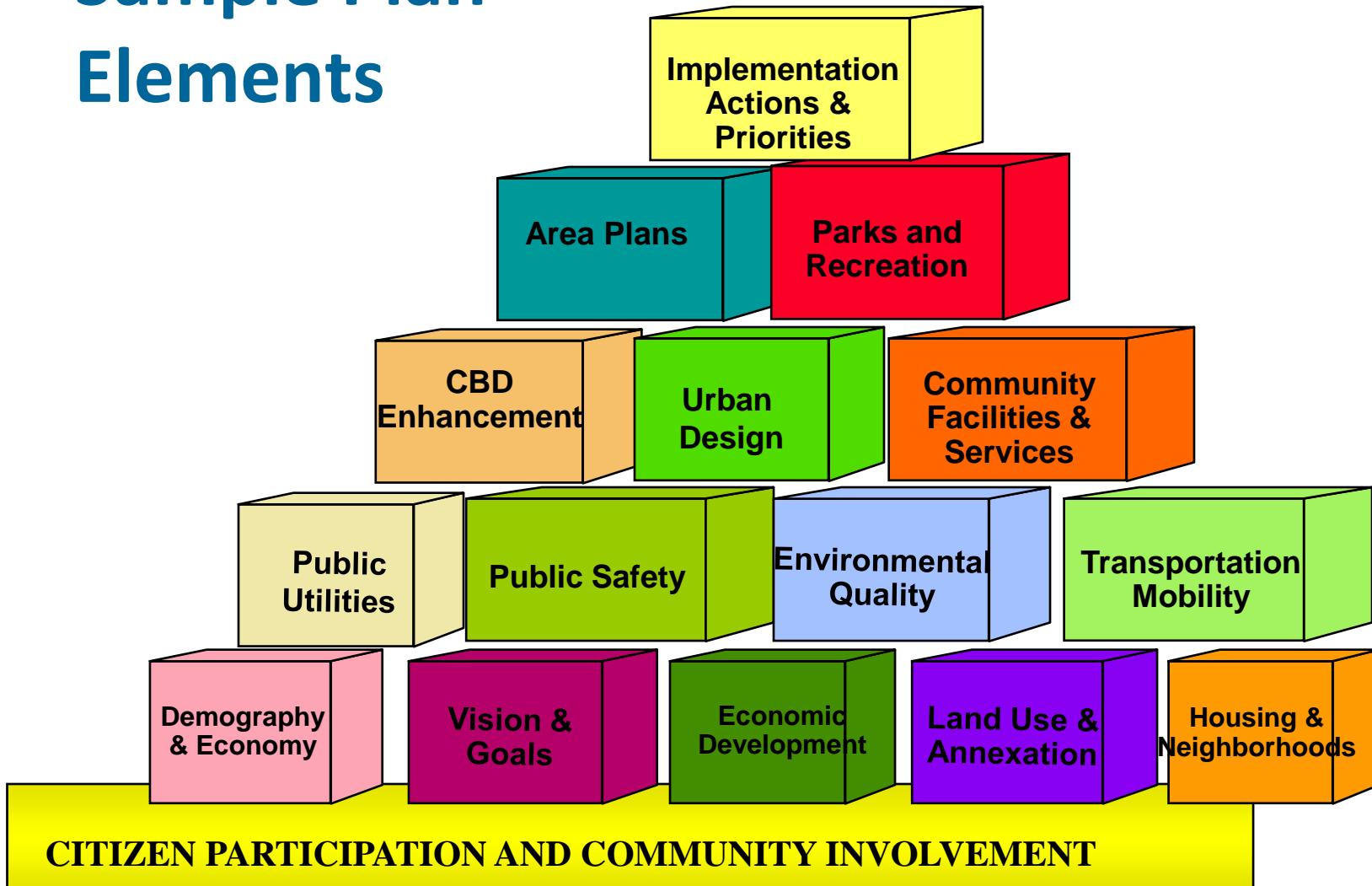
A **goal** is an ideal future condition to which the community aspires.

An **objective** is a tangible, measurable outcome leading to the achievement of the goal.

A **policy** is a statement of action or requirement necessary to achieve goals and objectives.

An **action** is a specific implantation item that assigns time and responsibility.

Sample Plan Elements



Comprehensive Plan Contents

Historical background

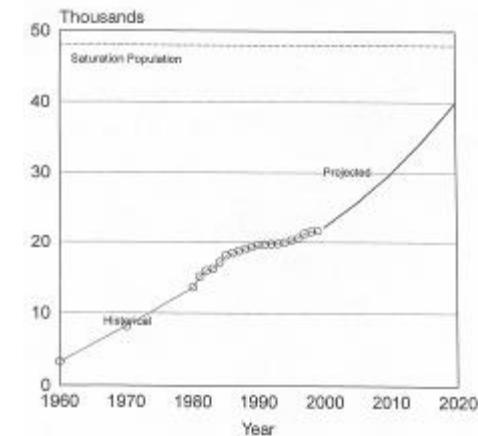


Environmental and Social setting

- Environmental constraints
- Demographic and socioeconomic trends
- Vision of the Future

Population Projections

City of Benbrook



Comprehensive Plan Contents

continued

Transportation

INTRODUCTION

An efficient transportation network is vital to the orderly growth and development of a developing community. The transportation network significantly influences growth, intensity of development, and quality of life. A well-planned transportation system will provide safe, reliable, and quick access to people and goods from one place to another in a safe and expeditious manner. Since transportation is a critical element of the quality of life in a community, it must be planned and developed to support very accessibility by foot, transit, pedestrian and bicycle modes.

The design of land developments can be modified to facilitate an efficient transportation system. Smart development that is user friendly and more transit friendly will give better results in terms of reduced traffic volumes, reduced energy consumption, and reduced costs for infrastructure that support very accessibility by foot, transit, pedestrian and bicycle modes.

The City of Corpus Christi and the City's Extraterritorial Jurisdiction. The purpose of the Urban Transportation Plan is to serve as a guide for the City of Corpus Christi and its extraterritorial jurisdiction in creating an efficient mobility system for personal and residential vehicles, public transit, and non-motorized modes of transportation. The Urban Transportation Plan must be planned under or over the City's extraterritorial jurisdiction.

"Comprehensive planning is an inextricable part of our society. It is a continuous governmental function in order to guide, regulate, and manage future development... comprehensive plans are general, long range, and broad in scope..." (City Charter 1987)

Urban transportation plays a number of diverse functions, including, administration, transportation, and economic development. The City's Capital Improvement Program, the Planning Ordinance, and other City Codes and ordinances, have been developed to support the implementation of the City's Comprehensive Plan. The City's Capital Improvements Program, the Planning Ordinance, and other City Codes and ordinances, have been developed to support the implementation of the City's Comprehensive Plan. As a result, additional rights may beyond the minimum requirements of this plan to ensure a safe and efficient transportation system.

STATE ENABLING AUTHORITY

Under Chapter 219 of the Texas Local Development Code, a Comprehensive Plan may be adopted by the City's Governing body and may include provisions on land uses, transportation, and public facilities. The City's Comprehensive Plan is the primary document for the City's transportation system and is to be used in conjunction with other City codes and ordinances, and to coordinate, if needed, with transportation regulations.

AUTHORITY - CITY'S TRANSPORTATION PLAN

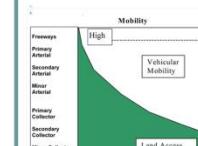
The Comprehensive Plan, mandated by the City Charter, requires the City to formulate a transportation plan for all areas in the City's corporate limits and to Extraterritorial Jurisdiction. The City's Extraterritorial Jurisdiction is defined as the area outside the City's corporate limits. Note also that the City can establish sub-area regulations in the ETJ and beyond.

RELATIONSHIP TO THE METROPOLITAN PLANNING ORGANIZATION (MPO)

The Federal Aid Highway Act of 1962, and subsequent amendments require that state and local governments develop a Metropolitan Planning Organization (MPO) to coordinate transportation planning and funding for metropolitan areas. The MPO is responsible for the preparation of a metropolitan transportation plan, and with the concurrence of local jurisdictions, to develop a Metropolitan Planning Organization (MPO). Any unincorporated areas in the state are to serve in the metropolitan transportation plan.

THE LAND USE AND TRANSPORTATION SYSTEM

The transportation system provides a land access function and a traffic movement function. In addition, the transportation system provides a mobility function, which includes the movement of traffic quickly, and at the same time providing access to individual resources. Because of these three functions, the transportation system must be planned to serve the needs of the community efficiently and of road users. The Urban Transportation Plan is based on the principle that higher mobility leads to higher vehicle volume and lower mobility leads to lower vehicle volume.



A system of street classifications in the Transportation Plan establishes the appropriate type of street to serve the needs of the community. Streets, including unincorporated areas, in particular, require accessibility, convenience, and safety.

In addition, the transportation network must complement and be integrated with the existing land uses and the existing transportation system. The transportation system must be planned to serve the developments having a direct effect on traffic generation and performance of the transportation system. The transportation system must be planned to serve the needs of the community with the existing and future uses of adjacent property.

The transportation system will have a significant impact on the quality of life within the community. For example, building wide enough streets through a residential area will increase the safety of the residents. Building a street next to a shopping center will make it easier for customers to get to the shopping center, thus improving the quality of life in the community.

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Urban Streets

Rural Streets

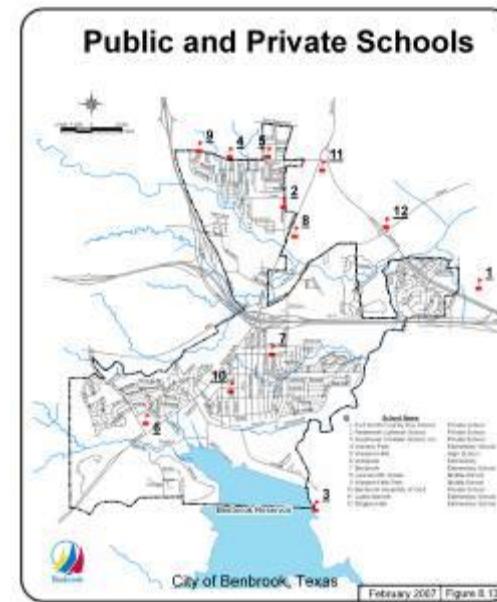
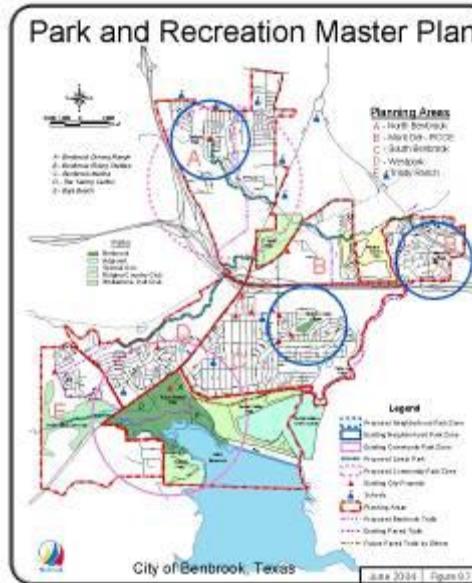
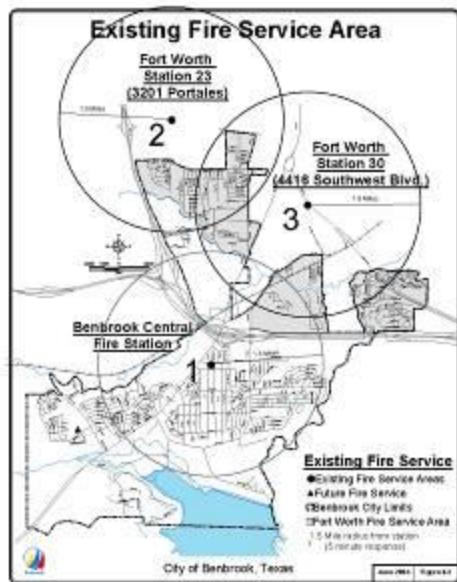
Urban Streets

Comprehensive Plan Contents

Continued

Community Facilities

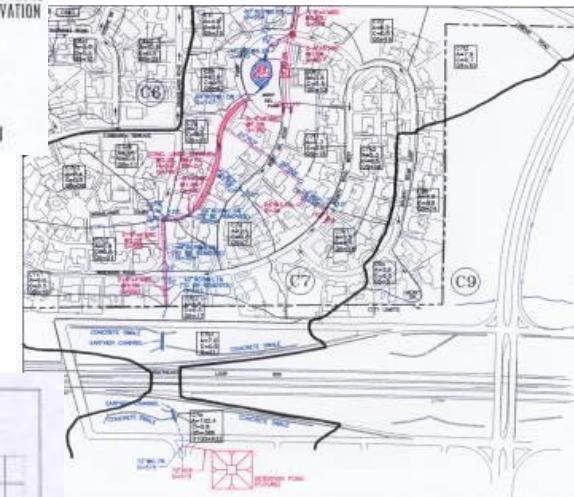
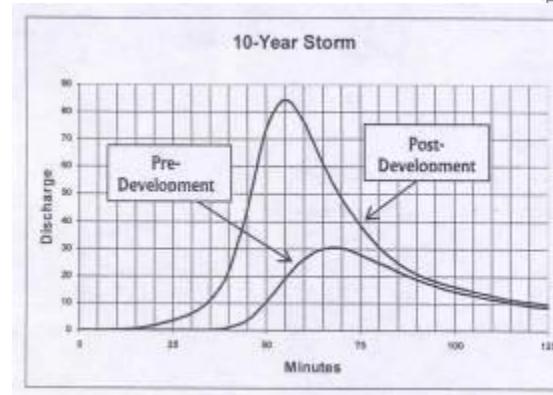
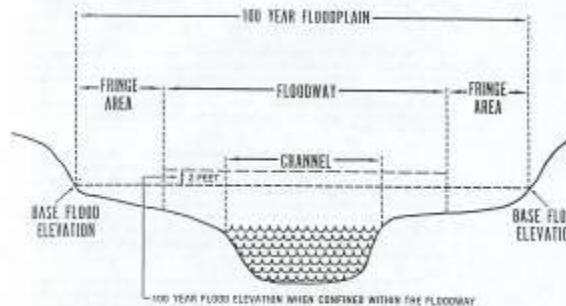
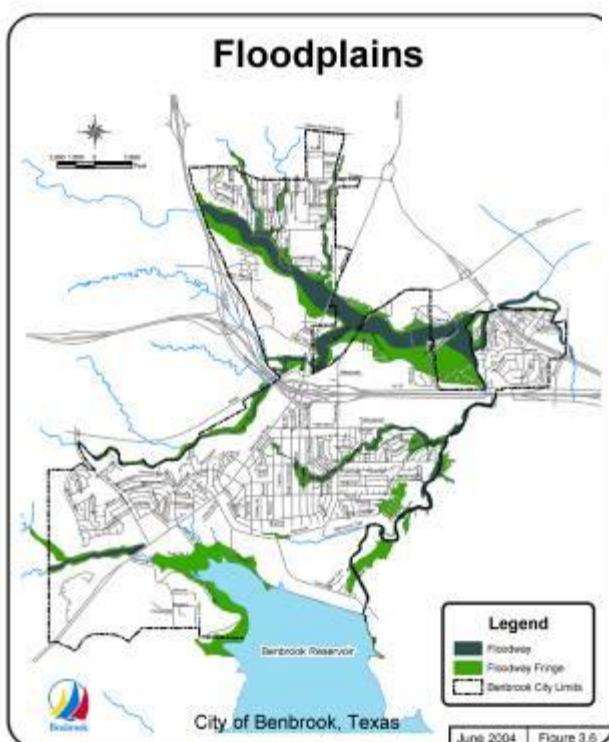
- Buildings (fire stations, libraries)
- Parks
- Schools



Comprehensive Plan Contents

continued

Drainage



Comprehensive Plan Contents

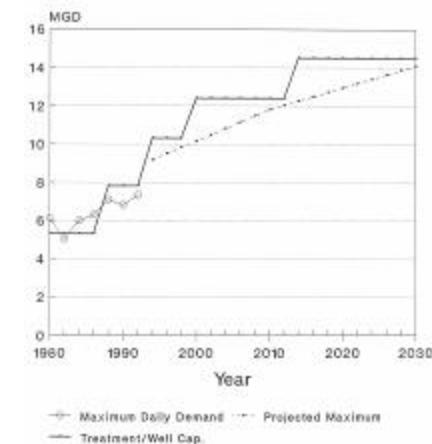
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Public Utilities

- Water
- Energy
- Communications



Water Supply/Demand Curve
Benbrook Water and Sewer Authority



Waste Management

- Solid waste
- Wastewater
- Hazardous waste

Comprehensive Plan Contents

continued

Public Safety

- Police
- Fire
- Emergency medical care
- Disaster response and preparedness



Economic Development

- Business retention
- Business recruitment
- Grow Revenue of City



Comprehensive Plan Contents

continued

Other Sections

- Historic preservation
- Housing, Health and Social services
- Urban Design and amenities
- Capital improvements
- Implementation and Monitoring*



Plan Implementation Tools

- Zoning Changes
- Subdivision Review
- Capital Improvements Program
- Area Plans
- Review consistency of decisions with Comprehensive Plan Goals,
- Annual Status Reports to Planning Commission
- Planning Commission Report to City Council
- Annual Plan Revisions
- 5-year Updates and Revisions
- 10-year Major Plan Updates

Using the Comprehensive Planning

- Basis of zoning and subdivision decisions
 - Conformance with State law (TLGC 211.004)
 - Change plan before changing zoning
 - Development review checklists
 - Growth management
 - Annexations
- Basis for Capital and Annual Budget Decisions
 - Impact fees
 - Park dedication exactions
- Basis for economic development decisions
- Basis for communication

Reviewing Comprehensive Plan Amendments

Administrative review

- Have they given you everything that you require to make decision
- Why?
- Require change?

Planning Review

- Look at the big picture
- Does the proposed change meet your planning goals?

Land Use and Thoroughfare Plan Amendments

- Is this the best ultimate land use for this area, rather than the existing Land Use Plan designation?
 - Be careful not to react to cyclical market demands. Change when change is the right thing to do in the long term.
- Are there any environmental constraints (e.g. floodplains, noise, landfill issues)
- Does the proposed road and/or land use make sense for that location? (land use conflicts, relationship to other uses, access, utility service, etc.)



Keeping the Peace

Citizens and various interest groups are not going to agree on everything

- NIMBYs
- BANANAs (build absolutely nothing anywhere near anything)
- Environmentalists
- Developers
- Business Owners



Keeping the Peace

Commissioners are ideal referees

- Disciplined & Objective
- Seen as broadly representative and attentive
- You have the public trust

When you lose sight of those values, the whole process comes in to question

Keeping the Peace

Be the lightning rod to draw out and clarify the positions for all sides

A Commission has more ability to be impartial and nonpartisan than politicians, by their very calling can never hope to achieve

Once all of the group positions are vetted, then the politicians upstairs can more safely and rationally make “statesmanlike” decisions.



Getting to EXCELLENT

- Keep and improve livability in face of change
- Provide clear guidance for day-to-day decisions
- Should avoid too much “pie in the sky”
- Clearly shows how to get there from here
- Deal with visual concerns three dimensionally



Getting to EXCELLENT

- Deal with how things will work as well as where they go
- Strategy for positive change in older areas
- Get a timing strategy
- Plan it in PLAIN language
- It should be clearly understood as a commitment



A Plan Unleashed

Now the hard work begins! Implementing and monitoring the plan can be rewarding, but also tedious. By taking careful steps, your Plan can be a success!



Lobby for good Planning!

If you don't, who will?

Any Questions and/or Comments?

Capital Improvements Planning

CIP: An annual, multi-year schedule of proposed capital improvements.

Capital Improvement: Defined by minimum life expectancy and minimum cost.

- Usually long term and substantial
- Based on priorities and funding.
- Not merely a list of bond projects.
- Important tool for implementing the Comprehensive Plan.

The **CIP** is

- To assist local officials in making sound decisions about investment of public financial resources.
- To foster timely funding and construction of needed public facilities.
- To promote orderly development in accordance with the Comprehensive Plan.

Elements of the CIP

- Assessment of growth trends and impacts on public facilities.
- Identify capital projects needed to address deficiencies and support growth.
- Establish priorities among capital improvements.
- Assessment of financial resources.
- Match projects to available funding sources.

Possible Funding Sources

General Obligation Bonds

Revenue Bonds

Enterprise Funds

Development Impact Fees

Public Improvement Districts

Tax Increment Financing

State and Federal Grants

Private Funds

Relationship to Comprehensive Plan

The **CIP** can be a

- Companion to Comprehensive Plan
- Part of Comprehensive Plan
- Capital improvement needs can be identified based upon Comprehensive Plan

Relationship to Annual Budget

- 1st year of CIP is input to the annual budget.
- CIP is a moving multi-year identification of proposed projects and funding needs.
- CIP is updated each year for the next multi-year period.
- Financial projections for funding capacity are derived from analysis and forecasts based upon the annual budget and financial statements.

**Thank you!
Questions?**

Contact Information: abagley@swbell.net

The Zoning Ordinance

Its Fundamentals including Statutory and Judicial Authority

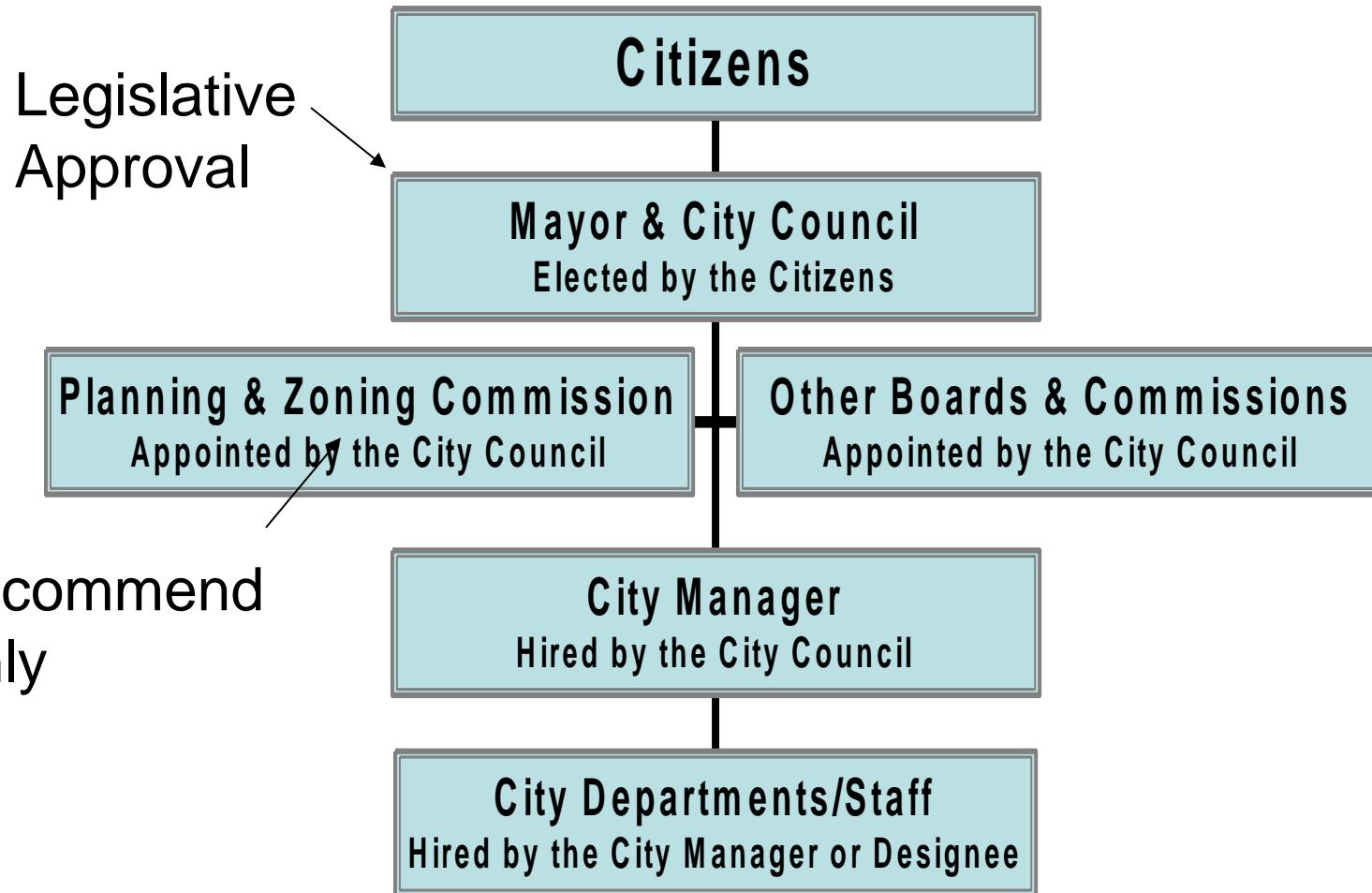
Ann C. Bagley, FAICP
Planning Official Development Officer
American Planning Association Texas Chapter

Mission, Texas
June 14, 2013

Definition of Zoning

“...the division of a jurisdiction into districts (zones) within which permissible uses are prescribed and restrictions on building height, bulk, layout and other requirements are defined.”

Participants in the Zoning Process



History Of Zoning – United States

- Nuisance laws for land use controls
- New York City (1916)
 - Light /air standards at street level
 - Separation of incompatible land uses
- Standard State Zoning Enabling Act (1922)
- Ambler Realty vs. Village of Euclid

History Of Zoning - Texas

- Adopted its version of Standard Zoning Enabling Act in 1927
- Gave zoning power to cities, but not counties
- Required zoning be in accordance with comprehensive plan
- Zoning must be for protection of health, safety and general welfare of public

Purpose Of Zoning

To regulate land uses in order to:

- Prevent incompatible adjacent land uses, undue density and traffic congestion;
- Restrict height and size/bulk of buildings; and,
- Provide setbacks to lesson fire hazard and promote aesthetic value

In doing so--zoning helps protect private property values

Texas Local Government Code

Section 211.004

- “Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:
 - lessen congestion in the streets;
 - secure safety from fire, panic, and other dangers;
 - promote health and the general welfare;
 - provide adequate light and air;
 - prevent the overcrowding of land;
 - avoid undue concentration of population; or
 - facilitate the adequate provision of transportation, water, sewers, schools parks, and other public requirements.”

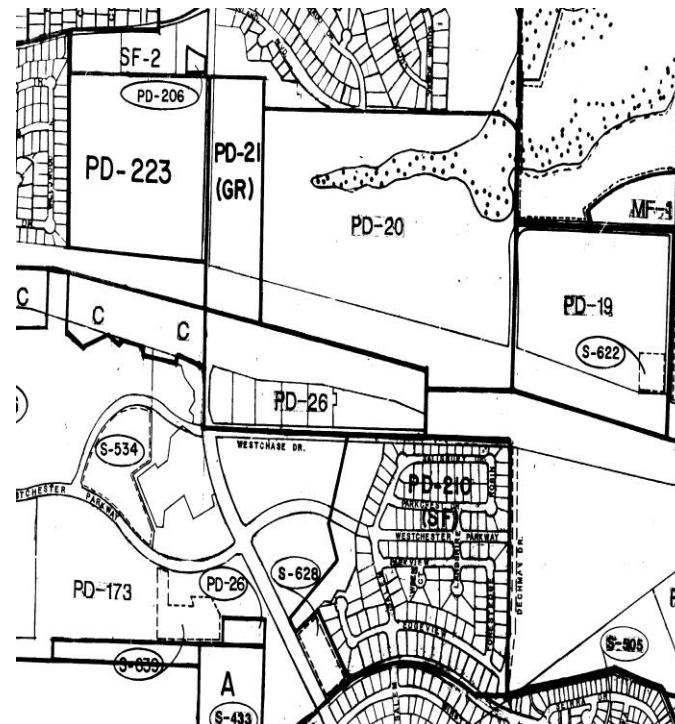
Comprehensive Plan

- Often overlooked or undervalued element of zoning administration
- Can make zoning decisions much easier for Commission
- Decisions based on sound comprehensive plan, created with strong community input, can be better supported

Zoning

A Tool to Enforce the Comprehensive Plan

- “adopted plan must serve as basis for zoning amendments”
Mayhew vs. Sunnyvale
- “forbids actions that disregard long-range master plans” *Pharr vs. Tippit*



Components of Zoning

Zoning Text

Zoning Map

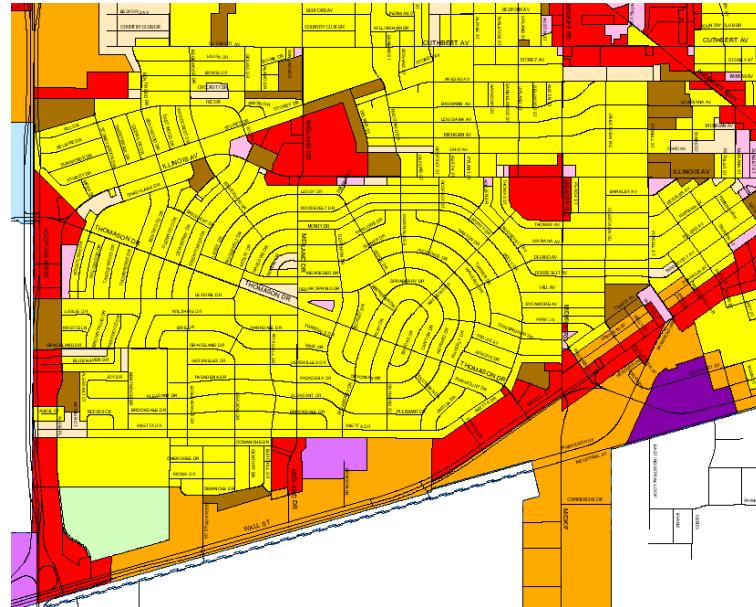
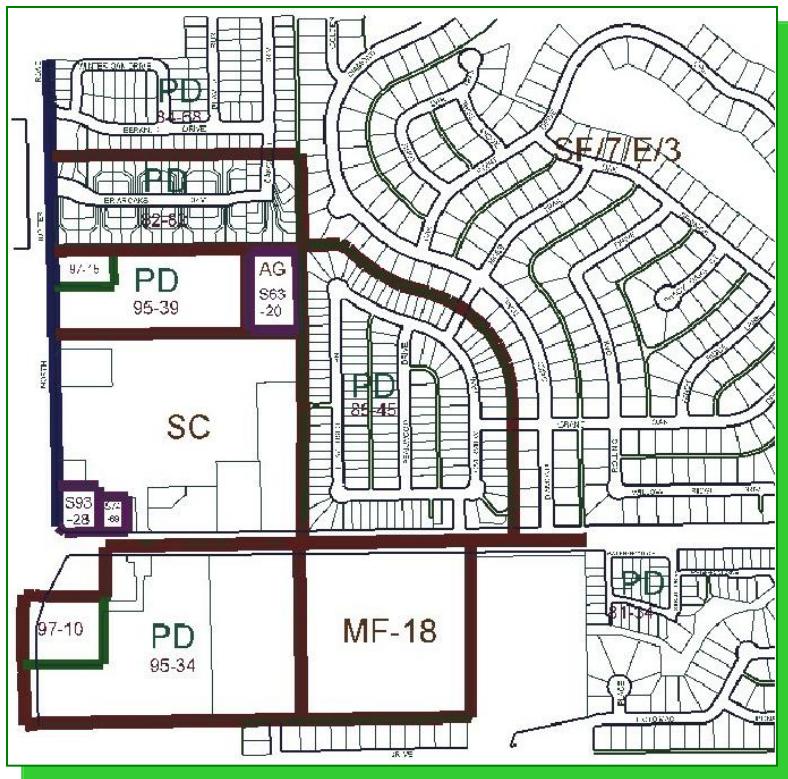
Zoning Text in the UDC

- Document adopted as ordinance by local governing body
- Lays out exact regulations zoning created to implement
- Should be written in language easy to understand by average citizen
- Document should be well organized and concise

Zoning Map

- Set of maps showing zoning district boundaries for entire city
- Usually a detailed city map overlaid with patterns, colors, district classification codes, or other type of district boundary designation to depict various zones which indicate what land uses are allowed and where
- Accessible for public view

Zoning Map



Elements Of Basic Zoning Ordinances

1. Definitions
2. Use Chart
3. Zoning District Requirements
4. Off Street Parking Requirements
5. Procedure for Amending the Zoning Ordinance and/or Map
6. Nonconforming Uses/Structures
7. Zoning Board of Adjustment
8. Other Requirements and

Definitions

- Good definitions make administration easier for staff and Commission
- Provide thorough and precise definitions of terms used in ordinance and land uses in use chart
- Will also keep your attorney happy and out of courtroom

Use Chart

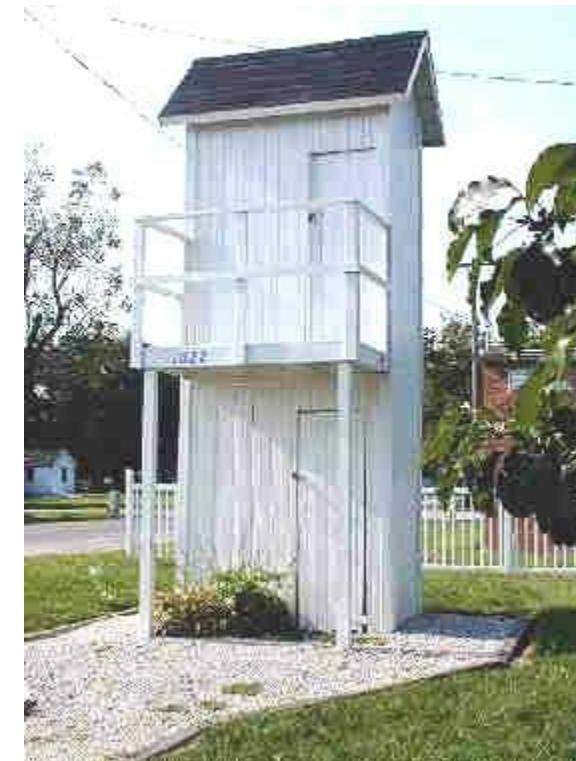
- Can be a matrix showing uses allowed by right, by conditional permit or not at all w/in particular zoning district
- Some ordinances list permitted and conditional uses within each zoning district chapter along with development regulations

Use Chart

OFFICE AND RETAIL	Agriculture	Single-Family - 7	Duplex	Multi-Family - 12	Multi-Family - 18	Office	Health Services	Neighborhood Service	Shopping Center	General Business	Commercial - 1	Commercial - 2	Industrial - 1	Industrial - 2	Freeway	Planned Development	Parking Requirements
	s						x	x	x	x	x	x	x	x	x	*	1 / room
Bed and Breakfast	s						x	x	x	x	x	x	x	x	x	*	1 / room
Drug Store/Pharmacy						x	x	x	x	x	x	x	x	x	x	*	1 / 200 gfa
Financial Institutions					x	x	x	x	x	x	x	x	x	x	x	*	1 / 300 gfa
Grocery/Supermarket						x	x	x	x	x	x	x	x	x	x	*	1 / 200 gfa
Home Improvement							x	x	x	x	x	x	x	x	x	*	1 / 200 gfa
Hotel, Full Service					x						x		x	x	x		1.25 / room
Motel, Limited Service					s						s		s	s			1.25 / room
Landscape Nursery	s						x	x	x	x			s				1 / 200 gfa

Zoning District Requirements

- Establishes different zones applicable in community
- Establishes development standards for setbacks, lot coverage, height limitations, lot size and others in each district
- Confirms the permitted uses



Off-Street Parking Requirements

- Establishes number of off-street parking spaces required for each type of land use
- Generally expressed as ratio of spaces to square footage of building area
- Includes both residential and non-residential uses

Also provides dimensions for parking and maneuvering areas



Procedure for Amending Zoning Ordinance

- Clearly define procedure to amend zoning ordinance, including both zoning changes and text amendments
- Also define requirements for hearings, appeals, notice and fees

Nonconforming Uses/Structures

- Defines what constitutes nonconforming status
 - Does not meet the current zoning requirements for use or district requirements—may have been annexed or in place before current ordinance
 - “Grandfathered”
 - Is legal as long as continues as same
 - Example: a small neighborhood convenience store having parking spaces for 10 cars while current regulations require spaces for 25.

Nonconforming Uses/Structures

continued

- Specifies limitations on enlarging, expanding or changing nonconforming uses/structure
 - Generally cannot expanded
 - Use has to be in same category
 - Can change to a conforming use
- Identifies requirements for termination of nonconforming uses/structures
 - Cannot be rebuilt if over 50% is destroyed
 - Is closed for a period of time set by Ordinance
 - usually around six months – verification by utility connections/bills
 - Is found by, initialed complaint, to be incompatible

Zoning Board of Adjustment

- Is quasi-judicial
- Required by Texas State Statutes 211.008-211.010
 - 5-9+ members/alternates
 - Must be heard by at least 75% of members
- Different Duties
 - Appeals Administrative Interpretation
 - Variances (hardship)
 - Special Exceptions (ordinances define)
 - Other duties as assigned
- Next step - if not satisfied -Court

Zoning Board of Adjustment

continued

- Appeals of Administrative Interpretation

A resident or staff can appeal a decision by a staff member or other party.

Example: The building official issued a permit of a house that had three kitchens in three separate structures as single family. The neighbors asked the BOA for ruling citing that it did not meet the requirement of the Zoning Ordinance for single family. The BOA granted the variance, but the city appealed that decision. The District Court upheld the single family definition. The extra kitchens were eliminated.

Zoning Board of Adjustment

continued

- A **Variance** (building lines, setbacks, height) may be granted if a literal enforcement of the provisions of the Zoning Ordinance would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved and would deprive the applicant of rights commonly enjoyed by other properties in the same district.
- The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure or buildings in the same district.
- No such thing as a use variance!
- **Example:** TxDOT widens the road several times resulting in a narrow, basically unbuildable lot that did not meet the requirements of the district.

Zoning Board of Adjustment

continued

- A **Special Exception** to the requirements of the Zoning Ordinance may be granted if the request is in accordance with the standards for exceptions that are written into the Ordinance. Exceptions may include:
 - Reduced parking (if can show that not needed—next to transit station, or ability to share parking)
 - Reduced landscaping (good reason that trees etc. cannot be planted or are not needed –next to open space)
 - Handicap accommodation
 - Carport in front if others are same in area
 - Fence height

The exceptions cannot infringe on the rights of other properties.

Example: School wants a taller fence in front yard setback. Ordinance would require no more than 4', 8' is requested.

Special Use Exception

- A. Uses requiring a special use exception are identified in the permitted uses Section 4.3, Zoning Districts.
- B. A special use exception shall be required for an accessory structure with a gross floor area greater than one-half the gross floor area of the principal structure. Standards in Article 4 may apply to such structure.

An application for a special use exception not listed in the relevant zoning district shall not be accepted.

3.12.2. Review Process

Concurrent Site Plan Submittal

Application for a special use exception shall occur in conjunction with the submittal of a site plan. The Board of Adjustment may not approve, approve with conditions or deny a special use exception application until after the site plan has been reviewed by the Technical Review Committee in accordance with the process established in Section 2.7.

B. Technical Review Committee

The Technical Review Committee shall review the application in accordance with the procedure established in Section 2.7 and, considering the review criteria in Subsection 3.12.3, make a recommendation to the Planning Commission. The Assistant City Manager of Development Services shall be responsible for making a recommendation in the event an agreement on a recommendation cannot be reached.

C. Board of Adjustment Final Action

1. Following notice in accordance with Subsection 3.1.7, the Board of Adjustment shall hold a public hearing and approve, approve with conditions or deny the special use exception.
2. The Board of Adjustment shall take final action on the special use exception within 45 days from the date the recommendation of the Technical Review Committee or Assistant City Manager of Development Services is made. In the event the Board of Adjustment shall fail to act within 45 days, the special use exception shall be deemed in all things denied.

Other Tools

- **Special Permit**
- **Overlay Districts (Historical,**
- **Planned Unit Developments**
- **Special Districts**

Special, Specific or Conditional Use Permit

Use Permit

- A. A special, specific, or conditional use permit provides a means for developing certain uses in a manner in which the use will be compatible with adjacent property and consistent with the character of the neighborhood yet may have extra requirements for uses or development.
- B. The grant of a special permit shall have no effect on the uses permitted as of right and shall not waive the regulations of the underlying zoning district.
- C. These uses are identified in the permitted uses sections of zoning districts.
- D. An application for a special permit may not be made unless the use is identified as a special use in the relevant zoning district.
- E. A special use permit is requested by the property owner and is essentially a rezoning which goes with the land
- F. There are cities in which there are zoning special uses and other permits using a similar name that are essentially licenses granted to the owner.

Overlay District

- Set of additional restrictions placed on top of an existing zone

Examples of Overlay Districts include:

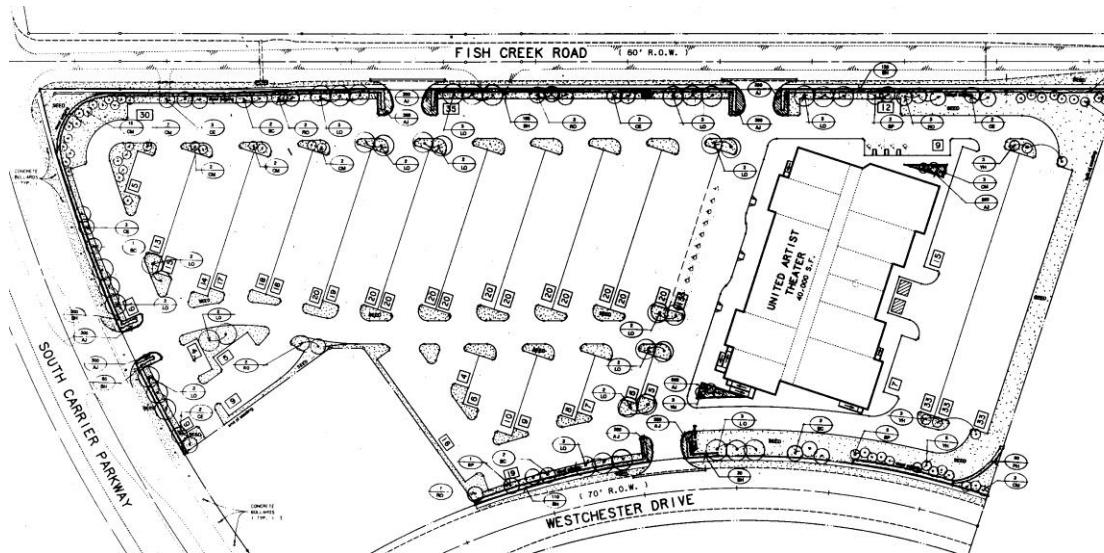
- Historic Preservation,
- Conservation or Neighborhood Stabilization
- Airport Overlay,
- Flood Hazard Areas,
- Special Corridor Development
- Method to protect an area with unique characteristics, needs or special challenges

Planned Unit Developments

- A unique zoning tool that offers an alternative to more rigid regulations of standard zoning ordinance
 - Promotes flexibility in design
 - Allows diversification of uses, structures and open space
 - Allows room for negotiation during review process that traditional zoning does not
 - Is rezoning and requires public hearings
- Should not be used just to get around the rules!

Planned Unit Developments

- Should be used for unique developments, not routinely
- Site (conceptual and development plans) attached to ordinance to be amended by public hearing process



Factors to Consider in Making Zoning Decisions

- Compliance with Comprehensive Plan
 - Is application consistent with Plan?
 - If not, have conditions changed or new information been offered to support change?
- What are the Surrounding Zoning and Land Uses?
- Infrastructure Impacts
 - Water, Sewer, drainage, roads
- Size and Location of Parcel
 - Is land large enough and in proper location for proposed use?

Factors To Consider In Making Zoning Decisions

continued

- Reasonable Use of Property - Does proposed change provide reasonable use of property?
- Zoning has great discretion – deny if applicant has not proven it is in the best interests of City to rezone

What Zoning Can Do...

- Determine appropriate use of land
- Set development density
- Create area regulations:
 - Height
 - Lot size and dimensions
 - Lot coverage
 - Setbacks
 - Landscaping

....And Can't Do

- Determine color of paint (except where called out)
- Determine subdivision design
- Determine race, occupation or income of residents
- Determine if owner occupied or rental
- Guarantee “quality” development

Potential Problems

- Spot zoning – rezoning of a particular parcel of land to a zoning classification which is significantly different from the adjoining properties (usually less restrictive)
- Takings issues –private property taken for public use without just compensation – could be zoning to a more restrictive use that is not owner initiated
- Exclusionary zoning – zoning measures that appear to impose unnecessary or unjustifiable costs or requirements facially or by execution excluding various groups of ‘undesirables.’

Frequently Asked Questions

- Who can request rezoning of property?
- What are notice requirements?
- What is the 20% Rule?
- Can area subject to zoning change be increased at public hearing? Decreased?
- Can area subject to zoning change be zoned to more intense use than advertised? Less intense?

Other Concerns

- In that you are a recommending body to the City Commission, you generally should not have Ex-Parte Contacts – Check with attorney
- Never commit to a decision before the hearing on the case
- Share any information learned at the hearing

**Thank you
Any Questions?**

Contact: abagley@swbell.net

Subdivision Regulations

Fundamentals including Statutory and Judicial Authority

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Mission, Texas
June 14, 2013

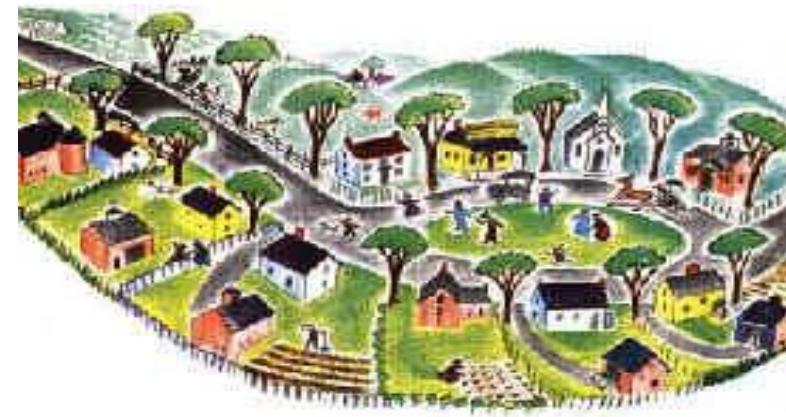
Enabling Legislation

Texas Local Government Code

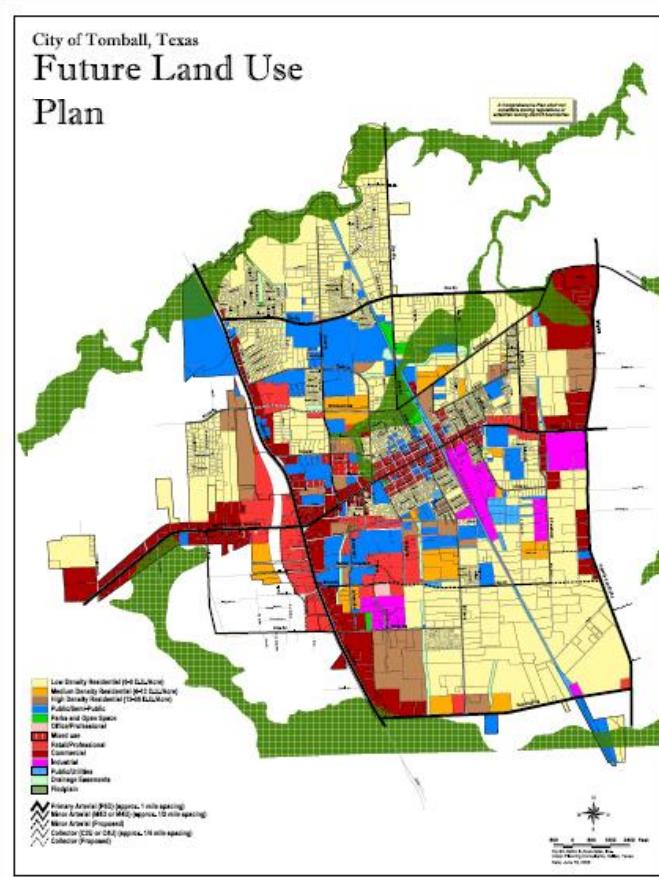
- Chapter 213 – Municipal Comprehensive Plans
- Chapter 211 – Municipal Zoning Authority
- Chapter 212 – Municipal Regulation of Subdivisions

Purpose of Subdivision Regulations

- Conversion of raw land into buildable lots
- Requirements for public improvements
- Standards for land development
- Procedures for submittal, review and approval of plats
- Shape future development
- Determine physical shape and function of community
- Lasting impact on community design



Relationship to Comprehensive Plan



- An important tool for comprehensive plan implementation
- Comprehensive plan provides legal and practical basis for subdivision regulations
- Consistency with plan avoids arbitrary or discriminatory regulations
- Plan coordinates subdivision layout with other community development

Purposes Served

- Creates a legal description
- Convenient and accurate plat recordation
- Orderly community development
- Adequate roads, utilities, drainage, open space, park and school sites
- External protection and conservation for surrounding areas
- Adequacy/capacity of public facilities



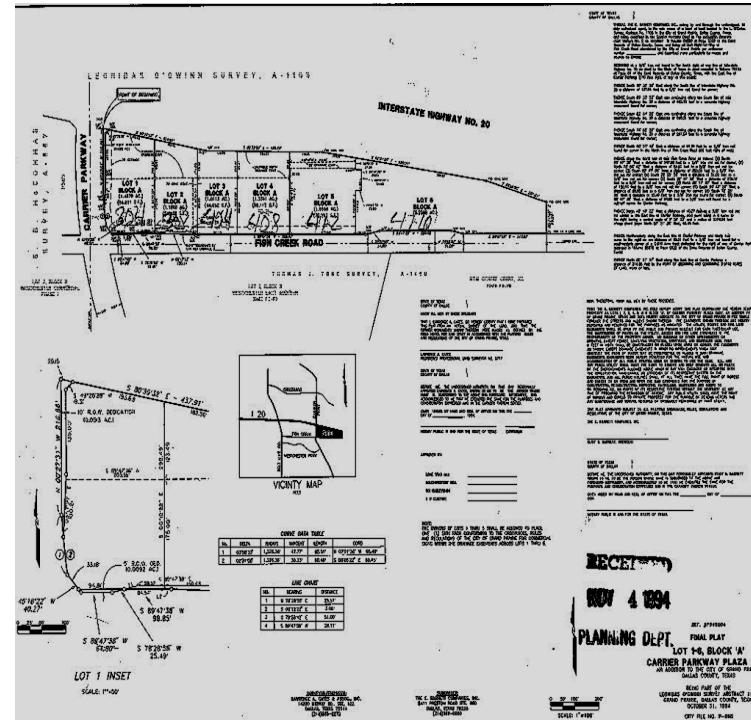
When is a Plat Required?

“The owner of a tract of land located within the limits or in the extraterritorial jurisdiction of a municipality who divides the tract into two or more parts to lay out a subdivision of the tract ... must have a plat of the subdivision prepared.”

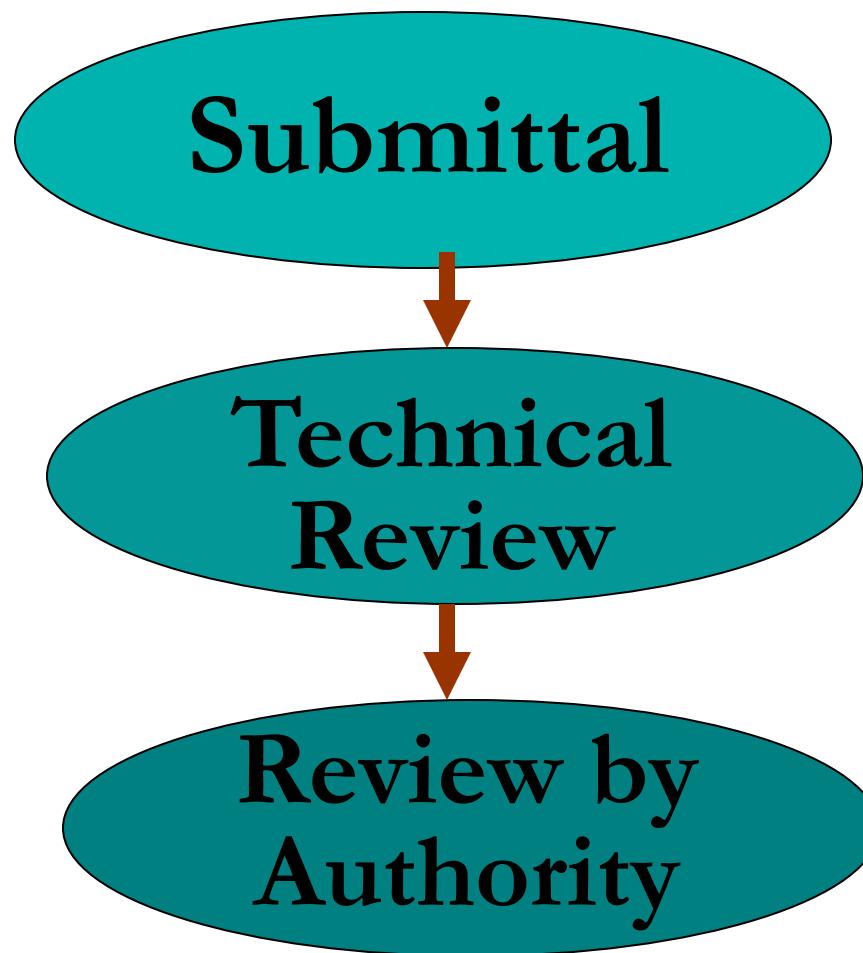
- *Section 212.004, Local Government Code*

Types of Plats

- Preliminary Plat (actually not required by statute)
- Final Plat
- Minor Plat (4 or less lots)
- Replat (Non-residential)
- Replat (Residential)
- Amending Plats
- Vacating Plat
- Administrative Plat



Approval Process



Approval Process - Submittal

- Pre-submittal Conference (recommended)
- Submittal Requirements - Statutory
 - Metes and bounds description
 - Land survey locating the subdivision
 - Dimensions of lots, streets, easements, public/common use areas
 - Acknowledgement of the owner
- City may specify more requirements

Approval Process - Technical Review

- Subdivision Plat Review Committee
 - City Departments
 - Engineering, City Services, Police, Fire, Economic Development, GIS, etc.
 - Utility Companies
- Committee meets to examine all code issues prior to consideration by approving authority



Approval Process: Review by Authority

- Approving authority is the City Council
 - May delegate approval to Planning Commission
 - May allow staff administrative approval of certain minor plats, replats, amending plats
- Must act on a plat within 30 days after it is filed, otherwise plat is considered approved
- Note that the term “considered filed” needs to be defined specifically— is it when the plat is submitted? Fees paid? Deemed complete?

When is a plat considered filed?

Generally:

- The application is complete when the requirements are met.
- City has 10 days to determine if plat application is complete
- If not then a letter must be sent to applicant who then 45 days to submit missing information
- Date Application is complete = file date
- Application/vesting ceases if missing information not corrected w/in 45 days

Standards for Approval

- Must approve plat if it conforms to:
 - The general plan of municipality;
 - The general plan for the extension of infrastructure;
 - The requirement to file a bond (if required);
 - All other technical requirements
- Limited flexibility in plat approval

Replatting

- Like a plat, the City must approve a replat that meets all ordinance requirements and
 - Residential replats require a public hearing with
 - Notice in newspaper & mailed to owners w/in original subdivision & w/in 200 ft (depends on your regs)
 - Notices generally at least 15 days prior to hearing
 - except if owners of 20% of land area notified protest in writing, then requires $\frac{3}{4}$ vote of the approving body to approve replat

Typical Components of a Subdivision Ordinance

- Plat Approval Procedures
- General layout of the Document
- Minimum Design Standards
- Conformance with zoning district regulations
- Required Public Improvements/Funding
- Dedication Requirements (or Fee in Lieu of Dedication)
- Right-of-way /Easement Requirements
- Plat Review Procedures and Fees
- Consistency with Comprehensive Plan
- Related Technical Documents

Subdivision Ordinance Related Technical Documents

- Subdivision Ordinance specifically should refer to and require compliance
- Design Standards for Construction
 - Tables of design standards
 - Typical drawings of construction
 - Drainage Manual
- Application, forms, fee schedule

“Vesting” Statute - Plats

- Actually a “right to complete” statute
- Triggered by utility, permit or plat application (sometimes even concept plan)
- Have 2 years from permit date and 5 years once project is started
- If “no progress” then an expiration date is critical
 - Court cases held documents w/o expiration date may still be vested
 - Ordinance should have automatic expiration date

Development Exactions

HB 1835 (Rough Proportionality)

- Codifies Nollan/Dolan and Flower Mound Cases
 - If city requires developer to pay portion of infrastructure costs as condition of plat approval, developer's portion of cost must be “roughly proportionate” or consistent with only the impact of proposed development
 - As estimated by city's engineer

Components of a Plat

Title Block

- Proposed name of subdivision including phase, addition, or section
- Legal description of property
- Total acreage
- Number of lots, blocks and reserves
- Person or firm who prepared the plat, address
- Owner's name and address
- Date that the plat was prepared
- Zoning District
- Purpose of replat, if applicable

Plat Drawing

- Drawing orientation with north to the top of the drawing (or right if long and narrow)
- North arrow
- Scale (1"=100') numerical and graphic scale (or appropriate scale)
- Vicinity map in upper right corner showing the subdivision's relationship with adjacent well known streets, railroads, water courses, etc., oriented with north to the top of the drawing and in the same direction as the detailed subdivision drawing

Drawing continued

- Plat boundary in heavy lines with measured bearings and distances tied to survey corners or intersections
- abstract lines
- survey lines
- corporate boundaries, district boundaries
- existing or proposed highways and streets
- Location of existing buildings (buildings outlines to be removed prior to final plat submittal)
- Locations of recorded easements - dashed line with recording information
- Proposed new easements - dashed line
- Lines outside plat boundary should be dashed

Drawing continued

- location and size of all watercourses
- 100-year flood plain according to Federal Emergency Management Agency (FEMA) information
- name and location of all adjoining subdivisions, unplatte^d land and property owners,
- existing or proposed streets,
- alleys,
- railroads, easements, and
- features that may influence the layout of development within 200 feet of the boundary
- All zoning designations of the site and within 200 feet of the site, if applicable shall be clearly noted and complied with accordingly

Drawing continued

- Sites, if any to be reserved or dedicated for parks, playgrounds, schools, churches, or other public or semi-public uses
- Minimum building lines for plats shown either graphically or by note. All front building lines shall be shown graphically
- Centerline radius, existing and future right-of-way widths, and conformance to approved traffic affect analysis for all streets
- All proposed public utility easements shall be included as required for utility companies or the City
- Contours at one foot intervals
- Reference to U.S.C. &G.S. data
- Spot elevations if applicable

Lots

- Block(s) number within boundary of plat
- Lot number(s) on each lot Sequential
- Lot width and depth per zoning district
- Lot width on radial lots
- Reserve, tracts or parcel(s) identified by letter Sequential
- Lots and reserves with measured bearings and distances
(final)

Streets

- Check Major Street Plan for major thoroughfare and major collector. Alignments, dedications and future widenings.
- Check existing street ROW widths
- Check cul-de-sac radius - 50' R residential, 60'R commercial
- Check intersections spacing (*block length*) between streets. Check minimum spacing of intersections along a major thoroughfare
- When widening is required make sure that the dedication is measured with bearings and distances and square footage is provided. Include dedication to public statement on plat.

Streets continued

- If one ROW width transitions to another width, add note to plat.
- street intersection off-sets
- Maximum length of residential cul-de-sac
- Verify reverse curves
- Check the number of access points into the subdivision
- At all intersections a visibility triangle must be provided.
Add visibility triangle note

Street Names

- Check street name for duplication and similarity
- Check 911 list
- Street names must end in suffix (Drive, Road, Lane, Street, Boulevard, etc.)
- Check for street name breaks where street names change

Even More....

Utility and Access Easements

- Public utility easements shall conform to design manual
- Other easements should the design requirements of the design manual

Fire Hydrants

- All hydrants are within 600' of each other. Do you know why?
- All building meet 200' hose lay from private street edge per design standards and Fire Department criteria

Contact Letters

- Water Districts
- County
- School Board
- Utility Companies
- Post Office

Final Plat

- Verify the exact location, grade, dimension, description, and name of all proposed streets, alleys, parks, other public areas, reservations, easements or other public rights-of-way, blocks, lots, and other sites or facilities within the subdivision, along with accurate dimensions, bearing or deflection angles and radial, area, central angels, degree of curvature, tangent distances, and length of all curves where appropriate
- Global Positioning System (GPS) coordinates are recommended where applicable.
- Location of all survey corners and permanent monuments

Final Plat continued

- Certification, dedication and acknowledgement blocks of the owner, engineer, surveyor, Planning Commission Chair and Mayor, lien holder, fully signed, executed and appropriately sealed
- A title page if the information is too large for a single sheet
- General Plat Notes as appropriate
- Corporations require two signatures, Limited Partnerships or Joint Ventures one
- Owner's signatures and lien holders notarized

At Last!

- Digital file
- Tax Certificates
- HOA/Deed Restrictions
- Fees
- As-Builts Constructions

Other Issues

- Extraterritorial Jurisdiction
 - Most Cities extend their Subdivision Regulations into the ETJ
- Gated Communities, Private Streets
 - Need to have specific requirements to handle eventual replacement
- Impact Fees/Pro-Rata Charges
 - Fees that cover effect of development on existing city services
- Park Dedication or Fees-in-lieu-of Land

**Thank you!
Questions and Discussion?**

Trending Now...

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Mission, Texas
June 14, 2013

Sustainable Development continued

"Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. It contains within it two key concepts:

- the concept of **needs**, in particular the essential needs of the world's poor, to which overriding priority should be given; and
- the idea of **limitations** imposed by the state of technology and social organization on the environment's ability to meet present and future needs."

Sustainable Development continued

All definitions of sustainable development require that we see the world as a system--a system that connects space; and a system that connects time. The concept of sustainable development is often broken out into three constituent parts: environmental sustainability, economic sustainability and sociopolitical sustainability.

Smart Growth

Smart Growth is an urban planning and transportation theory that concentrates growth in compact walkable urban centers to avoid sprawl. It also advocates compact, transit-oriented, walkable, bicycle-friendly land use, including neighborhood schools, complete streets, and mixed-use development with a range of housing choice. There are 10 accepted principles that define Smart Growth:

1. Mix land uses
2. Take advantage of compact building design
3. Create a range of housing opportunities and choices
4. Create walkable neighborhoods
5. Foster distinctive, attractive communities with a strong sense of place
6. Preserve open space, farmland, natural beauty, and critical environmental areas
7. Strengthen and direct development towards existing communities
8. Provide a variety of transportation choices
9. Make development decisions predictable, fair, and cost effective
10. Encourage community and stakeholder collaboration in development decisions

Complete Streets

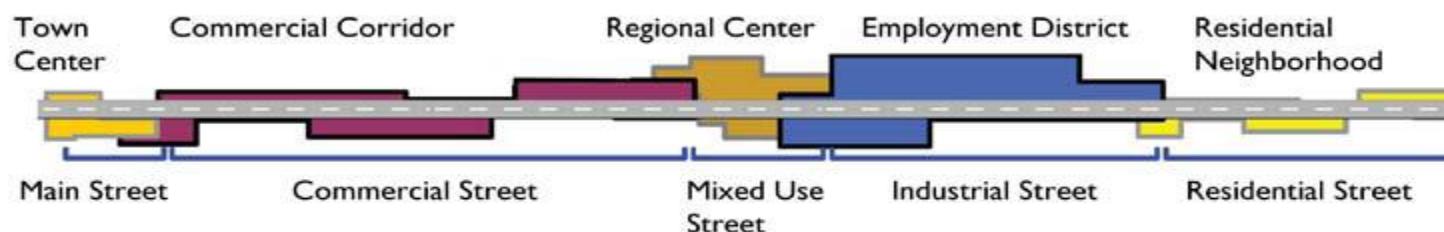
Complete Streets is a movement in communities to make urban roadways safe and convenient for all users. Roadways and intersections are required to serve the needs of motorists, bicyclists, transit users, and pedestrians, including those with disabilities. Complete Streets is policy driven to bring about institutional changes from standard roadway development practices that tend to be focused primarily on vehicular needs. The level of service for pedestrians, transit riders, and bicyclists are on par with automobile-oriented needs. Complete Streets can include most roadways in a community.

Source: *forwardDallas!*



Context Sensitive Design

Context Sensitive Design, sometimes referred to as Context Sensitive Solutions, incorporates collaborative planning and design practices to ensure that road improvements fit within the context of the surrounding environment and users. Stakeholder input is included throughout the process. Context Sensitive Design provides a flexible way to address all types of travel by including a team of professionals



Source: *forwardDallas!*

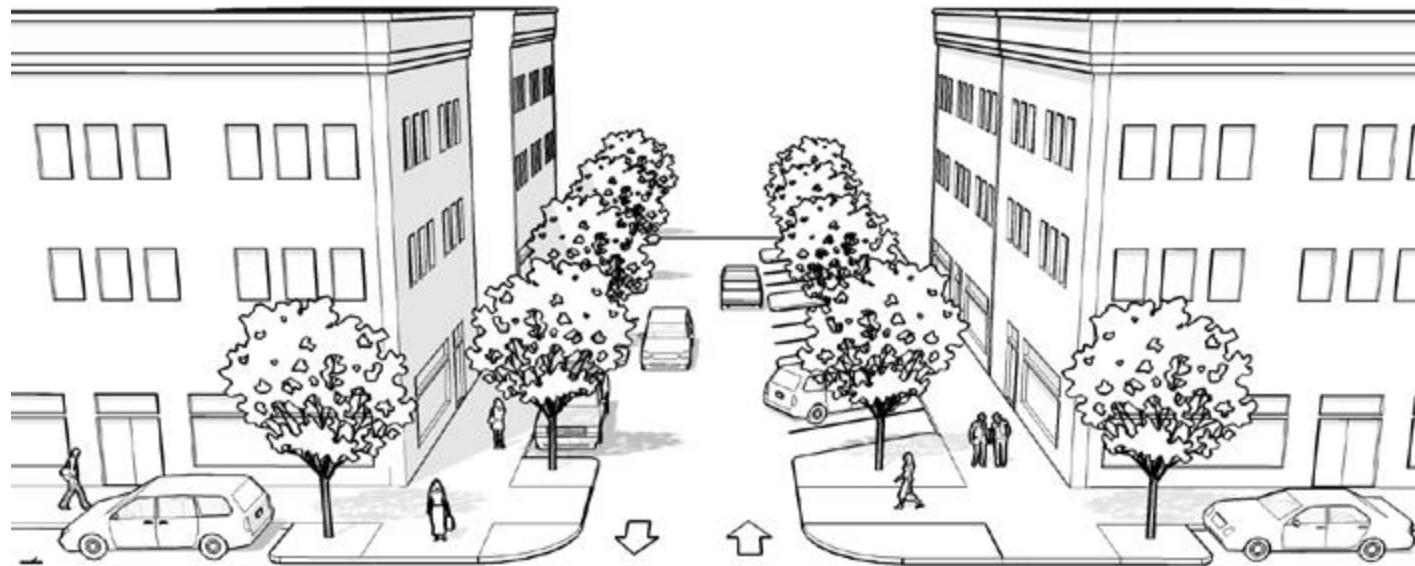
Green Streets

Besides moving traffic and linking locations, the impervious surface of roadways collects rain waters and diverts these waters to curbs and gutters that can quickly overwhelm local creeks and rivers. Urban roadways are part of a community's stormwater conveyance system that is considered a component of a community's 'gray infrastructure.' The 'gray infrastructure' includes stormwater sewers, wastewater sewers, and utility lines. Municipal roadway planning and design practices across the country are looking at implementing Green Streets design criteria as part of their green infrastructure to manage and reduce stormwater runoff and protect water resources from pollutants. Green Streets are primarily designed and built as a stormwater management system within a road's right-of-way that filter pollutants through vegetative bioretention treatments and enhance soil filtration. Green Streets also enhance the aesthetic qualities for adjacent properties by replacing the hardscape curbs and gutters with a softscape of street tree plantings, vegetated swales, landscaped bioretention features, and permeable paving materials. Green Streets help improve access for bicyclist and pedestrians and add to the overall pedestrian experience. These roadway designs are applicable to the design and construction of local alleys.

Source: *2 Points to White Rock East Area Plan*

Form Based Zoning

Form-Base Zoning is a new approach in which building form is regulated more heavily than use or density. It promotes a walkable urban environment by creating appealing pedestrian-friendly streetscapes amid a mix of land uses. Key characteristics are building placed close to the street (build to rather than setback, wide sidewalks, street trees and furniture, reduced parking due to proximity to transportation, upper floors with residential uses , ground floor built to commercial requirement, more windows on the street, façade treatments that reduce the appearance of a mass building.



Source: *Dallas Development Code Article XII*

Questions?

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Other Issues

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June 14, 2013

Annexation

What is Annexation?

Annexation is a process by which a city extends its municipal services, regulations, voting privileges and taxing authority to a new territory in a well thought out, responsible way. Cities can grow sensibly by balancing current responsibilities with the anticipation of new developments and increased tax base.

Annexation Continued

Why Annex?

Annexation is a means whereby a city can allow and manage growth without creating hardships for existing neighborhoods. The following are some of reasons the City would choose to annex:

- To provide municipal services to developed and developing areas.
- To exercise regulatory authority necessary to protect public health, safety and general welfare as well as guide and assure orderly development.
- To ensure that residents and businesses outside the corporate limits share the tax and maintenance burdens for facilities, streets and utilities.
- To enable the city to regulate the subdivision and development of land in an expanded extraterritorial jurisdiction.

Annexation Continued

Authority to Annex

A home rule city, may (under *Texas Local Government Code Chapter 43*) annex property both through voluntary and involuntary means.

Voluntary annexation occurs when property owners petition the City to be included in the City's boundaries.

Involuntary, or unilateral annexation, occurs regardless of whether property owners and/or residents in the affected area give their consent.

A general law city would have to have approval of the State Legislature to annex.

More Annexation

General Requirements for Annexation

Section 43.021 of the *Texas Local Government Code* authorizes A home-rule city may annex to fix municipal boundaries; extend those boundaries; annex area adjacent to the municipality; and exchange area with other municipalities. Before an area can be annexed, there are several requirements that must be fulfilled including the following:

- Area to be annexed must be contiguous to the city's corporate limits.
- Strip annexations less than 1,000 feet in width are prohibited unless initiated by the owner of the land.
- A city cannot annex additional land from strips less than 1,000 feet in width or from areas that are in the ETJ only because of the previous annexation of strips less than 1,000 feet in width.
- Two public hearings on a proposed annexation are required. Notice must be published in a local newspaper at least eleven (11) days, but not more than twenty (20) days before the hearing(s).
- Cities are required to submit applications to the U.S. Department of Justice for pre-clearance at the earliest date permitted by federal law, and after receiving pre-clearance, must permit residents to vote in the next municipal annexation.

Even More Annexation

Though one reason for annexing land is to regulate land use under state law, there are certain limitations to this authority. A city cannot prohibit the continuation of a legal land use if the use was in existence on the date annexation proceedings were instituted (first reading of the annexation ordinance) or for approved land uses under a *Chapter 212 Texas Local Government Code Development Agreement*. A city cannot prohibit a landowner from beginning to use land if the use was planned 90 days before the effective date of the annexation and a complete application for any required government permit was submitted before the date annexation proceedings were instituted. However, a city can impose its own regulations relating to:

- Location of sexually oriented businesses;
- Colonias;
- Preventing imminent destruction of property or injury to persons;
- Public nuisances;
- Flood control;
- Storage and use of hazardous substances; and
- Sale and use of fireworks and the discharge of firearms.

If your City Decides to Annex

Land Area of Annexation

A city may annex up to ten percent (10%) of the amount of land area within its city limits each year up to a maximum amount of thirty percent (30%).

Services to be provided upon Annexation

Upon annexation, the City is required to provide essential services to the newly annexed area. These include water and wastewater treatment, police protection, fire protection, emergency medical services, solid waste collection, operation and maintenance of roads and streets, and street lighting, operation and maintenance of parks and playgrounds, and operation and maintenance of other publicly owned facilities and services. The services provided must be equivalent to those provided in a similar area of the City, however services after annexation cannot be less than prior to annexation.

General Annexation Plans (3- and 10-Year)

While state law requires the adoption of a Three Year Annexation Plan for certain unilateral annexations, a city may adopt a general annexation plan that includes unilateral as well as voluntary or other annexations that need not be included in the statutory plan. Having such a plan allows the city to anticipate and direct growth and integrate service plans with its budget process and capital improvements plan to ensure that development happens in a logical manner.

Sexually Oriented Businesses

You have to allow them somewhere.

Allow in areas/zoning districts away from schools and residential uses

Ordinances have to be rather explicit.

There are planners that specialize in these types of ordinances.

Impact Fees

Cost associated with development. Who's going to pay?

Complicated—requires detailed analysis by planners and engineers

Commissions may be involved in developing Land Use Assumption, looking at current and future land uses

There are experts in the field

Other Concerns?

12 Steps To Keep Things Respectful and Peaceful

1. Use standard operating procedures for meetings.
 - *Robert's Rules of Order*
 - Commission's policies and procedures
2. Do your homework.
3. Listen to the presentations.
4. Don't be afraid to ask questions.
5. Rephrase the issue.
6. Have a chair that is adept conducting the meeting.

12 Steps continued

7. Anticipate security needs.
8. Choosing locations for contentious meetings.
9. Don't be bamboozled by the big boys.
10. What about meeting in advance with applicant or opposition.
11. Encourage full commission involvement.
12. Enjoy the opportunity to hear all the sides and issues.

Have a nice day!