AGENDA

CITY OF PEARLAND
PLANNING & ZONING COMMISSION

May 16, 2016 6:30 p.m.

Daniel Tunstall
P&Z CHAIRPERSON

Thomas Duncan
P&Z VICE-CHAIRPERSON

COMMISSIONERS

Troy Pradia

Derrell Isenberg

Mary Starr

Ginger McFadden

David Selsky

In accordance with the Texas Open Meeting Act the Agenda is posted for public information, at all times, for at least 72 hours preceding the scheduled time of the meeting on the bulletin board located at the front entrance of the City Hall, 3519 Liberty Drive.

AGENDA - REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF PEARLAND, TEXAS, MONDAY, MAY 16, 2016, AT 6:30 P.M., HELD IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS

I. CALL TO ORDER

II. CONSENT AGENDA

All items listed under the "Consent Agenda" are considered to be routine and require little or no deliberation by the P&Z Commission. These items will be enacted / approved by one motion unless a commissioner requests separate action on an item, in which event the item will be removed from the Consent Agenda and considered by separate action *(ix. Matters removed from Consent Agenda).* Approval of the Consent Agenda enacts the items of legislation.

A. CONSIDERATION & POSSIBLE ACTION – APPROVAL OF MINUTES

1. Approve the Minutes of the May 2, 2016 P&Z Regular Meeting, held at 6:30 p.m.

III. NEW BUSINESS

A. CONSIDERATION AND POSSIBLE ACTION – ZONE CHANGE APPLICATION NO. ZONE 16-00001

A request of Somarajan Nair, applicant; on behalf of Texas Global Investment, owner; for approval of a change in zoning from the Suburban Development (SD) zoning district to a General Business (GB) zoning district; on approximately 2.0885 acres of land.

Legal Description: Being 2.0885 acres of land, Lot One (1), Section Twenty-four (24) in the H.T. & B.R.R. Survey, Abstract No. 549, Brazoria County, Texas, described in recorded deed Volume 923, Page 175, Brazoria County Instrument No. 2012055307, Brazoria County, Texas.

General Location: 7006 Bailey Road, Pearland, TX.

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B. CONSIDERATION AND POSSIBLE ACTION – CONDITIONAL USE APPLICATION NO. CUP 16-00001

A request of BSD Bright Site Development LLC, Nathan Richardson, applicant; on behalf of Tildon Sun Development LLC, owner; for approval of a Conditional Use Permit (CUP) to allow for a gas station, convenience store and self-serve car wash in the General Business (GB) zoning district; on approximately 2.653 acres of land.

Legal Description: Being a tract or parcel containing 2.653 acres (115,560 square feet) of land situated in the H.T.& B.R.R. Co. Survey, Section 21, Abstract Number 309, City of Pearland. Brazoria County, Texas: being out of the remainder of Lot 1 of Allison-Richey Gulf Coast Co's Part of Suburban Gardens, a subdivision plat of record in Volume (Vol.) 2, Pages (Pg's) 23 and 24 of the Brazoria County Plat Records (B.C.P.R.); same being out of and a portion of the remainder a called 5.910 acre tract conveyed to Tildon Sun Development, LLC as described in deed recorded under Brazoria County Clerk's File (B.C.C.F.) Number (No.) 2006018134; City of Pearland, Brazoria County, Texas.

General Location: Southeast corner of Broadway Street and Smith Road.

C. CONSIDERATION AND POSSIBLE ACTION – CONDITIONAL USE APPLICATION NO. CUP 16-00002

A request of Pan American Engineers, LLC, Ron Bordelon, applicant; on behalf of Murphy Oil USA, Inc. owner; for approval of a Conditional Use Permit (CUP) to allow for a gas station and convenience store in the General Commercial (GC) zoning district; on approximately 0.875 acres of land.

Legal Description: Being a 0.875 acre tract being all of Lot "D" of Dixie Plaza out of amending Plat 518 recorded in C. F. No. 2008026747, Map Records of Brazoria County, Texas, located in the City of Pearland, Brazoria County, Texas.

General Location: 3200 Dixie Farm Road, Pearland, Texas.

D. CONSIDERATION AND POSSIBLE ACTION – REQUEST TO POSTPONE CONDITIONAL USE APPLICATION NO. 2016-05 288 & Beltway 8
Applicant did not submit revisions by resubmission deadline. Postponed to June 20, 2016.

E. DISCUSSION ITEMS

1. Commissioners Activity Report
2. Zoning Update:
   a. ZONE CHANGE 2016-04Z: Annexation – Residential. SD to SR-15. Approved 05-09-16 with Daycare removed from SR-15.
   b. ZONE CHANGE 2016-04Z: Annexation – Commercial SD to SR-GB. Approved 05-09-16
3. Next P&Z Meeting, – June 6, 2016 –Regular P&Z meeting
4. Article from April, 2016, issue of *Planning* magazine entitled "Do the Right Thing: Ethics for Commissioners"

IV. 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.

I, Alma Gonzales, Office Assistant of the City of Pearland, Texas, do hereby certify that the foregoing agenda was posted in a place convenient to the general public at City Hall on the 12th day of May 2016, A.D., at 5:30 p.m.

_____
Alma Gonzales, Office Assistant

Agenda removed _____ Day of May_____, 2016.

II. Consent Agenda Items

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A. Approval of Minutes

1. Approve the Minutes of the May 2, 2016 P&Z Regular Meeting, held at 6:30 p.m.

MINUTES OF THE REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF PEARLAND, TEXAS, MONDAY, MAY 02, 2016, AT 6:30 P.M., HELD IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS

CALL TO ORDER

P&Z Chairperson Daniel Tunstall opened the meeting for the P&Z Regular Meeting at 6:30 p.m.

In attendance were:

P&Z Chairperson Daniel Tunstall
P&Z Vice-Chairperson Thomas Duncan
P&Z Commissioner Derrell Isenberg
P&Z Commissioner Ginger McFadden
P&Z Commissioner Troy Pradia
P&Z Commissioner David Selsky
P&Z Commissioner Mary Starr

Also present were Deputy City Attorney Lawrence Provins, Community Development Director Lata Krishnarao, Sr. Planner Martin Griggs, Associate Planner Vince Hustead, City Engineer Susan Polka, Assistant City Engineer Richard Mancilla and Office Assistant Alma Gonzales.

CONSENT AGENDA

P&Z Chairperson Daniel Tunstall read the items on the consent agenda. P&Z Commissioner Mary Starr made a motion to approve the consent agenda, P&Z Commissioner David Selsky seconded the motion. The motion was approved 7-0. P&Z Chairperson Daniel Tunstall, P&Z Vice-Chairperson Thomas Duncan, P&Z Commissioners Derrell Isenberg, Ginger McFadden, Troy Pradia, David Selsky and Mary Starr voted to approve.

CONSIDERATION & POSSIBLE ACTION – APPROVAL OF MINUTES

1. Approved the Minutes of the April 25, 2016 P&Z Regular Meeting, held at 6:30 p.m.

NEW BUSINESS

P&Z Commissioner Troy Pradia made a motion to recommend approval of the Five Year Capital Improvements Program 2017-2021 request, P&Z Commissioner Mary Starr seconded the motion. The vote was 7-0 in favor of the motion. P&Z Chairperson Daniel Tunstall, P&Z Vice-Chairperson Thomas Duncan, P&Z Commissioners Derrell Isenberg, Ginger McFadden,

Troy Pradia, David Selsky and Mary Starr voted in favor of the motion.

A. CONSIDERATION AND POSSIBLE ACTION – FIVE-YEAR CAPITAL IMPROVEMENT PROGRAM 2017-2021 - SUE POLKA, P.E., DIRECTOR OF ENGINEERING & CAPITAL PROJECTS

P&Z Commissioner David Selsky inquired to the City Engineer Susan Polka if there were any future plans for easier crossing accesses at the high schools. Ms. Polka stated that she had been in contact with P.I.S.D. regarding cross guards and sidewalk safety near the schools and added that safe routes no longer existed and were not intended for high schools.

B. DISCUSSION ITEMS

Commissioners Activity Report – No activity reported

1. Zoning Update: Community Development Director Lata Krishnarao read the updates.

a. ZONE CHANGE 2016-04Z: Annexation – Residential. SD to SR-15. Approved with exception that Daycare was removed from SR-15. Staff to meet with owner to process zone change.

b. ZONE CHANGE 2016-05Z: Kirby south of Broadway. R-E and R-2 to GB. Approved.

c. ZONE CHANGE 2015-14Z: Ivy District. Modern Green PD to Ivy District. Approved.

d. CUP 2016-01: Broadway and Alexander for gas station and convenience store. Approved.

e. CUP 2016-07 Kirby south of Broadway for mini-storage facility
Additional conditions – 1 & 2 recommended by P&Z; 3 added by CC:
Conditions:

i. Building façade materials for facades visible from Kirby Drive shall be limited to no more than thirty percent (30%) stucco.

ii. No permit shall be issued until the storm drainage pipe issues are resolved and written approval is received from the City and BDD4.

iii. The total area of wall signage shall not exceed 15% of the total area of the east building elevation (facing Kirby Drive).

2. Report on APA's National Planning Conference April 2-5, 2016, Phoenix, AZ – Lata Krishnarao. – Community Development Director Lata Krishnarao gave a presentation and information to the P&Z Commission.

3. Next P&Z Meeting, – May 16, 2016 – JPH and Regular P&Z meeting

ADJOURNMENT

P&Z Chairperson Daniel Tunstall adjourned the P&Z Regular meeting at 6:59 p.m.

These minutes were respectfully submitted by:

_____
Alma Gonzales, Office Assistant

Minutes approved as submitted and/or corrected on this 16th day of May 2016, A.D.

_____
Daniel Tunstall, P & Z Chairperson

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Do the Right Thing: Ethics for Commissioners

LAW

U.S. SUPREME COURT Justice Potter Stewart (1915–1985) remarked that "ethics is knowing the difference between what you have a right to do and what is right to do." This maxim is especially relevant for planning and land-use commissioners who are in positions of substantial authority and are privy to information often not held by others. Commissioners know what they *have* a right to do, but how can they decide what is right *to* do?

See a clear decision by applying the "light of day" test to your ethical dilemmas.

VALERY KACHAEV/ISTOCK/THINKSTOCK

Whom do you serve?

First and foremost, elected and appointed public officials must determine to whom they owe an obligation. This is no easy task for a commissioner—is it to the chair of the commission or to the chief elected official? If you are elected, is your main obligation to the people who elected you or to the political party that nominated you? Do you consider all the citizens of the community to be those you serve, or does your constituency extend to those outside your political jurisdiction who might benefit from what you may do, such as in preserving open space and historic resources, or providing affordable housing so that they might have an opportunity to live in your community?

All those who are involved in land-use decision making must ultimately ask themselves the question of whether they have a moral and ethical obligation to an even larger constituency, one that spans time. In short, they must consider the possibility that they owe an obligation in their decision making of today to further the interests of generations not yet born; as when we protect a sole-source aquifer, a ridgetop view, or a sacred place from destruction.

Where do you find guidance?

Once you have resolved the question of who you serve, then you can begin the task of determining how you must conduct yourself. Fortunately, the American Planning Association provides us its Ethical Principles and Planning, available at planning.org/ethics/ethicalprinciples.htm. It is intended as a guide for ethical conduct to all involved in planning, recognizing that "the planning process exists to serve the public interest." Guidelines, though, are only that. They are suggestive of how one should conduct oneself; they are not rules of conduct, meaning there is no penalty if you do not follow them. Guidelines often may serve more to stimulate discussion and further deliberation of what is right and wrong, and what is good and bad.

APA has many other resources on ethics. Commissioners may find it useful and stimulating to set aside some time at their meetings, on a regular basis, perhaps a few times a year, to review the Ethical Principles in Planning and to discuss some of the hypotheticals and problem sets available in the literature. The Texas Chapter of APA has a chapter on "Ethics and the Planning Commissioner" written by Carol Barrett, FAICP, as part of *A Guide to Urban Planning and Texas Communities* (2013), available at tinyurl.com/glahh6e. Discussing the principles, considering hypotheticals, and developing your commission's own rules of conduct will help to improve the "issue spotting" capabilities of all commissioners such that they will be able to more readily identify an ethical issue when it arises, hopefully in time to avoid an error or unnecessary delay, perhaps, in the very midst of proceedings.

The Ethical Principles in Planning has three sections, the first two of which are relevant to commissioners and a third focused on practicing planners. The headings of the sections pertinent to commissioners are self-explanatory:

Section one's seven numbered paragraphs encompass a broad variety of considerations including making available "full, clear and accurate information on planning issues" and clarifying community goals.

The 13 paragraphs in section two address such issues as broadly defining "personal interest," not seeking gifts or favors, protecting confidential information, and respecting the rights of all participants.

If an ethics training sessions addressed just one or two of these considerations at a sitting, and worked to flesh out what they mean in terms of practice, there would be sufficient discussion for 10 to 20 meetings.

Municipalities may also have ethical codes that may be mandated by state law. Commissioners should be familiar with those codes and ask their city manager or their legal counsel for a briefing. Some states, such as Pennsylvania, will provide free ethics training

on request. Regardless, your commission may want to develop its own rules of conduct after careful consideration.

Finally, it is essential to communicate with your peers and others, while being mindful of confidentiality issues, when you as a commissioner feel challenged by an ethical issue. Maybe they will have experienced it before. Perhaps they will see a nuance you missed by being too close to the issue yourself. And sometimes, a decision should be made not by you, but by someone with higher authority.

How can you look within yourself?
Two simple ways of testing your conduct to see if it is ethical can go a long way in resolving otherwise ambiguous situations.

First, consider the "light of day" test: How would you feel about your conduct if your peers and others whom you respect knew all from the front page of the local newspaper or a Facebook post? Try this the next time you feel uncomfortable about what you might do. You'll be surprised at how easy it is to see a clear decision.

The second test is the ancient moral maxim that is so fundamental it is considered to be at the very core of human nature. It can be traced to the time of the Egyptian Middle Kingdom (2000–1700 BC) and the god, Maat, who said "Now this is the command: do to the doer to make him do." It is the Golden Rule, found in virtually every religious and ethical tradition. Commissioners who put themselves in the shoes of others will often gain a perspective they couldn't see before, when they were focused solely on their roles as commissioners.

Now who would have thought that with all the literature, rules, codes, guidelines, statutory requirements, judicial decisions, and other materials available to us in the ethics arena, that we would return to the rules we learned as children? Simply put: Ethics is at once simple and exceedingly difficult.

—Dwight Merriam, FAICP

Merriam is a planner and attorney with Robinson + Cole, Hartford, Connecticut

HISTORY

FLAVEL SHURTLEFF, CARRYING OUT THE CITY PLAN

Planning lies at the intersection of governance and private property. The legal framework for planning has been critical from the beginning. Flavel Shurtleff was a Boston attorney recruited by one of the founders of the city planning movement, Frederick Law Olmsted Jr., to write the first book on the legal framework for American city planning. Historian Mel Scott writes that "Olmsted realized as early as 1909 that if the city planning movement was ever to progress beyond the plan-making stage and decisively influence the growth and development of cities, it would have to overcome the resistance of the courts to the broader regulation. . . . "

In 1914, Shurtleff and Olmsted's *Carrying Out the City Plan* was published, following two years of research and interviews with mayors, planning commissioners, and city attorneys. Shurtleff also researched the legal underpinnings of planning in other countries. He found that communities needed to learn from one another through shared information and from legal precedents set by the courts. Of special concern to Shurtleff was the importance of the planning commission in ensuring that the plans moved from documents into implemented policies and development.

—Carolyn Torma

MEL SCOTT, AMERICAN CITY PLANNING, BERKELEY AND LOS ANGELES THE UNIVERSITY OF CALIFORNIA PRESS, 1969

RESOURCE FINDER

The more you consider ethical dimensions, the more valid your decisions.

APA PUBLICATIONS
APA Planners Press
Christopher J. Duerksen, C. Gregory Dale, FAICP, Donald L. Elliott, FAICP
"Conclusion: Being a Leader," *The Citizen's Guide to Planning* (2013)

Jerry Weitz, FAICP
The Ethical Planning Practitioner (2016)

Other APA publications
Patricia E. Salkin
The Commissioner, Spring 2005
"Conflicts of Interest in Land Use Planning and Decision Making"

APA STREAMING EDUCATION
Planning Commission Ethics
2015
planning.org

WEB RESOURCES
PlannersWeb Archive: Ethics
tinyurl.com/jggpcxl

Ethical Principles in Planning
American Planning Association
planning.org

Law of the Land Blog
Search "planning commission ethics"
lawoftheland.wordpress.com

IV. ADJOURNMENT