

By: Gattis

H.B. No. 4144

A BILL TO BE ENTITLED

AN ACT

relating to a municipality's comprehensive development.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 211.004, Local Government Code, is amended to read as follows:

Sec. 211.004. COMPLIANCE WITH COMPREHENSIVE PLAN. ~~[(a)]~~
Zoning regulations must be adopted in accordance with a comprehensive plan developed under Subchapter C and must be designed to:

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

SECTION 2. Chapter 211, Local Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. COMPREHENSIVE PLAN

Sec. 211.101. DEFINITIONS. In this subchapter:

(1) "Land use" means one or more uses of land designated for a tract or an area under a comprehensive plan or a

1 current or future land use plan.

2 (2) "Landowner" means the current owner of record, but
3 also includes a predecessor in interest.

4 (3) "Tract" means all or a majority part of the metes
5 and bounds of the tract.

6 Sec. 211.102. ADOPTION, AMENDMENT, AND REVIEW OF
7 COMPREHENSIVE PLAN. (a) The governing body of a municipality shall
8 adopt by resolution or ordinance a comprehensive plan that details
9 current and future land uses and serves as a basis for making
10 planning or zoning decisions under this chapter.

11 (b) The governing body may amend the comprehensive plan from
12 time to time in accordance with this subchapter.

13 (c) The governing body of a municipality shall review its
14 comprehensive plan not less than every three years.

15 Sec. 211.103. ADVISORY COMMITTEE FOR ADOPTION, AMENDMENT,
16 AND REVIEW OF COMPREHENSIVE PLAN. (a) The governing body of a
17 municipality shall appoint an advisory committee to make
18 recommendations regarding the adoption, amendment, and review of
19 its comprehensive plan.

20 (b) The advisory committee is composed of at least five
21 members appointed by a majority vote of the governing body. At
22 least 40 percent of the membership of the advisory committee must be
23 representatives of the real estate, development, or building
24 industries who are not employees or officials of a political
25 subdivision or governmental entity.

26 (c) The meetings of the advisory committee shall be open to
27 the public and conducted in accordance with Chapter 551, Government

1 Code.

2 (d) The municipality shall make available to the advisory
3 committee professional reports concerning municipal planning and
4 land uses.

5 (e) In making recommendations regarding or while reviewing
6 a comprehensive plan, the advisory committee may receive
7 information from the municipality, any interested landowner, or the
8 general public.

9 Sec. 211.104. ADVISORY COMMITTEE REPORT. (a) The advisory
10 committee shall issue a written report to the governing body of the
11 municipality detailing its findings and recommendations as to the
12 adoption, amendment, or review of the comprehensive plan.

13 (b) The advisory committee's written report shall be made
14 available to the municipality, each interested landowner, and the
15 general public as soon as practicable after its receipt by the
16 governing body.

17 Sec. 211.105. GOVERNING BODY ACTION ON ADVISORY COMMITTEE
18 REPORT; PUBLIC HEARING. (a) The governing body of the municipality
19 may not adopt or amend the comprehensive plan until the governing
20 body conducts at least one public hearing on the recommendations
21 made by the advisory committee.

22 (b) The governing body of the municipality may not amend or
23 adopt the comprehensive plan before the 30th day after the date the
24 governing body receives the advisory committee's report, unless
25 each of the landowners affected by the plan or amendment consents to
26 the plan or amendment.

27 (c) At the public hearing, a landowner may object to any

1 land use applied to the landowner's tract by the comprehensive
2 plan.

3 Sec. 211.106. PETITION TO SPECIAL COMMISSIONERS BY AFFECTED
4 LANDOWNER. (a) A landowner may petition the commissioners court to
5 appoint three disinterested persons, who reside in the county, as
6 special commissioners to assess the reasonableness of a land use
7 applied to the landowner's tract under the comprehensive plan if:

8 (1) the landowner objects in writing to the land use;
9 and

10 (2) the landowner has been unable to sell or develop
11 the tract in conformity with the land use for a period of three
12 years.

13 (b) The special commissioners shall swear to assess fairly
14 and impartially the reasonableness of the land use applied to the
15 tract by the comprehensive plan. The special commissioners shall
16 conduct their proceedings and shall have the same powers as special
17 commissioners under Subchapter B, Chapter 21, Property Code.

18 (c) A special commissioner:

19 (1) must be a resident of the municipality and of the
20 county in which the tract is located;

21 (2) must be impartial and have no conflict of interest
22 in the matter that is the subject of the petition;

23 (3) may not be connected, employed, or affiliated with
24 real estate development, real estate sales, or the construction
25 industry, or reside in a household with a person who is connected,
26 employed, or affiliated with real estate development, real estate
27 sales, or the construction industry; and

1 (4) may not be a municipal official or employee or
2 serve on a municipal board, or reside in a household with a person
3 who is a municipal official or employee or serves on a municipal
4 board.

5 (d) The commissioners court may appoint a replacement for
6 any special commissioner who fails or refuses to serve.

7 Sec. 211.107. AMENDMENT OF COMPREHENSIVE PLAN IN RESPONSE
8 TO SPECIAL COMMISSIONERS' RECOMMENDATION. If a majority of the
9 special commissioners determines that a land use applied to a
10 landowner's tract by the comprehensive plan is unreasonable, a
11 majority of the special commissioners may determine a reasonable
12 land use for the tract and order that the comprehensive plan be
13 amended to reflect that use.

14 Sec. 211.108. PETITION FOR ENFORCEMENT OF SPECIAL
15 COMMISSIONERS' ORDER. (a) If the governing body of the
16 municipality refuses to amend the comprehensive plan in accordance
17 with a special commissioners' order, the landowner may file suit in
18 the district court in the county where the tract is located to
19 enforce the special commissioners' order.

20 (b) The special commissioners' order may be enforced by
21 injunction or mandamus.

22 (c) A prevailing landowner may recover reasonable
23 attorney's fees and costs of court.

24 SECTION 3. A landowner affected by a land use under a
25 municipality's comprehensive plan may petition a commissioners
26 court to appoint special commissioners under Section 211.106, Local
27 Government Code, as added by this Act, on or after September 1,

H.B. No. 4144

1 2009, regardless of whether the comprehensive plan was adopted
2 before or after that date.

3 SECTION 4. This Act takes effect September 1, 2009.