

Municipal Authority: Zoning of Public Land

Recommendation

Grant cities sole authority to decide zoning cases of private commercial development on state-controlled public land located within the city limits.

Background

Currently, a City's zoning decision with regard to state land up for sale or lease for commercial use may be overturned by a Special Board of Review, e.g., Natural Resources Code 13.161. While the state's ability to override a city's land use decisions was intended for critical state uses such as hospitals, when applied to private commercial development, it can lead to an unfair business advantage, to eliminate a municipality's ability to plan growth effectively, and to protect its citizens from the harmful and dangerous effects of improperly planned development.

Historically, negating city zoning is virtually guaranteed by the special board, and thus developers are likely to request "super" uses to circumvent future review, regardless of danger to the surrounding community, negative effects on neighborhoods, or a city's overall plan for future growth.

Overturning city land use plans can lead to unfunded mandates whereby cities are forced to expend funds for development plans they rejected – for example, when a development plan includes reimbursement to the developer for sewage construction or road improvements and access to city streets and utilities.

Cities already have authority to zone private land and have done so in a manner that fairly balances business interests with neighborhood interests, while insuring a vibrant economy and high quality of life for Texas neighborhoods.

Impact

Granting cities sole authority to decide private commercial zoning cases on public land in their communities would promote fair business practices and protect communities from dangerous and harmful effects of inadequately or improperly planned commercial development. It would ensure that developers of public land do business in a way that is fair to developers of private land and allow cities to make critical decisions in community planning.