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PROPERTY REPORT / By Kris Hudson

Houston's Twilight Zone: Projects Rise in Odd Spots

Houston has welcomed developers since 1836 when land speculators Augustus and John Allen founded the city by carving a 6,000-acre swath of coastal prairie into home sites sold for \$1 per acre.

Now, that wide-open approach has come back to haunt Houston, the nation's fourth-largest city and the only major U.S. city without zoning laws to control development. Plans to build a 23-story condominium tower among the million-dollar homes of two stately neighborhoods here has appalled affluent residents and put local politicians in the hot seat.

Angry residents have hired a lawyer to fight their cause.

Houston

Houston Mayor Bill White has pledged to use "any appropriate power under law" to scale back or cancel the development. The problem is, without zoning laws to regulate land use, the city can do little to thwart the project other than apply traffic restrictions and write sternly worded letters.

The project's developers, two Houston natives who grew up just blocks from the site, vow to push forward. They've already received many of the approvals required under the city's current guidelines.

"We expect to be treated equitably and in a nondiscriminatory fashion" by the city, said Matthew Morgan, president of **Buckhead Investment Partners**
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ners Inc., who is developing the \$100 million-plus project with longtime business partner Kevin Kurtin, CEO of the company.

The condo-tower dustup is just the latest in a string of odd situations allowed by Houston's lenient land-use rules. Rowdy cantinas, rock-crushing operations and commercial dumps sometimes pop up in residential neighborhoods. Condo towers sprout next to schools. A pay-by-the-hour motel operates less than a block from a Baptist church.

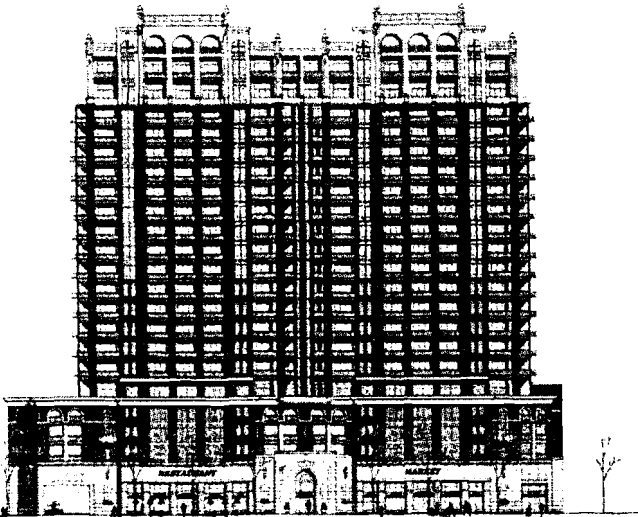
In most cities, zoning laws would prohibit an intensive commercial use, such as a fast-food restaurant, from setting up shop on a residential street. Houston, however, regulates land use mostly through deed restrictions, which are typically crafted by the developer of a subdivision and apply only to that area, dictating issues such as lot size and construction design. Deed restrictions are usually enforced by civil lawsuits, whereas zoning is a matter of city law.

Even so, only 30% of Houston's neighborhoods have viable deed restrictions in place, according to City Councilman Peter Brown. The other 70% are mostly low- to moderate-income neighborhoods now "at risk" of seeing developments move in that residents might oppose, Mr. Brown says.

The latest controversy has reignited the land-use debate at a heady time for Houston, a port city of more than 2.1 million people. Buoyed by its surging energy industry, Houston has added tens of thousands of jobs in recent years amid rising rents for office and retail properties. To some developers, the lack of zoning creates an advantage because it keeps options open.

But other developers and investors say such land-use leniency creates unpredictability; unsavory projects might pop up nearby and sap the value of their investments.

Mayor White, a businessman who worked in real estate, law and other industries prior to his 2003 election, doesn't see zoning as the answer to Houston's issues. "Not on my watch," he said in an interview. "I do think, as we are in a strong economy and we live closer and closer together, there will be both new development and more rules to protect our common interests. But we will respect consumer choice and not have some bureaucrat in City Hall become the taste patrol for the city."



Rendering of a 23-story condominium tower planned for Houston.

EDJ Architecture, Inc.

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Houston Residents Battle Condo Tower

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As a fix, Mr. White is proposing a new city ordinance that would allow Houston to reject proposed developments that create too much traffic on neighboring roads. It's unclear whether the measure would apply to the condo tower. The city is pushing through the traffic ordinance while simultaneously trying to convince the developers to voluntarily scale back the condo project.

Messrs. Morgan and Kurtin were childhood friends raised in the very neighborhoods that now oppose them. The pair started in mortgage banking and eventually began developing multifamily projects. Last year, they bought a 1.7-acre parcel at the intersection of Bissonnet and Ashby streets occupied by 67 outdated apartments surrounded by the pricey homes of the Southampton and Boulevard Oaks neighborhoods.

net and Ashby—both two-lane streets—with traffic, block sunlight from their homes and lower their property values. The group hired a lawyer in preparation for legal action and staged a rally on Oct. 4, with some 300 residents lining Bissonnet waving signs opposing the project. The neighbors printed 2,000 yard signs depicting a menacing, toothy high-rise looming over houses on tree-lined streets.

Despite the fervor of their opposition, neighbors aren't sure zoning is the answer. Houston voters have defeated pro-

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Kris Hudson

An hourly motel operates a block from a Baptist church in Houston, which lacks zoning laws.

The site, originally developed as a grocery store in 1926, is not part of a neighborhood, so it isn't governed by any deed restrictions. Messrs. Morgan and Kurtin then proposed a tower complex that would include 23 stories of either 187 condos or 236 apartments, a restaurant, boutique grocery store and parking for 450 vehicles. They paid the city's impact fees for the development and financed \$500,000 in sewer upgrades for the project at the city's request. Their initial study of the traffic the project would generate found "no adverse impacts" on surrounding streets. They anticipate that a second study with a broader scope will deliver the same verdict.

Bowing to the city's demands for a smaller project isn't an option, the developers say. They decline to say what they paid for the property. "Doing anything less dense is not economically feasible," Mr. Morgan says.

Neighbors began rallying against the project in late September. They complained that the tower will flood Bisson-

net and Ashby streets, block sunlight from their homes and lower their property values. The group hired a lawyer in preparation for legal action and staged a rally on Oct. 4, with some 300 residents lining Bissonnet waving signs opposing the project. The neighbors printed 2,000 yard signs depicting a menacing, toothy high-rise looming over houses on tree-lined streets.

Despite the fervor of their opposition, neighbors aren't sure zoning is the answer. Houston voters have defeated proposals to implement citywide zoning three times, in 1948, 1962 and 1993.

Lam Nguyen bought a two-story house adjacent to the project's site two years ago, intending to renovate it and move in. Now he's not sure what he'll do, though he has peppered his front yard with signs opposing the condo tower. He says Houston's lack of zoning "helps the city grow. However, it should not be treated as a blank check, and that's what this developer is doing."

Leslie Miller, an administrator at nearby Rice University, bought a townhome adjacent to the proposed condo tower three years ago as she and her husband, Ken, sought to scale back as empty-nesters. Fearing that the condo tower would leave her townhome in perpetual shadow, Ms. Miller wrote an opinion piece for the local newspapers depicting the lack of land-use controls as a "threat to Houston's very soul."

"We need to come up with some coherent way of solving this once and for all," said Ms. Miller.