

**From:** [Sara Speights](#)

**Sent:** Monday, December 7, 2015 9:18 AM

**To:** [Mayor Pro Tem Kathie Tovo](#) ; [Greg Casar](#) ; [Mayor Steve Adler](#) ; [Leslie Pool](#) ; [Sheri Gallo](#) ; [Ora Houston](#) ; [Don Zimmerman](#) ; [Ellen Troxclair](#) ; [Delia Garza](#) ; [Sabino Reteria](#) ; [Ann Kitchen](#)

**Subject:** Tovo proposed Code amendment on 3/4 vote of Council

Mayor and Council members:

I know Councilman Casar raised the issue of why the City of Austin has the requirement of a 3/4 vote of the council if one of the Land Use Commissions recommends denial of a PUD. (This is tentatively scheduled to come before the Planning Commission this week and before the Council in late January). I thought it might be helpful to see the letter former Austin Mayor Lowell Lebermann wrote to the Texas Senate in 1977 supporting this provision. As a little background, Austin and many other Texas cities had had this provision for decades, when in 1976 a court ruled that these cities did not have the required Legislative approval to do so. So in 1977 the Texas Municipal League and many Texas cities asked for that explicit permission from the Legislature. It was passed by both houses overwhelmingly and signed by the Governor.

Mayor Pro tem Kathy Tovo's amendment specifically includes PUD zoning applications on unzoned land to the required 3/4 Council vote in the case of a denial recommendation from the commission. This is reasonable and good policy. The Planning Commission and the Zoning and Platting Commission are charged with considering exactly the same criteria on PUD applications regardless of the whether the land was previously unzoned or previously zoned. It is irrelevant what the zoning was on the land previously. The issue is whether the proposed PUD is appropriate and reaches the level of a superior development.

Thank you for your consideration.

Sara Speights  
President, Bull Creek Road Coalition  
512 451-4618  
512 762-9218, mobile



LOWELL H. LEBERMANN  
COUNCILMAN

FOUNDED BY CONGRESS, REPUBLIC OF TEXAS, 1839

P. O. BOX 1086  
AUSTIN, TEXAS 78767  
A / C 512 477-0511

April 14, 1977

Honorable W. E. Snelson, Chairman  
Intergovernmental Relations Committee  
The Senate of the State of Texas  
Austin, Texas 78711

Re: S.B. 1209

Dear Senator:

I would like to take this opportunity to express my personal support for S.B. 1209, introduced by Senator Braecklein, which permits a municipality to adopt an ordinance requiring three-fourths vote of its legislative body to overrule a recommendation of denial by the municipality's Planning or Zoning Commission.

In establishing a Planning Commission with the responsibility of making zoning determinations and changes, Austin's City Charter specifically provided that a three-fourths vote of the City Council was required to overrule a recommendation of denial by the Planning Commission. In designating the Planning Commission as a recognized municipal entity, with sovereign power, Austin's City Charter provision was based on two dictums. First, as a commission with a narrow area of responsibility, i.e., zoning matters, it was logically assumed that members of the commission would have more time and opportunity to consider and weigh arguments and develop a degree of expertise in reviewing such matters over a period of time. Since Austin's legislative body, the City Council, has a much broader area of responsibility and, consequently, less time to devote to any one specific item, it was determined that the decisions of the Planning Commission should not be capable of being easily overturned.

The second reason for incorporating the three-fourths rule in the Charter was the Planning Commission's separation from immediate political concerns. Since the members of the Planning Commission are appointed and not as readily subject to the pressures to which elected officials are exposed, it was felt that the Commissioners would make a more objective and unbiased determination of the public interest during their deliberation.

Let me again underscore my support for this local-option legislation and encourage your favorable consideration and recommendation of it to the entire Senate. Thank you for your assistance and cooperation.

Cordially,

*Lowell H. Leberman*  
Lowell H. Leberman  
Councilman, Place 4

Llj

xc: Senator Bill Braecklin  
Members, Intergovernmental Relations Committee  
Members, Austin City Council