

# AGENDA

## CITY OF PEARLAND ♦ CITY COUNCIL

February 27, 2012 7:30 p.m.

**MAYOR**  
**Tom Reid**

**Scott Sherman**  
**Mayor Pro-Tem**  
**Position No. 2**

### COUNCIL MEMBERS

**Woody Owens**  
**Position No. 1**

**Susan Sherrouse**  
**Position No. 3**



**Felicia Harris**  
**Position No. 4**

**Greg Hill**  
**Position No. 5**

**Jon R. Branson**  
**Assistant City Manager**

**Mike Hodge**  
**Assistant City Manager**

**Bill Eisen**  
**City Manager**

**Darrin Coker**  
**City Attorney**

**Young Lorfing**  
**City Secretary**

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 CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, TO BE HELD ON MONDAY, FEBRUARY 27, 2012, AT 7:30 P.M., IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS.**

**I. CALL TO ORDER**

**II. INVOCATION AND THE PLEDGE OF ALLEGIANCE**

**III. MAYOR'S ACTIVITY REPORT**

1. Events attended and upcoming events.
2. Presentation of Proclamation proclaiming February 27, 2012, as "H5H – High Five for Health Day"
3. Presentation of Proclamation proclaiming the month of March, 2012, as "Youth Art Month"

**IV. COUNCIL ACTIVITY REPORTS**

1. Events attended and upcoming events.

**V. CITY MANAGER'S REPORT**

1. Events attended and upcoming events.

**VI. CITIZENS**

**VII. DOCKETED PUBLIC HEARING:**

**VIII. CONSENT AGENDA:**

**ALL ITEMS LISTED UNDER THE "CONSENT AGENDA" ARE CONSIDERED TO BE ROUTINE AND REQUIRE LITTLE OR NO DELIBERATION BY THE CITY COUNCIL. THESE ITEMS WILL BE ENACTED/APPROVED BY ONE MOTION UNLESS A COUNCILMEMBER 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 AND POSSIBLE ACTION – APPROVAL OF MINUTES:**

1. Minutes of the January 16, 2012, Joint Public Hearing Meeting held at 6:30 p.m.

**B. CONSIDERATION AND POSSIBLE ACTION – SECOND AND FINAL READING OF ORDINANCE NO. 2000M-83 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AMENDING ORDINANCE NO. 2000M, THE ZONING MAP OF THE CITY OF PEARLAND, TEXAS, FOR THE PURPOSE OF CHANGING THE CLASSIFICATION OF CERTAIN REAL PROPERTY, LOCATION BEING BOUNDARY SURVEY 188' X 523.9', WEST ½ OF LOT 48, ALLISON RICHEY GULF COAST HOME COMPANY SURVEY, SECTION 19, H.T. & B.R.R. COMPANY SURVEY, ABSTRACT 243, BRAZORIA COUNTY, TEXAS. (LOCATED AT 8013 W. BROADWAY, PEARLAND, TEXAS),** ZONE CHANGE 2012-01Z, A REQUEST OF SHERRY L. STOCKWELL-TARRER, APPLICANT, ON BEHALF OF EMIL J. HRBACEK, OWNER, FOR APPROVAL OF A ZONE CHANGE FROM THE SINGLE-FAMILY RESIDENTIAL-1 (R-1) ZONE TO GENERAL BUSINESS (GB) ZONE, PROVIDING FOR AN AMENDMENT OF THE ZONING DISTRICT MAP; CONTAINING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE AND OTHER PROVISIONS RELATED TO THE SUBJECT.

*Mr. Mike Hodge, Assistant City Manager.*

**C. CONSIDERATION AND POSSIBLE ACTION – SECOND AND FINAL READING OF ORDINANCE NO. 2000M-84 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AMENDING ORDINANCE NO. 2000M, THE ZONING MAP OF THE CITY OF PEARLAND, TEXAS, FOR THE PURPOSE OF CHANGING THE CLASSIFICATION OF CERTAIN REAL PROPERTY, LOCATION BEING A 20.992 ACRE TRACT IN THE W.D.C. HALL SURVEY, ABSTRACT NO. 70 IN THE CITY OF PEARLAND, BRAZORIA COUNTY, TEXAS. SAID 20.992 IS A PART OF A 36.685 ACRE TRACT DESCRIBED IN A DEED TO T & R REALTY INVESTMENT, LLC AS RECORDED IN CLERK'S FILE NO. 2011028636. (LOCATED AT 2411 E. BROADWAY, PEARLAND, TEXAS),** ZONE CHANGE 2012-02Z, A REQUEST OF J. KENT MARSH, APPLICANT, ON BEHALF OF TOM ALEXANDER, JR., OWNER, FOR APPROVAL OF A ZONE CHANGE FROM THE GENERAL BUSINESS (GB) ZONE, TO SINGLE-FAMILY RESIDENTIAL-3 (R-3) ZONE, PROVIDING FOR AN AMENDMENT OF THE ZONING DISTRICT MAP; CONTAINING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE AND OTHER PROVISIONS RELATED TO THE SUBJECT. *Mr. Mike Hodge, Assistant City Manager.*

**D. CONSIDERATION AND POSSIBLE ACTION – SECOND AND FINAL READING OF ORDINANCE NO. 2000M-85 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AMENDING ORDINANCE NO. 2000M, THE ZONING MAP OF THE CITY OF PEARLAND, TEXAS, FOR THE PURPOSE OF CHANGING THE CLASSIFICATION OF CERTAIN REAL PROPERTY, LOCATION BEING HOUSTON MEMORIAL GARDENS CEMETERY SECTIONS 34, 35, 36, 37, 38, 39, 40, A PERPETUAL CARE CEMETERY CONTAINING 9.982 ACRES AND BEING A PARTIAL REPLAT THE AMENDED PLAT OF PARADISE CEMETERY SOUTH, VOLUME 16, PAGE 275-276, B.C.P.R. AND BEING IN LOT 28, OF THE ALLISON RICHEY GULF COAST HOME COMPANY SUBDIVISION, VOL 20, PG. 67-68, P.R.B.C. OUT OF THE H.T. & B.R.R. CO. SURVEY, SEC. 19, A-243 BRAZORIA COUNTY, TEXAS; FINAL PLAT OF HOUSTON MEMORIAL GARDENS CEMETERY, A 20.0737 ACRE TRACT OF LAND BEING LOTS 13 AND 29, AND PART OF LOT 12, OF THE ALLISON RICHEY GULF COAST HOME COMPANY SUBDIVISION, SECTION 19, AND BEING SITUATED IN THE H.T.& B.R.R. COMPANY SURVEY, ABSTRACT 243, BRAZORIA COUNTY, TEXAS; BOUNDARY SURVEY OF A 8.434 ACRE TRACT OUT OF SECTION 19, H.T. & B.R.R. SURVEY, A-243, BRAZORIA COUNTY, TEXAS; PARTIAL REPLAT OF HOUSTON MEMORIAL GARDEN CEMETERY, BEING A 57.231 ACRE TRACT OF LAND, ALL OF TRACTS 41, 42, 55, 56, 57, & 58 IN THE ALLISON RICHEY GULF COAST HOME SUBDIVISION, AS RECORDED IN PLAT BOOK 2, PAGE(S) 24, OF THE BRAZORIA COUNTY PLAT RECORDS, LOCATED IN THE H.T. & B. COMPANY SURVEY, SECTION 20, ABSTRACT NO. 506 IN BRAZORIA COUNTY, TEXAS; BOUNDARY SURVEY OF A 19.97 ACRE TRACT OUT OF SECTION 19, H T & B RR SURVEY, A-243, BRAZORIA COUNTY, TEXAS; LOT 44 (10 AC) OF THE ALLISON-RICHEY GULF COAST HOME COMPANY SUBDIVISION, SECTION 19, H.T. & B.R.R. COMPANY SURVEY, ABSTRACT 243, BRAZORIA COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 2, PAGE 23 OF THE PLAT RECORDS OF BRAZORIA COUNTY, TEXAS; THE NORTH ½ OF LOT 28 (5AC) OF ALLISON RICHEY SUBDIVISION OUT OF SECTION 20, H.T. & B.R.R. COMPANY SURVEY, ABSTRACT NO. 506, BRAZORIA COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 2, PAGE 23, OF THE PLAT RECORDS OF BRAZORIA COUNTY, TEXAS; A0506 H T & B R R CO**

SURVEY, TRACT 54A1, F B DRAKE, 3.000 ACRES. **(LOCATED AT 2426 CULLEN, PEARLAND, TEXAS)**, ZONE CHANGE 2012-03Z, A REQUEST OF LOUIS C. MCKINNEY, APPLICANT, ON BEHALF OF JANICE AND BONNIE HOWARD, OWNERS, FOR APPROVAL OF A ZONE CHANGE FROM THE PLANNED DEVELOPMENT (PD), GENERAL BUSINESS (GB), CULLEN MIXED-USE (C/MU), SINGLE-FAMILY RESIDENTIAL-3 (R-3) AND SUBURBAN RESIDENTIAL-12 (SR-12) ZONE(S) TO PLANNED DEVELOPMENT (PD) ZONE, PROVIDING FOR AN AMENDMENT OF THE ZONING DISTRICT MAP; CONTAINING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE AND OTHER PROVISIONS RELATED TO THE SUBJECT. *Mr. Mike Hodge, Assistant City Manager.*

**E. CONSIDERATION AND POSSIBLE ACTION – SECOND AND FINAL READING OF ORDINANCE NO. 2000CUP-55 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, APPROVING A CONDITIONAL USE PERMIT FOR CERTAIN PROPERTY, BEING A PLAT OF SURVEY OF A 0.6984 ACRE TRACT BEING A PART OF LOT “A” OF WESTGATE PARK A SUBDIVISION OF 9.575 ACRES OF LAND OUT OF LOTS 47 AND 48 OF THE ALLISON RICHEY GULF COAST HOME COMPANY SUBDIVISION OF SECTION 19 OF THE H. T. & B. RAILROAD COMPANY SURVEY, ABSTRACT 243, BRAZORIA COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 16, PAGE 320, OF THE PLAT RECORDS OF BRAZORIA COUNTY, TEXAS (LOCATED AT 7900 BLOCK OF BROADWAY, PEARLAND, TX) CONDITIONAL USE PERMIT APPLICATION NO. CUP 2011-12 TO ALLOW FOR THE OPERATION OF A MINOR AUTO REPAIR FACILITY IN THE GENERAL BUSINESS (GB) DISTRICT AT THE REQUEST OF ESTEBAN V. RODRIGUEZ, OWNER AND APPLICANT, CONTAINING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE AND OTHER PROVISIONS RELATED TO THE SUBJECT. *Mr. Mike Hodge, Assistant City Manager.***

**F. CONSIDERATION AND POSSIBLE ACTION – REAPPOINT MICHAEL MILLER AND CHARLIE MICHNA TO THE ELECTRICAL BOARD FOR A TWO-YEAR TERM EXPIRING NOVEMBER 1, 2013. *Mayor Tom Reid.***

- G. CONSIDERATION AND POSSIBLE ACTION – REAPPOINT GARY SHIVER TO THE GAS AND PLUMBING BOARD FOR A FIVE-YEAR TERM EXPIRING NOVEMBER 2016.**  
*Mayor Tom Reid.*
- H. CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-27 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AWARDED A BID FOR POOL CHEMICALS AND POOL MAINTENANCE SERVICES.**  
*Mr. Bill Eisen, City Manager.*
- X. NEW BUSINESS**
- 1. CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. 2012-28 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING THE POWER OF EMINENT DOMAIN TO ACQUIRE A DRAINAGE EASEMENT UPON CERTAIN PROPERTY, BEING A 5.4556 ACRE TRACT OUT OF LOT 2, SECTION 32 OF THE H.T. & B.R.R. COMPANY SURVEY, ABSTRACT 525, PEARLAND, BRAZORIA COUNTY, TEXAS, FOR THE CONSTRUCTION AND MAINTENANCE OF DRAINAGE IMPROVEMENTS ON CERTAIN REAL PROPERTY DESCRIBED HEREIN; AUTHORIZING THE CITY ATTORNEY, OR HIS DESIGNEE, AND OTHER CITY OFFICIALS TO TAKE SUCH ACTIONS AS ARE NECESSARY TO ACQUIRE SAID PROPERTY, LOCATED WITHIN THE CITY, BY DONATION, PURCHASE, OR BY THE EXERCISE OF THE POWER OF EMINENT DOMAIN.** *Mr. Darrin Coker, City Attorney.*
- 2. CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. 2012-29 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING THE POWER OF EMINENT DOMAIN TO ACQUIRE A DRAINAGE EASEMENT UPON CERTAIN PROPERTY, BEING A 9.7756 ACRE TRACT OUT OF SECTION 32 OF THE H.T. & B.R.R. COMPANY SURVEY, ABSTRACT 525, PEARLAND, BRAZORIA COUNTY, TEXAS, FOR THE CONSTRUCTION AND MAINTENANCE OF DRAINAGE IMPROVEMENTS ON CERTAIN REAL PROPERTY DESCRIBED HEREIN; AUTHORIZING THE CITY ATTORNEY, OR HIS DESIGNEE, AND OTHER CITY OFFICIALS TO TAKE SUCH ACTIONS AS ARE NECESSARY TO ACQUIRE SAID PROPERTY, LOCATED WITHIN THE CITY, BY DONATION, PURCHASE, OR BY THE EXERCISE OF THE POWER OF EMINENT DOMAIN.** *Mr. Darrin Coker, City Attorney.*

3. **CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-14** – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AWARDED A BID FOR GROUNDS MAINTENANCE SERVICES. *Mr. Bill Eisen, City Manager.*
4. **CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-25** – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING A CONTRACT FOR CONSTRUCTION MANAGEMENT AND CONSTRUCTION INSPECTION SERVICES ASSOCIATED WITH THE BARRY ROSE WASTEWATER TREATMENT PLANT REHABILITATION PROJECT. *Mr. Bill Eisen, City Manager.*
5. **CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-26** – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AWARDED A BID FOR WATER WELL REPAIR SERVICES. *Mr. Bill Eisen, City Manager.*

**OTHER BUSINESS:** None.

## **XI. ADJOURNMENT**

This site is accessible to disabled individuals. For special assistance, please call Young Lorfing at 281-652-1840 prior to the meeting so that appropriate arrangements can be made.

# Mayor's Report

Presentation of Proclamation proclaiming February 27, 2012 as "H5H – High Five for Health Day"

Presentation of Proclamation proclaiming the month of March, 2012, as "Youth Art Month"

# Proclamation

## Office of THE MAYOR CITY OF PEARLAND

*Whereas, High Five for Health (H5H) has been developed by Adolescent Health Promoters (ADH) under the supervision of health care professionals; and*

*Whereas, H5H is a program designed by kids (AHP) for kids to address and encourage healthy eating habits and physical activity for kids; and*

*Whereas, H5H strives to build healthier kids and communities; and*

*Whereas, H5H's program mission is to establish and mobilize School Health Councils.*

*Now, Therefore, I, Tom Reid, By The Power Vested In Me As The Mayor Of The City Of Pearland, Texas, Do Hereby Proclaim Monday, February 27, 2012 as*

## ***H5H – HIGH FIVE FOR HEALTH***

*In Pearland and surrounding areas and I ask all citizens both near and far to join with me Recognizing and supporting this as a special day for H5H in promoting healthier kids and communities by establishing School Health Councils.*

*Given Under My Hand And Seal Of Office This  
27<sup>th</sup> Day Of February, 2012.*



*Tom Reid*  
\_\_\_\_\_  
Mayor, The City Of Pearland

# Proclamation

## Office of THE MAYOR CITY OF PEARLAND

*Whereas, Youth Art Month has been observed throughout Texas, and Nationally since 1961 and contributes powerful educational benefits to all elementary, middle and secondary students; and*

*Whereas, Art education develops students' creative problem-solving and critical thinking abilities and teaches sensitivity to beauty, order and other expressive qualities, and*

*Whereas, Art education gives students a deeper understanding of multi-cultural values and beliefs and art education reinforces and brings to life what students learn in other subjects and how it interrelates student learning in art production, art history, art criticism and aesthetics.*

*Now, Therefore, I, Tom Reid, By The Power Vested In Me As The Mayor Of The City Of Pearland, Texas, Do Hereby Proclaim the Month of March, 2012 As*

### **YOUTH ART MONTH**

*In Pearland And I Ask All Citizens Near And Far To Join With Me in supporting art teachers as they attempt to strengthen art education in their schools and communities and give full support to quality school art programs for children and youth.*

*Given Under My Hand And Seal Of Office  
This 27<sup>th</sup> Day Of February, 2012.*



*Tom Reid*

*Mayor, The City Of Pearland*

# Consent Agenda Item A

**A. CONSIDERATION AND POSSIBLE ACTION – APPROVAL OF MINUTES:**

1. Minutes of the January 16, 2012, Joint Public Hearing Meeting held at 6:30 p.m.

**MINUTES OF THE JOINT PUBLIC HEARING OF THE CITY COUNCIL AND PLANNING AND ZONING COMMISSION OF THE CITY OF PEARLAND, TEXAS, HELD JANUARY 16, 2012 AT 6:30 P.M., IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS**

**CALL TO ORDER**

Mayor Tom Reid and P&Z Chairperson Jerry Koza, Jr. opened the series of public hearings to order at 6:56 p.m. with the following present:

Mayor Tom Reid	P&Z Chairperson Jerry Koza, Jr.
Mayor Pro Tem Ed Thompson	P&Z Vice-Chairperson Richard Golden
Council Member Susan Sherrouse	P&Z Commissioner Sheila Fischer
Council Member Scott Sherman	P&Z Commissioner Henry Fuertes
Council Member Woody Owens	P&Z Commissioner Neil West
	P&Z Commissioner Phil Cessac

Also in attendance: City Attorney Darrin Coker, Assistant City Manager Mike Hodge, Assistant City Manager Jon Branson, City Manager Bill Eisen, Senior Planner Harold Ellis, Planning Director Lata Krishnarao, and Planning Office Coordinator Judy (Krajca) Brown.

Senior Planner Harold Ellis explained the Joint Public Hearing process for the attending public, and explained that the Planning & Zoning Commission meeting would immediately follow the Joint Public Hearing.

Mayor Tom Reid called to order the Public Hearing for Zone Change Application No. 2012-01Z at 6:58 p.m.

**NEW BUSINESS**

**ZONE CHANGE NO. 2012-01Z**

A request of Sherry L. Stockwell-Tarrer, applicant, on behalf of Emil J. Hrbacek, owner, for approval of a zone change from the Single-Family Residential-1 (R-1) zone to General Business (GB) zone for 2.261 acres on the following described property, to wit:

**Legal Description:** Boundary Survey 188' X 523.9', West ½ of lot 48, Allison Richey Gulf Coast Home Company Survey, Section 19, H.T. & B.R.R. Company Survey, Abstract 243, Brazoria County, Texas

**General Location:** 8013 W. Broadway, Pearland, TX

P&Z Commissioner Jerry Koza, Jr. read the purpose of the hearing.

Senior Planner Harold Ellis read the staff report stating the applicant was seeking a zone change in order to sell the property as commercial use and that the surrounding property was zoned commercial use.

The applicant was present but did not speak.

P&Z Commissioner Neil West asked about the transition of zoning, and Senior Planner Harold Ellis stated the Future Land Use Plan showed the area as General Business (GB) zone.

Council Member Scott Sherman asked if any of the neighbors expressed concern and Senior Planner Harold Ellis replied no.

Council Member Woody Owens inquired about the Future Land Use Plan to GB zone. Planning Director Lata Krishnarao stated it was up to each owner to apply for a zone change.

Mayor Tom Reid adjourned the Public Hearing for Zone Change Application No. 2012-01Z at 7:08 p.m.

Mayor Tom Reid called to order the Public Hearing for Zone Change Application No. 2012-02Z at 7:09 p.m.

### **ZONE CHANGE NO. 2012-02Z**

A request of J. Kent Marsh, applicant, on behalf of Tom Alexander, Jr., owner, for approval of a zone change from the General Business (GB) zone to Single-Family Residential-3 (R-3) zone for 20.992 acres on the following described property, to wit:

**Legal Description:** 20.992 acre tract in the W.D.C. Hall Survey, Abstract No. 70 in the City of Pearland, Brazoria County, Texas. Said 20.992 is a part of a 36.685 acre tract described in a deed to T & R Realty investment, LLC as recorded in Clerk's File No. 2011028636

**General Location:** 2411 E. Broadway, Pearland, TX

P&Z Commissioner Jerry Koza, Jr. read the purpose of the hearing.

Senior Planner Harold Ellis read the staff report stating the applicant was seeking a zone change to Single Family Residential.

Mr. Kent Marsh of 8955 Katy Freeway Suite 215 Houston Texas 77024 was present, along with the owner Mr. Tom Alexander, and stated the owner was looking to build a single family home. Mr. Marsh also commended staff for the work with the owner and applicant.

P&Z Commissioner Henry Fuertes inquired where the access to the property would be.

Mr. Marsh stated they had a Pre-Development meeting with a proposal to replat a portion of a lot to General Business on FM 518 for the driveway.

Council Member Ed Thompson inquired about the property being in the flood zone. Mr. Tom Alexander stated approximately 4-5 acres was in the flood way, which cannot be built on, but they can build in the flood plain.

Mayor Tom Reid adjourned the Public Hearing for Zone Change Application No. 2012-02Z at 7:19 p.m.

Mayor Tom Reid called to order the Public Hearing for Zone Change Application No. 2012-03Z at 7:19 p.m.

### **ZONE CHANGE NO. 2012-03Z**

A request of Louis McKinney, applicant, on behalf of Janice and Bonnie Howard, owner(s), for approval of a zone change from the Planned Development (PD), General Business (GB), Cullen Mixed-Use (C/MU), Single-Family Residential-3 (R-3) and Suburban Residential-12 (SR-12) zone(s) to Planned Development (PD) zone for 133.6907 acres on the following described property, to wit:

**Legal Descriptions:** Houston Memorial Gardens Cemetery Sections 34, 35, 36, 37, 38, 39, 40, A perpetual care cemetery containing 9.982 acres and being a partial replat the amended plat of Paradise Cemetery South, Volume 16, Page 275-276, B.C.P.R. and being in lot 28, of the Allison Richey Gulf Coast Home Company Subdivision, Vol 20, Pg. 67-68, P.R.B.C. out of the H.T. & B.R.R. CO. Survey, Sec. 19, A-243 Brazoria County, Texas;

Final Plat of Houston Memorial Gardens Cemetery, a 20.0737 acre tract of land being lots 13 and 29, and part of lot 12, of the Allison Richey Gulf Coast Home Company Subdivision, Section 19, and being situated in the H.T.& B.R.R. Company Survey, Abstract 243, Brazoria County, Texas;

Boundary survey of a 8.434 acre tract out of Section 19, H.T. & B.R.R. Survey, A-243, Brazoria County, Texas;

Partial Replat of Houston Memorial Garden Cemetery, being a 57.231 acre tract of land, all of tracts 41, 42, 55, 56, 57, & 58 in the Allison Richey Gulf Coast Home Subdivision, as recorded in Plat Book 2, Page(s) 24, of the Brazoria County Plat Records, located in the H.T. & B. Company Survey, Section 20, Abstract No. 506 in Brazoria County, Texas;

Boundary survey of a 19.97 acre tract out of Section 19, H T & B RR Survey, A-243, Brazoria County, Texas;

Lot 44 (10 ac) of the Allison-Richey Gulf Coast Home Company Subdivision, Section 19, H.T. & B.R.R. Company Survey, Abstract 243, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 2, Page 23 of the plat records of Brazoria County, Texas;

The North ½ of Lot 28 (5ac) of Allison Richey Subdivision out of Section 20, H.T. & B.R.R. Company Survey, Abstract No. 506, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 2, Page 23, of the plat records of Brazoria County, Texas;

A0506 H T & B R R Co Survey, Tract 54A1, F B Drake, **3.000 Acres.**

**General Location:** 2426 Cullen, Pearland, TX  
Houston Memorial Gardens Cemetery

P&Z Commissioner Jerry Koza, Jr. read the purpose of the hearing.

Senior Planner Harold Ellis read the staff report stating the applicant wanted to amend the existing Planned Development (PD) for the entire 133.6907 acres.

Applicant Janice Howard spoke stating they wanted to simplify their records. Mrs. Howard also thanked staff for recommending this to them.

Ms. Laurie Milligen of 1355 King Fisher Court South, Pearland Texas 77584 inquired what would happen when the land, located behind her, was rezoned.

Mr. Emanuel Guerrero of 2513 Sunfire Lane Pearland Texas 77584 expressed concern with what would go in behind his house.

Council Member Susan Sherrouse asked the P&Z Commission to address the questions during the P&Z Regular Meeting.

Mayor Tom Reid adjourned the Public Hearing for Zone Change Application No. 2012-03Z at 7:36 p.m.

## **ADJOURNMENT**

Mayor Tom Reid adjourned the series of Public Hearings at 7:36 p.m.

These minutes are respectfully submitted by:

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Judy (Krajca) Brown, Planning Office Coordinator

Minutes approved as submitted and/or corrected on this 27th day of February 2012,  
A.D.

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Mayor Tom Reid

# Consent Agenda Item B

- B. CONSIDERATION AND POSSIBLE ACTION – SECOND AND FINAL READING OF ORDINANCE NO. 2000M-83 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AMENDING ORDINANCE NO. 2000M, THE ZONING MAP OF THE CITY OF PEARLAND, TEXAS, FOR THE PURPOSE OF CHANGING THE CLASSIFICATION OF CERTAIN REAL PROPERTY, LOCATION BEING BOUNDARY SURVEY 188' X 523.9', WEST ½ OF LOT 48, ALLISON RICHEY GULF COAST HOME COMPANY SURVEY, SECTION 19, H.T. & B.R.R. COMPANY SURVEY, ABSTRACT 243, BRAZORIA COUNTY, TEXAS. (LOCATED AT 8013 W. BROADWAY, PEARLAND, TEXAS), ZONE CHANGE 2012-01Z, A REQUEST OF SHERRY L. STOCKWELL-TARRER, APPLICANT, ON BEHALF OF EMIL J. HRBACEK, OWNER, FOR APPROVAL OF A ZONE CHANGE FROM THE SINGLE-FAMILY RESIDENTIAL-1 (R-1) ZONE TO GENERAL BUSINESS (GB) ZONE, PROVIDING FOR AN AMENDMENT OF THE ZONING DISTRICT MAP; CONTAINING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE AND OTHER PROVISIONS RELATED TO THE SUBJECT. *Mr. Mike Hodge, Assistant City Manager.***

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b> February 27, 2012	<b>ITEM NO.:</b> Ordinance No. 2000M-83
<b>DATE SUBMITTED:</b> January 31, 2012	<b>DEPT. OF ORIGIN:</b> Planning
<b>PREPARED BY:</b> Harold Ellis	<b>PRESENTOR:</b> Mike Hodge
<b>REVIEWED BY :</b> Mike Hodge	<b>REVIEW DATE:</b> February 6, 2012
<b>SUBJECT:</b> A request of Sherry L. Stockwell-Tarrer, applicant, on behalf of Emil J. Hrbacek, owner, for approval of a zone change from the Single-Family Residential-1 (R-1) zone to General Business (GB) zone for 2.261 acres, Generally located at 8013 W. Broadway	
<b>EXHIBITS:</b> Ordinance No. 2000M-83 and Exhibits (Exhibit A – Applicant Packet; Exhibit B - Vicinity Map; Exhibit D - P&Z Recommendation Letter), Joint Public Hearing Staff Report, Other Maps and Related Documents	
<b>EXPENDITURE REQUIRED:</b> N/A <b>AMOUNT AVAILABLE:</b> N/A <b>ACCOUNT NO.:</b> N/A	<b>AMOUNT BUDGETED:</b> N/A <b>PROJECT NO.:</b> N/A
<b>ADDITIONAL APPROPRIATION REQUIRED:</b> N/A <b>ACCOUNT NO.:</b> N/A <b>PROJECT NO.:</b> N/A	
<b>To be completed by Department:</b> <input type="checkbox"/> Finance <input type="checkbox"/> Legal <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution	

**EXECUTIVE SUMMARY**

Sherry L. Stockwell-Tarrer, applicant, for Emil J. Hrbacek, owner, is requesting approval of a zone change from the Single-Family Residential-1 (R-1) zone, to General Business (GB) zone for 2.261 acres for the above referenced location. The property is currently developed as and is being used as a single-family home. The owner has stated that the reason for the request is to be able to sell the property as a commercial property. With the exception of the rear of the property (to the north), the property is surrounded by commercial zoning districts and developments. Additionally, the City's Comprehensive Plan, discussed in this report, calls for commercial zoning for this area.

**STAFF RECOMMENDATION:** Staff recommends approval of the Zone Change 2012-01Z as proposed by the applicant for the following reasons:

1. Approval of the zone change will result in conformance with the surrounding zoning as well as current and future land uses.
2. The proposed zone change should not have any significant negative impact on the surrounding properties and developments.
3. The proposed zone change will bring the property into compliance with the approved Future Land Use Plan.
4. The proposed zone change would allow for uses on the property that would be compatible with nearby commercial development, and also be appropriate along Broadway.

**PLANNING AND ZONING COMMISSION DISCUSSION:** At the regular meeting of the Planning and Zoning Commission on January 16, 2012 there was discussion regarding future potential uses for the property, residential adjacency, future land use plan compliance, and abutter notifications. Following this discussion, Commissioner Henry Fuertes made a motion to approve the Conditional Use Permit (CUP). The motion was seconded by Commissioner Richard Golden. The vote was 6-0 and the motion passed. Therefore, the Planning and Zoning Commission recommended that City Council approve the Conditional Use Permit.

**STAFF RECOMMENDATION TO COUNCIL:** Consider the zone change request.

**ORDINANCE NO. 2000M-83**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AMENDING ORDINANCE NO. 2000M, THE ZONING MAP OF THE CITY OF PEARLAND, TEXAS, FOR THE PURPOSE OF CHANGING THE CLASSIFICATION OF CERTAIN REAL PROPERTY, LOCATION BEING BOUNDARY SURVEY 188' X 523.9', WEST ½ OF LOT 48, ALLISON RICHEY GULF COAST HOME COMPANY SURVEY, SECTION 19, H.T. & B.R.R. COMPANY SURVEY, ABSTRACT 243, BRAZORIA COUNTY, TEXAS. **(LOCATED AT 8013 W. BROADWAY, PEARLAND, TEXAS)**, ZONE CHANGE 2012-01Z, A REQUEST OF SHERRY L. STOCKWELL-TARRER, APPLICANT, ON BEHALF OF EMIL J. HRBACEK, OWNER, FOR APPROVAL OF A ZONE CHANGE FROM THE SINGLE-FAMILY RESIDENTIAL-1 (R-1) ZONE TO GENERAL BUSINESS (GB) ZONE, PROVIDING FOR AN AMENDMENT OF THE ZONING DISTRICT MAP; CONTAINING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE AND OTHER PROVISIONS RELATED TO THE SUBJECT.

**WHEREAS**, Sherry L. Stockwell-Tarrer, applicant, on behalf of Emil J. Hrbacek, owner, filed an application for amendment to Ordinance No. 2000M, the Zoning Map of the City, for approval of a change in the zoning district from Single-Family Residential-1 (R-1) to General Business (GB); said property being legally described in the original applications for amendment attached hereto and made a part hereof for all purposes as Exhibit "A", and more graphically depicted in the vicinity map attached hereto and made a part hereof for all purposes as Exhibit "B"; and

**WHEREAS**, on the 16<sup>th</sup> day of January, 2012, a Joint Public Hearing was held before the Planning and Zoning Commission and the City Council of the City of Pearland, Texas, notice being given by publication in the official newspaper of the City, the affidavit of publication being attached hereto and made a part hereof for all purposes as Exhibit "C", said call and notice being in strict conformity with provisions of Section 1.2.2.2 of Ordinance No. 2000T; and

**ORDINANCE NO. 2000M-83**

**WHEREAS**, on the 16<sup>th</sup> day of January, 2012, the Planning and Zoning Commission of the City submitted its report and recommendation to the City Council regarding the proposed zone change application of Sherry L. Stockwell-Tarrer, applicant, on behalf of Emil J. Hrbacek, owner, whereby the Commission recommended approval of the change of classification for the described property from its existing classification of Single-Family Residential-1 (R-1) to General Business (GB), said recommendation attached hereto and made a part hereof for all purposes as Exhibit “D”; and

**WHEREAS**, upon receipt of the report from the Planning and Zoning Commission, City Council considered this application and the recommendation of the Planning and Zoning Commission at regular meeting(s) on the 13<sup>th</sup> day of February, 2012 and; 27<sup>th</sup> day of February 2012; and

**WHEREAS**, the City Council having fully heard the testimony and argument of all interested parties, and having been fully advised in the premises, finds that in the case of the application of Sherry L. Stockwell-Tarrer, applicant, on behalf of Emil J. Hrbacek, owner, presented which, in the judgment of the City Council, would justify the approval of said application; now, therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section I.** The following described property located within the corporate City Limits of the City of Pearland, Texas, and presently classified as Single-Family Residential-1 (R-1) to General Business (GB), in accordance with all conditions and requirements of the current Unified Development Code and incorporated for all purposes, such property being more particularly described as:

**ORDINANCE NO. 2000M-83**

Boundary Survey 188' X 523.9', West ½ of lot 48, Allison Richey Gulf Coast Home Company Survey, Section 19, H.T. & B.R.R. Company Survey, Abstract 243, Brazoria County, Texas

General Location: 8013 W. Broadway, Pearland, TX

**Section II.** The City Council of the City of Pearland finds and determines that the recitations in the preamble hereof are true and that all necessary prerequisites of law have been accomplished and that no valid protest of the proposed change has been made. The City Council further finds and determines that there has been compliance with the mandates of law in the posting and presentation of this matter to the Planning and Zoning Commission and to the City Council for consideration and decision.

**Section III.** The City Council of the City of Pearland finds and determines that the amendment adopted herein promotes the health, safety, and general welfare of the public and is a proper valid exercise of the City's police powers.

**Section IV.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section V.** All rights and remedies, which have accrued in the favor of the City under this Ordinance and its amendments thereto, shall be and are preserved for the benefit of the City.

**ORDINANCE NO. 2000M-83**

**Section VI.** The City Secretary is hereby directed to cause to be prepared an amendment to the official Zoning District Map of the City, pursuant to the provisions of Section 2.3.2.2 of Ordinance No. 2000-T and consistent with the approval herein granted for the reclassification of the herein above described property.

**Section VII.** This Ordinance shall become effective after its passage and approval on second and final reading.

PASSED, APPROVED, and ADOPTED on First Reading this 13<sup>th</sup> day of February, 2012.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

PASSED, APPROVED, and ADOPTED on Second and Final Reading this 27<sup>th</sup> day of February, 2012.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

Nov. 21, 2011



# APPLICATION FOR A CHANGE IN ZONING

City of Pearland  
Community Development  
3523 Liberty Drive  
(Community Center)  
Pearland, Texas 77581  
281-652-1639  
281-652-1702 fax  
www.ci.pearland.tx.us

Please check one:

Change in Zoning Classification from: R-1 RESIDENTIAL to: GB GENERAL BUSINESS COMMERCIAL  
(list current zoning) (list proposed zoning)

Specific Use Permit Request for : \_\_\_\_\_  
(list proposed use)

Property Information:

Address: 8013 8313 W. BROADWAY ST.

Subdivision: HT+BRR Lot: 48A1 Block: \_\_\_\_\_

Tax I.D. Number: 0243-0061-000

\*\* For unplatted property, attach a copy of the metes and bounds description\*\*

Current use of property (type of structures on property): RESIDENCE

Future/proposed use of property and reason for zone change: TO SELL

PROPERTY OWNER INFORMATION:

NAME EMIL J. HRBACEK  
ADDRESS 8013 8313 W. BROADWAY  
CITY PEARLAND STATE TX ZIP 77581  
PHONE (281) 485-9578  
FAX ( ) NONE  
E-MAIL ADDRESS NONE

APPLICANT INFORMATION: (SAME)

NAME Sherry L. Stockwell-Tarrer  
ADDRESS \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
PHONE (713) 436-6095  
FAX ( )  
E-MAIL ADDRESS \_\_\_\_\_

PETITION: As owner/agent, I hereby petition the City of Pearland for approval of the above described request as provided for by the laws of the State of Texas and ordinances of the City of Pearland. I certify to the best of my knowledge that this is a true description of the property upon which I have requested the above checked action. I understand that I am fully responsible for the correctness of the legal description given.

Owner's Signature: Emil J. Hrbacek Date: 9-19-11

Agent's Signature: Sherry L. Stockwell-Tarrer Date: 11/21/2011

OFFICE USE ONLY: FEES PAID: \_\_\_\_\_ DATE PAID: \_\_\_\_\_  
RECEIVED BY: \_\_\_\_\_ APPLICATION NO. \_\_\_\_\_

Date: 26 September 2011

To: City of Pearland  
Planning & Zoning Dept

RE: Application to Rezone Property  
8313 Broadway St, Pearland, TX 77581

**AGENT AUTHORIZATION**

I hereby authorize Richard A. Tarrer, or Sherry L. Stockwell-Tarrer, to represent me for the above-referenced purpose, before the City of Pearland, and/or the Planning & Zoning Department.

**LETTER OF INTENT**

It is my intention to rezone the above-referenced property from R-1 (Residential) to GB (General Business), the "zoning" recommended by the City of Pearland, for the purpose of either selling, or later development, of said property.

Owner's Signature: Emil J. Hrbacek \_\_\_\_\_  
Emil J. Hrbacek Date



## Brazoria CAD

### Property Search Results > 166499 HRBACEK EMIL J for Year 2011

#### Property

##### Account

Property ID: 166499      Legal Description: A0243 H T & B R R, TRACT 48A1, ACRES 2.000  
 Geographic ID: 0243-0061-000      Agent Code:  
 Type: Real  
 Property Use Code:  
 Property Use Description:

##### Location

Address: 8013 W BROADWAY ST FM 518      Mapsco:  
 PEARLAND,  
 Neighborhood: ABST 243,504,234,506, 310 AND SUBS 1990 AND NEWER Map ID:  
 Neighborhood CD: A0243.ARE1

##### Owner

Name: HRBACEK EMIL J      Owner ID: 34198  
 Mailing Address: 8013 BROADWAY ST      % Ownership: 100.0000000000%  
 PEARLAND, TX 77581-7760  
 Exemptions: DV4, HS, OV65

#### Values

(+) Improvement Homesite Value: + \$87,560  
 (+) Improvement Non-Homesite Value: + \$0  
 (+) Land Homesite Value: + \$106,290  
 (+) Land Non-Homesite Value: + \$0 Ag / Timber Use Value  
 (+) Agricultural Market Valuation: + \$0 \$0  
 (+) Timber Market Valuation: + \$0 \$0  
 -----  
 (=) Market Value: = \$193,850  
 (-) Ag or Timber Use Value Reduction: - \$0  
 -----  
 (=) Appraised Value: = \$193,850  
 (-) HS Cap: - \$0  
 -----  
 (=) Assessed Value: = \$193,850

#### Taxing Jurisdiction

Owner: HRBACEK EMIL J  
 % Ownership: 100.0000000000%  
 Total Value: \$193,850

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax	Tax Ceiling
CAD	BRAZORIA COUNTY APPRAISAL DISTRICT	0.000000	\$193,850	\$181,850	\$0.00	
CPL	CITY OF PEARLAND	0.685100	\$193,850	\$136,850	\$937.56	\$1,065.99
DR4	BRAZORIA COUNTY DRAINAGE DISTRICT #4 (PEARLAND)	0.156000	\$193,850	\$68,080	\$106.20	
GBC	BRAZORIA COUNTY	0.413101	\$193,850	\$43,080	\$177.97	
RDB	ROAD & BRIDGE FUND	0.060000	\$193,850	\$43,080	\$25.85	
SPL	PEARLAND INDEPENDENT SCHOOL DISTRICT	1.419400	\$193,850	\$153,050	\$485.36	\$485.36
Total Tax Rate:		2.733601				
					Taxes w/Current Exemptions:	\$1,732.94
					Taxes w/o Exemptions:	\$5,299.09

#### Improvement / Building

Improvement #1: Residential      State Code: A1      Living Area: 1814.0 sqft      Value: \$82,760

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	4+	R1	1995	1814.0
OPF	OPEN PORCH	4+		1995	58.0
BG	BRICK GARAGE	4+		1995	420.0

<b>Improvement #2:</b>	Misc Imp	<b>State Code:</b>	A1	<b>Living Area:</b>	sqft	<b>Value:</b>	\$4,590
Type	Description	Class CD	Exterior Wall	Year Built	SQFT		
DFG	DETACHED FRAME GARAGE	3		1995	720.0		

<b>Improvement #3:</b>	Misc Imp	<b>State Code:</b>	A1	<b>Living Area:</b>	sqft	<b>Value:</b>	\$210
Type	Description	Class CD	Exterior Wall	Year Built	SQFT		
RC2	CANOPY	3		1995	390.0		

**Land**

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	C-HS	COMMERCIAL HOMESTEAD	2.0000	87120.00	0.00	0.00	\$106,290	\$0

**Roll Value History**

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2012	N/A	N/A	N/A	N/A	N/A	N/A
2011	\$87,560	\$106,290	0	193,850	\$0	\$193,850
2010	\$90,840	\$106,290	0	197,130	\$0	\$197,130
2009	\$47,030	\$279,920	0	326,950	\$40,346	\$286,604
2008	\$41,110	\$254,480	0	295,590	\$35,041	\$260,549
2007	\$47,920	\$234,520	0	282,440	\$45,577	\$236,863
2006	\$44,950	\$184,320	0	229,270	\$13,940	\$215,330
2005	\$48,890	\$176,620	0	225,510	\$29,760	\$195,750
2004	\$45,680	\$176,620	0	222,300	\$44,350	\$177,950
2003	\$91,260	\$98,210	0	189,470	\$27,700	\$161,770
2002	\$73,400	\$73,660	0	147,060	\$0	\$147,060
2001	\$73,400	\$73,660	0	147,060	\$0	\$147,060

**Deed History - (Last 3 Deed Transactions)**

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
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Questions Please Call (979) 849-7792

Website version: 1.2.2.2

Database last updated on: 12/14/2011 5:52 AM

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Privacy Notice

This site only supports Internet Explorer 6+, Netscape 7+ and Firefox 1.5+.



CITY OF PEARLAND

\*\*\* CUSTOMER RECEIPT \*\*\*

Oper: WWILSON Type: OC Drawer: 1  
Date: 12/13/11 01 Receipt no: 70167

Description	Quantity	Amount
BA BOARD OF ADJUSTMENTS	1.00	\$275.00
Trans number:		3560638

ZONE CHANGE BA  
0013 BROADWAY  
ENIL J BRBACEK  
SAME AS OWNER

Tender detail		
CR CHECK	2029	\$275.00
Total tendered		\$275.00
Total payment		\$275.00

Trans date: 12/12/11 Time: 15:59:30

**POSTING OF ZONING NOTIFICATION SIGNS  
ON PROPERTY UNDER CONSIDERATION  
FOR A ZONE CHANGE (OR CONDITIONAL USE PERMIT)**

Any person, firm or corporation requesting a zoning change, a conditional use permit (CUP), or a variance shall be required to erect and maintain a sign(s), to be inspected by the City, upon the property for which a variance or zoning change has been requested.

Such sign(s) shall be located as follows:

- (1) One (1) sign per street frontage shall be located within thirty feet (30') of the abutting street, or as determined by the City.
- (2) So as to be clearly visible and readable from the public right-of-way and not obstructed in any manner.
- (3) So as not to create a hazard to traffic on the public rights-of-way abutting the property.
- (4) On the subject property at least ten (10) days prior to the hearing of such zoning change request by the Planning and Zoning Commission, and to remain continuously on said property until final action by the City Council or withdrawal of the case by the applicant. Removal of the sign by the applicant prior to a recommendation by the Planning and Zoning Commission and/or a final decision by the City Council shall constitute a withdrawal of the request.
- (5) The signs shall be as follows:
  - A minimum sign size of 2 feet by 3 feet, but no larger than 4 feet by 4 feet
  - At least 2 feet above the ground
  - Blue or black lettering that is a minimum of 3 inches by 1/2 inch, on a white background
  - Message content as follows:

**ZONE CHANGE**  
**PROPOSED (SPECIFY REQUEST)**  
Contact City of Pearland  
281-652-1768

\*Signs must be professionally made; handwritten signs are not allowed.

\*Signs must be freestanding and cannot be attached to a tree, fence, or building.

*Emil D. Hubert*

# 2010 TAX STATEMENT

(979) 388-1320  
(979) 864-1320  
(281) 756-1320



**Ro'Vin Garrett, RTA**  
**BRAZORIA COUNTY TAX ASSESSOR- COLLECTOR**  
111 E. LOCUST  
ANGLETON, TEXAS 77515

Mailing Address

HRBACEK EMIL J  
8013 BROADWAY ST  
PEARLAND TX 77581-7760

0079 0117

Legal Description

A0243 H T & B R R, TRACT 48A1, ACRES  
2.000



Legal Acres: 2.0000  
Parcel Address: 8013 W BROADWAY

Account No: 0243-0061-000

As of Date: 10/11/10

Print Date: 10/15/10

Market Value		Appraised Value	Assessed Value	Capped Value	Homesite Value	Agricultural Value	Non-Qualifying Value
Land	Improvement						
\$106,290	\$90,840	\$197,130	\$197,130		\$197,130		

Taxing Unit	Assessed Value (100%)	Exemptions		Taxable Value	Tax Rate	2010 Tax
		Code	Amount			
BRAZORIA COUNTY	\$197,130	HOM 065 VET	\$151,426	\$45,704	.40310100	\$184.23
SPECIAL ROAD & BRIDGE	\$197,130	HOM 065 VET	\$151,426	\$45,704	.06000000	\$27.42
PEARLAND ISD	\$197,130	HOM 065 VET	\$40,800	\$156,330	1.4194000	\$485.36
BRAZORIA DRAINAGE DIST 4	\$197,130	HOM 065 VET	\$126,426	\$70,704	.15600000	\$110.30
CITY OF PEARLAND	\$197,130	HOM 065 VET	\$57,000	\$140,130	.66510000	\$932.00

Amount saved by additional sales tax revenue \$34.55

Exemptions:

HOM HOMESTEAD 065 OVER 65  
VET VETERAN

TOTAL TAX: \$1,739.31  
TOTAL TAX PAID TO DATE: \$.00  
TOTAL TAX REMAINING: \$1,739.31

AMOUNT DUE IF PAID BY END OF:

OCTOBER 2010	NOVEMBER 2010	DECEMBER 2010	JANUARY 2011	FEBRUARY 2011	MARCH 2011
\$1,739.31	\$1,739.31	\$1,739.31	\$1,739.31	\$1,861.07	\$1,895.85

**PLEASE PUT YOUR ACCOUNT NUMBER ON ALL CORRESPONDENCE**

TAXES ARE DUE UPON RECEIPT. TAXES WILL BECOME DELINQUENT FEB. 1, 2011. PENALTY AND INTEREST WILL BE ADDED MONTHLY BEGINNING FEB 1, 2011  
CERTAIN PERSONAL PROPERTY TAXES REMAINING DELINQUENT ON APRIL 1, 2011, MAY INCUR AN ADDITIONAL COLLECTION FEE OF UP TO 20 %  
FEBRUARY -- 7% MARCH -- 9% APRIL -- 11% MAY -- 13% JUNE -- 15% JULY -- 18% + UP TO 20% ATTORNEY FEE

**TO PAY BY CREDIT CARD VISIT [www.brazoria-county.com/tax](http://www.brazoria-county.com/tax)**  
**OR DIAL 1-866-549-1010 - BUREAU CODE 5820032**



MR. EMIL J. HRBACEK  
8013 BROADWAY ST. PH. 485-9578  
PEARLAND, TX 77581

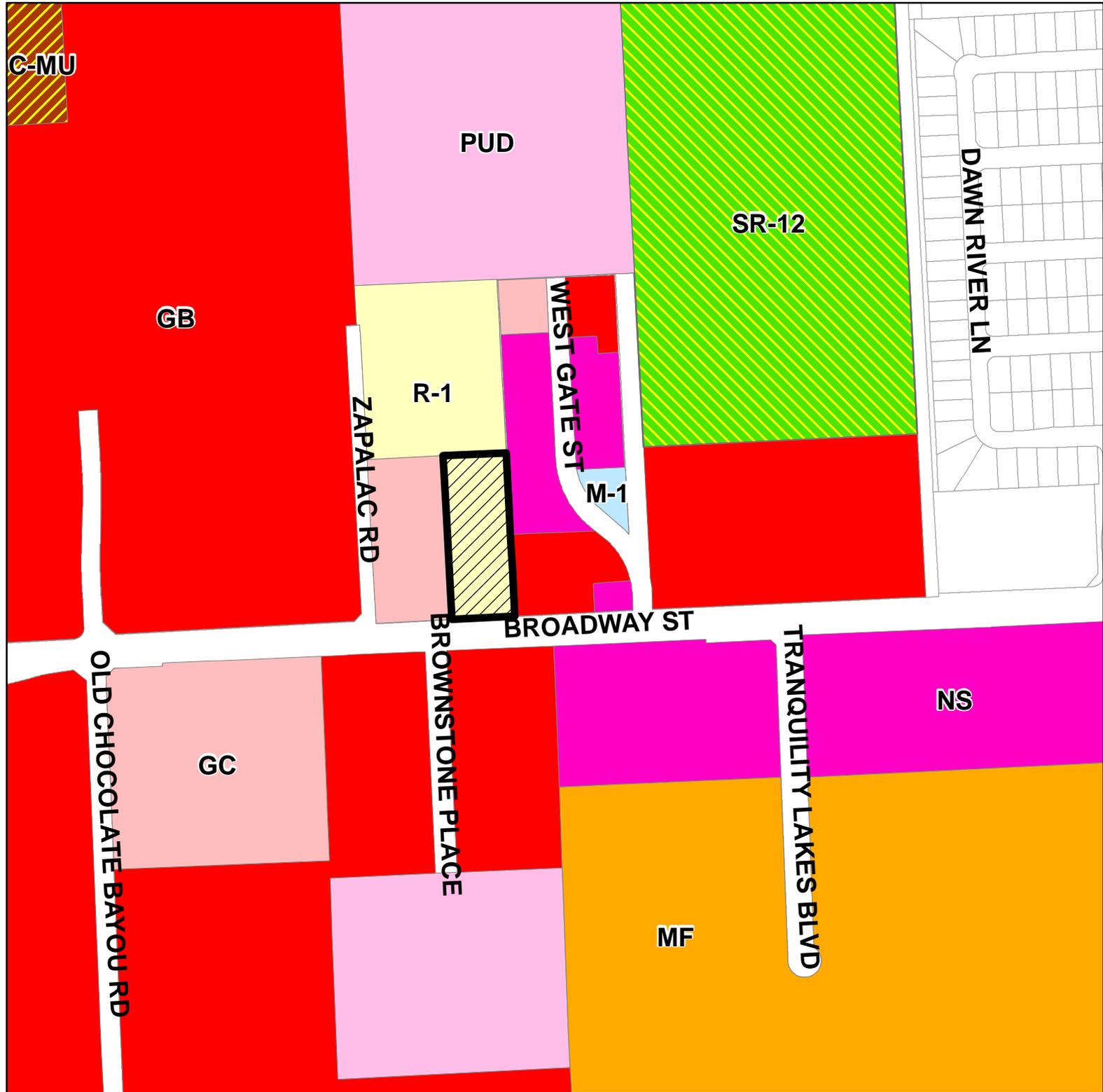
99-2597/1191      1910  
DATE 1-16-11

PAY TO Ro'vin Garrett RTA \$1,739.31  
THE ORDER OF one thousand seven hundred thirty nine and 31/100

**PEARLAND State BANK**  
2811 485-9511  
801 BOKER, PEARLAND, TEXAS 77581  
281-485-1800 24 HOUR TOLL FREE BANKING SERVICE

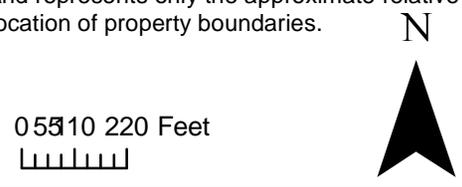
MEMO Emil J. Hrbacek

Acct # 345835, Ck # 1910, 01/20/2011, \$1739.31



**Zoning & Vicinity Map**  
**Zone Change 2012-01Z**  
**8013 Broadway**

This product is for information purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.





# Planning & Zoning Commission

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## Recommendation Letter

January 18, 2012

Honorable Mayor and City Council Members  
3519 Liberty Drive  
Pearland, TX 77581

Re: Recommendation on Zone Change 2012-01Z

Honorable Mayor and City Council Members:

At their meeting on January 16, 2012, the Planning and Zoning Commission considered the following:

A request of Sherry L. Stockwell-Tarrer, applicant, on behalf of Emil J. Hrbacek, owner, for approval of a zone change from the Single-Family Residential-1 (R-1) zone to General Business (GB) zone for 2.261 acres on the following described property:

LEGAL DESCRIPTION: Boundary Survey 188' X 523.9', West ½ of lot 48, Allison Richey Gulf Coast Home Company Survey, Section 19, H.T. & B.R.R. Company Survey, Abstract 243, Brazoria County, Texas

GENERAL LOCATION: 8013 W. Broadway, Pearland, TX

There was discussion regarding future potential uses for the property, residential adjacency, future land use plan compliance, and abutter notifications. Following this discussion, Commissioner Henry Fuertes made a motion to approve the zone change. The motion was seconded by Commissioner Richard Golden. The vote was 6-0 and the motion passed.

Sincerely,

Harold Ellis, Senior Planner  
On behalf of the Planning and Zoning Commission



## JOINT PUBLIC HEARING AGENDA ITEM MEETING OF JANUARY 16, 2012

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### Zone Change No. 2012-01Z

A request of Sherry L. Stockwell-Tarrer, applicant, on behalf of Emil J. Hrbacek, owner, for approval of a zone change from the Single-Family Residential-1 (R-1) zone to General Business (GB) zone for 2.261 acres on the following described property, to wit:

**Legal Description:** Boundary Survey 188' X 523.9', West ½ of lot 48, Allison Richey Gulf Coast Home Company Survey, Section 19, H.T. & B.R.R. Company Survey, Abstract 243, Brazoria County, Texas

**General Location:** 8013 W. Broadway, Pearland, TX

**APPROVAL PROCESS:** After this Joint Public Hearing, the requested zone change application will be considered as follows:

Planning and Zoning Commission: January 16, 2012\*

City Council for First Reading: February 13, 2012\*

City Council for Second Reading: February 27, 2012\*

(\*dates subject to change)

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**SUMMARY:** Sherry L. Stockwell-Tarrer, applicant, for Emil J. Hrbacek, owner, is requesting approval of a zone change from the Single-Family Residential-1 (R-1) zone, to General Business (GB) zone for 2.261 acres for the above referenced location. The property is currently developed as and is being used as a single-family home. The owner has stated that the reason for the request is to be able to sell the property as a commercial property. With the exception of the rear of the property (to the north), the property is surrounded by commercial zoning districts and developments. Additionally, the City's Comprehensive Plan, discussed in this report, calls for commercial zoning for this area.

**SURROUNDING ZONING AND LAND USES:**

	<b><u>Zoning</u></b>	<b><u>Land Use</u></b>
North	Single-Family Residential-1 (R-1)	Residential
South	General Business (GB)	Vacant
East	Neighborhood Service (NS) and General Business (GB)	Commercial
West	General Commercial (GC)	Residential

**CONFORMANCE WITH THE UNIFIED DEVELOPMENT CODE (UDC):** As previously mentioned, the property is currently zoned Single-Family Residential-1 (R-1). As the property is currently being requested to be rezoned to General Business (GB), a breakdown between those requirements and the site current configuration is provided below:

	<b><u>General Business</u></b>	<b><u>Existing Site</u></b>
Lot Size:	22,500 sq ft	98,491 sq ft
Lot Width:	150'	188'
Lot Depth:	125'	523.90'
Front Setback:	25'	196.60'
Rear Setback:	25'	~200'
Side Setback:	10'	17.9'

As previously mentioned, the property is currently being used as single-family residence and all bulk regulations for the property are currently met, and the property is currently in conformance with the Unified Development Code. If the requested zone change is approved, redevelopment of the property to a land use permitted in the General Business (GB) zoning district would be required to meet all bulk requirements of the Unified Development Code for that zoning district.

**PLATTING STATUS:** The property is not currently platted. Platting will be required at the time of development.

**CONFORMANCE WITH THE COMPREHENSIVE PLAN:** The current Comprehensive Plan (latest update in 2009) indicates *Business Commercial* for the subject property. The existing use, a single-family home, would not be a permitted use in that land use designation. Therefore, the current zoning is not in conformance with the Comprehensive Plan. If the zone change is approved and the property is developed into commercial, the property would be in conformance with the Comprehensive Plan.

**CONFORMANCE WITH THE THOROUGHFARE PLAN:** The subject property has frontage on Broadway, a major thoroughfare, with a minimum of 120' right-of-way, which is

in conformance with the Thoroughfare Plan.

**AVAILABILITY OF UTILITIES:** The subject parcel does have access to public water and sewer.

**IMPACT ON EXISTING AND FUTURE DEVELOPMENT:** It is not anticipated that redevelopment of this property to a business use will have any significant negative impact of existing for future developments in the area. If the zone change is approved, the property will be able to be developed in the same manner as other commercial properties in the area. The only property in the vicinity which is zoned non-commercial, is residential property located to the north, and the site being proposed for rezoning is large enough to provide the required buffer between residential and commercial properties.

As the exact nature of development is not known at this time, a Traffic Impact Analysis (TIA) may be required at the time of site plan review by the City's Engineering department to determine if there are any potentially negative traffic impacts anticipated as a result of the proposed development at that time. If a TIA is required, and mitigation measures are deemed necessary as a result, the applicant would be responsible for implementing those measures.

**ADDITIONAL COMMENTS:** This request has been reviewed by the City's Development Review Committee and there are no additional comments from other departments at the time of this report.

**SITE PLAN CONSIDERATIONS:** A site plan is not required for a zone change. As future development of the site is not known at this time, a site plan has not been submitted for informational purposes.

**PUBLIC NOTIFICATION:** Public notice/comment forms were mailed to property owners within 200 feet of the subject property under consideration. A legal notice of public hearing was published in the local newspaper, and a notification sign was placed on the subject property.

**OPPOSITION TO OR SUPPORT OF PROPOSED REQUEST:** Staff has not received any comments either in opposition to or in support of the proposed zone change request at the time of this report.

**STAFF RECOMMENDATION:** Staff recommends approval of the Zone Change 2012-01Z as proposed by the applicant for the following reasons:

1. Approval of the zone change will result in conformance with the surrounding zoning as well as current and future land uses.
2. The proposed zone change should not have any significant negative impact on the

surrounding properties and developments.

3. The proposed zone change will bring the property into compliance with the approved Future Land Use Plan.
4. The proposed zone change would allow for uses on the property that would be compatible with nearby commercial development, and also be appropriate along Broadway.

**SUPPORTING DOCUMENTS:**

- Vicinity and Zoning Map
- Property Ownership Map
- Property Owner Notification List
- Future Land Use Plan
- Aerial Photograph
- Zone Change Application and Applicant Documents



## Abutter Map

Zone Change 2012-01Z

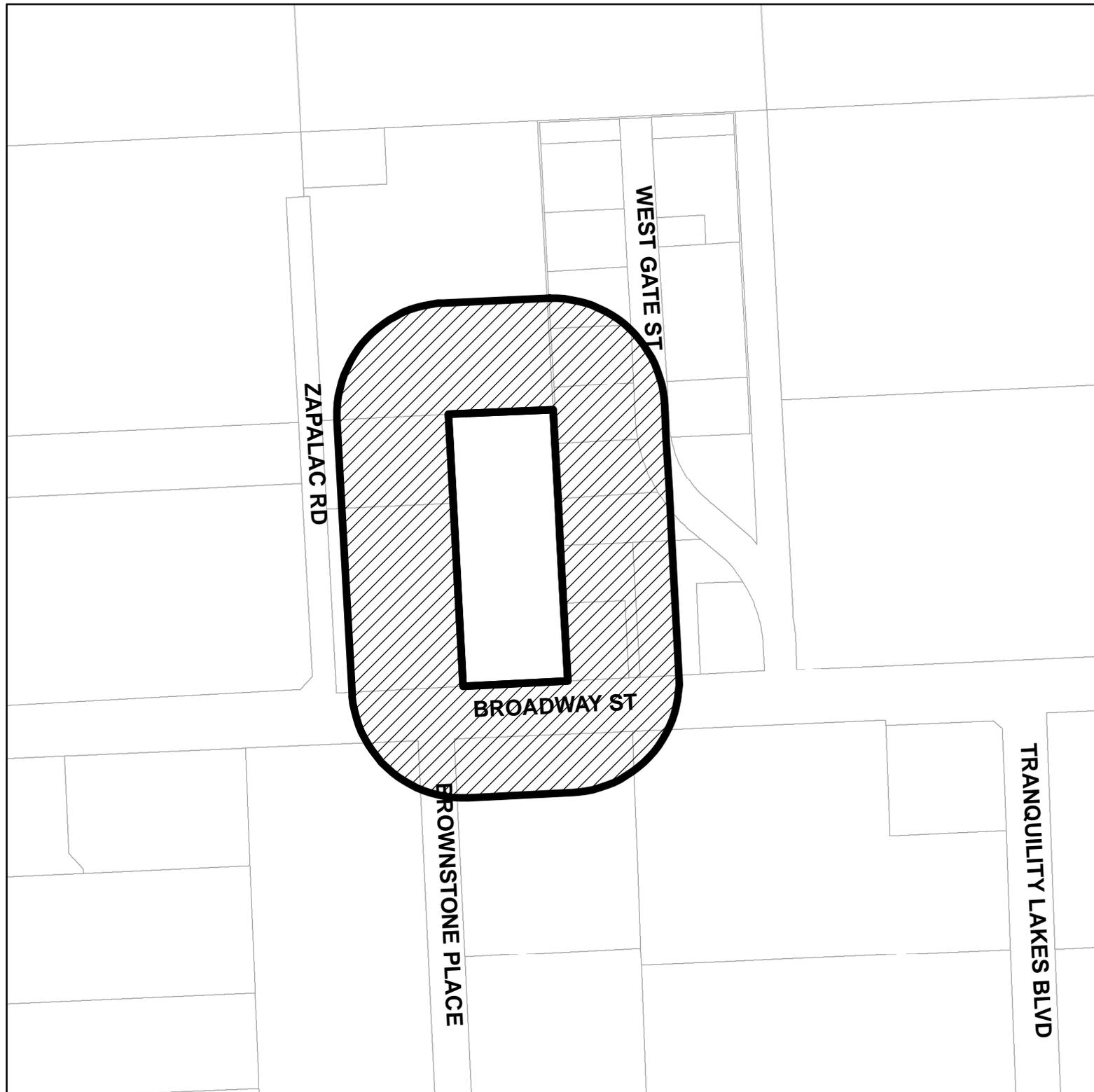
8013 W. Broadway

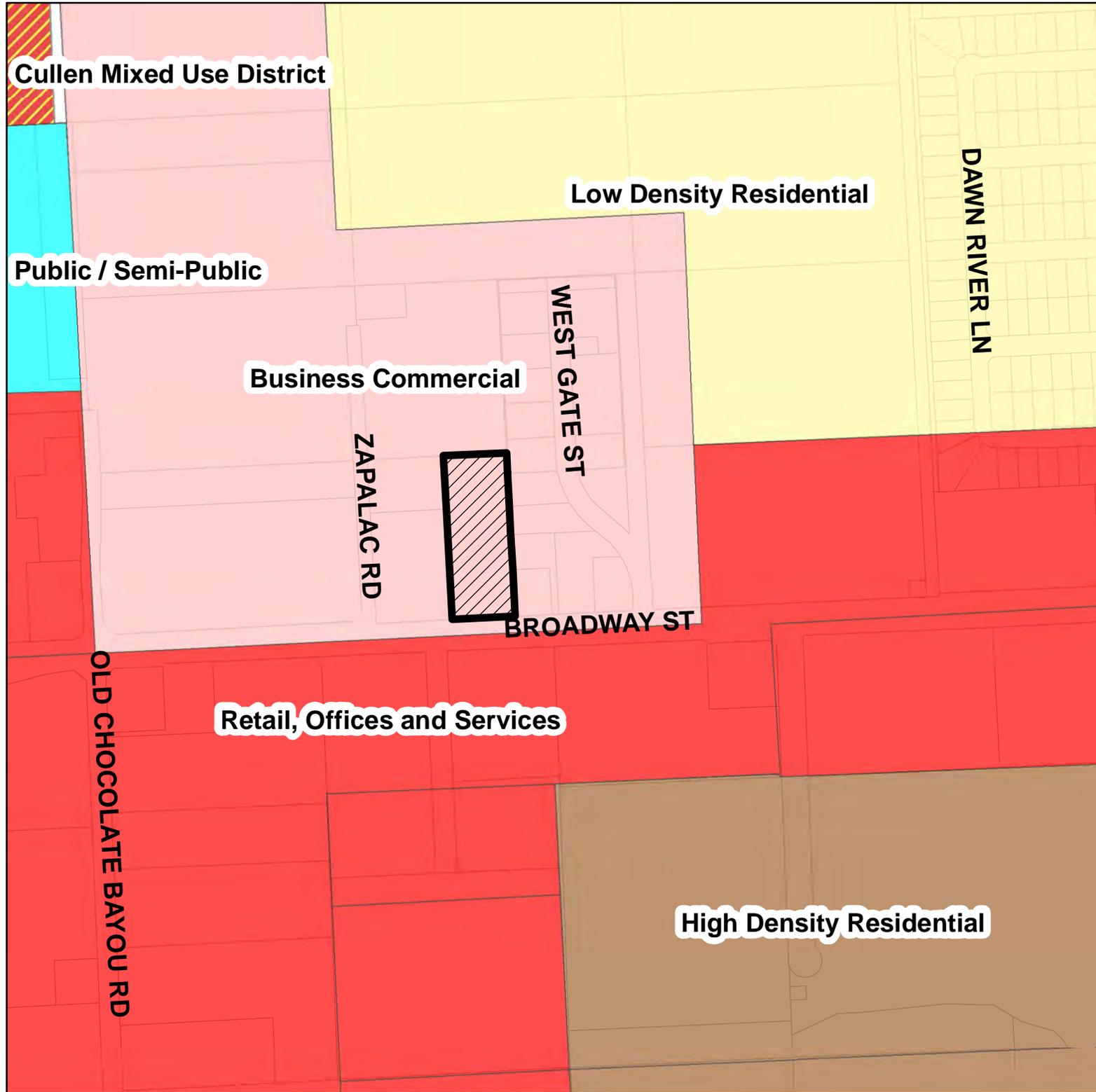
This product is for information purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

620 Feet



N



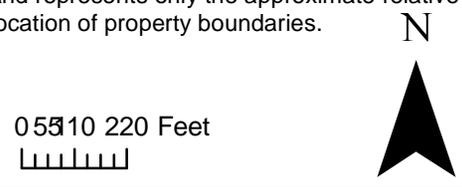


**FLUP Map**

**Zone Change 2012-01Z**

**8013 Broadway**

This product is for information purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.





**Aerial Map**

**Zone Change 2012-01Z**

**8013 Broadway**

This product is for information purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

0 3060 120 Feet



N



# Consent Agenda Item C

- C. CONSIDERATION AND POSSIBLE ACTION – SECOND AND FINAL READING OF ORDINANCE NO. 2000M-84 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AMENDING ORDINANCE NO. 2000M, THE ZONING MAP OF THE CITY OF PEARLAND, TEXAS, FOR THE PURPOSE OF CHANGING THE CLASSIFICATION OF CERTAIN REAL PROPERTY, LOCATION BEING A 20.992 ACRE TRACT IN THE W.D.C. HALL SURVEY, ABSTRACT NO. 70 IN THE CITY OF PEARLAND, BRAZORIA COUNTY, TEXAS. SAID 20.992 IS A PART OF A 36.685 ACRE TRACT DESCRIBED IN A DEED TO T & R REALTY INVESTMENT, LLC AS RECORDED IN CLERK’S FILE NO. 2011028636. (LOCATED AT 2411 E. BROADWAY, PEARLAND, TEXAS), ZONE CHANGE 2012-02Z, A REQUEST OF J. KENT MARSH, APPLICANT, ON BEHALF OF TOM ALEXANDER, JR., OWNER, FOR APPROVAL OF A ZONE CHANGE FROM THE GENERAL BUSINESS (GB) ZONE, TO SINGLE-FAMILY RESIDENTIAL-3 (R-3) ZONE, PROVIDING FOR AN AMENDMENT OF THE ZONING DISTRICT MAP; CONTAINING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE AND OTHER PROVISIONS RELATED TO THE SUBJECT. *Mr. Mike Hodge, Assistant City Manager.***

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b> February 27, 2012	<b>ITEM NO.:</b> Ordinance No. 2000M-84
<b>DATE SUBMITTED:</b> January 31, 2012	<b>DEPT. OF ORIGIN:</b> Planning
<b>PREPARED BY:</b> Harold Ellis	<b>PRESENTOR:</b> Mike Hodge
<b>REVIEWED BY :</b> Mike Hodge	<b>REVIEW DATE:</b> February 7, 2012
<b>SUBJECT:</b> A request of J. Kent Marsh, applicant, on behalf of Tom Alexander, Jr., owner, for approval of a zone change from the General Business (GB) zone to Single-Family Residential-3 (R-3) zone for 20.992 acres, Generally located at 2411 E. Broadway	
<b>EXHIBITS:</b> Ordinance No. 2000M-84 and Exhibits (Exhibit A – Applicant Packet; Exhibit B - Vicinity Map; Exhibit D - P&Z Recommendation Letter), Joint Public Hearing Staff Report, Other Maps and Related Documents	
<b>EXPENDITURE REQUIRED:</b> N/A <b>AMOUNT AVAILABLE:</b> N/A <b>ACCOUNT NO.:</b> N/A	<b>AMOUNT BUDGETED:</b> N/A <b>PROJECT NO.:</b> N/A
<b>ADDITIONAL APPROPRIATION REQUIRED:</b> N/A <b>ACCOUNT NO.:</b> N/A <b>PROJECT NO.:</b> N/A	
<b>To be completed by Department:</b> <input type="checkbox"/> Finance <input type="checkbox"/> Legal <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution	

**EXECUTIVE SUMMARY**

J. Kent Marsh, applicant, for Tom Alexander, Jr., owner, is requesting approval of a zone change from the General Business (GB) zone, to Single-Family Residential-3 (R-3) zone for 20.992 acres for the above referenced location. The 20.992 acres is the rear portion of a larger tract of land containing 36.685 acres, which fronts Broadway, just east of the intersection of Broadway and Liberty Drive. The entire site is currently zoned General Business (GB) and all of the property is currently undeveloped.

Single-Family Residential-3 (R-3) zoning allows for the development of residential lots with a minimum lot size of 6,000 square feet. The applicant is proposing to rezone the rear portion of the property to residential (R-3) and construct one single-family home,

and allow for the possibility of one additional lot in the future. Access to the proposed lot will be from Broadway, across the remaining General Business (GB) property, not currently developed. At the time of platting, an access easement formally allowing for access to the rear portion of the property will be dedicated.

**STAFF RECOMMENDATION:** Staff recommends approval of the Zone Change 2012-02Z as proposed by the applicant for the following reasons:

1. Approval of the zone change would be in compatible with surrounding zoning and uses.
2. The proposed zone change should not have any negative impact on the surrounding properties and developments.
3. The proposed zone would be in compliance with the latest approved Future Land Use Plan.
4. Single-Family Residential-3 (R-3) zoning will allow for a density of 4.7 units per acre. If Council is concerned with this density, a Single-Family Estate District (RE) would be an option, which would allow a density of 1.3 units per acre.

**PLANNING AND ZONING COMMISSION DISCUSSION:** At the regular meeting of the Planning and Zoning Commission on January 16, 2012, there was discussion regarding access to the property, densities being proposed, drainage district regulations, and county jurisdictional boundaries. Following this discussion, Commissioner Phil Cessac made a motion to approve the zone change. The motion was seconded by Commissioner Richard Golden. The vote was 6-0 and the motion passed. Therefore, the Planning and Zoning Commission recommended that City Council approve the zone change.

**STAFF RECOMMENDATION TO COUNCIL:** Consider the zone change request.

**ORDINANCE NO. 2000M-84**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AMENDING ORDINANCE NO. 2000M, THE ZONING MAP OF THE CITY OF PEARLAND, TEXAS, FOR THE PURPOSE OF CHANGING THE CLASSIFICATION OF CERTAIN REAL PROPERTY, LOCATION BEING A 20.992 ACRE TRACT IN THE W.D.C. HALL SURVEY, ABSTRACT NO. 70 IN THE CITY OF PEARLAND, BRAZORIA COUNTY, TEXAS. SAID 20.992 IS A PART OF A 36.685 ACRE TRACT DESCRIBED IN A DEED TO T & R REALTY INVESTMENT, LLC AS RECORDED IN CLERK'S FILE NO. 2011028636. **(LOCATED AT 2411 E. BROADWAY, PEARLAND, TEXAS)**, ZONE CHANGE 2012-02Z, A REQUEST OF J. KENT MARSH, APPLICANT, ON BEHALF OF TOM ALEXANDER, JR., OWNER, FOR APPROVAL OF A ZONE CHANGE FROM THE GENERAL BUSINESS (GB) ZONE, TO SINGLE-FAMILY RESIDENTIAL-3 (R-3) ZONE, PROVIDING FOR AN AMENDMENT OF THE ZONING DISTRICT MAP; CONTAINING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE AND OTHER PROVISIONS RELATED TO THE SUBJECT.

**WHEREAS**, J. Kent Marsh, applicant, on behalf of Tom Alexander, Jr. owner, filed an application for amendment to Ordinance No. 2000M, the Zoning Map of the City, for approval of a change in the zoning district from General Business (GB) to Single-Family Residential-3 (R-3); said property being legally described in the original applications for amendment attached hereto and made a part hereof for all purposes as Exhibit "A", and more graphically depicted in the vicinity map attached hereto and made a part hereof for all purposes as Exhibit "B"; and

**WHEREAS**, on the 16<sup>th</sup> day of January, 2012, a Joint Public Hearing was held before the Planning and Zoning Commission and the City Council of the City of Pearland, Texas, notice being given by publication in the official newspaper of the City, the affidavit of publication being attached hereto and made a part hereof for all purposes as Exhibit "C", said call and notice being in strict conformity with provisions of Section 1.2.2.2 of Ordinance No. 2000T; and

**ORDINANCE NO. 2000M-84**

**WHEREAS**, on the 16<sup>th</sup> day of January, 2012, the Planning and Zoning Commission of the City submitted its report and recommendation to the City Council regarding the proposed zone change application of J. Kent Marsh, applicant, on behalf of Tom Alexander, Jr., owner, whereby the Commission recommended approval of the change of classification for the described property from its existing classification of General Business (GB) to Single-Family Residential-3 (R-3), said recommendation attached hereto and made a part hereof for all purposes as Exhibit "D"; and

**WHEREAS**, upon receipt of the report from the Planning and Zoning Commission, City Council considered this application and the recommendation of the Planning and Zoning Commission at regular meeting(s) on the 13<sup>th</sup> day of February, 2012 and; 27<sup>th</sup> day of February 2012; and

**WHEREAS**, the City Council having fully heard the testimony and argument of all interested parties, and having been fully advised in the premises, finds that in the case of the application of J. Kent Marsh, applicant, on behalf of Tom Alexander, Jr., owner, presented which, in the judgment of the City Council, would justify the approval of said application; now, therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section I.** The following described property located within the corporate City Limits of the City of Pearland, Texas, and presently classified as General Business (GB) to Single-Family Residential-3 (R-3), in accordance with all conditions and requirements of the current Unified Development Code and incorporated for all purposes, such property being more particularly described as:

**ORDINANCE NO. 2000M-84**

20.992 acre tract in the W.D.C. Hall Survey, Abstract No. 70 in the City of Pearland, Brazoria County, Texas. Said 20.992 is a part of a 36.685 acre tract described in a deed to T & R Realty investment, LLC as recorded in Clerk's File No. 2011028636

Generally located at 2411 E. Broadway, Pearland, TX

**Section II.** The City Council of the City of Pearland finds and determines that the recitations in the preamble hereof are true and that all necessary prerequisites of law have been accomplished and that no valid protest of the proposed change has been made. The City Council further finds and determines that there has been compliance with the mandates of law in the posting and presentation of this matter to the Planning and Zoning Commission and to the City Council for consideration and decision.

**Section III.** The City Council of the City of Pearland finds and determines that the amendment adopted herein promotes the health, safety, and general welfare of the public and is a proper valid exercise of the City's police powers.

**Section IV.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section V.** All rights and remedies, which have accrued in the favor of the City under this Ordinance and its amendments thereto, shall be and are preserved for the benefit of the City.

**ORDINANCE NO. 2000M-84**

**Section VI.** The City Secretary is hereby directed to cause to be prepared an amendment to the official Zoning District Map of the City, pursuant to the provisions of Section 2.3.2.2 of Ordinance No. 2000-T and consistent with the approval herein granted for the reclassification of the herein above described property.

**Section VII.** This Ordinance shall become effective after its passage and approval on second and final reading.

PASSED, APPROVED, and ADOPTED on First Reading this 13<sup>th</sup> day of February, 2012.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

PASSED, APPROVED, and ADOPTED on Second and Final Reading this 27<sup>th</sup> day of February, 2012.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY



# APPLICATION FOR A CHANGE IN ZONING

City of Pearland  
Community Development  
3523 Liberty Drive  
(Community Center)  
Pearland, Texas 77581  
281-652-1768  
281-652-1702 fax  
www.cityofpearland.com

**Current Zoning District:** GB, General Business Retail District

**Proposed Zoning District:** R-3, Single Family Residential-3 District

**Property Information:**

Address or General Location of Property: Tract 7A (PT) in the W.D.C. Hall Survey, A-70, Brazoria County, TX; 2411 E. Broadway St.

Tax Account No. 155200 (Geo ID 0070-0028-000)

Subdivision: N/A Lot: N/A Block: N/A

**A complete application must include all information shown on the Application Checklist attached to this application.**

**PROPERTY OWNER INFORMATION:**

Mr. Tom Alexander, Jr. at  
NAME T&R Realty Investments, LLC  
ADDRESS 2411 Park Avenue  
CITY Pearland STATE TX ZIP 77581  
PHONE( 281 ) 485-2455  
FAX( 281 ) 485-2456  
E-MAIL ADDRESS Tompa58121@aol.com

**APPLICANT/AGENT INFORMATION:**

Mr. J. Kent Marsh at  
NAME Marsh Darcy Partners, Inc.  
ADDRESS 8955 Katy Freeway, Suite 215  
CITY Houston STATE TX ZIP 77024  
PHONE( 713 ) 647-9880  
FAX( 713 ) 647-6448  
E-MAIL ADDRESS kmarsh@marshdarcypartners.com

\*Property owner must be the current owner of the property at the time of submittal of the application, and not the party that has the property under contract.

As owner and applicant, I hereby request approval of the above described request as provided for by the Unified Development Code of the City of Pearland.

Owner's Signature: Tom Alexander Jr Date: 12-9-11

Agent's/Applicant's Signature: J. Kent Marsh Date: 12-14-11

**OFFICE USE ONLY:**

FEES PAID:	DATE PAID:	RECEIVED BY:	RECEIPT NUMBER:
------------	------------	--------------	-----------------

Application No. \_\_\_\_\_

## APPLICATION CHECKLIST FOR THE FOLLOWING

- **Zone Changes**
- **Planned Development Districts (PD)**

- Application, filled out completely, and signed by the owner of the property to be considered for the zone change or planned development district
- Metes and Bounds Description, (Survey, or a Plat of the property that provides or contains the metes and bounds description).
- Parcel map, printed from the City of Pearland website, indicating the location and boundaries of the subject property.
- Letter of Intent, explaining the zone change request in detail and why the zoning is being requested to be changed, and state the uses being proposed

\*Letter of Intent is not required for a PD.

- Application fee, as determined below, by cash, check made payable to the City of Pearland, or credit card (Visa and MasterCard only)
  - **Zero (0) to less than 25 acres:**
    - \$ 250.00, plus \$25.00 per each type of zoning district requested; or
    - \$ 400.00 if requesting a Planned Development (PD)
  - **25 to less than 50 acres:**
    - \$ 300.00, plus \$25.00 per each type of zoning district requested; or
    - \$ 450.00 if requesting a Planned Development (PD)
  - **50 to less than 75 acres:**
    - \$ 350.00, plus \$25.00 per each type of zoning district requested; or
    - \$ 500.00 if requesting a Planned Development (PD)
  - **75 to less than 100 acres:**
    - \$ 400.00, plus \$25.00 per each type of zoning district requested; or
    - \$ 550.00 if requesting a Planned Development (PD)
  - **100 acres and above:**
    - \$ 450.00, plus \$25.00 per each type of zoning district requested; or
    - \$ 600.00 if requesting a Planned Development (PD)

- For PD's Only: the proposed PD document in electronic form by date of application (either emailed or on a CD) (see PD Format for guidelines on how to prepare the PD).
- Acknowledgement of the sign to be posted on the property 10 days prior to the public hearing.
- Provide evidence or proof that all taxes and obligations have been paid regarding the subject property.

December 14, 2011

City of Pearland  
Planning & Zoning Commission/City Council  
c/o Community Development Department  
3523 Liberty Drive (Community Center)  
Pearland, Texas 77581

Re: Proposed Re-Zoning of GB, General Business Retail (part of total tract) to R-3, Single-Family Residential -3

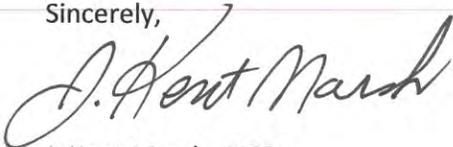
TO WHOM IT MAY CONCERN:

On behalf of our client, T & R Realty Investments LLC, and as their authorized agent, we are submitting this attached application package for re-zoning a part of the subject tract from GB, General Business Retail District to R-3, Single-Family Residential District. We have included with our submission the following:

1. Agent Authorization Letter from the Owner
2. Application Checklist for Zoning Change
3. Application signed by Owner and Agent
4. Metes and bounds description of re-zone area
5. Parcel Map from the City of Pearland GIS website locating the proposed rezoning area
6. Letter of Intent
7. Application fee of \$275.00
8. Sign Installation Communication Emails
9. Current Tax Certificate for paid taxes

Our Pre-Development Meeting with the City of Pearland city staff was held on October 5, 2011. We will post the notice sign, per enclosed sign wording, on site no later than Thursday, January 5, 2012 for an expected Joint Public Hearing of the Planning and Zoning Commission and City Council on Monday, January 16, 2012.

Sincerely,



J. Kent Marsh, AICP  
Vice President

T & R Realty Investments, LLC

2411 Park Avenue

Pearland, Texas 77581

November 15, 2011

RE: 36.685 Acre Tract in the W. D. C. Hall Survey, A-70, in the City of Pearland, Brazoria County, Texas – Owner of Record: T & R Realty Investments, LLC

TO WHOM IT MAY CONCERN:

As legal fee-simple owner of the above referenced property, in conformance with the City of Pearland, Unified Development Ordinance, Article 2 –Universal Procedures, Division 1 – Application Processing, Section 1.2.1.1 – Initiation of Application, (a) – Initiation Only By Owner, I hereby designate Mr. J. Kent Marsh and his firm; Marsh Darcy Partners, Inc., as my designated agent, authorized to file a re-zoning application with the City of Pearland, Texas on my behalf.



Tom Alexander, Jr.

T & R Realty Investments, LLC

Office 281-485-2455

Fax 281-485-2456

T & R Realty Investments, LLC  
Re-Zone Tract  
20.992 Acres

W.D.C. Hall Survey  
Abstract No. 70

STATE OF TEXAS           §

COUNTY OF BRAZORIA    §

**METES AND BOUNDS DESCRIPTION** of a 20.992 acre tract in the W.D.C. Hall Survey, Abstract No. 70 in the City of Pearland, Brazoria County, Texas. Said 20.992 is a part of a 36.685 acre tract described in a deed to T & R Realty Investment, LLC as recorded in Clerk's File No. 2011028636 in the Brazoria County Clerk's Office and is more particularly described by metes and bounds as follows:

COMMENCING at a 1/2-inch iron rod found for the point of intersection of the northerly right-of-way line of East Broadway, (a.k.a. FM 518, based on a width of 100-feet), with the westerly right-of-way line of Regal Oaks Lane, (based on a width 60-feet), said point is the most southerly corner of Lot 15, Block 1 of Regal Oaks Estates as recorded in Volume 9, Pages 69-70 in the Brazoria County Plat Records;

THENCE, North 66°50'59" West, along the northerly line of said East Broadway, same being the southwesterly line of said Lot 15 for a distance of 171.30 feet to the southwesterly corner of said Regal Oaks Estates;

THENCE, North 41°03'23"E, along the northwesterly line of said Regal Oaks Estates for a distance of 735.63 feet to the POINT OF BEGINNING of the herein described tract;

THENCE, North 66°50'59" West, 700-foot northeasterly and parallel to the northerly line of said East Broadway for a distance of 1003.27 feet to a point for corner in the centerline of the original "oxbow" of Clear Creek;

THENCE, northeasterly along the centerline of said original "oxbow" of Clear Creek with the following four (4) meanders:

1. North 36°41'34" East, for a distance of 226.82 feet to a point for corner;
2. North 39°00'38" East, for a distance of 161.49 feet to a point for corner;
3. North 55°39'05" East, for a distance of 351.44 feet to a point for corner;
4. North 74°32'00" East, for a distance of 249.03 feet to the point of intersection of

the centerline of the present day main channel of Clear Creek, same being the County Line between Harris County and Brazoria County;

THENCE, along the centerline of the present day main channel of Clear Creek, same being the County Line between Harris County and Brazoria County, the following eight (8) meanders:

1. South 84°48'32" East, for a distance of 118.70 feet to a point for corner;
2. South 41°42'51" East, for a distance of 92.98 feet to a point for corner;
3. South 64°34'58" East, for a distance of 117.96 feet to a point for corner;
4. North 82°27'37" East, for a distance of 307.59 feet to a point for corner;
5. North 43°46'48" East, for a distance of 207.41 feet to a point for corner;

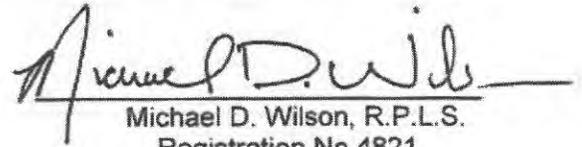
6. South 82°31'58" East, for a distance of 90.95 feet to a point for corner;  
7. South 54°08'08" East, for a distance of 94.08 feet to a point for corner;  
8. South 34°30'55" East, for a distance of 69.18 feet to the northeasterly corner of the herein described tract, said point is the northwesterly corner of the aforementioned Regal Oaks Estates;

THENCE, South 41°03'23" West, along the northwesterly line of said Regal Oaks Estates for a distance of 1,196.02 feet to the POINT OF BEGINNING, containing a computed area of 20.992 acres (914,417 square feet).

NOTE:

1. The bearings shown hereon are based on the Texas State Plane Coordinate System, South Central Zone (NAD 83).
2. A separate Exhibit Map has been prepared in connection with this description.
3. This tract has not been marked on the ground at the request of the client.

The Wilson Survey Group, Inc.  
2006 East Broadway, Suite 105  
Pearland, Texas 77581  
(281) 485-3991  
Job No. 11-157

  
Michael D. Wilson, R.P.L.S.  
Registration No 4821

12/08/11





SCALE: 1"=300'

HARRIS COUNTY

COUNTY LINE

BRAZORIA COUNTY

CLEAR CREEK

PROPOSED  
20.992 ACRES  
TO BE REZONED

REGAL OAKS ESTATES  
VOL. 9, PGS. 69-70  
B.C.P.R.

CLEAR CREEK  
OXBOW

W.D.C. HALL SURVEY,  
ABSTRACT NO. 70

T & R REALTY INVESTMENT, LLC  
CLERK'S FILE NO. 2011028636  
B.C.C.O.

700'

REGAL OAKS LANE  
(60' R.O.W.)

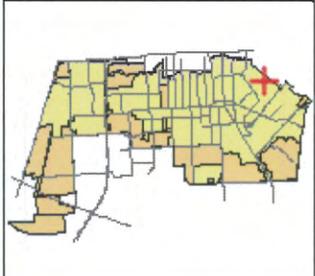
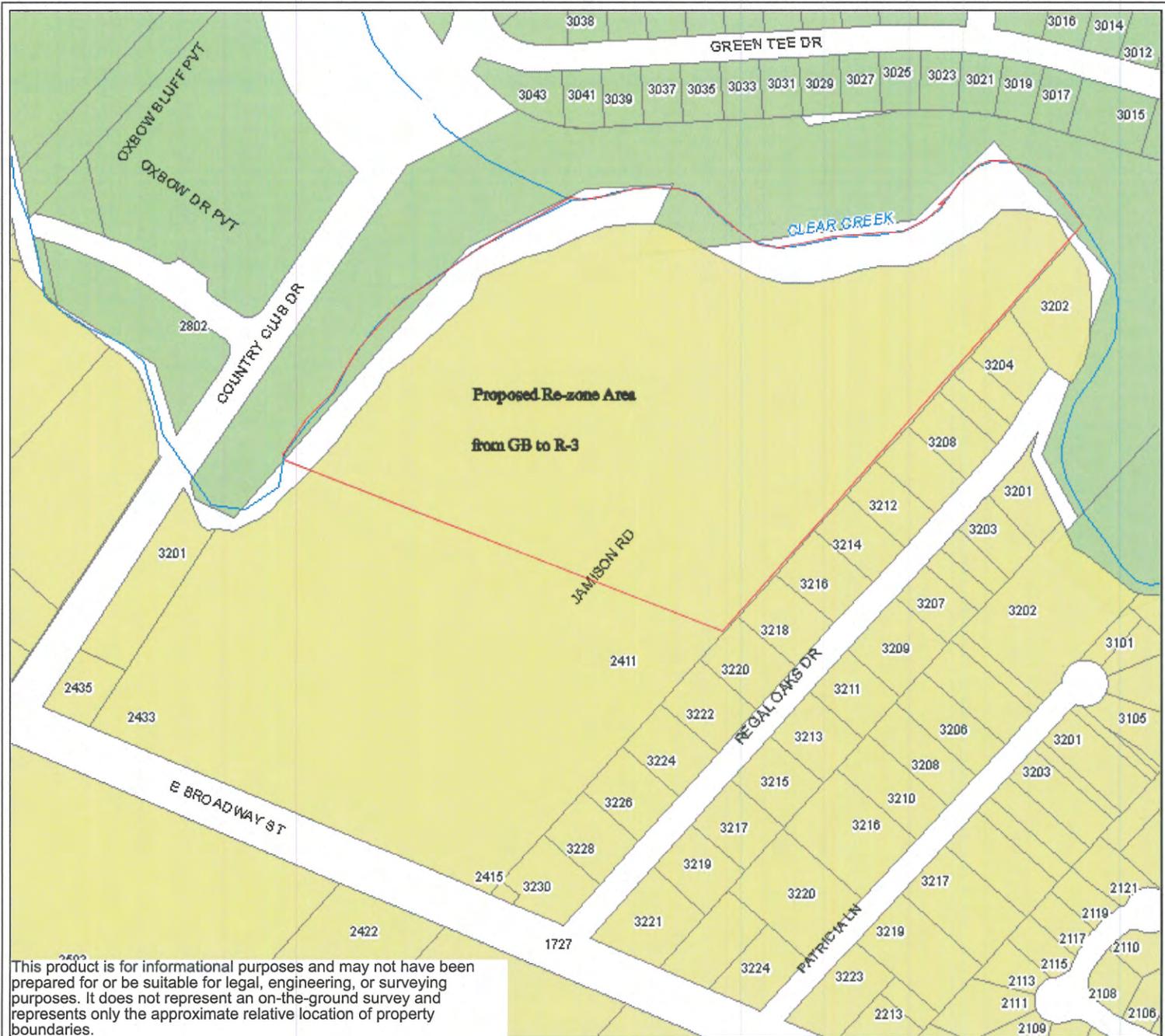
EAST BROADWAY (F.M. 518) (100' R.O.W.)

NOTES:

1. A SEPARATE METES AND BOUNDS DESCRIPTION HAS BEEN PREPARED IN CONNECTION WITH THIS EXHIBIT MAP.

COPYRIGHT 2011, THE WILSON SURVEY GROUP, INC

DWN: C.L.H.	CAD FILE: 11-157(REZONE).dwg	SCALE: 1"=300'
 <p><b>THE WILSON SURVEY GROUP</b> PROFESSIONAL LAND SURVEYORS 2006 E. BROADWAY PEARLAND, TEXAS</p>	ORIGINAL PLOT DATE: 12/BD/11	SHEET 1 / OF 1
	<b>T &amp; R REALTY INVESTMENT, LLC</b>	



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Scale 1:3,474  
1 in = 290 ft

December 16, 2011

City of Pearland  
Planning & Zoning Commission/City Council  
c/o Community Development Department  
3523 Liberty Drive (Community Center)  
Pearland, Texas 77581

Re: Proposed Re-Zoning of GB, General Business Retail (part of total tract) to R-3, Single-Family Residential -3

TO WHOM IT MAY CONCERN:

On behalf of our client, T & R Realty Investments LLC, and as their authorized agent, we are submitting this attached application for re-zoning a part of the subject tract from GB, General Business Retail District to R-3, Single-Family Residential District. The entire 36.685 acre tract is currently zoned as GB, General Business Retail. The owner of the property wishes to plat one single-family residential lot and construct one single-family residence for his family and allow for a possible future replat of the single residential lot into two residential lots. Such use and construction is not allowed within a GB zone. As such, the owner is requesting a portion, that area sufficient for his proposed family home, be re-zoned to allow the proposed single-family use. The proposed area to be rezoned is approximately 21 acres.

As the property owner does not have any plans for the remainder of the overall tract, it is not possible to plat the remainder of the property at this time and it will remain zoned as GB. It should be noted that the current Future Land Use Plan of the currently adopted City of Pearland Comprehensive Plan indicates this portion of the property to be a desired land use of medium-density residential and the property owner, in compliance with the Future Land Use Plan of the City of Pearland is making this request for R-3, Single-Family Residential which is one of three zoning districts (R-2, R-3, and R-4) that are in conformance with the medium-density residential land use. While the minimum lot area for the R-3 District is six thousand (6,000) square feet and such minimum lot size would be in conformance with the Comprehensive Plan, the property owner recognizes the unique character of the site and will provide a subdivision plat restriction that will allow single family lots no smaller than one (1) acre or forty-three thousand, five hundred, and sixty (43,560) square feet.

We will attend the joint public hearing for this request and will be happy to answer questions at that time.

Sincerely,



J. Kent Marsh, AICP  
Vice President (and authorized agent)

CITY OF PEARLAND

R E P R I N T

\*\*\* CUSTOMER RECEIPT \*\*\*

Oper: AGONZALES    Type: OC    Drawer: 1  
Date: 12/09/11 @1    Receipt no: 68309

Description	Quantity	Amount
BA            BOARD OF ADJUSTMENTS		
	1.00	\$275.00
Trans number:		3556673

T&R REALTY INVSTMENTS  
2411 S PARK AVE 77581  
J KENT MARSH  
TON ALEXANDER, JR

Tender detail		
CK CHECK	1024	\$275.00
Total tendered		\$275.00
Total payment		\$275.00

Trans date: 12/09/11    Time: 13:03:44

## Kent Marsh

---

**From:** Kent Marsh  
**Sent:** Wednesday, November 16, 2011 1:58 PM  
**To:** 'printing@parkwaytexas.com'  
**Subject:** Need Sign Quote  
**Attachments:** 111116 ALEX00107 Notice Sign Form.pdf

Luis, attached is sign posting requirements for the City of Pearland. I need a quote that can meet these requirements for one sign to be posted in Pearland (probably after Jan 1). Thanks.

J. Kent Marsh  
Vice President

marshdarcy  
PARTNERS

8955 Katy Freeway, Suite 215  
Houston, Texas 77024  
tel 713.647.9880 | fax 713.647.6448  
[www.marshdarcypartners.com](http://www.marshdarcypartners.com)



Please don't print this e-mail unless you really need to.

## Kent Marsh

---

**From:** PARKWAY PRINTING [PRINTING@PARKWAYTEXAS.COM]  
**Sent:** Wednesday, November 16, 2011 2:42 PM  
**To:** Kent Marsh  
**Subject:** Fwd: Need Sign Quote

Kent,

We have received your request.

We are familiar with the process.

The quote for the preparation, installation and removal of the 2'x3' sign as noted on the attached requirement layout is \$350 + tax.

The installation and material will be identical to what we use on the City of Houston signs we prepare for you.

Please call me if any other questions.

Thanks

Luis

Parkway Printing

281-798-9198

-----  
Begin forwarded message:

**From:** "Kent Marsh" <[kmarsh@marshdarcypartners.com](mailto:kmarsh@marshdarcypartners.com)>  
**Date:** November 16, 2011 1:58:05 PM CST  
**To:** <[printing@parkwaytexas.com](mailto:printing@parkwaytexas.com)>  
**Subject:** Need Sign Quote

Luis, attached is sign posting requirements for the City of Pearland. I need a quote that can meet these requirements for one sign to be posted in Pearland (probably after Jan 1). Thanks.

J. Kent Marsh  
Vice President

<image001.gif>

8955 Katy Freeway, Suite 215  
Houston, Texas 77024  
tel 713.647.9880 | fax 713.647.6448  
[www.marshdarcypartners.com](http://www.marshdarcypartners.com)



Please don't print this e-mail unless you really need to.

<111116 ALEX00107 Notice Sign Form.pdf>

North side of FM 518 (E. Broadway St.)

ZONE CHANGE APPLICATION Page 4 of 5 Updated June 2010)

between Country Club Dr. & Regal Oaks Dr.

**POSTING OF ZONING NOTIFICATION SIGNS  
ON PROPERTY UNDER CONSIDERATION  
FOR A ZONE CHANGE (OR CONDITIONAL USE PERMIT)**

Any person, firm or corporation requesting a zoning change, a conditional use permit (CUP), or a variance shall be required to erect and maintain a sign(s), to be inspected by the City, upon the property for which a variance or zoning change has been requested.

Such sign(s) shall be located as follows:

- (1) One (1) sign per street frontage shall be located within thirty feet (30') of the abutting street, or as determined by the City.
- (2) So as to be clearly visible and readable from the public right-of-way and not obstructed in any manner.
- (3) So as not to create a hazard to traffic on the public rights-of-way abutting the property.
- (4) On the subject property at least ten (10) days prior to the hearing of such zoning change request by the Planning and Zoning Commission, and to remain continuously on said property until final action by the City Council or withdrawal of the case by the applicant. Removal of the sign by the applicant prior to a recommendation by the Planning and Zoning Commission and/or a final decision by the City Council shall constitute a withdrawal of the request.
- (5) The signs shall be as follows:
  - A minimum sign size of 2 feet by 3 feet but no larger than 4 feet by 4 feet
  - At least 2 feet above the ground
  - Blue or black lettering that is a minimum of 3 inches by 1/2 inch, on a white background
  - Message content as follows:

**PROPOSED (SPECIFY REQUEST)**  
Contact City of Pearland  
281-652-1768

**PROPOSED ZONING CHANGE**

\*Signs must be professionally made; handwritten signs are not allowed.

\*Signs must be freestanding and cannot be attached to a tree, fence, or building.

TAX CERTIFICATE



RO'VIN GARRETT, RTA  
BRAZORIA COUNTY TAX ASSESSOR - COLLECTOR  
111 E. LOCUST  
ANGLETON, TEXAS 77515

**Issued To:**

MARSH DAREY PARTNERS  
8955 KATY FRWY #215  
HOUSTON, TX 77024

**Legal Description:**

A0070 W D C HALL (PEARLAND), TRACT 7A  
(PT), ACRES 36.22

Fiduciary Number: 21515105

Parcel Address: BROADWAY

Legal Acres: 36.2200

>--

Account Number: **0070-0028-000**

Certificate No: 185068649

Certificate Fee: \$10.00

Print Date: 12/01/2011

Paid Date: 12/01/2011

Issue Date: 12/01/2011

Operator ID: STAC

<--

TAX CERTIFICATES ARE ISSUED WITH THE MOST CURRENT INFORMATION AVAILABLE. ALL ACCOUNTS ARE SUBJECT TO CHANGE PER SECTION 26.15 OF THE TEXAS PROPERTY TAX CODE. THIS IS TO CERTIFY THAT ALL TAXES DUE ON THE ABOVE DESCRIBED PROPERTY HAVE BEEN EXAMINED, UP TO AND INCLUDING THE YEAR 2010. TAXES THRU 2010 ARE PAID IN FULL. TAXES HAVE NOT BEEN CREATED FOR YEAR(S): 2011.

Exemptions:

Certified Owner:

T&R REALTY INVESTMENT LLC  
3322 E WALNUT AVE SUITE11  
PEARLAND , TX 77581-

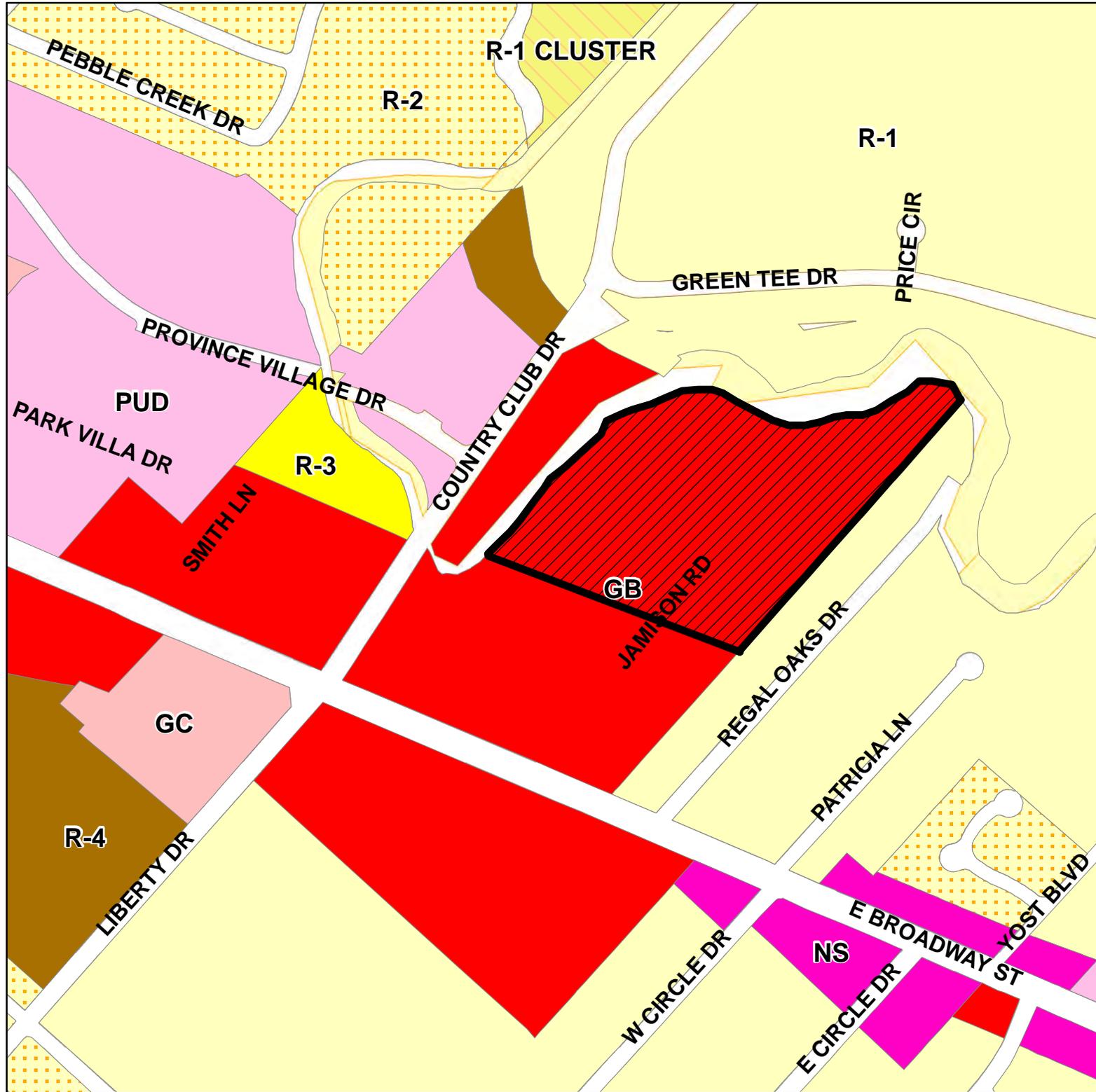
Certified Tax Unit(s):

1 BRAZORIA COUNTY  
9 SPECIAL ROAD & BRIDGE  
28 PEARLAND ISD  
54 BRAZORIA DRAINAGE DIST 4  
96 CITY OF PEARLAND

2010 Value:	1,263,080
2010 Levy:	\$34,148.65
2010 Levy Balance:	\$0.00
Prior Year Levy Balance:	\$0.00
Total Levy Due:	\$0.00
P&I + Attorney Fee:	\$0.00
Total Amount Due:	\$0.00

Reference (CF) No: N/A

Issued By: *Heidi Wade*  
RO'VIN GARRETT, RTA  
BRAZORIA COUNTY TAX ASSESSOR - COLLECTOR  
(979) 864-1320, (979) 388-1320, (281) 756-1320



## Vicinity & Zoning Map

## Zone Change 2012-02Z

## 2411 E. Broadway

This product is for information purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

0 80160 320 Feet



N





# Planning & Zoning Commission

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## Recommendation Letter

January 18, 2012

Honorable Mayor and City Council Members  
3519 Liberty Drive  
Pearland, TX 77581

Re: Recommendation on Zone Change 2012-02Z

Honorable Mayor and City Council Members:

At their meeting on January 16, 2012, the Planning and Zoning Commission considered the following:

A request of J. Kent Marsh, applicant, on behalf of Tom Alexander, Jr., owner, for approval of a zone change from the General Business (GB) zone to Single-Family Residential-3 (R-3) zone for 20.992 acres on the following described property:

LEGAL DESCRIPTION: 20.992 acre tract in the W.D.C. Hall Survey, Abstract No. 70 in the City of Pearland, Brazoria County, Texas. Said 20.992 is a part of a 36.685 acre tract described in a deed to T & R Realty investment, LLC as recorded in Clerk's File No. 2011028636

GENERAL LOCATION: 2411 E. Broadway, Pearland, TX

There was discussion regarding access to the property, densities being proposed, drainage district regulations, and county jurisdictional boundaries. Following this discussion, Commissioner Phil Cessac made a motion to approve the zone change. The motion was seconded by Commissioner Richard Golden. The vote was 6-0 and the motion passed.

Sincerely,

Harold Ellis, Senior Planner  
On behalf of the Planning and Zoning Commission



## JOINT PUBLIC HEARING AGENDA ITEM MEETING OF JANUARY 16, 2012

---

### Zone Change No. 2012-02Z

A request of J. Kent Marsh, applicant, on behalf of Tom Alexander, Jr., owner, for approval of a zone change from the General Business (GB) zone to Single-Family Residential-3 (R-3) zone for 20.992 acres on the following described property, to wit:

**Legal Description:** 20.992 acre tract in the W.D.C. Hall Survey, Abstract No. 70 in the City of Pearland, Brazoria County, Texas. Said 20.992 is a part of a 36.685 acre tract described in a deed to T & R Realty investment, LLC as recorded in Clerk's File No. 2011028636

**General Location:** 2411 E. Broadway, Pearland, TX

**APPROVAL PROCESS:** After this Joint Public Hearing, the requested zone change application will be considered as follows:

Planning and Zoning Commission: January 16, 2012\*

City Council for First Reading: February 13, 2012\*

City Council for Second Reading: February 27, 2012\*

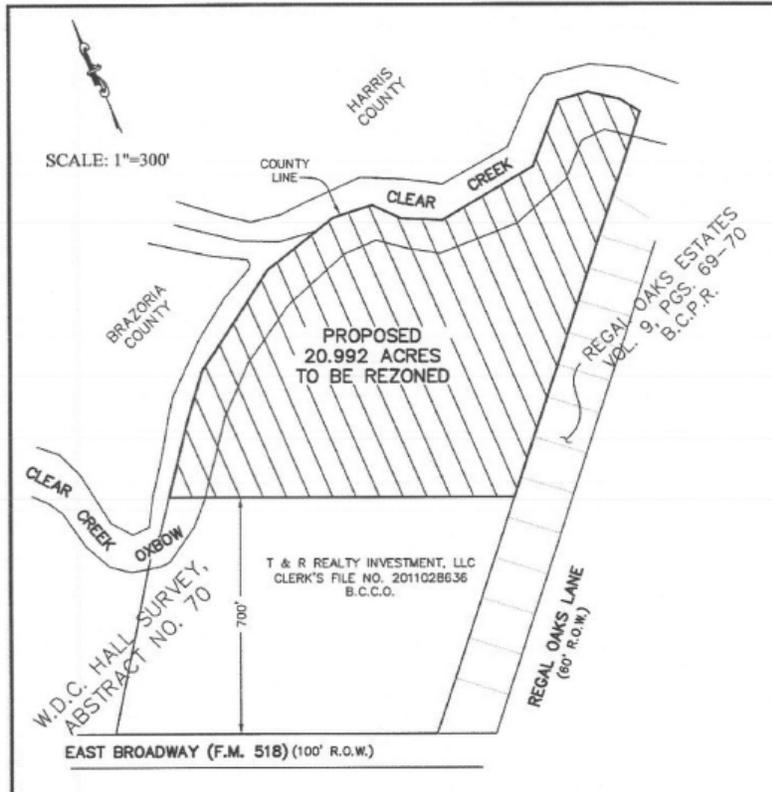
(\*dates subject to change)

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**SUMMARY:** J. Kent Marsh, applicant, for Tom Alexander, Jr., owner, is requesting approval of a zone change from the General Business (GB) zone, to Single-Family Residential-3 (R-3) zone for 20.992 acres for the above referenced location. The 20.992 acres is the rear portion of a larger tract of land containing 36.685 acres, which fronts Broadway, just east of the intersection of Broadway and Liberty Drive. The entire site is currently zoned General Business (GB) and all of the property is currently undeveloped.

Single-Family Residential-3 (R-3) zoning allows for the development of residential lots with a minimum lot size of 6,000 square feet. The applicant is proposing to rezone the rear portion of the property to residential (R-3) and construct one single-family home, and allow for the possibility of one additional lot in the future. Access to the proposed lot will be from Broadway, across the remaining General Business (GB) property, not currently developed. At the time of platting, an access easement formally allowing for access to the rear portion of the property will be dedicated.

The exhibit below illustrates the proposal:



**SURROUNDING ZONING AND LAND USES:**

	<u>Zoning</u>	<u>Land Use</u>
North	Single-Family Residential-1 (R-1)	Residential
South	General Business (GB)	Vacant/Commercial
East	Single-Family Residential-1 (R-1)	Residential
West	General Business (GB)	Vacant/Commercial

**CONFORMANCE WITH THE UNIFIED DEVELOPMENT CODE (UDC):** As previously mentioned, the property is currently zoned General Business (GB). As the property is currently being requested to be rezoned to Single-Family Residential-3 (R-3), a breakdown between those requirements and the site current configuration is provided below:

	<u>Single-Family Residential-3 (R-3)</u>	<u>Existing Site</u>
Lot Size:	6,000 sq ft	914,411 sq ft
Lot Width:	60'	~750'
Lot Depth:	90'	~925'
Front Setback:	25'	n/a (vacant site)
Rear Setback:	20'	n/a (vacant site)
Side Setback:	7' 6"	n/a (vacant site)

As indicated above, the property meets the development regulations of the proposed Single-Family Residential-3 (R-3) zoning district.

**PLATTING STATUS:** The property is not currently platted. Platting will be required at the time of development.

**CONFORMANCE WITH THE COMPREHENSIVE PLAN:** The current Comprehensive Plan (latest update in 2009) indicates *Medium Density Residential* and *Retail, Offices, and Services* for the entire parcel. The portion of the property shown as *Medium Density Residential* is the rear portion of the property, and makes up the approximate area the applicant is requesting the zone change for. The Comprehensive Plan indicates that appropriate zoning districts for *Medium Density Residential* are Single-Family Residential-2,3, and 4 (R-2, R-3, R-4). The portion of the property shown as *Retail, Offices, and Services* is towards the front of the parcel, fronting Broadway. The Comprehensive Plan indicates that appropriate zoning districts for *Retail, Offices, and Services* are Neighborhood Service (NS), Office Professional (OP), and General Business (GB). Therefore, as the zone change is for Single-Family Residential-3 (R-3), if approved, the zone change would be in conformance with the Comprehensive Plan.

**CONFORMANCE WITH THE THOROUGHFARE PLAN:** The subject property has frontage on Broadway, a major thoroughfare, with a minimum of 120' right-of-way.

**AVAILABILITY OF UTILITIES:** The subject parcel does have access to public water and sewer.

**IMPACT ON EXISTING AND FUTURE DEVELOPMENT:** The proposed single family home is not anticipated to have any negative impacts on existing surrounding or future developments. As previously mentioned, the Single-Family Residential-3 (R-3) zone allows for residential lots with a minimum area of 6,000 square feet. If Council is concerned the property potentially being developed into a residential subdivision in the future as the zoning being requested would allow, Council may consider a residential zoning district requiring larger lots, such as Single-Family Estate District (RE).

**ADDITIONAL COMMENTS:** This request has been reviewed by the City's Development Review Committee and there are no additional comments from other departments at the time of this report.

**SITE PLAN CONSIDERATIONS:** At this time, a conceptual site plan has not been submitted indicating proposed development of the property. A site plan is not required as part of the zone change process.

**PUBLIC NOTIFICATION:** Public notice/comment forms were mailed to property owners within 200 feet of the subject property under consideration. A legal notice of public hearing was published in the local newspaper, and a notification sign was placed on the subject property.

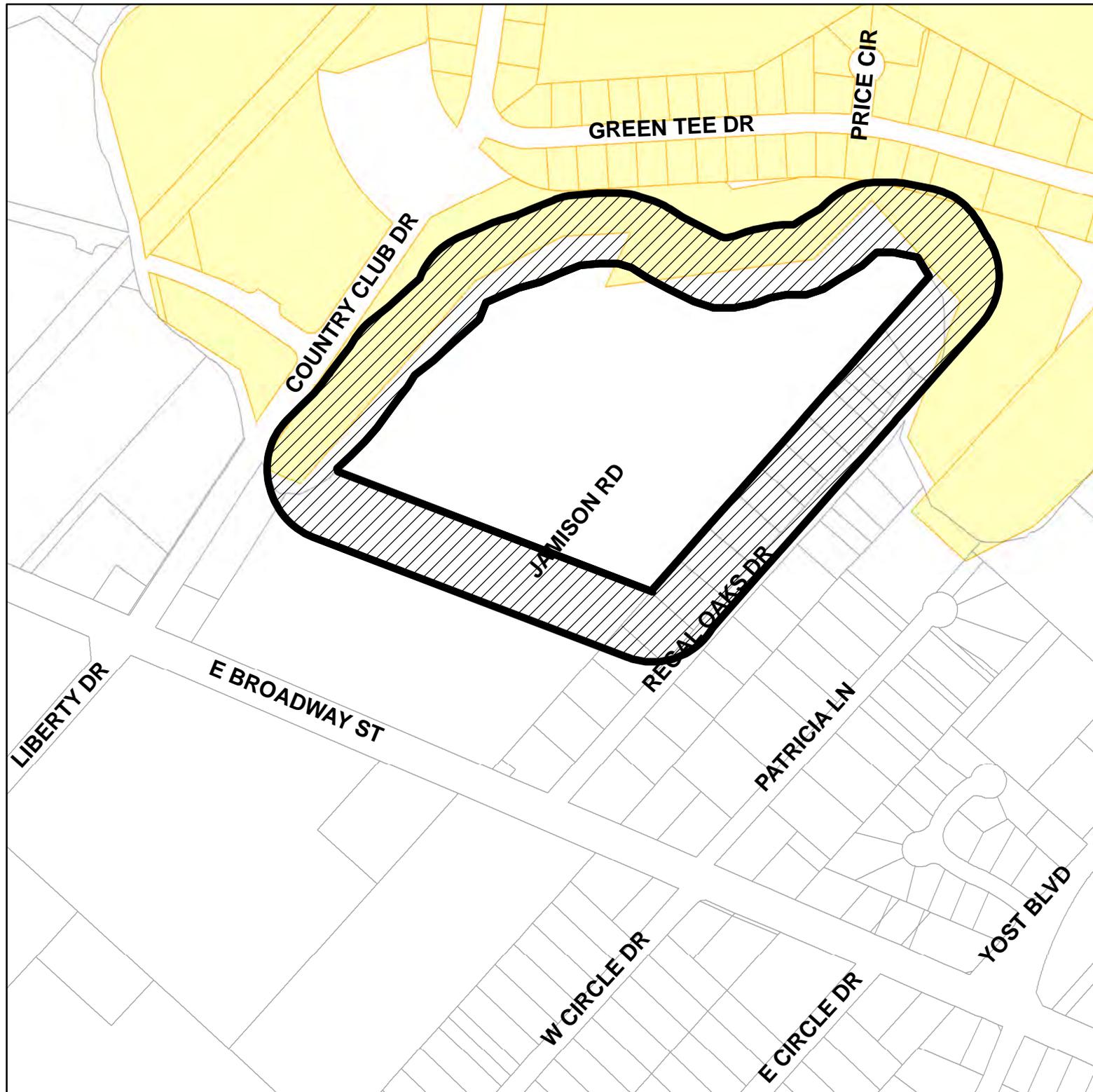
**OPPOSITION TO OR SUPPORT OF PROPOSED REQUEST:** Staff has not received any comments either in opposition to or in support of the proposed zone change request at the time of this report.

**STAFF RECOMMENDATION:** Staff recommends approval of the Zone Change 2012-02Z as proposed by the applicant for the following reasons:

1. Approval of the zone change would be in compatible with surrounding zoning and uses.
2. The proposed zone change should not have any negative impact on the surrounding properties and developments.
3. The proposed zone would be in compliance with the latest approved Future Land Use Plan.
4. Single-Family Residential-3 (R-3) zoning will allow for a density of 4.7 units per acre. If Council is concerned with this density, a Single-Family Estate District (RE) would be an option, which would allow a density of 1.3 units per acre.

**SUPPORTING DOCUMENTS:**

- Vicinity and Zoning Map
- Property Ownership Map
- Property Owner Notification List
- Future Land Use Plan
- Aerial Photograph
- Zone Change Application and Applicant Documents



## Abutter Map

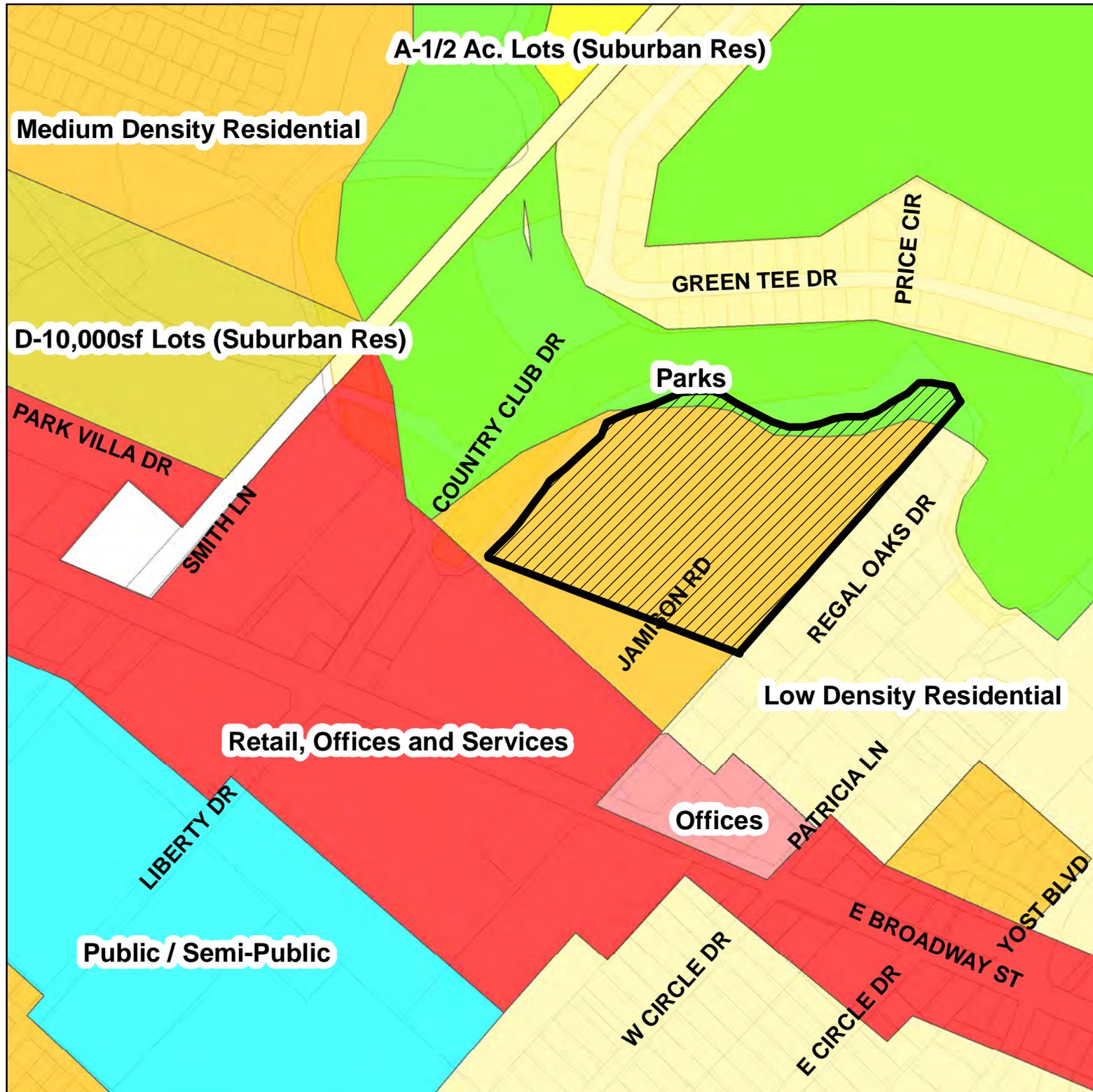
## Zone Change 2012-02Z

## 2411 E. Broadway

This product is for information purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

062.525 250 Feet





**FLUP Map**

**Zone Change 2012-02Z**

**2411 E. Broadway**

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### Aerial Map

### Zone Change 2012-02Z

### 2411 E. Broadway

This product is for information purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

0 80160 320 Feet  
[Scale bar]



# Consent Agenda Item D

- D. CONSIDERATION AND POSSIBLE ACTION – SECOND AND FINAL READING OF ORDINANCE NO. 2000M-85** – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AMENDING ORDINANCE NO. 2000M, THE ZONING MAP OF THE CITY OF PEARLAND, TEXAS, FOR THE PURPOSE OF CHANGING THE CLASSIFICATION OF CERTAIN REAL PROPERTY, LOCATION BEING HOUSTON MEMORIAL GARDENS CEMETERY SECTIONS 34, 35, 36, 37, 38, 39, 40, A PERPETUAL CARE CEMETERY CONTAINING 9.982 ACRES AND BEING A PARTIAL REPLAT THE AMENDED PLAT OF PARADISE CEMETERY SOUTH, VOLUME 16, PAGE 275-276, B.C.P.R. AND BEING IN LOT 28, OF THE ALLISON RICHEY GULF COAST HOME COMPANY SUBDIVISION, VOL 20, PG. 67-68, P.R.B.C. OUT OF THE H.T. & B.R.R. CO. SURVEY, SEC. 19, A-243 BRAZORIA COUNTY, TEXAS; FINAL PLAT OF HOUSTON MEMORIAL GARDENS CEMETERY, A 20.0737 ACRE TRACT OF LAND BEING LOTS 13 AND 29, AND PART OF LOT 12, OF THE ALLISON RICHEY GULF COAST HOME COMPANY SUBDIVISION, SECTION 19, AND BEING SITUATED IN THE H.T.& B.R.R. COMPANY SURVEY, ABSTRACT 243, BRAZORIA COUNTY, TEXAS; BOUNDARY SURVEY OF A 8.434 ACRE TRACT OUT OF SECTION 19, H.T. & B.R.R. SURVEY, A-243, BRAZORIA COUNTY, TEXAS; PARTIAL REPLAT OF HOUSTON MEMORIAL GARDEN CEMETERY, BEING A 57.231 ACRE TRACT OF LAND, ALL OF TRACTS 41, 42, 55, 56, 57, & 58 IN THE ALLISON RICHEY GULF COAST HOME SUBDIVISION, AS RECORDED IN PLAT BOOK 2, PAGE(S) 24, OF THE BRAZORIA COUNTY PLAT RECORDS, LOCATED IN THE H.T. & B. COMPANY SURVEY, SECTION 20, ABSTRACT NO. 506 IN BRAZORIA COUNTY, TEXAS; BOUNDARY SURVEY OF A 19.97 ACRE TRACT OUT OF SECTION 19, H T & B RR SURVEY, A-243,

BRAZORIA COUNTY, TEXAS; LOT 44 (10 AC) OF THE ALLISON-RICHEY GULF COAST HOME COMPANY SUBDIVISION, SECTION 19, H.T. & B.R.R. COMPANY SURVEY, ABSTRACT 243, BRAZORIA COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 2, PAGE 23 OF THE PLAT RECORDS OF BRAZORIA COUNTY, TEXAS; THE NORTH ½ OF LOT 28 (5AC) OF ALLISON RICHEY SUBDIVISION OUT OF SECTION 20, H.T. & B.R.R. COMPANY SURVEY, ABSTRACT NO. 506, BRAZORIA COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 2, PAGE 23, OF THE PLAT RECORDS OF BRAZORIA COUNTY, TEXAS; A0506 H T & B R R CO SURVEY, TRACT 54A1, F B DRAKE, 3.000 ACRES. **(LOCATED AT 2426 CULLEN, PEARLAND, TEXAS)**, ZONE CHANGE 2012-03Z, A REQUEST OF LOUIS C. MCKINNEY, APPLICANT, ON BEHALF OF JANICE AND BONNIE HOWARD, OWNERS, FOR APPROVAL OF A ZONE CHANGE FROM THE PLANNED DEVELOPMENT (PD), GENERAL BUSINESS (GB), CULLEN MIXED-USE (C/MU), SINGLE-FAMILY RESIDENTIAL-3 (R-3) AND SUBURBAN RESIDENTIAL-12 (SR-12) ZONE(S) TO PLANNED DEVELOPMENT (PD) ZONE, PROVIDING FOR AN AMENDMENT OF THE ZONING DISTRICT MAP; CONTAINING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE AND OTHER PROVISIONS RELATED TO THE SUBJECT. *Mr. Mike Hodge, Assistant City Manager.*

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b> February 27, 2012	<b>ITEM NO.:</b> Ordinance No. 2000M-85
<b>DATE SUBMITTED:</b> January 31, 2012	<b>DEPT. OF ORIGIN:</b> Planning
<b>PREPARED BY:</b> Harold Ellis	<b>PRESENTOR:</b> Mike Hodge
<b>REVIEWED BY :</b> Mike Hodge	<b>REVIEW DATE:</b> February 7, 2012
<b>SUBJECT:</b> A request of Louis McKinney, applicant, on behalf of Janice and Bonnie Howard, owner(s), for approval of a zone change from the Planned Development (PD), General Business (GB), Cullen Mixed-Use (C/MU), Single-Family Residential-3 (R-3) and Suburban Residential-12 (SR-12) zone(s) to Planned Development (PD) zone for 133.6907 acres, Generally located at 2426 Cullen, Pearland, TX, Houston Memorial Garden Cemetery	
<b>EXHIBITS:</b> Ordinance No. 2000M-85 and Exhibits (Exhibit A – Applicant Packet; Exhibit B - Vicinity Map; Exhibit D - P&Z Recommendation Letter), Joint Public Hearing Staff Report, Other Maps and Related Documents	
<b>EXPENDITURE REQUIRED:</b> N/A <b>AMOUNT AVAILABLE:</b> N/A <b>ACCOUNT NO.:</b> N/A	<b>AMOUNT BUDGETED:</b> N/A <b>PROJECT NO.:</b> N/A
<b>ADDITIONAL APPROPRIATION REQUIRED:</b> N/A <b>ACCOUNT NO.:</b> N/A <b>PROJECT NO.:</b> N/A	
<b>To be completed by Department:</b> <input type="checkbox"/> Finance <input type="checkbox"/> Legal <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution	

**EXECUTIVE SUMMARY**

Louis C. McKinney, applicant, for Janice and Bonnie Howard, owner(s), is requesting approval of a zone change from the Planned Development (PD), General Business (GB), Cullen Mixed-Use (C/MU), Single-Family Residential-3 (R-3) and Suburban Residential-12 (SR-12) zone(s) to Planned Development (PD) for 133.6907 acres for the above referenced location. This acreage makes up all of the property owned by and operated as Houston Memorial Gardens Cemetery.

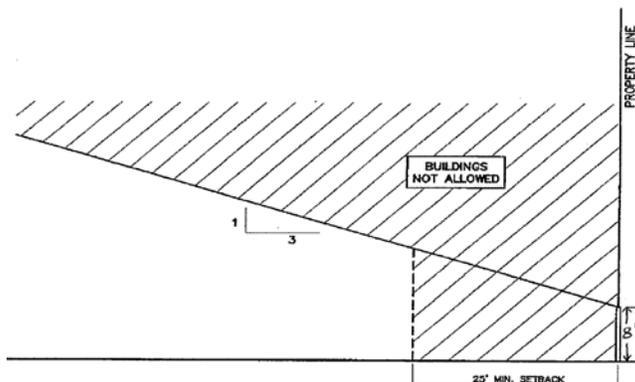
As stated by the applicant, Houston Memorial Gardens Cemetery was established in 1954 with an initial 10 acres of land. Since that time, the cemetery has grown to the current total of 133.6907 acres. After completing the most recent addition to the cemetery, in 2011, the owners of Houston Memorial Gardens met with the Planning Department to inquire about a zone change from Suburban Residential-12 (SR-12), which is the existing zoning district for the latest area of expansion, to a General Business (GB) district which would allow for the operation of a cemetery. This would allow the expansion of the cemetery onto the most recently acquired land. As the property does have multiple zoning districts, staff's recommendation to the owners was to amend an existing Planned Development, established in 2007 for 20 acres of Houston Memorial Gardens Cemetery property, to include all of the cemetery site. This would create one unified zoning district for the entire property and cemetery operations for Houston Memorial Gardens.

**STAFF RECOMMENDATION:** Staff recommends approval of the Zone Change 2012-03Z as proposed by the applicant for the following reasons:

1. Approval of the zone change would be in compatible with surrounding zoning and uses.
2. The proposed zone change should not have any negative impact on the surrounding properties and developments.
3. The proposed zone change would expand an existing Planned Developed which was established for a cemetery use and reduce the total number of zoning districts for this property.

**PLANNING AND ZONING COMMISSION DISCUSSION:** At the regular meeting of the Planning and Zoning Commission on January 16, 2012, there was discussion regarding current zoning entitlements (areas of the property where a cemetery is currently allowed), residential adjacency, proposed allowable uses, development regulations, including height of accessory structures, and residential adjacency buffering requirements. Following this discussion, Commissioner Richard Golden made a motion to approve the zone change. The motion was subject to amending the Planned Development (PD) document to include the following height restriction:

Height of building will be restricted by the setbacks from property line adjoining residential zones or uses as shown in Figure 2-1 (b) and shall not exceed thirty-five feet (35').



The motion was seconded by Commissioner Neil West. The vote was 6-0 and the motion passed.

**STAFF RECOMMENDATION TO COUNCIL**: Consider the zone change request.

**ORDINANCE NO. 2000M-85**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AMENDING ORDINANCE NO. 2000M, THE ZONING MAP OF THE CITY OF PEARLAND, TEXAS, FOR THE PURPOSE OF CHANGING THE CLASSIFICATION OF CERTAIN REAL PROPERTY, LOCATION BEING HOUSTON MEMORIAL GARDENS CEMETERY SECTIONS 34, 35, 36, 37, 38, 39, 40, A PERPETUAL CARE CEMETERY CONTAINING 9.982 ACRES AND BEING A PARTIAL REPLAT THE AMENDED PLAT OF PARADISE CEMETERY SOUTH, VOLUME 16, PAGE 275-276, B.C.P.R. AND BEING IN LOT 28, OF THE ALLISON RICHEY GULF COAST HOME COMPANY SUBDIVISION, VOL 20, PG. 67-68, P.R.B.C. OUT OF THE H.T. & B.R.R. CO. SURVEY, SEC. 19, A-243 BRAZORIA COUNTY, TEXAS; FINAL PLAT OF HOUSTON MEMORIAL GARDENS CEMETERY, A 20.0737 ACRE TRACT OF LAND BEING LOTS 13 AND 29, AND PART OF LOT 12, OF THE ALLISON RICHEY GULF COAST HOME COMPANY SUBDIVISION, SECTION 19, AND BEING SITUATED IN THE H.T.& B.R.R. COMPANY SURVEY, ABSTRACT 243, BRAZORIA COUNTY, TEXAS; BOUNDARY SURVEY OF A 8.434 ACRE TRACT OUT OF SECTION 19, H.T. & B.R.R. SURVEY, A-243, BRAZORIA COUNTY, TEXAS; PARTIAL REPLAT OF HOUSTON MEMORIAL GARDEN CEMETERY, BEING A 57.231 ACRE TRACT OF LAND, ALL OF TRACTS 41, 42, 55, 56, 57, & 58 IN THE ALLISON RICHEY GULF COAST HOME SUBDIVISION, AS RECORDED IN PLAT BOOK 2, PAGE(S) 24, OF THE BRAZORIA COUNTY PLAT RECORDS, LOCATED IN THE H.T. & B. COMPANY SURVEY, SECTION 20, ABSTRACT NO. 506 IN BRAZORIA COUNTY, TEXAS; BOUNDARY SURVEY OF A 19.97 ACRE TRACT OUT OF SECTION 19, H T & B RR SURVEY, A-243, BRAZORIA COUNTY, TEXAS; LOT 44 (10 AC) OF THE ALLISON-RICHEY GULF COAST HOME COMPANY SUBDIVISION, SECTION 19, H.T. & B.R.R. COMPANY SURVEY, ABSTRACT 243, BRAZORIA COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 2, PAGE 23 OF THE PLAT RECORDS OF BRAZORIA COUNTY, TEXAS; THE NORTH ½ OF LOT 28 (5AC) OF ALLISON RICHEY SUBDIVISION OUT OF SECTION 20, H.T. & B.R.R. COMPANY SURVEY, ABSTRACT NO. 506, BRAZORIA COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 2, PAGE 23, OF THE PLAT RECORDS OF BRAZORIA COUNTY, TEXAS; A0506 H T & B R R CO SURVEY, TRACT 54A1, F B DRAKE, 3.000 ACRES. **(LOCATED AT 2426 CULLEN, PEARLAND, TEXAS)**, ZONE CHANGE 2012-03Z, A REQUEST OF LOUIS C. MCKINNEY, APPLICANT, ON BEHALF OF JANICE AND BONNIE HOWARD, OWNERS, FOR APPROVAL OF A ZONE CHANGE FROM THE PLANNED DEVELOPMENT (PD), GENERAL BUSINESS (GB), CULLEN MIXED-USE (C/MU), SINGLE-FAMILY RESIDENTIAL-3 (R-3) AND SUBURBAN RESIDENTIAL-12 (SR-12) ZONE(S) TO PLANNED DEVELOPMENT (PD) ZONE, PROVIDING FOR AN AMENDMENT OF THE ZONING DISTRICT MAP; CONTAINING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AN

**ORDINANCE NO. 2000M-85**

EFFECTIVE DATE AND OTHER PROVISIONS RELATED TO THE SUBJECT.

**WHEREAS**, Louis C. McKinney, applicant, on behalf of Janice and Bonnie Howard, owners, filed an application for amendment to Ordinance No. 2000M, the Zoning Map of the City, for approval of a change in the zoning district from Planned Development (PD), General Business (GB), Cullen Mixed-Use (C/MU), Single-Family Residential-3 (R-3) and Suburban Residential-12 (SR-12) zone(s) to Planned Development (PD); said property being legally described in the original applications for amendment attached hereto and made a part hereof for all purposes as Exhibit "A", and more graphically depicted in the vicinity map attached hereto and made a part hereof for all purposes as Exhibit "B"; and

**WHEREAS**, on the 16<sup>th</sup> day of January, 2012, a Joint Public Hearing was held before the Planning and Zoning Commission and the City Council of the City of Pearland, Texas, notice being given by publication in the official newspaper of the City, the affidavit of publication being attached hereto and made a part hereof for all purposes as Exhibit "C", said call and notice being in strict conformity with provisions of Section 1.2.2.2 of Ordinance No. 2000T; and

**WHEREAS**, on the 16<sup>th</sup> day of January, 2012, the Planning and Zoning Commission of the City submitted its report and recommendation to the City Council regarding the proposed zone change application of Louis C. McKinney, applicant, on behalf of Janice and Bonnie Howard, owners, whereby the Commission recommended approval of the change of classification for the described property from its existing classifications of Planned Development (PD), General Business (GB), Cullen Mixed-Use (C/MU), Single-Family Residential-3 (R-3) and Suburban Residential-12 (SR-12) zone(s) to Planned Development (PD), said recommendation attached hereto and made

**ORDINANCE NO. 2000M-85**

a part hereof for all purposes as Exhibit “D”; and

**WHEREAS**, upon receipt of the report from the Planning and Zoning Commission, City Council considered this application and the recommendation of the Planning and Zoning Commission at regular meeting(s) on the 13<sup>th</sup> day of February, 2012 and; 27<sup>th</sup> day of February 2012; and

**WHEREAS**, the City Council having fully heard the testimony and argument of all interested parties, and having been fully advised in the premises, finds that in the case of the application of Louis C. McKinney, applicant, on behalf of Janice and Bonnie Howard, owners, presented which, in the judgment of the City Council, would justify the approval of said application; now, therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section I.** The following described property located within the corporate City Limits of the City of Pearland, Texas, and presently classified as Planned Development (PD), General Business (GB), Cullen Mixed-Use (C/MU), Single-Family Residential-3 (R-3) and Suburban Residential-12 (SR-12) zone(s) to Planned Development (PD), in accordance with all conditions and requirements of the current Unified Development Code and incorporated for all purposes, such property being more particularly described as:

Houston Memorial Gardens Cemetery Sections 34, 35, 36, 37, 38, 39, 40, A perpetual care cemetery containing 9.982 acres and being a partial replat the amended plat of Paradise Cemetery South, Volume 16, Page 275-276, B.C.P.R. and being in lot 28, of the Allison Richey Gulf Coast Home Company Subdivision, Vol 20, Pg. 67-68, P.R.B.C. out of the H.T. & B.R.R. CO. Survey, Sec. 19, A-243 Brazoria County, Texas;

Final Plat of Houston Memorial Gardens Cemetery, a 20.0737 acre tract of land being lots 13 and 29, and part of lot 12, of the Allison Richey Gulf Coast Home Company Subdivision, Section 19, and being situated in the H.T.& B.R.R. Company Survey, Abstract 243, Brazoria County, Texas;

**ORDINANCE NO. 2000M-85**

Boundary survey of a 8.434 acre tract out of Section 19, H.T. & B.R.R. Survey, A-243, Brazoria County, Texas;

Partial Replat of Houston Memorial Garden Cemetery, being a 57.231 acre tract of land, all of tracts 41, 42, 55, 56, 57, & 58 in the Allison Richey Gulf Coast Home Subdivision, as recorded in Plat Book 2, Page(s) 24, of the Brazoria County Plat Records, located in the H.T. & B. Company Survey, Section 20, Abstract No. 506 in Brazoria County, Texas;

Boundary survey of a 19.97 acre tract out of Section 19, H T & B RR Survey, A-243, Brazoria County, Texas;

Lot 44 (10 ac) of the Allison-Richey Gulf Coast Home Company Subdivision, Section 19, H.T. & B.R.R. Company Survey, Abstract 243, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 2, Page 23 of the plat records of Brazoria County, Texas;

The North ½ of Lot 28 (5ac) of Allison Richey Subdivision out of Section 20, H.T. & B.R.R. Company Survey, Abstract No. 506, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 2, Page 23, of the plat records of Brazoria County, Texas;

A0506 H T & B R R Co Survey, Tract 54A1, F B Drake, 3.000 Acres.

Generally located at 2426 Cullen Pkwy, Pearland, TX

**Section II.** The City Council of the City of Pearland finds and determines that the recitations in the preamble hereof are true and that all necessary prerequisites of law have been accomplished and that no valid protest of the proposed change has been made. The City Council further finds and determines that there has been compliance with the mandates of law in the posting and presentation of this matter to the Planning and Zoning Commission and to the City Council for consideration and decision.

**Section III.** The City Council of the City of Pearland finds and determines that the amendment adopted herein promotes the health, safety, and general welfare of the public and is a proper valid exercise of the City's police powers.

**ORDINANCE NO. 2000M-85**

**Section IV.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section V.** All rights and remedies, which have accrued in the favor of the City under this Ordinance and its amendments thereto, shall be and are preserved for the benefit of the City.

**Section VI.** The City Secretary is hereby directed to cause to be prepared an amendment to the official Zoning District Map of the City, pursuant to the provisions of Section 2.3.2.2 of Ordinance No. 2000-T and consistent with the approval herein granted for the reclassification of the herein above described property.

**Section VII.** This Ordinance shall become effective after its passage and approval on second and final reading.

PASSED, APPROVED, and ADOPTED on First Reading this 13<sup>th</sup> day of February, 2012.

---

TOM REID  
MAYOR

ATTEST:

---

YOUNG LORFING, TRMC  
CITY SECRETARY

**ORDINANCE NO. 2000M-85**

PASSED, APPROVED, and ADOPTED on Second and Final Reading this 27<sup>th</sup>  
day of February, 2012.

---

TOM REID  
MAYOR

ATTEST:

---

YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

---

DARRIN M. COKER  
CITY ATTORNEY



City of Pearland  
Community Development  
3523 Liberty Drive  
(Community Center)  
Pearland, Texas 77581  
281-652-1768  
281-652-1702 fax  
www.cityofpearland.com

# APPLICATION FOR A CHANGE IN ZONING

Current Zoning District: General Business District

Proposed Zoning District: Planned Development District

**Property Information:**

Address or General Location of Property: 2426 FM 865 Cullen Road  
See Attach legal description

Tax Account No. \_\_\_\_\_

Subdivision: N/A Lot: N/A Block: N/A

A complete application must include all information shown on the Application Checklist attached to this application.

**PROPERTY OWNER INFORMATION:**

NAME Bonnie & Janice Howard  
ADDRESS 2426 FM 865 Cullen Road  
CITY Pearland STATE TX ZIP 77581  
PHONE( 281 ) 485-2221  
FAX( \_\_\_\_\_ )  
E-MAIL ADDRESS \_\_\_\_\_

**APPLICANT/AGENT INFORMATION:**

NAME LOUIS C. MCKINNEY  
ADDRESS 16310 Quail Park Dr.  
CITY Missouri City STATE TX ZIP 77409  
PHONE( 281 ) 684-7459  
FAX( 281 ) 416-8677  
E-MAIL ADDRESS redtoy@sbcglobal.net

\*Property owner must be the current owner of the property at the time of submittal of the application, and not the party that has the property under contract.

As owner and applicant, I hereby request approval of the above described request as provided for by the Unified Development Code of the City of Pearland.

Owner's Signature: Janice Howard Bonnie Howard Sr. Date: 12-14-11

Applicant/Agent's Signature: Louis C. McKinney Date: 12-14-11

**OFFICE USE ONLY:**

FEES PAID: <u>600.00</u>	DATE PAID: <u>12/16/11</u>	RECEIVED BY: <u>[Signature]</u>	RECEIPT NUMBER: <u>73599</u>
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Application No. 2012-032

## APPLICATION CHECKLIST FOR THE FOLLOWING

- Zone Changes
- Planned Development Districts (PD)

- Application, filled out completely, and signed by the owner of the property to be considered for the conditional use permit.
- If the applicant is the designated agent, the application shall include a written statement from the property owner authorizing the agent to file the application on his behalf, **Section 1.2.1.1 (a) of the Unified Development Code.**
- Parcel map, printed from the City of Pearland website, indicating the location and boundaries of the subject property.
- Letter of Intent, explaining the zone change request in detail and why the zoning is being requested to be changed, and state the uses being proposed

\*Letter of Intent is not required for a PD.

- Application fee, as determined below, by cash, check made payable to the City of Pearland, or credit card (Visa and MasterCard only)
  - **Zero (0) to less than 25 acres:**
    - \$ 250.00, plus \$25.00 per each type of zoning district requested; or
    - \$ 400.00 if requesting a Planned Development (PD)
  - **25 to less than 50 acres:**
    - \$ 300.00, plus \$25.00 per each type of zoning district requested; or
    - \$ 450.00 if requesting a Planned Development (PD)
  - **50 to less than 75 acres:**
    - \$ 350.00, plus \$25.00 per each type of zoning district requested; or
    - \$ 500.00 if requesting a Planned Development (PD)
  - **75 to less than 100 acres:**
    - \$ 400.00, plus \$25.00 per each type of zoning district requested; or
    - \$ 550.00 if requesting a Planned Development (PD)
  - **100 acres and above:**
    - \$ 450.00, plus \$25.00 per each type of zoning district requested; or
    - \$ 600.00 if requesting a Planned Development (PD)

- For PD's Only: the proposed PD document electronic form by date of application (either emailed or on a CD) (see PD Format for guidelines on how to prepare the PD).
- Acknowledgement of the sign to be posted on the property 10 days prior to the public hearing
- Provide evidence or proof that all taxes and obligations have been paid regarding the subject property.
- Application packets that are not **complete** will not be accepted. **When a completed application packet has been accepted and reviewed, additional information may be required by staff as a result of the review, it may be necessary to postpone the proposed CUP/Zone Change and remove it from the scheduled agenda and place it on a future agenda date according to Section 1.2.1.2. of the Unified Development Code.**

JANICE B. HOWARD  
PRESIDENT

BONNIE HOWARD, SR.  
SECRETARY / TREASURER

## Houston Memorial Gardens, Inc.

*"The Cemetery With A Heart"*

P.O. Box 330350 - Houston, Texas 77233-0350

16000 Cullen

(281) 485-2221

December 14, 2011

City of Pearland  
Planning Department  
Pearland, Texas 77581

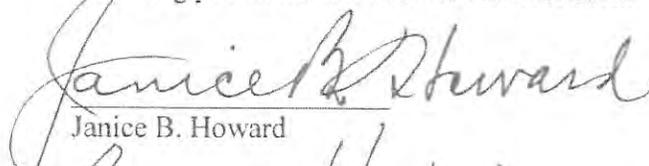
Attn: Senior Planner Harold Ellis

Houston Memorial Gardens, Inc. was chartered by the state of Texas in August 1954 as a perpetual care cemetery. At that time the cemetery was comprised of 10 acres of land. Another charter was issued in 1957 for another (10) ten acres of land under the name of Southern Memorial Gardens (which now operates under the umbrella of Houston Memorial Gardens, Inc.). Over the following 37 years the cemetery grew to 80 acres, all except 20 of these acres were dedicated for cemetery use while in Pearland's ETJ. Since 1994 there has been an additional 58 acres purchased by the company. The difference now is that the cemetery has been annexed by the City of Pearland which requires a zone change before the property can be used. We have now come before the city on many occasions for zone changes and received them. The problem now is that we have various zoning descriptions, which at times can be very confusing.

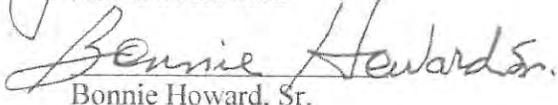
After meeting with you and the Director of the department, we are in agreement with both of you that one Planned Development District covering all the property belonging to the cemetery would best suit our needs. It is with this in mind that we, (Janice & Bonnie Howard, Sr.) the owners of Houston Memorial Gardens, Inc. authorize Louis McKinney (a licensed real estate broker in the state of Texas), to represent Houston Memorial Gardens, Inc. in the matter of this zone change.

We do not know what the future holds as far as land acquisitions are concerned, should that happen hopefully, those properties could also be added to the existing Planned Development.

Thanking you in advance for all consideration.



Janice B. Howard



Bonnie Howard, Sr.











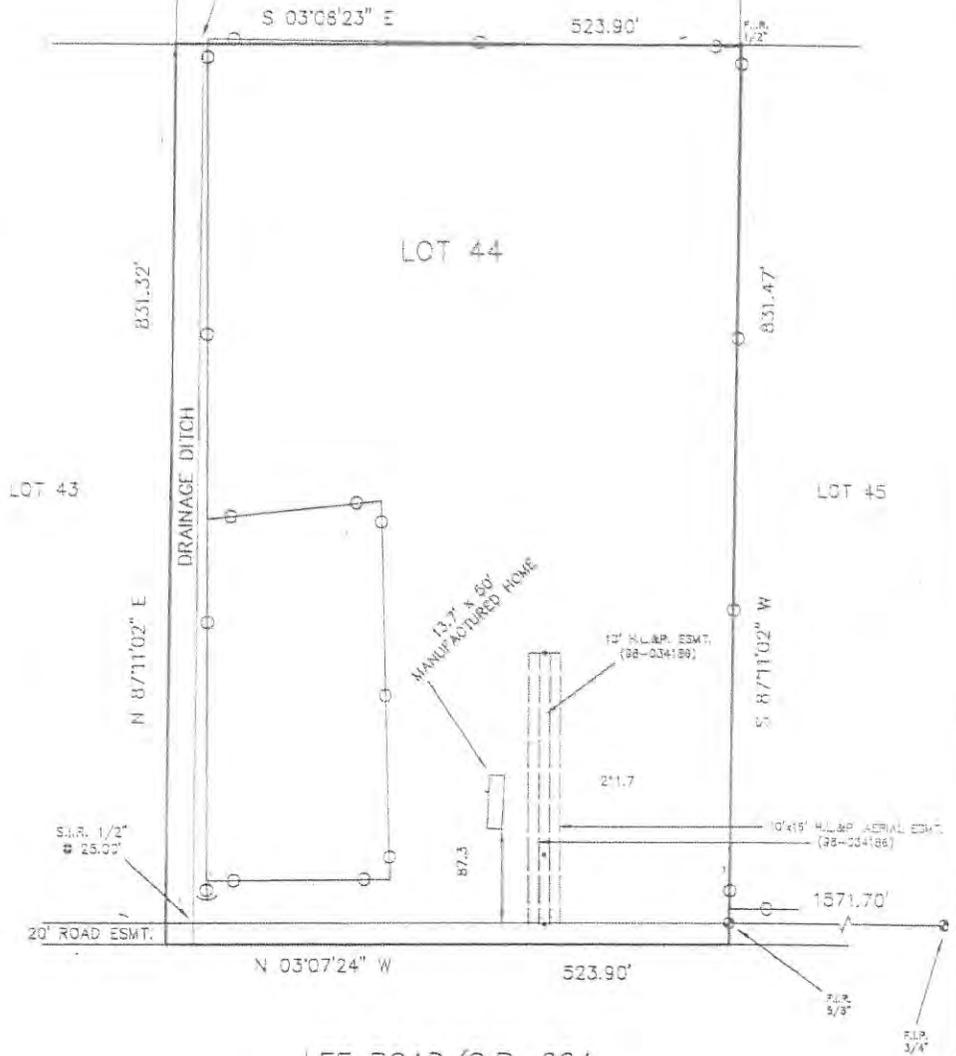
GRIGGS, GEORGE  
V-2305/P-023255  
H.C.D.R.

S.I.R. 1/2"  
# 25.00'

LOT 60

SCALE  
1"=130'

LOT 61



LEE ROAD/C.R. 664

*Francis Howard* *Bernie Howard Sr*

<p><b>LEGEND</b></p> <ul style="list-style-type: none"> <li>⊙ CONTROL MONUMENT</li> <li>S.L. = BUILDING LINE</li> <li>U.E. = UTILITY EASEMENT</li> <li>● POWER POLE</li> <li>○ CHAIN LINK FENCE</li> </ul>	<p><b>LEGAL DESCRIPTION</b> LOT 44 OF THE ALLISON-RICHEY GULF COAST HOME COMPANY SUBDIVISION, SECTION 19, H.T.&amp;B.R.R. COMPANY SURVEY, ABSTRACT 243, BRAZORIA COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 2, PAGE 23 OF THE PLAT RECORDS OF BRAZORIA COUNTY, TEXAS.</p>	
<p><b>NOTES:</b></p> <ul style="list-style-type: none"> <li>- BEARING BASE, 98-025514, D.R.B.C.</li> <li>- SUBJECT TO ANY AND ALL RECORDED AND UNRECORDED EASEMENTS</li> <li>- SURVEYOR HAS NOT INDEPENDENTLY ABSTRACTED PROPERTY</li> <li>- UNDERGROUND UTILITY INSTALLATIONS, UNDERGROUND IMPROVEMENTS, FOUNDATIONS AND/OR OTHER UNDERGROUND STRUCTURES WERE NOT LOCATED BY THIS SURVEY</li> <li>- THIS SURVEY IS CERTIFIED FOR THIS TRANSACTION ONLY, IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS</li> <li>- SUBJECT TO RESTRICTIVE COVENANTS AS PER TITLE COMMITMENT</li> <li>- THIS PROPERTY DOES LIE IN A F.I.A. DESIGNATED FLOOD ZONE PER MAP NO. 485458 00301 4-22-89 ZONE AE</li> <li>- FLOOD INFORMATION IS BASED ON GRAPHIC PLOTTING ONLY, DUE TO INHERENT INACCURACIES ON FEMA MAPS, WE DO NOT ASSUME RESPONSIBILITY FOR EXACT DETERMINATION.</li> <li>- CANAL EASEMENTS TO BRAZOS VALLEY RICE COMPANY WAS FILED IN VOL. 485, PG. 398, D.R.B.C.</li> </ul>	<p><b>CLIENT</b> HOUSTON MEMORIAL GARDENS CEMETERY</p>	<p><b>ADDRESS</b> LEE ROAD/C.R. 664 PEARLAND, TEXAS 77551</p>
<p style="text-align: center;">             I DO HEREBY CERTIFY THAT THIS SURVEY WAS THIS DAY MADE ON THE GROUND OF THE PROPERTY LEGALLY DESCRIBED HEREON (OR ON ATTACHED SHEET), AND THERE ARE NO ENCROACHMENTS EXCEPT AS SHOWN, AND WAS DONE BY ME OR UNDER MY SUPERVISION, AND CONFORMS TO OR EXCEEDS THE CURRENT STANDARDS AS ADOPTED BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYING.         </p>	<p><b>JOB #</b> 1111088 <b>DATE</b> 11-10-11</p>	<p><b>GF#</b> 1103931718</p> <p style="text-align: center;"><b>PRO-SURV</b> P.O. BOX 1388, FRIENDSWOOD, TX 77549 PHONE - 281-998-1113 FAX - 281-998-0112 EMAIL: pro-surv@sbcglobal.net</p> <p style="font-size: small;">ONLY SURVEY MAPS WITH THE SURVEYOR'S ORIGINAL SIGNATURE ARE GENUINE TRUE AND CORRECT COPIES OF THE SURVEYOR'S ORIGINAL WORK AND OPINION.</p> <p style="text-align: right; font-size: x-small;">© 2011 PRO-SURV - ALL RIGHTS RESERVED</p>

*Walter Blair*

OWNER POLICY OF TITLE INSURANCE

SCHEDULE A

File No: 9730252140

Policy No: O- 328643

Amount of Insurance: \$25,000.00

Date of Policy: June 18, 1997 at 8:00 A.M.

1. Name of Insured:

HOUSTON MEMORIAL GARDENS, INC.

2. The estate or interest in the land that is covered by this Policy is:

FEE SIMPLE

3. Title to the estate or interest in the land is insured as vested in:

HOUSTON MEMORIAL GARDENS, INC.

4. The land referred to in this Policy is described as follows:

The North 1/2 of Lot 28 of ALLISON RICHEY SUBDIVISION out of Section 20, H.T. & B.R.R. Company Survey, Abstract No. 506, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 2, Page 23, of the Plat Records of Brazoria County, Texas.

7



**Brazoria CAD**

**Property Search Results > 634927 HOWARD BONNIE & JANICE for Year 2011**

**Property**

**Account**

Property ID: 634927 Legal Description: A0506 H T & B R R, TRACT 54A1, F B DRAKE, ACRES 3.000  
 Geographic ID: 0506-0015-001 Agent Code:  
 Type: Real  
 Property Use Code:  
 Property Use Description:

**Location**

Address: Mapsco:  
 Neighborhood: ABST 243.234.504 AND SUBS Map ID:  
 Neighborhood CD: A0243.ARE0

**Owner**

Name: HOWARD BONNIE & JANICE Owner ID: 1067038  
 Mailing Address: PO BOX 330350 % Ownership: 100.0000000000%  
 HOUSTON, TX 77233

Exemptions:

**Values**

(+) Improvement Homesite Value: + \$0  
 (+) Improvement Non-Homesite Value: + \$0  
 (+) Land Homesite Value: + \$0  
 (+) Land Non-Homesite Value: + \$126,760 Ag / Timber Use Value  
 (+) Agricultural Market Valuation: + \$0 \$0  
 (+) Timber Market Valuation: + \$0 \$0  
 -----  
 (=) Market Value: = \$126,760  
 (-) Ag or Timber Use Value Reduction: - \$0  
 -----  
 (=) Appraised Value: = \$126,760  
 (-) HS Cap: - \$0  
 -----  
 (=) Assessed Value: = \$126,760

**Taxing Jurisdiction**

Owner: HOWARD BONNIE & JANICE  
 % Ownership: 100.0000000000%  
 Total Value: \$126,760

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	BRAZORIA COUNTY APPRAISAL DISTRICT	0.000000	\$126,760	\$126,760	\$0.00
CPL	CITY OF PEARLAND	0.685100	\$126,760	\$126,760	\$868.43
DR4	BRAZORIA COUNTY DRAINAGE DISTRICT #4 (PEARLAND)	0.156000	\$126,760	\$126,760	\$197.75
GBC	BRAZORIA COUNTY	0.413101	\$126,760	\$126,760	\$523.65
RDB	ROAD & BRIDGE FUND	0.060000	\$126,760	\$126,760	\$76.06
SPL	PEARLAND INDEPENDENT SCHOOL DISTRICT	1.419400	\$126,760	\$126,760	\$1,799.23
Total Tax Rate:		2.733601			
Taxes w/Current Exemptions:					\$3,465.12
Taxes w/o Exemptions:					\$3,465.11

**Improvement / Building**

No improvements exist for this property.

**Land**



#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	S1	PRIMARY SITE	3.0000	130680.00	0.00	0.00	\$126,760	\$0

**Roll Value History**

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2012		N/A	N/A	N/A	N/A	N/A
2011		\$0	\$126,760	0	126,760	\$0 \$126,760

**Deed History - (Last 3 Deed Transactions)**

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	10/22/2010 12:00:00 AM	WD	WARRANTY DEED	WALLS ERIC & THE HOWARD BONNIE		10	045321	

Questions Please Call (979) 849-7792

Website version: 1.2.2.2

Database last updated on: 12/14/2011 5:52 AM

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CITY OF PEARLAND

\*\*\* CUSTOMER RECEIPT \*\*\*

Oper: AGONZALES Type: OC Drawer: 1  
Date: 12/16/11 @2 Receipt no: 73599

Description	Quantity	Amount
BA BOARD OF ADJUSTMENTS	1.00	\$600.00
Trans number:		3564406

HOUSTON MEMORIAL GARDENS  
2426 CULLEN  
LEWIS MCKINNEY  
281.485.2221  
ZONE CHANGE

Tender detail		
CK CHECK	36379	\$600.00
Total tendered		\$600.00
Total payment		\$600.00

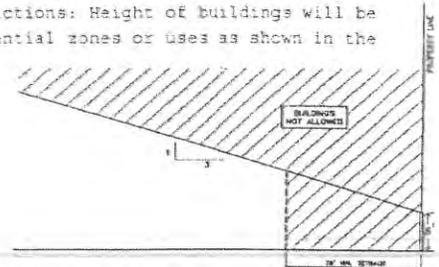
Trans date: 12/16/11 Time: 11:13:06

# Planned Development of Property Located at the Houston Memorial Gardens Cemetery

## I. Introduction

The purpose of this planned development zoning district is to provide for the development of this land for cemetery use. Including a Chapel, Funeral Home, Mortuary/Cemetery, and Mausoleum/Crematorium.

- A. The subject property is a 133.6907 acre tract of cemetery land on Cullen Road. The property is on both the west and east side of Cullen Road. **See attached legal descriptions.**
- B. The proposed use of this property is for a cemetery and one existing single-family home to be used as a Chapel/Funeral Home at a later date.
- C. The subject property encompasses cemetery 128.5657 and the existing single family residence 5.125
- D. The subject property will ultimately all be developed for use as a cemetery.
- E. The property will be subject to the following height restrictions: Height of buildings will be restricted by the setbacks from property line adjoining residential zones or Uses as shown in the figure below.



## II. Zoning and Land Use.

- A. This property is currently zoned as General Business District. The boundaries are as follows: on the west is a General Business District, on the east is a General Business District, on the north is a Cullen-Mixed Use District, and on the south is a General Business District.
- B. Planned Development District is the proposed plan for this planned Development, as indicated below:

Proposed Land Use Table

Use	Acres	Zoning District
Mortuary/Cemetery	128.5657	PD
Single-Family Residential(existing)	5.125	PD

III. Design standards applicable to the development

- A. The base zoning for this planned development is General Business and the base zoning for the existing Single family residence is Suburban Residential -12 (SR-12)
  
- B. A specific list of deviations from standards in the base zoning district(s), together with any standards in the ordinance which are to be varied for development with the PD district are listed. The only allowed land use for this planned development will be as follows, per city UDC ( Chapel, Funeral Home, Mortuary/Cemetery including Mausoleum/Crematorium). No other uses in the General Business (GB) district will be permitted.
  
- C. Add a note that all requirements of the Unified Development Code will be met, unless specifically mentioned in this Planned Development.

IV. There are no requirements for dedications of land or public improvements.

V. Exhibits

**ATTACHMENT:**

**Houston Memorial Gardens**

**Westside of Cullen –**

Subdivision of TRACTS 41, 42, 55, 56, & 58, Allison Richey Gulf Coast Co. 57.231 ACRES. Subdivision of section 20, H.T. & B. SURVEY ABSTRACT No. 506, Brazoria County, Texas ; A0506 HT&BRR, TRACT 28A, ACRES 5.000; A0506 HT&BRR, TRACT 54A1, F.B. DRAKE, ACRES 3.000

**Eastside of Cullen –**

Houston Memorial Gardens Cemetery , Lot 28 containing 9.982 acres and being a partial replat the amended plat of Paradise Cemetery South, of the Allison Richey Gulf Coast Co. out of the H.T. & B.R.R Co. Survey, Sec. 19, A-243 Brazoria County, Texas

Final Part of Houston Memorial Gardens Cemetery, a 20.0737 acre tract of land being lots 13 and 29, and part of lot 12, of the Allison Richey Gulf Coast Co. Subdivision, Sec. 19, and being situated in the H.T.& B.R.R. Co. Survey, A-243, Brazoria County, Texas

Boundary survey of a 8.434 acre, Lot 12-12A & 28A tract out of Section 19 H.T. & B.R.R Survey, A-243, Brazoria County, Texas

Boundary Survey of a 19.97 acre, Lot 45,46 tract out of Section 19, H.T. & B.R.R Survey, A-243, Brazoria County, Texas

Lot 44 (10 acre) of the Allison-Richey Gulf Coast Co. Subdivision, Section 19, H.T. & B.R.R Co. Survey, A-243, Brazoria County, Texas

**Properties West Side of Cullen**

Legal Description	Existing Acres	Existing zone	Proposed Zone	Proposed Use
TRACTS: 41,42,55,56 & 58	57.231	GB	PD	Cemetery
AO506, TRACT 28A	5	R-3	PD	Cemetery
AO506, TRACT 54A1	3	C-M	PD	Cemetery
<b><u>Total:</u></b>	65.231			

**Properties East Side of Cullen**

Legal Description	Existing Acres	Existing Zone	Proposed Zone	Proposed Use
AO243 H.T & B.R.R. Lot 28 Sections 19	9.982	GB	PD	Cemetery
AO243 H.T. & B.R.R. Lot 13 & 29	20.0737	PD	PD	Cemetery
AO243 H.T & B.R.R. Lot 12-12A-28A Section: 19	8.434	GB	PD	Cemetery
AO243 H.T & B.R.R. Lot 45,46 Section: 19	19.97	GB	PD	Cemetery
AO243 H.T&B.R.R. Lot 44	10	SR-12	PD	Cemetery
<b><u>Total:</u></b>	68.4597			

**POSTING OF ZONING NOTIFICATION SIGNS  
ON PROPERTY UNDER CONSIDERATION  
FOR A ZONE CHANGE (OR CONDITIONAL USE PERMIT)**

Any person, firm or corporation requesting a zoning change, a conditional use permit (CUP), or a variance shall be required to erect and maintain a sign(s), to be inspected by the City, upon the property for which a variance or zoning change has been requested.

Such sign(s) shall be located as follows:

- (1) One (1) sign per street frontage shall be located within thirty feet (30') of the abutting street, or as determined by the City.
- (2) So as to be clearly visible and readable from the public right-of-way and not obstructed in any manner.
- (3) So as not to create a hazard to traffic on the public rights-of-way abutting the property.
- (4) On the subject property at least ten (10) days prior to the hearing of such zoning change request by the Planning and Zoning Commission, and to remain continuously on said property until final action by the City Council or withdrawal of the case by the applicant. Removal of the sign by the applicant prior to a recommendation by the Planning and Zoning Commission and/or a final decision by the City Council shall constitute a withdrawal of the request.
- (5) The signs shall be as follows:
  - A minimum sign size of 2 feet by 3 feet, but no larger than 4 feet by 4 feet
  - At least 2 feet above the ground
  - Blue or black lettering that is a minimum of 3 inches by 1/2 inch, on a white background
  - Message content as follows:

**PROPOSED (SPECIFY REQUEST)**  
Contact City of Pearland  
281-652-1768

*ZONE CHANGE*

\*Signs must be professionally made; handwritten signs are not allowed.

\*Signs must be freestanding and cannot be attached to a tree, fence, or building.

*All notify signs will be posted on the  
properties no later than 01/06/12.  
Janis C. McInerney 12/15/11*

JANICE B. HOWARD  
PRESIDENT

BONNIE HOWARD, SR  
SECRETARY / TREASURER

# Houston Memorial Gardens, Inc.

*"The Cemetery With A Heart"*

P.O. Box 330350 - Houston, Texas 77233-0350

16000 Colleen

(281) 485-2221

December 15, 2011

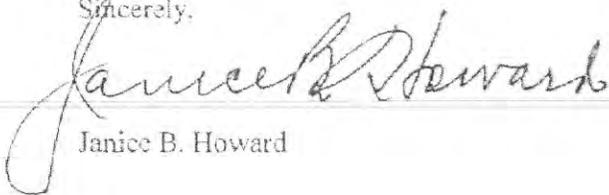
City of Pearland  
Planning Department  
Pearland, Texas 77581

Attn: Senior Planner Harold Ellis

Once property has been dedicated for cemetery use in the state of Texas it becomes tax-exempt. Such is the case with 90 acres of the property owned by Houston Memorial Gardens. Tax certificates have been provided for all of the remaining property except ten acres. The contract for this ten acres track was just completed on November 16, 2011. I am sending a copy of the closing statement showing that all taxes due were paid at the time of closing.

Should there be any questions please feel free to contact me at the above number.

Sincerely,



Janice B. Howard

*Zapalac 10 acres*

1/14/2011 10:33:40 AM

File Number: 1103031713

*11/16/11 Purchase*

L. Settlement Charges			Paid From	Paid From
			Borrower's	Seller's
			Funds at	Funds at
			Closing	Settlement
700.	Total Sales/Broker's Commission, based on price \$285,000.00 @ 3.000000% = \$8,550.00			
701.	Division of commission (line 700) as follows:			
702.	\$8,550.00 to Re/Max - Potvin Realty Group			
703.	Commission paid at settlement \$8,550.00		\$8,550.00	
704.				
800.	Items Payable in Connection with Loan			
801.	Loan origination fee			
802.	Loan discount			
803.	Appraisal fee			
804.	Credit report			
805.	Lender's impound fee			
806.	Mortgage insurance application fee			
807.	Assumption fee			
808.				
809.				
810.				
811.				
812.				
813.				
800.	Items Required by Lender to Be Paid in Advance			
801.	Interest front			
802.	Mortgage insurance advance fee			
803.	Hazard insurance premium for			
804.				
805.				
1000.	Reserves Deposited with Lender			
1001.	Hazard insurance			
1002.	Mortgage insurance			
1003.	City property taxes			
1004.	County property taxes			
1005.	Annual assessments			
1006.				
1007.				
1008.				
1009.				
1100.	Title Charges			
1101.	Settlement or closing fee			
1102.	Abstract or title search			
1103.	Title examination			
1104.	Title insurance binder			
1105.	Document preparation to Susan B. Strickland, Attorney		\$75.00	
1106.	Notary fees			
1107.	Attorney's fees to			
	Includes above item numbers			
1108.	Title insurance to Stewart Title Company		\$2,126.80	
	Includes above item numbers			
1109.	Lender's coverage			
1110.	Owner's coverage	\$200,000.00	\$2,126.80 Add \$274.55	
1111.	Escrow/Settlement Fee to Stewart Title Company		\$500.00	
1112.	Tax Certificates to Stewart Title Company		\$54.95	
1113.	Messenger/Doc Delivery to Stewart Title Company		\$10.00	
1114.				
1115.	State of Texas Policy Guaranty Fee to Stewart Title Policy Gty Fee		\$5.00	
1200.	Government Recording and Transfer Charges			
1201.	Recording fee: Deed \$32.00		\$32.00	
1202.	City/county tax/stamps:			
1203.	State tax/stamps:			
1204.				
1205.				
1206.				
1207.				
1300.	Additional Settlement Charges			
1301.	Survey to Pro-Surv		\$1,346.89	
1302.	Post Inspection			
1303.	2011 Property Taxes to Re/Max Carlett, RTA		\$2,731.80	
1304.				
1305.				
1306.				
1307.				
1400.	Total Settlement Charges (enter on lines 103, Section J and 502, Section K)		\$15,463.08	\$0.00

Items marked "POC" were paid outside the closing by Borrower (POCB), Lender (POCL), Mortgage Broker (POCM), Other (POCO), Real Estate Agent (POCR), or Seller (POCS).



## Zoning & Vicinity Map

Zone Change 2012-03Z

2426 Cullen

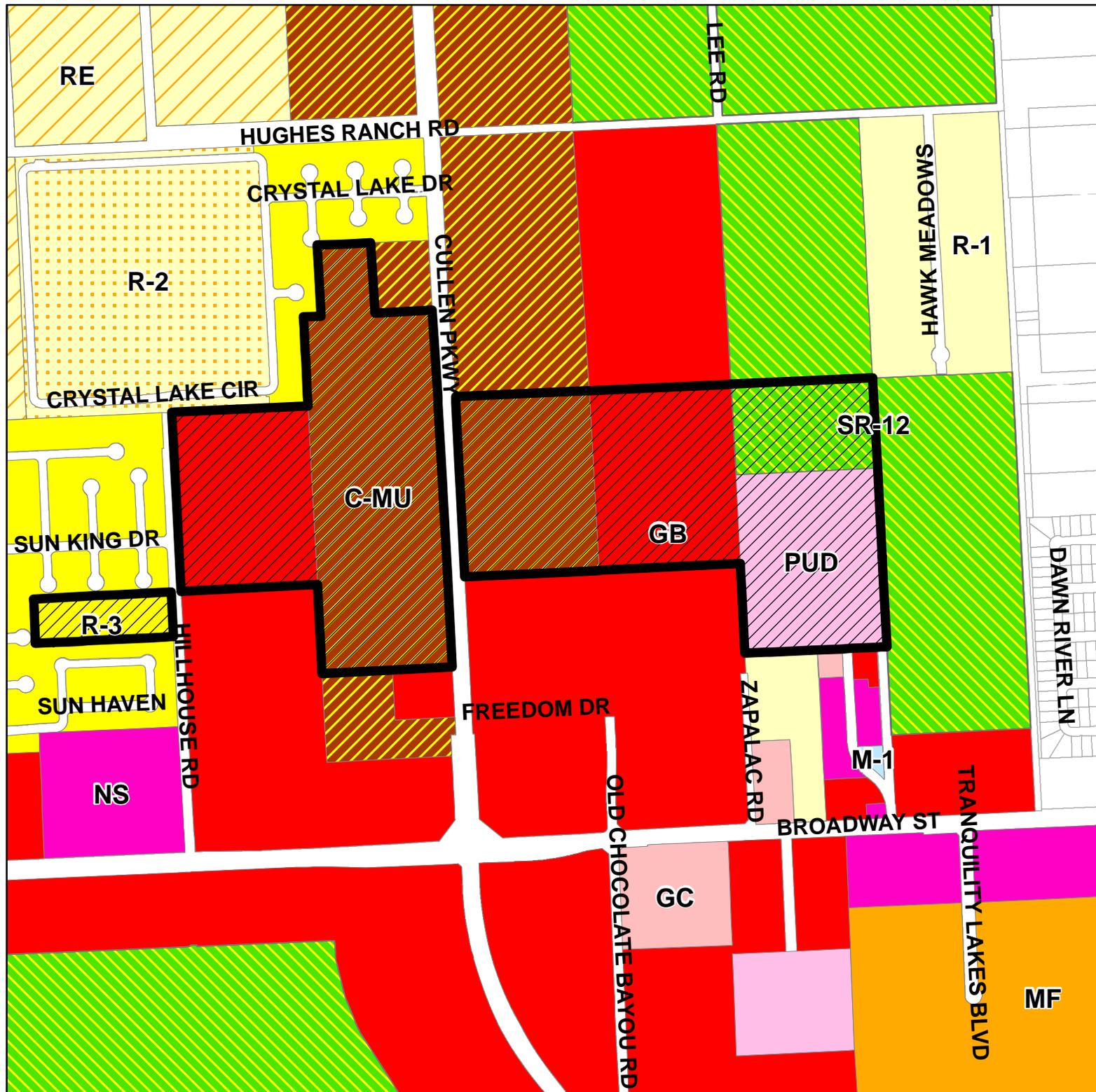
## Houston Memorial Gardens

This product is for information purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

0 185370 740 Feet



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# Planning & Zoning Commission

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## Recommendation Letter

January 18, 2012

Honorable Mayor and City Council Members  
3519 Liberty Drive  
Pearland, TX 77581

Re: Recommendation on Zone Change 2012-03Z

Honorable Mayor and City Council Members:

At their meeting on January 16, 2012, the Planning and Zoning Commission considered the following:

A request of Louis McKinney, applicant, on behalf of Janice and Bonnie Howard, owner(s), for approval of a zone change from the Planned Development (PD), General Business (GB), Cullen Mixed-Use (C/MU), Single-Family Residential-3 (R-3) and Suburban Residential-12 (SR-12) zone(s) to Planned Development (PD) zone for **133.6907** acres on the following described property:

### LEGAL DESCRIPTIONS:

Houston Memorial Gardens Cemetery Sections 34, 35, 36, 37, 38, 39, 40, A perpetual care cemetery containing **9.982** acres and being a partial replat the amended plat of Paradise Cemetery South, Volume 16, Page 275-276, B.C.P.R. and being in lot 28, of the Allison Richey Gulf Coast Home Company Subdivision, Vol 20, Pg. 67-68, P.R.B.C. out of the H.T. & B.R.R. CO. Survey, Sec. 19, A-243 Brazoria County, Texas;

Final Plat of Houston Memorial Gardens Cemetery, a **20.0737** acre tract of land being lots 13 and 29, and part of lot 12, of the Allison Richey Gulf Coast Home Company Subdivision, Section 19, and being situated in the H.T.& B.R.R. Company Survey, Abstract 243, Brazoria County, Texas;

Boundary survey of a **8.434** acre tract out of Section 19, H.T. & B.R.R. Survey, A-243, Brazoria County, Texas;

Partial Replat of Houston Memorial Garden Cemetery, being a **57.231** acre tract of land, all of tracts 41, 42, 55, 56, 57, & 58 in the Allison Richey Gulf Coast Home Subdivision, as recorded in Plat Book 2, Page(s) 24, of the Brazoria

County Plat Records, located in the H.T. & B. Company Survey, Section 20, Abstract No. 506 in Brazoria County, Texas;

Boundary survey of a **19.97** acre tract out of Section 19, H T & B RR Survey, A-243, Brazoria County, Texas;

Lot 44 (**10 ac**) of the Allison-Richey Gulf Coast Home Company Subdivision, Section 19, H.T. & B.R.R. Company Survey, Abstract 243, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 2, Page 23 of the plat records of Brazoria County, Texas;

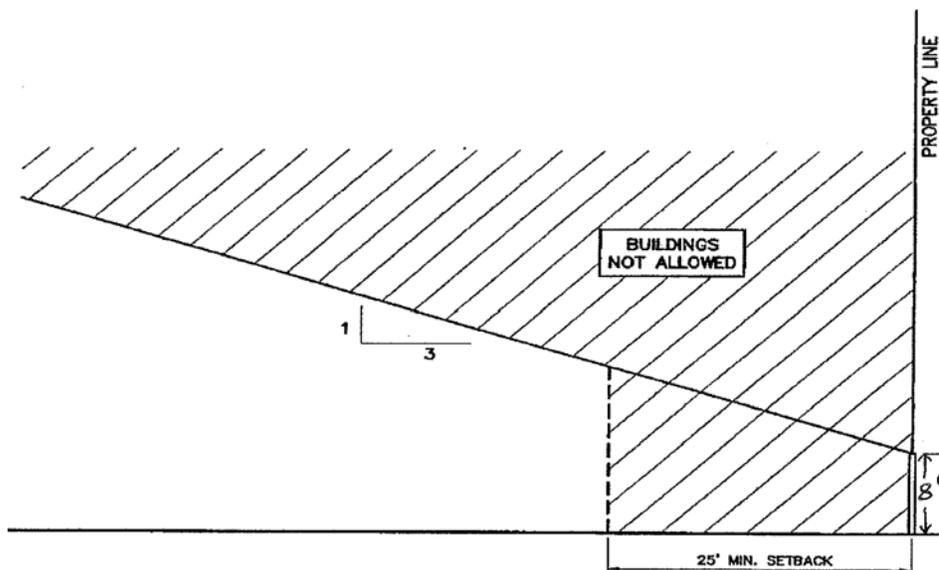
The North ½ of Lot 28 (**5ac**) of Allison Richey Subdivision out of Section 20, H.T. & B.R.R. Company Survey, Abstract No. 506, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 2, Page 23, of the plat records of Brazoria County, Texas;

A0506 H T & B R R Co Survey, Tract 54A1, F B Drake, **3.000 Acres**

GENERAL LOCATION: 2426 Cullen, Pearland, TX  
Houston Memorial Gardens Cemetery

There was discussion regarding current zoning entitlements (areas of the property where a cemetery is currently allowed), residential adjacency, proposed allowable uses, development regulations, including height of accessory structures, and residential adjacency buffering requirements. Following this discussion, Commissioner Richard Golden made a motion to approve the zone change. The motion was subject to amending the Planned Development (PD) document to include the following height restriction:

Height of building will be restricted by the setbacks from property line adjoining residential zones or uses as shown in Figure 2-1 (b) and shall not exceed thirty-five feet (35').



The motion was seconded by Commissioner Neil West. The vote was 6-0 and the motion passed.

Sincerely,

A handwritten signature in black ink, appearing to read "Harold Ellis". The signature is written in a cursive style with a large initial "H".

Harold Ellis, Senior Planner  
On behalf of the Planning and Zoning Commission



## JOINT PUBLIC HEARING AGENDA ITEM MEETING OF JANUARY 16, 2012

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### Zone Change No. 2012-03Z

A request of Louis McKinney, applicant, on behalf of Janice and Bonnie Howard, owner(s), for approval of a zone change from the Planned Development (PD), General Business (GB), Cullen Mixed-Use (C/MU), Single-Family Residential-3 (R-3) and Suburban Residential-12 (SR-12) zone(s) to Planned Development (PD) zone for **133.6907** on the following described property, to wit:

#### Legal Descriptions:

Houston Memorial Gardens Cemetery Sections 34, 35, 36, 37, 38, 39, 40, A perpetual care cemetery containing **9.982** acres and being a partial replat the amended plat of Paradise Cemetery South, Volume 16, Page 275-276, B.C.P.R. and being in lot 28, of the Allison Richey Gulf Coast Home Company Subdivision, Vol 20, Pg. 67-68, P.R.B.C. out of the H.T. & B.R.R. CO. Survey, Sec. 19, A-243 Brazoria County, Texas;

Final Plat of Houston Memorial Gardens Cemetery, a **20.0737** acre tract of land being lots 13 and 29, and part of lot 12, of the Allison Richey Gulf Coast Home Company Subdivision, Section 19, and being situated in the H.T.& B.R.R. Company Survey, Abstract 243, Brazoria County, Texas;

Boundary survey of a **8.434** acre tract out of Section 19, H.T. & B.R.R. Survey, A-243, Brazoria County, Texas;

Partial Replat of Houston Memorial Garden Cemetery, being a **57.231** acre tract of land, all of tracts 41, 42, 55, 56, 57, & 58 in the Allison Richey Gulf Coast Home Subdivision, as recorded in Plat Book 2, Page(s) 24, of the Brazoria County Plat Records, located in the H.T. & B. Company Survey, Section 20, Abstract No. 506 in Brazoria County, Texas;

Boundary survey of a **19.97** acre tract out of Section 19, H T & B RR Survey, A-243, Brazoria County, Texas;

Lot 44 (**10 ac**) of the Allison-Richey Gulf Coast Home Company Subdivision, Section 19, H.T. & B.R.R. Company Survey, Abstract 243, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 2, Page 23 of the plat records of Brazoria County, Texas;

The North ½ of Lot 28 (**5ac**) of Allison Richey Subdivision out of Section 20, H.T. & B.R.R. Company Survey, Abstract No. 506, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 2, Page 23, of the plat records of Brazoria County, Texas;

A0506 H T & B R R Co Survey, Tract 54A1, F B Drake, **3.000 Acres**.

**General Location:** 2426 Cullen, Pearland, TX  
Houston Memorial Gardens Cemetery

**APPROVAL PROCESS:** After this Joint Public Hearing, the requested zone change application will be considered as follows:

Planning and Zoning Commission: January 16, 2012\*

City Council for First Reading: February 13, 2012\*

City Council for Second Reading: February 27, 2012\*

(\*dates subject to change)

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**SUMMARY:** Louis C. McKinney, applicant, for Janice and Bonnie Howard, owner(s), is requesting approval of a zone change from the Planned Development (PD), General Business (GB), Cullen Mixed-Use (C/MU), Single-Family Residential-3 (R-3) and Suburban Residential-12 (SR-12) zone(s) to Planned Development (PD) for 133.6907 acres for the above referenced location. This acreage makes up all of the property owned by and operated as Houston Memorial Gardens Cemetery.

As stated by the applicant, Houston Memorial Gardens Cemetery was established in 1954 with an initial 10 acres of land. Since that time, the cemetery has grown to the current total of 133.6907 acres. After completing the most recent addition to the cemetery, in 2011, the owners of Houston Memorial Gardens met with the Planning Department to inquire about a zone change from Suburban Residential-12 (SR-12), which is the existing zoning district for the latest area of expansion, to a General Business (GB) district which would allow for the operation of a cemetery. This would allow the expansion of the cemetery onto the most recently acquired land. As the property does have multiple zoning districts, staff's recommendation to the owners was to amend an existing Planned Development, established in 2007 for 20 acres of Houston Memorial Gardens Cemetery property, to include all of the cemetery site. This would create one unified zoning district for the entire property and cemetery operations for Houston Memorial Gardens.

**SURROUNDING ZONING AND LAND USES:**

	<b><u>Zoning</u></b>	<b><u>Land Use</u></b>
North	Cullen Mixed-Use (C/MU), General Business (GB), Suburban Residential-12 (SR-12) and Single-Family Residential-3 (R-3)	Residential, Cemetery, vacant
South	Cullen Mixed-Use (C/MU), General Business (GB), and Single-Family Residential-1 (R-1)	Vacant, commercial
East	Suburban Residential-12 (SR-12)	Vacant
West	Single-Family Residential-3 (R-3)	Residential

**CONFORMANCE WITH THE UNIFIED DEVELOPMENT CODE (UDC):** As previously mentioned, the property is currently zoned Planned Development (PD), General Business (GB), Cullen Mixed-Use (C/MU), Single-Family Residential-3 (R-3) and Suburban Residential-12 (SR-12) zone. As the property is 133.6907 acres, the bulk regulations of all of the zoning district regulations are met.

**PLATTING STATUS:** As Houston Memorial Gardens has expanded since originally being chartered by the state, the property currently has 8 legal descriptions. These descriptions are both in the form of survey and recorded plat. Unplatted portions of the property will be required to be platted as they are developed. Staff has recommended that the entire property be replatted as one plat which would result in a clear legal description of the entire property, and result in conformance with the Unified Development Code. Without platting of the entire property, portions of the property are landlocked, without required frontage on a public street.

**CONFORMANCE WITH THE COMPREHENSIVE PLAN:** The current Comprehensive Plan (latest update in 2009) indicates *Cullen Mixed Use, Business Commercial, Medium Density Residential, and Low Density Residential* for the entire parcel. A cemetery is a permitted use in the General Business, General Commercial, and Cullen Mixed-Use zoning district with the approval of a Conditional Use Permit. As this is an existing cemetery, and the use is permitted by right in multiple existing zoning districts on the property, and is a permitted use in the proposed Planned Development, if approved, the zone change would be in conformance with the Comprehensive Plan.

**CONFORMANCE WITH THE THOROUGHFARE PLAN:** The subject property has frontage on Cullen, a major thoroughfare, with a minimum of 120' right-of-way.

**AVAILABILITY OF UTILITIES:** The subject parcel does have access to public water and sewer.

**IMPACT ON EXISTING AND FUTURE DEVELOPMENT:** The proposed expansion of the cemetery is not anticipated to have any negative impacts on existing surrounding or future developments.

**ADDITIONAL COMMENTS:** This request has been reviewed by the City's Development Review Committee and there are no additional comments from other departments at the time of this report.

**SITE PLAN CONSIDERATIONS:** At this time, a conceptual site plan has not been submitted. A site plan is not required as part of the zone change process.

**PUBLIC NOTIFICATION:** Public notice/comment forms were mailed to property owners within 200 feet of the subject property under consideration. A legal notice of public hearing was published in the local newspaper, and a notification sign was placed on the subject property.

**OPPOSITION TO OR SUPPORT OF PROPOSED REQUEST:** Staff has not received any comments either in opposition to or in support of the proposed zone change request at the time of this report.

**STAFF COMMENTS:**

Staff is working with the applicant to generate an amended Planned Development document, based on the original Planned Development being amended with this proposal.

At this time, staff has the following comments on the document submitted:

1. Please add a purpose statement to the Introduction section of the document.
2. The correct acreage of the property, based on submitted legal descriptions, is 133.6907. Please revise (I) (A) and (I) (C) of document.
3. The proposed use for the Planned Development is cemetery use and one existing single-family home. Please revise (I) (B) of document.
4. Please specify acreage for cemetery use and single-family residential use in (I) (C) of document.
5. Please amend chart following (II) (B) in proposed document. The title of the chart should be *Proposed Land Use Table*. There should also be two use rows, one for cemetery, and one for single-family residential.
6. Please remove language under (II) (B) chart referring to density calculations and cemetery use.
7. For (III) (B), please specify that the base zoning district for the cemetery portions of the Planned Development will be General Business and add the base zoning for the residential as Suburban Residential-12 (SR-12).
8. Please remove (III) (B) and (III) (C).
9. Please add the following statement to (III) (D), *No other uses in the General Business (GB) district will be permitted.*

10. Please remove (IV) and (V).

11. For (VI) (A), please remove Design Plan and n/a, and add Location Map.

**STAFF RECOMMENDATION:** Staff recommends approval of the Zone Change 2012-03Z as proposed by the applicant for the following reasons:

1. Approval of the zone change would be in compatible with surrounding zoning and uses.
2. The proposed zone change should not have any negative impact on the surrounding properties and developments.
3. The proposed zone change would expand an existing Planned Developed which was established for a cemetery use and reduce the total number of zoning districts for this property.

**SUPPORTING DOCUMENTS:**

- Vicinity and Zoning Map
- Property Ownership Map
- Property Owner Notification List
- Future Land Use Plan
- Aerial Photograph
- Zone Change Application and Applicant Documents
- Originally approved Planned Development Document
- Proposed amended Planned Development Document



**Abutter Map**

**Zone Change 2012-03Z**

**2426 Cullen**

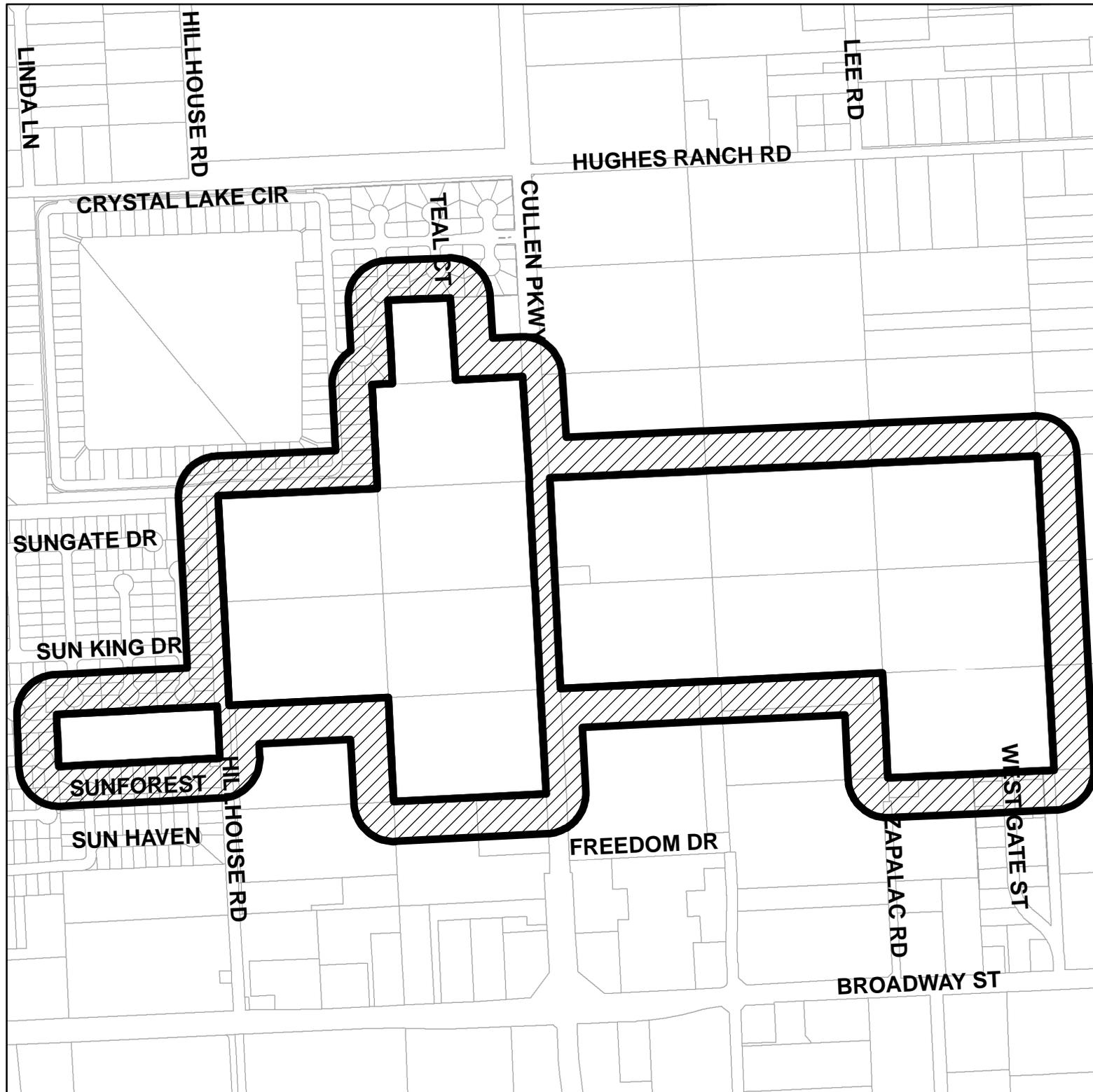
**Houston Memorial  
Gardens**

This product is for information purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

N



010200 400 Feet





### FLUP Map

Zone Change 2012-03Z

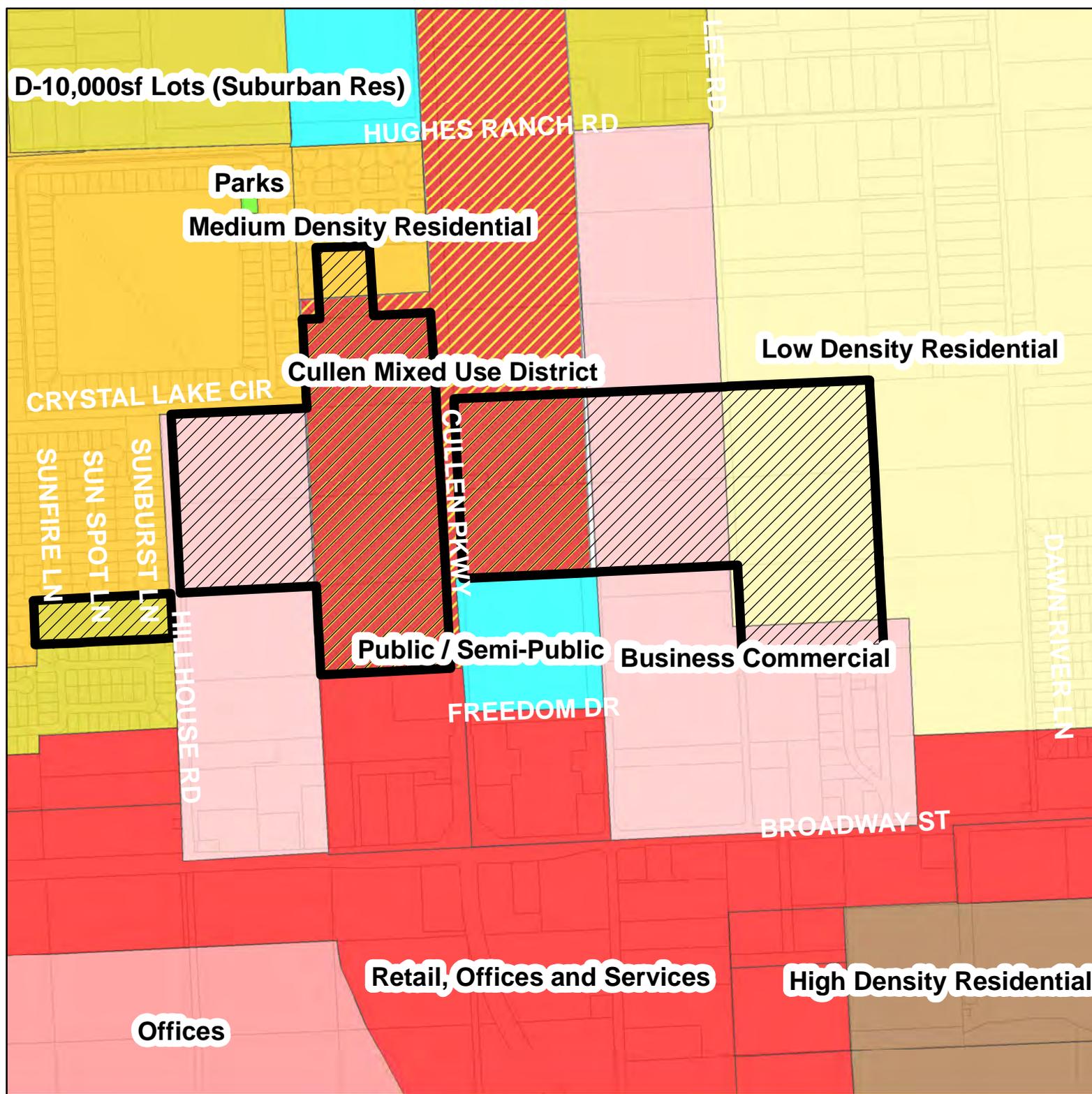
2426 Cullen

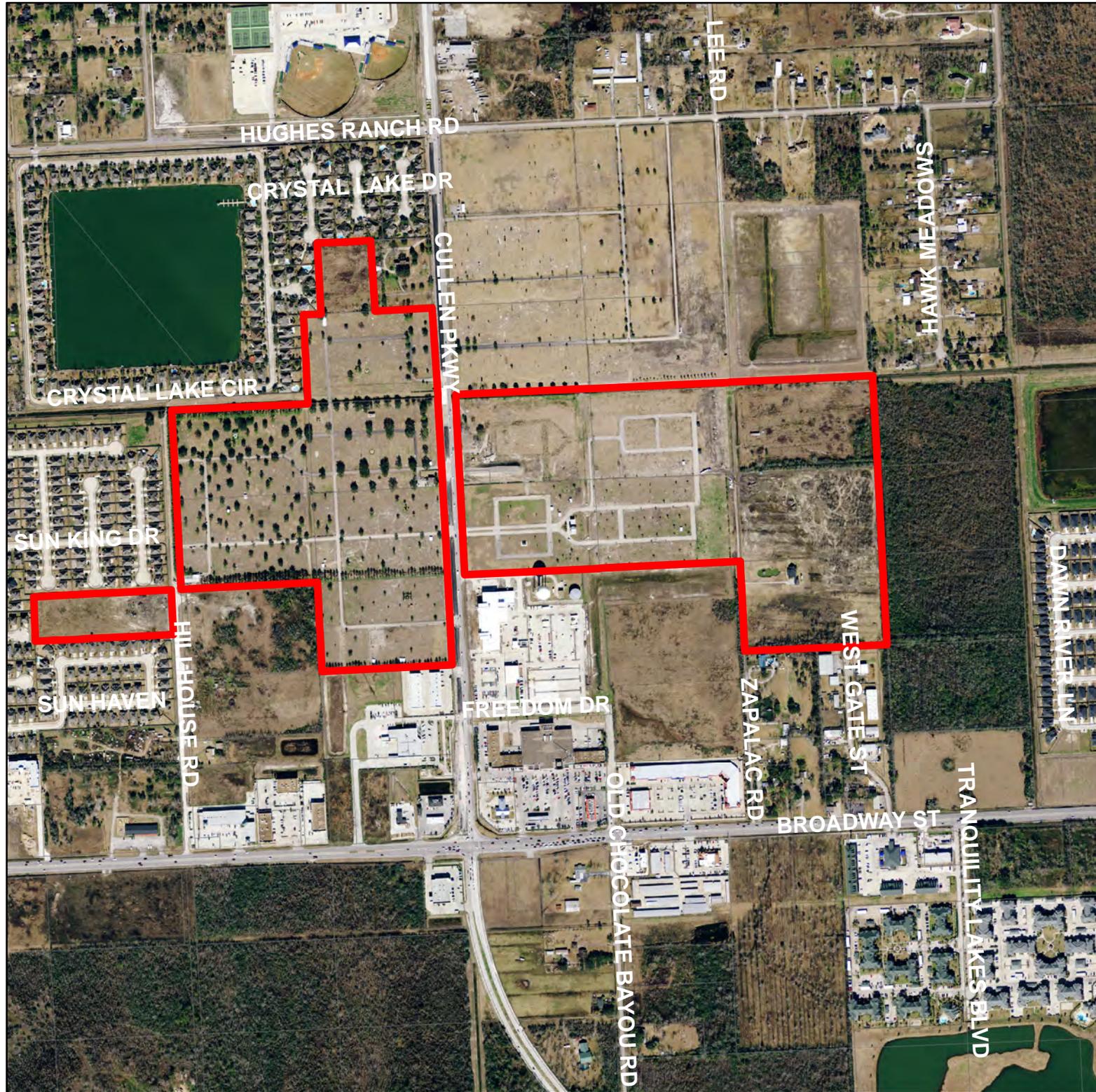
### Houston Memorial Gardens

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0 185370 740 Feet





**Aerial Map**

**Zone Change 2012-03Z**

**2426 Cullen**

**Houston Memorial  
Gardens**

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0 185370 740 Feet



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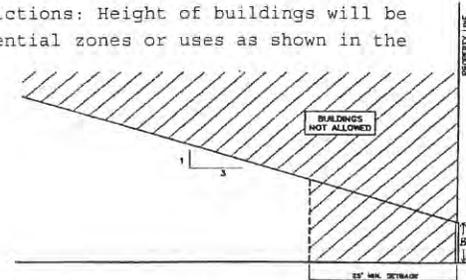


# Planned Development of Property Located at the Houston Memorial Gardens Cemetery

## I. Introduction

The purpose of this planned development zoning district is to provide for the development of this land for cemetery use. Including a Chapel, Funeral Home, Mortuary/Cemetery, and Mausoleum/Crematorium.

- A. The subject property is a 133.6907 acre tract of cemetery land on Cullen Road. The property is on both the west and east side of Cullen Road. **See attached legal descriptions.**
- B. The proposed use of this property is for a cemetery and one existing single-family home to be used as a Chapel/Funeral Home at a later date.
- C. The subject property encompasses cemetery 128.5657 and the existing single family residence 5.125
- D. The subject property will ultimately all be developed for use as a cemetery.
- E. The property will be subject to the following height restrictions: Height of buildings will be restricted by the setbacks from property line adjoining residential zones or uses as shown in the figure below.



## II. Zoning and Land Use.

- A. This property is currently zoned as General Business District. The boundaries are as follows: on the west is a General Business District, on the east is a General Business District, on the north is a Cullen-Mixed Use District, and on the south is a General Business District.
- B. Planned Development District is the proposed plan for this planned Development, as indicated below:

### Proposed Land Use Table

Use	Acres	Zoning District
Mortuary/Cemetery	128.5657	PD
Single-Family Residential(existing)	5.125	PD

#### III. Design standards applicable to the development

- A. The base zoning for this planned development is General Business and the base zoning for the existing Single family residence is Suburban Residential -12 (SR-12)
- B. A specific list of deviations from standards in the base zoning district(s), together with any standards in the ordinance which are to be varied for development with the PD district are listed. The only allowed land use for this planned development will be as follows, per city UDC ( Chapel, Funeral Home, Mortuary/Cemetery including Mausoleum/Crematorium). No other uses in the General Business (GB) district will be permitted.
- C. Add a note that all requirements of the Unified Development Code will be met, unless specifically mentioned in this Planned Development.

IV. There are no requirements for dedications of land or public improvements.

V. Exhibits

**ATTACHMENT:**

**Houston Memorial Gardens**

**Westside of Cullen –**

Subdivision of TRACTS 41, 42, 55, 56, & 58, Allison Richey Gulf Coast Co. 57.231 ACRES. Subdivision of section 20, H.T. & B. SURVEY ABSTRACT No. 506, Brazoria County, Texas ; A0506 HT&BRR, TRACT 28A, ACRES 5.000; A0506 HT&BRR, TRACT 54A1, F.B. DRAKE, ACRES 3.000

**Eastside of Cullen –**

Houston Memorial Gardens Cemetery , Lot 28 containing 9.982 acres and being a partial replat the amended plat of Paradise Cemetery South, of the Allison Richey Gulf Coast Co. out of the H.T. & B.R.R Co. Survey, Sec. 19, A-243 Brazoria County, Texas

Final Part of Houston Memorial Gardens Cemetery, a 20.0737 acre tract of land being lots 13 and 29, and part of lot 12, of the Allison Richey Gulf Coast Co. Subdivision, Sec. 19, and being situated in the H.T.& B.R.R. Co. Survey, A-243, Brazoria County, Texas

Boundary survey of a 8.434 acre, Lot 12-12A & 28A tract out of Section 19 H.T. & B.R.R Survey, A-243, Brazoria County, Texas

Boundary Survey of a 19.97 acre, Lot 45,46 tract out of Section 19, H.T. & B.R.R Survey, A-243, Brazoria County, Texas

Lot 44 (10 acre) of the Allison-Richey Gulf Coast Co. Subdivision, Section 19, H.T. & B.R.R Co. Survey, A-243, Brazoria County, Texas

### Properties West Side of Cullen

Legal Description	Existing Acres	Existing zone	Proposed Zone	Proposed Use
TRACTS: 41,42,55,56 & 58	57.231	GB	PD	Cemetery
AO506, TRACT 28A	5	R-3	PD	Cemetery
AO506, TRACT 54A1	3	C-M	PD	Cemetery
<b><u>Total:</u></b>	65.231			

### Properties East Side of Cullen

Legal Description	Existing Acres	Existing Zone	Proposed Zone	Proposed Use
AO243 H.T & B.R.R. Lot 28 Sections: 19	9.982	GB	PD	Cemetery
AO243 H.T. & B.R.R. Lot 13 & 29	20.0737	PD	PD	Cemetery
AO243 H.T & B.R.R. Lot 12-12A-28A Section: 19	8.434	GB	PD	Cemetery
AO243 H.T & B.R.R. Lot 45,46 Section: 19	19.97	GB	PD	Cemetery
AO243 H.T&B.R.R. Lot 44	10	SR-12	PD	Cemetery
<b><u>Total:</u></b>	68.4597			

# Consent Agenda Item E

- E. CONSIDERATION AND POSSIBLE ACTION – SECOND AND FINAL READING OF ORDINANCE NO. 2000CUP-55 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, APPROVING A CONDITIONAL USE PERMIT FOR CERTAIN PROPERTY, BEING A PLAT OF SURVEY OF A 0.6984 ACRE TRACT BEING A PART OF LOT “A” OF WESTGATE PARK A SUBDIVISION OF 9.575 ACRES OF LAND OUT OF LOTS 47 AND 48 OF THE ALLISON RICHEY GULF COAST HOME COMPANY SUBDIVISION OF SECTION 19 OF THE H. T. & B. RAILROAD COMPANY SURVEY, ABSTRACT 243, BRAZORIA COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 16, PAGE 320, OF THE PLAT RECORDS OF BRAZORIA COUNTY, TEXAS (LOCATED AT 7900 BLOCK OF BROADWAY, PEARLAND, TX) CONDITIONAL USE PERMIT APPLICATION NO. CUP 2011-12 TO ALLOW FOR THE OPERATION OF A MINOR AUTO REPAIR FACILITY IN THE GENERAL BUSINESS (GB) DISTRICT AT THE REQUEST OF ESTEBAN V. RODRIGUEZ, OWNER AND APPLICANT, CONTAINING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE AND OTHER PROVISIONS RELATED TO THE SUBJECT. *Mr. Mike Hodge, Assistant City Manager.***

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b> February 27, 2012	<b>ITEM NO.:</b> Ordinance No. 2000CUP-55
<b>DATE SUBMITTED:</b> January 31, 2012	<b>DEPT. OF ORIGIN:</b> Planning
<b>PREPARED BY:</b> Harold Ellis	<b>PRESENTOR:</b> Mike Hodge
<b>REVIEWED BY:</b> Mike Hodge	<b>REVIEW DATE:</b> February 8, 2012
<b>SUBJECT:</b> A request of Esteban V. Rodriguez, owner and applicant, for approval of a Conditional Use Permit to allow for the operation of a Minor Auto Repair Facility in the General Business (GB) District , located at 7900 Block Broadway	
<b>EXHIBITS:</b> Ordinance No. 2000CUP-55 and Exhibits (Exhibit A - Application, and Applicant Packet; Exhibit B - Vicinity Map; Exhibit D - P&Z Recommendation Letter), Joint Public Hearing Staff Report, Maps and Related Documents	
<b>EXPENDITURE REQUIRED:</b> N/A <b>AMOUNT AVAILABLE:</b> N/A <b>ACCOUNT NO.:</b> N/A	<b>AMOUNT BUDGETED:</b> N/A <b>PROJECT NO.:</b> N/A
<b>ADDITIONAL APPROPRIATION REQUIRED:</b> N/A <b>ACCOUNT NO.:</b> N/A <b>PROJECT NO.:</b> N/A	
<b>To be completed by Department:</b> <input type="checkbox"/> Finance <input type="checkbox"/> Legal <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution	

**EXECUTIVE SUMMARY**

**SUMMARY:** Esteban V. Rodriguez, owner and applicant, is requesting approval of a Conditional Use Permit to allow the operation of a Minor Auto Repair Facility at the above referenced location. The site is currently zoned General Business (GB) and there are not currently any business operations ongoing on the site. The most recent commercial use on the site was an auto sales lot which is no longer in operation. The property has an existing residential home structure on site; however the structure is not being used as a home and is currently vacant.

The property owner is proposing to redevelop the site to be used as a Minor Auto Repair facility. The conceptual plans submitted to the City indicate the existing home will be remodeled and turned into the auto repair facility. The City's Unified Development Code does allow a Minor Auto Repair Facility in the General Business (GB) zone with the approval of a Conditional use Permit.

If the Conditional Use Permit is approved, the site plan process will commence with the Planning and Building departments. A Pre-development meeting was held between staff and the property owner to discuss the City's current regulations for development which will be required to be met for this property when redeveloped.

**STAFF RECOMMENDATION:** Staff recommends approval of the Conditional Use Permit No. 2011-12 to allow the operation of a Minor Auto Repair Facility in the General Business (GB) district as proposed by the applicant and owner for the following reasons and with the following condition:

1. The proposed request should not have any significant negative impact on the surrounding properties and developments.
2. The proposed request would be in conformance with the Unified Development Code with the approval of a Conditional use Permit.
3. The proposed request is in conformance with the criteria of approval of a Conditional Use Permit listed in the Unified Development Code.
4. The proposed request would result in redevelopment of a currently non-occupied residential home in a commercial zoning district.
5. The proposed request would enhance the property from its current state, particularly with the recommended condition of approval, listed below.

**PLANNING AND ZONING COMMISSION DISCUSSION:** At the regular meeting of the Planning and Zoning Commission on November 21, 2011, there was discussion regarding layout of the proposed development, existing billboard sign on the property, and concern over a partially constructed, abandoned structure owned by the same applicant. Following this discussion Commissioner Phil Cessac made a motion to postpone the Conditional Use Permit (CUP). The motion was seconded by Commissioner Henry Fuertes. The vote was 4-0 and the motion passed.

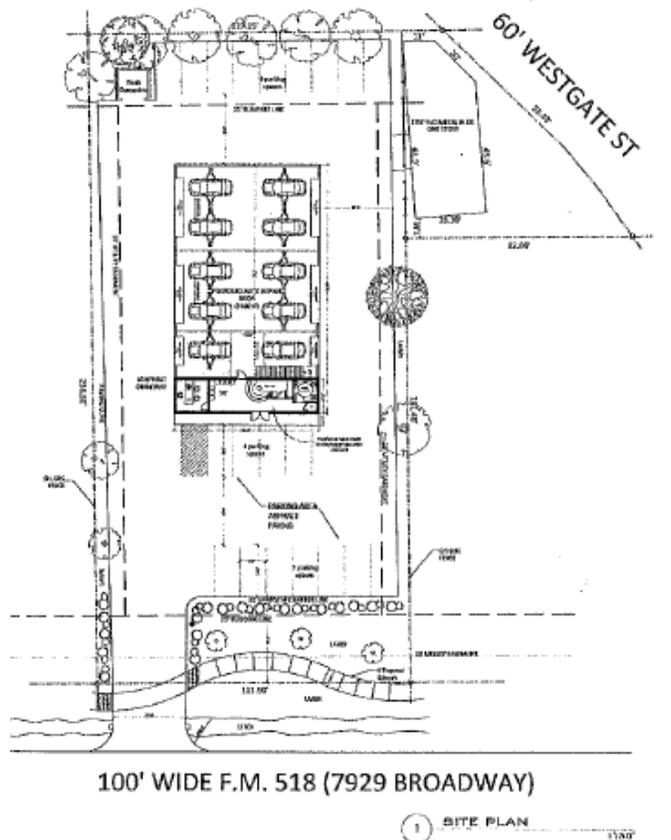
At the regular meeting of the Planning and Zoning Commission on January 16, 2012, the Commission, this item was readdressed. The concerns regarding layout (bay orientation) were addressed by the applicant, and the abandoned structure owned by the same applicant was also addressed (demolished on January 16, 2012). Additionally, the existing non-conforming billboard sign on the property was also discussed. After discussing these items, Commissioner Richard Golden made a motion to approve the Conditional Use Permit (CUP) with the following conditions:

1. The property should be developed in accordance with the site plan submitted and the Unified Development Code
2. The existing billboard should be brought into full compliance with the Unified Development Code
3. The applicant shall complete construction or remove the building at 6830 Broadway prior to a Certificate of Occupancy being issued for the facility at 7929 Broadway

The motion was seconded by Commissioner Sheila Fischer. The motion passed 5-1, with Commissioner Neil West voting in opposition.

At the regular meeting of the Planning and Zoning Commission on February 6, 2012, a request by Commissioner Neil West was placed on the agenda to allow him to reconsider his vote in opposition on this request due to a lack of clarification on the recommended conditions of approval. A motion to approve Commissioner West's request was made by Commissioner Sheila Fischer. The motion was seconded by Commissioner Henry Fuertes. The motion passed 3-0, with Commissioner Neil West abstaining from voting.

Site Plan Submitted:



**STAFF RECOMMENDATION TO COUNCIL:** Consider the conditional use permit.

ORDINANCE NO. 2000CUP-55

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, APPROVING A CONDITIONAL USE PERMIT FOR CERTAIN PROPERTY, BEING A PLAT OF SURVEY OF A 0.6984 ACRE TRACT BEING A PART OF LOT "A" OF WESTGATE PARK A SUBDIVISION OF 9.575 ACRES OF LAND OUT OF LOTS 47 AND 48 OF THE ALLISON RICHEY GULF COAST HOME COMPANY SUBDIVISION OF SECTION 19 OF THE H. T. & B. RAILROAD COMPANY SURVEY, ABSTRACT 243, BRAZORIA COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 16, PAGE 320, OF THE PLAT RECORDS OF BRAZORIA COUNTY, TEXAS **(LOCATED AT 7900 BLOCK OF BROADWAY, PEARLAND, TX)** CONDITIONAL USE PERMIT APPLICATION NO. CUP 2011-12 TO ALLOW FOR THE OPERATION OF A MINOR AUTO REPAIR FACILITY IN THE GENERAL BUSINESS (GB) DISTRICT AT THE REQUEST OF ESTEBAN V. RODRIGUEZ, OWNER AND APPLICANT, CONTAINING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE AND OTHER PROVISIONS RELATED TO THE SUBJECT.

**WHEREAS** Esteban V. Rodriguez, owner and applicant, filed an application for a Conditional Use Permit to allow the operation of a Minor Auto Repair Facility, on certain property, said property being legally described in the original applications for amendment attached hereto and made a part hereof for all purposes as Exhibit "A", and more graphically depicted in the location map attached hereto and made a part hereof for all purposes as Exhibit "B"; and

**WHEREAS**, on the 21<sup>st</sup> day of November 2011, a Joint Public Hearing was held before the Planning and Zoning Commission and the City Council of the City of Pearland, Texas, notice being given by publication in the official newspaper of the City, the affidavit of publication being attached hereto and made a part hereof for all purposes as Exhibit "C", said call and notice being in strict conformity with provisions of Section 1.2.2.2 of Ordinance No. 2000T; and

**WHEREAS**, on the 16<sup>th</sup> day of January, 2012, the Planning and Zoning Commission of the City submitted its report and recommendation to the City Council

**ORDINANCE NO. 2000CUP-55**

regarding the proposed Conditional Use Permit application for Esteban V. Rodriguez, owner and applicant, whereby the Commission recommended approval of the Conditional Use Permit, said recommendation attached hereto and made a part hereof for all purposes as Exhibit "D"; and

**WHEREAS**, upon receipt of the report from the Planning and Zoning Commission, the City Council considered this application and the recommendation of the Planning and Zoning Commission at regular meeting(s) on February 12, 2012 and February 27, 2012; and

**WHEREAS**, the City Council, having fully heard the testimony and argument of all interested parties, and having been fully advised in the premises, finds that in the case of the application of Esteban V. Rodriguez, owner and applicant, presented which, in the judgment of the City Council, would justify the approval of said application; now, therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section I.** The following described property located within the corporate limits of the City of Pearland, Texas, and presently classified as General Business (GB), is hereby granted a Conditional Use Permit to allow for the operation of a Minor Auto Repair Facility in said zoning district; such property being more particularly described as:

Plat of survey of a 0.6984 acre tract being a part of lot "A" of Westgate Park a subdivision of 9.575 acres of land out of lots 47 and 48 of the Allison Richey Gulf Coast Home Company Subdivision of Section 19 of the H. T. & B. Railroad Company survey, Abstract 243, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 16, page 320, of the plat records of Brazoria County, Texas

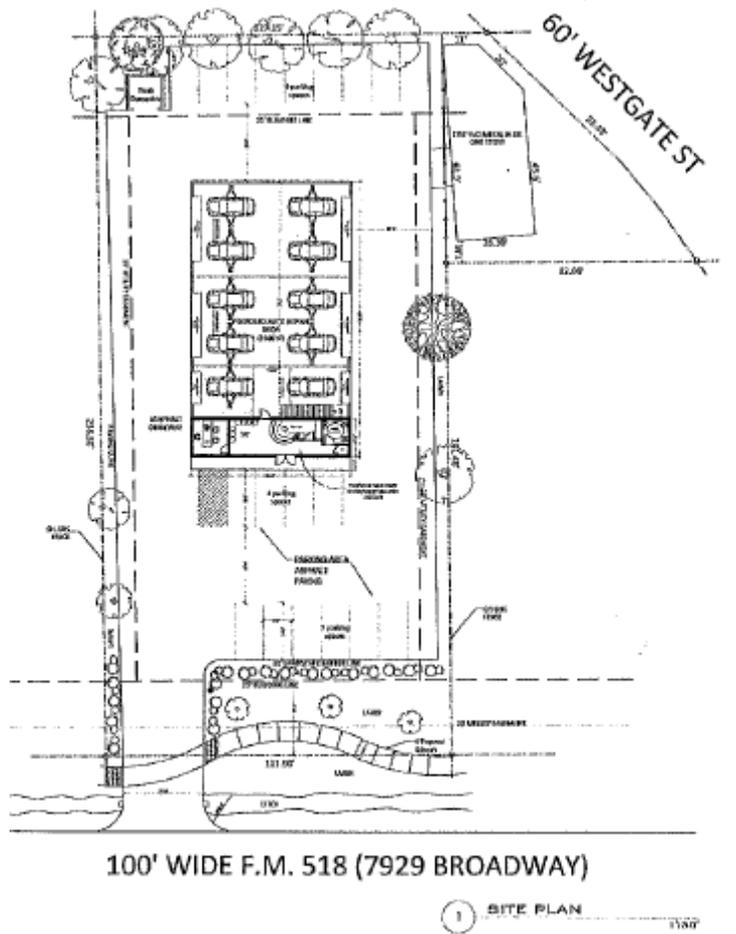
## ORDINANCE NO. 2000CUP-55

Located at 7900 Block Broadway, Pearland, TX

Subject to the following Conditions:

1. The property should be developed in accordance with the site plan submitted and the Unified Development Code
2. The existing billboard should be brought into full compliance with the Unified Development Code
3. The applicant shall complete construction or remove the building at 6830 Broadway prior to a Certificate of Occupancy being issued for the facility at 7929 Broadway

Site Plan Submitted:



## **ORDINANCE NO. 2000CUP-55**

**Section II.** The City Council of the City of Pearland finds and determines that the recitations in the preamble hereof are true and that all necessary prerequisites of law have been accomplished. The City Council further finds and determines that there has been compliance with the mandates of law in the posting and presentation of this matter to the Planning and Zoning Commission and to the City Council for consideration and decision.

**Section III.** The City Council of the City of Pearland finds and determines that the approval herein granted promotes the health, safety, and general welfare of the public and is a proper valid exercise of the City's police powers.

**Section IV.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section V.** All rights and remedies, which have accrued in the favor of the City under this Ordinance and its amendments thereto, shall be and are preserved for the benefit of the City.

**Section VI.** This Ordinance shall become effective after its passage and approval on second and final reading.

**ORDINANCE NO. 2000CUP-55**

PASSED, APPROVED, and ADOPTED on First Reading this 13<sup>th</sup> day of February, 2012.

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TOM REID  
MAYOR

ATTEST:

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YOUNG LORFING, TRMC  
CITY SECRETARY

PASSED, APPROVED, and ADOPTED on Second and Final Reading this 27<sup>th</sup> day of February, 2012.

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TOM REID  
MAYOR

ATTEST:

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YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

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DARRIN M. COKER  
CITY ATTORNEY



# APPLICATION FOR A CONDITIONAL USE PERMIT (CUP)

City of Pearland  
Community Development  
3523 Liberty Drive  
(Community Center)  
Pearland, Texas 77581  
281-652-1768  
281-652-1702 fax  
www.cityofpearland.com

Conditional Use Permit Request for: MINOR AUTO REPAIR  
(list proposed use from the Table of Uses of the UDC)

Current Zoning District: GB

**Property Information:**

Address or General Location of Property: 7929 BROADWAY  
PEARLAND, TEXAS 77581  
Tax Account No. 8228-0001-120  
Subdivision: WESTGATE PARK Lot: A3 Block: \_\_\_\_\_

**A complete application must include all information shown on the Application Checklist attached to this application.**

**PROPERTY OWNER INFORMATION:**

**APPLICANT/AGENT INFORMATION:**

NAME ESTEBAN V. RODRIGUEZ  
ADDRESS P.O BOX 84110  
CITY PEARLAND STATE Tx ZIP 77584  
PHONE (832) 276-3709  
FAX (866) 867-7396  
E-MAIL ADDRESS er1@medicalplus supplies.com

NAME ESTEBAN V. RODRIGUEZ  
ADDRESS P.O BOX 84110  
CITY PEARLAND STATE Tx ZIP 77584  
PHONE (832) 276-3709  
FAX (866) 276-3709  
E-MAIL ADDRESS er1@medicalplus supplies.com

\*Property owner must be the current owner of the property at the time of submittal of the application, and not the party that has the property under contract.

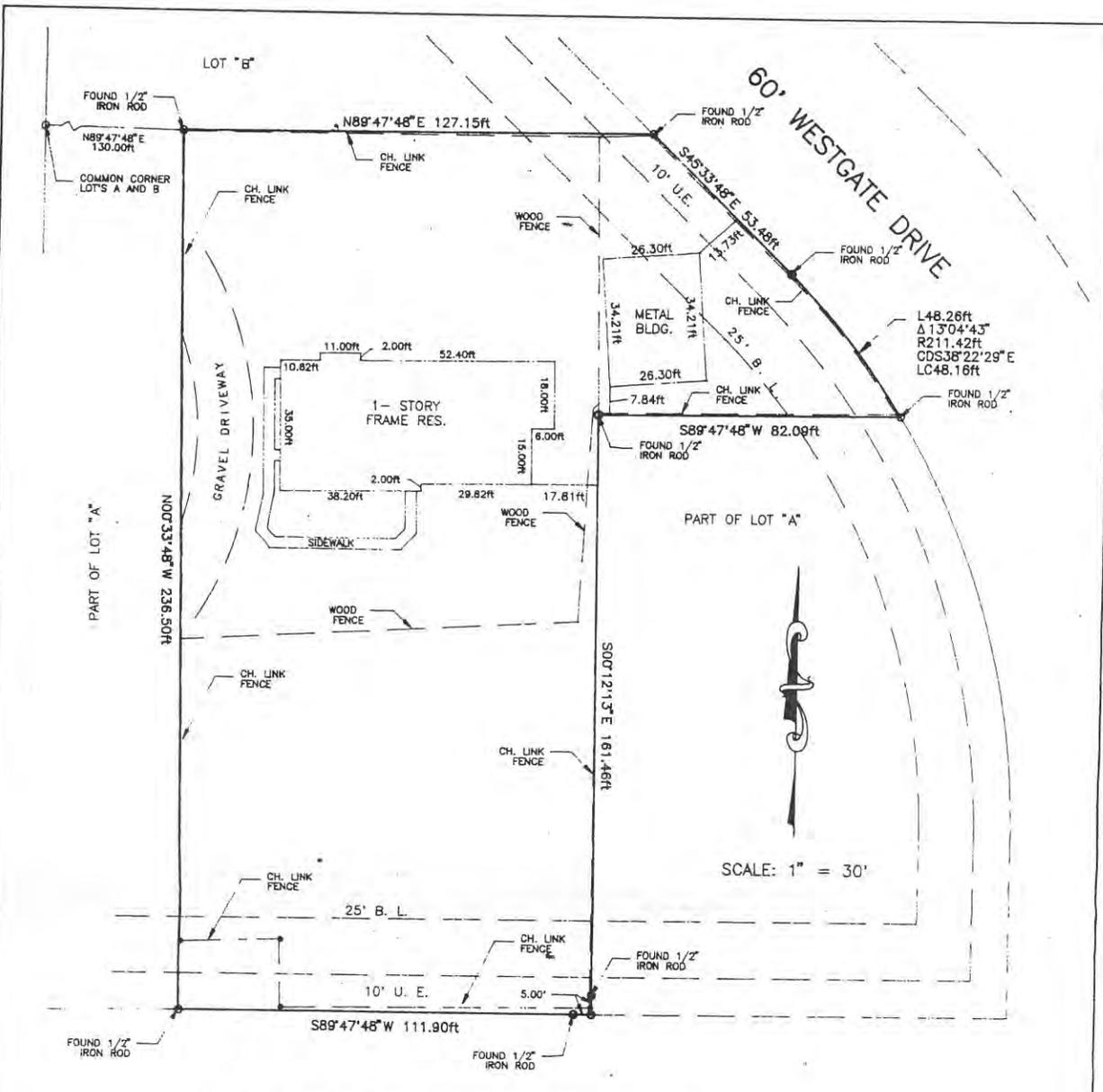
As owner and applicant, I hereby request approval of the above described request as provided for by the Unified Development Code of the City of Pearland.

Owner's Signature: E Rodriguez Date: 10/20/2011

Agent's/  
Applicant's Signature: E Rodriguez Date: 10/20/2011

OFFICE USE ONLY:			
FEES PAID: <u>250.00</u>	DATE PAID: <u>10/21/11</u>	RECEIVED BY: <u>HR</u>	RECEIPT NUMBER: <u>19513</u>

Application No. 2011-12



100' WIDE F. M. 518 (BROADWAY)

PLAT OF SURVEY

OF A 0.6984 ACRE TRACT BEING A PART OF LOT "A" OF WESTGATE PARK A SUBDIVISION OF 9.575 ACRES OF LAND OUT OF LOTS 47 AND 48 OF THE ALLISON RICHEY GULF COAST HOME COMPANY SUBDIVISION OF SECTION 19 OF THE H. T. & B. RAILROAD COMPANY SURVEY, ABSTRACT 243, BRAZORIA COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 16, PAGE 320, OF THE PLAT RECORDS OF BRAZORIA COUNTY, TEXAS.  
 BEARING REFERENCE: RECORD PLAT CALL OF WESTGATE SUBDIVISION.

OWNER: H. LOUIE TASHAKORI AND WIFE  
 MARY E. TASHAKORI

ALAMO TITLE COMPANY, COMMITMENT No. 01-51401230

*H. Louie Tashakori*

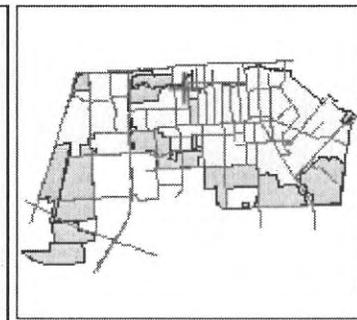
DATE OF SURVEY: DECEMBER 7, 2001

THIS PLAT REPRESENTS A SURVEY MADE ON THE GROUND UNDER MY SUPERVISION AND CORRECTLY REPRESENTS THE FACTS AS FOUND AT THE TIME OF THIS SURVEY. THERE ARE NO ENCROACHMENTS OF IMPROVEMENTS, VISABLE EASEMENTS OVER OR ACROSS NOR CONFLICTS OF BOUNDARY LINES OTHER THAN SHOWN, AND THAT THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS STANDARDS AND SPECIFICATIONS FOR A CATEGORY 1A, CONDITION II, SURVEY.

*J. Ray Laney*  
 J. RAY LANEY, REG. PROFESSIONAL LAND SURVEYOR NO. 1718  
 2018 MUSTANG LANE  
 ROSHARON, TEXAS 77583 (281) 489-6445



# 7929 Broadway



Pearland Senior Village  
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Scale 1:1,087  
1 in = 91 ft

Esteban Rodriguez  
PO Box 84110  
Pearland, Tx 77584  
Cell. 832.276.3709

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October 19, 2011

City of Pearland  
Planning Department  
3523 Liberty Drive  
Pearland, Texas 77581

RE: 7929 Broadway, Pearland, Tx  
Conditional Use Permit (CUP) Application

To Whom It May Concern,

My name is Esteban Rodriguez owner of the property located at the address mentioned above. The reason for this letter is to request approval for the Conditional Use Permit on my property for a new project I am planning. This procedure is necessary to allow my property to comply with the land use dictated by the City of Pearland for new commercial projects in the GP land use zone. The following is a detail description of the proposed project on my property:

**Current Condition:** At the moment on my property there is an existing 2400 sf one-story single family residence which is in poor condition and requires a remodel. The house is not occupied at the moment. In the past, this property has functioned as Car Dealership which is the current occupancy permit. The house has been used as business office and the front parking to display cars.

**Proposed Project:** I currently rent a building for my minor auto repair business, Condor Auto Repair on 6905 Broadway in Pearland, Tx. My business is growing and I need to move out, and instead of looking for a new place to rent, I would like to develop my property and stop paying rent. The vision I have for the property mentioned above is to convert, retrofit and expand the existing house into my new Auto Repair/Mechanic Shop building. The building will have approximately a total of 1000 sf added to the existing house, for a total of 3400 sf, to accommodate 4 open working bays with car lifts & front/back access doors. There will be an office space for staff as well as a reception/waiting area. The main use & services offered for this auto repair building will be the ones described under the Development Code Land Use Matrix as: Minor Auto Repair. The hours of operation will be Monday-Saturday from 8:00 am – 5:00 pm. Our architectural vision for the proposed design is to provide a nice contemporary look front facing Broadway. This will not look like the typical "metal-building shop", Instead, It will look like a modern auto repair center. Please refer to preliminary drawings to see the intended concept.

Should you have any questions concerning this project, please do not hesitate to contact me.

Sincerely



Esteban Rodriguez (owner)

CITY OF PEARLAND

R E P R I N T

\*\*\* CUSTOMER RECEIPT \*\*\*

Oper: WWILSON      Type: DC    Drawer: 1  
Date: 10/21/11 @1    Receipt no: 19513

Description	Quantity	Amount
RA	BOARD OF ADJUSTMENTS	
	1.00	\$250.00
Trans number:		3508350

ZONE CHANGE OR VARIANCE  
ZONED RA  
7929 BROADWAY ST  
ESTERAN RODRIGUEZ  
OWNER  
CUP  
HAROLD

Tender detail		
CR CHECK	2102	\$250.00
Total tendered		\$250.00
Total payment		\$250.00

Trans date: 10/21/11    Time: 8:31:04



**POSTING OF ZONING NOTIFICATION SIGNS  
ON PROPERTY UNDER CONSIDERATION  
FOR A ZONE CHANGE (OR CONDITIONAL USE PERMIT)**

Any person, firm or corporation requesting a zoning change, a conditional use permit (CUP), or a variance shall be required to erect and maintain a sign(s), to be inspected by the City, upon the property for which a variance or zoning change has been requested.

Such sign(s) shall be located as follows:

- (1) One (1) sign per street frontage shall be located within thirty feet (30') of the abutting street, or as determined by the City.
- (2) So as to be clearly visible and readable from the public right-of-way and not obstructed in any manner.
- (3) So as not to create a hazard to traffic on the public rights-of-way abutting the property.
- (4) On the subject property at least ten (10) days prior to the hearing of such zoning change request by the Planning and Zoning Commission, and to remain continuously on said property until final action by the City Council or withdrawal of the case by the applicant. Removal of the sign by the applicant prior to a recommendation by the Planning and Zoning Commission and/or a final decision by the City Council shall constitute a withdrawal of the request.
- (5) The signs shall be as follows:
  - A minimum sign size of 2 feet by 3 feet, but no larger than 4 feet by 4 feet
  - At least 2 feet above the ground
  - Blue or black lettering that is a minimum of 3 inches by 1/2 inch, on a white background
  - Message content as follows:

**PROPOSED (SPECIFY REQUEST)  
Contact City of Pearland  
281-652-1768**

**\*Signs must be professionally made; handwritten signs are not allowed.**

**\*Signs must be freestanding and cannot be attached to a tree, fence, or building.**

**ACKNOWLEDGEMENT:**

**OWNER:** ESTEBAN V. RODRIGUEZ

**SIGNATURE:** ERODRIGUEZ

# 2010 TAX STATEMENT

(979) 388-1320  
(979) 864-1320  
(281) 756-1320



**Ro'Vin Garrett, RTA**  
**BRAZORIA COUNTY TAX ASSESSOR- COLLECTOR**  
**111 E. LOCUST**  
**ANGLETON, TEXAS 77515**

Mailing Address

RODRIGUEZ ANA E & ESTEBAN V  
PO BOX 84110  
PEARLAND TX 77584-0018

Legal Description

WESTGATE PARK (A0243 H T & B R R 19),  
LOT A3, ACRES 0.698

Legal Acres: .6980  
Parcel Address: 7929 BROADWAY

Account No: 8228-0001-120

As of Date: 10/11/10

Print Date: 10/15/10

Market Value		Appraised Value	Assessed Value	Capped Value	Homesite Value	Agricultural Value	Non-Qualifying Value
Land	Improvement						
\$117,060	\$40,020	\$157,080	\$157,080		\$157,080		

Taxing Unit	Assessed Value (100%)	Exemptions		Taxable Value	Tax Rate	2010 Tax
		Code	Amount			
BRAZORIA COUNTY	\$157,080		\$0	\$157,080	.40310100	\$633.19
SPECIAL ROAD & BRIDGE	\$157,080		\$0	\$157,080	.06000000	\$94.25
PEARLAND ISD	\$157,080		\$0	\$157,080	1.41940000	\$2,229.59
BRAZORIA DRAINAGE DIST 4	\$157,080		\$0	\$157,080	.15600000	\$245.04
CITY OF PEARLAND	\$157,080		\$0	\$157,080	.66510000	\$1,044.74

Amount saved by additional sales tax revenue \$118.76

Exemptions:

TOTAL TAX: \$4,246.81  
TOTAL TAX PAID TO DATE: \$0.00  
TOTAL TAX REMAINING: \$4,246.81

**AMOUNT DUE IF PAID BY END OF:**

OCTOBER 2010	NOVEMBER 2010	DECEMBER 2010	JANUARY 2011	FEBRUARY 2011	MARCH 2011
\$4,246.81	\$4,246.81	\$4,246.81	\$4,246.81	\$4,544.08	\$4,629.02

**PLEASE PUT YOUR ACCOUNT NUMBER ON ALL CORRESPONDENCE**

TAXES ARE DUE UPON RECEIPT. TAXES WILL BECOME DELINQUENT FEB. 1, 2011. PENALTY AND INTEREST WILL BE ADDED MONTHLY BEGINNING FEB 1, 2011

**OFFICIAL TAX RECEIPT**

RO'VIN GARRETT, RTA  
BRAZORIA COUNTY TAX ASSESSOR - COLLECTOR  
111 E. LOCUST  
ANGLETON, TEXAS 77515

Account No: 8228-0001-120  
Certified Owner: RODRIGUEZ ANA E & ESTEBAN V  
2010 VALUE: 157,080

FIRST CLASS  
U.S. POSTAGE PAID  
PERMIT NO. 4  
ANGLETON TX

WESTGATE PARK (A0243 H T & B R R 19),  
LOT A3, ACRES 0.698

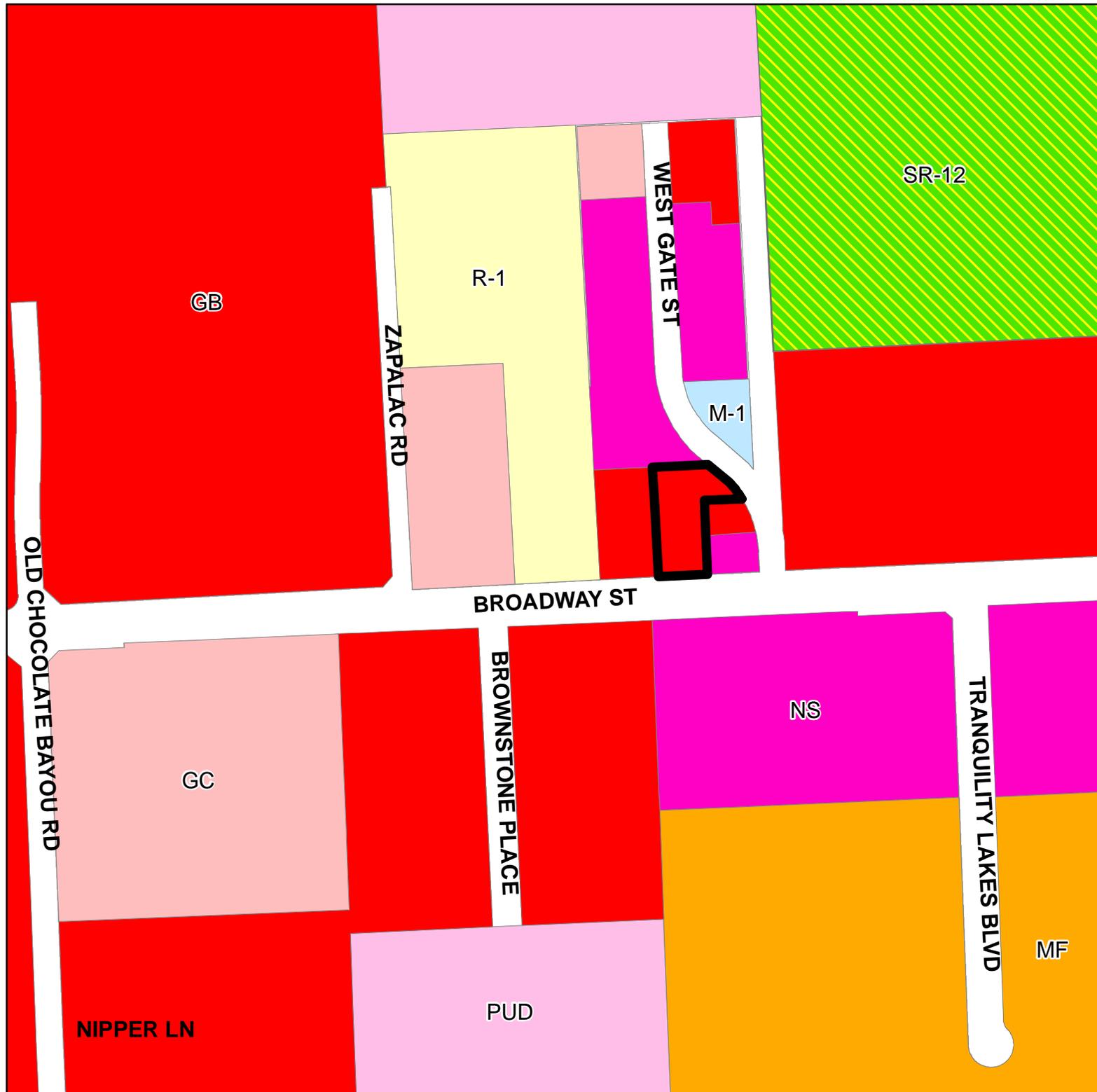
... MAY INCUR AN ADDITIONAL COLLECTION FEE OF UP TO 20 %  
... 18% + UP TO 20% ATTORNEY FEE



<b>Jr</b>	<b>Year</b>	<b>Levy Paid</b>	<b>P&amp;I</b>	<b>Parcel Address: 7929 BROADWAY</b>
1	2010	633.19	0.00	<b>Legal Acres: 0.6980</b>
9	2010	94.25	0.00	<b>Appr No: 263875</b>
28	2010	2,229.59	0.00	<b>Deposit No: 01250001</b>
54	2010	245.04	0.00	<b>Paid Date: 01/25/2011</b>
96	2010	1,044.74	0.00	<b>Total Paid: \$4,246.81</b>
				<b>Check No: 00001550</b>
				<b>Exemption(s): NONE</b>

RODRIGUEZ ANA E & ESTEBAN V  
PO BOX 84110  
PEARLAND , TX 77584-0018





Vicinity and Zoning Map

CUP 2011-12

7900 Block Broadway

0 55110 220 Feet





# Planning & Zoning Commission

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## Recommendation Letter

February 7, 2012

Honorable Mayor and City Council Members  
3519 Liberty Drive  
Pearland, TX 77581

Re: Recommendation on CUP 2011-12

Honorable Mayor and City Council Members:

At their meeting on November 21, 2011, the Planning and Zoning Commission considered the following:

A request of Esteban V. Rodriguez, owner and applicant, for approval of a Conditional Use Permit to allow for the operation of a Minor Auto Repair Facility in the General Business (GB) District, on the following described property:

**LEGAL DESCRIPTION:** Plat of survey of a 0.6984 acre tract being a part of lot "A" of Westgate Park a subdivision of 9.575 acres of land out of lots 47 and 48 of the Allison Richey Gulf Coast Home Company Subdivision of Section 19 of the H. T. & B. Railroad Company survey, Abstract 243, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 16, page 320, of the plat records of Brazoria County, Texas

**GENERAL LOCATION:** 7900 Block of Broadway, Pearland, TX

There was discussion regarding layout of the proposed development, existing billboard sign on the property, and concern over a partially constructed, abandoned structure owned by the same applicant. Following this discussion Commissioner Phil Cessac made a motion to postpone the Conditional Use Permit (CUP). The motion was seconded by Commissioner Henry Fuentes. The vote was 4-0 and the motion passed.

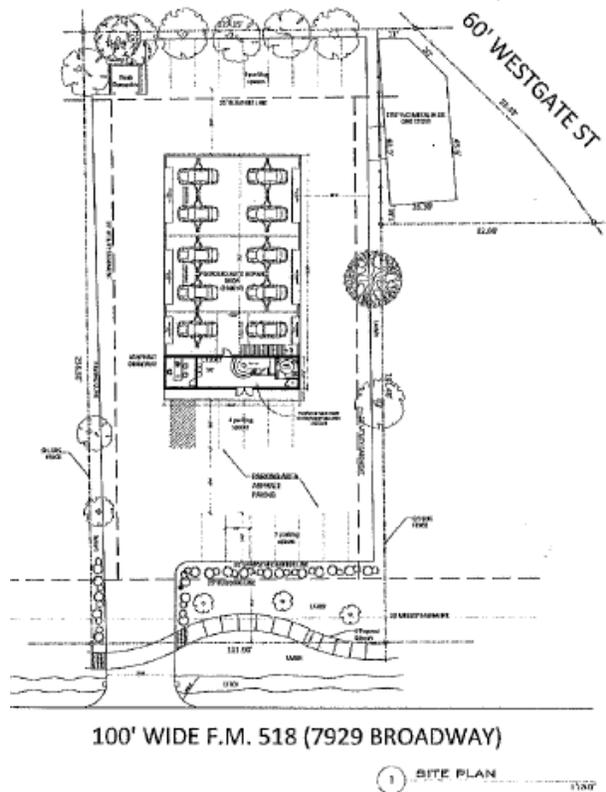
At the regular meeting of the Planning and Zoning Commission on January 16, 2012, the Commission, this item was readdressed. After discussing the item of concern from the prior Commission meeting, Commissioner Richard Golden made a motion to approve the Conditional Use Permit (CUP) with the following conditions:

1. The property should be developed in accordance with the site plan submitted and the Unified Development Code
2. The existing billboard should be brought into full compliance with the Unified Development Code
3. The applicant shall complete construction or remove the building at 6830 Broadway prior to a Certificate of Occupancy being issued for the facility at 7929 Broadway

The motion was seconded by Commissioner Sheila Fischer. The motion passed 5-1, with Commissioner Neil West voting in opposition.

At the regular meeting of the Planning and Zoning Commission on February 6, 2012, a request by Commissioner Neil West was placed on the agenda to allow him to reconsider his vote in opposition on this request due to a lack of clarification on the recommended conditions of approval. A motion to approve Commissioner West's request was made by Commissioner Sheila Fischer. The motion was seconded by Commissioner Henry Fuyertes. The motion passed 3-0, with Commissioner Neil West abstaining from voting.

Site Plan Submitted:



Sincerely,

Harold Ellis, Senior Planner  
On behalf of the Planning and Zoning Commission



## JOINT PUBLIC HEARING AGENDA ITEM MEETING OF NOVEMBER 21, 2011

---

### Conditional Use Permit No. CUP 2011-12

A the request of Esteban V. Rodriguez, owner and applicant, for approval of a Conditional Use Permit to allow for the operation of a Minor Auto Repair Facility in the General Business (GB) District, on the following described property, to wit:

**Legal Description:** Plat of survey of a 0.6984 acre tract being a part of lot "A" of Westgate Park a subdivision of 9.575 acres of land out of lots 47 and 48 of the Allison Richey Gulf Coast Home Company Subdivision of Section 19 of the H. T. & B. Railroad Company survey, Abstract 243, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 16, page 320, of the plat records of Brazoria County, Texas

**General Location:** 7900 Block of Broadway, Pearland, TX

**APPROVAL PROCESS:** After this Joint Public Hearing, the requested Conditional Use Permit application will be considered as follows:

Planning and Zoning Commission: November 21, 2011\*  
City Council for First Reading: December 12, 2011\*  
City Council for Second Reading: December 12, 2011\*

(\*dates subject to change)

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**SUMMARY:** Esteban V. Rodriguez, owner and applicant, is requesting approval of a Conditional Use Permit to allow the operation of a Minor Auto Repair Facility at the above referenced location. The site is currently zoned General Business (GB) and there are not currently any business operations ongoing on the site. The most recent commercial use on the site was an auto sales lot which is no longer in operation. The property has an existing residential home structure on site; however the structure is not being used as a home and is currently vacant.

The property owner is proposing to redevelop the site to be used as a Minor Auto Repair facility. The conceptual plans submitted to the City indicate the existing home will be remodeled and turned into the auto repair facility. The City's Unified Development Code does allow a Minor Auto Repair Facility in the General Business (GB) zone with the approval of a Conditional use Permit.

If the Conditional Use Permit is approved, the site plan process will commence with the Planning and Building departments. A Pre-development meeting was held between staff and the property owner to discuss the City's current regulations for development which will be required to be met for this property when redeveloped.

**SURROUNDING ZONING AND LAND USES:**

	<u>Zoning</u>	<u>Land Use</u>
North	Neighborhood Service (NS)	Commercial
South	Neighborhood Service (NS)	Commercial
East	Neighborhood Service (NS) and General Business (GB)	Commercial
West	General Business	Commercial/Residential

**CONFORMANCE WITH THE UNIFIED DEVELOPMENT CODE (UDC):** As previously mentioned, the property is currently zoned General Business (GB). A breakdown between those lot and development requirements and the site current configuration is provided below:

	<u>General Business</u>	<u>Existing Site</u>
Lot Size:	22,500 sq ft	~30,690 sq ft
Lot Width:	150'	111.90'
Lot Depth:	125'	236.50'
Front Setback:	25'	130'
Rear Setback:	25'	39'
Side Setback:	10'	4'/10'

At the time of development, all aspects of the Unified Development Code (UDC) will be required to be met. At this time, all aspects of the UDC appear to be met with the exception of the side carport.

**PLATTING STATUS:** The property is currently platted as Westgate Park.

**CONFORMANCE WITH THE COMPREHENSIVE PLAN:** The current Comprehensive Plan (latest update in 2009) indicates *Business Commercial* for the subject property. The proposed use, a Minor Auto Repair Facility, is a permitted use in the General Business zoning district with the approval of a Conditional Use Permit. Furthermore, as the subject

property is currently zoned General Business (GB), and that zoning district is a correlating zoning district in the City's Comprehensive Plan for a Business Commercial, the zoning is in compliance with the Comprehensive Plan.

**CONFORMANCE WITH THE THOROUGHFARE PLAN:** The subject property has frontage on Broadway, a major thoroughfare, with a minimum of 120' right-of-way.

**AVAILABILITY OF UTILITIES:** The subject parcel does have access to public water and public sewer.

**IMPACT ON EXISTING AND FUTURE DEVELOPMENT:** The proposed redevelopment of this site is not anticipated to have any negative impacts on existing surrounding or future developments. The traffic impact of the proposed development will be reviewed by the City's Engineering Department at the time of formal site plan submittal.

**ADDITIONAL COMMENTS:** This request has been reviewed by the City's Development Review Committee and there are no additional comments from other departments at the time of this report.

**SITE PLAN CONSIDERATIONS:** A conceptual site plan for was submitted with the Conditional Use Permit application. This plan appears to meet the City's Corridor Overlay District regulations. A complete review will occur at time of formal site plan submittal.

**PUBLIC NOTIFICATION:** Public notice, comment forms, and a vicinity map were mailed to property owners within 200 feet of the subject property under consideration for the Conditional Use Permit. A legal notice of public hearing was published in the local newspaper, and a notification sign was placed on the property by the applicant.

**OPPOSITION TO OR SUPPORT OF PROPOSED REQUEST:** Staff has not received any comments either in opposition to or in support of the proposed Conditional Use Permit request.

**CRITERIA FOR APPROVAL:** When considering an application for a Conditional Use Permit, the Planning and Zoning Commission and City Council shall evaluate the impact of the proposed use on and its compatibility with surrounding properties and residential areas to ensure the appropriateness of the use at the particular location, and shall consider the extent to which:

- (1) The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan;
- (2) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
- (3) The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes

improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;

- (4) The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;
- (5) The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;
- (6) The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and
- (7) The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.

**Conditions:** The City Council may require such modifications in the proposed use and attach such conditions to the Conditional Use Permit as the City Council deems necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of this section.

The proposed facility will have automotive repair bays as an integral part of the use. The design and layout of the facility indicates that these bays will open towards Broadway, a Corridor Overlay District within the City. In order to lessen the visual impact of vehicle repair bays along this corridor, staff recommends that a condition of approval be added to the Conditional Use Permit, if approved, which requires that a vegetative screening wall, comprised of shrubbery and trees be planted and maintained in the "Lawn" area shown on the conceptual site plan between the two main outside parking areas.

Should City Council identify additional impacts which it feels should be mitigated, additional conditions and modifications may be placed on the approval of the Conditional Use Permit.

**STAFF RECOMMENDATION:** Staff recommends approval of the Conditional Use Permit No. 2011-12 to allow the operation of a Minor Auto Repair Facility in the General Business (GB) district as proposed by the applicant and owner for the following reasons and with the following condition:

1. The proposed request should not have any significant negative impact on the surrounding properties and developments.

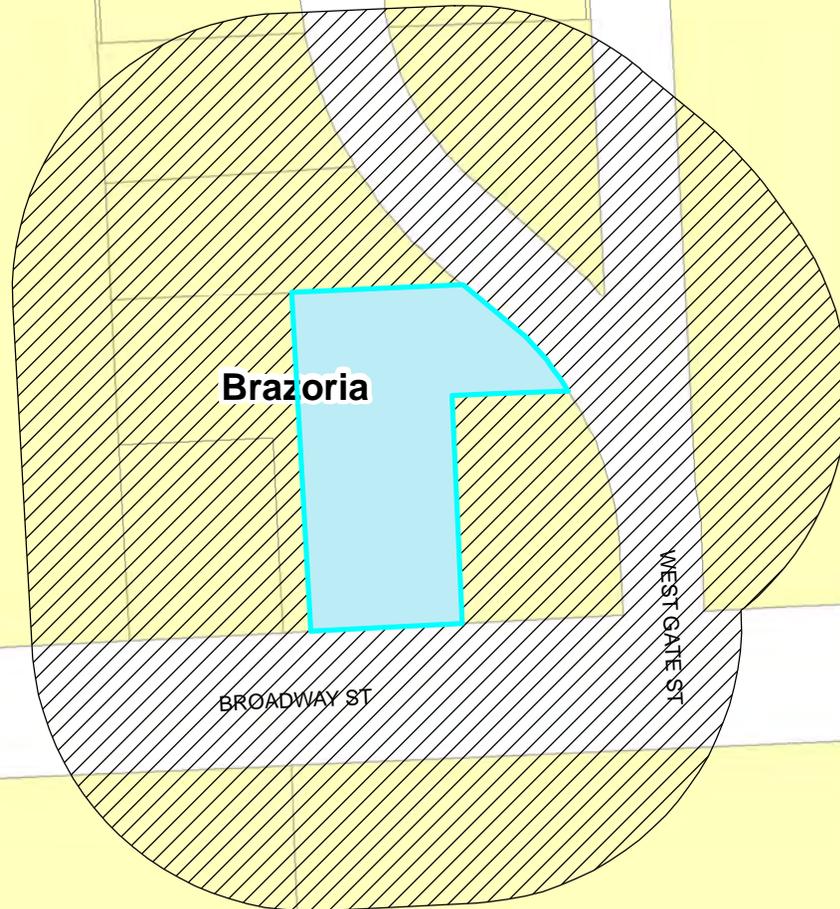
2. The proposed request would be in conformance with the Unified Development Code with the approval of a Conditional use Permit.
3. The proposed request is in conformance with the criteria of approval of a Conditional Use Permit listed in the Unified Development Code.
4. The proposed request would result in redevelopment of a currently non-occupied residential home in a commercial zoning district.
5. The proposed request would enhance the property from its current state, particularly with the recommended condition of approval, listed below.

Condition:

1. A vegetative screening wall comprised of shrubbery and trees shall be planted and maintained in the "Lawn" area shown on the conceptual site plan between the two main outside parking areas prior to the issuance of a Certificate of Occupancy by the City of Pearland

**SUPPORTING DOCUMENTS:**

- Vicinity and Zoning Map
- Property Ownership Map
- Property Owner Notification List
- Future Land Use Plan
- Aerial Photograph
- Zone Change Application and applicant packet

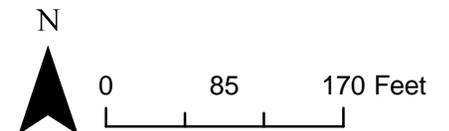


BROWNSTONE PLACE

**Abutter Map**

**CUP 2011-12**

**7900 Block Broadway**

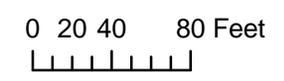


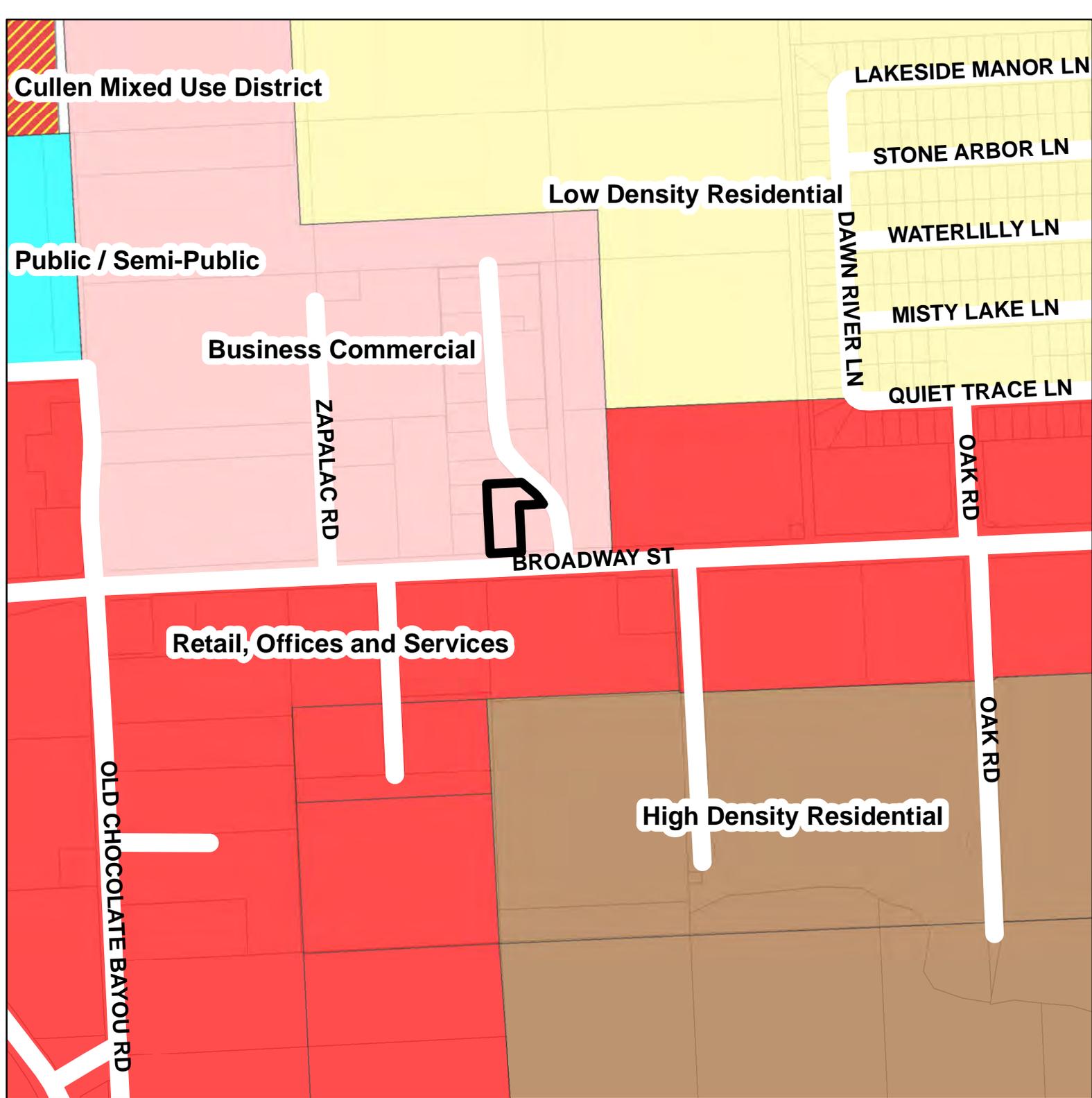


**Aerial Map**

**CUP 2011-12**

**7900 Block Broadway**





**FLUP Map**  
**CUP 2011-12**  
**7900 Block Broadway**



# Consent Agenda Item F

- F. **CONSIDERATION AND POSSIBLE ACTION – REAPPOINT MICHAEL MILLER AND CHARLIE MICHNA TO THE ELECTRICAL BOARD FOR A TWO-YEAR TERM EXPIRING NOVEMBER 1, 2013. *Mayor Tom Reid.***

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF: 2-27-2012</b>	<b>ITEM NO.: Consent Item F</b>
<b>DATE SUBMITTED: 2-21-2012</b>	<b>DEPARTMENT OF ORIGIN: City Secretary</b>
<b>PREPARED BY: Young Lorfing</b>	<b>PRESENTOR: Mayor Tom Reid</b>
<b>REVIEWED BY: Bill Eisen</b>	<b>REVIEW DATE: 2/21/12</b>
<b>SUBJECT: Reappointments to the Electrical Board.</b>	
<b>EXHIBITS: None.</b>	
<b>EXPENDITURE REQUIRED: N/A</b>	<b>AMOUNT BUDGETED: N/A</b>
<b>AMOUNT AVAILABLE: N/A</b>	<b>PROJECT NO.: N/A</b>
<b>ACCOUNT NO.: N/A</b>	
<b>ADDITIONAL APPROPRIATION REQUIRED: N/A</b>	
<b>ACCOUNT NO.: N/A</b>	
<b>PROJECT NO.: N/A</b>	
<b>To be completed by Department:</b>	
<input type="checkbox"/> Finance <input type="checkbox"/> Legal <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution	

**EXECUTIVE SUMMARY**

This action is to reappoint Michael Miller to Position No. 2 and Charlie Michna Position No. 4, to serve on the Electrical Board for a 2-year term expiring November 1, 2013.

**RECOMMENDED ACTION**

Council's approval of the appointment.

# Consent Agenda Item G

- G. CONSIDERATION AND POSSIBLE ACTION – REAPPOINT GARY SHIVER TO THE GAS AND PLUMBING BOARD FOR A FIVE-YEAR TERM EXPIRING NOVEMBER 2016. *Mayor Tom Reid.***

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF: 2-27-2012</b>	<b>ITEM NO.: Consent Item G</b>
<b>DATE SUBMITTED: 2-21-2012</b>	<b>DEPARTMENT OF ORIGIN: City Secretary</b>
<b>PREPARED BY: Young Lorfing</b>	<b>PRESENTOR: Mayor Tom Reid</b>
<b>REVIEWED BY: Bill Eisen</b>	<b>REVIEW DATE: 2/21/12</b>
<b>SUBJECT: Reappointment to the Gas and Plumbing Board.</b>	
<b>EXHIBITS: None.</b>	
<b>EXPENDITURE REQUIRED: N/A</b>	<b>AMOUNT BUDGETED: N/A</b>
<b>AMOUNT AVAILABLE: N/A</b>	<b>PROJECT NO.: N/A</b>
<b>ACCOUNT NO.: N/A</b>	
<b>ADDITIONAL APPROPRIATION REQUIRED: N/A</b>	
<b>ACCOUNT NO.: N/A</b>	
<b>PROJECT NO.: N/A</b>	
<b>To be completed by Department:</b>	
<input type="checkbox"/> <b>Finance</b> <input type="checkbox"/> <b>Legal</b> <input type="checkbox"/> <b>Ordinance</b> <input type="checkbox"/> <b>Resolution</b>	

**EXECUTIVE SUMMARY**

This action is to reappoint Gary Shiver to Position No. 2, to serve on the Gas and Plumbing Board for a 5-year term expiring November 1, 2016.

**RECOMMENDED ACTION**

Council's approval of the appointment.

# Consent Agenda Item H

- H. **CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-27** – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AWARDING A BID FOR POOL CHEMICALS AND POOL MAINTENANCE SERVICES. *Mr. Bill Eisen, City Manager.*

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b>	February 27, 2012	<b>ITEM NO.:</b>	Resolution No. R2012-27
<b>DATE SUBMITTED:</b>	February 3, 2012	<b>DEPT. OF ORIGIN:</b>	Finance
<b>PREPARED BY:</b>	Bob Pearce	<b>PRESENTOR:</b>	Bill Eisen
<b>REVIEWED BY:</b>	Jon R. Branson	<b>REVIEW DATE:</b>	February 20, 2012
<b>SUBJECT:</b> Award of Bid for Pool Chemicals and Pool Maintenance			
<b>EXHIBITS:</b> Resolution #R2012- 27 Exhibit A - Bid Tabulation			
<b>FUNDING:</b>			
<input type="checkbox"/> Grant <input type="checkbox"/> Developer/Other <input checked="" type="checkbox"/> Cash <input type="checkbox"/> Bonds To Be Sold <input type="checkbox"/> Bonds- Sold <input type="checkbox"/> L/P – Sold <input type="checkbox"/> L/P – To Be Sold			
<b>EXPENDITURE REQUIRED:</b> \$50,000 (est.)		<b>AMOUNT BUDGETED:</b> \$73,913	
<b>AMOUNT AVAILABLE:</b> \$69,046		<b>PROJECT NO.:</b>	
<b>ACCOUNT NO.:</b> 010-3397-542-06-00; 010-3340-542-06-00			
<b>ADDITIONAL APPROPRIATION REQUIRED:</b>			
<b>ACCOUNT NO.:</b>			
<b>PROJECT NO.:</b>			
<b>To be completed by Department:</b>			
<input checked="" type="checkbox"/> Finance		<input checked="" type="checkbox"/> Legal	
		<input type="checkbox"/> Ordinance	
		<input checked="" type="checkbox"/> Resolution	

**EXECUTIVE SUMMARY**

**BACKGROUND**

The fiscal year 2012 budget includes the purchase of pool chemicals and pool maintenance for the Parks and Recreation Department. The current purchase agreement for these items expires in February. Purchasing and the Parks and Recreation Department developed bid specifications and prepared an Invitation to Bid, which was published in the paper and posted on the City's e-bid website.

**SCOPE OF CONTRACT/AGREEMENT**

Delivery of pool chemicals and necessary maintenance for Recreation Center and Natatorium pool, Independence Park pool and the Splashpad located in Southdown Park, as needed for a term of one (1) year, with two (2) subsequent one-year renewal options available upon the mutual agreement of the parties, and the approval of City Council

**BID AND AWARD**

The City has solicited competitive bids for the purchase of pool chemicals and pool maintenance for the Parks and Recreation Department. A total of four (4) bids were received in response to the specifications of Bid No. 0112-13. The low bidder, Gulf Coast Pool Company, is recommended for award.

While the bid tabulation reflects a total price of \$43,100, the quantities supplied on the bid were estimates and the total actual spend could potentially be over the \$50,000 threshold requiring City Council approval.

**SCHEDULE**

Purchase of pool chemicals and pool maintenance will occur as needed throughout the term of the agreement.

**POLICY/GOAL CONSIDERATION**

This purchase is contemplated and recommended for the purpose of furthering the City's objective to provide for public health, safety and welfare.

**CURRENT AND FUTURE CIP FUNDING /FINANCIAL IMPACTS/DEBT SERVICE**

Funding for these items will come from the General Fund for Parks and Recreation.

**O&M IMPACT INFORMATION**

Fiscal Year	2012	2013	2014
	\$50,000 (est.)	\$50,515	\$51,035

**RECOMMENDED ACTION**

City Council approval of a resolution awarding a bid to Gulf Coast Pool Company for the purchase of pool chemicals and pool maintenance.

**RESOLUTION NO. R2012-27**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AWARDING A BID FOR POOL CHEMICALS AND POOL MAINTENANCE SERVICES.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** That the City opened bids for the pool chemicals and pool maintenance services, and such bids have been reviewed and tabulated.

**Section 2.** That the City Council hereby awards the bid to Gulf Coast Pool Company, in the amounts reflected in Exhibit "A" attached hereto.

**Section 3.** The City Manager or his designee is hereby authorized to execute a contract for pool chemicals and pool maintenance services.

PASSED, APPROVED and ADOPTED this the \_\_\_\_\_ day of \_\_\_\_\_,  
A.D., 2012.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

<b>Line 1 Monthly Pool Service</b>				
<u>Name</u>	<u>QTY</u>	<u>Unit Price</u>	<u>Extended</u>	<u>Note to Buyer</u>
Gulf Coast Pool Company	12	\$481.25	\$5,775.00	For cleaning and vacuum services as per item I. Pool Maintenance Section A 1, i - x.
Bratton Pools LLC	12	\$652.71	\$7,832.52	The total price for 12 months of maintenance service is \$7832.45. The price per month for maintenance service is \$652.71
Sweetwater Pools, Inc	12	\$655.00	\$7,860.00	
The Pool. Company	12	\$750.00	\$9,000.00	

<b>Line 2 Sodium Hypochlorite, 8 to 12% Aqueous Solution (NaOCL)</b>				
<u>Name</u>	<u>QTY</u>	<u>Unit Price</u>	<u>Extended</u>	<u>Note to Buyer</u>
The Pool. Company	16000	\$1.70	\$27,200.00	
Gulf Coast Pool Company	16000	\$1.70	\$27,200.00	
Sweetwater Pools, Inc	16000	\$1.90	\$30,400.00	
Bratton Pools LLC	16000	\$2.00	\$32,000.00	

<b>Line 3 Hydrochloric Acid (HCL)/Muriatic Acid</b>				
<u>Name</u>	<u>QTY</u>	<u>Unit Price</u>	<u>Extended</u>	<u>Note to Buyer</u>
Gulf Coast Pool Company	4000	\$2.00	\$8,000.00	
Sweetwater Pools, Inc	4000	\$2.95	\$11,800.00	
Bratton Pools LLC	4000	\$3.25	\$13,000.00	
The Pool. Company	4000	\$4.05	\$16,200.00	There is a \$55.00 delivery fee for Muriatic Acid each time

<b>Line 4 Hydrogen Sulfate/Pool Acid</b>				
<u>Name</u>	<u>QTY</u>	<u>Unit Price</u>	<u>Extended</u>	<u>Note to Buyer</u>
Gulf Coast Pool Company	500	\$2.00	\$1,000.00	If we happen to use Sulfuric acid, it would be at the same cost as Muriatic
The Pool. Company	500	\$3.05	\$1,525.00	Please note acid prices have been continually rising
Bratton Pools LLC	500	\$3.25	\$1,625.00	
Sweetwater Pools, Inc	500	No Bid		

<b>Line 5 Sodium Bicarbonate (NaHCO3)</b>				
<u>Name</u>	<u>QTY</u>	<u>Unit Price</u>	<u>Extended</u>	<u>Note to Buyer</u>
Gulf Coast Pool Company	1500	\$0.43	\$645.00	
The Pool. Company	1500	\$0.57	\$855.00	
Bratton Pools LLC	1500	\$0.65	\$975.00	
Sweetwater Pools, Inc	1500	\$28.50	\$42,750.00	

<b>Line 6 Calcium Carbonate (CaCO3)</b>				
<u>Name</u>	<u>QTY</u>	<u>Unit Price</u>	<u>Extended</u>	<u>Note to Buyer</u>
Bratton Pools LLC	600	\$0.65	\$390.00	
The Pool. Company	600	\$0.77	\$462.00	per clarification from purchasing: this requirement is a chemical suitable for raising the Calcium Hardness Level- we recommend Calcium Chloride for this purpose and are bidding that product.
Gulf Coast Pool Company	600	\$0.80	\$480.00	
Sweetwater Pools, Inc	600	\$125.28	\$75,168.00	3 in. Tabs 50 Pounds \$125.28 Calcium Chloride 50 Pounds \$31.50

**BID TOTALS:**

<b>Name</b>	<b>Response Total</b>
Gulf Coast Pool Company	\$43,100.00
The Pool. Company	\$55,242.00
Bratton Pools LLC	\$55,822.52
Sweetwater Pools, Inc	\$167,978.00

# New Business Item No. 1

1. **CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. 2012-28** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING THE POWER OF EMINENT DOMAIN TO ACQUIRE A DRAINAGE EASEMENT UPON CERTAIN PROPERTY, BEING A 5.4556 ACRE TRACT OUT OF LOT 2, SECTION 32 OF THE H.T. & B.R.R. COMPANY SURVEY, ABSTRACT 525, PEARLAND, BRAZORIA COUNTY, TEXAS, FOR THE CONSTRUCTION AND MAINTENANCE OF DRAINAGE IMPROVEMENTS ON CERTAIN REAL PROPERTY DESCRIBED HEREIN; AUTHORIZING THE CITY ATTORNEY, OR HIS DESIGNEE, AND OTHER CITY OFFICIALS TO TAKE SUCH ACTIONS AS ARE NECESSARY TO ACQUIRE SAID PROPERTY, LOCATED WITHIN THE CITY, BY DONATION, PURCHASE, OR BY THE EXERCISE OF THE POWER OF EMINENT DOMAIN. *Mr. Darrin Coker, City Attorney.*

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF: 2-27-2012</b>	<b>ITEM NO.:</b> Resolution No. R2012-28
<b>DATE SUBMITTED: 2-20-2012</b>	<b>DEPARTMENT OF ORIGIN:</b> Projects
<b>PREPARED BY:</b> Darrin Coker	<b>PRESENTOR:</b> Darrin Coker
<b>REVIEWED BY:</b> NA	<b>REVIEW DATE:</b> NA
<b>SUBJECT: Cowart's Creek Project- Resolution Declaring "Public Necessity"</b>	
<b>EXHIBITS: R2012-28</b>	
<b>EXPENDITURE REQUIRED: AMOUNT AVAILABLE: ACCOUNT NO.:</b>	<b>AMOUNT BUDGETED: PROJECT NO.:</b>
<b>ADDITIONAL APPROPRIATION REQUIRED: ACCOUNT NO.:</b>	
<b>PROJECT NO.:</b>	
<b>To be completed by Department:</b>	
<input type="checkbox"/> Finance <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution	

**EXECUTIVE SUMMARY**

This resolution will allow the City to file a condemnation petition in the above referenced matter. Prior to the filing of a condemnation action, the City Council must approve an resolution declaring a public necessity for the City's acquisition. The resolution will be filed as an attachment to the City's Petition. This is a friendly condemnation in that the parties do not dispute the acquisition amount; however, the City must proceed through the condemnation procedure due to a cloud on the title. **You will notice that the caption is more specific than past resolutions (added property description). The purpose of the change is to incorporate specific language that is now required by the passage of SB 18 during the most recent legislative session. The Council is required to read the entire caption as part of the motion in order to comply with the statutory requirements.**

**RESOLUTION NO. 2012-28**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING THE POWER OF EMINENT DOMAIN TO ACQUIRE A DRAINAGE EASEMENT UPON CERTAIN PROPERTY, BEING A 5.4556 ACRE TRACT OUT OF LOT 2, SECTION 32 OF THE H.T. & B.R.R. COMPANY SURVEY, ABSTRACT 525, PEARLAND, BRAZORIA COUNTY, TEXAS, FOR THE CONSTRUCTION AND MAINTENANCE OF DRAINAGE IMPROVEMENTS ON CERTAIN REAL PROPERTY DESCRIBED HEREIN; AUTHORIZING THE CITY ATTORNEY, OR HIS DESIGNEE, AND OTHER CITY OFFICIALS TO TAKE SUCH ACTIONS AS ARE NECESSARY TO ACQUIRE SAID PROPERTY, LOCATED WITHIN THE CITY, BY DONATION, PURCHASE, OR BY THE EXERCISE OF THE POWER OF EMINENT DOMAIN.**

**WHEREAS**, the City Council recognizes that a public convenience and necessity exists for the location, construction, operation, and maintenance of drainage improvements on certain real property described herein; and

**WHEREAS**, accordingly, the City Council hereby acknowledges that it is in the public's best interest to acquire a drainage easement on certain property for the construction of drainage improvements on said property; now, therefore,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** The City Council hereby finds and determines that a public convenience and necessity exists for the construction of drainage and improvements on certain real property located in Brazoria County, Texas.

**Section 2.** The public convenience and necessity requires the acquisition of a drainage easement, by donation, purchase, condemnation, or otherwise, of certain real property located within the City and situated in Brazoria County, more particularly described in Exhibits "A" and "B" attached hereto and incorporated herein for all purposes.

**Section 3.** The City Attorney, or his designee, and other City officials are hereby authorized and directed, on behalf of the City to take such actions as are necessary to acquire the property, described in Exhibits "A" and "B" and any improvements thereon, either by donation, purchase or the exercise of the power of eminent domain.

PASSED and APPROVED on this the \_\_\_\_\_ day of \_\_\_\_\_,  
A.D., 2012.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

EXHIBIT "A"  
PARCEL 4  
METES AND BOUNDS DESCRIPTION  
5.4556 ACRE OUT OF  
LOT 2, SECTION 32  
H.T. & B. R.R. COMPANY SURVEY, ABSTRACT 525  
PEARLAND, BRAZORIA COUNTY, TEXAS

All that certain 5.4556 acres out of Lot 2, Section 32, H.T. & B. R.R. Company Survey, Abstract 525, Pearland, Brazoria County, Texas and being out of that certain tract as described in a deed dated 12-18-2001 from Rosalie Miller Acree to RMJ Miller Real Estate Holdings, Ltd. as filed in the Official Records of Real Property of Brazoria County at Clerk's File Number 02-020349 and being more particularly described by metes and bounds as follows (bearings based on Texas Coordinate System of 1983, South Central Zone);

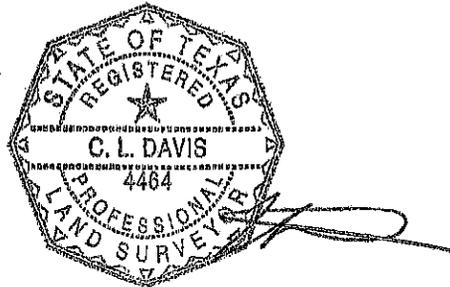
Commencing at a found disc in concrete stamped City of Pearland GPS Monument No. 7 having published grid coordinates of N: 13,769,335.619', E: 3,138,911.254'; Thence S 11° 05' 52" E - 15,912.92' to a point marking the northwest corner of said Lot 2; Thence S 02° 40' 03" E with the west line of said RMJ Miller Real Estate Holdings, Ltd. tract passing at 39.77' a point located on the monumented south right-of-way line of County Road 100 and continuing for a total distance of 1,392.36' to a set 5/8" iron rod with cap (stamped C.L. DAVIS - RPLS 4464) marking the POINT OF BEGINNING of herein described tract;

1. Thence S 51° 41' 40" E - 389.17' to a set 5/8" iron rod with cap (stamped C.L. DAVIS - RPLS 4464) for corner;
2. Thence S 01° 47' 10" E - 282.33' to a set 5/8" iron rod with cap (stamped C.L. DAVIS - RPLS 4464) for corner;
3. Thence S 51° 41' 10" E - 901.60' to a set 5/8" iron rod with cap (stamped C.L. DAVIS - RPLS 4464) marking the beginning of a curve to the left having a radius of 430.00' and a central angle of 41° 00' 01" ;
4. Thence with said curve an arc distance of 307.70' and a chord bearing and distance of S 72° 11' 10" E - 301.18' to a set 5/8" iron rod with cap (stamped C.L. DAVIS - RPLS 4464) marking the point of tangency;
5. Thence N 87° 18' 49" E - 67.15' to a set 5/8" iron rod with cap (stamped C.L. DAVIS - RPLS 4474) for corner;
6. Thence S 02° 37' 37" E - 27.44' with the west line of that certain tract as described in a deed dated 08-15-2005 from A.G. Crouch, Executor, et al. to Texas Heritage Village, L.L.C. as filed in the Official Records of Real Property of Brazoria County at Clerk's File Number 2005-050048 to a found 1/2" iron rod for corner, from which a found 1/2" iron rod bears N 35° 26' 02" E - 0.25' for reference.
7. Thence S 87° 17' 44" W - 409.57' with the north line of that certain tract as described in a deed (no date indicated within deed document) from J.T. Loggins, Trustee to Richard Rogers as filed in Volume 103, Page 371 Brazoria County Deed Records to a set 5/8" iron rod with cap (stamped C.L. DAVIS - RPLS 4464) for corner;

8. Thence N 51° 41' 10" W – 1,008.48' with the northeast line of that certain 30' wide Pan American Gas Company Easement as filed in Volume 1033, Page 151 Brazoria County Deed Records to a set 5/8" iron rod with cap (stamped C.L. DAVIS – RPLS 4464) for corner;
9. Thence N 01° 47' 10" W – 282.32' with the east line of that certain Houston Lighting and Power Company Easement or Right-of-Way to a set 5/8" iron rod with cap (stamped C.L. DAVIS – RPLS 4464) for corner;
10. Thence N 51° 41' 40" W – 202.62' with the northerly line of said Houston Lighting and Power Company Easement or Right-of-Way to a set 5/8" iron rod with cap (stamped C.L. DAVIS – RPLS 4464) for corner;
11. Thence N 02° 37' 28" W – 185.31' with the west line of said RMJ Miller Real Estate Holdings, Ltd. tract to the POINT OF BEGINNING and containing 5.4556 acre (237,644 square feet) of land more or less.

This metes and bounds description is accompanied by a separate plat, drawing or exhibit per Texas Board of Professional Land Surveyor's "General Rules of Procedures and Practices" Section 663.19(9).

Compiled by: C.L. Davis & Company  
Job Number: 11-421-106 Parcel 4 - M&B.doc  
06-24-2008



COMMENCING POINT:  
CITY OF PEARLAND GPS  
N. 13,769,335.619  
E. 3,136,911.254'

CURVE	RADIUS	DELTA	ARC	TANGENT	BEARING	CHORD
C1	430.00	41°00'01"	307.70	160.77	S 72°11'10" E	301.18

**LEGEND**

- (S) SET 5/8" IRON ROD w/CAP
  - (PK) SET P-K NAIL IN ASPHALT
- EAST REMAINDER  
APPROX. 64.5 ACRES  
(AREA WITHIN C.R. 100 NOT INCLUDED)  
APPROX. 1.2 ACRES WITHIN C.R. 100

ORIGINAL AREA (APPROX.)	80.4 ACRES
PARCEL 4 AREA	5.4556 ACRES
RESIDUE	74.9 ACRES

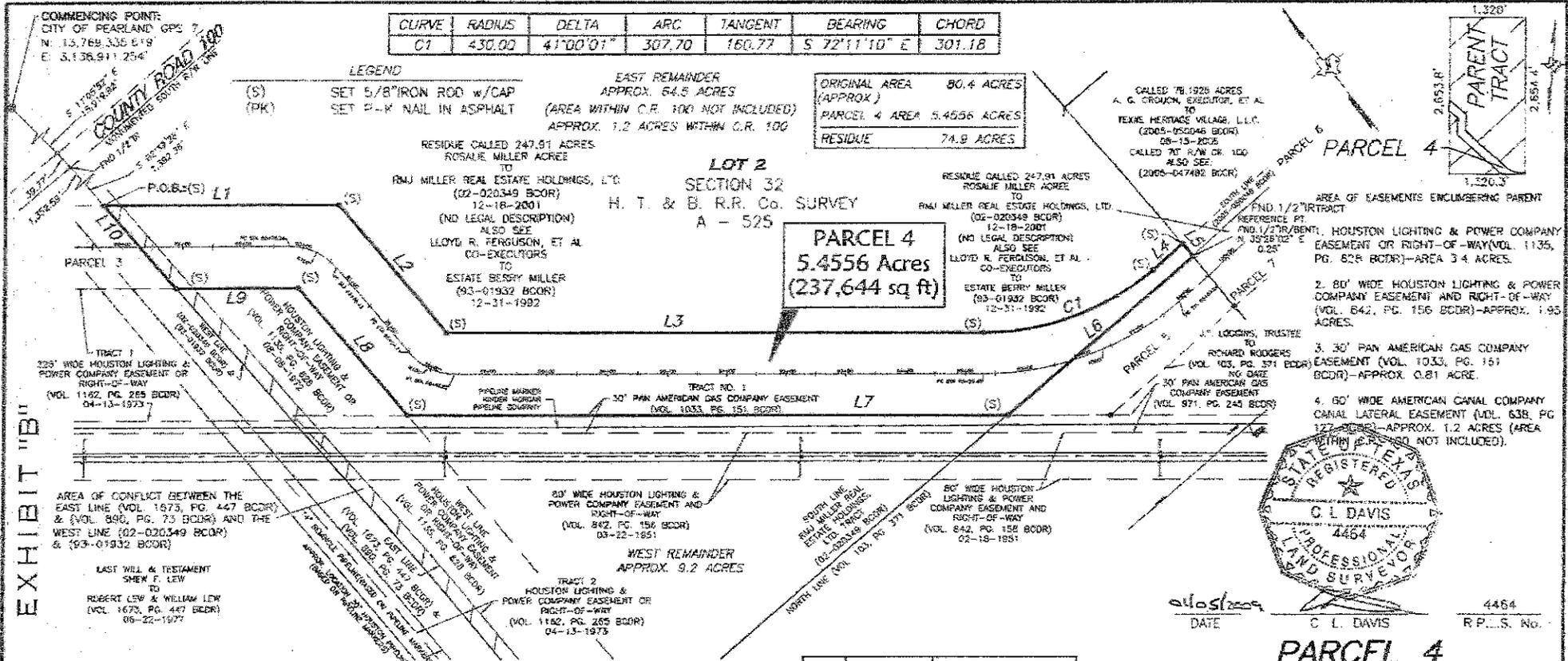


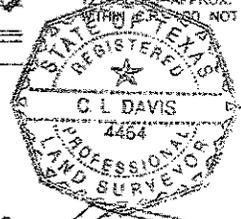
EXHIBIT "B"

AREA OF CONFLICT BETWEEN THE EAST LINE (VOL. 1673, PG. 447 BCDR) & (VOL. 892, PG. 73 BCDR) AND THE WEST LINE (02-020349 BCDR) & (93-01932 BCDR)

LAST WILL & TESTAMENT SHER F. LEW TO ROBERT LEW & WILLIAM LEW (VOL. 1673, PG. 447 BCDR) 06-22-1977

WEST REMAINDER APPROX. 9.2 ACRES

TRACT 2 HOUSTON LIGHTING & POWER COMPANY EASEMENT OR RIGHT-OF-WAY (VOL. 1182, PG. 265 BCDR) 04-13-1973



DATE: 04/08/08  
C. L. DAVIS  
R.P.L.S. No. 4464

**PARCEL 4**

REVISED 12-24-2006 (ADDED ESMT AREAS)

**C.L. DAVIS & CO.** 1500 WINDING WAY  
FRIENDSWOOD, TEXAS 77546  
281-482-9490  
**LAND SURVEYING**

**ROUTE SURVEY**

5.4556 ACRES OUT OF  
LOT 2, SECTION 32  
H. T. & B. R.R. CO. SURVEY, A-525  
PEARLAND, BRAZORIA COUNTY, TEXAS

DATE: 05-28-2008 SCALE: 1" = 200' JOB NO.: 11-421-106

BASE - CL-2-PARCEL - MAPS.DWG

- NOTES:
- THE SURVEYOR HAS NOT ABSTRACTED THE SUBJECT PROPERTY BUT HAS RELIED ON HENDERSON ABSTRACT COMPANY TO PROVIDE DEED COPIES OF THE SUBJECT PROPERTY AND ADJOINERS.
  - THE BASIS OF BEARINGS SHOWN IS REFERENCED TO THE TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE.
  - THE BUILDINGS OR IMPROVEMENTS SHOWN HEREON REPRESENT THE OUTLINE AT GROUND SURFACE LEVEL, UNLESS OTHERWISE NOTED.
  - THE UTILITY APPURTENANCES (i.e., utility poles, inlets, etc.) SHOWN HEREON ARE THOSE VISIBLE AT THE TIME OF SURVEY AND MAY NOT BE COMPLETE.

- TRACT SHOWN HEREON SUBJECT TO CITY OF PEARLAND BUILDING ORDINANCE.
- UNDERGROUND UTILITIES SHOWN BASED ON CITY OF PEARLAND DRAWINGS & UTILITY COMPANY BLOCK MAPS, WITH FIELD TIES TO EXISTING SURFACE FIXTURES. CONTRACTOR IS RESPONSIBLE FOR VERIFICATION OF UNDERGROUND UTILITIES.
- THIS SURVEY PLAT IS ACCOMPANIED BY A SEPARATE METES AND BOUNDS DESCRIPTION PER TEXAS BOARD OF PROFESSIONAL LAND SURVEYOR'S "GENERAL RULES OF PROCEDURES AND PRACTICES" SECTION 663.19(9).
- CAPPED RODS STAMPED C.L. DAVIS, R.P.L.S. NO. 4464

LINE	DISTANCE	BEARING
L1	389.17'	S 51°41'40" E
L2	282.33'	S 01°47'10" E
L3	901.60'	S 51°41'30" E
L4	67.15'	N 87°18'49" E
L5	27.44'	S 02°37'37" E
L6	409.57'	S 87°17'44" W
L7	1,008.48'	N 51°41'10" W
L8	282.32'	N 01°47'10" W
L9	202.62'	N 51°41'40" W
L10	185.31'	N 02°37'28" W

OWNER: RMJ MILLER REAL ESTATE HOLDINGS, LTD.

# New Business Item No.2

2. **CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. 2012-29** – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING THE POWER OF EMINENT DOMAIN TO ACQUIRE A DRAINAGE EASEMENT UPON CERTAIN PROPERTY, BEING A 9.7756 ACRE TRACT OUT OF SECTION 32 OF THE H.T. & B.R.R. COMPANY SURVEY, ABSTRACT 525, PEARLAND, BRAZORIA COUNTY, TEXAS, FOR THE CONSTRUCTION AND MAINTENANCE OF DRAINAGE IMPROVEMENTS ON CERTAIN REAL PROPERTY DESCRIBED HEREIN; AUTHORIZING THE CITY ATTORNEY, OR HIS DESIGNEE, AND OTHER CITY OFFICIALS TO TAKE SUCH ACTIONS AS ARE NECESSARY TO ACQUIRE SAID PROPERTY, LOCATED WITHIN THE CITY, BY DONATION, PURCHASE, OR BY THE EXERCISE OF THE POWER OF EMINENT DOMAIN. *Mr. Darrin Coker, City Attorney.*

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF: 2-27-2012</b>	<b>ITEM NO.:</b> Resolution No. R2012-29
<b>DATE SUBMITTED: 2-20-2012</b>	<b>DEPARTMENT OF ORIGIN:</b> Projects
<b>PREPARED BY:</b> Darrin Coker	<b>PRESENTOR:</b> Darrin Coker
<b>REVIEWED BY:</b> NA	<b>REVIEW DATE:</b> NA
<b>SUBJECT: Cowart's Creek Project- Resolution Declaring "Public Necessity"</b>	
<b>EXHIBITS: R2012-29</b>	
<b>EXPENDITURE REQUIRED: AMOUNT AVAILABLE: ACCOUNT NO.:</b>	<b>AMOUNT BUDGETED: PROJECT NO.:</b>
<b>ADDITIONAL APPROPRIATION REQUIRED: ACCOUNT NO.:</b> <b>PROJECT NO.:</b>	
<b>To be completed by Department:</b> <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution	

**EXECUTIVE SUMMARY**

This resolution will allow the City to file a condemnation petition in the above referenced matter. Prior to the filing of a condemnation action, the City Council must approve an resolution declaring a public necessity for the City's acquisition. The resolution will be filed as an attachment to the City's Petition. This is a friendly condemnation in that the parties do not dispute the acquisition amount; however, the City must proceed through the condemnation procedure due to a cloud on the title. **You will notice that the caption is more specific than past resolutions (added property description). The purpose of the change is to incorporate specific language that is now required by the passage of SB 18 during the most recent legislative session. The Council is required to read the entire caption as part of the motion in order to comply with the statutory requirements.**

**RESOLUTION NO. 2012-29**

**AN RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING THE POWER OF EMINENT DOMAIN TO ACQUIRE A DRAINAGE EASEMENT UPON CERTAIN PROPERTY, BEING A 9.7756 ACRE TRACT OUT OF SECTION 32 OF THE H.T. & B.R.R. COMPANY SURVEY, ABSTRACT 525, PEARLAND, BRAZORIA COUNTY, TEXAS, FOR THE CONSTRUCTION AND MAINTENANCE OF DRAINAGE IMPROVEMENTS ON CERTAIN REAL PROPERTY DESCRIBED HEREIN; AUTHORIZING THE CITY ATTORNEY, OR HIS DESIGNEE, AND OTHER CITY OFFICIALS TO TAKE SUCH ACTIONS AS ARE NECESSARY TO ACQUIRE SAID PROPERTY, LOCATED WITHIN THE CITY, BY DONATION, PURCHASE, OR BY THE EXERCISE OF THE POWER OF EMINENT DOMAIN.**

**WHEREAS**, the City Council recognizes that a public convenience and necessity exists for the location, construction, operation, and maintenance of drainage improvements on certain real property described herein; and

**WHEREAS**, accordingly, the City Council hereby acknowledges that it is in the public's best interest to acquire a drainage easement on certain property for the construction of drainage improvements on said property; now, therefore,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** The City Council hereby finds and determines that a public convenience and necessity exists for the construction of drainage and improvements on certain real property located in Brazoria County, Texas.

**Section 2.** The public convenience and necessity requires the acquisition of a drainage easement, by donation, purchase, condemnation, or otherwise, of certain real property located within the City and situated in Brazoria County, more particularly described in Exhibits "A" and "B" attached hereto and incorporated herein for all purposes.

**RESOLUTION NO. 2012-29**

**Section 3.** The City Attorney, or his designee, and other City officials are hereby authorized and directed, on behalf of the City to take such actions as are necessary to acquire the property, described in Exhibits "A" and "B" and any improvements thereon, either by donation, purchase or the exercise of the power of eminent domain.

PASSED and APPROVED on this the \_\_\_\_\_ day of \_\_\_\_\_,  
A.D., 2012.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

EXHIBIT "A"  
PARCEL 7  
METES AND BOUNDS DESCRIPTION  
9.7756 ACRES OUT OF  
SECTION 32  
H.T. & B. R.R. COMPANY SURVEY, ABSTRACT 525  
PEARLAND, BRAZORIA COUNTY, TEXAS

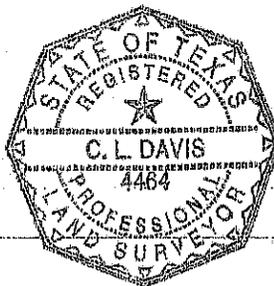
All that certain 9.7756 acres out of Section 32, H.T. & B. R.R. Company Survey, Abstract 525, Pearland, Brazoria County, Texas and being out of that certain tract as described in a deed dated 12-18-2001 from Rosalie Miller Acree to RMJ Miller Real Estate Holdings, Ltd. as filed in the Official Records of Real Property of Brazoria County at Clerk's File Number 02-020349 and being more particularly described by metes and bounds as follows (bearings based on Texas Coordinate System of 1983, South Central Zone);

Commencing at a found disc in concrete stamped City of Pearland GPS Monument No. 7 having published grid coordinates of N: 13,769,335.619', E: 3,138,911.254'; Thence S 15° 42' 00" E - 16,204.48' to a found 1/2" iron rod located on the monumented south right-of-way line of County Road 100 and marking the northwest corner of certain tract as described in a deed dated 08-15-2005 from A.G. Crouch, Executor, et al. to Texas Heritage Village, L.L.C. as filed in the Official Records of Real Property of Brazoria County at Clerk's File Number 2005-050048; Thence S 02° 37' 37" E - 2,614.73' with the west line of said Texas Heritage Village, L.L.C. tract to a found 1/2" iron rod marking the POINT OF BEGINNING of herein described tract, from which a found 1/2" iron rod bears N 35° 26' 02" E - 0.25' for reference;

1. Thence N 87° 18' 27" E - 1,319.77' with the south line of said Texas Heritage Village, L.L.C. tract to a found 1/2" iron rod for corner;
2. Thence N 02° 37' 37" W - 27.28' with the east line of said Texas Heritage Village, L.L.C. tract to a set 5/8" iron rod with cap (stamped C.L. DAVIS - RPLS 4464) for corner;
3. Thence N 87° 18' 52" E - 1,979.66' to a set 5/8" iron rod with cap (stamped C.L. DAVIS - RPLS 4464) for corner;
4. Thence S 02° 37' 28" E - 140.00' with the west line of that certain tract as described in a deed dated 04-06-1998 from Peggy Miller Hall, executrix, et al. to Prabhakar Rao Draksharam, trustee as filed in the Official Records of Real Property of Brazoria County at Clerk's File Number 98-013045 to a set 5/8" iron rod with cap (stamped C.L. DAVIS - RPLS 4464) for corner;
5. Thence S 87° 18' 52" W - 3,299.77' to a set 5/8" iron rod with cap (stamped C.L. DAVIS - RPLS 4464) for corner;
6. Thence N 02° 26' 59" W - 112.56' with the east line of that certain tract as described in a deed (no date indicated within deed document) from J.T. Loggins, Trustee to Richard Rogers as filed in Volume 103, Page 371 Brazoria County Deed Records to the POINT OF BEGINNING and containing 9.7756 acres (425,827 square feet) of land more or less.

This metes and bounds description is accompanied by a separate plat, drawing or exhibit per Texas Board of Professional Land Surveyor's "General Rules of Procedures and Practices" Section 663.19(9).

Compiled by: C.L. Davis & Company  
Job Number: 11-421-106 Parcel 7 - M&B.doc  
06-24-2008



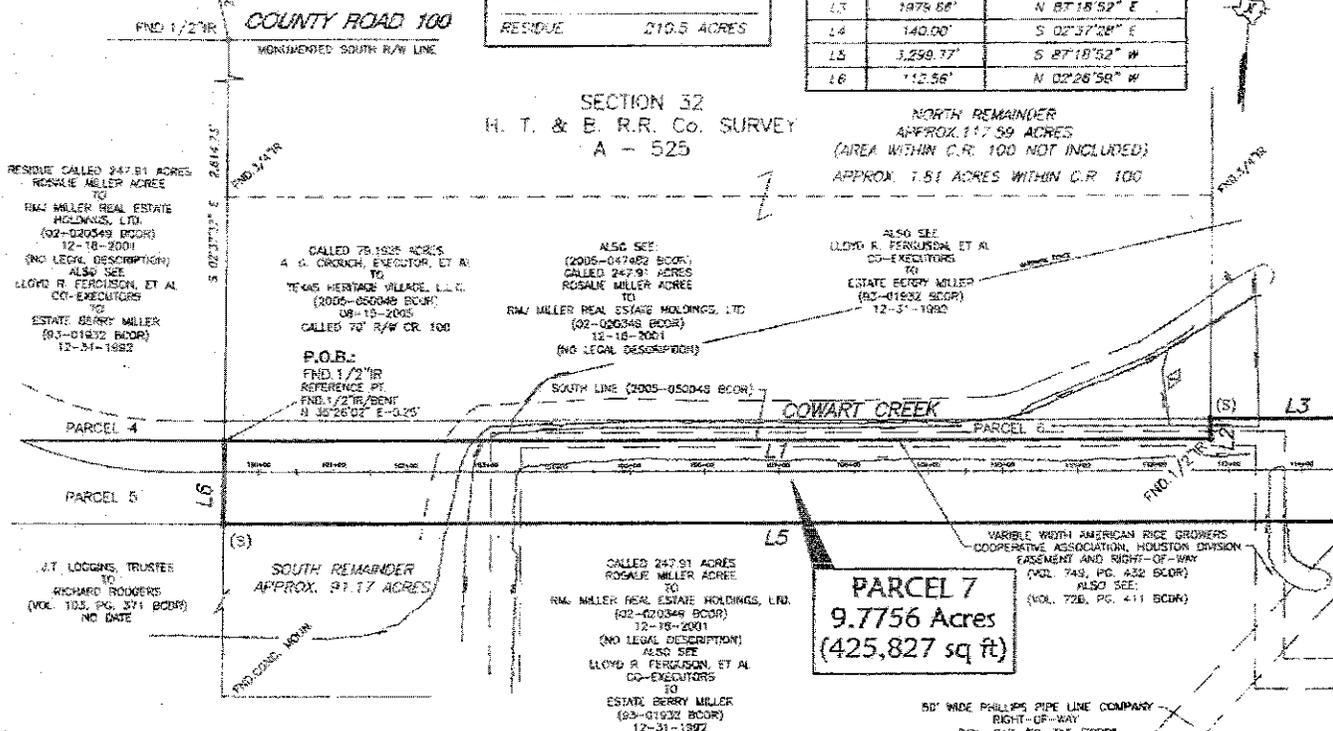
A handwritten signature or scribble, possibly in black ink, located to the right of the surveyor's seal.

EXHIBIT "B"

COMMENCING POINT:  
CITY OF PEARLAND GPS 7  
N. 13,759.335,516'  
E. 3,135,611.254'

ORIGINAL AREA 220.3 ACRES  
(APPROX.)  
PARCEL 7 AREA 9.7756 ACRES  
RESIDUE 210.5 ACRES

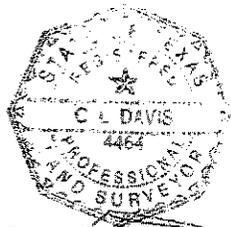
LINE	DISTANCE	BEARING
L1	1,318.77'	N 87°18'27" E
L2	27.28'	N 02°37'37" W
L3	1879.88'	N 87°18'52" E
L4	140.00'	S 02°37'28" E
L5	3,259.77'	S 87°18'52" W
L6	112.56'	N 02°28'58" W



**PARCEL 7**  
9.7756 Acres  
(425,827 sq ft)

MATCHLINE A-A SEE SHEET 2 FOR CONTINUATION

- AREA OF EASEMENTS ENCUMBERING PARENT TRACT
- 30' WIDE PAN AMERICAN GAS COMPANY EASEMENT (VOL. 1033, PG. 151 BCDR)--APPROX. 0.99 ACRE.
  - 80' WIDE HOUSTON LIGHTING & POWER COMPANY EASEMENT AND RIGHT-OF-WAY (VOL. 642, PG. 59 BCDR)--APPROX. 2.44 ACRES.
  - 50' WIDE PHILLIPS PIPE LINE COMPANY RIGHT-OF-WAY (VOL. 647, PG. 315 BCDR)--APPROX. 2.14 ACRES.
  - 50' WIDE PHILLIPS PIPE LINE COMPANY RIGHT-OF-WAY (VOL. 647, PG. 316 BCDR), (VOL. 647, PG. 318 BCDR) & (VOL. 647, PG. 319 BCDR)--APPROX. 1.65 ACRES.
  - 10' WIDE HOUSTON LIGHTING & POWER COMPANY EASEMENT (VOL. 1018, PG. 492 BCDR)--APPROX. 0.90 ACRE.
  - 60' WIDE AMERICAN CANAL COMPANY CANAL LATERAL EASEMENT (VOL. 638, PG. 127 BCDR)--APPROX. 1.21 ACRES (AREA WITHIN C.R. 100 NOT INCLUDED).
  - VARIABLE WIDTH BRAZOS VALLEY RICE COMPANY EASEMENT AND RIGHT-OF-WAY (VOL. 720, PG. 411 BCDR)--APPROX. 2.58 ACRES. ALSO SEE (VOL. 1018, PG. 492 BCDR)
  - STANDARD RICE FARMING AND GRAZING LEASE BY AND BETWEEN BEN D. CANNAN, AGENT, ET AL. (LESSOR) AND BRAZOS VALLEY RICE COMPANY (LESSEE) (VOL. 704, PG. 399 BCDR)--ENCUMBERS 40 ACRES OF PARENT TRACT



- NOTES:
- THE SURVEYOR HAS NOT ABSTRACTED THE SUBJECT PROPERTY BUT HAS RELIED ON HENDERSON ABSTRACT COMPANY TO PROVIDE DEED COPIES OF THE SUBJECT PROPERTY AND ADJOINERS.
  - THE BASIS OF BEARINGS SHOWN IS REFERENCED TO THE TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE.
  - THE BUILDINGS OR IMPROVEMENTS SHOWN HEREON REPRESENT THE OUTLINE AT GROUND SURFACE LEVEL, UNLESS OTHERWISE NOTED.
  - THE UTILITY APPURTENANCES (i.e., utility poles, inlets, etc.) SHOWN HEREON ARE THOSE VISIBLE AT THE TIME OF SURVEY AND MAY NOT BE COMPLETE.

- TRACT SHOWN HEREON SUBJECT TO CITY OF PEARLAND BUILDING ORDINANCE.
- UNDERGROUND UTILITIES SHOWN BASED ON CITY OF PEARLAND DRAWINGS & UTILITY COMPANY BLOCK MAPS, WITH FIELD TIES TO EXISTING SURFACE FIXTURES. CONTRACTOR IS RESPONSIBLE FOR VERIFICATION OF UNDERGROUND UTILITIES.
- THIS SURVEY PLAN IS ACCOMPANIED BY A SEPARATE METES AND BOUNDS DESCRIPTION PER TEXAS BOARD OF PROFESSIONAL LAND SURVEYOR'S "GENERAL RULES OF PROCEDURES AND PRACTICES" SECTION 663 19(S).
- CAPPED RODS STAMPED C.L. DAVIS, R.P.L.S. NO. 4464

- LEGEND
- (S) SET 5/8" IRON ROD w/CAP
  - (PK) SET P-K NAIL IN ASPHALT

**PARCEL 7**  
SHEET 1 OF 2  
OWNER: RMJ MILLER REAL ESTATE HOLDINGS, LTD.

DATE: 12-15-2008 (ADDED ESMT. AREA)  
C. L. DAVIS & CO. LAND SURVEYING  
1500 WINNING WAY  
FRIENDSWOOD, TEXAS 77546  
281-482-9490

ROUTE SURVEY

9.7756 ACRES OUT OF SECTION 32,  
H. T. & B. R.R. CO. SURVEY, A-525  
PEARLAND, BRAZORIA COUNTY, TEXAS

DATE: 05-26-2008 SCALE: 1" = 200' JOB NO.: 11-421-106

EXHIBIT "B"  
MATCHLINE "A-A" SEE SHEET 7  
FOR CONTINUATION

LINE	DISTANCE	BEARING
L1	1,319.77'	N 87°18'27" E
L2	27.28'	N 02°37'37" W
L3	1979.88'	N 87°18'52" E
L4	140.00'	S 02°37'28" E
L5	3,290.77'	S 87°18'52" W
L6	112.56'	N 02°26'59" W

SECTION 32  
H. T. & B. R.R. Co. SURVEY  
A - 525

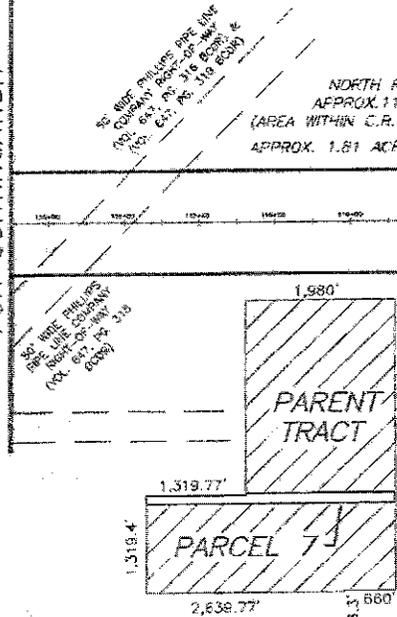
RESIDUE CALLED 247.91 ACRES  
ROSALIE MILLER ACREE  
TO  
RMJ MILLER REAL ESTATE HOLDINGS, LTD.  
(02-020349 BCDR)  
12-18-2001  
(NO LEGAL DESCRIPTION)  
ALSO SEE  
LLOYD R. FERGUSON, ET AL  
CO-EXECUTORS  
TO  
ESTATE BERRY MILLER  
(93-01932 BCDR)  
12-31-1992

SECTION 31  
H. T. & B. R.R. Co. SURVEY  
A - 293

CALLLED 60 ACRES  
ROSALIE MILLER ACREE  
TO  
RMJ MILLER REAL ESTATE HOLDINGS, LTD.  
(02-020350 BCDR)  
12-18-2001  
(NO LEGAL DESCRIPTION)  
ALSO SEE  
CALLLED 19,989 ACRES  
LLOYD R. FERGUSON & ROSALIE MILLER,  
CO-EXECUTORS  
TO  
ROSALIE MILLER  
(93-001931 BCDR)  
12-31-1992

CALLLED 159.4303 ACRES  
PEGGY MILLER HALL, EXECUTRIX, ET AL  
TO  
PRADEKAR RAO DRANKSHARAN, TRUSTEE  
(98-013045 BCDR)  
04-06-1998  
CALLLED 80' R/W CR. 100  
CALLLED 80' R/W VETERANS

ORIGINAL AREA	220.3 ACRES
(APPROX.)	
PARCEL 7 AREA	9.7756 ACRES
RESIDUE	210.5 ACRES



SECTION 32  
H. T. & B. R.R. Co. SURVEY  
A - 525

RESIDUE CALLED 247.91 ACRES  
ROSALIE MILLER ACREE  
TO  
RMJ MILLER REAL ESTATE HOLDINGS, LTD.  
(02-020349 BCDR)  
12-18-2001  
(NO LEGAL DESCRIPTION)  
ALSO SEE  
LLOYD R. FERGUSON, ET AL  
CO-EXECUTORS  
TO  
ESTATE BERRY MILLER  
(93-01932 BCDR)  
12-31-1992

SECTION 31  
H. T. & B. R.R. Co. SURVEY  
A - 293

CALLLED 60 ACRES  
ROSALIE MILLER ACREE  
TO  
RMJ MILLER REAL ESTATE HOLDINGS, LTD.  
(02-020350 BCDR)  
12-18-2001  
(NO LEGAL DESCRIPTION)  
ALSO SEE  
CALLLED 19,989 ACRES  
LLOYD R. FERGUSON & ROSALIE MILLER,  
CO-EXECUTORS  
TO  
ROSALIE MILLER  
(93-001931 BCDR)  
12-31-1992

CALLLED 159.4303 ACRES  
PEGGY MILLER HALL, EXECUTRIX, ET AL  
TO  
PRADEKAR RAO DRANKSHARAN, TRUSTEE  
(98-013045 BCDR)  
04-06-1998  
CALLLED 80' R/W CR. 100  
CALLLED 80' R/W VETERANS

SHEET 2 OF 2  
PARCEL 7  
OWNER: RMJ MILLER REAL  
ESTATE HOLDINGS, LTD.

- NOTES:
1. THE SURVEYOR HAS NOT ABSTRACTED THE SUBJECT PROPERTY BUT HAS RELIED ON HENDERSON ABSTRACT COMPANY TO PROVIDE DEED COPIES OF THE SUBJECT PROPERTY AND ADJOINERS.
  2. THE BASIS OF BEARINGS SHOWN IS REFERENCED TO THE TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE.
  3. THE BUILDINGS OR IMPROVEMENTS SHOWN HEREON REPRESENT THE OUTLINE AT GROUND SURFACE LEVEL, UNLESS OTHERWISE NOTED.
  4. THE UTILITY APPURTENANCES (i.e., utility poles, inlets, etc.) SHOWN HEREON ARE THOSE VISIBLE AT THE TIME OF SURVEY AND MAY NOT BE COMPLETE.

5. TRACT SHOWN HEREON SUBJECT TO CITY OF PEARLAND BUILDING ORDINANCE.
6. UNDERGROUND UTILITIES SHOWN BASED ON CITY OF PEARLAND DRAWINGS & UTILITY COMPANY BLOCK MAPS, WITH FIELD TIES TO EXISTING SURFACE FIXTURES. CONTRACTOR IS RESPONSIBLE FOR VERIFICATION OF UNDERGROUND UTILITIES.
7. THIS SURVEY PLAT IS ACCOMPANIED BY A SEPARATE METES AND BOUNDS DESCRIPTION PER TEXAS BOARD OF PROFESSIONAL LAND SURVEYORS' "GENERAL RULES OF PROCEDURES AND PRACTICES" SECTION 663.19(9).
8. CAPPED RODS STAMPED C.L. DAVIS, R.P.L.S. NO. 4464

- LEGEND
- (S) SET 5/8" IRON ROD w/CAP
  - (PK) SET P-K NAIL IN ASPHALT
  - BCDR BRAZORIA COUNTY DEED RECORDS
  - BCOR BRAZORIA COUNTY OFFICIAL RECORDS
  - BCPR BRAZORIA COUNTY PLAT RECORDS
  - P.O.B. POINT OF BEGINNING
  - R/W RIGHT-OF-WAY
  - w/CAP(CL) STAMPED C.L. DAVIS RPLS 4464
  - w/CAP(W) STAMPED WILSON SURVEY GROUP

REVISED 12-15-2008 (ADDED ESMT. AREA)

**C.L. DAVIS & CO.** 1500 WINDING WAY  
LAND SURVEYING FRENDSWOOD, TEXAS 77546  
281-482-9490

**ROUTE SURVEY**

9.7756 ACRES OUT OF SECTION 32,  
H. T. & B. R.R. CO. SURVEY  
ABSTRACT 525  
PEARLAND, BRAZORIA COUNTY, TEXAS

DATE: 05-28-2008 SCALE: 1" = 200' JOB NO.: 11-421-106  
BASE-CL-2-PARCEL-MAPS.DWG

# New Business Item No. 3

- 3. CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-14** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AWARING A BID FOR GROUNDS MAINTENANCE SERVICES. Bill Eisen, City Manager.

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b>	February 27, 2012	<b>ITEM NO.:</b>	Resolution No. R2012-14
<b>DATE SUBMITTED:</b>	February 17, 2012	<b>DEPT. OF ORIGIN:</b>	Finance
<b>PREPARED BY:</b>	Bob Pearce	<b>PRESENTOR:</b>	Bill Eisen
<b>REVIEWED BY:</b>	Jon R. Branson	<b>REVIEW DATE:</b>	February 20, 2012
<b>SUBJECT: Award of Bid for Grounds Maintenance Services for City Facilities and Medians/ROW</b>			
<b>EXHIBITS: R2012- 14 Exhibit A - Bid Tabulation</b>			
<b>FUNDING:</b>			
<input type="checkbox"/> Bonds To Be Sold	<input type="checkbox"/> Grant	<input type="checkbox"/> Developer/Other	<input checked="" type="checkbox"/> Cash
<input type="checkbox"/> Bonds- Sold	<input type="checkbox"/> L/P – Sold	<input type="checkbox"/> L/P – To Be Sold	
<b>EXPENDITURE REQUIRED: \$91,772.20 (est.)</b>		<b>AMOUNT BUDGETED: \$185,535.00</b>	
<b>AMOUNT AVAILABLE: \$185,535.00</b>		<b>PROJECT NO.:</b>	
<b>ACCOUNT NOS.: 010-3395-555-11-15; 140-3320-555-11-00</b>			
<b>ADDITIONAL APPROPRIATION REQUIRED:</b>			
<b>ACCOUNT NO.:</b>			
<b>PROJECT NO.:</b>			
<b>To be completed by Department:</b>			
<b>X Finance</b>	<b>X Legal</b>	<b>Ordinance</b>	<b>X Resolution</b>

**EXECUTIVE SUMMARY**

**BACKGROUND**

This bid was originally awarded to Landscape Images of Texas and to Houston Grotech Services at the December 12, 2011 Council meeting, per Resolution #R2011-151, for 13 parcels in the total amount of \$69,567. Landscape Images of Texas subsequently withdrew their bid, and in its meeting of January 23, 2012, Council expressed the desire to award to the low bidder per facility/site. Staff has spoken with each low bidder to determine their interest in being awarded only the line items for which they were low. All agreed to the limited award levels except Groundstar Landscape Maintenance, which was next low on line items 4 and 6.

**SCOPE OF CONTRACT**

Provision of grounds maintenance services as needed for a term of one (1) year, with two (2) subsequent one-year renewal options available upon the mutual agreement of the parties, and the approval of City Council.

**BID AND AWARD**

It is staff's recommendation that City Council approve a resolution awarding lines 1, 2, 6 and 10 to Texas Lawn & Landscape Services; lines 3, 4, 5 and 7 to Houston Grotech Services; lines 8, 9, 11, 12 and 13 to Landscape Professionals of Texas. (Parks staff has learned since the time of the prior award that the HOA will be maintaining parcel number 14, for McHard Road shoulders from drainage channel to Country Place Road, in MUD #4).

**SCHEDULE**

Grounds maintenance services will occur as needed throughout the term of the agreement.

**POLICY/GOAL CONSIDERATION**

Grounds maintenance services are needed in order to complete City mowing projects for a well maintained, aesthetically pleasing community.

**CURRENT AND FUTURE FUNDING /FINANCIAL IMPACTS**

Funding for these items come from the General Fund for Parks and Recreation Landscape Maintenance and from the U of H Fund for Parks and Recreation Special Services account. There is \$185,535.00 budgeted for grounds maintenance services in the 2012 budget.

**O&M IMPACT INFORMATION**

Fiscal Year	2012	2013	2014
	\$91,772.20	\$94,525*	\$97,361*

\*estimating an approximate 3% increase in the CPI index for Houston-Galveston-Brazoria region.

**RECOMMENDED ACTION**

City Council approval of a resolution awarding a bid for grounds maintenance services to Texas Lawn & Landscape Services, Houston Grotech Services and Landscape Professionals of Texas in the amount of \$91,772.20.

**RESOLUTION NO. R2012-14**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND,  
TEXAS, AWARDING A BID FOR GROUNDS MAINTENANCE SERVICES.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** That the City opened bids for grounds maintenance, and such bids have been reviewed and tabulated.

**Section 2.** That the City Council hereby awards the bid to Grotech Services, Landscape Professionals of Texas, and Texas Lawn and Landscape Services in the amounts reflected in Exhibit "A" attached hereto.

**Section 3.** The City Manager or his designee is hereby authorized to execute contracts for ground maintenance services.

PASSED, APPROVED and ADOPTED this the \_\_\_\_\_ day of \_\_\_\_\_,  
A.D., 2012.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

Re: Fw: Landscape Maintenance of City Facilities and Medians Bid #1012-01  
Owen Sharp  
to:  
TErndt  
01/26/2012 11:59 AM  
Show Details

Security:

To ensure privacy, images from remote sites were prevented from downloading. Show Images

History: This message has been forwarded.

Trish

Thank you for consideration concerning these tasks for the city. Unfortunately, these properties prices were derived in conjunction with all properties considered. It would not be logistically efficient or economically feasible at this time for us. Thank you Trish

Owen Sharp  
Groundstar  
281-808-5723

--- On Thu, 1/26/12, TErndt@ci.pearland.tx.us <TErndt@ci.pearland.tx.us> wrote:

From: TErndt@ci.pearland.tx.us <TErndt@ci.pearland.tx.us>  
Subject: Fw: Landscape Maintenance of City Facilities and Medians Bid #1012-01  
To: groundstarinc@yahoo.com  
Date: Thursday, January 26, 2012, 3:18 PM

Hi Owen,

I was wondering if you had made a decision on these properties. Please let me know at your earliest convenience.

Thanks,  
Trish

**Trish Erndt, CTPM**  
**Buyer 1**

**City of Pearland**  
**3519 Liberty Dr., Suite 201**  
**Pearland, TX 77581**  
**Phone: 281.652.1790**  
**Fax: 281.652.1738**

**Please register as a supplier in the City of Pearland's electronic bidding system!  
[www.cityofpearland.org/bids](http://www.cityofpearland.org/bids)**

----- Forwarded by Trisha Erndt/COP on 01/26/2012 09:17 AM -----

From: Trisha Erndt/COP  
To: groundstarinc@yahoo.com  
Date: 01/24/2012 01:36 PM  
Subject: Landscape Maintenance of City Facilities and Medians Bid #1012-01

Owen,

The City of Pearland is considering awarding the above referenced contract on a per line basis. I have listed the items below that Groundstar Landscape Management was low bidder on. Can you please let me know if you would consider providing services to only the properties listed below?

Tom Reid Library, to include 44 visits and applicable maintenance services as stated in bid specifications. \$3,432.00

Magnolia Phase II from Veterans to Pearland Parkway, to include 44 visits and applicable maintenance services as stated in bid specifications. This is to include all medians and shoulders maintained by the City of Pearland. Those shoulders not maintained by the City of Pearland include most areas adjacent to commercial businesses, residences and Home Owner Associations. There are a few locations along the shoulders of this roadway that are adjacent to commercial businesses that are maintained by the City of Pearland. These areas are on the West bound shoulder from Veterans to the bridge and adjacent to the bridge on the West side of the train tracks. \$2,464.00

Magnolia Phase III shoulders only, from Harkey to Cullen, to include 44 visits and applicable maintenance services as stated in bid specifications. This is to include all shoulders maintained by the City of Pearland. Those shoulders not maintained by the City of Pearland include those adjacent to the frontage of a commercial business, residences and Home Owner Associations. \$6,160.00

Kirby Drive, from 2234 to Beltway 8, to include 44 visits and applicable maintenance services as stated in bid specifications. This is to include all medians and shoulders maintained by the City of Pearland. Those shoulders not maintained by the City of Pearland include those adjacent to commercial businesses, residences and Home Owner Associations. \$8,800.00

Please let me know at your earliest convenience if you are interested in servicing these locations.

Thanks,  
Trish

**Trish Erndt, CTPM  
Buyer 1**

**City of Pearland  
3519 Liberty Dr., Suite 201**

Pearland, TX 77581  
Phone: 281.652.1790  
Fax: 281.652.1738

Please register as a supplier in the City of Pearland's electronic bidding system!  
[www.cityofpearland.org/bids](http://www.cityofpearland.org/bids)

Landscape Maintenance of City Facilities and Medians  
Bid No. 1012-01

**City Hall/Community Center, to include 44 visits and applicable maintenance services as stated in bid specifications.**

**Line 1**

<u>Name</u>	<u>QTY</u>	<u>UOM</u>	<u>Price</u>
Landscape Images of Texas Inc.	1	EA	\$3,701.00
Texas Lawn & Landscape Services	1	EA	\$8,954.44
Cornerstone Maintenance, Inc.	1	EA	\$9,800.00
Onesource Irrigation and Landscape Inc.	1	EA	\$9,800.00
Houston Grotech Services	1	EA	\$10,252.00
Metropolitan Landscape Management/ Landscape Professionals of Texas	1	EA	\$10,550.00
Groundstar Landscape Management	1	EA	\$11,440.00
Eco-Solutions LLC	1	EA	\$17,820.00
Trend Setters Lawn Care	1	EA	\$25,080.00

**Public Safety Building, to include 44 visits and applicable maintenance services as stated in bid specifications.**

**Line 2**

<u>Name</u>	<u>QTY</u>	<u>UOM</u>	<u>Price</u>
Landscape Images of Texas Inc.	1	EA	\$3,475.00
Texas Lawn & Landscape Services	1	EA	\$6,716.16
Groundstar Landscape Management	1	EA	\$9,460.00
Onesource Irrigation and Landscape Inc.	1	EA	\$10,860.00
Cornerstone Maintenance, Inc.	1	EA	\$11,150.00
Houston Grotech Services	1	EA	\$12,408.00
Metropolitan Landscape Management/ Landscape Professionals of Texas	1	EA	\$12,880.00
Trend Setters Lawn Care	1	EA	\$18,480.00
Eco-Solutions LLC	1	EA	\$35,640.00

**Recreation Center and Natatorium, to include 44 visits and applicable maintenance services as stated in bid specifications.**

**Line 3**

<u>Name</u>	<u>QTY</u>	<u>UOM</u>	<u>Price</u>
Landscape Images of Texas Inc.	1	EA	\$3,767.00
Houston Grotech Services	1	EA	\$6,600.00
Metropolitan Landscape Management/ Landscape Professionals of Texas	1	EA	\$8,928.00
Cornerstone Maintenance, Inc.	1	EA	\$9,800.00
Texas Lawn & Landscape Services	1	EA	\$11,193.16
Onesource Irrigation and Landscape Inc.	1	EA	\$11,382.00
Groundstar Landscape Management	1	EA	\$12,760.00
Trend Setters Lawn Care	1	EA	\$21,560.00
Eco-Solutions LLC	1	EA	\$30,470.00

Landscape Maintenance of City Facilities and Medians  
Bid No. 1012-01

<b>Tom Reid Library, to include 44 visits and applicable maintenance services as stated in bid specifications.</b>			
<b>Line 4</b>			
<u>Name</u>	<u>QTY</u>	<u>UOM</u>	<u>Price</u>
Groundstar Landscape Management	1	EA	\$3,432.00
Landscape Images of Texas Inc.	1	EA	\$3,522.00
<b>Houston Grotech Services</b>	<b>1</b>	<b>EA</b>	<b>\$4,620.00</b>
Metropolitan Landscape Management/ Landscape Professionals of Texas	1	EA	\$5,344.00
Onesource Irrigation and Landscape Inc.	1	EA	\$6,750.00
Cornerstone Maintenance, Inc.	1	EA	\$6,975.00
Texas Lawn & Landscape Services	1	EA	\$8,954.44
Trend Setters Lawn Care	1	EA	\$19,360.00
Eco-Solutions LLC	1	EA	\$29,700.00

<b>FM 518 West of 288, from Business Center Dr. to FM 521, to include 44 visits and applicable maintenance services as stated in bid specifications. This is to include all medians and shoulders maintained by the City of Pearland. Those shoulders not maintained by the City of Pearland include those adjacent to commercial businesses, residences and Home Owner Associations.</b>			
<b>Line 5</b>			
<u>Name</u>	<u>QTY</u>	<u>UOM</u>	<u>Price</u>
<b>Houston Grotech Services</b>	<b>1</b>	<b>EA</b>	<b>\$9,680.00</b>
Cornerstone Maintenance, Inc.	1	EA	\$12,750.00
Groundstar Landscape Management	1	EA	\$13,200.00
Texas Lawn & Landscape Services	1	EA	\$26,385.04
Landscape Images of Texas Inc.	1	EA	\$31,879.00
Onesource Irrigation and Landscape Inc.	1	EA	\$32,611.00
Trend Setters Lawn Care	1	EA	\$40,040.00
Metropolitan Landscape Management/ Landscape Professionals of Texas	1	EA	\$56,600.00
Eco-Solutions LLC	1	EA	\$126,225.00

Landscape Maintenance of City Facilities and Medians  
Bid No. 1012-01

**Magnolia Phase II from Veterans to Pearland Parkway, to include 44 visits and applicable maintenance services as stated in bid specifications. This is to include all medians and shoulders maintained by the City of Pearland. Those shoulders not maintained by the City of Pearland include most areas adjacent to commercial businesses, residences and Home Owner Associations. There are a few locations along the shoulders of this roadway that are adjacent to commercial businesses that are maintained by the City of Pearland. These areas are on the west bound shoulder from Veterans to the bridge and adjacent to the bridge on the west side of the train tracks.**

**Line 6**

<u>Name</u>	<u>QTY</u>	<u>UOM</u>	<u>Price</u>
Groundstar Landscape Management	1	EA	\$2,464.00
Landscape Images of Texas Inc.	1	EA	\$9,063.00
<b>Texas Lawn &amp; Landscape Services</b>	<b>1</b>	<b>EA</b>	<b>\$11,193.16</b>
Houston Grotech Services	1	EA	\$11,352.00
Metropolitan Landscape Management/ Landscape Professionals of Texas	1	EA	\$12,848.00
Onesource Irrigation and Landscape Inc.	1	EA	\$13,400.00
Cornerstone Maintenance, Inc.	1	EA	\$17,160.00
Trend Setters Lawn Care	1	EA	\$38,500.00
Eco-Solutions LLC	1	EA	\$38,610.00

**UHCL Pearland Campus, to include 44 visits and applicable maintenance services as stated in bid specifications.**

**Line 7**

<u>Name</u>	<u>QTY</u>	<u>UOM</u>	<u>Price</u>
Landscape Images of Texas Inc.	1	EA	\$5,687.00
<b>Houston Grotech Services</b>	<b>1</b>	<b>EA</b>	<b>\$9,900.00</b>
Groundstar Landscape Management	1	EA	\$9,900.00
Cornerstone Maintenance, Inc.	1	EA	\$10,975.00
Texas Lawn & Landscape Services	1	EA	\$11,193.16
Onesource Irrigation and Landscape Inc.	1	EA	\$11,270.00
Metropolitan Landscape Management/ Landscape Professionals of Texas	1	EA	\$13,424.00
Eco-Solutions LLC	1	EA	\$20,790.00
Trend Setters Lawn Care	1	EA	\$24,640.00

Landscape Maintenance of City Facilities and Medians  
Bid No. 1012-01

**Magnolia Phase III shoulders only, from Harkey to Cullen, to include 44 visits and applicable maintenance services as stated in bid specifications. This is to include all shoulders maintained by the City of Pearland. Those shoulders not maintained by the City of Pearland include those adjacent to the frontage of a commercial business, residences and Home Owner Associations.**

**Line 8**

<u>Name</u>	<u>QTY</u>	<u>UOM</u>	<u>Price</u>
Groundstar Landscape Management	1	EA	\$6,160.00
Metropolitan Landscape Management/ Landscape Professionals of Texas	1	EA	\$8,200.00
Landscape Images of Texas Inc.	1	EA	\$8,542.00
Cornerstone Maintenance, Inc.	1	EA	\$9,880.00
Onesource Irrigation and Landscape Inc.	1	EA	\$12,644.00
Texas Lawn & Landscape Services	1	EA	\$13,431.88
Houston Grotech Services	1	EA	\$15,092.00
Trend Setters Lawn Care	1	EA	\$37,260.00
Eco-Solutions LLC	1	EA	\$38,610.00

**McHard Road from Cullen to Country Place Blvd. medians only, to include 44 visits and applicable maintenance services as stated in bid specifications.**

**Line 9**

<u>Name</u>	<u>QTY</u>	<u>UOM</u>	<u>Price</u>
Landscape Images of Texas Inc.	1	EA	\$5,888.00
Metropolitan Landscape Management/ Landscape Professionals of Texas	1	EA	\$10,134.00
Houston Grotech Services	1	EA	\$10,560.00
Cornerstone Maintenance, Inc.	1	EA	\$10,560.00
Onesource Irrigation and Landscape Inc.	1	EA	\$12,020.00
Texas Lawn & Landscape Services	1	EA	\$17,909.32
Groundstar Landscape Management	1	EA	\$20,944.00
Trend Setters Lawn Care	1	EA	\$39,160.00
Eco-Solutions LLC	1	EA	\$59,400.00

Landscape Maintenance of City Facilities and Medians  
Bid No. 1012-01

**Kirby Drive, from 2234 to Beltway 8, to include 44 visits and applicable maintenance services as stated in bid specifications. This is to include all medians and shoulders maintained by the City of Pearland. Those shoulders not maintained by the City of Pearland include those adjacent to commercial businesses, residences and Home Owners Associations.**

**Line 10**

<u>Name</u>	<u>QTY</u>	<u>UOM</u>	<u>Price</u>
Groundstar Landscape Management	1	EA	\$8,800.00
<b>Texas Lawn &amp; Landscape Services</b>	<b>1</b>	<b>EA</b>	<b>\$8,954.44</b>
Houston Grotech Services	1	EA	\$9,812.00
Metropolitan Landscape Management/ Landscape Professionals of Texas	1	EA	\$12,600.00
Landscape Images of Texas Inc.	1	EA	\$15,215.00
Cornerstone Maintenance, Inc.	1	EA	\$18,480.00
Onesource Irrigation and Landscape Inc.	1	EA	\$23,870.00
Trend Setters Lawn Care	1	EA	\$36,960.00
Eco-Solutions LLC	1	EA	\$44,550.00

**Kirby Drive @ 518, to include 44 visits and applicable maintenance services as stated in bid specifications. This is to include the two medians South of 518 on Kirby Drive. It shall also include both shoulders. The maintenance of the eastern shoulder shall extend from 518 to the southern tip of the second median. The maintenance of the western shoulder shall extend from 518 to the fire station.**

**Line 11**

<u>Name</u>	<u>QTY</u>	<u>UOM</u>	<u>Price</u>
<b>Metropolitan Landscape Management/ Landscape Professionals of Texas</b>	<b>1</b>	<b>EA</b>	<b>\$1,320.00</b>
Landscape Images of Texas Inc.	1	EA	\$2,049.00
Cornerstone Maintenance, Inc.	1	EA	\$2,640.00
Groundstar Landscape Management	1	EA	\$3,080.00
Texas Lawn & Landscape Services	1	EA	\$4,477.44
Trend Setters Lawn Care	1	EA	\$5,720.00
Onesource Irrigation and Landscape Inc.	1	EA	\$6,870.00
Houston Grotech Services	1	EA	\$9,064.00
Eco-Solutions LLC	1	EA	\$23,760.00

Landscape Maintenance of City Facilities and Medians  
Bid No. 1012-01

**Line 12** **Business Center Drive at 518, to include 44 visits and applicable maintenance services as stated in bid specifications. This is to include the three medians South of 518 on Business Center Drive. It shall also include the eastern shoulder. The maintenance of the eastern shoulder shall extend from the driveway into the 518 "park-n-ride" to the driveway into the Private Mini Storage.**

<u>Name</u>	<u>QTY</u>	<u>UOM</u>	<u>Price</u>
Landscape Images of Texas Inc.	1	EA	\$1,135.00
Metropolitan Landscape Management/ Landscape Professionals of Texas	1	EA	\$1,320.00
Onesource Irrigation and Landscape Inc.	1	EA	\$5,200.00
Houston Grotech Services	1	EA	\$5,280.00
Trend Setters Lawn Care	1	EA	\$7,040.00
Texas Lawn & Landscape Services	1	EA	\$8,954.44
Eco-Solutions LLC	1	EA	\$16,335.00
Cornerstone Maintenance, Inc.	1	EA	\$24,660.00
Groundstar Landscape Management	1	EA	\$37,400.00

**Line 13** **McHard Road shoulders only from Cullen to the Drainage Channel, to include 44 visits and applicable maintenance services as stated in bid specifications.**

<u>Name</u>	<u>QTY</u>	<u>UOM</u>	<u>Price</u>
Landscape Images of Texas Inc.	1	EA	\$3,409.00
Metropolitan Landscape Management/ Landscape Professionals of Texas	1	EA	\$4,180.00
Onesource Irrigation and Landscape Inc.	1	EA	\$6,600.00
Groundstar Landscape Management	1	EA	\$6,600.00
Houston Grotech Services	1	EA	\$6,600.00
Texas Lawn & Landscape Services	1	EA	\$8,954.44
Cornerstone Maintenance, Inc.	1	EA	\$14,520.00
Eco-Solutions LLC	1	EA	\$17,600.00
Trend Setters Lawn Care	1	EA	\$31,680.00

Landscape Maintenance of City Facilities and Medians  
 Bid No. 1012-01

**McHard Road shoulders only, from the Drainage Channel to Country Place Blvd., to include 44 visits and applicable maintenance services as stated in bid specifications. This includes all areas adjacent to the sound wall and iron fence.**

**Line 14**

<u>Name</u>	<u>QTY</u>	<u>UOM</u>	<u>Price</u>
Onesource Irrigation and Landscape Inc.	1	EA	\$3,300.00
Landscape Images of Texas Inc.	1	EA	\$4,114.00
Metropolitan Landscape Management/ Landscape Professionals of Texas	1	EA	\$4,180.00
Groundstar Landscape Management	1	EA	\$6,600.00
Houston Grotech Services	1	EA	\$6,600.00
Texas Lawn & Landscape Services	1	EA	\$6,716.16
Cornerstone Maintenance, Inc.	1	EA	\$15,840.00
Eco-Solutions LLC	1	EA	\$17,600.00
Trend Setters Lawn Care	1	EA	\$32,780.00

<u>Name</u>	<u>Total Bid Amount</u>
Landscape Images of Texas Inc.	\$101,446.00
Houston Grotech Services	\$127,820.00
Groundstar Landscape Management	\$152,240.00
Texas Lawn & Landscape Services	\$153,987.68
Metropolitan Landscape Management/ Landscape Professionals of Texas	\$162,508.00
Onesource Irrigation and Landscape Inc.	\$166,577.00
Cornerstone Maintenance, Inc.	\$175,190.00
Trend Setters Lawn Care	\$378,260.00
Eco-Solutions LLC	\$517,110.00

Landscape Maintenance of City Facilities and Medians  
Bid No. 1012-01

Landscape Maintenance of City Facilities and Medians  
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Bid No. 1012-01

Landscape Maintenance of City Facilities and Medians  
Bid No. 1012-01

Landscape Maintenance of City Facilities and Medians  
Bid No. 1012-01

# New Business Item No. 4

4. **CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-25** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING A CONTRACT FOR CONSTRUCTION MANAGEMENT AND CONSTRUCTION INSPECTION SERVICES ASSOCIATED WITH THE BARRY ROSE WASTEWATER TREATMENT PLANT REHABILITATION PROJECT. *Mr. Bill Eisen, City Manager.*

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b>	<b>ITEM NO.:</b> Resolution No. R2012-25		
<b>DATE SUBMITTED:</b> 2/13/2012	<b>DEPT. OF ORIGIN:</b> Projects		
<b>PREPARED BY:</b> Trent Epperson	<b>PRESENTOR:</b> Bill Eisen		
<b>REVIEWED BY:</b> Mike Hodge	<b>REVIEW DATE:</b> 2/21/2012		
<b>SUBJECT: Construction Management Services for Barry Rose WWTP Rehabilitation</b>			
<b>EXHIBITS: R2012-25;</b> Binkley and Barfield Construction Management and Inspection Services Proposal			
<b>FUNDING:</b>	<input type="checkbox"/> Grant	<input type="checkbox"/> Developer/Other	<input checked="" type="checkbox"/> Cash
<input checked="" type="checkbox"/> Bonds To Be Sold	<input type="checkbox"/> Bonds- Sold	<input type="checkbox"/> L/P – Sold	<input type="checkbox"/> L/P – To Be Sold
<b>EXPENDITURE REQUIRED:</b> \$180,285	<b>AMOUNT BUDGETED:</b> \$3,753,760		
<b>AMOUNT AVAILABLE:</b> \$3,395,414	<b>PROJECT NO.:</b> WW1004		
<b>ACCOUNT NO.:</b> 067-0000-565-03-00			
<b>ADDITIONAL APPROPRIATION REQUIRED:</b> NO			
<b>ACCOUNT NO.:</b>			
<b>PROJECT NO.:</b>			
<b>To be completed by Department:</b>			
<b>X Finance</b>	<b>X Legal</b>	<b>Ordinance</b>	<b>X Resolution</b>

**EXECUTIVE SUMMARY**

**BACKGROUND**

The fiscal Year 2010 Capital improvement program included funding for improvements to the Barry Rose Wastewater Treatment plant. The Plant was constructed in 1967 and since that time has been through two expansions bringing its current capacity to 3.1 mgd. In 2010 the City with Binkley and Barfield, Inc. (BBI), conducted a conditional assessment of the plant to prioritize the plant components that needed to be rehabilitated. Subsequently, an engineering contract was awarded for design services to rehabilitate the highest priority plant components. The identified improvements include: Replacement of the Bar Screen and Compactor/ Conveyor, replacement of the Sand Filter with a new Disk Filter system, rehabilitation of the existing Sludge Thickener and Digester and replacement of the dewatering Centrifuge. The design is now complete and the plans are now out for bid in February via the E-Bid system.

**SCOPE OF CONTRACT/AGREEMENT**

The scope of the services included centers on the City's Standard Scope of Services for CMCI picking up immediately after award of the construction contract with management of the preconstruction processes including: chairing pre-construction and plan review meetings, establishing a construction schedule, review of shop drawings and equipment and materials submittals. Construction activities include: responding to the contractor's requests for Information, providing clarification of the design intent, record keeping and tracking of the work and contractor forces, preparation of monthly reports and reviews of pay requests, including requests for change orders and coordination of quality control and laboratory testing. Post-construction activities include: organizing and chairing substantial completion walk-throughs, management of punch list work, management of as built documents, review and organization of the O & M manuals, project close-out/ turn over to City operations staff and recommendation of final acceptance and finally, warranty phase activities.

Due to the complexity of working within an operating plant, BBI is providing a P.E. for field management and will have engineering inspectors on site for both civil work and electrical/instrumentation activities and to assure proper sequencing of the work within the operating plant, The bulk of the hours included are for Construction Inspection services in these two areas.

The proposal for the above Construction Management and Inspection services is based on an Hourly Not to Exceed estimate of \$180,285 and includes a reimbursable fee for mileage, deliveries and reproductions of \$7,002. This fee is approximately 5.7% of the estimated construction costs and is well within historical costs for these services.

#### **BID AND AWARD**

N/A

#### **SCHEDULE**

The construction package bid on February 23<sup>rd</sup> and will go to Council for award on March 12. A Notice to Proceed is expected to be issued within ten days of Award.

Construction Phase is anticipated to run one year from notice to proceed. Shop drawing review and equipment buy out and fabrication is expected to run about 12 to 16 weeks during which time the contractor may not be fully mobilized on site.

#### **POLICY/GOAL CONSIDERATION**

The Rehabilitation of the Barry Rose Wastewater Treatment Plant was specifically identified in the 2012-2016 CIP. The upgrades contained in this project will replace obsolete or worn out equipment and allow the facility to continue to meet TCEQ permit requirements while lowering operations and maintenance costs.

**CURRENT AND FUTURE CIP FUNDING /FINANCIAL IMPACTS/DEBT SERVICE**

Funding for the project is proposed from two sources: \$753,760 is proposed to come from System Revenues (cash); \$373,760 for the 2011 budget and \$380,000 from cash in the 2012 budget. And \$3,000,000 dollars will come from Water and Sewer Revenue Bonds to be sold in 2012.

Year	To Date	2013	2014	2015	2016	Total
<b>Budget</b>	<b>\$ 3,753,760</b>					<b>\$ 3,753,760</b>
Prior Expenditures						
PER	70,480					70,480
Land/ROW	-					-
Design/Survey	287,866					287,866
Construction						-
FF&E						-
<b>Current Request</b>						
<b>Construction</b>	<b>180,285</b>					<b>180,285</b>
Future Expenditures						
PER	-					-
Land/ROW	-					-
Design/Survey	-					-
Construction	3,215,129					3,215,129
FF&E	-					-
<b>Total Expenditures</b>	<b>\$ 3,753,760</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 3,753,760</b>
<b>Remaining Balance</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

Debt Sold						
Debt to Be Sold	3,000,000					
<b>Annual Debt Service</b>		<b>216,000</b>	<b>216,000</b>	<b>216,000</b>	<b>216,000</b>	

**O&M IMPACT INFORMATION**

Once complete, it is anticipated that the City will realize a minor reduction in operations and maintenance cost due to the repairs.

Year	2012	2013	2014	2015	2016
Operation and Maintenance Costs					

**RECOMMENDED ACTION**

Staff recommends that Council approve the Construction management and inspections Services contract with Binkley and Barfield in the amount of \$180,285 and authorize the City Manager to execute the agreement.

**RESOLUTION NO. R2012-25**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING A CONTRACT FOR CONSTRUCTION MANAGEMENT AND CONSTRUCTION INSPECTION SERVICES ASSOCIATED WITH THE BARRY ROSE WASTEWATER TREATMENT PLANT REHABILITATION PROJECT.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** That certain contract for construction management and construction inspection services associated with the Barry Rose Wastewater Treatment Plant Rehabilitation Project, a copy of which is attached hereto as Exhibit "A" and made a part hereof for all purposes, is hereby authorized and approved.

**Section 2.** That the City Manager or his designee is hereby authorized to execute and the City Secretary to attest a contract for construction management and construction inspection services associated with the Barry Rose Wastewater Treatment Plant Rehabilitation Project.

PASSED, APPROVED and ADOPTED this the \_\_\_\_\_ day of \_\_\_\_\_,  
A.D., 2012.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

## CONTRACT FOR PROFESSIONAL SERVICES

THIS CONTRACT is entered into on February 28, 2012 by and between the City of Pearland ("CITY") and **Binkley and Barfield Consulting Engineers** ("CONSULTANT").

The CITY engages the CONSULTANT to perform **Construction Management and Construction Inspection Services** for a project known and described as **Barry Rose Wastewater Treatment Plant Rehabilitation**.

### SECTION I - SERVICES OF THE CONSULTANT

The CONSULTANT shall perform the following professional services to CITY standards and in accordance with the degree of care and skill that a professional in Texas would exercise under the same or similar circumstances:

- A. The CONSULTANT shall perform Construction Management and Construction Services. See Exhibit A, attached, for a detailed SCOPE OF WORK. The PROJECT schedule shall conform to the construction schedule.
- B. The CONSULTANT acknowledges that the CITY (through its employee handbook) considers the following to be misconduct that is grounds for termination of a CITY employee: Any fraud, forgery, misappropriation of funds, receiving payment for services not performed or for hours not worked, mishandling or untruthful reporting of money transactions, destruction of assets, embezzlement, accepting materials of value from vendors, or consultants, and/or collecting reimbursement of expenses made for the benefit of the CITY. The CONSULTANT agrees that it will not, directly or indirectly; encourage a CITY employee to engage in such misconduct.
- C. The CONSULTANT recognizes that all drawings, special provisions, field survey notes, reports, estimates and any and all other documents or work product generated by the CONSULTANT under the CONTRACT shall be delivered to the CITY upon request, shall become subject to the Open Records Laws of this State.
- D. The CONSULTANT shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons, damages to property, or any errors and omissions relating to the performance of any work by the CONSULTANT, its agents, employees or subcontractors under this Agreement, as follows:
  - (1) Workers' Compensation as required by law.
  - (2) Professional Liability Insurance in an amount not less than \$1,000,000 in the aggregate.

- (3) Comprehensive General Liability and Property Damage Insurance with minimum limits of \$1,000,000 for injury or death of any one person, \$1,000,000 for each occurrence, and \$1,000,000 for each occurrence of damage to or destruction of property.
- (4) Comprehensive Automobile and Truck Liability Insurance covering owned, hired, and non-owned vehicles, with minimum limits of \$1,000,000 for injury or death of any one person, \$1,000,000 for each occurrence, and \$1,000,000 for property damage.

The CONSULTANT shall include the CITY as an additional insured under the policies, with the exception of the Professional Liability Insurance and Workers' Compensation. Certificates of Insurance and endorsements shall be furnished to the CITY before work commences. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, and/or reduced in coverage or in limits ("Change in Coverage") except with prior written consent of the CITY and only after the CITY has been provided with written notice of such Change in Coverage, such notice to be sent to the CITY either by hand delivery to the City Manager or by certified mail, return receipt requested, and received by the City no fewer than thirty (30) days prior to the effective date of such Change in Coverage. Prior to commencing services under this CONTRACT, CONSULTANT shall furnish CITY with Certificates of Insurance, or formal endorsements as required by this CONTRACT, issued by CONSULTANT'S insurer(s), as evidence that policies providing the required coverage, conditions, and limits required by this CONTRACT are in full force and effect.

- E. The CONSULTANT shall indemnify and hold the CITY, its officers, agents, and employees, harmless from any claim, loss, damage, suit, and liability of every kind for which CONSULTANT is legally liable, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person, for damage to any property, or errors in design, any of which are caused by the negligent act or omission of the CONSULTANT, his officers, employees, agents, or subcontractors under this CONTRACT.
- F. All parties intend that the CONSULTANT, in performing services pursuant to this CONTRACT, shall act as an independent contractor and shall have control of its own work and the manner in which it is performed. The CONSULTANT is not to be considered an agent or employee of the CITY.

## SECTION II - PERIOD OF SERVICE

This CONTRACT will be binding upon execution and end upon completion of the construction related work not to exceed Twenty six (26) months after execution of this contract.

## SECTION III - CONSULTANT'S COMPENSATION

- A. The method of payment for this CONTRACT is **Hourly, Not to Exceed**. Total compensation for the services performed shall **be the sum of \$180,285**.
- B. The CITY shall pay the CONSULTANT in installments based upon monthly progress reports and detailed invoices submitted by the CONSULTANT.
- C. The CITY shall make payments to the CONSULTANT within thirty (30) days after receipt and approval of a detailed invoice. Invoices shall be submitted on a monthly basis.

## SECTION IV - THE CITY'S RESPONSIBILITIES

- A. The CITY shall designate a project manager during the term of this CONTRACT. The project manager has the authority to administer this CONTRACT and shall monitor compliance with all terms and conditions stated herein. All requests for information from or a decision by the CITY on any aspect of the work shall be directed to the project manager.
- B. The CITY shall review submittals by the CONSULTANT and provide prompt response to questions and rendering of decisions pertaining thereto, to minimize delay in the progress of the CONSULTANT'S work. The CITY will keep the CONSULTANT advised concerning the progress of the CITY'S review of the work. The CONSULTANT agrees that the CITY'S inspection, review, acceptance or approval of CONSULTANT'S work shall not relieve CONSULTANT'S responsibility for errors or omissions of the CONSULTANT or its sub-consultant(s) or in any way affect the CONSULTANT's status as an independent contractor of the CITY.

## SECTION V - TERMINATION

- A. The CITY, at its sole discretion, may terminate this CONTRACT for any reason -- with or without cause -- by delivering written notice to CONSULTANT personally or by certified mail at **Binkley & Barfield Consulting Engineers, 1710 Seamist Drive, Houston, Texas 77008**. Immediately after receiving such written notice, the CONSULTANT shall discontinue providing the services under this CONTRACT.
- B. If this CONTRACT is terminated, CONSULTANT shall deliver to the CITY all drawings, special provisions, field survey notes, reports, estimates and any and all

other documents or work product generated by the CONSULTANT under the CONTRACT, entirely or partially completed, together with all unused materials supplied by the CITY on or before the 15<sup>th</sup> day following termination of the CONTRACT.

- C. In the event of such termination, the CONSULTANT shall be paid for services performed prior to receipt of the written notice of termination. The CITY shall make final payment within sixty (60) days after the CONSULTANT has delivered to the CITY a detailed invoice for services rendered and the documents or work product generated by the CONSULTANT under the CONTRACT.
- D. If the remuneration scheduled under this contract is based upon a fixed fee or definitely ascertainable sum, the portion of such sum payable shall be proportionate to the percentage of services completed by the CONSULTANT based upon the scope of work.
- E. In the event this CONTRACT is terminated, the CITY shall have the option of completing the work, or entering into a CONTRACT with another party for the completion of the work.
- F. If the CITY terminates this CONTRACT for cause and/or if the CONTRACTOR breaches any provision of this CONTRACT, then the CITY shall have all rights and remedies in law and/or equity against CONSULTANT. Venue for any action or dispute arising out of or relating to this CONTRACT shall be in Brazoria County, Texas. The laws of the State of Texas shall govern the terms of this CONTRACT. The prevailing party in the action shall be entitled to recover its actual damages with interest, attorney's fees, costs and expenses incurred in connection with the dispute and/or action. CONSULTANT and CITY desire an expeditious means to resolve any disputes that may arise between under this CONTRACT. To accomplish this, the parties agree to mediation as follows: If a dispute arises out of or relates to this CONTRACT, or the breach thereof, and if the dispute cannot be settled through negotiation, then the parties agree first to try in good faith, and before pursuing any legal remedies, to settle the dispute by mediation of a third party who will be selected by agreement of the parties.

## **SECTION VI – ENTIRE AGREEMENT**

This CONTRACT represents the entire agreement between the CITY and the CONSULTANT and supersedes all prior negotiations, representations, or contracts, either written or oral. This CONTRACT may be amended only by written instrument signed by both parties.

## **SECTION VII – COVENANT AGAINST CONTINGENT FEES**

The CONSULTANT affirms that he has not employed or retained any company or person, other than a bona fide employee working for the CONSULTANT to solicit or secure this CONTRACT, and that he has not paid or agreed to pay any company or person, other than a

bona fide employee, any fee, commission, percentage brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the CONTRACT. For breach or violation of this clause, the CITY may terminate this CONTRACT without liability, and in its discretion, may deduct from the CONTRACT price or consideration, or otherwise recover, the full amount of such fee, commission, percentage brokerage fee, gift, or contingent fee that has been paid.

#### SECTION VIII- SUCCESSORS AND ASSIGNS

This CONTRACT shall not be assignable except upon the written consent of the parties hereto.

The parties have executed this CONTRACT this **28<sup>th</sup>** day of **February, 2012**.

\_\_\_\_\_  
[City's Name, Title]

  
\_\_\_\_\_  
[Consultant's Name, Title]

Original: January 6, 2012

*Revision C: February 13, 2012*

Mr. Skipper Jones, MPM, CIPM  
Project Manager, Projects Group  
City of Pearland  
3519 Liberty Drive  
Pearland, Texas 77581

**Re: Construction Management Services Proposal  
City of Pearland, Barry Rose WWTP Plant Rehabilitation  
Project No. WW1004, Contract No. 101924**

Dear Mr. Jones:

With this letter, Binkley & Barfield, Inc. (BBI) requests City of Pearland (City) Council approval of an Agreement and Authorization to Proceed with Construction Management and Inspection Services for the City's Barry Rose WWTP Rehabilitation Project. Mr. Carlos Quintero, P.E., will serve as Construction Manager for the proposed Construction Management and Inspection Services as follows.

**I. Construction Management and Inspection Services:**

Provide Construction Management and Part-Time Inspection Services as outlined in the City of Pearland, Construction Management Scope of Services (***D5 Revised 12/11***) and the attached Level of Effort sheets. Please note that the construction period requires 12 months (365 days).

- Chair Pre-Construction meeting and Monthly Construction Progress Meetings
- Coordinate and provide QA/QC to Contractor RFIs, Shop Drawings and coordinate with City Project Manager Change Directives and Change Orders
- Provide Part-Time Construction Inspection Services
- Review and approve Contractor's Monthly Pay Application
- Prepare monthly summary report of construction activities
- Provide interpretive guidance for Contractor, and coordinate with City Project Manager in resolution of problems
- Coordinate testing laboratories activities
- Conduct Substantial Completion Inspection and Prepare Punch List
- Conduct Final Completion Inspection and issue letter to the City recommending acceptance and release of Final Payment
- Conduct Project Closeout Meeting and prepare Record Drawings from Contractor's As-Built (red-line) Drawings
- Conduct Warranty Period Services for One-Year Walk Through and provide final report on completed warranty repairs

- Coordinate and QA/QC indexed project files; redline plans and as-built / record drawings

**Construction Management Services:**

*(Hourly, not to exceed)* **\$173,283**

**II. Reimbursable Expenses Estimate**

The reimbursable expenses include gas mileage per Federal Gas Mileage Rate, printing & reproduction cost (as required), mail postage and delivery services (as required).

**Reimbursable Expenses (not to exceed):** **\$7,002**

Detailed breakdowns of Construction Management and Inspection Services and level of effort proposal are attached for your reference. In summary, we propose the following:

**Summary:**

<b>Construction Management and Part-Time Inspection Services (Hourly, not to exceed)</b>	<b><u>\$173,283</u></b>
<b>Reimbursable Expenses (not to exceed)</b>	<b><u>\$7,002</u></b>

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<b>Proposed Construction Management Services</b>	<b><u>\$180,285</u></b>
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We appreciate this opportunity to provide Construction Management and Part-Time Inspection Services for the City of Pearland, Barry Rose WWTP Rehabilitation Project. If you have any questions, please call me at (713) 869-3433.

Sincerely,

BINKLEY & BARFIELD, INC.  
Consulting Engineers



Carlos E. Quintero, P.E.  
Project Manager

CEQ:lc  
Enclosures



**CONSTRUCTION MANAGEMENT AND CONSTRUCTION INSPECTION SERVICES  
MAN-HOUR ESTIMATE / LEVEL OF EFFORT**

**PROJECT: City of Pearland, Barry Rose WWTP Rehabilitation  
Project No. WW1004**

BBI Job No. 146200  
Update: 2/13/2012

Line No.	LEVEL OF EFFORT/DESCRIPTION Man-Hour: C & S- Civil, Mechanical & Structural; E & I-Electrical and Instrumentation;	MAN-HOURS (MH)									Subtotal Costs				
		Qty	Constr. Manager		C & S Engineer		E & I Engineer		CADD	Constr. Admin.		Inspector Civil	Inspector Mech/Elec	TOTAL MH's	
<b>3.00</b>	<b>Task 3 - Construction Inspection Services</b>														
3.01	Provide On-site Construction Inspection Services, Review and Approve Daily Reports, Attend Meetings, Verify Material Quantities, Review and Approve Contractor Pay Requests, etc. (approx. 42 wks x 32 Hr)										244.0	1100.0	1344.0	\$113,340	
	<b>SUBTOTAL</b>										244.0	1100.0	1344.0	<b>\$113,340</b>	
<b>4.00</b>	<b>Task 4 - Substantial Completion and Final Inspection</b>														
4.01	Substantial Completion Inspection & Punch List	1	3.0	3.0						3.0	3.0		6.0	\$705	
4.02	Field Verify Completion of Punch List Items	1	4.0	4.0									4.0	\$660	
4.03	Final Completion Inspection & Report	1	4.0	4.0						3.0	3.0		7.0	\$870	
4.04	Final Pay Estimate	1	3.0	3.0								3.0	6.0	\$754	
	<b>SUBTOTAL</b>			14.0							6.0	3.0	23.0	<b>\$2,989</b>	
<b>5.00</b>	<b>Task 5 - Project Closeout &amp; Warranty Period</b>														
5.01	Verify Project Closeout Information (Records, Certificates, Guarantees, Warranties & Releases)	1	2.0	2.0						4.0	4.0		6.0	\$610	
5.02	Coordinates & Review Contractor's Redline Plans	1	2.0	2.0	3.0	3.0	3.0	3.0		2.0	2.0	8.0	18.0	\$1,971	
5.03	Conduct Project Closeout Meeting	1	3.0	3.0						1.0	1.0		4.0	\$565	
5.04	Recommendation for Final Acceptance and Release final payment	1	2.0	2.0						1.0	1.0		3.0	\$400	
5.05	Schedule and coordinate the 1-Yr Warranty Walk-through	1	3.0	3.0			3.0	3.0		2.0	2.0		8.0	\$635	
5.06	Prepare list of non-conforming work items	1	2.0	2.0						3.0	3.0	3.0	8.0	\$799	
5.07	Oversee repairs of non-conforming work with Contractor	1	2.0	2.0								6.0	8.0	\$848	
5.08	Submit Final Report for completed warranty repairs	1	2.0	2.0						3.0	3.0		5.0	\$540	
	<b>SUBTOTAL</b>			18.0		3.0		6.0			16.0		17.0	60.0	<b>\$6,369</b>
	<b>SUBTOTAL LABOR</b>			<b>269</b>		<b>3</b>		<b>6</b>			<b>186</b>	<b>244</b>	<b>1,120</b>	<b>1,828</b>	<b>\$173,283</b>
<b>6.00</b>	<b>Reimbursable Expenses (Not to Exceed)</b>														
6.01	Mileage per Federal rate														\$6,402
6.02	Mail/Deliveries (Not to exceed)														\$350
6.03	Final Construction Files Reproduction (As Required)														\$250
	<b>SUBTOTAL</b>														<b>\$7,002</b>
	<b>TOTAL LABOR + EXPENSES</b>														<b>\$180,285</b>
	<b>Construction Management and Inspection Services Estimate (Hourly, Not to Exceed)</b>														

NOTES:

	<u>Mileage Cost Estimate (Round Trip: BBI Office to Job Site 60 miles)</u>	<u>Qty. Trips</u>	<u>Ea Cost</u>	<u>Subtotal</u>
A.	Inspector On Site Services	168	\$33.0	\$5,544
B.	Pre-Construction, Monthly Progress Meetings, Site Meetings	20	\$33.0	\$660
C.	Substantial Completion, Final Closeout & Warranty Period Meetings	6	\$33.0	\$198
	(Not to Exceed) Subtotal =			\$6,402

EXHIBIT A



CONSTRUCTION MANAGEMENT  
SCOPE OF SERVICES

FOR

**Barry Rose Wastewater Treatment Plant  
Rehabilitation**

**BASIC SERVICES:** Construction Manager(s) shall render the following professional services to the OWNER in connection with the construction of the Project.

**1. Pre-Construction (on specific projects, as requested by the City/Owner)**

- 1.1. Provide constructability review of plans, specifications, contract documents and validity of Engineer of Record's project duration. Identify construction issues, conflicts, deficiencies, review the adequacy and accuracy of the design and independent verification of quantities. **Not Required**
- 1.2. Attend Pre-Bid Meeting; provide feedback to City's Project Manager as necessary, such as: tracking and recording questions for the Engineer's written response, clarifying the Owner's expectations for the project and the project execution.
- 1.3. Chair Pre-Construction Meeting
  - 1.3.1. Schedule and conduct the pre-construction meeting; record and disseminate minutes from pre-construction meeting.
  - 1.3.2. Utilize the City's Pro-Trak system: set communications protocol and contract administration procedures, establish progress meeting schedule and submittal schedule.
  - 1.3.3. Provide agenda for meeting: Key milestone dates, pay application procedures, schedule, public notification issues and procedures, utility coordination issues, traffic control, permitting, property owner notification and coordination, temporary facilities, contractor's use of City's Pro-Trak system, etc.

## **2. Construction Administration and Management Services**

- 2.1. Act as the City's on-site representative administering the contract for construction and providing overall project oversight, maintain record of decisions and changes made.
- 2.2. Meetings: Schedule and conduct construction progress meetings; record minutes from construction progress meetings and distribute via Pro-Trak to: City Project Manager, Design Engineer and contractor throughout the duration of the project.
  - 2.2.1. Schedule meetings every two weeks, minimum, to review the following: work progress and schedule, outstanding issues, status of submittals and responses shop drawings unforeseen issues and changes to the work.
  - 2.2.2. Coordinate additional meetings as necessary to discuss and resolve problems and provide guidance in a timely manner.
  - 2.2.3. Coordinate/monitor the following: utility relocation activities for compliance, utility installation verification, reporting, record management and as-built drawings.
  - 2.2.4. Attend all utility coordination, construction, and scheduling meetings.
  - 2.2.5. Obtain copy of ROW permit and prints from Public Works in order to monitor progress of utility relocation per permit/plan.
- 2.3. Manage Construction
  - 2.3.1. All final documentation is required in electronic/digital format, utilizing Pro-Trak as is feasible.
  - 2.3.2. As field problems arise, notify the Design Engineer and City Project Manager of proposed solutions to resolve problems.

- 2.3.3. Review and update as-built documents regularly with contractor.
  - 2.3.4. Monitor and ensure adherence to approved project baseline schedule. Review contractor's schedule monthly, ensure compliance with City's intended schedule, and provide recommendations as needed to retain and regain schedule if needed.
  - 2.3.5. Recommend alternate project sequencing/scheduling to keep project on schedule.
  - 2.3.6. Prepare monthly summary report of construction activities with outstanding issues outlined for review. Monthly progress information associated with the project will be submitted to the Project Manager for review and approval.
  - 2.3.7. Record weather conditions on jobsite daily.
- 2.4. Coordinate work of contractor with external agencies and utility companies. Coordinate contractor's operations with regard to other City contracts and construction as well as with property owners for planned service outages, street closures, and access control issues to properties including notifications.
- 2.4.1. Verify construction conformance and compliance with TCEQ, NOI and NOT.
  - 2.4.2. Verify construction conformance with permitted activities such as: City of Pearland permits, U.S. Army Corps of Engineers permits, TxDOT roadway permits, and any Railroad agreements.
- 2.5. Maintain records of all decisions, actions and activities with regard to construction operations (i.e. Change Orders, RFIs and responses, Submittals and responses, Request for Proposals, correspondence, SWPPP inspections.)

### **3. Construction Inspection Services**

3.1. Provide full-time on-site technical observation of Contractor's activities to verify and ensure all work materials, structures, equipment and workmanship comply with the Contract Documents including Addenda, and Change Orders. Verify and ensure that Contractor maintains good construction practices and professional standards prevailing in the local City, County, and State of Texas. Utilize City's Pro-Trak system for all inspection reports.

3.1.1. Notify the City Project Manager if Contractor's work is not in compliance with the Contract Documents or specifications. Notify the City Project Manager and Design Engineer of any failure of the Contractor to take measures to repair and bring work in compliance.

3.1.2. Issue Advisory Notices to Contractor for work that is not in compliance with approved construction documents.

3.1.3. Issue Non-Compliance Reports to Contractor if non-conforming work is not brought into compliance or if plan of action to bring work into compliance is not conducted in timely manner.

3.1.4. Inspect and observe the materials and equipment being incorporated into the work to assure that they are handled, stored and installed in accordance with the Contract Documents and specifications. Report to the City Project Manager regarding these activities.

3.2. Identify record and notify Design Engineer of any problems or failures to meet performance requirements in a timely manner to minimize delay in the progress of the project, make recommendation(s) for appropriate solution to the City Project Manager and Design Engineer.

- 3.3. Prepare and maintain daily progress log or daily construction reports, photographs and records for turnover at completion of project. Provide a copy of daily progress log that includes quantities installed that day to the City Project Manager on a weekly basis, utilizing City's Pro-Trak system.
- 3.4. Verify contractor has obtained necessary permits and is maintaining any Traffic Control, public notification and Storm Water Pollution Prevention Plans, facilities, equipment or arrangements in accordance with contract documents.
- 3.5. Attend and participate in progress meetings.
- 3.6. Create contract for your record for: names, addresses, telephone numbers and email of all contractors, subcontractors, sub consultants and major suppliers of material and equipment; store in City's Pro-Trak system.
- 3.7. Immediately notify the City Project Manager and Design Engineer in the event of an on-site accident. Record and note conditions, activities and witnesses to the event.
- 3.8. Maintain Resolution Log and respond to citizen complaints in Pro-Trak system.
- 3.9. Consult with City Project Manager and Design Engineer in advance of scheduled major work operations, tests, inspections or start of important phases of project.

#### **4. Pay Applications**

- 4.1. Produce and prepare independent progress based pay applications on a monthly basis for all work in compliance with contract documents. Review and verify quantities provided by contractor.
  - 4.1.1. Review work conducted daily on daily inspection reports and material installed measurements submitted by contractor; Meet weekly with contractor to verify work conducted and bid item quantities; meet

monthly to review pay estimate and quantities with contractor

- 4.1.2. Review progress pay application with Design Engineer for approval or revision prior to submittal to City.
- 4.1.3. Finalize pay application with signatures from Contractor, Engineer and Construction Manager certifying quantities and amounts.
- 4.1.4. Provide City Project Manager with one original with all original signatures for processing and payment by the 10<sup>th</sup> day following the cut off date for pay applications.
- 4.1.5. Track and record requests for rain or other delays with potential to add to Contract Time daily and monthly.
- 4.1.6. Provide an independent quantity forecast bid items to identify potential quantity over-runs as part of pay estimate review.

4.2. Upon completion of the work, prepare a final progress payment including a balancing change order zeroing out all unused quantities. Identify and add additional quantities and make any approved changes to the Contract Time.

- 4.2.1. Review and coordinate with Design Engineer to provide Engineer's recommendation for Substantial Completion or Final Acceptance. (See Close-out Section)

## **5. Document Control**

5.1. Utilize the City's Pro-Trak system to: receive, route, track and log all Contractor communications, Submittals, Change Orders, RFIs, Pay Applications and Citizen Complaint/Resolution Log; communicate with Contractor the status of submittal reviews; create

- 5.1.1. Respond to RFIs when such response does not require the Engineer's opinion or expertise or direction from City.
- 5.1.2. Assemble and maintain notes, comments, sketches and supportive data relative to the Project to facilitate the revision of drawings to conform to the final as-built conditions. Review Contractor's record keeping periodically to ensure completeness, timeliness and progress.

## **6. Change Orders**

- 6.1. Prepare and issue request for proposals in a timely manner.  
Provide RFP and contractor proposal for additional work to City Project Manager and Design Engineer for review and approval.  
Log and track status of RFP and Responses from Contractor, City and Design Engineer.
- 6.2. Provide recommendation on technical matters as an advocate for the City. Evaluate Contractor's response/proposal for merit, cost, time, accuracy and price practicality. Negotiate with Contractor on City's behalf if required.
- 6.3. Prepare Change Order and documentation including signatures of Contractor, Engineer and Construction Manager for delivery to City.

## **7. Testing Laboratory and Results**

- 7.1. Coordinate testing laboratory activities with Contractor's activities.  
Review test reports for compliance with Contract Documents. Log, track and retain test reports for file. Review results with Contractor.  
Monitor any corrective action and re-testing for compliance.  
Maintain compliance with City's specifications

- 7.1.1. Review lab test reports and log any failures.
- 7.1.2. Review Invoicing from Laboratory to daily activities.

## **8. Project Completion and Close out**

- 8.1. A. Provide list of deliverables for substantial completion walk through/inspection. Schedule and conduct project walk through upon receipt of Contractor's notification of substantial completion. Include City Project Manager, Design Engineer and others as directed. Prepare a list of non-conforming work based on visual inspections. Record and monitor contractor's corrective efforts and schedule. Schedule final completion inspection for any remaining corrections.
- B. Coordinate and obtain Design Engineer's signature and seal on Substantial Completion certificate and Final Completion and Acceptance certificate.
- 8.2. Review and compile any Operation and Maintenance documents required from the Contractor – forward to Engineer for review. Collect Contractor's closeout documents to review for completeness and accuracy, including; affidavits of final payment, final pay estimates, as built records, redlines and drawings. Once received, forward to Design Engineer along with any supporting documentation.
  - 8.2.1. Upon completion of close out items, provide recommendation for City's Substantial Completion/Final Acceptance certificate.
  - 8.2.2. Provide indexed project files, redline plans and asbuilt or record drawings to City.
- 8.3. Conduct Project Close-Out Meeting.

- 8.4. Prepare and recommend final payment application. Prepare job record logs transmittals, and correspondence reports in an organized file for delivery to City.
- 8.5. Consult with City on any potential Warranty items requiring repair or replacement.

## **9. Warranty Period**

- 9.1. Schedule, arrange and coordinate a One Year Walk-through of the project to review status of the work 30 days prior to expiration of the One Year Maintenance period.
- 9.2. Provide staff to conduct and participate in the warranty inspections.
- 9.3. Prepare list of non conforming work for presentation to the City Project Manager, Design Engineer and Contractor.
- 9.4. Oversee repairs for non conforming work with Contractor.
- 9.5. Submit final report on completed warranty repairs.

# New Business Item No. 5

5. **CONSIDERATION AND POSSIBLE ACTION – RESOLUTION NO. R2012-26** – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AWARDING A BID FOR WATER WELL REPAIR SERVICES. *Mr. Bill Eisen, City Manager.*

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b>	February 27, 2012	<b>ITEM NO.:</b>	Resolution No. R2012-26
<b>DATE SUBMITTED:</b>	February 17, 2012	<b>DEPT. OF ORIGIN:</b>	Public Works
<b>PREPARED BY:</b>	Jennifer Phan	<b>PRESENTOR:</b>	Bill Eisen
<b>REVIEWED BY:</b>	Jon R. Branson	<b>REVIEW DATE:</b>	February 20, 2012
<b>SUBJECT: Kirby Water Well Repairs</b>			
<b>EXHIBITS: R2012-26; A - Bid Tabulation</b>			
<b>FUNDING:</b>			
<input type="checkbox"/> Grant <input type="checkbox"/> Developer/Other <input checked="" type="checkbox"/> Cash <input type="checkbox"/> Bonds To Be Sold <input type="checkbox"/> Bonds- Sold <input type="checkbox"/> L/P – Sold <input type="checkbox"/> L/P – To Be Sold			
<b>EXPENDITURE REQUIRED: \$58,617.00</b>		<b>AMOUNT BUDGETED: \$266,946</b>	
<b>AMOUNT AVAILABLE: \$234,475.43</b>		<b>PROJECT NO.: N/A</b>	
<b>ACCOUNT NO.: 030-4043-554.04-00</b>			
<b>ADDITIONAL APPROPRIATION REQUIRED:</b>			
<b>ACCOUNT NO.:</b>			
<b>PROJECT NO.:</b>			
<b>To be completed by Department:</b>			
<b>X Finance</b>		<b>X Legal</b>	<b>Ordinance</b>
			<b>X Resolution</b>

**EXECUTIVE SUMMARY**

**BACKGROUND**

In November 2011 Water Production operators discovered that the well pump at the Kirby well had metal shavings at the top of the pump shaft. This indicated a failure of the pump bearings. Subsequently the well pump was pulled, and it became clear that the bearings had failed, resulting in excessive heat and causing the pump shaft to warp.

**SCOPE OF CONTRACT/AGREEMENT**

The work includes replacing the pump shaft and bearings, along with other well equipment that is associated with the pump. The contractor will then re-set the above-ground portion of the pump and disinfect the well before placing the system back on line.

**BID AND AWARD**

Bids were received through the electronic bidding system on February 9, 2012. Three contractors responded to the bid, with Weisinger Incorporated being the low bidder at \$58,617. The city recognizes this contractor as knowledgeable about and qualified to complete the type of work required for the project.

Funding for this project is provided through the Water Production department’s operating budget in the well maintenance account (554.04-00).

**SCHEDULE**

The work is expected to begin immediately after contract execution and should be completed within one month of mobilization. We would prefer to expedite the work as soon as possible, since we have purchased excess water at the FM 521 plant while this well has been down.

**POLICY/GOAL CONSIDERATION**

This work is required in order to provide adequate drinking water to the City, especially since this well and the plant at FM 521 are solely responsible for providing water to the city west of SH 288.

**O&M IMPACT INFORMATION**

There will be no impact to operation or maintenance costs as a result of this project.

Year	2012	2013	2014	2015	2016
Operation and Maintenance Costs	\$ -	\$ -	\$ -	0	0

**RECOMMENDED ACTION**

Staff recommends awarding a contract for repair services to Weisinger Incorporated for this well repair in the amount of \$58,617.00.

**RESOLUTION NO. R2012-26**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND,  
TEXAS, AWARDING A BID FOR WATER WELL REPAIR SERVICES.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** That the City opened bids for water well repair services, and such bids have been reviewed and tabulated.

**Section 2.** That the City Council hereby awards the bid to Weisinger Incorporated, in the amount of \$58,617.00.

**Section 3.** The City Manager or his designee is hereby authorized to execute a contract for water well repair services.

PASSED, APPROVED and ADOPTED this the \_\_\_\_\_ day of \_\_\_\_\_,  
A.D., 2012.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

Item	Quantity	Unit	Weisinger Incorporated		Layne Christensen Company		Alsay Incorporated	
			Unit cost	Extended cost	Unit cost	Extended cost	Unit cost	Extended cost
1-11/16" x 20' shaft and tube assembly	24	each	\$ 816.00	\$ 19,584.00	\$ 910.00	\$ 21,840.00	\$ 970.00	\$ 23,280.00
1-11/16" x 10' shaft and tube assembly	1	each	\$ 419.00	\$ 419.00	\$ 530.00	\$ 530.00	\$ 500.00	\$ 500.00
1-11/16" top special shaft and tube assembly	1	each	\$ 608.00	\$ 608.00	\$ 670.00	\$ 670.00	\$ 570.00	\$ 570.00
10" x 10' column pipe	2	each	\$ 565.00	\$ 1,130.00	\$ 750.00	\$ 1,500.00	\$ 750.00	\$ 1,500.00
10" x 20' column pipe	24	each	\$ 1,026.00	\$ 24,624.00	\$ 1,300.00	\$ 31,200.00	\$ 1,375.00	\$ 33,000.00
1/4" stainless steel airline	500	ft	\$ 3.18	\$ 1,590.00	\$ 2.25	\$ 1,125.00	\$ 4.00	\$ 2,000.00
1-1/4" sch. 40 PVC	500	ft	\$ 0.84	\$ 420.00	\$ 1.25	\$ 625.00	\$ 1.00	\$ 500.00
Stainless steel bands	25	each	\$ 5.68	\$ 142.00	\$ 85.00	\$ 2,125.00	\$ 90.00	\$ 2,250.00
Sodium hypochlorite	25	gal	\$ 4.00	\$ 100.00	\$ 4.00	\$ 100.00	\$ 50.00	\$ 1,250.00
Installation of all above	1	each	\$ 9,150.00	\$ 9,150.00	\$ 6,700.00	\$ 6,700.00	\$ 8,000.00	\$ 8,000.00
Set existing well pump	1	each	\$ 1,100.00	\$ 1,100.00	\$ 3,500.00	\$ 3,500.00	\$ 15,000.00	\$ 15,000.00
Chlorinate well	1	each	\$ 350.00	\$ 350.00	\$ 1,400.00	\$ 1,400.00	\$ 1,200.00	\$ 1,200.00
Credit for salvage of existing equipment	1	each	\$ (600.00)	\$ (600.00)	\$ -	\$ -	\$ -	\$ -
			<b>Total:</b>	<b>\$ 58,617.00</b>	<b>Total:</b>	<b>\$ 71,315.00</b>	<b>Total:</b>	<b>\$ 89,050.00</b>