

AGENDA – WORKSHOP OF THE PLANNING & ZONING COMMISSION OF THE CITY OF PEARLAND, TEXAS, TO BE HELD ON MONDAY, OCTOBER 3, 2011, AT 6:30 P.M., COUNCIL CHAMBERS, CITY HALL 3519 LIBERTY DRIVE, PEARLAND, TEXAS.

I. CALL TO ORDER

II. PURPOSE OF THE WORKSHOP:

- 1. COMMISSIONER INPUT AND DISCUSSION:** REGARDING THE COUNCIL VOTES REQUIRED TO OVERTURN THE PLANNING AND ZONING SUPERMAJORITY ISSUE.

Mr. Darrin Coker, Attorney.

- 2. COMMISSIONER INPUT AND DISCUSSION:** REGARDING THE UNIFIED DEVELOPMENT CODE (UDC) – AMENDMENTS T-14 – SIGNAGE AND TREE MITIGATION.

Ms. Lata Krishnarao, Planning Director

III. ADJOURNMENT

This site is accessible to disabled individuals. For special assistance, please call Young Lorfin at 281-652-1655 prior to the meeting so that appropriate arrangements can be made.

I, Judy Krajca, Planning Office Coordinator of the City of Pearland, Texas, do hereby certify that the foregoing agenda was posted in a place convenient to the general public at City Hall on the 29TH day of September 2011, A.D., at 5:30 p.m.

Judy Krajca, Planning Office Coordinator

Agenda removed _____ day of October 2011.

Workshop Item No. 1

1. **COUNCIL INPUT AND DISCUSSION:** REGARDING THE COUNCIL VOTES REQUIRED TO OVERTURN THE PLANNING AND ZONING SUPERMAJORITY ISSUE. *Mr. Darrin Coker, City Attorney.*

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

AGENDA OF: 10-3-11	ITEM NO.: Workshop Item No. 1
DATE SUBMITTED:	DEPARTMENT OF ORIGIN: City Council
PREPARED BY: Darrin Coker	PRESENTOR: Darrin Coker
REVIEWED BY:	REVIEW DATE:
SUBJECT: Council Votes Required to Overturn P&Z	
EXHIBITS: None	
EXPENDITURE REQUIRED: AMOUNT AVAILABLE: ACCOUNT NO.:	AMOUNT BUDGETED: PROJECT NO.:
ADDITIONAL APPROPRIATION REQUIRED: ACCOUNT NO.: PROJECT NO.:	
To be completed by Department: <input type="checkbox"/> Finance <input type="checkbox"/> Legal <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution	

EXECUTIVE SUMMARY

The City Council recently requested a workshop to discuss the issue of the required number of votes required by City Council to overturn a recommendation of denial by the P&Z. As you are aware, the UDC currently requires a three-fourths (3/4) vote (at least 4 councilmembers) of the entire City Council to overturn a recommendation of denial from the P&Z. The UDC requirement is based on Section 211.006 (f) of the Local Government Code ("the Code") which allows governing bodies to adopt such voting requirements. I believe the purpose of the workshop is to determine whether the Council would like to continue with the existing UDC language requiring the three-fourths (3/4) vote or to amend the UDC to only require a simple majority vote of the entire City Council. Per the Council's request, I have included the following information on how other cities approach this issue:

<u>City</u>	<u>Council vote required to overturn P&Z denial</u>
Sugar Land	3/4 vote
Baytown	3/4 vote for ALL changes, regardless of P&Z vote
El Paso	Denial by P&Z ends zoning case, unless applicant appeals to Council, which can approve it by a simple majority vote
Missouri City	3/4 vote required based on protests
Plano	3/4 vote
Amarillo	Same as El Paso
Dallas	3/4 vote
Austin	3/4 vote
San Antonio	simple majority regardless of P&Z action

Workshop Item No. 2

2. **COUNCIL INPUT AND DISCUSSION:** REGARDING THE 2010 ANNEXATION PROCESS. *Mr. Mike Hodge, Assistant City Manager.*

Not a Joint Workshop/Council Workshop only.
Left in your packet as a FYI only.

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

AGENDA OF: October 3, 2011	ITEM NO.: Workshop Item No. 2
DATE SUBMITTED: September 22, 2011	DEPT. OF ORIGIN: Planning
PREPARED BY: Lata Krishnarao	PRESENTOR: Mike Hodge
REVIEWED BY: Mike Hodge	REVIEW DATE: September 22, 2011
SUBJECT: Annexation	
EXHIBITS: 2010 ANNEXATIONS -OVERALL MAP SHOWING GENERAL BOUNDARIES	
EXPENDITURE REQUIRED: N/A	AMOUNT BUDGETED: N/A
AMOUNT AVAILABLE: N/A	PROJECT NO.: N/A
ACCOUNT NO.: N/A	
ADDITIONAL APPROPRIATION REQUIRED: N/A	
ACCOUNT NO.: N/A	
PROJECT NO.: N/A	
To be completed by Department:	
<input type="checkbox"/> Finance <input type="checkbox"/> Legal <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution	

EXECUTIVE SUMMARY

The City Council had identified annexation as one of their goals in 2010. Six areas were identified during the Future Land Use Plan update process, which were ultimately consolidated to five. The areas identified were:

- Area 1: North side of Bailey, between FM 1128 (Manvel Road) and Kennedy – 125 acres, 49 lots approx.

- Area 2: South side of Bailey, between Veterans and FM 1128 (Manvel Road) – 187 acres, 95 lots approx.

- Area 3: South of Broadway, east of CR 48 – 18 acres, 2 lots approx.
AND
- Area 4: East and west of CR 48, north and south of CR 59 – 289 acres, 80 lots approx.

- Area 5: West of SH 35 (Main Street), between North Hastings Field Road and Hastings Canon Road – 590 acres, 64 lots approx.
- Area 6: Between SH 35 (Main Street) and CR 127, and Dixie Farm Road and southern city boundary – 1463 acres, over 100 lots, but less than 100 residential lots approx.

Staff started the annexation process for these five areas in March of 2010. After the public hearing on August 2, 2010, the City Council directed staff to discontinue the annexation proceedings for the six areas and to restart the process for Area 5,

Council directed staff to prepare a work plan for Area 5 that included additional measures to engage the residents in the process and to gain their input. The Council stated that they would reconsider the other annexations based on the outcome of the proceedings for Area 5.

Annexation proceedings for Area 5 commenced in November 2010. After a communication process that included an open house for the residents, personalized mailing, signs in the area, one-on-one meetings, workshops with the council, and joint public hearings, the City Council tabled action on the annexation of Area 5 in June, 2011. Subsequently, annexation of Area 5 was not placed on future City Council Agendas and died on the table. The City Council decided not to proceed with the annexation of Area 5.

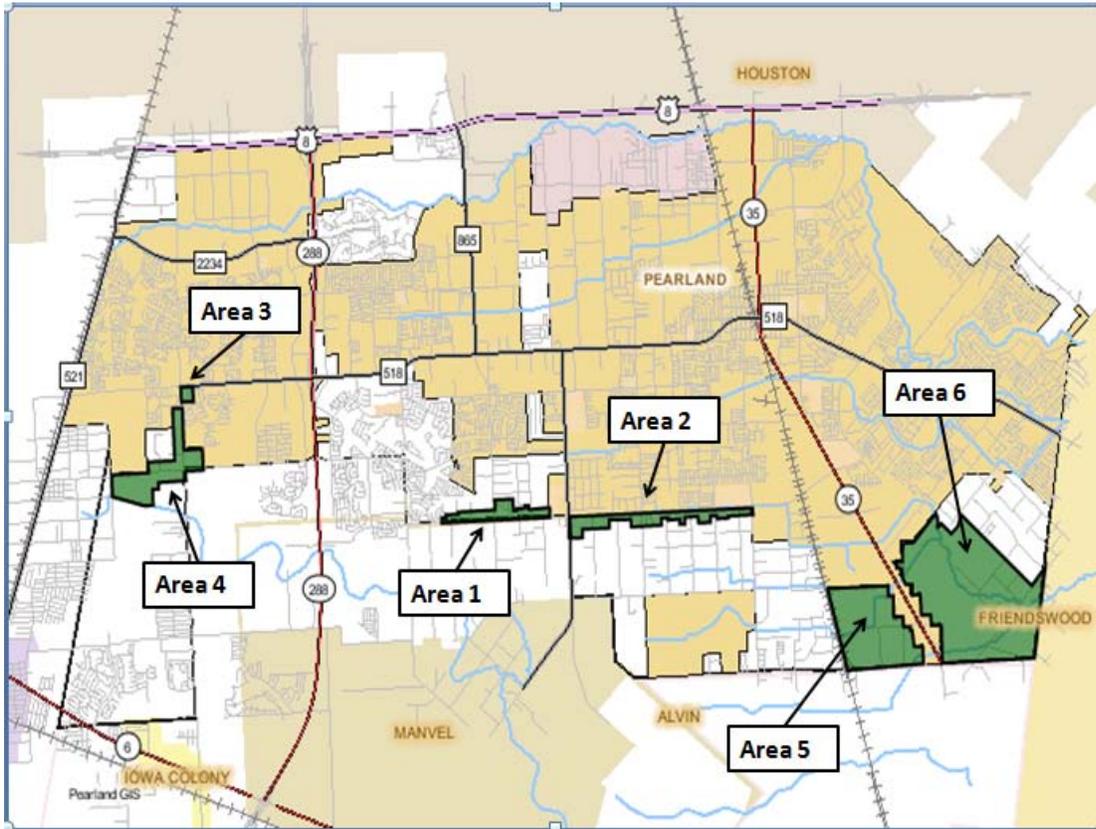
On August 8, 2011 the City Council approved an Industrial Agreement with Denbury Resources, an oil extraction company located within Area 5. This agreement stipulated that the City of Pearland will not annex Area 5 for at least seven (7) years.

Meanwhile, a petition has been received from Peter Tsou of Beltway 23, LTD for annexation of approximately 18 acres of land located at the southeast corner of Kingsley Road (CR 48) and Broadway, and subsequent zoning to General Business (GB) zone. This was identified as Area 3 in the prior Annexation Plan. It is estimated that the annexation and rezoning will be completed by January of 2012.

At this time, staff is seeking for direction from the council on the future course of action. In light of postponement of the Bailey Road project by both city and the county, and the above mentioned voluntary annexation petition, staff recommends deferral of annexation of other areas, until a better time in the future, be considered.

STAFF RECOMMENDATION

Conduct the workshop.



2010 ANNEXATIONS

OVERALL MAP SHOWING GENERAL BOUNDARIES

Workshop Item No. 3

3. **COUNCIL INPUT AND DISCUSSION:** REGARDING THE UNIFIED DEVELOPMENT CODE (UDC)-AMENDMENTS T-14 – SIGNAGE AND TREE MITIGATION. *Ms. Lata Krishnarao, Planning Director.*

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

AGENDA OF: October 3, 2011	ITEM NO.: Workshop Item No. 3
DATE SUBMITTED: September 22, 2011	DEPT. OF ORIGIN: Planning
PREPARED BY: Lata Krishnarao	PRESENTOR: Lata Krishnarao
REVIEWED BY: Mike Hodge	REVIEW DATE: September 22, 2011
SUBJECT: Unified Development Code (UDC)– Amendment T-14 – Signage and Tree Mitigation	
EXHIBITS:	
EXPENDITURE REQUIRED: N/A	AMOUNT BUDGETED: N/A
AMOUNT AVAILABLE: N/A	PROJECT NO.: N/A
ACCOUNT NO.: N/A	
ADDITIONAL APPROPRIATION REQUIRED: N/A	
ACCOUNT NO.: N/A	
PROJECT NO.: N/A	
To be completed by Department:	
<input type="checkbox"/> Finance	<input type="checkbox"/> Legal
<input type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution

EXECUTIVE SUMMARY

The purpose of this workshop is to the review proposed changes to the Unified Development Code (UDC), specifically to the sections pertaining to signage and tree mitigation.

Chamber of Commerce members have identified two areas in the current sign regulations which they would like to see modified.

Changes to the Tree Mitigation section is an update to incorporate the changes to the city ordinance approved by the city council in November of 2009.

These changes are discussed is detail below.

Section 4.2.5.4.9(a) (b) (6)-Regarding Electronic Changeable Message Sign

This proposal is to:

- a. Shorten the length of time that an electronic sign has to remain static, from 6 seconds to 2 seconds.
- b. Remove the restriction that the flashing display is limited to one color and limited to white, gold, red, blue, or green.

The reason the length of static time is regulated is to ensure that these signs do not cause distraction to drivers and negatively affect safety on the streets, and to maintain the community character desired by the residents.

If the council desires to approve these amendments, then staff would recommend that there be no restriction on the length of time for static display. Two second display would be very close to a continuous animated display, and difficult to enforce.

A quick windshield survey performed on October 22, 2011 revealed that 13 out of 28 electronic signs along Broadway, from Kirby Road to Liberty Drive, were not in conformance with the 6 second rule, and 6 were not in conformance with the single color requirement.

Staff will present some examples at the workshop.

Proposed Changes by the Chamber:

Additions in red, deletions in red and strikeouts.

Section 4.2.5.3 On-Premise Ground Signs

(b) (7) Electronic Changeable Message Sign: An electronic changeable message sign that conforms to the size and locational requirements of this Section shall be permitted with adherence the following:

- a. Each message displayed on an electronic changeable message sign must be static or depicted for a minimum of ~~six (6)~~ two (2) seconds. The scrolling of messages is permitted, but must also conform to the minimum of ~~six (6)~~ two (2) seconds static display. **Continuous animation (i.e. commercial) is prohibited**
- b. The flashing display (i.e., changeable message) portion shall not exceed twenty-five (25) percent of the total allowable effective sign area.
- c. The flashing display (i.e., changeable message) portion **may contain any number of colors. shall be limited to one (1) color and shall be limited to white, gold, yellow, red, blue, or green. The Planning Director shall determine whether proposed colors conform to these colors. Color displays must stay within the allowable display area.**
- d. The addition of any flashing display (i.e., changeable message) to any nonconforming sign is prohibited.

Section 4.2.5.1 and 4.2.5.5 Regarding Signs Attached to a Mobile Structure, such as a Vehicle or Trailer

This proposal is to permit temporary signs attached to a vehicle or trailer used as an on-premise or off-premise sign, primarily for the purpose of serving as a static display for the advertisement of the sale, storage, or distribution of a product or service, with the following conditions listed below. Currently this is prohibited.

- a. Shall not be electrified or be illuminated.
- b. Shall not obstruct any other business or permanent signage.
- c. Shall not obstruct or interfere with roadway traffic
- d. Shall not exceed 50 sq. feet in size.
- e. Shall not be offensive or graphic in nature per community standards.
- f. Shall be securely mounted or attached to vehicle to prevent from blowing out.
- g. Shall be located on same business property and within 200 feet of the business.

The UDC permits permanent ground signs for each development, to enable businesses to advertise. The location of the ground sign, as guided by the UDC, is to ensure that these signs are clearly visible, do not obstruct sight distances, are aesthetically pleasing, and do not cause visual clutter.

Multi tenant signs are permitted every 600 feet on city roads, with a maximum height of 15' and area of 150 square feet. Single tenant signs are permitted on parcels with street frontage, not to exceed 8' in height, and 30-100 square feet in area, depending on the zone.

Staff is concerned about this proposed change for a number of reasons. Since these signs are mobile, it will be difficult to monitor their location to ensure that these signs do not obstruct any other business or permanent signage or obstruct sight distances. If a number of businesses in a shopping center start using this temporary means to advertise on site, the effectiveness of permanent signage will be compromised, and these signs will add clutter that may be visually detrimental to the community. Further, restrictions such as display during business hours, a maximum of 12 hours per day, and to 50 times annually, would be difficult to monitor and enforce.

Staff is also concerned about the proposed size (50 square feet), which is larger than free standing signs permitted in some zones, and lack of any height restriction.

Proposed Changes by the Chamber:

Additions in red, deletions in red and strikeouts.

Sections 4.2.5.5 and 4.2.5.1

Section 4.2.5.3 On-Premise Ground Signs

(c) **Prohibited Signs.** The following signs are expressly prohibited:

- (1) Signs having any visible part that moves, swings or rotates, except for banners and flags and swinging signs up to ten square feet in area constructed of rigid material hanging by hinges or other flexible connection.
- (2) Signs emitting odor, visible matter or audible sound.
- (3) Permanent portable signs (temporary portable signs are regulated by Section 4.2.5.5).
- (4) Inflatable signs and balloons, except as allowed in Section 4.2.5.5.
- (5) Portable signs.
- (6) Signs attached to a mobile structure, such as a vehicle or trailer used as an on-premise or off-premise sign, primarily for the purpose of serving as a static display for the advertisement of the sale, storage, or distribution of a product or service, **except as provided in Section 4.2.5.5.**
- (7) Signs, papers, other materials, or paint, stenciling, or writing of any name, number (except house numbers), or other marking on any sidewalk, curb, gutter, street, utility pole, trees, public building, fence or structure unless authorized by this UDC.
- (8) Signs illuminated to any intensity greater than two hundred (200) lamberts. The restrictions of luminance shall be determined from any other premise or from any public right-of-way other than an alley. Lights shall be shielded to prevent the source of lighting from being directly visible from residential property.
- (9) Sign, or any portion thereof, erected upon or over public right of way or public property, except as specifically authorized by this UDC. Unauthorized signs located upon or over public rights of way or public property may be immediately removed by the City Building Official or designee.
- (10) Signs and advertising devices which move, flash, rotate, blink, change color, or are animated; or have any type of intermittent illumination, including flashing, fading, revolving or blinking lights, or any type of moving, scrolling or changing message by means of lights or illumination are prohibited except as provided in Section 4.2.5.3.
- (11) Signs and advertising devices which produce noises discernible from more than one hundred fifty feet (150').
- (12) Signs in a floodway zone without the approval of the Floodplain Administrator or designee.
- (13) Off-premise signs, unless erected as part of a City-adopted signage program or specifically authorized by this UDC.
- (14) Signs containing statements, words, or pictures of an obscene, indecent, or immoral character that would offend public morals or decency.
- (15) Signs placed on the side or rear of any building or property when such signs face upon a contiguous residential area.

(16) Signs containing or having attached thereto banners, posters, pennants, ribbons, streamers, strings of light bulbs, spinners, or other similar devices, except in accordance with Section 4.2.5.5.

Section 4.2.5.5 Temporary Signs

(d) Other Temporary Signs. The following signs shall be allowed, subject to any conditions set forth below.

(1) Temporary window signs: These signs must be temporary in design and construction, such as paper, poster, mylar or similar plastic film, or painted with removable paint; may not exceed in coverage twenty-five percent (25%) of all windows combined or fifty percent (50%) of any one window; must be placed inside the business establishment and be professional in appearance, except for temporary signs not promoting a business but rather associated with a nonprofit, neighborhood, or civic event; and may not be displayed for more than forty-five (45) days.

(2) Holiday inflatable signs or decorations: Holiday-related inflatables that contain no business-related advertising, including without limitation balloons, decorations, and yard displays, shall not exceed twelve feet (12') in any dimension and may not be displayed so that the top of the inflatable is greater than: fifteen feet (15') from the ground on a residential lot; or the maximum structure height allowed in the zoning district on a nonresidential lot. The continuous display period of this type of sign shall not exceed thirty (30) days, with no more than five (5) display periods per calendar year.

(3) Off-premise special events signs: Signs advertising a special event sponsored by a non-profit organization, charitable group, or civic club may be placed offpremises of where said event is to take place shall be allowed subject to the following conditions:

- a. The signs may not be displayed more than fourteen (14) days before, or five (5) days after, the event.
- b. No more than ten signs not exceeding six feet (6') in height or thirty-two square feet (32 ft²) in area per sign face are allowed within the City's limits, limited to one per street frontage. These signs shall be exempt from sign permit fees.
- c. There is no quantity limit on signs not exceeding three and a half feet (3.5') in height or five square feet (5 ft²) in area per sign face, except only one is allowed per lot.

(4) Signs attached to a mobile structure, such as a vehicle or trailer used as an onpremise or off-premise sign, primarily for the purpose of serving as a static display for the advertisement of the sale, storage, or distribution of a product or service with the following conditions;

- a. Shall not be electrified or be illuminated.
- b. Shall not obstruct any other business or permanent signage.
- c. Shall not obstruct or interfere with roadway traffic
- d. Shall not exceed 50 sq. feet in size.

- e. Shall not be offensive or graphic in nature per community standards.
- f. Shall be securely mounted or attached to vehicle to prevent from blowing out.
- g. Shall be located on same business property and within 200 feet of the business.
- h. Can be displayed only during business hours and a maximum 12 hours per day.
- i. Temporary banner / sign may be displayed up to 50 times annually.

Addition of Sections 4.2.3.11 and 4.2.3.12 Regarding Care of Public Trees and Tree Inventory and Management Plan

The City passed the Tree Ordinance (Ord. 1108) in 2003. In 2006, with the adoption of the Unified Development Code, the Land Use and Urban Development Ordinance, the Tree Ordinance, and the Subdivision Ordinance were incorporated into one document. . The City Council, in December of 2009 approved amendments to Section 29 ½ - 31 of the City Code, regarding Care of Public Trees, to expedite approval and not go through the longer UDC process. These amendments were required to meet the standards of the Tree City USA program in regards to management of public trees.

This current UDC amendment is being proposed to reflect the change to the City Code and ensure that the requirements in the UDC mirror those in the City Code.

Proposed Changes:

Additions in red.

Add

Section 4.2.3.11 Care of Public Trees

- (a) The Director of Parks and Recreation and/or his designee is hereby authorized to plant, prune, maintain, and remove trees, plants, and shrubs within the public right-of-way of all streets, alleys, avenues, lanes, squares, parks, and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
- (b) Any person wishing to plant or remove a tree on public property or in a public right-of-way (hereinafter referred to as a public tree) shall seek prior written approval from the Director or his designee. Any tree planted or damaged in violation of this section may be corrected at the person's expense.
- (c) It shall be unlawful for any person without authorization from the city to:
 - (1) Place, maintain, or permit a tree or plant to obstruct a public way or otherwise prevent or hinder public use of public property;
 - (2) Attach any cable, wire, rope, sign or any other thing to a public tree;
 - (3) Plant, transplant, remove, paint or spray any tree, plant or shrub on any public property;

- (4) Damage, cut, or carve any public tree;
- (5) Recklessly cause or allow a harmful substance to contact a public tree;
- (6) Store harmful material within the dripline of a public tree;
- (7) Set fire to a public tree or recklessly permit a fire to burn that could damage a public tree;
- (8) Place or store an impervious cover or material that impedes the passage of water, air, or nutrients to the roots of a public tree; or
- (9) Park heavy equipment within the drip line of public trees, except on paved surfaces.

(d) The city may seek damages against any person causing injury or destruction of a public tree, including but not limited to the costs for treatment or removal and replacement of the tree, and/or any loss of tree value.

Section 4.2.3.12 Tree Inventory and Management Plan

(a) An inventory shall be maintained on all public trees to include medians, right-of-ways, parks and public buildings. This inventory shall consist of genus/species, common name, location, size(DBH, Ht,& Crown), general health or condition, the type/date of the last maintenance accomplished as well as scheduled maintenance. The director or his designee shall use this inventory in developing and/or updating any plan to plant and maintain trees on public property.

(b) General health or condition will be rated by a point system developed by the USDA Community Trees. Ratings will be based on; Probability of failure 1-4 points, Size of defective parts 1-3 points, Probability of target impact 1-3 points, and an optional subjective risk rating 0-2 points in accordance with the guide codes for the USDA Community Trees. Any tree with a risk/hazard rating of 8 or more will receive immediate corrective action.

(c) Protection and Mitigation: The protection and mitigation requirements of this ordinance and found in the Unified Development Code shall apply to all public trees. No mitigation shall be required for any tree removed due to a high risk/hazard rating or disease.

STAFF RECOMMENDATION

Conduct the workshop.