

MINUTES OF THE JOINT PUBLIC HEARING OF THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION OF THE CITY OF PEARLAND, TEXAS, HELD ON AUGUST 15, 2005, AT 6:30 P.M., IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS

CALL TO ORDER

The public hearing was called to order at 8:32 p.m., (after a workshop) with the following present:

Mayor Tom Reid	P & Z Chairperson Ruby Sandars
Mayor Pro-Tem Kevin Cole	P & Z Vice Chairperson Todd Iocco
Council Member Charles Viktorin	P & Z Commissioner Neil West
Council Member Woody Owens	P & Z Commissioner David Ransom
Council Member Larry Marcott	P & Z Commissioner Joe McWhorter
Council Member Richard Tetens	

Also in attendance: City Attorney Darrin Coker; City Manager Bill Eisen; Deputy City Attorney Nghiem Doan; Executive Director of Community Services Nick Finan; Planning Director Lata Krishnarao; Senior Planner Theresa Grahmann, Planner 1 Diana DuCroz, and Planning Administrative Secretary Judy Krajca.

Senior Planner Theresa Grahmann explained the Joint Public Hearing process for the attending public, and explained that the Planning & Zoning Commission Meeting will immediately follow the Joint Public Hearing.

PURPOSE OF HEARING

The Public Hearing for Master Thoroughfare Plan Amendment was called to order at 8:34 p.m.

A. MASTER THROUGHFARE PLAN AMENDMENT

A request by the City of Pearland, for an amendment to the Thoroughfare Plan (Figure 7.2), of the City of Pearland Comprehensive Plan.

Planning & Zoning Chairperson Ruby Sandars read the purpose into the record.

Senior Planner presented the Staff Report. The proposed amendment affects Business Center Drive, west of SH 288, and corrects a previous oversight that occurred with a Thoroughfare Plan Amendment from June 2005. Staff recommended approval of the amendment.

There was no one in the audience to speak for or against.

There was no discussion between Council/Commissioners/Staff.

The Public Hearing for Master Thoroughfare Plan Amendment was adjourned at 8:37 p.m.

The Public Hearing for Specific Use Permit Application No. 151 was called to order at 8:37 p.m.

B. CONSIDERATION & POSSIBLE ACTION - Specific Use Permit Application No. 151

A request by Voice Stream Houston, Inc., applicant for Randy A. and Connie L. Lange, owners, for an amendment to the Land Use and Urban Development Ordinance of said City, for approval of a Specific Use Permit for "Radio or Television or Microwave Towers (Commercial)" in the Light Industrial District (M-1(S)), on the following described property, to wit:

General Location: Generally Located on the East Side of Harkey Road, and South of Figland Street

Planning & Zoning Chairperson Ruby Sandars read the purpose into the record.

Senior Planner Grahmann presented the Staff Report. Staff recommended approval of the Specific Use Permit with the three reasons stated in the Staff Report. There was one Public Comment Form received against.

Shawn St. John spoke on behalf of Voice Stream (T-Mobile). Address shown as 2 Greenway Plaza #1100, Houston, TX 77046. Mr. St. John spoke in favor of this SUP and showed a PowerPoint presentation.

Mr. Tom Wilson, of 3115 Sumac Dr., in the West Oaks Subdivision spoke against the SUP. He stated it would be an eyesore from his home and had concerns about trucks maintaining this station.

Mr. Nicholas Masozera, of 3109 Sumac Drive, spoke against the SUP. He stated he was concerned with the value of his house, and with health effects.

Mr. Michael Klaus, of 5016 Groveton, spoke against the SUP. He stated his concerns were privacy.

There was no one else to speak for or against this Specific Use Permit.

There was brief discussion between Council/Commissioners/Attorney.

The Public Hearing for Specific Use Permit No. 151 was adjourned at 9:11p.m.

The Public Hearing for Specific Use Permit Application No. 152 was called to order at 9:11 p.m.

C. CONSIDERATION & POSSIBLE ACTION – Specific Use Permit No. 152

A request by Architectural Group International (AGI), applicant for The Home Depot, owner, for an amendment to the Land Use and Urban Development Ordinance of said City, for approval of a Specific Use Permit for “Outside Display, Storage, and Sale of Merchandise and Equipment” in the Commercial District (C), on the following described property, to wit:

General Location: Generally Located on the South Side of FM 518 (Broadway Street), and on the East Side of Dixie Farm Road

Planning & Zoning Chairperson Ruby Sandars read the purpose into the record.

Senior Planner Grahmann presented the Staff Report and Staff recommended approval of the Specific Use Permit as stated in the staff report.

The applicant, Mr. Andrew Igel, with Architectural Group International spoke in favor of the Specific Use Permit.

Mr. Mike Klaus, of 5016 Groveton, spoke against the SUP. He stated his concerns were with the storage buildings.

There was no one else to speak for or against this Specific Use Permit.

There was brief discussion between Council/Commissioners/Attorney/Staff.

The Public Hearing for Specific Use Permit No. 152 was adjourned at 9:30p.m.

The Public Hearing for Zone Change Application No. 1238 was called to order at 9:30 p.m.

D. CONSIDERATION & POSSIBLE ACTION – Zone Change Application No. 1238

A request by Kerry R. Gilbert and Associates, Inc., applicant for Pearland Lifestyle Center, L.P., owner, for an amendment to the Land Use and Urban Development Ordinance of said City, for approval of a change in zoning district from classification Suburban Development District (SD) to Planned Unit Development District (PUD), on the following described property, to wit:

General Location: Generally Located at the Southwest Corner of State Highway 288 and Beltway 8

Planning & Zoning Chairperson Ruby Sandars read the purpose into the record.

Planning Director Krishnarao presented the Staff Report and Staff recommendations. This item was discussed at a joint workshop on 7/18/05. Staff has been working with the applicant. Staff received one Public Comment Form in favor of this PUD.

Mr. Kerry Gilbert, applicant, addressed all of staffs concerns. He stated they still had issues on some items. He addressed that Bass Pro Shops needs an indoor gun range and indoor archery range. He wanted to add this to the list of allowed uses. He discussed the Display and Storage issues, and there differences. He specifically talked about Bass Pro Shop. He also addressed the Architectural Standards, Landscaping and Utilities.

There was no one in the audience to speak for or against this PUD.

There was much discussion between Council/Commission/Staff. Mayor Reid commented on the Storage. Councilman Marcott asked if a redline copy of what was begun with and where we were now could be brought in. Mr. Gilbert agreed to this. He stated he had supplied this to Staff. Councilman Cole commented on the Architect, and suggested that other projects from Poag and McEwen be brought forward as examples, and that they use their language in describing the Architectural Standards.

Mr. Gilbert addressed Mr. Cole's concern. He stated they do want farmers to come and sell produce, arts and crafts in an open air/covered area. He stated this was popular in mixed use facilities. There would be no livestock.

Ms. Krishnarao stated that Staff was in favor of the PUD with the Staff comments and recommendations.

There was no further discussion.

The Public Hearing for Zone Change Application No. 1238 was adjourned at 10:08 p.m.

ADJOURNMENT

The Joint Public Hearing adjourned at 10:08 p.m.

These minutes are respectfully submitted by:

Judy Krajca
Planning Administrative Secretary

Minutes approved as submitted and/or corrected on this _____ day of _____, 2005.

Tom Reid

AGENDA - JOINT PUBLIC HEARING OF THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION OF THE CITY OF PEARLAND, TEXAS, TO BE HELD AUGUST 15, 2005, AT 6:30 P.M., IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS

I. CALL TO ORDER

II. PURPOSE OF HEARING

Master Thoroughfare Plan Amendment

A request by the City of Pearland, for an amendment to the Thoroughfare Plan (Figure 7.2), of the City of Pearland Comprehensive Plan.

III. APPLICATION INFORMATION AND CASE SUMMARY

A. STAFF REPORT

B. APPLICANT PRESENTATION

IV. PERSONS WISHING TO SPEAK FOR OR AGAINST THE PROPOSED REQUEST

V. COUNCIL/PLANNING COMMISSION/STAFF DISCUSSION

VI. ADJOURNMENT

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

**JOINT PUBLIC HEARING AGENDA ITEM
MEETING OF AUGUST 15, 2005**

Master Thoroughfare Plan Amendment

TO: City Council
Planning and Zoning Commission

SUBJECT: A request by the City of Pearland, for an amendment to the Thoroughfare Plan (Figure 7.2), of the City of Pearland Comprehensive Plan.

GENERAL LOCATION: Generally Pertaining to Business Center Drive

APPROVAL PROCESS: After this Joint Public Hearing, the Master Thoroughfare Plan Amendment will be considered as follows:

Planning and Zoning Commission: August 15, 2005*
City Council for First Reading: September 12, 2005*
City Council for Second Reading: September 26, 2005*

(*dates subject to change if item is tabled)

SUMMARY: The Planning Department is proposing an amendment to the Master Thoroughfare Plan. The Thoroughfare Plan was last updated in June of this year. The amendments that occurred in June were general maintenance and clarification amendments.

The scale (size) of roadways shown on the Thoroughfare Plan are based on traffic studies and buildouts of the City, in order to carry the amount of traffic generated in that area. The alignments of the roadways on the Thoroughfare Plan are general locations, and can shift based on engineered plats and designs. Final locations of all roadways are determined during the subdivision platting of property and actual design and engineering plans.

The proposed amendment to the Master Thoroughfare Plan affects one roadway, Business

Center Drive. On the Thoroughfare Plan prior to June 2005, Business Center Drive was shown as a curvilinear street that extended southward from Shadow Creek Parkway and intersecting SH 288 just north of Broadway Street.

During the amendments that occurred in June, Business Center Drive was re-routed to remove the connection to SH 288, and extended southward to intersect with Broadway Street, and further extended southward to intersect with County Road 59. In doing this, the additional connection to SH 288 was inadvertently removed.

Therefore, the proposed amendment is to add a connection from Business Center Drive to SH 288. This connection would need to be a secondary thoroughfare with 100 feet of right-of-way.

PUBLIC COMMENTS: A legal notice of public hearing was published in the local newspaper.:

STAFF RECOMMENDATION: Staff recommends approval of the amendment to the Master Thoroughfare Plan.

SUPPORTING DOCUMENTS:

- Notice of Public Hearing
- Proposed Thoroughfare Plan
- Current Thoroughfare Plan

To Be Published in the
PEARLAND REPORTER-NEWS
Wednesday, July 27, 2005,
and
Wednesday, August 3, 2005

NOTICE OF A JOINT PUBLIC HEARING OF THE CITY COUNCIL

AND

THE PLANNING AND ZONING COMMISSION

OF THE CITY OF PEARLAND, TEXAS

MASTER THOROUGHFARE PLAN AMENDMENT

Notice is hereby given that on August 15, 2005, at 6:30 p.m., the City Council and Planning and Zoning Commission of the City of Pearland, in Brazoria, Harris and Fort Bend Counties, Texas, will conduct a joint public hearing in the Council Chambers of City Hall, 3519 Liberty Drive, Pearland, Texas, on the request of the City of Pearland, for an amendment to the Thoroughfare Plan (Figure 7.2), of the City of Pearland Comprehensive Plan.

At said hearing all interested parties shall have the right and opportunity to appear and be heard on the subject.

Theresa Grahmann
Senior Planner



Collector streets from adjacent residential neighborhoods should align at their intersection with major or secondary thoroughfares.

Proposed Thoroughfare Plan

120' Minimum ROW

- Major Thoroughfares - Sufficient Width
- Major Thoroughfares - To Be Widened
- Major Thoroughfares - To Be Acquired
- Major Thoroughfares - Proposed Frontage Road

100' Minimum ROW

- Secondary Thoroughfares - Sufficient Width
- Secondary Thoroughfares - To Be Widened
- Secondary Thoroughfares - To Be Acquired

80' Minimum ROW

- Major Collector Streets - Sufficient Width
- Major Collector Streets - To Be Widened
- Major Collector Streets - To Be Acquired

60' Minimum ROW

- Minor Collector Streets - Sufficient Width
- Minor Collector Streets - To Be Widened
- Minor Collector Streets - To Be Acquired
- Freeway

- Proposed Grade Separation
- 15:1 R.O.W. Transition
- Collector Streets
- Street intersect at a right angle as part of a T or 4-way intersection
- City Limits
- ETJ
- Railroad



THIS MAP HAS BEEN PRODUCED FROM VARIOUS SOURCES EVERY EFFORT HAS BEEN MADE TO ENSURE THE ACCURACY OF THIS MAP. HOWEVER, THE CITY OF PEARLAND ASSUMES NO LIABILITY OR DAMAGES DUE TO ERRORS OR OMISSIONS.

MAP PREPARED ON: AUGUST 2005 (GIS)
View online maps at www.cityofpearland.com



AGENDA - JOINT PUBLIC HEARING OF THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION OF THE CITY OF PEARLAND, TEXAS, TO BE HELD AUGUST 15, 2005, AT 6:30 P.M., IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS

I. CALL TO ORDER

II. PURPOSE OF HEARING

Specific Use Permit Application No. 151

A request by Voice Stream Houston, Inc., applicant for Randy A. and Connie L. Lange, owners, for an amendment to the Land Use and Urban Development Ordinance of said City, for approval of a Specific Use Permit for "Radio or Television or Microwave Towers (Commercial)" in the Light Industrial District (M-1(S)), on the following described property, to wit:

Legal Description: 4.9292 acre tract of land being out of and a part of Lot 58 and 57 of Figland Orchard Subdivision, a subdivision out of Section 13 of the H.T. & B.R.R. Company Survey, Abstract 240, according to the map or plat of same being recorded in Volume 3, Page 77, of the Plat Records of Brazoria County, City of Pearland, Brazoria County, Texas

General Location: Generally Located on the East Side of Harkey Road, and South of Figland Street

III. APPLICATION INFORMATION AND CASE SUMMARY

A. STAFF REPORT

B. APPLICANT PRESENTATION

IV. PERSONS WISHING TO SPEAK FOR OR AGAINST THE PROPOSED REQUEST

V. COUNCIL/PLANNING COMMISSION/STAFF DISCUSSION

VI. ADJOURNMENT

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**JOINT PUBLIC HEARING AGENDA ITEM
MEETING OF AUGUST 15, 2005**

Specific Use Permit Application No. 151

TO: City Council
Planning and Zoning Commission

SUBJECT: A request by Voice Stream Houston, Inc., applicant for Randy A. and Connie L. Lange, owners, for an amendment to the Land Use and Urban Development Ordinance of said City, for approval of a Specific Use Permit for "Radio or Television or Microwave Towers (Commercial)" in the Light Industrial District (M-1(S))

LEGAL DESCRIPTION: 4.9292 acre tract of land being out of and a part of Lot 58 and 57 of Figland Orchard Subdivision, a subdivision out of Section 13 of the H.T. & B.R.R. Company Survey, Abstract 240, according to the map or plat of same being recorded in Volume 3, Page 77, of the Plat Records of Brazoria County, City of Pearland, Brazoria County, Texas

GENERAL LOCATION: Generally Located on the East Side of Harkey Road, and South of Figland Street

APPROVAL PROCESS: After this Joint Public Hearing, the requested specific use permit application will be considered as follows:

Planning and Zoning Commission: August 15, 2005*
City Council for First Reading: September 12, 2005*
City Council for Second Reading: September 26, 2005*

(*dates subject to change if item is tabled)

SUMMARY: The applicant is requesting approval of a Specific Use Permit for a wireless telecommunication tower on the subject property. The subject property is currently zoned

Light Industrial District (M-1), and is currently developed with a light industrial/commercial business. The applicant has leased a 2,000 square foot area of the overall M-1 tract.

The Land Use and Urban Development Ordinance requires a specific use permit for a commercial tower in the M-1 district, as well as the other non-residential districts. The tower is proposed to be 120 feet tall, and would be located approximately 600 feet east of Harkey Road, well within the site. The tower would be 120 feet tall, and would be in a 40 foot by 50 foot lease area (2,000 square feet), and fenced in. The site would include the tower and several equipment cabinets.

SURROUNDING ZONING AND LAND USES:

	<u>Zoning</u>	<u>Land Use</u>
North	Suburban Development District (SD)	Single family residences; undeveloped land
South	Suburban Development District (SD)	Undeveloped tracts
East	Suburban Development District (SD)	Undeveloped tracts; single family residences on large tracts
West	Single Family Dwelling District (R-3)	Single family residences within the West Oaks residential subdivision

CONFORMANCE TO THE LAND USE AND URBAN DEVELOPMENT ORDINANCE: The applicant is requesting a Specific Use Permit for a telecommunications tower on a property already zoned M-1. The applicant would be required to comply with all setbacks and requirements of the M-1 district.

The applicant will be required to comply with all other requirements of the Land Use and Urban Development Ordinance, as well as the Building Code and other various codes.

PLATTING STATUS: Based on the legal description and survey submitted with the zone change application, it appears that the subject property has not been platted. Prior to issuance of a building permit, the subject property would need to be platted in accordance with the Subdivision Ordinance. The applicant will be required to plat the entire M-1 property, and not just the 2,000 square foot lease space, as the lease space by itself does not meet the minimum lot size and lot width requirements of the M-1 district.

The plat would need to be submitted, approved by the Planning and Zoning Commission, and filed for record, prior to issuance of a building permit.

CONFORMANCE TO THE COMPREHENSIVE PLAN: The Comprehensive Plan (2004 update adopted on July 26, 2004) recommends "10,000 Square Foot Suburban Residential" for the subject property and for many of the surrounding properties to the south, north, and east of the subject property. The subdivision to the west is designated for "medium density residential" and is developed as such.

The existing M-1 zoning of the subject property currently conflicts with the recommendation of "10,000 Square Foot Suburban Residential" for the subject property.

CONFORMANCE TO THE THOROUGHFARE PLAN: The subject property has frontage on Harkey Road, a secondary thoroughfare with an ultimate right-of-way of 100 feet that is to be widened in the future as necessary. A dedication of right-of-way for Harkey Road may be required when the subject property is platted, if adequate right-of-way does not already exist for Harkey Road.

No other roadways affect the subject property.

AVAILABILITY OF UTILITIES: There is a 16 inch water main along the west side of Harkey Road. There is a 36 inch sanitary sewer gravity main along the east side of Harkey Road.

IMPACT ON EXISTING AND FUTURE DEVELOPMENT: The Land Use and Urban Development Ordinance of the City has an entire chapter devoted to the construction of telecommunication towers and antennas. The purpose of the regulations are to maximize the use of new and existing towers to prevent the proliferation of unnecessary towers and to minimize the adverse visual impacts of towers and antennas through design, siting, landscaping, and screening requirements.

The tower site is proposed to be located approximately 600 feet into the property, thereby being approximately 600 feet from Harkey Road. The applicant has indicated that the ground equipment would be partially obscured by the existing buildings and landscaping on the site. The actual tower may be visible from surrounding properties.

The Land Use Ordinance also states that "the effects of radio frequency emissions on

persons or the environment must not be considered in a proceeding involving an application for a specific use permit."

Site Plan Considerations:

The ordinance states that the applicant must also provide a site plan specifying the location of the towers, equipment buildings, access, parking, fencing, and landscaped areas. The applicant has provided a site plan, which indicates that the facility will be fenced and locked, accessed from Harkey Road by a private access easement, and will be visited for routine maintenance typically once a month. The applicant has also indicated that the facility will emit no noise, glare, or odor. The applicant has indicated that the site is an undeveloped area of the subject property, and is fully or partially obscured from view by existing trees or buildings. The applicant has indicated that the site will be fenced with an opaque fencing material and drought resistant landscaping around the lease area. The applicant has not indicated what type of "opaque" fence will be provided.

Staff believes that there are two types of opaque screening fences that are acceptable. One would be a masonry fence (either 6 or 8 feet high) along all sides of the lease area, with locked gates. The second type of fencing would be a wrought iron fence along all sides of the lease area, with evergreen landscaping on all sides, with locked gates. Staff recommends that the applicant provide a 6 foot high masonry fence as screening along the lease site to screen the ground equipment, with landscaping planted around the masonry wall, with opaque locked gates. It appears that the ground equipment is approximately 6 to 8 feet high.

Barbed wire fences are prohibited in any zoning district and therefore, the applicant would not be allowed to place strands of barbed wire/razor wire along the top of the masonry fence.

Co-Location:

The Land Use Ordinance specifies that the applicant must provide an inventory of the existing towers within the City, specifying the location and height of each tower (see attached).

The applicant has also indicated that they typically try to co-locate antennas on existing structures to avoid the need for new tower sites, and that no tower site is located within 2,000 feet of the proposed tower location. The applicant has also indicated that the tower would be available for future co-location of wireless facilities. Competing wireless companies also do share facilities on their towers. The applicant has indicated that there is not an existing structure within a reasonable distance that would allow co-location.

To encourage the shared use of towers, no building permit or specific use permit is required for the addition of antennas to an existing tower as long as the height of the tower on which the antenna is placed is not increased.

PUBLIC COMMENTS: 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 Zoning Sign was placed on the subject property.

STAFF RECOMMENDATION: Staff recommends approval of the specific use permit, as proposed by the applicant, for the following reasons:

1. The proposed specific use permit provides for a wireless telecommunication tower that is permitted by specific use permit in the current M-1 zoning of the subject property.
2. The proposed tower would be located approximately 600 feet east of Harkey Road, which reduces the visibility from Harkey Road, as well as established residential neighborhoods.
3. The applicant has provided evidence that the co-location on an existing tower site is not possible.

As part of the Specific Use Permit, Staff recommends the following:

1. The applicant provide a 6 foot high masonry fence as screening along the lease site to screen the ground equipment, with landscaping planted around the masonry wall, with opaque locked gates.

SUPPORTING DOCUMENTS:

- Notice of Public Hearing
- Zone Change Application
- Location Map
- Property Ownership Map
- Property Owner Notification List
- Zoning Map
- Future Land Use Plan
- Additional Information from the Applicant
- Proposed Site Plans

SPECIFIC USE PERMIT APPLICATION NO. 151

**NOTICE OF A JOINT PUBLIC HEARING OF THE CITY COUNCIL AND
THE PLANNING AND ZONING COMMISSION OF THE CITY OF
PEARLAND, TEXAS, REGARDING:**

A request by Voice Stream Houston, Inc., applicant for Randy A. and
Connie L. Lange, owners, for an amendment to the Land Use and Urban
Development Ordinance of said City, for approval of a Specific Use Permit
for "Radio or Television or Microwave Towers (Commercial)" in the Light
Industrial District (M-1(S)), on the following described property, to wit:

4.9292 acre tract of land being out of and a part of Lot 58 and 57 of
Figland Orchard Subdivision, a subdivision out of Section 13 of the
H.T. & B.R.R. Company Survey, Abstract 240, according to the
map or plat of same being recorded in Volume 3, Page 77, of the
Plat Records of Brazoria County, City of Pearland, Brazoria County,
Texas (Generally Located on the East Side of Harkey Road, and
South of Figland Street)

**PUBLIC HEARINGS WILL BE HELD IN THE
COUNCIL CHAMBER OF CITY HALL
LOCATED AT
3519 Liberty Drive, Pearland, Texas
on
MONDAY, AUGUST 15, 2005, AT 6:30 P.M.**

An application and map are enclosed for your information. This notice has
been sent to all owners of real property within 200 feet of the request, as
such ownership appears on the last approved city tax roll, in accordance
with notification guidelines established by City Ordinance and State law.

At said hearing, all interested parties shall have the right and opportunity
to appear and be heard on the subject. If you are unable to attend, but
wish to have your opinions made a part of the public record, please
complete the enclosed form and return it prior to the public hearing.

If you have any questions or need additional information please contact
the City of Pearland Planning Department at (281) 652-1742 or
tgrahmann@ci.pearland.tx.us.

Property Owner Notice

May 2005



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

Please check one:

Change in Zoning Classification from: _____ to: _____
(list current zoning) (list proposed zoning)

Specific Use Permit Request for: Wireless telecom. tower
zoned: M1
(list proposed use)

Property Information:

Address: 3149 Harkey Road Tax Account No. 4100-0086-000
Subdivision: Figland Orchard Lot: 58 Block: _____

**** Attach a copy of the metes and bounds description, survey, or legal description****

Current use of property (type of structures on property): Light Industrial / commercial

Future/proposed use of property and reason for zone change: Wireless telecommunications 120' tower (Monopole) and related Equipment

PROPERTY OWNER INFORMATION:

NAME Randy A. and Connie L. Lange
ADDRESS 3149 Harkey Road
CITY Pearland STATE Tx ZIP 77584
PHONE (281) 485-8638
FAX (____) _____
E-MAIL ADDRESS _____

APPLICANT INFORMATION:

NAME VoiceStream Houston Inc. (Agent: Shawn St. John)
ADDRESS 2 Greenway Plaza, #1100
CITY Houston STATE TX ZIP 77046
PHONE (713) 407-3455
FAX (713) 407-3403
E-MAIL ADDRESS Shawn.Stjohn@t-mobile.com

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.

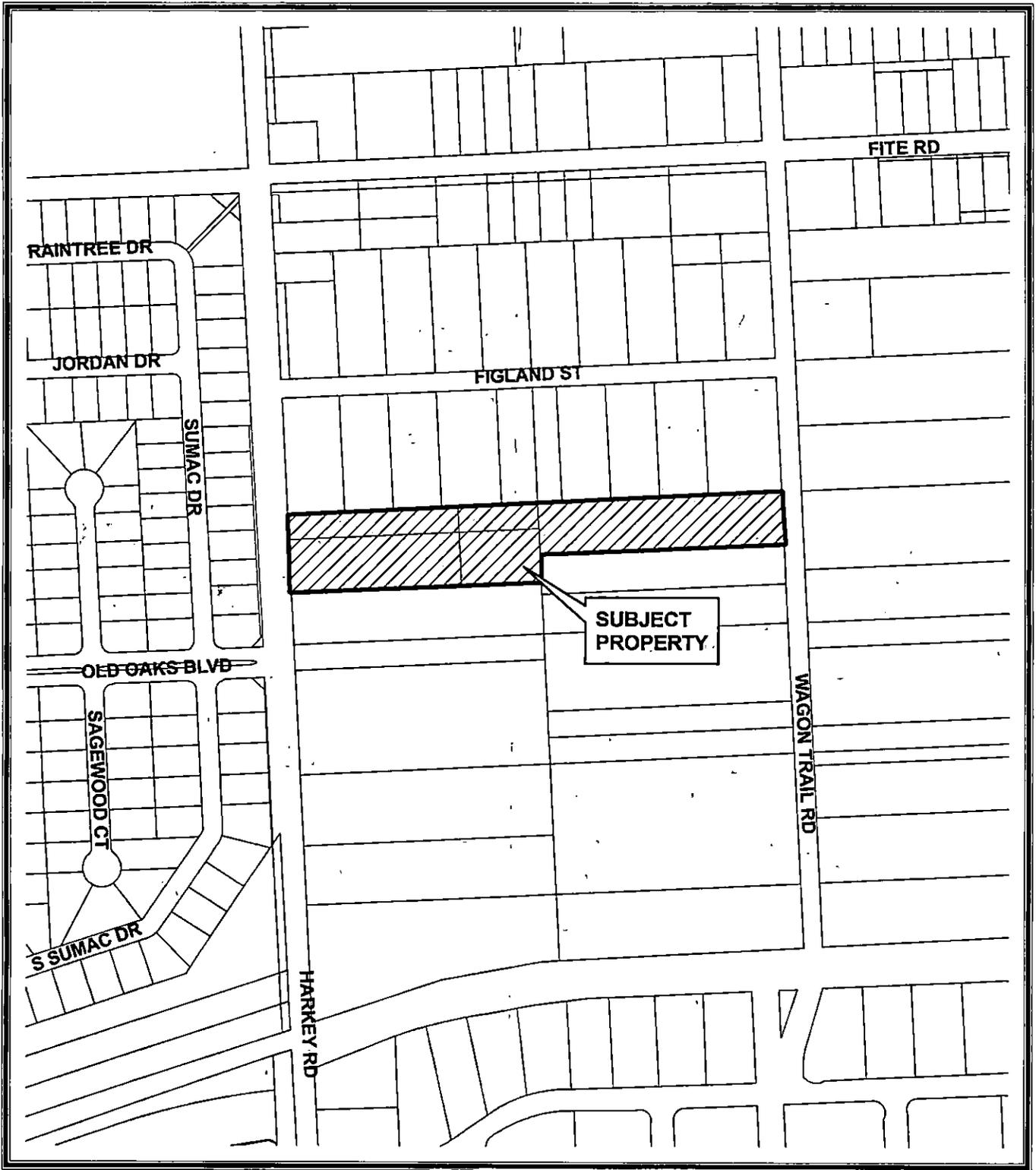
Owner's Signature: _____ Date: _____

Agent's Signature: [Signature] Date: 7/18/05

OFFICE USE ONLY:

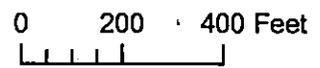
FEES PAID: <u>\$250.00</u>	DATE PAID: <u>7/19/05</u>	RECEIVED BY: <u>[Signature]</u>	APPLICATION NUMBER: <u>SUP 151</u>
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*****APPLICATION IS CONSIDERED INCOMPLETE WITHOUT A METES AND BOUNDS DESCRIPTION OR SURVEY AND THE APPLICATION FEE*****



LOCATION MAP

Specific Use Permit Application
No. 151



Map Prepared on July 29, 2005

SPECIFIC USE PERM. APPLICATION NO. 151
Property Owner Notification List

<u>PROP ID</u>	<u>OWNER</u>	<u>ADDRESS</u>	<u>CITY</u>	<u>ST</u>	<u>ZIP CODE</u>	<u>LEGAL DESCRIPTION</u>
R207364	CHAPA MARIA M	5906 FIGLAND ST	PEARLAND	TX	77584-9075	FIGLAND ORCHARD (A0240 H T & B), LOT 60C, ACRES 1.000
R207361	KAN TEANG & HUY IN	3049-2 WAGON TRL	PEARLAND	TX	77584	FIGLAND ORCHARD (A0240 H T & B), LOT 60D, ACRES 1.000
R207357	KAN TEANG & HUY IN	3049-2 WAGON TRL	PEARLAND	TX	77584	FIGLAND ORCHARD (A0240 H T & B), LOT 59-60A, ACRES 1.250
R207358	ELLIS JOYCE	6010-1 FIGLAND ST	PEARLAND	TX	77584	FIGLAND ORCHARD (A0240 H T & B), LOT 59B, ACRES 1.250
R207359	JACKSON J D	3125 HARKEY RD	PEARLAND	TX	77584-8367	FIGLAND ORCHARD (A0240 H T & B), LOT 59A-59D, ACRES 2.000
R207359	JACKSON J D	3125 HARKEY RD	PEARLAND	TX	77584-8367	FIGLAND ORCHARD (A0240 H T & B), LOT 59A-59D, ACRES 2.000
R511429	KING CHRISTOPHER A & TIFFANY N	3111 SUMAC DR	PEARLAND	TX	77584-8070	WEST OAKS 1 (A0241 H T & B), BLOCK 1, LOT 24, SEC 3 PHASE B
R207328	MOSES THOMAS	PO BOX 1867	PEARLAND	TX	77588-1867	FIGLAND ORCHARD (A0240 H T & B), LOT 38A, ACRES 2.500
	VOICE STREAM HOU-SHAWN ST JOHN	2 GREENWAY PLAZA#1100	HOUSTON	TX	77046	APPLICANT
R207355	LANGE RANDY A & CONNIE L	3149 HARKEY RD	PEARLAND	TX	77584-8367	FIGLAND ORC (A0240 H T & B), LOT 57-58, ACRES 5.000
R207363	DAVIDSON MICHAEL A	3126 WAGON TRAIL RD	PEARLAND	TX	77584-9083	FIGLAND ORCHARD (A0240 H T & B), LOT 60, ACRES 1.500
R207362	CHAPA MARIA M	5906 FIGLAND ST	PEARLAND	TX	77584-9075	FIGLAND ORCHARD (A0240 H T & B), LOT 60B, ACRES 1.000
R207353	COLE BARBARA A	3154 WAGON TRAIL RD	PEARLAND	TX	77584-9083	FIGLAND ORCHARD (A0240 H T & B), LOT 57-57B, ACRES 3.00
R207357	KAN TEANG & HUY IN	3049-2 WAGON TRL	PEARLAND	TX	77584	FIGLAND ORCHARD (A0240 H T & B), LOT 59-60A, ACRES 1.250
R207360	JACKSON J D	3125 HARKEY RD	PEARLAND	TX	77584-8367	FIGLAND ORCHARD (A0240 H T & B), LOT 59C, ACRES 1.000
R511432	MCCREARY KEVIN J & JANA V	3117 SUMAC DR	PEARLAND	TX	77584-8070	WEST OAKS 1 (A0241 H T & B), BLOCK 1, LOT 27, SEC 3 PHASE B
R207356	LEDO DAN THANH & KIMANH	1704 STANFORD ST	HOUSTON	TX	77006-1345	FIGLAND ORCHARD (A0240 H T & B), LOT 58B, ACRES 2.000
R207353	COLE BARBARA A	3154 WAGON TRAIL RD	PEARLAND	TX	77584-9083	FIGLAND ORCHARD (A0240 H T & B), LOT 57-57B, ACRES 3.00
R207350	LEDO DAN THANH & KIMANH	1704 STANFORD ST	HOUSTON	TX	77006-1345	FIGLAND ORCHARD (A0240 H T & B), LOT 55, ACRES 1.000
R207329	ONG KAN TEANG & HUYIN	3049 WAGON TRAIL RD	PEARLAND	TX	77584-9082	FIGLAND ORCHARD (A0240 H T & B), LOT 38, ACRES 2.500
R511427	MAXWELL MARK E & SUSAN P	3107 SUMAC DR	PEARLAND	TX	77584-8070	WEST OAKS 1 (A0241 H T & B), BLOCK 1, LOT 22, SEC 3 PHASE B
R207351	ORDONEZ NATIVIDAD & MIRIAM	3229 HARKEY RD	PEARLAND	TX	77584-2964	FIGLAND ORCHARD (A0240 H T & B), LOT 55A, ACRES 4.000
R511428	MASOZERA NICHOLAS M & MAY M	3109 EAST SUMAC	PEARLAND	TX	77584	WEST OAKS 1 (A0241 H T & B), BLOCK 1, LOT 23, SEC 3 PHASE B
R207332	ABSHIRE ROBERT LEE & TAMMY DENISE	3133 WAGON TRAIL RD	PEARLAND	TX	77584-9084	FIGLAND ORCHARD (A0240 H T & B), LOT 39A, ACRES 3.000
R207355	LANGE RANDY A & CONNIE L	3149 HARKEY RD	PEARLAND	TX	77584-8367	FIGLAND ORC (A0240 H T & B), LOT 57-58, ACRES 5.000
R511430	NGUYEN THOMAS HAI & KIMBERLY	3113 SUMAC DR	PEARLAND	TX	77584-8070	WEST OAKS 1 (A0241 H T & B), BLOCK 1, LOT 25, SEC 3 PHASE B
R207355	LANGE RANDY A & CONNIE L	3149 HARKEY RD	PEARLAND	TX	77584-8367	FIGLAND ORCHARD (A0240 H T & B), LOT 57-58, ACRES 5.000
R511431	WILSON THOMAS J & PATRICIA H	3115 SUMAC DR	PEARLAND	TX	77584-8070	WEST OAKS 1 (A0241 H T & B), BLOCK 1, LOT 26, SEC 3 PHSE B
R511433	STEPHENS TERENCE G & CARLENE	2311 MAJESTIC OAKS CT	ROSHARON	TX	77583-7474	WEST OAKS 3 PH B (A0241 H T & B, BLOCK 1, LOT 28
R207331	BUCKMASTER MICHAEL A & DORIS A	3153 WAGON TRAIL RD	PEARLAND	TX	77584-9084	FIGLAND ORC (A0240 H T & B), LOT 39 LOT 42A, ACRES 2.000
R502824	ORTEGA SEMIO S	3101 SUMAC DR	PEARLAND	TX	77584-8023	WEST OAKS 1 (A0241 H T & B), BLOCK 1, LOT 19 SEC 3 PH A

Proposal To
City of Pearland, Texas
Wireless Telecommunications Facility

Site # A3D0171A



• • T • Mobile •

STATEMENT OF INTENT

In accordance with Chapter 32 of the Land Use and Urban Development Ordinance, VoiceStream Houston, Inc. (T-Mobile) respectfully submits this statement in support of its application to the City of Pearland for approval of Specific Use Permit and other necessary permits to construct and operate a wireless telecommunications communications facility (WTF) at 3149 Harkey Road.

Introduction

T-Mobile operates a Personal Communications Service (PCS) system throughout the United States, providing the latest in wireless communications services. T-Mobile is one of the fastest growing nationwide wireless service providers, offering all digital voice, messaging and high-speed wireless data services to more than 13.1 million customers in the United States. T-Mobile utilizes one digital standard for communication throughout the United States and internationally: the GSM (Global System for Mobile Communications) standard, allowing subscribers to use T-Mobile services internationally.

As wireless has matured, more and more people have joined the wireless revolution, until wireless phones and devices have become so commonplace that it is no longer a luxury item, but rather a necessity. Not only are there more wireless users every day, the average subscriber uses more and more minutes each year. As time has gone by, people's attitudes to and uses for the technology have changed. Those who once used their phone primarily for emergencies or while traveling now use their wireless handset as their primary means of communicating. Many people use their wireless phones more than their home or work landlines, and a growing number of Americans are ditching their landline altogether. In other countries, more people have cell phones than landlines, and in some parts of the world use wireless handsets instead of computers as their primary means to access the Internet. As a result of all these changes, the expectations of the customer have changed. Good car coverage on the major roads and highways is no longer enough. Wireless subscribers expect to be able to use their cell phones wherever they are, including at work and at home. In order to meet these expectations, wireless networks that once focused primarily on users in their vehicles are now being expanded to provide coverage where they live, work and play. This—combined with an increased national attention on safety and security, as well FCC directives and laws governing wireless as it relates to 911 emergency calls—have led to intense focus by T-Mobile on addressing the coverage demands and increasing the safety and security of our customers through the

deployment of additional Wireless Telecommunications Facilities throughout the United States.

The Technology

GSM is similar to the older cellular services introduced more than 20 years ago, but with many enhanced features. An extension of the ordinary telephone, GSM utilizes radio waves in place of wires to transmit and receive calls. It is similar to radio and TV broadcasts, but the signals utilized by wireless telephones are much weaker, as they utilize two-way communication (handset to base station and vice-versa) and provide signal to a smaller service area. T-Mobile operates in the 1800 to 2000 megahertz range of the UHF band. T-Mobile's antenna will be operating at an ERP of 100-1000 watts maximum (similar power levels to a remote control car, heating blanket, or hair dryer).

The proposed communications facility will not interfere with either television or radio reception, as T-Mobile is licensed by the FCC to operate in a very specific frequency range at a different location on the spectrum.

The Proposal

T-Mobile has entered into a lease agreement with the property owner for a 40' x 50' lease area. The proposed wireless service facility will be comprised of a fenced equipment compound located within the lease area containing a 120' self-supporting monopole structure and the necessary transmitting/receiving equipment. The facility will be fenced and locked, accessed from Harkey Road by a small private access road, which will extend to the site from the access road currently existing on the parent tract. The facility will be unmanned, visited for routine maintenance (typically once per month or less). The facility will emit no noise, glare or odor, and will have no signage other than those required for identification. The facility will comply with the strict guidelines of the FCC and FAA, which are designed to protect public safety. To ensure structural integrity of the tower, T-Mobile will construct and maintain it in compliance with all federal, state, and local building codes and standards, and it will be engineered to local wind speed requirements.

Site Selection/Design

The proposed site is critical for complete coverage for users living and working in and traveling through the surrounding area, including the surrounding residential and commercial areas. Current coverage is too weak to adequately serve the growing user base, especially users within residential or commercial buildings. The process of developing GSM systems is similar to cellular development in that the Basic Trading Area ("BTA") regions are subdivided into small geographic sections or "cells". Each cell site holds the radio equipment that communicates with the subscriber and must be

precisely located relative to other "cells", creating a communication grid system of sorts. This grid system must reflect the topography and traffic (user population and building density) of the "cells" as well as the radius of the respective antenna's reliable transmission area.

Since GSM technology uses weaker signals than radio, TV, or analog cellular technology, the antennas must be closer together than other types of antennas. T-Mobile is acutely aware of citizen concerns regarding antenna support structures and is committed to minimizing the visual impact of transmission structures in local communities. As a result, T-Mobile has attempted to place as many of its antennas as possible on existing structures (collocation) to avoid the need for new tower sites. In fact, the majority of T-Mobile cell sites in Pearland are collocations on existing support structures.

Following a thorough investigation of the properties in the geographic area, it is clear there is not a single existing structure within a reasonable distance of the location that is feasible for collocation and would also meet T-Mobile's engineering requirements. T-Mobile carefully selected and designed the proposed facility to include a structure that provides adequate height and range of coverage for GSM, and meets the goals of the community. T-Mobile builds all new structures to accommodate antennas for additional carriers (collocation), thereby reducing the proliferation of towers. T-Mobile chose a "Monopole" tower design (similar to the galvanized steel poles used for light standards) in order to minimize visual impact while still allowing the flexibility needed for collocation.

The site is on property zoned M-1 (Light Industrial). The property contains existing industrial uses. T-Mobile's site is in an undeveloped area of the tract, in a location that is fully or partially obscured from view in many directions by existing trees or buildings. The M-1 district is the second most intense use district in Pearland, making a communications facility an appropriate use on this property, which is the only M-1 property in the area. In fact, towers are allowed by SUP in other less intense districts, including OP, NS and GB. This is the best possible location for the site, both from an engineering standpoint and from a planning/community standpoint.

The benefits of wireless services are evidenced by the tremendous growth in consumer demand over the past few years. Because they offer unparalleled convenience and safety benefits, wireless services are an essential element of the community's infrastructure portfolio. This proposal offers twin benefits from a public policy perspective. First, it will enhance the City's technology infrastructure, making the area more desirable to residents and businesses alike. Moreover, the proposal furthers the City's policy of collocation to avoid the unnecessary proliferation of towers.

T-Mobile's FCC license requires it to operate its system in a defined service region using designated radio frequencies. Each site must be precisely located relative to other sites. T-Mobile's system must reflect the contours and topography of the area and the radius of the antenna's reliable transmission. The subject site was carefully selected in order to

have minimal impact on adjacent or nearby properties. T-Mobile's network dictates that a site be at this location to avoid a gap in service and improve areas of existing coverage to allow for in-building service in this area of Pearland. Propagation maps reflecting the coverage objectives, prepared by T-Mobile PCS Radio Frequency engineers, are attached.

Zoning Compliance & Application Merits

The proposed facility is in compliance with Chapter 32 of the Land Use and Urban Development Ordinance. We will reprint the pertinent portions of the Tower Ordinance below and respond as appropriate:

Section 32.3. Specific Use Permit Required.

- (a) Except as otherwise provided in this section, a person may not construct, erect, or maintain a tower or antenna on any land located within the City without first receiving a specific use permit. The procedures of this article relating to the application, processing, and determination of whether to grant a specific use permit, are in addition to any other provisions and requirements contained in other articles of these zoning regulations relating to specific use permits. In accordance with this requirement, T-Mobile is requesting a Specific Use Permit.
- (b) Rooftop mounted towers and antennas may be located on any buildings serving a nonresidential use and on an alternative tower structure without obtaining a specific use permit, if:
- (1) The structure, other than a tower on which the tower or antenna will be placed, exceeds 50 feet in height;
 - (2) The tower and antenna will add no more than 20 feet total to the height of the existing structure;
 - (3) The tower or antenna does not contain advertising; and
 - (4) It complies with the lighting regulations for towers as specified in this article.

The above does not apply to the proposed facility, as it is not a rooftop installation or alternative tower structure. No such structures currently exist in the vicinity.

- (c) The effects of radio frequency emissions on persons or the environment must not be considered in a proceeding involving an application for a specific use permit.

Section 32.4. Application Procedures.

An application for a specific use permit for a tower, antenna, or use of an alternative tower structure must be made to the Planning Department. An application will not be considered until it is complete. A complete application must contain the following:

- (a) An inventory of the applicant's existing towers that are either within the City or within one mile of the corporate limits, specifying the location, height, and

design of each tower. The Planning Department may share the information with other applicants for a specific use permit under this article. T-Mobile has attached a map showing all our existing cell sites in the greater Pearland area. Of the 11 sites, four are towers owned by T-Mobile. The remaining seven are collocation sites where T-Mobile has placed its antennas on existing towers or other structures owned by another company. This clearly illustrates T-Mobile's commitment to collocation as a first choice.

- (b) **Site plans to scale specifying the location of tower(s), transmission building and other accessory uses, street access, parking, fences, landscaped areas, and adjacent land uses.** Preliminary site plans are attached showing all required items. T-Mobile will work with City staff to ensure fencing and landscaping will comply with all requirements and guidelines. T-Mobile plans to use an opaque fencing material and landscaping around the compound. T-Mobile chose a site location that is partially obstructed from view by existing landscaping and vegetation, further reducing the visual impact of the facility.
- (c) **A report from a professional structural engineer licensed in the State of Texas documenting the following:**
 - (1) **Tower height and design, showing a cross-section of the tower structure.**
 - (2) **Total anticipated capacity of the tower structure, including the number and types of antennas which can be accommodated.**

T-Mobile will be happy to provide the above information to the City when it becomes available. T-Mobile intends to construct a monopole that will accommodate the antennas of at least 3 PCS service providers.

- (d) **A letter of intent to lease excess space on the tower and to lease additional excess land on the tower site when the shared use potential of the tower is absorbed, if structurally and technically possible.**

T-Mobile intends to make space on the monopole and compound available for lease to other users for collocation. It is common practice for T-Mobile and the other major wireless carriers to collocate on each others' towers throughout the United States. T-Mobile has master lease agreements with the major carriers and tower companies, and vice-versa. T-Mobile will comply with this requirement if structurally and technically possible.

- (e) **Each applicant must make a good faith effort to substantially demonstrate that no existing towers could accommodate the applicant's proposed antenna by doing the following:**
 - (1) **The applicant must contact the owners of all existing towers of a height roughly equal to or greater than the height of the tower proposed by the applicant. A list must be provided of all owners contacted, the date of the contact, and the form and content of the contact. Where an existing tower is known to have capacity for additional antennas of the sort proposed, that application for a new tower is not complete until the owner of the existing tower responds, unless the applicant submits sufficient information for the Planning Department to determine that all reasonable efforts to obtain a response have been made and further efforts would be futile.**

This requirement was easy to meet. Simply put, there are no cellular towers or other tall structures anywhere near the area of need. T-Mobile already has our antennas placed on the nearest existing cellular towers.

- (f) Any other information which may be requested by the Planning Department to fully evaluate and review the application and the potential impact of a proposed tower or antenna.**

T-Mobile has repeatedly met with City Planning staff to talk through this proposal and make sure questions are answered and the proper information is provided. T-Mobile would be happy to try to answer any other questions or requests for further information.

Section 32.5. General Requirements and Regulations.

- (a) No advertising is permitted on an antenna or tower.** T-Mobile will not place any advertising on the site.
- (b) No signs or illumination are placed on an antenna or tower unless required by the FCC, FAA or other state or federal agency of competent jurisdiction.** The Planning Department may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding uses and views. The only signage will consist of a simple identification sign with an emergency number, as well as any other signage specifically required by the FCC, FAA or any other government entity. The tower will not be lighted, and is not required by the FAA to be lighted.
- (c) A new cell may not be established if there is a technically suitable space available on an existing tower within the search area that the new cell is to serve.** For the purpose of this article, the search area is defined as the grid for the placement of the antenna. As demonstrated on the attached coverage maps, the area the site needs to be located in order to achieve coverage objectives is very small. The nearest existing towers are not only too far away, but T-Mobile already has antennas mounted on these towers.
- (d) A tower must not be located in the required front yard in a residential district**

The proposed tower will be located more than 600 feet from the front of the subject property, far exceeding the front yard requirements.

- (e) All free-standing towers (not mounted on rooftops or alternative tower structures) must conform to the following minimum tower separation requirements:**

TOWER <50 50- 101- >150
HEIGHT feet 100 ft. 150 ft. feet
<50 ft. 300' 500' 750' 1000'
50-100 ft. 500' 750' 1000' 1500'
101-150 ft. 750' 1000' 1500' 2000'
>150 ft. 1000' 1500' 2000' 2500'

There are no existing cell towers within 2000' of the proposed tower location.

Section 32.6. Visual Impacts.

- (a) Towers must either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable federal or state agency, be painted a neutral color, so as to reduce visual obtrusiveness.** The proposed

monopole will have a galvanized steel finish. T-Mobile has found that galvanized steel blends in with the surroundings better than a painted surface.

- (b) At a tower site the design of the building and related structures must use materials, colors, textures, screening, and landscaping that will blend the tower and facilities to the natural setting and built environment. T-Mobile will screen the compound with opaque fencing and drought-resistant landscaping.
- (c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible. Not applicable.
- (d) Towers clustered at the same site must be of similar height and design. There are no other towers at the site.
- (e) Towers must be the minimum height necessary to provide parity with existing similar tower supported antenna, and must be freestanding where the negative visual effect is less than would be created by use of a guyed tower. The proposed 120' structure is similar to or shorter than most of the area towers, and clearly is of a design that will be less visually obtrusive than a guyed tower structure.

Section 32.7. Principal, Accessory, and Joint Uses.

- (a) Accessory structures used in direct support of a tower is allowed but must not be used for offices, vehicle storage or other outdoor storage. Mobile or immobile equipment not used in direct support of a tower shall not be stored or parked on the site of the tower, unless repairs to the tower are being made. As stated earlier, the proposed facility will be unmanned, visited only for maintenance. All structures and equipment will be contained within the fenced compound and will consist of uses directly related to the operation of the tower and facility.
- (b) Towers may be located on sites containing another principal use in the same buildable area. Towers may occupy a parcel meeting the minimum lot size requirements for the zoning district in which it is located. For a monopole tower, the minimum distance between the tower and any other principal use located on the same lot shall be 20% percent of the tower height or 25 feet, whichever is greater. All existing uses on the property are well over the required distance from the proposed tower facility.
- (c) Placement of more than one tower on a lot is permitted, provided all setback, design and landscape requirements are met as to each tower. Structures may be located as close to each other as technically feasible, provided tower failure characteristics of the towers on the site will not lead to multiple failures in the event that one fails. T-Mobile has no plans to construct additional towers at this site.

Section 32.8. Shared Use.

- (a) To encourage shared use of towers, no building permit or specific use permit is required for the addition of antennas to an existing tower so long as the height of the tower or structure on which the antenna is placed is not

increased and the requirements of this article are met. T-Mobile applauds the City's encouragement of collocation, which reduces tower proliferation.

(b) Any specific use permit which is granted for a new tower is specifically subject to the condition that the tower owner abide by the following provisions relating to shared use, regardless of whether or not the ordinance granting the permit contains the conditions:

- (1) The tower owner must respond in a timely, comprehensive manner to a request for information from a potential shared use applicant;
- (2) The tower owner must negotiate in good faith for shared use by third parties; and
- (3) The tower owner must allow shared use where the third party seeking the use agrees in writing to pay reasonable, pro rata charges for sharing, including all charges necessary to make modifications of the tower and transmitters to accommodate the shared use, and to observe whatever technical requirements are necessary to allow shared use without creating interference.

(c) The willful failure of an owner whose tower was approved under this article to comply with the requirements of this section is grounds for withholding approval of any application by the owner for a building permit for the approved tower, for revoking the specific use permit granted for the tower, and for refusing to approve a new specific use permit for any new tower or antenna. T-Mobile will comply with all the above requirements. In fact, we have an entire department devoted to handling requests to collocate on our towers.

Section 32.9. Abandoned Towers.

(a) Any antenna or tower that is not operated for any continuous period of 12 months is deemed abandoned, whether or not the owner or operator intends to make use of the tower. The owner of an abandoned antenna or tower and the owner of the property where tower is located must remove the tower or antenna. If the antenna or tower is not removed within 60 days of receipt of notice from the City ordering the removal, the City may remove tower or antenna and place a lien upon the property for the costs of the removal.

(b) If the owner of an abandoned tower or antenna wishes to use the abandoned tower or antenna, the owner first must apply for and receive all applicable permits and meet all of the conditions of this article as if the tower or antenna were a new tower or antenna.

T-Mobile will comply with the above requirements.

Section 32.10. Pre-Existing Towers and Non-Conforming Uses.

All communications towers operative prior to the effective date of this article, are allowed to continue their present usage as a nonconforming use and are treated as a non-conforming use in accordance with the zoning regulations. Routine maintenance is permitted on the existing towers. Construction other than routine

maintenance on an existing communication tower must comply with the requirements of this article. Not Applicable.

Section 32.11. Public Property.

Antennas or towers located on property owned, leased or otherwise controlled by the City are exempt from the requirements of this article

T-Mobile seriously considered a City Recycling facility to the South of the proposed site. The location was a little further south than T-Mobile's area of interest, but knowing the ordinance supported use of City property, and based past positive experiences working on similar projects with other Cities, T-Mobile made the inquiry. T-Mobile was informed that the City would not consider a proposal for placement of a communications tower on the property.

Conclusion

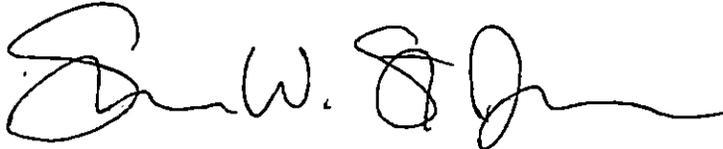
Everyday, over 50,000 "911" calls are made from wireless phones. The proposed T-Mobile site enhances the general welfare of the community by providing the infrastructure for these calls, as well as providing vital means of communication during times of emergency when traditional land lines are not available. The carefully selected and designed facility allows these calls to occur while remaining a site that meets the needs of the community as well as those of future carriers in the area.

All exhibits to this Statement of Intent are incorporated by reference into the same.

T-Mobile respectfully requests approval of its application for variances and related permits. Thank you for your consideration. Please contact me with any questions or comments at (832) 605-7917.

Sincerely,

VOICESTREAM HOUSTON, INC.



Shawn W. St. John





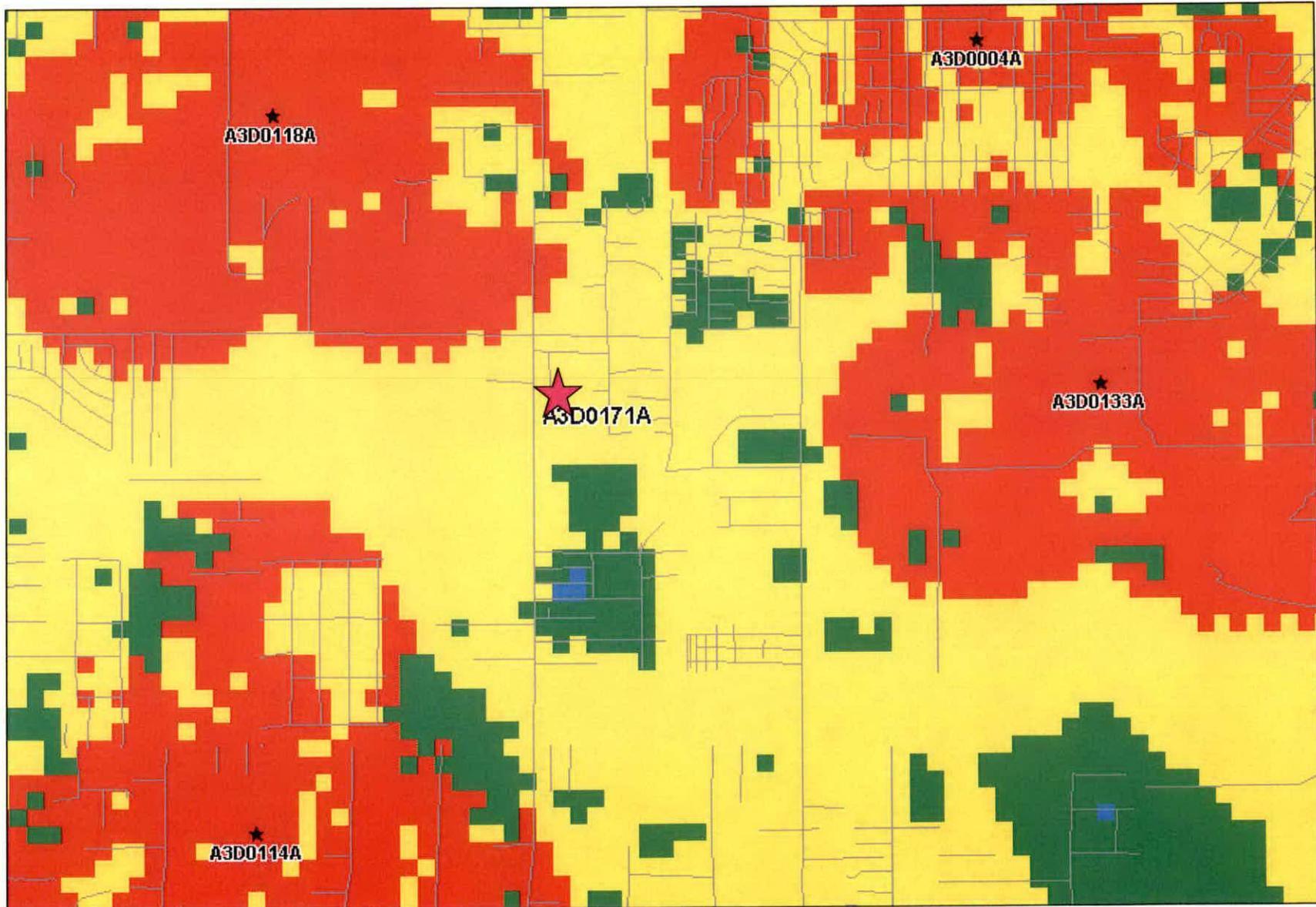
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Photo: Looking at Site from the West

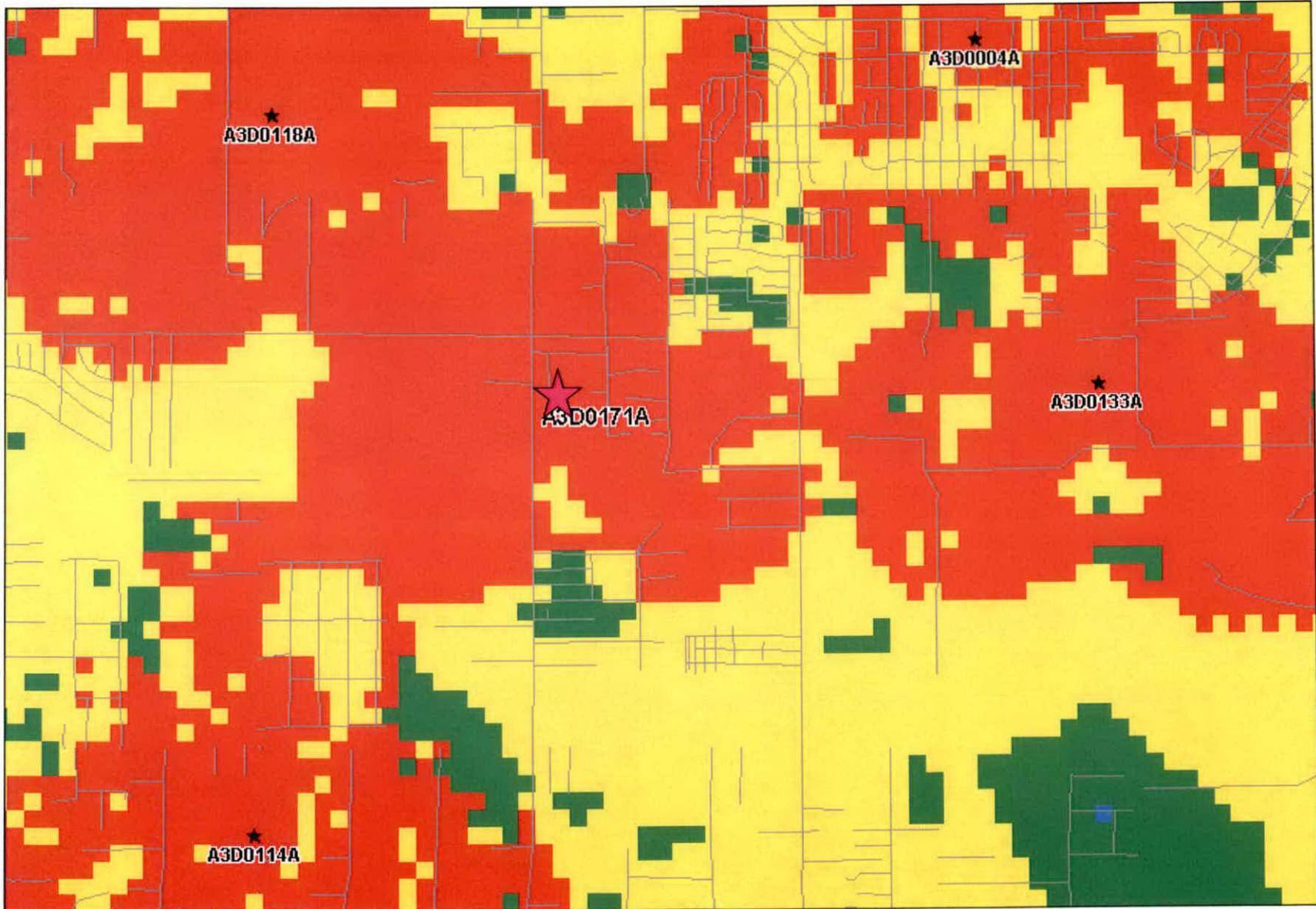


shawn.stjohn@T-Mobile.com

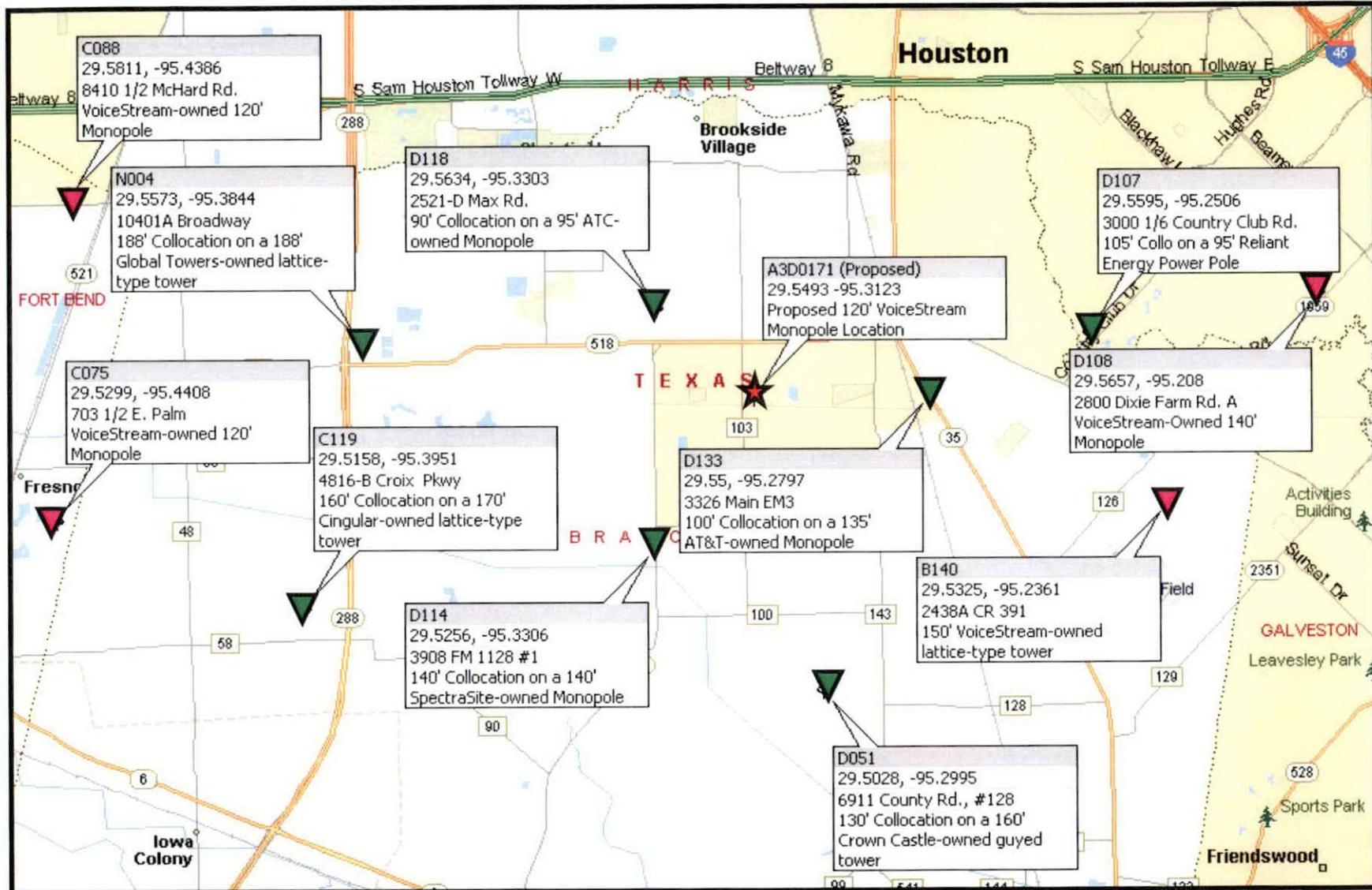
Coverage with Existing Network



Projected Coverage With Proposed Site

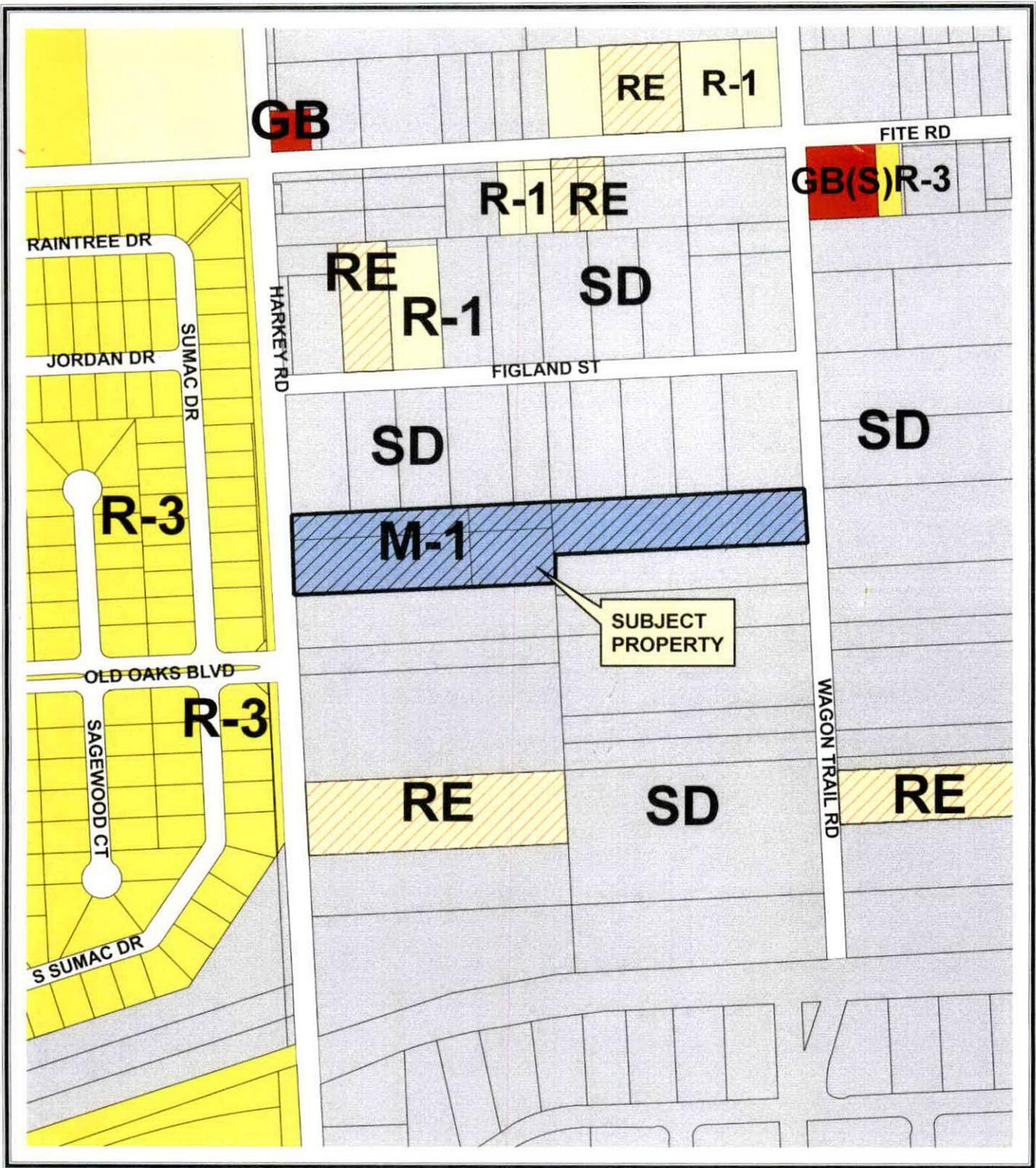


Site Inventory in the Pearland Area



▼ Collocation on Existing Structure

▼ Tower owned by VoiceStream/T-Mobile

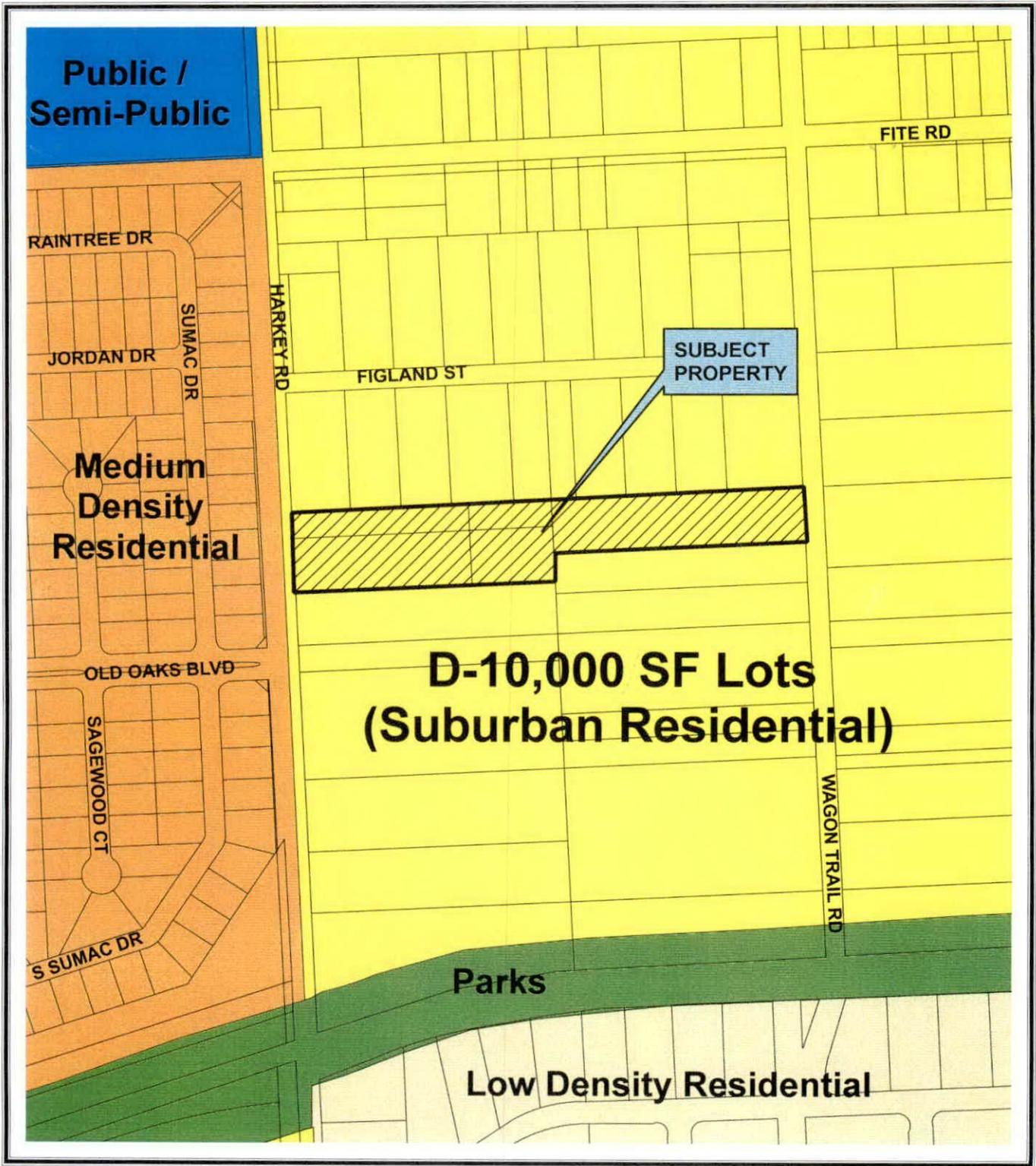


ZONING MAP

Specific Use Permit Application
No. 151

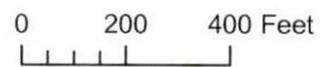


Map Prepared on July 29, 2005



FUTURE LAND USE PLAN

Specific Use Permit Application
No. 151



Map Prepared on July 29, 2005

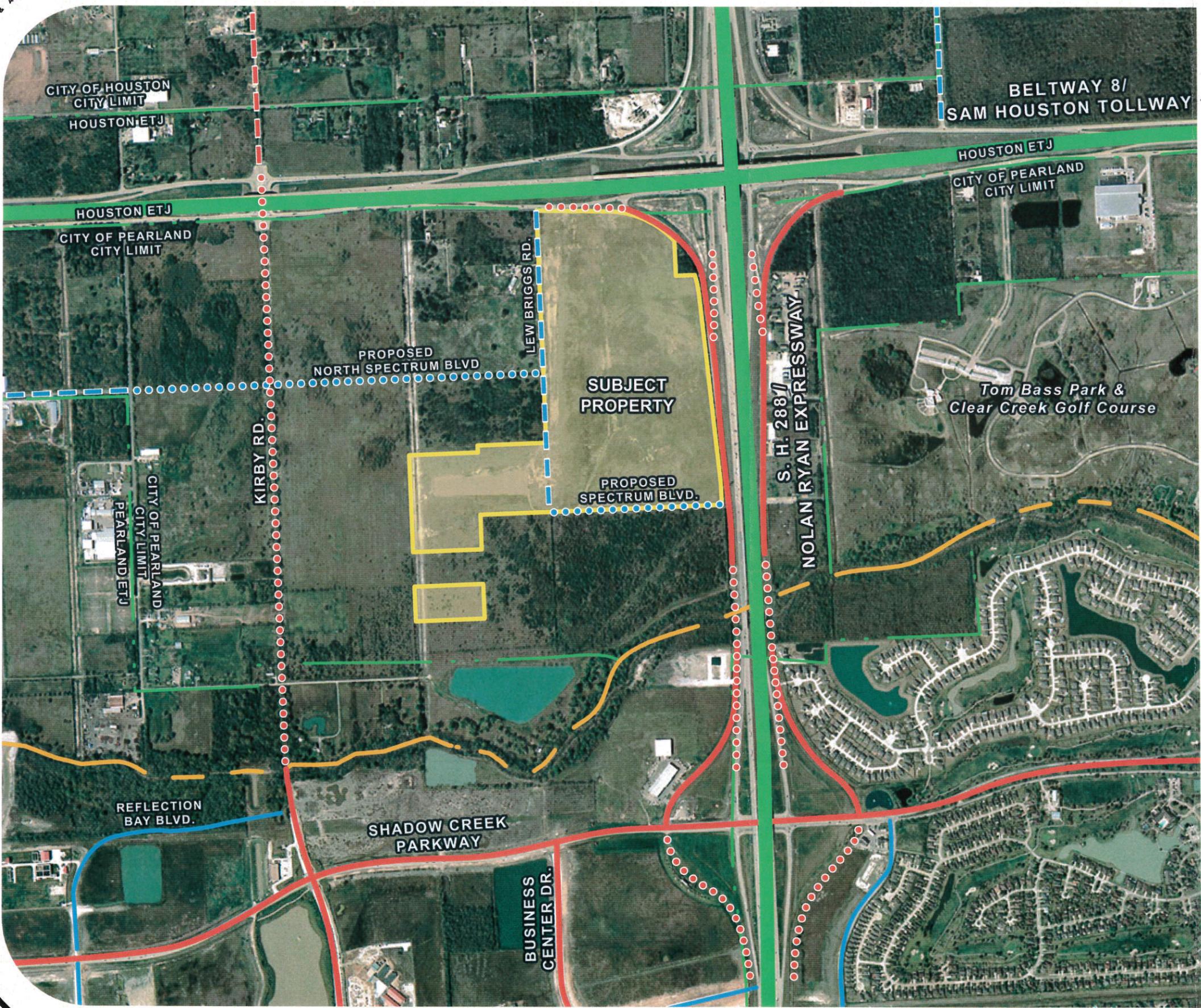


a conceptual site plan for
LIFESTYLE CENTER PUD
 PEARLAND, TEXAS
 prepared for
PEARLAND LIFESTYLE CENTER, L.P.

KERRY R. GILBERT & ASSOCIATES, INC. Land Planning Consultants
 15810 Park Ten Place Suite 160
 Houston, Texas 77084
 (281) 579-0340

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JULY 6, 2005
 KGA #1-137



- LEGEND**
- EXISTING FREEWAY / EXPRESSWAY SUFFICIENT WIDTH
 - EXISTING MAJOR THOROUGHFARE SUFFICIENT WIDTH
 - ⋯ EXISTING MAJOR THOROUGHFARE INSUFFICIENT WIDTH
 - EXISTING COLLECTOR SUFFICIENT WIDTH
 - - - EXISTING COLLECTOR INSUFFICIENT WIDTH
 - ⋯ PROPOSED COLLECTOR



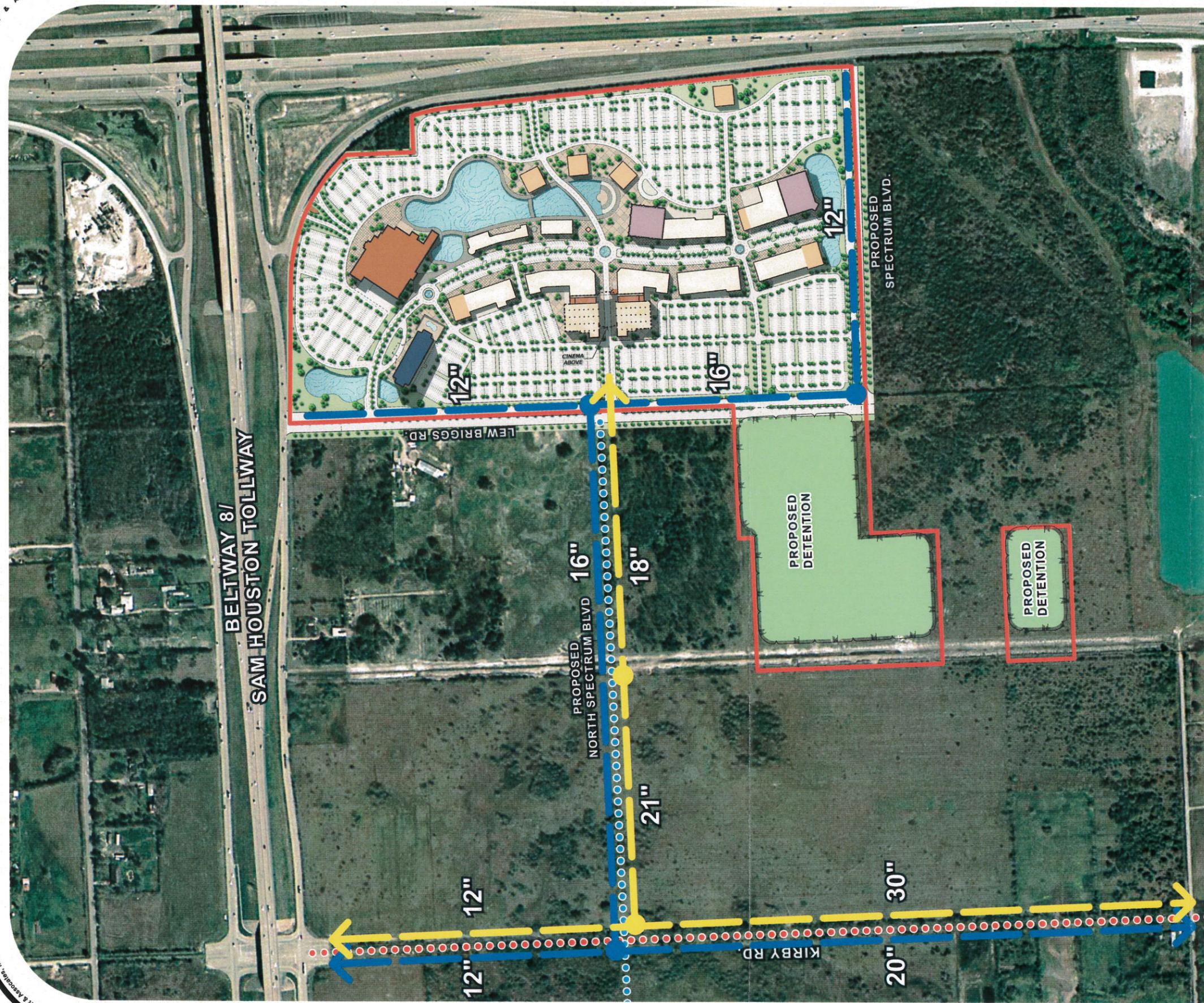
a mobility plan for
**LIFESTYLE
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EXHIBIT E



LEGEND

- Proposed Water Line
- Proposed Wastewater Line
- Proposed Storm Water Line

a utilities plan for

LIFESTYLE CENTER PUD

PEARLAND, TEXAS

prepared for

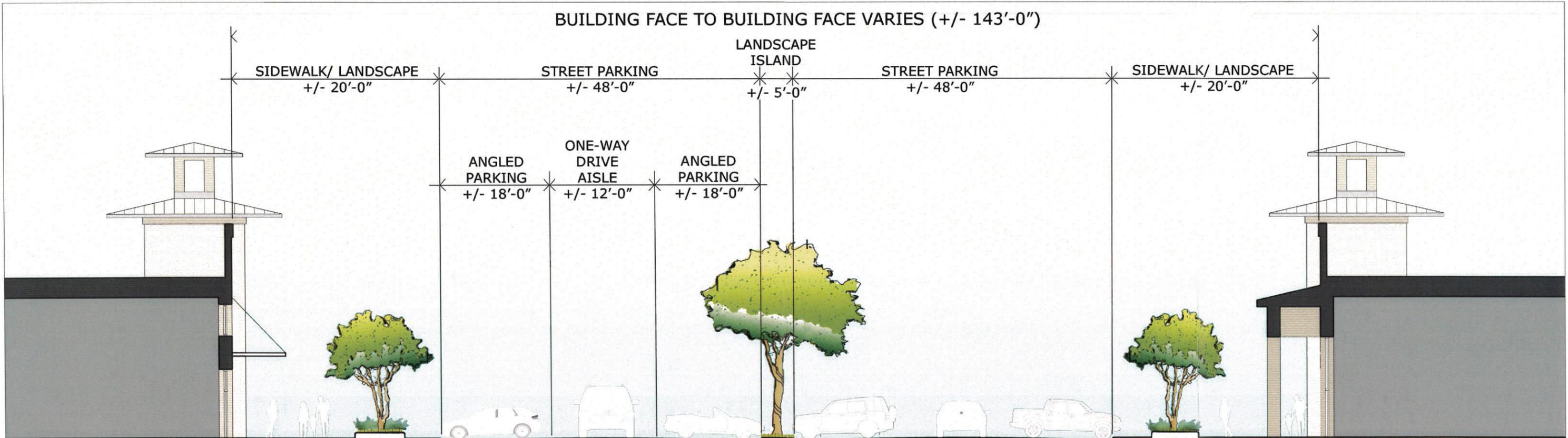
PEARLAND LIFESTYLE CENTER, L.P.

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 KGA #1-137

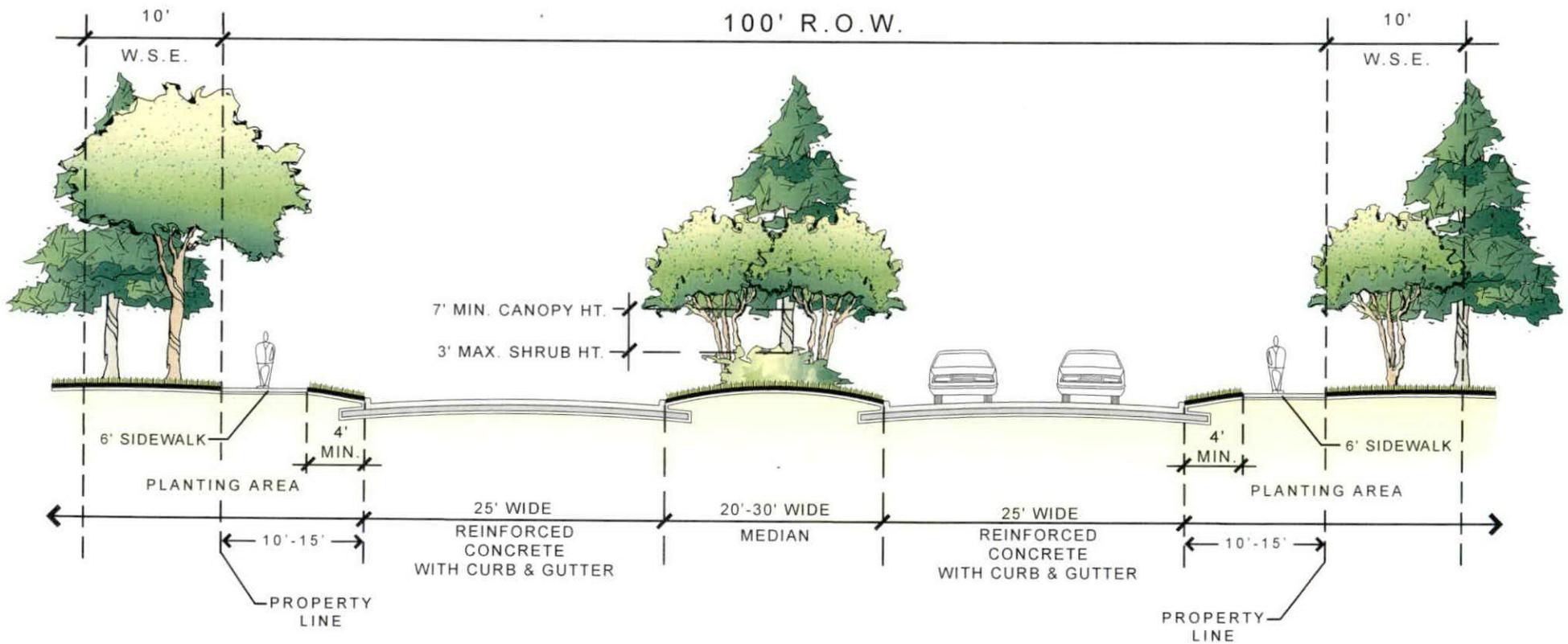
THIS MAP IS A SCANNED DRAWING ONLY AND IS NOT FOR COMPUTATION OR CONSTRUCTION PURPOSES. SAID DRAWING IS A PICTORIAL REPRESENTATION ONLY AND IS SUBJECT TO CHANGE. ADDITIONALLY NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, CONCERNING THE ACTUAL DESIGN, LOCATION, DEPTH OR CHARACTER OF UTILITIES OR THE ACCURACY OF THIS INFORMATION ARE INTENDED. THIS PRESENTATION IS FOR REPRESENTATION ONLY AND IS NOT TO BE USED FOR ANY OTHER PURPOSES. FROM MAPS, SURVEYS AND OTHER DOCUMENTS PROVIDED TO KERRY R. GILBERT & ASSOCIATES, INC.

EXHIBIT F



CONCEPTUAL CROSS-SECTION FOR MAIN STREET DRIVEWAY

EXHIBIT H



*NOTE: These dimensions will vary due to curvature of the streets.
 W.S.E. - WATER LINE/SANITARY SEWER EASEMENT
 NOTE: FOR ILLUSTRATION PURPOSES ONLY.
 REFER TO CONSTRUCTION PLANS FOR COMPLETE
 DETAILS AND SPECIFICATIONS

SPECTRUM BLVD. & LEW BRIGGS RD. - TYPICAL CROSS SECTION

EXHIBIT G

Joint Public Hearing

SPEAKER'S CARD

If you wish to speak during the Public Hearing, please complete the following information and give this card to the Recording Secretary either before or after your comments. Thank you.

Name: Shawn W. St. John

Full Address: 2 Greenway Plaza, #1100

(include zip) Houston, Tx 77046

I wish to speak regarding Item No. 2

Sup 151

Joint Public Hearing

SPEAKER'S CARD

If you wish to speak during the Public Hearing, please complete the following information and give this card to the Recording Secretary either before or after your comments. Thank you.

Name:

TOM WILSON

Full Address:

3115 SUMAC DRIVE, ~~PEARLAND~~

(include zip)

PEARLAND, TX 77584

I wish to speak regarding Item No.

151

Joint Public Hearing

SPEAKER'S CARD

If you wish to speak during the Public Hearing, please complete the following information and give this card to the Recording Secretary either before or after your comments. Thank you.

Name:

NICHOLAS MASOZERA,

Full Address:

3109 SUMAC DRIVE,

(include zip)

PEARLAND, TX 77584

I wish to speak regarding Item No.

451 (MONOPOLE)

Joint Public Hearing

SPEAKER'S CARD

If you wish to speak during the Public Hearing, please complete the following information and give this card to the Recording Secretary either before or after your comments. Thank you.

Name:

Michael Klaus

Full Address:

5016 Groveton

(include zip)

Pearland TX 77584

I wish to speak regarding Item No. _____

2



PUBLIC COMMENT FORM

City of Pearland
Community Development
3523 Liberty Drive
(Community Center)
Pearland, Texas 77581
281-652-1742
281-652-1702 fax

SPECIFIC USE PERMIT APPLICATION NO. 151

Joint Public Hearing to be held Monday, August 15, 2005, at 6:30 PM in the Council Chambers of City Hall, 3519 Liberty Drive, Pearland, Texas.

If you are unable to attend the Joint Public Hearing, but wish to have your opinions made a part of the public record, please complete this form and return to the above noted address (by mail, by fax, or in person, or email tgrahmann@ci.pearland.tx.us) prior to the Joint Public Hearing. You may complete this form and attend the Joint Public Hearing.

I am **FOR** the requested zoning as explained on the attached public notice.
(Checking "FOR" means that you support the zone change request and feel that the zoning should be approved accordingly.)

I am **AGAINST** the requested zoning as explained on the attached public notice.
(Checking "AGAINST" means that you are in opposition to the zone change request and feel that the request should be denied.)

Name: Tom and Pat Wilson

Address: 3115 Sumac Dr

Pearland Tax Account No. (if shown on enclosed map): _____

Signature: Pat Wilson Date: 8/10/05

COMMENTS: _____

Proposed antenna will be an eyesore and potential health hazard to our family.

AGENDA - JOINT PUBLIC HEARING OF THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION OF THE CITY OF PEARLAND, TEXAS, TO BE HELD AUGUST 15, 2005, AT 6:30 P.M., IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS

I. CALL TO ORDER

II. PURPOSE OF HEARING

Specific Use Permit Application No. 152

A request by Architectural Group International (AGI), applicant for The Home Depot, owner, for an amendment to the Land Use and Urban Development Ordinance of said City, for approval of a Specific Use Permit for "Outside Display, Storage, and Sale of Merchandise and Equipment" in the Commercial District (C), on the following described property, to wit:

Legal Description: 10.8757 acres of land, Restricted Reserve "A" out of the Final Plat of Home Depot U.S.A, Inc. Subdivision, a subdivision containing 14.6536 acres of land situated in the W.D.C. Hall Survey, Abstract 70, George W. Jenkins Subdivision, City of Pearland, Brazoria County, Texas

General Location: Generally Located on the South Side of FM 518 (Broadway Street), and on the East Side of Dixie Farm Road

III. APPLICATION INFORMATION AND CASE SUMMARY

A. STAFF REPORT

B. APPLICANT PRESENTATION

IV. PERSONS WISHING TO SPEAK FOR OR AGAINST THE PROPOSED REQUEST

V. COUNCIL/PLANNING COMMISSION/STAFF DISCUSSION

VI. ADJOURNMENT

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

**JOINT PUBLIC HEARING AGENDA ITEM
MEETING OF AUGUST 15, 2005**

Specific Use Permit Application No. 152

TO: City Council
Planning and Zoning Commission

SUBJECT: A request by Architectural Group International (AGI), applicant for The Home Depot, owner, for an amendment to the Land Use and Urban Development Ordinance of said City, for approval of a Specific Use Permit for "Outside Display, Storage, and Sale of Merchandise and Equipment" in the Commercial District (C)

LEGAL DESCRIPTION: 10.8757 acres of land, Restricted Reserve "A" out of the Final Plat of Home Depot U.S.A, Inc. Subdivision, a subdivision containing 14.6536 acres of land situated in the W.D.C. Hall Survey, Abstract 70, George W. Jenkins Subdivision, City of Pearland, Brazoria County, Texas

GENERAL LOCATION: Generally Located on the South Side of FM 518 (Broadway Street), and on the East Side of Dixie Farm Road

APPROVAL PROCESS: After this Joint Public Hearing, the requested specific use permit application will be considered as follows:

Planning and Zoning Commission: August 15, 2005*
City Council for First Reading: September 12, 2005*
City Council for Second Reading: September 26, 2005*

(*dates subject to change if item is tabled)

SUMMARY: The applicant is requesting approval of a Specific Use Permit for outside display, storage, and sale of merchandise and equipment in the Commercial District. The subject property is currently zoned Commercial District, and a Home Depot is currently located on the subject property.

The Land Use and Urban Development Ordinance states the following under the Commercial District regulations:

“Out of doors display, storage, and sale of merchandise, equipment, and vehicles shall be permitted provided the commercial zoning district is not adjacent to a residential zoned property. Approval of a Specific Use Permit authorizing said outdoor activities and uses is required for commercial zoning districts adjacent to residential zoned property.”

The subject property shares a south and east property line with tracts zoned as Single Family Dwelling District R-1 and R-4.

The applicant has indicated that the type of outside sales and storage will be typical of the other Home Depot stores in the City. Outside sales will consist of various sheds, garages, carports, and other similar buildings.

SURROUNDING ZONING AND LAND USES:

	<u>Zoning</u>	<u>Land Use</u>
North	Commercial District (C)	Various retail and commercial businesses
South	Single Family Dwelling District (R-1)	Single family residence; undeveloped tract
East	Commercial District (C) and Single Family Dwelling District (R-4)	Commercial and retail businesses; undeveloped tracts
West	Commercial District (C)	Various retail and commercial businesses, including Wal-Mart Supercenter

CONFORMANCE TO THE LAND USE AND URBAN DEVELOPMENT ORDINANCE: The applicant is requesting a Specific Use Permit for outside display, storage, and sale of merchandise and equipment. The applicant would be required to comply with all setbacks and requirements of the C district.

The applicant will be required to comply with all other requirements of the Land Use and Urban Development Ordinance, as well as the Building Code and other various codes.

PLATTING STATUS: The subject property has been platted as part of the Final Plat of Home Depot USA Subdivision. No further platting is required at this time.

CONFORMANCE TO THE COMPREHENSIVE PLAN: The Comprehensive Plan (2004 update adopted on July 26, 2004) recommends "Retail, Offices, and Services" for the subject property and for many of the surrounding properties along Broadway Street. The Comprehensive Plan further indicates that the appropriate zoning districts for "Retail, Offices, and Services" are the General Business District (GB), the Neighborhood Service District (NS), and the Office and Professional District (OP).

The existing C zoning of the subject property currently conflicts with the recommendation of "Retail, Offices, and Services" for the subject property.

CONFORMANCE TO THE THOROUGHFARE PLAN: The subject property has frontage on Broadway Street (FM 518) and Dixie Farm Road, both major thoroughfares with an ultimate right-of-way of 120 feet.

No other roadways affect the subject property.

AVAILABILITY OF UTILITIES: There are existing water mains along Dixie Farm Road, Broadway Street, and within the existing Home Depot site. There are existing sanitary sewer force mains and gravity mains along Dixie Farm Road and within the existing subject property.

IMPACT ON EXISTING AND FUTURE DEVELOPMENT: The Specific Use Permit is being requested due to the adjacency with the R-1 and R-4 zoned properties to the south and east. The proposed display and storage area is not proposed to be located along any of these shared property lines. The display and storage area is proposed to be located within a parking area along Dixie Farm Road.

The applicant has indicated that the storage area would be confined to a 90 foot by 90 foot area (8,100 square feet) area located along the Dixie Farm Road side of the property. The display and storage area would contain several structures, such as those shown on the attached information provided by the applicant. These structures include carports, garages, barns, cabins, and other structures of varying sizes. These structures, including the width, depth, height, and description are included in the attachments to this report.

The applicant has indicated that the display area would take up 25 parking spaces in the existing parking lot. The Home Depot is required to have 540 total spaces, by ordinance. There are 583 total parking spaces provided. Therefore, the loss of 25 parking spaces would not affect the required parking.

Screening Considerations:

The applicant is proposing to locate the display and storage areas with the parking lot, but they are not proposing any fencing or screening along the display areas. Dixie Farm Road

is specified as a major thoroughfare on the Master Thoroughfare Plan, and the visibility of these structures from Dixie Farm Road is a concern. Also, the setback of the structures from Dixie Farm Road is a concern. On Pearland Parkway, as part of the overlay district, all storage areas are required to be setback at least 30 feet from the right-of-way line of Pearland Parkway. Dixie Farm Road may be proposed to be an overlay district in the Unified Development Code. The proposed height of the displayed buildings ranges from 8 feet to 20 feet. The applicant may also be able to relocate the storage area to another location on the site, away from Dixie Farm Road. Staff recommends that the applicant either screen the display area with a 6 foot high masonry fence on the sides visible from Dixie Farm Road, or relocate the display area to another area on the site, away from the two adjacent major thoroughfares of Dixie Farm Road and Broadway Street, or locate the display area at least 30 feet from Dixie Farm Road.

PUBLIC COMMENTS: 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 Zoning Sign was placed on the subject property.

STAFF RECOMMENDATION: Staff recommends approval of the specific use permit, as proposed by the applicant, for the following reasons:

1. The proposed specific use permit provides for outside retail sales of merchandise associated with the retail business on the subject property.
2. The subject property is currently zoned Commercial District.
3. Staff recommends that the applicant either screen the display area with a 6 foot high masonry fence on the sides visible from Dixie Farm Road, or relocate the display area to another area on the site, away from the two adjacent major thoroughfares of Dixie Farm Road and Broadway Street, or locate the display area at least 30 feet from Dixie Farm Road.

will be in udc

SUPPORTING DOCUMENTS:

- Notice of Public Hearing
- Zone Change Application
- Location Map
- Property Ownership Map
- Property Owner Notification List
- Zoning Map
- Future Land Use Plan
- Additional Information from the Applicant
- Proposed Site Plans

Property Owner Notice

CITY OF PEARLAND

3523 Liberty Drive (Community Center), Pearland, Texas 77581
281-652-1742 FAX 281-652-1702 www.ci.pearland.tx.us

SPECIFIC USE PERMIT APPLICATION NO. 152

NOTICE OF A JOINT PUBLIC HEARING OF THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION OF THE CITY OF PEARLAND, TEXAS, REGARDING:

A request by Architectural Group International (AGI), applicant for The Home Depot, owner, for an amendment to the Land Use and Urban Development Ordinance of said City, for approval of a Specific Use Permit for "Outside Display, Storage, and Sale of Merchandise and Equipment" in the Commercial District (C), on the following described property, to wit:

10.8757 acres of land, Restricted Reserve "A" out of the Final Plat of Home Depot U.S.A, Inc. Subdivision, a subdivision containing 14.6536 acres of land situated in the W.D.C. Hall Survey, Abstract 70, George W. Jenkins Subdivision, City of Pearland, Brazoria County, Texas (Generally Located on the South Side of FM 518 (Broadway Street), and on the East Side of Dixie Farm Road)

**PUBLIC HEARINGS WILL BE HELD IN THE
COUNCIL CHAMBER OF CITY HALL
LOCATED AT
3519 Liberty Drive, Pearland, Texas
on
MONDAY, AUGUST 15, 2005, AT 6:30 P.M.**

An application and map are enclosed for your information. This notice has been sent to all owners of real property within 200 feet of the request, as such ownership appears on the last approved city tax roll, in accordance with notification guidelines established by City Ordinance and State law.

At said hearing, all interested parties shall have the right and opportunity to appear and be heard on the subject. If you are unable to attend, but wish to have your opinions made a part of the public record, please complete the enclosed form and return it prior to the public hearing.

If you have any questions or need additional information please contact the City of Pearland Planning Department at (281) 652-1742 or tgrahmann@ci.pearland.tx.us.

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

Please check one:

Change in Zoning Classification from: _____ to: _____
(list current zoning) (list proposed zoning)

Specific Use Permit Request for : OUT DOOR DISPLAY
zoned: "C" (list proposed use)

Property Information:

Address: 1514 E. BROADWAY ST. Tax Account No. R521645
R521647

Subdivision: _____ Lot: _____ Block: _____

**** Attach a copy of the metes and bounds description, survey, or legal description****

Current use of property (type of structures on property): COMMERCIAL / RETAIL

Future/proposed use of property and reason for zone change: NO CHANGE

PROPERTY OWNER INFORMATION:

NAME THE HOME DEPOT
ADDRESS 2455 PACES FERRY ROAD
CITY ATLANTA STATE GA ZIP 30339
PHONE() _____
FAX() _____
E-MAIL ADDRESS _____

APPLICANT INFORMATION:

NAME AGI (CONTACT: ANDREW GIEL)
ADDRESS 100 E. RIVERCENTER BLDG., SUITE 200
CITY COVINGTON STATE KY ZIP 41011
PHONE(859) 261.5400
FAX(859) 261.5530
E-MAIL ADDRESS AGI@AGI-US.COM

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.

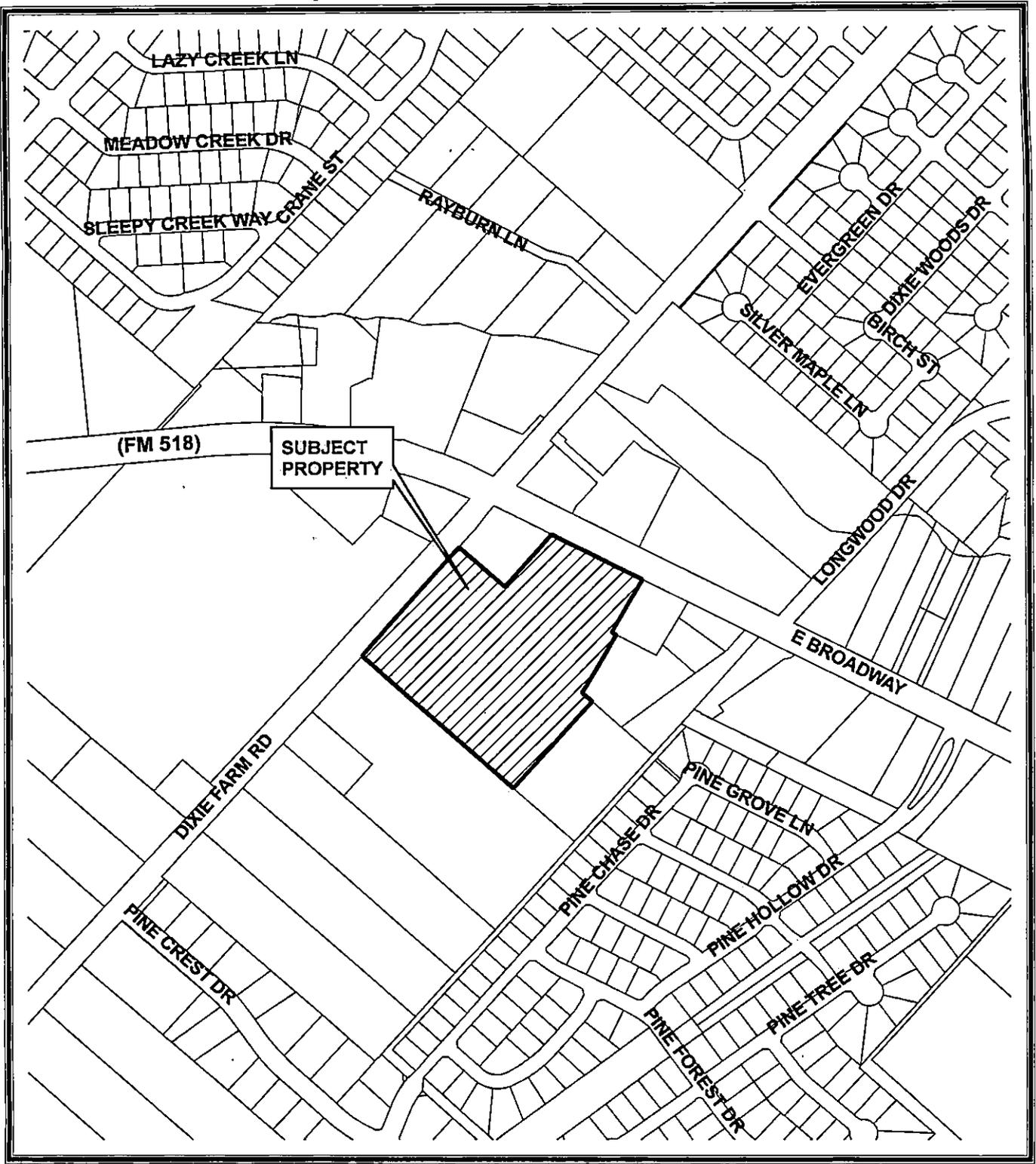
Owner's Signature: (see attached letter) Date: _____

Agent's Signature: Andrew Giel Date: 7/21/05

OFFICE USE ONLY:

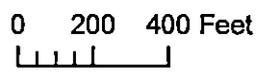
FEES PAID: <u>\$ 250⁰⁰</u>	DATE PAID: <u>7/25/05</u>	RECEIVED BY: <u>tag</u>	APPLICATION NUMBER: <u>SUP 152</u>
---------------------------------------	---------------------------	-------------------------	------------------------------------

*****APPLICATION IS CONSIDERED INCOMPLETE WITHOUT A METES AND BOUNDS DESCRIPTION OR SURVEY AND THE APPLICATION FEE*****

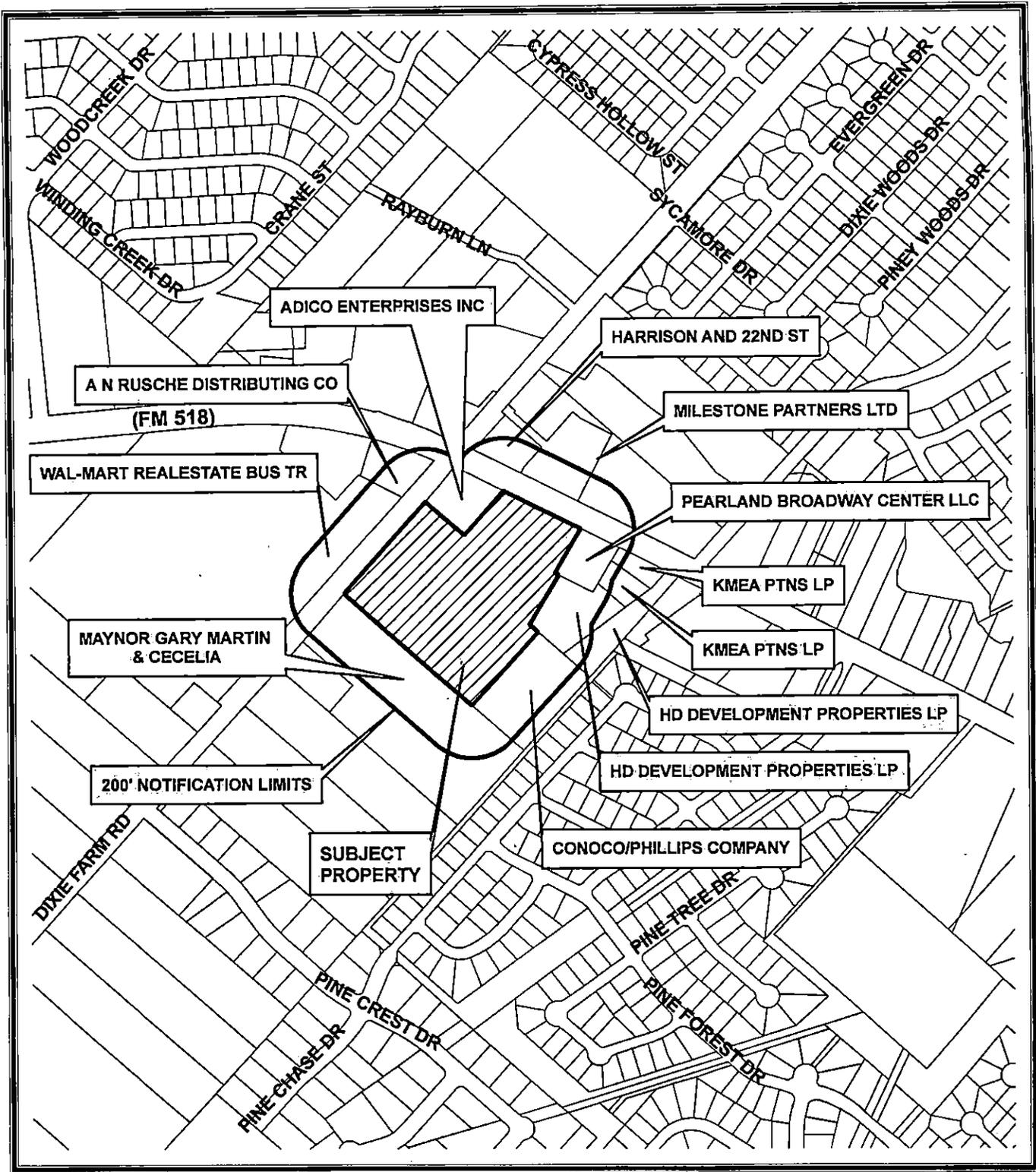


LOCATION MAP

Specific Use Permit Application
No. 152



Map Prepared on July 29, 2005



OWNERSHIP MAP

Specific Use Permit Application
No. 152

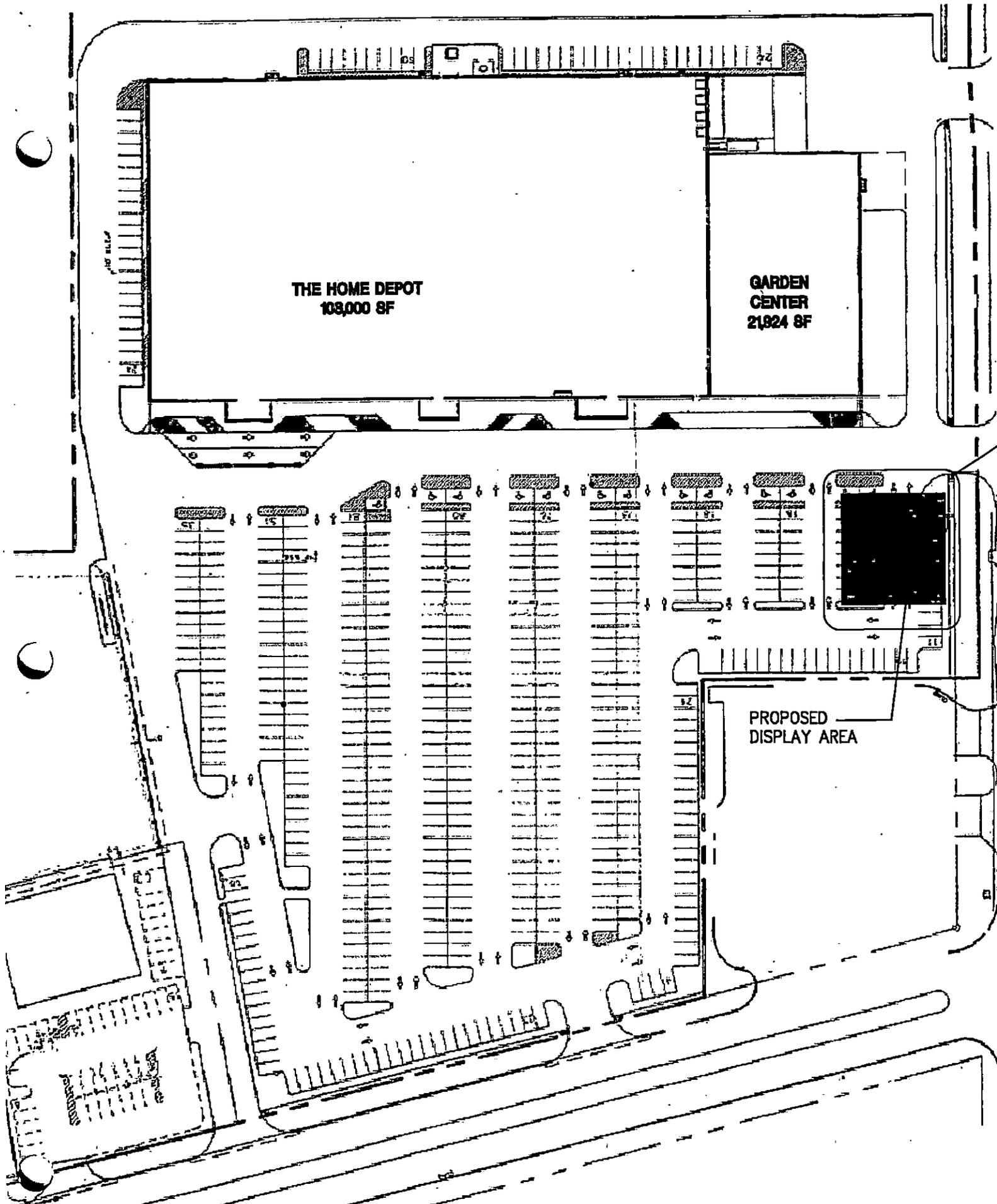


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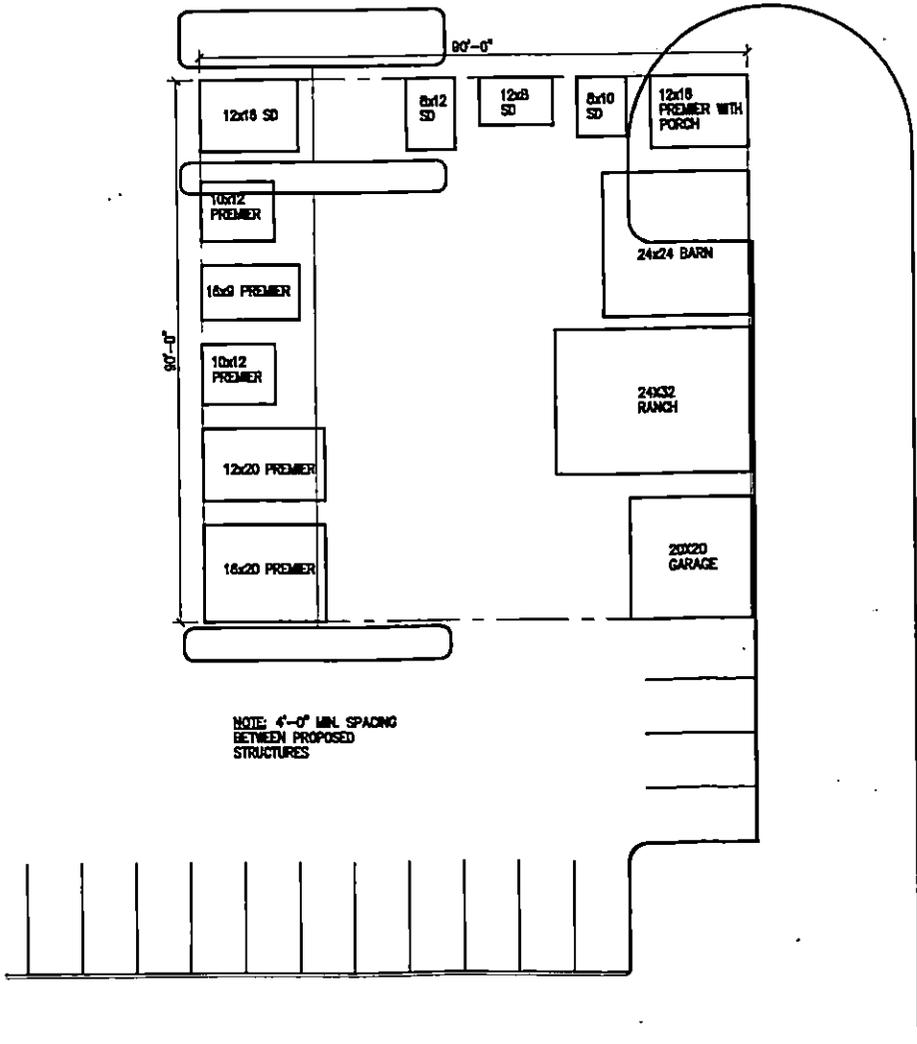
Map Prepared on July 29, 2005

SPECIFIC USE PERMIT APPLICATION NO. 152
Property Owner Notification List

<u>PROP ID</u>	<u>OWNER</u>	<u>ADDRESS</u>	<u>CITY</u>	<u>ST</u>	<u>ZIP CODE</u>	<u>LEGAL DESCRIPTION</u>
R218978	MILESTONE PARTNERS LTD	9801 WESTHEIMER RD STE 202	HOUSTON	TX	77042-3951	JENKINS (A0070 W D C HALL), LOT 72-73A, ACRES 8.4082
R285318	A N RUSCHE DISTRIBUTING CO	555 E AIRTEX DR	HOUSTON	TX	77073-6099	518 DIXIE PLAZA (A0070 W D C HALL), BL 1, LOT C, ACRES 1.041
R521645	HD DEV PROP%HOME DEPOT USA INC	13201 NORTHWEST FWY STE 550	HOUSTON	TX	77040-6023	HOME DEPOT USA (A70 WDC HALL), BL 1, RES A, ACRES 10.8757
R521646	PEARLAND BDWY CEN%PRISKE-JONES CO	3100 ALABAMA CT	HOUSTON	TX	77027-5909	HOME DEPOT USA (A0070 WDC HALL), BL 1, RES B, ACRES 0.8838
R517268	HARRISON AND 22ND ST LP	1915 E KATELLA AVE STE A	ORANGE	CA	92867-5110	FOODMAKER 3929 (A70 WDC HALL), BL 1, LOT 1, ACRES 0.9148
	THE HOME DEPOT	2455 PACES FERRY ROAD	ATLANTA	GA	30339	PROPERTY OWNER
	AGI ATTN ANDREW IGEL	100 E RIVERCENTER BVD STE 200	COVINGTON	KY	41011	APPLICANT
R285316	WAL-MART PR TAX DEPT#0555	1301 SE 10TH ST	BENTONVILLE	AR	72716-0001	518 DIXIE PLAZA (A70 W D C HALL), BL 1, RES A, ACRES 24.062
R218979	KMEA PTNS LP	1913 NASA PKWY	SEABROOK	TX	77586-3417	JENKINS (A0070 W D C HALL), LOT 73B-74C, ACRES 0.870
R218979	KMEA PTNS LP	1913 NASA PKWY	SEABROOK	TX	77586-3417	JENKINS (A0070 W D C HALL), LOT 73B-74C, ACRES 0.870
R503917	ADICO ENTERPRISES INC	9802 GULF FWY	HOUSTON	TX	77034-1041	JENKINS (A0070 W D C HALL), LOT 74D, ACRES 1.067
R218981	MAYNOR GARY MARTIN & CECELIA	3205 DIXIE FARM RD	PEARLAND	TX	77581-6203	JENKINS (A0070 W D C HALL), LOT 76-76A, ACRES 10.00
R218946	CONOCO/PHILLIPS CO%RPA-PTRRRRC DEPT	PO BOX 2197	HOUSTON	TX	77252-2197	JENKINS (A0070 W D C HALL), LOT 64A-71A-75A, ACRES 4.050
R521648	HD DEV PROP%HOME DEPOT USA INC	13201 NORTHWEST FWY STE 550	HOUSTON	TX	77040-6023	HOME DEPOT USA (A70 WDC HALL), BL 1, RES D, ACRES 1.1457
R521647	HD DEV PROP%HOME DEPOT USA INC	13201 NORTHWEST FWY STE 550	HOUSTON	TX	77040-6023	HOME DEPOT USA (A70 WDC HALL), BL 1, RES C, ACRES 1.5066



1 **SITE PLAN**
 A1 NOT TO SCALE



1
A2

DISPLAY LAYOUT

SCALE: 1/32" = 1'-0"

8/1/2005

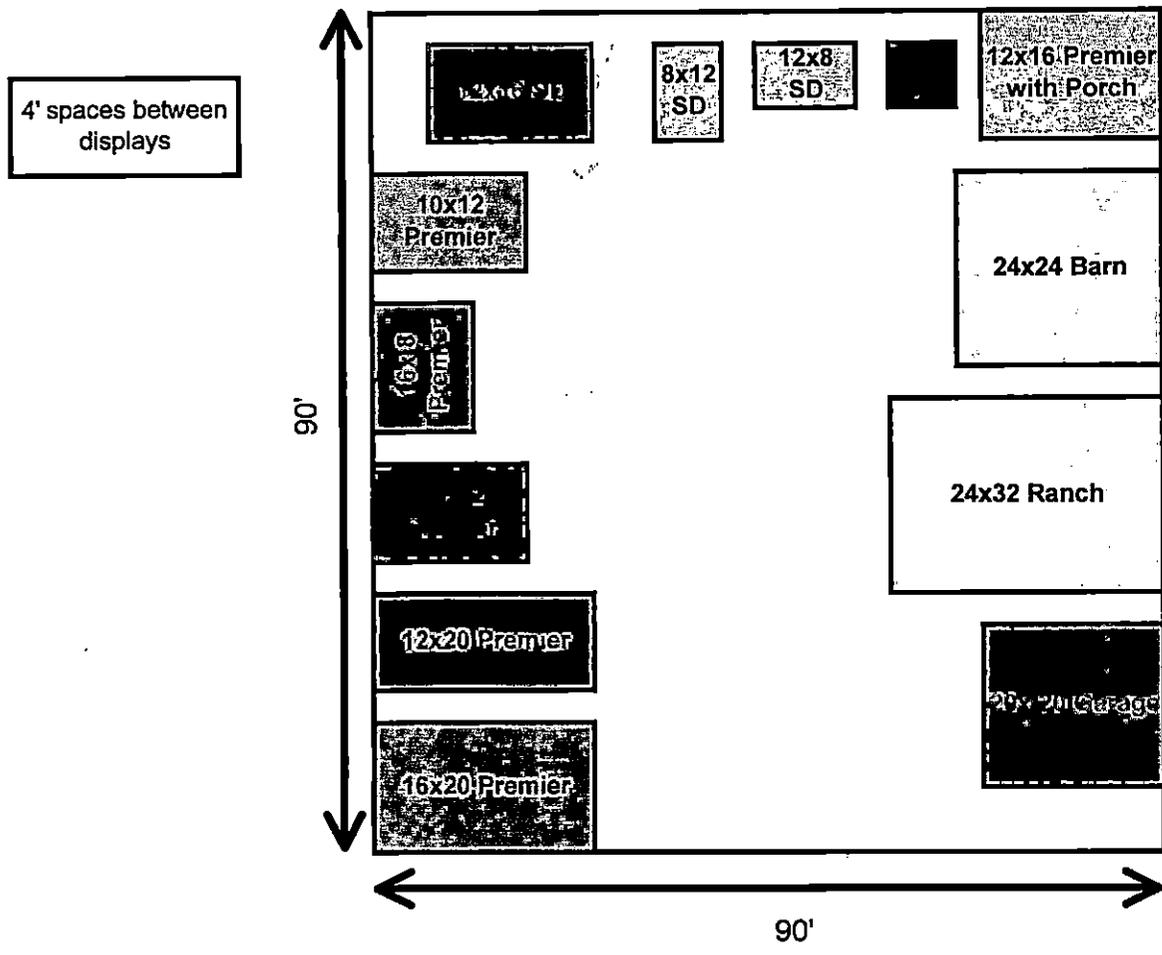
To Whom it my concern:

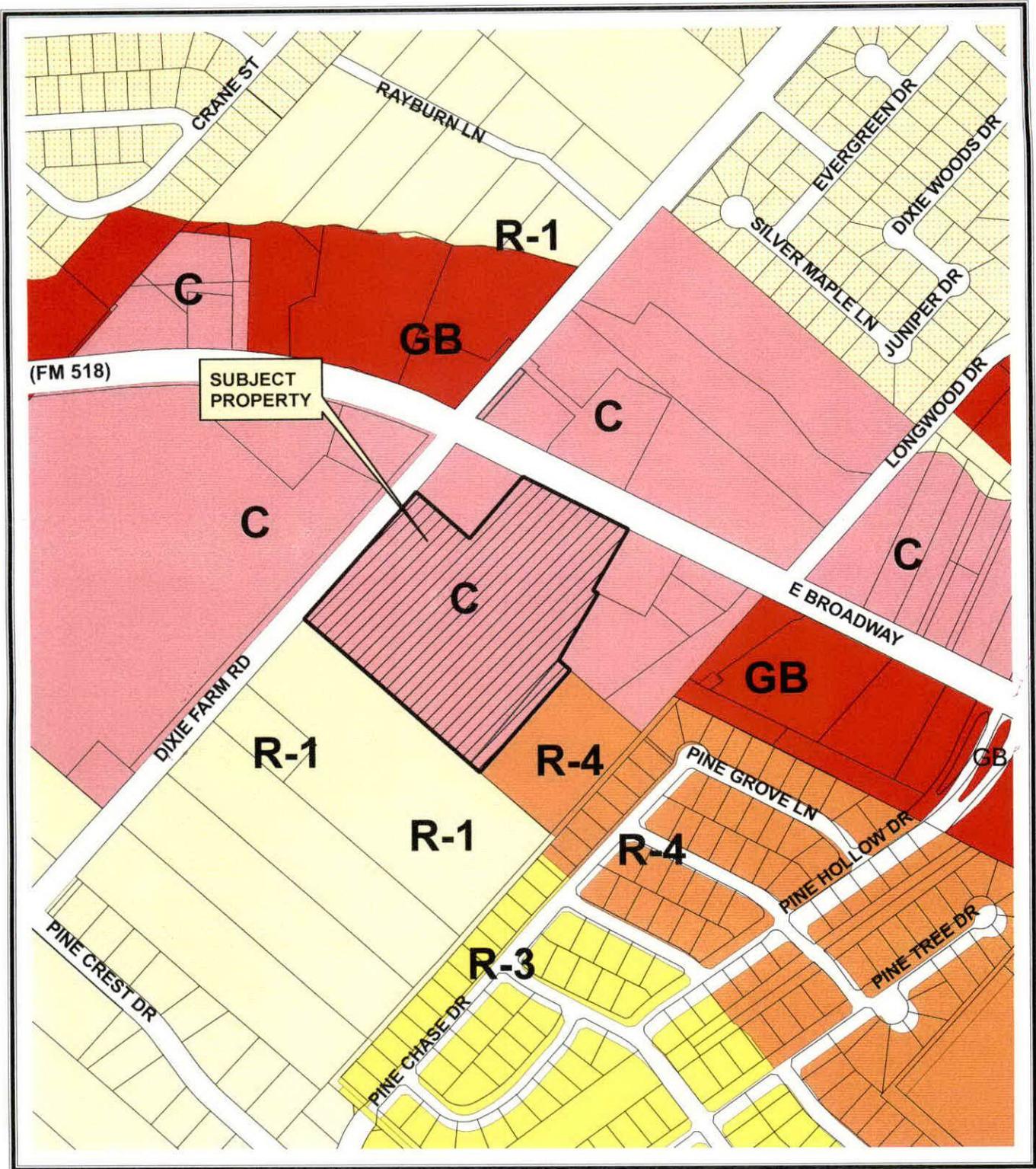
These are the specifications for the proposed
Pearland Home Depot Displays.

From :

Laney Zito - Tuff-Shed 469-916-9661 ext 2

Width	Depth	Height	Description
12	16	12	Shed
8	12	8	Shed
12	8	8	Shed
8	10	8	Shed
12	16	12	Shed
24	24	20	Cabin
24	32	18	Cabin
20	20	13	Garage
16	20	13	Shed
12	20	12	Shed
10	12	11	Shed
16	8	10	Shed
10	12	11	Shed





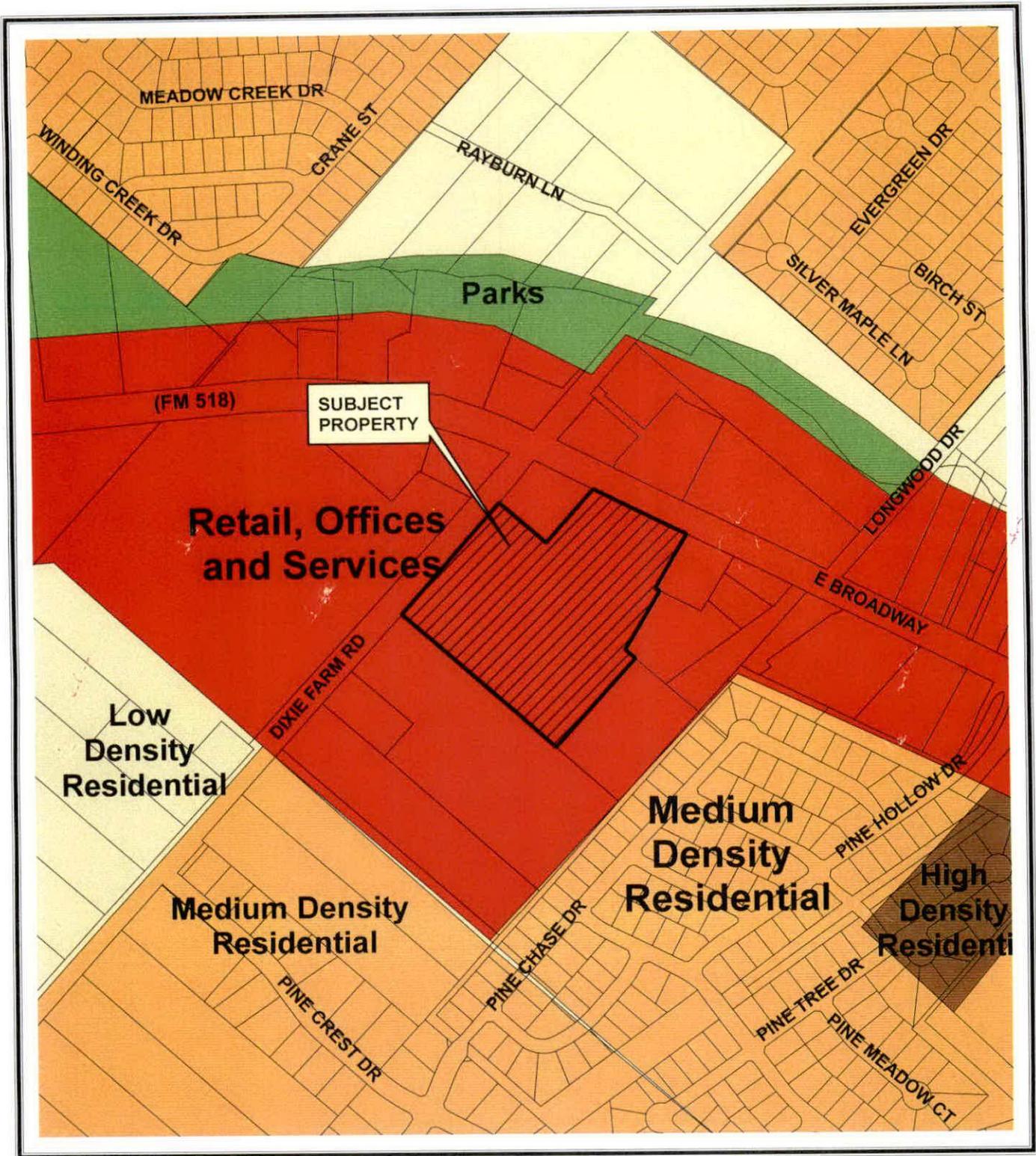
ZONING MAP

Specific Use Permit Application
No. 152



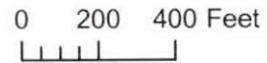
0 200 400 Feet

Map Prepared on July 29, 2005



FUTURE LAND USE PLAN

Specific Use Permit Application
No. 152



Map Prepared on July 29, 2005

Joint Public Hearing

SPEAKER'S CARD

If you wish to speak during the Public Hearing, please complete the following information and give this card to the Recording Secretary either before or after your comments. Thank you.

Name:

ANDREW GEL / ARCHITECTURAL GROUP INT'L

Full Address:

1005 RIVERCENTER BLVD., SUITE 200

(include zip)

Covington, KY 41011

I wish to speak regarding Item No.

#3 (SPECIAL USE PERMIT #152)

AGENDA - JOINT PUBLIC HEARING OF THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION OF THE CITY OF PEARLAND, TEXAS, TO BE HELD AUGUST 15, 2005, AT 6:30 P.M., IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS

I. CALL TO ORDER

II. PURPOSE OF HEARING

Zone Change Application No. 1238

A request by Kerry R. Gilbert and Associates, Inc., applicant for Pearland Lifestyle Center, L.P., owner, for an amendment to the Land Use and Urban Development Ordinance of said City, for approval of a change in zoning district from classification Suburban Development District (SD) to Planned Unit Development District (PUD), on the following described property, to wit:

Legal Description: 127.6954 acres total, described as: 88.6991 acres, out of Lots 6, 7, and 8; 9.00 acres out of Lot 3; 5.00 acres out of Lot 4; 5.00 acres out of Lot 3; 5.00 acres out of Lot 3; 5.00 acres out of Lot 4; all of the James Hamilton Survey; 9.9963 acres situated in the David White (Assignee of James Hamilton) Survey, Abstract 881, Harris County, Texas, being a portion of that certain 15 acre tract of land recorded in Volume 2309, Page 695, of the Deed Records of Harris County, Texas, City of Pearland, Harris County, Texas

General Location: Generally Located at the Southwest Corner of State Highway 288 and Beltway 8

III. APPLICATION INFORMATION AND CASE SUMMARY

A. STAFF REPORT

B. APPLICANT PRESENTATION

IV. PERSONS WISHING TO SPEAK FOR OR AGAINST THE PROPOSED REQUEST

V. COUNCIL/PLANNING COMMISSION/STAFF DISCUSSION

VI. ADJOURNMENT

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



CITY OF PEARLAND PLANNING & ZONING

JOINT PUBLIC HEARING ITEM

DATE: August 2, 2005

TO: City Council and Planning and Zoning Commission

FROM: Lata Krishnarao, AICP, Planning Director

SUBJECT: Joint Public Hearing Regarding a Proposed Lifestyle Center Planned Unit Development (PUD) at the Southwest intersection of SH 288 and Beltway 8.

The above referenced Planned Unit Development (PUD) is scheduled for a Joint Public Hearing on August 15, 2005. This item was discussed at a joint workshop of the Planning Zoning Commission and Council on July 18, 2005. Staff has been working with the applicant to address the issues that were brought up at the workshop. These have been discussed in this memo.

The PUD document is attached for your review.

The applicant will be available to make a presentation to the Council and the Commission at this public hearing and address questions and concerns.

SUMMARY:

- The subject property is located on the west side of SH 288 and south of Beltway 8.
- The subject property is approximately 127 acres.
- Upon build out, more than 700,000 square feet of retail space is anticipated in this Lifestyle Center.

- The subject property is currently zoned "SD" – Suburban Development District.
- This Lifestyle Center PUD, called The Promenade Shops at Shadow Creek, is proposed to be an open-air shopping and entertainment complex featuring clustered buildings, pedestrian walkways and landscaping and will include retail shops, anchor stores, restaurants, hotel/motel, health clubs, spas, salons, entertainment venues, farmers' market, and other similar facilities.
- No residential uses are proposed in this PUD.
- The proposed design features a winding main street with buildings alongside. This main street with parking on both sides would connect a series of plazas, water-features and buildings.

SURROUNDING ZONING AND LAND USES:

	<u>Zoning</u>		<u>Land Use</u>
North	N/A		Beltway 8 and Northern City Limits
South	Suburban District (SD)	Development	Predominantly vacant
East	Suburban District (SD) and Commercial District (C) on the east side of SH 288	Development	A mix of uses including church, day care, commercial, retail and vacant land
West	Suburban District (SD)	Development	Predominantly vacant, single family residential

CONFORMANCE TO THE COMPREHENSIVE PLAN: The Comprehensive Plan has designated this area as "Spectrum District" and recommends that this area "should be differentiated from the more general *Business Park* designation in order to identify it as a more unique area of the City." The development envisioned in the Comprehensive Plan would be comparable to The Legacy in Plano, The Arboretum in Austin, and The Woodland Town Center in the Woodlands. The Comprehensive Plan recommends a mix of uses including a regional mall, hotel and conference facilities, restaurants, theaters, research labs and high tech manufacturing, etc. The Comprehensive Plan also recommends that this area be developed as a distinct gateway announcing the City of Pearland and include a

comprehensive streetscape program with medians, street trees, cohesive lighting, pedestrian walkways, etc., with water features and view corridors. Therefore the proposed Planned Unit Development generally conforms to the Comprehensive Plan.

CONFORMANCE TO THE THOROUGHFARE PLAN: The Thoroughfare Plan was recently updated to include a network of streets in this area. The subject property is bordered by Lew Briggs Road on the west and Spectrum Boulevard to the south.

Lew Briggs Road: This is currently undeveloped with a 40-foot ROW. The Thoroughfare Plan proposes Lew Briggs Road to be a Major Collector with an 80-foot ROW. The PUD proposes a 100 ft ROW for Lew Briggs Road.

Spectrum Boulevard: This is a proposed Secondary Thoroughfare requiring a ROW of 100 feet. The PUD proposes a 100-foot ROW for Spectrum Boulevard.

Therefore the construction of Lew Briggs Road and Spectrum Boulevard meets or exceeds the requirements of the Thoroughfare Plan.

No improvements are proposed on SH 288 and Beltway 8, which border the property on the east and the north side respectively. All other roads proposed within this development will be private roads.

Additionally, the city is in the process of constructing of Kirby Road as a Major Thoroughfare with a 120-foot ROW that would connect Beltway 8 to Shadow Creek Parkway. Proposed North Spectrum Boulevard, a Secondary Thoroughfare of 100-foot ROW, will connect Kirby Road to Lew Briggs Drive.

Overall, the proposed street layout conforms with the requirements of the Thoroughfare Plan.

STAFF REVIEW COMMENTS:

The following issues were identified as part of preliminary staff review and joint workshop. Staff has been working with the applicant on these items and the resolution of each is indicated in italics following the item. Underlined text indicates staff recommendations and comments that remain to be addressed. Recommended additions and deletions to sentences are indicated in bold and strike-out text.

Comments discussed at joint workshop:

- 1) Maintenance responsibility of all proposed open spaces and amenities has not been clarified in the PUD document. The PUD does not clarify if any open space is being dedicated to the City?

Addressed. No open space dedication to the City is proposed. Under Amenities/Open Spaces/ Landscaping (page 10) the PUD states that all of

the open space and amenity features will be privately owned and maintained.

- 2) Page 1 – Para 2. Last part of the last sentence states “and similar uses not consistent therewith [a “Lifestyle Center”]. This leaves the door open for a variety of issues. Should this be open or more tied down?

Addressed. Language modified in page 1 to state “allowed as a permitted use”.

- 3) Page 4 – Permitted Uses – The last sentence that states “Other uses not inconsistent with Uses By Right” may potentially cause some confusion. Should all uses be listed or a general reference to “all uses permitted in GB/C zone” is required.

Addressed. Language modified in page 4, under Permitted Uses, to include uses allowed within the General Business (GB) District.

- 4) Page 4 – 2nd paragraph – The text mentions that 700,000 to 800,000 square feet of retail space is anticipated. The PUD does not provide an overall break down of types of uses. Is this a matter of concern?

Addressed. The Development Agreement specifies a minimum of 700,000 square feet of retail space. This has been stated in page 4, 2nd paragraph.

- 5) PUD does not address any outdoor storage or display. Since this PUD does not have an underlying zone, is it assumed that outdoor storage is allowed?

Partially addressed. A section on Display and Storage has been added in page 7.

Staff recommends the following changes on Page 7 - Display and Storage.

Line 1 - Add “Outside, **open air or uncovered**, storage and warehousing of surplus products within the Lifestyle Center will be prohibited **except in the case of Farmers Market**”. Add what would be permitted in the Farmers’ Market.

2nd paragraph, line 1 - Add, “exhibition or display of **limited or special** products is permitted.”

2nd paragraph, last line – Specify setback of outdoor display from public roadway. Add - “display space **not within 150’ (?) of public roadway (ROW)**”.

- 6) Please note that a Traffic Impact Analysis will be required at the time of platting and all resulting requirements need to be met. TX Dot permits would be required for traffic and circulation plan. Should the PUD mention this? The document implies that the driveway locations etc. are acceptable.

Partially Addressed. Under Access/Mobility a section has been added on page 5, 2nd paragraph regarding a TIA.

Staff recommends that on Page 5 - 2nd paragraph, last sentence should include TXDOT.

- 7) Page 5 – The entire section on Subdivision Plats is not required. A note that “All requirements of the Subdivision Ordinance will be met” would be sufficient. The Subdivision Regulations would govern the requirements of a subdivision plat. It is confusing to staff. Is this a concern?

Partially Addressed. City Attorney’s office has concurred with staff’s earlier comment and has stated that no parcel/lot can be carved out and sold unless that exact configuration was shown on a plat. If their master plat does not have each lot laid out, then whenever they further subdivide to sell off lots they will have to plat those new lots. There is no way around that under state law or our ordinance.

Therefore the language needs to be modified to reflect this.

- 8) Page 5 – Area Requirements: The PUD is proposing lots of 7000 square feet with no minimum requirements for lot width and depth. City’s GB and C zones require a minimum of 22,500 square feet with a minimum lot width of 150’ and depth of 125 feet. Is this a matter of concern?

Addressed. As per joint workshop this is not a concern.

- 9) Page 5 – Yard Requirements – The PUD proposes a front setback of 25’ along SH 288 and Beltway 8. It is not clear if these are building setbacks are for buildings or for parking. Needs to be clarified.

Addressed. Page 6 clarifies that the setbacks are applicable to buildings and parking areas.

- 10) Page 6 – Third line – Please clarify that all other internal streets are “private.”

Partially addressed. Page 6 - Yard Requirements - Add (private) after "All other internal streets (**private**) and drives (private) - 0'.

- 11) Is it acceptable that they have a zero setback from internal private streets? (It is part of their theme it seems).

Addressed. Council and P & Z agreed that this is OK along internal/private streets.

- 12) Page 6 – Fourth line – clarify if minimum distance between buildings is 30 or 15 feet. Text does not match the number.

Addressed. Text changed to fifteen feet.

- 13) Page 6 – Parking and Loading – 3rd paragraph – indicate that in addition to parking spaces all the drives, aisle width and other aspects of parking will meet the City's requirements.

Addressed. PUD states that parking and loading shall be subject to the provisions of chapter 21 of the Zoning Ordinance.

- 14) Page 6 – Lighting – Pole height is proposed to be 40 feet. Staff feels that this is excessive and heights of internal and peripheral poles be specified. There is no mention of lighting design standards. The previously approved LNR PUD had some requirements that site lighting match the lighting on Kirby etc.

The pole height remains at 40 feet.

- 15) Page 7 – Walkway Lighting - Staff notes that height of walkway lighting is proposed at 20 feet. Typically it is lower, along the lines of 12 feet.

Height of walkway lighting remains at 20 feet. Has specified that it will be "ornamental" lighting.

- 16) Page 7 – Signage - The sign section basically has no minimums or maximums for number, sizes, height, etc. Should this be better defined?

The developer plans to submit a "signage Master Plan" for City Council's approval at a later date. All other reference to signage removed from PUD at this time.

- 17) Page 11 – Definitions

- a. Under "blade Signs" – indicate that these are perpendicular to the surface that they are mounted on.
- b. Include Out Parcel Building.

Partially addressed: Reference to Blade signs removed. Will be added under Signage Plan. Definition of "Out Parcel Building" needs to be included.

- 18) The PUD does not address screening of roof-mounted structures. Is this a concern?

Addressed. Page 10, under "Utilities" - section on "Roof Mounted Facilities" has been added.

- 19) Page 9 – Utilities – Not sure if details need to be in the PUD. Just a statement that all utilities will be underground and will conform to City's requirements should suffice.

Addressed. Details are included. First paragraph under "Utilities" states that all utilities shall be located underground.

- 20) Page 10 – Architectural Standards – Staff recommends that this be removed from the PUD and a statement be added that they will meet the requirements of the Land Use and Urban Development Ordinance. If they are seeking deviations, then those need to be mentioned. As presented the PUD refers to a "comprehensive set of architecture and design guidelines" that is not included in the PUD for review.

Partially addressed. Page 11- The PUD refers to a set of architecture and design guidelines. The PUD does not state that those need to be approved by the City Council. It is staff's opinion that the language added regarding permitted materials is too broad and includes all materials. Staff recommends that based on the developer's past experience in centers like the proposed one, a general percentages be mentioned. For example – not more than "x" percent of facades will be metal or wood, or "signature" buildings would be exempt. "Signature" buildings would need to be defined. Such language will not only provide the flexibility that the developer is seeking but also safeguard City's interests and be consistent with the general requirements for Spectrum District.

- 21) Detention Areas – It is not clear what kind of treatment / amenities are proposed for these areas. Is this a concern?

Partially addressed. Page 10 includes a section on Detention Facilities. Staff recommends that some guidelines for landscaping requirements be included to define "appropriate" better. For example - 2" caliper trees for every 15 foot frontage and shrubs at least 18" high every 3 feet on center along public street or similar language.

22) Sidewalks, pedestrian walkways, pedestrian circulation are not shown.

Partially addressed: It is not clear if the internal streets leading to the Main Street from Lew Briggs and Spectrum Drive will have sidewalks. Staff recommends that the sidewalks be provided to connect sidewalks on Lew Briggs and Spectrum to sidewalks on Main Street for better pedestrian connectivity.

23) Street Standards, widths, cross-sections etc. are not mentioned. If deviations are not proposed then they would need to conform to City standards.

Addressed. Exhibit has been included to show a cross-section for Main Street Driveway. Text on page 5, paragraph 1, refers to conformance with requirements of Development Agreement.

24) The PUD proposes that the development will be in compliance with the current codes. Since the UDC is being drafted and other codes might be modified in the future, should they be required to meet the development (landscaping, facades, signage parking etc.) and building codes in place at the time of approval/building permit?

Partially Addressed. It was agreed at the workshop that the development would be required to meet the requirements of current standards in effect. Staff recommends that on Page 1 a note be added that unless otherwise specified in this PUD document all other requirements of all City Ordinances will be complied with.

Additional Comments:

25) The LNR PUD, located to the west of the subject parcel had required a total cross-section of 144 feet for Spectrum Drive (designated as Secondary Thoroughfare). The increased cross-section was to accommodate additional 20-foot wide landscape easements on both sides of the 100' ROW. Staff recommends that the LNR PUD cross-section be followed and for Spectrum Boulevard and Lew Briggs Road a 20-foot landscape easements be included on either side for continuity and consistency in this area.

26) Under Surface Rights (page ⁸10) staff recommends that construction of small non-occupied structures such as kiosks, fountains, fire pits, signage etc. be prohibited from locating on water and sewer easements.

27) Utilities Plan – Staff recommends that the sewer line be extended southerly

along Lew Briggs Road and easterly along proposed Spectrum Boulevard (minimum 10" line) to service areas east of SH 288.

28) Site Plan Changes - Second sentence - Add italicized text.

"....the various other requirements within the Lifestyle Center PUD ***and city ordinances and regulations*** shall not require a separate or additional approval process ***from the City Council or the Planning and Zoning Commission***

SUPPORTING DOCUMENTS:

- Notice of Public Hearing
- Zone Change Application
- Location Map
- Property Ownership Map
- Property Owner Notification List
- Zoning Map
- Future Land Use Plan
- Proposed Planned Unit Development

ZONE CHANGE APPLICATION NO. 1238

**NOTICE OF A JOINT PUBLIC HEARING OF THE CITY COUNCIL AND
THE PLANNING AND ZONING COMMISSION OF THE CITY OF
PEARLAND, TEXAS, REGARDING:**

A request by Kerry R. Gilbert and Associates, Inc., applicant for Pearland Lifestyle Center, L.P., owner, for an amendment to the Land Use and Urban Development Ordinance of said City, for approval of a change in zoning district from classification Suburban Development District (SD) to Planned Unit Development District (PUD), on the following described property, to wit:

127.6954 acres total, described as: 88.6991 acres, out of Lots 6, 7, and 8; 9.00 acres out of Lot 3; 5.00 acres out of Lot 4; 5.00 acres out of Lot 3; 5.00 acres out of Lot 3; 5.00 acres out of Lot 4; all of the James Hamilton Survey; 9.9963 acres situated in the David White (Assignee of James Hamilton) Survey, Abstract 881, Harris County, Texas, being a portion of that certain 15 acre tract of land recorded in Volume 2309, Page 695, of the Deed Records of Harris County, Texas, City of Pearland, Harris County, Texas (Generally Located at the Southwest Corner of State Highway 288 and Beltway 8)

**PUBLIC HEARINGS WILL BE HELD IN THE
COUNCIL CHAMBER OF CITY HALL
LOCATED AT
3519 Liberty Drive, Pearland, Texas
on
MONDAY, AUGUST 15, 2005, AT 6:30 P.M.**

An application and map are enclosed for your information. This notice has been sent to all owners of real property within 200 feet of the request, as such ownership appears on the last approved city tax roll, in accordance with notification guidelines established by City Ordinance and State law.

At said hearing, all interested parties shall have the right and opportunity to appear and be heard on the subject. If you are unable to attend, but wish to have your opinions made a part of the public record, please complete the enclosed form and return it prior to the public hearing.

If you have any questions or need additional information please contact the City of Pearland Planning Department at (281) 652-1742 or tgrahmann@ci.pearland.tx.us.

Property Owner Notice



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

Please check one:

Change in Zoning Classification from: SD to: PUD
(list current zoning) (list proposed zoning)

Specific Use Permit Request for : _____
(list proposed use)

Property Information:

Address: SW corner of SH 288 & Beltway 8 South Tax Account No. See attached list

Subdivision: Refer to attached legal description in PUD document Lot: _____ Block: _____

**** Attach a copy of the metes and bounds description, survey, or legal description****

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

Future/proposed use of property and reason for zone change: _____
uniquely designed retail and entertainment complex

PROPERTY OWNER INFORMATION:

NAME Pearland Lifestyle Center, L.P.
ADDRESS 6410 Poplar Avenue, Suite 850
CITY Memphis STATE TN ZIP 38119
PHONE (901) 761-7604
FAX (901) 761-5325
E-MAIL ADDRESS brogers@pm-lifestyle.com

APPLICANT INFORMATION:

NAME Kerry R. Gilbert & Associates, Inc.
ADDRESS 15810 Park Ten Place, Suite 160
CITY Houston STATE TX ZIP 77084
PHONE (281) 579-0340
FAX (281) 579-0212
E-MAIL ADDRESS landplan@krga.com

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.

Pearland Lifestyle Center, L.P.
by its General Partner PMLC Pearland Management, LLC

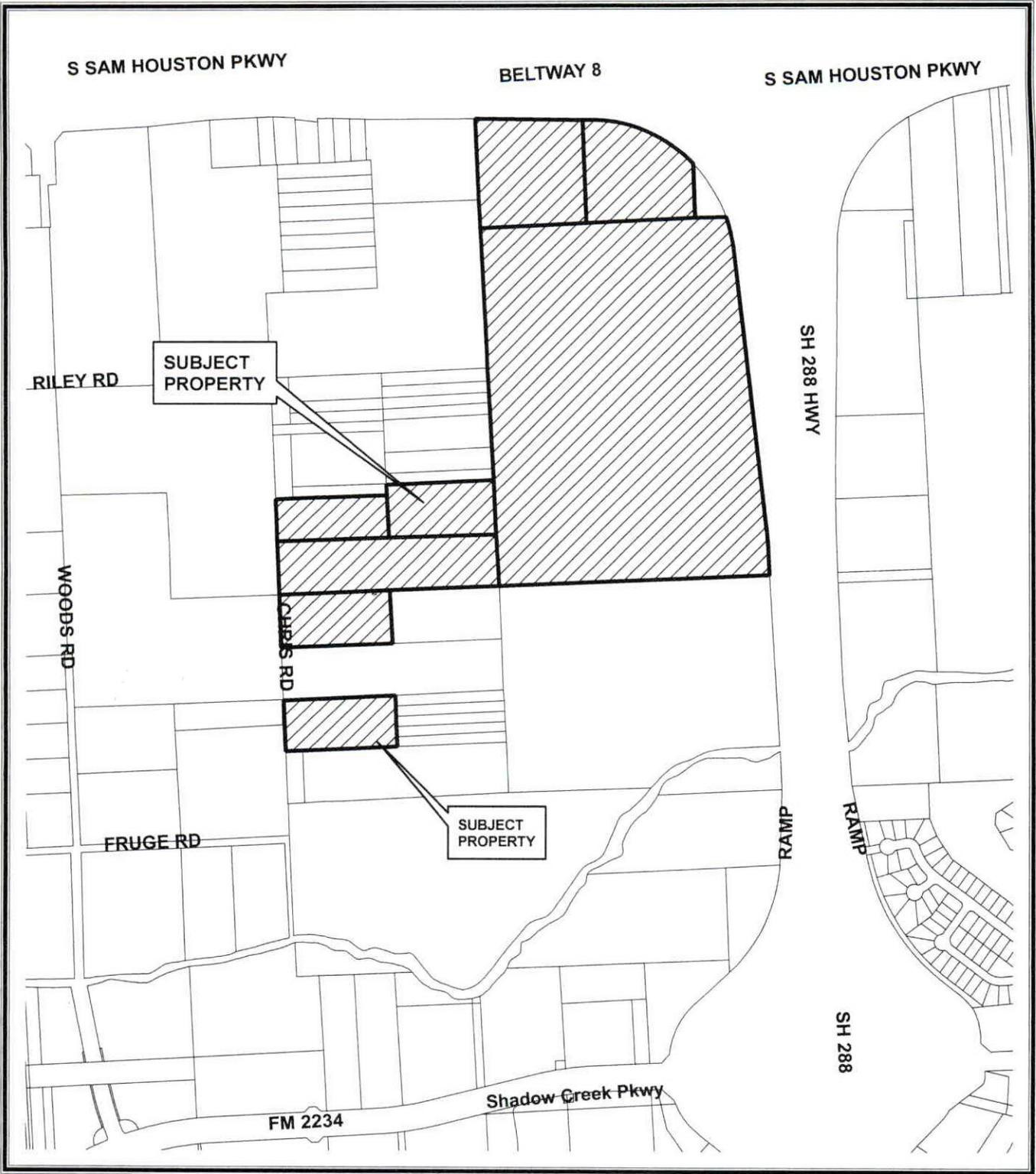
Owner's Signature: [Signature] Date: July 14, 2005
G. Dan Poag, Chief Executive Officer

Agent's Signature: [Signature] Date: 7/15/05

OFFICE USE ONLY:

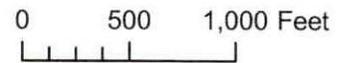
FEES PAID: <u>\$ 600.00</u>	DATE PAID: <u>7/18/05</u>	RECEIVED BY: <u>[Signature]</u>	APPLICATION NUMBER: <u>1238</u>
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APPLICATION IS CONSIDERED INCOMPLETE WITHOUT A METES AND BOUNDS DESCRIPTION OR SURVEY AND THE APPLICATION FEE

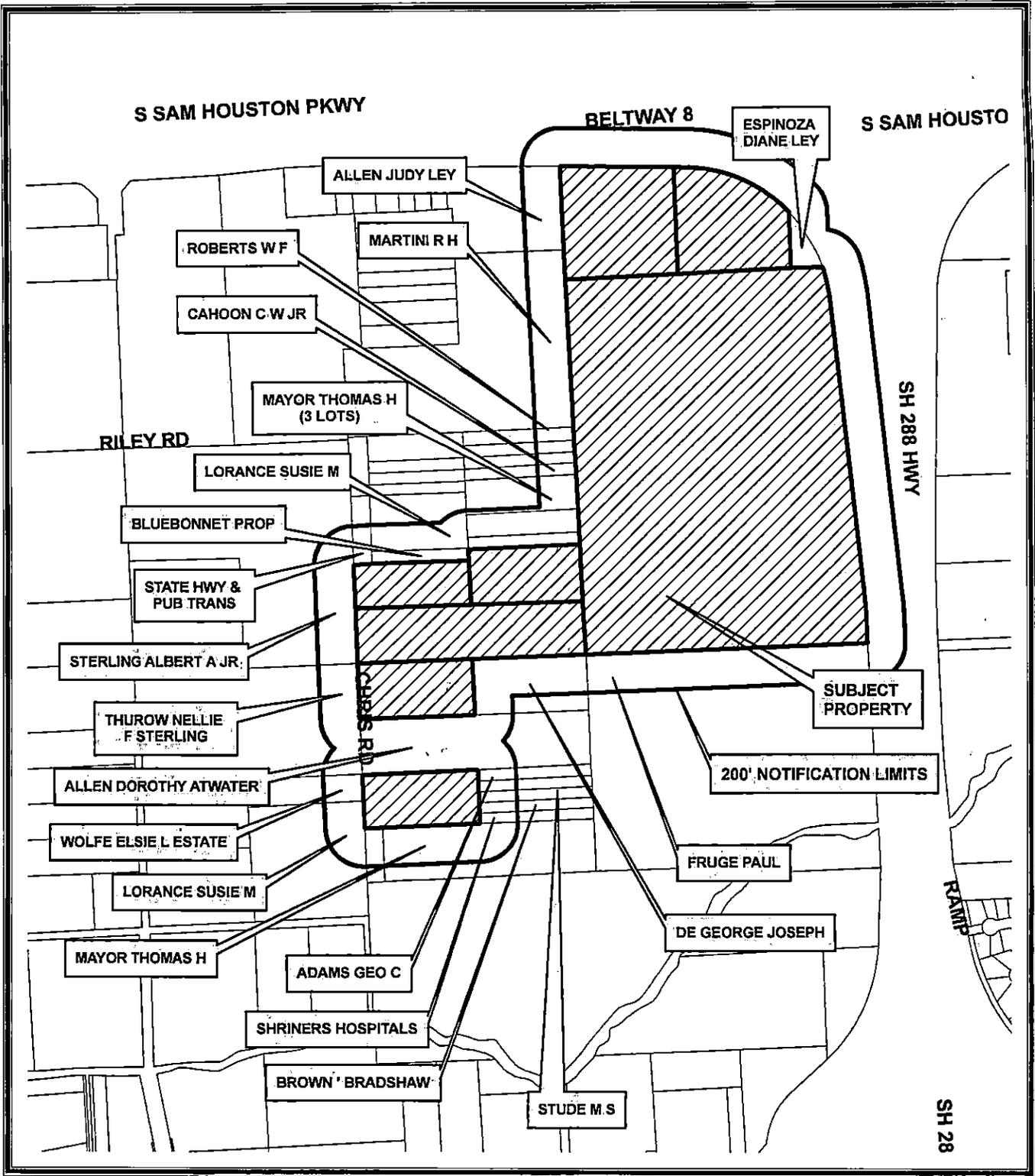


LOCATION MAP

Zone Change Application
No. 1238

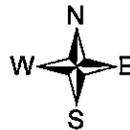


Map Prepared on July 29, 2005



OWNERSHIP MAP

**Zone Change Application
No. 1238**



0 500 1,000 Feet

Map Prepared on July 29, 2005

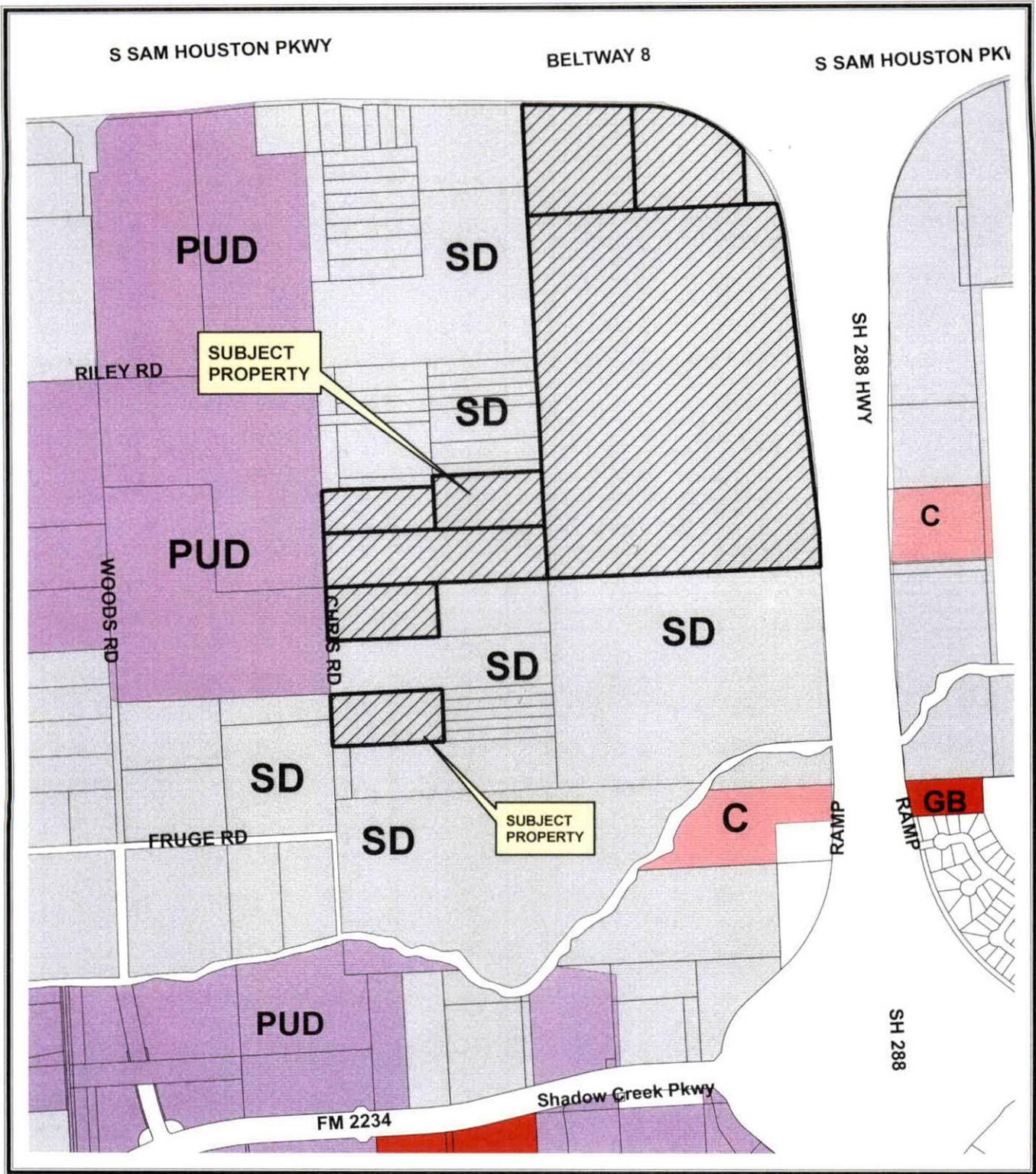
*all property owners may not be shown due to limited space on the map; see the Listing for a complete list of all property owners

ZONE CHANGE APPLICATION NO. 1238
Property Owner Notification List

<u>TAX ACCOUNT</u>	<u>OWNER</u>	<u>ADDRESS</u>	<u>CITY</u>	<u>ST</u>	<u>ZIP CODE</u>	<u>LEGAL DESCRIPTION</u>
0451850000021	ESPINOZA DIANE LEY	4545 POST OAK PL STE 101	HOUSTON	TX	77027	TR 10C (001*NWPT TR 10D SW OF TR 10C) A 881 D WH
0451850000012	SOUTH FREEWAY BELTLINE 8	3509 NW 69TH ST	OKLAHOMA CITY	OK	73116	TR 8A ABST 881 D WHITE
0451850000015	SOUTH FREEWAY - BELTWAY 8 #2 LP	3509 NW 69TH ST	OKLAHOMA CITY	OK	73116	TR 8B ABST 881 D WHITE
0451850000006	FRUGE PAUL	PO BOX 557	HOUSTON	TX	77001	TR 5 (001*PT TR 5) M L PARKER U/R ABST 881 D WHITE
0451850000096	SOUTH FREEWAY BELTLINE 8	3509 NW 69TH ST	OKLAHOMA CITY	OK	73116	TR 1 BLK 4 M L PARKER U/R ABST 881 D WHITE
0451850000100	ALLEN DOROTHY ATWATER & NANCY KIMBRELL	10 FALLING LEAF LN	HOUSTON	TX	77024	TRS 2 & 6 BLK 4 M L PARKER U/R ABST 881 D WHITE
0451850000107	DE GEORGE JOSEPH	6307 WALTWAY DR	HOUSTON	TX	77008	TR 5 BLK 4 M L PARKER U/R ABST 881 D WHITE
0451850000090	SOUTH FREEWAY BELTLINE 8	3509 NW 69TH ST	OKLAHOMA CITY	OK	73116	TR 19 BLK 3 M L PARKER U/R ABST 881 D WHITE
0451850000068	BLUEBONNET PROPERTIES%FRANK STEED	11999 KATY FWY STE 350	HOUSTON	TX	77079	TR 7 BLK 3 M L PARKER U/R ABST 881 D WHITE
0451850000247	TX DEPT HWY & PUB TRNS PARCEL 94E (BELT 8)	PO BOX 1386	HOUSTON	TX	77251	TR 6A BLK 3 M L PARKER U/R ABST 881 D WHITE
0451850000249	TX DEPT HWY & PUB TRNS PARCEL 94E (BELT 8)	PO BOX 1386	HOUSTON	TX	77251	TR 7A BLK 3 M L PARKER U/R ABST 881 D WHITE
0451850000066	LORANCE SUSIE M	5714 SARAGOSA DR	RICHMOND	TX	77469	TR 6 BLK 3 M L PARKER U/R ABST 881 D WHITE
	PEARLAND LIFESTYLE CENTER LP	6410 POPLAR AVE STE 850	MEMPHIS	TN	38119	PROPERTY OWNER
	KERRY R GILBERT AND ASSOC INC	15810 PARK TEN PLACE STE 160	HOUSTON	TX	77084	APPLICANT
0451850000105	SOUTH FREEWAY BELTLINE 8	3509 NW 69TH ST	OKLAHOMA CITY	OK	73116	TR 3 BLK 4 M L PARKER U/R ABST 881 D WHITE
0451850000112	ADAMS GEO C	11243 SHARPCREST ST	HOUSTON	TX	77072	TR 7 BLK 4 M L PARKER U/R ABST 881 D WHITE
0451850000116	STUDE M S	4409 MONTROSE BLVD	HOUSTON	TX	77006	TR 9 BLK 4 M L PARKER U/R ABST 881 D WHITE
0451850000118	BROWN ' BRADSHAW	851 MAIN ST	HOUSTON	TX	77002	TR 10 BLK 4 M L PARKER U/R ABST 881 D WHITE
0451850000084	CAHOON C W JR	5210 DIEPPE ST	HOUSTON	TX	77033	TR 16 BLK 3 M L PARKER U/R ABST 881 D WHITE
0451850000120	SHRINERS% DON CLAYTON&CD PENNINGTON	PO BOX 31356	TAMPA	FL	33631	TR 11 BLK 4 M L PARKER U/R ABST 881 D WHITE
0451850000080	ROBERTS W F	203 WEDGEWOOD LN	KERRVILLE	TX	78028	TR 14 BLK 3 M L PARKER U/R ABST 881 D WHITE
0451850000054	ALLEN JUDY LEY & ESPINOZA DIANE LEY	4545 POST OAK PL STE 101	HOUSTON	TX	77027	TR 5 BLK 1 (001*TR 5 IN 1) A 881 D WHITE
0451850000009	SOUTH FREEWAY BELTLINE 8	3509 NW 69TH ST	OKLAHOMA CITY	OK	73116	TRS 6 & 7 (001*PT TRS 6 & 7) ABST 881 D WHITE
0451850000072	SOUTH FREEWAY BELTLINE 8	3509 NW 69TH ST	OKLAHOMA CITY	OK	73116	TRS 12 & 20 BLK 3 M L PARKER U/R ABST 881 D WH
0451850000070	SOUTH FREEWAY BELTLINE 8	3509 NW 69TH ST	OKLAHOMA CITY	OK	73116	TRS 8 9 10 & 11 BLK 3 A 881 D WHITE
0451800000170	STERLING ALBERT A JR	6138 INWOOD DR	HOUSTON	TX	77057	.50 U/D INT IN TRS 39 40 41(30.00 AC) ABST 876 D WH
0451800000171	THUROW NELLIE F STERLING	5617 HOLLY SPRINGS DR	HOUSTON	TX	77056	.50 U/D INT IN TRS 39 40 41 (30.00 AC) ABST 876 D WH
0451800000220	WOLFE ELSIE L ESTATE%RENEE W ZELMAN	11019 WAINFLEET LN	HOUSTON	TX	77096	TR 57 ALLISON RICHEY SEC F ABST 876 D WHITE
0451800000172	THUROW NELLIE F STERLING	5617 HOLLY SPRINGS DR	HOUSTON	TX	77056	.50 U/D INT IN TRS 42 55 56 (30.00 AC) ABST 876 D WH
0451800000175	STERLING ALBERT A JR	6138 INWOOD DR	HOUSTON	TX	77057	.50 U/D INT IN TRS 42 55 56 (30.00 AC) ABST 876 D WH
0451800000225	LORANCE SUSIE M	5714 SARAGOSA DR	RICHMOND	TX	77469	TR 57 1/2 ALLISON RICHEY SEC F ABST 876 D WHITE
0451800000230	LORANCE SUSIE M	5714 SARAGOSA DR	RICHMOND	TX	77469	TR 57A ALLISON RICHEY SEC F ABST 876 D WHITE

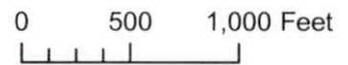
ZONE CHANGE APPLICATION NO. 1238
Property Owner Notification List

0451850000050	MARTINI R H	1306 E ANDERSON RD	HOUSTON	TX	77047	TRS 3 & 4 BLK 2 (AG-USE) A 881 D WHITE
0451850000086	MAYOR THOMAS H	5555 DEL MONTE DR APT 1306	HOUSTON	TX	77056	.6666 U/D INT IN TRS 17 & 18 BLK 3 (3.00 AC) A 881 D W
0451850000259	MAYOR RICHARD B	6 N WEST OAK DR	HOUSTON	TX	77056	.1667 U/D INT IN TRS 17 & 18 BLK 3 (3.00 AC) A 881 D W
0451850000260	MAYOR JAMES M	2006 ELM CRST	SAN ANTONIO	TX	78230	.1667 U/D INT IN TRS 17 & 18 BLK 3 (3.00 AC) A 881 D W
0451850000092	MAYOR THOMAS H	5555 DEL MONTE DR APT 1306	HOUSTON	TX	77056	.6666 U/D INT IN TR 21 BLK 3 (2.00 AC) A 881 D WHITE
0451850000261	MAYOR RICHARD B	6 N WEST OAK DR	HOUSTON	TX	77056	.1667 U/D INT IN TR 21 BLK 3 (2.00 AC) A 881 D WHITE
0451850000262	MAYOR JAMES M	2006 ELM CRST	SAN ANTONIO	TX	78230	.1667 U/D INT IN TR 21 BLK 3 (2.00 AC) A 881 D WHITE
0451850000094	MAYOR THOMAS H	5555 DEL MONTE APT 1306	HANKAMER	TX	77560	.6666 U/D INT IN TR 22 BLK 3 (1.00 AC) A 881 D WHITE
0451850000263	MAYOR RICHARD B	6 N WEST OAK DR	HOUSTON	TX	77056	.1667 U/D INT IN TR 22 BLK 3 (1.00 AC) A 881 D WHITE
0451850000264	MAYOR JAMES M	2006 ELM CRST	SAN ANTONIO	TX	78230	.1667 U/D INT IN TR 22 BLK 3 (1.00 AC) A 881 D WHITE
0451850000108	MAYOR THOMAS H	5555 DEL MONTE DR APT 1306	HOUSTON	TX	77056	.3500 U/D INT IN 4 & 12 BL 4 (9.2422 AC) A 881 D WH
0451850000265	MAYOR RICHARD B	6 W OAK DR	HOUSTON	TX	77056	.3500 U/D INT IN 4 & 12 BL 4 (9.2422 AC) A 881 D WH
0451850000266	MAYOR JAMES M	2006 ELM CRST	SAN ANTONIO	TX	78230	.3000 U/D INT IN 4 & 12 BL 4 (9.2422 AC) A 881 D WH

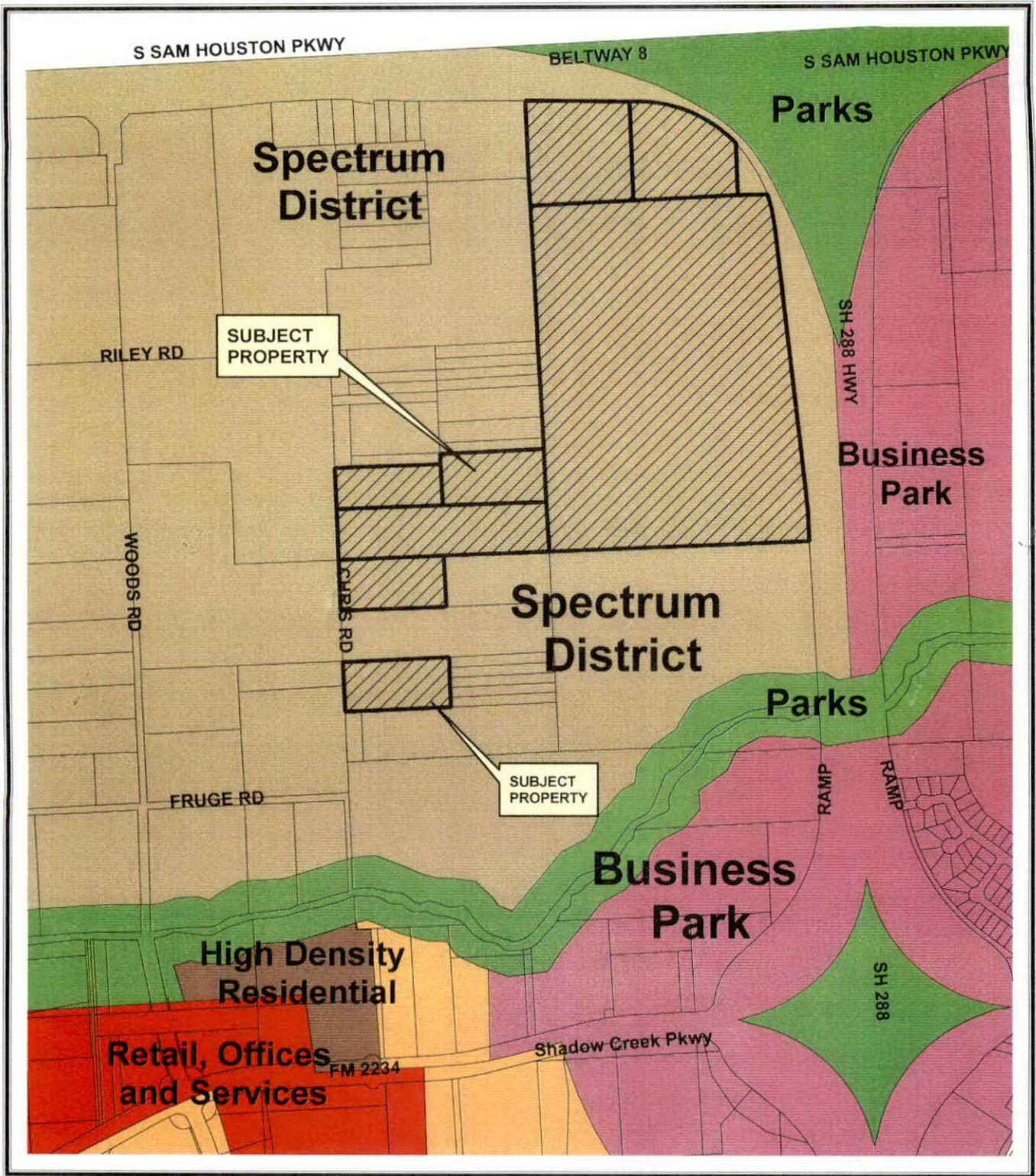


ZONING MAP

Zone Change Application
No. 1238

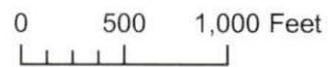


Map Prepared on July 29, 2005



FUTURE LAND USE PLAN

Zone Change Application
No. 1238



Map Prepared on July 29, 2005



PUBLIC COMMENT FORM

City of Pearland
Community Development
3523 Liberty Drive
(Community Center)
Pearland, Texas 77581
281-652-1742
281-652-1702 fax

ZONE CHANGE APPLICATION NO. 1238

Joint Public Hearing to be held Monday, August 15, 2005, at 6:30 PM in the Council Chambers of City Hall, 3519 Liberty Drive, Pearland, Texas.

If you are unable to attend the Joint Public Hearing, but wish to have your opinions made a part of the public record, please complete this form and return to the above noted address (by mail, by fax, or in person, or email tgrahmann@ci.pearland.tx.us) prior to the Joint Public Hearing. You may complete this form and attend the Joint Public Hearing.

I am **FOR** the requested zoning as explained on the attached public notice.
(Checking "FOR" means that you support the zone change request and feel that the zoning should be approved accordingly.)

I am **AGAINST** the requested zoning as explained on the attached public notice.
(Checking "AGAINST" means that you are in opposition to the zone change request and feel that the request should be denied.)

Name: MR & MRS Joseph DeGeorge

Address: 6307 WALTWAY Houston Texas 77008

Pearland Tax Account No. (If shown on enclosed map): _____

Signature: Joseph DeGeorge Date: 8-10-2005
Rose DeGeorge

COMMENTS: PROPERTY DESCRIPTION: LEW BRIGGS PEARLAND TX 77581
A0 800 Shared Property (PEARLAND) BLK 4 TRACT 5 ML
PARKER V/R ABST 881 D WHITE, ACRES 5
Acct # R 5 19570 0800-3000-075



PUBLIC COMMENT FORM

City of Pearland
Community Development
3523 Liberty Drive
(Community Center)
Pearland, Texas 77581
281-652-1742
281-652-1702 fax

ZONE CHANGE APPLICATION NO. 1238

Joint Public Hearing to be held Monday, August 15, 2005, at 6:30 PM in the Council Chambers of City Hall, 3519 Liberty Drive, Pearland, Texas.

If you are unable to attend the Joint Public Hearing, but wish to have your opinions made a part of the public record, please complete this form and return to the above noted address (by mail, by fax, or in person, or email tgrahmann@ci.pearland.tx.us) prior to the Joint Public Hearing. You may complete this form and attend the Joint Public Hearing.

I am **FOR** the requested zoning as explained on the attached public notice.
(Checking "FOR" means that you support the zone change request and feel that the zoning should be approved accordingly.)

I am **AGAINST** the requested zoning as explained on the attached public notice.
(Checking "AGAINST" means that you are in opposition to the zone change request and feel that the request should be denied.)

Name: MR & MRS Joseph DeGeorge

Address: 6307 WALTWAY Houston Texas 77008

Pearland Tax Account No. (If shown on enclosed map): _____

Signature: Joseph DeGeorge Date: 8-10-2005
Rose DeGeorge

COMMENTS: PROPERTY DESCRIPTION: LEW BRIGGS PEARLAND TX 77581
A0 800 Shared PROPERTY (PEARLAND) BLK 4 TRACT 5 ML —
PARKER V/R ABST 881 D WHITE, ACRES 5
Acct # R 5 19570 0800-3000-075

LIFESTYLE CENTER PUD



PEARLAND, TEXAS

DEVELOPER:
PEARLAND LIFESTYLE CENTER, L.P.
KERRY R. GILBERT & ASSOCIATES, INC

RECEIVED

AUG 05 2006

Planned Unit Development

For

**The Promenade Shops at
Shadow Creek**

Prepared For

Pearland Lifestyle Center, L.P.

Prepared By:

Kerry R. Gilbert & Associates, Inc.

August 1, 2005

Lifestyle Center PUD

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I. INTRODUCTION

Pursuant to an Application for a Change in Zoning submitted by Pearland Lifestyle Center, L.P. ["Developer"], the following Planned Unit Development for The Promenade Shops at Shadow Creek ["Lifestyle Center PUD"] is hereby adopted and shall be applicable to the development of all property within the area of land described herein [the "PUD Property"].

The purpose of the Lifestyle Center PUD is to facilitate the design, financing, construction, leasing and sale of outparcels, in an open-air shopping and entertainment complex featuring clustered buildings with a consistent architectural style, pedestrian walkways and landscaping, providing a setting for retail shops, anchor stores, restaurants and other ancillary uses such as hotel/motel, health clubs, spas, salons, entertainment venues and similar facilities and other uses allowed as a permitted use.

The provisions of this Lifestyle Center PUD Document shall be applicable to the area of land consisting of ± 127 acres and located in the southwest quadrant of the intersection of the Beltway 8 and Highway 288 interchange, within Pearland, Harris County, Texas [the "City"]. The Property is owned by Pearland Lifestyle Center, L.P. The Property is currently zoned SD, Suburban Development District. The proposed zoning is Lifestyle Center PUD.

The location of the PUD is illustrated on the Area Map in exhibit section of this document and is more particularly described by metes and bounds in Exhibit "A".

II. EXISTING CONDITIONS

SITE DESCRIPTION

The Lifestyle Center PUD occupies the southwest intersection of two of the greater Houston areas regional transportation corridors. The Sam Houston Tollway (Beltway 8) abuts the northern boundary of the subject property while its eastern boundary possesses frontage along the State Highway 288. Each of these roadways are limited access facilities maintained by the Texas Department of Transportation (Tx Dot).

The subject property is situated approximately 1000' north of Clear Creek and, according to the most recent survey, lies within the 100 Year Flood Plain as determined by FEMA. However, preliminary FIRM map revisions indicate that the subject tract will be in Zone AE with the completion of certain drainage improvements.

The site is currently vacant and unimproved, consisting primarily of flat coastal plains. Elevations on the property range from 53.5' to 57.3' with a mean average of approximately 54.5'.

Other existing physical constraints affecting development of the property include:

- 40' roadway easement (Lew Briggs Road) traversing the property in a north-south direction.
- 100' wide drainage easement along the far western boundary of the property, otherwise identified as the TxDOT drainage ditch.
- ± 2.5 acre drill site located along the extreme western boundary of the property.
- An out parcel (± .7 acre) located at the extreme northeast boundary of the site.

A reduced version of the survey for the property (Exhibit "B"), as well as, a legal description of the property (Exhibit "C") is included within the Exhibit section of this document.

SURROUNDING LAND USE

Located in Harris County, the Lifestyle Center PUD is situated in a rapidly developing area in southern Harris County and northern Brazoria County which includes the S.H. 288 Corridor. Numerous large master planned communities are being developed in the vicinity, including Shadow Creek Ranch, a ± 3,500 acre development located South of Clear Creek. Other major developments in the vicinity include Country Place, Silverlake, Silvercreek, Southern Trails and Savannah, all of which are predominantly residential communities with some commercial development at key intersections.

The Spectrum PUD is located in the area immediately west of the Lifestyle Center PUD. The Spectrum PUD consists of approximately 146 acres and proposes mixed land uses including retail, office, restaurants, warehouse/distribution and industrial.

The Sam Houston Tollway (Beltway 8) and State Highway 288 provide a substantial buffer to the properties north and east of the Lifestyle Center PUD and are predominantly undeveloped at this time.

The existing surrounding land uses can be seen on the Area Map (Exhibit "A") located in the exhibit section of this document.

III. GOALS AND OBJECTIVES

The goals of the Lifestyle Center PUD are to implement a uniquely designed retail and entertainment complex that will serve as one of the primary gateways to the City of Pearland and create a positive perception of the city as a whole.

The anticipated design features are in concert with the City of Pearland Comprehensive Plan and include the following:

- A distinct gateway announcing the City of Pearland.
- A comprehensive streetscape program.
- View corridors with water features and landscaping.
- A cohesive signage program.
- Buildings with aesthetically pleasing architectural design characteristics.
- Buildings with varying setbacks arranged in a manner similar to other existing Poag & McEwen lifestyle centers featuring an eclectic architectural mix.
- Pedestrian friendly sidewalks linking the unique retail experience with plazas and green spaces.
- Adequate and convenient parking.

The character of the Lifestyle Center PUD will be assured through guidelines for architectural and design aesthetics established and enforced by the developer.

IV. PROJECT/PLAN DESCRIPTION

The Lifestyle Center PUD is an open-air shopping and entertainment complex featuring clustered buildings that provide a unique setting for retail shops, anchor stores, restaurants and other ancillary uses such as, health clubs, spas, and other similar facilities and uses not inconsistent therewith.

The unique design features of The Lifestyle Center PUD feature a winding main street through a series of buildings and shops, each with their own distinctive, yet complimentary, architectural style. The main street, with its accompanying parking and sidewalks, connect a series of plazas, water elements and other hardscape and landscape features providing multiple view corridors throughout the development. The individual buildings, with varying orientations and setbacks, enhance the overall architectural aesthetics of the project. Upon ultimate buildout, more than 700,000 square feet of retail space is anticipated within the Lifestyle Center P.U.D. This is a minimum square footage per the development agreement.

A preliminary site plan for the Lifestyle Center PUD is included in this development to illustrate the overall design concept and is subject to change in accordance with the provisions set forth in this document.

PERMITTED USES

The following uses are permitted by right ("Uses By Right") and such uses shall not require further approval:

- ATMs, and other financial service kiosks and walk-up facilities;
- Banks with or without drive up services;
- Conference Centers;
- Cultural facilities including art galleries, auditoriums, libraries and museums;
- Instructional service providers and training centers;
- Health clubs, spas, salons, gymnasiums and similar facilities;
- Movie theaters, live theaters, and indoor and outdoor entertainment and recreational venues which may include but not limited to music and comedy clubs, bowling, billiards, video games and other arcade type games.
- Professional offices and related service providers;
- Restaurants for sale and consumption of food and beverage, primarily on-premises (including the sale of alcoholic beverages) (including outdoor seating);
- Retail food stores; farmer's market
- Retail shops, department stores and retail service providers;
- Taverns, pubs, bars and microbreweries (including outdoor seating).
- Hotels and motels;
- Medical or dental clinics;
- Daycare Centers or pre-schools and
- Other uses allowed within the General Business (GB) District.

The Lifestyle Center PUD will contain no residential lots or units.

ACCESS / MOBILITY

Direct Access to the overall Lifestyle Center PUD is provided via proposed Low Briggs Road, proposed North Spectrum Boulevard and proposed Spectrum Boulevard.

The existing and proposed frontage roads serving the Sam Houston Tollway and S.H. 288 direct vehicular traffic to Low Briggs Road and Spectrum Boulevard providing traffic circulation around the perimeter of the site.

North Spectrum Boulevard will connect Low Briggs Road with proposed Kirby Drive to the west. Kirby Drive currently possesses a grade separated interchange with the Sam Houston Tollway

and is proposed to continue south across Clear Creek providing a connection to Shadow Creek Parkway. All of the aforementioned streets are public streets. The remaining driveways and parking aisles within the Lifestyle Center PUD will be privately owned and, accordingly, will not be required to be constructed in accordance with the City's public street standards. These driveways and parking aisles will be privately owned and maintained by the developer.

The construction of the above mentioned public projects are the subject of a municipal management district and development agreement between the City of Pearland and the developer of the Lifestyle Center PUD. Their completion ensures adequate traffic circulation and access for the project. A traffic impact analysis demonstrating the sufficiency of overall circulation system will be provided to the City of Pearland. All appropriate permits for streets and driveways will be obtained by the Developer with assistance from the City of Pearland and in accordance with the Development Agreement.

Access to the internal parcels and/or lots within the Lifestyle Center PUD may be provided by way of public streets, private streets and/or driveways, easements or licenses. The proposed access and circulation system for the Lifestyle Center PUD can be seen on the Access/Mobility exhibit in the Exhibits section of this document. Typical plans and cross-sections for the public streets, as well as, a conceptual cross-section for the "main" street driveway are included in the Exhibit section of this document.

SUBDIVISION PLATS

A Subdivision Plat including the entirety of the Lifestyle Center PUD will be submitted to the city for its approval and filed for recordation in the appropriate county map records. The subdivision plat shall designate the developable parcels as reserves with the uses restricted to "Lifestyle Center PUD" and include the required dedications for Spectrum Boulevard and Lew Briggs Road, as well as, any associated public utility easements to serve the project. Additionally, the plat will illustrate all of the information typically required for subdivision plats by the City of Pearland (along with any exceptions granted by acceptance of this document) including setback lines, dimensions, acreages, etc.

Although the Developer reserves the right to sell buildings and/or parcels in accordance with the City of Pearland regulations for such sales, it is the intent of the Developer to lease all of the building facilities for the life of the project.

The lease or sale of parcels within the overall Lifestyle Center PUD will not require the submittal and/or recordation of an additional subdivision plat so long as no new public facilities are proposed. The appropriate taxing authorities shall be notified of parcel sales within 30 days of the closing date for parcels not replatted.

AREA REQUIREMENTS

- Minimum Lot/Reserve Size. Every lot/reserve within the Lifestyle Center subdivision shall be at least 7,000 square feet in area.
- Minimum Lot/Reserve Width. Lot/reserve within the Lifestyle Center subdivision shall have no minimum width.
- Minimum Lot/Reserve Depth. Lot/reserve within the Lifestyle Center subdivision shall have no minimum depth.
- Maximum Impermeable Coverage. Maximum impermeable coverage shall be eighty-five percent (85%), and shall be calculated on the entire PUD property, not on a per lot/reserve basis.

YARD (SETBACK) REQUIREMENTS

With the exception of those parcels / lots situated adjacent to an external public street, front, rear and sideyard setbacks shall not be applicable within the Lifestyle Center PUD. Setback requirements measured from the right-of-way line of the below listed roadways shall be applicable to buildings and parking areas as follows:

- o Sam Houston Tollway – 25'
- o S.H. 288 – 25'
- o Spectrum Boulevard – 25'
- o Lew Briggs Road – 25'
- o All other internal streets and drives (private) – 0'

The minimum distance between buildings shall be fifteen feet (15'), but there shall be no minimum distance between buildings housing restaurants or entertainment facilities clustered around a central plaza.

SITE PLAN CHANGES

The site plan in this document is included for the sole purpose of establishing a general concept as to the basic character and physical relationships of the planned uses and facilities.

Adjustments to the site plan that do not introduce new public facilities and otherwise comply with the various other requirements within the Lifestyle Center PUD shall not require a separate or additional approval process. It is essential to the success of the Lifestyle Center PUD to maintain flexibility in the site plan process in order to respond to ever changing market conditions and retail demands.

PARKING AND LOADING

Parking and loading shall be subject to the general requirements of the provisions of chapter 21 of the Zoning Ordinance of the City of Pearland in effect at the time this document is officially adopted with the exceptions noted below.

In an effort to simplify the parking calculation for multi-occupancy uses in a predominantly retail shopping center/mall environment while ensuring adequate off-street parking for the proposed uses, a minimum fixed ratio of 5 parking spaces per 1,000 square feet of floor area for the project as a whole, regardless of use, shall be required. This ratio is consistent with the current City of Pearland parking code for shopping centers, malls and other multi-occupancy uses over 3 acres in size. Hotels/Motels are excluded from the above fixed ratio and shall conform to the City of Pearland Code requirements in effect at the time this document is adopted.

Parking adjacent to private streets and drives within the project (not public streets) shall not be considered "on-street" parking and will be allowed so long as the size of the spaces meet the minimum criteria established by the City of Pearland parking regulations

Structured parking in the form of parking garages and decks are permissible in order to satisfy the off-street parking requirements set forth herein.

Merchandise and passenger loading requirements shall meet the City of Pearland Code in effect at the time this document is adopted.

DISPLAY AND STORAGE

Outside storage and warehousing of surplus products within the Lifestyle Center PUD will be prohibited.

The outside exhibition or display of products is permitted. This includes the viewing and demonstration of large recreational vehicles and boats. Permanent display areas shall not exceed 20% of the gross leasable area for a specific tenant and are not required to be covered, enclosed or within a certain distance of the building. Required parking shall not be utilized for permanent display space.

LIGHTING

o **General Requirements.**

- Lighting shall be a minimum maintained level of one foot (1') candle and shall not exceed an average of five foot (5') candles at any location within the Lifestyle Center PUD.
- Pole height shall be limited to forty feet (40') above grade.
- Standards, poles, and fixtures may be varied in design, color and height throughout the Lifestyle Center PUD, providing for different types of lighting for different applications.
- Creosote treated wood poles are prohibited.
- High pressure sodium lights are prohibited throughout the project.

o **Vehicular Circulation And Parking Areas.**

- Any light used to illuminate or identify a parking or a loading area shall be placed so as to reflect the light away from the adjacent dwellings and so as not to interfere with traffic control devices.
- Fixtures shall be selected and configured so as to avoid direct glare onto adjacent properties or adjacent public streets.
- Minimum light level within parking areas shall be one foot (1') candle during hours of business operation.

o **Walkway Lighting.** Ornamental walkway lighting shall be comprised of standard, pole, bollard and wall mounted fixtures, limited to twenty feet (20') above grade.

o **Accent Lighting.**

- Up-lighting shall be consoled or positioned to screen the light source from adjacent property.
- Floodlighting or spotlighting of architecture, graphics, or natural features shall not create spillage of light onto adjacent property or public streets.

o **Maintenance.** Each owner of PUD Property shall maintain the lighting in the Lifestyle Center PUD, including, but not limited to, replacement of bulbs, repairs and routine maintenance.

SIGNAGE.

A "Signage Master Plan" illustrating the size, location, number and type of signage to be erected within the Lifestyle Center PUD will be prepared by the Developer and submitted to the Pearland City Council for their approval.

AMENITIES / OPEN SPACES / LANDSCAPING

One of the primary goals the Lifestyle Center PUD is to create an environment where the overall architectural style (hardscape and landscape) serve to enhance the retail shopping experience. This is accomplished via the implementation of a carefully planned collection of individual stores, restaurants and entertainment venues that are connected by both vehicular and pedestrian corridors. These corridors contain architectural elements and amenities that include open spaces, water features, plazas, fountains, sculpture, benches and a variety of landscaping. Landscaping along the perimeter roadways, boulevard entrance and parking lot islands complement these hardscape features. The conceptual site plan illustrates the approximate location and intensity of these landscape and hardscape features. All of the open space and amenity features within the Lifestyle Center PUD will be privately owned and maintained.

As a minimum, the Lifestyle Center PUD will meet the standards set forth within Chapter 22 of the Pearland Land Use and Urban Development Ordinance in effect at the time this document is officially adopted.

UTILITIES

- **Underground Utilities.** All utility facilities (including, but not limited to electric, telephone, cable television, water, gas, drainage, sanitary sewer and storm sewer) within the Lifestyle Center PUD shall be located underground. To the extent that any utility facility, for engineering or other compelling reasons, must be located above-ground (such as transformers, meters and similar facilities), such utility facility shall be located, subject to the mutual consent of the utility service provider and the Developer, in an area calculated to avoid and/or minimize public view and shall be located within an enclosed service court or screened in a manner approved by the Developer.
- **Utility Easements.** All utility facilities shall be located within utility easements, granted by the Developer and recorded in the Land Records of Harris County Texas prior to commencement of the delivery of service through said utility facilities. All such utility easements shall lie in specific areas of the Lifestyle Center PUD designed for efficiency of construction and use. Easements may be shared by more than one (1) utility, so long as all reasonable separation requirements are observed.
- **Roof Mounted Facilities.** Roof mounted equipment and other facilities shall be positioned or screened so as to not be visible from the foundation grade of the buildings on which they are installed.
- **Surface Rights.** Except for surface rights that may be specifically granted in an easement agreement (such as surface rights for above-ground facilities, access and maintenance), grantees of utility easements shall have no surface rights in utility easement areas. Accordingly, there shall be no prohibition of paving, landscaping or the construction of small non-occupied structures such as kiosks, fountains, fire pits, signage or other similar amenities on the surface of utility easement areas. The foregoing notwithstanding, however, no buildings to be occupied by persons or for long term storage of goods may be constructed on the surface of utility easement areas.
- **Detention Facilities.** Drainage detention facilities will be constructed and maintained in such a manner so as to ensure their primary function as a flood prevention system.

Where the detention facilities abut public streets, appropriate landscaping will be installed to enhance their aesthetic quality.

The size and location of the trunk utilities (water, wastewater & drainage) planned to serve the Lifestyle Center PUD are illustrated on the Utilities Exhibit (Exhibit "G") in the exhibit section of this document.

ARCHITECTURAL STANDARDS

In an effort to promote and preserve the aesthetic quality, continuity, theme and character of the Lifestyle Center PUD, the developer will prepare a comprehensive set of architecture and design guidelines that will serve as the basis for all construction and development within the project.

The guidelines will address issues including, but not limited to, architectural style, color, building materials, landscaping, signage and parking. Building facades will be in keeping with those in existing "Lifestyle Centers", containing varied architectural styles and materials. Materials may include natural or man-made products consisting of brick, stone, glass, metal, wood, tile, resin concrete, canvas and stucco.

The architecture and design guidelines will be applicable to all structures and accompanying infrastructure designed within the boundaries of the Lifestyle Center PUD. No building shall be constructed without approval of the developer.

Otherwise, all buildings constructed within the Lifestyle Center PUD shall be constructed in accordance with the City of Pearland Building Code in effect at the time this document is adopted.

PHASING / DEVELOPMENT SCHEDULE

The project is scheduled to be completed in multiple phases of construction with the initial phase beginning in the fall of 2005. Completion is anticipated in the first quarter of 2008.

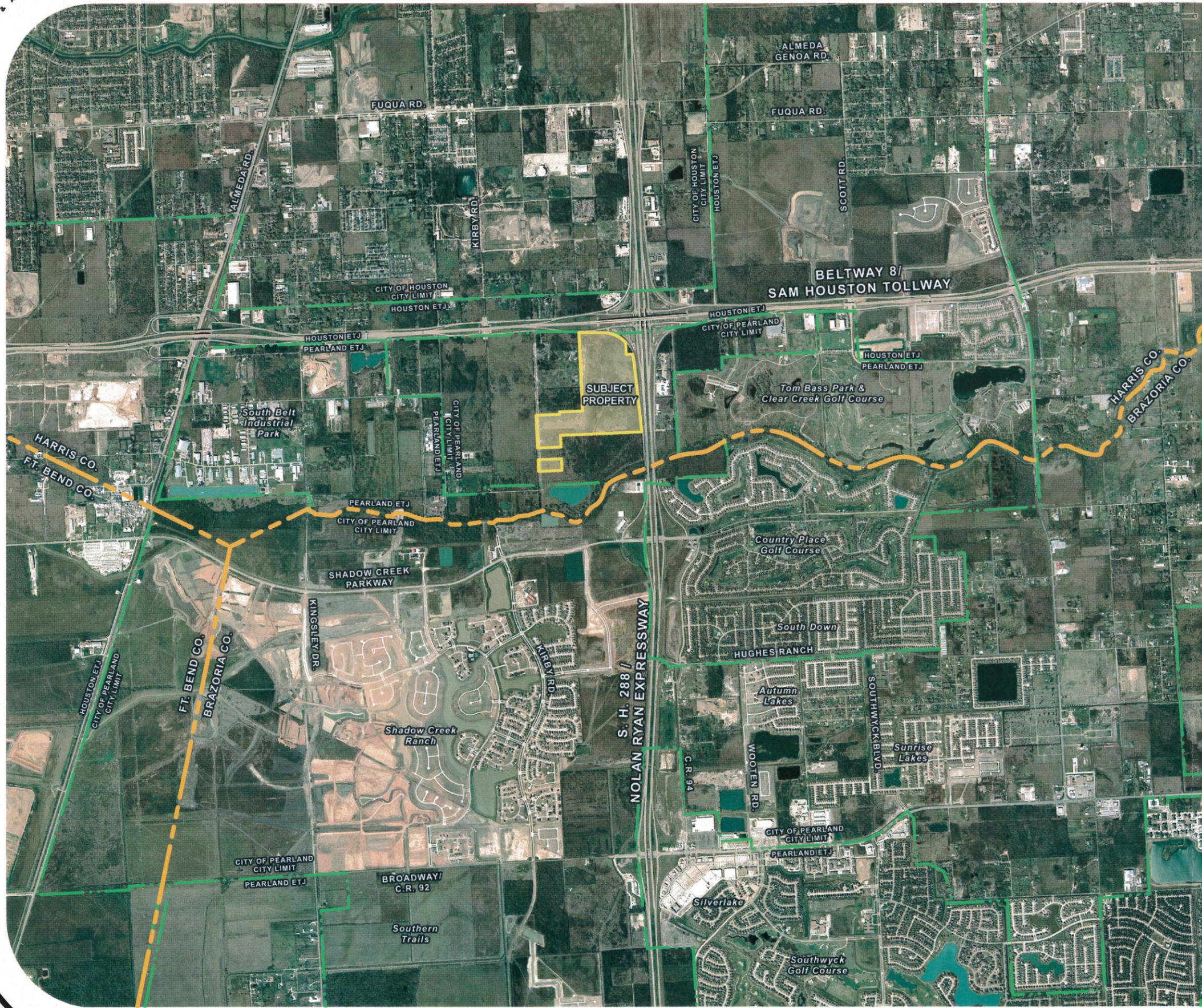
V. DEFINITIONS

Any term used in this Lifestyle Center PUD Document which is defined in Chapter 3 of the Zoning Ordinance of the City of Pearland shall have the meaning ascribed to it in Chapter 3 of the Zoning Ordinance of the City of Pearland. All other terms defined in this Lifestyle Center PUD Document shall have the meaning ascribed to them in the Lifestyle Center PUD Document.

- o **City.** Pearland, Harris County, Texas.
- o **Developer.** Pearland Lifestyle Center, L.P.
- o **Development Agreement.** The agreement entered into December 20, 2004 between the City of Pearland, the Pearland Economic Development Corporation and Poag & McEwen Lifestyle Center – Houston, LLC. which addresses certain project development and infrastructure issues.
- o **In-Line Buildings.** Buildings containing multiple retail bays and designed to be occupied by multiple retail tenants.
- o **Lifestyle Center.** An open-air shopping and entertainment complex featuring clustered buildings with enhanced architectural finishes and pedestrian friendly walkways and landscaping, providing a setting for retail shops, anchor stores, restaurants and other ancillary uses such as movie theaters, health clubs, spas, salons and similar facilities and other uses not inconsistent therewith.
- o **Lifestyle Center PUD.** Planned Unit Development for the Promenade Shops at Shadow Creek Ranch.
- o **Lifestyle Center PUD Document.** This document, and all other exhibits to this document and all duly executed amendments to any of the foregoing.
- o **New Public Facilities.** Dedicated public roadways and trunk water mains, trunk sanitary sewer lines and trunk storm sewer lines (not lateral connections.)
- o **Planning and Zoning Commission.** The Planning and Zoning Commission of the City of Pearland, Texas.
- o **PUD Property.** All property lying within the area of land described in Exhibit "C" to this Lifestyle Center PUD Document.
- o **Uses by Right.** Uses permitted by right set forth in Section IV that shall not require further approval.

VI. EXHIBITS

- A. Area Location Map for Lifestyle Center PUD**
- B. Survey**
- C. Legal Description**
- D. Site Plan for Lifestyle Center PUD**
- E. Mobility Plan for Lifestyle Center PUD**
- F. Utilities Plan for Lifestyle Center PUD**
- G. Spectrum Blvd. and Lew Briggs Road (Typical Cross-section)**
- H. Lifestyle Center "Main Street Driveway" (Typical Cross-section)**



an area location map for
**LIFESTYLE
 CENTER PUD**
 PEARLAND, TEXAS
 prepared for
**PEARLAND LIFESTYLE
 CENTER, L.P.**

KERRY R. GILBERT & ASSOCIATES, INC. Land Planning Consultants
 15810 Park Ten Place
 Suite 160
 Houston, Texas 77084
 (281) 579-0340

NOT TO SCALE
 JULY 6, 2005
 KGA #1-137

THIS MAP IS A SCANNED DRAWING ONLY AND IS NOT FOR COMPUTATION OR CONSTRUCTION PURPOSES. SAID DRAWING IS A PICTORIAL REPRESENTATION ONLY AND IS SUBJECT TO CHANGE. ADDITIONALLY NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, CONCERNING THE ACTUAL DESIGN, LOCATION OR CHARACTER OF THE FACILITIES SHOWN ON THIS MAP ARE INTENDED. THIS PRESENTATION GRAPHIC REPRESENTS A COMPILATION OF DATUM OBTAINED FROM MAPS, SURVEYS AND OTHER DOCUMENTS PROVIDED TO KERRY R. GILBERT & ASSOCIATES, INC.

EXHIBIT A

EXHIBIT C
Legal Description
for
LIFESTYLE CENTER PUD

The district includes all the territory contained in the following described area:

TRACT 1: A parcel of land containing 88.6991 acres (3,863,734 square feet), more or less, out of Lots 6, 7 and 8 of the said subdivision of the James Hamilton Survey and being more particularly described as follows:

COMMENCING at a 1 inch iron pipe found at the southwest corner of the said James Hamilton Survey, said point also being the southwest corner of said Lot 4;

THENCE N 87° 35' 30" E, along the south line of the said James Hamilton Survey and the south line of said Lot 4, a distance of 1320.00 feet to a 3/4 inch iron rod found at the southeast corner of said Lot 4 and the southwest corner of Lot 5 of the said subdivision of the James Hamilton Survey;

THENCE N 02° 24' 30" W, along the common line of said Lots 4 and 5, a distance of 1320.00 feet to a found 1/2 inch iron pipe at the common corner of said Lots 3, 4, 5 and 6, from said 1/2 inch iron pipe a found 1 inch iron rod bear S 03° 07' 14" W, 0.98

feet in length, also being the POINT OF BEGINNING of the herein described tract;

THENCE N 02° 24' 30" W, along the east line of Lot 2 of the said subdivision of the James Hamilton Survey and said Lot 3, and the west line of said Lots 7 and 8, a distance of 2200.00 feet to a 5/8 inch iron rod set at the northwest corner of said Lot 7 and the southwest corner of said Lot 8, from said 5/8 inch iron rod and found fence corner bears S 83° 57' 48" E, 21.66 feet in length;

THENCE N 87° 40' 21" E (called N 87° 35' 30" E), along the common line of said Lots 7 and 8, a distance of 659.68 feet (called 660.00 feet) to a set 5/8 inch iron rod, from said 5/8 inch iron rod found 1 inch iron pipe bears S 78° 34' 01" W, 8.67 feet in length, also from said 5/8 inch iron rod a found fence corner bears N 88° 52' 15" W, 1.61 feet in length;

THENCE N 02° 24' 30" W, a distance of 640.18 feet to a 5/8 inch iron rod set in the south line of South Belt (variable width), from said 5/8 inch iron rod a found 1 inch iron pipe bears S 87° 45' 03" W, 8.30 feet in length, also from said 5/8 inch iron rod a found fence corner bears S 66° 39' 49" W, 1.37 feet in length;

THENCE S 89° 32' 13" E, along the south line of said South Belt, a distance of 35.99 feet to a 5/8 inch iron rod set on a curve to the right;

THENCE continuing along the south line of said South Belt and along a fence line and said curve to the right, having a radius of 881.47 feet, through a central angle of 46° 25' 21", a distance of 714.19 feet to a set 5/8 inch iron rod, said curve having a chord which bears S 66° 19' 32" E, 694.81 feet in length;

THENCE S 02° 24' 30" E, a distance of 332.88 feet to a set 5/8 inch iron rod;

THENCE N 87° 35' 30" E, a distance of 179.39 feet to a 5/8 inch iron rod set on the west line of State Highway 288 (variable width) and on a curve to the right;

THENCE along the west line of said State Highway 288, a fence line and said curve to the right, having a radius of 881.47 feet, through a central angle of 11° 55' 32", a distance of 183.47 feet to a found concrete monument, said curve having a chord which bears S 12° 22' 47" E, 183.14 feet in length;

THENCE S 06° 25' 01" E, continuing along the west line of said State Highway 288 and a fence line, a distance of 1811.66 feet (called 1811.72 feet) to a found concrete monument;

THENCE S 02° 38' 57" E (called S 02° 52' 57" E), continuing along the west line of said State Highway 288 and a fence line, a distance of 209.95 feet (called 212.35 feet) to a fence corner found in the south line of said Lot 6 and the north line of said Lot 5;

THENCE S 87° 32' 19" W (called S 87° 35'.30" W), along the south line of said Lot 6 and the north line of said Lot 5, a distance of 1658.31 feet (called 1659.51 feet) to the POINT OF BEGINNING and containing 88.6991 acres (3,863,734 square feet) of land.

TRACT II: A parcel of land containing 9.0000 acres (392,040 square feet), more or less, out of Lot 3 of the said subdivision of the James Hamilton Survey and being more particularly described as follows:

COMMENCING at a 1 inch iron pipe found at the southwest corner of the said James Hamilton Survey, said point also being the southwest corner of said Lot 4;

THENCE N 02° 24' 30" W, along the west lines of the said James Hamilton Survey and said Lot 4, a distance of 1320.00 feet to a 5/8 inch iron rod set at the southwest corner of said Lot 4 and the southwest corner of said Lot 3 for the POINT OF BEGINNING of the herein described tract.

THENCE N 02° 24' 30" W, continuing along the west line of the said James Hamilton Survey and along the west line of said Lot 3, a distance of 594.00 feet to a set 5/8 inch iron rod;

THENCE N 87° 35' 30" E, a distance of 660.00 feet to a set 5/8 inch iron rod;

THENCE S 02° 24' 30" E, a distance of 594.00 feet to a 5/8 inch iron rod set in the common line of said Lots 3 and 4;

THENCE S 87° 35' 30" W, along the common line of said Lots 3 and 4, a distance of 660.00 feet to the POINT OF BEGINNING and containing 9.0000 acre (392;040 square feet) of land.

TRACT III: A parcel of land containing 5.0000 acres (217,800 square feet), more or less, out of Lot 4 of the said subdivision of the James Hamilton Survey and being more particularly described as follows:

COMMENCING at a 1 inch iron pipe found at the southwest corner of the said James Hamilton Survey, said point also being the southwest corner of said Lot 4;

THENCE N 02° 24' 30" W, along the west lines of the said James Hamilton Survey and said Lot 4, a distance of 990.00 feet to a 5/8 inch iron rod set for the POINT OF BEGINNING;

THENCE N 02° 24' 30" W, continuing along the west lines of the said James Hamilton Survey and said Lot 4, a distance of 330.00 feet to a 5/8 inch iron rod set at the northwest corner of said Lot 4 and southwest corner of said Lot 3;

THENCE N 87° 35' 30" E, along the common line of said Lots 3 and 4, a distance of 660.00 feet to a set 5/8 inch iron rod;

THENCE S 02° 24' 30" E, a distance of 330.00 feet to a set 5/8 inch iron rod;

THENCE S 87° 35' 30" W, a distance of 660.00 feet to the POINT OF BEGINNING and containing 5.0000 acres (217,800 square feet) of land.

TRACT IV: A parcel of land containing 5.0000 acres (217,800 square feet), more or less, out of Lot 3 of the said subdivision of the James Hamilton Survey and being more particularly described as follows:

COMMENCING at a 1 inch iron pipe found at the southwest corner of the said James Hamilton Survey, said point also being the southwest corner of said Lot 4;

THENCE N 87° 35' 30" E, along the south lines of the said James Hamilton Survey and the said Lot 4, a distance of 1320.00 feet to a 3/4 inch iron rod found at the southeast corner of said Lot 4 and the southwest corner of Lot 5 of said subdivision of the James Hamilton Survey;

THENCE N 02° 24' 30" W, along the common line of said Lots 4 and 5, a distance of 1320.00 feet to a 1/2 inch iron pipe found at the common corner of said Lots 3, 4, 5 and 6, from said 1/2 inch iron pipe a found 1 inch iron rod bears S 03° 07' 14" W, 0.98 feet in length, also from said 1/2 inch iron pipe a found fence corner bears S 87° 53' 08" E, 0.88 feet in length, said 1/2 inch iron pipe also being the POINT OF BEGINNING of the herein described tract;

THENCE S 87° 35' 30" W, along the common line of said Lots 3 and 4, a distance of 660.00 feet to a set 5/8 inch iron rod;

THENCE N 02° 24' 30" W, a distance of 330.00 feet to a set 5/8 inch iron rod;

THENCE N 87° 35' 30" E, a distance of 660.00 feet to a 5/8 inch iron rod set in the common line of said Lots 3 and 6;

THENCE S 02° 24' 30" E, along the common line of said Lots 3 and 6, a distance of 330.00 feet to the POINT OF BEGINNING and containing 5.0000 acres (217,800 square feet) of land.

TRACT V: A parcel of land containing 5.000 acres (217,800 square feet), more or less, out of Lot 3 of the said subdivision

of the James Hamilton Survey and being more particularly described as follows:

COMMENCING at a 1 inch iron pipe found at the southwest corner of the said James Hamilton Survey, said point also being the southwest corner of said Lot 4;

THENCE N 87° 35' 30" E, along the south lines of the said James Hamilton Survey and said Lot 4, a distance of 1320.00 feet to a 3/4 inch iron rod found at the southeast corner of said Lot 4 and the southwest corner of Lot 5 of the said subdivision of the James Hamilton Survey;

THENCE N 02° 24' 30" W, along the common line of said Lots 4 and 5, at a distance of 1320.00 feet pass a 1/2 inch iron pipe found at the common corner of said Lots 3, 4, 5 and 6, from said 1/2 inch iron pipe a found 1 inch iron rod bears S 03° 07' 14" W, 0.98 feet in length, also from said 1/2 inch iron pipe a found fence corner bears S 87° 53' 08" E, 0.88 feet in length, in all a distance of 1650.00 feet to a 5/8 inch rod set for the POINT OF BEGINNING;

THENCE S 87° 35' 30" W, a distance of 660.00 feet to a set 5/8 inch iron rod;

THENCE N 02° 24' 30" W, a distance of 330.00 feet to a 5/8 inch iron rod;

THENCE N 87° 35' 30" E, a distance of 660.00 feet to a 5/8 inch iron rod set in the common line of said Lots 3 and 6;

THENCE S 02° 24' 30" E, along the common line of said Lots 3 and 6, a distance of 330.00 feet to the POINT OF BEGINNING and containing 5.0000 acres (217,800 square feet) of land.

TRACT VI: A parcel of land containing 5.0000 acres (217,800 square feet), more or less, out of Lot 4 of the said subdivision of the James Hamilton Survey and being more particularly described as follows:

COMMENCING at a 1 inch iron pipe found at the southwest corner of the said James Hamilton Survey, said point also being the southwest corner of said Lot 4;

THENCE N 02° 24' 30" W, along the west lines of the said James Hamilton Survey and said Lot 4, a distance of 330.00 feet to a 5/8 inch iron rod set for the POINT OF BEGINNING;

THENCE N 02° 24' 30" W, continuing along the west lines of the said James Hamilton Survey and said Lot 4, a distance of 330.00 feet to a set 5/8 inch iron rod;

THENCE N 87° 35' 30" E, a distance of 660.00 feet to a set 5/8 inch iron rod;

THENCE S 02° 24' 30" E, a distance of 330.00 feet to a set 5/8 inch iron rod;

THENCE 87° 35' 30" W, a distance of 660.00 feet to the POINT OF BEGINNING and containing 5.0000 acres (217,800 square feet) of land.

TRACT VII: All that certain 9.9963 acre tract or parcel of land, more or less, lying and being situated in the DAVID WHITE (Assignee of James Hamilton) Survey, Abstract 881, Harris County, Texas, and being a portion of that certain 15 acre tract of land described in deed from Julius S. Worland to J.V. King, dated August 17, 1954 and recorded in Volume 2309, Page 695, Deed Records of Harris County, Texas and being more particularly described as follows:

BEGINNING at a 1" iron pipe in the west line of the said 15 acre tract, same being located South 317.96 feet from its northwest corner and said beginning point also being the point of intersection of the southerly right-of-way line of the proposed South Belt Highway with the aforementioned west line of the 15 acre tract;

THENCE S 87° 04' 09" E, along the southerly line of the said South Belt Highway at 23.40 feet pass a concrete monument, in

all 660.87 feet to a 1" iron pipe for corner in the east line of the said 15 acre tract;

THENCE South, along the east line of the said 15 acre tract, 641.58 feet to a 1" iron pipe for the southeast corner of the tract herein described;

THENCE N 89° 41' W, along the south line of the tract 660.00 feet to a 1" iron pipe for its Southwest corner;

THENCE North, along the west line of the said 15 acre tract, 674.57 feet to the point or PLACE OF BEGINNING and containing as aforesaid 9.9963 acres of land.

Such tracts comprising a total of 127.6954 acres, more or less.