

**CITY OF FREEPORT
PLANNING COMMISSION AND CITY COUNCIL
JOINT PUBLIC HEARING
Monday, September 18, 2017 6:00 P.M.
Freeport Police Department, Municipal Courtroom
430 North Brazosport Boulevard
Freeport, Texas**

AGENDA

Eddie Virgil, Chairman, Sandra Loeza
Cindy Cain, Johnathan Sublet
Lesa Girouard

NOTICE is hereby given that the Planning Commission of the City of Freeport, Texas will meet in a Joint Public Hearing on **Monday, September 18, 2017 at 6:00 P.M.** at the Freeport Police Department, Municipal Courtroom, and 430 North Brazosport Boulevard, Freeport, Texas to discuss the following:

1. Call to order
2. Conduct a Joint Public Hearing to consider a proposed amendment to the Comprehensive Zoning Ordinance of said city, codified as Chapter 155 of the Code of Ordinances of said City, adding a new zoning district, to be known as PUD-2, and changing the zoning classification for the following described real property from the present zoning classifications of such property to a new zoning classification of PUD-2.

BEGINNING at the boundary of the established W-4 Zoning District and the shoreline of the Brazos River at the eastern end of Brazos Boulevard, then along the south ROW line of Brazos Boulevard to the intersection of the east ROW of Oak Street; then proceeding south to the point of the south ROW of First Street; then proceeding west along the south ROW line of First Street to the northeast corner of Block 97; then proceeding south to the north ROW line of Second Street; then proceeding west along the north ROW line of Second Street to the eastern boundary of the established PUD of the Brazos Landing Subdivision, then proceeding along the boundary of the established PUD to the southern ROW line of the City owned levee easement; then proceeding along the ROW line of the City owned levee easement to the east ROW line of Brazosport Boulevard; then proceeding north to the intersection of the south ROW line of Avenue A; then proceeding east along the south ROW line of Avenue A to its intersection with the east

ROW line of McNeal Street; then proceeding south to the northern boundary of the established W-1R Zoning District; then proceeding west along the northern boundary of the established W-1R Zoning District; then proceeding south along the western boundary of the established W-1R Zoning District to the water line of the Brazos River.

3. Adjourn.

NOTE: ITEMS NOT NECESSARILY DISCUSSED IN THE ORDER THEY APPEAR ON THE AGENDA. THE PLANNING COMMISSION, AT ITS DISCRETION, MAY TAKE ACTION ON ANY OR ALL OF THE ITEMS LISTED.

I, Delia Munoz, City Secretary, City of Freeport, Texas, hereby certify that this Agenda was posted on the official bulletin board/glass door of City Hall facing the rear parking lot of the building with 24-hour access at 200 West 2nd Street, Freeport, Texas on or before **Friday, September 15, 2017 at 5:00 P.M.**

Delia Munoz, City Secretary
City of Freeport, Texas

TO ALL PERSONS IN INTEREST, CITIZENS, CORPORATIONS, AND FIRMS, THEIR AGENTS AND ATTORNEYS, AND TO ALL PERSONS, FIRMS, AND CORPORATIONS OWNING ANY INTEREST IN THE LAND DESCRIBED IN THE ATTACHMENT HERETO OR ANY LAND LOCATED WITHIN TWO HUNDRED (200') FEET THEREOF AND TO ALL INHABITANTS AND LAND OWNERS OF AND IN THE CITY OF FREEPORT, BRAZORIA COUNTY, TEXAS.


N O T I C E

A joint public hearing will be held on Monday, the 18th day of September, 2017, at 6:00 o'clock p.m., central standard time, at the Police Department Municipal Courtroom of the City of Freeport, Texas, located at 430 North Brazosport Boulevard, within the corporate limits of said city, in Brazoria County, Texas, at which time and place the City Council and the Planning Commission of said city will conduct a joint public hearing to consider a proposed amendment to the Comprehensive Zoning Ordinance of said city, codified as Chapter 155 of the Code of Ordinances of said City, adding a new zoning district, to be known as PUD-2, and changing the zoning classification for the following described real property from the present zoning classifications of such property to a new zoning classification of PUD-2:

BEGINNING at the boundary of the established W-4 Zoning District and the shoreline of the Brazos River at the eastern end of Brazos Boulevard, then along the south ROW line of Brazos Boulevard to the intersection of the east ROW of Oak Street; then proceeding south to the point of the south ROW of First Street; then proceeding west along the south ROW line of First Street to the northeast corner of Block 97, Freeport Townsite; then proceeding south to the north ROW line of Second Street; then proceeding west along the north ROW line of Second Street to the eastern boundary of the established PUD of the Brazos Landing Subdivision, then proceeding along the boundary of the established PUD to the southern ROW line of the City owned levee easement; then proceeding along the ROW line of the City owned levee easement to the east ROW line of Brazosport Boulevard; then proceeding north to the intersection of the south ROW line of Avenue A; then proceeding east along the south ROW line of Avenue A to its intersection with the east ROW line of McNeal Street; then proceeding south to the northern boundary of the established W-1R Zoning District; then proceeding west along the northern boundary of the established W-1R Zoning District; then proceeding south along the western boundary of the established W-1R Zoning District to the water line of the Brazos River.

BY ORDER OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS,

made on the 7th day of August, 2017.



Delia Munoz, City Secretary,
City of Freeport, Texas

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FREEPORT, BRAZORIA COUNTY, TEXAS, CONTAINING A PREAMBLE; CONTAINING FINDINGS OF FACT AND CONCLUSIONS OF LAW; AMENDING CHAPTER 155 OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, NOW CODIFIED AS CHAPTER 155 OF THE CODE OF ORDINANCES OF THE CITY, TO ADD A NEW SECTION, TO BE CODIFIED AS SECTION 155.045-01, AND WHICH SHALL BE APPLICABLE ONLY TO THE LAND LOCATED WITHIN THE OLD BRAZOS RIVER CORRIDOR, AS DESCRIBED IN THAT SECTION; PROVIDING REGULATIONS AND REQUIREMENTS FOR THE DEVELOPMENT OF SUCH LAND; AMENDING SAID COMPREHENSIVE ZONING ORDINANCE TO CHANGE THE CURRENT CLASSIFICATION OF ALL LAND LOCATED WITHIN THE BOUNDARY OF SUCH NEW DISTRICT, AS DESIGNATED IN EXHIBIT "A", FROM ITS PRESENT ZONING CLASSIFICATION TO SUCH NEW ZONING CLASSIFICATION OF PUD-2; RATIFYING AND CONFIRMING ALL ACTIONS PREVIOUSLY TAKEN BY THE PLANNING COMMISSION OF SAID CITY OR THE CITY COUNCIL, OR BOTH; PROVIDING THAT ANY PERSON VIOLATING SAID CODE OF ORDINANCES, AS AMENDED BY THIS ORDINANCE, SHALL BE GUILTY OF A MISDEMEANOR AND ASSESSED A FINE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 155.999 OF SAID CODE OF ORDINANCE AND THAT EACH DAY ANY SUCH VIOLATION OCCURS AND EVERY DAY IT CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE; CONTAINING SAVINGS CLAUSES; CONTAINING A SEVERANCE CLAUSE; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER THIS DESCRIPTIVE CAPTION HAS BEEN PUBLISHED TWICE IN THE BRAZOSPORT FACTS.

WHEREAS, the City of Freeport, Texas ("the City"), is a "Home Rule City" and a "Home Rule Municipality" lying and situated in Brazoria County, Texas, as described in and defined by Section 5, Article XI of the Constitution of Texas and Section 1.005 of the Local Government Code of Texas, respectively; and,

WHEREAS, Subchapter A of Chapter 211 of the Local Government Code of Texas and Item (g) of Section 3.07 of the Home Rule Charter of the City authorizes the City Council thereof to adopt the provisions of this Ordinance; and,

WHEREAS, the City Council of the City has determined to here now declare that it is necessary to the health, safety and general welfare of the inhabitants of the City for there to be established a new zoning classification to be known as Planned Unit Development-2 (PUD-2) District, to specify the boundaries thereof and regulations therefore, and to change the zoning classifications of all land within such new zoning district from its present zoning classification to the new zoning classification of Planned Unit Development-2 (PUD-2) District.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS:

SECTION ONE--Findings of Fact and Conclusions of Law.

The City Council of the City makes the following findings of fact and conclusions of law, viz:

First, that the public hearings required by the Zoning Enabling Act of the State of Texas, codified as Chapter 211 of the Texas Local Government Code, and the present Comprehensive Zoning Ordinance of the City, codified as Chapter 155 of the Code of Ordinances of the City, have been conducted in the manner and at the time required.

Second, that not less than fifteen (15) days prior to the date of such hearings, public notice thereof was published once in the Brazosport Facts, a newspaper of general circulation in and the official newspaper of the City, stating the date, time and place of such hearings.

Third, that after considering evidence submitted at such hearings, the City Council of the City is of the opinion and finds that the health, safety, morals and general welfare of the inhabitants of the City will best be served by the creation of the new zoning classification and district, to be known as Planned Unit Development-2 (PUD-2), within the boundaries and with the regulations hereinafter set forth.

Fourth, the conditions which warranted the classification of the property included within the boundaries hereinafter set forth at the time of such classification have substantially changed and conditions now exist which indicate that the present zoning classification of such property is no longer appropriate; and,

Fifth, considering the community as a whole and the present Comprehensive Zoning Plan of the City, such property should be reclassified for purposes of zoning and the zoning of such property changed to Planned Unit Development-2 (PUD-2) District.

Sixth, the health, safety, morals and general welfare of the inhabitants of the City will best be served by changing the zoning classification of all property located within such boundaries from the present zoning classification thereof to the new Planned Unit Development-2 (PUD-2) classification.

SECTION TWO--Comprehensive Zoning Ordinance Amended

The Comprehensive Zoning Ordinance of the City of Freeport, Texas, read, passed and approved as Ordinance No. 1100 on the 3rd day of April, 1964, now codified as Chapter 155 of the Code of Ordinances thereof and hereinafter called "the Zoning Ordinance," is hereby amended to add thereto new Section, 155.045-01, which shall read as follows:

SECTION 155.045-01- PLANNED UNIT DEVELOPMENT DISTRICT- 2 (PUD-2)

For the definition and purpose of a Planned Unit Development District, please refer to the definition of Planned Unit Development contained in Section 155.002.

(A) The City Council declares that, the Old Brazos River Corridor is a unique and historic feature of the City of Freeport that must be developed in a manner that enhances the quality of life of the citizens of Freeport and represents the key to the future economic development of the City of Freeport. It is of utmost importance to the City and its citizens that development of the Old Brazos River Corridor must promote access to the Old Brazos River by the general public to enjoy its beauty and recreational activities, balanced with development as a place of residence and commerce. The portion of the Old Brazos River Corridor described in Exhibit "A", attached hereto and made a part hereof as if set forth in full at this point, is included within the Planned Unit Development District-2 (PUD-2).

(B) Minimum requirements for lot area and setback shall be the same as provided elsewhere within the Zoning Ordinance for the particular use or uses specified in the ordinance creating the PUD-2 district.

(C) See 155.060 (D) and (E) for temporary use permits that may be granted by the Board of Adjustment and specific use permits that may be recommended by the City Planning Commission under certain circumstances and conditions.

(D) Permitted uses.

PUD-2 PERMITTED USES

Permitted Commercial Uses

Art, supply store, art sales, antiques, gallery or museum.
Amusement park rides and games.
Auditorium, arena, coliseum, or theatre.
Bakery retail.
Bank, loan company.
Barber shop, beauty salon, nail salon or spa.
Bait store.
Book store or library.
Boat dock or water taxi.
Boat or watersport equipment rental, lease or sale.
Boat launching; by specific use permit only.
Camera or photographic supply store.
Candy, nut, confectionary store.
Caterer.
Clothing including formal wear and costumes.
Club or lodge.
Convenience store.
Cultural Arts display or use including digital arts, fine arts, history, nature, or literary displays.
Department store.
Docking and service facilities, including fueling, for pleasure boats, including fishing charter and recreational boats.
Docking for pleasure boats and recreational boats.
Eating establishment open or enclosed.
Florist shop.
Food or grocery store retail.
Furniture store.

Fur shop or hat shop.
Gift, novelty shop.
Hobby shop or supply store.
Hotel.
Jewelry store.
Lounges servings alcoholic beverages.
Manufacturing of baked goods, candy, delicatessen foods and ice cream.
Motel.
Music store.
Newspaper distribution station.
Office, any type.
Optical goods, optician, optometrist.
Pet shop.
Photographic studio or store or decorators shop.
Physical culture and health studios.
Radio, television or recording studio.
Restaurant or café, indoor or outdoor.
Sporting goods store.
Souvenir shop, tourist products.
Stationary store.
Studio for professional work or for teaching any form of fine arts.
Tailor shop seamstress, alterations.
Toy store.
Tshirt shop.
All others by Specific-Use Permit.

Permitted Residential Uses

Single family unit.
Accessory building, garage or carport, domestic storage, mechanical building.
Condominium or townhouse.
Public park, playground or playfield.
Swimming pool.

(E) Size requirements

These requirements apply to all development within this Planned Unit Development District-2 (PUD-2), regardless of size.

(F) Public Access and Pedestrian Levee Easement

All development in the Planned Unit Development-2 (PUD-2) District shall promote public access and use of the Brazos River as a common area and enable use of the public of a pedestrian right of way along the levee.

(G) Where a Planned Unit Development is proposed for land within this district, the Planning Commission and the City Council, in accordance with the procedure specified in Section 155.023, may vary the specific requirements of this section if the building development is planned with adequate provision for light and air, vehicular and pedestrian circulation and recreational facilities equal to or better than the detailed requirements of this chapter.

(H) Application and procedure for a planned unit development. To develop property located in the Planned Unit Development-2 (PUD-2), as provided for in this section, the applicant must complete all of the steps in the following process:

(1) Pre-application conference.

Prior to the formal application for a PUD-2 development permit, the applicant shall meet with the Planning Commission to discuss the elements of PUD-2 zoning, including but not limited to:

- (a) Project location.
- (b) Project size.
- (c) Project's intended land uses.
- (d) The variation from normal zoning provisions needed to implement the plan.
- (e) The relationship of the proposed project to the existing adjacent development.
- (f) Plan to enable and encourage access by the general public to the Old Brazos River and the pedestrian right of way levee easements.
- (g) The proposed document concerning maintenance of the common areas.

Such document shall provide at a minimum a trust instrument or equivalent device that shall establish an institution, other than the city, to assure maintenance of the common areas in case of financial or other emergency.

The purpose of the pre-application conference is to clarify, for the applicant, the city's policies regarding planned unit development and for the city to provide an informal, non-binding option on the acceptability of the proposal.

(2) Preliminary plan

To receive preliminary approval of a request for a development permit for land located in the Planned Unit Development-2 (PUD-2) district, the applicant shall submit the following:

- (a) A preliminary plan including:
 - (1) A location diagram at a convenient scale; and
 - (2) A land use plan at a scale of 1" = 100' illustrating the boundaries of the property, any existing land uses on the proposed tract, any interesting or unusual existing features of the tract including, but not limited to: topography, vegetation or flooding and design including public access plan to the Old Brazos River and pedestrian path the levee.
- (b) Two (2) copies of a plan of the proposed development at a scale of 1" = 100' illustrating all of the elements of the proposal including, but not limited to:

- (1) Land uses and drainage.
- (2) Circulation and parking.
- (3) Public access to the Old Brazos River and pedestrian path on the levee.
- 4) Common areas.

(c) Sketches and/or elevation drawings illustrating visually the general features of the proposed plan.

(d) A written statement outlining the applicant's views on the relationship of the proposal to any existing adjacent development.

The Planning Commission and the City Council shall hold a joint public hearing as specified in Section 13-2 and 13-3 of the Zoning Ordinance. The City Council's approval of a Planned Unit Development shall designate and define the boundaries of the Planned Unit Development and include such conditions as the City Council finds are necessary to secure and protect the public health, safety, morals and general welfare. Upon the approval of the preliminary plan by the City Council, such approval shall be binding as to the general intent and apportionment of land for buildings, stipulated uses and circulation patterns, but shall not be construed to render inflexible the ultimate design or final plans of the project.

(3) Final plan

To complete the permitting process, the applicant shall, as soon as possible following action on the preliminary plan, and within one year from said date (which said one year period may be extended by an additional twelve months at the discretion of the Planning Commission), submit the following for review and final approval:

(a) two (2) copies of a plan of the proposed development at a scale of 1"=100' illustrating all of the elements of the proposal and reflecting all elements and changes required by the Planning Commission and/or City Council during the preliminary plan review process. Such changes shall be reviewed and approved by the Planning Commission.

(b) two (2) copies of a legal instrument or instruments setting forth a plan or method of permanent care and maintenance of open spaces, recreational areas and commonly owned properties.

The Council shall notify the applicant of their approval or disapproval. The approval shall be by the issuance by the Building Official of a permit authorizing the use of the land as requested in the application for the development permit.

When considering whether or not to authorize the issuance of a development permit in a Planned Unit Development-2 (PUD-2) zone, the unique nature of each proposal for a Planned Unit Development may require under proper circumstances the departure from the strict enforcement of certain present codes and ordinances, for example and without limitation, parking, the width and surfacing of streets, alleyways, curbs gutters, sidewalks, public parks, storm drainage, water supply and distribution, sanitary sewers, etc,

Final approval of the PUD-2 zoning by the City Council shall constitute authority for such flexible planning to the extent that the PUD-2, as approved, departs from existing codes and ordinances.

SECTION THREE--Changing Zoning Classification of All Property Located Within the boundaries of the New Plan Unit Development 2 (PUD-2) Classification.

The zoning classification of all property included within the Old Brazos River Corridor as described in Exhibit "A" attached hereto and made a part hereof is changed from its present zoning classification to the new zoning classification of Plan unit development 2 (pud-2).

SECTION FOUR--Ratification and Confirmation.

The City Council of the City of Freeport, Texas, hereby ratifies and confirms any and all action taken by the Planning Commission of said City or the City Council of said City, or both, in connection with the change in zoning classification evidenced by this ordinance, including but not limited to the calling of a public hearing required by said Zoning Enabling Act and the Zoning Ordinance, the giving of public notice of such hearings, the giving of written notice to the owners of property which is the subject of such and to the adjoining property owners, the making of preliminary and final reports with respect to such change and the conducting of the public hearings required by said Act and the Zoning Ordinance.

SECTION FIVE--Penalty

Any person violating the Zoning Ordinance, as amended by this ordinance, shall be guilty of a misdemeanor and upon conviction therefor assessed a fine as prescribed in Section 155.999 of said ordinance; and each day such violation continues shall constitute a separate offense.

SECTION SIX--Savings Clauses

(a) Nothing contained in this ordinance shall cause any rights heretofore vested to be altered, affected or impaired in any way and all such rights may be hereafter enforced as if this ordinance had not been adopted.

(b) This ordinance is cumulative of and in addition to all other ordinances of the City on the same subject and all such ordinances are hereby expressly saved from repeal. Provided, however,

where this ordinance and another ordinance conflict or overlap, this ordinance shall prevail.

(c) No offense committed and no fine, forfeiture or penalty incurred prior to the effective date of this ordinance is to be affected by the adoption of this ordinance but the punishment for any offense committed and the recovery of any fines or forfeitures incurred prior to such date shall take place as if this ordinance had not been adopted.

SECTION SEVEN--Severance Clause.

In the event any section or provision of this ordinance is found to be unconstitutional, void or inoperative by the final judgment of a court of competent jurisdiction, such defective provision, if any, is hereby declared to be severable from the remaining sections and provisions of this ordinance and such remaining sections and provisions shall remain in full force and effect.

SECTION EIGHT--Effective Date.

This ordinance shall take effect and be in force from and after the descriptive caption of this ordinance has been published twice in the Brazosport Facts, the official newspaper of the City.

READ, PASSED AND ADOPTED this _____ day of _____, 2017.

Troy T. Brimmage, Mayor,
City of Freeport, Texas

ATTEST:

Delia Munoz, City Secretary,
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

Wallace Shaw, City Attorney
City of Freeport, Texas

Exhibit "A"

BOUNDARY DESCRIPTION OF PUD-2 DISTRICT

BEGINNING at the boundary of the established W-4 Zoning District and the shoreline of the Brazos River at the eastern end of Brazos Boulevard, then along the south ROW line of Brazos Boulevard to the intersection of the east ROW of Oak Street; then proceeding south to the point of the south ROW of First Street; then proceeding west along the south ROW line of First Street to the northeast corner of Block 97; then proceeding south to the north ROW line of Second Street; then proceeding west along the north ROW line of Second Street to the eastern boundary of the established PUD of the Brazos Landing Subdivision, then proceeding along the boundary of the established PUD to the southern ROW line of the City owned levee easement; then proceeding along the ROW line of the City owned levee easement to the east ROW line of Brazosport Boulevard; then proceeding north to the intersection of the south ROW line of Avenue A; then proceeding east along the south ROW line of Avenue A to its intersection with the east ROW line of McNeal Street; then proceeding south to the northern boundary of the established W-1R Zoning District; then proceeding west along the northern boundary of the established W-1R Zoning District; then proceeding south along the western boundary of the established W-1R Zoning District to the water line of the Brazos River.

This description includes the entirety of the following blocks and all land adjacent to such blocks extending to the center of the waterway of the Brazos River:

45, 62, 63, 80, 81, 97, 98, 113, 114, 129, 669, 668, 631, 630, 595 and all property owned by City of Freeport adjacent to the Freeport Community House, the levee along the southern side of the Brazos River, around to and including all parcels of Municipal Park.