

**CITY OF FREEPORT
PLANNING COMMISSION AND CITY COUNCIL
JOINT PUBLIC HEARING
Monday, December 6, 2010, 6:00 p.m.
Freeport Police Department, Municipal Courtroom
430 North Brazosport Boulevard
Freeport, Texas**

AGENDA

Diane Williams, Chairperson
Rueben Cuellar
Mike Jones

Edward Garcia
Tobey Davenport

NOTICE is hereby given that the Planning Commission of The City of Freeport, Texas will meet in a Joint Public Hearing with the Freeport City Council on **Monday, December 6, 2010 at 6:00 P.M.** at the Police Department Municipal Courtroom, 430 North Brazosport Boulevard, Freeport, Texas to discuss the following:

1. Call to order.
2. Conduct a Joint Public Hearing with City Council concerning proposed amendments of the Comprehensive Zoning Ordinance of the City, codified as Chapter 155 of the Code of Ordinances of the City, by amending Section 155.064 thereof, relating to amendments to said Zoning Ordinance, to add to Division (A) thereof a new Item (4) requiring preliminary review of proposed amendments by the Planning Commission relating, to amend Item (1) of Division (B) thereof regarding the calling of a joint public hearing and Item (3) of Division (B) thereof specifying the action to be taken by the Planning Commission at the conclusion of the joint public hearing to be embodied in an ordinance adopted by the City Council.
3. Make a recommendation to the City Council concerning proposed amendments of the Comprehensive Zoning Ordinance of the City, codified as Chapter 155 of the Code of Ordinances of the City, by amending Section 155.064 thereof, relating to amendments to said Zoning Ordinance, to add to Division (A) thereof a new Item (4) requiring preliminary review of proposed amendments by the Planning Commission relating, to amend Item (1) of Division (B) thereof regarding the calling of a joint public hearing and Item (3) of Division (B) thereof add to Division (B) a new Item (4) requiring all amendments to be embodied in an ordinance adopted by the City Council.
4. 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, Melissa Farmer, Building/Permit Department 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, December 3, 2010, at 5:00 P.M.**



Melissa Farmer
Building/Permit Department
City of Freeport

EXISTING PROVISION OF SECTION 155.064

The governing body may, from time to time, amend this chapter by changing the boundaries of districts or by changing any other provision thereof whenever the public necessity and convenience and general welfare require such amendment.

(A) *Application.*

(1) *Who may initiate action.* Amendment may be initiated by the City Council or the Planning Commission or by an application of one or more owners of property affected by the proposed amendment.

(2) *Application fee.* Each application by a property owner shall be accompanied by a fee as established by the City Council to cover administrative and processing costs. If an applicant withdraws his application prior to publication of joint public hearing by the City Council and Planning Commission, half of the fee will be refunded.

(3) *Accompanying data.* An application for an amendment shall be accompanied by an accurate legal description, maps, site plans, drawings and any data necessary to demonstrate that the proposed amendment is in general conformance with the Comprehensive Plan of the city and that public necessity, convenience and general welfare require the adoption of the proposed amendment.

(B) *Joint public hearing.*

(1) Upon filing of the application, the City Council shall call a public hearing on said application to be held jointly before the City Council and the Planning Commission.

(2) *Notice of public hearing.* Written notice of such hearing shall be sent to the owner of the property or his agent and to all owners of real property lying within 200 feet of the property on which the change in classification is proposed, such notice to be given not less than 10 days before the date set for hearing, to all such owners who have rendered their said property for city taxes and the ownership appears on the last approved city tax roll. Such notice may be served by depositing the same properly addressed and postage paid, in the city post office. Notice of the time and place set for the hearing shall also be given by one publication in the official newspaper at least 15 days prior to such hearing.

(3) *Action by Planning Commission at conclusion of hearing.* If at the conclusion of the hearing, the Planning Commission decides to recommend amendment to this chapter to the City Council, said recommendation shall be by resolution of the Planning Commission carried by the affirmative votes of not less than a majority of its total membership. A copy of any recommended amendment shall be submitted to the City Council and shall be accompanied by a report of findings, summary of hearing and any other pertinent data.

(C) *Action by the City Council.*

(1) After the recommendation of the Planning Commission has been received by the City Council, the said Council may, by simple majority vote, recommend disapproval of an application for amendment of the Zoning Ordinance or, in recommending approval of an amendment to the Zoning Ordinance, the City Council may impose such requirements and conditions or changes as they may deem necessary pursuant to § 155.001.

(2) A vote of three-fourths of the City Council is required in order to adopt proposed amendments that have been recommended for disapproval by the City Planning Commission or to adopt proposed amendments that have been recommended for approval by the City Planning Commission against which a written protest has been filed with the City Secretary duly signed and acknowledged by any one of the following:

- (a) The owners of 20% of the land included in the proposed amendment;
- (b) The owners of 20% of the land immediately adjacent to the land included in the proposed amendment and extending 200 feet therefrom;
- (c) The owners of 20% of the land directly opposite the land included in the proposed amendment and 200 feet from the street frontage of such opposite land.

(3) *Effect of denial of application.* In case an application for an amendment to the Zoning Ordinance is denied by the City Council, said application shall not be eligible for reconsideration for one year subsequent to such denial. A new application affecting or including all or part of the same property must be substantially different from the application denied, in the opinion of the Planning Commission, to be eligible for consideration, within one year of the denial of the original application.

PROPOSED AMENDMENTS

Amend Division (A) to add a new Item (4) to read as follows:

"(4) *Preliminary review by the Planning Commission.* An application filed by one or more land owner and accompanying data shall be submitted to the Planning Commission for review. If a majority of the Planning Commission is of the opinion that such application merits a public hearing, on motion duly made and seconded, determine whether a request shall be made to the City Council to call a joint public hearing."

Amend Division (B), Item (1), to read as follows:

"(1) *Calling a joint public hearing.* At the request of the Planning Commission, the City Council may call a joint public hearing of the City Council and the Planning Commission to consider an amendment instantiated by the Planning Commission or by an application of one or more land owners of property affected by the amendment. The City Council shall call a joint public hearing of the City Council and the Planning Commission to consider any amendment initiated by the City Council."

Amend Division (B), Item (3), to read as follows:

"(3) *Action of the Planning Commission.* At conclusion of hearing. At the conclusion of the joint public hearing, the Planning Commission shall deliberate and then, upon motion and second, determine by majority vote whether to recommend or not recommend to the City Council the adoption of an amendment which was the subject of such hearing. This recommendation shall be entered upon the minutes of the Planning Commission and communicated to the City Council by the filing of a copy of such minutes with the City Secretary. Provided, however, if the City Council is still in session, such recommendation may be communicated orally to the City Council by the Chair of the Planning Commission and acted upon by the City Council as provided in Division (C) of this section at that time."

Amend Division (C)to add a new Item (4) to read as follows:

"(4) No amendment adopted by the City Council shall be effective unless and until an ordinance embodying such amendment has been adopted by the City Council. Provided, however, the voting requirements specified in Item (2) of this Division shall apply to the adoption of such ordinance."

REASONS FOR AMENDMENTS

The Planning Commission should have an opportunity to make an initial review and decide whether or not an application merits a joint public hearing before requesting a joint public hearing. This sequence is assured by adding the above suggested new Item (4) to Division (A) and amending Item (1) of Division (A) as provided above. Preserving the existing provisions of Division (A), Item (1), allowing the City Council to initiate the amendment processes, if it so chooses, protects against the Planning Commission dominating the amendment process.

In its present form, Division (B), Item (3), requires that the recommendation of the Planning Commission be expressed by the adoption of a resolution by the Planning Commission and the submission of a report of findings and other pertinent data. No mention is made of what the Planning Commission should do if it does not want to recommend an amendment. I believe this process could be simplified by amending Division (B), Item (3) as provided above.

It is basic municipal law that an ordinance cannot be amended except by the adoption of another ordinance. Therefore, in order to clarify this with respect to the amendment of the zoning ordinance, I suggest that the above new Item (4) be added to Division (C).