



CITY COUNCIL

AGENDA REQUEST

AGENDA OF:	04-20-10	AGENDA REQUEST NO:	III-A
INITIATED BY:	LISA KOCICH-MEYER, AICP SENIOR PLANNER <i>LM</i>	RESPONSIBLE DEPARTMENT:	PLANNING
PRESENTED BY:	LISA KOCICH-MEYER, AICP SENIOR PLANNER	DEPARTMENT HEAD:	SABINE SOMERS-KUENZEL AICP PLANNING DIRECTOR <i>AK</i>
		ADDITIONAL DEPARTMENT HEAD (S):	N/A

SUBJECT / PROCEEDING:	REZONING FROM INTERIM STANDARD SINGLE-FAMILY RESIDENTIAL (R-1) TO PERMANENT STANDARD SINGLE -FAMILY RESIDENTIAL (R-1) FOR 25.05 ACRES TELFAIR SECTION 31 PUBLIC HEARING, SECOND READING OF ORDINANCE NO. 1778
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EXHIBITS:	SUPPLEMENTAL INFORMATION, VICINITY MAP, TELFAIR GENERAL PLAN, ORDINANCE NO. 1778, APPLICATION, PUBLIC HEARING NOTICE
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CLEARANCES	APPROVAL
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LEGAL:	JOE MORRIS, CITY ATTORNEY <i>JCM</i>	EXECUTIVE DIRECTOR:	JIM CALLAWAY <i>Jim Callaway</i> COMMUNITY DEVELOPMENT
PURCHASING:	N/A	ASST. CITY MANAGER:	N/A
BUDGET:	N/A	CITY MANAGER:	ALLEN BOGARD <i>Allen Bogard</i>

BUDGET

EXPENDITURE REQUIRED: \$	N/A
AMOUNT BUDGETED/REALLOCATION: \$	N/A
ADDITIONAL APPROPRIATION: \$	N/A

RECOMMENDED ACTION

The Planning and Zoning Commission unanimously recommended approval of permanent R-1 (Standard Single-Family Residential) zoning for 25.05 acres for Telfair Section 31 and staff recommends approval on second reading.

EXECUTIVE SUMMARY

This is a request to permanently zone the area of proposed Telfair Section 31, consisting of 25.05 acres, from Interim Standard Single-Family Residential (R-1) to Permanent Standard Single-Family Residential (R-1). The property is located south of Telfair Avenue and east of Kempton Avenue. The Telfair property was annexed by the City under Ordinance No. 1431 on April 6, 2004 and was officially incorporated into the City on July 1, 2004. At that time Interim R-1 zoning was applied to the entire property.

This request is in conformance with the Telfair General Plan - Amendment No. 4, approved by City Council in November 2009. This request is not in conflict with the City of Sugar Land Comprehensive Plan. This permanent zoning request, if approved by City Council, would require this property to comply with all R-1 (Standard Single-Family Residential) regulations as contained in Chapter 2 of the City of Sugar Land Development Code and bring the total R-1 acreage (developed for residential use) to approximately 845 acres in Telfair.

A Public Hearing was held at the February 9, 2010 Planning and Zoning Commission meeting. The Commission had some general questions regarding this request and no members of the public spoke on this item. Specifically, the Commission inquired about noise mitigation due to the proximity of this section to the U.S. 59 frontage road. Additional information related to the Commission's questions is included in the staff report below. The Commission unanimously recommended approval of the permanent R-1 zoning request to Council at their February 25th meeting. This item requires a Public Hearing at Council prior to any action.

CC: Phil Mullan pmullan@browngay.com

Keith Behrens, P.E., NNP-Telfair, LP kbehrens@newlandcommunities.com

File No. 12034

EXHIBITS

STAFF REPORT

GENERAL SITE INFORMATION AND ANALYSIS:

Compliance with Comprehensive Plan	This proposal is not in conflict with the Comprehensive Plan.
Compliance with General Plan	Telfair General Plan Amend. No. 4 indicates Single-family for this section.
Subject Property	Interim Standard Single-Family (R-1); Undeveloped
Surrounding Property Zoning	North: Standard Single-Family Residential (R-1) South: Business Office (B-O) (across US 59) East: Interim Standard Single-Family Residential (R-1) West: Standard Single-Family Residential (R-1)
Surrounding Land Use	North: Single-family residential South: Undeveloped; levee; US 59 East: Undeveloped West: Developing single-family residential (standard)

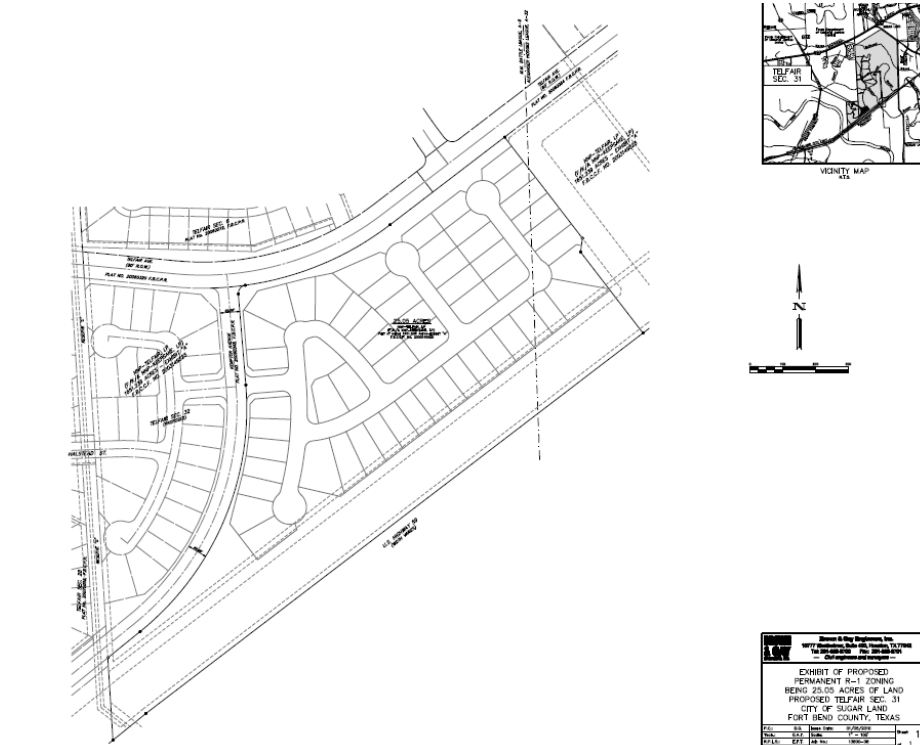
BACKGROUND

On November 16, 2004, City Council adopted the revised Land Use Plan portion of the City's Comprehensive Plan under Ordinance No. 1468. The Land Use Plan serves as a guide for recommendations of permanent zoning for annexed properties and rezoning of existing properties within the City. The 25.05 acres of Section 31 were intended for residential use when the developer petitioned the City for annexation. This proposed land use is in accordance with the City's Land Use Plan and the Telfair General Plan Amendment No. 4 (approved by City Council in November 2009). The approved General Plan indicates that this section is appropriate for standard single-family residential. If this request for R-1 zoning is approved, the development will have to comply with all R-1 zoning regulations.

Supplemental Information: Planning & Zoning Commission February 9, 2010 Public Hearing/Discussion & Direction

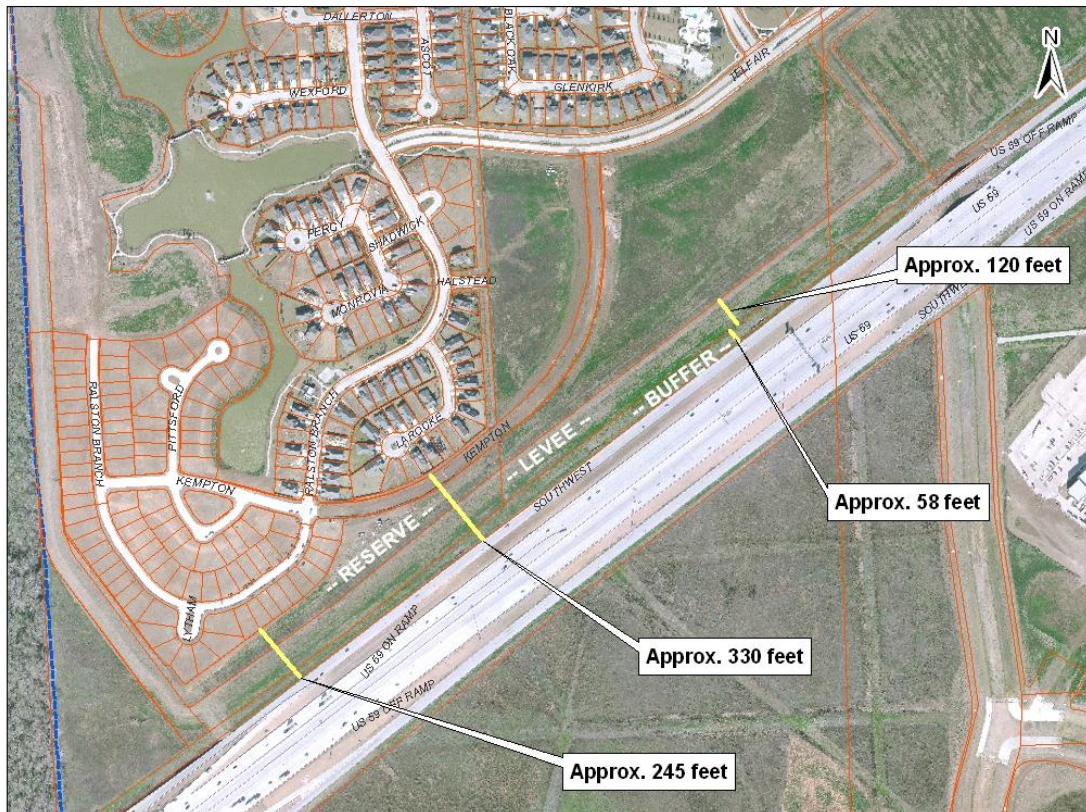
As previously stated, the Commission had some general questions and comments regarding the layout and proximity to US 59 of this future section of Telfair. The general question and response are included below.

1. The Commission had general questions regarding the layout of this section. Below is a proposed layout of Section 31. From this layout, there are a potential of 55 lots with access to the section from Kempton Avenue. Approximately 16 lots are directly adjacent (either backing up to or have a side lot adjacent) to the levee along US 59 frontage. To date, we have not received a plat for this section, so this layout could change prior to a plat submittal.



2. The Commission had comments about buffering mitigation measures for this section. Per the Development Code, Chapter 5, Art. III (P), the installation and maintenance of a Noise Mitigation Barrier or buffer is required for any subdivision platted in which the rear or street side yard of a lot within the subdivision proposed for residential use abuts upon the right-of-way of a major street (which includes freeways and frontage roads of freeways). For a Noise Mitigation Barrier abutting a freeway or frontage road of a freeway, the Development Code requires a noise analysis to determine the height and setback distance from the right-of-way, but in no case shall the Noise Mitigation Barrier be less than 10 feet in height. In 2005, Telfair developers completed a Noise and Barrier Analysis Study which the City determined satisfied the requirement for a study. The purpose of the study was to determine if additional noise mitigation would be required in addition to the existing levee. The study concluded that any additional construction of a wall atop the existing levee would probably only be an aesthetic feature for adjacent properties.

3. The depth of the existing levee easement is approximately 120 feet. The height of the levee is measured from the lowest curb elevation of 70.08 and the sound mitigation berm was built to an elevation of 82.0 for a 12' high barrier. There is also a 50 foot buffer in addition to the levee as shown on the Telfair General Plan. During the Public Hearing, the Commission asked if the levee is temporary and staff provided that the levee was temporary. However, while the levee is no longer necessary for flood control, due to other improvements made related to the expansion of US 59, the levee is still functional. The developer is keeping the levee in place to satisfy the noise mitigation requirements as previously mentioned. Per Code, a berm is a satisfactory noise mitigation barrier. Below are some general distances for the area and to help visualize the height of the levee, following are some photos of the general area.



Source: 2009 Aerial Photo

Below are photos taken from US 59 frontage roads looking north towards Telfair:



Below are photos taken from Kempton Avenue looking south towards US 59:



4. History of the site

When the General Plan for Telfair was first approved in 2003, this area was designated as Single-family land use with either R-1 or R-1Z zoning as appropriate. This designation remained with the amendments approved in 2004 and April 2006. On both General Plans, a 50 foot buffer is called out along the US 59 frontage and the commercial area to the east.



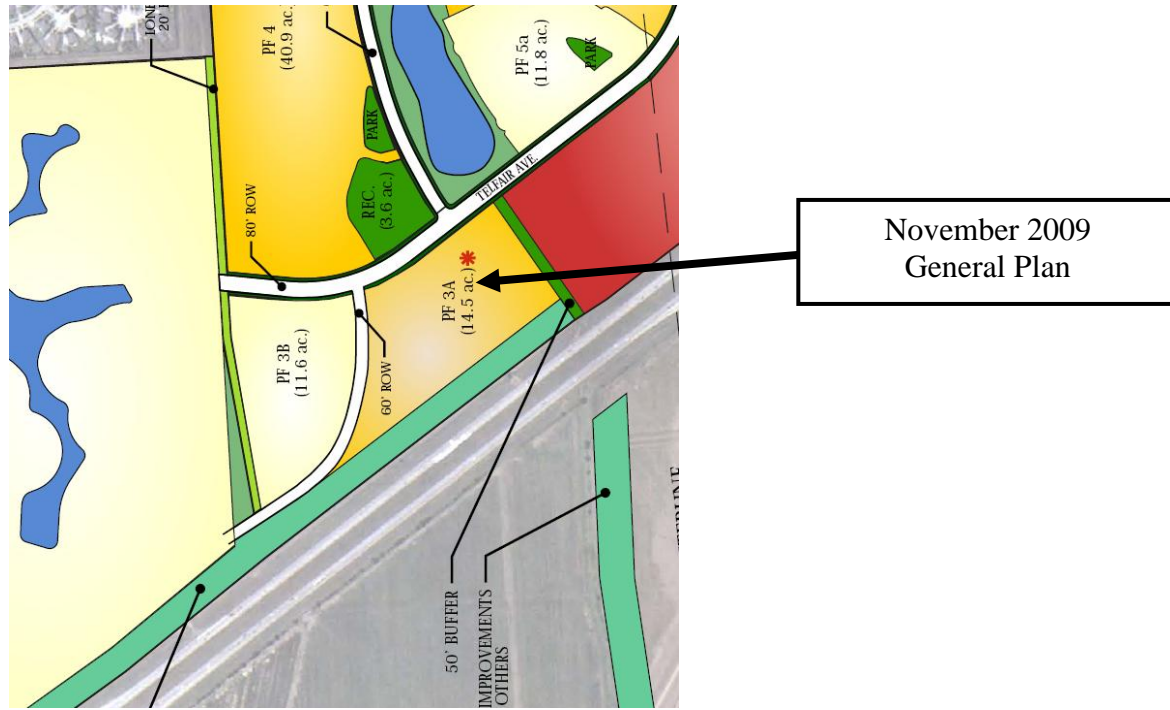
December 2004 &
April 2006
General Plan

The Townhome Residential land use designation was approved with the General Plan amendment in December 2006. This amendment maintained the 50 foot buffer along US 59 frontage and the commercial area to the east.



December 2006
General Plan

With the most recent amendment approval in November 2009, the land use designation changed back to Single-family Residential and only R-1 zoning as appropriate zoning for this site. The 50 foot buffer along US 59 frontage and the commercial area to the east remain.



PUBLIC HEARING:

Notice of the Public Hearing was published in a newspaper of general circulation as required by state law. All property owners within 200 feet of the proposed site were notified. Notice of the Public Hearing was posted on the City of Sugar Land's Internet home page. At the time of writing this report we have not received any requests for information on the proposed permanent zoning.

POINTS FOR CONSIDERATION:

- Not in conflict with the City of Sugar Land Comprehensive Plan
- In conformance with Telfair General Plan Amendment No. 4

Vicinity Map:



**Telfair General Plan (Amendment No. 4):
Approved November 17, 2009**



GENERAL NOTES
 1. Developer shall comply with all applicable regulations relating to all proposed projects.
 2. Easement



TELFAIR
 LAND USE PLAN AMENDMENT 4
 OWNER: NEWLAND COMMUNITIES
 1000 N. GULF DRIVE, SUITE 200
 BRISTOL, TEXAS 77801

DESIGN: FIBRA TECH PARTNERS
 LAND PLANNING / GRAPHIC ARCHITECTS
 801 S. MORGAN EXPRESSWAY
 BRISTOL, TEXAS 77801

Original Date: July 22, 2009
 Revised Date: Aug. 23, 2009

Scale: 1" = 800'

Telfair Section 31

ORDINANCE NO. 1778

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS, PERMANENTLY ZONING THE 25.05 ACRES OF LAND LOCATED SOUTH OF TELFAIR AVENUE AND EAST OF KEMPTON AVENUE AS ZONING DISTRICT R-1, STANDARD SINGLE FAMILY RESIDENTIAL DISTRICT.

WHEREAS, NNP-Telfair, LP has requested that the 25.05 acres of land as described in Exhibit A and located south of Telfair Avenue and east of Kempton Avenue be permanently zoned as District R-1, Standard Single Family Residential District; and

WHEREAS, the City Council has held a public hearing on the proposed permanent zoning for which notice was given as required by law; NOW, THEREFORE,

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

Section 1. That the 25.05 acres of land, described in Exhibit A, attached to and incorporated into this ordinance by reference, is permanently zoned as R-1 District, Standard Single Family Residential District.

Section 2. The City's official zoning map is amended to show the permanent zoning district classification.

APPROVED on first consideration on _____, 2010.

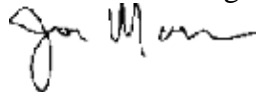
ADOPTED upon second consideration on _____, 2010.

James A. Thompson, Mayor

ATTEST:

Glenda Gundermann, City Secretary

Reviewed for Legal Compliance:



Attachment: Exhibit A – Metes and Bounds Description (3 pages)

Exhibit A - Legal Description (Telfair Section 31)

CITY OF SUGAR LAND
ZONING TELAFIR SEC. 31
25.05 ACRES

OCTOBER 27, 2009
JOB NO. 13721-5T

DESCRIPTION OF A 25.05-ACRE TRACT OF LAND
M. M. BATTLE LEAGUE, A-9
ALEXANDER HODGES LEAGUE, A-32
CITY OF SUGAR LAND
FORT BEND COUNTY, TEXAS

BEING a 25.05-acre tract of land situated in the M.M. Battle League, Abstract No. 9 and in the Alexander Hodges League, Abstract No. 32, City of Sugarland, Fort Bend County, Texas, being out of a 1651.239-acre tract of land described in a deed recorded at Fort Bend County Clerk's File No. 2003149529, said 25.05-acre tract being more particularly described by metes and bounds as follows:

COMMENCING at a 5/8-inch iron rod with a TxDOT cap found for the southwest corner of said 1651.239-acre tract and being a corner in the northwesterly right-of-way line of U.S. Highway No. 59 as delineated on Texas Department of Transportation Alignment Sheet 12, dated July 24, 2004 and issued by Baker & Lawson, Inc. of Angleton, Texas, Sheets 11 and 13 are dated August 14, 2001, the northwest corner of a 105.505-acre tract of land (original right-of-way for U.S. Highway No. 59) described in a deed recorded in Volume 460, Page 73 of the Fort Bend County Deed Records, bears S 03°12'15" E, 96.90 feet from said 5/8-inch iron rod with a TxDOT cap and the northwest corner of a 5.252-acre tract of land (widening for U.S. Highway No. 59) described in Exhibit "C" of a deed recorded in Volume 1821, Page 962 of the Fort Bend County Deed Records, bears S 03°12'15" E, 48.36 feet from said 5/8-inch iron rod with a TxDOT cap;

THENCE in a northeasterly direction along the southeasterly boundary of said 1651.239-acre tract and along said northwesterly right-of-way line of U.S. Highway No. 59 as follows:

N 52°33'39" E, 328.87 feet to a reference point;

N 54°07'22" E, at a distance of 313.30 feet passing the most southerly corner of Telfair Sec. 30, a plat of which is recorded in Plat No. 20090048 of the Plat Records of Fort Bend County, continuing and along the southeasterly line of said Sec. 30 a total distance of 1094.22 feet to a reference point;

N 50°57'58" W, 775.09 feet to a southeasterly corner of said Sec. 30, and for the most southerly corner and POINT OF BEGINNING of the tract described herein;

THENCE N 03°32'21" W, 253.02 feet along an easterly line of said Sec. 30 to a corner and being in a southeasterly line of the 60-foot wide right-of-way for Kempton Avenue as delineated on the plat of said Sec. 30;

THENCE in a northerly direction along the easterly boundary of said Sec. 30 and said 60-foot wide right-of-way for Kempton Avenue as follows:

N 50°57'58" E, 127.52 feet to the point of curvature of a curve to the left;

854.69 feet along the arc of said curve to the left having a radius of 880.00 feet, a central angle of 55°38'53" and a chord which bears N 23°08'32" E, 821.49 feet to the point of tangency;

CITY OF SUGAR LAND
ZONING TELAFIR SEC. 31
25.05 ACRES

N 04°40'55" W, 279.81 feet to the point of curvature of a curve to the right;

THENCE in a northeasterly direction along the arc of said curve to the right having a radius of 25.00 feet, a central angle of 86°43'58" and a chord which bears N 38°41'04" E, 34.33 feet to a point of reverse curvature and being in a southerly line of the Telfair Avenue 80-foot wide right-of-way as delineated on the plat of Telfair Avenue Phase 2 recorded in Plat No. 20060320 of the Fort Bend County Plat Records;

THENCE in a northeasterly direction, 484.85 feet along the southeasterly right-of-way line of Telfair Avenue Phase 2 and along the arc of a curve to the left having a radius of 940.00 feet, a central angle of 29°33'11" and a chord which bears N 67°16'27" E, 479.50 feet to the point of tangency;

THENCE N 52°29'51" E, along the southeasterly right-of-way line of Telfair Avenue Phase 2, at a distance of 164.77 feet passing the most easterly corner of said Telfair Avenue Phase 2, same being the most southerly corner of that portion of Telfair Avenue recorded in Plat No. 20060064 of the Fort Bend County Plat Records continuing along the southeasterly right-of-way line of Telfair Avenue a total distance of 441.42 feet to a corner;

THENCE S 37°30'09" E, 390.72 feet to a corner;

THENCE S 07°30'13" W, 42.42 feet to a corner;

THENCE S 37°30'09" E, 313.26 feet to a corner and being in said northwesterly right-of-way line of U.S. Highway No. 59;

THENCE S 52°30'35" W, 1915.23 feet along a southeasterly line of said 1651.239-acre tract and along said northwesterly right-of-way line of U.S. Highway No. 59 to a corner;

THENCE S 50°57'58" W, 129.72 feet along a southeasterly line of said 1651.239-acre tract and along said northwesterly right-of-way line of U.S. Highway No. 59 to the POINT OF BEGINNING and containing 25.05 acres of land.

Bearing orientation is based on the Texas State Plane Coordinate System, South Central Zone, NAD83 and monumented on the ground with a 5/8-inch iron rod with a Brown & Gay cap found on the easterly end and a 5/8-inch iron rod with a TxDOT cap found on the westerly end of the call S 50°57'58" W, 775.09 feet for a southeasterly line of Telfair Sec. 30;

CITY OF SUGAR LAND
ZONING TELAFIR SEC. 31
25.05 ACRES

This metes and bounds description was prepared under 22 Texas Annotated Code # 663.21 and reflects the results of the assembly of instruments of record to describe the political boundary limits of a proposed zoning ordinance by the City of Sugarland and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.



Edward F. Taylor
Edward F. Taylor, RPLS No. 1615
Brown & Gay Engineers, Inc.
10777 Westheimer Road, Suite 400
Houston, Texas 77042
Telephone: (281) 558-8700

DEC 28 2009



FOR OFFICE USE
Accounting Code: ZC
\$1,113.25

PLANNING DEPARTMENT
CONDITIONAL USE PERMIT (CUP) OR REZONING APPLICATION

**DUE TO DETAILS REQUIRED FOR CUP APPLICATION, STAFF STRONGLY RECOMMENDS A PRE-DEVELOPMENT MEETING PRIOR TO SUBMITTAL*

Please type or print the following information & Return your submittal to the Planning Department, City Hall, 2700 Town Center Blvd. North, Sugar Land, TX 77479, Attention: Development Review Coordinator

Applicant

Contact Brown & Gay Engineers, Inc. Attn: Phil Mullan
Address 10777 Westheimer, Suite 400 Houston, Texas 77042
Phone 281-558-8700 Fax 281-558-9701 Email pmullan@browngay.com

Owner (Note that owner must also sign form if different than applicant)

Contact NNP-Telfair, L.P. Attn: Keith Behrens
Address 10235 West Little York, Suite 300 Houston, Texas 77040
Phone 713-575-9000 Fax _____ Email kbehrens@newlandcommunities.com

Property Legal Description _____ See Attached X

Lot _____ Block _____ Subdivision _____

Current Zoning District Temp R-1 Proposed Zoning District, if rezoning app. R-1

If this is a CUP application: new building existing building

Proposed Use (CUP only) _____

This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and undersigned is authorized to make this application. Application expires 6 months from the date stamped as received by the Planning Department if no action has been taken by the Planning and Zoning Commission on request.

X [Signature] Date 12/7/09

Signature of Applicant (Requires property owners signature if different than owner) Date
Signature of Owner _____ See Attached _____


Submittal Requirements (Submittal Deadline is Monday at 3:00 p.m.):

- Three (3) copies of the completed application
- Check for \$1,113.25 per Ord. 1701 (non-refundable)
- Metes and bounds legal description of the site or county slide number of plat, if recorded
- If CUP- Two (2) copies at least 11" x 17" in size of the CUP layout plan, including a vicinity map and north arrow on each copy (color drawings not required)
- If CUP- Two (2) copies of a letter stating the applicant's request and addressing issues relating to a CUP including plan of operation, traffic circulation, parking, and other pertinent information

**SEE SEPARATE PLANNED DEVELOPMENT (PD) DIST. APPLICATION FOR PD ZONING.

Please note: A courtesy notification sign will be placed on the subject property during the public hearing process and will be removed when the case has been processed App. Revised Oct. 2008

Application (page 2 of 2):

	Telfair - by Newland Communities 10235 W. Little York, Suite 300 Houston, Texas 77040
Telephone: 713-575-9000 Fax: 713-575-9001	

Signature Page Attachment
City of Sugar Land Planning Department
Conditional Use Permit (CUP) or Rezoning Application
Dated August 31, 2009

NNP- Telfair, LP
a Texas limited partnership
By: NNP-TV Communities, LP
a Texas limited partnership
Its: General Partner
By: NNP-TV Management, LLC
a Delaware limited liability company
Its: General Partner

By: 
Name: M. Keith Behrens
Its: Asst. Vice President

NOTICE OF PUBLIC HEARING

ZONING 25.05 ACRES TELFAIR SECTION 31

PERMANENT ZONING 25.05 ACRES, TELFAIR SECTION 31, SOUTH OF TELFAIR AVENUE AND EAST OF KEMPTON AVENUE TO STANDARD SINGLE-FAMILY RESIDENTIAL (R-1) DISTRICT

PURPOSE: ONE (1) PUBLIC HEARING SHALL BE HELD AT WHICH ALL PERSONS INTERESTED IN THE PROPOSED PERMANENT ZONING SHALL BE GIVEN AN OPPORTUNITY TO BE HEARD.

WHERE: CITY OF SUGAR LAND CITY COUNCIL CHAMBER
2700 TOWN CENTER BOULEVARD NORTH

WHEN: CITY COUNCIL MEETING
6:00 P.M., APRIL 6, 2010

DETAILS OF THE PROPOSED ZONING MAY BE OBTAINED BY CONTACTING THE CITY OF SUGAR LAND PLANNING OFFICE AT (281) 275-2218 OR BY EMAIL AT PLANNING@SUGARLANDTX.GOV. THE PLANNING OFFICE IS OPEN MONDAY THROUGH FRIDAY FROM 8:00 O'CLOCK A.M. TO 5:00 O'CLOCK P.M., AND IS LOCATED IN CITY HALL, 2700 TOWN CENTER BOULEVARD NORTH, SUGAR LAND, TEXAS. PLEASE CONTACT US IF YOU WISH TO SET UP AN APPOINTMENT TO GO OVER ADDITIONAL DETAILS IN PERSON.

Vicinity Map:

