

**NOTICE OF REGULAR CITY COUNCIL
CITY OF TOMBALL, TEXAS**



**Monday, October 02, 2023
6:00 PM**

Notice is hereby given of a Regular meeting of the Tomball City Council, to be held on Monday, October 02, 2023 at 6:00 PM, City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The Tomball City Council reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

The public toll-free dial-in numbers to participate in the telephonic meeting are any one of the following (dial by your location): **+1 312 626 6799 US (Chicago); +1 646 876 9923 US (New York); +1 301 715 8592 US; +1 346 248 7799 US (Houston); +1 408 638 0968 US (San Jose); +1 669 900 6833 US (San Jose); or +1 253 215 8782 US (Tahoma) - Meeting ID: 864 4586 9861 Passcode: 919709.** The public will be permitted to offer public comments telephonically, as provided by the agenda and as permitted by the presiding officer during the meeting.

- A. Call to Order
- B. Invocation - Led by Pastor Richard Jennigs - River of Praise
- C. Pledges to U.S. and Texas Flags
- D. Public Comments and Receipt of Petitions; *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law - GC, 551.042.]*
- E. Presentations
 - 1. Proclamation - “**Chiropractic Health Month**” **October 2023**

F. Reports and Announcements

1. Announcements

Upcoming Events:

October 3 - National Night Out 5:00 - 8 :00 p.m. @ Depot

October 7 - Second Saturday “Spooktacular” 4:00 – 9:00 p.m. @ Depot

October 12 - Mayor’s Kaffeeklatsch 8:30 – 10:00 a.m. @ Community Center Rm. B

October 14 - Rotary “Big Show” 3:00 – 9:00 p.m. @ Depot

November 4 - Depot Day Fall Fest 11:00 a.m. – 6:00 p.m. @ Depot

G. Old Business Consent Agenda: *[All matters listed under Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, the item in question will be removed from the Consent Agenda and will be considered separately. Information concerning Consent Agenda items is available for public review.]*

1. Adopt, on Second Reading, Ordinance No. 2023-30, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by issuing a Conditional Use Permit to allow “Barber/Beauty Shop (no related school/college)” within Office (O) zoning. Affecting approximately 1.00 Acres of land legally described as being Reserve B, Block 1 of Brown-Hufsmith Church Subdivision. The property is located at the southwest corner of Brown-Hufsmith Road and Baker Drive, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

2. Adopt, on Second Reading, Ordinance No. 2023-31, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by issuing a Conditional Use Permit to allow “Playfield or stadium (private)” within Agricultural (AG) zoning. Affecting approximately 7.51 Acres of land legally described as being Lot 69 of Tomball Townsite Outlots. The property is located at the northeast corner of Rudolph Road and E. Hufsmith Road, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an

amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

3. Adopt, on Second Reading, Ordinance No. 2023-32, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 0.29 acres of land legally described as being Lot 200, Block 10 of Sansom Plaza from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 611 N. Cherry Street, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

4. Adopt, on Second Reading, Ordinance No. 2023-33, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 0.32 acres of land legally described as being Lots 1 & 2, Block 53 of Revised Map of Tomball from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 400 N. Elm Street, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

5. Adopt, on Second Reading, Ordinance No. 2023-37, an Ordinance of the City of Tomball, Texas, Amending its Code of Ordinances by Adding Section 46-66 (Disconnection of Temporary Hydrant Meter Service); Providing for Severability; Providing for a Penalty of an Amount not to Exceed \$2,000 for Each Day of Violation of Any Provision Hereof; Making Findings of Fact; and Providing for Other Related Matters.

H. New Business Consent Agenda: *[All matters listed under Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, the item in question will be removed from the Consent Agenda and will be considered separately. Information concerning Consent Agenda items is available for public review.]*

1. Approve the Minutes of the September 18, 2023, Special Joint City Council and TEDC Meeting and the Regular Tomball City Council Meeting.

2. Consider abandonment of a City of Tomball Utility Easement and adopt, on First Reading, Ordinance No. 2023-38, an Ordinance of the City of Tomball, Texas finding and determining that the public convenience and necessity no longer require the continued existence of a certain portion of a City of Tomball Utility Easement

across a certain 0.2087 acres of land being out of Unrestricted Reserves “A3” and “A4”, Block 1, Replat of Unrestricted Reserve “A” Block One Tomball Village Square according to the map or plat thereof as recorded in Film Code No. 518014 of the Map Records of Harris County, Texas; vacating, abandoning, and closing said portion of such City of Tomball Utility Easement; authorizing the City Manager to execute and the City Secretary to attest a quitclaim deed quitclaiming the City’s interest in said abandoned easement, and containing other provisions relating to the subject.

3. Approve an Encroachment Agreement with LE Rose Investment, LLC. for 706 W. Main Street and authorize the City Manager to execute the agreement.
4. Approve an annual Consumer Price Index (CPI) and Fuel Index Adjustment from GFL Environmental (formally WCA Waste Corporation) of 5%, effective October 1, 2023, authorize the expenditure of funds therefor, and authorize the City Manager to execute any and all required documentation. This amount is included in the FY 2023-2024 budget.

I. New Business

1. Approve request from Concordia Lutheran High School for City Support and In-Kind Services for their 5th annual Cruisin’ Crusader 5K Run/Walk in downtown Tomball, on Saturday, October 21, 2023.
2. Approve Resolution No. 2023-45 A Resolution of The City Council of The City of Tomball, Texas, Appointing A Member to The Charter Review Commission.
3. Resolution No. 2023-38; A Resolution by the City Council of the City of Tomball, Texas, Authorizing Publication of Notice of Intention to Issue Certificates of Obligation; Approving the Preparation of a Preliminary Official Statement; And Approving Other Matters Incidental Thereto
4. Ratify the FY 2023-2024 Budget and Find that the Proposed Tax Rate of \$0.293320/\$100 EXCEEDS the No-New-Revenue Tax Rate and WILL Generate More Property Tax Revenue than the FY 2022-2023 Budget
5. Adopt \$0.106543 as the Portion of the 2023 Tax Rate to Fund the Interest and Sinking (Debt Service) Fund for Fiscal Year 2023-2024
6. Adopt \$0.186777 as the Portion of the 2023 Tax Rate to Fund the Maintenance and Operations (M&O) Fund for Fiscal Year 2023-2024
7. Conduct Public Hearing regarding the Proposed 2023 Tax Rate of \$0.293320/\$100 Assessed Value for the City of Tomball, Texas.

8. Adopt, on First Reading, Ordinance No. 2023-39, an Ordinance of the City of Tomball, Texas, Setting the Tax Levy of \$0.293320/\$100 Value Assessed for the Year 2023 on All Taxable Real and Personal Property Located in the City of Tomball, Texas; Providing for Penalty, Interest, and Additional Penalty on Taxes Not Timely Paid; and Providing Other Matters Relating to the Subject
- [9.](#) Discussion and presentation by FLS Development LLC and Harrisburg Homes regarding “Graylou Grove”, a proposed mixed-use development along Hufsmith-Kohrville Road at Medical Complex Drive.
- [10.](#) Consider approval of agreement with developer for the construction of public improvements in the amount of \$98,800.00 for the sanitary sewer main extension to serve the Littlefield Office Building development.
- [11.](#) Consider variance request from BCS Capital Group LLC for alcohol sales within 300 feet of a public school.
- [12.](#) Accept the Donation of a Fire and Medical Skid Unit and Associated Upfit Modifications to the Special Event Cart.
- [13.](#) Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):
 - Sec. 551.071 – Consultation with the City Attorney regarding a matter which the Attorney’s duty requires to be discussed in closed session.
 - Sec. 551.072 – Deliberations regarding Real Property
 - Sec. 551.074 – Personnel Matters; Deliberation of the Appointment, Employment, and Duties of a Public Officer or Employee-City Manager

J. Adjournment

C E R T I F I C A T I O N

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 28th day of September 2023 by 6:00 PM, and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Tracylynn Garcia, TRMC, CMC, CPM
City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (281) 290-1019 for further information.

City Council Meeting Agenda Item Data Sheet

Meeting Date: 10/02/2023

Topic:

- Proclamation - “Chiropractic Health Month” October 2023

Background:

Origination: Mayor

Recommendation:

Party(ies) responsible for placing this item on agenda: Tracylynn Garcia, City Secretary

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed	_____	Approved by	_____
	Staff Member		City Manager
	Date		Date

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: October 2, 2023

Topic:

- **Upcoming Events:**

October 3 - National Night Out 5:00 - 8 :00 p.m. @ Depot
October 7 - Second Saturday “Spooktacular” 4:00 – 9:00 p.m. @ Depot
October 7 - Fire Station #4 Open House
October 12 - Mayor’s Kaffeeklatsch 8:30 – 10:00 a.m. @ Community Center Rm. B
October 14 - Rotary “Big Show” 3:00 – 9:00 p.m. @ Depot
November 4 - Depot Day Fall Fest 11:00 a.m. – 6:00 p.m. @ Depot

Background:

Origination:

Recommendation:

Party(ies) responsible for placing this item on agenda: Tracylynn Garcia, City Secretary

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

City Council Agenda Item Data Sheet

Meeting Date: October 2, 2023

Topic:

Adopt, on Second Reading, Ordinance No. 2023-30, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by issuing a Conditional Use Permit to allow “Barber/Beauty Shop (no related school/college)” within Office (O) zoning. Affecting approximately 1.00 Acres of land legally described as being Reserve B, Block 1 of Brown-Hufsmith Church Subdivision. The property is located at the southwest corner of Brown-Hufsmith Road and Baker Drive, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Background:

Public Hearing and First Reading conducted on 09/18/2023.

The subject property is a part of the approved, recorded Brown-Hufsmith Church Subdivision. A building permit for the Bakers Landing Office Condominiums, a one-story multitenant commercial building, was approved by the City in October of 2021 and the construction was completed this year (2023). The applicant is planning to move their business that was previously located on Main Street to Suite B of the Bakers Landing Office Condominiums. As per the applicant, the days of operation of the proposed Barber/Beauty Shop will be Tuesday-Saturday. The applicant is expecting approximately 13 employees to be working at this location. The *Barber/Beauty Shop (no related school/college)* land use is permitted within the Office (O) zoning district with the approval of a Conditional Use Permit. Conditional Use Permits provide the opportunity to consider whether a location is appropriate for *Barber/Beauty Shop (no related school/college)*, and to apply conditions that promote the compatibility of the proposed use with the surrounding properties and land uses.

Origination:

Recommendation:

City staff recommends Approval of Conditional Use Permit Case CUP23-05. Planning and Zoning Commission recommends Approval (Unanimously).

Party(ies) responsible for placing this item on agenda: Craig Meyers (Community Development Director)

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____

If yes, specify Account Number: # _____

If no, funds will be transferred from account: # _____ To Account: # _____

Signed:

Staff Member

Date

Approved by:

City Manager

Date

ORDINANCE NO. 2023-30

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW “BARBER/BEAUTY SHOP (NO RELATED SCHOOL/COLLEGE)” WITHIN THE OFFICE (O) ZONING DISTRICT; SAID PROPERTY BEING APPROXIMATELY 1.00 ACRES OF LAND LEGALLY DESCRIBED AS BEING RESERVE B, BLOCK 1 OF BROWN-HUFSMITH CHURCH SUBDIVISION. LOCATED AT 640 BAKER DRIVE, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS; PROVIDING FOR PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

Whereas, 2 S&Z Investments, LLC, represented by Breann Williams has requested that approximately 1.00 acres of land legally described as being Reserve B, Block 1 of Brown-Hufsmith Church Subdivision, located at 640 Baker Drive, within the City of Tomball, Harris County, Texas (the “Property”), receive a CUP; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days after written notice of that hearing was mailed to the owners of land within three hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the requested CUP; and

Whereas, the public hearing was held before the Planning & Zoning Commission at least forty (40) calendar days after the City’s receipt of the requested CUP; and

Whereas, the Planning & Zoning Commission recommended in its final report that City Council approve the requested CUP; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing for the requested CUP, the City Council held the public hearing for the requested CUP and the City Council considered the final report of the Planning & Zoning Commission; and

Whereas, the City Council deems it appropriate to grant the requested CUP.

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

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. A CUP to allow a “Barber/Beauty Shop (no related school/college)” at the property and subject to the terms and conditions set forth below is hereby granted.

Section 3. The Official Zoning Map of the City of Tomball, Texas shall be revised and amended to show the designation of the Property as hereby stated, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement or revise any provision of any ordinance of the City of Tomball, save and except the granting of the CUP as herein provided.

Section 5. The CUP granted hereby shall be null and void after the expiration of two (2) years from the date of adoption hereon unless the Property is being used in accordance with the CUP herein authorized within said two-year period, or unless an extension of time is approved by City Council.

Section 6. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 7. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON 18th DAY OF September 2023.

COUNCILMAN FORD	<u>Yay</u>
COUNCILMAN STOLL	<u>Yay</u>
COUNCILMAN DUNAGIN	<u>Yay</u>
COUNCILMAN TOWNSEND	<u>Yay</u>
COUNCILMAN PARR	<u>Yay</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON 2nd DAY OF October 2023.

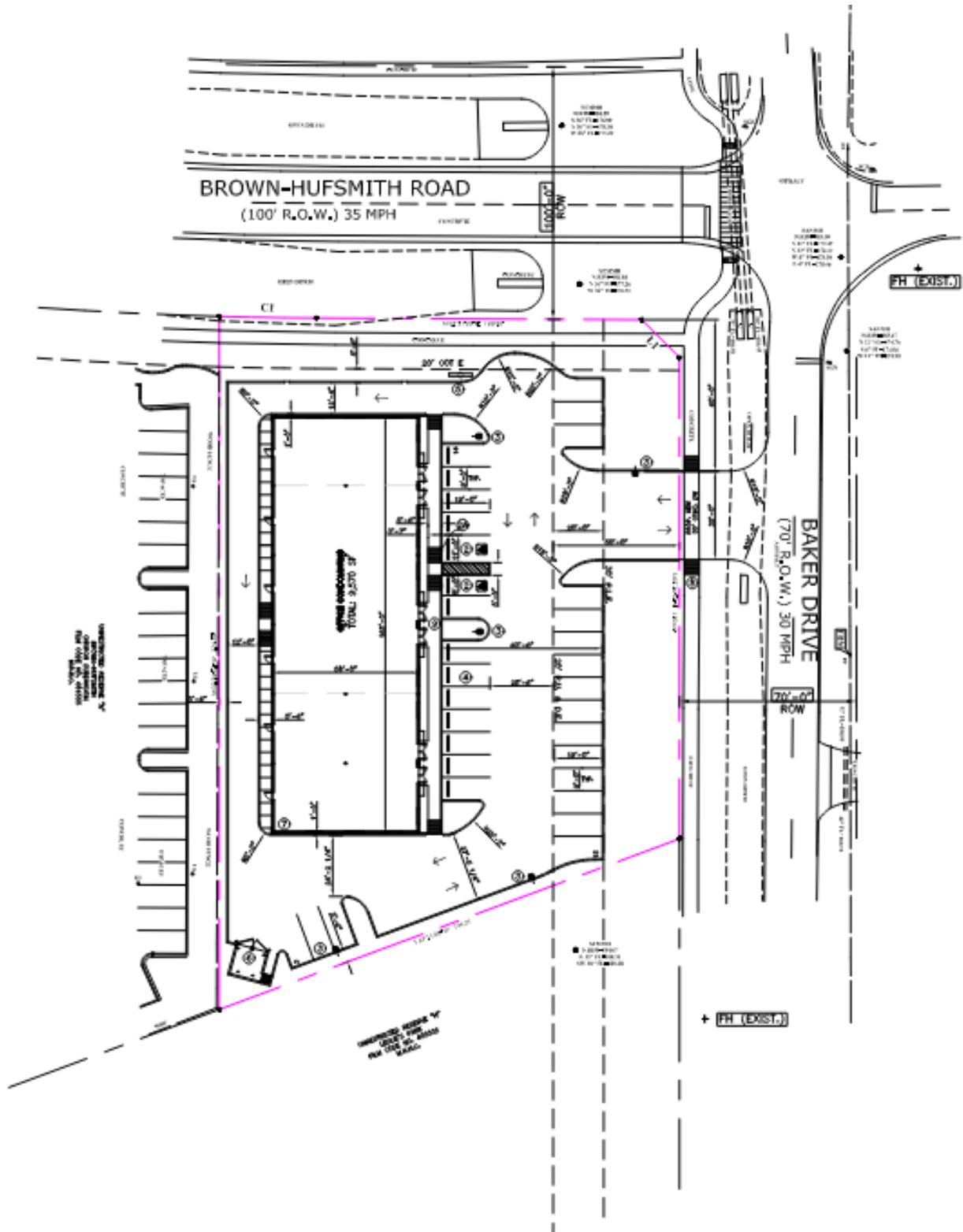
COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN PARR	_____

LORI KLEIN QUINN, Mayor

ATTEST:

Tracylynn Garcia, City Secretary

Exhibit "A"





Location: 640 Baker Drive. Being Reserve B in Block 1 of Brown-Hufsmith Church Subdivision, City of Tomball, Harris County, Texas

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION (P&Z)
SEPTEMBER 11, 2023
&
CITY COUNCIL
SEPTEMBER 18, 2023**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, September 11, 2023 at 6:00 P.M.** and by the City Council of the City of Tomball on **Monday, September 18, 2023 at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, the P&Z and City Council will consider the following:

Conditional Use Permit Case CUP23-05: Request by 2 S&Z Investments LLC., represented by Breann Williams, for a Conditional Use Permit to allow “Barber/Beauty Shop (no related school/college)” within Office (O) zoning. Affecting approximately 1.00 Acres of land legally described as being Reserve B, Block 1 of Brown-Hufsmith Church Subdivision. The property is located at the southwest corner of Brown-Hufsmith Road and Baker Drive, within the City of Tomball, Harris County, Texas.

Conditional Use Permit Case CUP23-06: Request by Equalizer USA, Inc., represented by Morales Engineering Associates, LLC., for a Conditional Use Permit to allow “Playfield or stadium (private)” within Agricultural (AG) zoning. Affecting approximately 7.51 Acres of land legally described as being Lot 69 of Tomball Townsite Outlots. The property is located at the northeast corner of Rudolph Road and E. Hufsmith Road, within the City of Tomball, Harris County, Texas.

Re-Zoning Case Z23-12: Request by Paul & Delphine Michna to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 0.29 acres of land legally described as being Lot 200, Block 10 of Sansom Plaza from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 611 N. Cherry Street, within the City of Tomball, Harris County, Texas.

Re-Zoning Case Z23-13: Request by Hightower Investments LTD. To amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 0.32 acres of land legally described as being Lots 1 & 2, Block 53 of Revised Map of Tomball from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 400 N. Elm Street, within the City of Tomball, Harris County, Texas.

At the public hearings, parties of interest and citizens will have the opportunity to be heard. All citizens of the City of Tomball, and any other interested parties, are invited to attend. Applications are available for public inspection Monday through Friday, except holidays, at the Administrative Services Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the City Planner, Jared Smith, at (281) 290-1491 or at jasmith@tomballtx.gov.

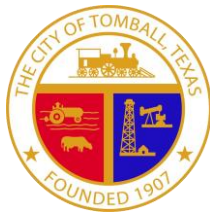
CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 8th day of September 2023 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Jared Smith

Jared Smith
City Planner

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.tomballtx.gov.



City of Tomball
Community Development Department

NOTICE OF PUBLIC HEARING

RE: Case Number CUP23-05

08/29/2023

The Planning & Zoning Commission will hold a public hearing on **September 11, 2023 at 6:00 PM**, in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas to recommend approval or denial to City Council on a request by 2 S&Z Investments LLC., represented by Breann Williams, for a Conditional Use Permit to allow "Barber/Beauty Shop (no related school/college)" within Office (O) zoning. Affecting approximately 1.00 Acres of land legally described as being Reserve B, Block 1 of Brown-Hufsmith Church Subdivision. The property is located at the southwest corner of Brown-Hufsmith Road and Baker Drive, within the City of Tomball, Harris County, Texas.

This hearing is open to any interested person. Opinions, objections and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as listed below. All responses must be signed.

The attached map shows the area of this request. Only that area which is bounded by the cross-hatched line on the map is being considered for **conditional use permit**. The solid boundary line around the subject area is only a notification area. All owners of property within 300-feet of the subject property are required to be notified. Whether approved or denied by the Planning & Zoning Commission, this case will be heard by City Council for First Reading with public hearing on **September 18, 2023 at 6:00 PM** in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas.

If you have any questions, please contact Jared Smith, City Planner at telephone 281-290-1491 or by email address jasmith@tomballtxgov

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: CUP23-05

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name:
Parcel I.D.:
Address:

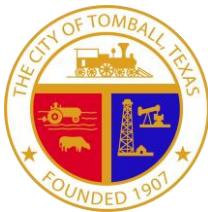
Mailing To: Community Development Department
501 James St., Tomball TX 77375

Email: jasmith@tomballtx.gov

I am in favor ☐
Additional Comments:

I am opposed ☐

Signature: _____

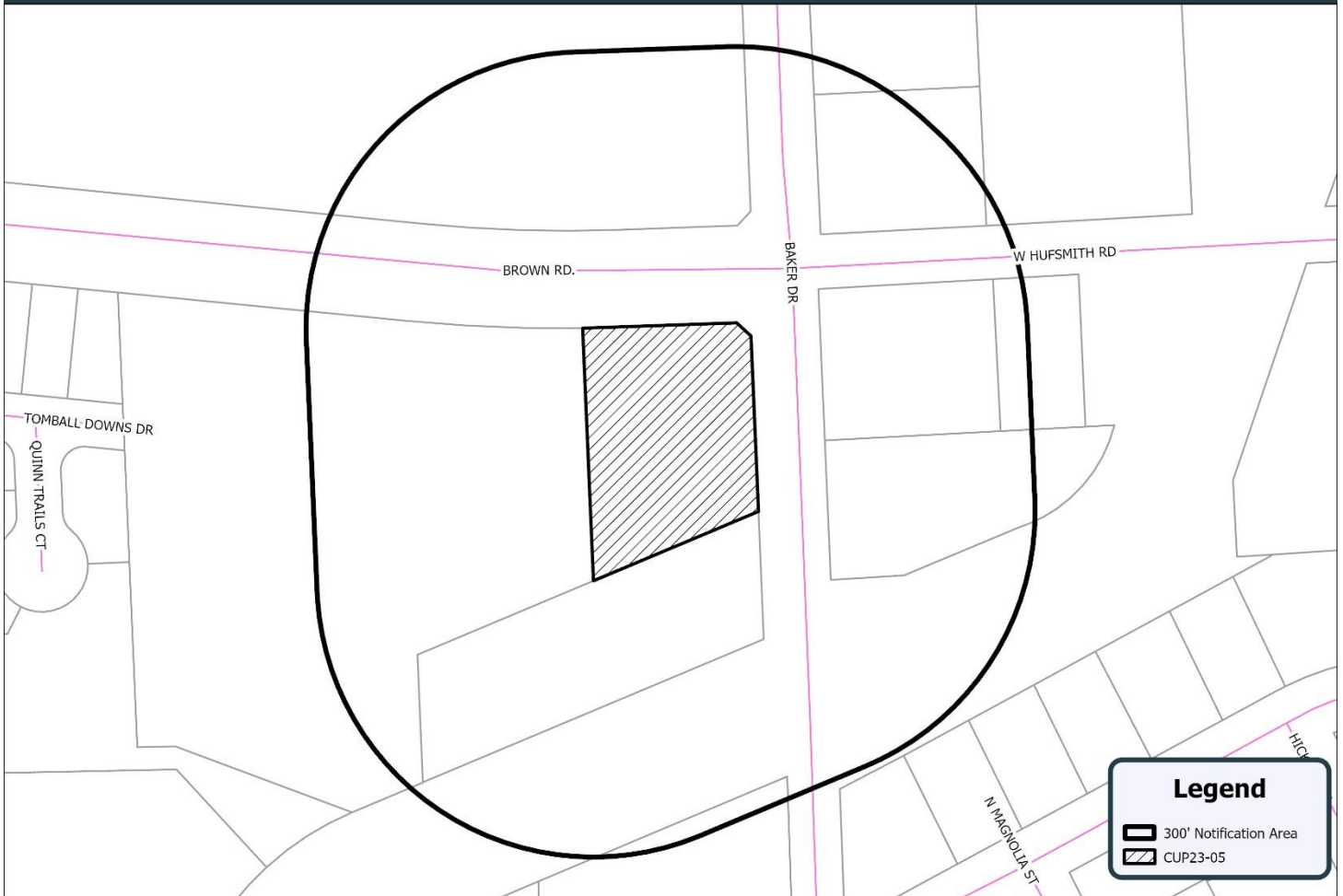


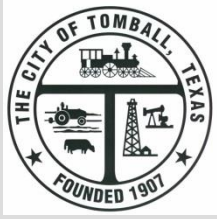
City of Tomball
Community Development Department

CUP23-05



Notification Area





Conditional Use Permit Staff Report

Planning & Zoning Commission Public Hearing Date: September 11, 2023
City Council Public Hearing Date: September 18, 2023

Rezoning Case: CUP23-05

Property Owner(s): 2S&Z Investments LLC

Applicant(s): Breann Williams

Legal Description: Reserve B, Block 1 of Brown-Hufsmith Church Subdivision

Location: Located at the southwest corner of Brown-Hufsmith Road and Baker Drive, within the City of Tomball, Harris County, Texas. (Exhibit "A")

Area: 1.00 acre (approximately)

Comp Plan Designation: Neighborhood Residential (Exhibit "B")

Present Zoning and Use: Office District (O) (Exhibit "C") / Vacant (Exhibit "D")

Proposed Use(s): *Barber/Beauty Shop (no related school/college)*

Request: Conditional Use Permit (CUP) to permit *Barber/Beauty Shop (no related school/college)*

Adjacent Zoning & Land Uses:

North: Brown-Hufsmith Road, Single-Family Residential District (SF-9)/ Redeemer Church

South: Single Family Residential – 6 (SF-6)/Drainage & Detention

West: Single Family Residential – 6 (SF-6)/The Church of Jesus Christ of Latter-Day Saints

East: Baker Drive, Single Family Residential – 6 (SF-6)/Single- Family Residences

BACKGROUND

The subject property is a part of the approved, recorded Brown-Hufsmith Church Subdivision. A building permit for the Bakers Landing Office Condominiums, a one-story multitenant commercial building, was approved by the City in October of 2021 and the construction was completed this year (2023). The applicant is planning to move their business that was previously located on Main Street to Suite B of the Bakers Landing Office Condominiums. As per the applicant, the days of

operation of the proposed Barber/Beauty Shop will be Tuesday-Saturday. The applicant is expecting approximately 13 employees to be working at this location. The *Barber/Beauty Shop (no related school/college)* land use is permitted within the Office (O) zoning district with the approval of a Conditional Use Permit. Conditional Use Permits provide the opportunity to consider whether a location is appropriate for *Barber/Beauty Shop (no related school/college)*, and to apply conditions that promote the compatibility of the proposed use with the surrounding properties and land uses.

ANALYSIS

Description: The subject property comprises about one acre and is located at the southwest corner of Brown-Hufsmith Road and Baker Drive. The subject property was rezoned from Single Family – 6 (SF-6) to Office (O) in August of 2020. Property to the north across Brown-Hufsmith Road is occupied by a church (Redeemer Church) and is zoned SF-9. To the south is an existing drainage/detention facility zoned SF-6. The property to the west is zoned SF-6 and contains a church (The Church of Jesus Christ of Latter-Day Saints). The parcels to the east across Baker Drive are zoned SF-6 and contain single-family residences.

Conformance with the Factors for Consideration of CUP (Sec. 50-81 (f)):

According to Section 50-81 (f) of the Chapter 50 (Zoning), when considering applications for a CUP, the City shall, on the basis of the concept plan and other information submitted, evaluate the impact of the conditional use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at the particular location.

Specific considerations shall include the extent to which:

1. The proposed use at the specified location is consistent with the goals, objectives, and policies contained in the adopted Comprehensive Plan;

The subject property is designated as Neighborhood Residential by the Comprehensive Plan's Future Land Use Map (FLUM). This land use category is intended for areas predominantly comprised of single-family detached housing. Such areas are primarily served by the automobile and with the inclusion of sidewalks for better access and safety. The size of lots will depend on surrounding land uses, with smaller lots being closer to supporting amenities, and recreation opportunities. Recommended primary land use is single-family detached residential. Recommended secondary land uses include parks, schools, and other public facilities. Where residential collector streets meet arterials, limited commercial services and single-family attached residential that do not require large parking lots are recommended. Recommended zoning categories are SF-20-E: Single-family Estate Residential-20; PD: Planned Development; SF-9: Single-family Residential-9; and SF-6: Single-family Residential-6.

The proposed CUP for *Barber/Beauty Shop (no related school/college)* is in conformance with the Comprehensive Plan recommendation of a commercial service that does not require large parking lot and is located at the intersection of a collector and an arterial.

2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;

According to the Zoning Ordinance, “a conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through the imposition of certain standards and conditions.”

The property was rezoned to Office (O) in 2020. This district is appropriate for low intensity office and professional uses. *Barber/Beauty Shop (no related school/college)* is permitted in this district with a CUP. The Comprehensive Plan also recommends commercial services that do not require large parking lots to be located at the intersection of a collector and an arterial.

3. The proposed use meets all supplemental standards specifically applicable to the use as set forth in the Zoning Ordinance;

The proposed use will be held to all applicable site development standards outlined in the City Code of Ordinances. A building permit for the shell building where the proposed use will be located was approved by the City in 2021. Additionally, prior to operation, a Certificate of Occupancy application shall be submitted to the City of Tomball Community Development Office identifying the planned arrangement of the Barber/Beauty Shop to ensure all standards required by the Code of Ordinances and/or required by this Conditional Use Permit are met.

4. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts;

It is customarily appropriate to locate low intensity commercial uses near the intersection of arterial and collectors in residential areas. This proposed use is consistent with the surrounding mix of land uses currently found in the area. Staff believes that a Barber/Beauty Shop at this location would not be out of character for the surrounding area, particularly given that the property is next to Brown-Hufsmith Road and Baker Drive and existing nonresidential land uses.

5. The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

Staff does not anticipate any adverse effects on surrounding properties.

PUBLIC COMMENT

A Notice of Public Hearing was published in the paper and mailed to property owners within 300 feet of the project site on August 29, 2023. Any public comment forms received will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends approval of CUP Case CUP23-05.

EXHIBITS

- A. Location Map
- B. Future Land Use Plan Map
- C. Zoning Map
- D. Site Photo(s)
- E. Conditional Use Permit Application

Exhibit "A"
Aerial Location Map



Exhibit "B"
Future Land Use Plan

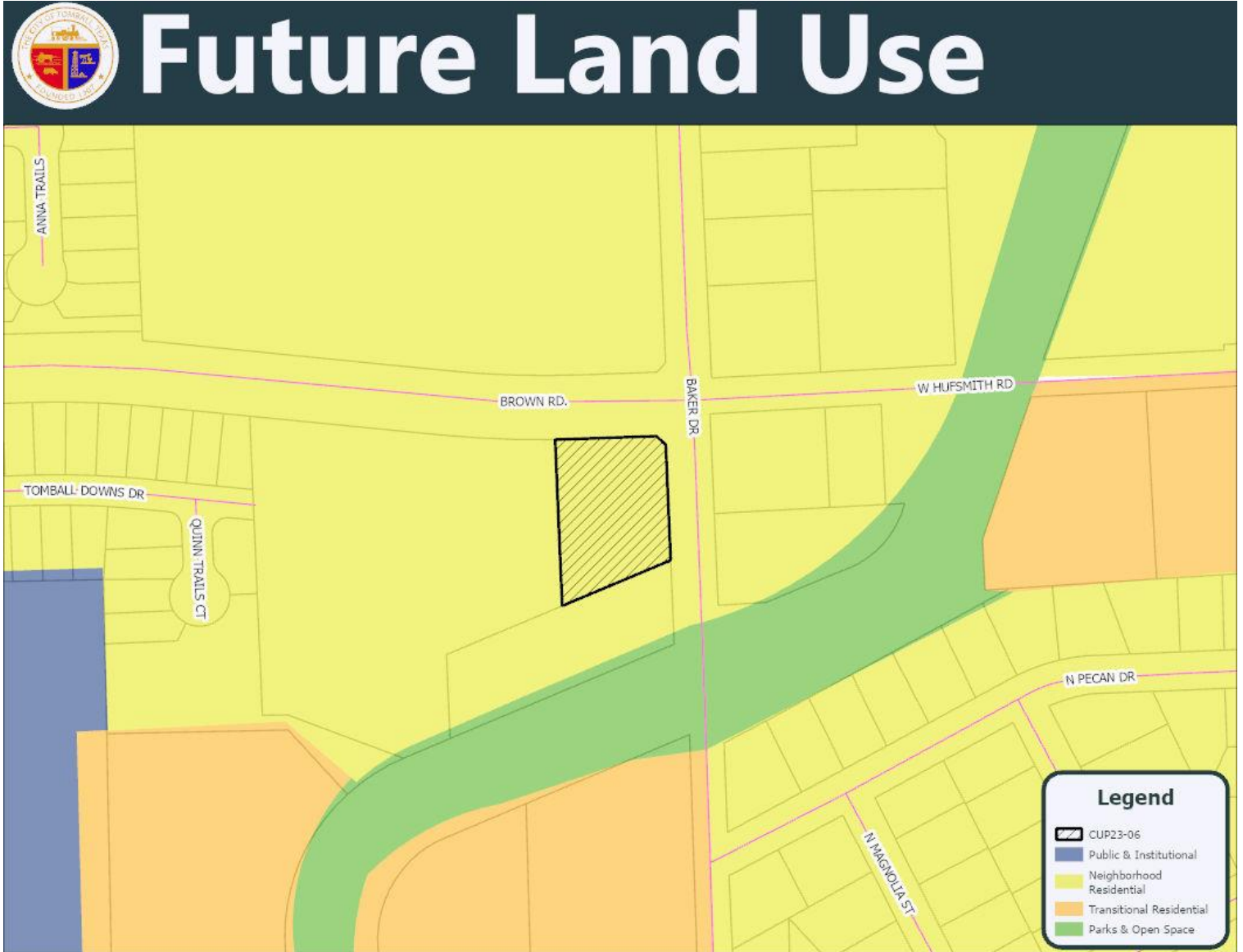
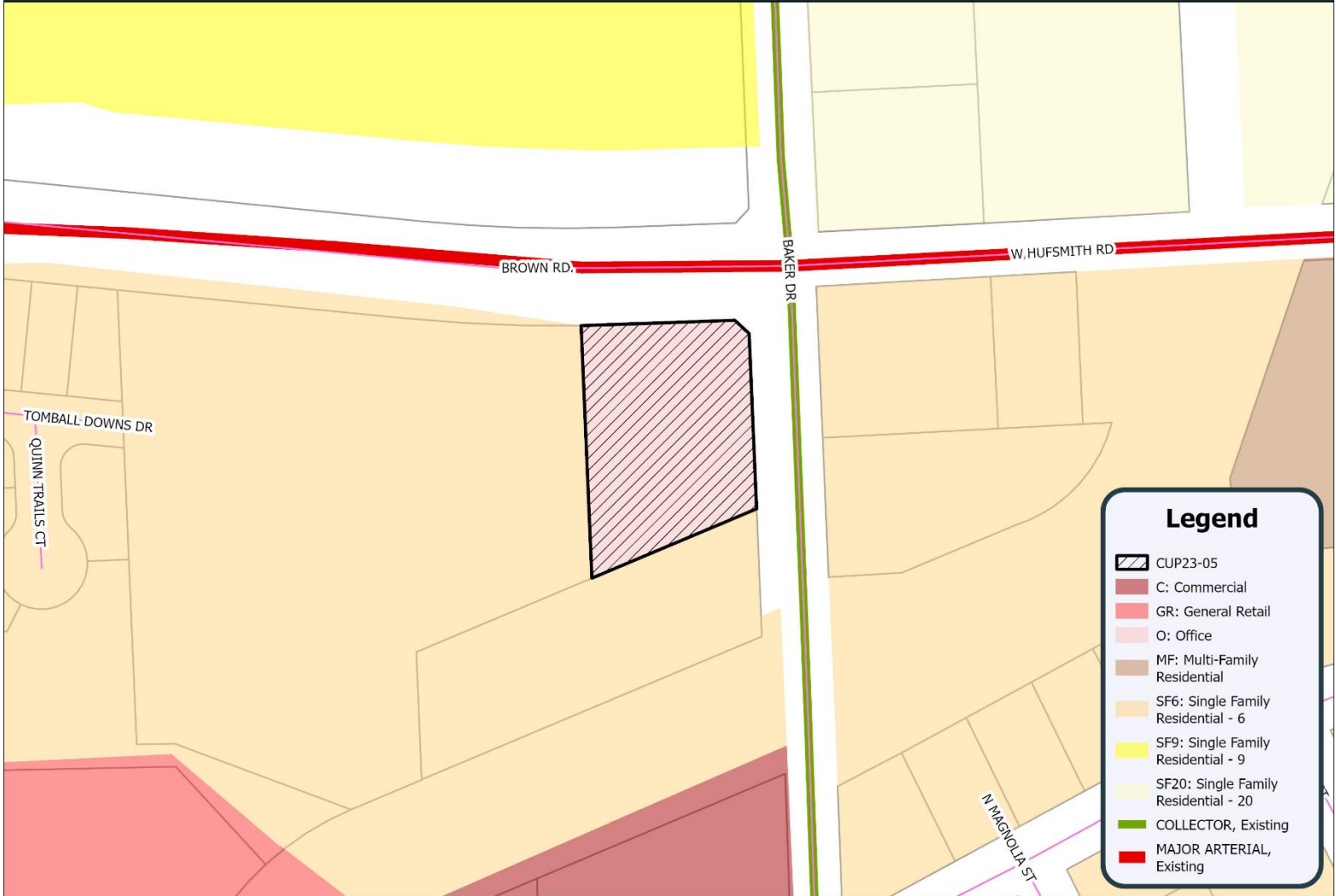


Exhibit "C"
Zoning Map



Zoning



**Exhibit “D”
Site Photo(s)**

Subject Site



Neighbor (West)



Neighbor (East)



Neighbor (North)



Neighbor (South)



Exhibit "E"
Conditional Use Permit Application



RECEIVED (KC)
08/02/2023

Revised: 10/1/2022

CUP23-05
\$1,000 PD

**APPLICATION FOR
CONDITIONAL USE PERMIT**
Planning Division

A conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions. This Section sets forth the standards used to evaluate proposed conditional uses and the procedures for approving conditional use permit (CUP) applications.

APPLICATION SUBMITTAL: Applications will be *conditionally* accepted on the presumption that the information, materials and signatures are complete and accurate. If the application is incomplete or inaccurate, your project may be delayed until corrections or additions are received.

There is a \$1,000.00 application fee that must be paid at time of submission or the application will not be processed.

DIGITAL PLAN SUBMITTALS:

PLEASE SUBMIT YOUR APPLICATIONS AND PLANS DIGITALLY IN A SINGLE PDF BY FOLLOWING
THE WEBSITE BELOW:

WEBSITE: tomballtx.gov/securesend
USERNAME: tomballdd
PASSWORD: Tomball1

Applicant

Name: Breann Williams Title: Owner, Southern Pineapple Boutique & Salon
Mailing Address: 16902 Indigo Hills Dr City: Magnolia State: TX
Zip: 77355 Contact: _____
Phone: (254-441-1414) Email: southernpineappleboutiquetx@gmail.com

Owner

Name: Shan Ali Title: Owner, 2S&Z Investments, LLC
Mailing Address: 15110 Mintz Ln City: Houston State: TX
Zip: 77014 Contact: _____
Phone: (832-630-1758) Email: shanali1@icloud.com

Engineer/Surveyor (if applicable)

Name: Ismaali Vrfti Title: engineer
Mailing Address: 1914 Kelli Wood Trails City: Katy State: TX
Zip: 77450 Contact: ismali@engineer.com
Phone: (281) 148 1940 Fax: () _____ Email: _____

Description of Proposed Project: Hair Salon/Beauty ShopPhysical Location of Property: 640 Baker St, Ste B, Tomball, TX
[General Location - approximate distance to nearest existing street corner]Legal Description of Property: RES B BIK 1 BROWN HUFFSMITH UTURAT
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]HCAD Identification Number: 1387630010002 Acreage: 43560 SFCurrent Use of Property: New building/VacantProposed Use of Property: Hair Salon/Beauty Shop

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.

This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

X [Signature] 7/31/2023
Signature of Applicant Date

X [Signature] 7-31-23
Signature of Owner Date

From: noreply@mail.tdr.tylerhosting.cloud
To: [Kimberly Chandler](#); [customerservice](#); bre.pennix@gmail.com
Subject: Receipt #R01374015
Date: Tuesday, August 1, 2023 11:23:20 AM

Caution: This is an external email and may be malicious. Please take care when clicking links or opening attachments.

401 Market Street
401 Market Street
Tomball, TX 77375
(281) 351-5484

DATE : 8/1/2023 11:18 AM
OPER : SM
TKBY : SM
TERM : 6
REC# : R01374015
130.0000 PLANNING AND ZONING
640 baker 1000.00

508.0000 CREDIT CARD FEES-GENERAL FUND
100-5561 30.00

Paid By:breann pennix
4-CC 1030.00AUTH:07089C REF:p visa 383

To whom it may concern,

I am asking for a conditional occupancy for my hair salon/beauty shop at 640 Baker St suite B in Tomball.

I am a Tomball business owner and a Tomball local (born and raised). My business was previously located on Main Street and this move would allow us to continue our growth and better serve the community of Tomball.

Our salon is open Tuesday-Saturday by appointment. We have a receptionist that works at the front desk from 11-5 Tuesday- Saturday as well. Our business currently employees 7 people with an opportunity to add 5-6 more jobs with this move.

I appreciate your consideration.

Thank you,

Breann Williams
Owner - Southern Pineapple

City Council Agenda Item Data Sheet

Meeting Date: October 2, 2023

Topic:

Adopt, on Second Reading, Ordinance No. 2023-31, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by issuing a Conditional Use Permit to allow “Playfield or stadium (private)” within Agricultural (AG) zoning. Affecting approximately 7.51 Acres of land legally described as being Lot 69 of Tomball Townsite Outlots. The property is located at the northeast corner of Rudolph Road and E. Hufsmith Road, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Background:

Public Hearing and First Reading conducted on September 18, 2023.

The subject property has been located within the city limits of Tomball since at least 1909 and is currently developed and being used as a baseball academy, with paved parking, baseball fields, batting cages, an administrative office building, and concession stand. This use is identified as being the “*Playfield or stadium (private)*” land use category in the Tomball Code of Ordinances. Per the applicant, the owner intends to make additional improvements to the site, including an enclosed technical training building, unenclosed covered bullpen areas, and unenclosed covered batting cages. The owner does not want to rezone the property currently and wants to continue to operate the existing facility strictly as a baseball academy. The *Playfield or stadium (private)* land use is permitted within the current Agricultural zoning district with the approval of a Conditional Use Permit (CUP). This CUP will bring the land use into legal conformity and thereby allow the planned expansion(s) to this land use on the subject property.

Origination:

Recommendation:

City staff recommends Approval of Conditional Use Permit Case CUP23-06. Planning and Zoning Commission recommends Approval (Unanimously).

Party(ies) responsible for placing this item on agenda: Craig Meyers (Community Development Director)

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____

If yes, specify Account Number: # _____

If no, funds will be transferred from account: # _____ To Account: # _____

Signed: _____ **Approved by:** _____

Staff Member Date

City Manager Date

ORDINANCE NO. 2023-31

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW “PLAYFIELD OR STADIUM (PRIVATE)” WITHIN THE AGRICULTURAL (AG) ZONING DISTRICT; SAID PROPERTY BEING APPROXIMATELY 7.51 ACRES OF LAND LEGALLY DESCRIBED AS BEING LOT 69 OF TOMBALL TOWNSITE OUTLOTS. LOCATED AT THE NORTHEAST CORNER OF RUDOLPH ROAD AND E. HUFSMITH ROAD, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS; PROVIDING FOR PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS

Whereas, Equalizer USA, Inc. represented by Morales Engineering Associated LLC. has requested that approximately 7.51 acres of land legally described as being Lot 69 of Tomball Townsite Outlots, located at the northeast corner of Rudolph Road and E. Hufsmith Road, within the City of Tomball, Harris County, Texas (the “Property”), receive a CUP; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days after written notice of that hearing was mailed to the owners of land within three hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the requested CUP; and

Whereas, the public hearing was held before the Planning & Zoning Commission at least forty (40) calendar days after the City’s receipt of the requested CUP; and

Whereas, the Planning & Zoning Commission recommended in its final report that City Council approve the requested CUP; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing for the requested CUP, the City Council held the public hearing for the requested CUP and the City Council considered the final report of the Planning & Zoning Commission; and

Whereas, the City Council deems it appropriate to grant the requested CUP.

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

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. A CUP to allow a “Playfield or Stadium (Private)” at the property and subject to the terms and conditions set forth below is hereby granted.

Section 3. The Official Zoning Map of the City of Tomball, Texas shall be revised and amended to show the designation of the Property as hereby stated, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement or revise any provision of any ordinance of the City of Tomball, save and except the granting of the CUP as herein provided.

Section 5. The CUP granted hereby shall be null and void after the expiration of two (2) years from the date of adoption hereon unless the Property is being used in accordance with the CUP herein authorized within said two-year period, or unless an extension of time is approved by City Council.

Section 6. The CUP is subject to the following additional limitations, restrictions and conditions:

1. All future improvements associated with “*Playfield or stadium (private)*” land use must be in general conformance with the conceptual site exhibit provided by the applicant detailing the location of all planned structural improvements.
2. Parking for the site shall meet the requirements specified in the City of Tomball Code of Ordinances for both the existing and proposed improvements.

Section 7. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 8. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON 18th DAY OF September 2023.

COUNCILMAN FORD	<u>Yay</u>
COUNCILMAN STOLL	<u>Yay</u>
COUNCILMAN DUNAGIN	<u>Yay</u>
COUNCILMAN TOWNSEND	<u>Yay</u>
COUNCILMAN PARR	<u>Yay</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON 2nd DAY OF October 2023.

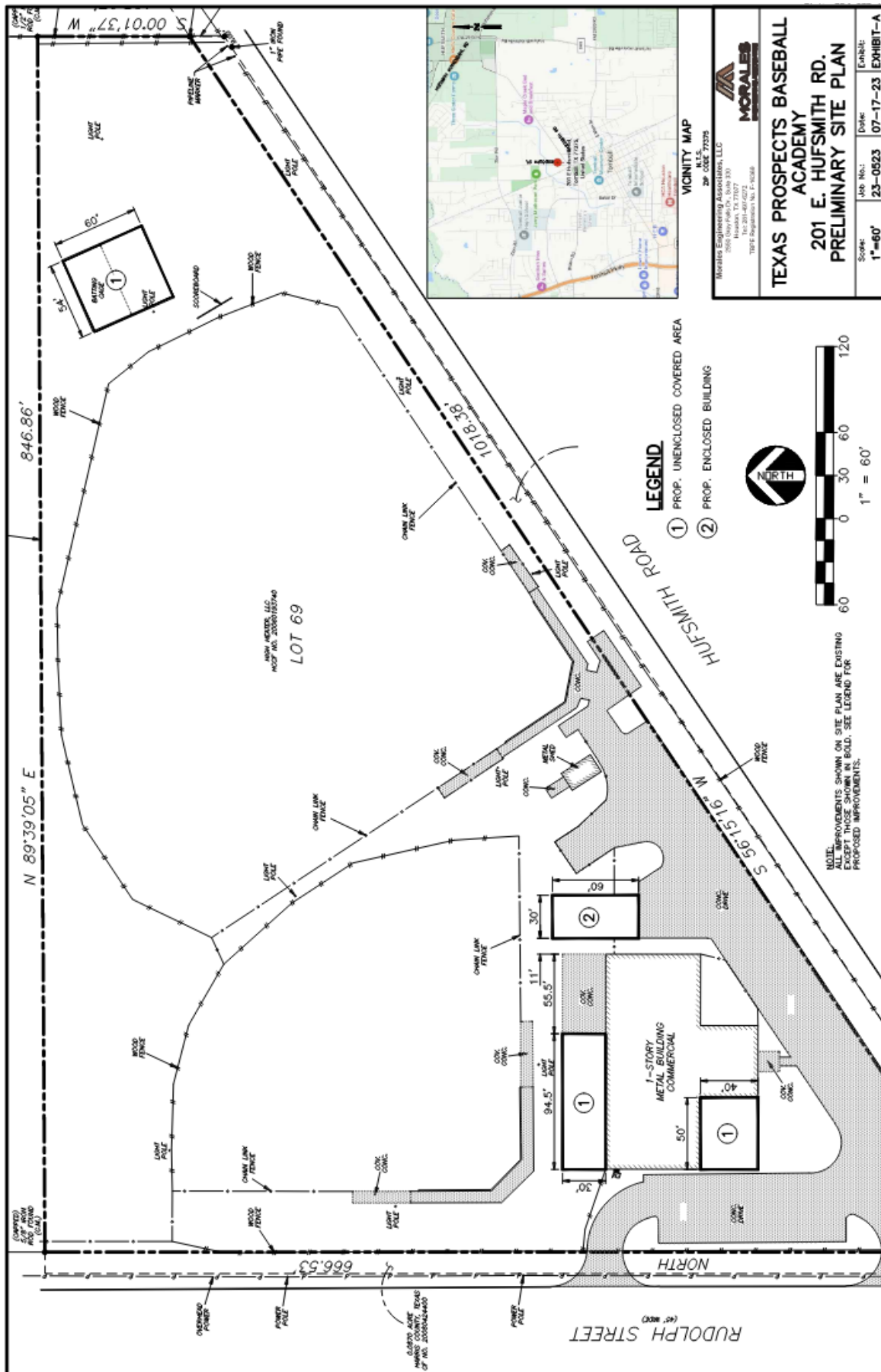
COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN PARR	_____

LORI KLEIN QUINN, Mayor

ATTEST:

Tracylynn Garcia, City Secretary

Exhibit "A"





Location: Northeast corner of Rudolph Road and E. Hufsmith Road. Being Lot 69 of Tomball Townsite Outlots, City of Tomball, Harris County, Texas

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION (P&Z)
SEPTEMBER 11, 2023
&
CITY COUNCIL
SEPTEMBER 18, 2023**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, September 11, 2023 at 6:00 P.M.** and by the City Council of the City of Tomball on **Monday, September 18, 2023 at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, the P&Z and City Council will consider the following:

Conditional Use Permit Case CUP23-05: Request by 2 S&Z Investments LLC., represented by Breann Williams, for a Conditional Use Permit to allow “Barber/Beauty Shop (no related school/college)” within Office (O) zoning. Affecting approximately 1.00 Acres of land legally described as being Reserve B, Block 1 of Brown-Hufsmith Church Subdivision. The property is located at the southwest corner of Brown-Hufsmith Road and Baker Drive, within the City of Tomball, Harris County, Texas.

Conditional Use Permit Case CUP23-06: Request by Equalizer USA, Inc., represented by Morales Engineering Associates, LLC., for a Conditional Use Permit to allow “Playfield or stadium (private)” within Agricultural (AG) zoning. Affecting approximately 7.51 Acres of land legally described as being Lot 69 of Tomball Townsite Outlots. The property is located at the northeast corner of Rudolph Road and E. Hufsmith Road, within the City of Tomball, Harris County, Texas.

Re-Zoning Case Z23-12: Request by Paul & Delphine Michna to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 0.29 acres of land legally described as being Lot 200, Block 10 of Sansom Plaza from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 611 N. Cherry Street, within the City of Tomball, Harris County, Texas.

Re-Zoning Case Z23-13: Request by Hightower Investments LTD. To amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 0.32 acres of land legally described as being Lots 1 & 2, Block 53 of Revised Map of Tomball from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 400 N. Elm Street, within the City of Tomball, Harris County, Texas.

At the public hearings, parties of interest and citizens will have the opportunity to be heard. All citizens of the City of Tomball, and any other interested parties, are invited to attend. Applications are available for public inspection Monday through Friday, except holidays, at the Administrative Services Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the City Planner, Jared Smith, at (281) 290-1491 or at jasmith@tomballtx.gov.

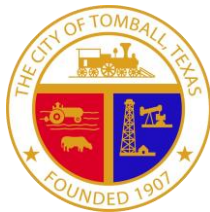
CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 8th day of September 2023 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Jared Smith

Jared Smith
City Planner

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.tomballtx.gov.



City of Tomball
Community Development Department

NOTICE OF PUBLIC HEARING

RE: Case Number CUP23-06

08/29/2023

The Planning & Zoning Commission will hold a public hearing on **September 11, 2023 at 6:00 PM**, in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas to recommend approval or denial to City Council on a request by Equalizer USA, Inc., represented by Morales Engineering Associates, LLC., for a Conditional Use Permit to allow "Playfield or stadium (private)" within Agricultural (AG) zoning. Affecting approximately 7.51 Acres of land legally described as being Lot 69 of Tomball Townsite Outlots. The property is located at the northeast corner of Rudolph Road and E. Hufsmith Road, within the City of Tomball, Harris County, Texas.

This hearing is open to any interested person. Opinions, objections and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as listed below. All responses must be signed.

The attached map shows the area of this request. Only that area which is bounded by the cross-hatched line on the map is being considered for **conditional use permit**. The solid boundary line around the subject area is only a notification area. All owners of property within 300-feet of the subject property are required to be notified. Whether approved or denied by the Planning & Zoning Commission, this case will be heard by City Council for First Reading with public hearing on **September 18, 2023 at 6:00 PM** in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas.

If you have any questions, please contact Jared Smith, City Planner at telephone 281-290-1491 or by email address jasmith@tomballtxgov

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: CUP23-06

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Mailing To: Community Development Department
501 James St., Tomball TX 77375

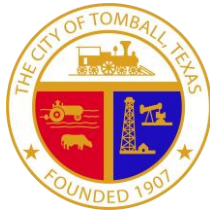
Name:
Parcel I.D.:
Address:

Email: jasmith@tomballtx.gov

I am in favor ☐
Additional Comments:

I am opposed ☐

Signature: _____

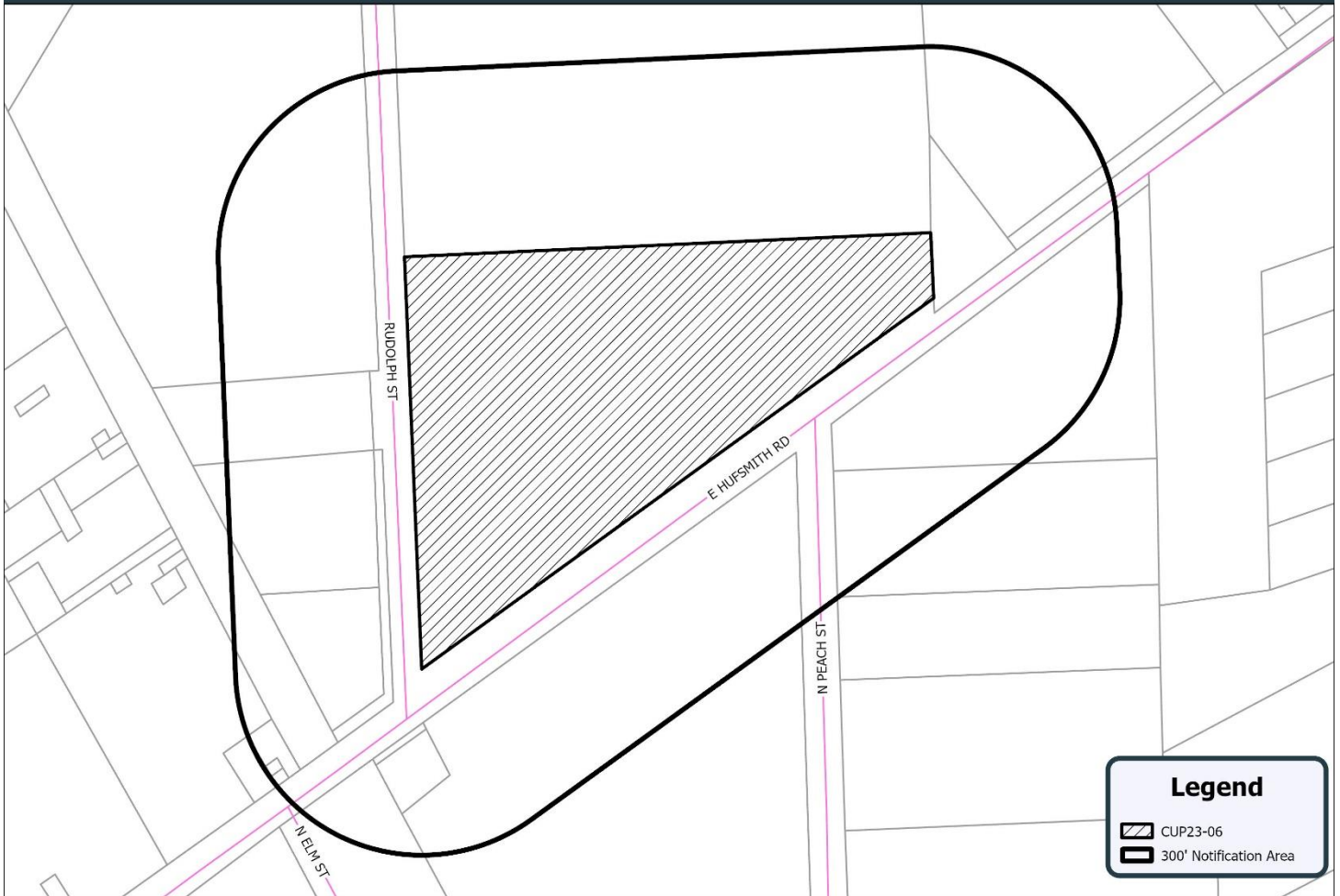


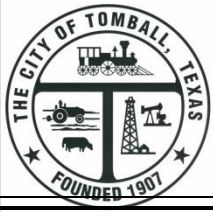
City of Tomball
Community Development Department

CUP23-06



Notification Area





Conditional Use Permit Staff Report

Planning & Zoning Commission Public Hearing Date: September 11, 2023
City Council Public Hearing Date: September 18, 2023

Rezoning Case: CUP23-06

Property Owner(s): Equalizer USA, Inc.

Applicant(s): Morales Engineering Associates, LLC.

Legal Description: Lot 69 of Tomball Townsite Outlots

Location: Located at the northeast corner of Rudolph Road and E. Hufsmith Road, within the City of Tomball, Harris County, Texas. (Exhibit “A”)

Area: 7.51 acres (approximately)

Comp Plan Designation: Neighborhood Commercial (Exhibit “B”)

Present Zoning and Use: Agricultural (AG) (Exhibit “C”) / Baseball Academy with Fields & Batting Cages (Exhibit “D”)

Proposed Use(s): *Playfield or stadium (private)*

Request: Conditional Use Permit (CUP) for *Playfield or stadium (private)*

Adjacent Zoning & Land Uses:

North: Agricultural (AG) / Vacant Land

South: E. Hufsmith Road, Multifamily Residential District (MF), Single Family Residential – 6 (SF-6) / Vacant Land

West: Rudolph Road, Commercial (C), Single Family-20 (SF-20) / Tru Expressions Photography, Vacant Land

East: Agricultural (AG) \ Single- Family Residence

BACKGROUND

The subject property has been located within the city limits of Tomball since at least 1909 and is currently developed and being used as a baseball academy, with paved parking, baseball fields, batting cages, an administrative office building, and concession stand. This use is identified as being the “*Playfield or stadium (private)*” land use category in the Tomball Code of Ordinances. Per the applicant, the owner intends to make additional improvements to the site, including an

enclosed technical training building, unenclosed covered bullpen areas, and unenclosed covered batting cages. The owner does not want to rezone the property currently and wants to continue to operate the existing facility strictly as a baseball academy. The *Playfield or stadium (private)* land use is permitted within the current Agricultural zoning district with the approval of a Conditional Use Permit (CUP). This CUP will bring the land use into legal conformity and thereby allow the planned expansion(s) to this land use on the subject property.

Conditional Use Permits provide opportunities to further consider whether a location is appropriate for the proposed use and to apply conditions that promote the compatibility of the proposed use with the surrounding properties and land uses.

ANALYSIS

Description: The subject property comprises approximately 7.51 acres, located at the northeast corner of E. Hufsmith Road and Rudolph Road. The property is presently located within the Agricultural (AG) zoning district and has been within this zoning designation since the adoption of zoning by the City of Tomball in 2008. Immediately north of the subject site is vacant land within the Agricultural (AG) zoning district. East of the subject property is an existing single family residence within the Agricultural (AG) district. To the south are vacant parcels within the Multi-Family Residential (MF) and Single Family Residential – 6 (SF-6) districts. West of Rudolph Road is a photography studio within Commercial (C) zoning.

Conformance with the Factors for Consideration of CUP (Sec. 50-81 (f)):

According to Section 50-81 (f) of the Chapter 50 (Zoning), when considering applications for a CUP, the City shall, on the basis of the concept plan and other information submitted, evaluate the impact of the conditional use on and the compatibility of the use with surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. Specific considerations shall include the extent to which:

1. The proposed use at the specified location is consistent with the goals, objectives, and policies contained in the adopted Comprehensive Plan;

The subject property is designated as Neighborhood Commercial by the Comprehensive Plan's Future Land Use Map (FLUM). This land use category is intended for commercial uses that complement residential development and have auto and pedestrian accessibility. Appropriate land uses include restaurants, retail, professional services, clinics, and offices. Recommended secondary uses include places of assembly or event venues, local utility services, and government facilities. Recommended zoning categories are O: Office, GR: General Retail, and PD; Planned Development. The proposed CUP for *Playfield or stadium (private)* provides active recreational opportunities which support nearby residential development.

2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;

According to the Zoning Ordinance, "a conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and

planned uses of adjoining property and the neighborhood can be mitigated through the imposition of certain standards and conditions.”

The property has been zoned Agricultural since the inception of zoning in 2008. According to *Chapter 50 (Zoning)* in the Tomball Code of Ordinances, this district is appropriate for ranching, propagation and cultivation of crops and similar uses of vacant land, and single-family uses on large lots. The Agricultural zoning district is also intended to be a temporary holding zone until permanent zoning is approved. *Playfield or stadium (private)* is permitted in this district with a CUP.

3. The proposed use meets all supplemental standards specifically applicable to the use as set forth in the Zoning Ordinance;

Yes, the proposed use will meet all supplemental standards outlined in Chapter 50 of the Code of Ordinances. Prior to expansion of operations, an official site plan shall be submitted to the City of Tomball Community Development Office identifying the planned location of all associated site improvements to ensure all standards applicable by the code of ordinances and/or required by this Conditional Use Permit are met.

4. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts;

The use is currently existing and is consistent with the surrounding mix of land uses currently found in the area. Staff believes that a *Playfield or stadium (private)* use at this location would not be out of character with the surrounding area, particularly given that the use is in existence and the property is located at the intersection of two major thoroughfares E. Hufsmith Road (major arterial road) and Rudolph Road (collector road). Intersections such as this are ordinarily considered appropriate for commercial activities, as they provide convenient vehicular access and exposure often necessary for commercial success.

5. The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

Staff does not anticipate any adverse effects on surrounding properties.

PUBLIC COMMENT

Property owners within 300 feet of the project site were mailed notification of this proposal and a Notice of Public Hearing was published in the paper on August 29, 2023. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends approval of CUP Case CUP23-06 with the following condition(s);

- All future improvements associated with “*Playfield or stadium (private)*” land use must be in general conformance with the conceptual site exhibit provided by the applicant detailing the location of all planned structural improvements.

EXHIBITS

- A. Location Map
- B. Future Land Use Plan Map
- C. Zoning Map
- D. Site Photo
- E. Conditional Use Permit Application

Exhibit "A"
Aerial Location Map



Exhibit "B"
Future Land Use Plan Map



Future Land Use

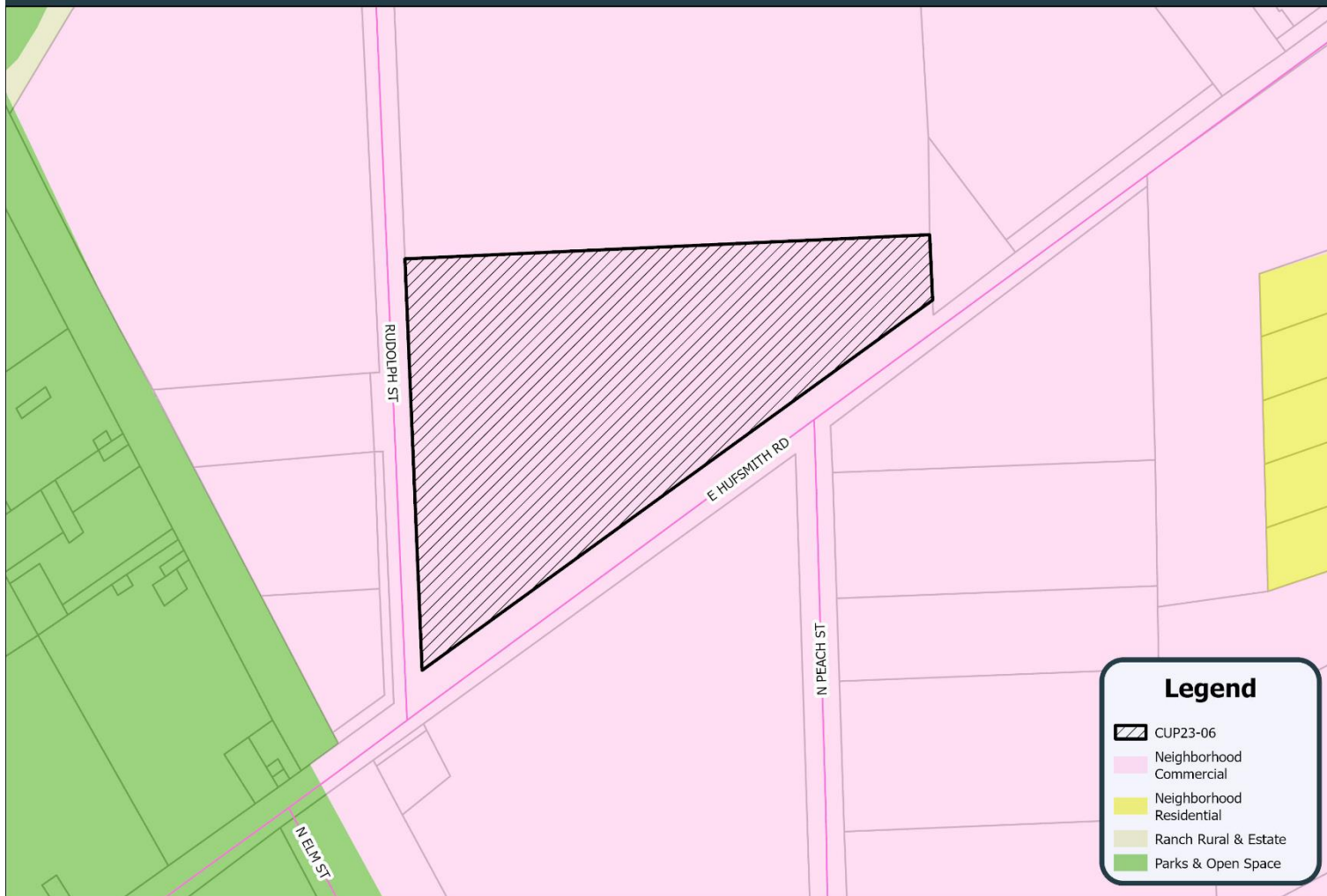
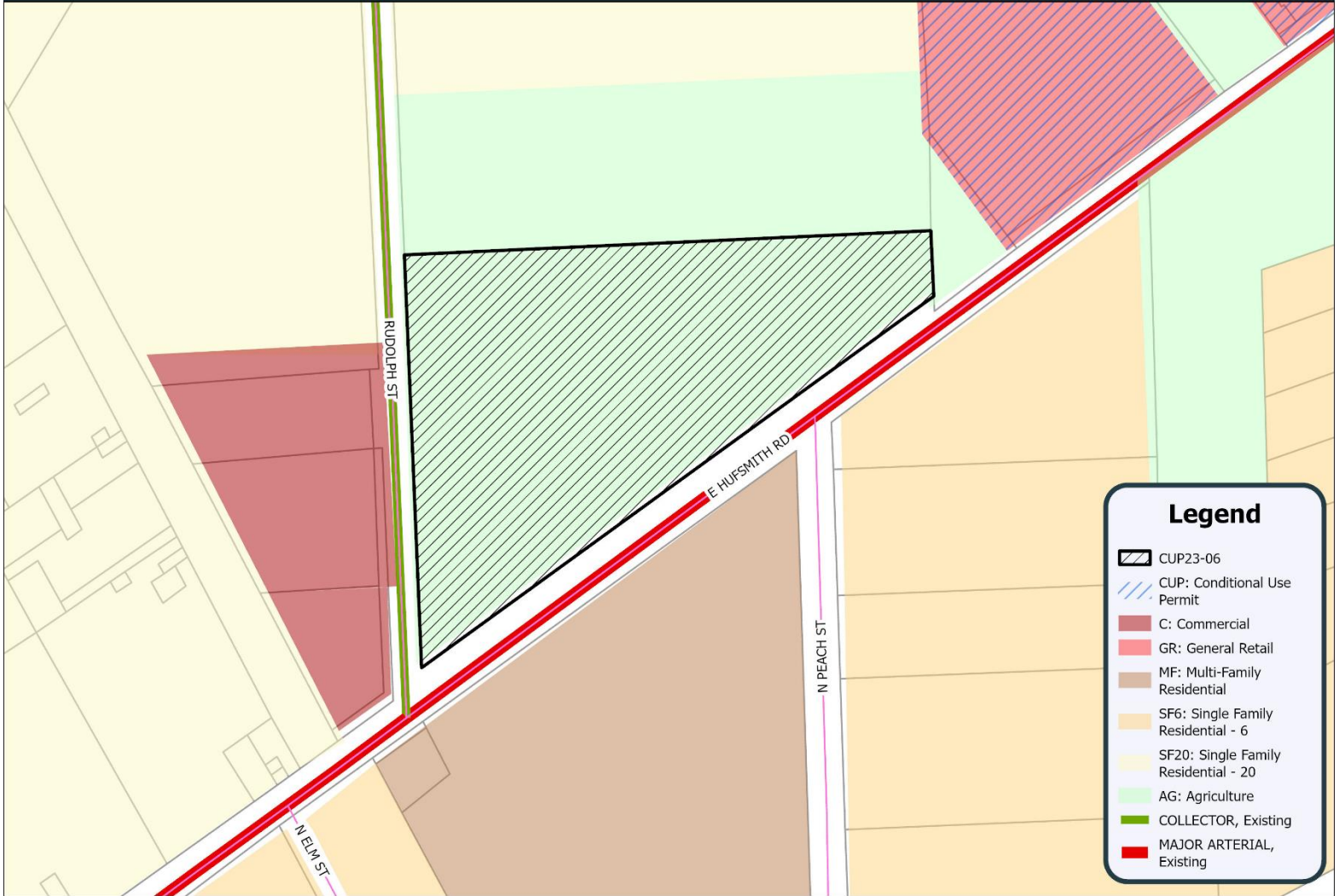


Exhibit "C"
Zoning Map



Zoning



**Exhibit “E”
Site Photo(s)**

Subject Site



Neighbor (West)



Neighbor (East)



Neighbor (North)



Neighbor (South)



Exhibit "E"
Conditional Use Permit Application



RECEIVED (KC)
7/31/2023

Revised: 10/1/2022

CUP23-06
\$1,000 PD

APPLICATION FOR
CONDITIONAL USE PERMIT
Planning Division

A conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions. This Section sets forth the standards used to evaluate proposed conditional uses and the procedures for approving conditional use permit (CUP) applications.

APPLICATION SUBMITTAL: Applications will be *conditionally* accepted on the presumption that the information, materials and signatures are complete and accurate. If the application is incomplete or inaccurate, your project may be delayed until corrections or additions are received.

There is a \$1,000.00 application fee that must be paid at time of submission or the application will not be processed.

DIGITAL PLAN SUBMITTALS:

PLEASE SUBMIT YOUR APPLICATIONS AND PLANS DIGITALLY IN A SINGLE PDF BY FOLLOWING
THE WEBSITE BELOW:

WEBSITE: tomballtx.gov/securesend
USERNAME: [tombalredd](#)
PASSWORD: TomballI

Applicant

Name: Morales Engineering Associates, LLC Title: Principal
Mailing Address: 2550 Gray Falls Dr., Ste. 330 City: Houston State: TX
Zip: 77077 Contact: Enrique Morales
Phone: (281) 496-6272 Email: emorales@moraleseng.com

Owner

Name: Equalizer USA, Inc. Title: _____
Mailing Address: 5446 E. 106 Ln. City: Winfield State: IN
Zip: 46307 Contact: Joseph Vetter
Phone: (219) 794-6230 Email: josephvetter@gmail.com

Engineer/Surveyor (if applicable)

Name: Same as Applicant Title: _____
Mailing Address: _____ City: _____ State: _____
Zip: _____ Contact: _____
Phone: (____) _____ Fax: (____) _____ Email: _____

Description of Proposed Project: Existing Baseball Academy with fields & batting cages

Physical Location of Property: 201 E. Hufsmith Rd., Tomball, TX 77375
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: 7.5086 acres out of Lot 69, Tomball Five Acre Outlots
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

HCAD Identification Number: 035-282-000-0151 Acreage: 7.5086 acres

Current Use of Property: Agricultural Land Use

Proposed Use of Property: Baseball Academy (batting cages, admin office, concessions) - CUP

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.

This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

X Enrique Morales 7/18/23
Signature of Applicant Date

X Joseph Vetter 7/31/23
Signature of Owner Date

From: noreply@mail.tdr.tylerhosting.cloud
To: [Kimberly Chandler](#)
Subject: Receipt #R01374055
Date: Thursday, August 3, 2023 10:44:20 AM

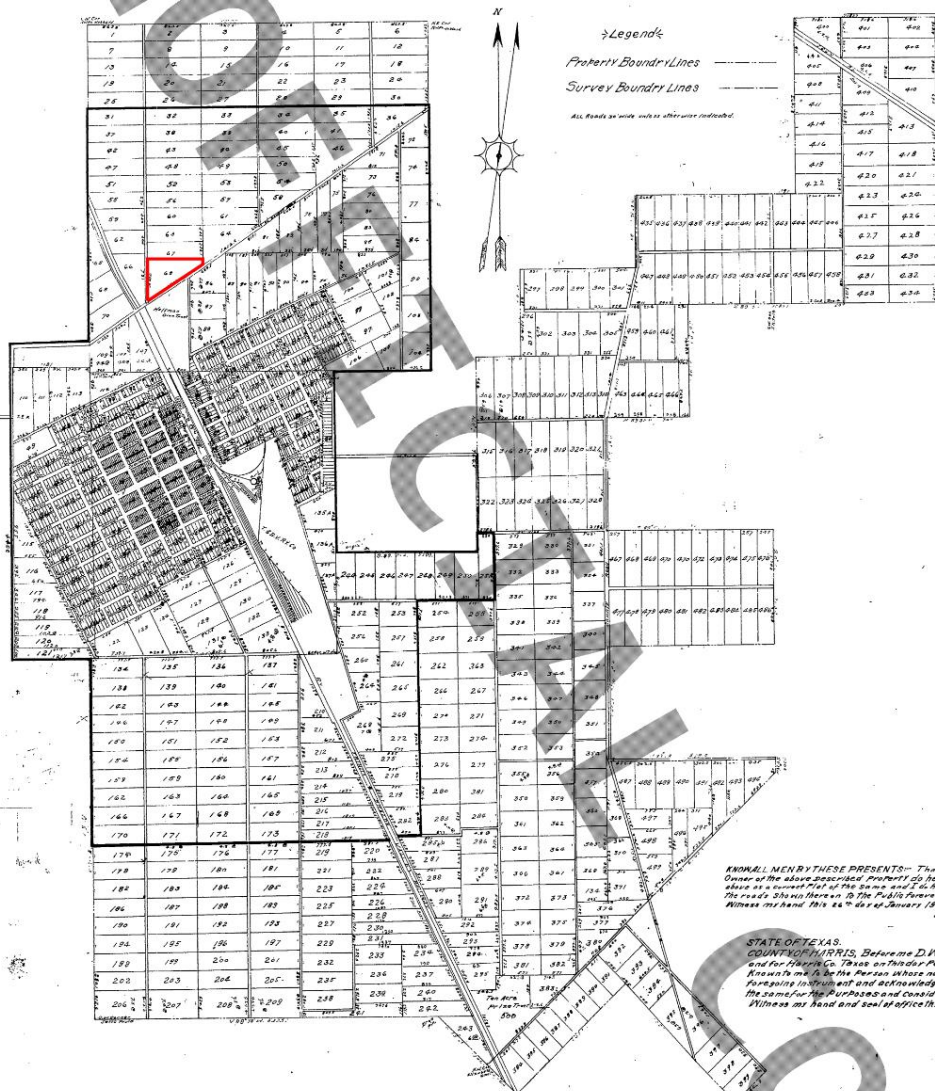
Caution: This is an external email and may be malicious. Please take care when clicking links or opening attachments.

401 Market Street
401 Market Street
Tomball, TX 77375
(281) 351-5484

DATE : 8/1/2023 2:07 PM
OPER : AM
TKBY : Angelica Meza
TERM : 3
REC# : R01374055
130.0000 PLANNING AND ZONING
201 E Hufsmith Rd - CUP 1000.00

Paid By:201 E Hufsmith Rd - CUP
2-CK 1000.00 REF:w1557

RECORDED PLAT – TOMBALL FIVE-ACRE OUTLOT



KORRAL MENRY THESE PRESENTS: That I, Korral Menry, Owner of the above described property do hereby certify that the above is a correct plat of the same and I do hereby certify that the same is true and correct and I do hereby certify that the same is true and correct and I do hereby certify that the same is true and correct.

William Malone

STATE OF TEXAS,
COUNTY OF HARRIS, Before me, D.W. COOLEY a Notary Public in and for Harris County, Texas, on this day personally appeared Korral Menry, known to me to be the Person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed. Witness my hand and seal of office this 24th day of January, 1907.

D.W. COOLEY
Notary Public, Harris County, Texas

FIVE ACRE TRACTS TOM BALL TOWNSITE.

Date Nov 15, 1907.

Original Scale, 1" = 40' reduced to 1" = 80'

C. M. Page & Duncan, Engrs.

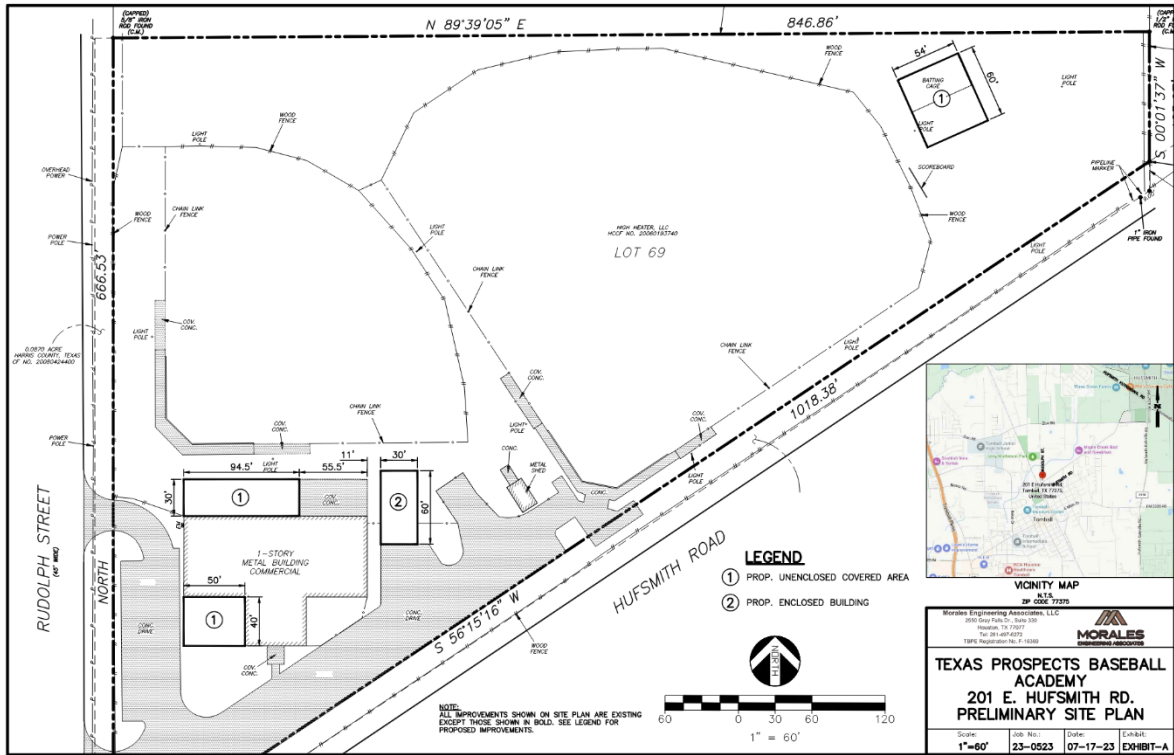
48285.

Filed for record, May 18, 1908, at 2:25 P.M. Recorded Aug 19/08 at 5 P.M. Geo. Jones, County Clerk in and for Harris County, Texas.

By J. H. Thompson, Deputy

65

PROPOSED SITE PLAN



LETTER REQUESTING CONDITIONAL USE PERMIT (CUP)



July 31, 2023

Mr. Jared Smith
City Planner
City of Tomball
501 James Street
Tomball, Texas 77375

Re: 7.5086 Acres Out of Lot 69, Tomball Five Acre Outlots
201 E. Hufsmith Rd., Tomball, TX 77375
Texas Prospects Baseball Academy
Tomball, Texas

Dear Mr. Smith:

On behalf of our client, Equalizer USA, Inc., we are submitting the enclosed application for Conditional Use Permit (CUP) for the subject property. The property is currently developed and is an existing baseball academy consisting of paved parking, baseball fields, batting cages, administrative office building, and concession stand, which is currently within the administrative building. It is currently zoned as Agricultural District according to the City of Tomball's latest zoning map dated August 25, 2021.

The owner intends to make additional improvements consisting of an enclosed technical training building, unenclosed covered bull pen areas, and unenclosed covered batting cages. Please see attached site plan for locations and dimensions of proposed improvements. A CUP is being requested in order to be able to properly permit the proposed improvements given the property's current land use as an Agricultural District. A separate permit submittal for the proposed improvements will be made once the CUP is obtained. The owner does not intend to rezone the property at this time as the existing facility will continue to operate strictly as a baseball academy.

Please contact me at (281) 497-6272 if you have any questions or require additional information.

Sincerely,

Enrique Morales

Enrique Morales, P.E.
Principal

Attachment

cc: Joseph Vetter – Equalizer USA, Inc.

F:\Proposals\Texas Prospects Baseball Academy\Texas Prospects Baseball Academy - Tomball CUP Ltr.docx

METES & BOUNDS DESCRIPTION

STATE OF TEXAS §
 §
 §
 §
 §
COUNTY OF HARRIS §

Metes & Bounds Property Description

A tract of land containing 7.5086 Acres out of Lot 69 of Tomball Five-Acre Outlot according to the map or plat thereof recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas, being the same tract recorded in the name of High Heater, LLC. under Harris County Clerk's File (H.C.C.F.) No. 20060193740 of the Real Property Records of Harris County, Texas (R.P.R.H.C.T.), and being more particularly described by metes and bounds as follows: (Bearings based on H.C.C.F. No. 20080424400 of the R.P.R.H.C.T.)

BEGINNING at a 1/2 Inch iron rod with a "Precision" cap set at the intersection of the northwest right-of-way line of Hufsmith Road and the east right-of-way line of Rudolph Street, being the southwest corner of this tract (from which a 1/2 Inch iron pipe found bears South 05° 04' 43" West, a distance of 25.67 Feet);

THENCE, **NORTH**, with said east right-of-way line, being a tract recorded in the name of Harris County, Texas under H.C.C.F. No. 20080424400 of the R.P.R.H.C.T., a distance of **666.53 Feet** to a 5/8 Inch iron rod found at the northwest corner of this tract (from which a second 5/8 Inch iron rod found bears North, a distance of 100.00 Feet, from said second 5/8 Inch iron rod found a third 5/8 Inch iron rod found bears North, a distance of 100.00 Feet);

THENCE, **NORTH 89° 39' 05" EAST**, with the south line of Lot 67, being a tract recorded in the name of Presario Properties, LLC. under H.C.C.F. No. 20060282474 of the R.P.R.H.C.T., a distance of **846.86 Feet** to a 1/2 Inch iron rod found at the northeast corner of this tract;

THENCE, **SOUTH 00° 01' 37" WEST**, with the west line of Lot 64, a distance of **105.97 Feet** to a 1/2 Inch iron rod with a "Precision" cap set on the aforementioned northwest right-of-way line of Hufsmith Road at the southeast corner of this tract (from which a 1 Inch iron pipe found bears South 00° 01' 37" West, 24.06 Feet and South 54° 05' 28" West, 9.00 Feet);

THENCE, **SOUTH 56° 15' 16" WEST**, with said northwest right-of-way line, being the aforementioned Harris County, Texas Tract, a distance of 1,018.38 Feet to the POINT OF BEGINNING and containing 7.5086 Acres.

(See attached drawing)



Terrance P. Mish
Registered Professional Land Surveyor
No. 4981
Job No. 22-03892
June 14, 2022

City Council Agenda Item Data Sheet

Meeting Date: October 2, 2023

Topic:

Adopt, on Second Reading, Ordinance No. 2023-32, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 0.29 acres of land legally described as being Lot 200, Block 10 of Sansom Plaza from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 611 N. Cherry Street, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Background:

Public Hearing and First Reading conducted on September 18, 2023.

The subject property has been within the city limits of Tomball since at least 1909. Harris County Appraisal District records suggest that the commercial structure which occupies the property was constructed in 1979. The property was placed within a Single Family – 6 (SF-6) zoning district when the City of Tomball initially adopted zoning in 2008, this created a legally non-conforming commercial use of the property. Currently, the existing commercial structure is vacant. As per the applicant, the subject property has always been used for various commercial uses. The applicant's request is to rezone the subject property to Old Town and Mixed-Use (OT & MU) to bring the commercial use of this property into legal conformity and allow the "highest & best" use of this property according to the applicant.

Origination:

Recommendation:

City staff recommends Approval of **Re-Zoning Case Z23-12**. Planning and Zoning Commission recommends Approval (3 Votes Aye, 1 Commissioner Abstained).

Party(ies) responsible for placing this item on agenda: Craig Meyers (Community Development Director)

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____

If yes, specify Account Number: # _____

If no, funds will be transferred from account: # _____ To Account: # _____

Signed: _____ **Approved by:** _____
Staff Member Date City Manager Date

ORDINANCE NO. 2023-32

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 0.29 ACRES OF LAND BEING LOT 200, BLOCK 10 OF SANSOM PLAZA FROM SINGLE FAMILY RESIDENTIAL – 6 (SF-6) TO OLD TOWN & MIXED USE (OT & MU) ZONING. LOCATED AT 611 N. CHERRY STREET; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

Whereas, Paul & Delphine Michna, has requested changing the zoning district classification of approximately 0.29 acres of land being Lot 200, Block 10 of Sansom Plaza from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU) zoning. The property located at 611 N. Cherry Street, within the City of Tomball, Harris County, Texas (the “Property”), be rezoned; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days after written notice of that hearing was mailed to the owners of land within three hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the requested rezoning; and

Whereas, the public hearing was held before the Planning & Zoning Commission at least forty (40) calendar days after the City’s receipt of the requested rezoning; and

Whereas, the Planning & Zoning Commission recommended in its final report that City Council approve the requested rezoning; and

Whereas, the City Council deems it appropriate to grant the requested rezoning.

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

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The rezoning classification of the Property is hereby changed and is subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas shall be revised and amended to show the designation of the Property as hereby stated, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for the Property as described above.

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 6. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON 18th DAY OF September 2023.

COUNCILMAN FORD	<u>Yay</u>
COUNCILMAN STOLL	<u>Yay</u>
COUNCILMAN DUNAGIN	<u>Yay</u>
COUNCILMAN TOWNSEND	<u>Yay</u>
COUNCILMAN PARR	<u>Yay</u>

SECOND READING:

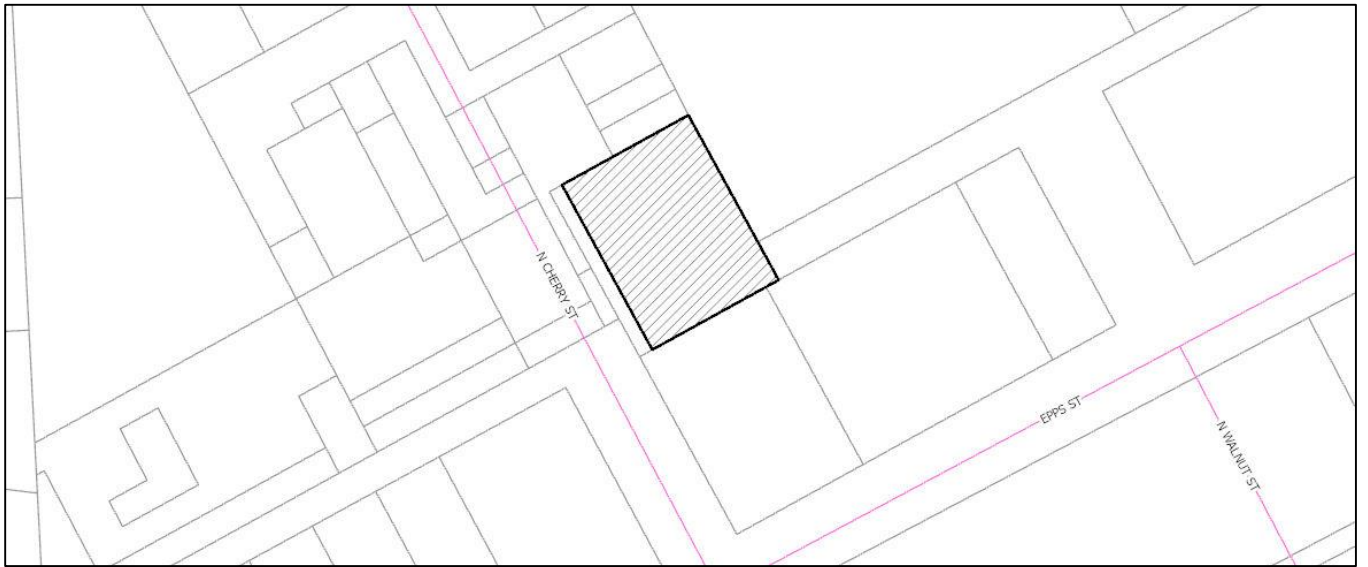
READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON 2nd DAY OF October 2023.

COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN PARR	_____

LORI KLEIN QUINN, Mayor

ATTEST:

TRACYLYNN GARCIA, City Secretary



Location: 611 N. Cherry Street. Being Lot 200 of Block 10 of Sansom Plaza, City of Tomball, Harris County, Texas

-END-

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION (P&Z)
SEPTEMBER 11, 2023
&
CITY COUNCIL
SEPTEMBER 18, 2023**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, September 11, 2023 at 6:00 P.M.** and by the City Council of the City of Tomball on **Monday, September 18, 2023 at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, the P&Z and City Council will consider the following:

Conditional Use Permit Case CUP23-05: Request by 2 S&Z Investments LLC., represented by Breann Williams, for a Conditional Use Permit to allow “Barber/Beauty Shop (no related school/college)” within Office (O) zoning. Affecting approximately 1.00 Acres of land legally described as being Reserve B, Block 1 of Brown-Hufsmith Church Subdivision. The property is located at the southwest corner of Brown-Hufsmith Road and Baker Drive, within the City of Tomball, Harris County, Texas.

Conditional Use Permit Case CUP23-06: Request by Equalizer USA, Inc., represented by Morales Engineering Associates, LLC., for a Conditional Use Permit to allow “Playfield or stadium (private)” within Agricultural (AG) zoning. Affecting approximately 7.51 Acres of land legally described as being Lot 69 of Tomball Townsite Outlots. The property is located at the northeast corner of Rudolph Road and E. Hufsmith Road, within the City of Tomball, Harris County, Texas.

Re-Zoning Case Z23-12: Request by Paul & Delphine Michna to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 0.29 acres of land legally described as being Lot 200, Block 10 of Sansom Plaza from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 611 N. Cherry Street, within the City of Tomball, Harris County, Texas.

Re-Zoning Case Z23-13: Request by Hightower Investments LTD. To amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 0.32 acres of land legally described as being Lots 1 & 2, Block 53 of Revised Map of Tomball from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 400 N. Elm Street, within the City of Tomball, Harris County, Texas.

At the public hearings, parties of interest and citizens will have the opportunity to be heard. All citizens of the City of Tomball, and any other interested parties, are invited to attend. Applications are available for public inspection Monday through Friday, except holidays, at the Administrative Services Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the City Planner, Jared Smith, at (281) 290-1491 or at jasmith@tomballtx.gov.

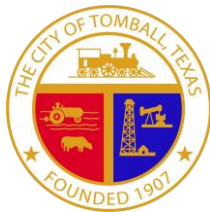
CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 8th day of September 2023 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Jared Smith

Jared Smith
City Planner

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.tomballtx.gov.



City of Tomball
Community Development Department

NOTICE OF PUBLIC HEARING

RE: Zone Change Case Number Z23-12

08/29/2023

The Planning & Zoning Commission will hold a public hearing on **September 11, 2023 at 6:00 PM**, in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas to recommend approval or denial to City Council on a request by Paul & Delphine Michna to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 0.29 acres of land legally described as being Lot 200, Block 10 of Sansom Plaza from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 611 N. Cherry Street, within the City of Tomball, Harris County, Texas.

This hearing is open to any interested person. Opinions, objections and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as listed below. All responses must be signed.

The attached map shows the area of this request. Only that area which is bounded by the cross-hatched line on the map is being considered for **rezoning**. The solid boundary line around the subject area is only a notification area. All owners of property within 300-feet of the subject property are required to be notified. Whether approved or denied by the Planning & Zoning Commission, this case will be heard by City Council for First Reading with public hearing on **September 18, 2023 at 6:00 PM** in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas.

If you have any questions, please contact Jared Smith, City Planner at telephone 281-290-1491 or by email address jasmith@tomballtx.gov

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: Z23-12

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Mailing To: Community Development Department
501 James St., Tomball TX 77375

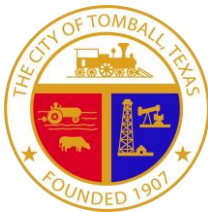
Name:
Parcel I.D.:
Address:

Email: jasmith@tomballtx.gov

I am in favor ☐
Additional Comments:

I am opposed ☐

Signature: _____



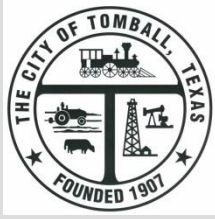
City of Tomball
Community Development Department

Z23-12



Notification Area





Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: September 11, 2023

City Council Public Hearing Date: September 18, 2023

Rezoning Case: Z23-12

Property Owner(s): Delphine Michna & Paul Michna

Applicant(s): Delphine Michna & Paul Michna

Legal Description: Lot 200 Block 10 Sansom Plaza

Location: Located at 611 N. Cherry Street, within the City of Tomball, Harris County, Texas. (Exhibit “A”)

Area: 0.29 acres (approximately)

Comp Plan Designation: Old Town (Exhibit “B”)

Present Zoning: Single-Family Residential District (SF-6) (Exhibit “C”)

Request: Single Family Residential – 6 (SF-6) to Old Town and Mixed-Use (OT & MU)

Adjacent Zoning & Land Uses:

North: Single Family Residential – 6 (SF-6)/Tomball Little League Facility

South: Single Family Residential – 6 (SF-6)/Single Family Residence

West: N. Cherry Street, Single Family Residential – 6 (SF-6)/Vacant Land

East: Single Family Residential – 6 (SF-6)/Tomball Little League Facility

BACKGROUND

The subject property has been within the city limits of Tomball since at least 1909. Harris County Appraisal District records suggest that the commercial structure which occupies the property was constructed in 1979. The property was placed within a Single Family – 6 (SF-6) zoning district when the City of Tomball initially adopted zoning in 2008, this created a legally non-conforming commercial use of the property. Currently, the existing commercial structure is vacant. As per the applicant, the subject property has always been used for various commercial uses. The applicant’s request is to rezone the subject property to Old Town and Mixed-Use (OT & MU) to bring the commercial use of this property into legal conformity and allow the “highest & best” use of this property according to the applicant.

ANALYSIS

Description: The subject property comprises about 0.29 acres and is located at 611 N. Cherry Street. Currently the subject property is zoned SF-6 and has been within this zoning classification since the City of Tomball adopted zoning in 2008. All surrounding properties are also zoned SF-6. Parcels on the north and east of the subject property contain the non-residential use of Tomball Little League. South of the subject property is a single-family residence. The property to the west across N. Cherry Street is vacant land owned by the City of Tomball.

Comprehensive Plan Recommendation: The property is designated as “Old Town” by the Comprehensive Plans Future Land Use Map. This Old Town category is intended to be “highly walkable and promote a distinct sense of place”.

According to the Comprehensive Plan, “land uses should consist of a mix of residential, office, retail, entertainment, restaurants, and public facilities. Secondary uses include bed and breakfast lodging, live-work buildings, places of assembly or even venues and home professions”.

The Comprehensive Plan recommends the zoning district of – OT & MU (Old Town and Mixed Use) for the Old Town land use category.

Additionally, the Comprehensive Plan states – “The following considerations should be used as guidance for regulatory modifications or as part of decision-making: New development should encourage building to the street at a pedestrian scale, with no parking between the front building façade and the street. Pedestrian enhancements such as wide sidewalks, pedestrian furnishings, and street trees should be emphasized.”

According to Section 50-79 (*Old Town and Mixed-Use District*), the nature of the Old Town & Mixed Use District “is a mixture of retail, commercial and other non-residential uses, along with single-family homes and multiple-family uses. The city’s comprehensive plan endorses the continuation of the mixture of uses in these areas”. Additionally, Old Town & Mixed-Use zoning “is intended to provide a zoning mechanism for a variety of uses in the original town site and those areas that have a diverse mixture of uses”.

Staff Review Comments:

The request to rezone to Old Town & Mixed-Use (OT & MU) is in accordance with the Future Land Use Map which identifies the subject property as being within the “Old Town” Future Land Use Category. Rezoning the property as requested would achieve the goals and objectives outlined in the Comprehensive Plan. This is particularly true regarding growth and capacity by encouraging infill and redevelopment, while utilizing existing infrastructure within Old Town Tomball. Additionally, this zone change request will promote the goal of encouraging development with a mixture of uses in a walkable environment. According to the Comprehensive Plan “locating community facilities, services, and limited commercial services within and near existing neighborhoods has the potential to create mutually-beneficial synergies and higher quality of life”. This request also serves to achieve the community livability goal of encouraging the expansion of Old Town so that it continues to grow as the City grows. Given that the entire block that the subject property falls within (aside from one lot) is utilized for commercial purposes and the subject property has been occupied by commercial businesses since at least 1979, the uses which would be allowed by Old Town & Mixed Use zoning would not appear out of character with the area

PUBLIC COMMENT

A Notice of Public Hearing was published in the paper and property owners within 300 feet of the project site were mailed notification of this proposal on August 29, 2023. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends approval of Zoning Case Z23-12.

EXHIBITS

- A. Location Map
- B. Future Land Use Plan Map
- C. Zoning Map
- D. Site Photo
- E. Rezoning Application

Exhibit "A"
Aerial Location Map



Location



Exhibit "B"
Future Land Use Plan



Future Land Use

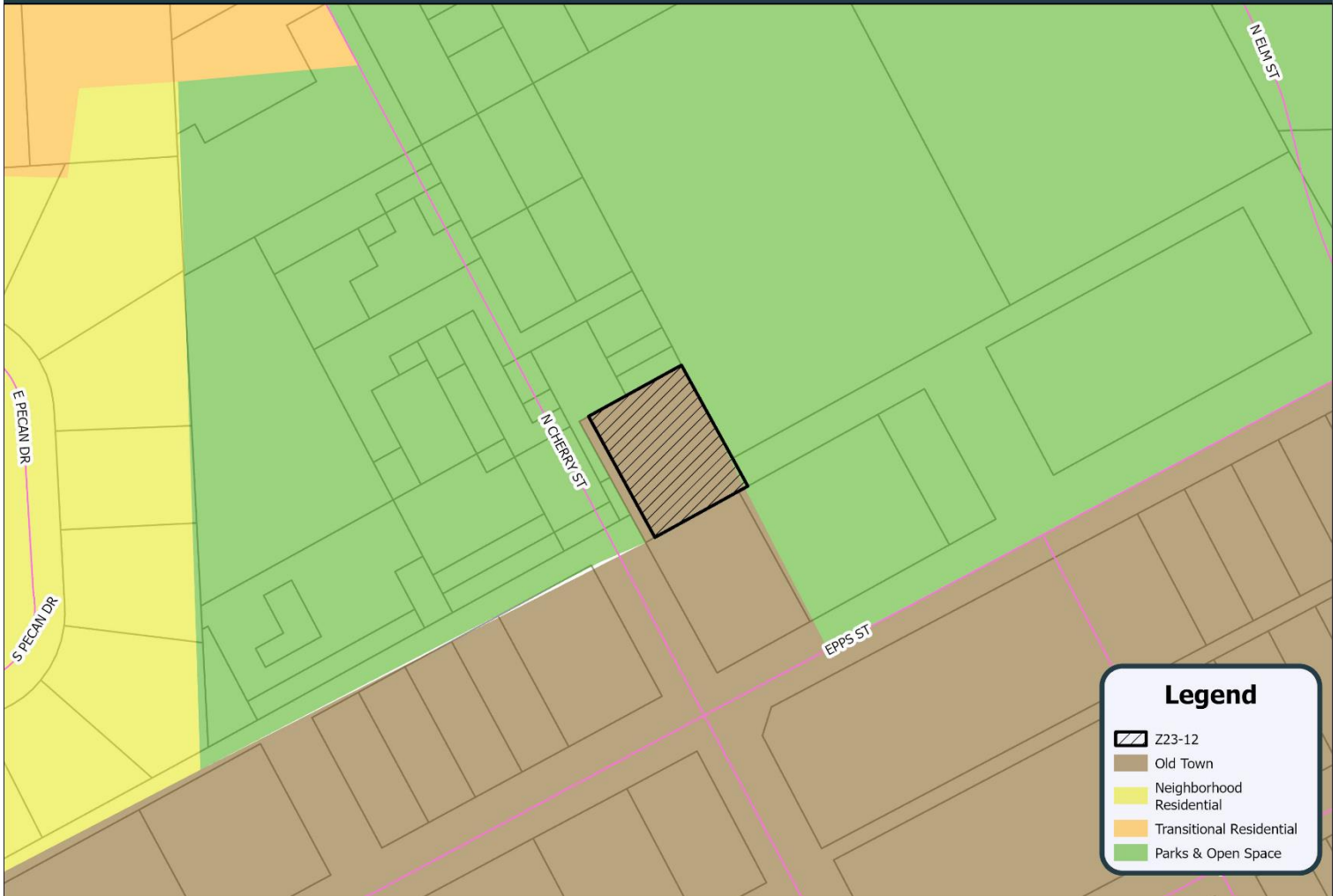
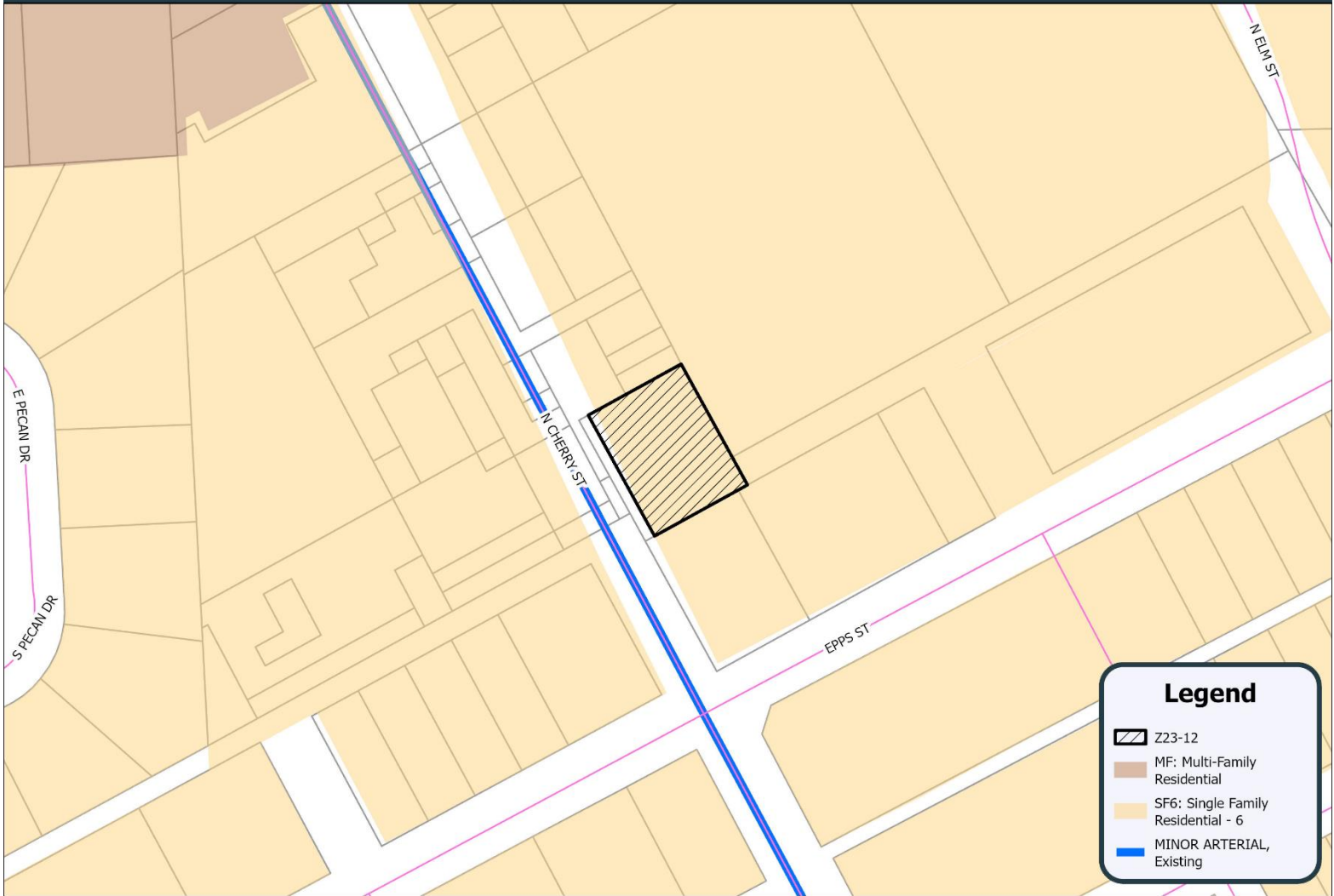


Exhibit "C"
Zoning Map



Zoning



Legend

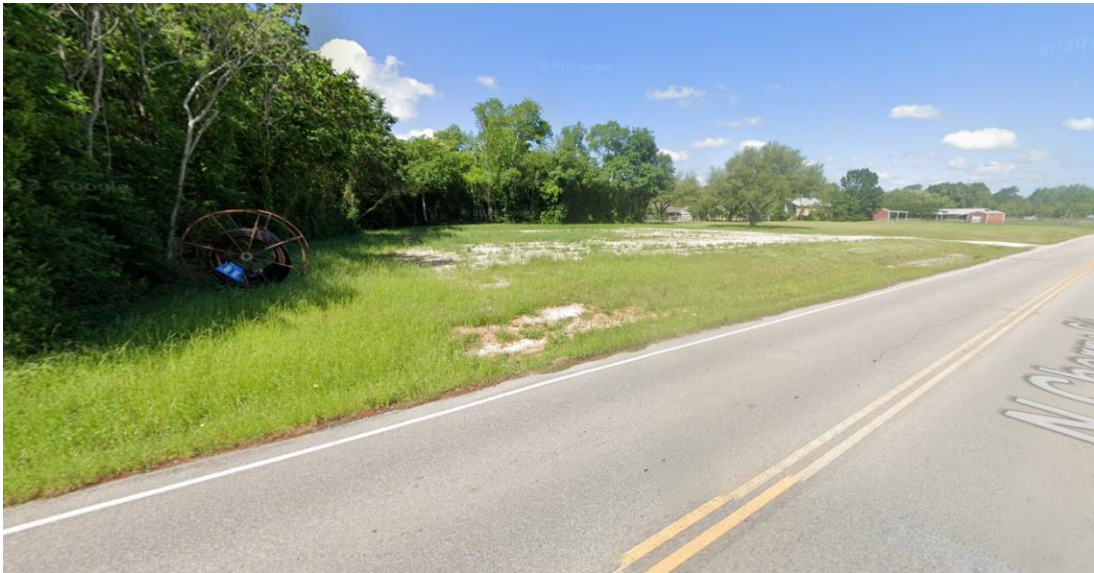
- Z23-12
- MF: Multi-Family Residential
- SF6: Single Family Residential - 6
- MINOR ARTERIAL, Existing

**Exhibit “D”
Site Photo(s)**

Subject Site



Neighbor (West)



Neighbor (East)



Neighbor (North)



Neighbor (South)



Exhibit "E"
Rezoning Application

Revised: 10/1/2022



APPLICATION FOR RE-ZONING

Community Development Department
Planning Division

APPLICATION REQUIREMENTS: Applications will be *conditionally* accepted on the presumption that the information, materials and signatures are complete and accurate. If the application is incomplete or inaccurate, your project may be delayed until corrections or additions are received.

There is a \$1,000.00 application fee that must be paid at time of submission or the application will not be processed.

DIGITAL PLAN SUBMITTALS:

PLEASE SUBMIT YOUR APPLICATIONS AND PLANS DIGITALLY IN A SINGLE PDF BY FOLLOWING THE WEBSITE BELOW:

WEBSITE: tomballtx.gov/securesend
USERNAME: tombalcedd
PASSWORD: Tomball1

Applicant
Name: PAUL michiva Title: OWNER
Mailing Address: 1325 VIRGIE COMMUNITY City: MAGNOLIA State: TEXAS
Zip: 77354 Contact: PAUL michiva
Phone: (713) 376-8250 Email: CPmichiva@MSN.COM

Owner
Name: PAUL & Delphine michiva Title: OWNERS
Mailing Address: 1325 VIRGIE COMMUNITY City: MAGNOLIA State: TEXAS
Zip: 77354 Contact: PAUL michiva
Phone: (713) 376-8250 Email: CPmichiva@MSN.COM

Engineer/Surveyor (if applicable)
Name: TONY SWOIKE Title: OWNER
Mailing Address: 700 KANE City: TOMBALL State: TEXAS
Zip: 77375 Contact: _____
Phone: (281) 351-7789 Fax: (____) _____ Email: _____

Description of Proposed Project: COMMERCIAL/RETAIL

Physical Location of Property: 611 N. CHERRY TOMBALL, TEXAS 77354
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: LOT 200 BLOCK TEN of SANSOM PLAZA
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: SINGLE FAMILY RESIDENTIAL

Revised: 10/1/2022

Current Use of Property: office / warehouse
Proposed Zoning District: OLD TOWN - mixed use
Proposed Use of Property: undetermined
HCAD Identification Number: 138 367 001 0001 Acreage: .328 Ac per Survey

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.

This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

X Care Murhine 8-30-23
Signature of Applicant Date

X Helpline Michne 8/30/2023
Signature of Owner Date

From: noreply@mail.tdr.tylerhosting.cloud
To: [Kimberly Chandler; customerservice](#)
Subject: Receipt #R01370474
Date: Wednesday, July 19, 2023 11:45:59 AM

Caution: This is an external email and may be malicious. Please take care when clicking links or opening attachments.

401 Market Street
401 Market Street
Tomball, TX 77375
(281) 351-5484

DATE : 7/19/2023 11:05 AM
OPER : SM
TKBY : SM
TERM : 6
REC# : R01370474
130.0000 PLANNING AND ZONING
611 n cherry 1000.00

Paid By:611 n cherry
2-CK 1000.00 REF:w 254

Page 89

To whom it may concern:

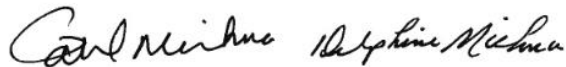
July 17, 2023

Thank you for the opportunity to seek a change in the zoning classification of our property at 611 N. Cherry. We are requesting the property be rezoned from Single Family Residential (SFR) to Old-Town Mixed Use (OT-MU).

The building was constructed in 1979 and has continually been used as a business or a commercial venture. There is only one residence in this entire block and, other than our building, Tomball Little League occupies the rest of the block.

Zoned as a (SFR) has restricted the property being used for its highest and best use. We believe rezoning the property will be mutually beneficial for all concerned. We thank the City Staff for their support of our attempt to rezone.

Thank you for your consideration of our request and look forward to discussing this matter with you.

A handwritten signature in cursive script, appearing to read "Paul Michna Delphine Michna".

Paul and Delphine Michna, Owners

City Council Agenda Item Data Sheet

Meeting Date: October 2, 2023

Topic:

Adopt, on Second Reading, Ordinance No. 2023-33, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 0.32 acres of land legally described as being Lots 1 & 2, Block 53 of Revised Map of Tomball from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 400 N. Elm Street, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Background:

Public Hearing and First Reading conducted on September 18, 2023.

The subject property has been within the city limits of Tomball since 1907. According to Harris County Appraisal District records a single family residence was constructed on the property in 1950. The applicant's request is to rezone the subject property to Old Town and Mixed-Use (OT & MU) to make the property more desirable for future buyers. The proposed use is not specified by the applicant at this time.

Origination:

Recommendation:

City staff recommends Approval of Zoning Case Z23-10. Planning and Zoning Commission recommends Denial (1 Vote Aye, 3 Votes Nay).

Party(ies) responsible for placing this item on agenda: Craig Meyers (Community Development Director)

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____

If yes, specify Account Number: # _____

If no, funds will be transferred from account: # _____ To Account: # _____

Signed: _____ **Approved by:** _____
Staff Member Date City Manager Date

ORDINANCE NO. 2023-33

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 0.32 ACRES OF LAND BEING LOTS 1 & 2, BLOCK 53 OF REVISED MAP OF TOMBALL FROM SINGLE FAMILY RESIDENTIAL – 6 (SF-6) TO OLD TOWN & MIXED USE (OT & MU) ZONING. THE PROPERTY IS LOCATED 400 N. ELM STREET; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

Whereas, Hightower Investments LTD., has requested changing the zoning district classification of approximately 0.32 acres of land being Lots 1 & 2 in Block 53 of Revised Map of Tomball from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property located at 400 N. Elm Street, within the City of Tomball, Harris County, Texas (the “Property”), be rezoned; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days after written notice of that hearing was mailed to the owners of land within three hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the requested rezoning; and

Whereas, the public hearing was held before the Planning & Zoning Commission at least forty (40) calendar days after the City’s receipt of the requested rezoning; and

Whereas, the Planning & Zoning Commission recommended in its final report that City Council deny the requested rezoning; and

Whereas, the City Council deems it appropriate to grant the requested rezoning.

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

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The rezoning classification of the Property is hereby changed and is subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas shall be revised and amended to show the designation of the Property as hereby stated, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for the Property as described above.

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 6. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON 18th DAY OF September 2023.

COUNCILMAN FORD	<u>Yay</u>
COUNCILMAN STOLL	<u>Yay</u>
COUNCILMAN DUNAGIN	<u>Yay</u>
COUNCILMAN TOWNSEND	<u>Yay</u>
COUNCILMAN PARR	<u>Yay</u>

SECOND READING:

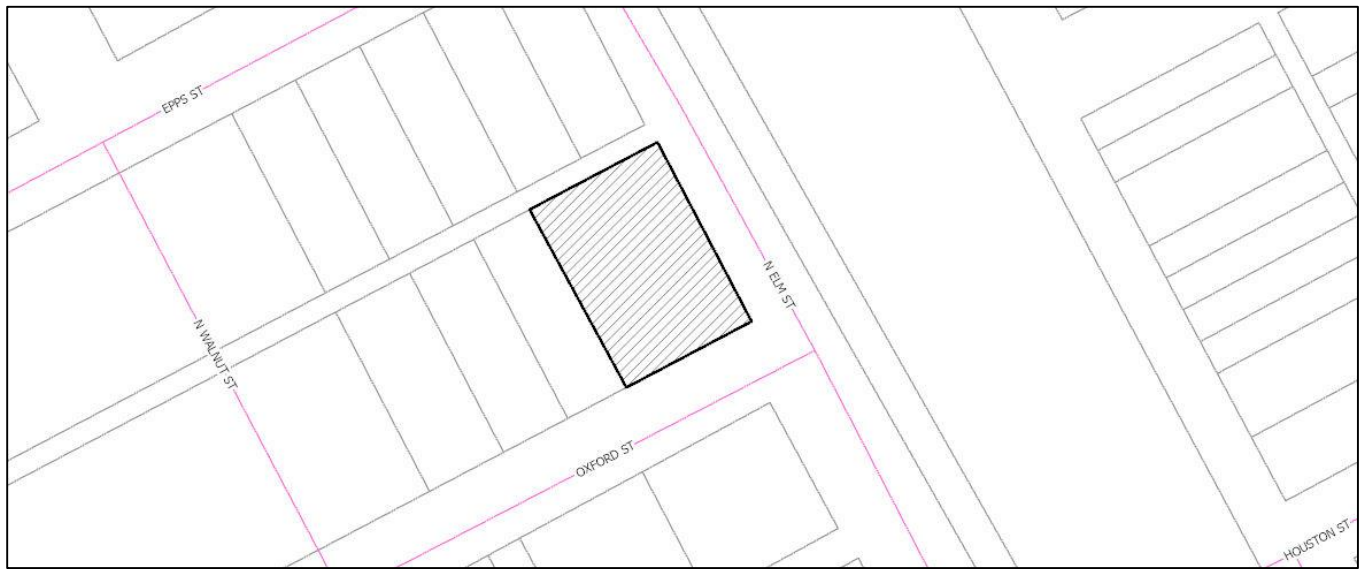
READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON 2nd DAY OF October 2023.

COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN PARR	_____

LORI KLEIN QUINN, Mayor

ATTEST:

TRACYLYNN GARCIA, City Secretary



Location: 400 N. Elm Street. Lots 1 & 2, in Block 53 of Revised Map of Tomball, City of Tomball, Harris County, Texas.

-END-

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION (P&Z)
SEPTEMBER 11, 2023
&
CITY COUNCIL
SEPTEMBER 18, 2023**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, September 11, 2023 at 6:00 P.M.** and by the City Council of the City of Tomball on **Monday, September 18, 2023 at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, the P&Z and City Council will consider the following:

Conditional Use Permit Case CUP23-05: Request by 2 S&Z Investments LLC., represented by Breann Williams, for a Conditional Use Permit to allow “Barber/Beauty Shop (no related school/college)” within Office (O) zoning. Affecting approximately 1.00 Acres of land legally described as being Reserve B, Block 1 of Brown-Hufsmith Church Subdivision. The property is located at the southwest corner of Brown-Hufsmith Road and Baker Drive, within the City of Tomball, Harris County, Texas.

Conditional Use Permit Case CUP23-06: Request by Equalizer USA, Inc., represented by Morales Engineering Associates, LLC., for a Conditional Use Permit to allow “Playfield or stadium (private)” within Agricultural (AG) zoning. Affecting approximately 7.51 Acres of land legally described as being Lot 69 of Tomball Townsite Outlots. The property is located at the northeast corner of Rudolph Road and E. Hufsmith Road, within the City of Tomball, Harris County, Texas.

Re-Zoning Case Z23-12: Request by Paul & Delphine Michna to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 0.29 acres of land legally described as being Lot 200, Block 10 of Sansom Plaza from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 611 N. Cherry Street, within the City of Tomball, Harris County, Texas.

Re-Zoning Case Z23-13: Request by Hightower Investments LTD. To amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 0.32 acres of land legally described as being Lots 1 & 2, Block 53 of Revised Map of Tomball from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 400 N. Elm Street, within the City of Tomball, Harris County, Texas.

At the public hearings, parties of interest and citizens will have the opportunity to be heard. All citizens of the City of Tomball, and any other interested parties, are invited to attend. Applications are available for public inspection Monday through Friday, except holidays, at the Administrative Services Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the City Planner, Jared Smith, at (281) 290-1491 or at jasmith@tomballtx.gov.

CERTIFICATION

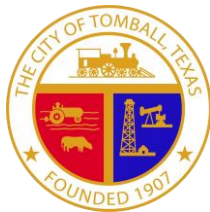
I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 8th day of September 2023 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Jared Smith

Jared Smith

City Planner

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.tomballtx.gov.



City of Tomball
Community Development Department

NOTICE OF PUBLIC HEARING

RE: Zone Change Case Number Z23-13

08/29/23

The Planning & Zoning Commission will hold a public hearing on **September 11, 2023 at 6:00 PM**, in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas to recommend approval or denial to City Council on a request by Hightower Investments LTD. To amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 0.32 acres of land legally described as being Lots 1 & 2, Block 53 of Revised Map of Tomball from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 400 N. Elm Street, within the City of Tomball, Harris County, Texas.

This hearing is open to any interested person. Opinions, objections and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as listed below. All responses must be signed.

The attached map shows the area of this request. Only that area which is bounded by the cross-hatched line on the map is being considered for **rezoning**. The solid boundary line around the subject area is only a notification area. All owners of property within 300-feet of the subject property are required to be notified. Whether approved or denied by the Planning & Zoning Commission, this case will be heard by City Council for First Reading with public hearing on **September 18, 2023 at 6:00 PM** in City Council Chambers at City Hall, 401 Market Street, Tomball, Texas.

If you have any questions, please contact Jared Smith, City Planner at telephone 281-290-1491 or by email address jasmith@tomballtxgov

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: Z23-13

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Mailing To: Community Development Department
501 James St., Tomball TX 77375

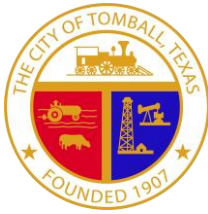
Name:
Parcel I.D.:
Address:

Email: jasmith@tomballtx.gov

I am in favor ☐
Additional Comments:

I am opposed ☐

Signature: _____



City of Tomball
Community Development Department

Z23-13



Notification Area



1

Request to Speak before Tomball Planning & Zoning Commission

Name SUSAN SHUSTER Phone 832-725-6764 Date 9-11-2023
Home Address 103 EPPS ST City TOMBALL Zip 77375

Email address: s/shuster@sbcglobal.net

I DO DO NOT want to be added to the City of Tomball email list.

- ☐ Public Hearing Agenda Item # 223-13
☐ Other Agenda Item #

 I wish to speak IN FAVOR of this item.
X I wish to speak IN OPPOSITION to this item.
X I do not wish to speak; however, please record my
 SUPPORT X OPPOSITION

- ☐ General Citizen Comments: This item is available for citizens to speak on any subject; however, no action, by law, may be taken on the topic.

Topic of Discussion:

Comments during Citizens' Comments will be limited to 3 minutes.
(Please see instructions on the back of the form.)

FOR THE PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: Z23-13

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Mailing To: Community Development Department
501 James St., Tomball TX 77375

Name: HIGHTOWER INVESTMENTS LTD
Parcel I.D.: 0352690530001
Address: 400 N ELM ST

Email: jasmith@tomballtx.gov

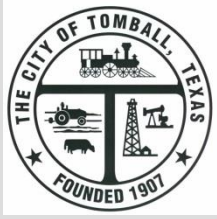
I am in favor ☒

I am opposed ☐

Additional Comments:

Signature: 

501 James Street • TOMBALL, TEXAS 77375



Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: September 11, 2023
City Council Public Hearing Date: September 18, 2023

Rezoning Case: Z23-13

Property Owner(s): Hightower Investments Ltd.

Applicant(s): Hightower Investments Ltd.

Legal Description: Lots 1 & 2, Block 53 of Revised Map of Tomball

Location: Located at 400 N. Elm Street, within the City of Tomball, Harris County, Texas. (Exhibit “A”)

Area: 0.32 acres (approximately)

Comp Plan Designation: Old Town (Exhibit “B”)

Present Zoning: Single Family Residential – 6 (SF-6) (Exhibit “C”)

Request: Rezone from Single Family Residential – 6 (SF-6) to Old Town and Mixed-Use (OT & MU)

Adjacent Zoning & Land Uses:

North: Single Family Residential – 6 (SF-6)/Spring Creek Animal Hospital

South: Oxford Street, Single Family Residential – 6 (SF-6)/Single Family Residence

West: Single Family Residential – 6 (SF-6)/Single Family Residence (Homestead)

East: N. Elm Street, Single Family Residential – 6 (SF-6), Railroad/Vacant Land

BACKGROUND

The subject property has been within the city limits of Tomball since 1907. According to Harris County Appraisal District records a single family residence was constructed on the property in 1950. The applicant’s request is to rezone the subject property to Old Town and Mixed-Use (OT & MU) to make the property more desirable for future buyers. The proposed use is not specified by the applicant at this time.

ANALYSIS

Description: The subject property comprises about 0.32 acres and is located at 400 N. Elm Street, at the corner of N. Elm Street and Oxford Street. The subject property is zoned SF-6 and has been within this zoning classification since the City of Tomball adopted zoning in 2008. All surrounding properties are also zoned SF-6. The property immediately to the north of the subject property contains Spring Creek Animal Hospital, this commercial building was constructed in 1996 and is presently a legally non-conforming use. To the south of Oxford Street is a single-family residence. The property to the west also contains a single-family residence (homestead). To the east across N. Elm Street is vacant land and railroad tracks.

Comprehensive Plan Recommendation: The property is designated as “Old Town” by the Comprehensive Plans Future Land Use Map. This Old Town category is intended to be “highly walkable and promote a distinct sense of place”.

According to the Comprehensive Plan, “land uses should consist of a mix of residential, office, retail, entertainment, restaurants, and public facilities. Secondary uses include bed and breakfast lodging, live-work buildings, places of assembly or even venues and home professions”.

The Comprehensive Plan recommends the zoning district of – OT & MU (Old Town and Mixed Use) for the Old Town land use category.

Additionally, the Comprehensive Plan states – “The following considerations should be used as guidance for regulatory modifications or as part of decision-making: New development should encourage building to the street at a pedestrian scale, with no parking between the front building façade and the street. Pedestrian enhancements such as wide sidewalks, pedestrian furnishings, and street trees should be emphasized.”

According to Section 50-79 (*Old Town and Mixed-Use District*), the nature of the Old Town & Mixed Use District “is a mixture of retail, commercial and other non-residential uses, along with single-family homes and multiple-family uses. The city’s comprehensive plan endorses the continuation of the mixture of uses in these areas”. Additionally, Old Town & Mixed-Use zoning “is intended to provide a zoning mechanism for a variety of uses in the original town site and those areas that have a diverse mixture of uses”.

Staff Review Comments:

The request to rezone to Old Town & Mixed-Use (OT & MU) is in accordance with the Future Land Use Map which identifies the subject property as being within the “Old Town” Future Land Use Category. Rezoning the property as requested would achieve the goals and objectives outlined in the Comprehensive Plan. This is particularly true regarding growth and capacity by encouraging infill and redevelopment, while utilizing existing infrastructure within Old Town Tomball. Additionally, this zone change request will promote the goal of encouraging development with a mixture of uses in a walkable environment. According to the Comprehensive Plan “locating community facilities, services, and limited commercial services within and near existing neighborhoods has the potential to create mutually-beneficial synergies and higher quality of life”. This request also serves to achieve the community livability goal of encouraging the expansion of Old Town so that it continues to grow as the City grows. The property immediately north is an existing legally non-conforming commercial use, the western half of the block is occupied by another commercial use (Tomball Bible Church) and one-half block to the south is “Old Town”. Old Town is the area bounded by the railroad tracks, Houston, Pine, and Fannin Streets. This area

is largely comprised of a mixture of commercial uses alongside single family residences. That being said, the uses which would be allowed on the subject property within the requested Old Town & Mixed-Use zoning would continue to promote a mixture of land uses in the surrounding Old Town area and said uses would be in character with the properties.

PUBLIC COMMENT

A Notice of Public Hearing was published in the paper and property owners within 300 feet of the project site were mailed notification of this proposal on August 29, 2023. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends approval of Zoning Case Z23-13.

EXHIBITS

- A. Location Map
- B. Future Land Use Plan Map
- C. Zoning Map
- D. Site Photo(s)
- E. Rezoning Application

Exhibit "A"
Aerial Location Map



Location



Exhibit "B"
Future Land Use Plan Map



Future Land Use

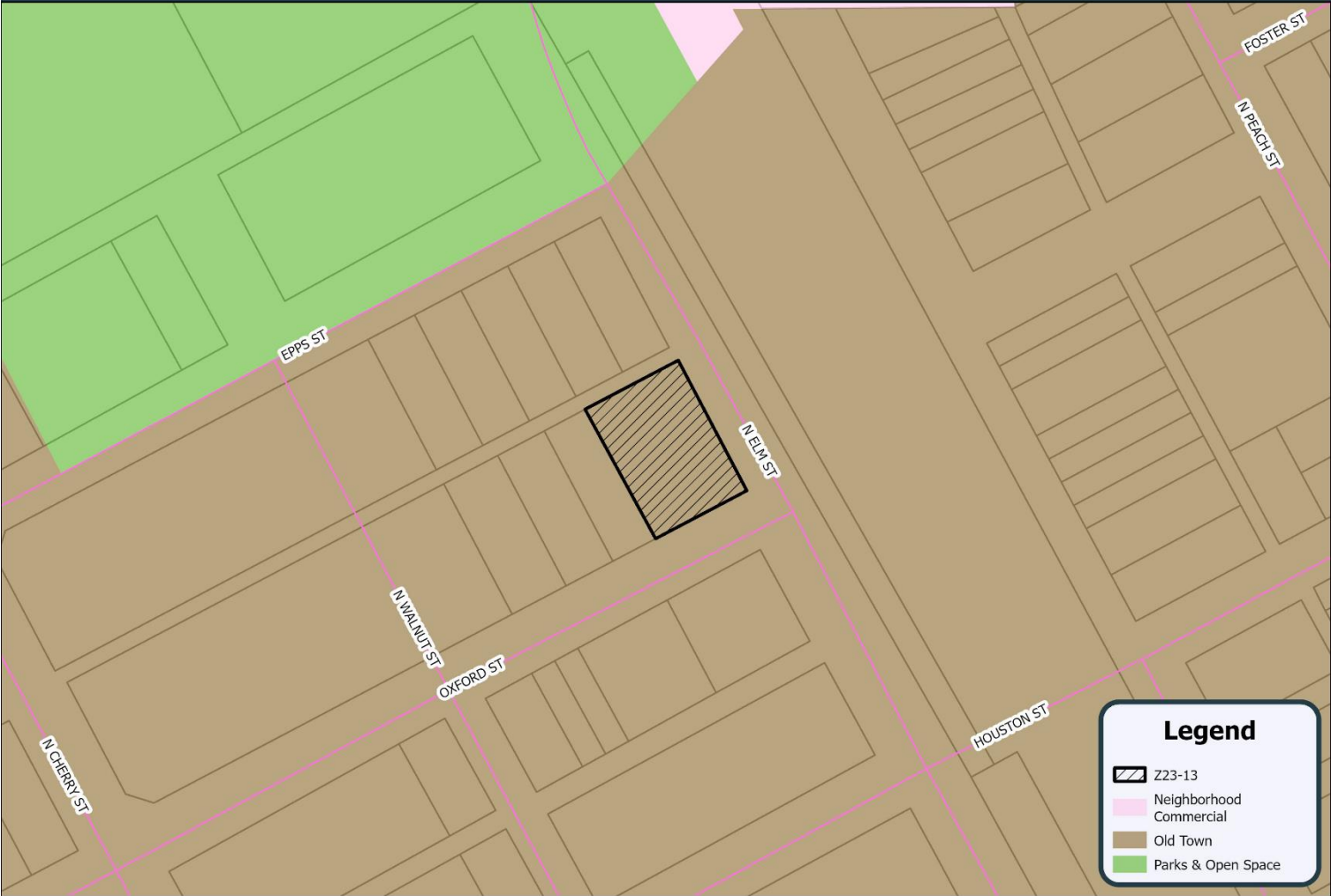
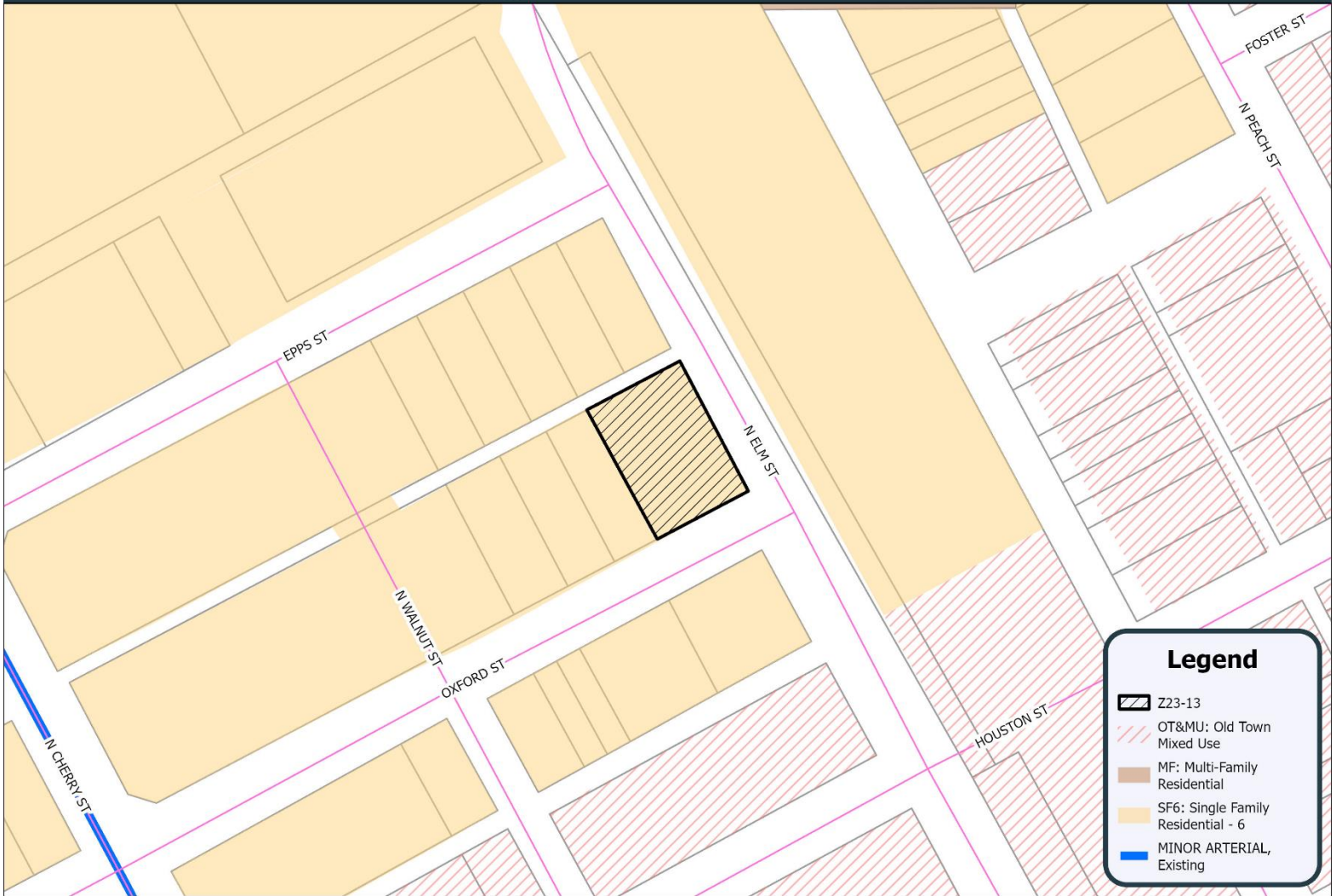


Exhibit "C"
Zoning Map



Zoning

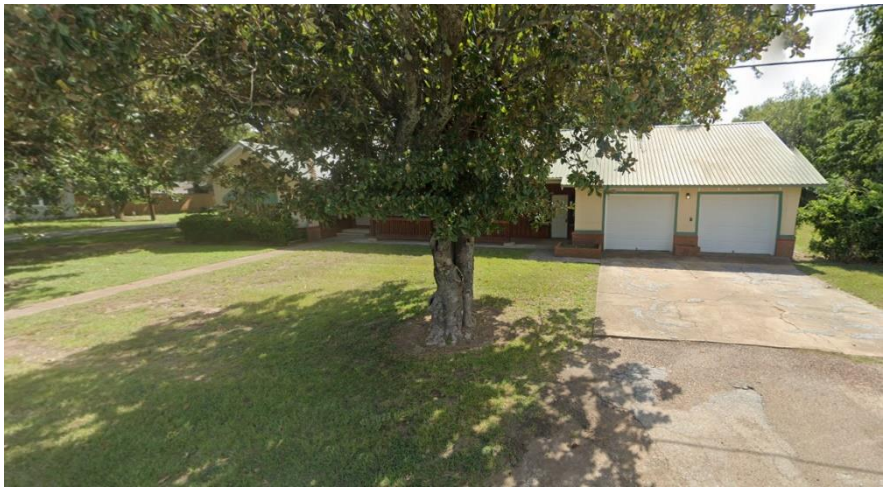


Legend

- Z23-13
- OT&MU: Old Town Mixed Use
- MF: Multi-Family Residential
- SF6: Single Family Residential - 6
- MINOR ARTERIAL, Existing

**Exhibit “D”
Site Photo(s)**

Subject Site



Neighbor (West)



Neighbor (East)



Neighbor (North)



Neighbor (South)



Exhibit "E"
Rezoning Application

Revised: 4/13/2020



APPLICATION FOR RE-ZONING
Community Development Department
Planning Division

APPLICATION SUBMITTAL: Applications will be **conditionally** accepted on the presumption that the information, materials and signatures are complete and accurate. If the application is incomplete or inaccurate, your project may be delayed until corrections or additions are received.

Applicant

Name: HIGHTOWER INVESTMENTS LTD Title: PRESIDENT
Mailing Address: 6015 THEALL Rd. City: HOUSTON State: TX
Zip: 77066 Contact: BILL HIGHTOWER
Phone: (832) 423-0513 Email: bill@hightowerelectricltd.com

Owner

Name: HIGHTOWER INVESTMENTS LTD Title: PRESIDENT
Mailing Address: 6015 THEALL Rd. City: HOUSTON State: TEXAS
Zip: 77066 Contact: BILL HIGHTOWER
Phone: (832) 423-0513 Email: bill@hightowerelectricltd.com

Engineer/Surveyor (if applicable)

Name: N/A Title: _____
Mailing Address: _____ City: _____ State: _____
Zip: _____ Contact: _____
Phone: (____) _____ Fax: (____) _____ Email: _____

Description of Proposed Project: CHANGE ZONING ONLY

Physical Location of Property: N.W. CORNER OF N. ELM AND OXFORD
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: Lts 1+2 Blk 53 TOMBALL 400 N. ELM ST.
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: SF-6 SINGLE FAMILY 6 DISTRICT

Current Use of Property: RESIDENTIAL

Proposed Zoning District: OT & MU - OLD TOWN AND MIXED USE DISTRICT

Proposed Use of Property: TO MAKE MORE ATTRACTIVE TO A BUYER

HCAD Identification Number: 0352690530001 Acreage: 14000 Sq. Ft.

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405 www.tomballtx.gov

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.

This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

X  10/06/2022
Signature of Applicant Date

X  10/06/2022
Signature of Owner Date

Submittal Requirements

The following summary is provided for the applicant's benefit. However, fulfilling the requirements of this summary checklist does not relieve the applicant from the responsibility of meeting the regulations in the Zoning Ordinance, subdivision regulations, and other development related ordinances of the City of Tomball.

Applications must be received by the City of Tomball at least 40 calendar days prior to the City Planning and Zoning Commission hearing date.

- ☒ Completed application form
- ☒ *Copy of Recorded/Final Plat *N/A*
- ☒ Check for \$400.00 + \$10.00 per acre (Non-Refundable)
- ☒ Letter stating reason for request and issues relating to request
- ☒ Conceptual Site Plan (if applicable) *N/A*
- ☒ Metes & Bounds of property *Survey*
- ☒ Payment of all indebtedness attributed to subject property must be paid with application or an arrangement in accordance with Section 50-36(a)(3) of the Code of Ordinances as cited below:

(No person who owes delinquent taxes, delinquent paving assessments, or any other fees, delinquent debts or obligations or is otherwise indebted to the City of Tomball, and which are directly attributed to a piece of property shall be allowed to submit any application for any type of rezoning, building permit, or plan review until the taxes, assessments, debts, or obligations directly attributable to said property and owed by the owner or previous owner thereof to the City of Tomball shall have been first fully discharged by payment, or until an arrangement satisfactory to the City has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence of proof that all taxes, fees, etc., have been paid, or that other arrangements satisfactory to the City have been made for payment of said taxes, fees, etc.)

The City's staff may require other information and data for specific required plans. Approval of a required plan may establish conditions for construction based upon such information.

***Legal Lot Information:** If property is not platted, a plat will be required to be filed with the Community Development Department unless evidence of a legal lot is provided. To be an unplatted legal lot, the applicant is required to demonstrate that the tract existed in the same shape and form (same metes and bounds description) as it currently is described prior to August 15, 1983, the date the City adopted a subdivision ordinance.



400 N. Elm Street

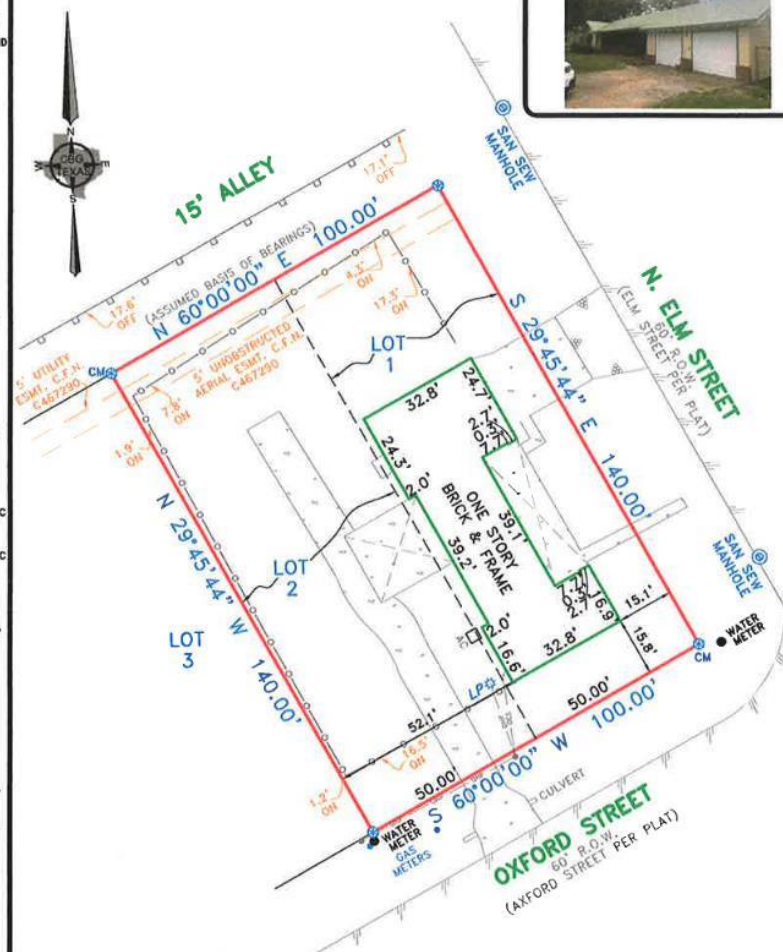
Lot 1, and 2, in Block 53, of TOWN OF TOMBALL, a subdivision in Harris County, Texas, according to the map or plat thereof, recorded in Volume 2, Page 36 of the Map Records of Harris County, Texas.

stewart title

Real partners. Real possibilities.™

LEGEND

- 1/2" ROD FOUND
- ⊗ 1/2" ROD SET
- 1" PIPE FOUND
- ⊗ "X" FOUND/SET
- ⊗ 5/8" ROD FOUND
- ⊗ 5/8" ROD SET
- ◆ POINT FOR CORNER
- FENCE POST FOR CORNER
- CM CONTROLLING MONUMENT
- AC AIR CONDITIONER
- PE POOL EQUIPMENT
- TE TRANSFORMER PAD
- COLUMN
- POWER POLE
- ▲ UNDERGROUND ELECTRIC
- △ OVERHEAD ELECTRIC
- TELE TELEPHONE PEDESTAL
- BL BUILDING LINE
- AE AERIAL EASEMENT
- SSE SANITARY SEWER EASEMENT
- GM GAS METER
- WM WATER METER
- LP LIGHT POLE
- UE UTILITY EASEMENT
- OHP— OVERHEAD ELECTRIC POWER
- DES— OVERHEAD ELECTRIC SERVICE
- CHAIN LINK
- WOOD FENCE 0.5' WIDE TYPICAL
- IL— IRON FENCE
- X— BARBED WIRE
- DOUBLE SIDED WOOD FENCE
- EDGE OF ASPHALT
- EDGE OF GRAVEL
- CONCRETE
- COVERED AREA
- BRICK
- STONE



EXCEPTIONS:

NOTE: PROPERTY SUBJECT TO TERMS, CONDITIONS, AND EASEMENTS CONTAINED IN INSTRUMENTS RECORDED IN VOLUME 2, PAGE 36

EASEMENTS RECORDED IN THE FOLLOWING VOLUMES AND PAGES DO NOT AFFECT THE ABOVE DESCRIBED PROPERTY
VOLUME 834, PAGE 295, VOLUME 974, PAGE 581,
VOLUME 1221, PAGE 22, C.F.N. R358887

REVISION: 04-01-2022

Accepted by:

Date:

Purchaser

Purchaser

NOTES:

NOTE: BEARINGS, EASEMENTS AND BUILDING LINES ARE BY RECORDED PLAT UNLESS OTHERWISE NOTED.

FLOOD NOTE: According to the F.I.R.M. No. 48201C0230L, this property does lie in Zone X and DOES NOT lie within the 100 year flood zone.

This survey is made in conjunction with the information provided by Stewart Title. Use of this survey by any other parties and/or for other purposes shall be at user's own risk and any loss resulting from other use shall not be the responsibility of the undersigned. This is to certify that I have on this date made a careful and accurate survey on the ground of the subject property. The plat hereon is a correct and accurate representation of the property lines and dimensions as indicated; location and type of buildings are as shown; and EXCEPT AS SHOWN, there are no visible and apparent encroachments or protrusions on the ground.

Drawn By: HMM/CM

Scale: 1" = 30'

Date: 3-29-2022

GF No.: 1611147

Job No.: 2206315



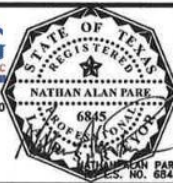
419 Century Plaza Dr., Ste. 210
Houston, TX 77073

P 281.443.9288

F 281.443.9224

Firm No. 10194280

www.cbgtxtile.com



HIGHTOWER INVESTMENTS, LTD.

6115 THEALL RD, HOUSTON, TEXAS 77066

281-440-4405

FAX 281-440-4990

October 6, 2022

City of Tomball
Planning Commission
501 James Street
Tomball, TX 77375

Reference: 400 N. Elm Street

I would like to request a zoning change for 400 N. Elm Street from SF-6 – Single Family 6 District to OT & MU – Old Town & Mixed-Use District. I am requesting this change to make the property more desirable to a purchaser of said property in the future.

Thank you for your consideration.

Sincerely,



William G. Hightower
Hightower Investments LTD

HARRIS COUNTY APPRAISAL DISTRICT
REAL PROPERTY ACCOUNT INFORMATION
0352690530001

Tax Year: 2022

 Print

Owner and Property Information								
Owner Name & Mailing Address:			Legal Description:			Property Address:		
HIGHTOWER INVESTMENTS LTD 6115 THEALL HOUSTON TX 77066-1401			LTS 1 & 2 BLK 53 TOMBALL 400 N ELM ST TOMBALL TX 77375					
State Class Code	Land Use Code	Land Area	Total Living Area	Neighborhood	Neighborhood Group	Market Area	Map Facet	Key Map
A1 -- Real, Residential, Single-Family	1001 -- Residential Improved	14,000 SF	1,512 SF	2593.06	26015	400 -- ISD 26 - Tomball ISD	4771B	288H

Value Status Information

Value Status	Notice Date	Shared CAD
Noticed	03/31/2022	No

Exemptions and Jurisdictions

Exemption Type	Districts	Jurisdictions	Exemption Value	ARB Status	2021 Rate	2022 Rate
None	026	TOMBALL ISD		Certified: 08/19/2022	1.250000	1.230000
	040	HARRIS COUNTY		Certified: 08/19/2022	0.376930	
	041	HARRIS CO FLOOD CNTRL		Certified: 08/19/2022	0.033490	
	042	PORT OF HOUSTON AUTHY		Certified: 08/19/2022	0.008720	
	043	HARRIS CO HOSP DIST		Certified: 08/19/2022	0.162210	
	044	HARRIS CO EDUC DEPT		Certified: 08/19/2022	0.004990	
	045	LOVE STAR COLLEGE SYS		Certified: 08/19/2022	0.107800	
	083	CITY OF TOMBALL		Certified: 08/19/2022	0.333339	
	679	HC EMERG SERV DIST 8		Certified: 08/19/2022	0.094245	
Texas law prohibits us from displaying residential photographs, sketches, floor plans, or information indicating the age of a property owner on our website. You can inspect this information or get a copy at HCAD's information center at 13013 NW Freeway.						

Valuations

Value as of January 1, 2021				Value as of January 1, 2022			
	Market	Appraised		Market	Appraised		
Land	68,250			94,500			
Improvement	92,571			92,500			
Total	160,821	160,821	Total	187,000	187,000		

Land

Market Value Land												
Line	Description	Site Code	Unit Type	Units	Size Factor	Site Factor	Appr O/R Factor	Appr O/R Reason	Total Adj	Unit Price	Adj Unit Price	Value
1	1001 -- Res Improved Table Value	SF1	SF	7,000	1.00	1.00	1.00	--	1.00	9.00	9.00	63,000.00
2	1001 -- Res Improved Table Value	SF3	SF	7,000	1.00	0.50	1.00	--	0.50	9.00	4.50	31,500.00

Building

Building	Year Built	Type	Style	Quality	Impr Sq Ft	Building Details
1	1950	Residential Single Family	Residential 1 Family	Average	1,512 *	Displayed

* All HCAD residential building measurements are done from the exterior, with individual measurements rounded to the closest foot. This measurement includes all closet space, hallways, and interior staircases. Attached garages are not included in the square footage of living area, but valued separately. Living area above attached garages is included in the square footage living area of the dwelling. Living area above detached garages is not included in the square footage living area of the dwelling but is valued separately. This method is used on all residential properties in Harris County to ensure the uniformity of square footage of living area measurements district-wide. There can be a reasonable variance between the HCAD square footage and your square footage measurement, especially if your square footage measurement was an interior measurement or an exterior measurement to the inch.

Building Details (1)

Building Data	
Element	Detail
Cond / Desir / Util	Fair
Foundation Type	Crawl Space
Grade Adjustment	C
Heating / AC	None
Physical Condition	Good
Exterior Wall	Frame / Concrete Blk
Element	Units
Room: Total	6
Room: Rec	1

Building Areas	
Description	Area
BASE AREA PRI	1,512
MAS/BRK GARAGE PRI	528
OPEN FRAME PORCH PRI	380

<https://public.hcad.org/records/Print.asp?crypt=%94%AD%AE%A9%C4%8F%B5%CF%8C%7Chf%90b%B8%A7%8B%B8ea%5Dm%5C%90%5Dd%...> 1/2

Room: Half Bath	1
Room: Full Bath	1
Room: Bedroom	2
Masonry Trim	1

Extra Features

Line	Description	Quality	Condition	Units	Year Built
1	Carport - Residential	Fair	Average	440.00	1997

From: noreply@tomballtx.gov
To: [Kimberly Chandler](#)
Subject: Receipt #R01336988
Date: Thursday, October 6, 2022 3:52:50 PM

401 Market Street
401 Market Street
Tomball, TX 77375
(281) 351-5484

DATE : 10/6/2022 3:44 PM
OPER : RP
TKBY : RP
TERM : 2
REC# : R01336988
130.0000 PLANNING AND ZONING
N ELM & OXFORD ST HIGHTOWER INVEST SF6-OTMU 400.00

Paid By:N ELM & OXFORD ST HIGHTOWER INVEST SF6-OTMU
2-CK 400.00 REF:w 1031

City Council Meeting
Agenda Item
Data Sheet

Meeting Date: October 2, 2023

Topic:
Adopt, on Second Reading, Ordinance No. 2023-37, an Ordinance of the City of Tomball, Texas, Amending its Code of Ordinances by Adding Section 46-66 (Disconnection of Temporary Hydrant Meter Service); Providing for Severability; Providing for a Penalty of an Amount not to Exceed \$2,000 for Each Day of Violation of Any Provision Hereof; Making Findings of Fact; and Providing for Other Related Matters.

Background:

First reading adopted on September 18, 2023.

Staff recommends a text amendment to include the disconnection of temporary hydrant meter service after 30 days of inactivity. Currently, temporary hydrant meter service is not addressed in the Code of Ordinances.

Origination: Finance Director

Recommendation:

Adopt Ordinance No. 2023-37 on First Reading

Party(ies) responsible for placing this item on agenda: Katherine Tapscott, Finance Director

FUNDING (IF APPLICABLE)
Are funds specifically designated in the current budget for the full amount required for this purpose?
Yes: _____ No: _____ If yes, specify Account Number: # _____
If no, funds will be transferred from account # _____ To account # _____

Signed	Katherine Tapscott	9/13/2023	Approved by		
	Staff Member	Date		City Manager	Date

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS AMENDING ITS CODE OF ORDINANCES BY ADDING SECTION 46-66 (DISCONNECTION OF TEMPORARY HYDRANT METER SERVICE); PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

* * * * *

WHEREAS, the City Staff presented the proposed text amendment regarding the disconnection of temporary hydrant meter utility service due to inactivity; and

WHEREAS, the City Council finds it to be in the best interest of the health, safety and welfare of the citizens to approve the text amendment as contained in this ordinance; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The facts and matters contained in the preamble to this ordinance are hereby found to be true and correct.

Section 2. Article II, Administration, of Chapter 46, Utilities of the Code of Ordinances of the City of Tomball, Texas is hereby amended, as set out in Exhibit A, attached hereto and made a part of this Ordinance for all purposes.

Section 3. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 4. Any person who shall intentionally, knowingly, recklessly or with criminal negligence violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 18TH DAY OF SEPTEMBER, 2023.

Exhibit A

ADD: Section 46-66 - Disconnection of Temporary Hydrant Meter Service.

If temporary hydrant meter utility service is inactive for 30 days, the city shall have the right to disconnect and discontinue all utility services furnished by the city to the consumer.

-END-

City Council Meeting Agenda Item Data Sheet

Meeting Date: 10/02/2023

Topic:

Approve the Minutes of the September 18, 2023, Special Joint City Council and TEDC Meeting and the Regular Tomball City Council Meeting.

Background:

Origination: City Staff

Recommendation:

Approve Minutes

Party(ies) responsible for placing this item on agenda: Tracylynn Garcia, City Secretary

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed	<u>Tracylynn Garcia</u>	Approved by	_____
	Staff Member		City Manager
	Date		Date

MINUTES OF SPECIAL CITY COUNCIL - TEDC WORKSHOP CITY OF TOMBALL, TEXAS



**Monday, September 18, 2023
4:00 PM**

A. Call to Order

The Council meeting was called to order by Mayor Lori Klein Quinn at 4:02 p.m.

Present:

Council 1 John Ford
Council 2 Mark Stoll
Council 3 Dane Dunagin
Council 4 Derek Townsend, Sr.

Excused Absence:

Council 5 Randy Parr

Others present:

City Manager – David Esquivel
Assistant City Manager – Jessica Rogers
City Attorney – Loren Smith
City Secretary – Tracylynn Garcia
Assistant City Secretary- Sasha Luna
Director of Marketing & Tourism – Chrislord Templonuevo
Police Chief – Jeff Bert
HR Director – Kristie Lewis
Finance Director – Katherine Tapscott
Executive Director – Kelly Violette
Assistant Director – Tiffani Wooten
Project Coordinator – Meagan Mageo
IT Sr. Specialist – Ben Lato

The Tomball Economic Development Corporation meeting was called to order by
President Gretchen Fagan

Present:

Chad Degges
Clete Jaeger

Lisa Covington

B. Public Comments and Receipt of Petitions

No public comments were received.

C. New Business

1. The Tomball City Council and Tomball Economic Development Corporation entered in a Workshop to consider the Proposed Fiscal Year 2023-2024 TEDC Budget

D. Adjournment

Motion made by Council 3 Dunagin, Seconded by Council 4 Townsend, Sr.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr.

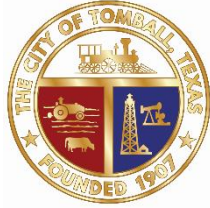
Motion carried unanimously.

PASSED AND APPROVED this 2nd day of October, 2023.

Tracylynn Garcia
City Secretary, TRMC, CMC, CPM

Lori Klein Quinn
Mayor

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**Monday, September 18, 2023
6:00 PM**

The City Council of the City of Tomball, Texas, conducted the meeting scheduled for September 18, 2023, 6:00 PM, at 401 Market Street, Tomball, Texas 77375, via physical attendance and video/telephone conference.

- A. Mayor L. Klein-Quinn called the meeting of the City of Tomball Council to order at 6:00 p.m.

PRESENT

Mayor Lori Klein Quinn
Council 1 John Ford
Council 2 Mark Stoll
Council 3 Dane Dunagin
Council 4 Derek Townsend, Sr.
Council 5 Randy Parr

Others present:

City Manager – David Esquivel
Assistant City Manager – Jessica Rogers
City Attorney – Loren Smith
City Secretary – Tracylynn Garcia
Assistant City Secretary- Sasha Luna
Director of Marketing & Tourism – Chrislord Templonuevo
Police Chief – Jeff Bert
Public Works Director – Drew Huffman
Director of Community Development – Craig Meyers
HR Director – Kristie Lewis
Finance Director – Katherine Tapscott
Fire Chief – Joe Sykora
Project Coordinator – Meagan Mageo
IT Sr. Specialist – Ben Lato
TEDC Executive Director – Kelly Violette
TEDC Assistant Director – Tiffani Wooten
Community Center Manager – Rosalie Dillon

- B. Invocation - Led by Pastor Bill Haygood - Tomball Methodist Church
- C. Pledges to U.S. and Texas Flags was led by Amanda Kelly
- D. Public Comments and Receipt of Petitions; *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law - GC, 551.042.]*

Bruce Hillegeist - In favor 58th Annual Tomball Holiday
20339 Telge Rd. parade
Tomball, TX

Tom Whetherford - Pickleball courts
20203 Mahogany Ridge Dr.
Magnolia, TX

Tim Gamar - Water bill and fees
12502 Montclair Landing Ct.
Tomball, TX

Ellen Lewis - Pickleball courts
712 Clarence St.
Tomball, TX

Brenda Pope - Water bill
31023 Raleigh Creek Dr.
Tomball, TX

John Weaver - Water bill
31119 Winfield Ct.
Tomball, TX

E. Reports and Announcements

1. Announcements

- **Upcoming Events:**
September 23 - GroovFest 11:00 a.m. – 6:00 p.m. @ Depot

September 27 - Tomball HS Homecoming Parade 6:00 – 8:00 p.m. @ Depot & Main St.

September 30 - Tomball Museum Classic Car Day 10:00 a.m. – 2:00

October 3 - National Night Out 5:00 - 8 :00 p.m. @ Depot

October 3 - Tomball Farmers Market Sunset Market 4:00 – 7 p.m.

October 7 - Second Saturday “Spooktacular” 4:00 – 9:00 p.m. @ Depot

October 12 - Mayor’s Kaffeeklatsch 8:30 – 10:00 a.m. @ Community Center

October 14 - Rotary “Big Show” 3:00 – 9:00 p.m. @ Depot

October 14 - TFD Family Day @ Juergens Park

F. Approval of Minutes

1. Approve the Minutes of the September 5, 2023, Special and Regular Tomball City Council Meetings.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

G. Old Business

1. Adopt, on Second Reading, Ordinance No. 2023-29, an Ordinance of the City Council of the City of Tomball, Texas, Adopting the Budget for the City of Tomball, Texas, for Fiscal Year 2023-2024; and Authorizing the City Manager to Approve Intra-Departmental (Within the Same Department Only) Transfers of Budgeted Funds; and Amending the Budget for the 2022-2023 Fiscal Year in Accordance with Actual Expenditures; and Providing Other Details Relating to the Passage of This Ordinance

Motion made by Council 4 Townsend, Sr., Seconded by Council 5 Parr.

Voting Yea: Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Voting Nay: Council 1 Ford, Council 2 Stoll

Motion carried 3 votes yea, 2 votes nay.

H. New Business

1. Approve Resolution No. 2023-41 of the City Council of the City of Tomball, Texas, supporting the 58th Annual Tomball Holiday Parade, Santa's Beach Bash" to be held in the City of Tomball at 10:00 a.m. on Saturday, November 18, 2023, and to Approve Requested Street Closures and In-Kind Services.

Motion made by Council 4 Townsend, Sr., Seconded by Council 3 Dunagin.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

2. Resolution No. 2023-38; A Resolution by the City Council of the City of Tomball, Texas, Authorizing Publication of Notice of Intention to Issue Certificates of Obligation; Approving the Preparation of a Preliminary Official Statement; And Approving Other Matters Incidental Thereto

No action was taken.

3. Approve the Proposed Tax Rate of \$0.293320/\$100 for Tax Year 2023 and Set the Dates to Vote on the Proposed Tax Rate for October 2, 2023 and October 16, 2023

Motion made by Council 4 Townsend, Sr., Seconded by Council 5 Parr.

Voting Yea: Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Voting Nay: Council 1 Ford, Council 2 Stoll

Motion carried 3 votes yea, 2 votes nay.

4. Approve Resolution No. 2023-43, a Resolution of the City of Tomball, Texas, Adopting the City of Tomball's Fiscal Year 2024-2028 Capital Improvement Plan.

Motion made by Council 4 Townsend, Sr., Seconded by Council 3 Dunagin.

Voting Yea: Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Voting Nay: Council 1 Ford

Motion carried 4 votes yea, 1 vote nay.

5. Adopt, on First Reading, Ordinance No. 2023-37, an Ordinance of the City of Tomball, Texas, Amending its Code of Ordinances by Adding Section 46-66 (Disconnection of Temporary Hydrant Meter Service); Providing for Severability; Providing for a Penalty of an Amount not to Exceed \$2,000 for Each Day of Violation of Any Provision Hereof; Making Findings of Fact; and Providing for Other Related Matters.

Motion made by Council 5 Parr, Seconded by Council 4 Townsend, Sr., to read by caption only on First Reading.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

Motion made by Council 4 Townsend, Sr., Seconded by Council 3 Dunagin to adopt on First Reading.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

6. Approve the Tomball Economic Development Corporation (TEDC) Fiscal Year 2023-2024 Budget.

Motion made by Council 2 Stoll, Seconded by Council 3 Dunagin.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr.

Voting Abstaining: Council 5 Parr

Motion carries 4 votes yea, 1 abstention.

7. Presentation, discussion, and possible action regarding the Alley Improvement Project.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll for mesquite tile color for alleyway.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

8. Consider, Discuss and Appoint the Charter Review Commission Chair and Co-Chair.

Motion made by Council 3 Dunagin to designate Tana Ross as Chairman,
Seconded by Council 5 Parr.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

9. Approve Resolution No. 2023-42, a Resolution of the City of Tomball, Texas approving the Fiscal Year 2023-2024 Strategic Plan.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

10. Approve Resolution No. 2023-44, a Resolution of the City of Tomball, Texas, approving the Master Fee Schedule for Fiscal Year 2023-2024.

Motion made by Council 4 Townsend, Sr., Seconded by Council 3 Dunagin.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

11. Consideration to Approve **Conditional Use Permit Case CUP23-05**: Request by 2 S&Z Investments LLC., represented by Breann Williams, for a Conditional Use Permit to allow “Barber/Beauty Shop (no related school/college)” within Office (O) zoning. Affecting approximately 1.00 Acres of land legally described as being Reserve B, Block 1 of Brown-Hufsmith Church Subdivision. The property is

located at the southwest corner of Brown-Hufsmith Road and Baker Drive, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Conditional Use Permit Case CUP23-05**

- Mayor Klein Quinn called the PH to order at 7:02 pm.
- Hearing no comments Mayor Klein Quinn closed PH at 7:03 pm.

Adopt, on First Reading, Ordinance No. 2023-30, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by issuing a Conditional Use Permit to allow “Barber/Beauty Shop (no related school/college)” within Office (O) zoning. Affecting approximately 1.00 Acres of land legally described as being Reserve B, Block 1 of Brown-Hufsmith Church Subdivision. The property is located at the southwest corner of Brown-Hufsmith Road and Baker Drive, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll to read by caption only on First Reading.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

Motion made by Council 1 Ford, Seconded by Council 4 Townsend, Sr., to adopt on First Reading.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

12. Consideration to Approve **Conditional Use Permit Case CUP23-06**: Request by Equalizer USA, Inc., represented by Morales Engineering Associates, LLC., for a Conditional Use Permit to allow “Playfield or stadium (private)” within Agricultural (AG) zoning. Affecting approximately 7.51 Acres of land legally described as being Lot 69 of Tomball Townsite Outlots. The property is located at

the northeast corner of Rudolph Road and E. Hufsmith Road, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Conditional Use Permit Case CUP23-06**

- Mayor Klein Quinn called the PH to order at 7:06 pm.

John Klueger
503 Clayton - Parking concerns
Tomball, TX

Enrico Morales
Moral Engineering Associates - Representing applicant

- Hearing no further comments Mayor Klein Quinn closed PH at 7:10 pm.

Adopt, on First Reading, Ordinance No. 2023-31, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by issuing a Conditional Use Permit to allow “Playfield or stadium (private)” within Agricultural (AG) zoning. Affecting approximately 7.51 Acres of land legally described as being Lot 69 of Tomball Townsite Outlots. The property is located at the northeast corner of Rudolph Road and E. Hufsmith Road, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll to read by caption only on First Reading.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

Motion made by Council 4 Townsend, Sr., Seconded by Council 5 Parr to amend motion to include parking compliances.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

Motion made by Council 4 Townsend, Sr., Seconded by Council 5 Parr to adopt on First Reading.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

13. Consideration to Approve **Re-Zoning Case Z23-12**: Request by Paul & Delphine Michna to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 0.29 acres of land legally described as being Lot 200, Block 10 of Sansom Plaza from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 611 N. Cherry Street, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Re-Zoning Case Z23-12**

- Mayor Klein Quinn called the PH to order at 7:20 pm.
- Hearing no comments Mayor Klein Quinn closed PH at 7:21 pm.

Adopt, on First Reading, Ordinance No. 2023-32, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 0.29 acres of land legally described as being Lot 200, Block 10 of Sansom Plaza from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 611 N. Cherry Street, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Motion made by Council 4 Townsend, Sr., Seconded by Council 5 Parr to read by caption only on First Reading.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

Comments from applicant - Paul Michna

Motion made by Council 5 Parr, Seconded by Council 4 Townsend, Sr., to adopt on First Reading.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

14. Consideration to Approve **Re-Zoning Case Z23-13**: Request by Hightower Investments LTD. To amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 0.32 acres of land legally described as being Lots 1 & 2, Block 53 of Revised Map of Tomball from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 400 N. Elm Street, within the City of Tomball, Harris County, Texas.

Comments from applicant – Bill Hightower

Conduct Public Hearing on **Zoning Case Z23-13**

- Mayor Klein Quinn called the PH to order at 7:34 pm.
- Hearing no comments Mayor Klein Quinn closed PH at 7:35 pm.

Adopt, on First Reading, Ordinance No. 2023-33, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 0.32 acres of land legally described as being Lots 1 & 2, Block 53 of Revised Map of Tomball from Single Family Residential – 6 (SF-6) to Old Town & Mixed Use (OT & MU). The property is located at 400 N. Elm Street, within the City of Tomball, Harris County, Texas; providing for the amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll to read by caption only on First Reading.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

Motion made by Council 4 Townsend, Sr., Seconded by Council 5 Parr to adopt on first reading.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

15. Approve a contract with CentralSquare Technologies, for False Alarm Management Services, and authorize the City Manager to execute the agreement. This contract reduces the revenue share with CentralSquare from 47.5% to 35%.

Motion made by Council 4 Townsend, Sr., Seconded by Council 5 Parr.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

16. Discussion and consideration to approve Resolution No. 2023-39, a Resolution of the City Council of the City of Tomball, Texas authorizing the City Manager to execute an Advance Funding Agreement (AFA) with the Texas Department of Transportation for providing reconstruction and access management improvements to FM 2920 from Business 249-B east to Willow Street.

No action was taken.

17. Approve an agreement with B & C Constructors, LP for improvements at Jerry Matheson Park (BuyBoard Contract No. 19-03DP), for a not-to-exceed amount of \$355,312.26, authorize the expenditure of funds therefor, and authorize the City Manager to execute the agreement. This amount is included in the FY 2022-2023 budget as a Capital Improvement Project.

Motion made by Council 4 Townsend, Sr., Seconded by Council 1 Ford.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

18. Approve a Service Agreement with ABM Texas General Services, Inc. for the janitorial services and supplies for City facilities, for a not-to-exceed amount of \$115,000 (RFP 2023-19), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the

purchases. These expenditures were included in the Fiscal Year 2023-2024 Budget.

Motion made by Council 4 Townsend, Sr., Seconded by Council 3 Dunagin.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

19. Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

Sec. 551.071 - Consultation with the City Attorney regarding a Matter that the Attorney's Duty Requires to be Discussed in Closed Session

Sec. 551.072 – Deliberations regarding Real Property

Sec. 551.074 – Personnel Matters; Deliberation of the Appointment, Employment, and Duties of a Public Officer or Employee-City Manager

Executive Session Started: 7:57 pm

Executive Session Ended: 9:29 pm

20. Discussion and Approval of the Employment Contract for City Manager, David Esquivel, PE

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

I. Adjournment

Motion made by Council 4 Townsend, Sr., Seconded by Council 3 Dunagin.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr.,
Council 5 Parr

Motion carried unanimously.

PASSED AND APPROVED this 2nd day of October, 2023.

Tracylynn Garcia
City Secretary, TRMC, CMC, CPM

Lori Klein Quinn
Mayor

City Council Agenda Item Data Sheet

Meeting Date: October 2, 2023

Topic:

Consider abandonment of a City of Tomball Utility Easement and adopt, on First Reading, Ordinance No. 2023-38, an Ordinance of the City of Tomball, Texas finding and determining that the public convenience and necessity no longer require the continued existence of a certain portion of a City of Tomball Utility Easement across a certain 0.2087 acres of land being out of Unrestricted Reserves "A3" and "A4", Block 1, Replat of Unrestricted Reserve "A" Block One Tomball Village Square according to the map or plat thereof as recorded in Film Code No. 518014 of the Map Records of Harris County, Texas; vacating, abandoning, and closing said portion of such City of Tomball Utility Easement; authorizing the City Manager to execute and the City Secretary to attest a quitclaim deed quitclaiming the City's interest in said abandoned easement, and containing other provisions relating to the subject.

Background:

With the proposed construction of a new Northwest EMS Administration Building at 29510 Quinn Road in Tomball, Texas it is necessary to abandon a portion of an existing 16' wide City of Tomball Utility Easement to accommodate the development. The City does not anticipate the need for the easement since City of Tomball Utility Easements currently exist along the western boundary of the tract which is adequate to serve utilities to the area. For this reason, Community Development has no concerns with the proposed abandonment.

Origination:

Community Development Department

Recommendation:

Approval

Party(ies) responsible for placing this item on agenda: Community Development Department

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____

If yes, specify Account Number: # _____

If no, funds will be transferred from account: # _____ To Account: # _____

Signed: _____ Approved by: _____
Staff Member Date City Manager Date

ORDINANCE NO. 2023-38

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, FINDING AND DETERMINING THAT THE PUBLIC CONVENIENCE AND NECESSITY NO LONGER REQUIRE THE CONTINUED EXISTENCE OF A CERTAIN PORTION OF A CITY OF TOMBALL UTILITY EASEMENT OUT OF UNRESTRICTED RESERVES “A3” AND “A4”, BLOCK 1, REPLAT OF UNRESTRICTED RESERVE “A” BLOCK ONE TOMBALL VILLAGE SQUARE ACCORDING TO THE MAP OR PLAT THEROF AS RECORDED IN FILM CODE NO. 518014 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS; VACATING, ABANDONING, AND CLOSING SAID PORTION OF SUCH CITY OF TOMBALL UTILITY EASEMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE AND THE CITY SECRETARY TO ATTEST A QUITCLAIM DEED QUITCLAIMING THE CITY’S INTEREST IN SAID ABANDONED EASEMENT; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

* * * * *

WHEREAS, the City of Tomball, Texas (“City”) owns a sixteen (16’) City of Tomball utility easement containing 0.2087 acres of land being out of Unrestricted Reserves “A3” and “A4”, Block 1, Replat of Unrestricted Reserve “A” Block One Tomball Village Square according to the map or plat thereof as recorded in Film Code No. 518014 of the Map Records of Harris County, Texas and is more particularly described in Exhibit “A” attached hereto and incorporated herein for all purposes (“Easement”); and

WHEREAS, the City Council of the City has determined that public necessity and convenience no longer require the existence of the Easement; and

WHEREAS, the City Council has determined that the Easement should be vacated, abandoned, and closed for the reason that it is no longer needed by the City; and

WHEREAS, the City Council desires to convey the Easement to the owner of the property on which the Easement exists; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL,

TEXAS:

Section 1. That the facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. That the City Council of the City of Tomball, Texas, hereby finds and determines that the public convenience and necessity no longer require the continued existence of the Easement described in Section 3 hereof.

Section 3. That the portion of that certain City of Tomball Utility Easement containing 0.2087 acres of land being out of Unrestricted Reserves “A3” and “A4”, Block 1, Replat of Unrestricted Reserve “A” Block One Tomball Village Square according to the map or plat thereof as recorded in Film Code No. 518014 of the Map Records of Harris County, Texas and is more particularly described in Exhibit “A”, is hereby vacated, abandoned, and closed.

Section 4. That the City Manager is authorized to execute a quitclaim deed quitclaiming Easement described in Section 3 hereof to the owners of the property on which the Easement is located in exchange for the receipt of fair market value for the Easement.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE ____ DAY OF _____ 2023.

COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN PARR	_____

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE ____ DAY OF _____ 2023.

COUNCILMAN FORD _____
COUNCILMAN STOLL _____
COUNCILMAN DUNAGIN _____
COUNCILMAN TOWNSEND _____
COUNCILMAN PARR _____

LORI KLEIN QUINN, Mayor

ATTEST:

TRACYLYNN GARCIA, City Secretary

Exhibit "A"

QUITCLAIM DEED

Date: _____

Grantor: **City of Tomball, Texas**

Grantor's Address (including County): 401 Market Street, Tomball, TX 77375
Harris County, Texas

Grantee: **Harris County Emergency Services District No. 8**

Grantee's Address (including County): 29530 Quinn Road, Tomball, TX 77375
Harris County, Texas.

Consideration:

Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

Property:

0.2087 acres of land being out of Unrestricted Reserves "A3" and "A4", Block 1, Replat of Unrestricted Reserve "A" Block One Tomball Village Square according to the map or plat thereof as recorded in Film Code No. 518014 of the Map Records of Harris County, Texas.

For the consideration, Grantor quit claims to Grantee all of Grantor's right, title, and interest in and to the Property, to have and to hold it to Grantee and Grantee's successors and assigns forever. Neither Grantor nor Grantor's successors or assigns shall have, claim, or demand any right or title to the property or any part of it.

When the context requires, singular nouns and pronouns include the plural.
EXECUTED this the _____ day of _____ 2023.

GRANTOR:

City of Tomball, Texas

David Esquivel, City Manager

Exhibit "A"

ACKNOWLEDGEMENT

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this _____ day of _____, 2023,
by David Esquivel, City Manager of City of Tomball, Texas, on behalf of said entity.

Notary Public In and For the State of Texas

My Commission Expires: _____

(SEAL)

Attest:

Please return to:
City of Tomball, Texas
Attn: City Manager
401 Market Street
Tomball, Texas 77375

FIELD NOTES OF A PORTION OF A
16' CITY OF TOMBALL UTILITY EASEMENT
(Page 1 of 2)

Field notes of a portion of a 16' City of Tomball Utility Easement situated in the Joseph House Survey, Abstract No. 34, Harris County, Texas, being out of Unrestricted Reserve "A3" and Unrestricted Reserve "A4", Block 1, REPLAT OF UNRESTRICTED RESERVE "A" BLOCK ONE TOMBALL VILLAGE SQUARE, according to the map or plat thereof recorded in Film Code No. 518014 of the Harris County Map Records (H.C.M.R.), and being more particularly described by metes and bounds as follows:

COMMENCING at point situated in the west right-of-way line of High Street (60 feet wide according to the plat recorded in Volume 318, Page 86 of the H.C.M.R.) at the common northeast corner of said Unrestricted Reserve "A4" and said 16' Utility Easement, same being the southeast corner of Reserve "A", Block 1, AXIS AT THE SUMMIT, according to the map or plat thereof recorded in Film Code No. 695341 of the H.C.M.R.;

THENCE North 89 deg. 46 min. 00 sec. West, departing said west right-of-way line of High Street, along and with the common north line of Unrestricted Reserve "A4" and the 16' Utility Easement, same being the south line of said Reserve "A", a distance of 10.00 feet to a point at the northeast corner and POINT OF BEGINNING of the herein described tract of land;

THENCE South 00 deg. 14 min. 00 sec. West, over and through Unrestricted Reserve "A4", 10.00 feet west of and parallel to the west right-of-way line of High Street and the east line of Unrestricted Reserve "A4", along and with the west line of a 10' City of Tomball Utility Easement, as reflected on said REPLAT OF UNRESTRICTED RESERVE "A" BLOCK ONE TOMBALL VILLAGE SQUARE, a distance of 16.00 feet to a point in the south line of the 16' Utility Easement at the southeast corner of the herein described tract of land;

THENCE North 89 deg. 46 min. 00 sec. West, continuing over and through Unrestricted Reserve "A4", along and with said south line of the 16' Utility Easement, 16.00 feet south of and parallel to the north line of Unrestricted Reserve "A4", at a distance of 268.64 feet pass the west line of Unrestricted Reserve "A4" and the east line of said Unrestricted Reserve "A3", continuing over and through Unrestricted Reserve "A3", along and with the south line of the 16' Utility Easement, 16.00 feet south of and parallel to the north line of Unrestricted Reserve "A3", in all a total distance of 565.66 feet to a point at the southwest corner of the herein described tract of land, same being situated in the east line of a 10' City of Tomball Utility Easement, as reflected on said REPLAT OF UNRESTRICTED RESERVE "A" BLOCK ONE TOMBALL VILLAGE SQUARE;

THENCE North 17 deg. 12 min. 05 sec. West, continuing over and through Unrestricted Reserve "A3", 10.00 feet east of and parallel to the west line of Unrestricted Reserve "A3" and the east right-of-way line of Cody Drive, along and with said east line of the 10' City of Tomball Utility Easement, a distance of 15.20 feet to an angle point;

THENCE North 00 deg. 30 min. 05 sec. West, continuing over and through Unrestricted Reserve "A3", 10.00 feet east of and parallel to said west line of Unrestricted Reserve "A3" and said east right-of-way line of Cody Drive, along and with the east line of the 10' City of Tomball Utility Easement, a distance of 1.49 feet to a point in the north line of Unrestricted Reserve "A3" at the northwest corner of the herein described tract of land, same being the south line of Unrestricted Reserve "H", Block 1, TOMBALL VILLAGE SQUARE, according to the map or plat thereof recorded in Volume 318, Page 86 of the H.C.M.R.;

THENCE South 89 deg. 46 min. 00 sec. East, along and with said north line of Unrestricted Reserve "A3", at a distance of 301.60 feet pass the northeast corner of Unrestricted Reserve "A3" and the northwest corner of Unrestricted Reserve "A4", continuing along and with the north line of Unrestricted Reserve "A4" in all a total distance of 570.24 feet to the POINT OF BEGINNING and containing within these metes and bounds 0.2087 acre (9,090 square feet) of land.

FIELD NOTES OF A PORTION OF A
16' CITY OF TOMBALL UTILITY EASEMENT
(Page 2 of 2)

This tract of land has not been staked on the ground. This description is based on a sketch of a portion of a 16' City of Tomball Utility Easement prepared by The Pinnell Group, LLC; filed in job number 20-203. Bearings based on said recorded plat of REPLAT OF UNRESTRICTED RESERVE "A" BLOCK ONE TOMBALL VILLAGE SQUARE.



Daniel N. Pinnell
Registered Professional Land Surveyor
Texas Registration No. 5349



09-15-2023

The Pinnell Group, LLC
25207 Oakhurst Drive
Spring, TX 77386
281-363-8700
www.thepinnellgroup.com
FIRM Reg. #10039600

TOMBALL VILLAGE SQUARE
Unrestricted Reserve "H"
Block 1
Vol. 318, Pg. 86, H.C.M.R.

AXIS AT THE SUMMIT
Reserve "A"
Block 1
F.C. No. 695341, H.C.M.R.

10' City of Tomball Utility Easement
with 5.5' Aerial Easement
F.C. No. 695341, H.C.M.R.

S 89°46'00" E — 570.24'

P.O.B. P.O.C.

L5
L4
L3

N 89°46'00" W — 565.66'

0.2087 ACRE
(9,090 Sq. Ft.)

16' City of Tomball Utility Easement
with 5.5' Aerial Easement
F.C. No. 518014, H.C.M.R.

5.5' Aerial Easement

10' City of Tomball Utility Easement
with 5.5' Aerial Easement
F.C. No. 518014, H.C.M.R.

5.5' Aerial Easement

REPLAT OF UNRESTRICTED RESERVE "A"
BLOCK ONE
TOMBALL VILLAGE SQUARE
Unrestricted Reserve "A3"
Block 1
Called 1.4915 Acres
F.C. No. 518014, H.C.M.R.

REPLAT OF UNRESTRICTED RESERVE "A"
BLOCK ONE
TOMBALL VILLAGE SQUARE
Unrestricted Reserve "A4"
Block 1
Called 1.4472 Acres
F.C. No. 518014, H.C.M.R.

10' City of Tomball Utility Easement
with 5.5' Aerial Easement
F.C. No. 518014, H.C.M.R.

5.5' Aerial Easement

CODY DRIVE

(60' R.O.W.)
(Vol. 318, Pg. 86, H.C.M.R.)

HIGH STREET
(60' R.O.W.)
(Vol. 318, Pg. 86, H.C.M.R.)



SKETCH OF A PORTION OF A 16' CITY
OF TOMBALL UTILITY EASEMENT OUT OF
UNRESTRICTED RESERVES "A3" & "A4",
BLOCK 1, REPLAT OF UNRESTRICTED
RESERVE "A" BLOCK ONE TOMBALL
VILLAGE SQUARE, ACCORDING TO THE
MAP OR PLAT THEREOF AS RECORDED
IN FILM CODE NO. 518014 OF THE MAP
RECORDS OF HARRIS COUNTY, TEXAS.



NOTE:

SEE SHEET 2 FOR GENERAL
NOTES, LEGEND AND LINE TABLE.

Daniel N. Pinnell
09-15-2023

THE PINNELL GROUP

25207 OAKHURST DRIVE
SPRING, TEXAS 77386
Ph. (281) 363-8700

FIRM REGISTRATION NO. 10039600

SCALE: 1" = 60' PROJ. NO. 20-203

DATE: SEPTEMBER, 2023

Sheet 1 of 2

GENERAL NOTES:

1. BEARINGS BASED ON THE REPLAT OF UNRESTRICTED RESERVE "A" BLOCK ONE TOMBALL VILLAGE SQUARE RECORDED IN FILM CODE NO. 518014 OF THE H.C.M.R.
2. A METES AND BOUNDS DESCRIPTION OF THIS EASEMENT HAS BEEN PREPARED IN CONJUNCTION WITH THIS PLAT OF SURVEY.
3. ALL ENCUMBRANCES NOT SHOWN.

LEGEND:

F.C. — FILM CODE
R.O.W. — RIGHT-OF-WAY
P.O.B. — POINT OF BEGINNING
P.O.C. — POINT OF COMMENCING
H.C.M.R. — HARRIS COUNTY MAP RECORDS
H.C.O.P.R.R.P. — HARRIS COUNTY OFFICIAL PUBLIC RECORDS OF REAL PROPERTY

LINE TABLE

NO.	BEARING	DIST.
L1	N 89°46'00" W	10.00'
L2	S 00°14'00" W	16.00'
L3	N 17°12'05" W	15.20'
L4	N 00°30'05" W	1.49'
L5	S 89°46'00" E	10.00'

THE PINNELL GROUP

25207 OAKHURST DRIVE
SPRING, TEXAS 77386
Ph. (281) 363-8700

FIRM REGISTRATION NO. 10039600

SCALE: 1" = 60' PROJ. NO. 20-203

DATE: SEPTEMBER, 2023

SKETCH OF A PORTION OF A 16' CITY OF TOMBALL UTILITY EASEMENT OUT OF UNRESTRICTED RESERVES "A3" & "A4", BLOCK 1, REPLAT OF UNRESTRICTED RESERVE "A" BLOCK ONE TOMBALL VILLAGE SQUARE, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN FILM CODE NO. 518014 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS.



Daniel N. Pinnell
09-15-2023

Sheet 2 of 2



Proposed easement
abandonment

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: October 2, 2023

Topic:

Approve an Encroachment Agreement with LE Rose Investment, LLC. for 706 W. Main Street and authorize the City Manager to execute the agreement.

Background:

LE Rose Investment, LLC is developing a Pepperoni's Pizza at the property located at 706 West Main Street, legally described as Tracts 20, 21, and 22, Block 96. The City has an alley located at the rear of the property, extending east and west, connecting to Poplar Street and Baker Drive. The owner of the property has requested permission to install improvements within the public alley to include a grease trap and appurtenances.

Staff has met with the developer, and reviewed the proposed improvements and are agreeable and recommending the approval of the Encroachment Agreement.

Origination: Project Management

Recommendation:

Staff recommends approving the Encroachment Agreement for LE Rose Investment, LLC for the property located at 706 West Main Street.

Party(ies) responsible for placing this item on agenda: Meagan Mageo, Project Manager

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: X

If yes, specify Account Number: # _____

If no, funds will be transferred from account: # _____ To Account: # _____

Signed: Meagan Mageo **Approved by:** _____
Staff Member Date City Manager Date

ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT is made this 1st day of September 2023, between the CITY OF TOMBALL, TEXAS (CITY) and ANHUNG LE - LE ROSE INVESTMENT LLC (OWNER).

RECITALS

OWNER is the owner of certain property (PROPERTY) located in the City of Tomball at

706 West Main Street Suite B

THE PROPERTY is more particularly described as:

Tracts 20, 21, and 22, Block 96, Tomball

CITY owns or exercises jurisdiction and control over a public easement or right-of-way that is on or contiguous to such property and which is more particularly described as the alley located at the rear of the property, extending east – west connecting to Poplar Street and Baker Drive

OWNER desires to place the following described improvements within the public easement or right-of-way described above: grease trap and appurtenances.

NOW, THEREFORE, be it mutually agreed as follows:

1. Consent to Encroachment. Subject to the terms of this Agreement, CITY hereby consents and allows OWNER to enter upon the above-described CITY easement or right-of-way for the purpose of installing, placing and maintaining the above described improvements within the public easement or right-of-way.
2. Term. This Agreement shall have an indefinite term and shall continue in effect until terminated in accordance with this Agreement.
3. No Interest in Land Conveyed. This Agreement does not constitute a conveyance of any interest in land. CITY retains full rights of possession and control over the above described easement or right-of-way, and with respect to such encroachment the OWNER shall have the status of a tenant at will.
4. Conditions. Prior to any construction in the public easement or right-of-way the OWNER shall obtain all other licenses or permits necessary to construction of the improvements. Except in emergencies the OWNER must notify CITY's Department of Community Development at least twenty-four hours in advance of excavating within the easement or right-of-way. OWNER must also comply with all "dial before you dig" requirements.

The Department of Community Development must approve plans for all improvements to be placed in an easement or right-of-way and the OWNER must provide an as-built drawing to the department following construction. All improvements must be installed in accordance with applicable CITY requirements.

OWNER shall be solely responsible for maintenance of the improvements and shall maintain them to avoid any damage to or interference with CITY facilities, other public utilities or the general right of the public to utilize the easement or right-of-way for its intended purpose.

CITY shall not be responsible to OWNER or any other party for damages to OWNER'S improvements. CITY may, at any time upon reasonable notice, require the removal or relocation of the encroaching improvements. OWNER shall relocate the improvements promptly at its sole expense and shall not be entitled to compensation or damages of any kind.

OWNER and its successors and assigns agree that, in the event the Property subject to this Agreement is altered in any manner whether due to fire or other force or means in excess of fifty percent (50%) of its replacement cost at the time of its alteration, it shall not be restored, rebuilt, or repaired in any manner that shall encroach upon any required set-backs or public right-of-way including the building line which is the subject of this Agreement.

5. Notices. Any notice required or permitted under this Agreement shall be deemed sufficient if delivered in hand or by First Class US Mail addressed to the parties as follows:

CITY

Community Development Director
501 James Street
Tomball, Texas 77375

OWNER

~~LE ROSE~~ LE ROSE
INVESTMENT LLC
[Signature]

6. Indemnity. OWNER shall indemnify, defend and hold harmless the CITY, its elected officials, officers and employees, from any claims, suits, causes of action, costs or damages arising from OWNER'S action or inaction relating to placement, operation or maintenance of the improvements.

7. Entire Agreement. This Agreement contains the entire agreement between the parties hereto. No promise, representation, warranty or covenant not included in this Agreement has been or is relied on by any party hereto.

8. Construction and Venue. This Agreement shall be construed in accordance with the laws of the State of Texas. Exclusive venue over any claim or cause of action arising hereunder shall be in the district court of Harris County, Texas.

9. Termination. This Agreement may be terminated by either party upon thirty days written notice to the other. In the event of termination the OWNER shall promptly remove the encroachments.

10. Agreement a Covenant Running With the Land. This Agreement shall be recorded in the Real Property Records of Harris County, Texas and shall be a covenant running with the OWNER'S land and binding upon the OWNER'S successors and assigns.

CITY

OWNER

By: _____

By: NHUNG LE ,

Name: _____

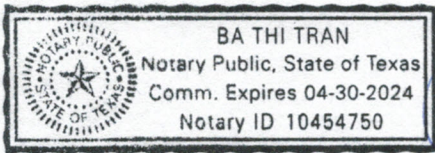
Name: LE ROSE INVESTMENT. LLC ,

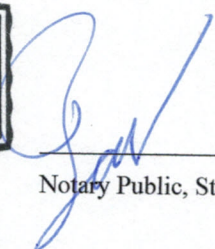
Title: _____

Title: NHUNG LE , *[Signature]*

County of Harris

This instrument was acknowledged before me on 8th
Sept - 2023 by _____





Notary Public, State of Texas

3

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: October 2, 2023

Topic:

Approve an annual Consumer Price Index (CPI) and Fuel Index Adjustment from GFL Environmental (formally WCA Waste Corporation) of 5%, effective October 1, 2023, authorize the expenditure of funds therefor, and authorize the City Manager to execute any and all required documentation. This amount is included in the FY 2023-2024 budget.

Background:

Based on the terms and conditions of the Service Contract between the City of Tomball and GFL Environmental for solid waste services, a CPI and Fuel Index adjustment are permitted annually. The City has received notification from GFL requesting a CPI increase of 5%.

Our current contract with GFL allows the rates to be increased based on the Consumer Price Index for Houston, Texas which is currently at 5.998% for solid waste, and the Energy Information Administration of the US Department of Energy Weekly Retail On-Highway Diesel Prices for the Gulf Coast which is currently at 2.45% resulting in a maximum allowable rate increase of 8.45%.

The total adjustment for services as of October 1, 2023, will be 5% total, the maximum allowed under the contract terms and conditions, and not the projected 8.45%. The proposed CPI increase will not increase pricing for residential or commercial customers; during the implementation of the original contract the CPI increases were accounted for over the five-year term of the contract in our Master Fee adoption in October 2019.

There will be an increase for roll-off services proposed in our Master Fee Schedule to align with GFL's pricing, but this billing is not completed by the City and is instead directly billed by GFL. Our Master Fee Schedule will only reflect what is being charged by GFL for contractors that refer to our website for information.

The last CPI approved by City Council was on August 2, 2021, for fiscal year 2021-2022; a request was not received for our current fiscal year (2022-2023).

Origination: Project Management

Recommendation:

Staff recommends approving the request annual Consumer Price Index and Fuel Index Adjustment from GFL Environmental of 5%, effective October 1, 2023.

Party(ies) responsible for placing this item on agenda: Meagan Mageo, Project Manager

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: X No:

If yes, specify Account Number: #100-155-6327

If no, funds will be transferred from account: # To Account: #

Signed:	<u> Meagan Mageo </u>	Approved by:	<u> </u>
	Staff Member		City Manager
	Date		Date



May 18, 2023

David Esquivel
City Manager
City of Tomball, Texas
401 Market Street
Tomball, Texas 77375

RE: Contract for Solid Waste Collection and Disposal Services between the City of Tomball, Texas and Waste Corporation of Texas, L.P., dba GFL Environmental – Modification of Monthly Unit Rate per Household

Dear David:

In accordance with the current, mutually agreed upon, contract for Solid Waste Collection and Disposal Services, section 9.03 Modification of Rates: allows Base Rate adjustments for changes in the (i) CPI (Consumer Price Index) and (ii) Fuel Index, as defined below, will be considered by the City no more than once per year during the term of the contract, during the month of October of each contract year. Contractor shall submit a request for an Annual Base Rate Adjustment by June 1st of each year (the Adjustment Period). The Contractor must receive approval from the City for such Base Rate increases, which approval shall not be unreasonably withheld.

Contractor's request for an adjustment in the Base Rates for increases in the CPI and the Fuel Index shall be calculated as follows:

- (a) Contractor shall first calculate the percentage of change in the Consumer Price Index, Houston, Texas; All Items Less Energy; Base Period 1982-84=100, Not Seasonally Adjusted, published by the United States Bureau of Labor Statistics, Consumer Price Index (the CPI) between the published final June CPI index of the then current year and the published final June CPI index of the immediately preceding year (the CPI Component).



- (b) Contractor shall also calculate the percentage of change in the cost of diesel fuel during the prior 12-month period, using the weekly average price of diesel fuel, as determined by reference to the Energy Information Administration of the US Department of Energy (EIA/DOE)'s Weekly Retail On-Highway Diesel Prices for the Gulf Coast, published on the last Monday of each May of the Contract Year Fuel Index). The EIA/DOE currently publishes these prices on their website at the following location:
<http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp> Contractor shall calculate the percentage of change in the price of diesel fuel between:
- a. The average price of diesel fuel from the aforesaid website published for the last Monday of April of the then immediately prior year (the Initial Fuel Base); and
 - b. The average price of diesel fuel from the aforesaid website for the 52 weeks period immediately prior to the last Monday of April of the current year (the average being calculated by adding together the weekly fuel price for each of the 52 prior weeks, divided by 52) (the current fuel base). The percentage change in the Initial Fuel Base and the Current Fuel Base shall be multiplied by 13%, and the product thereof shall be the "Fuel Adjustment Component"; and
- (c) The CPI Component and the Fuel Adjustment Component shall be added together and then multiplied by the then current Base Rate to determine the adjustment in the Base Rate commencing October 1 of the current Contract Year, such adjustment shall not exceed five percent (5%) in any given year, nor shall the adjustment be adjusted downward from the then current rate(s) in place. In any year where the adjustment would result in a downward adjustment, the adjustment shall be zero percent (0%).

Please consider this letter as our request for a rate adjustment, effective October 1, 2023. Below, you will find the rate adjustment calculation as set forth in the contract under Section 9.03. In addition, you will find attached all the supporting documentation and data used in the rate adjustment calculation, as set forth in Section 9.03. Please let me know if you would like to discuss rate adjustment. Thank you in advance for your consideration in this matter.

Item 1a: The CPI Index value for April, of the current year, 2023.

The data for the June CPI Index is not published until early July, therefore cannot be utilized, and submitted for a request prior to June 1st, as noted in Section 9.03. We have used the most current published CPI data, which is for April 2023 (current year) and April 2022 (immediately preceding year).

As per the contract, the Consumer Price Index, Houston, Texas; All Items Less Energy; Base Period 1982-84=100, Not Seasonally Adjusted, published by the



United States Bureau of Labor Statistics, Consumer Price Index was used for the purpose of this calculation.

CPI Index value for April 2023 = 276.935

Item 2a: The CPI Index value for April of the previous year, 2022.

The Consumer Price Index, Houston, Texas; All Items Less Energy; Base Period 1982-84=100, Not Seasonally Adjusted, published by the United States Bureau of Labor Statistics, Consumer Price Index was used for the purpose of this calculation.

CPI Index value for April 2022 = 261.263

Item 3a: The net percentage change.

**Net percentage change in CPI index values =
(276.935-261.263)/261.263 x 100 = 5.998% CPI Component**

Item 1b: The average price of diesel fuel for the last Monday of April 2022
(Initial Fuel Base): \$2.97

Item 2b: The average price of diesel fuel for the 52 weeks periods immediately prior to the last Monday of April 2023 **(Current Fuel Base): \$3.53**

Item 3b: **The net percentage change in price of diesel fuel (Fuel Adjustment Component)**
= (3.53-2.97)/2.97 x 100 = 18.86%*13.0% = 2.45%

(.0599+.0245) *\$13.46 = \$1.14 Adjustment in Base Rate

As per section 9.03 of the Contract, the adjustment in the Base Rate commencing October 1 of the current Contract Year, such adjustment shall not exceed five percent (5%) in any given year therefore the proposed rate adjustment is an increase in the current rate per home, per month of 5%.

Rate increase = 5%

The **Current Residential Rate** for the City of Tomball is: \$14.76.

The **Proposed Residential Rate** with 5% CPI adjustment is: **\$15.50**



$\$14.76 + 5\% = \$15.40.$

Please let me know if you would like to discuss the Rate Adjustment. Thank you in advance for your consideration in this matter.

Best Regards,

Suzanne Haboush
Government Contracts Manager

Comparative Statement - Index

CPI for All Urban Consumers (CPI-U)

Series Id: CUURS37BSA0LE,CUUSS37BSA0LE

Not Seasonally Adjusted

Series All items less energy in Houston-The Woodlands-Sugar Land, TX, all urban

Title: consumers, not seasonally adjusted

Area: Houston-The Woodlands-Sugar Land, TX

Item: All items less energy

Base 1982-84=100

Period:

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2013		206.613		208.095		208.351		209.273		210.196		211.985	208.762	207.343	210.181
2014		212.466		213.480		214.996		215.746		217.660		217.089	215.026	213.396	216.657
2015		218.015		219.736		220.027		221.505		223.289		222.583	220.656	219.024	222.289
2016		225.368		225.652		226.660		225.741		226.945		226.352	225.902	225.380	226.424
2017		227.303		227.902		229.298		229.994		230.505		228.806	228.711	227.774	229.649
2018		231.096		232.096		233.466		232.958		233.986		233.366	232.574	231.559	233.590
2019		235.652		236.175		236.858		237.802		238.554		237.478	236.857	235.844	237.870
2020		239.794		237.284		239.624		239.355		240.014		239.925	239.229	238.760	239.699
2021		240.956		243.902		246.854		247.466		249.504		251.788	246.000	243.136	248.865
2022		256.818		261.263		263.563		267.469		269.105		267.360	263.405	259.321	267.489
2023		272.789		276.935											

Comparative Statement Index - continued

[Back to Contents](#) **Data 1: W Diesel Prices - All Types**

Sourcekey	EMD_EPD2D_PTE_N US_DPG	EMD_EPD2D_PTE_R 10_DPG	EMD_EPD2D_PTE_R 1X_DPG	EMD_EPD2D_PTE_R 1Y_DPG	EMD_EPD2D_PTE_R 1Z_DPG	EMD_EPD2D_PTE_R 20_DPG	EMD_EPD2D_PTE_R 30_DPG
Date	Weekly U.S. No 2 Diesel Retail Prices (Dollars per Gallon)	Weekly East Coast No 2 Diesel Retail Prices (Dollars per Gallon)	Weekly New England (PADD 1A) No 2 Diesel Retail Prices (Dollars per Gallon)	Weekly Central Atlantic (PADD 1B) No 2 Diesel Retail Prices (Dollars per Gallon)	Weekly Lower Atlantic (PADD 1C) No 2 Diesel Retail Prices (Dollars per Gallon)	Weekly Midwest No 2 Diesel Retail Prices (Dollars per Gallon)	Weekly Gulf Coast No 2 Diesel Retail Prices (Dollars per Gallon)
Mar 29, 2021	3.161	3.13	3.091	3.274	3.041	3.104	2.955
Apr 05, 2021	3.144	3.114	3.076	3.268	3.018	3.083	2.934
Apr 12, 2021	3.129	3.1	3.071	3.257	3.001	3.061	2.924
Apr 19, 2021	3.124	3.096	3.071	3.259	2.993	3.054	2.923
Apr 26, 2021	3.124	3.093	3.08	3.268	2.98	3.058	2.917
May 03, 2021	3.142	3.113	3.084	3.285	3.004	3.085	2.924
May 10, 2021	3.186	3.16	3.115	3.336	3.051	3.13	2.968
May 17, 2021	3.249	3.228	3.152	3.395	3.13	3.197	3.029

[Back to Contents](#) **Data 1: W Diesel Prices - All Types**

Sourcekey	EMD_EPD2D_PTE_N US_DPG	EMD_EPD2D_PTE_R 10_DPG	EMD_EPD2D_PTE_R 1X_DPG	EMD_EPD2D_PTE_R 1Y_DPG	EMD_EPD2D_PTE_R 1Z_DPG	EMD_EPD2D_PTE_R 20_DPG	EMD_EPD2D_PTE_R 30_DPG
Date	Weekly U.S. No 2 Diesel Retail Prices (Dollars per Gallon)	Weekly East Coast No 2 Diesel Retail Prices (Dollars per Gallon)	Weekly New England (PADD 1A) No 2 Diesel Retail Prices (Dollars per Gallon)	Weekly Central Atlantic (PADD 1B) No 2 Diesel Retail Prices (Dollars per Gallon)	Weekly Lower Atlantic (PADD 1C) No 2 Diesel Retail Prices (Dollars per Gallon)	Weekly Midwest No 2 Diesel Retail Prices (Dollars per Gallon)	Weekly Gulf Coast No 2 Diesel Retail Prices (Dollars per Gallon)
May 03, 2021	3.142	3.113	3.084	3.285	3.004	3.085	2.924
May 10, 2021	3.186	3.16	3.115	3.336	3.051	3.13	2.968
May 17, 2021	3.249	3.228	3.152	3.395	3.13	3.197	3.029
May 24, 2021	3.253	3.235	3.15	3.406	3.137	3.199	3.029
May 31, 2021	3.255	3.239	3.165	3.414	3.135	3.197	3.027
Jun 07, 2021	3.274	3.259	3.183	3.424	3.163	3.222	3.034
Jun 14, 2021	3.286	3.275	3.203	3.435	3.181	3.233	3.04
Jun 21, 2021	3.287	3.275	3.213	3.441	3.175	3.231	3.042
Jun 28, 2021	3.3	3.29	3.238	3.451	3.191	3.239	3.044
Jul 05, 2021	3.331	3.306	3.242	3.475	3.204	3.264	3.076
Jul 12, 2021	3.338	3.312	3.245	3.477	3.213	3.261	3.083
Jul 19, 2021	3.344	3.312	3.251	3.478	3.211	3.264	3.083
Jul 26, 2021	3.342	3.311	3.252	3.473	3.213	3.258	3.079
Aug 02, 2021	3.367	3.332	3.255	3.493	3.238	3.278	3.097
Aug 09, 2021	3.364	3.328	3.262	3.493	3.23	3.271	3.083
Aug 16, 2021	3.356	3.316	3.271	3.485	3.212	3.259	3.073
Aug 23, 2021	3.324	3.297	3.26	3.473	3.186	3.216	3.038
Aug 30, 2021	3.339	3.306	3.271	3.474	3.201	3.241	3.06
Sep 06, 2021	3.373	3.332	3.285	3.483	3.24	3.284	3.104
Sep 13, 2021	3.372	3.337	3.288	3.486	3.246	3.282	3.099
Sep 20, 2021	3.385	3.352	3.3	3.496	3.266	3.29	3.119
Sep 27, 2021	3.406	3.371	3.299	3.514	3.288	3.326	3.142
Oct 04, 2021	3.477	3.436	3.335	3.572	3.362	3.43	3.203
Oct 11, 2021	3.586	3.562	3.459	3.705	3.484	3.538	3.335
Oct 18, 2021	3.671	3.655	3.555	3.792	3.582	3.615	3.422
Oct 25, 2021	3.713	3.704	3.626	3.849	3.621	3.632	3.483
Nov 01, 2021	3.727	3.717	3.651	3.862	3.631	3.639	3.486
Nov 08, 2021	3.73	3.712	3.656	3.858	3.624	3.633	3.482
Nov 15, 2021	3.734	3.707	3.657	3.852	3.62	3.631	3.474
Nov 22, 2021	3.724	3.69	3.666	3.847	3.595	3.617	3.457
Nov 29, 2021	3.72	3.684	3.666	3.845	3.586	3.602	3.454
Dec 06, 2021	3.674	3.658	3.654	3.824	3.556	3.536	3.402
Dec 13, 2021	3.649	3.633	3.643	3.811	3.521	3.512	3.372
Dec 20, 2021	3.626	3.611	3.633	3.792	3.496	3.492	3.339
Dec 27, 2021	3.615	3.602	3.623	3.779	3.488	3.479	3.33
Jan 03, 2022	3.613	3.604	3.622	3.781	3.49	3.477	3.328
Jan 10, 2022	3.657	3.645	3.627	3.808	3.547	3.522	3.384
Jan 17, 2022	3.725	3.719	3.698	3.877	3.624	3.603	3.463
Jan 24, 2022	3.78	3.781	3.777	3.934	3.686	3.656	3.531
Jan 31, 2022	3.846	3.852	3.833	4.002	3.761	3.714	3.608
Feb 07, 2022	3.951	3.971	3.947	4.098	3.896	3.808	3.73
Feb 14, 2022	4.019	4.063	4.007	4.21	3.98	3.884	3.785
Feb 21, 2022	4.055	4.112	4.076	4.278	4.014	3.905	3.83
Feb 28, 2022	4.104	4.161	4.158	4.309	4.069	3.968	3.872
Mar 07, 2022	4.849	4.97	4.815	5.093	4.919	4.649	4.703
Mar 14, 2022	5.25	5.334	5.231	5.474	5.264	5.044	5.11
Mar 21, 2022	5.134	5.179	5.125	5.303	5.11	4.959	4.964
Mar 28, 2022	5.185	5.249	5.309	5.4	5.145	4.994	4.972
Apr 04, 2022	5.144	5.206	5.283	5.363	5.095	4.947	4.929
Apr 11, 2022	5.073	5.128	5.181	5.291	5.018	4.887	4.84
Apr 18, 2022	5.101	5.151	5.177	5.335	5.033	4.921	4.855
Apr 25, 2022	5.16	5.209	5.24	5.4	5.086	4.987	4.916

Comparative Statement – Fees

City of Tomball

Commercial Container Pricing Schedule - Current							
	Days Per Week						
Size	1	2	3	4	5	6	Addtl P.U.
3 yd	\$ 77.83	\$123.49	\$186.79	\$233.48	\$291.59	\$349.70	\$ 87.17
Additional	\$ 71.60	\$113.11	\$172.26	\$214.80	\$268.76	\$321.69	
4 yd	\$ 84.05	\$133.86	\$200.25	\$251.12	\$313.38	\$376.68	\$ 87.17
Additional	\$ 77.83	\$123.49	\$184.71	\$231.41	\$288.48	\$346.59	
6 yd	\$108.96	\$171.22	\$258.39	\$322.72	\$403.66	\$482.53	\$ 87.17
Additional	\$100.66	\$157.73	\$237.63	\$296.78	\$371.50	\$444.13	
8 yd	\$116.22	\$210.65	\$278.10	\$340.36	\$428.57	\$514.70	\$ 87.17
Additional	\$106.88	\$194.05	\$256.31	\$313.38	\$394.33	\$482.53	

Commercial Container Pricing Schedule - Proposed 5% CPI Increase							
	Days Per Week						
Size	1	2	3	4	5	6	Addtl P.U.
3 yd	\$ 81.72	\$129.66	\$196.13	\$245.15	\$306.17	\$367.19	\$ 91.53
Additional	\$ 75.18	\$118.77	\$180.87	\$225.54	\$282.20	\$337.77	
4 yd	\$ 88.25	\$140.55	\$210.26	\$263.68	\$329.05	\$395.51	\$ 91.53
Additional	\$ 81.72	\$129.66	\$193.95	\$242.98	\$302.90	\$363.92	
6 yd	\$114.41	\$179.78	\$271.31	\$338.86	\$423.84	\$506.66	\$ 91.53
Additional	\$105.69	\$165.62	\$249.51	\$311.62	\$390.08	\$466.34	
8 yd	\$122.03	\$221.18	\$292.01	\$357.38	\$450.00	\$540.44	\$ 91.53
Additional	\$112.22	\$203.75	\$269.13	\$329.05	\$414.05	\$506.66	

Comparative Statement – Fees continued

City of Tomball

Roll-Off Container Pricing - Current (City Provided)						
Roll TYPE	Size	Delivery	Daily Rent	Disposal/Ton	Haul Rate	Trip Charge
PERM	20 Yd	\$134.90	\$ 6.74	N/A	\$191.97	\$ 150.47
TEMP	20 Yd	\$134.90	\$ 6.74	\$ 31.21	\$191.97	\$ 150.47
PERM	30 Yd	\$134.90	\$ 6.74	N/A	\$207.54	\$ 150.47
TEMP	30 Yd	\$134.90	\$ 6.74	\$ 31.21	\$207.54	\$ 150.47
PERM	40 Yd	\$134.90	\$ 6.74	N/A	\$217.92	\$ 150.47
TEMP	40 Yd	\$134.90	\$ 6.74	\$ 31.21	\$217.92	\$ 150.47
Receiver Box	Comp/RO	\$134.90	N/A	\$ 41.51	\$285.37	\$ 150.47
				Comp. Haul	\$200.00	\$ 124.52
				Comp. Disposal	\$ 30.08	\$ -

Roll-Off Container Pricing - Proposed 5% CPI Increase						
Roll TYPE	Size	Delivery	Daily Rent	Disposal/Ton	Haul Rate	Trip Charge
PERM	20 Yd	\$141.65	\$ 7.08	N/A	\$201.57	\$ 157.99
TEMP	20 Yd	\$141.65	\$ 7.08	\$ 32.77	\$201.57	\$ 157.99
PERM	30 Yd	\$141.65	\$ 7.08	N/A	\$217.92	\$ 157.99
TEMP	30 Yd	\$141.65	\$ 7.08	\$ 32.77	\$217.92	\$ 157.99
PERM	40 Yd	\$141.65	\$ 7.08	N/A	\$228.82	\$ 157.99
TEMP	40 Yd	\$141.65	\$ 7.08	\$ 32.77	\$228.82	\$ 157.99
Receiver Box	Comp/RO	\$141.65	N/A	\$ 43.59	\$299.64	\$ 157.99
				Comp. Haul	\$210.00	\$ 130.75
				Comp. Disposal	\$ 31.58	\$ -

Comparative Statement – Fees continued

Current Rate	
Poly-Carts	
1-1/wk	\$ 20.57
1-2/wk	\$ 23.74
Additional per cart	\$ 1.25
Extra Pick-Up	\$ 26.16
1-2/wk	\$ 25.88
Additional	\$ 23.31
Extra Pick-Up	\$ 26.16

Proposed CPI Increase	
Poly-Carts	
1-1/wk	\$ 21.60
1-2/wk	\$ 24.93
Additional per cart	\$ 1.31
Extra Pick-Up	\$ 27.47
1-2/wk	\$ 27.17
Additional	\$ 24.48
Extra Pick-Up	\$ 27.47

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: October 2, 2023

Topic:

Approve request from Concordia Lutheran High School for City Support and In-Kind Services for their 5th annual Cruisin' Crusader 5K Run/Walk in downtown Tomball, on Saturday, October 21, 2023.

Background:

Concordia Lutheran High School is excited to announce the 5th annual Cruisin' Crusader 5K Run/Walk in downtown Tomball. The race will be on Saturday, October 21st with registration opening at 6:30 am and the race beginning at 8 am. Funds raised from the event will help Concordia's boys' and girls' cross-country programs.

Student-athletes from the cross-country programs, student volunteers from our Interact club and parent volunteers will be working the event.

To help with the efficiency of the event, we are asking the City of Tomball for some in-kind services that include: Police, Fire, Public Works, and Coordination.

Event Information:

- Estimating 175-275 runners for the event
- Start and finish at Depot
- Registration at 6:30 a.m.
- 5K Race start at 8:00 a.m.
- 1 Mile Kids Run start at 9:00 a.m.
- Race finish at 10:00 a.m.
- Tents/booths setup at Depot by Concordia PTO, Concordia staff, and local businesses.
- Post race party will end at 10:30 a.m.

Origination: Concordia Lutheran High School

Recommendation:

N/A

Party(ies) responsible for placing this item on agenda:

Chrislord Templonuevo, Marketing
Director

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____

If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____

To account # _____

Signed

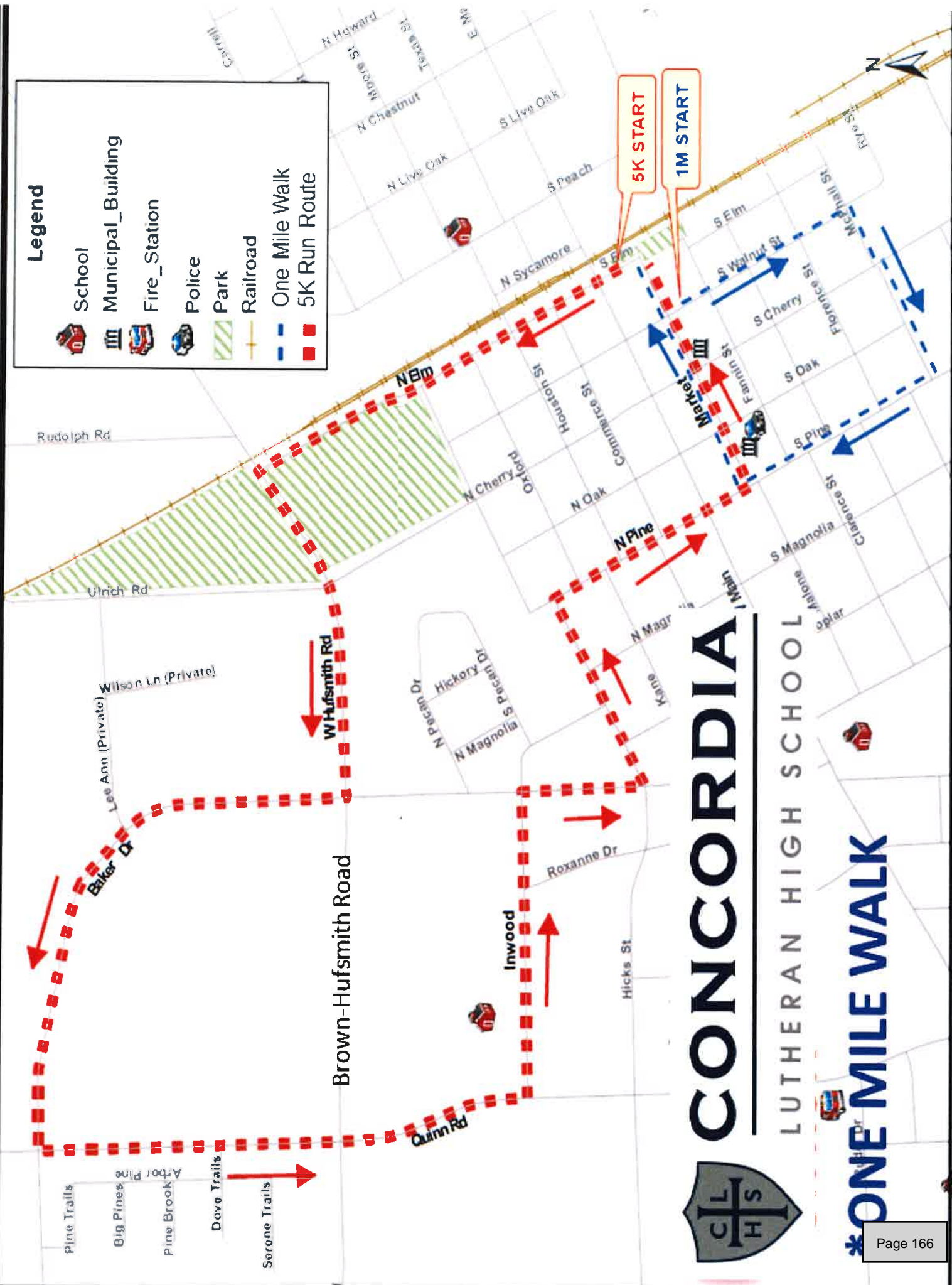
Staff Member

Date

Approved by

City Manager

Date





SPECIAL EVENT APPLICATION

CITY OF TOMBALL, TEXAS | 401 Market Street | Tomball, TX 77375 | 281-351-5484

An application to stage an event within the City of Tomball shall be filed with the Marketing & Tourism Manager at least 180 days prior to the event. This application is not to be construed as authorizing or agreeing to any event until formally approved by Tomball City Council.

Date: June 27, 2023 Is this event Co-City sponsored? Yes No X

Request for permission to use a public venue for the following type of event (please check one):

Festival Community Event X Arts & Crafts Event Music Event Other (specify)

1. Event title: Cruisin Crusader 5K

2. Sponsoring entity: Concordia Lutheran High School

3. Is this organization based in Tomball: Yes X No

4. Is this organization *non-profit* X or *for-profit* *Attach 501 (c) (3) tax exemption if applicable

5. Contact: Ashley Schupp Phone: 832-528-6775

6. Contact address: 700 E. Main Street Tomball, TX 77375

7. Contact email: SchuppA@clhs-tx.org

8. Event date: Saturday, October 21, 2023

9. Event times: Start 8:00am Finish 10:00am Set-up 6:00am Breakdown 10:30am

10. Is this event for charity? Yes No X

11. If yes, what charity? Tax ID

12. If yes, what percentage of net proceeds will be donated to the charity?

13. On-site contact: Ashley Schupp Mobile #: 832-528-6775

14. Estimated number of attendees: 250

15. Detailed site map in attached: Yes X No

16. Is this event open to the public: Yes X No

17. Admission fee: \$ 35.00 Pre-Reg Free \$40.00 day of

18. Time at which event staff will begin to arrive: 6:30am

19. The applicant will defend and hold harmless the City of Tomball from all claims, demands, actions or causes of action, of whatsoever nature or character, arising out of or by reason of the conduct of the activity authorized by such application including attorney fees and expenses. Initial AS

20. The applicant will provide proof of general liability insurance for the event naming the City of Tomball as additional insured. Initial AS

21. Name of insurance carrier: Utical National Insurance Group

Signature 

FOR OFFICIAL USE - Fee required: Yes No Amount Due: \$



SPECIAL EVENT GUIDELINES & APPLICATION

CITY OF TOMBALL, TEXAS

Effective Date: 1/1/2023

INTRODUCTION: Any organized activity or event and open to the general public that involves the use of, or having an impact upon, public property, facilities, public parks, sidewalks, or street areas in the City of Tomball require prior approval and must meet certain requirements for consideration.

PROCEDURES: Several procedures and guidelines must be followed before any non-city staged event may take place. Those include, but are not limited to, the following:

1. A completed Special Event application must be submitted to the Tomball Department of Marketing & Tourism at least 180 days prior to any proposed festival or event. Tomball City Council approval is required if event meets one of the following criteria: sale of alcohol, street closures or contains a request for in-kind donations from the City of Tomball.
2. A written proposal must accompany the application. The proposal should include the overall event concept, a detailed site map, a list of planned activities, hours of operation, proposed vendors, food and beverage, entertainment and any other relevant aspects of the event.
3. If a charity is involved, or is the beneficiary of funds raised, information about the charity needs to be included as a part of the application process, as well as proof of non-profit status. If requesting in-kind services, preference will be given to organizations providing donations to agencies within the city limits of Tomball.
4. A fee equal to the actual cost of city services to host the event will be required of for-profit event planners to be paid no less than ten business days before the event. Non-profit organizations may request city services as an in-kind donation.
5. A meeting will be scheduled with the Tomball Events Team (representatives of Tomball Police, Fire, Public Works, Marketing and Northwest EMS) to discuss the merits and feasibility of the proposed event. The applicant is required to be at this meeting to answer questions regarding the application. Failure to attend will result in the event being cancelled by the City of Tomball.
6. If approved by the Tomball Events Team, the proposed event will be presented to City Council for final approval. The applicant is required to be at this meeting to answer questions regarding the application if necessary.
7. Ten days prior to the event, proof of general liability insurance (\$1,000,000 minimum) must be provided by the event organizer naming the City of Tomball as additional insured.
8. Event coordinators must provide their own volunteers or staff; oversee food and beverage permits, vendors, site clean-up and other aspects of staging a festival/special event.
9. Failure to comply with the guidelines listed above will preclude applicant from staging future events.

For additional information, or to submit an event application, please contact:

Chrislord Templonuevo – Marketing & Tourism Manager

401 Market Street

Tomball, Texas 77375

281-290-1035 | Email – ctemplonuevo@tomballtx.gov

June 27, 2023

City of Tomball Event Team,

Concordia Lutheran High School is excited to announce the 5th annual Cruisin' Crusader 5K Run/Walk in downtown Tomball. The race will be on Saturday, October 21st with registration opening at 6:30 am and the race beginning at 8 am. Funds raised from the event will help Concordia's boys and girls' cross country programs.

Student-athletes from the cross-country programs, student volunteers from our Interact club and parent volunteers will be working the event.

To help with the efficiency of the event, we are asking the City of Tomball for some in-kind services that include: Police, Fire, Public Works, and Coordination.

Event Information:

- We are estimating 175-275 runners for this event
- 5K race will begin at 8 am
 - o Race is stroller friendly
 - o Pets are not allowed on the course or at the event
- 1 Mile Kids Fun Run will begin at 9:00 am
 - o This will be an untimed race
 - o Kids must be ages 10 and under

Runner Benefits:

- Swag bag that includes a t-shirt and other goodies
- At the depot, there will be a refueling station where runners can pick up bagels, bananas, apples, and juices following the race
- Runners are able to compete for a prize of best team theme/costumes
 - o Teams must be at least 5 runners
- Overall Top 3 Finishers for Male/Female will receive pint glasses, gift cards and medals
- Top 3 Finishers from each age group for Male/Female will receive medals
- Finishers from Kids 1 Mile Fun Run will receive smaller medals for participating

Cost of the event:

- Pre-registered runners for 5K = \$35
- Pre-registered kid runners for 1 mile fun run = \$25
- Day of registration runners for 5K = \$40
- Day of registration for kid runners for 1 mile fun run = \$30

Other Logistical Items:

- Concordia will have a table promoting the school in the vendor area near the check-in/registration table
- City of Tomball is welcome to have a table/tent to promote upcoming events
- Concordia's drumline or pep band will be lining the street near the finish line for runners as they approach
- Concordia's cheerleaders will be lining the streets near the finish line to cheer on the runners
- Concordia will be providing their own sound system and microphones for the event but will need access to the Depot's electrical outlets
- The start and finish line will feature a giant arch for runners
 - o Finish line will feature a large race clock as well as a TV with scrolling results
- Concordia will provide parent volunteers that can be stationed throughout the course as needed by direction from Tomball PD to help with course turns while encouraging runners

Sponsorships Available:

- Mile Sponsors = \$1000 (x3 available)
 - o Signage on the mile marker sign on the grass along the course
 - o 10x10 vendor space at depot closest to registration table and refueling station
 - o Company logo on the t-shirt for all participants
 - o Ability to put an item in the swag bag for participants
- Community Vendor Sponsors = \$250 (unlimited)
 - o 10x10 vendor space at depot
 - o Company name listed on back of t-shirt for all participants
 - o Ability to put an item in the swag bag for participants
- T-Shirt Sponsors = \$150 (unlimited)
 - o Company name listed on back of t-shirt for all participants
 - o Ability to put an item in the swag bag for participants

The race maps we would like to follow are listed below on the next page. The red is the 5K route and the blue is the Kids 1 Mile Fun Run route.

Thank you for your consideration,

Ashley Schupp
Advancement Officer
Concordia Lutheran High School
SchuppA@clhs-tx.org
Office: 281-351-2547 ext. 234
Mobile: 832-528-6775

City Council Meeting Agenda Item Data Sheet

Meeting Date: October 2, 2023

Topic:

Approve Resolution No. 2023-45 A Resolution of The City Council of The City of Tomball, Texas, Appointing A Member to The Charter Review Commission.

Background:

Resolution No. 2023-40 was approved on September 5, 2023. On 09/26/2023 City Secretary Tracylynn Garcia, received a resignation letter from M. Harvey, leaving a vacancy for Councilman Dunagin. Councilman Dunagin is recommending Katie Whisler fill the vacancy.

Origination: City Attorney – Loren Smith

Recommendation:

Party(ies) responsible for placing this item on agenda: Tracylynn Garcia, City Secretary

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed	_____	Approved by	_____
	Staff Member		City Manager
	Date		Date

RESOLUTION NO. 2023-45

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL,
TEXAS, APPOINTING A MEMBER TO THE CHARTER REVIEW
COMMISSION.**

* * * * *

WHEREAS, Section 2-428 of the City's Code of Ordinances establishes the procedure for appointing members of the Charter Review Commission; and

WHEREAS, in accordance with Section 2-248, in Resolution 2023-40, adopted September 5, 2023, the City Council appointed members of the Charter Review Commission; and

WHEREAS, one of the members of the Charter Review Commission so appointed has resigned; and

WHEREAS, the City Council finds it to be in the best interest of the health, safety and welfare of its citizens to appoint the individual listed herein to the City's Charter Review Commission;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The facts and matters set forth in the preamble to this resolution are hereby found to be true and correct.

Section 2. The following individual is appointed to the Charter Review Commission:

Council Position No 3: Katie Whisler

Section 3. In the event any clause phrase, provision, sentence, or part of this Resolution or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Resolution as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND RESOLVED this the 2nd day of October 2023.

Lori Klein Quinn, Mayor

ATTEST:

Tracylynn Garcia, City Secretary

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: October 2, 2023

Topic:

Resolution No. 2023-38; A Resolution by the City Council of the City of Tomball, Texas, Authorizing Publication of Notice of Intention to Issue Certificates of Obligation; Approving the Preparation of a Preliminary Official Statement; And Approving Other Matters Incidental Thereto

Background:

In the Proposed Fiscal Year 2023-2024 Budget, the need for bond funding was identified for infrastructure improvements. These improvements include water, sewer, and parking. The bond issuance will provide \$28,000,000 in proceeds to use for project expenditures.

Origination: Finance

Recommendation:

Approve Resolution No. 2023-38 – Notice of Intent to Issue Certificates of Obligation, Series 2023

Party(ies) responsible for placing this item on agenda: Katherine Tapscott, Finance Director

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account: # _____ To Account: # _____

Signed: Katherine Tapscott 9/27/2023 **Approved by:** _____
Staff Member Date City Manager Date

RESOLUTION NO. 2023-38

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION; APPROVING THE PREPARATION OF A PRELIMINARY OFFICIAL STATEMENT; AND APPROVING OTHER MATTERS INCIDENTAL THERETO

THE STATE OF TEXAS §
COUNTIES OF HARRIS AND MONTGOMERY §
CITY OF TOMBALL §

WHEREAS, the City Council of the City of Tomball, Texas (the “City”) deems it advisable to issue certificates of obligation (the “Certificates”) of the City in accordance with the notice hereinafter set forth; and

WHEREAS, the City desires to approve the preparation of a preliminary official statement (the “Preliminary Official Statement”) in anticipation of its issuance of the Certificates; and

WHEREAS, it is hereby found and determined that the meeting at which this resolution is considered is open to the public as required by law, and public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended; NOW, THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS THAT:

Section 1. The findings, determinations, definitions and recitations set out in the preamble to this resolution are found to be true and correct and are hereby adopted by City Council and made a part hereof for all purposes.

Section 2. The City Secretary is hereby authorized and directed to cause to be published in the manner required by law and in substantially the form attached hereto as Exhibit A, a notice of the City's intention to issue the Certificates (the "Notice").

Section 3. The Notice shall be published once a week for two (2) consecutive weeks in a newspaper that is of general circulation in the City, the date of the first publication to be at least forty-six (46) days before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates. In addition, the Notice shall be posted continuously on the City's website for at least forty-five (45) days before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates.

Section 4. For the purposes of the Notice, the City hereby designates as self-supporting those public securities listed in the attached Exhibit B, the debt service on which the City currently pays from sources other than ad valorem tax collections. The City plans to continue to pay these public securities based on this practice; however, there is no guarantee this practice will continue in future years.

Section 5. For purposes of section 1.150-2(d) of the Treasury Regulations, this Notice serves as the City's official declaration of intent to reimburse itself from proceeds of the Certificates in the maximum principal amount and for expenditures paid in connection with the projects, each as set forth in Exhibit A hereof. Any such reimbursement will only be made (i) for an original expenditure paid no earlier than 60 days prior to the date hereof and (ii) not later than 18 months after the later of (A) the date the original expenditure is paid or (B) the date of which the project to which such expenditure relates is placed in service or abandoned, but in no event more than three years after the original expenditure is paid.

Section 6. The Mayor, the City Manager, the Finance Director, City Secretary and other appropriate officials of the City, the City's financial advisor, Hilltop Securities Inc., and bond counsel, Bracewell LLP, are authorized and directed to proceed with the preparation of the Preliminary Official Statement and to make other necessary arrangements for the sale of the Certificates at a future meeting of the City Council of the City.

Section 7. The City hereby authorizes the preparation and distribution of a Preliminary Official Statement relating to the Certificates and authorizes the City Manager or Finance Director to deem "final" such Preliminary Official Statement within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934.

Section 8. The Mayor, City Manager, Finance Director, City Secretary, and other officers and agents of the City are hereby authorized and directed to do any and all things necessary or desirable to carry out the provisions of this resolution.

Section 9. The notice and agenda relating to this meeting and heretofore posted by the City Secretary, and the posting thereof, are hereby authorized, approved, and ratified.

Section 10. This resolution shall take effect immediately upon its passage by the City Council of the City.

[Execution Page to Follow]

PASSED AND APPROVED on this the 2nd day of October, 2023.

City Secretary
City of Tomball, Texas

Mayor
City of Tomball, Texas

[SEAL]

EXHIBIT A

NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION

NOTICE IS HEREBY GIVEN that the City Council of the City of Tomball, Texas (the “City”), will meet at City Hall, 401 Market Street, Tomball, Texas 77375 at 6:00 p.m. on December 4, 2023, which is the time and place tentatively set for the passage of an ordinance and such other action as may be deemed necessary to authorize the issuance of the City’s certificates of obligation (the “Certificates”), in the maximum aggregate principal amount not to exceed \$28,000,000 payable from ad valorem taxes and from a limited pledge of a subordinate lien on the net revenues of the City’s water and sewer system, bearing interest at any rate or rates not to exceed the maximum interest rate now or hereafter authorized by law, as shall be determined within the discretion of the City Council of the City at the time of issuance of the Certificates, and maturing over a period not to exceed thirty (30) years from the date of issuance, for the purposes of evidencing the indebtedness of the City for all or any part of the costs associated with (i) the design, construction, and equipment of improvements to the City’s water and sewer system; (ii) the design, construction, and equipment of city parking facilities; and (iii) the cost of professional services incurred in connection therewith. The estimated combined principal and interest required to pay the Certificates on time and in full is \$42,381,678. Such estimate is provided for illustrative purposes only and is based on an assumed interest rate of 4.18%. Market conditions affecting interest rates vary based on a number of factors beyond the control of the City, and the City cannot and does not guarantee a particular interest rate associated with the Certificates. As of the date of this notice, the aggregate principal amount of outstanding tax-supported debt obligations of the City (excluding public securities secured by an ad valorem tax but designated as self-supporting in Resolution No. 2023-38, dated October 2, 2023, which resolution is available from the City upon request) is \$38,190,000. Based on the City’s expectations, as of the date of this notice, the combined principal and interest required to pay all of the outstanding tax-supported debt obligations of the City (excluding public securities secured by an ad valorem tax but designated by the City as self-supporting) on time and in full is \$50,883,886.

WITNESS MY HAND AND THE OFFICIAL SEAL OF THE CITY, this 2nd day of October, 2023.

Tracylynn Garcia
City Secretary
City of Tomball, Texas

EXHIBIT B

SELF-SUPPORTING DEBT

Principal Amount Designated as Self Supporting	Series Designation
\$4,520,000	General Obligation Refunding Bonds, Series 2020
\$4,520,000	Total Principal Amount Designated as Self-Supporting

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS §
COUNTIES OF HARRIS AND MONTGOMERY §

I, the undersigned officer of the City Council of the City of Tomball, Texas, hereby certify as follows:

1. The City Council of the City of Tomball, Texas, convened in a regular meeting on the 2nd day of October, 2023, at the regular meeting place thereof, within said City, and the roll was called of the duly constituted officers and members of said City Council, to wit:

Lori Klein Quinn	Mayor
John F. Ford	Councilman, Position 1
Mark Stoll	Councilman, Position 2
Dane Dunagin	Councilman, Position 3
Derek Townsend Sr.	Mayor Pro Tem and Councilman, Position 4
Randy Parr	Councilman, Position 5

and all of said persons were present, except the following absentee(s): ____, thus constituting a quorum. Whereupon, among other business, the following was transacted at said meeting: a written

RESOLUTION NO. 2023-38

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF TOMBALL,
TEXAS, AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO
ISSUE CERTIFICATES OF OBLIGATION; APPROVING THE
PREPARATION OF A PRELIMINARY OFFICIAL STATEMENT; AND
APPROVING OTHER MATTERS INCIDENTAL THERETO

was duly introduced for the consideration of said City Council. It was then duly moved and seconded that said resolution be adopted; and, after due discussion, said motion, carrying with it the adoption of said resolution, prevailed and carried by the following vote:

Members shown present voted “Aye.”

Members shown present voted “No.”

Member(s) of City Council shown present abstained from voting.

2. A true, full and correct copy of the aforesaid resolution adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; that said resolution has been duly recorded in said City Council's minutes of said meeting; that the above and foregoing paragraph is a true, full and correct excerpt from said City Council's minutes of said

meeting pertaining to the adoption of said resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said City Council as indicated therein; that each of the officers and members of said City Council was duly and sufficiently notified officially and personally, in advance, of the date, hour, place and purpose of the aforesaid meeting, and that said resolution would be introduced and considered for adoption at said meeting, and each of said officers and members consented, in advance, to the holding of said meeting for such purpose; that said meeting was open to the public as required by law; and that public notice of the date, hour, place and subject of said meeting was given as required by Chapter 551, Texas Government Code.

SIGNED AND SEALED this 2nd day of October, 2023.

City Secretary
City of Tomball, Texas

[SEAL]

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: October 2, 2023

Topic:

Ratify the FY 2023-2024 Budget and Find that the Proposed Tax Rate of \$0.293320/\$100 EXCEEDS the No-New-Revenue Tax Rate and WILL Generate More Property Tax Revenue than the FY 2022-2023 Budget

Background:

Truth-in-Taxation laws require that, prior to adopting a tax rate, the Council must first ratify the already adopted budget for the ensuing fiscal year and "find" that the proposed tax rate will generate more or less property tax revenue than the concluding year's adopted budget.

The City's proposed tax rate for the FY 2023-2024 Budget is \$0.293320/\$100, which is the Voter-Approval tax rate.

The Notice of Public Hearing was published in the official newspaper on September 27, 2023. One Public Hearing is required before adopting an ordinance to set the 2023 tax levy.

After ratifying the FY 2023-2024 budget and finding that the proposed tax rate does exceed the No-New-Revenue Tax Rate and will generate more property tax revenue than the FY 2022-2023 Budget, Council will be asked to vote to approve the First Reading of Ordinance No. 2023-39, adopting the 2023 tax levy and to announce the date for the final vote and adoption of Ordinance No. 2023-39 at a Regular Council Meeting on Monday, October 16, 2023 at 6:00 p.m..

Origination: Finance Director

Recommendation:

Ratify the FY 2023-2024 Budget and find that the proposed tax rate of \$0.293320 does exceed the No-New-Revenue tax rate and will generate more property tax revenue than the FY 2022-2023 Budget.

Party(ies) responsible for placing this item on agenda: Katherine Tapscott, Finance Director

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed	Katherine Tapscott, CPA	9.27.2023	Approved by	_____
	Staff Member	Date		City Manager
				Date

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: October 2, 2023

Topic:

Adopt \$0.106543 as the Portion of the 2023 Tax Rate to Fund the Interest and Sinking (Debt Service) Fund for Fiscal Year 2023-2024

Background:

\$0.106543 is the recommended allocation of the total tax rate of \$0.293320 to be used to fund the payment of the City's tax-supported debt. Ordinance No. 2023-39, adopting the tax rate for the City of Tomball for FY 2023-2024, will be presented following the approval of the two components of the tax rate.

This item is to adopt only the allocation of \$0.106543 as the designated portion of the tax rate to support the Interest and Sinking (Debt Service) Fund for Fiscal Year 2023-2024, as required by Chapter 26 of the Texas Property Tax Code.

Origination: Finance Director

Recommendation:

Adopt \$0.106543 as the Portion of the Tax Rate to Fund the Interest and Sinking (Debt Service) Fund for Fiscal Year 2023-2024

Party(ies) responsible for placing this item on agenda: Katherine Tapscott, Finance Director

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed	Katherine Tapscott, CPA	9.27.2023	Approved by		
	Staff Member	Date		City Manager	Date

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: October 2, 2023

Topic:

Adopt \$0.186777 as the Portion of the 2023 Tax Rate to Fund the Maintenance and Operations (M&O) Fund for Fiscal Year 2023-2024

Background:

\$0.186777 is the recommended allocation of the total tax rate of \$0.293320 to be used to fund the payment of the City's maintenance and operations. Ordinance No. 2023-39, adopting the tax rate for the City of Tomball for FY 2023-2024, will be presented following the approval of the two components of the tax rate.

This item is to adopt only the allocation of \$0.186777 as the designated portion of the tax rate to support the Maintenance and Operations (M&O) Fund for Fiscal Year 2023-2024, as required by Chapter 26 of the Texas Property Tax Code.

Origination: Finance Director

Recommendation:

Adopt \$0.186777 as the Portion of the Tax Rate to Fund the Maintenance and Operations (M&O) Fund for Fiscal Year 2023-2024

Party(ies) responsible for placing this item on agenda: Katherine Tapscott, Finance Director

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed	Katherine Tapscott, CPA	9.27.2023	Approved by	_____
	Staff Member	Date		City Manager
				Date

City Council Meeting Agenda Item Data Sheet

Meeting Date: October 2, 2023

Topic:

Conduct Public Hearing regarding the Proposed 2023 Tax Rate of \$0.293320/\$100 Assessed Value for the City of Tomball, Texas

Background:

Origination: Finance Director

Recommendation:

Conduct Public Hearing

Party(ies) responsible for placing this item on agenda: Katherine Tapscott, Finance Director

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed	<u>Katherine Tapscott, CPA</u>	<u>9.27.2023</u>	Approved by	_____
	Staff Member	Date		City Manager
				Date

NOTICE OF PUBLIC HEARING ON TAX INCREASE

A tax rate of \$0.293320 per \$100 valuation has been proposed by the governing body of City of Tomball.

PROPOSED TAX RATE	\$0.293320 per \$100
NO-NEW-REVENUE TAX RATE	\$0.253407 per \$100
VOTER-APPROVAL TAX RATE	\$0.293320 per \$100

The no-new-revenue tax rate is the tax rate for the 2023 tax year that will raise the same amount of property tax revenue for City of Tomball from the same properties in both the 2022 tax year and the 2023 tax year.

The voter-approval rate is the highest tax rate that City of Tomball may adopt without holding an election to seek voter approval of the rate.

The proposed tax rate is greater than the no-new-revenue tax rate. This means that City of Tomball is proposing to increase property taxes for the 2023 tax year.

A PUBLIC HEARING ON THE PROPOSED TAX RATE WILL BE HELD ON October 2, 2023 AT 6:00 PM AT City Hall, 401 Market Street, Tomball, Texas 77375.

The proposed tax rate is not greater than the voter-approval tax rate. As a result, City of Tomball is not required to hold an election at which voters may accept or reject the proposed tax rate. However, you may express your support for or opposition to the proposed tax rate by contacting the members of the City Council of City of Tomball at their offices or by attending the public hearing mentioned above.

YOUR TAXES OWED UNDER ANY OF THE RATES MENTIONED ABOVE CAN BE CALCULATED
AS FOLLOWS:

Property tax amount= (tax rate) x (taxable value of your property)/100

FOR the proposal:	Councilmember, Position 3 Dane Dunagin	Councilmember, Position 4 Derek Townsend
	Councilmember, Position 5 Randy Parr	

AGAINST the proposal:	Councilmember, Position 1 John F. Ford	Councilmember, Position 2 Mark A. Stoll

PRESENT and not voting:

ABSENT:

Visit [Texas.gov/PropertyTaxes](https://www.texas.gov/PropertyTaxes) to find a link to your local property tax database on which you can easily access information regarding your property taxes, including information about proposed tax rates and scheduled public hearings of each entity that taxes your property.

The 86th Texas Legislature modified the manner in which the voter-approval tax rate is calculated to limit the rate of growth of property taxes in the state.

The following table compares the taxes imposed on the average residence homestead by City of Tomball last year to the taxes proposed to be imposed on the average residence homestead by City of Tomball this year.

	2022	2023	Change
Total tax rate (per \$100 of value)	\$0.287248	\$0.293320	increase of 0.006072, or 2.11%
Average homestead taxable value	\$265,348	\$302,089	increase of 36,741, or 13.85%
Tax on average homestead	\$762.21	\$886.09	increase of 123.88, or 16.25%
Total tax levy on all properties	\$7,600,436	\$9,619,465	increase of 2,019,029, or 26.56%

For assistance with tax calculations, please contact the tax assessor for City of Tomball at 713-274-8000 or tax.office@tax.hctx.net, or visit www.hctx.net for more information.

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: October 2, 2023

Topic:

Adopt, on First Reading, Ordinance No. 2023-39, an Ordinance of the City of Tomball, Texas, Setting the Tax Levy of \$0.293320/\$100 Value Assessed for the Year 2023 on All Taxable Real and Personal Property Located in the City of Tomball, Texas; Providing for Penalty, Interest, and Additional Penalty on Taxes Not Timely Paid; and Providing Other Matters Relating to the Subject

Background:

The proposed tax rate for Fiscal Year 2023-2024 (Tax Year 2023) is \$0.293320/\$100, with \$0.106543 for the Interest & Sinking Fund and \$0.186777 for the Maintenance & Operations Fund.

The motion to adopt the ordinance setting a tax rate that exceeds the effective tax rate must be made in the following form: *"I move that the property tax rate be increased by the adoption of a tax rate of \$0.293320, which is effectively a 15.75 percent increase in the tax rate."*

Origination: Finance Director

Recommendation:

Adopt Ordinance No. 2023-39 on First Reading

Party(ies) responsible for placing this item on agenda: Katherine Tapscott, Finance Director

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed	<u>Katherine Tapscott, CPA</u>	<u>09-27-2023</u>	Approved by	_____
	Staff Member	Date		City Manager
				Date

ORDINANCE NO. 2023-39

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, SETTING THE TAX LEVY OF \$0.293320/\$100 VALUE ASSESSED FOR THE YEAR 2023 ON ALL TAXABLE REAL AND PERSONAL PROPERTY LOCATED IN THE CITY OF TOMBALL, TEXAS; PROVIDING FOR PENALTY, INTEREST, AND ADDITIONAL PENALTY ON TAXES NOT TIMELY PAID; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT.

* * * * *

WHEREAS, pursuant to the provisions of the Constitution and Laws of the State of Texas, the City Council of the City of Tomball, Texas, is vested with the power to levy, assess and collect an annual tax upon all taxable real and personal property located within the City Limits, and said power allowing for the granting of homestead exemptions for all City of Tomball property owners sixty-five years of age and over or who are disabled; and

WHEREAS, pursuant to the Charter of the City of Tomball, this ordinance has been read two (2) times and considered at two (2) sessions of the City Council, and published in the City's official newspaper after the first reading; and

WHEREAS, the Council is required to set a tax rate, expressed as a rate per hundred-dollar valuation of said property, located in the City of Tomball, January 1, 2023; and

WHEREAS, Section 26.05 of the Texas Property Tax Code provides that before the later of September 30th or the 60th day after the date the certified appraisal roll is received by the taxing unit, the governing body of each taxing unit shall adopt a tax rate for the current tax year; and

WHEREAS, such Section further provides that where the tax rate consists of two components (one which will impose the amount of taxes needed to pay the unit's debt service and the other which will impose the amount of taxes needed to fund maintenance and operation expenditures of the unit for the next year), each of the components must be approved separately; and

WHEREAS, the proposed tax rate for the current tax year of the City of Tomball, Texas, consists of two components, a tax rate of \$0.106543 cents per \$100.00 dollars of taxable value for the purpose of paying the accruing interest and to provide a sinking fund for payment of the indebtedness of the City,

and a tax rate of \$0.186777 cents per \$100.00 dollars of taxable value for the purpose of funding the maintenance and operation expenditures of the City for the next fiscal year; and

WHEREAS, City Council has approved, by separate motions, the tax rates heretofore specified for each of said components; and

WHEREAS, all notices and hearings required by law as a prerequisite to the passage, approval, and adoption of this Ordinance have been timely and properly given and held;

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

Section 1. The facts and recitations set forth in the preamble of this Ordinance are found to be true and correct and are hereby adopted, ratified, and confirmed.

Section 2. That said tax levied as aforesaid, based upon valuations established by Harris County Appraisal District, will be sufficient to meet the requirements of the City for the Budget Year 2023-2024.

Section 3. There is hereby levied, for the tax year 2023, to fund the City's fiscal year 2023-2024 municipal budget, an ad valorem tax at the total rate of twenty-nine and three hundred thirty-two ten-thousandths cents (\$0.293320) on each One Hundred Dollars (\$100.00) of assessed valuation on all property, real, personal, and mixed, within the corporate limits of the City, upon which an ad valorem tax is authorized by law to be levied by the City of Tomball, Texas. All such taxes shall be assessed and collected in current money of the United States of America.

Section 4. Of such total tax levied in Section 2 hereof, \$0.186777 is levied to fund maintenance and operation expenditures of the City for the fiscal year 2023-2024. Of the total tax levied in Section 2 hereof, \$0.106543 is levied for the purpose of paying the interest on bonds, warrants, certificates of obligation, or other lawfully authorized evidence of indebtedness issued by the City of

Tomball, Texas, including the various installments of principal due on the serial bonds, warrants, certificates of obligation, or other lawfully authorized evidence of indebtedness issued by the City as such installments shall respectively mature, in the fiscal year 2023-2024.

Section 5. This year's levy to fund both maintenance and operations expenditures and interest & sinking expenditures EXCEEDS last year's maintenance and operations tax levy BUT DOES NOT EXCEED last year's interest & sinking tax levy.

GENERAL FUND - TO FUND MAINTENANCE AND OPERATION EXPENDITURES OF THE CITY:	\$0.186777
INTEREST & SINKING - FOR DEBT SERVICE:	\$0.106543

With reference to the tax rate of \$0.106540 for the Interest and Sinking Fund for bonded indebtedness, this rate, representing 36.32% of the total \$0.29332 tax, shall apply to the gross amount of current taxes to be collected.

- (A) THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE; and**
- (B) THE TAX RATE WILL EFFECTIVELY BE INCREASED BY 15.75 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$6.40.**

Section 6. All ad valorem taxes levied hereby, in the total amount of \$0.293320 on each One Hundred Dollars (\$100.00) of assessed valuation, as reflected by Sections 2 and 3 hereof, shall be due and payable on or before January 31, 2024. All ad valorem taxes due the City of Tomball, Texas, and not paid on or before January 31st following the year for which they were levied, shall bear penalty and interest, and if not paid before July 1st shall incur an additional penalty of twenty percent (20%), as prescribed in the Texas Property Tax Code.

Section 7. All ordinances and parts of ordinances inconsistent or in conflict herewith are hereby repealed to the extent of such conflict.

Section 8. If any provision of this Ordinance is found to be invalid or unconstitutional by a court of competent jurisdiction, the same shall not invalidate or impair the validity, force, or effect of any other provision of this Ordinance.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 2ND DAY OF OCTOBER 2023.

COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN PARR	_____

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 16TH DAY OF OCTOBER 2023.

COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN PARR	_____

LORI KLEIN QUINN, MAYOR
City of Tomball

ATTEST:

TRACYLYNN GARCIA, City Secretary
City of Tomball

City Council Agenda Item Data Sheet

Meeting Date: October 2, 2023

Topic:

Discussion and presentation by FLS Development LLC and Harrisburg Homes regarding “Graylou Grove”, a proposed mixed-use development along Hufsmith-Kohrville Road at Medical Complex Drive.

Background:

Origination: FLS Development LLC and Harrisburg Homes

Recommendation:

Party(ies) responsible for placing this item on agenda: Community Development Department

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____

If yes, specify Account Number: # _____

If no, funds will be transferred from account: # _____ To Account: # _____

Signed: _____ **Approved by:** _____
Staff Member Date City Manager Date



GRAYLOU GROVE



50 Acre Mixed Use Development

At Hufsmith Kohrville Rd. and Medical Complex Dr.

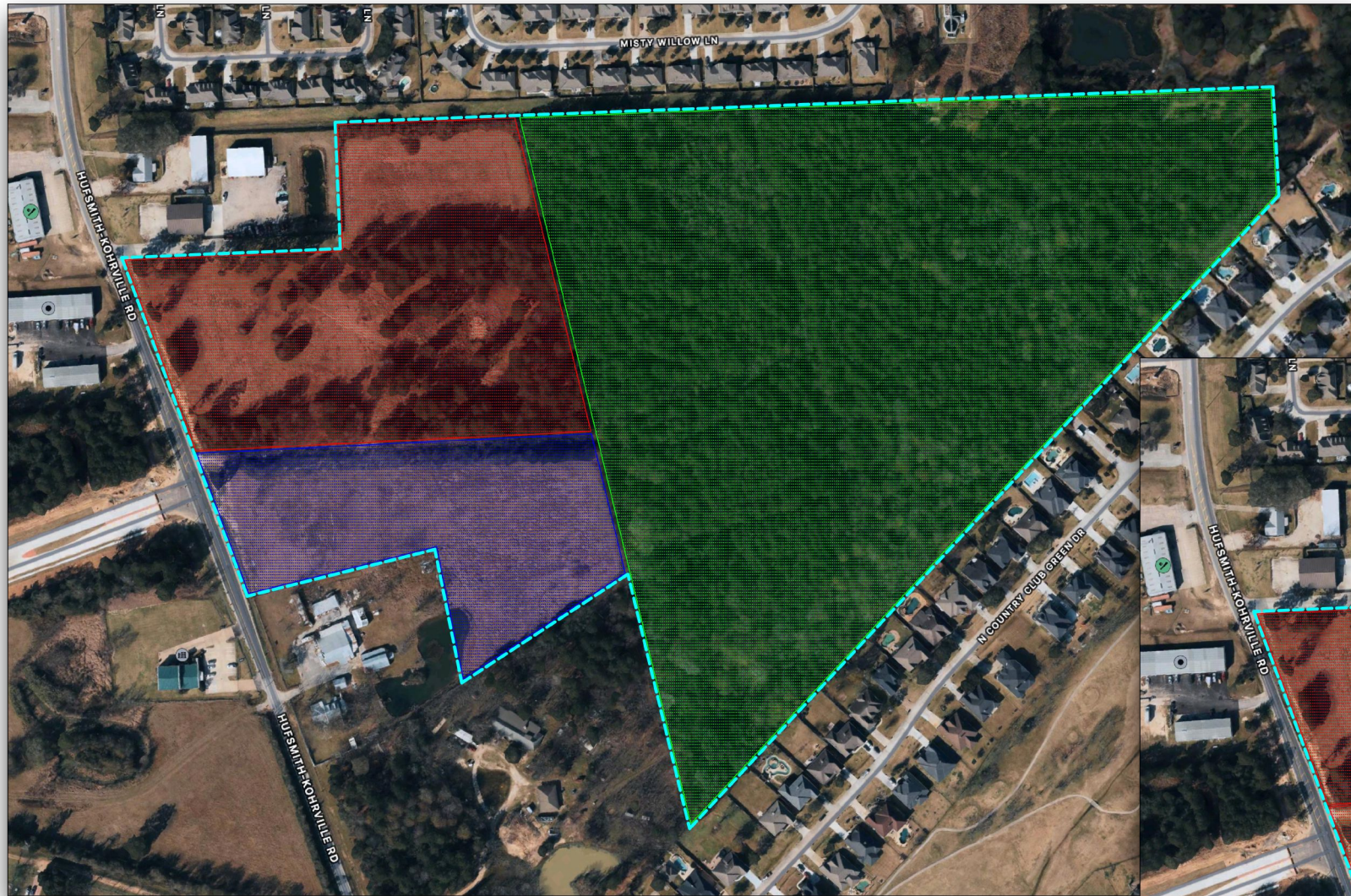
FLS Development LLC in Partnership with Harrisburg Homes

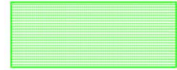


Aerial Map



Existing VS Proposed Jurisdiction Map

Existing Conditions



-  CCN 13203
(Aqua Texas, Inc.)
-  CCN 13257
(City of Tomball ETJ)
-  Tomball City Limits

Proposed Conditions



- Decertify (De-Annex) from CCN 13203 - Aqua Texas, Inc.
- Proposed annexation of entire property into city of Tomball corporate boundaries.
- Dedication of Medical Complex Blvd (Downgraded to minor arterial with 80' ROW approved as Case P22-184 in June 2022.)

Conceptual Land Plan

Development Considerations

1. Decertify/Annexation.
2. Planned Development (PD)
 - SFR with average lots of 8,500 SF
 - Commercial tracts with family-focused retail and green space/playground.
 - Detention facility with amenities (Fountain, walking trails, shade structure, fishing dock).
3. Public Improvement District (PID)
4. Platting.
5. Permitting (City of Tomball & Harris County.)





Architectural Benefits

- A unique and controlled concept of Architectural Design
- Restrictions to create a consistent environment
- Residential and Commercial Showpiece for City of Tomball















FLS Development



Thank You

City Council Agenda Item Data Sheet

Meeting Date: October 2, 2023

Topic:

Consider approval of agreement with developer for the construction of public improvements in the amount of \$98,800.00 for the sanitary sewer main extension to serve the Littlefield Office Building development.

Background:

A sanitary sewer main needs to be extended to serve the proposed Littlefield Office Building development along South Persimmon Street. To serve the development, an 8" sanitary sewer main needs to be extended. Since the City's adopted Sanitary Sewer Master Plan indicates the future need for a 18" sanitary sewer main, the property owner will install the 18" sanitary sewer main. Per a Memorandum of Understanding for a Right-of-Way Purchase dated November 16, 2019, the City agreed to extend City utilities to and through the property in exchange for right-of-way and easement needed for the Medical Complex Drive/South Persimmon Street improvement project.

Origination:

Community Development Department

Recommendation:

Approval

Party(ies) responsible for placing this item on agenda: Community Development Department

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account: # _____ To Account: # _____

Signed: _____ **Approved by:** _____
Staff Member Date City Manager Date

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

ARTICLE I

Definitions

The following terms and phrases used in this Agreement shall have the meanings ascribed hereto:

- 1.01. “Agreement” means this agreement, including any amendments hereto, between the City and Developer.
- 1.02. “Contractor” shall mean the person, firm, corporation, partnership, association, or other entity awarded the contract by Developer for the construction and installation of the Improvements.
- 1.03. “Improvements” shall mean:
 - 1.03.1. 385 linear feet of 18 inch sanitary sewer line to be constructed along the west side of the property
 - 1.03.2. 2 sanitary sewer manholes

ARTICLE II

Construction of Improvements

- 2.01 Construction of Improvements. Developer agrees to construct the Improvements in accordance with the plans and specifications approved by the City Engineer, and as fully set forth in Exhibit “B” hereto. No change in the construction plans shall be made by Developer without the prior written consent of the City Engineer. The entire cost of the construction of the Improvements shall be the responsibility and obligation of Developer, except as herein provided.
- 2.02. Contracts for Construction. Developer shall contract with a qualified Contractor to construct the Improvements in accordance with the approved plans and specifications. The City Engineer shall review all contract documents and costs estimates, and shall approve the Contractor prior to the award of the contract. Developer shall be solely responsible for payment of the work as it is completed, and shall make all payments in a timely manner to the Contractor, sub-contractors, and other parties involved in the construction of the Improvements.
- 2.03. Performance, Payment and Maintenance Bonds. Developer shall post within the City faithful performance, payment, and maintenance bonds for construction of the Improvements to ensure completion of the project. The bond must be executed by a corporate surety in accordance with Chapter 2253, Texas Government Code.
- 2.04. Inspection. The City Engineer shall periodically inspect the construction of the Improvements in the same manner, and shall possess the same authority, as is provided during the construction of subdivision improvements pursuant to the City of Tomball Subdivision Ordinance, as amended.

- 2.05. Insurance. The Contractor awarded the contract to construct the Improvements shall be required to carry Worker's Compensation Insurance on his employees and public liability and property damage insurance on his equipment and employees. The public liability insurance shall be not less than five hundred thousand dollars (\$500,000.00) per person and one million dollars (\$1,000,000.00) per occurrence, with property damage insurance of not less than five hundred thousand dollars (\$500,000.00). In addition, City shall be furnished with Certificates of Insurance and shall be named an additional named insured on such Certificates, and City shall be notified within ten calendar days of any cancellation of such insurance.
- 2.06. Accounting. Developer shall submit to City a complete accounting of all costs incurred by Developer in the construction of the Improvements. City will not contribute or pay for any costs incurred by Developer which was not approved by City prior to it being incurred. Developer shall maintain the accounting on this project for a period of two years from the date of acceptance by the City, and the City may inspect the Developer's books and records related to the project at any time with reasonable notice.
- 2.07. Indemnity. Developer agrees to protect, indemnify and save City harmless from and against all claims, demands and causes of action of every kind and character arising in favor of any third party on account of, or resulting from, the performance of this Agreement by Developer or Developer's agents, representatives, employees, contractors, or subcontractors.

ARTICLE III. City Obligations

- 3.01. Improvements. The City agrees to pay to Developer the construction costs of the Improvements, not to exceed
- 3.01.1. Ninety-eight thousand, eight hundred dollars, and zero cents (\$98,800.00) for the sanitary sewer line improvements as identified and described in Exhibit "C" attached hereto and made a part hereof.
- 3.02. Payment to Developer. Exhibit "C" attached hereto designates the costs for construction of the Improvements. City shall deliver to Developer full payment of the City's share of the costs of construction of the Improvements following submittal and review of documentation showing final, actual construction costs paid by the Developer. The City Engineer shall review the construction documents, conduct a final inspection on the Improvements, noting any required corrections or repairs, and make a recommendation to City Council on acceptance of the Improvements. Upon action by City Council accepting such Improvements, the City will pay to Developer the City's share of the costs. Any additional costs above those enumerated, or above the amounts described in Exhibit "C" must be approved by the City prior to being incurred.

ARTICLE IV

Miscellaneous Provisions

- 4.01 Assignment. This Agreement shall bind and benefit the respective Parties and their legal successors and shall not be assignable, in whole or in part, by any party without first obtaining written consent of the other party.
- 4.02 Amendment or Modification. Except as otherwise provided in this Agreement, this Agreement shall be subject to change, amendment or modification only in writing, and by the signatures and mutual consent of the Parties.
- 4.03. Parties in Interest. This Agreement shall be for the sole and exclusive benefit of the Parties hereto and shall not be construed to confer any rights upon any third party.
- 4.04. Remedies Not Exclusive. The rights and remedies contained in this Agreement shall not be exclusive, but shall be cumulative of all rights and remedies now or hereinafter existing, by law or in equity.
- 4.05. Waiver. The failure of any party to insist in any one or more instances on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, or condition, or right with respect to further performance.
- 4.06. Entire Agreement. This Agreement constitutes the entire agreement between the Parties related to the subject matter of this Agreement and supersedes any and all prior agreements, whether oral or written, dealing with the subject matter of this Agreement.
- 4.07. Venue. This Agreement shall be performable and enforceable in Harris County, Texas, and shall be construed in accordance with the laws of the State of Texas.
- 4.08. Severability. If any term or provision of this Agreement is held to be invalid, void or unenforceable by a court of competent jurisdiction, the remainder of the terms and provisions of this Agreement shall remain in full force and effect and shall not in any way be invalidated, impaired or affected.
- 4.09. Notices. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by (i) depositing the same in the United States mail, addressed to the party to be notified, postage prepaid, registered or certified mail, return receipt requested; or (ii) by delivering the same in person to such party; or (iii) by overnight or messenger delivery service that retains regular records of delivery and receipt; or (iv) by facsimile; provided a copy of such notice is sent within one (1) day thereafter by another method provided above. The initial addresses of the parties for the purpose of notice under this Agreement shall be as follows:

If to City: City of Tomball
401 W. Market Street
Tomball, Texas 77375
ATTN: City Engineer

If to Developer: Tim Littlefield LLC
9618 Kirkstone Terrace Drive
Spring, Texas 77389
ATTN: Tim Littlefield

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

CITY OF TOMBALL

Lori Klein Quinn
Mayor

ATTEST:

Tracylynn Garcia
City Secretary

OWNER:
TIM LITTLEFIELD LLC

Authorized Signature, Name, and Title:
Tim Littlefield
Owner, Tim Littlefield LLC

Exhibit A

MEMORANDUM OF UNDERSTANDING FOR A RIGHT-OF-WAY PURCHASE

Date: November 16, 2019

Grantee: City of Tomball
Mailing Address: 501 James Street
Tomball, Texas 77375

Grantor: Duncan Harrison
Mailing Address: 8419 Creekside Timbers Drive
Tomball, TX 77375

Property: 4.393 acres, Outlots 284 and 286 of Tomball Outlots
HCAD Property ID: 0352880000435
TBD Persimmon St., Tomball, TX

Project: Medical Complex Drive and S. Persimmon Road Widening and Rehabilitation

Purpose:

This Memorandum of Understanding is entered into by and between *The City of Tomball (City)* and *Duncan Harrison (Grantor)*, owner of the above referenced Property.

The City has a public need for the construction of an east-west road thoroughfare to help relieve traffic circulation in the southern part of the City. Medical Complex Drive (Agg Road) will be improved and extended from S. Persimmon Street to Hufsmith-Kohrville Road, and further roadway extension and rehabilitation will occur on S. Persimmon Street. In addition, public utilities and sidewalks will be constructed and/or improved.

In order to accommodate this roadway construction and associated improvements, the City of Tomball will need to acquire portions of various parcels of land and/or easements from the landowners in the Project area. Based on title research and project design, the City has determined that a portion of the Property owned by Grantor will need to be acquired in relation to the Project.

The City has engaged Threshold Land Services, a professional right of way acquisition firm, to coordinate the purchase of these parcels and be your point of contact during this process. To avoid any possible misunderstanding as to the details of the Project and the process by which the City will acquire this property, we are outlining the following proposed terms:

1. Grantor agrees to convey fee simple title to a 0.2547 of one acre (11,096 square foot) tract of land to City out of a portion of Property (Parcel A-1).
2. Grantor agrees to convey a 0.3984 of one acre (17,355 square foot), twenty foot (20') wide easement to City out of a portion of Property (Parcel E-A1).
3. Details and location of the easement and fee simple grant shall be outlined in an easement and right of way deed, accompanied by a metes and bounds description and survey plat, both to be prepared by the City.

4. The purchase price for the two tracts are outlined as follows:

Parcel A-1: **0.2547** of one acre (11,096 square foot) *fee simple* X **\$1.25/SF** X **100%** = **\$13,870**

Parcel E-A1: **0.3984** of one acre (17,355 square foot) *easement* X **\$1.25/SF** X **50%** = **\$10,845 (rounded)**

Total Purchase Price: \$24,715

5. Grantor agrees to accept a credit for services against the sales price in the amount of \$24,715, the entire Purchase Price, and in exchange, the City agrees to extend City utilities to and through the limits of Grantor's Property lines along Persimmon Street and Agg Road. Further, the City agrees to waive the standard Tap Fees for connecting to these utilities, under the condition that the Property is developed within five years of the installation of the utilities.
6. The City, at its own cost, may order a survey and a title commitment covering the acquisition of Parcels. If the survey or the title commitment shows that any portion of the Property is subject to any lien, claim, encumbrance, reservation, restriction or other matter, the Parties agree and acknowledge that any taxes, liens, abstracts of judgment, or other encumbrances will be satisfied at Grantor's cost.
7. During the construction of Project, the City will be responsible for restoring all disturbed areas of surface of the easement area and/or any other portion of Grantor's Property to a condition substantially equal to the existing condition prior to the beginning of construction, provided the surface is damaged by construction.

All of the preceding terms are subject to final approval by the City. This is not a binding agreement, but it is necessary in order to avoid any possible misunderstanding as to the details of the property purchase or the process by which the City will make payment.

If Grantor and the City agree with the above proposed terms, please acknowledge by signing below.

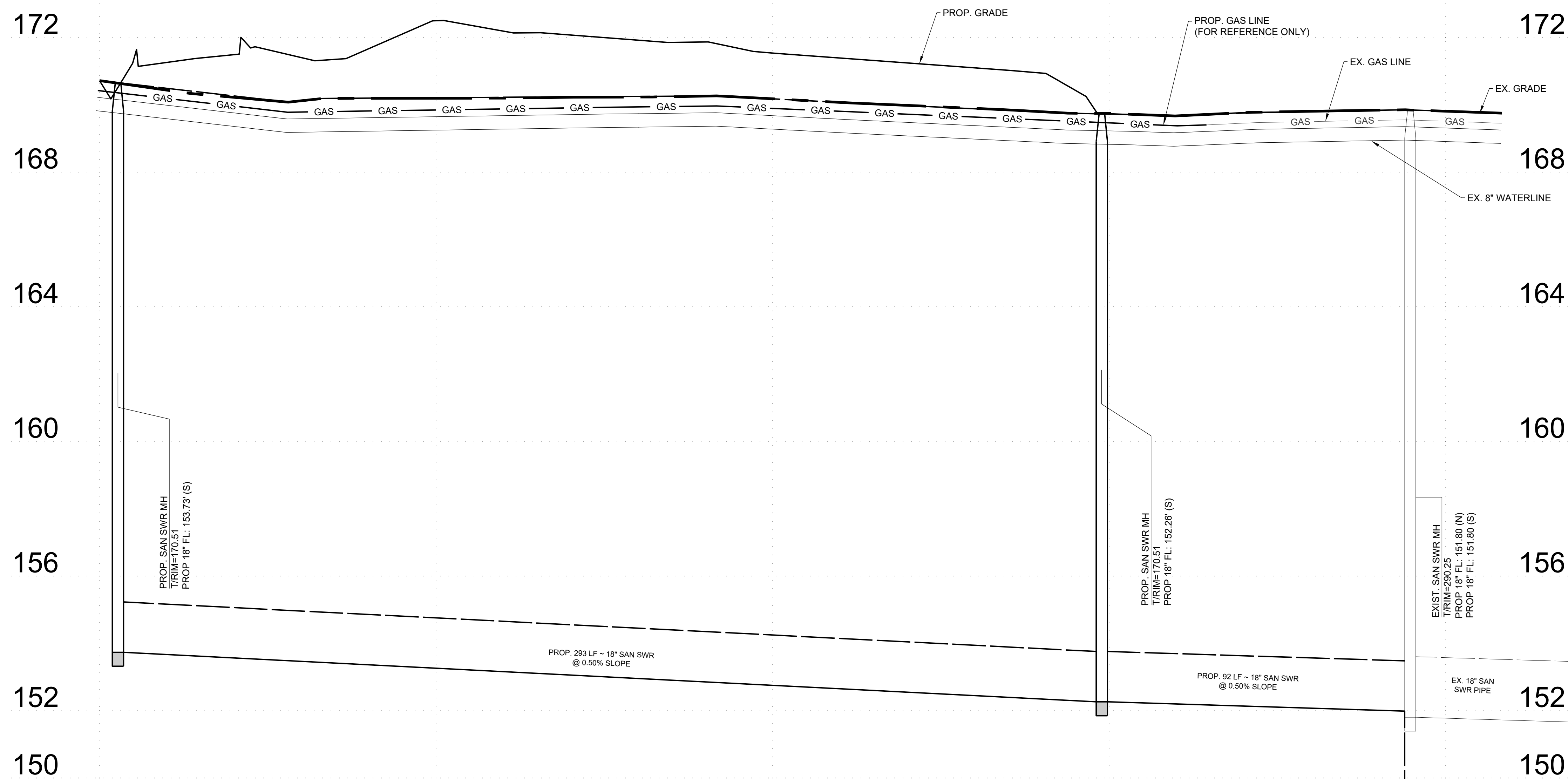
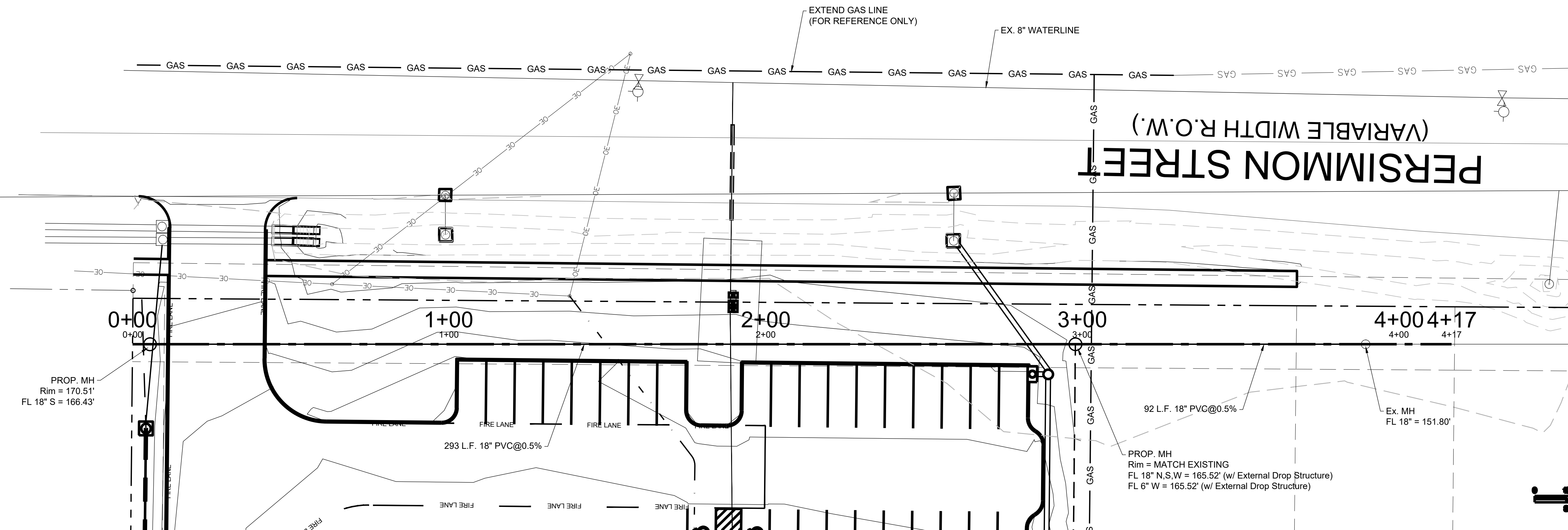
GRANTOR: Duncan Harrison

Duncan Harrison
Date: 11-6-19

GRANTEE: City of Tomball

By: [Signature]
Printed: Robert S. Harrison
Title: City Manager
Date: 9/22/2020













Exhibit B



VICINITY MAP

N.T.S.

Utility Legend

	Street Signs		Street Light
	Plug		Taping Sleeve & Valve
	Blow-Off Valve		Clean Out
	Gate Valve		San Manhole
	Fire Hydrant		Storm Inlet
	Tee		Storm Manhole
FL	FLOWLINE	PC	Point of Curve
TF	Top of Bank	ROW	Right of Way
LB	Linear Feet	UE	Utility Easement
RCP	Reinforced Conc Pipe	CO	Cleanout
TP	TOP OF PAVING	PG	TOP GRAVEL
SW	SIDE WALK	GP	PROP. GRADE
NG	NATURAL GRADE	TC	TOP CURB
SET SAFETY END TREATMENT		MH	MAHOLE
FH	FIRE HYDRANT	FF	FINISHED FLOOR
— GAS	GAS LINE		
— GAS	EXIST. GAS LINE		
— OE	EXIST. OVERHEAD ELECTRIC		
—	EXIST. SANITARY PIPE		
—	EXIST. WATER PIPE		
—	PROP. SANITARY PIPE		
—	PROP. WATER PIPE		
—	PROP. UNDERGROUND ELECTRIC		

NOTES:

1. THIS PROJECT DOES NOT LIE WITHIN THE 100 YEAR FLOODPLAIN, AS SHOWN, ACCORDING TO FEMA FIRM #48201C0230L - 06/18/2007



REVISIONS:
1. REVISION:

LITTLEFIELD OFFICE BUILDING
PERSIMMON ST UTILITY
EXTENSION PLAN & PROFILE

Harris County Tomball, Texas

Design:	CAD:	Job No:	Drawing No:
CDF	CDF	80521-053	

Exhibit C



LAND DEVELOPMENT SERVICES

ENGINEER'S CONSTRUCTION COST ESTIMATION

Littlefield Office Building

Wastewater Improvements

Issue for Construction

Project Number: 0268-0200

Date of Estimation September 13, 2023

SANITARY SEWER EXTENSION

Item No.	Item Description	Unit	Qty	Unit Price	Cost
1	18" PVC (SCH 26) Sanitary Sewer	LF	385	\$228.00	\$87,780.00
2	Sanitary Sewer Manhole	EA	2	\$5,510.00	\$11,020.00
WASTEWATER ITEMS TOTAL:					\$98,800.00



City Council Agenda Item Data Sheet

Meeting Date: October 2, 2023

Topic:

Consider variance request from BCS Capital Group LLC for alcohol sales within 300 feet of a public school.

Background:

Ordinance 2023-28 amended Chapter 4-Alcoholic Beverages by allowing City Council to grant variances to the provisions of that chapter. Section 4-2 of the City of Tomball Code of Ordinances prohibits the sale of alcoholic beverages within 300 feet of any church, public or private school or public hospital, within the corporate limits of the city. Measurement shall be done as required by V.T.C.A., Alcoholic Beverage Code § 109.33. A variance request was received from a proposed restaurant at 28750 Tomball Parkway (old Luby's site), which is within 300 feet of the Tomball ISD campus along Keefer Road.

Origination: BCS Capital Group LLC

Recommendation:

Party(ies) responsible for placing this item on agenda: Community Development Department

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____

If yes, specify Account Number: # _____

If no, funds will be transferred from account: # _____ To Account: # _____

Signed: _____ **Approved by:** _____
Staff Member Date City Manager Date



September 25, 2023

City of Tomball
Attn: Craig Meyers
501 James Street
Tomball, Texas 77375

RE: Chapter 4 (Sec. 4-2) Alcoholic Beverages Variance Request – 28750 Tomball Parkway, Tomball Texas 77375

Dear Mr. Meyers,

BCS Capital Group (dba BCS Tomball Main LLC) (“BCS”) is the property owner at 28750 Tomball Parkway (“BCS Property”). In accordance with Ordinance No. 2023-28, the purpose of this letter is to submit a formal variance request to Chapter 4, Alcoholic Beverages of the City of Tomball Code of Ordinances (“City Code”).

According to Section 4-2 of the City Code, the sale of alcoholic beverages within 300 feet of a public or private school within city limits, is prohibited. Tomball ISD is the owner of the property located at 1302 Keefer Rd (“Tomball ISD Property”). There is ~ 205-215 feet from the boundary of the BCS Property to the boundary of the Tomball ISD Property (Tomball Connections Academy Campus) and ~265-275 feet from the boundary of the Tomball ISD Property to the vacant Luby’s building on the BCS Property. Please see the enclosed alcohol sales exhibit for a depiction of this description.

As mentioned above, there is a vacant Luby’s building on the BCS Property that BCS previously intended to redevelop into a Class A restaurant concept(s), please see the enclosed conceptual building renderings. However, the current restriction makes this impossible given the critical nature of alcohol sales for any restaurant concept to i) consider opening for business at this location and ii) have any chance of succeeding.

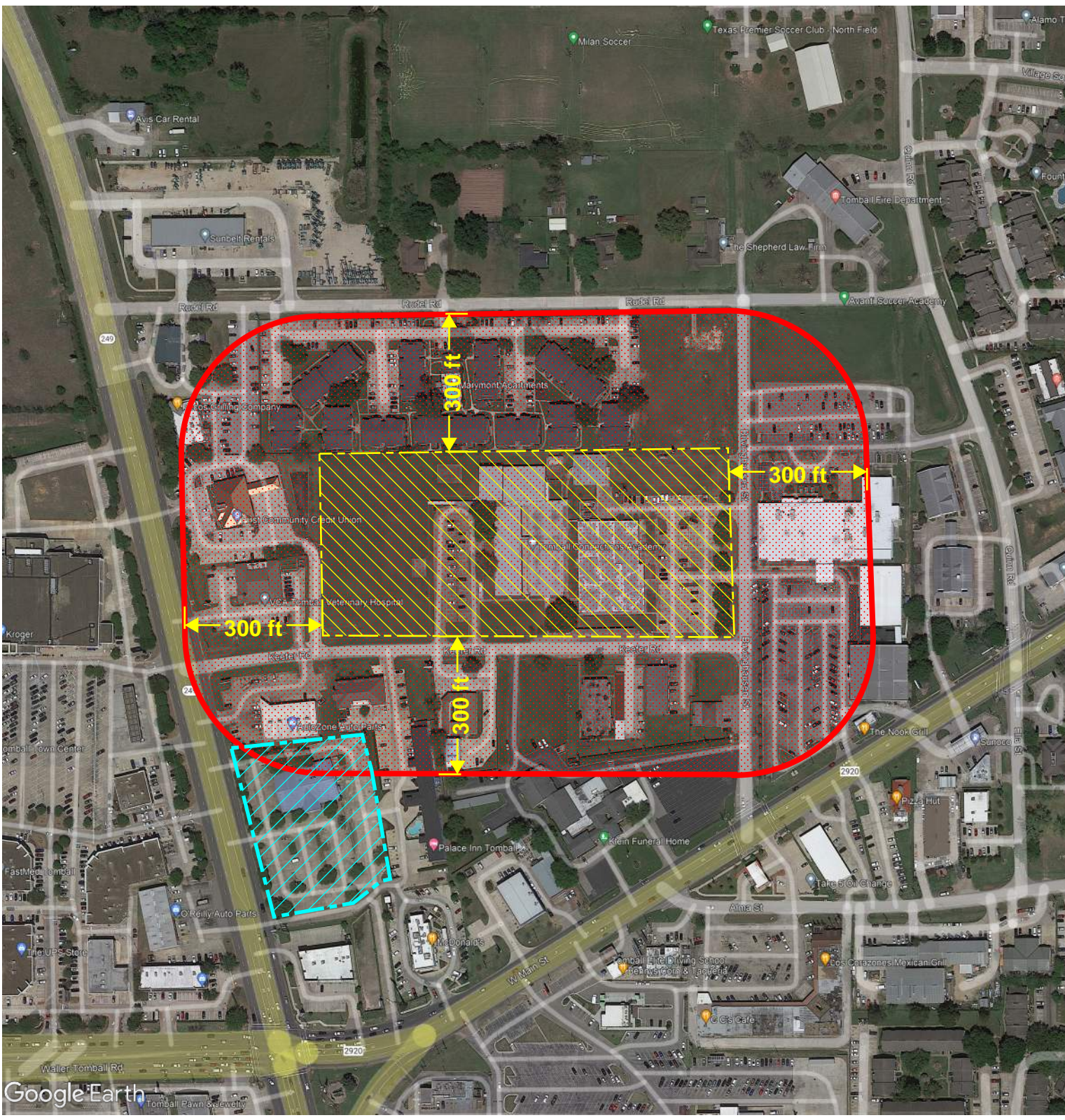
As such, BCS respectfully requests a variance to Section 4-2 of the City Code to allow for the sale of alcohol to occur on the BCS Property, specifically, within the existing Luby’s building (once redeveloped) given the following:

- 1) A redevelopment of the existing building is the highest and best use for the property and in the best interest of the community and City
- 2) As it stands today, the vacant property is both inefficient and wasteful, not serving the needs of the community, creating jobs or generating sales revenue for the City
- 3) The building has become a welfare concern to the public given the homeless population and late-night mischief that continuously flocks to the vacant building and property
- 4) Customers access the BCS Property off 249-B and 2920 and there is no cross-traffic with the Tomball ISD Property; thus, there is ample vehicular buffer between the properties
- 5) There is no clear/direct pedestrian access between the properties (no defined sidewalks through our site, over the neighboring property, and to the Tomball ISD Property)

We are grateful to the City for their consideration of this proposed variance and look forward to working with you to deliver a value-add development to the City of Tomball. Please feel free to contact me by phone at 713-803-9730 or by email at jack.burgher@bcscapitalgroup.com to discuss further.

Sincerely,

Jack Burgher, Partner
BCS Capital Group LLC



Tomball, TX Code of Ordinances

CITY OF TOMBALL CODE OF ORDINANCES - CHAPTER 4-2

Chapter 4 - ALCOHOLIC BEVERAGES

Section 4-2 - Location restricted for sale

State Law reference— Alcoholic beverages generally, V.T.C.A., Alcoholic Beverage Code ch. 1 et seq.; local regulation of alcoholic beverages, V.T.C.A., Alcoholic Beverage Code §§ 11-38, 61-36, 109-31 et seq., local option elections, V.T.C.A., Alcoholic Beverage Code § 251.01 et seq.

ARTICLE I - IN GENERAL

Sec. 4-1 - Definitions.

For the purposes of this chapter, all definitions of words, terms, and phrases, as set forth in the Alcoholic Beverage Code, are hereby adopted and made a part hereof by reference.

(Code 1978, § 3-1; Code 1993, § 6-1)

State Law reference— Definitions, V.T.C.A., Alcoholic Beverage Code § 1.04.

Sec. 4-2 - Location restricted for sale:

The sale of alcoholic beverages within 300 feet of any church, public or private school or public hospital, within the corporate limits of the city, is hereby prohibited. Measurement shall be done as required by V.T.C.A., Alcoholic Beverage Code § 109.33.

(Code 1978, § 3-2; Code 1993, § 6-2)

State Law reference— Location restrictions, V.T.C.A., Alcoholic Beverage Code § 109.33.

§ 109.33. Sales Near School, Church, or Hospital, TX AL BEV § 109.33

VTCA SECTION 109.33 REFERENCED WITHIN TOMBALL ORDINANCE

Vernon's Texas Statutes and Codes Annotated
Alcoholic Beverage Code (Refs & Amos)
Title 4. Regulatory and Penal Provisions (Refs & Amos)
Chapter 109. Miscellaneous Regulatory Provisions
Subchapter C. Local Regulation of Alcoholic Beverages

V.T.C.A., Alcoholic Beverage Code § 109.33

§ 109.33. Sales Near School, Church, or Hospital

Effective: September 1, 2021
Currentness

(a) The commissioners court of a county may enact regulations applicable in areas in the county outside an incorporated city or town, and the governing board of an incorporated city or town may enact regulations applicable in the city or town, prohibiting the sale of alcoholic beverages by a dealer whose place of business is within

(1) 300 feet of a church, public or private school, or public hospital;

(2) 1,000 feet of a public school, if the commissioners court or the governing body receives a request from the board of trustees of a school district under Section 38.007, Education Code; or

(3) 1,000 feet of a private school if the commissioners court or the governing body receives a request from the governing body of the private school.

(b) The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be

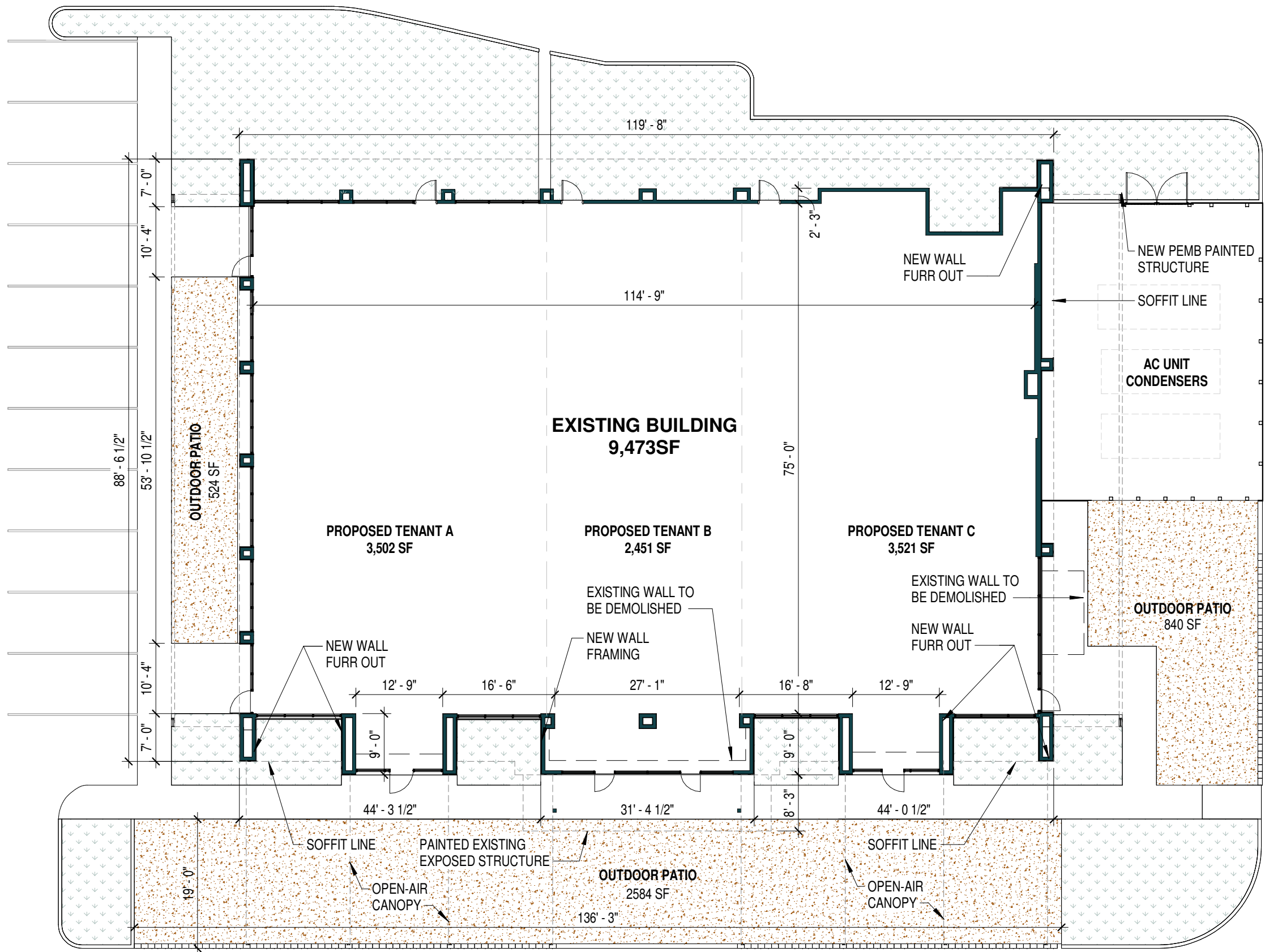
(1) in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or

(2) if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

(c) Every applicant for an original alcoholic beverage license or permit for a location with a door by which the public may enter the place of business of the applicant that is within 1,000 feet of the nearest property line of a public or private school, measured along street lines and directly across intersections, must give written notice of the application to officials of the public or private school before filing the application with the commission. A copy of the notice must be submitted to the commission with the application. This subsection does not apply to a permit or license covering a premise where minors are prohibited from entering the premises under Section 109.53.

(d) As to any dealer who held a license or permit on September 1, 1983, in a location where a regulation under this section was in effect on that date, for purposes of Subsection (a), but not Subsection (c), of this section, the measurement of the distance between the place of business of the dealer and a public or private school shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(e) The commissioners court of a county or the governing board of a city or town that has enacted a regulation under Subsection (a) of this section may also allow variances to the regulation if the commissioners court or governing body determines that enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the court or governing board, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.



FLOOR PLAN SCALE: 1/16" = 1'-0"

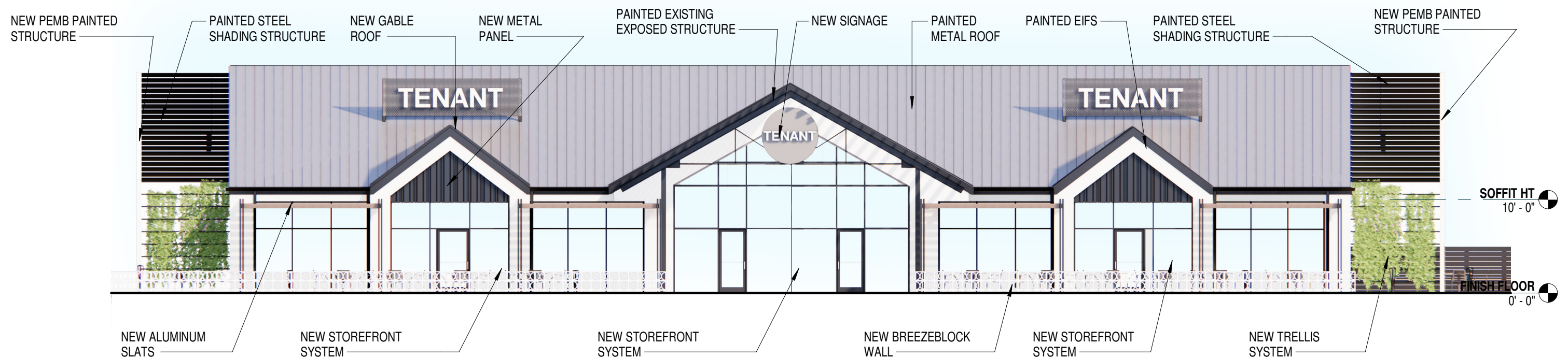
CORNER STONE RETAIL

28750 TOMBALL PKWY TOMBALL, TEXAS 77375





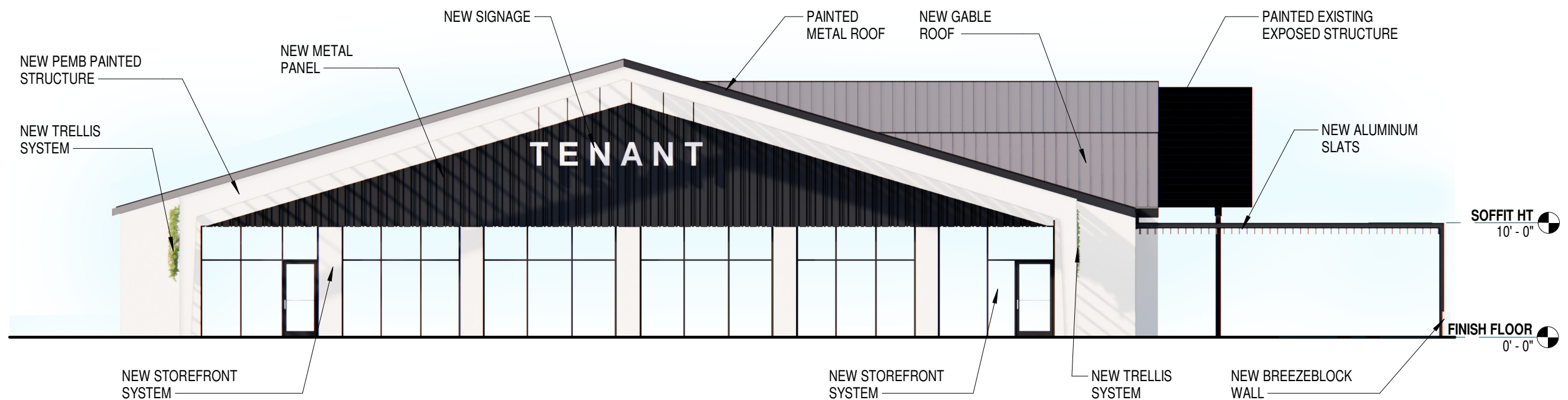
SOUTH ELEVATION EXISTING SCALE: 3/32" = 1'-0"



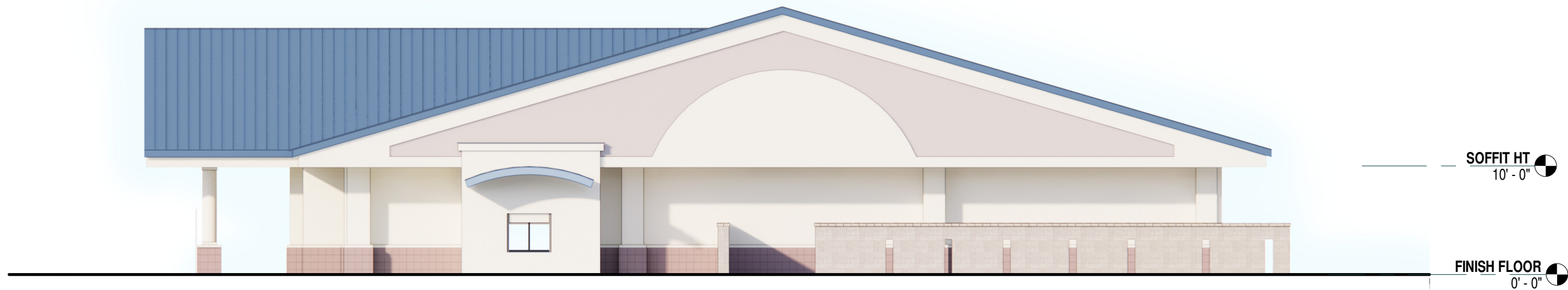
SOUTH ELEVATION NEW SCALE: 3/32" = 1'-0"



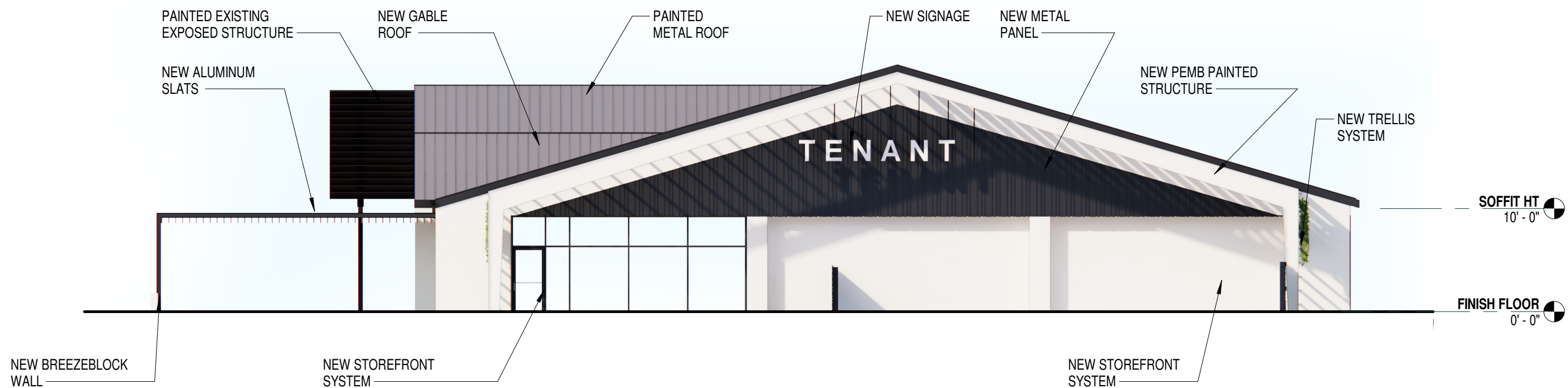
WEST ELEVATION EXISTING SCALE: 3/32" = 1'-0"



WEST ELEVATION NEW SCALE: 3/32" = 1'-0"



EAST ELEVATION EXISTING SCALE: 3/32" = 1'-0"



EAST ELEVATION NEW SCALE: 3/32" = 1'-0"



CORNER STONE RETAIL

28750 TOMBALL PKWY TOMBALL, TEXAS 77375





City Council Meeting

Agenda Item

Data Sheet

Meeting Date: October 2, 2023

Topic:

Accept the Donation of a Fire and Medical Skid Unit and Associated Upfit Modifications to the Special Event Cart.

Background:

In June and August, the Tomball Lions Club and the Tomball Rotary Club made generous donations of \$2,500 each for the purchase of a fire and medical skid unit, paint, striping and emergency lighting upfit to a surplus police department Kawasaki Mule. This unit will be utilized at special events throughout the City, remote area wildfires and medical emergencies.

The previously donated funds were used by the Tomball Volunteer Fire Department, a separate 501(c)3 entity, to purchase the unit and modifications. This action formally accepts the purchased skid unit and associated upfit as City of Tomball property. With acceptance of these items, the upfitted special events cart will be fully operational as part of the City's emergency response fleet.

Origination: Fire Department

Recommendation:

n/a

Party(ies) responsible for placing this item on agenda: Joe Sykora, Fire Chief

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed	<u>Joe Sykora</u>	<u>09/27/2023</u>	Approved by	_____
	Staff Member	Date		City Manager
				Date

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: October 2, 2023

Topic:

Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.071 – Consultation with the City Attorney regarding a matter which the Attorney’s duty requires to be discussed in closed session.
- Sec. 551.072 – Deliberations regarding Real Property
- Sec. 551.074 – Personnel Matters; Deliberation of the Appointment, Employment, and Duties of a Public Officer or Employee-City Manager

Background:

Origination: David Esquivel, City Manager

Recommendation:

Party(ies) responsible for placing this item on agenda: David Esquivel, City Manager