

Right-of-Way Abandonment Staff Report

City Council Public Hearing Date: August 1, 2022

Case: P22-265

Applicant(s): Habitat for Humanity – Northwest Harris County INC.

Location: Segment of the 30-foot-wide public right-of-way presently dedicated to Welty Street. Being that segment which extends approximately 295 linear feet northwest from the northernmost right-of-way boundary for Foster Street to the southernmost right-of-way boundary for Carrel Street, wedged between Block 90 in Tomball and the western property line of Restricted Reserve “A” in the Final Plat of The Episcopal Church of The Good Shepherd (Exhibit “A”)

Area: 0.19 acres

Request: Abandon a segment of the 30-foot-wide right-of-way dedicated to Welty Street.

Adjacent Zoning & Land Uses:

- North:** Single Family Residential -9 / Single-Family Residence
- South:** Single Family Residential – 6 / Vacant
- West:** Single Family Residential - 6 / Vacant
- East:** Single Family Residential - 9 / Church

BACKGROUND

The 30-foot-wide right-of-way for Welty Street was originally dedicated in 1907 with the original plat of the Tomball Townsite. The right-of-way dedicated to Welty Street extends approximately 1,000 linear feet from the northernmost right-of-way boundary currently dedicated towards Texas Street to the southernmost boundary dedicated toward Carrel Street. The entirety of Welty Streets’ right-of-way has remained unpaved since its dedication in 1907.

ANALYSIS

The portion of Welty Street that is subject to this abandonment request is unpaved, however, it is improved with utilities. Within the right-of-way presently dedicated to Welty Street, there is an existing 8-inch water main, and 2-inch gas line. These utilities were constructed in 2005 during a public works project to improve Foster Street. With the improvements of Foster Street in 2005, a permanent cul-de-sac was constructed at the easternmost extent of Foster Street where it intersects Welty Street. There are currently no lots along the subject segment of Welty Street, whose sole access to a public right-of-way is via Welty Street.

Staff Review Comments:

Since its initial dedication in 1907 the Welty Street right-of-way has remained unpaved in its entirety. Further, given that there are no lots that rely solely on Welty Street as direct access to public right-of-way the proposed abandonment would not be contrary or detrimental to adjoining properties. Lastly, a permanent dead end will not be created if abandoned given that an appropriate cul-de-sac has been constructed at the eastern extent of Foster Street. This cul-de-sac has been built according to the City of Tomball's construction standards, ensuring adequate emergency vehicle access and maneuverability on Foster Street.

PUBLIC COMMENT

A Notice of Public Hearing was published in the paper and property owners within 200 feet of the segment of right-of-way were mailed notification of this proposal on July 15, 2022. 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, the City staff recommends approval of Zoning Case P22-265 with the following conditions:

- The right-of-way abandonment must be formally finalized by replat illustrating how the subject segment of right-of-way will be absorbed within the boundaries of adjoining properties.
- Sufficient utility easements must be dedicated for the existing water main and gas line within the Welty Street right-of-way.

EXHIBITS

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

Exhibit "A"
Location Map

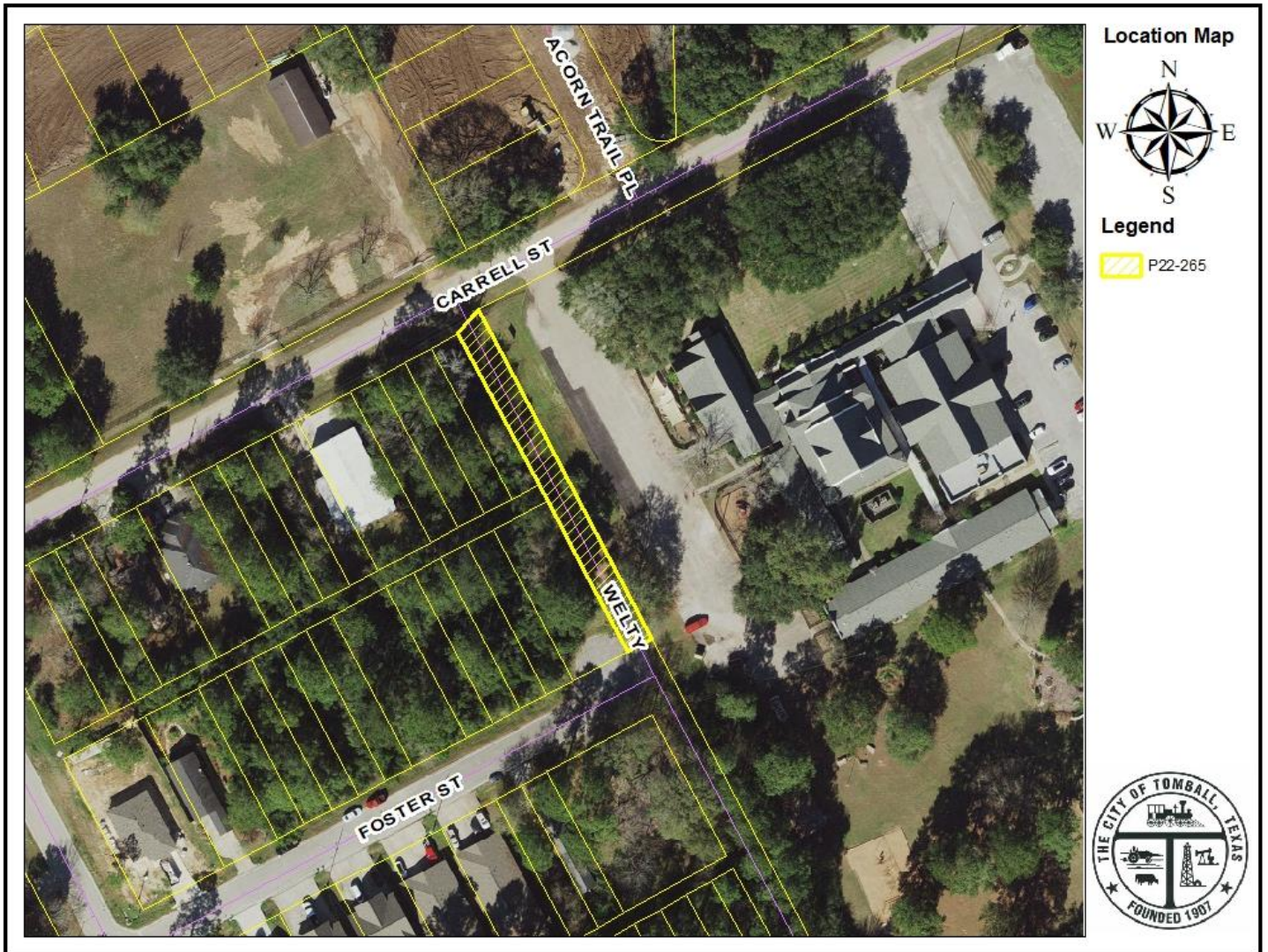
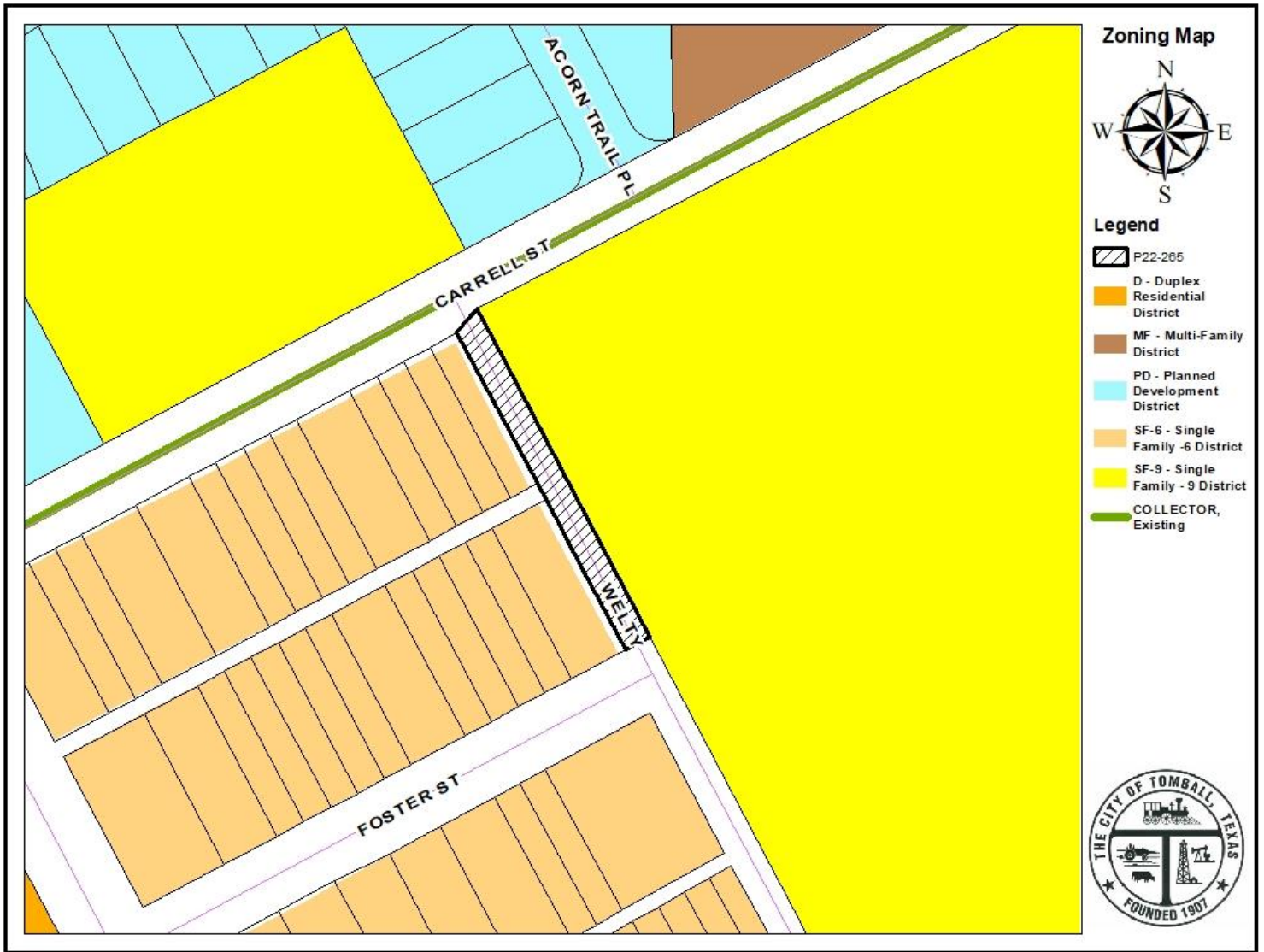


Exhibit "B"
Future Land Use Map



Exhibit "C" Zoning Map



**Exhibit “D”
Site Photo(s)**



Exhibit "E"
Right-Of-Way Abandonment Application

Revised 10/1/2015



CITY OF TOMBALL
RIGHT-OF-WAY ABANDONMENT
REQUEST APPLICATION

**Please provide the following information & return your submittal to the City Manager's Office,
401 Market St., Tomball, Texas 77375.**

Minimum Submittal Requirements

- ☐ \$300 application fee;
- ☐ Detailed description of entire limits or extent of the ROW and the limits to be abandoned, if different;
- ☐ Five (5) copies of the Boundary Survey and metes & bounds description of the ROW to be abandoned;
- ☐ Electronic File (PDF) of Boundary Survey and metes & bounds description of the ROW to be abandoned;
- ☐ Copy of letters to utility providers, drainage districts, and/or other interested agencies stating they have been notified of the requested ROW abandonment;
- ☐ Letter of "No Objection" from each of the concerned entities; and
- ☐ Completed and signed application form.

Applicant Information

Name Habitat for Humanity- Northwest Harris County INC.

Mailing Address P.O. Box 682785

City Houston State TX Zip Code 77268

Phone Number 281-477-0460 Fax Number _____

E-mail Address earmstrong@habitatnwhc.org

Agent or Engineer Information

Name Erik Armstrong

Mailing Address P.O. Box 682785

City Houston State TX Zip Code 77268

Phone Number 936-217-7475 Fax Number _____

E-mail Address earmstrong@habitatnwhc.org

We, the undersigned property owners of
Revised Map of Tomball lot 19, block 90

(name of subdivision, lot, and block number)

do hereby request that the City of Tomball release and vacate the said Right-of-Way as further described
in the attached Boundary Survey.

Adjacent Property Owners Signatures

(please include your name, mailing address, HCAD number of your property, and signature)

1. The Episcopal Diocese of Texas, 1225 Texas Ave, Houston, TX 77002 *Michael Hilfinger*, Director of Real Estate
2. HCAD #s 1270990000001 and 0352780900054
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

Certification

I, Erik Armstrong, being one of the above named persons, do hereby
certify that the above named persons include all abutting property owners of the property being vacated
and released.

Please list the reasons for the request and how this request will benefit the public:

The property is not being used by the city and the maintenance will be passed along to the new owners.

(Signature)

Erik Armstrong

(Printed Name)

Erik Armstrong

Exhibit "A"

FIELD NOTES OF 0.0399 ACRE OF LAND

All that certain 0.0399 acre of land situated in the William Hurd Survey, Abstract No. 371, Harris County, Texas, being a portion of Welty Street, as dedicated by the plats recorded in Volume 2, Page 65 and Volume 4, Page 25, both of the Harris County Map Records (H.C.M.R.), said 0.0399 acre of land being more particularly described by metes and bounds as follows:

COMMENCING at a PK nail set in asphalt at the southeast corner of said Block 90, same being the southeast corner of Lot 19, Block 90, REVISED MAP OF TOMBALL, according to the map or plat thereof recorded in Volume 4, Page 25 of the H.C.M.R., also being the intersection of the northwest right-of-way line of Foster Street (60 feet wide according to the plats recorded in Volume 2, Page 65 and Volume 4, Page 25, both of the H.C.M.R.) with the southwest right-of-way line of Welty Street (30 feet wide according to said plats recorded in Volume 2, Page 65 and Volume 4, Page 25, both of the H.C.M.R.);

THENCE North 28 deg. 04 min. 14 sec. West, along and with the common northeast line of said Lot 19 and Block 90, same being said southwest right-of-way line of Welty Street, a distance of 26.74 feet to a 5/8 inch iron rod with cap set at the southwest corner and POINT OF BEGINNING of the herein described tract of land;


THENCE North 28 deg. 04 min. 14 sec. West, continuing along and with the common northeast line of Lot 19 and Block 90, same being the southwest right-of-way line of Welty Street, a distance of 113.26 feet to a 5/8 inch iron rod with cap set at the northeast corner of Lot 19, same being the northwest corner of the herein described tract of land;

THENCE North 61 deg. 55 min. 46 sec. East, over and through Welty Street, a distance of 15.00 feet to a 5/8 inch iron rod with cap set in the centerline of Welty Street at the northeast corner of the herein described tract of land;

THENCE South 28 deg. 04 min. 14 sec. East, along and with said centerline of Welty Street, a distance of 119.70 feet to a 5/8 inch iron rod with cap set at the southeast corner of the herein described tract of land;

THENCE in a northwesterly direction, over and through Welty Street, along the arc of a non-tangent curve to the left subtending a central angle of 18 deg. 47 min. 38 sec., having a radius of 50.00 feet, an arc length of 16.40 feet, a chord bearing of South 85 deg. 11 min. 29 sec. West, and a chord distance of 16.33 feet to the POINT OF BEGINNING and containing within these metes and bounds 0.0399 acre (1,740 square feet) of land.

This tract of land surveyed on the ground during the month of January 2022. This description is based on the Standard Land Survey prepared by The Pinnell Group, LLC; filed in job number 21-214. Bearings based on the Texas Coordinate System (NAD83), South Central Zone No. 4204.


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



01-05-2022

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



QUITCLAIM DEED

Date: _____

Grantor: **City of Tomball, Texas**

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

Grantee: **Habitat for Humanity- Northwest Harris County, INC.**

Grantee's Address (including County): PO BOX 682785 Houston, TX 77268
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 Description:

All that certain tract or parcel containing 1,740 square feet of land out of WELTY STREET out of the Revised Map of Tomball, a subdivision in Harris County, Texas according to the map or plat thereof filed for record in Volume 4, Page 25 of the Harris County Map Records, said 1,740 square foot tract of land being more particularly described by metes and bounds in **Exhibit "A"** and shown on the certified survey in **Exhibit "B"**, attached herewith and made a part hereof.

For the consideration, Grantor quitclaims 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 _____ 2022.

GRANTOR:
City of Tomball, Texas

Gretchen Fagan, Mayor

Attest:

Doris Speer, City Secretary
(SEAL)

Quitclaim Deed
City of Tomball to Habitat for Humanity- Northwest Harris County, INC.
Page 2 of 4

ACKNOWLEDGEMENT

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this ____ day of _____ 2022, by Gretchen Fagan, Mayor of City of Tomball, Texas, on behalf of said entity.

Notary Public In and For the State of Texas

My Commission Expires: _____

After Recording, Please Return To:

City of Tomball, Texas
Attn: City Secretary
401 Market Street
Tomball, Texas 77375

Exhibit "A"

FIELD NOTES OF 0.1502 ACRE OF LAND
(Page 1 of 2)

All that certain 0.1502 acre of land situated in the William Hurd Survey, Abstract No. 371, Harris County, Texas, being a portion of Welty Street, as dedicated by the plats recorded in Volume 2, Page 65 and Volume 4, Page 25, both of the Harris County Map Records (H.C.M.R.), said 0.1502 acre of land being more particularly described by metes and bounds as follows:

BEGINNING at a point located at the intersection of the northeast right-of-way line of Welty Street (30 feet wide according to said plats recorded in Volume 2, Page 65 and Volume 4, Page 25, both of the H.C.M.R.) with the southeast right-of-way line of Carrell Street (60 feet wide according to the plats recorded in Volume 2, Page 65 and Volume 4, Page 25, both of the H.C.M.R., and the deed recorded in Volume 1836, Page 554 of the Harris County Deed Records), said point being the apparent northwest corner of Restricted Reserve "A" (called 18.7511 acres), THE EPISCOPAL CHURCH OF THE GOOD SHEPHERD, according to the map or plat thereof recorded in Film Code No. 587124 of the H.C.M.R., and being the northeast corner of the herein described tract of land, from which a found 5/8 inch iron rod bears witness North 39 deg. West, a distance of 0.93 feet;

THENCE South 28 deg. 04 min. 14 sec. East, along and with said northeast right-of-way line of Welty Street and the southwest line of said Reserve "A", a distance of 289.64 feet to a 5/8 inch iron rod with cap set at the southeast corner of the herein described tract of land;

THENCE in a northwesterly direction, over and through Welty Street, along the arc of a non-tangent curve to the left subtending a central angle of 24 deg. 26 min. 34 sec., having a radius of 50.00 feet, an arc length of 21.33 feet, a chord bearing of North 73 deg. 11 min. 25 sec. West, and a chord distance of 21.17 feet to a 5/8 inch iron rod with cap set in the centerline of Welty Street at the lower southwest corner of the herein described tract of land;

THENCE North 28 deg. 04 min. 14 sec. West, along and with said centerline of Welty Street, a distance of 119.70 feet to a 5/8 inch iron rod with cap set at a re-entrant corner in the herein described tract of land;

THENCE South 61 deg. 55 min. 46 sec. West, over and through Welty Street, a distance of 15.00 feet to a 5/8 inch iron rod with cap set at the upper southwest corner of the herein described tract of land, same being the northeast corner of Lot 19, Block 90, REVISED MAP OF TOMBALL, according to the map or plat thereof recorded in Volume 4, Page 25 of the H.C.M.R., same being the intersection of the southwest right-of-way line of Welty Street with the southeast line of a 15' alley out of said Block 90;

THENCE North 28 deg. 04 min. 14 sec. West, along and with the southwest right-of-way line of Welty Street, at a distance of 15.00 feet pass the southeast corner of Lot 54, Block 90, REVISED MAP OF TOMBALL, same being the intersection of the southwest right-of-way line of Welty Street with the northwest line of the Alley, continuing along and with the southwest right-of-way line of Welty Street and the northeast line of Lot 54, in all a total distance of 155.00 feet to a 5/8 inch iron rod with cap set at the northeast corner of Lot 54, the northeast corner of Block 90 and the upper northwest corner of the herein described tract of land, same being located at the intersection of the southwest right-of-way line of Welty Street with the southeast right-of-way line of Carrell Street;

Exhibit "A"

FIELD NOTES OF 0.1502 ACRE OF LAND
(Page 2 of 2)

THENCE North 61 deg. 55 min. 46 sec. East, along and with the southeast right-of-way line of Carrell Street, a distance of 30.00 feet to the POINT OF BEGINNING and containing within these metes and bounds 0.1502 acre (6,542 square feet) of land.

This tract of land surveyed on the ground during the month of January 2022. This description is based on the Standard Land Survey prepared by The Pinnell Group, LLC; filed in job number 21-214. Bearings based on the Texas Coordinate System (NAD83), South Central Zone No. 4204.



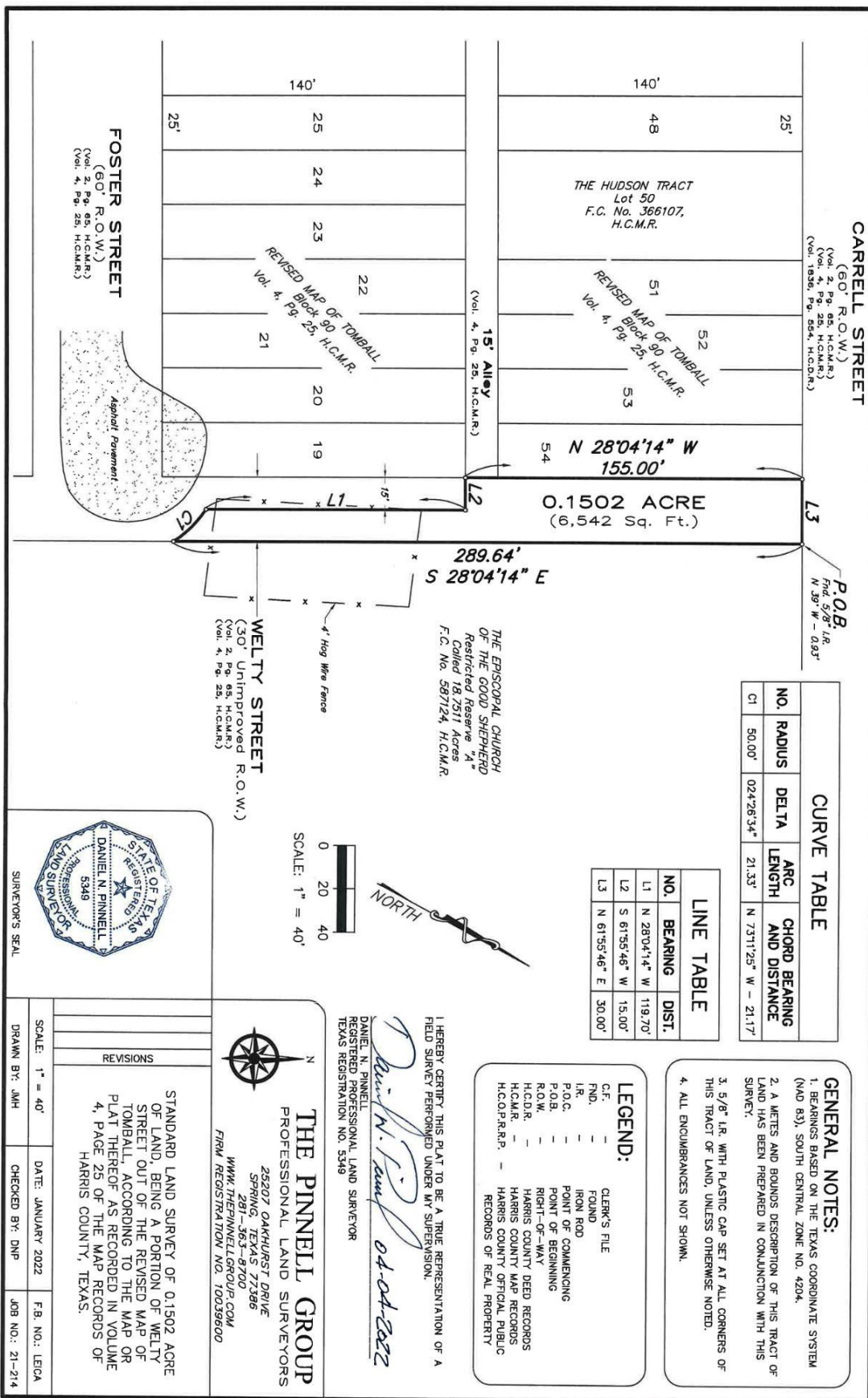
Daniel N. Pinnell
Registered Professional Land Surveyor
Texas Registration No. 5349



04-04-2022

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

Exhibit "B"



QUITCLAIM DEED

Date: _____

Grantor: **City of Tomball, Texas**

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

Grantee: **The Protestant Episcopal Church Council of the Episcopal Diocese of Texas**

Grantee's Address (including County): 1225 Texas Street, Houston, TX 77002
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 Description:

All that certain tract or parcel containing 6,542 square feet of land out of WELTY STREET out of the Revised Map of Tomball, a subdivision in Harris County, Texas according to the map or plat thereof filed for record in Volume 4, Page 25 of the Harris County Map Records, said 6,542 square foot tract of land being more particularly described by metes and bounds in **Exhibit "A"** and shown on the certified survey in **Exhibit "B"**, attached herewith and made a part hereof.

For the consideration, Grantor quitclaims 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 _____ 2022.

GRANTOR:
City of Tomball, Texas

Gretchen Fagan, Mayor

Attest:

Doris Speer, City Secretary
(SEAL)

ACKNOWLEDGEMENT

STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on this ____ day of _____ 2022, by Gretchen Fagan, Mayor of City of Tomball, Texas, on behalf of said entity.

Notary Public In and For the State of Texas

My Commission Expires: _____

After Recording, Please Return To:

City of Tomball, Texas
Attn: City Secretary
401 Market Street
Tomball, Texas 77375



May 17, 2022

Erik Armstrong
Habitat for Humanity Northwest Harris Co.
P.O. Box 682785
Houston, Texas 77268

Re: "No Objection" to Abandonment of ROW – Welty Street, Tomball, TX

Mr. Armstrong,

Southwestern Bell Telephone Company offers "No Objection" to the abandonment of the 30' ROW of Welty Street from Foster Street north to Carrell Street, according to the map or plat thereof recorded in Volume 2, Page 65 and Volume 4, Page 25 of the Harris County Map Records, Harris County, Texas and described in your acceptance letter dated May 9, 2022.

If you have any questions, please contact me by email at sm8285@att.com.

Sincerely,

Sonya Merrill

Sonya Merrill
Manager-Engineering
Right-of-Way

Welty Street
TB-013-22-M



CenterPoint Energy
P.O. Box 1700
Houston, TX 77251-1700

May 2, 2022

Habitat for Humanity-Northwest Harris County
P. O. Box 687285
Houston, Texas 77268
Attn: Erik Armstrong

Re: Street & Alley Closure TBD Foster Street (Welty Street)
R/W File # 172108

Dear Erik Armstrong:

The City of Tomball has been asked to close and abandon a portion of TBD Foster Street (Welty Street).

CenterPoint Energy Houston Electric, LLC, CenterPoint Energy Resources Corporation, d/b/a CenterPoint Energy Texas Gas Operations and CenterPoint Energy Intrastate Pipelines, Inc., herein collectively called "CenterPoint Energy", has investigated the request, and determined that it has no facilities located within the area to be abandoned. Therefore, CenterPoint Energy will interpose no objection to the request as filed.

This letter of concurrence shall become null and void in the event two (2) years has transpired from the above date and this street/alley closure has not been completed. CenterPoint Energy respectfully requests that the City of Tomball forward a copy of the final abandonment ordinance to CenterPoint Energy to complete our files and to update our map records.

Yours truly,

CenterPoint Energy

A handwritten signature in blue ink that reads "Sheila R. Agee".

Sheila R. Agee
Senior Right of Way Agent
Surveying & Right of Way
713-207-6349

Enclosures

172108



**STREET/ALLEY CLOSURE APPLICATION FORM
SURVEYING & RIGHT OF WAY**
MAILING ADDRESS: CENTERPOINT ENERGY, P.O. 1700, HOUSTON, TX 77251
COURIER ADDRESS: 1111 LOUISIANA ST, 7TH FLOOR, HOUSTON, TX 77002
TELEPHONE (713) 207-6348

STREET ADDRESS FOR THE PROPERTY: TBD Foster Street Wetty St 4/19/2022
Date of Application

REQUESTOR INFORMATION: (Print or Type Only)

Name: Erik Armstrong Habitat for Humanity- Northwest Harris County 281-477-0460
Individual Company Phone Number
E-mail address: Earmstrong@habitatnwhc.org
P.O. Box 687285 Houston TX 77268
Address City State Zip Code

LOCAL GOVERNMENTAL ENTITY (City or County that Requestor is asking to close the street or alley)

City of Tomball Nathan Dietrich 281-290-1410
Governmental Entity Name Governmental Official/Phone Number
501 James Street Tomball TX 77375
Address City State Zip Code

THE FOLLOWING INFORMATION MUST BE INCLUDED WITH THIS APPLICATION:

1. One (1) copy of a property survey or drawing, a **maximum of 8.5" X 14"**, of legible and clear detail, indicating all dimensions of the portion of the street(s)/alley(s) to be abandoned, including the legal description and a north arrow, as well as the ownership information of all landowners adjacent to the street/alley to be abandoned.
2. If CenterPoint Energy facilities are located within the street or alley, please check here _____ and advise CenterPoint Energy if the facilities serve only your property and if so, will this service be removed or not.
3. Copies of any and all motions, letters, or drawings provided by the local governmental entity involved.
4. **A non-refundable processing fee of \$750.00 made payable by check to CenterPoint Energy must accompany this application before it can be processed.**

If this request is approved, a letter will be issued by CenterPoint Energy, addressed to the appropriate government office, providing the Company's approval to the closure request. This letter will be forwarded to the requestor unless CenterPoint Energy is requested otherwise.

If CenterPoint Energy's facilities must remain in a street/alley to be closed, new easements, as prepared by CenterPoint Energy must be granted by each adjacent landowner who will assume title to any portion of the street/alley before an approval letter will be issued. In addition to the processing fee, if CenterPoint Energy's facilities are located within the area to be abandoned, the cost for CenterPoint Energy to prepare these easement documents will be passed along to the requestor of this service.

CenterPoint Energy requires a time period of approximately 5-6 weeks for review and document preparation. In the event electrical facilities must be relocated or removed, or new easements granted because of this request, a longer time period may be required. Should the relocation of CenterPoint Energy's facilities be necessitated by said request, the cost of such relocation(s) will be borne by a party or parties other than CenterPoint Energy and must be paid before approval is granted. Also, the acquisition of new easements or the relocation/removal of facilities must be completed prior to CenterPoint Energy issuing any letter of approval.

Please be assured that CenterPoint Energy is aware of the urgent nature of your request and will make every effort to expedite the completion of your request.

I certify that the information provided is accurate and I realize that incomplete information may delay processing or invalidate this application.

Signature of Requestor

2/21/19

rec'd 4.25.22 PM lea



May 23, 2022

Erik Armstrong
Director of Construction Operations
Habitat for Humanity Northwest Harris County

Re: Welty Street

To Whom It May Concern,

Comcast of Houston LLC, a Delaware Limited Liability Company, herein referred to as "Comcast Cable", has been asked to provide a letter of "No Objection" for the above referenced survey dated May, 2022.

At this time, Comcast Cable has no objection associated with the general layout and utility easements as exhibited on said plat.

In cases where utility easements are overlapping with drainage or other specific or pre-existing easements, Comcast Cable will require exclusive easements.

Upon completion of Comcast Cable's facility design, if so required, dedicated utility easements may be determined inadequate by Comcast Cable. In these cases, the developer, his successors or assigns, will be required to provide Comcast with exclusive easements.

This letter does not give consent to any encroachments, abandonments of pre-existing easements, roads, alleys, or street rights-of-way. Abandonment of any of the above requires a formal review, consent and closure process.

Please feel free to contact me at 435-224-2356 with any questions that you may have.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jeff Houston".

Jeff Houston
Authorized Representative

8590 W Tidwell, Houston, TX 77040