

Conditional Use Permit (CUP) Staff Report

Planning & Zoning Commission Public Hearing Date: October 9, 2023
City Council Public Hearing Date: October 16, 2023

Rezoning Case: CUP 23-07
Property Owner(s): Chris & Tiona Campbell
Legal Description: Portion of Lot 48 in Tomball Townsite
Location: 1110-1120 blocks (east side) of Rudolph Road (Exhibit “A”)
Area: 4.940 acres
Comp Plan Designation: Ranch Rural & Estate (Exhibit “B”)
Present Zoning and Use: Single-Family Residential – 20 (SF-20) / Vacant (Exhibit “D”)
Request: Conditional Use Permit (CUP) to permit “Exterminator Service/Company (no outdoor sales or storage)”

Adjacent Zoning & Land Uses:

North: Single-Family Estate Residential -20 (SF-20)/ Vacant

South: Single-Family Estate Residential – 20 (SF-20)/ Vacant

West: Single-Family Estate Residential – 20 (SF-20) / Jerry Matheson Park

East: Single-Family Estate Residential – 20 (SF-20) / Landfill and Wastewater Treatment Plant

BACKGROUND

The subject property has been within the city limits of Tomball since at least 1907. The property has remained vacant since this time. In May of 2023, the applicants sought a rezoning of the subject property to General Retail (GR) to allow the establishment of an Exterminator Service/Company. That request was denied by City Council. In response to this denial, the applicants are seeking an amendment to the Code of Ordinance which would allow the Exterminator Service/Company land use within the existing Single Family Residential Estate – 20 (SF-20-E) zoning that the property falls within, with the approval of a Conditional Use Permit.

ANALYSIS

According to Section 50-81 (f) of the Chapter 50 (Zoning), when considering applications for a CUP, the City shall, based on 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 property is designated as Ranch Rural & Estate by the Comprehensive Plan Future Land Use Map. This category is intended to promote large lot single family residential uses. The intention of establishing the “Exterminator Service/Company (no outdoor sales or storage)” commercial land use is contrary to the goals and objectives of the Ranch Rural & Estate land use category identified on the Future Land Use Map within the Comprehensive Plan.

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

The proposed use is not consistent with the purpose and intent of the Single Family Residential Estate – 20 (SF-20-E) zoning district that the property falls within. According to the City of Tomball Code of Ordinance the SF-20-E zoning district is intended to provide for development of low density detached, single-family residences.

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

No, the planned use of the property for Exterminator Services/Company is not a use which is currently identified as being permitted within the SF-20-E zoning district (either by right or with the approval of a Conditional Use Permit). Further, city staff does not believe the zoning regulation should be modified to accommodate this planned commercial use as this would be contrary to the intent of the existing Single-Family Estate Residential – 20 zoning districts as well as the Ranch Rural & Estate land use category that this property falls within.

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.

As mentioned previously, the subject property as well as the surrounding properties are located within the Single-Family Estate Residential -20 (SF-20-E) zoning district and are within the planned Ranch Rural & Estate future land use category. The existing zoning within these areas as well as the planned future land use category adopted by the Comprehensive Plan, and which is utilized to guide decisions regarding zoning are wholly intended to promote large lot single-family residential and agricultural land uses. The proposed use of this property for commercial purposes is not compatible with the existing zoning and/or the planned land uses for this area. Said commercial use would not preserve the character and integrity of adjacent development and planned residential 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.

The proposed commercial use of this property may be viewed as detrimental to existing and/or planned residential uses for other properties within the vicinity.

PUBLIC COMMENTS

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. These notice letters were sent on September 28, 2023. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

RECOMMENDATION

The existing Single-Family Estate Residential – 20 (SF-20-E) zoning that the subject property as well as surrounding properties fall within does not encourage commercial land uses. Furthermore, the existing Future Land Use category of Ranch Rural and Estate, which embraces the entirety of the subject property as well as the surrounding properties does not support commercial uses. For these reasons, city staff is recommending denial of CUP23-07.

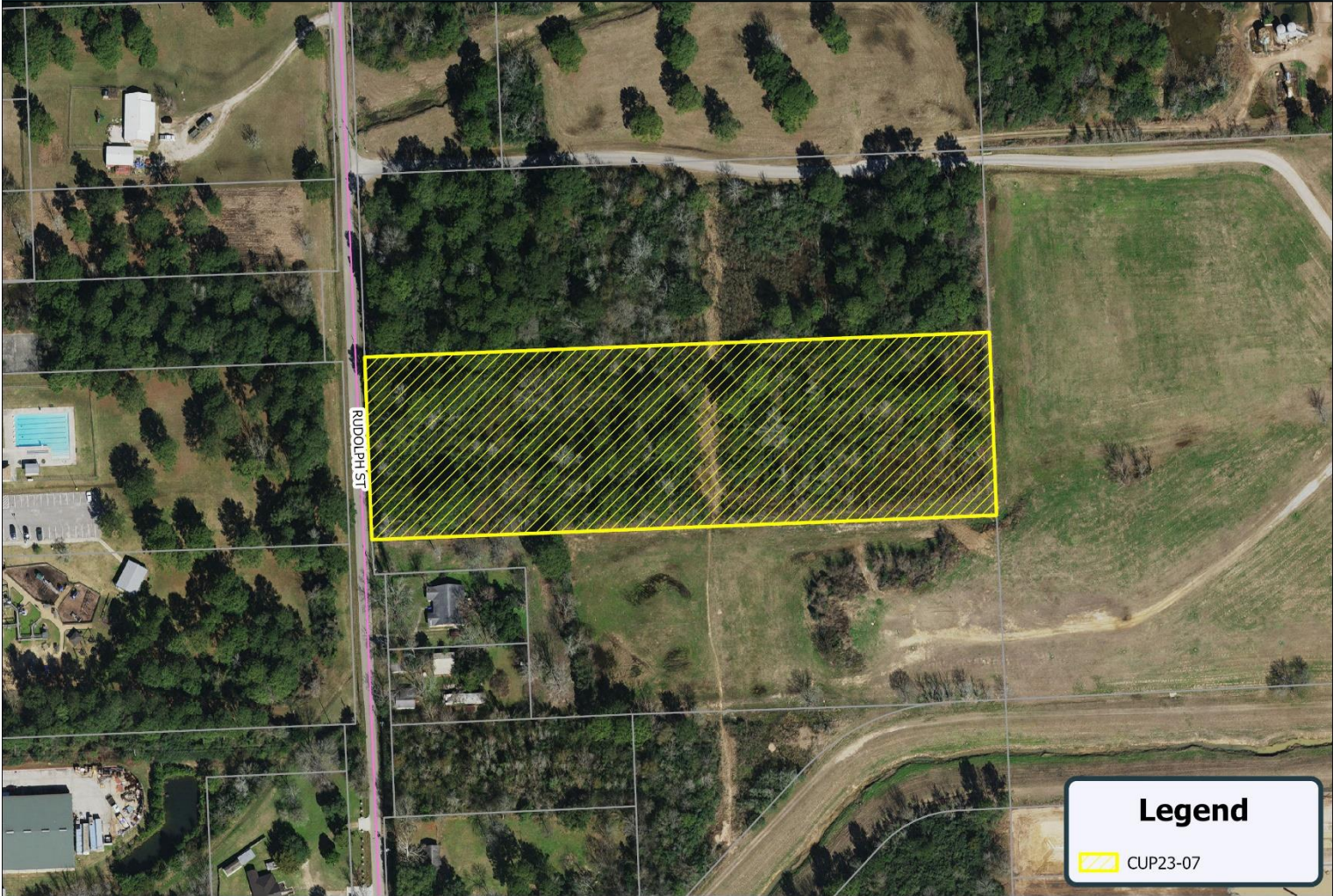
EXHIBITS

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

Exhibit "A"
Location Map



Location



Legend

 CUP23-07

Exhibit "B"
Future Land Use Plan



Future Land Use

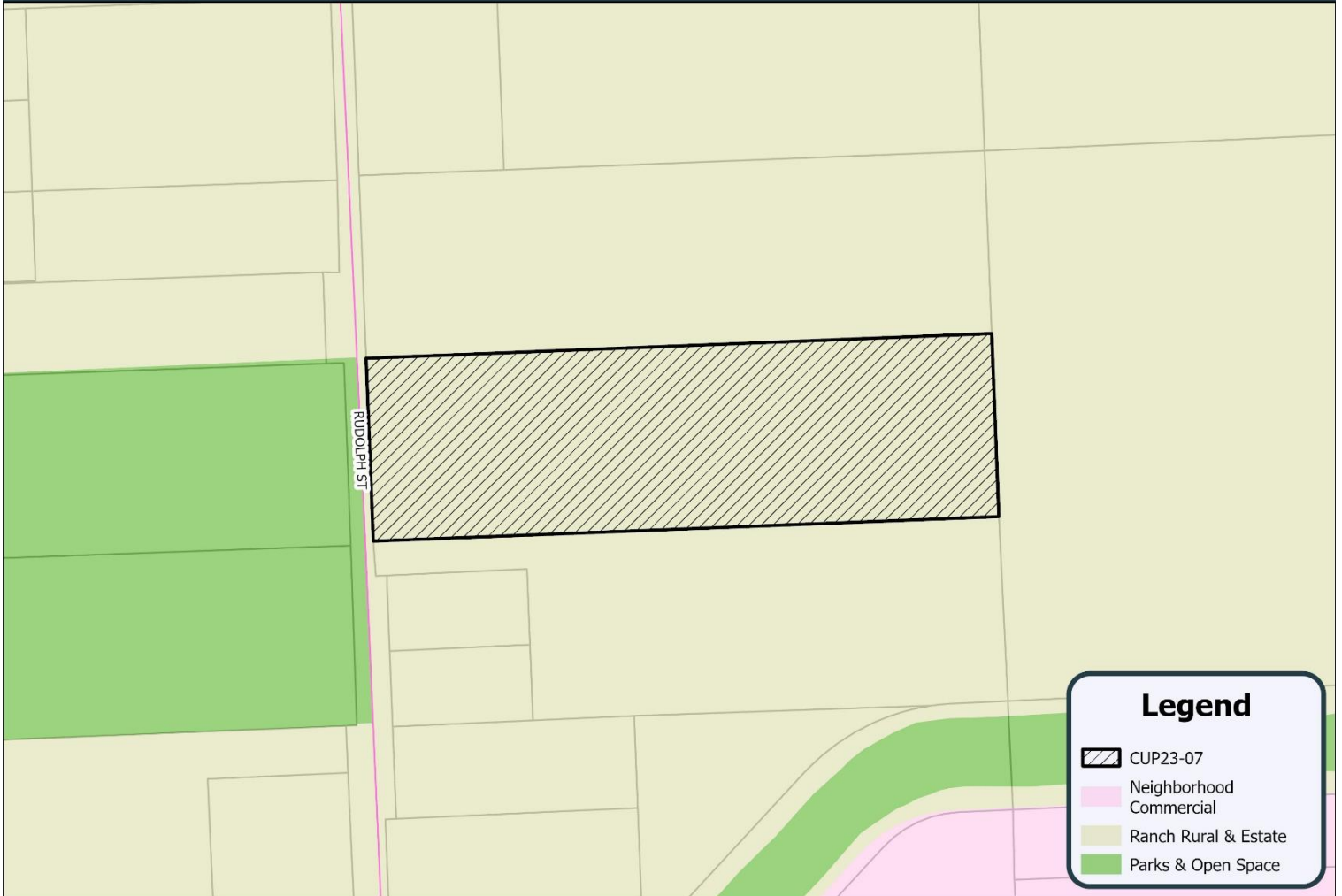


Exhibit "C"
Zoning Map



Zoning

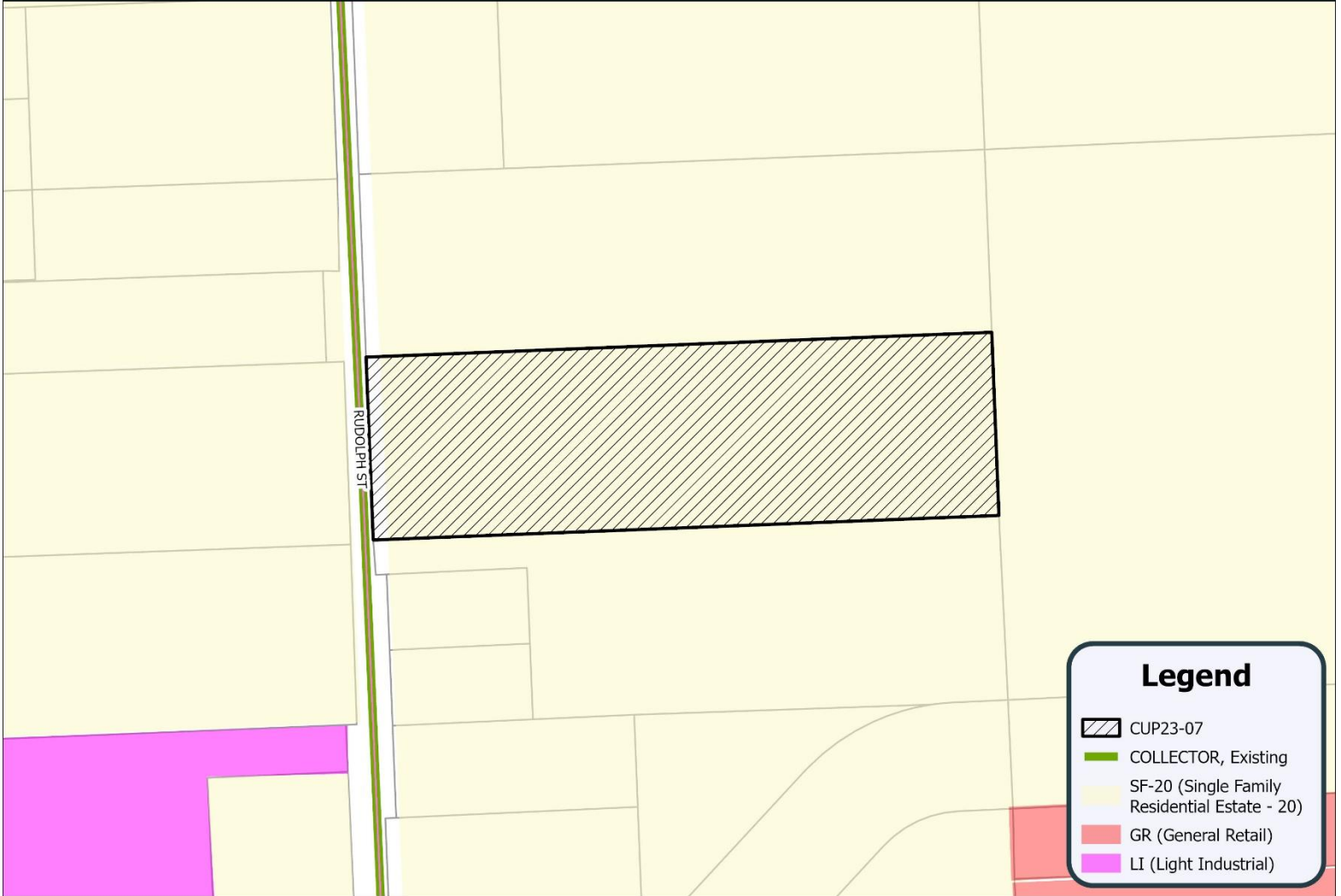


Exhibit "D"
Site Photo(s)

Subject Site



Neighbor (North)



Neighbor (South)

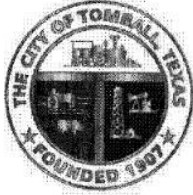


Neighbor (West)



Exhibit "E"
CUP Application

Revised: 10/1/2022



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: Tomball1

Applicant

Name: Chris and Tiona Campbell Title: Owner
Mailing Address: 19611 Glenfinch Lane City: Spring State: Texas
Zip: 77379 Contact: Chris Campbell
Phone: (832) 928-6044 Email: Chris@bellodomani.com

Owner

Name: Chris and Tiona Campbell Title: Owner
Mailing Address: 19611 Glenfinch Lane City: Spring State: Texas
Zip: 77379 Contact: Chris Campbell
Phone: (832) 928-6044 Email: Chris@bellodomani.com

Engineer/Surveyor (if applicable)

Name: C&C Surveying Title: _____
Mailing Address: 33300 Egypt Lane City: Magnolia State: Texas
Zip: 77354 Contact: Steven L Crew
Phone: (281) 356-5172 Fax: () Email: survey@c&csurveying.com

Description of Proposed Project: CUP for a Pest Control office

Physical Location of Property: 1120 Rudolph Rd, Tomball Tx 77375
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: Lot 48 Clerk file#2022-215079
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

HCAD Identification Number: 035282000083 Acreage: 4.940

Current Use of Property: Undeveloped

Proposed Use of Property: Exterminator Service/company

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] [Signature] 8-17-23
Signature of Applicant Date

X [Signature] [Signature] 8-17-23
Signature of Owner Date

From: noreply@mail.tdr.tvlhosting.cloud
To: [Kimberly Chandler](#)
Subject: Receipt #R01375709
Date: Friday, August 18, 2023 10:03:36 AM

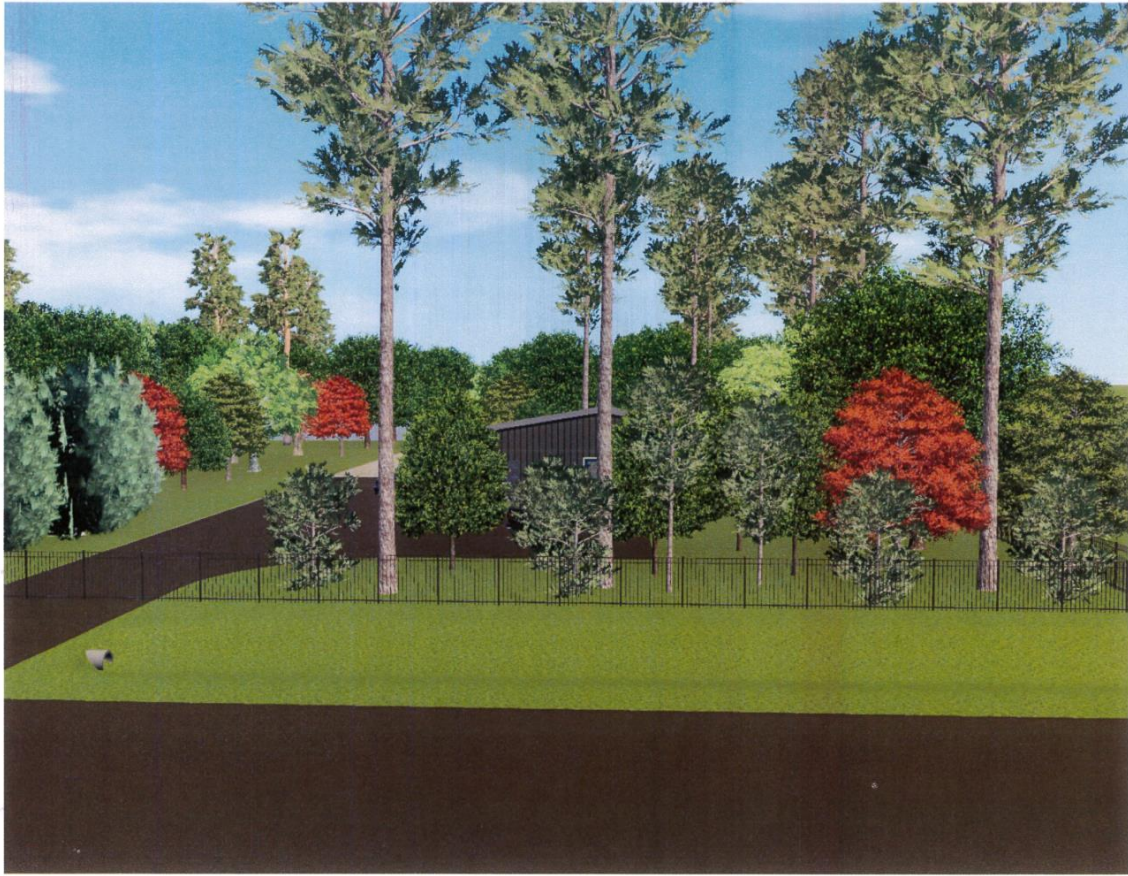
Caution: This is an external email and may be malicious. Please take care when clicking links or opening attachments.

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

DATE : 8/18/2023 10:02 AM
OPER : RP
TKBY : rp
TERM : 2
REC# : R01375709
130.0000 PLANNING AND ZONING
Chris Campbell CUP 1120 rudolph 1000.00

Paid By:Chris Campbell CUP 1120 rudolph
2-CK 1000.00 REF:w 2709

Exhibit "F"
Concept Plan





C & C Surveying, Inc.

Firm Number 10009400
33300 Egypt Lane, Suite F200
Magnolia, Texas 77354
Office: 281-356-5172

Metes and Bounds

4.940 Acres
Tomball Townsite
Ralph Hubbard Survey, Abstract Number 383,
Harris County, Texas

Being a 9.940 acre tract of land situated in the Ralph Hubbard Survey, Abstract Number 383, of Harris County, Texas, and being the remainder of Lot 48 of Tomball Townsite, as recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas, said remainder of Lot 48 being a called 4.896 acre tract, as recorded in Clerk's File Number 2022-215079 of the Real Property Records of Harris County; said 4.940 acres being more particularly described as follows with all bearings based on the North line of said called 4.896 acre deed;

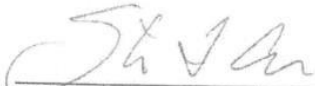
BEGINNING, at an iron rod with survey cap, found for the Southwest corner of the herein describe tract, common with Southeast corner of a 15 foot wide road dedication to the City of Tomball for Rudolph Road, as recorded in Clerk's File Number 2019-119104 of the Real Property Records of Harris County, and being on the North line of Lot 52 of said Tomball Townsite;

THENCE, North 02 degrees 32 minutes 40 seconds West, along the West line of the herein described tract, common with the East line of said Rudolph Road, a distance of 256.63 feet (call 252.16 feet), to an iron rod, found for the Northwest corner of the herein described tract, common with the Northeast corner of said Rudolph Road dedication, and being on the South line of Lot 43 of said Tomball Townsite;

THENCE, North 87 degrees 32 minutes 15 seconds East, along the North line of the herein described tract, common with the North line of said Lot 48, being the South line of said Lot 43, departing said Rudolph Road, a distance of 847.72 feet, to a 5/8 inch iron rod (bent), found for the Northeast corner of the herein described tract, being the Northeast corner of said Lot 48, the Southeast corner of Lot 43, the Southwest corner of Lot 44, and the Northwest corner of Lot 49;

THENCE, South 02 degrees 31 minutes 45 seconds East, along the East line of the herein described tract, common with the East line of Lot 48, with the West line of Lot 49, a distance of 251.05 feet, to a point for the Southeast corner of the herein described tract, being the Southeast corner of Lot 48, the Southwest corner of Lot 49, the Northwest corner of Lot 53, and the Northeast corner of the aforementioned Lot 52;

THENCE, South 87 degrees 09 minutes 38 seconds West, along the South line of the herein described tract, common with the South line of said Lot 48, being the North line of Lot 52, a distance of 847.66 feet, back to the **POINT OF BEGINNING** and containing 4.940 acres of land as computed based on the survey and plat prepared by C & C Surveying, Inc., dated July 29, 2022.



Steven L. Crews, Registered Professional Land Surveyor,
22-0206
07/29/22



- 1. Basis of bearings: North line of subject property.
- 2. Easements and building lines as shown are per the recorded plat.
- 3. Survey performed without the benefit of a title search, and the surveyor is not responsible for errors and/or restrictions not shown.

* - WIRE FENCE
 ⊕ - POWER POLE



Remoinder of Lot 49
 Volume 2 Page 65
 MRHC

Called 5.0 Acres
 C.F. No. 2006-402082

Remoinder of Lot 48
 Volume 2 Page 65
 MRHC

Called 4 Acres
 Volume 7790 Page 397
 F.C.D.M.

Remoinder of Lot 52
 Volume 7790 Page 65
 MRHC

This property lies within ZONE 'X' as SCALED
 from FEMA Map Panel Number 4820V0232L
 dated June 18, 2007.

**THIS MEANS THAT THE SUBJECT PROPERTY
 SCALES OUTSIDE THE 100 YEAR FLOOD
 PLAIN.**

The determination is made strictly according
 to the FEMA Maps and does not reflect
 actual on ground flood conditions. Furthermore,
 the company does not assume responsibility for such.

Being a 4.940 acre tract situated in the Ralph Hubbard Survey, Abstract Number 383,
 of Harris County, Texas, and being a portion of Lot 48 of Tomball Township, as recorded
 in Volume 2, Page 65 of the Map Records of Harris County, Texas, said portion of Lot 48
 being recorded in Clerk's File Number 2022-215079 of the Real Property Records of Harris
 County, Texas.

Date	July 23, 2022	City	WVA
Job No.	22-0230	Scale	1" = 400' (As Shown)
Acres	4.940	Drawn By	DT
City	Tomball, Texas	Rev.	0
Client	C & C Surveying, Inc.	Project	
Firm Number	10009400		
33300 Egypt Lane, Suite F200 Magnolia, Texas 77354			
Office: 281-536-5172			
Survey@ccsarsurveying.com / www.ccsarsurveying.com			



Certified to: One & Two Copies
 Date: One & Two Copies

I HEREBY CERTIFY THIS SURVEY WAS MADE IN THE FIELD AND
 THAT THE PLAT CORRECTLY REPRESENTS THE RIGHTS FOUND IN
 THE RECORDS OF THE PUBLIC OFFICE OF THE COUNTY OF HARRIS,
 TEXAS, AND THAT THE SURVEY WAS MADE BY ME OR UNDER MY
 CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED
 SURVEYOR IN THE STATE OF TEXAS. I AM NOT PROVIDING
 ANY WARRANTIES OR GUARANTEES FOR THE SURVEY OR THE
 INFORMATION THEREON.

Steven A. Crews 07/25/2022