

Conditional Use Permit (CUP) Staff Report

Planning & Zoning Commission Public Hearing Date: May 8, 2023
City Council Public Hearing Date: May 15, 2023

Rezoning Case: CUP23-03
Property Owner(s): Chris & Tiona Campbell
Legal Description: Portion of Lot 48 in Tomball Townsite
Location: 11100-11200 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 Residential Use in General Retail (GR) zoning

Adjacent Zoning & Land Uses:

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

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

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

East: Single-Family Residential – 20 (SF-20) / Vacant and Water Treatment Plan

BACKGROUND

The subject property has been within the City Limits of Tomball since at least 1907. The property has remained vacant since this time. The applicants are requesting a Conditional Use Permit (CUP) in conjunction with a separate request to rezone the property to General Retail (GR). The requested CUP is to allow residential use in the requested General Retail zoning district. According to information provided by the applicant the intent is to rezone the subject property to allow an Exterminator Service/Company on the subject property, in addition to having this exterminator services business on the parcel the applicants would also like to utilize the property to build their primary residence.

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 building a residence on the subject property is wholly compatible with the goals and objectives of the Comprehensive Plan by promoting residential use in the area. However, the requested rezoning to General Retail which is requiring the Conditional Use Permit for residential use is not consistent with the goals and objective of promoting large residential lots in the area.

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

The proposed residential use of this property is consistent with the Comprehensive Plans objective for the surrounding area. However, the General Retail zoning which is requiring a Conditional Use Permit for residential use is not compatible with the surrounding land uses nor is it consistent with the Comprehensive Plans objectives for the area.

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

Yes, if approved the use will be required to meet all supplemental standards outlined in Chapter 50 of the Code of Ordinance. Further, prior to operation, an official site plan shall be submitted to the City of Tomball Community Development Office to ensure that all relevant supplemental standards are being met (sidewalks etc.).

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 proposed residential use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods.

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 residential use of this property is not materially detrimental to the public health, safety, convenience, and welfare of the public. Nor does this requested residential use of the property appear to result in material damage or prejudice to other property in 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 April 18, 2023. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

RECOMMENDATION

Although the residential use of the property is consistent with the goals & objectives of the City of Tomball Comprehensive Plan. This land use is permitted by right within the current Single Family Residential – 20 zoning that the property falls within. The requested General Retail zoning district (which is requiring the Conditional Use Permit for residential use) is not consistent with

the goals and objectives of the Comprehensive Plan. For these reasons, Staff is recommending denial of CUP23-03.

EXHIBITS

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

Exhibit "A"
Aerial Location Map



Location Map

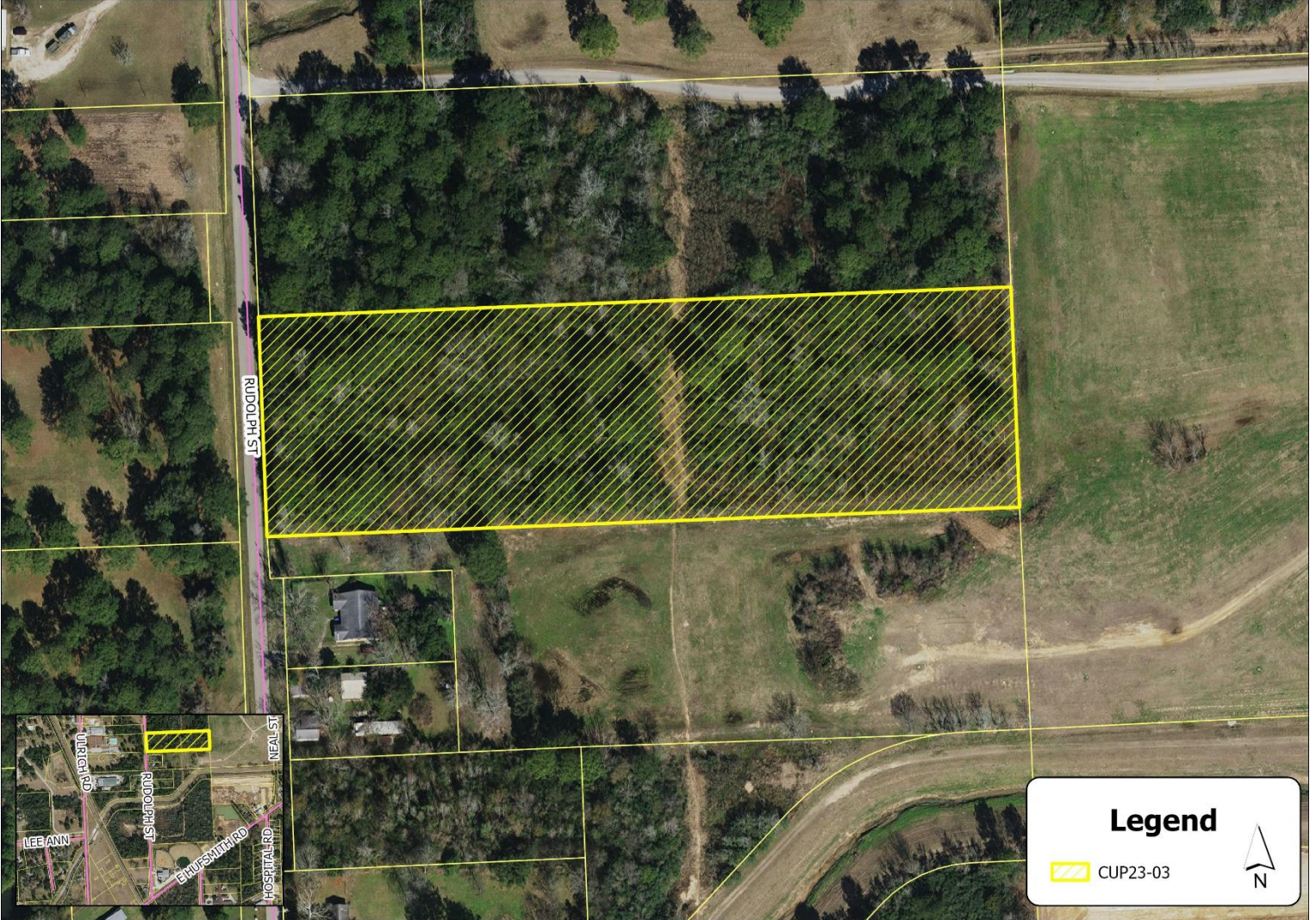


Exhibit "B"
Future Land Use Plan



Future Land Use Map

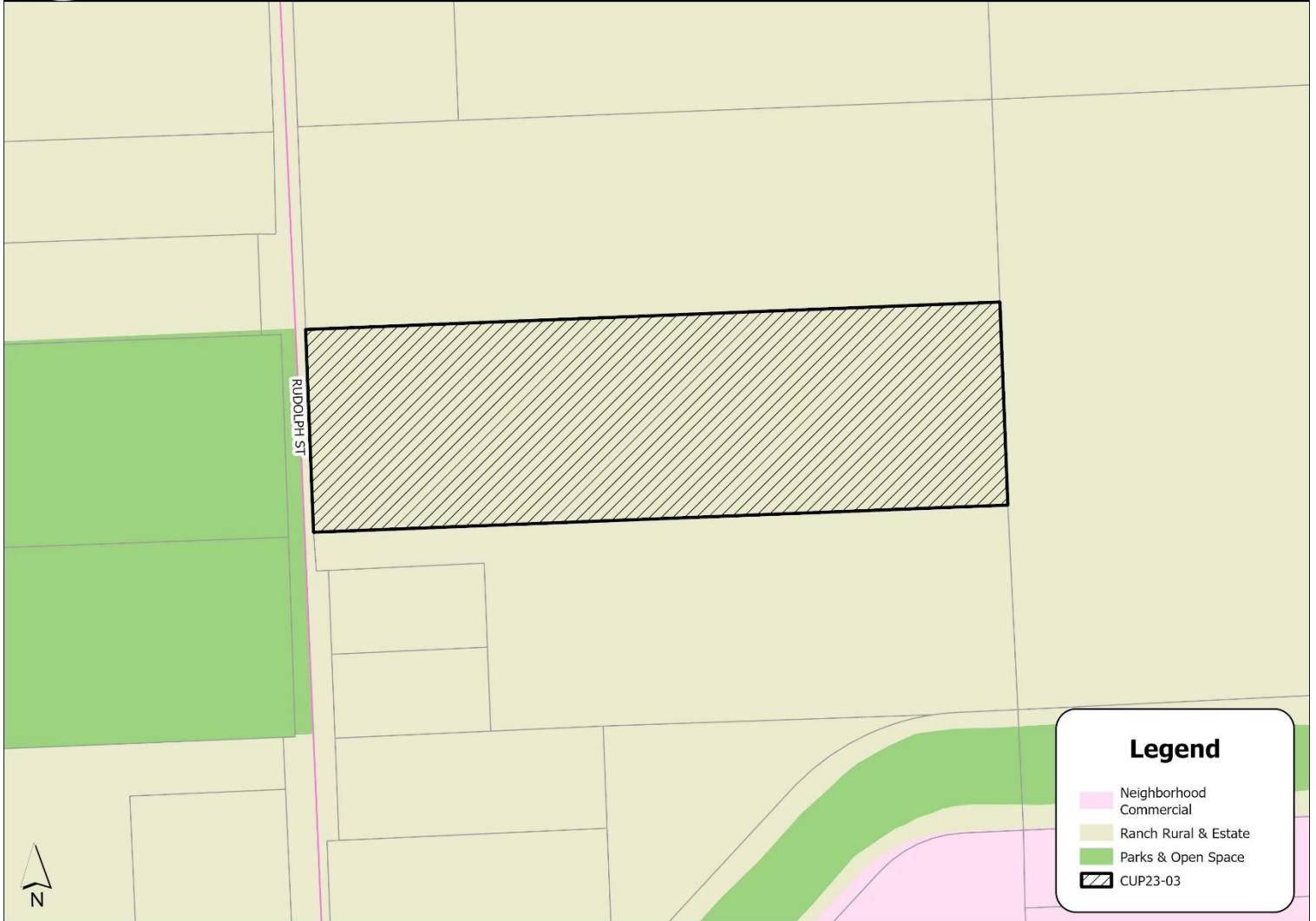


Exhibit "C"
Zoning Map

 **Zoning Map**

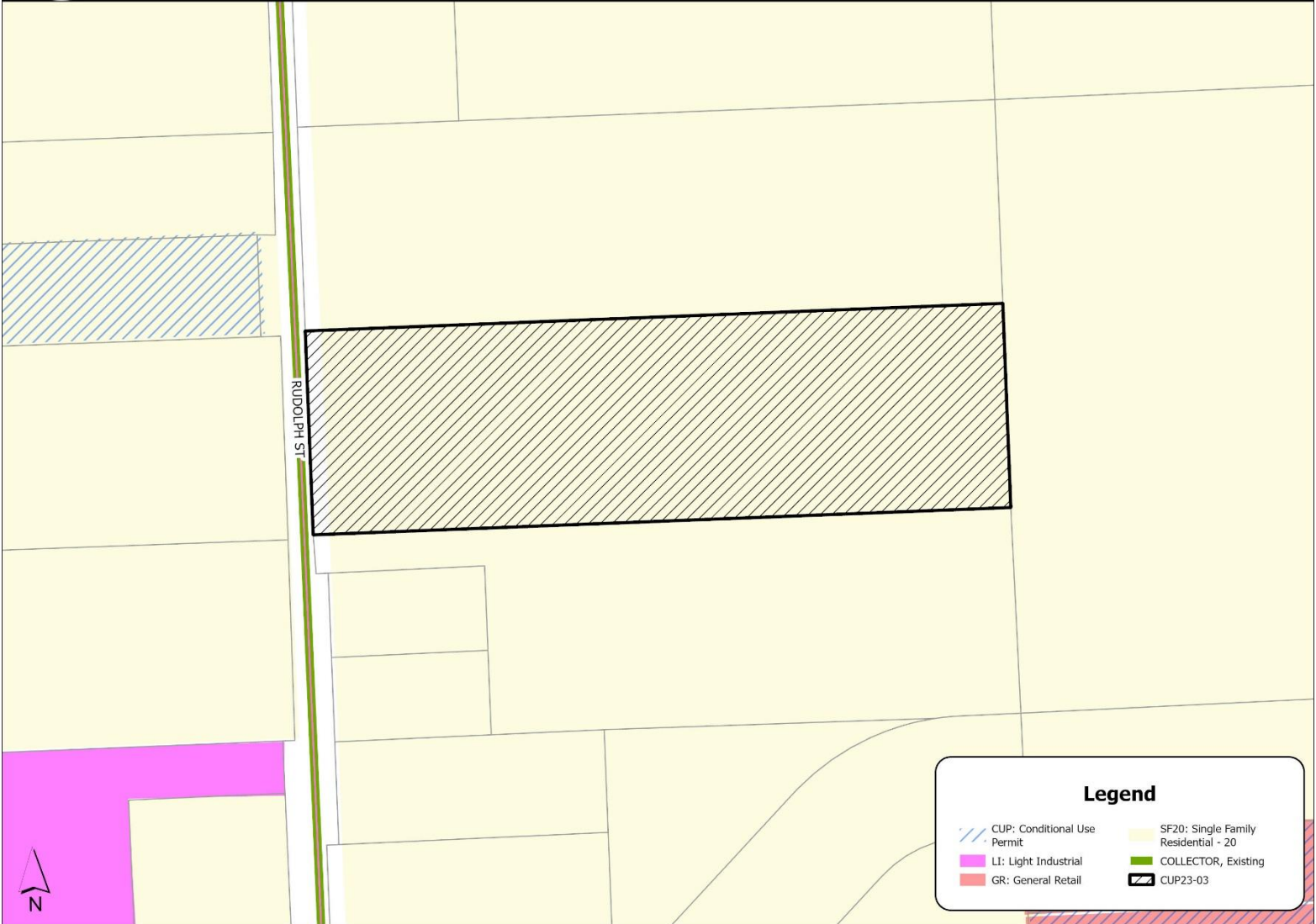


Exhibit "D"
Site Photo(s)

Subject Site



Neighbor (North)



Neighbor (South)



Neighbor (West)



Exhibit "E"
Rezoning 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: **tombalccd**
PASSWORD: **Tomball1**

Applicant

Name: Chris + Tiona Campbell Title: _____
Mailing Address: 19611 Glenfinch Lane City: Spring State: Tx
Zip: 77379 Contact: Chris Campbell
Phone: (832) 928 6044 Email: Chris@Belladomani.com

Owner

Name: Chris + Tiona Campbell Title: _____
Mailing Address: 19611 Glenfinch Lane City: Spring State: Tx
Zip: 77379 Contact: Chris Campbell
Phone: (832) 928 6044 Email: Chris@Belladomani.com

Engineer/Surveyor (if applicable)

Name: C&C Surveying + AL Title: _____
Mailing Address: 33306 Egypt Lane City: Magnolia State: Tx
Zip: 77354 Contact: Steven L Crews
Phone: (281) 356-5172 Fax: () ~~5172~~ Email: Survey@CCSurveying.com

Description of Proposed Project: residential Home

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's 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: residential Home

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] 3-24-23
Signature of Applicant Date

X [Signature] 3-24-23
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.

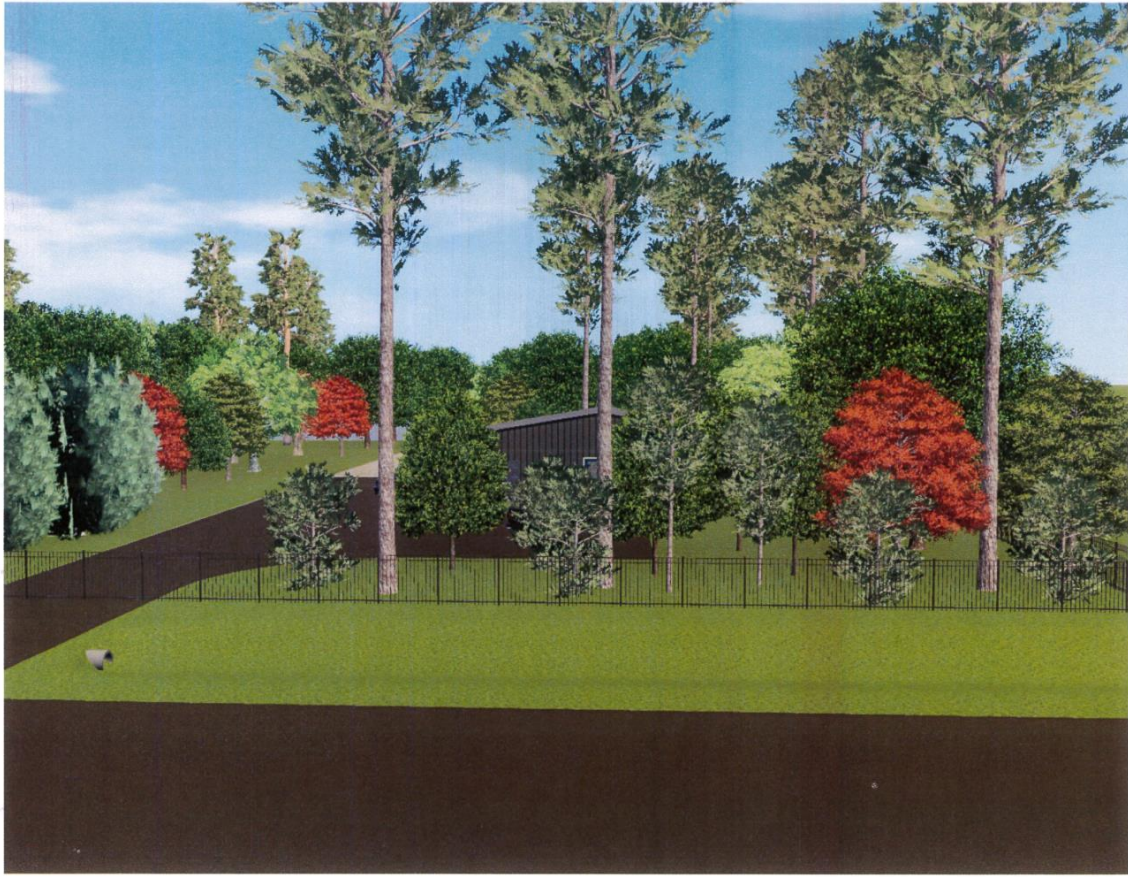
Applications must be delivered to the City at least 40 calendar days prior to the City Planning and Zoning Commission hearing date.

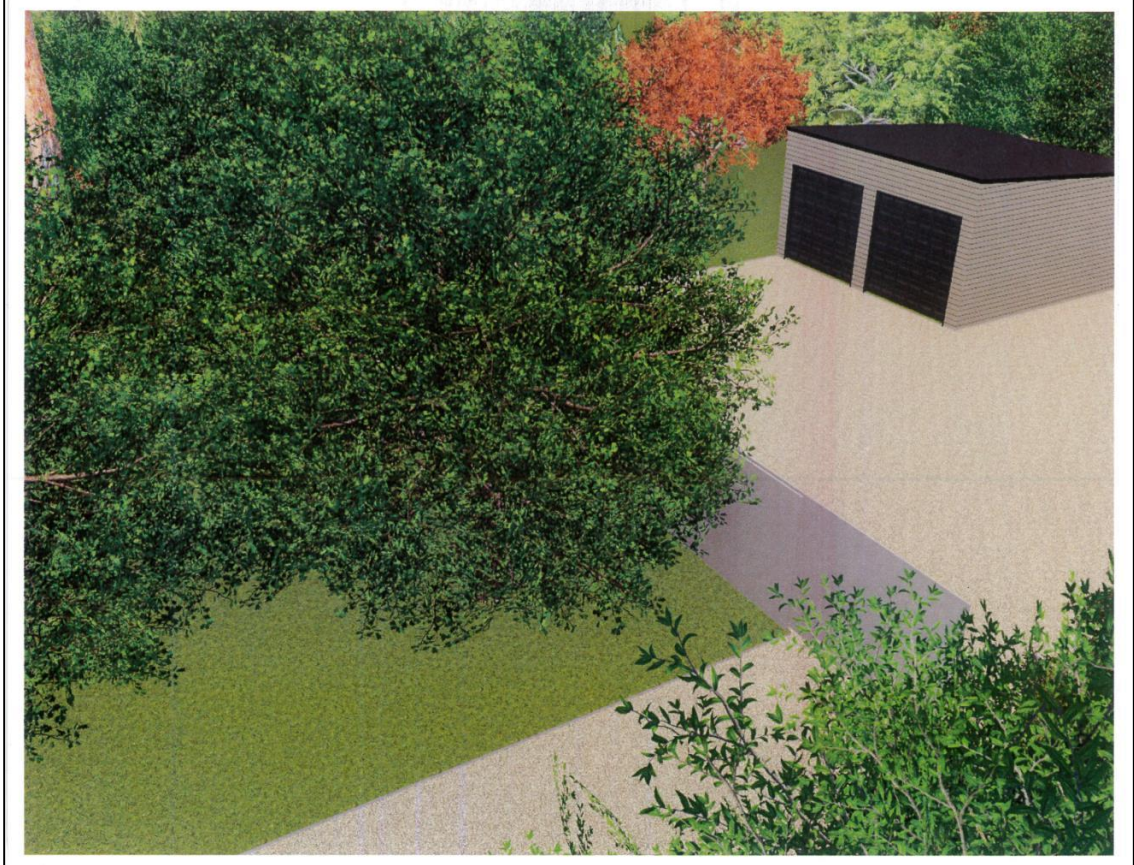
- Application Fee: \$1,000 (Non-Refundable)**
- Completed application form**
- *Copy of Recorded/Final Plat**
- Concept/Site Plan**
- Letter stating reason for request and issues relating to request.**
- Metes & Bounds of property**
- Payment of all indebtedness attributed to subject property must be paid with application or an arrangement in accordance with Sec. 12.1 C of the Zoning Ordinance 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 Planning Department unless evidence of a legal lot is provided. To be an un-platted 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.





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;

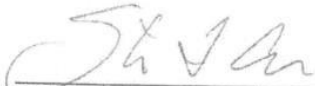
BEGINNING, at an iron rod with survey cap, found for the Southwest corner of the herein describe tract, common with Southeast corner of a 15 foot wide road dedication to the City of Tomball for Rudolph Road, as recorded in Clerk's File Number 2019-119104 of the Real Property Records of Harris County,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

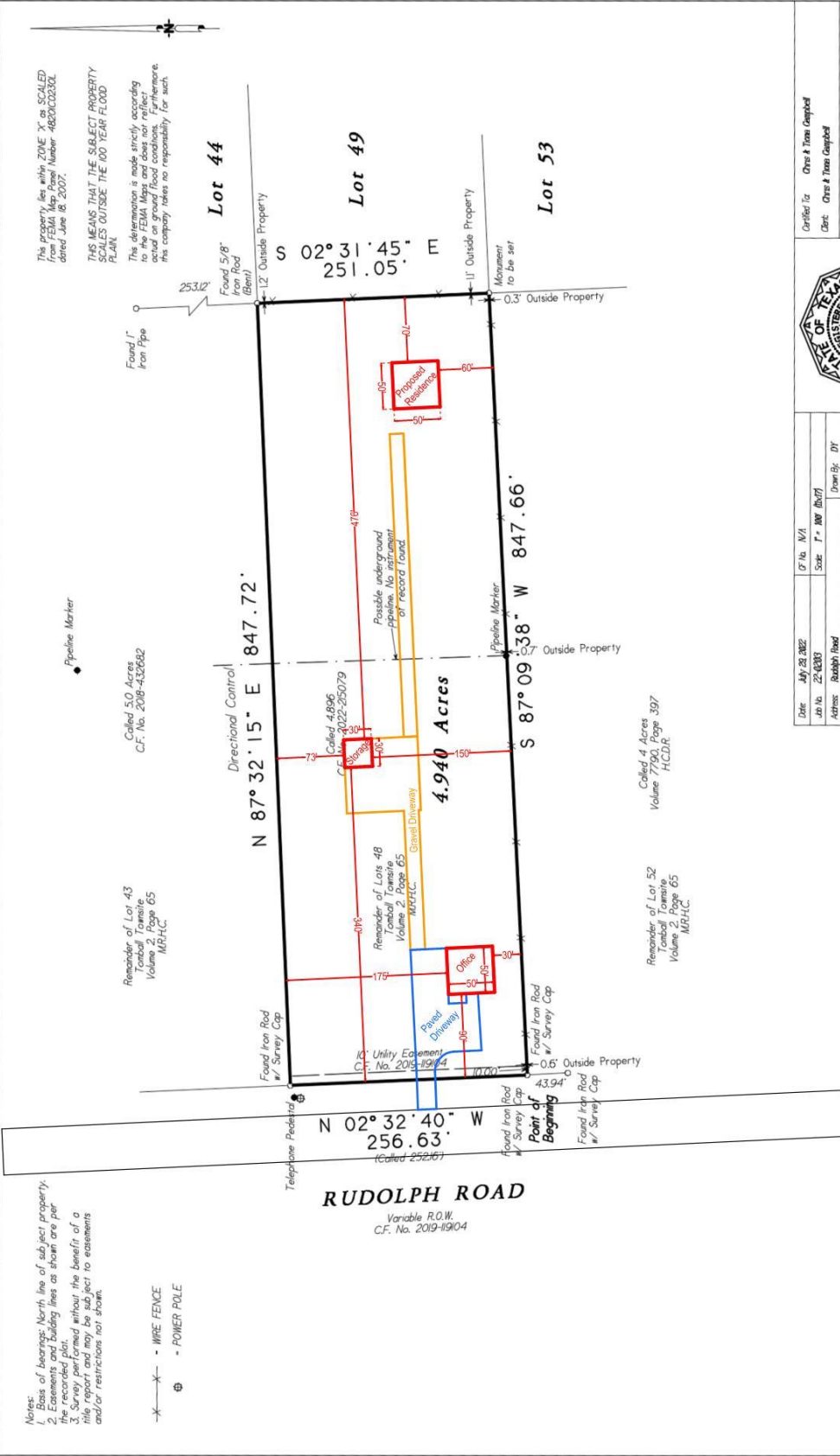
THENCE, South 02 degrees 31 minutes 45 seconds East, along the East line of the herein described tract, common with the East line of Lot 48, with the West line of Lot 49, a distance of 251.05 feet, to a point for the Southeast corner of the herein described tract, being the Southeast corner of Lot 48,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





This property lies within ZONE X as SCALED from FEMA Map Panel Number 4820C0230Z dated June 18, 2007.

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

This determination is made strictly according to the FEMA Map and does not reflect any warranty or liability on the part of this company, which takes no responsibility for such.

Notes:
 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. The survey may be subject to easements and/or restrictions not shown.

-X- - WIRE FENCE
 ⊕ - POWER POLE

Certified To: **Chris & Tammy Campbell**
 Date: **July 28, 2022**

Surveyor: **Steven L. Crews, R.L.S. #444**



C & C Surveying, Inc.
 Firm Number 100094600
 33300 Egypt Lane, Suite F200 Magnolia, Texas 77354
 Office: 281-356-5172
 survey@ccsurveying.com/www.ccsurveying.com

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 Townsite, 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.