

Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: January 13, 2025
City Council Public Hearing Date: February 3, 2025

Rezoning Case: CUP25-01
Property Owner(s): Mike Matheson
Applicant(s): Mike Matheson
Legal Description: Lot 72, Block 1 of Acquest Tomball Replat No. 1.
Location: 1211 Rudel Drive (Exhibit “A”)
Area: 1.0402 acres
Comp Plan Designation: Neighborhood Commercial (Exhibit “B”)
Present Zoning: Office (O) District (Exhibit “C”)
Request: The granting of a Conditional Use Permit (CUP) to allow the land use of “Child day care center (business)” within the City of Tomball’s Office (O) zoning district.

Adjacent Zoning & Land Uses:

North: Old Town & Mixed Use (OT&MU) / Tomball Fire Station 1

South: Commercial (C) / VA Tomball Outpatient Clinic

East: Multi-Family Residential (MF) and Commercial (C) / Fountains of Tomball Apartments and medical offices

West: Multi-Family Residential (MF) / Rudel Crossing Apartments

BACKGROUND

The subject property is currently undeveloped; however, it is nearing completion of the city permitting process for the construction of two 4,620 square-foot office buildings. This property was rezoned from the Commercial (C) zoning district to the Office (O) zoning district in June of 2023 with the goal of subdividing the property into two separate lots. The applicant now desires to have the land use of *Child day care center (business)* occupy one of the buildings, which is only allowed within the Office (O) zoning district with the issuance of a CUP.

ANALYSIS

According to Section 50-81 (f) of 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 Neighborhood Commercial by the Comprehensive Plan's Future Land Use Map. The Neighborhood Commercial designation is intended for commercial uses that are developed with the appropriate context, scale, and design to complement residential development. These areas are intended to be accessible by both vehicles and pedestrians. The desire to establish a child day care center at this location will promote a development that creates a complimentary relationship between differing land uses, which is an objective of the Comprehensive Plan. The proximity of the subject property to a wide variety of residential housing, professional offices, and existing schools makes the desired land use mutually beneficial to the surrounding area.

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 first zoned within the Commercial district when zoning was adopted in 2008 but was rezoned into the Office district in 2023. The subject property is surrounded by the Commercial, Multifamily, and Old Town & Mixed-Use zoning districts. The nature of the area is a mixture of schools, offices, commercial and other non-residential uses, along with single-family and multi-family uses. The Comprehensive Plan endorses the continuation of the mixture of uses in this area of the city, and specifically states that retail, offices, clinics, and government facilities are the most appropriate uses. The Office district was established to create an appropriate setting for low intensity office and professional uses

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

No, the proposed use will not meet all supplemental standards outlined in Chapter 50 of the Code of Ordinance. Chapter 50, Article IV, Section 50-112 (d)(3) requires:

"Kindergartens, elementary schools, day schools, and similar child training and care establishments shall provide one paved off-street pedestrian loading and unloading space for an automobile on a through, "circular" drive for each ten students cared for (excluding child care in a residence). An additional lane shall also be required to allow pass by or through traffic to move while automobiles waiting or parked to pick up children occupy loading/unloading areas."

No such driveway orientation has been proposed on the property.

Additionally, it does not appear that the number of parking spaces allocated for the desired use within the office complex as illustrated on the Concept Plan will meet the minimum parking requirement for a “*Child day care center (business)*”. Chapter 50, Article III, Section 50-82(b) requires one parking space per three children.

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 use is consistent with surrounding land uses and would provide a beneficial service to the area. With this Conditional Use Permit, the City is recommending conditions that are aimed at helping alleviate potential nuisances that could arise due to this land use such as traffic congestion. Said conditions may include but are not limited to signage and staggered pick up and drop off times.

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

With the other future businesses that will be established on the property, it does not appear that the minimum parking requirements for a “*Child day care center (business)*” (one space per three children) will be met. Since the applicant has indicated that the child day care facility will operate with extended hours and have staggered drop-off and pick-up times, City Staff does not anticipate adverse impacts to Rudel Drive nor the surrounding 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 December 27, 2024. 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 Conditional Use Permit Case CUP25-01 with the following conditions:

- ❖ The curb for the proposed sidewalk along Rudel Drive shall be painted red for no parking.
- ❖ “No Stopping or Standing” signage shall be placed along the entire Rudel Drive frontage.
- ❖ Three parking spaces within the development shall be clearly marked with signage and paint for drop-off and pick-up only.

Note that the Planning & Zoning Commission may recommend, and the City Council may impose any additional conditions as are reasonably necessary.

EXHIBITS

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

Exhibit "A"
Aerial Location Map



Location



Legend 

 CUP Boundary

Exhibit "B"
Future Land Use Plan



Future Land Use

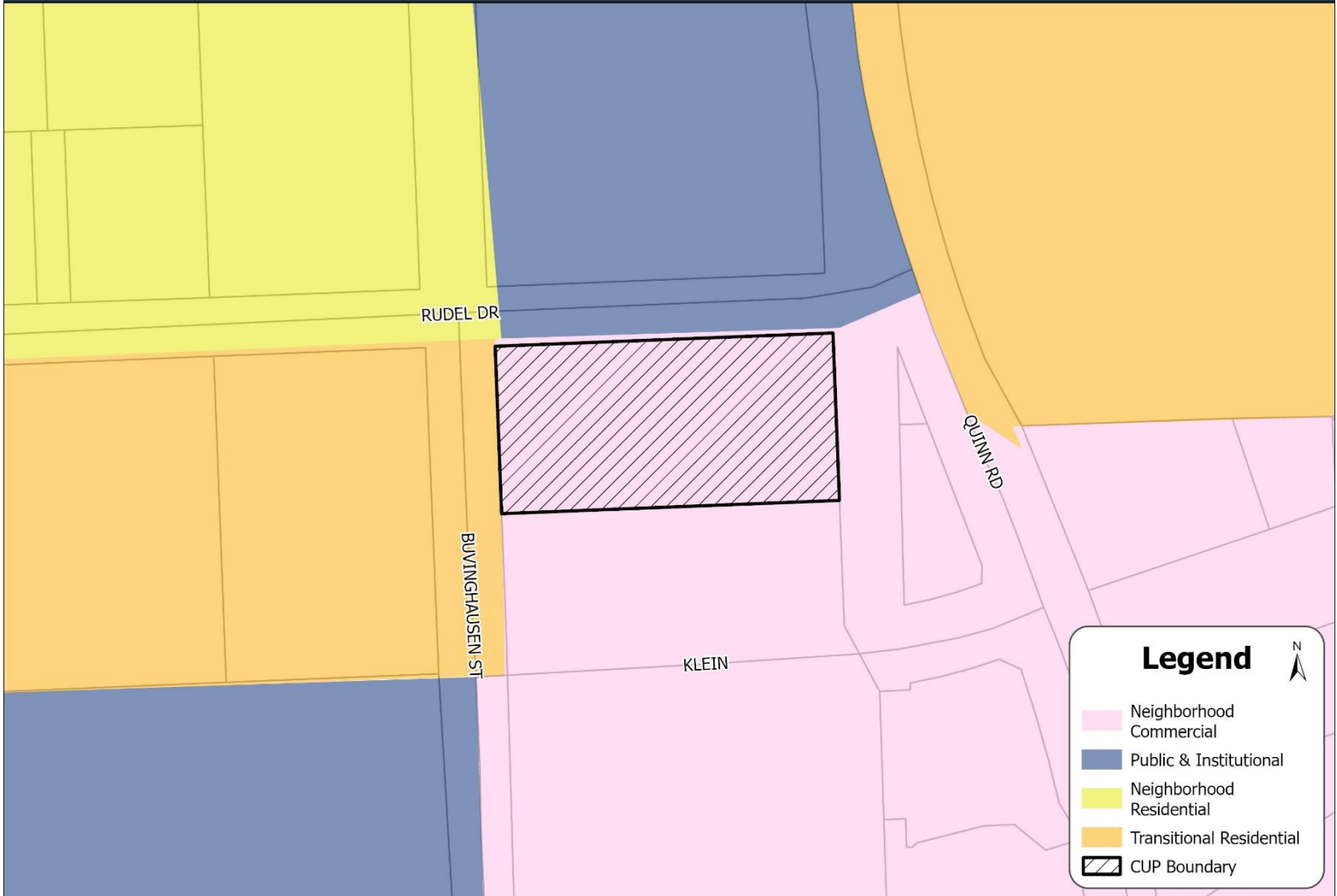


Exhibit "C"
Zoning Map

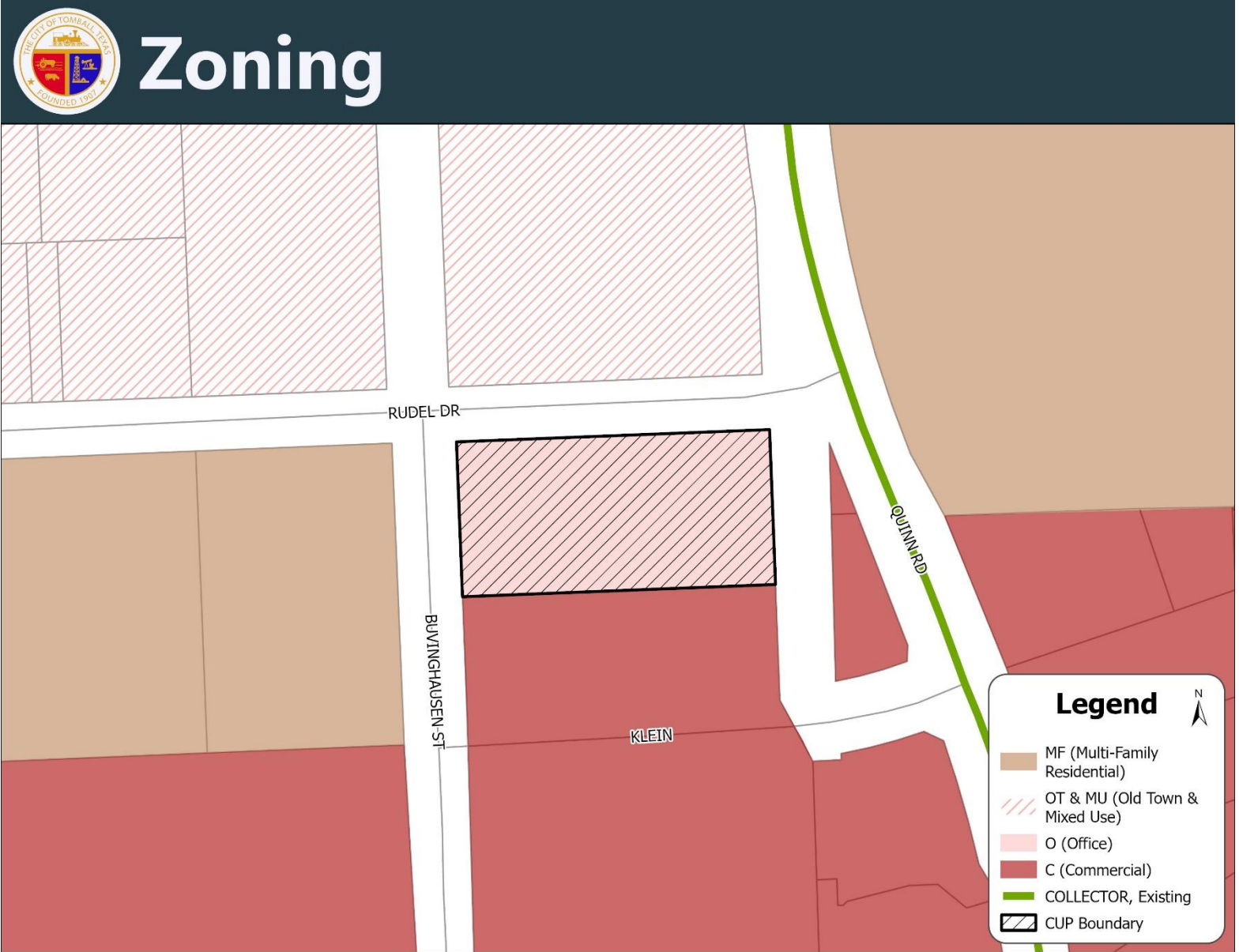


Exhibit "D"
Site Photos

Subject Site



Subject Site



Neighbor (North)



Neighbor (South)



Neighbor (East)



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.

FEES: Must be paid at time of submission or application will not be processed.

- \$1,000.00 fee for Conditional Use Permit (CUP) request

DIGITAL APPLICATION SUBMITTALS:

PLEASE SUBMIT YOUR APPLICATIONS AND PLANS DIGITALLY WITHIN SMARTGOV

SMARTGOV WEBSITE: ci-tomball-tx.smartgovcommunity.com

Applicant

Name: Mike Matheson Title: Owner
Mailing Address: 14315 Arlington Pl. City: Tomball State: Tx
Zip: 77429 Contact: 281-658-7526
Phone: 281-658-7526 Email: info@redgrip11c.com

Owner

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

Engineer/Surveyor (if applicable)

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

Description of Proposed Project: Two 4,620 sq ft Buildings, One Building is a daycare

Physical Location of Property: 1211 Rudel Rd, Corner of Quinn & Rudel
[General Location - approximate distance to nearest existing street corner]

Legal Description of Property: Lot 72 Block I, August Tombell
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

HCAD Identification Number: 1333950020001 Acreage: 1.04

Current Use of Property: Undeveloped but zoned as Office

Proposed Use of Property: 1 of the 2 Buildings to have CUP to allow for a Daycare/Early Learning Center

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 Michael Matheson 11-21-24
Signature of Applicant Date

X Michael Matheson 11-21-24
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.

- **Application Fee: \$1,000.00 (standard zoning) or \$1,500.00 (PD zoning)**
- **Completed application form**
- ***Copy of Recorded/Final Plat**
- **Letter stating reason for request and issues relating to request**
- **Conceptual Site Plan (if applicable)**
- **Metes & Bounds of property**
- **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.

Application Process

1. The official filing date is the date the application and fee are received by the City.
2. The City will review the application for completeness and will notify the applicant in writing within 10 days if the application is deemed incomplete.
3. Property owners within two-hundred (300) feet of the project site will be notified by letter within 10 calendar days prior to the public hearing date and legal notice will appear in the official newspaper of the City before the eighth calendar day prior to the date of the hearing.
4. A public hearing will be held by the Planning and Zoning Commission at 6:00 p.m. in the City Council chambers, unless otherwise noted. The Planning and Zoning Commission meetings are scheduled on the second Monday of the month. The staff will review the request with the Commission and after staff presentations the chair will open the public hearing. The applicant will have ten (10) minutes to present the request. The chair will then allow those present in favor of the request and those in opposition to the request to speak. The Commission may then ask staff or anyone present additional questions, after which the Commission may close or table the public hearing. The Commission may then vote to recommend approval or denial to the City Council. The Commission may also table the request to a future date before a recommendation is sent to the City Council.
5. A second public hearing will be scheduled before the City Council after fifteen (15) days of legal notice. The Council meetings are held on the first (1st) and third (3rd) Mondays of the month at 6:00 p.m. in the City Council chambers (401 Market Street, Tomball, Texas, 77375).
6. The City Council will conduct a public hearing on the request in the same manner as the Planning and Zoning Commission. In the event that there has been a petition filed with the City Secretary with twenty percent (20%) of the adjoining property owners in opposition to the subject zoning request, it will require a three fourths (3/4) vote of the full Council to approve the request. Upon approval of the request by the City Council, an amended ordinance shall be prepared and adopted. The ordinance shall have two separate readings and will be effective at such time that it is adopted by City Council and signed by the Mayor and attested by the City Secretary.

FAILURE TO APPEAR: It is the applicant/property owner's responsibility to attend all Planning and Zoning Commission and City Council meetings regarding their case. Failure of the applicant or his/her authorized representative to appear before the Planning and Zoning Commission or the City Council for more than one (1) hearing without approved delay by the City Manager, or his/her designee, may constitute sufficient grounds for the Planning and Zoning Commission or the City Council to table or deny the application unless the City Manager or his/her designee is notified in writing by the applicant at least seventy-two (72) hours prior to the hearing. If the agenda item is tabled the Planning and Zoning Commission shall specify a specific date at which it will be reconsidered.

Conditional Use Permit 1211 Rudel

November 21st, 2024

Dear Members of the City Council

I am writing to request that the 1.04 acres at the corner of Quinn and Rudel Road to be approved for a Conditional Use Permit to accommodate a Daycare/Early Learning facility for one of our two buildings that will be going up. We currently have a pre-lease with Discovery Learning Center which we are planning to finish construction in July or August. We have consulted with a couple of members of the City Council and they advised to cancel the rezone request for General Retail and instead keep zoned as zoned for Office and just have a Conditional Use Permit for the Daycare.

The Daycare owners have met with the TEDC and we have done a Pre-development meeting with Tomball. We are referring to this as a Daycare however it is actually a Early Learning Center as it is curriculum heavy unlike a Daycare.

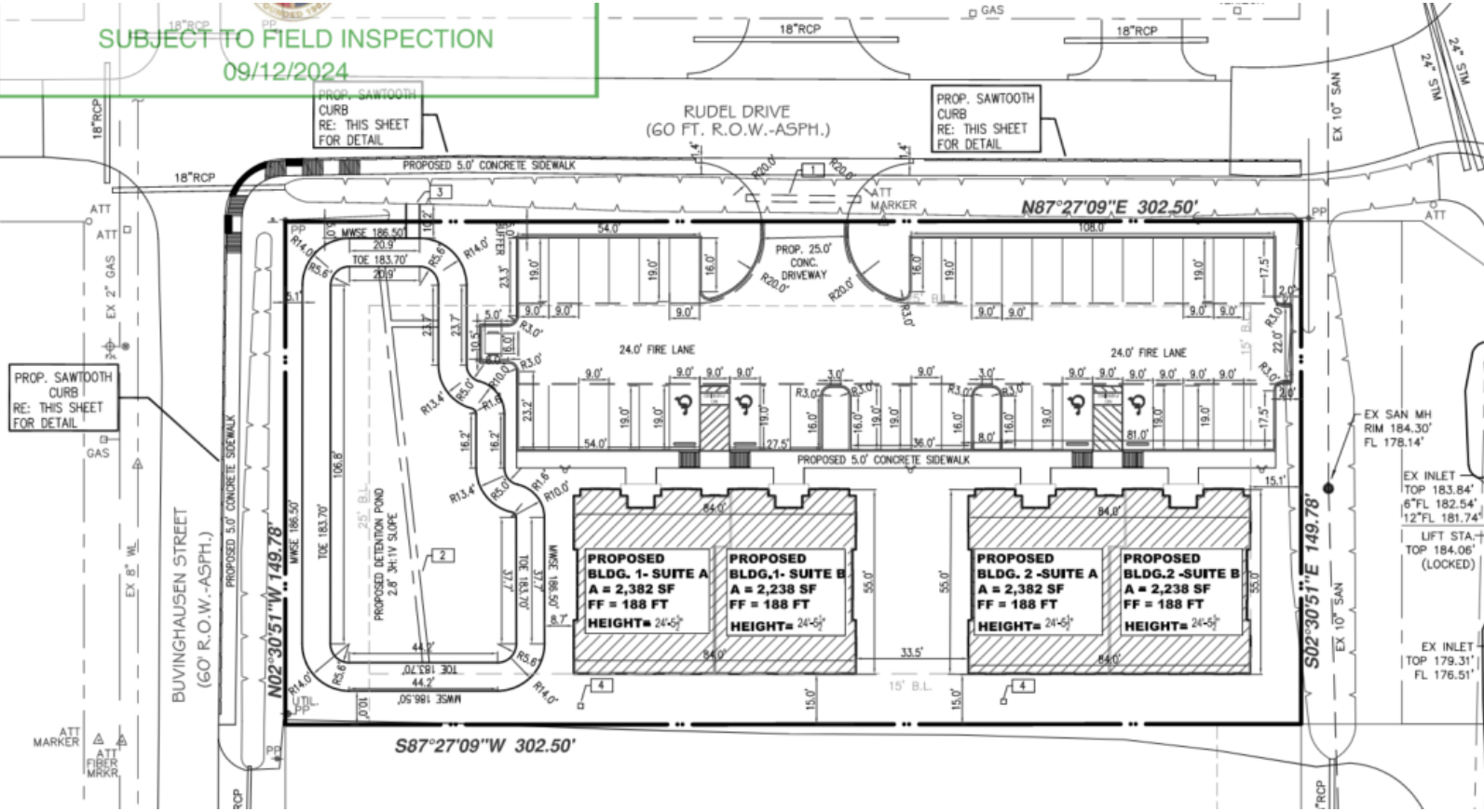
We do not foresee any issues with this CUP as we feel that the Daycare will serve the area well when there is a shortage of Daycare facilities. There are three large apartment complexes that surround the property that would be well-served by the Daycare/Early learning facility. The owners of the Daycare have 20 years of experience and the husband is a retired Police Chief of a small town in Nebraska where they are originally are from.

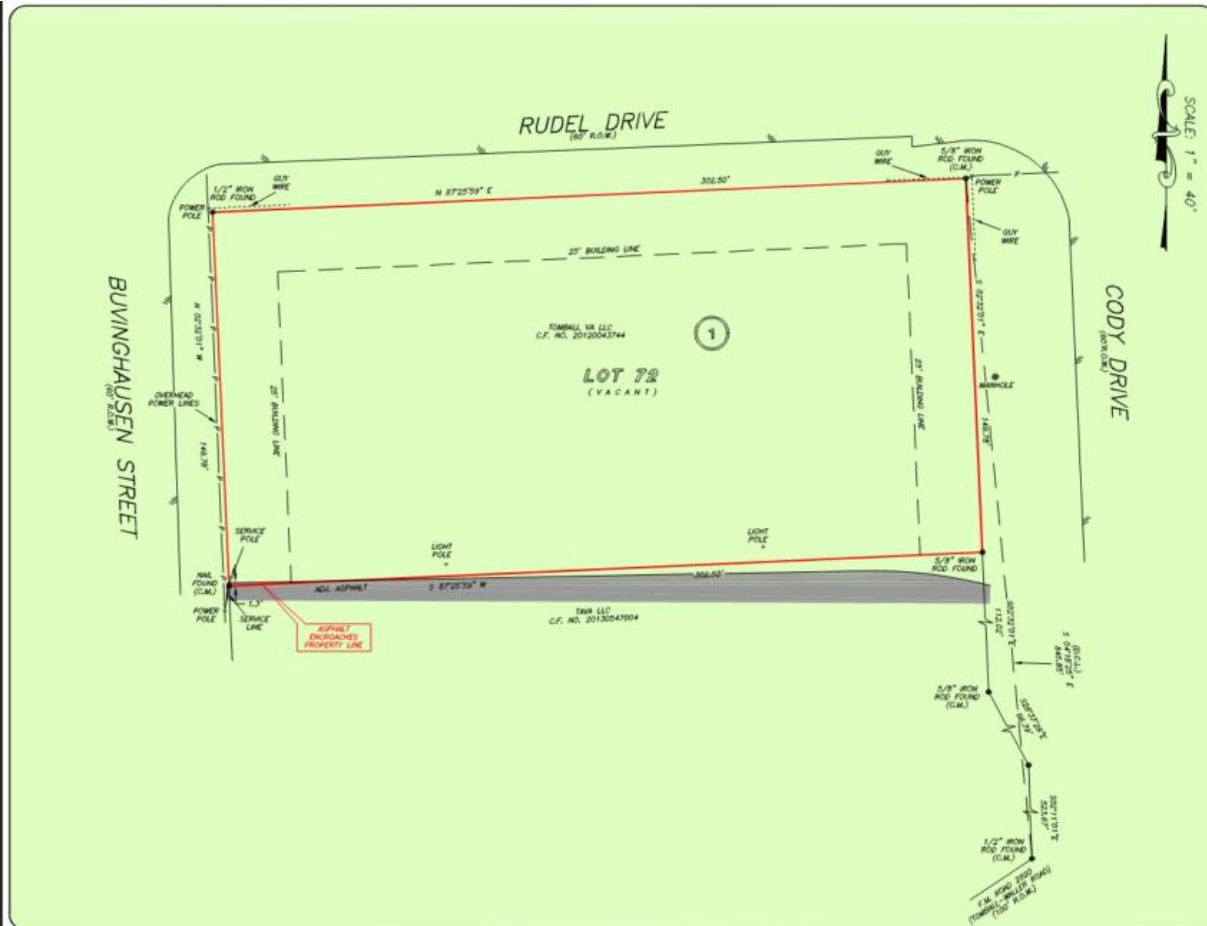
If you have alternative suggestions regarding this request, please share them with me so we can work together to find a workable and effective solution.

Sincerely, Mike Matheson

Red Grip LLC

SUBJECT TO FIELD INSPECTION
09/12/2024





GF. NO. 1609703 STEWART TITLE
 ADDRESS: RUDEL DRIVE
 TOMBALL, TEXAS 77375
 BORROWER: MICHAEL MATHESON

**LOT 72, BLOCK 1
 ACQUEST TOMBALL REPLAT NO. 1**

ACCORDING TO THE MAP OR PLAT THEREOF RECORDED
 IN VOLUME 658, PAGE 107 OF THE MAP/PLAT RECORDS
 OF HARRIS COUNTY, TEXAS

NOTE: MAY BE SUBJECT TO DEED RESTRICTIONS AND/OR
 ADDITIONAL GOVERNMENTAL BUILDING REQUIREMENTS.
 NOTE: AN EASEMENT IF ANY, TOGETHER WITH AN ADJACENT
 50' WIDE EXTENDING UPWARD AS PER C.F. NO. 20120163754.



THIS PROPERTY DOES NOT LIE WITHIN THE
 100 YEAR FLOOD PLAIN AS PER FIRM
 PANEL NO. 48201C 0210 L
 MAP REVISION: 06/18/2007
 ZONE
 BASED ONLY ON VISUAL EXAMINATION OF MAPS.
 INACCURACIES OF FEMA MAPS PREVENT EXACT
 DETERMINATION WITHOUT DETAILED FIELD STUDY.

A SUBSURFACE INVESTIGATION
 WAS BEYOND THE SCOPE OF THIS SURVEY

D.C.L. = DIRECTIONAL CONTROL LINE
 METERS BEARING: VOL. 658, PG. 107, H.C.M.P.R.
 DRAWN BY: PM

I HEREBY CERTIFY THAT THIS SURVEY
 PLAT CORRECTLY REPRESENTS THE FACTS
 FOUND AT THE TIME OF SURVEY AND THAT
 THIS PROFESSIONAL SERVICE CONFORMS TO
 THE CURRENT TEXAS SOCIETY OF PROFESSIONAL
 SURVEYORS STANDARDS AND SPECIFICATIONS
 FOR A CATEGORY 1A CONVEYOR'S SURVEY.



1-800-LANDSURVEY
 www.precisionsurveyors.com
 281-496-1588 FAX 281-496-1867 210-829-6941 FAX 210-829-1555
 850 THORNHEDGE STREET SUITE 150 HOUSTON, TEXAS 77029 1777 HE LOOP 410 SUITE 600 SAN ANTONIO, TEXAS 78217
 FIRM NO. 10063700

METES AND BOUNDS DESCRIPTION OF 1.0401 ACRE TRACT – RED GRIP, LLC, A TEXAS LIMITED LIABILITY COMPANY

A TRACT OR PARCEL OF LAND CONTAINING 1.0401 ACRE BEING LOT 72, BLOCK 1 OF ACQUEST TOMBALL REPLAT NO. 1, AN ADDITION IN HARRIS COUNTY ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 658, PAGE 107 OF THE HARRIS COUNTY MAP RECORDS IN THE JOSPEH HOUSE SURVEY, ABSTRACT 34 IN HARRIS COUNTY, TEXAS, SAID 1.0401 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS TO-WIT:

BEGINNING at a 3/8 inch iron rod set with cap marking the Northwest corner of the herein described tract being at the intersection of the East right-of-way line of Buvinghausen Street (60 ft. right-of-way) and the South right-of-way line of Rudel Drive (60 ft. right-of-way);

THENCE North 87 degrees 27 minutes 09 seconds East with the Southerly right-of-way line of said Rudel Drive a distance of 302.50 ft. to a 5/8 inch iron rod found with cap at the Northeast corner of the herein described tract being in the West right-of-way line of Cody Drive (undeveloped);

THENCE South 02 degrees 30 minutes 51 seconds East with the West right-of-way line of said Cody Drive a distance of 149.78 ft. to a 5/8 inch iron rod found with cap marking the Southeast corner of the herein described tract and the Northeast corner of Lot 73;

THENCE South 87 degrees 27 minutes 09 seconds West with the division line between Lots 72 and 73 a distance of 302.50 ft. to a mag nail found in asphalt marking the Southwest corner of the herein described tract, the Northwest corner of Lot 73 in the East right-of-way line of said Buvinghausen Street;

THENCE North 02 degrees 30 minutes 51 seconds West with the Easterly right-of-way line of said Buvinghausen Street a distance of 149.78 ft. to the PLACE OF BEGINNING and containing 1.0401 acre of land.



C. Paul Jones, Sr. R.P.L.S. 5480
P.O. Box 701
Friendswood, Texas 77549
Phone: (713)473-3502
Email: info@timelinesurvey.com
Date: May 1, 2023

