

ORDINANCE NO. 2023-02

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES (EXHIBIT “A”); FROM AGRICULTURAL (AG) TO GENERAL RETAIL (GR) DISTRICT; 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, RIAA Group LLC. has requested that approximately 3.12 acres of land legally described as being portions of Lot 172, in Tomball Townsite, located at the northwest corner of S. Cherry Street and Medical Complex Drive, 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, at least fifteen (15) days after the publication in the official newspaper of the City of the time and place of a public hearing, the City Council held a public hearing on the proposed rezoning; 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, 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 THE 20TH DAY OF FEBRUARY 2023.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DUNAGIN	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN PARR	<u>NAY</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 THE 6TH DAY OF MARCH 2023.

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

LORI KLEIN QUINN, Mayor

ATTEST:

TRACYLYNN GARCIA, City Secretary

EXHIBIT 'A'

TRACT 1:

BEING A 1.839 ACRE TRACT SITUATED IN THE JESSE PRUETT SURVEY, ABSTRACT NO. 629, HARRIS COUNTY, TEXAS, BEING A PORTION OF THE RESIDUE OF THAT CERTAIN CALLED 7.56 ACRE TRACT DESCRIBED IN INSTRUMENT TO JANA'S DIRT, LLC, RECORDED IN CLERK'S FILE NO. 20120271296 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, HARRIS COUNTY, TEXAS (O.P.R.R.P.H.C.T.), SAID 1.839 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1 INCH IRON PIPE WITH CAP FOUND IN THE WESTERLY RIGHT-OF-WAY OF SOUTH CHERRY STREET (80' WIDTH), FOR THE COMMON EASTERLY CORNER OF SAID RESIDUE TRACT AND A CALLED 1.2748 ACRE TRACT DESCRIBED IN INSTRUMENT TO JANA'S DIRT, LLC, RECORDED IN CLERK'S FILE NO. 20150109818, O.P.R.R.P.H.C.T., BEING THE NORTHEASTERLY CORNER OF THE HEREIN DESCRIBED 1.839 ACRE TRACT, FROM WHICH A 1 1/2 INCH PINCHED TOP PIPE FOUND FOR THE NORTHEASTERLY CORNER OF SAID 1.2748 ACRE TRACT BEARS NORTH 02°28'33" WEST, 79.89 FEET;

THENCE SOUTH 02°28'33" EAST, 176.06 FEET, WITH THE WESTERLY RIGHT-OF-WAY OF SAID SOUTH CHERRY STREET AND THE EASTERLY LINE OF SAID RESIDUE TRACT, TO A 1/2 INCH IRON ROD WITH CAP STAMPED "TPS 100834-00" SET FOR THE NORTHERLY CUTBACK CORNER AT THE NORTHWESTERLY CORNER OF THE INTERSECTION OF SAID SOUTH CHERRY STREET, WITH MEDICAL COMPLEX DRIVE (120' WIDTH), RECORDED IN CLERK'S FILE NO. 2015107119, O.P.R.R.P.H.C.T., FOR THE EASTERLY SOUTHEAST CORNER OF SAID RESIDUE TRACT AND THE HEREIN DESCRIBED 1.839 ACRE TRACT;

THENCE SOUTH 44°57'24" WEST, 33.81 FEET, WITH SAID CUTBACK AND THE SOUTHEASTERLY LINE OF SAID RESIDUE TRACT, TO A 1/2 INCH IRON ROD WITH CAP FOUND FOR THE BEGINNING OF A CURVE TO THE RIGHT, THE SOUTHERLY CUTBACK CORNER AT SAID INTERSECTION AND THE SOUTHERLY SOUTHEAST CORNER OF SAID RESIDUE TRACT AND THE HEREIN DESCRIBED 1.839 ACRE TRACT;

THENCE NORTHWESTERLY, 642.62 FEET, WITH ARC OF SAID CURVE TO THE RIGHT IN THE NORTHERLY RIGHT-OF-WAY OF SAID MEDICAL COMPLEX DRIVE, WITH THE SOUTHWESTERLY LINE OF SAID RESIDUE TRACT, HAVING A RADIUS OF 1,440.00 FEET, A CENTRAL ANGLE OF 25°34'08", AND A CHORD THAT BEARS NORTH 74°23'36" WEST, 637.30 FEET TO A 1/2 INCH IRON ROD WITH CAP STAMPED "TPS 100834-00" SET FOR THE COMMON WESTERLY CORNER OF SAID RESIDUE TRACT AND SAID 1.2748 ACRE TRACT, BEING THE NORTHWESTERLY CORNER OF THE HEREIN DESCRIBED 1.839 ACRE TRACT;

THENCE NORTH 87°25'21" EAST, 630.73 FEET, WITH THE COMMON LINE OF SAID RESIDUE TRACT AND SAID 1.2748 ACRE TRACT, TO THE PLACE OF BEGINNING;

CONTAINING A COMPUTED AREA OF 1.839 ACRES OF LAND WITHIN THIS FIELD NOTE DESCRIPTION.

TRACT 2:

BEING A 1.283 ACRE TRACT SITUATED IN THE JESSE PRUETT SURVEY, ABSTRACT NO. 629, HARRIS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN CALLED 1.2748 ACRE TRACT DESCRIBED IN INSTRUMENT TO JANA'S DIRT, LLC, RECORDED IN CLERK'S FILE NO.

RP-2021-155506

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20150109818 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, HARRIS, COUNTY, TEXAS (O.P.R.R.P.H.C.T.), SAID 1.283 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1 INCH IRON PIPE WITH CAP FOUND IN THE WESTERLY RIGHT-OF-WAY OF SOUTH CHERRY STREET (80' WIDTH), FOR THE COMMON EASTERLY CORNER OF SAID 1.2748 ACRE TRACT AND THE RESIDUE OF A CALLED 7.56 ACRE TRACT DESCRIBED IN INSTRUMENT TO JANA'S DIRT, LLC, RECORDED IN CLERK'S FILE NO. 20120271296, O.P.R.R.P.H.C.T., BEING THE SOUTHEASTERLY CORNER OF THE HEREIN DESCRIBED 1.283 ACRE TRACT;

THENCE SOUTH 87°25'21" WEST, 630.73 FEET, WITH THE COMMON LINE OF SAID 1.2748 ACRE TRACT AND SAID RESIDUE TRACT, TO A ½ INCH IRON ROD WITH CAP STAMPED "TPS 100834-00" SET IN THE NORTHEASTERLY RIGHT-OF-WAY OF MEDICAL COMPLEX DRIVE (120' WIDTH), RECORDED IN CLERK'S FILE NO. 2015107119, O.P.R.R.P.H.C.T., FOR THE COMMON WESTERLY CORNER OF SAID 1.2748 ACRE TRACT AND SAID RESIDUE TRACT, BEING THE SOUTHWESTERLY CORNER OF THE HEREIN DESCRIBED 1.283 ACRE TRACT, FROM WHICH A 5/8 INCH IRON ROD WITH CAP FOUND FOR REFERENCE, BEARS SOUTH 89°01'05" WEST, 0.38 FEET;

THENCE NORTH 58°06'39" WEST, 145.11 FEET, WITH THE NORTHEASTERLY RIGHT-OF-WAY OF SAID MEDICAL COMPLEX DRIVE AND THE SOUTHWESTERLY LINE OF SAID 1.2748 ACRE TRACT, TO A 5/8 INCH IRON ROD WITH CAP FOUND FOR THE COMMON WESTERLY CORNER OF SAID 1.2748 ACRE TRACT AND A TRACT DESCRIBED IN INSTRUMENT TO CORRAL RUP, LLC, RECORDED IN CLERK'S FILE NO. 2018138656, O.P.R.R.P.H.C.T., BEING THE NORTHWESTERLY CORNER OF THE HEREIN DESCRIBED 1.283 ACRE TRACT;

THENCE NORTH 87°35'34" EAST, 750.51 FEET, WITH THE COMMON LINE OF SAID 1.2748 ACRE TRACT AND SAID CORRAL RUP TRACT, TO A 1 ½ INCH PINCHED TOP PIPE FOUND IN THE WESTERLY RIGHT-OF-WAY OF SAID SOUTH CHERRY STREET, FOR THE COMMON EASTERLY CORNER OF SAID 1.2748 ACRE TRACT AND SAID CORRAL RUP TRACT, BEING THE NORTHEASTERLY CORNER OF THE HEREIN DESCRIBED 1.283 ACRE TRACT;

THENCE SOUTH 02°28'33" EAST, 79.89 FEET, WITH THE WESTERLY RIGHT-OF-WAY OF SAID SOUTH CHERRY STREET AND THE EASTERLY LINE OF SAID 1.2748 ACRE TRACT, TO THE PLACE OF BEGINNING;

CONTAINING A COMPUTED AREA OF 1.283 ACRES OF LAND WITHIN THIS FIELD NOTE DESCRIPTION.



Location: Northwest corner of S. Cherry Street and Medical Complex Drive at 1635 S. Cherry Street.
Being portions of Lot 172, in Tomball Townsite, City of Tomball, Harris County, Texas