

**Rezoning
Staff Report**

Planning & Zoning Commission Public Hearing Date: August 12, 2024
City Council Public Hearing Date: August 19, 2024

Rezoning Case: Z24-010
Property Owner(s): TYKHE, LLC
Applicant(s): JLS Real Estate
Legal Description: Portions of Lot 187 & Tracts 188, 191A, and 192A of Tomball Outlots within the Jesse Pruitt Survey, Abstract 629
Location: 1730 South Cherry Street (Exhibit “A”)
Area: 6.500 acres
Comp Plan Designation: Business Park and Industrial (Exhibit “B”)
Present Zoning: Commercial (C) District (Exhibit “C”)
Request: Rezone from the Commercial (C) to the Light Industrial (LI) District

Adjacent Zoning & Land Uses:

North: Light Industrial (LI) / Vacant lot
South: Commercial (C) / Professional office
East: Commercial (C) / Corporate office and new office/warehouse development
West: Agricultural (AG) / Drainage ditch (M121)

BACKGROUND

The subject property currently houses the BLTI, an Inframark Company, headquarters and includes 6.500 acres of undeveloped land to the west. The entire property was rezoned from the Agricultural (Ag) to Commercial (C) district in 2009. The applicant is requesting to rezone the undeveloped portion to Light Industrial (LI) in anticipation of acquiring this subdivision of land. This request aims to allow for the development of a multibuilding trade park that has the most expansive range of potential tenants. The adjacent undeveloped lot to the north was rezoned from the Agricultural (AG) to Light Industrial (LI) district in 2011.

ANALYSIS

Comprehensive Plan Recommendation: The property is designated as “Business Park and Industrial” by the Comprehensive Plan’s Future Land Use Map. The Business Park and Industrial category is intended to be located near adequate thoroughfares which provide convenient access for vehicular traffic including freight.

According to the Comprehensive Plan land uses should consist of offices, warehousing, light manufacturing (with indoor operations), breweries/distilleries, equipment sales, contractor services, and corporate campuses. Appropriate secondary uses include utility services, government facilities, and transportation/freight uses.

The Comprehensive Plan identifies the following zoning districts as compatible with the Business Park and Industrial category: Light Industrial (LI), Commercial (C), Office (O), and Planned Development (PD).

The Comprehensive Plan identifies the need to carefully design sites that are adjacent to non-business park and industrial districts to include landscape buffering as well as the screening of outdoor storage and equipment from public rights-of-way.

Staff Review Comments: The request to rezone the subject property to Light Industrial (LI) is in conformance with the Future Land Use Plan’s goal and objective to establish an acclaimed Industrial District within Tomball. Furthermore, the subject property will have frontage onto S. Cherry Street which is designated as a Minor Arterial on Tomball’s Major Thoroughfare Plan. Roadways such as this are designed to accommodate the volume and character of traffic that can be expected within an Industrial district. The approval of the requested zoning will promote a new development that is consistent with the type of development patterns and character endorsed by the Future Land Use Plan for this area.

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 July 15, 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 Zoning Case Z24-010.

EXHIBITS

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

Exhibit "A"
Aerial Location Map



Location



Legend

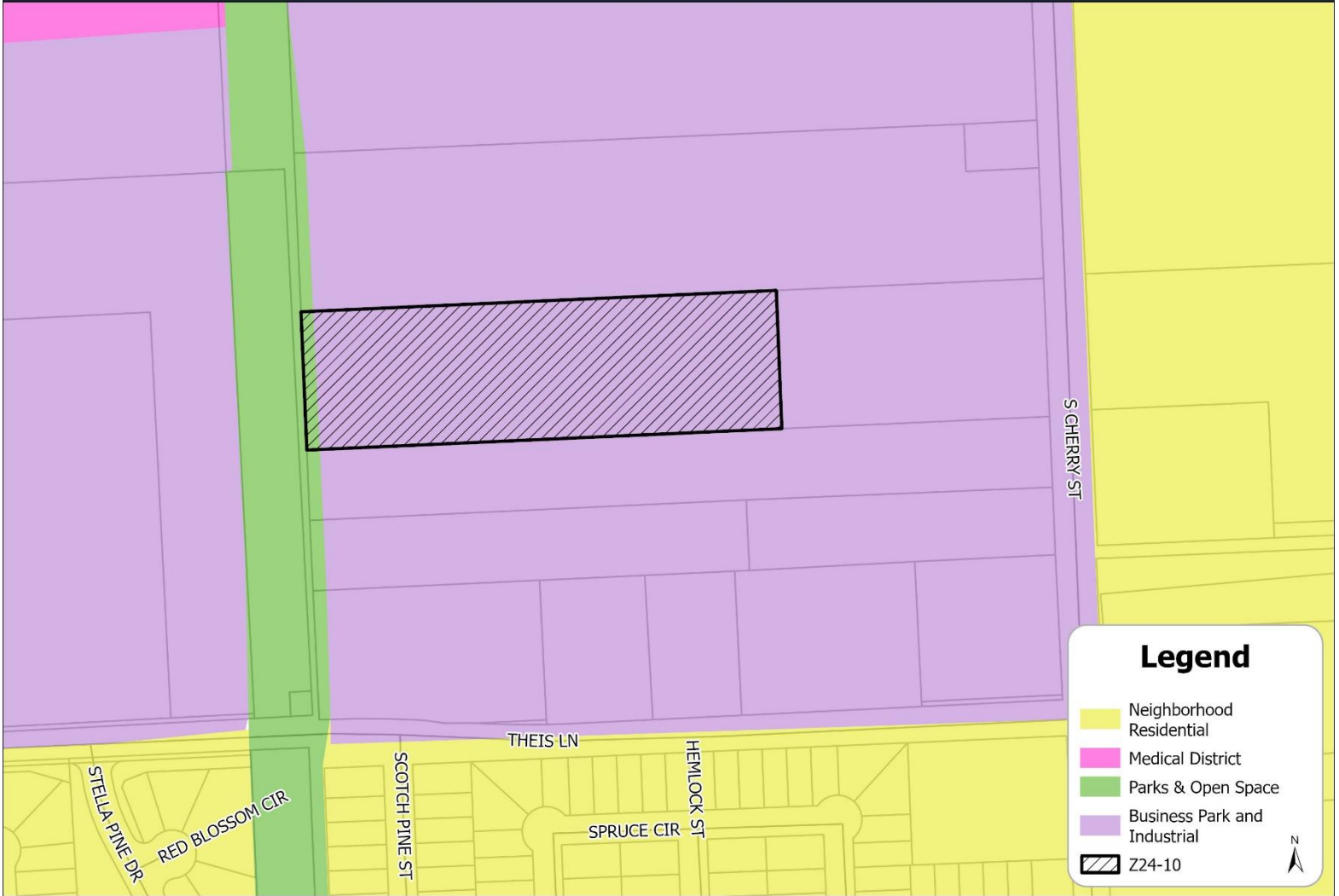
 Z24-10



Exhibit "B"
Future Land Use Plan



Future Land Use



Legend

- Neighborhood Residential
- Medical District
- Parks & Open Space
- Business Park and Industrial
- Z24-10

N

Exhibit "C"
Zoning Map



Zoning

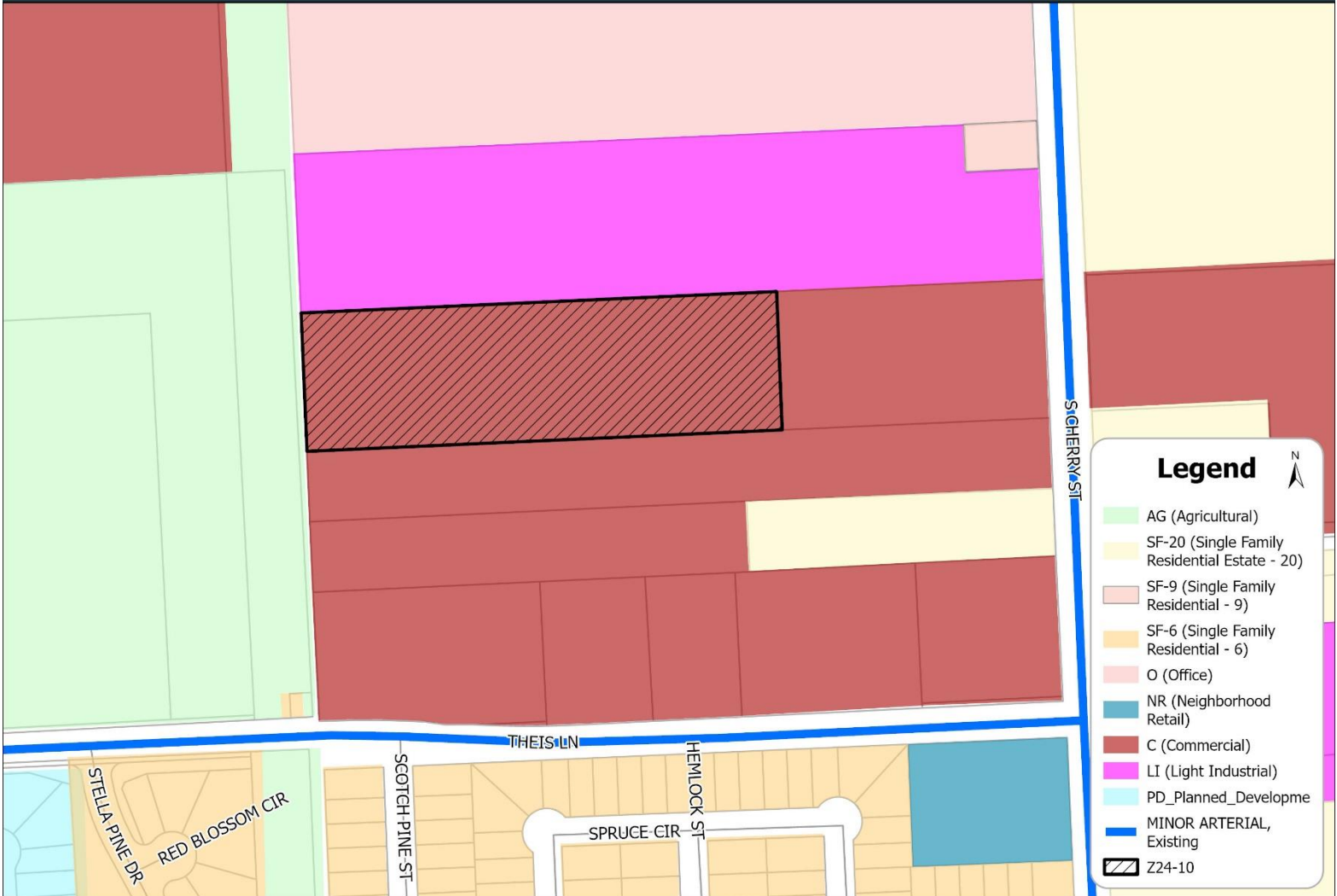


Exhibit "D"
Site Photo(s)

Subject Site



Neighbor (North)



Neighbor (South)



Neighbor (East)



Neighbor (East)



Neighbor (West)



Exhibit "E"
Rezoning Application

DocuSign Envelope ID: 506442AA-9A51-42B7-8443-6B7682ADF5A1



Revised: 08/25/2023

APPLICATION FOR RE-ZONING
Community Development Department
Planning Division

APPLICATION REQUIREMENTS: 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 requests to rezone to standard zoning districts
- \$1,500.00 fee for request to rezone to Planned Development districts.

DIGITAL APPLICATION SUBMITTALS:

PLEASE SUBMIT YOUR APPLICATIONS AND PLANS DIGITALLY WITHIN SMARTGOV

WEBSITE: ci-tomball-tx.smartgovcommunity.com

Applicant

Name: JLS REAL ESTATE Title: Developer
Mailing Address: 11755 W Little York Road Ste. 900 City: Houston State: Texas
Zip: 77041 Contact: JOSHUA LASS-SUGHRUE
Phone: (713) 2984596 Email: jls@jlsinv.com

Owner

Name: TYKHE LLC Title: _____
Mailing Address: 24797 RED OAK ST City: Magnolia State: Texas
Zip: 77355 Contact: Bob Lee
Phone: (281) 9328462 Email: reemagnolia@outlook.com

Engineer/Surveyor (if applicable)

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

Description of Proposed Project: S CHERRY TRADE PARK

Physical Location of Property: 1730 CHERRY RD
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: 0352860002413 1730 CHERRY RD
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: (C): Commercial

Revised: 08/25/2023

Current Use of Property: Land

Proposed Zoning District: (LI) : Light Industrial

Proposed Use of Property: Industrial Buildings

HCAD Identification Number: 0352860002413

Acreage: Approx 6.5 ACRES
Plus Access Easements

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.

[Signature] 7/3/2024
 X Signature of Applicant Date

[Signature] 7/3/2024
 X Signature of Owner Date

See Attached exhibit
 of survey

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 (200) 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.

Exhibit A
Survey



WD
ETC
M

20090160828
04/20/2009 ER \$24.00

ER 011 - 39 - 1051

UNOFFICIAL COPY

Warranty Deed with Vendor's Lien

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

Date: APRIL 15, 2009

Grantor: FNR, LLC, a Texas limited liability company

Grantor's Mailing Address: 7020 Portwest Dr. #100
Houston, TX 77024

Grantee: TYKHE, LLC

Grantee's Mailing Address: 13171 Misty Willow Dr.
Houston, TX 77070

Consideration: TEN AND NO/100 DOLLARS and other good and valuable consideration and the further consideration of a note of even date that is in the principal amount of TWO HUNDRED TWENTY-ONE THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$221,500.00) and is executed by Grantee, payable to the order of WELLS FARGO BANK, NATIONAL ASSOCIATION. The note is secured by a vendor's lien retained in favor of WELLS FARGO BANK, NATIONAL ASSOCIATION, in this deed and by deed of trust of even date, from Grantee to STEPHEN F. MARQUART, Trustee.

WELLS FARGO BANK, NATIONAL ASSOCIATION, at Grantee's request, having paid in cash to Grantor that portion of the purchase price of the property that is evidenced by the note described, the vendor's lien and superior title to the property are retained for the benefit of WELLS FARGO BANK, NATIONAL ASSOCIATION, and are transferred to WELLS FARGO BANK, NATIONAL ASSOCIATION, Houston Hedwig, 8800 Katy Freeway, Houston, TX 77024 without recourse on Grantor.

Property (including any improvements):

A 10.175 acres of land, being all of Lots One Hundred Eighty-Seven (187), One Hundred Eighty-Eight (188) and a tract of land being out of and a part of Lots One Hundred Ninety-One (191) and One Hundred Ninety-Two (192) of TOMBALL TOWNSITE, an addition in Harris County, Texas according to the map or plat thereof recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas, and being more particularly described by metes and bounds in Exhibit "A", attached hereto and incorporated herein, for all intents and purposes

Reservations from Conveyance:

None

Exceptions to Conveyance and Warranty:

Validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing instruments, other than conveyances of the surface fee estate, that affect the Property; and taxes for 2009, which Grantee assumes and agrees to pay.

Warranty Deed with Vendor's Lien
S-09114400
Page 1

148/JM

INITIAL

1EE

ASGN
1OR
1EE

D

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Grantor, for the consideration, receipt of which is acknowledged, and subject to the reservations from and exceptions to conveyance and warranty, grants, sells and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty.

The vendor's lien against and superior title to the property are retained until each note described is fully paid according to its terms, at which time this deed shall become absolute.

When the context requires, singular nouns and pronouns include the plural.

Executed on the date as set out in the acknowledgment, but made EFFECTIVE as of the date first above written.

FNR, LLC

10R

By: Frederick W. Haughton
Name: Frederick W. Haughton
Title: Manager

THE STATE OF TX §
COUNTY OF Harris §

This instrument was acknowledged before me on this the 16 day of April, 2009, by Frederick W. Haughton Manager of FNR, LLC, a Texas limited liability company, on behalf of said company.

Jane Mathews
Notary Public, State of Texas

AFTER RECORDING, RETURN TO:

TyKhe, LLC
13171 Misty Willow Dr.
Houston TX 77070



EXHIBIT A

Field Notes for a 10.175 acre tract of land, being the same 10.2014 acre tract of land described under Harris County Clerk's File Numbers S832034, Tract II, S129869 and Volume 7483, Page 364 of the Deed Records of Harris County, Texas and being all of Outlot 187, the residue of Outlot 188 and a tract of land out of and a part of Outlots 191 and 192, of Tomball Township, an Addition in Harris County, situated in the Jesse Pruitt Survey, Abstract Number 629, according to the Map or Plat thereof recorded in Volume 2, Page 65, of the Map Records of the Said County and State. All bearings and coordinates are referred to the Texas Coordinate System of 1983, South-Central Zone, defined in the Texas Natural Resources Code, Section 20.071, Et. Seq. and are based on the published position (2001 Adj.) of COOPERATIVE CORS STATION WLA 1, to convert grid distance to surface distance multiply by a combination scale factor of 0.99951143; said 10.175 acres being more particularly described by metes and bounds as follows:

BEGINNING: at a found 5/8 inch iron rod having coordinates of X = 3,040,066.717 and Y = 13,955,362.166 for the Southeast corner of the herein described tract, the Northeast corner of a 1.00 acre tract of land described under Harris County Clerk's File Number N076467, the Southeast corner of the said 10.2104 acre tract of land and also being in the West right-of-way line of South Cherry Street, based on 80' width;

THENCE: South 87° 29' 11" West, passing at a distance of 599.83 feet, a found 1/2 inch iron rod, with the South line of the said 10.2014 acre tract of land, the North line of the said 1.00 acre tract of land and the North line of a 8.1984 acre tract of land known as "Swinghammer Tract" recorded under Harris County Clerk's File Number R892532 and Film Code Number 376131 of the Map Records of the said County and State and continuing for a total distance of 1530.58 feet to a found 1/2 inch iron rod for the Southwest corner of the herein described tract, the Southwest corner of the said 10.2014 acre tract of land, the Northwest corner of the said 8.1984 acre tract of land and being in the East right-of-way line of a 30 foot Dedicated Unimproved Road of the said Tomball Township;

THENCE: North 02° 32' 28" West, a distance of 288.70 feet, with the said East right-of-way line of the 30 foot Dedicated Unimproved Road, the West line of the said Outlots 191 and 187, the West line of the said 10.2014 acre tract of land to a set 3/4 inch iron rod with plastic cap for the Northwest corner of the herein described tract, the Northwest corner of the said 10.2014 acre tract of land, the Northwest corner of said Outlot 187 and the Southwest corner of Outlot 183 and from said corner a found 5/8 inch iron rod bears North 87° 25' 15" East a distance of 0.80 feet;

THENCE: North 87° 25' 15" East, a distance of 1630.76, with the South line of the said Outlot 183, the South line of Outlot 184, the North line of the said 10.2014 acre tract of land, the North line of the said Outlots 187 and 188 to a set 3/4 inch iron rod with plastic cap for the Northeast corner of the herein described tract, the Northeast corner of the said 10.2014 acre tract of land and also being in the said West right-of-way line of South Cherry Street and from said corner a found 5/8 inch iron rod bears South 87° 25' 15" West, a distance of 0.56 feet;

THENCE: South 02° 29' 55" East, a distance of 290.45 feet, with the said West right-of-way line of South Cherry Street and the East line of the said 10.2014 acre tract of land, to the PLACE OF BEGINNING and containing 10.175 acres.

This is to certify that this description of land represents an actual survey made on the ground under my supervision, as shown by the accompanying plat and substantially complies with the current Texas Society of Professional Land Surveyors Standards and Specifications for a Category 1A, Condition III, Survey.

ER 011 - 39 - 1053

UNOFFICIAL

20090160828
Pages 4
04/20/2009 09:31:37 AM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
BEVERLY KAUFMAN
COUNTY CLERK
Fees 24.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



Beverly Kaufman
COUNTY CLERK
HARRIS COUNTY, TEXAS

COPY



REZONING REQUEST LETTER

City of Tomball – Planning Department
Application for Rezoning

Applicant: JLS Real Estate

Property: 1730 CHERRY RD

Project: S CHERRY TRADE PARK

The applicant is requesting to have the property referenced in the application rezoned for (LI) Light Industrial. Approximately 6.5 acres plus access easements developed in a trade park similar to the flyer attached (EXHIBIT A).

The referenced property is currently zoned (C) Commercial and is vacant.

820 Gessner Ste 140 Houston, TX 77024
11755 West Little York Ste #900
(832) 559-2919

FOR LEASE

WEST LITTLE YORK
TRADE PARK – BLD 2

11755 W LITTLE YORK RD, HOUSTON, TX 77041



BUILDING 2 FEATURES

- LEASE RATE: \$1.10 PSF/MO NNN
- ±7,700 TOTAL BUILDING SF
- ±1,000 SF OFFICE
- NEW CONSTRUCTION
- IN 15-BLDG INDUSTRIAL PARK
- STEEL CONSTRUCTION
- FREE STANDING BUILDING
- CRANE READY
- FENCED CONCRETE YARD
- 26' EAVE HEIGHT
- 3-PHASE 480V 200A POWER
- (2) 16' x 16' GRADE LEVEL DOORS



FOR MORE INFORMATION

JOSHUA LASS-SUGHRUE
FOUNDER
OFFICE: (832) 821-5197
MOBILE: (713) 298-4596
JLS@JLSINV.COM
JLSINV.COM

PERRY OSTER
SENIOR ADVISOR
OFFICE: (832) 915-2550
MOBILE: (713) 492-7387
PERRY.OSTER@JLSCRE.COM
JLSINV.COM

The information contained herein has been given to us by the owner of the property or other sources we deem reliable, we have no reason to doubt its accuracy, but we do not guarantee it. All information should be verified prior to purchase or lease.

WEST LITTLE YORK TRADE PARK – BUILDING 2



FOR MORE INFORMATION

JOSHUA LASS-SUGHRUE
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WEST LITTLE YORK TRADE PARK – BUILDING 4



FOR MORE INFORMATION

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JLSINV.COM

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