

**Conditional Use Permit
Staff Report**

Planning & Zoning Commission Public Hearing Date: September 11, 2023
City Council Public Hearing Date: September 18, 2023

Rezoning Case: CUP23-06

Property Owner(s): Equalizer USA, Inc.

Applicant(s): Morales Engineering Associates, LLC.

Legal Description: Lot 69 of Tomball Townsite Outlots

Location: Located at the northeast corner of Rudolph Road and E. Hufsmith Road, within the City of Tomball, Harris County, Texas. (Exhibit “A”)

Area: 7.51 acres (approximately)

Comp Plan Designation: Neighborhood Commercial (Exhibit “B”)

Present Zoning and Use: Agricultural (AG) (Exhibit “C”) / Baseball Academy with Fields & Batting Cages (Exhibit “D”)

Proposed Use(s): *Playfield or stadium (private)*

Request: Conditional Use Permit (CUP) for *Playfield or stadium (private)*

Adjacent Zoning & Land Uses:

North: Agricultural (AG) / Vacant Land

South: E. Hufsmith Road, Multifamily Residential District (MF), Single Family Residential – 6 (SF-6) / Vacant Land

West: Rudolph Road, Commercial (C), Single Family-20 (SF-20) / Tru Expressions Photography, Vacant Land

East: Agricultural (AG) \ Single- Family Residence

BACKGROUND

The subject property has been located within the city limits of Tomball since at least 1909 and is currently developed and being used as a baseball academy, with paved parking, baseball fields, batting cages, an administrative office building, and concession stand. This use is identified as being the “*Playfield or stadium (private)*” land use category in the Tomball Code of Ordinances. Per the applicant, the owner intends to make additional improvements to the site, including an

enclosed technical training building, unenclosed covered bullpen areas, and unenclosed covered batting cages. The owner does not want to rezone the property currently and wants to continue to operate the existing facility strictly as a baseball academy. The *Playfield or stadium (private)* land use is permitted within the current Agricultural zoning district with the approval of a Conditional Use Permit (CUP). This CUP will bring the land use into legal conformity and thereby allow the planned expansion(s) to this land use on the subject property.

Conditional Use Permits provide opportunities to further consider whether a location is appropriate for the proposed use and to apply conditions that promote the compatibility of the proposed use with the surrounding properties and land uses.

ANALYSIS

Description: The subject property comprises approximately 7.51 acres, located at the northeast corner of E. Hufsmith Road and Rudolph Road. The property is presently located within the Agricultural (AG) zoning district and has been within this zoning designation since the adoption of zoning by the City of Tomball in 2008. Immediately north of the subject site is vacant land within the Agricultural (AG) zoning district. East of the subject property is an existing single family residence within the Agricultural (AG) district. To the south are vacant parcels within the Multi-Family Residential (MF) and Single Family Residential – 6 (SF-6) districts. West of Rudolph Road is a photography studio within Commercial (C) zoning.

Conformance with the Factors for Consideration of CUP (Sec. 50-81 (f)):

According to Section 50-81 (f) of the Chapter 50 (Zoning), when considering applications for a CUP, the City shall, on the basis of 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 subject property is designated as Neighborhood Commercial by the Comprehensive Plan's Future Land Use Map (FLUM). This land use category is intended for commercial uses that complement residential development and have auto and pedestrian accessibility. Appropriate land uses include restaurants, retail, professional services, clinics, and offices. Recommended secondary uses include places of assembly or event venues, local utility services, and government facilities. Recommended zoning categories are O: Office, GR: General Retail, and PD; Planned Development. The proposed CUP for *Playfield or stadium (private)* provides active recreational opportunities which support nearby residential development.

- 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 has been zoned Agricultural since the inception of zoning in 2008. According to *Chapter 50 (Zoning)* in the Tomball Code of Ordinances, this district is appropriate for ranching, propagation and cultivation of crops and similar uses of vacant land, and single-family uses on large lots. The Agricultural zoning district is also intended to be a temporary holding zone until permanent zoning is approved. *Playfield or stadium (private)* is permitted in this district with a CUP.

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

Yes, the proposed use will meet all supplemental standards outlined in Chapter 50 of the Code of Ordinances. Prior to expansion of operations, an official site plan shall be submitted to the City of Tomball Community Development Office identifying the planned location of all associated site improvements to ensure all standards applicable by the code of ordinances and/or required by this Conditional Use Permit are met.

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 use is currently existing and is consistent with the surrounding mix of land uses currently found in the area. Staff believes that a *Playfield or stadium (private)* use at this location would not be out of character with the surrounding area, particularly given that the use is in existence and the property is located at the intersection of two major thoroughfares E. Hufsmith Road (major arterial road) and Rudolph Road (collector road). Intersections such as this are ordinarily considered appropriate for commercial activities, as they provide convenient vehicular access and exposure often necessary for commercial success.

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.

Staff does not anticipate any adverse effects on surrounding properties.

PUBLIC COMMENT

Property owners within 300 feet of the project site were mailed notification of this proposal and a Notice of Public Hearing was published in the paper on August 29, 2023. 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 CUP Case CUP23-06 with the following condition(s);

- All future improvements associated with “*Playfield or stadium (private)*” land use must be in general conformance with the conceptual site exhibit provided by the applicant detailing the location of all planned structural improvements.

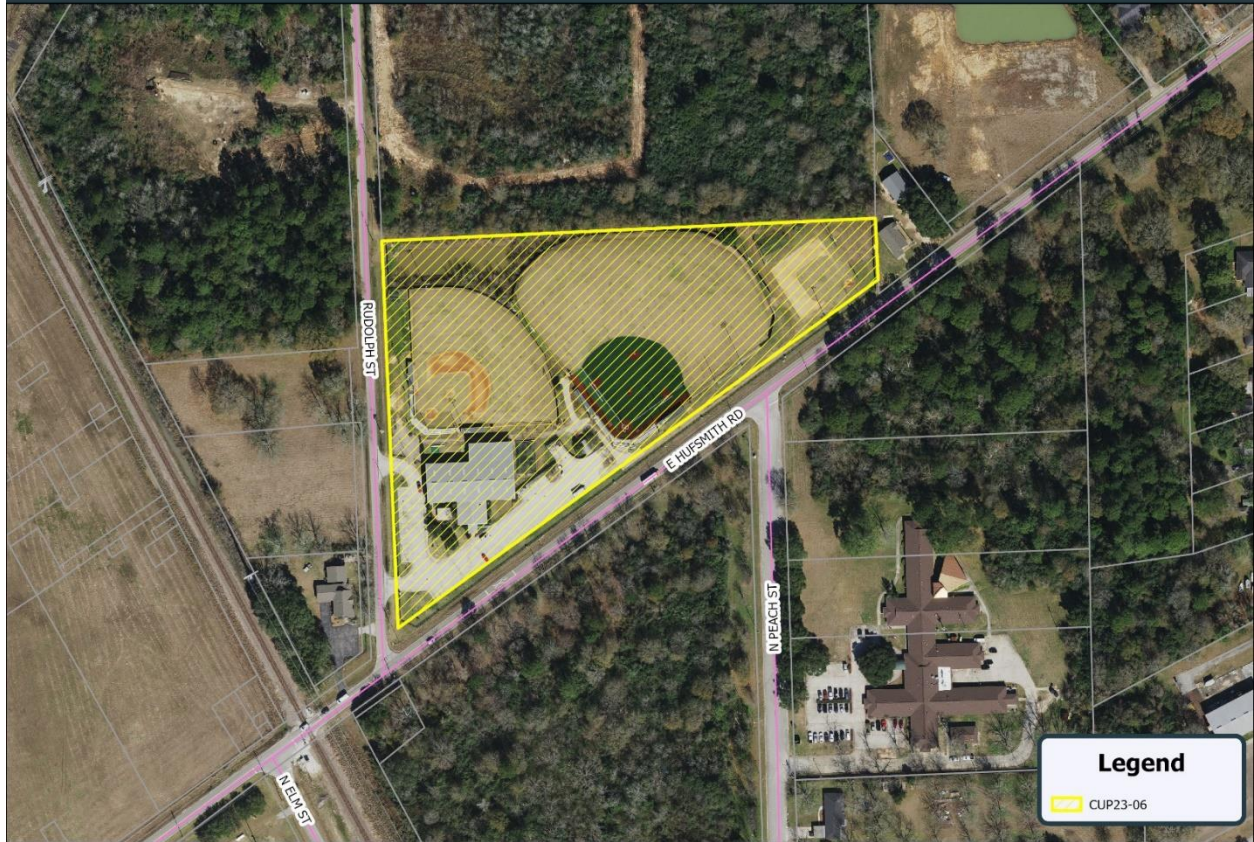
EXHIBITS

- A. Location Map
- B. Future Land Use Plan Map
- C. Zoning Map
- D. Site Photo
- E. Conditional Use Permit Application

Exhibit "A"
Aerial Location Map



Location



Legend

 CUP23-06

Exhibit "B"
Future Land Use Plan Map



Future Land Use

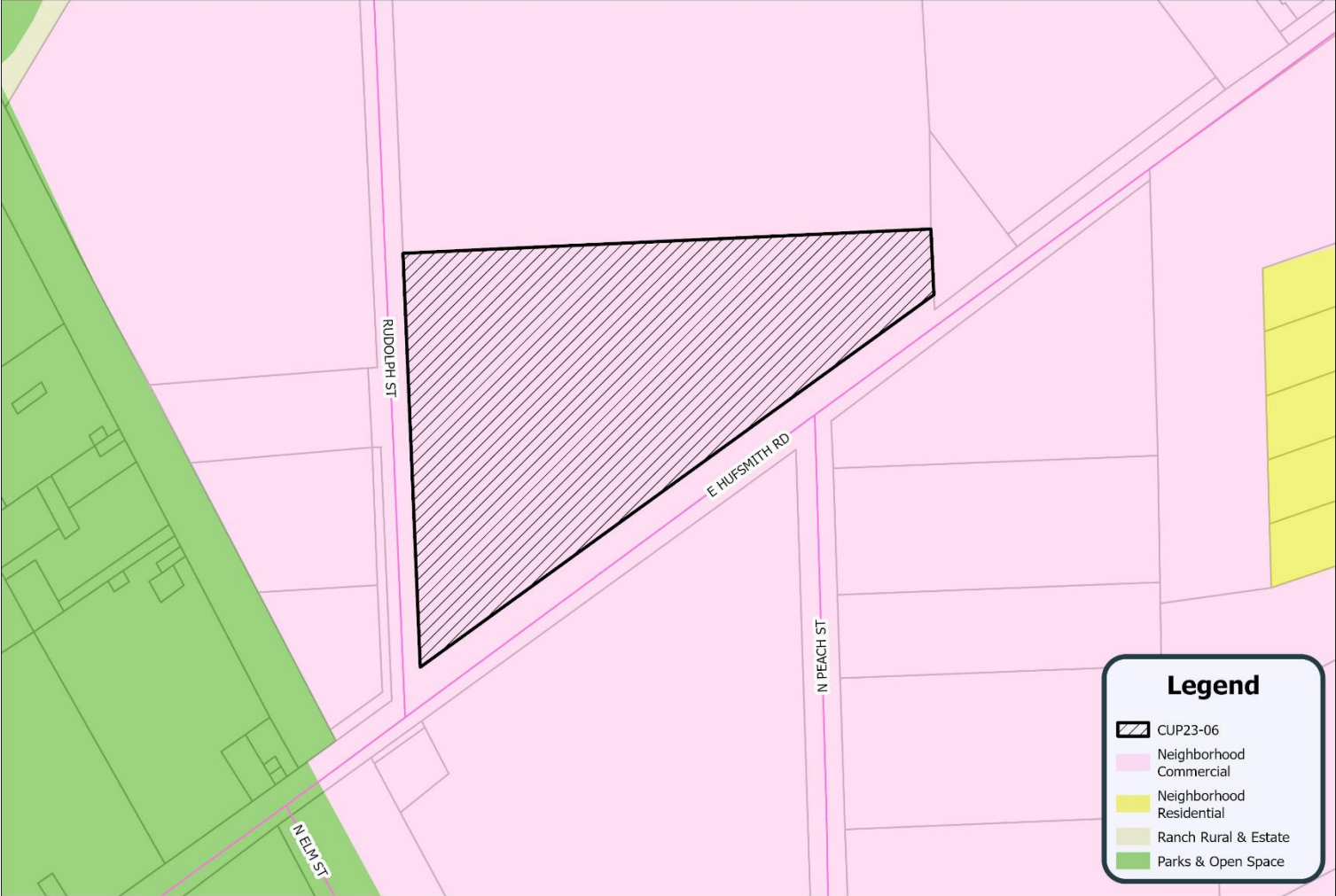


Exhibit "C"
Zoning Map



Zoning

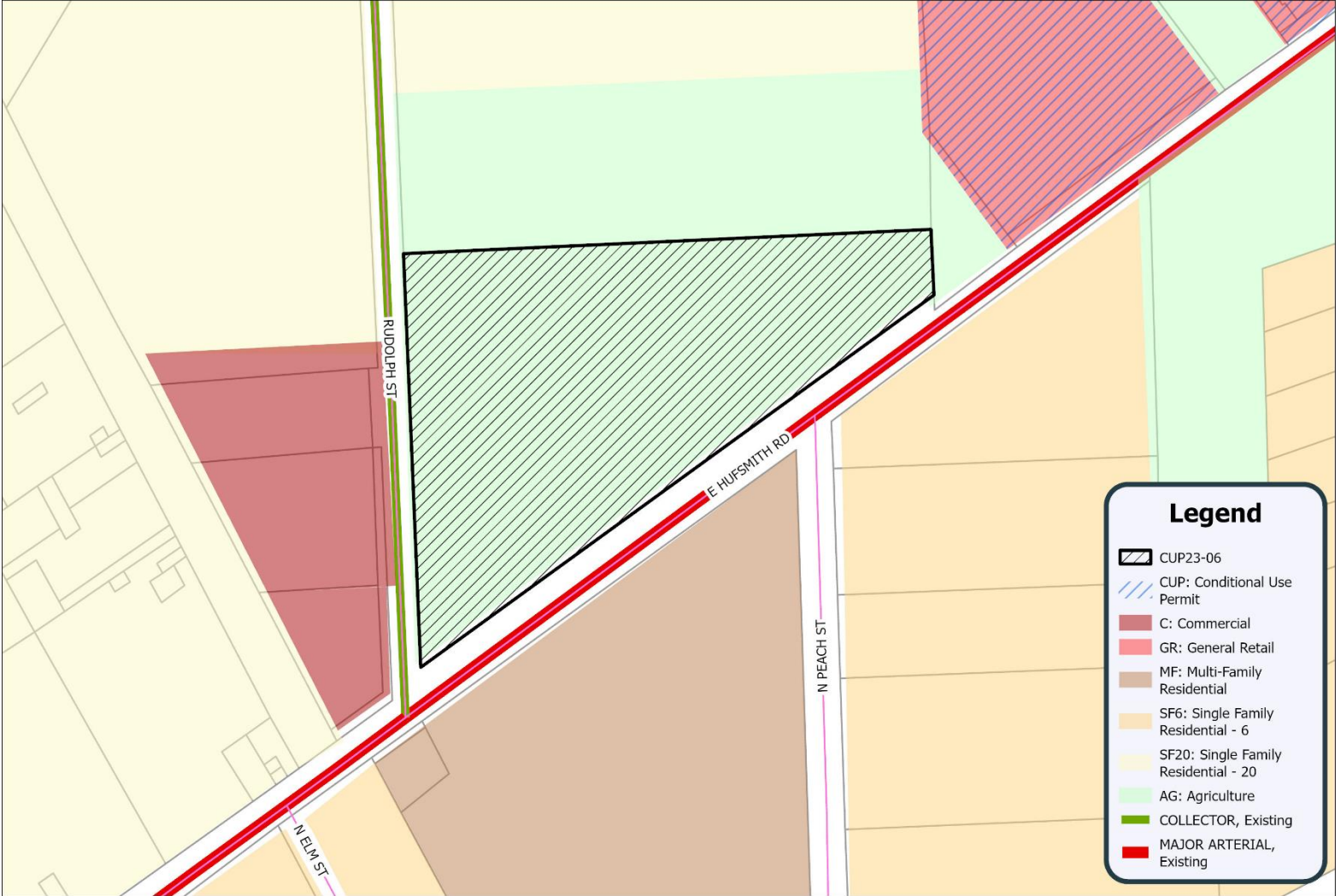


Exhibit "E"
Site Photo(s)

Subject Site



Neighbor (West)



Neighbor (East)



Neighbor (North)



Neighbor (South)



Exhibit "E"
Conditional Use Permit Application

RECEIVED (KC)
7/31/2023



Revised: 10/1/2022
CUP23-06
\$1,000 PD

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/secure/send
USERNAME: [tombalcedd](#)
PASSWORD: [Tomball1](#)

Applicant

Name: Morales Engineering Associates, LLC Title: Principal
Mailing Address: 2550 Gray Falls Dr., Ste. 330 City: Houston State: TX
Zip: 77077 Contact: Enrique Morales
Phone: (281) 496-6272 Email: emorales@moraleseng.com

Owner

Name: Equalizer USA, Inc. Title: _____
Mailing Address: 5446 E. 106 Ln. City: Winfield State: IN
Zip: 46307 Contact: Joseph Vetter
Phone: (219) 794-6230 Email: josephvetter@gmail.com

Engineer/Surveyor (if applicable)

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

Description of Proposed Project: Existing Baseball Academy with fields & batting cages

Physical Location of Property: 201 E. Hufsmith Rd., Tomball, TX 77375
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: 7.5086 acres out of Lot 69, Tomball Five Acre Outlots
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

HCAD Identification Number: 035-282-000-0151 Acreage: 7.5086 acres

Current Use of Property: Agricultural Land Use

Proposed Use of Property: Baseball Academy (batting cages, admin office, concessions) - CUP

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 Enrique Morales 7/18/23
Signature of Applicant Date

X Joseph Vetter 7/31/23
Signature of Owner Date

From: noreply@mail.tdr.tylerhosting.cloud
To: [Kimberly Chandler](#)
Subject: Receipt #R01374055
Date: Thursday, August 3, 2023 10:44:20 AM

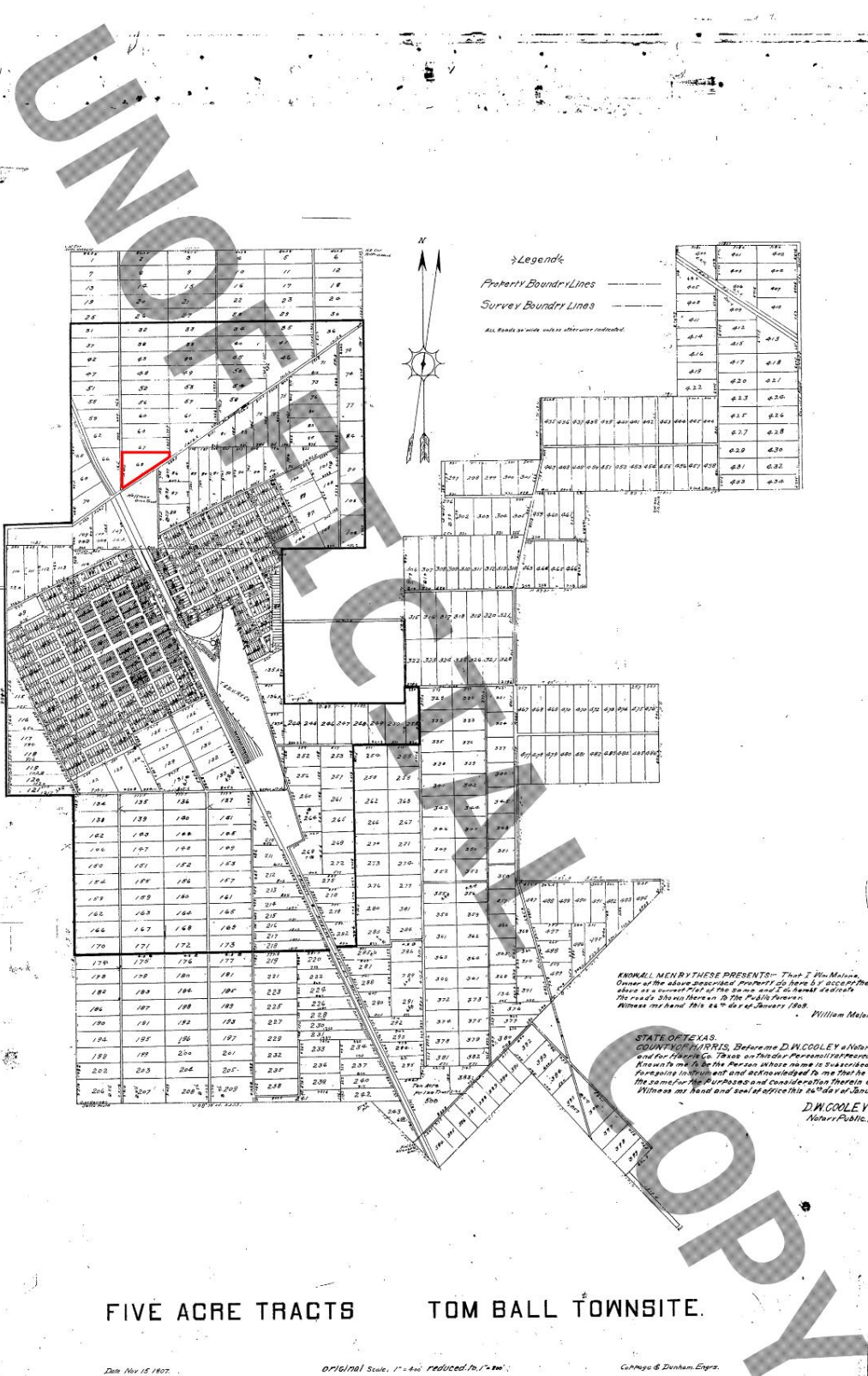
Caution: This is an external email and may be malicious. Please take care when clicking links or opening attachments.

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

DATE : 8/1/2023 2:07 PM
OPER : AM
TKBY : Angelica Meza
TERM : 3
REC# : R01374055
130.0000 PLANNING AND ZONING
201 E Hufsmith Rd - CUP 1000.00

Paid By:201 E Hufsmith Rd - CUP
2-CK 1000.00 REF:w1557

RECORDED PLAT – TOMBALL FIVE-ACRE OUTLOT



Legend
 Property Boundary Lines
 Survey Boundary Lines
 All Roads six wide unless otherwise indicated.

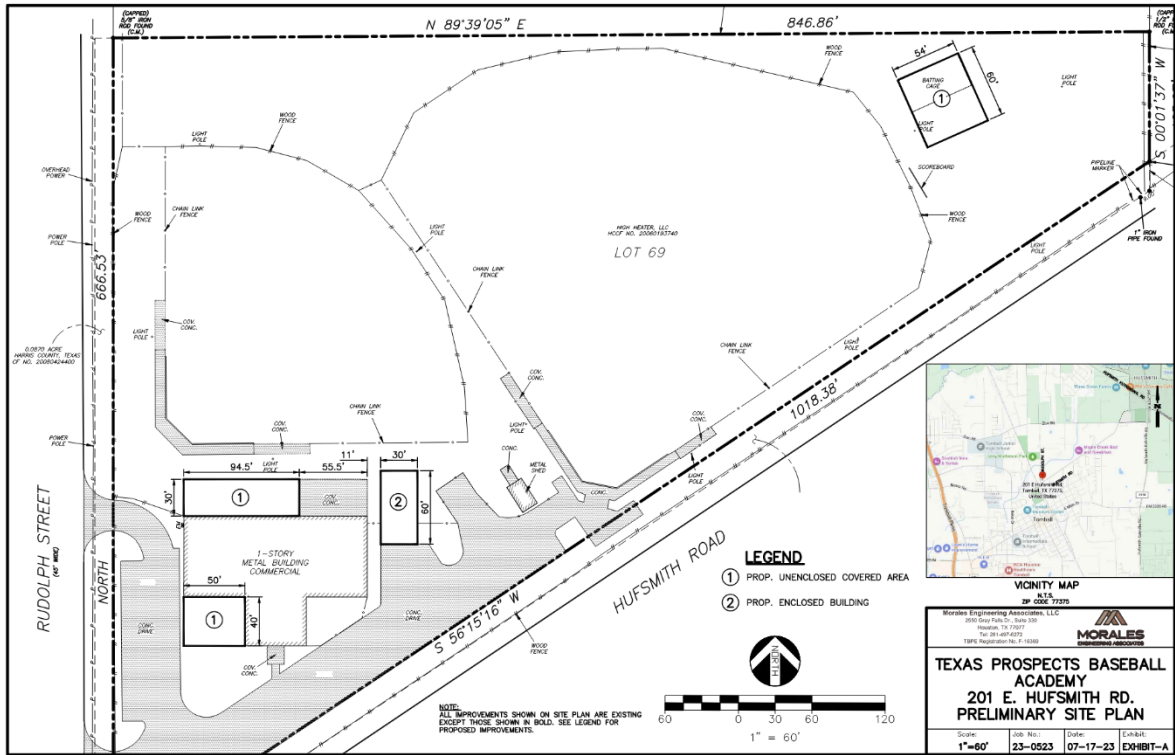
WITNESSETH THAT I, W. M. MALONE, Deedee of the above described Property do here by acknowledge the above as a correct Plat of the same and I do hereby certify that the same shall hereon be the Public Record.
 Witness my hand this 14th day of January, 1905.
 William Malone

STATE OF TEXAS,
 COUNTY OF HARRIS, Before me D.W. COOLEY a Notary Public,
 and for Harris Co. Taxes on the said Personal Estate of W. Malone,
 Present to me by the Person whose name is subscribed to the
 foregoing instrument and acknowledged to me that he executed
 the same for the purposes and consideration therein expressed.
 Witness my hand and seal of office this 14th day of January, 1905.
 D.W. COOLEY
 Notary Public, Harris Co. Tex.

FIVE ACRE TRACTS TOM BALL TOWNSITE.

Date Nov 15, 1907.
 Original Scale, 1" = 400' reduced to 1" = 200'.
 W 48285.
 Filed for record, Nov. 18, 1907, at 2:25 P.M. Recorded April 1908 at 5 P.M.
 Geo. Jones, County Clerk and for Harris County Texas.
 B. H. H. M. Deputz

PROPOSED SITE PLAN



LETTER REQUESTING CONDITIONAL USE PERMIT (CUP)



July 31, 2023

Mr. Jared Smith
City Planner
City of Tomball
501 James Street
Tomball, Texas 77375

Re: 7.5086 Acres Out of Lot 69, Tomball Five Acre Outlots
201 E. Hufsmith Rd., Tomball, TX 77375
Texas Prospects Baseball Academy
Tomball, Texas

Dear Mr. Smith:

On behalf of our client, Equalizer USA, Inc., we are submitting the enclosed application for Conditional Use Permit (CUP) for the subject property. The property is currently developed and is an existing baseball academy consisting of paved parking, baseball fields, batting cages, administrative office building, and concession stand, which is currently within the administrative building. It is currently zoned as Agricultural District according to the City of Tomball's latest zoning map dated August 25, 2021.

The owner intends to make additional improvements consisting of an enclosed technical training building, unenclosed covered bull pen areas, and unenclosed covered batting cages. Please see attached site plan for locations and dimensions of proposed improvements. A CUP is being requested in order to be able to properly permit the proposed improvements given the property's current land use as an Agricultural District. A separate permit submittal for the proposed improvements will be made once the CUP is obtained. The owner does not intend to rezone the property at this time as the existing facility will continue to operate strictly as a baseball academy.

Please contact me at (281) 497-6272 if you have any questions or require additional information.

Sincerely,

Enrique Morales

Enrique Morales, P.E.
Principal

Attachment

cc: Joseph Vetter – Equalizer USA, Inc.

F:\Proposals\Texas Prospects Baseball Academy\Texas Prospects Baseball Academy - Tomball CUP Ltr.docx

METES & BOUNDS DESCRIPTION

STATE OF TEXAS §
 §
 §
 §
 §
COUNTY OF HARRIS §

Metes & Bounds Property Description

A tract of land containing 7.5086 Acres out of Lot 69 of Tomball Five-Acre Outlot according to the map or plat thereof recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas, being the same tract recorded in the name of High Heater, LLC. under Harris County Clerk's File (H.C.C.F.) No. 20060193740 of the Real Property Records of Harris County, Texas (R.P.R.H.C.T.), and being more particularly described by metes and bounds as follows: (Bearings based on H.C.C.F. No. 20080424400 of the R.P.R.H.C.T.)

BEGINNING at a 1/2 Inch iron rod with a "Precision" cap set at the intersection of the northwest right-of-way line of Hufsmith Road and the east right-of-way line of Rudolph Street, being the southwest corner of this tract (from which a 1/2 Inch iron pipe found bears South 05° 04' 43" West, a distance of 25.67 Feet);

THENCE, **NORTH**, with said east right-of-way line, being a tract recorded in the name of Harris County, Texas under H.C.C.F. No. 20080424400 of the R.P.R.H.C.T., a distance of **666.53 Feet** to a 5/8 Inch iron rod found at the northwest corner of this tract (from which a second 5/8 Inch iron rod found bears North, a distance of 100.00 Feet, from said second 5/8 Inch iron rod found a third 5/8 Inch iron rod found bears North, a distance of 100.00 Feet);

THENCE, **NORTH 89° 39' 05" EAST**, with the south line of Lot 67, being a tract recorded in the name of Presario Properties, LLC. under H.C.C.F. No. 20060282474 of the R.P.R.H.C.T., a distance of **846.86 Feet** to a 1/2 Inch iron rod found at the northeast corner of this tract;

THENCE, **SOUTH 00° 01' 37" WEST**, with the west line of Lot 64, a distance of **105.97 Feet** to a 1/2 Inch iron rod with a "Precision" cap set on the aforementioned northwest right-of-way line of Hufsmith Road at the southeast corner of this tract (from which a 1 Inch iron pipe found bears South 00° 01' 37" West, 24.06 Feet and South 54° 05' 28" West, 9.00 Feet);

THENCE, **SOUTH 56° 15' 16" WEST**, with said northwest right-of-way line, being the aforementioned Harris County, Texas Tract, a distance of 1,018.38 Feet to the POINT OF BEGINNING and containing 7.5086 Acres.

(See attached drawing)



Terrance P. Mish
Registered Professional Land Surveyor
No. 4981
Job No. 22-03892
June 14, 2022