

Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: April 8, 2024
City Council Public Hearing Date: April 15, 2024

Rezoning Case: Z24-03
Property Owner(s): Ken and Betty Vairin
Applicant(s): META Planning & Design, Inc.
Legal Description: Portions of the J H Edwards Survey, Abstract 20 and the C Goodrich Survey, Abstract 311
Location: 22100 block (west side) of Tomball Cemetery Road (Exhibit “A”)
Area: 31.12 acres
Comp Plan Designation: Neighborhood Residential / Corridor Commercial (Exhibit “B”)
Present Zoning: Agricultural (AG) District (Exhibit “C”)
Request: Rezone from the Agricultural (AG) to the Single-Family Residential – 6 (SF-6) district
Adjacent Zoning & Land Uses:
 North: Agricultural (AG) and Single Family – 9 (SF-9) / Single-family residence(s)
 South: Planned Development (PD) #18 / Undeveloped Multifamily
 West: Unincorporated parcel / Outside City Limits and ETJ
 East: Commercial (C) District and ETJ

BACKGROUND

The subject property is presently undeveloped. The applicants are requesting to rezone the subject property to Single Family Residential – 6 (SF-6) to allow the development of a single-family residential subdivision. This SF-6 zoning district would allow a subdivision comprised of lots being a minimum of 6,000 square feet in area.

ANALYSIS

Description: The subject property comprises approximately 31.12 acres, located in the 22100 block on the west side of Tomball Cemetery Road. Currently, the subject property is located within the Agricultural zoning district and has been within this zoning classification since the City of Tomball adopted zoning in 2008. Immediately north of the subject property are existing single-family residences located on varying sized lots within Agricultural and Single Family – 9 zoning, the properties which are zoned Single Family Residential – 9 (SF-9) were approved for rezoning in 2014. South of the subject site is Planned Development District #18 (Undeveloped), which was created in 2021 for multi-family residential. In addition to this PD there is an unincorporated parcel that is undeveloped. West of the subject property is a large tract of unincorporated land with a single-family residence present. East of the subject property on the east side of Tomball Cemetery Road are properties located within the Commercial (C) zoning district and within the City of Tomball’s Extra Territorial Jurisdiction (ETJ) with single-family residences present.

Comprehensive Plan Recommendation: Much of this property is designated as “Neighborhood Residential” by the Comprehensive Plans Future Land Use Map with a small portion of the property being within the “Corridor Commercial” land use category. The neighborhood residential category is intended for areas predominantly comprised of single-family detached housing. While this area is primarily served by the automobile, the inclusion of sidewalks is important for both improved access and safety. The lot size of neighborhood residential should be influenced by surrounding land uses, with smaller lots being in close proximity to supporting amenities, and recreation opportunities.

According to the Comprehensive Plan, land uses should focus on promoting safe and desirable neighborhoods, with single-family detached residential being the primary use. Secondary uses that are appropriate include parks, schools, and other public facilities. Limited commercial services and single-family attached residential that do not require large parking lots would be appropriate where residential collector streets meet arterials.

The Comprehensive Plan recommends the zoning districts of: Single Family Estate Residential - 20 (SF-20-E), Single Family Residential - 9 (SF-9), Single Family Residential - 6 (SF-6), or Planned Developments (PD) for the neighborhood residential land use category.

The Comprehensive Plan emphasizes the importance of transitioning or buffering land uses by “stepping down” land uses from more intense to less intense uses. The requested SF-6 zoning district will promote a single-family residential subdivision which will function as an effective transitional land use between the planned multi-family residential development south of the subject property and the existing medium/large lot single-family residential subdivisions north of the subject property which are comprised of lots being 9,000 square feet in area or greater. Furthermore, the requested zoning establishes a range of housing opportunities which promotes the goals and objectives of the Comprehensive Plan. Particularly providing the opportunity to facilitate the development of a new neighborhood that will integrate with the surrounding environment and provide options for citizens of Tomball to find housing in all stages of life.

Staff Review Comments:

The request to rezone the subject property to Single Family Residential – 6 (SF-6) is in direct alignment with the goals and objectives of the Neighborhood Residential land use category identified within the Future Land Use Plan. Additionally, this requested rezoning will facilitate the goals/objectives of the Comprehensive Plan, particularly by establishing suitable transitional land

use and encourage a range of housing opportunities within the city. Lastly, the subject property is located near the intersection of a major arterial street (FM 2920) and collector street (Tomball Cemetery Road). Roadways such as these are often considered appropriate for carrying the volume of traffic which is likely to be generated by additional residential homes being developed within 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 March 19 ,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 Z24-03.

EXHIBITS

- A. Aerial Location Map
- B. Future Land Use Map
- C. Zoning Map
- D. Site Photo(s)
- E. Rezoning Application

Exhibit "A"
Aerial Location Map



Location

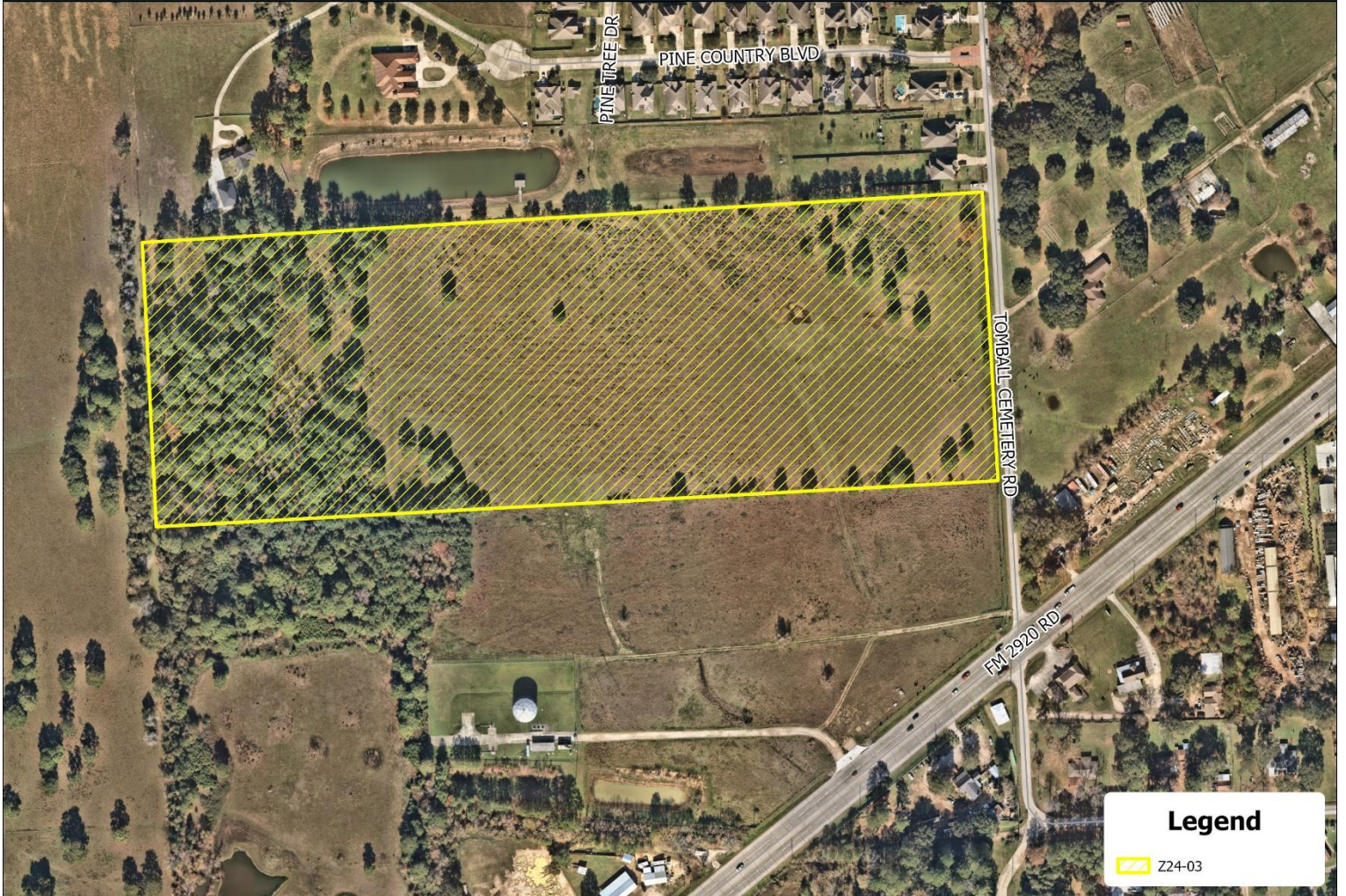


Exhibit "B"
Future Land Use Plan



Future Land Use

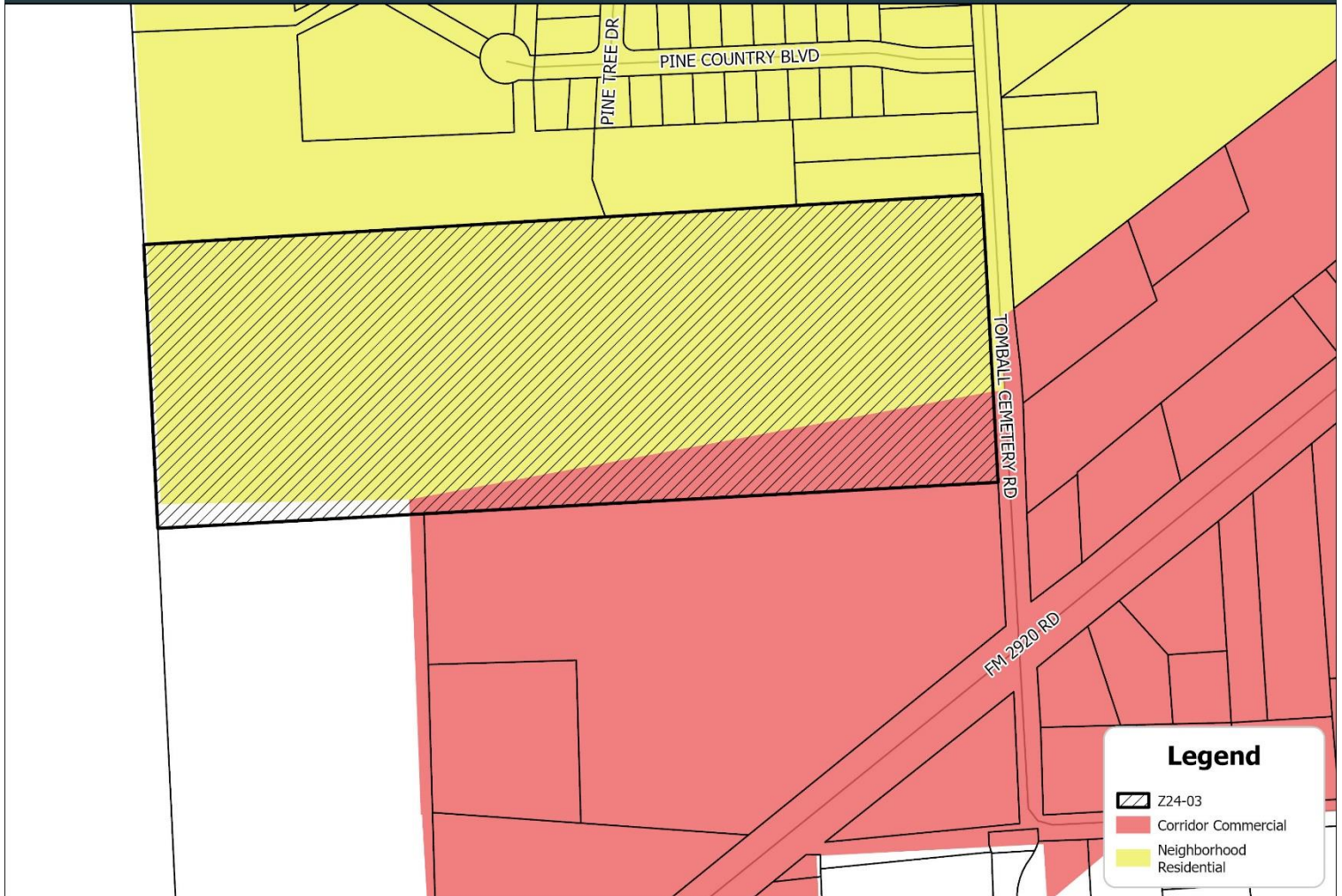
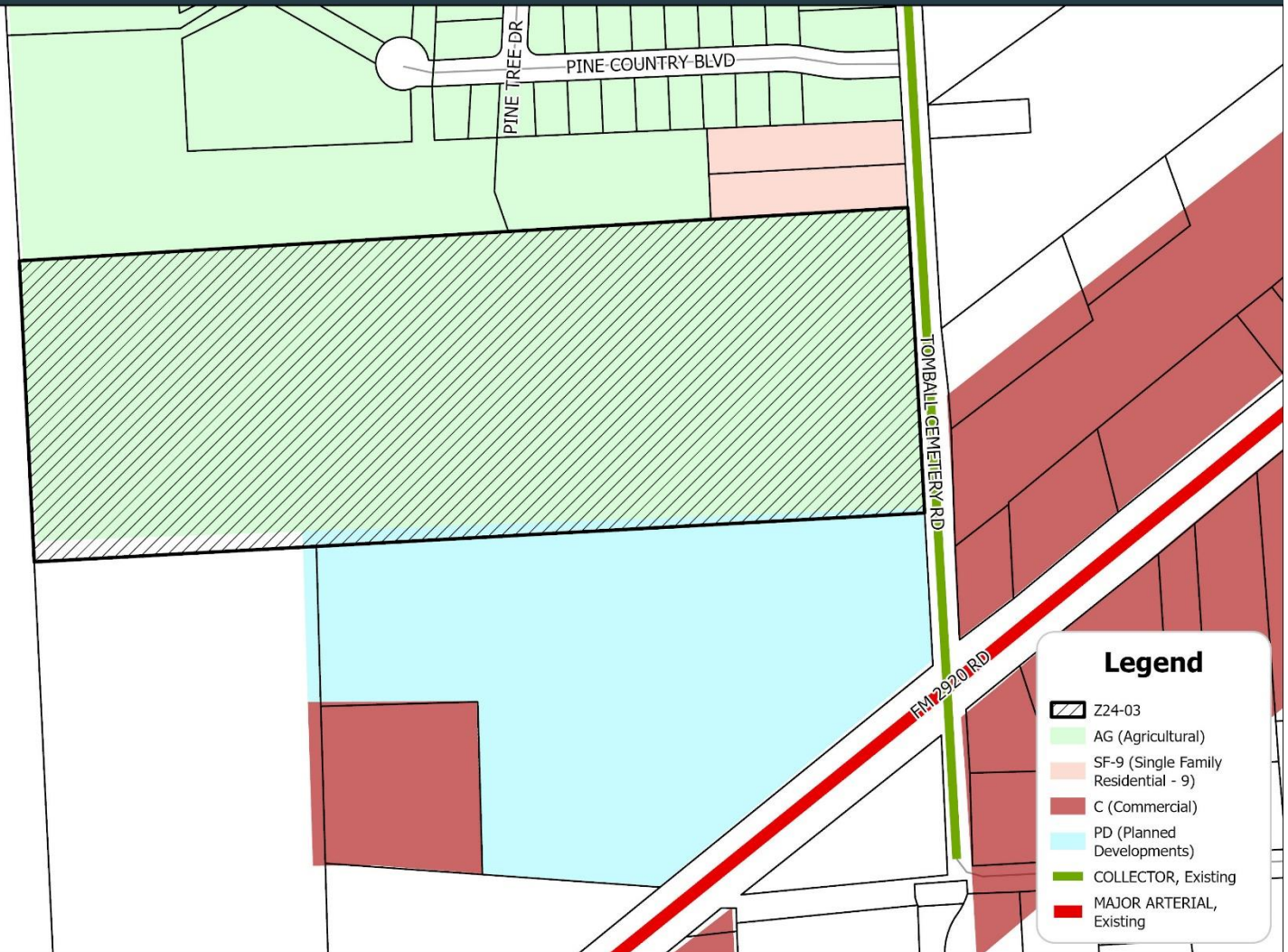


Exhibit "C"
Zoning Map



Zoning



Legend

- Z24-03
- AG (Agricultural)
- SF-9 (Single Family Residential - 9)
- C (Commercial)
- PD (Planned Developments)
- COLLECTOR, Existing
- MAJOR ARTERIAL, Existing

Exhibit "D"
Site Photo(s)

Subject Site



Neighbor (West)



Neighbor (East)



Neighbor (North)



Neighbor (North)



Neighbor (North)



Neighbor (South)



Exhibit "E"
Rezoning Application

Revised 5/19/15



APPLICATION FOR REZONING

Community Development Department
Planning Division

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.

Applicant

Name: Carlin King (META Planning + Design) Title: Planner
Mailing Address: 24285 Katy Freeway, Suite 525, City: Katy State: TX
Zip: 77494
Phone: (281) 810-7228 Fax: () Email: cking@meta-pd.com

Owner

Name: Betty Vairin Title:
Mailing Address: 26 Teakettle City: Hitchcock State: TX
Zip: 77563
Phone: (832) 797-8987 Fax: () Email: vairins@yahoo.com

Engineer/Surveyor (if applicable)

Name: n/a Title: n/a
Mailing Address: n/a City: n/a State: n/a
Zip: n/a
Phone: () n/a Fax: () n/a Email: n/a

Description of Proposed Project: Single family development

Physical Location of Property: Just north of FM 2920; south of Pine Country Blvd, and east of Tomball Cemetery Road
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: TRS 1C & 2D & TR 17D ABST 20 J H EDWARDS ABST 311 C GOODRICH
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: AG (Agricultural)

Current Use of Property: Undeveloped land

Proposed Zoning District: SF-6 (Single Family Residential -6)

Proposed Use of Property: Single family development

HCAD Identification Number: 0421810000178 Acreage: 31.122

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405 www.tomballtx.gov

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 Castlin King 02-27-2023
Signature of Applicant Date

X Betty Vairin by Laura Vairin POA 2-27-2024
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.

- ☒ **Completed application form**
- ☐ ***Copy of Recorded/Final Plat**
- ☒ **Check for \$400.00 + \$10.00 per acre (Non-Refundable)**
- ☒ **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.



February 27, 2024

City of Tomball
Planning and Zoning Commission and City Council
c/o City of Tomball Planning Department
501 James Street,
Tomball, Texas, 77375

RE: Tomball Cemetery Road Rezone Application

Dear Commissioners and Councilpersons,

On behalf of Beazer Homes, we, META Planning + Design, LLC, respectfully request for a rezoning of a ±31.1-acre tract of land located within the northwestern portion of the City of Tomball. The subject tract (HCAD number 0421810000178) is located just north of FM 2920, just south of the Pine Country of Tomball development, and just east of Tomball Cemetery Road. Currently, this tract is zoned as AG (Agricultural), but it is being requested that this tract be rezoned to the SF-6 (Single Family Residential -6) zone.

The subject tract is bounded by PD #18 (a proposed multi-family development) to the south and a single-family residential development that is zoned as AG to the north. These adjacent developments exemplify that this area is a prime location for single-family residential development. Additionally, per the City of Tomball's Comprehensive Plan, the future land use for this tract (and the residential neighborhood to the north) is designated as Neighborhood Residential. Rezoning this tract from AG to SF-6 would be in line with the goals of the City of Tomball, as a compatible zoning district for Neighborhood Residential is SF-6. The SF-6 zoning district will allow detached, single-family residential units with a minimum lot area of 6,000 square feet (a minimum lot width of 50' and a minimum lot depth of 100'). Please find the preliminary land plan attached. Please note that the land plan is for graphical representation only and is subject to change.

Beazer Homes is working with the seller to develop this tract in accordance with the rules and regulations of the SF-6 zone. As the subject tract is abutted by single-family and multi-family residential and the City of Tomball has identified the subject tract's future land use as Neighborhood Residential, we feel that the subject tract is in a prime location for the SF-6 zone.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Caitlin King". The ink is dark and the signature is fluid.

Caitlin King

16060 Dillard Drive, Suite 250
Houston, TX 77040

713.688.3530
peagroup.com

LEGAL DESCRIPTION

Being 31.122 acres or 1,355,691 square feet of land situated in the John Edwards Survey, Block 3, Abstract Number 20 and the Chancey Goodrich Survey, Abstract Number 311, Harris County, Texas, being all of that certain called 31.159 acres of land described in deed recorded in Harris County Clerk File Number V256093, Texas, and more particularly described as follow (Bearings and coordinate are based on the Texas Coordinate System of 1983, South Central Zone, all distances shown hereon are surface distances and may be converted to grid by applying the following combined scale factor: 0.9999443881);

COMMENCING at a found 5/8 inch iron rod with cap stamped "TONY P. SWONKE RPLS" having grid coordinates X: 3,024,702.62 feet, Y: 13,956,276.70 feet found in the west right-of-way line of Tomball Cemetery Road (called 60 feet wide) and the Northwest right-of-way line of FM 2920 (called 120 feet wide), for the southeast corner of Lot 1, Final Plat of Sitemag at Tomball, recorded in Film Code Number 700317 of the Map Records of Harris County;

THENCE, North 03°19'11" West, along the west right-of-way line of said Tomball Cemetery Road and the east line of said Lot 1, a distance of 340.12' to a found 5/8 inch iron rod with cap stamped "TONY P. SWONKE RPLS" having grid coordinates X: 3,024,682.73 feet, Y: 13,956,616.26 feet the POINT OF BEGINNING of the herein described tract;

THENCE, South 86°39'32" West, along the north line of said Lot 1, at a distance of 1,358.48 passing a 5/8 inch iron rod with cap stamped "TONY P. SWONKE RPLS", found for the northerly northwest corner of said Lot 1 and the northeast corner of a called 18.739 acre tract, recorded in Harris County Clerk File Number RP-2017-242129, and continuing along the North line of said 18.739 acre tract, for a total distance of 1,988.49 feet to a 5/8 inch iron rod found in the east line of a called 122 acre tract recorded in Harris County Clerk File Number N908353, for the northwest corner of said 18.739 acre tract;

THENCE, North 03°00'51" West, along the east line of said 122 acre tract, a distance of 683.31 feet to a 5/8 inch iron rod with cap, in the east line of said 122 acre tract, for the southwest corner of Tract 4, of Replat Number 2 of Pine Country of Tomball Section Three, recorded in File Clerk Number 641167 of the Map Records of Harris County;

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THENCE, North 86°42'40" East, along the south line of said Tract 4 and the south line of Reserve "B", Replat of Pine Country of Tomball Section 2, recorded in Film Code Number 628282 of the Map Records of Harris County, at a distance of 1,544.77 feet passing a 1/2 inch iron rod found for the southeast corner of said Reserve B and the southwest corner of Lot 13, Block 1, Pine Country of Tomball Section Two, Reserve "A" Replat, recorded in Film Code Number 671096 of the Map Records of Harris County, continuing for a total distance of 1,984.85 feet to a 5/8 inch iron rod with cap "TONY P. SWONKE RPLS" found in the west right-of-way line of said Tomball Cemetery Road, for the southeast corner of said Lot 13;

THENCE, South 03°19'11" East, along the west right-of-way line of said Tomball Cemetery Road, a distance of 681.49 feet to the POINT-OF-BEGINNING and containing 31.122 acres of land or 1,355,691 square feet of land.



Glen H. Freeland, R.P.L.S. Date: 01-26-2024
Texas Registered Land Surveyor No. 5758
gfreeland@peagroup.com
Agent of PEA Group
TBPELS Firm #10194679
File No. 2023-0613



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