

ORDINANCE NO. 2023-14

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY GRANTING A CONDITIONAL USE PERMIT (CUP #35) TO ALLOW “ELECTRIC STORAGE SYSTEM” WITHIN THE LIGHT INDUSTRIAL (LI) ZONING DISTRICT; SAID PROPERTY BEING 5.00 ACRES OF LAND LEGALLY DESCRIBED AS BEING LOT 265 IN TOMBALL TOWNSITE. LOCATED IN THE 900-1000 BLOCKS (WEST SIDE) OF S. PITCHFORD ROAD, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS; PROVIDING FOR 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, Michael Kirtley, represented by Sam Jackson of Black Mountain Energy Storage II LLC., has requested that 5.00 acres of land legally described as being Lot 265 in Tomball Townsite, located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas (the “Property”), receive a CUP; 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 CUP; 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 CUP; and

Whereas, the Planning & Zoning Commission recommended in its final report that City Council deny the requested CUP; 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 for the requested CUP, the City Council held the public hearing for the requested CUP and the City Council considered the final report of the Planning & Zoning Commission; and

Whereas, the City Council deems it appropriate to grant the requested CUP.

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. A CUP to allow an “Electric Storage System” at the property and subject to the terms and conditions set forth below is hereby granted.

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 granting of the CUP as herein provided.

Section 5. The CUP granted hereby shall be null and void after the expiration of two (2) years from the date of adoption hereon unless the Property is being used in accordance with the CUP herein authorized within said two-year period, or unless an extension of time is approved by City Council.

Section 6. The CUP is subject to the following additional limitations, restrictions and conditions:

- 1) The site shall be developed and operated in general compliance with Exhibit “A”,
- 2) An opaque fence/wall with a minimum height of 6-feet must be provided along the entire extent of the eastern property boundary.

- 3) A 20-foot-wide undisturbed mature vegetative buffer must be preserved/protected during and after construction.
 - a. EXCEPTION: Mature vegetation may be removed to accommodate required fencing, driveway approaches, required sidewalks, and necessary utilities.
- 4) Adequate water main and fire hydrant(s) must be installed prior to the approval of site plan(s) and subsequent development of the site.

Section 7. 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.

Section 8. 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 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.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON _____ DAY OF _____ 2023.

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

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON _____ DAY OF _____ 2023.

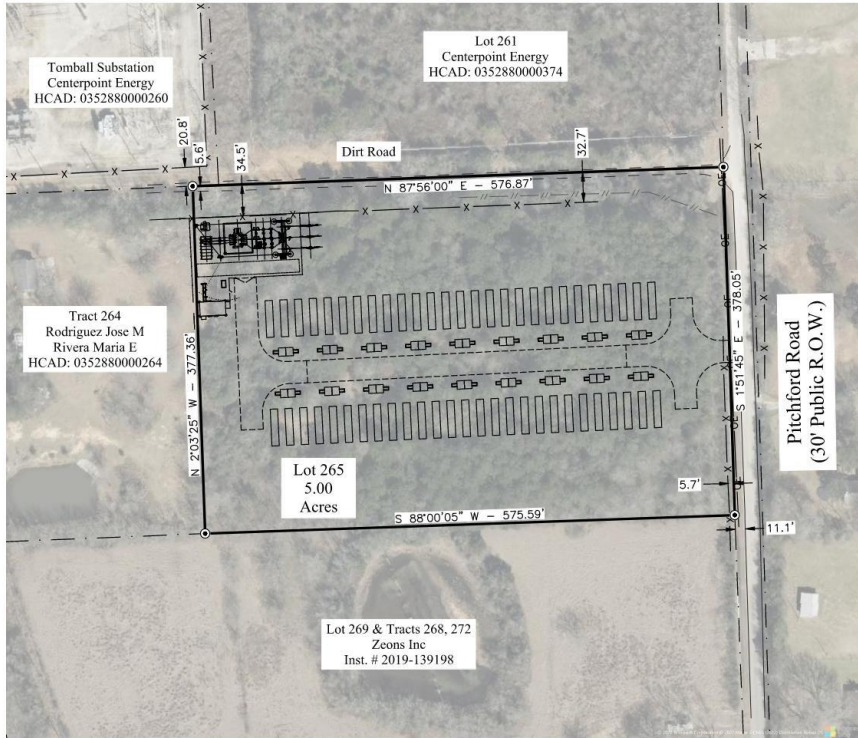
COUNCILMAN FORD _____
 COUNCILMAN STOLL _____
 COUNCILMAN DUNAGIN _____
 COUNCILMAN TOWNSEND _____
 COUNCILMAN PARR _____

 LORI KLEIN QUINN, Mayor

ATTEST:

 Tracylynn Garcia, City Secretary

Exhibit "A"



HARRIS COUNTY, TEXAS

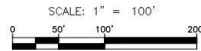
All of Lot Two Hundred Sixty-Five (265) of Tomball Township, a subdivision in Harris County, Texas, according to the Map or Plat thereof recorded in Volume 2, Page 265, Deed Records of Harris County, Texas.

VICINITY MAP



LEGEND

- - Found 1/2" Iron Rod
- — — — — Property Line
- - - - - Lot Line
- x-x-x-x-x- Fence Line
- // -// - Pipeline

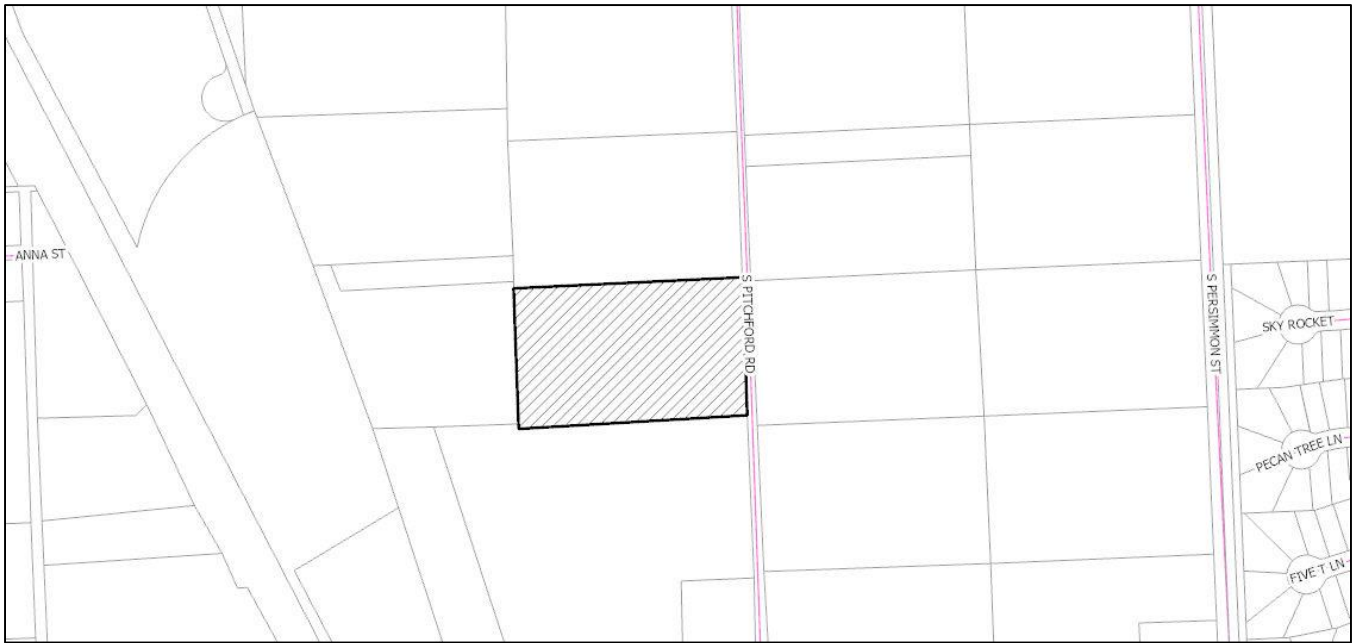


Bearings Based on GPS Observations; Texas State Plane Coordinate System, South Central Zone, NAD 83 Datum

SITE LAYOUT

Merchant Site
 GF# 181873TTX
 Lot 265
 Tomball, Harris County, Texas

CENTERLINE ENGINEERING & CONSULTING, L.L.C.
 6312 Upland Avenue, Lubbock, Texas 79424
 (806) 470-8686
 TSP# Reg. No. P-16713, TSP#S Reg. No. 10194378
 OKLAHOMA CA NO. 8846



Location: 900-1000 blocks (west side) of S. Pitchford Rd. Being Lot 265 in Tomball Townsite, City of Tomball, Harris County, Texas