

Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: May 13, 2024
City Council Public Hearing Date: May 20, 2024

Rezoning Case: Z24-07
Property Owner(s): Theis Lane and South Cherry Street LLC
Applicant(s): Theis Lane and South Cherry Street LLC
Legal Description: Reserve “A” of Pine Meadows Final Plat
Location: 12703 Theis Lane (Exhibit “A”)
Area: 1.905 acres
Comp Plan Designation: Neighborhood Residential (Exhibit “B”)
Present Zoning: Single-Family Residential – 6 District (Exhibit “C”)
Request: Rezone from the Single-Family Residential – 6 (SF-6) to the Neighborhood Retail (NR) District

Adjacent Zoning & Land Uses:

North: Commercial (C) / Operating Business and Vacant Lot

South: Single-Family Residential – 6 (SF-6) / Single Family residence(s)

East: Light Industrial (LI) and Single-Family Residential – 20 (SF-20) / Single-family residence(s) and a Vacant Lot

West: Single-Family Residential – 6 (SF-6) / Single Family residence(s)

BACKGROUND

The subject property was created in 2004 as part of the Pine Meadows subdivision and appears on the recorded plat as a commercial reserve. Because the City of Tomball governs land use by zoning and not by declaration on recorded plats, the property assumed the same zoning district of the entire community, (SF-6) when zoning was established in 2008. The property is currently vacant with no structures present. The applicants are requesting the rezoning of the subject property to Neighborhood Retail – NR to allow the development of an approximately 18,000 square foot retail shopping center.

ANALYSIS

Description: The subject property is comprised of 1.905 acres, located on the southwest corner of Theis Lane and South Cherry Street. Currently the subject property is located within the SF-6 zoning district and has been within this zoning classification since the City of Tomball adopted zoning in 2008. Across Theis Lane, to the north of the subject property, is an existing distribution/warehouse facility, along with a vacant lot which are both within the Commercial (C) zoning district. South and west of the subject site are multiple single-family residences within the SF-6 zoning district. East of the subject property, across South Cherry Street are single family residences within the SF-20 and Light Industrial (LI) zoning districts.

Comprehensive Plan Recommendation: The property is designated as “Neighborhood Residential” by the Comprehensive Plan’s Future Land Use Map. The Neighborhood Residential category is intended for areas predominantly comprised of single-family detached housing. The land uses that are to be promoted in this category should focus on creating safe and desirable neighborhoods.

According to the Comprehensive Plan, land uses should consist of single-family detached residential, with appropriate secondary uses of parks, schools, public facilities, single-family attached residential, and limited commercial services. Commercial services that do not require large parking lots would be appropriate within this category where residential collector streets meet arterials such as Theis Lane and South Cherry Street.

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), and Planned Development (PD) for the Neighborhood Residential land use category.

The Comprehensive Plan identifies the need to promote the location of community facilities and services, as well as limited commercial services within and near existing and proposed neighborhoods to create mutually beneficial synergies and a higher quality of life. According to the Comprehensive Plan, it is important to ensure that appropriate compatibility is achieved between differing intensities of land uses.

Staff Review Comments: The Neighborhood Retail Zoning District was recently drafted by City Staff and adopted by City Council with the goal of promoting a more enriched living environment within and adjacent to the residential areas in Tomball. The requested rezoning district is not found in the recommendations of the Comprehensive Plan largely due to the recent creation of the Neighborhood Retail District. However, this request is aligned with the Comprehensive Plan’s emphasis on providing supporting services and appropriate land uses that are compatible with residential areas. Uses permitted in the Neighborhood Retail District include lower intensity non-residential uses that promote more complete neighborhoods by providing convenient access to goods and services. Also, the subject property is located at the intersection of two minor arterial streets which serve as the site’s only roadway access. Additionally, the subject property is in close proximity to many large neighborhoods, commercial business, and industrial land uses that could be served by a retail facility.

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 April 15, 2022. 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 Z24-07.

EXHIBITS

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

Exhibit "A"
Aerial Location Map



Location



Exhibit "B"
Future Land Use Plan



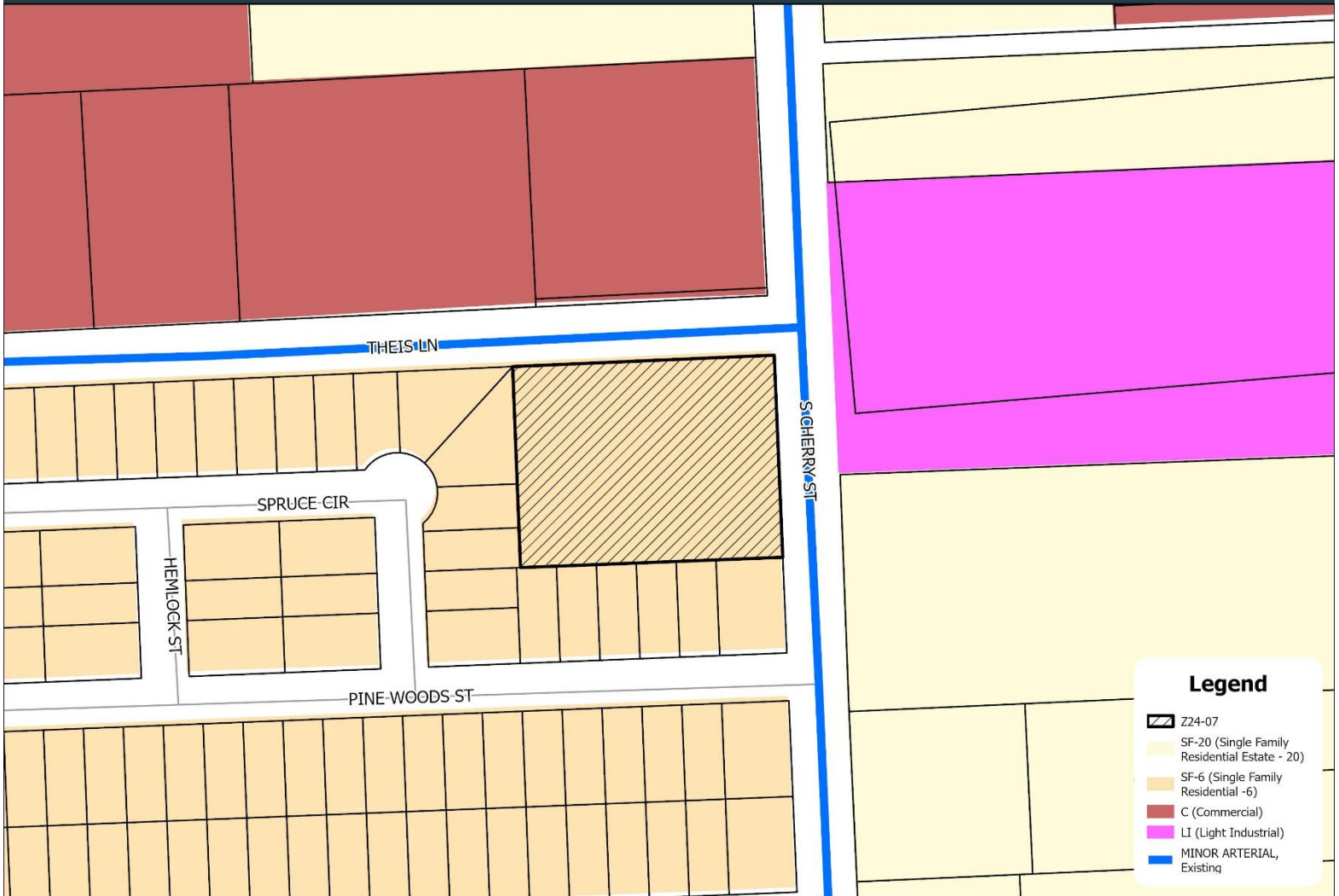
Future Land Use



Exhibit "C"
Zoning Map



Zoning



Legend

- Z24-07
- SF-20 (Single Family Residential Estate - 20)
- SF-6 (Single Family Residential - 6)
- C (Commercial)
- LI (Light Industrial)
- MINOR ARTERIAL, Existing

**Exhibit “D”
Site Photo(s)**

Subject Site



Neighbor (North)



Neighbor (East)



Neighbor (South)



Neighbor (West)



Exhibit "E"

Rezoning Application

Revised: 10/1/2022



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.

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/securesend
USERNAME: tomballedd
PASSWORD: Tomball1

Applicant

Name: Theis Lane and South Cherry Street LLC Title: Owner
Mailing Address: 16023 Rudgewick Lane City: Spring State: TX
Zip: 77379 Contact: William J. Lawrence
Phone: (346) 241-1000 Email: bill@wj.me

Owner

Name: Theis Lane and South Cherry Street LLC Title: Owner
Mailing Address: 16023 Rudgewick Lane City: Spring State: TX
Zip: 77379 Contact: William Lawrence
Phone: (346) 241-1000 Email: bill@wj.me

Engineer/Surveyor (if applicable)

Name: Pickering & Associates, Registration #: 10165200 Title: Surveyor
Mailing Address: 7702 Pin Oak Street City: Montgomery State: TX
Zip: 77316 Contact: Roger Pickering
Phone: (936) 447-4703 Fax: () Email: rpickering@hotmail.com

Description of Proposed Project: Retail shopping center with two buildings totalling 18,500 square feet.

Physical Location of Property: Southwest corner of Theis Lane and Cherry Street.
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: All 1.899 acre tract in the Jesse Pruitt Survey, A-629, Reserve A of Pine Meadows
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

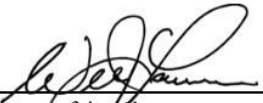
Current Zoning District: Residential

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

Current Use of Property: Unused land
Proposed Zoning District: Neighborhood Residential
Proposed Use of Property: Retail / Office / Family Medical
HCAD Identification Number: 1252560030038 Acreage: 1.899

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		03/01/2024
	Signature of Applicant	Date
X		03/01/2024
	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 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**
- **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 (300) 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.



March 1, 2024

Dear City of Tomball Community Development Department,

My name is Bill Lawrence, and I am the general partner at LoneStarDevelopment. We are a small, family-owned business that owns and manages small office/warehouse parks and small retail shopping centers in and around Houston.

We have been in business for over 30 years, and my son Matthew Lawrence and lifelong business partner Jason Snell have purchased the vacant piece of land at the southwest corner of Theis Lane and South Cherry Street.

It is our intention to develop this into a small, approximately 18,000-square-foot shopping center, that will cater to the neighborhood and surrounding residential developments. We will pre-select our tenants who will offer a mix of quality food service establishments, professional and home services, and possibly a health, beauty, and drugs establishment.

As in all our other developments, we have committed to ourselves and will commit to our future neighbors, that this property will be extremely well-managed and well-cared for. You can visit any of our properties in Houston and can quickly see the attention to detail, cleanliness, and professionalism that is on display.

Currently, this piece of property is zoned for residential use. It is situated at the intersection of two major roads, making it an ideal candidate for a small retail center that can serve the needs of the local community.

As the neighborhood behind the parcel (Pine Meadows) is already fully built-out with infrastructure in place, there is no feasible way to incorporate this small (under 2 acres) additional parcel into this subdivision. Furthermore, the small size is incompatible with any type of high-density housing like apartments or townhomes.



That is why we are proposing a small neighborhood retail shopping center. It is a perfect location for a neighborhood café, coffee shop, medical practice, or donut/sandwich shop. We will be including a lot of architectural features and different building materials such as masonry and decorative wall panel systems to distinguish this center as an upscale fitting companion to the growing residential neighborhoods that adjoin the site.

We have included a rendering of the project along with a preliminary site plan for your consideration and review.

I also invite you to call either Matt Lawrence (832) 953-3000 or Jason Snell (281) 389-6023 and ask any question you might have or can think of. We want to be great neighbors, and though the amount of our investment is considerable, it pales in comparison to the value of our reputation that we hold in the highest regard.

We believe that it won't take long for you to feel the same. Thank you for your time and consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "W. Lawrence", is written over a horizontal line.

William J. Lawrence, General Partner

GF# ATCH21111202A

FILED BY
ALAMO TITLE COMPANY
(HOUSTON)
2111202A

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.

Special Warranty Deed

Date: November 30, 2022

Grantor: MARITIA, L.P., an Arizona Limited Partnership

Grantor's Mailing Address:

MARITIA, L.P.
2944 N. 44th St., Ste 250
Phoenix, Maricopa County, AZ 85018-7290

Grantee: THEIS LANE AND SOUTH CHERRY STREET LLC, a Texas limited liability company

Grantee's Mailing Address:

THEIS LANE AND SOUTH CHERRY STREET LLC
16023 Rudgewick Ln.
Spring, Harris County, TX 77379

Consideration:

Cash and other good and valuable consideration, the receipt of which is acknowledged.

Property (including any improvements):

ALL THAT CERTAIN 1.899 ACRE (82,729 SQUARE FOOT) TRACT OR PARCEL OF LAND SITUATED IN THE JESSE PRUITT SURVEY, A-629, HARRIS COUNTY, TEXAS AND BEING ALL OF RESERVE "A" OF PINE MEADOWS, A SUBDIVISION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED UNDER FILM CODE NO. 555232 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS; SAID 1.899 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 5/8 INCH IRON ROD WITH CAP STAMPED "PICKERING 5879" SET FOR THE NORTHEAST CORNER OF SAID RESERVE "A" AND THE HEREIN DESCRIBED TRACT, SAID CORNER MARKING THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF THEIS LANE (WIDTH VARIES) AND THE WEST RIGHT-OF-WAY LINE OF CHERRY STREET (80 FEET WIDE);

THENCE, S 02° 27' 37" E-253.44 FEET (CALLED S 02° 27' 37" E-253.53 FEET) ALONG THE EAST LINE OF SAID RESERVE "A" AND THE WEST RIGHT-OF-WAY LINE OF SAID CHERRY STREET TO A 5/8 INCH IRON ROD FOUND MARKING THE SOUTHEAST CORNER OF RESERVE "A" AND THE HEREIN DESCRIBED TRACT;

THENCE, S 87° 42' 38" W-327.63 FEET (CALLED S 87° 42' 38" W-328.67 FEET) TO A 5/8 INCH IRON ROD FOUND MARKING THE SOUTHWEST CORNER OF RESERVE "A" AND THE HEREIN DESCRIBED TRACT;

THENCE, N 02° 20' 06" W-252.01 FEET (CALLED N 02° 17' 22" W-252.10 FEET) TO A 5/8 INCH IRON ROD FOUND IN THE SOUTH RIGHT-OF-WAY LINE OF THEIS LANE AND MARKING THE NORTHWEST CORNER OF RESERVE "A" AND THE HEREIN DESCRIBED TRACT;

THENCE, N 87° 27' 39" E-327.07 FEET (CALLED N 87° 27' 39" E-327.92 FEET) ALONG THE SOUTH RIGHT-OF-WAY LINE OF THEIS LANE TO THE POINT OF BEGINNING AND CONTAINING 1.899 ACRES (82,729 SQUARE FEET) OF LAND, MORE OR LESS.

together with (i) any and all appurtenances belonging or appertaining thereto; (ii) any and all improvements located thereon; (iii) any and all appurtenant easements or rights of way affecting the Property and any of Grantor's rights to use same; (iv) any and all rights of ingress and egress to and from the Property and any of Grantor's rights to use same; (v) any and all mineral rights and interests of Grantor relating to the Property (present or reversionary); (vi) any and all rights to the present or future use of wastewater, wastewater capacity, drainage, water or other utility facilities to the extent same pertain to or benefit the Property or the improvements located thereon, including without limitation, all reservations of or commitments or letters covering any such use in the future, whether now owned or hereafter acquired; (vii) any and all rights and interests of Grantor in and to any leases covering all or any portion of the Property; and (viii) all right, title and interest of Grantor, if any, in and to (a) any and all roads, streets, alleys and ways (open or proposed) affecting, crossing, fronting or bounding the Property, including any awards made or to be made relating thereto including, without limitation, any unpaid awards or damages payable by reason of damages thereto or by reason of a widening of or changing of the grade with respect to same, (b) any and all strips, gores or pieces of property abutting, bounding or which are adjacent or contiguous to the Property (whether owned or claimed by deed, limitations or otherwise), (c) any and all air rights relating to the Property and (d) any and all reversionary interests in and to the Property. Notwithstanding anything contained herein to the contrary, however, with respect to the rights and interests described in (iv), (vi) and (viii) directly above, Grantor is hereby only granting, selling and conveying any of Grantor's right, title and interest in and to same without warranty (whether statutory, express or implied).

Reservations from Conveyance: None

Exceptions to Conveyance and Warranty:

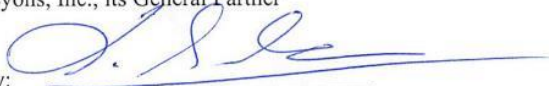
The matters listed or contained in Exhibit "A" labelled "Permitted Encumbrances" which is attached hereto, incorporated herein and made a part hereof for all purposes, to the full extent same are valid and subsisting and affect the Property. Property taxes for 2022 have been prorated between the parties and Grantee assumes and agrees to pay same.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the 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 way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to **WARRANT AND FOREVER DEFEND** all and singular the property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Grantor but not otherwise, except as to the reservations from conveyance and exceptions to conveyance and warranty.

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

MARITIA, L.P.

By East Lyons, Inc., its General Partner

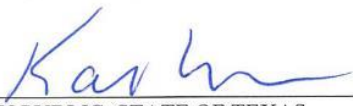
By: 

Louis H. Smulders, Executive VP

STATE OF TEXAS §

COUNTY OF HARRIS §

This instrument was acknowledged before me on November 30, 2022, by Louis H. Smulders, Executive VP of East Lyons, Inc., a Nevada corporation, acting in its capacity as Manager of MARITIA, L.P., an Arizona limited partnership, on behalf of said limited partnership.


NOTARY PUBLIC, STATE OF TEXAS

PREPARED IN THE OFFICE OF:
Anthony T. Sortino, Attorney
500 W. Main Street
Tomball, Texas 77375

