

Board of Adjustments (BOA) Staff Report

Board of Adjustments Hearing Date: September 12, 2024

Case: SE24-01
Property Owner(s): Red Grip, LLC
Applicant(s): Jody Friesen
Legal Description: Lot 71, Block 1 of Acquest Tomball Replat No1
Location: 1211 Rudel Drive
Lot Area: Approximately 1.0402 acres (6673 square feet)
Comp Plan Designation: Neighborhood Commercial (Exhibit “C”)
Present Zoning & Use: Office (O) (Exhibit “B”) / Vacant land (Exhibit “D”)

Adjacent Zoning & Land Uses:

North: Old Town & Mixed Use (OT&MU) / Tomball Fire Station 1
South: Commercial (C) / VA Tomball Outpatient Clinic
West: Multi-Family Residential (MF) / Rudel Crossing Apartments
East: Multi-Family Residential (MF) and Commercial (C) / Apartment complex and medical offices

BACKGROUND

The applicant is requesting a Special Exception from Section 50-82(b) (*Use Charts*) of the Tomball Code of Ordinances to allow 22 parking stalls where 33 parking stalls are required for a *child day care center (business) facility* of the desired size. The property where the proposed day care center will operate is currently in the permitting process for the construction of two 4,764 square foot office buildings. The proposed day care center wants to occupy one of these buildings. There are currently 38 planned parking spaces for the entire development. The parking ratio for the subject land use is calculated at one parking space per three children, which would cap the number of children allowed in the facility at 66. If approved as requested, this Special Exception would allow the proposed child day care to occupy one of the office buildings and accommodate up to 100 children.

ANALYSIS

Chapter 50, Article II, Section 50-33 (g)(1) defines a Special Exception as a type of variance that does not require the finding of a hardship and applies to nonconforming uses/structures, off-street parking requirements and landscaping requirements. In granting Special Exceptions the board may impose conditions that are necessary to protect adjacent property owners and ensure the health, safety, and general welfare of the public.

The following items have been identified as crucial items to consider when deliberating the approval/denial of this special exception request:

- 1. Will this land use be a valuable addition to the surrounding community?**
 - There are three multifamily complexes within 400 yards of the subject property and many single-family homes within two miles of the site.
 - There are approximately eight similar businesses currently operating within Tomball city limits.

- 2. Does this land use support the City of Tomball's Comprehensive Plan's goals and objectives for this area?**
 - The subject property is within the Neighborhood Commercial Future Land Use Category which is intended to compliment and provide supporting services to residential developments.

- 3. What implications does this land use have on the immediate areas' vehicular traffic?**
 - The proposed development has one point of access onto Rudel Drive.
 - The applicant has expressed that a staggered drop off and pick up system will be utilized.

PUBLIC COMMENTS

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 Potpourri on August 28, 2024. Public responses will be provided in the board packets or at the meeting.

RECOMMENDATION

Because the applicant has indicated that the *child day care facility (business)* will operate with extended hours and have staggered drop-off and pick-up times, City staff does not anticipate adverse impacts to public health, safety, or general welfare. Based on this and the considerations outlined in the analysis section of this staff report, City staff recommends approval of SE24-01, a special exception request for providing 22 parking stalls when 33 parking stalls are required to accommodate a *child day care facility (business)* with a capacity of up to 100 children.

The Board of Adjustments has the authority to impose any conditions of approval on Special Exceptions as they deem necessary.

EXHIBITS

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

**Exhibit "A"
Aerial Map**



Exhibit "B" Zoning Map



Zoning

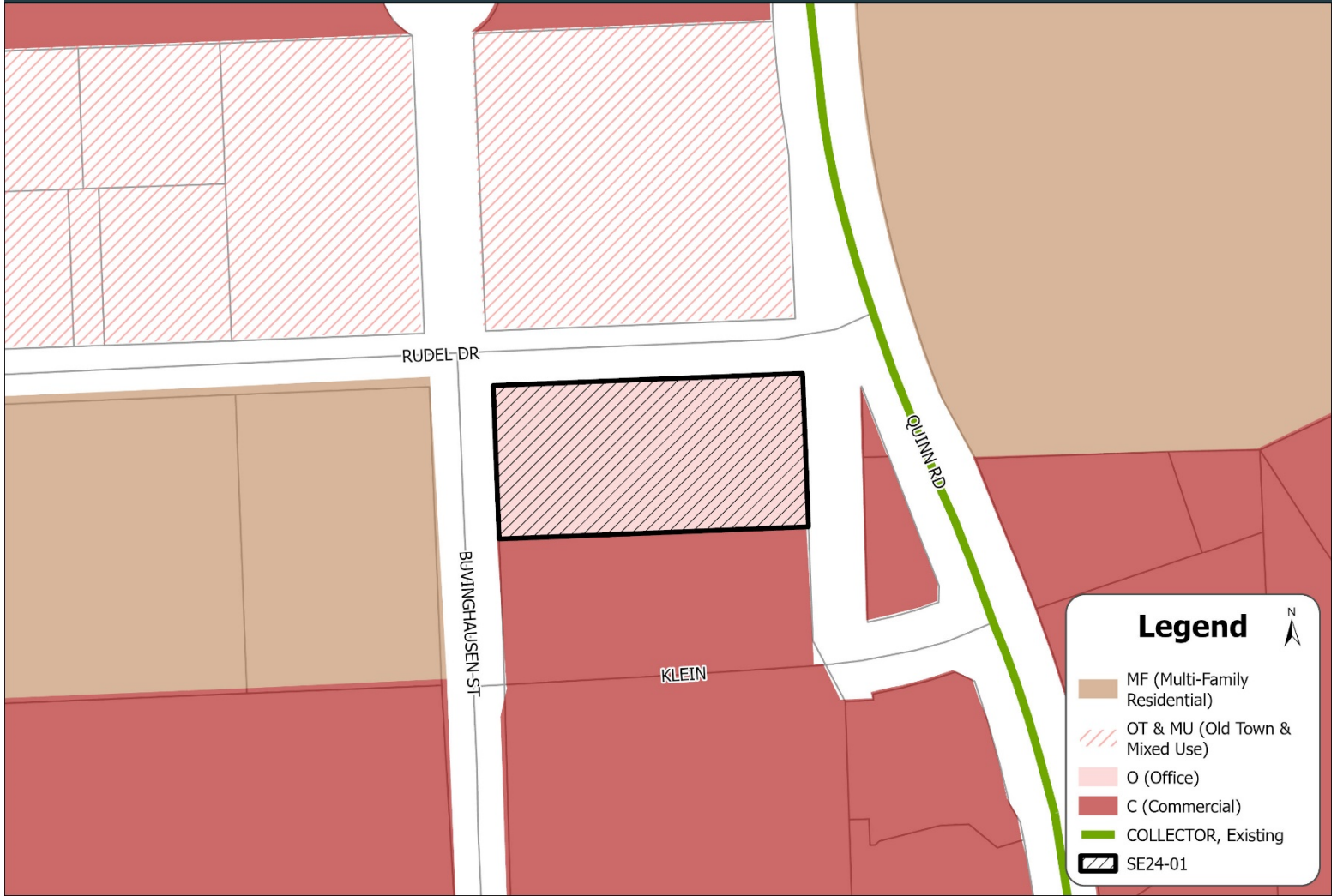


Exhibit "C"
Future Land Use Map



Future Land Use

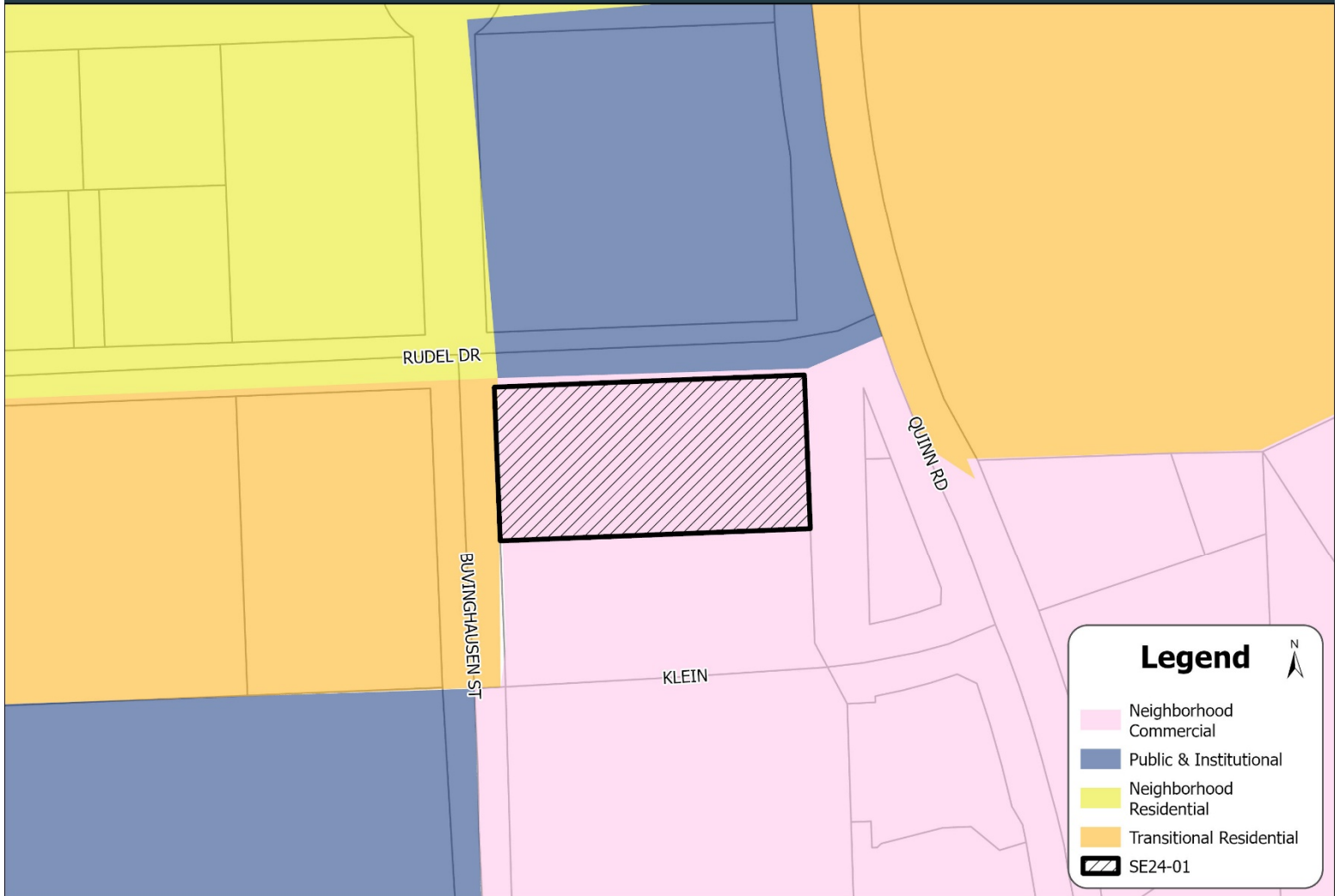


Exhibit "D"
Site Photo(s)

Subject Site



Subject Site



Neighbor (North)



Neighbor (South)



Neighbor (East)



Neighbor (West)



Exhibit "E"
Application

Revised: 08/25/23



ZONING BOARD OF ADJUSTMENTS (BOA)
SPECIAL EXCEPTION APPLICATION

Community Development Department
Planning Division

Special Exception Defined: A special exception is a type of variance, but is differentiated from a variance in that a special exception does not require a finding of a hardship and applies only to nonconforming uses and structures, off-street parking requirements and landscaping requirements.

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.

FEE: Must be paid at the time of submission or application will not be processed

- \$500

DIGITAL APPLICATION SUBMITTALS:

PLEASE SUBMIT YOUR APPLICATIONS AND PLANS DIGITALLY WITHIN SMARTGOV

WEBSITE: ci-tomball-tx.smartgovcommunity.com

Applicant

Name: Mike Matheson Title: Owner
Mailing Address: 14315 Arlington Place City: Cypress State: Texas
Zip: 77429
Phone: (281) 658-7526 Fax: () Email: info@redgripllc.com

Owner

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

Description of Proposed Project: 2 buildings, 4,620 sq/ft each, one building a daycare

Physical Location of Property: Corner of Quinn Road and Rudel Road
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: Lot 72 Block 1, Acquest Tomball
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

HCAD Identification Number: 1222950020001 Acreage: 1.04

Current Use of Property: No current use, not developed

SPECIAL EXCEPTION(S) REQUESTED

Applicable Zoning Ordinance Requirements and Sections:

Zoning Ordinance 2008-01, Section 38.2 Use Regulations- Childcare Parking Ratios

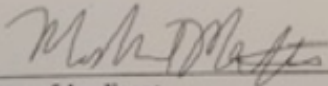
Special Exception(s) Requested:

Please see mire details in letter but requesting an exception to the 27 spots technically needed, and
instead have 22 spots, see letter.

A letter describing the requested special exception(s) must be submitted in conjunction with this application. Please attach separate sheets(s) as necessary.

Please see letter for explanation.

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. I also understand that in granting a special exception, the Board of Adjustments may impose conditions as are necessary to protect adjacent property owners and to ensure the public health, safety and general welfare.

X  _____
Signature of Applicant Date

X Jody Frisen _____ 8/16/24
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.

A complete application must include:

- Application Fee: \$500
- Letter explaining the special exception(s) in detail
- Metes & bounds of property
- Site plan, plot plan, or drawing showing the requested special exception(s)
- Other necessary information (maps, drawings, pictures, etc.) to explain the special exception(s)

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.

SPECIAL EXCEPTION

August 16th, 2024

Dear Members of the Board of Adjustments,

I'm writing to request an exception in the parking space requirement for a childcare center and would like to expand that for my business. With my experience over the last 20 years from being a teacher, Director, and owner of childcare center when it comes to parking, drop off and pick up the one thing that is effective with childcare is the staggered timing. This helps alleviate congestion in the childcare center parking because parents drop off and pick up at all different times and not a set drop off or class in session at 8:00am. A childcare center has longer, earlier, and later times which then minimizes waiting times for parents. On average most families have two to three children they are dropping off as well at the childcare, meaning there will not be a car for each child being dropped off.

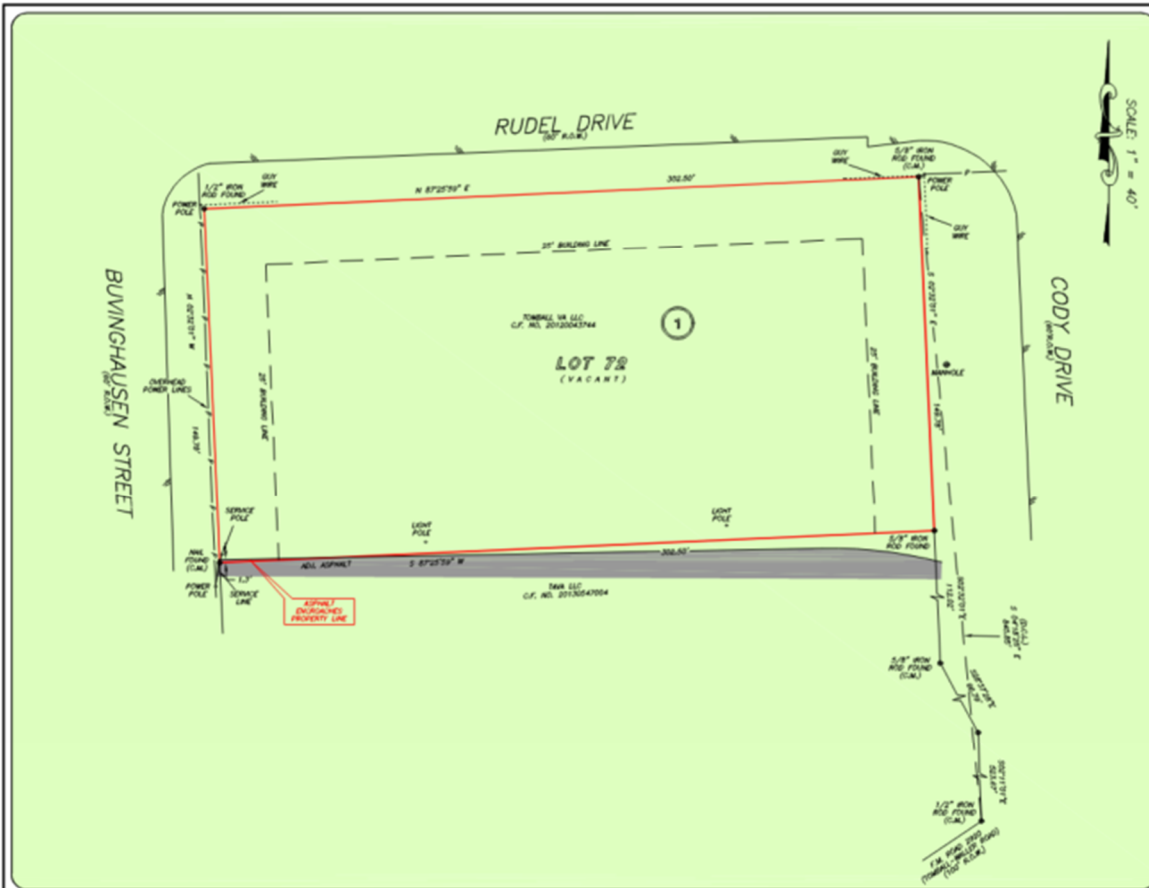
At the childcare I plan to be licensed for the hours of 6:00am-6:00pm so in this instance you will have the option to drop off and pick up between those hours. When you have parents who work between those hours and work either full time or part time and have different shifts of 4-hour, 8-hour, 10-hour, 12-hour that brings children being dropped off and picked up at different times. The most common drop-off times in the morning are between 6:00am and 11:00am and the most common pick-up time is between 2:00pm and 5:00pm. With the flexibility of days and hours of the drop-off and pick up you don't have so many at one time at the childcare. I am also offering at the childcare that the parents can enroll their children for full-time Monday-Friday, Part time offering two or three days a week. I am also going to offer a drop-in service as well if they do not need full-time or part-time care but need it for a day they can call and if available space they can drop their child for the day. Offering flexible days and hours also helps with this as well. It is not a school whereas I mentioned before they all don't have to be there by 8:00am and pick up at 3:00pm it's a very staggered and wide span of hours and days that make it convenient for drop off and pick up.

The requirement that is set is 1 parking space for 3 children and with our parking spots with the building (22) would allow only a capacity of 66 children. With the childcare center's square footage, it could be licensed for 154 children, but after designing and the square footage of the rooms, we would like to license the childcare between 80-100

children by state requirements. We would need between 28 and 30 parking spots. We are asking if you would make an exception for the extra parking spaces that are needed

If you have alternative suggestions regarding this request, please share them with me so we can work together to find a workable and effective solution.

Sincerely, Jody Friesen



OF NO. 1609703 STEWART TITLE
 ADDRESS: RUDEL DRIVE
 TOMBALL, TEXAS 77375
 BORROWER: MICHAEL MATHESON

**LOT 72, BLOCK 1
 ACQUEST TOMBALL REPLAT NO. 1**

ACCORDING TO THE MAP OR PLAT THEREOF RECORDED
 IN VOLUME 658, PAGE 107 OF THE MAP/PLAT RECORDS
 OF HARRIS COUNTY, TEXAS

NOTES MAY BE SUBJECT TO ZEEB RESTRICTIONS AND/OR
 ADDITIONAL GOVERNMENTAL BUILDING REQUIREMENTS.
 NOTE AN EXTENSION 8" WIDE, TOGETHER WITH AN ADJACENT
 20' WIDE EXTENDING UPWARD AS PER C.F. NO. 2012042704.



THIS PROPERTY DOES NOT LIE WITHIN THE
 100 YEAR FLOOD PLAIN AS PER FIRM
 PANEL NO. 4833C 0103 L
 MAP REVISION 06/16/2007
 ZONE 1
 BASED ONLY ON VISUAL EXAMINATION OF MAPS.
 INCLOSURES OF FIRM MAPS PROVIDE EXACT
 DETERMINATION WITHOUT DETAILED FIELD STUDY.

A SUBSURFACE INVESTIGATION
 WAS BEYOND THE SCOPE OF THIS SURVEY

D.L.L. = DIRECTIONAL CONTROL LINE
 REFERENCE BEARING: YCL 855, PCL 101, M.C.M.P.R.

02689 871 PR

CONTRIBUTED TO MICHAEL MATHESON AND
 STEWART TITLE

I HEREBY CERTIFY THAT THIS SURVEY
 PLAT CORRECTLY REPRESENTS THE FACTS
 FOUND AT THE TIME OF SURVEY AND THAT
 THIS PROFESSIONAL SERVICE CONFORMS TO
 THE CURRENT TEXAS SOCIETY OF PROFESSIONAL
 SURVEYORS CONSTITUTION AND SPECIFICATIONS
 FOR A CATEGORY 3A CONDITION 4 SURVEY.

JAMES P. MALIKOVICH
 PROFESSIONAL LAND SURVEYOR
 NO. 5971
 JOB NO. 2022-02036
 MARCH 21, 2022



stewart
 THE ACQUEST
JANE MATHESON
 281-357-8277



PRECISION
 surveyors

1-800-LANDSURVEY
 www.precisionsurveyors.com
 281-496-1588 FAX 281-496-1867 210-829-4941 FAX 210-829-1555
 800 INDEPENDENCE STREET SUITE 100 HOUSTON, TEXAS 77059 1702 MC LOUIS AVE SUITE 400 SAN ANTONIO, TEXAS 78217
 FIRM NO. 10063700

METES AND BOUNDS DESCRIPTION OF 1.0401 ACRE TRACT – RED GRIP, LLC, A TEXAS LIMITED LIABILITY COMPANY

A TRACT OR PARCEL OF LAND CONTAINING 1.0401 ACRE BEING LOT 72, BLOCK 1 OF ACQUEST TOMBALL REPLAT NO. 1, AN ADDITION IN HARRIS COUNTY ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 658, PAGE 107 OF THE HARRIS COUNTY MAP RECORDS IN THE JOSPEH HOUSE SURVEY, ABSTRACT 34 IN HARRIS COUNTY, TEXAS, SAID 1.0401 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS TO–WIT:

BEGINNING at a 3/8 inch iron rod set with cap marking the Northwest corner of the herein described tract being at the intersection of the East right-of-way line of Buvinghausen Street (60 ft. right-of-way) and the South right-of-way line of Rudel Drive (60 ft. right-of-way);

THENCE North 87 degrees 27 minutes 09 seconds East with the Southerly right-of-way line of said Rudel Drive a distance of 302.50 ft. to a 5/8 inch iron rod found with cap at the Northeast corner of the herein described tract being in the West right-of-way line of Cody Drive (undeveloped);

THENCE South 02 degrees 30 minutes 51 seconds East with the West right-of-way line of said Cody Drive a distance of 149.78 ft. to a 5/8 inch iron rod found with cap marking the Southeast corner of the herein described tract and the Northeast corner of Lot 73;

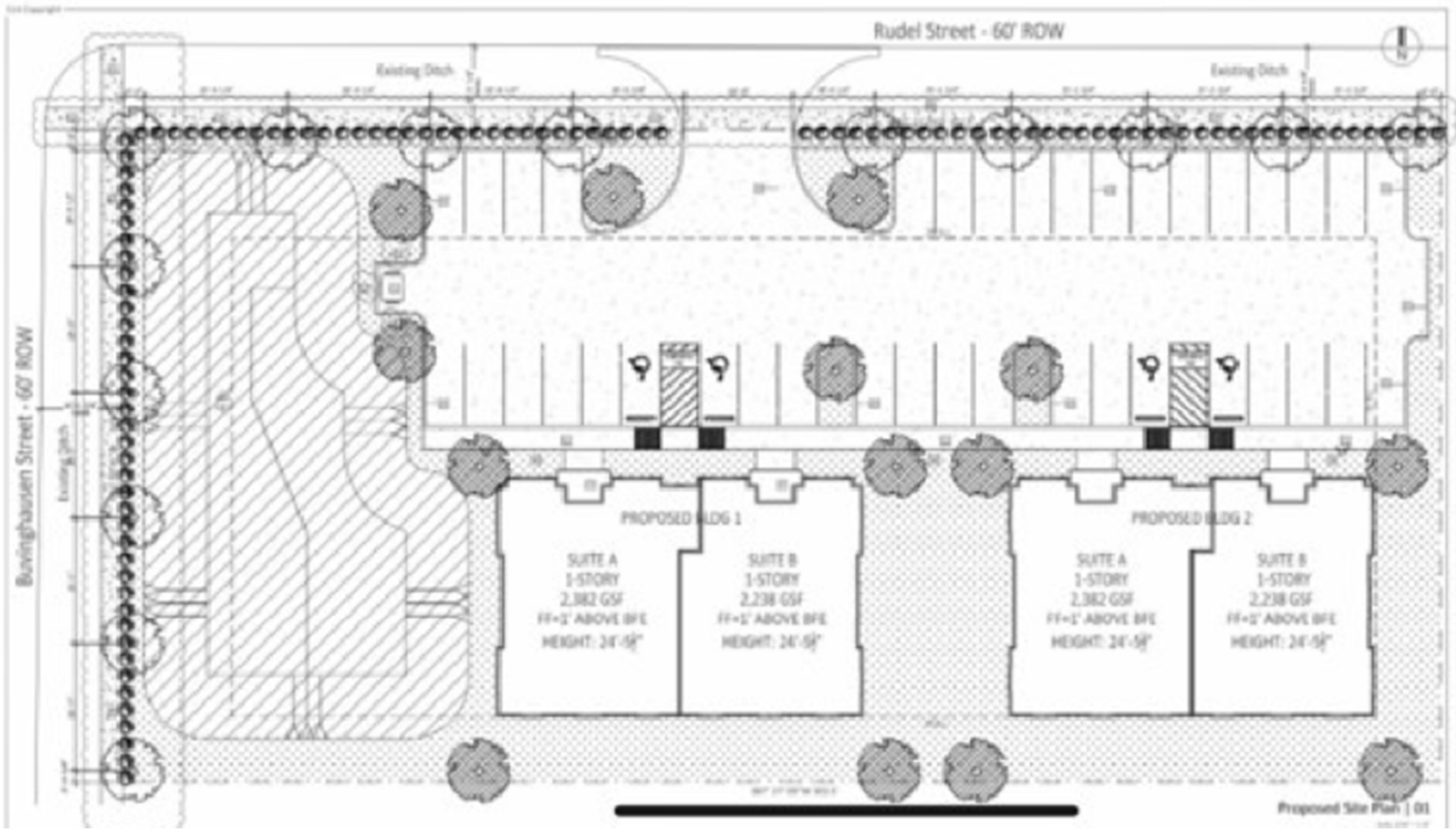
THENCE South 87 degrees 27 minutes 09 seconds West with the division line between Lots 72 and 73 a distance of 302.50 ft. to a mag nail found in asphalt marking the Southwest corner of the herein described tract, the Northwest corner of Lot 73 in the East right-of-way line of said Buvinghausen Street;

THENCE North 02 degrees 30 minutes 51 seconds West with the Easterly right-of-way line of said Buvinghausen Street a distance of 149.78 ft. to the PLACE OF BEGINNING and containing 1.0401 acre of land.



C. Paul Jones, Sr. R.P.L.S. 5480
P.O. Box 701
Friendswood, Texas 77549
Phone: (713)473-3502
Email: info@timelinesurvey.com
Date: May 1, 2023





Proposed Site Plan | 01