



September 25, 2023

City of Tomball
Attn: Craig Meyers
501 James Street
Tomball, Texas 77375

RE: Chapter 4 (Sec. 4-2) Alcoholic Beverages Variance Request – 28750 Tomball Parkway, Tomball Texas 77375

Dear Mr. Meyers,

BCS Capital Group (dba BCS Tomball Main LLC) (“BCS”) is the property owner at 28750 Tomball Parkway (“BCS Property”). In accordance with Ordinance No. 2023-28, the purpose of this letter is to submit a formal variance request to Chapter 4, Alcoholic Beverages of the City of Tomball Code of Ordinances (“City Code”).

According to Section 4-2 of the City Code, the sale of alcoholic beverages within 300 feet of a public or private school within city limits, is prohibited. Tomball ISD is the owner of the property located at 1302 Keefer Rd (“Tomball ISD Property”). There is ~ 205-215 feet from the boundary of the BCS Property to the boundary of the Tomball ISD Property (Tomball Connections Academy Campus) and ~265-275 feet from the boundary of the Tomball ISD Property to the vacant Luby’s building on the BCS Property. Please see the enclosed alcohol sales exhibit for a depiction of this description.

As mentioned above, there is a vacant Luby’s building on the BCS Property that BCS previously intended to redevelop into a Class A restaurant concept(s), please see the enclosed conceptual building renderings. However, the current restriction makes this impossible given the critical nature of alcohol sales for any restaurant concept to i) consider opening for business at this location and ii) have any chance of succeeding.

As such, BCS respectfully requests a variance to Section 4-2 of the City Code to allow for the sale of alcohol to occur on the BCS Property, specifically, within the existing Luby’s building (once redeveloped) given the following:

- 1) A redevelopment of the existing building is the highest and best use for the property and in the best interest of the community and City
- 2) As it stands today, the vacant property is both inefficient and wasteful, not serving the needs of the community, creating jobs or generating sales revenue for the City
- 3) The building has become a welfare concern to the public given the homeless population and late-night mischief that continuously flocks to the vacant building and property
- 4) Customers access the BCS Property off 249-B and 2920 and there is no cross-traffic with the Tomball ISD Property; thus, there is ample vehicular buffer between the properties
- 5) There is no clear/direct pedestrian access between the properties (no defined sidewalks through our site, over the neighboring property, and to the Tomball ISD Property)

We are grateful to the City for their consideration of this proposed variance and look forward to working with you to deliver a value-add development to the City of Tomball. Please feel free to contact me by phone at 713-803-9730 or by email at jack.burgher@bcscapitalgroup.com to discuss further.

Sincerely,

A handwritten signature in cursive script that reads "Jack Burgher".

Jack Burgher, Partner
BCS Capital Group LLC