

**Rezoning
Staff Report**

Planning & Zoning Commission Public Hearing Date: September 11, 2023
City Council Public Hearing Date: September 18, 2023

Rezoning Case: Z23-13

Property Owner(s): Hightower Investments Ltd.

Applicant(s): Hightower Investments Ltd.

Legal Description: Lots 1 & 2, Block 53 of Revised Map of Tomball

Location: Located at 400 N. Elm Street, within the City of Tomball, Harris County, Texas. (Exhibit “A”)

Area: 0.32 acres (approximately)

Comp Plan Designation: Old Town (Exhibit “B”)

Present Zoning: Single Family Residential – 6 (SF-6) (Exhibit “C”)

Request: Rezone from Single Family Residential – 6 (SF-6) to Old Town and Mixed-Use (OT & MU)

Adjacent Zoning & Land Uses:

North: Single Family Residential – 6 (SF-6)/Spring Creek Animal Hospital

South: Oxford Street, Single Family Residential – 6 (SF-6)/Single Family Residence

West: Single Family Residential – 6 (SF-6)/Single Family Residence (Homestead)

East: N. Elm Street, Single Family Residential – 6 (SF-6), Railroad/Vacant Land

BACKGROUND

The subject property has been within the city limits of Tomball since 1907. According to Harris County Appraisal District records a single family residence was constructed on the property in 1950. The applicant’s request is to rezone the subject property to Old Town and Mixed-Use (OT & MU) to make the property more desirable for future buyers. The proposed use is not specified by the applicant at this time.

ANALYSIS

Description: The subject property comprises about 0.32 acres and is located at 400 N. Elm Street, at the corner of N. Elm Street and Oxford Street. The subject property is zoned SF-6 and has been within this zoning classification since the City of Tomball adopted zoning in 2008. All surrounding properties are also zoned SF-6. The property immediately to the north of the subject property contains Spring Creek Animal Hospital, this commercial building was constructed in 1996 and is presently a legally non-conforming use. To the south of Oxford Street is a single-family residence. The property to the west also contains a single-family residence (homestead). To the east across N. Elm Street is vacant land and railroad tracks.

Comprehensive Plan Recommendation: The property is designated as “Old Town” by the Comprehensive Plans Future Land Use Map. This Old Town category is intended to be “highly walkable and promote a distinct sense of place”.

According to the Comprehensive Plan, “land uses should consist of a mix of residential, office, retail, entertainment, restaurants, and public facilities. Secondary uses include bed and breakfast lodging, live-work buildings, places of assembly or even venues and home professions”.

The Comprehensive Plan recommends the zoning district of – OT & MU (Old Town and Mixed Use) for the Old Town land use category.

Additionally, the Comprehensive Plan states – “The following considerations should be used as guidance for regulatory modifications or as part of decision-making: New development should encourage building to the street at a pedestrian scale, with no parking between the front building façade and the street. Pedestrian enhancements such as wide sidewalks, pedestrian furnishings, and street trees should be emphasized.”

According to Section 50-79 (*Old Town and Mixed-Use District*), the nature of the Old Town & Mixed Use District “is a mixture of retail, commercial and other non-residential uses, along with single-family homes and multiple-family uses. The city’s comprehensive plan endorses the continuation of the mixture of uses in these areas”. Additionally, Old Town & Mixed-Use zoning “is intended to provide a zoning mechanism for a variety of uses in the original town site and those areas that have a diverse mixture of uses”.

Staff Review Comments:

The request to rezone to Old Town & Mixed-Use (OT & MU) is in accordance with the Future Land Use Map which identifies the subject property as being within the “Old Town” Future Land Use Category. Rezoning the property as requested would achieve the goals and objectives outlined in the Comprehensive Plan. This is particularly true regarding growth and capacity by encouraging infill and redevelopment, while utilizing existing infrastructure within Old Town Tomball. Additionally, this zone change request will promote the goal of encouraging development with a mixture of uses in a walkable environment. According to the Comprehensive Plan “locating community facilities, services, and limited commercial services within and near existing neighborhoods has the potential to create mutually-beneficial synergies and higher quality of life”. This request also serves to achieve the community livability goal of encouraging the expansion of Old Town so that it continues to grow as the City grows. The property immediately north is an existing legally non-conforming commercial use, the western half of the block is occupied by another commercial use (Tomball Bible Church) and one-half block to the south is “Old Town”. Old Town is the area bounded by the railroad tracks, Houston, Pine, and Fannin Streets. This area

is largely comprised of a mixture of commercial uses alongside single family residences. That being said, the uses which would be allowed on the subject property within the requested Old Town & Mixed-Use zoning would continue to promote a mixture of land uses in the surrounding Old Town area and said uses would be in character with the properties.

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 August 29, 2023. 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 Z23-13.

EXHIBITS

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

Exhibit "A"
Aerial Location Map



Location



Exhibit "B"
Future Land Use Plan Map



Future Land Use

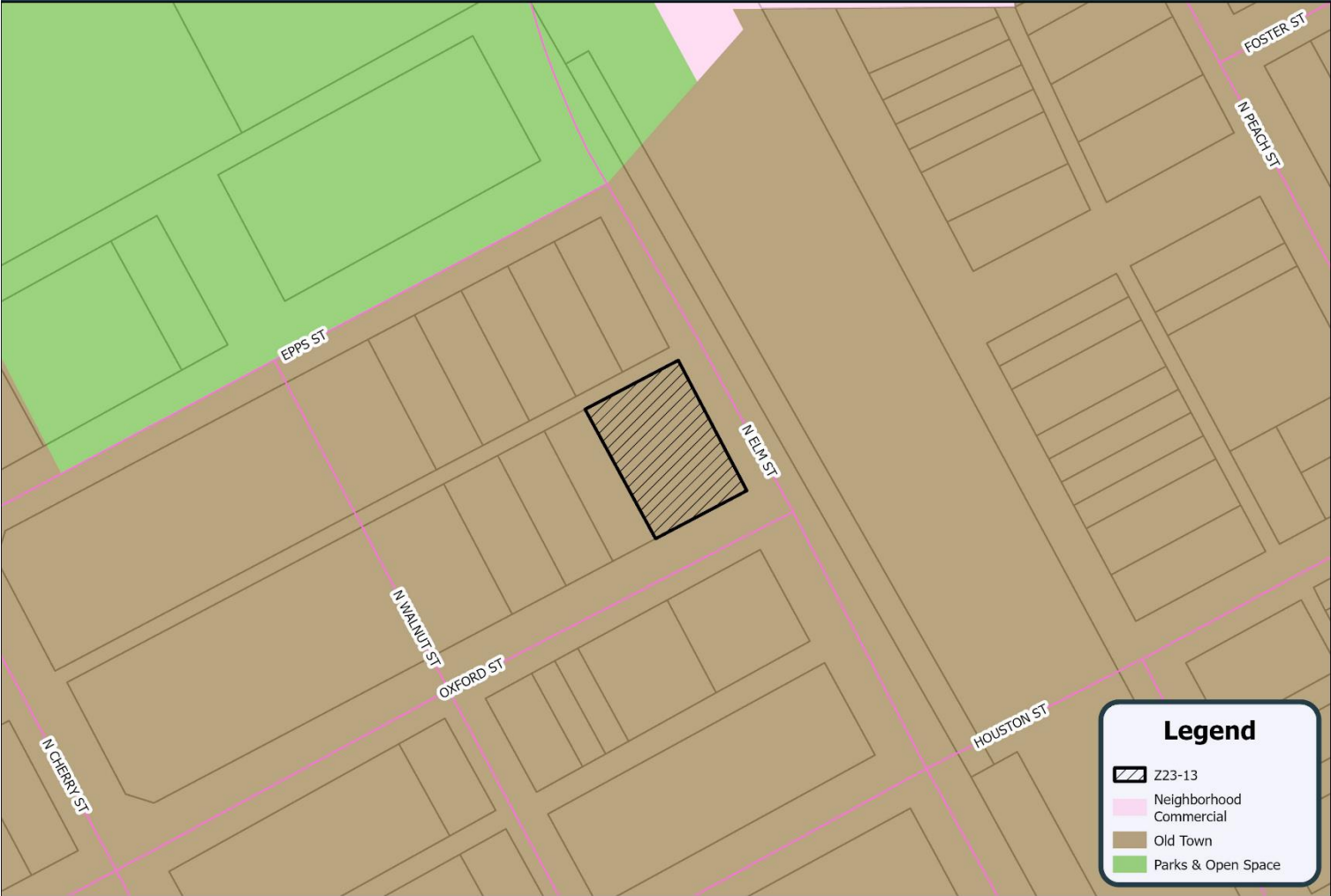


Exhibit "C"
Zoning Map



Zoning

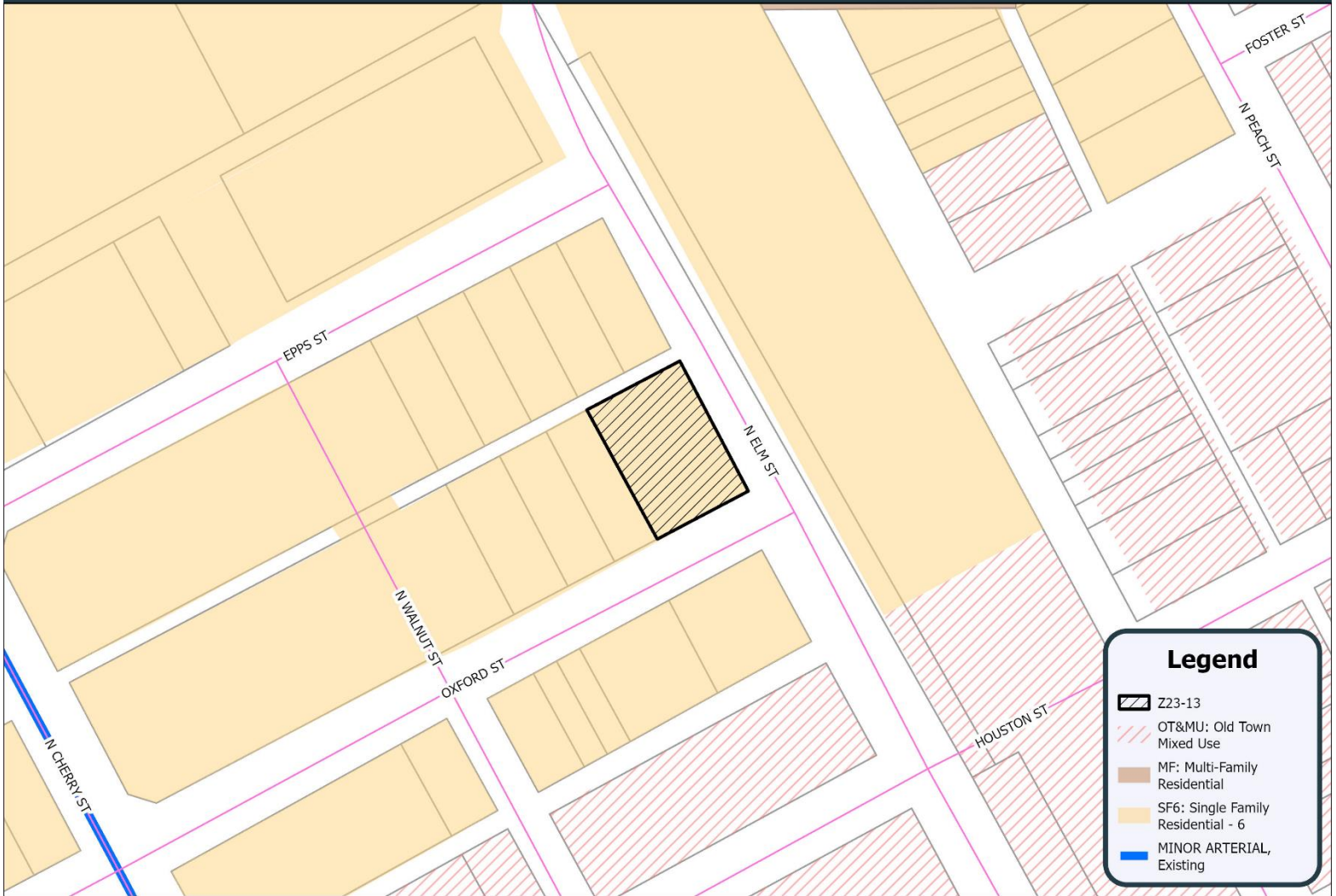


Exhibit "D"
Site Photo(s)

Subject Site



Neighbor (West)



Neighbor (East)



Neighbor (North)



Neighbor (South)



Exhibit "E"
Rezoning Application

Revised: 4/13/2020



APPLICATION FOR RE-ZONING
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: HIGHTOWER INVESTMENTS LTD Title: PRESIDENT
Mailing Address: 6015 THEALL Rd. City: HOUSTON State: TX
Zip: 77066 Contact: Bill HIGHTOWER
Phone: (832) 473-0513 Email: bill@hightowerelectricltd.com

Owner

Name: HIGHTOWER INVESTMENTS LTD Title: PRESIDENT
Mailing Address: 6015 THEALL Rd. City: HOUSTON State: TEXAS
Zip: 77066 Contact: Bill HIGHTOWER
Phone: (832) 473-0513 Email: bill@hightowerelectricltd.com

Engineer/Surveyor (if applicable)

Name: N/A Title: _____
Mailing Address: _____ City: _____ State: _____
Zip: _____ Contact: _____
Phone: (____) _____ Fax: (____) _____ Email: _____

Description of Proposed Project: CHANGE ZONING ONLY

Physical Location of Property: N.W. CORNER OF N. ELM AND OXFORD
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: Lts 1+2 Blk 53 TOMBALL 400 N. ELM ST.
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: SF-6 SINGLE FAMILY 6 DISTRICT

Current Use of Property: RESIDENTIAL

Proposed Zoning District: OT & MU - OLD TOWN AND MIXED USE DISTRICT

Proposed Use of Property: TO MAKE MORE ATTRACTIVE TO A BUYER

HCAD Identification Number: 0352690530001 **Acreage:** 14000 Sq Ft.

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  _____ 10/06/2022
Signature of Applicant Date

X  _____ 10/06/2022
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.

- Completed application form
- *Copy of Recorded/Final Plat *N/A*
- 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) *N/A*
- Metes & Bounds of property *Survey*
- 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 un-platted 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.



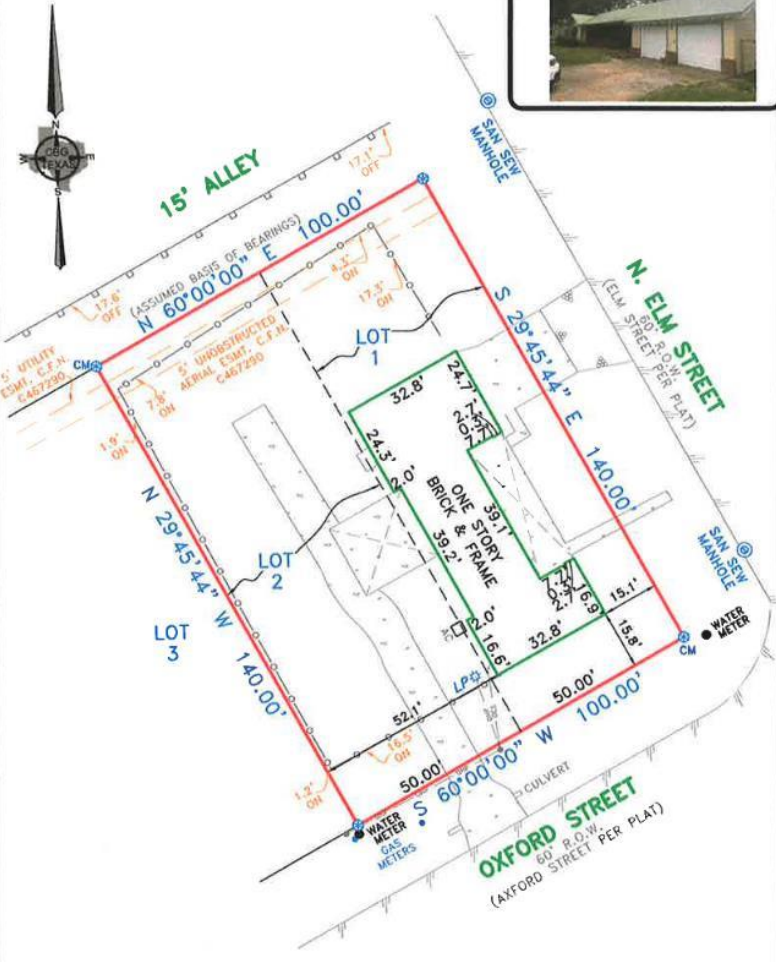
400 N. Elm Street

Lot 1, and 2, in Block 53, of TOWN OF TOMBALL, a subdivision in Harris County, Texas, according to the map or plat thereof, recorded in Volume 2, Page 36 of the Map Records of Harris County, Texas.

stewart title

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- LEGEND**
- 1/2" ROD FOUND
 - ⊗ 1/2" ROD SET
 - 1" PIPE FOUND
 - ⊗ "X" FOUND/SET
 - ⊗ 5/8" ROD FOUND
 - ⊕ POINT FOR CORNER
 - FENCE POST FOR CORNER
 - CM CONTROLLING MONUMENT
 - AC AIR CONDITIONER
 - PE POOL EQUIPMENT
 - TE TRANSFORMER PAD
 - COLUMN
 - POWER POLE
 - ▲ UNDERGROUND ELECTRIC
 - △ OVERHEAD ELECTRIC
 - TELE TELEPHONE PEDESTAL
 - BL BUILDING LINE
 - AE AERIAL EASEMENT
 - SSE SANITARY SEWER EASEMENT
 - GM GAS METER
 - WM WATER METER
 - LP LIGHT POLE
 - UE UTILITY EASEMENT
 - OHP— OVERHEAD ELECTRIC POWER
 - DES— OVERHEAD ELECTRIC SERVICE
 - CHAIN LINK
 - WOOD FENCE 0.5' WIDE TYPICAL
 - I— IRON FENCE
 - X— BARBED WIRE
 - DOUBLE SIDED WOOD FENCE
 - EDGE OF ASPHALT
 - EDGE OF GRAVEL
 - CONCRETE
 - COVERED AREA
 - BRICK
 - STONE



EXCEPTIONS:

NOTE: PROPERTY SUBJECT TO TERMS, CONDITIONS, AND EASEMENTS CONTAINED IN INSTRUMENTS RECORDED IN VOLUME 2, PAGE 36

EASEMENTS RECORDED IN THE FOLLOWING VOLUMES AND PAGES DO NOT AFFECT THE ABOVE DESCRIBED PROPERTY
 VOLUME 834, PAGE 295, VOLUME 974, PAGE 581,
 VOLUME 1221, PAGE 22, C.F.N. R358887

REVISION: 04-01-2022

NOTES:

NOTE: BEARINGS, EASEMENTS AND BUILDING LINES ARE BY RECORDED PLAT UNLESS OTHERWISE NOTED.

FLOOD NOTE: According to the F.I.R.M. No. 48201C0230L, this property does lie in Zone X and DOES NOT lie within the 100 year flood zone.

This survey is made in conjunction with the information provided by Stewart Title. Use of this survey by any other parties and/or for other purposes shall be at user's own risk and any loss resulting from other use shall not be the responsibility of the undersigned. This is to certify that I have on this date made a careful and accurate survey on the ground of the subject property. The plat hereon is a correct and accurate representation of the property lines and dimensions as indicated; location and type of buildings are as shown; and EXCEPT AS SHOWN, there are no visible and apparent encroachments or protrusions on the ground.

Accepted by: _____ Purchaser

Date: _____ Purchaser

Drawn By: HMM/CM

Scale: 1" = 30'

Date: 3-29-2022

GF No.: 1611147

Job No.: 2206315

419 Century Plaza Dr., Ste. 210
 Houston, TX 77073
 P 281.443.9288
 F 281.443.9224
 Firm No. 10194280
 www.cbgtxtile.com

HIGHTOWER INVESTMENTS, LTD.

6115 THEALL RD, HOUSTON, TEXAS 77066

281-440-4405

FAX 281-440-4990

October 6, 2022

City of Tomball
Planning Commission
501 James Street
Tomball, TX 77375

Reference: 400 N. Elm Street

I would like to request a zoning change for 400 N. Elm Street from SF-6 – Single Family 6 District to OT & MU – Old Town & Mixed-Use District. I am requesting this change to make the property more desirable to a purchaser of said property in the future.

Thank you for your consideration.

Sincerely,



William G. Hightower
Hightower Investments LTD

HARRIS COUNTY APPRAISAL DISTRICT
 REAL PROPERTY ACCOUNT INFORMATION
 0352690530001

Tax Year: 2022

Print

Owner and Property Information								
Owner Name & Mailing Address: HIGHTOWER INVESTMENTS LTD 6115 THEALL HOUSTON TX 77066-1401				Legal Description: LTS 1 & 2 BLK 53 TOMBALL 400 N ELM ST TOMBALL TX 77375				
State Class Code	Land Use Code	Land Area	Total Living Area	Neighborhood	Neighborhood Group	Market Area	Map Facet	Key Map ^{1/2}
A1 -- Real, Residential, Single-Family	1001 -- Residential Improved	14,000 SF	1,512 SF	2593.06	26015	400 -- ISD 26 - Tomball ISD	4771B	288H

Value Status Information		
Value Status	Notice Date	Shared CAD
Noticed	03/31/2022	No

Exemptions and Jurisdictions						
Exemption Type	Districts	Jurisdictions	Exemption Value	ARB Status	2021 Rate	2022 Rate
None	026	TOMBALL ISD		Certified: 08/19/2022	1.250000	1.230000
	040	HARRIS COUNTY		Certified: 08/19/2022	0.376930	
	041	HARRIS CO FLOOD CNTRL		Certified: 08/19/2022	0.033490	
	042	PORT OF HOUSTON AUTHY		Certified: 08/19/2022	0.008720	
	043	HARRIS CO HOSP DIST		Certified: 08/19/2022	0.162210	
	044	HARRIS CO EDUC DEPT		Certified: 08/19/2022	0.004990	
	045	LONE STAR COLLEGE SYS		Certified: 08/19/2022	0.107800	
	083	CITY OF TOMBALL		Certified: 08/19/2022	0.333339	
679	HC EMERG SERV DIST 8		Certified: 08/19/2022	0.094245		

Texas law prohibits us from displaying residential photographs, sketches, floor plans, or information indicating the age of a property owner on our website. You can inspect this information or get a copy at HCAD's information center at 13013 NW Freeway.

Valuations			
Value as of January 1, 2021		Value as of January 1, 2022	
	Market	Appraised	
Land	68,250		Market 94,500
Improvement	92,571		Market 92,500
Total	160,821	160,821	Total 187,000

Market Value Land												
Line	Description	Site Code	Unit Type	Units	Size Factor	Site Factor	Appr O/R Factor	Appr O/R Reason	Total Adj	Unit Price	Adj Unit Price	Value
1	1001 -- Res Improved Table Value	SF1	SF	7,000	1.00	1.00	1.00	--	1.00	9.00	9.00	63,000.00
2	1001 -- Res Improved Table Value	SF3	SF	7,000	1.00	0.50	1.00	--	0.50	9.00	4.50	31,500.00

Building						
Building	Year Built	Type	Style	Quality	Impr Sq Ft	Building Details
1	1950	Residential Single Family	Residential 1 Family	Average	1,512 *	Displayed

* All HCAD residential building measurements are done from the exterior, with individual measurements rounded to the closest foot. This measurement includes all closet space, hallways, and interior staircases. Attached garages are not included in the square footage of living area, but valued separately. Living area above attached garages is included in the square footage living area of the dwelling. Living area above detached garages is not included in the square footage living area of the dwelling but is valued separately. This method is used on all residential properties in Harris County to ensure the uniformity of square footage of living area measurements district-wide. There can be a reasonable variance between the HCAD square footage and your square footage measurement, especially if your square footage measurement was an interior measurement or an exterior measurement to the inch.

Building Data		Building Areas	
Element	Detail	Description	Area
Cond / Desir / Util	Fair	BASE AREA PRI	1,512
Foundation Type	Crawl Space	MAS/BRK GARAGE PRI	528
Grade Adjustment	C	OPEN FRAME PORCH PRI	380
Heating / AC	None		
Physical Condition	Good		
Exterior Wall	Frame / Concrete Blk		
Element	Units		
Room: Total	6		
Room: Rec	1		

Room: Half Bath	1
Room: Full Bath	1
Room: Bedroom	2
Masonry Trim	1

Extra Features

Line	Description	Quality	Condition	Units	Year Built
1	Carport - Residential	Fair	Average	440.00	1997

From: noreply@tomballtx.gov
To: [Kimberly Chandler](#)
Subject: Receipt #R01336988
Date: Thursday, October 6, 2022 3:52:50 PM

401 Market Street
401 Market Street
Tomball, TX 77375
(281) 351-5484

DATE : 10/6/2022 3:44 PM
OPER : RP
TKBY : RP
TERM : 2
REC# : R01336988
130.0000 PLANNING AND ZONING
N ELM & OXFORD ST HIGHTOWER INVEST SF6-OTMU 400.00

Paid By:N ELM & OXFORD ST HIGHTOWER INVEST SF6-OTMU
2-CK 400.00 REF:w 1031