

**Rezoning  
Staff Report**

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

**Rezoning Case:** Z23-12

**Property Owner(s):** Delphine Michna & Paul Michna

**Applicant(s):** Delphine Michna & Paul Michna

**Legal Description:** Lot 200 Block 10 Sansom Plaza

**Location:** Located at 611 N. Cherry Street, within the City of Tomball, Harris County, Texas. (Exhibit “A”)

**Area:** 0.29 acres (approximately)

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

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

**Request:** 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)/Tomball Little League Facility

**South:** Single Family Residential – 6 (SF-6)/Single Family Residence

**West:** N. Cherry Street, Single Family Residential – 6 (SF-6)/Vacant Land

**East:** Single Family Residential – 6 (SF-6)/Tomball Little League Facility

**BACKGROUND**

The subject property has been within the city limits of Tomball since at least 1909. Harris County Appraisal District records suggest that the commercial structure which occupies the property was constructed in 1979. The property was placed within a Single Family – 6 (SF-6) zoning district when the City of Tomball initially adopted zoning in 2008, this created a legally non-conforming commercial use of the property. Currently, the existing commercial structure is vacant. As per the applicant, the subject property has always been used for various commercial uses. The applicant’s request is to rezone the subject property to Old Town and Mixed-Use (OT & MU) to bring the commercial use of this property into legal conformity and allow the “highest & best” use of this property according to the applicant.

## **ANALYSIS**

**Description:** The subject property comprises about 0.29 acres and is located at 611 N. Cherry Street. Currently 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. Parcels on the north and east of the subject property contain the non-residential use of Tomball Little League. South of the subject property is a single-family residence. The property to the west across N. Cherry Street is vacant land owned by the City of Tomball.

**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. Given that the entire block that the subject property falls within (aside from one lot) is utilized for commercial purposes and the subject property has been occupied by commercial businesses since at least 1979, the uses which would be allowed by Old Town & Mixed Use zoning would not appear out of character with the area

## **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 Z23-12.

## **EXHIBITS**

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

Exhibit "A"  
Aerial Location Map



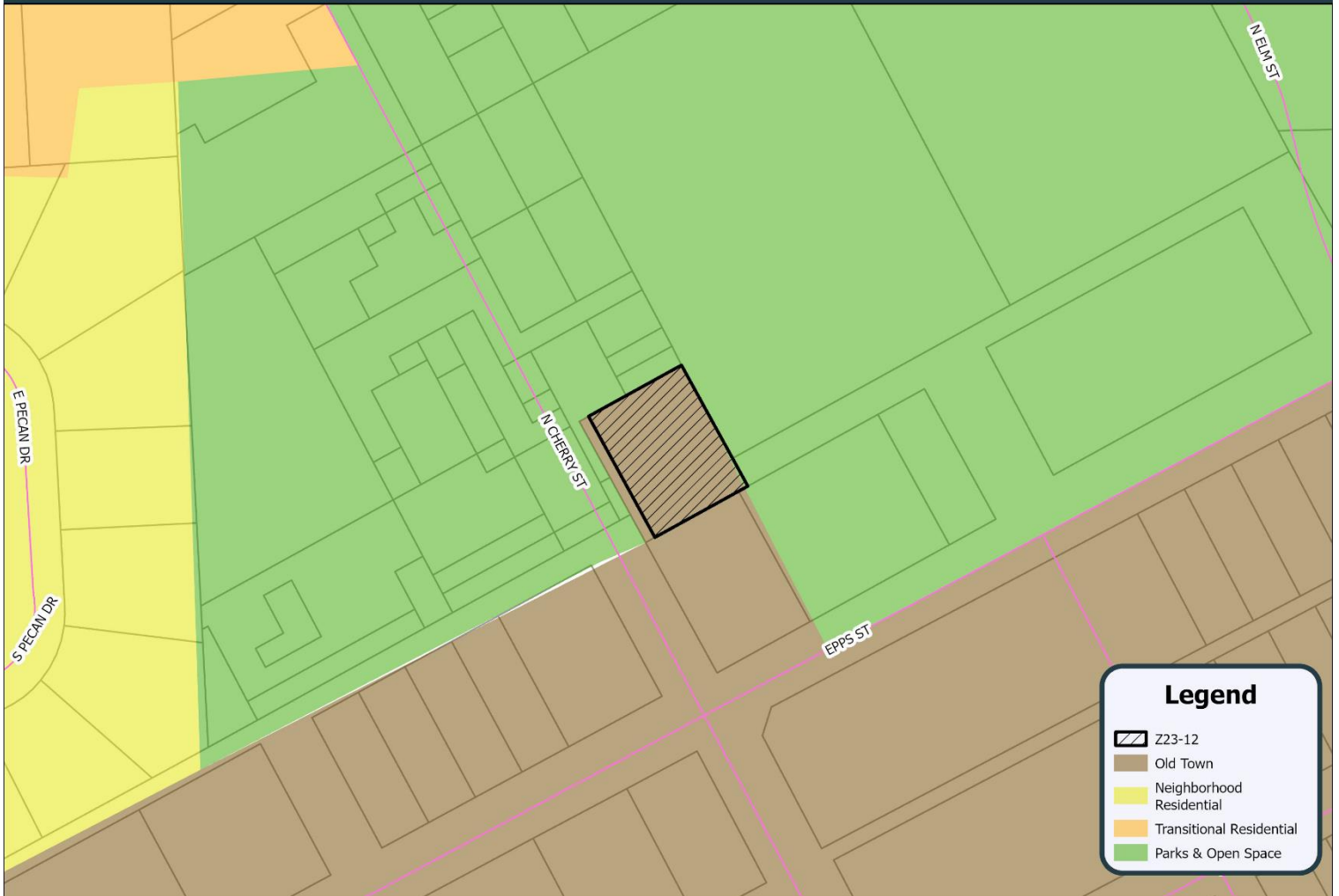
# Location



Exhibit "B"  
Future Land Use Plan



# Future Land Use



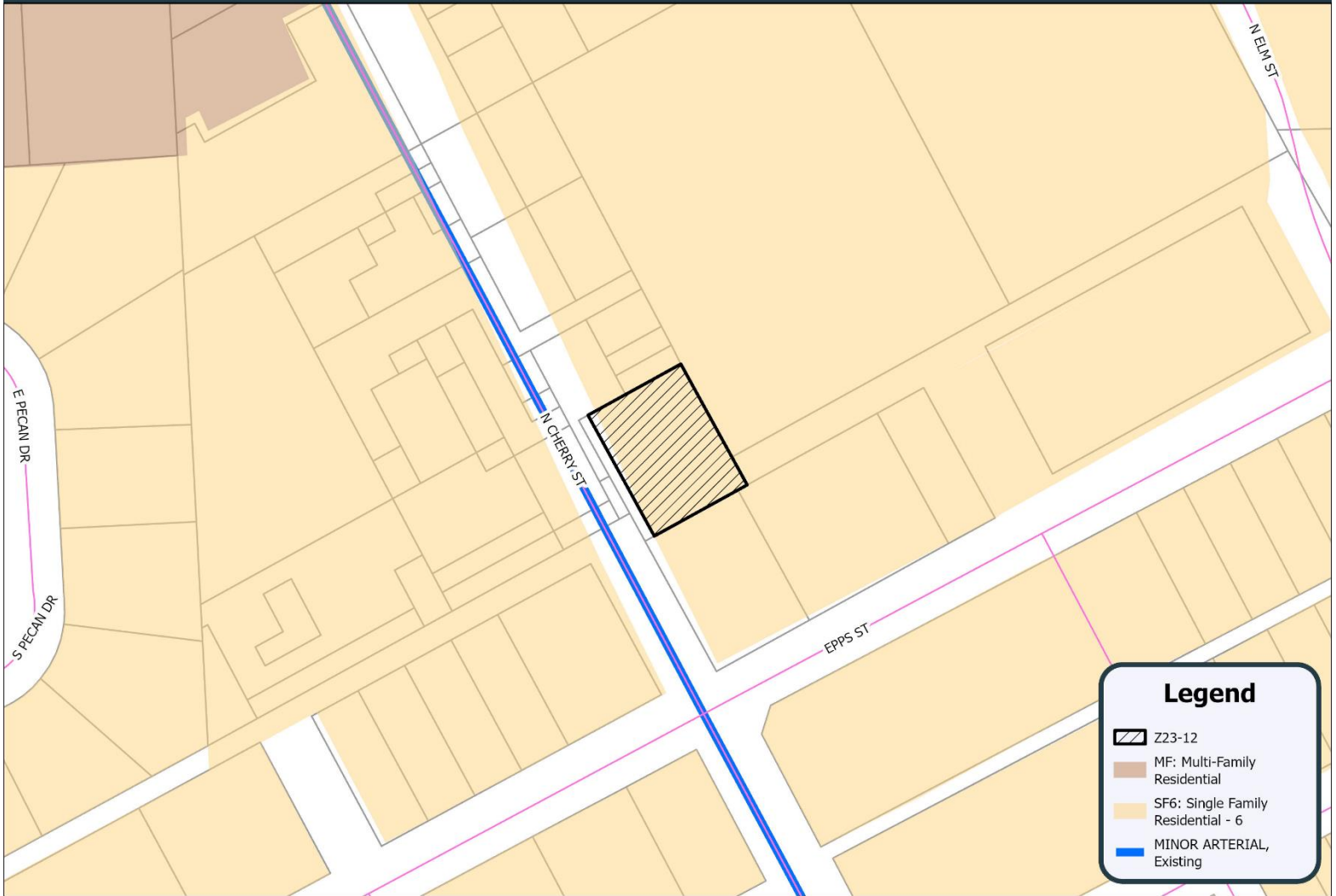
**Legend**

- Z23-12
- Old Town
- Neighborhood Residential
- Transitional Residential
- Parks & Open Space

Exhibit "C"  
Zoning Map



# Zoning



**Legend**

- Z23-12
- MF: Multi-Family Residential
- SF6: Single Family Residential - 6
- MINOR ARTERIAL, Existing

**Exhibit "D"**  
**Site Photo(s)**

**Subject Site**



**Neighbor (West)**



## Neighbor (East)



## Neighbor (North)





Neighbor (South)



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/secure/send](http://tomballtx.gov/secure/send)  
USERNAME: [tombalcedd](#)  
PASSWORD: [Tomball1](#)

Applicant Name: PAUL michiva Title: OWNER  
Mailing Address: 1325 VIRGIE COMMUNITY City: MAGNOLIA State: TEXAS  
Zip: 77354 Contact: PAUL michiva  
Phone: (713) 376-8250 Email: CPmichiva@MSN.COM

Owner Name: PAUL & Delphine michiva Title: OWNERS  
Mailing Address: 1325 VIRGIE COMMUNITY City: MAGNOLIA State: TEXAS  
Zip: 77354 Contact: PAUL michiva  
Phone: (713) 376-8250 Email: CPmichiva@MSN.COM

Engineer (Surveyor) (if applicable) Name: TONY SWONKE Title: OWNER  
Mailing Address: 700 KANE City: TOMBALL State: TEXAS  
Zip: 77375 Contact: \_\_\_\_\_  
Phone: (281) 351-7789 Fax: (\_\_\_\_) \_\_\_\_\_ Email: \_\_\_\_\_

Description of Proposed Project: COMMERCIAL/RETAIL

Physical Location of Property: 611 N. CHERRY TOMBALL, TEXAS 77354  
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: LOT 200 BLOCK TEN of SANSUM PLAZA  
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: SINGLE FAMILY RESIDENTIAL

Current Use of Property: office / warehouse

Proposed Zoning District: OLD TOWN - MIXED USE

Proposed Use of Property: UNDETERMINED

HCAD Identification Number: 138 367 001 0001 Acreage: .328 Ac per Survey

**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 Carey Nichols 8-30-23  
Signature of Applicant Date

X Walter Line Nichols 8/30/2023  
Signature of Owner Date

**From:** [noreply@mail.tdr.tylerhosting.cloud](mailto:noreply@mail.tdr.tylerhosting.cloud)  
**To:** [Kimberly Chandler; customerservice](#)  
**Subject:** Receipt #R01370474  
**Date:** Wednesday, July 19, 2023 11:45:59 AM

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Caution: This is an external email and may be malicious. Please take care when clicking links or opening attachments.

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

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DATE : 7/19/2023 11:05 AM  
OPER : SM  
TKBY : SM  
TERM : 6  
REC# : R01370474  
130.0000 PLANNING AND ZONING  
611 n cherry 1000.00

Paid By:611 n cherry  
2-CK 1000.00 REF:w 254

A plat of Lot 200 in Block 10 of  
**SANSOM PLAZA,**  
 an addition in Harris County, Texas, according to the map or plat thereof recorded  
 under Film Code No. 680064 of the Map Records of Harris County, Texas.

City of Tomball  
 Baseball Park

ADDRESS

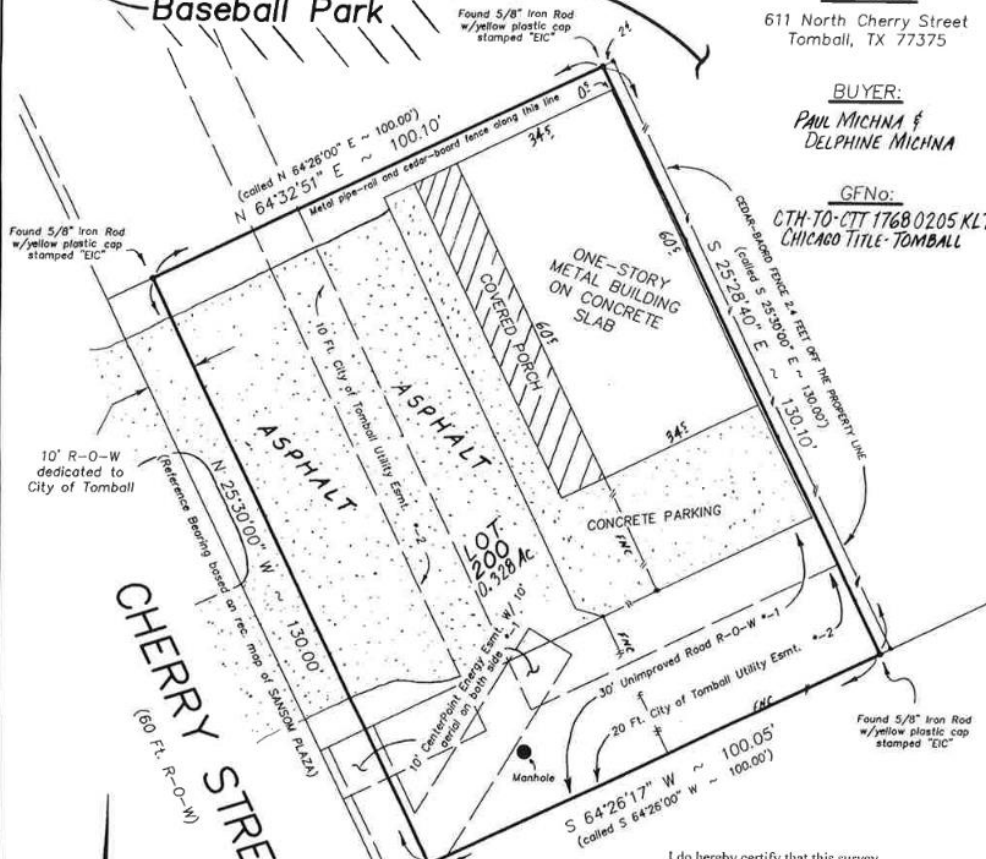
611 North Cherry Street  
 Tomball, TX 77375

BUYER:

PAUL MICHNA &  
 DELPHINE MICHNA

GFNo:

CTH-10-CTT 1768.0205 KLT  
 CHICAGO TITLE- TOMBALL



CHERRY STREET  
 (60 Ft. R-O-W)

I do hereby certify that this survey substantially conforms to the current Texas Society of Professional Surveyors Standards and Specifications for a Category 1A Condition II Survey.

and...  
 that this survey was made under my supervision on the ground of the property described and depicted above and is correct in all that it implies. All improvements are shown and there are no conflicts, discrepancies, shortages in area or boundary lines, or any overlapping of improvements except as shown hereon. All visible easements and rights-of-way are shown.

Signed, stamped and dated this 19<sup>TH</sup> day of JUNE, 2017.

UPDATES/ ADDITIONS/ REVISIONS:

SCALE: 1" = 20 Ft.  
 0 5 10 15 20



\*-1 is per HCCFNo. RP-2016-359516

\*-1 is per the recorded subdivision plat

Prepared by  
**Tony Swonke Land Surveying**  
 700 Kanc Street  
 Tomball, TX 77375  
 281-351-7789

To whom it may concern:

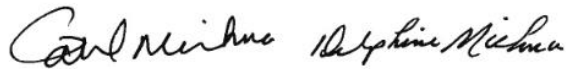
July 17, 2023

Thank you for the opportunity to seek a change in the zoning classification of our property at 611 N. Cherry. We are requesting the property be rezoned from Single Family Residential (SFR) to Old-Town Mixed Use (OT-MU).

The building was constructed in 1979 and has continually been used as a business or a commercial venture. There is only one residence in this entire block and, other than our building, Tomball Little League occupies the rest of the block.

Zoned as a (SFR) has restricted the property being used for its highest and best use. We believe rezoning the property will be mutually beneficial for all concerned. We thank the City Staff for their support of our attempt to rezone.

Thank you for your consideration of our request and look forward to discussing this matter with you.

Handwritten signature of Paul and Delphine Michna in cursive script.

Paul and Delphine Michna, Owners