

**Rezoning
Staff Report**

Planning & Zoning Commission Public Hearing Date: January 13, 2025
City Council Public Hearing Date: February 3, 2025

Rezoning Case: Z25-01
Property Owner(s): Kitchens Real Estate Family Partnership LTD
Applicant(s): J. Edwards Concrete & Construction LLC
Legal Description: Being all of the 1.2035 and 0.0740 acre tracts (2L and 2Y) out of a called 160 acre tract, located in the C.N. Pillot Survey, Abstract No. 632
Location: 27223 SH 249 (Exhibit "A")
Area: 1.2618 acres
Comp Plan Designation: Corridor Commercial (Exhibit "B")
Present Zoning: Agricultural (AG) District (Exhibit "C")
Request: Rezone from the Agricultural (AG) to the Commercial (C) District
Adjacent Zoning & Land Uses:
North: Commercial (C) with CUP (Manufactured Home Display and Sales) / Clayton Homes
South: Commercial (C) and Agricultural (AG) / Gas Station, vacant shop building, and Tomball Rental Center
East: Commercial (C) / Palm Harbor Homes - Tomball
West: Agricultural (AG) / Undeveloped land

BACKGROUND

The subject property currently has approximately 4,800 square feet of office space and covered equipment storage being utilized by Tomball Rental Center. This rezoning request aims to satisfy a requirement associated with an Existing Commercial Building Permit that was applied for by the applicant. This building permit is for the construction of a new 3,600 metal building. For the city to issue any building permits for the subject property it must be zoned appropriately. The existing buildings on the property were constructed prior to zoning and are considered legally nonconforming.

ANALYSIS

Comprehensive Plan Recommendation: The property is designated as “Corridor Commercial” by the Comprehensive Plan’s Future Land Use Map. The Corridor Commercial designation is intended for predominantly nonresidential uses along high-traffic, regionally serving thoroughfares.

According to the Comprehensive Plan, land uses should consist of regional commercial businesses, professional offices, multi-family, retail, entertainment, dining, hotels, and brew pubs/distilleries. Appropriate secondary uses include private gathering spaces, local utility services, government facilities, and transportation uses.

The Comprehensive Plan identifies the following zoning districts as compatible with the Corridor Commercial designation: Office (O), General Retail (GR), Commercial (C), Mixed Use (MU), and Multi-family (MF). Also identified in the Comprehensive Plan is development guidance, which focuses on providing primary access from an arterial street while incorporating safe and comfortable pedestrian enhancements.

Staff Review Comments: The request to rezone the subject property to the Commercial (C) District is in conformance with the Future Land Use Plan. Furthermore, the subject property has frontage onto SH 249 which is designated as a Major Arterial on Tomball’s Major Thoroughfare Plan. Roadways such as this are designed to accommodate the volume and character of traffic that can be expected within the Commercial District. The approval of the requested rezoning will allow the applicants to grow their business, which is consistent with the type of development patterns and character endorsed by the Future Land Use Plan for this 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 December 27, 2024. 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 Z25-01.

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

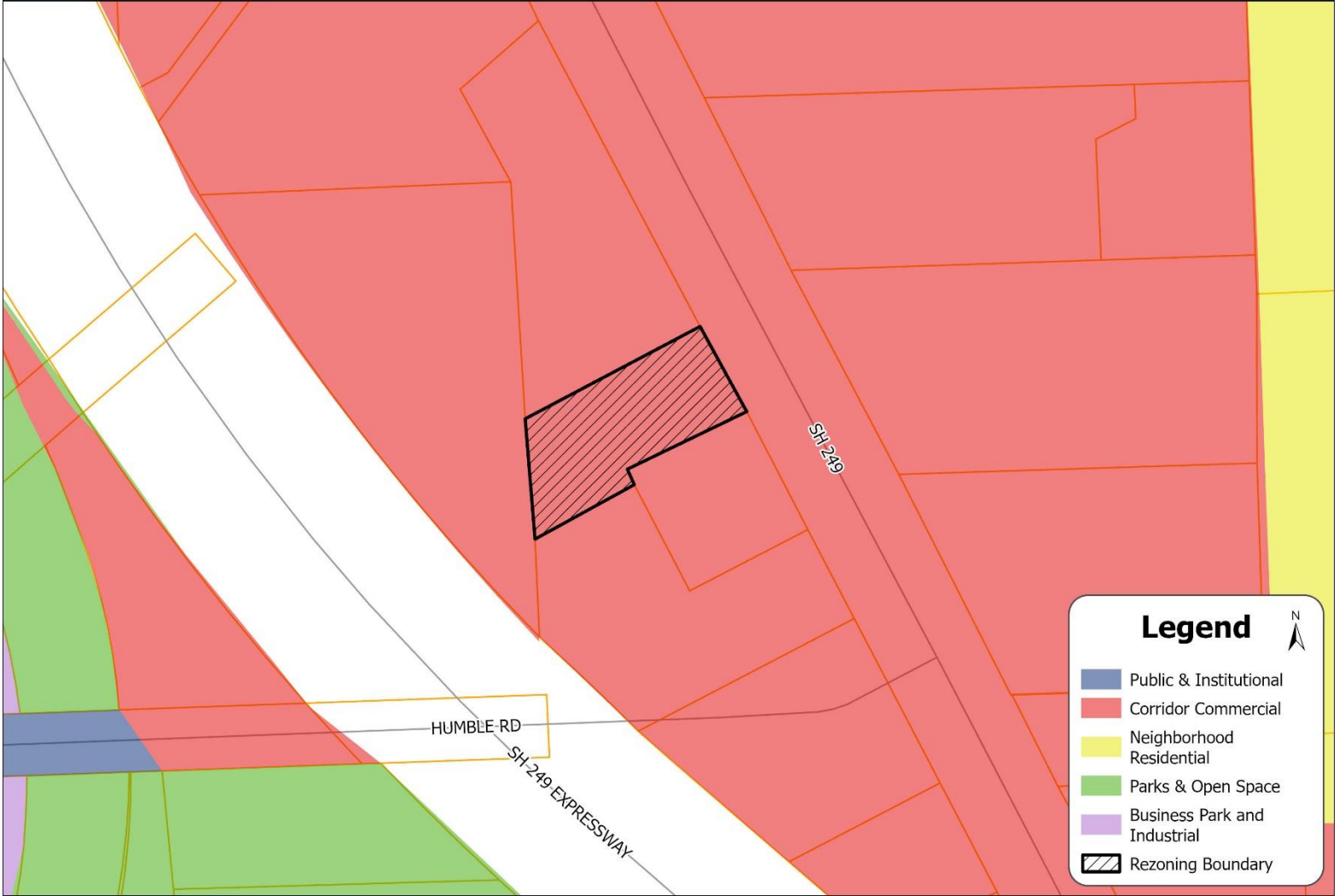


Exhibit "C"
Zoning Map

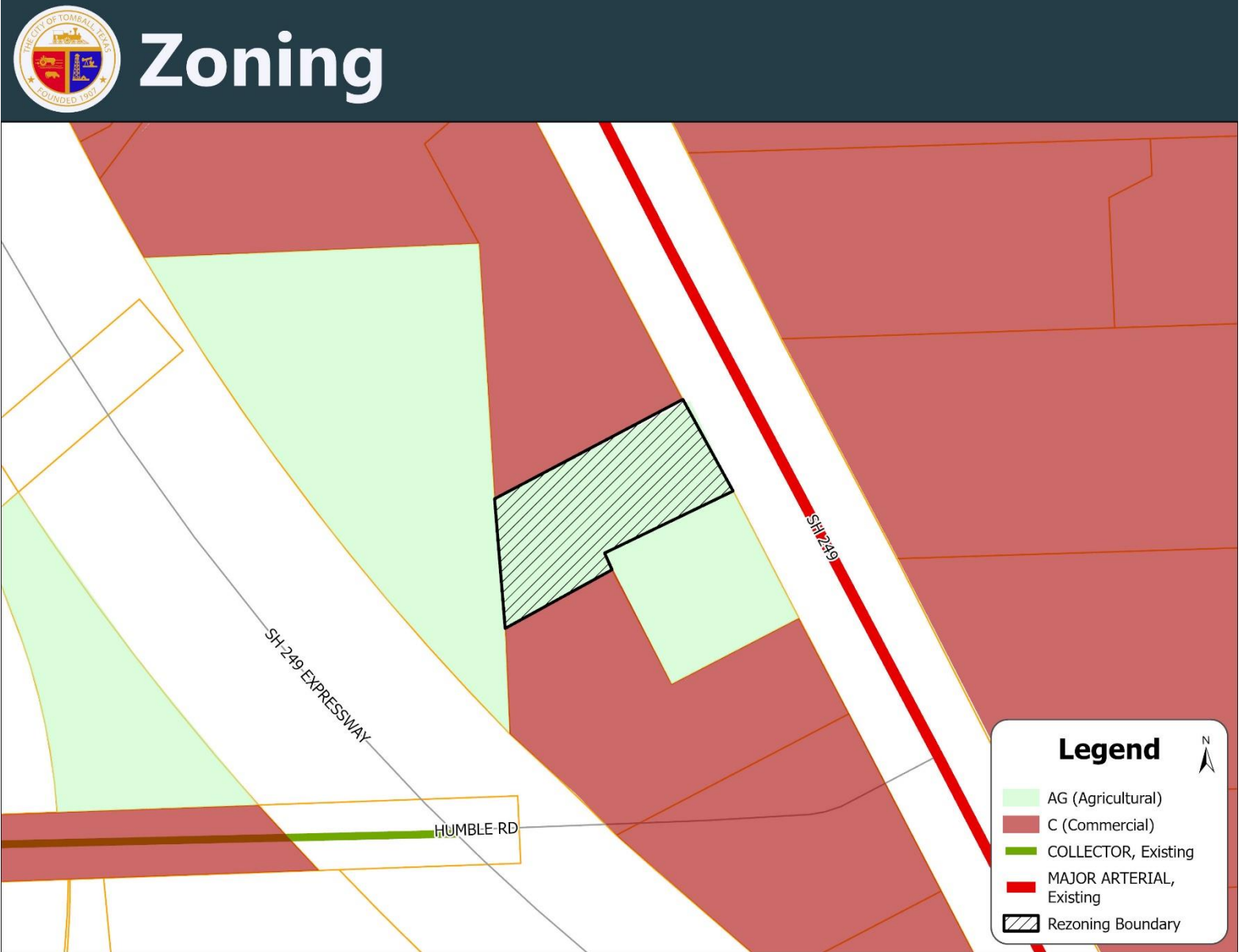


Exhibit "D"
Site Photo(s)
Subject Site



Neighbor (North)



Neighbor (South)



Neighbor (South)



Neighbor (East)



Neighbor (West)



Exhibit "E"
Rezoning Application



Revised: 08/25/2023

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.

FEES: Must be paid at time of submission or application will not be processed.

- \$1,000.00 fee for requests to rezone to standard zoning districts
- \$1,500.00 fee for request to rezone to Planned Development districts.

DIGITAL APPLICATION SUBMITTALS:

PLEASE SUBMIT YOUR APPLICATIONS AND PLANS DIGITALLY WITHIN SMARTGOV

WEBSITE: ci-tomball-tx.smartgovcommunity.com

Applicant

Name: J Edwards Concrete & Construction LLC Title: Office Manager
Mailing Address: 10915 Crawford Circle City: Montgomery State: TX
Zip: 77316 Contact: Sarah Louviere
Phone: (348) 225-9686 Email: sarah@jedwardsconcrete.com

Owner

Name: Keith Kitchens / Kitchens Real Estate Family Partnership LTD Title: President
Mailing Address: 27219 State Highway 249 City: Tomball State: TX
Zip: 77375 Contact: Keith Kitchens
Phone: (281) 351-8144 Email: keith@tomballrental.com

Engineer/Surveyor (if applicable)

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

Description of Proposed Project: Storage Warehouse

Physical Location of Property: 27223 State Highway 249
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: TRS 2L & 2Y ABST 632 C N PILLOT
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: (AG) : Agricultural

Current Use of Property: STORAGE

Proposed Zoning District: ~~(AC) Agricultural~~ Commercial

Proposed Use of Property: STORAGE

HCAD Identification Number: 044058000009 Acreage: 1.2

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 [Signature] 10/30/24
 Signature of Applicant Date

X [Signature] 10-30-2024
 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 (standard zoning) or \$1,500.00 (PD zoning)**
- **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.



J EDWARDS CONCRETE & CONSTRUCTION, LLC.

10915 Crawford Circle,
Montgomery, TX 77316
346-225-9686 * 281-323-1615
sarah@jedwardsconcrete.com
john@jedwardsconcrete.com

To Whom it May Concern,

We are planning to start a project at 27219 State Highway 249, Tomball, TX 77375 that requires a permit. In order to get approval for building permit we need to rezone from the current AG zone into the appropriate zoning district.

Please see attached Deficiency Notice received from the City of Tomball.

Please advise of next steps.

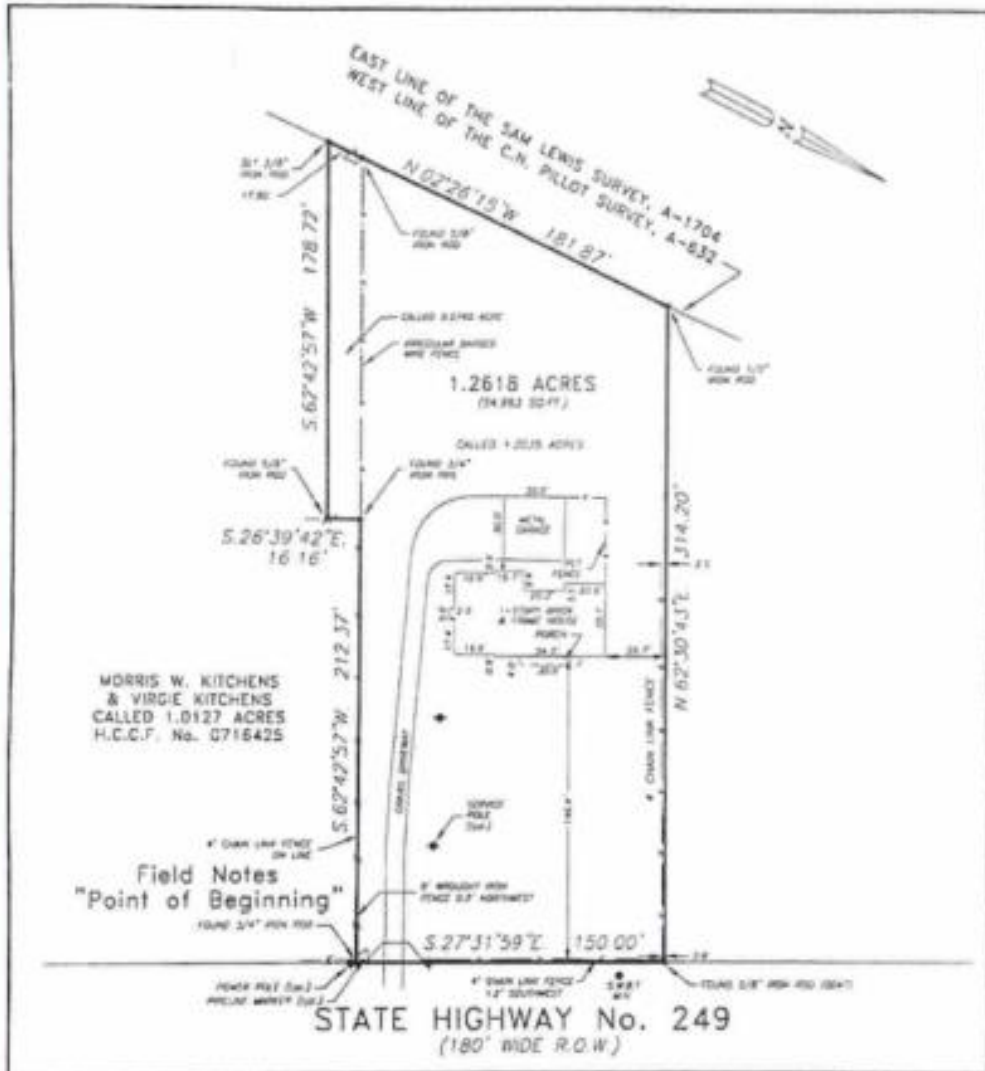
Sincerely,

J Edwards Concrete & Construction, LLC.

4. [Page 1] [Subject Text Box] [Author Benjamin T Lashley] [Status None] Drawing.pdf

10/16/2024

The land use exercised on this property is currently "Nonconforming" within the Agricultural zoning district. Before any expansions can be approved, this property needs to be rezoned into an appropriate zoning district. Please contact blashley@tomballtx.gov for more information. This property is not platted and will require a formal subdivision plat to be reviewed and approved by the City and Recorded at the Harris County Clerk's Office before this Site Permit can be issued. Please contact jsalgado@tomballtx.gov for more information.



MORRIS W. KITCHENS
& VIRGIE KITCHENS
CALLED 1.0127 ACRES
H.C.C.F. No. 0716425

Field Notes
"Point of Beginning"

STATE HIGHWAY No. 249
(180' WIDE R.O.W.)

LOT	N/A	BLOCK	N/A	SUBDIVISION	N/A	SECTION	N/A
RECORDATION	N/A			COUNTY	HARRIS	STATE	TEXAS
ADDRESS	27223 S.H. 249			CITY	TOMBALL	SURVEY	C.N. PILOT SURVEY, A-632
PURCHASER	GREGORY D. KITCHENS AND BEVERLY D. KITCHENS			TITLE COMPANY	ALAMO TITLE	UNDER	KLEIN BANK
						OF No	9850271299

I DO HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND FOR THE PROPERTY LEGALLY DESCRIBED HEREON (OR ON ATTACHED SHEET) CORRECTLY REPRESENTS THE FACTS FOUND AT THIS TIME THERE WERE NO APPARENT CONFLICTS IN BOUNDARY LINES OR ENCROACHMENTS OR IMPROVEMENTS, EXCEPT AS SHOWN.

THIS PROPERTY IS NOT IN THE 100 YEAR FLOOD ZONE, IS IN ZONE X PER F.I.R.M. MAP No. 48201C 0210 DATED NOVEMBER 6, 1996



David J. Willard



EAGLE SURVEYS INTERNATIONAL, INC.
34914 S.H. 249, SUITE 180, TOMBALL, TX, 77375
PHONE: (281) 357-8848 FAX: (281) 357-4715

FIELD WORK	P.E.	5-9-98
DRAFTED BY	D.J.M.	5-14-98
JOB No	98-05-1061	
REV. MAP No	288-Q	SCALE 1"=60'

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 of record in the public records: your social security number or your driver's license number.

SPECIAL WARRANTY DEED
(with Vendor's Lien)

THE STATE OF TEXAS §
 § **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF HARRIS §

THAT **GREGORY D. KITCHENS AND BEVERLY D. KITCHENS**, owning property in the County of **Harris**, Texas, hereinafter called "Grantor" (whether one or more), for and in consideration of the sum of **TEN AND NO/100 DOLLARS (\$10.00)** and other good and valuable consideration to Grantor in hand paid by **KITCHENS REAL ESTATE FAMILY PARTNERSHIP, LTD.**, hereinafter called "Grantee" (whether one or more), whose mailing address is 23015 Kobs Road, Tomball, Texas 77375, the receipt and sufficiency of which are hereby acknowledged and confessed, and for the further consideration of the execution and delivery by said Grantee of one certain Promissory Note in the principal sum of **Two Hundred Ninety-Six Thousand Dollars and 00/100 (\$296,000.00)**, of even date herewith, payable to the order of **GREGORY D. KITCHENS AND BEVERLY D. KITCHENS**, hereinafter called "Mortgagee", bearing interest at the rate therein provided; said Note containing an attorney's fee clause and various acceleration of maturity clauses in case of default, and being secured by Vendor's Lien and Superior Title retained herein in favor of said Grantor and assigned to Mortgagee, and also being secured by a Deed of Trust of even date herewith from Grantee to **Timothy Radman**, Trustee; and

WHEREAS, Mortgagee has, at the special instance and request of Grantee, paid to Grantor a portion of the purchase price of the property hereinafter described, as evidenced by the above-described Note, said Vendor's Lien and Superior Title against said property securing the payment of said Note is hereby assigned, transferred and delivered without recourse to Mortgagee, Grantor hereby conveying to said Mortgagee the said Superior Title to said property, subrogating said Mortgagee to all the rights and remedies of Grantor in the premises by virtue of said lien;

And Grantor has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY, unto said Grantee, the following described real property, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART THEREOF

TO HAVE AND TO HOLD the above-described premises, together with all and singular the rights and appurtenances thereunto in anywise belonging, unto said Grantee, his personal representatives, heirs, successors and assigns, FOREVER. Grantor does hereby bind himself, his personal representatives, heirs, successors and assigns, TO WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantee, its 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.**

RP-2022-481318

UNOFFICIAL COPY

RP-2022-481318

This Deed is executed, delivered and accepted subject to all and singular any liens securing the payment of any debt created or assumed in connection herewith if such liens are described herein, standby fees, ad valorem taxes for the current and all subsequent years, subsequent assessments for prior years due to changes in land usage or ownership, zoning ordinances, utility district assessments and standby fees, if any, applicable to and enforceable against the above described property, and all valid utility easements created by the dedication deed or plat of the subdivision in which said real property is located, covenants, restrictions common to the platted subdivision in which said real property is located, mineral reservations, maintenance fund liens, and any title or rights asserted by anyone, including, but not limited to, persons, corporations, governments or other entities to tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs or oceans, or to any land extending from the line of the harbor or bulkhead lines as established or changed by any government or to filled-in lands, or artificial islands, or to riparian rights or other statutory water rights, or the rights or interests of the State of Texas or the public generally in the area extending from the line of mean low tide to the line of vegetation or the right of access thereto, or right of easement along and across the same, if any, applicable to and enforceable against the above described property as shown by the records of the County Clerk of the County in which said real property is located.

It is expressly agreed that the Grantor herein reserves and retains for himself, his personal representatives, heirs and assigns, a Vendor's Lien, as well as the Superior Title, against the above-described property, premises and improvements, until the above-described Note and all interest thereon have been fully paid according to the terms thereof, when this Deed shall become absolute.

WHEN this Deed is executed by more than one person, or when the Grantee is more than one person, the instrument shall read as though pertinent verbs, nouns and pronouns were changed correspondingly, and when executed by or to a corporation, the words, "heirs, executors and administrators" or "heirs and assigns" shall be construed to mean "successors and assigns".

Reference to any gender shall include either gender and, in the case of a corporation, shall include the neuter gender, all as the case may be.

DATED this the 9 day of September, 2022.

GRANTORS:

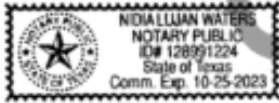
Gregory D. Kitchens
Gregory D. Kitchens

Beverly D. Kitchens
Beverly D. Kitchens

ACKNOWLEDGMENT

STATE OF Texas
COUNTY OF Harris

This instrument was acknowledged before me on the 9 day of September, 2022, by **Gregory D. Kitchens.**

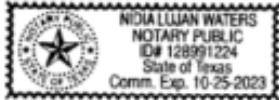


[Signature]
Notary Public, State of Texas
Nidia L. Waters
Printed Name

ACKNOWLEDGMENT

STATE OF Texas
COUNTY OF Harris

This instrument was acknowledged before me on the 9 day of September, 2022, by **Beverly D. Kitchens.**



[Signature]
Notary Public, State of Texas
Nidia L. Waters
Printed Name

RP-2022-481318

RETURN TO:
Kitchens Real Estate Family Partnership, LTD.
24227 Cougar
Magnolia, Texas 77355

WARRANTY DEED – Page 3 of 4 Pages

EXHIBIT "A"

A 1.2618 acre tract of land (54,963 square feet) being all of a called 1.2035 acre tract as described in a deed recorded in Volume 7326, Page 570 of the Harris County Deed Records and all of a called 0.0740 acre tract out of a called 160 acre tract as described in Volume 3395, Page 47 of the Harris County Deed Records, located in the C.N. Pillot Survey, Abstract 632, City of Tomball, Harris County, Texas, said 1.2618 acre tract being more particularly described as follows:

BEGINNING at a ¼ inch iron rod found in the southwesterly right of way line of State Highway No. 249 (a 180 foot wide right-of-way), said point being the southeast corner of said 1.2035 acre tract and the northeast corner of a called 1.0127 acre tract as described under Harris County Clerk's File No. G716425;

THENCE, South 62° 42' 57" West, along a common northerly line of said 1.0127 acre tract and the southerly line of said 1.2035 acre tract, a distance of 212.37 feet to a ¼ inch iron pipe found for a southwest corner of said 1.0127 acre tract and the northwest corner of said 0.0740 acre tract;

THENCE, South 26° 39' 42" East, along the common northeast line of said 0.0740 acre tract and a southwest line of said 1.0127 acre tract, a distance of 16.16 feet to a 5/8 inch iron rod found for corner;

THENCE, South 62° 42' 57" West, along a common northerly line of said 1.0127 acre tract and the southerly line of said 0.0740 acre tract, a distance of 178.72 feet to a 5/8 inch iron rod set for the southwest corner of said 0.0740 acre tract and of the herein described tract, said point being in the common west line of the aforesaid C.N. Pillot Survey and the east line of the Sam Lewis Survey, Abstract No. 1704;

THENCE, North 02° 26' 15" West, along said survey line, at 17.80 feet passing a 5/8 inch iron rod found for the southwest corner of said 1.2035 acre tract, in all a distance of 181.87 feet to a ½ inch iron rod found for the northwest corner of said 1.2035 acre tract;

THENCE, 62° 30' 43" East, along the northerly line of said 1.2035 acre tract, a distance of 314.20 feet to a 5/8 inch iron rod found for the northwest corner of said 1.2035 acre tract and of the herein described tract, said point being in the southwesterly right-of-way line of said State Highway No. 249;

THENCE, South 27° 31' 59" East, along the southwesterly right-of-way line of said State Highway No. 249, a distance of 150.00 feet to the POINT OF BEGINNING and containing a computed area of 1.2618 acres of land.

This description is based on a ground survey completed on May 9, 1998, and is submitted in conjunction with a survey drawing dated May 14, 1998, Eagle Surveys International, Inc., Job No. 98-05-1061.

RP-2022-481318

RP-2022-481318

RP-2022-481318
Pages 5
09/27/2022 10:57 AM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
TENESHIA HUDSPETH
COUNTY CLERK
Fees \$30.00

COPY UNOFFICIAL

RECORDERS MEMORANDUM
This instrument was received and recorded electronically
and any blackouts, additions or changes were present
at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or
use of the described real property because of color or
race is invalid and unenforceable under federal law.

THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in
File Number Sequence on the date and at the time stamped
hereon by me; and was duly RECORDED in the Official
Public Records of Real Property of Harris County, Texas.



Teneshia Hudspeth
COUNTY CLERK
HARRIS COUNTY, TEXAS