

**NOTICE OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



MONDAY, OCTOBER 17, 2011

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, October 17, 2011 at 6:00 P.M., City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The Tomball City Council reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

1.0 Call to Order

2.0 Invocation

- Led by Brother James Roberson, Hufsmith Church of Christ

3.0 Pledges to U.S. and Texas Flags

- Led by Members of the Tomball High School Student Council

4.0 Public Comments and Receipt of Petitions *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law.]*

5.0 Reports and Announcements

- **Farmers Market** – 9 a.m.-1:00 p.m. (Every Saturday, September 10-November 12)
- October 22, 2011 – **2nd Annual American Heart Association's Northwest Harris County Virtual Heart Walk** to support the American Heart Association – 9:30 a.m.; Heart Walk routes (1, 2 or 3 mile options) begin at The Heart Center at Tomball Regional (north entrance; use free parking garage or adjacent lots)
- October 24, 2011 – Tourism Advisory Committee Meeting – moved to 4:00 p.m.
- October 24, 2011 – Special Council and Planning and Zoning Commission Meeting regarding the Downtown Specific Plan – 6:00 p.m.
- October 28-29, 2011 – **Fire Department Fall Festival, 709 West Main** – 7:00 p.m. -12:00 Midnight
- November 1, 2011 – **Mayor's Coffee** – 5:30 p.m.-7:00 p.m., **Nona's Italian Grill**
- November 7, 2011 - Appointments to Tourism Advisory Committee for Terms expiring December 5, 2011
- November 12, 2011 – **2nd Saturday at the Depot – 5:00 p.m.**
- November 19, 2011 – **46th Annual Holiday Parade** – 10:00 a.m.
- November 19, 2011 - **Special Walk Tomball** in the **Holiday Parade** behind the *Walk Tomball! It's a Wonderful Life* banner – 10:00 a.m.
- November 19, 2011 – **Tomball Art Walk**, 11:00 a.m.–6:00 p.m.; Free Concert at the Depot, 4:00 p.m.–7:30 p.m.
- **Walk Tomball!** (Every Saturday at 9:00 a.m. at the Depot)
- Reports by City staff and members of Council about items of community interest on which no action will be taken
 - David Kauffman - **Fall Cleanup Week and E-Waste and Shredding Event**
 - Mike Baxter – October 8, 2011 **2nd Saturday at the Depot "Spooktacular"** and October 15, 2011 **Tomball Art Walk**

6.0 Approve the Minutes of the following Council Meetings:

- Regular Council Meeting – October 3, 2011
- Special Council Meeting – October 10, 2011

7.0 New Business:

- 7.1 Approve Resolution No. 2011-21, a Resolution of the City Council of the City of Tomball, Texas, Supporting the 46th Annual Tomball Holiday Parade, **“All Texas, All the Time”**, to be held in Tomball on Saturday, November 19, 2011 and to Approve Requested Street Closures and In-kind Services
- 7.2 Receive the City Manager's Amendment to the Amended Vested Rights Determination Letter dated September 21, 2011, regarding Timkin Office Park/Chestnut Business Park.
- 7.3 Adopt \$0.230000 as Portion of the Tax Rate for the Interest and Sinking (Debt Service) Fund for FY 2012

- 7.4 Adopt \$0.111455 as the Portion of the Tax Rate to Fund Maintenance and Operations (M&O) for FY 2012
- 7.5 Adopt, on First Reading, Ordinance No. 2011-19, an Ordinance of the City of Tomball, Texas, Setting the Tax Levy of \$0.341455/\$100 Value Assessed for the Year 2011 on All Taxable Real and Personal Property Located in the City of Tomball, Texas; Allowing for Homestead Exemptions for Property Owners Sixty-Five Years of Age and Over, and for Property Owners Who Qualify for Disability Benefits Under the Federal Old Age, Survivors, and Disability Insurance Program; Providing for Penalty, Interest, and Additional Penalty on Taxes Not Timely Paid; and Providing Other Matters Relating to the Subject
- 7.6 Public Hearing regarding Proposed Ordinance No. 2011-24, Opting Out of the "Super Freeport Exemption" created by Senate Bill 1 and Providing for the Taxation of Tangible Personal Property in Transit ("Goods-in-Transit")
- 7.7 Adopt, on First Reading, Ordinance No. 2011-24, an Ordinance of the City of Tomball, Texas, Providing for the Taxation of Tangible Personal Property in Transit, which would otherwise be Exempt from Taxation Pursuant to Texas Tax Code, Section 11.253; Repealing all Ordinances or Parts of Ordinances Inconsistent or In Conflict Herewith; and Providing for Severability
- 7.8 Consideration to Approve **ZONING CASE P11-354**: Request by Abandoned Animal Rescue to amend the City's Comprehensive Zoning Ordinance to rezone approximately 5 acres of land, legally described as Lot 61, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located northerly of Hufsmith Road, westerly of the unimproved Neal Street right-of-way, from the Single-Family Estate Residential-20 District to the Agricultural District.
- Conduct a Public Hearing on **ZONING CASE P11-354**
 - Adopt on First Reading, Ordinance No. 2011-25, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 5 acres of land, legally described as lot 61, Tomball Outlots, within the City of Tomball, Harris County, Texas, from the Single-Family Estate Residential-20 District to the Agricultural District; Said property being generally located Northerly of Hufsmith Road, Westerly of the unimproved Neal Street Right-of-Way; Providing for the Amendment of the Official Zoning Map of the City; Providing for severability; Providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, Making findings of fact; and providing for other related matters
- 7.9 Consideration to Approve **ZONING CASE P11-359**: Request by Richard Middleton, on behalf of M.H.B. Holdings LLC, for a Conditional Use Permit to operate a "Carpet and Rug Cleaning Plant." The property is an approximately 0.3214 acre site, legally described as Lot 2, Block 66, Tomball Townsite Amending Plat, generally located on the westerly side of Live Oak Street, northerly of Main Street at 212 East Main Street, Tomball, Texas. The site is located in the Old Town & Mixed Use District.
- Conduct a Public Hearing on **ZONING CASE P11-359**

- Adopt on First Reading, Ordinance No. 2011-26, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by granting a Conditional Use Permit to M.H.B. Holdings LLC, to operate a “carpet and rug cleaning plant”; Said tract being an approximately 0.3214 acre site, and being legally described as lot 2, block 66, Tomball Townsite Amending Plat, generally located on the Westerly side of Live Oak Street, Northerly of Main Street at 212 East Main Street, Tomball, Texas; Providing requirements and conditions for this Conditional Use Permit; Containing findings and other provisions relating to the subject; Providing a penalty in an amount not to exceed two thousand dollars for violations hereof; and providing for severability.

8.0 Adjournment

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 14th day of October 2011 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Doris Speer

Doris Speer

City Secretary, TRMC

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information.

AGENDAS MAY ALSO BE VIEWED ONLINE AT www.ci.tomball.tx.us.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: October 17, 2011

Topic:

- **Farmers Market** – 9 a.m.-1:00 p.m. (Every Saturday, September 10-November 12)
- October 22, 2011 – **2nd Annual American Heart Association's Northwest Harris County Virtual Heart Walk** to support the American Heart Association – 9:30 a.m.; Heart Walk routes (1, 2 or 3 mile options) begin at The Heart Center at Tomball Regional (north entrance; use free parking garage or adjacent lots)
- October 24, 2011 – Tourism Advisory Committee Meeting – moved to 4:00 p.m.
- October 24, 2011 – Special Council and Planning and Zoning Commission Meeting regarding the Downtown Specific Plan – 6:00 p.m.
- October 28-29, 2011 – **Fire Department Fall Festival, 709 West Main** – 7:00 p.m. -12:00 Midnight
- November 1, 2011 – **Mayor's Coffee** – 5:30 p.m.-7:00 p.m., **Nona's Italian Grill**
- November 7, 2011 - Appointments to Tourism Advisory Committee for Terms expiring December 5, 2011
- November 12, 2011 – **2nd Saturday at the Depot – 5:00 p.m.**
- November 19, 2011 – **46th Annual Holiday Parade** – 10:00 a.m.
- November 19, 2011 - **Special Walk Tomball** in the **Holiday Parade** behind the *Walk Tomball! It's a Wonderful Life* banner – 10:00 a.m.
- November 19, 2011 – **Tomball Art Walk**, 11:00 a.m.–6:00 p.m.; Free Concert at the Depot, 4:00 p.m.–7:30 p.m.
- **Walk Tomball!** (Every Saturday at 9:00 a.m. at the Depot)
- Reports by City staff and members of Council about items of community interest on which no action will be taken
 - David Kauffman - **Fall Cleanup Week and E-Waste and Shredding Event**
 - Mike Baxter – October 8, 2011 **2nd Saturday at the Depot "Spooktacular"** and October 15, 2011 **Tomball Art Walk**

Background:

Origination:

Recommendation:

Funding:

Party(ies) responsible for placing this item on agenda:

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Virtual Heart Walk - October 22

Fire Department Fall Festival

Mayor's Coffee

Heart Walk Tomball 2011

Red Route: 5K
Purple Route: 1 Mile

2nd Annual Heart Walk
benefiting the American Heart
Association Hosted by Tomball
Regional Medical Center

October 22
5K and 1-mile loop
9:30am



FALL FESTIVAL

Hosted by: Tomball Fire Department



FRIDAY & SATURDAY

OCTOBER 28 & 29, 2011

7pm - 12am

709 W. Main St.
Tomball, Texas

COME ENJOY THE GAMES & HAY RIDE

ACCEPTING CANNED GOODS AND PET FOOD FOR NON-PROFIT ORGANIZATIONS.

ALSO ACCEPTING DONATIONS FOR NEXT YEARS FALL FESTIVAL.

QUESTIONS? CONTACT LISA GRIFFIN 281-351-7101

November 1, 2011
5:30 P.M.
Nonna's Italian Grill
1025 Alma

Mayor's Coffee

Stop by to get in
touch with Tomball!



Gretchen Fagan
Mayor

For more information call 281-290-1002 or visit ci.tomball.tx.us

Regular City Council Agenda Item Data Sheet

Meeting Date: October 17, 2011

Topic:

Approve the Minutes of the following Council Meetings:

- Regular Council Meeting – October 3, 2011
- Special Council Meeting – October 10, 2011

Background:**Origination:****Recommendation:****Funding:****Party(ies) responsible for placing this item on agenda:**

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Draft Minutes - Regular Council Meeting – October 3, 2011

Draft Minutes - Special Council Meeting – October 17, 2011

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, OCTOBER 3, 2011
6:00 P.M.**

1.0 Call to Order

The Council meeting was called to order by Mayor Gretchen Fagan. Other members present were:

Councilman Brown
Councilman Townsend
Councilman Dodson
Councilman Hudgens
Councilman Stoll

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
City Secretary – Doris Speer
City Attorney – Loren Smith
Police Chief – Robert Hauck
Director of Public Works – David Kauffman
Assistant City Engineer – Lori Lakatos
Fire Chief – Randy Parr
Finance Director – Glenn Windsor
Marketing Director – Mike Baxter
Assistant City Planner – Rodney Schmidt
Community Events Coordinator – Rosalie Dillon
Chief-NWEMS – Brian Petrilla

draft

2.0 The invocation was led by Father Fred Vallone, St. Anne's Catholic Church

3.0 Pledges to U. S. and Texas Flags were led by Courtlynn Noack and Jacob Chumley, members of the Tomball High School Student Council

4.0 The following public comments were received:

- | | |
|--|--|
| Mary Harvey
405 S. Walnut, 77375 | - Expressed her appreciation to Council support of events held at the depot and in the downtown Tomball area, and for hiring new Marketing Director, Mike Baxter |
| Mary Lu Wiley
14120 Carneswood, 77375 | - Questioned how assessments will be applied to property owners where roads are being extended |

5.0 Reports and Announcements:

- **Farmers Market** – 9 a.m.-1:00 p.m. (Every Saturday, September 24-November 12)
- October 8, 2011 – **Open House at the Central Fire Station**, 10:00 a.m.–3:00 p.m.
- October 8, 2011 – **2nd Saturday at the Depot “Spooktacular Bash” – 5:00 p.m.**
- October 10, 2011 – **Fall Cleanup Week**
- October 10, 2011 – Planning and Zoning Commission Meeting – moved to 5:00 p.m.
- October 10, 2011 – Special Council Meeting – Public Hearing on Proposed Tax Rate – 6:00 p.m.
- October 15, 2011 – **E-Waste and Shredding Event – LoneStar-Tomball College Campus, Parking Lot N3**
- October 15, 2011 – **Tomball Art Walk**, 2:00 p.m.–6:00 p.m.; Free Concert at the Depot (Grateful Geezers Band), 4:30 p.m.–7:00 p.m.
- October 22, 2011 – **2nd Annual American Heart Association’s Northwest Harris County Virtual Heart Walk** to support the American Heart Association – 9:30 a.m.; Heart Walk routes (1, 2 or 3 mile options) begin at The Heart Center at Tomball Regional (north entrance; use free parking garage or adjacent lots)
- October 24, 2011 – Tourism Advisory Committee Meeting – moved to 4:00 p.m.
- October 24, 2011 – Special Council and Planning and Zoning Commission Meeting regarding the Downtown Specific Plan – 6:00 p.m.
- October 28-29, 2011 – **Fire Department Fall Festival, 709 West Main – 7:00 p.m.- 12:00 Midnight**
- November 1, 2011 – **Mayor’s Coffee**, 5:30 p.m.–7:00 p.m., **Nona’s Italian Grill**
- November 5, 2011 - Appointments to Tourism Advisory Committee for Terms expiring December 5, 2011
- November 12, 2011 – **2nd Saturday at the Depot – 5:00 p.m.**
- November 19, 2011 – **46th Annual Holiday Parade – 10:00 a.m.**
- November 19, 2011 - **Special Walk Tomball** in the **Holiday Parade** behind the *Walk Tomball! It’s a Wonderful Life* banner – 10:00 a.m.
- November 19, 2011 – **Tomball Art Walk**, 2:00 p.m.–6:00 p.m.; Free Concert at the Depot, 5:00 p.m.–7:30 p.m.
- **Walk Tomball!** (Every Saturday at 8:00 a.m. at the Depot)
- Reports by City staff and members of Council about items of community interest on which no action will be taken
 - Mike Baxter presented an update regarding the success of the September 17,

2011 ***Tomball Art Walk*** and the October 1, 2011 **Bugs, Brew and Barbecue** Events. The Art Walks will start at 11:00 a.m., beginning with the October 15 event.

- 6.0 Motion was made by Councilman Stoll, second by Councilman Brown, to approve the minutes of the September 19, 2011 Regular Council Meeting.

Motion carried unanimously.

- 7.0 Old Business:

- 7.1 Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt on Second Reading, Ordinance No. 2011-21, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 3.9078 acres of land, legally described as tract 2aa out of the C.N. Pillot Survey, Abstract Number 632, within the City of Tomball, Harris County, Texas, from the AG-Agricultural District to the C-Commercial District; said property being generally located on the westerly side of State Highway 249, northerly of Holderrieth Road; providing for the Amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters. Vote was as follows:

Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>

Motion carried unanimously.

- 7.2 Motion was made by Councilman Townsend, second by Councilman Brown, to adopt on Second Reading, Ordinance No. 2011-22, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 97.48 acres of land, legally described as lots 386 and 387 and tract 385 out of the Tomball Outlots and tract 4 out of the Elizabeth Smith Survey, Abstract 70, within the City of Tomball, Harris County, Texas, from the SF-6 - Single-Family Residential-6 District and C-Commercial District to the LI-Light Industrial District; Said property being generally located on the westerly side of Hufsmith-Kohrville Road, northerly of Holderrieth Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters. Vote was as follows:

Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>

Motion carries unanimously.

8.0 New Business:

- 8.1 Mayor Fagan opened the Public Hearing on Tax Rate Increase at 6:13 p.m. and announced that the second public hearing will be held on October 10, 2011 at 6:00 p.m. The following public comments were received:

Marilyn O'Neal 14235 Turnervine, 77375	- Expressed her opposition to the proposed tax increase; requested that proposed tax increase be taken to the voters.
Schalee Lodge 30720 William Juergens, 77375	- Expressed her opposition to the proposed tax increase; requested that proposed tax increase be taken to the voters.
Jack Ripley 14134 Castor Street, 77375	- Expressed his opposition to the proposed tax increase; requested that proposed tax increase be taken to the voters.
Mattie Ripley 14134 Castor Street, 77375	- Did not wish to speak but requested that her opposition to the proposed tax increase be read into the record.

No additional public comments being received, Mayor Fagan closed the public hearing at 6:21 p.m.

- 8.2 Announcement was made that the Vote on Tax Rate will be held on October 17, 2011 at 6:00 p.m. and October 24, 2011 at 5:30 p.m.
- 8.3 George Shackelford presented the amendment to the vested rights determination letter. Motion was made by Councilman Brown, second by Councilman Townsend, to receive the City Manager's Amendment to the Vested Rights Determination Letter dated July 31, 2008, regarding Timkin Office Park/Chestnut Business Park.

Motion carried unanimously.

- 8.4 Randy Parr presented the proposed Request. Motion was made by Councilman Stoll, second by Councilman Dodson, to approve the request by Tomball Fire Department to Close School Street between Main and Malone on Friday Night, October 28, and Saturday Night, October 29, 2011, in Conjunction with the Fire Department's Annual Fall Festival and Haunted House Event, and to Allow the Safe Passage of Pedestrians from the School Parking Lot across School Street to the Event Site.

Motion carried unanimously.

- 8.5 Randy Parr presented the proposed Contract. Motion was made by Councilman Townsend, second by Councilman Stoll, to Table consideration of the Personal Services Contract with Baker Botts, LLP for the Creation of a Pension Program for the Volunteer Firefighters of the Tomball Fire Department and Authorizing the City Manager to Execute the Contract until October 10, 2011.

Motion to TABLE carried unanimously.

- 9.0 Motion was made by Councilman Dodson, second by Councilman Stoll, to adjourn.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this _____ day of _____ 2011.

Doris Speer, TRMC
City Secretary

Gretchen Fagan
Mayor

MINUTES OF SPECIAL CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, OCTOBER 10, 2011
6:00 P.M.**

1.0 Call to Order

The Council meeting was called to order by Mayor Gretchen Fagan. Other members present were:

Councilman Hudgens
Councilman Stoll
Councilman Brown
Councilman Townsend
Councilman Dodson

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
City Secretary – Doris Speer
City Attorney – Loren Smith
Director of Public Works – David Kauffman
Assistant City Engineer – Lori Lakatos
Fire Chief – Randy Parr
Finance Director – Glenn Windsor
Marketing Director – Mike Baxter

2.0 The following public comments were received:

3.0 Reports and Announcements:

- October 10, 2011 – **Fall Cleanup Week**
- October 15, 2011 – **E-Waste and Shredding Event – LoneStar-Tomball College Campus, Parking Lot N3**
- October 15, 2011 – **Tomball Art Walk**, 11:00 a.m.–6:00 p.m.; Free Concert at the Depot (Grateful Geezers Band), 4:30 p.m.–7:00 p.m.
- October 22, 2011 – **2nd Annual American Heart Association's Northwest Harris County**

- Virtual Heart Walk** to support the American Heart Association – 9:30 a.m.; Heart Walk routes (1, 2 or 3 mile options) begin at The Heart Center at Tomball Regional (north entrance; use free parking garage or adjacent lots)
- October 24, 2011 – Tourism Advisory Committee Meeting – moved to 4:00 p.m.
 - October 24, 2011 – Special Council and Planning and Zoning Commission Meeting regarding the Downtown Specific Plan – 6:00 p.m.
 - October 28-29, 2011 – **Fire Department Fall Festival, 709 West Main** – 7:00 p.m.-12:00 Midnight
 - November 1, 2011 – **Mayor's Coffee**, 5:30 p.m.–7:00 p.m., **Nona's Italian Grill**
 - November 7, 2011 - Appointments to Tourism Advisory Committee for Terms expiring December 5, 2011
 - November 12, 2011 – **2nd Saturday at the Depot – 5:00 p.m.**
 - November 19, 2011 – **46th Annual Holiday Parade** – 10:00 a.m.
 - November 19, 2011 - **Special Walk Tomball** in the **Holiday Parade** behind the *Walk Tomball! It's a Wonderful Life* banner – 10:00 a.m.
 - November 19, 2011 – **Tomball Art Walk**, 11:00 a.m.–6:00 p.m.; Free Concert at the Depot, 5:00 p.m.–7:30 p.m.
 - **Walk Tomball!** (Every Saturday at 9:00 a.m. at the Depot)
 - Reports by City staff and members of Council about items of community interest on which no action will be taken

4.0 Old Business:

- 4.1 Mayor Fagan opened the Public Hearing on Tax Rate Increase at 6:05 p.m.; the following public comment was received:

Jodye Sortino - Requested that her support for the proposed tax
(via telephone, October 10, increase be read into the record.
2011; 4:00 p.m.)

No additional public comments being received, Mayor Fagan closed the public hearing at 6:06 p.m.

- 4.2 Mayor Fagan announced that the Vote on Tax Rate will be held on October 17, 2011 at 6:00 p.m. and October 24, 2011 at 5:30 p.m.
- 4.3 Randy Parr presented the proposed Contract. Motion was made by Councilman Hudgens, second by Councilman Dodson, to approve a Personal Services Contract, in an amount not to exceed \$8,000, with Baker Botts, LLP for the Creation of a Pension Program for the Volunteer Firefighters of the Tomball Fire Department and Authorize the City Manager to Execute the Engagement Letter

Motion carried unanimously.

5.0 New Business:

- 5.1 David Kauffman presented the Proposal. Motion was made by Councilman Hudgens, second by Councilman Dodson, to approve the Job Order Proposal Submitted by KBR for the Purpose of Converting Customer Water Service Line Connections to The City's New Water Mains in the Downtown Area, for a Not-to-Exceed Cost of \$50,000.00.

Motion carried unanimously.

- 6.0 Motion was made by Councilman Brown, second by Councilman Stoll, to adjourn.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this _____ day of _____ 2011.

Doris Speer, TRMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Meeting Date: October 17, 2011

Data Sheet

Topic:

Approve Resolution No. 2011-21, a Resolution of the City Council of the City of Tomball, Texas, Supporting the 46th Annual Tomball Holiday Parade, “**All Texas, All the Time**”, to be held in Tomball on Saturday, November 19, 2011 and to Approve Requested Street Closures and In-kind Services

Background:

The Chamber of Commerce must request approval from TxDOT to close FM 2920 for the annual Holiday Parade; the request must include a Resolution from the City of Tomball supporting the parade.

This is the City's customary resolution supporting and endorsing the annual Chamber-sponsored Tomball Holiday Parade, scheduled to take place on Saturday, November 19, 2011.

In addition to closing FM 2920 from FM 2978 to Business 249 from 9:15 a.m. until 12:30 p.m. for the parade, the Chamber is requesting closure of the following streets on Saturday, November 19, from 7:00 a.m. until noon:

- North Elm between Main Street and Hufsmith Road
- North Walnut between Main Street and Epps
- 100 and 200 Block of Commerce
- 100 and 200 Block of Houston
- 100 and 200 Block of Oxford
- South Elm between Main and Market Streets
- South Walnut between Main and Fannin Streets
- 100 and 200 Block of Market Street.

The Chamber is also requesting the use of Tomball Police, Fire and Public Works personnel; the estimated cost for the use of City personnel/support services is \$6,200.00.

The annual Holiday Parade is extremely popular with the local community and brings visitors from the surrounding areas who often remain to shop, eat, and enjoy our city's amenities. This year, the Holiday Parade and Tomball Art Walk will be held on the same day; we anticipate large crowds at each of these events.

Origination:

Greater Tomball Area Chamber of Commerce

Recommendation:

Approve Resolution No. 2011-21

Funding:

Party(ies) responsible for placing this item on agenda:

City Secretary

ACTION TAKEN		
APPROVAL ☐ YES ☐ NO	READINGS PASSED ☐ 1 ST ☐ 2 ND	OTHER

ATTACHMENTS:

Resolution No. 2011-21

GTACC Request Letter

46th Annual Parade Route

RESOLUTION NO. 2011-21

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF TOMBALL, TEXAS, SUPPORTING THE 46TH ANNUAL
TOMBALL HOLIDAY PARADE, “ALL TEXAS, ALL THE
TIME”, TO BE HELD IN TOMBALL ON SATURDAY,
NOVEMBER 19, 2011 AND TO APPROVE REQUESTED
STREET CLOSURES AND IN-KIND SERVICES.**

* * * * *

WHEREAS the Greater Tomball Area Chamber of Commerce will undertake the 46th Annual Tomball Holiday Parade, to be held in the City of Tomball at 10:00 a.m. on Saturday, November 19, 2011; and

WHEREAS the theme of the 46th Annual Tomball Holiday Parade is “**All Texas, All the Time**”, and the purpose of the 46th Annual Tomball Holiday is to celebrate our quality of life and to create an avenue for others outside to come to our fair City to enjoy fun, food and good cheer; and

WHEREAS it is a chance for Tomball area merchants and business people to gain a new customer base through monies spent by those attending the 46th Annual Tomball Holiday Parade; and

WHEREAS activities celebrating the 46th Annual Tomball Holiday Parade will include the annual parade, food, crafts, and hometown merchants selling from their businesses; and

WHEREAS the Greater Tomball Area Chamber of Commerce desires and requests the support and endorsement of the City of Tomball in this community-wide effort;

NOW, THEREFORE, BE IT RESOLVED that the City of Tomball and its governing body endorses and supports the efforts of the Greater Tomball Area Chamber of Commerce in promoting and undertaking the 46th Annual Tomball Holiday Parade and pledge to encourage this effort to celebrate our heritage and promote our future betterment.

**PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL
HELD ON THE 17th DAY OF October, 2011.**

GRETCHEN FAGAN, Mayor

ATTEST:

DORIS SPEER, City Secretary

Greater
Tomball Area



Chamber of Commerce

www.tomballchamber.org
September 28, 2011

City of Tomball
Mr. George Shackelford
401 Market Street
Tomball, Texas 77375

RE: Tomball Holiday Parade

Dear Mr. Shackelford,

We are anticipating a fabulous Tomball Holiday Parade at 10 a.m. on Saturday, November 19, 2011 with help from our city, police and fire departments, as well as from numerous volunteers. The popular attraction is a Tomball tradition that has continued for 46 years. We are looking forward again to the expertise of the Tomball Police Department for crowd control and as visual deterrents from any negative activity.

To insure the safety of the many visitors and Parade participants who will be in Tomball on November 19, we are asking for street closures for the following streets on Saturday morning only from 7:00 a.m. until noon:

- North Elm between Main Street and Hufsmith Rd.
- North Walnut between Main Street and Epps
- 100 & 200 block of Commerce
- 100 & 200 block of Houston
- 100 & 200 block of Oxford
- South Elm between Main Street and Market Street
- South Walnut between Main Street and Fannin
- 100 & 200 block of Market Street

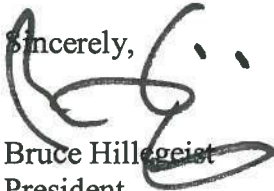
From 9:15 a.m. until 12:30 p.m.

- FM 2920 from FM 2978 to Business 249

Enclosed is a map for your review. Residents of these streets will still have access to and from their homes.

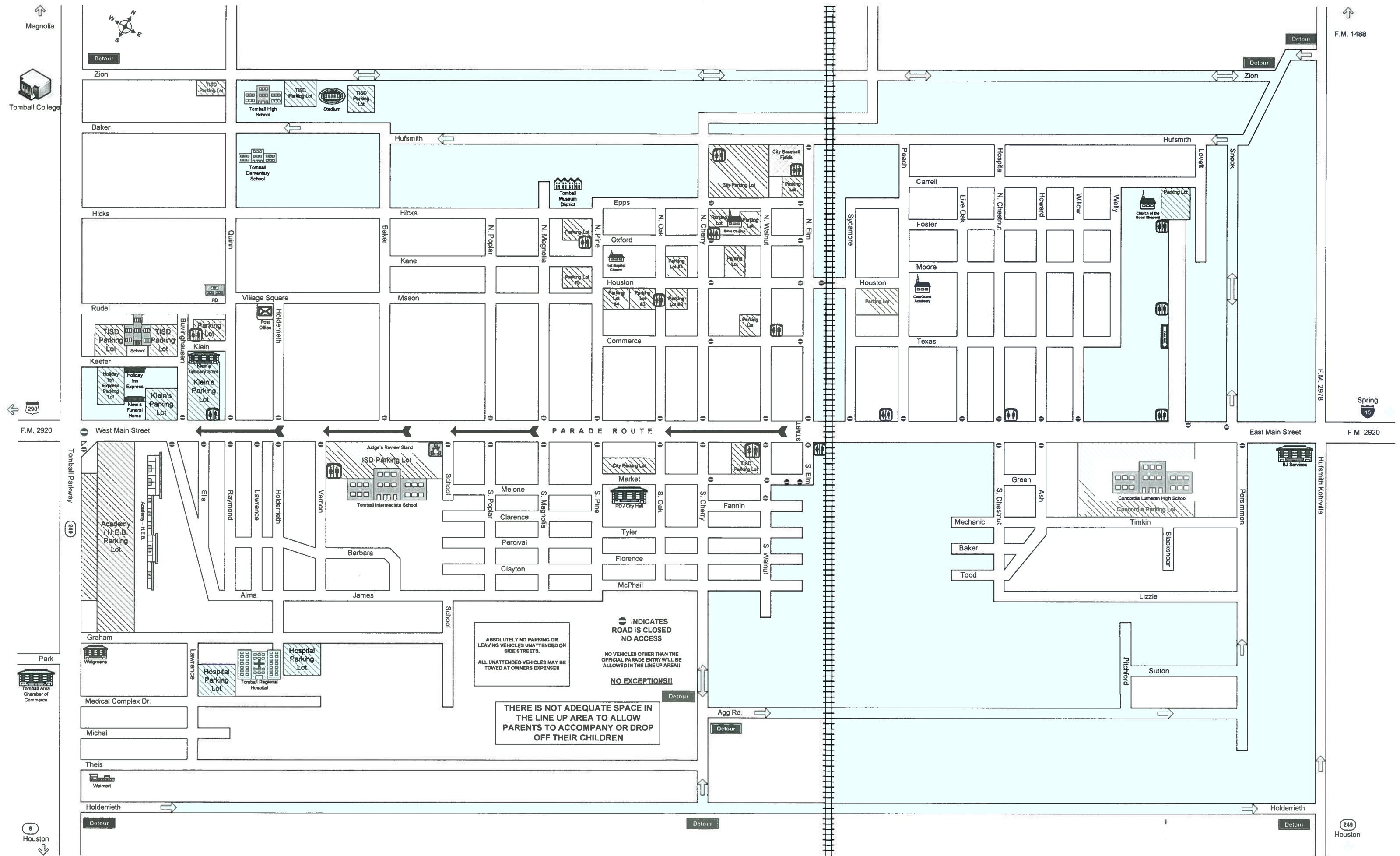
We appreciate the City of Tomball, its special partnership with the chamber and the assistance always offered for our events. Should you have any questions or concerns, please contact Brandy Beyer or myself at 281-351-7222.

Sincerely,


Bruce Hillegeist
President

Thank ya, George!!

Encl: Map



Regular City Council

Agenda Item

Meeting Date: October 17, 2011

Data Sheet

Topic:

Receive the City Manager's Amendment to the Amended Vested Rights Determination Letter dated September 21, 2011, regarding Timkin Office Park/Chestnut Business Park.

Background:

On September 21, 2011, Council received the City Manager's amendment to the vested rights determination letter, as requested by Dean Albers and issued by the City Manager on September 21, 2011 in accordance with Section 48.5 of the City's Zoning Ordinance.

The amendment included additional uses in the Retail, Transportation & Auto Services, and Commercial & Wholesale Trade. The issuance of this amendment to the vested rights determination was a legal decision based on information relative to the project prior to the City's adoption of the Zoning Ordinance.

It has since been determined that all light and heavy manufacturing / industrial uses are prohibited except assembly of finished products or parts, predominately from previously prepared material, packaging of such products, and including storage, sales, and distribution of such products.

Origination:

City Manager's Office

Recommendation:

Funding:

Party(ies) responsible for placing this item on agenda:

City Manager

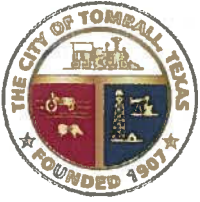
ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Amendment Letter dated September 21, 2011

Original Vested Rights Letter dated July 31, 2008

2nd Amendment Letter dated October 14, 2011



City of Tomball

Gretchen Fagan
Mayor

George Shackelford
City Manager

September 21, 2011

Mr. Dean Albers
Albers Properties
P. O. Box 2458
Granbury, Texas 76048

Re: Amendment to Vested Rights Determination Letter dated July 31, 2008
Timkin Office Park/Chestnut Business Park

Dear Mr. Albers,

This letter shall serve as an amendment to the Vested Rights Determination Letter issued by this office dated July 31, 2008, a true and correct copy of which is attached to this letter as Exhibit "A." This letter shall not be construed as altering any of the terms and conditions set forth in the July 31, 2008 Vested Rights Determination Letter unless specifically enumerated herein.

In addition to the uses permitted in Exhibit "A," the Property may be used for any of the following uses:

Retail: Sign Shop (small scale, such as a storefront; includes sign and banner making for retail sale only; no outside storage); Upholstery Shop (Non-Auto)

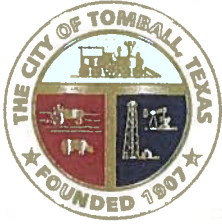
Transportation & Auto Services: Auto Interior Shop/Upholstery

Commercial & Wholesale Trade: Appliance Repair; Electronic Assemble; Fix It Shops - Small Engine, Saw Filing, Mower Sharpening; Heating and Air Conditioning Sales/Services; Locksmith; Maintenance and Repair Service for Buildings/Janitorial; Plumbing Shop; Printing Equipment, Supplies, and Repairs; Scientific Research Lab (Non-Hazardous); Security System Installation Company; Tool and Machinery Rental (Inside Storage Only); Veterinarian Clinic (Indoor Kennels)

All other terms and conditions of the July 31, 2008 Vested Rights Determination Letter, attached hereto as Exhibit "A," including prohibited uses, shall not be altered any way by this amendment.

Sincerely,


George Shackelford
City Manager



City of Tomball

Gretchen Fagan
Mayor

Jan Belcher
City Manager

July 31, 2008

COPY

Dean Albers
Albers Properties
P.O. Box 2458
Granbury, Texas 76048

Re: Vested Rights Determination Letter
Timkin Office Park/Chestnut Business Park

Dear Mr. Albers,

By letter dated June 23, 2008, you have asserted a vested right under Chapter 245 of the Texas Local Government Code with respect to a proposed development of approximately 16 acres of property known as the Timkin Office Park or Chestnut Business Park. After reviewing your vested rights request, the City's records, and consultation with the City's Attorney, I issue this vested rights determination in accordance with Section 48.5 of the Zoning Ordinance.

Property Owner: Albers Properties, L.P.
% Dean Albers / Texca Limited Partnership LLP
1404 Scandianvian Court
(P.O.Box 2458)
Granbury, TX 76048

The Property: Three tracts of land including approximately 16.111 acres out of the Jesse Pruitt Survey, A-629, Harris County, Texas, and generally located on the southerly side of Timkin Road, easterly of South Chestnut Street. See Exhibit A, attached (site plan dated 12.12.2007)

The Project: An office/warehouse plat development consisting of 14 individual lots to be created along a proposed new street to be configured in substantially the same layout as shown in Exhibit A, attached.

Date of First Permit: November 8, 2007.

Regulations Applicable to Property Owner, the Property, and the Project:

All of the City's current Ordinances, including the City's Zoning Ordinance adopted February 4, 2008, are applicable to the Property Owner, the Property and the Project EXCEPT as follows:

1. Articles III and IV of the Zoning Ordinance; and
2. Section 40 (Landscaping Requirements) of the Zoning Ordinance.

The Property shall be deemed to have a prior classification of O-Office District. Until rezoned by the City of Tomball, the Property may be used for any of the following uses:

A. Any use permitted by right by the City under Section 25 and Section 38 of the Zoning Ordinance for an O District; and

B. The following uses as defined by Section 38 of the Zoning Ordinance of the City (provided there is no outdoor storage):

Office: Office Showroom/Warehouse;

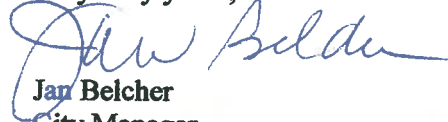
Transportation & Auto Services: Auto Glass Repair/Tinting, Auto Muffler Shop; Auto Repair (Major); Auto Repair (Minor);

Commercial & Wholesale Trade: Communication Equipment Sales/Service (Installation and /or Repair – No outdoor sales or storage or towers/ antennae); Distribution Center; Electric Repair-(Domestic Equipment and Autos), Contractor's Office/Sales, No Outside Storage including Vehicles, Exterminator Service/Company (No Outdoor Sales or Storage); Iron Works (Ornamental), Machine Shop, Pet and Animal Grooming Shop (No Outside Kennels); Publishing and Printing Company, Warehouse (Defined Under Storage or Wholesale Warehouse), Welding Shop, Wholesale Trade-Nondurable Goods, Wood Working Shops;

The following uses are prohibited: Light & Heavy Manufacturing/Industrial.

This letter has certain legal consequences. The Property Owner and/or the Council may appeal this determination to the City's Board of Adjustments if they believe that this vested rights determination is in error. Zoning Ordinance, 48.5. Any appeal of my determination must be filed with the Board of Adjustments within 15 calendar days. Zoning Ordinance 9.8 C. If my determination is not timely appealed to the Board of Adjustments, then my determination shall be considered binding upon the City and the Property Owner for the duration of the Project. Id. 48.8.

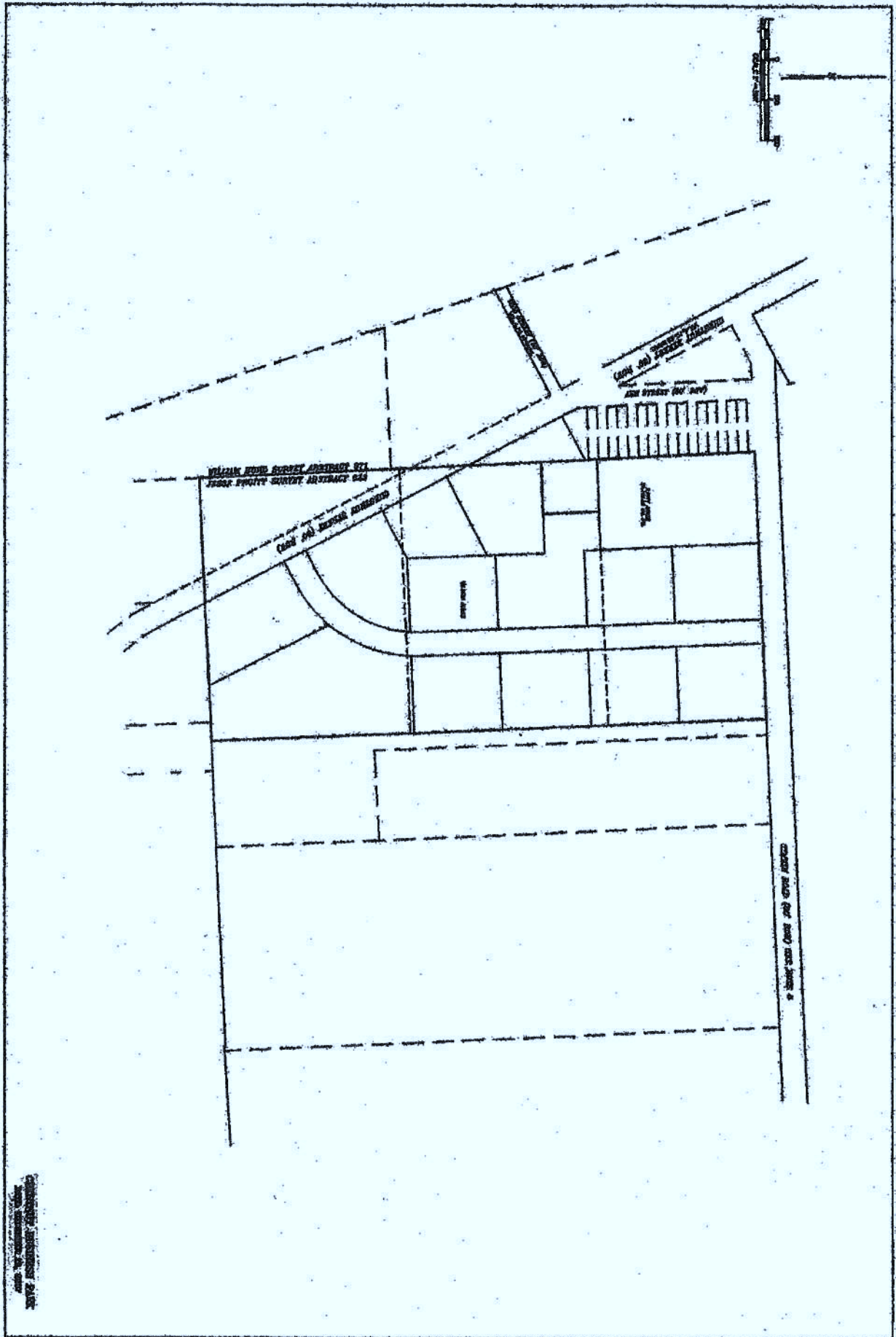
Very truly yours,



Jan Belcher
City Manager
City of Tomball, Texas

cc: Mayor and City Council

Exhibit A





City of Tomball

*Gretchen Fagan
Mayor*

*George Shackelford
City Manager*

October 14, 2011

Mr. Dean Albers
Albers Properties
P. O. Box 2458
Granbury, Texas 76048

Re: Second Amendment to Vested Rights Determination Letter dated July 31, 2008 and Amendment dated September 21, 2011
Timkin Office Park/Chestnut Business Park

Dear Mr. Albers,

This letter shall serve as an amendment to the Vested Rights Determination Letter issued by this office dated July 31, 2008, a true and correct copy of which is attached to this letter as Exhibit "A," and to the amendment to the same dated September 21, 2011, a true and correct copy of which is attached to this letter as Exhibit "B." This letter shall not be construed as altering any of the terms and conditions set forth in the July 31, 2008 Vested Rights Determination Letter or the September 21, 2011 Amendment unless specifically enumerated herein.

In addition to the uses permitted in Exhibits "A" and "B," the following conditions are added:

All Light & Heavy Manufacturing / Industrial uses are prohibited except assembly of finished products or parts, predominately from previously prepared material, packaging of such products, and including storage, sales, and distribution of such products.

All other terms and conditions of the July 31, 2008 Vested Rights Determination Letter, attached hereto as Exhibit "A" or the Amendment thereto, attached hereto as Exhibit "B," including prohibited uses, shall not be altered any way by this amendment.

Sincerely,

George Shackelford
City Manager

Regular City Council

Agenda Item

Data Sheet

Meeting Date: October 17, 2011

Topic:

Adopt \$0.230000 as Portion of the Tax Rate for the Interest and Sinking (Debt Service) Fund for FY 2012

Background:

During the budget process and in the published Effective Tax Rate and Rollback calculations, the portion of the tax rate allocated to the payment of the City's tax supported debt is \$0.230000. The actual ordinance adopting the tax rate for the City of Tomball for FY 2012 will appear later on the agenda. This item is only for the approval of the allocation of the designated portion of the tax rate to the Interest and Sinking Fund.

Origination:

City Secretary

Recommendation:

Adoption of \$0.230000 as the portion of the tax rate for the Interest and Sinking (Debt Service) Fund for FY 2012.

Funding:**Party(ies) responsible for placing this item on agenda:**

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

Regular City Council

Agenda Item

Data Sheet

Meeting Date: October 17, 2011

Topic:

Adopt \$.111455 as the Portion of the Tax Rate to Fund Maintenance and Operations (M&O) for FY 2012

Background:

During the budget process, \$.111455 was the recommended allocation of the total tax rate of \$.341455 to be used to fund operations and maintenance expenditures in the General Fund. The actual ordinance to approve the total tax rate of \$.341455 will appear later on the agenda. This item is only to approve the allocation of \$.111455 to maintenance and operations, as required by State law.

Origination:

City Secretary

Recommendation:

Adopt \$.111455 as the portion of the tax rate to fund maintenance and operations for FY 2012

Funding:**Party(ies) responsible for placing this item on agenda:**

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

Regular City Council

Agenda Item

Data Sheet

Meeting Date: October 17, 2011

Topic:

Adopt, on First Reading, Ordinance No. 2011-19, an Ordinance of the City of Tomball, Texas, Setting the Tax Levy of \$0.341455/\$100 Value Assessed for the Year 2011 on All Taxable Real and Personal Property Located in the City of Tomball, Texas; Allowing for Homestead Exemptions for Property Owners Sixty-Five Years of Age and Over, and for Property Owners Who Qualify for Disability Benefits Under the Federal Old Age, Survivors, and Disability Insurance Program; Providing for Penalty, Interest, and Additional Penalty on Taxes Not Timely Paid; and Providing Other Matters Relating to the Subject

Background:

Earlier items on the agenda approved the allocation of the proposed tax rate for FY 2012 (Tax Year 2011) as \$0.23000 for the Interest & Sinking Fund and \$0.111455 to Maintenance and Operations, for a total tax rate of \$0.341455.

Adoption of Ordinance No. 2011-19 will adopt the tax rate and provide for the levying of the 2011 tax rate. The Ordinance does reflect the allowance of a \$90,000.00 homestead exemption for City of Tomball property owners sixty-five (65) years of age and over, and for those property owners, regardless of age, who qualify for disability benefits under the Federal Old Age, Survivors, and Disability Insurance Program administered by the Social Security Administration.

Origination:

City Secretary

Recommendation:

Adoption of Ordinance No. 2011-19, on First Reading.

Funding:

Party(ies) responsible for placing this item on agenda:

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance No. 2011-19

Notice of Vote on Tax Rate

ORDINANCE NO. 2011-19

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS,
SETTING THE TAX LEVY OF \$0.341455 FOR THE YEAR
2011 ON ALL TAXABLE REAL AND PERSONAL PROPERTY
LOCATED IN THE CITY OF TOMBALL, TEXAS;
ALLOWING FOR HOMESTEAD EXEMPTIONS FOR
PROPERTY OWNERS SIXTY-FIVE YEARS OF AGE AND
OVER, AND FOR PROPERTY OWNERS WHO QUALIFY
FOR DISABILITY BENEFITS UNDER THE FEDERAL OLD
AGE, SURVIVORS, AND DISABILITY INSURANCE
PROGRAM; PROVIDING FOR PENALTY, INTEREST, AND
ADDITIONAL PENALTY ON TAXES NOT TIMELY PAID;
AND PROVIDING OTHER MATTERS RELATING TO THE
SUBJECT.**

* * * * *

WHEREAS, pursuant to the provisions of the Constitution and Laws of the State of Texas, the City Council of the City of Tomball, Texas, is vested with the power to levy, assess and collect an annual tax upon all taxable real and personal property located within the City Limits, and said power allowing for the granting of homestead exemptions for all City of Tomball property owners sixty-five years of age and over or who are disabled; and

WHEREAS, pursuant to the Charter of the City of Tomball, this ordinance has been read two (2) times and considered at two (2) sessions of the City Council, and published in the City's official newspaper after the first reading; and

WHEREAS, the Council is required to set a tax rate, expressed as a rate per hundred-dollar valuation of said property, located in the City of Tomball, January 1, 2011; and

WHEREAS, Section 26.05 of the Texas Property Tax Code provides that before the later of September 30th or the 60th day after the date the certified appraisal roll is received by the taxing unit, the governing body of each taxing unit shall adopt a tax rate for the current tax year; and

WHEREAS, such Section further provides that where the tax rate consists of two components (one which will impose the amount of taxes needed to pay the unit's debt service and the other which will impose the amount of taxes needed to fund maintenance and operation expenditures of the unit for the next year), each of the components must be approved separately; and

WHEREAS, the proposed tax rate for the current tax year of the City of Tomball, Texas, consists of two components, a tax rate of twenty-three ten thousandths cents (\$0.230000) for the purpose of paying the accruing interest and to provide a sinking fund for payment of the indebtedness of the City, and a tax rate of eleven and one thousand four hundred fifty-five ten-thousandths cents (\$0.111455) for the purpose of funding the maintenance and operation expenditures of the City for the next fiscal year; and

WHEREAS, City Council has approved, by separate motions, the tax rates heretofore specified for each of said components; and

WHEREAS, all notices and hearings required by law as a prerequisite to the passage, approval, and adoption of this Ordinance have been timely and properly given and held;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are found to be true and correct and are hereby adopted, ratified, and confirmed.

Section 2. That said tax levied as aforesaid, based upon valuations established by Harris County Appraisal District, will be sufficient to meet the requirements of the City for the Budget Year 2011-2012.

Section 3. There is hereby levied, for the tax year 2011, to fund the City's fiscal year 2011-2012 municipal budget, an ad valorem tax at the total rate of thirty-four and one thousand four hundred fifty-five ten-thousandths cents (\$0.341455) on each One Hundred Dollars (\$100.00) of assessed valuation on all property, real, personal, and mixed, within the corporate limits of the City, upon which an ad valorem tax is authorized by law to be levied by the City of Tomball, Texas. All such taxes shall be assessed and collected in current money of the United States of America.

Section 4. Of such total tax levied in Section 2 hereof, \$0.111455 is levied to fund maintenance and operation expenditures of the City for the fiscal year 2011-2012. Of the total tax levied in Section 2 hereof, \$0.230000 is levied for the purpose of paying the interest on bonds, warrants, certificates of obligation, or other lawfully authorized evidence of indebtedness issued by the City of Tomball, Texas, including the various installments of principal due on the serial bonds, warrants, certificates of obligation, or other lawfully authorized evidence of indebtedness issued by the City as such installments shall respectively mature, in the fiscal year 2011-2012. **THIS TAX RATE WILL INCREASE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$90.00.**

GENERAL FUND - TO FUND MAINTENANCE AND OPERATION EXPENDITURES OF THE CITY:	\$0.111455
---	------------

INTEREST & SINKING - FOR DEBT SERVICE:	\$0.230000
--	------------

With reference to the tax rate of \$0.230000 for the Interest and Sinking Fund for bonded indebtedness, this rate, representing 67.3588% of the total \$0.341455 tax, shall apply to the gross amount of current taxes to be collected.

Section 5. All ad valorem taxes levied hereby, in the total amount of \$0.341455 on each One Hundred Dollars (\$100.00) of assessed valuation, as reflected by Sections 2 and 3 hereof, shall be due and payable on or before January 31, 2012. All ad valorem taxes due the City of Tomball, Texas, and not paid on or before January 31st following the year for which they were levied, shall bear penalty and interest, and if not paid before July 1st shall incur an additional penalty of twenty percent (20%), as prescribed in the Texas Property Tax Code. as prescribed in the Texas Tax Code.

Section 6. That said tax levied reflects an allowance of a \$90,000.00 homestead exemption for City of Tomball property owners sixty-five (65) years of age and over, and for those property owners (regardless of age) who qualify for disability benefits under the Federal Old Age, Survivors, and Disability Insurance Program administered by the Social Security Administration. An eligible disabled person who is sixty-five (65) years of age or over may not receive the homestead exemption for both qualifying as "65 or over" and "disabled", but may choose either. Each person desiring such exemption shall file an application with the Harris County Appraisal District, such application being in a form and filed at such time as shall be required by law.

Section 7. All ordinances and parts of ordinances inconsistent or in conflict herewith are hereby repealed to the extent of such conflict.

Section 8. If any provision of this Ordinance is found to be invalid or unconstitutional by a court of competent jurisdiction, the same shall not invalidate or impair the validity, force, or effect of any other provision of this Ordinance.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 17TH DAY OF OCTOBER, 2011.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT A SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 24TH DAY OF OCTOBER, 2011.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

GRETCHEN FAGAN, MAYOR
City of Tomball

ATTEST:

DORIS SPEER, City Secretary
City of Tomball

Notice of Tax Revenue Increase

The **CITY OF TOMBALL**, TEXAS conducted public hearings on October 3, 2011 and October 10, 2011 on a proposal to increase the total tax revenues of the **CITY OF TOMBALL**, TEXAS from properties on the tax roll in the preceding year by 32.25 percent.

The total tax revenue raised last year at last year's tax rate of \$0.251455 for each \$100 of taxable value, excluding tax revenue to be raised from new property added to the tax roll this year, was \$2,841,514.

The total tax revenue proposed to be raised this year at the proposed tax rate of \$0.341455 for each \$100 of taxable value, excluding tax revenue to be raised from new property added to the tax roll this year, is \$3,744,913.

The total tax revenue proposed to be raised this year at the proposed tax rate of \$0.341455 for each \$100 of taxable value, including tax revenue to be raised from new property added to the tax roll this year, is \$3,793,305.

The **CITY OF TOMBALL** is scheduled to vote on the tax rate that will result in that tax increase at public meetings to be held on **October 17, 2011** at 6:00 p.m. and on **October 24, 2011** at 5:30 p.m. at **Tomball City Hall, 401 Market Street, Tomball, Texas**.

**The tax information above is published as a requirement of State Law.
Your individual taxes will not increase unless Harris County Appraisal
District has appraised your property at a higher value.**

Regular City Council

Agenda Item

Meeting Date: October 17, 2011

Data Sheet

Topic:

Public Hearing regarding Proposed Ordinance No. 2011-24, Opting Out of the "Super Freeport Exemption" created by Senate Bill 1 and Providing for the Taxation of Tangible Personal Property in Transit ("Goods-in-Transit")

Background:

During the 82nd Legislature, the Texas Legislature passed Senate Bill 1, which included comprehensive changes to the good-in-transit exemption, found in Section 11.253, Tax Code. Harris County Appraisal District has notified all taxing units of the need to hold a public hearing and take official action as a result of the amendment to the Tax Code (see attached).

For a tax year beginning on or after January 1, 2012, a taxing unit may not tax good-in-transit unless the governing body takes official action on or after October 1, 2011 but before January 1, 2012 to provide for the taxation of goods-in-transit. Before acting to tax the exempt property, the governing body must conduct a public hearing as required by the Texas Constitution, Article VIII, Section 1-n(d). The Notice of Public Hearing has been published as required.

"Goods-in-transit" consist of tangible personal property stored under a contract of bailment in a public warehouse that is not owned or controlled by the owner of the personal property for 175 days or less—basically, goods that reside inside the city limits temporarily while awaiting shipment to other locations within or outside of Texas.

Origination:

City Secretary

Recommendation:

N/A

Funding:

Party(ies) responsible for placing this item on agenda:

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Notice of Public Hearing - October 17, 2011

Harris County Appraisal District Notification

**NOTICE OF PUBLIC HEARING AT
REGULAR COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



**MONDAY, OCTOBER 17, 2011
6:00 P.M.**

Notice is hereby given that **PUBLIC HEARING** will be held by the Tomball City Council, as the Governing Body of the City of Tomball, at a Regular Council Meeting on **Monday, October 17, 2011 at 6:00 p.m.**, at City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following:

Public Hearing regarding Proposed Ordinance No. 2011-24,
whereby the City of Tomball may opt out of the
“Super Freeport Exemption” created by Senate Bill 1, Section
48.02(j-1), effective September 1, 2011.

Persons interested in the above-proposed Ordinance 2011-24 may speak regarding the City’s consideration of an ordinance to continue to tax tangible personal property in transit which would otherwise be exempt pursuant to Texas Tax Code, Section 11.253, will be given an opportunity to be heard.

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 3rd day of October 2011 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Doris Speer
Doris Speer
City Secretary, TRMC

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary’s office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.ci.tomball.tx.us.



Harris County Appraisal District

13013 Northwest Freeway
Houston TX 77040
Telephone: (713) 812-5800

P.O. Box 920975
Houston TX 77292-0975
Information Center: (713) 957-7800

Office of Chief Appraiser

October 6, 2011

CITY OF TOMBALL
MS. DORIS SPEER
CITY SECRETARY
CITY OF TOMBALL
401 MARKET ST
TOMBALL TX 77375

Board of Directors
Glenn E. Peters, *Chair*
Lawrence Marshall, *Secretary*
Ed Heathcott
Gary W. Stein
Toni Trumbull
Don Sumners

Chief Appraiser
Jim Robinson
Chief Deputy & Chief Legal Officer
Sands L. Stiefer
Assistant Chief Appraisers
Guy Griscom
Teresa S. Terry
Director of Information & Assistance
Roland Altinger

Re: Senate Bill 1, Amendments to Property Tax Code §11.253 for Goods- in-Transit.

Dear Taxing Unit Official:

Please allow this letter to serve as a courtesy notice of certain time constraints within new amendments to Texas Property Tax Code Section 11.253.

Under the new amendments, a taxing unit may not tax otherwise exempt goods-in-transit in a tax year that begins on or after January 1, 2012, unless the governing body of the taxing unit holds a public hearing and takes official action **on or after October 1, 2011 and before January 1st** of the first tax year the unit wishes to tax the goods-in-transit.¹

Please refer to your taxing unit's legal counsel for pertinent tax code interpretations and procedures for tax code compliance. If the appraisal office may be of further assistance in this matter, please do not hesitate to contact the Harris County Appraisal District.

With kindest regards,

Jim Robinson
Chief Appraiser

¹ Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), §48.02, eff. Oct. 1, 2011 (codified at Tex. Prop. Tax Code §11.253 (j-1)).

Regular City Council

Agenda Item

Meeting Date: October 17, 2011

Data Sheet

Topic:

Adopt, on First Reading, Ordinance No. 2011-24, an Ordinance of the City of Tomball, Texas, Providing for the Taxation of Tangible Personal Property in Transit, which would otherwise be Exempt from Taxation Pursuant to Texas Tax Code, Section 11.253; Repealing all Ordinances or Parts of Ordinances Inconsistent or In Conflict Herewith; and Providing for Severability

Background:

Earlier this year, the Texas Legislature passed Senate Bill 1, which included comprehensive changes to the good-in-transit exemption, found in Section 11.253, Tax Code. Harris County Appraisal District has notified all taxing units of the need to hold a public hearing and take official action as a result of the amendment to the Tax Code (see attached).

For a tax year beginning on or after January 1, 2012, a taxing unit may not tax good-in-transit unless the governing body takes official action on or after October 1, 2011 but before January 1, 2012 to provide for the taxation of goods-in-transit. Before acting to tax the exempt property, the governing body must conduct a public hearing as required by the Texas Constitution, Article VIII, Section 1-n(d). "Goods-in-transit" consist of tangible personal property stored under a contract of bailment in a public warehouse that is not owned or controlled by the owner of the personal property for 175 days or less—basically, goods that reside inside the city limits temporarily while awaiting shipment to other locations within or outside of Texas.

On December 27, 2007, Council adopted Ordinance No. 2007-20 in response to House Bill 621, which created this new "super freeport exemption" in order to maintain the City's ability to tax goods-in-transit. Senate Bill 1 prohibits the City from taxing goods-in-transit as established through Ordinance No. 2007-20 [Article 48, Section 48.02(j-1), attached]. In 2007, Harris County Appraisal District estimated that \$68 million of inventory temporarily held within the City could be eligible for the new exemption, with a potential tax levy loss of \$170,000.

Adoption of Ordinance No. 2011-24 is necessary to continue and retain the City's ability to tax goods-in-transit.

Origination:

City Secretary

Recommendation:

Adoption of Ordinance No. 2011-24 on First Reading

Funding:

Party(ies) responsible for placing this item on agenda:

City Secretary

ACTION TAKEN

APPROVAL ☐ YES ☐ NO	READINGS PASSED ☐ 1 ST ☐ 2 ND	OTHER
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ATTACHMENTS:

Ordinance No. 2011-24 - Goods-in-Transit
Harris County Appraisal District Notification
Senate Bill 1 - Article 48, Section 48.02(j-1)

ORDINANCE NO. 2011-24

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, PROVIDING FOR THE TAXATION OF TANGIBLE PERSONAL PROPERTY IN TRANSIT, WHICH WOULD OTHERWISE BE EXEMPT FROM TAXATION PURSUANT TO TEXAS TAX CODE, SECTION 11.253; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, the 82nd Texas Legislature, in Special Session, has enacted Senate Bill 1, effective September 1, 2011, which included changes to Texas Tax Code, Section 11.253, effective January 1, 2012 and which provides exemption from taxation certain tangible personal property held temporarily at a location in this state for assembling, storing, manufacturing, processing, or fabricating purposes (goods-in-transit), which property has been subject to taxation in the past; and

WHEREAS, Tex. Tax Code §11.253, as amended in Subsections (e) and (h) and adding Subsections (j-1) and (j-2), allows the governing body of a taxing unit, after conducting a public hearing, to provide for the continued taxation of such goods-in-transit; and

WHEREAS, the City Council of the City of Tomball, Texas, having conducted a public hearing as required by Section 1-n(d), Article VIII, Texas Constitution, is of the opinion that it is in the best interests of the City to continue to tax such goods-in-transit; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The goods-in-transit, as defined in Tex. Tax Code §11.253(a)(2), and as amended by Senate Bill 1, enacted by the 82nd Texas Legislature in Special Session, shall continue to be taxed by the City of Tomball, Texas.

Section 3. All ordinances or parts of inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 4. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 17TH DAY OF OCTOBER 2011.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 7TH DAY OF NOVEMBER 2011.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

GRETCHEN FAGAN, MAYOR

ATTEST:

DORIS SPEER, CITY SECRETARY



Harris County Appraisal District

13013 Northwest Freeway
Houston TX 77040
Telephone: (713) 812-5800

P.O. Box 920975
Houston TX 77292-0975
Information Center: (713) 957-7800

Office of Chief Appraiser

October 6, 2011

CITY OF TOMBALL
MS. DORIS SPEER
CITY SECRETARY
CITY OF TOMBALL
401 MARKET ST
TOMBALL TX 77375

Board of Directors
Glenn E. Peters, *Chair*
Lawrence Marshall, *Secretary*
Ed Heathcott
Gary W. Stein
Toni Trumbull
Don Sumners

Chief Appraiser
Jim Robinson
Chief Deputy & Chief Legal Officer
Sands L. Stiefer
Assistant Chief Appraisers
Guy Griscom
Teresa S. Terry
Director of Information & Assistance
Roland Altinger

Re: Senate Bill 1, Amendments to Property Tax Code §11.253 for Goods- in-Transit.

Dear Taxing Unit Official:

Please allow this letter to serve as a courtesy notice of certain time constraints within new amendments to Texas Property Tax Code Section 11.253.

Under the new amendments, a taxing unit may not tax otherwise exempt goods-in-transit in a tax year that begins on or after January 1, 2012, unless the governing body of the taxing unit holds a public hearing and takes official action **on or after October 1, 2011 and before January 1st** of the first tax year the unit wishes to tax the goods-in-transit.¹

Please refer to your taxing unit's legal counsel for pertinent tax code interpretations and procedures for tax code compliance. If the appraisal office may be of further assistance in this matter, please do not hesitate to contact the Harris County Appraisal District.

With kindest regards,

Jim Robinson
Chief Appraiser

¹ Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), §48.02, eff. Oct. 1, 2011 (codified at Tex. Prop. Tax Code §11.253 (j-1)).

ARTICLE 48. AD VALOREM TAXATION OF CERTAIN STORED PROPERTY

SECTION 48.01. Amends Section 11.253(a), Tax Code, by amending Subdivision (2) and adding Subdivisions (5) and (6), to redefine "goods-in-transit," and to define "bailee," "warehouse," and "public warehouse operator."

SECTION 48.02. Amends Section 11.253, Tax Code, by amending Subsections (e) and (h) and adding Subsections (j-1) and (j-2), as follows:

(e) Requires the chief appraiser, in determining the market value of goods-in-transit that in the preceding year were stored in this state, rather than in determining the market value of goods-in-transit that in the preceding year were assembled, stored, manufactured, processed, or fabricated in this state, to exclude the cost of equipment, machinery, or materials that entered into and became component parts of the goods-in-transit but were not themselves goods-in-transit or that were not transported to another location in this state or outside this state before the expiration of 175 days after the date they were brought into this state by the property owner or acquired by the property owner in this state.

(h) Authorizes the chief appraiser by written notice delivered to a property owner who claims an exemption under this section to require the property owner to provide copies of property records so the chief appraiser can determine the amount and value of goods-in-transit and that the location in this state where the goods-in-transit were detained for storage, rather than detained for storage assembling, storing, manufacturing, processing, or fabricating purposes, was not owned by or under the control of the owner of the goods-in-transit.

(j-1) Prohibits a taxing unit, notwithstanding Subsection (j) (relating to tangible personal property in transit) or official action that was taken under that subsection before October 1, 2011, to tax goods-in-transit exempt under Subsection (b) (relating to providing that a person is entitled to an exemption from taxation of the appraised value of that portion of the person's property that consists of goods-in-transit) and not exempt under other law, from taxing such goods-in-transit in a tax year that begins on or after January 1, 2012, unless the governing body of the taxing unit takes action on or after October 1, 2011, in the manner required for official action by the governing body, to provide for the taxation of the goods-in-transit. Requires that the official action to tax the goods-in-transit be taken before January 1 of the first tax year in which the governing body proposes to tax goods-in-transit. Requires the governing body of the taxing unit, before acting to tax the exempt property, to conduct a public hearing as required by Section 1-n(d) (relating to authorization to exempt from ad valorem taxation tangible personal property), Article VIII (Taxation and Revenue), Texas Constitution. Provides that if the governing body of a taxing unit provides for the taxation of the goods-in-transit as provided by this subsection, the exemption prescribed by Subsection (b) does not apply to that unit. Provides that the goods-in-transit remain subject to taxation by the taxing unit until the governing body of the taxing unit, in the manner required for official action, rescinds or repeals its previous action to tax goods-in-transit or otherwise determines that the exemption prescribed by Subsection (b) will apply to that taxing unit.

(j-2) Authorizes the tax officials of the taxing unit, notwithstanding Subsection (j-1) to continue to impose the taxes against the goods-in-transit until the debt is discharged, if under Subsection (j) the governing body of a taxing unit, before October 1, 2011, took action to provide for the taxation of goods-in-transit and pledged the taxes imposed on the goods-in-transit for the payment of a debt of the taxing unit, if cessation of the imposition would impair the obligation of the contract by which the debt was created.

SECTION 48.03. Provides that Section 11.253(a)(2), Tax Code, as amended by this article, applies only to an ad valorem tax year that begins on or after January 1, 2012.

SECTION 48.04. (a) Effective date, this article, except as provided by Subsection (b) of this section: January 1, 2012.

(b) Effective date, Section 48.02 of this article: October 1, 2011.

Regular City Council

Agenda Item

Meeting Date: October 17, 2011

Data Sheet

Topic:

Consideration to Approve **ZONING CASE P11-354**: Request by Abandoned Animal Rescue to amend the City's Comprehensive Zoning Ordinance to rezone approximately 5 acres of land, legally described as Lot 61, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located northerly of Hufsmith Road, westerly of the unimproved Neal Street right-of-way, from the Single-Family Estate Residential-20 District to the Agricultural District.

- Conduct a Public Hearing on **ZONING CASE P11-354**
- Adopt on First Reading, Ordinance No. 2011-25, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 5 acres of land, legally described as lot 61, Tomball Outlots, within the City of Tomball, Harris County, Texas, from the Single-Family Estate Residential-20 District to the Agricultural District; Said property being generally located Northerly of Hufsmith Road, Westerly of the unimproved Neal Street Right-of-Way; Providing for the Amendment of the Official Zoning Map of the City; Providing for severability; Providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, Making findings of fact; and providing for other related matters

Background:

On August 19, 2011, the Engineering and Planning Department received an application to rezone this undeveloped 5 acre tract from the Single-Family Estate Residential-20 (SF-20-E) District to the Agricultural District. The intent of the rezoning request is to make the subject site's zoning classification consistent with the 1 acre tract Abandoned Animal Rescue owns to the south and eventually construct a new dog and cat shelter and adoption center.

There is a mixture of land uses in the vicinity. To the north of the subject site is undeveloped land, a Harris County Flood Control District drainage facility, and a City of Tomball sewer treatment facility within the SF-20-E District; to the south is undeveloped land, Abandoned Animal Rescue's existing facility, and residences in the Agricultural and SF-9 Districts; to the east is the unimproved Neal Street right-of-way and residences in the SF-20-E District; and to the west is undeveloped land and a Harris County Flood Control District drainage facility in SF-20-E District.

On October 10, 2011, the Planning and Zoning Commission, after conducting a public hearing on this request, voted to recommend approval of Zoning Case P11-354. This case is now being forwarded to City Council for consideration and possible action.

Origination:

Abandoned Animal Rescue

Recommendation:

In its formal recommendation to City Council, the Planning and Zoning Commission voted to recommend approval of Zoning Case P11-354.

Funding:

Party(ies) responsible for placing this item on agenda:

Engineering and Planning

ACTION TAKEN		
APPROVAL ☐ YES ☐ NO	READINGS PASSED ☐ 1 ST ☐ 2 ND	OTHER

ATTACHMENTS:

Notice of Public Hearing

Property Owner Notification Letter

P11-354 Staff Report

Ordinance 2011-25

**NOTICE OF PUBLIC HEARINGS
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
OCTOBER 10, 2011
&
CITY COUNCIL
OCTOBER 17, 2011**



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, October 10, 2011, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, October 17, 2011, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P11-354: Request by Abandoned Animal Rescue to amend the City's Comprehensive Zoning Ordinance to rezone approximately 5 acres of land, legally described as Lot 61, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located northerly of Hufsmith Road, westerly of the unimproved Neal Street right-of-way, from the Single-Family Estate Residential-20 District to the Agricultural District.

ZONING CASE P11-359: Request by Richard Middleton, on behalf of M.H.B. Holdings LLC, for a Conditional Use Permit to operate a "Carpet and Rug Cleaning Plant." The property is an approximately 0.3214 acre site, legally described as Lot 2, Block 66, Tomball Townsite Amending Plat, generally located on the westerly side of Live Oak Street, northerly of Main Street at 212 East Main Street, Tomball, Texas. The site is located in the Old Town & Mixed Use District.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on one or more of the above cases, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning and Zoning Commission. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX 77375. **Contact Assistant City Planner** Rodney Schmidt, (281) 290-1410, rschmidt@ci.tomball.tx.us

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the **6th** day of **October** 2011 by **5:00** p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate

Senior Administrative Assistant

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.ci.tomball.tx.us.



Notice of Public Hearing

YOU ARE INVITED TO ATTEND Public Hearings before the **PLANNING AND ZONING COMMISSION** and **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: P11-354

APPLICANT: Abandoned Animal Rescue

LOCATION: Northerly of Hufsmith Road, westerly of the unimproved Neal Street right-of-way

PROPOSAL: Request to amend the City's Comprehensive Zoning Ordinance to rezone approximately 5 acres of land, legally described as Lot 61, Tomball Outlots, within the City of Tomball, Harris County, Texas, from the Single-Family Estate Residential-20 District to the Agricultural District.

* * *

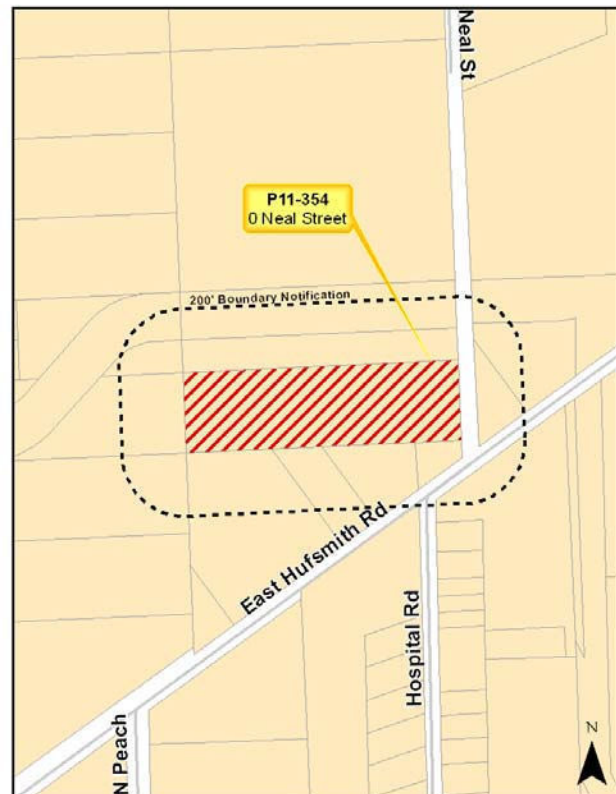
CONTACT PLANNER: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@ci.tomball.tx.us

Interested parties may contact the City Planner between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. The rezoning application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering and Planning Department office, located at 501 James Street, Tomball, TX 77375. The staff report will be available no later than 4:00 p.m. on the Friday preceding the meeting.

This notice is being mailed to all owners of real property within 200 feet of the request as such ownership appears on the last approved Harris County Appraisal District tax roll. Interested parties may appear and speak on the project or the staff recommendation at the meeting. Written comments may also be submitted for consideration.



**Planning and Zoning Commission
Public Hearing:
Monday, October 10, 2011, 5:00 PM**

**City Council Public Hearing:
*Monday, October 17, 2011, 6:00 PM**

**The Public Hearings will be held in the
City Council Chambers, City Hall
401 Market Street, Tomball, Texas**

*Should the Planning & Zoning Commission vote to table the recommendation on the case, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a recommendation is forwarded to the City Council by the Planning and Zoning Commission.



Rezoning Staff Report

Planning and Zoning Commission Hearing Date: October 10, 2011

Rezoning Case: P11-354
Property Owner(s): Abandoned Animal Rescue
Applicant(s): Abandoned Animal Rescue
Legal Description: Lot 61, Tomball Outlots
Location: Generally located northerly of Hufsmith Road, westerly of the unimproved Neal Street right-of-way
Area: 5 acres
Present Zoning and Use: Single-Family Estate Residential-20 District / Undeveloped
Comp Plan Designation: Rural Residential
Proposed Zoning and Use: Agricultural District / Dog and cat shelter and adoption center

It should be noted, that any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning & Zoning Commission may consider zoning classifications other than that sought by the applicant for this property.

Adjacent Zoning & Land Uses:

North: SF-20-E District / Undeveloped, Harris County Flood Control District drainage facility, and City of Tomball sewer treatment facility
South: Agricultural and SF-9 Districts / Undeveloped, Abandoned Animal Rescue, and residential
East: SF-20-E District / Unimproved Neal Street right-of-way (ROW) and residential
West: SF-20-E District / Undeveloped and Harris County Flood Control District drainage facility

BACKGROUND

The subject site is legally described as Lot 61 out of the Tomball Outlots within the City of Tomball, Harris County, Texas totaling approximately 5 acres. The site is generally located northerly of Hufsmith Road, westerly of the unimproved Neal Street right-of-way, is undeveloped (Exhibit "A"), and is currently zoned Single-Family Estate Residential-20 (SF-20-E) District (Exhibit "B").

On August 19, 2011, the Engineering & Planning Department received a rezoning application and letter for the subject site (Exhibits "C" and "D") from the applicant and property owner, Abandoned Animal Rescue. According to their rezoning request letter, "Abandoned Animal

Rescue is a non-profit, no-kill animal shelter, low-cost spay/neuter clinic and pet adoption center managed and maintained by an all-volunteer staff.” The intent of the rezoning request is to rezone the 5 acre tract from the SF-20-E District to the Agricultural District to make its zoning classification consistent with the 1 acre tract Abandoned Animal Rescue owns to the south and eventually construct a new dog and cat shelter and adoption center. As a matter of information, the zoning ordinance’s “Animal Kennel (Outdoor Pens)” land use is permitted by right in the Agricultural District and not permitted in the SF-20-E District.

ANALYSIS

According to the Tomball Zoning Ordinance, “The AG, Agricultural, district is designed to permit the use of land for the ranching, propagation and cultivation of crops and similar uses of vacant land. Single-family uses on large lots are also appropriate for this district.”

There is a mixture of land uses in the vicinity (Exhibits “A” and “B”). To the north of the subject site is undeveloped land, a Harris County Flood Control District drainage facility, and a City of Tomball sewer treatment facility within the SF-20-E District; to the south is undeveloped land, Abandoned Animal Rescue’s existing facility, and residences in the Agricultural and SF-9 Districts; to the east is the unimproved Neal Street right-of-way and residences in the SF-20-E District; and to the west is undeveloped land and a Harris County Flood Control District drainage facility in SF-20-E District.

The proposed rezoning to the Agricultural District is generally consistent with the “Rural Residential” Comprehensive Plan land use designation (Exhibit “E”). The Comprehensive Plan states, “Rural Residential (up to 1 du/ac) includes residential developments on minimum 1 acre lots that allows up to one house per acre lot. The intent is to provide for a rural lifestyle as well as to encourage appropriate development due to environmental constraints such as waterways, floodplains, and other features.” Although a residential developed is not proposed for the site at this time, the Agricultural District rezoning request is still generally consistent with the Rural Residential land use classification because it is designed for rural residential developments and agricultural activities.

As a matter of information, the future development of this site will require the applicant to comply with the City’s platting requirements as well as the use and area regulations outlined in the Zoning Ordinance. A site plan application, which require civil drawings, including all proposed grading, paving, drainage, and utility plans, building elevations and landscape plans, are required to be submitted and approved by the Engineering & Planning Department and Fire Marshal’s Office prior to a building permit application submittal.

ZONING CONSIDERATIONS

In making its recommendation regarding a proposed zoning change, the Planning and Zoning Commission shall consider the following factors:

- A. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the City as a whole.**

There is a mixture of land uses in the vicinity (Exhibits “A” and “B”). To the north of the subject site is undeveloped land, a Harris County Flood Control District drainage facility, and a City of Tomball sewer treatment facility within the SF-20-E District; to the south is

undeveloped land, Abandoned Animal Rescue's existing facility, and residences in the Agricultural and SF-9 Districts; to the east is the unimproved Neal Street right-of-way and residences in the SF-20-E District; and to the west is undeveloped land and a Harris County Flood Control District drainage facility in SF-20-E District. See the attached site photos (Exhibit "F").

B. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area.

The proposed rezoning is not anticipated to negatively impact public schools, streets, water supply, sanitary sewers, or other utilities to the area.

C. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.

There is no vacant land currently classified for similar development in the immediate vicinity of the subject site. However, there are several undeveloped properties zoned Agricultural District within the immediate vicinity.

D. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.

There has been limited development city-wide and within the vicinity in the Agricultural District.

E. How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved.

If the proposed zoning change were approved, there should be few if any affects on other areas designated for similar developments.

F. Any other factors that will substantially affect the public health, safety, morals, or general welfare.

The proposed zone change is not anticipated to adversely affect health, safety, morals, or general welfare.

G. Whether the request is consistent with the Comprehensive Plan.

According to the Comprehensive Plan, rezonings are "to conform to the intended future land use pattern shown on the Future Land Use Plan and should occur only when economic, physical, social, and other factors will allow the proposed land use to be developed:

- Within the capacities of existing or funded infrastructure and public facilities and services;
- In a compatible manner with surrounding land uses;
- To standards specified for and appropriate to the proposed land use; and

- In a way that furthers or helps achieve the goals of the Plan.”

The proposed rezoning to the Agricultural District is generally consistent with the “Rural Residential” Comprehensive Plan land use designation (Exhibit “E”). The Comprehensive Plan states, “Rural Residential (up to 1 du/ac) includes residential developments on minimum 1 acre lots that allows up to one house per acre lot. The intent is to provide for a rural lifestyle as well as to encourage appropriate development due to environmental constraints such as waterways, floodplains, and other features.” Although a residential developed is not proposed for the site at this time, the Agricultural District rezoning request is still generally consistent with the Rural Residential land use classification because it is designed for rural residential developments and agricultural activities.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on September 29, 2011 and, as of the writing of this report, no public comment forms were received.

RECOMMENDATION

That the Planning and Zoning Commission recommend:

1. APPROVAL of Zoning Case P11-354 based on the following:
 - a. The proposed zoning of Agricultural District is compatible with the Tomball Comprehensive Plan.
 - b. The proposed zoning of Agricultural District will not negatively impact public schools, streets, water supply, sanitary sewers, or other utilities to the area.
 - c. There is sufficient utility capacity to service agricultural uses on this site.
2. APPROVAL of the staff report as the Planning and Zoning Commission’s final recommendation to the City Council.

EXHIBITS

- A. Aerial Photo
- B. Zoning Map
- C. Rezoning Application
- D. Rezoning Request Letter
- E. Comprehensive Plan Future Land Use Map
- F. Site Photos

Exhibit "A"
Aerial Photo



Exhibit "B"
Zoning Map

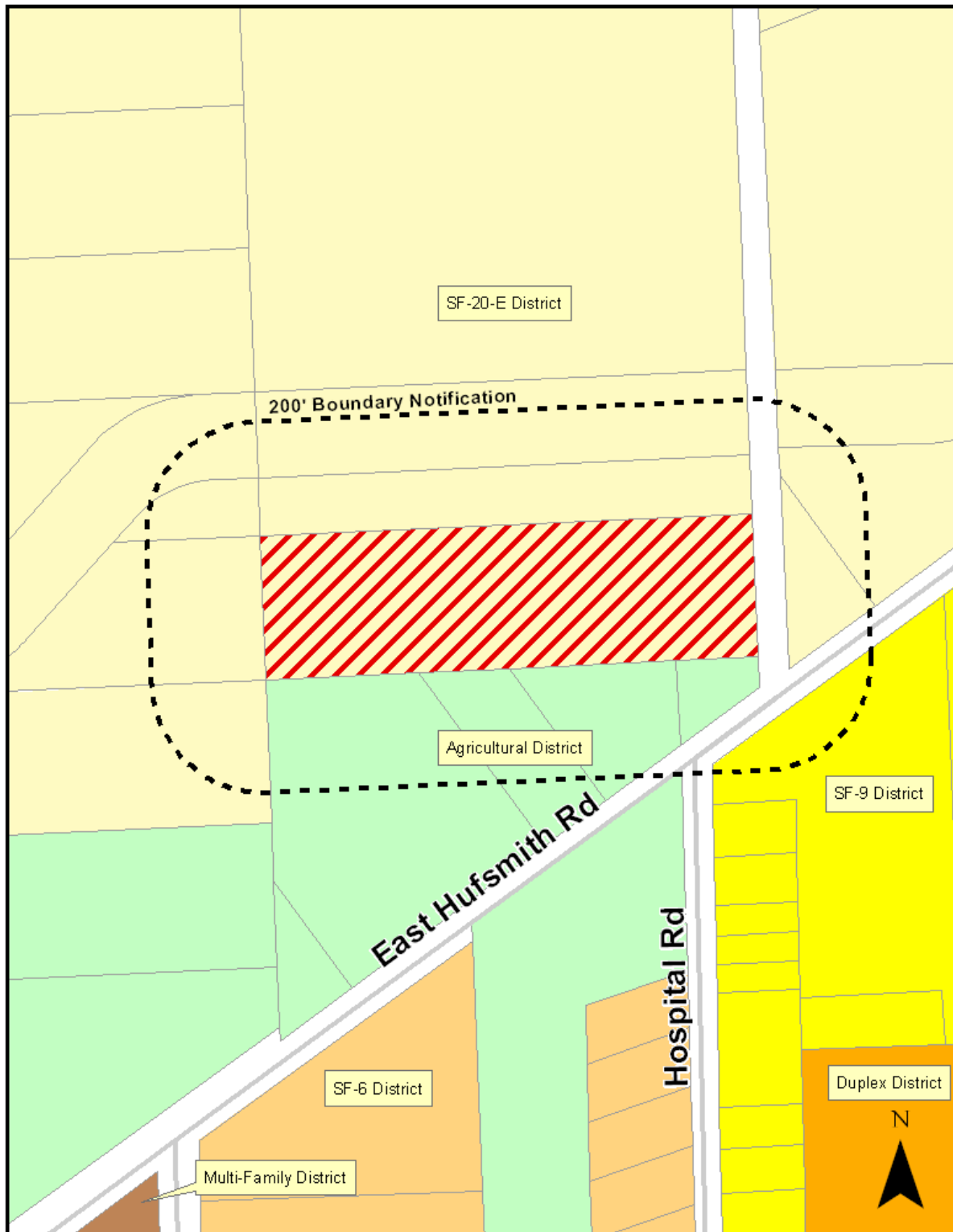
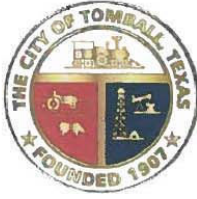


Exhibit "C"
Rezoning Application

Revised 1/20/09



APPLICATION FOR REZONING
Engineering & Planning Department

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: Abandoned Animal Rescue Title: _____
Mailing Address: 419 East Huffsmith Road City: Tomball State: Texas
Zip: 77375
Phone: (281) 290-0121 Fax: () Email: aar419e@gmail.com

Owner

Name: Abandoned Animal Rescue Title: _____
Mailing Address: 419 East Huffsmith Road City: Tomball State: Texas
Zip: 77375
Phone: (281) 290-0121 Fax: () Email: aar419e@gmail.com

Engineer/Surveyor (if applicable)

Name: Not Available Title: _____
Mailing Address: _____ City: _____ State: _____
Zip: _____
Phone: () Fax: () Email: _____

Description of Proposed Project: Combine 5 acre and 1 acre property under one zone (AG)

Physical Location of Property: Outlot 61 HCAD 035-282-000-0143 0 Neal Road Tomball Texas 77375
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: Ralph Hubbard Survey, Abstract 383, Tomball Townsite, Harris County Tx
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: SF-20-E-Single Family 20 Estate District

Current Use of Property: 4600-Vacant Exempt Land

Proposed Zoning District: AG -Agricultural District

Proposed Use of Property: 4375- Retail Miscellaneous

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405

www.ci.tomball.tx.us

HCAD Identification Number: 0352820000143 Acreage: 217,800 SF

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 *Arif Feh* 8-18-11
Signature of Applicant Date

X *Arif Feh* 8-18-11
Signature of Owner Date

Exhibit "D"
Rezoning Request Letter

***Abandoned Animal Rescue
non-profit, no-kill animal shelter***



*Abandoned Animal Rescue
419 E. Hufsmith
Tomball, TX 77375
www.aartomball.org
TAX ID #94-3424576*

August 15, 2011

City of Tomball
Engineering & Planning Department
501 James Street
Tomball, TX 77375

Re: Application for Zoning Verification and Application for Rezoning

HCAD #: 035-282-000-0144, 035-282-000-0061, 035-282-000-0143

Abandoned Animal Rescue (AAR) is requesting rezoning to allow development of the above listed 5 acre lot into an extension of the 1 acre lot located at 419 E. Hufsmith. The purpose of the request is to allow AAR to build a modern facility that provides a larger, safer, and up-to-date. Although the current facility provides a safe haven, it was adapted as a shelter from an existing structure; AAR plans to build a new facility specifically designed as a dog and cat shelter and adoption center.

AAR understands that this application is the first step prior to re-platting the developed 1 acre lot as a single piece of property with the 5 acres.

AAR has not yet commissioned a Conceptual Site Plan.

Thank you,

Angie Fenton
Board Member
Secretary
832-203-3637

Abandoned Animal Rescue is a non-profit, no-kill animal shelter,
low-cost spay/neuter clinic and pet adoption center
managed and maintained by an all-volunteer staff.

Exhibit “E”
Comprehensive Plan Future Land Use Map



**Exhibit “F”
Site Photos**



Figure 1: Northerly view of subject site and undeveloped lot to the south.



Figure 2: Northerly view of existing Abandoned Animal Rescue facility to the south of subject site.



Figure 3: Residence to the south of subject site.



Figure 4: Residences to the east of subject site.

ORDINANCE NO. 2011-25

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 5 ACRES OF LAND, LEGALLY DESCRIBED AS LOT 61, TOMBALL OUTLOTS, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE SINGLE-FAMILY ESTATE RESIDENTIAL-20 DISTRICT TO THE AGRICULTURAL DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED NORTHERLY OF HUFSMITH ROAD, WESTERLY OF THE UNIMPROVED NEAL STREET RIGHT-OF-WAY; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS

* * * * *

Whereas, the owner(s) of approximately 5 acres of land, legally described as Lot 61, Tomball Outlots, generally located northerly of Hufsmith Road, westerly of the unimproved Neal Street right-of-way, from the Single-Family Estate Residential-20 District to the Agricultural District; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days written notice of that hearing to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the proposal to change the zoning for the Property from the Single-Family Estate Residential-20 District to the Agricultural District; and

Whereas, the public hearing was held at least forty calendar days after the City's receipt of the request for rezoning; and

Whereas, the Planning and Zoning Commission recommended in its final report that City Council grant such proposed change in the zoning district classification of the Property; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing on the proposal to change the zoning district classification for the Property from the Single-Family Estate Residential-20 District to the Agricultural District, the City Council held the public hearing on the proposal to change the zoning for the Property and the City Council considered the final report of the Planning & Zoning Commission regarding the change of zoning district classification, and

Whereas, the City Council deems it appropriate to grant such proposed change in the zoning district classification of the Property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, THAT:

Section 1. The City Council finds that the facts and matters set forth in the preamble of this Ordinance are true and correct.

Section 2. The zoning classification of 5 acres of land, legally described as Lot 61, Tomball Outlots, within the City of Tomball, Harris County, Texas, is hereby changed from the Single-Family Estate Residential-20 District to the Agricultural District subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas-Ordinance 2008-01, ("Zoning District Map"), shall be revised and amended to show the designation of 5 acres of land, legally described as Lot 61, Tomball Outlots, generally located northerly of Hufsmith Road, westerly of the unimproved Neal Street right-of-way, as Agricultural District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for 5 acres of land, legally described as Lot 61, Tomball Outlots, generally located northerly of Hufsmith Road, westerly of the unimproved Neal Street right-of-way, to Agricultural District as described above.

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 6. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 7. City Council finds and determines that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Tex.Gov't. Code ch. 551.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 17TH DAY OF OCTOBER 2011.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 7TH DAY OF NOVEMBER 2011.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

ATTEST:

Gretchen Fagan, Mayor

Doris Speer, City Secretary

Regular City Council

Agenda Item

Meeting Date: October 17, 2011

Data Sheet

Topic:

Consideration to Approve **ZONING CASE P11-359**: Request by Richard Middleton, on behalf of M.H.B. Holdings LLC, for a Conditional Use Permit to operate a "Carpet and Rug Cleaning Plant." The property is an approximately 0.3214 acre site, legally described as Lot 2, Block 66, Tomball Townsite Amending Plat, generally located on the westerly side of Live Oak Street, northerly of Main Street at 212 East Main Street, Tomball, Texas. The site is located in the Old Town & Mixed Use District.

- Conduct a Public Hearing on **ZONING CASE P11-359**
- Adopt on First Reading, Ordinance No. 2011-26, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by granting a Conditional Use Permit to M.H.B. Holdings LLC, to operate a "carpet and rug cleaning plant"; Said tract being an approximately 0.3214 acre site, and being legally described as lot 2, block 66, Tomball Townsite Amending Plat, generally located on the Westerly side of Live Oak Street, Northerly of Main Street at 212 East Main Street, Tomball, Texas; Providing requirements and conditions for this Conditional Use Permit; Containing findings and other provisions relating to the subject; Providing a penalty in an amount not to exceed two thousand dollars for violations hereof; and providing for severability.

Background:

Origination:

M.H.B. Holdings LLC

Recommendation:

Funding:

Party(ies) responsible for placing this item on agenda:

Engineering and Planning

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Notice of Public Hearing

Property Owner Notification Letter

P11-359 Staff Report

Ordinance 2011-26

**NOTICE OF PUBLIC HEARINGS
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
OCTOBER 10, 2011
&
CITY COUNCIL
OCTOBER 17, 2011**



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, October 10, 2011, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, October 17, 2011, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P11-354: Request by Abandoned Animal Rescue to amend the City's Comprehensive Zoning Ordinance to rezone approximately 5 acres of land, legally described as Lot 61, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located northerly of Hufsmith Road, westerly of the unimproved Neal Street right-of-way, from the Single-Family Estate Residential-20 District to the Agricultural District.

ZONING CASE P11-359: Request by Richard Middleton, on behalf of M.H.B. Holdings LLC, for a Conditional Use Permit to operate a "Carpet and Rug Cleaning Plant." The property is an approximately 0.3214 acre site, legally described as Lot 2, Block 66, Tomball Townsite Amending Plat, generally located on the westerly side of Live Oak Street, northerly of Main Street at 212 East Main Street, Tomball, Texas. The site is located in the Old Town & Mixed Use District.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on one or more of the above cases, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning and Zoning Commission. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX 77375. **Contact Assistant City Planner** Rodney Schmidt, (281) 290-1410, rschmidt@ci.tomball.tx.us

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the **6th** day of **October** 2011 by **5:00** p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate

Senior Administrative Assistant

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.ci.tomball.tx.us.



Notice of Public Hearing

YOU ARE INVITED TO ATTEND Public Hearings before the **PLANNING AND ZONING COMMISSION** and **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: P11-359

APPLICANT: Richard Middleton, on behalf of M.H.B. Holdings LLC

LOCATION: 212 East Main Street

PROPOSAL: Request for a Conditional Use Permit to operate a "Carpet and Rug Cleaning Plant." The property is an approximately 0.3214 acre site, legally described as Lot 2, Block 66, Tomball Townsite Amending Plat. The site is located in the Old Town & Mixed Use District.

CONTACT PLANNER: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@ci.tomball.tx.us

Interested parties may contact the City Planner between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. The rezoning application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering and Planning Department office, located at 501 James Street, Tomball, TX 77375. The staff report will be available no later than 4:00 p.m. on the Friday preceding the meeting.

This notice is being mailed to all owners of real property within 200 feet of the request as such ownership appears on the last approved Harris County Appraisal District tax roll. Interested parties may appear and speak on the project or the staff recommendation at the meeting. Written comments may also be submitted for consideration.



**Planning and Zoning Commission
Public Hearing:
Monday, October 10, 2011, 5:00 PM**

**City Council Public Hearing:
*Monday, October 17, 2011, 6:00 PM**

**The Public Hearings will be held in the
City Council Chambers, City Hall
401 Market Street, Tomball, Texas**

*Should the Planning & Zoning Commission vote to table the recommendation on the case, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a recommendation is forwarded to the City Council by the Planning and Zoning Commission.



CUP Staff Report

Planning and Zoning Commission Hearing Date: October 10, 2011

Rezoning Case: P11-359
Property Owner(s): M.H.B. Holdings LLC
Applicant(s): Richard Middleton
Legal Description: Lot 2, Block 66, Tomball Townsite Amending Plat
Location: 212 East Main Street (Generally located on the westerly side of Live Oak Street, northerly of Main Street)
Area: 0.3214 acre
Present Zoning and Use: Old Town & Mixed Use (OT & MU) District / Vacant
Comp Plan Designation: Mixed Use
Proposed Use: Carpet and Rug Cleaning Plant
Request: Conditional Use Permit (CUP) to allow a “Carpet and Rug Cleaning Plant.”

Adjacent Zoning & Land Uses:

North: SF-6 District / City of Tomball alleyway, commercial properties, and residential properties
South: OT & MU District / F.M. 2920 right-of-way and commercial properties
East: OT & MU District / North Live Oak Street right-of-way and residential properties
West: OT & MU District / Commercial properties

BACKGROUND

The subject site is legally described as Lot 2, Block 66, Tomball Townsite Amending Plat totaling approximately 0.3214 acres. The site’s physical address is 212 East Main Street and is generally located on the westerly side of Live Oak Street, northerly of Main Street. The property currently has two vacant buildings totaling approximately 8,652 square feet and is zoned Old Town & Mixed Use District (Exhibits “A” and “B”).

On August 30, 2011, the Engineering & Planning Department received a CUP application (Exhibit “C”), CUP request letter (Exhibit “D”), and concept plan (Exhibit “E”) from Richard Middleton of Pro Steem Carpet Care requesting a “Carpet and Rug Cleaning Plant” land use be permitted at the subject site. A “Carpet and Rug Cleaning Plant” land use is only permitted in the Old Town & Mixed Use District with a CUP. The applicant stated in the CUP request letter the facility’s anticipated operations will include, but not be limited to, “residential/commercial

wall to wall carpet cleaning, upholstery cleaning, area rug cleaning etc. [The] [p]roperty will also include executive office space for lease.”

According to the Zoning Ordinance, “a conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions.” Additionally, the Ordinance requires all CUP applications include a concept plan to ensure that the proposed project is in compliance with all applicable City ordinances.

The proposed concept plan indicates the site will include striping fifteen non-ADA parking stalls, striping one van accessible ADA parking space and loading area, adding a landscape buffer along F.M. 2920, and other site improvements. The concept plan also shows that the office hours for the facility will be Monday through Friday from 8 a.m. to 6 p.m. and Saturday from 8 a.m. to 2 p.m., with approximately 7 employees on site.

ANALYSIS

When considering applications for a conditional use permit, the City shall, on the basis of the concept plan and other information submitted, evaluate the impact of the conditional use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. Specific considerations shall include the extent to which:

- 1. The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted Comprehensive Plan;**

The Comprehensive Plan identifies the subject site as “Mixed Use” (Exhibit “F”). It states the “Mixed Use” land use classification “is intended to include a mix of office, retail/commercial, and high density residential uses in a master planned, integrated manner. These uses may be located within a development, either horizontally or vertically in form. This may be accomplished on single or multiple parcels of land as long as the site is planned and developed as one integrated project. It is envisioned that Mixed Use designations will ultimately be located in areas with multimodal transportation access to support the intensity of development.” The applicant is proposing to have a mixture of land uses on this site including a carpet and rug cleaning facility and executive office space.

Additionally, action item LUD 3.5.3 of the Comprehensive Plan seeks to “Allow for mixed use development at varying intensities at selected areas as a means of revitalizing underutilized urban parcels.” As is evident from the site photos (Exhibit “G”), the proposed land uses will transform this underutilized urban parcel into an economic development opportunity.

- 2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;**

The Old Town & Mixed Use District is an area in which many diverse land uses have existed for many years. The district 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.

The proposed site improvements and recommended conditions of approval will assure compatibility of the “Carpet and Rug Cleaning Plant” use with other permitted uses in the surrounding area.

3. The proposed use meets all supplemental standards specifically applicable to the use as set forth in the zoning ordinance;

The proposed concept plan indicates the site will include striping fifteen non-ADA parking stalls, striping one van accessible ADA parking space and loading area, adding a landscape buffer along F.M. 2920, and other site improvements. The concept plan also shows that the office hours for the facility will be Monday through Friday from 8 a.m. to 6 p.m. and Saturday from 8 a.m. to 2 p.m., with approximately 7 employees on site.

Should the CUP application be approved, the applicant will be required to submit a full set of civil plans to the Engineering & Planning Department for review and approval. The plans must exhibit compliance with all applicable ordinance regulations, including but not limited to paving, detention, curbing, landscaping, fire access, etc.

4. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts;

There is a mixture of land uses in the immediate vicinity of the subject site. To the north is a City of Tomball alleyway, commercial properties, and residential properties located in the SF-6 District; to the south is the F.M. 2920 right-of-way and commercial properties located in the Old Town & Mixed Use District; to the east is the North Live Oak Street right-of-way and residential properties in the Old Town & Mixed Use District; and to the west are commercial properties in the Old Town & Mixed Use District.

The recommended conditions of approval will ensure compatibility of the “Carpet and Rug Cleaning Plant” use with other uses permitted in the surrounding area.

5. The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

The proposed use of the site as a “Carpet and Rug Cleaning Plant” is not anticipated to be detrimental to the public health, safety, convenience, and welfare. The proposed site improvements and recommended conditions of approval will improve the overall aesthetics of the existing site and ensure compatibility of the proposed use with other uses permitted in the surrounding area.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on September 29, 2011 and, as of the writing of this report, two public comment forms were received in opposition to the request (Exhibit “H”).

RECOMMENDATION

That the Planning and Zoning Commission recommend approval of Zoning Case P11-359, with conditions, based on the following:

- a. The proposal is consistent with the general purpose and intent of the applicable zoning district regulations and Comprehensive Plan ;
- b. The proposal is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

RECOMMENDED CONDITIONS OF APPROVAL

Section 37.1.A of the Zoning Ordinance allows the City to impose certain conditions on a CUP request in order to mitigate “external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood.” As such, City staff recommends the following conditions of approval:

1. The “Carpet and Rug Cleaning Plant” use shall not be enlarged or extended beyond what is shown on the approved concept plan without the approval of a revised concept plan or new CUP.
2. The “Carpet and Rug Cleaning Plant” shall adhere to the provisions of Chapter 30 “Environment” including Article IV “Nuisances.” If at any time the “Carpet and Rug Cleaning Plant” is found to be in violation of Chapter 30 “Environment,” the CUP shall be abolished and the use shall cease.
3. The “Carpet and Rug Cleaning Plant” shall adhere to the provisions of Chapter 82 “Utilities” including Article III “Industrial Waste.” If at any time the “Carpet and Rug Cleaning Plant” is found to be in violation of Chapter 82 “Utilities,” the CUP shall be abolished and the use shall cease.

EXHIBITS

- A. Aerial Photo
- B. Zoning Map
- C. CUP Application
- D. CUP Request Letter
- E. Concept Plan
- F. Comprehensive Plan Future Land Use Map
- G. Site Photos
- H. Public Comment Forms

Exhibit “A”
Aerial Photo

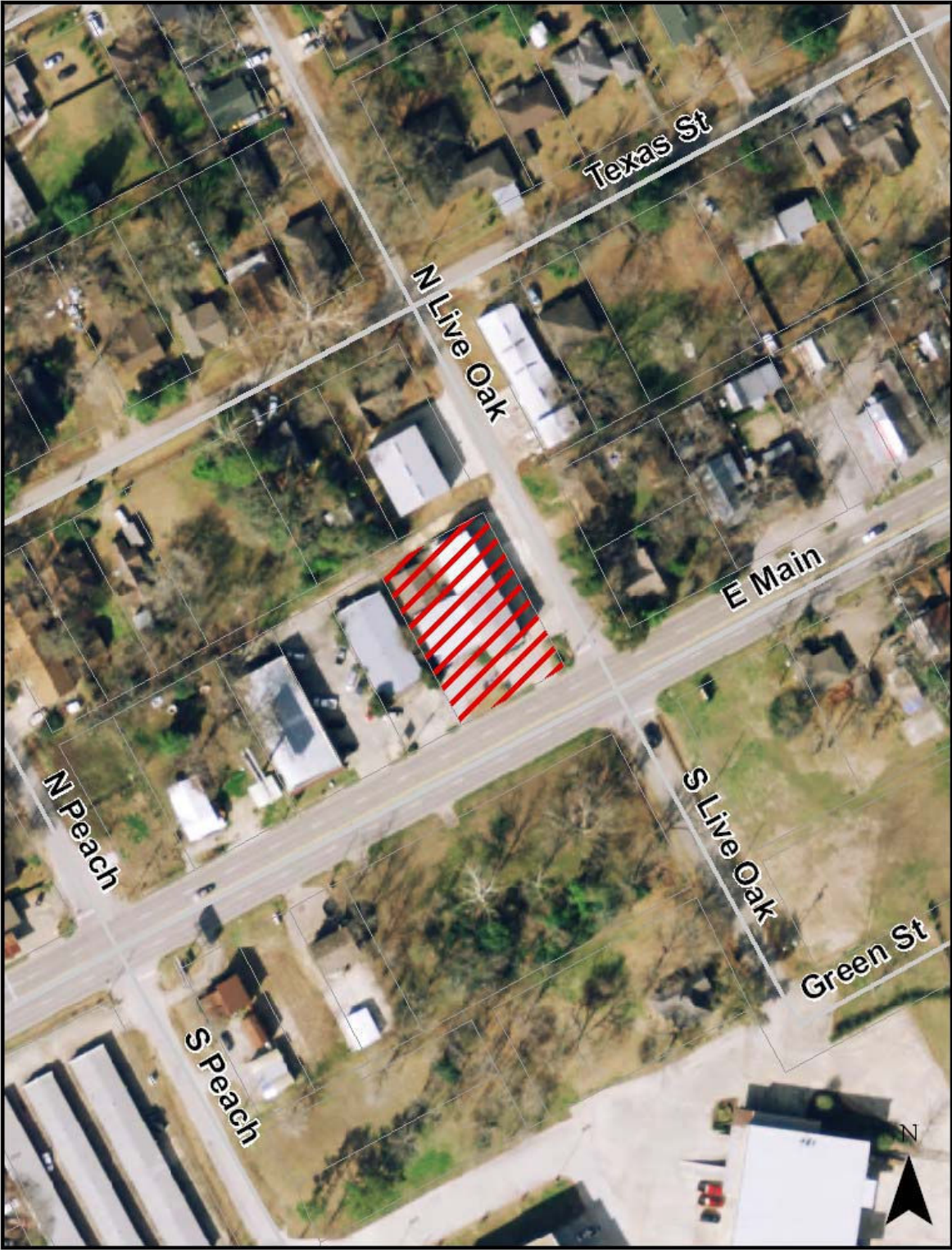


Exhibit "B"
Zoning Map

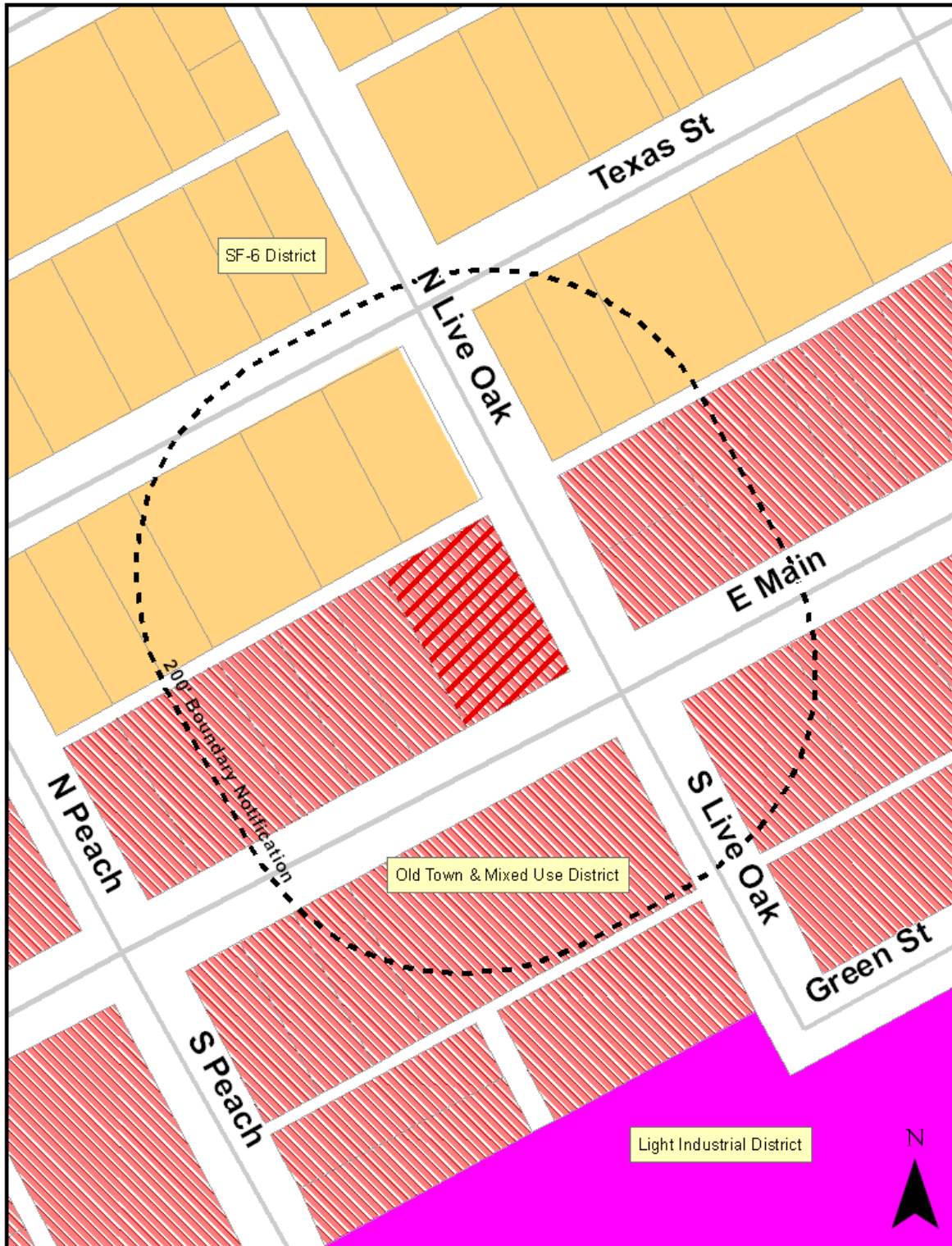


Exhibit "C"
CUP Application

Revised 1/20/09



**APPLICATION FOR
CONDITIONAL USE PERMIT**
Engineering & Planning Department



A conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions. This Section sets forth the standards used to evaluate proposed conditional uses and the procedures for approving conditional use permit (CUP) applications.

No conditional use shall be established and no building permit shall be issued for any use designated as a conditional use within any zoning district until a conditional use permit (CUP) is approved and issued in accordance with the provisions of this Section and Section 10 of The Zoning Ordinance.

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: Richard Middleton Title: President
Mailing Address: 32815 FM 297P RO #B City: Magnolia State: TX
Zip: 77354
Phone: (281) 259-6000 Fax: (281) 259-9500 Email: Richard@prostem.com

Owner MARSHALL BLALOCK

Name: M.H.B. HOLDINGS, L.L.C. Title: President
Mailing Address: 13991 JBIK MEMORIAL DR. City: Urich State: TX
Zip: 77318
Phone: (281) 380 9007 Fax: () Email: marshall120452@aol.com.

Engineer/Surveyor (if applicable)

Name: MICHAEL KING / STUDIO KIM ARCHITECTS Title: Architect / owner
Mailing Address: P.O. Box 7906 City: Houston State: TX
Zip: 77027
Phone: (713) 864 3444 Fax: (713) 864 3444 Email: mks@studioking.us

Description of Proposed Project: CARPET, UPHOLSTERY CLEANING PLANT

Physical Location of Property: 212 E. MAIN, TOMBALL 77375
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: LOT 2, BLOCK 66 TOMBALL AMEND
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

HCAD Identification Number: 0352720660001 Acreage: 0.3214

Current Use of Property: NONE VACANT

Proposed Use of Property: CARPET, UPHOLSTERY CLEANING PLANT

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  8-23-11
Signature of Applicant Date

X Marshall Blalock Jr. 8-23-11
Signature of Owner Date

Exhibit "D"
CUP Request Letter



32815 Fm 2978 Suite B, Magnolia Texas 77354 (281)259-6000

August 30, 2011

Re: Letter of Request

Address: 212 E Main Street

Tomball Texas 77375

Applicant: Richard A Middleton

32815 FM 2978 Suite B

Magnolia Texas 77354

Intend to purchase property in order to relocate current carpet & upholstery cleaning plant.

Pro Steem Carpet Care Inc currently operates in Magnolia Texas serving Montgomery, North Harris and surrounding counties for 18+ years. The primary day to day business operations include but are not limited to, residential/ commercial wall to wall carpet cleaning, upholstery cleaning, area rug cleaning etc. Property will also include executive office space for lease.

Pro Steem Carpet Care Inc is looking forward to being a member of the City of Tomball community of which we have served for many years.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Middleton", with a long horizontal line extending to the right.

Richard A Middleton

Page 11 of 20

[illegible]

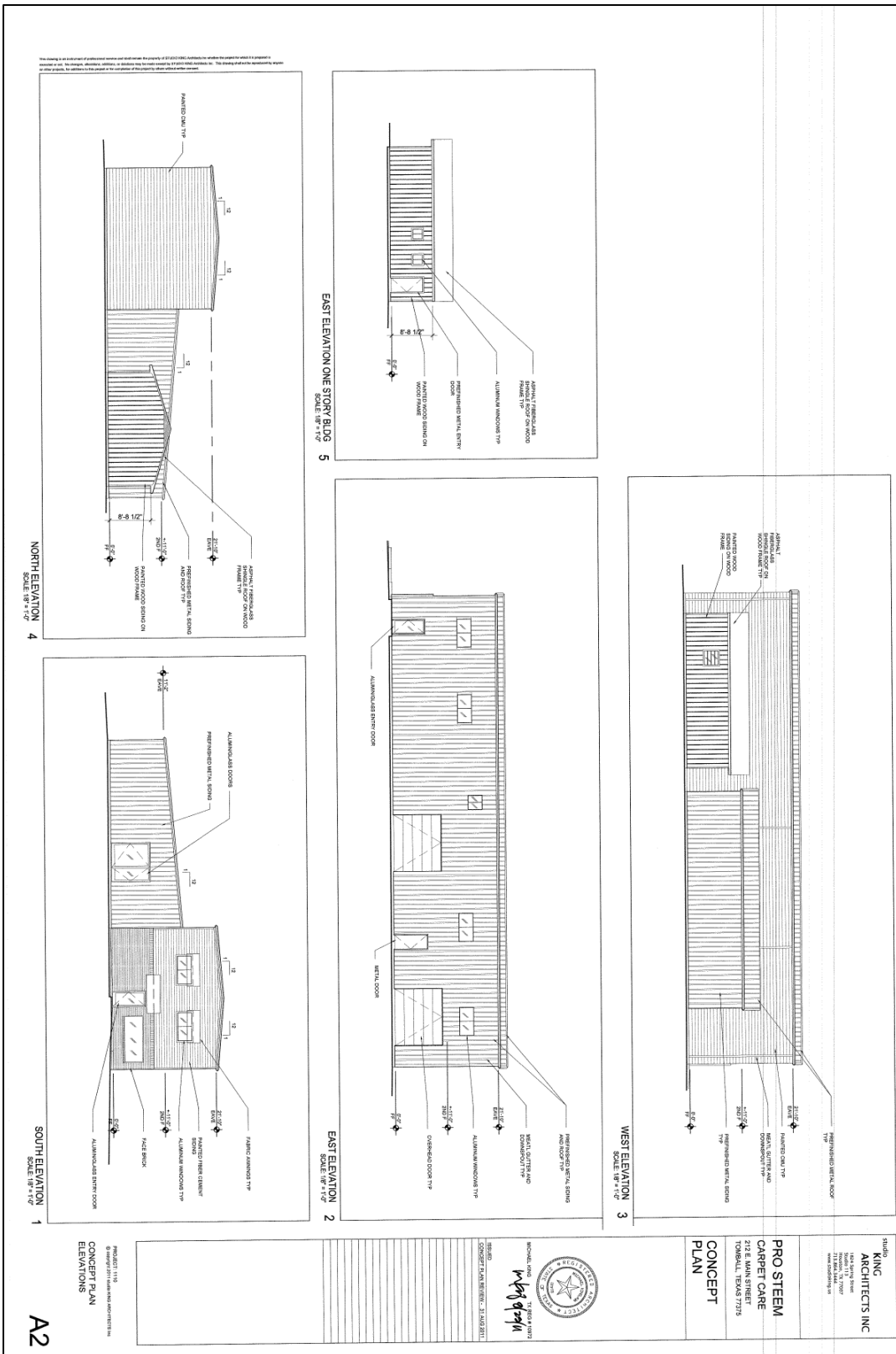


Exhibit “F”
Comprehensive Plan Future Land Use Map



**Exhibit “G”
Site Photos**



Figure 1: Northwesterly view of subject site.



Figure 2: Easterly side of subject site.



Figure 3: Northerly side of subject site.



Figure 4: Northerly side of subject site.



Figure 5: West of subject site.



Figure 6: South of subject site.



Figure 7: East of subject site.



Figure 8: Residence to the east of subject site.



Figure 9: Cabinet shop to the northeast of subject site.



Figure 10: Residence to the north of subject site.

Exhibit "H"
Public Comment Forms

	Engineering and Planning Department Public Comment Form (Please type or use black ink)
---	---

All submitted forms will become a part of the public record.

Please return to:
City of Tomball
Department of Engineering & Planning
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375



Name: RON CUMMINGS
(please print)
Address: 202 E. MAIN ST.
TOMBALL, TEXAS 77375
Signature: R Cummings
Date: 10-1-11

☐ I am **FOR** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-359. (Please state reasons below)

☒ I am **AGAINST** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-359. (Please state reasons below)

Date, Location & Time of **Planning & Zoning Commission** meeting:
Monday, October 10, 2011, 5:00 PM
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

Date, Location & Time of **City Council** meeting:
Monday, October 17, 2011, 6:00 PM
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS: I Believe That main street Propertys
Should Be For Retail Companies Not
Factory's USING dangerous chemicals AND
Machinery

You may also comment via email to rschmidt@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1410.



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:
City of Tomball
Department of Engineering & Planning
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375

Name:
(please print)
Address:

Randy L Cole

208 E. Main
Tomball TX 77375

Signature:

Randy Cole

Date:

10/16/2011

I am **FOR** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-359. (Please state reasons below)

✓

I am **AGAINST** the requested conditional use permit as explained on the attached public notice for Zoning Case P11-359. (Please state reasons below)

Date, Location & Time of Planning & Zoning Commission meeting:

Monday, October 10, 2011, 5:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

Date, Location & Time of City Council meeting:

Monday, October 17, 2011, 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:

I am concerned about the chemical storage at this location. I hope to look out for my health as well as my tenants and keep all dangers away that could cause me and my renters. Also, it can affect the value of my property, have stored chemical too close to our building.
(Health Issues)

You may also comment via email to rschmidt@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1410.

ORDINANCE NO. 2011-26

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY GRANTING A CONDITIONAL USE PERMIT TO M.H.B. HOLDINGS LLC, TO OPERATE A “CARPET AND RUG CLEANING PLANT”; SAID TRACT BEING AN APPROXIMATELY 0.3214 ACRE SITE, AND BEING LEGALLY DESCRIBED AS LOT 2, BLOCK 66, TOMBALL TOWNSITE AMENDING PLAT, GENERALLY LOCATED ON THE WESTERLY SIDE OF LIVE OAK STREET, NORTHERLY OF MAIN STREET AT 212 EAST MAIN STREET, TOMBALL, TEXAS; PROVIDING REQUIREMENTS AND CONDITIONS FOR THIS CONDITIONAL USE PERMIT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE SUBJECT; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS FOR VIOLATIONS HEREOF; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, Richard Middleton, on behalf of M.H.B. Holdings LLC, has made application for a Conditional Use Permit to allow a “Carpet and Rug Cleaning Plant” to operate in the Old Town & Mixed Use District. The property is an approximately 0.3214 acre site located at 212 East Main Street, legally described as Lot 2, Block 66, Tomball Townsite Amending Plat, and generally located on the westerly side of Live Oak Street, northerly of Main Street; and

WHEREAS, the Property presently has a zoning classification of Old Town & Mixed Use District, pursuant to the Comprehensive Zoning Ordinance of the City; and

WHEREAS, the Owner of the Property, through its duly authorized representative, has presented an application to the City for the granting of a Conditional Use Permit to allow a “Carpet and Rug Cleaning Plant” to operate in a Old Town & Mixed Use District (the “Conditional Use”); and

WHEREAS, the Planning & Zoning Commission of the City, after notice and hearing as required by law, has recommended that the City Council grant the conditional use permit subject to the terms and conditions contained in the final report of said Commission; and,

WHEREAS, the City Council, following notice and hearing as required by law, concurs with the recommendation of the Planning & Zoning Commission that such conditional use permit should be granted subject to the terms and conditions contained herein; now, therefore,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, THAT:

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. A Conditional Use Permit to allow a “Carpet and Rug Cleaning Plant” to operate in a Old Town & Mixed Use District, to M.H.B. Holdings LLC, at 212 East Main Street, Tomball, Texas, in accordance with the application and concept plan (Exhibit “A”) submitted to the Planning and Zoning Commission on October 10, 2011 and subject to the terms and conditions set forth below, is hereby granted to M.H.B. Holdings LLC.

Section 3. The Official Zoning District Map of the City shall be revised and amended to show the Conditional Use authorized hereby for the Property as provided in Section 2 hereof, with the appropriate references thereon to the number and effective date of this Ordinance and a brief description of the nature of the Conditional Use authorized.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City, save and except the granting of the Conditional Use Permit as herein provided.

Section 5. The Conditional Use Permit granted hereby shall be null and void after the expiration of two (2) years from the date of adoption hereof unless the Property is being used in accordance with the Conditional Use herein authorized within said two-year period, or unless an extension of time is approved by City Council.

Section 6. The Conditional Use authorized and permitted hereby shall be, and is, subject to the following additional limitations, restrictions, and conditions:

1. The “Carpet and Rug Cleaning Plant” use shall not be enlarged or extended beyond what is shown on the approved concept plan without the approval of a revised concept plan or new CUP.
2. The “Carpet and Rug Cleaning Plant” shall adhere to the provisions of Chapter 30 “Environment” including Article IV “Nuisances.” If at any time the “Carpet and Rug Cleaning Plant” is found to be in violation of Chapter 30 “Environment,” the CUP shall be abolished and the use shall cease.
3. The “Carpet and Rug Cleaning Plant” shall adhere to the provisions of Chapter 82 “Utilities” including Article III “Industrial Waste.” If at any time the “Carpet and Rug Cleaning Plant” is found to be in violation of Chapter 82 “Utilities,” the CUP shall be abolished and the use shall cease.

Section 7. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 8. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or

unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 17TH DAY OF OCTOBER 2011.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 7TH DAY OF NOVEMBER 2011.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

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