

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



TUESDAY, JULY 26, 2011

4:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Tuesday, July 26, 2011 at 4:00 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 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.]*
- 3.0 Old Business:
 - 3.1 Adopt on Second Reading, Ordinance No. 2011-11, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 3.86 acres of land, Legally Described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, Within the City of Tomball, Harris County, Texas, from the SF-20-E Single-Family Estate Residential-20 District to the LI-Light Industrial District; said Property being Generally Located on the Easterly Side of Ulrich Road, Northerly of Hufsmith Road at 1110 Ulrich Road, Tomball, Texas; 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

- 3.2 Adopt, on Second Reading, Ordinance No. 2011-14, an Ordinance of the City Council of the City of Tomball, Texas, Amending Section 60-11, Changeable Electronic Variable Message Signs (CEVMS), of Chapter 60, Signs, of the City's Code of Ordinances relating to Changeable Electronic Variable Message Signs to Allow CEVMS as On Premise Signs on Properties Located Adjacent to All State Rights-of-Way; to Allow CEVMS on Properties Not Located Adjacent to a State Right-of-Way upon Application and Approval by the City Council; Providing Regulations for Such CEVMS; Providing a Penalty of up to \$2,000.00 for Violations with Each Day Constituting a Separate Violation; Providing for the Publication of This Ordinance; and Making Other Findings and Provisions related Thereto
- 3.3 Adopt, on Second Reading, Ordinance No. 2011-16, an Ordinance amending Chapter 78, Traffic and Vehicles, Article III, Operation of Vehicles Generally, of the Code of Ordinances of the City Council of the City of Tomball, Texas, by adding a New Section 78-74, Through Truck Traffic Prohibited; Establishing Regulations related to Truck Traffic on Public Streets Designated as No Through Truck Street; Providing a Penalty in an Amount Not to Exceed \$200 for Each Violation Hereof; and Providing for Severability; and Making other Provisions and Findings related Thereto
- 3.4 Workshop Session:
- The Tomball City Council will enter into a Workshop Session regarding the Fiscal Year 2011-2012 Budget

4.0 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 22nd day of July 2011 by 4:00 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.

Special City Council

Agenda Item

Meeting Date: July 26, 2011

Data Sheet

Topic:

Adopt on Second Reading, Ordinance No. 2011-11, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 3.86 acres of land, Legally Described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, Within the City of Tomball, Harris County, Texas, from the SF-20-E Single-Family Estate Residential-20 District to the LI-Light Industrial District; said Property being Generally Located on the Easterly Side of Ulrich Road, Northerly of Hufsmith Road at 1110 Ulrich Road, Tomball, Texas; 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 May 27, 2011, the Engineering and Planning Department received an application to rezone the subject site from the SF-20-E Single-Family Estate Residential-20 District to the Light Industrial District to permit the expansion of the existing "Any Manufacture or Industrial Process Not Listed and Not Prohibited by Law" land use.

There is a mixture of land uses in the vicinity, however, light industrial uses are not located in the immediate vicinity. The proposed rezoning to the LI-Light Industrial District is not consistent with the "Rural Residential" Comprehensive Plan land use designation shown on the Future Land Use Plan Map.

After reviewing the rezoning request, staff prepared a report to the Planning and Zoning Commission. On July 11 2011, the Planning and Zoning Commission, after conducting a public hearing on this request, voted 5-0 to approve Zoning Case P11-333 to the C-Commercial District instead of the LI-Light Industrial District originally requested by the applicant. This case is now being forwarded to City Council for consideration and possible action.

On July 18, 2011, Council adopted Ordinance No. 2011-11 on First Reading, amending the ordinance to rezone the subject property from SF-20-E Single-Family Estate Residential-20 District to the Light Industrial District to permit the expansion of the existing "Any Manufacture or Industrial Process Not Listed and Not Prohibited by Law" land use.

Origination:

Eagle Gasket and Packing Company, Inc., on behalf of Faires Properties Inc. LLC

Recommendation:

Adopt Ordinance No. 2011-11 on Second Reading.

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
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ATTACHMENTS:

Ordinance No. 2011-11 - Eagle Gasket

P11-333 Staff Report

Notice of Public Hearing

Property Owner Notification Letter

ORDINANCE NO. 2011-11

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 3.86 ACRES OF LAND, LEGALLY DESCRIBED AS LOT 1, BLOCK 1, EAGLE GASKET AND PACKING COMPANY SUBDIVISION NUMBER 1 REPLAT, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE SF-20-E SINGLE-FAMILY ESTATE RESIDENTIAL-20 DISTRICT TO THE LI-LIGHT INDUSTRIAL DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED ON THE EASTERLY SIDE OF ULRICH ROAD, NORTHERLY OF HUFSMITH ROAD AT 1110 ULRICH ROAD, TOMBALL, TEXAS; 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 3.86 acres of land, legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road at 1110 Ulrich Road, Tomball, Texas, (the "Property"), have requested that the Property be rezoned; and

Whereas, at least eight (8) 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 SF-20-E Single-Family Estate Residential-20 District to the LI-Light Industrial 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 change the zoning district of the Property to the C-Commercial 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 on the proposal to change the zoning district classification for the Property from SF-20-E Single-Family Estate Residential-20 District to the LI-Light Industrial 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 3.86 acres of land, legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, within the City of Tomball, Harris County, Texas, is hereby changed from the SF-20-E Single-Family Estate Residential-20 District to the LI-Light Industrial 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 3.86 acres of land, legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road, as LI-Light Industrial 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 3.86 acres of land, legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road, to LI-Light Industrial 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 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 18TH DAY OF JULY 2011.

COUNCILMAN HUDGENS	<u>NAY</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN BROWN	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DODSON	<u>AYE</u>

SECOND READING:

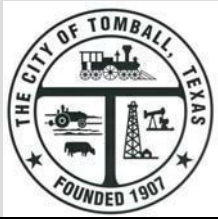
READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 26TH DAY OF JULY 2011.

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

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



Rezoning Staff Report

Planning and Zoning Commission Hearing Date: July 11, 2011

Rezoning Case: P11-333

Property Owner(s): Faires Properties Inc. LLC

Applicant(s): Eagle Gasket and Packing Company, Inc.

Legal Description: Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat

Location: 1110 Ulrich Road (Generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road)

Area: 3.86 acres

Present Zoning and Use: SF-20-E Single-Family Estate Residential-20 District / Eagle Gasket and Packing Company ("Any Manufacture or Industrial Process Not Listed and Not Prohibited by Law")

Comp Plan Designation: Rural Residential

Proposed Zoning and Use: LI-Light Industrial District / Eagle Gasket and Packing Company ("Any Manufacture or Industrial Process Not Listed and Not Prohibited by Law")

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 / Matheson Park (City of Tomball)

South: SF-20-E District / Undeveloped City of Tomball property, Harris County Flood Control District drainage ditch, and single-family residential

East: SF-20-E District / Rudolph Street right-of-way and single-family residential

West: SF-20-E and SF-9 Districts / Burlington Northern Santa Fe railway and Tomball High School

BACKGROUND

The subject site is legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat within the City of Tomball, Harris County, Texas totaling

approximately 3.86 acres. The site's physical address is 1110 Ulrich Road and is generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road (Exhibits "A" & "B"). The property is currently used by Eagle Gasket and Packing Company which is classified in the Zoning Ordinance as "Any Manufacture or Industrial Process Not Listed and Not Prohibited by Law." According to their website, Eagle Gasket is "a recognized leader in the development and manufacturing of Gaskets, Plastics, Railcar Parts, and Packing Products."

On May 18, 2011, the Engineering & Planning Department met with representatives of Eagle Gasket and Packing Company to discuss a possible 2,400 square foot expansion of their southern most building at 1110 Ulrich Road. City staff informed their representatives that because the property is zoned Single-Family Estate Residential-20 District, they would not be permitted to construct or expand the existing 900 square foot building because their land use is not permitted in the SF-20-E District. City staff informed the representatives the expansion could be permitted if the property were rezoned to the Light Industrial District and issued a conditional use permit (CUP).

On May 27, 2011, the Engineering & Planning Department received a rezoning and CUP application for the subject site (Exhibits "C" & "D"). The applicant is requesting to rezone the property from the SF-20-E District to the LI-Light Industrial District. The use of the site as "Any Manufacture or Industrial Process Not Listed and Not Prohibited by Law" is "grandfathered" because it was established prior to adoption of the Zoning Ordinance. However, Eagle Gasket and Packing Company desires to make improvements to the property which requires the granting of a CUP. The applicant included a Rezoning Request Letter, Concept Plan, and Property Survey (Exhibits "E", "F", & "G") with the applications.

ANALYSIS

According to the Tomball Zoning Ordinance, "The LI, Light Industrial, district is intended primarily for the conduct of light manufacturing, assembling and fabrication activities, and for warehousing, research and development, wholesaling and service operations that do not typically depend upon frequent customer or client visits. Such uses do require accessibility to major thoroughfares, major highways, and/or other means of transportation such as the railroad."

The applicant is requesting the rezoning to bring the property's zoning classification in line with the existing development and manufacturing facility already established on the site and to facilitate the proposed 2,400 square foot expansion to the existing 900 square foot building on the south side of the property.

There is a mixture of land uses in the vicinity, however, light industrial uses are not located in the immediate vicinity. To the north of the subject site is Matheson Park in the SF-20-E District; to the south is undeveloped City of Tomball property, a Harris County Flood Control District drainage ditch, and a single-family residence in the SF-20-E District; to the east are single-family residences and Rudolph Street right-of-way in the SF-20-E District; and to the west is the Burlington Northern Santa Fe railway and Tomball High School in the SF-20-E and SF-9 Districts (respectively).

The proposed rezoning to the Light Industrial District is not consistent with the "Rural Residential" Comprehensive Plan land use designation shown on the Future Land Use Plan Map (Exhibit "H"). The Comprehensive Plan's land use designations are intended to provide direction in determining current and future growth patterns and development intensities. The

Comprehensive Plan states that the “Rural Residential” land use designation “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. The basic character of development is rural with most natural features of the land retained. Typically, the keeping of a limited number of horses or other livestock is permitted. Public services are not required at a level as great as those required in higher density development. No future commercial or industrial development (other than commercial farming) is permitted in rural neighborhoods.”

Photos taken City staff have been included in the report (Exhibit “I”).

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, however, light industrial uses are not located in the immediate vicinity. To the north of the subject site is Matheson Park in the SF-20-E District; to the south is undeveloped City of Tomball property, a Harris County Flood Control District drainage ditch, and a single-family residence in the SF-20-E District; to the east are single-family residences and Rudolph Street right-of-way in the SF-20-E District; and to the west is the Burlington Northern Santa Fe railway and Tomball High School in the SF-20-E and SF-9 Districts (respectively).

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 not a Light Industrial District in the immediate vicinity of the subject site. There are several undeveloped properties zoned Light Industrial within the City of Tomball, particularly south of Mechanic Street between the Burlington Northern Santa Fe railway and South Chestnut Street and on the west side of South Persimmon south of Lizzie Lane.

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 in the Light Industrial District city-wide and no Light Industrial District development within the vicinity.

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.

To date, the Eagle Gasket and Packing Company facility at 1110 Ulrich Road has not negatively impacted public health, safety, morals, or general welfare. It will be at the discretion of the Planning & Zoning Commission and City Council whether or not the requested rezoning and conditional use permit will substantially affect the public 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 Light Industrial District is not consistent with the “Rural Residential” Comprehensive Plan land use designation shown on the Future Land Use Plan Map. The Comprehensive Plan’s land use designations are intended to provide direction in determining current and future growth patterns and development intensities. The Comprehensive Plan states that the “Rural Residential” land use designation “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.

The basic character of development is rural with most natural features of the land retained. Typically, the keeping of a limited number of horses or other livestock is permitted. Public services are not required at a level as great as those required in higher density development. No future commercial or industrial development (other than commercial farming) is permitted in rural neighborhoods.”

However, the Comprehensive Plan states, “At times, the City will likely encounter development proposals that do not directly reflect the purpose and intent of the

Comprehensive Plan. The Planning & Zoning Commission and City Council may find that a request for a zoning amendment is not consistent with the Future Land Use Plan but should be approved due to changed circumstances or additional, relevant information affecting the appropriate use of the parcel. Review of such development proposals should include the following considerations:

- Will the proposed development enhance the City economically?
- Will the proposed development enhance the City aesthetically?
- Is the proposed development consistent with the City's Goals, Objectives, and Actions?
- Is the proposed development a better use of land/property, both for the owner/developer and the City, than that recommended by the Plan?
- Will the proposed development impact adjacent residential areas in a positive or negative manner?
- Will the proposed development have adequate access; have considerations been made for roadway capacity, ingress and egress, traffic impact?
- Are uses adjacent to the proposed development similar in nature in terms of appearance, hours of operation, and other general aspects of compatibility?
- Does the proposed development present a significant benefit to the public health, safety and welfare of the community?

Development proposals that are inconsistent with the Comprehensive Plan or that do not meet its general intent should be reviewed based upon the above questions. Such proposals should also be evaluated on their individual merit, on a case-by-case basis. It is important to note that it should be incumbent upon the applicant to provide evidence as to how the proposed development addresses the aforementioned questions."

The applicant has provided the following evidence as to how the proposed developed addresses these questions (applicant's responses are highlighted):

- Will the proposed development enhance the City economically?
 - "Yes, increased property tax base with more employment translates into increased sales tax and spending for Tomball."
- Will the proposed development enhance the City aesthetically?
 - Yes, new addition will continue the high standard of aesthetics already set within the existing site.
- Is the proposed development consistent with the City's Goals, Objectives, and Actions?

- Yes, will continue the pattern of smart growth for the city.
- Is the proposed development a better use of land/property, both for the owner/developer and the City, than that recommended by the Plan?
 - Yes, increased tax and employment base for city and expansion for developer with no negative impact for the city.
- Will the proposed development impact adjacent residential areas in a positive or negative manner?
 - Positive, high standard of construction and maintenance of existing building and new addition has had and will continue to have positive impact.
- Will the proposed development have adequate access; have considerations been made for roadway capacity, ingress and egress, traffic impact?
 - Yes, current access is adequate and this addition will have no negative impacts; there will not be any negative impact on current road grid serving this area.
- Are uses adjacent to the proposed development similar in nature in terms of appearance, hours of operation, and other general aspects of compatibility?
 - Yes
- Does the proposed development present a significant benefit to the public health, safety and welfare of the community?
 - Existing facility has shown no negative impact on any aspect on the city and an increasing tax and employment spending base should increase the general welfare of the entire city.

It is also important to recognize that proposals contrary to the Comprehensive Plan could be an improvement over what is recommended within the Comprehensive Plan. This may be due to changing market, development, and/or economic trends that occur at some point in the future after the Comprehensive Plan is adopted. If such changes occur, and especially if there is a significant benefit to the City of Tomball, then these proposals may be approved, and the Comprehensive Plan should be amended accordingly.

PUBLIC COMMENT

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

EXHIBITS

- A. Location/Zoning Map
- B. Aerial Photo
- C. Rezoning Application
- D. Conditional Use Permit Application
- E. Rezoning Request Letter
- F. Concept Plan
- G. Property Survey
- H. Comprehensive Plan Future Land Use Map
- I. Site Photos

Exhibit "A"
Location/Zoning Map

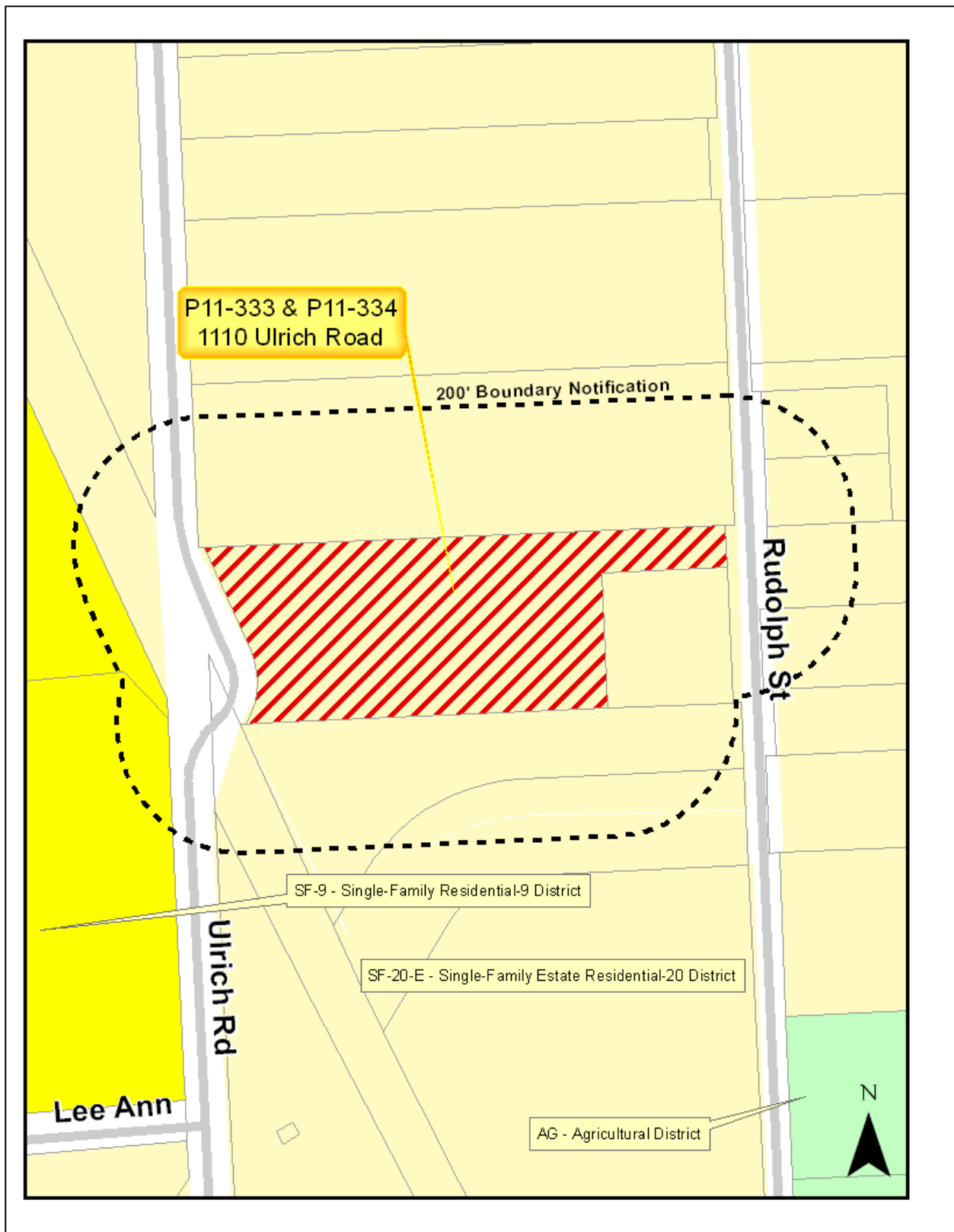
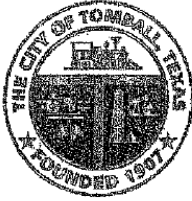


Exhibit "B"
Aerial Photo



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: EAGLE GASKET & PACKING CO. INC. Title: _____
Mailing Address: 1110 ULRICH RD. City: TOMBALL State: TX.
Zip: 77375
Phone: (713) 290-8811 Fax: (713) 290-8812 Email: _____

Owner

Name: JEAN FAIRES Title: PRESIDENT
Mailing Address: 1110 ULRICH RD. City: TOMBALL State: TX.
Zip: 77375
Phone: (713) 290-8811 Fax: (713) 290-1329 Email: jean@eaglegasket.com

Engineer/Surveyor (if applicable)

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

Description of Proposed Project: EXPANSION OF CURRENT FACILITIES

Physical Location of Property: 1110 ULRICH RD. 1 MILE SOUTH OF ZION RD.

[General Location - approximate distance to nearest existing street corner]
Legal Description of Property: LOT 1 BLOCK 2 EAGLE GASKET & PACKING COMPANY NO 1
SUBDIVISION NO. 1 RECORDED IN H.C. CLERK FILE #
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block] 615007

Current Zoning District: SF-20 (ZONING MAP ADOPTED 2-4-2008)

Current Use of Property: ANY MANUFACTURE OR INDUSTRIAL PROCESS
NOT LISTED AND NOT PROHIBITED BY LAW.

Proposed Zoning District: LIGHT INDUSTRIAL

Proposed Use of Property: ANY MANUFACTURE OR INDUSTRIAL PROCESS
NOT LISTED AND NOT PROHIBITED BY LAW.

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

www.ci.tomball.tx.us

HCAD Identification Number: 129-957-001-0001 Acreage: 3.85

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.

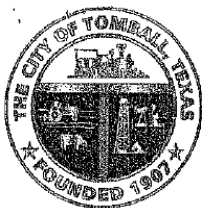
This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

X Eagle Saabit + Packing Co. 5-27-11
Signature of Applicant Date

X Jean Lavin 5-27-11
Signature of Owner Date

Exhibit "D"
Conditional Use Permit 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: EAGLE GASKET & PACKING CO., INC. Title: _____
Mailing Address: 1110 ULRICH RD. City: TOMBALL State: TX
Zip: 77375
Phone: (713) 290-8811 Fax: (713) 290-8812 Email: _____

Owner

Name: JEAN FAIRES Title: PRESIDENT
Mailing Address: 1110 ULRICH RD. City: TOMBALL State: TX
Zip: 77375
Phone: (713) 290-8811 Fax: (713) 290-1329 Email: jean@eaglegasket.com

Engineer/Surveyor (if applicable)

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

Description of Proposed Project: EXPANSION OF CURRENT FACILITIES

Physical Location of Property: 1110 ULRICH RD. (1 MILE SOUTH OF ZION RD.

[General Location - approximate distance to nearest existing street corner]

Legal Description of Property: LOT 1 BLOCK 1 EAGLE GASKET & PACKING COMPANY NO. 1
SUBDIVISION NO. 1 RECORDED IN H.C. CLERK FILM #
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block] 615007

HCAD Identification Number: 129-957-001-0001 Acreage: 3.85

Current Use of Property: ANY MANUFACTURE OR INDUSTRIAL PROCESS
NOT LISTED AND NOT PROHIBITED BY LAW
ANY MANUFACTURE OR INDUSTRIAL PROCESS

Proposed Use of Property: NOT LISTED AND NOT PROHIBITED BY LAW

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 Eagle Basket & Packing Co. 5-27-11
Signature of Applicant Date

X Jean Davis 5-27-11
Signature of Owner Date

Exhibit "E"
Rezoning Request Letter



GASKET AND PACKING CO.

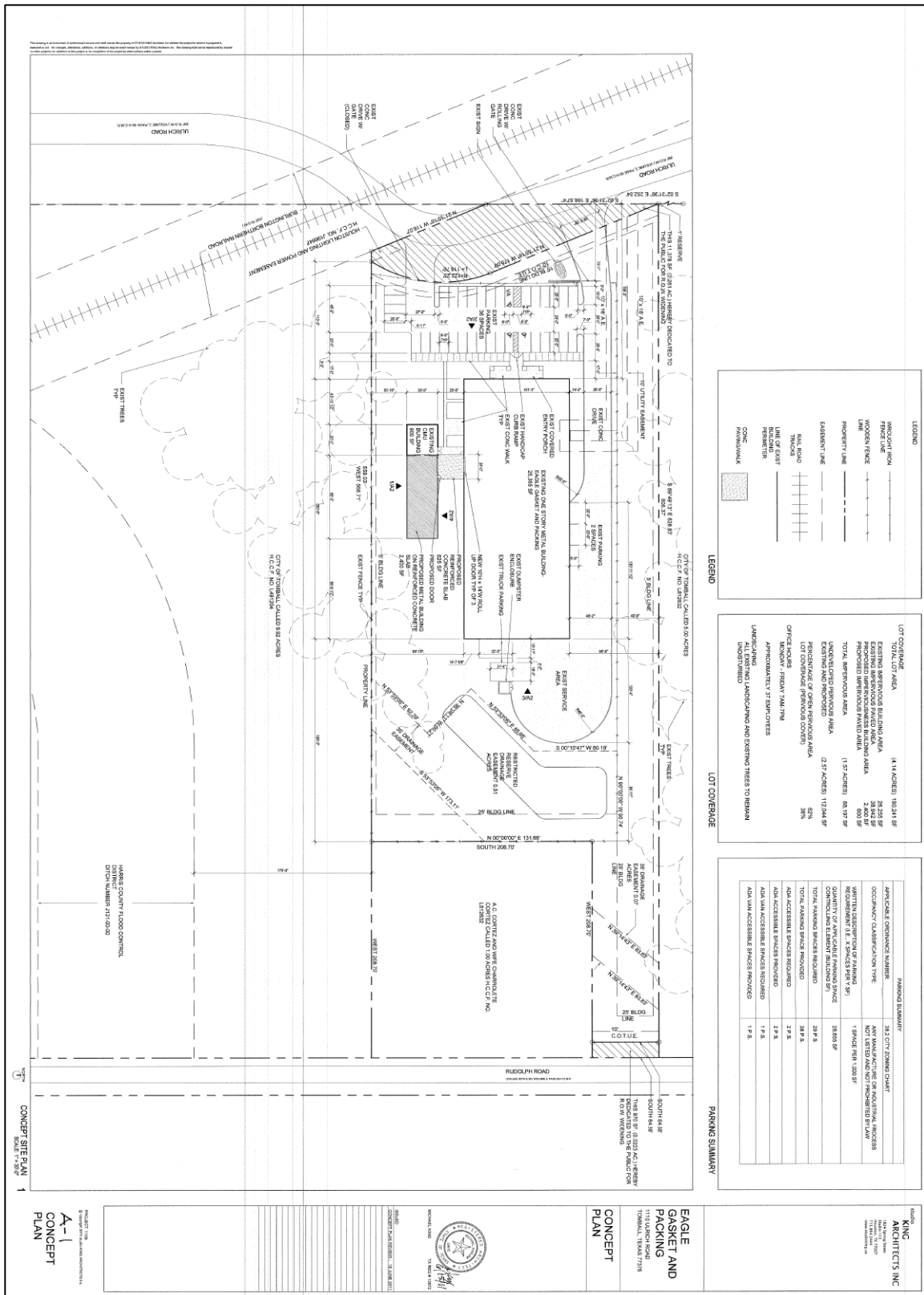
1110 Ulrich • Tomball, Texas 77375 • Tel: (713) 290-8811 • Toll Free 1-800-952-8981
Fax: (713) 290-8812 (713) 290-9987 (713) 290-1329

To Tomball Engineering Department:

We at Eagle Gasket and Packing are in the process of expanding our facilities to facilitate our continued growth in business. When our general contractor applied for building permits he was informed the area of our existing facility had been grandfathered into residential zoning during our original construction and permits would not be approved. Eagle Gasket and Packing was never informed that our building was rezoned for residential and HCAD still shows that we are classed commercial on their rolls. We have outgrown our existing facility and need more building space to continue our growth. After consultation with our attorney and our insurance company and continued exploration of the commerce codes and laws we wish to resolve this manner in an amicable manner so that we can continue to grow and continue to contribute to the continued growth of Tomball. We have been a good neighbor to this community and have built and ran our facility to the high standards of Tomball and wish to continue.

Respectfully,

Jean Faires
President
Eagle Gasket and Packing



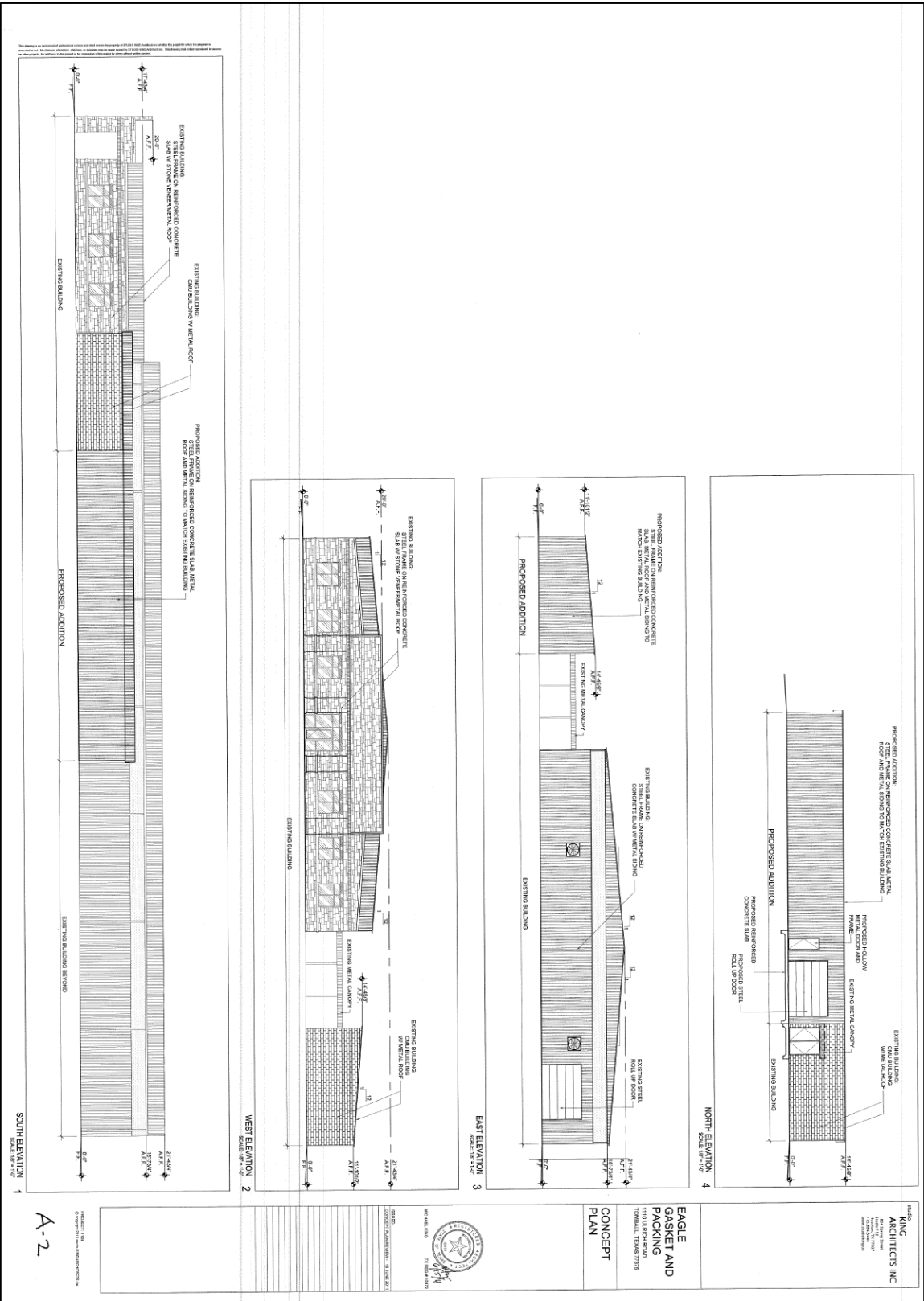


Exhibit “G” Property Survey

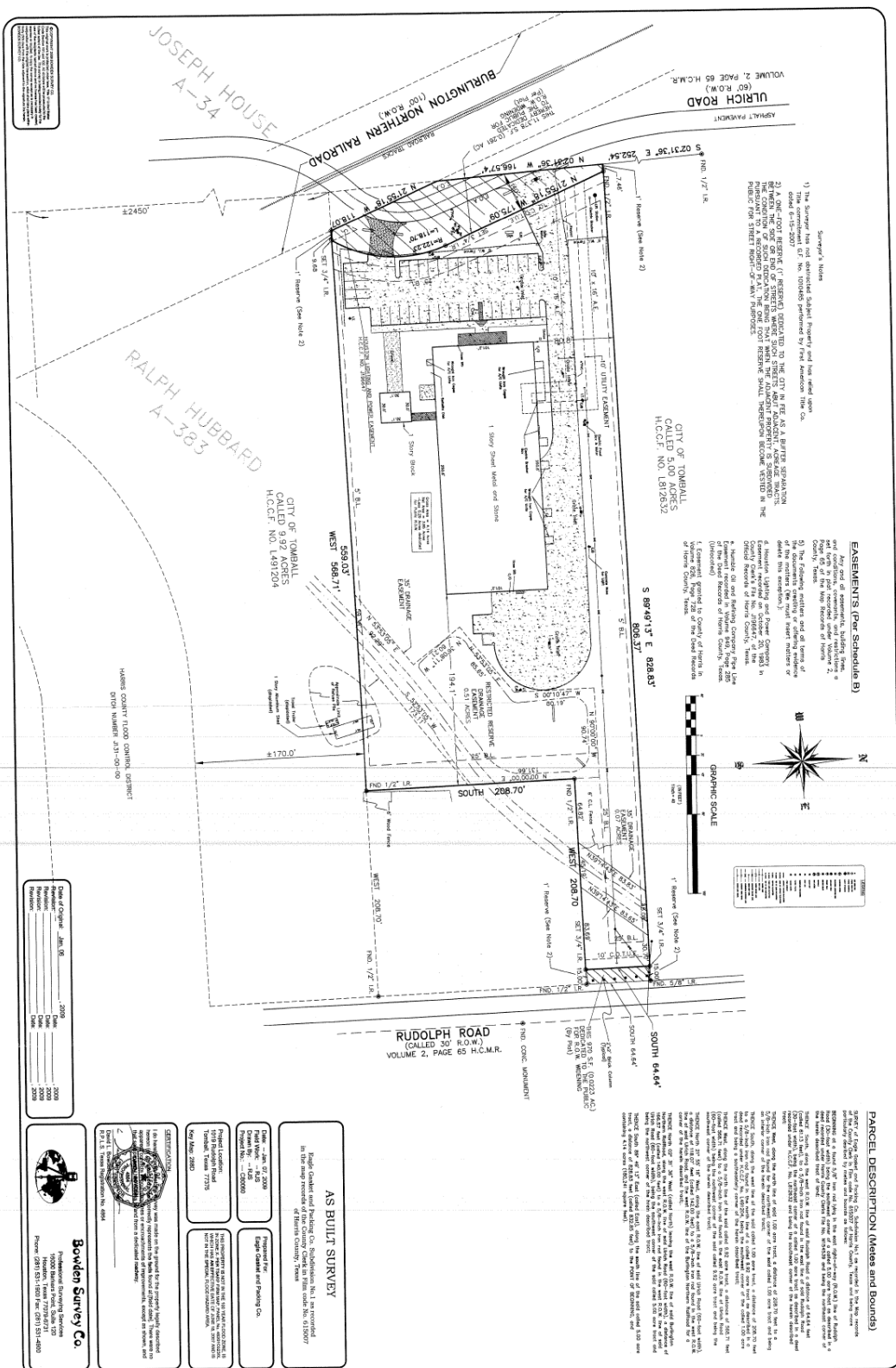
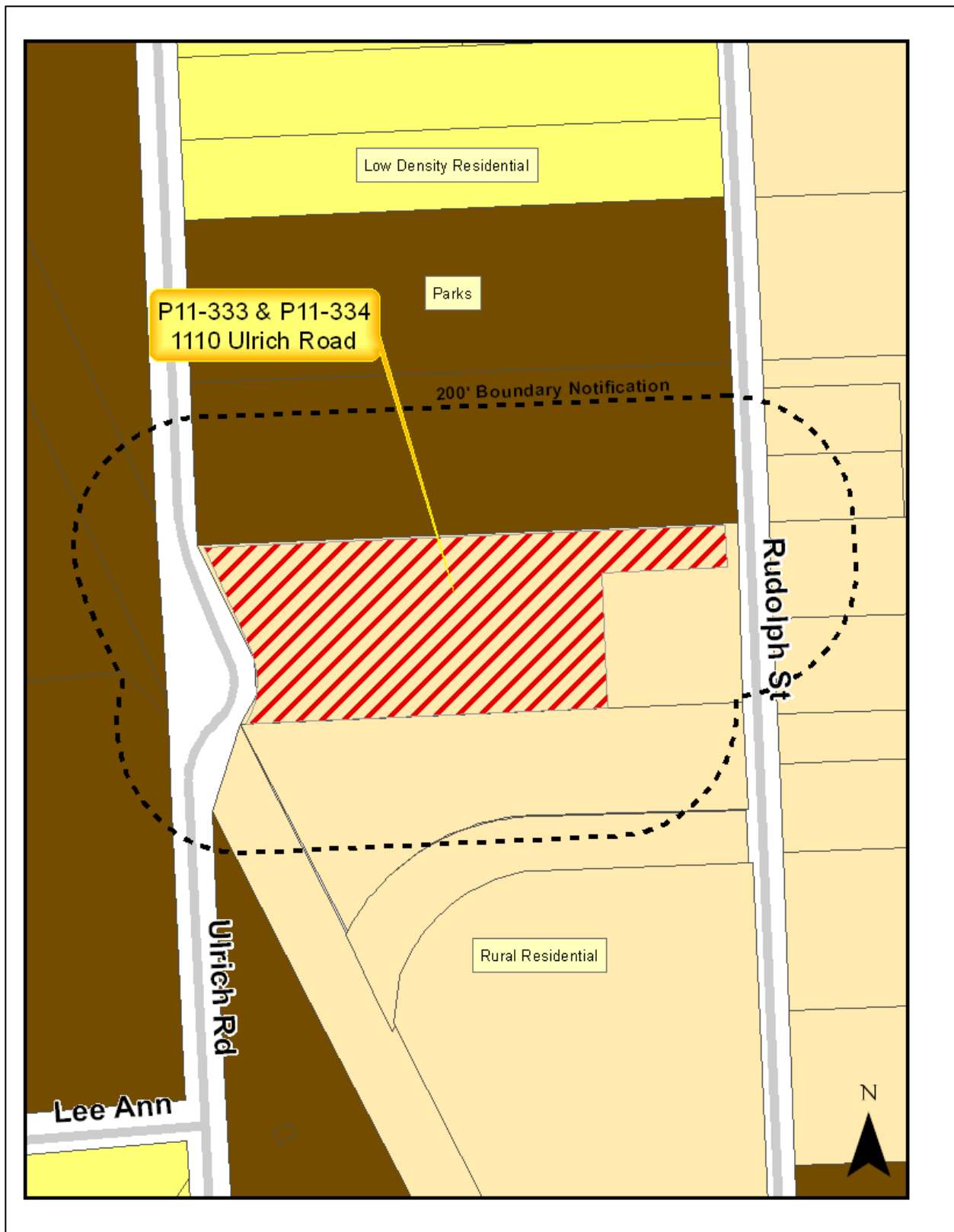


Exhibit "H"
Comprehensive Plan Future Land Use Map



**Exhibit “I”
Site Photos**



Figure 1: Easterly view of subject site.



Figure 2: Easterly view of structure to be expanded.



Figure 3: Southeasterly view. BNSF railway, City of Tomball property, and HCFCD drainage.



Figure 4: Northerly view. Subject site on right, TISD property on left. Matheson Park on right. Juergens Park on left.



Figure 5: Single-family residence to the south of subject site.



Figure 6: Single-family residence to the east of subject site.

**NOTICE OF PUBLIC HEARINGS
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
JULY 11, 2011
&
CITY COUNCIL
JULY 18, 2011**



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, July 11, 2011, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, July 18, 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 P11-333: Request by Eagle Gasket and Packing Company, Inc., on behalf of Faires Properties Inc. LLC, to amend the City's Comprehensive Zoning Ordinance to rezone an approximately 3.86 acre site, legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road at 1110 Ulrich Road, Tomball, Texas from the SF-20-E Single-Family Estate Residential-20 District to the LI-Light Industrial District. (This case will be heard in conjunction with Zoning Case P11-334).

ZONING CASE P11-334: Request by Eagle Gasket and Packing Company, Inc., on behalf of Faires Properties Inc. LLC, for a Conditional Use Permit to operate a "Any Manufacture or Industrial Process Not Listed and Not Prohibited by Law" use. The property is an approximately 3.86 acre site, legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road at 1110 Ulrich Road, Tomball, Texas. The site is located in the SF-20-E Single-Family Estate Residential-20 District. (This case will be heard in conjunction with Zoning Case P11-333).

ZONING CASE P11-335: Public hearing to consider a City-initiated text amendment to the Tomball Comprehensive Zoning Ordinance (Ordinance No. 2008-01) to amend Section 7 ("Nonconforming Uses & Structures") and Section 9 ("Board of Adjustments") to authorize the Board of Adjustments to grant special exceptions related to the continuance, conversion, enlargement, extension and expansion of nonconforming structures and uses.

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 **7th** day of **July** 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: P11-333

APPLICANT: Eagle Gasket and Packing Company, Inc. on behalf of Faires Properties Inc. LLC

LOCATION: 1110 Ulrich Road

PROPOSAL: Request to amend the City's Comprehensive Zoning Ordinance to rezone an approximately 3.86 acre site, legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road from the SF-20-E Single-Family Estate Residential-20 District to the LI-Light Industrial District. (This case will be heard in conjunction with Zoning Case P11-334).

* * *

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, July 11, 2011, 6:00 PM

City Council Public Hearing:

***Monday, July 18, 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.

Special City Council

Agenda Item

Data Sheet

Meeting Date: July 26, 2011

Topic:

Adopt, on Second Reading, Ordinance No. 2011-14, an Ordinance of the City Council of the City of Tomball, Texas, Amending Section 60-11, Changeable Electronic Variable Message Signs (CEVMS), of Chapter 60, Signs, of the City's Code of Ordinances relating to Changeable Electronic Variable Message Signs to Allow CEVMS as On Premise Signs on Properties Located Adjacent to All State Rights-of-Way; to Allow CEVMS on Properties Not Located Adjacent to a State Right-of-Way upon Application and Approval by the City Council; Providing Regulations for Such CEVMS; Providing a Penalty of up to \$2,000.00 for Violations with Each Day Constituting a Separate Violation; Providing for the Publication of This Ordinance; and Making Other Findings and Provisions related Thereto

Background:

On May 2, 2011, Mr. Gloyer with Gloyer Pharmacy and Brian Lyzaz with ClearChoice LED presented information regarding the regulating of LED signage. They asked that Council discuss the possibility of changing the current regulations to permit CEVMS signs for commercial establishments.

On July 5, 2011 City Council directed Staff to revised Chapter 60 - Signs to allow for CEVM/LED signs where it was previously prohibited. The redline version of Ordinance No. 2011-14 was presented to Council on July 18, 2011, at which time, Council adopted Ordinance No. 2011-14, subject to requested amendments, including:

1. the removal of County road rights-of-way,
2. adding approval by Council for signs located on properties not adjacent to a State right-of-way,
3. the removal of a single color requirement, and
4. changing the sizes of signs to 32 square feet (single business) and 50 square feet (multi-tenant).

Ordinance No. 2011-14, as amended, is presented to Council for consideration and adoption on second reading.

Origination:

Wayne Gloyer; City Council

Recommendation:

Adopt Ordinance No. 2011-14 on Second Reading

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:

Ordinance No. 2011-14 - CEVMS Signs

ORDINANCE NO. 2011-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, AMENDING SECTION 60-11, CHANGEABLE ELECTRONIC VARIABLE MESSAGE SIGNS (CEVMS), OF CHAPTER 60, SIGNS, OF THE CITY'S CODE OF ORDINANCES RELATING TO CHANGEABLE ELECTRONIC VARIABLE MESSAGE SIGNS TO ALLOW CEVMS AS ON PREMISE SIGNS ON PROPERTIES LOCATED ADJACENT TO ALL STATE RIGHTS-OF-WAYS; TO ALLOW CEVMS ON PROPERTIES NOT LOCATED ADJACENT TO A STATE RIGHT-OF-WAY UPON APPLICATION AND APPROVAL BY THE CITY COUNCIL; PROVIDING REGULATIONS FOR SUCH CEVMS; PROVIDING A PENALTY OF UP TO \$2,000.00 FOR VIOLATIONS WITH EACH DAY CONSTITUTING A SEPARATE VIOLATION; PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED THERETO.

* * * * *

WHEREAS the City Council is authorized to regulate signage within its city limits and extraterritorial jurisdiction pursuant to Texas Local Government Code Chapter 216;

WHEREAS, the City Council has determined that in order to preserve and enhance the City as a desirable community in which to live and do business, a pleasing, visually attractive environment is of foremost importance; and these regulations are a highly contributive means by which to achieve this desired end and have been prepared with the intent of enhancing the visual environment of the City and promoting safety and continued well-being;

WHEREAS, the City Council has determined it appropriate to authorize CEVMS for properties adjacent to all State rights-of-way;

WHEREAS, the City Council has determined it appropriate to authorize CEVMS for properties not adjacent to a State right-of-way upon application to and approval by the City council;

WHEREAS, the City Council has determined it appropriate that no image or message on a CEVMS may be displayed for less than eight (8) seconds;

WHEREAS, the City Council has determined it appropriate that CEVMS message transitions shall be limited to one (1) second;

WHEREAS, the City Council has determined CEVMS faces or displays should not be required to be placed toward a public right-of-way;

WHEREAS, the City Council has determined brightness limits for CEVMS shall be set at a maximum of 0.3 foot candle illumination from a distance of 250 feet between sunset and

sunrise, and each CEVMS shall be fitted with a qualified light sensing device to automatically adjust the brightness;

WHEREAS, the City Council has determined that CEVMS shall be limited to 32 square feet for a single-business or use and 50 square feet for a multi-tenant business or use;

WHEREAS, the City Council has determined that CEVMS shall require a usage permit with annual fee;

WHEREAS, the City Council has determined that if a CEVMS is found to be operating incorrectly, it must be turned off until it is repaired and inspected by the City of Tomball;

WHEREAS, the City Council has determined the images displayed on the CEVMS must be directly related to the on-premise business(s) with the exception of messages relating to time, temperature, national news, local news, sporting events, or upcoming events for the City of Tomball; and

WHEREAS, the City Council has determined CEVMS shall only be permitted as on-premise signs;

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. Section 60-11, Changeable Electronic Variable Message Signs, of Chapter 60, Signs, of the Code of Ordinances of the City of Tomball, Texas is hereby deleted in its entirety and a new Section 60-11, Changeable Electronic Variable Message Signs, is hereby added with the new Section 60-11 to read as follows:

“Sec. 60-11. Changeable Electronic Variable Message Signs.

- (a) Changeable electronic variable message signs (CEVMS) shall be prohibited within the corporate limits and the extraterritorial jurisdiction of the City, except that changeable electronic variable message signs shall be permitted for properties adjacent to all State rights-of-ways and for public tax-supported schools to provide public information. Changeable electronic variable message signs may be permitted on properties not adjacent to a State right-of-way upon application to and approval by the City Council. No new permit shall be issued for the installation, erection, or replacement of a CEVMS, including any conversion or modification of

an existing sign to a CEVMS, within the corporate limits or the extraterritorial jurisdiction of the City, except as provided herein.

(b) Changeable Electronic Variable Message Sign (CEVMS) Regulations:

- (1) Images or messages shall be static in nature and shall not blink, flash, scroll or be animated in such a manner as to constitute a distraction to passing motorists.
- (2) No image or message may be displayed for less than eight (8) seconds.
- (3) Message transitions shall be limited to one (1) second.
- (4) The brightness of any CEVMS shall not exceed 0.3 foot candle illumination from a distance of 250 feet between sunset and sunrise, and each sign shall be fitted with a qualified light sensing device to automatically adjust the brightness in accordance with these standards.
- (5) All CEVM signs shall be limited to 32 square feet for a single-business or use and 50 square feet for a multi-tenant business or use.
- (6) All CEVMS shall require a usage permit with annual fee. The annual fee shall be established by resolution of the City Council
- (7) If a CEVMS is found to be operating incorrectly, it must be turned off until it is repaired and inspected by the City of Tomball.
- (8) The images displayed on the CEVMS must be directly related to the on-premise business with the exception of messages relating to time, temperature, national news, local news, sporting events, or upcoming events for the City of Tomball.

(c) CEVMS shall only be permitted as on-premise signs.”

Section 3. All provisions of any ordinance in conflict with this Ordinance are hereby repealed, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinance shall remain in full force and effect.

Section 4. 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 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 5. 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 6. This Ordinance shall become effective fourteen days after the final reading and adoption of this Ordinance when the caption hereof is caused to be published once in the official newspaper of the City, by the City Secretary, as required by law. The City Secretary is directed to publish the caption of this Ordinance in the City's official newspaper within 14 days after the passage of the ordinance.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON JULY 18, 2011.

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>

SECOND READING:

READ, PASSED AND ADOPTED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON JULY 26, 2011.

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

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Special City Council

Agenda Item

Data Sheet

Meeting Date: July 26, 2011

Topic:

Adopt, on Second Reading, Ordinance No. 2011-16, an Ordinance amending Chapter 78, Traffic and Vehicles, Article III, Operation of Vehicles Generally, of the Code of Ordinances of the City Council of the City of Tomball, Texas, by adding a New Section 78-74, Through Truck Traffic Prohibited; Establishing Regulations related to Truck Traffic on Public Streets Designated as No Through Truck Street; Providing a Penalty in an Amount Not to Exceed \$200 for Each Violation Hereof; and Providing for Severability; and Making other Provisions and Findings related Thereto

Background:

The purpose of this ordinance is to provide the City with a method for prohibiting unnecessary heavy truck traffic on minor City streets, protecting its citizens from potential dangers associated with large trucks traveling on minor streets, and protecting the City's streets from the additional wear and damages caused by heavy loads traveling on minor streets.

On July 18, 2011, Council adopted Ordinance No. 2011-16 on First Reading.

Origination:

David Kauffman, Director of Public Works

Recommendation:

Adopt Ordinance No. 2011-16 on Second Reading

Funding:

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

David Kauffman, Director of Public Works

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

ATTACHMENTS:

Ordinance No. 2011-16

ORDINANCE NO. 2011-16

AN ORDINANCE AMENDING CHAPTER 78, TRAFFIC AND VEHICLES, ARTICLE III, OPERATION OF VEHICLES GENERALLY, OF THE CODE OF ORDINANCES OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, BY ADDING A NEW SECTION 78-74, THROUGH TRUCK TRAFFIC PROHIBITED; ESTABLISHING REGULATIONS RELATED TO TRUCK TRAFFIC ON PUBLIC STREETS DESIGNATED AS NO THROUGH TRUCK STREET; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$200 FOR EACH VIOLATION HEREOF; AND PROVIDING FOR SEVERABILITY; AND MAKING OTHER PROVISIONS AND FINDINGS RELATED THERETO.

* * * *

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

Section 1. The Code of Ordinances of the City of Tomball, Texas, is amended by the adding of a new Section 78-74 Through truck traffic prohibited, to Article III, Operation of Vehicles Generally, to Chapter 78, Traffic and Vehicles, that reads as follows:

“Sec. 78-74 Through truck traffic prohibited.

(a) **Definitions.** The following words, terms and phrases when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) *Authorized emergency trucks.* Fire department trucks, police trucks, public ambulances for which permits have been issued by the State Board of Health, emergency trucks of municipal or volunteer departments or public service corporations as are designated or authorized by the governing body of an incorporated city, private trucks operated by volunteer firemen or certified emergency medical volunteers while answering a fire alarm or responding to a medical emergency, and trucks owned by the state or by a political subdivision engaged in emergency utility repair or electric, water, or wastewater services.

(2) *Light truck.* Any truck with a manufacturer's rated carrying capacity of five-thousand (5,000) pounds or less, including trucks commonly known as pickup trucks, panel delivery trucks, and carryall trucks.

(3) *Proof of route.* A written verification of pick-ups, deliveries, or destinations, which may include a log book, delivery slip, shipping order, bill or any other document which identifies and specifies the date, address, and name of the person requesting or directing the pick-up or delivery and the destination of the pick up or delivery.

(4) *Truck.* A motor vehicle designed, used or maintained primarily for the transportation of property, including "truck tractors," "road tractors," "trailers," "semi-trailers," "pole trailers," and "special mobile equipment" as those terms are defined in Tex. Trans. Code Ann. § 541.201.

Terms not defined herein shall be construed in accordance with customary usage.

(b) *Through truck traffic.*

(1) *Regulation.* A person commits an offense if the person operates a truck upon a public street designated as a No Through Trucks street.

(2) *Affirmative defenses.* It is an affirmative defense to prosecution under this section if:

- (i) The truck was an authorized emergency truck;
- (ii) The truck was a bus or light truck; or
- (iii) The truck:
 - a. was being driven to seek service or repairs at a facility that engages in the business or repairs of commercial motor vehicles or the truck was being driven to or from home or to fulfill a local commercial obligation to a buyer or seller at a given destination, evidenced by a bill of sale or invoice; and
 - b. the public street was the only route to such destination.”

Section 2. Through truck traffic is prohibited on the following streets:

<u>Street</u>	<u>Extent</u>
South Elm Street	From Main Street (FM 2920) to Market Street
Market Street	From South Elm Street to South Cherry Street

Section 3. The Director of Public Works is directed to erect and place signs designating the above streets as “No Through Trucks” streets.

Section 4. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 5. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, 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 \$200. Each violation shall constitute a separate offense.

Section 6. It is the intent of the City that this Ordinance shall comply in all respects with the applicable provisions of the United States Constitution, the Texas Constitution, and the Charter of the City of Tomball. 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.

Section 7. This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law and the City’s Home Rule Charter.

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 18TH DAY OF JULY 2011.

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>

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 26TH DAY OF JULY 2011.

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

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Special City Council

Agenda Item

Data Sheet

Meeting Date: July 26, 2011

Topic:

Workshop Session:

- The Tomball City Council will enter into a Workshop Session regarding the Fiscal Year 2011-2012 Budget

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	