

**NOTICE OF REGULAR PLANNING AND ZONING COMMISSION
MEETING
CITY OF TOMBALL, TEXAS**



MONDAY, SEPTEMBER 8, 2014

6:00 P.M.

Notice is hereby given of a meeting of the , to be held on Monday, September 8, 2014 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 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 Reports and Announcements
- 4.0 Consideration to Approve the Minutes of the Regular Planning and Zoning Commission Meeting of August 11, 2014.

5.0 New Business:

- 5.1 Consideration to approve **FINAL PLAT OF JTS SUBDIVISION**; A Subdivision of 6.4411 acres of land situated in the John M. Hooper Survey, Abstract Number 375, of Harris County, Texas, and being out of and part of a called 6.598 acres as described in deed recorded in Clerk's File Number S026292 of the Real Property Records of Harris County, Texas.
- 5.2 Consideration to approve **SPRING CREEK COUNTY HISTORICAL ASSOCIATION**; A Subdivision of 2.7064 acres of land out of the Joseph House Survey, Abstract 34, City of Tomball, Harris County, Texas. Being a Replat of Lots 1,2 and 9-16, Block 48 and Lots 4-6 and the Southwesterly 20' of Lot 3, Block 102 of the revised map of Tomball Volume 4, Page 25 M.R.H.C. and Lots 7A and 8A of "Abbreviated Plat" 7A and 8A film code number 598155 M.R.H.C.
- 5.3 Consideration to approve **ZONING CASE P14-145**: Request by TNRG Development LLC, on behalf of Frank P. Fontana, to amend the City's Zoning Ordinance by rezoning approximately 20.64 acres of land, legally described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, within the City of Tomball, Harris County, Texas, generally located west of South Cherry Street, north of Holderrieth Road, from the General Retail District to the Light Industrial District.
- Conduct a Public Hearing on **ZONING CASE P14-145**
- 5.4 Consideration to approve **ZONING CASE P14-153**: Request by Southern Knights Inc. to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from High Density Residential to Employment/Office.
- Conduct a Public Hearing on **ZONING CASE P14-153**
- 5.5 Consideration to approve **ZONING CASE P14-154**: Request by Southern Knights Inc. to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from the Duplex District to the Commercial District.
- Conduct a Public Hearing on **ZONING CASE P14-154**
- 5.6 Consideration to approve **ZONING CASE P14-159**: Request by the City of Tomball to amend Section 38.2 ("Use Charts") of the City's Zoning Ordinance to allow "Dance/Drama/Music Schools (Performing Arts, Martial Arts)" with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6,

Duplex, Multi-Family, and Manufactured Home Park Districts.

- Conduct a Public Hearing on **ZONING CASE P14-159**

6.0 Adjournment

C E R T I F I C A T I O N

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 4th day of September 2014 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 Planning and Zoning Commission

Agenda Item

Meeting Date: September 8, 2014

Data Sheet

Topic:

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	

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: September 8, 2014

Data Sheet

Topic:

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	

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: September 8, 2014

Data Sheet

Topic:

Consideration to Approve the Minutes of the Regular Planning and Zoning Commission Meeting of August 11, 2014.

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	

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: September 8, 2014

Data Sheet

Topic:

Consideration to approve **FINAL PLAT OF JTS SUBDIVISION**; A Subdivision of 6.4411 acres of land situated in the John M. Hooper Survey, Abstract Number 375, of Harris County, Texas, and being out of and part of a called 6.598 acres as described in deed recorded in Clerk's File Number S026292 of the Real Property Records of Harris County, Texas.

Background:

Origination:

Recommendation:

Funding:

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

Community Development Department

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

ATTACHMENTS:

Final Plat of JTS Subdivision

FINAL PLAT OF
JTS SUBDIVISION

Being a subdivision of 6.4411 acres of land situated in the John M. Hooper Survey, Abstract Number 375, of Harris County, Texas, and being out of and part of a called 6.598 acres as described in deed recorded in Clerk's File Number S026292 of the Real Property Records of Harris County, Texas.

3 LOTS, 1 BLOCK

CURVE	DELTA ANGLE	RADIUS	ARC LENGTH	TANGENT	CHORD LENGTH	CHORD BEARING
C1	02°06'44"	3289.04'	121.25'	60.62'	121.24'	S 25°10'07" E
C2	01°14'43"	3449.04'	74.96'	37.48'	74.96'	S 26°13'10" E

LINE	BEARING	DISTANCE
L1	S 58°19'43" E	49.54'
L2	S 26°10'49" E	33.74'
L3	S 15°22'35" E	1.24'
L4	N 57°59'38" W	6.23'
L5	N 04°10'19" W	236.74'

THE STATE OF TEXAS

COUNTY OF HARRIS

We, JTS Development, LTD, a Texas limited partnership, acting by and through JEFF STALLONES, its general partner, being officer of JTS Development, LTD, owners hereinafter referred to as owners of the 2.6409 acre tract described in the above and foregoing plat of JTS SUBDIVISION, do hereby make and establish said subdivision of said property according to all liens, dedications, restrictions and notations on said plat and hereby dedicate to the use of the public forever, all streets, alleys, parks, watercourses, drains, easements and public places shown thereon for the purposes and considerations therein expressed; and do hereby bind ourselves, our heirs, successors and assigns to warrant and forever defend the title to the land so dedicated.

FURTHER, owners have dedicated and by these presents does dedicate to the use of the public for public utility purposes forever an unobstructed aerial easement five feet (5') in width from a plane twenty feet (20') above the ground level upward, located adjacent to all public utility easements shown hereon.

FURTHER, owners do hereby dedicate to the public a strip of land fifteen feet (15') wide on each side of the center line of any and all bayous, creeks, gullies, ravines, draws, sloughs, or other natural drainage courses located and depicted upon in said plat, as easements for drainage purposes, giving the City of Tomball, Harris County, or any other governmental agency, the right to enter upon said easement at any and all times for the purpose of construction and maintenance of drainage facilities and structures.

FURTHER, owners do hereby covenant and agree that all of the property within the boundaries of this plat and adjacent to any drainage easement, ditch, gully, creek or natural drainage way shall hereby be restricted to keep such drainage ways and easements clear of fences, buildings, planting, and other obstructions to the operation and maintenance of the drainage facility and that such abutting property shall not be permitted to drain directly into this easement, except by means of an approved drainage structure.

IN TESTIMONY WHEREOF, JTS Development, LTD, has caused these presents to be signed by Jeff Stallones, its general partner, thereunto authorized, this _____ day of _____, 2014.

JTS Development, LTD

By: _____
Jeff Stallones, its General Partner

THE STATE OF TEXAS

COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared Jeff Stallones, General Partner of JTS Development, LTD, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of _____, 2014.

Notary Public in and for the State of Texas

My Commission Expires: _____

Harris County Clerk Certificate of Filing:

I, Stan Stanart, County Clerk of Harris County, Texas, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on _____, 2014, at _____ o'clock __M., and duly recorded on _____, 2014, at _____ o'clock __M., and at Film Code No. _____ of the Map Records of Harris County for said County.

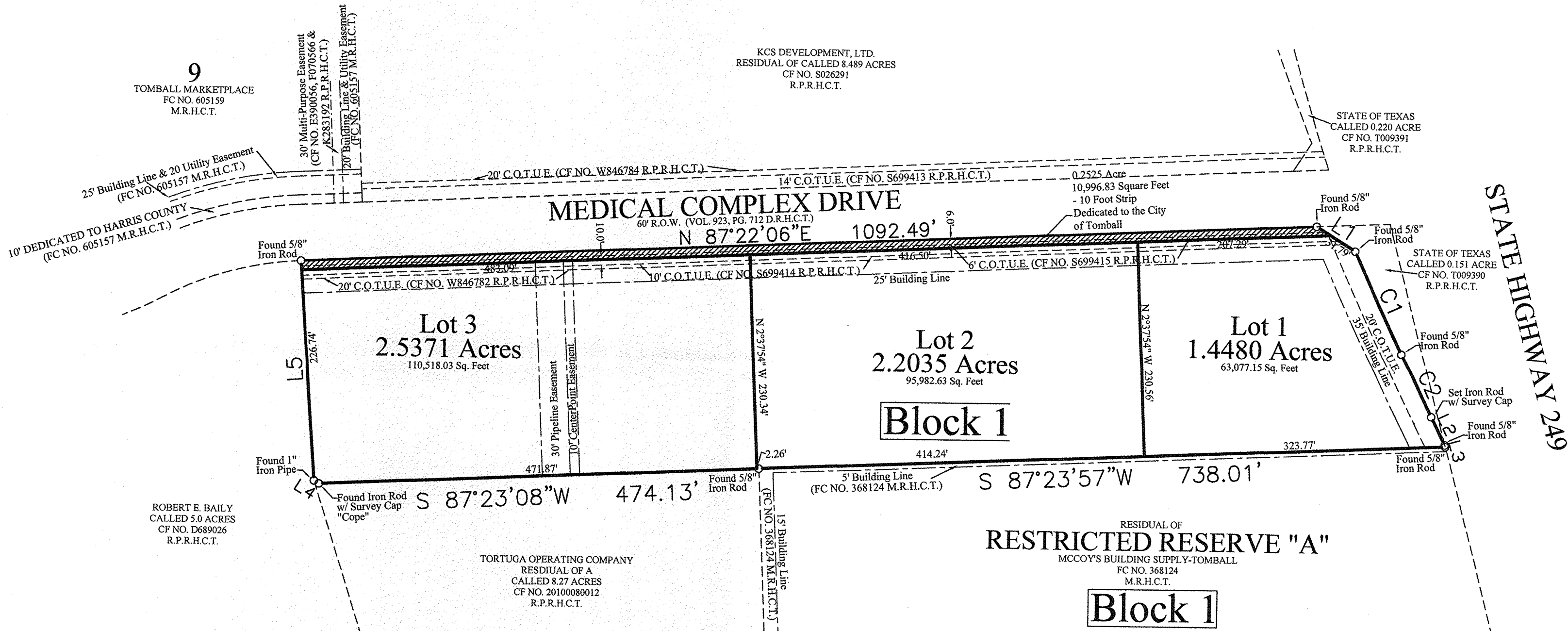
Witness my hand and seal of office, at Houston, the day and date last above written.

Stan Stanart
County Clerk
of Harris County, Texas

By: _____
Deputy

I, Steven L. Crews, am authorized under the laws of the State Texas to practice the profession of surveying and hereby certify that the above subdivision is true and correct; was prepared from an actual survey of the property made under my supervision on the ground; that all boundary corners, angle points, points of curvature, and other points of reference not found have been marked with iron rods having an outside diameter of not less than three-quarter inch (3/4") and a length of not less than three feet (3'); and that the plat boundary corners have been tied to the nearest survey corner.

Steven L. Crews
Texas Registration Number 4141



Notes:
Public Easements:
Public easements denoted on this plat are hereby dedicated to the public forever. Any public utility, including the City of Tomball, shall have the right at all times, of ingress and egress, to and from and upon said easements for the purpose of construction, reconstruction, inspection, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity of any time of procuring the permission of the property owner. Any public utility, including the City of Tomball, shall have the right to move and keep moved all or part of any building, fences, trees, shrubs, other growths or improvements that in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems on any easements shown on this plat. Neither the City of Tomball nor any other public utility shall be responsible for any damages to property within an easement arising out of the removal or relocation of any obstruction in the public easement.
Flood Information:
According to FEMA Firm Panel No. 48201C0210-L (Effective Date June 18, 2007), this property is in Zone "X" and is not in the 0.2% Annual Chance Flood Plain.
Note #1:
All oil/gas pipelines or pipeline easements with ownership through the subdivision have been shown.
Note #2:
All oil/gas wells with ownership (plugged, abandoned, and/or active) through the subdivision have been shown.
Note #3:
No building or structure shall be constructed across any pipelines, building lines, and/or easements. Building setback lines will be required adjacent to oil/gas pipelines. The setbacks at a minimum should be 15 feet off centerline of low pressure gas lines, and 30 feet off centerline of high pressure gas lines.
Note #4:
This plat does not attempt to amend or remove any valid restrictions or covenants.
Note #5:
The building lines shown on this plat shall be in addition to, and shall not replace, any building lines by the City of Tomball Code of Ordinances at the time of the development of this property.

M.R.H.C.T. = MAP RECORDS OF HARRIS COUNTY TEXAS
R.P.R.H.C.T. = REAL PROPERTY RECORDS OF HARRIS COUNTY TEXAS
B.L. = BUILDING LINE
C.O.T.U.E. = UTILITY EASEMENT DEDICATED TO THE CITY OF TOMBALL
BL = BUILDING LINE
VOL. = VOLUME
PG. = PAGE
CF NO. = CLERK'S FILE NUMBER
FC NO. = FILM CODE NUMBER

This is to certify that the Planning and Zoning Commission of the City of Tomball, Texas, has approved this plat and subdivision of JTS SUBDIVISION in conformance with the laws of the State of Texas and the ordinances of the City of Tomball as shown hereon and authorized the recording of this plat this _____ day of _____, 2014.

By: _____
Barbara Tague
Chairman

By: _____
Darrell Roquemore
Vice Chairman

We, the City Manager and the City Engineer for the City of Tomball, do hereby certify that this plat complies with the City of Tomball ordinance.

George Shackelford, City Manager

Lori Lakatos, P.E.,
City Engineer

This is to certify that the City accepts the Planning & Zoning Commission's authorized approval and acceptance of all dedicated public easements in conformance with the laws of the State of Texas the ordinance of the City of Tomball as shown hereon and authorized the recording of this plat this _____ day of _____, 2014.

By: _____
Gretchen Fagan, Mayor

Doris Speer, City Secretary

Surveyor:
C & C Surveying Inc.
7424 FM 1488, Suite A Magnolia, Texas 77354
Office: 281-356-5172 Fax: 281-356-1935

Owner:
JTS DEVELOPMENT, LTD.
46 Palmer Crest
Spring, Texas 77381
713-899-4710

September 2014
Sheet 1 of 1

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: September 8, 2014

Data Sheet

Topic:

Consideration to approve **SPRING CREEK COUNTY HISTORICAL ASSOCIATION**; A Subdivision of 2.7064 acres of land out of the Joseph House Survey, Abstract 34, City of Tomball, Harris County, Texas. Being a Replat of Lots 1,2 and 9-16, Block 48 and Lots 4-6 and the Southwesterly 20' of Lot 3, Block 102 of the revised map of Tomball Volume 4, Page 25 M.R.H.C. and Lots 7A and 8A of "Abbreviated Plat" 7A and 8A film code number 598155 M.R.H.C.

Background:

Origination:

Recommendation:

Funding:

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

Community Development Department

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

ATTACHMENTS:

Spring Creek County Historical Association Replat

STATE OF TEXAS
COUNTY OF HARRIS

We, Spring Creek County Historical Association, Tomball, Texas, acting by and through Charles Hall, agent, owners, being an officer of Spring Creek County Historical Association, hereinafter referred to as Owners of the 2.2223 acre tract described in the above and foregoing plat of SPRING CREEK COUNTY HISTORICAL ASSOCIATION, do hereby make and establish said subdivision of said plat and hereby dedicate to the use of the public forever, all streets, alleys, parks, watercourses, drains, easements, and public places shown thereon for the purposes and considerations therein expressed; and do hereby bind ourselves, our heirs, successors and assigns to warrant and forever defend the title to the land so dedicated.

FURTHER, Owners have dedicated and by these presents do dedicate to the use of the public for public utility purposes forever unobstructed aerial easement five feet in width from a plane twenty feet (20') above the ground level upward, located adjacent to all public utility easements shown hereon.

WITNESS our hand in Harris County, Texas, this ____ day of _____, 2014.

Charles Hall, Registered Agent

STATE OF TEXAS

COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared, Charles Hall, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of _____, 2014

Notary Public in and for the State of Texas

My Commission expires:

I, Brian K. Lunell, am registered under the laws of the State of Texas to practice the profession of surveying and hereby certify that the above subdivision is true and correct; was prepared from an actual survey of the property made under my supervision on the ground; that all boundary corners, angle points, points of curvature and other points of reference have been marked with iron (or other suitable permanent metal) pipes or rods having an outside diameter of not less than three quarter (3/4) inch and a length of not less than three (3) feet, except where corners were found; and that the plat boundary corners have been tied to the nearest intersecting street.

Brian K. Lunell
Texas Registration No. 5954

This is to certify that the Planning & Zoning Commission of the City of Tomball, Texas, has approved this plat and subdivision of SPRING CREEK COUNTY HISTORICAL ASSOCIATION in conformance with the laws of the State of Texas and the ordinance of the City of Tomball as shown hereon and authorized the recording of this plat this ____ day of _____, 2014.

By: Barbara Tague
Chairman

By: Darrell Raquemore
Vice Chairman

We, the City Manager and the City Engineer for the City of Tomball, do hereby certify that this plat complies with the City of Tomball ordinance.

By: George Shackelford
City Manager

By: Lori Lokatos, P.E.
City Engineer

This is to certify that the City accepts the Planning & Zoning Commission's authorized approval and acceptance of all dedicated public easements in conformance with the laws of the State of Texas and the ordinance of the City of Tomball as shown hereon and authorized the recording of this plat this ____ day of _____, 2014.

By: Gretchen Fagan
Mayor

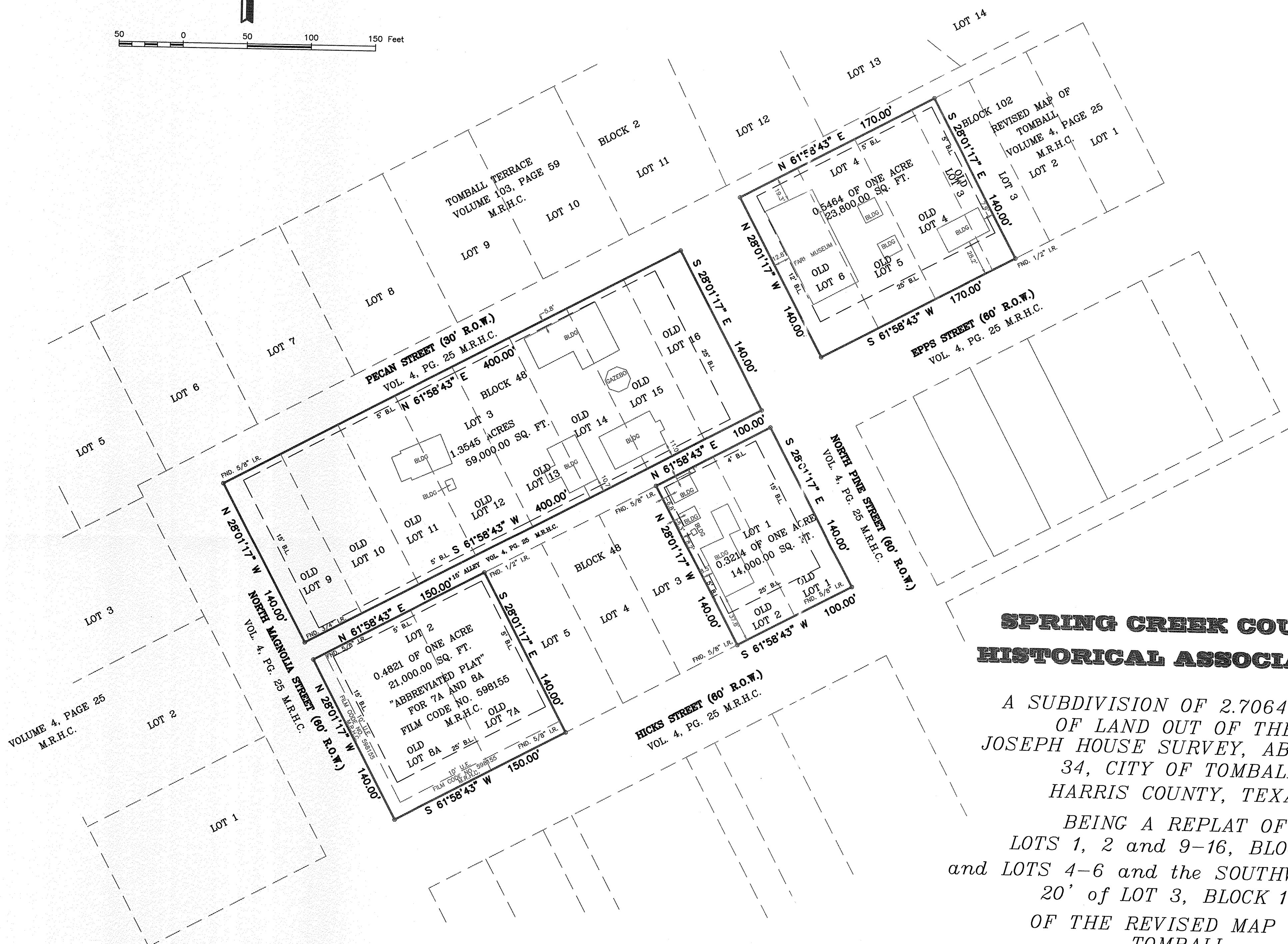
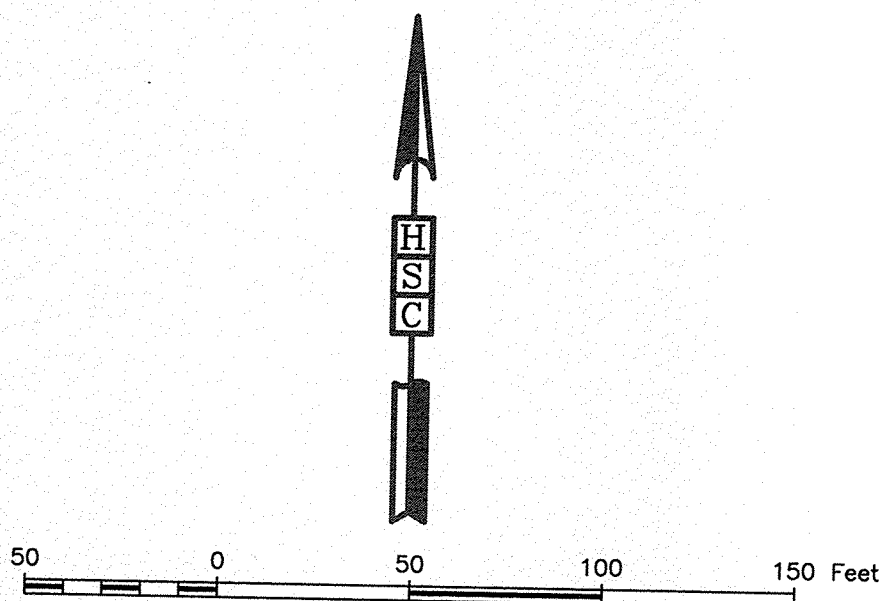
By: Dorris Speer
City Secretary

I, Stan Stanart, County Clerk of Harris County, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on ____ 2014, at ____ o'clock ____ M., and duly recorded on ____ 2014, at ____ o'clock ____ M., and at Film Code Number ____ of the Map Records of Harris County for said county.

Witness my hand and seal of office, at Houston, the day and date last above written.

Stan Stanart
County Clerk of
Harris County, Texas

By: Deputy



NOTES

- Bearing orientation based on Texas State Plane Coordinate Grid System of 1983 (South Central Zone No. 4204), derived from CORS site ROD1.
- Public easements denoted on this plat are hereby dedicated to the public forever. Any public utility, including the City of Tomball, shall have the right at all times, of ingress and egress to and from and upon said easements for the purpose of construction, reconstruction, inspection, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity of any time of procuring the permission of the property owner. Any public utility, including the City of Tomball, shall have the right to move and keep moved all or part of any building, fences, trees, shrubs, other growths or improvements that in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems on any of the easements shown on this plat. Neither the City of Tomball or any public utility shall be responsible for the replacing or reimbursing the property owner due to removal or relocation of any obstruction on the public easements.
- According to FEMA Firm Panel No. 480315 0230 L, Dated June 18, 2007, this property is in Zone "X" and is not within the 0.2% Annual Chance Flood Plain.
- All oil/gas pipelines or pipeline easements with ownership through the subdivision have been shown.
- All oil/gas wells with ownership (plugged, abandoned and/or active) through the subdivision have been shown.
- No building or structure shall be constructed across any pipelines, building lines, and/or easements. Building setback lines will be required adjacent to oil/gas pipelines. The setbacks at a minimum of 15 feet off centerline of low pressure gas lines and 30 feet off centerline of high pressure gas lines.
- This plat does not attempt to remove any valid restrictions or covenants.
- The building lines shown on this plat shall be in addition to, and shall not limit or replace any any building lines required by the City of Tomball Code of Ordinances at the time of the development of the property.
- B.L. indicates Building Line, F.C. indicates Film Code, U.E. indicates Utility Easement, S.M. S.E. indicates Storm Sewer Easement, S.S.E. indicates Sanitary Sewer Easement, M.R.H.C. indicates Map Records Harris County, H.C.C.F. NO. indicates Harris County Clerk's File Number, Vol. indicates Volume, Pg. indicates Page, W.L.E. indicates Water Line Easement.
- Square footage shown hereon is based on a mathematical closure and does not represent the accuracy of survey.

SPRING CREEK COUNTY HISTORICAL ASSOCIATION

A SUBDIVISION OF 2.7064 ACRES
OF LAND OUT OF THE
JOSEPH HOUSE SURVEY, ABSTRACT
34, CITY OF TOMBALL,
HARRIS COUNTY, TEXAS.

BEING A REPLAT OF
LOTS 1, 2 and 9-16, BLOCK 48
and LOTS 4-6 and the SOUTHWESTERLY
20' of LOT 3, BLOCK 102
OF THE REVISED MAP OF
TOMBALL
VOLUME 4, PAGE 25
M.R.H.C.

AND
LOTS 7A AND 8A OF
"ABBREVIATED PLAT"
7A AND 8A
FILM CODE NUMBER 598155
M.R.H.C.

PREPARED BY:



Land Surveys - Computer Mapping
6000 Cabbage - Spring, Texas 77379
(281) 320-9591
Acres - Residential - Industrial - Commercial
Texas Firm Registration No. 10029460

DATE: SEPTEMBER, 2014 SCALE: 1" = 50' JOB NO. 84-066-130

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: September 8, 2014

Data Sheet

Topic:

Consideration to approve **ZONING CASE P14-145**: Request by TNRG Development LLC, on behalf of Frank P. Fontana, to amend the City's Zoning Ordinance by rezoning approximately 20.64 acres of land, legally described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, within the City of Tomball, Harris County, Texas, generally located west of South Cherry Street, north of Holderrieth Road, from the General Retail District to the Light Industrial District.

- Conduct a Public Hearing on **ZONING CASE P14-145**

Background:

Origination:

Recommendation:

Funding:

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

Community Development Department

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

ATTACHMENTS:

Notice of Public Hearing

Property Owner Notification Letter

P14-145 Staff Report

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
SEPTEMBER 8, 2014
&
CITY COUNCIL
SEPTEMBER 15, 2014**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, September 8, 2014, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, September 15, 2014, 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 P14-145: Request by TNRG Development LLC, on behalf of Frank P. Fontana, to amend the City's Zoning Ordinance by rezoning approximately 20.64 acres of land, legally described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, within the City of Tomball, Harris County, Texas, generally located west of South Cherry Street, north of Holderrieth Road, from the General Retail District to the Light Industrial District.

COMPREHENSIVE PLAN CASE P14-153: Request by Southern Knights Inc. to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from High Density Residential to Employment/Office.

ZONING CASE P14-154: Request by Southern Knights Inc. to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from the Duplex District to the Commercial District.

ZONING CASE P14-159: Request by the City of Tomball to amend Section 38.2 ("Use Charts") of the City's Zoning Ordinance to allow "Dance/Drama/Music Schools (Performing Arts, Martial Arts)" with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning & Zoning Commission serves as a recommendation to the City Council and is not a final action on the requests. Should the Planning & Zoning Commission vote to table a decision/recommendation on these cases, the date and time of a future meeting will be specified and the City Council will not review the subject cases until such a decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The applications are available for public inspection Monday through Friday, holidays excepted, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Assistant City Planner, Rodney Schmidt, at (281) 290-1410, rschmidt@tomballtx.gov.

C E R T I F I C A T I O N

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 5th day of September 2014 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Craig Meyers

Craig Meyers

Director of Community Development

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 & ZONING COMMISSION** and **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: P14-145

APPLICANT: TNRG Development LLC, on behalf of Frank P. Fontana

LOCATION: West of South Cherry Street, north of Holderrieth Road

PROPOSAL: Request to amend the City's Zoning Ordinance by rezoning approximately 20.64 acres of land, legally described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, within the City of Tomball, Harris County, Texas, from the General Retail District to the Light Industrial District.

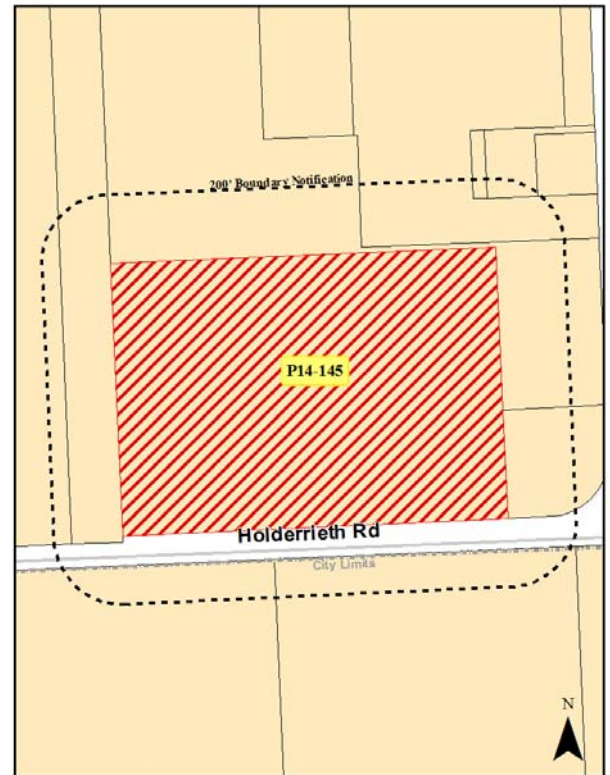
CONTACT: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@tomballtx.gov

Interested parties may contact the City of Tomball between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. 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 Community Development 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.

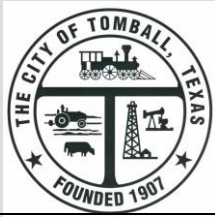


**Planning & Zoning Commission
Public Hearing:
Monday, September 8, 2014, 6:00 PM**

**City Council Public Hearing:
*Monday, September 15, 2014, 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 & Zoning Commission.



Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: September 8, 2014

Rezoning Case: P14-145
Property Owner(s): Frank P. Fontana
Applicant(s): TNRG Development LLC
Legal Description: Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot
Location: West of South Cherry Street, north of Holderrieth Road (Exhibit "A")
Area: 20.64 acres
Present Zoning & Use: General Retail (GR) District (Exhibit "B")/ Vacant (Exhibit "C")
Comp Plan Designation: Employment/Office (Exhibit "D")
Proposed Zoning and Use: Light Industrial District¹ / Business park
Adjacent Zoning & Use:
North: Agricultural District / Agricultural land, vacant land, single-family residence, and Future City of Tomball drainage channel
South: Unzoned City of Tomball Extraterritorial Jurisdiction (ETJ) / Holderrieth Road right-of-way (ROW), agricultural land, and single-family residence
West: GR, Commercial, and Agricultural Districts / Future City of Tomball drainage channel and agricultural land
East: GR District / Agricultural land and vacant land

BACKGROUND

On July 14, 2014, the applicant turned in a rezoning application (Exhibit "E") requesting the property's zoning classification be changed from General Retail District to Light Industrial District to accommodate the "development of multiple crane ready commercial/light industrial buildings for this business park."

ANALYSIS

The applicant is requesting that the property be rezoned from the General Retail District to Light Industrial District. According to Section 31.1 of the Zoning Ordinance:

¹ Any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning & Zoning Commission and City Council may consider zoning classifications other than that sought by the applicant for this property.

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.

There are several land uses in the vicinity of the subject site. To the north are agricultural land, vacant land, a single-family residence, and a future City of Tomball drainage channel; to the south are Holderrieth Road ROW, agricultural land, and a single-family residence; to the west are a future City of Tomball drainage channel and agricultural land; and to the east are agricultural land and vacant land. Light Industrial District appears to be incompatible with the existing single-family residential and agricultural land uses in the vicinity.

There are several zoning classifications in the vicinity of the subject site. To the north is the Agricultural District; to the south is unzoned City of Tomball ETJ; to the west are the GR, Commercial, and Agricultural Districts; and to the east is the GR District. The Light Industrial District appears to be incompatible with the Agricultural District which is classified as a "Residential Zoning District" in Section 38 of the Zoning Ordinance.

The Comprehensive Plan (CP) identifies the subject site as Employment/Office. The CP states:

Employment/Office indicates where employment uses that are not industrially focused should occur. These uses include corporate headquarters, regional offices, professional offices, light enclosed manufacturing or assembly facilities, office/showrooms, and small business office suites. Some retail activities are permitted in this land use to support offices and employment operations. It is expected that these uses will have a regular flow of traffic at the start and end of the regular business day. These uses will not produce large amounts of ambient noise, light, or vibration.

The Light Industrial District, which is the City's most intensive zoning district, appears to be inconsistent with the Employment/Office classification and appears to be more consistent with the Business/Industrial classification, which is the City's most intensive CP designation.

Additionally, this request appears to create a situation known as "spot zoning" which has been deemed illegal in the State of Texas. Spot zoning occurs when a single property is zoned differently than those lands which are immediately adjacent to it. As illustrated above, this request is inconsistent with the zoning designations of those properties in the surrounding area. The nearest Light Industrial District is approximately one-half mile to the northeast.

ZONING CONSIDERATIONS

In making its recommendation regarding a proposed zoning change, the Planning & 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.**

Light Industrial District appears to be incompatible with the existing single-family residential and agricultural land uses in the vicinity.

- 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 any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and 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 land zoned Light Industrial District in the vicinity of the subject site. However, there are numerous vacant properties elsewhere in the City already zoned Light Industrial District.

- 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 steady development City-wide in the Light Industrial 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 is approved, few, if any affects on other areas designated for similar developments are anticipated.

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

The proposed rezoning appears to be a spot zoning request which is not permitted in the State of Texas. Because a City's authority to enforce its zoning ordinance is considered a police power to protect the public's health, safety, and welfare, and because spot zoning has been determined to be contrary to this police power, to allow this request may affect the public's health, safety, and welfare.

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

The Light Industrial District, which is the City's most intensive zoning district, appears to be inconsistent with the Employment/Office classification and appears to be more consistent with the Business/Industrial classification, which is the City's most intensive CP designation.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on August 26, 2014. No public comment forms have been received as of August 29, 2014.

RECOMMENDATION

Based on the findings outlined in the analysis and zoning considerations sections of this staff report, City staff recommends **DENIAL** of Rezoning Case P14-145.

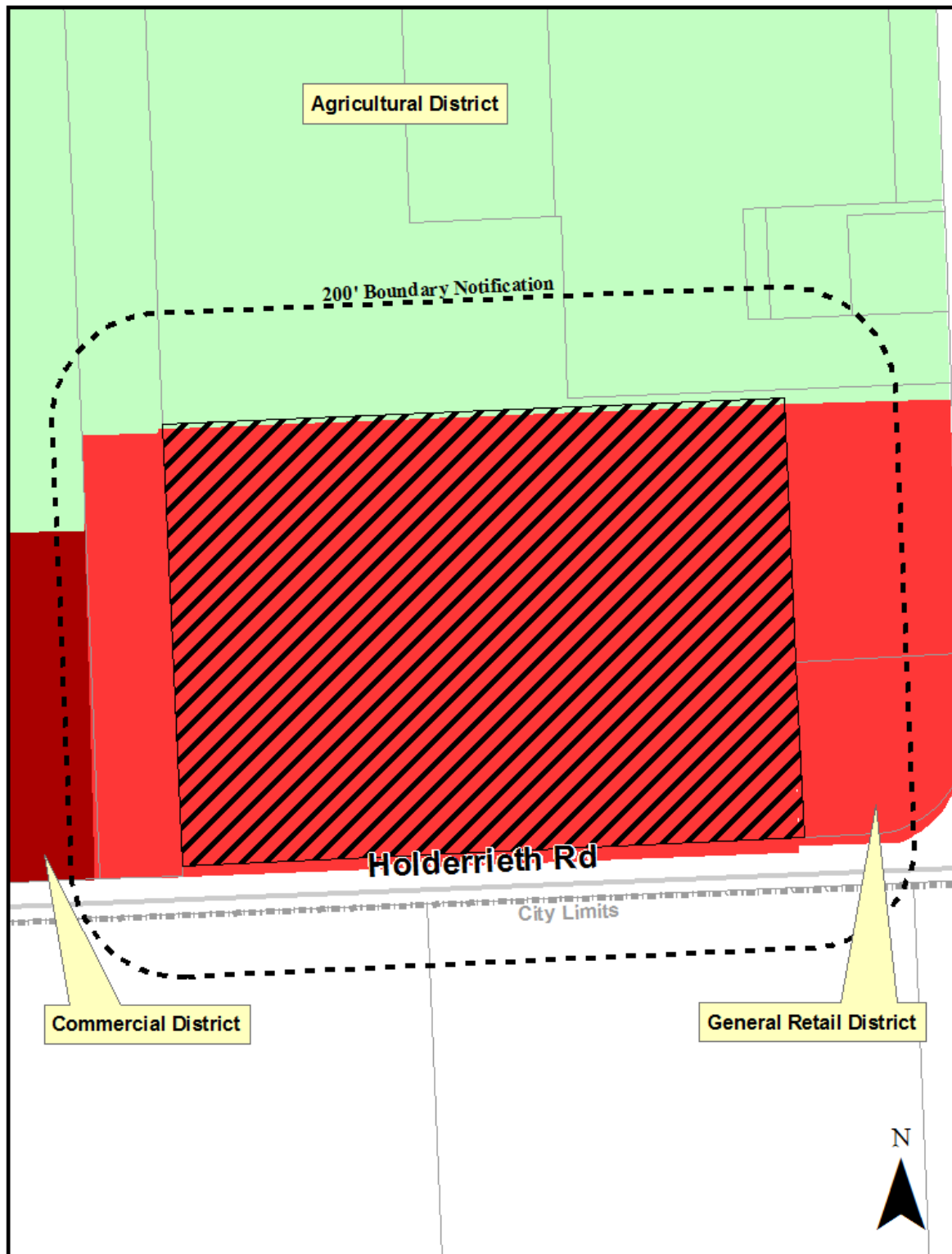
EXHIBITS

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

Exhibit "A"
Aerial Photo



Exhibit "B"
Zoning Map



**Exhibit “C”
Site Photos**



Figure 1: Subject site.
Source: Google Earth



Figure 2: Subject site.
Google Earth

Exhibit "D"
Future Land Use Map

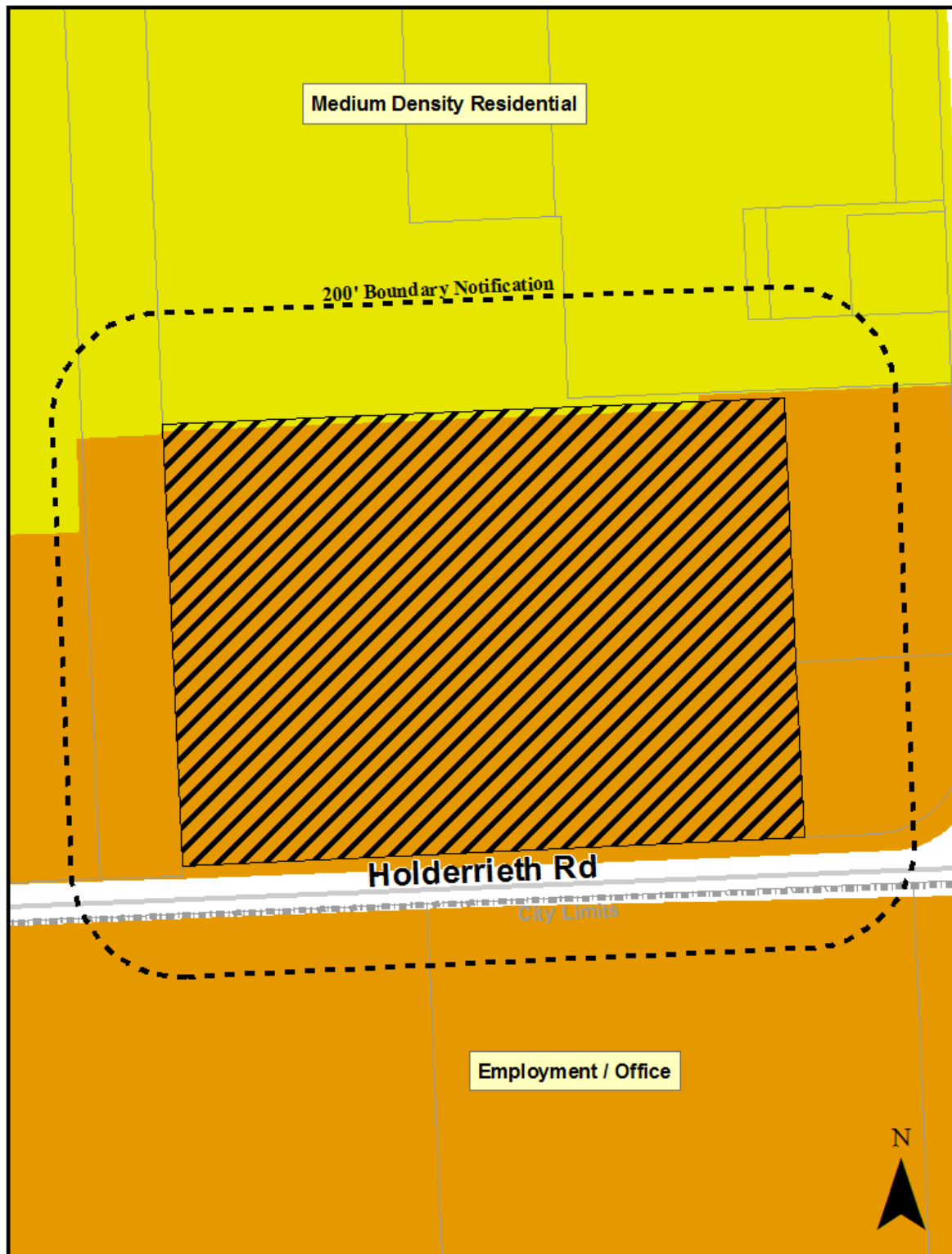


Exhibit "E"
Rezoning Application

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: TNR6 Development, LLC Title: _____
Mailing Address: 15120 NW Fwy #190 City: Houston State: TX
Zip: 77040
Phone: (713) 956-1000 Fax: (713) 856-5100 Email: _____

Owner

Name: Frank P. Fontana Title: owner
Mailing Address: 14807 Carlsen Blvd City: Cypress State: TX
Zip: 77429
Phone: (281) 798-2726 Fax: (281) 257-0413 Email: infantana@comcast.net

Engineer/Surveyor (if applicable)

Name: Texas Land Engineers - John Gordes Title: _____
Mailing Address: 550 Westcott # 550 City: Houston State: TX
Zip: 77007
Phone: (281) 576-1085 Fax: (281) 576-1086 Email: John.Gordes@texaslandengineers.com

Description of Proposed Project: _____

Physical Location of Property: APPROX. 899,078 Sq. Ft. / 11,000 SF Frontage on
Holdenrich near intersection of Holdenrich and Cherry St
[General Location - approximate distance to nearest existing street corner]

Legal Description of Property: TRS 4H-1 & 4L-2 ABST 632 CN Pilot
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: General Retail District (GR)

Current Use of Property: vacant land

Proposed Zoning District: Light Industrial District (LI)

Proposed Use of Property: office warehouse

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

www.ci.tomball.tx.us

HCAD Identification Number: 0440580000281 Acreage: 20.640

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.

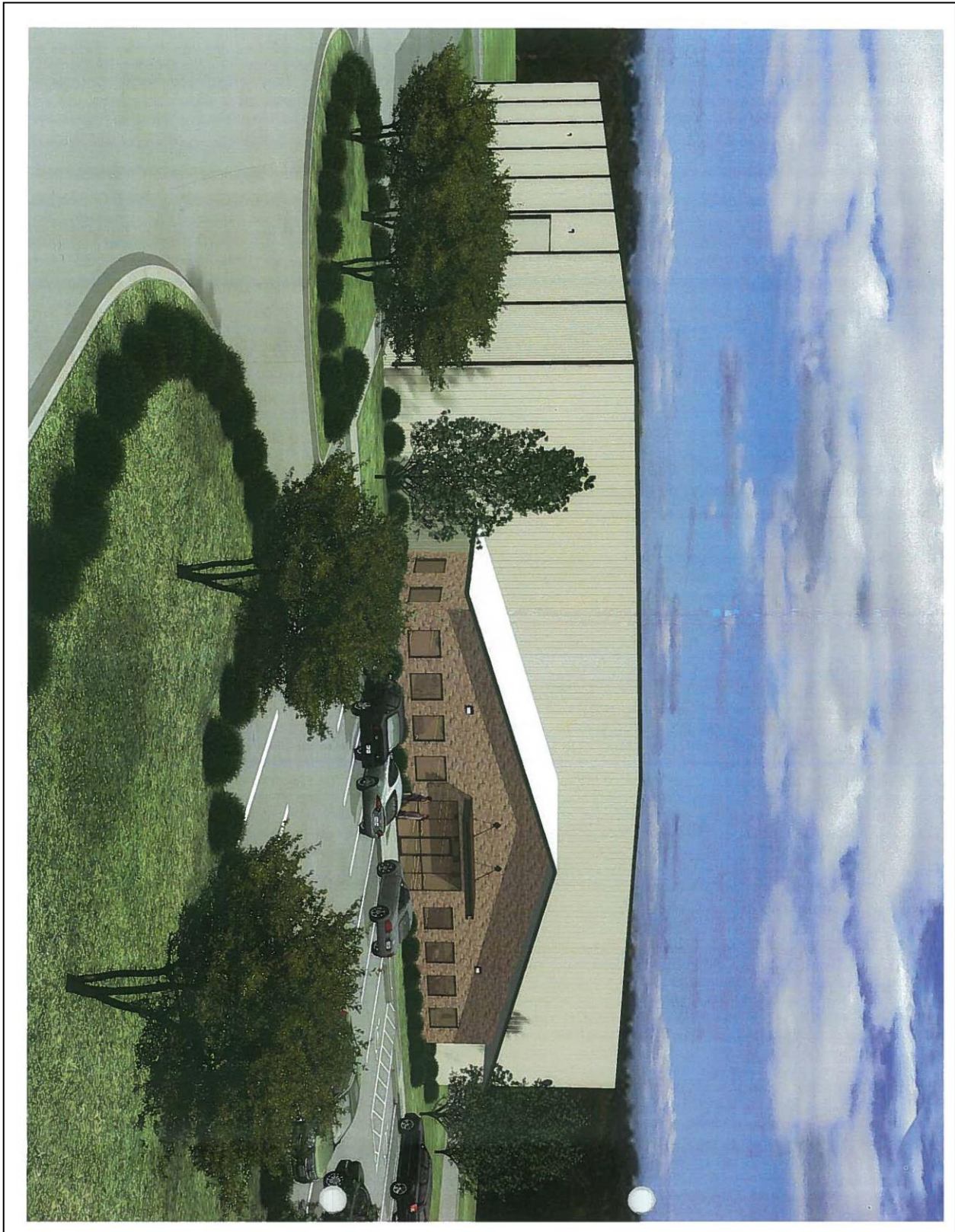
X  7-11-14
Signature of Applicant Date

X  7-11-14
Signature of Owner Date

[illegible]

15120 Northwest Freeway
Suite 200
Houston, Texas 77040







July 02, 2014

City of Tomball, Texas
501 James Street
Tomball, TX 77375

Re: Rezoning Request and Application pertaining to approximately 20.64 acres of land, out of the C.M. Pillot Survey, Abstract Number 632, Harris County, Texas and also being out of a 106.5632 acre tract of land described under Harris County Clerk's File Number (H.C.C.F#) L990867.

Planning Staff:

As the applicant to this rezoning request, TNRG Development is respectfully requesting rezoning from GR- (General Retail District) to LI - (Light Industrial District) for an approximate 20.64 acre tract on the North side of Holderrieth Road, also known as the Fontana Tract.

We are proposing the development of multiple crane ready commercial/ light industrial buildings for this business park. We feel it would lend itself as an attractive gateway to the Tomball industrial business park located on the corner of Holderrieth and Huffsmith Kohrville and bring necessary conveniences to the area allowing the larger business to have local support and services from these smaller operations.

We would appreciate your positive consideration of our rezoning request. Should you need additional information or have questions regarding our rezoning request, please call me at 713-744-7473 or via email at bcummings@tnrg.net

Sincerely,

A handwritten signature in dark ink, appearing to read "Bill Cummings", with a stylized flourish at the end.

Bill Cummings
TNRG Development

15120 NORTHWEST FREEWAY, SUITE 190 • HOUSTON, TEXAS 77040
713.956.1000 • WWW.TNRG.NET • fax 713.856.5100

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: September 8, 2014

Data Sheet

Topic:

Consideration to approve **ZONING CASE P14-153**: Request by Southern Knights Inc. to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from High Density Residential to Employment/Office.

- Conduct a Public Hearing on **ZONING CASE P14-153**

Background:

Origination:

Recommendation:

Funding:

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

Community Development Department

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

ATTACHMENTS:

Notice of Public Hearing

Property Owner Notification Letter

P14-153 Staff Report

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
SEPTEMBER 8, 2014
&
CITY COUNCIL
SEPTEMBER 15, 2014**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, September 8, 2014, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, September 15, 2014, 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 P14-145: Request by TNRG Development LLC, on behalf of Frank P. Fontana, to amend the City's Zoning Ordinance by rezoning approximately 20.64 acres of land, legally described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, within the City of Tomball, Harris County, Texas, generally located west of South Cherry Street, north of Holderrieth Road, from the General Retail District to the Light Industrial District.

COMPREHENSIVE PLAN CASE P14-153: Request by Southern Knights Inc. to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from High Density Residential to Employment/Office.

ZONING CASE P14-154: Request by Southern Knights Inc. to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from the Duplex District to the Commercial District.

ZONING CASE P14-159: Request by the City of Tomball to amend Section 38.2 ("Use Charts") of the City's Zoning Ordinance to allow "Dance/Drama/Music Schools (Performing Arts, Martial Arts)" with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning & Zoning Commission serves as a recommendation to the City Council and is not a final action on the requests. Should the Planning & Zoning Commission vote to table a decision/recommendation on these cases, the date and time of a future meeting will be specified and the City Council will not review the subject cases until such a decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The applications are available for public inspection Monday through Friday, holidays excepted, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Assistant City Planner, Rodney Schmidt, at (281) 290-1410, rschmidt@tomballtx.gov.

C E R T I F I C A T I O N

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 5th day of September 2014 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Craig Meyers

Craig Meyers

Director of Community Development

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 & ZONING COMMISSION** and **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: P14-153

APPLICANT: Southern Knights Inc.

LOCATION: Between Michel Road and Theis Lane, west of Johnson Road

PROPOSAL: Request to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, from High Density Residential to Employment/Office.

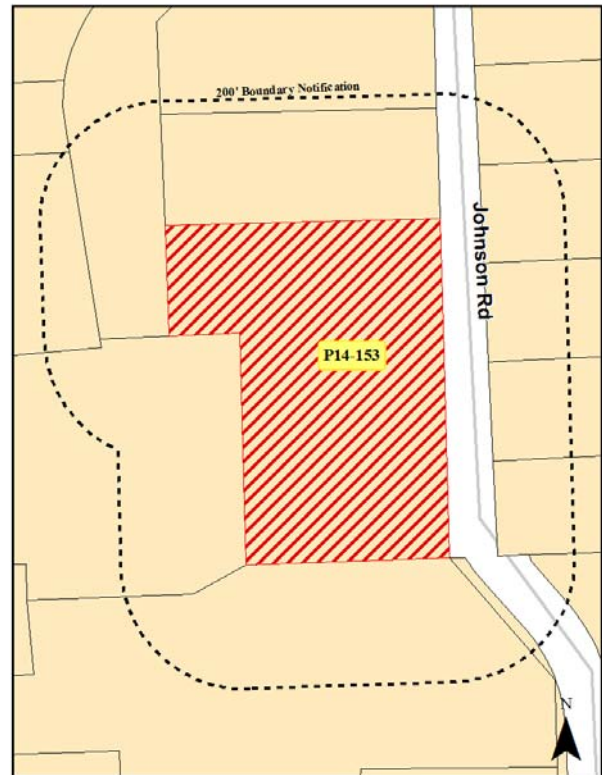
CONTACT: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@tomballtx.gov

Interested parties may contact the City of Tomball between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. 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 Community Development 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.

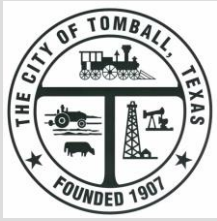


**Planning & Zoning Commission
Public Hearing:
Monday, September 8, 2014, 6:00 PM**

**City Council Public Hearing:
*Monday, September 15, 2014, 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 & Zoning Commission.



Comprehensive Plan (CP) Amendment Staff Report

Planning and Zoning Commission Public Hearing Date: September 8, 2014

CP Amendment Case: P14-153

Property Owner(s): Southern Knights Inc.

Applicant(s): Southern Knights Inc.

Legal Description: Tract 2, Howe Tract

Location: Between Michel Road and Theis Lane, west of Johnson Road (Exhibit "A")

Area: 4.31 acres

Present Zoning & Use: Duplex District (Exhibit "B") / Assisted living facility (Southern Knights Assisted Living Center) (Exhibit "C")

Present CP Designation: High Density Residential (Exhibit "D")

Proposed CP Designation: Employment/Office

Adjacent CP Designation & Land Usage:

North: High Density Residential / Apartment complex

South: Employment/Office / Shopping center

West: Employment/Office and High Density Residential / Shopping centers and Harris County Flood Control drainage

East: Employment/Office / Johnson Road right-of-way (ROW), single-family residence, vacant land, and City of Tomball drainage

BACKGROUND

On July 2, 2014, City staff met with Elizabeth Howe, owner of Southern Knights Assisted Living Center, to discuss the possible expansion of the existing assisted living facility at the subject site. Ms. Howe indicated that she wished to construct assisted living "cottages" and a memory impairment section (Exhibit "E"). City staff informed Ms. Howe of the following:

- The property is currently zoned Duplex District which does not allow for the expansion of an assisted living facility and that if she wanted to expand the facility she would first need to have the property rezoned to a district that permits this use. Ms. Howe indicated her desire to rezone the property to the Commercial District which permits this use by right.
- The property currently has a CP designation of High Density Residential which is not consistent with her proposed Commercial District rezoning request. Ms. Howe was informed that she could request an amendment to the CP changing the classification to one

that is more in line with the area and her proposed project. She indicated her desire to reclassify the property as Employment/Office.

On July 23, 2014, the applicant turned in a CP amendment application (Exhibit “F”) requesting the property’s designation be changed from High Density Residential to Employment/Office. Accompanying the CP amendment application was a rezoning application requesting the property be rezoned from the Duplex District to the Commercial District. The CP amendment is being heard as Case P14-153 and the rezoning application is being heard as Case P14-154. Both cases are being submitted to allow for the expansion of the existing assisted living facility.

ANALYSIS

The proposed FLU designation for this site is Employment/Office. The CP states, “Employment/Office indicates where employment uses that are not industrially focused should occur. These uses include corporate headquarters, regional offices, professional offices, light enclosed manufacturing or assembly facilities, office/showrooms, and small business office suites. Some retail activities are permitted in this land use to support offices and employment operations.”

There are several land uses in the vicinity of the subject site. To the north is an apartment complex; to the south is a shopping center; to the west are shopping centers and a Harris County Flood Control drainage ditch; and to the east are Johnson Road right-of-way (ROW), single-family residence, vacant land, and City of Tomball drainage. The Employment/Office designation appears to be compatible with the apartment complex to the north and the shopping centers to the south and west. The prima facie incompatibility of the request with the existing single-family residence to the east appears to be minimized because of the separation created by Johnson Road.

The Duplex and Commercial Districts are the predominant zoning classifications in the vicinity of the subject site. The Duplex District is to the north with the Commercial District to the south, west, and east. The Employment/Office designation appears to be compatible with the adjacent Commercial District. The prima facie incompatibility of the request with the Duplex District to the north will be minimized by the Zoning Ordinance’s building setback, landscaping, screening, and buffering requirements.

High Density Residential and Employment/Office are the predominant CP designations in the vicinity of the subject site. High Density Residential is to the north and west with Employment/Office to the south, west, and east. According to the CP, “High Density Residential provides areas for many different types of housing products including patio homes, townhomes, lofts, duplexes, condominiums, and apartments. Ranging from 7.26 to 26 gross dwelling units per acre, this designation may also include such supporting land uses as neighborhood shops and services, parks and recreational amenities, religious institutions, and schools to serve local residents.” The request is not anticipated to be incompatible with the High Density Residential properties to the north and west because High Density Residential is intended to accommodate a number of low-intensity, non-residential uses and because it is often located near non-residential, transitional, and high-traffic areas.

City staff recommends **APPROVAL** of this requested based on the following:

1. The request appears to be consistent with many of the surrounding land uses, zoning districts, and CP designations as explained above.

2. The request appears to enhance the City economically by adding assisted living care capacity and increasing property tax revenue through additional building construction and land improvements.
3. The request appears to be consistent with the following CP goals, objectives, and actions:
 - a. Objective LUD 1.2: Promote a cohesive land use pattern by minimizing incompatible land uses.
 - i. The request appears to be consistent and compatible with the existing residential land uses to the north and east.
 - b. Action LUD 1.1.5: Ensure that new developments invest in and contribute to the community's quality of life and amenities.
 - i. Southern Knights is in the business of caring for the elderly and infirm of our community. This request will allow the business to expand which will in turn provide more end of life care for those most in need.
 - c. Goal EO 1: Grow, diversify, and evolve Tomball's economy to raise the standard of living, create new employment opportunities, and generate revenue so the City can provide quality public services and amenities.
 - i. This request will allow a local business to grow which will in turn grow Tomball's economy and the City of Tomball's ability to provide public services.
4. The request appears to be a better use of land than what is recommended by the CP.
 - a. In 2009, the CP designated this property as High Density Residential which is not what it was before or at the time of adoption. This request is an attempt to ensure the CP is in line with the past, current, and future use of the property as an assisted living facility.
5. The request is not anticipated to negatively impact adjacent residential areas.
6. The request appears to have adequate access and roadway capacity.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on August 26, 2014. No public comment forms have been received as of August 29, 2014.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends **APPROVAL** of CP amendment case P14-153.

EXHIBITS

- A. Aerial Photo
- B. Zoning Map
- C. Site Photos
- D. Future Land Use Map
- E. Proposed Site Layout
- F. CP Amendment Application

Exhibit "A"
Aerial Photo

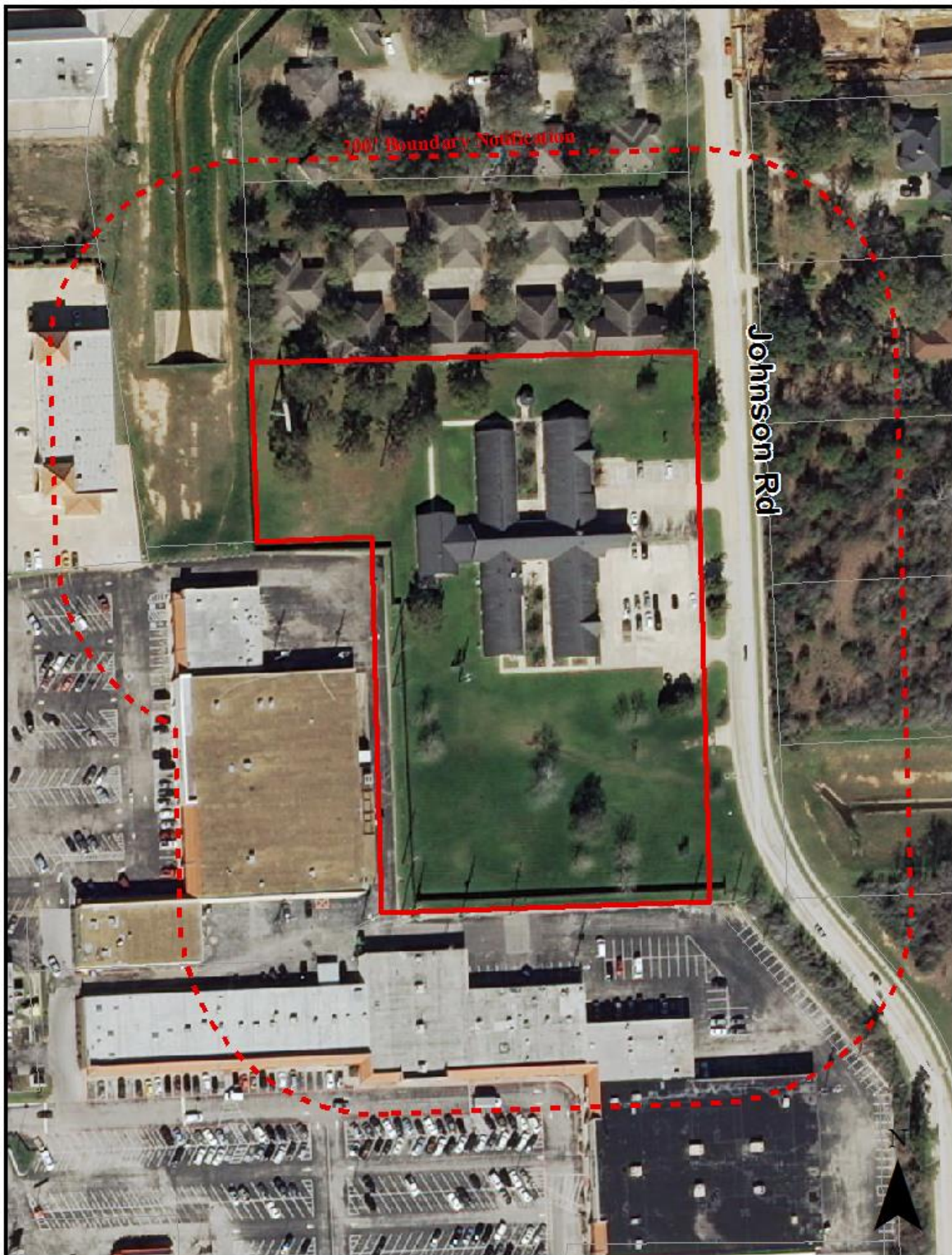
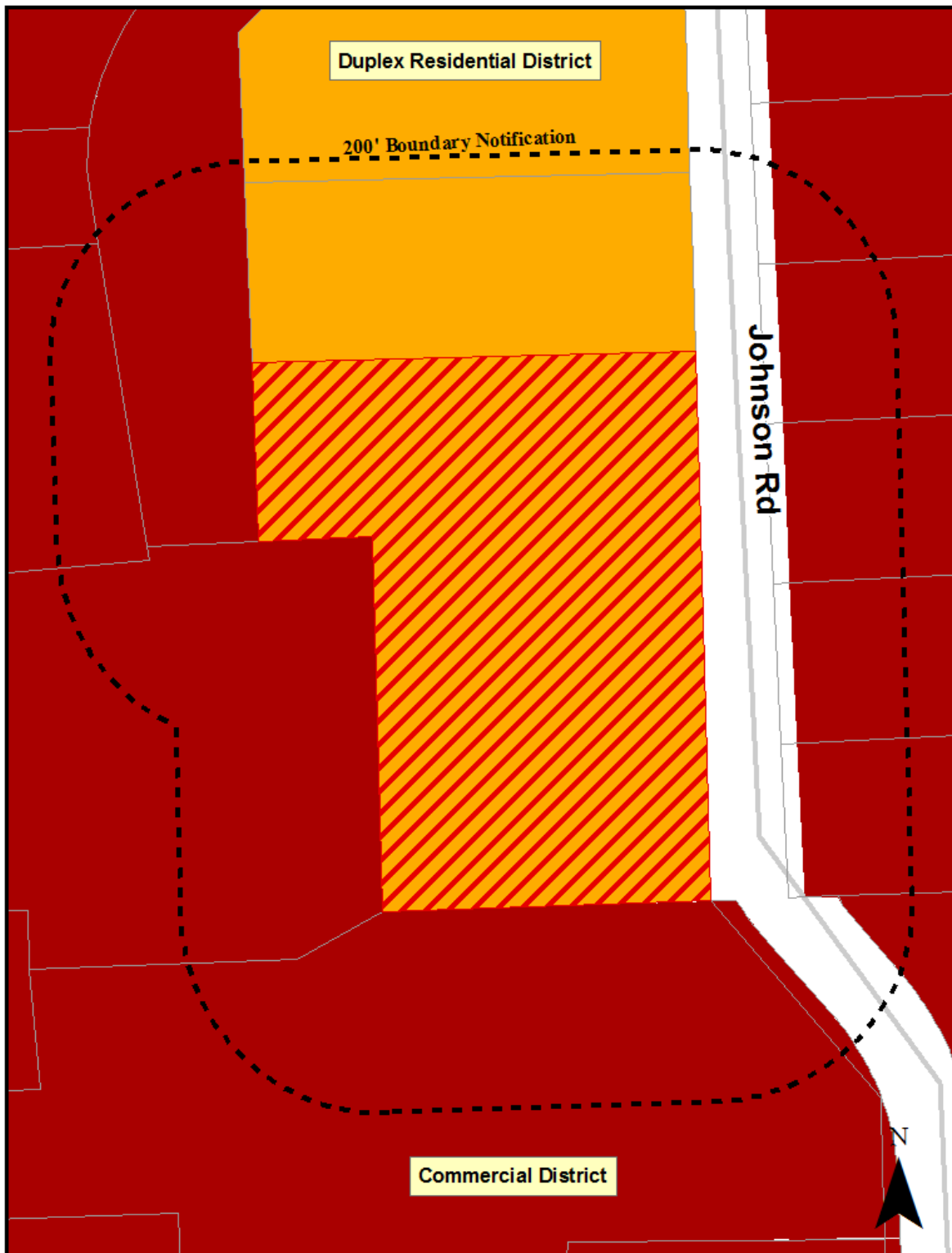


Exhibit "B"
Zoning Map



**Exhibit “C”
Site Photos**



Figure 1: Subject site.

Source: Google Earth



Figure 2: Subject site.

Source: Google Earth

Exhibit "D"
Future Land Use Map

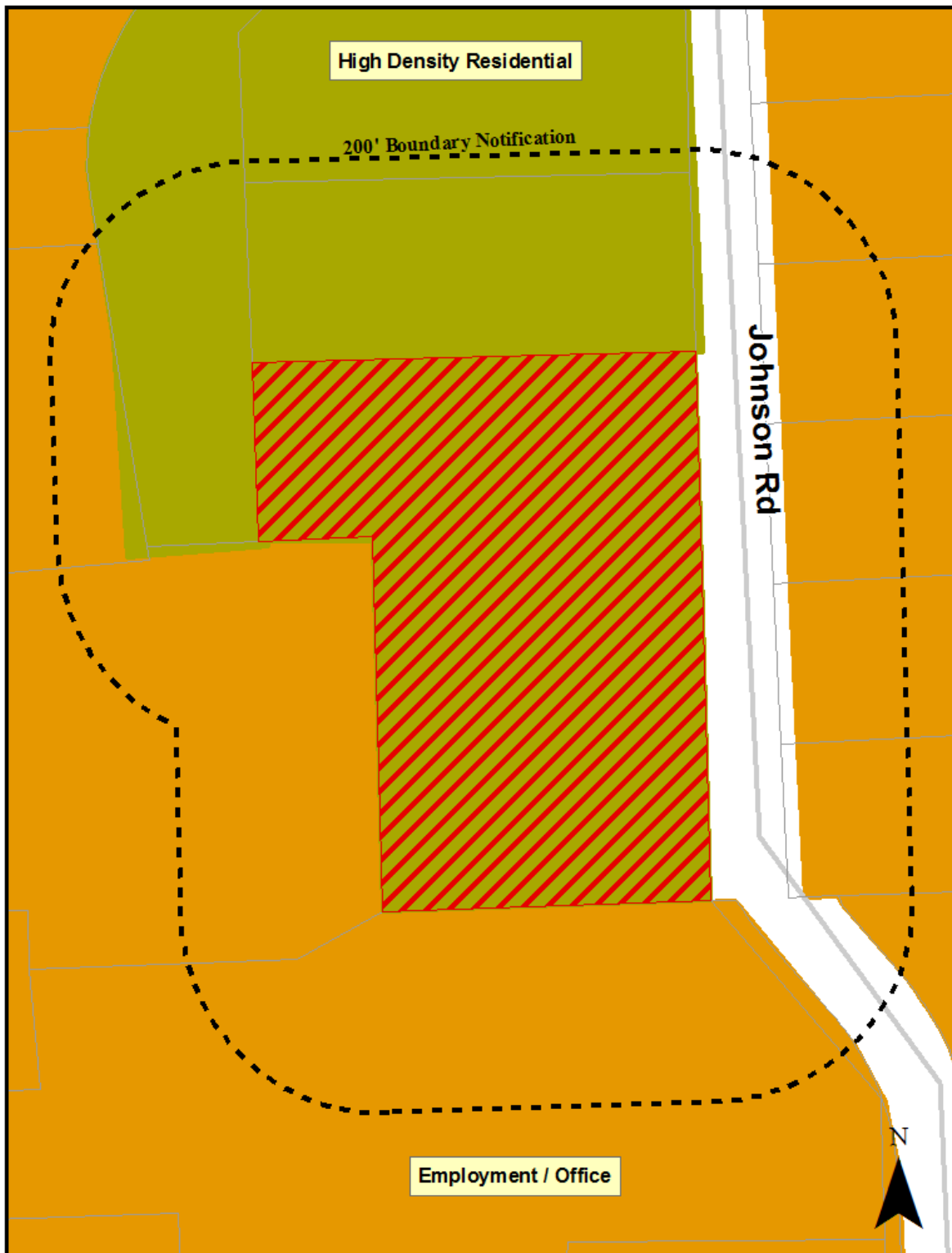
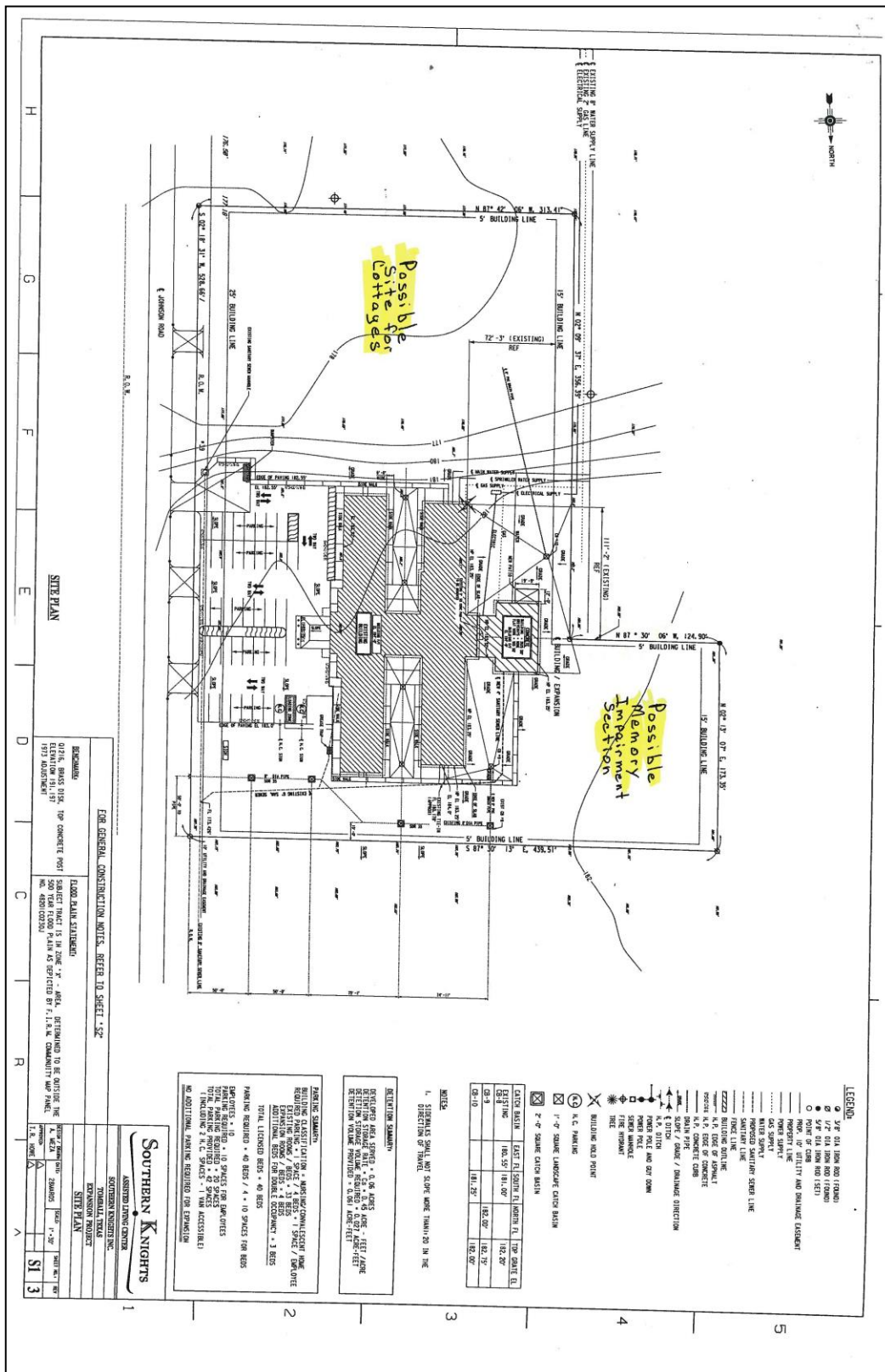
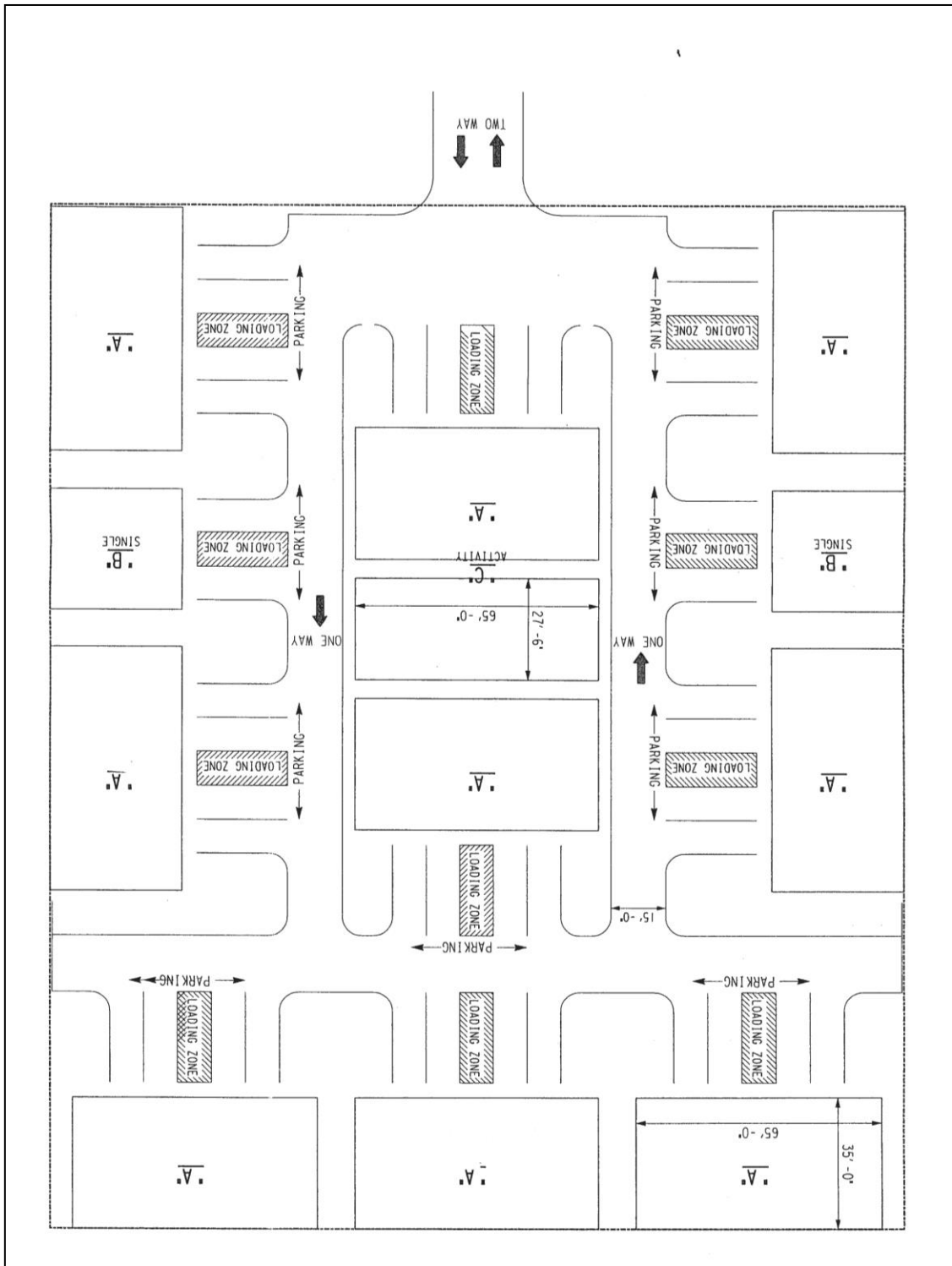


Exhibit “E”

Proposed Site Layout





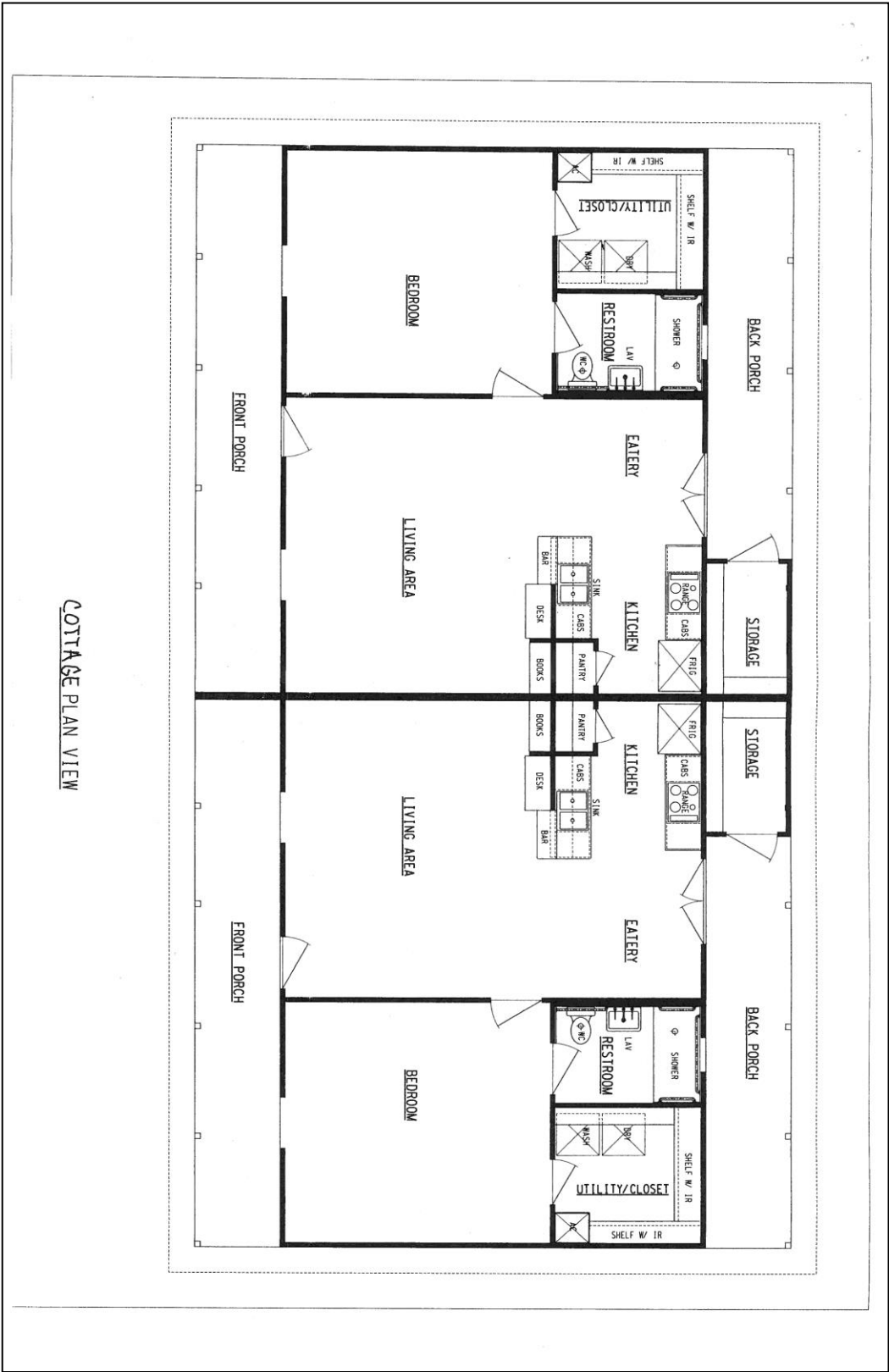


Exhibit "F"
CP Amendment Application

P14-153

Revised 1/26/10



**COMPREHENSIVE PLAN
AMENDMENT APPLICATION**
Engineering & Planning Department

APPLICATION SUBMITTAL

The Comprehensive Plan serves as the City's long-range development guide. Local Government Code Section 213.003 authorizes and specifies procedures for amendments and modifications to the City's Comprehensive Plan. The process requires a public hearing and review by the City's Planning and Zoning Commission and final review and approval by the City Council.

Plan amendments for parcels of real property within Tomball may be initiated by property owners or by agents of property owners by written consent. Plan amendment(s) involving textual changes may be initiated by any interested party including the Tomball City Council, Planning & Zoning Commission, staff, or private citizens. It shall be the burden of the party requesting the amendment, not the City of Tomball, to prove that the change constitutes an improvement to the Tomball Comprehensive Plan.

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 request may be delayed until corrections or additions are received.

CONTACT INFORMATION:

Applicant

Name: Southern Knights, Inc. Title: Elizabeth L. Howe
President
Mailing Address: 27919 Johnson Road City: Tomball State: TX
Zip: 77375
Phone: (281) 351-8575 Fax: (281) 351-1129
Email: liz.howe@Comcast.net

Owner

Name: Southern Knights, Inc. Title: Elizabeth L. Howe
President
Mailing Address: 27919 Johnson Road City: Tomball State: TX
Zip: 77375
Phone: (281) 351-8575 Fax: (281) 351-1129
Email: liz.howe@Comcast.net

COMPREHENSIVE PLAN AMENDMENT REQUEST:

Amendment Type (check all that apply): Text _____ Map ☒

Text Amendment(s)

Text to be modified:

Proposed Text Amendment (exact wording):

Questions to be answered in Comprehensive Plan Amendment Request Letter:

- Will the proposed text amendment enhance the City economically?
- Will the proposed text amendment enhance the City aesthetically?
- Is the proposed text amendment consistent with the City's Goals, Objectives, and Actions?
- Does the proposed text amendment encourage a better use of land/property, both for the owner/developer and the City, than that currently recommended by the Plan?
- Will the proposed text amendment impact adjacent residential areas in a positive or negative manner?
- How will the proposed text amendment impact vehicular and pedestrian access, roadway capacity, ingress and egress, and traffic?
- Will the proposed text amendment encourage land use compatibility?
- Does the proposed text amendment present a significant benefit to the public health, safety and welfare of the community?

Map Amendment(s)

Current Comprehensive Plan Designation: High Density Residential
Proposed Comprehensive Plan Designation: Employment - Related Land Uses
Proposed Use of Property: Licensed Assisted Living Center
Physical Location of Property: 27919 Johnson Road
[General Location – approximate distance to nearest existing street corner]
Legal Description of Property: TR HOWE TRACT
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]
Current Zoning District: Duplex District
Current Use of Property: Licensed Assisted Living Center
HCAD Identification Number: 1201070000001
Property Acreage: 4.3118

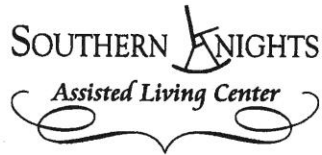
Questions to be answered in Comprehensive Plan Amendment Request Letter:

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

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 Elizabeth L. Howe 7-21-14
Signature of Applicant Date

X Elizabeth L. Howe 7-21-14
Signature of Owner Date



July 23, 2014

City of Tomball
Attn: Engineering & Planning Department
Attn: Planning & Zoning Commission
Attn: Tomball City Council
501 James Street
Tomball, Texas 77375

Ref: APPLICATION FOR REZONING &
COMPREHENSIVE PLAN AMENDMENT APPLICATION

To whom it may concern:

Southern Knights, Inc. has enclosed an application for rezoning and an amendment to the comprehensive plan in Tomball.

Southern Knights, Inc. is evaluating the expansion of our facility. We are considering an addition of detached assisted living cottages on our southern most property and expanding our 500 wing which is our most northwest wing to include a memory impairment section.

Upon, starting this project evaluation, I discovered that our property was not zoned nor in the comprehensive plan to undertake this project.

APPLICATION FOR REZONING:

After reviewing your zoning map and the zoning districts, Southern Knights, Inc. is requesting to be rezoned to the C, Commercial, district that is intended to provide a location for service-related establishments. Please review your current zoning map, the subject property is surrounded by the commercial district with the exception of our northern border. North of our property on Johnson Road are three parcels of land. The first parcel adjacent to us on the northern border was built approximately one year after our center was completed. The next parcel was a well established duplex community before we built and the third parcel has never been built on since we have owned our property.

Additionally, it appears that aspects of our expansion project would fall under this designation, one section would be detached and the other section would be attached assisted living.

COMPREHENSIVE PLAN AMENDMENT APPLICATION:

I have put together the following information to help you evaluate the amendment to the comprehensive plan.

27919 Johnson Road • Tomball, Texas 77375 • 281-351-8575

1) Economically - Southern Knights, Inc. currently employs approximately 30 employees and I would anticipate this would increase our employment base to approximately 40 employees.

Additionally - We pay City of Tomball, Tomball Independent School District, Harris County property taxes, and Federal Income taxes that would increase and would bring in additional tax revenues to the city.

2) Aesthetically - Southern Knights, Inc. has already contributed to the aesthetics of the area and would continue to do the same. Southern Knights took two undeveloped eye sore dump sites (we removed 85 car/truck tires) and replatted them and developed them into a beautiful, caring and compassion licensed assisted living center for the elderly and disabled.

In May 2001, the City of Tomball Parks, Recreation and Beautification Advisory Board selected us for the City's Beautification Award.

When we originally built Southern Knights in 1999, we designed, constructed, handled getting utility easement from all four owners, secured all owners donating this easement to the City of Tomball for the sewer line down the west side of Johnson Road. This enabled three existing properties to tap into the sewer line we installed and eliminated unsightly septic issues.

3) City's Goals, Objectives, and Actions - After reviewing the zoning map and the comprehensive plan for Tomball, I believe that would be the appropriate designation for the land and best use for Southern Knights, Inc. and the City of Tomball. The majority of land that the property is surrounded by is Commercial District zoned and under the comprehensive plan as Employment - Related Land Uses.

4) Impact Adjacent Residential Areas in a positive or negative manner - I believe it will impact the adjacent residential areas in a positive manner. There will be more jobs in the area, and a greater tax base.

Additionally, we have been adjacent to the duplex on our northern border for 15 years and we have "NEVER" had any problem issues. We have had two duplex residents that have moved into our center and one employee that lived in the duplexes and walked to work. We have donated two easements to the duplexes in an effort to make the quality of their living arrangement better. 1) We gave them an easement across the back of our property so that they could get city water and eliminate their well water. 2) We gave them an easement on the northern property line enabling them to build closer to our property line. Both of these easements were given free of charge to the developer.

Cobble Creek Apartment is approximately one block away and we do offer a lot of job opportunities to individuals that have no transportation.

5) Adequate access, roadway capacity, ingress and egress, traffic impact - Most of our residents do not own vehicles and/or do not drive any longer and we would only be increasing our employees by approximately 10. Considering that approximately 10 years ago the city improved Johnson Road by putting it through to Theiss, I do not foresee any traffic impact on the area.

6) Adjacent properties similar in nature, appearance, hours of operation and other general aspects of compatibility - Yes.

The Heights Nursing Home and Rehabilitation Center is diagonally across the street and it is similar in all the above aspects. The medical center that was recently built on the corner of Johnson Road and Michel Street is similar in all the above aspects except for the height. Even the Dogwood Investment Duplexes to the northern border are similar to all the above aspects. Two parcels of property diagonal across the street have recently been rezoned commercial, one parcel across the street is commercial, vacant and for sale, and one parcel is commercial owned by the city and is a retention pond. It appears to me that all properties in this area are similar in nature, appearance, hours of operation and other general aspects of compatibility. We have all worked well together for the 16 years I have owned the property.

7) Does the amendment present significant benefit to the public health, safety and welfare of the community - Generally, I would say that this would have no change because it would be used in a similar application. But, anytime you increase employment, tax base, and offer an outstanding facility for your community to age in there is going to be significant benefit to the public health, safety and welfare of the community.

Southern Knights, Inc. has a long history of benefiting the Tomball Community.

- 1) Active member of the Tomball Chamber of Commerce since 1999
- 2) Nominated in 2001 as North Harris Montgomery Community College's Small Business of the Year (1st Runner Up)
- 3) City of Tomball - Parks, Recreation and Beautification Advisory Board
City's - Beautification - Award May 2001
- 4) Awarded 2002 North Harris Montgomery Community College's Small Business of the Year
- 5) Assisted Tomball Fire Department with accepting 6 Galveston Nursing Home Evacuees from Katrina in 2005
- 6) Cypress Creek Mirror & The Potpourri
Best of the Northwest 2012 (1st Runner Up)
Only Tomball Care Facility Nominated
- 7) Cypress Creek Mirror & The Potpourri
Best of the Northwest 2013 (1st Runner Up)
Only Tomball Care Facility Nominated

After reviewing all our applications and all the attached documentation, I hope you will agree that it is in the best interest of the City of Tomball and Southern Knights, Inc. to approve our application for rezoning and application for comprehensive plan amendment.

Sincerely,



Elizabeth L. Howe
President

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: September 8, 2014

Data Sheet

Topic:

Consideration to approve **ZONING CASE P14-154**: Request by Southern Knights Inc. to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from the Duplex District to the Commercial District.

- Conduct a Public Hearing on **ZONING CASE P14-154**

Background:

Origination:

Recommendation:

Funding:

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

Community Development Department

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

ATTACHMENTS:

Notice of Public Hearing

Property Owner Notification Letter

P14-154 Staff Report

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
SEPTEMBER 8, 2014
&
CITY COUNCIL
SEPTEMBER 15, 2014**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, September 8, 2014, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, September 15, 2014, 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 P14-145: Request by TNRG Development LLC, on behalf of Frank P. Fontana, to amend the City's Zoning Ordinance by rezoning approximately 20.64 acres of land, legally described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, within the City of Tomball, Harris County, Texas, generally located west of South Cherry Street, north of Holderrieth Road, from the General Retail District to the Light Industrial District.

COMPREHENSIVE PLAN CASE P14-153: Request by Southern Knights Inc. to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from High Density Residential to Employment/Office.

ZONING CASE P14-154: Request by Southern Knights Inc. to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from the Duplex District to the Commercial District.

ZONING CASE P14-159: Request by the City of Tomball to amend Section 38.2 ("Use Charts") of the City's Zoning Ordinance to allow "Dance/Drama/Music Schools (Performing Arts, Martial Arts)" with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning & Zoning Commission serves as a recommendation to the City Council and is not a final action on the requests. Should the Planning & Zoning Commission vote to table a decision/recommendation on these cases, the date and time of a future meeting will be specified and the City Council will not review the subject cases until such a decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The applications are available for public inspection Monday through Friday, holidays excepted, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Assistant City Planner, Rodney Schmidt, at (281) 290-1410, rschmidt@tomballtx.gov.

C E R T I F I C A T I O N

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 5th day of September 2014 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Craig Meyers

Craig Meyers

Director of Community Development

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 & ZONING COMMISSION** and **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: P14-154

APPLICANT: Southern Knights Inc.

LOCATION: Between Michel Road and Theis Lane, west of Johnson Road

PROPOSAL: Request to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, from the Duplex District to the Commercial District.

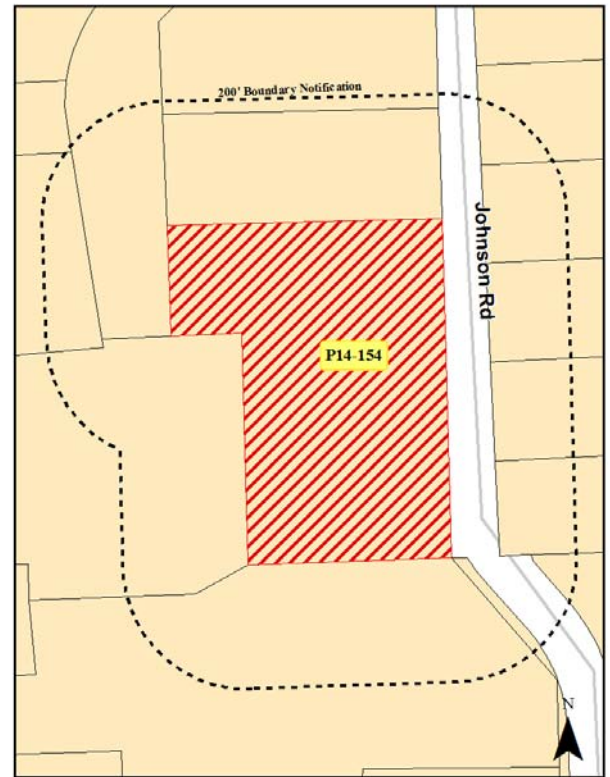
CONTACT: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@tomballtx.gov

Interested parties may contact the City of Tomball between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. 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 Community Development 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.

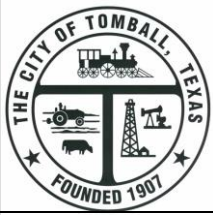


**Planning & Zoning Commission
Public Hearing:
Monday, September 8, 2014, 6:00 PM**

**City Council Public Hearing:
*Monday, September 15, 2014, 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 & Zoning Commission.



Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: September 8, 2014

Rezoning Case: P14-154

Property Owner(s): Southern Knights Inc.

Applicant(s): Southern Knights Inc.

Legal Description: Tract 2, Howe Tract

Location: Between Michel Road and Theis Lane, west of Johnson Road (Exhibit "A")

Area: 4.31 acres

Present Zoning & Use: Duplex District (Exhibit "B") / Assisted living facility (Southern Knights Assisted Living Center) (Exhibit "C")

Comp Plan Designation: High Density Residential (Exhibit "D")¹

Proposed Zoning and Use: Commercial District² / Assisted living facility

Adjacent Zoning & Use:

- North:** Duplex District / Apartment complex
- South:** Commercial District/ Shopping center
- West:** Commercial District / Shopping centers and Harris County Flood Control drainage
- East:** Commercial District / Johnson Road right-of-way (ROW), single-family residence, vacant land, and City of Tomball drainage

BACKGROUND

On July 2, 2014, City staff met with Elizabeth Howe, owner of Southern Knights Assisted Living Center, to discuss the possible expansion of the existing assisted living facility at the subject site. Ms. Howe indicated that she wished to construct assisted living "cottages" and a memory impairment section (Exhibit "E"). City staff informed Ms. Howe of the following:

¹ The applicant is requesting the Comprehensive Plan designation be changed to Employment/Office in Comprehensive Plan Amendment Case P14-153.

² Any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning & Zoning Commission and City Council may consider zoning classifications other than that sought by the applicant for this property.

- The property is currently zoned Duplex District which does not allow for the expansion of an assisted living facility and that if she wanted to expand the facility she would first need to have the property rezoned to a district that permits this use. Ms. Howe indicated her desire to rezone the property to the Commercial District which permits this use by right.
- The property currently has a Comprehensive Plan (CP) designation of High Density Residential which is not consistent with her proposed Commercial District rezoning request. Ms. Howe was informed that she could request an amendment to the CP changing the classification to one that is more in line with the area and her proposed project. She indicated her desire to reclassify the property as Employment/Office.

On July 23, 2014, Ms. Howe turned in a rezoning application (Exhibit “F”) requesting the property be rezoned from the Duplex District to the Commercial District. Accompanying this application was a CP amendment application requesting the property’s designation be changed from High Density Residential to Employment/Office. The CP amendment is being heard as Case P14-153 and the rezoning application is being heard as Case P14-154. Both cases are being submitted to allow for the expansion of the existing assisted living facility.

ANALYSIS

The applicant is requesting that the property be rezoned from the Duplex District to the Commercial District. According to Section 30.1 of the Zoning Ordinance, the Commercial District “is intended to provide a location for commercial and service-related establishments, such as wholesale product sales, welding/contractors shops, automotive repair services, upholstery shops, and other similar commercial uses.”

There are several land uses in the vicinity of the subject site. To the north is an apartment complex; to the south is a shopping center; to the west are shopping centers and a Harris County Flood Control drainage ditch; and to the east are Johnson Road right-of-way (ROW), single-family residence, vacant land, and City of Tomball drainage. The proposed Commercial District appears to be compatible with the shopping centers to the south and west. The prima facie incompatibility of the request with the existing apartment complex to the north and the single-family residence to the east appears to be minimized because of the separation created by Johnson Road and will be further minimized by the Zoning Ordinance’s building setback, landscaping, screening, and buffering requirements for the Commercial District. Additionally, many of the properties near the apartment complex and single-family residences have been used for non-residential purposes for many years without any known complaints regarding incompatibility, noise, or nuisance being filed with the City of Tomball.

The Duplex and Commercial Districts are the predominant zoning classifications in the vicinity of the subject site. The Duplex District is to the north with the Commercial District to the south, west, and east. According to Section 20.1 of the Zoning Ordinance, the Duplex District “is intended to promote stable, quality multiple-occupancy residential development at slightly increased densities.” The prima facie incompatibility of the request with the Duplex District to the north will be minimized by the Zoning Ordinance’s building setback, landscaping, screening, and buffering requirements. Additionally, the assisted living facility, which is a use permitted by right in the Commercial District, has been established

adjacent to the Duplex District to the north for several years without any known complaints regarding incompatibility, noise, or nuisance being filed with the City of Tomball.

The CP designates the subject site as High Density Residential. According to the CP, “High Density Residential provides areas for many different types of housing products including patio homes, townhomes, lofts, duplexes, condominiums, and apartments. Ranging from 7.26 to 26 gross dwelling units per acre, this designation may also include such supporting land uses as neighborhood shops and services, parks and recreational amenities, religious institutions, and schools to serve local residents.” The proposed Commercial District appears to be inconsistent with the High Density Residential classification. However, if P14-153 is approved and the CP is amended to reclassify this property as Employment/Office, this rezoning request will no longer be inconsistent with the CP designation.

ZONING CONSIDERATIONS

In making its recommendation regarding a proposed zoning change, the Planning & 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.

The proposed Commercial District appears to be compatible with the shopping centers to the south and west. The prima facie incompatibility of the request with the existing apartment complex to the north and the single-family residence to the east appears to be minimized because of the separation created by Johnson Road and will be further minimized by the Zoning Ordinance’s building setback, landscaping, screening, and buffering requirements for the Commercial District. Additionally, many of the properties near the apartment complex and single-family residences have been used for non-residential purposes for many years without any known complaints regarding incompatibility, noise, or nuisance being filed with the City of Tomball.

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 any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and 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 are numerous vacant properties in the vicinity and elsewhere in the City zoned Commercial District.

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 steady development City-wide in the Commercial 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 rezoning is approved, few, if any affects on other areas designated for similar developments are anticipated.

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

The proposed rezoning does not appear to negatively affect the public health, safety, morals, or general welfare.

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

The proposed Commercial District appears to be inconsistent with the High Density Residential classification. However, if P14-153 is approved and the CP is amended to classify this property as Employment/Office, this rezoning request will no longer be inconsistent with the CP designation.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on August 26, 2014. No public comment forms have been received as of August 29, 2014.

RECOMMENDATION

Based on the findings outlined in the analysis and zoning considerations sections of this staff report, City staff recommends **APPROVAL** of Rezoning Case P14-154 if CP Amendment Case P14-153 is first approved.

EXHIBITS

- A. Aerial Photo
- B. Zoning Map
- C. Site Photos
- D. Future Land Use Map
- E. Proposed Site Layout
- F. Rezoning Application

Exhibit "A"
Aerial Photo

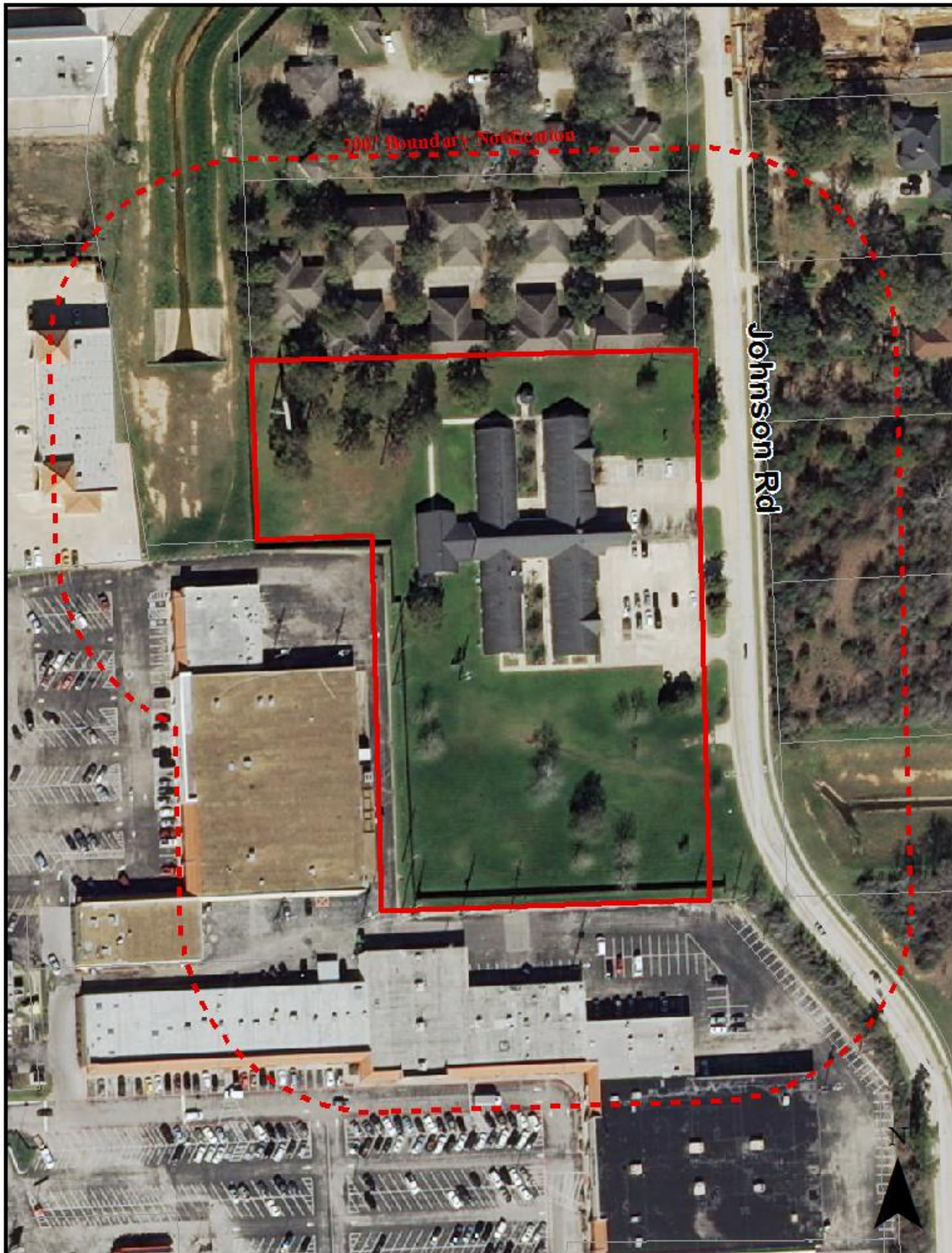
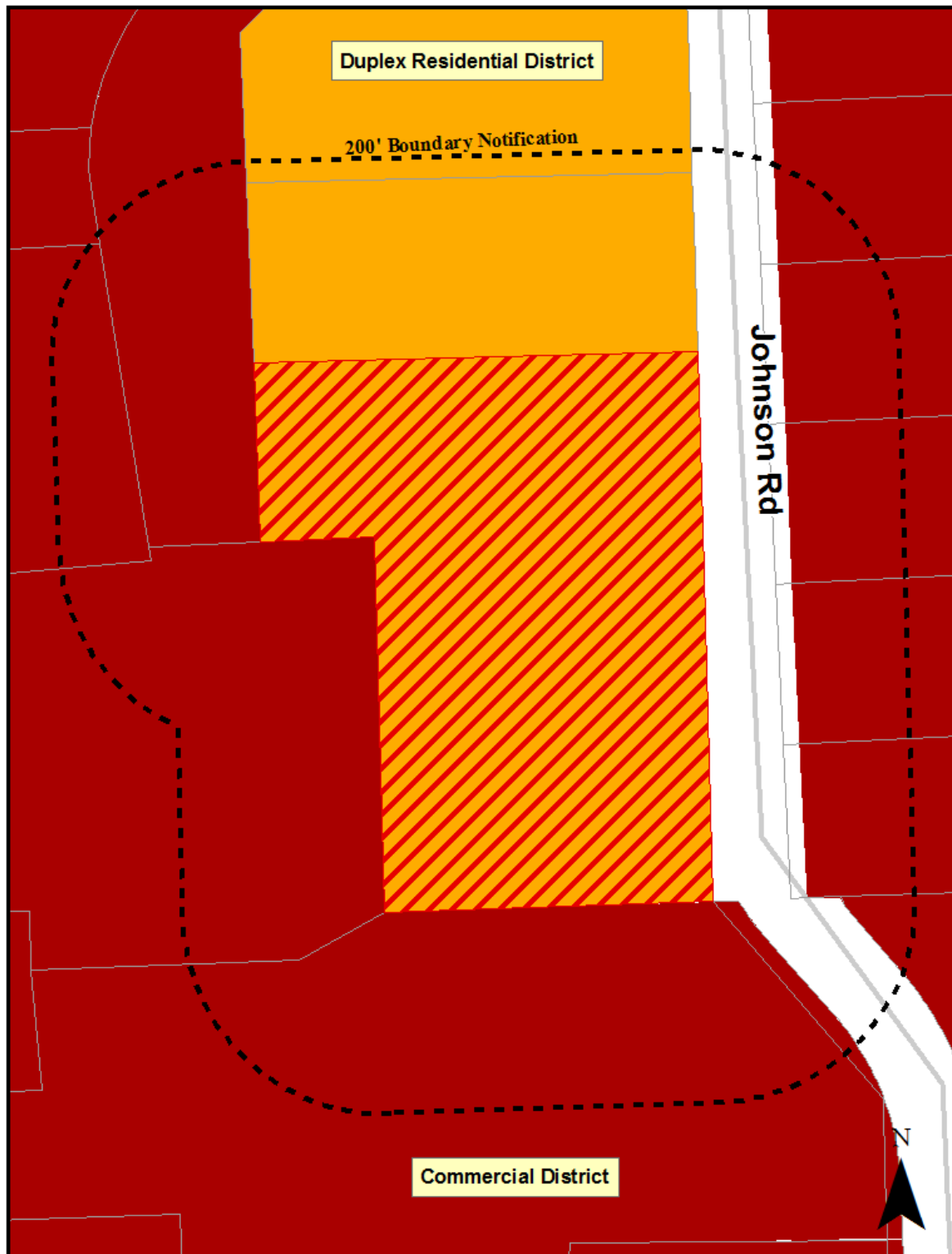


Exhibit "B"
Zoning Map



**Exhibit “C”
Site Photos**

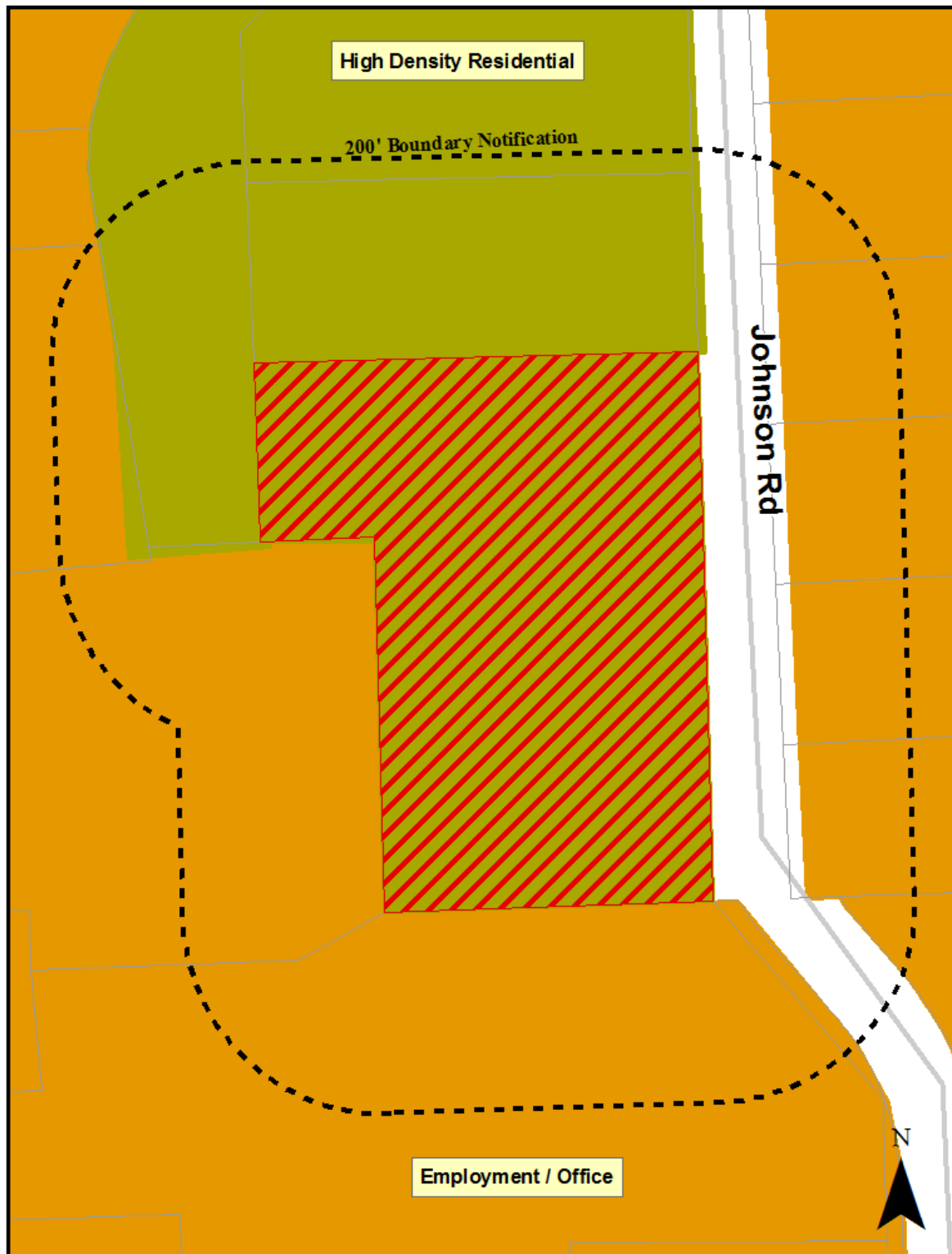


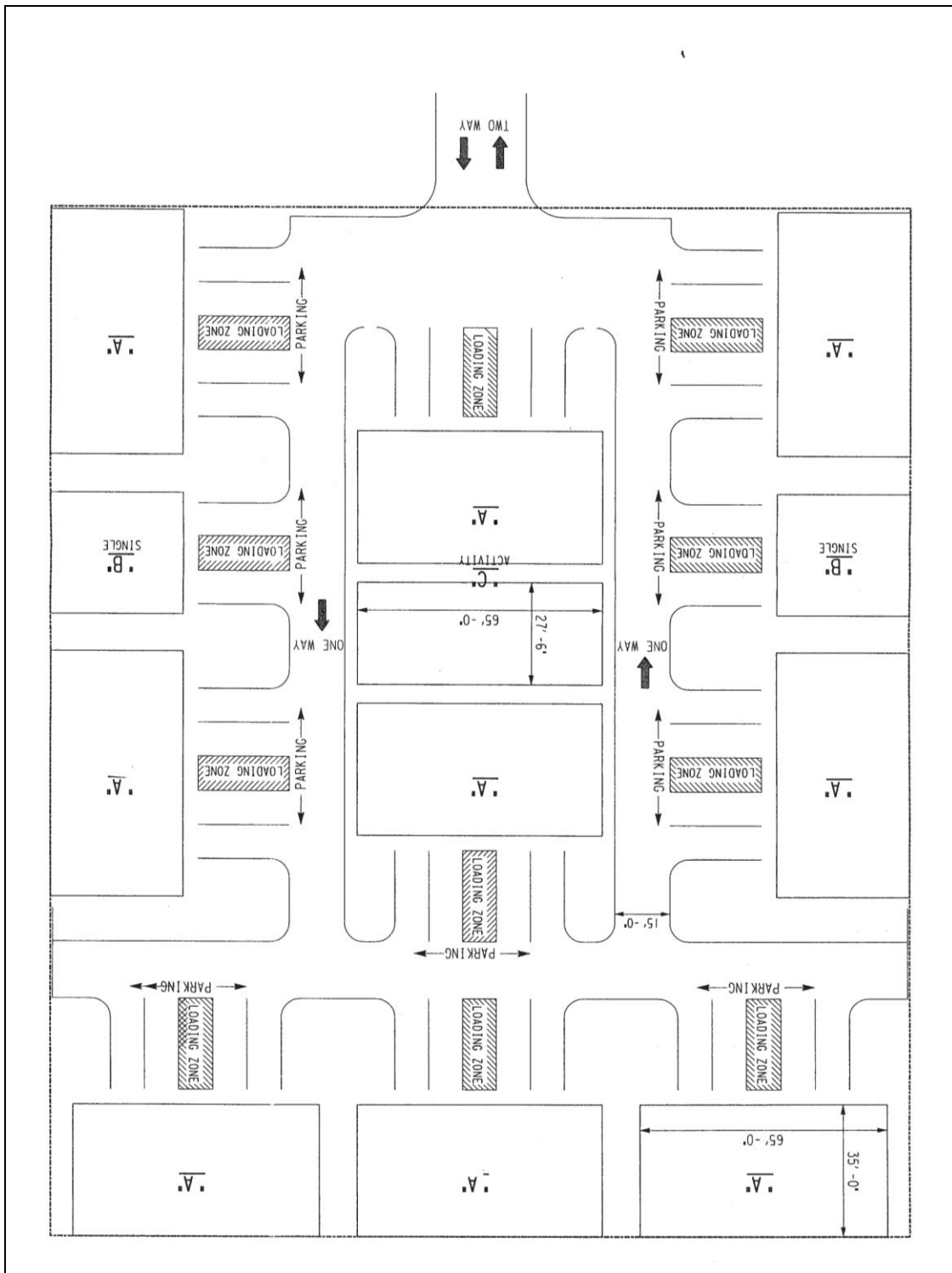
Figure 1: Subject site.
Source: Google Earth



Figure 2: Subject site.
Source: Google Earth

Exhibit "D"
Future Land Use Map





COTTAGE PLAN VIEW

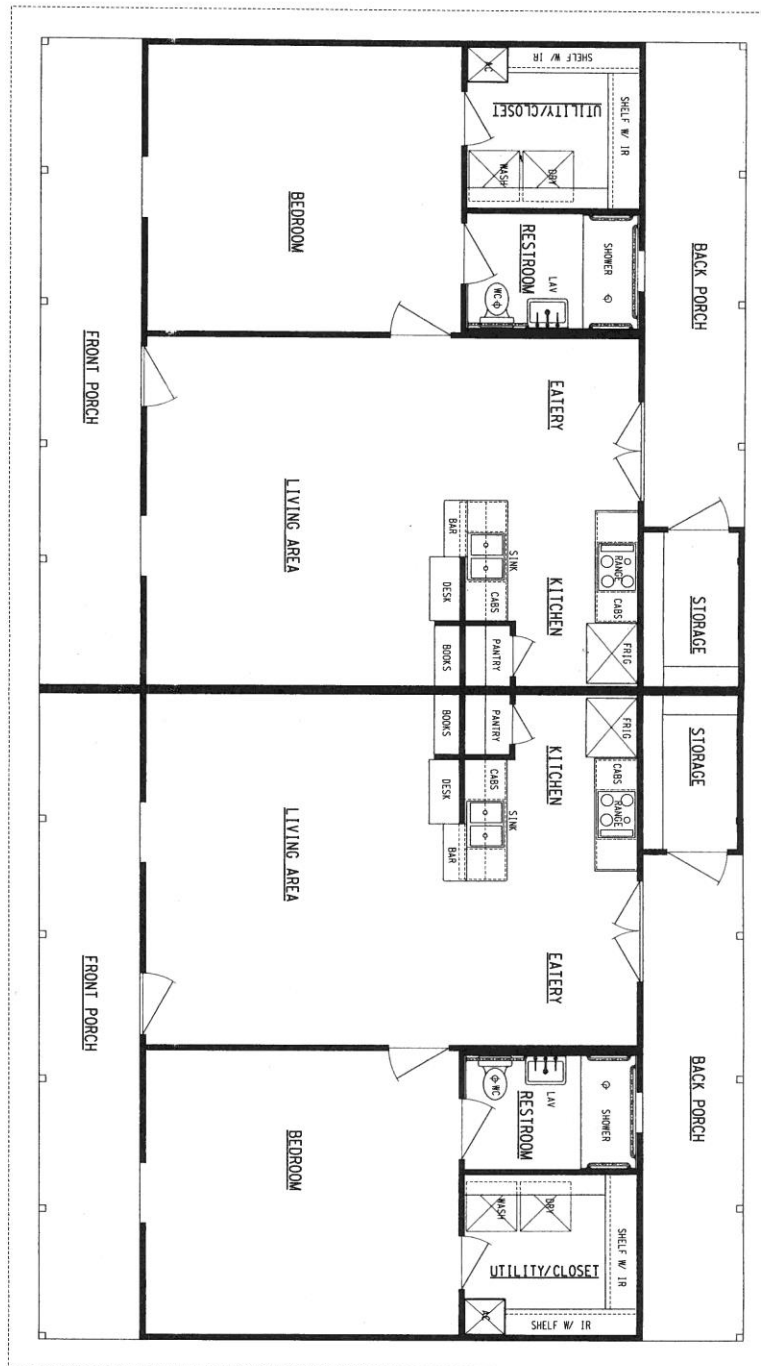
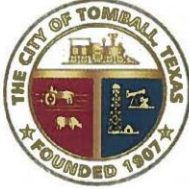


Exhibit "F"
Rezoning Application

P14-154

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: Southern Knights, Inc. Title: Elizabeth L. Howe
President
Mailing Address: 27919 Johnson Road City: Tomball State: Tx
Zip: 77375
Phone: (281) 351-8575 Fax: (281) 351-1129 Email: liz.howe@comcast.net

Owner

Name: Southern Knights, Inc. Title: Elizabeth L. Howe
President
Mailing Address: 27919 Johnson Road City: Tomball State: Tx
Zip: 77375
Phone: (281) 351-8575 Fax: (281) 351-1129 Email: liz.howe@comcast.net

Engineer/Surveyor (if applicable)

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

Description of Proposed Project: Future Expansion

Physical Location of Property: 27919 Johnson Road

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

Legal Description of Property: TR 2 HOWE TRACT

[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: Duplex Residential District

Current Use of Property: Licensed Assisted Living Center

Proposed Zoning District: Commercial District

Proposed Use of Property: Licensed Assisted Living Center

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

www.ci.tomball.tx.us

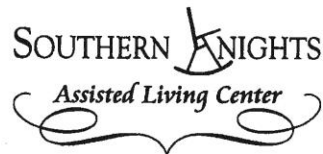
HCAD Identification Number: 1201070000001 Acreage: 4.3118

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 Elizabeth L. Howe, President 7-21-14
Signature of Applicant Date

X Elizabeth L. Howe, President 7-21-14
Signature of Owner Date



July 23, 2014

City of Tomball
Attn: Engineering & Planning Department
Attn: Planning & Zoning Commission
Attn: Tomball City Council
501 James Street
Tomball, Texas 77375

Ref: APPLICATION FOR REZONING &
COMPREHENSIVE PLAN AMENDMENT APPLICATION

To whom it may concern:

Southern Knights, Inc. has enclosed an application for rezoning and an amendment to the comprehensive plan in Tomball.

Southern Knights, Inc. is evaluating the expansion of our facility. We are considering an addition of detached assisted living cottages on our southern most property and expanding our 500 wing which is our most northwest wing to include a memory impairment section.

Upon, starting this project evaluation, I discovered that our property was not zoned nor in the comprehensive plan to undertake this project.

APPLICATION FOR REZONING:

After reviewing your zoning map and the zoning districts, Southern Knights, Inc. is requesting to be rezoned to the C, Commercial, district that is intended to provide a location for service-related establishments. Please review your current zoning map, the subject property is surrounded by the commercial district with the exception of our northern border. North of our property on Johnson Road are three parcels of land. The first parcel adjacent to us on the northern border was built approximately one year after our center was completed. The next parcel was a well established duplex community before we built and the third parcel has never been built on since we have owned our property.

Additionally, it appears that aspects of our expansion project would fall under this designation, one section would be detached and the other section would be attached assisted living.

COMPREHENSIVE PLAN AMENDMENT APPLICATION:

I have put together the following information to help you evaluate the amendment to the comprehensive plan.

27919 Johnson Road • Tomball, Texas 77375 • 281-351-8575

1) Economically - Southern Knights, Inc. currently employs approximately 30 employees and I would anticipate this would increase our employment base to approximately 40 employees.

Additionally - We pay City of Tomball, Tomball Independent School District, Harris County property taxes, and Federal Income taxes that would increase and would bring in additional tax revenues to the city.

2) Aesthetically - Southern Knights, Inc. has already contributed to the aesthetics of the area and would continue to do the same. Southern Knights took two undeveloped eye sore dump sites (we removed 85 car/truck tires) and replatted them and developed them into a beautiful, caring and compassion licensed assisted living center for the elderly and disabled.

In May 2001, the City of Tomball Parks, Recreation and Beautification Advisory Board selected us for the City's Beautification Award.

When we originally built Southern Knights in 1999, we designed, constructed, handled getting utility easement from all four owners, secured all owners donating this easement to the City of Tomball for the sewer line down the west side of Johnson Road. This enabled three existing properties to tap into the sewer line we installed and eliminated unsightly septic issues.

3) City's Goals, Objectives, and Actions - After reviewing the zoning map and the comprehensive plan for Tomball, I believe that would be the appropriate designation for the land and best use for Southern Knights, Inc. and the City of Tomball. The majority of land that the property is surrounded by is Commercial District zoned and under the comprehensive plan as Employment - Related Land Uses.

4) Impact Adjacent Residential Areas in a positive or negative manner - I believe it will impact the adjacent residential areas in a positive manner. There will be more jobs in the area, and a greater tax base.

Additionally, we have been adjacent to the duplex on our northern border for 15 years and we have "NEVER" had any problem issues. We have had two duplex residents that have moved into our center and one employee that lived in the duplexes and walked to work. We have donated two easements to the duplexes in an effort to make the quality of their living arrangement better. 1) We gave them an easement across the back of our property so that they could get city water and eliminate there well water. 2) We gave them an easement on the northern property line enabling them to build closer to our property line. Both of these easement were given free of charge to the developer.

Cobble Creek Apartment is approximately one block away and we do offer a lot of job opportunities to individuals that have no transportation.

5) Adequate access, roadway capacity, ingress and egress, traffic impact - Most of our resident do not own vehicles and/or do not drive any longer and we would only be increasing our employees by approximately 10. Considering that approximately 10 years ago the city improve Johnson Road by putting it though to Theiss, I do not foresee any traffic impact on the area.

6) Adjacent properties similar in nature, appearance, hours of operation and other general aspects of compatibility - Yes.

The Heights Nursing Home and Rehabilitation Center is diagonally across the street and it is similar in all the above aspects. The medical center that was recently built on the corner of Johnson Road and Michel Street is similar in all the above aspects except for the height. Even the Dogwood Investment Duplexes to the northern border are similar to all the above aspects. Two parcels of property diagonal across the street have recently been rezoned commercial, one parcel across the street is commercial, vacant and for sale, and one parcel is commercial owned by the city and is a retention pond. It appears to me that all properties in this area are similar in nature, appearance, hours of operation and other general aspects of compatibility. We have all worked well together for the 16 years I have owned the property.

7) Does the amendment present significant benefit to the public health, safety and welfare of the community - Generally, I would say that this would have no change because it would be used in a similar application. But, anytime you increase employment, tax base, and offer an outstanding facility for your community to age in there is going to be significant benefit to the public health, safety and welfare of the community.

Southern Knights, Inc. has a long history of benefiting the Tomball Community.

- 1) Active member of the Tomball Chamber of Commerce since 1999
- 2) Nominated in 2001 as North Harris Montgomery Community College's Small Business of the Year (1st Runner Up)
- 3) City of Tomball - Parks, Recreation and Beautification Advisory Board
City's - Beautification - Award May 2001
- 4) Awarded 2002 North Harris Montgomery Community College's Small Business of the Year
- 5) Assisted Tomball Fire Department with accepting 6 Galveston Nursing Home Evacuees from Katrina in 2005
- 6) Cypress Creek Mirror & The Potpourri
Best of the Northwest 2012 (1st Runner Up)
Only Tomball Care Facility Nominated
- 7) Cypress Creek Mirror & The Potpourri
Best of the Northwest 2013 (1st Runner Up)
Only Tomball Care Facility Nominated

After reviewing all our applications and all the attached documentation, I hope you will agree that it is in the best interest of the City of Tomball and Southern Knights, Inc. to approve our application for rezoning and application for comprehensive plan amendment.

Sincerely,



Elizabeth L. Howe
President

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: September 8, 2014

Data Sheet

Topic:

Consideration to approve **ZONING CASE P14-159**: Request by the City of Tomball to amend Section 38.2 (“Use Charts”) of the City’s Zoning Ordinance to allow “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

- Conduct a Public Hearing on **ZONING CASE P14-159**

Background:

Origination:

Recommendation:

Funding:

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

Community Development Department

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

ATTACHMENTS:

Notice of Public Hearing

P14-159 Staff Report

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
SEPTEMBER 8, 2014
&
CITY COUNCIL
SEPTEMBER 15, 2014**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, September 8, 2014, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, September 15, 2014, 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 P14-145: Request by TNRG Development LLC, on behalf of Frank P. Fontana, to amend the City's Zoning Ordinance by rezoning approximately 20.64 acres of land, legally described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, within the City of Tomball, Harris County, Texas, generally located west of South Cherry Street, north of Holderrieth Road, from the General Retail District to the Light Industrial District.

COMPREHENSIVE PLAN CASE P14-153: Request by Southern Knights Inc. to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from High Density Residential to Employment/Office.

ZONING CASE P14-154: Request by Southern Knights Inc. to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from the Duplex District to the Commercial District.

ZONING CASE P14-159: Request by the City of Tomball to amend Section 38.2 ("Use Charts") of the City's Zoning Ordinance to allow "Dance/Drama/Music Schools (Performing Arts, Martial Arts)" with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning & Zoning Commission serves as a recommendation to the City Council and is not a final action on the requests. Should the Planning & Zoning Commission vote to table a decision/recommendation on these cases, the date and time of a future meeting will be specified and the City Council will not review the subject cases until such a decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The applications are available for public inspection Monday through Friday, holidays excepted, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Assistant City Planner, Rodney Schmidt, at (281) 290-1410, rschmidt@tomballtx.gov.

C E R T I F I C A T I O N

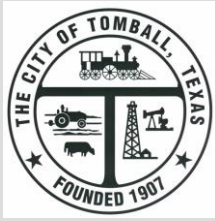
I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 5th day of September 2014 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Craig Meyers

Craig Meyers

Director of Community Development

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.



Text Amendment Staff Report

Planning & Zoning Commission Hearing Date: September 8, 2014

ZONING CASE P14-159: Request by the City of Tomball to amend Section 38.2 (“Use Charts”) of the City’s Zoning Ordinance to allow “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

PROPOSED AMENDMENTS

Section 38.2 “Use Charts”

Types of Land Uses	Residential Zoning Districts							Non-Residential Zoning Districts				OT&MU	Parking Ratio (Also see Section 39)
	AG	SF-20-E	SF-9	SF-6	D	MF	MHP	O	GR	C	LI		
Personal & Business													
Dance/Drama/Music Schools (Performing Arts, Martial Arts)	C	C	C	C	C	C	C	C	P	P	P	P	1 space: 100 sf

BACKGROUND

On July 21, 2014, City Council directed City staff to bring forward an amendment to the Zoning Ordinance allowing “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” with a conditional use permit (CUP) in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

ANALYSIS

Section 38.2 of the Zoning Ordinance currently allows a “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” by right in the Old Town & Mixed Use, Light Industrial, Commercial, and General Retail Districts and by CUP in the Office District. This use is prohibited in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

Section 38.2 of the Zoning Ordinance currently allows numerous other uses of equal or greater intensity than a “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” by right and with a CUP in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts. These uses

include, but are not limited to, “Golf Course (Private),” “Civic Center (Municipal),” “Community or Social Buildings,” “Governmental Building or Use (County, State, or Federal),” and “School – College or University.” A “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” is not anticipated to have any more negative impact on adjacent residential districts than the uses listed above. Additionally, by limiting this use by CUP in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts, Planning & Zoning Commission and City Council will be able to determine the impact and feasibility of the project on a case-by-case basis.

PUBLIC COMMENT

A public hearing notice was published in the Tomball Tribune on August 25, 2014. No public comment forms have been received as of August 29, 2014.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends **APPROVAL** of Zoning Case P14-159.