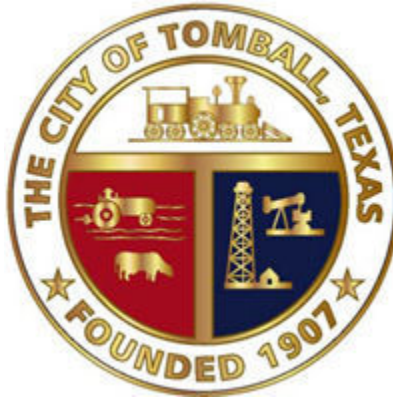


**NOTICE OF REGULAR PLANNING AND ZONING COMMISSION
MEETING
CITY OF TOMBALL, TEXAS**



MONDAY, JULY 9, 2012

6:00 P.M.

Notice is hereby given of a meeting of the Planning and Zoning Commission, to be held on Monday, July 9, 2012 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 Planning and Zoning Commission 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 June 11, 2012.
- 5.0 New Business:

- 5.1 Consideration to approve **STANFIELD ESTATES SUBDIVISION REPLAT**: Being a Replat of Lots 24, 25, 26, 27, 28, 29, 30, 31 and 32 of Block 41, of Tomball Townsite Subdivision, Recorded under Volume 4, Page 25 of Map Records of Harris County, Texas, Situated in the J. Pruitt Survey, Abstract 629, Harris County, Texas.
- 5.2 Consideration to approve **ZONING CASE P12-448**: Request by E.L. Chapman for a Conditional Use Permit to operate a “Feed & Grain Store/Farm Supply Store.” The property is an approximately 0.71 acre site, legally described as Tract 4, Block 3, Hirschfield Farms Section 1 (Unrecorded), generally located on the easterly side of State Highway 249 Expressway, northerly of Hirschfield Road at 13918 Hirschfield Road. The site is located in the General Retail District.
- Conduct a Public Hearing on **ZONING CASE P12-448**
- 5.3 Discussion and possible action to issue written explanation, as required under Section 10.5 D of the Zoning Ordinance, stating the reasons for Planning & Zoning’s decision to deny **ZONING CASE P12-430**: Request by David Quinn, on behalf of Tomball Tomahawk Properties, LLC, for a Conditional Use Permit to operate a “Barber/Beauty Shop (No Related School/College)”, an approximately 0.85-acre site (Lot 1, Block 1, Tomahawk Properties), located on the southeast corner of the intersection of Baker Drive and Inwood Street, located in the Single-Family Residential-6 District with a vested rights classification of Office District.
- 5.4 Election of Chairman and Vice Chairman
- 6.0 Adjournment

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 5th day of July 2012 by 5:00 p.m., and remained posted for at least 72 continuous hours proceeding 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
Data Sheet

Meeting Date: July 9, 2012

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
Data Sheet

Meeting Date: July 9, 2012

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: July 9, 2012

Data Sheet

Topic:

Consideration to Approve the Minutes of the Regular Planning and Zoning Commission Meeting of June 11, 2012.

Background:

Origination:

Recommendation:

Funding:

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

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

ATTACHMENTS:

Regular P&Z Meeting Minutes 06.11.12

**MINUTES OF
REGULAR PLANNING & ZONING COMMISSION MEETING
CITY OF TOMBALL, TEXAS**

MONDAY, JUNE 11, 2012



6:00 P.M.

1.0 Call to Order

The meeting was called to order by Chairman Wallace at 6:05 p.m. Other members present were:

Commissioner Tague
Commissioner Beauvais
Commissioner Chervenak

Commissioner Kendler – Excused Absence

Others present:

Assistant City Manager – Christal Weber
City Planner – Rebeca Guerra
Assistant City Engineer – Lori Lakatos
Assistant City Planner – Rodney Schmidt
Engineering & Planning Senior Administrative Assistant – Brandy Pate
City Attorney – Scott Bounds

Draft

2.0 No public comments were received

3.0 Reports or Announcements:

- Rodney Schmidt introduced Rebeca Guerra as the City of Tomball's new City Planner.

4.0 Motion was made by Commissioner Tague to approve the Minutes of the following meetings:

- Regular Planning and Zoning Commission Meeting of May 14, 2012
- Special Joint City Council, Planning and Zoning Commission, & Downtown Tomball Advisory Committee Meeting of June 4, 2012;

Second by Commissioner Chervenak.

Motion carried unanimously.

5.0 New Business:

- 5.1 Consideration to approve **ZONING CASE P11-383**: Request by K.E. Jams Investments, Inc. to amend Conditional Use Permit #1 by expanding the “Recreational Vehicle Park” land use at Corral Recreational Vehicle Park. The property is an approximately 23.74 acre site, legally described as Lot 168, Amending Plat of Tomball Outlots, generally located on the westerly side of South Cherry Street, northerly of Agg Road. The site is located in the Manufactured Home Park District.

The Public Hearing was opened by Chairman Wallace at 6:07 p.m.

Rodney Schmidt, Assistant City Planner presented the staff report.

Applicant, Mike O’Brien spoke on behalf of the request.

No Public comments were received and the Public Hearing was closed at 6:19 p.m.

Commissioner Chervenak made a motion to approve the request for **ZONING CASE P11-383**; second by Commissioner Tague. Vote was as follows:

Commissioner Tague	<u>Aye</u>
Commissioner Chervenak	<u>Aye</u>
Commissioner Beauvais	<u>Aye</u>
Commissioner Kendler	<u>Absent</u>
Commissioner Wallace	<u>Aye</u>

Motion carried unanimously, 4-0.

- 5.2 Consideration to approve **ZONING CASE P12-436**: Request by Bass Law Firm, PLLC, on behalf of High Heater, LLC, to amend the City’s Comprehensive Zoning Ordinance by rezoning approximately 7.51 acres of land, legally described as part of Lot 69, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located easterly of Rudolph Road, northerly of Hufsmith Road, from the Agricultural District to the Commercial District.

The Public Hearing was opened by Chairman Wallace at 6:23 p.m.

Rodney Schmidt, Assistant City Planner presented the staff reports for Zoning Case P12-436 and Zoning Case P12-431.

Applicant’s Representative, Richard Bass spoke on behalf of the request.

Owner, Ray Deleon spoke on behalf of the request.

Ralph Sanders, of 11922 Teller Blvd spoke in favor of the request.

Edwin Minville of 23116 Cobbs Rd. spoke in favor of the request.

Doug Rush of 17314 Tall Cypress Dr. spoke in favor of the request.

Richard Bass spoke in favor of the request.

Hearing no additional public comments, the Public Hearing was closed at 6:48 p.m.

Commissioner Chervenak made a motion to approve the request for **ZONING CASE P12-436**; second by Commissioner Beauvais. Vote was as follows:

Commissioner Tague	<u>Nay</u>
Commissioner Chervenak	<u>Nay</u>
Commissioner Beauvais	<u>Nay</u>
Commissioner Kendler	<u>Absent</u>
Commissioner Wallace	<u>Nay</u>

Motion to approve FAILED unanimously, 4-0

- 5.3 Consideration to approve **ZONING CASE P12-431**: Request by Bass Law Firm, PLLC, on behalf of Texas Prospects Baseball Academy, to amend Section 38.2 (“Use Charts”) of the City’s Comprehensive Zoning Ordinance (Ordinance No. 2008-01) by allowing a “Playfield or Stadium (Private)” land use in the Agricultural District with a conditional use permit.

The Public Hearing was opened by Chairman Wallace at 6:57 p.m.

Rodney Schmidt, Assistant City Planner presented the staff reports for Zoning Case P12-436 and Zoning Case P12-431 under item 5.2.

No Public comments were received and the Public Hearing was closed at 6:57 p.m.

Commissioner Beauvais made a motion to approve the request for **ZONING CASE P12-431**; second by Commissioner Tague. Vote was as follows:

Commissioner Tague	<u>Aye</u>
Commissioner Chervenak	<u>Aye</u>
Commissioner Beauvais	<u>Aye</u>
Commissioner Kendler	<u>Absent</u>
Commissioner Wallace	<u>Aye</u>

Motion carried unanimously, 4-0.

- 5.4 Receipt of Capital Projects Comments and Recommendations from the Planning and Zoning Commission for City Manager Consideration regarding Budget of Five Year CIP 2013-2017.

Lori Lakatos, Assistant City Engineer presented proposed Five Year CIP 2013-2017.

Commissioner Tague made a motion to accept Engineering & Planning's Five Year Capital Improvement Projects list, with changes; second by Commissioner Chervenak.

Motion carried unanimously, 4-0.

- 6.0 Motion was made by Commissioner Beauvais to adjourn; second by Commissioner Chervenak.

Motion carried unanimously.

Meeting adjourned at 7:25 p.m.

PASSED AND APPROVED this _____ day of _____ 2012.

Brandy Pate
P&Z Commission Secretary

Lori Wallace
Chairman

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: July 9, 2012

Data Sheet

Topic:

Consideration to approve **STANFIELD ESTATES SUBDIVISION REPLAT**: Being a Replat of Lots 24, 25, 26, 27, 28, 29, 30, 31 and 32 of Block 41, of Tomball Townsite Subdivision, Recorded under Volume 4, Page 25 of Map Records of Harris County, Texas, Situated in the J. Pruitt Survey, Abstract 629, Harris County, Texas.

Background:

Origination:

Engineering and Planning

Recommendation:

Funding:

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

Engineering and Planning

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

ATTACHMENTS:

Stanfield Estates Subdivision Replat

THE STATE OF TEXAS
COUNTY OF HARRIS

WE, COMQUEST ACADEMY, ACTING BY AND THROUGH TANIS STANFIELD, SUPERINTENDENT, BEING OFFICER OF COMQUEST ACADEMY, OWNER HEREINAFTER REFERRED TO AS OWNERS OF THE 0.7231 ACRE TRACT, DESCRIBED IN THE ABOVE AND FOREGOING MAP OF STANFIELD ESTATES SUBDIVISION, DO HEREBY MAKE AND ESTABLISH SAID SUBDIVISION OF SAID PROPERTY ACCORDING TO ALL LIENS, DEDICATIONS, RESTRICTIONS AND NOTATIONS 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, MY 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 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.

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 GROVINGS 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 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.

FURTHER, OWNERS DO HEREBY COVENANT AND AGREE THAT ALL OF THE PROPERTY WITHIN THE BOUNDARIES OF THIS PLAT SHALL BE RESTRICTED TO PROVIDE THAT DRAINAGE STRUCTURES UNDER PRIVATE DRIVEWAYS SHALL HAVE A NET DRAINAGE OPENING AREA OF SUFFICIENT SIZE TO PERMIT THE FREE FLOW OF WATER WITHOUT BACKWATER AND IN NO INSTANCE HAVE A DRAINAGE OPENING OF LESS THAN THREE QUARTERS SQUARE FEET (18" DIAMETER) WITH CULVERTS OR BRIDGES TO BE PROVIDED FOR ALL PRIVATE DRIVEWAYS OR WALKWAYS CROSSING SUCH DRAINAGE FACILITIES.

IN TESTIMONY WHEREOF, COMQUEST ACADEMY, HAS CAUSED THESE PRESENTS TO BE SIGNED BY TANIS STANFIELD, IT'S SUPERINTENDENT, THEREUNTO AUTHORIZED, ATTESTED BE ITS SECRETARY, RENE BENITEZ, AND ITS COMMON SEAL HEREUNTO AFFIXED THIS _____ DAY OF _____, 2012.

COMQUEST ACADEMY

BY: _____
TANIS STANFIELD, SUPERINTENDENT

ATTEST:

BY: _____
RENE BENITEZ, SECRETARY

THE STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED, TANIS STANFIELD, SUPERINTENDENT, COMQUEST ACADEMY, 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, AND IN THE CAPACITY THEREIN AND HEREIN STATED, AND AS THE ACT AND DEED OF SAID CORPORATION.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ DAY OF _____, 2012.

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

MY COMMISSION EXPIRES: _____

THIS IS TO CERTIFY THAT THE PLANNING AND ZONING COMMISSION OF THE CITY OF TOMBALL, TEXAS HAS APPROVED THIS PLAT AND SUBDIVISION OF STANFIELD ESTATES 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 _____, 2012.

BY: _____
LORI WALLACE, CHAIRMAN

BY: _____
TOM CROFOOT, VICE CHAIRMAN

THIS IS TO CERTIFY THAT THE CITY ACCEPTS THE PLANNING AND ZONING COMMISSION'S AUTHORIZED APPROVAL AND ACCEPTANCE OF ALL DEDICATED PUBLIC EASEMENTS 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 _____, 2012.

BY: _____
GRETCHEN FAGAN, MAYOR

BY: _____
DORIS SPEER, CITY SECRETARY

WE, THE CITY MANAGER AND THE DIRECTOR OF ENGINEERING AND PLANING FOR THE CITY OF TOMBALL, DO HEREBY CERTIFY THAT THIS PLAT COMPLIES WITH THE CITY OF TOMBALL'S ORDINANCES.

GEORGE SHACKELFORD, CITY MANAGER

LORI LAKATOS, P.E., DIRECTOR OF ENGINEERING AND PLANNING

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 _____, 2012, 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

I, MARK S. BROWN, AM AUTHORIZED UNDER THE LAWS OF THE STATE OF TEXAS TO PRACTICE THE PROFESSION OF SURVEYING AND HEREBY CERTIFY THAT THE ABOVE SUBDIVISION IS BASED UPON AN ACTUAL SURVEY OF THE PROPERTY AND THAT I, THE SURVEYOR, HAVE BEEN MARKED WITH IRON (OR OTHER SUITABLE PERMANENT METAL) PIPES OR RODS HAVING AN OUTSIDE DIAMETER OF NOT LESS THAN THREE QUARTERS 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.

MARK S. BROWN
TEXAS REGISTRATION NUMBER 5553



NOTES:

1. * = SET 3/4" IRON ROD w/PLASTIC CAP UNLESS OTHERWISE NOTED.
2. NO STRUCTURE TO BE BUILT ACROSS ANY PIPELINE OR DEDICATED EASEMENT OR BUILDING LINE. FUTURE CONSTRUCTION TO ABIDE BY TOMBALL'S CITY ORDINANCES.
3. MAJOR VISIBLE AND APPARENT IMPROVEMENTS ARE BEING SHOWN.
4. ALL BEARINGS AND COORDINATES ARE BASED ON LEICA SMARTNET RTK (NAD 83 (CORS 96) 2001 EPDC, SOUTH CENTRAL ZONE, TO CONVERT THE SURFACE DISTANCE TO GRID DISTANCE, MULTIPLY BY A COMBINATION SCALE FACTOR OF 0.999951143.
5. THE ENCRDACHMENT OF THE BUILDING LINE BY THE EXISTING BUILDING IS HEREBY GRAND FATHERED AND ALLOWED TO REMAIN, PROVIDED THAT NO FURTHER IMPROVEMENTS BE MADE TO THE BUILDING WITHIN THAT BUILDING LINE AND NO SIGNAGE SHALL BE PLACED ON THE BUILDING WITHIN THE BUILDING LINE. IF THE BUILDING IS DESTROYED OR DEMOLISHED WITHIN THE BUILDING LINE, THE ENCRDACHMENT APPROVAL SHALL BE VOIDED WITH THE BUILDING LINE THEN FULLY OBSERVED.
6. ALL OIL OR GAS PIPELINES OR PIPELINE EASEMENTS WITH OWNERSHIP THROUGH THE SUBDIVISION HAVE BEEN SHOWN.
7. ALL OIL OR GAS WELLS WITH OWNERSHIP (PLUGGED, ABANDONED, AND/OR ACTIVE) WITHIN THE LIMITS OF THE SUBDIVISION HAVE BEEN SHOWN.
8. NO BUILDING OR STRUCTURE SHALL BE CONSTRUCTED ACROSS ANY PIPELINES, BUILDING LINES, AND OR EASEMENTS. BUILDINGS SETBACK LINES WILL BE REQUIRED ADJACENT TO OIL OR GAS PIPELINES. THE SETBACK AT A MINIMUM SHOULD BE 15' OFF CENTERLINE OF LOW PRESSURE GAS LINE AND 30' OFF THE CENTERLINE OF HIGH PRESSURE GAS LINE.
9. THIS PLAT DOES NOT ATTEMPT TO AMEND OR REMOVE ANY VALID COVENANTS OR RESTRICTIONS.
10. THE BUILDING LINES SHOWN ON THIS PLAT SHALL BE IN ADDITION TO, AND SHALL NOT LIMIT OR REPLACE, ANY BUILDING LINES REQUIRED BY THE CITY OF TOMBALL CODE OF ORDINANCE AT THE TIME OF THE DEVELOPMENT OF THE PROPERTY.
11. ACCORDING TO THE FLOOD INSURANCE RATE MAP FOR HARRIS COUNTY, TEXAS, MAP NUMBER 48201C0230 L1, MAP REVISED JUNE 18, 2007, SHOWS THIS TRACT TO BE IN ZONE "X", AREAS DETERMINED TO BE OUTSIDE 0.2% ANNUAL CHANCE FLOODPLAIN.

STANFIELD ESTATES SUBDIVISION
PRELIMINARY PLAT

CONSISTING OF 1 BLOCK, 1 UNRESTRICTED RESERVE

BEING A REPLAT OF LOTS 24, 25, 26, 27, 28, 29, 30, 31 AND 32 OF BLOCK 41, 0.7231 ACRES, OF TOMBALL TOWNSITE SUBDIVISION, RECORDED UNDER VOLUME 4, PAGE 25 OF MAP RECORDS OF HARRIS COUNTY, TEXAS, SITUATED IN THE J. PRUITT SURVEY, ABSTRACT 629, HARRIS COUNTY, TEXAS.

DATE: JULY 01, 2012

REASON FOR REPLAT: TO REMOVE LOT LINES AND CREATE 1 BLOCK, RESERVE.

OWNER: COMQUEST ACADEMY
612 MALONE
TOMBALL, TEXAS 77375
PHONE 281-290-1405

PREPARED BY: FIELD DATA SERVICE, INC.
2307 BRISTOL BAND
KATY, TEXAS 77450
PHONE 281-793-5192
JOB NUMBER 2012-024

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: July 9, 2012

Data Sheet

Topic:

Consideration to approve **ZONING CASE P12-448**: Request by E.L. Chapman for a Conditional Use Permit to operate a "Feed & Grain Store/Farm Supply Store." The property is an approximately 0.71 acre site, legally described as Tract 4, Block 3, Hirschfield Farms Section 1 (Unrecorded), generally located on the easterly side of State Highway 249 Expressway, northerly of Hirschfield Road at 13918 Hirschfield Road. The site is located in the General Retail District.

- Conduct a Public Hearing on **ZONING CASE P12-448**

Background:

Origination:

E.L. Chapman

Recommendation:

Funding:

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

Engineering and Planning

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

ATTACHMENTS:

Notice of Public Hearing

Property Owner Notification Letter

P12-448 Staff Report

**NOTICE OF PUBLIC HEARINGS
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
JULY 9, 2012
&
CITY COUNCIL
JULY 16, 2012**



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, July 9, 2012, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, July 16, 2012, 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 P12-448: Request by E.L. Chapman for a Conditional Use Permit to operate a “Feed & Grain Store/Farm Supply Store.” The property is an approximately 0.71 acre site, legally described as Tract 4, Block 3, Hirschfield Farms Section 1 (Unrecorded), generally located on the easterly side of State Highway 249 Expressway, northerly of Hirschfield Road at 13918 Hirschfield Road. The site is located in the General Retail District.

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

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the **5th** day of **July** 2012 by **5:00** p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate

Senior Administrative Assistant

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



Notice of Public Hearing

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

CASE NUMBER: P12-448

APPLICANT: E.L. Chapman

LOCATION: 13918 Hirschfield Road

PROPOSAL: Request for a Conditional Use Permit to operate a "Feed & Grain Store/Farm Supply Store." The property is an approximately 0.71 acre site, legally described as Tract 4, Block 3, Hirschfield Farms Section 1 (Unrecorded), generally located on the easterly side of State Highway 249 Expressway, northerly of Hirschfield Road. The site is located in the General Retail District.

* * *

CONTACT PLANNER: Rodney Schmidt

PHONE: (281) 290-1410

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

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

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



**Planning and Zoning Commission
Public Hearing:**

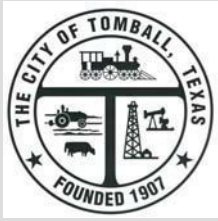
Monday, July 9, 2012, 6:00 PM

City Council Public Hearing:

***Monday, July 16, 2012, 6:00 PM**

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

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



Conditional Use Permit Staff Report

Planning & Zoning Commission Hearing Date: July 9, 2012

Rezoning Case: P12-448

Property Owner(s): E.L. Chapman

Applicant(s): E.L. Chapman

Legal Description: Tract 4, Block 3, Hirschfield Farms, Section 1 (Unrecorded)

Location: 13918 Hirschfield Road (Generally located on the easterly side of State Highway 249 Expressway, northerly of Hirschfield Road)

Area: 0.71 acre

Present Zoning and Use: General Retail District / Auto Paint & Body Shop

Comp Plan Designation: Commercial

Proposed Use: Feed & Grain Store

Request: Conditional Use Permit (CUP) to allow a “Feed & Grain Store” in the General Retail District.

Adjacent Zoning & Land Uses:

North:	General Retail District / Machine Shop
South:	General Retail District / Hirschfield Road & Warehouse
East:	General Retail District / Machine Shop
West:	General Retail and Agricultural Districts / Undeveloped & SH 249 Expressway

BACKGROUND

The subject site is legally described as Tract 4, Block 3, Hirschfield Farms, Section 1 Unrecorded Subdivision, is approximately 0.71 acres, and is zoned General Retail District (Exhibits “A” & “B”). The site’s physical address is 13918 Hirschfield Road and is generally located on the easterly side of State Highway 249 Expressway, northerly of Hirschfield Road. The property is used by the applicant and property owner, E.L. Chapman, as an auto paint and body shop and currently has a 3,600 square foot building, an asphalt parking lot, and an approximately 12,000 square foot outside storage area (Exhibit “C”).

On May 23, 2012, the City of Tomball met with Mr. Chapman to discuss the possibility of leasing the subject site to a “Feed & Grain Store.” A “Feed and Grain Store/Farm Supply Store” is defined in Section 45 of the Zoning Ordinance as “[a]n establishment for the selling of corn, grain and other food stuffs for animals and livestock, and including implements and goods related to agricultural

processes, but not including farm machinery.” Mr. Chapman was informed that a “Feed & Grain Store” would only be permitted in the General Retail District with a Conditional Use Permit (CUP).

On May 30, 2012, the City of Tomball received a CUP application (Exhibit “D”) and Concept Plan (Exhibit “E”) from the property owner requesting a “Feed & Grain Store” be permitted at the subject site. The applicant’s son, Steve Chapman, stated in the CUP request letter:

We are proposing a change of use of the current business known as "Tomball Paint & Body Inc." which has always been and currently [is] an automobile paint and body shop to a proposed feed & grain store. The name of the store will be "Livengood Feeds Inc." owned and operated by Burt Livengood. He will be moving from an existing location in Harris County to Tomball and is based out of Lockhart, TX since 1954. He will [be] going under a 3 year lease with my father Lee Chapman for 3 years with option to renew or purchase the property in the future. We are applying for a "Conditional Use Permit" and would appreciate the use being granted, as we feel the store will do well for the city development. Site improvements will be made initially to the exterior with a paved drive and parking.

The Concept Plan proposes numerous site improvements, including a 10-foot landscape buffer and trees along SH 249 Expressway, new paving and concrete curbing, 7 parking stalls, and a new refuse enclosure. The hours of operation will be from 8 am to 6 pm, Monday through Friday, and 8 am to 2 pm on Saturdays. Because the site is not proposed to be used at night, drive aisle lighting is not proposed, nor required by Ordinance.

ANALYSIS

According to the Zoning Ordinance, “a conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions.”

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

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

The Comprehensive Plan identifies the subject site as “Commercial” (Exhibit “F”) which “is where retail sales and service activities should occur. These uses include but are not limited to shopping centers, convenience stores, auto dealers, department stores, grocery and drug stores, entertainment facilities, food and beverage purveyors, salons, and small repair shops. Small professional office uses such as physicians, accountants, or therapy offices would be permitted.”

The proposed tenant, Burt Livengood of Livengood Feeds, has informed City Staff the site will be used for the sale of feed, grain, and other agricultural products. Mr. Livengood further indicated that no manufacturing would take place. Because the proposed conditional

use would be indicative of a retail sales activity, and the resulting commercial development would be compatible with the surrounding land uses, this request appears to be generally consistent with the intent of the “Commercial” land use designation, and therefore the Comprehensive Plan.

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

Per the Zoning Ordinance, the General Retail District has been established to provide areas for local neighborhood shopping and service facilities for the retail sales of goods and services. These shopping areas should utilize established landscape and buffering requirements. The General Retail District should be located along or at the intersection of major collectors or thoroughfares to accommodate higher traffic volumes.

The proposed tenant, Burt Livengood of Livengood Feeds, has informed City Staff the site will be used for the retail sale of feed, grain, and other agricultural products. The accompanying Concept Plan meets the minimum landscape and buffering requirements of the Zoning Ordinance and the site is located adjacent to the SH 249 Expressway, which is classified as a State Highway. Consequently, the proposed “Feed & Grain Store” land use appears to be generally consistent with the General Retail District, and therefore the Zoning Ordinance.

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

The site improvements proposed on the Concept Plan appears to meet the development standards delineated within the Zoning Ordinance in regard to lot coverage, impervious coverage, parking counts, and off-street parking and drive aisle design. Should the CUP application be approved, the applicant will be required to submit a full set of civil plans to the City for review and approval. These plans must show the “Feed & Grain Store” is in compliance with all applicable ordinance regulations.

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

To the north and east of the subject site is Breaux Machine Works in the General Retail District; to the south is Hirschfield Road and a warehouse in the General Retail District; and to the west is undeveloped land and SH 249 Expressway in the Agricultural and General Retail Districts, respectively (Exhibit “G”).

The proposed landscaping and buffering improvements meet or exceed the minimum requirements of the Zoning Ordinance. Further, the off-street parking and drive aisles will assist in mitigating the development’s impact to the area. As a result, the “Feed & Grain Store” land use and Concept Plan appear to be generally compatible with and preserve the character and integrity of adjacent developments.

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

The proposed site improvements and recommended Conditions of Approval will improve the overall aesthetics of the existing site. Moreover, they will serve to ensure compatibility of the proposed use with other uses permitted, and existing, in the surrounding area. As a result, the proposed use of the site as a “Feed & Grain Store” does not appear to be detrimental to the public health, safety, convenience, and welfare.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on June 28, 2012 and, as of the writing of this report, no public comment forms were received.

RECOMMENDATION

Recommend approval of Zoning Case P12-448, with the following four (4) Conditions of Approval:

1. The “Feed & Grain Store” use shall not be enlarged or extended beyond what is shown on the approved Concept Plan without the approval of the City of Tomball of a revised Concept Plan or new CUP.
2. The subject site shall not be utilized by the “Feed & Grain Store” until all the proposed site improvements are completed as shown on the Concept Plan.
3. The 6 trees proposed on the Concept Plan shall be four inches in caliper and seven feet tall at the time of planting per Section 40 of the Zoning Ordinance.
4. Outside storage shall be limited to a maximum of five (5) percent of the total lot area or 1,546 square feet.

EXHIBITS

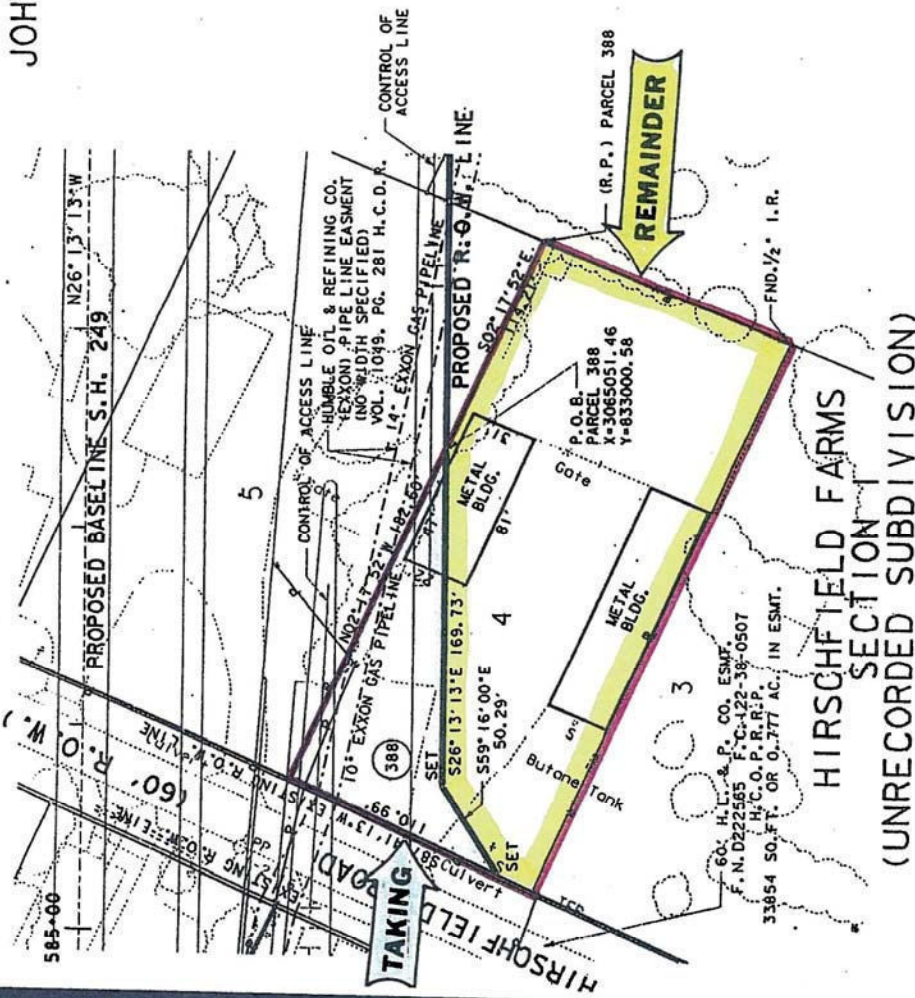
- A. Zoning Map
- B. Property Survey
- C. Aerial Photo
- D. Conditional Use Permit Application
- E. Concept Plan
- F. Comprehensive Plan Future Land Use Map
- G. Site Photos

Exhibit "A"
Zoning Map



Exhibit "B" Property Survey

JOHN M. HOOPER SURVEY
A-375



REVISED 2/92 ALIGNMENT ADJUSTMENT AND
CONTROL OF ACCESS LINE
CHANGE

ALL BEARINGS BASED ON THE TEXAS
COORDINATE SYSTEM SOUTH CENTRAL
ZONE

EXISTING	TAKING	REMAINING
0.8899 AC.	0.179 AC.	0.000 AC. LT.
7.806 SQ. FT.	0.711 AC. RT.	

RIGHT OF WAY SKETCH
SHOWING PROPERTY OF

E. L. CHAPMAN

S. H. 249

HARRIS COUNTY
CSJ 0720-03-076

CRSS COMMERCIAL GROUP, INC. AUGUST 15, 199

SCALE 1" = 50'

PARCEL 388

BLOCK 3 ACCOUNT NO. 8012-2-1

Acquisition Map

Exhibit "C"
Aerial Photo

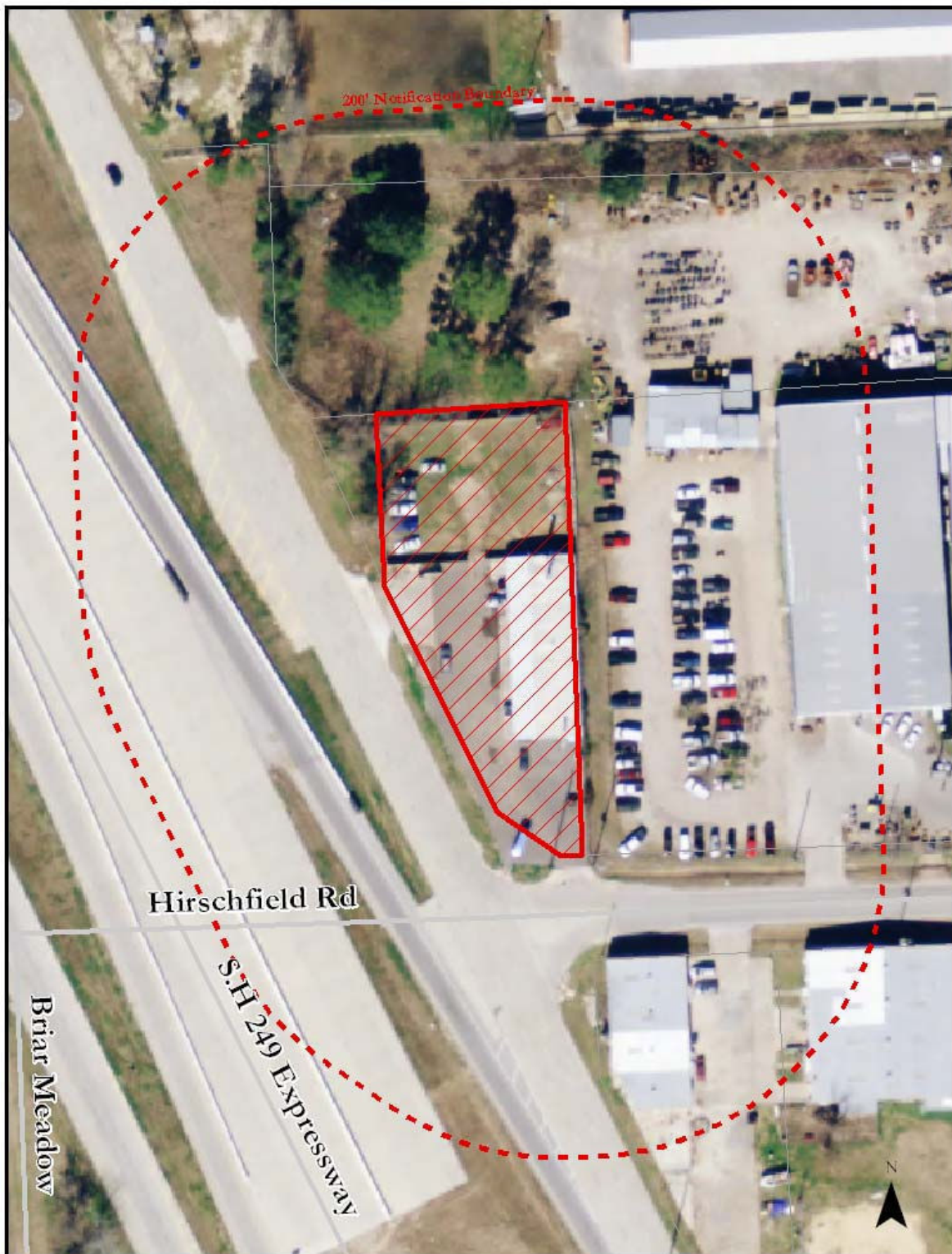


Exhibit "D"
Conditional Use Permit Application

Revised 1/20/09



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



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

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

APPLICATION SUBMITTAL: Applications will be *conditionally* accepted on the presumption that the information, materials and signatures are complete and accurate. If the application is incomplete or inaccurate, your project may be delayed until corrections or additions are received.

Applicant

Name: EL CHAPMAN Title: Owner
Mailing Address: 411 W. Rollingwood City: Pinehurst State: TX
Zip: 77362
Phone: (712) 838 5795 Fax: () Email: contact@scfireconsulting.com

Owner

Name: EL CHAPMAN Title: Owner
Mailing Address: 13918 Hirschfield City: Tomball State: TX
Zip: 77377
Phone: (281) 351 4372 Fax: () Email: contact@scfireconsulting.com

Engineer/Surveyor (if applicable) / Arch: t: t

Name: Mark Carter Title: Arch: t: t
Mailing Address: _____ City: _____ State: _____
Zip: _____
Phone: () Fax: () Email: _____

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

www.ci.tomball.tx.us

Description of Proposed Project: Food & Grain Store

Physical Location of Property: 13918 Hirschfeld Rd. Tomball, TX

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

Legal Description of Property: Tract 4, Block 3, Hirschfeld Farms Sec 1 UIR

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

HCAD Identification Number: 1047730000004

Acreage: 29,411 ~~0~~

Current Use of Property: Auto Paint & Body Shop

Proposed Use of Property: Food & Grain Store

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 *P. L. Chaparral* 5-29-12
Signature of Applicant Date

X *P. L. Chaparral* 5-29-12
Signature of Owner Date

May 30, 2012

To City Officials of Tomball, TX

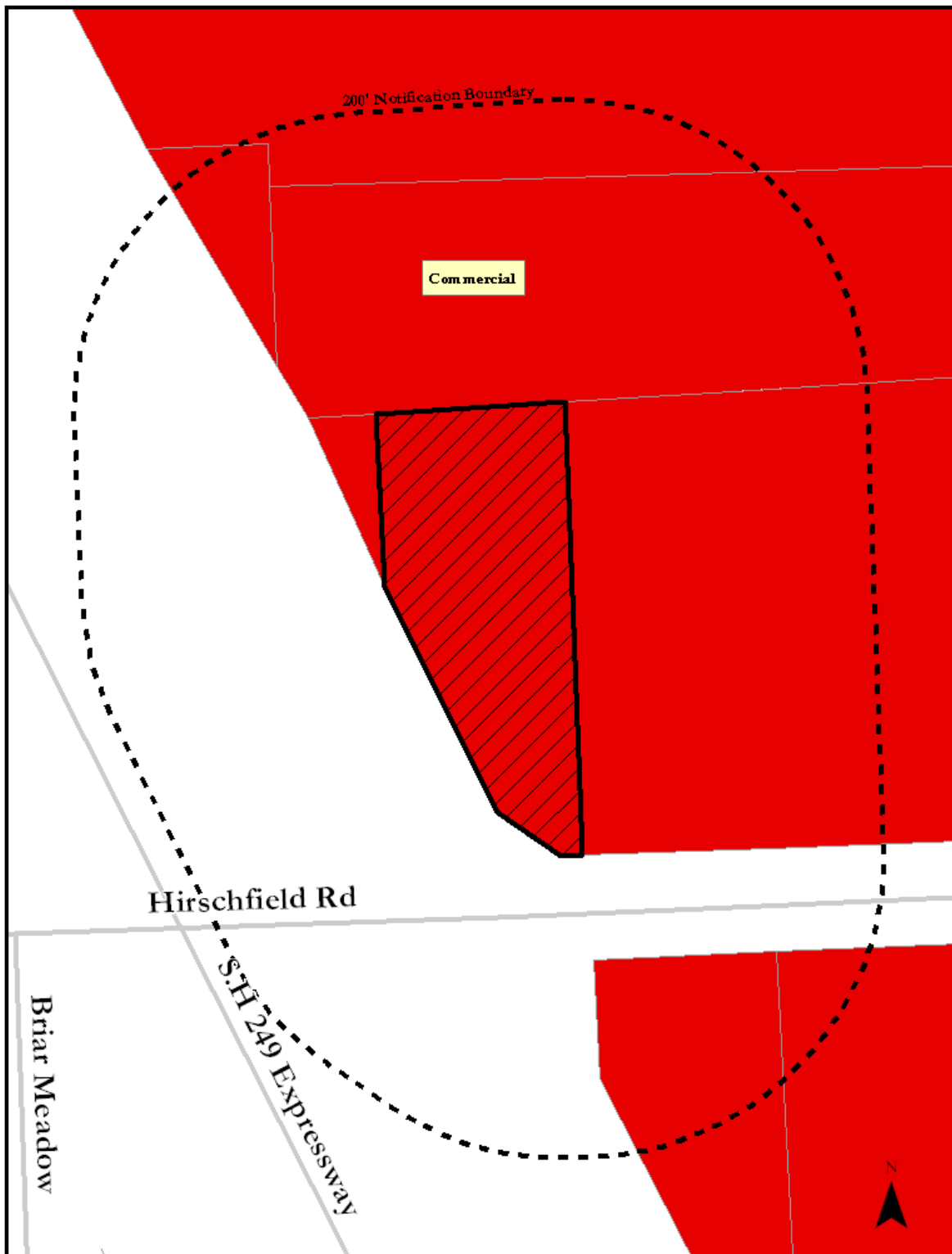
We are proposing a change of use of the current business known as "Tomball Paint & Body Inc." which has always been and currently an automobile paint and body shop to a proposed feed & grain store. The name of the store will be "Livengood Feeds Inc." owned and operated by Burt Livengood. He will be moving from an existing location in Harris County to Tomball and is based out of Lockhart, TX since 1954. He will going under a 3 year lease with my father Lee Chapman for 3 years with option to renew or purchase the property in the future. We are applying for a "Conditional Use Permit" and would appreciate the use being granted, as we feel the store will do well for the city development. Site improvements will be made initially to the exterior with a paved drive and parking.

Thank your for you consideration, and if you have any questions please call me.

Steve Chapman
281-728-6970

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Exhibit "F"
Comprehensive Plan Future Land Use Map



**Exhibit “G”
Site Photos**



Figure 1: Subject site.



Figure 2: Subject site.



Figure 3: Breaux Machine Works to the north and east.



Figure 4: Warehouse building to the south.

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: July 9, 2012

Data Sheet

Topic:

Discussion and possible action to issue written explanation, as required under Section 10.5 D of the Zoning Ordinance, stating the reasons for Planning & Zoning's decision to deny **ZONING CASE P12-430**: Request by David Quinn, on behalf of Tomball Tomahawk Properties, LLC, for a Conditional Use Permit to operate a "Barber/Beauty Shop (No Related School/College)", an approximately 0.85-acre site (Lot 1, Block 1, Tomahawk Properties), located on the southeast corner of the intersection of Baker Drive and Inwood Street, located in the Single-Family Residential-6 District with a vested rights classification of Office District.

Background:

Origination:

Recommendation:

Funding:

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

Engineering and Planning

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

ATTACHMENTS:

Draft Decision Letter re: Zoning Case P12-430

CITY OF TOMBALL
PLANNING AND ZONING COMMISSION
DECISION ON CONDITIONAL USE PERMIT APPLICATION

On May 14, 2012, the Planning and Zoning Commission of the City of Tomball, Texas, considered the Application of David Quinn on behalf of Tomahawk Properties, LLC, on Zoning Case P12-430:

Request by David Quinn on behalf of Tomahawk Properties, LLC for a Conditional Use Permit pursuant to Section 37 of the City of Tomball Zoning Ordinance. The project site is Lot 1, Block 1 of the Tomahawk Properties Final Plat, and is within the SF-6 Single-Family 6 District (vested as O-Office District).

The Planning and Zoning Commission convened and held a public hearing. All present at the hearing and desiring to be heard were given that opportunity. Following the public hearing and deliberation on the matter, the Planning and Zoning Commission considered a motion and second to approve the Conditional Use Permit.

The vote of the Planning and Zoning Commission was ONE (1) vote to approve the Conditional Use Permit and THREE (3) votes against the approval of the Conditional Use Permit. The Planning and Zoning Commission recommended denial of the Conditional Use Permit because the type of use being proposed in the application was more intense and of a different nature than any of the uses permitted within the O-Office zoning district.

APPROVED this _____ day of _____, 2012

Lori Wallace
Chairman, Planning and Zoning Commission

ATTEST:

Brandy Pate
Secretary, Planning and Zoning Commission

Regular Planning and Zoning Commission

Agenda Item

Data Sheet

Meeting Date: July 9, 2012

Topic:

Election of Chairman and Vice Chairman

Background:

Origination:

Engineering and Planning

Recommendation:

Funding:

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

Engineering and Planning

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