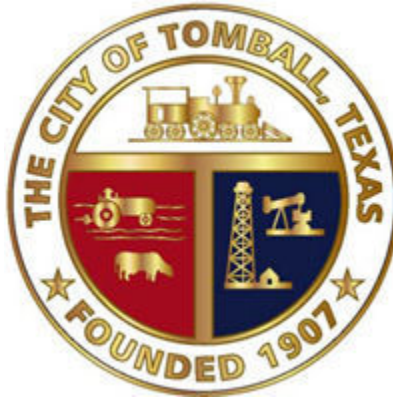


**NOTICE OF REGULAR PLANNING AND ZONING COMMISSION
MEETING
CITY OF TOMBALL, TEXAS**



MONDAY, JULY 11, 2011

6:00 P.M.

Notice is hereby given of a meeting of the Planning and Zoning Commission, to be held on Monday, July 11, 2011 at 6:00 P.M., City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The 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
 - Joint City Council / Planning and Zoning Commission Meeting: Monday, July 18, 2011 at 5:00 p.m. – 401 Market Street, Tomball, Texas 77375
- 4.0 Consideration to Approve the Minutes of the regular Planning and Zoning Commission Meeting of June 13, 2011.

5.0 New Business:

- 5.1 Receive Presentation regarding the Comprehensive Plan and Downtown Specific Plan.
- 5.2 Consideration and possible action regarding; **PINE COUNTRY OF TOMBALL SECTION THREE REPLAT**; A residential subdivision of 29.4207 acres comprised of 5 residential estate acreage lots and being a Replat of Pine Country of Tomball, Section Three, a residential subdivision of 29.4207 acres comprised of 4 residential estate acreage lots as recorded in H.C. Film Code #632143, located in the John Edwards Survey, A-20 and the Chauncey Goodrich Survey A-311, City of Tomball, Harris County, Texas.
- 5.3 Consideration and possible action regarding: **ZONING CASE P11-333**: Request by Eagle Gasket and Packing Company, Inc., on behalf of Faires Properties Inc. LLC, to amend the City's Comprehensive Zoning Ordinance to rezone an approximately 3.86 acre site, legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road at 1110 Ulrich Road, Tomball, Texas from the SF-20-E Single-Family Estate Residential-20 District to the LI-Light Industrial District. (This case will be heard in conjunction with Zoning Case P11-334).
- Conduct a Public Hearing on **ZONING CASE P11-333**
- 5.4 Consideration and possible action regarding: **ZONING CASE P11-334**: Request by Eagle Gasket and Packing Company, Inc., on behalf of Faires Properties Inc. LLC, for a Conditional Use Permit to operate a "Any Manufacture or Industrial Process Not Listed and Not Prohibited by Law" use. The property is an approximately 3.86 acre site, legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road at 1110 Ulrich Road, Tomball, Texas. The site is located in the SF-20-E Single-Family Estate Residential-20 District. (This case will be heard in conjunction with Zoning Case P11-333).
- Conduct a Public Hearing on **ZONING CASE P11-334**
- 5.5 Consideration and possible action regarding: **ZONING CASE P11-335**: Public hearing to consider a City-initiated text amendment to the Tomball Comprehensive Zoning Ordinance (Ordinance No. 2008-01) to amend Section 7 ("Nonconforming Uses & Structures") and Section 9 ("Board of Adjustments") to authorize the Board of Adjustments to grant special exceptions related to the continuance, conversion, enlargement, extension and expansion of nonconforming structures and uses.
- Conduct a Public Hearing on **ZONING CASE P11-335**

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 7th day of July 2011 by 5:00 p.m., and remained posted for at least 72 continuous hours proceeding the scheduled time of the 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 11, 2011

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 11, 2011

Data Sheet

Topic:

- Joint City Council / Planning and Zoning Commission Meeting: Monday, July 18, 2011 at 5:00 p.m. – 401 Market Street, Tomball, Texas 77375

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 11, 2011

Data Sheet

Topic:

Consideration to Approve the Minutes of the regular Planning and Zoning Commission Meeting of June 13, 2011.

Background:

Origination:

Recommendation:

Funding:

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

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

ATTACHMENTS:

P&Z Minutes 06.13.11

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

MONDAY, JUNE 13, 2011



6:00 P.M.

1.0 Call to Order

The meeting was called to order by Chairman Wallace at 6:03 p.m. Other members present were:

Commissioner Tague
Commissioner Chervenak
Commissioner Beauvais
Commissioner Kendler

Others present:

Assistant City Engineer – Lori Lakatos
Assistant City Planner – Rodney Schmidt
Engineering & Planning Senior Administrative Assistant – Brandy Pate
City Attorney – Loren Smith

1.1 Election of Chairman and Vice Chairman:

Commissioner Tague nominated Lori Wallace as Chairman; second by Commissioner Kendler.

Motion carried unanimously.

Commissioner Wallace nominated Evelyn Chervenak as Vice Chairman; second by Commissioner Kendler.

Motion carried unanimously.

2.0 No public comments or receipts of petitions were received.

3.0 Reports and Announcements:

Rodney Schmidt, Assistant City Planner, announced the upcoming Joint City Council / Planning and Zoning Commission Meeting scheduled for Monday, July 18, 2011 at 5:00 p.m. to be held at 401 Market Street, Tomball, Texas 77375.

4.0 Motion was made by Commissioner Tague to approve the Minutes of the regular Planning &

Draft

Zoning Commission meeting of May 9, 2011; second by Commissioner Chervenak.

Motion carried unanimously.

5.0 New Business:

- 5.1 Receipt of Minor Plat; **PINE COUNTRY OF TOMBALL SECTION THREE REPLAT**; A residential subdivision of 29.4207 acres comprised of 5 residential estate acreage lots and being a Replat of Pine Country of Tomball, Section Three, a residential subdivision of 29.4207 acres comprised of 4 residential estate acreage lots as recorded in H.C. Film Code #632143, located in the John Edwards Survey, A-20 and the Chauncey Goodrich Survey A-311, City of Tomball, Harris County, Texas. (For informational purposes only, no action to be taken)

Lori Lakatos, Assistant City Engineer, presented the plat for informational purposes only.

- 5.2 Consideration and possible action regarding **LESLIE'S PARK REPLAT**: A subdivision of 1.7291 acres of land in the Joseph House Survey, A-34, Harris County, Texas; being a partial Replat of Leslie's Park, originally recorded in Film Code No. 400005, Harris County Map Records.

Lori Lakatos, Assistant City Engineer, presented comment recommendations.

Commissioner Tague made a motion to approve **LESLIE'S PARK REPLAT**; with contingencies; second by Commissioner Beauvais.

Motion carried unanimously.

- 5.3 Consideration and possible action regarding **WAUKESHA PEARCE TOMBALL FINAL PLAT**; A subdivision of 5.7864 Acres; located in the Joseph House Survey, Abstract No. 34, City of Tomball, Harris County, TX.

Lori Lakatos, Assistant City Engineer, presented recommendation.

Commissioner Tague made a motion to approve **WAUKESHA PEARCE TOMBALL FINAL PLAT**; second by Commissioner Chervenak.

Motion carried unanimously.

- 5.4 Consideration and possible action regarding **POINT SOUTH BUSINESS PARK PRELIMINARY PLAT**; Being a subdivision of 3.9078 acres of land out of the Claude M. Pillot Survey, Abstract No. 632, in the City of Tomball, Harris County, Texas.

Lori Lakatos, Assistant City Engineer, presented comment recommendations.

Commissioner Chervenak made a motion to approve **POINT SOUTH BUSINESS PARK PRELIMINARY PLAT**; with contingencies; second by Commissioner Tague.

Motion carried unanimously.

- 5.5 Consideration and possible action regarding **THE POINT PRELIMINARY PLAT**; Being a subdivision of 6.3637 acres of land out of the Claude M. Pillot Survey, Abstract No. 632, in the City of Tomball, Harris County, Texas.

Lori Lakatos, Assistant City Engineer, presented comment recommendations.

Commissioner Beauvais made a motion to approve **THE POINT PRELIMINARY PLAT**; with contingencies; second by Commissioner Tague.

Motion carried unanimously.

- 5.6 Rodney Schmidt, Assistant City Planner, provided presentation to discuss Planning and Zoning Commission roles and responsibilities and the minor platting process.
- 5.7 Lori Lakatos, Assistant City Engineer, provided a review and presentation of the five year CIP 2012 – 2016.
- 5.8 Receipt of Capital Projects Comments and Recommendations from the Planning and Zoning Commission for City Manager Consideration regarding Budget of Five Year CIP 2012 – 2016.

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

Motion carried unanimously.

- 6.0 Motion was made by Commissioner Tague to adjourn; second by Commissioner Kendler.

Motion carried unanimously.

Meeting adjourned at 7:33 p.m.

PASSED AND APPROVED this _____ day of _____ 2011.

Brandy Pate
P&Z Commission Secretary

Lori Wallace
Chairman

Regular Planning and Zoning Commission

Agenda Item

Data Sheet

Meeting Date: July 11, 2011

Topic:

Receive Presentation regarding the Comprehensive Plan and Downtown Specific Plan.

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	

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: July 11, 2011

Data Sheet

Topic:

Consideration and possible action regarding; **PINE COUNTRY OF TOMBALL SECTION THREE REPLAT**; A residential subdivision of 29.4207 acres comprised of 5 residential estate acreage lots and being a Replat of Pine Country of Tomball, Section Three, a residential subdivision of 29.4207 acres comprised of 4 residential estate acreage lots as recorded in H.C. Film Code #632143, located in the John Edwards Survey, A-20 and the Chauncey Goodrich Survey A-311, City of Tomball, Harris County, Texas.

Background:

Origination:

Recommendation:

Funding:

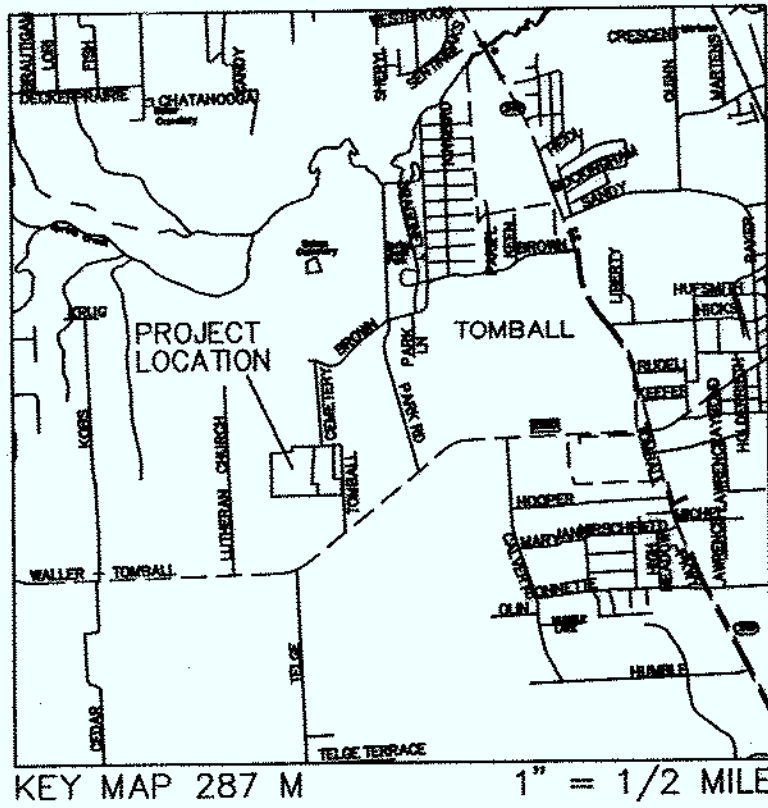
Party(ies) responsible for placing this item on agenda:

Engineering and Planning

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

ATTACHMENTS:

Pine Country of Tomball Section Three Replat



We, 1) The Joseph Family Limited Partnership, LTD, owners of Tracts 2 by and through Russell E. Brown, Trustee; 2) Russell E. Brown, individually, owner of Tract 4 by and through Russell E. Brown; 3) Gerber Urias and wife Nelmi Urias owners of Tract 3 by and through Gerber and Nelmi Urias; and 4) Gerber Urias and sister Melva Gladis Urias owners of Tracts 1 and 5 by and through Gerber and Melva Gladis Urias hereinafter referred to as owners (whether one or more) of the 29.4207 acre tract described in the above and foregoing plat of Pine Country of Tomball Section Three, do hereby make and establish said subdivision of said property according to all liens, dedications and 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 purpose 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 easements five feet 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 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 one and three quarters square feet (18-inch, diameter) with culverts or bridges to be provided for all private driveways or walkways crossing such drainage facilities.

FURTHER, owners do hereby dedicate to the public a strip of land fifteen (15') wide on each side of the center line of any and all bays, 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 easements, ditch, gully, creek, or natural drainage way shall hereby be restricted to keep such drainage ways and easements clear of fences, building, 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.

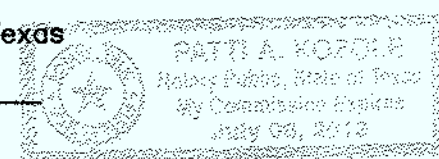
WITNESS my hand in the City of Tomball this 1st day of June, 2011.

Russell E. Brown, Trustee Russell E. Brown
Russell E. Brown, Trustee Russell E. Brown, individually
Nelmi Urias Melva Gladis Urias
Gerber Urias Nelmi Urias Melva Gladis Urias

BEFORE ME, the undersigned authority, on this day personally appeared Russell E. Brown, Trustee & Individually, Gerber Urias, Nelmi Urias, and Melva Gladis Urias; known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and considerations therein expressed

Given under my hand and seal of office this 1st day of June, 2011.

Notary Public in and for the State of Texas
My Commission Expires: July 08, 2013



NOTES

- #1 All oil/gas pipeline or pipeline easements with ownership through the subdivision have been shown.
- #2 All oil/gas wells with ownership (plugged, abandoned, and/or active) through the subdivision have been shown.
- #3 No building or structure shall be constructed across any pipelines, building lines, and/or easements. Building setbacks shall be required adjacent to oil/gas pipelines. The setbacks at minimum should be 15 feet off centerline of low pressure gas lines, and 30 feet off centerline of high pressure gas lines.
- #4 This plat does not attempt to amend or remove any valid covenants or restrictions.
- #5 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 Ordinances at the time of the development of the property.

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 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.

FLOOD INFORMATION:
According to FEMA Flood Panel No. 48520C 0210 L (Effective Date June 18, 2007), this property is in Zone "X" and not within the 0.2% Annual Chance Flood Plain.

TRACTS	ACREAGE	SQUARE FT.
Tract 1	4.5030	196,150.68
Tract 2	8.7563	381,424.42
Tract 3	2.8886	125,827.41
Tract 4	9.4922	413,480.23
Tract 5	3.5001	152,464.35
C.O.T. ROW	0.2805	12,218.48
TOTAL	29.4207	1,281,565.57

I, Tony Swonke, 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 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.



Tony P. Swonke - Registered Professional Land Surveyor No. 4767

We, the Joseph Family Limited Partnership, LTD, owners and holders of liens against the property described in the plat known as Tracts 1, 3, and 5 - Pine Country of Tomball Subdivision - Section Three, said liens being evidenced by instruments of record in Film Code No's 20100023245 and 20102233240 d/s 201040023248 & 20110223229 > w/d/s

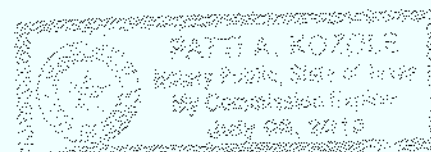
WITNESS our hands in the City of Tomball, Texas, this 1 day of June, 2011.

Russell E. Brown, Trustee
Russell E. Brown, Trustee

BEFORE ME, the undersigned authority, on this day personally appeared Russell E. Brown, Trustee, 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 1 day of June, 2011.

Notary Public in and for the State of Texas - My Commission Expires: July 08, 2013



This is to certify that the Planning & Zoning Commission of the City of Tomball, Texas, has approved this plat and subdivision of Pine Country of Tomball Section Three in conformity 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 1 day of June, 2011.

By: Lori Wallace Chairman
By: 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's Ordinances.

City Manager - George Shackelford

Acting City Engineer - Lori Lakatos, PE

CITY OF TOMBALL

This is to certify that the City accepts the Planning & Zoning Commission's authorized approval and acceptance of all dedicated public easements and rights-of-way 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 1 day of June, 2011.

By: Gretchen Fagan, Mayor By: Doris Speer, City Secretary

I, Stan Stanart, Clerk of the County Court of Harris County, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on this 1 day of June, 2011, at 10 o'clock M., and duly recorded on the 1 day of June, 2011, at 10 o'clock M., and in Film Code No. 632143 of the Map Records of Harris County.

WITNESS MY HAND AND SEAL OF OFFICE, at Houston, Texas, the day and date last above written.

Stan Stanart
Clerk of the County Court
Harris County, Texas

By: Deputy

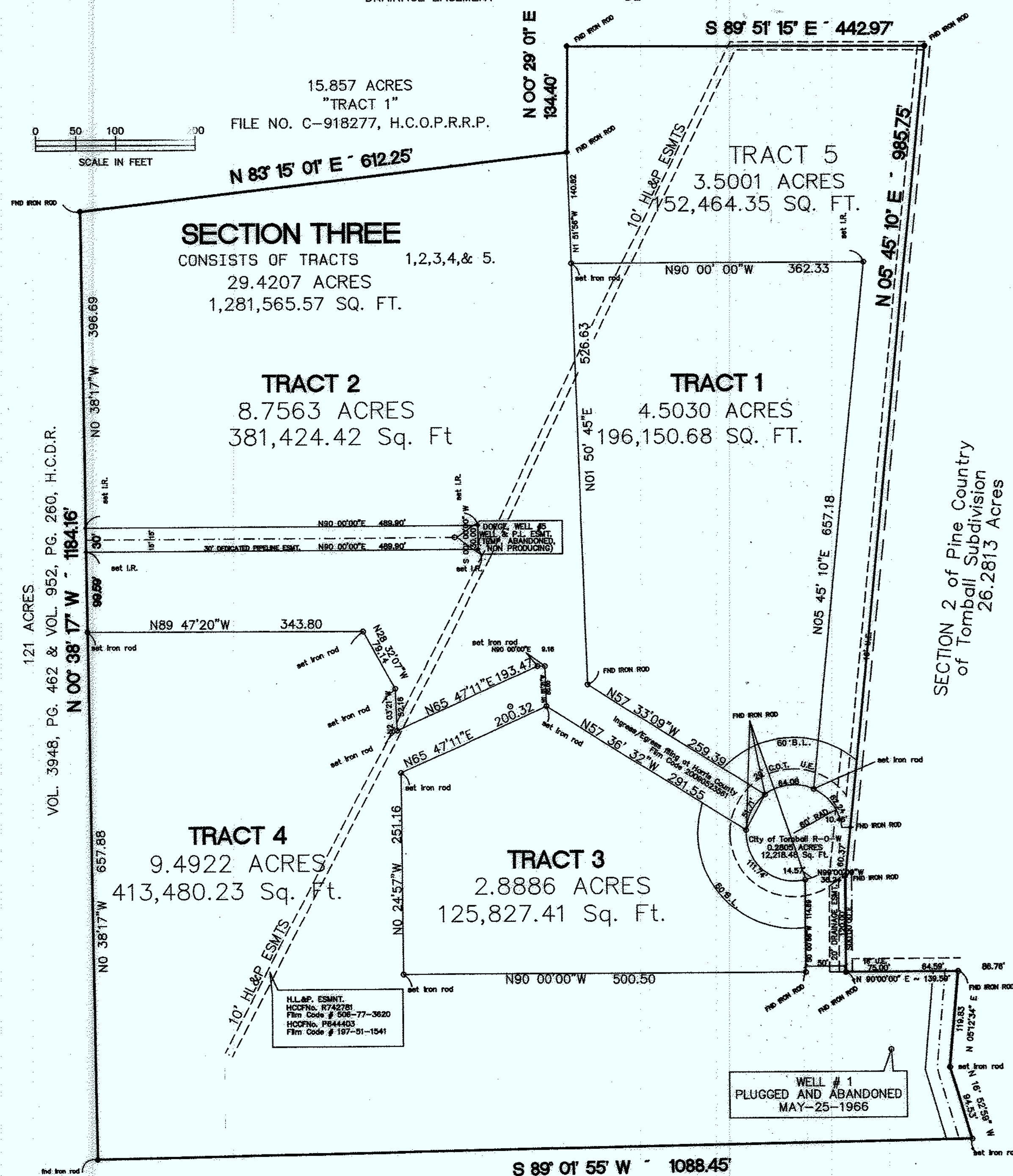
BENCHMARK:
NGS DISC "N-1500" LOCATED AT THE
NORTHEAST CORNER OF THE INTERSECTION OF
TOMBALL CEMETARY ROAD AND F.M. 2920
ELEVATION = 174.90 (NAVD 1988)

LEGEND:

BUILDING LINE
UTILITY EASEMENT
AERIAL EASEMENT
CITY OF TOMBALL UTILITY EASEMENT
DRAINAGE EASEMENT

BL
UL
AE
COTUE
DE

4.4449 ACRES
FILE NO. F-205092, H.C.O.P.R.R.P.



OWNERS

Tract 2 - The Joseph Family Limited Partnership, LTD, Russell E. Brown, Trustee
16011 Pine Country Blvd. - Tomball, Texas 77377
830-688-1659

Tract 3 - Gerber Urias and wife Nelmi Urias, Individually
14310 Cypress Green Rd. - Cypress, Texas 77429
281-961-5603

Tract 4 - Russell E. Brown, Individually
16011 Pine Country Blvd. - Tomball, Texas 77377
830-688-1659

Tracts 1 and 5 - Gerber Urias and sister Melva Gladis Urias, Individually
14310 Cypress Green Rd. - Cypress, Texas 77429
281-961-5603

ENGINEER

DPK Engineering LLC
32719 Windsor Terrace
Fulshear, TX 77441
281-346-2616

SURVEYOR

Tony Swonke Land Surveying
700 Kane Street
Tomball, Texas 77375
281-351-7789

REPLAT

PINE COUNTRY OF TOMBALL, SECTION THREE
A RESIDENTIAL SUBDIVISION OF 29.4207 ACRES
COMPRISED OF 5 RESIDENTIAL ESTATE ACREAGE LOTS
AND

BEING A REPLAT OF PINE COUNTRY OF TOMBALL, SECTION THREE
A RESIDENTIAL SUBDIVISION OF 29.4207 ACRES
COMPRISED OF 4 RESIDENTIAL ESTATE ACREAGE LOTS

AS RECORDED IN H.C. FILM CODE # 632143

LOCATED IN THE
JOHN EDWARDS SURVEY, A-20 AND THE CHAUNCEY GOODRICH
SURVEY A-311 CITY OF TOMBALL, HARRIS COUNTY, TEXAS

JUNE, 2011

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: July 11, 2011

Data Sheet

Topic:

Consideration and possible action regarding: **ZONING CASE P11-333**: Request by Eagle Gasket and Packing Company, Inc., on behalf of Faires Properties Inc. LLC, to amend the City's Comprehensive Zoning Ordinance to rezone an approximately 3.86 acre site, legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road at 1110 Ulrich Road, Tomball, Texas from the SF-20-E Single-Family Estate Residential-20 District to the LI-Light Industrial District. (This case will be heard in conjunction with Zoning Case P11-334).

- Conduct a Public Hearing on **ZONING CASE P11-333**

Background:

Origination:

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

Recommendation:

Funding:

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

Engineering and Planning

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

ATTACHMENTS:

Notice of Public Hearing

Property Owner Notification Letter

P11-333 Staff Report

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



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, July 11, 2011, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, July 18, 2011, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P11-333: Request by Eagle Gasket and Packing Company, Inc., on behalf of Faires Properties Inc. LLC, to amend the City's Comprehensive Zoning Ordinance to rezone an approximately 3.86 acre site, legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road at 1110 Ulrich Road, Tomball, Texas from the SF-20-E Single-Family Estate Residential-20 District to the LI-Light Industrial District. (This case will be heard in conjunction with Zoning Case P11-334).

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

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

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

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 **7th** day of **July** 2011 by **5:00** p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate

Senior Administrative Assistant

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



Notice of Public Hearing

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

CASE NUMBER: P11-333

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

LOCATION: 1110 Ulrich Road

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

* * *

CONTACT PLANNER: Rodney Schmidt

PHONE: (281) 290-1410

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

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

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



**Planning and Zoning Commission
Public Hearing:**

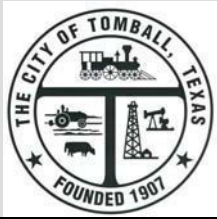
Monday, July 11, 2011, 6:00 PM

City Council Public Hearing:

***Monday, July 18, 2011, 6:00 PM**

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

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



Rezoning Staff Report

Planning and Zoning Commission Hearing Date: July 11, 2011

Rezoning Case:	P11-333
Property Owner(s):	Faires Properties Inc. LLC
Applicant(s):	Eagle Gasket and Packing Company, Inc.
Legal Description:	Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat
Location:	1110 Ulrich Road (Generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road)
Area:	3.86 acres
Present Zoning and Use:	SF-20-E Single-Family Estate Residential-20 District / Eagle Gasket and Packing Company ("Any Manufacture or Industrial Process Not Listed and Not Prohibited by Law")
Comp Plan Designation:	Rural Residential
Proposed Zoning and Use:	LI-Light Industrial District / Eagle Gasket and Packing Company ("Any Manufacture or Industrial Process Not Listed and Not Prohibited by Law")

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

Adjacent Zoning & Land Uses:

North:	SF-20-E District / Matheson Park (City of Tomball)
South:	SF-20-E District / Undeveloped City of Tomball property, Harris County Flood Control District drainage ditch, and single-family residential
East:	SF-20-E District / Rudolph Street right-of-way and single-family residential
West:	SF-20-E and SF-9 Districts / Burlington Northern Santa Fe railway and Tomball High School

BACKGROUND

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

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

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

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

ANALYSIS

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

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

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

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

Comprehensive Plan states that the “Rural Residential” land use designation “includes residential developments on minimum 1 acre lots that allows up to one house per acre lot. The intent is to provide for a rural lifestyle as well as to encourage appropriate development due to environmental constraints such as waterways, floodplains, and other features. The basic character of development is rural with most natural features of the land retained. Typically, the keeping of a limited number of horses or other livestock is permitted. Public services are not required at a level as great as those required in higher density development. No future commercial or industrial development (other than commercial farming) is permitted in rural neighborhoods.”

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

ZONING CONSIDERATIONS

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

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

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

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

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

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

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

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

There has been limited development in the Light Industrial District city-wide and no Light Industrial District development within the vicinity.

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

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

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

To date, the Eagle Gasket and Packing Company facility at 1110 Ulrich Road has not negatively impacted public health, safety, morals, or general welfare. It will be at the discretion of the Planning & Zoning Commission and City Council whether or not the requested rezoning and conditional use permit will substantially affect the public health, safety, morals, or general welfare.

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

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

- Within the capacities of existing or funded infrastructure and public facilities and services;
- In a compatible manner with surrounding land uses;
- To standards specified for and appropriate to the proposed land use; and,
- In a way that furthers or helps achieve the goals of the Plan.”

The proposed rezoning to the Light Industrial District is not consistent with the “Rural Residential” Comprehensive Plan land use designation shown on the Future Land Use Plan Map. The Comprehensive Plan’s land use designations are intended to provide direction in determining current and future growth patterns and development intensities. The Comprehensive Plan states that the “Rural Residential” land use designation “includes residential developments on minimum 1 acre lots that allows up to one house per acre lot. The intent is to provide for a rural lifestyle as well as to encourage appropriate development due to environmental constraints such as waterways, floodplains, and other features.

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

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

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

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

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

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

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

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

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

PUBLIC COMMENT

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

EXHIBITS

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

Exhibit "A"
Location/Zoning Map

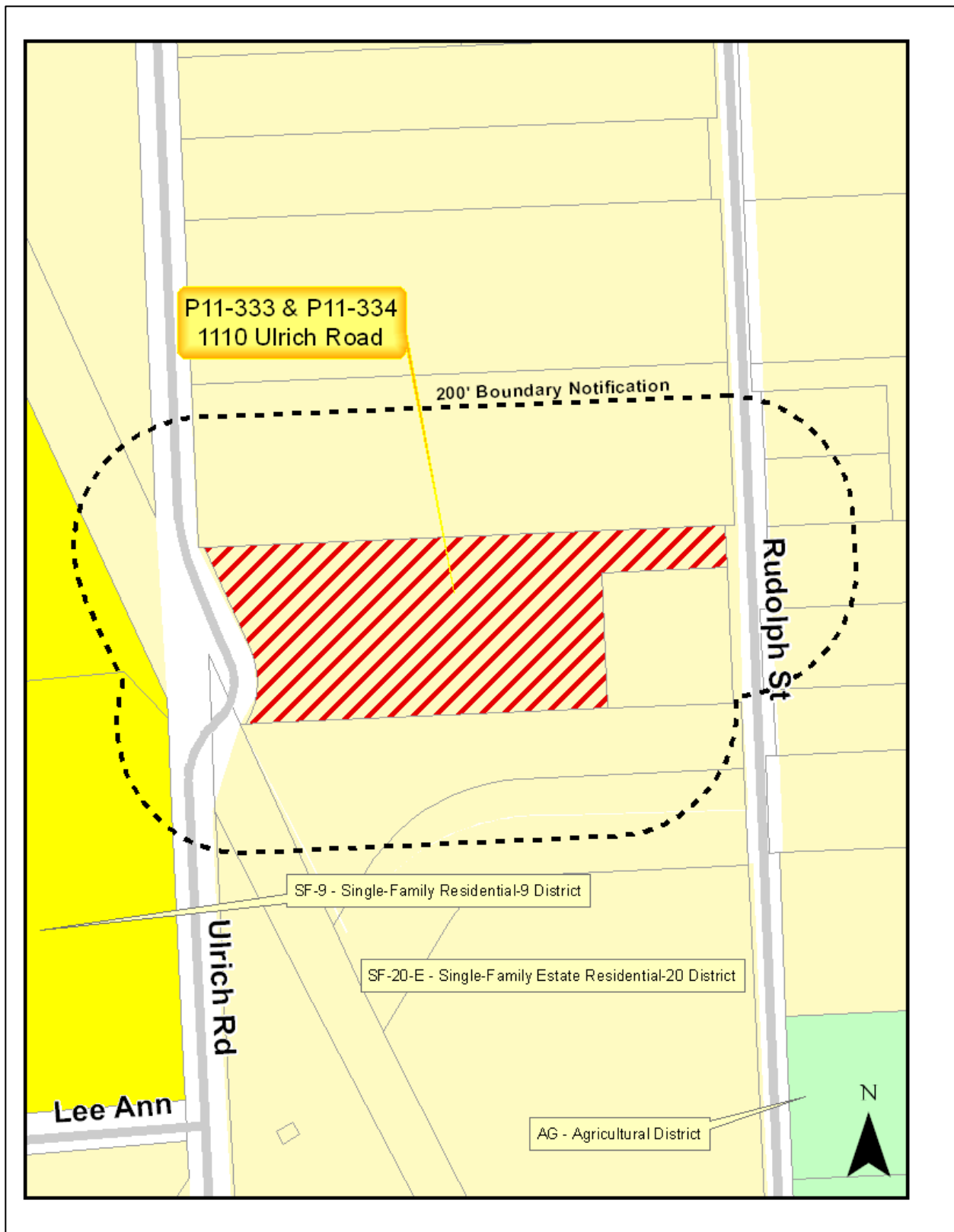
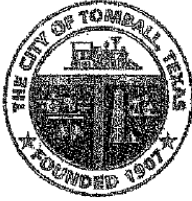


Exhibit “B”
Aerial Photo



Exhibit "C"
Rezoning Application

Revised 1/20/09



APPLICATION FOR REZONING
Engineering & Planning Department

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

Applicant

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

Owner

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

Engineer/Surveyor (if applicable)

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

Description of Proposed Project: EXPANSION OF CURRENT FACILITIES

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

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

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

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

Proposed Zoning District: LIGHT INDUSTRIAL

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

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

www.ci.tomball.tx.us

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

Please note: A courtesy notification sign will be placed on the subject property during the public hearing process and will be removed when the case has been processed.

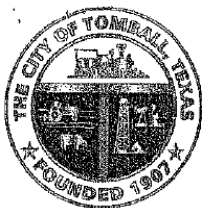
This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

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

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

Exhibit "D"
Conditional Use Permit Application

Revised 1/20/09



APPLICATION FOR
CONDITIONAL USE PERMIT
Engineering & Planning Department

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

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

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

Applicant

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

Owner

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

Engineer/Surveyor (if applicable)

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

Description of Proposed Project: EXPANSION OF CURRENT FACILITIES

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

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

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

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

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

Please note: A courtesy notification sign will be placed on the subject property during the public hearing process and will be removed when the case has been processed.

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

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

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

Exhibit "E"
Rezoning Request Letter



GASKET AND PACKING CO.

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

To Tomball Engineering Department:

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

Respectfully,

Jean Faires
President
Eagle Gasket and Packing

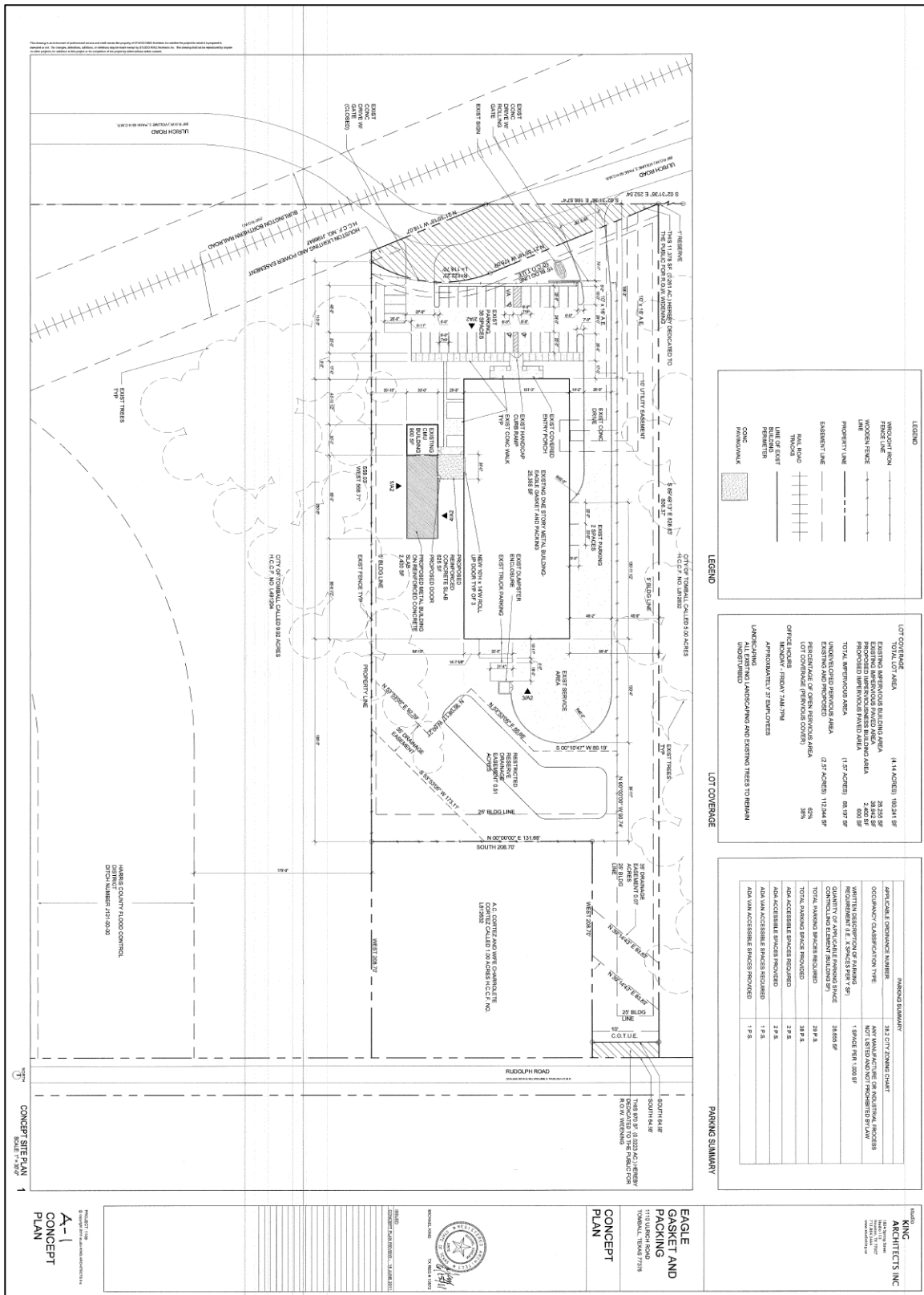




Exhibit "G" Property Survey

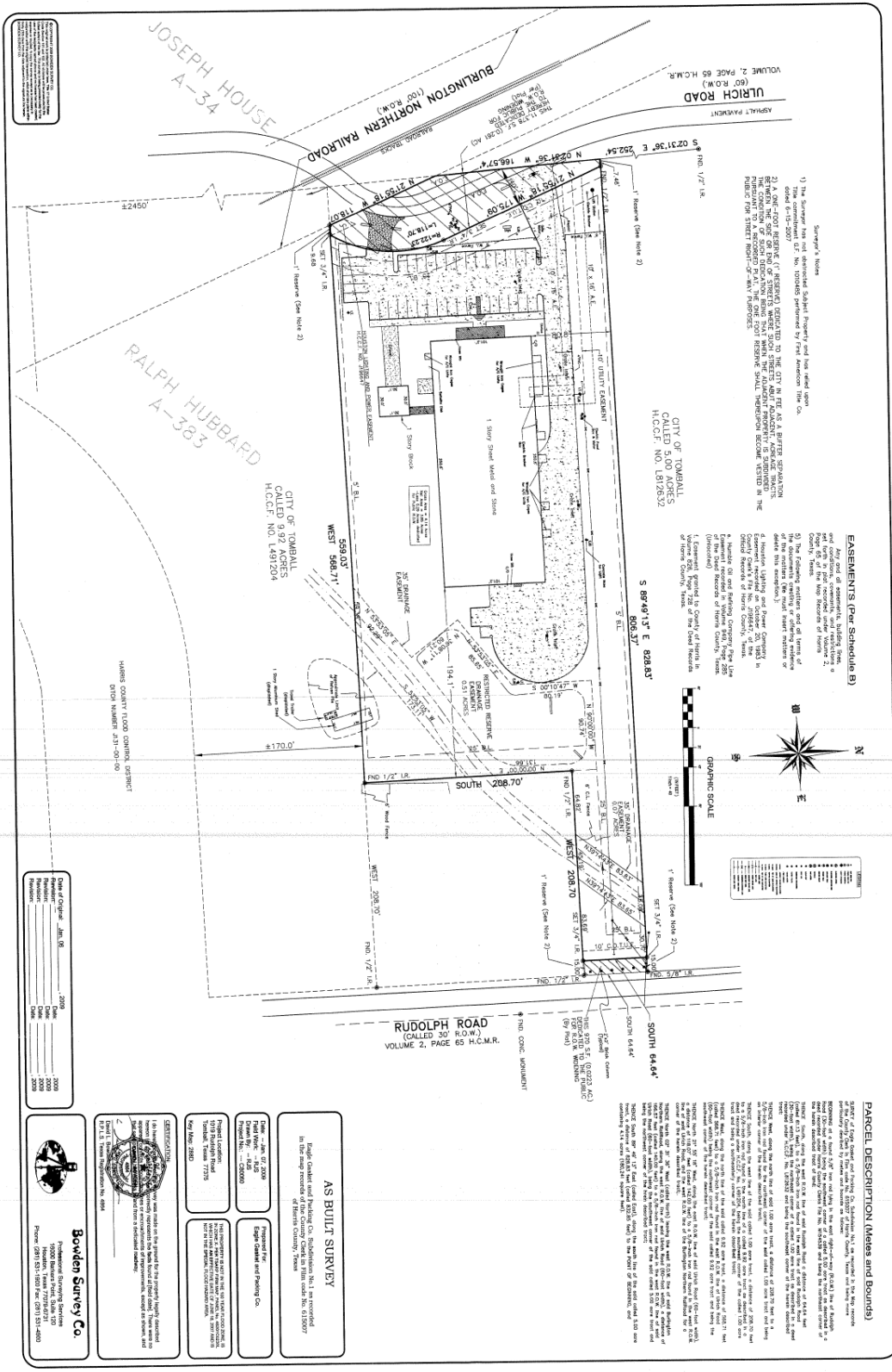
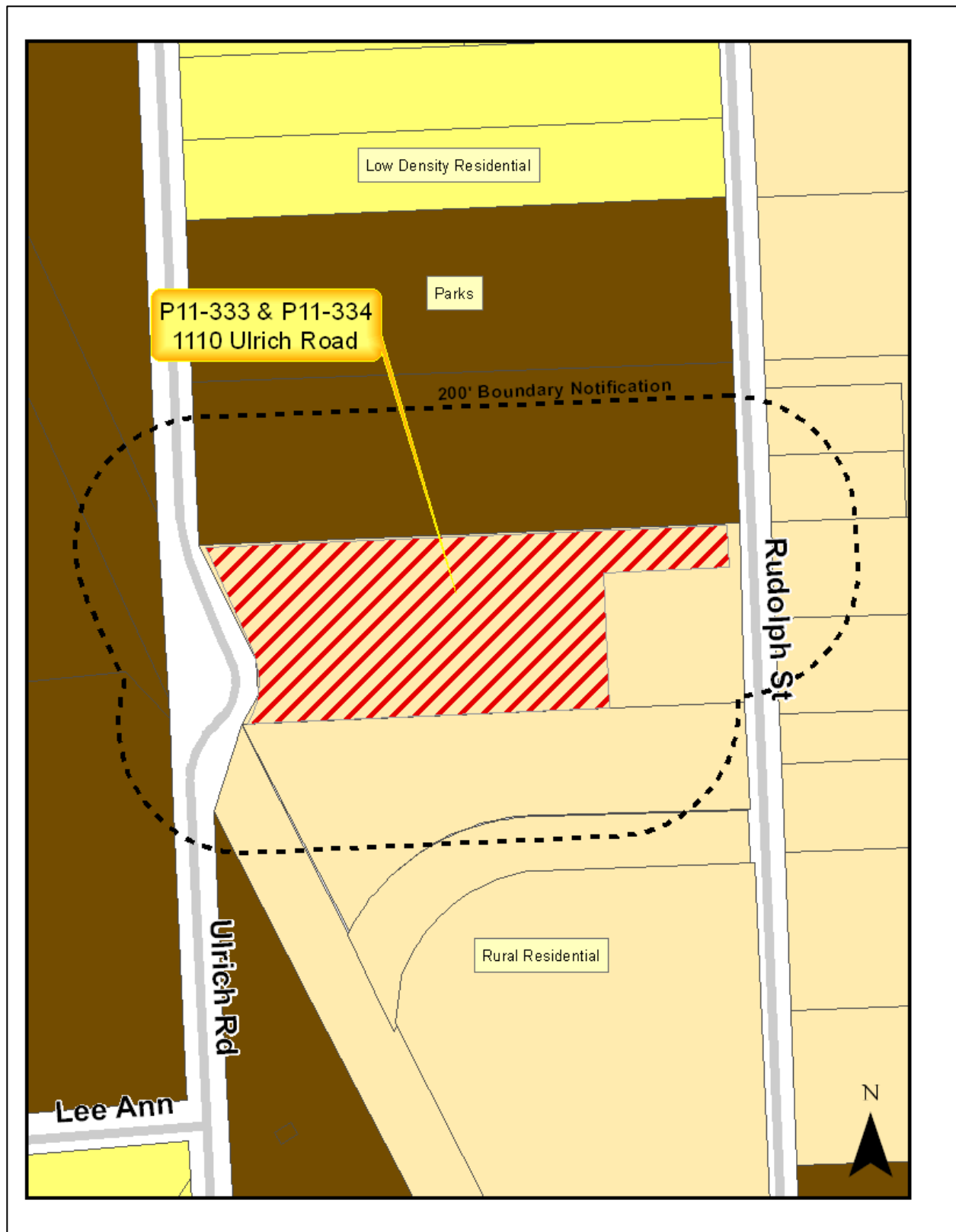


Exhibit "H"
Comprehensive Plan Future Land Use Map



**Exhibit “I”
Site Photos**



Figure 1: Easterly view of subject site.



Figure 2: Easterly view of structure to be expanded.



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



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



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



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

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: July 11, 2011

Data Sheet

Topic:

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

- Conduct a Public Hearing on **ZONING CASE P11-334**

Background:

Origination:

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

Recommendation:

Funding:

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

Engineering and Planning

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

ATTACHMENTS:

Notice of Public Hearing

Property Owner Notification Letter

P11-334 Staff Report

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



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, July 11, 2011, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, July 18, 2011, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P11-333: Request by Eagle Gasket and Packing Company, Inc., on behalf of Faires Properties Inc. LLC, to amend the City's Comprehensive Zoning Ordinance to rezone an approximately 3.86 acre site, legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road at 1110 Ulrich Road, Tomball, Texas from the SF-20-E Single-Family Estate Residential-20 District to the LI-Light Industrial District. (This case will be heard in conjunction with Zoning Case P11-334).

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

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

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

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 **7th** day of **July** 2011 by **5:00** p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate

Senior Administrative Assistant

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



Notice of Public Hearing

YOU ARE INVITED TO ATTEND a Public Hearing before the **PLANNING & ZONING COMMISSION** of the City of Tomball regarding the following item:

CASE NUMBER: P11-334

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

LOCATION: 1110 Ulrich Road

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

* * *

CONTACT CITY PLANNER: Rodney Schmidt

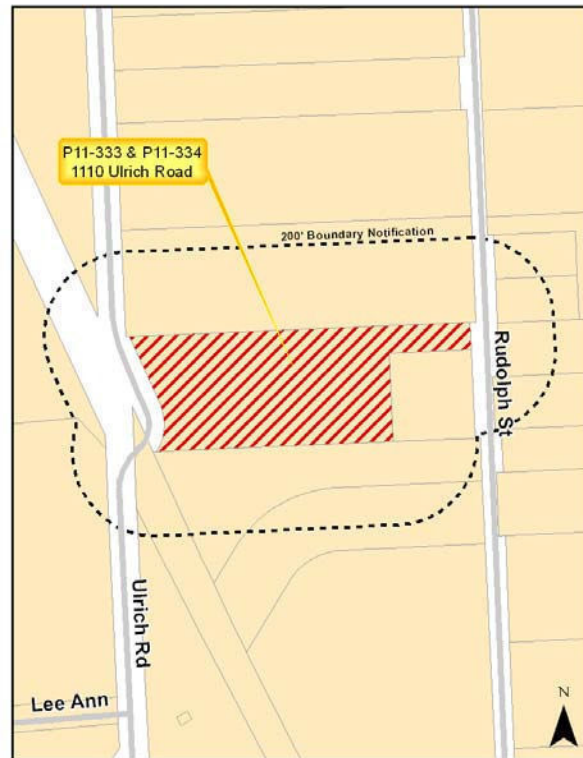
PHONE: (281) 290-1410

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 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.

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



**Planning and Zoning Commission
Public Hearing:**

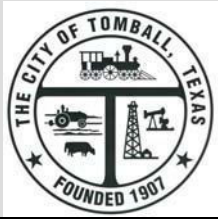
Monday, July 11, 2011, 6:00 PM

City Council Public Hearing:

***Monday, July 18, 2011, 6:00 PM**

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

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



CUP Staff Report

Planning and Zoning Commission Hearing Date: July 11, 2011

Rezoning Case: P11-334

Property Owner(s): Faires Properties Inc. LLC

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

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

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

Area: 3.86 acres

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

Comp Plan Designation: Rural Residential

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

Request: Conditional Use Permit to allow a "Any Manufacture or Industrial Process Not Listed and Not Prohibited by Law" land use.

Adjacent Zoning & Land Uses:

North:	SF-20-E District / Matheson Park (City of Tomball)
South:	SF-20-E District / Undeveloped City of Tomball property, Harris County Flood Control District drainage ditch, and single-family residential
East:	SF-20-E District / Rudolph Street right-of-way and single-family residential
West:	SF-20-E and SF-9 Districts / Burlington Northern Santa Fe railway and Tomball High School

BACKGROUND / PROJECT DESCRIPTION

The subject site is legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat within the City of Tomball, Harris County, Texas totaling approximately 3.86 acres. The site's physical address is 1110 Ulrich Road and is generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road (Exhibits "A" & "B"). The property is currently used by Eagle Gasket and Packing Company which is classified in the

Zoning Ordinance as “Any Manufacture or Industrial Process Not Listed and Not Prohibited by Law.” According to their website, Eagle Gasket is “a recognized leader in the development and manufacturing of Gaskets, Plastics, Railcar parts and Packing Products.”

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

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

ANALYSIS

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

The proposed rezoning to the Light Industrial District with a CUP is not consistent with the “Rural Residential” Comprehensive Plan land use designation shown on the Future Land Use Plan Map (Exhibit “H”). The Comprehensive Plan’s land use designations are intended to provide direction in determining current and future growth patterns and development intensities. The Comprehensive Plan states that the “Rural Residential” land use designation “includes residential developments on minimum 1 acre lots that allows up to one house per acre lot. The intent is to provide for a rural lifestyle as well as to encourage appropriate development due to environmental constraints such as waterways, floodplains, and other features. The basic character of development is rural with most natural features of the land retained. Typically, the keeping of a limited number of horses or other livestock is permitted. Public services are not required at a level as great as those required in higher density development. No future commercial or industrial development (other than commercial farming) is permitted in rural neighborhoods.”

However, the Comprehensive Plan states, “At times, the City will likely encounter development proposals that do not directly reflect the purpose and intent of the Comprehensive Plan. The Planning & Zoning Commission and City Council may find that a request for a zoning

amendment is not consistent with the Future Land Use Plan but should be approved due to changed circumstances or additional, relevant information affecting the appropriate use of the parcel. Review of such development proposals should include the following considerations:

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

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

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

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

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

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

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

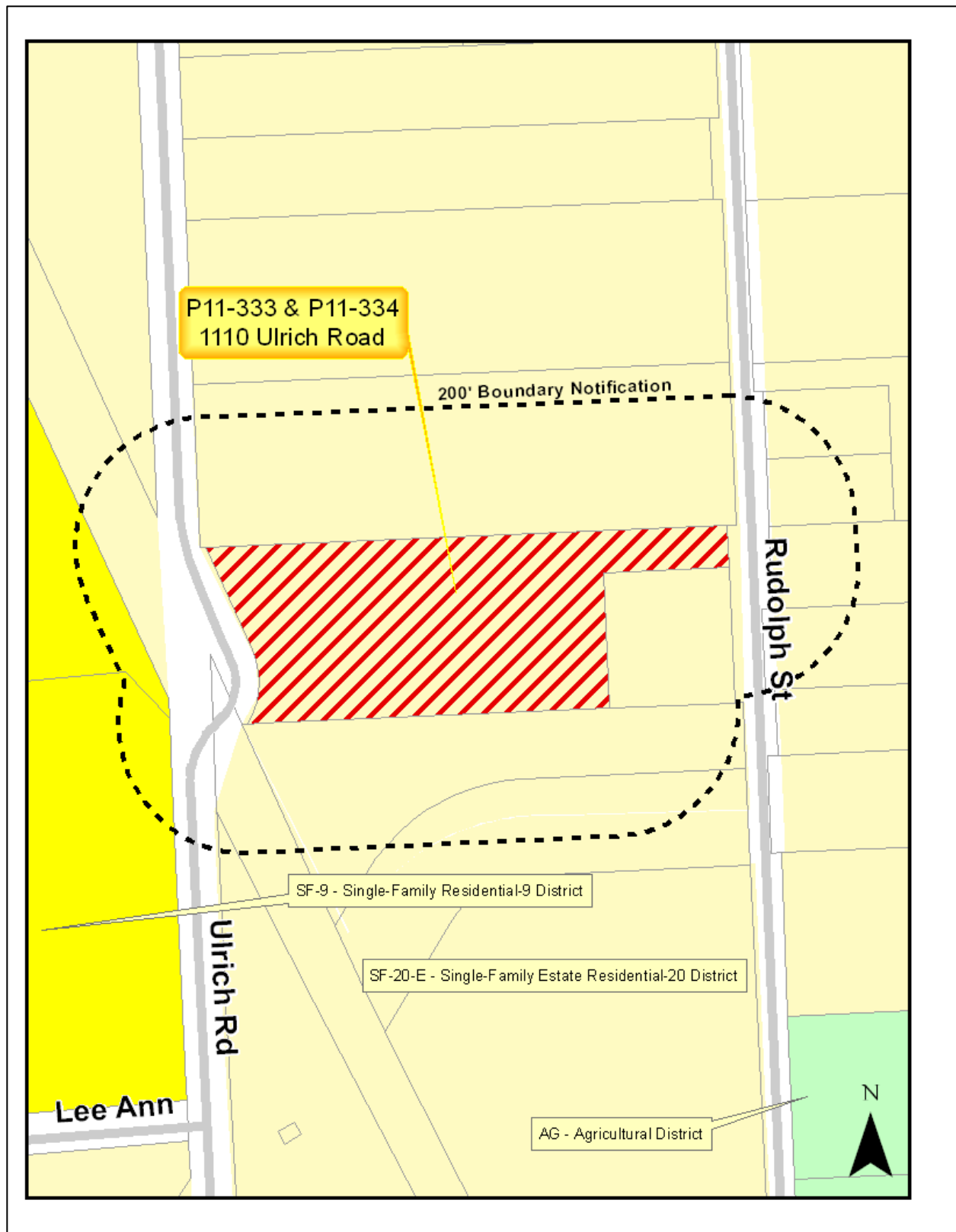
PUBLIC COMMENT

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

EXHIBITS

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

Exhibit "A"
Location/Zoning Map

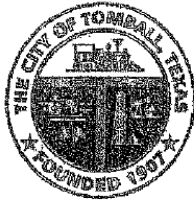


**Exhibit “B”
Aerial Photo**



Exhibit "C"
Rezoning Application

Revised 1/20/09



APPLICATION FOR REZONING
Engineering & Planning Department

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

Applicant

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

Owner

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

Engineer/Surveyor (if applicable)

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

Description of Proposed Project: EXPANSION OF CURRENT FACILITIES

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

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

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

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

Proposed Zoning District: LIGHT INDUSTRIAL

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

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

www.ci.tomball.tx.us

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

Please note: A courtesy notification sign will be placed on the subject property during the public hearing process and will be removed when the case has been processed.

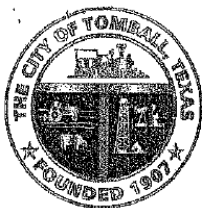
This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

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

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

Exhibit "D"
Conditional Use Permit Application

Revised 1/20/09



APPLICATION FOR
CONDITIONAL USE PERMIT
Engineering & Planning Department

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

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

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

Applicant

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

Owner

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

Engineer/Surveyor (if applicable)

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

Description of Proposed Project: EXPANSION OF CURRENT FACILITIES

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

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

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

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

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

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

Please note: A courtesy notification sign will be placed on the subject property during the public hearing process and will be removed when the case has been processed.

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

X Eagle Basket & Packing Co. 5-22-11
Signature of Applicant Date

X Jean Davis 5-22-11
Signature of Owner Date

Exhibit "E"
Rezoning Request Letter



GASKET AND PACKING CO.

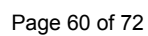
1110 Ulrich • Tomball, Texas 77375 • Tel: (713) 290-8811 • Toll Free 1-800-952-8981
Fax: (713) 290-8812 (713) 290-9987 (713) 290-1329

To Tomball Engineering Department:

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

Respectfully,

Jean Faires
President
Eagle Gasket and Packing



**Exhibit “G”
Property Survey**

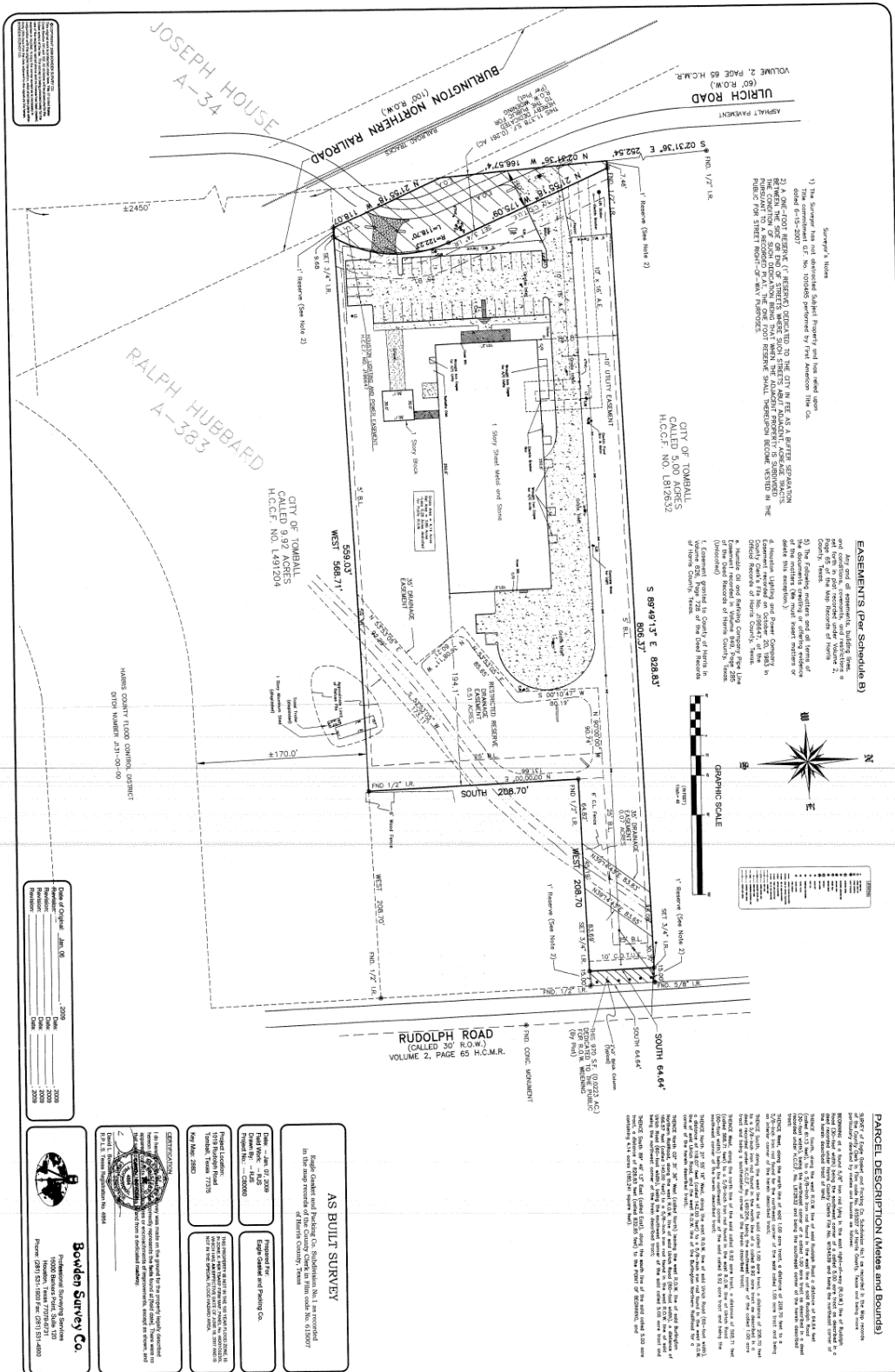
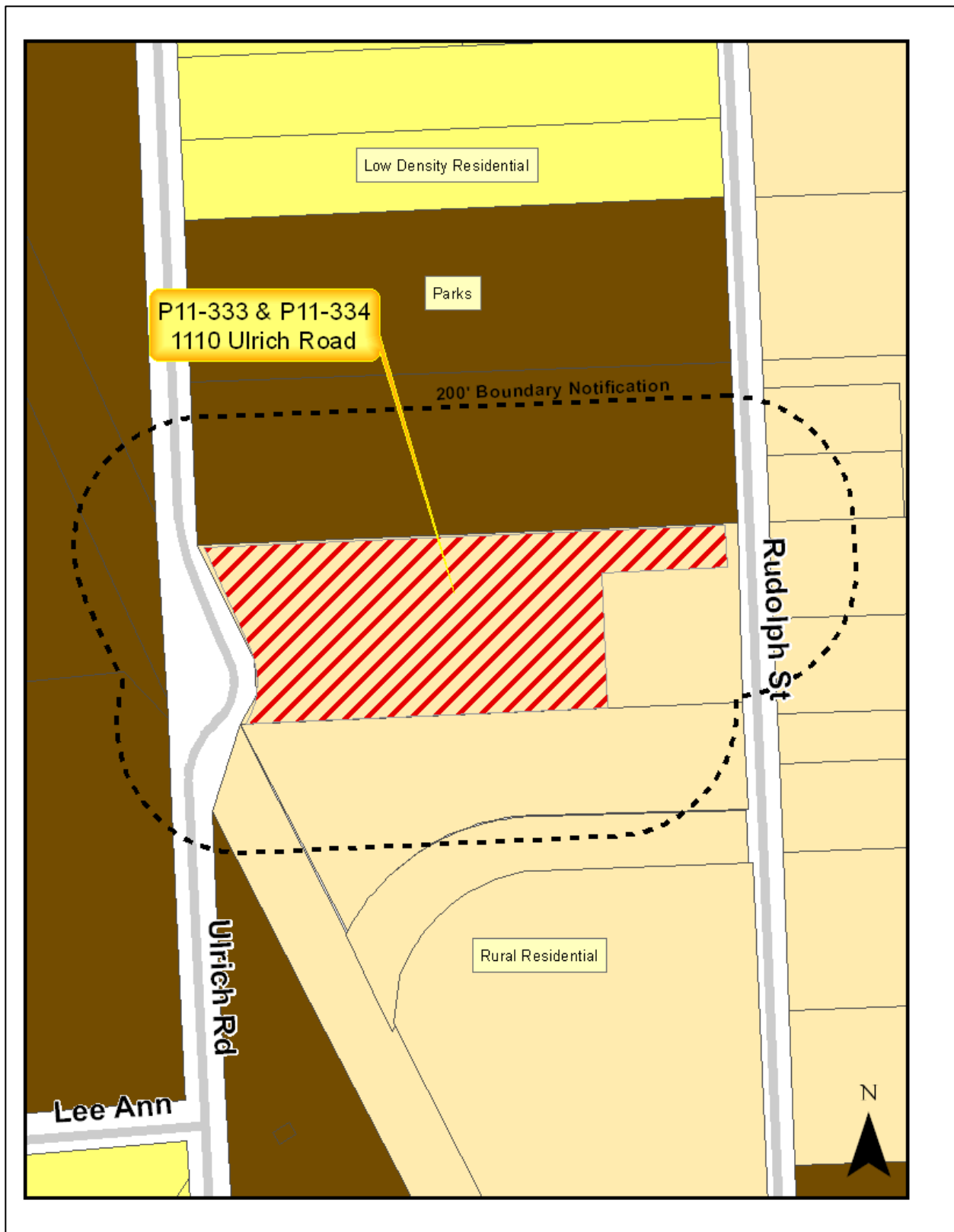


Exhibit "H"
Comprehensive Plan Future Land Use Map



**Exhibit “I”
Site Photos**



Figure 1: Easterly view of subject site.



Figure 2: Easterly view of structure to be expanded.



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



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



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



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

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: July 11, 2011

Data Sheet

Topic:

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

- Conduct a Public Hearing on **ZONING CASE P11-335**

Background:

Origination:

City of Tomball

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

P11-335 Staff Report

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



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, July 11, 2011, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, July 18, 2011, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P11-333: Request by Eagle Gasket and Packing Company, Inc., on behalf of Faires Properties Inc. LLC, to amend the City's Comprehensive Zoning Ordinance to rezone an approximately 3.86 acre site, legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road at 1110 Ulrich Road, Tomball, Texas from the SF-20-E Single-Family Estate Residential-20 District to the LI-Light Industrial District. (This case will be heard in conjunction with Zoning Case P11-334).

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

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

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

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the **7th** day of **July** 2011 by **5:00** p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate
Senior Administrative Assistant

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



Text Amendment Staff Report

Planning and Zoning Commission Hearing Date: July 11, 2011

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

BACKGROUND

The Engineering & Planning Department was directed by the City Manager’s Office to pursue a zoning ordinance text amendment to authorize the Board of Adjustments to grant special exceptions related to the continuance, conversion, enlargement, extension and expansion of nonconforming structures and uses. The request from the City Manager was in response to a recent request by Eagle Gasket and Packing Company to expand their legally nonconforming use.

ANALYSIS

Under the zoning ordinance, a use is only allowed to externally expand its structure if that use is permitted in the zoning district it’s located in. If the established use is not permitted in its zoning district, the property must be rezoned to a district that allows the use. For example, Eagle Gasket and Packing Company is located in the SF-20-E district which does not allow a “Any Manufacture or Industrial Process Not Listed and Not Prohibited by Law” use. If they wish to expand their structure, they must have their property rezoned to the Light Industrial District and receive a conditional use permit from City Council.

If the use is permitted in the zoning district, but the structure itself is nonconforming in regards to building height or setbacks, the structure itself is allowed to expand so long as the expansion does not create an additional nonconformity in regards to building height or setback. For example, if a commercial structure was built before the passage of the zoning ordinance in a Commercial District at a height of fifty feet and rear yard setback of ten then the structure could expand so long as it didn’t get any taller or get any closer than ten feet to the rear property line.

There are several factors to consider regarding this text amendment:

- The text amendment will streamline the process for the expansion of nonconforming uses by reducing the time from presenting at one Planning & Zoning Commission meeting and two City Council meetings to presenting at one Board of Adjustments meeting.

- The text amendment will provide land owners the opportunity to apply to the Board of Adjustments for permission to expand nonconforming uses. Land owners will still be able to seek a zone change through the traditional process, but the zone change process will not be the exclusive option to seek to expand nonconforming uses.
- The Board of Adjustments is a quasi-judicial body whose decisions are binding, cannot be appealed to the Planning & Zoning Commission or City Council, and can only be overturned by district court.
- The Board of Adjustments is an appointed board, not an elected board.

PROPOSED AMENDMENTS

Section 7: Nonconforming Uses & Structures

7.1 Nonconforming Uses

D. Expansions to legally nonconforming uses may be approved by the Board of Adjustments.

7.2 Nonconforming Structures

G. Expansions to legally nonconforming uses may be approved by the Board of Adjustments.

Section 9: Board of Adjustments (BOA)

9.4 Authority of Board of Adjustments:

A. The Board of Adjustments shall have the authority, subject to the standards established in Sections 211.008 through 211.011 of the Texas Local Government Code and those established herein, to exercise powers and to perform duties including the following:

4. Authorize, in specific cases, expansions to legally nonconforming uses or structures.

9.9 Expansion of Legally Nonconforming Uses

A. Granting Authority: The Board of Adjustments may authorize an expansion of a legally nonconforming use or structure when, in its opinion, the use and proposed structure is compatible with adjacent uses and will not negatively impact the health, safety, or welfare of adjacent properties.

B. Procedure: The Board of Adjustments shall consider the request to expand the legally nonconforming use or structure at the next available meeting.

9.10 Procedures

- A. **Application and Fee:** An application for a variance, special exception, appeal, or expansion of a legally nonconforming use or structure shall be made in writing using forms prescribed by the City, and shall be accompanied by an application fee in accordance with the Council adopted fee schedule, a required plan (see Section 12), and any other additional information as may be requested in order to properly review the application. There is no filing fee for an appeal filed by any officer, department, board, or bureau of the City affected by the decision.
- B. **Review and Report by the City:** The City Manager, or his/her designee, shall visit the site where the proposed variance, special exception, appeal, or expansion of a legally nonconforming use or structure will apply and the surrounding area, and shall report his/her findings to the Board of Adjustments.
- C. **Notice and Public Hearing:** The Board of Adjustments shall hold a public hearing for consideration of the variance, special exception, appeal, or expansion of a legally nonconforming use or structure request no later than sixty (60) calendar days after the date the application for action, or an appeal, is filed. Notice shall be published in the official local newspaper before the fifteenth (15th) calendar day prior to the public hearing. Written notice of the public hearing for a variance, special exception, or expansion of a legally nonconforming use shall also be sent to all owners of property, as indicated by the most recently approved City tax roll, that is located within the area of application and within two hundred feet (200) of an property affected thereby, said written notice to be sent before the tenth (10th) calendar day prior to the date such hearing is held. Such notice shall be served by using the last known address as listed on the most recently approved tax roll and depositing the notice, postage paid, in the regular United States mail.
- D. **Action by the Board of Adjustments:** The Board of Adjustments shall not grant a variance unless it finds, based upon compelling evidence provided by the applicant, that each of the conditions in Section 9.6 has been satisfied. The Board of Adjustments may impose such conditions, limitations and safeguards as it deems appropriate upon the granting of any variance, special exception, appeal, or expansion of a legally nonconforming use or structure as are necessary to protect the public health, safety, convenience and welfare. Violation of any such condition, limitation or safeguard shall constitute a violation of this Ordinance.
- E. **Burden of Proof:** The applicant bears the burden of proof in establishing the facts that may justify a variance, special exception, appeal, or expansion of a legally nonconforming use or structure in his/her favor by the Board.
- F. **Waiting Period:** No appeal to the Board for the same or a related variance, special exception, appeal, or expansion of a legally nonconforming use or structure on the same piece of property shall be allowed for a waiting period of 180 calendar days following an unfavorable ruling by the Board unless

other property in the immediate vicinity has, within the 180 calendar day waiting period, been changed or acted upon by the Board of the City Council so as to alter the facts and conditions upon which the previous unfavorable Board action was based. Such changes of circumstances shall permit the re-hearing of a variance, special exception, appeal, or expansion of a legally nonconforming use request by the Board, but such circumstances shall in no way have any force in law to compel the Board, after a hearing on the matter, to grant a subsequent variance, special exception, appeal, or expansion of a legally nonconforming use or structure request. Any subsequent variance, special exception, appeal, or expansion of a legally nonconforming use or structure request shall be considered entirely on its own merits and on the specific circumstances related to the subject property.

- G. Timeliness of Application for Building Permit or Certificate of Occupancy: Upon a favorable Board action on a variance, special exception, appeal, or expansion of a legally nonconforming use or structure request, the applicant shall apply for a building permit or certificate of occupancy, as applicable to his/her particular situation, within 180 calendar day time frame, then the variance, special exception, appeal, or expansion of a legally nonconforming use or structure shall be deemed to have expired, and all rights thereunder shall be terminated. Such termination shall be without prejudice to a subsequent appeal, and such subsequent appeal shall be subject to the same regulations and requirements for hearing as herein specified for the original variance, special exception, appeal, or expansion of a legally nonconforming use or structure request.

9.11 Finality of Decisions; Judicial Review:

PUBLIC COMMENT

A public hearing notice was published in the Tomball Tribune on Monday, June 27, 2011 and, as of the writing of this staff report, no public comments were received regarding this request.