

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



MONDAY, MAY 10, 2010

6:00 P.M.

Notice is hereby given of a meeting of the Planning and Zoning Commission, to be held on Monday, May 10, 2010 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 Consideration to Approve the Minutes of the Regular Planning and Zoning Commission Meeting of April 12, 2010.
- 4.0 New Business:

- 4.1 Consideration and Possible Action Regarding **ZONING CASE P10-226:** Request by Pete Terpstra to amend the City's Comprehensive Zoning Ordinance to rezone approximately 5.3584 acres of land, legally described as Tract 2 out of the Sam Lewis Survey, Abstract Number 1704, within the City of Tomball, Harris County, Texas, generally located on the westerly side of State Highway 249, southerly of Alice Road, from the AG-Agricultural District to the C-Commercial District.
- Conduct a Public Hearing on **ZONING CASE P10-226**
- 4.2 Consideration and Possible Action Regarding **ZONING CASE P10-225:** Request by Pete Terpstra to amend the City's Comprehensive Zoning Ordinance to rezone approximately 6.3637 acres of land, legally described as Tracts 2B, 2Y-1, and 2Z out of the C.N. Pillot Survey, Abstract Number 632, within the City of Tomball, Harris County, Texas, generally located on the westerly side of State Highway 249, northerly of Holderrieth Road, from the AG-Agricultural District to the C-Commercial District.
- Conduct a Public Hearing on **ZONING CASE P10-225**
- 4.3 Consideration and Possible Action Regarding **TOMBALL MEDICAL PLAZA FINAL PLAT:** Being a Plat of 2.8278 Acres out of Tract 13, 1.4635 Acre Tract Recorded under File No. J064863 and Tract No. 12, 1.3643 Acre Tract Recorded under File No. J089622 of the Harris County Map Records, Situated in The William Hurd Survey, Abstract 378, Harris County, Texas, 1 Block, and 1 Lot.
- 4.4 Consideration and Possible Action Regarding **TOMBALL CENTER III – B2, REPLAT NO. 2:** 7.8351 Acres, Being a partial Replat of Reserves "A" & "B" of Tomball Center III – B2, Replat No. 1, Film Code Number 625078 H.C.M.R. located in the Joseph House Survey, Abstract Number 34, Harris County, Texas, 1 Block, 2 Reserves.

5.0 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 6th day of May 2010 by 5:00 p.m., and remained posted for at least 72 continuous hours proceeding the scheduled time of said meeting.

Doris Speer

Doris Speer

City Secretary, TRMC

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

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

Regular Planning and Zoning Commission
Agenda Item
Data Sheet

Meeting Date: May 10, 2010

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: May 10, 2010

Data Sheet

Topic:

Consideration to Approve the Minutes of the Regular Planning and Zoning Commission Meeting of April 12, 2010.

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 04.12.10

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

MONDAY, APRIL 12, 2010



6:00 P.M.

1.0 Call to Order

The meeting was called to order by Chairman Crofoot at 6:02 p.m. Other members present were:

Commissioner O'Donnell
Commissioner Wallace
Commissioner Dodson
Commissioner Mottershaw

Others present:

Director of Engineering and Planning – Mark McClure
City Planner / Community Development Coordinator – Kelly Violette
Engineering & Planning Administrative Assistant – Brandy Pate
City Attorney – Bill Olson

draft

2.0 No Public Comments were received.

3.0 No Reports or Announcements were received.

4.0 Motion was made by Commissioner Dodson to Approve the Minutes of the Regular Planning and Zoning Commission Meeting of March 8, 2010; second by Commissioner O'Donnell.

Motion carried unanimously.

Discussion/Action of the Following Items:

5.0 New Business:

5.1 Consideration and Possible Action Regarding ZONING CASE P10-206: Request by Brian Matthews, on behalf of Crescent Directional Drilling, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 5.006 acres of land, legally described as Tract 281 Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located on the westerly side of South Persimmon Street, northerly of Agg Road from the SF-20-E Single-Family Estate Residential-20 District to the LI - Light Industrial District.

The Public Hearing was opened by Chairman Crofoot at 6:04 p.m.

Kelly Violette, City Planner presented the staff report.

Applicant, Brian Matthews of Protective Concepts spoke on behalf of the request.

James Stubbs of 5923 Rutherglenn, Houston, Texas, a real estate agent representing the seller spoke in favor of the request.

Sam Pisano, property owner at S. Persimmon and Lizzie Lane, spoke in favor of the request.

John Ford, resident of 930 Agg Road, spoke in opposition of the request.

Higinio Sanchez, property owner on Persimmon, spoke in favor of the request.

The Public Hearing was closed at 6:24 p.m.

Commissioner Dodson made a motion to recommend Approval of **ZONING CASE P10-206**; second by Commissioner Wallace.

Vote was as follows:

Commissioner Crofoot	<u>Nay</u>
Commissioner Wallace	<u>Aye</u>
Commissioner Dodson	<u>Aye</u>
Commissioner O'Donnell	<u>Nay</u>
Commissioner Mottershaw	<u>Nay</u>

Motion failed 2-3.

Commissioner O'Donnell made a motion to DENY **ZONING CASE P10-206**; second by Commissioner Mottershaw.

Vote was as follows:

Commissioner Crofoot	<u>Aye</u>
Commissioner Wallace	<u>Nay</u>
Commissioner Dodson	<u>Nay</u>
Commissioner O'Donnell	<u>Aye</u>
Commissioner Mottershaw	<u>Aye</u>

Motion carried 3-2.

- 5.2 Consideration and Possible Action Regarding **ZONING CASE P10-208**: Request by Tomball Independent School District to amend the Comprehensive Zoning Ordinance to rezone approximately 2.456 acres of land, legally described as all of Block 16,

Tomball Townsite, from the SF-6 Single-Family Residential-6 and OT&MU Old Town and Mixed Use Districts to the OT&MU Old Town and Mixed Use District and Lots 25 through 36, Block 23, Tomball Townsite, from the SF-6 Single-Family Residential-6 District to the OT&MU Old Town and Mixed Use District within the City of Tomball, Harris County, Texas, both tracts of property being generally located on the westerly side of South Cherry Street, southerly of Fannin Street.

The Public Hearing was opened by Chairman Crofoot at 6:34 p.m.

Rodney Schmidt, Assistant City Planner presented the staff report.

Applicant, Gary Hutton of 2306 Colonial Springs, Spring, Texas, spoke on behalf of the request.

Tina Evans, resident of 308 Florence, stated no objection to the request, but requested clarification of project proposal.

The Public Hearing was closed at 6:47 p.m.

Commissioner Wallace made a motion to recommend Approval of **ZONING CASE P10-208**; second by Commissioner Mottershaw.

Vote was as follows:

Commissioner Crofoot	<u>Aye</u>
Commissioner Wallace	<u>Aye</u>
Commissioner Dodson	<u>Aye</u>
Commissioner O'Donnell	<u>Aye</u>
Commissioner Mottershaw	<u>Aye</u>

Motion carried unanimously.

- 5.3 Consideration and Possible Action Regarding **ZONING CASE P10-218**: Request by Russ Brown, on behalf of PCOT Investments, Inc., to amend Section 38 (Use Regulations) of the City's Comprehensive Zoning Ordinance to establish a Model Home and Temporary Real Estate Sales Office use in all zoning districts that permit Residential Use either by right or conditionally, to amend Section 43 (Supplemental Regulations) to add standards for development related to model home and temporary real estate sales office use, and to amend Section 45 (Definitions) to amend and add the definitions related thereto.

The Public Hearing was opened by Chairman Crofoot at 6:48 p.m.

Kelly Violette, City Planner presented the staff report.

Applicant / Owner, Russ Brown of 22529 Tomball Cemetery Rd. spoke on behalf of the request.

No public comments were received and the Public Hearing was closed at 6:47 p.m.

Commissioner O'Donnell made a motion to recommend Approval of **ZONING CASE P10-218**; second by Commissioner Mottershaw.

Vote was as follows:

Commissioner Crofoot	<u>Aye</u>
Commissioner Wallace	<u>Aye</u>
Commissioner Dodson	<u>Aye</u>
Commissioner O'Donnell	<u>Aye</u>
Commissioner Mottershaw	<u>Aye</u>

Motion carried unanimously.

- 5.4 Consideration and Possible Action Regarding **TOMBALL MEDICAL PLAZA PRELIMINARY PLAT**: Being a Plat of 2.8278 Acres out of Tract 13, 1.4635 Acre Tract Recorded under File No. J064863 and Tract No. 12, 1.3643 Acre Tract Recorded under File No. J089622 of the Harris County Map Records, Situated in The William Hurd Survey, Abstract 378, Harris County, Texas, 1 Block, and 1 Lot.

Mark McClure, Director of Engineering & Planning presented comment recommendations.

Commissioner Dodson made a motion to Approve **TOMBALL MEDICAL PLAZA PRELIMINARY PLAT**; with contingencies, second by Commissioner Wallace.

Motion carried unanimously.

- 5.5 Consideration and Possible Action Regarding **FINAL PLAT OF PARKWAY OASIS PARTIAL REPLAT NO. 1**: Being a subdivision of a 7.5797 Acre Tract of Land in the William Hurd Survey, Abstract No. 378 and in the John Hooper Survey, Abstract No. 375 City of Tomball, Harris County, Texas, 4 Lots, and 1 Block.

Mark McClure, Director of Engineering & Planning presented comment recommendations.

Commissioner Wallace made a motion to Approve **FINAL PLAT OF PARKWAY OASIS PARTIAL REPLAT NO. 1**; with contingencies, second by Commissioner Dodson.

Motion carried unanimously

- 5.6 Consideration and Possible Action Regarding **FINAL PLAT KLEIN ISD ELEMENTARY SCHOOL NO 28**: Being a Replat of Lots 485, 486 & Part of Lot 484 of the Five Acre Tracts Tomball Townsite Vol. 2, Pg. 65 H.C.M.R. A Subdivision of 19.0042 Acres out of the J. Pruitt Survey, Abstract No. 629, Harris County, Texas, 1 Block and 1 Reserve.

Mark McClure, Director of Engineering & Planning presented comment recommendations.

Commissioner Dodson made a motion to Approve **FINAL PLAT KLEIN ISD ELEMENTARY SCHOOL NO 28**; with contingencies, second by Commissioner Mottershaw.

Motion carried unanimously.

- 5.7 Consideration and Possible Action Regarding **PRELIMINARY PLAT OF MAPLE GROUP, LTD**: Being a Subdivision of 111.4940 Acres of land out of the Claude N. Pillot Survey, Abstract 632, and the Jesse Pruitt Survey, Abstract 629, City of Tomball, Harris County, Texas, 8 Lots, 4 Blocks, and 2 Reserves.

Mark McClure, Director of Engineering & Planning presented comment recommendations.

Commissioner Wallace made a motion to DENY **PRELIMINARY PLAT OF MAPLE GROUP, LTD**; second by Commissioner O'Donnell.

John Gerdes, Civil Engineer of Texas Land Engineers spoke on behalf of the plat / project.

Owner, Richard Meeks spoke on behalf of the plat / project.

Motion to DENY carried unanimously.

- 6.0 Motion was made by Commissioner O'Donnell to adjourn; second by Commissioner Mottershaw.

Motion carried unanimously.

Meeting adjourned at 7:43 p.m.

PASSED AND APPROVED this _____ day of _____ 2010.

Brandy Pate
P&Z Commission Secretary

Tom Crofoot
Chairman

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: May 10, 2010

Data Sheet

Topic:

Consideration and Possible Action Regarding **ZONING CASE P10-226**: Request by Pete Terpstra to amend the City's Comprehensive Zoning Ordinance to rezone approximately 5.3584 acres of land, legally described as Tract 2 out of the Sam Lewis Survey, Abstract Number 1704, within the City of Tomball, Harris County, Texas, generally located on the westerly side of State Highway 249, southerly of Alice Road, from the AG-Agricultural District to the C-Commercial District.

- Conduct a Public Hearing on **ZONING CASE P10-226**

Background:

Origination:

Pete Terpstra

Recommendation:

Funding:

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

Engineering and Planning Department

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

ATTACHMENTS:

Notice of Public Hearing

Property Owner Notification Letter

P10-226 Staff Report

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
MAY 10, 2010
&
CITY COUNCIL
MAY 17, 2010**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, May 10, 2010, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, May 17, 2010, at 7:00 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 P10-225: Request by Pete Terpstra to amend the City's Comprehensive Zoning Ordinance to rezone approximately 6.3637 acres of land, legally described as Tracts 2B, 2Y-1, and 2Z out of the C.N. Pillot Survey, Abstract Number 632, within the City of Tomball, Harris County, Texas, generally located on the westerly side of State Highway 249, northerly of Holderrieth Road, from the AG-Agricultural District to the C-Commercial District.

ZONING CASE P10-226: Request by Pete Terpstra to amend the City's Comprehensive Zoning Ordinance to rezone approximately 5.3584 acres of land, legally described as Tract 2 out of the Sam Lewis Survey, Abstract Number 1704, within the City of Tomball, Harris County, Texas, generally located on the westerly side of State Highway 249, southerly of Alice Road, from the AG-Agricultural District to the C-Commercial District.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on one or more of the above cases, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning and Zoning Commission. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX 77375. **Contact City Planner** Kelly Violette, (281) 290-1491, kviolette@ci.tomball.tx.us

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 6th day of May 2010 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: P10-226

APPLICANT: Pete Terpstra

LOCATION: Westerly side of State Highway 249, southerly of Alice Road

PROPOSAL: Request to amend the City's Comprehensive Zoning Ordinance to rezone approximately 5.3584 acres of land, legally described as Tract 2 out of the Sam Lewis Survey, Abstract Number 1704, within the City of Tomball, Harris County, Texas, from the AG-Agricultural District to the C-Commercial District.

* * *

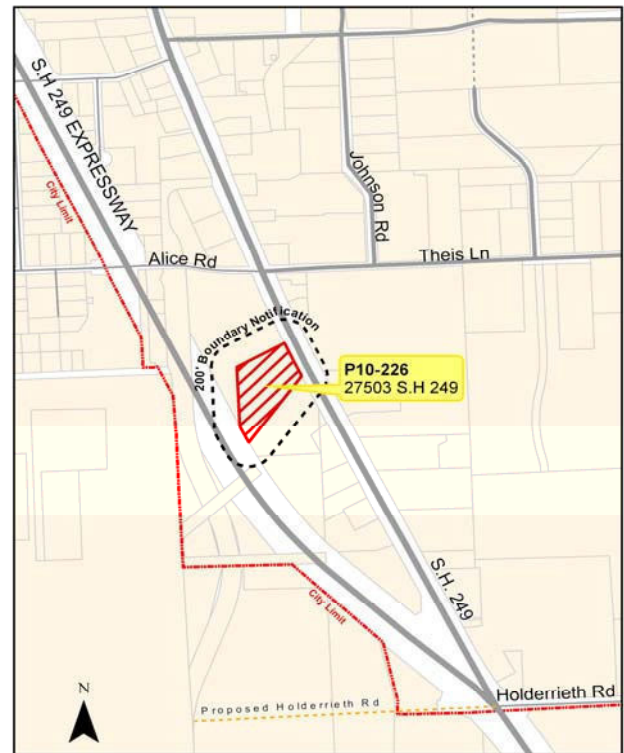
CONTACT PLANNER: Kelly Violette

PHONE: (281) 290-1491

E-MAIL: kviolette@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, May 10, 2010, 6:00 PM**

**City Council Public Hearing:
*Monday, May 17, 2010, 7:00 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: May 10, 2010

Rezoning Case: P10-226
Property Owner(s): Peter S. Terpstra
Applicant(s): Peter S. Terpstra
Legal Description: Tract 2 out of the Sam Lewis Survey, Abstract Number 1704, within the City of Tomball, Harris County, Texas
Location: 27503 Tomball Parkway (Generally located between SH 249 Bypass (Tomball Expressway) and SH 249 Business, southerly of Alice Road)
Area: 5.3584 acres
Present Zoning and Use: AG-Agricultural District / Commercial (Tomball Parkway Business Center)
Comp Plan Designation: Commercial
Proposed Zoning and Use: C-Commercial District / Office, office warehouse, retail, etc.

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: AG-Agricultural / Manufactured Home Display and Sales
South: C-Commercial / Mini-Storage/Warehouses
East: C-Commercial / SH 249 Business and retail uses
West: ETJ (unzoned) / SH 249 Bypass (Tomball Expressway), vacant land, and energy distribution facility

BACKGROUND

The subject site is a 5.3584 acre tract legally described as Tract 2 out of the Sam Lewis Survey, Abstract Number 1704, within the City of Tomball, Harris County, Texas. The site is generally located on the westerly side of State Highway 249 Business, southerly of Alice Road and is bound on the west by the SH 249 Bypass (Tomball Expressway) (Exhibit "C"). The property is known as the Tomball Parkway Business Center and is currently developed with two brick-clad commercial buildings totaling approximately 26,122 square feet in size that primarily house transportation and auto service related uses (Fig. 1). The southerly two-thirds of the site is largely undeveloped, however a Purple Heart clothing donation trailer is situated near the SH

249 Business frontage (Fig. 2). Aerial photos indicate that this portion of the site was previously utilized as a sales/display location for portable and modular buildings; however the use it not presently operating on the site at this time.

The subject site was annexed into the City of Tomball on December 1, 2008 as part of the 172.812 acre SH 249 Bypass (Tomball Expressway) Road Right-of-Way annexation (Exhibit "I"). Because the subject site was annexed after the passage of the Zoning Ordinance and because a concurrent rezoning request was not filed by the property owner, the subject site was given a zoning classification of AG-Agricultural District. Section 6.1 of the Zoning Ordinance states, "For any period of time following official annexation by the City until a zoning action has been officially adopted to zone the land, the interim zoning of the land shall be considered to be Agricultural ('AG'), and all zoning and development regulations of the 'AG' zoning district shall be adhered to with respect to the development and use of the land."

On March 11, 2010, City staff met with a tenant of the Tomball Parkway Business Center, Mr. Ken Harvey, regarding a proposed ambulance service at the subject site. Earlier that day, Mr. Harvey had been issued a stop work order by the City after the City's Fire Marshal observed contractor's performing interior renovations to one of the lease spaces without City permits. During the March 11th meeting, Mr. Harvey was informed that the property was zoned AG-Agricultural District and his proposed use as an ambulance service was not permitted in that zoning district.

As a matter of information, Section 43.002 of the Texas Local Government Code provides for the continuation of land use in the manner in which the land was being used prior to annexation. However, the ambulance service was not operating at the location at the time of annexation and therefore constitutes a new use and not a continuation of the existing land uses typically associated with the Tomball Parkway Business Center.

On March 17, 2010, City staff met with the property owner's representatives to discuss the zoning issues associated with the proposed ambulance service. Staff informed the representatives that the property was annexed into the City of Tomball in December 2008, the property was given an initial zoning classification of AG-Agricultural, and that the ambulance service would not be permitted until the property was rezoned to a district permitting such a use. Additionally, staff explained that the property has a Future Land Use designation of "Commercial" under the City's adopted Comprehensive Plan and that a rezoning request to the C-Commercial District would be consistent with this designation and would permit an ambulance service land use. The property owner's representatives expressed intent to rezone the subject site in order to get the zoning classification in line with the site's existing and future uses. Additionally, the representatives indicated that the property owner also owned 6.3637 acres of land southerly of the subject site and that a rezoning of that property to the C-Commercial District would also be requested.

On March 31, 2010, the applicant submitted rezoning applications to rezone the subject site as well as Tracts 2B, 2Y-1, and 2Z (Zoning Case P10-225) to the south of the property from the AG-Agricultural District to the C-Commercial District.

ANALYSIS

According to the Tomball Zoning Ordinance, the C-Commercial District “is intended to provide a location for commercial and service-related establishments, such as wholesale product sales, welding/contractors shops, automotive repair services, upholstery shops, and other similar commercial uses. Some light manufacturing may also be allowed with certain conditions. The uses envisioned for the district will typically utilize smaller sites and have operation characteristics which are generally not compatible with residential uses and some nonresidential uses. Convenient access to thoroughfares and collector streets is also a primary consideration.”

The applicant is requesting the rezoning to bring the property’s zoning classification in line with the uses already established on the site and to permit office, office warehouse, retail, and other related uses in the future (Exhibit “D”).

The uses in the general vicinity of the subject site are predominately commercial and retail related (Exhibit “C”). To the north of the subject site is a manufactured home display and sales location operated by Luv Homes, to the south is a mini-storage/warehouse facility (Excel Storage), to the east of the site (across SH 249 Business) is the Wal-Mart shopping center, and to the west of the site is the SH 249 Expressway ROW, vacant land, and an energy distribution facility in portions of the unzoned extraterritorial jurisdiction (ETJ) (Exhibit “A”).

The proposed rezoning to the C-Commercial District is consistent with the “Commercial” Comprehensive Plan land use designation (Exhibit “B”). The Comprehensive Plan states that the Commercial land use designation “is where retail sales and service activities should occur. These uses include but are not limited to shopping centers, convenience stores, auto dealers, department stores, grocery and drug stores, entertainment facilities, food and beverage purveyors, salons, and small repair shops.” Additionally, the “Commercial Planning Guidelines” outlined in the Comprehensive Plan provide that commercial development is to be compatible with surrounding land uses and that consideration for the impacts of commercial development on the local and regional roadway network shall be determined.

Due to the fact that the requested rezoning is consistent with the Comprehensive Plan’s Future Land Use Plan Map, is consistent with the existing and intended uses in the area, and will help support the commercial development pattern along the SH 249 Business corridor and future commercial development along the SH 249 Bypass (Tomball Expressway), staff is supportive of the rezoning request.

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.

The uses in the general vicinity of the subject site are predominately commercial and retail related. To the north of the subject site is a manufactured home display and sales location operated by Luv Homes, to the south is a mini-storage/warehouse facility (Excel Storage), to the east of the site (across SH 249 Business) is the Wal-Mart shopping center, and to the west of the site is the SH 249 Expressway ROW, vacant land, and an energy distribution facility in portions of the unzoned extraterritorial jurisdiction (ETJ).

As such, the rezoning and permitted land uses in the C-Commercial District would be in keeping with the existing and intended land uses in the vicinity.

Any future development/redevelopment of this site will require compliance with the City's land use and development regulations.

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.

There is currently sufficient water, sewer, and gas capacity in the area to service this site (Exhibit "H"). Future development/redevelopment of the site may require the extension of utilities to and through the site.

SH 249 Business and SH 249 Bypass (Tomball Expressway) are designated as "State Highways" on the adopted Major Thoroughfare Plan (MTP). The MTP states, "The main purpose of State Highways and FM Roadways is to move large volumes of traffic through urban areas and provide direct access to local freeways, while also providing controlled access to adjacent businesses." The right-of-way for State Highway 249 and State Highway 249 Expressway has been acquired in the vicinity and the impacts to these roadways due to the rezoning of the site are anticipated to be minimal.

The development of the site for commercial purposes would not impact the public school system as it would not increase attendance to the school system.

As a matter of information, any further future development of the site will likely result in increased impermeable area, thereby altering absorption rates and increasing surface runoff. Drainage improvements shall comply with the requirements of the City's Engineering and Public Works Departments.

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

There are a limited number of undeveloped properties zoned C-Commercial District in the immediate vicinity (Exhibit "C"). However, there is a large amount of vacant land available along Holderrieth Road and in the rest of the City of Tomball that is zoned C-Commercial District. Most of the undeveloped acreage along SH 249 and SH 249 Expressway south of Alice Road (within the City of Tomball) is zoned AG-Agricultural District because of the December 2008 annexation, however it is anticipated that these properties will be rezoned at some point in the future to accommodate future commercial growth.

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.

The subject property is located in an area that is developed with extensive commercial uses. The surrounding commercial and retail uses have developed steadily for a number of years due to the high traffic volumes and visibility on SH 249.

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

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

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

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

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

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

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

The request is consistent with the Comprehensive Plan’s land use designation (Exhibit “B”). The Comprehensive Plan states that the Commercial land use “is where retail sales and service activities should occur. These uses include but are not limited to shopping centers, convenience stores, auto dealers, department stores, grocery and drug stores, entertainment facilities, food and beverage purveyors, salons, and small repair shops. Small professional office uses such as physicians, accountants, or therapy offices would be permitted.”

Additionally, the “Commercial Planning Guidelines” aim to ensure commercial development compatibility with surrounding land uses and provide proper transitions, buffers, or architectural reliefs to minimize negative impacts to adjacent uses.” The proposed rezoning of the property to the C-Commercial District is consistent with the Comprehensive Plan’s Future Land Use Plan Map, will help to ensure commercial land use consistency along the SH 249 corridor, and will enhance the area’s long-term economic viability.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on April 30, 2010 and, as of the writing of this report, no public comment forms were received.

RECOMMENDATION

That the Planning and Zoning Commission recommend:

1. APPROVAL of Zoning Case P10-226 based on the following:
 - a. The proposed zoning of C-Commercial District will be compatible with the land uses in the vicinity.
 - b. The proposed zoning of C-Commercial District is compatible with the Tomball Comprehensive Plan.
 - c. The proposed zoning of C-Commercial District will not negatively impact public schools, streets, water supply, sanitary sewers, or other utilities to the area.
 - d. There is sufficient utility capacity to service commercial uses on this site.
2. APPROVAL of the staff report as the Planning and Zoning Commission's final recommendation to the City Council.

EXHIBITS

- A. Location/Zoning Map
- B. Comprehensive Plan Future Land Use Map
- C. Aerial Photo
- D. Rezoning Application
- E. Rezoning Request Letter
- F. Metes and Bounds
- G. Property Survey
- H. Utility Block Map
- I. Ordinance 2008-32 Annexation Map
- J. Site Photos

Exhibit "A"
Location/Zoning Map

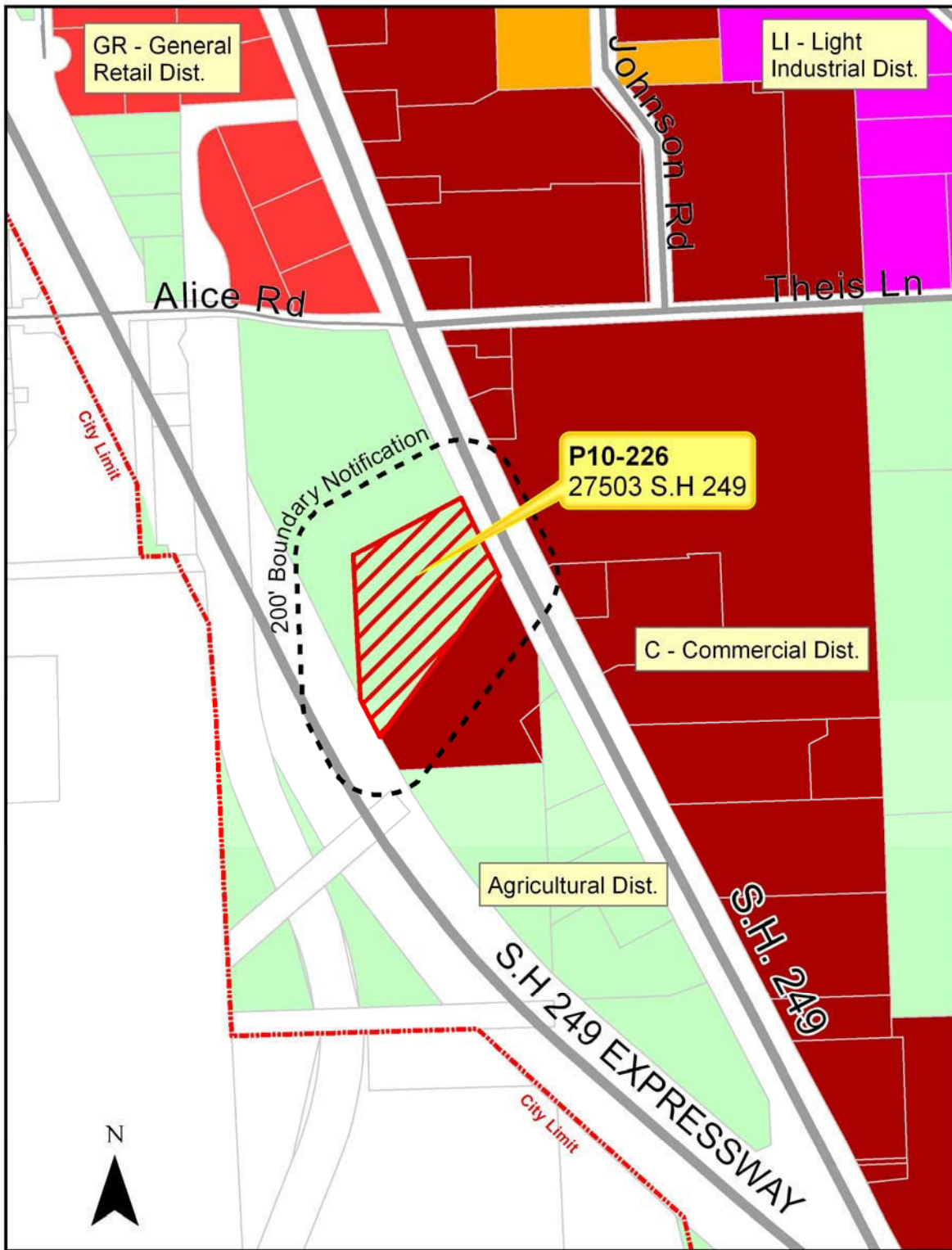


Exhibit "B"
Comprehensive Plan Future Land Use Map

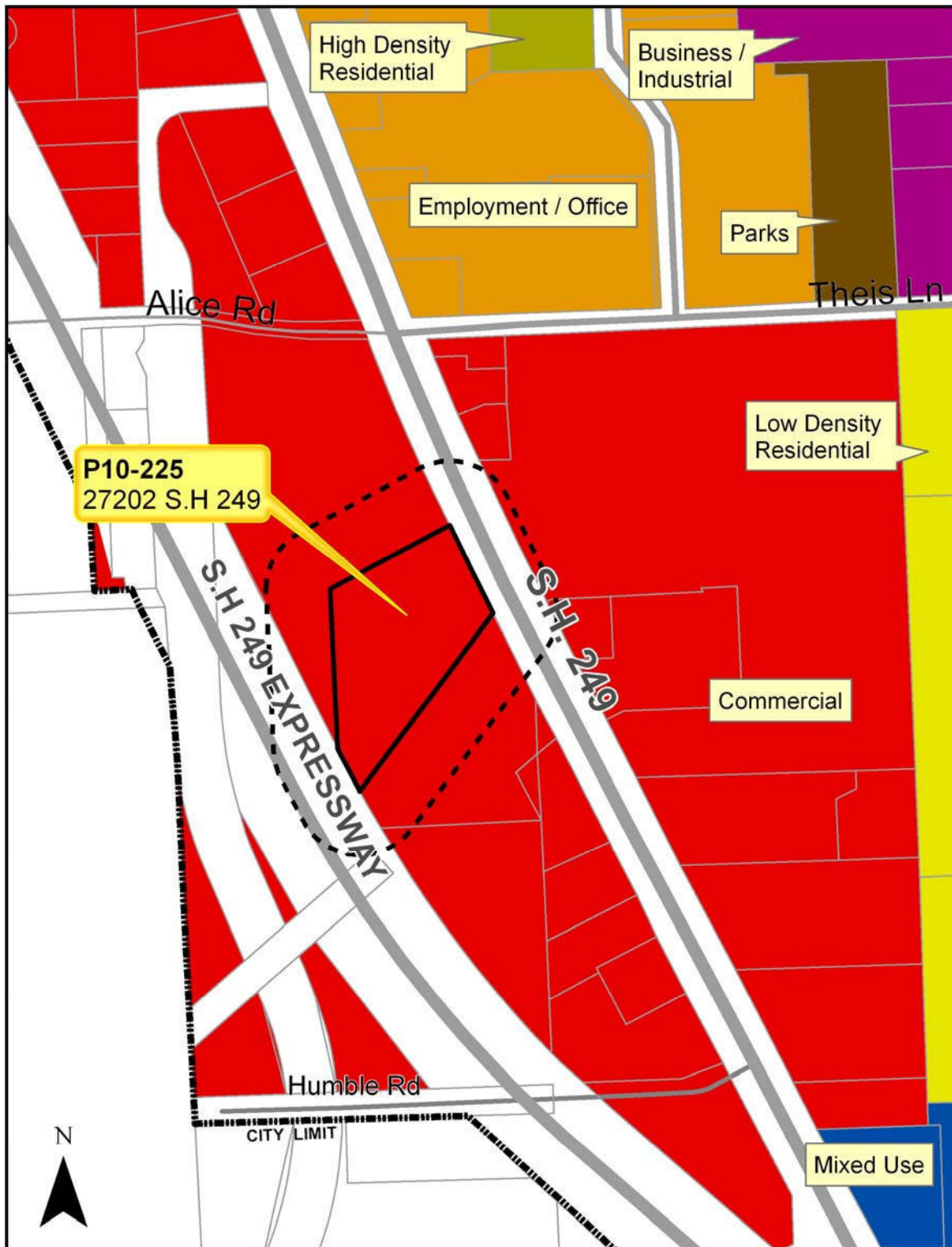
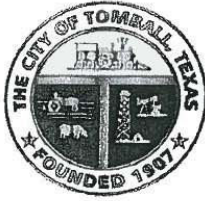


Exhibit "C"
Aerial Photo

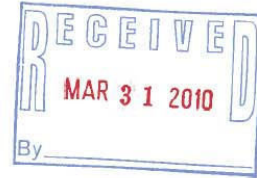


Exhibit "D"
Rezoning Application

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: PETER S. TERPSTRA Title: _____
Mailing Address: 14343-B TORREY CHASE BLVD City: HOUSTON State: TX
Zip: 77014
Phone: (281) 580-4855 Fax: (281) 580-3808 Email: terprealestate@mind.spring.com

Owner

Name: PETE TERPSTRA, TRUSTEE Title: OWNER
Mailing Address: 14343-B TORREY CHASE BLVD City: HOUSTON State: TX
Zip: 77014
Phone: (281) 580-4855 Fax: (281) 580-3808 Email: terprealestate@mind.spring.com

Engineer/Surveyor (if applicable)

Name: JOHN G. THOMAS Title: THOMAS LAND SURVEYING
Mailing Address: 14340 TORREY CHASE BLVD City: HOUSTON State: TX
Zip: 77014
Phone: (281) 440-7730 Fax: (281) 440-7737 Email: john@thomaslandsurveying.com

Description of Proposed Project: COMMERCIAL OFFICE, OFFICE WAREHOUSE, RETAIL, ETC.

Physical Location of Property: WEST SIDE OF TOMBOLL PARKWAY
635 FT SOUTH OF ALICE ROAD
[General Location - approximate distance to nearest existing street corner]

Legal Description of Property: 5.3584 ACRES OUT OF THE SAM LEWIS SURVEY, A-1704
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: AG

Current Use of Property: COMMERCIAL

Proposed Zoning District: COMMERCIAL

Proposed Use of Property: OFFICE, OFFICE WAREHOUSE, RETAIL, ETC.

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

www.ci.tomball.tx.us

HCAD Identification Number: 048-241-000-0002 Acreage: 5.3584 ACRES

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 Peter P. Despotis 3/31/10
Signature of Applicant Date

X Peter P. Despotis 3/31/10
Signature of Owner Date

Exhibit "E"
Rezoning Request Letter

Thomas Land Surveying
Surveying · Planning · Project Management

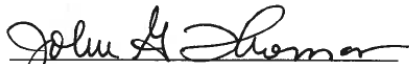
March 31, 2010

Reference: 5.3584 Acres
Sam Lewis Survey, A-1704
Tomball, Harris County, Texas

To Whom It May Concern:

We have requested a zoning change on the referenced tract from ag zoning to Commercial zoning as the tract is proposed to be and currently is used for commercial purposes.

Respectfully


John G. Thomas

14340 Torrey Chase Boulevard · Suite 270 · Houston, Texas 77014
(281) 440-7730 · Fax (281) 440-7737
www.thomaslandsurveying.com

Exhibit "F"
Metes and Bounds

Thomas Land Surveying

Surveying • Planning • Project Management

March 31, 2010
5.3584 Acres

Fieldnotes for a 5.3584 acre tract of land out of the Sam Lewis Survey, abstract No. 1704, in Harris County, Texas, being that same tract of land conveyed to Pete Terpstra, Trustee as described in instrument recorded under County Clerk's File NO. N357294 of the Real Property Records of Harris County, Texas, and being out of and a part of that certain 11.0045 acre tract of land (called 11.054 acres) described in deed recorded under Film Code no. 158-22-0813 of the said Real Property records, said 5.3584 acres being more particularly described by metes and bounds as follows:

BEGINNING at a ½ inch steel pipe found in the Southwesterly line of State Highway No. 249 (also known as Tomball Parkway), based on a 180.00 foot right-of-way, marking the most Northerly or Northeasterly corner of the said 11.0045 acre tract and the herein described tract, said point also being the Southeast corner of a residue tract of 145.78 acres of land conveyed to Ralph Lewis Frapart, et al and described as Tract 6 in instrument recorded under County Clerk's File No. F014298 of the said Real Property Records of;

Thence, in a Southeasterly direction with the Southwesterly line of State Highway No. 249 and with a curve to the left, having a radius of 11,549.16 feet and a central angle of 1°29'53" (chord bearing South 24°54'39" East, 301.96 feet), an arc distance of 301.96 feet to a ½ inch steel rod set for the Southeast corner of the herein described tract, said point being the most Northerly or Northeast corner of that certain 5.2445 acre tract of land conveyed to Iamcam Investors, LLC as described in deed recorded under County Clerk's File No. 20070114155 of the said Real Property Records;

Thence, South 36°49'00" West, 693.70 feet with the Northwesterly line of the said 5.2445 acre tract to a ½ inch steel rod with cap set in the Northeasterly line of State Highway No. 249 (By Pass) for the most Southerly or Southwesterly corner of the herein described tract, said point also being the Northwest corner of the said 5.2445 acre tract, said point also being in a non-tangent curve to the right having a radius of 3644.72 feet and a central angle of 02°07'47";

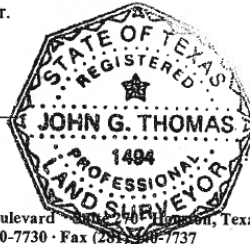
Thence, in a Northwesterly direction with the Northeasterly line of said State Highway 249 (By Pass) and with the said curve to the right having a radius of 3644.72 feet (chord bearing North 27°29'47" West, 135.47 feet), an arc distance of 135.48 feet to a 5/8 inch steel rod found at an angle point, said point, said point also being a Southerly corner of the residue of the aforesaid 145.78 acre tract, said point also being in the West line of the said 11.0045 acre tract;

Thence, North 02°27'59" West, 514.61 feet with the West line of the said 11.0045 acre tract and an Easterly line of the said residue tract to a ½ inch steel rod found marking the Northwest corner of the said 11.0045 acre tract and the herein described tract, said point being an inside ell corner to the right of the said residue tract;

Thence, North 62°25'33" East, 421.04 feet with the North line of the said 11.0045 acre tract and a Southerly line of the said residue tract to the POINT OF BEGINNING and containing 5.3584 acres or 233,411 square feet of land, more or less.

This description is based on the Land Title Survey and Plat (Job No. 11701 made under the direction of John G. Thomas, Registered Professional Land Surveyor.


John G. Thomas, R.P.L.S. No. 1494



14340 Torrey Chase Boulevard • Houston, Texas 77014
(281) 440-7730 • Fax (281) 440-7737
www.thomaslandsurveying.com

**Exhibit “G”
Property Survey**

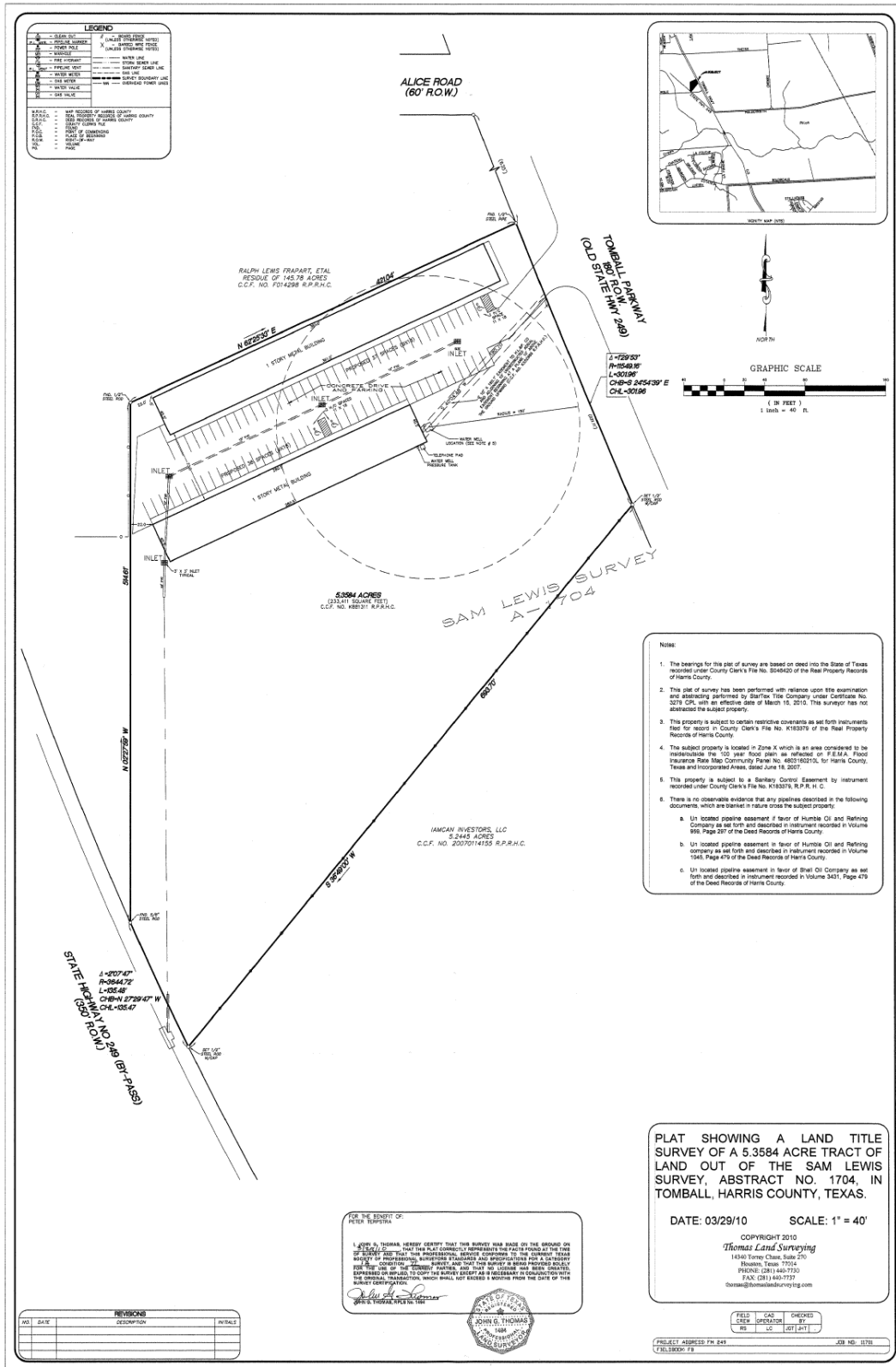


Exhibit “H”

Utility Block Map

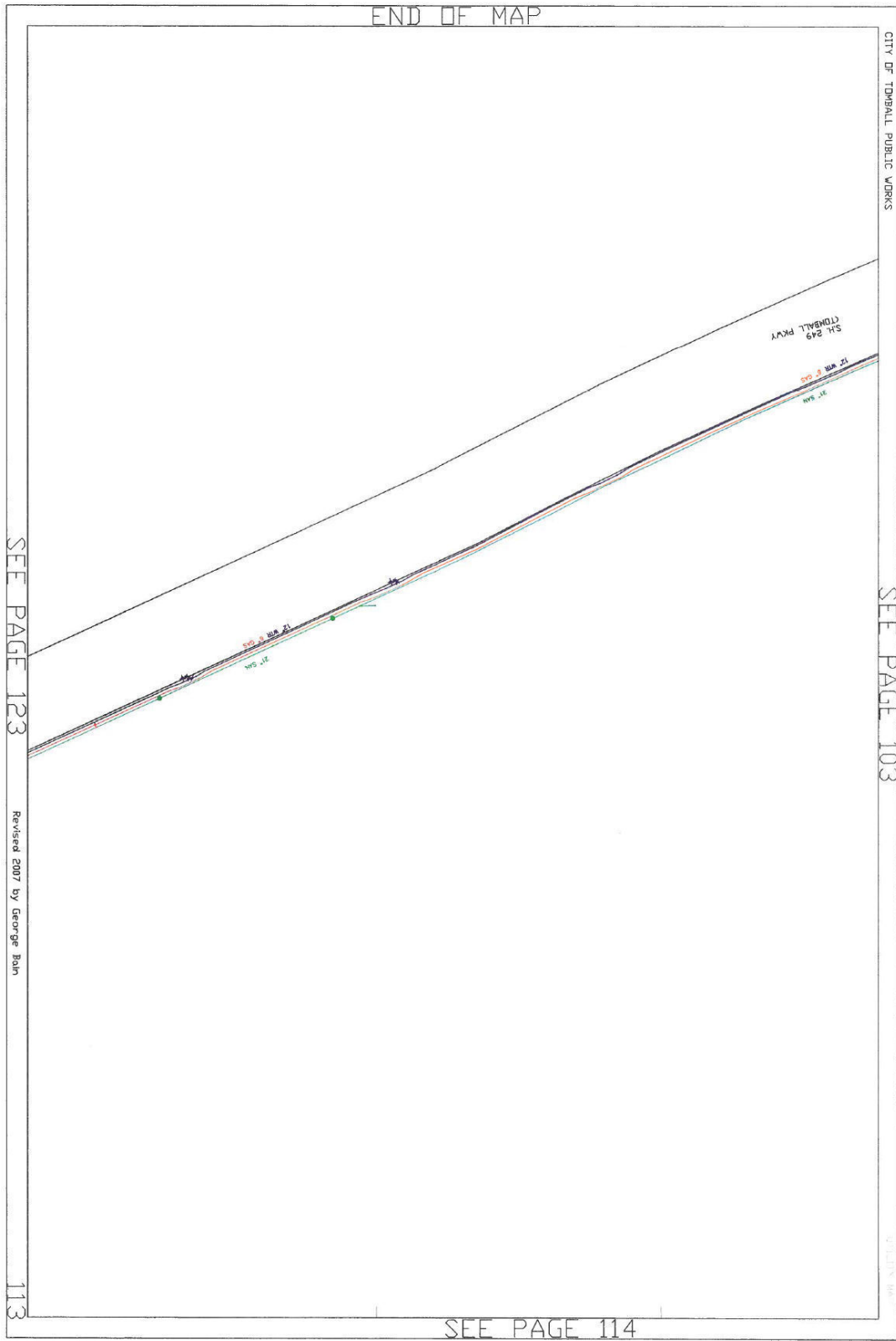
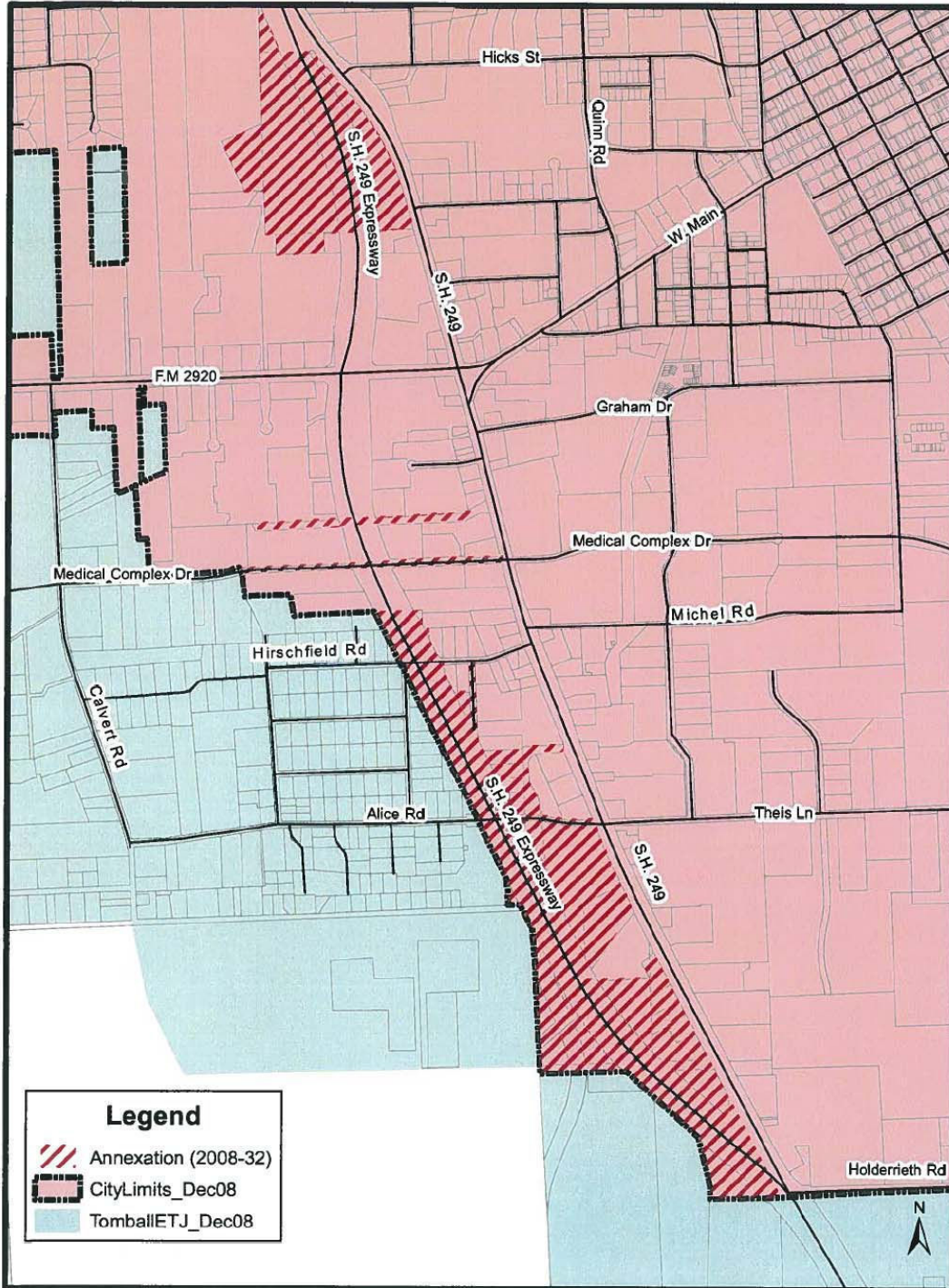


Exhibit "I"
Ordinance 2008-32 Annexation Map

City of Tomball Annexation (Ordinance #:2008-32)



Date Created: 2/26/09
Map Created By: City of Tomball
Engineering & Planning Dept.

**Exhibit “J”
Site Photos**



Figure 1: Northwesterly view of subject site.



Figure 2: Southerly view of subject site.



Figure 3: Northerly view up SH 249. Subject site to the left of photographer. Various retail and commercial uses on left and right.



Figure 4: Easterly view from subject site. SH 249 ROW and Wal-Mart.



Figure 5: Southerly view down SH 249. Subject site on right. Various retail and commercial uses on left and right.



Figure 6: Northeasterly view of largely undeveloped portion of SH 249 Expressway. Subject site in center left of photo.

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: May 10, 2010

Data Sheet

Topic:

Consideration and Possible Action Regarding **ZONING CASE P10-225**: Request by Pete Terpstra to amend the City's Comprehensive Zoning Ordinance to rezone approximately 6.3637 acres of land, legally described as Tracts 2B, 2Y-1, and 2Z out of the C.N. Pillot Survey, Abstract Number 632, within the City of Tomball, Harris County, Texas, generally located on the westerly side of State Highway 249, northerly of Holderrieth Road, from the AG-Agricultural District to the C-Commercial District.

- Conduct a Public Hearing on **ZONING CASE P10-225**

Background:

Origination:

Pete Terpstra

Recommendation:

Funding:

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

Engineering and Planning Department

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

ATTACHMENTS:

Notice of Public Hearing

Property Owner Notification Letter

P10-225 Staff Report

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
MAY 10, 2010
&
CITY COUNCIL
MAY 17, 2010**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, May 10, 2010, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, May 17, 2010, at 7:00 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 P10-225: Request by Pete Terpstra to amend the City's Comprehensive Zoning Ordinance to rezone approximately 6.3637 acres of land, legally described as Tracts 2B, 2Y-1, and 2Z out of the C.N. Pillot Survey, Abstract Number 632, within the City of Tomball, Harris County, Texas, generally located on the westerly side of State Highway 249, northerly of Holderrieth Road, from the AG-Agricultural District to the C-Commercial District.

ZONING CASE P10-226: Request by Pete Terpstra to amend the City's Comprehensive Zoning Ordinance to rezone approximately 5.3584 acres of land, legally described as Tract 2 out of the Sam Lewis Survey, Abstract Number 1704, within the City of Tomball, Harris County, Texas, generally located on the westerly side of State Highway 249, southerly of Alice Road, from the AG-Agricultural District to the C-Commercial District.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on one or more of the above cases, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning and Zoning Commission. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX 77375. **Contact City Planner** Kelly Violette, (281) 290-1491, kviolette@ci.tomball.tx.us

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 6th day of May 2010 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: P10-225

APPLICANT: Pete Terpstra

LOCATION: Westerly side of State Highway 249, northerly of Holderrieth Road

PROPOSAL: Request to amend the City's Comprehensive Zoning Ordinance to rezone approximately 6.3637 acres of land, legally described as Tracts 2B, 2Y-1, and 2Z out of the C.N. Pillot Survey, Abstract Number 632, within the City of Tomball, Harris County, Texas, from the AG-Agricultural District to the C-Commercial District.

* * *

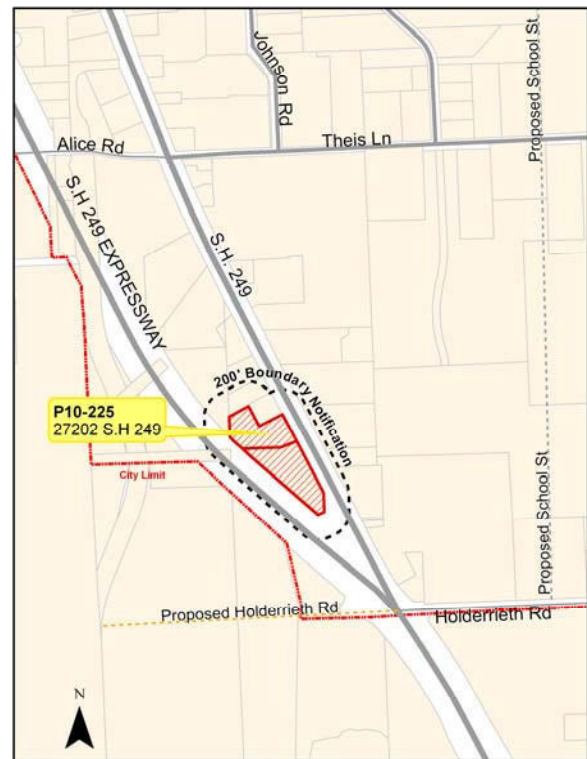
CONTACT PLANNER: Kelly Violette

PHONE: (281) 290-1491

E-MAIL: kviolette@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, May 10, 2010, 6:00 PM

City Council Public Hearing:

***Monday, May 17, 2010, 7:00 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: May 10, 2010

Rezoning Case: P10-226
Property Owner(s): Peter S. Terpstra
Applicant(s): Peter S. Terpstra
Legal Description: Tract 2 out of the Sam Lewis Survey, Abstract Number 1704, within the City of Tomball, Harris County, Texas
Location: 27503 Tomball Parkway (Generally located between SH 249 Bypass (Tomball Expressway) and SH 249 Business, southerly of Alice Road)
Area: 5.3584 acres
Present Zoning and Use: AG-Agricultural District / Commercial (Tomball Parkway Business Center)
Comp Plan Designation: Commercial
Proposed Zoning and Use: C-Commercial District / Office, office warehouse, retail, etc.

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: AG-Agricultural / Manufactured Home Display and Sales
South: C-Commercial / Mini-Storage/Warehouses
East: C-Commercial / SH 249 Business and retail uses
West: ETJ (unzoned) / SH 249 Bypass (Tomball Expressway), vacant land, and energy distribution facility

BACKGROUND

The subject site is a 5.3584 acre tract legally described as Tract 2 out of the Sam Lewis Survey, Abstract Number 1704, within the City of Tomball, Harris County, Texas. The site is generally located on the westerly side of State Highway 249 Business, southerly of Alice Road and is bound on the west by the SH 249 Bypass (Tomball Expressway) (Exhibit "C"). The property is known as the Tomball Parkway Business Center and is currently developed with two brick-clad commercial buildings totaling approximately 26,122 square feet in size that primarily house transportation and auto service related uses (Fig. 1). The southerly two-thirds of the site is largely undeveloped, however a Purple Heart clothing donation trailer is situated near the SH

249 Business frontage (Fig. 2). Aerial photos indicate that this portion of the site was previously utilized as a sales/display location for portable and modular buildings; however the use it not presently operating on the site at this time.

The subject site was annexed into the City of Tomball on December 1, 2008 as part of the 172.812 acre SH 249 Bypass (Tomball Expressway) Road Right-of-Way annexation (Exhibit "I"). Because the subject site was annexed after the passage of the Zoning Ordinance and because a concurrent rezoning request was not filed by the property owner, the subject site was given a zoning classification of AG-Agricultural District. Section 6.1 of the Zoning Ordinance states, "For any period of time following official annexation by the City until a zoning action has been officially adopted to zone the land, the interim zoning of the land shall be considered to be Agricultural ('AG'), and all zoning and development regulations of the 'AG' zoning district shall be adhered to with respect to the development and use of the land."

On March 11, 2010, City staff met with a tenant of the Tomball Parkway Business Center, Mr. Ken Harvey, regarding a proposed ambulance service at the subject site. Earlier that day, Mr. Harvey had been issued a stop work order by the City after the City's Fire Marshal observed contractor's performing interior renovations to one of the lease spaces without City permits. During the March 11th meeting, Mr. Harvey was informed that the property was zoned AG-Agricultural District and his proposed use as an ambulance service was not permitted in that zoning district.

As a matter of information, Section 43.002 of the Texas Local Government Code provides for the continuation of land use in the manner in which the land was being used prior to annexation. However, the ambulance service was not operating at the location at the time of annexation and therefore constitutes a new use and not a continuation of the existing land uses typically associated with the Tomball Parkway Business Center.

On March 17, 2010, City staff met with the property owner's representatives to discuss the zoning issues associated with the proposed ambulance service. Staff informed the representatives that the property was annexed into the City of Tomball in December 2008, the property was given an initial zoning classification of AG-Agricultural, and that the ambulance service would not be permitted until the property was rezoned to a district permitting such a use. Additionally, staff explained that the property has a Future Land Use designation of "Commercial" under the City's adopted Comprehensive Plan and that a rezoning request to the C-Commercial District would be consistent with this designation and would permit an ambulance service land use. The property owner's representatives expressed intent to rezone the subject site in order to get the zoning classification in line with the site's existing and future uses. Additionally, the representatives indicated that the property owner also owned 6.3637 acres of land southerly of the subject site and that a rezoning of that property to the C-Commercial District would also be requested.

On March 31, 2010, the applicant submitted rezoning applications to rezone the subject site as well as Tracts 2B, 2Y-1, and 2Z (Zoning Case P10-225) to the south of the property from the AG-Agricultural District to the C-Commercial District.

ANALYSIS

According to the Tomball Zoning Ordinance, the C-Commercial District “is intended to provide a location for commercial and service-related establishments, such as wholesale product sales, welding/contractors shops, automotive repair services, upholstery shops, and other similar commercial uses. Some light manufacturing may also be allowed with certain conditions. The uses envisioned for the district will typically utilize smaller sites and have operation characteristics which are generally not compatible with residential uses and some nonresidential uses. Convenient access to thoroughfares and collector streets is also a primary consideration.”

The applicant is requesting the rezoning to bring the property’s zoning classification in line with the uses already established on the site and to permit office, office warehouse, retail, and other related uses in the future (Exhibit “D”).

The uses in the general vicinity of the subject site are predominately commercial and retail related (Exhibit “C”). To the north of the subject site is a manufactured home display and sales location operated by Luv Homes, to the south is a mini-storage/warehouse facility (Excel Storage), to the east of the site (across SH 249 Business) is the Wal-Mart shopping center, and to the west of the site is the SH 249 Expressway ROW, vacant land, and an energy distribution facility in portions of the unzoned extraterritorial jurisdiction (ETJ) (Exhibit “A”).

The proposed rezoning to the C-Commercial District is consistent with the “Commercial” Comprehensive Plan land use designation (Exhibit “B”). The Comprehensive Plan states that the Commercial land use designation “is where retail sales and service activities should occur. These uses include but are not limited to shopping centers, convenience stores, auto dealers, department stores, grocery and drug stores, entertainment facilities, food and beverage purveyors, salons, and small repair shops.” Additionally, the “Commercial Planning Guidelines” outlined in the Comprehensive Plan provide that commercial development is to be compatible with surrounding land uses and that consideration for the impacts of commercial development on the local and regional roadway network shall be determined.

Due to the fact that the requested rezoning is consistent with the Comprehensive Plan’s Future Land Use Plan Map, is consistent with the existing and intended uses in the area, and will help support the commercial development pattern along the SH 249 Business corridor and future commercial development along the SH 249 Bypass (Tomball Expressway), staff is supportive of the rezoning request.

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.

The uses in the general vicinity of the subject site are predominately commercial and retail related. To the north of the subject site is a manufactured home display and sales location operated by Luv Homes, to the south is a mini-storage/warehouse facility (Excel Storage), to the east of the site (across SH 249 Business) is the Wal-Mart shopping center, and to the west of the site is the SH 249 Expressway ROW, vacant land, and an energy distribution facility in portions of the unzoned extraterritorial jurisdiction (ETJ).

As such, the rezoning and permitted land uses in the C-Commercial District would be in keeping with the existing and intended land uses in the vicinity.

Any future development/redevelopment of this site will require compliance with the City's land use and development regulations.

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.

There is currently sufficient water, sewer, and gas capacity in the area to service this site (Exhibit "H"). Future development/redevelopment of the site may require the extension of utilities to and through the site.

SH 249 Business and SH 249 Bypass (Tomball Expressway) are designated as "State Highways" on the adopted Major Thoroughfare Plan (MTP). The MTP states, "The main purpose of State Highways and FM Roadways is to move large volumes of traffic through urban areas and provide direct access to local freeways, while also providing controlled access to adjacent businesses." The right-of-way for State Highway 249 and State Highway 249 Expressway has been acquired in the vicinity and the impacts to these roadways due to the rezoning of the site are anticipated to be minimal.

The development of the site for commercial purposes would not impact the public school system as it would not increase attendance to the school system.

As a matter of information, any further future development of the site will likely result in increased impermeable area, thereby altering absorption rates and increasing surface runoff. Drainage improvements shall comply with the requirements of the City's Engineering and Public Works Departments.

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

There are a limited number of undeveloped properties zoned C-Commercial District in the immediate vicinity (Exhibit "C"). However, there is a large amount of vacant land available along Holderrieth Road and in the rest of the City of Tomball that is zoned C-Commercial District. Most of the undeveloped acreage along SH 249 and SH 249 Expressway south of Alice Road (within the City of Tomball) is zoned AG-Agricultural District because of the December 2008 annexation, however it is anticipated that these properties will be rezoned at some point in the future to accommodate future commercial growth.

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.

The subject property is located in an area that is developed with extensive commercial uses. The surrounding commercial and retail uses have developed steadily for a number of years due to the high traffic volumes and visibility on SH 249.

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

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

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

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

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

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

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

The request is consistent with the Comprehensive Plan’s land use designation (Exhibit “B”). The Comprehensive Plan states that the Commercial land use “is where retail sales and service activities should occur. These uses include but are not limited to shopping centers, convenience stores, auto dealers, department stores, grocery and drug stores, entertainment facilities, food and beverage purveyors, salons, and small repair shops. Small professional office uses such as physicians, accountants, or therapy offices would be permitted.”

Additionally, the “Commercial Planning Guidelines” aim to ensure commercial development compatibility with surrounding land uses and provide proper transitions, buffers, or architectural reliefs to minimize negative impacts to adjacent uses.” The proposed rezoning of the property to the C-Commercial District is consistent with the Comprehensive Plan’s Future Land Use Plan Map, will help to ensure commercial land use consistency along the SH 249 corridor, and will enhance the area’s long-term economic viability.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on April 30, 2010 and, as of the writing of this report, no public comment forms were received.

RECOMMENDATION

That the Planning and Zoning Commission recommend:

1. APPROVAL of Zoning Case P10-226 based on the following:
 - a. The proposed zoning of C-Commercial District will be compatible with the land uses in the vicinity.
 - b. The proposed zoning of C-Commercial District is compatible with the Tomball Comprehensive Plan.
 - c. The proposed zoning of C-Commercial District will not negatively impact public schools, streets, water supply, sanitary sewers, or other utilities to the area.
 - d. There is sufficient utility capacity to service commercial uses on this site.
2. APPROVAL of the staff report as the Planning and Zoning Commission's final recommendation to the City Council.

EXHIBITS

- A. Location/Zoning Map
- B. Comprehensive Plan Future Land Use Map
- C. Aerial Photo
- D. Rezoning Application
- E. Rezoning Request Letter
- F. Metes and Bounds
- G. Property Survey
- H. Utility Block Map
- I. Ordinance 2008-32 Annexation Map
- J. Site Photos

Exhibit "A"
Location/Zoning Map

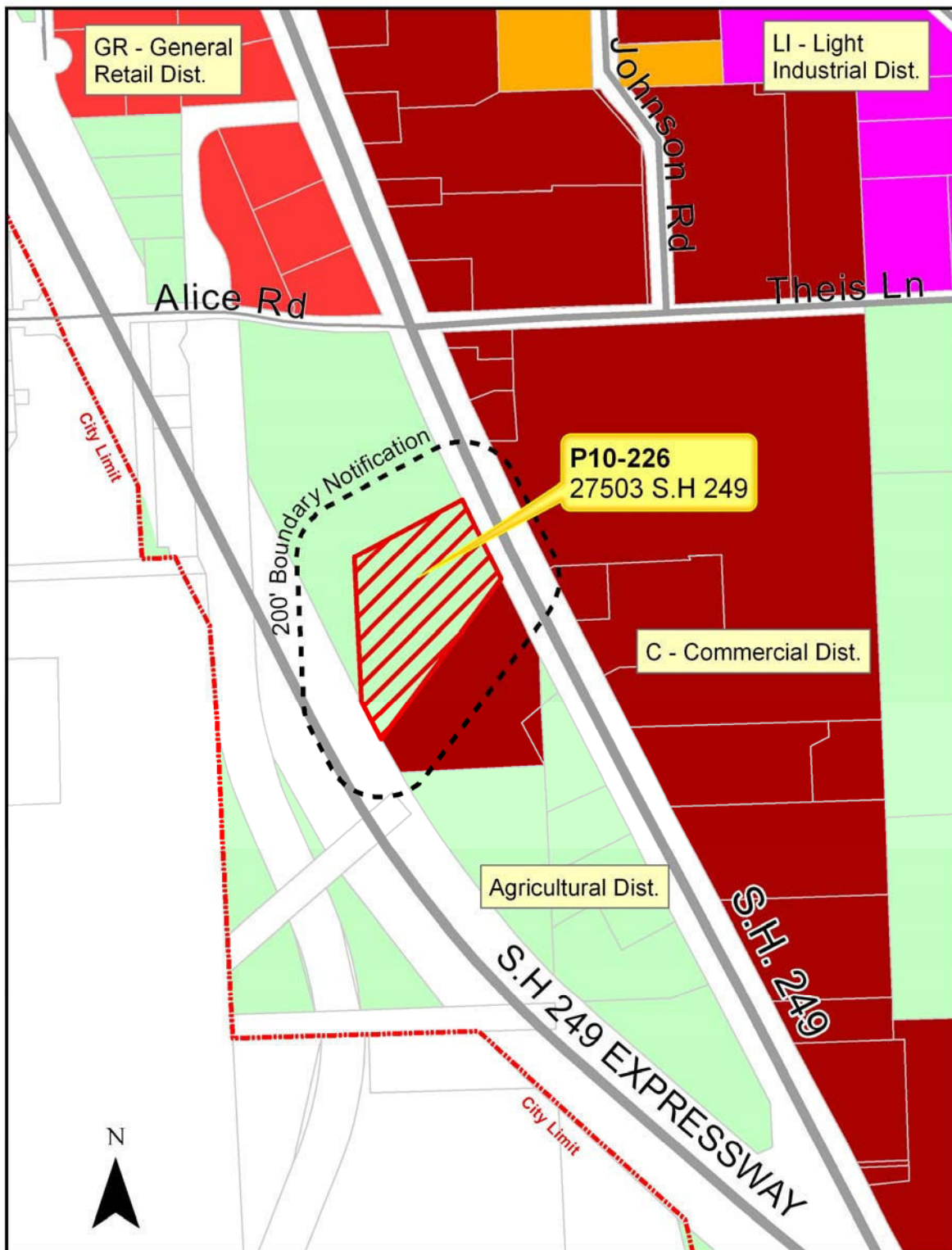


Exhibit "B"
Comprehensive Plan Future Land Use Map

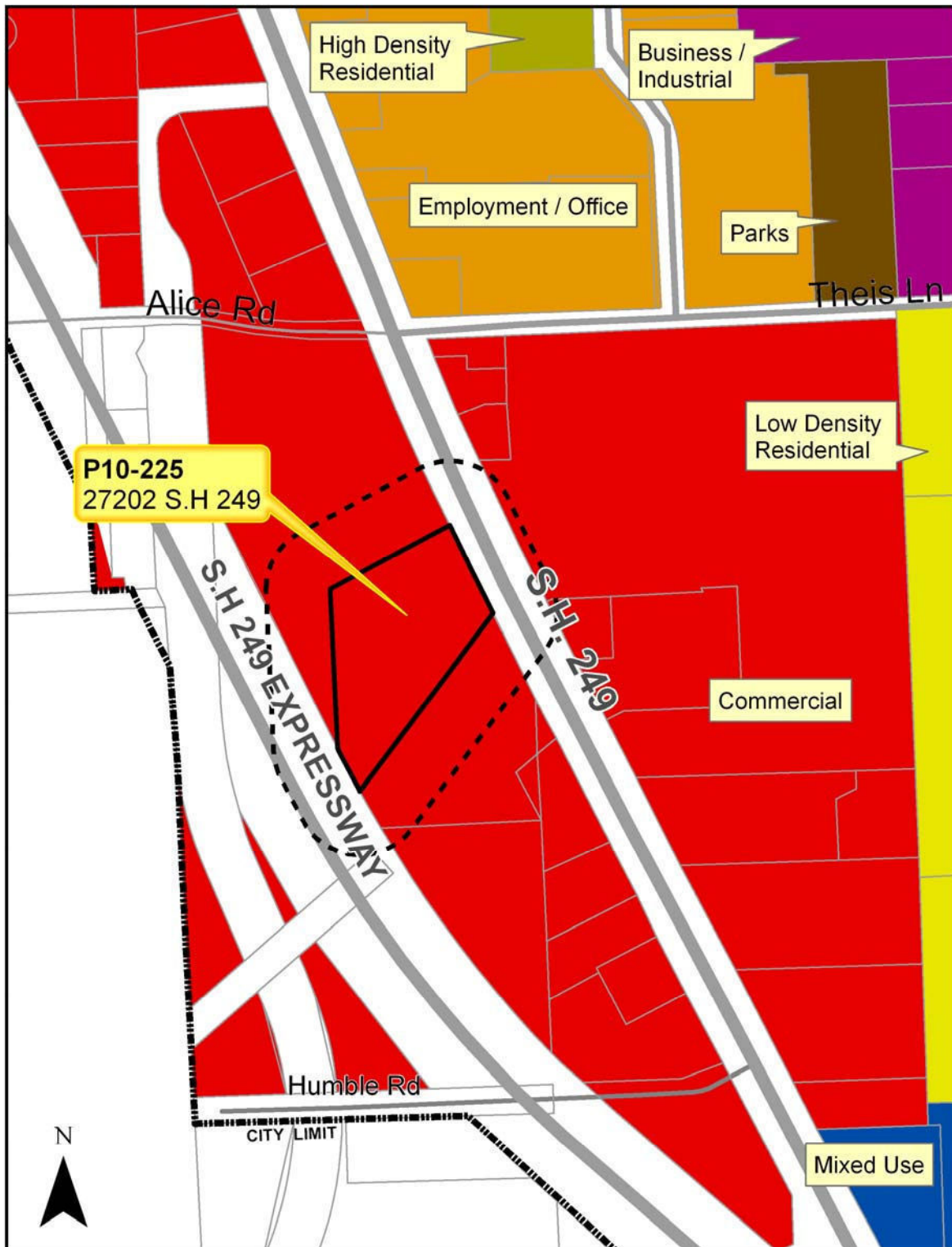


Exhibit "C"
Aerial Photo

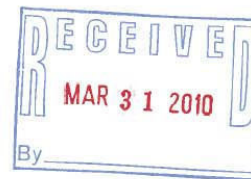


Exhibit "D"
Rezoning Application

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: PETER S. TERPSTRA Title: _____
Mailing Address: 14343-B TORREY CHASE BLVD City: HOUSTON State: TX
Zip: 77014
Phone: (281) 580-4855 Fax: (281) 580-3808 Email: terprealestate@mind.spring.com

Owner

Name: PETE TERPSTRA, TRUSTEE Title: OWNER
Mailing Address: 14343-B TORREY CHASE BLVD City: HOUSTON State: TX
Zip: 77014
Phone: (281) 580-4855 Fax: (281) 580-3808 Email: terprealestate@mind.spring.com

Engineer/Surveyor (if applicable)

Name: JOHN G. THOMAS Title: THOMAS LAND SURVEYING PRESIDENT
Mailing Address: 14340 TORREY CHASE BLVD City: HOUSTON State: TX
Zip: 77014
Phone: (281) 440-7730 Fax: (281) 440-7737 Email: john@thomaslandsurveying.com

Description of Proposed Project: COMMERCIAL OFFICE, OFFICE WAREHOUSE, RETAIL, ETC.

Physical Location of Property: WEST SIDE OF TOMBOLL PARKWAY
635 FT SOUTH OF ALICE ROAD
[General Location - approximate distance to nearest existing street corner]

Legal Description of Property: 5.3584 ACRES OUT OF THE SAM LEWIS SURVEY, A-1704
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: AG

Current Use of Property: COMMERCIAL

Proposed Zoning District: COMMERCIAL

Proposed Use of Property: OFFICE, OFFICE WAREHOUSE, RETAIL, ETC.

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

www.ci.tomball.tx.us

HCAD Identification Number: 048-241-000-0002 Acreage: 5.3584 ACRES

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 Peter P. Despotis 3/31/10
Signature of Applicant Date

X Peter P. Despotis 3/31/10
Signature of Owner Date

Exhibit "E"
Rezoning Request Letter

Thomas Land Surveying
Surveying · Planning · Project Management

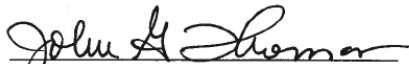
March 31, 2010

Reference: 5.3584 Acres
Sam Lewis Survey, A-1704
Tomball, Harris County, Texas

To Whom It May Concern:

We have requested a zoning change on the referenced tract from ag zoning to Commercial zoning as the tract is proposed to be and currently is used for commercial purposes.

Respectfully


John G. Thomas

14340 Torrey Chase Boulevard · Suite 270 · Houston, Texas 77014
(281) 440-7730 · Fax (281) 440-7737
www.thomaslandsurveying.com

Exhibit "F"
Metes and Bounds

Thomas Land Surveying

Surveying • Planning • Project Management

March 31, 2010
5.3584 Acres

Fieldnotes for a 5.3584 acre tract of land out of the Sam Lewis Survey, abstract No. 1704, in Harris County, Texas, being that same tract of land conveyed to Pete Terpstra, Trustee as described in instrument recorded under County Clerk's File NO. N357294 of the Real Property Records of Harris County, Texas, and being out of and a part of that certain 11.0045 acre tract of land (called 11.054 acres) described in deed recorded under Film Code no. 158-22-0813 of the said Real Property records, said 5.3584 acres being more particularly described by metes and bounds as follows:

BEGINNING at a ½ inch steel pipe found in the Southwesterly line of State Highway No. 249 (also known as Tomball Parkway), based on a 180.00 foot right-of-way, marking the most Northerly or Northeasterly corner of the said 11.0045 acre tract and the herein described tract, said point also being the Southeast corner of a residue tract of 145.78 acres of land conveyed to Ralph Lewis Frapart, et al and described as Tract 6 in instrument recorded under County Clerk's File No. F014298 of the said Real Property Records of;

Thence, in a Southeasterly direction with the Southwesterly line of State Highway No. 249 and with a curve to the left, having a radius of 11,549.16 feet and a central angle of 1°29'53" (chord bearing South 24°54'39" East, 301.96 feet), an arc distance of 301.96 feet to a ½ inch steel rod set for the Southeast corner of the herein described tract, said point being the most Northerly or Northeast corner of that certain 5.2445 acre tract of land conveyed to Iamcam Investors, LLC as described in deed recorded under County Clerk's File No. 20070114155 of the said Real Property Records;

Thence, South 36°49'00" West, 693.70 feet with the Northwesterly line of the said 5.2445 acre tract to a ½ inch steel rod with cap set in the Northeasterly line of State Highway No. 249 (By Pass) for the most Southerly or Southwesterly corner of the herein described tract, said point also being the Northwest corner of the said 5.2445 acre tract, said point also being in a non-tangent curve to the right having a radius of 3644.72 feet and a central angle of 02°07'47";

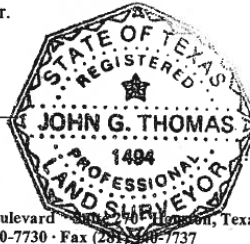
Thence, in a Northwesterly direction with the Northeasterly line of said State Highway 249 (By Pass) and with the said curve to the right having a radius of 3644.72 feet (chord bearing North 27°29'47" West, 135.47 feet), an arc distance of 135.48 feet to a 5/8 inch steel rod found at an angle point, said point, said point also being a Southerly corner of the residue of the aforesaid 145.78 acre tract, said point also being in the West line of the said 11.0045 acre tract;

Thence, North 02°27'59" West, 514.61 feet with the West line of the said 11.0045 acre tract and an Easterly line of the said residue tract to a ½ inch steel rod found marking the Northwest corner of the said 11.0045 acre tract and the herein described tract, said point being an inside ell corner to the right of the said residue tract;

Thence, North 62°25'33" East, 421.04 feet with the North line of the said 11.0045 acre tract and a Southerly line of the said residue tract to the POINT OF BEGINNING and containing 5.3584 acres or 233,411 square feet of land, more or less.

This description is based on the Land Title Survey and Plat (Job No. 11701 made under the direction of John G. Thomas, Registered Professional Land Surveyor.


John G. Thomas, R.P.L.S. No. 1494



14340 Torrey Chase Boulevard • Houston, Texas 77014
(281) 440-7730 • Fax (281) 440-7737
www.thomaslandsurveying.com

**Exhibit “G”
Property Survey**

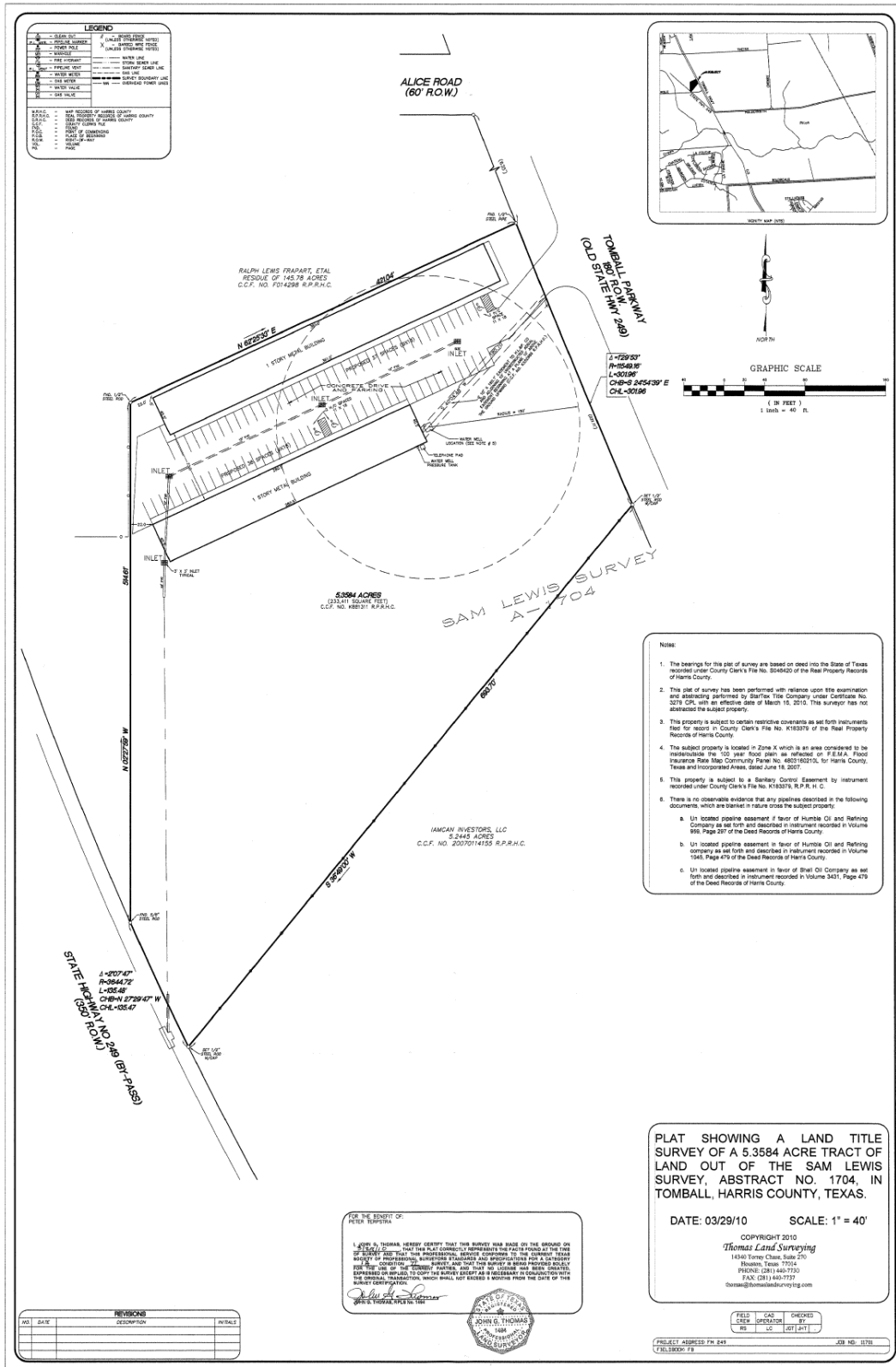


Exhibit “H”

Utility Block Map

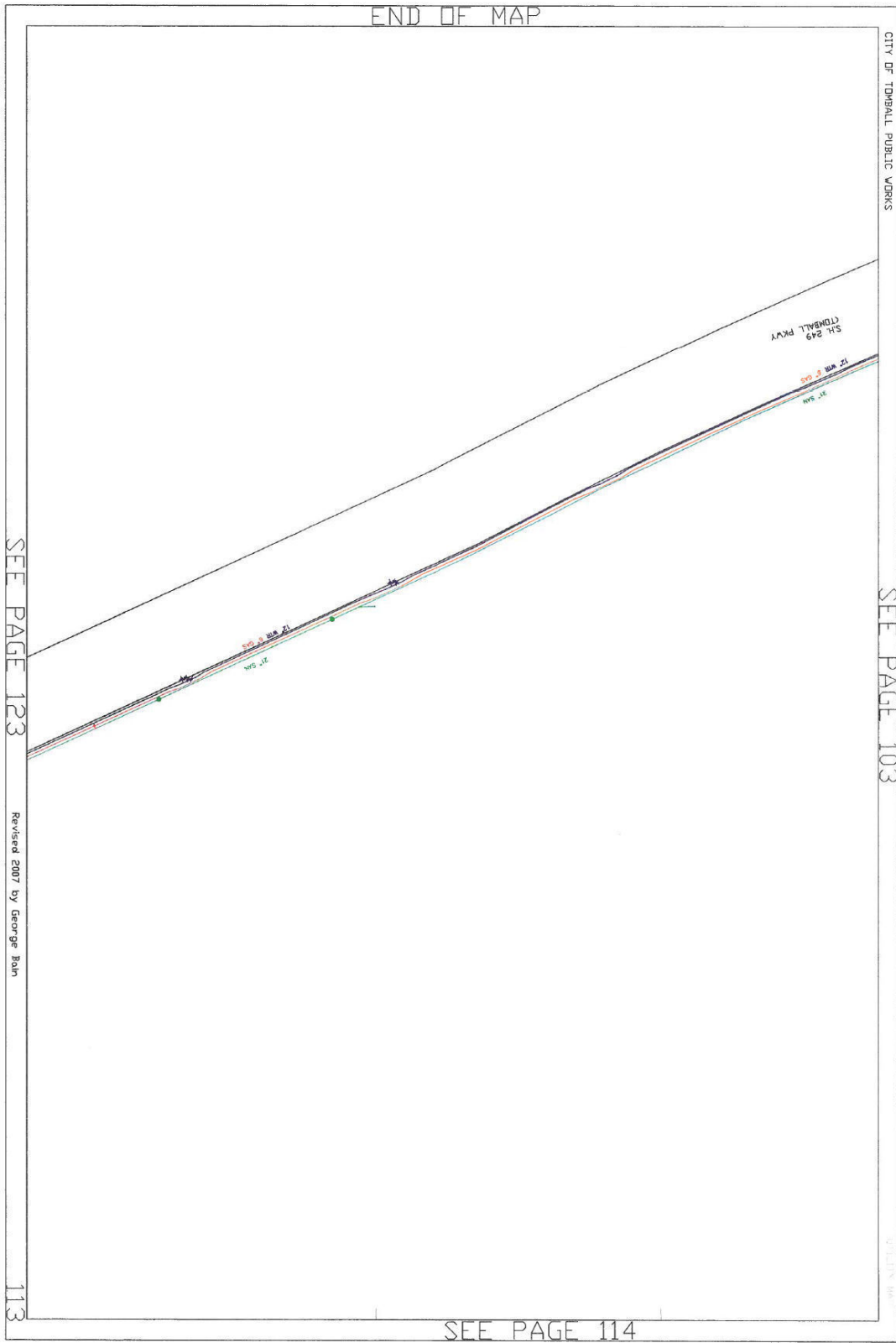
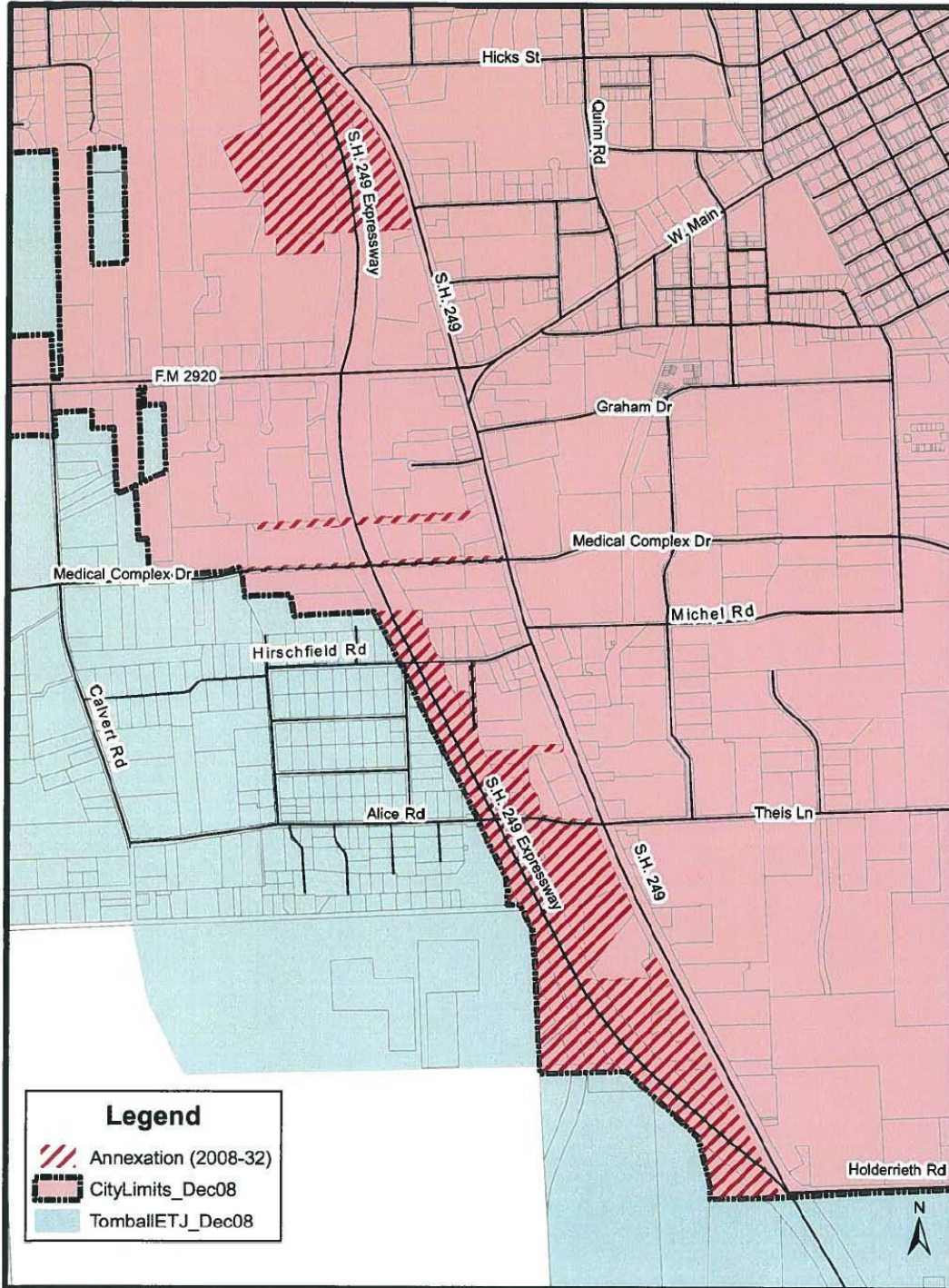


Exhibit "I"
Ordinance 2008-32 Annexation Map

City of Tomball Annexation (Ordinance #:2008-32)



Date Created: 2/26/09
Map Created By: City of Tomball
Engineering & Planning Dept.

**Exhibit “J”
Site Photos**



Figure 1: Northwesterly view of subject site.



Figure 2: Southerly view of subject site.



Figure 3: Northerly view up SH 249. Subject site to the left of photographer. Various retail and commercial uses on left and right.



Figure 4: Easterly view from subject site. SH 249 ROW and Wal-Mart.



Figure 5: Southerly view down SH 249. Subject site on right. Various retail and commercial uses on left and right.



Figure 6: Northeasterly view of largely undeveloped portion of SH 249 Expressway. Subject site in center left of photo.

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: May 10, 2010

Data Sheet

Topic:

Consideration and Possible Action Regarding **TOMBALL MEDICAL PLAZA FINAL PLAT**: Being a Plat of 2.8278 Acres out of Tract 13, 1.4635 Acre Tract Recorded under File No. J064863 and Tract No. 12, 1.3643 Acre Tract Recorded under File No. J089622 of the Harris County Map Records, Situated in The William Hurd Survey, Abstract 378, Harris County, Texas, 1 Block, and 1 Lot.

Background:

The Planning and Zoning Commission approved the Tomball Medical Plaza Preliminary Plat with contingencies on April 12, 2010. The Final Plat is now being forwarded to the Commission for approval consideration.

Origination:

Recommendation:

Funding:

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

Engineering and Planning Department

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

ATTACHMENTS:

Tomball Medical Plaza Final Plat

THE STATE OF TEXAS
COUNTY OF HARRIS

We, FAHL Enterprises, LLC acting by and through Tarek Fahl, being President of FAHL ENTERPRISES, LLC, hereinafter referred to as Owners of the 2.8278 acre tract described in the above and foregoing plat of TOMBALL MEDICAL PLAZA, do hereby make and establish said subdivision of said property according to all liens, dedications, restrictions, and notations on said plat and hereby dedicate to the use of the public forever, all streets, alleys, parks, watercourses, drains, easements, and public places shown thereon for the purposes and considerations therein expressed; and do hereby bind ourselves, our heirs, successors and assigns to warrant and forever defend the title to the land so dedicated.

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

FURTHER, Owners do hereby dedicate to the public a strip of land 15 feet (15') wide on each side of the centerline of any and all bayous, creeks, ravines, draws, sloughs or any other natural drainage courses located 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 time for the purpose of construction and maintenance of drainage facilities and structures.

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

IN TESTIMONY WHEREOF, FAHL ENTERPRISES, LLC has caused these presents to be signed by Tarek Fahl, President, thereunto authorized, attested, and its common seal hereunto affixed this ____ day of _____, 2010.

FAHL ENTERPRISES, LLC

By: Tarek Fahl

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared Tarek Fahl, President, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledgment to me that they executed the same for the purposes and considerations therein expressed and in the capacity therein and herein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of _____, 2010.

Notary Public in and for the State of Texas

My Commission expires: _____

"We, Bank of America, N.A., owners and holders of a lien against the property described in the plat known as Tomball Medical Plaza, do hereby in all things subordinate our interest in said property to the purposes and effects of said plat and the dedications and restrictions shown herein to said plat and we hereby confirm that we are the present owners of said lien and have not assigned the same nor any part thereof"

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared _____ and _____, President and Vice President, respectively, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledgment to me that they executed the same for the purposes and considerations therein expressed and in the capacity therein and herein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of _____, 2010.

Notary Public in and for the State of Texas

My Commission expires: _____

This is to certify that the Planning & Zoning Commission of the City of Tomball, Texas, has approved this plat and subdivision of TOMBALL MEDICAL PLAZA in conformance with the Laws of the State of Texas and the Ordinances of the City of Tomball as shown hereon and authorized the recording of this plat this ____ day of _____, 2010.

By: Tom Crofoot, Chairman
By: Lori Wallace, Vice Chairman

This is to certify that the City of Tomball accepts the Planning Commission's authorized approval and acceptance of all dedicated public easements in conformance with the Laws of the State of Texas and the Ordinances of the

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

I, Beverly B. Kaufman, 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 ____ day of _____, 2010, at ____ o'clock ____ M., and in Film Code No. ____ of the Map Records of Harris County for said county.

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

Beverly B. Kaufman
Clerk of the County Court
Harris County, Texas

By: Deputy

We, the City Manager and Director of Engineering and Planning for the City of Tomball, do hereby certify that the plot of this subdivision complies with the City of Tomball subdivision ordinance.

By: City Manager
By: Mark A. McClure, P.E.
Director of Engineering and Planning

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared _____ known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledgment to me that they executed the same for the purposes and considerations therein expressed and in the capacity therein and herein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of _____, 2010.

Notary Public in and for the State of Texas

My Commission expires: _____

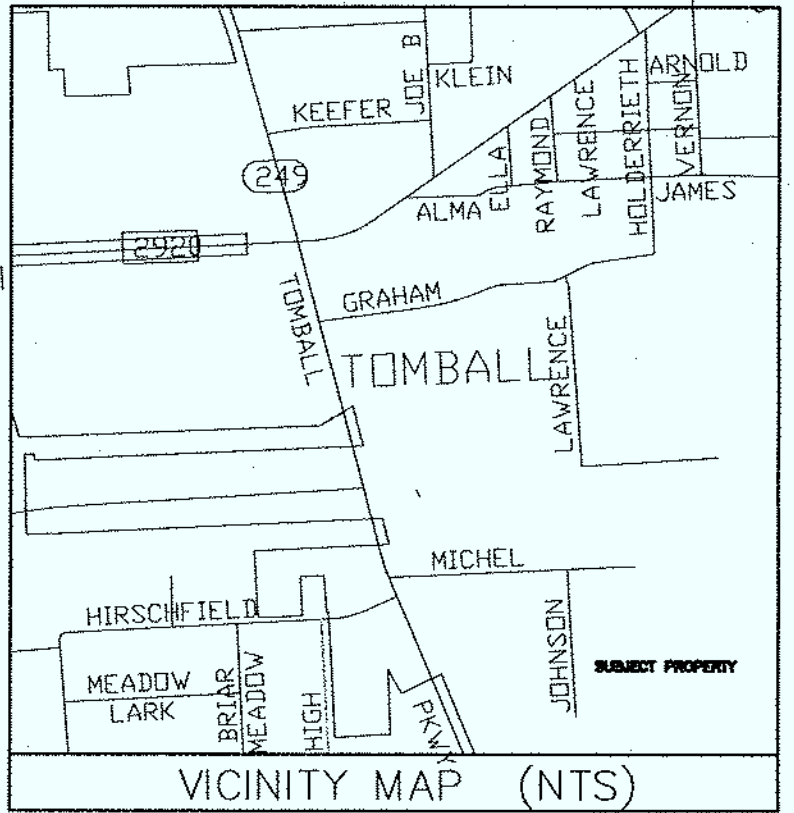
I, David Bowden, am authorized under the laws of the State of Texas to practice the profession of surveying and hereby certify that the above subdivision is true and correct: was prepared from an actual survey of the property made under my supervision on the ground, that all boundary corners, angle points,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

David Bowden
Texas Registration No. 4864

LEGEND

H.C.C.F. Refers to Harris County Clerks File
Bldg. indicates Building
B.L. indicates Building Line
H.C.D.R. indicates Harris County Deed Records
I.R. indicates Iron Rod
P.G. indicates Page
S. F. indicates Square Feet
Vol. indicates Volume
C.O.T.U.E. indicates City of Tomball Utility Easement
A.E. indicates Aerial Easement

30' 0' 30' 60'
GRAPHIC SCALE
1" = 30'



Key Map: XXXX

MICHEL ROAD
HCCF#D221070, D792381,
V733697, 334111MR
(60' R.O.W.)

N 87°13'09" E - 375.00'

10' UTILITY EASEMENT
FILE NO. M81851, H.C.C.F.

25' B.L.

LOT 12
BLOCK 1

TOMBALL MEDICAL PLAZA
UNRESTRICTED RESERVE "A"

123,179 SQ. FT.
2.8278 ACRES

LOT 12

TRACT 11
1.844 ACRE TRACT
FILE NO. M021429, H.C.D.R.
Raulo A. Rodriguez

FND. 5/8"
IRON ROD
(BENT)

S 02°27'45" E - 330.28'

CALL 18-028 ACRE TRACT
TOMBALL HCCF No. M022371

Minimum Plat Note Requirements

The following notes will be required on all plats:

Public Easements:

Public easements donated 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 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 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, fence, tree, shrub or 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 Firm Panel No. 48201C0210L (Effective Date 06-18-07), this property is in Zone "X" and is not in the 0.2% Annual Chance Flood Plain.

Note #1

All oil/gas pipelines or pipeline easements with ownership through the subdivision have been shown.

Note #2

All oil/gas wells with ownership (plugged, abandoned and/or active) through the subdivision have been shown.

Note #3

No building or structure shall be constructed across any pipelines, building lines, and/or easements. Building setback lines will be required adjacent to oil/gas pipelines. The setbacks at a minimum should be 15 feet of the centerline of low pressure gas lines, and 30 feet off centerline of high pressure gas lines.

Note #4

This plat does not attempt to amend or remove any valid covenants or restrictions.

Note #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.

FINAL PLAT TOMBALL MEDICAL PLAZA 2.8278 ACRES

BEING A PLAT OF 2.8278 ACRES OUT OF TRACT 13,
1.4635 ACRE TRACT RECORDED UNDER FILE NO. J064863
LAND TRACT NO. 12, 1.3643 ACRE TRACT RECORDED
UNDER FILE NO. J089622 OF THE HARRIS COUNTY MAP
RECORDS, SITUATED IN THE WILLIAM HURD SURVEY,
ABSTRACT 378, HARRIS COUNTY, TEXAS

1 BLOCK 1 LOT

APRIL, 2010

OWNERS / DEVELOPER
FAHL ENTERPRISES, LLC
9715 Stonecross Bend Dr.
Houston, TX 77070
Phone: 281-660-0706

SURVEYOR:
Bowden Survey Co.
PROFESSIONAL SURVEYING SERVICES
2223 PASO RELO
HOUSTON, TEXAS 77077
PHONE: (281) 531-1900
FAX: (281) 531-4800
JOB NO. C90044

Regular Planning and Zoning Commission

Agenda Item

Meeting Date: May 10, 2010

Data Sheet

Topic:

Consideration and Possible Action Regarding **TOMBALL CENTER III – B2, REPLAT NO. 2:** 7.8351 Acres, Being a partial Replat of Reserves “A” & “B” of Tomball Center III – B2, Replat No. 1, Film Code Number 625078 H.C.M.R. located in the Joseph House Survey, Abstract Number 34, Harris County, Texas, 1 Block, 2 Reserves.

Background:

Origination:

Recommendation:

Funding:

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

Engineering and Planning Department

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

ATTACHMENTS:

Tomball Center III - B2 Replat No. 2

STATE OF TEXAS
COUNTY OF HARRIS

We, Tomball Town Center, Ltd., a Texas limited partnership acting by and through TTC-GP, LLC, a Texas limited liability company, its sole General Partner, S. Jay Williams, Managing Member, hereinafter referred to as owners of the 7.8351 acre tract described in the above and foregoing plat of Tomball Center III-B2, Replat No. 2, do hereby make and establish said subdivision of said property according to all lines, dedications, restrictions and notations on said plat and hereby dedicate to the use of the public forever, all streets, alleys, parks, watercourses, drains, easements and public places shown thereon for the purposes and considerations therein expressed; and do hereby bind ourselves, our heirs, successors, and assigns to warrant and forever defend the title to the land so dedicated.

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

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

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

IN TESTIMONY WHEREOF, Tomball Town Center, Ltd., a Texas limited partnership, has caused these presents to be signed by S. Jay Williams, Managing Member of TTC-GP, LLC, a Texas limited liability company, its sole general partner, thereunto authorized, attested by its secretary _____, and its common seal hereunto affixed this _____ day of _____, 2010.

ATTEST: By: TTC-GP, LLC,
a Texas limited liability company,
and its sole general partner:
Print Name:
Title:

Name: S. Jay Williams
Title: Managing Member

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared S. Jay Williams, 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 consideration therein expressed, and in the capacity therein and herein stated, and as the act and deed of said partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of _____, 2010.

Notary Public in and for the State of Texas
My Commission Expires:

We, Whitney National Bank, owner and holder of a lien against a portion of the property described in the plat known as Tomball Center III-B2, Replat No. 2, said lien being evidenced by instrument of record in the Clerk's File Number X016651 of the O.P.R.O.R.P., Harris County, Texas, do hereby subordinate our interest in said property to the purposes and effects of said plat and the dedications and restrictions shown herein to said subdivision plat and we hereby confirm that we are the present owner of said lien and have not assigned the same nor any part thereof.

By:
Print name:
Title:

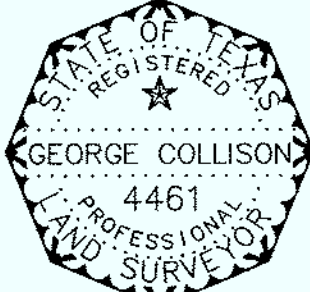
STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared _____, 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 consideration therein expressed, and in the capacity therein and herein stated, and as the act and deed of said bank.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of _____, 2010.

Notary Public in and for the State of Texas
My Commission Expires:

I, George Collison, 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 pipes or rods having an outside diameter of not less than three quarter 3/4 inch and length of not less than three (3) feet; and tied to the nearest survey corner.



George Collison
Registered Professional Land Surveyor
Texas Registration No. 4461

This is to certify that the Planning and Zoning Commission of the City of Tomball, Texas has approved this plat and subdivision of Tomball Center III-B2, Replat No. 2, in conformance with the laws of the State of Texas as shown hereon and authorized the recording of this plat this _____ day of _____, 2010.

Tim Crofoot
Chairman

Lori Wallace
Vice-Chairman

We, the City Manager and the Director of Engineering and Planning for the City of Tomball, do hereby certify that this plat of Tomball Center III-B2, Replat No. 2 is in compliance with the ordinances of the City of Tomball.

City Manager Mark A. McClure, P.E.
Director of Engineering and Planning

This is to certify that the Planning and Zoning Commission of the City of Tomball, has approved this plat and subdivision of Tomball Center III-B2, Replat No. 2, in conformance with the laws of the State of Texas and ordinances of the City of Tomball as shown hereon and authorized the recording of the plat this _____ day of _____, 2010.

Gretchen Fagan
Mayor

Doris Speer
City Secretary

I, Beverly B. Kaufman, County Clerk of Harris County, Texas, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on _____, 2010, at _____ o'clock _____ M., and duly recorded on _____, 2010, at _____ o'clock _____ M., and at _____ of the Map Records of Harris County for said county.

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

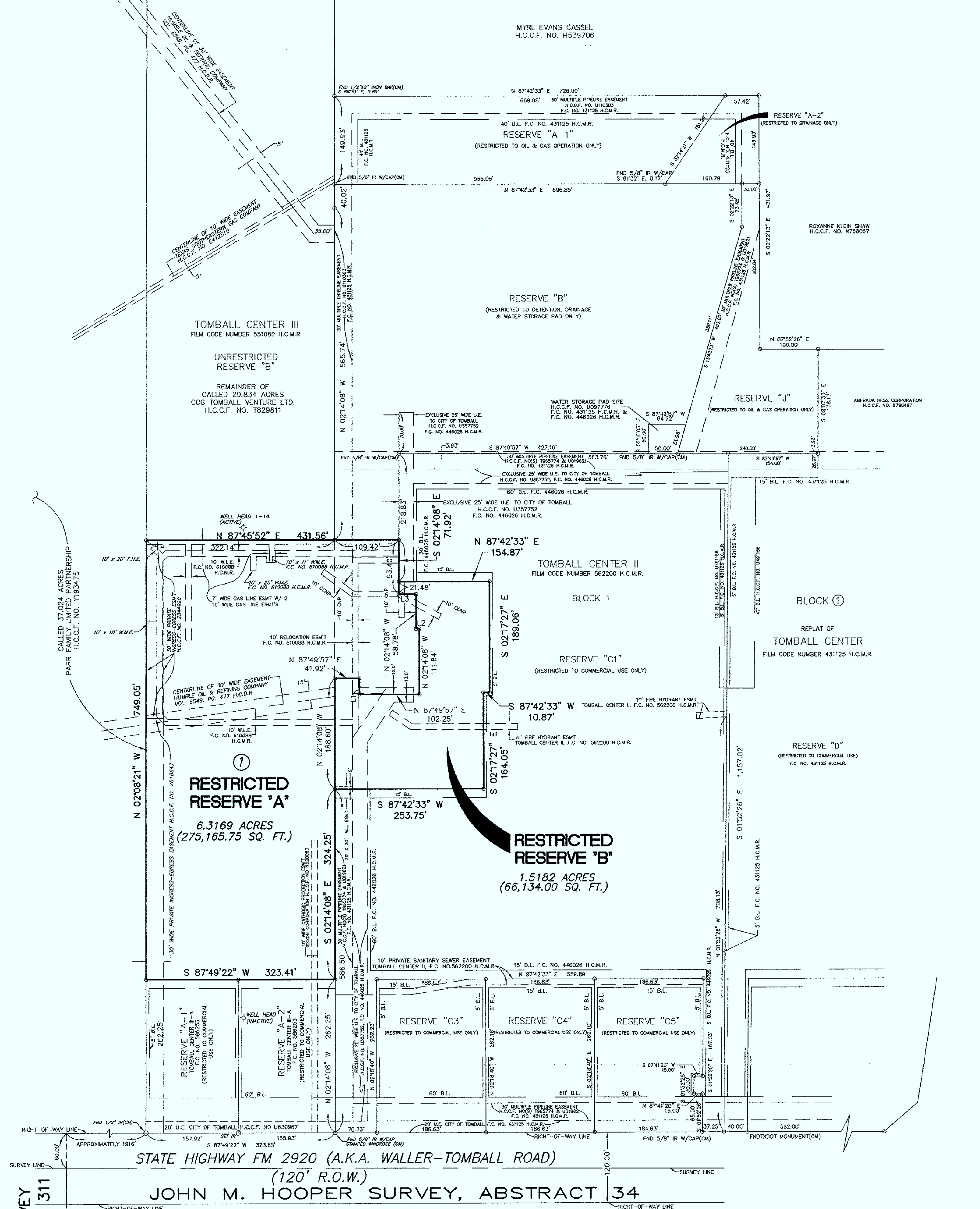
Beverly B. Kaufman
County Clerk
of Harris County, Texas

By:
Deputy

NOTES:

- Building lines are not waived but can be superseded with appropriate firewall construction approved by the City of Tomball Building Official and Fire Marshal based on code.
- Bearings shown hereon are oriented to the bearing base reflected on the plat of Tomball Center III-B2, REPLAT NO. 1 a subdivision plat of record at Film Code Number 625078 of the Map Records of Harris County, Texas.
- All existing pipelines or pipeline easements through the subdivision have been shown.
- All oil/gas wells (plugged, abandoned, and/or active) through the subdivision have been shown.
- All corners have been marked with 3/4-inch iron rods, unless noted otherwise hereon.
- Street access was dedicated by plot of Tomball Center II recorded in Film Code No. 562200, H.C.M.R. and Reciprocal Access Rights under H.C.C.F. No. W962188.
- 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 oil 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 the property within an easement arising out of the removal or relocation of any obstruction in the public easement.
- According to FEMA Firm Panel No. 48201C0210L (Effective Date June 18, 2007), this property is in Zone "X" and is not within the 0.2% Annual Chance Flood Plain.
- No Building or structure shall be constructed across any pipelines, building lines, and/or easements. Building setback lines will be required adjacent to oil/gas pipelines. The setbacks at a minimum should be 15 feet off the centerline of low pressure gas lines and 30 feet off the centerline of high pressure gas lines.
- This plat does not attempt to amend or remove any valid covenants or restrictions.
- 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.
- The square feet Area Calculation for Reserves "A" & "B" are shown to the nearest one hundredth of a square foot in keeping with the city subdivision ordinance only. The surveying standards for the State of Texas, and industry tolerances for measurements do not allow for such accuracy.

JOSEPH HOUSE SURVEY, ABSTRACT 34



TOMBALL CENTER III-B2, REPLAT NO. 2

7.8351 ACRES BEING A
PARTIAL REPLAT OF RESERVES "A" & "B" OF
TOMBALL CENTER III-B2, REPLAT NO. 1, FILM CODE NUMBER 625078 H.C.M.R.
LOCATED IN JOSEPH HOUSE SURVEY, ABSTRACT NUMBER 34,
HARRIS COUNTY, TEXAS

1 BLOCK

2 RESERVES

OWNER:
TOMBALL TOWN CENTER, LTD.
11000 BRITTMORE PARK DR.
SUITE 100
HOUSTON, TEXAS 77041
(281) 668-3400

SURVEYOR:
TERRA SURVEYING CO., INC.
3000 WILCREST, SUITE 210
HOUSTON, TEXAS 77042
(713) 993-0327

PROJ. No.: 2171-0804-S

SCALE: 1" = 100'

DATE: MAY 2010