

National Public Works Week May 20-26, 2018

Whereas, public works services provided in our community are an integral part of our citizen's everyday lives; and

Whereas, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as water, sewers, streets and highways, public buildings and solid waste collection; and

Whereas, the health, safety and comfort of this community greatly depends on these facilities and services; and

Whereas, the quality and effectiveness of these facilities as well as their planning, design and construction is dependent upon the efforts and skills of public works officials; and

Whereas, the efficiency of the qualified and dedicated personnel who staff public works departments is materially influenced by the people's attitude and understanding of the importance of the work they perform,

Now, therefore, I, Aaron Groff, Mayor do hereby proclaim the week of May 20-26, 2018 as

NATIONAL PUBLIC WORKS WEEK

In the City of Fulshear, and I call upon all citizens and civic organizations to acquaint themselves with the issues that are involved in providing our public works and to recognize the contributions which public works officials make every day to our health, safety, comfort and quality of life.



In Witness, Whereof, I have hereunto set my hand and have caused the Official Seal of the City of Fulshear to be affixed this 15th day of May, 2018.

Aaron Groff, Mayor

Kimberly Kopecky, Interim City Secretary

PROCLAMATION

WHEREAS, the Congress and President of the United States have designated May 15, 2018 as Peace Officers Memorial Day, and the week in which it falls as Police week; and

WHEREAS, the International Association of Chiefs of Police has declared law enforcement officer safety and wellness a top priority, and the IACP's Center for Officer Safety and Wellness promotes the important of individual, agency, family, and community safety and wellness awareness; and

WHEREAS, the members of law enforcement agency of the City of Fulshear play an essential role in safeguarding the rights and freedoms of the citizens of the City of Fulshear; and

WHEREAS, it is important that all citizens know and understand the problems, duties and responsibilities of their police department, and that members of our police department recognize their duty to serve the people by safeguarding life and property, by protecting them against violence or disorder, and by protecting the innocent against deception and the weak against oppression or intimidation; and

WHEREAS, the police department of the City of Fulshear has grown to be a modern and scientific law enforcement agency which unceasingly provides a vital public service;

NOW, THEREFORE, I, Aaron Groff, call upon all citizens of the City of Fulshear and upon all patriotic, civil and educational organizations to observe the week of May 14, 2018, as Police Week with appropriate ceremonies in which all of our people may join in the commemorating police officers, past and present, who by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to their communities and, in doing so, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

I FURTHER call upon all citizens of the City of Fulshear to observe Tuesday, May 15, 2018, as Peace Officers Memorial Day to honor those peace officers who, through their courageous deeds, have lost their lives or have become disabled in the performance of duty.

IN OFFICIAL RECOGNITION THEREOF, I hereby affix my signature this 15th day of May, 2018.



Aaron Groff, Mayor

Kimberly Kopecky, Interim City Secretary

AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF FULSHEAR, TEXAS

AGENDA OF:	May 15, 2018	ITEM:	C
DATE SUBMITTED:	April 30, 2018	DEPARTMENT:	Planning and Development
PREPARED BY:	Sharon Valiante, Public Works Director;	PRESENTER:	Brant Gary, ACM/Exec. Dir. of P&D
	Brant Gary, ACM / Executive Director P&D		Sharon Valiante, Public Works Director
SUBJECT:	CONSIDERATION AND POSSIBLE ACTION TO APPROVE A ZONING CHANGE FOR THE NORTHEAST CORNER OF FM 1093 AND SYMS ROAD (30200 FM 1093) FROM DOWNTOWN DISTRICT TO COMMERCIAL		
ATTACHMENTS:	<ol style="list-style-type: none"> 1.) Zoning Map 2.) Letter of Request & Application 3.) Vicinity Map 4.) Site Map 5.) Survey & Legal Description 6.) Notice of Public Hearing 7.) Staff Report/Compliance with the Comprehensive Plan 8.) Preliminary Site Plan 9.) P&Z Recommendation 10.) City Attorney Letter: Contract Zoning and Developer Concessions 11.) Ord. 2018-1275 – To Approve the Amendment to the Zoning Ordinance 		

EXECUTIVE SUMMARY

The owner of the property located at 30200 FM 1093, represented by George S Gayle, along with their designated local representative, Anderson Smith, are requesting a Zone Change for the property indicated. The requested change is to rezone the parcel from a Downtown District zoning classification to a Commercial zoning classification. They are proposing to develop the property into a Retail, Restaurant, Office, Medical and/or Service Tenants use. It is currently being used as mixed use with an Auto Repair Shop, a Barber Shop and a house. The current Downtown District zoning classification allows for single family residential, safety services, and park uses as well as special uses (not requiring a special use permit) for school, convenience retail, home occupations, and hospital uses.

The representatives have provided the following documents as required by Article V, Section 1.279 Amendments, of the City’s Zoning Ordinance (2012-1069), which include the attached items referenced:

- **Zoning Map of Area** – Shows Zoning of the Area (See Item 1)
- **Zoning Change Request & Application:** Completed Letter of Request and Application by Owner/Owner’s Representative (See Item 2)
- **Vicinity Map:** Map shows the location of the property in relation to the surrounding areas (See Item 3)
- **Site Map:** Map shows existing layout, pavement, access points. Staff accepts this document as representation of the existing site and current uses. (See Item 4)
- **Survey/Legal Description:** A survey which shows the existing lot and the buildings that sit on it, along with a metes and bounds for the property (See Item 5)
- **Notification to the Public:** In accordance with the Ordinance, Section 1.278: A mailing notice was sent to adjacent property owners within 300 feet of the subject property (4.99 acres). A Notice was published in an approved newspaper advertising the request for the change in zoning. Signs were installed on Syms Rd and on FM 1093. (Included in Public Hearing Items and Item 6)

- **Staff Report/Compliance with the Comprehensive Plan:** After review of the request from the applicants, City Staff find that the requested zone change from Downtown District to Commercial is appropriate. The intended zoning change supports the orderly urban development through the land use, which promotes the unique sense of place in concert with the City's other regulations and Ordinances. In addition, it is in alignment with the current zoning in the area as shown on the current Zoning Map. The property fronts FM 1093 which would promote the existing commercial corridor within the area. The zoning change will promote economic development and protect the individual property rights. (Item 7)

The City Attorney has indicated that the City may impose conditions on the approval of the requested change. As this would be a unilateral decision by the City to impose these conditions, this would be acceptable and not considered "contract zoning" since there is no bilateral agreement between the two parties. Based on this, the Staff recommendation was amended to include two conditions that would be applied to the zoning classification for the property. In addition, a representative from the City Attorney's office was asked to be at the May 4th Planning and Zoning Commission meeting to be available to address/answer any concerns/questions they may have. During the May 4th meeting, Planning & Zoning Commission, recommended a third condition be added.

Staff's recommendations are: the first condition would be that the prohibited uses listed in Sec. 1-193 for the Downtown District zoning would be applied to this property as well; the second condition would be that the Architectural Design Standards for the Downtown District zoning classification would also be attached to the development of this property; and the third condition as recommended by the Commission would impose the Downtown District Sign requirements as outlined in the Sign Ordinance (2012-1058, 1-17-2012).

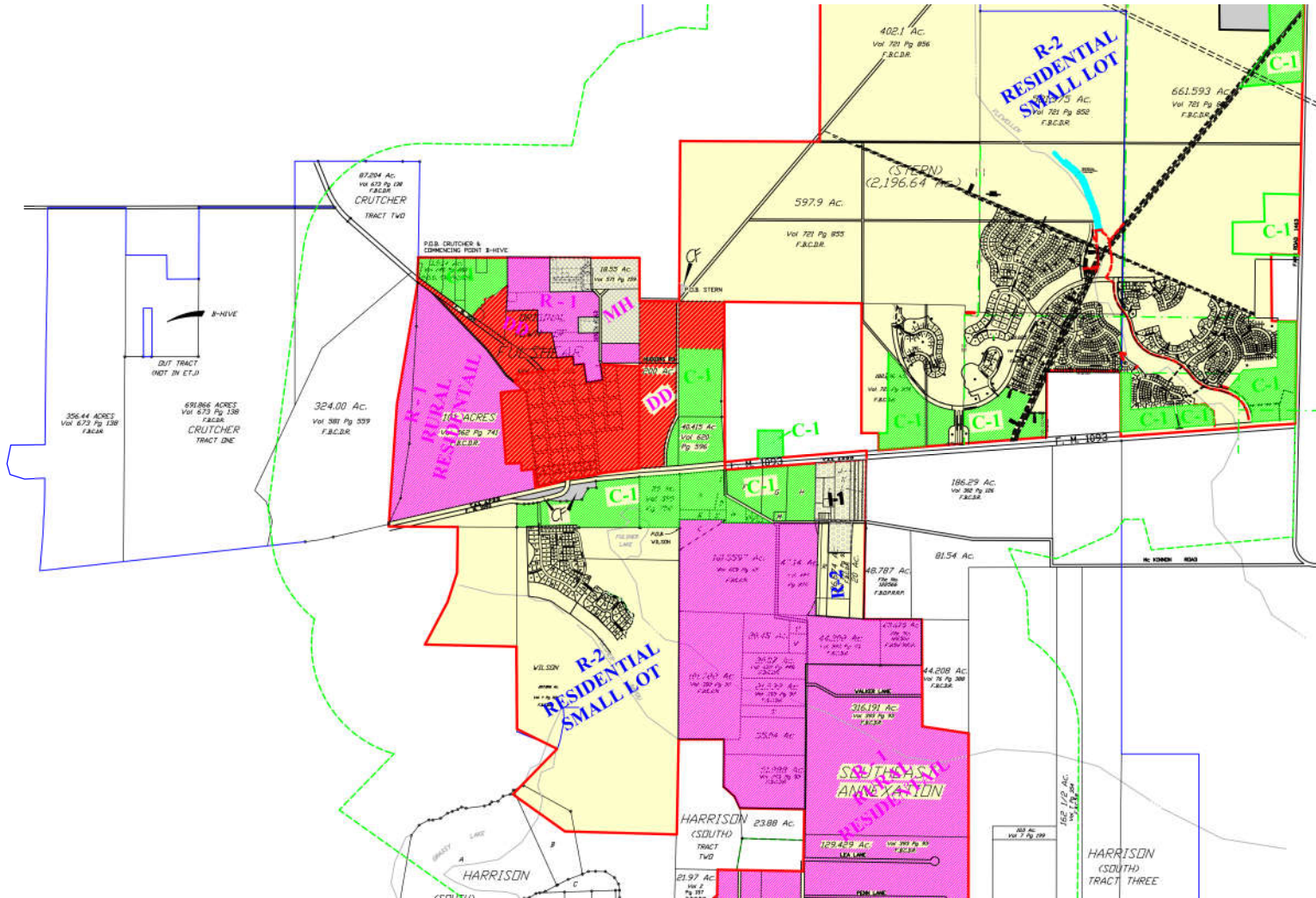
The Planning and Zoning Commission heard the public hearing comments from staff, the developer and the general public. Questions/concerns were addressed either by staff and/or the City Attorney's representative. Planning and Zoning is providing a positive recommendation for approval.

RECOMMENDATION

Staff recommends City Council review the request, offer any additional comments/recommendations, and recommend for approval the following items:

1. Ordinance 2018-1275, to approve the Zoning Change of the 4.99 Acres, 30200 FM 1093, from Downtown District to Commercial with the three added conditions
2. Amendment of the Zoning Map to reflect the change in zoning of this property from Downtown District to Commercial.

City of Fulshear - Zoning Map of Area



	DD	DOWNTOWN DISTRICT
	R-1	RURAL RESIDENTIAL
	R-2	RESIDENTIAL SMALL LOT
	C-1	COMMERCIAL
	I-1	INDUSTRIAL
	MF	MULTI-FAMILY
	MH	MANUFACTURED HOUSING
	CF	COMMUNITY FACILITIES

Zoning Change Request:
 30200 FM 1093 4.99 acres
 Item 1: Zoning Map of Area

March 26, 2018

Brant Gary
City of Fulshear
30603 FM 1093 West – P.O. Box 279
Fulshear, Texas 77441

Re: Proposed Zone Change of 30200 FM 1093 Approximately 4.99 Acres

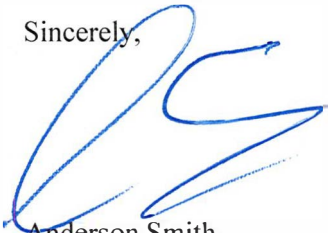
Mr. Gary:

Timbergrove Properties an affiliate of Capital Retail Properties is under contract to purchase 30200 FM 1093 in Fulshear, Texas from the Woodam Family Trust who is represented by George Gayle. The Subject Property is 4.99 Acres and we are requesting a zone change from Downtown District to Commercial.

Our intent is for a future Commercial Development that will encompass Retail, Restaurant, Office, Medical and or Service Tenants. Our goal is to have local, regional and a national Tenant mix. The property is currently an auto repair shop, barber shop and a house.

If you have any other questions or concerns feel free to email at the address below or call our office at 281-816-6550.

Sincerely,



Anderson Smith
Capital Retail Properties
Asmith@capitalretailproperties.com

Zoning Change Request:
30200 FM 1093 4.99 acres

Item 2: Letter of Request
and Application
1 of 4



APPLICATION TO AMEND THE ZONING ORDINANCE/SITE PLAN
 (Must be a complete application for acceptance)

PROPERTY OWNER: WOODHAM FAMILY TRUST
 Mailing Address 63 Big Circle Tr. City Bozeman State MT Zip 59718
 Telephone (406) 539-7979 Email Abwoodham@gmail.com

APPLICANT / AGENT: Wendy G. Grier (Capital Zoning Products)
 Mailing Address 363 Woodmont City Bozeman State MT Zip 59718
 Telephone (202) 644-5522 Cell (408) 283-4174 Email wendy.g.grier@capitalzoning.com

OTHER CONTACT Name _____ Phone _____

PURPOSE OF PROPOSAL:

Amend the ZONING MAP to change the zoning district boundaries on the following parcel(s):

Lot / Tract No. Lot / Tract No. Lot / Tract No. Lot / Tract No.

From DD From _____ From _____ From _____
 To C-1 To _____ To _____ To _____

Location address or Legal lot and block range: See attached survey

Present use of this property is: Auto shop, Barber shop, House

Describe proposed *new* use and purpose for zoning change:

Maxed out; Retail Restaurant, coffee, bakery
COMMERCIAL

PROPERTY DESCRIPTION

Total net land area 4.99 acres (acres /or square feet)

Sketch Drawing of Area to be Re-Zoned, including location Map (8 1/2" x 11")

Certified Legal Description:

NOT PLATTED: A Registered Texas Surveyor's certified metes and bounds legal description is required with case exhibit drawings of the entire area to be rezoned. The boundary description shall be furnished on 8 1/2" x 11" paper, bearing the surveyor's name, seal and date. If the area to be rezoned is entirely encompassed by a recorded deed, a copy of the deed description is acceptable. An Electronic copy of survey may be provided by CD, email or other method within 2 days of application. Send to bds@fulsheartexas.gov.

PLATTED: If it is within a recorded subdivision, provide a copy of the plat with the subdivision name and recording information. Any partial or non-surveyed parcel or tract, extracted from a recorded deed, will require a certified legal description as noted above.

Subdivision Name _____
 Block _____ Lot(s) _____; Block _____ Lot(s) _____; Block _____ Lots(s) _____

Zoning Change Request:
 30200 FM 1093 4.99 acres

Item 2: Letter of Request
 and Application

2 of 4

Posting Requirements:

Notice of required Public Hearings shall be provided by the **applicant** by way of a sign posted on the land that is the subject of the application. One sign shall be posted for each 200 feet of frontage along a public street, with a maximum of 2 signs required per frontage. Signs shall be located so that the lettering is visible from the street. Where the land does not have frontage on a public street, signs shall be posted on the nearest public street with an attached notation indicating the location of the land subject to the application. The sign shall state "The property has requested a Zoning Change, for information regarding this request contact the City of Fulshear at 30603 FM 1093 Fulshear, Texas 77441, 281-346-1796. 2 Public Hearings will be held for this request."

ACKNOWLEDGEMENTS:

I certify that the above information is correct and complete to the best of my knowledge and ability and that I am now, or will be, fully prepared to present the above proposal before the Zoning Commission and City Council public hearings. I further certify that I have read and understand the information provided, concerning the policies and procedures regarding consideration of my zoning request.

I understand that all recommendations of the Zoning Commission will be forwarded to the City Council for final determination, normally scheduled for the third Tuesday of the month. I further understand that any actions of the Zoning Commission are considered recommendations to the City Council and that I may be heard by the City Council at the prescribed Council hearing date where a final decision will be made.

I further understand that if I am not present nor duly represented at the Commission's public hearing, the Zoning Commission may dismiss my request, which constitutes a recommendation that the request be denied. I further understand that if I am not present, or duly represented, at the City Council public hearing, the City Council may deny my request.

*I reserve the right to **withdraw** this proposal at any time, upon written request filed with the City Secretary. Such withdrawal shall immediately stop all proceedings thereon; provided, however, case withdrawal, shall constitute a denial by the Commission and City Council. I understand my filing fee is not refundable upon withdrawal of my case application after public notice, nor following denial by the Commission or Council of my case. I / We respectfully request approval and adoption of the proposed zoning / land use of property, within the City of Fulshear, as identified in this application.*

Signature of Owner/ Agent*  Date 3-15-18

(circle one) Printed name George S. Goyles, IV Phone. No. 281-660-9440

*Note: An Agent must furnish a signed Letter of Authorization from the owner when submitting this application.

Zoning Change Request:
30200 FM 1093 4.99 acres

Item 2: Letter of Request
and Application
3 of 4

CUSTOMER COPY

281-346-1796

REC#: 00139104 3/27/2018 3:52 PM
OPER: AJ TERM: 002
REF#: 1106

TRAN: 3.0000 BUILDING PERMITS
20180608 674.85CR
ANDERSON G. SMITH
FM 1093 RD
VARIANCE 674.85CR

TENDERED: 674.85 CHECK
APPLIED: 674.85-

CHANGE: 0.00

Thank You!

Zoning Change Request:
30200 FM 1093 4.99 acres

Item 2: Letter of Request
and Application
4 of 4

LETTER OF AUTHORIZATION FOR ZONING CASE REPRESENTATION

AUTHORITY IS HEREBY GRANTED TO: George Gayle

ACTING ON MY BEHALF AS THE OWNER OF THIS PROPERTY AS INDICATED AT THE APPRAISAL DISTRICT, TO FILE AND PRESENT AN APPLICATION TO THE CITY OF FULSHEAR, TEXAS, TO REQUEST A CHANGE IN ZONING CLASSIFICATION FOR THE FOLLOWING PROPERTY:

(CERTIFIED	LEGAL	DESCRIPTION]
4.99 ac. in C. Fulshear, Abs. 29, Ft. Bend County, TX being part of a 34.23 ac. tract.		

ACKNOWLEDGEMENTS:

I certify that the above information is correct and complete to the best of my knowledge and ability and that I am now, or will be, fully prepared to present the above proposal before the Zoning Commission and City Council public hearings. I further certify that I have read and understand the information provided, concerning the policies and procedures regarding consideration of my zoning request.

I understand that all recommendations of the Zoning Commission will be forwarded to the City Council for final determination, normally scheduled for the third Tuesday of the month. I further understand that any actions of the Zoning Commission are considered recommendations to the City Council and that I may be heard by the City Council at the prescribed Council hearing date where a final decision will be made.

I further understand that if I am not present nor duly represented at the Commission's public hearing, the Zoning Commission may dismiss my request, which constitutes a recommendation that the request be denied. I further understand that if I am not present, or duly represented, at the City Council public hearing, the City Council may deny my request.

I reserve the right to withdraw this proposal at any time, upon written request filed with the City Secretary. Such withdrawal shall immediately stop all proceedings thereon; provided, however, case withdrawal, shall constitute a denial by the Commission and City Council. I understand my filing fee is not refundable upon withdrawal of my case application after public notice, nor following denial by the Commission or Council of my case. I / We respectfully request approval and adoption of the proposed zoning / land use of property, within the City of Fulshear, as identified in this application.

THIS AUTHORIZATION WILL REMAIN IN FORCE UNLESS REVOKED BY WRITTEN NOTICE.

OWNER'S SIGNATURE of the above described property: Joseph F. Woodham

OWNER'S NAME (printed) Joseph F. Woodham

ADDRESS: 63 Big Chief Tr. Bozeman, MT 59718

TELEPHONE: 406-539-7929 EMAIL: fbwoodham@gmail.com

LETTER OF AUTHORIZATION FOR ZONING CASE REPRESENTATION

AUTHORITY IS HEREBY GRANTED TO: Anderson Smith

ACTING ON MY BEHALF AS THE OWNER OF THIS PROPERTY AS INDICATED AT THE APPRAISAL DISTRICT, TO FILE AND PRESENT AN APPLICATION TO THE CITY OF FULSHEAR, TEXAS, TO REQUEST A CHANGE IN ZONING CLASSIFICATION FOR THE FOLLOWING PROPERTY:

(CERTIFIED	LEGAL	DESCRIPTION]
4.99 ac. in C. Fulshear, Abs. 29, Ft. Bend County, TX being part of a 34.23 ac. tract.		

ACKNOWLEDGEMENTS:

I certify that the above information is correct and complete to the best of my knowledge and ability and that I am now, or will be, fully prepared to present the above proposal before the Zoning Commission and City Council public hearings. I further certify that I have read and understand the information provided, concerning the policies and procedures regarding consideration of my zoning request.

I understand that all recommendations of the Zoning Commission will be forwarded to the City Council for final determination, normally scheduled for the third Tuesday of the month. I further understand that any actions of the Zoning Commission are considered recommendations to the City Council and that I may be heard by the City Council at the prescribed Council hearing date where a final decision will be made.

I further understand that if I am not present nor duly represented at the Commission's public hearing, the Zoning Commission may dismiss my request, which constitutes a recommendation that the request be denied. I further understand that if I am not present, or duly represented, at the City Council public hearing, the City Council may deny my request.

I reserve the right to withdraw this proposal at any time, upon written request filed with the City Secretary. Such withdrawal shall immediately stop all proceedings thereon; provided, however, case withdrawal, shall constitute a denial by the Commission and City Council. I understand my filing fee is not refundable upon withdrawal of my case application after public notice, nor following denial by the Commission or Council of my case. I / We respectfully request approval and adoption of the proposed zoning / land use of property, within the City of Fulshear, as identified in this application.

THIS AUTHORIZATION WILL REMAIN IN FORCE UNLESS REVOKED BY WRITTEN NOTICE.

OWNER'S SIGNATURE of the above described property: Joseph F. Woodham

OWNER'S NAME (printed) Joseph F. Woodham

ADDRESS: 63 Big Cities Tr. Bozeman, MT. 59718

TELEPHONE: 406-539-7979 EMAIL: fbwoodham@gmail.com



Vicinity Map



Zoning Change Request:
30200 FM 1093 4.99
acres

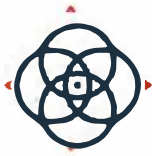
Item 4: Zoning Change
Site Map; 1 of 1

Syms Street

4.99 acres; 30200 FM 1093

FM 1093

Google Earth



WINDROSE
LAND SURVEYING | PLATTING

Zoning Change Request: 30200
FM 1093 4.99 acres

Item 5: Zoning Change - Survey &
Legal Description
2 of 2

**DESCRIPTION OF
4.990 ACRES OR 217,364 SQ. FT.**

A TRACT OR PARCEL CONTAINING 4.990 ACRES OR 217,364 SQUARE FEET OF LAND, SITUATED IN THE C. FULSHEAR LEAGUE, ABSTRACT NO. 29, FORT BEND COUNTY, TEXAS, AND BEING PART OF AND OUT OF THE RESIDUE OF A CALLED 34.23 ACRE TRACT OF LAND CONVEYED TO B.A. WOODHAM AS RECORDED UNDER VOL. 485, PG. 209 OF THE FORT BEND COUNTY DEED RECORDS (F.B.C.D.R.), AND A PORTION OF THIRD STREET, FOURTH STREET, FIFTH STREET, AND HOUSTON STREET, (ALL CALLED 60' WIDE) AS RECORDED UNDER VOL. U, PGS. 177-179, F.B.C.D.R., CONVEYED TO HUGGINS RANCH, LTD. AS RECORDED UNDER F.B.C.C.F. NO. 2009007110, AND ALL OF BLOCKS 18, 19, AND 30 OF THE TOWN OF FULSHEAR, MAP OR PLAT THEREOF RECORDED UNDER VOL. U, PGS. 177-179, F.B.C.D.R., AND A PORTION OF A CALLED 2-1/4 ACRE TRACT OF LAND CONVEYED TO HUGGINS RANCH, LTD. AS RECORDED UNDER FORT BEND COUNTY CLERK'S FILE (F.B.C.C.F.) NO. 2009007110, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, WITH ALL BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE (NAD83):

BEGINNING AT A 1/2 INCH IRON PIPE FOUND MARKING THE INTERSECTION OF THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF FARM-TO-MARKET (F.M.) ROAD NO. 1093 (120' WIDE) AND THE EAST R.O.W. LINE OF SYMS ROAD (CALLED 60' WIDE) AS RECORDED UNDER VOL. U, PGS. 177-179, F.B.C.D.R. AND THE SOUTHWEST CORNER OF SAID CALLED 34.23 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT;

THENCE, ALONG THE EAST R.O.W. LINE OF SAID SYMS ROAD, NORTH 07 DEG. 09 MIN. 04 SEC. WEST, A DISTANCE OF 295.09 FEET A 1/2 INCH IRON ROD AND AN ANGLE IRON FOUND MARKING THE SOUTHWEST CORNER OF A CALLED 0.447 ACRE TRACT CONVEYED TO BRETT EDWARD DESHAZO AS RECORDED UNDER F.B.C.C.F. NO. 2012008871 AND THE MOST WESTERLY CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, DEPARTING THE EAST R.O.W. LINE OF SAID SYMS ROAD, NORTH 82 DEG. 50 MIN. 56 SEC. EAST, A DISTANCE OF 150.00 FEET TO AN ANGLE IRON FOUND MARKING THE SOUTHEAST CORNER OF SAID CALLED 0.447 ACRE TRACT AND AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, ALONG THE EAST LINE OF SAID CALLED 0.447 ACRE TRACT AND THE EAST LINE OF A CALLED 0.3714 ACRE TRACT OF LAND CONVEYED TO VELA JEAN DESHAZO AS RECORDED UNDER F.B.C.C.F. NO. 2013061638, NORTH 07 DEG. 09 MIN. 04 SEC. WEST, PASSING AT A DISTANCE OF 130.00 FEET A 5/8 INCH IRON ROD FOUND MARKING THE COMMON EAST CORNER OF SAID CALLED 0.447 ACRE TRACT AND SAID CALLED 0.3714 ACRE TRACT, AND CONTINUING FOR A TOTAL DISTANCE OF 200.93 FEET TO A POINT ON THE SOUTH LINE OF A CALLED 3.114 ACRE TRACT OF LAND CONVEYED TO BURGIN REAL ESTATE, LLC AS RECORDED UNDER F.B.C.C.F. NO. 2013004934, SAME BEING A WESTERLY CORNER OF THE HEREIN DESCRIBED TRACT, FROM WHICH A 5/8 INCH IRON ROD FOUND BEARS FOR REFERENCE, NORTH 81 DEG. 42 MIN. 13 SEC. WEST - 0.28 FEET;

THENCE, ALONG THE COMMON LINE OF SAID CALLED 34.23 ACRE TRACT AND SAID CALLED 3.114 ACRE TRACT, SOUTH 71 DEG. 04 MIN. 16 SEC. EAST, A DISTANCE OF 222.29 FEET TO A 1/2 INCH IRON PIPE FOUND MARKING THE SOUTHEAST CORNER OF SAID CALLED 3.114 ACRE TRACT AND AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, THROUGH AND ACROSS SAID CALLED 34.23 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES;

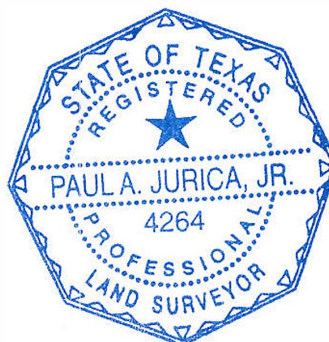
SOUTH 07 DEG. 09 MIN. 04 SEC. EAST A DISTANCE OF 103.20 FEET TO A CAPPED "5/8 INCH IRON ROD STAMPED "WINDROSE" SET FOR AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT;

NORTH 82 DEG. 50 MIN. 56 SEC. EAST A DISTANCE OF 282.82 FEET TO A CAPPED "5/8 INCH IRON ROD STAMPED "WINDROSE" SET FOR THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

SOUTH 07 DEG. 01 MIN. 00 SEC. EAST A DISTANCE OF 296.57 FEET TO A CAPPED "5/8 INCH IRON ROD STAMPED "WINDROSE" SET ON THE NORTH R.O.W. LINE OF SAID F.M. 1093, FOR THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, ALONG THE NORTH R.O.W. LINE OF SAID F.M. 1093, SOUTH 82 DEG. 59 MIN. 00 SEC. WEST, A DISTANCE OF 631.78 FEET TO THE PLACE OF BEGINNING, AND CONTAINING 4.990 ACRES OR 217,364 SQUARE FEET OF LAND, AS SHOWN ON JOB NO. 52726_4.99AC, PREPARED BY WINDROSE LAND SERVICES.

PAUL A. JURICA JR.
R.P.L.S. NO. 4264
STATE OF TEXAS
FIRM REGISTRATION NO. 10108800



12/20/2017
DATE:

PUBLIC HEARING – ZONING CHANGE

In compliance with the City of Fulshear Zoning Ordinance Number 2010-1028, the City will hold two Public Hearings; **the first Public Hearing will be held by the Planning and Zoning Commission on May 4, 2018 at 8:30 a.m.**, the hearing will be held at City Hall located at 30603 FM 1093. ~~The second hearing will be held by the City Council on May 9, 2018 at 6:30 p.m. the hearing will be held at the Irene Stern Center located at 6920 Katy Fulshear Road.~~ The second hearing has been re-scheduled to be held by the City Council on May 15, 2018 at 7:00 p.m. the hearing will be held at the Irene Stern Center located at 6920 Katy Fulshear Road. Both hearings will allow all interested persons an opportunity to be heard.

The location of the premises in question is in the Downtown District, C Fulshear League, Abstract 29, Acres 4.99, specifically the location is at the northeast corner of FM 1093 and Syms Rd, Fulshear, Texas 77441.

The applicant's agent, Anderson Smith, of Capital Retail Properties, is seeking a Zoning Change pursuant to the Zoning Ordinance, Section 1-279, to take the current zoning from Downtown District to Commercial Use for commercial, retail, restaurant, office and/or medical space.

The applicant reserves the right to supplement this application and/or seek at the time of the hearing, such other approvals, interpretations, and/or waivers as may be requested or required by the applicant or the Board/Council.

A copy of said application and documents is on file at the City of Fulshear City Hall located at 30603 FM 1093 Fulshear, Texas 77441 on Monday through Thursdays from 8:00 a.m. to 5 p.m. and Fridays from 8:00 a.m. to 3 p.m. in the City Secretary's office for all interested parties prior to said hearing.

If you have any questions regarding this request please call the City Secretary's office at 281-346-1796.



CITY OF FULSHEAR

PO Box 279 / 30603 FM 1093

Fulshear, Texas 77441

Phone: 281-346-1796 ~ Fax: 281-346-2556

www.fulsheartexas.gov

April 4, 2018
Zoning Change Request
Staff Report (Item 7)

RE: Zoning Change application for 30200 FM 1093, 4.99 Acres located at the southwest corner of Syms Street and FM 1093, Fulshear TX 77441

The owner of the property located at 30200 FM 1093, along with their designated representatives, Mr. Anderson Smith, Capital Retail Properties, 6363 Woodway Dr., Suite 1125, Houston, TX 77057, and Mr. George Gayle, George Gayle Properties, 7007 Hunt Ln Fulshear, TX 77441, are requesting a change in zoning for the property indicated. The property is currently zoned Downtown District and lies at the lower southeast section of the Downtown District zone. It also is adjacent to the FM 1093 corridor, where much of the property fronting FM 1093 is zoned Commercial. They are requesting the zoning change to use the property as a commercial use, which would include retail, restaurant, medical, office, and commercial.

As it concerns the requested zoning change of this property in the Downtown District, the City of Fulshear's Comprehensive Plan generally addresses the ability to provide for prime consideration in efficient land use and a focus on community character integrated with all other aspects of the Comprehensive Plan.

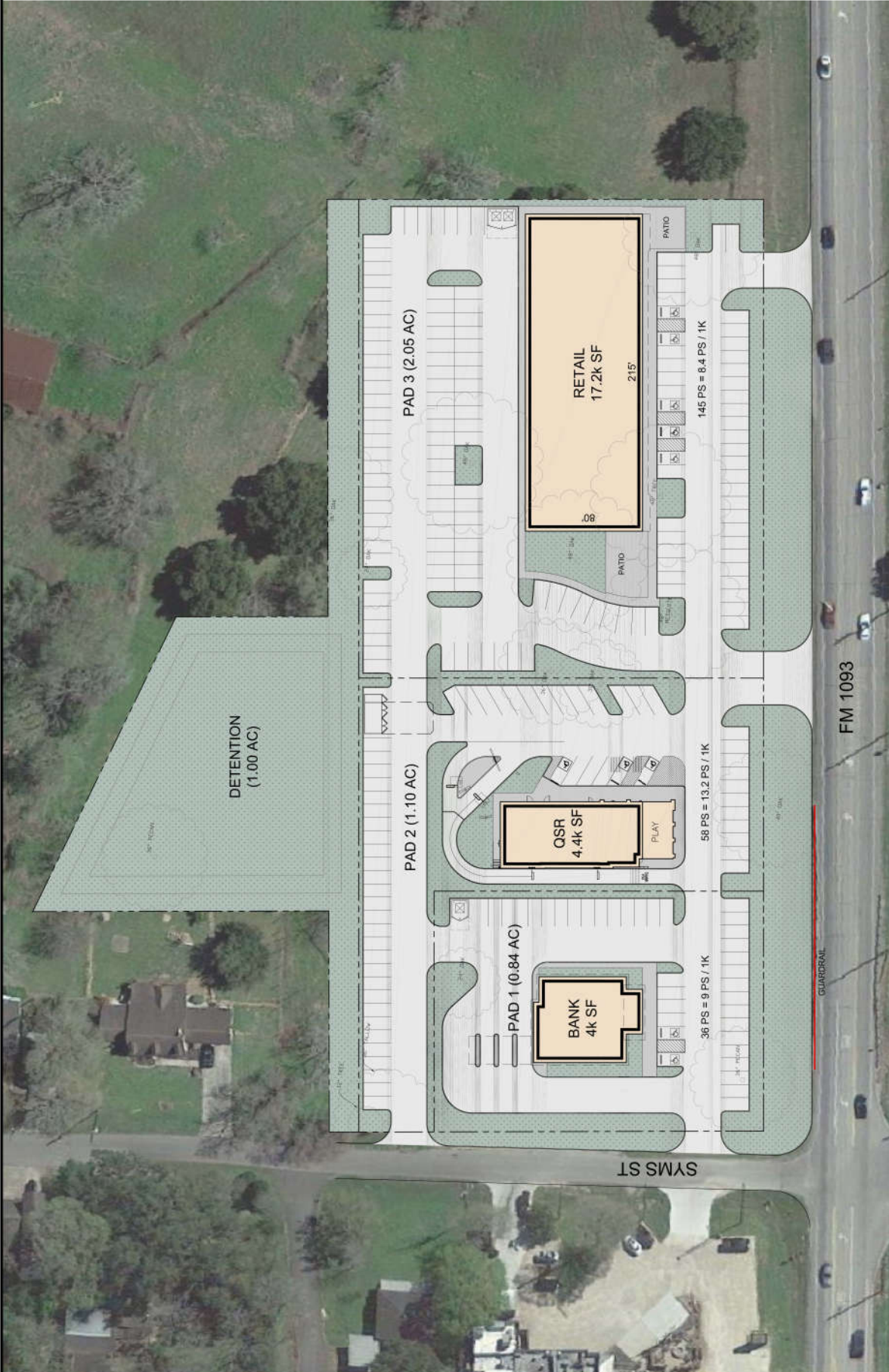
The future land use map is intended to show the general pattern of uses anticipated and/or desired in and around the community in the years ahead and can be seen as an interim situation. As the development occurs, it is common to review or re-evaluate a land use.

Based on a review of the documentation and of the Comprehensive Plan, City Staff have reason to believe the proposed zoning change requested by the applicant(s) will offer a variety of mixed uses that are permitted by the zoning change from Downtown District to Commercial, and will support the intent of the Zoning Ordinance and the Comprehensive Plan. The change will not adversely affect the public health, safety and well-being; nor will it diminish or impair the property values within the area and surrounding neighborhood. Thus, we find that the request to change the zoning classification for the property at 30200 FM 1093, 4.99 acres, is in line with the Comprehensive Plan.

Sincerely,

Sharon Valiante – Public Works Director
Brant Gary – Assistant City Manager/
Executive Director of Planning and Development
City of Fulshear

Zoning Change Request:
30200 FM 1093 4.99 acres
Item 7: Staff Report/Comp Plan Alignment



COMMERCIAL DEVELOPMENT
 March 8, 2018
 30200 FM 1093
 FRI, TEXAS, TX
 17255-01, 16.02.28

CIR
 CAPITAL RETAIL
 PROPERTIES

Scale: 1" = 30'
 0' 10' 20' 30' 40'

identityARCHITECTS
 111 Travis Street, Houston, Texas 77002
 www.identityarchitects.com 713.566.2150

SITE PLAN B

BUS-18



Zoning Change Request:
30200 FM1093 4.99 acres
Item 9: P&Z Recommendation
1 of 1

Zoning Change

APPLICANT/OWNER: ANDERSON SMITH - CAPITAL RETAIL PROPE
ADDRESS OF PREMISES: 30200 FM1093 - NEQ OF FM1093 & SYMS RD
REQUESTING: ZONING CHANGE FROM DOWNTOWN DISTRICT
TO COMMERCIAL.

HEARING DATE: MAY 4, 2018

PLANNING AND ZONING COMMISSION REVIEW

GRANTED (4-1 VOTE)

DENIED

RETURNED FOR ADDITIONAL DATA

COMMENTS/CONDITIONS: APPROVED WITH THE CONDITION THAT
THE DEVELOPMENT COMPLIES WITH DOWNTOWN DISTRICT ARCHITECT.
URBAN SIGN & PROHIBITED USE STANDARDS.

CHAIRMAN SIGNATURE: Amy P. P. P. DATE: 4 MAY 2018

"The Planning and Zoning Commission finds that granting the Special Use Permit will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, nor impair adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public health, safety and well-being, or substantially diminish or impair property values within the neighborhood."

CITY COUNCIL REVIEW

GRANTED

DENIED

SIGNATURE: _____ DATE: _____



Zoning Change Request:
30200 FM1093 4.99 acres
Item 10: Letter from City Attorney
1 of 2

Memorial City Plaza II
820 Gessner, Suite 1570
Houston, TX 77024-4494

MEMORANDUM

TO: Brant Gary, Executive Director – Planning & Development
FROM: Byron L. Brown
THRU: J. Grady Randle
RE: **Zoning Change Request of Woodham Family Trust**
DATE: April 13, 2018

Question Presented:

May the City impose limitations or conditions on the use and development of the Woodham property when granting the requested zoning change?

Short Answer:

The City may impose specific, unilateral conditions for the granting of a zoning change request; however, a bilateral agreement to abide by general land use and development obligations would likely constitute impermissible “contract zoning.” Nevertheless, some such general obligations may be imposed through the use of a planned unit development (“PUD”).

Analysis:

Texas courts have long held that zoning is a legislative function that cannot be bargained away. Therefore, a court may invalidate zoning amendments which are arranged for through bilateral agreements. However, courts have distinguished unilateral *conditions* imposed on zoning amendments from bilateral *contracts* for zoning amendments. Imposing conditions on a landowner does not abrogate the legislative zoning power in the same way a binding agreement does.

For example, in *Super Wash, Inc. v. City of White Settlement*, 131 S.W.3d 249 (Tex. App.—Fort Worth 2004, pet. filed), the court upheld as a condition for granting a zoning amendment that the landowner build a screening fence to mitigate the visual impact of the change in property use. However, in *City of North Richland Hills v. Home Town Urban Partners*, 2011 Tex. App. LEXIS 3249 (Tex. App.—Fort Worth 2011, no pet. h.), the court

T 281-657-2000

F 832-476-9554

www.jgradyrandlepc.com

found the zoning amendment to be granted in exchange for the landowner's agreement to provide certain infrastructure improvements and to convey a recreation center to the city.

While the analysis varies among the courts, the test for whether a zoning amendment is conditional or contractual seems to focus on whether there is something gained by the City in exchange for the zoning amendment. However, courts have been reluctant to apply such a test to Planned Unit Developments, and have generally found that the collaboration with the developer in relation to a PUD is outweighed by the legislative processes involved in creating the PUD such that it does not result in contract zoning.

In the case of the zoning amendment requested by the Woodham Family Trust, the following items have been discussed with the landowner:

- 1.) Adherence to the Architectural Design Standards for the Downtown District zoning classification;
- 2.) Restrictions on allowable uses consistent with the Prohibited Uses identified for the Downtown District zoning classification;
- 3.) Agreement to work with the City to incorporate mutually agreeable improvements to highlight site-specific historical significance;
- 4.) Presentation and incorporation of additional development-related items in the preliminary and final platting processes. Draft/Preliminary items may be provided at the time of preliminary plat approval, but final plat approval will require final/approved versions of the following:
 - a. Traffic Impact Analysis (to include input/information from TXDOT)
 - b. Drainage Study and Plan(s) for improvements
 - c. Changes to the elevation/topography of the site (to include retaining walls, reduction of grade differences, etc.)
 - d. Renderings providing the architectural approach to the elevations/facades of the buildings (To demonstrate compliance with Item 2 above)

While some of these items may be imposed as unilateral conditions for granting the requested zoning amendment, others may be interpreted as bestowing a general benefit to the City in such a manner as would likely constitute a contractual obligation of the landowner. Therefore, the City should not come to a bilateral agreement on such terms.

Conclusion

While specific conditions related to the land uses involved may be imposed on the granting of a zoning amendment, zoning is a legislative function that cannot be abdicated by agreement. Therefore, the City cannot agree to grant a zoning amendment in exchange for contractual obligations to be performed by the landowner. Courts have been reluctant to invalidate PUDs as a form of contractual zoning; and, therefore, PUDs may provide a method for imposing land use obligations legislatively rather than contractually.

ORDINANCE NO. 2018- 1275

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, GRANTING A CHANGE IN ZONING CLASSIFICATION FROM DOWNTOWN DISTRICT (DD) TO COMMERCIAL (C) DISTRICT, WITH CERTAIN CONDITIONS, FOR A 4.990 ACRE TRACT OR PARCEL OF LAND SITUATED IN THE C. FULSHEAR LEAGUE, ABSTRACT NO. 29, FORT BEND COUNTY, TEXAS; PROVIDING FOR A PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL AND PROVIDING FOR AN EFFECTIVE DATE.

* * * * *

WHEREAS, the owner of that certain tract or parcel of land described in Exhibit A attached hereto (the "Property") has submitted a complete application for a change in zoning classification to the City of Fulshear Planning and Zoning Commission; and

WHEREAS, on April 13, 2018, after giving due notice as required by Chapter 211 of the Texas Local Government Code, the Planning and Zoning Commission held a public hearing on its preliminary report on such application, and has submitted a final report to the City Council of the City of Fulshear; and

WHEREAS, the Planning and Zoning Commission has recommended that the City Council deny the change in zoning classification; and

WHEREAS, after receiving the final report of the Planning and Zoning Commission, and after giving due notice as required by Chapter 211 of the Texas Local Government Code, the City Council held a public hearing on the matter at which parties in interest and citizens had an opportunity to be heard; and

WHEREAS, the City Council desires to grant the change in zoning classification, subject to certain conditions as set forth herein, and finds that such change in zoning classification promotes the public health, safety, morals, or general welfare and protects and preserves places and areas of civic or architectural importance and significance;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The zoning classification of that certain 4.990 acre tract or parcel of land being more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the "Property"), is hereby changed from Downtown District (DD) to Commercial (C) District, subject to the following conditions:

- (1) the prohibited uses applicable to the Downtown District (DD), being set forth in Section 1-193(d) of the Fulshear Code, the same being attached hereto as Exhibit B, as may be amended from time to time, shall apply to the Property, in addition to the prohibited uses applicable to the Commercial (C) District, being set forth in Section 1-188(e) of the Fulshear Code, as may be amended from time to time; and
- (2) the Property shall be subject to the architectural design standards set forth in Section 1-171 of the Fulshear Code, the same being attached hereto as Exhibit C.
- (3) the Property shall be subject to the sign standards as set forth in Section 28-4 of the Fulshear Code, the same being attached hereto as Exhibit D.

Section 2. **Penalty.** Any person who violates or causes, allows, or permits another to violate any provision of this ordinance, rule, or police regulation of the city shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine or penalty not to exceed five hundred dollars (\$500.00), provided that if such rule, ordinance, or police regulation governs fire safety, zoning, or public health and sanitation, other than the dumping of refuse, the fine or penalty shall not exceed two thousand dollars (\$2,000.00), and further provided that if such rule, ordinance, or police regulation governs the dumping of refuse, the fine or penalty shall not exceed four thousand dollars (\$4,000.00). Each occurrence of any violation of this ordinance, rule, or police regulation shall constitute a separate offense. Each day on which any such violation of this ordinance, rule, or police regulation occurs shall constitute a separate offense.

Section 3. **Severability.** In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

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

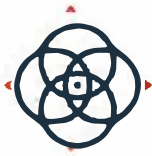
Section 5. **Effective date.** This Ordinance shall be effective and in full force when published as required by law.

PASSED, APPROVED, and ADOPTED this, the 17th day of April, 2018.

Jeff W. Roberts, Mayor

ATTEST:

Kimberly Kopecky, Interim City Secretary



WINDROSE
LAND SURVEYING | PLATTING

EXHIBIT A -
Survey & Legal Description
2 of 2

**DESCRIPTION OF
4.990 ACRES OR 217,364 SQ. FT.**

A TRACT OR PARCEL CONTAINING 4.990 ACRES OR 217,364 SQUARE FEET OF LAND, SITUATED IN THE C. FULSHEAR LEAGUE, ABSTRACT NO. 29, FORT BEND COUNTY, TEXAS, AND BEING PART OF AND OUT OF THE RESIDUE OF A CALLED 34.23 ACRE TRACT OF LAND CONVEYED TO B.A. WOODHAM AS RECORDED UNDER VOL. 485, PG. 209 OF THE FORT BEND COUNTY DEED RECORDS (F.B.C.D.R.), AND A PORTION OF THIRD STREET, FOURTH STREET, FIFTH STREET, AND HOUSTON STREET, (ALL CALLED 60' WIDE) AS RECORDED UNDER VOL. U, PGS. 177-179, F.B.C.D.R., CONVEYED TO HUGGINS RANCH, LTD. AS RECORDED UNDER F.B.C.C.F. NO. 2009007110, AND ALL OF BLOCKS 18, 19, AND 30 OF THE TOWN OF FULSHEAR, MAP OR PLAT THEREOF RECORDED UNDER VOL. U, PGS. 177-179, F.B.C.D.R., AND A PORTION OF A CALLED 2-1/4 ACRE TRACT OF LAND CONVEYED TO HUGGINS RANCH, LTD. AS RECORDED UNDER FORT BEND COUNTY CLERK'S FILE (F.B.C.C.F.) NO. 2009007110, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, WITH ALL BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE (NAD83):

BEGINNING AT A 1/2 INCH IRON PIPE FOUND MARKING THE INTERSECTION OF THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF FARM-TO-MARKET (F.M.) ROAD NO. 1093 (120' WIDE) AND THE EAST R.O.W. LINE OF SYMS ROAD (CALLED 60' WIDE) AS RECORDED UNDER VOL. U, PGS. 177-179, F.B.C.D.R. AND THE SOUTHWEST CORNER OF SAID CALLED 34.23 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT;

THENCE, ALONG THE EAST R.O.W. LINE OF SAID SYMS ROAD, NORTH 07 DEG. 09 MIN. 04 SEC. WEST, A DISTANCE OF 295.09 FEET A 1/2 INCH IRON ROD AND AN ANGLE IRON FOUND MARKING THE SOUTHWEST CORNER OF A CALLED 0.447 ACRE TRACT CONVEYED TO BRETT EDWARD DESHAZO AS RECORDED UNDER F.B.C.C.F. NO. 2012008871 AND THE MOST WESTERLY CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, DEPARTING THE EAST R.O.W. LINE OF SAID SYMS ROAD, NORTH 82 DEG. 50 MIN. 56 SEC. EAST, A DISTANCE OF 150.00 FEET TO AN ANGLE IRON FOUND MARKING THE SOUTHEAST CORNER OF SAID CALLED 0.447 ACRE TRACT AND AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, ALONG THE EAST LINE OF SAID CALLED 0.447 ACRE TRACT AND THE EAST LINE OF A CALLED 0.3714 ACRE TRACT OF LAND CONVEYED TO VELA JEAN DESHAZO AS RECORDED UNDER F.B.C.C.F. NO. 2013061638, NORTH 07 DEG. 09 MIN. 04 SEC. WEST, PASSING AT A DISTANCE OF 130.00 FEET A 5/8 INCH IRON ROD FOUND MARKING THE COMMON EAST CORNER OF SAID CALLED 0.447 ACRE TRACT AND SAID CALLED 0.3714 ACRE TRACT, AND CONTINUING FOR A TOTAL DISTANCE OF 200.93 FEET TO A POINT ON THE SOUTH LINE OF A CALLED 3.114 ACRE TRACT OF LAND CONVEYED TO BURGIN REAL ESTATE, LLC AS RECORDED UNDER F.B.C.C.F. NO. 2013004934, SAME BEING A WESTERLY CORNER OF THE HEREIN DESCRIBED TRACT, FROM WHICH A 5/8 INCH IRON ROD FOUND BEARS FOR REFERENCE, NORTH 81 DEG. 42 MIN. 13 SEC. WEST - 0.28 FEET;

THENCE, ALONG THE COMMON LINE OF SAID CALLED 34.23 ACRE TRACT AND SAID CALLED 3.114 ACRE TRACT, SOUTH 71 DEG. 04 MIN. 16 SEC. EAST, A DISTANCE OF 222.29 FEET TO A 1/2 INCH IRON PIPE FOUND MARKING THE SOUTHEAST CORNER OF SAID CALLED 3.114 ACRE TRACT AND AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, THROUGH AND ACROSS SAID CALLED 34.23 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES;

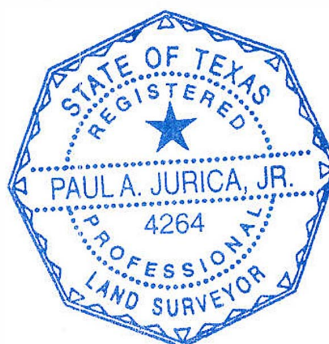
SOUTH 07 DEG. 09 MIN. 04 SEC. EAST A DISTANCE OF 103.20 FEET TO A CAPPED "5/8 INCH IRON ROD STAMPED "WINDROSE" SET FOR AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT;

NORTH 82 DEG. 50 MIN. 56 SEC. EAST A DISTANCE OF 282.82 FEET TO A CAPPED "5/8 INCH IRON ROD STAMPED "WINDROSE" SET FOR THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

SOUTH 07 DEG. 01 MIN. 00 SEC. EAST A DISTANCE OF 296.57 FEET TO A CAPPED "5/8 INCH IRON ROD STAMPED "WINDROSE" SET ON THE NORTH R.O.W. LINE OF SAID F.M. 1093, FOR THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, ALONG THE NORTH R.O.W. LINE OF SAID F.M. 1093, SOUTH 82 DEG. 59 MIN. 00 SEC. WEST, A DISTANCE OF 631.78 FEET TO THE PLACE OF BEGINNING, AND CONTAINING 4.990 ACRES OR 217,364 SQUARE FEET OF LAND, AS SHOWN ON JOB NO. 52726_4.99AC, PREPARED BY WINDROSE LAND SERVICES.

PAUL A. JURICA JR.
R.P.L.S. NO. 4264
STATE OF TEXAS
FIRM REGISTRATION NO. 10108800



12/20/2017
DATE:

EXHIBIT B

Sec. 1-193. - Downtown District (DD) regulations.

(d) *Prohibited uses.* The following uses of land and structure are expressly prohibited in this District:

- (1) Gambling halls, parlors, or other establishments for gaming (including 8-liners, card tables, slot machines for prizes, etc.);
- (2) Retail liquor establishments, except grocery stores;
- (3) Private clubs;
- (4) Tattoo parlors and body piercing establishments;
- (5) Palm readers, palmistry shops, psychics, and tarot card readers;
- (6) Smoking Paraphernalia establishments or any other kind of associated paraphernalia retail outlets;
- (7) Stores or shops where tobacco sales account for more than fifty percent (50%) of the retail sales;
- (8) Outdoor storage, mini-storage, self-storage, or facilities requiring the storage of goods or equipment outside (e.g., truck or van rentals, heavy equipment rentals, outdoor nurseries, etc.);
- (9) Automobile repair facilities, auto parts retail or wholesale facilities, tire repair or replacement facilities, and other automotive related establishments, including express lube shops;
- (10) Pawnshops or shops containing remaindered goods;
- (11) Check cashing, title loan, short term loan, or payday loan offices; and
- (12) Other uses not conducive to the orderly and attractive function of the main street area of the City.

These uses include those that affect the health, safety, and welfare, offend the morals and values, or create a nuisance to the community. The City Council shall give a reasoned determination for the prohibition of any proposed use which must be approved by a unanimous vote of all Council members.

This prohibition does not imply that these uses will be allowed in other Districts.

(Ord. No. 2012-1069, § 1-193, 5-17-2012)

EXHIBIT C

Sec. 1-171. - Architectural design standards for Downtown District (DD).

(a) *Relationship to standards for nonresidential and multifamily developments.*

(1) Applicable standards. All nonresidential developments in the Downtown District shall meet the same standards in Section 1-169 as for nonresidential developments elsewhere in the city as set out below. All multifamily developments in the Downtown District shall meet the same standards in Section 1-170 as for multifamily developments elsewhere in the city, except that carports are prohibited in the Downtown District as part of multifamily developments or with any other use.

a) Building finish materials as set out in Section 1-169, except that:

1. Stainless steel, chrome, and building integrated photovoltaics (BIPV) are not permitted as accent finish materials.

b) Colors as set out in Section 1-169.

c) Visual interest and anti-monotony as set out in Section 1-169, except that:

1. Building wall offsets shall occur at a lesser interval in the Downtown District so that no unmodulated segment of building wall exceeds 40 feet in horizontal dimension.

2. Roofline variation shall occur at a lesser interval in the Downtown District so that no unmodulated segment of roof exceeds 25 feet in horizontal dimension.

3. Design features for avoiding excessive areas of uninterrupted blank wall space shall also be applied in the Downtown District to enhance the visual interest of street-facing façades of principal buildings and to frame display windows and highlight primary building entries in accordance with this section.

d) Multiple buildings as set out in Section 1-169.

e) Parking structures as set out in Section 1-169:

f) Freestanding and attached canopies and porte cocheres as set out in Section 1-169.

g) Canopies and awnings as set out in Section 1-169, except that:

1. A canopy or awning along a building façade shall not be longer than a single storefront.

h) Arcade treatments as set out in Section 1-169.

i) Service bays as set out in Section 1-169.

j) Screening of mechanical and service equipment as set out in Section 1-169.

(b) *Building placement and orientation.*

(1) *Framing of and relationship to public spaces.* Individual principal buildings or groups of buildings on a development site or adjacent sites shall be arranged and designed, whenever possible, to form pedestrian-oriented outdoor plaza areas, courtyards, and open spaces that are focal points for surrounding and nearby development and which encourage street activity, public gathering, and outdoor dining.

- a) Landscaping, street furniture, low seating walls, water features, public art, active play areas for children, or other amenities should be incorporated to enhance the appeal of such spaces for pedestrians and users of the space.
 - b) Such spaces should be adjacent to, visible from, and easily accessible from a public street whenever possible.
- (2) *Massing through grouping.* Individual principal buildings on a development site or on adjacent sites, if not attached in any manner, shall be arranged and designed to appear as a group of attached buildings to the extent practical.
- a) The buildings in such situations shall be clustered, whenever possible, to create pedestrian-oriented precincts and walkable connections between individual buildings on a development site or adjacent sites.
- (3) *Private-public design compatibility.* Where a development fronts on a public plaza, pocket park, or other public space, the building architecture and other on-site elements shall be designed for compatibility with the adjacent public space.
- (4) *Lighting.* Where a development fronts on public street rights-of-way or public plazas/spaces, exterior lighting shall be located and directed to provide adequate pedestrian-level illumination of public sidewalks and other immediately adjacent public ways and seating areas, in accordance with the City's outdoor lighting regulations.
- (c) *Corporate identity.* Logo buildings and building elements, except signage, and other comprehensive franchise building design are prohibited in the Downtown District.
- (d) *Ground-level uses.*
- (1) *Parking located away from street frontages.* Development projects shall locate off-street parking and parking structures within the interior of blocks and away from public street frontages, whenever practical, so that such ground-level parking does not directly abut a public sidewalk. Instead, the ground level of structures that front on public sidewalks shall be occupied by active retail, service, office, residential, or other uses permitted in the district.
 - (2) *Parking structures.* Wrap-around design of active uses around a core parking structure is strongly encouraged. At a minimum, along a street-facing façade of a parking structure, this may include incorporation of display windows for use by nearby merchants or for other public art or civic displays. Otherwise, the special design elements for visible parking structures required in Section 1-169 shall receive particular scrutiny to ensure the garage appearance is enhanced by additional architectural or landscape features.
 - a) Where active uses along the ground-level street frontages of a parking structure are not practical due to site dimensions or other factors, the parking structure and its vehicle entrances shall be designed to minimize views into the garage interior from adjacent streets through installation of decorative grilles or screens, additional landscaping, or other effective screening method.
- (e) *Transparency of nonresidential uses at street level.*
- (1) *Minimum transparency.* Building facades associated with nonresidential uses that face public street rights-of-way or public plazas/spaces shall have windows at the ground level, for product display or other active building uses, which, together with door openings, comprise at least 60 percent of the ground-level facade. For purposes of this

section, the ground-level facade shall include all portions of a building facade that extend vertically from finished grade up to 12 feet above finished grade.

- a) Such ground-level windows and doors shall be non-mirrored and non-tinted, allowing views into and out of the interior of the building, to the extent practical given code requirements governing the selection of window glass. Frosted glass or other treatment shall be permitted for bathrooms and in other doors and windows where privacy is needed.
- b) Both the ground-level facade and any additional area of building facade above the ground-level facade shall meet the provisions for avoidance of blank walls as set out in Section 1-169.

(f) *Building entries.*

- (1) *Clear entries.* The primary entry to all principal buildings shall be easily identifiable for patrons and visitors, whether the entry provides pedestrian ingress and egress to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.
 - a) The building architecture and entry design shall reinforce the visual importance of the entry, which may be achieved through, but is not limited to:
 - 1. A recessed or projecting entry design;
 - 2. A sheltering element such as a canopy, awning, arcade, or portico;
 - 3. Hardscape features such as ornamental brick pavers, color-textured or stamped concrete, or tile work;
 - 4. Streetscape features such as street furniture, masonry seating walls, or decorative railings; or
 - 5. Landscape features such as portable planters, raised planter boxes, or at-grade planting beds around the entry.
 - b) The entry design shall be pedestrian-scale and transparent.
 - c) The width of a recessed building entry shall not exceed 12 feet, and the depth shall not exceed the width.

(Ord. No. 2016-1205, § 7(1-171), 1-19-2016)

EXHIBIT D

Sec. 28-4. - Design, construction and maintenance of signs by district.

- (3) **Special downtown sign district.** As noticed on the maps in section 28-3, the special downtown sign district is comprised of the developed portion of the original township platting for the city plus the city's town center municipal management district. All signs within this district shall be constructed in one of four formats.
- a. *Monument signs.*
 1. Monument signs shall be constructed of masonry material or shall be constructed of a material complimentary of the structure to which the sign is attributed. The bottom portion of the sign shall rest flush against the ground, allowing no space between the ground and the bottom of the sign structure. The portion of the sign containing the message shall not exceed 72 total square feet of area. The total height of the sign, including the sign structure and the portion containing the message of the sign, shall not exceed ten feet. The total width of the sign, including the sign structure and the portion containing the message of the sign, shall not exceed 12 feet. If one commercial property contains more than ten different businesses and has more than 350 feet of road frontage, the property shall be allowed two monument signs at that location, both of which must comply in all respects with this chapter.
 2. Each monument sign shall be permitted a decorative cap which shall not be included in the total sign height restrictions recited above. Each decorative cap shall be no more than two feet in height and shall extend beyond the permitted width of each such sign by no more than one foot on each side. Any decorative cap permitted by this subsection shall be purely ornamental, and shall be constructed of construction materials identical to or similar to the construction materials used in the construction of the sign or the construction of the building located on the premises.
 3. It shall be prohibited for monument signs on separate properties to be located within 50 linear feet of each other. It shall be prohibited for monument signs on the same property to be located within 100 linear feet of each other.
 - b. *Facade or wall signs.* Facade or wall signs shall be allowed only on a wall or facade that is parallel to a public street, and only so long as the total sign area does not exceed ten percent of the area of the facade or wall on which it is mounted or painted, provided that for buildings with two or more tenants, the total sign area for a facade or wall sign shall be limited to ten percent of the facade or wall area on which it is mounted or painted that is attributable to the applicable tenant's lease. Facade or wall signs may be mounted or painted upon the wall, and must be maintained in good condition at all times. The sign shall contain only information identifying the business located on the site. A mounted wall sign shall not project more than 12 inches from the building wall to which it is attached.
 - c. *Medallion signs.* Businesses located in the district shall have the option of erecting a medallion or shield sign in lieu of a monument sign described above. Any such sign shall not exceed nine square feet of sign area and shall be mounted no more than nine feet above the ground.
 - d. *Projecting signs.* Businesses located in such a way that preclude the installation of a monument or medallion sign due to encroachment by road or right-of-way may install one projecting sign per building face (wall) of a business property. A projecting sign shall not extend more than four feet from the building face (wall) to which it is attached and shall not exceed eight square feet in area. The distance from the bottom of the sign to the ground or sidewalk shall be a minimum of eight feet. The distance from the top of the sign to the ground or sidewalk shall be a maximum of 16 feet or the top of the roof line, whichever is lower. Projecting signs shall be pinned away from the building wall at least six inches.

e. *Sandwich board signs.*

1. Businesses located in the district shall have the option of sandwich board signs, which may only be located in front of commercial properties within the downtown signage district. These temporary signs shall be located in front of the business on private property during business hours. Under no exception shall the signs be placed on public property or within the city's rights-of-way. The total size of the sign is not to exceed 42 inches by 24 inches (height by width). The signs must be internally weighted to withstand strong winds. Businesses installing such signage will be allowed only one sign and will be required to place such sign in a manner that does not hinder safe sight lines for drivers nor impede foot traffic for other nearby businesses.
2. Said signs shall be permitted on an annual basis through the building and permitting office. Such permits are renewable year to year and shall be accompanied by a fee which is on file in the city secretary's office, and proof that the applicant has a liability insurance policy with a total umbrella cap of not less than \$500,000.00.
3. Businesses displaying such signage shall ensure that said signs are removed and secured inside a building on days where the National Weather Service or county office of emergency management has issued a severe weather statement relating to strong winds or red flag conditions.

(Ord. No. 2012-1058, § 4, 1-17-2012; Ord. No. 2012-1065, § 2, 3-20-2012; Ord. No. 2014-1143, § 2(2), 5-19-2014; Ord. No. 2015-1192, § 1.0, 7-21-2015; Ord. No. 2017-1245, §§ 1—3, 3-21-2017)