

ORDINANCE NO. 2022-16

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW AN “ACCESSORY RESIDENCE” WITHIN THE GENERAL RETAIL (GR) ZONING DISTRICT AT 817 EAST MAIN STREET; SAID PROPERTY BEING APPROXIMATELY 0.78 ACRES, BEING A PORTION OF THE JESSE PRUITT SURVEY, ABSTRACT NUMBER 629 (LEGALLY DESCRIBED IN EXHIBIT “A”). LOCATED WITHIN THE 700-800 BLOCKS OF EAST MAIN STREET (NORTH SIDE); CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE SUBJECT; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR VIOLATIONS HEREOF; AND PROVIDING FOR SEVERABILITY.

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Whereas, Michael Seitz requested a CUP to allow an “accessory residence” on approximately 0.78 acres of land legally described as being a portion of the Jesse Pruitt Survey, Abstract Number 629, generally located within the 700-800 blocks of East Main Street (north side), in the City of Tomball, Harris County, Texas, (the “Property”), and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days after written notice of that hearing was mailed to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the requested CUP; and

Whereas, the public hearing was held before the Planning & Zoning Commission at least forty (40) calendar days after the City’s receipt of the requested CUP; and

Whereas, the Planning & Zoning Commission recommended in its final report that City Council approve the requested CUP; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing for the requested CUP, the City Council held the public hearing for the requested CUP and the City Council considered the final report of the Planning & Zoning Commission; and

Whereas, the City Council deems it appropriate to grant the requested CUP.

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

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. A CUP to allow an “accessory residence” at the Property and subject to the terms and conditions set forth below is hereby granted to Michael Seitz.

Section 3. The Official Zoning District Map of the City shall be revised and amended to show the CUP authorized for the Property, with the appropriate references thereon to the number and effective date of this Ordinance and a brief description of the nature of the CUP authorized.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City, save and except the granting of the CUP as herein provided.

Section 5. The CUP granted hereby shall be null and void after the expiration of two (2) years from the date of adoption hereof unless the Property is being used in accordance with the CUP herein authorized within said two-year period, or unless an extension of time is approved by City Council.

Section 6. The CUP is subject to the following additional limitations, restrictions and conditions:

- 1) The site shall be developed and operated in substantial compliance with Exhibit “B”;
- 2) All outdoor storage of equipment and material must be screened from residential zoning districts and street right-of-ways by an opaque fence and/or wall with a minimum height of six feet. Said screening may be made of wood, metal, vegetation, or a combination thereof.
- 3) Accessory residence must remain subordinate to the principal land use and shall be no greater than 25% of the square footage for the existing principal building.
- 4) Accessory residence shall be limited to no more than one (1) story in height.

Section 7. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 8. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance 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 Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 1ST DAY OF AUGUST 2022.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DUNAGIN	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN PARR	<u>AYE</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 15TH DAY OF AUGUST 2022.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DUNAGIN	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>ABSENT</u>
COUNCILMAN PARR	<u>AYE</u>

Lori Klein Quinn
Lori Klein Quinn, Mayor

ATTEST:

Doris Speer
Doris Speer, City Secretary

EXHIBIT "A"
Legal Description

A tract or parcel of land containing 0.776 of an acre, more or less, located in the Jesse Pruitt Survey, Abstract Number 629, in HARRIS County, Texas, being out of and a portion of the T. L. Jones' 28.5038 acres of land, and being the same tract of land described by deed from Volney Hutchins to Thomas L. Jones, et ux., dated January 19, 1942, recorded in Volume 1233, Page 482 of the Deed Records of HARRIS County, Texas, the said 0.776 acre tract being more particularly described by metes and bounds as follows:

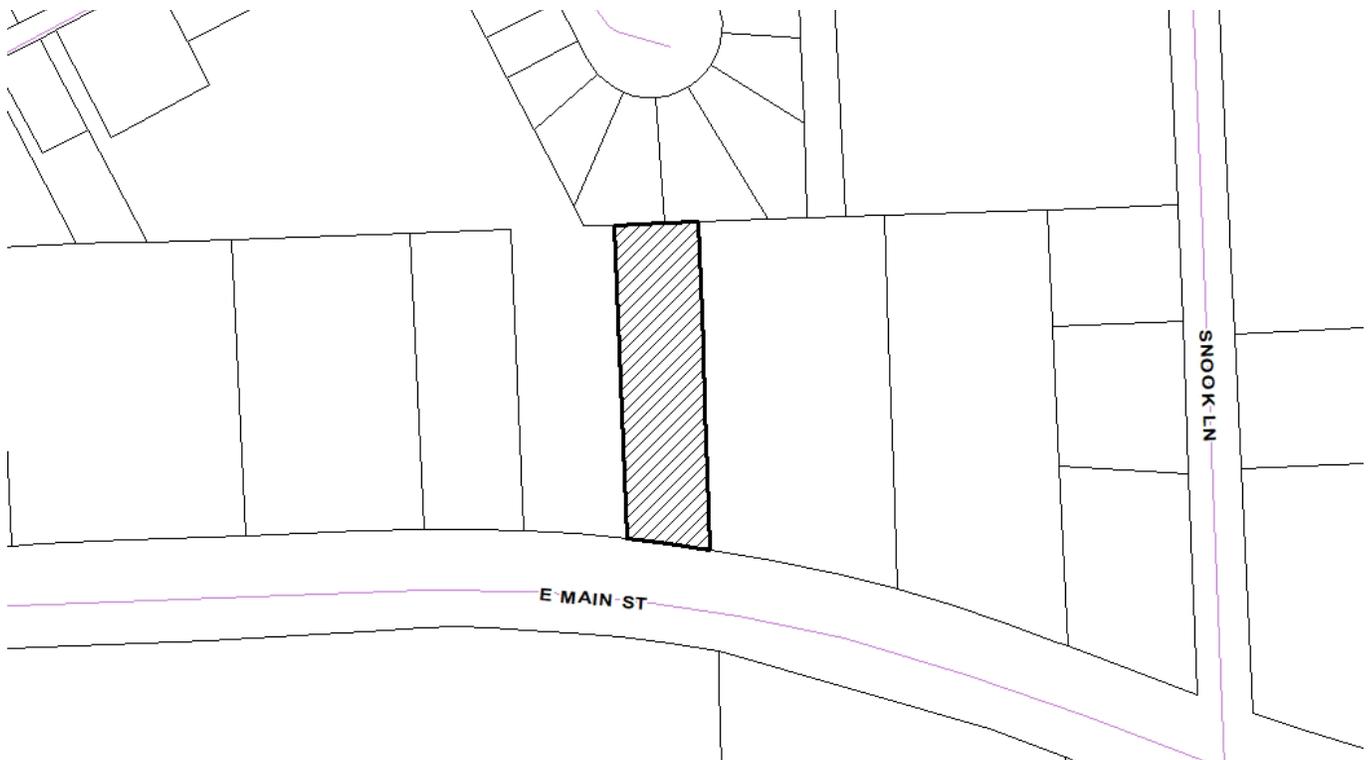
BEGINNING at a 5/8-inch iron rod marking the northeast corner of said 28.5038 acre tract, same being located 594.7 feet west of the southeast corner of the Ralph Hubbard Survey, and same being located in the most southerly north line of the Jesse Pruitt Survey;

THENCE South, a distance of 367.49 feet to a 5/8-inch iron rod located in the north right-of-way line of Waller-Tomball Road, and being the east line of this tract;

THENCE Westerly, a distance of 96.15 feet, along a curve in the said road, to a 5/8-inch iron rod, said curve having an angle of 22 degrees, a distance of 52 feet, a deflection of 3 degrees, and a radius of 1909.86 feet;

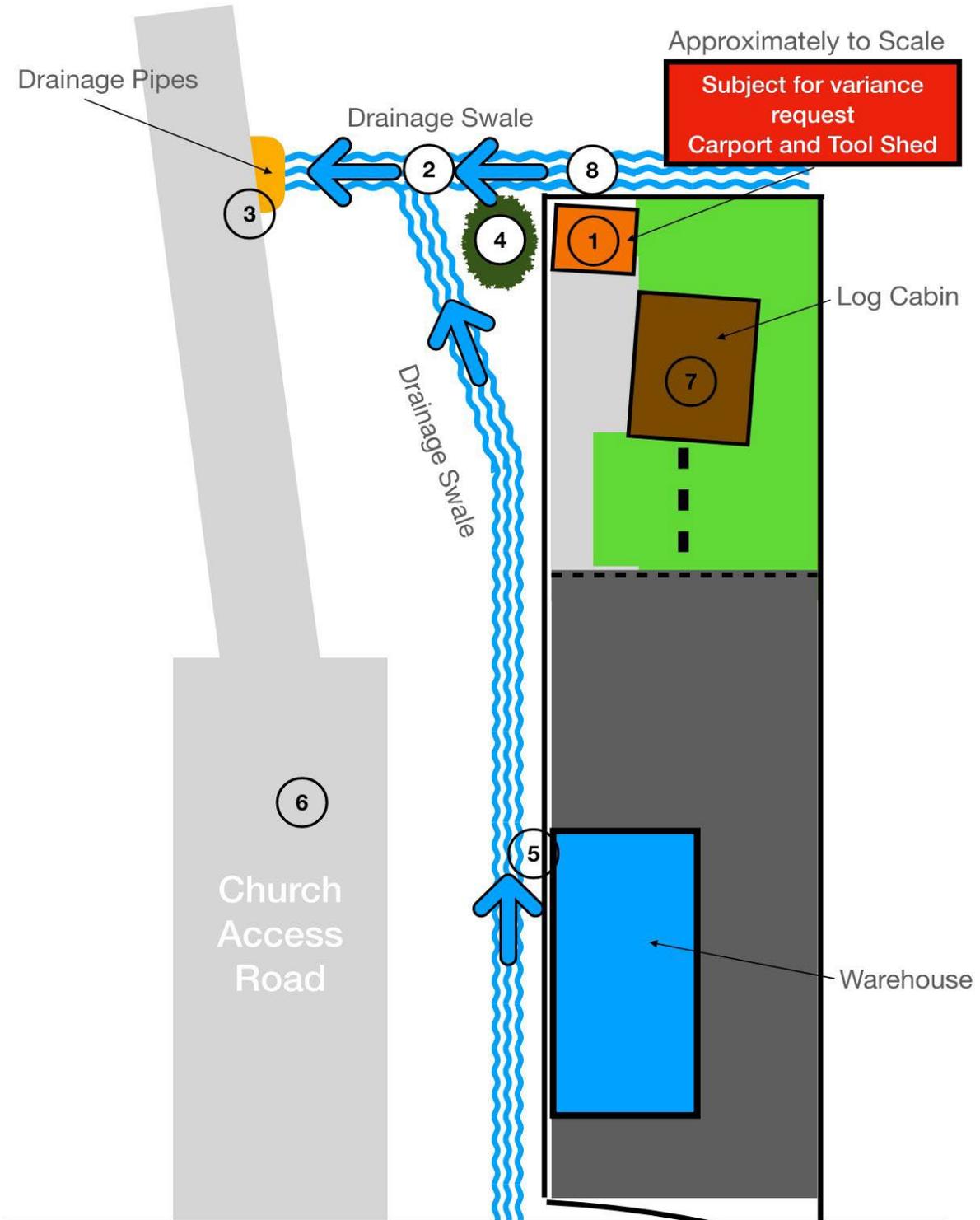
THENCE North, along a line parallel and 95.0 feet West of the east line of this tract, a distance of 351.15 feet to a 5/8-inch iron rod set in the north line of the said 28.0538 acre tract;

THENCE East, a distance of 95.00 feet to the PLACE OF BEGINNING and containing 0.776 of an acre of land, more or less.



Location: 700-800 blocks of E Main Street (817 E. Main Street)

Exhibit "B"
Concept Plan



Scaled plan view of the property showing the positions and placement of various photos following. Please refer to corresponding numbers in photos.