

AGENDA - JOINT PUBLIC HEARING OF THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION OF THE CITY OF PEARLAND, TEXAS, TO BE HELD NOVEMBER 21, 2011, AT 6:30 P.M., IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS

- I. CALL TO ORDER
- II. PURPOSE OF HEARING

Conditional Use Permit No. CUP 2011-12

A the request of Esteban V. Rodriguez, owner and applicant, for approval of a Conditional Use Permit to allow for the operation of a Minor Auto Repair Facility in the General Business (GB) District, on the following described property, to wit:

Legal Description: Plat of survey of a 0.6984 acre tract being a part of lot "A" of Westgate Park a subdivision of 9.575 acres of land out of lots 47 and 48 of the Allison Richey Gulf Coast Home Company Subdivision of Section 19 of the H. T. & B. Railroad Company survey, Abstract 243, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 16, page 320, of the plat records of Brazoria County, Texas

General Location: 7900 Block of Broadway, Pearland, TX

- III. APPLICATION INFORMATION AND CASE SUMMARY
 - A. STAFF REPORT
 - B. APPLICANT PRESENTATION
- IV. PERSONS WISHING TO SPEAK FOR OR AGAINST THE PROPOSED REQUEST
- V. COUNCIL/PLANNING COMMISSION/STAFF DISCUSSION
- VI. ADJOURNMENT

This site is accessible to disabled individuals. For special assistance, please call Young Lorfing, City Secretary, at 281-652-1655 prior to the meeting so that appropriate arrangements can be made.



JOINT PUBLIC HEARING AGENDA ITEM MEETING OF NOVEMBER 21, 2011

Conditional Use Permit No. CUP 2011-12

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General Location: 7900 Block of Broadway, Pearland, TX

APPROVAL PROCESS: After this Joint Public Hearing, the requested Conditional Use Permit application will be considered as follows:

Planning and Zoning Commission: November 21, 2011*

City Council for First Reading: December 12, 2011*

City Council for Second Reading: December 12, 2011*

(*dates subject to change)

SUMMARY: Esteban V. Rodriguez, owner and applicant, is requesting approval of a Conditional Use Permit to allow the operation of a Minor Auto Repair Facility at the above referenced location. The site is currently zoned General Business (GB) and there are not currently any business operations ongoing on the site. The most recent commercial use on the site was an auto sales lot which is no longer in operation. The property has an existing residential home structure on site; however the structure is not being used as a home and is currently vacant.

The property owner is proposing to redevelop the site to be used as a Minor Auto Repair facility. The conceptual plans submitted to the City indicate the existing home will be remodeled and turned into the auto repair facility. The City's Unified Development Code does allow a Minor Auto Repair Facility in the General Business (GB) zone with the approval of a Conditional use Permit.

If the Conditional Use Permit is approved, the site plan process will commence with the Planning and Building departments. A Pre-development meeting was held between staff and the property owner to discuss the City's current regulations for development which will be required to be met for this property when redeveloped.

SURROUNDING ZONING AND LAND USES:

	<u>Zoning</u>	<u>Land Use</u>
North	Neighborhood Service (NS)	Commercial
South	Neighborhood Service (NS)	Commercial
East	Neighborhood Service (NS) and General Business (GB)	Commercial
West	General Business	Commercial/Residential

CONFORMANCE WITH THE UNIFIED DEVELOPMENT CODE (UDC): As previously mentioned, the property is currently zoned General Business (GB). A breakdown between those lot and development requirements and the site current configuration is provided below:

	<u>General Business</u>	<u>Existing Site</u>
Lot Size:	22,500 sq ft	~30,690 sq ft
Lot Width:	150'	111.90'
Lot Depth:	125'	236.50'
Front Setback:	25'	130'
Rear Setback:	25'	39'
Side Setback:	10'	4'/10'

At the time of development, all aspects of the Unified Development Code (UDC) will be required to be met. At this time, all aspects of the UDC appear to be met with the exception of the side carport.

PLATTING STATUS: The property is currently platted as Westgate Park.

CONFORMANCE WITH THE COMPREHENSIVE PLAN: The current Comprehensive Plan (latest update in 2009) indicates *Business Commercial* for the subject property. The proposed use, a Minor Auto Repair Facility, is a permitted use in the General Business zoning district with the approval of a Conditional Use Permit. Furthermore, as the subject

property is currently zoned General Business (GB), and that zoning district is a correlating zoning district in the City's Comprehensive Plan for a Business Commercial, the zoning is in compliance with the Comprehensive Plan.

CONFORMANCE WITH THE THOROUGHFARE PLAN: The subject property has frontage on Broadway, a major thoroughfare, with a minimum of 120' right-of-way.

AVAILABILITY OF UTILITIES: The subject parcel does have access to public water and public sewer.

IMPACT ON EXISTING AND FUTURE DEVELOPMENT: The proposed redevelopment of this site is not anticipated to have any negative impacts on existing surrounding or future developments. The traffic impact of the proposed development will be reviewed by the City's Engineering Department at the time of formal site plan submittal.

ADDITIONAL COMMENTS: This request has been reviewed by the City's Development Review Committee and there are no additional comments from other departments at the time of this report.

SITE PLAN CONSIDERATIONS: A conceptual site plan for was submitted with the Conditional Use Permit application. This plan appears to meet the City's Corridor Overlay District regulations. A complete review will occur at time of formal site plan submittal.

PUBLIC NOTIFICATION: Public notice, comment forms, and a vicinity map were mailed to property owners within 200 feet of the subject property under consideration for the Conditional Use Permit. A legal notice of public hearing was published in the local newspaper, and a notification sign was placed on the property by the applicant.

OPPOSITION TO OR SUPPORT OF PROPOSED REQUEST: Staff has not received any comments either in opposition to or in support of the proposed Conditional Use Permit request.

CRITERIA FOR APPROVAL: When considering an application for a Conditional Use Permit, the Planning and Zoning Commission and City Council shall evaluate the impact of the proposed use on and its compatibility with surrounding properties and residential areas to ensure the appropriateness of the use at the particular location, and shall consider the extent to which:

- (1) The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan;
- (2) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
- (3) The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes

improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;

- (4) The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;
- (5) The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;
- (6) The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and
- (7) The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.

Conditions: The City Council may require such modifications in the proposed use and attach such conditions to the Conditional Use Permit as the City Council deems necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of this section.

The proposed facility will have automotive repair bays as an integral part of the use. The design and layout of the facility indicates that these bays will open towards Broadway, a Corridor Overlay District within the City. In order to lessen the visual impact of vehicle repair bays along this corridor, staff recommends that a condition of approval be added to the Conditional Use Permit, if approved, which requires that a vegetative screening wall, comprised of shrubbery and trees be planted and maintained in the "Lawn" area shown on the conceptual site plan between the two main outside parking areas.

Should City Council identify additional impacts which it feels should be mitigated, additional conditions and modifications may be placed on the approval of the Conditional Use Permit.

STAFF RECOMMENDATION: Staff recommends approval of the Conditional Use Permit No. 2011-12 to allow the operation of a Minor Auto Repair Facility in the General Business (GB) district as proposed by the applicant and owner for the following reasons and with the following condition:

1. The proposed request should not have any significant negative impact on the surrounding properties and developments.

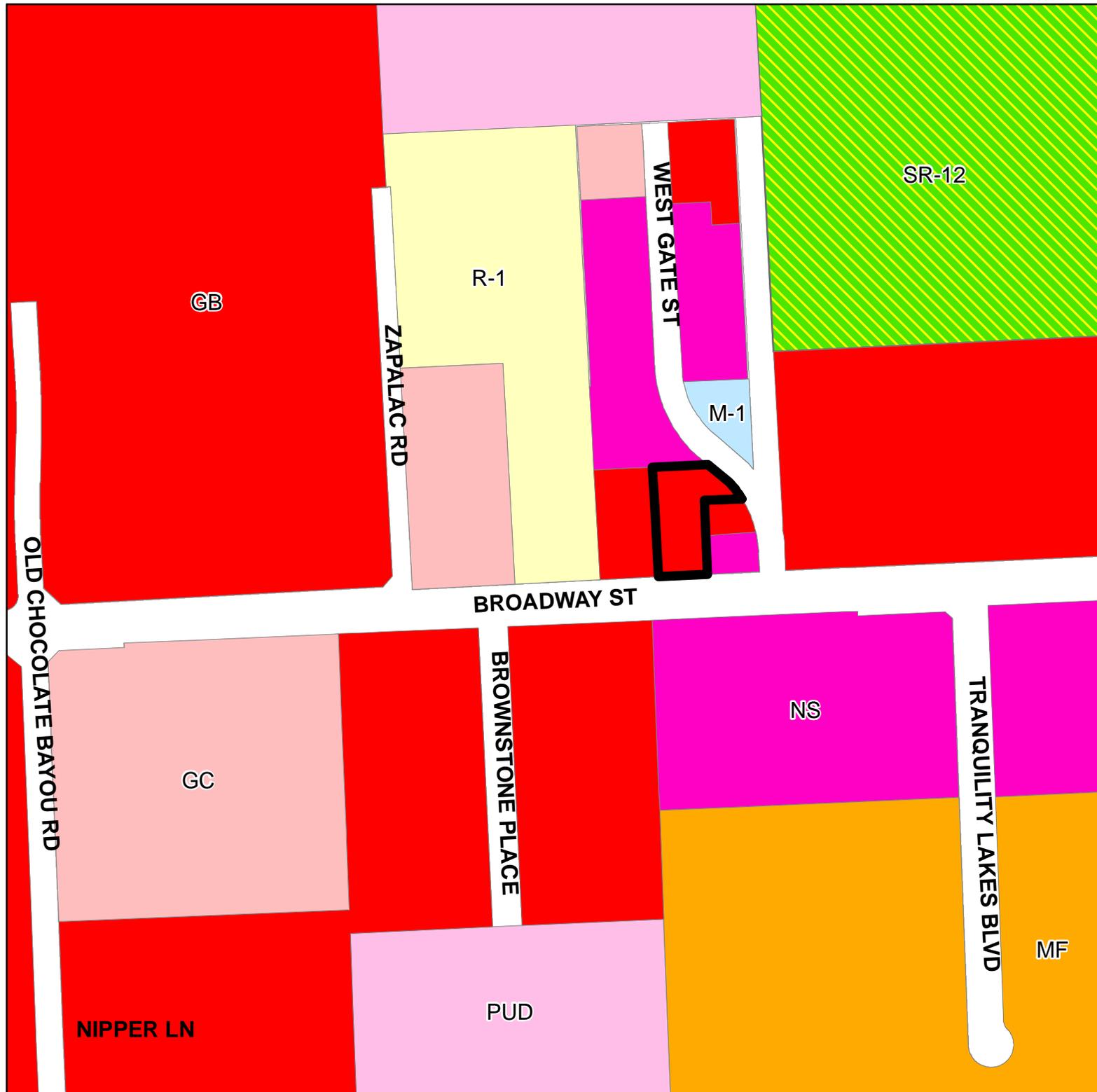
2. The proposed request would be in conformance with the Unified Development Code with the approval of a Conditional use Permit.
3. The proposed request is in conformance with the criteria of approval of a Conditional Use Permit listed in the Unified Development Code.
4. The proposed request would result in redevelopment of a currently non-occupied residential home in a commercial zoning district.
5. The proposed request would enhance the property from its current state, particularly with the recommended condition of approval, listed below.

Condition:

1. A vegetative screening wall comprised of shrubbery and trees shall be planted and maintained in the "Lawn" area shown on the conceptual site plan between the two main outside parking areas prior to the issuance of a Certificate of Occupancy by the City of Pearland

SUPPORTING DOCUMENTS:

- Vicinity and Zoning Map
- Property Ownership Map
- Property Owner Notification List
- Future Land Use Plan
- Aerial Photograph
- Zone Change Application and applicant packet



Vicinity and Zoning Map

CUP 2011-12

7900 Block Broadway

0 55110 220 Feet
|-----|

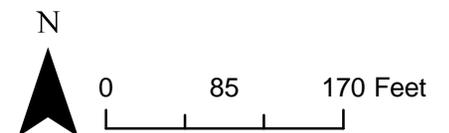




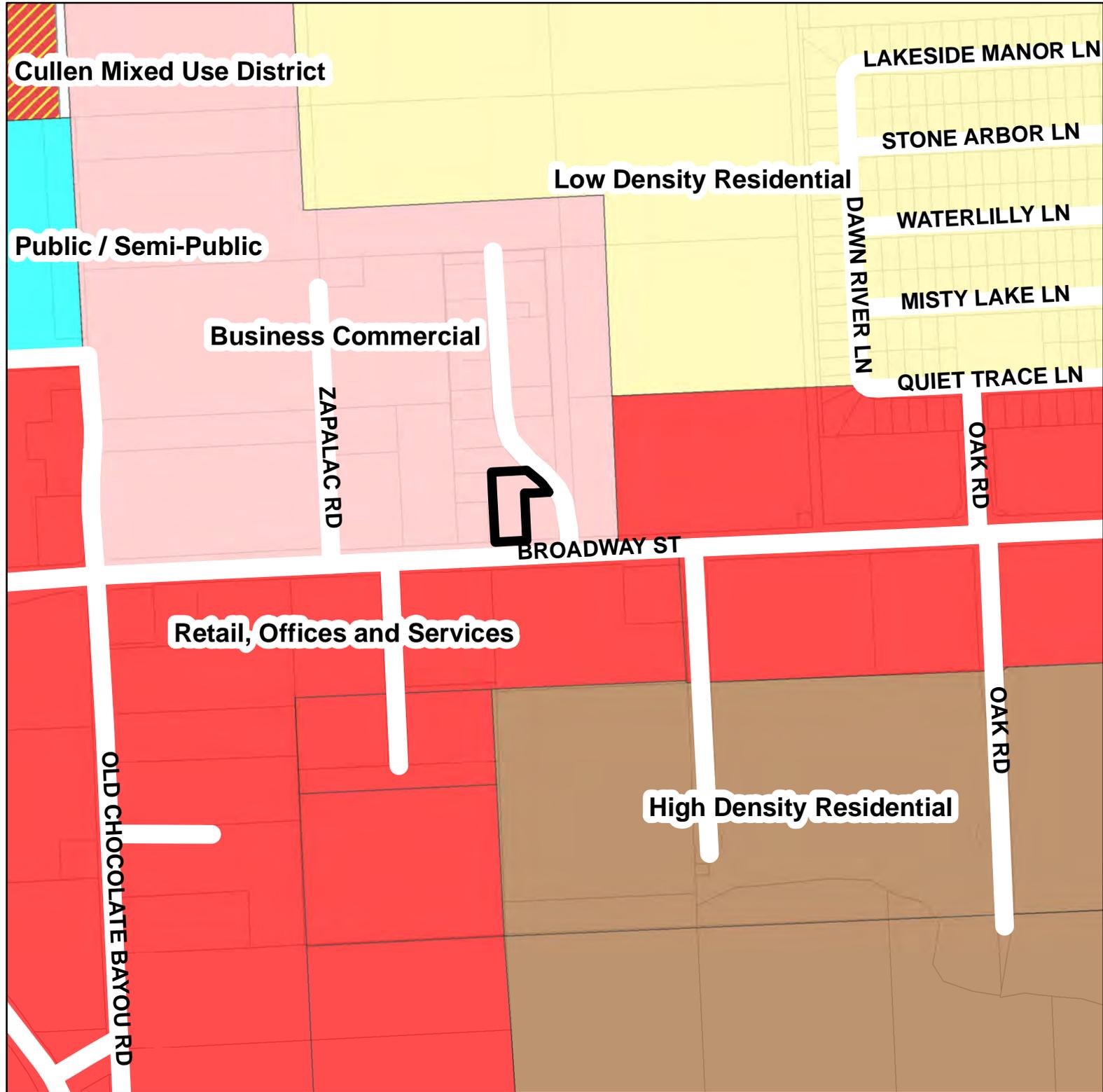
Abutter Map

CUP 2011-12

7900 Block Broadway



Owner	Address	City	State	Zip
GARNER FARRELL B & DONNA S	PO BOX 84205	PEARLAND	TX	77584-0017
TAPUZ LTD	PO BOX 22957	HOUSTON	TX	77227-2957
HRBACEK EMIL J	8013 BROADWAY ST	PEARLAND	TX	77581-7760
O DAY & O DAY - ASTRO PLUMBING	PO BOX 149	PEARLAND	TX	77588-0149
BURNS ROBERT	PO BOX 580591	HOUSTON	TX	77258-0591
CORTE LOUIS A	PO BOX 854	PEARLAND	TX	77588-0854
RODRIGUEZ ANA E & ESTEBAN V	PO BOX 84110	PEARLAND	TX	77584-0018
LEBON CHARLES	3681 LYON SPRINGS RD	SEVIERVILLE	TN	37862-8257
MORENO EMMA E	7937 BROADWAY ST	PEARLAND	TX	77581-7784
HUGHES-WEST INVESTMENTS LTD	7918 BROADWAY ST, STE 106	PEARLAND	TX	77581-7930



FLUP Map

CUP 2011-12

7900 Block Broadway

0 87.575 350 Feet
|-----|





WEST GATE ST

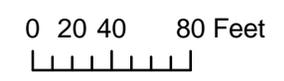
BROADWAY ST



Aerial Map

CUP 2011-12

7900 Block Broadway





APPLICATION FOR A CONDITIONAL USE PERMIT (CUP)

City of Pearland
Community Development
3523 Liberty Drive
(Community Center)
Pearland, Texas 77581
281-652-1768
281-652-1702 fax
www.cityofpearland.com

Conditional Use Permit Request for: MINOR AUTO REPAIR
(list proposed use from the Table of Uses of the UDC)

Current Zoning District: GB

Property Information:

Address or General Location of Property: 7929 BROADWAY
PEARLAND, TEXAS 77581
Tax Account No. 8228-0001-120
Subdivision: WESTGATE PARK Lot: A3 Block: _____

A complete application must include all information shown on the Application Checklist attached to this application.

PROPERTY OWNER INFORMATION:

APPLICANT/AGENT INFORMATION:

NAME ESTEBAN V. RODRIGUEZ
ADDRESS P.O BOX 84110
CITY PEARLAND STATE Tx ZIP 77584
PHONE (832) 276-3709
FAX (866) 867-7396
E-MAIL ADDRESS er1@medicalplus supplies.com

NAME ESTEBAN V. RODRIGUEZ
ADDRESS P.O BOX 84110
CITY PEARLAND STATE Tx ZIP 77584
PHONE (832) 276-3709
FAX (866) 276-3709
E-MAIL ADDRESS er1@medicalplus supplies.com

*Property owner must be the current owner of the property at the time of submittal of the application, and not the party that has the property under contract.

As owner and applicant, I hereby request approval of the above described request as provided for by the Unified Development Code of the City of Pearland.

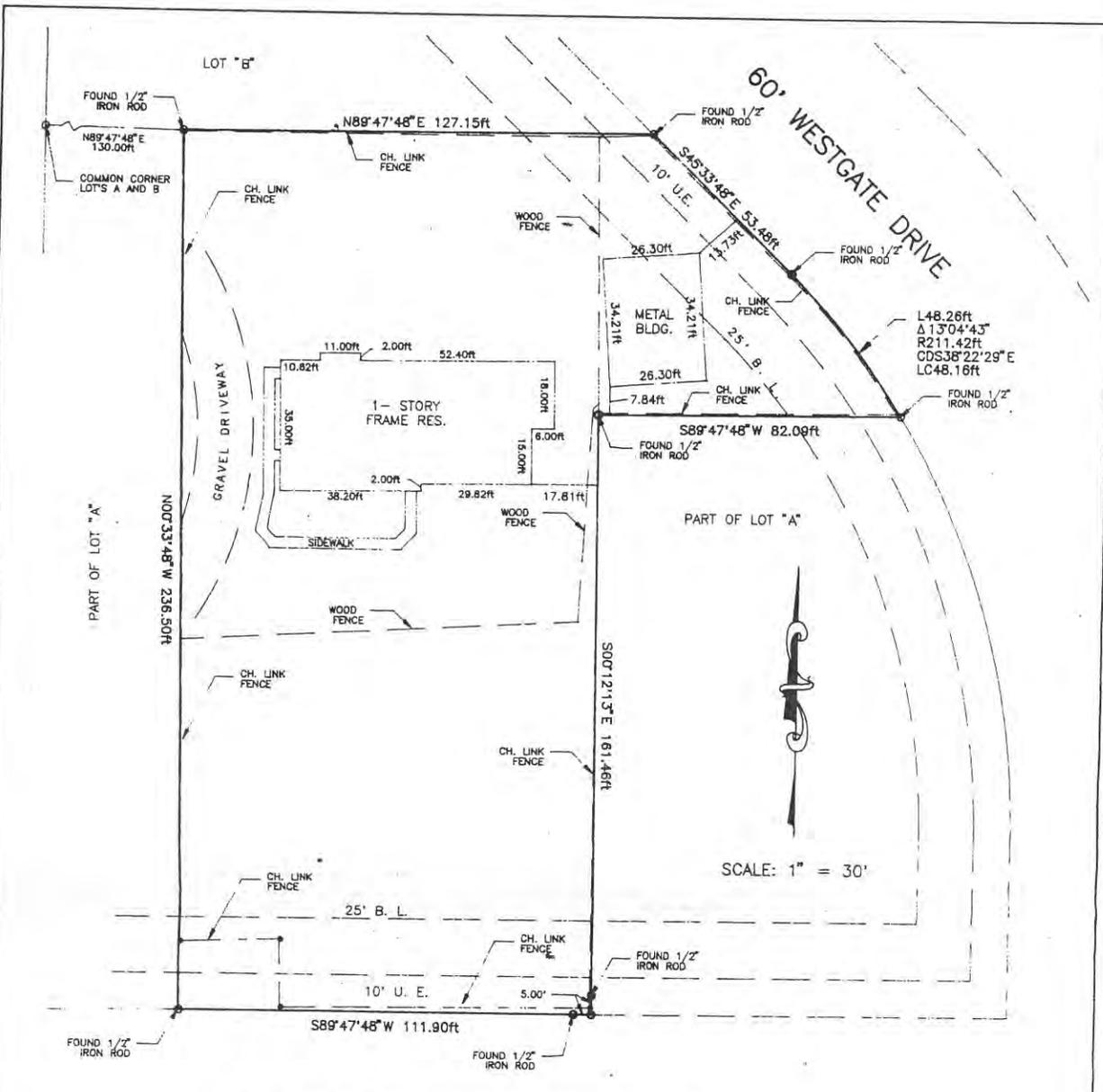
Owner's Signature: E Rodriguez Date: 10/20/2011

Agent's/
Applicant's Signature: E Rodriguez Date: 10/20/2011

OFFICE USE ONLY:

FEES PAID: <u>250.00</u>	DATE PAID: <u>10/21/11</u>	RECEIVED BY: <u>HR</u>	RECEIPT NUMBER: <u>19513</u>
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Application No. 2011-12



100' WIDE F. M. 518 (BROADWAY)

PLAT OF SURVEY

OF A 0.6984 ACRE TRACT BEING A PART OF LOT "A" OF WESTGATE PARK A SUBDIVISION OF 9.575 ACRES OF LAND OUT OF LOTS 47 AND 48 OF THE ALLISON RICHEY GULF COAST HOME COMPANY SUBDIVISION OF SECTION 19 OF THE H. T. & B. RAILROAD COMPANY SURVEY, ABSTRACT 243, BRAZORIA COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 16, PAGE 320, OF THE PLAT RECORDS OF BRAZORIA COUNTY, TEXAS. BEARING REFERENCE: RECORD PLAT CALL OF WESTGATE SUBDIVISION.

OWNER: H. LOUIE TASHAKORI AND WIFE
MARY E. TASHAKORI

ALAMO TITLE COMPANY, COMMITMENT No. 01-51401230

H. Louie Tashakori

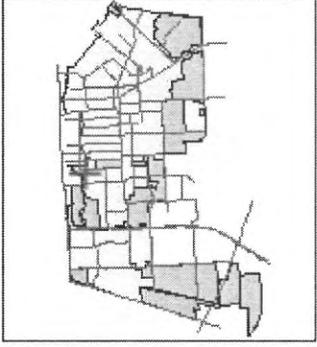
DATE OF SURVEY: DECEMBER 7, 2001

THIS PLAT REPRESENTS A SURVEY MADE ON THE GROUND UNDER MY SUPERVISION AND CORRECTLY REPRESENTS THE FACTS AS FOUND AT THE TIME OF THIS SURVEY. THERE ARE NO ENCROACHMENTS OF IMPROVEMENTS, VISABLE EASEMENTS OVER OR ACROSS NOR CONFLICTS OF BOUNDARY LINES OTHER THAN SHOWN, AND THAT THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS STANDARDS AND SPECIFICATIONS FOR A CATEGORY 1A, CONDITION II, SURVEY.

J. Ray Laney
J. RAY LANEY, REG. PROFESSIONAL LAND SURVEYOR NO. 1718
2018 MUSTANG LANE
ROSHARON, TEXAS 77583 (281) 489-6445



7929 Broadway



Pearland Senior Village
 This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Scale 1:1,087
 1 in = 91 ft

Esteban Rodriguez
PO Box 84110
Pearland, Tx 77584
Cell. 832.276.3709

October 19, 2011

City of Pearland
Planning Department
3523 Liberty Drive
Pearland, Texas 77581

RE: 7929 Broadway, Pearland, Tx
Conditional Use Permit (CUP) Application

To Whom It May Concern,

My name is Esteban Rodriguez owner of the property located at the address mentioned above. The reason for this letter is to request approval for the Conditional Use Permit on my property for a new project I am planning. This procedure is necessary to allow my property to comply with the land use dictated by the City of Pearland for new commercial projects in the GP land use zone. The following is a detail description of the proposed project on my property:

Current Condition: At the moment on my property there is an existing 2400 sf one-story single family residence which is in poor condition and requires a remodel. The house is not occupied at the moment. In the past, this property has functioned as Car Dealership which is the current occupancy permit. The house has been used as business office and the front parking to display cars.

Proposed Project: I currently rent a building for my minor auto repair business, Condor Auto Repair on 6905 Broadway in Pearland, Tx. My business is growing and I need to move out, and instead of looking for a new place to rent, I would like to develop my property and stop paying rent. The vision I have for the property mentioned above is to convert, retrofit and expand the existing house into my new Auto Repair/Mechanic Shop building. The building will have approximately a total of 1000 sf added to the existing house, for a total of 3400 sf, to accommodate 4 open working bays with car lifts & front/back access doors. There will be an office space for staff as well as a reception/waiting area. The main use & services offered for this auto repair building will be the ones described under the Development Code Land Use Matrix as: Minor Auto Repair. The hours of operation will be Monday-Saturday from 8:00 am – 5:00 pm. Our architectural vision for the proposed design is to provide a nice contemporary look front facing Broadway. This will not look like the typical "metal-building shop", Instead, It will look like a modern auto repair center. Please refer to preliminary drawings to see the intended concept.

Should you have any questions concerning this project, please do not hesitate to contact me.

Sincerely



Esteban Rodriguez (owner)

CITY OF PEARLAND

R E P R I N T

*** CUSTOMER RECEIPT ***

Oper: WWILSON Type: DC Drawer: 1
Date: 10/21/11 @1 Receipt no: 19513

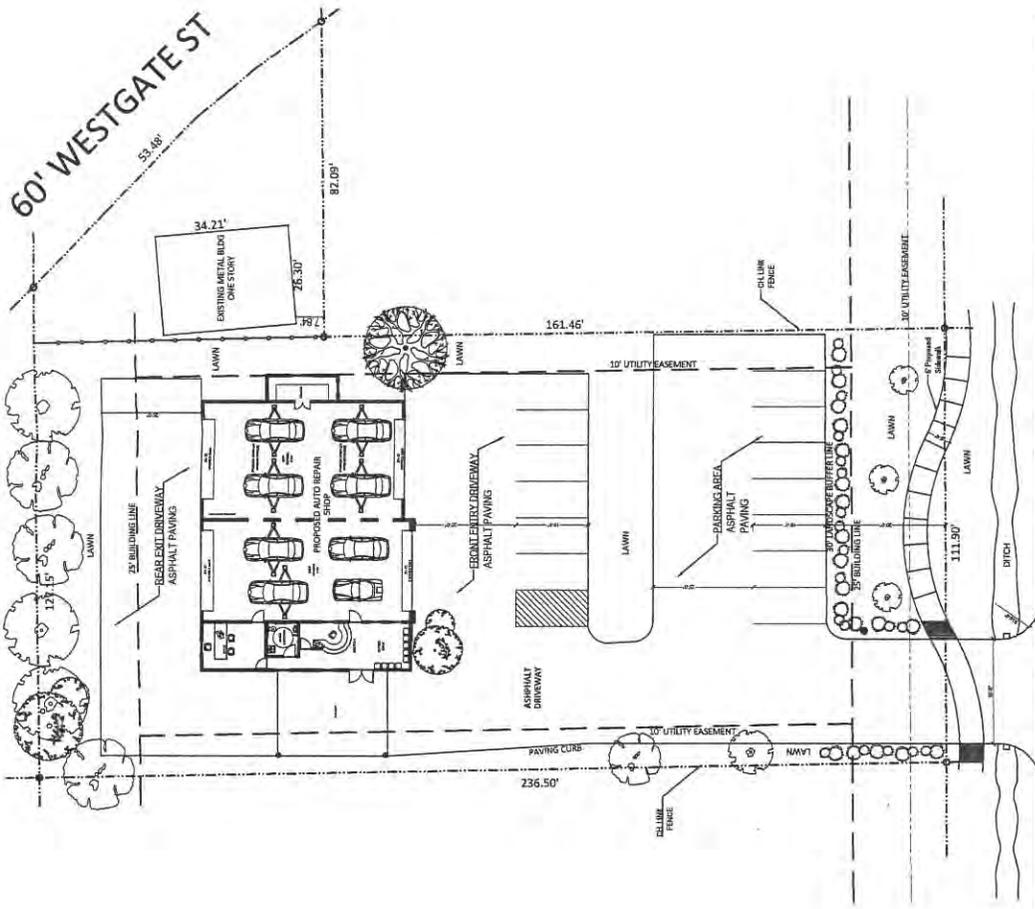
Description	Quantity	Amount
RA	BOARD OF ADJUSTMENTS	
	1.00	\$250.00
Trans number:		3508350

ZONE CHANGE OR VARIANCE
ZONED RA
7929 BROADWAY ST
ESTERAN RODRIGUEZ
OWNER
CUP
HAROLD

Tender detail		
CR CHECK	2102	\$250.00
Total tendered		\$250.00
Total payment		\$250.00

Trans date: 10/21/11 Time: 8:31:04

Note:
 Building Location & Boundaries shown based on survey document provided by owner. Refer to original and latest survey plan for final construction and location of boundaries.



SQUARE FOOTAGE

2800 sf Shop Area
650 sf of Office/Reception
121 sf of Porch Areas
3551 sf of Total Covered Area

1 SITE PLAN 1"=30'

100' WIDE F.M. 518 (7929 BROADWAY)

CONDOR AUTO CENTER
 7929 BROADWAY, PEARLAND, TX

DESIGN BY JAM
 DRAWN BY AM
 DATE OCT 2011
 SCALE
 REVISIONS PRELIMINARY



M3 GROUP
 DESIGN + CONSTRUCTION
 2619 AGNEW ROAD FL
 THE WOODLANDS, TX 77380
 832.330.0396
 m3group@gmail.com

SITE PLAN
 A.1.0

M3 GROUP is a professional building design firm. It is not an architect. It is not a landscape architect. It is not a civil engineer. It is not a mechanical engineer. It is not an electrical engineer. It is not a plumbing engineer. It is not a fire protection engineer. It is not a structural engineer. It is not a geotechnical engineer. It is not a surveyor. It is not a geologist. It is not an environmental engineer. It is not a transportation engineer. It is not a chemical engineer. It is not a nuclear engineer. It is not a metallurgical engineer. It is not a materials engineer. It is not a biomedical engineer. It is not a software engineer. It is not a systems engineer. It is not a data engineer. It is not a network engineer. It is not a security engineer. It is not a risk engineer. It is not a quality engineer. It is not a process engineer. It is not a manufacturing engineer. It is not a production engineer. It is not a construction engineer. It is not a civil engineer. It is not a mechanical engineer. It is not an electrical engineer. It is not a plumbing engineer. It is not a fire protection engineer. It is not a structural engineer. It is not a geotechnical engineer. It is not a surveyor. It is not a geologist. It is not an environmental engineer. It is not a transportation engineer. It is not a chemical engineer. It is not a nuclear engineer. It is not a metallurgical engineer. It is not a materials engineer. It is not a biomedical engineer. It is not a software engineer. It is not a systems engineer. It is not a data engineer. It is not a network engineer. It is not a security engineer. It is not a risk engineer. It is not a quality engineer. It is not a process engineer. It is not a manufacturing engineer. It is not a production engineer. It is not a construction engineer.

**POSTING OF ZONING NOTIFICATION SIGNS
ON PROPERTY UNDER CONSIDERATION
FOR A ZONE CHANGE (OR CONDITIONAL USE PERMIT)**

Any person, firm or corporation requesting a zoning change, a conditional use permit (CUP), or a variance shall be required to erect and maintain a sign(s), to be inspected by the City, upon the property for which a variance or zoning change has been requested.

Such sign(s) shall be located as follows:

- (1) One (1) sign per street frontage shall be located within thirty feet (30') of the abutting street, or as determined by the City.
- (2) So as to be clearly visible and readable from the public right-of-way and not obstructed in any manner.
- (3) So as not to create a hazard to traffic on the public rights-of-way abutting the property.
- (4) On the subject property at least ten (10) days prior to the hearing of such zoning change request by the Planning and Zoning Commission, and to remain continuously on said property until final action by the City Council or withdrawal of the case by the applicant. Removal of the sign by the applicant prior to a recommendation by the Planning and Zoning Commission and/or a final decision by the City Council shall constitute a withdrawal of the request.
- (5) The signs shall be as follows:
 - A minimum sign size of 2 feet by 3 feet, but no larger than 4 feet by 4 feet
 - At least 2 feet above the ground
 - Blue or black lettering that is a minimum of 3 inches by 1/2 inch, on a white background
 - Message content as follows:

**PROPOSED (SPECIFY REQUEST)
Contact City of Pearland
281-652-1768**

***Signs must be professionally made; handwritten signs are not allowed.**

***Signs must be freestanding and cannot be attached to a tree, fence, or building.**

ACKNOWLEDGEMENT:

OWNER: ESTEBAN V. RODRIGUEZ

SIGNATURE: ERODRIGUEZ

2010 TAX STATEMENT

(979) 388-1320
(979) 864-1320
(281) 756-1320



Ro'Vin Garrett, RTA
BRAZORIA COUNTY TAX ASSESSOR- COLLECTOR
111 E. LOCUST
ANGLETON, TEXAS 77515

Mailing Address

RODRIGUEZ ANA E & ESTEBAN V
PO BOX 84110
PEARLAND TX 77584-0018

Legal Description

WESTGATE PARK (A0243 H T & B R R 19),
LOT A3, ACRES 0.698

Legal Acres: .6980
Parcel Address: 7929 BROADWAY

Account No: 8228-0001-120

As of Date: 10/11/10

Print Date: 10/15/10

Market Value		Appraised Value	Assessed Value	Capped Value	Homesite Value	Agricultural Value	Non-Qualifying Value
Land	Improvement						
\$117,060	\$40,020	\$157,080	\$157,080		\$157,080		

Taxing Unit	Assessed Value (100%)	Exemptions		Taxable Value	Tax Rate	2010 Tax
		Code	Amount			
BRAZORIA COUNTY	\$157,080		\$0	\$157,080	.40310100	\$633.19
SPECIAL ROAD & BRIDGE	\$157,080		\$0	\$157,080	.06000000	\$94.25
PEARLAND ISD	\$157,080		\$0	\$157,080	1.41940000	\$2,229.59
BRAZORIA DRAINAGE DIST 4	\$157,080		\$0	\$157,080	.15600000	\$245.04
CITY OF PEARLAND	\$157,080		\$0	\$157,080	.66510000	\$1,044.74

Amount saved by additional sales tax revenue \$118.76

Exemptions:

TOTAL TAX: \$4,246.81
TOTAL TAX PAID TO DATE: \$0.00
TOTAL TAX REMAINING: \$4,246.81

AMOUNT DUE IF PAID BY END OF:

OCTOBER 2010	NOVEMBER 2010	DECEMBER 2010	JANUARY 2011	FEBRUARY 2011	MARCH 2011
\$4,246.81	\$4,246.81	\$4,246.81	\$4,246.81	\$4,544.08	\$4,629.02

PLEASE PUT YOUR ACCOUNT NUMBER ON ALL CORRESPONDENCE

TAXES ARE DUE UPON RECEIPT. TAXES WILL BECOME DELINQUENT FEB. 1, 2011. PENALTY AND INTEREST WILL BE ADDED MONTHLY BEGINNING FEB 1, 2011

OFFICIAL TAX RECEIPT

RO'VIN GARRETT, RTA
BRAZORIA COUNTY TAX ASSESSOR - COLLECTOR
111 E. LOCUST
ANGLETON, TEXAS 77515

Account No: 8228-0001-120

Certified Owner: RODRIGUEZ ANA E & ESTEBAN V

2010 VALUE: 157,080

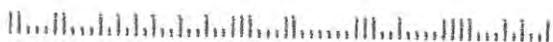
FIRST CLASS
U.S. POSTAGE PAID
PERMIT NO. 4
ANGLETON TX

WESTGATE PARK (A0243 H T & B R R 19),
LOT A3, ACRES 0.698



Jr	Year	Levy Paid	P&I	Parcel Address: 7929 BROADWAY
1	2010	633.19	0.00	Legal Acres: 0.6980
9	2010	94.25	0.00	Appr No: 263875
28	2010	2,229.59	0.00	Deposit No: 01250001
54	2010	245.04	0.00	Paid Date: 01/25/2011
96	2010	1,044.74	0.00	Total Paid: \$4,246.81
				Check No: 00001550
				Exemption(s): NONE

RODRIGUEZ ANA E & ESTEBAN V
PO BOX 84110
PEARLAND , TX 77584-0018



AGENDA - JOINT PUBLIC HEARING OF THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION OF THE CITY OF PEARLAND, TEXAS, TO BE HELD NOVEMBER 21, 2011, AT 6:30 P.M., IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS

- I. CALL TO ORDER
- II. PURPOSE OF HEARING

Conditional Use Permit No. CUP 2011-13

A request of R D Homes, applicant, at the request of Piper Precision, Inc., owner, for approval of a Conditional Use Permit to allow for Servant, Guest, Caretakers, or Security Quarters in the Light Industrial (M-1) District, on the following described property, to wit:

Legal Description: 8.4406 acres of land, being a part of the H. Stevens Survey, Abstract 594, and the H. T. & B. R.R. CO. Survey No. 28, Abstract 551, Brazoria County, Texas and being all of those certain tracts conveyed to Production Rentals, Inc. as a 2.973 acre tract described in a deed recorded in Volume 1393, Page 133, a 0.469 acre tract described in a deed recorded in Volume 1398, Page 963, and a 5.0 acre tract described in a deed recorded in Volume 1600, Page 900, all in the Brazoria County Deed Records, Brazoria County, Texas

General Location: 4155 S. Main Street, Pearland, TX

- III. APPLICATION INFORMATION AND CASE SUMMARY
 - A. STAFF REPORT
 - B. APPLICANT PRESENTATION
- IV. PERSONS WISHING TO SPEAK FOR OR AGAINST THE PROPOSED REQUEST
- V. COUNCIL/PLANNING COMMISSION/STAFF DISCUSSION
- VI. ADJOURNMENT

This site is accessible to disabled individuals. For special assistance, please call Young Lorfing, City Secretary, at 281-652-1655 prior to the meeting so that appropriate arrangements can be made.



JOINT PUBLIC HEARING AGENDA ITEM MEETING OF NOVEMBER 21, 2011

Conditional Use Permit No. CUP 2011-13

A request of Piper Precision, Inc., owner, for approval of a Conditional Use Permit to allow for Servant, Guest, Caretakers, or Security Quarters in the Light Industrial (M-1) District, on the following described property, to wit:

Legal Description: 8.4406 acres of land, being a part of the H. Stevens Survey, Abstract 594, and the H. T. & B. R.R. CO. Survey No. 28, Abstract 551, Brazoria County, Texas and being all of those certain tracts conveyed to Production Rentals, Inc. as a 2.973 acre tract described in a deed recorded in Volume 1393, Page 133, a 0.469 acre tract described in a deed recorded in Volume 1398, Page 963, and a 5.0 acre tract described in a deed recorded in Volume 1600, Page 900, all in the Brazoria County Deed Records, Brazoria County, Texas

General Location: 4155 S. Main Street, Pearland, TX

APPROVAL PROCESS: After this Joint Public Hearing, the requested Conditional Use Permit application will be considered as follows:

Planning and Zoning Commission: November 21, 2011*
City Council for First Reading: December 12, 2011*
City Council for Second Reading: December 12, 2011*

(*dates subject to change)

SUMMARY: R D Homes, applicant, for Piper Precision, Inc., owner, is requesting approval of a Conditional Use Permit to allow for Servant, Guest, Caretakers, or Security Quarters at the above referenced location. The site is currently zoned Light Industrial (M-1), with a small portion also zoned Single-Family Residential-4 (R-4). Site operations and improvements are located solely within the (M-1) portion of the property.

The property owner, Piper Precision, Inc., would like to construct an on-site security quarters to house after hours security personnel. The structure is proposed to be a

manufactured home, provided by R D Homes, of Pearland. The structure is proposed to be located behind a large existing building located towards the center of the site, and would not be visible from Main Street, a Corridor Overlay District in the City. A Servant, Guest, Caretakers, or Security Quarters, as classified in the Unified Development Code's Land Use Matrix, is a permitted use in the Light-Industrial (M-1) zoning district with the approval of a Conditional Use Permit (CUP).

Per the Unified Development Code (UDC), expansions over 500 square feet trigger full site compliance for development regulations. As the proposed structure is approximately 1,300 square feet, there are a number of site improvements that would be required by adding the security quarters to the property. These improvements would relate to both the site and existing structures on the site and will be discussed in more detail in the *Conformance with the Unified Development Code* section of this report.

SURROUNDING ZONING AND LAND USES:

	<u>Zoning</u>	<u>Land Use</u>
North	Light Industrial/Planned Development	Commercial/Residential
South	Light Industrial	Commercial
East	Planned Development	Vacant
West	Heavy Industrial	Vacant

CONFORMANCE WITH THE UNIFIED DEVELOPMENT CODE (UDC): As previously mentioned, the portion of the property being discussed is currently zoned Light Industrial (M-1). A breakdown between those requirements and the site current configuration is provided below:

	<u>Light Industrial</u>	<u>Existing Site</u>
Lot Size:	40,000 sq ft	~370,000 sq ft
Lot Width:	150'	285'
Lot Depth:	150'	1,356'
Front Setback:	35'	~75'
Rear Setback:	25'	~850'
Side Setback:	25'	25'

Based on the information above, it appears that the site is in conformance with the Unified Development Code in terms of bulk regulations.

As previously mentioned, the requested use, a Servant, Guest, Caretakers, or Security Quarters is a permitted use in the Light Industrial (M-1) zoning district with a Conditional Use Permit. Therefore, if the CUP is granted, the site will be in conformance with the Unified Development Code in terms of land use.

At the time of expansion (addition of the security quarters), all requirements of the Unified Development Code, including the Corridor Overlay District regulations for this property will be required to be met as the expansion exceeds 500 square feet, as discussed above. A breakdown between these regulations and existing site conditions is listed below:

	<u>Dev. Regs. (Basic + COD)</u>	<u>Existing Site</u>
Subdivision Plat	No recorded plat on file	Will be required
Façade	n/a*	n/a*
Landscaping	30' buffer + site requirements	Will be required
Sidewalks	6' curvilinear	Will be required – may pay in lieu
Parking	1:300 office/1:2000 warehouse	Will be required – existing paving
Screening/Fencing	Multiple options in UDC	Will be required - Storage/dumpster will need screen and relocation Existing perimeter fence to meet UDC

*n/a – Existing structures built on site prior to 2001, and new structure will be more than 250' from the roadway, therefore the façade requirements are not applicable in this case.

PLATTING STATUS: The property is not currently platted. The applicant has been advised that platting will be required at the time of building permit.

CONFORMANCE WITH THE COMPREHENSIVE PLAN: The current Comprehensive Plan (latest update in 2009) indicates *Light Industrial* for the subject property. The existing use, a machining company, is a permitted use in the Light Industrial zoning district. The proposed expansion/use, a security quarters, is a permitted use in the Light Industrial zoning district with the approval of a Conditional Use Permit. Therefore, the existing use and proposed expansions would be in compliance with the Comprehensive Plan with the approval of a Conditional Use Permit.

CONFORMANCE WITH THE THOROUGHFARE PLAN: The subject property has frontage on South Main Street (Hwy 35), a major thoroughfare, with a minimum of 120' right-of-way.

AVAILABILITY OF UTILITIES: The subject parcel does have access to public water and public sewer.

IMPACT ON EXISTING AND FUTURE DEVELOPMENT: As this development already exists with no known negative impacts, the proposed expansion is not anticipated to have any negative impacts on existing surrounding or future developments.

ADDITIONAL COMMENTS: This request has been reviewed by the City's Development Review Committee and there are no additional comments from other departments at the time of this report.

SITE PLAN CONSIDERATIONS: A site plan for was submitted with the Conditional Use

Permit application. The plan shows the existing operations and area of proposed expansion.

PUBLIC NOTIFICATION: Public notice, comment forms, and a vicinity map were mailed to property owners within 200 feet of the subject property under consideration for the Conditional Use Permit. A legal notice of public hearing was published in the local newspaper, and a notification sign was placed on the property by the applicant.

OPPOSITION TO OR SUPPORT OF PROPOSED REQUEST: Staff has not received any comments either in opposition to or in support of the proposed Conditional Use Permit request.

CRITERIA FOR APPROVAL: When considering an application for a Conditional Use Permit, the Planning and Zoning Commission and City Council shall evaluate the impact of the proposed use on and its compatibility with surrounding properties and residential areas to ensure the appropriateness of the use at the particular location, and shall consider the extent to which:

- (1) The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan;
- (2) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
- (3) The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;
- (4) The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;
- (5) The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;
- (6) The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and
- (7) The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.

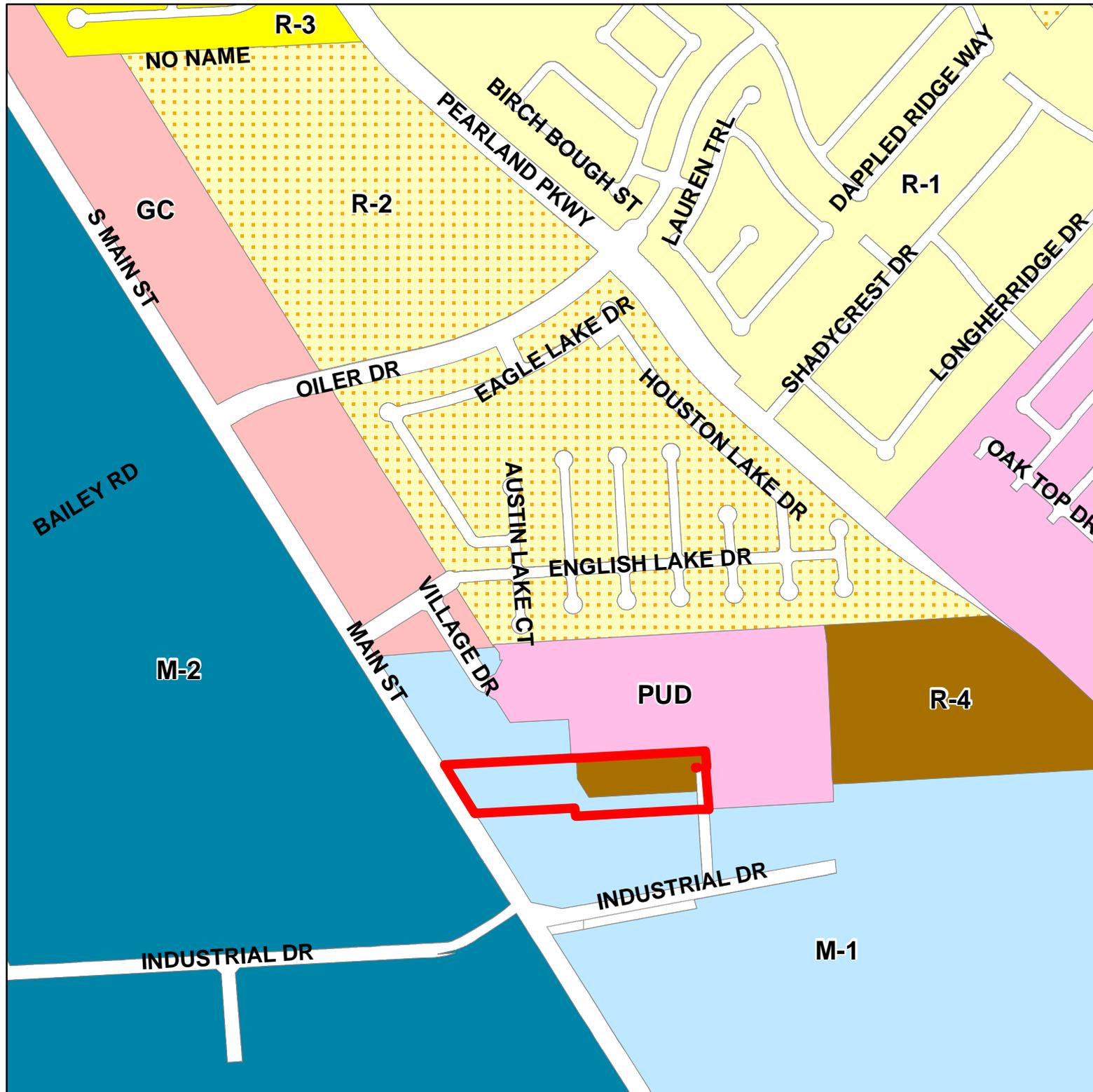
Conditions: The City Council may require such modifications in the proposed use and attach such conditions to the Conditional Use Permit as the City Council deems necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of this section. At this time, staff has not identified any negative impacts as a result of the proposed expansion, and are not covered by the triggered UDC regulations, which need to be mitigated with a condition of approval. Should City Council identify impacts which it feels should be mitigated, conditions and modifications may be placed on the approval of the Conditional Use Permit.

STAFF RECOMMENDATION: Staff recommends approval of the Conditional Use Permit No. 2011-13 to allow for Servant, Guest, Caretaker, or Security Quarters in the Light Industrial (M-1) district as proposed by the applicant and owner for the following reasons and with the following condition:

1. The proposed request should not have any significant negative impact on the surrounding properties and developments.
2. The proposed request would be in conformance with the Unified Development Code with the approval of a Conditional use Permit.
3. The proposed request is in conformance with the criteria of approval of a Conditional Use Permit listed in the Unified Development Code.
4. The existing business is currently in operation with no known negative impacts to surrounding properties or developments.

SUPPORTING DOCUMENTS:

- Vicinity and Zoning Map
- Property Ownership Map
- Property Owner Notification List
- Future Land Use Plan
- Aerial Photograph
- Zone Change Application and applicant packet



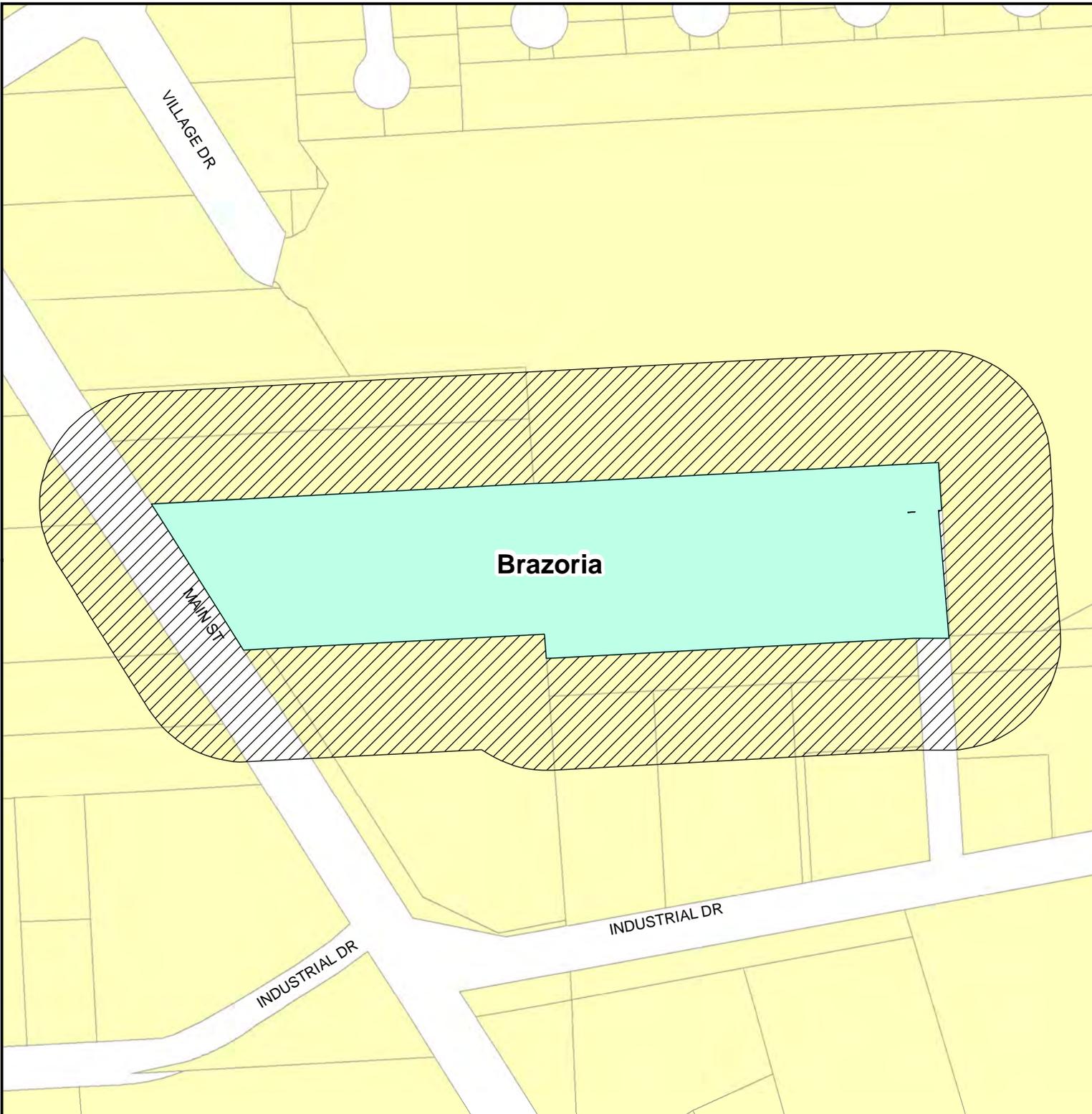
Vicinity & Zoning Map

CUP 2011-13

4155 S. Main St.

0 155310 620 Feet
[Scale bar]

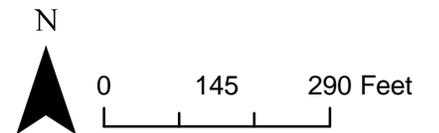




Abutter Map

CUP 2011-13

4155 S. Main Street



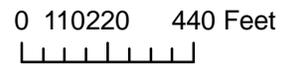
Owner	Address	City	State	Zip
CITY OF PEARLAND	3519 LIBERTY DR	PEARLAND	TX	77581-5416
PIPER PRECISION INC	PO BOX 1186	FRIENDSWOOD	TX	77549-1186
PIPER PRECISION INC	4155 S. Main St.	PEARLAND	TX	77581-6090
FOURNET ROBERT L, C/O ENERGY MAINTENANCE SERVICES	2000 BERING DR, STE 800	HOUSTON	TX	77057-3746
U-STOR MOR INC	4147 S MAIN ST	PEARLAND	TX	77581-6090
RAVENWOOD SECTION 3 LTD	7918 BROADWAY ST, STE 106	PEARLAND	TX	77581-7930
SMITH EDWIN B	10919 SAGEWIND DR	HOUSTON	TX	77089-3822
BARR JAMES MICHAEL III	Site notification			
HORTMAN FAMILY TRUST C/O CURTIS B AND BARBARA J HORTMAN	PO BOX 294	SARATOGA	TX	77585-0294
D AGOSTARO REAL ADVENTURES LTD	4170A S MAIN ST	PEARLAND	TX	77581-6089
VARCO LP	10000 RICHMOND AVE, STE 600	HOUSTON	TX	77042-4393
VILLAGES OF TOWNE LAKE LP	7918 BROADWAY ST, STE 106	PEARLAND	TX	77581-7930



FLUP Map

CUP 2011-13

4155 S. Main St.





Aerial Map
CUP 2011-13
4155 S. Main St.

0 70 140 280 Feet
| | | | |





APPLICATION FOR A CONDITIONAL USE PERMIT (CUP)

City of Pearland
Community Development
3523 Liberty Drive
(Community Center)
Pearland, Texas 77581
281-652-1768
281-652-1702 fax
www.cityofpearland.com

Conditional Use Permit Request for: HOUSE NIGHT SECURITY EMPLOYEES - SHIPPING AND RECEIVING
(list proposed use from the Table of Uses of the UDC)

FOR PIPER PRECISION, INC.

Current Zoning District: COMMERCIAL

Property Information:

Address or General Location of Property: 4155 S MAIN ST.

Tax Account No. 05940005120 / A0594 H Stevens, Tract 4A (Access 2.97)

Subdivision: _____ Lot: _____ Block: _____

**A complete application must include all information shown on the
Application Checklist attached to this application.**

PROPERTY OWNER INFORMATION:

NAME PIPER PRECISION, INC.
ADDRESS 4155 S MAIN ST.
CITY PEARLAND STATE TX ZIP 77581
PHONE(281) 482-8168
FAX(281) 482-7168
E-MAIL ADDRESS agambini@piperprecision.com

APPLICANT/AGENT INFORMATION:

NAME R D HOMES
ADDRESS 4030 S MAIN ST.
CITY PEARLAND STATE TX ZIP 77581
PHONE(281) 992-5900
FAX(281) 992-5909
E-MAIL ADDRESS juan@rdtexas.com

*Property owner must be the current owner of the property at the time of submittal of the application, and not the party that has the property under contract.

As owner and applicant, I hereby request approval of the above described request as provided for by the Unified Development Code of the City of Pearland.

Owner's Signature: *[Signature]* Date: 9/7/11

Agent's/
Applicant's Signature: *[Signature]* Date: 9/7/11
Juan W. Erives

OFFICE USE ONLY:

FEES PAID:	DATE PAID:	RECEIVED BY:	RECEIPT NUMBER:
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Application No.

PIPER PRECISION

4155 S MAIN ST.

PEARLAND, TX 77581

281-482-8168

Oct. 7, 2011

City of Pearland
Building Permit Department
3519 Liberty Drive
Pearland, TX 77581-5416

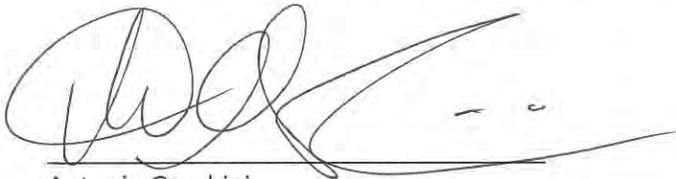
Re: Proposed placement of manufactured HUD code home/office on commercial property to house night security, shipping and receiving at our place of business.

Greetings

By this letter I, Antonio Gambini, authorize:

Juan W Erives, Assoc. of
R D Homes
4030 S Main St.
Pearland, TX 77581

To represent our interest in obtaining a conditional use permit.

A handwritten signature in black ink, appearing to read 'Antonio Gambini', written over a horizontal line. The signature is stylized and cursive.

Antonio Gambini

DEED OF TRUST

RECORDATION REQUESTED BY:

Patriot Bank
 Friendswood Branch
 102 West Parkwood
 Friendswood, TX 77546

WHEN RECORDED MAIL TO:

Patriot Bank
 Loan Operations
 7500 San Felipe Street, Suite 220
 Houston, TX 77063

SEND TAX NOTICES TO:

PIPER PRECISION INC
 4155 S MAIN ST
 PEARLAND, TX 77581-6090

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

THIS DEED OF TRUST is dated June 2, 2011, among PIPER PRECISION INC, whose address is 4155 S MAIN ST, PEARLAND, TX 77581-6090 ("Grantor"); Patriot Bank, whose address is Friendswood Branch, 102 West Parkwood, Friendswood, TX 77546 (referred to below sometimes as "Beneficiary"); and Gary S Gunn, whose address is 333 Clay, 29th Floor, Houston, TX 77002 (referred to below as "Trustee").

CONVEYANCE AND GRANT. For valuable consideration, Grantor conveys to Trustee in trust, with power of sale, for the benefit of Lender as Beneficiary, the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; and all easements, rights of way, and appurtenances; all water and water rights; and all other rights, royalties, and profits relating to the real property, including without limitation such rights as Grantor may have in all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in BRAZORIA County, State of Texas:

8.4406 ACRES OF LAND, BEING A PART OF THE H. STEVENS SURVEY, ABSTRACT 594, AND THE H. T. & B. R.R. CO. SURVEY NO. 28, ABSTRACT 551, BRAZORIA COUNTY, TEXAS AND BEING ALL THOSE CERTAIN TRACTS CONVEYED TO PRODUCTION RENTALS, INC. AS A 2.973 ACRE TRACT DESCRIBED IN A DEED RECORDED IN VOLUME 1393, PAGE 133, A 0.469 ACRE TRACT DESCRIBED IN A DEED RECORDED IN VOLUME 1398, PAGE 963, AND A 5.0 ACRE TRACT DESCRIBED IN A DEED RECORDED IN VOLUME 1800, PAGE 900, ALL IN THE BRAZORIA COUNTY DEED RECORDS, BRAZORIA COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED IN THE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN

The Real Property or its address is commonly known as 4155 S MAIN ST, PEARLAND, TX 77581-6090.

CROSS-COLLATERALIZATION. In addition to the Note, this Deed of Trust secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise. However, this Deed of Trust shall not secure, and the "indebtedness" shall not include, any obligations arising under Subchapters E and F of Chapter 342 of the Texas Finance Code, as amended.

Grantor hereby absolutely assigns to Lender (also known as Beneficiary in this Deed of Trust) all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS DEED OF TRUST. THIS DEED OF TRUST IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Deed of Trust, Grantor shall pay to Lender all amounts secured by this Deed of Trust as they become due, and shall strictly and in a timely manner perform all of Grantor's obligations under the Note, this Deed of Trust, and the Related Documents.

PURPOSE OF LOAN. The Note in the amount of \$480,000.00 represents, in part or in whole, cash or other financial accommodations advanced or committed by Lender to Grantor on June 2, 2011 at Grantor's request and which Grantor will use under its charter powers to discharge corporate debts. Grantor represents to Lender that its board of directors has authorized its legally elected, qualified, and acting officers to execute the Note and this Deed of Trust.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

Duty to Maintain. Grantor shall maintain the Property in tenable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Compliance With Environmental Laws. Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Deed of Trust. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Deed of Trust or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Deed of Trust, including the obligation to indemnify and defend, shall survive the payment of the indebtedness and the satisfaction and reconveyance of the lien of this Deed of Trust and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

Nuisance, Waste. Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to

the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent. This restriction will not apply to rights and easements such as gas and oil not owned by Grantor and of which Grantor has informed Lender in writing prior to Grantor's signing of this Deed of Trust.

Removal of Improvements. Grantor shall not demolish or remove any Improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any Improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

Lender's Right to Enter. Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Deed of Trust.

Compliance with Governmental Requirements. Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

Duty to Protect. Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

DUE ON SALE - CONSENT BY LENDER. Lender may, at Lender's option, declare immediately due and payable all sums secured by this Deed of Trust upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property of any right, title or interest in the Real Property, whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. If any Grantor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of such Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Texas law.

TAXES AND LIENS. The following provisions relating to the taxes and liens on the Property are part of this Deed of Trust:

Payment. Grantor shall pay when due (and in all events prior to delinquency) all taxes, special taxes, assessments, charges (including water and sewer), fines and impositions levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of all liens having priority over or equal to the interest of Lender under this Deed of Trust, except for the lien of taxes and assessments not due and except as otherwise provided in this Deed of Trust.

Right to Contest. Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and Lender's reasonable attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

Evidence of Payment. Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

Notice of Construction. Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialman's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

PROPERTY DAMAGE INSURANCE. The following provisions relating to insuring the Property are a part of this Deed of Trust:

Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgage clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Trustee and Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption, and boiler insurance, as Lender may reasonably require. Policies shall be written in form, amounts, coverages and basis reasonably acceptable to Lender, with losses made payable to Lender. GRANTOR MAY FURNISH THE REQUIRED INSURANCE WHETHER THROUGH EXISTING POLICIES OWNED OR CONTROLLED BY GRANTOR OR THROUGH EQUIVALENT INSURANCE FROM ANY INSURANCE COMPANY AUTHORIZED TO TRANSACT BUSINESS IN THE STATE OF TEXAS. If Grantor fails to provide any required insurance or fails to continue such insurance in force, Lender may, but shall not be required to, do so at Grantor's expense, and the cost of the insurance will be added to the indebtedness. If any such insurance is procured by Lender, Grantor will be so notified, and Grantor will have the option of furnishing equivalent insurance through any insurer authorized to transact business in Texas. Grantor, upon request of Lender, will deliver to Lender from time to time the policies or certificates of insurance in form satisfactory to Lender, including stipulations that coverages will not be cancelled or diminished without at least fifteen (15) days prior written notice to Lender. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

Application of Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Property. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Deed of Trust. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Deed of Trust, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the indebtedness. If Lender holds any proceeds after payment in full of the indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

Grantor's Report on Insurance. Upon request of Lender, however not more than once a year, Grantor shall furnish to Lender a report on each existing policy of insurance showing: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the property insured, the then current replacement value of such property, and the manner of determining that value; and (5) the expiration date of the policy. Grantor shall, upon request of Lender, have an independent appraiser satisfactory to Lender determine the cash value replacement cost of the Property.

LENDER'S EXPENDITURES. If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Deed of Trust or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Deed of Trust or any Related Documents, Lender on Grantor's behalf may but shall not be obligated to take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditure paid by Lender for such purposes will then bear interest at the Note rate from the date paid by Lender to the date of repayment by Grantor. To the extent permitted by applicable law, all such expenses will become a part of

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the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Deed of Trust also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

WARRANTY: DEFENSE OF TITLE. The following provisions relating to ownership of the Property are a part of this Deed of Trust:

Title. Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Deed of Trust, and (b) Grantor has the full right, power, and authority to execute and deliver this Deed of Trust to Lender.

Defense of Title. Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Trustee or Lender under this Deed of Trust, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

Compliance With Laws. Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

Survival of Representations and Warranties. All representations, warranties, and agreements made by Grantor in this Deed of Trust shall survive the execution and delivery of this Deed of Trust, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's indebtedness shall be paid in full.

CONDEMNATION, JUDGMENTS AND AWARDS. The following provisions relating to condemnation proceedings, judgments, decrees and awards for injury to the Property are a part of this Deed of Trust:

Proceedings. If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

Application of Net Proceeds. To the extent permitted by applicable law, all judgments, decrees and awards for injury or damage to the Property, or any part of the Property, and awards pursuant to proceedings for condemnation of the Property, are hereby absolutely assigned to Lender, and if all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the indebtedness or the repair or restoration of the Property. The net proceeds of the award, judgment or decree shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Trustee or Lender in connection with the condemnation.

SECURITY AGREEMENT; FINANCING STATEMENTS. The following provisions relating to this Deed of Trust as a security agreement are a part of this Deed of Trust:

Security Agreement. This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

Security Interest. Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Real and Personal Property. In addition to recording this Deed of Trust in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Deed of Trust as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

Addresses. The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Deed of Trust may be obtained (such as required by the Uniform Commercial Code) are as stated on the first page of this Deed of Trust.

FURTHER ASSURANCES; ATTORNEY-IN-FACT. The following provisions relating to further assurances and attorney-in-fact are a part of this Deed of Trust:

Further Assurances. At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or re-recorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to affectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, this Deed of Trust, and the Related Documents, and (2) the liens and security interests created by this Deed of Trust as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

Attorney-in-Fact. If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable. In Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

FULL PERFORMANCE. If Grantor pays all the indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Deed of Trust, Lender shall execute and deliver to Grantor a release of this Deed of Trust (and suitable statements of termination of any financing agreement on file evidencing Lender's security interest in the Real and the Personal Property). However, it is agreed that the payment of all the indebtedness and performance of such obligations shall not terminate this Deed of Trust unless the liens and interests created hereby are released by Lender by a proper recordable instrument. Any filing fees required by law shall be paid by Grantor, if permitted by applicable law.

EVENTS OF DEFAULT. Each of the following, at Lender's option, shall constitute an Event of Default under this Deed of Trust:

Payment Default. Grantor fails to make any payment when due under the indebtedness.

Other Defaults. Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Deed of Trust or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

Compliance Default. Failure to comply with any other term, obligation, covenant or condition contained in this Deed of Trust, the Note or in any of the Related Documents.

Default on Other Payments. Failure of Grantor within the time required by this Deed of Trust to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

False Statements. Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Deed of Trust or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Defective Collateralization. This Deed of Trust or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

Insolvency. The dissolution or termination of Grantor's existence as a going business, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

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Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any property securing the indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Breach of Other Agreement. Any breach by Grantor under the terms of any other agreement between Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor to Lender, whether existing now or later.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the indebtedness.

Adverse Change. A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the indebtedness is impaired.

Right to Cure. If any default, other than a default in payment is curable, it may be cured if Grantor, after Lender sends written notice to Grantor demanding cure of such default: (1) cures the default within twenty (20) days; or (2) if the cure requires more than twenty (20) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

RIGHTS AND REMEDIES ON DEFAULT. If an Event of Default occurs under this Deed of Trust, at any time thereafter, Trustee or Lender may exercise any one or more of the following rights and remedies:

Election of Remedies. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Deed of Trust, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

Accelerate Indebtedness. Lender may declare the unpaid principal balance of the indebtedness due and payable. In no event will Grantor be required to pay any unearned interest.

Foreclosure. If Lender invokes the power of sale, Trustee, at the request of Lender, may sell all or any portion of the Property at public auction to the highest bidder for cash at the location within the courthouse designated by the County Commissioners Court, or if no such area has been designated, at the area designated in the notice of sale within the courthouse, between the hours of 10:00 A.M. and 4:00 P.M. on the first Tuesday of any month, after the Trustee or its agent has given notice of the time and place of sale and of the property to be sold as required by the Texas Property Code, as then amended.

UCC Remedies. With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

Collect Rents. As additional security for the payment of the indebtedness, Grantor hereby absolutely assigns to Lender all Rents as defined in the Definitions section of this Deed of Trust. Until the occurrence of an Event of Default, Grantor is granted a license to collect and retain the Rents; however, upon receipt from Lender of a notice that an Event of Default exists under this Deed of Trust, Lender may terminate Grantor's license, and then Lender, as Grantor's agent, may collect the Rents. In addition, if the Property is vacant, Lender may rent or lease the Property. Lender shall not be liable for its failure to rent the Property, to collect any Rents, or to exercise diligence in any matter relating to the Rents; Lender shall be accountable only for Rents actually received. Lender neither has nor assumes any obligation as lessor or landlord with respect to any occupant of the Property. Rents so received shall be applied by Lender first to the remaining unpaid balance of the indebtedness, in such order or manner as Lender shall elect, and the residue, if any, shall be paid to the person or persons legally entitled to the residue.

Trustee's Powers. Grantor hereby jointly and severally authorizes and empowers Trustee to sell all or any portion of the Property together or in lots or parcels, as Trustee may deem expedient, and to execute and deliver to the purchaser or purchasers of such Property good and sufficient deeds of conveyance of fee simple title, or of lesser estates, and bills of sale and assignments, with covenants of general warranty made on Grantor's behalf. In no event shall Trustee be required to exhibit, present or display at any such sale any of the Property to be sold at such sale. The Trustee making such sale shall receive the proceeds of the sale and shall apply the same as provided below. Payment of the purchase price to Trustee shall satisfy the liability of the purchaser at any such sale of the Property, and such person shall not be bound to look after the application of the proceeds.

Appoint Receiver. Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

Tenancy at Sufferance. If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, (2) vacate the Property immediately upon the demand of Lender, or (3) if such tenants refuse to surrender possession of the Property upon demand, the purchaser shall be entitled to institute and maintain the statutory action of forcible entry and detainer and procure a writ of possession thereunder, and Grantor expressly waives all damages sustained by reason thereof.

Other Remedies. Trustee or Lender shall have any other right or remedy provided in this Deed of Trust or the Note or available at law or in equity.

Sale of the Property. To the extent permitted by applicable law, Grantor hereby waives any and all rights to have the Property marshalled. In exercising its rights and remedies, the Trustee or Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property. Trustee may convey all or any part of the Property to the highest bidder for cash with a general warranty binding Grantor, subject to prior liens and to other exceptions to conveyance and warranty. Grantor waives all requirements of appraisal, if any. The affidavit of any person having knowledge of the facts to the effect that proper notice as required by the Texas Property Code was given shall be prima facie evidence of the fact that such notice was in fact given. Recitals and statements of fact in any notice or in any conveyance to the purchaser or purchasers of the Property in any foreclosure sale under this Deed of Trust shall be prima facie evidence of the truth of such facts, and all prerequisites and requirements necessary to the validity of any such sale shall be presumed to have been performed. Any sale under the powers granted by this Deed of Trust shall be a perpetual bar against Grantor, Grantor's heirs, successors, assigns and legal representatives.

Proceeds. Trustee shall pay the proceeds of any sale of the Property (a) first, to the expenses of foreclosure, including reasonable fees or charges paid to the Trustee, including but not limited to fees for enforcing the lien, posting for sale, selling, or releasing the Property, (b) then to Lender the full amount of the indebtedness, (c) then to any amount required by law to be paid before payment to Grantor, and (d) the balance, if any, to Grantor.

Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Deed of Trust, Lender shall be entitled to recover such sum as the court may adjudge reasonable as Lender's attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's reasonable attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including Lender's reasonable attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law. In the event of foreclosure of this Deed of Trust, Lender shall be entitled to recover from Grantor Lender's reasonable attorneys' fees and actual disbursements that Lender necessarily incurs in pursuing such foreclosure.

POWERS AND OBLIGATIONS OF TRUSTEE. The following provisions relating to the powers and obligations of Trustee are part of this Deed of

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Trust:

Powers of Trustee. In addition to all powers of Trustee arising as a matter of law, Trustee shall have the power to take the following actions with respect to the Property upon the written request of Lender and Grantor: (a) join in preparing and filing a map or plat of the Real Property, including the dedication of streets or other rights to the public; (b) join in granting any easement or creating any restriction on the Real Property; and (c) join in any subordination or other agreement affecting this Deed of Trust or the interest of Lender under this Deed of Trust.

Obligations to Notify. Trustee shall not be obligated to notify any other lienholder of the Property of the commencement of a foreclosure proceeding or of the commencement of any other action to which Lender may avail itself as a remedy, except to the extent required by applicable law or by written agreement.

Trustee. In addition to the rights and remedies set forth above, with respect to all or any part of the Property, the Trustee shall have the right to foreclose by notice and sale, and Lender shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law.

Substitute Trustee. Lender, at Lender's option, from time to time, and more than once, may appoint in writing a successor or substitute trustee, with or without cause, including the resignation, absence, death, inability, refusal or failure to act of the Trustee. The successor or substitute trustee may be appointed without ever requiring the resignation of the former trustee and without any formality except for the execution and acknowledgment of the appointment by the beneficiary of this Deed of Trust. The successor or substitute trustee shall then succeed to all rights, obligations, and duties of the Trustee. This appointment may be made on Lender's behalf by the President, any Vice President, Secretary, or Cashier of Lender.

NOTICES. Any notice required to be given under this Deed of Trust, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile unless otherwise required by law, when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Deed of Trust. Any party may change its address for notices under this Deed of Trust by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

IMAGING OF DOCUMENTS. The Undersigned acknowledges, understands and agrees that Lender's document retention policy involves the imaging of the Loan Documents and the destruction of paper originals thereof. In connection therewith, the Undersigned hereby waives any and all rights they have or may have to claim, for any and all purposes whatsoever, that imaged copies of any or all of the Loan Documents are not originals thereof.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Deed of Trust:

Amendments. This Deed of Trust, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Deed of Trust. No alteration or amendment to this Deed of Trust shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Annual Reports. If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

Caption Headings. Caption headings in this Deed of Trust are for convenience purposes only and are not to be used to interpret or define the provisions of this Deed of Trust.

Merger. There shall be no merger of the interest or estate created by this Deed of Trust with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

Governing Law. This Deed of Trust will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Texas without regard to its conflicts of law provisions. This Deed of Trust has been accepted by Lender in the State of Texas.

Choice of Venue. If there is a lawsuit, and if the transaction evidenced by this Deed of Trust occurred in Harris County, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of Harris County, State of Texas.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Deed of Trust unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Deed of Trust shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Deed of Trust. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Deed of Trust, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Severability. If a court of competent jurisdiction finds any provision of this Deed of Trust to be illegal, invalid, or unenforceable as to any circumstances, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Deed of Trust. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Deed of Trust shall not affect the legality, validity or enforceability of any other provision of this Deed of Trust.

Successors and Assigns. Subject to any limitations stated in this Deed of Trust on transfer of Grantor's interest, this Deed of Trust shall be binding upon and inure to the benefit of the parties, their successors, and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with the Property, successors, with reference to this Deed of Trust and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of the Deed of Trust or liability under the indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Deed of Trust. **DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Deed of Trust. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Deed of Trust shall have the meanings attributed to such terms in the Uniform Commercial Code:

Beneficiary. The word "Beneficiary" means Patriot Bank, and its successors and assigns.

Borrower. The word "Borrower" means PIPER PRECISION INC and includes all co-signers and co-makers signing the Note and all their successors and assigns.

Deed of Trust. The words "Deed of Trust" mean this Deed of Trust among Grantor, Lender, and Trustee, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Assets.

Default. The word "Default" means the Default set forth in this Deed of Trust in the section titled "Default".

Environmental Laws. The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

Event of Default. The words "Event of Default" mean any of the events of default set forth in this Deed of Trust in the events of default section of this Deed of Trust.

Grantor. The word "Grantor" means PIPER PRECISION INC.

Guarantor. The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Indebtedness.

Guaranty. The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

Hazardous Substances. The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

Improvements. The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

Indebtedness. The word "Indebtedness" means all principal, interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Trustee or Lender to enforce Grantor's obligations under this Deed of Trust, together with interest on such amounts as provided in this Deed of Trust. Specifically, without limitation, Indebtedness includes all amounts that may be indirectly secured by the Cross-Collateralization provision of this Deed of Trust.

Lender. The word "Lender" means Patriot Bank, its successors and assigns.

Note. The word "Note" means the promissory note dated June 2, 2011, in the original principal amount of \$480,000.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The maturity date of the Note is June 2, 2016. **NOTICE TO GRANTOR: THE NOTE CONTAINS A VARIABLE INTEREST RATE.**

Personal Property. The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessories, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

Property. The word "Property" means collectively the Real Property and the Personal Property.

Real Property. The words "Real Property" mean the real property, interests and rights, as further described in this Deed of Trust.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

Rents. The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

Trustee. The word "Trustee" means Gary S Gunn, whose address is 333 Clay, 29th Floor, Houston, TX 77002 and any substitute or successor trustees.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS DEED OF TRUST, AND GRANTOR AGREES TO ITS TERMS.

GRANTOR:

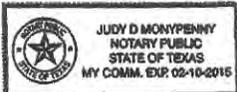
PIPER PRECISION INC

By: 
 ANTONIO G GAMBINI, President of PIPER
 PRECISION INC

CORPORATE ACKNOWLEDGMENT

STATE OF Texas)
) SS
 COUNTY OF Houston)

This instrument was acknowledged before me on June 2, 2011 by ANTONIO G GAMBINI, President of PIPER PRECISION INC a Texas corporation, on behalf of said corporation.



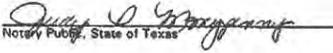

 Notary Public, State of Texas

EXHIBIT "A"

8.4406 Acre Tract

8.4406 ACRES OF LAND, BEING A PART OF THE H. STEVENS SURVEY, ABSTRACT 594, AND THE H. T. & B. R.R. CO. SURVEY NO. 28, ABSTRACT 551, BRAZORIA COUNTY, TEXAS, AND BEING ALL THOSE CERTAIN TRACTS CONVEYED TO PRODUCTION RENTALS, INC. AS A 2.973 ACRE TRACT DESCRIBED IN A DEED RECORDED IN VOLUME 1393, PAGE 133, A 0.469 ACRE TRACT DESCRIBED IN A DEED RECORDED IN VOLUME 1394, PAGE 963, AND A 5.0 ACRE TRACT DESCRIBED IN A DEED RECORDED IN VOLUME 1604, PAGE 900, AND IN THE BRAZORIA COUNTY DEED RECORDS, BRAZORIA COUNTY, TEXAS, SAID 8.4406 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at a $\frac{1}{2}$ " iron rod found at the intersection of the Northwest right of way line of State Highway No. 35 and the common line of the H. Stevens Survey, Abstract 594 and the H. T. & B. R.R. Co. Survey, Abstract 551, said point being the Southwest corner of the aforementioned 2.973 acre tract;

THENCE North 28 deg. 38 min. West, along the Northeast right of way line of State Highway No. 35 a distance of 285.14 feet to a $\frac{1}{4}$ " iron rod found for corner;

THENCE South 89 deg. 57 min. 55 sec. East, along the North line of the aforementioned 0.469 acre tract a distance of 667.33 feet to a $\frac{1}{4}$ " iron rod found in the common line of Abstracts 551 and 594, said point being the Northwest corner of the aforementioned 5.0 acre tract;

THENCE North 89 deg. 58 min. East, along the North line of said 5.0 acre tract, at 652.5 feet pass a $\frac{1}{2}$ " iron rod and continue for a total distance of 687.5 feet to a $\frac{1}{2}$ " iron rod found for the Northeast corner of the herein described tract;

THENCE South 90 deg. 02 min. East, along the East line of the aforementioned 5.0 acre tract a distance of 316.8 feet to a $\frac{1}{4}$ " iron rod found for corner;

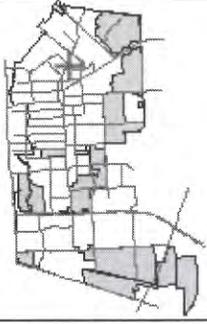
THENCE South 89 deg. 58 min. West, along the South line of the aforementioned 5.0 acre tract a distance of 687.5 feet to a $\frac{1}{4}$ " iron rod found in the common line of Abstracts 308 and 551;

THENCE North 00 deg. 02 min. West, along the common line of said surveys a distance of 67.07 feet to a 1" iron pipe found at the Northeast corner of Abstract 308;

THENCE South 89 deg. 58 min. West, along the common line of Abstracts 308 and 594 a distance of 531.0 feet to the PLACE OF BEGINNING and containing 8.4406 acres of land.

e-Recording
Doc# 2011023830
Pages 8
06/13/2011 16:05:03 PM
Official Public Records of
BRAZORIA COUNTY
JOYCE HUDMAN
COUNTY CLERK
Fees 40.00

Joyce Hudman



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Scale 1:3,762
1 in = 314 ft

R D HOMES

4030 S. Main
Pearland, TX 77581
(281) 992-5900 fax: 281-992-5909
juan@rdtexas.com

September 7, 2011

City of Pearland
Building Permit Department
3519 Liberty Drive
Pearland, TX 77581-5416

Re: Proposed placement of manufactured HUD code home/office on commercial property to house night security, shipping and receiving at:

Piper Precision, Inc.
4155 S Main St.
Pearland, TX 77581

Greetings:

Enclosed please find a building permit application for placement of a manufactured home/office to house security personal at Piper Precision, Inc.

The structure will be built to wind zone 3 HUD code specifications.

The structure will be installed to TDHCA wind zone 3 installation and manufacture instructions.

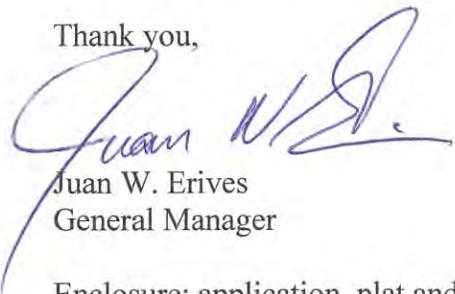
All utilities to the structured will be connected to the existing electric, water and sewer at Piper Precision, Inc. and will not require new utility services to the site.

This structure will be installed behind an existing metal shop and will not be visible from Main St.

Piper Precision, Inc. would like to have this building permit as they see this as been in used for at least the next ten to twenty years.

If the conditional use permit would be more appropriate for this project please view this application as such.

Thank you,



Juan W. Erives
General Manager

Enclosure: application, plat and placement plan

CITY OF PEARLAND
*** CUSTOMER RECEIPT ***
Oper: MHARRIS Type: OC Drawer: 1
Date: 11/01/11 01 Receipt no: 29123

Description	Quantity	Amount
BA BOARD OF ADJUSTMENTS	1.00	\$250.00
Trans number:		3518305

JUAN W ERIVES
2123 MASTERS LN
MISSOURI CITY, TX 77459
4155 S MAIN ST
RD HOMES
PIPER PRECISION, INC
MJH

Tender detail		
CK CHECK	1212	\$250.00
Total tendered		\$250.00
Total payment		\$250.00

Trans date: 10/31/11 Time: 12:14:57

VOL. 1398 PG. 967
D.R.B.C.

N 89°55'29" E
(CALLED S 89°57'55" E 667.59')

FND. 1/2" I.R.
115.7

N 28°54'42" W
(CALLED N 28°38'00" W 285.16')

FND. 1/2" I.R.
35

P.O.B.
285.34')

FND. 1/2" I.R.
0.7

N 89°58'00" E

SET 1/2" I.R.

WATER WELL

CONC. DRIVE

GRAVEL

687.50'

6" CHAIN LINK FENCE
(TTP.)

687.50'

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687.50'

687.50'

687.50'

S 00°03'27" E 316.80'
(CALLED S 00°02'00" E)

FND. 1/2" I.R.
CONT. MON.

35'

CITY OF PEARLAND R.O.W. ESMT.
VOL. 157 PG. 382 O.R.B.C.

687.60'

S 89°59'00" W
(CALLED 687.50')

VOL. 929 PG. 211
& 212 O.R.B.C.

VOL. 416 PG. 460 & 462
O.R.B.C.

VOL. 416 PG. 460 & 462
O.R.B.C.

S 89°55'27" W 529.00'
(CALLED N 01°45'35" W 67.0')

FND. 1/2" I.R.
CONT. MON.

S 89°55'27" W 531.00'
(CALLED S 89°58'00" W 531.00')

FND. 1/2" I.R.
CONT. MON.

FND. 1/2" I.R.
CONT. MON.

VOL. 1632 PG. 106
D.R.B.C.

A-308

NOTE: THIS PROPERTY IS NOT WITHIN THE 100 YEAR SPECIAL FLOOD HAZARD AREA AS INDICATED BY
F.E.M.A. COMMUNITY NO. 480077 PANEL 45 I DATED SEPT. 1990 ZONE X-C

NOTE: ALL BEARINGS ARE REFERENCED TO A CALLED 4.745 ACRE TRACT OF LAND AS
RECORDED IN COUNTY CLERK'S FILE NO. 94030005 OF THE OFFICIAL RECORDS
OF BRAZORIA COUNTY, TEXAS.

* 5' H.L. & P. CO. ESMT. TOGETHER WITH A 5'x 20' AERIAL ESMT. VOL. 1433 PG. 236 D.R.B.C.

* 10'x 73' H.L. & P. CO. ESMT. TOGETHER WITH A 5'x 20' AERIAL ESMT. VOL. 1433 PG. 236 D.R.B.C.



Map of:
4155 S Main St
Pearland, TX 77581

Notes

PIPER PERCISION, INC.
4155 S MAIN ST.
PEARLAND, TX 77581
281-482-8168



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Proposed Placement of Manufactured Home/office

POSTING OF ZONING NOTIFICATION SIGNS ON PROPERTY UNDER CONSIDERATION FOR A ZONE CHANGE (OR CONDITIONAL USE PERMIT)

Any person, firm or corporation requesting a zoning change, a conditional use permit (CUP), or a variance shall be required to erect and maintain a sign(s), to be inspected by the City, upon the property for which a variance or zoning change has been requested.

Such sign(s) shall be located as follows:

- (1) One (1) sign per street frontage shall be located within thirty feet (30') of the abutting street, or as determined by the City.
- (2) So as to be clearly visible and readable from the public right-of-way and not obstructed in any manner.
- (3) So as not to create a hazard to traffic on the public rights-of-way abutting the property.
- (4) On the subject property at least ten (10) days prior to the hearing of such zoning change request by the Planning and Zoning Commission, and to remain continuously on said property until final action by the City Council or withdrawal of the case by the applicant. Removal of the sign by the applicant prior to a recommendation by the Planning and Zoning Commission and/or a final decision by the City Council shall constitute a withdrawal of the request.
- (5) The signs shall be as follows:
 - A minimum sign size of 2 feet by 3 feet, but no larger than 4 feet by 4 feet
 - At least 2 feet above the ground
 - Blue or black lettering that is a minimum of 3 inches by 1/2 inch, on a white background
 - Message content as follows:

PROPOSED (SPECIFY REQUEST)
Contact City of Pearland
281-652-1768

***Signs must be professionally made; handwritten signs are not allowed.**

***Signs must be freestanding and cannot be attached to a tree, fence, or building.**

From W.D. - 10/27/11
R.D. Homes

Wednesday, August 24 2011

Property Tax Status[Begin a New Search](#) [Go to Your Portfolio](#) [Tax Office FAQ's](#)[Request a Tax Statement](#)

Make your check or money order payable to:

Ro'Vin Garrett, RTA

111 E Locust

Angleton, Texas 77515



A Convenience Fee of up to 2.65% will be charged for all credit card payments by the vendor providing this service. For eChecks, a convenience fee of \$1.50 will be charged for each transaction. The fee covers the cost of making payments by credit card possible. The fee will appear as a charge to 'Certified Payments'. No part of this fee is retained by Brazoria County.

Unless otherwise noted, all data refers to tax information for 2010. All amounts due include penalty, interest, and attorney fees when applicable. Due to the large volume of work during heavy payment periods amounts due may not reflect payments that have been received but not yet processed.

Account Number: 05940005120**Address:**

PIPER PRECISION INC
PO BOX 1186
FRIENDSWOOD, TX 77549-1186

Property Site Address:

4155 S MAIN

Legal Description:

A0594 H STEVENS, TRACT 4A (PEARLAND),
ACRES 2.97

Current Tax Levy: \$15,438.38**Current Amount Due:** \$0.01**Prior Year Amount Due:** \$0.00**Total Amount Due:** \$0.01**Last Payment Amount for Current Year Taxes:** \$17,445.37**Pending Credit Card or E-Check Payments:**

No Payment Pending

[Click Here to Pay Now](#)**Jurisdictions:**

BRAZORIA COUNTY
BRAZORIA DRAINAGE DIST 4
CITY OF PEARLAND
PEARLAND ISD
SPECIAL ROAD & BRIDGE

Market Value: \$571,030**Land Value:** \$109,970**Improvement Value:** \$461,060**Capped Value:** \$0**Agricultural Value:** \$0**Exemptions:** None**Last Certified Date:** 09/14/2010[Taxes Due Detail by Year and Jurisdiction](#)[Payment Information](#)

[Click Here](#) to see your estimated amount due for a different date. You can see this information by year and by both year and jurisdiction.

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E-mail: roving@brazoria-county.com
111 E. Locust Suite
Angleton, TX 77515
(979) 864-1320

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Wednesday, August 24 2011

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Angleton, Texas 77515

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Account Number: 05510010050**Address:**PIPER PRECISION INC
PO BOX 1186
FRIENDSWOOD, TX 77549-1186**Property Site Address:**

S HIGHWAY 35

Legal Description:A0551 H T & B R R, TRACT 162A-164M,
ACRES 5.000**Current Tax Levy:** \$1,784.39**Current Amount Due:** \$0.00**Prior Year Amount Due:** \$0.00**Total Amount Due:** \$0.00**Last Payment Amount for Current Year Taxes:** \$1,784.39**Pending Credit Card or E-Check Payments:**

No Payment Pending

Jurisdictions:ALVIN COMMUNITY COLLEGE
ALVIN ISD
BRAZORIA COUNTY
BRAZORIA DRAINAGE DIST 4
CITY OF PEARLAND
SPECIAL ROAD & BRIDGE**Market Value:** \$64,000**Land Value:** \$64,000**Improvement Value:** \$0**Capped Value:** \$0**Agricultural Value:** \$0**Exemptions:** None**Last Certified Date:** 09/14/2010[Taxes Due Detail by Year and Jurisdiction](#)[Payment Information](#)

[Click Here](#) to see your estimated amount due for a different date. You can see this information by year and by both year and jurisdiction.

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Account Number: 05940005125**Address:**

PIPER PRECISION INC
PO BOX 1186
FRIENDSWOOD, TX 77549-1186

Property Site Address:

S HIGHWAY 35

Legal Description:

A0594 H STEVENS, TRACT 4B (PEARLAND)

Current Tax Levy: \$469.62**Current Amount Due:** \$0.00**Prior Year Amount Due:** \$0.00**Total Amount Due:** \$0.00**Last Payment Amount for Current Year Taxes:** \$469.62**Pending Credit Card or E-Check Payments:**

No Payment Pending

Jurisdictions:

BRAZORIA COUNTY
BRAZORIA DRAINAGE DIST 4
CITY OF PEARLAND
PEARLAND ISD
SPECIAL ROAD & BRIDGE

Market Value: \$17,370**Land Value:** \$17,370**Improvement Value:** \$0**Capped Value:** \$0**Agricultural Value:** \$0**Exemptions:** None**Last Certified Date:** 09/14/2010[Taxes Due Detail by Year and Jurisdiction](#)[Payment Information](#)

[Click Here](#) to see your estimated amount due for a different date. You can see this information by year and by both year and jurisdiction.

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