

**OLD SPANISH TRAIL GAS STATION**  
**CONDITIONAL USE PERMIT**

*Approved* March 9, 2022

**ORDINANCE NO. 276B**

**AN ORDINANCE OF THE CITY OF UHLAND, TEXAS AMENDING THE ZONING ORDINANCE BY REZONING APPROXIMATELY 3.505 ACRES OF LAND FROM LOCAL RETAIL TO CONDITIONAL USE PERMIT FOR GAS STATION; ESTABLISHING CONDITIONS FOR THE LAND USE, CONSTRUCTION AND OPERATION OF A GAS STATION; MAKING FINDINGS OF FACT; AND PROVIDING FOR SEVERABILITY.**

WHEREAS, SPANISH TRAIL AT TX 21, LLC ("Owner") owns a total of 3.505 acres of land, more or less, located in corporate limits of the City of Uhlend, Hays County, Texas, and more particularly described by the metes and bounds description attached as Exhibit "A" (the "Property"); and

WHEREAS, Owner plans to develop the 3.505 acres of the Property as a gas station (the "Project"), as generally delineated in the Owner's Conditional Use Permit ("CUP") Application and Site Plan attached as Exhibit "B"; and

WHEREAS, A CUP accommodates uses that generally have unusual nuisance characteristics or are a public or semi-public character often essential or desirable for the general convenience and welfare of the community where review, evaluation and exercise of planning judgement relative to the location and site plan of the proposed use are required due to the nature of the use or possible adverse impact on neighboring properties of the use; and

WHEREAS, the City of Uhlend ("City") seeks to protect the health, safety, and welfare of those living in, working in, and visiting the City; and

WHEREAS, the City Planning & Zoning Commission held discussions and invited public comment on the Owner's Project at a public hearing held on the 19th day of January, 2022 at 6 o'clock P.M.; and

WHEREAS, the City Council held discussions and invited public comment on the Owner's Project at a public hearing held on the 9th day of March, 2022 at 6 o'clock P.M.; and

WHEREAS, pursuant to Chapter 51 of the Texas Local Government Code, the City has general authority to adopt this Ordinance.

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

## ARTICLE I. FINDINGS OF FACT AND SHORT TITLE

The foregoing Recitals are hereby adopted by the City Council as findings of facts and are incorporated fully herein. This Ordinance shall be commonly cited as the “Old Spanish Trail Gas Station CUP”.

## ARTICLE II. ZONING

- A. Conditional Use Permit.** The 3.505 acres of land more particularly described in *Exhibit “A”* is hereby zoned CUP. This Ordinance, together with *Exhibit “A”* and *Exhibit “B”* attached hereto, constitutes the CUP for the Old Spanish Trail Gas Station Project upon the Property.
- B. Amendment of Zoning Ordinance No. 47.** The City of Umland Ordinance No. 47 (the “Zoning Ordinance”) is hereby modified and amended by rezoning the 3.505 Property from Local retail to CUP.
- C. Amendment of City Zoning Map.** The City Administrator is hereby authorized and directed to cause the City’s official zoning map to be amended to reflect the zoning change approved by this Ordinance
- D. Conditions.** The detention pond shall have a soil and separator, and that there be a sound, light and pollution barrier be placed on Old Spanish Trail and the adjoining portion of the property. Except as specifically provided by this Ordinance, the Old Spanish Trail Gas Station Project is subject to all provisions of the City’s Ordinances in effect on the effective date of this Ordinance. To the extent any provisions of this Ordinance conflicts with any provisions of City Ordinances or any related regulations, the provisions of this Ordinance shall control.

## ARTICLE III. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

## ARTICLE IV. PROPERTY RECORDS

The City Secretary is hereby directed to record a Notice of this Ordinance in the real property records of the County (so as to bind the City, the Owner and all future owners of the Property), and to provide regulatory certainty during the Term of this Ordinance.

## ARTICLE V. PUBLICATION

The City Secretary is hereby directed to record and publish this Ordinance, including each exhibit, in the City’s Ordinances as authorized by Chapter 52 of the Texas Local Government Code.

**ARTICLE VI. PROPER NOTICE & MEETING**

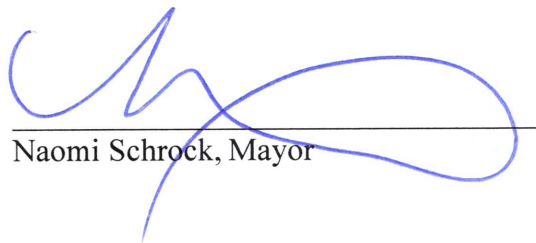
It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**ARTICLE VII. EFFECTIVE DATE**

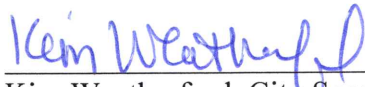
This Ordinance shall be effective immediately upon passage by the City Council and publication as required by law.

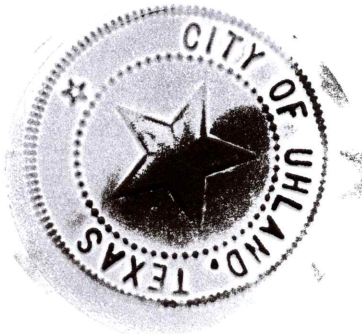
**PASSED AND APPROVED** this, the 19<sup>th</sup> day of March 2022.

**THE CITY OF UHLAND, TEXAS:**

  
\_\_\_\_\_  
Naomi Schrock, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Kim Weatherford, City Secretary



# Exhibit "A"

**JAMES E. GARON  
& ASSOCIATES, INC.**  
PROFESSIONAL LAND SURVEYORS  
& CIVIL ENGINEERS

185 McAllister Road  
Bastrop, Texas 78602  
512-303-4185  
Survey Firm #10058400  
Engineering Firm #F-20368  
jgaron@austin.rr.com

December 4, 2019

**LEGAL DESCRIPTION:** BEING 3.505 ACRES OF LAND LYING IN AND BEING SITUATED OUT OF THE JOHN STEWART SURVEY, ABSTRACT 14 IN HAYS COUNTY, TEXAS AND BEING ALL OF THAT CERTAIN 3.46 ACRE TRACT OF LAND CONVEYED TO DIANA B. FUCHS BY EXECUTOR'S DEED RECORDED IN VOLUME 4421, PAGE 675 OFFICIAL RECORDS OF HAYS COUNTY, TEXAS AND THE REMAINDER OF THAT CERTAIN 4.46 ACRE TRACT OF LAND DESCRIBED BY DEED RECORDED IN VOLUME 287, PAGE 228 OF SAID OFFICIAL RECORDS; SAID 3.505 ACRES BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS AND AS SURVEYED UNDER THE SUPERVISION OF JAMES E. GARON & ASSOCIATES IN NOVEMBER, 2019:

**BEGINNING** at a 1/2" iron rod found in the northwesterly margin of Old Spanish Trail for the easterly corner hereof and said Fuchs 3.46 acre tract and the southerly corner of that certain 1.000 acre tract of land conveyed to Mary Anne McRae by instrument #19011405 of said official records;

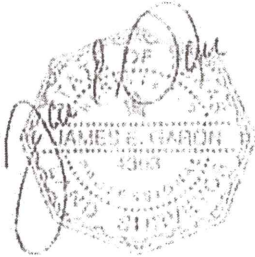
THENCE S 51°23'09" W a distance of 2264.23 feet along Old Spanish Trail to a 1/2" iron rod with cap stamped "JE Garon RPLS4303" set at the intersection with the northeasterly margin of Short Street for the southerly corner hereof and said 4.46 acre tract;

THENCE N 23°37'36" W a distance of 92.19 feet along Short Street to a 1/2" iron rod with cap stamped "JE Garon RPLS4303" set in the southeasterly right-of-way (100') line of El Camino Real (SH 21) for the westerly corner hereof and said 4.46 acre tract;

THENCE along said right-of-way line, N 54°42'57" E a distance of 772.77 feet to a 1/2" iron rod with cap stamped "JE Garon RPLS4303" set for the beginning of a curve to the left and a distance of 1453.98 feet along the arc of said curve to the left having a radius of 5779.57 feet and a chord bearing N 47°04'37" E, a chord length of 1450.15 feet to a 1/2" iron rod with cap stamped "JE Garon RPLS4303" set for the northerly corner hereof;

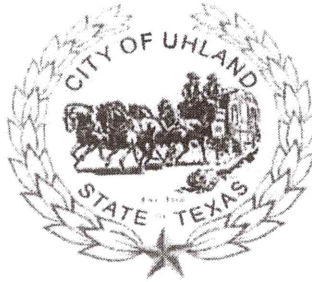
THENCE S 47°06'34" E, passing a 1/2" iron rod found for the westerly corner of said McRae 1.000 acre tract at a distance of 2.47 feet and continuing for a total distance of 154.82 feet to the **POINT OF BEGINNING**, containing 3.505 acres of land, more or less and as shown on map of survey prepared herewith.

Surveyed by:



James E. Garon  
Registered Professional Land Surveyor  
Server; co\Hays\surveys\John Stewart\85619

# Exhibit "B"



## CONDITIONAL USE PERMIT APPLICATION

(please print clearly)

Date: Nov. 18, 2021

### APPLICANT INFORMATION:

Name: Eric L. Gomez

Street Address: 805 Las Cimas Pkwy  
Suite 350  
Austin, Tx 78746

Mobile Phone: 512 239 8543 Home Phone: 512 615 6681 (Preferred)

Electronic Mail: eric.gomez@sprouselaw.com

Facsimile: \_\_\_\_\_

### PROPERTY INFORMATION:

Physical Address: N Camino Real, Umland, Tx 78640  
Hays County Property ID #R11536

Platted: Yes: \_\_\_\_\_ No: \_\_\_\_\_

Subdivision: \_\_\_\_\_



**SPROUSE SHRADER SMITH PLLC**  
ATTORNEYS AT LAW

TERRENCE L. IRION  
terry.irion@sprouselaw.com  
(512) 615-6653

November 18, 2021

Charles L Simon  
Planner  
City of Umland  
15 N. Old Spanish Trail  
Umland, Texas 78640

*Via email: [planner@uhlandtx.us](mailto:planner@uhlandtx.us)*

***RE: Conditional Use Permit Application for Hays County Property ID# R11536  
Spanish Trail Gas Station Project***

Dear Mr. Simon:

Please accept this letter as the revised formal submittal of the Conditional Use Permit (“CUP”) Application for the property with Hays County Property ID# R11536 and Hays County Appraisal District address of N CAMINO REAL, UHLAND, TX 78640, and for the purpose of developing a gas station and convenience store.

The City has provided clarification about what is being required from the Property Owner, SPANISH TRAIL AT TX 21, LLC, (the “Property Owner”) in order to process the Property Owner’s CUP application. This clarification came by formal correspondence from you, as the City Planner, in a letter dated October 14, 2021. In that letter you had asked that the Property Owner resubmit its CUP Application using a form that has now been completed and is enclosed with this cover letter. The following have also been provided along with the completed CUP form:

- Filling Fee (\$300 for 1 lot + \$5 x (3.505/.2 acres)) = \$388.75
- Concept Site Plan (Exhibit “A”)
- Zoning Memorandum (Exhibit “B”)
- Legal Description (Exhibit “C”)

Accordingly, please let me know if there is anything further that is needed at this time in order to process and review the enclosed CUP Application.



The Property Owner is proposing to develop a self-service gas station and food/beverage store, in accordance with the uses described in Zoning Ordinance 47, Sec. 7-108 and 7-109. The City is maintaining that the current zoning for the subject property is "Local Retail" ("LR"). While we dispute that is the duly adopted zoning classification of the property, under the LR zoning classification a CUP may be granted to allow for the Property Owner's planned use, which is provided in greater detail in the included site plan (Exhibit "A") and site plan memorandum (Exhibit "B").

There are several reasons for the City to approve a CUP for this project at the subject property, which are discussed in the following seven paragraphs and in accordance with Ordinance 47, Sec. 7-506. First, the CUP will be compatible with and not injurious to the use and enjoyment of the property, and it will not significantly diminish or impair property values within the immediate vicinity. Due to the unique layout of the subject tract, there are minimal uses that can be made from it. The property is extremely narrow and long and is sandwiched in-between two heavily trafficked roads: Airport Highway and County Road 304. Surrounding the property are feed stores, open fields, single-family residences, and hydraulic repair shops. Considering the eclectic make-up of the local vicinity, no negative impact to property values is expected, and the proposed use allows the property owner to best maximize its use and enjoyment of the property.

Second, the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property. Similar to the point just addressed, the properties surrounding the subject tract are primarily composed of three zoning classifications: Local Retail, General Business and Parkland. There are also some Single Family (SF-1) and Manufactured Homes properties, but not to the extent of the other classifications. The Parkland tracts will not be further developed unless the City decides to rezone them, and the Local Retail and General Business properties should be developed similarly to the use we are proposing.

Third, adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided, where appropriate. As previously stated, the property owner and City staff have been in discussions for a while at this point—since the summer of 2020—in order to develop the subject tract. The property owner has removed a bay of gas pumps that were intended for use by tractor-trailers, at the City's request, and replaced those pumps with a large detention pond. Due to the layout of the tract, there will also be two access points on both the north and south portions of the property for a total of 4 access points. The layout of the tract is unique, but practical creativity has been employed to ensure that all necessary support facilities are accounted for.

Fourth, the design, location and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development, where appropriate. Great effort was put into the concept and site plans to ensure an efficient and safe arrangement of all driveways and parking spaces. Safety and convenience of movement was a large reason for removing the extra diesel pump bay from the western portion of the project. In addition, the 27 parking spaces have been intentionally located away from the pumps to protect pedestrian traffic, and the 4 access points for

C. Simon  
November 18, 2018  
Page 3 of 3

vehicles will help to keep traffic flowing and to a minimum, so that there is as little impact to the general public and adjacent developments as possible.

Fifth, adequate nuisance prevention measures, where needed, have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration. There are numerous environmental regulations that come to bear on projects categorized as Gas/Service Station. The TCEQ, for example is requiring compliance with industrial waste and stormwater regulations, petroleum storage tank registration, Stage II Vapor Recovery requirements, and air permits based on the amount of anticipated emissions, among other requirements. This project will also ensure compliance with all environmental and building regulations from the City as a part of the site plan approval and inspection process. Furthermore, the property adjacent to and immediately north of the gas station is a feed store, immediately to the east are Local Retail properties, and immediately to the west are undeveloped General Business properties or Parkland. Accordingly, nuisance measures will be implemented and commensurate to ensure that those properties are reasonably protected.

Sixth, directional lighting will be provided so as not to disturb or adversely affect neighboring properties, where appropriate. Please see the included site plan for the specific incorporation of these measures.

Seventh, the site plan has incorporated all required landscaping that the City has prescribed. The property owner's goal is to harmonize as much as possible with surrounding properties and to meet or exceed the landscaping in the local vicinity.

I am requesting that the Property Owner's CUP application be set for the next available P&Z and City Council meeting. This application is made subject to and without waiving any of the property owner's claims or defenses relating to the zoning classification of "General Business" that was shown on the official zoning map at the time that the property owner first began to develop its property.

I look forward to hearing back from you shortly.

Sincerely,



Terrence L. Arion

cc: Najib Wehbe  
Sarah Corona  
Eric L. Gomez  
Paige Saenz



# Exhibit "B"

## PROFESSIONAL STRUCTURAL CIVIL ENGINEERS, INC.

STRUCTURAL CIVIL TRANSPORTATION  
2205 W. PARMER LN., SUITE #201, AUSTIN, TEXAS 78727  
512.238.6422 [PSCE@PSCEINC.COM](mailto:PSCE@PSCEINC.COM) REGISTERED FIRM F-4951

October 1, 2021

City of Umland Planning Department  
15 N Old Spanish Trail  
Umland, TX 78640

To Whom It May Concern,

Please find included with this submittal a description of the Spanish Trail Gas Station development. This development includes one steel, single-story, 4,500sf gas station convenience store building with five MPDs. Two, 35' wide driveway accesses for the development will be provided from El Camino Real (SH21), and two, 30' driveway accesses for the development will be provided from Old Spanish Trail. There are currently no existing buildings or structures on-site. The proposed building includes two entrances/exits, both facing towards the eastern property line; the maximum building height will be 25'.

The locations of proposed screening and landscaping buffers have been provided on the following conceptual plan; additionally, detailed landscaping plans will be provided with formal submittal of the development's Site Plan. The location, height, and size of all proposed signs, as well as the exact location of all utilities, will also be provided with this site plan; an approximate utility location map has also been included with this submittal. Please note that wastewater will be provided by County Line Special Utility District from a wastewater line located along SH21, and water will be provided by County Line Special Utility District from an existing 8" waterline. There are no significant natural features on-site, and the property is located outside the floodzone (and is considered Zone X by FEMA); a detention pond will be proposed.

Thank you for taking the time to read my correspondence; should you have any questions or concerns, please do not hesitate to contact me by phone at (512) 238-6422, or by email at [psce@psceinc.com](mailto:psce@psceinc.com).

Sincerely,



Sarah Corona  
Office Manager

# Exhibit "C"

**JAMES E. GARON  
& ASSOCIATES, INC.**  
PROFESSIONAL LAND SURVEYORS  
& CIVIL ENGINEERS

185 McAllister Road  
Bastrop, Texas 78602  
512-303-4185  
Survey Firm #10058400  
Engineering Firm #F-20368  
jgaron@austin.rr.com

December 4, 2019

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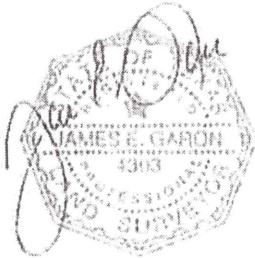
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Surveyed by:



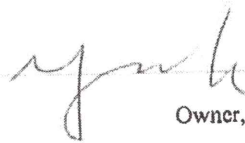
James E. Garon  
Registered Professional Land Surveyor  
Server; co\Hays\surveys\John Stewart\85619

**OWNER AUTHORIZATION AND VERIFICATION**

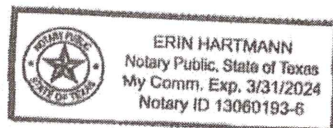
In the State of Texas §  
In the County of Travis §


Before me, a notary public, personally appeared Najib Wehbe, owner of the property subject of this Conditional Use Permit Application, who under oath swore and affirmed as follows:

1. I hereby certify that I am the owner of the subject property or the duly authorized agent of the owner of the subject property for the purpose of this application.
2. I hereby designate the person named as the applicant on page 1 of this application, if other than myself, to file this application and to act as the principal contact person with the City of Umland.
3. I hereby authorize the City of Umland, its agents or employees, to enter the subject property at any reasonable time for the purpose of documenting the property condition and use, up to and including taking photographs; and further, I release the City of Umland, its agents or employees from liability for any damages which may be incurred to the subject property in the action of documenting the property condition.

  
Owner, Affiant

Subscribed and sworn to before me by Najib Wehbe (owner) on this 17 day of November, 2021.



  
Notary Public, State of Texas

- ✓ 1. Owner Authorization and Verification if Owner is not Applicant
- ✓ 2. Filing Fee
- ✓ 3. Separate 8.5 x 11 sheet providing:
  - \* **Current Use.** A description of the current use of the property.
  - \* **Conditional Use.** A description of the proposed use of the property.
  - \* **Surrounding Properties.** An assurance that the Conditional Use will not be damaging or diminish the property values, use, or enjoyment of surrounding properties, and if applicable, how it will increase the same.
  - \* **Service.** An assurance adequate utilities, access roads, drainage, and other necessary facilities have been, provided, and if applicable, a description of those that are being provided. Conditional uses in residential districts shall generally require direct access to an arterial street.
- ✓ 4. Legal Description of property on 8.5 x 11 sheet
- ✓ 5. Site Plan or Site Plan Application, if applicable.
- 6. If property is in a 100 year floodplain, attach site map showing floodplain and a description of any proposed changes to the floodplain.
- 7. If conditional use will include the need for public parking, attach plan to accommodate that need.

*ONLY COMPLETE APPLICATIONS SHOULD BE SUBMITTED. APPLICATIONS MUST BE COMPLETE AND MEET ALL REQUIREMENTS HEREIN BEFORE A CONDITIONAL USE PERMIT REQUEST CAN BE SET FOR A PUBLIC HEARING*

*All Conditional Use Permits will be placed on the agenda for public hearing where testimony from the applicant and any interested citizen will be heard and considered. Applicants may be heard, and action may be taken, whether or not the applicant is in attendance.*

*I have read and understand all of the requirements as set forth by the application for conditional use permit and acknowledge that all requirements of this application have been met at the time of submittal.*

*Kevin L. Johnny*

Applicant Signature

10/25/21

Date

*[Handwritten Signature]*

Owner Signature

11-16-21

Date



THE STATE OF TEXAS  
COUNTY OF HAYS

I hereby certify that this instrument was FILED on the  
date and the time stamped hereon by me and was duly  
RECORDED in the Records of Hays County, Texas.

**22043042      ORDINANCE**  
09/09/2022 08:27:56 AM Total Fees: \$86.00

 Elaine H. Cardenas

Elaine H. Cardenas, MBA, PhD, County Clerk  
Hays County, Texas