

# Memo

To: Zoning Commission  
From: Kim Golden, Engineering & Planning  
CC: Doug Kneupper, P.E.  
Date: October 28, 2021  
Re: 5801 E.F.Lowry Expy – Francisco Ortega requests to rezone from “A” (Single Family Residential) to “E” (General Business) to allow for the use by rental of an ~~Open Air Pavilion~~ Enclosed Building to host family gatherings, birthday parties, quinceaneras and similar events.

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**Background:** This application was previously considered by the Zoning Commission at the October 19, 2021 meeting and deferred to allow additional time for the Applicant to work with staff regarding the anticipated use of the property. Through its attorney, the Applicant/Owner, Francisco A. Ortega, is maintaining its request for rezoning from “A” (Single Family Residential) to “E” (General Business) for a 7.367 acre parcel with an existing open air pavilion including animal stalls, livestock pens and restrooms ( 2 rooms with one toilet and sink in each room). The rezoning application is amended by counsel is requested to allow the use of **an enclosed building** as a rental event space for family gatherings, birthday parties, quinceaneras, and other similar events. The applicant states each event will require the customer to hire 1 or 2 security personnel, to require a security deposit to assure cleaning of the pavilion and surrounding grounds, and will allow the existing stable/pens to be used by the customer for the petting of farm animals. The amendment to the application states the Applicant “agrees to prohibit the use of the building for ‘flea markets’ or ‘garage sales.’ The Applicant agrees to his initial usage of the building as a rental event space for family gatherings, birthday parties, quinceaneras, and other similar event as stated in the original application.”

This property is the subject of a pending code violation case with a cease and desist order in place because the site was being operated as an open air event venue without the necessary permits or appropriate zoning.

### **Applicable Plans, Ordinances and Districts:**

**LAND USE PLAN:** The subject property is located in an area identified as “Business and Light Industrial Growth Area” in the City of Texas City Land Use Plan available on the City’s website. See attached excerpt from the Land Use Plan.

The Land Use Plan states “Business and Light Industrial Growth Areas should consist of a combination of office and mixed commercial uses, research and development facilities, and light industrial plants in coordinated, master planned campus like settings. Interdependent and complimentary businesses and industries are ideal for these areas. The business and light industrial growth areas shown on the Plan are well served by existing freeways, thoroughfares, and major railways. A number of pipelines are also

located in these areas. Planning for the types of uses identified herein can be more easily accommodated with the existing pipe lines and other physical conditions”

**ZONING:** The subject property is bounded on the west by property zoned “E” and “F”. It is bounded on the east by property zoned “A” residential, but that property is undeveloped and bounded to the east by developed property zoned “E”

**160.035 District E – General Business - Purpose.** District E is intended to provide for an extensive variety of **enclosed** retail and commercial services to serve the overall needs of the community. Due to the variety and potential intensity of these uses, they should be located along major transportation corridors and be appropriately buffered from residential areas. (emphasis added).

**160.041 District F – Light Industrial - Purpose.** District F is intended to provide for light manufacturing, wholesale and warehousing operations in an **enclosed** area. These uses are not of the variety to emit excessive noise, vibration, smoke or odor. (emphasis added).

**160.006 OF THE ZONING CODE DEFINES USABLE OPEN SPACE.** An open area or recreational facility which is designed and intended to be used for outdoor living and/or recreation. An area of common usable open space shall have a slope not exceeding 10%, shall have no dimension of less than ten feet, and may include landscaping, walks, recreational facilities, water features and decorative objects such as art work or fountains. **USABLE OPEN SPACE** shall not include: rooftops; accessory buildings, except those portions of any building designed specifically for recreational purposes; parking areas; driveways; turn-around areas; or the right-of-way or easement for streets or alleys.

“Usable Open Space” is not a principal use for either District E or District F.

**SPECIAL DISTRICTS:** The location is within a Gateway Corridor Overlay District.

**STAFF COMMENTS:** (1) Applicant was advised that access to water and sewer for this site is problematic and has satisfied itself that access to water and sewer are satisfactory. (2) Staff advised the more appropriate zoning for the intended use would be the SP District, but Applicant objected to the recommended change as “moving the goal posts”. Instead Applicant amended the application to remove the reference to open air events and limit its use to an enclosed building. Such limited use to an enclosed building would comply with the allowed uses for District E – General Business. The revised application also prohibits the use of the property for flea market or garage sale type events.

Another topic of discussion was the notion of a petting zoo at the rental events. It was unclear whether Applicant intended to have the animals boarded at the site continuously or would be moving them to the site temporarily and only during the time of the rental events. It was suggested to prohibit animals at the site, but that provision was not included in the amendment. The Applicant’s intentions regarding the boarding of livestock remains unclear.

During conversation Applicant’s counsel suggested the existing vegetation would suffice to meet the requirements of the Gateway Overlay District. Recent photographs of the existing vegetation are attached for the Board’s information and reference.

Lastly, Applicant was asked to provide a Zoning Exhibit to adequately describe its intentions regarding parking, driveway, landscaping, screening wall, etc. Applicant declined to provide the requested exhibit, preferring instead to mark and approximate location for parking on the plat.

**Analysis / Recommendation:**

Rezoning from "A" (Single Family) to "E" (General Business) does not seem inconsistent with the existing zoning pattern or the COTC Land Use Plan. However, the SP District would be more appropriate for the applicant's anticipated use and the unique characteristics of the site. Applicant's amendment to use an enclosed building for the event rental space is a better fit for the District E – General Business.

**RECOMMENDATION:** Because the intended use of an enclosed building as a rental venue for family gatherings and other social events is not inconsistent with the principle uses contemplated in the ordinance for the District E (General Business), the rezoning from "A" to "E" would not be inappropriate. However, Applicant would still be required to comply with all applicable provisions of the Gateway Overlay District and the applicable building codes.

Applicant declined to provide a Zoning Exhibit as requested. Additionally, the existing vegetation would not seem to satisfy the landscaping requirements of the Gateway Overlay District. Therefore, applicant's intentions regarding compliance with these other requirements is unclear. Any final action regarding rezoning should be subject to the Applicant providing a Zoning Exhibit or a site plan which complies with the requirements of the Gateway Overlay District.