

ZONING COMMISSION JUNE 7, 2022

The Zoning Commission of the City of Texas City met in a regular meeting on Tuesday, June 7, 2022 at 5:15 p.m. Zoning Commission members present: Co-Chairman Gary Potter, Thelma Bowie, Aric Owens and Bruce Clawson. Staff members present were: Kimberly Golden, Veronica Carreon and Iverson Williams (Summer Intern). Guests were: John Denton, Derrick Vaughn, Andrew Narvaez, Beatriz Narvaez, Abel Garza, Jayla Weatherspoon and Jason Kieschnick.

Co-Chairman Potter indicated a quorum was present and called the meeting to order.

APPROVAL OF MINUTES. A motion to approve the minutes of May 17, 2022 was made by Bruce Clawson/Thelma Bowie. All other members present voted aye.

Co-Chairman Potter stated that the order of items would change and the first item to be discussed would be Item No. 2, and then Item No. 1.

ITEM NO. 1 Consider and take action on a request from Chris LeBoeuf to rezone the property at 5029 FM 646, Texas City, TX from District "O" (Open Space) to District "F" (Light Industrial) to open Liberty Flare, LLC. (Action)

Ms. Golden stated that the property at 5029 FM 646 is currently zoned District "O" (Open Space), which was the zoning it obtained at the time of annexation by the city. This means when those annexed areas are brought in from an unincorporated area into an incorporated area they are brought in as "O". This is the first time an application was submitted to do something with the property. This property could fit District "F", and at the time the Applicant came in staff performed a quick review of the request and actually recommended District "*F". After looking at the request a little more carefully through the review process, staff found that District "P-I" (Planned Industrial) would be a better fit for everything that is going on in this area. Ms. Golden found that one of the properties 5008 FM 646 which is about 200' from the Applicant's property was rezoned to District "P-I" in 2019. Because it's located in the Gateway Overlay District, the Applicant will be required to comply with those requirements, whether it's zoned "F" or "P-I". Ms. Golden conferred with the City Attorney about this, and he stated that since the notice has gone out properly in terms of what the Applicant actually asked for and as long as this is being discussed in a public meeting, and then referred to City Commission, the Zoning Commission can consider a recommendation to classify as District P-I (Planned Industrial). When the notice for City Commission is published, then it can be presented as "P-I" and notice will be in order, if the Zoning Commission chooses to follow staff recommendation. From a user standpoint, the Applicant's intended use will be compliant with either classification – "F" Light Industrial, or P-I "Planned Industrial". It's from the Planning and Zoning standpoint and best practices to have consistent precedence for when the near-by properties come in for a zoning change.

Mr. Clawson then asked about a certain location on the exhibit and asked if it was part of the property, to which Mr. Jason Kieschnick, a representative for the Applicant, replied that it was not, and he was not sure what it was.

Kieschnick then asked what the difference is between District “F” and District “P-I”, to which Ms. Golden replied that District “P-I” is a little more evolved zoning practice in that it allows more discretion to work with the Applicant in terms of aesthetics and in the combination of uses that can be there. Whereas District “F” is just light industrial – metal buildings, chain link fences, etc. Because it is on the gateway corridor the extra enhancements of the district apply anyway, so District “P-I” is the better fit for that consideration. Mr. Kieschnick asked if the different zoning would allow more uses, to which Ms. Golden stated it would allow the city more leeway to make things work together.

There were no further questions from the commissioners.

A motion was made by Bruce Clawson/Thelma Bowie to open the Public Hearing. All other members voted aye.

PUBLIC HEARING: There were no comments from the public, for or against, no questions or further discussion.

A motion was made by Bruce Clawson/Aric Owens to close the Public Hearing. All other members voted aye.

There being no other action in the Public Hearing, a motion was made by Bruce Clawson/Thelma Bowie to recommend approval to the City Commission for the zoning change to District “P-I” designation for 5029 FM 646. All other members present voted aye.

ITEM NO. 2 Consider and take action on a request from John Denton to rezone the property at 921 Texas Avenue, Texas City, TX from District “IBD” (Industrial Business District) to District “E” (General Business) to open and operate 4 Nights Bar & Lounge, an entertainment venue. (Action)

Ms. Golden stated that the property is located at 921 Texas Avenue and is in District “IBD” (Industrial Business District). The IBD is one of the districts that the city has implemented for a transformational purpose. The IBD zoning classification is intended to make the land uses in the district transition to industrial businesses and other uses in support of the heavy industrial complex, which is further south. Texas City is unique in that it does have a substantial assembly of the true heavy industry and it has been very progressive in recognizing that there should be a transition zone from that heavy industrial to a general business district. Many years ago the City Commission adopted the Industrial Business District which is more restrictive as compared to the other districts because it is intended to be transformational and create change. It has a requirement that 50% of the area be impervious and landscaped. It also restricts uses to businesses that support heavy industry. The Applicant’s proposed use as an entertainment venue is not compliant the purpose of the district or the principle uses allowed by the Zoning Ordinance in the IBD District. The use was “grandfathered” in because it was in use by the owner at the time of the zoning change, but when the use changes the “grandfathering” goes away. The fact that there is a different person wanting to use this site for a non-conforming use provokes the requirement for a zoning change. The new owner/user cannot continue to operate it as a non-conformance use without a zoning change. As a leased property, the owner has an obligation to lease the property for uses which conform to the requirements of the zoning district. One Letter of Objection has been received from the adjacent

property opposing the zoning change. Because of the clear intent of the City Commission in adopting the restrictive IBD zoning district, and the way it has been administered consistently over time, as well as through current administrative processes within the Planning & Zoning department, now, staff is not recommending approval of the zoning change to District E, but is recommending the site retain the IBD designation.

Mr. Bruce Clawson read from the Letter of Objection that quoted, “no warehousing or manufacturing, or treatment of products or equipment, shall be permitted...” and asked where that quote might be coming from because he is not familiar with it. Ms. Golden replied that the owner may be quoting from the principal uses in District “E” (General Business). The objector [who operates an existing warehouse which is complaint with the IBD District] is saying that approving the District E rezoning would be approving a non-compatible use right next to his property. Co-Chairman Potter asked if the building [which is the subject of the application] sold or what has changed, to which Ms. Golden replied that it is requiring a new Certificate of Occupancy (CO). When the owner or lessee has changed it requires a new CO. Mr. Aric Owens then asked why the owner isn’t requesting the rezoning. Ms. Golden replied that the owner has consented to and is part of the application.

The Applicant, Mr. John Denton, then stated that he is interested in buying the building from the owner, Mr. Andrew Narvaez, and would like to bring something nice to the Texas City area. With all the new development coming in, he believes that the city needs a venue like this. He helped raise money for the golf course recently. He stated he is a good upstanding citizen. When he saw the building, he called Mr. Narvaez and they made an agreement that Mr. Denton would buy the building from him, but when they found out that the zoning had changed that was when he came to Engineering & Planning to find out the status on it. For this reason, the sale was halted until he can find out if he can get the zoning changed. This building has been a bar for 25 years and only closed due to COVID. He pointed out two restaurants that were in close vicinity [on the north side of Texas Ave] and believes that his block just happens to be where the city is trying to keep the area as the industrial part of it. His opinion is the building has been a club for 25 years, they haven’t had any issues, it hasn’t changed ownership and it only closed due to COVID. He is trying to come in and redo it and make this a “taj mahal” and is willing to spend \$250,000 to make a new place, redo the parking lot and interior of the building, and change some of the aesthetics on the outside of the building. He is inclined to say this should be done and it would be good for the city.

Mr. Clawson stated that he is struggling with this, because all through this district they have literally forced people not to fix their houses if it is greater than 50% of the value of their home. They have sat down with the industries and said “you wanted the buffer/green zone, you got it” and they [the industries] have bought the houses. For the last 20 or 30 years, they have gone about changing that area to light industrial and they just don’t want anybody in there other than industrial people because of the industries that are there. He doesn’t know why the board should make exception of this. Mr. Denton stated that this building was not destroyed, like a lot of the houses in this area, which he opined is a blast area and that’s why they did not want them rebuilt again. He added that this club is made of cinderblock that has lasted through some blasts. There are also 4 additional businesses that have opened in the area [on the north side of Texas Ave.]. He believes

that the building is on the corner where the IBD starts, which Mr. Clawson replied that it is the fact that he is located on the south side of Texas Avenue, which is all IBD.

Co-Chairman Potter stated that one of the complaints from the neighbor across the street was about activities at the location – fights and gunfire that apparently left bullets in his roof. Mr. Denton replied that those events happened with the previous owner and he could not say anything about what happened in the past. He stated that he did not frequent the place when it was a club. He stated Mr. Narvaez said it had been a club for 25 years so he thought it would be a good entertainment complex. It is right around the corner from 6th Street North, where there is not a lot of parking like he would have at his business. He also mentioned Bourbon Street down the street [north of Texas Ave] and stated that it is a bar. He does not intend to have any issues due to the type of clientele he will allow.

Mr. Narvaez then stated back in 2000 when the zoning was changed to industrial, he had to go before city council for the lessee at that time, and they were worried about the same issues happening. Mr. Narvaez stated to council that if there were any problems at the location, he would evict the lessee. He added that he hasn't had any problems, nor was he ever notified of any trouble. He stated that he was never informed of a zoning change to industrial business. This location has always been a club and then asked who the Letter of Objection was from. Co-Chairman Potter replied that the letter was from Bamko Surplus which claims there are holes in his roof because of gunfire during the operation of the club. Mr. Denton asked if Bamko Surplus filed a police report and then asked if the letter was received without being verified. Co-Chairman Potter replied that a Public Hearing Notice was sent to surrounding property owners and ask if they have any problems with the zoning change. This particular owner stated that he is not in favor of it. Mr. Narvaez stated again that he would not put up with anything and that's why the city council passed it last time. He endangered himself at one point by evicting a lessee.

Ms. Golden stated that this is the difficult part of Land Use Regulation, but the city has been very consistent about transforming this particular district. As Mr. Clawson stated, there are people coming in every day with houses in the area and they are surprised that they can't do anything with them, as far as a residential uses. The owners can use them in line with the permitted uses so a building could be leased for a compliant or conforming use. It's not that it can't be used at all, it just can't be used for a non-compliant use such as an entertainment venue.

There were no further questions from the Commissioners.

A motion was made by Bruce Clawson/Aric Owens to open the Public Hearing. All other members voted aye.

PUBLIC HEARING: There were no comments from the public, for or against, no questions or further discussion.

There being no other action in the Public Hearing, a motion was made by Bruce Clawson/Thelma Bowie to close the Public Hearing. All other members voted aye.

There were no questions or further discussion from the Commissioners.

A motion was made by Aric Owens/Bruce Clawson to deny the request to rezone the property at 921 Texas Avenue from District "IBD" (Industrial Business District) to District "E" (General Business) based on the information provided in their

packet, and at the meeting, because it does not conform to the City's current zoning standards.

Mr. Clawson stated to the applicant's that the Zoning Commission is bound by the rules of this zoning. The IBD has been a work in progress for 30 years and has to continue. It is not them; it is about the work that needs to be done and has to get done. He added that Ms. Golden has a good point – it's not about the building, it's about the use of the building and he believes that is important. Mr. Owens agreed with Mr. Clawson – it's not the people, it's about the rules and tools they have to base their decisions on. It's not that he doesn't support the project, he can't see how it fits within the parameters of the city requirements. Mr. Narvaez then asked how to go about appealing this to which Co-Chairman Potter stated they would go over that after the motion was completed.

All other members present voted aye. [Zoning change request denied]

Co-Chairman Potter reminded the applicant that they are a committee of volunteers, they are not elected officials. The final decision resides with City Commission. The applicant has a right to take this to them and ask them to reconsider, but they will know from Zoning Commission that they voted and denied the request. Mr. Narvaez replied that they were told ahead of time that this would happen. He added that they would go step-by-step; meet with the commissioners; and then move forward with a lawsuit. Ms. Golden stated that per the procedure in the Zoning Ordinance the application does not automatically progress to City Commission. Because the Zoning Commission has denied it, the applicant has to ask specifically, in writing, for the appeal to go to City Commission and that request has to come within the next 10 days to Engineering & Planning. Once it is received, there is an advertising requirement and to meet that requirement, it's possible the appeal could go before City Commission at the 2nd meeting in July.

ITEM NO. 3 Other business. (Any conceptual development proposal requesting to come before the Planning Board)

Co-Chairman Potter asked if there was any other business to which there was none. **A motion was made by Bruce Clawson/Thelma Bowie to adjourn. All members present voted aye.**

Kimberly Golden, Secretary

Date

Minutes approved by the Planning Board at its meeting on _____.