

## **PLANNING BOARD MINUTES APRIL 17, 2023**

The Planning Board of the City of Texas City met in a regular meeting on Monday, April 17, 2023 at 5:00 p.m. Planning Board members present: Co-Chairman Perry O'Brien, Commissioner Jami Clark, Commissioner Thelma Bowie, Jayla Weatherspoon and Alternate Member Jose Boix. Staff members present were: Kimberly Golden, Veronica Carreon, Casey Bennett (Chief Building Official), and David Kinchen (Deputy Building Official). Guests were: Torrick Henderson; Carly Gast, Kittle Properties, Inc., Alix Osgood, BGE, Inc, Millard Johnson, JDKG Law, Alex Fones, JDKG Law, Ralph Lopez, BGE, Inc; James Henderson, Trevion Davis, TCFD; John Herzog, IDS Engineering; Vanessa Rodriguez, Beazer Homes; Clayton Weishuhn, LJA Engineering; and Carl Beard.

Commissioner Jami Clark indicated a quorum was present and called the meeting to order.

### **ITEM NO. 1 APPROVAL OF MINUTES**

A motion to approve the minutes of April 3, 2023, was made by Jayla Weatherspoon/Commissioner Thelma Bowie. All other members present voted aye.

### **ITEM NO. 2 PUBLIC COMMENTS**

There were no public comments.

### **ITEM NO. 3 Consider and take action on the Preliminary Plat for Marlow Lake Section 5. Being a replat of a 17.876 tract of land situated in the W. K. Wilson Survey, Abstract No. 208, Texas City.**

Ms. Kimberly Golden stated this section is being brought to the Board as Marlow Lake Section 5. She indicated on the exhibits the Master Plan for Marlow Lake North and what was approved as Marlow Lake. Marlow Lake had 4 sections that have all been taken to final plat stage. This is actually where a separate master plan for Marlow Lake North is starting, and we are in the first section of that plan. The reason this matters is this lake is located in both subdivisions and there are supposed to be some amenities and improvements made around said lake to serve both master planned communities.

Currently, the lake location is an active sandmining operation. This development is a little unusual because this situation of platting a development around an existing active sandmining operation with future plans to convert the mine site into an amenity lake has not been presented before. What the Planning Board has done to manage this risk of not developing the amenities, is to ask the developers to provide them with updates at each stage of the platting about where the developer is with refining his plans for those amenities. The most recent update to staff is that the developer has construction drawings ready to go out for bids to do the sidewalks, irrigation, and landscaping around the lake. The contractor is also starting to do some grading around the future lake site. It is important for the Board to understand that this development is different from what they have seen before.

Marlow Lake is a 65.355-acre Master Plan. This section identified as Section 5 is 17.868 acres that includes 56 lots and three reserves. One of the reserves is the lift station site to be built for this section. The Applicant is asking for preliminary plat approval which allows them to move forward with their engineering and preparation of the construction plans for the infrastructure and then come back to the Board with a final plat.

In accordance with the PUD, this section is developing a mix of lot sizes including 70', 60' and 50'. This section is going to contain a good mix of lot sizes. Nineteen of the lots will back up to the current active mining site. The Applicant is accommodating that with interim provisions for drainage and the installation of the decorative fence along the rear lot line by the developer, not by the builder.

The Applicant has addressed questions from staff and has provided the update about the status of amenities as required by the Board. Therefore, staff is ready to recommend the preliminary plat for Marlow Lake Section 5 for approval.

Ms. Golden stated that the Applicant was present to answer any questions the Board may have.

Commissioner Jami Clark indicated that Mr. Jerry LeBlanc stated he would keep the Board abreast of the amenities at the last meeting. As long as this continues to happen that will make the Board happy.

Commissioner Clark then asked if there were any more questions. Mr. Jose Boix asked if the lift station was different from anything else, to which Ms. Golden replied it is a sanitary sewer lift station to serve the lots being developed in the subdivision.

**After presentation, a motion was made by Commissioner Thelma Bowie/Jayla Weatherspoon to approve the Preliminary Plat for Marlow Lake Section 5 with the condition of continued submittal of updates showing progress toward a final plan and schedule for construction of the amenities around the lake and along SH3. All other members present voted aye.**

**ITEM NO. 4 Consider and take action on the Final Plat for Sunrise Cove Section 1. A subdivision of 26.403 acres of land situated in the D. L. Richards Survey, Abstract 167, Texas City.**

Ms. Golden stated this is the first final platting in the new subdivision that is going in north of Godard Park. The Applicant is developing 137 total single family detached residences. They have gone through the PUD rezoning. The development agreement is in place. This section is 26.403 acres with 76 lots. Staff would like to commend and bring to the Board's attention that the Applicant is developing the 70' lots first, then the 60' lots, and finally the 50' lots.

The Applicant has answered all of staff's questions and responded to all comments. Permission has been granted for them to start on detention so there is some work going on at the site. Staff recommend approval of the final plat.

Commissioner Clark asked for clarification that the entrance road is on 23<sup>rd</sup> Street North and that 19<sup>th</sup> Street North will be used for emergencies only. She just wanted to be sure because a lot of people have asked about this since the dirt work started on the property.

Ms. Golden stated that is correct and that the 19<sup>th</sup> Street North entrance will be totally gated. TCFD and TCPD will have access. The contractors will not be allowed to use 19<sup>th</sup> Street North as an entrance or exit during the course of construction. If anyone sees this happening Ms. Golden has asked to notify staff so the developer can be informed. It is a condition in the development agreement to prohibit the use of 19<sup>th</sup> Street North during construction.

Mr. Boix asked about 19<sup>th</sup> Street North and Commissioner Clark replied there was a lot of concern from residents in the Godard Park Subdivision, but they have been assured that it will be an emergency-only entrance and exit. Ms. Golden added that the gate will not be for use by the general public at all. It will only be used by emergency staff. He asked if this was something unique to which Ms. Golden replied it was worked out with the developer because during the rezoning process there was a bit of reaction from the neighborhood. This gate was worked out with the neighborhood, the developer, the Zoning Commission and the City Commission.

Mr. Boix asked if this is the only one in Texas City, to which Ms. Golden stated she has been told there is one behind the DeMontrond dealership that is in a similar posture.

He then asked what will happen to the section east of Section 1, to which Ms Golden replied that will be Section 2 which will be discussed as the next agenda item.

Mr. Boix then asked if the 19<sup>th</sup> Street North entrance is actually needed. Ms. Golden replied it is needed if the other entrances at 23<sup>rd</sup> Street North and 21<sup>st</sup> Street North are blocked, but again only for emergencies.

Commissioner Clark asked if there were any more questions. There were none.

**After presentation, a motion was made by Jayla Weatherspoon/Commissioner Thelma Bowie to approve the Final Plat for Sunrise Cove Section 1. All other members present voted aye.**

**ITEM NO. 5 Consider and take action on the Preliminary Plat for Sunrise Cove Section 2. A subdivision of 29.20 acres of land situated in the D. L. Richards Survey, Abstract 167, Texas City.**

Ms. Golden stated this is the second section of platting for Sunrise Cove Subdivision. Section 2 consists of 29.20 acres and contains 61 lots and 5 reserves. This will also include the reserve for the detention pond itself.

With preliminary plats, staff will look at the layout of the lots and how they will access sanitary sewer, water, and what they are doing with their drainage. It is the first step toward final platting. Once approved, the Applicant can move forward with the construction plans and the preparation of the final plat. They have addressed all questions from staff and are consistent with the lot mix that was approved in the PUD. Staff offer no objection to approval of the preliminary plat for Sunrise Cove Section 2.

Commissioner Clark asked if there were any more questions. Mr. Boix asked if there was going to be a lake to the east of the subdivision, to which Ms. Golden stated it would be a detention pond. He then asked if there would be a walking trail or some kind of

amenities. Ms. Golden replied yes and this is something the Applicant could answer more fully.

Ms. Vanessa Rodriguez, Beazer Homes, presented an exhibit that showed a walking trail around the lake and some fountains. Commissioner Clark asked if they were required to put a park in, to which Ms. Rodriguez stated they are also constructing a park.

**After presentation, a motion was made by Jose Boix/Commissioner Thelma Bowie to approve the Preliminary Plat for Sunrise Cove Section 2. All other members present voted aye.**

**ITEM NO. 6 Consider and take action regarding denial of the Henderson Block replat. Located at 308 and 312 Crockett Street, Texas City.**

Ms. Golden stated this is coming to the Board because it was presented to staff as a request to replat property and under the subdivision ordinance the City Engineer can approve administratively replats of this size but if she recommends denying it she then presents it to the Planning Board.

The replat that is being presented is not a recorded subdivision, which means the Applicant does not meet any requirements for any exemptions that may apply if the subdivision had been recorded a long time ago. This is actually the first platting of this property, rather than a replat.

The situation being faced is that the replatting is creating lots that are below the current minimum requirements in this zone. The property is in District "A" (Single Family Residential). The three applicable minimums for District A zoning are 50' wide, 100' depth, and 6,000 sq. ft. There are also some side setback requirements and some front and rear setback requirements.

The properties are located on Crockett Street, which is an undersized right-of-way (ROW) at 20'. When property is being platted, it must be brought up to the current subdivision regulations, which for a local street is 60' wide ROW. This means the Applicant would have to plat another 20' in right of way for Crockett Street as part of the platting process.

Ms. Golden then presented the current survey exhibit for 308 Crockett Street, which has an existing house on it. Currently it is 52' wide, which is wide enough. It is 130' in depth, which even if you take off 20' that is long enough, and it has the 9.1' setback which is a big enough setback because the minimum is 5'. Currently, 308 Crockett Street is a compliant lot. What the Applicant wants to do is replat the lot to where it is skinnier at 47.5' in width, so that the second lot (312 Crockett Street) would then be a 50' wide lot. This change would create several points of non-compliance on 308 in an effort to make the lot at 312 compliant. However, even if this change were made, the 50' width and the 110' depth that would be left when they take off the 20' for the ROW would still not be the 6,000 sq. ft. minimum.

Ms. Golden stated she could not approve the replat administratively because it did not meet the requirements of the zoning ordinance. Therefore, it is being brought to the Planning Board to confirm the denial. She does not recommend approving the replat because the Board, also, does not have the authority to approve a plat which fails to meet

the requirements of the zoning ordinance. The Planning Board does not have the authority to not follow the ordinance.

Commissioner Thelma Bowie asked if the owner of 308 and 312 Crockett Street are the same person, to which Ms. Golden replied yes. Commissioner Bowie then asked if the owner has plans to build on both lots, to which Mr. Carl Beard replied yes. He added that 308 is already constructed and that they are going to build 312 next door to it. Commissioner Clark asked if they are building on the larger lot. Mr. Beard replied they are building on the smaller lot. He added that they are trying to purchase more property from the owner to the south of 312 so that they can meet the setbacks. They can meet the setback in the back, and they can currently maintain the setback from the street with the way the neighborhood is now. He stated they are basically trying to get enough property to maintain the different setbacks. The overall lot size won't meet the requirement but around some other areas they do have 45' lots in other small subdivisions. Being this is not a subdivision, they can get their current surveyor to record it as a new subdivision, which is no difference. There are some other neighborhoods the owner went to and created a subdivision, so this surveyor can create a new subdivision with the setbacks if allowed by the city.

Commissioner Bowie stated that the road is not wide enough for two-way traffic and Mr. Henderson would have to take some of the existing property to make the road larger because only one car can pass at a time. Mr. Beard replied that it would never be enough road because it is an old neighborhood. He stated that they are just asking to use the current setbacks and the structure that is there and allow them to buy some property from their neighbor to meet the ordinance requirements and build a subdivision. With the 25' setback they can't meet the 20' ROW.

Ms. Golden advised the current owners obtained all of these properties through tax sales. 312 Crockett Street was acquired in 2011 and 308 Crockett Street was acquired in 2021. Commissioner Clark stated that their hands are pretty much tied, to which Ms. Golden agreed. She added that this replat does not meet the zoning requirements.

Ms. Jayla Weatherspoon asked the Applicant how he would propose making up that loss of space, to which Mr. Beard replied they can't. Commissioner Bowie asked if they have spoken with neighbors on either side as to whether any of that property is available for sale, because their hands are tied. Mr. Beard replied that properties would be for sale if other structures were put in there, but they still wouldn't get the city ROW. That original street is just too small, and he would almost reference it to an alley.

Commissioner Bowie stated that she was thinking of the Applicant acquiring additional property so that they could meet the minimum width and depth requirements. Mr. Torrick Henderson stated that has already been done. He has spoken with the owner of the previous property of 308 Crockett Street, and he has agreed to sell that property. That is why if you look at the replat it shows what the new lines would be. In 2009, there was a house already there [on 312].

Co-Chairman Perry O'Brien stated he would like to address the "elephant in the room", which is if they don't have the authority to approve this then why is the Board even hearing this matter. Ms. Golden replied it is because by ordinance the city engineer does not have administrative authority to deny a plat, only the Planning Board has the authority to deny

a plat/replat. Co-Chairman O'Brien reminded her that she told them they did not have the authority to approve the replat and asked if that was correct. Ms. Golden replied that the Board does not have the authority to approve the replat which does not meet the zoning ordinance and she does not have the authority to deny it administratively.

Mr. Beard stated he has posted Public Hearing notices on the property for a certain number of days and nobody in the subdivision disagrees and that they can go ahead and move forward with the replat. Ms. Golden replied that is not a process that is available in the ordinance. Co-Chairman O'Brien added that is out of their hands and as far as their training as Board members of what they understand in what they can and can't do. Mr. Beard asked then who can, to which Co-Chairman O'Brien replied that was an excellent question and he's hoping they have an area to point Mr. Beard to. He added that the Board has the authority to deny it, but they don't have the authority to approve the replat. Mr. Beard believes if they don't have the authority to approve it, then they don't have the authority to deny it. Co-Chairman O'Brien does not know how they go hand-in-hand. Ms. Golden stated that is the way the ordinance is written.

Co-Chairman O'Brien stated that he would like to help come up with a solution, but if they can't approve something they are not going to deny it either, so it needs to go to the next step – whatever the next step is. He asked if there was any input on that. Mr. Beard replied that would be City Commission. Ms. Golden stated there is not anything in the ordinance that states specifically it is referred to City Commission. The only thing that is clear in the ordinance is that as City Engineer she does not have the authority to deny a plat administratively, so she has to bring it to the Planning Board. As the Planning Board, they are constrained by the Zoning Ordinance. The zoning ordinance does not give the Board the authority to approve a plat which is not in compliance with the Zoning Ordinance.

Co-Chairman O'Brien asked if it was possible for the Applicant to get a variance in the ordinance of the zoning. Ms. Golden replied she was not sure if this is one that actually fits the Board of Adjustment, but it is possible. However, in terms of a replat, the Board of Adjustment does not have the authority to decide about plats.

Co-Chairman O'Brien asked if there has to be a replat if the Applicant gets a variance to which Ms. Golden replied he has to have it platted if he wants to build two houses. Co-Chairman O'Brien stated they have a plat, just not a recorded plat. So again, they are at a roadblock. Ms. Golden stated she understands the situation, but she is just stating what is in the ordinance – and as far as what can happen at this meeting it is very clear that she cannot approve the replat administratively and it is very clear that the plat as offered does not meet the requirements of the zoning ordinance.

Co-Chairman O'Brien stated they should entertain a motion to table the replat until more information is available to them because clearly none of the Board wants to do something that they are not able to do. Ms. Golden replied that they are certainly entitled to do that but suggested what it really does is still leaves the item in limbo because then the Applicant does not have a denial to appeal. If the Board tables the item, then they are basically taking no action and it is still stuck here. If the board denies it, at least the Applicant has a denial, and he can figure out what to do next. Commissioner Clark then asked if his (the applicant's) best interest would be for the Board to approve the denial, to which Ms. Golden replied yes, because she does not know what he can do if the Board

takes no action. She is not sure where this would leave him because he doesn't have anything to appeal from.

Commissioner Bowie asked if it was approved to deny does he have a right to present it to City Commission, to which Ms. Golden stated she did not know the answer to that because it is not clear to her. She added that obviously the City Commission can change its ordinances so you would think they would have the authority, but as far as a process being laid out - that is not written in there. She believes giving him a denial at least puts him on a platform to do something, but if it is stuck here [with the Board taking no action] there is not anything the Applicant can do.

Mr. Beard then asked if they gather all of the neighbors and they agreed to replat the subdivision correctly could they actually write the by-laws of that subdivision to allow lots of that size. Ms. Golden replied there is a process called a Planned Unit Development (PUD) that allows for a variation in lot sizes. It typically applies to more lots on a bigger scale, but she is not aware at this moment that it wouldn't apply.

Commissioner Bowie stated the problem with this area is it is an older area and many of these homes that were built back in the day are small and would not meet the criteria right now, so you have a lot of houses that don't stand up to what is required today.

Ms. Golden stated the [PUD process] is a recourse because [although] a PUD has not been used for something this small, technically, it is a process that goes to City Commission because the developer follows through with a Master Plan and the PUD Agreement to the City Commission. The City Commission is then in the posture of varying from their own ordinance, which the Commission can do.

Co-Chairman O'Brien stated they have tabled something before because they didn't have enough information to make a decision. This gives the Applicant an avenue where basically he is not stuck. The Board is looking for more information to help them make their decision. In this way, it would go to another day but hopefully they would then understand the process that would allow something to take place - more information from the City Attorney or possibly from the Board of Variance. He then asked if this would work. Ms. Golden replied they could certainly table the item and bring it back for review [and action] at a later date.

Co-Chairman O'Brien does not see a problem with bringing the item back. He is the tiebreaker of the panel and right now he does not know if they could put forth a motion or a second, but he sees this as an avenue for them to move forward and get some sort of additional information to answer everyone's questions.

Mr. Boix stated that it seems that the little time he has served on the Planning Board they have been shoehorned into more than one of these kinds of issues so why can't they ask that the ordinance be revised. It seems like they have something that looks rational, but it doesn't meet the code of ordinances. The code seems in some ways irrational as you look back in the days where it was mentioned that now it can't be "grandfathered".

Ms. Weatherspoon stated if the item is tabled then they would have time to review and evaluate the item. Mr. Boix agreed but he is making it further to the city to look at the ordinance to somehow or other make it easier for the Board to understand it better when

you get to this impasse because there have been 3 or 4 similar items in the last two or three meetings.

Commissioner Bowie stated they have, on occasion, been put in the position of where they vote on something that's controversial and they vote to approve it, and it doesn't follow the ordinance, then there is legal grounds for the next person who has a similar situation to come along and then the city is at harm. Right now, there are some people waiting on Hwy 3, meaning the Dollar Store episode, so they have to be super careful of having something and then modifying it. It just doesn't set well.

Mr. Beard stated in the older neighborhoods it is hard to meet the current requirements. He is not sure how the actual ordinance reads, but from building houses previously there are a lot of ordinances created for newer subdivisions. He believes there is no way to revitalize Texas City without some flexibility in the ordinances.

Co-Chairman O'Brien stated they are all looking for that "toolbox" to reach out and say, "Hey, we want to use this tool to allow you to do what you need to do." and that is basically what they are looking for. Right now, he does not have the tool to give the Applicant a path. But they are questioning and asking for information, which is a tool they can use. The item is still in front of them, but they are not making a decision today.

**After presentation, a motion was made by Jose Boix/Commissioner Thelma Bowie to table Item No. 6 to gather more information to answer some of the questions that cannot be answered in today's meeting. All other members present voted aye.**

**ITEM NO. 7 Consider and take action regarding denial of the Development Plan for Juniper Landing. Located at 7720 Emmett F. Lowry Expy., west of the Gatsby Condominiums.**

Ms. Golden stated this item is quite unique. In her experience with Texas City she is not aware of anything coming before any previous Planning Board, where staff brings to the Board an application which is not a bad development but it just doesn't fit Texas City right now.

The application is for an apartment complex that contains 228 units. It will be age restricted. The location is at 7720 Emmett F. Lowry Expy on 10.12 acres. The Applicant has provided both a preliminary plat, which is going through the review process, and a development plan. Staff have not completed the review of the detailed development plan because they knew they were going to bring it to you all with the recommendation to deny it in the interest of promoting public health, safety, order, convenience, prosperity and general welfare of the citizens and residents of Texas City, TX. That is Item (3)(j) under the Development Plan Ordinance. [160.053].

Basically, we're in the context where Texas City is remarkably blessed with very good single-family development right now. It is sustained and very high-quality single-family development. The city has been using the vehicle of Planned Unit Development (PUD) and so they're basically bringing everything along and at the same time they're able to make sure water, sewer, streets, and drainage are there, but they've also been able to address public safety sites to be sure they have police and fire resources. This was done with Lago Mar because they actually built a fire station over there which should be coming

online here shortly to service that development and the growth that the city is experiencing as a result of it.

As part of that balance Texas City has been a little bit cautious about approving multifamily developments. They've done it on a measured basis since about 2014 and right now have three developers looking at multifamily projects. If you approved all of them, it would be about 1200 unit. At the same time, we've got over 8000 units of single family that want to be developed. As you face that bounty you have to figure out [as a City] how do we do this? How do we balance this [growth]? The principle you apply is you can have it all, just not at the same time. It's a timing issue. So, the recommendation for denial is in that context that there is nothing bad about the project, it's just not right for Texas City at this time.

In view of the other developments that are already in the works and forthcoming and mainly the impact on our public safety resources, the city of course does have plans to address that. It's just one of those things that has quite a long lead time to it. Just bringing the new fire station #4 online has been a two-year process since they said "Go!". And that [decision] was made after a lot of "getting ready for the go". The next fire station is going to have that same kind of timeline whenever we are to the point of being able to say "let's go!". They do have a site identified. One of the developers in pre-development discussions about a master plan is talking about what they will provide to help the public safety services. The process that has worked for Texas City is Planned Unit Development. Lago Mar actually has multifamily in it as part of its planning and development and that has been built out in concert with the development of other resources.

Ms. Golden knows it's a difficult decision to be facing and staff never wants to say no to this type of project and again she can't criticize this project but it's just not right for Texas City and so staff's recommendation is to not approve the development plan on that basis. The developer has representatives here and if anyone has questions for them, they may ask now.

Commissioner Clark asked if staff ran this by police and fire and all Engineering staff, to which Ms. Golden replied yes. TCFD Trevian Davis replied that they now have three ambulances, one per each station, and quite often they run into the issue of if one ambulance is at an accident and another one is enroute to a hospital, then that just leaves one ambulance for the entire city. If someone else calls for an ambulance, then they don't have any available for another call. When this happens, they have to contact Dickinson FD, Galveston FD or League City FD and that lead time is approximately 10 - 20 minutes. Then if the hospital is on saturation or they don't have enough beds, then TCFD has to travel further to another hospital. There is a lot to consider in approving this project at this time.

Commissioner Clark added she has concerns about doing the project until further down the road staff decides that they can add another fire station with a police substation or something similar to what was done at Lago Mar, which was a long process. Ms. Golden stated that the city had financial participation from the developer in that and it donated the five-acre site. She wasn't involved in [developing that project, but she knows from experience with other projects of that type that] it didn't happen overnight.

Ms. Golden stated again, Staff is not saying never do another multifamily development, they are just saying that right now multifamily has to be looked at very carefully just because of all the other wonderful planned single-family developments that's going on. The fact is that you want to be able to continue to serve the current citizens of Texas City, too. You don't want to put them at risk of anything. That's part of why it's so important to manage this growth and be sure that they are doing it in a way that resources are in line with it.

Commissioner Clark stated when she first started reading about this, she thought this was a great development, but honestly, she didn't think of the public safety side of this. Fire Marshal Davis stated it's a great project, but they just don't have resources right now.

Ms. Golden reminded Board members that the ordinance is specific in stating that if the Planning Board denies it, it can be appealed to the City Commission.

Mr. Millard Johnson, council for the Kittle Property Group, proponent for the site development plan, then stated the city has had the development plan for two months. They have been asking for comments on this development plan and have never gotten a single comment back. They have followed the preliminary plat and they have three issues raised. They cleared all three of those they thought to a satisfactory extent. The TxDOT issue is one that takes time, but they feel confident it'll be corrected. He stated he has been doing this for a long time and he has never been in a situation where staff has come in and denied a plat without there being a violation of some requirement of like in the prior submission where it didn't meet the zoning code. This is a particularly difficult situation because the law of the State of Texas is pretty clear if you submit a plan that meets all the requirements then existing a person in Texas can do what they want with their property. They are entitled to do it if they meet all the requirements. They have heard since the plan was submitted that there was a moratorium, and they asked for the moratorium on new construction of multifamily. It has never been produced and he doesn't think it exists. They were told about safety and health welfare, but they never received any specifics so that they could address it because Kittle Properties develops these sorts of properties all over the country and they have plans that they can come in and assist, but they were never given any of that information. They were simply told it doesn't meet safety, health welfare. With all due respect he heard the Planning Board approve a preliminary plat and a final plat that has more residences than this development just 25 or 30 minutes ago. That also puts a burden on the infrastructure of the city. This plan, if approved tonight, will not be built for two years or more. There is plenty of time. This plan meets all the requirements. They are not asking for a variance. They are not asking for a zoning change. It is a proper use in the corridor where it sits. It's a great development. He stated again that he does not want to step out of turn but many people in this room would qualify for senior housing in that development. This is something that every community needs. It would be brand new. It would be something for everyone to look at when you look out your window and this building because it would be right there. It's a great development by a very good developer who is trying to do something good for the community as well. They don't understand why it's violative of the safety, health, and welfare. That's a pretty vague standard. It is not one that is going to be recognized down the road in terms of that, even if it meets all of the requirements. He added that Texas

Law 212.04 of the local government says, "a plan otherwise meets all existing requirements, it must be approved by a government".

He stated they have been begging and they have sent multiple emails. BGE, their engineer, has sent e-mails asking what's wrong with this, give us your feedback. He stated they found out tonight there really is no feedback. There really is nothing wrong with the development. They are getting that for the very first time. What they are asking the Planning Board to do is to approve the site plan because it meets all requirements. He added that Ms. Golden has admitted that and permit them to go forward with the final plat. If there's a problem with the final plat then they can work through it. This is a good development and somewhere along the line somebody said, "we don't like this and so we're just going to put the roadblock on it". That is a government being heavy-handed when you're saying to people you can't use your property the way you want to develop, even if it meets all requirements. They are politely asking the Board and really appreciate the opportunity to let them address the Board. Mr. Johnson then addressed the Board and stated that he knows they are volunteers, and he knows it's not easy or fun telling people, "I don't know what to tell you", but at the end of the day if it meets all the rules and requirements they have to go forward.

Mr. Johnson promised that if something goes wrong at the Gatsby Condominiums, he guarantees that the fire department at West U are going to answer the call. He also guarantees if they don't, then he has buddies that he knows down the street, in Dickinson, and in Galveston that will answer the call. He stated everyone has seen it where everybody cooperates, and this is not a basis to hold this development back. He then stated they are asking the Board again for approval because there is no basis to deny it.

Ms. Golden apologized for not mentioning that staff did meet with the Kittle Group back in October 2022 when they came forward with this idea. Mayor Johnson and she met with them and explained to them the reservations in Texas City because of the growth and the uniqueness of how the numbers don't really work here because of the industry base and the turnarounds and so it kind of makes your numbers about rental housing needs sort of different. When they met back in October, they [the Kittle Group] were told what the City's position was. We refer to it as a moratorium internally but it's actually a policy or practice which has been in place since the Doyle administration of being very cautious going forward with multifamily projects. There is actually a memo to that effect. The study that Doug Kneupper did at the time and then updated shows they are still pretty much in line with the proportion then because there have been a couple of multifamily projects approved since then. But again, the approvals were in line with the plan for multifamily development in the PUD of Lago Mar where all of that was planned for.

Ms. Golden also referenced the approvals the Board had made this evening as mentioned by Mr. Johnson. She mentioned those approvals were in line with master plans which have been through the process, have been looked at very carefully in the context of all the resources being there to serve those planned communities. Ms. Golden stated again she knows this is very difficult for the Board, and it's not easy for her, either. It would be so much easier to be here and tell you this is a great project because it is. These are great people because they are. It's going to make lots of money for Texas City, because it is. But it's also going to be a tremendous drain on our public safety resources and that

is her responsibility to tell the Board the hard things. She appreciates where they are coming from, and she hopes the Board appreciates where she is coming from and that everyone in the room is here wanting to do what's best for Texas City.

Co-Chairman O'Brien asked if anyone had any comments. He then asked if the mayor believes that this is such a large burden on the facilities and if the police chief believes and our fire chief does, then where is their letter stating so. Ms. Golden replied that the Fire Marshal is in attendance and Chief Stanton provided her with some data that she wasn't able to get completely analyzed in time in terms of population.

Co-Chairman O'Brien replied they are here to help and make something happen or else they wouldn't even have us, so where is his line of defense if he says, "No, I don't like it. We're not going to do this because we don't have the resources". Where is it in writing for him to be able to say, "Well I got this on such and such thing". He doesn't want to stick his neck out for the city because he's a volunteer, so he likes data, statistics and projects and being a landowner, he loves to be able to do what he wants with his property. He is not saying everything in the room is a lie, but he has nothing in front of him other than this and if he wasn't a chairperson, he would be down on the end probably voting yes through motion and see if anybody said a second. He doesn't want to do that either because he knows we're in a situation that needs to be worked out. This has to be figured out. This is what would help him to understand a better position of the city. He means no disrespect to anyone. Ms. Golden replied that she understood his point.

Commissioner Clark asked again do they want to table the item and have statistics brought in front of them. She reminded everyone that they have the fire department in attendance. Fire Marshal Davis replied he could run the numbers and statistics that they want to see. He asked if there is a specific location or do they want to see all of the data for Texas City. Co-Chairman O'Brien stated he would like to see the mayor's comments, the chief's comments and any other information pertaining to this matter.

Mr. Boix asked if the PUD and multifamily residential are two different approaches to development and if they had actually used a PUD definition, would it have been any problem? Ms. Golden replied that it is like apples and oranges. A PUD is typically used in a place where you have mixed uses. In Lago Mar the PUD has single family, multifamily, commercial, and then of course it has recreation pieces too. Usually, a PUD is used to make all of those uses work together, because if you didn't have a PUD and had to just go by the straight zoning ordinance, there is no one part of the zoning ordinance that will let you do all that at once. That is why the PUD was created in the zoning ordinance as a vehicle to do that. What the Applicant has is really a little bit simpler than that. They have a piece of property zoned for multifamily and they want to build a multifamily complex on it. What Mr. Johnson said about that part is true. What staff is bringing forward is that under Texas City ordinances when looking at the development plan, they can look at other factors, too.

She knows this is difficult and that it's not typically the kind of easy stuff they want to run by the Board. She assured them that they are appropriate in asking for additional information. She thinks the police and fire services can give them the information they are requesting.

Mr. Boix stated the other thing he was having some issues with was a big paragraph that stated "Water and sanitary sewer are readily available but the adequacy have not being confirmed. Drainage has not been reviewed. Primary road access has not been confirmed". He asked if these issues were to be fixed, would the motion be to go with it. Ms. Golden replied the reason they didn't go that way is because she didn't want to give the impression that we thought it was a project that needs to come here. If the decision is made to allow the project to go forward, then staff would go back through that review process, and she is confident that the Applicant would address whatever comments staff came up with. She repeated they are good people, and they know what they are doing, so it's not about the quality of the project. Her responsibility is to tell you that in the context of everything else that's going on in Texas City it's the timing.

Mr. Johnson stated that is not a legal basis to deny this. He believes all of the issues that staff are raising can be addressed when they submit their final plan. All they are saying is approve this and let them go forward so they can prepare their final plat for approval. If staff want to oppose the final plat on that basis, they at least have something to work from. He believes the city has a bunch of vague reasons for not approving this.

Commissioner Clark stated, in her opinion, that she does not think that somebody is saying that because they don't like it. She has, and Commissioner Bowie can attest to this as well, sat on City Commission before they had the plans for the new fire station and there was a full house speaking about the need for police and fire out in the Lago Mar area. One lady in attendance stated her husband had issues and that it took 45 minutes or more for somebody to get there. City Commission had to answer to that because they had all these homes come out there and they did not have the adequate fire and police in place there. There was a long process started to get the new fire station out there which is in the process of construction now.

She finds it hard to go against what TCPD and TCFD are saying. She agrees it would be nice to have the statistics in front of them or even a letter from Chief Stanton. And she appreciates that someone is in attendance to represent the fire department.

Commissioner Bowie asked if they could table this item until they get the requested information and then meet again with everybody and share with them what they have been presented. Ms. Golden replied that they have the authority to do so.

Mr. Boix stated he would like to move to table the item provided that all these issues are answered and the other issues with fire and the police. He stated he would like to see all these drainage and access issues addressed. Ms. Golden clarified that she is not saying there are issues but only that staff haven't looked at it yet, because again she didn't want to give the Applicant the impression that it was going forward with any kind of staff recommendation for approval. Staff has been very clear since October about City administration's position is on this matter, but if the Applicant is prepared to go through detailed site plan review, she is fine with that.

**Mr. Boix then made a motion to table the item until all issues identified in a detailed site plan review are addressed and data from police and fire is provided together with letters from the Fire Chief, Police Chief, and Mayor stating their concerns to the Board.**

Ms. Carly Gast, Kittle Group, then stated to help address the emergency concerns as she understands them, the company has staff on their operations side that is solely dedicated to putting emergency plans in place at properties. She understands it wouldn't necessarily help bring more fire and ambulance emergency services to Texas City, but they can offer that person to meet with public safety and emergency response staff to address the written plan that will be in place at our property. She asked what else they could do to help address the city's concerns. She then handed out an exhibit with some renderings and information on them along with some of their other projects. There were photos to see what the development would look like.

Co-Chairman O'Brien stated they have heard a lot of different opinions and at this point the fact is that he, as the chairperson, is not comfortable going forward with either an approval or denial. They don't have enough support up here and he can't see that there is going to be a solution here tonight. They do have a motion on the floor to table until more information is gathered - the letters that he has stated, and Mr. Boix is looking for more information on the drainage and such. Perhaps Ms. Golden would have time to look at those a little deeper and be able to provide those answers to Mr. Boix, but at this point there is a motion on the floor, and he had not heard a second.

**Commissioner Jami Clark seconded the motion. Co-Chairman Perry O'Brien reiterated that he has a motion and a second to table this item for further information. All in favor of that motion voted aye. There were no oppositions.**

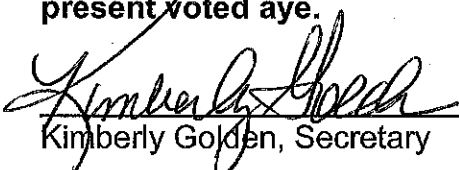
#### **ITEM NO. 8 GENERAL UPDATES**

Ms. Golden stated that the general updates were included in her presentation of Marlow Lake Section 5.

#### **ITEM NO. 9 OTHER BUSINESS (Any conceptual development proposal requesting to come before the Planning Board)**

There was no other business.

Co-Chairman O'Brien asked if there was any other business to which there was none. **A motion was made by Commissioner Jami Clark/Jose Boix to adjourn. All members present voted aye.**

  
Kimberly Golden, Secretary

5/1/2023  
Date

Minutes approved by the Planning Board at its meeting on May 1, 2023.