

ZONING COMMISSION JANUARY 16, 2024

The Zoning Commission of the City of Texas City met in a special-called meeting on Tuesday, January 16, 2024, at 5:15 p.m. Zoning Commission members present: Chairman Perry O'Brien, Aric Owens, Fernando Tello and Alternate Members Jayla Weatherspoon and Lisa Salinas. Staff members present were: Kimberly Golden, David Kinchen (DBO) and Veronica Carreon. Guests were: Jerry LeBlanc (Binnacle Development), Adam Crump and Steve Herrera (A & S Engineering), Norman Reed (Land Tejas) and Mari Berend.

Chairman O'Brien indicated a quorum was present and called the meeting to order.

1) APPROVAL OF MINUTES

A motion to approve the minutes of September 5, 2023, was made by Aric Owens/Fernando Tello. All other members present voted aye.

2) PUBLIC COMMENTS

There were no public comments.

3) Consider and take action on a Zoning Change Request from John and Mari Berend to rezone the property at 2107 24th Street North, Texas City, TX from District "A" (Single Family Residential) to District "B" (Single Family Attached, Duplex Residential) to construct a duplex.

Ms. Kim Golden stated the Applicants, John and Mari Berend, own 9 properties in Texas City which cater to low/moderate income families. The Applicants want to construct a duplex on the lot at 2017 24th Street North which requires a rezoning to District B. On the actual request the Applicants requested District C" (Multifamily Residential), but upon review staff recommend District B as better fit for the existing neighborhood. District B – Single Family Attached, Duplex Residential will allow the applicants to build a duplex.

Ms. Golden indicated the lot on the zoning map and stated the lots adjacent to the north are already zoned as District B and the lot across the street is zoned as District C. It is adjacent to other single family residential lots, but the front lot lines are oriented away from the denser classifications. Staff has no objection to rezoning, but recommends approval be conditioned upon building a fence or screening wall built adjacent to the single-family residential zone.

The infrastructure is in place and is consistent with the Land Use Plan.

Ms. Golden then stated that the Applicant was present to answer any questions.

Chairman Perry O'Brien stated he reviewed the memo and exhibits and had no questions about the presentation but asked if it was correct that the Applicant has 12 months to apply for a permit and preliminary zoning is approved.

Ms. Golden reminded board members that they are actually recommending the zoning change. The request still has to be presented to City Commission for approval and the Applicant would indeed still be required to apply for their permit to make the zoning change final.

Mr. Aric Owens then asked what kind of fence the Applicant would be required for screening. Ms. Golden replied that the criteria for a screening wall is 6 ft. opaque. She added that the location is not in the Gateway Overlay District so there is no requirement for the fence to be masonry.

Mr. Owens then asked if there was a structure on the property before, to which Ms. Golden replied that it is apparent by GCAD that there was something there. The Applicant, Ms. Mari Berend replied that there had previously been a house in disrepair that was torn down.

Chairman O'Brien asked if there were any more questions. There were none.

There were no further questions, to which a motion was made by Aric Owens/Fernando Tello to open the Public Hearing. All other members voted aye.

Chairman O'Brien asked if there was any one in attendance for the request or opposed to it. There were none. Ms. Golden also added that there were no objections or comments received via USPS mail.

There were no questions or further discussion, to which a motion was made by Aric Owens/Fernando Tello to close the Public Hearing. All other members voted aye.

After presentation, a motion was made by Aric Owens/Fernando Tello to recommend approving the zoning change request from District "A" (Single Family Residential) to District "B" (Single Family Attached, Duplex Residential), with the recommendation to add the construction of a screening wall or fence as a condition for the rezoning. All other members present voted aye.

4) Consider and take action on reapproving a Zoning Change Request from Binnacle Development Texas City 51 LLC to rezone the property on the east side of FM 2004, between Mainland City Centre and GCDD No. 2 Ditch 6 channel, Texas City, TX from District "A" (Single Family Residential) to District "I" (Planned Unit Development) to construct Brookwater Development – a subdivision that will contain 201 lots. (Previously approved by City Commission on November 17, 2021, and expired on May 16, 2023 - 12 months after Planning Board approved the Preliminary Plat on May 16, 2022).

Ms. Golden stated this request has been through the process once before. As members are aware, these zoning approvals are preliminary and have to be made final. The time basically expired for the request to be made final.

Ms. Golden consulted with the city attorney, and it was decided that the Applicant would have to go through the zoning change process again.

The application that was submitted is exactly the same as what was previously submitted, except the development schedule has been updated. Exhibit D in the agenda packet is the actual updated development schedule.

The preliminary plat is now approved which gives the Applicant a headstart. Their construction plans are currently in the review process. They have already completed their clearing and grubbing.

The Planning Board considered this application at a special-called meeting on December 11, 2023, and recommended its approval.

Staff have looked at the request again and things have not changed from the first submittal as far as the surrounding area. Staff have no objection to the reapproval of the Zoning Change Request.

Ms. Golden then stated that the Applicant was present to answer any questions.

Chairman O'Brien asked if there were any more questions. There were none.

There were no further questions, to which a motion was made by Aric Owens/Fernando Tello to open the Public Hearing. All other members voted aye.

Chairman O'Brien asked if anyone had any additional comments for or against the request. There were none. Ms. Golden also added that no written objections or comments had been received via U.S. Mail or otherwise.

There were no questions or further discussion, to which a motion was made by Fernando Tello/Aric Owens to close the Public Hearing. All other members voted aye.

After presentation, a motion was made by Aric Owens/Fernando Tello to recommend reapproving the zoning change request from District "A" (Single Family Residential) to District "I" (Planned Unit Development). All other members present voted aye.

5) Consider and take action on the proposed change to Section 160.051 District "S-P" (Site Plan) to add Battery Electrical Storage System (BESS) and similar projects as a use restricted to District "S-P" (Site Plan) only.

Ms. Golden stated that under Texas City's zoning ordinance, the way that the text in the zoning ordinance gets changed is a proposed change has to go through the Zoning Commission to make a recommendation to City Commission to change the text. This recommendation is to change the text of the section that is District S-P (Site Plan).

Currently, the District S-P is similar to a multi-tool. It does several things that other cities use as separate tools. District S-P can be used permissively as a zoning tool similar to a special use or conditional use permit. There are also a number of uses that Texas City has mandated must be rezoned into a District S-P, meaning that it has to go through the planning process, the zoning change and ultimately to City Commission.

Staff is recommending that the Battery Energy Storage System (BESS) and similar projects, which are currently being handled under District S-P, be made a requirement to go through the S-P process. Staff are recommending this change because when the first applications were received, the proposed sites were in or adjacent to Texas City's District F (Light Industrial) or District F-1 (Outdoor Commercial).

Texas City is now receiving numerous applications for other locations in the city because the BESS projects must be located near a substation or close to a transmission line.

Experience with the applications shows that each one needs to go through this full planning process so that everything can be reviewed because it has a potential impact on the surrounding areas. Since this is being done as a practice, staff are recommending this be codified so that applicants know the required process from the beginning.

The Planning Board reviewed and recommended the change at its regular meeting on December 18, 2023. The Zoning Commission is now going to consider it and make a recommendation to City Commission. City Commission will make the change or tell us that they need to consider it some more.

Staff is recommending this amendment to the District S-P.

Chairman O'Brien asked if historically District S-P has been a catch-all, to which Ms. Golden replied yes. He then asked if typically, could this type of request go into District S-P so that staff can review the detail of it in individual places, to which Ms. Golden stated that is correct. Ms. Golden added that there are already 14 specific types of projects that have to go through the District S-P, such as cell towers, RV parks, hotels, daycare centers, personal care facilities, and things that have special consideration about them. This would now be number 14 of that specific list that has to go through this process.

Chairman O'Brien then asked if this development has to leave after say 30 years, what does that revert back to. Ms. Golden replied that one of the things staff is recommending as a condition to be considered in the District S-P review is a decommissioning bond. In the context of coming up with that bond the applicant would need to have a plan for the installation when it becomes obsolete.

Chairman O'Brien asked again if the zoning would revert back or would it remain as District S-P. Ms. Golden replied that staff has not thought that far, but that it would probably remain the same until someone brought it back through the process for another use at the site. Unless it was exactly the same type of project, it would have to go through the rezoning process, which would be appropriate.

Chairmen O'Brien asked what Ms. Golden wanted from the Zoning Commission at this meeting to which she replied that they make a recommendation to change or not change the proposed text of the ordinance.

Mr. Owens stated that he does not understand enough about decommissioning and bonds and asked if 125% or 200% of today's number in a bond is going to be enough for cleanup. He also asked how long a bond lasts and who pays the premium for that. If the insurance does not get paid, who is responsible if we don't require them to pledge that in advance as prepaid. He added that if they are throwing the language in there it seems that they may want to be tied up pretty well in that requirement. He is just not sure we are requiring enough.

Ms. Golden replied that if they want to recommend that kind of specificity to City Commission it will be the first time it is done in Texas City because the other places where we have bond requirements, such as surety bonds, it states that the amount will be determined by the city. The decommissioning bond works just like a surety bond. The details on how to do this are usually left to the administration. The city attorney would probably come up with forms, which is what they've done before. As she understands it, they can either do the kind where payments are made once a year or an upfront payment that is there forever. The difference between 125% and 200% is basically setting limits. The amount could be estimated in today's dollars. She is not sure that the contemplation will be full coverage or something reasonable so if the city is left cleaning up the site, they have something to work with. She added that they don't want to be so conservative in that basically you can't do business.

She reminded everyone that this is a recommendation directly from the city attorney to have that provision in there because of work he's done with other cities.

Mr. Owens stated these might be projects the city does not want to partner with. Ms. Golden replied if it is questionable then that would be evaluated.

Chairman O'Brien stated he thought these were good questions. He knows that these types of developments are compartmentalized, there are containers, and it's not like it's producing a product that's going to be all over the ground. There is always going to be a fire risk and there are about 5 different fire prevention pieces for those. Sure, 20 years from now there will be upgrades and improvements, but he thinks it is important to have the decommissioning bond in there.

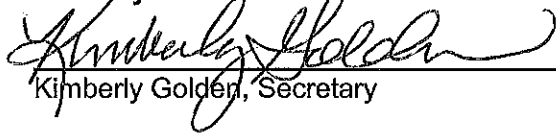
Chairman O'Brien asked if there were any more comments or questions. Ms. Golden replied that staff recommends adding the proposed changes to the Texas City Code of Ordinances Section 160.051 District S-P, Site Plan.

After presentation, a motion was made by Aric Owens/Fernando Tello to recommend the proposed change to Section 160.051 District S-P, Site Plan to add Battery Electrical Storage System (BESS) and similar projects as a use restricted to District S-P only. All other members present voted aye.

6) **GENERAL UPDATES**

7) **OTHER BUSINESS** (Any conceptual development proposal requesting to come before the Zoning Commission)

Chairman O'Brien asked if there was any other business to which there was none. **A motion was made by Aric Owens/Fernando Tello to adjourn. All members present voted aye.**

 3/5/2024
Kimberly Golden, Secretary Date

Minutes approved by the Zoning Commission at its meeting on 03/05/2024.