

**City of Texas City
Engineering & Planning
Memo**

To: Zoning Commission – for meeting on 6/21/2022

From: Kim Golden, P.E., Engineering & Planning

cc: Doug Kneupper, P.E., Consulting Engineer

Date: June 10, 2022

Re: Request to rezone 2828 Texas Ave from District F (Light Industrial) to District E (General Business) to operate a drive-thru take out only food service from an existing building in use as a place of worship on Saturdays.

Background: Applicant, Sherman Jones, is the pastor of the religious assembly called Betmidrash which operates at 2828 Texas Ave on Saturdays only, 11:30 am – 4pm. The location is currently zoned District F – Light Industrial. The applicant seeks to add a drive thru window to expand the food service which is already operating as Kingdom Wings with Heavenly Flavors without a permit from a room converted to a kitchen as an ancillary use of the church.

Existing conditions: The approximate 0.50 acre lot has an existing building and paved parking which is operating as a church for religious assembly one day per week. A room in the church building was converted to a kitchen as an ancillary use of the church. However, the Chief Building Official learned the kitchen was operating daily as a food service. Such operation as a principal use is not compliant with the existing zoning – District F Light Industrial. The applicant seeks to expand the food service to include drive-thru take out food service. This expansion of use will require the modification of the existing exterior of the building to add a drive-thru window. It appears the existing paved area may be sufficient for the drive-thru driveway.

Existing zoning: The subject location is currently zoned “F-1” Outdoor Industrial. The location is bounded on the south by Texas Ave, and the District IBD – Industrial Business District, which is directly south of Texas Ave. The property is bounded on the east and west by properties zoned “F-1” – Outdoor Industrial. The property is bounded on the north by property zoned District “C” – Multifamily Residential. All surrounding properties are fully developed and in compliance with the current zoning designations.

District F-1 Outdoor Industrial “is intended to provide for light industrial uses which are predominantly operated outdoors. Because of the potential visual and noise impacts of the uses permitted in the district, additional buffering may be required for protection of adjacent areas.” District E General Business 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.

Applicant seeks rezoning to District E – General Business for the purpose of operating a take out food service with drive-thru window. There is nothing in the application to indicate use as a full service restaurant with on-site dining. The application indicates an intent to operate the take out food service with drive thru window on a daily basis, Monday thru Friday, 10:30am – 8:00pm and on Sundays, 11am – 6pm. The application indicates the food service will be closed on Saturdays, which is the day the location is used for religious assembly.

GATEWAY OVERLAY DISTRICT: The subject property is also subject to the requirements of Secs 160.065-160.069 Gateway Overlay District. This district requires 100% masonry construction, that all fences be masonry, that all utilities be underground, and a minimum of 15% landscaping, and other screening requirements. The site is not currently compliant with the landscaping requirements of the Gateway Overlay District.

LAND USE PLAN: The current land use plan show the subject area as developing within the guidelines of the “Revitalization Corridor” which are “the areas of Texas City where prompt action is needed to prevent or reverse deterioration, specifically along Texas Avenue and 6th Street. These corridors are characterized by dilapidated structures, fair to poor housing conditions, incompatible mixture of land uses and declining numbers of housing units and small businesses. Recommended approaches to conserving and revitalizing these areas are discussed in the ‘Goals and Strategies for Texas City’ report prepared by the Goals 2000 Committee.”

The “Goals and Strategies for Texas City” report states the following regarding the Land Use Plan; “Keeping in mind the broad perspective of an effective land use plan, it is important that the plan be flexible in guiding, but not dictating, a community’s growth and development. . . . The Land Use Plan for Texas City purposefully does not pinpoint precise districts throughout the City with exact land uses, but instead maintains the broad perspective by identifying ten generalized types of land use areas.” The ‘Revitalization Corridor’ is one of the ten generalized types. The Plan specifically references the strategy for the revitalization corridor along 6th Street and Texas at pg 82.2-83 as follows “The proposed revitalization will consider land uses such as museums, governmental facilities, senior citizen apartments and nursing homes and light industry.”

Existing infrastructure: There is sufficient vehicular access from Texas Avenue (FM 1765). Water and Sewer Services are currently available from the Texas City Municipal systems.

Analysis: The existing use as an institution for religious function is not an allowed principal use in the District F-1, nor would it be a permitted use in District E – General Business, if rezoned. The use for religious functions is an allowed principal use in the residential zones including District C – Multifamily Residential. The subject location is adjacent to District C – Multifamily Residential on its northern boundary.

The rezoning to District E – General Business could be seen as a transition zone from the light industrial and outdoor industrial uses of the surrounding Districts F-1 and IBD to the residential use of District C – Multifamily Residential. However, the requirements of the Gateway Overlay

District should be satisfied. The site is 0.561 acres, which has a 15% landscaping requirement of 3,665sq ft. There should also be appropriate buffering installed between the site and the residential District C. The Gateway Overlay District requires all fencing and screening walls to be 100% masonry.

It should be noted that the rezoning to District E – General Business will open the site to a wide variety of retail and commercial uses. Once the preliminary zoning approval is made permanent by the granting of a building permit, the future use of the site not be limited to the take-out food service, only. Once the rezoning is made permanent, the site can be used for any of the allowed principal uses of District E – General Business, subject to the permitting process. The allowed principal uses include any use permitted in O-P (Office Professional), D (Neighborhood Service), or D-1 (Limited Service), subject to the regulations of District E.

The other allowed principal uses for District E General Business are automobile repair garages; automobile, motorcycle and light load truck sales and leasing, new or used; hospitals; ambulance services; motion picture theatres within an enclosed building; spa, health studio or fitness center; coin-operated amusement machine arcades; bowling alley and skating rinks; establishment where alcoholic beverages are sold or consumed on premises; car washes; any retail sales, commercial business or service not included in the O-P, D or D-1 Zoning Districts provided that, all such uses shall be completely within an enclosed building and are not noxious or offensive by reason of the emission of odor, dust, gas fumes, noise or vibration, and provided that no warehousing or manufacturing, or treatment of products or equipment shall be permitted “ except as clearly incidental to an allowed use. **For this reason the rezoning to District E could be creating some potential for a future use which could be deemed incompatible with the surrounding F-1 and IBD classification.** However, no objections have been received in response to the notice letters sent to all adjacent properties within 200ft as required by state statute and city ordinances.

Because the site may be operating a food service without permits, there may be several non-compliant code conditions at the existing site. Re-zoning can be recommended and approved subject to the reconciliation of the non-compliant code conditions through the development plan review and building permitting processes. Recommending the zoning change does not pre-approve or grandfather in any existing non-compliant code conditions. The development plan review and building permitting processes are independent and will commence after City Commission acts upon the request for rezoning.

Provided the Zoning Commission recognizes the potential of the rezoning to create future conflicts between incompatible uses, Staff have no objection to the requested rezoning to District E – General Business, provided the site is made compliant with the requirements of the Gateway Overlay District, especially the requirement for landscaping, and provided the use is buffered from the adjacent residential use with an appropriate fence or screening wall of 100% masonry content.