

ZONING COMMISSION AUGUST 16, 2022

The Zoning Commission of the City of Texas City met in a regular meeting on Tuesday, August 16, 2022 at 5:15 p.m. Zoning Commission members present: Chairman Perry O'Brien, Co-Chairman Gary Potter, Commissioner Thelma Bowie and Bruce Clawson. Staff members present were: Kimberly Golden and Veronica Carreon. Guests were: Gust George, Brenda George, David Hall and Harold Sewell.

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

APPROVAL OF MINUTES. A motion to approve the minutes of June 21, 2022 was made by Gary Potter/Commissioner Thelma Bowie. All other members present voted aye.

ITEM NO. 1 Consider and take action on a request from Gust George to rezone the property at 8510 FM 517, Texas City, TX from District "A-1" (Single Family Residential) to District "E" (General Business) for continued commercial use of the Last Pit Stop Restaurant and Bar. (Action)

Ms. Golden stated that this location at 8510 FM 517 E has been in operation as a restaurant and bar since it was constructed in 1973. Staff do not know how the current zoning came to be because it has always been a commercial business. The reason it came up as a case this time is that the owner is choosing to lease it out. This provokes a need for a new Certificate of Occupancy, which then triggers this process of reviewing to see if it is compliant with the zoning. Staff is not sure what has happened in the past, but that is why it is being presented to the Zoning Commission today.

The applicant wants the property to become zoning compliant and staff are working with him toward that goal together. This is in the Gateway Overlay District so there are a number of existing conditions that don't comply with that. The applicant has indicated they have some future plans to do some upgrades. At that time staff will expect them to become fully compliant, but in the near term, just to show some move in the direction of becoming compliant with those requirements would probably be consistent and appropriate with what the Commission does with these types of cases.

Staff have received three letters of support from the actual nearby residential uses and at the time of the Public Hearing the names and addresses should probably be read into the minutes. Ms. Golden has also received an email from the adjacent commercial use, Darrell Baca, who indicates that he believes he went through a rezoning process in 1984. Staff have not found a record of it, but it is not definitive. It likewise is commercial use.

The situation staff faces is where reality needs to catch up to the zoning code. In the zoning code if the restaurant were to receive more than 50% of its revenue from the sale of alcohol there would need to be a 300' separation from any area that is zoned residential. It wouldn't be compliant if that were the case. At this time, staff does not know whether it meets that criteria in the terms of the 50% or not, but if it does it would be a technical violation. As Ms. Golden indicated on the exhibit, you can see the actual adjoining use is not residential, it is commercial.

She then asked if they would apply the spirit of why that provision is there or follow the absolute letter. Staff are recommending to follow the spirit because what ultimately needs to happen is all that other property needs to be brought into zoning compliance as well or it needs to go through the rezoning process. To the extent the applicant has actual residents nearby, they have indicated no objection to the rezone.

Ms. Golden then added that they are following the spirit of the ordinance and the precedent they are setting is not one that will have problems applying in future like situations.

Chairman Perry O'Brien then asked when the last time was the business was in operation, to which Mr. Gust George replied they had some tenants during COVID but then had to shut down to comply with COVID regulations. After that the tenant was not making any profit, so he had to evict them.

Mr. Gary Potter then asked if the Gateway Overlay District was in effect in 1984, to which Ms. Golden replied she thought it was effective in 1998 or early 2000, but she would have to verify that.

Mr. Potter then asked Ms. Golden about her comments that "we need them to do something" to have the applicant comply to the Gateway Overlay District and what did that mean. Ms. Golden replied that the term the previous City Engineer referred to was "amelioration" – in other words, it's not fully compliant but we don't necessarily need the applicant to jump to full compliance, but to move in the direction of becoming compliant. Again, when the applicant actually goes through a future upgrade or renovation, that is the point at which they will need to make the site fully compliant with the applicable ordinances.

Mr. Potter stated that part of the problem he has with this is that it is a very vague requirement. So, the applicant could go out front and plant a rose bush and say, "I'm compliant now". Ms. Golden replied it is something staff has worked out consistently. They don't want to shut a business down by being too burdensome on them at this stage. So, consideration is given to what is reasonable to expect in context at the present time understanding it is going in the direction of becoming compliant in the future. Mr. Potter then asked if this is something that staff follows up on. Ms. Golden replied that she believes the Chief Building Official (CBO) and the Building Inspectors watch those kinds of things.

Mr. David Hall then stated when the previous tenant occupied the building, The Chief Building Official had the applicant do some upgrades to become code compliant at that time. They had a dumpster sitting there and installed a dumpster pad. Then they asked for a sidewalk to the dumpster pad and that was done. Then the CBO asked for a CMU brick wall around the dumpster, which they did. The CBO also asked for a gate for the dumpster and they provided one. In the kitchen, there was a two basin sink and handwash sink and the tenant asked for a three basin sink and a handwash sink. The applicant ripped out the original sinks and ripped out the panels on the wall to replace the sinks. Then they replaced the bathroom doors, which were originally too small. They also painted the exterior of the building, along with replacing some posts and metal that was bad. The applicant has tried to make the building look nice from the use of the last tenant because they had asked for upgrades when they were occupying the building. Mr. Gust added that basically anything the CBO has asked for they have complied with within the last year or two.

Mr. Bruce Clawson stated that the building has been there for as long as he could remember and was probably built before 1954. Obviously, the location does not lend itself to being pretty, but at some point, the applicant has to do something. With geography and history alone there is not much that can be done. He sometimes wonders with something that old how can the city hold someone to comply without rebuilding the business.

Ms. Golden replied that over time, the applicant will do something to make the location look better – like adding a little bit of landscaping would be the next step. Mr. Clawson replied that would be unfair and compared it to putting "lipstick on a pig", but he understands why this has to be done.

