

# PLANNING COMMISSION FINAL REPORT

**Case No.** 0318-02

**INFOR No.** 18ZN1006

## **Background:**

This item was previously heard by the City Council on June 12<sup>th</sup> and June 26<sup>th</sup>. The City Council voted to send the case back to the Planning Commission for additional review. Since then, several discussions have occurred with the applicant, City staff, and outreach to the Federal Aviation Administration (FAA). Based on these discussions, the central issue has surrounded the terms and conditions of the Avigation and Hazard easement obtained by the Corpus Christi International Airport (CCIA) in 2012. The purpose of the Avigation and Hazard easement is to protect and enforce the requirements of the Runway Protection Zone (RPZ). Additionally, the easement limits the potential uses that can be established to prevent negative interaction with flight operations.

The existing Planning Commission recommendation is in noncompliance with the terms of the Avigation and Hazard easement and should be further discussed with the Planning Commission. Subsequently, Staff and the applicant have met and resolved the non-compliant factors and the applicant has received a finding of “no hazard” from the FAA.

**Planning Commission Hearing Date:** April 18, 2018 and October 17, 2018

<b>Applicant &amp; Legal Description</b>	<b>Owner:</b> Hooten Family Trust A <b>Applicant:</b> John Bell <b>Location Address:</b> 6502 and 6630 Agnes Street <b>Legal Description:</b> Being a 145.15 Acre Tract of Land, comprised of portions of Tracts 1 and 2 of the 456.80 Acre V.M. Donigan Partition out of Sections 6 and 7, Range VI, H. L. Kinney Sectionized Lands, as referenced in a Partition and Settlement Deed, recorded in File Number 320003, Volume 501, Page 228, Deed Records of Nueces County, Texas and a 91.36 Acre Tract of Land, being all of a 91.56 Acre Tract of Land as referenced in a Partition and Settlement Deed, recorded in File Number 320003, Volume 501, Page 228, Deed Records of Nueces County, Texas, located on the north side of Agnes Street (State Highway 44), west of Hopkins Road, and east of Bronco Road.
<b>Zoning Request</b>	<b>From:</b> “IL” Light Industrial District <b>To:</b> “IL/SP” Light Industrial District with a Special Permit <b>Area:</b> 233.99 acres <b>Purpose of Request:</b> To allow the construction of a U.S.-to-Mexico gasoline and diesel fuel transshipment center with attached bulk storage terminal.

Existing Zoning and Land Uses		Existing Zoning District	Existing Land Use	Future Land Use	
	Site	“IL” Light Industrial	Vacant/Agricultural	Light Industrial	
	North	“IL” Light Industrial	Light Industrial	Light Industrial	
	South	“IH” Heavy Industrial	Public/Semi-Public	Transportation	
	East	“IL” Light Industrial	Vacant/Agricultural	Light Industrial	
	West	“IL” Light Industrial	Vacant/Agricultural	Light Industrial	
ADP, Map & Violations	Area Development Plan: The subject property is located within the boundaries of the Corpus Christi Airport Area Development Plan formerly a part of the Port/Airport/Violet Area Development Plan. The subject property is and is planned for light industrial uses. The proposed rezoning to the “IL/SP” Light Industrial District is consistent with the adopted Comprehensive Plan (Plan CC). Map No.: 054044 Zoning Violations: None				
Transportation	Transportation and Circulation: The subject property has approximately 1,650 feet of street frontage along Agnes Street (State Highway 44) which is designated as a “F1” Freeway/Expressway and approximately 565 feet of street frontage along Hopkins Road which is designated as a “C3” Primary Collector Street.				
Street R.O.W.	Street	Urban Transportation Plan Type	Proposed Section	Existing Section	Traffic Volume
	Agnes Street (SH 44)	“F1” Freeway/Expressway	400’ ROW Varies paved	613’ ROW 345’ paved	14,999 ADT (2010)
	Hopkins Road	“C3” Primary Collector Street	75’ ROW 50’ paved	60’ ROW 26’ paved	N/A

**Staff Summary:**

**Requested Zoning:** The applicant is requesting a rezoning from the "IL" Light Industrial District to the "IL/SP" Light Industrial District with a Special Permit on 233.99 acres for the construction of a U.S.-to-Mexico gasoline and diesel fuel transshipment center with attached bulk storage terminal. The proposed use is classified as "petroleum, gasoline, and lubricating oil refining, and wholesale storage," which is defined as a "heavy industrial" use and may be allowed by Special Permit in the "IL" Light Industrial District according to the Unified Development Code (UDC).

**Development Plan:** The subject property is comprised of 233.99 acres. The owner is requesting to rezone to the “IL/SP” Light Industrial District with a Special Permit. The applicant explains that the request is to construct a US-to-Mexico rail logistics center with attached bulk storage terminal including nine wholesale storage tanks 48 feet in height and 162 feet in diameter. Products to be stored and transloaded to rail include gasoline and diesel fuel product, delivered by pipeline to the facility. The product would be stored in the tanks. Fuel additives such as Methyl tert-butyl ether (MTBE) and ethanol would also be stored at the site, and blended with the fuel product by pipe in an in-line blending process. The blended product would then flow by pipe into railroad tanks cars for shipment to fuel wholesalers. The need for the zoning change to “IL/SP” Light Industrial District with a Special Permit is for above-ground wholesale storage of fuels and petroleum products, which is permitted by right in the “IH” Heavy Industrial District, but not in the “IL” Light Industrial District. Otherwise, the project will be in compliance with all applicable “IL” Light Industrial District requirements. The facility also will include a rail yard, train loading facility, small parking lot, control center, and crew break room. The control center will be located on-site. The new facility anticipates creating 45 net new full time jobs.

**Existing Land Uses & Zoning:** The subject property is currently zoned “IL” Light Industrial and is vacant land. To the north, east, and west, are vacant tracts zoned “IL” Light Industrial District. To the south of the subject property is the Corpus Christi International Airport zoned “IH” Heavy Industrial District, as well as access to the Kansas City Railroad.

**Federal Aviation Administration (FAA) - Determinations of Hazards**

The applicant is required to request a determination of hazards from the FAA for each structure constructed on the subject property. The applicant will also have to submit a “Notice of Actual Construction” to the FAA for each structure. Since the original hearing before the Planning Commission, the applicant has received a determination of “no hazard” from the FAA.

**AICUZ:** The subject property is located in the Navy’s Air Installation Compatibility Use Zones (AICUZ).

**Plat Status:** The property is not platted.

**PlanCC & Area Development Plan Consistency:** The subject property is located within the boundaries of the Corpus Christi Airport Area Development Plan formerly a part of the Port/Airport/Violet Area Development Plan. The proposed rezoning to the “IL/SP” Light Industrial District with a Special Permit is consistent with the adopted Comprehensive Plan (Plan CC) and with the following specific policies:

- Encourage orderly growth of new residential, commercial, and industrial areas (Future Land Use, Zoning, and Urban Design Policy Statement 1).
- Promote a balanced mix of land uses to accommodate continuous growth and promote the proper location of land uses based on compatibility, locational needs, and characteristics of each use (Future Land Use, Zoning, and Urban Design Policy Statement 1).

- Continue to consider the compatibility of proposed uses with military airfield operations when making decisions on rezoning requests. (Future Land Use, Zoning, and Urban Design Policy Statement 4).
- Avoid development that is incompatible with the operation of military airfields and the airport. (Future Land Use, Zoning, and Urban Design Policy Statement 4).
- The City Council, hereby, adopts the proposed land use plan for future land use decisions. The plan provides a compatible configuration of activities emphasizing: Protection of the airport from incompatible activities; (Port/Airport/Violet ADP, Policy Statement B.1)

**Development Services Department Comments:**

- The proposed rezoning to the “IL/SP” Light Industrial District with a Special Permit is consistent with the adopted Comprehensive Plan (Plan CC).
- The proposed rezoning is also compatible with neighboring properties and with the general character of the surrounding area. This rezoning does not have a negative impact upon the surrounding neighborhood.
- The subject property was annexed in 1962 and was zoned “IL” Light Industrial District in 1975 and is currently vacant.
- The City has planned for light industrial uses to be located around Corpus Christi International Airport (CCIA), so that manufacturing uses would not conflict with airport operations.
- All heavy industrial uses would not be compatible with the airport, the proposed Special Permit Overlay is a zoning tool that can be used to narrowly define and control the desired heavy industrial use in a manner that will not conflict with the intent of the Comprehensive Plan or the operations at Corpus Christi International Airport (CCIA). The primary intent of the Comprehensive Plan at this location is airport land use compatibility and creating an attractive entryway to the city (scenic corridor).
- The proposed development is directly underneath the existing main runway at CCIA. The property is subject to the City’s Conical Surfaces map which controls height and limits any use that would interfere with flight operations at the airport.
- Storing flammable products above ground could create explosions and thick smoke in the event of an accident, which cause hazards for pilots and airport operation.
- As part of the platting process potential amendments to the Urban Transportation Plan (UTP) may occur to remove proposed collector and arterial streets.
- The City Airport Zoning Ordinance was recently repealed due to the forthcoming Airport Zoning regulations which has not yet been adopted by the newly-created Airport Zoning Commission.
- Recently, the City Council approved the creation of the Airport Zoning Commission (AZC). Specific regulations regarding land use compatibility have yet to be drafted.
- The proposed rezoning was reviewed and approved by the Technical Review Committee (TRC) on Friday, March 30<sup>th</sup>.

**Planning Commission and Staff Recommendation (April 18, 2018):**

Approval of the change of zoning from the "IL" Light Industrial District to the "IL/SP" Light Industrial District with a Special Permit with the following conditions:

1. **Uses:** The only uses authorized by this Special Permit other than uses permitted by right in the base zoning district is the wholesale storage and transfer of petroleum based products. No spherical tanks are permitted. All construction including the above ground fuel storage tanks shall be consistent with the attached site plan (Exhibit C), subject to adjustment as may be required to obtain a determination of no hazard to air navigation and/or flight operations to/from the Corpus Christi International Airport (CCIA) from the Federal Aviation Administration (FAA).
2. **Fire Department Approval:** Development of the Property, including the storage of fuels and blending agents, shall comply with all Fire safety regulations.
3. **Storm Water Detention:**
  - a. The Owner shall construct and maintain necessary storm water facilities designed to a 25-year storm event in a manner that prevents water from standing for longer than 48 hours after the storm and shall remain completely dry between storms. Any storm water conveyance that traverses the Avigation and Hazard Easement shall be a concrete lined open channel. Any storm water detention and conveyance that is a wildlife attractant is prohibited.
  - b. Prior to obtaining building permits or beginning any construction, a Wildlife Hazard Study by a Wildlife Biologist indicating that the proposed storm water facilities in the site plan (Exhibit C) do not increase the potential of a wildlife strike to an aircraft in the approach and departure patterns of runway 18-36 must be submitted to the City's Director of Aviation.
4. **Federal Aviation Administration (FAA):** Prior to obtaining building permits or beginning any construction, a Notice of Proposed Construction or Alteration (Form 7460) shall be submitted and a determination rendered by the FAA of no hazard to air navigation and/or flight operations to/from the Corpus Christi International Airport (CCIA) regarding any construction at the site including each structure, tank, rail line, road, detention pond, lights, or temporary structures such as construction cranes on site.
5. **Corpus Christi International Airport Hazards:**
  - a. **Height:** The maximum height of any structure shall not exceed a 62.5:1 slope from the end of the nearest runway.
  - b. **Lighting:** All lighting shall be shielded toward the site and shall not conflict with airport flight operations.
  - c. **Other Airport Hazards:** No use or activity shall create electrical interference with navigational signals or radio communication between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or

otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

6. **Land Use Compatibility in Runway Protection Zone:** Excluding ground level rail, no structures including lighting may be constructed in the Runway Protection Zone of the Corpus Christi International Airport, as identified by FAA Advisory Circular AC 150/5300-13A.
7. **Avigation and Hazard Easement:** This ordinance does not waive any rights or authorize or grant any permissions to deviate from the conditions of the Avigation and Hazard Easement granted by the owner to the City. Owner and owner's successors and assigns are still obligated to comply with all requirements of the Avigation and Hazard Easement.
8. **Other Requirements:** The Special Permit conditions listed herein do not preclude compliance with other applicable UDC, Building, and Fire Code Requirements.
9. **Time Limit:** In accordance with the UDC, this Special Permit shall be deemed to have expired within 24 months of this ordinance unless a complete building permit application has been submitted. The Special Permit shall expire if the use is discontinued for more than six consecutive months.

<b>Public Notification</b>	Number of Notices Mailed – 8 within 200-foot notification area 6 outside notification area	
	<b><u>As of April 13, 2018:</u></b>	
	In Favor	– 0 inside notification area – 0 outside notification area
	In Opposition	– 0 inside notification area – 0 outside notification area
Totaling 0.00% of the land within the 200-foot notification area in opposition.		

**Attachments:**

- A. Location Map (Existing Zoning & Notice Area)
- B. Site Plan
- C. Public Comments Received (if any)