

Staff Report Special Use Permit

Requested Action: Special Use Permit for a heavy industrial use.

Applicant: Brandon Guillory – Kimely Horn on behalf of Arcanum Infrastructure, LLC and Nilok Chemicals

Subject Property: 9300 Needlepoint Road. approximately 160 acres, generally located north and south of Needlepoint Road and approximately 6,000 feet east of Sjolander Road, legally described as TR 9G TRS 24E 25B & 25C, Abstract 4 W Bloodgood, Harris County, Texas, for a proposed railyard

Parcel Information

Current Use: PetroChemical facility/Vacant (former site of Carbon Black Plant)

Proposed Use: Heavy Industrial - Rail Spur extension

Future Land Use Plan: Business Park

Adjacent Parcel Information

North: Interstate Highway 10 (IH-10), Chevron across IH 10

South: Vacant, Heavy industrial (zoning), single family across Cedar Bayou

East: Cedar Bayou

West: Southern Pacific Railroad (zoned General Commercial) with vacant land zoned Light industrial to the west side of the tracks

Purpose of the request and background:

Arcanum Infrastructure, LLC and Nilok Chemicals are proposing an additional Special Use Permit (SUP) for this Heavy Industrial (HI) site to allow the extension of a rail spur to increase on-site rail capacity. The original SUP was granted in 2015 to allow the property owner to develop a petro-chemical production facility. The special use was granted with the condition to preserve and maintain a minimum of 200 feet of vegetation along Cedar Bayou to be used as a filter, buffer and provide erosion control for the bank of Cedar Bayou.

The proposed special use is to create an onsite rail facility that will have the capacity to store up to 61-rail cars and ship the product Butene 1. Switching from truck to rail shipments will reduce the number of truck related deliveries and pick-ups by approximately 2,100 deliveries per year. There is no other proposed development on the site; the proposed site plan will retain most of the vegetated area and have minimal visual impact to any of the surrounding area. The owners are also working with city staff to abandon Old Needlepoint Road right-of-way in this area. To accommodate this, an existing utility easement will need to be extended so city infrastructure can be maintained. This process is running concurrently with this SUP application.

The proposed project is not a directly permitted use listed in Table 2-2 Non-residential uses. Such Heavy Industrial uses require that a special use permit be granted. The Unified Land Development Code states:

Sec. 1.26 - Rezoning, special use permit and zoning text amendments.

(5) Other activities that require a special use permit. A special use permit shall be required for any industrial and manufacturing processes that are not identified in this ULDC.

A SUP may allow the Planning and Zoning Commission to recommend that City Council adopt other conditions that may be needed to protect the public health, safety, and welfare, including but not limited to, hours of operation, additional landscaping, and parking requirements.

Staff Analysis:

In order to recommend approval of an application for a special use permit, the Planning and Zoning Commission shall consider the following factors:

1. **This special use permit will be compatible with and not injurious to the use and enjoyment of other property, not significantly diminish or impair property values within the immediate vicinity in any material way.**

Currently, most adjacent properties are vacant, however there is an existing refinery north of IH-10. The adjacent properties, including Cedar Bayou, are within the City limits and are either similarly zoned or will be left undisturbed as part of this SUP. The limits of this SUP will be the improvements shown in Exhibit 1. Any additional improvements to the facility, if not called out in the land use table, will need to be requested by another SUP. This expansion does not include any new permanent structures but will provide the capacity for storage of up to 61-rail cars. This new storage could benefit vehicular traffic by reducing the number of rail cars from at grade crossings throughout the City; this would be a direct benefit by reducing wait times for Baytown residents. Additional benefits to the City are new occupations and expansions to occupied commercial sites within the City; both are indicative of a healthy economy.

2. **This special use permit will not impede the normal and orderly development and improvement of surrounding property.**

The expansion of the rail line will not impede future development or improvement of surrounding properties since the proposed use is appropriate and part of the City's plan to manage growth and direct industrial uses to appropriately zoned areas of the City. It also allows the use of existing transportation facilities and corridors. Adding this infrastructure onsite will benefit the overall use of the project. The proposed project will have a limited impact to the footprint of the facility and will maintain a large majority of visual and sound attenuation buffers that already exists on site.

3. **This special use permit will ensure that adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided prior to the issuance of a certificate of occupancy.**

The proposed project will be required to meet local regulations prior to the issuance of a Certificate of Occupancy. The proposed project is near transportation facilities equipped to accommodate the needs of the proposed use such as the adjacent rail spur and Interstate 10 for all transporting needs. Needlepoint Road will not be used for transportation of any product and the owners are working with city staff in order to maintain access and any existing utilities once.

4. **This special use permit will ensure that adequate nuisance prevention measures will be taken and maintained to prevent or control offensive odor, fumes, dust, noise and vibration prior to the issuance of a certificate of occupancy.**

The proposed development will be required to meet all regulations necessary, however; a certain amount of nuisance is expected with industrial uses which is why they are usually separated from residential and commercial uses. As part of the required compatibility standards, this use will need to follow the strict buffering set for heavy Industrial providing for a 100' vegetation buffer on all arterial and collector streets (IH-10 and Needlepoint). Additional conditions may be requested as part of the SUP to prevent any additional nuisances the commission might deem necessary like sound and light pollution. The majority of this will be shielded and mitigated by the existing vegetation on site. Requiring the use of air brakes and prohibiting rail car kicking is recommended to be included as a condition of approval. These conditions would protect the single family subdivision across Cedar Bayou and the Hunters Creek subdivision.

5. **This special use permit will ensure that there are sufficient landscaping, screening, setbacks and other land use measures to ensure harmony and compatibility with adjacent property.**

As previously stated, the proposed project will be required to meet the regulations set forth in the ULDC for the Heavy industrial (HI) zoning district for compatibility prior to the issuance of a Certificate of Occupancy. A 100' vegetation buffer must be placed along IH-10 in order to protect the viewing corridor and other nuisance issues like dust, sound and smell. City staff will be working with the developer to ensure the regulations and permitting process are transparent and that all requirements are met. Additional conditions may be part of the SUP.

6. **The proposed use is consistent with the comprehensive plan and is generally consistent with the purposes with the ULDC.**

The proposed development is consistent with the City's goal to encourage the location of industrial uses in appropriate areas with other industrial uses and adequate public facilities, including transportation (Comprehensive Plan, Economic Opportunity, 7-4). The reuse of a vacant facility with existing infrastructure is consistent with the goals and action statements set forth in the Comprehensive Plan to encourage infill development (Economic Opportunity 7-4). The reuse of this vacant site also addresses one of the weaknesses noted in the Comprehensive Plan which states that "*Attracting new petrochemical based industry is unlikely*" along with the creation of jobs and an increase in the goods producing industrial sector of the economy. The request for a special use permit at this location is consistent with the zoning district designation of HI. The request is consistent with the Future Land Use Plan (FLUP)—the subject property is designated as land set aside for Industrial use.