

Mayor and Council Communication

DATE: 01/23/24

M&C FILE NUMBER: M&C 24-0086

LOG NAME: 22MSD-033 BIP BRENNAN PROPERTY

SUBJECT

(CD 2) Conduct Public Hearing and Adopt Resolution Supporting the Application of BIP Brennan Property LLC for a Municipal Setting Designation for the Property Located at 2201 Brennan Avenue, Fort Worth, Texas, 76106 to the Texas Commission on Environmental Quality and Adopt Ordinance Prohibiting the Potable Use of Designated Groundwater from Beneath the Site Pursuant to Chapter 12.5, Article IV, Division 2 "Municipal Setting Designation"

(PUBLIC HEARING - a. Report of City Staff: Dan Miracle; b. Public Comment; c. Council Action: Close Public Hearing and Act on M&C)

RECOMMENDATION:

It is recommended that City Council:

1. Conduct a public hearing to allow the public the opportunity to give testimony on the application of BIP Brennan Property LLC for approval of a Municipal Setting Designation for the property located at 2201 Brennan Avenue, an approximately 3.39-acre tract of land located in the Edmund Little Survey, Abstract Number 954, Tarrant County, Texas and being a portion of Lot 1, Block 1 of the Gorbett Industrial Addition, an addition to the City of Fort Worth, Tarrant County, Texas;
2. Adopt the attached resolution supporting BIP Brennan Property LLC's application to the Texas Commission on Environmental Quality for a Municipal Setting Designation for the site; and
3. Adopt the attached ordinance prohibiting the potable use of designated groundwater from beneath the site.

DISCUSSION:

On November 9, 2023, BIP Brennan Property LLC filed an application with the City seeking support of a Municipal Setting Designation (MSD) for property located at 2201 Brennan Avenue, Fort Worth, Texas 76106.

Staff from the FWLab and the Transportation and Public Works, Development Services, Water, and Environmental Services Departments were given the application to review. Notice was issued, as required by ordinance, and a public meeting was held at the Northside Community Center, located at 1100 NW 18th Street, on Tuesday, December 19, 2023. No comments or concerns were received.

The groundwater that is sought to be restricted is shallow, perched, discontinuous groundwater that occurs at depths of approximately eleven (11) to nineteen (19) feet below the ground surface. The affected shallow groundwater is underlain by the Fort Worth Limestone and Duck Creek Formation undivided. The Fort Worth Limestone consists of limestone and clay with a thickness of 25-35 feet. The Duck Creek Formation consists of aphanitic limestone with pyrite nodules with a thickness of 30-100 feet that serves as a regional aquitard preventing vertical migrations of the chemical of concern to underlying potable aquifers. The affected shallow groundwater is not a designated, recognized major or minor aquifer. The chemicals of concern detected in the designated groundwater are chlorinated volatile organic compounds, benzene, and total petroleum hydrocarbons. The chemical of concern impacts are attributed to historic bulk oil storage and non-specific activities on the subject property.

The Fort Worth Water Department provides water service to all existing residential and commercial/industrial properties located in the area and within a half mile of the MSD boundary. All undeveloped properties within a half mile of the site are eligible to receive water service from the Fort Worth Water Department in accordance with the Texas Water Service Certificate of Convenience and Necessity (CCN) No. 12311 (City of Fort Worth) and the City of Fort Worth Policy for the Installation of Community Services.

In 2003, a state law came into effect creating the concept of an MSD. The purpose of an MSD is to provide a means by which the Texas Commission on Environmental Quality (TCEQ) may limit the scope of investigations and response actions for groundwater contamination at a site, provided the groundwater is prohibited for use as a potable water source. "Potable water" means water used for drinking, showering, bathing, or cooking, or for irrigating crops intended for human consumption. A person, typically a developer, must apply to TCEQ for certification of their property as an MSD. If granted, they will not be required to clean up designated groundwater within the MSD to drinking water standards, although other cleanup standards such as inhalation and contact must still be met. The application will not be approved by the TCEQ if the municipality where the site is located does not give formal approval. That approval must be by means of a City Council resolution supporting the application and an ordinance prohibiting potable use of groundwater in the MSD.

In January 2005, the City Council adopted an ordinance creating a procedure for persons applying to the TCEQ for an MSD to get support of that application from the City Council. The procedure includes filing an application with the City, staff review of the application for potential impacts to City interests, a public meeting held for the purpose of providing information on the application to the affected community, and a public hearing. This MSD application is the 33rd within Fort Worth city limits.

Approval of this MSD application by the Texas Commission on Environmental Quality will support the usage of the subject property consistent with the current zoning without unnecessary requirements placed on the developer to take actions to address historic contaminated groundwater.

