

**PLANNING AND ZONING COMMISSION
MARCH 25, 2015
CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Ned Sheats
John Guerra
Carlos Lopez
Mario Garza
Marisela Marin

P&Z ABSENT

Julio Cerda
Diana Izaguirre

STAFF PRESENT

Daniel Tijerina
Joe A. Garza
Susana De Luna

GUESTS PRESENT

Tiffany Espericueta
Alma Gutierrez
Stephanie Villanueva Benítez
Marisol Villanueva
Erlin Madrigal
Melvin Kincaid
Glen Ramsey
Sergio Lujan
Gilberto Cano Jr.
Gilberto Espinoza
Raul Vela
Steve Spoor

CALL TO ORDER

Chairman Ned Sheats called the meeting to order at 5:00 p.m.

CITIZENS PARTICIPATION

Chairman Ned Sheats asked if there was any citizen's participation.

There was none.

APPROVAL OF MINUTES FOR MARCH 11 & MARCH 13, 2015

Chairman Ned Sheats asked if there were any corrections to the minutes for March 11 & March 13, 2015. Mr. Mario Garza moved to approve the minutes as presented. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:00 p.m.

Ended: 5:04 p.m.

ITEM #1.1

Rezoning:

**Lots 1 & 2, Block 194,
Oblate Addition
R-1 to C-1
The 5125 Company**

Mr. Daniel Tijerina went over the write-up stating that the subject site is located at the SE corner of E. 12th Street and Keralum Avenue.

SURROUNDING ZONES: N: R-1- Single Family Residential

LAND USES: E: R-1- Single Family Residential
W: R-1- Single Family Residential
S: R-1- Single Family Residential

FLUM: The Future Land Use Map reflects a Low Density Residential (LD) designation.

REVIEW COMMENTS: This site has an existing office building equipped with parking and buffer fence to the South to divide the residential district. The C-1 proposal is for office use which is the least congestive zone in our commercial zoning hierarchy; also the small building will limit parking and self-restrain it to an office setting.

RECOMMENDATION: Staff recommends approval.

Chairman Ned Sheats asked if there was any public opposition to the request.

There was no response.

Chairman Ned Sheats asked if the applicant or representative were present.

Representing the applicant, Ms. Tiffany Espericueta who resides at 2811 Santa Ana stated that her mother owns a construction company in Mission and she just wants to expand her business. She added that if the rezoning was approved it would be a construction office.

Chairman Ned Sheats asked if C-1 was for neighborhood commercial.

Mr. Tijerina stated that C-1 was specifically for office building, C-2 was for neighborhood commercial, and C-3 was for general business.

Chairman Ned Sheats asked Mr. Tijerina if he had advised the applicant that no construction equipment would be allowed in the property for storage.

Mr. Tijerina stated that he had talked to Mrs. Espericueta and she has been in business for many years so she was familiar with the process.

There being no discussion, Chairman Ned Sheats entertained a motion. Mr. Mario Garza moved to approve the rezoning as per staff's recommendations. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:05 p.m.

Ended: 5:14 p.m.

ITEM #1.2

Rezoning:

**Lot 7, Block 106,
Mission Original Townsite Subdivision
R-1 to C-1
Sergio L. Lujan**

Mr. Daniel Tijerina went over the write-up stating that the subject site is located at the NW corner of 6th Street and Doherty Avenue.

SURROUNDING ZONES: N: R-1- Single Family Residential
LAND USES: E: R-1- Single Family Residential
W: C-3- General Business
S: R-1- Single Family Residential

FLUM: The Future Land Use Map reflects a General Commercial (GC) designation.

REVIEW COMMENTS: According to the FLUM designated General Commercial (GC). Also, C-1 is the most restrictive of the commercial zones, which allows doctor's offices, banks, etc.

RECOMMENDATION: Staff recommends approval.

Chairman Ned Sheats asked if there was any public opposition to the request.

There was no response.

Chairman Ned Sheats asked if the applicant or representative were present.

Mr. Sergio L. Lujan who resides at 601 N. Doherty stated that he had purchased this property back in November and wanted to turn this property into a business. He envisioned an attorney's office for this property.

Mrs. Marisela Marin stated that there really was no parking in this area.

Mr. Lujan stated that there were about 7 to 8 parking spaces in front of the property.

Mr. Tijerina stated that they had some parking along 6th Street and along Doherty. He added that since this was in the Central Business District they were allowed off-street parking. He mentioned that since they were not proposing to do a new building they met the parking requirements, now if they were too knocked down the home then they would need to comply with the parking requirements.

Chairman Ned Sheats suggested that the City should initiate rezoning for the rest of the properties that should be commercial.

Mr. Tijerina stated that he would advise the City Manager and Council of his suggested to initiate rezoning.

There being no discussion, Chairman Ned Sheats entertained a motion. Mr. Mario Garza moved to approve the rezoning as per staff's recommendations. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:14 p.m.

Ended: 5:44 p.m.

ITEM #1.3

Conditional Use Permit:

**Sale & On-Site Consumption of Alcoholic
Beverages – Villanueva Event Center
1410 W. Mile 2 Road
Lots D-H, Mountain View Subdivision Ph. I
C-3
Stephanie Villanueva Benitez**

Mr. Daniel Tijerina went over the write-up stating that the subject site is located just off the NE corner of Los Ebanos Road and Mile 2. The site is a Banquet and Event Center for such activities as weddings, reunions, birthday parties, seminars, etc. The banquet hall is 5,420 sq. ft. The maximum occupancy is 167 people (as per plans by Fire Marshal).

- **Parking:** There are 85 parking spaces for the two buildings which comply with code. (1 space per 100 sq. ft.).
- **Hours of Operation:** For the most part, these events typically take place during evening hours from about 6:00 p.m. till 2:00 a.m.
- **Landscaping:** The building is still under construction. As per site plan, landscaping will be in compliance with code.

Additionally, notices were sent to property owners within a 200' radius of the site and there have been no comments in favor or against this request forwarded to the Planning Department.

RECOMMENDATION: Staff recommends approval for 1 year subject to: 1) wet zoning the property, 2) compliance with the sign code, and 3) waiver of the 300' separation requirement.

Chairman Ned Sheats asked if there was any public opposition to the request.

A show of hands indicated that there were 3 citizens present against this request.

Mr. Melvin Kincaid stated that he has lived there for 45 years across the street from the events center in the orchards. He added that they were going to create noise, traffic and he was going to keep the police busy coming over to keep quiet them down. Mr. Kincaid mentioned that anytime there is a dance and people drink they make a lot of noise and I live directly across the street from this building and have been there for 45 years.

Chairman Ned Sheats asked Mr. Kincaid for his address.

Mr. Kincaid stated that he owns the 8.5 acres on the SE corner of 2 Mile line and Los Ebanos Road.

Chairman Ned Sheats asked if they were on Lot 28-3, West Addition to Sharyland.

Mr. Kincaid replied, "Yes". He stated that he had told a police officer that was there last weekend catching speeders that he was going to keep them busy once the event center open because of the noise especially after 11:00 p.m. they tend to put the music louder. Mr. Kincaid stated that he didn't really understand are they proposing to use it for a restaurant?

Chairman Ned Sheats stated that they were proposing an Event Center for parties, quinceneras, conferences, celebrations, etc. it would be leased to different people for various types of parties.

Chairman Ned Sheats asked Mr. Kincaid if there were any homes on Lot 28-3.

Mr. Kincaid stated that there were after him to purchase the property but they didn't want to pay the amount he was asking for. He added that Mr. Garza had told him that the property was valued at \$500,000 and they were only willing to pay \$400,000 probably because they have the property listed as commercial. He mentioned that he tried to put a mobile home once for his grandson to take her of grandmother but the City did not allow it.

Chairman Ned Sheats asked if there was a Future Land Use Map in the power point presentation.

Mr. Tijerina replied "No, but he could get the once in the office".

Chairman Ned Sheats stated that to his knowledge the property on the north side is where the event center is located it is designated as general commercial which means that they can put practically any type of commercial business and it is legal. Mr. Sheats added that the only request being considered was a conditional use permit for alcohol for the events center which normally goes along with any business that serves food or has entertainment. He mentioned that this was a case in which West 2 Mile Road was going to be whether we like it or not a major thoroughfare.

Mr. Tijerina stated that West 2 Mile had already been widened and there were plans approved by City Council on March 23rd to widen West 2 Mile from Conway Avenue going west to Moorefield Road. Mr. Tijerina stated that Future Land Use Map designation was GC (General Commercial).

Chairman Ned Sheats stated that he would like to point out that this property was already zoned general commercial and in looking at the material used which seems to be concrete or stucco for building he didn't think there would be any noise coming out of the building. He added that unfortunately they would not be able to control the traffic from coming or going and in fact he might have to call the police for that but in any business whether is an event center or something else traffic is going to be generated.

Mr. Kincaid asked if the Board could control the hours of operation.

Chairman Ned Sheats stated that they could not be selective and allow a convenience store to be open until 2 a.m. and not the event center. They have to be equal to each business.

Mr. Kincaid stated that if the noise is loud he could call the police to calm them down.

Chairman Ned Sheats stated that yes he could because then the noise ordinance would kick in. Mr. Sheats added that they were not allowed to disturb him so he could call the police if at any point he felt he was being disturbed.

Mr. Glen Ramsey who resides at 822 W. 2 Mile Road stated that he really didn't think this wall would keep the noise contained from coming out to the residential properties. He mentioned that when you go out to a party people come out at 12 a.m. of the parties they come out making noise and that noise would be contained to that building and he is concern about the problem this would be.

Chairman Ned Sheats stated that the issue we have is that this particular property came up for rezoning to C-3 (general business) and it was approved therefore, they are allowed to put a bar in there and they are allowed to apply for a liquor license which means that this Board has to keep the same parameters for all businesses. Mr. Sheats stated that this Board only recommends to the City Council which will be meeting for this item on April 13, 2015.

Mr. Gilberto Cano, Jr. who resides in McAllen stated that he owned a residential property on Mountain View Subdivision and was also the owner of Lot A, which was on the NE corner of Los Ebanos and Mile 2. Mr. Cano stated that the understood what they were trying to do. Mr. Cano stated that he was not notified of the rezoning he found out until he saw the building going up. He mentioned that he was not aware of any notices that might have been mailed out but he didn't receive one. Mr. Cano stated that he was not notified of this construction until he saw it and spoke to Mr. Villanueva, Jr. who mentioned they were going to be commercial business. He added that on the aspect of the alcohol he would like something in writing from Villanueva Event Center owner stating that he would not be liable for anything when he constructs his business on Lot A, since he was not consulted before they began construction to see if he would like to build that way the all the buildings would be same. Mr. Cano added that he had spoken to Bobby Salinas from the City who suggested he wait and see if there were other people interested in building since the lots were being sold individually by International bank.

Chairman Ned Sheats asked Mr. Cano which lots does he own.

Mr. Cano stated that he owns Lot 37, which was residential and Lot A, which was commercial.

Mr. Tijerina mentioned that notices are only mailed out to residents that live within 200' radius from the site and he was notified of the conditional use permit. He added that what Mr. Cano was making reference to was when this property was original rezoned he is

stating that he did not receive a notice at that time but we have our records and we can check and show him our records.

Mr. Cano stated that AEP had contacted him when they were relocating the light poles on 2 Mile Line and Los Ebanos to lease his property to them for the work they were going to do there for their equipment and he doesn't understand why was notified then and not of the rezoning. Mr. Cano stated that if they want to sell alcohol as long as he gets something in writing stating that he is not liable for any accidents that happen then he would be okay with it.

Chairman Ned Sheats stated that the Board could not do that all they could do is consider the CUP for the alcohol.

Mr. Cano stated that then he would not be able to approve the request.

Chairman Ned Sheats stated that what this Board could do is advised him to contact the business owner for that not through the City because the City basically already did its job. He added that he didn't see why he would be any liability for any accidents that happen on the green area ever spread to his property across the alley but do appreciate his comments.

Brief discussion continued regarding the location of the commercial lot A and the potential liability the alcohol permit it might create for him.

Chairman Ned Sheats stated that if he felt his concerns were not being addressed he could address the City Council.

Mr. Cano stated that he had other questions in regards to the fire wall and the distance he would be required to leave once he is ready for construction.

Chairman Sheats stated that he could address those questions to staff but they needed to continue with this item.

Mr. Kincaid asked if this was going to be something like Applebee's.

Chairman Ned Sheats replied, "He had no idea but would asked the applicant to answer his question".

Chairman Ned Sheats asked if the applicant or representative were present.

Ms. Stephanie Villanueva Benitez who resides at 7721 N. 26th Street & Ms. Marisol Villanueva who resides at 2124 Kingsborough in McAllen stated that they were the owners of Villanueva Event Center and the office on the sides.

Chairman Ned Sheats stated that they are constructing both buildings on one side you are going to have let people having fun on one side and on the other people doing business.

Mrs. Villanueva replied, "That's correct".

Chairman Ned Sheats stated that in this event center they could practically have anything event there.

Mrs. Villanueva stated that it was basically for wedding, quinceneras, corporate events or any special events.

Chairman Ned Sheats stated that this was going to be an event center not an open bar, karaoke, etc.

There being no further discussion, Chairman Ned Sheats entertained a motion. Mr. Mario Garza moved to approve the conditional use permit as per staff's recommendations. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:44 p.m.

Ended: 5:48 p.m.

ITEM #1.4

**Conditional Use Permit Renewal: Home Occupation – Registered Home Daycare
3304 Santa Inez
Lot 123, Los Nogales Subdivision Ph. III
PUD
Martina D. Almazan**

Mr. Daniel Tijerina went over the write-up stating that the subject site is located 136' from the SW intersection of San Armando and Santa Inez. The home has a two car driveway off of Santa Inez capable of accommodating the safe drop off and pick up of children. There is also an existing 4' sidewalk for pedestrian traffic. There is an existing six foot opaque buffer fence surrounding the rear of the residence to maximize protection of the children. The dining room and living room are the areas utilized for child care-see floor plan. This CUP was last approved by P&Z on 2-12-14 for a period of 1 year. Ms. Almazan is currently requesting a renewal to continue to operate her registered home daycare.

- **Hours of operation:** Monday – Friday from 7a.m. to 7p.m.
- **Staff:** Herself and 3 others. All live in the home except one, thus complying with code.
- Must continue to comply with Sec.1.56-1, Zoning Code (home occupations regulations).

REVIEW COMMENTS: Ms. Almazan has been operating her registered home since December, 2009 with no reported incidents. Staffs sent notices to the surrounding neighbors and have not received any comments for or against this CUP request.

RECOMMENDATION: Staff recommends approval for 1 year in order to continue to monitor this daycare operation at Sharyland Plantation.

Chairman Ned Sheats asked if there was any public opposition to the request.

There was no response.

Chairman Ned Sheats asked if the applicant or representative were present.

There was no response.

There being no discussion, Chairman Ned Sheats entertained a motion. Mrs. Marisela Marin moved to approve the conditional use permit renewal as per staff's recommendations. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:48 p.m.

Ended: 5:52 p.m.

ITEM #1.5

**Conditional Use Permit Renewal: Portable Building – Sale of Water
213 E. Expressway 83
Lot 3, El Pueblo Subdivision Ph. I
C-3
Life of Use
Gilberto Espinoza (Watermill Express)**

Mr. Daniel Tijerina went over the write-up stating that the subject site is located 500' east of Conway Avenue along the north side of Expressway 83 frontage (Conway Plaza Shopping Center). The applicant has a self-sustained, fully automated, "Watermill Express" (8' diameter portable structure) for the sale of purified water. The structure is located south of the main plaza, within one of the parking spaces-see site plan. This CUP was originally approved by P&Z on 4-15-09 subject to a 1yr. re-evaluation and acquiring a business license. It was most recently approved on 10-10-12, subject to a 3 yr. re-evaluation.

- Hours of Operation: Everyday - 24-hours a day.
- Watermill technicians conduct service inspections on a daily basis to ensure that the water dispensing unit is clean and functioning properly.
- Parking and landscaping codes are being met.
- There have been no negative reports due to the watermills location in this parking lot.

RECOMMENDATION:

Staff recommends approval for life of use subject to the CUP not being transferable to others.

Chairman Ned Sheats asked if there was any public opposition to the request.

There was no response.

Chairman Ned Sheats asked if the applicant or representative were present.

Mr. Gilberto Espinoza whose business address is 1309 E. Jasmine in McAllen, Texas was present to address any questions from the Board.

There being no discussion, Chairman Ned Sheats entertained a motion. Mr. Mario Garza moved to approve the conditional use permit renewal as per staff's recommendations. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:52 p.m.

Ended: 5:56 p.m.

ITEM #2.0

Pre-Final Plat Approval:

**Retama Village Ph. IV Subdivision
A resubdivision of 7.125 acre tract out of
Lot 31, Bentsen Grove Addition "E"
PUD
Developer: Rhodes Enterprises, Inc.
Engineer: Melden & Hunt, Inc.**

Mr. Daniel Tijerina went over the write-up stating that the proposed subdivision is the 4th phase of the Retama Village Subdivision located on the SE corner of Military and Bentsen Palm Drive. The developer is proposing 26 Single Family Residential lots. This new phase will be a private subdivision, since Retama Village, Ph. I, II and III is already private. Staff has reviewed this proposal and does not see any detriment to the proposed subdivision or surrounding areas.

WATER: Existing 8" water line that was placed during construction of phase III of Retama Village is looped through Retama Village towards the east. Fire hydrants are shown pursuant to the direction of the Fire Marshal.

SEWER: In regards to sewer, the developer is proposing to extend an 8" sewer network along Hummingbird Lane to tie in to the existing sewer line in Phase 3 of Retama Village. – see utility plan. The Capital Sewer Recovery Fee 26 residential lots X \$200.00/Lot= \$5,200

STREETS & STORM DRAINAGE: The developer is proposing to extend Hummingbird Lane to the east to tie in to existing Hummingbird Lane to the east on Phase III of Retama Village. This will be 50' ROW, 37 B-B Streets. As for the storm drainage, the developer is proposing to install 2 sets of type "A" inlets and as installed 30" R.C.P. lines during the construction of Phase III of Retama Village that will flow towards the east of the subdivision, and discharge into an existing 42" drain line that connects to an existing drain ditch. The drain ditch discharges thru a 5'X5' box culvert under the Mission Main Canal and has an ultimate outfall into the Mission Pilot Channel.

OTHER COMMENTS:

- Dedication of water rights
- No park fees; M.L. Rhodes' dedication of park land still satisfies the Park Dedication Ord.
- Must provide a street light plan for review by Staff.

- 5' sidewalks are not required similar to the first phases of Retama Village; any sidewalks provided will be maintained by the HOA.

RECOMMENDATION: Staff recommends approval subject to:

1. Must pay capital sewer recovery fees.
2. No objection to private street but must meet maintenance and hold harmless requisites.
3. Dedication of water rights.
4. Compliance with the Model Subdivision Rules

Chairman Ned Sheats asked if there was any input from the Board.

There was no response.

Chairman Ned Sheats asked if the applicant or representative were present.

There was no response.

There being no discussion, Chairman Ned Sheats entertained a motion. Mr. Carlos Lopez moved to approve the pre-final plat as per staff's recommendations. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:56 p.m.

Ended: 6:14 p.m.

ITEM #3.0

Tabled Rezoning:

**The North 938.74' of Lot A,
 B.L. Millers Resubdivision of Lots 16-20,
 Block 4, Mission Groves Estates Subdivision
 AO-I to C-3
 Erlin Madrigal**

Chairman Ned Sheats entertained a motion to remove the item from the Table. Mr. Mario Garza moved to remove the item from the Table. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously

Mr. Daniel Tijerina went over the write-up stating that the subject site is located at the Northeast corner area of Moorefield Road and Griffin Parkway.

SURROUNDING ZONES/ N: R-1, L.J. Middle School

EXISTING LAND USES: E: AO-I Open Acreage

W: Outside City Limits

S: C-3 General Business District

Site: The site currently has an impound lot on it

FLUM: The Future Land Use Map reflects Low Density Residential (LD) designation.

REVIEW COMMENTS: Though this area is not fully developed, A C-3 zone is not consistent with the FLUM which depicts an LD designation. The FLUM is a guide used to base our decisions when considering rezonings. The depth for commercial zonings along major thoroughfares such as FM 495 ranges from 400' to 600' maximum. Lastly, Moorefield Road is a County Standards Road with no curb and gutter.

RECOMMENDATION: Staff recommended denial.

Chairman Ned Sheats stated that he could of sworn that the Repo Business was not part of or in the property being rezoned in the previous meeting.

Mr. Tijerina stated that it was and has always been there it is allowed in Mr. Madrigal's property with a conditional use permit.

Chairman Ned Sheats asked what the response from the church was.

Mr. Tijerina stated that staff did not receive any comments from the church.

Chairman Ned Sheats stated that then we didn't even know if they received the notice.

Mr. Tijerina stated that the Pastor Mr. Eliud Garcia was his neighbor and he talked to him about the rezoning be he didn't say anything.

Chairman Ned Sheats asked if the church was sitting in a GC designation.

Mr. Tijerina replied, "Yes".

Chairman Ned Sheats asked if it should be there, but then recalled that churches were permitted in any zone. He stated that he had his reservations about having commercial being zoned that deep.

Chairman Ned Sheats asked if there was any public opposition to the request.

There was no response.

Chairman Ned Sheats asked if the applicant or representative were present.

Mr. Steve Spoor from Spoor Engineering whose address is 202 S. 4th Street in McAllen. He mentioned that he didn't understand Mr. Sheats concern not necessary for the depth but for having general business abutting a school, which to them the front would be to Moorefield Road. He stated that map indicated a multitude of GCs surrounding this property. Mr. Spoor stated that they believe this property would be consistent with the existing commercial corridors such as Moorefield Road and Griffin Parkway. He added that if the rezoning is approved they would be subject to the subdivision ordinance and they would be providing a subdivision plat process. Mr. Spoor stated that in this plat process they have identified Judy Avenue which is dedicated in the Shalom Subdivision coming north from

Griffin Parkway. They believe that street would be extend north up to the school and he told Mr. Madrigal that's what would be required from them on the north side of the street. Mr. Spoor stated that the old houses that are occupied by the Repo place are going to go away because they don't meet their commercial requirements. He stated that the last thing he would like to point out is that there is no residential at all in that area.

Chairman Ned Sheats asked Mr. Tijerina when Moorefield Road was going to be widened.

Mr. Tijerina stated that he did not have a date.

Chairman Ned Sheats stated that once again not because there is no residential in area means that this property should be considered as commercial.

Mrs. Marisela Marin asked what was on the west side of the property.

Mr. Erlin Madrigal stated that it was Law Enforcement County Building where the police have their trainings.

Chairman Ned Sheats closed the public hearing.

There being no further discussion, Chairman Ned Sheats entertained a motion. Mr. John Guerra moved to approve the rezoning. The motion to rezone died because there was a lack of a second. The rezoning request was not approved.

ITEM #4.0
OTHER BUSINESS

ITEM #5.0
ADJOURNMENT

There being no further items for discussion, Mr. Mario Garza moved to adjourn the meeting. Mr. John Guerra seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 6:14 p.m.

Ned Sheats, Chairman
Planning and Zoning Commission