

**PLANNING AND ZONING COMMISSION
JUNE 26, 2013
CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Rene A. Flores
Ned Sheats
Abiel Flores
Marisela Marin
Carlos Lopez

P&Z ABSENT

Mario Garza
Diana Izaguirre

STAFF PRESENT

Bobby Salinas
Susana De Luna
Alex Hernandez

GUEST PRESENT

Ernie Villarreal
Magda Lee Villarreal
Alan & Donna Oakley
Yrena Garza
Ivan Garcia
Nick & Mariana Galindo
Israel Torres
Michael Friedrichs

CALL TO ORDER

Chairman Rene Flores called the meeting to order at 5:00 p.m.

CITIZENS PARTICIPATION

Chairman Rene Flores asked if there was any citizens' participation.

There was no response.

APPROVAL OF MINUTES FOR JUNE 12, 2013

Chairman Rene Flores asked if there were any corrections to the minutes for June 12, 2013. Mr. Ned Sheats moved to approve the minutes as presented. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: **5:03 p.m.**

Ended: **5:07 p.m.**

ITEM #1.1

To consider abandoning a 20' strip of alley ROW lying between Lots 4 & 12, Wayne Marshall Subdivision as requested by Magda Villarreal

Mr. Bobby Salinas went over the write-up stating that in 2009, the City Council desired to hold public hearings on issues involving any abandonment of public ROWs. Public notification procedures (similar to re-zonings) have been activated, i.e. notices to owners within a 200' radius, plus a publication of such 'ROW abandonment' placed in the City's newspaper.

The site is located on the SW corner of School Lane and Ragland Road. The proposed 20' x 100' abandonment is located along the south side of Lot 4 and runs east and west as dedicated on the Wayne Marshall plat, recorded in Vol. 11, Page 13.

We received a request from Ms. Magda Villarreal, the owner of Lots 4 & 12, to abandon the 20' alley, since it currently divides her property. She is hoping to make some improvements on her property and would like to combine both lots 4 and 12 in order to utilize the entire property.

The Wayne Marshall plat was recorded on September 1, 1953. The 20' alley is not currently in use and does not have any City utilities running within. The alley has been fenced in and maintained by adjacent owners for several years. Also, the City Council had previously approved the abandonment of the alley ROW located on the east side of Ragland between Lots 5-8 and 13-16. This request would be a similar abandonment as the one approved in '92. Since this request is similar to the abandonment of the alley from '92 and there are no City Utilities within the alley ROW, staff does not object to the abandonment of the alley between Lots 4 & 12.

Chairman Rene Flores asked if there was any public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

Mrs. Magda Villarreal was present to address any questions from the Board.

There being no discussion, Chairman Rene Flores entertained a motion. Mr. Abiel Flores moved to approve the request as per staff's recommendations. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:07 p.m.
Ended: 5:13 p.m.

ITEM #1.2

Rezoning: **A 2.917 acre tract of land (Tracts 2, 3 & 4)**
Being a part out of Lot 166,
John H. Shary Subdivision
C-3 to R-3
Rio Delta Engineering

Mr. Bobby Salinas went over the write up stating that the subject site is located on the NW corner of Taylor Road and Colorado Street. The 3 different tracts measure as follows: Tract 2 – 212.25' x 247.50' (1.206 ac.), Tract 3 – 212.25' x 247.50' (1.206ac.), Tract 4 – 110' x 199.99' (0.505 ac.). All tracts combined equate to 2.917 acres. The sites have frontage to both Colorado and Taylor Road.

SURROUNDING LAND USES: N: C-3 – General Business District & R-3 – Multi-Family
E: C-3 – General Business District & City of McAllen
W: R-3 – Multi-Family
S: AO-I – Agricultural Open Interim, R-3 – Multi-Family & C-3 – General Business District

EXISTING LAND USES: The existing land uses include Tinseltown (Movies 17) & open acreage to the north, Open Acreage in all other directions. All three tracts are currently open acreage.

FLUM: The Future Land Use Map currently shows a GC (General Commercial) designation for the proposed site.

You may recall seeing this property last year, where these tracts were proposed for commercial use. Now, the applicant wishes to shift the apartment proposal to the east and removing the commercial away from Taylor Road, which requires the rezoning to R-3. Since the majority of the existing zoning in this area is already R-3, Staff does not object to the rezoning proposal. Staff recommends approval.

Chairman Rene Flores asked if there was any public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

Representing the applicant, Mr. Ivan Garcia from Rio Delta Engineering was present to address any questions from the Board.

Chairman Rene Flores asked Mr. Garcia if initially this property was zoned commercial and then rezoned to residential or it has always been commercial.

Mr. Garcia stated that originally it was agricultural and then rezoned to commercial, which used to be in an L-shape tract. He added that the property that was not rezoned used to be an access to the apartment lot so we shifted all the apartments all the way east so they could have complete frontage to Taylor Road in order to continue with the subdivision process.

Chairman Rene Flores asked Mr. Garcia if he still had plans to build apartments.

Mr. Garcia replied, "Yes".

Mr. Garcia mentioned that because they had shifted the apartments on the east side now they needed to rezone the property to multi-family.

Mr. Salinas asked Mr. Garcia how many apartments they were proposing to build.

Mr. Garcia replied, "168 units".

Mr. Salinas asked what they were proposing to build on the west side.

Mr. Garcia mentioned that for now it would be vacant but with an R-3 zoning for future multi-family use.

Mrs. Marisela Marin asked if the property was going to be all residential.

Mr. Salinas stated that it would not all be residential because the southern part would still remain commercial.

Mr. Garcia mentioned that they were not proposing to subdivide that portion at this time.

Mr. Ned Sheats asked Mr. Garcia if they had any future plans for the property shaded in dark red and if it that property belong to them.

Mr. Garcia stated that property was theirs and it was already zoned multi-family for future apartments.

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

Started: 5:13 p.m.
Ended: 5:18 p.m.

ITEM #1.3

Rezoning:

**Lot 1, Mission Spanish Seventh-Day
Adventists Church Subdivision
C-1 to P
Otoniel Reyes**

Mr. Bobby Salinas went over the write up stating that the subject site is located on the SE corner of Griffin Parkway and Inspiration Road.

SURROUNDING ZONES: AO-I – Agricultural Open Interim to the south and C-3 – General Business District in all other directions. The site is currently C-1- Office Building district.

EXISTING LAND USES: Day care center to the east, open acreage to the north and south, and a bakery to the west. The site currently has an existing church.

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

Mr. Salinas stated that on August 13, 2012, City Council created a new Zone which requires all public facilities such as City, County, Federal buildings; **Churches**; and Schools to fall within this zone. The applicant is proposing to change the zone from C-1 to P in order to be in compliance with the new Public zone ordinance. Notices were sent to property owners within 200' of the site. Staff has not received comments for or against this proposal. Staff recommended approval.

Chairman Rene Flores asked if there was any public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative was present.

There was no response.

Mr. Ned Sheats mentioned it seemed that they didn't have enough parking would staff know if they comply with the parking.

Mr. Salinas stated he would not be able to answer that question right now but usually the parking for churches was calculated based on the number of seating spaces within the auditorium.

Mr. Ned Sheats asked if staff could look into this even though the only item being considered was the rezoning.

Mr. Salinas replied, "Sure".

Mr. Abiel Flores asked if when a property is rezoned would it affect the parking requirements.

Mr. Salinas replied, "No".

Chairman Rene Flores asked what were the benefits of rezoning the property.

Mr. Salinas stated that it eliminated the review time because they don't have to apply for a conditional use permit and site plan approvals.

Mrs. Marisela Marin asked if staff was alerting the people of the need to change the zone to Public or do the people get notified once they are applying for a permit.

Mr. Salinas stated that as they come in for a building permit staff is alerting them of the need to comply with the new zone.

Chairman Rene Flores asked if the Public zone was only for any public building.

Mr. Salinas stated that all public buildings were currently seen as non-conforming uses but as they apply for the change of zone they are being brought up to code.

There being no further discussion, Chairman Rene Flores entertained a motion. Mr. Ned Sheats moved to approve the rezoning as recommended by staff. Mr. Abiel Flores seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:18 p.m.

Ended: 5:20 p.m.

ITEM #1.4

Rezoning:

Lots 16-18, Bryan Pointe Subdivision, Ph. I

C-3 to P

Ignite Public Schools & Community Service Center

Mr. Bobby Salinas went over the write up stating that the subject site is located approx. 600' east of Bryan Road along the south side of E. 1st Street.

SURROUNDING ZONES/ N: C-1 - Office Building; Open Acreage

EXISTING LAND USES: E: C-1 - Office Building; Open Acreage

W: C-3 - General Business; Commercial Plaza

S: AO-I - Agricultural Open Interim; Single Family Home

Site: C-3 - General Business; Commercial Plaza

FLUM: The Future Land Use Map reflects a Public (P) designation.

Mr. Salinas stated that on August 13, 2012, City Council created a new Zone which requires all public facilities such as City, County, Federal buildings; Churches; and Schools to fall within this zone. Ignite Public School is proposing to change the zone from C-3 to P in order to be in compliance with the new Public zone ordinance. Notices were sent to property owners within 200' of the site. Staff has not received comments for or against this proposal. Staff recommended approval.

Chairman Rene Flores asked if there was any public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative was present.

There was no response.

There being no further discussion, Chairman Rene Flores entertained a motion. Mrs. Marisela Marin moved to approve the rezoning as recommended by staff. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:20 p.m.

Ended: 5:22 p.m.

ITEM #1.5

Rezoning: **18.12 ac. tract of land out of Lots 17-9 & 18-9,
West Addition to Sharyland Subdivision
R-1 & AO-I to P
City Initiated**

Mr. Bobby Salinas went over the write-up stating that the subject site is located approx. 150' south of 1st Street along the east side of Mayberry Road.

SURROUNDING ZONES/	N:	R-1	- Single Family Residential; SF homes
		C-2	- Neighborhood Commercial; empty commercial space
	E:	R-1	- Single Family Residential; SF homes
		C-3	- General Business; Spikes Ford
	W:	R-1	- Single Family Residential; SF Homes/Castro Elementary
		C-3	- General Business; Luby's
	S:	C-3	- General Business; Spikes Quick Lane/Flores Funeral Home
	Site:	R-1 & AO-I – Catholic War Veterans Park	

FLUM: The Future Land Use Map reflects a Public (P) designation.

Mr. Salinas stated that on August 13, 2012, City Council created a new Zone which requires all public facilities such as City, County, Federal buildings; Churches; and Schools to fall within this zone. The City of Mission is proposing to renovate the CWV Park Service Center Building which would require a change in zone from R-1 & AO-I to P in order to be in compliance with the new Public zone ordinance. Notices were sent to property owners within 200' of the site. Staff has not received comments for or against this proposal. Staff recommended approval.

Chairman Rene Flores asked if there was any public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative was present.

There was no response.

There being no further discussion, Chairman Rene Flores entertained a motion. Mr. Ned Sheats moved to approve the rezoning as recommended by staff. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:22 p.m.

Ended: 5:27 p.m.

ITEM #1.6

Conditional Use Permit:

**Sale & On-Site Consumption of Alcoholic Beverages – The Palms Lounge II
609 E. 9th Street
Lots 11-15, Block 142, Mission Original Townsite Subd.
C-3
Ricardo Rodriguez**

Mr. Bobby Salinas went over the write-up stating that the subject site is located on the SE corner of E. 9th and St. Marie. The original CUP for the Palms Lounge was approved by City Council on 10-11-93 for the life of use. However, since there will now be new ownership and the CUP was not transferable others, a new CUP approval is needed for the new owner. This particular building has been in existence for several years and has always been utilized as a bar. Primary access to the bar is off of E. 9th Street. They currently do offer various food items available upon request.

- **Hours of Operation:** Monday – Friday from 10a.m. to 12a.m., Saturday from 10a.m. to 1a.m. and Sunday from 12p.m. to 12a.m. Alcoholic beverages have only been served during allowable State selling hours.
- **Staff:** 3 to 5 employees
- **Parking:** The parking lot for this site is located along the south and east side of the building. It is noted that this site is located within the Central Business District which is exempt from the parking code.

Mr. Salinas stated that he had received a report from Mission PD which revealed that there had been 19 calls however only 2 were crimes against persons and those occurred back in 2009 & 2010, since then no calls have been made. Mr. Salinas had asked PD what they would recommend and they said approval. Mr. Salinas stated that based on the Mission PD recommendation staff recommended approval for 1 year since it was a new owner, and the acquisition of a business license.

Chairman Rene Flores asked if there was any public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative was present.

There was no response.

Chairman Rene Flores asked why staff was not requiring any security for this bar.

Mr. Salinas stated that based on the existing clientele, past history and police report, he didn't feel that it was necessary.

There being no further discussion, Chairman Rene Flores entertained a motion. Mr. Abiel Flores moved to approve the conditional use permit as recommended by staff. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:27 p.m.

Ended: 5:56 p.m.

ITEM #2.0

Tabled Conditional Use Permit:

**Home Health Agency in an AO-I Zone
2508 E. 2 Mile
A .75 acre tract of land out of Lot 296,
John H. Shary Subdivision
AO-I
Norma A. Torres**

Chairman Rene Flores entertained a motion to remove the item from the 'Table'. Mr. Ned Sheats moved to remove the item from the table. Mr. Abiel Flores seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Bobby Salinas went over the write-up stating that the site is located 151' north of 2 Mile Road along the west side of Melody Lane. The lot measures 133.60' X 135' (18,036 sq.ft.). We do note that a portion of the lot is utilized as a private street/drive (Melody Lane aka E. Johnson Lane). The site currently has an existing brick house with a large asphalt driveway and parking area. The applicant wishes to operate a home health agency from the residential home which will offer various medical services such as primary homecare, wound care, diabetic management, etc. as indicated in the Dulce Esperanza Home Health Care pamphlet.

HISTORY: On May 31, 2012, a letter was sent requesting to cease any potential commercial activity on the property and removing any indication of such activity from the property, i.e. removal of signage, etc. During a site visit it was determined that the business had ceased. However, upon a later inspection on 3-8-13, it was discovered that the business was still in operation. On 3-19-13, a letter was sent to the applicant requesting the termination of all commercial operations. After non-compliance with the letter, Staff forwarded the case to Municipal Court where it was determined that the applicant should follow the process and apply for a CUP in an AO-I zone, thus the CUP request before you.

- **Days / Hours of Operation:** Monday – Friday from 8a.m. to 5:00p.m.
- **Staff:** 16 full time employees
- **Parking:** There is a large asphalt area available for employee and customer parking. There is enough room for 10+ vehicles to be parked on site.
- Must comply with Fire and Building Codes prior to acquisition of a business license.

- **Zoning Code:** Section 1.36(3n) states: Conditional Uses – Other uses which, as determined by the planning and zoning commission, are not contrary to the purpose established for this district.

This residential home is in the midst of a residential setting and had not been previously used as a business. Staff sent notices to property owners within a 200' radius of this site and we did receive several complaints regarding the business in the residential area regarding the higher amounts of traffic going through the small private drive and simply having the business in the middle of single family homes. Staff agrees that the amount of traffic due to the employees, customers, etc. have a negative impact on the residential neighborhood and must be re-located in an area designated for commercial use.

The applicant and his representative were going to submit more information in regards to the time that it would take to relocate into a commercial area. This would allow the applicant to contact the surrounding neighbors to see if there was a way that they can negotiate an agreement that would allow the CUP to exist for a limited time.

Mr. Salinas stated that at our last meeting it was discussed that the applicant was going to meet with the neighbors to try and see if they could negotiate a specific timeframe. He added that the applicant submitted information from the state which included the time it would take him to get his licenses in order. Mr. Salinas stated that in looking at the information provided by the applicant it seems that the licenses were obtained within 3 to 6 months and this information was from the Texas Department of Aging and Disability Services. Mr. Salinas mentioned that the applicant was present and would be able to give staff and the Board an update on the information provided.

Chairman Rene Flores stated that he would like to hear any comments from a representative from the neighborhood

Mr. Alan Oakley who resides at 2609 East 2 Mile Line stated that during the last meeting Mr. Torres mentioned that it might take a year to get the paperwork done but now based on the paperwork submitted it seems that it would take between 3 to 6 months which would be fair enough for the neighborhood.

Chairman Rene Flores asked Mr. Oakley that just for clarification the neighborhood would be willing to consider approving the request for a 3 to 6 months period with the understanding and when that time is up Mr. Torres should have relocated his business to a commercial building.

Mr. Oakley stated that it would be fair for both parties because they wanted him to do well somewhere else and continue to grow.

Chairman Rene Flores asked if there were any additional comments.

Mr. Oakley stated that they would like to get the house a little cleaned up to be more presentable as a house as oppose to a business because it currently looked pretty commercial.

Chairman Rene Flores mentioned that he believed once the business is relocated the house should be cleaned up.

Mrs. Donna Oakley stated that a couple of the neighbors have commented on the debris, locked up flag stoner, tile, lumber, etc. because from their yards that is what they see which makes it look like a salvage

yard. Ms. Oakley stated that most of these concerns were addressed in the first letters that were submitted.

Mr. Ned Sheats stated that he recalled that in the last meeting they were considering approving the conditional use permit for 6 months but no more than 1 year for Mr. Torres to relocate his business. Mr. Sheats added that during that period of time the house should look back to a house the yard to look like a yard the issue with the debris would have to be handled separately from the home health.

Mrs. Oakley stated that she understood that the neighborhood comments had nothing to do with the home health business.

Mr. Sheats stated that staff could consider their comments but they would have to be handled separately they wouldn't have anything to do with the Board's recommendation in regards to the home health business.

Mrs. Oakley stated that she understood that but in the previous meetings they were also told they could provide a list of the item that they wanted Mr. Torres to take care off so that why she mentioned the comments from the other neighbors.

Mr. Israel Torres who resides at 2509 E. 2 Mile Line stated that the information provided showed the turnaround of the different licenses that they have to apply for. He added that usually some of them are quick and take 1 to 2 months but there are some that take more time like 6 months. Mr. Torres stated he is willing to do everything he can to move out of there in less than 6 months but he really didn't consider he could get all of his licenses in 6 months because it might take up to 1 year.

Mr. Sheats stated that he recalled they were considering approving the request for 6 months but no more than a year not 6 months and renew until he gets all his licenses.

Mr. Torres stated that he is looking into either leasing or purchasing a property and he was going to decide that within two weeks once he decides he will submit all his applications with the new location after that it all depends on the state it could take 1 or 2 months or it might take more time. Mr. Torres mentioned that he just didn't want his neighbors to think that he was lying to them.

Mrs. Marisela Marin stated that she believed that the neighbors are reasonable enough to give him more time as along as he shows proof that effort has been made to relocate.

Mr. Torres asked once he relocates his business could he keep is cars, boat, and lumber as long as it is well maintained.

Mr. Sheats replied, "Yes, as long as it is well maintained".

There being no further discussion, Chairman Rene Flores entertained a motion. Mr. Ned Sheats moved to approve the conditional use permit for 6 months at which time the CUP will expire unless evidence is given that substantial progress has been made with an option to renew based on the Commission's opinion. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #3.0
ADJOURNMENT**

There being no further items for discussion, Mr. Abiel Flores moved to adjourn the meeting. Mr. Ned Sheats seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 5:57 p.m.

Rene A. Flores, Chairman
Planning and Zoning Commission