

**PLANNING AND ZONING COMMISSION
JANUARY 23, 2013
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Rene Flores
Ned Sheats
Marisela Marin
Carlos Lopez
Abiel Flores
Mario Garza

P&Z ABSENT

Diana Izaguirre

STAFF PRESENT

Daniel Tijerina
Bobby Salinas
Susana De Luna
Sonia Marroquin
Julio Cerda
Martin Garza
Willie Seguin

GUESTS PRESENT

Marcos Diaz, P.E.
Edith Gutierrez
Rene Barrera, P.E.

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 JANUARY 9, 2013

Chairman Rene Flores asked if there were any corrections to the minutes for January 9, 2013. Mr. Ned Sheats moved to approve the minutes as presented. Mr. Abiel Flores seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:01 p.m.

Ended: 5:06 p.m.

ITEM # 1.1

**Preliminary & Final Plat Approval: Re-subdivision plat of Lot 21,
Sharyland Plantation Village
Antigua Ph. VI
PUD (Estate Lots)
Developer: Eduardo A. Trevino Garcia
Engineer: Halff Associates**

Mr. Bobby Salinas went over the write up stating that this proposed re-plat is located on the NW area of Glasscock Road and Antigua Drive. State Code requires re-plats to have a public hearing.

The subdivision consists of an existing estate lot that will be divided into two lots. When the Antigua plat was first submitted for review it showed a total of 23 lots. Hunt Valley Development then began to subdivide the lots on an as needed basis, where potential owners would select which lot they would like to purchase then Hunt Valley Development would subdivide the tract. Phase VI of Antigua was subdivided as a 1 lot plat that included all of what was to be Lots 21 and 22. Now, the owners wish to re-subdivide the lot into Lots 21 and 22 lots as was originally planned.

Utilities: When Antigua was first built, all water and sewer services were installed for all 23 lots, thus there is no utility work to be done for the re-plat. The capital sewer recovery fee of \$200 is required as per Ord. 3022 for the additional lot.

Streets & Storm Drainage: This re-plat abuts Antigua Drive a 50' ROW, 32' B/B private street. The road is fully built and does not require additional ROW. Drainage is accomplished through an existing system that consists of a series of 24" and 36" R.C.P. lines from the original construction of the entire subdivision.

Other comments include: Park fees of \$300 are required for the additional lot, Antigua is already excluded from the water district, must comply with all other format findings, street lighting already exists and is privately owned and maintained by the HOA.

Staff recommended approval subject to: 1) payment of capital sewer recovery fee and park fees, and 2) must comply with all typical format findings.

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.

Mr. Marcos Diaz who resides at 2203 Hanna Drive in Edinburg, Texas was present to address any questions that the Board might have.

Chairman Rene Flores asked Mr. Diaz what was his capacity in Halff Associates.

Mr. Diaz stated that he was a Civil Engineer.

Chairman Rene Flores asked Mr. Diaz if he had reviewed staff's recommendations and he was receptive to them.

Mr. Diaz replied, "Yes".

After a brief discussion, Chairman Rene Flores entertained a motion. Mr. Mario Garza moved to approve the preliminary & final plat as per staff's recommendations. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:06 p.m.

Ended: 5:11 p.m.

ITEM # 2.0

Single Lot Variance:

**0.35 Acre tract of Abandoned
Canal ROW out of Lot 192,
John H. Shary Subdivision
R-1
Homer Venecia**

Mr. Bobby Salinas went over the write up stating that the property is located 220' west of Glasscock Road along the south side of E. 4th Street. The vacant site measures 59.3' x 150' a total of 8,895' total sq. ft. The applicant is proposing to have a new single family home on the subject property. There used to be an existing home on the lot, however it was demolished. The property is currently zoned R-1 and exceeds the minimum R-1 area requirement of 6,000 sq. ft.

Water and sewer: Water service is available through the existing 6" water line that runs along the north side of E. 4th Street. There is an existing fire hydrant located along the south west side area of Toledo and E. 4th Street. Sewer service is available through the existing 8" sewer line located along the south side of 4th Street. The new home will be utilizing the same water and sewer service connections as the previously existing structure. The capital sewer recovery fee will be imposed at \$200/Housing Unit Equivalent.

Streets: The property has frontage along a recently paved E. 4th Street; which is an existing 60' ROW, 24' B/B Street and which will serve as the ingress/egress to the property.

Other comments include: park fees of \$300 per lot, and exclusion from the water district.

Staff recommended approval subject to: 1) payment of capital sewer recover fee and park fees, and 2) provide proof of exclusion from the water district.

Chairman Rene Flores asked if there was any input from the Board.

There was no response.

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

There was no response.

Mrs. Marisela Marin asked Mr. Salinas if there was an existing home there before why weren't all of the fees paid already.

Mr. Salinas stated that he assumed this property was in the County when the home was constructed and this particular lot was split after August 1974 which was when the City of Mission Subdivision Code was adopted so because of that staff needs to impose a 1-lot subdivision or a single lot variance.

Mrs. Marisela Marin asked what would happen if he hadn't demolished it.

Mr. Salinas stated that it would have been okay because it would be an existing non-conforming use.

Mrs. Marisela Marin asked if he had remodeled it or rebuilt it would have been alright.

Mr. Salinas stated that if he had done a re-roof or fix the window that would have been fine. However if they would have said I want to do an addition, then it would trigger the 1-lot subdivision or single lot variance process.

Mr. Ned Sheats asked if the property or right of way on the right hand side of the property was going to be subdivided, developed or are they going to do single lot variances.

Mr. Salinas stated that the property was abandoned canal right of way and depending on when it was sold, if it was split after August 1974, then we will be seeing these types of tracts, especially if they want to build something new.

Mr. Ned Sheats asked if there were any homes on that tract.

Mr. Salinas stated that there were several homes along the edge.

Mr. Ned Sheats stated that then these homes would be classified as existing non-conforming uses.

Mr. Salinas replied, "That's correct".

Chairman Rene Flores asked just for clarification if the reason staff was asking for payment of capital sewer recovery fee was because the City had already expended monies to add a sewer line.

Mr. Salinas replied, "That's correct".

Chairman Rene Flores asked why staff was asking for the proof of exclusion.

Mr. Salinas stated that staff wanted to be sure that they are excluded from the water district because the water rights would be dedicated to the City.

There being no further discussion, Chairman Rene Flores entertained a motion. Mr. Mario Garza moved to approve the single lot variance as per staff's recommendations. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:11 p.m.

Ended: 5:14 p.m.

ITEM # 2.1

**Single Lot Variance: 0.262 Acre tract out of Lot 192,
John H. Shary Subdivision
R-1
Edith Gutierrez**

Mr. Bobby Salinas went over the write up stating that the property is located at 150' north of 2 ½ Street along the west side of Union Street. The vacant site measures 70' along Union Street, 161' (north), 70.5' (west), and 165' (south) 11,410' total square feet. The applicant is proposing to have a new single family home on the subject property. The property is currently zoned R-1 and complies with the minimum R-1 lot dimensions of 60' x 100'.

Water & Sewer: Water service is available through an existing 8" waterline located along the west side of Union Street. There is an existing fire hydrant located along the south west side of Glasscock Road and 2 ½ Street. There is an existing sewer service connection available to serve this site through an existing 8" line located along the east side of Union Street. The capital sewer recovery fee will be imposed at \$200/Housing Unit Equivalent.

Street: The property has frontage to a recently paved Union Street; which is an existing 50' ROW, 24' B/B Street and which will serve as the ingress/egress to the property.

Other comments include: park fees of \$300 per lot, and exclusion from the water district.

Staff recommended approval subject to: 1) payment of capital sewer recovery fee & park fees, and 2) provide proof of exclusion from the water district.

Chairman Rene Flores asked if there were any input from the Board to the request.

There was no response.

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

Mrs. Edith Gutierrez stated that she was the owner of this lot. She added that she had bought this property at an auction which ironically was misrepresented. She mentioned that the IRS had it misrepresented on 4th Street and if you're familiar with this area it is not very nice. Mrs. Gutierrez stated that she would like to resell the property but everybody who has come and asked the City has been told they need to subdivide, so she decided to go through the process.

Chairman Rene Flores asked for how long she has owned this property.

Mrs. Gutierrez stated that she has owned this property for about 5 to 6 years.

Mr. Sheats asked Mrs. Gutierrez how much did she pay for the lot.

Mrs. Gutierrez stated that she got a good deal and since the area was kind of getting better she hoped to sell it soon.

Mr. Mario Garza asked Mrs. Gutierrez if she was receptive to staff's recommendations.

Mrs. Gutierrez replied, "Yes".

Chairman Rene Flores entertained a motion. Mr. Ned Sheats moved to approve the single lot variance as per staff's recommendations. Mr. Abiel Flores seconded the motion. Upon a vote, the motion was unanimously approved.

Mr. Ned Sheats asked Mr. Salinas for educational purposes if when the City has to cut a street for the sewer to go under it those fees would be covered on capital sewer recovery fees that they have already paid or would they have to pay additional.

Mr. Salinas stated that those fees would be an additional cost the only good thing is that when those lines were installed they were left prepared so that they could hook-up to them according to public works.

Started: 5:14 p.m.

Ended: 5:26 p.m.

ITEM # 3.0

Request by GV Shary Development, LTD, to have Keystone Subdivision (Unrecorded) as a "Gated Community"

Mr. Bobby Salinas went over the write up stating that Keystone is located 215' north of Victoria Road along the west side of Taylor Road. The proposed subdivision consists of 45 single family residential lots. Keystone contains 45 single family lots that were preliminarily approved by the City Council in July 2012 with a series of 4 new public streets.

As with other gated communities that the Planning & Zoning Board has considered and approved, these public streets would now be considered private with the Homeowner's Association being responsible for the monthly street lighting bill, the maintenance of streets sidewalks, and drainage. If approved, the desired type of gate/lock must first be reviewed and approved by the Fire Department and Police Department. Also, attached you will find the City Attorney's Hold Harmless Agreement imposed on all of the affected lots of Keystone Subdivision. Staff does not object approval of the request subject to: 1) lien agreement signed/recorded by the HOA; 2) HOA is responsible for the monthly street lighting bill; 3) HOA is responsible for all street maintenance, inclusive of storm drainage, and sidewalks; and 4) prior approval of gate/locking mechanism by Fire and Police Departments.

Mr. Salinas stated that Mr. Rene Barrera which was the engineer for this subdivision was present to answer any questions that the Board might have. He added that the only concern staff had in regards to this request was that it seemed that the property on the north side of the subdivision entrance would be land-locked but staff did talk to the developer and he did not have a problem with giving them access to Cassandra Street.

Chairman Rene Flores asked Mr. Salinas if he understood correctly that this subdivision had not been recorded yet.

Mr. Salinas stated that it was in the process of being completed. He added that it was the same developer, same owner that they saw in 2012 except now they want to change it and add a gate to privatize the whole area. He mentioned that the only reason it was brought back to P&Z was because they were asking for the variance to have a gated community.

Mr. Rene Barrera stated that he was the Civil Engineer for the developer.

Chairman Rene Flores asked who the developer is.

Mr. Barrera stated that it was a partnership GV Shary Development, LTD, which Defino Gaona is one of the partners and he is the owner of Keystone Construction. He added that they were still under construction and believed that they were at a

point where the street and utilities were being tested. Mr. Barrera mentioned that there were a lot of people asking about being a gated community so he asked our company to propose that to the City. Mr. Barrera stated that staff's concern about the property to the north being land-locked was discussed with the developer and Mr. Gaona had no opposition in bring them into the Home Owners Association and giving them free access to the gated community.

Chairman Rene Flores asked if the owner wanted access to the gated community.

Mr. Barrera stated that they had not talked to that particular owner but knew that currently they were using drainage right-of-way for their access.

Mr. Salinas stated that they were accessing their property through the north side.

Mr. Barrera stated that they could give them access to Cassandra and they could put it on the HOA documents that way the City Attorney can review them.

Mrs. Marisela Marin asked Mr. Barrera if they were going to include it in the HOA or the recorded plat.

Mr. Barrera stated that what they can do is on the recorded plat reference the document number in the HOA.

Mrs. Marisela Marin stated that her only concern was that sometimes the restrictions are not given to the property owners versus the recorded plat that could be obtained more easily.

Mr. Barrera stated that they can include a plat note stating that they have perpetual access to Cassandra Drive.

Mrs. Marisela Marin stated that she would feel more comfortable with including that plat note on the subdivision.

Chairman Rene Flores asked staff if they knew who owned both of those lots.

Mr. Salinas stated that Taylor Road Hospital owns one tract and Oscar & Margarita Jimenez owns the other tract.

Chairman Rene Flores asked if they had been notified of these requests.

Mr. Salinas stated that they had been notified of the rezoning.

Chairman Rene Flores mentioned that he would've liked to see that Mr. & Mrs. Jimenez had knowledge that they are closing the street and he has been given the

option of saying if they want to be part of the HOA or not, and that they don't mind being confined to this subdivision that he initially didn't sign up for.

Mr. Salinas stated that Mr. Jimenez property was historically land-locked.

Mr. Ned Sheats asked Mr. Salinas if he believed they would ask Mr. & Mrs. Jimenez to be part of the HOA.

Mr. Barrera replied, "No". He added that he would be given the benefit of accessing Cassandra.

Mr. Salinas stated that staff wanted to make sure that they don't put up a fence along the north side of Cassandra impeding his access if he ever wanted to use it to exit his property.

Chairman Rene Flores stated that his concern was what if Mr. Jimenez doesn't even want to be in the subdivision in the first place what would happen then.

Mr. Daniel Tijerina stated that this street Cassandra is being put in by the developer so in essence there could be a reimbursement contract where in water, sewer, and street could be required of Mr. Jimenez and the other property owners on the north side of the street to have access to Cassandra Street. Mr. Tijerina stated currently Mr. Jimenez is being afforded the opportunity to have access to the street without any reimbursement fees.

Mr. Barrera stated that the developer was not seeking any reimbursement.

Mr. Tijerina stated that typically and potentially he could file a reimbursement contract if he wanted because Cassandra is being put in by the developer, not by Mr. Jimenez or any of the other property owners.

Mr. Ned Sheats stated that he disagreed with the Chairman because this agreement needs to be written usually things tend to be forgotten when they are not in writing.

Mr. Salinas stated that they could make it a plat note on the plat itself as Mrs. Marisela Marin suggested it to state that they can access Cassandra Street perpetually to avoid having any problems in the future.

Mr. Abiel Flores asked Mr. Salinas if there was already a provision either to an easement or something from the first property when if when the property was sold to Mr. Jimenez.

Mr. Salinas stated that not necessarily because this property would not be affected at all because their access was always on the north side through a private road easement. He added that this just happens to be a good benefit for Mr. Jimenez because he has street access now and if he wants to access Cassandra Street he could.

There being a brief discussion, Chairman Rene Flores entertained a motion. Mr. Ned Sheats moved to approve the request as per staff's recommendations including an encumbrance document and plat note to have access to Cassandra Street. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion was unanimously approved.

Started: 5:26 p.m.

Ended: 5:28 p.m.

ITEM # 4.0

**Tabled Conditional Use Permit: Sale & On-Site Consumption of Alcoholic Beverages – Fanatics Sports Bar & Grill
2140 E. Business Highway 83
Lots 1 & 2, Grapefruit Bowl, Inc.
C-4
Fanatics Sports Bar & Grill
/Matador Lounge, Inc.**

Mr. Daniel Tijerina asked that this item remain on the table since Mr. Jim Inks forwarded a letter stating that due to medical reasons he was not going to be able to attend the meeting and would like for this item to be considered at the next meeting.

Started: 5:26 p.m.

Ended: 5:28 p.m.

ITEM # 4.1

**Tabled Conditional Use Permit: Sale & On-Site Consumption of Alcoholic Beverages – Valley Bowl
2140 E. Business Highway 83
Lots 1 & 2, Grapefruit Bowl, Inc.
C-4
Valley Bowl/Jim Inks, Inc.**

Mr. Daniel Tijerina asked that this item remain on the table since Mr. Jim Inks forwarded a letter stating that due to medication reasons he was not going to be able to attend the meeting and would like for this item to be considered at the next meeting.

Started: 5:28 p.m.

Ended: 5:33 p.m.

ITEM # 5.0

**Preliminary & Final Plat Approval: Lantana Ranch, Ph. II Subdivision
A 7.53 ac. tract of land out of Portion
of Porcion 77
Rural ETJ
Developer: Hector & Virginia Cortez
& John Lopez
Engineer: Nain Engineering**

Mr. Bobby Salinas went over the write up stating that this proposed subdivision is located at the NE area of Mile 3 Road and Volcano Road. The plat includes a total of 9 lots. Since the lots front Mile 3 and there is no zoning in the County, each lot may be used for residential, multi-family, or commercial purposes. Each lot exceeds the County minimum ½ acre minimum requirement. We also note that there is an existing AGUA water well located on Lot 12 which will not allow septic tanks to be within 150' from the well, thus the need for the water easement.

Mrs. Marisela Marin asked if there was an existing water well already.

Mr. Salinas mentioned that it was an existing test well.

Chairman Rene Flores asked if this was part of the newly acquired land.

Mr. Salinas replied, "No". He added that staff saw Lantana Ranch Phase I probably about two years ago. It was a 5-lot plat and when the well was put in, the developer had already installed all the water services prior to 3 Mile being widen or paved.

Chairman Rene Flores asked what was typically out there mobile homes or trailers.

Mr. Salinas stated that in talking with the developer he mentioned they could be considered for commercial use.

Mr. Salinas mentioned that for water this plat is within AGUA's CCN. When Lantana Ranch Ph. I was developed, the owner had installed 1" dual service connections for PH. II. The service connections are connected into an existing 8" AGUA waterline that currently runs along the south side of Mile 3. Hydrants are not required within the Rural ETJ area as per the City's Subdivision Code.

Sewer: The sanitary sewer service for this subdivision is addressed by individual on-site sewage facilities (OSSF) consisting of a standard design septic tank and drain field on each lot, thus meeting the City's minimum requirements for sewage

facilities within the Rural ETJ. This area is not in the City of Mission's Sewer CCN (Note: Mission sewer is 4.32 miles away).

Street & Storm Drainage: Access for this subdivision will be through Mile 3 Road, a major arterial with 120' of ROW. Lot 6 will also have 'corner lot' frontage to a future County Road (Volcano Road). It is an un-paved road with 50' ROW. Both street ROWs exceed the City's rural development requirements of 50' and the developer will have to meet Hidalgo County paving standards, prior to filing with Hidalgo County.

Mrs. Marisela Marin asked if he would lose property on Lot 6 making it a little less than ½ an acre once they do the widening of 3 mile.

Mr. Salinas stated that he wouldn't lose anything because the right of way ended on the west line.

Mr. Salinas stated that the drainage for the subdivision is proposed through the use of swales located in the rear of each property and has been approved by HCDD#1.

Staff recommended approval subject to: 1) must meet Model Subdivision Rules, and 2) must comply with Hidalgo County rules and regulations, including format requirements.

Chairman Rene Flores asked if there was any input from the Board 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. Mario Garza moved to approve the subdivision plat as per staff's recommendation. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

ITEM # 6.0 ADJOURNMENT

There being no further items for discussion, Mr. Ned Sheats moved to adjourn the meeting. Mr. Mario Garza seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 5:35 p.m.

Rene A. Flores, Chairman
Planning and Zoning Commission