

PLANNING AND ZONING COMMISSION
APRIL 23, 2014
CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.

P&Z PRESENT

Ned Sheats
Carlos Lopez
Marisela Marin
Abiel Flores
Diana Izaguirre

P&Z ABSENT

Rene A. Flores
Mario Garza

STAFF PRESENT

Daniel Tijerina
Bobby Salinas
Susana De Luna

GUEST PRESENT

Opal Billman
Isaac de Santiago
Mario Calera
Rene Barrera
Daniel Aguirre
Yadira Villarreal
Eloy Chapa

CALL TO ORDER

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

CITIZENS PARTICIPATION

Vice-Chairman Ned Sheats asked if there was anyone in the audience for citizens' participation.

Mrs. Opal Billman who resides at 301 N. Shary Road stated that because development has occurred on her land that is owned by the estate of Joe Billman & her without any purchase of land from Joe Billman and her she filed a request with the City for public information as to the involvement of the City. The information that she received reflects that the City is providing money to the court to buy land belonging to the estate of Joe Billman & her from a Billman Real Estate LTD corporation on the foundation that certain tracts of land were conveyed to Billman Real Estate LTD through warranty deed recorded under document #1181375 Hidalgo County Office Records. Land listed in deed #1181375 is community property owned by and in the names of Joe Billman and her. Deed #1181375 is signed by only Joe therefore since one owner cannot convey community property the deed is invalid. The deed conveys nothing Joe cannot convey, transfer or will her property. The Billman Real Estate LTD has no ownership in the community property of the estate of Joe Billman and her neither does the court. The only authority the court had was to issue a fair division of their community property to Joe and her for a divorce settlement and finalized a divorce that did not happen no matter how many years the court hangs on to our community property the court will never have the authority to sell it. The court has no authority to sell our community property. In the State of Texas if someone builds on land that they do not own they can remove their building but if they leave them the buildings belong to the land owner. She claims the street that goes nowhere and the buildings which have been built on land belonging to them on the frontage of John H. Shary, Lot 184. She claims this buildings and the street as theirs because they are in their land. There is no law requiring anyone to make a will. Also, if an individual makes a will, there is no law requiring him to will everything he owns. Any property owned by the deceased left out of the will still belongs to the deceased it is his residuary or left over property. Joe Billman did not will his land therefore under State Law it remains the estate of Joe Billman. Under the State Law

an undivided 1/2 of this community property is hers and the other 1/2 is the estate of Joe Billman, Joe's 3 kids own the estate of Joe Billman. Joe sold his community property and I sold my community property and neither one of us have received any money for any of our community property. Since Joe's death, to self-convey or transfer any property or part of this land requires four signatures. The four owners are Cynthia, Stacia, Jason & Opal Billman. Anybody claiming ownership without these four signatures can take their problem because they have one to their title company. She mentioned that she just wanted the Planning and Zoning Board to be aware of this circumstance. She added that she has been before the City Commissioners meetings before and before this Board before but it had been a while ago. She added that she has been through a number of things including two trials in the years that have gone on between the gaps.

Vice-Chairman Ned Sheats thanked Mrs. Billman for bringing it to their attention and wished her that everything gets resolved soon.

APPROVAL OF MINUTES FOR MARCH 26 & APRIL 9, 2014

Vice-Chairman Ned Sheats asked if there were any corrections to the minutes for March 26, & April 9, 2014. Mr. Carlos Lopez moved to approve the minutes as presented. Mr. Abiel Flores seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:06 p.m.

Ended: 5:10 p.m.

ITEM #1.1

**Conditional Use Permit Renewal: Home Occupation- Registered Home Daycare
1808 E. 24th Street
Lot 24, Glasscock Village Subdivision
R-1
Yadira Villarreal**

Mr. Bobby Salinas went over the write-up stating that the site is located approximately 950' west of Glasscock Road along the south side of E. 24th Street. The home has a 107' long driveway capable of holding 5+ vehicles in order to accommodate the safe drop off and pick up of children. There is a six foot opaque buffer fence surrounding the rear of the residence to maximize protection of the children. The applicant is proposing the use of the garage area for the child care services. They are waiting to see if the home occupation proposal is approved in order to remodel the garage for use as a registered home daycare.

- **Days/Hours of Operation:** Monday – Friday from 6:30 a.m. to 6:00 p.m.
- **Staff:** Herself and 1 other employee that does not live at the home, thus in compliance to code.
- Must obtain a DHS certification, which will assign the maximum number of children to be cared for
- Must comply with Sect. 1.56-1, Zoning Code (home occupations reg.), inclusive of any signage being a maximum of 1' x 1' and must be attached to the home.

- There shall be other indication of a registered home on the property, other than the 1' x 1' sign.

Review Comments: The City has approved other similar types of home occupations throughout the years without incident. The applicant will be required to obtain DHS certification and approval from the City prior to operating the new registered home daycare.

Recommendation: Staff recommends approval for 1 year subject to: 1) must obtain DHS certification, 2) must comply with Sect. 1.56-1 of the Zoning Ordinance, and 3) acquiring a business license.

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

There was no response.

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

The applicant, Mrs. Yadira Villarreal who resides at 1808 E. 24th Street, Mission, Texas was present to address any questions from the Board.

Vice-Chairman Ned Sheats asked if she knew if this subdivision had a home owners association.

Mrs. Villarreal replied, "No".

Vice-Chairman Ned Sheats asked staff if they could find out if this subdivision had a home owners association just to get their input in regards to this request.

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

Started: 5:10 p.m.

Ended: 5:16 p.m.

ITEM #1.2

Conditional Use Permit:

**Sale and On-Site Consumption of Alcoholic
Beverages- Inolvidable Bohemia Cocina Bar
2120 E. Business Hwy. 83
Lot 51, Sharyland Orchards Subdivision
C-4
Mario Calera**

Mr. Bobby Salinas went over the write-up stating that the subject site is located on the SE corner of Ragland Road and Business 83. On 8/26/13, the City Council approved a CUP for the sale of alcohol for what was El Santo Refugio Restaurant Bar for a period of 1 year. Since El Santo Refugio is now closed, a new applicant is now proposing to open the "Inolvidable

Bohemia Cocina Bar”. The site has an existing building that contains a restaurant side and a closed mechanic shop. Access to the site is off of Ragland Road and Business 83. The restaurant also has a 32’ x 18’ pergola located on the west side of the site. This area would be utilized only during good weather as with the previous CUP applications.

- **Hours of Operation:** Sunday – Thursday from 11 a.m. to 12 a.m., Friday & Saturday from 11 a.m. to 2 a.m. Alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 28.
- **Parking & Landscaping:** In viewing the floor plan, there are 108 total seating spaces for the restaurant, which require 36 parking spaces (108 total seating spaces/3 = 36 parking spaces). It is noted that the parking area is held in common (41 existing parking spaces) and is shared with a closed auto mechanic shop. Since the business was La Playita and El Santo Refugio, Staff has not received any complaints in regards to parking. Staff does not anticipate any issues with parking. In regards to landscaping, there are existing green areas and landscape Islands within the parking lot along Business 83 and multiple trees.
- **Noise Code:** In speaking to the applicant, they may have a single guitar musician or a pianist providing music for the customers.
- **Sale of Alcohol:** The applicant is proposing to have a full bar available for the restaurant. Section 1.56(3a) states that bars must be at least 300’ from the nearest residence. There is an existing mobile home subdivision that is located along the south side of the site. Staff notes that during the previous CUP approvals, this separation requirement was waived by P&Z and the City Council.
- There is an existing pool (with no water) that does not have a fence. The previous applicant had previously secured the pool; however, it needs to be secured once again.
- Must comply with Fire & Health Departments and must obtain a business license.

Review Comments: El Santo Refugio was approved under the proposition that it was going to be primarily a restaurant (closed no later than 12 a.m. on weekends). This is also primarily a restaurant however; they are proposing to close at 2 a.m. on Fridays & Saturdays. Since this is a new applicant and a new venture, Staff would not object to a 1 year approval, however, keeping a close eye on any incidents that may occur.

Recommendation: Staff recommends approval for 1 year subject to waiver of the 300’ separation requirement and providing a gate to completely secure the existing swimming pool.

Mr. Salinas stated that staff had included a copy of the menu for their review.

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

There was no response.

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

The applicant, Mr. Mario Calera who resides at 912 Princeton Street was present to address any questions from the Board.

Mrs. Diana Izaguirre walked in at 5:14 p.m.

Vice-Chairman Ned Sheats asked Mr. Calera if had understood staff recommendations.

Mr. Calera replied, "Yes".

Vice-Chairman Ned Sheats stated that he didn't have a problem in approving the conditional use permit for 1 year but advised Mr. Calera that the pool needed to be addressed either by filling the pool or having it screened in order to avoid any problems in the future.

Mr. Salinas stated that the business license would not be issued unless pool is screened off.

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

Started: 5:16 p.m.

Ended: 5:19 p.m.

ITEM #1.3

**Conditional Use Permit Renewal: Home Occupation – Photography Studio
2002 N. Mayberry Road
A 155' x 220' tract of land out
of the SW ¼ of Lot 24-9,
West Addition to Sharyland Subdivision
AO-I
Mr. Arturo & Mrs. Mandie Navarro**

Mr. Bobby Salinas went over the write-up stating that the subject site is located in the NE area of Mayberry Road and Volz Lane.

HISTORY: In 2012, Mr. & Mrs. Navarro purchased this site as their personal residence. According to the applicant, the home dates back to approx. 1912, which has been beautifully restored and is located on approx. ¾ of an acre.

The applicant wishes to obtain a CUP renewal to continue to offer their property to professional photographers and their clients for outdoor photo sessions for special events such as weddings, quinceneras, anniversaries, etc. This CUP was originally approved on 3-25-13 for a period of 1 year.

- **Hours of Operation:** Monday – Saturday from 9a.m. to 7p.m. by appointment only.
- **Staff:** Only Mr. & Mrs. Navarro run this home occupation.
- **Parking & Landscaping:** There is an existing driveway capable of accommodating 8+ vehicles. Since the CUP has been in effect, Staff has not received any complaints in

regards to parking. The site currently has several mature trees and other plants in the area.

- The applicant must continue to comply with Sec.1.56-1, of the Zoning Code (home occupations) – see code below.

REVIEW COMMENTS: The home occupation has been in effect for 1 year with no incidents reported. Since the proposal is by appointment only, and there is plenty of parking and landscaping, staff does not object to the renewal of this CUP.

RECOMMENDATION: Staff recommends approval for 1 year.

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

There was no response.

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

There was no response.

Vice-Chairman Ned Sheats asked if staff had any reason for not approving this conditional use permit for more time.

Mr. Salinas replied, “No”.

Vice-Chairman Ned Sheats recommended that this conditional use permit be approved for life of use but would like the Board’s input.

There being no discussion, Vice-Chairman Ned Sheats entertained a motion. Mrs. Marisela Marin moved to approve the conditional use permit for life of use instead of the 1 year recommended by staff. Mr. Abiel Flores seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:19 p.m.

Ended: 5:30 p.m.

ITEM #2.0

Site Plan Approval:

**Construction of 35 Apartments
1 ac. tract of land out of Lot 22-1,
West Addition to Sharyland Subdivision
R-3
Eloy Chapa**

Mr. Bobby Salinas went over the write-up stating that the subject site is located 800’ north of Barnes Street along the east side of Inspiration Road.

PROPOSAL: The owner wishes to build 9 one story complexes containing 35 apartments that will be adjacent to his other existing apartments located to the north. There will be 32 two

bedroom apartments and 3 one bedroom apartments. Each four-plex equates to 3,532.41 s.f. and the single tri-plex equates to 2,125.24 sq.ft. All units shall be divided by a minimum of 1 hr. rated firewalls. The Fire Marshal is requesting 2 additional fire hydrants to be installed. The water line shall be placed within a dedicated public easement (owner to provide metes and bounds and survey of the easement).

SETBACKS: The minimum required setbacks for an R-3 zone are based on the subdivision are: Front: 30', Rear Setback: 15', Side: 6'. All setbacks are being exceeded.

PARKING: The 35 units are calculated to require 70 parking spaces based on the 2:1 parking ratio. The applicant is proposing 70 spaces along the west, north and east of the apartments, thus in compliance with code. A new dumpster will be provided next to the existing dumpster from the apartments to the north and an additional dumpster will be provided in the center rear of the lot.

LANDSCAPING: The applicant is providing 21% of green area throughout the lot, where a minimum of 10% is required. The landscaping code requires 1 tree for every two units, thus requiring 18 shade or ornamental trees. The applicant is proposing a combination of trees, plants, and shrubs being a minimum of 7' tall - 3" caliper trees within the landscape areas.

OTHER COMMENTS:

The following amounts are required to pay for the 35 units.

- Capital Sewer Recovery Fee in the amount of \$4,050.00 (3 one bedroom apartments X \$70.00 = \$210.00, 32 two bedroom apartments X \$120.00= \$3,840.00)
- Park Fees in the amount of \$10,500.00 (\$300.00/35 apartments)
- A 5' sidewalk is required along Inspiration Rd. at building permit stage or shall be placed into escrow at \$12/L.F.

RECOMMENDATION: Staff recommends approval subject to: 1) Payment of the Capital sewer recovery and park fees; 2) Provide the metes and bounds/survey for the waterline easement; 3) Provide or escrow 5' sidewalk; and 4) Provide one 7' – 3" caliper shade tree for every 2 apartments.

Mr. Bobby Salinas mentioned that in speaking with the applicant just after the agenda was sent off they did come in with modifications on the actual site plan where they are adding an apartment to make it 36 and an office to have an apartment manager to handle the whole area such as maintenance, etc. He added that the office would be along the front and then they modified the back to include the apartment.

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

Mrs. Marisela Marin asked what type of restrictions staff uses for ADA and if this project had any ADA parking spaces.

Mr. Salinas replied, "Yes".

Mrs. Marisela Marin asked if the handicap parking spaces were accounted for in the 70 parking spaces because you can't use them.

Mr. Salinas replied, "Yes".

Mrs. Marisela Marin stated that it should not be included because they can't be used if they are not handicap.

Mr. Salinas stated that he understood what Mrs. Marin was saying but was not sure how that would work because normally when they count parking they counted across the board even if its ADA. He mentioned that the questions he would need to look into would be if this private multi-family development would need to comply with ADA requirements.

Vice-Chairman Ned Sheats stated that he believes that anything for public rental should be ADA compliance.

Mr. Salinas stated that if it comes out that those 3 spaces cannot be counted staff will make sure that they have those 70 parking spaces clear and then 3 that are ADA. Mr. Salinas stated that this could be part of the recommendation.

Vice-Chairman Ned Sheats asked Mr. Salinas what was the date of the aerial.

Mr. Salinas replied, "early February 2013".

Vice-Chairman Ned Sheats asked when were the apartments on the north side completed.

Mr. Salinas mentioned that Mr. Chapa, who is the applicant and the owner of the apartments on the north side, was present if they had any questions. Mr. Salinas stated that the apartments were completed 12 years ago.

Vice-Chairman Ned Sheats stated that there seem to be a discrepancy in green area because there is an area along the front of the street that has no greenery.

Mr. Salinas stated that area he was referring to might be right-of-way but was not sure.

Mr. Eloy Chapa who resides at 2400 Palmhurst Drive stated that it was not right-of-way it was his property.

Vice-Chairman Ned Sheats stated that he didn't see any trees on the apartments that were constructed 12 years ago. Mr. Sheats asked if staff could go back to look into the minutes to find out if any trees and landscaping were required.

Mr. Salinas stated that he was sure some landscaping was required.

Vice-Chairman Ned Sheats stated that he would like that once the trees and landscaping are installed that it be maintained so that it could be green.

Mrs. Marisela Marin asked if there were any fence requirements.

Mr. Salinas stated that it would be required at the building permit stage.

Mrs. Marisela Marin asked if they had a fence on the old apartments but it just can't be seen.

Mr. Chapa stated that they did have a fence on those apartments.

Vice-Chairman Ned Sheats asked Mr. Chapa if they were proposing to have carports.

Mr. Chapa stated that all parking spaces would have a carport.

There being no further discussion, Vice-Chairman Ned Sheats entertained a motion. Ms. Diana Izaguirre moved to approve the site plan as per staff's recommendations including the landscaping, ADA requirements, fencing the northern area, and maintaining the landscaping area. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion to approve passed unanimously.

Started: 5:30 p.m.

Ended: 5:37 p.m.

ITEM #3.0

Preliminary & Final Plat Approval:

**Upper Rockingham Subdivision
A 5.748 acre tract of land out of
Lot 281, John H. Shary Subdivision
R-1A**

Developer: Charles Carter Dev., L.P.

Engineer: B.I.G. Engineering

Mr. Bobby Salinas went over the write-up stating that the subject site is located in the SE area of Stewart Road and 2 Mile Road. The proposed subdivision consists of 14 large lot single family residential lots. Each lot ranges from 9,208' sq.ft. to 16,683' sq.ft., exceeding the minimum area for R-1A lots.

WATER

The developer is proposing water service by installing a new 8" waterline that will connect into an existing 8" network located along the east side of the subdivision, thus looping the system. The developer is also proposing to add 1 new fire hydrant located via the direction of the Fire Marshal's office.

SEWER

The developer is also proposing sewer by connecting into an existing 8" line located along the east side of the subdivision which will be extended west to service the new lots. The Capital Sewer Recovery Fee is required at \$200/Lot which equates to \$2,800.00 (\$200.00 X 14 Lots).

STREETS & STORM DRAINAGE

The subdivision has frontage to Stewart Rd., a future 80' ROW, 57' B/B street. The developer will be dedicating an additional 20' of ROW along Stewart Rd. to equate to the minimum 40' from centerline as required by the Hidalgo County Thoroughfare Plan. The property also has frontage along 2 Mile Rd. which is proposed to be a future 100' ROW, 65' B/B street. 2 Mile Rd. was recently widened to 48' B/B, leaving a balance of 8 ½' along the north and south sides. Since we do not foresee additional widening along Mile 2 in the near future, staff is requesting the additional 8 ½' pavement section along Mile 2 to be placed in escrow at \$38.44/l.f. as determined by our Public Works Director. The developer is proposing to widen Stewart Rd. and will install two new 50' ROW, 32' B/B paved streets. Storm drainage is accomplished through a series of 24" storm lines and a set of inlets which will connect into an existing storm system currently located to the east of the subdivision.

OTHER COMMENTS

- Park Fees - \$300.00/Lot = \$4,200.00
- Install 5' sidewalks along Stewart Rd. or escrow in the amount of \$3,576 (298' X \$12L.F.)
- Escrow street widening for 2 Mile Rd. in the amount of \$10,052.06 (261.50' X \$38.44L.F.)
- There are no reimbursements due for this property.
- Must submit a street light plan for review and approval.
- Water District Exclusion
- Must comply with all other format findings

RECOMMENDATION

Staff recommends approval subject to:

1. Must provide escrow for Mile 2 Rd.'s remaining widening;
2. Must pay capital sewer recovery and park fees;
3. Provide water district exclusion; and
4. Comply with all other format findings.

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

Mr. Salinas stated that Mr. Rene Barrera from B.I.G. Engineering was present to address any questions.

Representing Charles Carter, Mr. Rene Barrera, from B.I.G. Engineering stated that he was the original engineer for Rockingham Subdivision which was developed back in 2005 or 2006. He is proposing to continue that same type of development to the west on that tract of land. Mr. Barrera mentioned that when they did phase I they left stub outs in anticipation of the future development to the west.

Vice-Chairman Ned Sheats asked if he knew why they had a bump on 2 Mile Line.

Mr. Salinas stated that he would have to ask L&G since they were in charge of the 2 Mile Line widening.

Mrs. Marisela Marin asked if Rockingham Subdivision had a homeowner's association.

Mr. Salinas replied, "Yes".

Mrs. Marisela Marin asked if they would tie into the Rockingham Subdivision HOA.

Mr. Barrera stated that they are proposing to have a homeowner's association because they want to privatize the subdivision.

Vice-Chairman Ned Sheats asked if he could please make sure they have the same CCR's as Rockingham.

There being no further discussion, Vice-Chairman Ned Sheats entertained a motion. Ms. Diana Izaguirre moved to approve the subdivision plat as per staff's recommendations. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion to approve passed unanimously.

OTHER BUSINESS

Mr. Bobby Salinas stated that the APA will be hosting a Workshop for Planning Commissioners, Elected Officials so if anyone is interested please advise Staff.

ITEM #4.0

ADJOURNMENT

There being no further items for discussion, Mrs. Marisela Marin moved to adjourn the meeting. Ms. Diana Izaguirre seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 5:38 p.m.

Ned Sheats, Vice-Chairman
Planning and Zoning Commission