

**PLANNING AND ZONING COMMISSION
MAY 22, 2014
CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Ned Sheats
Mario Garza
Diana Izaguirre
Abiel Flores
Carlos Lopez
Marisela Marin

P&Z ABSENT

Rene A. Flores

STAFF PRESENT

Daniel Tijerina
Bobby Salinas
Susana De Luna
Annette Zavala
J.J. Rodriguez

CALL TO ORDER

Vice-Chairman Ned Sheats called the meeting to order at 5:02 p.m.

CITIZENS PARTICIPATION

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

There was no response.

APPROVAL OF MINUTES FOR MAY 14, 2014

Vice-Chairman Ned Sheats asked if there were any corrections to the minutes for May 14, 2014. Mr. Carlos Lopez moved to approve the minutes as presented. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:02 p.m.

Ended: 5:02 p.m.

ITEM #1.1

Conditional Use Permit:

**To Consider Whether or not to Revoke the CUP
for the Placement of a Portable Building at
808 S. Shary Road
Lot 5A, Cimarron Crossing Subdivision, Ph. II
Zarah's Investments**

Mr. Bobby Salinas stated that there would be no action taken on this item.

Mr. Daniel Tijerina stated that the City, by code, has to advise and give the applicant 10 days to comply with the requirements of the conditional use permit ordinance that was passed by council, and he has complied. He added that they were shutting down at 11:00 p.m.

Mr. Mario Garza asked if they have removed the tables.

Mr. Daniel Tijerina stated that they have removed all the tables. He mentioned that the City has talked to him and his two attorneys in regards to complying with all the requirements and if there were any other calls or complaints then other action would be taken since notice has already been given.

Started: 5:08 p.m.

Ended: 5:16 p.m.

ITEM #1.2

To reconsider the Granting of the Variance to Privatize and Gate the David Reyna Mobile Home & R.V. Subdivision and all Matters Incident Thereto:

**David Reyna Mobile Home & R.V. Subdivision
A 2.122 acre tract of land out of
Lot 22-1, West Addition to Sharyland Subdivision
R-4
Developer: David Reyna
Engineer: Melden & Hunt, Inc.**

Mr. Bobby Salinas went over the write-up stating that the proposed subdivision is located approximately 300' east of Inspiration Road along the north side of Barnes Street. The developer is proposing an 11 lot subdivision for mobile homes and R.V.s.

During this pre-final approval, the developer's engineering firm, Melden & Hunt asked for a variance to allow the subdivision to be **private and gated**. The proposed development was approved by P&Z and preliminarily approval was granted by City Council.

Staff was recently made aware of a parcel of land that would not have access to a public street if the subdivision is allowed to be privatized. In light of this new evidence, staff is concerned that allowing the developer to privatize and gate the development would have a negative impact to the neighboring property. Staff asked P&Z for their consideration regarding this matter. Mr. Salinas mentioned that an aerial was provided showing the land that is going to be developed and the surrounding properties. He stated that he believes that most of the properties have their access thru Inspiration Road and only 1 property utilizes the David Reyna property to gain access for about 37 years. Mr. Salinas stated that now in 2014 Mr. Reyna is wanting to develop his property. He fenced in the property all the way enclosing the area that was utilized for the 30+ years. Mr. Salinas stated that the subdivision was okay it was just a discussion on the privatization of the street. Mr. Salinas added that if that happens it will remain as is and the home to the north would not have direct access to a street.

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

Mrs. Marisela Marin & Ms. Diana Izaguirre asked how he gets into his property.

Mr. Daniel Tijerina stated that this plat goes back to 1987, where Art Salinas was the Engineer for Mr. Reyna and in looking through the minutes there were several extensions that were requested to continue the plat but it never developed, and finally we get to 2013, wherein

Melden & Hunt is the Engineer for this project. Mr. Tijerina stated that a topographic data indicate who the adjacent property owners are. Mr. Tijerina mentioned that in looking at the subdivision ordinance and talking to the City Attorney, TML Attorney, Scott Houston, he was counseled that it would be against the subdivision ordinance to not permit access to a public or private street to any residents that have access and there are other recourses for this matter to be resolved. Mr. Tijerina stated that in this case staff found out after the owner fenced in and placed the gate and then he placed the fence along the west boundary all the way up to the on the north portion. Mr. Tijerina stated that this property owner is only access is to Barnes.

Ms. Diana Izaguirre asked how he was getting in and out of his property right now.

Mr. Tijerina stated that he currently uses the 10' utility easement that is not fenced in from the Aaron Balli's Subdivision.

Ms. Diana Izaguirre asked what would happen if Mr. Balli fenced his property.

Mr. Tijerina stated that then he would not be able to get in or out of his property because he wouldn't have any access to a street.

Mrs. Marisela Marin asked if Santiago and Maria Elena Bazan were required to subdivide their property when they constructed their home.

Mr. Tijerina stated that to his understanding it was based on the Hidalgo County Appraisal District Records it was by metes and bounds and he didn't recall when the division of land took place. He added that originally this property went all the way to Inspiration Road and the division of the land occurred years ago. So at this point what staff is requesting is to reconsider the granting of the variance to privatize and gate the David Reyna Mobile Home & R.V. Subdivision and all matters incident thereto. Mr. Tijerina mentioned that he thought that the applicant would be present or his attorney because they have requested public information regarding this item.

Mrs. Marisela Marin asked how the owner feels about having this situation.

Mr. Tijerina mentioned that Bobby, City Manager, Martin Garza, and he have talked to him and heard different sides from adjacent property owners.

Vice-Chairman Ned Sheats stated that if the Board denies the variance he wouldn't be able to have a closed subdivision.

Mrs. Marisela Marin stated that even if the Board denies the request to not close the subdivision this doesn't mean that he has to allow these people to use his private property. She added that he could put up a gate and fence the property.

Mr. Daniel Tijerina stated that in looking into the Subdivision Ordinance that the City would not want to be put into that situation wherein this individual would not have access to get out of his

property. He added that if Mr. Balli moved the pins the neighbor would not have access to his property.

Ms. Diana Izaguirre asked if any of those people had claimed the adverse possession for using that property for more than 37+ years.

Mr. Bobby Salinas stated that he believed that is what they are luring into but the City was not going to be involved in it.

Vice-Chairman Ned Sheats asked Mr. Tijerina if he was assuming that a gate was going to be were the property pins were.

Mr. Daniel Tijerina stated that the gate was going to be off of Barnes, but he put a fence on the west boundary which basically cuts access to the neighbors.

Mr. Bobby Salinas stated that the only reason P&Z was looking at this item was because they submitted a variance to have a private street, which P&Z and City Council preliminarily approved. He mentioned that because of the new information received advising that one property owner would not have access to Inspiration Road now staff needs to look at this again. Mr. Salinas added that because the City did say it was private that essentially gives him the right to fence everything in if he wants to do the subdivision. Mr. Salinas stated that Mrs. Marin was right is saying that he doesn't have to be nice now if he does not want to do the subdivision and leave it like this he has every right to do so but if he wants to do the subdivision with the street then staff controls the subdivision aspect of this and so if he wants a private street, 1) then he needs to come up with an agreement or 2) then staff cannot allow the variance to occur because it would create a land lock piece of property.

Discussion continued amongst themselves with suggestions for the agreement.

Mr. Bobby Salinas stated that the subdivision aspect and the layout were fine everything had been approved it was just the private street that made it a little complicated.

Ms. Izaguirre asked if staff was recommending not approving the variance.

Mr. Daniel Tijerina stated that based on the subdivision ordinance it would be in conflict.

Mr. Bobby Salinas stated that if he allowed the privatization then it would be land locking property but if they allow it to be a public street then it would provide access.

Mr. Daniel Tijerina stated that the developer could file a reimbursement contract for this type of project that way he could re-coop some of his investments.

There being no further discussion, Vice-Chairman Ned Sheats entertained a motion. Ms. Diana Izaguirre moved to deny the variance. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #4.0
ADJOURNMENT

There being no further items for discussion, Mr. Mario Garza moved to adjourn the meeting. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 5:20 p.m.

Ned Sheats, Vice-Chairman
Planning and Zoning Commission