

**PLANNING AND ZONING COMMISSION
AUGUST 23, 2017
CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Ned Sheats
Marisela Marin
Carlos Lopez
Julio Cerda

P&Z ABSENT

Diana Izaguirre
Jaime Gutierrez
John Guerra

STAFF PRESENT

Jaime Acevedo
Virgil Gonzalez
Susana De Leon
Kristin J. Warshak

GUESTS PRESENT

Laura Sanchez Rodriguez
Jesse Muñoz
Eddie Salinas
Frances Garcia
Hector H. Guajardo

CALL TO ORDER

Chairman Ned Sheats called the meeting to order at 5:04 p.m.

CITIZENS PARTICIPATION

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

There was none.

APPROVAL OF MINUTES FOR AUGUST 9, 2017

Chairman Sheats asked if there were any corrections to the minutes for August 9, 2017. Mr. Carlos Lopez moved to approve the minutes as presented. Mr. Julio Cerda seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:05 p.m.

Ended: 5:09 p.m.

Item #1.1

REZONING:

5.98 acres of land, being all of Lot 2,
3A Subdivision
AO-I to C-3
TP Griffin Parkway Self Storage, LTD

REVIEW DATA

SITE: The subject site is located at the NW corner of Harmony Lane and E. Griffin Parkway (F.M. 495).

SURROUNDING ZONES: N: AO-I – Agricultural Open Interim
E: R-2 – Duplex/Fourplex Residential & C-3 – General Commercial
W: AO-I – Agricultural Open Interim
S: C-3 – General Commercial

EXISTING LAND USES: N: Edinburg Main Canal
E: Vacant Residential and Commercial
W: Commercial, Residential, and Agricultural
S: Commercial
Site: Commercial

FLUM: Low Density Residential (LD)

REVIEW COMMENTS: The applicant have been operating storage units for over 10 years now under and instead of renewing his Conditional Use Permit Staff has recommended that he rezone the property instead. The Future Land Use Map reflects an outdated Low Density Residential (LD) designation. Given the fact that the land use will remain the same, rezoning the site C-3 will not have a detrimental effect to the surrounding land uses.

RECOMMENDATION:
Approval.

Chairman Sheats asked if the applicant or representative was present.

Mr. Jesse Muñoz was present to answer any questions the board might have.

Chairman Sheats asked if there were any comments from the commissioners or staff on this item.

There was none.

Chairman Sheats inquired if there were any complaints or calls in regards to the subject site.

Mr. Acevedo stated there were none.

Chairman Sheats asked if there was any audience opposition to the rezoning.

There was no response from the audience.

There being no further discussion, Chairman Sheats entertained a motion for approval as per staff's recommendation. Mrs. Marisela Marin moved to approve the rezoning as per staff's recommendation. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:09 p.m.

Ended: 5:15 p.m.

Item #1.2

Conditional Use Permit: Sale & On-Site Consumption of Alcoholic

Beverages – Brick Fire Pizza & More
704 E. Griffin Parkway, Ste. 130
Being 1.25 acre tract out of Lot 24-8,
West Addition to Sharyland Subdivision
C-3
Brick Fire Pizza & More, LLC
c/o Steven Alaniz

REVIEW DATA

SITE: The site is located within a commercial plaza between Mayberry Avenue and Augusta along the south side of E. Griffin Parkway. The applicant is requesting a CUP for the Sale and On-Site Consumption of Alcoholic Beverages for wine and beer at the proposed pizzeria. A 10,200 sq. ft. building will be shared between the pizzeria and an adult day care operation.

- **Hours of Operation:** Monday – Thursday from 11:00 a.m. to 11:00 p.m., Friday and Saturday from 11:00 a.m. to 12:00 a.m., and Sunday from 11:00 a.m. to 7:00 p.m.
- **Staff:** 5 Employees during a shift
- **Parking:** The applicant is proposing 68 total seating spaces, which requires 23 parking spaces (68 seats/1 space for every 3 seats = 23 parking spaces). It is noted that the parking area is held in common (70 existing parking spaces) with existing adult day care.
- Landscaping is existing at this commercial plaza.
- Must continue to comply with Fire and Health Codes.

REVIEW COMMENTS: While this is in an area that has been transitioning into a commercial area, there are some residences within 300 feet of the proposed restaurant. However, there are no churches or schools within 300' of this restaurant. We did have one concern with this operation from a neighboring business. The concerned neighbor did not oppose the sale of alcohol but did oppose the proposed hours of alcohol sales. The proposed hours will interfere with her type of business and recommends that hours be pushed back until after 5:00 p.m. when her clientele is gone.

RECOMMENDATION: Staff recommends approval subject to a waiver of the 300's separation requirement from the residential neighborhood and that the CUP be approved for 2 years at which time the applicant will have to renew their TABC license and Conditional Use Permit.

Chairman Sheats asked if the applicant or representative was present.

Mr. Steve Alaniz, District Manager for Move It Storage for the Valley was present to answer any questions the board might have.

Chairman Sheats stated that he did not see a problem with the request, being it was already zoned a C-3, and a good use for the area. He then asked if there were any questions to the applicant or staff.

Chairman Sheats asked if there was any audience opposition to the conditional use permit.

Mrs. Corina Alaniz stated she wanted to make a slight correction explaining that there is not an adult day care at the location. She clarified that the neighbor at the site location is Angelito's Home Health Care, and there are no elderly at that location. Possibly in the future there may be an adult day care at that location, but there is not one there now.

Mr. Acevedo asked Mrs. Alaniz if there ever was an adult day care at that location.

Mrs. Alaniz stated that there was one there but was closed years ago. She just wanted to make that correction.

Chairman Sheats stated for the record there is no adult day care just a home health company.

There being no further discussion, Chairman Sheats entertained a motion for approval as per staff's recommendation. 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: 5:15 p.m.

Ended: 5:20 p.m.

Item #1.3

Conditional Use Permit:

Sale and On-Site Consumption of Alcoholic
Beverages – Palms II Lounge
600 E. 9th St.
Lots 11-15, Block 142,
Mission Original Townsite
C-3
Ricardo Rodriguez

REVIEW DATA

SITE: The subject site is located on the SE corner of E. 9th and St. Marie. This particular building has been in existence for several years and has always been utilized as a bar. The original CUP for the Palms II Lounge was approved by City Council on 10-11-93 for the life of use. Mr. Ricardo Rodriguez took ownership in 2013 and was granted a CUP for the Sale and On-Site Consumption of Alcoholic Beverages at this location on June 26, 2013. Mr. Rodriguez has operated at this location since then and

needs his CUP to be renewed at this time. Primary access to the bar is off of E. 9th St. 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.
- Planning asked PD for a report of incidents. Staff should have this information by the date of the meeting.

RECOMMENDATION: Staff recommends approval of this CUP for a period of now until September 22, 2019 at which time the applicant will have to renew their TABC license and Conditional Use Permit.

Chairman Sheats asked if there were any comments from the commissioners to staff on this item.

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

There was none.

Chairman Sheats asked if the applicant or representative were present.

Applicant, Ricardo Rodriguez was present to answer any questions from staff or the commission.

Mrs. Marin asked Mr. Rodriguez to clarify about the two minor incidents that occurred in April and December of 2016.

Mr. Rodriguez stated that they were minor. His wife is very strict with the patrons. If they do not straighten up, they will be banned from the place. All of 2017 it has been very quiet with no incidents.

Chairman Sheats asked if there was anybody present in the audience who opposed the conditional use permit.

There being no further opposition or discussion, Chairman Sheats entertained a motion for approval as per staff's recommendation. Mrs. Marisela Marin moved to approve the conditional use permit as per staff's recommendation. Mr. Julio Cerda seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:20 p.m.

Ended: 5:31 p.m.

Item #1.4

Conditional Use Permit:

Repo-Service "Office Use" in an AO-I Zone
2500 N. Moorefield Road
Being a 10 acre tract excluding the 1.14 acre out
of Lot A, Millers Subdivision
AO-I
Roel Buentello, Jr.

REVIEW DATA

SITE: The site is ¼ mile north of Griffin Parkway along the east side of Moorefield Rd. There is a 1,500 sq.ft. masonry home on the property that the applicant has been leasing. He has also constructed a 90'X80' fenced impound area for the repossessed vehicles-see site plan. Access to the site is through a paved driveway along Moorefield Rd.

This CUP was most recently approved by P&Z on 05-27-2014. Mr. Buentello has been operating his Repo-Service over the past 5 years without any major incidents and has been in operation since 4-15-09. He is now requesting the PNZ to reconsider his CUP.

- **Hours of Operation:** Monday – Friday from 8a.m. to 5p.m.
- **Staff:** 1 full time employee and 1 part-time driver
- **Parking:** During the 4-15-09 approval, P&Z approved the CUP with the requirement of installing a minimum of 4 paved parking spaces. On 9-22-10 the parking space requirement was removed since there is no interaction with customers *on-site* and 9 out of 10 vehicles get returned to dealerships.
- There is no ground pole sign permitted for this CUP.

REVIEW COMMENTS: Notices have been sent to property owners within 200' of this CUP site. Staff did receive one concern on a neighbor on the aesthetics of the location. The concern was that at times the lot is weedy and that the mesh screening on the fence is not in good condition and does not provide a buffer as it should.

RECOMMENDATION: Staff recommends the repair of the fence screening and that this CUP only be approved for 1 year so that we can continue to monitor this operation.

Chairman Sheats commented 9 out of 10 vehicles get returned to dealership that does not mean that there is not going to be an accumulation of vehicles. In fact, it guarantees that 1 out of 10 will remain on the lot at all times.

Mr. Acevedo said that one of the concerns from a neighbor is the site location is beginning to look like a junk yard.

Chairman Sheats requested that the commission look at the peer review and recommend that there be maximum of so many cars be on the property on the conditional use permit.

Mrs. Marin asked how the vehicles can be controlled. She requested to hear from the owner to explain why there are so many cars.

Mr. Acevedo stated that the owner was not present.

Mrs. Marin asked Chairman Sheats if the item could be tabled.

Mr. Acevedo said the commission could table the item. The owner does not have to be present for the commission to take action.

Chairman Sheats requested to have the owners input.

Mr. Julio Cerda asked what the city's enforcement on CUP's is.

Mr. Acevedo said the conditions are set forth in the approval. The applicant stated that 9 out of the 10 cars get picked up from the bank. The remaining cars remain on site until a lien is in place and then sold.

Mr. Cerda stated suppose we impose a 9 vehicle limit plus fix the fence and take care of the landscaping. What does the city allow as far as enforcement for the planning and zoning commission and city council?

Mr. Acevedo stated typically if there is an issue with the CUP the planning staff or code enforcement staff will be sent to go and check if they are in compliance with the requirements conditional use permit.

Mr. Cerda asked what happens if the applicant is non-compliant?

Mr. Acevedo explained the City Manager was given authorization to revoke a CUP recently without it coming back to the P&Z.

Mr. Cerda suggested that the item be tabled and bring it back with maximum limit recommendation for the vehicles.

Chairman Sheats agrees with Mr. Cerda is coming up with specifications for this "type" of storage be in place before coming to P&Z for consideration.

Mrs. Marin added that the vehicles should also be placed inside the fenced area.

Mr. Cerda asked that consideration be taken for vehicle placement close to the proximity of the storage units on the site location.

Mrs. Marisela Marin moved for a motion to table the conditional use permit as per staff's recommendation. Mr. Julio Cerda seconded the motion. Upon a vote, the motion was passed unanimously.

Started: 5:31 p.m.

Ended: 5:44 p.m.

Item #2.0

**PRE-FINAL & FINAL
PLAT APPROVAL:**

Amended Crystal Estates Ph. II
8.05 Ac. out of Lot 27-2,
West Addition to Sharyland Subdivision
R-1
Developer: DG & GG Investments, LLC
Engineer: BIG Engineering

REVIEW DATA

PLAT DATA

The proposed re-plat is located at the Northeast corner of Los Ebanos Road & Rebecca Street. The proposed re-plat will remove the plat note that prohibited rear access to Esperanza Avenue for Lots 1-5. If approved, property owners of Lots 1-5 will now have the right to have a rear access driveway. This is the only proposed change to the original 30 single family lot plat.

UTILITIES

When Crystal Estates Phase II was first subdivided, there were water and sewer services provided for each lot. All fees were paid and City staff inspected and approved all existing utilities in place.

STREETS & STORM DRAINAGE

This is simple a re-plat, any additional ROW required has already been dedicated. Storm drainage is also existing and is accomplished through a 36" storm pipe on Esperanza Street extended south of the subdivision which will discharge to the existing 200' ROW H.C.I.D No1 canal.

OTHER COMMENTS

Crystal Estates Subdivision Phase II is already excluded from water district
Comply with all format findings
Street lighting already exists

RECOMMENDATION

Staff recommends approval subject to complying with all typical format findings.

Mr. Acevedo added that most of the homes fact Alexa Marie Street and the residents desire to enter their homes through the back of the lot. The lots have double frontage to Alexa Marie and Esperanza. Everything remains the same. The request before you is to remove plat note #10.

Chairman Sheats asked if there was any public input.

There was none.

Chairman Sheats asked if there were any comments from the commissioners to staff on this item.

Mrs. Marin asked if the item pertained to Lot #10 or just Lots 1-5.

Mr. Acevedo said the item pertains to Lots 1-5. Lot 10 pertains to Phase I.

Mrs. Marin asked if the commission was going to address the other lots.

Mr. Acevedo clarified that that was for Lot 10, Phase I which those homes have already been built.

Chairman Sheats inquired if Esperanza Street was specified as where the residents wanted to enter through.

Mrs. Marin clarified that the residents want to drive in and out of Esperanza, not going around the subdivision on Alexa Marie. She stated that she did not like what was being proposed stating safety concerns and the fact it would look awkward to the other phases in the immediate area.

Mr. Cerda asked about the restrictions for the other phases.

Mr. Acevedo explained Phase I has already been built out. On that plat, the no rear entry restriction is in place.

Chairman Sheats reiterated the request only pertains to Lots 1-5 that currently face Alexa and want to go through Esperanza.

Mrs. Marin urged for uniformity for the subdivision and any future subdivisions in the area.

Chairman Sheats informed the audience that the board has 4 members present which is barely a quorum in case of one disagreement on the board it will be denied?

Mr. Acevedo stated the by-laws are written that whenever there is not a full quorum and just 4 members all present, all members have to vote the same way in order for the item to pass.

Mrs. Marin and Mr. Cerda asked if the engineer was present.

Mr. Acevedo stated he was not present.

Mrs. Marin recommended to table the item and get the engineers perspective.

Mr. Cerda asked the purpose of staff's recommendation.

Mrs. Marin replied for approval.

Mr. Cerda asked why?

Mr. Acevedo explained there were two houses that already have a rear access.

Mrs. Marin said that was wrong because they did not read the plat.

Mr. Acevedo clarified that there were two houses that did construct with rear access. It was requested that curbs be put up and fences built which was complied with by the homeowners. As such, they are seeking to have the rear access again.

Mr. Virgil Gonzalez added that the actual permit was denied and needed to be corrected. Revised plans were submitted and approved. However, the revised plans were never given to the actual builder. Staff caught the error when slab was placed.

Mr. Acevedo indicated that this is a case where the property owner was told one thing and the developer did another thing. We are trying to make it right for the homeowners.

Chairman Sheats said that if you approve for 1-5 then there is no reason not to approve for anyone else who asks.

Mrs. Marin asked if the owner of the subdivision the applicant who requested the re-plat?

Mr. Acevedo said the owner of the subdivision paid for an engineer to re-plat to make things right for those two homeowners.

Mr. Cerda said he could foresee homeowners in Phase I coming back and saying they want access.

Mrs. Marin added that when you subdivide fencing is a requirement. Has this gone to county?

Mr. Acevedo clarified that it was within the city limits. The developer is purchasing the property to the north and wants to place a row of houses.

Mr. Cerda reiterated he doesn't see how the P&Z can fix a problem made not by the developer, not by the homeowner, but by the contractor.

Mrs. Marin inquired why two lots?

Mr. Acevedo indicated those were the two houses already built. One home converted the garage into a music room, and the other home converted the garage into storage room.

Mr. Cerda asked what the homeowners do for parking.

Mr. Acevedo explained that the two homes in discussion have circular driveways; they just wanted an entrance from the back.

Mr. Gonzalez added that both houses have been built up, and do not have rear access.

Mr. Cerda asked the condition for the wall?

Mr. Gonzalez stated that it is a regular wall with fencing.

Mr. Cerda stated that the decision was real easy, "just deny it."

Mr. Acevedo explained that decision is up to the board.

Mr. Cerda reiterated it is not the boards fault. There are several people at fault here.

Chairman Sheats added that he does not think it is up to the board to make good on a promise that was made to the homeowners. We cannot correct somebody else's issue if they did not get the correct information.

Mr. Acevedo explained that staff along with the City Manager and the City Attorney went to the site location and saw the potential implications that this may have. Other houses have double frontage and rear access. This is not a major thoroughfare street.

Chairman Sheats moved for a motion after much discussion that was not going anywhere. Mrs. Marisela Marin moved to deny the pre-final and final plat approval. Mr. Julio Cerda seconded the motion. Upon a vote, the motion passed unanimously as denied.

Started: 5:44 p.m.

Ended: 5:50 p.m.

Item #3.0

**PRELIMINARY & FINAL
PLAT APPROVAL:**

Davila Estate Subdivision
Being a 6.299 acre tract of land out of
Lot 5, Miller Bros. Nursery Re-Subdivision
R-1
Developer: Norma Davila
Engineer: Rodriguez Engineering

PLAT DATA

The proposed subdivision is located near the West 2 Mile Road/Hillcrest Drive intersection. The developer is proposing 22 Single Family Residential lots, all exceeding area requirements but not meeting the frontage requirements for an R-1 lot.

WATER - The developer is proposing a looped 8" water system to an existing 8" line located along the east side of Hillcrest Drive to provide water service to each lot. Fire hydrants will be installed per the Fire Marshal's direction.

SEWER - In regards to sewer, the developer is proposing to connect an 8" sanitary sewer line to an existing 8" sewer line along the west side of Hillcrest Drive. The \$200.00/Residential Lot Capital Sewer Recovery Fee will be imposed as required by Ordinance #4310, i.e. 22 lots X \$200.00/Lot = \$4,400.00.

STREETS & STORM DRAINAGE

The subdivision has frontage to Hillcrest Drive a 50' ROW 32' B/B street. The internal lots will be fronting a 50' ROW 32' B/B paved street built to the City's construction specifications. Drainage for the subdivision is proposed via Type A inlets connected to 24" RCP drainage line draining directly to the abutting City Drain Ditch. The applicant will also be dedicating 35' of additional ROW for the widening of the current drainage ditch along the east side of the property.

OTHER COMMENTS

Escrow Park Fees (**22 Lots X \$300.00 = \$6,600.00**)
Installation of Street Lighting as per City standards
Exclusion from the Water District

RECOMMENDATION

Staff recommends approval subject to:

1. Must meet the Model Subdivision Rules;
2. Comply with the street alignment policy; and
3. Must pay the capital sewer recovery fees.

Chairman Sheats asked for board questions or comments.

Mrs. Marin asked for clarification on the plat notes do not specify as far as access onto Davila. Could you explain Lots 19, 20, 21, 22, 23, specifically as to Lot 22.

Hector Guajardo, representative for the applicant clarified that on the plat there is a typographical error. Lot 18 and 19 is just one lot. Lot 20 should be 19 and all the way down to Lot 22. All other utilities plans are correct. It is just to Lot 23 which should reflect Lot 22.

Mrs. Marin asked for the escrow on the parking fees.

Mr. Acevedo explained it would be adjusted to 22 lots.

There being no further discussion, Chairman Sheats entertained a motion for approval as per staff's recommendation. Mr. Julio Cerda moved to approve the preliminary and final plat as per staff's recommendation. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

ADJOURNMENT

There being no further items for discussion, Mrs. Marisela Marin moved to adjourn the meeting. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 5:50 p.m.

Ned Sheats, Chairman
Planning and Zoning Commission