

**PLANNING AND ZONING COMMISSION
SEPTEMBER 11, 2013
CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Rene A. 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

GUEST PRESENT

Yazmin Guerra
Eduardo Gonzalez
Reynaldo Gonzalez
Ruben De La Garza
Rafael Pacheco
Ramon Navarro IV

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.

Chairman Rene Flores asked for a moment of silence to remember those who lost their lives for this country and during the September 11 attack.

APPROVAL OF MINUTES FOR AUGUST 28, 2013

Chairman Rene Flores asked if there were any corrections to the minutes for August 28, 2013. Mr. Mario Garza moved to approve the minutes as presented. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:01 p.m.

Ended: 5:13 p.m.

ITEM #1.1

Re-Designation of Land Use:

**Lot 3, Block 5, Fairway Estates
PUD (Un-Designated) to
PUD (Single Family Residential)
Jose Francisco Cano**

Mr. Bobby Salinas went over the write-up stating that this irregular shaped lot is located 350' west of Bryan Road along the south side of Ursula Street. Fairway Estates is an existing Planned Unit Development that includes various land uses which include single family homes and apartment uses.

**SURROUNDING ZONES
(DESIGNATIONS):**

N: Single Family Residential
E: Un-designated
W: Un-designated
S: Single Family Residential
Site: Un-designated

LAND USES: In regards to the surrounding land uses, there is a 6 condo/apartment complex to the west, an empty lot to the east, a single family home to the north, and a single family home to the south.

HISTORY: In reviewing the history of the PUD, it appears as follows:

- **August 1979** – Developer Rezoned 20 acres to R-1T (Townhouses).
- **December 1980** – Developer subdivided land to create Fairway Estates.
- **November 1981** – During a citywide re-zoning Fairway Estates was rezoned from R-1T to PUD as requested by developer. Block 1 was permitted to remain as R-1T.
- **December 1982** – A land use map was presented to the City showing the various proposed land uses. Lot 3, Block 5, was shown to be a Single Family Home.
- **June 1983** – A land use map was submitted showing Lot 3, Block 5 to be used as a pool.
- **December 1983** – Deed restrictions were recorded with the County stating that Lot 3, Block 5 was to be utilized as a swimming pool and parking area to be maintained by the HOA. (Keep in mind that the City does not enforce Deed Restrictions).
- **The 1990's** – During subsequent years, there were several issues/questions raised when it came to the land uses of Fairway Estates. There were several meetings between the City and the Homeowners to attempt to find which land use map to enforce. There were also re-zonings during the 90's that addressed several of the land uses in the area. However, there were 13 lots that were never officially designated by the City for a specific land use. Staff believes these lots were never included because they already had improvements built dating back to 1980-1985.

Based on amended deed restrictions from 1992, most lots were to be used as single family residential; these lots do not include Lot 3, Block 5. The original restrictions state that it should be used as a common area, however there has been no attempt to maintain the lot and it is privately owned, i.e. individually owned and not owned by Fairway Estates HOA. Since the lot is privately owned, it does not have a land use designation, and the City does not enforce deed restrictions; Staff would not object to change the land use designation to allow for a single family home, since it would compliment the existing homes to the north and would not conflict with the HOA wishes of single family homes at Fairway Estates. Staff recommended approval. (Approval of the land use designation does not affect the deed restrictions.)

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, Ms. Yazmin Guerra who resides at 1608 Inspiration Road, Apt. 1 in Mission was present to address any questions from the Board. Ms. Guerra stated that the property owner had bought this property originally to make apartments but he later was told by the neighbors that they didn't wanted any more apartments in the area so Mr. Cano wants to rezone the property for a single family home.

Chairman Rene Flores asked if they owned more lots in this area.

Ms. Guerra replied, "No".

Chairman Rene Flores asked if she foresees any problems with the neighbors now that the owner wants to construct a home.

Ms. Guerra stated that she didn't foresee any problems because they just didn't want any more apartments.

Mr. Salinas stated that he neglected to mention staff did receive a letter from an attorney expressing his opposition to the request because that particular lot should be used as a common area based on the deed restrictions. Mr. Salinas mentioned that he conferred with the City Attorney who mentioned that deed restrictions would not have anything to do with the rezoning and in the plat itself there is a note that stated that Lot A should be used as a common area.

Mr. Ned Sheats asked if the owner had a signed and valid deed for this property.

Ms. Guerra replied, "Yes".

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

Started: 5:13 p.m.

Ended: 5:17 p.m.

ITEM #1.2

**Rezoning: Lots 1 & 2, Valle Hermoso Estates Subdivision
AO-I to C-2
Reynaldo Gonzalez**

Mr. Bobby Salinas went over the write-up stating that the subject site is located on the SE corner of Bentsen Palm Road and Mile 1 South.

SURROUNDING ZONES: No zoning to the west (County) and AO-I in all other directions.

EXISTING LAND USES: N: Open Acreage
E: Single Family Home
W: Single Family Neighborhood
S: Open Acreage

FLUM: The Future Land Use Map reflects a Low Density (LD) designation.

Though the subject property shows a FLUM designation of LD, a commercial rezoning seems reasonable due to the lot's adjacency to two collector streets and C-2 zones lend themselves to be within or near residential areas in order to serve the surrounding neighborhoods. In speaking with the applicant he is proposing a neighborhood commercial use in order to provide an area for the nearby communities to have a place to shop, such as a meat market, bakery, etc. Staff also notes that the nearest commercial use (Dollar General) is located over ¾ of a mile away from this area near Business 83. Notices were sent to the surrounding property owners within a 200' radius, and Staff has not received comments for or against this request. Staff recommended approval for a C-2 zone.

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. Reynaldo Gonzalez who resides at 3809 Falcon Drive was present to address any questions from the Board.

Chairman Rene Flores asked Mr. Gonzalez what he intended to build on this property.

Mr. Gonzalez stated that he would like to construct a meat market and bakery for the neighborhood.

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

Started: 5:17 p.m.

Ended: 5:21 p.m.

ITEM #1.3

Rezoning:

**Tract 1: The N. 216.44' out of the W. 5 acres
out of Lot 24, New Caledonia Subdivision, Unit #1
AO-I to C-3
Tract 2: A 2.31 acre tract out of the W. 5 acres
out of Lot 24, New Caledonia Subdivision, Unit #1
AO-I to R-3
Noe Cantu**

Mr. Bobby Salinas went over the write up stating that this pie shaped 5 acre tract of land is located on the SE corner of Schuerbach Road and 3 Mile Road.

SURROUNDING ZONES: AO-I to all directions.

LAND USES:

- N: Single Family Residential
- E: Single Family Residential
- W: Open Acreage
- S: Open Acreage
- Site: Open Acreage

FLUM: The Future Land Use Map reflects a General Commercial (GC) designation along 3 Mile Road. (Tract 1) and an LD designation for the remaining acreage (Tract 2).

This acreage was part of the City's recent annexation area, which is the reason for the AO-I zone in all directions. This would be the first re-zoning in the area to begin the transition along 3 Mile Road into commercial.

Tract 1 – The acreage with frontage to 3 Mile Road is more compatible for non-residential uses as recognized by the City's FLUM designation of GC and a widened Mile 3 Road.

Tract 2 – The remaining acreage is proposed for R-3. Though the FLUM shows this area as LD, Staff believes that an R-3 zone would be a smooth transition stair stepping away from 3 Mile Road, i.e. commercial to multi-family to single family. There is also an existing canal located south of the acreage

which would serve as a natural buffer from any future development to the south, be it single family residential or other. Staff does not object to the c-3 & R-3 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 were present.

Representing the applicant, Mr. Eduardo Gonzalez who resides at 1707 E. 30th Street was present to address any questions from the Board.

Chairman Rene Flores asked Mr. Gonzalez what he was proposing to build.

Mr. Gonzalez stated that if the rezoning was approved, the idea was to first construct the 40 apartments and then do a commercial plaza along 3 Mile.

Mr. Salinas stated that the next step would be to see the subdivision plat and then the site plan for the apartments.

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

Started: 5:21 p.m.

Ended: 5:24 p.m.

ITEM #1.4

Conditional Use Permit:

**Sale & On-Site Consumption of Alcoholic Beverages
& Drive-Thru Service Window at Bravo Taco Restaurant
2310 E. Expressway 83, Ste. 8
Lot 3, Cimarron Crossings
C-3
Ruben De La Garza**

Mr. Bobby Salinas went over the write-up stating that the subject site is located approximately 250' west of Shary Road on the south side of U.S. Expressway 83 within an existing commercial plaza. The applicant is proposing to re-open a restaurant with a drive-thru service window. The last restaurant that opened here (Tino's Seafood) was approved by P&Z on 10-12-11 for both the drive-thru service window and the sale and on-site consumption of alcohol. Access to the site is provided via a common access drive that runs throughout the plaza. Access to the drive-thru is from the south 'rear' of the plaza. The existing drive-thru window's location allows stacking for approximately 3 vehicles. The applicant is also requesting a CUP for the sale & on-site consumption of alcohol with meals. There are no churches or schools within 300' of the subject site.

- **Hours of Operation:** Monday – Sunday from 11 a.m. to 11 p.m. Alcoholic beverages will only be served during the allowable State selling hours.
- **Staff:** 8 employees

- **Parking:** The 1,380 sq. ft. building will have a total of 35 seating spaces for the restaurant. A total of 18 spaces are required for this site (1,380 sq. ft./75 sq. ft. = 18.4 parking spaces). It is noted that a total of 66 parking spaces are held in common within the commercial development. Staff had not received any complaints in relation to parking when Tino's was in operation.
- Landscaping has been provided as a part of the overall commercial plaza.
- Must comply with all Building, Fire, and Health Codes, prior to obtaining a business license.
- A business license is required prior to occupancy.

Since this site has been previously used for a restaurant with the sale of alcohol and a drive-thru, Staff does not object to a new applicant re-opening the site for a new similar restaurant. Staff recommends approval subject to: 1) 1 year approval in order to assess this new operation, 2) must comply with all Building, Fire, and Health Codes, prior to obtaining a business license, and 3) must acquire 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 were present.

Mr. Ruben De La Garza was present to address any questions from the Board.

There being no further discussion, Chairman Rene Flores entertained a motion. Mr. Mario Garza moved to approve the conditional use permit as per staff's recommendations. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:24 p.m.

Ended: 5:30 p.m.

ITEM #1.5

Conditional Use Permit Renewal:

**Manufacturing & Packaging of Tortilla Chips
In a C-4 Zone
715 N. Glasscock Road, Ste. 12
Lot 12, 83 International Business Plaza Subdivision
C-4
Rafael Pacheco**

Mr. Bobby Salinas went over the write up stating that the subject site is located within a warehouse plaza 765' south of U.S. Business 83 and west along "C" Street. The applicant has been operating his business which manufactures, processes, packages, and stores tortilla chips within a C-4 warehouse suite. The Zoning Code requires the "manufacturing...processing, packaging of food products" to be done within an I-1 (Light Industrial Zone). However, any I-1 permitted use may be permitted within a C-4 with a CUP (Zoning Code, Art. VIII, Sect. 1.44 (3)(g)). The applicant has 3 mixing machines, 3 tortilla machines, and three bagging machines. Once the product is bagged, it is stored until the Esquisita Torilla Co. picks up the orders and takes them to their warehouse. There are no sales on-site, i.e. no customers on-site. Finally, Sect. 1.56(8) of the Zoning Code prohibits any form of pollution to be dispensed to adjoining properties.

This CUP was previously approved by P&Z on 6-27-12 for a period of 1 year and now needs a renewal to continue the business.

- Hours of Operation: Monday – Saturday from 8 a.m. to 5 p.m.
- Staff: there will be 4 employees operating the business.
- Must continue to comply with all Building, Fire, and Health Codes.

Staff notes that the use is not open to any customers, and staff has not received any complaints in regard to this business, thus Staff does not object to an extended renewal period. Staff recommends approval subject to: 1) 3 year renewal to continue to assess this operation; 2) Must continue to comply with all Building, Fire, and Health Codes; 3) Pick-up and drop-off items must be solely within the front of the site; i.e. no alley deliveries/pick-ups; and 4) must continue to comply with Sect. 1.56(8) of the Zoning Code.

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. Rafael Pacheco was present to address any questions from the Board.

Mr. Ned Sheats asked Mr. Salinas if staff could reconsider approving the request for life of use instead of a 3 year re-evaluation since they had done a very good job in cleaning up the area.

Mr. Salinas stated that the Board could recommend for life of use if they wanted to but he would rather re-evaluate in 3 years and then recommend life of use.

There being no further discussion, Chairman Rene Flores entertained a motion. Mr. Ned Sheats moved to approve the conditional use permit renewal as per staff's recommendations but for life of use instead of the 3 years renewal. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM#2.0
OTHER BUSINESS**

**ITEM #3.0
ADJOURNMENT**

There being no further items for discussion, Mr. Ned Sheats moved to adjourn the meeting. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 5:33 p.m.

Rene A. Flores, Chairman
Planning and Zoning Commission