

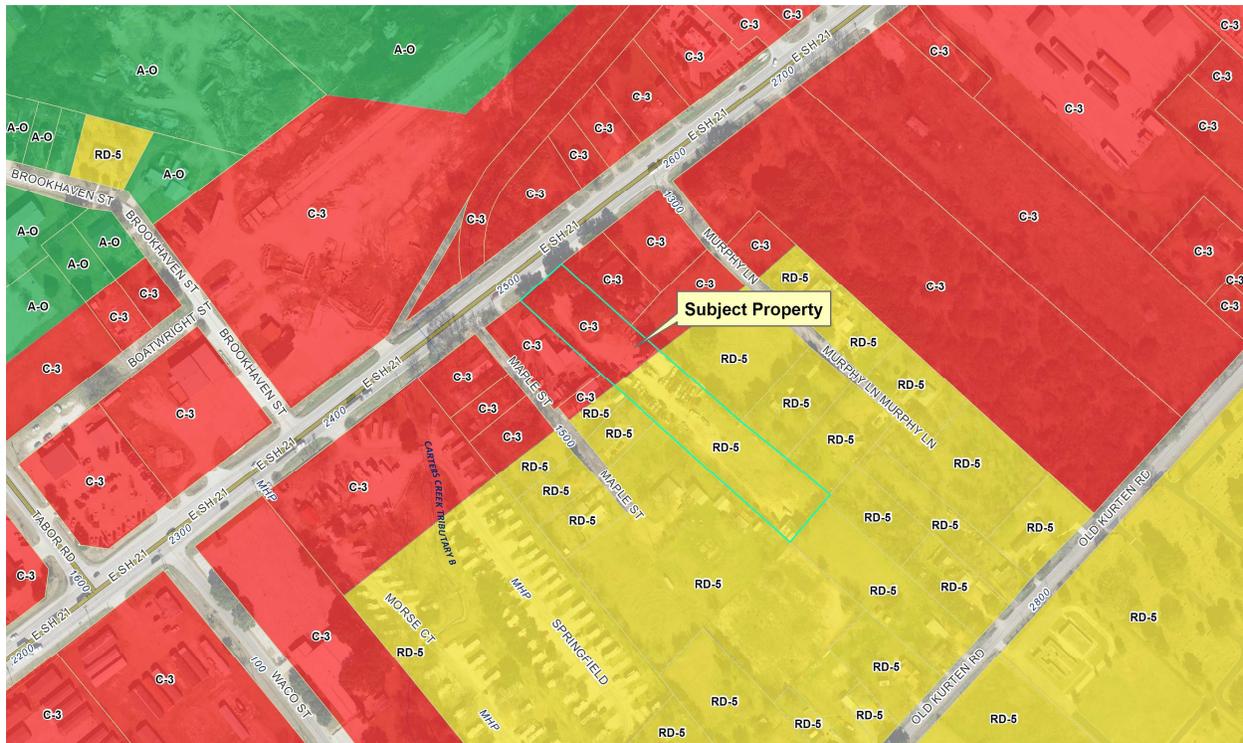
**PLANNING AND ZONING COMMISSION
STAFF REPORT**



April 7, 2016

Conditional Use Permit case no. CU16-02 Urias Cruz

- CASE DESCRIPTION:** request for approval of a Conditional Use Permit, to allow multi-family residential use with up to 4 dwelling units in a Commercial District (C-3)
- LOCATION:** 2507 State Highway 21 East, adjoining the south side of State Highway 21 East between Murphy Lane and Maple Street
- LEGAL DESCRIPTION:** 1.874 acres of land out of Stephen F. Austin League No. 10, A-63
- EXISTING LAND USE:** single-family home
- APPLICANT(S):** Urias Cruz
- STAFF CONTACT:** Matthew Hilgemeier, AICP, Staff Planner
- SUMMARY RECOMMENDATION:** Staff recommends **approval** of this request.



AREIAL VIEW, 2015:



BACKGROUND:

The subject property, 2507 State Highway 21 (SH 21), adjoins the south side of State Highway 21 approximately 90 feet west of the intersection of Maple Street and SH 21, between Maple Street and Murphy Lane. The subject property consists of 1.874 acres of unplatted land that is zoned a combination of Commercial District (C-3) and Residential District- 5,000 (RD-5), with the C-3 District extending along SH 21. The applicant, Mr. Urias Cruz, is requesting approval of a Conditional Use Permit to allow him to legitimately finish the construction of, and occupy, a previously unpermitted two-story, multi-family residential structure that could have up to 3 dwelling units, and continue the use of an existing single-family home for residential purposes on the portion of the subject property that is zoned Commercial District (C-3).

In 1989, when the City of Bryan adopted zoning regulations, the front 0.65 acres (a depth of 260 feet measured from the SH 21 right-of-way) of the subject property were zoned C-3 District, while the remaining 1.22 acres were zoned for single-family residential use, RD-5 District. At that time, the prevailing thought was that properties along this portion of SH 21 (from Texas Avenue to North Earl Rudder Freeway) should be classified for commercial uses, even if a property was already utilized for residential uses, to encourage commercial development along this heavily traveled corridor. Since that time, some properties that were previously utilized for residential uses have redeveloped for commercial uses; however, some like the subject property have remained in primarily residential use.

It is important to note that in 1989, the subject property was being utilized for residential uses consisting of one 1,196 square foot single-family structure with a 576 square foot detached garage. Due to its use

when zoning was adopted, the single-family residential use and associated accessory structure located on the property have been considered a legal non-conforming use since 1989.

In June 2015, the City of Bryan was notified of residential construction work being done at the subject property without prior approval of a building permit. Upon inspection, it was found that the applicant was in the process of converting the existing single-story detached garage (labeled 2 Story House in the drawing below) to a two-story structure that was to be utilized as a multi-family structure with up to 3 dwelling units. It is important to note that the applicant had only begun work on 2 of the multi-family dwelling units, but that he may want to convert a third portion (labeled 1 Story Wood Frame Garage in drawing below) of the garage structure into a dwelling unit at a future date. At that time of the property inspection other zoning violations were noted on the part of the property zoned RD-5 District. Staff is working with the applicant to resolve those issues which are not related to this request to allow multi-family residential use on this property.

Photo from June 15, 2015



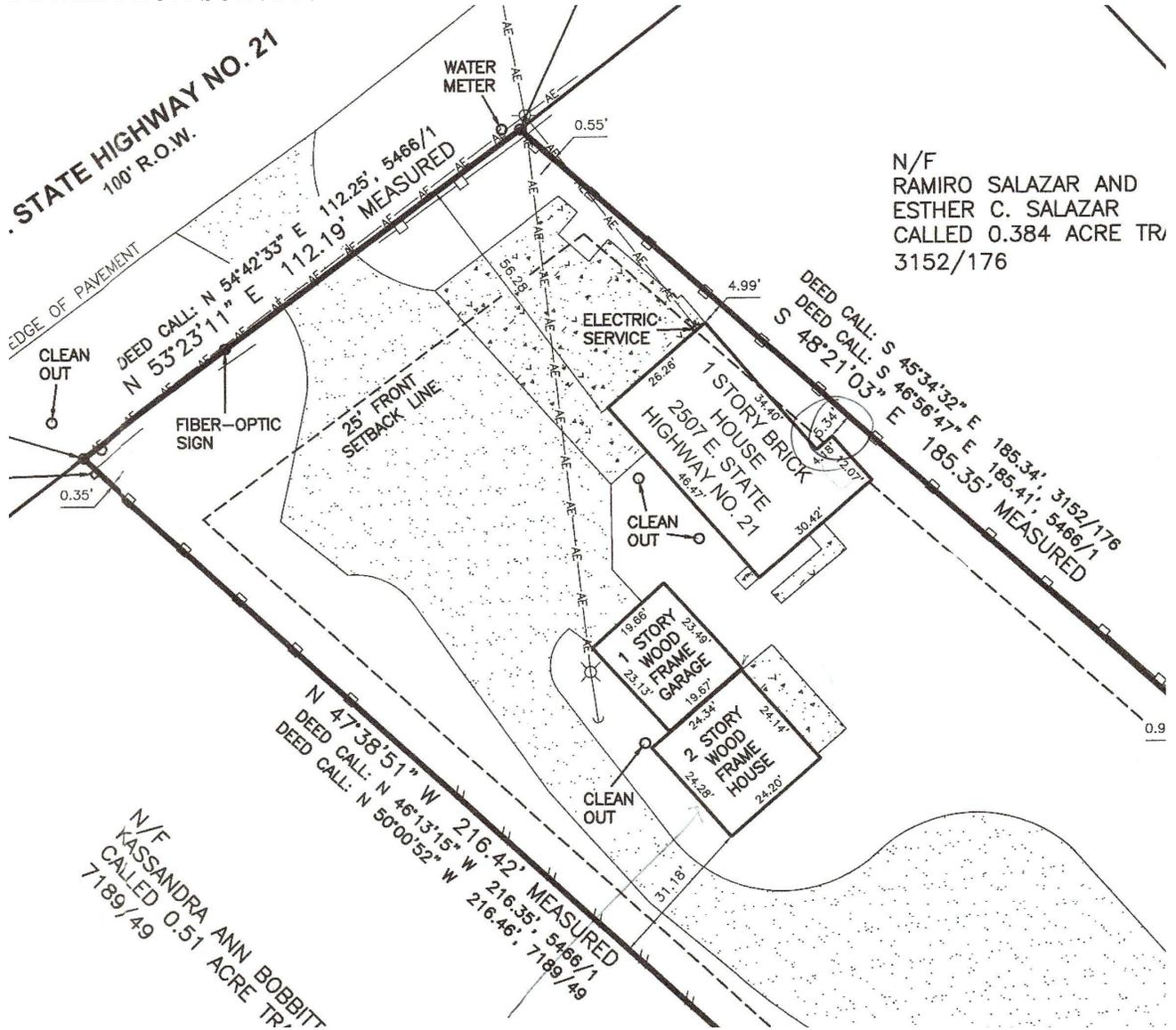


Photos from February 2016





DETAIL FROM SURVEY:



RELATION TO BRYAN'S COMPREHENSIVE PLAN:

The City of Bryan's current Comprehensive Plan includes policy recommendations related to the various physical development aspects of the community. These aspects are supported by a set of goals and objectives. The Planning and Zoning Commission should consider the following when making a decision regarding this particular request:

Chapter 5: Land Use

Use-Specific Land Use Policies

High Density Residential land will predominantly consist of housing types such as apartments but may consist of other types as long as densities are high, ranging from 9 to 24 dwelling units per acre. These uses should be located in areas that are along collector or arterial streets mid-block, where appropriate.

ANALYSIS:

Approval of a Conditional Use Permit by the Planning and Zoning Commission shall be based upon the following criteria.

1. Whether the proposed conditional use conforms to applicable regulations and standards established by the Zoning Ordinance.

If approved, the multi-family residential use will conform to all applicable regulations and standards established by the Zoning Ordinance.

2. Whether the proposed conditional use is compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features.

The subject property lies in an area where the existing land use pattern is a mix of single-family residential uses and commercial uses. The adjacent property located to the southwest of the subject property is developed as a commercial use (Global Catering), while the property to the northeast is developed for single-family residential uses. Another property further along SH 21 still going northeast is currently being considered for use as a restaurant with a site plan being reviewed by the Site Development Review Committee. However, other properties surrounding the subject property are zoned and developed as single-family residential uses.

The proposed multi-family structure is located near the middle of the subject property, away from neighboring property lines and has a building foot print that is smaller than the existing single-family structure located on the same property. It is staff's opinion that due to the location and relative size of the multi-family residential structure, the proposed use is compatible with existing and permitted use on abutting sites in terms of building height, bulk and scale, setbacks and open spaces, landscaping drainage or access and circulation features.

3. Whether and the extent to which the proposed conditional use potentially creates greater unfavorable effect or impacts on other existing or permitted uses on abutting sites than those which reasonably may result from the use of the site by a permitted use.

Multi-family use within a C-3 zoning district ranks among the least intense of all uses permitted within that district. There is little (if any) chance that a multi-family use with up to four dwelling units could cause greater unfavorable effects or impacts on nearby single-family residences than those potentially caused by a land use that is more intense and allowed by right at this location (e.g., auto sales or repair businesses, warehouses or nightclubs).

4. Whether and the extent to which the proposed conditional use affects the safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and land uses in the area.

The property currently has one 24-foot wide driveway taking access to SH 21; no other access is proposed at this time. It can be reasonably expected that there will be a slight increase in the amount of traffic being generated by the proposed multi-family residential use on the property, but, again, due to the relative small size in the number of dwelling units, staff does not anticipate this increase to affect safety and convenience of vehicular or pedestrian traffic in the area significantly.

5. Whether and the extent to which the proposed conditional use would reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts.

No additional impact concerning erosion, flood or water damage, noise, glare, fire and other hazards are expected.

6. Whether and the extent to which the proposed conditional use adversely affects traffic control or adjacent properties by inappropriate location, lighting, or types of signs.

Staff contends that an allowed multi-family use of this particular property will not have any adverse effects on adjacent properties due to the relative small size of the proposed use. No signage advertising the proposed multi-family residential use on the property is proposed in conjunction with this request.

7. Whether and the extent to which the proposed conditional use provides adequate and convenient off-street parking and loading facilities.

The Land and Site Development Ordinance requires that off-street parking be provided for each bedroom in a multi-family residential development. Ordinary development standards will require that 8 off-street parking spaces be provided for the proposed 4 dwelling units. Ample off-street parking is currently provided on the subject site.

8. Whether the proposed conditional use conforms to the objectives and the purpose of the zoning district in which the development is proposed.

Residential use generally does not conform to the objectives and purpose the C-3 District. While the area is zoned C-3, the pattern of development in the immediate area is a mix of light commercial and residential uses. Because of the flexibility granted by the Planning and Zoning Commission in the conditional use process when considering the mix of specific land uses, and the aforementioned characteristics in the immediate vicinity of the subject property, staff contends that in this case approval of the requested Conditional Use Permit meets with the overall spirit of the Zoning Ordinance and the Comprehensive Plan.

9. Whether the proposed conditional use will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

Staff believes that permitting up to 4 dwelling units for multi-family use at this location will have no negative impact upon properties or improvements in the vicinity.

10. Whether the premises or structures are suitable for the proposed conditional use.

As state above, due to the relative small size of the proposed use and configuration of the existing structures, staff contends that the premises and structures are suitable for the proposed conditional use.

RECOMMENDATION:

Staff recommends **approving** a Conditional Use Permit, to allow up to 4 multi-family residential dwelling units, **subject to the following conditions:**

1. **That the development footprint shall generally conform to the one shown on the property survey that is attached to the staff report.**
2. **That the applicant obtains appropriate building permits to legitimize all previous construction and to permit any future construction, in accordance with the Bryan Code of Ordinances, so that a Certificate of Occupancy may be issued.**