



## **AGENDA MEMORANDUM**

Public Hearing and First Reading Ordinance for the City Council Meeting of February 25, 2014  
Second Reading Ordinance for the City Council Meeting of March 18, 2014

**DATE:** January 30, 2014

**TO:** Ronald L. Olson, City Manager

**FROM:** Mark E. Van Vleck, P.E., Director, Development Services Department  
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**Rezoning from Single-Family Residential and Neighborhood Commercial to  
General Commercial  
By Old Lipan Limited  
Property Addresses: 5429-5505 Cain Drive, 5633 South Staples Street &  
5502-5506 Holly Road**

### **CAPTION:**

Case No. 1113-02 Old Lipan Limited: A change of zoning from the "RS-6" Single-Family 6 District and "CN-2" Neighborhood Commercial District to the "CG-2" General Commercial District, resulting in a change to the Future Land Use Plan from low density residential to commercial uses. The property is described as Lots 4, 5B, 6, 7A, 13, and the west half of Lot 5, Block 10, Gardendale Subdivision, located on Holly Road and Cain Drive, approximately 400 feet west of South Staples Street.

### **PURPOSE:**

The purpose of this item is to rezone the property to allow a high intensity commercial use.

### **RECOMMENDATION:**

#### Staff Recommendation:

- Denial of the rezoning to the "CG-2" General Commercial District.
- Denial of a Special Permit for a mini-storage facility.

#### Planning Commission Recommendation (January 29, 2014):

- Denial of the rezoning to the "CG-2" General Commercial District
- Denial of a Special Permit for a mini-storage facility as a result of a split vote (4-4).

## **BACKGROUND AND FINDINGS:**

As detailed in the attached report, the applicant is requesting a rezoning from the “RS-6” Single-Family 6 District and “CN-2” Neighborhood Commercial District to the “CG-2” General Commercial District to allow higher intensity commercial uses, specifically a mini-storage facility. The requested change of zoning would allow commercial uses such as bars, vehicle sales and service facilities, and mini-storage facilities, which are not compatible with the surrounding residential subdivision.

The proposed rezoning is not consistent with the adopted Future Land Use Plan, which slates the portion of the property fronting Cain Drive for low density residential uses and the portion of the property fronting Holly Road for neighborhood commercial uses. The proposed rezoning would significantly alter the character of the neighborhood on Cain Drive, as would a Special Permit for a mini-storage facility. The proposed rezoning is not consistent with the land use and zoning patterns of the adjacent residential properties. A “CG-2” District would allow uses that are not compatible with the surrounding residential subdivision and could potentially increase traffic through residential areas on Cain Drive, which is a local residential street.

The Planning Commission recommended at the first hearing that a Special Permit be created by staff. A Special Permit with 10 conditions was developed and Planning Commission entertained a motion to approve the Special Permit at the second hearing. The proposed motion failed to be approved by Planning Commission with a 4-4 tie vote.

A petition was signed by 54 households in the Gardendale Subdivision in opposition to the proposed rezoning for a mini-storage facility. Public comments are included. Two properties within 200 feet of the subject property are opposed to this rezoning, totaling 7.55% of the 200-foot area.

## **ALTERNATIVES:**

- Deny the request.
- Rather than approving the “CG-2” General Commercial District, Council may approve a Special Permit for a mini-storage facility subject to the following conditions, which were considered by Planning Commission, or Council may modify the conditions:
  1. **Use:** The only use allowed on the Property other than uses permitted in the base zoning districts is a mini-storage facility.
  2. **Access:** No vehicular access shall be permitted onto Cain Drive.
  3. **Street Yard Setback:** A building setback of 35 feet shall be required along Cain Drive. The 35-foot setback shall remain as open space. Buildings and paving are prohibited within this setback. All other building setbacks shall comply with the UDC.
  4. **Buffer Yard:** A 15-foot wide buffer yard and 15 buffer yard points shall be required along the property boundaries adjacent to residential zoning districts. Canopy trees of 2.5-inch caliper shall be planted every 30 feet on center within the buffer yard and within the front yard setback.

5. **Screening Fence:** A minimum six-foot tall solid wood screening fence is required between the mini-storage facility and the residential uses and along the 35-foot wide building setback line along Cain Drive where a building does not serve as the visual screen.
6. **Lighting:** All lighting shall be shielded and pole lights shall be of the full cut-off type. Freestanding pole lights are not allowed within 50 feet of the property line of a residential use. No light source shall exceed the roof height of the buildings on site or 15 feet, whichever is more restrictive.
7. **Building Height:** Buildings shall not exceed 26 feet where adjacent to a residential use. Otherwise, the maximum building height shall be 36 feet.
8. **Hours of Operation:** The hours of operation shall be limited from 7:00 AM to 10:00 PM.
9. **Signage:** No wall- or pole-mounted signage is allowed on Cain Drive or facing a residential use.
10. **Time Limit:** In accordance with the UDC, this Special Permit shall be deemed to have expired within 12 months of this ordinance unless a complete building permit application has been submitted, and the Special Permit shall expire if the allowed use is discontinued for more than six consecutive months.

#### **OTHER CONSIDERATIONS:**

Due to the tabling of this item at the February 25<sup>th</sup> Council meeting, this item will be considered as an emergency ordinance on March 4<sup>th</sup> in order to fulfill the Unified Development Code's requirement that Council take final action on a rezoning application within 45 days from the date the request for Council action and the final report recommendation of the Planning Commission is made.

#### **CONFORMITY TO CITY POLICY:**

The proposed rezoning is not consistent with the City's Future Land Use Plan or the Comprehensive Plan, which protects the Gardendale neighborhood from commercial encroachment.

#### **EMERGENCY / NON-EMERGENCY:**

Emergency

#### **DEPARTMENTAL CLEARANCES:**

Legal and Planning Commission

**FINANCIAL IMPACT:**

Operating       Revenue       Capital       Not applicable

<b>Fiscal Year: 2013-2014</b>	<b>Project to Date Expenditures (CIP only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Line Item Budget				
Encumbered / Expended Amount				
This item				
BALANCE				

Fund(s):

**Comments:** None

**LIST OF SUPPORTING DOCUMENTS:**

- Ordinance with Exhibit
- Emergency Ordinance with Exhibit
- Zoning Report with Attachments
- Public Comment Summary
- Aerial Overview Map/Presentation