

# City of Galveston



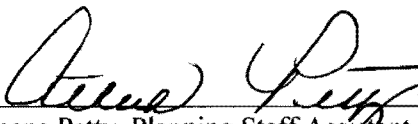
## Department of Planning and Community Development

P.O. Box 779 / Galveston, Texas 77553-0779 / Ph (409) 797-3600 / Fax (409) 797-3601

**AGENDA**  
**PLANNING COMMISSION WORKSHOP**  
**1:00 – 3:30 p.m., Tuesday, July 24, 2012**  
**City Council Chambers, 2<sup>nd</sup> Floor of City Hall**  
**823 Rosenberg, Galveston, Texas**

- A. Call Meeting to Order
- B. Attendance
- C. Discussion:
  - City of Galveston Noise Ordinance: Development , Revisions, and Process
    1. 1:00-2:00 – Downtown
    2. 2:00-3:30 – City at large
- D. Public Comment: Each person shall be limited to three (3) minutes
- E. Adjourn

Prepared By:

  
Athena Petty, Planning Staff Assistant  
Date Prepared: July 16, 2012

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE (3) DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY SECRETARY'S OFFICE, SUITE 201, 823 ROSENBERG, GALVESTON, TEXAS 77550 (409 797-3510).

**MEMBERS OF CITY COUNCIL MAY BE ATTENDING AND PARTICIPATING IN THIS MEETING**

S:\Planning\Planning Division\PC\Agendas\Agendas 12\072412 Workshop.doc

**POSTED**  
**JUL 16 2012**

CITY SECRETARY'S  
OFFICE

**AGENDA**  
**PLANNING COMMISSION**  
**Regular Meeting**  
**3:30 p.m., Tuesday, July 24, 2012**  
**City Council Chambers, 2<sup>nd</sup> Floor of City Hall**  
**823 Rosenberg, Galveston, Texas**

- A. Call to Order
- B. Conflict of Interest
- C. Minutes: July 10, 2012
- D. Old Business and associated Public Hearing:

**12P-77 (3801 GTI Boulevard)** Request for a Specific Use Permit to expand a “Manufacturing, Industrial Storage and Assembly Process” facility in a Heavy Industrial (HI) zoning district. Property is legally described as Smith Survey, Tract 30, 12.230-acres, in the City and County of Galveston, Texas.

Applicant and Property Owner: Pelican Island Storage Terminals Inc. % L.P. Byler/James Chick

- E. New Business and associated Public Hearing:

**BEACHFRONT**

**12P-84 (22831 Gulf Drive)** Request for a Beachfront Construction Certificate/Dune Protection Permit in order to construct a new single-family dwelling. Property is legally described as Lot 11 Block 1 & 1/4 undivided interest of Reserve C, Block 1 of Terramar Beach, Section 1, a Subdivision, in the City and County of Galveston, Texas.

Applicant: Alta Vista Development c/o Jimmy Clore

Property Owner: David and Mary Richey

**GENERAL LAND USE**

**12P-85 (4161 Point West Drive)** Request for a General Land Use Plan to conduct an “Amusement Commercial-Outdoor” for the rental of golf carts and bicycles in a Planned Development (PD) zoning district. Property is legally described as Common Area A Pointe West, a subdivision in the City and County of Galveston, Texas.

Applicant: Daniela Hughes

Property Owner: CRVI CDP Lending LP, Leased to the Point West Property Owners Association

**LICENSE TO USE**

**12P-86 (Adjacent to 5101 Avenue S)** Request for a Permanent License to Use for the placement of a fence, stairs and canopy. Adjacent property is legally described as Lots 11 and 12 and adjacent 8 feet abandonment of 51st Street, Block 175, Denver Resurvey, in the City and County of Galveston, Texas.

Applicant: William N. Rowe II  
Property Owner: City of Galveston

F. Discussion and Action items:

- City of Galveston Noise Ordinance: Development, Revisions, and Process
- Planning Commission representative to the Land Development Regulation Work Group

G. Adjournment

Prepared By: \_\_\_\_\_

Athena Petty, Planning Staff Assistant

Date Prepared: July 12, 2012

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE (3) DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY SECRETARY'S OFFICE, SUITE 201, 823 ROSENBERG, GALVESTON, TEXAS 77550 (409 797-3510).

**MEMBERS OF CITY COUNCIL MAY BE ATTENDING AND PARTICIPATING IN THIS MEETING**

# MEMORANDUM

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**TO:** Willy Gonzalez, Chair and Commissioners  
Galveston Planning Commission

**FROM:** Pete Milburn, Urban Planner II  
Department of Planning and Community Development

**DATE:** July 12, 2012

**RE:** **12P-77 (3801 GTI Boulevard)** Request for a Specific Use Permit to expand a "Manufacturing, Industrial Storage and Assembly Process" facility in a Heavy Industrial (HI) zoning district. Property is legally described as Smith Survey, Tract 30, 12.230-acres, in the City and County of Galveston, Texas.  
Applicant and Property Owner: Pelican Island Storage Terminals Inc. % L.P. Byler/James Chick

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At the regular Planning Commission meeting of June 19, 2012, the Planning Commission approved a request, by Texas A&M University at Galveston, to continue the above request to the July 24, 2012 regular commission meeting in order to allow the university the opportunity to review the proposed project. The Planning Commission approved the request with the condition that TAMUG and the applicant meet on the site of the proposed expansion and to provide the Planning Commission information resulting from the on-site meeting. Pending reports of the findings from consultants from the Office of Safety for TA&M and Texas Engineering Extension Service, TAMUG has submitted a letter to Staff requesting further continuance of this request (Attachment A). TAMUG is anticipating completion and delivery of the reports by August 1, 2012. However, the applicant has expressed to staff, the desire to proceed with the Specific Use Permit request as proposed.

Additionally, the Planning Commission advised Staff to explore the possibility of pursuing a land swap between the subject site and vacant City owned property to the east of the subject site. Staff will provide an update at the July 24, 2012 Planning Commission meeting.

This was the first request for a continuance and no additional costs were associated with this request.

## ATTACHMENTS

A. TAMUG Continuance request letter

xc: Lori Feild Schwarz, Interim Director  
Department of Planning and Community Development



July 11, 2012

RECEIVED  
JUL 12 2012  
PLANNING

City of Galveston  
Department of Planning and Community Development  
P0 Box 779 (823 Rosenberg Room 401)  
Galveston, Texas 77553-0934  
Attn: Pete Milburn

Dear Mr. Milburn:

Texas A&M University at Galveston (TAMUG) respectfully requests a further continuance regarding the expansion of the Pelican Island Storage Terminal (PIST).

As the Planning Commission was informed when the current continuance was granted, PIST did host TAMUG officials for a visit and briefing on June 27. TAMUG officials were joined by two Office of Safety consultants from Texas A&M University System. A report is being prepared based on their first-hand observations and their subsequent research into pertinent industry codes and standards as applied to the PIST request. Additionally, Texas Engineering Extension Service is also preparing a report regarding the PIST request. Those reports are anticipated to be in hand by August 1. When those reports are received, TAMUG will evaluate promptly and inform the Planning Staff and the Planning Commission of that evaluation.

It is not the intent of TAMUG to delay the decision process. However, our legitimate concerns for the safety of our 2000 students and 400 staff and faculty not to mention the substantial real property investment by the citizens of Texas compel us to ensure that a deliberate and thorough evaluation of the proposed PIST construction be completed and submitted to the Planning Commission for their consideration in the decision process. It is in that spirit that a further continuance will be requested at the July 24 Planning Commission meeting.

Sincerely,

A handwritten signature in black ink, appearing to read 'Charles W. McClain Jr.', written over a printed name and title.

Charles W. McClain Jr.  
Special Advisor to the President

**12P-84 (22831 Gulf Drive)** Request for a Beachfront Construction Certificate/Dune Protection Permit in order to construct a new single-family dwelling. Property is legally described as Lot 11 Block 1 & 1/4 undivided interest of Reserve C, Block 1 of Terramar Beach, Section 1, a Subdivision, in the City and County of Galveston, Texas.

Applicant: Alta Vista Development c/o Jimmy Clore

Property Owner: David and Mary Richey

**Existing Zoning and Land Use:**

Zoning	One Family-One (1F-1)
Land Use	Vacant/Residential

**Surrounding Zoning and Land Use:**

	North	South	East	West
Zoning	One Family-One (1F-1)	One Family-One (1F-1)	One Family-One (1F-1)	One Family-One (1F-1)
Land Use	Vacant/Residential	Vacant/Reserve "C"	Residential	Vacant/Residential

**Property Owner Notification as of: July 24, 2012:**

Sent	Returned	In Favor	In Opposition	No Comment
8				

Advertisement Date: July 13, 2012

City Department Notifications:

Airport: Pending  
 Building Department: No Objection  
 Fire Chief: Pending  
 Fire Marshal: Pending  
 Police Department: Pending  
 Public Works Department: No Objection

Private Utility Notifications:

A. T. & T.: Pending  
 Centerpoint Energy: Pending  
 Comcast Communications: Pending  
 Texas Gas Service: Pending

Other Notifications:

Texas General Land Office: No Objection with the following comments:  
 See attachment C.

Size of Site:

Lot: ~ 7,187 square feet  
 Structure Footprint Coverage: ~ 3,672 square feet  
 Structure Square Footage: ~ 2,420 square feet

Physical Characteristics:

This area is defined by the University of Texas at Austin, Bureau of Economic Geology, as having an erosion rate of -2.5 feet per year. The buildable portion of the tract is moderately vegetated, the habitable portion of the proposed dwelling is located approximately 168'-feet landward of the line of vegetation.

The property is accessed by Gulf Drive, located to the north of the lot. According to the applicant, all drainage from the subject lot will be directed landward / north of the proposed structure, towards FM 3005.

The proposed single family dwelling on this property will lie within 75-feet of the coppice mounds and dune to the west and also lies within 200-feet from the line of vegetation, therefore this request requires Planning Commission review.

**ANALYSIS**

Section 29-90: Coastal Development (i) - Beachfront Construction & Dune Protection Permit Standards states that:

"Before issuing a Dune Protection Permit the Department of Planning & Community Development and the Planning Commission, for their respective responsibilities as outlined in Section (a)(4), must find that:

**(1) The proposed activity is not a prohibited activity as defined in these standards.**

The proposed activity is not prohibited in Section 29-90(j): Prohibited Activities.

**(2) The proposed activity will not materially weaken dunes or materially damage dune vegetation seaward of the Dune Protection Line based on substantive findings as defined in "Technical Standards" of these standards.**

The proposed dwelling will be located approximately 168-feet landward of the line of vegetation. Upon site visit, Staff noted coppice mounds forming south of the property and are located approximately 31' seaward of the proposed structure. In addition, there is an established dune located south and west of this property.

**(3) There are no practicable alternatives to the proposed activity that is located seaward of the Dune Protection Line and adverse effects cannot be avoided as provided in the Mitigation sequence as outlined in these Zoning Standards.**

The proposed dwelling will be located within the platted building lines. No activity will occur seaward of the dune protection line.

**(4) The applicant's mitigation plan, for an activity seaward of the Dune Protection Line, if required, will adequately minimize, mitigate, and/or compensate for any unavoidable adverse effects.**

No mitigation plan will be required.

**(5) The proposed activity complies with any applicable requirements of: Requirements for Beachfront Construction Certificate and Dune Protection Permits and Management of the Public Beach of this Section; and**

The request for new construction of a single-family residence complies with the City of Galveston's Dune Protection and Beach Access Plan. The proposed new residence conforms to the City of Galveston's Coastal Development Ordinance regarding beachfront construction.

The applicant may construct the footprint (~2,420 square feet) and one driveway 20' wide by 44' in length of unreinforced fibercrete in 4' x 4' sections with wood expansion joists, in accordance with the City of Galveston's specifications regarding slab and driveway construction.

There should be no adverse impacts on the natural drainage pattern of the site and adjacent lots due to the fact that the proposed structure will be approximately 31-feet landward of the north toe of the coppice mounds/dune, and all drainage will flow north to FM 3005, as required by the Department of Public Works.

Single-family structures in existing platted subdivisions meet the Beach Access Policies and Requirements, and the Dune Protection and Beach Access Plans.

**(6) The structure is located as far landward as practicable.**

The proposed structure will be located 21-feet from the front property line. In this subdivision the front yard setback is 20-feet. The structure will need to be shifted landward by 1-foot in order for the construction will be as far landward as practicable.

**Staff further finds:**

- (1) The activity will not result in the potential for increased flood damage to the proposed construction site or adjacent property.
- (2) The activity will not result in runoff or drainage patterns that aggravate erosion on or off site. Furthermore, the applicant would be required to submit a drainage plan to show the drainage to the right-of-way, to the north of the lot.
- (3) The activity will not result in significant changes to dune hydrology.
- (4) The activity will not disturb unique flora or fauna or result in adverse effects on dune complexes or dune vegetation.
- (5) The activity will not significantly increase the potential for washovers or blowouts to occur.

**CONFORMANCE WITH THE 2011 COMPREHENSIVE PLAN**

The request for a Beachfront Construction Certificate conforms to the goals of the 2011 Comprehensive Plan, which encourages residential development on the west end of Galveston Island. Specifically, Section 3.1 calls for the "development of housing suited to the needs of special population groups and to the unique character of Galveston Island, outside the urban core." Housing development on the Island's West End expands the community's tax base and supply of housing.

**GEOHAZARDS MAP**

The Geohazards of Galveston Island Map and Study conducted by Dr. Jim Gibeaut at the Bureau of Economic Geology at The University of Texas. The subject property contains land that is located within areas identified as "Imminent and High Geohazard Potential Area."

**STAFF RECOMMENDATION**

Staff recommends Case 12P-84, request for a Beachfront Construction and Dune Protection Permit in order to reconstruct the single family dwelling, be approved with the following conditions:

*Specific conditions of Case 12P-84;*

1. The applicant shall adhere to the following Texas General Land Office comments:
  - *The applicant may use unreinforced fibercrete in 4-foot by 4-foot sections to pave beneath the habitable structure and for a driveway that connects the habitable structure to the street in the area 25-feet landward of the north toe of the dune to 200-feet landward of the line of vegetation.*
  - *Pervious materials such as brick pavers, gravel or crushed limestone may be used to stabilize the driveways.*
  - *The proposed structure must be elevated on pilings in accordance with FEMA minimum standards or above the natural grade whichever is greater.*
  - *The City may permit the applicant to construct an enclosure beneath the habitable structure provided that the walls are breakaway or louvered and the construction is consistent with the requirements of the National Flood Insurance Program.*
  - *The City must ensure the proposed construction is consistent with FEMA minimum requirements or with the FEMA approved local ordinance.*
  - *The City must ensure the proposed habitable structure is designed for feasible relocation.*
2. Due to the fact that the structure will be approximately 168-feet landward of the continuous line of vegetation (approximately 32-feet landward of the north toe of the coppice mounds/dune), the applicant shall construct the footprint (~2,420 square feet), in accordance, in conformance with all City of Galveston specifications with regard slab construction;
3. The applicant shall construct one (1) driveway of unreinforced fibercrete in 4' x 4' sections with wood expansion joists 20' wide by 44' in length.;

*Standard Conditions for Case 12P-84:*

4. The applicant shall adhere to all comments/conditions received from City departments and/or private utility companies. Should conformance with the comments/conditions require alterations to the project, as approved, the case must be returned to the Planning Commission for additional review and approval;
5. The applicant agrees to construct the dwelling structure according to all specifications set by all City Departments and in accordance with the attached site plan;
6. All drainage from the dwelling shall be directed toward Gulf Drive, north of the lot and drainage plans shall be submitted to City of Galveston Public Works Department, Division of Engineering for approval;
7. The area seaward of the dwelling shall be designated a dune protection area, prohibiting any alteration of natural conditions in this area, except for any future proposed dune walkovers, approved by the Department of Planning and Community Development and the Texas General Land Office;
8. The applicant coordinate any/all dune enhancement plans with the Department of Planning and Community Development;
9. The applicant agree to and execute the Beachfront Construction Certificate & Dune Protection Permit within **thirty (30)** days of approval from the Planning Commission;
10. The applicant shall obtain a building permit within six (6) months from the date of approval of the Beachfront Construction Certificate and complete construction within one (1) year from the date of approval of this Certificate;

- 11. The applicant must adhere to all comments received from the Texas General Land Office. Should the comments require the applicant to alter the location of structure or the structure itself, the case must be returned to the Planning Commission for approval; and,
- 12. The applicant must adhere to all aspects of Section 29-90 of the Galveston Zoning Standards: Development, Preservation and Protection of Sand Dunes.

**ATTACHMENTS**

- “A” – Aerial Zoning Map
- “B” – Texas General Land Office Comment Letter (2 pages)
- “C” – Topographic Survey/Site Plan/Site Cross Section (2 pages)

**Subject to the Rights of Appeal, the Planning Commission has final decision of this Beachfront Construction Certificate Request.**

**Respectfully Submitted,**

  
\_\_\_\_\_  
**Libby Stone, Coastal Development Planner**

7/16/12  
**Date**

  
\_\_\_\_\_  
**Lori Schwarz, Interim Director**

7/16/12  
**Date**

**12P-85 (4161 Point West Drive)** Request for a General Land Use Plan to conduct an “Amusement Commercial-Outdoor” for the rental of golf carts and bicycles in a Planned Development (PD), zoning district. Property is legally described as Common area A, in the City and County of Galveston, Texas.

Applicant: Daniela Hughes

Property Owner: CRVI CDP Lending LP, Leased to the Point West Property Owners Association

**Existing Zoning and Land Use:**

Zoning	Planned Development (PD)
Land Use	Pointe West Club House

**Surrounding Zoning and Land Use:**

	North	South	East	West
Zoning	Planned Development (PD)	Water Area (W)	Planned Development (PD)	Planned Development (PD)
Land Use	Residential	Gulf of Mexico	Residential	Residential

**Property Owner Notification as of July 24, 2012:**

Sent	Returned	In Favor	In Opposition	No Comment
108				

Advertisement: July 13, 2012

City Department Notifications:

Airport: Pending  
 Building Department: Pending  
 Fire Chief: Pending  
 Fire Marshal: Pending  
 Police Department: Pending  
 Public Works: Pending

Private Utility Notifications:

A. T. & T.: Pending  
 Center Point Energy: Pending  
 Comcast: Pending  
 Texas Gas Service: Pending

**BACKGROUND**

The Pointe West Subdivision and Beach Club were previously granted a General Land Use Plan (GLUP) approval in order to operate a “Club House facility”, on December 16, 2003, under case 04P-41.

The property has been in bankruptcy which caused a change in the overall operation of the Club House and services offered. The applicant began renting golf carts to the guests and residences of the Pointe West Subdivision unaware that a General Land Use Plan was required.

A letter was sent June 6, 2012, requesting a General Land Use Plan application be submitted for the golf cart and bicycle rental.

**ANALYSIS**

The applicant is requesting a General Land Use Plan (GLUP), to operate a golf cart and bicycle rental business for the guests and residents of the Pointe West Subdivision within a Planned Development (PD) zoning district. Any proposed use in a Planned Development (PD) zoning district shall be based on a General Land Use Plan (GLUP).

The golf cart and bicycle rentals were services that the Pointe West Club House originally offered their residence and guests prior to the bankruptcy. The applicant is proposing to revive the services by offering the rentals.

***Proposed Use***

The applicant is proposing to operate a golf cart and bicycle rental business located in the parking garage underneath the Pointe West Beach Club. There are thirty (30) existing striped parking spaces specifically designated for golf carts with charging stations within the parking garage. The golf cart parking area is sectioned off from the motor vehicle parking and has a separate entrance and exit to allow golf carts to enter and exit onto the golf cart paths. Please reference Attachment "C" for golf cart parking details. Currently, there are eight (8) golf carts being used as rentals. The applicant would like to increase that number to twenty (20) golf carts in the future.

The applicant is proposing to have fifteen (15) bicycles for rental. There is an existing bicycle rack that is west of the designated golf cart parking area in the parking garage. The bicycle rack can accommodate approximately nine (9) bikes. The applicant is proposing to add an additional bike rack to accommodate fifteen (15) bikes in the future.

The golf cart and bicycle rentals will only be offered to the residents and guests of the Pointe West Subdivision. The rentals of both the golf carts and bicycles will be conducted by phone or internet and will either be delivered to the customer or the customer will pick up at the parking facility.

***Site Details***

The Pointe West Club House is on Parcel 1C, an approximately twenty-eight (28) acre commercial reserve parcel south of FM 3005, and approximately 1700 feet west of Playa San Luis subdivision.

***Existing/Proposed Structures***

Located on the property is a beach club, two (2) swimming pools with cabanas, picnic shelters, and extensive landscaping, including two (2) drainage ponds. A dune walkover is also provided in parcel 1C for public beach access. The site is also improved with existing paved streets, golf cart, biking and hiking tracks.

The applicant is proposing to utilize the existing parking garage for the rental of bicycles and golf carts. There are no new structures being proposed.

***Signage***

All signage must be in accordance with Section 29-82 (k). This section does allow for the site to contain one (1) detached sign not to exceed 60-square feet for each 60-linear feet of street frontage. Other types of signs are permissible for the site as specified in Section 29-82 (k). At this time, no signs are being proposed. The applicant, or leasee(s), will submit all signage permits at a later date and compatibility with streetscape will be considered at that time. Consideration will be given to size, location and intersection visibility.

***Landscaping***

The property is in compliance with Section 29-67 (g) of the Galveston Zoning Standards regarding landscaping and screening, the applicant will not be required to add any additional landscaping or screening to the proposed site.

***Pedestrian Walkways and Vehicular Drives***

The Pointe West Club House is accessed from FM 3005. The Club House parking garage is accessed by one (1) entry point and one (1) exit point underneath the Club House. The golf cart parking is located south of the parking garage entrance and has a separate entrance and exit that separates the golf carts from the motor vehicles. There are sidewalks and golf cart paths adjacent to the Club House and throughout the development.

***Lighting***

Of the four established lighting zones, the proposed site is located in Lighting Zone 2 (LZ2). LZ2, considered the low lighting zone, is generally the area located west of 103<sup>rd</sup> Street, East Flats, Pelican Island and Teichman Point. All new outdoor lighting installed in the City of Galveston must conform to Section 29-106 (c) Regulation of Outdoor Lighting.

***Drainage***

The applicant shall be required to conform to all comments and requirements from the Public Works Department related to drainage. Conformance with the drainage requirements will be verified during the building permitting process.

***Trip Generation, Traffic Volume and Impact***

The estimated number of daily trips generated by the rentals will have a minimal impact on the traffic volumes in the vicinity, due to the business being seventy-five (75%) percent delivery and twenty-five (25%) percent customer pick up and the service is only offered to the guests and residences of the Pointe West subdivision.

***Parking***

Pointe West originally provided 321 parking spaces, which includes one hundred (100) public beach access spaces for the dune walkover. According to the Galveston Zoning Standards Section 29-67 Vehicle Parking Regulations, 166 parking spaces were required for 4161 Pointe West Drive (Beach Club House) and Condos and 221 parking spaces were provided less the one hundred (100) public beach access spaces leaving an excess of 55 spaces.

According to Section 29-67: Vehicle Parking Regulations of the Galveston Zoning Standards, for a Commercial Recreational and Amusement Establishments: One (1) space for every two hundred (200) square feet involved in such use shall be provided. According to the information above and the information provided by the applicant, there is approximately fifteen hundred (1500) square feet being used for the golf carts and bicycles which requires seven and one-half (7.5) parking spaces which will come out of the fifty-five (55) excess parking spaces.

***Compatibility with Surrounding Land Use and Zoning***

The subject property is adjacent to property zoned Planned Development (PD) to the north, west and east, with the Gulf of Mexico to the south. The proposed land use "Amusement Commercial (Outdoor)" for golf cart and bicycle rental is a permitted land use in the Planned Development (PD) zoning district and is considered compatible with the surrounding zoning and land uses, based on the existing development. The land use being proposed should not adversely affect the surrounding land uses and zoning, provided the applicant comply with all public safety, traffic, and land use regulations.

**CONFORMANCE WITH THE 2011 COMPREHENSIVE PLAN**

Staff has cited those sections of the 2011 Comprehensive Plan that are applicable to this proposal.

***Economic Development:*****Section ED 3.4 Promote Small Business Development and Retention**

*Section ED 3.4 states: The City should support the development and retention of small businesses within Galveston. The Chamber of Commerce has noted that 80 percent of new jobs will be created by existing businesses. City services to small business should be prioritized to support their success in the community. Additionally, the City should encourage the diversification and retention of non-profit entities. The City should also investigate a micro-loan program to assist both established and new small businesses.*

***Land Use Element:*****LU-2.9 Create Neighborhood and Village Centers on the West End to Provide for the Needs of West End Residents**

*To provide neighborhood-serving commercial services and facilities on the West End to meet the needs of existing and future residents, the City should explore ways to promote the clustering of uses in compact, conveniently-located Traditional Neighborhood Centers and Traditional Village Centers. Clustering uses in a series of such centers, generally on the north side of FM 3005, can serve multiple objectives—strip commercial development can be avoided, auto trips can be limited, and impacts to scenic and natural resources can be minimized.*

**LU-3.5 Support Provision of Neighborhood Amenities**

*The removal of blighting influences through code enforcement, coupled with incentives for reinvestment, will be vital but not fully sufficient to promote neighborhood stabilization and renewal. A quality neighborhood environment comprised of safe, walkable, well-lit, tree-shaded local streets and sidewalks will also be necessary. As called for in the Housing and Neighborhoods Element, the City should strategically target investments in sidewalks, street trees, street lights, and other neighborhood amenities in areas where such improvements will produce the greatest return in the form of resident quality of life and investor confidence.*

Staff finds that the proposed business conforms to the 2011 Comprehensive Plan with regards to Land Use Element based on the requested new business that services the residence of the west end.

**STAFF RECOMMENDATION**

Staff recommends Case 12P-85 be approved, with the following conditions:

***Specific to Case 12P-85:***

1. The "Amusement Commercial Outdoor" for golf cart and bicycle rentals shall conform to the standards and guidelines provided. Any substantial change in configuration or alteration to land use shall require a separate review by the Department of Planning and Community Development and/or the Planning Commission;

***Standard conditions:***

2. The applicant shall conform to Section 29-67 of the Galveston Zoning Standards regarding parking and landscaping requirements. The applicant shall also provide the required number of ADA accessible parking spaces on the property;

3. The applicant shall conform to Section 29-82 of the Galveston Zoning Standards regarding Signage requirements. The applicant shall obtain a signage permit for each sign on the property prior to installation. All signage shall be located on private property;
4. The applicant shall conform to Section 29-106 (c) of the Galveston Zoning Standards regarding lighting requirements;
5. The applicant shall adhere to all comments/conditions received from City departments and/or private utility companies. Should conformance with the comments/conditions require alterations to the project, as approved, the case must be returned to the Planning Commission for additional review and approval. Failure to comply with all comments/conditions may result in penalties and/or revocation of this permit;
6. In accordance with Section 29-40 of the Zoning Standards, should the applicant be aggrieved by the decision of the Planning Commission, an appeal may be filed to City Council. Such appeal must be filed with the Department of Planning and Community Development no later than ten (10) working days from the date of the Planning Commission's decision.

**Subject to the Rights of Appeal, the Planning Commission has final decision regarding the General Land Use Plan.**

**Attachments**

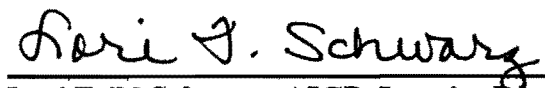
- "A" – Zoning Map
- "B" – Aerial Map
- "C" – Site Plan of Parking Garage
- "D" – Site Plan of Site
- "E" – Photo's

**Respectfully Submitted,**



**Janice Norman, Urban Planner I, Zoning Administrator**

7/16/12  
**Date**



**Lori Feild Schwarz, AICP, Interim Director**

7/16/12  
**Date**

**12P-86 (Adjacent to 5101 Avenue S)** Request for a Permanent License to Use for the placement of a fence, stairs and canopy. Adjacent property is legally described as Lots 11 and 12 and adjacent 8 feet abandonment of 51st Street Block 175 Denver Resurvey, in the City and County of Galveston, Texas.

Applicant: William N. Rowe II

Property Owner: City of Galveston

**Existing Zoning and Land Use:**

Zoning	General Residence (GR)
Land Use	Residential

**Surrounding Zoning and Land Use:**

	North	South	East	West
Zoning	General Residence (GR)	One Family Three (1F-3)	General Residence (GR)	General Residence (GR)
Land Use	Residential	Residential	Residential	Residential

**Property Owner Notification as of July 24, 2012:**

Sent	Returned	In Favor	In Opposition	No Comment
27				

Advertisement Date: July 13, 2012

City Department Notifications:

Airport: Pending  
 Building: Pending  
 Fire Chief: Pending  
 Fire Marshal: Pending  
 Police: Pending  
 Public Works: Objection/ The unpermitted construction of the steps and canopy were built with no allowances made for a future sidewalk. The location of the tall masonry wall does not prevent a future 5-foot sidewalk from being constructed immediately adjacent to the curb. The three (3) concrete steps and the approximately 18-inch low wall adjacent to the highest step, do prevent a future ADA compliant sidewalk from being constructed and therefore need to be removed.

Private Utility Notifications:

AT&T: Pending  
 Center Point Energy: Pending  
 Comcast: Pending  
 Texas Gas Service: Pending

**BACKGROUND**

On July 27, 2009, the applicant was issued a permit for an eight-foot (8') tall wall that would be placed along 51<sup>st</sup> Street. The plans submitted by the applicant to the Department of Planning indicated that the wall would be placed on private property. However, it did not indicate there would be stairs or a canopy built adjacent to the wall. Also note, the conditions on the permit stated that the wall must be placed on private property.

On January 5, 2012, a complaint was received that a wall was built in the City of Galveston right-of-way. A site inspection of the subject property, city staff determined that the fence, stairs and canopy had been built in the City of Galveston right-of-way. A compliance letter was sent January 5, 2012.

The applicant submitted documentation that eight-feet of right-of-way had been abandoned in 1940, and he believed that the fence, stairs and canopy were on private property. After several conversations with the applicant and review of the abandonment documents by the Public Works Department and Planning Staff, it was determined that the fence might have been built in the right-of-way but a survey would be the only way that could be determined. However, the stairs and canopy had been built in the City of Galveston right-of-way and would require a License to Use.

On February 3, 2012 and April 3, 2012, compliance letters were sent requesting an application for a License to Use be submitted to the Department of Planning. After no reply from the applicant, charges were filed through Municipal Court on May 21, 2012. At the time the application was filed, the survey confirmed that the eight-feet (8') of right-of-way had been previously abandoned.

### **ANALYSIS**

The applicant is requesting a Permanent License to Use the City right-of-way adjacent to 5101 Avenue S to retain a fence, stairs and canopy that have been built in the City right-of-way.

As stated above, the property was granted an abandonment of eight-feet (8') of City right-of-way along 51<sup>st</sup> Street adjacent to 5101 Avenue S on July 19, 1940. The applicant is requesting an additional eleven-inches (11") of right-of-way for the fence. Please reference Attachment "C" survey for more details.

The stairs extend from the wall to the curb with three (3) steps. The stairs occupy five-linear-feet and forty-square-feet of right-of-way. Also note, there is a low wall at the top of the stairs that measures eighteen-inches by twenty-four inches (18"x24"). Please reference Attachment "E" for a photo of the steps.

### **Impact on Transportation System**

The License to Use the City right-of-way creates an adverse impact on the existing transportation system, due to the obstruction of pedestrian passage by the low wall and stairs. There are no sidewalks in this area and pedestrians walking may have to exit the grass and enter onto the street to avoid the stairs.

### **Impact on Public Utilities and Services**

The Department of Public Works has noted that the wall does not negatively impact the future installation of a five-foot (5') future sidewalk. However, the three (3) concrete steps and eighteen-inch (18") low wall are an obstruction and need to be removed.

### **Impact on Private Utilities and Services**

It is inconclusive if the License to Use will have a negative impact on private utilities, no reviews from the private utilities have returned at the time this report has been prepared. Should any responses be received in objection to this request, the applicant shall remedy the objection or return to the Planning Commission for further review.

### **CONFORMANCE WITH THE 2011 COMPREHENSIVE PLAN**

The request for a Permanent License to Use the City right-of-way is not in conformance with the 2011 Comprehensive Plan, which promotes the right-of-way being used for clear public purpose.

#### **T-4.2 Ensure Appropriate Use of Public Rights-of-Way**

*The City is the steward of our public rights-of-way, which include streets and sidewalks. The Planning Commission serves as the review body for requests from the public to purchase (called abandonment) or use the right-of-way through a lease agreement called License to Use (LTU). The City Council has final decision-making authority for abandonment requests. Often these requests are driven by a desire to use the right-of-way for personal gain. The City has a duty to balance the desires of private individuals with the protection of the public land.*

*As part of the land development regulation update, the LTU process should be reviewed and streamlined. Uses of the right-of-way that serve a clear public purpose should be handled through an administrative process, similar to the current Temporary LTU processes.*

The fence being placed in the City right-of-way serves to provide security to the adjacent home but does not provide any benefit to the public. The fence and stairs create an obstruction to pedestrian circulation as well as a possible tripping hazard. Staff believes the applicant has other options for placement of the fence, stairs and canopy on private property without the use of City right-of-way.

### **STAFF RECOMMENDATION**

Staff recommends Case 12P-86, request regarding a Permanent License to Use the City Right-of-Way for a fence, stairs and canopy, be denied:

However, should the Planning Commission determine this request to be in conformance with the 2011 Comprehensive Plan, Staff recommends the following conditions:

#### *Specific Conditions:*

1. The applicant shall remove the last step and make it even with the second step to provide a flat surface for pedestrians to cross;
2. The applicant shall install a standard sidewalk along the 51<sup>st</sup> Street right-of-way parallel to the wall;
3. The eighteen-inch (18") low wall on both sides of the stairs be removed and leveled out for a smooth surface;
4. The applicant shall obtain a Temporary License to Use the City right-of-way, with an approved traffic plan, for the construction phase of the project. The applicant will be required to adhere to all aspects of the approved traffic control plan;
5. The construction site shall be secured at the end of each work day, to prevent trespassing while the stairs are being removed;
6. The City right-of-way shall not be completely obstructed for more than (4) months, to allow for the stair removal, unless otherwise approved by the Galveston Planning Commission;
7. The applicant must proceed with an abandonment of the eleven-inches (11") of right-of-way the fence encloses within six (6) months of the Planning Commission approval;

#### *Standard LTU conditions*

8. The Licensee shall adhere to all comments/conditions received from City departments and/or private utility companies. Should conformance with the comments/conditions require alterations to the project, as approved, the case must be returned to the Planning Commission for additional review and approval. Failure to comply with all comments/conditions may result in penalties and/or revocation of this permit;
9. The applicant shall maintain a minimum of five-feet (5') of unobstructed pedestrian access within the subject City right-of-ways;
10. The construction site shall be secured at the end of each work day, to prevent trespassing;
11. The Licensee shall be responsible for repairing any damage to the right-of-way area caused by the installation and maintenance of the requested items. Such repairs shall be made promptly and in conjunction with applicable City departments;
12. The cleaning of the debris from the site shall be the responsibility of the Licensee;
13. The Licensee shall locate all existing utility lines located at the site, prior to installation of the requested items. The applicant shall contact the Department of Public Works for line locations, prior to any work at the site;
14. The Licensee and all of the Licensee's rights granted are conditioned that owners of utility facilities, whether publicly or privately owned, have at all times access to the property made subject of the License, together with the right to enter the property and excavate for the purpose of repairing, replacing, locating and maintaining such utility facilities, if any;
15. The Licensee shall execute the License to Use Agreement within 90-days from the date the Planning Commission approved the License to Use, otherwise the Agreement shall be of no further effect and shall be considered as having been canceled fully;

- 16. **LICENSEE UNDERTAKES AND PROMISES TO HOLD THE CITY OF GALVESTON HARMLESS AND TO INDEMNIFY AND DEFEND IT AGAINST ALL SUITS JUDGMENTS, COSTS, EXPENSES AND DAMAGES THAT MAY ARISE OR GROW OUT OF THE USE OR GRANT OF THE LICENSE TO USE CITY RIGHT-OF-WAY UNDER THIS AGREEMENT REGARDLESS OF FAULT;**
- 17. The City does retain the right and option to cancel the License and terminate all rights of the License upon ninety (90) days written notice of such cancellation and termination, sent to Licensee at the mailing address provided herein; and, Licensee agrees and shall be obligated to vacate the property made subject of the license and to remove all improvements and/or obstruction located thereon at Licensee’s own expense prior to the expiration of said 90-day notification period; and
- 18. The fee shall be fifty dollars (\$50.00) for the first on thousand dollars (\$1,000.00) valuation and twenty-five dollars (\$25.00) for each additional one thousand dollars (\$1,000.00) valuation or fraction thereof. Said fee is due upon the execution of this Agreement and shall be the consideration for the issuance of the license to use the property described in Exhibit “A”, in the City Right-of-Way. All sums hereunder are to be made payable to the City of Galveston.

**ATTACHMENTS**

- “A” – Zoning Map
- “B” – Aerial Map
- “C” – Survey
- “D” – Site Plan
- “E” – Photograph
- “F” – Abandonment Document

**Respectfully submitted,**

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**Janice Norman, Planner I, Zoning Administrator**

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**Date**

\_\_\_\_\_  
**Lori Feild Schwarz, AICP, Interim Director**

\_\_\_\_\_  
**Date**