

**PLANNING AND ZONING COMMISSION
OCTOBER 12, 2011
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Ned Sheats
Marisela Marin
Carlos Lopez
Mario Garza
Rene Flores

P&Z ABSENT

Luann Caudle
Guadalupe Vela

STAFF PRESENT

Sergio Zavala
Bobby Salinas
Susana De Luna
Sonia Carnes

GUESTS PRESENT

Robert Gastel
John Gaytan
Ivan Camargo
Roel Buentello, Jr.
Jose M. Aguilar
Mary Nelly Rodriguez
David Aguilar
Manuel Rodriguez
Maxilou Link
Robert L. Rivera
Beu Allies
Bob Gastel

CALL TO ORDER

Chairman Ned Sheats called the meeting to order at 5:09 p.m.

CITIZENS PARTICIPATION

There was no response upon inquiry by Chairman Sheats.

APPROVAL OF MINUTES FOR SEPTEMBER 28, 2011

Chairman Sheats asked if there were any corrections to the minutes for September 28, 2011. There being no corrections, Mr. Garza moved to approve the minutes as presented. Mr. Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:10 p.m.

Ended: 5:25 p.m.

ITEM # 1.1

**Conditional Use Permit: Portable Building-Ice Machine
Lot 6, Condy Place Subdivision
C-3
Life of Use
Robert Gastel**

Mr. Salinas went over the write-up stating that the proposed site is located at the NE corner of Griffin Parkway and Keralum Avenue. The applicant is proposing a self-sustained, fully automated, ice machine/water dispenser (8' x 24' portable

structure). It is proposed to be located along the eastern area of the site adjacent to an existing alley. Access to the site is proposed off of both Keralum Avenue and the alley located along the east side of the lot. There are 6 parking spaces being proposed where only 4 are required, thus exceeding code. There are existing water and sewer services available to the site located along the east side of the lot. They are proposing a landscaped drainage swale along the frontage of Griffin Parkway that will be connecting to an existing TxDOT inlet via an 8" bleeder line; they must apply for a storm discharge permit from TxDOT.

- Hours of Operation: Everyday 24-hours a day.
- Technicians conduct service inspections every 48 hrs. to ensure that the ice/water dispensing unit is clean and functioning properly.
- There is a total of 18% of green area being proposed, which exceeds code by 13%.
- The applicant is also proposing 3 shade of ornamental trees; 2 along Griffin Parkway and 1 along Keralum Avenue.
- In looking at existing examples of the ice machine, staff noticed that there was a large amount of signage on the building. If approved, we would need to ensure that the building meets the sign code with wall advertising not to exceed 10% of the total wall face.

On 10-25-10, City Council approved Ordinance No. 3602 which states: *"No sheet metal buildings, or buildings of similar material and/or effect, shall be permitted along major commercial corridors ... Any sheet metal type structure ... that is proposed ... shall have as a final 'front of building' finish with either masonry, brick, and/or stucco material"*.

The proposed portable building is made with textured metal sheeting. If this portable building is approved, the visible façade of the building be must covered with a masonry/stucco material in order to comply with Ord. 3602. Staff recommended to table the item pending submittal of portable building's rendering showing: 1) stucco or masonry finish; 2) meet 10% wall advertising; 3) showing type/size/caliper of ornamental trees; and 4) provide engineer's drainage calculations on swale detention and bleeder line discharge.

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

Mr. Juan Gaytan stated that he was the property owner right next to the proposed ice machine that owned 3 office suites to the east of this request. Mr. Gaytan recalled that when he originally applied for his building permit the City required that he build something that would not be portable which was one of the reasons he was in opposition to this request. He added that the looks of the building would not comply with what the City is requiring which was the beautification of the City of Mission. Mr. Gaytan showed the Board different pictures of other units that

were in the Mission area that had a lot of big signs. He added that the State would not accept another entrance or exit off of FM 495. Mr. Gaytan stated that the exit onto the alley would also be affected. He added that the air conditioning and mechanical outlets of the unit on top of the building were exposed and were not very nice looking for the public, which was not what the city wanted to see.

Chairman Sheats asked if the applicant or representative were present.

Mr. Bob Gastel who resides at 5510 N. Cage Boulevard stated that in listening to Mr. Gaytan he is familiar with his offices and as a matter of fact one of his tenants which was the Water Boy, which would be his direct competitor. He mentioned that they were willing to comply with the sign code. Mr. Gastel stated that they had another machine in New Braunfels that was stucco and they were willing to provide pictures of that ice machine to staff. He added that they were not trying to do anything out of the ordinary or asking for any special treatment they were willing to comply with staff's recommendations 100%.

Chairman Sheats asked Mr. Gastel if they had already provided the pictures of the building to staff.

Mr. Gastel apologized for not having the pictures yet but he mentioned that would forward them to staff once they send them to him. He added that these ice machines get quite a few people on Saturday & Sundays which they would benefit the City of Mission.

Mrs. Marin asked staff if they were sharing the exit on FM 495 or was it right-of-way.

Mr. Zavala stated that it was a public alley and it could be shared.

Mrs. Marin asked if everyone would be using the alley including Mr. Gaytan tenants.

Mr. Zavala replied, "Yes".

Mrs. Marin asked if any of the examples of the ice machines with the big signs that were shown in the pictures were in Mission.

Chairman Sheats stated that they were in the City of Alton.

Mrs. Marin stated that if the ice machine was approved they would need to comply with the Sign Code and if any of the examples presented were inside City limits they would need to comply as well. She asked if the air conditioning and mechanical outlets on the ice machine could be hidden.

Chairman Sheats stated that they would not know if that could be done yet.

Mrs. Marin asked Mr. Gastel if once he gets the pictures he would show the Board what he had and what could be done to comply with staff's recommendations.

Mr. Flores asked Mr. Gastel where exactly was the ice machine in New Braunfels located.

Mr. Gastel stated that it was located downtown in New Braunfels.

Mr. Flores stated that he agreed with Mr. Gaytan in regards to the proposed location. He added that this was a very heavy traffic area and understood why Mr. Gastel wanted to put the ice machine because the more traffic the more people benefit but he just didn't believe this was the ideal location for the ice machine.

Mr. Garza stated that he would like to see the whole completed layout.

Chairman Sheats stated that they would like to see a real rendering not just a sketch. He added that the City Council has mandated that they want good looking streets in the City of Mission. He mentioned that frankly he would not like to see the ice machine, what he would like to see is an 8' fence with some good letters on it maybe blue and illuminated. A classy operation that has cold water & ice signs that way nobody sees the ice machine on Griffin Parkway.

Mr. Gastel stated that the owner, Mr. Armando Peña, who is the owner of this location and 5 other adjacent lots to the north of this one has allowed them to install the ice machine in the front of lots.

Mrs. Marin asked if staff foresees any problems with the engineer drainage.

Mr. Salinas stated that staff had just received that information and didn't have a chance to review it but it will be done by the time this item is seen again.

There being no further comments, Chairman Sheats entertained a motion. Mr. Garza moved to 'Table' the conditional use permit as recommended by staff. Mrs. Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:25 p.m.

Ended: 5:29 p.m.

ITEM # 1.2

**Conditional Use Permit: To Place a 6' x 10' Portable Building
for Use as a Walk-In Cooler
819 N. Bryan Road
N. 160.7' – S. 1192.4' – E. 215.27' out of**

**Lot 20-10, West Addition to Sharyland
C-3
Life of Use
El Pato Mexican Food**

Mr. Salinas went over the write-up stating that the site is located on the SW corner of Bryan Road and Business Highway 83. The 6' x 10' (60 sq. ft.) fiberglass portable is proposed to be installed at the SW corner of the site within the parking area, leaving 5' from the west property line and 18.5' from the south property line. The structure will have an exterior finish consistent to a *masonry façade*.

Though having a portable next to a site built structure may not be a long term desire of the City when considering aesthetics along a major corridor, since the proposed cooler is so small, (smaller than most residential storage rooms), also being located over 168' from Bryan Road, staff does not object to the installation of the walk-in cooler. However, perpetual (CUP) monitoring will be the norm where one day the portable may need to be upgraded with an on-site built structure. Staff recommended approval subject to perpetual annual re-evaluations.

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

There was no response.

Chairman Sheats asked if the applicant or representative were present.

There was no response.

Mrs. Marin asked where they would get power to keep the products cool.

Chairman Sheats stated that they would get power from an outlet near the trash can.

Mr. Flores asked how come they are asking for this structure now do they not have enough refrigeration space inside, would it be cost effective.

Mr. Salinas stated that it saves them the delivery cost and it would be more cost effective to store more food onsite.

Mr. Flores asked how would we keep the rest of the restaurants from doing the same by the time you know it we will be having walk-in coolers in every parking lot.

Mr. Salinas stated that there were some that had permanent structures like Church's. He added that in talking with Mr. Van Burkleo he mentioned that the

cooler was only temporary for about 3 or 4 months even though he was asking for a year.

There being no further comments, Chairman Sheats entertained a motion. Mr. Garza moved to approve the conditional use permit subject to staff's recommendations. Mr. Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:29 p.m.

Ended: 5:35 p.m.

ITEM # 1.3

Conditional Use Permit: Sale & On-Site Consumption of Alcoholic Beverages & Drive- Thru Service Window at Tino's Seafood Restaurant 2310 E. Expressway 83, Suite 8 Lot 3, Cimarron Crossings C-3 Life of Use Ivan Camargo

Mr. Salinas went over the write-up stating that a conditional use permit for the sale and on-site consumption of alcohol and a drive-thru service window was recently approved at this location on 10-21-10 for Corina Longoria however; since a new operator is evident, the CUP process has thus been activated.

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 proposes to continue operating the restaurant with a drive-thru service window. 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 and on-site consumption of alcohol with meals. There are no churches or schools within 300' of the subject site. Staff also requested a report from P.D. to see if there were any issues with this business in relation to the sale and on-site consumption of alcohol from the previous applicant. Asst. Chief Robert Dominguez researched the site for any incidents and found that there were none reported.

Parking: The 1,380 sq. ft. building has a total of 35 seating spaces for the restaurant. A total of 18 spaces are required for the site (1,380 sq. ft. = 18.4 parking spaces). It is noted that a total of 66 parking spaces are held in common within the commercial development.

Other comments include:

- Days & Hours of Operation: Monday – Thursday from 12:00 p.m. to 9:00 p.m., Friday – Sunday from 12:00 p.m. to 10:00 a.m. Alcoholic beverages will only be served during the allowable State selling hours.
- Number of Employees: 5
- Landscaping has been provided as a part of the overall commercial plaza.
- A speed bump has been installed in order to slow traffic down when exiting the drive-thru; there is also a landscape island impeding pedestrian traffic onto the existing traffic's lane.
- Must meet sign code by removing all temporary signs on the site.
- A business license is required prior to occupancy.

Staff recommends approval subject to: 1) 1 year re-evaluation to assess this new operation, 2) remove all temporary signs within 24hrs; meet Sign Code; and 3) acquisition of a business license.

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

There was no response.

Chairman Sheats asked if the applicant or representative were present.

The applicant, Mr. Ivan Camargo stated that he had applied for all the proper permits for the food and alcoholic beverages. He mentioned that he would come and go each day to México since he was still not a resident.

Mrs. Marin asked Mr. Camargo he understood staff's recommendations and if he was receptive to them.

Mr. Camargo replied, "Yes". He added that he understood that if the sign was over 10% he would need to remove it.

Mrs. Marin stated that he needed to remove all the temporary signs he had within 24 hours of obtaining his business license.

Mr. Camargo stated that he was willing to comply.

Mrs. Marin asked staff why if the application was for life of use staff was only given him 1 year.

Chairman Sheats stated that they were requesting life of use but staff only recommends it for 1 year.

There being no further comments, Chairman Sheats entertained a motion. Mrs. Marin moved to approve the request as presented by staff. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:35 p.m.

Ended: 5:38 p.m.

ITEM # 1.4

Conditional Use Permit Renewal:

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

Mr. Salinas went over the write-up stating that this conditional use permit was mostly recently approved on 9-22-10. Mr. Buentello has been operating his Repo-Service over the past year without any major incidents and has been in operation since 4-15-09. He is now asking for an approval for his re-evaluation.

The site is ¼ mile north of Griffin Parkway along the east side of Moorefield Road. There is a 1,500 sq. ft. masonry home on the property that the applicant has been leasing. He has also constructed a 90' x 80' fenced impound area for the repossessed vehicles. Access to the site is through a paved driveway along Moorefield Road.

- Days/Hours of Operation: Monday-Friday from 8:00 a.m. to 5:00 p.m.
- Staff: 1 full time employee and 1 part-time driver
- 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 dealership.
- There is no ground pole signs permitted for this CUP.

Staff recommended approval subject to a 1 year re-evaluation.

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

There was no response.

Chairman Sheats asked if the applicant or representative were present.

The applicant, Mr. Roel Buentello, whose address is 2500 N. Moorefield Road was present to address any questions that the Board might have.

Chairman Sheats asked Mr. Buentello if he was willing to comply with the requirements.

Mr. Buentello replied, "Yes".

Mrs. Marin asked why was staff not recommending life of use since there have been no problems in the past.

Mr. Zavala stated that it was basically because of the zoning the current zone of the property was Agricultural Open Interim and that way staff had a little more control.

There being no further comments, Chairman Sheats entertained a motion. Mrs. Marin moved to approve the request as presented by staff. Mr. Flores seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:38 p.m.

Ended: 5:56 p.m.

ITEM # 1.5

Conditional Use Permit Renewal:

**Sale & On-Site Consumption of
Alcoholic Beverages – Smokin’ Aces
2518 E. Business Hwy 83
C-3
Michael Aguilar**

Mr. Zavala went over the write-up stating that the Smokin’ Aces operation is located approximately 300’ west of Taylor Road along the south side of Bus. HWY 83. Smokin’ Aces bar began its operation after the City Council approved it in January 2007 over-riding the denial from the Planning & Zoning Commission. In their approval, the City Council imposed 7 encumbrances - - see excerpts of the CC Mins dated 01/08/07. Some of the City’s primary conditions included annual re-evaluations of the operation, and having "professional security on-site during Friday-Saturday-Sunday’s evening hours of operation specified as 7pm until ½ hour past closing".

Due to the bar’s proximity being well within the code’s 300’ radius to residential apartments and the school, plus the City Council previous ‘CUP denials’ back then (2004) to other proposed (Conway) bars based on the separation code, the P&Z originally denied the Smokin’ Aces CUP (11/29/06). However, the City Council tried to be sensitive between the 2 land uses, thus the encumbrance for annual re-evaluations to see if the bar and/or its patrons are getting along within the neighborhood or if there are complaints increasingly raised. Ultimately, their compliance to prevailing City/State laws during the course of the annual evaluation period is tantamount on whether to approve or deny this item.

At this time, we present the information provided by the Mission PD for the comment period Oct.1, 2010 thru Oct. 2nd, 2011 - - there were **40 calls** made - they are as follows:

Fights - 2	Unwanted Subject - 3	Public Assistance - 1
Assist Other Agency - 1	Public Intoxication - 2	Lost/Found - 1
Suspicious Circumstances - 3	DWI - 1	Theft - 2
Disturbance - 4	Civil Matter - 1	Alarm - 3
Interference w/Child Custody - 1	Assaults - 4	Loud Noise - 2
Hit/Run Accident - 1	Accident - 1	Man Down - 1
Parking Lot Accident - 1	Drugs - 1	Burglary/Vehicle - 1
Unknown Circumstances - 1	Criminal Mischief - 1	911 Calls - 1

Perspectives of the Council’s policies regulating similar CUPs stem from their recent actions. Below please see the regulatory restraints imposed to similar others on 9/26/11:

Mariachuchena’s.....awarded <u>3 month CUP</u>	<i>Why? 1 incident of <u>selling alcohol after hours</u></i>
Kave’s Bar..... awarded <u>6 month CUP</u>	<i>Why? 1 incident of a <u>shooting after hrs.</u> in parking lot</i>

The intent of the re-evaluation period is to assess whether this alcohol-related CUP has remained a respectful neighbor or not within a nearby residential area (apts), and a nearby public high school. The attached letter of protest includes alleged fighting, urinating in public, & loud motorcycles/music.

Factoring-in the Council’s firm action last month to similar others with only 1 incident each, it appears logical that with 40 called-in incidents (fights, assaults, noise, PI, drugs, thefts, etc.) within 1 year at Smokin’ Aces, Staff has no recourse but to recommend ***denial*** to the CUP’s renewal.

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

There was no response.

Chairman Sheats asked if the applicant or representative were present.

Mr. Jose Aguilar whose mailing address is 1600 N. Taylor stated that he was not aware that they had 40 incidents.

Chairman Sheats stated that one of the stipulations that the City Council made was for them to have paid professional security.

Mr. Aguilar stated that he had bouncers on staff.

Chairman Sheats replied, “No, that was not what he asked”. He asked Mr. Aguilar if he had professional security from a security company.

Mr. Aguilar stated that he did not have professional security; he only had bouncers.

Chairman Sheats stated that once again they would not be considered professional security.

Mr. Aguilar stated that he was not aware he needed to have professional security.

Chairman Sheats explained to Mr. Aguilar that he was not trying to lecture him but he was the owner and he had 40 occurrences between his bar and the police department and just the single fact of him not knowing anything is a problem. He mentioned that somebody was not telling him what was going on in the bar. Chairman Sheats stated that he could go through all the incidents but it was not necessary some of them you could not help others could be dismissed quite easily but the majority could not. He added that the City Council had served notice last month that they were not going to have any problems with the bars they are going to take action on.

Mr. David Aguilar who is part owner of the bar stated that he took care of the night operations and he could say that those 40 calls were not for fighting or other incidents. He added that they have called the Police for bar checks so when its 1:45 a.m. or 1:50 a.m. they come in to make sure that the people will slow down on their drinking and leave. He also mentioned that they do this out of courtesy to make up for safety although they didn't know this calls would be counted against them. Mr. Aguilar stated that he knows the Mission Police Force they come in and do bar checks all the time to keep him and the bar safe. He added that their bar was not known in the Mission area for being a violent bar; they don't have fights. He mentioned that this bar was not like AK's, Fast Eddie's or Fanatics where some of the guys get a little out of control and we keep it under control. Mr. Aguilar stated that they had never had a bar fight where someone needs to go in an ambulance maybe a few years ago but not now. He added that they keep their patrons safe their regulars go every single day. Mr. Aguilar stated that he had called the police to do a bar check but he never realized that every time he would call to make sure the patrons and bar were safe they would count the call against the bar that was why his brother was not aware of any calls. He mentioned that he never called the Police to come and arrest anybody or pull someone out of the bar they have never done that. Mr. Aguilar stated that there was some Mission Police Officers who walk in and drink there and that was because he called them to keep the patrons safe. Mr. Aguilar added that the people that ride their motorcycles are professionals that live in the area. He mentioned that they had people who were custom brokers who may dress in leather and are weekend warriors but they are professionals. He added that those motorcycles that they ride are not cheap they cost \$30,000.

Chairman Sheats stated that he understood the explanation and appreciated that he did his part if he felt the need to call the Police Department to keep the patrons safe. However if you are calling the Police Department to come in and help or check that means there is a reason to be there. Also, he could not agree with Mr. Aguilar when he had an e-mail directly from Asst. Chief Dominguez saying otherwise. Chairman Sheats stated that now staff had people complaining in addition to the Police report meaning your neighbors stating that they can't put up with the noise because of the motorcycles going in and out, with the urination on the walls in the back, and that is not even considering the 4-assaults, 4-disturbances, 2-fights, 1- interference with a child custody, 2-public intoxication. He added that he has been in the P&Z Board for about 5 years and he had never heard of somebody being brought in and questioned during this type of renewal for over 1 or 2 and the fact that you had 40 calls this is not what Mission wants in a way of a public place for people to go and party. Obviously, the Board could only go here on what was presented by staff and the Police Department, if the Board decides to deny your request you could appeal to the City Council but we are looking at a lot of evidence.

Mr. Flores stated he was aware that TABC usually comes down on bars when you have fights because he has represented several clients.

Mr. Michael Aguilar stated that they are supposed to call TABC whenever they have a fight or an incident.

Mr. Flores asked Mr. Aguilar if TABC had been called on any one of these incidents.

Mr. Michael Aguilar stated that they have never had any incidents.

Mr. Flores stated that it was their responsibility to notify TABC so if there were any reports TABC should have them.

Mr. Michael Aguilar stated that it would be there responsibility and they were in very good standing with TABC.

Mr. Flores stated that he personally has represented at least 4 people that have either left this bar drunk or have been caught with drugs in this bar. He understands that this happens everywhere in bars across all the cities but there needs to be actions when you hear stuff like this happening. He mentioned that they could also not be oblivious to the type of crowd that is gathered is not your typical Pepper's or Chili's crowd it a little rougher crowd and maybe that's the calling or attraction of your bar. Mr. Flores asked what are you doing to make sure that this doesn't happen again. He also asked if they had put some light on the back because it was dark.

Mr. Michael Aguilar stated that they had put light poles up.

Mr. Flores asked why couldn't they hire the same police officers that go drink there to patrol the area.

Mr. Michael Aguilar stated that this was the first time he ever felt that the bar was a dangerous place. He added that it was Smokin' Aces it was a place where they play loud rock and there are bikers; that is the crowd that they have.

Mr. Flores stated that even more the reason to ensure that things like this are not happening in your bar.

Mr. Michael Aguilar stated that if that would satisfy the Board he would be willing to hire police officers to patrol his bar.

Mrs. Marin stated that he had already been asked to have security and have other issues with the site, that and the comments Mr. Flores and Mr. Sheats made definitely made it difficult for this Board to approve. She mentioned that instead of just denying it why not 'Tabling' the item to see if they come up with something that will work. Mrs. Marin stated that they need to have something to present because in all fairness right now they don't have anything.

Mr. Flores asked how long has this business been open.

Mr. Aguilar stated that they have been open a little over 4 years.

Mr. Flores stated that after being in the business for 4 years, he believed they would want to take care of their investment.

There being no further comments, Chairman Sheats entertained a motion. Mrs. Marin moved to 'Table' the item. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:57 p.m.

Ended: 6:01 p.m.

ITEM # 1.6

Conditional Use Permit Renewal:

**Temporary Mobile Home for
Health Care of Parents
909 S. Stewart Road
W. 300.31' – N. 145.05' of Lot 1,
San Jose Subdivision
AO-I
Mary Nelly Rodriguez**

Mr. Salinas went over the write up stating that the site is located ¼ south of Expressway 83 along the east side of Stewart Road. A CUP was initially approved by P&Z on 4-14-99 and last renewed on 9-17-08. When the CUP was last reviewed the following conditions were imposed: 1) re-evaluation in 3 years, 2) not to be used as a rental structure, and 3) once the intended need is no longer evident, the structure is to be removed within 30 days.

Staff met with Mr. Manuel Rodriguez, the applicant's father. According to her father, Ms. Rodriguez continues to care for both parents (Manuel and Ofelia Rodriguez). Mr. Rodriguez had open heart surgery years ago and requires medical attention regularly. Mr. Rodriguez also mentioned that she helps drives them to doctor's appointments, because he can't see as clear as he used too. The applicant is requesting that her CUP be renewed in order to be able to continue to help her parents.

We attest that no complaints have been registered with the Planning Department since the mobile home was moved in, nor during the previous renewals.

Since the CUP's intent is still evident, staff recommends approval subject to: 1) 3 year re-evaluation to assess the health care need; 2) M.H. not to be used as a rental structure, and 3) once the need is no longer evident, the structure is to be removed within 30 calendar days.

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

There was no response.

Chairman Sheats asked if the applicant or representative were present.

Mrs. Mary Nelly Rodriguez and her father Mr. Manuel Rodriguez were present to answer any questions the board may have.

Chairman Sheats asked if there were receptive to staff's recommendations. Mrs. Rodriguez replied, "Yes". She also added that a little over a year ago her dad fell down and broke his ribs, so they just want to keep him close to take care of him.

There being no further comments, Chairman Sheats entertained a motion. Mr. Garza moved to approve the conditional use permit as recommended by staff. Mr. Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:01 p.m.

Ended: 6:04 p.m.

ITEM # 2.0

Site Plan Approval:

**Institutional Use Expansion
Kika De La Garza Building Addition
Lot 1, Mission Library Subdivision
R-2
Upper Valley Art League**

Mr. Salinas went over the write-up stating that the 330' X 666' site is located at the NE corner of Kika De La Garza Loop and E. 12th St. The site currently has the Mission Library located along the western half of the lot and the Upper Valley Art League (UVAL) office is located at the SE corner of the lot. A new 2,517 sq. ft. addition is being proposed on the north side of the existing UVAL building. The new addition will be utilized as a work area for indoor welding, sculpting, etc. All building setbacks are exceeded.

- **Parking and Landscaping:** The required parking for the library and the UVAL building w/ the new addition are 98 spaces. There are approximately 177 existing parking spaces throughout the site, exceeding code by 79. In regards to landscaping, there are plenty of trees and shrubs existing on the site compliant to code.
- **Hours of Operation:** Tuesday – Friday from 11am to 3pm and 4pm to 7pm; and Saturdays from 2pm to 6pm.
- Must meet minimum Fire Codes regarding 'indoor welding' safety features and must comply with typical building codes.

Staff recommended approval subject to compliance to the Fire Marshal's Fire Codes on 'indoor welding' safety features, plus meeting all typical building codes.

Chairman Sheats asked if there was any input from the Board.

There was no response.

Chairman Sheats asked if the applicant or representative were present.

Mrs. Maxilou Link, President of the Upper Valley Art League stated that with this new addition to the building it would add classrooms for different classes such as sculpting pottery, stretching their own canvasses, welding. She added that they hoped to be a very educational place. Mrs. Link stated that one of her goals in the future would be that students would be able to get college credit for the work they do at Upper Valley Art League.

Chairman Sheats asked Mrs. Link if they already considered ventilation since they were going to do welding in a confined area.

Mrs. Link replied, "Yes they had considered ventilation".

Chairman Sheats asked if there were going to meet all the safety standards.

Mrs. Link replied, "Yes".

There being no further comments, Chairman Sheats entertained a motion. Mrs. Marin moved to approve the site plan as recommended by staff. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:04 p.m.

Ended: 6:30 p.m.

ITEM # 3.0

Discussion and Action for an Amendment to Chapter 86, Article II, Section 86-41. 86-153 (2C), 86-154 (2C), 86-155 (2C) – Changeable Copy Signs

Mr. Salinas went over the write-up stating that the following:

Existing City of Mission Definition - *Changeable copy sign* means a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or surface of the sign. A sign on which the only copy that changes is an electronic or mechanical indication of, for example, time and/or temperature shall be considered the "time and temperature" portion of a sign and not a changeable copy being for purposes of this chapter. Such changeable copy sign shall not be less than 1,000 feet from other such sign, and are deemed a conditional use requiring the approval of the appropriate boards.

Proposed City of Mission Definition - *Changeable copy sign* means a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or surface of the sign. A sign on which the only copy that changes is an electronic or mechanical indication of, for example, time and/or temperature shall be considered the "time and temperature" portion of a sign and not a changeable copy being for purposes of this chapter.

All changeable copy signs must comply with the following requirements:

- 1.) **Brightness** - The maximum brightness shall not exceed 5,000 candelas per square meter during daylight hours and 500 candelas per square meter between dusk and dawn. The sign must have an automatic dimmer control which produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise. User must submit documentation of this capability and compliance with the sign application.
- 2) **Colors** - Colors shall not include the red, yellow or green color spectrum Used for traffic control devices. No Changeable Copy Sign may be of such intensity or brilliance as to interfere with the effectiveness of an official traffic sign, device or signal. Such signs shall not produce glare or other lighting nuisances.
- 3) **Timing** - Must not display a message or picture that scrolls, fades, blinks,

bursts, flashes, travels, or by any other means that does not provide constant illumination. Every message or picture display must remain static for a minimum of eight seconds and must accomplish a change in display within two seconds or less.

86-153(2C)

- c. Changeable copy sign (~~requires conditional use permit~~):
1. Minimum setback: five feet from property line.
 2. Maximum size: 40 square feet.
 3. Maximum height: 20 feet.

86-154(2C)

- c. Changeable copy sign (~~requires conditional use permit~~):
1. Minimum setback: five feet from property line.
 2. Maximum size: 40 square feet.
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86-155(2C)

- c. Changeable copy sign (~~requires conditional use permit~~):
1. Minimum setback: five feet from property line.
 2. Maximum size: 40 square feet.
 3. Maximum height: 20 feet.

Mr. Salinas stated that 86-155 should remain as currently stated in the sign, i.e. a conditional use permit will be required along Expressway corridors.

Chairman Sheats asked if there was input from the Board to the request.

Mrs. Marin asked if Section 86-153 & 86-154 would apply to all zones.

Mr. Salinas stated that it would only apply for signs in C-2 and C-3 zones.

Mrs. Marin asked what other cities; Mission was being compared to regarding requirements on illumination, static or display change timing. She also asked what requirements Mission currently had.

Mr. Salinas stated that the City had no requirements as far as the illumination and timing but now, this amendment is going to consider the timing, colors, and brightness. The timing change would not be able to scroll, fade, blink, or burst. Staff compared it with various cities and used specifications from the City of McAllen.

Chairman Sheats stated that in order to have an existing changeable copy sign be grandfathered, they would need to adjust the brightness, timing and everything else.

Mrs. Marin stated that she thinks all the changes as being good but why did staff not want to require the conditional use permit.

Mr. Salinas stated that the City of Mission is the only city that requires a conditional use permit. Staff believes that since it works in other cities without a conditional use permit, why wouldn't it work for Mission?

Mrs. Marin stated that she believes that by requiring a conditional use permit staff could have more control on the signs.

Mr. Salinas stated that if they amend the code to where it has all the requirements it would not get passed staff until they have met all the requirements.

Chairman Sheats stated that if staff would bring all the changeable copy sign permits to P&Z to consider the timing, brightness, and colors it would be a while until they could actually see it on the business because he guaranteed that more signs like this would be coming to the City of Mission. He stated why not just have them comply with all the requirements staff imposes and then they get the sign.

Mrs. Marin stated that she didn't agree because she wanted to make sure the signs were in compliance especially if they were close to her house. She added that she would not like to take that away from the amendment.

Mr. Salinas stated that currently if they wouldn't do the amendment they would have one every 1000' scrolling, bright red, green, etc.

Mrs. Marin stated that they could get the conditional use permit for 1 or 2 years and if they comply then life of use but she didn't agree with removing it completely.

Brief discussion continued regarding the conditional use permit requirement.

There being no further comments, Chairman Sheats entertained a motion. Mrs. Marin moved to approve the amendment as recommended by staff with the removal of 86-155 from the proposed amendment. Mr. Lopez seconded the motion. Upon a vote, the motion passed unanimously.

ITEM # 4.0
ADJOURNMENT

There being no further items for discussion, Mr. Garza moved to adjourn the meeting. Mrs. Marin seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 6:30 p.m.

Ned Sheats, Chairman
Planning and Zoning Commission