

**PLANNING AND ZONING COMMISSION
NOVEMBER 16, 2011
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Ned Sheats
Luann Caudle
Mario Garza
Marisela Marin
Carlos Lopez

P&Z ABSENT

Rene Flores

STAFF PRESENT

Sergio Zavala
Bobby Salinas
Susana De Luna

GUESTS PRESENT

Javier F. Perez, Sr.
Silverio Perez
Esteban Lozano
Edgar Urtado
Gerardo Rocha, Jr. & Sr.
Vidal Rodriguez
Carlo Garza
Ramon Alan Gonzalez
Dolly Elizondo
Arturo Lerma
Joel Rios, Jr.

CALL TO ORDER

Chairman Ned Sheats called the meeting to order at 5:00 p.m.

CITIZENS PARTICIPATION

Chairman Sheats asked if there was any citizens' participation. There was no response upon inquiry.

APPROVAL OF MINUTES FOR OCTOBER 26, 2011

Chairman Sheats asked if there were any corrections to the minutes for October 26, 2011. There being no corrections, Mr. Garza moved to approve the minutes as presented. Mrs. Caudle seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:00 p.m.

Ended: 5:03 p.m.

ITEM # 1.1

Rezoning:

**Lots 10 & 11, Alex Cavazos Subdivision
AO-I to C-3
Javier F. Perez, Sr.**

Mr. Zavala went over the write up stating that the site is located on the SE corner of Inspiration Road and Mile 3. Each lot measures 82.48' x 96' (7,918.08 sq. ft.) for a total of 15,836.16 sq. ft. when combining both lots. The surrounding zones include: Agricultural Open Interim (AO-I) to the east and south, General Business (C-3) to the west, and the County to the north. The surrounding land uses include: Single-family homes to the east, and south, a Convenience Store to the west, and Open Acre to the

north. The site currently has a Drive-Thru Business. The Future Land Use Map reflects a General Commercial (GC) designation.

This property was recently annexed on 1-11-10. When properties are annexed into the City, they are automatically zoned as AO-I, hence the commercial land use with AO-I zoning. The FLUM designates the area along Mile 3 and Inspiration as GC, which is directly consistent with a C-3 zone and the subject property adjoins Mile 3, a recently widened major thoroughfare (mandates a minimum 120' ROW). The traffic produced along Mile 3 Road is more conducive for a non-residential use. Staff recommended approval to the C-3 zone request.

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.

Mr. Javier F. Perez, Sr. who resides at 5500 N. 1st Street in McAllen stated that he was the owner of the property. He added that the property currently had a drive-thru convenience store and he was just trying to bring it up to code.

There being no further comments, Chairman Sheats entertained a motion. Mr. Garza moved to approve the C-3 zone request as recommended by staff. Mrs. Caudle seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:03 p.m.

Ended: 5:07 p.m.

ITEM # 1.2

**Conditional Use Permit: Home Occupation – To Operate a Federal
Firearm Licensed Business & Sporting Goods
2608 E. 25th St.
Lot 9, Taylor Village Subdivision
R-1
Life of Use
Silverio Perez**

Mr. Salinas went over the write-up stating that the site is located 600' west of Taylor Road along the south side of E. 25th Street, a private street. The home has a driveway and a two car garage, capable of accommodating 2 vehicles as required for residential areas. The applicant is proposing to convert a bedroom into an 'office' next to the front foyer; it's here where he proposed to conduct his web based sales business to provide sporting goods to the general population and also serve as a supplier for Law Enforcement Agencies from the Rio Grande Valley, which will include firearms. There will be no merchandise shipped to or from the home. The merchandise will be stored in a warehouse in McAllen. There will be no advertising on the premises and will be operated strictly by appointment only; walk-in's are not welcomed.

- **Days/Hours of Operation:** Monday - Friday from 5:00 p.m. to 9:00 p.m.; Saturday from 10:00 a.m. to 6:00 p.m.
- **Staff:** Only the applicant will be operating the business.
- **Signage:** No signage is desired.

In Staff's assessment, the proposed service will not significantly increase traffic, and there will be no signage indicating that the site is anything else other than a residence. Staff does not object to an initial 1 year approved tenure. Staff recommended approval subject to: **1)** 1 year re-evaluation to assess this new operation, **2)** Comply with Sec. 1.56-1 of the Zoning Ordinance; and **3)** acquiring 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.

Chairman Sheats noted that they had received a petition for 50% in favor of this request where they had 9 signatures out of 18 notices mailed out.

Mr. Silverio Perez who resides at 2608 E. 25th Street stated that he had applied for a Federal Firearm License and his idea was to have business running out of a store front but he couldn't invest in a store front and he currently didn't have any inventory that would attract customers. He mentioned that he wanted the license to come to his house and then move it to a commercial establishment.

Chairman Sheats asked if he was going to have any customer traffic going into his home.

Mr. Perez stated that there would be no customer traffic because he knew there was a Home Owners Association. He added that he had taken it upon himself to get a petition going in favor of the request and the only signature that he didn't get was from a property owner who lived in Mexico.

Chairman Sheats asked Mr. Perez if he was planning to store any firearms or ammunition stored in his home other than for his personal use.

Mr. Perez replied, "No".

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

Mr. Salinas asked the Board to go Item #1.9 on the agenda and for it to remain on the 'Table' until December 14, 2011, since staff did not have the information that was required. He added that he just wanted to alert the audience just in case there was anyone present regarding this item.

Started: 5:09 p.m.

Ended: 5:15 p.m.

ITEM # 1.3

**Conditional Use Permit: Pool/Guest House on Residential Property
2602 Santa Ana
Lot 19, Los Milagros Subdivision, Ph. I
PUD (Estate Lot Designation)
Life of Use
Carlos Lozano, Jr.**

Mr. Salinas went over the write-up stating that the site is along the northern perimeter of the Hunt Valley Development. The conditions of the CUP require:

- That the lot be a minimum of 12,000 sq. ft.
- Cannot be made available or used for lease, rent, hire, and the owner of such use may not receive remuneration for the use of one of the above.
- Proposal must be clearly secondary to the primary residence.
- Shall not have access to a public street. (No shared/extended driveway).
- Shall not have a separate kitchen area.

The proposed structure is 1,324 sq. ft., which includes 1-bedroom with a full bathroom and closet, 2- ½ bathrooms, and a living room/bar area. All building setbacks will be met and the existing driveway is more than sufficient to accommodate any guest vehicle. The guest home must be connected to the same water and electrical meters, i.e., no separate utilities. A recorded instrument should be evident to this effect to alert any (potential) future owners. Since this proposal is within the Sharyland PUD, an ARC approval is required and has been provided. Staff recommends approval subject to: 1) no separate utility and electrical connections, 2) transferability to future owners imposing the same conditions imposed to this applicant, via recorded instrument, and 3) not to be used for rental purposes.

Mr. Salinas mentioned that similar 'Guest House' CUPs had been approved at:

- Lot 21, Los Milagros (P&Z 8/28/02; City Council 9/9/02)
- Lot 44, Los Milagros (P&Z 9/26/07; City Council 10/8/07)
- Lot 52, Los Milagros (P&Z 2/10/10; City Council 2/22/10)

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. Esteban Lozano who resides at 917 Nogales Street was representing the general contractor and was present to answer any questions from the Board.

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

Started: 5:15 p.m.

Ended: 5:23 p.m.

ITEM # 1.4

**Conditional Use Permit: Drive-Thru Window at Rocha's Restaurant #2
1724 W. Griffin Parkway
Lots D & E, Girasol Estates Subdivision
C-3
Life of Use
Gerardo Rocha**

Mr. Salinas went over the write-up stating that the subject site is located 600' east of Inspiration Road on the north side of Griffin Parkway. Rocha's has re-opened the restaurant and wishes to utilize the existing drive-thru window. The last restaurant that opened at this location was approved by P&Z on 1/5/11, however closed down 6 months later. Access to the site is provided via a 30' drive off of Griffin Parkway. The existing drive-thru window is located on the east side of the building, which allows service for only 1 vehicle at a time due to the location of the window at its extreme corner. These vehicles will then exit through the alley and onto Salinas Drive. Similar to the previous applicant, staff would like to see this item back in 6 months to see if the drive-thru window functions well and that there are no issues with traffic.

Regarding parking: There are 44 seating spaces for the restaurant which requires 15 parking spaces ($44 \text{ seats} / 3 = 14.6$). The site has a total of 15 spaces, which is compliant to code. Mr. Salinas also mentioned that the owner was proposing additional parking.

Other comments include:

- **Hours of Operation:** Monday – Saturday from 6:00 a.m. to 4:00 p.m.
- **Number of Employees:** 2
- The applicant has installed some additional landscaping within the site to comply with our landscaping policy.
- They have already obtained approval from the Health & Fire Depts.
- A Business License has also been obtained for occupancy.

Mr. Salinas mentioned that they would need to comply with the sign code and it could not be more than 10% of the wall area. Mr. Salinas recommended approval subject to a 6 month re-evaluation to assess whether the un-strategic location of the service window will cause traffic issues and compliance with the sign code. He added that once the additional parking comes in staff would be looking at a sidewalk to be installed along Griffin Parkway as well.

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. Gerardo Rocha from 1714 W. Griffin Parkway stated that he was willing to comply with staff's recommendations.

Chairman Sheats mentioned that in the previous restaurant they were utilizing the 1st window to place the order and the 3rd window to pick up the order and now they had rather a very interesting position close to the front is there a way that they could re-arrange their internal service.

Mr. Rocha stated that in the first window they would be placing their order and picking the order up in the second window.

Mrs. Marin asked Mr. Zavala if they were proposing to have a speed bump right by the third window so that they could slow down when they are exiting and to avoid running over the people who would be parked on the rear of the property.

Mr. Zavala stated that they usually use that area for employees to park but they could certainly impose a speed bump on their recommendations.

Mr. Rocha stated that he was proposing to have a sign that would limit the number of tacos (10) they could order. He added that sometimes they had people ordering about 60 tacos or more at times.

Chairman Sheats stated that they would like to have the trees and grass watered occasionally.

Mr. Rocha stated that his father was watering the trees and grass already.

Chairman Sheats asked if he had his propane tank on the rear of the property.

Mr. Rocha stated that he was going to remove that tank and only keep one fenced in.

There being no further comments, Chairman Sheats entertained a motion. Mrs. Marin moved to approve the conditional use permit as per staff's recommendations

including the speed bump, removing the propane tank, and complying with the sign code. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:23 p.m.

Ended: 5:26 p.m.

ITEM # 1.5

**Conditional Use Permit: To Place a Temporary Christmas Tree
Business on AO-I Zone Property
1 ac. Tract of land out of Lot 205,
John H. Shary Subdivision
AO-I
Life of Use
Boy Scouts Troop 83**

Mr. Salinas went over the write-up stating that the subject site is located on the SE corner of Shary Road and 6th Street. Boy Scouts Troop 83 have been given permission by the owner to hold their annual Christmas Tree Sales on the vacant AO-I property from November 19, 2011 to December 15, 2011. They are proposing to install two tents (1-20' x 20' & 1-20' x 40') for the display of the Christmas Trees. They will also have a refrigerated trailer located in the rear of the sales area to unload new trees for re-stocking the inventory. A portable restroom is being proposed along the south side of the lot. The Boy Scouts Troop have also obtained liability insurance.

- **Hours of Operation:** Monday – Saturday from 8:00 a.m. to 9:00 p.m. and Weekends from 8:00 a.m. to 11:00 p.m.
- **Staff:** 8+
- **Parking:** Access to the site will be provided from an existing driveway cut on Shary Road. A temporary parking area is proposed along the north and south side of the lot. There will be employees that will guide customers within the parking lot to ensure safe parking, and avoid any traffic conflicts.
- **Signage:** They are proposing to install 3-4' x 8' temporary signs 1) Santa, 2) Snowman, & 3) Boy Scout Troop 83 Christmas Tree. Since the proposed duration of the tree stand is only 4 weeks long, Staff does not object to the installation of the 3 temporary signs.
- Must comply with Fire Marshal's requirements, which may include flame retardant tent material, fire extinguishers, etc.

Boy Scouts Troop 83 have been selling Christmas Trees for several years, previously located in the SE area of Shary Road and Business 83 and have been consistent in not having any incidents in those previous years. Since the stand will only be in operation for 4 weeks, staff recommends approval subject to the Fire Marshal's clearance (flame retardant tent material, fire extinguishers, etc.) and acquiring the needed electrical permits.

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.

Representing Boy Scouts Troop 83, Mr. Vidal Rodriguez was present to answer any questions from the Board.

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

Started: 5:26 p.m.

Ended: 5:30 p.m.

ITEM # 1.6

**Conditional Use Permit: Sale & On-Site Consumption of
Beer and Wine – El Patio
2003 N. Conway
Lot 1, Rios Subdivision, Unit "B"
C-3
Life of Use
Carlo Garza**

Mr. Garza asked to be excused from the Board since this item was of personal interest to him.

Mr. Salinas went over the write up stating that the restaurant was located within an existing commercial plaza along the NW area of Conway Avenue and W. 20th Street. Access to the site is provided through existing driveway cuts along Conway Avenue and W. 20th Street. The applicant is proposing to provide the option of providing beer and wine with food if so desired by customers. There is no "bar" component within the restaurant. On 10-27-99, a similar CUP for El Patio was approved under a previous owner, Mr. Julio Garcia.

- **Hours of Operation:** Monday – Sunday from 6:00 a.m. to 10:00 p.m. Alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 35 employees
- **Parking:** The applicant currently has 120 total seating spaces, which require 40 parking spaces (120 seats/1 space for every 3 seats = 40 parking spaces). It is noted that the parking area is held in common and is shared with other businesses. There is also a large amount of surplus parking located along the south side of W. 20th Street.
- **Alcoholic Beverages:** This request is compliant to Sec. 6-4 which requires that no alcoholic beverages be sold within 300' to a church, public school, private school or public hospital. There are none of these land uses within the above radius (measured door-to-door for church or hospital; measured lot line-to lot line for schools).

- Since it will not be open after 10 p.m., and the sale of alcohol is not the primary item of purchase, staff does not object to this proposal.

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

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

Mr. Joel Rios, Jr. stated that he just wanted to make sure there would not be a bar component.

Chairman Sheats stated that there was no bar component and the beer & wine would only be provided with the customers food.

Mr. Rios stated that he was the spoken for the 6 owners to the north of the restaurant and being that there would be no bar component they would approve the request.

Chairman Sheats asked if the applicant or representative were present.

Mr. Carlo Garza who resides at 302 Rose Marie was present to answer any questions from the Board.

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

At this time, Mr. Garza rejoined the Board.

Started: 5:30 p.m.

Ended: 5:37 p.m.

ITEM # 1.7

**Conditional Use Permit: Sale & On-Site Consumption of Alcoholic Beverages – Cabritos Nuevo Leon Restaurante
1215 E. Expressway 83
Lots 14-16, Heritage Commercial Plaza
Subdivision #1
C-3
Life of Use
Ramon Alan Gonzalez**

Mr. Salinas went over the write up stating that the site is located 780' west of Bryan Road along the north side of Expressway 83. A CUP for the sale of alcohol was most recently renewed for 1 year by P&Z and City Council on January, 2011 however, since the CUP was not transferable to others and a new business operation is proposed, this

CUP needs to be considered once again. The previous owner had been operating 'La Herradura' over the past year. The building does have a 'Bar' component which requires 300' separation from residential uses. Currently, there is a retirement community (Heritage Square) located immediately north across a public alley.

- **Hours of Operation:** Sunday – Thursday from 6:30 a.m. to 12:00 a.m., Friday & Saturday from 6:30 a.m. to 2:00 a.m. Alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 35 employees
- **Parking:** In reviewing the floor plan, there are 182 total seating spaces, which require 61 parking spaces (164 seats/1 space for every 3 seats = 60.6 parking spaces). There are a total of 62 existing spaces.
- **Noise:** In speaking to the applicant they would like to have the option of having a Karaoke night. The applicant must comply with the noise code. If there are un-resolved noise issues, Staff will approach the applicant, and if not compliant to noise code/concerns, code enforcement measures will be activated.
- Planning asked PD for a report of incidents (if any) when managed by the previous owner. Staff did not receive the reports; however, the report should not be reflective of this new operation.
- Must comply with Health & Fire requirements to obtain a business license.

Staff recommends approval subject to: 1) 1 year re-evaluation, due to the retirement (sensitive) community to the north; 2) waiver of the 300' separation requirement (no previous complaints lodged with Planning); 3) must comply with the Noise Code; and 4) Must obtain a business license.

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.

Mr. Ramon Alan Gonzalez was present to answer any questions from the Board.

Mr. Garza asked Mr. Gonzalez is he was receptive to staff's recommendations.

Mr. Gonzalez replied, "Yes".

Mrs. Marin asked if the landscaping would be maintained.

Mr. Gonzalez stated that they wanted to obtain the approval from the City prior to remodeling the building and taking care of the landscaping.

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: 5:37 p.m.

Ended: 5:37 p.m.

ITEM # 1.8

**Conditional Use Permit Renewal: Sale & On-Site Consumption of Alcoholic Beverages – Juancho's Bar/Night Club
1812-A & 1900-B W. Griffin Parkway
Lots 4 & 5, Inspiration Point, Ph. I Subd.
C-3
Life of Use
Hilario Barrera**

No Action Taken on this item.

Started: 5:07 p.m.

Ended: 5:08 p.m.

ITEM # 1.9

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

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

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

There was no response.

Chairman Sheats stated that in the previous meeting the Board had requested that there be a rendering of the installation of the ice machine on the property and he understood it was not available at this particular point in time. He added as his personal opinion that this would be like an 18-wheeler parked on a lot so the Board wants a better idea of how it could be improved.

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

OTHER BUSINESS

Mr. Zavala informed the Board that Mr. Sheats, Mrs. Marin and Mr. Flores positions on the Board were up for re-appointment and asked if they desired to be reconsidered for re-appointment so we could inform the City Secretary for Council's consideration.

Mr. Sheats and Mrs. Marin said they would like to be reconsidered to serve on this board.

ITEM # 2.0
ADJOURNMENT

There being no further items for discussion, Mr. Garza moved to adjourn the meeting. Mr. Lopez seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 5:39 p.m.

Ned Sheats, Chairman
Planning and Zoning Commission