

**PLANNING AND ZONING COMMISSION
FEBRUARY 10, 2016
CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Ned Sheats
John Guerra
Carlos Lopez
Mario Garza
Marisela Marin
Julio Cerda

P&Z ABSENT

Diana Izaguirre

STAFF PRESENT

Daniel Tijerina
Jaime Acevedo
Susana De Luna
Eddie Latin

GUESTS PRESENT

Alex Elizondo
Fabian Zarate
Cesar Valdez
Carlos Lopez
Jose R. Valdez
Ramon Gonzalez
John Paul & Alexandra Perez
Allen Gooding
Israel Reyna
Antonio Reyna
Leo Villarreal
Rafael
Ruben
Richard Chavez

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 citizen's participation.

There was none.

APPROVAL OF MINUTES FOR JANUARY 13, 2016

Chairman Sheats asked if there were any corrections to the minutes for January 13, 2016. Mr. Mario Garza moved to approve the minutes as presented. Mr. John Guerra seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:01 p.m.

Ended: 5:11 p.m.

Item #1.1

Rezoning:

**A 256' x 176' tract of land out of Lot 24,
New Caledonia Unit #1 Subdivision
C-3 to R-3
Mac-Leo Homes**

Mr. Daniel Tijerina went over the write-up stating that the subject site is located near the SE corner of Schuerbach Road and 3 Mile Road (F.M. 1924).

SURROUNDING ZONES: N: AO-I – Agricultural Open Interim
E: C-3 – General Commercial
W: C-3 – General Commercial
S: R-3 – Multi-Family Residential

EXISTING LAND USES: N: Single Family Residential
E: Vacant Commercial
W: Vacant Commercial
S: Vacant Multi-Family Residential
Site: Vacant Commercial

FLUM: General Commercial (GC)

REVIEW COMMENTS: When viewing the site’s existing C-3 zone, R-3 is generally seen as a better use to the surrounding residential community than C-3. Staff mailed notices to property owners within a 200’ radius of the site to solicit comments in favor or against this request. As of the date of this write-up, staff has not received any comments.

RECOMMENDATION: Approval.

Chairman Sheats asked if the applicant or representative were present.

Mr. Leo Villarreal was present to address any questions from the Board.

Chairman Sheats asked Mr. Villarreal what he was proposing for that property.

Mr. Villarreal stated that he was proposing to do 78 apartments on those 4 acres.

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

Mr. Ramon Gonzalez stated that he was not in opposition as long as his property would not be affected by the rezoning. He added that he had recently purchased the property to the east of Lot 24, which were 4.79 acres. He added that the property had a pavilion that was about 70% built and he would like to complete the project. Mr. Gonzalez stated that he plans to use it as an event center and would not like his plan impeded by the rezoning.

Chairman Sheats asked if the surrounding properties had already been rezoned.

Mr. Tijerina stated that the remaining property was already rezoned to C-3.

Mr. Mario Garza stated that he didn’t foresee any problems.

Mrs. Marisela Marin asked if the event that Mr. Gonzalez does the dance hall or event center would he be exempt from the 300’ radius requirement and would he need a conditional use permit for the sale of alcohol.

Mr. Tijerina replied, "Yes".

Mr. Jaime Acevedo mentioned that there was a 40' gap between the proposed apartments and the commercial development.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Mario Garza moved to approve the rezoning as per staff's recommendations. Mr. John Guerra seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:11 p.m.

Ended: 5:16 p.m.

Item #1.2

**Rezoning: A 1.322 gross acre tract of land, more or less,
out of a 7.21 acre tract of land out of Lot 29,
Bell-Woods Co's Subdivision "C"
AO-I to C-3
Jose M. Cantu – KLove Engineering**

Mr. Daniel Tijerina went over the write-up stating that the subject site is located along the north side of 2 Mile Road 300' west of Conway Blvd.

SURROUNDING ZONES: N: AO-I – Agricultural Open Interim
E: C-3 – General Commercial
W: AO-I – Agricultural Open Interim
S: R-1 – Single Family Residential &
R-4 – Mobile and Modular Home

EXISTING LAND USES: N: Agricultural
E: Commercial
W: Agricultural
S: Single Family Residential
Site: Agricultural

FLUM: General Commercial (GC)

REVIEW COMMENTS: The land uses reflect the zonings shown above. The Future Land Use Map reflects a General Commercial (GC) land use, too; thus, C-3 is directly consistent to the GC designation.

RECOMMENDATION: Approval.

Chairman Sheats asked if the applicant or representative were present.

Mr. Acevedo stated that the applicant was unable to attend the meeting due to him being from San Antonio.

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

There was none.

Chairman Sheats asked if staff knew what they were proposing to do.

Mr. Acevedo stated that as per the Engineer they proposing to do a dialysis center.

Chairman Sheats asked staff to advised KLove Engineering to be cautious with the lighting considering his surrounding neighbors.

There being no further discussion, Chairman Sheats entertained a motion. Mrs. Marisela Marin moved to approve the rezoning as per staff's recommendations. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Julio Cerda walked in at 5:16 p.m.

Started: 5:16 p.m.

Ended: 5:21 p.m.

Item #1.3

Conditional Use Permit:

Drive-Thru Service Window

2728 N. Conway Avenue

Lots 2 & 3, Northtown Unit #1 Subdivision

C-3

Israel Reyna

Mr. Daniel Tijerina went over the write-up stating that the subject site is located approximately 120' east of Conway Blvd. on the south side of E. 28th Street. The applicant is proposing to re-open a snow cone and snack stand with a *drive-thru service window* at this development. Previously, a drive-thru service window existed at this location. The owner was asked to apply for a CUP to operate. The drive-thru window is being proposed off of E. 28th Street along the north side of the building. Traffic must enter via the circular 14' drive then proceed to the northern side of the building to place and pay for their order. There is no separate outdoor speaker to place your orders. The drive-thru window location allows stacking for approximately 3 vehicles—see site plan. Exiting would be done by continuing out of the circular driveway back onto E. 28th Street.

- **Hours of Operation:** Monday - Sunday from 12 p.m. to 10 p.m.
- **Staff:** 2-3 Employees
- **Parking:** The 704 sq. ft. building will have a total of 12 outdoor seating spaces for the establishment. A total of 9 parking spaces are required for this site (704 sq. ft./75sq.ft.=9.38 parking spaces). It is noted that parking spaces are held in common within the commercial development and exceed code.
- Landscaping has been provided and meets code.
- Must comply with all Building, Fire, and Health Codes, prior to obtaining a business license.

REVIEW COMMENTS: Staff does not object to the proposed drive-thru service windows.

RECOMMENDATION: Staff recommends approval subject to:

1. 1 yr. approval in order to assess this new operation; and
2. Must comply with all Building, Fire, and Health Codes, prior to obtaining a business license

Chairman Sheats asked if the applicant or representative were present.

Mr. Israel Reyna who resides at 301 Solar Drive, stated that this business had been in existence for about 20 years. He added that the previous owner gave him the opportunity to purchase the property for his mother and would like to continue with the same business using the drive-thru.

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

There was none.

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

Started: 5:21 p.m.

Ended: 5:27 p.m.

Item #1.4

**Conditional Use Permit: To Place a Mobile Home "Temporarily"
for Care of Health Stricken Parent
127 S. Bryan Road
A 1.67 acre tract out of Lot 18-11,
West Addition to Sharyland Subdivision
AO-I
John Paul Perez**

Mr. Daniel Tijerina went over the write-up stating that the subject site is located between East 1st Street and Mark Place along the east side of Bryan Road. Mrs. Margret Perez has her main residence thereon and is requesting that a mobile home be allowed to be moved in just east of the main residence. Mrs. Perez is currently 78 years old and requires general assistance and care. Her son John Paul Perez is proposing to reside the second structure and will be providing the required assistance for his mother. The mobile home will share electrical and water services with the primary residence, there are no separate meters. According to Mr. Perez, the use will be temporary as the family will likely sell the property and the mobile home moved out in the near future.

REVIEW COMMENTS: Staff does not object to the secondary residence.

RECOMMENDATION: Staff recommends approval subject to:

1. Recording of document on removal of mobile home when need for second residence expires
2. Mobile home cannot be used as a rental structure
3. The mobile home must meet minimum building codes
4. Re-evaluation in 3 years.

Chairman Sheats asked if the applicant or representative were present.

Mr. John Paul Perez who resides at 2200 Stonegate was present to address any questions from the Board.

Chairman Sheats asked Mr. Perez if he was receptive to staff's recommendations.

Mr. Perez replied, "Yes".

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

There was none.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Julio Cerda moved to approve the conditional use permit as per staff's recommendations. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:27 p.m.

Ended: 5:31 p.m.

Item #1.5

Conditional Use Permit:

**Sale & On-Site Consumption of Alcoholic
Beverages – Diaz Diner #2
2500 E. Expressway 83, Ste. 100
Lot 5B, Sharyland Place Subdivision
C-3
Veneranda Padron**

Mr. Daniel Tijerina went over the write-up stating that the 1,500' sq. ft. restaurant site is located within the Kohl's Commercial Plaza approximately ¼ mile east of Shary Rd. along the south side of Expressway 83. P&Z previously approved a CUP at this location on 5/26/10 for a seafood restaurant. Since CUP's are not transferable, the new tenant desires a CUP for the sale and on-site consumption at this location to be allowed.

- **Hours of Operation:** Monday – Sunday from 7:00a.m. to 10:00p.m.
- **Staff:** 15 employees or 5 per shift
- **Parking:** Viewing the floor plan, there are 64 total seating spaces, which require 21 parking spaces (64 seats/1 space for every 3 seats = 21.3 parking spaces). It is noted that the parking area is held in common (657 existing parking spaces) and is shared with other businesses. The parking area is also connected and has access to Wal-Mart's existing, interlocking parking lots.

- **Sec. 6-4:** This request is compliant to Sec. 6-4 which requires that no alcoholic beverages be sold within 300' of a church, public or 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.)

REVIEW COMMENTS: This property has had this similar use for several years and seemed to work well.

RECOMMENDATION: Staff recommends approval subject to:

1. Approval for 1 year after obtaining a business license in order to assess the business;
2. Waiver of the 300-foot separation requirement;
3. Must comply with all City and TABC code requirements;
4. Must "Wet Zone" the property if not already wet zoned;
5. Acquire a Business License.

Chairman Sheats asked if the applicant or representative were present.

There was no response.

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

There was none.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Mario Garza moved to approve the conditional use permit as per staff's recommendations. Mr. John Guerra seconded the motion. Upon a vote, the motion was approved unanimously.

Started: 5:31 p.m.

Ended: 5:35 p.m.

Item #1.6

Conditional Use Permit:

**Sale & On-Site Consumption of Alcoholic
Beverages – Tortas Del Jack
4001 S. Shary Road, Ste. 350
Lot 1, Sharyland Plantation Grove Tech-Center #2
PUD
Jose Raymundo Valdez**

Mr. Daniel Tijerina went over the write-up stating that the 1,500 sq. ft. restaurant site is proposed within an existing plaza located on the SE corner of San Mateo and Shary Road. Access to the site can be from one primary driveway to Shary Road or from separate driveways from San Mateo and San Gabriel. The new applicant is currently remodeling the restaurant suite to open a new restaurant that will offer beer and wine.

- **Hours of Operation:** Monday – Sunday from 8 a.m. to 12 p.m., alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 3

- **Parking:** In viewing the floor plan, there are 28 total seating spaces for the restaurant, which require 9 parking spaces (28 seats/3 = 9.33 parking spaces). It is noted that the parking area is held in common (150 existing parking spaces) and is shared with other businesses.
- **Sale of Alcohol:** There are no churches or public/private schools within 300' of the subject site, thus being compliant to Chapter 6, Section 6-4,
- Must comply with Fire, Health, and Building Codes, prior to obtaining a business license.

REVIEW COMMENTS: Since this property has had this similar use for several years and seemed to work well, there are existing restaurants that sell alcohol within this plaza, would not be open after 12p.m., and the sale of alcohol is not the primary use, staff does not object to this proposal.

RECOMMENDATION: Staff recommends approval subject to:

1. A 1 year re-evaluation to assess this new operation;
2. Must comply with Fire, Health, and Building Codes; and
3. Must acquire a business license
4. Wet zone if necessary.

Chairman Sheats asked if the applicant or representative were present.

Mr. Jose Raymundo Valdez who resides at 3501 San Miguel, stated that he just wanted to offer alcohol with his meals.

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

There was no response.

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

Started: 5:35 p.m.

Ended: 5:43 p.m.

Item #1.7

Conditional Use Permit:

**Sale & On-Site Consumption of Alcoholic
Beverages – Evera Restaurant & Bar
4001 S. Shary Road, Ste. 100
Lot 1, Sharyland Plantation Grove Tech-Center #2
PUD
L'Aureola Restaurant Group, LLC**

Mr. Daniel Tijerina went over the write-up stating that the existing 5,600 sq. ft. restaurant is located within an existing plaza located on the SE corner of San Mateo and Shary Road. Access to the site can be from one primary driveway to Shary Road, or from separate

driveways from San Mateo or from San Gabriel. P&Z most recently approved a CUP for the sale and on-site consumption of alcohol on 12-17-14 for a period of 1 year.

- **Hours of Operation:** Monday – Saturday from 4p.m. to 2a.m. Sundays - Closed. Alcoholic beverages are only served during allowable State selling hours.
- **Staff:** 12
- **Parking:** In viewing the floor plan, there are 95 total seating spaces for the restaurant, which require 32 parking spaces (95 seats/3 = 31.6 parking spaces). It is noted that the parking area is held in common (180 existing parking spaces) and is shared with other businesses.
- **Sale of Alcohol:** The existing restaurant includes a 'bar' component. Section 1.56 (3a) of the Zoning code requires a minimum separation of 300' from the *property line* of any churches, schools, publicly owned property, and residences. There is a single family residential neighborhood located within the 300' radius; however P&Z and the City Council waived this separation requirement in the CUP's previous approval.

REVIEW COMMENTS: Planning asked PD for a report of incidents. Mr. Tijerina stated that there have been at least two incidents out there, therefore staff recommending: 1) 1 year renewal; 2) Waiver of the 300-foot separation requirement; and 3) Alcohol sales to not go past midnight or 12:00 a.m.

Chairman Sheats asked if the applicant or representative were present.

Mr. Cesar Valdez who resides at 2700 Solera stated that he took over this restaurant about 4 years and 6 months ago. He added that his main business was selling medical equipment but he acquired this business as an investment. He mentioned that he took over this restaurant as entertainment in hope of attracting an older crowd. Mr. Cerda stated he applied to renew his permit for alcohol which was already expired.

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

There was no response.

Mrs. Marisela Marin asked if he had security in the restaurant and if he had an updated contract for security because the contract provided was already expired.

Mr. Valdez stated that he had security and he would provide a copy of the updated contract to the City.

Chairman Sheats asked Mr. Valdez if checked the ID's.

Mr. Valdez stated that he had someone at the door checking the ID's making sure that no one under age goes into the restaurant. He added that they haven't had any issues with minor going into the restaurant or any other major incident. Mr. Valdez stated that he was always at the site making sure the business was well.

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

Started: 5:47 p.m.

Ended: 5:52 p.m.

Item #2.0

Site Plan Approval:

Construction of 78 Apartments

2305 W. 3 Mile Road

Lot 2, Del Sol Subdivision (Pending Approval)

R-3

Leo Villarreal

Mr. Daniel Tijerina went over the write-up stating that the subject site is located near the SE corner of Schuerbach Road and 3 Mile Road. Site Plan approval is required prior to permit issuance for multi-unit complexes of five or more.

Viewing the site plan, there is a combination of 2 and 3 bedroom 2-Story Buildings that make up the 78 unit multi-family apartment complex. The applicant is proposing 72 two bedroom units that each has approximately 978 sq. ft. of living area and 6 three bedroom units with 1,179 sq. ft. of living area each. The building must comply with all fire code requirements for a multi-family 2 story building. Residents of the first floor will enter through doors along the front of the building. There is an exterior stair well along the front side of the building for the second story residents. There will be no open balconies along the building.

The minimum required setbacks for the site will be: 30' front setback, 15' rear setback, 6' side setback, and 10' corner side setbacks. It is noted that all setbacks are in compliance.

As seen, two 24' driveways on to 3 Mile Road will lead the traffic into and out of the facility.

With regards to parking, the site plan shows 158 regular parking spaces. For a multi-family building of this size the City Code requires 156, therefore exceeding code by 2. Three large trash dumpsters are proposed at various areas of the development. Staff notes that one of the trash dumpsters must be relocated to accommodate for a front loading trash truck. The dumpsters must also be screened with cedar or block fence with gates.

This development will consist of 5' sidewalks along all the perimeters. Ten percent landscaping will be required with a combination of trees, plants, and shrubs. A minimum of twenty (20) – three (3') inch caliper trees are required to be planted within the green areas. In addition, parking light poles are required after every 10 parking spaces in all parking areas within islands, medians, and peninsulas.

RECOMMENDATION: Staff recommends approval subject to:

1) The submittal of grading and detention plan to our City Engineer;

- 2) Compliance with landscaping and parking light pole requirements as noted above;
- 3) Compliance with all building and fire codes;
- 4) Compliance with front loading requirements of trash dumpsters;
- 5) Final Plat approval and recording for Del Sol Subdivision
- 6) Payment of Park Fees & Sewer Capital Recovery Fees

Mr. Daniel Tijerina stated that since this was going to be an administrative plat the developer had already paid all the fees and the Engineer has provided all the proper documentation to get this plat recorded.

Chairman Sheats asked if the applicant or representative were present.

Mr. Leo Villarreal was present to address any questions from the Board.

Chairman Sheats thanked Mr. Villarreal for including a playground for his tenants in his site plan.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Julio Cerda moved to approve the site plan approval as per staff's recommendations. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #3.0
OTHER BUSINESS**

**ITEM #4.0
ADJOURNMENT**

There being no further items for discussion, Mr. Carlos Lopez moved to adjourn the meeting. Mr. John Cerda seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 5:50 p.m.

Ned Sheats, Chairman
Planning and Zoning Commission