

**PLANNING AND ZONING COMMISSION
AUGUST 22, 2012
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Ned Sheats
Carlos Lopez
Marisela Marin
Mario Garza
Abiel Flores

P&Z ABSENT

Rene Flores
Diana Izaguirre

STAFF PRESENT

Bobby Salinas
Patricio Martínez
Irasema Dimas
Julio Cerda

GUESTS PRESENT

Aurelio Flores
Lidia Gonzalez
Juan Treviño
Pedro Valdez
Tim Kennedy
Edgar Villarreal
Carlos Acosta
Art Salinas, P.E.

CALL TO ORDER

Vice-Chair Marisela Marin called the meeting to order at 5:01 p.m.

CITIZENS PARTICIPATION

Vice-Chair Marisela Marin asked if there was any citizens' participation. There was no response upon inquiry.

APPROVAL OF MINUTES FOR AUGUST 8, 2012

Vice-Chair Marisela Marin asked if there were any corrections to the minutes for August 8, 2012. There being no corrections, Mr. Ned Sheats moved to approve the minutes as presented. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:01 p.m.

Ended: 5:05 p.m.

ITEM # 1.1

Request by Aurelio Flores to have P&Z waive 6-Month Waiting Period in order to reconsider a change of zone for a portion of a 1.50 acre tract of land out of Lot 108, Sharyland Orchards Subdivision

Mr. Bobby Salinas went over the write up stating that the subject site is located on the southwest corner of Shary Road and Scout Lane. On June 13, 2012, the Planning and Zoning Commission voted to deny a change of zone from R-1A to C-3 with City Council later denying the request on July 23, 2012.

Mr. Aurelio Flores is now requesting that the Planning and Zoning Commission consider a new rezoning request from R-1A to C-1. Since this property has undergone the rezoning process within the last six months a waiver is required.

Section 1.26. Applications for Zoning Changes (2.) of the Zoning Code reads as follows:

"No zoning change applications shall be considered on any parcel more than once in any six month period of time unless approved by the Planning and Zoning Commission."

In our assessment, staff does not object to Mr. Flores' request since:

- The property to be considered is less than originally proposed;
- The desired zone is now C-1 (Office Building) instead of the original C-3;
- There has been intensive neighbor to neighbor dialogue on allaying their concerns;
- Mr. Flores has provided a site plan that has zero-traffic impact to Scout (no entrance or exit onto Scout);
- Will have a wrought-iron fence along Scout with complementing shrubs and landscaping.

With these being said, staff did not object to the request.

Vice-Chair Marisela Marin asked if the applicant or representative were present.

Mr. Aurelio Flores was present to answer any questions

There being no further discussion, Vice-Chair Marisela Marin entertained a motion. Mr. Ned Sheats moved to approve the request as per staff's recommendations. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:05 p.m.

Ended: 5:09 p.m.

ITEM # 1.2

Rezoning:

**Lot 8, Block 2,
Erdahl Subdivision
R-1 to C-2
Nancy N. Valdez**

Mr. Bobby Salinas went over the write up stating that the site is located 200' east of South Olmo Street along the north side of Mile 1 South Road.

The surrounding zonings include Single Family Residential (R-1) in all directions, including the subject tract. The existing land uses include single family homes in all directions. The Future Land Use Map shows this area as Low Density Residential (LD), which is consistent to the existing R-1 zone.

The surrounding land uses are comprised of single family homes with R-1 zones. The desired Neighborhood Commercial/C-2 zone is in direct conflict to the FLUM. The R-1 Lot is in the middle of the Block; thus retaining its residential zone will match the surrounding properties. Staff recommended denial.

Vice-Chair Marisela Marin asked if there was public opposition to the request.

There was no response.

Vice-Chair Marisela Marin asked if the applicant or representative were present.

Mr. Pedro Valdez, Mrs. Nancy Valdez' husband, stated that the reason why they purchased the property was because it was in a major road and they wanted to open a beauty salon.

Vice-Chair Marisela Marin stated that once the property becomes C-2 and if the beauty salon closes down in the future, the C-2 would allow other types of businesses and that was the reason why staff was recommended denial.

Mr. Mario Garza stated that the whole neighborhood was zoned residential and he wouldn't like to see a commercial lot in the middle of the neighborhood.

There being no further discussion, Vice-Chair Marisela Marin entertained a motion. Mr. Mario Garza moved to deny the rezoning request as recommended by staff. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:09 p.m.

Ended: 5:13 p.m.

ITEM # 1.3

Conditional Use Permit:

**Sale and On-Site Consumption of Alcohol
& Drive-Thru Service Window - Pollito
Grilled Chicken
2701 E. Griffin Parkway, Ste. 14
Lot 14, Adams Crossing Subdivision
C-3
Pollito Grilled Chicken, LLC**

Mr. Bobby Salinas went over the write up stating that subject site is located 800' west of Taylor along the north side of Griffin Parkway within an existing commercial plaza. The 1,236 sq.ft. restaurant has been in operation since 2009. A CUP for the drive-thru service window was most recently approved for 1 year by P&Z on 6/22/11. The applicant is now interested in offering the sale and on-site consumption of beer and wine with food orders. There are no churches, hospitals

or public/private schools within 300' of the subject site, thus being compliant to Section 6-4.

- **Days/Hours of operation:** Monday through Sunday from 11 a.m. to 10 p.m.
- **Staff:** 5 employees
- **Parking:** The restaurant has a total of 36 seating spaces which require 12 parking spaces. It is noted that the parking area is held in common (132 existing parking spaces) and is shared with other businesses.

Staff has not received any complaints in relation to Pollito Grill's drive-thru service window since it opened in 2009. 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 subject to a 1 year re-evaluation to assess the sale of alcohol.

Vice-Chair Marisela Marin asked if there were any public opposition to the request.

There was no response.

Vice-Chair Marisela Marin asked if the applicant or representative were present.

Mr. Carlos Acosta one of the investors, stated that they came with the idea of selling beer and wine because the afternoons are kind of slow and since they started selling hot wings, it would go well with beer.

There being no further comments, Vice-Chair Marisela Marin entertained a motion. Mr. Mario Garza moved to approve the conditional use permit request as per staff's recommendation. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:13 p.m.

Ended: 5:16 p.m.

ITEM # 1.4

Conditional Use Permit:

**Drive-Thru Service Window
810 N. Schuerbach Road, Suite "D"
Lot 1, Sylvia Plaza Subdivision
C-2
Veronica Lopez**

Mr. Bobby Salinas went over the write up stating that the site is located on the SE corner of Schuerbach Road and Business 83. There is an existing 24' x 35' (840 sq.ft.) snack shop with a drive-thru service window. This CUP was previously approved on 5/12/10. However, since a new operator is evident, a new CUP must be considered once again. Access to the site is provided off of Schuerbach Road with a 45' driveway. The service window is located approximately 1.5' from the

corner of the building which would provide stacking for approximately two vehicles.

- **Days/Hours of Operation:** Monday – Saturday from 12 p.m. to 10 p.m. Closed Sundays
- **Staff:** 2 employees
- **Parking:** The 840 sq.ft. site requires 5 spaces. It is noted that the parking area is held in common (35 existing parking spaces, inclusive of gas pumps stalls) and is shared with other businesses. Staff has calculated the entire site (the two buildings) to require 21 total parking spaces.
- A business license is required prior to occupancy for the new operator.

Staff has not received any complaints in regards to the drive-thru service window. Staff recommended approval subject to: **1)** 1 year re-evaluation to assess this new business, and **2)** acquire a new business license.

Vice-Chair Marisela Marin asked if there were any public opposition to the request.

There was no response.

Vice-Chair Marisela Marin asked if the applicant or representative were present.

Mr. Juan Treviño, the husband of Veronica Lopez, was present to answer any questions from the board.

There being no comments, Vice-Chair Marisela Marin entertained a motion. Mr. Mario Garza moved to approve the conditional use permit as recommended by staff. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:16 p.m.

Ended: 5:23 p.m.

ITEM # 1.5

Conditional Use Permit:

**New office with a residence for
a watchman employed on the property
107 International Blvd.
Lot 2, Mission Business Park Subdivision
I-1
MT Self Storage**

Mr. Bobby Salinas went over the write up stating that the site is located at the NE corner of Industrial Way and International Blvd. The applicant is proposing to build a new self-storage facility along with a 2 story office building which will serve as an office for the storage business and a residence for the night watchman. The storage facility is proposed to be constructed in phases, with the project beginning

in the east of the lot. Access to the site is proposed from Industrial Way. The proposed office building measures 20' x 44.4' for a total of 1,776 sq.ft. (888 sq.ft./floor).

Section 1.45 (3c.) states that a conditional use permit is required for *"the residence of a watchman or caretaker employed on the premises"*.

- **Days/Hours of Operation:** Everyday- 8 a.m. to 10 p.m. (Office – 8 a.m. to 5 p.m.)
- **Staff:** 2 employees during the day and 1 night watchman.
- **Parking & Landscaping:** The number of parking spaces is normally calculated based on the size of the office building, which requires 7 spaces. 7 spaces are being provided, thus meeting code. In regards to landscaping, this site was approved by the ZBA for a few variances, with the condition that the development along the south side of the lot was screened with shade trees placed at 30' intervals, which exceeded our current landscaping code.
- Must comply with Building and Fire Codes.
- A drainage report was submitted and must be approved by the City Engineer.
- A business license is required prior to occupancy.

The residence should be used only by the night watchman and it is not to be used as rental property. If the use of a night watchman is no longer needed, the use of the residence should cease and the CUP should be voided. Since it's a use that is permitted via CUP under an I-1 zone and a storage room facility is a very low-key operation, staff does not object to the proposal. However, we would like to re-evaluate the CUP within 1 year after occupancy in order to ensure that the residence is for the night watchman only and that is not used as a rental property.

Staff recommended approval subject to: **1)** re-evaluation within 1 year after occupancy in order to re-assess the CUP, **2)** residence not to be used as a rental property, **3)** must comply with ZBA's landscaping requirement, **4)** City Engineer to approve the drainage report, **5)** must comply with all Building and Fire Codes, **6)** acquire a business license, and **7)** CUP not transferable to others.

Vice-Chair Marisela Marin asked if there were any public opposition to the request.

There was no response.

Vice-Chair Marisela Marin asked if the applicant or representative were present.

Mr. Edgar Villarreal from 606 Leal was present to answer any questions from the board.

Vice-Chair Marisela Marin stated that what the board wanted to hear was that he was okay with the staff's recommendation and that they do understand that it was a big project.

Mr. Ned Sheats stated that he was noticing that on the floor plan that the bedroom was on top of the waiting area and the reception and the kitchen over the office and suggested that he might want to flip them up in order to have the bedroom on top of the office since the office will be quieter.

Mr. Edgar Villarreal replied that he would keep that in mind.

There being no further discussion, Vice-Chair Marisela Marin entertained a motion. Mr. Mario Garza 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: 5:23 p.m.

Ended: 5:27 p.m.

ITEM # 1.6

Conditional Use Permit:

**Direct Energy Frontera Power
Plant renovation and new development
in an AO-I Zone
320 S. Goodwin Road
Lot 2, Mission Farm Estates Subdivision
AO-I
Direct Energy Frontera**

Mr. Bobby Salinas went over the write up stating that the existing Direct Energy Frontera Power Plant sits on a 39.37 acre tract of land located on the SW corner of Bates (a.k.a. Brushline Rd.) and Mile 1 South Road.

Section 1.36(j), Zoning Code mandates a CUP for *"Facilities for railroads or those utilities holding a franchise under the City of Mission."*

The power plant was annexed into the city limits in January 2010. The property includes several structures. Since it was in existence, and Frontera had not built any new improvements, the power plant had not previously filed for a CUP.

The applicant wishes to demolish and rebuild two existing filter houses, install a new thermal energy storage tank used to supply water to the filter houses, and install a modular chiller plant which contains all the mechanical and electrical equipment to feed the system operation. All minimum AO-I setbacks are being exceeded. Access to the site is through a paved driveway off of Bates Road.

- **Days/Hours of Operation:** Every day – 24 hours a day

- **Staff:** Approximately 15 employees in shifts
- **Parking:** There are 17 parking spaces for the employees located at the northwest area of the plant.

The power plant has been in existence for several years. With such a low-key operation and the fact that staff has not received any complaints from any of the adjoining properties since being annexed, staff recommended approval subject to being transferable to others.

Vice-Chair Marisela Marin asked if then it was a Life of Use conditional use permit.

Mr. Bobby Salinas replied "Yes".

Vice-Chair Marisela Marin asked if there were any public opposition to the request.

There was no response.

Vice-Chair Marisela Marin asked if the applicant or representative were present.

Mr. Tim Kennedy representing Direct Energy Frontera Power stated that they just got recently annexed to the city and that this was their first major project and that was the reason why they were asking for the permit. He stated that basically what they are doing was replacing the old filter houses with new ones and with the new filter houses there's a different method of cooling them off and that's the reason why they need the storage tank.

After a brief discussion, Vice-Chair Marisela Marin entertained a motion. Mr. Abiel Flores moved to approve the conditional use permit as per staff's recommendation and including Life of Use. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:27 p.m.

Ended: 5:36 p.m.

ITEM # 2.0

Preliminary & Final

Plat Approval:

Treats and Eats No. 2 Subdivision

A .894 acre tract of land out of Lot 195,

John H. Shary Subdivision

C-3

Developer: R & L Lozano Leasing, LTD.

Engineer: Art Salinas Engineering

Mr. Bobby Salinas went over the write up stating that the subject site is located on the northeast corner of Shary Road and 4th Street. The proposed subdivision

consists of a 125.03' x 311.36' commercial lot. The project engineer is asking for a variance on behalf of the developer as follows:

VARIANCE: A variance to allow a fire lane/utility easement in lieu of a public alley. The subdivision code states *"Alleys shall be provided at the rear of all...commercial, multi-family or industrial lots."* We have seen many similar proposals for commercial lots where a paved fire lane is provided in lieu of a public alley and we do not see any detriment to the proposed subdivision or surrounding area. Staff does not object to this variance.

WATER: The developer is proposing water service by connecting to an existing 8" water line located along 4th Street and extending it northward with a 10" line along Shary Road and an 8" line along the east side of the lot, leaving the stub outs for future connectivity by future owners. The developer is also proposing 1 new fire hydrant located via the direction of the Fire Marshal's office.

SEWER: An 8" sewer line will be installed along the east area of the lot that will also be stubbed for future connectivity by others. The Capital Sewer Recovery Fee is required at \$750/acre which equates to \$670.50 (\$750.00 x .894 acre).

STREETS & STORM DRAINAGE: The subdivision fronts Shary Road and E. 4th Street. The developer will be dedicating an additional 10' of ROW along Shary Road to equate to the minimum 60' from centerline as required by the Hidalgo County Thoroughfare Plan. There is no additional ROW needed along E. 4th Street. Storm drainage is accomplished through a private storm line connecting into Sycamore's existing system.

OTHER COMMENTS: Park fees – Since the subdivision is for commercial use, park fees are not required, 5' sidewalks are required along Shary Road and E. 4th Street during building permit stage, street lights are already in existence along Shary Road and E. 4th Street, must provide Water District Exclusion, and must comply with all other format findings.

Staff recommended approval subject to: **1)** no objection to the variance for fire lane in lieu of a public alley, and **2)** comply with all other format findings.

Vice-Chair Marisela Marin asked Mr. Bobby Salinas how many other situations has the city encountered with that type of variance.

Mr. Bobby Salinas replied that he recalls at least 6 along Shary Road and one of them being H.E.B.

Vice-Chair Marisela Marin asked if the applicant or representative were present.

Mr. Art Salinas, P.E. project engineer stated that Mr. Robert Lozano was very anxious to start the project and that he believes that the fire lane / utility easement would be an advantage in the future.

Mr. Ned Sheats stated that he was okay with the variance request since the developer was going to be in charge of the maintenance and the paving of the fire lane. He also stated that Shary Road was destined to be a major arterial road and that probably they would need to think about making the exit onto Shary Road a right turn only lane, due to the amount of traffic in the area and in order to avoid traffic jams on people wanting to exit to the south.

Mr. Art Salinas replied that he believed that TXDOT had the same concern because they took a while before approving the permit.

Mr. Ned Sheats mentioned that he didn't want to stop the construction of the project but if there was anything that they could do in order to alleviate the traffic concerns.

City Manager Julio Cerda stated that TXDOT had the same concerns but at the end they approved the permit and the developer is ready to start the construction. He also mentioned that the right turn only currently exists on the H.E.B. site but the citizens don't really follow it.

After a brief discussion, Vice-Chair Marisela Marin entertained a motion. Mr. Mario Garza moved to approve the preliminary and final plat approval as per staff's recommendations. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:36 p.m.

Ended: 5:42 p.m.

ITEM # 3.0

**Preliminary & Final
Plat Approval:**

**North Sharyland Commons Subdivision
A 2.24 acre tract of land out of Lot 185,
John H. Shary Subdivision
C-3**

**Developer: Weingarten Shary
North, JV**

**Engineer: Edminister, Hinshaw, Russ
& Associates**

Mr. Bobby Salinas went over the write-up stating that the subject site is located 460' north of Victoria Road along the east side of Shary Road. The proposed subdivision consists of 2 commercial lots, each slightly larger than 1 acre. It is a 2.35 acre tract out of a 40 + acre tract owned by the developer, in which they

have submitted a conceptual master plan. The developer is asking for variance to allow a fire lane/utility easement in lieu of a public alley.

VARIANCE: A variance to allow a fire lane/utility easement in lieu of a public alley. The subdivision code states *"Alleys shall be provided at the rear of all...commercial, multi-family or industrial lots."* We have seen many similar proposals for commercial lots where a paved fire lane is provided in lieu of a public alley and we do not see any detriment to the proposed subdivision or surrounding area. Staff does not object to this variance.

WATER: The developer is proposing water service by connecting to an existing 12" water line located along the west side of Shary Road and installing a 10" line along the east side of Shary Road, leaving stub outs to the north and south for future connectivity by other development. The developer is also proposing 2 new fire hydrants located via the direction of the Fire Marshal's office. The Fire Marshal reserves the right to require additional hydrants during the building permit stage.

SEWER: Sewer service is proposed by connecting to an existing 8" sewer line along Victoria Road that will extend north along the east area of the lot that will also be stubbed for future connectivity by others. The Capital Sewer Recovery Fee is required at \$750/acre which equates to \$1,680.00 (\$750.00 X 2.24 acres).

STREETS & STORM DRAINAGE: The subdivision fronts Shary Road, a 120' ROW, 81' B/B street. The developer will be dedicating an additional 10' of ROW along Shary Road to equate to the minimum 60' from centerline as required by the Hidalgo County Thoroughfare Plan. They are also proposing access to the site from an off-site access easement that will be recorded prior to the recording of the subdivision. Storm drainage is accomplished through a private storm line that will connect into a temporary drainage ditch system that will flow east into an existing drainage ditch system. We anticipate the proposed master layout to change as the area is more developed, thus a more refined master layout should be forthcoming.

OTHER COMMENTS: Park Fees – Since the subdivision is for commercial use, park fees are not required, 5' sidewalks are required along Shary Road during permit stage, street lights are already in existence along Shary Road, must provide Water District Exclusion, and must comply with all other format findings.

Staff recommended approval subject to: **1)** no objection to the variance for fire lane in lieu of a public alley, and **2)** comply with all other format findings.

Vice-Chair Marisela Marin asked if the applicant or representative were present.

There was no response

There being no comments, Vice-Chair Marisela Marin entertained a motion. Mr. Ned Sheats moved to approve the preliminary & final plat as presented by staff. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

ITEM # 4.0
ADJOURNMENT

There being no further items for discussion, Mr. Mario Garza moved to adjourn the meeting. Mr. Abiel Flores seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 5:43 p.m.

Marisela Marin, Vice-Chair
Planning and Zoning Commission