

**PLANNING AND ZONING COMMISSION
SEPTEMBER 10, 2014
CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Rene A. Flores
Ned Sheats
Mario Garza
Carlos Lopez
Abiel Flores
Marisela Marin

P&Z ABSENT

Diana Izaguirre

STAFF PRESENT

Bobby Salinas
Susana De Luna
Anna Carrillo
Rolando Rodriguez

GUESTS PRESENT

Rosalinda Treviño
Reynaldo Diaz

CALL TO ORDER

Chairman Rene A. Flores called the meeting to order at 5:03 p.m.

CITIZENS PARTICIPATION

Chairman Rene A. Flores asked if there was any citizen's participation.

There was no response.

Chairman Rene A. Flores asked for a moment of silence for Mrs. Berta Filut who passed away this week. He added that she was a long time City of Mission resident and was involved for many years with the Texas Citrus Parade. Mr. Flores offered his condolences to the family.

APPROVAL OF MINUTES FOR AUGUST 27, 2014

Chairman Rene A. Flores asked if there were any corrections to the minutes for August 27, 2014. Mr. Ned Sheats moved to approve the minutes as presented. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:04 p.m.

Ended: 5:07 p.m.

ITEM #1.1

Rezoning:

**The South 1.0 acre out of a tract of land
Containing 6.37 acres, out of Lot 205,
John H. Shary Subdivision
AO-I to C-3
Yamells, LLC**

Mr. Bobby Salinas went over the write-up stating that the property is located on the NE Corner of E. 6th Street and Shary Road.

SURROUNDING ZONES: N: AO-I – Agricultural Open Interim
E: R-1 – Single Family Residential

W: C-4 – Heavy Commercial
S: C-3 – General Business

LAND USES: The surrounding land uses consist of open acreage to the north, south & west, and a residential subdivision to the east. The subject site is currently open acreage.

FLUM: The Future Land Use Map reflects a General Commercial (GC) designation along the Shary Rd. frontage.

REVIEW COMMENTS: The subject property has been part of a commercial ‘reserve’ since the inception of the Shary Crossing’s master plan. C-3 is consistent to area zonings along Shary, commercial area uses, and is fully compliant to the FLUM’s GC designation.

RECOMMENDATION:

Approval.

Chairman Rene A. Flores asked if this particular property was the same one that they tried rezoning a while back that had a home and was close if not in front of the High School.

Mr. Bobby Salinas stated that the property he was referring to was about ½ mile north of Business 83. That property was on Scout Lane.

Chairman Rene A. Flores asked if there was any public opposition to the request.

There was no response.

Chairman Rene A. Flores asked if the applicant or representative were present.

There was no response.

There being no discussion, Chairman Rene A. Flores entertained a motion. Mr. Mario Garza moved to approve the rezoning as per staff’s recommendation. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:07 p.m.

Ended: 5:18 p.m.

ITEM #1.2

Conditional Use Permit:

**Sale & On-Site Consumption of Alcohol
Solo Empanadas Y Mas
1522 E. Expressway 83, Ste. 114
Lot 4, Stewart Plaza Subdivision
C-3
Sunshine Forever Intime, LLC**

Mr. Bobby Salinas went over the write-up stating that the site is located on the SW corner of Stewart Road and Expressway 83. There is a commercial plaza located on the site which has an existing

1,400 sq.ft. restaurant with the sale and on-site consumption of alcohol. Access to the site is provided from a 38' driveway off of Expressway 83. A CUP was recently approved at this location on 4-9-14 however, since the CUP was not transferable to others and a new operator is evident, this CUP needs to be considered once again.

- **Hours of Operation:** Monday – Thursday from 11a.m. to 10p.m., Friday & Saturday from 11a.m. to 11p.m. & Sundays from 11a.m. to 8p.m. Alcoholic beverages are only served during allowable State selling hours.
- **Staff:** 6 employees
- **Parking:** In viewing the floor plan, the restaurant/bar has a total of 55 seats which requires a total of 18 parking spaces (55 seats/3 = 18.3 spaces). It is noted that the parking area is held in common (219 existing parking spaces) and is shared with other “future” businesses. Staff has not received any complaints in regards to the parking.
- **Sale of Alcohol:** 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 are 4 residential lots that are within 300'. During the approval earlier this year, the 300' separation was previously waived by City Council during the CUP's original approval.

REVIEW COMMENTS: Since opening, the restaurant has had no impact towards the residential neighborhood, thus a continued waiver of the 300' separation is supported. The proposed closing times are very similar to other family oriented restaurants and Staff had previously asked Mission PD for a report of any incidents for this property in which Chief Dominguez had confirmed that there had been no incidents reported at this site back in April. We will ask for an update by the meeting date. On a side note the new operator may be changing the name of the business and should not interfere with the approval of this CUP. For record purposes, Staff asks that the CUP be transferable to others in order to allow for the change of business name without requiring a new CUP application.

RECOMMENDATION:

Staff recommends an approval for 1 year subject to:

1. Waiver of the 300' separation;
2. Continued compliance with Building, Fire, and Health codes; and
3. Allow the CUP to be transferable to others.

(3)a. The property line of the lot of any of the above-mentioned businesses, especially those businesses which have late hours (after 10:00 p.m. [12:00 noon]) must be at least 300 feet from the nearest *residence*, church, school or publicly owned property, or must provide sufficient buffering and sound insulation of the building such that the business is not visible and cannot be heard from such structures or areas, and must be designed to prevent disruption of the character of adjacent residential areas. **The planning and zoning commission may, under extenuating or special circumstances unique to the site or event, recommend waiver of the 300-foot requirement on a temporary or permanent basis to the city council who shall have the ultimate decision on the matter.**

Chairman Rene A. Flores asked if there was any public opposition to the request.

There was no response.

Chairman Rene A. Flores asked if the applicant or representative were present.

Mrs. Rosalinda Treviño who is one of the associates stated that her address is 1522 E. Expressway 83, Suite 114 added that she was receptive to staff's recommendation. Mrs. Treviño asked if she would need to pay again if she changes the name of the restaurant.

Chairman Rene A. Flores stated that to his understanding from Mr. Salinas she would not need to pay again that was the reason Staff was recommending that it be transferable to others.

Mrs. Treviño stated that the reason she was considering changing the name of the business was because the name says Solo Empanadas and the people think that this is the only item being sold and that was affecting her economically. She added that they offer other items like pizzas, salads, etc.

Mr. Salinas stated that this was not the first time that Staff recommended that a conditional use permit be transferable to others, but in this case Staff was recommending that the CUP be approved for 1 year so it will come back to P&Z in a year. He added that this was only due to the name change.

Mr. Ned Sheats stated that they should specify that it would be transferable to others for a name change only and not ownership.

Mr. Salinas stated that they could approved the CUP only if it was a name change for this particular owner now if in 6 months she sells to someone else then they would need reapply for a new conditional use permit.

Mr. Ned Sheats stated that's exactly how it should be.

Mrs. Treviño asked if they could explain to her if she would need to pay again.

Chairman Rene A. Flores explained that if there was only a change of the business name, then she would not need to reapply.

Mrs. Treviño stated that the only owners were her son and her and they were not planning on selling anytime soon. She mentioned that she had just renewed her entrepreneur visa for 2 years and they were here to stay.

Mrs. Marisela Marin asked why staff was doing the 300' waiver based on the lot and not the suite.

Mr. Salinas stated that the code states that it should be based on the lot.

There being no discussion, Chairman Rene A. Flores entertained a motion. Mr. Ned Sheats moved to approve the conditional use permit as per staff's recommendation and that the CUP be transferable to others for a name change only. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:19 p.m.

Ended: 5:29 p.m.

ITEM #1.3

**Conditional Use Permit Renewal: T- Rey’s Drive-Thru Convenience Store
2502 W. Business 83
Lots 131 -132, Ala Blanca #4 Subdivision
C-3
Reynaldo Diaz**

Mr. Bobby Salinas went over the write-up stating that the site is located on the NW corner of Paisano Street and Business Hwy 83. The drive thru convenience store was most recently approved on 8-28-13 for a period of 1 year. Access to the drive-thru is from Paisano Street and exits out to Business 83.

- **Days / Hours of operation:** Mon. – Sun. 7:00a.m. to 11:00p.m.
- **Staff:** 9
- **Parking:** A total of 23 parking spaces are needed for the convenience store/drive-thru and the Laundromat. There are currently 21 spaces on site and the owner of T-Rey’s owns and currently utilizes the property on the NE corner of Paisano St. and Business 83 for surplus T-Rey parking.
- **Landscaping:** During the last approval, Staff required additional landscaping to be installed on the site to help beautify the area. The applicant has since installed the plants required along Business 83.

REVIEW COMMENTS: During the approval on 8-28-13, staff required additional landscaping, a block fence around the dumpster site, and the removal of some banner signs that were existing at the time. Upon a site inspection of the business, the landscaping and the block wall have been installed and the banners have been removed. Staff also noticed that there was a food cart with two picnic tables along the front of the building.

Staff did have the opportunity to talk to Mr. Diaz and he will be removing the cart and the tables. She mentioned that he was not aware that he needed a separate permit for them.

RECOMMENDATION: Staff recommends approval of the CUP for 1 year, with the removal/relocation of the food cart and picnic tables.

Chairman Rene A. Flores asked if these were the only recommendations by staff.

Mr. Salinas replied, “Yes”.

Chairman Rene A. Flores asked if they were in violation of the sign code.

Mr. Salinas replied, “Yes”. He added that he was just now sure if the convenience store was in operation prior to the adoption of the sign ordinance. Mr. Salinas stated that some of the signs have been there for a while.

Chairman Rene A. Flores stated that he would like for staff to look into the signs and make sure they are in compliance.

Mr. Ned Sheats asked if he could remove all non-conforming signs.

Mr. Salinas replied, "Yes".

Chairman Rene A. Flores asked if there was any public opposition to the request.

There was no response.

Chairman Rene A. Flores asked if the applicant or representative were present.

The applicant, Mr. Reynaldo Diaz whose business is at 2502 W. Business 83 was present to address any questions from the Board.

Mr. Salinas explained that the Board has some concerns in regards to the signs he had on the entrance and exit of the drive-thru because they were not in compliance with the sign code and he would need to remove them as well as the picnic tables and food cart.

Mr. Diaz asked if he could apply for a permit to keep the cart and tables.

Chairman Rene A. Flores suggested that he checked with the City to see if what is was proposing would be allowed in that area.

Mrs. Marin stated that she was concerned that they didn't have enough lighting as they enter the drive-thru.

Mr. Diaz stated that it was well lighted.

There being no further discussion, Chairman Rene A. Flores entertained a motion. Mr. Mario Garza moved to approve the conditional use permit renewal as presented. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:29 p.m.

Ended: 5:43 p.m.

ITEM #2.0

Discussion & Action to Adopt Telecommunications Tower Ordinance and add as a conditional use permit under I-1 (Light Industrial Zone)

Mr. Bobby Salinas read from the Telecommunication Tower Ordinance Comparison. He mentioned that telecommunications towers were allowed on most of the zoning districts with a conditional use permit and also explained that the City of Mission did not have minimum standards for telecommunications tower as far as the fencing, landscaping, height, etc. Mr. Salinas stated that staff would like P&Z's input in regards to this ordinance.

Mr. Salinas stated that the City of Mission is proposing the following:

- **Height Requirements** – 90' within Commercial zones or within 200' of an existing Residential structure; 120' within Industrial zones
- **Separation Requirements** – Minimum 1,000' separation between other towers
- **Separation from Residential Homes** – 200' from Residential Structures
- **Landscaping Requirements** – A landscaped buffer area to soften the visual impact shall commence along the perimeter of the lease area or the property line. At least one row of shrubs shall be installed as well as trees as appropriate shall be included. Materials shall be of a variety which can be expected to grow to form a continuous hedge at least six feet in height within two years of planting
- **Fencing Requirements** – The equipment shelter at the base of a monopole or self-enclosed monopole shall be screened from public view by an unpainted split-face decorative masonry wall with a minimum height of one foot greater than the height of the equipment shelter
- **Setback Requirements** – 20% the height of the tower
- **Conditional Use Permit Required** – Yes, for all zones

Mr. Salinas added that in doing some of the research it was discovered that in the industrial zone it was not added as a permitted use or conditional use permit so this would also correct that.

Mr. Ned Sheats asked if the reason staff needs to set minimum standards for telecommunications was because there some coming before P&Z maybe in the next meeting.

Mr. Salinas replied, "Yes". He added that if possible he would like to at least have the heights, separation requirements, and everything mentioned above agreed upon for now. Mr. Salinas stated that he would also like to include some language in regards to stealth and even the color but for that he would have to create the ordinance and he was not at that point yet. He mentioned that one of the towers will be on the September 24th meeting and that tower is proposed on a light industrial zone which is not included as a permitted use or with a conditional use permit. He added that he wanted to make sure the City Council had the opportunity to adopt some regulations with the conditional uses including the towers in the light industrial zone.

Mrs. Marisela Marin asked if Sugarland would be the strictest from the comparison.

Mr. Salinas stated that they wouldn't be the strictest because they allow towers within residential areas based on the height.

Mrs. Marisela Marin stated that they don't allow towers on residential areas.

Mr. Salinas stated that they aren't allowed in the front yard of a residential area.

Mr. Ned Sheats stated that we were taking a whole lot of people's words for granted that there is no less expensive way to move these towers away from the residential areas. He added that he would hate to write stuff based on others. Mr. Sheats suggested that staff should contact people to get their input on these types of towers.

Mr. Salinas asked Mr. Sheats what type of people.

Mr. Sheats stated that there were several consultants that built towers or other people that sell other types of radio towers that were not in competition with this one.

Mr. Salinas stated that if Board was not looking to act on anything as far as the heights at this time he would at least want to be able include the conditional use permit in the light industrial zones or all zones.

Mr. Sheats stated that he would not want any towers on the residential lots.

There being no further discussion, Chairman Rene A. Flores entertained a motion. Mr. Ned Sheats moved to include telecommunications towers on a light industrial zone with a conditional use permit. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #3.0
ADJOURNMENT

There being no further items for discussion, Mr. Mario Garza moved to adjourn the meeting. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 5:44 p.m.

Rene A. Flores, Chairman
Planning and Zoning Commission