

**PLANNING AND ZONING COMMISSION
SEPTEMBER 28, 2011
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Ned Sheats
Carlos Lopez
Guadalupe Vela
Luann Caudle
Mario Garza

P&Z ABSENT

Rene Flores
Marisela Marin

STAFF PRESENT

Sergio Zavala
Bobby Salinas
Irasema Dimas

GUESTS PRESENT

Issac Segura
Pedro Perusquia
Catalina Hernandez
Elsa Venegas
Steven F. Austin
Omar M. Alanis
Gilberto Espinoza
Isaias De La Rosa
Pauline Mendez
Reavis D. Young
Jaime Sanchez
Juan Rodriguez
Ana M. Salinas
Art Salinas
Cristina Villarreal
Lalo Chapa
Claudio Castañeda
Claudia Rivera De Garza

CALL TO ORDER

Chairman Ned Sheats called the meeting to order at 5:02 p.m.

CITIZENS PARTICIPATION

There was no response upon inquiry by Chairman Sheats.

APPROVAL OF MINUTES FOR SEPTEMBER 14, 2011

Chairman Sheats asked if there were any corrections to the minutes for September 14, 2011. There being no corrections, Mr. Vela moved to approve the minutes as presented. Mrs. Caudle seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:03 p.m.

Ended: 5:10 p.m.

ITEM # 1.1

Request by Juan R. Rodriguez to have the City Abandon 0.09 acre of irregularly shaped portions of un-paved ROWs being Schuerbach Road

(inside Mission City limits) and Leonor Street where both streets intersect

Mr. Zavala said that staff received a written request to consider abandoning portions of ROWs that are still **'on the books'** but are not used for street purposes. After assessing the request during the intervening months, the following comments are a final analysis:

- Annexation Ordinance #1729 was adopted in April 1993 wherein the adjoining properties to the east were annexed inclusive of Schuerbach Road **to its centerline**; there was no deliberate annexation of the entire width of Schuerbach Road at this juncture; any consideration by the City of Mission to **'abandon'** is limited to the centerline of Schuerbach Road.
- For decades and up until the mid-90's, Schuerbach Road went northward & crossed the Railroad intersecting Business Highway 83 at a direct 90-degree angle. However, as Schuerbach continued north from Bus. HWY 83, it did so at a jog
- This awkward street jog was later reconciled by LJISD swerving Schuerbach's pavement to properly meet centerline to centerline with Schuerbach on the north side of Bus. HWY 83 as it currently exists. (NOTE: LJISD **straightened** the intersection in their efforts to maximize traffic safety and maneuverability when they built Escandon Elementary School).
- With the **swerving** of Schuerbach 18 years ago, this left the old ROW alignment still intact...it just wasn't paved anymore; it remains then as it does now, i.e., a dormant pie-shaped piece of property.
- Staff prepared an exhibit that reflects existing utilities within the ROW. Any consideration to abandon must reserve it as **'utility easement'**. See Attachment "A".
- In visiting the site during the several intervening months, it continues to be un-sightly with the disrespectful public illegally dumping bags of trash, clothes, tires, boxes, etc., on it.
- This portion of ROW will not be used for street purposes any longer. The adjoining property to the west has extensive access to Schuerbach Road thus any new subdivision would be safer by having its street access point further southward instead of nearer to the railroad.
- **CONCLUSION:** The abandonment of the ROW will not be detrimental to the area, nor to adjoining properties; will be a step forward to re-injecting it back into the private (taxable) sector (with voiced landscaping to be added onto by the subject applicant thus being a more aesthetic feature at this juncture); it will be a step forward in having the surface use maintained by private resources instead of public taxpayers;

the utilities will be protected by reserving a utility easement over the entire property.

Staff recommended to abandon the 0.09 acre of ROWs (Schuerbach and Leonor) subject to: **1)** reserving a utility easement, and **2)** have the County of Hidalgo abandon the west 1/2 of ROW.

FOOTNOTE: Final conversion of ROW into Easement will be subject to similar action by the County of Hidalgo of this un-used ROW.

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

There was no response.

Chairman Mr. Sheats asked if the applicant or representative were present.

Mr. Jaime Sanchez, business partner of Mr. Juan Rodriguez was present to answer any questions from the board.

Chairman Sheats mentioned that it was nice that they were willing to beautify the area.

There being no further comments, Chairman Sheats entertained a motion. Mr. Garza moved to approve the request as staff's recommendation. Mrs. Caudle seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:10 p.m.

Ended: 5:13 p.m.

ITEM # 1.2

Rezoning:

**A 0.894 acre tract out of Lot 195,
John H. Shary Subdivision
AO-I to C-3
R & L Lozano Leasing, LTD**

Mr. Salinas went over the write-up stating that the subject site is located on the NE corner of Shary Road and 4th Street. The surrounding zones consist of the following: AO-I (Agricultural Open Interim) to the north, R-1 (Single Family Residential) to the east, C-5 (Adaptive Commercial) to the west, and C-3 (General Commercial) to the south. The surrounding land uses consist of open acreage to the north, and IHOP restaurant to the south, a residential subdivision to the east, and Bett's Oil and Butane and Another Closet Storage to the west. The subject site is currently open acreage. The Future Land Use Map reflects a General Commercial (GC) designation along the Shary Road frontage.

The corner tract has been a commercial 'reserve' since the inception of the Master Plan. It should be changed to C-3 due to FLUM compliance, frontage to a widened major thoroughfare, and it's adjacent to existing commercial users and zones. Staff recommended approval.

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. Art Salinas, the project engineer was present to address any questions from the board.

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

Started: 5:13 p.m.

Ended: 5:25 p.m.

ITEM # 1.3

Rezoning:

**Lot 1, Block 1, Gulf Breeze Addition Subd.
C-1 to C-2
Ana M. Salinas**

Mr. Salinas went over the write-up stating that the 75' x 120' lot is located on the NE corner of Conway Avenue and Sunrise Lane. The surrounding zones consist of the following: R-1 (Single Family Residential) to the north, east, and south, and R-4 (Mobile & Modular Home District) to the west. The land uses consists of: Single Family Home to the north, east, and south, and Mobile Home Park to the west. The site currently has open acreage. The Future Land Use Map reflects a Low Density (LD) designation.

Though the FLUM shows an LD designation, staff anticipates most of the vacant corridor along Conway Avenue to slowly transition into commercial uses due to:

- 1) The subject property adjoins Conway Avenue; a seven lane major thoroughfare (mandates a minimum 150' ROW).
- 2) The traffic produced along Conway Avenue is more conducive for a non-residential use, rather than having R-1 homes along such congestive traffic patterns.

- 3) Due to the limited size of lot, it will only allow for a limited amount of commercialism where a large percentage of the property will be used for parking and landscaping (thus the commercial traffic impact is anticipated to be minimal).
- 4) C-2 allows for more commercial uses than C-1, however its allowable uses are still minimal and are geared to serve the immediate neighborhood communities, i.e., restaurant/bars, gasoline service stations, etc. are only allowable through a conditional use permit.
- 5) The City Council approved a more intense C-3 zone at Moorefield and Oleander Drive being a minor/arterial street intersection (8-22-11)

Staff recommended approval.

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

Ms. Reavis D. Young from 105 Solar Drive, stated that this was the 3rd time that the property goes before the board in order to become commercially zone. She also stated that she's lived there for the past 54 years and was against the rezoning because is a quiet neighborhood.

Chairman Sheats explained to Ms. Young that the property currently had the C-1 zone, which is the lower tier of commercial and what the owner was proposing was just to get a C-2, which will be the next density of commercial which will include small shops, neighborhood stores, etc.

Ms. Pauline Mendez from 101 Solar Drive stated that she has lived there for over 30 years and that the last time that the property was trying to get rezone the owner wanted to have a liquor store and she was against having anything wild around the area.

Chairman Sheats asked if the applicant or representative were present.

Ms. Ana Maria Salinas was present to address any questions that the Board might have.

Chairman Sheats asked Mrs. Salinas the type of business she was proposing for the site.

Mrs. Salinas stated that it would be a plaza with 2 suites and she was proposing a health store with massages and also a beauty salon.

Mrs. Caudle stated that she didn't feel comfortable rezoning the property being that it was too small of a property to have a commercial building and that it was in a very quiet neighborhood.

Mr. Salinas replied that there was a 15' abandoned ROW along Conway Avenue that the property owner was in the process of obtaining.

Chairman Sheats asked if a site plan was presented to the Planning and Zoning Department for the proposed building.

Mr. Salinas replied that it was and that it's being reviewed and approved as far as the building meeting setbacks.

Chairman Sheats mentioned that he would feel more comfortable if they could see the site plan, prior to approving the rezoning.

Mr. Garza replied that he felt the same way as the Chairman.

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

Started: 5:26 p.m.

Ended: 5:28 p.m.

ITEM # 1.4

**Conditional Use Permit: To keep a 5.5' x 10.6' Portable Building for the Sale of Sno-Cones, Corn, and Snacks
407 La Lomita St.
S. 120' – W. 130' S. ½ of Block 8,
Citriana Heights Subdivision
C-3
Life of Use
Elsa Venegas**

Mr. Salinas went over the write-up stating that a conditional use permit was recently approved at this location on 8-10-11 however, since the conditional use permit was not transferable to others and a new operator is evident, this conditional use permit needs to be considered once again.

The subject site is located at the NE corner of Lomita Avenue and Del Mar Drive. Existing entry and exiting to the site is from a pair of 24' driveway cuts along Del Mar Drive, and a 24' driveway cut along Lomita Avenue. The portable building is set in a concrete landing along the south side of the property between the 24' driveways. Restroom facilities are available at Elizondo's Tires (abutting business to north).

- **Hours of operation:** Monday through Sunday from 1:00 p.m. to 10:00 p.m.

- **Staff:** The applicant and 1 other person will be running the stand.
- **Parking and Landscaping:** Parking is in order since many that are washing cars or conducting business at Elizondo's Tires merely walk over. When this CUP was first awarded, the applicant installed additional trees and shrubs to improve aesthetics.
- Must comply with Fire and Health requirements and must acquire a business license.

Previous CUP approvals granted for a portable building used for the sale snowcones, etc. at this location:

- 1) May 9, 2007 (Original Approval)
- 2) July 9, 2008
- 3) February 18, 2009
- 4) September 23, 2010
- 5) August 10, 2011

Staff recommended approval subject to a 1 year re-evaluation, and must secure 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.

Ms. Elsa Venegas was present to address any questions that the Board might have.

Chairman Sheats asked Ms. Venegas if she was willing to comply with the requirements.

Ms. Venegas replied that she would.

Chairman Sheats mentioned that he wishes her good luck and hopefully she could last longer than the previous applicants.

Ms. Venegas was thankful for the wishes.

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

Started: 5:28 p.m.

Ended: 5:31 p.m.

ITEM # 1.5

**Conditional Use Permit: Daycare in an AO-I Zone
.91 acre tract being the NW
Corner of Lot 19-11,
West Addition to Sharyland Subdivision
610 N. Bryan Road
AO-I
Life of Use
Catalina Hernandez**

Mr. Salinas went over the write-up stating that the subject site is located at 600 N. Bryan Road. This conditional use permit was previously approved by P&Z on 2-13-08 for the life of use of the daycare as was operated under the previous applicant, Ms. Norma Rodriguez. Now, the daycare will be under new management, thus a new conditional use permit is required.

- **Hours of Operation:** Monday – Friday from 7 a.m. to 6 p.m.
- **Staff:** 5, including the owner.
- **Parking:** The site has a 'horseshoe' driveway, where customers enter along the south end and exit through the north end back onto Bryan Road. This driveway is utilized for the safe drop off and pick up of children at the site. There are also 2 paved parking spaces located on the south side of the lot used as employee parking. The daycare was most recently approved on 2-13-08 for "Life of Use". Planning staff has not received any complaints since it was first approved on 4-14-04. If managed as before, no parking issues should be evident.
- **Landscaping and Buffering:** The site currently has several mature trees and other plants in the area. When the daycare was first being established, there was some concern regarding proper buffering along Winter Green Estates. Since then, there was a chain link fence installed to provide such a buffer to WGE. Planning Staff has not had any complaints from WGE regarding buffering.
- Must be certified through DHS, and meet Fire and Health Dept. requirements.
- Must obtain a business license.

The day care use has not been a detriment to the neighborhood, recalling that the site fronts a 5-lane thoroughfare, i.e., more inclined to a non-residential use. Since new management is proposed, a cautious 1-year re-evaluation term seems prudent. Staff recommended approval subject to: **1)** 1 yr. re-evaluation to further assess this business; **2)** Must acquire certification through

DHS; **3)** Must meet Fire and Health Dept. requirements; and **4)** Must acquire 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.

Ms. Claudia Hernandez the applicant was present to address any questions that the Board might have.

Chairman Sheats asked Ms. Hernandez if she was willing to comply with the requirements.

Ms. Hernandez replied that she would.

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

Started: 5:31 p.m.

Ended: 5:44 p.m.

ITEM # 1.6

**Conditional Use Permit: Sale & On-Site Consumption of Alcoholic Beverages – La Playita Restaurant & Bar
2120 E. Business 83
Lot 51, Sharyland Orchards Subdivision
C-4
Life of Use
Pedro Perusquia**

Mr. Salinas went over the write-up stating that the subject site is located on the SE corner of Ragland Road and Business 83. On 2-28-11, P&Z approved a similar CUP at this same location for a seafood restaurant; however, that applicant did not pursue opening the restaurant after all.

- **Section 1.56-3:** The Zoning Code cites that 'Bars' must be 300' from the nearest residence, church, school or publicly owned property. There are residences within 300' (see aerial) however; P&Z and the Council twice waived this separation requirement in previous CUP approvals.
- **Hours of operation:** Everyday from 12:00 p.m. to 2:00 a.m. Alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 5 - 10

- **Parking:** In viewing the floor plan, there are 108 total seating spaces for the restaurant, which require 36 parking spaces (108 total seating spaces/3 = 36 parking spaces). It is noted that the parking area is held in common (41 existing parking spaces) and is shared with a closed auto mechanic shop.
- **Noise:** In speaking to the applicant there will be certain nights where there may be a D.J., band or Karaoke. The applicant also desires to have small outdoor speakers in the open patio area. He stated that they would be set at a very low range so as not to disturb the neighboring properties and allow patrons to comfortably converse. If there are any noise issues, Staff will approach the applicant to lower volume, soundproof the building, remove the exterior speakers or any combination thereof.
- **Landscaping:** There is an existing green area along Business 83, however we would like to see at least 5 shade/ornamental trees installed as part of the CUP's requirements.
- In visiting the site, Staff noticed that there was an existing pool (with no water) that was unsecured. Regardless of this item's outcome, a fence must be installed in order to meet typical barrier requirements for swimming pools.
- Must comply with Fire & Health Depts.; and must obtain a Business License.

Staff recommends approval subject to: **1)** No objection to waiving the 300' separation requirement; **2)** Must comply with the City's noise codes; **3)** Must install a minimum of 5 shade/ornamental trees along Business 83; **4)** Must secure the swimming pool; and **5)** 6 month re-evaluation to assess this new operation.

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

Mr. Claudio Castañeda, an area business owner, stated that he was not so much against the request but he had a concern. He mentioned that Ragland Road carries a lot of traffic and it is hard to exit to Business 83. He was wondering if the exit to Ragland from the property in question could be closed down.

Mr. Garza stated that it sounded like a good idea.

Chairman Sheats asked if the applicant or representative were present.

Mr. Pedro Perusquia, the applicant was present to address any questions that the Board might have.

Chairman Sheats asked Mr. Perusquia if he was willing to comply with the requirements and blocking off the exit on Ragland Road.

Mr. Perusquia said that he was willing to comply.

Mr. Zavala stated that he was not too sure about the closure of the exit on Ragland Road because Valley View Estates was behind the site and is mostly winter Texans that like to go to the Bowling Alley and they use that access to get there safely. If the access is closed, then they would have to go all the way to Business 83 and exit the same way, which would be a more dangerous alternative of driving for them. He suggested that during the 6 months re-evaluation, staff would monitor the traffic in the area and if the traffic mostly is from the business then, staff would come up with an alternative, but if not, then the access would have to remain open.

Chairman Sheats agreed with Mr. Zavala's suggestion.

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

Started: 5:44 p.m.

Ended: 5:47 p.m.

ITEM # 1.7

**Conditional Use Permit: Sale & On-Site Consumption of Alcoholic Beverages – Sora Sushi Bar
303 N. Shary Road
Lot 1, Gutierrez – Alvarez Subdivision
C-3
Life of Use
Sora Sushi Bar, LLC**

Mr. Salinas went over the write up stating that the restaurant site is located 1/3 mile north of Expressway 83 along the west side of Shary Road. This CUP was previously approved for 1 yr. after the acquisition of a Business License where Mr. Jose Chanin, the owner of the property, proposed to open an Italian Bistro, however plans fell through and ended up opening a sushi bar instead. The first floor of the building is 1,040 sq. ft. and is used as the primary dining area. The second floor is 425 sq. ft. and is utilized more as a bar for the evening crowd. Asst. Chief Martin Garza researched the site for any incidents and found that there were none reported.

- **Section 1.56-3:** The Zoning Code cites that 'Bars' must be 300' from the nearest residence, church, school or publicly owned property. There are residences within 300' (see aerial) however; P&Z and the Council waived this separation requirement in the CUP's previous approval.

- **Hours of Operation:** The restaurant is open Monday – Sunday from 11:00 a.m. to 10:00 p.m.; the bar closes at 2:00 a.m. Alcoholic beverages will only be served during allowable State selling hours.
- **Parking:** Mr. Chanin is the owner of the retail/office-type suites to the south. Being the owner of both properties, Mr. Chanin currently allows for patrons to use the parking lot located south of the restaurant. Once the southern suites close in the evening, their parking becomes available for use by the sushi bar’s patrons. The Planning Department has not received any complaints regarding parking issues.

Since there haven’t been any issues with this business, staff recommends approval subject to: **1)** No objection to waiving the 300’ separation requirement, and **2)** 1 yr. re-evaluation to assess the operation.

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.

Ms. Claudia Rivera De Garza the new owner was present to address any questions that the Board might have.

Chairman Sheats asked if she was willing to comply with the requirements.

Ms. Rivera replied that she would.

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

Mr. Salinas stated that in order to facilitate the agenda and with there being several conditional use permits that appeared to be non-controversial and where the city’s codes were fully being complied with, staff requested that the P&Z Commission consider a consent agenda on several items. He added that on this matter he would read the items (Items #1.8, 1.9, & 2.0), their location, their intent, and staff recommendation on each. Thereafter, the Chairman would ask if there was any public input on any of the conditional use permits. After public comments, the Chairman would ask the P&Z members if they had any specific questions or comments on any of the conditional use permits. After the question & answer dialogue, staff would likely recommend that P&Z approve the conditional use permits subject to staff’s recommendations.

Started: 5:48 p.m.

Ended: 5:51 p.m.

ITEM # 1.8

**Conditional Use Permit Renewal: Sale & On-Site Consumption of Alcoholic Beverages – Villa Del Mar
207 E. Expressway 83
Lot 3, El Pueblo Ph. II Subdivision
C-3
Life of Use
Angel H. Villarreal**

Mr. Salinas went over the write-up stating that the 4,500 sq.ft. site is located within a plaza approximately 600' east of Conway Avenue along the north side of the Frontage Road of Expressway 83. The restaurant was originally approved for the sale and on-site consumption of alcohol on 1-6-10. On 11-8-10, the restaurant was re-approved by P&Z when it was expanded to include a bar component that would only offer beer. It was compared more to a "diner" setting, than a bar. Asst. Chief Martin Garza researched the site for any incidents and found that there were none reported.

- **Section 1.56-3:** The Zoning Code cites that 'Bars' must be 300' from the nearest residence, church, school or publicly owned property. There are residences within 300' however; P&Z and the Council waived this separation requirement in the CUP's previous approvals.
- **Hours of operation:** Sunday – Thursday from 10 a.m. to 9 p.m. & Friday & Saturday from 10 a.m. to 11 p.m. Alcoholic beverages will only be served during allowable State selling hours.
- **Parking:** In viewing the floor plan, there are 194 total seating spaces for the restaurant, which require 65 parking spaces (194 total seating spaces/3 = 65 parking spaces). It is noted that the parking area is held in common (225 existing parking spaces) and is shared with other businesses. The parking area is also connected and has access to existing, interlocking parking lots-see aerial.
- There is a small stage area for 'light' music from a single guitar player or a piano, **no DJs or Bands utilize the stage.**

Staff recommends approval subject to: **1)** Continued waiver of the 300' separation requirement, and **2)** a 1yr. re-evaluation to ensure continued compliance within a family retail setting.

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. Cristina Villarreal, the applicant, was present to answer any questions that the Board might have.

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: 5:48 p.m.

Ended: 5:51 p.m.

ITEM # 1.9

**Conditional Use Permit Renewal: Sale & On-Site Consumption of Beer & Wine – Wing Stop Restaurant
301 W. Griffin Parkway, Suite 6
Lot 1D, Mission Park Plaza Subd.
C-3
Life of Use
Wing Stop**

Mr. Salinas went over the write-up stating that the 2,000 sq. ft. restaurant site is located within a commercial plaza approximately 750' west of Conway Avenue along the south side of Griffin Parkway. This CUP was originally approved on 9-26-07 and most recently approved by P&Z on 10-15-08, with 3 year re-evaluations. 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. Asst. Chief Martin Garza researched the site for any incidents and found that there were none reported.

- **Hours of Operation:** Everyday from 11:00 a.m. to 12:00 a.m. Alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 13-17 employees
- **Parking:** There are 50 total seating spaces, which require 17 parking spaces (50 seats/1 space for every 3 seats = 16.6 parking spaces). It is noted that the parking area is held in common (78 existing parking spaces) and is shared with other businesses.

Since there have been no issues at this family-oriented restaurant, the CUP should be approved. Staff recommended approval subject to a 3-year re-evaluation to assure continued compliance.

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. Issac Segura, the restaurant manager, was present to answer any questions that the Board might have.

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: 5:48 p.m.

Ended: 5:51 p.m.

ITEM # 2.0

**Conditional Use Permit Renewal: Portable Building – Sale of Water
213 E. Expressway 83
Lot 3, El Pueblo Subdivision, Ph. I
C-3
Life of Use
Gilberto Espinoza
(Watermill Express)**

Mr. Salinas went over the write-up stating that the subject site is located 500' east of Conway Ave. along the north side of Expressway 83 frontage (Conway Plaza Shopping Center). The applicant has a self-sustained, fully automated, "Watermill Express" (8' diameter portable structure) for the sale of purified water. The structure is located south of the main plaza, within one of the parking spaces. This CUP was originally approved by P&Z on 4/15/09 subject to a 1-year re-evaluation and acquire a business license. It was most recently approved on 10/13/10, subject to a 1-year re-evaluation.

- **Hours of Operation:** Everyday - 24-hours a day.
- Watermill technicians conduct service inspections on a daily basis to ensure that the water-dispensing unit is clean and functioning properly.
- Parking and landscaping codes are being met.
- There have been no traffic safety issues since it's inception.

Staff recommended approval subject to a 3-year re-evaluation.

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. Gilberto Espinoza, the applicant was present to address any questions that the Board might have.

There being no further comments, Chairman Sheats entertained a motion. Mr. Garza moved to approve the conditional use permit as recommended by staff with the 3-year re-evaluation. Mr. Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:51 p.m.

Ended: 5:56 p.m.

ITEM # 2.1

Consider Whether or Not to Revoke a Conditional Use Permit for a Home Occupation – Registered Home Daycare Service at 931 Greenlawn, being Lot 8, Block 2, Eagle Heights Unit No. 1 Subdivision: CUP applicant is Carla Puente Niño

Mr. Salinas went over the write-up stating that the subject site is located at the NE corner of Greenlawn Drive and Jones Avenue. The applicant has her SF home thereon with paved access only off of Jones Street. When Ms. Niño had proposed the home occupation, staff had recommended denial as proposed by the applicant, however did allow the option for approval subject to the following:

1. 1 yr. re-evaluation to assess the new operation
- 2. DHS Certification - Completed**
3. Must comply with Zoning Code sect. 1.56-1
4. Must install a perimeter 6' buffer fence with self-latching gates within 4-6 months
- 5. Must acquire a business license - Completed**
6. Must install a 4' sidewalk along Jones Ave.
7. Must pave a new circular driveway along Greenlawn Drive with an interconnecting sidewalk to the entrance of the home occupation within 4-6 months.

The CUP was approved by P&Z on 10-28-09 with the above conditions. Since the approval, staff made numerous attempts to have Ms. Niño come in to renew her CUP and comply with all conditions; however, she has failed to do so. Staff was told that she would be **"coming in to the office"** to apply and were once told that she was just **"too busy"** to come in.

1-10-11@10:42a.m. – Spoke to Ms. Niño asking her to renew the CUP before 1-21-11. She said that she would be coming in.

3-15-11@10:49a.m. – Spoke to Ms. Niño, she advised staff that she would be in the next day.

3-29-11@9:50a.m. – On-site visit, spoke to Ms. Niño, she said she would be in that same day.

5-31-11@2:05p.m. – Left message (w/ Jessica).

On June 14, 2011, Staff sent her a letter asking her to complete the lacking items within 15 days or her business license would be revoked.

Section 1.54 of the Zoning Code states: "*Upon determination of noncompliance with the provisions of the conditional use permit...**written notice stating the nature of the violation and the necessary action to remedy the violation must be sent.***" On August 17, 2011, Staff sent Ms. Niño a written notice as required by Sect. 1.54 explaining to her that the City had revoked her business license, and that the process to revoke the CUP would commence.

Staff recommended revoking the CUP; home occupation to cease; if not ceased, charges will be filed in Municipal Court.

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.

There was no response.

Chairman Sheats stated that being that the applicant was not present and not willing to comply with the city requirements, what guarantee does the Board have that she was complying with the State requirements on childcare.

Mrs. Caudle stated that she agreed with the Chairman.

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

Started: 5:56 p.m.

Ended: 6:03 p.m.

ITEM # 3.02

**Preliminary & Final Plat Approval: Manuel A. Murillo Subdivision
2.27 Acre Tract out of Lot 35-7,
West Addition to Sharyland
Rural ETJ**

Developer: Manuel A. Murillo
Engineer: Rio Delta Surveying
Pablo Soto, P.E.

Mr. Salinas went over the write up stating that the site is approximately 3.75 mile N. Conway along the east side. The 1-lot subdivision will be used to situate an approximate **100' x 45' commercial warehouse structure with 20 paved parking spaces**. The Lot has 231.10' of frontage to St. HWY 107 where there is a total ROW currently evident of 107'; this is satisfactory thus no additional ROW is required by MPO requisites. As seen in the plat, approximately 40% of the site is in Flood Zone A. This has been factored in by the drainage report where any structure desired to be within this component will have a minimum elevation of 163 (NOTE: also, see Plat Note #2).

In regard to drainage, a 35' x 81' easement (approx. 18" deep) is shown to the easternmost area of the plat. Though the '**HCDD#1-Approved**' drainage report says that the flow is "**overland in a northeasterly direction**", the topo reflects that the actual flow is in a **southwesterly direction** (toward the Flood Zone A component). The NE side actually seems to be the highest point of the 2+ acre site. Staff has received no tangible disclosure on '**how from the lowest point at 161.77 the water would flow to the NE's point at 162.84?**'

Insofar as water improvements, this lies in the Sharyland Water Supply Corporation's water CCN; there's an existing 8" waterline on the east side of Conway. Being in the rural ETJ, a fire hydrant is '**not required**' BUT the Fire Marshal did recommend that 1 hydrant be installed since the use will be a warehouse and there is an existing 8" line right in front of it. Rio Delta Surveying is requesting a variance to not install a hydrant because it will cost \$4000 and "**Mr. Murillo doesn't have the funds...**"

On sanitary sewer, they propose to use septic tanks. However, Ordinance #1598 says that "**any subdivision lying within 1300' of a city sanitary sewer line shall be required to install a complete sewage system and connected to the city's system in accordance with city standards**". The entire area south of 4 Mile Line is in Mission's sewer CCN. The nearest sewer line is only 606' to the south. In consulting with Public Works, they indicate that this city sewer line is viable to be connected to by the subject commercial warehouse plat. Rio Delta was informed of this but they are requesting a variance '**not to connect**' because it will cost \$25,000 (though no unit amounts were forwarded).

On the sidewalk issue, State Highway 107 is a major thoroughfare and we recommend that the developer not provide the sidewalk at this time but at

least to provide a plat note stating the following: **"During the building permit process, the prevailing reviewing authority may require pave sidewalks along the lot's entire frontage where said sidewalk shall be no less than 5' in width."** This will allow the County at this time, some latitude to require sidewalks if land uses evolve where it is more compelling to require them. No escrow is warranted at this time though they did request a variance to not have any sidewalks because they will cost \$3,500 and **"Mr. Murrillo doesn't have the funds to either install or escrow"** the sidewalks to benefit his 4500 sq. ft. commercial warehouse.

Other issues include the capital sewer recovery fee at \$2850/acre (*'outside city'* rate) if connecting to city sewer; voluntary annexation is mandated if connecting to the city's sewer system.

Finally, the City's Variance Code (Sec. 98-7) says that 'No variance can be recommended unless the Planning Commission finds that, among other sections, that **there are special circumstances or conditions** affecting the land that applying the code would deprive the applicant of reasonable use of his land; the **granting of the variance is necessary for the preservation and enjoyment of the legal property rights** of its owner; and that the granting of the variance **will NOT have the effect of preventing the orderly subdivision of other land in the area'**. P&Z is to also consider the effect of the variances upon **the health, safety, convenience and welfare in the vicinity**, too. The response from the applicant's agent is that they don't have the money to meet the city's standards but to nevertheless allow them to plat and thus build their 4500 sq. ft. warehouse with 20 paved parking spaces.

Staff recommended the following:

- 1) **'Table the plat'** pending more detailed information on how the storm will travel to the NE when topo reflects it's going to the Southwest's Flood Zone A.
- 2) **IF the DRAINAGE ISSUE is resolved by our meeting's time, THEN** Planning can recommend in favor of the plat subject to:
 - a) MEET CODE - - Extend sanitary sewer.
 - b) MEET FIRE MARSHAL'S RECOMMENDATION - - Install 1 hydrant.
 - c) Plat note the sidewalk as stated; no escrow or immediate installation req'd.
 - d) MEET CODE - - pay capital sewer recovery fee (if connected to sewer).
 - e) MEET CODE - - provide signed voluntary annex request (if connect to sewer).

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.

Mr. Lalo Chapa from Rio Delta Surveying was present to address any questions that the Board might have.

Chairman Sheats asked staff if they had received an answer from the county on the drainage issue.

Mr. Salinas replied that they haven't.

Chairman Sheats mentioned to Mr. Chapa that he was going to make it easy on them and was going to suggest to the board to 'Table' the item until a word from the County was received on the drainage issue and in the mean time, for the developer to come up with a financial solution for the development.

There being no other comments, Chairman Sheats entertained a motion. Mrs. Caudle moved to 'Table' the plat. Mr. Vela seconded the motion. Upon a vote, the motion passed unanimously.

ITEM # 5.0
ADJOURNMENT

There being no further items for discussion, Mrs. Caudle moved to adjourn the meeting. Mr. Vela seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 6:04 p.m.

Ned Sheats, Chairman
Planning and Zoning Commission