

PLANNING AND ZONING COMMISSION
JULY 12, 2023
CITY HALL'S COUNCIL CHAMBERS @ 5:30 P.M.

P&Z PRESENT

Connie Garza
Diana Izaguirre
Raquenel Austin
Javier Barrera
Kevin Michael Sanchez

P&Z ABSENT

Steven Alaniz
Jasen Hardison
Ruben Arcaute

STAFF PRESENT

Susana De Luna
Alex Hernandez
Jessica Munoz

GUEST PRESENT

Santiago Gonzalez
Sandalio R. Garcia
Blesson George
Diego Huerta

CALL TO ORDER

Chairwoman Izaguirre called the meeting to order at 5:35 p.m.

CITIZENS PARTICIPATION

Chairwoman Izaguirre asked if there was any citizen's participation.

There was none

APPROVAL OF MINUTES FOR JUNE 28, 2023

Chairwoman Izaguirre asked if there were any corrections to the minutes for June 28, 2023. Mrs. Garza moved to approve the minutes. Mr. Sanchez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:37 p.m.

Ended: 5:41 p.m.

Item #1.1

Conditional Use Permit:

**Sale & On-Site Consumption of Alcoholic
Beverages – Medelina's Restaurant**

2224 E. Business Hwy. 83

Being a tract of land containing 1.08 acres

of land, being part or portion of Lot 204,

John H. Shary Subdivision

C-4

Sandalio R. Garcia

Ms. De Luna went over the write-up stating the subject site is located on the SW corner of Glenwood Avenue and East Business Hwy 83. The applicant is leasing 2820 sq. ft. building to operate a First-Class family-oriented Mexican Restaurant with top quality food that provides a comfortable atmosphere resulting in a positive dining experience. The restaurant has been in operation since February 2023 but did not offer alcohol in their menu. The applicant would now like to offer alcoholic beverages with his meals. Access to the site is from 2 – 24' driveways off of Business Highway 83.

- **Hours of operation:** Monday - Sunday from 7am to 7pm.
- **Staff:** 12 employees.

- **Parking & Landscaping:** In reviewing the floor plan, the applicant is proposing 84 seats, which require a total of 28 parking spaces (84 seats/3=28 parking spaces). It is noted that there are 36 existing parking spaces that are shared with the other businesses. The applicant would need to reduce the number of seats by 30 in order to comply with the parking requirements. Landscaping requirements are being met.
- Must comply with all City codes including Health, Fire Department and TABC requirements.
- **Sale of Alcohol (Section 1.56-3):** (3a) of the Zoning code requires such uses to be at least 300' from the nearest residence, church, school or publicly owned property. There is a residential subdivision within the 300' radius, however P&Z and City Council have waived this requirement for similar businesses.

REVIEW COMMENTS: Since the sale of alcohol does not seem to be the primary intent and has worked before at this location, staff does not object to this proposal. Additionally, 24 notices were sent to property owners within a 200' radius of the site and there have been no comments in favor or against this request forwarded to the Planning Department.

RECOMMENDATION:

Staff recommends approval subject to:

1. Approval for 2 years at which time the CUP and TABC permit will need to be renewed;
2. Waiver of the 300' separation requirement from the residential home;
3. Must comply with all requirements from our City Codes (Noise, Fire, Health, etc.), and
4. Must obtain a business license prior to occupancy.

Chairwoman Izaguirre asked if there was any input in favor or against the request.

Mr. Sandalio R. Garcia was available for any questions the board had.

Chairwoman Izaguirre entertained a motion to close the public hearing. Mr. Sanchez moved to close the hearing. Mrs. Austin seconded the motion. Upon a vote, the motion passed unanimously.

Chairwoman Izaguirre asked if the board had any questions.

Mr. J.D. Villarreal asked if the applicant was extending his hours of operation?

Mr. Sandalio R. Garcia stated "yes" that is correct.

Mr. J. D. Villarreal asked Mr. Garcia that if his business had been operating 7:00am – 7:00pm since his business opened?

Mr. Sandalio Garcia stated "No".

Mr. J. D. Villarreal asked that if alcohol was going to be served with meals or like a bar?

Mr. Sandalio Garcia stated that alcohol was going to be served as part of the meals only.

Mr. J.D Villarreal stated that if there was a provision that indicated that alcohol can only be served with meals. Mr. Villarreal added that if a couple or a family would be restricted to consume only a certain amount of alcohol.

Ms. Susana De Luna stated that the hours of operation are only until 7:00pm. She added that if Mr. Garcia would like to extend his hours he would have to reapply for his conditional use permit.

There being no further discussion, Chairwoman Izaguirre entertained a motion. Mrs. Garza moved to the approve the conditional use permit. Mr. Sanchez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:41 p.m.

Ended: 5:45 p.m.

Item #1.2

Conditional Use Permit:

Sale & On-Site Consumption of Alcoholic

Beverages – Cocktails Latin Bar & Grill

4001 S. Shary Road, Ste. 350

Lot 1, Sharyland Plantation Grove Tech-Center #2

PUD

The Best Flavored Beer, LLC

Ms. De Luna went over the write-up stating the subject site is located on the SE corner of San Mateo and Shary Road. The applicant leased a 1,500 sq.ft. suite and is proposing to open a Bar & Grill. Access to the site can be from one primary driveway to Shary Road or from separate driveways from San Mateo or from San Gabriel. The last CUP approved by the City Council for this location was on February 13, 2023 for a period of 2 years. The applicant recently decided to change the name of the business from 1942 Bar & Grill to Cocktail Latin Bar & Grill, therefore the need to apply for a Conditional Use Permit.

- **Hours of Operation:** Monday & Sunday from 3 p.m. – 12 a.m. and Tuesday – Saturday from 3 p.m. to 2 a.m.
- **Staff:** 7-10 employees
- **Parking:** In reviewing the floor plan, there are 65 total seating spaces, which require 22 parking spaces (65 total seating spaces/1 space for every 3 seats=22 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 proposed restaurant does include 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: In the past this site has been used for a restaurant but it has also been used primarily as a bar. The applicant proposes to have hamburgers, wings, hotdogs and salads in his menu aside from the alcohol. He is also proposing to have a DJ in his establishment. Staff does not object to a 2 year approval to see how this new operation will work.

RECOMMENDATION:

Staff recommends approval subject to:

1. Approval for 2 years at which time the CUP and TABC permit will need to be renewed;
2. Waiver of the 300' separation requirement from the residential home;
3. Must comply with all requirements from our City Codes (Noise, Fire, Health, etc.), and
4. Must obtain a business license prior to occupancy.

Chairwoman Izaguirre asked if there was any input in favor or against the request.

There was none

Chairwoman Izaguirre entertained a motion to close the public hearing. Mr. Sanchez moved to close the hearing. Mrs. Austin seconded the motion. Upon a vote, the motion passed unanimously.

There being no discussion, Chairwoman Izaguirre entertained a motion. Mr. Sanchez moved to approve the conditional use permit. Mrs. Austin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:45 p.m.

Ended: 6:00 p.m.

Item #1.3

Conditional Use Permit:

**Sale & On-Site Consumption of Alcoholic
Beverages – Taboo Bar & Grill
608 N. Shary Road, Suites 9 & 10
Lot 1, Alba Plaza
C-3
BGD Investments, LLC**

Ms. De Luna went over the write-up stating the subject site is located ¼ mile south of East Business Highway 83 within a commercial plaza along the east side of Shary Road. Access to the site is via a 34' driveway off of Shary Road. The applicant is currently operating a nightclub. It is noted that a nightclub and the sale & on-site consumption of alcoholic beverages are an allowable use under the General Business Zone (C-3), but require a conditional use permit and the City Council's approval. This nightclub concept offers food, VIP areas, live music and concerts, etc. The last CUP for this location was considered by the City Council on January 9, 2023 and it was denied. Staff notes that after the City Council meeting a petition from the residents of Shary Crossing reflecting 41% in opposition to the request was submitted. The concerns voiced in the petition were in regards to the following: loud music, shot fired, speeding, burning tire, and the use of foul language in the back of the alley. Staff notes that the applicant has been trying to renew his conditional use permit but has been denied.

- **Days/Hours of Operation:** Thursday – Sunday from 6:00 p.m. to 2 a.m. Alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 15 employees
- **Parking:** It is noted that parking is held in common and there is a total of 138 total parking spaces shared with the various businesses within the commercial plaza.
- Section 1.56-3 of the Zoning Code cites that Bars, cocktail lounges, taverns, cantinas, saloons, dancehalls, discotheques, or nightclubs: must be 300' from the nearest residence, church, school or publicly owned property. There is a residential subdivision within 300' (see aerial); however, P&Z and the Council have waived this separation requirement in previous CUP's.

REVIEW COMMENTS: Staff mailed out 27 notices to property owners within 200' radius and staff has not received any comments in favor or against this request. In conferring with Mission PD for incidents at this location, reports indicate 6 complaints regarding noise, fights, public intoxication, and suspicious circumstances from November to present. In an effort to comply with city requirements and address these concerns the applicant has installed his own decibel reader and has restricted the entrance to patrons that have caused problems in the past.

RECOMMENDATION: Staff recommends approval subject to:

1. 6-month re-evaluation to continue to assess this operation.
2. Waiver of the 300' separation requirement from the residential homes.

3. Continued compliance with the Building, Fire, Health, Noise and Sign Codes,
4. Continued compliance with TABC requirements, and
5. Must have at least 2 securities at all times.

Chairwoman Izaguirre asked if there was any input in favor or against the request.

Mr. Diego Huerta representing the owner stated that all the problems they had were when the business first opened. He added that all those issues have been solved.

Mr. Blesson George owner of the business stated that he resides at 1001 Travis street. He stated that the customers that caused him problems are not allowed to go back.

Mrs. Connie Garza asked that if the business had been opened for the past 6 months?

Mr. Blesson George stated "yes" that the business was open Friday, Saturday's, and Sundays.

Mrs. Connie Gaza asked that if he would sell alcoholic beverages?

Mr. Blesson George stated "yes" we have food and alcohol. He added that his TABC license expires in December.

Ms. Susana De Luna stated that he had an active TABC license. She added that the business had been cited for operating without a conditional use permit. Ms. De Luna mentioned that Mr. George had to wait 6 months to reapply for the conditional use permit.

Chairwoman Izaguirre stated that once he renewed his Conditional Use Permit and was approved he would comply with city requirements. She added that he had to wait 6 months to reapply.

Chairwoman Izaguirre entertained a motion to close the public hearing. Ms. Garza moved to close the hearing. Mrs. Austin seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Sanchez asked that what was the amount of the fine?

Ms. De Luna stated that the judge sets the fee.

Mrs. Connie Garza asked that if multiple citations had been issued?

Ms. De Luna stated that multiple citations had been issued.

Chairwoman Izaguirre asked that why didn't we wave the 6-months?

Ms. De Luna stated that Mr. George did apply for the waiver but it was denied.

Mr. Sanchez asked why was the waiver denied by city council.

Ms. De Luna stated that he had opposition.

There being no further discussion, Chairwoman Izaguirre entertained a motion. Mr. Sanchez moved to the approve the conditional use permit for a period of 6 months, Friday-Sunday only. Mrs. Austin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:00 p.m.

Ended: 6:04 p.m.

Item #1.4

Discussion and action, if any, related to an ordinance providing for a definition of "storage unit facility" and providing for the conditional use of those facilities in Interim Agricultural Use (AO-I), Office Building District (C-1), Neighborhood Commercial District (C-2), and General Business District (C-3), and permitted uses for districts (C-4) – (I-2).

Chairwoman Izaguirre asked if there was any input in favor or against the request.

There was none.

Chairwoman Izaguirre asked that if a minimum acreage was included? She added that at the work shop with city council and planning and zoning an acreage was discussed.

Ms. De Luna stated that it didn't include a minimum acreage but can be included. She mentioned that this ordinance is to allow storage units with a conditional use permit on a AO-I (Agricultural Open Interim) or any commercial zone that does not allow storage units.

Chairwoman Izaguirre stated that a minimum acreage should be included.

City Attorney Mr. Victor Flores stated that the way the ordinance was drafted was to include AO-I (Agricultural Open Interim) or any commercial districts as conditional use permits and for permitted uses C-3 through C-5 and all industrial zones.

Chairwoman Izaguirre stated that she would like for an acreage to be stipulated because some areas are close to residential properties.

City Attorney Mr. Victor Flores stated that the acreage can be stipulated in the draft before the item was taken to City Council.

Chairwoman Izaguirre stated that a minimum of 2 acres should be included.

Chair woman Izaguirre asked if the board had any questions.

There was none.

There being no further discussion, Chairwoman Izaguirre entertained a motion. Mrs. Austin moved to the approve the request. Mr. Sanchez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:04 p.m.

Ended: 6:07 p.m.

Item #1.5

Discussion and action, if any, related to an ordinance providing for amendments to the city's Historic Preservation Ordinance under Section 1.47B of its Code of Ordinances (Appendix A) with necessary revisions to ensure compliance with state and city regulations, as recommended by the City's Historic Preservation Commission.

Chairwoman Izaguirre asked if there was any input in favor or against the request.

There was none.

Chairwoman Izaguirre entertained a motion to close the public hearing. Ms. Garza moved to close the hearing. Mr. Villarreal seconded the motion. Upon a vote, the motion passed unanimously.

Chairwoman Izaguirre asked if the board had any questions.

There was none.

There being no discussion, Chairwoman Izaguirre entertained a motion. Ms. Garza moved to approve the request. Mr. J.D. Villarreal seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:07 p.m.

Ended: 6:14 p.m.

Item #1.6

Discussion and Action to consider whether or not to revoke the Conditional Use Permit for a Social Club/Night Club - Blackout Private Social Club, 1512 E. Expressway 83, Suite 109, Lot 109, Re-Plat of Lots 3 & 4, Stewart Plaza Subdivision, C-3, Yair Cruz

Ms. De Luna went over the write-up stating that on April 24, 2023, the City of Mission held public hearings wherein the conditional use permit for a Social Club/Night Club – Blackout Private Social Club would be allowed or not. It was conditionally approved based on the information provided, the testimony given at the hearings, and as predominately shown on Ordinance No. 5304.

Since that time, Staff, Management, and the Police Departments have received several complaints of the business being operating past 2:00 a.m. We have called this to the attention of Mr. Yair via mail and in person and evidently, the violation still continued.

Staff has consulted with Management and our City Attorney on this item since it isn't Planning's objective to 'shut down businesses' but to follow the City Ordinance approved by the City Council.

With that in mind, it is hoped that Mr. Yair will provide whatever measures are required to comply.

RECOMMENDATION: Hold hearing to readdress conditional use permit.

Chairwoman Izaguirre asked if there was any input in favor or against the request.

There was none.

Chairwoman Izaguirre entertained a motion to close the public hearing. Ms. Garza moved to close the hearing. Ms. Sanchez seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Sanchez asked that if this was the hearing to revoke or not to revoke?

Ms. De Luna stated that this was the hearing.

Chairwoman Izaguirre asked that if the Planning and Zoning Commission approved the conditional use permit for 24 hours.

Ms. De Luna stated that it was approved 24 hours depending on the type of event. She added that this business was more of a nightclub.

Mr. Sanchez asked that if the business was in violation with TRO?

City Attorney Mr. Victor Flores stated that the TRO was granted until July 3, 2023. He added that the TRO was extended until July 17 2023. Mr. Flores mentioned that on Monday he had court to extend the TRO permanently to comply until 2:00am.

Mr. Sanchez asked that if the business owner had made an appearance in court?

City Attorney Mr. Victor Flores stated "yes".

Mr. J.D. Villarreal asked if the business owner was aware of the revocation.

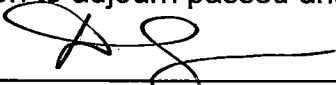
Ms. De Luna stated that a letter was mailed out and a phone call had been made.

There being no further discussion, Chairwoman Izaguirre entertained a motion. Mrs. Austin moved to the approve the revocation of the conditional use permit. Mr. Sanchez seconded the motion. Upon a vote, the motion passed unanimously.

ITEM#2.0

ADJOURMENT

There being no further items for discussion, Chairwoman Izaguirre entertained a motion. Mr. Sanchez moved to adjourn the meeting. Mrs. Austin seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 6:14 p.m.



Diana Izaguirre, Chairwoman
Planning and Zoning Commission