

**PLANNING AND ZONING COMMISSION
OCTOBER 10, 2018
CITY HALL'S COUNCIL CHAMBERS @ 5:30 P.M.**

P&Z PRESENT

Ned Sheats
Marisela Marin
Jaime Gutiérrez
Héctor Moreno
Diana Izaguirre
Carlos Lopez

P&Z ABSENT

Raquenel Austin

STAFF PRESENT

Jaime Acevedo
Virgil Gonzalez
Maribel Quintanilla
Joel Chapa, Jr.

GUESTS PRESENT

Ashley De La Garza
Norma De La Garza
Bethany Riethman
Lorenzo Garza
Steven Mendoza
Armandina Oviedo
Perla Oviedo
Marco Mascorro
Claudia Bartolomeo
Sonia Mayhugh
Juan Humberto Marquez

CALL TO ORDER

Chairman Ned Sheats called the meeting to order at 5:30 p.m.

CITIZENS PARTICIPATION

Chairman Sheats asked if there was any citizen's participation.

There was none.

APPROVAL OF MINUTES FOR SEPTEMBER 26, 2018

Chairman Sheats asked if there were any corrections to the minutes for September 26, 2018. Mr. Jaime Gutierrez moved to approve the minutes as presented. Mr. Hector Moreno seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:31 p.m.

Ended: 5:45 p.m.

Item #1.1

Conditional Use Permit:

**Sale & On-Site Consumption of Alcoholic
Beverages – Spaugy's Ice House
815 N. Francisco Ave.
Being the South 109.5' of Lot 2, Block 137,
Mission Original Townsite Subdivision, & All of
Lot 52, John H. Shary Industrial Subdivision
C-3
Spaugy's Ice House, c/o Sonia Mayhugh**

Mr. Jaime Acevedo went over the write up stating that the establishment is in the NW corner of Francisco and 8th Street. The 1,853 sq. ft. bar was constructed in 1960 as per

appraisal district records. There are tables and chairs located inside and outside of the building, and some bar stools around the bar area too (total of 50 people inside). This is a longstanding business frequented by different Mission residents and Winter Texans. This CUP was most recently approved on 1-11-17 for the sale and on-site consumption of alcohol for a period of 2 years in line with their TABC permit.

- **Hours of Operation:** Monday through Friday from 10 a.m. to 12 a.m. Saturday 10 a.m. – 1 a.m., and Sunday from 12 p.m. to 12 a.m.
- **Staff:** 5 employees including the owner.
- **Parking and Landscaping:** As can be seen in the aerial, there are over 12 off-street parking spaces that were constructed in the 60's. The parking requirements for a restaurant, nightclub, café or similar recreation or amusement establishment is once space for each 75 square feet of floor area or once space for each three seats, whichever is greater. Based on the code, 25 parking spaces are required.
- **Alcoholic Beverages:** This request is compliant with Sec. 6-4 which requires that no alcoholic beverages be sold within 300' of a church, public school, private school, or hospital.
- It is noted that this business has been in operation for over 58 years, the establishment has not ceased to operate, and the owner recently passed and his wife is merely transferring all permits to her name.
- Planning has asked PD for a report of incidents.

REVIEW COMMENTS: Staff has not received any comments for or against this item since the business has been in operation. Staff does not object to an extended approval period for this item.

RECOMMENDATION: Staff recommends subject to: 1) approval for a period of 2 years at which time the applicant will have to renew their CUP and TABC license, 2) revise the business license under the new owner, and 3) waiver of the 300' separation requirement from residential area.

Chairman Sheats asked if there were any questions or comments from the commissioners to staff.

Mrs. Marisela Marin asked if when changing ownership, that provokes to start all over again?

Mr. Acevedo replied that he checked with legal and since there was a death in the family the next sibling takes over. The wife basically inherited the business.

Ms. Sonia Mayhugh was present to address any questions from the Board.

Chairman Sheats asked for public comment from anyone in the audience.

Mrs. Armandina Ovieda was there in opposition. Her concern is the loud music.

Chairman Sheats made a comment about Spaugy's having a large patio area and asked if there were still restrictions on loud music.

Mr. Acevedo explained the noise ordinance.

Marisela asked if music was also Sunday's afternoon.

Mr. Acevedo added that even he has witnessed it himself on his way to the post office.

Ms. Mayhugh clarified that the owner complies with noise ordinance and enforces it because she considers the people that live around Spaugy's.

Ms. Diana Yzaguirre moved to approve the conditional use permit as per staff's recommendation. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion was passed unanimously.

Started: 5:46 p.m.

Ended: 5:52 p.m.

Item #1.2

Conditional Use Permit:

**Sale & On-Site Consumption of Alcoholic
Beverages – The Cage
511 N. Shary Road, Suite B
Being a 11.10 acre tract of land out of the
Northeast Corner of Lot One Hundred Ninety –
Four (194),
John H. Shary Subdivision
C-4
Juan Humberto Marquez
dba Cosavan Sports, LLC**

Mr. Jaime Acevedo went over the write up stating that the establishment is a mile south of Business Highway 83 along the west side of Shary Road. The applicant is proposing an indoor and soccer facility and with a restaurant lounge and would like to offer the sale and on-site consumption of alcohol. The first phase of this development would be the indoor soccer facility with the restaurant lounge. In the future the applicant would like to construct an outdoor soccer facility with several regulation size soccer fields. The types of events that will take place are recreational soccer leagues and tournaments and eventually professional soccer tournaments.

- **Hours of Operation:** Mondays – Friday from 12p.m. to 12a.m., Saturday from 7a.m. to 1a.m., and Sunday from 12p.m. to 12a.m.
- **Staff:** 20 employees; in shifts
- **Parking:** In viewing the site plan, the applicant is proposing to include 84 paved parking spaces for the first phase of the development. When the second phase of the commercial project is completed, there will be approx. 260 parking spaces.

- **Sale of Alcohol:** Section 1.56-3 of the Zoning Code cites that ‘Bars’ must be 300’ from the nearest residence, school, or publicly owned property. There are residences within the 300’ radius as this property borders Valley View Estates. Being that the proposal will be over 1,000’ away, Staff does not object to a waiver of the separation requirement as allowed by code.
- The applicant is proposing to have on-site security during specific events such as tournaments.
- Must comply with all Building, Fire, and Health codes, as well as ADA requirements, etc.

REVIEW COMMENTS: This is a unique request as we seldom, if ever, get a request for a CUP for alcohol in a recreational sports complex. We sent out 102 notices on this CUP proposal and have not received any calls or letters in favor or in opposition of this request. Since the proposed use will be more towards the Shary Road side of the property and not in the portion of the lot that abuts Valley View Estates Staff does not object to the request.

RECOMMENDATION: Staff recommends approval subject to:

1. Approval for 2 years at which time the CUP and TABC license will need to be renewed;
2. Waiver of the 300-foot separation requirement;
3. Must comply with all Fire, Health, and Building Code requirements; and
4. Must “Wet Zone” the property;
5. Provide uniformed security during tournaments.

Chairman Sheats asked if there were any questions or comments from the commissioners.

Mrs. Marisela Marin commented what is considering on the security large event?

Mr. Acevedo replied when hosting professional teams and when event is being advertised. Staff mentioned that is not necessary, it’s just a recommendation.

Chairman Sheats asked how many Soccer fields?

Mr. Acevedo replied 2 or 5 fields in different phases.

Chairman Sheats asked if there was any audience opposition.

Mr. Acevedo replied that we had a call from a Valle View resident from in Minnesota in opposition.

Chairman Sheats asked if the applicant was present.

Mr. Juan Humberto Marquez was present to address any questions from the Board.

Chairman Sheats asked if there were any questions or comments from the commissioners.

There was none.

Ms. Diana Yzaguirre moved to approve the conditional use permit as per staff's recommendation. Mr. Jaime Gutierrez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:52 p.m.

Ended: 5:56 p.m.

Item #1.3

Conditional Use Permit:

**Sale & On-Site Consumption of Alcoholic
Beverages – Brisas Del Mar
1505 N. Conway Ave.
Being W. 140' Lots 7 & 8, Block 243,
Mission Original Townsite
C-3
Steven Mendoza**

Mr. Jaime Acevedo went over the write up stating that the establishment is located on the NW corner of Conway and W. 15th St. The existing proposed seafood restaurant would like to offer the sale and on-site consumption of alcohol with meals. There is no 'bar' component in the restaurant. There are no churches or public/private schools within 300' of the subject site, thus being compliant to Section 6-4. Access to the site is from a 29.8' driveway off of W. 15th St. that leads into a parking area.

- **Hours of Operation:** Monday – Thursday 11a.m. to 10p.m. and Friday from 11a.m. to 12 a.m. and Sunday from 11 a.m. to 10 p.m.
- **Employees:** a total of 10 employees during different shifts will man the operation.
- All parking, landscaping, and sign codes are being met.

REVIEW COMMENTS: We approved a CUP for a Mexican Restaurant at this location in 2014. The new operator of the seafood restaurant offers the alcoholic beverages along with meals. Alcohol is not the primary item of purchase. Since there are no churches or schools within 300' of the subject site, since the prior CUP approval did not result in any problems, and since the sale of alcohol is not the primary use, staff does not object to this proposal.

RECOMMENDATION:

Staff recommends approval of the CUP for a period of 2 years at which time the applicant will have to renew their CUP and TABC license. We are also requiring that a business license be obtained.

Chairman Sheats asked if there were any input in favor or against this request.

There was none.

Mr. Jaime Gutierrez moved to approve the conditional use permit as per staff's recommendation. Mr. Hector Moreno seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:56 p.m.

Ended: 6:02 p.m.

Item #1.4

Conditional Use Permit:

**Sale & On-Site Consumption of Alcoholic
Beverages – Lada (52) Bar & Grill
4001 S. Shary Road, Suite 100
Sharyland Plantation Grove Tech-Center #2, Lot 1
PUD
Marco Mascorro**

Mr. Jaime Acevedo went over the write up stating that the existing 5,600 sq.ft. restaurant is located within an existing plaza located on the SE corner of San Mateo and Shary Rd. Access to the site can be from one primary driveway to Shary Rd., or from separate driveways from San Mateo or from San Gabriel. In the past this location has been used by several different operators the most recent being Evera Bar & Grill which closed in 2016.

- **Hours of Operation:** Monday – Sunday from 11a.m. to 2a.m.
- **Staff:** 9
- **Parking:** Currently, there is no floor plan, we have a shelf building. 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 includes a 'bar' component. Section 1.56 (3a) of the Zoning code requires a minimum separation of 300' from the *property line* of any churches, schools, publicly owned property, and residences. There is a single-family residential neighborhood located within the 300' radius; however, P&Z and the City Council waived this separation requirement in the CUP's previous approval.

REVIEW COMMENTS: In the past this site has been used for a restaurant but it has also been used primarily as a bar. As of the time of this writing Staff had not received a menu for this establishment. The applicant has alerted Staff that a menu will be provided prior to the meeting date. Staff does not object to an initial approval for 2 years to see how this new operation works out, but is open to suggestions if a shorter tenure is desired by P&Z.

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 Fire, Health, and Building Code requirements; and
4. Must obtain a business license prior to occupancy.

Chairman Sheats asked if there was any input in favor or against this request.

Mrs. Marisela Marin commented that the restaurant component was not there yet, at all.

Mr. Acevedo replied that Evera was primary a Bar and it will remain similar to Evera's.

Mr. Marco Mascorro was present to address any question from the Board.

Chairman Sheats asked if he was ok with the requirements.

Mr. Mascorro replied "yes".

Mr. Marisela Marin moved to approve the conditional use permit as per staff's recommendations. Ms. Diana Yzaguirre seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:02 p.m.

Ended: 6:05p.m.

Item #1.5

Conditional Use Permit:

**Sale & On-Site Consumption of Alcoholic
Beverages – 100% Antojitos Mexicanos
2306 E. Expressway 83, Suite 1 & 2
Lot 1, Cimarron Crossings Phase 1 Subdivision
C-3
100% Antojitos Mexicanos**

Mr. Jaime Acevedo went over the write-up stating that the subject site is located at the SE corner of J.R. Dr. and Expressway 83 along the Frontage Rd. There is an existing plaza with several suites. The restaurant is located at the west end of the plaza with a drive-thru. This CUP was most recently approved on 5-8-17 for the sale and on-site consumption of alcohol and an existing drive-thru window for life of use.

- **Hours of Operation:** Sunday - Thursday 10:30 a.m. to 10 p.m. and Friday – Saturday 10:30 a.m. – 11:00 p.m. Alcoholic beverages are only served during allowable State selling hours.
- **Staff:** 10 employees
- **Parking and Landscaping:** Viewing the floor plan, the 1,402' sq. ft. restaurant requires 19 parking spaces (1,402'/75 sq. ft.= 18.7 parking spaces). It is noted that the parking area is held in common (78 existing parking spaces) and is shared with

other businesses. The parking area is also connected and has access to existing, interlocking parking lots. Landscaping requirements are being complied with.

- Planning has asked PD for a report of incidents. Staff should have this information by the date of the meeting.

REVIEW COMMENTS: Staff has not received any comments for or against this item since the restaurant has been in operation. Staff does not object to an extended approval period for this item.

RECOMMENDATION: If there are no reported incidents, and with PD's support, Staff recommends approval for another 2-year period of time at which time the applicant will have to renew their TABC License and conditional use permit.

Chairman Sheats asked if there was any input in favor or against this request.

There was none.

Mrs. Marisela Marin moved to approve the conditional use permit as per staff's recommendation. Mr. Jaime Gutierrez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:06 p.m.

Ended: 6:10 p.m.

Item #1.6

Conditional Use Permit: **To keep an 11'x64' Portable Building for
Sales Office Use – American Dream Vacations
1519 E. Expressway 83
Lot 4, Henry Saenz Subdivision
C-4
Jose Acosta**

Mr. Jaime Acevedo went over the write-up stating that the site is located 600' west of Stewart Road along the north side of the Expressway 83 Frontage Road. The site is currently used as a sales office for the rental and sales of R.V.s. The applicant has been operating with a CUP at this location since September 2012. The portable building is located 103' from the property line which allows for the front area to be utilized for R.V. displays. Access to the site is off of the frontage Rd. and shared with an existing business to the west.

- **Hours of Operation:** Monday – Friday from 8 a.m. to 6 p.m., Saturday from 9 a.m. to 4 p.m. and closed on Sundays.
- **Staff:** 3 employees
- **Parking:** A business office of this size requires a minimum of 5 parking spaces. The applicant is providing 5 total spaces, thus compliant with code.
- **Landscaping:** landscaping requirements are being met.

REVIEW COMMENTS: There are other portable buildings installed in this area and it is not uncommon to have a portable sales office for this type of business. The R.V.s being displayed along the front of the lot and the portable building being 103' away from the Frontage Rd., help shield the portable building from public view. Staff has not received any comments for or against the portable building.

Staff knows that having a portable sales office along Expressway 83 may not be a long-term desire of the City when considering aesthetics along a major corridor. However, we do not object to a 3-year term CUP for this business, one day the portable will need to be upgraded with an on-site built structure.

Chairman Sheats asked if there was any input in favor or against this request.

There being none.

Chairman Sheats mentioned that he has seen several items in the last few weeks for life of use or extended period and temporary becomes permanent and he would like to know when it would be change. So, that's the way he is going to approach this item.

Mrs. Marisela Marin stated that it works for the business.

Chairman Sheats stated that he does not want to be the Chairman approving all the portables sitting along Frontage and Old 83.

Chairman Sheats asked if the applicant was present.

Mr. Acevedo stated that the applicant was unable to attend the meeting.

Mr. Jaime Gutierrez moved to approve the conditional use permit as per staff's recommendation. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:10 p.m.

Ended: 6:19 p.m.

Item #1.7

Conditional Use Permit:

**Home Occupation – Licensed Home Daycare
on Property Zoned (R-1) Single Family Residential
311 W. Leo Najó, Apts. A & B
The West ½ of Lots 1 and 2, Block 103,
Original Townsite of Mission
R-1
Norma L. De La Garza**

Mr. Jaime Acevedo went over the write up stating that the site is located at the SE corner of Cummings and Leo Najó Street along the south side of Leo Najó. The applicant owns a triplex on property zoned R-1. Currently, one of the units is rented out

and the applicant will be living and running the daycare from the remaining two units. With regards to parking, being a triplex, there are 6 parking spaces to be shared between the tenants of the leased unit and the remaining 4 spaces can be used by the applicant for herself and the daycare operation. The applicant is proposing the use a large portion of apartments "A" & "B" for the child care services. They are waiting to see if the home occupation proposal is approved in order to complete the remodeling needed for the daycare.

- **Days / Hours of operation:** Monday – Friday from 5:00 a.m. to 9:00 p.m., and Saturday 7:00 a.m. to 2:00 p.m.
- **Staff:** The applicant and 2 other employees, thus in compliance to code.
- Must obtain DHS certification, which will assign the maximum number of children to be cared for.
- Must comply with Sec.1.56-1, Zoning Code (home occupations regs.), inclusive of any signage being a maximum of 1' X 1' and must be attached to the home.
- There shall be no other indication of a registered home on the property, other than the 1' X 1' sign.

REVIEW COMMENTS: The City has approved other similar types of home occupations throughout the years without incident. The applicant will be required to obtain DHS certification and approval from the City prior to operating the new registered home daycare.

RECOMMENDATION: Approval for 1-year subject to:

1. Must obtain DHS Certification;
2. Must comply with Sect. 1.56-1 of the Zoning Ordinance; and
3. Acquiring a business license.

Chairman Sheats asked if there was any input in favor or against the request.

Mrs. Marisela Marin asked how many parking spots?

Mr. Acevedo replied that applicant was present to answer that question.

Mrs. Marisela Marin asked if it was fence.

Mr. Jaime Acevedo replied "yes", cedar fence only in the back area.

Mrs. Marisela Marin stated that it was weird to open up two apartments and convert it into one.

Chairman Sheats agreed with Mrs. Marin.

Chairman Sheats asked if the applicant was available

Mrs. Norma L. De La Garza stated that this is her goal and wanted to try something new.

Chairman Sheats stated that his concern is that when her tenant leaves and she gets a new tenant, do you think that she will be ok with the daycare.

Mrs. De La Garza stated that even her tenant offered to attend today's meeting.

Mrs. Marisela Marin asked how many kids you expect to enroll.

Mrs. De La Garza replied "about 25".

Mrs. Marisela Marin made a comment again about parking spaces for 25 kids.

Mrs. De La Gareza explained parking spaces between tenant, employees and parents.

Chairman Sheats asked if there was any audience opposition.

There being none.

Mr. Marisela Marin moved to approve the conditional use permit as per staff's recommendation. Ms. Diana Yzaguirre seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #2.0
OTHER BUSINESS**

There was no other business.

**ITEM #3.0
ADJOURNMENT**

There being no further items for discussion, Mrs. Jaime Gutierrez moved to adjourn the meeting. Ms. Diana Yzaguirre seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 6:19 p.m.

Ned Sheats, Chairman
Planning and Zoning Commission