

**PLANNING AND ZONING COMMISSION
JANUARY 14, 2009
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Raul Segin
Ned Sheats
Henry Rodriguez
Mario Garza
Jose G. Vela
Marisela Marin

Mae Savedra
Mark Hommel
Teresa Navarro
Jesus H. Ruiz
Celeste McMahon
Angel S. Lopez

P&Z ABSENT

Luann Caudle

GUESTS PRESENT

Dominic Savedra
Bryan Jarrett
Alma Navarro
Griselda M. Perez
Michael Aguilar
Daniel Silva

STAFF PRESENT

Sergio Zavala
Bobby Salinas
Jaime Acevedo
Guillermo Seguin
Susana De Luna

Daniel M. Savedra
Larry Tate
Alma Walzer
Steve Schiefelbein
Jose Aguilar

CALL TO ORDER

Chairman Raul Segin called the meeting to order at 5:06 p.m.

CITIZENS PARTICIPATION

There was no response upon inquiry.

APPROVAL OF MINUTES FOR DECEMBER 10, 2008

Chairman Segin asked if there were any corrections to the minutes. There being no corrections. Mr. Garza moved to approve the minutes as presented. Mr. Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:06 p.m.

Ended: 5:12 p.m.

Item# 1.1

Rezoning:

**A 32.16 acre portion of Lot 15-11,
West Addition to Sharyland Subdivision
AO-I to C-3
Thomas R. Winkley**

Mr. Salinas went over the write-up stating that the subject site is located approximately 1400' south of the Expressway 83 along the east side of Bryan Road. The surrounding zonings included General Commercial (C-3) to the west across Bryan; Large Lot Single Family (R-1A) and Light industrial (I-1) to the south; Large Lot Single Family (R-1A) to

the east; and commercial/agricultural to the north. The existing land uses reflect the zones mentioned above except for the south side which is currently vacant where the zone is I-1. The future land use map reflected a General Commercial (GC) land use designation which is consistent with a C-3 zone. However, when the FLUM update was brought before P&Z on 11-19-08, staff placed a high emphasis on office use to be located on this tract of land. This was done in order to maximize protection to the residential properties to the east and south of the subject tract. A viable alternative might be to consider zoning some eastern and southern acreage Office Use (C-1) to keep fully in line with the City's land use intent. Staff's recommendation is to table the application to discuss their overall Master Plan with high emphasis on C-1 to the eastern and southeastern perimeter.

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

There was no response.

Chairman Sesin asked if the applicant or representative were present.

Representing the applicant, Mr. Larry Tate from Winkley Engineering, presented the board with a layout of the projected land use for the site. He mentioned that they wanted to build another rest home adjacent to the existing rest home and; to the south they wanted to have medical offices.

Chairman Sesin mentioned that staff recommendation was to keep the C-1 even though that the Future Land Use Map was designated at General Commercial.

Mr. Salinas mentioned that the City wanted to protect the residential areas surrounding the proposed site with C-1 zoning in the southeastern section of the property.

Chairman Sesin asked if the streets in Mission Viejo Estates were aligned with the proposed development.

Mr. Salinas stated that the streets would not be aligned to the streets in Mission Viejo Subdivision but staff would probably ask that they be aligned.

Chairman Sesin asked Mr. Salinas that based on the applicant's testimony to the Board and Staff, the proposal would not work with the Future Land Use Map designation.

Mr. Salinas replied, "That's correct"; adding that it should be tabled to more fully address their Master Plan, street alignments, land uses, etc.

There being no further discussion, Chairman Sesin entertained a motion. Mr. Rodriguez moved to table the item as recommended by staff. Mr. Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:12 p.m.

Ended: 5:15 p.m.

Item# 1.2

Rezoning:

**A 7.58 acre tract of land out of Lot 13,
Goodwin Tract Subdivision No. 3
AO-I to C-3
Jesus H. Ruiz**

Mr. Salinas went over the write-up stating that the subject site is located approximately 2,000' north of Griffin Parkway along the west side of Inspiration Road. The surrounding zonings included: Agricultural Open Interim (AO-I) to the south and east, Single Family Residential (R-1) to the north and southwest, and Mobile and Modular Home (R-4) to the northeast and southeast. The existing land uses reflect the zonings mentioned above. The Future Land Use Map showed this area developing as a Low Density Residential (LD) land use area, which was more consistent with an R-1 zone. C-3 does not comply with the FLUM, area zonings, nor area land uses. In reviewing the specific request of an upscale reception venue, rezoning does not appear to be the best approach. If P&Z is willing, after reviewing the photos and site plan, P&Z could 'not act' on the rezoning thus 1) not approving C-3, 2) not imposing the 6 month rule, so the applicant would require a waiver to the 6 month rule, and 3) could allow the applicant to file a CUP (under AO-I) for the specific desired use. Finally, we note that the acreage needs to be subdivided, too. Staff recommended 'no action'.

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

There was none.

Chairman Sesin asked if the applicant or representative were present.

Representing the applicant, Mr. Jaime Sanchez stated that he has several exhibits to show P&Z but Chairman Sesin said that since it appeared it would not be discussed, that they could review them at a future meeting.

No action was taken on this item.

Started: 5:15 p.m.

Ended: 5:19 p.m.

Item# 1.3

Conditional Use Permit:

**Home Occupation – Assemble PVC Medical Products
2002 Crisantema Avenue
Lot 80, Southern Oaks Phase I Subdivision
R-1
Life of Use
Griselda M. Perez**

Mr. Salinas went over the write-up stating that the subject site is approximately 1300' south of FM 495 along the west side of Inspiration Road. There is no driveway access to Inspiration Road but only through the minor residential street. The proposed CUP involves the assembling of medical products. The primary tools used to assemble the products are: a small power saw, a power drill, a sewing machine for the cushions, and the PVC piping and glue. The various medical products built are: shower benches, gurneys, transferable commode chairs, rolling shower chairs, etc. According to the applicant there are only four units built per week. All materials are picked up by the applicant; there are no deliveries to the subject site. No customers go to the home site. Though they mentioned the hours of operation to be 8:30 a.m. to 5:00 p.m., the owner spends the majority of their time at their sales office at River Oaks Plaza (southwest corner of Glasscock Road and Griffin Parkway). The applicant has submitted a letter signed by the adjoining neighbors stating that they have 'no objection' regarding the CUP. Mr. Salinas mentioned that staff discovered that the addition where the work was taking place did not have a building permit. Staff has not received any comments against the request. Staff recommended approval subject to: 1) 1 year re-evaluation, 2) acquiring a business license, and 3) acquiring a building permit to bring the addition into compliance.

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

There was none.

Chairman Sesin asked if the applicant or representative were present.

The applicant, Mrs. Griselda Perez, was present to address any questions that the Board might have.

Chairman Sesin stated that since there was no building permit obtained for the expansion, were there any encroachments to setback on the addition.

Mr. Salinas replied, "No".

Mr. Sheats stated that this was closer to a business than a home occupation and wondered why she wanted the CUP, if she had an office on Griffin Parkway.

Mrs. Perez stated that the office was only used for shipping. She added that she couldn't bring the business to the suite because it's too small for the actual assembly plus shipping.

Mr. Sheats stated that he was concerned about the additional noise coming into the neighborhood.

Chairman Sesin asked Mr. Salinas if staff had received any complaints on this request.

Mr. Salinas stated that there weren't any complaints regarding the units being assembled, adding that the petition 'not objecting' to the CUP may reflect the neighborhood's non-disruptive status.

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

Started: 5:19 p.m.

Ended: 5:24 p.m.

Item# 1.4

**Conditional Use Permit: Sale & On-Site Consumption of Alcoholic Beverages
at Smoking Aces
2518 E. Business Highway 83
Lot 14, J.E. Leslie Subdivision
C-3
Michael Aguilar**

Mr. Acevedo went over the write-up stating that on November 29, 2006, P&Z denied this request based on the existing surrounding uses within 300' that include: Sharyland High School, 99 apartment units, 6 mobile homes, and 1 resident. After an appeal with City Council, on January 8, 2007, the City Council approved the CUP subject to: 1) must have perpetual Annual re-evaluation of CUP, 2) meet Sign Ordinance – had 2 ground pole signs and should only have one, 3) keep volume or sound level within code via Chapter 42 (Noise Regulations), 4) have professional security on-site during Friday-Saturday-Sunday's evening hours of operations specified as 7 p.m. until ½ hour past closing, 5) provide 5' sidewalks along Business Highway 83 and remove non-conforming 'Reserved' parking on TXDOT ROW, 6) add security lighting in south parking lot and at least 2 junctures along perimeter east of building (Note: was too dark due to high trees along east boundary), and 7) provide 6' perimeter wood fencing abutting residential areas. A site visit revealed that Mr. Aguilar had complied with all of the conditions set forth by the City Council of his CUP.

The subject site is located on the south side of Business Highway 83 approximately 300' west of Taylor Road. Mr. Aguilar and his partners have been operating Smoking Aces Sports Bar & Grill over the past year without any major incidents. As part of the original conditions set by the City Council, Mr. Aguilar was seeking approval of their annual CUP. Mr. Aguilar had the following as his days/hours of operation: Monday – Sunday from 11:30 a.m. to 2:00 a.m. Mr. Aguilar has a total of 12 full time employees. Currently, the establishment has a total of 30 tables or 120 chairs. As far as parking, this establishment has a total of 54 lighted parking spaces. For a building of this size code requires a total of 40 parking spaces therefore meeting code. Staff noted that a grease tap was installed to meet City Codes, and the building was routinely inspected by the Fire Marshal's Office. Staff recommended approval with a 1 year re-evaluation via Ordinance #3203.

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

There was none.

Chairman Sesin asked if the applicant or representative were present.

The applicant, Mr. Michael Aguilar, was present to address any questions that the Board might have.

Chairman Sesin asked Mr. Aguilar about incidents that may have disturbed the surrounding areas.

Mr. Aguilar stated that they try to keep people from getting out of hand and that any minor disturbance is not a regular occurrence.

Chairman Sesin asked Mr. Aguilar if there was a kitchen.

Mr. Aguilar replied, "Yes".

Mr. Sheats asked Mr. Aguilar how many employees were engaged in security.

Mr. Aguilar stated that they have at least 1 everyday, and 2 on Thursday, 3 on the weekends.

Mr. Sheats stated that usually when he sees an item on the agenda that was related to the sale & on-site consumption of alcohol he usually likes to drive by, and he found this business to be very quiet and peaceful.

There being no further discussion, Chairman Sesin entertained a motion. Mr. Garza moved to approve the request as recommended by staff. Mr. Vela seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:24 p.m.

Ended: 5:35 p.m.

Item# 1.5

**Conditional Use Permit: Home Occupation – Piano & Voice Lessons
1016 Bryce Drive
Lot 6, Block 6, Highland Park Addition #2
R-1
Life of Use
Mae Savedra**

Chairman Sesin entertained a motion to remove the item from the table. Mr. Sheats moved to remove the item from the table. Mr. Rodriguez seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Salinas went over the write-up stating that the CUP involves the owner providing voice & piano lessons. The lessons were on a one-to-one basis where one car would park at a time during the course of the 30-minute lessons. The driveway allows 2 cars to park side-by-side. We further note that this juncture of Bryce Drive legally allowed cars to park along the street. Staff determined that there was no significant impact of having one additional car park either on her driveway or along Bryce.

On the matter of days & hours of operation during school, they were proposed to be weekdays from 5:30 p.m. until 8:30 p.m. During off-school days, the hours might be expanded to accommodate the student's more flexible schedule. If this were the case, it would be similar to a typical workday, during 10 a.m. – 5 p.m. when most would be somewhere else working.

Insofar as noise stemming from the piano (recognizing that there would be numerous interruptions so Mrs. Savedra could properly give instructions to the student), music can be heard when standing 5' outside the home but was predominantly muffled to the degree that it was not obtrusive.

Although the city's zoning ordinance allowed an approved CUP to affix a 1' x 1' sign to their home, this applicant does *not* desire any signage at all. A petition of 11 signatures favoring her request was provided. Staff recommended approval for 6 months as proposed; and re-assess at that point unless the CUP was voluntarily terminated.

Chairman Sesin summarized that this was the second time the Board saw this particular item and he would be allowing a 5 minute presentation per party for the entire item and would stop at the 5 minutes after that the Board would deliberate and make a decision.

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

Mrs. Alma Navarro stated that she and her husband have lived at 1424 N. Francisco in Mission for 52 years. She mentioned that she owned Lot 5, Block 6, Highland Park Addition, which was the lot immediately west of Lot 6, Block 6. She added that she was against the zoning change or CUP because she bought the property from Dr. White knowing that it was a peaceful residential neighborhood. She mentioned that she did not want her property next door to a business that admittedly has hours until 9:00 p.m. every night. She added that the owners of the property were Gloria & Curtis Wheat who reside in Edinburg; this property was a rental property. Mrs. Navarro stated that there was a For Sale Sign on the property by Remax. She added that the people requesting the change were not the owners of the property and she respectfully requested denial on the CUP application.

Mrs. Teresa Navarro who resides at 1036 Bryce Drive, east of the residence in question, voiced her objection to the permit.

Mrs. Alma Walzer stated that she knew the Board had heard from her regarding this matter. She mentioned that her family owned the lot directly to the west in which she lived in and was against the request.

Chairman Sesin asked if the applicant or representative were present.

The applicant, Mrs. Mae Savedra who resides at 1016 Bryce, stated that she had applied for the permit to do the private one-on-one educational service which was voice & piano. She added that she was now asking for a 6 month permit. Mrs. Savedra mentioned that her last student would be at 8:00 p.m. so the class would end at 8:30 p.m. She added that she would only have 1 car in front of her house. She mentioned that she was the first person to apply for such a CUP mentioned that McAllen & San Antonio didn't require a permit for this type of educational service. Mrs. Savedra stated that as soon as she found out she needed a permit, she called Mr. Zavala to take care of the matter. Mrs. Savedra asked the Board to make a fair decision for this permit.

Mr. Steve Schiefelbein who resides at 1039 Bryce Drive, stated that they were not in opposition to the permit. He added that they lived in a very quiet neighborhood and they do not envision 1 car visiting every ½ hour to be excessively heavy traffic. Mr. Schiefelbein added that they didn't envision voice or piano lessons to be excessively noisy or problematic.

Mrs. Celeste McMahon stated that she was an organist at the church where Mrs. Savedra attended and she would go by very so often to practice. Mrs. McMahon assured the Board that as far as the noise concern from the music, there wouldn't be any. She added that they practice in Mrs. Savedra's room, and others would need to be standing directly outside the door in order to hear because they were very careful about the sound level. She mentioned that Mrs. Savedra would never practice loud or disturb anyone in the neighborhood. She added that she knows Mr. Savedra practices in the extra building located in the rear of the property and would be very careful not disturb the neighborhood or practice past the deadline.

Mr. Garza asked staff if they had made any time to visit the site.

Chairman Sesin stated that staff and a P&Z Board Member had visited the site and asked Mr. Zavala to brief the Board on the visit.

Mr. Zavala stated that he asked Mr. Sheats if he wanted to go to the site to get some firsthand knowledge. He stated that he asked the owner if they could go to her home to get some firsthand information and that was how staff derived with the write-up's content. Mr. Zavala stated that as far "perspective" from a P&Z Member, he believed it would be better to ask Mr. Sheats.

Mr. Sheats stated that any sound was certainly not aggressive, it could not be heard at the sidewalk, and it could only be heard within 5' from the front door. It certainly was not more than what would be heard from a child crying in the room. He added that he took piano lessons, in a house just like this and as far as he was concerned he would not have a problem having them next door to his home.

Chairman Sesin asked Mr. Garza if they had addressed his questions.

Mr. Garza replied, "Yes".

Chairman Sesin asked Mr. Zavala if the application met all the requirements because of the issue with the 'For Sale' sign. He added that his understanding was that the applicant was purchasing the house at one time, and now it was being sold however the applicant was the person residing in that home.

Mr. Zavala stated that this application was for a conditional use permit not a change of zoning. Only a change of zoning requires the owner's authorization. He mentioned that conditional use permits have been seen for houses that have been rented and have home occupations with the landlord's approval. Mr. Zavala added that it was not mandatory within the zoning guidelines that the owner file the conditional use permit application.

After a brief discussion, Chairman Sesin entertained a motion. Mr. Vela moved to approve the conditional use permit as recommended by staff. Mr. Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:35 p.m.

Ended: 5:39 p.m.

Item # 1.8

Discussion and Action to Amend the FLUM within the boundaries of South 2 Mile Road to the North, Taylor Road to the East, FM 1016 to the South, and Bryan Road to the West.

Mr. Zavala went over the write up and stated that the City of Mission's current FLUM totally excluded this area from designation – this measure would resolve that matter.

The large majority of the property was in the Sharyland Plantation PUD; thus, just as staff did for Cimarron and Meadow Creek, this vast acreage with it's multiple land uses complimenting each other including several 'Public' sectors, should be designated as PUD.

The area that was rezoned C-3 for Valley Baptist Hospital (Lot 10- 11) should be all designated as General Commercial (GC).

The ditch south of Cimarron and north of Antigua and Solera (County owned) should be Public; also 'P' should be the ditch north of Riverside Subdivision.

The commercially zoned area of Riverside should be GC; the R-1A zoned community of Riverside should be LDA.

The commercially zoned Plaza Depilite & the adjoining pie-shaped area should be GC; the pie-shaped area to the rear marked LD.

The property north of the county ditch and Riverside should be GC and LD in direct correlation to what the Shin property was designated before, i.e., ¼ mile E. of Shary to be GC and the remnant to be LD.

Chairman Sesin asked if there were any comments from the audience or board.

There was no response.

There being no discussion, Chairman Sesin entertained a motion. Mr. Rodriguez moved to approve the FLUM amendments as recommended by staff. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

3.0 OTHER BUSINESS

Mr. Zavala stated that on Monday, January 12, 2009 the City Council had considered appointments & re-appointments to the Board. Mr. Raul Sesin, Ned Sheats, and Henry Rodriguez were re-appointed. He added that on the next meeting there would be an item on the agenda to appoint a Chairman and Vice-Chair.

4.0 ADJOURNMENT

There being no further items for discussion, Mr. Sheats moved to adjourn. Mr. Rodriguez seconded the motion. Upon a unanimous vote, the meeting adjourned at 5:40 p.m.

Raul Sesin, P.E., Chairman
Planning and Zoning Commission