

**PLANNING AND ZONING COMMISSION
SEPTEMBER 23, 2009
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Ned Sheats
Jose G. Vela
Marisela Marin
Mario Garza
Luann Caudle

P&Z ABSENT

Raul Segin
Henry Rodríguez

STAFF PRESENT

Sergio Zavala
Bobby Salinas
Jaime Acevedo
Irasema Dimas

GUEST PRESENT

Gerald Gabbert
Mark Richards
Ed Sanchez
Wade Welch
Tyler Welch
Mary Welch
Ashley Stryker
Esthela Vallejo
Karen Quintanilla
Rick Fleming
Jasen Hardison

CALL TO ORDER

Vice-Chair Sheats called the meeting to order at 5:05 p.m.

CITIZENS PARTICIPATION

There was no response upon inquiry.

APPROVAL OF MINUTES FOR SEPTEMBER 9, 2009

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

Started: 5:06 p.m.

Ended: 5:08 p.m.

Item# 1.1

**Conditional Use Permit: Expansion of Wing Stop Restaurant
for the Sale & On-Site Consumption
of Alcoholic Beverages
2310 E. Expressway 83, Suites 4 & 5
Lot 3, Cimarron Crossings Ph. II Subd.
C-3
Life of Use
Johnny Collins**

Mr. Acevedo stated that the subject site is located approximately 250' west of Shary Road along the south side of U.S. Expressway 83 within an existing commercial complex that has 7 leased spaces located on the above described property. Previously, a CUP had been approved by the P&Z at this location on 10/26/05 and then again on 9/24/07 for Life of Use. However, Wing Stop recently expanded their restaurant by adding 760 sq.ft. thus, CUP consideration is required. The Wing Stop is a family friendly restaurant that sells a different variety of wings (different flavors), French Fries, dips and sauces, rolls, etc. The sale of alcohol at this restaurant constitutes 4-6% of their gross sales.

The hours of operation are 7 days a week from 11 a.m. to 12 midnight with a total of 13-17 employees. The original restaurant consisted of 2,000 sq.ft., with the new expansion the restaurant now has a total of 2,760 sq.ft. There are 12 tables that seat 4, 3 tables that seats 6, and 3 tables that seats 2 people for a total of 18 tables and 72 seats.

The parking required for a restaurant is one space for every three seats or one space for every 75 sq.ft., whichever is greater. Based on this formula, a total of 24 parking spaces are required for this establishment. The total number of parking spaces held in common at this development is 66 where 66 are required, thereby meeting code. It is noted that no other restaurants will be permitted hereafter due to lack of parking.

A call to Mission P.D. revealed that as of 9/16/09, there have been no reported incidents at this location. Staff recommended approval for Life of Use

Vice-Chair Sheats asked if there was any public opposition to the request.

There was no response.

Vice-Chair Sheats asked if the applicant or representative were present.

There was no response.

There being no further discussion, Vice-Chair Sheats entertained a motion. Mrs. Marin moved to approve the conditional use permit as recommended by staff. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:08 p.m.

Ended: 5:26 p.m.

Item# 1.2

Tabled

**Conditional Use Permit: Taxidermy Services from an AO-I Zone
2704 N. Stewart Road
S. 171.5' of the N. 292' of the W. 1270'
Lot 261, John H. Shary Subdivision
AO-I
Life of Use
Tyler Welch**

Vice-Chair Sheats entertained a motion to remove the item from the "Table". Mr. Garza moved to remove the item from the "Table". Mrs. Caudle seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Acevedo went over the write up stating that this item was last seen on 9/9/09 at which time the P&Z tabled the item so that the applicant could explain his proposed operation to his neighbors, and listen to their concerns. Mr. Welch had an open house on 9/15/09 at his residence, which was attended by some of his neighbors.

The subject site is ½ mile North of FM 495 along the east side of Stewart Road. The applicant's 3,600 sq.ft. SF residence has a 750' long driveway leading to a paved parking area that can accommodate 6 vehicles. Mr. Welch will be working from a craft room at the northernmost part of the house.

Staff said that Mr. Welch had obtained certification from the Central Texas School of Taxidermy and was a member of the Texas Taxidermy Association and the National Taxidermists Association. Mr. Welch stated that this will not be his sole source of income. He also stated that if in the future this operation were to become a full time job, he would relocate to a commercial establishment. Mr. Welch will operate strictly by appointment only thru friends, acquaintances and 'word of mouth'; 'walk-ins' to his home will not be welcomed. His hours of operation will be Monday through Saturday from 9:00 a.m. to 5:00 p.m. To further reduce traffic to his home, Mr. Welch will also offer item pickup and delivery.

His supplies include soap, borax and water; not toxic chemicals or acids. Mr. Welch said that the process poses no health issues to him, his family, or the surrounding neighbors. No permits are required by TCEQ. Since Mr. Welch will be dealing with just animal skins (hides), skulls, and antlers, there will

be little or no wastes produced. Mr. Welch has notified the Mission Health Department of his intentions.

Finally, since the property is setback about 750' from Stewart Road, Mr. Welch is also requesting a variance consideration to allow for a 4' x 4' sign to be placed along Stewart Road. In February 2009, a similar sign variance was awarded at 2 ½ Inspiration but downsized from a 4' x 6' to a 36" x 42" sign ... similar consideration should be given to Welch. Staff recommended approval subject to: **1)** 1 year re-evaluation, **2)** acquisition of a business license, **3)** random visits by City (Health) Officials, and **4)** sign size ok at 36" x 42".

Vice-Chairman Sheats stated that before the board opens the item for discussion, they had the CUP information from the previous meeting. He mentioned that the board had an understanding of the proposed taxidermy service, has heard the neighborhood's previous opposing comments and, with that said, he would like to limit the presentation to 5 minutes limit on either side.

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

Mrs. Karen Quintanilla from 1701 Solar Dr. stated that they had additional signatures from people opposed to the CUP who signed after they had submitted their originals. She mentioned that she believed in the American dream, and that people have the right to own, operate and promote their businesses; however, cities have their own rules and ordinances that said where businesses are supposed to be. She stated that those rules are supposed to protect the health, safety and welfare of the residents as well as protect the value of the resident's homes.

Mrs. Quintanilla stated that she understood that there were real health issues involved, added that, if and when she needs to sell her home, she wouldn't want to explain to the proposed buyer about a taxidermy service in the adjacent property. She stated that it was unfortunate that this issue has gone as far as it had and that it was not a matter of being a good neighbor or a bad neighbor, but it was about maintaining the character of the neighborhood. Mrs. Quintanilla stated that there's a place for businesses even the taxidermies and that place is not in a residential neighborhood.

Mrs. Quintanilla submitted an updated petition to the P&Z Board members.

Vice-Chairman Sheats asked if the applicant or representative were present.

Mr. Wade Welch said he was the property owner and the one that is applying for the CUP is his son Tyler Welch. He stated that they also had a petition that were in full support of the CUP. He mentioned that prior to the previous meeting he was not aware that there was that many opposed otherwise he would have met with the neighbors and explained to them what they were proposing.

Mr. Welch stated that after the board tabled the item, he met with neighbors in his house and everyone that they talked to was in support. He mentioned that they were trying to calm their concerns because those concerns were based on "false, total lies" that were told to them. He stated that they were not going to stink up the neighborhood; they are not going to have carcasses hanging up on the trees. If there's a smell, that means that there's contaminants.

Mr. Tyler Welch explained that the chemicals were colorless, odorless, and biodegradable. In reference to the bacteria, there can't be any bacteria because that causes odors and that's what causes hair loss, and you can't have that in taxidermy.

Mr. Wade Welch said that everything comes to them frozen or, as soon as they get it, they freeze it. There wouldn't be anything compromising the concerns from the neighbors. He stated that they were proposing a top-notch operation and that it would take Tyler 3 to 4 years to build enough time to have a business by himself. He stated that to have a commercial establishment costs a lot of money, and that was the reason they were asking for the CUP; not to impact the neighbors. He finished by saying that they don't want to disturb their neighbors and that his neighbors wouldn't even know they are operating there.

Vice-Chairman Sheats mentioned that the board had all the information given to them twice.

Someone from the audience asked if he could have the rest of the 5 minutes.

Vice-Chairman Sheats replied that the 5 minutes were per either side.

The citizen replied that the opposition only had 2 minutes.

Vice-Chairman Sheats allowed the citizen to approach the board.

Mr. Rick Fleming from 1615 Solar stated that he lived behind the shed where all the chemicals are proposed to be. He stated that there was a copy of the

web page where they have all types of services that they can provide, for example elephants, rhinos; all this information was freely available thru the web site for the taxidermy. He mentioned that they don't want the chemicals or the business in their neighborhood. As far as lies, he stated that he didn't think it was appropriate for any city commissioner and employee to attend the applicant's meeting when they should be pretty much conflicted out of this issue.

Vice-Chairman Sheats replied that that was not P&Z's point to justify the attendance.

Mr. Fleming replied that he didn't know if they were there or not since he was not present but he was told that they were.

Vice-Chairman Sheats mentioned that there seemed to be a lot of misinformation and a lot of that misinformation was taken care of at an informational meeting, which, as the applicant mentioned, it should have been done before. Be that as it may, the majority of the neighbors that attended the meeting were against the request but after the meeting it seems that they have changed their mind. He finished by saying that he does not have any problem with it since it was not a change in zoning; that it was only a CUP; and it will be reviewed at the end of a year.

Mrs. Marin stated that it looked that the informational meeting clarified most of the concerns of the neighbors. Based on the new petition in favor, several neighbors changed their minds and now they understand the type of work they will be doing. Having said that, Mrs. Marin was not against the request.

Mrs. Luann Caudle stated that she has a family member that has a taxidermy and she was very familiar with the taxidermy requirements and services. She stated that based on the neighbors concerns with the chemicals and staff, she would like to clarify that those kind of situations don't happen in taxidermies. She also mentioned that the Welch's owned the property well before the subdivision was recorded and, in her opinion, they were grandfathered. With an AO-I zone, this means that the Welch's could put in a goat ranch if they wished to. She stated that taxidermy was far less intrusive to the property values and life style.

Mrs. Caudle opinioned that they can't take away the Welch family's rights because Welch was there first. She stated that if the board did that to everybody just because, for example, if somebody wants to build a shed underneath the airport runway and then they get mad because of the noise, you can't do things like that; that's why we have things that started long

before and they are grandfathered in. She mentioned that the Welch's were there first before there was anything to regulate that particular area. She mentioned that P&Z received a letter with a lot of misinformation on it like what about fleas, ants, flies, bugs and stuff like that. She stated to the audience that stuff like that does not happen in taxidermy.

Mrs. Caudle stated that this was a CUP; that it was not forever; that it was for a short period of time. This is not redoing the zoning district to business; this is only a CUP, which gives them the opportunity to do this, and obviously they have been doing this for a while and the neighborhood hadn't noticed it. Without the CUP, he wouldn't be able to get established.

Mrs. Quintanilla asked if the agenda was incorrect because it stated that the CUP was for Life of Use.

Mrs. Caudle replied that that was what the applicant requested; it does not mean that the board will approve it for that time.

Mr. Fleming asked if only the land was considered AO-I, and the house was considered residential.

Vice-Chairman Sheats replied that the whole property was zoned AO-I including the house.

Mr. Fleming asked 'why?'

Vice-Chairman Sheats replied that it was because that was the way the law was written.

Mr. Fleming stated that obviously the board did not live there and he did. He mentioned that he does not want a 'sign' on it because to him it was like going backwards. He stated that the street between 2 Mile and Pecan was considered residential, and there were new subdivisions going on in the area and putting a business would be sending a wrong message to people that are moving to the community. People want to look at Mission as an area to live, and the board is sending mixed signals by allowing businesses to exist in a residential property.

Mrs. Quintanilla stated that the signatures on their petition were per household and she was wondering if the other petition was per household as well.

Mrs. Marin replied that she had copies of both petitions and people that were against the request before are now in favor. She stated that obviously those

people are the ones that attended the meeting and most of their concerns were clarified and now they have changed their mind.

At this time Vice-Chair Sheats entertained a motion. Mrs. Caudle moved to approve the conditional use permit as recommended by staff but with no sign as a compromise with the neighborhood. Mrs. Marin seconded the motion. At this time an unidentified citizen asked to speak; however, Vice-Chairman Sheats said that the item's discussion part was already over. Upon a vote, the motion passed unanimously.

Started: 5:26 p.m.

Ended: 5:31 p.m.

Item # 1.3

Tabled

**Conditional Use Permit: Residential Structure for Office Use
In a AO-I Zone
3503 N. Taylor Road
Lot- A-1, Summer Estates Subdivision
AO-I
Life of Use
Mark V. Richards**

Vice-Chair Sheats entertained a motion to remove the item from the "Table". Mr. Garza moved to remove the item from the "Table". Mrs. Caudle seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Zavala went over the write up stating that Mr. Richards desires to have an office where no one will reside there. The applicant provided Staff with a 100% petition of those within 200' (within city) supportive of his request & not objecting to his proposal of a non-residency CUP. They are now in eligible compliance for CUP consideration.

The subject site is located 1000' north of 2 Mile Road along the west side of Taylor Road. The use will be for daily office operations of a small oil and gas management company. The applicant and even the seller desire to retain the exterior residential ambience of the property, i.e., there will be no signage. The company performs management functions, such as contract negotiations, accounts payable, and accounts receivable.

There will be no drilling rigs or drilling equipment on site and, if approved, this can be a condition of such action. The out-of-office aspect of the business is contracted out and, therefore, any heavy equipment always resides with the off-site contractors.

Mr. Mark Richards said that there will be little or no traffic onto the property, i.e., in any given month he may have a maximum of 4 visitors. His proposed days/hours of operation are: Monday through Friday from 8:00 a.m. to 5:00 p.m. and thereafter, it will remain a quiet neighbor and retain all its exterior residential aspects.

With such a low-key office operation that appears to have less traffic onto the site than a typical residence with a 4-member family, staff did not object but would encumber any favorable action subject to: **1)** 1 year re-evaluation, **2)** acquire a business license, and **3)** prohibit heavy equipment.

Vice-Chair Sheats asked if there was any public opposition to the request.

There was no response.

Vice-Chair Sheats asked if the applicant or representative were present.

Mr. Mark V. Richards stated that he was not interested in installing a sign or owning heavy equipment. He mentioned that the house would be strictly even for office use and that there would only be 4 employees.

There being no further discussion, Vice-Chair Sheats entertained a motion. Mrs. Caudle moved to approve the conditional use permit as recommended by staff. Mr. Vela seconded the motion. Upon a vote the motion passed unanimously.

Started: 5:31 p.m.

Ended: 5:35 p.m.

Item # 1.4

Tabled

**Conditional Use Permit: To Move-In a 12' X 16' Portable Building
for Sales Office Use
1712 W. Griffin Parkway
Lot 22, Block 4,
Oakwood Estates Subd. # 2
C-3
Life of Use
Edward Sanchez**

Vice-Chair Sheats entertained a motion to remove the item from the "Table". Mr. Vela moved to remove the item from the "Table". Mrs. Caudle seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Acevedo went over the write up stating that this item was tabled on 8/19/09 so that Staff could meet with the applicant. The proposed 12' X 16' portable building is currently being used as an auto sales office in the City of Palmview; Mr. Sanchez would like to relocate his auto sales business to Mission. Mr. Sanchez desires to have the following as his days/hours of operation: Monday through Saturday from 9:00 a.m. to 6:00 p.m. Mr. Sanchez, his wife and son, and 1 full time employee will be working at this location.

Normally, having a portable building along a major thoroughfare is not encouraged due to the aesthetics and the hodge-podge commercial image such usually conveys. However, in the auto sales market, most passerby would view the used cars along the display area in the front than the portable office to the rear. Staff has compromised with the applicant in that the structure can exist for 12 months to assess whether the business is successful. After 12 months, a site built office will be mandated.

Currently, Lot 22 does not have any improvements to it. In order for a Business License to be issued, all building codes, landscaping, and parking codes will need to be completed prior to permit issuance. Also, a deferred parking lot interface to the east can be recorded where if commercially used, both parking lots shall be linked - - if residential to the east, then no interface will be required.

Staff recommended approval subject to: **1)** 1 year only – thereafter, replace with site-built office, **2)** painting the portable building to a natural earth tone color and skirting the building, **3)** meet landscaping code, **4)** City Engineer approval on applicants Paving & Grading Plan, **5)** non-transferable to others, and **6)** record deferred commercial parking lot linkage document.

Vice-Chair Sheats asked if there was any public opposition to the request.

There was no response.

Vice-Chair Sheats asked if the applicant or representative were present.

Mr. Edward Sanchez was present to answer any questions from the board.

There being no further discussion, Vice-Chair Sheats entertained a motion. Mr. Garza moved to approve the conditional use permit subject to staff's recommendation. Mr. Vela seconded the motion. Upon a vote, the motion passed unanimously.

2.0 OTHER BUSINESS

Mr. Zavala stated that there was no other business.

3.0 ADJOURNMENT

There being no further items for discussion, Vice-Chair Sheats entertained a motion to adjourn. Mr. Garza moved to adjourn. Mr. Vela seconded the motion. Upon a unanimous vote, the meeting adjourned at 5:35 p.m.

Ned Sheats, Vice-Chairman
Planning and Zoning Commission