

parks, places of worship, or residences within 300'. There were three CUP's for the sale and on-site consumption granted by the P&Z at this location.

In reviewing the floor plan, the 1,400 sq. ft. building will have 46 seating spaces proposed in the dining area and 12 seating spaces proposed in the bar area for a total of 58 seating spaces. One parking space for every three seats equates to 19 parking spaces required. A total of 80 parking spaces are held in common for this Lot 2 development. Access to the site can be from the two primary driveways to Shary Road. All building, fire, landscaping, and sign codes are being met. A total of 7 notices were mailed to property owners within a 200' radius of the site and as of this writing (10-09-09), no comments in favor or against this request have been forwarded to the Planning Department. Staff recommended approval subject to: 1) acquisition of a business license, 2) wet zoning the property, and 3) 1 year re-evaluation to assess this new operation.

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

There was no response.

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

The applicant, Ms. Elena Priscila Lozano who resides at 2004 Jonquil stated that she would like the Board to consider her request to be able to have the alcohol permit license until 2:00 a.m.

Vice-Chairman Sheats stated that he believed the permit would allow her to be open until 2:00 a.m. He added that the property was definitely in a C-4 area, which means that there were no residential areas or churches in the area and he would not have a problem with the request.

Mrs. Caudle asked if this particular strip center was completely full.

Mr. Acevedo stated that he believed there was one vacant suite abutting the proposed site.

Mrs. Caudle stated that she just wanted to make sure that there were plenty of parking spaces for the adjoining businesses, because staff has given permission in the past to have an establishment that required more parking than what was there, which did not allow other spaces to be leased due to lack of parking.

Mr. Acevedo stated that staff was recommending a 1 year re-evaluation to assess these issues next year and if they aren't in compliance then other measures would be considered like amending the closing time or deleting tables.

Mr. Salinas stated this particular site used to be where Sushitto was located and that business was approved for 1 year. He added that it would be the same type of business, except it would be a different owner.

Mrs. Caudle stated that she understood that but parking was becoming a big issue in other strip centers and she just wanted to make sure that parking would be a problem in this particular site. She added that having these types of problems would make the strip center not buyable and she didn't want to discourage commercial entities from being able to establish businesses due to the lack of parking.

Ms. Lozano asked if she would be able to put some tables outside and serve alcoholic beverages.

Mr. Acevedo stated that alcohol could only be served inside the restaurant.

Vice-Chairman Sheats stated that there was no specific place in the site plan submitted designated for an outside service area, which would probably have to be protected and covered.

Mr. Acevedo stated that the outside service area was not part of her original request. He suggested that P&Z might consider 'Tabling' the item so that staff could revisit with the applicant and re-evaluate the permit at a later date.

Vice-Chairman Sheats asked if the applicant could come later with an addendum to her conditional use permit request.

Mr. Acevedo stated that she could but would need to re-apply, which would impose a fee.

Vice-Chairman Sheats explained to Ms. Lozano that the Board could consider her request as it currently stands so that she could start her business or they could 'Table' the item until she submits a new layout of the outside service area.

Ms. Lozano stated that the owner of the building had told her that the outside service area would be allowed. She added that she would like the Board to consider her initial request.

Mr. Acevedo stated that the previous owner had made the same request and P&Z had denied the request.

Chairman Sesin walked in at 5:14 p.m.

There being no further discussion, Vice-Chairman Sheats entertained a motion. Mrs. Caudle moved to approve the conditional use permit as recommended by

staff. Mrs. Marin seconded the motion. Upon a vote, the motion passed unanimously.

At this time Chairman Sesin took over the meeting.

Started: 5:15 p.m.

Ended: 5:20 p.m.

Item# 1.2

**Conditional Use Permit: Drive-Thru Service Window
at Pollito Grilled Chicken
2701 E. Griffin Parkway
Lot 14, Adams Crossing Subdivision
C-3
Life of Use
Adriana Mata**

Mr. Acevedo went over the write up stating that the subject site was located 800' west of Taylor along the north side of Griffin Parkway within an existing commercial complex that has 11 leased spaces. The proposed days and hours of operation are Monday through Saturday from 11:00 a.m. to 10:00 p.m. and Sunday from 11:00 a.m. to 4:00 p.m. Alcoholic beverages will not be sold at this restaurant.

In reviewing the floor plan, the 1,236 sq. ft. building will have 6 tables with 24 seating spaces and 3 booths with 12 seating spaces for a total of 36 seating spaces. It is noted that a total of 132 parking spaces are held in common at this development. Access to the complex will be primarily from two 30' drives from Griffin Parkway. Access to the drive-through service window is through Mimosa Street. Traffic will approach from Mimosa at the NW corner of the property where there is a 10' drive along the western side of the building. This drive leads you to the drive-thru window as you travel south. Exiting would be back on to Griffin Parkway via one of the two 30' drives along Griffin Parkway. The menu board would be at the northwest corner of the building. There is enough stacking area for 3 cars. A speed bump is recommended as shown on the site plan to maximize pedestrian safety. Staff also recommended that a shade tree be installed on the landscaped island just south of the drive-thru window to improve aesthetics. Staff recommended approval subject to: 1) acquisition of a business license, 2) 1 year re-evaluation to assess this new operation, 3) a speed bump to maximize pedestrian safety, 4) marked waiting areas ahead of window to maximize customer service, and 5) the shade tree on the landscaped island to maximize aesthetics.

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.

The applicant, Ms. Adriana Mata was present to address any questions that the Board might have.

Chairman Sesin asked if the vehicles would be going through the alley off of Griffin Parkway and make a right turn to access the drive-thru service window.

Mr. Acevedo stated that he didn't believe they would be going through Griffin Parkway because the drive-thru sign was on Taylor Road so he didn't foresee a problem.

Mrs. Marin asked if they had any lights in the building on the drive-thru area because on the exhibit no lights were shown.

Mr. Acevedo stated that they were some attached to the building but staff could impose more lighting on the drive-thru area.

Mrs. Caudle asked if the suites were individually owned or was it owned by only one person.

Mr. Acevedo stated that they were owned by only one person.

Mrs. Caudle asked why did staff allowed them to put a tiny palm tree as landscaping.

Mr. Acevedo stated that the previous owner who had this commercial strip kept it in really bad shape; this new owner has put a lot of work in it and would more than likely abide by the requirements.

There being no further discussion, Chairman Sesin 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: 5:20 p.m.

Ended: 5:22 p.m.

Item # 1.3

**Conditional Use Permit Renewal: Home Occupation–Registered
Home Daycare
608 Julio Street
Lot 99, Tabasco Subdivision Phase I
R-1
Life of Use
Ludivina Guerra**

Mr. Acevedo went over the write-up stating that this conditional use permit was originally approved on 7/14/04 and re-evaluated on 5/25/05 at which time it was approved for life of use. However, the applicant closed down shortly after and it wasn't until 6/25/08 that a conditional use permit was once again issued at this location by the P&Z.

The subject site is located along the north side of Julio Street between Nicholson and Peace Avenue. The applicant has her single family residence thereon with paved driveway access off of Julio Street. A field visit revealed that the paved driveway accommodates 2 cars 'side by side'. This area is utilized to safely drop-off and pick-up children, and provides off-street parking for staff and customers as well. There is a sidewalk also leading from the street to the home's front door. There is a 6' wooden fence with self-latching gates enclosing the back yard area. Mrs. Guerra has the following as her days/hours of operation: Monday-Friday from 7:30 a.m. to 5:30 p.m. with herself as the only employee for the operation. Currently, signage also does comply with the requirements of Section 1.56-1 of the Zoning Ordinance regulating home occupations. Staff recommended approval for life of use.

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

There was no response.

Chairman Sestin asked if the applicant or representative were present.

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

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

Started: 5:22 p.m.

Ended: 5:29 p.m.

Item # 1.4

**Conditional Use Permit Renewal: Sale & On-Site Consumption of
Alcoholic Beverages at Juancho's
Bar/Nightclub
1812-A & 1900-B W. Griffin Parkway
Lots 4 & 5, Inspiration Point Phase I
C-3
Life of Use
Hilario Barrera**

Mr. Acevedo went over the write up stating that on October 15, 2008 the P&Z approved the conditional use permit for the sale of alcohol in a Mexican Restaurant setting but denied the sale of alcohol for a Bar/Nightclub setting. After an appeal to the City Council, the Council overturned P&Z's recommendation on October 29, 2008 and granted the sale of alcohol for both the restaurant and bar/nightclub component of Juancho's.

The subject site is 750' west of Inspiration Road along the north side of Griffin Parkway (F.M. 495). The current hours of operation are 7 days a week from 8:00 a.m. to 12 midnight with a total of 7-10 employees. In reviewing the floor plan, the 4,860 sq. ft. building has 144 seating spaces proposed in the dining area and 20 seating spaces proposed in the bar area for a total of 164 seating spaces. One parking space for every three seats equates to 55 parking spaces required. A total of 98 parking spaces are held in common for this development where 95 are currently required, thereby exceeding code by 3. Access to the site is from two primary driveways to Griffin Parkway.

A site visit revealed that Iglesia Adventista was well over 800' away from the proposed restaurant. There are no schools, public lots, or churches within 300' of the proposed restaurant.

A total of 34 notices were mailed to property owners within a 200' radius of the site and as of this write-up (10-9-09), no comments in favor or against this request have been forwarded to the Planning Department. An annual inspection conducted by the Mission Fire Department uncovered no violations at this location. A call to the Mission Police Department revealed that there has been only one call within the past 12 months for a false fire alarm. Staff recommended approval subject to City Council's previous recommendations of: 1) waiving the 300' separation that such uses are to be from residential areas, 2) compliance with the maximum occupancy levels by having a 'counter' count patrons and display the maximum number in a conspicuous area and subject to random inspections, 3) hours to close at midnight Mon.-Thurs...(if compliance is evident, expansion could be considered), 4) perpetually having on-site security when open until ½ hour past closing, 5) compliance with the prevailing Noise Code, and 6) perpetual annual re-evaluations of conditional use permit with documentation of response calls.

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

There was no response.

Chairman Segin asked if the applicant or representative were present.

Representing the applicant, Mrs. Leticia Muñoz was present to answer any questions that the Board might have.

Mrs. Marin commented that the write-up states that they close at midnight from Monday through Thursday and asked if that's what they do right now or was staff changing the hours.

Mrs. Muñoz stated that they close at 2:00 a.m. on Thursdays.

Mr. Acevedo asked Mrs. Muñoz what the current hours of operation were?

Mrs. Muñoz stated that Sunday's they close at 7:00 p.m., Monday and Tuesday at 8:00 p.m., Wednesdays at 12:00 a.m. and Thursday - Saturday at 2:00 a.m.

Mrs. Marin stated that staff was recommending that they be open until midnight Monday through Thursday.

Mr. Acevedo stated that City Council had approved those hours.

Mrs. Muñoz stated that they were approved until 2:00 a.m. on Thursday through Saturday.

Mr. Sheats stated that staff needed to re-write these recommendations because they contained bits and pieces of what was proposed and actually approved. He mentioned that they already had compliance and were good to go since there were no incidents.

Mrs. Muñoz stated that they had no incidents this past year.

Mrs. Marin asked if they already had security past closing time.

Mrs. Muñoz stated that they had 2 securities from Thursday – Saturday.

Mr. Sheats asked what days of the week they close past midnight.

Mrs. Muñoz replied Thursday - Saturday.

Mrs. Caudle stated that they only had security on Thursday – Saturday.

Mr. Sheats stated that he didn't have a problem with that.

Mrs. Marin stated it has been working fine for the past year.

Mrs. Caudle stated that the City Council wanted for them to have security until a ½ hour past closing and to her it meant everyday not only on Thursday, Friday, and Saturday.

Mr. Acevedo stated that staff recommended having security only on the days the business was open late hours.

Mrs. Caudle stated that she understood that but that was not what City Council had approved.

There being no further discussion, Chairman Sesin entertained a motion. Mr. Sheats moved to 'Table' the item so that staff could verify the hours of operation that were approved by the City Council. Mrs. Caudle seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:30 p.m.

Ended: 5:33 p.m.

Item # 2.0

Request for Variance from the Subdivision Ordinance to allow direct access to Bensten Palm Drive.

Mr. Salinas went over the write-up stating that the property is located on the SE corner of Bentsen Palm Drive and Wescan Street. The property legally described as Lot 20, Sno-Bird Estates is within a private subdivision, recently annexed into the city limits on 1/12/09. The lot measures 100' x 135' and was not an irregular shaped lot. The property has access to Wescan, which is considered to be a private street.

- On 7/16/09, the applicant submitted a building permit application for a new residence showing a driveway onto Bentsen Palm Drive, a future 80' arterial street. The permit was denied due to the City's Subdivision Code that limits access to arterial roads.
- The following week, Mr. Zavala met with the contractor of the home and explained why the permit had been denied and explained the appeal process (P&Z, City Council, etc.) and other options.
- Finally, a revised site plan showing a driveway onto Wescan was provided, meeting the City's requirements and the permit was approved.
- On 10/21/09, the contractor submitted an application for a variance to the subdivision code to allow a driveway onto Bentsen Palm Drive.

Section 98-134 Streets (o) Marginal Access Streets reads as follows: Where a subdivision has frontage on or borders an arterial street, the planning and zoning commission may require marginal access... on the subdivision side of the arterial street.

All newly annexed subdivisions must comply with prevailing subdivision codes and City policies. Staff notes that the issuance of the building permit would not have occurred until the driveway issue had been resolved. Since the Contractor submitted a modified site plan showing access onto Wescan, no apparent

variance was needed. Access to Bentsen Palm Drive would cause traffic concerns for not only the residents of Sno-Bird Estates, but those traveling Bentsen Palm Drive as well. Staff recommended to deny the request due to: 1) not meeting the City's Subdivision Code regarding marginal access streets, 2) traffic concerns along Bentsen Palm Drive due to surrounding development (Bentsen Palm Development, Bentsen State Park, etc.), 3) the property is not an irregular lot, has access to minor residential street and it does not have extenuating circumstances to consider allowing access onto Bentsen Palm Drive, and 4) finally, the approval of this variance would set precedence for future requests to access major arterials.

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.

There was no response.

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

Started: 5:33 p.m.

Ended: 5:40 p.m.

Item # 3.0

Tabled Rezoning:

Lots 1 & 2, Block 1, North Hampton Subd.

R-1 to C-3

Eloisa E. Duran

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

Mr. Salinas went over the write-up stating that P&Z might recall that this property was seen on 7/8/09, in which the applicant wanted to open a family owned carwash. Staff had mentioned that in order for a carwash to be allowed, it would have to be rezoned to C-3 (General Business). Since such a zone does not meet the City's FLUM and staff believes a viable boundary between the existing commercial and residential uses would be at North Hampton Subdivision, staff recommended denial.

The P&Z Commission had asked staff to see if an amendment could be made in which a conditional use permit could be applied for in order to have a family

owned carwash business. The amendment was approved by P&Z on 8/19/09 and forwarded to City Council on 9/14/09 where the proposal was denied, due to a family owned carwash potentially "taking business away from full fledged carwash businesses...". Though it was expressed that City Council would consider an approval of rezoning to C-3, staff must once again recommend against the C-3 rezoning due to the following: 1) the land use for this property has been residential and staff believes that it still remains as a viable boundary between commercial and residential uses, and 2) though the site is located adjacent to a commercial use, the desired C-3 zone is in conflict with the updated FLUM. The FLUM is not 'set in stone' and zonings do not have to match it, BUT unless there is a predominant and unique reason to deviate from it, the City should abide by the FLUM as much as possible to sustain its confidence to the general public.

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

There was no response.

Chairman Segin asked if the applicant or representative were present.

The applicant, Mr. Jorge Duran Garcia stated that currently they were working on cleaning the lot. He added that he had worked on a circular layout in which cars would come in eastbound onto the property and continue northerly and then westerly to back out of the property going through the basic stages of cleaning from pre-cleaning, washing, rinsing, drying and having an office in the center of the lot.

Mrs. Marin asked staff if the reason the City Council had denied the amendment was because it would take business away from full fledged carwash businesses.

Mr. Salinas replied, "That's correct".

Mrs. Caudle stated that this property was across the street from a very busy school. She added that this property was not a very good location for the type of business the applicant was proposing because there is so much traffic in the afternoons for the little kids and people walking. She added that she would not support this rezoning just for that reason alone.

Mr. Sheats stated that he had changed his mind because of what was stated by the applicant, now leads him to believe that this business would not be a small mom and pop operation. He added that when you have a circular driveway with certain stages and an office in the middle makes it more of a commercial establishment. Mr. Sheats stated that he had understood from the first meeting that it would be a family project and now it just didn't seem to be that way.

Mrs. Marin stated that when this rezoning was first brought to P&Z they had understood that it would be something small for the kids and now it seems to be more formal that would be more for commercial areas and that would be something that would not be allowed in this particular area.

Mr. Duran stated that the reason he had worked on a circular driveway was because one of the concerns P&Z had at the first meeting was the amount of space they had for the carwash. He added that he knew the cars have to come in and exit facing out to Mayberry for safety purposes.

Mrs. Marin stated that the lot was zoned residential.

Mr. Duran stated that he understood the lot was zoned residential and that was the reason they were not proposing to have any machinery everything would be done by hand.

Mr. Vela asked if once the property is zoned commercial it could become any type of business.

Mr. Salinas replied, "That's correct".

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

4.0 OTHER BUSINESS

Mr. Salinas informed P&Z that the conditional use permit for a taxidermy business on Stewart Road that had been appealed by some of the neighbors City Council sustained P&Z's 1 year approval recommendation for the Taxidermy.

5.0 ADJOURNMENT

There being no further items for discussion, Chairman Sesin entertained a motion to adjourn. Mr. Vela moved to adjourn. Mr. Sheats seconded the motion. Upon a unanimous vote, the meeting adjourned at 5:43 p.m.

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