

**PLANNING AND ZONING COMMISSION
OCTOBER 28, 2009
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

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

P&Z ABSENT

Henry Rodríguez

STAFF PRESENT

Sergio Zavala
Bobby Salinas
Jaime Acevedo
Roberto J. Salinas
Irasema Dimas

GUEST PRESENT

Francis M. Ciancarelli
Scott & Peggy Herweck
Larry D. Reyna
Ismena Garcia
Dianna Reed
Steve Ferguson
Raul Garcia
Ryan Krause
Carla Niño
Jorge Niño
Juan & Alicia Gonzalez
Rudy Vela
Jeff Underwood
Leticia Muñoz
Adiel Garcia
Jose Zamora
Fidencio Gonzalez

CALL TO ORDER

Vice-Chairman Sheats called the meeting to order at 5:03 p.m.

CITIZENS PARTICIPATION

There was no response upon inquiry.

APPROVAL OF MINUTES FOR OCTOBER 14, 2009

Vice-Chairman Sheats asked if there were any corrections to the minutes. There being no corrections, Mrs. Marin moved to approve the minutes as presented. Mrs. Caudle seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:03 p.m.

Ended: 5:06 p.m.

Item# 1.1

Rezoning:

**A 4.9 Ac. tract of land out of Lot 241,
John H. Shary Subdivision
AO-I to R-1
Palm Valley Church**

Mr. Salinas went over the write-up stating that the subject site is located approximately 800' south of Griffin Parkway along the east side of Stewart Road. The surrounding zones include Large Lot Single Family (R-1A) to the west, Single Family Residential (R-1) to the south and east, and Townhouse Residential (R-1T) to the north. The rezoning falls directly in line with the City's Future Land Use Map, which reflects a Low Density (LD) designation. The First Assembly of God Church is proposing a future building and parking lots on the property. The R-1 zone acclimates to the predominant R-1 zoning district of the area as well as continues Palm Valley Church's existing R-1 status to the adjoining east. We note that any future buildings and/or expansion of the existing CUP will require new conditional use permits. Staff recommended approval to the zoning request.

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.

Mr. Ryan Krause from Palm Valley Church was present to answer any questions from the board.

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

Started: 5:02 p.m.

Ended: 5:11 p.m.

Item# 1.2

Conditional Use Permit:

**Home Occupation – Registered Home
Daycare Service**

931 Greenlawn

Lot 8, Block 2,

Eagle Heights Unit No. 1 Subdivision

R-1

Life of Use

Carla Puente Niño

Mr. Acevedo went over the write up stating that the 62' x 136' site is located at the NE corner of Jones Avenue and Greenlawn Drive. The applicant has her SF residence thereon with paved driveway access only off of Jones Street, a short collector street. Mrs. Niño's proposal will have her vehicle(s) parked in her driveway with the parent's parking being on the street – see her rendering. A circular driveway off of Greenlawn would be safer & more consistent to what we've previously approved. Staff does note

that there is an iron fence buffer; if approved, the installation of a 6' wood buffer around the rear area with self-latching gates would be imposed. Such a fence will deflect the noise level generated from the site.

Mr. Acevedo stated that Mrs. Niño is proposing the following as her days/hours of operation: Monday – Friday from 7:00 a.m. to 6:00 p.m. with herself as the only employee. Mrs. Niño will care for 6 preschool children only. Of course, if approved, DHS certification will be mandated as we have imposed to others. Any signage would also have to comply with the requirements of section 1.56-1 of the Zoning Ordinance regulating home occupations. Staff's 1st recommendation was for denial as proposed. Staff's 2nd recommendation was for approval subject to: **1)** 1 year re-evaluation to assess this new operation, **2)** DHS certification, **3)** comply with Sect. 1.56-1 of the Zoning Ordinance, **4)** installation of a perimeter 6' wood buffer with self-latching gates, **5)** acquire a business license, and **6)** the installation of 4' sidewalk along Jones (collector), and pave circular drive on Greenlawn with interconnecting sidewalk to 'Entrance' within 4-6 months of P&Z's approval.

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.

Mr. Jorge Niño and Carla Niño stated that they were in the process of installing the wood buffer and that the driveway would be expanded to accommodate 4 vehicles.

Vice-Chairman Sheats asked staff if there was a time period to comply with the requirements.

Mr. Acevedo replied that it would be from 4-6 months from the day of the P&Z approval.

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

Started: 5:11 p.m.

Ended: 5:19 p.m.

Item # 1.3

Conditional Use Permit:

**'Sale & On-Site Consumption of Alcoholic Beverages' at Konectaz Bar & Grill
2109 W. 3 Mile Line, Suites 11, 12, & 13
Lot 2, Block 4, Taurus Estates No. 9, Ph. I
C-3**

**Life of Use
Jose Zamora**

Mr. Acevedo went over the write-up stating that the subject site is located approximately 200' east of Moorefield Road along the south side of 3 Mile Road. In addition to the traditional Mexican food dishes, the applicant is requesting to include the sale of beer and alcohol on their menu. Alcoholic beverages will only be served during the allowable state selling hours.

The proposed hours of operation are from 10 a.m. to 10 p.m. Mondays and Tuesdays and from 10 a.m. to 2 a.m. Wednesdays through Saturday. A total of 5 full time employees and 13 part time employees are proposed for this new restaurant/bar. The restaurant/bar will consist of 2,684 sq.ft. total area. The applicant is proposing 21 tables (mixture of sizes) and a bar area that, combined will seat a total of 79 patrons.

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 26 parking spaces are required for this establishment. As seen in the aerial, common paved parking overlies Lots 1 (un-used) to Lot 5 where Lot 2 also has rear parking. Staff recommends that this applicant re-stripe the parking for Lots 1 & 2 (at least). Also, tree landscaping on Lot 2 is needed.

Section 1.56-3 (a), Zoning Code requires that a 'bar' be 300' from the nearest residence, church, school or publicly owned property... unless P&Z/City Council wave this separation code. There are only residences within the 300' separation (to the south). As you may recall, Juancho's was approved by P&Z/City Council where there are homes across the alley - - this CUP is smaller than Juancho's.

A total of 30 notices were mailed to property owners within a 200' radius. Staff received a petition with no caption but staff infers that it's in favor (28%). The Fire Marshal has reviewed the application and had no additional requirements for approval.

Staff recommended approval subject to: **1)** waive 300' separation requirement, **2)** wet zone the site, **3)** acquisition of a business license, **4)** (Tenant) Sign Code Compliance, **5)** 1 year re-evaluation, **6)** provide minimum 4-3" caliper shades trees, **7)** sound dampening insulation along the south wall of the building, and **8)** re-stripe parking for Lots 1 & 2 (at least).

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 Jose Zamora was present to answer any questions from the board.

Vice-Chairman Sheats asked Mr. Zamora if he understood the conditions of approval and that if he was willing to comply.

Mr. Zamora replied that he would comply with all the requirements.

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

Mrs. Caudle asked Mr. Zamora if he was the owner of Lots 1 & 2 or if he was only leasing a suite on Lot 2.

Mr. Zamora replied that he was only leasing a suite on Lot 2.

Mrs. Caudle mentioned that she had a problem with approving the CUP subject to re-striping Lots 1 & 2 if Mr. Zamora was just leasing a suite, and that she didn't feel comfortable giving up that many parking spaces out of Lot 1 without going through the owner of the property.

Chairman Sestin asked if Mr. Zamora would need to re-stripe all of Lot 1 to comply, or only a couple of parking spaces.

Mr. Acevedo replied that Mr. Zamora would only need a total of 4 or 5 spaces off of Lot 1 and all of Lot 2.

Mrs. Caudle replied that there were more businesses on Lot 2, which would need parking as well.

Mr. Acevedo replied that staff had been monitoring the site and that there's hardly any traffic.

Mr. Vela asked if the building was sound proof.

Mr. Acevedo replied that one of the recommendations would be that the building be sound proofed.

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

At this time Chairman Sestin took over the meeting.

Started: 5:19 p.m.

Ended: 5:26 p.m.

Item # 1.4

Conditional Use Permit Renewal:

**Home Occupation – ‘Notary Service
And Preparation of Income Tax Forms’
1115 Reynosa
Lot 2, Block 1, Browning Subdivision
R-1
Life of Use
Larry D. Reyna**

Mr. Acevedo went over the write up stating that the subject site is at the NW corner of Highland and Reynosa Street. Mr. Reyna desires renewal of his home occupation CUP for a notary service and income tax preparation service at the above address. Mr. Reyna has been operating for just over two years from his 2,573 sq.ft. residence. He has been operating from a 12' x 12' personal office within his house. A field visit revealed that there is a long driveway at the south side of the home leading to a two-car garage. This is utilized as off-street parking for customers. There is a sidewalk also leading from the home's front door. His office hours are Monday through Saturday from 9:00 a.m. to 8:00 p.m. during income tax season and by appointment only during the off-season. Mr. Reyna is the only employee running this home occupation. Mr. Reyna alerted staff that traffic is minimal, and strictly by appointment only. Mr. Reyna has alerted staff that the income tax preparations are only being done during January through April and the notary services are year round. Mr. Reyna does have a 1' x 1' sign affixed to the residence. Planning has not received any complaints against this CUP. Staff recommended approval for 3 years (renewable at this time if still existing).

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.

Mr. Larry Reyna stated that he had been practicing the notary service in a different location since 1995 and that he didn't understand why staff was only approving the re-evaluation for 3 years.

Mr. Zavala replied that 1 of the reasons was that it's not very common anymore that staff would recommend approval for life of use on CUP's, in this particular case there are a lot of vacant lots to the immediate east, and once those lots are sold and built there will be more property owners and staff wants to project their rights as well. He mentioned that it would be easier to monitor in case there was ever a problem with people parking along the street.

Mr. Reyna stated that he basically has business 3 months out of the year and he only has 60 customers during those 3 months, so there's never an issue with parking, he only attends 1 client a day. He stated that it would be difficult for him to pay for a permit every so often cause he does not have income; he only lives on social security.

Mr. Zavala replied that as far as the fee, it would be only \$150, every three years, which will equate to \$50 a year.

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

Started: 5:26 p.m.

Ended: 5:32 p.m.

Item # 2.0

Site Plan Approval:

**Construction of 6 Apartments
Lot 13, Block 16,
Fairway Oaks Subdivision
PUD
Ismena Garcia**

Mr. Salinas went over the write-up stating that the subject site is located approximately 450' east of River Bend Drive along the north side of Oasis Drive. The proposal is to build 1 single story complex containing 4 two bedroom apartments and 2 three bedroom apartments for a total area of 4,518 sq.ft., all divided by 1 hr. rated firewalls. The minimum required setbacks based on the subdivision are: Front -6', Rear -15', Sides - 6'. All setbacks are being met. The 6 units are calculated to require 12 parking spaces based on the 2:1 parking ratio. The lot is part of an existing private development, which shares 164 existing parking stalls. With the addition of the proposed 6 apartments, the parking still exceeds code by 8. Ten percent landscaping is being proposed with a combination of trees, plants, and shrubs. A minimum of 7 - 3" caliper shade trees are required to be planted within the landscape areas along the rear area of the lot.

Mr. Salinas mentioned that on other comments: payment of Capital Sewer Recovery Fee in the amount of \$760.00 (4 two bedroom apartments X \$120.00 = \$480.00 and 2 three bedroom apartments X \$140.00 = \$280.00), payment of Park Fees in the amount of \$1,800.00 (\$300.00/apartment), parking needing to be re-stripped along the frontage, an existing dumpster located on one of the parking spaces will need to be re-located to regain the use of the parking stall, and there is an existing fire hydrant on the Lot's frontage, which will not require any additional hydrants.

Staff recommended approval subject to: **1)** pay capital sewer recovery and park fees, **2)** provide 7 – 3” caliper shade trees, **3)** re-stripe parking lot (frontage), and **4)** prior to occupancy re-locate dumpster.

Chairman Sestin asked if the applicant or representative were present.

Mrs. Ismena Garcia was present to answer any questions.

Chairman Sestin asked if Mrs. Garcia understood all the requirements and the fees that would need to be paid.

Mrs. Garcia replied that she didn’t understand the park fees.

Chairman Sestin stated that there were park fees of \$1,800 but are paid as required by our subdivision code.

Mrs. Garcia replied that she owned another set of apartments down the street and when she built them she didn’t have to pay any fees and she mentioned that there’s was an association that she pays to maintain all the parking.

Chairman Sestin stated that this was a park fee and it was one of the requirements when the subdivision was first recorded.

Mrs. Garcia asked if this was for city parks.

Chairman Sestin replied, ‘Yes’.

Mr. Salinas mentioned that staff could find out what fees were already paid for.

Mr. Zavala mentioned that staff had inversely issued the building permit without the site plan approval and in that case it shouldn’t be held against this particular action.

After a brief discussion, Chairman Sestin entertained a motion. Mrs. Caudle moved to approve the request as per staff’s recommendation. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:32 p.m.

Ended: 5:35 p.m.

Item # 3.0

Pre-Final Plat Approval:

**Monte Real Subdivision Phase II
6.866 Ac. Out of Lots 111, 101 and 102
John H. Shary Subdivision
PUD
Developer: Hunt Valley Dev. I, LLC**

Engineer: Halff Associates

Mr. Salinas went over the write-up stating that the proposed subdivision is located in the SE area of Grand Canal Drive and Los Milagros Road. The proposed subdivision consists of 22 SF Residential lots. The lots sizes range from 11,878 sq.ft. to 16,809 sq.ft. These lots are compliant with the PUD's land use designation map. The entire subdivision of Monte Real was approved by P&Z (6/27/07) and City Council (4/30/07) as a single subdivision, however only a portion of the lots were platted. We note that all utility work was installed pursuant to the City's 2007 approval. The developer now desires to plat the remaining lots, thus completing the Monte Real Subdivision as was approved by P&Z and City Council.

An existing internal 8" waterline system provides service to all lots with existing hydrants located via direction from Fire Marshal. The system is looped with an existing 12" line located on Los Milagros and is also looped to an existing 8" line via Quinta Real's network. An existing 8" sewer line provides service to all lots as it ties to an existing 10" sewer network along Los Milagros. On 4/10/07, a check was submitted for the capital sewer recovery fee for Monte Real Phase I in the amount of \$11,000.00. Monte Real Phase I had 51 lots, which only required \$10,200.00, leaving a remaining balance of \$800.00. Including the \$800.00 credit, Monte Real Phase II will require \$3,600.00 for the remaining capital sewer recovery fees, i.e., \$200/lot X 22 lots = \$4,400.00 - (\$800.00 credit) = \$3,600.00.

The subdivision adjoins two existing 60' ROW 43' B/B streets (Grand Canal Dr. & Santa Erica), and a 50' ROW 32' B/B street (San Alejandro), all with 10'/15' u.e.s. No additional ROW dedication is required on the perimeter streets. Storm drainage is accomplished through an existing series of 36", 30" & 24" storm lines, which lead into Hunt's existing ditch system. Water rights dedication via Hunt-City policy would need to be turned in, and park fees in the amount of \$6,600.00 (22 lots X \$300/lot). Staff recommended approval subject to complying with the park dedication ordinance, i.e., pay \$300.00/lot.

Chairman Segin asked if the applicant or representative were present.

Mr. Jeff Underwood from Hunt Valley Development was present to answer any questions.

There being no discussion, Chairman Segin entertained a motion. Mr. Garza moved to approve the plat as per staff's recommendation. Mrs. Caudle seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:35 p.m.

Ended: 5:48 p.m.

Item # 3.1

Pre-Final Plat Approval:

**Palm Valley Church Subdivision, Phase II
A 4.90 Ac. tract of land out of Lot 241,
John H. Shary Subdivision
AO-I (R-1 proposed)**

**Developer: Palm Valley Church
Engineer: J.A. Garza Associates, LLC**

Mr. Salinas went over the write up stating that the subject site is located approximately 800' south of Griffin Parkway along the east side of Stewart Road. The subdivision consists of 1 lot, which is being proposed for the future expansion of the Palm Valley Church. A variance has been requested by the developer asking that a stub street not be extended or provided with a cul-de-sac. The Fire Marshal reviewed the dead end street situation and stated that if the developer would provide a minimum 30' concrete turning radius, that would be sufficient enough to be considered a hammerhead turnaround. The developer agreed to comply and their plans reflect this.

Water will be provided by extending an 8" water line from an existing 8" line located on the SE area of the proposed subdivision. The 8" line will then run west towards Stewart Road and will loop to Sharywood Manor's existing 8" line network. Another water loop will also be provided by the extension of the existing stubbed water line off of Lauren Lane to the subdivision's proposed 8" line. Hydrants are shown pursuant to the direction of the Fire Marshal.

Sewer service will be provided by extending a 6" service line from an existing sewer stub that was installed by Stewart Village Phase II located at the NW corner of the proposed subdivision. The Capital Sewer Recovery Fee, \$2,850.00/acre will be imposed as required by Ordinance #3022, i.e. 4.90 ac. X \$2,850.00/acre = \$13,965.00.

The subdivision has access to Stewart Road, an 80' ROW, future 57' B/B street and is proposing to have a driveway off of Stewart Road in order to provide ingress and egress for this subdivision as well as creating another outlet for the main church facility to be located east of this subdivision. Storm drainage is being addressed by providing 18" R.C.P./P.V.C. lines that flow into a privately owned detention swale located on the west side of the subdivision. The detention swale will be connected via a 12" bleeder line that ties into an existing 36" network of drainage lines that outfall into the ditch south of the Edinburg Main Canal.

On other comments, water district exclusion is required, reimburse City for Stewart's widening in the amount of \$5,973.75 (238.95' X \$25/lf), reimburse City for sidewalks installed along Stewart in the amount of \$2,628.45 (238.95' X \$11/lf), off site drainage reimbursement in the amount of \$4,257.16 (Stewart Terrace Reimbursement Contract now diverted to 'City of Mission' since 7 year tenure has long expired.), there

are existing street lights along Stewart Road, and mandatory 6' buffer to the north and south to be perpetually maintained by owner(s). (NOTE: If already existing by resident neighbors, then no buffer needed at that alignment).

Staff recommended approval subject to: **1)** no objection to variance to allow a dead end street, **2)** payment of the Sewer Capital Recovery Fees and Drainage Reimbursement, and **3)** reimburse the City for street widening and sidewalk costs along Stewart Road.

Chairman Segin asked if the applicant or representative were present.

Mr. Ryan Krause from Palm Valley Church was present to answer any questions.

Chairman Segin mentioned that Mr. Krause was asking for a variance to have a dead end and that he offered to widened the alley at the end to respect egress. He asked Mr. Salinas where that would be.

Mr. Salinas replied that what the Fire Marshal requested was that the radius on the south of the north alley be 30' to provide access in case of an emergency.

Chairman Segin asked if there was a corner clip on Lot 27 because usually an alley is too narrow and he was concerned that there wouldn't be enough area to widen the alley. He stated that most alleys were built at 16' wide and his concern was that he wouldn't want to approve something that the contractor wouldn't be able to accomplish.

Mr. Zavala recommended to the board to place the item on the 'Table' and let the rezoning continue its course and the detail could be worked out. He also recommended another option to approve the plat, subject to a subcommittee's review and approved of the alley's radius.

After a brief discussion, Chairman Segin entertained a motion. Mr. Sheats moved to approve the plat as per staff's recommendation and subject to a subcommittee to review and approve the alley's radius detail. Mrs. Caudle seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:48 p.m.

Ended: 5:59 p.m.

Item # 4.0

Variance Request by Redwood Construction to allow Residential Driveway of Lot 20, Sno-Bird Estates directly onto Bentsen Palm Drive (Arterial Street).

Mr. Salinas went over the write up stating that after P&Z's action during the 10/14/09 meeting, it came to our attention that staff failed to notify the applicant to be present

at the meeting. In order to maximize fairness and to properly discuss and debate, staff recommends that we re-open this item.

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 is 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 appeals 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.

Sec. 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 denial 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 a 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 the applicant or representative were present.

Mr. Rudy Vela from Redwood Construction stated that there was a tremendous amount of violations on this subdivision, the sanitation department would not come in to the subdivision because of the road, and Waste Management has asked the owners to move the dumpsters to Bentsen Palm Drive because the truck will not go into the street.

He mentioned that he had approached the city several times during the construction process, due to different violations that several land owners have, like commercial businesses, semi-trailers parked on the street, dilapidated roofs, etc.

Chairman Segin asked that regarding his variance, what's the reason for the variance.

Mr. Vela replied that regarding his variance, he had talked to TXDOT and had attended several meetings and the variance was approved by TXDOT to be able to access Bentsen Palm Drive.

Chairman Segin asked what was his reason for not accessing the front street and wanting to access Bentsen Palm Drive.

Mr. Vela stated that originally he had presented to the City of Mission a site plan with a side entry. He stated that when he picked up the permit, he was advised that he needed to build the house accessing Wescan. He mentioned that prior to making an investment on the blueprints he had asked if they could access Bentsen Palm Drive and he was informed that he could.

Chairman Segin asked Mr. Vela if he submitted a site plan proposing the access through Bentsen and asked if it was denied.

Mr. Vela replied that it was preliminary approved.

Chairman Segin asked when the permit was issued, was it issued with the driveway to Wescan.

Mr. Vela replied, 'Yes'.

Chairman Segin asked Mr. Vela if he knew that the access to Bentsen was denied.

Mr. Vela replied, 'Yes'.

Chairman Segin stated that staff explained the appeal process to Mr. Vela, and he decided to comply with the requirements, but now he changed his mind and now he wants access to Bentsen.

Mr. Vela replied that he never changed his mind and yes the process was explained but he was told that he could continue with the construction while he applied for the variance. He mentioned that he's had this construction since August and unfortunately with the city schedule, he didn't get the approval until October. He stated that the construction was done and that they had obtained a certificate of occupancy and the customer is very happy with the home.

Chairman Segin stated that he knew that the subdivision was old and that it used to be in the county, however he still didn't hear a good reason why the board should grant a variance to access Bentsen Palm Drive.

Mrs. Caudle asked that what sanitation not wanting to go onto Wescan had to do with the driveway variance.

Mr. Vela replied that the driveway would be to the side and sanitation has asked the property owners to place their trash cans along Bentsen.

Mr. Sheats mentioned that he was concerned with allowing anybody to drive directly or back up directly onto a street that size and to him it was considered a safety issue.

There being no further discussion, Chairman Segin 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: 5:59 p.m.

Ended: 6:05 p.m.

Item # 5.0

Tabled

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**

Chairman Segin entertained a motion to remove the item from the 'Table'. Mr. Vela move to remove the item from the 'Table'. Mr. Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Acevedo went over the write up stating that the subject site is 750' west of Inspiration Road along the north side of Griffin Parkway (FM 495). The current hours of operation are 7 days a week, hours range from 11:00 a.m. up to 2:00 a.m. on

certain days. There are a total of 7-10 employees plus paid security. Viewing the floor plan, the 4,860 sq.ft. building will have 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 2 lot development where 95 are currently required, thereby exceeding code by 3. Access to the site are from two primary driveways to Griffin Parkway.

A site visit revealed that Iglesia Adventista is 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 (10/09/09), 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 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, **3)** maintain door man (counter) metal detector device, security lighting & video camera to maximize security, **4)** perpetually having on-site security until ½ hour past closing, **5)** compliance with the prevailing Noise Code, and **6)** perpetual annual re-evaluations of CUP with documentation of response calls.

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.

Mrs. Leticia Muñoz, was present to answer any questions from the board.

Chairman Sesin asked if she was the owner.

Mrs. Muñoz replied that she was the manager.

Chairman Sesin mentioned that during the last meeting the board had questions regarding the hours of operation.

Mrs. Marin mentioned that Mrs. Muñoz thought that it was approved with particular hours and staff thought it was approved for other hours.

Mrs. Muñoz stated that she recalled that last year it was approved to be open on Thursday's up to 2 a.m.

Mr. Sheats mentioned that it would be a good idea to go down the list and find out what would be the exact hours that they would be open.

Mrs. Caudle also mentioned that another question was that they didn't have perpetual security and City Council had approved the CUP subject to having security at all times.

Mrs. Muñoz replied that they do have security Thursday through Saturday.

Mr. Acevedo mentioned that the security was provided only on the peak days, which were Thursdays through Saturdays.

Chairman Segin asked Mrs. Muñoz if they were open on Mondays and up to what time.

Mrs. Muñoz replied, "Yes, from 11:00 a.m. to 8:00 p.m."

Chairman Segin asked what about Tuesday.

Mrs. Muñoz replied, "the same".

Chairman Segin asked what about Wednesday.

Mrs. Muñoz replied that they close at midnight.

Chairman Segin asked if they had security on Wednesdays.

Mrs. Muñoz replied that they only have 1 security on Wednesdays.

Chairman Segin asked if on Thursdays, Fridays, and Saturdays the hours were 11:00 a.m. to 2:00 a.m.

Mrs. Muñoz replied that those were the hours and that they have 3 securities on those days.

Mrs. Marin asked if they were closed on Mondays.

Mrs. Muñoz replied that they were open 7 days a week.

There being no further discussion, Chairman Segin entertained a motion. Mrs. Marin moved to approve the conditional use permit as per staff's recommendation. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

6.0 OTHER BUSINESS

There was none.

7.0 ADJOURNMENT

There being no further items for discussion, Chairman Sestin entertained a motion to adjourn. Mr. Vela moved to adjourn. Mr. Garza seconded the motion. Upon a unanimous vote, the meeting adjourned at 6:06 p.m.

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