

**PLANNING AND ZONING COMMISSION
MARCH 11, 2009
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

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

STAFF PRESENT

Sergio Zavala
Jaime Acevedo
Sonia Carnes
Arturo Lerma
Irasema Dimas

GUESTS PRESENT

Raul Saenz
Gonzalo Arevalo
Adelita Arevalo
Mr. & Mrs. Domingo Garcia
Elida Maria Puente
Bryan Jarrett
Hector Morin
Sylvia Williams
Edward De La Tejera
Imelda Sanchez

CALL TO ORDER

Chairman Sesin called the meeting to order at 5:05 p.m.

CITIZENS PARTICIPATION

There was no response upon inquiry.

APPROVAL OF MINUTES FOR FEBRUARY 18, 2009

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

Started: 5:05 p.m.

Ended: 5:08 p.m.

Item# 1.1

Rezoning:

**E. 1 acre of the West 9 acres of the
N. ½ of Lots 15-7 & 15-8,
West Addition to Sharyland
(A.K.A. Lot 9, Melba Carter Subd.)
R-1 to C-3
Hector Morin**

Mr. Acevedo went over the write up stating that the site was approximately 700' east of Conway Blvd. along the north side of Melba Carter. The surrounding zonings include Agricultural Open Permanent (AO-P) to the north and Single Family (R-1) to all other directions. He mentioned that there were residential uses to the east, west, and south. To the north exists a portion of

the railroad, plus property owned by Magic Valley Concrete (Big Lake Subd.) The FLUM showed this area as an Industrial land use designation (I). The area currently has a mixture of uses ranging from industrial and commercial to residential uses. The Melba Carter area is slowly transitioning from residential to commercial/industrial uses due to the aforementioned railroad and other industrial/commercial uses in the area. Since P&Z has approved other C-3 zones within the same area, C-3 does not appear to be an objectionable change and would help continue the transitioning process. He stated that based on the above staff was recommending approval to the request.

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.

Mr. Hector Morin was present to answer any questions from the board.

There being no further inquiries, Chairman Sestin entertained a motion. Mr. Sheats moved to approve the request. Mr. Garza seconded the motion. Upon a vote the motion passed unanimously.

Started: 5:08 p.m.

Ended: 5:17 p.m.

Item# 1.2

Conditional Use Permit:

**'Sale & On-Site Consumption of
Alcoholic Beverages in a Banquet Hall'
1907 W. Griffin Parkway
Lots 1-4, Southern Oaks Phase I
C-3
Life of Use
Gonzalo Arevalo Jr.**

Mr. Jaime Acevedo said that the subject site was located 500' west of Inspiration Road along the south side of FM 495 (Griffin Parkway). The site was recently remodeled. The proposed hours of operation would vary depending on the type of activity; however, most events are during the evening and weekends.

The hall is 60' x 120' or 7,200 sq.ft. of which 600 sq.ft. would be used as a dance area and 300 sq.ft. for the band or D.J. Typically parking reflects a need of 63 parking spaces (1 space per 100 sq. ft). A total of 114 parking spaces are held in common at this development. Realizing the fact that most activities will be in the later hours and on weekends when most businesses at this development should be closed, Staff did not anticipate any parking issues;

however, to assure close monitoring of the parking, annual evaluations should occur as commercial infill occurs.

The types of activities would range from weddings, quinceañeras, Christmas parties, reunions, birthday parties, seminars, and business conferences. For the most part, these events typically take place during evening hours from about 7:00 p.m. to 2:00 a.m. Staff noted that the maximum occupancy for this structure has not been established by the Fire Marshal.

The sale and on-site consumption of alcoholic beverages needs to be 300' from residential areas. As seen in the vicinity map, there are at least 12 homes within this radius. P&Z/City Council previously approved a waiver of the 300' separation requirement to Mario's Ballroom, which also has homes across the alley.

Staff recommended approval subject to: **1)** 1 year re-evaluation (to commence from the date alcoholic beverages are sold), **2)** acquisition of a business license, **3)** waiving the 300' separation requirements to area residences, **4)** compliance with Fire Marshal's requirements on occupancy, **5)** construct 5' sidewalks along Griffin Parkway (from west property line to west side of main driveway), and **6)** provide at least 4 shade trees (3" caliper).

Chairman Sesin asked if there was any public opposition.

There was no response.

Chairman Sesin asked if the applicant or representative were present.

Mr. Gonzalo Arevalo was present to answer any questions.

Chairman Sesin asked Mr. Arevalo if the sound insulation was rated to a certain decibel control or what was done for containing the sound within the structure.

Mr. Arevalo replied that it was an R-19 exterior door mainly with an 8" blacken exterior; however, in case something else needed to be done, he was willing to comply.

Mr. Sheats stated that there were a couple of issues that he would like to discuss. He asked if the floor plan submitted was accurate as to what the interior would look like.

Mr. Arevalo replied 'Yes'.

Mr. Sheats stated that he didn't think that the Fire Marshal had approved the floor plan because all the doors except one opened internally and that's not

acceptable for fire safety. He also stated that he noticed that the applicant was going to install a ramp from the stage door, which also opened internally and was going to drop to the alley, and that the door was elevated about 8' if not a little less maybe 6', so if someone was going to get something down they would have to go from 6' to the ground in 20' or less. He also stated that he noticed that there was no space for a dumpster in the entire property. Mr. Sheats stated that he didn't know if the parking on the east was going to be used for the business or only the parking on the left.

Chairman Sesin stated that there were a lot of questions and he didn't know if staff wanted to address them now or later.

Mr. Zavala stated that it would be a good idea to place the item on the "Table" so staff could assess the proposal & raised questions with the applicant.

There being no further discussion, Chairman Sesin entertained a motion. Mrs. Caudle moved to 'Table' the CUP. Mr. Rodriguez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:17 p.m.

Ended: 5:20 p.m.

Item # 1.3

Conditional Use Permit:

**Home Occupation – Beauty Salon
604 Mayberry
W. ½ of Lot 1, and W. 135' of the
S. 16' of Lot 2, Dillard Subdivision
R-1
Life of Use
Silvia Williams**

Mr. Acevedo went over the write up stating that the subject site was located between 6th Street and Leo Najo along the east side of Mayberry Road. The applicant desires to rent this single-family residence for her son to live in and for the proposed beauty salon. If approved the applicant is proposing 2 chairs for her operation, one to shampoo hair and one to cut hair. The applicant would have the capability to service a maximum of 2 clients at a time. Mrs. Williams has the following as her days/hours of operation: Monday – Friday from 10:00 a.m. to 6:00 p.m. with herself as the only employees.

A field visit revealed a residence with a great number of building code violations. Violations included inadequate electrical wiring throughout the residence, faulty plumbing fixtures throughout the structure, and rotted floorboards and walls throughout the residence. Some walls had mold and mildew. In addition there was only 1 paved parking space off of Mayberry Road. Prior tenants of this residence vacated the structure because of all of

the code issues that the owner has failed to address. Based on the unsafe condition of the residence as testified by the City Building Inspector, and given the fact that there is only one paved off-street parking space, this request cannot be supported at this time.

Chairman Segin asked if there was any public opposition.

Mr. Domingo Garcia from 606 Mayberry stated that he was in opposition due to the property not having enough parking. He stated that people park in front of his mailbox impeding mail from being more easily delivered to his home.

Chairman Segin asked if the applicant or representative were present.

There was no response.

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

Started: 5:21 p.m.

Ended: 5:26 p.m.

Item# 1.4

Conditional Use Permit:

**Home Occupation – ‘Sale of Snacks’
3906 N. Inspiration Road
a 4.91 acre tract of land A.K.A. the
South 5 acres of the North 23.02 acres
of Lot 31-1,
West Addition to Sharyland Subd.
AO-I
Life of Use
Raul Saenz**

Mr. Acevedo went over the write up stating that the un-subdivided tract was located between Azalea St. and Cheril Road along the east side of Inspiration Road. Mr. Saenz desires a CUP permitting a home occupation for the sale of snacks located at the above address. The applicant has a 20' x 28' wood-frame SF residence on a septic tank thereon with unpaved driveway access off of Inspiration Road. The applicant has alerted Staff that if approved, he would be expanding the unpaved parking area and installing pea gravel for the occupant and customers as well.

There would be minimal modifications done to the residence. The proposed sales of chips, sodas, and candy would be from the living room area where the applicant intends to display his products. The proposed hours of operation are Monday through Sunday from 10:00 a.m. to 10:00 p.m. Mr. Saenz's tenant

would operate the home occupation. Staff noted that there was a convenience store within 1500'.

Such a CUP with an un-paved parking lot on a major street appears to reflect P&Z's 'denials' to other portable buildings along Mission's major streets. Finally, a required (1-Lot) subdivision for any permit is mandatory to include storm outfall connections to the Mission Lateral as well. Of course, extension of sewer, street widening, and a fire hydrant would also be imposed. Staff recommended denial.

Chairman Sestin asked if there was any public opposition.

There was no response.

Chairman Sestin mentioned for the record that staff received a petition against the request reflecting 25% in opposition.

Chairman Sestin asked if the applicant or representative were present.

Mr. Raul Saenz stated that he was applying for the conditional use permit in order to make a living and that as far as the parking issue, there was ample room to park.

Mr. Acevedo stated that the main concern was that the property was un-subdivided and the house was connected to a septic tank.

Mr. Saenz replied that the property was a homestead and not a commercial property.

Chairman Sestin stated that a part of it was proposed to be used in a somewhat commercial way.

There being no further public input, Chairman Sestin entertained a motion. Mr. Sheats moved to deny the CUP as recommended by staff. Mrs. Caudle seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:26 p.m.

Ended: 5:30 p.m.

Item # 1.5

Conditional Use Permit:

**Home Occupation- 'Construction Office'
1210 Elm Street
Lot 6, Block 4
Pecan Heights Subdivision
R-1
Edward De La Tejera**

Mr. Acevedo went over the write up stating that this item was unanimously approved by the P&Z on July 25, 2007 with the following conditions: 1) compliance with Section 1.56-1 of the Zoning Ordinance, 2) acquisition of a business license, 3) a six-month re-evaluation period, 4) driveway to be 2' from the lot line, 5) a 5' perimeter sidewalk required on Bryan Road and Elm Drive, and 7) a solid wood buffer to the adjoining neighbor to the west. Mr. De La Tejera's remodeling took longer than expected, thus his CUP expired and needed to be re-considered.

The subject site is located at the SW corner of Bryan Road and Elm Drive. Mr. De La Tejera desires a CUP permitting a home occupation for a construction company office located at the above address. Mr. De La Tejera has a corner lot with 96' of frontage to Elm by a 160' lot depth (15,360 sq.ft.) where the home only has access to the minor street. Mr. De La Tejera indicated that a portion of the home would be used for 'office use' to house a designer and two administration personnel. The other portion of the home would be used as a primary residence for one of Mr. De La Tejera's employees.

The proposed office use would operate Monday through Friday from 9:00 a.m. to 6:00 p.m. There will be a total of three employees working out of the home. Section 1.56-1 (a) states: "There shall be no more than one additional unrelated employee other than immediate members of the family residing on the premises." This proposal reflects the resident/employee and 2 others not living at the home; thus violating code. Section 1.56-1 (g) does give the applicant the following option: "With regard to proposed variances to Section 1.56-1(a), (d), and (f), a minimum of 90% of the property owners within a 200' mail-out radius shall provide written support for the proposed home occupation to request variance". Staff has not received the 90% threshold support.

Parking would be via an elongated 4-vehicle carport in the rear of the property and a 2-car driveway along Elm Drive. Mr. De La Tejera asserts that traffic would be minimal and largely by appointment. Staff recommended to Table the request, pending the 90% support via code. If approved, then approval should be subject to: **1)** compliance with Sect. 1.56-1 of the Zoning Ordinance, **2)** acquisition of a business license, and **3)** 1 year re-evaluation.

Chairman Segin asked if there was any public opposition.

There was no response.

Chairman Segin asked if the applicant or representative were present.

Mr. Edward De La Tejera was present to answer any questions.

Chairman Segin mentioned that he would feel more comfortable if the applicant obtained the 90% support from the neighborhood in order for P&Z to consider his CUP.

Mr. Garza agreed with him.

There being no further discussion, Chairman Segin entertained a motion. Mr. Vela moved to 'Table' the CUP as recommended by staff. Mr. Garza seconded the motion. Upon a vote, the motion to 'Table' passed unanimously.

Started: 5:30 p.m.

Ended: 5:34 p.m.

Item# 1.6

Request by Imelda Sanchez for Re-consideration of the Closing Hour for a Registered Home Day-Care at 2811 Oblate Avenue, being Lot 54, Pueblo Del Norte Phase 2

Mr. Zavala went over the write up stating that various statements of "no objection" and 'support' for keeping the hour at 9:00 p.m. were submitted. On June 28, 2000, the CUP was first reviewed by P&Z with the proposed closing hour to be at 5:30 p.m. During the February 2009 consideration, the proposal was to be open until 9:00 p.m. that is un-common for typical day-care service; however, P&Z supported an earlier closing hour being 7:00 p.m. After Mrs. Sanchez alerted the parents (some single moms), this appeared to have induced a hardship on working moms and those that were seeking to further their education via early evening classes. Since the current economic climate is less than stable, perhaps there should be an increased level of understanding by government officials to have this day-care keep the 9:00 p.m. closing hour but only with neighborhood support for it is in their midst that the non-residential traffic would be evident.

In light of the above, Staff has re-considered the closing hour to be retained until 9:00 p.m. but with a perpetual annual re-evaluation by the City of this CUP, i.e., there would be no 'Life of Use' approval. In this way, the neighborhood would have at least an annual opportunity to voice their opinions of this CUP especially in regard to traffic patterns.

Chairman Segin asked if there was any public opposition.

There was no response.

Chairman Segin asked if the applicant or representative were present.

Mrs. Imelda Sanchez was present to answer any questions.

Chairman Sestin mentioned that he wouldn't have a problem approving the hours since it would be evaluated in a yearly manner and there hasn't been any complaints regarding traffic in the previous hearings.

Mrs. Sanchez replied that as far as traffic goes, it's only 1 vehicle at a time.

There being no further discussion, Chairman Sestin 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: 5:34 p.m.

Ended: 5:37 p.m.

Item # 2.0

Single Lot Variance:

**The N. 50' of the E. 100' out of
Lot 12, Block 231,
Mission Original Townsite
1421 Dunlap
R-1
Baltazar & Maria Del Carmen Alba**

Mr. Zavala went over the write up stating that the property is located on the SW corner of Dunlap Avenue and W. 15th Street. The property measures 50' X 100' and currently has an existing sub-standard home. (Though the lot width and area do not meet the City's requirements, it is not uncommon to see this problem, especially in the Old Townsite area, where the majority of lot widths are 50'). The homeowners have met certain criteria (low-income, sub-standard housing, etc.) and have been selected by our Community Development Block Grant Department to have a new home constructed for them. Through the review process, it was discovered that the property had been divided and is a remnant of the remainder of Lot 12. They are required to go through single lot variance process in order to bring the property into compliance with our subdivision code.

The existing home has an existing water service running along the south ROW line of W. 15th Street and currently has a sewer service line running through the property located to the west. Staff recommended that a 4" sewer service line be extended through the ROW along W. 15th Street in order to remove the service from within the property to the west. Since the home currently exists and would not provide any additional impact, the \$200.00 Sewer Capital Recovery Fee and the \$300.00 Park Fee would not be required. Also, the Fire Marshal has reviewed and assessed that a hydrant would not be required, since there is an existing fire hydrant located near the property. Staff did not object to the single lot variance subject to the relocation of the sewer service line along the ROW of W. 15th Street.

Chairman Sestin asked if the applicant or representative were present.

There was no response.

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

Started: 5:37 p.m.

Ended: 5:41 p.m.

Item # 3.0

**Tabled Rezoning: A 32.16 acre tract of land out of
Lot 15-11, West Addition to Sharyland
AO-I to C-3
Thomas R. Winkley**

Chairman Sestin entertained a motion to remove the item from "Table". Mr. Vela moved to remove the item from "Table". Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Zavala went over the write up stating that as the board may recall this property was seen by P&Z on January 14, 2009. Staff had some concerns regarding a C-3 zone located adjacent to the existing residential uses to the south and east. The applicant has re-submitted a new proposal to address staff's concerns.

The site location is approximately 1400' south of Expressway 83 along the east side of Bryan Road. The surrounding zones include 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 General Business (C-3) & Agricultural Open Interim (AO-I) to the north.

The existing land uses reflect the zones described above except for the south side, which is currently vacant, where the zone is I-1. The Future land Use Map reflects a General Commercial (GC) land use designation, which is consistent with a C-3 zone, however, high emphasis was placed on office use to be located to adjoining residential uses.

The applicant's new proposal shows the west most 21 (irregular) acres being C-3 and the perimeter eastern acreage to be C-1. The C-1 typically provides less noisy, less congestive users, where during evening hours is a silent neighbor. The C-3/C-1 proposal acclimates well with the City's surrounding land uses. Staff recommended approval of C-3 to 21.078 portion of Lot 15-11,

West Addition to Sharyland and approval of C-1 to 11.083 portion of Lot 15-11, West Addition to Sharyland.

Chairman Segin asked if there was any public opposition.

There was no response.

Chairman Segin asked if the applicant or representative were present.

Mr. Bryan Jarrett mentioned that Mr. Winkley was the land planner and that he was representing the general partner and he was there to answer any questions.

Chairman Segin mentioned that he wanted to make sure that the applicant had complied with all the concerns that staff had in reference to the C-3 zoning next to a R-1A zone subdivision.

Mr. Zavala replied that they had.

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

3.0 OTHER BUSINESS

Mr. Zavala stated that there were no other issues, but took the opportunity to introduce Sonia Carnes, the Deputy City Manager and that she now oversees the Planning Department's functions and duties.

4.0 ADJOURNMENT

There being no further items for discussion, Mr. Vela moved to adjourn. Mrs. Caudle seconded the motion. Upon a unanimous vote, the meeting adjourned at 5:42 p.m.

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