

**PLANNING AND ZONING COMMISSION
APRIL 15, 2009
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

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

P&Z ABSENT

Raul Sesin

STAFF PRESENT

Sergio Zavala
Bobby Salinas
Jaime Acevedo
Julio Cerda
Sonia Carnes
Roberto Salinas
Susana De Luna

GUESTS PRESENT

Mario R. Anzaldua, MD.
Randy Clark
Lucinda Salinas
Elvia Solenco
Lydia Garza
Lupe Guerra
Mary Estrada

Jesus H. Ruiz
David M. Loflin
Edward Cuellas
Irma Vela
Robert Hinojosa
Javier Borrego
Randy Ramirez

Jaime Sanchez
Roel Buentello
Gonzalo Arevalo, Jr.
Primitivo Gonzalez
Hilda Ordaz
Rogelio Garza

CALL TO ORDER

Vice-Chair Ned Sheats called the meeting to order at 5:09 p.m.

CITIZENS PARTICIPATION

There was no response upon inquiry.

APPROVAL OF MINUTES FOR MARCH 11, 2009

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

Started: 5:09 p.m.

Ended: 5:16 p.m.

Item# 1.1

Rezoning:

**N. 190.5' of the W. 180', save and except
.014 ac. out of lot 24-11
West Addition to Sharyland
C-1 to C-2
Mario R. Anzaldua**

Mr. Bobby Salinas, Subdivision Coordinator, briefed over the write up stating that the subject site was located on the SE corner of Bryan Road and Griffin Parkway. The surrounding zones included Office Building (C-1) to the east and to the west

across Bryan Road, Single Family (R-1) to the south, and Large Lot Single Family (R-1A) to the north across Griffin Parkway. The land uses reflected Medical Offices to the west; all other sides were residential. The FLUM reflected a General Commercial (GC) designation. He stated that the subject property was rezoned C-1 in June 2006. This corner is a very busy intersection with signalization provided to maximize traffic safety and aid the maneuverability into and out of the area properties. However, it was perceived that providing a C-1 zone, which is the least congestive, would transition the property into an office setting to properly blend-in to its surroundings. The concern is that the C-2 district expands the "permitted uses", which include a convenience store with gasoline sales, dry cleaning outlet, self-service laundries, and a small store that sells groceries-meats-dairy products- clothing-etc. We understand that the applicant desires to have a C-2 for a child day care center.

We anticipate a continued transition to commercialism along Griffin Parkway, but it should be done with the acclimation of land uses that would not cause a larger disparity of land uses to its adjoiners. At this time, the existing C-1 zone would better fit the surrounding residential areas. Staff's recommendation was for denial.

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.

Dr. Mario Anzaldua stated that he had been in practice for the past 24 years and bought the property with the intentions of building a medical office and relocating there or leasing some type of medical facility. However, another physician and himself found a different location on Stewart & Griffin Parkway so they intent to relocate there. Dr. Anzaldua stated that he has had this property for sale and he has a person who wants to open a Kindergarten Center which he understood required a C-2 zoning. He mentioned that he would like the committee to consider his C-2 request because he doesn't believe a Kindergarten Center would be an intrusive type of business. He asserted that there would be even less traffic than a medical office adding that a medical office usually had about 100 cars per day going to the office. Dr. Anzaldua stated that the house had a fence for the children to stay in and it was a pretty big lot for a playground. He said there were other daycare centers around Griffin Parkway to the west of the golf course and further believed that the Medical Arts Center to the SW corner of Bryan/FM 495 was zoned C-2 since it included a pharmacy.

Vice-Chair Sheats stated that staff's concern with C-2 was that if the kindergarten didn't work, the C-2 zone would remain with the property where other uses may not be as compatible to the residential neighborhood.

Mrs. Marin asked Mr. Salinas if he could clarify Dr. Anzaldua's comment regarding the possible C-2 at the Medical Arts Center.

Mr. Bobby Salinas stated that the Medical Arts site was zoned C-1.

Dr. Anzaldua asked if the physical therapy was zoned C-2.

Mr. Salinas stated that the physical therapy was also zoned C-1 being a medical office use.

Mrs. Marin asked if there was any C-2 property around the Anzaldua site.

Mr. Salinas replied, "No".

Dr. Anzaldua stated that he believed that any retail business required a C-2 and there was already a retail business within the C-1.

Mrs. Marin stated that she didn't know how the retail was approved but to change from C-1 to C-2, the Board didn't really want the C-2 zoning.

Mr. Garza stated that originally the request was to change the zone to C-1 and he believed it should remain C-1.

There being no further commentary, Vice-Chair Sheats entertained a motion. Mrs. Caudle moved to deny the request. Mr. Garza seconded the motion. Upon a vote, the motion to deny the request passed unanimously.

Started: 5:16 p.m.

Ended: 5:29 p.m.

Item# 1.2

Rezoning:

**A 315' X 315' tract of land
Out of the NE of Lot 13,
Goodwin Tract Subdivision, No. 3
AO-I to C-3
Jesus H. Ruiz**

Mr. Salinas went over the write up stating that the subject site was located approximately 2,000' north of Griffin Parkway along the west side of Inspiration Road. The surrounding zones included Agricultural Open Interim (AO-I) to the south and east, Single Family Residential (R-1) to the north, and Mobile & Modular Home (R-4) to the east. The land uses reflected a main open drain ditch to the west; to the north was the same open drain ditch; to the south was vacant acreage owned by the applicant; and to the east was a part of a main open ditch, a future major street (Inspiration), and mobile home uses. The FLUM showed

this area developing as a Low Density Residential (LD) land use area, which was more consistent with an R-1 zone. C-3 did not comply with the FLUM.

He stated that though the site was nestled within the corner boundaries of an open drain ditch and a future major street, the C-3 zone was still a commercial zone within the midst of residential zones and was in conflict with the FLUM. The FLUM was not 'set in stone' and zonings did not have to match it but unless there was 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. Perhaps once Inspiration Road is widened and if non-residential land uses are transitioning along Inspiration Road, the city could then re-consider the C-3 proposal. Staff recommended denial.

Mr. Zavala stated that staff had received a petition supporting the request late this afternoon from the applicant.

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

There was no response.

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

Representing the applicant, Mr. Jaime Sanchez stated that he would like to thank the Board for allowing them to come forward and present their proposal to them. He added that the City Council remanded the item back to P&Z but as a rezoning. Mr. Sanchez stated that their proposal was based on the Future Land Use Map as far as the MPO map that shows that Inspiration Road would be widened to be 100' ROW. He added that by reviewing this map they have concluded that major roadways do attract commercial uses at a certain point in the future an example would be the widened F.M. 495 which has attracted businesses from McAllen to Mission.

Vice-Chair Sheats stated that in the future it might be a viable position for something commercial but currently it's "in the middle" of low and middle density residences plus within the Future Land Use Map's Low Density Residential area. Also, he said that if they can't get it approved with a conditional use permit, he certainly could not see a C-3 rezoning in that area.

Mrs. Caudle stated that Inspiration Road had not been widened yet and she didn't feel comfortable rezoning to commercial at this time.

Mr. Salinas stated that this area still had a rural pavement section. He added that as the area develops, then the road would be widened.

Mr. Sanchez stated that this area was transforming similar to FM 495. He added that this site had a lot of potential for commercial and that at this point it was the perfect time for them and for the city to convert this property to commercial.

Mrs. Caudle asked if the property in the back had been subdivided.

Mr. Sanchez stated that this property was not subdivided yet but they were proposing to have C-3 along Inspiration Road and residential in the back.

Mrs. Caudle stated that when they subdivide a property they usually transition from higher density to something lower.

Mr. Zavala stated that the Future Land Use Map was important because more than likely it might be updated as development occurs.

Mr. Mario Garza asked if this project would help in the widening of Inspiration Road.

Mr. Zavala stated that it wouldn't hurt because the first thing that the applicant would have to do is subdivide and they would have to escrow the money for the widening or widen their frontage.

Mr. Garza asked if this could be considered under a C-2.

Mr. Zavala stated that it would not be allowed under the current C-2 but they could consider amending the C-2 zone to possibly allow it under a conditional use permit.

Mr. Rodriguez asked Mr. Zavala when he anticipates that Inspiration Road would be widened.

Mr. Zavala stated that it would not be soon. He added that a lot of the ROW had been dedicated and Mission had some escrowed amounts but there were no current plans to do the widening from the Edinburg Canal to 2 Mile Road.

There being no further discussion, Vice-Chair Sheats entertained a motion. Mr. Garza moved to approve the C-3 zone. Mr. Rodriguez seconded the motion. Upon a 3-3 vote, the motion was defeated. (Mr. Garza, Mr. Rodriguez, and Mr. Vela voted to approve the C-2; Mrs. Caudle, Mrs. Marin, and Mr. Sheats voted to against the motion).

Started: 5:29 p.m.

Ended: 5:34 p.m.

Item # 1.3

**R-1A
Life of Use
Randy Clark**

Mr. Acevedo went over the write up stating that the subject site was at the SW corner of Hackberry Avenue and Nicole Drive. The applicant has his SF residence thereon with paved driveway access off of Nicole Drive. Mr. Clark has the following as his days/hours of operation: Monday-Saturday from 9:00 a.m. to 6:00 p.m. with himself as the only employee.

On this vacant lot, a 24' wide driveway leading to a two-car garage will be built as far away from the intersection as possible. This area will be used to provide four off-street parking spaces. There will also be a sidewalk leading from the driveway to the home's front door. If the proposed beauty salon with 1 chair is approved, the 12' X 13.5' breakfast room in the house will be converted into a beauty salon. This room has its own door that opens to the front porch (customers don't have to come in through the front door) as well as access to a shared bathroom. The applicant will have the capability of serving 1 client at a time. The operation will be solely by appointment via word of mouth through friends and acquaintances. Walk-ins will not be solicited nor permitted. Staff recommended approval subject to: 1) must acquire a business license, 2) comply with Sect. 1.56-1 of the Zoning Ordinance, and 3) 6 month re-evaluation since along a short residential collector street.

Mr. Acevedo mentioned that staff had received an e-mail in opposition to this request. The e-mail was sent by Humberto Martinez of 2425 Norma Drive.

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

There was no response.

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

The applicant, Mr. Randy Clark, stated that he wanted the Board to consider his request to have a Beauty Salon so make money for himself and to provide good hair for the community. He added that it would only be himself and it would be by appointment only from 9 a.m. - 6 p.m. Mr. Clark mentioned that he would adhere with the State Regulations. He added that he would also need to get the State approval. Mr. Clark added that the room is about 160 sq. ft. with its own private entrance and also its own private bath. The door that leads into the home from the salon had to be locked per State regulations, he added. Mr. Clark said he would service one person at a time and would not accept any walk-ins. Mr. Clark stated that he had about 3 more months until the home was completed.

Vice-chair Sheats stated that currently there was opposition from the neighbors since the subdivision may not be fully built out. He observed that Clark had already built the house to accommodate this non-residential feature.

Mr. Clark stated that he had asked Brito, the construction company and owner of the subdivision, if it would be 'okay' with them. According to the applicant, Brito said they didn't have a problem with this home-based occupation being built in their residential subdivision.

Vice-chair Sheats asked if there were any existing CCR's for that particular subdivision that addressed businesses in this residential area.

Mr. Clark replied, "No" – there was no restriction on this.

Mrs. Marin asked if he would be advertising his business.

Mr. Clark stated that he would not be advertising it would only be by word of mouth from the clients he already had.

Mrs. Caudle stated that she had a concern with this because the subdivision was not fully built out and the future neighbors wouldn't have input on this request. She added that all of them would like not to rent a place for the business and have it in their home but that was not what residential living was all about. Mrs. Caudle stated that she didn't feel very comfortable because there was insufficient on-site residents to voice an opinion on it.

Mr. Clark stated that his house was on the corner and the lot next to him was empty. The owners were trying to sell the lot, which he has considered purchasing just to increase their land value.

Mr. Zavala asked Mr. Clark if he was sure that there weren't any restrictions that would prohibit this type of request.

Mr. Clark replied, 'that not that he was aware of.'

Mr. Zavala mentioned that if the Board considered this fact to be an important component to make a decision, then they could 'Table' the item until staff finds out if they have any restrictions and, if so, when were they recorded.

Vice-Chair Sheats stated that considering that the subdivision was not fully built out and there appeared to be a question on whether CCRs governed this anyway, he would recommend to 'Table' the item.

Mr. Henry Rodriguez asked Mr. Clark if he had already informed the State Licensing of the beauty salon from his home.

Mr. Clark stated that he had not notified the State of his proposal yet.

Mr. Rodriguez stated that it would be in his best interest to apply with the State first.

Mr. Clark stated that through his State Regulations book, he knows that the room needs to be at least 150 sq. ft., a private separate entrance, and that the door leading to the home needed to be locked during business hours.

The Vice-Chair reiterated the Board's lack of comfort and suggested tabling the item until staff confirmed if this use wasn't prohibited in their restrictions.

There being no further public input, Vice-Chair Sheats entertained a motion. Mr. Garza moved to 'Table' the CUP. Mr. Vela seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:43 p.m.

Ended: 5:46 p.m.

Item # 1.5

Conditional Use Permit:

**Portable Building-Sale of Water
213 E. Expressway 83
Lot 3, El Pueblo Subdivision Phase I
C-3
10 years
David M. Loflin (Watermill Express)**

Mr. Acevedo went over the write up stating that Mr. Loflin desired a CUP to be allowed to place an 8' diameter portable structure for the sale of water at the Conway Plaza Shopping Center located at 213 E. Expressway 83. The self-sustained, fully automated, Watermill Express will operate 24-hours a day/365 days a year. A Watermill technician will conduct a service inspection on a daily basis to ensure that the water-dispensing unit is clean and functioning properly. B-Y Western Valley LTD (San Antonio, TX) has authorized Mr. Loflin to set in the parking area just east of the National Lube & Tire upon receiving a Conditional Use Permit. Although the site plan shows that only 1 parking space will be eliminated, the reality is that once the concrete bollards are installed the proposed structure will actually take up two parking spaces. The removal of two parking spaces from this commercial development will not impact the required parking spaces for this commercial development and customer parking will remain as to what is currently available to the stores customers. All building setbacks will be complied with. In addition to what is shown in the site plan, concrete bollards will be installed all around the perimeter of the structure to provide additional safety for its customers. Staff recommended approval subject to: 1) 1 year re-evaluation, and 2) acquire a business license.

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

There was no response.

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

Representing Watermill Express, Mr. David M. Loflin, was present to address any questions that the Board might have.

Vice-Chair Sheats asked if there was enough lighting in the parking lot since he was not familiar with the area. Staff replied in the affirmative.

(NOTE: Mrs. Caudle left at 5:46 p.m. to a previous commitment).

Mr. Acevedo stated that it complied and exceeded the City's requirements.

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

Started: 5:46 p.m.

Ended: 5:46 p.m.

Item# 1.6

Conditional Use Permit:

**Portable Building-Sale of Water
1901 W. 3 Mile Road
Lot 11, Block 4, Taurus Estates # 9 Ph. I
C-3
Life of Use
David M. Loflin (Watermill Express)**

Mr. Acevedo suggested that this item be tabled since the Zoning Board of Adjustments had denied the variance and the applicant needed to find an alternate location.

There being no discussion, Vice-Chair Sheats entertained a motion. Mr. Garza moved to 'Table' the request. Mr. Vela seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:47 p.m.

Ended: 5:51 p.m.

Item # 1.7

Conditional Use Permit:

**Repo-Service "Office Use" in an
Agricultural Open Interim Zone
2500 N. Moorefield Road
A 10.00 acre tract excluding the 1.14 ac.**

**out of Lot A, Millers Subdivision
AO-I
2 Years
Roel Buentello**

Mr. Acevedo went over the write up stating that the subject site was ¼ mile north of Griffin Parkway (FM 495) along the east side of Moorefield Road. The applicant desires a Conditional Use Permit for a Temporary Repo-Service "Office Use" from an AO-I site. Since Mr. Buentello will be temporarily leasing the site, a CUP was considered as a viable alternative.

Currently, there was a 1,500 sq.ft. masonry home on the property that the applicant would be leasing for his office. If approved, the applicant was also proposing to construct a 90' X 80' fenced-in impound area for the repossessed vehicles. This area will have a solid mesh screen all around the perimeter and will be used for short-term vehicle storage. Driveway access will be via an existing paved driveway but provide 4 paved parking spaces along the north side of the structure. This will provide parking for staff and for any customers that make payment arrangements and are allowed to go pick up their vehicles. Mr. Buentello proposed the following as his days/hours of operation: Monday-Friday from 8:00 a.m. to 5:00 p.m. with 1 full time employee and 2 part-time drivers as the only employees. There will be minimal interaction with customers on-site. Once a vehicle is picked up or repossessed, it will be impounded on the property until delivered back to the financial institution or to the owners who would show proof of payment thus allowing them to pick up the vehicle. Mr. Buentello has alerted Staff that only 1 in 10 repossessions are returned back to owners, 90% of the repossessions get delivered back to the banks or financial institutions. There will be no ground pole sign. Staff recommended approval subject to: 1) acquisition of a business license, 2) installation of a screened buffer along the north side of the property, 3) installation of at least 4 paved parking spaces, and 4) re-evaluation in 1 year.

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

There was no response.

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

The applicant, Mr. Roel Buentello who resides at 7004 N. 16th Street in McAllen, was present to address any questions that the Board might have.

Mr. Mario Garza asked if he was interested in converting this place into a junk yard.

Mr. Buentello replied, "No", adding that he actually wanted to make it more 'beautiful' than what was currently there.

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

Started: 5:51 p.m.

Ended: 6:03 p.m.

Item # 1.8

Conditional Use Permit:

**Home Occupation- "Private
Tutoring Classes"**

1501 E. 29th Street

R-1A

Life of Use

Lucinda Salinas

Mr. Acevedo went over the write up stating that the subject site was located between Lilac Avenue and Stewart Road along the north side of E. 29th Street. The applicant, a Certified School Teacher, had previously expressed that this 'tutoring would not be pursued'. A field visit revealed that there is an 18' wide driveway leading to a two car side-entry garage. This area is used to drop off and pick up children as well as providing off-street parking (up to 4 vehicles) for the applicant and customers. The applicant uses her dining room to conduct her instructional sessions, which is near the front entrance.

Mrs. Salinas has the following as her days/hours of operation: Monday-Friday from 5:00 p.m. to 6:30 p.m. with herself as the only employee. Since the tutoring classes are one-on-one, the applicant serves one client at a time. Staff understood that Mrs. Salinas would tutor 1 to 2 students per week. The operation is solely by appointment via word of mouth through friends and acquaintances. Walk-ins are not permitted. Since the applicant will only tutor the kids, DHS certification is not a requirement of the State. The applicant has alerted Staff that she does not desire any signage. There was a letter of opposition as well as an e-mailed transmittal from the President of the Homeowner's Association citing a violation to the contractual CCR's. Staff recommended denial since the service was unlawfully established, continued, and appears to be disrupting the residential neighborhood.

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

In opposition, Mr. Robert Hinojosa who resides at 1310 E. 29th Street, stated that he was the Director of the Home Owners Association and that the deed restrictions prohibited any type of commercial activity. He added that they don't

want to set any precedence for any kind of commercial activity being established in any of the homes within the subdivision.

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

The applicant, Mrs. Lucinda Salinas who resides at 1501 E. 29th, stated that she was not aware of the association's regulations prohibiting tutoring at her home. She had asked Mr. Chris Hinojosa 2 years ago when she purchased the lot about such tutoring service and he told her that there was no restriction as long as it was not very large. She stated that she has been a school teacher for 18 years and she believed strictly in the 'No Child Left Behind' law. Mrs. Salinas stated that she helps the children basically two or three months during the school year which is usually in the TAAS season. She had 1 or 2 children only. She mentioned that she had an alarm system with a panic button to safeguard her home's occupants. Mrs. Salinas stated that she would strictly go by the City's recommendation. She was not aware that she was in violation of any private restrictions and by no means would she want to go against any regulation. She alleged that there were other home based businesses in the area but did not disclose where.

Vice-Chair Sheats stated that a subdivision's CCR's are recorded with the County regardless of what the seller told her. In fact, at closing the property, there is a form that you would sign that recognizes the CCR's and that you know they are in existence along with Home Owners Association.

Mrs. Salinas mentioned that when she purchased the lot there was no Home Owners Association.

Vice-Chair Sheats stated that Mrs. Salinas told staff that she was not going to pursue the tutoring but evidently it still occurred.

Mrs. Salinas stated that he was correct because she had no children to tutor "until some kids asked" her to. She mentioned that it was not an on-going thing. She added that last week she only had 1 child one day for an hour; it was not consistent all the time.

Again, Mrs. Salinas stated that she was not aware of the CCRs prohibition, and the when she purchased the lot 'there was no Home Owners Association' and, under that impression, they purchased the lot.

Mrs. Marin stated that since her lot was not commercially zoned and it's one child here and there, why didn't she contact the Home Owners Association to see if it could be resolved at that level.

Mrs. Salinas stated that the tutoring was only during TAAS season and when they do Benchmarks at school.

Mr. Garza asked Mr. Zavala if the applicant had the right to approach the Board of Directors to discuss these issues.

Mr. Zavala stated that usually in upscale subdivisions, they have CCR's against home-based operations though said CCRs do not define what qualifies as a business operation. He added that a similar case was seen a few months ago north of City Hall where Staff nor P&Z thought it (piano playing) would be disruptive but evidently it was and, knowing that Mr. Hinojosa alerted Staff that this business was in violation of their codes to disrupt their neighborhood, now it meant something more. Mr. Zavala mentioned that the applicant could approach the Board of Directors of their subdivision and have them discuss this among themselves. If this was a viable alternative, P&Z could 'table' the item pending the results of those deliberations. He added that this came to us through a complaint thus requiring a Staff response. Mr. Zavala stated that he was told in January 2009 that she would not be pursuing this and then was surprised to hear in March/April that it was ongoing. He concluded that the proper procedure should have been for the applicant to approach the City to secure the CUP once she had decided to re-activate tutoring services from her residence.

Vice-Chair Sheats stated that usually most subdivisions have the CCR's in place prior to the lots being sold; that was not something that comes afterwards. He asked if staff knew when were the CCNR's were approved. Mr. Robert Hinojosa had a copy of the recorded CCRs and disclosed this to P&Z.

There being no further discussion, Vice-Chair Sheats entertained a motion. Mr. Vela moved to 'Table' the CUP pending the outcome of the discussion between the applicant and the HOA. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:07 p.m.

Ended: 6:10 p.m.

Item # 2.0

Single Lot Variance:

**A .80 ac. tract of land out of Block "J"
Wright Addition Subdivision
R-3
Eduardo Cuellar**

Mr. Salinas went over the write up stating that the property was located directly east of the intersection of Seitz and E. 11th Street. This irregular shaped property measures approximately 170' X 215' with a 40' X 39.66' notch cut out of the NE area of the property. The applicant wishes to construct 14 (2 bedroom) apartments on the subject property.

The property has access to an existing 8" sanitary sewer line running along Seitz and a 6" sanitary sewer line running along the alley located to the north of the property. There is also a 6" waterline running along Seitz and a 2" waterline running along alley located on the north side of the property. The applicant will have to upgrade the existing 2" waterline to meet the City's minimum of an 8" waterline for multi-family uses. The Fire Marshal has also reviewed the subject property and requires one additional fire hydrant along the future entrance to the apartment complex. The property abuts Seitz, which is an existing 30' B-B street. Staff will require an additional 10' utility easement dedication along Seitz for possible utility use. Staff is also requiring that the applicant be responsible for ½ of the improvement value of the alley on the north, i.e., 50% of the cost to pave. On other comments park fess of \$300.00/Unit X 14 units =\$4,200.00, Capital Sewer Recovery Fee - \$120.00/Unit (2 bedroom) X 14 units =\$1,680.00, install 5' sidewalks at building permit stage, and water district exclusion, if required.

Staff recommended approval subject to: 1) install 5' sidewalks at building permit stage, 2) payment of park fees & capital sewer recovery fees, 3) upgrade the existing 2" waterline to an 8" waterline, 4) escrow for the improvement of ½ the alley, 5) install 1 additional fire hydrant, 6) dedicate a 10' utility easement along Seitz by separate instrument, and 7) water district exclusion, if required.

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

Applicant Eduardo Cuellar stated that he was in the process of purchasing the property but wanted to make sure he could build on it.

Mr. Garza asked Mr. Cuellar if he was in agreement with staff's recommendations.

Mr. Cuellar stated that he was in agreement and although he was unaware of the easement, he was receptive to it anyway.

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

Started: 6:10 p.m.

Ended: 6:14 p.m.

Item # 3.0

Discussion and Action to Amend the Future Land Use Map in the following boundaries: Inspiration Road to the East: the Rio Grande to the South; Bates Road to the West: and Bus. HWY. 83 to the North (maximum parameters aside from ETJ-agreed upon boundaries)

Mr. Zavala went over the write up stating that a brief synopsis of Staff's recommendation were as follows:

PUD = The Bentsen Palm PUD development which has a myriad of land uses which will complement each other; the various uses include Mobile home lots, RV Spaces, Residential lots, etc.

P= Typically this includes the Fish & Wildlife reserve areas.

LD= The perimeter areas to the north of Bentsen Palm's PUD are typically in R-1 settings and can easily be filled-in with such uses; though there are several mobile home neighborhoods, these should be LD to represent to others the long-range future intent of the City on what would be a better use of property. Also, the Danny Acevedo property to the east of Bentsen Palm Mobile Home Subdivision should be LD to reflect a SF Residential setting.

GC= The SW corner of Bus. HWY. 83/Railroad and Schuerbach Road would be better represented as General Commercial due to the features of the Railroad, adjoining an arterial street, facing a c-3 zoned & used commercial corner to the SE.

We note that once the SW Loop bi-sects this region, the FLUM will likely need to be amended to factor in this significant feature.

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

There was no response.

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

Started: 6:14 p.m.

Ended: 6:21 p.m.

Item # 4.0

Tabled

Conditional Use Permit:

**'Sale and 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.**

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

Mr. Zavala went over the write up stating that this item was tabled by the P&Z on March 11, 2009 to assess the trash bin location, height of the rear door for alley access, and the Fire Marshal's requirements.

In regards to the concerns expressed last time, they include:

- ❖ Rear door & ramp: the rear door is 2.5' from ground level; with the rear of the building being approximately 14.2' from the paved alley, any offloading van/truck will not impede alley traffic.
- ❖ Dumpster location: the dumpster will be located to the SW corner of the building, e.g., where the alley turns; the front-loading truck can easily maneuver to pick it up.
- ❖ Sound insulation: aside from what was said by the applicant during the last meeting, no other data has been provided as of this writing.
- ❖ Fire Marshal's Review: The Fire Marshal has required a sprinkler system due to the new prevailing building codes and occupancy levels (being 158 with no dance floor feature OR 185 with a dance floor feature); the doors will be switched so they swing out; other items will be imposed via the Fire Marshal's review (extinguishers, exit signs, etc.)

The hall is 60' X 120' or 7,200 square feet. Typical parking requires 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 does not anticipate any parking issues; however, to assure close monitoring of the parking, annual evaluations should occur as commercial infill occurs since there were adjoining vacant commercial lots.

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 the radius. P&Z/City Council previously approved a waiver of the 300' separation requirement to Juancho's (lying to the north), which also has homes across the alley.

If the sound insulation data satisfies P&Z, then a favorable recommendation could be entered subject to: 1) a 1 year re-evaluation of noise and parking issues, 2) acquisition of a business license, 3) waiving the 300' separation requirements to area residences, 4) compliance with Fire Marshal's requirements, 5) construct 5' sidewalks along Griffin Parkway (from west property line to west

side of main driveway), 6) provide at least 4 shade trees (3" caliper), and 7) installation of a fire hydrant.

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

There was no response.

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

The applicant Mr. Gonzalo Arevalo, Jr. was present to address any questions that the Board might have.

Vice-Chair Sheats stated that they had no other information about the sound insulation especially since the building was very close to the residential neighborhood to the back. He asked how Mr. Arevalo was would keep the noise from filtering out.

Mr. Arevalo stated a 4" layer of insulation material would be provided to the structure to maximize the sound insulation.

Vice-Chair Sheats stated that by installing that, he would be in compliance with the Fire Marshal's foam insulation requirements and internal durability.

There were no further questions form P&Z; in that regard, Vice-Chair Sheats entertained a motion. Mr. Rodriguez moved to approve the CUP as recommended by staff. Mrs. Marin seconded the motion. Upon a vote, the motion passed unanimously.

3.0 OTHER BUSINESS

There was none

4.0 ADJOURNMENT

There being no further items for discussion, Mr. Rodriguez moved to adjourn. Mrs. Marin seconded the motion. Upon a unanimous vote, the meeting adjourned at 6:22 p.m.

Ned Sheats, Vice-Chairman
Planning and Zoning Commission