

**PLANNING AND ZONING COMMISSION
APRIL 29, 2009
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

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

P&Z ABSENT

Henry Rodriguez

STAFF PRESENT

Sergio Zavala
Bobby Salinas
Jaime Acevedo
Sonia Carnes
Irasema Dimas

GUESTS PRESENT

Jose Rojas
Gabriel Aguilar
Gabriel Aguilar Jr.
Mariano Garcia
Mike Broughon
Jesse Muñiz
Fernando Cantu
David M. Loflin
Lucinda Salinas
Randy Clark
Romeo Ramon

CALL TO ORDER

Chairman Sesin called the meeting to order at 5:00 p.m.

CITIZENS PARTICIPATION

There was no response upon inquiry.

APPROVAL OF MINUTES FOR APRIL 15, 2009

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

Started: 5:00 p.m.

Ended: 5:04 p.m.

Item# 1.1

Conditional Use Permit:

Institutional Use

**0.43 of one acre of land out of an
Abandoned Canal ROW adjacent to the
east of Lot 156, Sharyland Orchards**

AO-I

Life of Use

Sharyland I.S.D.

Mr. Zavala went over the write up stating that the applicant is proposing the use of the previous residential structure as an instructional facility for general

purposes, such as: Physical Education, Career & Technology, and various other programs.

Mr. Zavala stated that the site was located at the easternmost area of Sunset Lane, on the south side. The property includes several structures but only the primary structure and the carport would remain; all other accessory buildings will be demolished and removed. After fully complying with the City's subdivision codes, S.I.S.D. will obtain a permit for interior remodeling to include additional restroom facilities. Sole access to the facility will be from the south. There will be no access onto Sunset Lane, thus having zero impact on the existing residential neighborhood. The Fire Marshal is requiring 1 fire hydrant to meet fire code requirements, inclusive of proper looping. There will be four new paved parking spaces provided along the south side of the property that would use the S.I.S.D. drive as the maneuvering lane.

Similar to what was done to the west, the applicant was again proposing to install an 8' opaque buffer along the north and west side, plus repair/replace some fencing along the south side of the property. The applicant was proposing to keep all of the existing trees unless they are in the way of a fence line, plus plant a landscape buffer along Sunset to minimize the visibility of the fence and to deter any form of vandalism. Staff recommends approval subject to: **1)** meet subdivision code, **2)** rezone to R1-A, **3)** install fire hydrant, and **4)** meet all fire code requirements.

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

There was none.

Chairman Sesin asked if the applicant or representative were present.

Representing Sharyland I.S.D., Mr. Jesse Muñiz was present to address any questions that the Board might have.

There being no discussion, Chairman Sesin entertained a motion. Mr. Sheats moved to approve the request as recommended by staff. Mr. Vela seconded the motion. Upon a vote the motion passed unanimously.

Started: 5:04 p.m.

Ended: 5:06 p.m.

Item# 1.2

Conditional Use Permit:

**Portable Building – Sale of Water
2205 N. Inspiration Road
Lot 18, Southern Oaks Subdivision
C-3
Life of Use**

Jose Rojas (Aqua Blue)

Mr. Zavala stated that he was just handed a new site plan that was submitted by the applicant just before the meeting.

Chairman Sesin stated that since they didn't have the correct site plan, the board should table the item. He also stated that from now on he would like to see site plans drawn up to scale showing all the dimensions and what's existing.

There being no discussion, Chairman Sesin entertained a motion. Mr. Sheats moved to 'Table' the item. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:06 p.m.

Ended: 5:09 p.m.

Item # 1.3

Conditional Use Permit:

Portable Building – Sale of Water

1500 W. Business Highway 83

Lot A, Mission Acres Subdivision

C-3

Life of Use

Jose Rojas (Aqua Blue)

Mr. Zavala stated that the applicant also submitted a new site plan for this item, but that the only change was the location of the water line. He then went over the write up stating that Mr. Rojas desires a conditional use permit to place a 8' diameter portable structure for the sale of water in Lot A, Mission Acres Subdivision for E-Z Mart at 1500 W. Business Highway 83. The self-sustained, fully automated, Aqua Blue would operate 24-hours a day/365 days a year. A technician would conduct a service inspection on a regular basis to ensure that the water-dispensing unit was clean and functioning properly. Mr. Armando Cantu has authorized Mr. Rojas to be in the parking area west of his store's parking. The current store has 16 striped parking spaces: 11 were required for E-Z Mart and 4 of the remaining 5 were required for portable building that currently sells hamburgers and hotdogs also on Lot A. Any conditional use permit operation wishing to conduct business would require an additional 3 parking spaces for a total of 19. However, as we've done in the past, the gas island's parking stalls could equip at least 4 cars; thus being barely compliant.

Other bullet-point comments include:

- ❖ This second portable building along a major thoroughfare's corner to an arterial (Los Ebanos) with bollards was not aesthetically conducive.

- ❖ Portable structure would hopefully not impede driveway interface to the west (in the future).
- ❖ The water and drain were in the area where a future site-built building would be located.
- ❖ Cars parking 'here and there' to use the Aqua Blue structure may impede maneuverability to cars entering/existing and especially with driveway interface to the west.

Staff recommends denial.

Chairman Sesin stated that since the applicant is not showing what existed and or future cross-access, the board should table the item.

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

Started: 5:09 p.m.

Ended: 5:19 p.m.

Item# 1.4

Conditional Use Permit:

**Sale & On-Site Consumption of
Alcoholic Beverages in a Bar Setting
1626 E. Griffin Parkway, Suite C
Lots 2-4, Stewart Village Ph. I Subd.
C-3
Life of Use
MTY Lounge**

Mr. Zavala went over the write up stating that the subject site was near the SE corner of Stewart Road and Griffin Parkway (East of United Drive In). A 3,994 sq. ft. section of the 8,674 sq. ft. building would be used by Mr. Cantu for the proposed bar. In addition, Mr. Cantu has also alerted staff that he plans on adding a 351 sq. ft. balcony or second level for a grand total of 4,345 sq. ft. He would be open 4 hours (10:00 p.m. to 2:00 a.m.) on Wednesday – Saturday. Mr. Cantu plans on having 10-12 part-time employees with a maximum of 7 per shift. Parking reflects several hundred parking spaces held in common for this commercial area. After conferring with the applicant, there would be live music at this bar. As of this writing, no specifics for sound insulation have been conveyed to staff.

A visit to Stewart Village revealed that this family-oriented center has several well-established businesses including Kids Rock, a children's party place that occupies the southern half of the building where Mr. Cantu's bar would be. Although most of the children's parties are held during the day, Kid's Rock does have the option of having parties that may extend into the evening hours

on weekends, causing some overlapping. Palm Valley Church and St. Peter & St. Paul are within 500' of the proposed bar and Little Crayons Day Care is within 300' of the proposed bar. The Fire Marshal has alerted staff that a sprinkler system would be required for the proposed use.

Over the past several years, the City denied smaller scale bar setting proposals at:

- 4th and Conway
- 601 E. Business Highway 83 (Formerly Rolie's)
- 1302 N. Conway
- 411 N. Conway
- 2701 E. Griffin Parkway

Having a 4,345 sq. ft. bar in the midst of family-oriented businesses with a substandard site plan with no data on sound insulation, and nearby church property, staff cannot support this conditional use permit. Staff recommended denial.

Chairman Sesin asked if there was any public opposition.

There was no response.

Chairman Sesin asked if the applicant or representative were present.

The applicant, Mr. Fernando Cantu was present to answer any questions that the Board might have.

Chairman Sesin stated that he was concerned that the other already established business would have a problem.

Mr. Fernando Cantu stated that he talked to the owner of Kids in Action and she had said that she wouldn't have a problem because she closes at 9:00 and the bar would be opening up at 10:00.

Chairman Sesin asked Mr. Cantu what he was proposing as sound insulation.

Mr. Cantu replied that since previously there was a church he assumed that there was some type of sound insulation and as of today the applicant had not submitted any information regarding the sound insulation.

Mrs. Caudle questioned the total amount of parking spaces. She knew that Mario's Banquet Hall and Cornerstone take most of the parking and was concerned that there wouldn't be sufficient parking for this establishment.

Mr. Zavala replied that he did not know the total amount of the parking spaces and that Balli's Catering also holds smaller parties.

After a brief discussion, Chairman Sesin entertained a motion. Mrs. Caudle moved to deny the CUP as recommended by staff. Mrs. Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:19 p.m.

Ended: 5:21 p.m.

Item # 2.0

Tabled

Conditional Use Permit:

Portable Building – Sale of Water

1901 W. 3 Mile Road

Lot 11, Blk. 4, Taurus Estates #9 Ph. I

C-3

Life of Use

David M. Loflin (Watermill Express)

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

Mr. Zavala went over the write up stating that Mr. Loflin desires to place an 8' diameter portable structure for the sale of water at Leo's Drive-In Convenience Store/Exxon fueling station located at the SW corner of Inspiration Road and 3 Mile Road. The self-sustained, fully automated, Watermill Express would operate 24 hours a day/365 days a year. A Watermill technician would conduct service inspections on a daily basis to ensure that the water-dispensing unit was cleaned and functioning properly. Leo's Drive-In has authorized Mr. Loflin to be in the parking area just west of the store. The site plan shows that only 2 parking spaces would be eliminated and that the 10' corner setback would be met. The removal of two parking spaces from this commercial establishment development would not impact the required parking spaces for this commercial establishment realizing that 'real' parking also occurs in the gasoline islands.

Staff recommended approval subject to: **1)** 1 year re-evaluation to assess internal traffic circulation and incidence on any on street parking, and **2)** acquiring a business license.

Chairman Sesin asked if there was any public opposition.

There was no response.

Chairman Sesin asked if the applicant or representative were present.

The applicant, Mr. David M. Loflin was present to answer any questions.

There being no discussion, Chairman Sesin entertained a motion. Mr. Sheats moved to approve the CUP as recommended by staff. Mr. Vela seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:21 p.m.

Ended: 5:23 p.m.

Item# 3.0

Tabled

**Conditional Use Permit: Home Occupation- Private Tutoring Classes
1501 E. 29th Street
Lot 52, Heritage Park Subdivision
R1-A
Life of Use
Lucinda Salinas**

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

Mr. Zavala went over the write-up stating that this item was tabled by P&Z on April 15, 2009 to allow the applicant and the Homeowners' Association time to address the proposed home occupation. The applicant obtained written support with specific boundaries from the President of the Homeowners Association of Heritage Park to move forward with the conditional use permit.

Mr. Zavala stated that the subject site was located between Lilac Avenue and Stewart Road along the north side of E. 29th Street. 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.

Since the matter between Mrs. Salinas and the Homeowners' Association has been resolved. In conferring with Mr. Hinojosa, the encumbrance was that tutoring was not objected for no more than 3 total students and only between the months of January through July. In order to keep oversight and with continuing input from the neighbors, an annual re-evaluation was strongly recommended.

Staff also notes that there remains one letter in opposition (De Los Santos).

Staff recommended approval subject to: **1)** no more than 3 students between January and July, **2)** must acquire a business license, **3)** comply with Section 1.56-1 of the Zoning Ordinance, and **4)** annual re-evaluation.

Chairman Sesin asked if there was any public opposition.

There was no response.

Chairman Sesin asked if the applicant or representative were present.

The applicant, Mrs. Lucinda Salinas was present to answer any questions.

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

Started: 5:23 p.m.

Ended: 5:27 p.m.

Item # 4.0

Tabled

**Conditional Use Permit: Home Occupation – Beauty Salon
2426 Nicole Drive
Lot 48, Orchards at Shary Road Subd. Ph. I
R1-A
Life of Use
Randy Clark**

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

Mr. Zavala went over the write up stating that this item was tabled by P&Z on April 15, 2009 to assess whether the proposed non-residential use would violate established CCR's. P&Z may recall that the applicant testified that there was no restriction prohibiting a business use in this neighborhood. After

reviewing the CCR's, the proposed business would be in violation to Section 2.01 and 2.13 of the restrictions.

Upon reviewing the minutes on this item, there was a definite concern of not having enough of the residential Lots built-out yet. Thus future home owners in the area would purchase Lots, like the applicant did, with expectations that Section 2.01 and 2.13 were enforceable, i.e., no businesses. In spite of Mr. Clark's testimony to the contrary, there were recorded CCR's and, faced with continuing opposition to the applicant's home not yet fully built, staff needed to recommend against this conditional use permit.

Note: Once there are substantial build-outs, this conditional use permit may be re-considered.

Chairman Sesin asked if there was any public opposition.

Mr. Romeo Ramon from 2421 Nicole stated that he has been trying to sell his property and that he wouldn't want to jeopardize any potential sell due to having a neighbor with a business in the house with neon signs on the wall or in the yard.

Chairman Sesin asked if the applicant or representative were present.

The applicant, Mr. Randy Clark was present to address any questions that the Board might have.

Chairman Sesin asked Mr. Sheats what his concerned was in the previous hearing.

Mr. Sheats replied that his main concern was that the subdivision was not fully developed and he wanted to give the future owners the opportunity to voice their opinions.

Chairman Sesin agreed with Mr. Sheats' concerned and informed Mr. Clark that it would be best for him to apply later, when the subdivision was fully developed.

After a brief discussion, Chairman Sesin 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: 5:27 p.m.

Ended: 5:29 p.m.

Item # 5.0

Single Lot Variance: A .48 ac. tract of land being the N. 60'

**Out of a 1.0 acre tract of Lot 24-1,
West Addition to Sharyland Subdivision
R-3
Gabriel Aguilar, Jr.**

Mr. Zavala went over the write up stating that the subject site was located 500' south of Griffin Parkway along the east side of Inspiration Road. The property measures 60' x 348.5', in which the applicant wishes to construct a single family home. The property has access to an existing 12" sanitary sewer line running along the west side of Inspiration Road. Public Works has reviewed the site and mentioned that a stub out has been provided for the property. There is an existing 6" asbestos waterline running along Inspiration. The City's master plan for water shows a future 12" waterline along Inspiration Road. The applicant will be responsible to only escrow the 12" waterline for their portion of frontage to Inspiration. The City Engineer has determined the cost to be \$1,320 (\$22/l.f. x 60'). The Fire Marshal is requiring 1 additional fire hydrant along Inspiration Road to be escrowed at \$2,400/hydrant. (NOTE: Prevailing code mandates hydrants on both sides of this future major street). The property fronts Inspiration Road, a future 100' ROW/65' street. The MPO Thoroughfare plan requires a 50" ROW dedication from the centerline of the street. The ROW dedication will required the approved by the City Attorney. The applicant will also be responsible for their portion to widen Inspiration Road equating to \$4,723.55 (\$55.90/l.f. x 60'). Streetlights currently exist along Inspiration Road.

Other Comments: Park Fees - \$300 x 1 HUE = \$300; Capital Sewer Recovery Fee - \$200/HUE x 1 = \$200; Escrow 5' sidewalks - \$12/l.f. x 50' (60'-10' driveway) = \$600; Tract has already been excluded from the Water District; Rezone the property to R-1 to reconcile our zoning map to the proposed use.

Staff does not object to the single lot variance subject to: 1) escrow 5' sidewalks, 1 additional fire hydrant, street widening, and 12" waterline, 2) payment of park fees & capital sewer recovery fees, 3) dedicate 50' of ROW along Inspiration Road by separate instrument to be approved by the City Attorney, and 4) Rezone the property to R-1.

Chairman Sesin asked if the applicant or representative were present.

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

Chairman Sesin asked the applicant if he was receptive to all the requirements.

Mr. Aguilar replied 'Yes'.

There being no further discussion, Chairman Sesin entertained a motion. Mr. Garza moved to approve the single lot variance as recommended by staff. Mrs. Caudle seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:29 p.m.

Ended: 5:32 p.m.

Item #6.0

Discussion and Action to Amend Zoning Ordinance #1128, as amended, to Include 'Tutoring and/or Kindergarten Services' as a Conditional Use in the Office Building District

Mr. Zavala went over the write up stating that during the P&Z's last meeting, Dr. Anzaldua's property at the SE corner of Bryan/Griffin Parkway was proposed for C-2 rezoning, which was not supported by Staff or P&Z; also, some calls were made to Staff against the C-2 as well. That C-2 request was withdrawn.

However, Staff believes that a regulated & specific use for a specific applicant would be a better alternative to consider under the existing C-1 zoning district.

The C-1's current conditional uses could include a 15-acre non-profit (institutional) high school to be considered BUT a C-1 does not include a 1/2-acre (for profit) kindergarten center. As just cited, the disparity for educational services is self-evident merely based on whether it is defined as 'institutional' or not.

The proposal before P&Z is to include under C-1's 'Conditional Uses' the following:

Tutoring and/or Kindergarten Services

If approved, once a CUP is filed, the public hearings would be scheduled and the matter of traffic generated, days/hours of operation, safety barriers/fencing, public input could be evaluated and, with CUP oversight, could be well monitored & regulated

Chairman Sesin asked if there was any public opposition.

There was no response.

Chairman Sesin stated that he did not have any problem with the amendment and that he would entertain a motion. Mr. Sheats moved to approve the amendment. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

3.0 OTHER BUSINESS

There was no other business

4.0 ADJOURNMENT

There being no further items for discussion, Mr. Vela moved to adjourn. Mr. Garza seconded the motion. Upon a unanimous vote, the meeting adjourned at 5:33 p.m.

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