

**PLANNING AND ZONING COMMISSION
MAY 20, 2009
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

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

STAFF PRESENT

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

GUESTS PRESENT

Jose Luis Castro
Cesar Emilio Faz
Gary Campbell
Nubia Reyna Campbell
Francis M. Ciancarelli
Rogelio Estrada

CALL TO ORDER

Chairman Sesin called the meeting to order at 5:03 p.m.

CITIZENS PARTICIPATION

There was no response upon inquiry.

APPROVAL OF MINUTES FOR APRIL 29, 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. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:03 p.m.

Ended: 5:04 p.m.

Item# 1.1

Rezoning:

**A 0.33 acre tract out of Lot 30-7,
West Addition to Sharyland
AO-I to C-3
City Initiated**

Mr. Salinas went over the write up stating that the subject site is located approximately 1,500 feet north of Mile 2 North along the east side of Conway (SH 107). He added that the west side of Conway was currently outside the City limits, however was undergoing the annexation process. Staff recently rezoned the Mr. G's, an existing convenience store to C-3. The subject tract remained AO-I since the owner voiced a desire for C-3 instead. The areas to the east were zoned R-1. The land uses consist of primarily residential structures, except for Mr. G's and the subject tract, which currently has a car lot, a sno-cone stand, and a home. The Future Land Use Map reflects a broad

General Commercial (GC) designation along the Conway frontage. The subject property should be changed to C-3 due to FLUM compliance, Conway (SH 107) frontage, and the property has pre-existing commercial land uses. Staff recommended approval.

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

There was no response.

Chairman Sesin asked if the applicant or representative were present.

There was no response.

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

Started: 5:05 p.m.

Ended: 5:08 p.m.

Item# 1.2

**Conditional Use Permit: Sale & On-Site Consumption of Alcoholic Beverages & Drive-Thru Service Window at Luna Verde Restaurant
2310 E. Expressway 83, Suite 8
Lot 3, Cimarron Crossings
C-3
Life of Use
Jose Luis Castro**

Mr. Acevedo went over the write-up stating that the subject site is located approximately 250' west of Shary Road on the south side of U.S. Expressway 83 within an existing commercial complex, with 7 leased spaces. This lease unit was once a pharmacy. The proposed days and hours of operation are Monday through Thursday from 11:00 a.m. to 10:00 p.m. with Friday and Saturday being open an additional hour, closing at 11:00 p.m. Alcoholic beverages would only be served during the allowable State selling hours and only in the dining area. No schools, parks, places of worship, or residences exist within 300'.

In reviewing the floor plan, the 1,380 sq. ft. building would have 6 tables with 24 seating spaces, and 11 seats in the bar area for a total of 35 seating spaces for the restaurant. It was noted that a total of 66 parking spaces were held in common at this section of the development. Access to the drive-thru would be south-to-north and exit to the parking area's lane. A speed bump was

recommended. Staff recommended approval subject to: 1) acquisition of a business license, 2) one year re-evaluation to assess this new operation, and 3) a speed bump to maximize pedestrian safety.

Mr. Henry Rodriguez walked in at 5:07 p.m.

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.

The applicant, Mr. Jose Luis Castro was present to address any questions that the Board might have.

Chairman Sesin asked Mr. Castro if he was willing to comply with staff's recommendations.

Mr. Castro replied, "Yes".

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

Started: 5:08 p.m.

Ended: 5:10 p.m.

Item # 1.3

**Conditional Use Permit: Sale & On-Site Consumption of Alcoholic Beverages at La Comadre Restaurant & Bar
2100 E. Griffin Parkway
C-3 (General Business)
Life of Use
Gary & Nubia Reyna Campbell**

Mr. Acevedo went over the write-up stating that the subject site was at the SE corner of Creek Run Road and Griffin Parkway (formerly Hotties Bar & Grill and Tico's). The applicants have leased the building from the current owner and desire a conditional use permit for the sale and on-site consumption of alcoholic beverages at this location. The Campbell's have the following as the days/hours of operation: Monday – Saturday from 10:00 a.m. to 10:00 p.m. A total of 10-12 part time employees were being proposed for this operation.

In reviewing the floor plan, there were 63 seating spaces proposed in the dining area and 53 seating spaces proposed in the bar area for a total of 11 seating

spaces for the restaurant. One parking space for every three seats; or one space for every 75 square feet of floor area, whichever was greater, was required by code. It was noted that 150 parking spaces were held in common at Springfield Subdivision. Access to the site can be directly from the Griffin Parkway or a second driveway off Creek Run Road. A call to Mission Police Department revealed that there have been no calls over the past 5 years at this location.

All building, fire, landscaping, and sign codes were being met. Because of the 'bar' component, the code required it to be 300' from residential areas. A total of 21 notices were mailed to residential property owners within a 300' radius of the site and as of this write-up (5/15/09), no comments in favor or against this request had been forwarded to the Planning Department. Staff recommends approval subject to: 1) acquisition of a business license, 2) waiver of the 300' separation requirement, and 3) one year re-evaluation to assess this new operation.

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.

The applicants, Mr. Gary & Nubia Reyna Campbell were present to address any questions that the Board might have.

Chairman Sesin asked Mr. Zavala if the 300' separation requirement was being met.

Mr. Zavala stated that usually when a restaurant includes a bar component a 300' separation requirement from residential areas was imposed to prevent any future problems. He added that when this building used to be Hotties it was well managed and he anticipated the same for this type of business as well.

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

Started: 5:11 p.m.

Ended: 5:16 p.m.

Item# 1.4

**Conditional Use Permit: Portable Building for "Office Use" and
Site Plan Review of Canopies along Shary
1117 S. Shary Road**

**Lot 1, McManus Subdivision
C-3
Life of Use
Cesar Faz**

Mr. Acevedo stated that the request was to consider the continuation of a conditional use permit for a portable building being used as an office for a car wash and of canopies at the above location. The existing 24' x 59' portable building had been used as an office since 1994 by Cimarron Realty and most recently by a used car sales and carwash/detailing operation. Mr. Faz desires to have the following as his days/hours of operation: Monday - Saturday from 10:00 a.m. to 7:30 p.m. A total of 4 part-time employees would be working at this location. Shin Foundation Inc., owners of Lot 1, McManus Subdivision, have authorized Mr. Faz the use of the portable building on the premises if approved by the P&Z. The portable building sits along the easternmost property line over 100' from Shary Road. The applicant has a 47' x 20' section of asphalt where he would wash automobiles; this section includes a parking area that exceeds code with 18 parking spaces. Also, P&Z needs to consider the canopies that were constructed by the previous tenant without permits. The applicant has secured building permits and the canopies comply with the required 10' front setback to Shary. The canopy would remain perpetually open and would only be used as the drying area for vehicles. Staff recommends approval subject to: 1) acquisition of a business license, 2) canopy to remain perpetually open, and 3) 1 year 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, Mr. Cesar Faz was present to answer any questions that the Board might have.

Mr. Sheats stated that they previously had a canopy and a building, now they have two covered areas and additional canopies. He asked, "What is that side of Shary Road going to look like in a year?"

Mr. Zavala stated that this was the reason staff was recommending a perpetual 1 year encumbrance review because of the fact that Shary Road was a major street and with Anzalduas Highway coming soon, this area would likely get developed. Mr. Zavala mentioned that staff would likely see this CUP at some point in the future and would likely give them one final approval and would

asked them to move out in 6 months. He added that for now he believed it would work fine.

Chairman Sesin stated that it was good for the Board to look at those factors when considering a conditional use permit.

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

Started: 5:16 p.m.

Ended: 5:19 p.m.

Item # 2.0

Discussion and Action to Amend Future the Land Use Map within the following Parameters: Rio Grande River to the South; Inspiration Road to the West; Lots 9-1 thru 9-5, Lots 10-1 thru 10-3, Lots 11-1 thru 11-2, Lots 12-1 thru 12-2, West Addition to Sharyland; FM 1016 to the north; and Mission's mutual jurisdiction boundary with McAllen to the east.

Mr. Zavala went over the write up stating that this was the last component of the Future Land Use Map amendments. This particular region had never had any designation. Staff recommendation was as follows:

The area just south of Meadow Creek (or east of the Veteran's Cemetery) was designated as Low Density Residential (LD) to acclimate it into the Meadow Creek community. At this point, there were several estate residential settings where any large scale commercial would not be permitted due to the proximity of the cemetery.

South of the re-worked levee was a Fish & Wildlife designated area
- this should be "P" or Public.

The area where Pepe's on the River and the Riverside Club were and the areas north and south of FM 1016 and adjoining the railroad should be GC. However, the areas surrounding the Catholic Seminary should have emphasis on C-1 zoning in order to maintain the integrity of the area.

Public (P) for La Lomita, the Catholic Seminary facility and additional Fish & Wildlife area.

Public (P) for the GSA facility for the inherent governmental use.

Staff recommends approval of the changes mentioned above.

Chairman Sesin asked if there was any public opposition.

There was no response.

Chairman Sesin asked if there was any input from the Board Members.

There was no response.

There being no discussion, Chairman Sesin entertained a motion. Mr. Rodriguez moved to approve the Future Land Use Map amendment as recommended by staff. Mrs. Caudle seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:19 p.m.

Ended: 5:26 p.m.

Item# 3.0

**Site Plan Approval: Construction of 14 Apartments
.80 acre tract of land out of Block "J",
Wright Addition Subdivision
R-3
Edward Cuellar**

Mr. Salinas, went over the write-up stating that the subject site is located directly east of the intersection of Seitz and E. 11th Street. The applicant proposed to build 3 single story complexes containing 5 apartments for 2 of the complexes and 4 apartments for the third complex, equal to 14 apartments overall. Each apartment would average approximately 900 sq. ft. and would be divided by 1 hour rated firewalls.

The minimum required setbacks based on zoning are: Front: 30', Rear: 15', Sides: 6'. The proposed site plan received ZBA approval for the front setback to be 25' instead of 30', and the rear to be 10'. The 14 units were calculated to require 28 parking spaces based on the 2:1 parking ratio. 31 parking spaces are proposed, exceeding code by 3. Ten percent landscaping with a combination of trees, plants, shrubs and a minimum of 7 - 3" caliper shade trees were required to be planted within the landscape areas along the area fronting Seitz. Other comments included a payment of all fees and additional requirements from the Single Lot Variance (Capital Sewer Recovery, Park Fees, ½ the alley on the north side, upgrade the waterline, install 1 fire hydrant at the main entrance, 5' sidewalks along Seitz, etc.)

Staff recommended approval subject to: 1) payment of all fees and additional requirements from the Single Lot Variance.

Chairman Sesin asked if there was any input from the Board.

There was no response.

Chairman Sesin asked if the Zoning Board of Adjustments had taken any action on the setback variances.

Mr. Salinas stated that ZBA had approved the variances.

Chairman Sesin asked if the required detention was being accomplished.

Mr. Salinas stated that Nain Engineering had submitted the drainage report but it still needed to be reviewed by the City Engineer.

Mrs. Caudle asked if the apartments were going to be buffered.

Mr. Salinas stated that it would buffer to existing residential properties.

Mrs. Caudle stated that they had to be buffered to the north and east.

Mr. Acevedo stated that there was an alley that accesses the buffer to the north.

Mrs. Caudle asked if there were any back entrances to these apartments.

Mr. Salinas replied, "No".

Chairman Sesin stated that the site plan only shows the parking in the center.

Mrs. Caudle stated that by having the parking in the center it didn't mean that they might not have an entrance through the alley.

Chairman Sesin asked Mrs. Caudle if she was referring to a pedestrian or vehicular entrance into the parking lot.

Mr. Salinas stated that the applicant was not proposing any parking in the alley if that was the question.

Mr. Sheats stated that most buildings have two entrances a front and back door. He asked if there was a door back to the alley on the north side.

Chairman Sesin asked if the applicant was present.

There was no response.

Mr. Rogelio Estrada who resides at 914 E. 11th, stated that the only concern he had was the drainage because when it rains in that area it floods. He asked where the water from those apartments would go.

Chairman Sesin asked if this apartment complex was going to be connected to the storm sewer.

Mr. Estrada stated that there was no drain ditch and the only drain ditch that goes by was near the Mission Independent School District and when it rains they would get a lot of flood.

Mrs. Caudle stated that Bryce gets inundated with everything coming down Highland. She added that even though they have increased the storm drainage at Bryan, it still gets out in the middle of the street. Mrs. Caudle asked if there was any storm drainage in that area.

Mr. Estrada replied, "No".

Mr. Acevedo stated that there was some on Kika Loop and on Bryan Road.

Mrs. Caudle stated that it wouldn't go towards Kika because of the way the streets were and everything that comes down 11th Street also comes and goes towards the corner and Bryan.

Chairman Sesin suggested that the item be 'Tabled' since there were some concerns that needed to be addressed by the applicant.

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

4.0 OTHER BUSINESS

Mr. Zavala mentioned that Councilman Celestino Ramirez had passed away. He added that Mr. Ramirez gave good service to the community for many, many years and asked the Board if they could remember him inspirationally it would be greatly appreciated.

City Manager Julio Cerda addressed the board to answer a concern brought up by one of the commissioners of the Planning and Zoning Board. He stated that he just wanted to make sure that he answers his concern. Mr. Cerda stated first of all that everybody might have seen an ad stating that FM 495 was full of

gravel and the City had put some caliche on it. He mentioned that FM 495 was a state road and state roads were not controlled by the City as far as maintenance. Mr. Cerda added that they actually take care of FM 495 from Conway all the way or past Ware Road. He stated that he was glad to see that the State takes care of Mission that way because if they only do that for Mission he felt sorry for the City of McAllen. Mr. Cerda stated that this was just a maintenance project that the State does for their roads; which he would like the City to do because that would make the roads last longer. In this case it was TXDOT who did the maintenance. He added that he welcomes anybody to call him regarding these types of concerns because the City Manager was there to answer questions from anyone. Mr. Cerda stated that he just wanted to answer and clarify that the City, Mayor, and the City Council had no control over the maintenance on the State Roadways because they don't want to put any negative impact on any type of maintenance they have on the roads. He added that what they laid was not gravel, it was called a seal coat. He mentioned that this type of material was used to fill the alligator cracks on the streets, which was exactly the same process that was done on FM 495. He added that it was great for him and didn't care how loud the noise was as long as it made the roadway last a little longer. Mr. Cerda stated that if anybody asks any questions, he would explain to them that this process would give the roadway a little bit more life than what it currently had.

Mr. Sheats stated that since Mr. Cerda had addressed the Board and a statement made by him in a letter to the editor, which resulted in the City Manager's reaction. He responded by saying that first of all the City Manager was in error because what was put on was not a seal coat. He stated that he called TXDOT and that would be put on in approximately 2 years. He stated that what was put on was the first stage and that it was called a gravel application. Secondly, the reason he refers the people in the newspaper to please call the City was because quite frankly the City is the reason because you here reacting to it. When a private citizen addresses TXDOT we get no reaction. So when something happens we can't just sit by and say it was not our responsibility. We have to go to the people who we feel can more effectively contact TXDOT when they do something like that, especially when it runs past retirement people and their houses within 20' of their back door. TXDOT should make some type of compensation to make a smoother surface.

Chairman Sesin asked what was the complaint was it because of the gravel.

Mrs. Caudle replied, "It's noisy".

Mr. Sheats stated that you can't hear inside your car if you drive on FM 495.

Chairman Sesin announced that the meeting was adjourned.

5.0 ADJOURNMENT

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

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