

**PLANNING AND ZONING COMMISSION
MAY 12, 2010
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Ned Sheats
Marisela Marin
Rene Flores
Jose G. Vela
Mario Garza
Carlos Lopez
Luann Caudle

STAFF PRESENT

Sergio Zavala
Raymundo Elvira
Irasema Dimas

GUESTS PRESENT

Elvira Ruiz
Fernando Torres
Annette Chavez Alvarado
Martha Bermejo
Norma Leal
Rafael Gonzalez
Alejandro Cuellar
Juan R. Rodriguez
Jaime Sanchez
Iliana Chavira

CALL TO ORDER

Chairman Ned Sheats called the meeting to order at 5:02 p.m.

CITIZENS PARTICIPATION

There was no response upon inquiry.

APPROVAL OF MINUTES FOR APRIL 28, 2010

Chairman Sheats asked if there were any corrections to the minutes. There being no corrections. Mr. Vela moved to approve the minutes of April 28, 2010, as presented. Mrs. Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:03 p.m.

Ended: 5:09 p.m.

Item# 1.1

Rezoning:

**Lot 9, Block 5,
Taurus Estates No. 9 Phase I
R-2 to C-2
Arturo Bermejo**

Mr. Zavala briefed over the write-up stating that the subject site is approximately 1500' south of 3 Mile Road along the west side of Inspiration Road. It is at the NW corner of Inspiration and Azaela Street. The subject property has the following dimensions: 134' X 147' (0.45 ac.). The neighborhood commercial (C-2 zone) usually has mom & pop shops that

serve the general vicinity. The surrounding zonings include Duplex-4plex (R-2) to the north, south, and to the east; and to the west across the alley are lots zoned SF Residential (R-1). Regarding land uses, there are apartments to the north, south & east; to the west are SF homes. The FLUM reflects a Moderate Density Residential (MD) designation.

Features FAVORING the C-2 proposal include the following:

- A. The site has substantial frontage to Inspiration Road, a future major thoroughfare via the County of Hidalgo's MPO Thoroughfare Map, i.e., 100' ROW with an ultimate 65' B-B street.
- B. The site is a corner lot that is typical of such C-2 zoned sites; furthermore, Azaela street is approximately at the ¼ mile mark, is over 2000' long, & is a residential collector that ties Inspiration Road to Moorefield Road, an arterial street.
- C. The site has access to a paved public alley, which is a typical feature for commercial uses in general; this is vital for garbage service & enhances (staff) parking.
- D. There are 2 other C-2 zoned sites in this general vicinity being at the SW corner of Clavelle/Inspiration, and the NW corner of Orquidea/Inspiration; if you'll notice, if the Bermejo site is rezoned, then the C-2 sites appear to be equally distant from each other including the C-3 zoned convenience store located at 3 Mile Road & the convenience store at 2 Mile/Inspiration, i.e., not clustered.
- E. As reflected in the other C-2 sites, when equally distant from each other, there is no disruption to property values nor to their quality of life. Staff recommended approval.

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

There was no response.

Chairman Sheats asked if the applicant or representative were present.

The applicant, Mrs. Martha Bermejo stated that she was trying to sell the property to Mrs. Norma Leal.

Chairman Sheats asked if she knew what Mrs. Leal was proposing to do in the commercial property.

Mrs. Bermejo replied that Mrs. Leal intentions were to have a beauty salon, a bakery and an engineer's office.

There being no discussion, Chairman Sheats entertained a motion. Mr. Garza moved to approve the C-2 rezoning as recommended by staff. Mr. Vela seconded the motion. Upon a vote the motion passed unanimously.

Started: 5:09 p.m.

Ended: 5:12 p.m.

Item# 1.2

Rezoning:

Lots 1-3, Premier Subdivision

AO-I to C-3

Aaron Muñoz

Mr. Zavala briefed over the write-up stating that the subject site is located approximately 1,000' east of Inspiration Road along the south side of Mile 3 Road. The surrounding zones include no zone (ETJ) to the north, and AO-I (Agricultural Open Interim) to the east, west, and south. The surrounding land uses include Residential to the north, east, and west; open acreage to the south and commercial plaza on the site. The Future Land Use Map reflects a General Commercial (GC) designation along the Mile 3 frontage. The subject property should be changed to C-3 due to FLUM compliance, frontage to a major TXDOT road (120' ROW) is more appropriate for a commercial use, and the subject property has a pre-existing commercial building. Staff recommended approval of C-3 zone.

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

There was no response.

Chairman Sheats if the applicant or representative were present.

There was no response.

There being no discussion, Chairman Sheats entertained a motion. Mrs. Marin moved to approve the item. Mr. Garza seconded the motion. Upon a vote the motion passed unanimously.

Started: 5:12 p.m.

Ended: 5:44 p.m.

Item# 1.3

Conditional Use Permit:

Sale and On-Site Consumption

Of Alcoholic Beverages for a

Nightclub – Bar Cavern

1626 E. Griffin Parkway

Lots 2-4, Stewart Village Subdivision

**C-3
Life of Use
Fernando Torres**

Mr. Zavala stated that the nightclub site is located 300' east of Stewart Road along the south side of Griffin Parkway. The 4,000 sq.ft. nightclub will be sharing an existing building with a 5,000 sq.ft. daycare (Kids Rock).

- Days/Hours of Operation: Everyday from 10 a.m. to 2 a.m. where the earlier hours would be optional for special 'booked' events, meetings, etc. Alcoholic beverages will only be served during allowable State selling hours.
- Staff: 31 employees (10 security guards, 12 servers/bus boys, 6 bar staff, & 3 DJs)
- Parking Requirements: Code requires 1 space for every 3 seats or 1 space for every 75 sq.ft., whichever is greater: 296 seats/3 seats: 99 parking spaces. It is noted that the parking area is held in common (517 existing parking spaces) and is shared with other businesses. In viewing the parking area, the total parking spaces required for the entire plaza, excluding the nightclub, equals 505 spaces. With the additional 99 spaces, a total of 604 parking spaces would be required in order for the nightclub to operate (87 parking spaces lacking). Due to the potential overlapping of working hours with the rest of the development's users, there is a concern for overflow parking.

The Mission Zoning Code Section 1.56 (3a) Bars, cocktail lounges, taverns, cantinas, saloons, dancehalls, discotheques, discos or nightclubs states:

"The property line of the lot of any of the above-mentioned businesses, especially those businesses which have late hours (after 10:00 p.m.) must be at least 300 feet from the nearest residence, church, school or publicly owned property."

The proposed nightclub is 173' from the Episcopalian Church property located directly north of the proposed site. The intent of this code is to distance a nightclub and its effects from a religious/family environment. Due to the lack of required parking and the separation from the church property, staff must recommend against this proposal.

Chairman Sheats asked Mr. Zavala if there were other assembly halls between Lots 15 through 25.

Mr. Zavala replied that Mario's was next to the Cornerstone and Balli's Banquet Hall was close to Lot 24.

Chairman Sheats asked if both of those banquet halls could be open at the same time.

Mr. Zavala replied, "Yes".

Mr. Flores stated that he remembered that Koolie's used to be there and he was wondering how they obtained their alcohol license.

Mr. Zavala replied that Koolie's was around the same area as Balli's and it was certainly not 200' away from a church property, but it was within the area of residential property to the south. He stated that within the zoning code there's an area that it says that if the Planning and Zoning Commission and the City Council within extenuating circumstances if they could waive the code and City Council could act on it.

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

Mrs. Annette Chavez Alvarado from Postnet, next to Balli's stated that the reason why they didn't oppose to Koolie's was because they didn't own the property, but now they own it. She stated that her concerns when there was a bar next to them, the patrons would leave beer bottles, trash, and other stuff all over the area, and no one would pick them up. She mentioned that people use the parking area to go from Stewart to Palm Valley Church or to Cornerstone instead of using Griffin Parkway. She also stated that she informed Mr. Balli about the trash and they started picking it up in the morning and she was wondering if this new business would be doing the same. She stated that there were some zumba classes at Kids Rock at 4:00 and 5:00 also besides renting it out for special events. She stated that the parking lot gets full and was concerned that there wouldn't be sufficient parking and people would start using the parking spaces in front of her business. She mentioned that her business has night drop boxes and was worried that those packages would be misplaced.

She also stated that if the property owner of Kids Rock obtained a copy of the association requirements on signs and doors because of the 2 signs attached to the building in violation of the association requirements.

Chairman Sheats replied that it would be an issue within the association, the only question that he had was that he heard that there were some type of class or study within Kids Rock.

Mrs. Ilianna Chavira stated that she would like to clarify some things that Mrs. Chavez Alvarado mentioned since she's the teacher for the zumba classes. She stated that she has been the owner of Kids Rock for 6 years, and she does hold parties primarily for children because she does not have the knowledge or the space to cater for quinceañeras. She mentioned that she does turn down a lot of events because her facility has very bright colors, suited for kids. She also mentioned that she was there when Koolies was around and she didn't have any issues with them but there was an issue with the beer bottles left behind but the owner did take care of it. She also mentioned that there was no association for the subdivision. She stated that she cleans up her parking spaces and she makes sure that everything within her properties were well kept. She stated that the facility that they are trying to incorporate next to her was going to target couples not young people, and in her opinion it will bring business to the area. She mentioned that most of the businesses within the plaza close at 5:30 p.m. and after that time most of the parking spaces are empty. She mentioned that she only has 10 students for the zumba classes at 6:00 p.m.

Chairman Sheats asked if the applicant or representative were present.

Mrs. Elvira Ruiz was present to represent the applicant. She stated that the main events that they wanted to hold were on Fridays and Saturdays as a nightclub, and the reasons why they are proposing Monday through Fridays was in case they want to hold quinceañeras, weddings, Christmas parties, etc. She stated that they want to get some Mission police officers to drive through the parking lot, as for the cleaning of the beer bottles, they would have people clean the parking after the nightclub is closed. She mentioned that the office would be opening at 10:00 a.m. everyday. She also stated that they used to have this business in Reynosa, , but due to the violence they had to close. She stated that in reference to the church property they measure the property and they came out with a 273' from the wall to the podium of the church.

Chairman Sheats stated that they would have to go with staff's recommendation on the distance.

Mrs. Marin asked Mr. Zavala if he could clarify the distance issue.

Mr. Zavala explained to Mrs. Ruiz how they measure from property line to property line, as stated on the code.

Chairman Sheats stated that his main concern was the type of business and more because it was not a 50 or 60 people operation, just the number of employees is half of that, as far as he was concerned he would leave it to the board.

Mr. Garza stated that the biggest issue was the parking and the distance from the church, and he didn't feel it that was a big concern. He mentioned that this was a conditional use permit and if staff monitors it for a short period of time it should be ok.

Mrs. Marin asked if anybody responded from the church.

Mr. Zavala replied that as per staff notes nobody responded.

After a brief discussion among the board members on the parking issue, Chairman Sheats asked Mr. Zavala if he could clarify the ordinance on the parking requirements.

Mr. Zavala stated that there are some empty lots along the south and the logical conclusion was that they would be use for retail, that's how Mr. Bobby Salinas calculated the parking requirements. He also stated that if all the banquet halls are in use at the same time it could be a problem with the parking.

Mr. Flores asked if the calculations are based on every single suite being utilized including the empty ones or if the calculation was just based on the existing businesses. If so, are they complying with parking?

Mr. Zavala replied that the calculations are based on the existing businesses and the empty suites, taking in consideration that the suites would be utilized as a retail business.

After a brief discussion, Chairman Sheats entertained a motion. Mrs. Caudle moved to deny the item, as recommended by staff. Chairman Sheats seconded the motion. Upon a 3-4 vote, with Mr. Garza, Mr. Flores, Mr. Vela, and Mr. Lopez dissenting, the motion.

Since the motion died Chairman Sheats asked for another motion.

Mr. Flores moved to approve the conditional use permit subject to a 1-year re-evaluation to assess any traffic concerns and acquiring a business license. Mr. Garza seconded the motion. Upon a 4-3 vote, with Chairman Sheats, Mrs. Marin, and Mrs. Caudle dissenting, the motion passed.

Started: 5:44 p.m.

Ended: 5:52 p.m.

Item # 1.4

Conditional Use Permit:

**Drive-thru Service Window
Lot 1, Sylvia Plaza Subdivision
C-2
Life of Use
Juan R. Rodriguez**

Mr. Zavala briefed over the write-up stating that the property is located on the SE corner of Schuerbach Road and Leonor Street. The applicant has a series of suites where the corner suite will open as a new snack shop with the desired drive-thru service. Access to the site is provided off of Schuerbach Road with a 45' driveway. The suite measures 24' X 35' for a total of 840 square feet. The number of parking spaces required for this size suite is 5. It is noted that the 35 parking spaces exceed code.

The proposed location of the service window is located approximately 2' from the corner of the building which would provide stacking for approximately three vehicles. The proposed drive-thru lane will go through the western side of the building, order/pick-up, & then exit westerly onto an exit only driveway onto Schuerbach. There are two-meter boxes (to be replaced with steel meter boxes), and a water valve that may need to be adjusted after the new drive's pavement. Also, the sidewalk to the north will have to be re-located in like manner further to the south and properly interfaced to the new driveway.

- Days/Hours of operation: Every day from 10:00 a.m. to 10:00 p.m.
- Staff: 2 employees
- Sidewalks exist however will need to be re-aligned with the addition of the drive-thru service lane.
- A business license is required prior to occupancy
- The garbage dumpster to be relocated to the NE juncture & be fully buffered.

Staff recommended approval subject to: **1)** re-located dumpster to have perimeter 6' opaque buffer, **2)** provide a bollard to maximize protection to the fire hydrant, **3)** replace plastic meter boxes with steel meter boxes; adjust accordingly the water valve with the new drive's pavement, **4)** re-evaluate in one-year to assess any traffic issues, and **5)** acquire a business license.

Chairman Sheats asked if there was any input from the Board Members in regards to the request.

There was none.

Chairman Sheats asked if the applicant or representative were present.

Mr. Jaime Sanchez from 4603 Canadiana and representing Mr. Juan Rodriguez stated that they had met with staff and that they are willing to comply with all the requirements.

Mr. Juan Rodriguez stated that he's going to install a camera on the SW corner of the building to monitor the drive-thru window.

Mrs. Marin asked Mr. Zavala what would happen with the fence, if it would be relocated or just removed.

Mr. Zavala replied that in his opinion the fence helps in preventing paper or trash flying out or into the property and it should be relocated.

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

Started: 5:52 p.m.

Ended: 5:57 p.m.

Item # 2.0

Site Plan Approval:

**Construction of 192 Apartments
Lot 15-B,
Sharyland Service Center #5 Subd.
PUD (Multi-Family)
Sharyland Apartments**

Mr. Zavala briefed over the write-up stating that the irregular lot measures 618.32' on the west, 735.66' on the north, 680.19' to the south, and 611.98 on the east. The property is located 300' north of Military Hwy along the east side of Shary Road.

The applicant wishes to build several multi unit complexes, some (3) three stories high and others (2) two stories high, equaling 192 units overall. Each apartment ranges from 611 sq.ft. to 1,433 sq.ft. and will be divided by a minimum of 1 hr. rated firewalls. A private clubhouse is being proposed,

too. Fire hydrants are proposed throughout the site as per direction of the Fire Marshal. 8" waterlines are also being provided to create an internal loop for the water system, which will require public easements. The developer is proposing the installation of an 8" sewer system in order to serve the complexes. The sewer system belongs to McAllen; however, through an interlocal agreement the maintenance is provided by the City of Mission. (NOTE: A Pre-Construction Conference will be required prior to the installation of any utility lines).

All proposed setbacks are exceeding the setback requirements, thus compliant to code. The 192 units are calculated to require 384 parking spaces based on the 2:1 parking ratio. The applicant is proposing 384 parking spaces meeting the minimum requirements.

The applicant is providing 45% landscaping area, exceeding the City's 10% requirement by 35%. A combination of trees, plants, and shrubs are also being proposed along the perimeter of each complex. Aside from having staff's approval, the landscaping must also be approved by Sharyland Plantation's stringent landscaping policies, thus requiring well over the City's minimum.

A fence is proposed along the perimeter of the property, where the access points will be gated and require the approval of the Fire Marshal's Office. There are also two emergency 'exit only' exits located along the north and south perimeter along Shary Road, which will only be utilized during an emergency evacuation. There is one primary access off of Shary Road and one off of Santa Engracia. Other requirements include: Park fees in the amount of \$57,600.00 (192 units x \$300.00/unit), 5' sidewalks are required along Santa Engracia and Shary Road, and a drainage plan has been submitted for the approval by the City Engineer.

Staff recommended approval subject to: **1)** must obtain a pre-construction conference for the installation of all utilities, **2)** provide easements for the proposed public utility lines, **3)** payment of the park fees in the amount of \$57,600.00, **4)** install 5' sidewalks along Shary Road and Santa Engracia, **5)** obtain approval of the gate access from the Fire Marshal's Office, and **6)** drainage plan must be approved by the City Engineer.

Chairman Sheats asked if there was any input from the Board Members in regards to the request. There was none.

Chairman Sheats asked if the applicant or representative were present.

Mrs. Kelly Vela from Melden & Hunt was present.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Garza moved to approve the site plan as per staff's recommendations. Mr. Vela 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, Chairman Sheats entertained a motion to adjourn. Mrs. Caudle moved to adjourn. Mr. Garza seconded the motion. Upon a unanimous vote, the meeting adjourned at 5:57 p.m.

Ned Sheats, Chairman
Planning and Zoning Commission