

PLANNING AND ZONING COMMISSION
JULY 14, 2010
CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.

P&Z PRESENT

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

P&Z ABSENT

Luann Caudle

STAFF PRESENT

Bobby Salinas
Alex Hernández
Irasema Dimas

GUESTS PRESENT

Daniel Garcia
Josean Perez
Victoria R. Gonzalez
Esperanza Lopez
Grace Hernandez

CALL TO ORDER

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

CITIZENS PARTICIPATION

There was no response upon inquiry.

APPROVAL OF MINUTES FOR JUNE 23, 2010

Chairman Sheats asked if there were any corrections to the minutes. There being no corrections. Mr. Garza moved to approve the minutes of June 23, 2010, as presented. Mrs. Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:01 p.m.

Ended: 5:03 p.m.

Item# 1.1

Conditional Use Permit:

**To modify equipment & co-locate Antennas
into the existing self-support tower
2309-B N. Shary Road
Lot 1, R.C. Vackar Suidivision
C-3
Life of Use
San Antonio MTA, L.P.
D/B/A Verizon Wireless**

Mr. Salinas briefed over the write-up stating that the subject site is located near the NW corner of Shary Road and U.S. Expressway 83. Verizon is in the process of improving their wireless communications network in South Texas and throughout the Rio Grande Valley. As cited above, Verizon desires to modify its equipment and co-locate onto the existing self-support tower. Currently there are existing shelters

for various communications providers and the 100' high telecommunications antenna. Access to the site is provided through a recorded 20' access/utility easement located on the north side of the property which leads up to the antenna site. The proposed modifications are within the lease site and exceed all building setbacks requirements. Staff recommended life of use.

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.

Mr. Josean Perez, representing San Antonio MTA was present to answer any questions. He also stated that Verizon is trying to modify & replace the existent antennas, they are not going to add anything else.

There being no further discussion, Chairman 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: 5:03 p.m.

Ended: 5:07 p.m.

Item# 1.2

Conditional Use Permit:

**Sale and On-Site Consumption of Alcoholic Beverages – Dai Tung Restaurant
2402 Brock St., Suite A
Lots 21 & 22,
Shary Business Center Subdivision
C-3
Life of Use
Li Min-Do**

Mr. Salinas briefed over the write-up stating that the 4,550 sq.ft. restaurant site is located within a commercial plaza approximately 420' south of Griffin Parkway along the east side of Shary Road.

- Hours of Operation: Everyday from 11:00 a.m. to 9:30 p.m. Alcoholic beverages will be served during allowable State selling hours.
- Staff: 16 employees
- Parking: There are 140 total seating spaces, which require 47 parking spaces (140 seats/1 space for every 3 seats = 46.6 parking spaces). It is noted that the parking area is held in common (153 existing parking spaces) and is shared with other businesses.

Since there are no churches or schools within 300' of the subject site and the sale of alcohol is not the primary use, staff does not object to this proposal. Staff recommended approval subject to: **1)** 1 year re-evaluation to assess the operation, **2)** update their business license to include this new property, and **3)** wet zone the site.

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.

There was no response.

Mr. Garza stated that in his opinion the church was closer than the 300', and if he recalled correctly on a previous CUP for a nightclub on Stewart Road and FM 495 there was more than 300' separating the structures and it was still denied.

Mr. Salinas replied that on Restaurants the 300' are counted from door to door and along ROWs and on Nightclubs and Bars it's counted from property line to property line.

Mr. Garza mentioned that he recalled this CUP being denied before but he didn't remember the reason.

Ms. Dimas replied that it was denied because suite 22 was previously a church.

There being no further discussion, Chairman Sheats 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: 5:18 p.m.

Item# 1.3

Conditional Use Permit:

**To Have a Portable Building with a
Drive-thru Service for Sno-Cone Sales
1234 E. Bus. HWY 83
125.06' X 125' Tract, Lot 20-11, W.A.S.
C-3
Jose Daniel Garcia**

Mr. Salinas briefed over the write-up stating that the site is approximately 800' east of Bryan along the south side of Business HWY. 83. He stated that some of the P&Z

may recall the approval of this portable building in October 2008 to Sabas Sandoval. One of the encumbrances was for Sandoval to clean up the property to the south rear and maintain it clear, too. At this time, there seems to be a continued accumulation of material to the rear again.

The new applicant is Mr. Garcia who has already constructed a deck to the eastern perimeter with a few tables & chairs. Also, Mr. Garcia installed a traffic signal-type fixture that he connects to the building with an extension cord – it is not in conduit & is also prohibited by our Sign Code.

The Site Plan reflects a common paved parking area with a series of small suites that are to the immediate east (NOTE: At least 1 suite is currently vacant). Inclusive of the desired sno-cone operation, the 6 businesses share a total of 16 paved parking spaces where 24 should be the norm. Regardless, Staff is aware that there has yet to be a parking issue on the premises even when the old sno-cone business was operable...all the more reason to keep close vigilance on any new CUP.

This CUP is a two-fold request: 1) the portable building in and of itself is a CUP just by virtue of it being a 'portable' structure, and 2) the drive-thru feature.

On the former, the portable building has been evident at the site where it has not had a detrimental effect on the surrounding areas (yet) – be it on off-street parking, debris, property values, etc.; thus, on this part of the CUP, staff has no objections to have it continue under the yearly CUP evaluation process; we do alert the applicant that once the old Fontana site gets some substantial structural investment, having a portable building next to it may not be too forthcoming.

On the drive-thru aspect of the CUP though, the drive-thru has a few challenging issues which include the difficult maneuvering for any eastbound traffic desiring to enter the drive-thru lane. The location of the existing '*entering*' driveway cut and the *location of the window* are not well-aligned where difficulty is compounded when a parked car is at the westernmost parking space...it can be done *but* is *challenging* nevertheless. The other aspect of the drive-thru that needs to be pointed out is that exiting vehicles need to go to the adjoining Watermill tract to the west. The option of driving around the sno-cone structure to exit to Bus. HWY. 83 is not a viable option because this would cause 2 parking spaces to be cancelled out to leave the exiting lane open, i.e., reduced to 14 where the current 16 spaces are not to code for a potential 6 businesses. If the applicant can get the Watermill owner to secure a written consent for exiting cars, then the concern would be much allayed.

The final concern for the drive-thru lane is that it is not paved. Speaking with the applicant on this concern, a possible compromise would be (once written consent from Watermill is secured) for the applicant to have a caliche drive-thru leading to the Watermill for 1 year; after that tenure, the drive would have to be paved. Recall that this portable building CUP is along one of the Mission's major business corridor's thus a caliche drive should only be temporary and not a permanent feature.

Staff recommended approval of the CUP subject to the following:

PORTABLE BUILDING CUP ASPECT: **1)** 1 year re-evaluations until the time comes when it either phases out, the CUP is revoked (due to non-compliance, etc.), or when the adjoining Fontana property is substantially invested in with permanent structures, etc., **2)** clear the accumulation of debris, etc., to the south (& maintain it clear from such piles of debris), **3)** remove the traffic control-type signal which violates city's Sign Code, **4)** secure a business license (include clearances from the Bldg. Inspector, Fire Marshal, & Health), **5)** re-stripe the parking spaces, and **6)** comply with the Sign Ordinance.

DRIVE-THRU WINDOW ASPECT: **A)** secure written consent from adjoining watermill owner to allow exiting traffic through his paved area, **B)** provide caliche in the drive-thru area (currently dirt); must be paved no later than 1-year after full activation of the drive-thru service window, and **C)** if the Watermill or other adjoining party does not provide written consent to have cars exit onto their property, the service window is not to be used and would be a violation to the overall CUP and would merit a revocation re-hearing.

Chairman Sheats mentioned to Mr. Salinas that he just notice that they only have 16 parking spaces versus the 24 parking spaces. Now, that Mr. Garcia added a deck, the concern is that people are going to stay there for a while, instead of just driving thru. He asked if staff would require striping the spaces up to the 24 required spaces.

Mr. Salinas replied that at this point staff would not require the additional parking because there have not been any issues with parking. We will however, keep close observation to the CUP.

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.

Mr. Daniel Garcia was present to answer any questions. He also stated that he was willing to comply with all the requirements but he needed time including the paving of the drive-thru lane.

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

Started: 5:18 p.m.

Ended: 5:22 p.m.

Item # 1.4

Conditional Use Permit:

**Portable Building for the Sale of
Sno-Cones, Corn, & Snacks
3300-C N. Inspiration Rd.
(Kings Mart Convenience Store)
Lot 1, Gomez Subdivision
C-2
Life of use
Esperanza Limas De Lopez**

Mr. Salinas went over the write up stating that Ms. Lopez desires a CUP to continue the use of an existing 12' X 12' portable building for the sale of snacks and sno-cones at the Kings Mart Convenience Store. A CUP for this portable building was previously approved on 7/8/09 to another operator. (NOTE: the drive-thru is not under consideration at this point and the applicant has been made aware that it would require an additional CUP). The site has access from both Inspiration and 2 Mile Road. Omar Perez, owner of King's Mart Convenience Store, has authorized Ms. Lopez to use the King's Mart restroom facilities.

- Hours of Operation: Everyday from 11:00 a.m. to 10:00 p.m.
- Number of Employees: Ms. Lopez and her husband will be operating the stand.
- Parking: There are a total of 16 parking spaces at King's Mart Convenience Store. Parking is sufficient for the proposed use since the King's Mart Convenience Store is not active and is currently being used for "storage". Upon a visit, staff noticed that the parking facilities would need to be re-striped prior to obtaining a business license.

Staff recommended approval subject to: **1)** acquiring a business license and **2)** re-striping the parking lot.

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

Mrs. Victoria R. Gonzalez stated that she was the rightful owner of the property and she was against the request.

Mr. Salinas stated that since there is some confusion on the ownership of the property, the board should table the item.

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

Started: 5:22 p.m.

Ended: 5:25 p.m.

Item # 1.5

Conditional Use Permit Renewal:

**Sale & On-Site Consumption of
Alcoholic Beverages – Smoking Aces
2518 E. Business HWY. 83
Lot 14, J.E. Leslie Subdivision
C-3
Life of Use
Michael Aguilar**

Mr. Salinas went over the write up stating that the subject site is located approximately 300' west of Taylor Road along the south side of Business 83. A CUP for the sale of alcohol was previously approved on 1/14/09. Mr. Aguilar and his partners have been operating Smoking Aces Sports Bar over the past year without any major incidents. Mr. Aguilar is seeking approval during this re-evaluation.

- Hours of Operation: Everyday from 11:30 a.m. to 2:00 a.m. Alcoholic beverages will only be served during allowable State selling hours.
- Staff: 12 employees
- Parking: Viewing the floor plan, there are 120 total seating spaces, which require 40 parking spaces (120 seats/ 1 space for every 3 seats = 40 parking spaces). The parking area has 54-lighted parking spaces.

On 1/8/07 City Council approved the CUP and was imposed various requirements, which included: Sidewalks along Bus. 83, Security Lighting, Perimeter Fencing, Professional Security on-site during Friday – Sunday's evening hours from 7 p.m. to ½ and hour past closing, must have perpetual ANNUAL Re-evaluation, etc. As of this write-up, they are in compliance with all other items except the annual renewal of the CUP. Staff recommended approval subject to 1-year re-evaluation as per City Council's action on 1/8/07.

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.

There was no response.

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

Started: 5:25 p.m.

Ended: 5:30 p.m.

Item # 2.0

Pre-Final Plat Approval:

Elite Village Subdivision, Phase II

A 20 ac. Tract of land being

All of Lots 27 & 28, Block 6,

Texan Gardens Subdivision

Rural ETJ

Developer: Top Fruit, Inc.

Laura Coffman, Vice-President

Engineer: Quintanilla, Headley, & Assoc.

Mr. Salinas went over the write up stating that this proposed subdivision is located approximately ¼ mile north of Mile 4 along the west side of Texan Road. The subdivision consists of a total of 35 lots. The lot sizes range from 21,840 sq.ft. to 28,416 sq.ft. The water CCN belongs to AGUA SUD. On 10/26/09, the City Council rescinded Resolution No. 1088 relating to the imposition of a moratorium on the approval of residential subdivisions to be serviced by La Joya Water Supply (now established as AGUA).

The developer is proposing to address water by tapping into an existing 8" AGUA waterline located along the east side of Texan Road in the southeastern perimeter of the subdivision, then running an 8" line west into the proposed subdivision. The developer is providing three fire hydrants, too.

The sanitary sewer service for this subdivision is addressed by individual on site sewage facilities of a standard design septic tank and drain field on each lot, thus meeting the City's minimum requirements for sewage facilities within the Rural ETJ. This area is not within the City of Mission's Sewer CCN.

Access for this subdivision will be via a 50' ROW, 32' B-B residential street off of Texan Road, which will stub out to the west for future connection by others. We note that a temporary cul-de-sac is being dedicated/shown on the plat and paved to

facilitate turnarounds. Drainage for the subdivision is proposed through the use of swales located in the rear of each property.

Staff recommended approval subject to: **1)** Developer meeting the Model Subdivision Rules, and **2)** meet street alignment policy.

Chairman Sheats asked if the applicant or representative were present.

There was no response.

Chairman Sheats asked Mr. Salinas who would check the flood zone area.

Mr. Salinas replied that it would be Hidalgo Drainage District #1.

Mrs. Marin asked if Lots 1 & 35 could have entrance through Texan Road?

Mr. Salinas replied that they could with the approval of the County Planning Department.

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

3.0 ADJOURNMENT

There being no further items for discussion, Chairman Sheats entertained a motion to adjourn. Mr. Garza moved to adjourn. Mr. Lopez seconded the motion. Upon a unanimous vote, the meeting adjourned at 5:30 p.m.

Ned Sheats, Chairman
Planning and Zoning Commission