

**PLANNING AND ZONING COMMISSION
JANUARY 25, 2012
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Rene Flores
Marisela Marin
Mario Garza
Carlos Lopez
Abiel Flores
Diana Izaguirre

P&Z ABSENT

Luann Caudle

STAFF PRESENT

Sergio Zavala
Bobby Salinas
Irasema Dimas
Sonia Marroquin

GUESTS PRESENT

Jose Aguilar
Raul Garcia Jr.
Jeff Underwood
Elena Lozano
Kahn Desai
Jose V. Narvaez

CALL TO ORDER

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

CITIZENS PARTICIPATION

Chairman Rene Flores asked if there was any citizens' participation. There was no response upon inquiry.

APPROVAL OF MINUTES FOR JANUARY 11, 2012

Chairman Rene Flores asked if there were any corrections to the minutes for January 11, 2012. There being no corrections, Mr. Mario Garza moved to approve the minutes as presented. Ms. Diana Izaguirre seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:04 p.m.

Ended: 5:08 p.m.

Item# 1.1

Conditional Use Permit:

**Sale and On-Site Consumption of
Alcoholic Beverages – Genghis Grill
2521 E. Expressway 83, Ste. 400
Lot 5, Block A,
Shary-Taylor Expressway Subdivision
C-4
Genghis Grill**

Mr. Bobby Salinas went over the write up stating that the restaurant will be located within an existing commercial plaza along the Expressway and Taylor Road. The new restaurant is within a larger building that currently includes Freebirds and Dickey's BBQ restaurants. Access to the site is provided through existing driveway cuts along Expressway 83 and Taylor Road. There were also 70 new parking spaces added along with the construction of the building, in addition to the existing spaces

from the overall plaza. There are no churches or public/private schools within 300' of the subject site, thus being compliant to Section 6-4.

- **Hours of Operation:** Sunday-Thursday from 11:00 a.m. to 10:00 p.m., Friday and Saturday from 11:00 a.m. to 11:00 p.m. Alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 85 employees
- **Parking:** The applicant is proposing 211 total seating spaces, which require 70 parking spaces (211 seats/space for every 3 seats = 70.3 parking spaces). It is noted that the parking area is held in common and is shared with other businesses.
- Being among similar restaurant uses that sell alcohol, the proposed CUP will not be disruptive to the general commercial area.

Staff recommended approval subject to: **1)** acquisition of a business license, **2)** wet zone the property, and **3)** 1 year re-evaluation to assess this new operation.

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

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

Mr. Kahn Desai, District Manager for the Lower Rio Grande Valley Area was present to answer any questions from the board.

Chairman Rene Flores asked Mr. Desai, when they were planning to open.

Mr. Desai replied that the final inspection would be called by the end of the week and they will be opening for business in the following 2 weeks.

Chairman Rene Flores asked staff if there was sufficient parking.

Mr. Bobby Salinas replied that the parking area interfaces with the parking for the whole plaza and during the construction of this area; the developer added 70 more parking spaces.

There being no comments, Chairman Rene Flores entertained a motion. Mr. Mario Garza moved to approve the conditional use permit as per staff's recommendations. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:08 p.m.

Ended: 5:10 p.m.

ITEM # 1.2

Conditional Use Permit

Renewal:

**Non-Residential Facilities on an R-1A Lot
linked to the adjoining Waterford Gardens
2211 Betty Drive
Lot 1, Peña Escondida Estates
R-1A
Lucille G. Cavazos**

Mr. Bobby Salinas went over the write up stating that the subject site is located at the northern perimeter of the 2200 block of Betty Drive. The irregularly shaped R-1 lot is located south of and adjoins the Waterford Gardens, a retirement/nursing home that is owned by the applicant. The P&Z first approved the CUP on 12/8/10. Ord. 3557 allows, under CUP approval, certain non-residential facilities to be placed on R-1 lots. In this regard, the applicant's CUP allowed her to install 8' walkways, a driveway, and a gazebo on the R-1A zoned lot for use by Waterford residents. There is also an opaque buffer fence that surrounds the side and the frontage onto Betty Drive with additional landscaping provided. The following conditions were imposed during the 12/8/10 CUP approval:

1. 1 year re-evaluation to assure smooth acclimation; may be renewed for extended periods after 1st year;
2. Pave sidewalks along Betty Drive (via plat note);
3. Keep gate locked; to be opened only for landscape maintenance, etc.;
4. No commercial signage on R-1A property;
5. Maintain landscaping, in particular, to the exterior and south of the wood fence, in a professional manner; also, fence to be maintained professionally;
6. Any security lighting to be downcast into the same property.

Upon inspection of the property, all conditions have been met, and staff has not received any complaints.

Staff recommended approval subject to: **1)** 1 year re-evaluation due to adjoining residential neighborhood, though a 3 year assessment may be considered next year if continuing to be fully compliant, and **2)** continue to maintain the landscaping and wood fence in a professional manner, in particular, along the south side of the fence.

Chairman Rene Flores asked if there was public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

There was no response.

Chairman Rene Flores stated that he recalled that during the 1st application for the CUP a neighbor was against the proposal, but that it looked like everything was running smoothly.

There being no further comments, Chairman Rene Flores entertained a motion. Ms. Diana Izaguirre moved to approve the conditional use permit as recommended by staff. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:10 p.m.

Ended: 5:13 p.m.

ITEM # 1.3

Conditional Use Permit

Renewal:

**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. Bobby Salinas went over the write-up stating that this site is located approximately 800' east of Bryan Road along the south side of Bus. HWY. 83. The CUP was approved by P&Z on 12/8/10 for 1 year.

The Sno-cone stand has been operable since December 2010. Drive-thru traffic wraps around his stand and exits through the parking lot. Poles were installed to the western perimeter to ensure that vehicles do not trespass through the watermill/Fontana property. Since spaces were displaced with traffic going through the parking lot, the applicant installed two temporary spaces located along the south of the property to compensate. Staff has not received any complaints regarding the drive-thru or the temporary parking stalls.

Since the portable building is temporary, the CUP will be voided once the old Fontana site is built on with an attractive retail suite complex. As such, staff does not object to continue allowing the Sno-cone stand to operate, inclusive of the temporary all weather parking.

Staff recommended approval subject to perpetual 1-year re-evaluations with notice that this CUP is temporary pending completion of the forthcoming commercial facility to the adjoining west.

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

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

There was no response.

There being no further comments, Chairman Rene Flores entertained a motion. Mr. Carlos Lopez moved to approve the conditional use permit subject to staff's recommendations. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:10 p.m.

Ended: 5:13 p.m.

ITEM # 1.4

Conditional Use Permit

Renewal:

Sale and On-Site Consumption of Alcoholic

Beverages- Yoko's Sushi Restaurant

122 S. Shary Road, Ste. K

Lot 2, Home Depot Subdivision # 2

C-4

Elena Priscila Lozano

Mr. Bobby Salinas went over the write-up stating that this CUP was first approved by P&Z on 10/14/09 and renewed on 11/18/10. The 1,400 sq.ft. restaurant is located 1,200' north of Expressway 83 along the west side of Shary Road within a commercial plaza.

- **Hours of Operation:** Sunday – Thursday from 11:00 a.m. to 11:00 p.m. and Friday and Saturday from 11:00 a.m. to 12:00 a.m. Alcoholic beverages are only served during allowable State selling hours.
- All parking, landscaping, and sign codes are being met.
- There have been no negative incidents relating to the CUP within the past year.

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 to continue the CUP subject to a 3-year re-evaluation.

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

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

Ms. Elena Lozano, the owner of Yoko's Sushi was present to answer any questions from the board.

Chairman Rene Flores asked Ms. Lozano, how long she's been in business.

Ms. Lozano replied that she's been in business for 3 years.

Chairman Rene Flores stated that he wished her good luck in the future.

There being no comments, Chairman Rene Flores entertained a motion. Mrs. Marisela Marin moved to approve the conditional use permit as per staff's recommendations. Ms. Diana Izaguirre seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:15 p.m.

Ended: 5:19 p.m.

ITEM # 1.5

Conditional Use Permit

Renewal:

**Sale and On-Site Consumption of Alcoholic Beverages and Drive-thru Service Window
- 100% Antojitos Mexicanos
301 W. Griffin Parkway, Ste. 1
Lot 1-D, Mission Park Plaza Subdivision
C-3
Jose R. Mendez**

Mr. Bobby Salinas went over the write-up stating that the 1,402' sq.ft. restaurant site is located within a commercial plaza approximately 800' west of Conway Avenue along the south side of Griffin Parkway. This CUP was most recently approved by P&Z on 5/26/10 for offering of alcoholic beverages with meals. The restaurant site has an existing drive-thru window that is accessed through an interfaced driveway onto Church's maneuvering lanes. One of the requirements for the approval of the drive-thru from the 9/9/09 meeting was the installation of a speed bump. During an on-site inspection of the restaurant site, staff found that the speed bump had not been installed as required.

- **Hours of Operation:** Everyday from 11:00 a.m. to 11:00 p.m., Alcoholic beverages are only served during allowable State selling hours.
- **Staff:** 10 employees
- **Parking:** Viewing the floor plan, the 1,402' sq.ft. restaurant requires 19 parking spaces (1,402'/75 sq.ft. = 18.7 parking spaces). It is noted that the parking area is held in common (78 existing parking spaces) and is shared with other businesses. The parking area is also connected and has access to existing, interlocking parking lots.
- **Sec. 6-4:** This request is compliant to Sec. 6-4, which requires that no alcoholic beverages be sold within 300' to a church, public school, private school or public hospital. There are none of these land uses within the above radius (measured door to door for church or hospital; measured lot line to lot line for schools).

Staff has requested a report from Mission PD regarding any incidents relating to the sale and on-site consumption of alcohol; the report came back with zero incidents. Staff has not received any comments for or against this item.

Staff recommended approval subject to: **1)** 1 year re-evaluation to assess this operation, and **2)** the installation of a speed bump.

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

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

There was no response.

Chairman Rene Flores asked staff if the owner had been advised about the speed bump requirement.

Mr. Bobby Salinas replied that if the CUP is approved then staff would be sending the owner a letter of action advising him of the requirements.

Mr. Mario Garza stated that since there haven't been any incidents; he didn't see a problem renewing the conditional use permit.

There being no comments, Chairman Rene Flores entertained a motion. Mr. Mario Garza moved to approve the conditional use permit as per staff's recommendations. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:19 p.m.

Ended: 5:23 p.m.

ITEM # 1.6

Conditional Use Permit

Renewal:

Sale and On-Site Consumption of Alcoholic Beverages – Mariachuchena's Bar and Grill

302 W. Griffin Parkway, Suites A & B

Lot 2, Storage Depot Subdivision

C-3

Jose V. Narvaez

Mr. Bobby Salinas went over the write up stating that the subject site is located in approximately ¼ mile west of Conway Avenue along the north side of Griffin Parkway (FM 495). A CUP for the sale of alcohol was approved by P&Z on 9/14/11 for a period of 6 months, however City Council reduced the term to 3 months. The reason for the short term was for violating TABC regulations on two separate instances (sale of alcohol after State selling hours).

- **Hours of Operation:** Wednesday & Sunday 4:00 p.m. to 12:00 a.m., Thursday-Saturday 4:00 p.m. to 2:00 a.m., Monday & Tuesday Closed. Alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 6 employees.
- **Parking:** Viewing the floor plan, the restaurant has a total of 36 seating spaces, which require 12 parking spaces (36/1 space for every 3 seats = 12 parking spaces). It is noted that the parking area is held in common (48 spaces for all suites) and is shared with other businesses. The Planning Department has not received any complaints regarding intense overflow parking under Mariachuchena's previous management.
- Section 1.56-3 of the Zoning Code cites that 'Bars' must be 300' from the nearest residence, church, school or publicly owned property. There is one residence within 300'; however, P&Z and the Council waived this separation requirement in the CUP's previous approval.
- **Noise:** The applicant stated that there would be only piano and acoustic music; No DJ or loud bands. If there are noise issues, Staff will approach the applicant and impose policy.
- Only 2 minor incidents have been reported to PD, but nothing related to the sell of alcohol.

Staff recommended approval subject to waiving the 300' separation requirement and a 1-year re-evaluation.

Chairman Rene Flores asked if there was public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

Mr. Jose V. Narvaez, the business owner was present to answer any questions from the board.

Chairman Rene Flores mentioned that he was glad that they have taken care of the problems and that he wished the owner good luck in the future.

There being no further comments, Chairman Rene Flores entertained a motion. Ms. Diana Izaguirre moved to approve the conditional use permit subject to staff's recommendations. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:23 p.m.

Ended: 5:51 p.m.

ITEM # 1.7

Conditional Use Permit

Renewal:

Sale & On-Site Consumption of Alcoholic

Beverages – Smokin’ Aces
2518 E. Business HWY 83
C-3
Michael Aguilar

Mr. Sergio Zavala went over the write up stating that the Smokin’ Aces operation is located approximately 300’ west of Taylor Road along the south side of Bus. HWY. 83. Smokin Aces bar began its operation after the City Council approved it in January 2007, over-riding the denial from the Planning & Zoning Commission. In their approval, the City Council imposed 7 encumbrances. Some of the City’s primary conditions included **annual re-evaluations**, and having **professional security on-site during Friday-Saturday-Sunday’s evening hours of operation specified as 7 p.m. until ½ hour past closing”**. The intent of the re-evaluation period is to assess whether this alcohol related CUP has remained a respectful neighbor or not within a nearby residential area (apts.), and a nearby public high school.

Smokin’ Aces’ compliance to prevailing City/State laws during the course of the annual evaluation period is tantamount on whether to approve or deny this item.

To discern how Smokin’ has fared, we need to review the # of calls the PD has received (and for what justifiable cause, etc.); thus, Planning requested the # of response calls from the Mission PD during the latest assessment period of November 2011 until present. He stated that PD recently submitted the report on Smokin’ Aces for the past 3 months with 2 incidents.

One on December 18th, where 2 intoxicated ladies got into a fight and one of them threw a bottle at the other. The report mentioned that a patrol unit and an ambulance were called to the scene. The other incident happened on December 27th, two sisters got into a fight, and when PD searched the ladies they found narcotics on one of the ladies; she was arrested for outstanding warrants and possession of an illegal substance. He stated that on both incidents, PD did not disclose the presence of security, but that staff would give the owner the opportunity to answer their concerns.

Planning twice requested from Smokin’ Aces a copy of their contract with a professional security firm but we’ve yet to receive any document attesting whether there is any long-standing contract with anyone or what type of security firm has been engaged. Perhaps this’ll be disclosed at the P&Z hearing.

Staff reserved the recommendation until after discussion.

Chairman Rene Flores asked if there was public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

Mr. Jose Aguilar, the owner of Smokin' Aces, stated that there were indeed two incidents, and during those two incidents there was security and that the security was the one that called PD on one of those two incidents.

Chairman Rene Flores stated that Mr. Aguilar has been in front of the board several times and that staff has been lenient with him and they've been trying to work with him, but it seemed like Mr. Aguilar was not willing to pull his end of the bargain, by not submitting the contract with the security company. He asked Mr. Aguilar if he had hired a company, and why hasn't the contract been submitted to the city.

Mr. Aguilar replied that he had hired a guy from Texas Pioneer Security; he stated that it was one security guard and that there was no contract. He stated that he only pays him by the hour and the only proof that he had were the canceled checks and he was willing to submit them to the board. He also stated that during major events he has 8 people as securities.

Mrs. Marisela Marin asked Mr. Aguilar if he hired 8 securities?

Mr. Aguilar replied that he only hires 1 security and 7 bouncers during major events, since it would be too expensive to hire 8 security officers.

Mrs. Marisela Marin stated that she visited the bar and due to the location and in her opinion, Mr. Aguilar should hire more than one security during major events.

Chairman Rene Flores asked Mr. Aguilar what was the involvement of the security guy during both incidents.

Mr. Aguilar replied that on one incident he was the one that called the Police Department, and on the other one, he was inside the building when it occurred.

Ms. Diana Izaguirre asked Mr. Aguilar if he could submit copies of the canceled checks.

Mr. Aguilar replied that he could, submit them.

Staff recommended approval for 3 months to assess whether there is a simple formalized agreement between Smokin' Aces and a professional security firm to monitor the site.

After more discussion about the two incidents, Mr. Aguilar asked the board how many securities they would like during major events.

Chairman Rene Flores replied that he would like to see two securities one inside the building and the other one working the door. He also stated that next time that the board sees the item he would like to hear no more excuses, because the board has been trying to help him, but it seemed that Mr. Aguilar was not trying to make an effort in complying with the requirements.

There being no further comments, Chairman Rene Flores entertained a motion. Mr. Mario Garza moved to approve the conditional use permit subject to staff's recommendations. Ms. Diana Izaguirre seconded the motion. The motion passed 5-1 with Mrs. Marisela Marin dissenting.

Started: 5:51 p.m.

Ended: 5:54 p.m.

ITEM # 2.0

Pre-Final Plat Approval:

Los Cabos Subdivision, Phase II

13.90 Ac. out of Lots 72 & 82,

John H. Shary Subdivision

PUD

Developer: Hunt Valley Dev. I, LLC

Engineer: Half Associates

Mr. Bobby Salinas went over the write up stating that the proposed subdivision is the second phase of the existing Los Cabos Subdivision located at the SW corner of San Mateo & Glasscock Road. The proposed subdivision consists of 47 SF Residential lots and 2 Common areas. The lot sizing ranges from 6,900 sq.ft. to 12,008 sq.ft. These lots are consistent with the PUD's land use designation profile.

WATER: An internal 8" water line system will provide service to all lots with 4 hydrants located via direction from the Fire Marshal's office. The system will be looped by connecting the internal 8" lines to existing 8" lines located within Phase I and along San Mateo Road.

SEWER: An internal 8" system will provide this service as it ties to the existing 8" and 12" sewer networks within Los Cabos, Ph. I. The capital sewer recovery fee will be imposed to the residential lots, \$200/lot X 47 lots = \$9,400.00

STREET & STORM DRAINAGE: The developer is proposing the extension of San Mateo Road, a 60' ROW/43' B-B residential collector street located on the subdivision's northern boundary. The extension will provide one of three points of access into the proposed subdivision, with the other access points being off of Los Cabos Phase I. There are three internal 50' ROW/32' B-B streets with additional 15' U.E., thus exceeding our minimum standards. Storm drainage is accomplished through a series of 24", 30" & 36" storm lines, which will connect into Hunt's regional drainage ditch system currently located on the south and west side of the subdivision.

OTHER COMMENTS: Street names to comply with street alignment policy; comply with all format findings; water rights dedication via Hunt-City policy; and comply with Park Fees Dedication Ordinance.

Staff recommended approval to the subdivision request as presented.

Chairman Rene Flores asked if the applicant or representative were present.

Mr. Raul Garcia, P.E., the project engineer, and Mr. Jeff Underwood, the project manager, were present to answer any questions from the board.

Chairman Rene Flores asked Ms. Diana Izaguirre if she had any questions or comments, being that she was familiar with subdivisions.

Ms. Diana Izaguirre stated that everything looked good.

There being no further comments, Chairman Rene Flores entertained a motion. Ms. Diana Izaguirre moved to approve the pre-final plat subject to staff's recommendations. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

ITEM # 3.0
ADJOURNMENT

There being no further items for discussion, Mr. Mario Garza moved to adjourn the meeting. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 5:54 p.m.

Rene Flores, Chairman
Planning and Zoning Commission