

**NOTICE OF REGULAR MEETING
MISSION CITY COUNCIL
SEPTEMBER 24, 2012 4:30 P.M.
MISSION CITY HALL**

PRESENT:

Norberto Salinas, Mayor
Maria Elena Ramirez, Councilwoman
Ruben D. Plata, Councilman
Norie Gonzalez Garza, Mayor Pro Tem
Dr. Armando O'cana, Councilman
David Guerra, City Attorney
Julio Cerda, City Manager

ABSENT:

ALSO PRESENT:

Jim Brunson, Progress Times
Gail Burkhardt, The Monitor
Roxanna Gomez
Florestella Martinez
Oscar Cancino
Alfonso Pena
Aurelio Flores
Yesenia Trevino
Aurelio Flores
Art Salinas
Aurelio Garza

STAFF PRESENT:

Nelia Hernandez, Assistant. City Secretary
Carmen Morales, Administrative Assistant
Aida Lerma, Deputy City Manager
Sonia Marroquin, Deputy City Manager
Guillermo Seguin, Deputy City Manager
Bobby Salinas, Interim Planning Director
Pat Martinez, Planning Dept.
Roberto Salinas, Public Works Director
Paul Schaefer, Golf Course Director
Joanne Longoria, CDBG Director
Gilbert Sanchez, Fire Marshal
Rick Saldana, Fire Chief
Eduardo Belmarez, Purchasing Director
Martin Garza, Chief of Police
Robert Dominguez, Asst. Chief of Police
Janie Flores, Finance Director
Randy Perez, Accountant
Julian Gonzalez, Parks & Rec. Director
Juan C. Avila, B & G Club Director
Noemi Munguia, HR Director
Robert Hinojosa, Risk Manager
Jesse Lerma, Civil Service Director
Roland Rodriguez, I. T. Director
Jonathan Wehrmeister, Judge
Luis Contreras, Museum Director
Mayra Rocha, Library Director
John Hernandez, City Engineer

1. Call to order

With a quorum being present, Mayor Norberto Salinas called the meeting to order at 4:37 p.m.

2. Pledge Allegiance and Invocation

Mayor Salinas led the meeting with the pledge of allegiance and Deputy City Manager Aida Lerma gave the invocation.

3. Proclamation – Mission Fire Department 100th Anniversary

Nelia Hernandez Assistant City Secretary read the proclamation Mission Fire Department 100th Anniversary.

Rick Saldana Fire Chief received proclamation and thanked Mayor Salinas and Council for their continued support.

Mayor Pro Tem Norie Gonzalez Garza moved to approve the proclamation as presented. Motion was seconded by Councilman Ruben D. Plata and approved unanimously 5-0.

4. Departmental Reports

Councilwoman Maria Elena Ramirez moved to approve the departmental reports as presented. Motion was seconded by Councilman Plata and approved unanimously 5-0.

5. Report from the Greater Mission Chamber of Commerce

Matt Ruszczak, CEO of the Greater Mission Chamber of Commerce reported on the chamber events that had recently taken place and upcoming events that would be taking place throughout the City.

6. Citizens Participation

Oscar Cancino representative of TxDot gave a brief update on the ongoing project along Business 83 and FM 93.

1.0 Public Hearing

1.1 Planning & Zoning Recommendations

A. Rezoning: A 240.43' x 196.76' tract out of Lot 108, Sharyland Orchards Subdivision from R-1A to C-1, Aurelio Flores

The subject site was located on the SW corner of Scout Lane and Shary Road. Mr. Flores had previously applied for a zone change from R-1A to C-3 but was denied at both P&Z and City Council. On 8-22-12, Mr. Flores asked the Planning and Zoning Commission for a waiver of the 6 month waiting period with the reason that he was now asking for a C-1 zone and included details as to how he anticipated having a C-1 with virtually no commercial impact to the residential neighborhood. With the new proposal, P&Z approved the waiver, thus Mr. Flores was now asking for a rezone from R-1A to C-1.

The surrounding zones included Agricultural Open Interim (AO-I) to the south and Large Lot Single Family Residential (R-1A) in all other directions. The surrounding land uses included Residential homes to the north, west, and at the site, Sharyland High School to the east and UID Right of Way to the south. The Future Land Use Map reflected a Lower Density (LDA) designation, which was consistent with an R-1A use.

Though the area was proposed as an LDA area, please remember that the FLUM was used primarily as a general guide.

- Staff was aware that the property abuts residentially used properties on the north, south, and west side. However, with Shary Rd being a 120' ROW TxDOT corridor, a C-1 zone may be following a transition, where development was ongoing at a healthy pace;
- The traffic produced by both Sharyland High School and inherent traffic using this major street was more conducive for a non-residential use, rather than having an R-1A home along such congestive traffic.
- C-1 businesses were typically a 9 a.m. to 6 p.m. neighbor with no activity during the evening hours; thus well-lit for security, but not emanating any noise during the evening nor early morning hours. C-1 was the most restrictive of the commercial zones, which allowed doctor's offices, banks, etc. No auto body shops, No convenience stores, etc. were allowed within this zone.
- Residential uses would be shielded by the installation of an 8' opaque buffer via future plat note and landscaping code. Mr. Flores was also proposing a wrought iron fence along Scout Lane to impede commercial access, thus no traffic impact to Scout Lane.

Staff did not object to C-1 since the property was adjacent to Shary Road; the property was more conducive for a non-residential use; and C-1 was a low keyed neighbor. There was neighboring opposition during the 9/12/12 P&Z hearing, where after much discussion P&Z unanimously recommended denial. FYI, it would take a 4/5ths favorable vote to 'approve' the C-1 rezoning.

City Manager recommended denial.

Mayor Salinas asked if there were any comments for or against the rezoning request.

Mr. Aurelio Flores who resides at 1217 N. Shary Rd. in Mission spoke in favor of the rezoning request, elaborating how rezoning to a C-1 zone would help in selling his property. Mayor Salinas advised to Mr. Flores that he had received two calls from school officials stating that they were not in favor of this request.

Councilman Dr. Armando O'cana moved to deny the Rezoning: A 240.43' x 196.76' tract out of Lot 108, Sharyland Orchards Subdivision from R-1A to C-1. Motion was seconded by Councilwoman Ramirez and denied unanimously 5-0.

B. Conditional Use Permit: Sale & On-Site Consumption of Alcoholic Beverages – Shotz Bar and Grill, 2530 E. Griffin Parkway, Ste. "C", Lot 12, Sharyland Plaza Subdivision, C-3, Aurelio Garza

The subject site was located approximately 200' east of Hackberry along the south side of Griffin Parkway. A CUP for the sale of alcohol was most recently approved by City Council at this site on 8/8/11 with a 1 year re-evaluation.

- Days/Hours of Operation: Monday through Sunday from 3:00 p.m. to 2:00 a.m. Alcoholic beverages would only be served during allowable State selling hours.
- Staff: 10 employees

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- Parking: Viewing the floor plan, the building had a total of 109 seating spaces, which required 36 parking spaces (109 seats/1 space for 3 every 3 seats = 36.3 parking spaces). It was noted that the parking area was held in common and was shared with other businesses. The Planning Department did not receive any complaints regarding intense overflow parking under Shotz 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 was a residential subdivision located within 300’; however, P&Z and City Council waived this separation requirement in the CUP’s previous approval.
- Noise: In speaking with the applicant there were certain nights where there may be a D.J. or Karaoke. The applicant had been in compliance with the noise code. If there were unresolved noise issues, Staff would approach the applicant and if not compliant to noise codes/concerns, revocation of the CUP may be activated via policy.

In speaking with Mission PD, there were no incidents in relation to the sale and on-site consumption of alcohol. Additionally, notices were sent to property owners within a 200’ radius of the site and no comments against this request had been forwarded to the Planning Department.

There was no public opposition during the 9/12/12 P&Z hearing. P&Z unanimously recommended approval as recommended by staff.

Staff Recommendation: Approval subject to: 1) 1 year re-evaluation to assess this operation, 2) waiving the 300’ separation requirement, and 3) must continue to comply with the noise code

City Manager recommended approval.

Mayor Salinas asked if there were any comments for or against the cup request.

There were no comments.

City Attorney David Guerra advised Mayor Salinas and Council that Councilman Plata would be abstaining from this item.

Mayor Pro Tem Garza moved to approve the Conditional Use Permit: Sale & On-Site Consumption of Alcoholic Beverages – Shotz Bar and Grill, 2530 E. Griffin Parkway, Ste. “C”, Lot 12, Sharyland Plaza Subdivision, C-3 as recommended. Motion was seconded by Councilman O’cana and approved 4-0 with Councilman Plata abstaining from voting and deliberation on this item.

C. Conditional Use Permit: Sale & On-Site Consumption of Alcoholic Beverages – Tacos La Silla Restaurant, 808 W. Expressway 83, Lots 5 & 6, Block 4, Erdahl Subdivision, C-3, Alfonso Peña

The site was located 100’ from Holland Road along the north side of Expressway 83. The existing Tacos La Silla Restaurant had been in operation since 2009. They were now proposing to offer alcoholic beverages with meals. Access to the site was provided from an existing 25’ driveway off of Expressway 83.

- Days/Hours of Operation: Monday – Saturday from 6:30 a.m. to 9:00 p.m. & Sundays from 8:00 a.m. to 4:00 p.m. Alcoholic beverages would only be served during allowable State selling hours.

- Staff: 10 employees; 2 shifts
- Parking & Landscaping: In viewing the floor plan, the restaurant had a total of 48 seats which required 16 parking spaces (48/3 seats = 16 spaces). It was noted that the parking area was held in common (29 existing parking spaces) and was shared with other businesses. The site had 4 shade trees along the Expressway area, thus compliant to the City's previous landscaping requirements.
- Sale of Alcohol: There were no churches or public/private school within 300' of the subject site, thus being compliant to Section 6-4.

Since the restaurant would not be open after 9 p.m., and the sale of the alcohol was not the primary item of purchase, staff does not object to the proposal. There was no public opposition during the 9/12/12 P&Z hearing. P&Z unanimously recommended approval.

Staff Recommendation: Approval subject to a 1 year re-evaluation to assess the sale of alcohol and wet zoning the property (if needed).

City Manager recommended approval.

Mayor Salinas asked if there were any comments for or against the cup request.

There were no comments.

Councilman Plata moved to approve the Conditional Use Permit: Sale & On-Site Consumption of Alcoholic Beverages – Tacos La Silla Restaurant, 808 W. Expressway 83, Lots 5 & 6, Block 4, Erdahl Subdivision, C-3 as recommended. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

D. Conditional Use Permit: Drive-thru Convenience Store & Hotdog Cart, 1705 W. Griffin Parkway, Lot 2, Barrera Subdivision & Lot 74, Las Misiones Subdivision, C-3, Florestella Martinez

The site was located on the SW corner of Kirk Avenue and Griffin Parkway. The subject site currently had an existing drive-thru convenience store and hotdog cart. Access to the site was provided off of Griffin Parkway through an existing 16' concrete driveway. The building measured 40' x 45' for a total of 1,800 square feet. This conditional use permit was previously approved by P&Z on 7-27-11 for a period of 1 year.

- Days/Hours of Operation: Monday – Friday from 10 a.m. to 12 a.m., Saturday from 10 a.m. to 1 a.m., and Sunday from 12 p.m. to 12 a.m.
- Staff: 4 employees
- Parking: A total of 8 parking spaces had been provided and were in compliance to code.
- Landscaping: The applicant had installed 3 new trees along Kirk Avenue, as one of the P&Z requirements, and had been maintaining them.

There was no public opposition during the 9/12/12 P&Z hearing. P&Z unanimously recommended approval as shown below.

Staff Recommendation: Approval subject to: 1) 1 year re-evaluation to assess this new operation, and 2) Continue to maintain the landscaping.

City Manager recommended approval.

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Mayor Salinas asked if there were any comments for or against the cup request.

There were no comments.

Mayor Pro Tem Garza moved to approve the Conditional Use Permit: Drive-thru Convenience Store & Hotdog Cart, 1705 W. Griffin Parkway, Lot 2, Barrera Subdivision & Lot 74, Las Misiones Subdivision, C-3 as recommended. Motion was seconded by Councilman O'cana and approved unanimously 5-0.

E. Conditional Use Permit: Drive-Thru Service Window with 2 lanes – McDonald's, 804 S. Shary Road, Lot 4, Cimarron Crossing Ph II Subdivision, C-3, McDonald's Restaurant

The site was located 250' south of Expressway 83 along the west side of Shary Road. This conditional use permit for a drive-thru service window was most recently approved by P&Z on 3-9-11. The applicant remodeled the restaurant and added a menu board located to the west adjacent to the existing menu board. The additional lane provided an added route for customers to order more promptly and allowed for additional stacking. Access to the site was provided from an existing 45' driveway on Shary Road and was interconnected to adjoining commercial others.

- Days/Hour of Operation: Monday – Sunday 5:30 a.m. to 12 a.m.; Drive-thru – 24 hours.
- Staff: 8 employees (shifts)
- Parking & Landscaping: There were a total of 135 seating spaces which required 45 parking spaces ($135/3 \text{ seats} = 45$). There were a total of 45 parking spaces provided, thus compliant to code. During the approval of the first CUP, P&Z requested 2 trees to be installed along Shary Road; they were in compliance with the requirement.

Since staff had not received any complaints in regards to the double drive-thru service lanes, staff did not object to renewing this conditional use permit for a 3 year period. There was no public opposition during the 9/12/12 P&Z hearing. The P&Z unanimously recommended approval as shown below.

Staff Recommendation: Approval subject to a 3 year re-evaluation.

City Manager recommended approval.

Mayor Salinas asked if there were any comments for or against the cup request.

Mr. Fred Del Barrio owner of the McDonald's Restaurant spoke in favor of the request.

Councilman Plata moved to approve the Conditional Use Permit: Drive-Thru Service Window with 2 lanes – McDonald's, 804 S. Shary Road, Lot 4, Cimarron Crossing Ph II Subdivision, C-3, subject to Life of Use. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

F. Conditional Use Permit: Drive-Thru Service Window for Delia's Tamales, 800 W. Griffin Parkway, Lot 1, Chaparral Heights Subdivision, C-3, Delia's Tamales

The site was located on the NW corner of Holland Road and Griffin Parkway. The existing Delia's Tamales had been in operation since 2007 and had an existing drive-thru service window located on the east side of the building. Existing access to the site was from Griffin Parkway and Holland

Road. The location of the service window provided enough stacking for approximately 6-7 vehicles. This conditional use permit was most recently approved by P&Z on 7-8-09 with a 3 year re-evaluation.

- Days/Hours of Operation: Every day from 6 a.m. to 8 p.m.
- Staff: 5 employees
- Parking: In regards to parking, there were 60 seating spaces available for dining; the restaurant required 20 parking spaces. The site currently had 21 parking spaces, thus meeting code. In regards to the landscaping, the original approval of the CUP required 3 trees to be installed in clay pots however an on-site inspection of the property revealed that the trees were not maintained and need to be replaced.
- Must continue to comply with the City's sign code.

There was no public opposition during the 9/12/12 P&Z hearing. P&Z unanimously recommended approval as shown below.

Staff Recommendation: Delia's had been in operation since 2007 with no incidents reported regarding the drive-thru service window, thus Staff recommended approval subject to a 3 year re-evaluation in order to continue to assess the traffic patterns and must replace and maintain the required trees.

City Manager recommended approval.

Mayor Salinas asked if there were any comments for or against the cup request.

Mr. Luis Trevino representative of Delia's Tamales spoke in favor of the item, expressing his concern over the landscaping maintenance the City of Mission requested he keep.

Mayor Salinas expressed his apology in behalf of the city for requesting this type of landscaping from his business. He also mentioned to Mr. Trevino that as of now he no longer needed to keep this landscaping in his business.

Mayor Pro Tem Garza moved to approve the Conditional Use Permit: Drive-Thru Service Window for Delia's Tamales, 800 W. Griffin Parkway, Lot 1, Chaparral Heights Subdivision, C-3, subject to Life of Use. Motion was seconded by Councilman Plata and approved unanimously 5-0.

G. Conditional Use Permit: Daycare in an AO-I Zone, 121 E. 2 Mile Road, West 75' of the East 902' of the South 105', Lot 29-7, West Addition to Sharyland Subdivision, AO-I, Yesenia Trevino

The site was located on the NW corner of Black Oak Lane and 2 Mile Road. This conditional use permit was previously approved by P&Z on 4-27-11 for 1 year. Since the applicant did not reside at the home, one requirement was to obtain 90% signatures of approval from the surrounding property owners within a 200' radius, which were acquired.

When the CUP was first approved, there was a condition that was included in P&Z's action, which required the closing of the residential driveway along 2 Mile Road in order to comply with the marginal street accessibility portion of the subdivision code. With Mile 2's widening and with more traffic at higher speeds, the closing of the driveway was recommended to ensure the safety of the applicant and those traveling along 2 Mile Road. The applicant was given the opportunity to retain the driveway for 1 year, but had now fenced it in, thus no longer having access to 2 Mile

Road. Since Staff had not received any complaints regarding the daycare since it first opened in 2010 and since the applicant had enclosed the driveway off of 2 Mile Road, Staff did not object to approving the renewal with a 3 year re-evaluation. There was no public opposition during the 9/12/12 P&Z hearing. P&Z unanimously recommended approval as shown below.

Staff Recommendation: Approval subject to a 3 year re-evaluation.

City Manager recommended approval.

Mayor Salinas asked if there were any comments for or against the cup request.

There were no comments.

Councilman Plata moved to approve the Conditional Use Permit: Daycare in an AO-I Zone, 121 E. 2 Mile Road, West 75' of the East 902' of the South 105', Lot 29-7, West Addition to Sharyland Subdivision, AO-I as recommended. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

2.0 Disposition of Minutes

2.1 City Council Meeting – September 10, 2012 and Special Meeting – September 17, 2012

Councilman Plata moved to approve the minutes as presented. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

3.0 Acknowledge Receipt of Minutes

3.1 Shary Golf Advisory Board – August 14, 2012 Mission Economic Development Corporation – August 21, 2012

**Mission Historical Museum – September 5, 2012
Planning and Zoning Commission – August 8, 2012,
August 22, 2012 and August 29, 2012**

Councilwoman Ramirez moved to acknowledge the receipt of minutes as presented. Motion was seconded by Councilman Plata and approved unanimously 5-0.

4.0 Approvals and Authorizations

4.1 Adoption of Ord. # 3835 for Rezoning: A 240.43' x 196.76' tract out of Lot 108, Sharyland Orchards Subdivision from R-1A to C-1

Since the CUP was denied in public hearing, the item failed for lack of motion.

4.2 Adoption of Ord. # 3835 for CUP for the Sale and On-Site Consumption of Alcoholic Beverages – Shotz Bar and Grill, 2530 E. Griffin Parkway, Ste. “C”, Lot 12, Sharyland Plaza Subdivision

Staff and City Manager recommended ordinance approval.

Mayor Pro Tem Garza moved to adopt of Ordinance No. 3835 for Conditional Use Permit for the Sale and On-Site Consumption of Alcoholic Beverages – Shotz Bar and Grill, 2530 E. Griffin Parkway, Ste. “C”, Lot 12, Sharyland Plaza Subdivision as recommended. Motion was seconded by

Councilman O'cana and approved 4-0 with Councilman Plata abstaining from voting and deliberation on this item.

ORDINANCE NO. 3835

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS GRANTING A CONDITIONAL USE PERMIT FOR THE SALE & ON-SITE CONSUMPTION OF ALCOHOLIC BEVERAGES – SHOTZ BAR AND GRILL, 2530 E. GRIFFIN PARKWAY, STE. "C", LOT 12, SHARYLAND PLAZA SUBDIVISION

4.3 Adoption of Ord. # 3836 for CUP for the Sale & On-Site Consumption of Alcoholic Beverages – Tacos La Silla Restaurant, 808 W. Expressway 83, Lots 5 & 6, Block 4, Erdahl Subdivision

Staff and City Manager recommended ordinance approval.

Councilman Plata moved to adopt of Ordinance No. 3836 for Conditional Use Permit for the Sale & On-Site Consumption of Alcoholic Beverages – Tacos La Silla Restaurant, 808 W. Expressway 83, Lots 5 & 6, Block 4, Erdahl Subdivision as recommended. Motion was seconded by Mayor Pro Tem Garza and approved unanimously 5-0.

ORDINANCE NO. 3836

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS GRANTING A CONDITIONAL USE PERMIT FOR THE SALE AND ON-SITE CONSUMPTION OF ALCOHOLIC BEVERAGES – TACOS LA SILLA RESTAURANT, 808 W. EXPRESSWAY 83, LOTS 5 & 6, BLOCK 4, ERDAHL SUBDIVISION

4.4 Adoption of Ord. # 3837 for CUP for Drive-Thru Convenience Store & Hotdog Cart, 1705 W. Griffin Parkway, Lot 2, Barrera Subdivision & Lot 74, Las Misiones Subdivision

Staff and City Manager recommended ordinance approval.

Mayor Pro Tem Garza moved to adopt of Ordinance No. 3837 for Conditional Use Permit for Drive-Thru Convenience Store & Hotdog Cart, 1705 W. Griffin Parkway, Lot 2, Barrera Subdivision & Lot 74, Las Misiones Subdivision as recommended. Motion was seconded by Councilman O'cana and approved unanimously 5-0.

ORDINANCE NO. 3837

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS GRANTING A CONDITIONAL USE PERMIT FOR DRIVE-THRU CONVENIENCE STORE & HOTDOG CART, 1705 W. GRIFFIN PARKWAY, LOT 2, BARRERA SUBDIVISION & LOT 74, LAS MISIONES SUBDIVISION

4.5 Adoption of Ord. # 3838 for CUP for a Drive-Thru Service Window with 2 lanes – McDonalds, 804 S. Shary Road, Lot 4, Cimarron Crossing Ph. II Subdivision

Staff and City Manager recommended ordinance approval.

Councilman Plata moved to adopt of Ordinance No. 3838 for Conditional Use Permit for a Drive-Thru Service Window with 2 lanes – McDonalds, 804 S. Shary Road, Lot 4, Cimarron Crossing Ph. II Subdivision, subject to Life of Use. Motion was seconded by Mayor Pro Tem Garza and approved unanimously 5-0.

ORDINANCE NO. 3838

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS GRANTING A CONDITIONAL USE PERMIT FOR A DRIVE-THRU SERVICE WINDOW WITH 2 LANES – MCDONALD’S, 805 S. SHARY ROAD, LOT 4, CIMARRON CROSSING PH. II SUBDIVISION

4.6 Adoption of Ord. # 3839 for CUP for Drive-Thru Service Window for Delia’s Tamales, 800 W. Griffin Parkway, Lot 1, Chaparral Heights Subdivision

Staff and City Manager recommended ordinance approval.

Councilman Plata moved to adopt of Ordinance No. 3839 for Conditional Use Permit for Drive-Thru Service Window for Delia’s Tamales, 800 W. Griffin Parkway, Lot 1, Chaparral Heights Subdivision subject to Life of Use. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

ORDINANCE NO. 3839

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS GRANTING A CONDITIONAL USE PERMIT FOR DRIVE-THRU SERVICE WINDOW FOR DELIA’S TAMALES, 800 W. GRIFFIN PARKWAY, LOT 1, CHAPARRAL HEIGHTS SUBDIVISION

4.7 Adoption of Ord. # 3840 for CUP for Daycare in an AO-I Zone, 121 E. 2 Mile Road, West 75’ of the East 902’ of the South 105’, Lot 29-7, West Addition to Sharyland Subdivision

Staff and City Manager recommended ordinance approval.

Councilman Plata moved to adopt of Ordinance No. 3840 for Conditional Use Permit for Daycare in an AO-I Zone, 121 E. 2 Mile Road, West 75’ of the East 902’ of the South 105’, Lot 29-7, West Addition to Sharyland Subdivision as recommended. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

ORDINANCE NO. 3840

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS GRANTING A CONDITIONAL USE PERMIT FOR A DAYCARE IN AN AO-I ZONE, 121 E. 2 MILE ROAD, WEST 75’ OF THE EAST 902’ OF THE SOUTH 105’, LOT 29-7, WEST ADDITION TO SHARYLAND SUBDIVISION

4.8 Request by Dairy Queen to Authorize City Manager to Issue Building Permit Prior to Subdivision Recordation being a .894 acre tract of land out of Lot 195, John H. Shary Subdivision (NE corner of Shary Rd. and E. 4th St.)

Staff had received a written request to have the City Council authorize City Manager Julio Cerda to issue a building permit for a new Dairy Queen Restaurant (\$610,000 value) to be located at the NE

corner of Shary Rd. and E. 4th St.

Staff had held a pre-construction conference with Art Salinas Engineering recently where the plans for construction were approved, thus being ready to commence utility installation. Their request was to get a head start on the building while the plat's associated utility and paving was ongoing. According to the written request, the recording of the subdivision should occur by mid-October.

Over the years, the City had favorably considered such requests so long as occupancy was not issued prior to plat recordation. With only a 1-lot plat to consider, with perimeter utility plans already approved for construction, staff did not object to their request.

Staff Recommendation: Approval subject to no occupancy without a recorded plat.

City Manager recommended approval.

Mayor Pro Tem Garza moved to authorize City Manager to Issue Building Permit Prior to Subdivision Recordation being a .894 acre tract of land out of Lot 195, John H. Shary Subdivision as recommended. Motion was seconded by Councilman Plata and approved unanimously 5-0.

4.9 Authorization to solicit bids for Sodium Chlorite for North and South Water Plants

Staff was seeking authorization to solicit bids for the purchase of Sodium Chlorite. Chemical was needed by the Public Works Department for the treatment of its Water Treatment Plants for daily operations. Public Works Department had opted not to exercise the one year renewal on our current contract, due to an increase in price from Siemens Water Technologies.

Staff and City Manager recommended approval.

Councilman Plata moved to authorize to solicit bids for Sodium Chlorite for North and South Water Plants as recommended. Motion was seconded by Mayor Pro Tem Garza and approved unanimously 5-0.

4.10 Authorization to Execute Second-One Year Renewal Option for Odor Control for Wastewater Treatment Plant and Lift Stations

In 2010, the City of Mission entered into agreement with Blue Star Chemical Company for the purchase of Odor Control. The contract terms were for one year with two one-year renewal options based on zero percent increase in price. Blue Star Chemical Company had opted to hold their price the same with no increase. Staff was seeking authorization to extend contract for second-one year renewal option with Blue Star Chemical Company. This agreement would extend Bid No 11-028-11-12 from October 1, 2012 through September 30, 2013. Blue Star Chemical Company agreed to the terms.

Staff and City Manager recommended approval.

Mayor Pro Tem Garza moved to authorize to Execute Second-One Year Renewal Option for Odor Control for Wastewater Treatment Plant and Lift Stations as recommended. Motion was seconded by Councilman Plata and approved unanimously 5-0.

4.11 Authorization to Execute Second-One Year Renewal Option for Liquid Emulsion Polymer for Wastewater Treatment Plant

In 2010, the City of Mission entered into agreement with Atlantic Coast Polymers Inc. for the purchase of Liquid Emulsion Polymer. The contract terms were for one year with two one-year renewal options based on 5% increase in price. Atlantic Coast Polymers, Inc. had opted to hold price the same with no increase. Staff was seeking authorization to extend contract for second-one year renewal option with Atlantic Coast Polymers, Inc. This agreement would extend Bid No 11-027-11-12 from October 1, 2012 through September 30, 2013. Atlantic Coast Polymers, Inc. agreed to the terms.

Staff and City Manager recommended approval.

Councilman Plata moved to authorize to Execute Second-One Year Renewal Option for Liquid Emulsion Polymer for Wastewater Treatment Plant as recommended. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

4.12 Authorization to solicit bids for Cold Water Meters for Water Distribution

Staff was seeking authorization to solicit bids for the purchase of Cold Water Meters. Meters were needed by the Water Distribution Department for daily operations. Public Works Department had opted not to exercise the second-one year renewal on our current contract, due to vendor failing to meet delivery deadlines and orders. Therefore, it would not be in the best interest of the City in renewing the current contract with U.S. Metering & Technology.

Staff and City Manager recommended approval.

Councilman Plata moved to authorize to solicit bids for Cold Water Meters for Water Distribution as recommended. Motion was seconded by Mayor Pro Tem Garza and approved unanimously 5-0.

4.13 Authorization to extend contract for records management services with Lone Star Shredding and Document Storage

Authorization was being requested to extend contract for records management services and document storage with Lone Star Shredding. The City had been utilizing these services since 2005 due to the high volume of records and storage space needed to be in compliance with the State Library and Archives Commission of Texas. Due to the threshold of purchases being \$10,000 staff was respectfully requesting the continuation of the contract for an additional year at a total of \$850.00 per month for a total of \$10,200 for this fiscal year.

Staff and City Manager recommended approval.

Councilman Plata moved to authorize to extend contract for records management services with Lone Star Shredding and Document Storage as recommended. Motion was seconded by Mayor Pro Tem Garza and approved unanimously 5-0.

4.14 Approval of Publicity and Tourism Agreement with the Greater Mission Chamber of Commerce, Inc.

Approval of Publicity and Tourism Agreement with the Greater Mission Chamber of Commerce, Inc. for Fiscal Year 2012-13. These were funds that were received from the Hotel Motel Occupancy

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Tax under VATS Tax Code, Section 351.101 to use hotel occupancy tax funds for attracting and promoting tourism and the convention and hotel industry.

The 2012-2013 agreement to be effective October 1, 2012 through September 30, 2013 in the amount of \$400,000.00

Staff and City Manager recommended approval.

Councilman O'cana moved to approve Publicity and Tourism Agreement with the Greater Mission Chamber of Commerce, Inc. as recommended. Motion was seconded by Mayor Pro Tem Garza and approved unanimously 5-0.

4.15 Approval of Ordinance # 3841 granting a wet designation for 808 W. Expressway 83, Lots 5 & 6, Block 4, Erdahl Subdivision, C-3, Tacos La Silla Restaurant

Staff was requesting the above mentioned property be wet zoned for Wine and Beer Retailer's On- Premise Permit.

Staff and City Manager recommended ordinance approval.

Mayor Pro Tem Garza moved to adopt Ordinance No. 3841 granting a wet designation for 808 W. Expressway 83, Lots 5 & 6, Block 4, Erdahl Subdivision, C-3 as recommended. Motion was seconded by Councilman Plata and approved unanimously 5-0.

ORDINANCE NO. 3841

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS AMENDING ORDINANCE NO.780 DESIGNATING PLACES WHERE BEER AND OTHER ALCOHOLIC BEVERAGES MAY BE SOLD WITHIN THE CORPORATE LIMITS OF THE CITY OF MISSION TO INCLUDE THE PREMISES LOCATED AT 808 W. EXPRESSWAY 83, LOTS 5 & 6, BLOCK 4, ERDAHL SUBDIVISION

4.16 Tax Collections Report – August, 2012

Finance Director Janie Flores presented the Tax Collections Report for August, 2012 for approval.

Staff and City Manager recommended approval.

Councilman Plata moved to approve the Tax Collections Report for August, 2012 as recommended. Motion was seconded by Mayor Pro Tem Garza and approved unanimously 5-0.

4.17 August 2012 Financial Statements

Mrs. Flores presented the August 2012 Financial Statements for approval.

Staff and City Manager recommended approval.

Councilman Plata moved to approve the August 2012 Financial Statements as recommended. Motion was seconded by Mayor Pro Tem Garza and approved unanimously 5-0.

4.18 Authorization to solicit bids or purchase via a state approved contract ten (10) police vehicles and the necessary police equipment to equip the ten (10) police vehicles

The City of Mission Police Department was requesting authorization to purchase ten (10) police vehicles and the necessary police equipment for the ten (10) police vehicles via the solicitation of bids or through a state approved contract. The ten (10) police vehicles would be purchased through the City of Mission Asset Replacement Fund at a cost of \$250,000.00 and the necessary equipment to equip the ten police vehicles would be purchased through the City of Mission Police Department Federal Sharing Account.

Staff and City Manager recommended approval.

Councilman O'cana moved to authorize to solicit bids or purchase via a state approved contract ten (10) police vehicles and the necessary police equipment to equip the ten (10) police vehicles as recommended. Motion was seconded by Mayor Pro Tem Garza and approved unanimously 5-0.

4.19 Approval of Resolution # 1325 allowing the issuance of loans from the accounts of participants in the ICMA Retirement Corporation Plan 302539

The City of Mission currently had two retirement plans; Nationwide and ICMA that employees could choose to invest in. Then nationwide plan currently allowed for loans to be made out of participant accounts. This resolution would allow participants in the ICMA plan to be able to obtain loans from their 457 retirement account based on the criteria detailed in the "401/457 loan program implementation packet for employers". ICMA would administer and track all loans and would handle the repayment of any loans directly with the employee.

Staff and City Manager recommended approval.

Mayor Pro Tem Garza moved to approve Resolution No. 1325 allowing the issuance of loans from the accounts of participants in the ICMA Retirement Corporation Plan 302539 as recommended. Motion was seconded by Councilman Plata and approved unanimously 5-0.

RESOLUTION NO. 1325

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS, PERMITTING CITY EMPLOYEES TO OBTAIN LOANS FROM THEIR ACCOUNT IN CITY'S SECTION 457 DEFERRED COMPENSATION PLAN BEARING ICMA-RC PLAN # 302539

4.20 Authorization to execute renewal with ING for Stop Loss Insurance

At 5:37 p.m., Councilman Plata stepped out of the meeting.

On June 25, 2012, City Council authorized FNB Insurance to solicit for bids for Stop Loss Insurance. Re-Insurance was needed for the 2012-2013 fiscal year to cap any excess cost exceeding our specific deductible for medical and prescription costs. After careful evaluation and assessment, FNB was recommending that staff renew with ING. Staff was seeking authorization to renew with ING through Ricardo Filizola, FNB Insurance.

City Manager recommended approval.

Councilwoman Ramirez moved to authorize to execute renewal with ING for Stop Loss Insurance as recommended. Motion was seconded by Mayor Pro Tem Garza and approved 4-0.

4.21 Approval of One Year Extension of Interlocal Agreement Between the City of Mission and Texas A&M University-Kingsville

The City of Mission was currently a member of the Lower Rio Grande Valley Storm water Task Force via an Interlocal Agreement between the City of Mission and Texas A&M-Kingsville University (TAMUK). Section 2.02 of the existing agreement allowed for a one year extension upon written and mutual consent from the City of Mission and TAMUK. The extension of this agreement entailed continuous participation in the regional task force which aided the City with compliance of TCEQ and federal EPA laws and regulations.

Staff and City Manager recommended approval.

Mayor Pro Tem Garza moved to approve one year extension of Interlocal Agreement between the City of Mission and Texas A&M University-Kingsville as recommended. Motion was seconded by Councilwoman Ramirez and approved 4-0.

4.22 Approval of an Interlocal Agreement between the City of Mission and Texas A&M University-Kingsville for the Preparation of a TPDES permit

As part of the TCEQ and federal EPA MS4 laws and regulations the City of Mission was required to have a Texas Pollutant Discharge Elimination Systems (TPDES) and Storm water Plan. This agreement would allow the City of Mission to utilize the TAMUK task force resources for the preparation for the TDPEs permit. This permit would be a 5 year permit, starting 2012 and ending in 2017.

Staff Recommendation: Approval of Interlocal Agreement for the TDPEs permit

City Manager recommended approval.

Mayor Pro Tem Garza moved to approve Interlocal Agreement between the City of Mission and Texas A&M University-Kingsville for the Preparation of a TPDES permit subject to the typographical corrections recommended by the city. Motion was seconded by Councilman Plata and approved unanimously 5-0.

4.23 Kika de la Garza Building Change Order #2

At 5:41 p.m., Councilman Plata rejoined the meeting.

Change Order #2 was for the addition of vision framed doors. This change order would increase the current contract amount from \$271,372.39 to \$274,751.51, which was an increase of \$3,379.12. To date the change orders were under the 25% limit (2.2% increase) as per the Texas Governmental Code.

Staff Recommendation: Approval of Change Order #2

City Manager recommended approval.

Mayor Pro Tem Garza moved to approve Kika de la Garza Building Change Order #2 as recommended. Motion was seconded by Councilman Plata and approved unanimously 5-0.

5.0 Unfinished Business

5.1 Preliminary Plat Approval: Sharyland Gold Subdivision, A 2.93 acre tract of land out of Lot 86, John H. Shary Subdivision, R-1T, Developer: Aries Construcciones, LLC, Engineer: Jimmy Closner & Sons Construction

Councilman Plata moved to approve to remove from table this item of the agenda. Motion was seconded by Mayor Pro Tem Garza and approved unanimously 5-0.

Mr. Guerra asked that council go into executive session under consultation with attorney prior to considering this item in open session and also asked council if they wished to consider Executive Session item 7.1A at this time.

At 5:41 p.m., Councilman O'cana moved to convene into executive session for this item and item 7.1A. Motion was seconded by Mayor Pro Tem Garza and approved unanimously 5-0.

The subject site was located on the SW corner of School Lane and Lucksinger Road. The proposed subdivision consisted of 28 townhouse lots. The project engineer was asking for permission to allow a fence buffer to be placed on the alley right of way along the north and east sides of the subdivision due to the abutting ROWs of School Lane and Lucksinger Road. If approved, the developer/owner must perpetually maintain the fence. Staff did not object to the proposal, subject to the signing of a Hold Harmless Agreement, having a related 'maintenance' plat note, and adding this maintenance encumbrance to their deed restrictions.

Water: The developer was proposing water service by upgrading an existing 8" asbestos concrete line along School Lane and installing a new 8" line along Lucksinger Road which would provide water to the subdivision with an internal 8" line. The line along Lucksinger would be stubbed to the south for future development. The developer was also proposing 2 new fire hydrants located via the direction of the Fire Marshal's office.

Sewer: An 8" sewer line would be installed within the subdivision which would then connect into an existing 12" sewer line located along School Lane. The Capital Sewer Recovery Fee was required at \$200/Lot, which equated to \$5,600 (\$200 x 28 Lots).

Streets & Storm Drainage: The subdivision had access to Lucksinger Road, a future 60' ROW, 37' B/B street. The developer would be dedicating an additional 15' ROW along Lucksinger Road to equate to the minimum 30' from centerline. Both School Lane and Lucksinger Road would be fully

widened by the developer. The subdivision would pave a single 50' ROW, 37' B/B paved street with 20' wraparound alleys along the perimeter of the subdivision. Storm drainage was proposed though the use of private detention areas which would connect with School Lane's existing drainage system located along the NE corner of the subdivision. A plat note required the HOA to maintain the detention areas in a viable condition would be evident. The developer would also be required to install a 24" R.C.P. line located along Lucksinger Road to the southern boundary line of their subdivision (to be escrowed).

Other Comments: Park Fees – \$300/Lot = \$8,400, 5' sidewalks to be installed along School Lane and Lucksinger Rd; 4' sidewalks would be required along the interior street at the building permit

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stage, Must submit a street light plan for review, Water District Exclusion, and must comply with all other format findings.

There was no public opposition during 8/29/12 P&Z's meeting. P&Z unanimously recommended approval as shown below.

Staff Recommendation: Approval subject to: 1) No objection to fence on ROW request as cited above (HH, etc.); 2) Payment of capital sewer recovery and park fees; 3) Escrow the installation of the drainage line; and 4) Comply with all other format findings.

City Manager recommended approval.

Mayor Pro Tem Garza moved to deny Preliminary Plat Approval: Sharyland Gold Subdivision, A 2.93 acre tract of land out of Lot 86, John H. Shary Subdivision, R-1T. Motion was seconded by Councilwoman Ramirez and denied unanimously 5-0.

6.0 Routine Matters

6.1 City Manager's Comments

None

6.2 Mayor's Comments

None

7.0 Executive Session pursuant to V.T.C.A. Gov. Code Sec. 551.001

7.1 Consultation with Attorney Sec. 551.071

Deliberation regarding real property Sec. 551.072

A. Resale of Struck Off Ad Valorem Tax Properties

7.2 The City Council will reconvene in open session to take any actions necessary

At 5:59 p.m., Councilman Plata moved to reconvene in open session. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

On item 7.1-A, no action was taken.

At 6:00 p.m., Mayor Salinas continued on to item 5.1 of the agenda.

8.0 Adjournment

At 6:02 p.m., Councilman Plata moved for adjournment. Motion was seconded by Councilwoman Ramirez and approved unanimously 5-0.

Norberto Salinas, Mayor

ATTEST:

Anna Carrillo, City Secretary