

**PLANNING AND ZONING COMMISSION  
OCTOBER 14, 2015  
CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.**

**P&Z PRESENT**

Ned Sheats  
John Guerra  
Mario Garza  
Marisela Marin  
Carlos Lopez  
Julio Cerda

**P&Z ABSENT**

Diana Yzaguirre

**STAFF PRESENT**

Daniel Tijerina  
Jaime Acevedo  
Susana De Luna

**GUESTS PRESENT**

Donald & Mary Kelly  
Margarita De La Fuente  
Sheila Fernald  
Melissa Salazar  
Mario Rodriguez  
Jose Elias Acevedo  
Frank Luna

Llewellyn & Maresyl Castillo  
Yolanda Gonzalez  
Kelly Lange  
Chris & Angiela Tagle  
Ed & Jean Peno  
Jose Angel Trevino  
Hermilo Flores

Felipe Cavazos  
Rick Gonzalez  
Terry Crocker  
Nacho Pecina  
Ed Vasquez  
Filiberto Rodriguez  
Stephen Holbrook

**CALL TO ORDER**

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

**CITIZENS PARTICIPATION**

Chairman Sheats asked if there was any citizen's participation.

There was none.

**APPROVAL OF MINUTES FOR SEPTEMBER 23, 2015**

Chairman Sheats asked if there were any corrections to the minutes for September 23, 2015. Mr. Mario Garza moved to approve the minutes as presented. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 5:00 p.m.**

**Ended: 5:04 p.m.**

**Item #1.1**

**To consider abandoning a Right of way Easement on a 1.19 acre tract of land out of Lots 16-8 & 16-9, West Addition to Sharyland Subdivision, as requested by Melden & Hunt, Inc.**

Mr. Daniel Tijerina went over the write-up stating that the City of Mission holds public hearings on issues involving any abandonment of public ROWs. Public notification procedures (similar to re-zonings) have been activated, i.e. notices were sent to owners

within a 200' radius, plus a publication of such 'ROW easement abandonment' placed in the City's newspaper.

**SITE:** The site is located near the SW corner of Business Park Drive and U.S. Expressway 83. The ROW easement runs in a north and south direction directly between Lot 16-8 and 16-9. It measures approx. 40' X 1300'.

We received a request from Mr. Mario Reyna of Melden & Hunt, Inc. on behalf of Wonderful Citrus who is asking for the City Council's consideration of the abandonment. Mr. Reyna states the reason for the request being that the location of the ROW easement "does not benefit the development of the property".

**REVIEW COMMENTS:** The ROW easement was dedicated by the Hidalgo County Water Control and Improvement District No. 14 to the City of Mission in **1956**, prior to the construction of the Expressway. The ROW easement's purpose was for the expansion of Mayberry Road. The ROW is currently raw land with power poles and lines running within the subject site. The abandonment of this ROW easement would allow for better development of the site. *(NOTE: The City would require a utility easement for existing utilities and may consider looking at a new road ROW dedication in a more proper location during the subdivision review stage.)*

The 40' road easement has never been used as a public road. The abandonment of this easement would allow for the property to be more likely to develop as 4 lots, rather than 2 separate lots.

**RECOMMENDATION:** Staff does not object to the abandonment of the ROW easement.

Chairman Sheats asked if the applicant or representative were present.

There was no response.

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

Mr. Eduardo Vasquez stated that he would only oppose if the land would be land locked.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Mario Garza moved to approve the abandonment as per staff's recommendations. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 5:04 p.m.**

**Ended: 5:04 p.m.**

**Item #1.2**

**Rezoning:**

**A tract of land containing 0.913 acres  
of land out of Lot 234, John H. Shary,**

**and Lot 105, Shary Palms Unit 3  
R-1 to C-3  
Jose Angel Treviño**

Mr. Daniel Tijerina advised that Board that the applicant had submitted a letter withdrawing his application therefore, no action needed to be taken on this item.

**Started: 5:04 p.m.**

**Ended: 5:16 p.m.**

**Item #1.3**

**Conditional Use Permit:**

**Sale & On-Site Consumption of Alcohol**

**- IncrediBowl**

**2140 E. Business Hwy 83**

**Lots 1 & 2, Grapefruit Bowl, Inc. Subdivision**

**C-4**

**Spare Time Concessions**

Mr. Daniel Tijerina went over the write-up stating that IncrediBowl, formerly Valley Bowl, is located approximately 400' east of Ragland Road on the South side of Business Highway 83. The building overlaps the lot line over Lots 1 & 2. Viewing the floor plan, there are 24 bowling lanes and the approach and pit areas, a party room, an office as you enter the building, the rental area for bowling and shoes, the Café/snack bar/kitchen area, game room area, another office, and a utility/storage area. The main entrance to the facility is located along the North side of the building. There are separate restrooms for men and women. The applicant proposes to open up the western portion as a game room and party room for birthday parties.

- **Hours of Operation:** Sunday - Thursday from 9am to 12am and Friday thru Saturday from 9am to 1am.
- **Staff:** 20
- **Parking:** In viewing the floor plan, there are a total of 180 parking spaces, meeting code.
- **Sale of Alcohol –** The existing restaurant includes a *'bar'* component. Section 1.56 (3a) of the Zoning code requires a minimum separation of 300' from the *property line* of any churches, schools, publicly owned property, and residences. There is a mobile and modular home residential neighborhood located south of the subject site within the 300' radius.

**REVIEW COMMENTS:** Notices were sent to property owners within 200 feet of this business where Staff has not received any comments in favor or against this CUP. Staff is recommending that the family-oriented establishment not be open past 12:00 am and since the sale of alcohol is not the primary item of purchase, staff does not object to this proposal.

**RECOMMENDATION:** Staff recommends approval subject to: 1) Must remove glass doors and open up area going into the adjacent proposed skating rink/game room area;

2) A 1 year re-evaluation in order to assess the business; 3) Waiver of the 300' separation requirement; 4) Must comply with all City and TABC code requirements; 5) Must "Wet Zone" the entire property; 6) Must acquire a Business License, 7) Restriping, lighting, and landscaping in parking lot as required by code; and 8) Hours of operation be until 12:00 am.

Chairman Sheats asked if the applicant or representative were present.

Mr. Felipe Cavazos who resides at 4609 Vermont in McAllen was present to address any questions from the Board.

Chairman Sheats asked if he was proposing to remove the bar component and put a game room for kids.

Mr. Cavazos stated that he had learned to bowl and skate at this location and he would like to bring it back. He added that he didn't want a bar he wanted to be able to sleep at night. Mr. Cavazos mentioned that they were proposing to remove the existing wall completely and put arcades. He added that the only fights they would have if any would be kids fighting over an arcade. Mr. Cavazos mentioned that he basically wanted to a chuck e cheese with a bowling alley. He stated that he agreed with all of staff's recommendations the only thing that would not be done immediately would be the striping because he was working with Alex Mead from the Mission Economic Development on a program that would help with the striping of the whole parking lot and that will probably be completed by the end of December.

Chairman Sheats stated that he was sure if Mr. Alex Mead was involved in this project the striping would get done.

Mr. Cavazos mentioned that he was one of the owners of Sylvan Learning Center and they worked a lot with Alex Mead on the White House Recognized Project.

Chairman Sheats stated that he was aware that he had met with the Mayor regarding his application and he laid out the law. He asked Mr. Cavazos if the alcohol was going to only be dispensed on the bowling alley side and only in the lunch area.

Mr. Cavazos replied, "No". He added that they are going to make this building one and the distinction between two buildings is going to go away. He mentioned that they were going to have party tables in there and if a parent wants to drink while he sees his kid he could do that because they don't want to tell a parent he needs to be on one side while his kid is on the other side. Mr. Cavazos stated that he believed the property was already wet zoned therefore there would be no problem but it would only be one building.

Chairman Sheats asked Mr. Cavazos if he was still going to have just the bar.

Mr. Cavazos stated that there would be no bar and even the pool tables were going to be removed. He added that it was going to be a kid's party place.

Chairman Sheats asked Mr. Tijerina if he could just make sure that this particular property gets wet zone because he recalled there being issues regarding the wet zone in the past.

Mr. Tijerina replied, "Yes Sir".

Mr. Cavazos stated that he actually had already done that and all the property was already wet zoned and it would be one address, one TABC application, one wet zone, and one owner.

Mrs. Marisela Marin asked Mr. Cavazos asked if he had already got his TABC license.

Mr. Cavazos replied, "No ma'am". He added that the City Council should be seeing this item on October 26 and hopefully by November 5<sup>th</sup> they should get their license.

Mrs. Marin stated that the City had a 300' separation requirement from the nearest residence, church or school but she knew that TABC had 1000' separation requirement was he meeting those requirements.

Mr. Cavazos stated that there were meeting all the requirements at least that's what he was told and they took his \$7000 payment.

Mr. Marin asked if he had any problems with the hours of operation.

Mr. Cavazos replied, "No".

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

There was no response.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Julio Cerda 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: 5:16 p.m.**

**Ended: 5:20 p.m.**

**ITEM #1.4**

**Conditional Use Permit Renewal: Sale & On-Site Consumption of Alcohol  
- Mis Antojos – La Casa Antigua Restaurant  
1505 N. Conway  
Lots 7 & 8, Blk. 243, Mission Original Townsite  
C-3**

## Margarita Niño

Mr. Daniel Tijerina went over the write-up stating that the site is located on the NW corner of Conway and W. 15<sup>th</sup> Street. The existing Mexican restaurant offers the sale and on-site consumption of alcohol with meals. There is no 'bar' component in the restaurant. There are no churches or public/private schools within 300' of the subject site, thus being compliant to Section 6-4. Access to the site is from a 29.8' driveway off of W. 15<sup>th</sup> Street that leads into a parking area.

- **Hours of Operation:** Tuesday – Friday from 8a.m. to 10p.m., Saturdays from 8a.m. to 11p.m., Sunday from 8a.m. to 9p.m., and Closed on Monday  
Alcoholic beverages will only be 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.

**REVIEW COMMENTS:** This CUP was first approved by P&Z on March 26, 2014. The existing Mexican restaurant offers the alcoholic beverages along with meals. Alcohol is not the primary item of purchase. 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.

**RECOMMENDATION:** Staff recommends approval to continue the CUP subject to a 3 year re-evaluation.

Chairman Sheats asked if the applicant or representative were present.

Mrs. Margarita De La Fuente Niño was present to address any questions from the Board.

Chairman Sheats mentioned that he has had the opportunity go by and eat there the food is good and the place is very nice.

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

There was no response.

Mrs. Marin asked if all her permits were up to date.

Mr. Tijerina stated that staff checked and her permits are all up to date.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Mario Garza moved to approve the conditional use permit as per staff's recommendations. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 5:20 p.m.**

**Ended: 5:29 p.m.**

**ITEM #1.5**

**Site Plan Approval:**

**Construction of 8 Apartments**

**2015 Miroslava**

**Lot 21, Taurus Estates #10**

**R-3**

**Jose Elias Acevedo**

Mr. Daniel Tijerina went over the write-up stating that the site is located near the NW corner of Magdalena Street and Miroslava Avenue. Site Plan approval is required prior to permit issuance for multi-unit complexes of five or more.

In reviewing the site plan, there is one 2-Story Building, to be used as a multi-family apartment complex, approximately 97'x 35.5'sq.ft.per story for a total of 6,901 sq. ft. The building must comply with all fire code requirements for a multi-family 2 story building. Residents of the first floor will enter through doors along the front side of the building. There is an exterior stair well along the rear side of the building for the second story residents. There will be no open balconies along the building.

The minimum required setbacks for the site are: 20' front along Miroslava; rear setbacks of 4'; and 6' side setbacks. It is noted that all setbacks are in compliance.

As seen, one 26' driveway on to Miroslava Drive will lead the traffic into and out of the facility. Also, there is access through the rear alley.

With regards to parking, the site plan shows 16 regular parking spaces. For a multi-family building of this size the City Code requires 16, therefore meeting code. Each occupant will have an individual residential trash bin which will be collected through alley.

This development will consist of 5' sidewalks along all the perimeters. Ten percent landscaping will be required with a combination of trees, plants, and shrubs. A minimum of seven (7) – three (3') inch caliper trees are required to be planted within the green areas. In addition, one light pole in front parking area and one light pole in rear parking area will be required.

When the plat was recorded, the park fee was levied at 6 units per lot @ \$200/unit— with the new upgrade in fees, the additional 2 units (see total of 8 proposed apartments) will require the new 2 @ \$300/unit = \$600 park fee to be imposed. In addition a \$240 sewer capital recover fee (2 @ \$120/unit) will be imposed.

**RECOMMENDATION:** Staff recommends approval subject to:

- 1) the submittal of grading and detention plan to our City Engineer;
- 2) compliance with landscaping and parking light pole requirements as noted above;

- 3) compliance with all building and fire codes;
- 4) \$240 sewer capital recover fees and \$600 park fees;
- 5) compliance with Fire Marshal's requirements.

Chairman Sheats asked if the applicant or representative were present.

Mr. Jose Elias Acevedo who resides at 1003 E. Veterans Blvd. was present to address any questions from the Board.

Chairman Sheats asked where the 10% landscaping was located.

Mr. Jaime Acevedo stated that it would be on the sides of the buildings.

Chairman Sheats asked Mr. Jose Elias Acevedo to please consider adding more landscaping along the front and between the buildings versus the sides.

Mr. Acevedo stated that he would consider it.

Mrs. Marin asked if when he recorded the plat there were only 6 units.

Mr. Jaime Acevedo stated that he did not record the plat it was the previous developer. Mr. Acevedo added that they recorded the plat for 6 units although based on the lot size they could accommodate 8 units.

Mrs. Marin asked where is the replat for this subdivision.

Mr. Tijerina stated that he didn't need it as long as he complies with staff's requirements like paying the additional park fees, and the sewer capital recovery fees.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Mario Garza moved to approve the site plan as per staff's recommendations. Mrs. Masrisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 5:29 p.m.**

**Ended: 5:44 p.m.**

**Item #3.0**

**Tabled Rezoning:**

**A 12.11 acre tract of land out of  
Lot 304, John H. Shary Subdivision  
AO-I to R-2  
Mario Rodriguez**

Chairman Sheats entertained a motion. Mr. John Guerra moved to remove this item from the Table". Mrs. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.



Mr. Daniel Tijerina went over the write-up stating that the site is located approximately ½ mile north of 2 Mile on the west side of Shary Road. Two parcels comprise the 12.11 acres.

**SURROUNDING ZONES:**

|    |  |
|----|--|
| N: | City of Palmhurst  |
| E: | R-1 - Single Family Residential                                |
| W: | AO-I/R-1A – Agricultural Open Interim /Large Lot Single Family |
| S: | AO-1 – Agricultural Open Interim                               |

**EXISTING LAND USES:**

|    |                             |
|----|-----------------------------|
| N: | City of Palmhurst           |
| E: | Single Family               |
| W: | Vacant/Agricultural (Canal) |
| S: | RV/MH Park                  |

**FLUM:** The Future Land Use Map reflects a LDA designation.

**REVIEW COMMENTS:** Although the FLUM shows this area as LDA, 1) the north boundary of this property serves as the dividing line between the City of Mission and the City of Palmhurst, 2) the west boundary abuts an above ground canal and some agriculturally zoned and used land, and 3) the south boundary of the acreage abuts an existing RV/MH Park. These land uses and conditions provide a unique buffer to the site.

Based on the facts outlined above, staff does not anticipate any disruptions to the surrounding land uses and zones. Staff mailed notices to property owners within a 200' radius of the site. As of the date of this write-up, no comments in favor or against this rezoning have been forwarded to the Planning Department.

**RECOMMENDATION:** Approval.

Mr. Tijerina stated that P&Z may recall in the last meeting a lady mentioned that she had a least 70 to 80 signatures against the request but she took the list with her therefore we could not get the percentage. He mentioned that staff had send 133 notices to surrounding property owners but only 26 residents were within the 200' radius.

Chairman Sheats asked how many people were present that were within the 200' radius.

Mr. Acevedo mentioned that they didn't have a 200' radius map that they could put up in the screen.

Chairman Sheats asked if the applicant or representative were present.

Mr. Mario Rodriguez who resides at 4700 N. 30<sup>th</sup> Lane in McAllen stated that he was proposing to build 37 to 40 units in this property. He added that he was trying to do a gated community with plenty of landscaping. He mentioned that they were going to be 2 and 1 story buildings with one, two and three bedrooms. Mr. Rodriguez mentioned that they would all have the same façade, style and amenities. He added that they would also have a home owners association and one builder which would be themselves.

Chairman Sheats stated that usually the home owners association was composed of property owners in this case would it be composed of all the renters or would this be something different.

Mr. Rodriguez stated that there would be 4 property owners.

Chairman Sheats asked if he was proposing to have on-site management.

Mr. Garza replied, "Yes, he wants to have a person for management on-site every single day."

Chairman Sheats asked if there was any public opposition to the request. He asked for a show of hands

Mr. Filiberto Rodriguez stated that he has lived in the area for 33 years and he was not sure how many feet he needed to live in order to complain or oppose.

Mr. Tijerina replied, "200'."

Mr. Filiberto Rodriguez stated that his main concern is the traffic because it looks like a race track. He mentioned that he was the owner of Shary Springs which was on the south east corner of Shary and 2 mile and he wanted to do multifamily and he was told by the city that he couldn't do that.

Mrs. Yolanda Gonzalez who resides at 2302 Monaco Drive stated that one of the reasons that they bought in this subdivision was because it was single family residential. She added that she went online to the realtor.com and the real estate center at Texas A&M University to see how apartments would affect their homes. She mentioned that the property values of their homes would be affected and it was called density and privacy. She added that apartments would deteriorate faster, people who live in apartments are more liable for crime, and the area would be more congested. She would like the Board to consider their request to keep the area as is.

Mr. Terry Crocker who resides at 2420 Dorado wanted to reemphasize that he shares many of the concerns already expressed by his neighbors. He added that with 32 units he anticipates at least 2 cars per unit and with a gated entrance at that point Shary Road speed limit is 45 miles per hours with that many cars going in and out it is going to create a very dangerous situation. Mr. Crocker stated that the City has not done a very

good job in keeping the vegetation that grows along Shary Road to the point that he had to take his own tools out and trim some of the vegetation because you can see very well coming in our out of those areas. Mr. Crocker mentioned that he just wanted to point out that by allowing apartments in this area it would create an even more dangerous situation.

Mr. Christopher Tagle who resides at 2205 Monaco stated that he would like the Board to reconsider notifying the neighbors to the north. He mentioned that he knows that by law they don't have to notify them. Mr. Tagle stated that they spend ¼ million dollars in their homes and everybody in the Silverado & El Sendero Subdivisions those are million dollar homes and he didn't think those people would appreciate having an apartment complex around their property just like himself. He mentioned that his biggest concerns were traffic and the noise level. Mr. Tagle stated that if you live next to an apartment complex there is a reason why you move away from it nobody moves towards it. He added that those types of people are low income and truthfully they just don't care because they don't own the apartment they are just renters. Once again, he asked the Board to reconsider sending notices to the people in Palmhurst or at least those two subdivisions.

Mr. Llewlyn Castillo who resides at 2203 Monaco Drive stated that he moved to the valley from Chicago and the first thing he considered was a good neighborhood which was safe and was a single family home that was the reason they choose the Monaco Subdivision. He mentioned that he didn't want apartment buildings to be constructed nearby because of previous experience not in the valley, the noise pollution, and safety.

Mr. Ed Peno who resides at 2412 Dorado Drive stated that he was outside the 200' radius but in all honesty he doesn't understand how 200' is the magic number because it doesn't coincide with the number of people and homes. Mr. Peno stated that they had 85 out of 133 of the homes that were notified had petition to not rezone this land as duplex-fourplex. He added that he would be happy to turn in the petition so that staff can make a copy as long as they can get it back.

Mr. Tijerina stated that he will keep them although he was not sure if it was the same petition that was brought in at the last meeting but we will make copies and return them.

Mr. Peno stated that he hoped that the Planning Commission truly believes in their heart that it is here to not only grow Mission and make it a better place to live but also to protect the people that are already here. He added that they had invested a lot of money in their homes and only invested for their families but for the property values gains that they thought they had. Mr. Peno stated that by allowing the rezoning it would hurt their property values and put them at risk of a higher density. Mr. Peno asked the Board to please consider denying the rezoning request.

Mr. Frank Luna who resides at 2300 Monaco stated that he would like to be counted as those in opposition of the request. He added that he has lived in apartments, condos, townhouses, and single family dwelling homes and by far he knows that living in a

single family homes there is a lot more pride, tendency to take care of the property, and keep property values up so for that reason he strongly oppose the rezoning request.

Mr. Hermilo Flores who resides at 2206 Monaco Drive stated that he was the owner of Sharyland Villas and was the only one that was not opposed to the rezoning. He added that he might not be living in Monaco Subdivision very long because they might change the code on him. Mr. Flores stated that he lived in Monaco Subdivision which was next door to the proposed development and he thinks this development would be a good idea because right now this property has been old woods, trees, and not well maintained. He mentioned that they could stop the growth and has seen this type of complex on the south side of Military and Shary Road.

Chairman Sheats closed the public hearing.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Mario Garza moved to deny the rezoning request. Mr. John Guerra seconded the motion. Upon a vote, the motion was 3-3 with Mr. Julio Cerda, Mrs. Marisela Marin and Mr. Ned Sheats in favor of the request.

**ITEM #3.0  
OTHER BUSINESS**

**ITEM #4.0  
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 6:15 p.m.

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Ned Sheats, Chairman  
Planning and Zoning Commission