

**PLANNING AND ZONING COMMISSION
OCTOBER 26, 2011
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Ned Sheats
Carlos Lopez
Mario Garza
Rene Flores

P&Z ABSENT

Luann Caudle
Marisela Marin
1 vacancy

STAFF PRESENT

Sergio Zavala
Bobby Salinas
Irasema Dimas
Sonia Carnes

GUESTS PRESENT

Craig Rush
Jose Aguilar
Arturo Casanova
Juan F. Zuniga
Felipe Cruz
Michael Aguilar
David Aguilar

CALL TO ORDER

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

CITIZENS PARTICIPATION

Chairman Sheats asked the board members and the audience to have a moment of silence in a show of respect to deceased P&Z member Jose G. Vela.

After the moment of silence, Chairman Sheats asked if there was any citizens' participation. There was no response from the audience.

APPROVAL OF MINUTES FOR OCTOBER 12, 2011

Chairman Sheats asked if there were any corrections to the minutes for October 12, 2011. There being no corrections, Mr. Garza moved to approve the minutes as presented. Mr. Flores seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:04 p.m.

Ended: 5:06 p.m.

ITEM # 1.1

To Amend the Zoning Ordinance's reference to 'Changeable Copy Signs' in the Commercial and Industrial Zoning Districts by adding'... along the Expressway Corridor'

Mr. Zavala went over the write-up stating that at the last P&Z meeting, there was a favorable action to add regulatory details on changeable copy signs, e.g., brightness, timing, etc. It was also favorably recommended that the CUP be done away with unless it's proposed along the Expressway.

The change below will keep the CUP mandate for such signs along the Expressway corridor, but not impose CUPs elsewhere.

The *current* 'Conditional Use' language in commercial and industrial zoning districts says:

'Changeable Copy Signs'.

The proposed amendment specifies 'where' CUPs for changeable copy signs will (still be) required being commercial & industrially zoned sites along the Expressway.

'Changeable Copy Signs **along the Expressway corridor**'.

Chairman Sheats asked if there was any public input to the proposed amendment.

There was no response.

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

Started: 5:06 p.m.

Ended: 5:09 p.m.

ITEM # 1.2

Conditional Use Permit:

**To Place a Portable Building for
the Sale of Hot Dogs
3300 N. Inspiration Road
Lot 1, Gomez Estates Subdivision
C-2
Life of Use
Felipe Cruz**

Mr. Salinas went over the write-up stating that the site is located on the NE corner of Inspiration Road and Mile 2. The subject site was recently remodeled for a drive-thru convenience store. Primary access into the drive-thru business is from Mile 2 Road leading into the building's east side, then exiting through the building's west side. The applicant currently has a CUP for a hot dog stand at the El Valle Meat Market across the street. He wishes to re-locate his cart to the drive-thru convenience store's property near the drive-thru's exit door – north side.

- **Hours of Operation:** Monday through Sunday from 6:00 p.m. to 11:00 p.m.
- **Staff:** Only the applicant will be running the stand
- **Parking:** The drive thru business measures 2,310 sq.ft., which requires 9 parking spaces, the hot dog stands requires a minimum of 4 spaces and the

existing watermill also requires 4 spaces for a total of 17 spaces. There are 14 parking spaces on the site along with 3 spaces within the drive-thru equating 17. (There are also unmarked spaces used by water mill customers).

- **Landscaping:** There are 3 existing shade trees on the site.*
- Must obtain approval from the City Health Department and must obtain a business license.

Staff recommended approval subject to: **1)** 1 year re-evaluation to assess this new operation, **2)** must comply with the Health Department's requirements, and **3)** must obtain a business license.

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

There was no response.

Chairman Sheats asked if the applicant or representative were present.

Mr. Felipe Cruz was present to answer any questions that the board might have.

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

Started: 5:09 p.m.

Ended: 5:22 p.m.

ITEM # 1.3

Conditional Use Permit:

Drive-Thru Service Window

With 2 lanes for CVS Pharmacy

2314 E. Expressway 83

Lot 1, J.G. Ortegon Subdivision No. 4

C-3

Life of Use

Matt Holleb

Mr. Salinas went over the write-up stating that the site is located on the SW corner of Shary Road and Expressway 83. There is an existing gasoline station (AZIZ) located on the site which will be replaced with a new CVS Pharmacy with a double drive thru service window. Access to the site will be provided from a 41' driveway off of Shary Road, two 37' driveways off of an existing access from Expressway 83, and a N-S lane onto McDonald's traffic lane. CVS will be closing 3 existing driveways to the site, to better regulate traffic to safely enter and exit the site. The building measures 95.3' x 143' for a total of 13,225 square feet. The number of parking spaces required for this size building is 36. The applicant is providing 53 leaving a surplus of 17 spaces. The double drive-thru service

lanes will be located on the rear of the building, providing stacking for approx. 9 vehicles. The one area to consider amending is the location of the trash dumpster (#5 on the site plan). The dumpster is extremely visible along the front (Shary Road) of the building. An alternate location would be to the rear SW of the site (proposed as open detention area).

- **Days/Hours of Operation:** Everyday from 7 a.m. to 10 p.m.
- **Staff:** 5 employees per shift. 2 shifts per day.
- Must comply with landscaping code.
- City Engineer to ensure that the proper drainage calculations are being met as per the plat.
- Must comply with the City's Sign Ordinance (changeable copy sign, etc.)
- A business license is required prior to occupancy.

Staff recommended approval subject to: **1)** must comply with landscaping and sign codes, **2)** relocate trash dumpster to less visible location; must have gates to obscure, **3)** acquire a business license, and **4)** CUP not transferable to others.

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

There was no response.

Chairman Sheats asked if the applicant or representative were present.

Mr. Craig Rush, the project manager, was present to answer any questions from the board.

Chairman Sheats asked if #7 on the site plan was the drive-thrus.

Mr. Rush replied, 'Yes'.

Chairman Sheats stated that assuming that there are two southbound lanes, where would they go after they use the drive-thru, which way would they exit.

Mr. Rush replied that they would continue going through the back of the building through the loading zone.

Chairman Sheats stated that being that he was very aware of this corner, the site plan shows on the eastbound exit onto Shary, one inbound lane, one outbound lane going to south Shary, and one outbound lane going north on Shary. The north outbound lane could be a problem due to the traffic and being that it was a big intersection.

Chairman Sheats mentioned that it would be a good idea to investigate or get with staff as to installing a concrete median in order to impede people from going north.

Mr. Rush stated that it was called a *pork chop median*, and that they could definitely include that on the site plan.

Mr. Flores asked when the project would begin.

Mr. Rush replied that hopefully they would have all the permits by November and they would start construction on the first of the year.

Mr. Flores asked if the other retail business would be demolished as well.

Mr. Rush replied that it was part of the property, and that it would be demolished. He also stated that he would like to discuss the trash bin concern. He stated that they had two challenges with the trash enclosure, the first location they look at the detention pond, which is at the absolute minimum requirement. Another one was the access and the location of the egress for the employees and their safety. He stated that in order to improve the aesthetics of the trash bin enclosure, and to match the building and as well as on the gates, they would have a solid screen to impede visibility.

Mr. Flores asked if there was something that staff can do in order to say that this is sufficient in reference to the concerns.

Mr. Zavala stated that staff was not so much concerned with the smell issue, since it was not going to be a restaurant, but what he would like to do was ask the applicant if they could send some elevation renderings or photographs, and being that the concern was on aesthetics and being that the concern has been raised, staff wouldn't have a problem approving the conditional use permit subject to submitting the renderings.

Mr. Zavala also mentioned that Chairman Sheats raised another concern on the traffic issue and he would like to recommend to the board to approve the item with a 1-year encumbrance to reassess the traffic issue.

There being no further comments, Chairman Sheats entertained a motion. Mr. Flores moved to approve the conditional use permit as presented by staff and adding a 1 year re-evaluation to assess the traffic flows, and installing a 'pork chop median' on the Shary exit to impede inhibit traffic from making a (northbound) left turn. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:22 p.m.

Ended: 5:24 p.m.

ITEM # 1.4

**Conditional Use Permit Renewal: "Daycare in a Residential Zone"
2012 N. Inspiration Road**

**A 1 ac. tract of land out of Lot 21-1
West Addition to Sharyland Subd.
R-1
Life of Use
Arturo and Norma Casanova**

Mr. Salinas went over the write-up stating that the subject site is approximately ¼ mile south of Griffin Parkway along the east side of Inspiration Road. This 2,500 sq.ft. daycare has been in operation since June 2001. It was originally a CUP for a home occupation and was most recently approved by P&Z on 10/15/08 and by the City Council on 10/29/08 for a period of 3 years. Since the applicant does not reside at the home, Section 1.56-1g of the Zoning Code requires the owner to obtain 90% signatures of approval from the surrounding property owners within a 200' radius. The owner was able to obtain the signatures of approval for 93% of the surrounding property owners within the 200' radius, thus compliant to code.

- **Hours of Operation:** Monday – Friday from 6:30 a.m. to 7:30 p.m. and Saturday from 8:00 a.m. to 5:00 p.m.
- **Staff:** 10
- **Parking:** The 2,500 sq.ft. building requires a minimum of 9 parking spaces. There are a total of 10 existing parking spaces, thus compliant to code.
- All DHS and City Requirements have been complied with.

Since the applicant has obtained over 90% of the signatures and has complied all requirements, staff recommends approval subject to a 3-year re-evaluation and continued compliance to DHS and City requirements.

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

There was no response.

Chairman Sheats asked if the applicant or representative were present.

Mr. Arturo Casanova stated that he was so grateful that the board members had granted him a 3-year re-evaluation last time.

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

Started: 5:24 p.m.

Ended: 5:30 p.m.

ITEM # 1.5

Discussion and Action to Amend the Future Land Use Map for Properties Described as follows: Lots 6-10, 7-10, 8-10, 9-10, 10-10, 11-10, 12-10, 6-11, 7-11, 8-11, 9-11, 10-11, 11-11, 12-11, 6-12, 7-12, 8-12, 9-12, W.A.S.; and Lots 61, 71, and 81, J.H.S.

Mr. Zavala went over the write-up stating that the City of Mission's Planning Department would like to solidify the City's commercial vision for properties along the Anzalduas Highway. Currently, the designation is a vague PUD designation. The 'PUD' suffices for most properties that may be residential, but for what many would consider to be ideal commercial properties, we'd like the reviewing Boards to provide their favorable vote to designate such properties along Anzalduas as General Commercial (GC). Staff presented an exhibit outlining the path of GC.

Chairman Sheats asked if there were any public comments to the request.

There was no response.

Mr. Flores stated that it would be an opportunity for the city to generate more revenue on the empty properties and hopefully people would invest in the area.

There being no further comments, Chairman Sheats entertained a motion. Mr. Flores moved to approve the item. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:30 p.m.

Ended: 5:32 p.m.

ITEM # 2.0

Tabled Rezoning:

**Lot 1, Block 1, Gulf Breeze Addition & the 15' strip of abandoned ROW lying west and adjoining Lot 1, Block 1, Gulf Breeze Addition
C-1 to C-2
Ana M. Salinas**

Chairman Sheats entertained a motion to remove the item from the 'Table'. Mr. Garza moved to remove the item from the 'Table'. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Salinas went over the write up stating that this item was tabled due to questions regarding the size of the lot and concerns whether a C-2 type business would fit on the property. Staff was asked to provide the site plan for the proposal. The parking will be calculated per suite and land use; there should be a driveway onto Sunrise to facilitate safe traffic patterns for patrons of that

immediate neighborhood. The 90' x 120' site is located on the NE corner of Conway Avenue and Sunrise Lane.

- 1) The surrounding zones include Single Family Residential (R-1) to the north, east, and south, and Mobile & Modular Home District (R-4) to the west. The surrounding land uses include single-family homes to the north, east, and south, and mobile home park to the west. The site is open. The Future Land Use Map reflects a Low Density (LD) designation.

Though the FLUM shows an LD designation, we anticipate most of the vacant corridor along Conway Avenue to slowly transition into commercial uses due to:

- 1) The subject property adjoins Conway Avenue, a seven lane major thoroughfare (mandates a minimum of 150' ROW).
- 2) The traffic produced along Conway Avenue is more conducive for a non-residential use, rather than having R-1 homes along such congestive traffic patterns.
- 3) Due to the limited size of the lot, it will only allow for a limited amount of commercialism where a large percentage of the property will be used for parking and landscaping (thus the commercial traffic impact is anticipated to be minimal).
- 4) C-2 allows for more commercial uses than C-1, however its allowable uses are still minimal and are geared to serve the immediate neighborhood communities, i.e., restaurants/bars, gasoline service stations, etc. are only allowable through a conditional use permit.
- 5) The City Council approved a more intense C-3 zone at Moorefield and Oleander Drive; being a minor/arterial street intersection. (8/22/11).

Staff recommended approval to the C-2 zone request.

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

There was no response.

Chairman Sheats asked if the applicant or representative were present.

There was no response

There being no further comments, Chairman Sheats entertained a motion. Mr. Flores moved to approve the C-2 zone request as recommended by staff. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:32 p.m.

Ended: 5:48 p.m.

ITEM # 2.1

Tabled Conditional Use Permit:

Sale & On-Site Consumption of

**Alcoholic Beverages – Smokin’ Aces
2518 E. Business Highway 83
C-3
Michael Aguilar**

Mr. Flores moved to remove the item from the 'Table'. Mr. Garza seconded the motion, which was passed unanimously.

Mr. Zavala stated that during the last P&Z meeting, this item was tabled to allow staff an opportunity to review the PD reports from October 2010 thru October 2011.

DATE	DAY/TIME	14 SERVICE CALLS/INCIDENTS
October 7, 2010	Thurs/2:19 a.m.	Driver left location after hit & run
October 25, 2010	Mon/8:57 p.m.	Drug related
November 14, 2010	Sun/9:22 p.m.	Assault
December 12, 2010	Sun/2:26 a.m.	Female vs. male; Disturbance; 2 units assigned; (included male throwing bottle inside bar)
December 16, 2010	Thurs/9:45 p.m.	Fight, 2 units assigned; calmed by the time of arrival.
February 4, 2011	Fri/7:15 a.m.	Loud music coming from Smokin’ Aces (live band or DJ?)
April 1, 2011	Fri/1:45 a.m.	Disturbance; 3 units assigned
May 15, 2011	Sun/1:59 a.m.	DWI; female; white Grand Prix 4D
May 21, 2011	Sat/2:07 a.m.	Disturbance in parking lot
June 27, 2011	Mon/2:16 a.m.	Unwanted subject called-in by bus; 2 units assigned
August 24, 2011	Wed/8:59 a.m.	Cash registered limited seizure
August 27, 2011	Sat/1:40 a.m.	Mom took child to bar; relative came & picked up child; 2 units assigned
September 11, 2011	Sun/1:55 a.m.	Unwanted subject; 2 units assigned
October 2, 2011	Sun/12:17 a.m.	Fight by 20 subjects; breaking items & windows inside & outside the bar; 4 units assigned.

DATE	DAY/TIME	7 OFFENSE REPORTS/INCIDENTS
October 2, 2010	Sat/2:02 a.m.	Assault by Threat; intimidation; argument
November 12, 2010	Fri/1:11 a.m.	Assault; bodily injury caused; 3 units assigned
November 24, 2010	Wed/2:07 a.m.	Hit & Run; parking lot issue
February 2, 2011	Wed/11:13 a.m.	Assault reported; caused 2 days earlier
April 22, 2011	Fri/11:51 p.m.	Theft by keys (called in by bouncer)
May 21, 2011	Sat/3:44 a.m.	Disturbance; .22 ounces of green leafy substance
June 9, 2011	Thurs/11:29 p.m.	Public Intoxication; drunkenness

In conferring with an Assistant Police Chief on the 21 incidents above, he concluded that the above were either directly or indirectly attributed to alcohol consumption. If you may recall, Staff's previous report cited 40 incidents that were reported by the Mission PD; however, the balancing 19 incidents were other incidents where Smokin' Aces were not necessarily accountable for them. These 19 cases were not disclosed to Planning.

Also, the October 2, 2011 incident with 20 people fighting seems to have been a false call because within 2 minutes, the police department showed up and there was no evidence of anyone fighting.

After consulting with PD, staff recommended 3-month tenure and to re-assess at that point but subject to them hiring a uniformed professional security firm.

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

There was no response.

Chairman Sheats asked if the applicant or representative were present.

Mr. David Aguilar from 2703 E. 20th Street, property owner, stated that they have hired an off-duty police officer from the City of Pharr since security was the biggest concern. He also stated that they have 3 bouncers during the weekends, after listening to the incident reports.

Chairman Sheats stated that the alleged 20 person fight looked it was a bogus call.

Mr. Aguilar stated that he didn't know what else to say, since they did hire an off-duty police officer.

Chairman Sheats stated that he did not agree with Mr. Aguilar on the safety of the bar, since the board still had some unanswered questions especially since Mr. Flores, the P&Z board member, stated that he personally had represented 4 cases dealing with incidents happening in Mr. Aguilar's bar. He stated that there were no other bars within the city limits that have the same amount of incidents.

Chairman Sheats stated that they have studied all the police reports, met with the Assistant Chief of Police and has given them every benefit of the doubt, and the owner comes in stating that they have just hired an off-duty police officer. He mentioned that that was not what they were asking for; the board was asking for the owner to hire a professional security company hired by the business to do nothing but keep people safe. Now keeping people safe has a couple of places to come, it starts in the applicant's property, and the Chairman would like to call to the attention of the applicant the number of times for whatever reason the police

department has been called. That takes away units from patrolling other areas of the city. The second thing is that it cost the city a lot of money to do that.

Mr. Michael Aguilar stated that they pay taxes for this service from the City.

Chairman Sheats stated that he wished Mr. Aguilar wouldn't have gone there. Chairman Sheats strongly asked Mr. Aguilar if they have checked the amount of property taxes that they (have not) paid on the equipment with the county.

Mr. Michael Aguilar replied that he has, and that he was about to make payment arrangements, thus recanting his statement that 'they pay taxes'.

Mr. Flores stated that what he heard from staff after they spoke with the police was that there are problems but their still are willing to grant a conditional use for 90 days. He stated that the attitude from the board is not to defend what has already being done but what's going to happen in the future, because the board cannot change the number of calls coming to the police department from this place but the applicant can say that this is not going to happen again. Mr. Flores stated that the only thing that the board wants to do is create a safe environment for the people that attend Smokin' Aces, and he believed that the owner would want the same thing; have people go to the bar and feel safe.

Mr. Flores opinioned that coming in front of the board with a defensive attitude is not the right approach. He stated that he would like to see the Mission Police Department there, an off-duty police officer that is familiar with the cops that patrol the area, that plus educating the bar staff as to recognize when things are getting out of hand; those are things that could help prevent any future events. He finished by saying that nobody was trying to put anyone out of business, but trying to work with the applicants to create a safe environment at Smokin' Aces.

Mr. David Aguilar stated that a couple of his friends are Mission Police Officers and they had asked him if he wanted them here, but he had said 'no'. Aguilar asked them if there was any other bar in Mission with such incidents. He stated that he had never gotten a stabbing in his bar, like "other bars" in the area; and that he knows there was another bar down the road that had that incident. Aguilar mentioned that he felt defensive because of all the calls to the police department. He stated that he has a variety of people that patronize the bar, and he knows there's no violence in the bar because he practically lives there.

Mr. Flores stated that it doesn't matter, what needs to be done is changing the atmosphere; make it a better and safer place for the patrons. He mentioned that if the board approves the conditional use permit, they don't want to feel that they are putting people's lives in danger.

Mr. Juan Zuñiga stated that he lives nearby and that he attends the bar and feels comfortable there. He stated that he was also the City Manger from another city

and sometimes service calls are just service calls. He was there on October the 2nd during the alleged non-incident. Zuñiga supported Mr. David and Michael Aguilar, and their willingness to do anything to make sure that it would be a safer environment.

After a brief discussion, Chairman Sheats entertained a motion. Mr. Flores moved to approve the conditional use permit subject to a 3-month re-evaluation to assess the safety and security of the operation which includes providing staff a copy of the contract that Smokin' Aces has with a uniformed professional security agency. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:48 p.m.

Ended: 6:03 p.m.

ITEM # 3.0

Discussion to Establish Private Street Regulations within Mission's Subdivision Code

Mr. Zavala went over the write-up stating that over the years, Mission has seen and approved numerous *private street* subdivisions where typical policies are complied with. In order to have an organized method of alerting developers and interested others of what Mission's policy is on '*private street proposals*', Staff would like to include those policies in Mission's Subdivision Code. If approved, then our private street policies would be available on our website for perpetual public viewing.

Please consider the following as private street regulations to be included in our Subdivision Code:

1. A written variance shall be provided requesting that lots are desired to be developed, which will not front a public street, and the rationale for such variance for private street(s). If there is a stubbed street, or streets, onto the un-developed acreage desired to be developed with a private street(s), the likelihood is that there will be no privatization due to pre-designed neighborhood-to-neighborhood linkage.
2. Include within parenthesis under the proposed subdivision plat's name: ('PRIVATE SUBDIVISION').
3. The developer's dedicatory language on the plat shall read as follows: "I, the undersigned, owner of the land shown on this plat, and designated as (the name of the subdivision), do hereby grant an easement to the City of Mission and those who may now or hereafter hold franchise under said city, the use o the streets, alleys, and easements thereon shown, surface use of the streets and alleys is restricted to the employees or agents of the City of Mission, employees of utilities operating under franchise to the City of Mission, residents of the subdivision, and their guests."

4. A Homeowner's Association (HOA) shall be established/recorded to maximize the maintenance of common areas, which shall include the private street(s), its storm drainage, streetlighting, and accompanying sidewalks.
5. The Private Street(s) shall be identified as '*common areas*' and given lettering for said lot such as 'Common Area Lot A'.
6. Plat Notes shall be required on the plat to be as follows:

Plat Note: All private streets, inclusive of median islands and any sentry shelters, plus any accompanying storm drainage, streetlighting, and/or sidewalks, will be privately maintained by the Homeowner's Association. Also, all perimeter walls and fences shall be under the ownership and the exclusive responsibility of the Home Owners Association for the purposes of usage and repair.

Plat Note: After the recording of the plat's Conditions, Covenants, and Restrictions (CCRs) to thus assure maintenance of common areas and median islands, etc., a building permit application may be filed with the City of Mission for any proposed gated entry mechanisms whereafter it shall be reviewed for approval or disapproval by the City including the Fire Marshal's Office. In no case shall gate(s) be installed where a building permit was not issued.

Plat Note: The Homeowner's Association and/or every lot owner shall hold the City of Mission, Texas harmless and indemnify said City from any and all claims relating to the condition or accessibility of the private streets. The Lot Owners shall be responsible for the costs to maintain the private streets, accompanying storm drainage, private sidewalks, and private streetlighting.

Plat Note: the owner(s)/developer(s) shall sign and record an Indemnification Agreement holding harmless the City of Mission for such maintenance, etc.

7. The developer shall sign and record a Private Street Alignment on a form established by the City of Mission.
8. Should there be a subdivision with public streets but where there is a desire to propose a gated entry, the following minimum policies shall be evident and fully complied with:
 - a. No collector, arterial, or other street providing 'through traffic' shall be considered for privatization.
 - b. A written petition reflecting 100% of the Lot owners desiring the private street and subsequent gated entry shall be provided to the City. Renters or tenants shall not be deemed 'Lot owners'.
 - c. A Homeowner's Association (HOA) must be evident or shall be legally established providing for the maintenance and upkeep of the streets, streetlighting, sidewalks, storm drainage improvements, and other improvements that may be deemed

- 'common elements' that would normally be the City of Mission's responsibility to maintain and upkeep.
- d. Once the above is evident, then a written petition (deemed to be the written variance request) 'to have lots not front a public street' shall be provided to the Mission Planning Department to review for eligibility and pre-meeting consideration.
 - e. Once eligibility is confirmed, and the Public Works, Fire Marshal, PD, and other city departments have assessed the proposal, the Planning Department shall move forward to have the variance for 'private streets' considered by the Planning and Zoning Commission, and the City Council as with any other variance to the Subdivision Code.
 - f. If the variance is approved, a Private Street Agreement on a form established by the City of Mission, shall be signed & recorded by the applicant HOA's Board of Directors.
 - g. Once the street privatization variance is approved by the City Council, the City of Mission and the applicant HOA shall coordinate within 30 calendar days, the transition of streetlighting costs from a public account to a private HOA account. If there is a lack of communication on behalf of the HOA in this regard, the City shall terminate payment and service to have streetlights paid for by public funds no later than 45 days from the date of Council approval.
 - h. The HOA shall pay for any traffic signage and markings indicating that the street is now 'private'.
 - i. Any desired gate to secure the private street shall first obtain a building permit prior to any installation.

These are the policies proposed to be incorporated into Mission's Subdivision Code.

Chairman Sheats asked if there was input from the Board to the request.

Mr. Flores commented that a public hearing would be helpful, too. Mr. Zavala agreed that a hearing to privatize existing subdivisions was a good idea.

There being no further comments, Chairman Sheats entertained a motion. Mr. Flores moved to approve the amendment as recommended by staff include of a public hearing encumbrance on existing subdivisions desiring privatization. Mr. Lopez seconded the motion. Upon a vote, the motion passed unanimously.

OTHER BUSINESS

Mr. Zavala asked the Board that due to the holidays if it was okay for the Commission to meet only once a month in the months of November and

December. He stated that the dates would be November 16, 2011 and December 14, 2011.

The present board members stated that it wouldn't be a problem and agreed to have 1 meeting per month as recommended.

ITEM # 4.0
ADJOURNMENT

There being no further items for discussion, Mr. Lopez moved to adjourn the meeting. Mr. Garza seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 6:05 p.m.

Ned Sheats, Chairman
Planning and Zoning Commission