

**PLANNING AND ZONING COMMISSION  
NOVEMBER 5, 2014  
CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.**

**P&Z PRESENT**

Ned Sheats  
Mario Garza  
Marisela Main  
Abiel Flores  
Carlos Lopez  
Diana Izaguirre

**P&Z ABSENT**

Rene A. Flores

**STAFF PRESENT**

Daniel Tijerina  
Bobby Salinas  
Susana De Luna

**CALL TO ORDER**

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

**CITIZENS PARTICIPATION**

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

There was none.

**Started: 5:01 p.m.**

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

**ITEM #1.1**

**Revisions to the Subdivision Ordinance regarding Homestead properties**

Mr. Bobby Salinas went over the write-up stating that this new ordinance proposal would provide relief to property owners throughout the City of Mission and its Extra Territorial Jurisdiction (ETJ) regarding the costs associated with creating a 1 lot plat for their primary residence. We currently have two processes for the development of land. The first being the Subdivision process which requires an engineer to plat the property and the second being the Single Lot Variance process which does not require an engineer. In both cases the property owner is required to pay various fees in order to comply with the Subdivision Code.

This proposal would lessen the impact of the subdivision costs when the property is proposed as the primary residence of the property owner. Please see the attached table that shows the differences in cost between the two existing processes and the new Homestead Exemption Variance process.

The following is the proposed language for the Homestead Exemption Variance ordinance.

**Sec. 98-16. Homestead Exemption Variance; approval and procedures.**

- a) *Homestead Exemption Variances.* Homestead exemption variances may be utilized for lots or acreage proposed for a single family dwelling for the owner of such property.
- b) *Approval process.* The Planning and Zoning Commission and City Council shall review and approve all homestead exemption variances. No homestead exemption variance shall be considered except upon submittal of an application with the applicable fee paid, a copy of the applicant's deed to the property the subject of the requested variance, evidence satisfactory to the City that said applicant is recognized as the owner of said property by the Hidalgo County Appraisal District, and an affidavit sworn to by said applicant that the applicant has the present intention of constructing and completing construction of a single family residence on the property within one year after the date of said affidavit, that said residence shall be the applicant's personal residence and that the applicant has no present intention of using the property in the future for any purpose other than the applicant's personal residence. Furthermore, the applicant shall submit to the City evidence satisfactory to the City that the applicant has received a homestead exemption from the Hidalgo County Appraisal District prior to the City issuing to the applicant a certificate of occupancy.
- c) *Homestead exemption variance waivers.* Where such homestead exemption variances are proposed, the City may allow the following:
  - 1. Waiver of Street Widening Costs
  - 2. Waiver of Sidewalk Costs
  - 3. Waiver of 3% Lab Testing Fees
  - 4. Waiver of 2% Inspection Fees
  - 5. Waiver of street lighting requirements
  - 6. Waiver of Park and Sewer Capital Recovery Fees.
  - 7. Waiver of water/sewer utility upgrades; Fire Hydrants are not included in these waivers and shall be required as per the direction of the Fire Marshal.
  - 8. Waiver of any other requirements as approved by the City Council.All other subdivision requirements are still in full effect.
- d) *Planning and zoning commission on discretionary terms of approval.* By granting any homestead exemption variance, the planning and zoning commission has the discretion of requiring other terms of conditions which may mitigate the effects of an awarded homestead exemption variance which will then be presented to the City Council for their consideration.
- e) *Filing fee.* Each application for homestead exemption variances shall be accompanied by a filing fee of \$100.00.
- f) *Time limitation.* Once a homestead exemption variance is granted, the construction of the single family residence must be completed and all requirements of the granting of the variance must be satisfied within one year after the date of the approval of the variance, failing which the approval is revoked. An extension of six months can be considered by the Planning and Zoning Commission but can only be granted the City Council.

Mr. Salinas read from exhibits "A" & "B". He added that he would like the Board's input regarding this item.

Vice-Chairman Ned Sheats asked if there was any public comment regarding this request.

There was no response.

Vice-Chairman Ned Sheats asked if there was any input from the Board.

Mr. Abiel Flores asked Mr. Salinas if this was only required when it involves a certain size of tract.

Mr. Salinas stated that not necessarily for example if there is a single 5 acre tract of land where they wanted one house on the lot, we would treat it as a single lot. Currently we have where you can do either a 1 lot plat or single lot variance and in both scenarios they would have to pay their fees. He added that with this new proposal it would help out the people a little more with the fees.

Vice-Chairman Ned Sheats asked if Mr. Mario Garza had any questions.

Mr. Mario Garza stated that he liked what was presented especially if it was to help out the people.

Mrs. Marisela Marin asked Mr. Salinas if when the City set these subdivision fees, were they set for a reason. Those are fees that the City is incurring.

Mr. Salinas replied, "That's correct".

Mrs. Marisela Marin asked if they approve the homestead exemption does that mean that they are going to go away and if so who will incur the fees. She added that what they don't want is for the City to look in a certain manner. She added that the City needs to have the sewers where they need to be and if the new property owner is not going to install them then the City would have to.

Mr. Salinas stated that the city would be the ones having to do this in the future.

Mrs. Marisela Marin stated that then the city would have to pay the costs or was the city was going to be funded for this.

Mr. Salinas mentioned that an example that comes to mind is when they widened 2 Mile Road. What we did there was a grant with the State where they ended up paying a certain percentage and the City paid another percentage and that is where we are able to not have to incur all of the costs and he assumes that is what they are looking at. He added that there were a lot of areas where the City acquires grant monies to make these types of improvements like the EDAP project, the clean water SRF, etc.

Mrs. Marisela Marin stated that those monies could be used for other things and not necessarily for these type of improvements.

Mr. Salinas stated that they could be used for other things and to help improve other existing facilities.

Mrs. Marisela Marin stated that she understand that the exemption would only be granted if a certain criteria is met but at the same time she feels it should not be the City incurring all the costs.

Chairman Sheats asked Mr. Lopez if he had any questions.

Mr. Carlos Lopez replied, "That he had no questions".

Ms. Diana Izaguirre apologized for being late and asked if they could explain the item in question.

Mr. Daniel Tijerina stated that staff had received some direction from Council to look at a homestead exemption variance and at this time we have our subdivision process so if somebody wants to build a home they could either subdivide or apply for a single lot variance only if they qualify. He added that they could only apply for a single lot variance if they had frontage to a paved street and have water and sewer. Mr. Tijerina went over Exhibits "A" & "B" again for Ms. Izaguirre.

Ms. Diana Izaguirre asked what lab testing would be done.

Mr. Salinas stated that it was the 3% costs of the public infrastructure, for example if there was street widening, the water line re-compaction testing.

Mr. Tijerina mentioned that a single lot variance is applicable for an apartment, commercial, residential, any type of use and it has been in the books since 1991 aside from the 1-lot subdivision.

Vice-Chairman Ned Sheats stated that he finds that it is ill advised. He added that one reason was financially, the City will not make up money for this uncharged street widening in every case, unless there is some kind of grant available and those are not normally that eventful unless it is a very large project. He mentioned that he liked the fact that it could not be used by one person for more than once; however there is no protection against someone taking ten lots selling them to individual not related people and then having those lots develop by those people. Mr. Sheats stated they could have 10 lots of 80' in width fronting a single non-widened street where the city is going to have to incur these widening expenses in the future. Mr. Sheats believed this would be a step back to ten years ago. He added that the issue here is that we have had hundreds or even tens of thousands of properties built along large roads and they were required to put in the \$33,152 when they subdivided their properties and they have paid their dues and now we are coming across people saying did we really need to pay all those fees. Evidently not because now for

homestead exemptions we are going to give you a discount of \$25,000 and that does not sit well with him. Mr. Sheats stated that we are going to have a very unlevelled playing field. We are going to have people not being charged the same thing that other people were charged. Mr. Sheats stated that to him this would not be a very good thing because we are talking about allowing septic tanks in the middle of the city depending on the size of the lots when we have done everything possible to get rid of those and have them connect to the City sewer and as Mrs. Marin mentioned to the effect of the sewer and drainage that we should have these things installed as the usage is there and not depending on whether or not it is a single lot variance, fortunately for the ordinance he could not vote. Mr. Sheats added that he just didn't see separating the City in two different types of rules. It is not necessary because under the present subdivision and the single lot variance the City has all the abilities to do this with the exemption of only requiring it to be the owners original house. He mentioned that he does not ever recall having to see several single lot variances for the same property.

Mrs. Marisela Marin stated that if the City was really considering this variance then we should really look into the fees that the city would be spending maybe they could cut the fees a little but not to the extent of not charging anything. She added that they should work with the people but not make the City responsible for something that the property owner wants. Mrs. Marin asked if staff believes this would become retro.

Mr. Tijerina stated that it would not be retroactive.

Mrs. Marisela Marin asked what would happen if someone didn't know about this variance and paid the whole amount and then found out about this variance would they refund his money.

Mr. Tijerina replied, "No".

Mrs. Marisela Marin asked who would be responsible for alerting the people of this variance.

Mr. Tijerina stated that it would be the Planning Department if they met all the criteria.

Ms. Diana Izaguirre stated that she agreed with Mrs. Marin and Mr. Sheats because she personally thinks that all fees are unfair because she had to pay \$40,000 for a letter that somebody inside the City limits didn't have to pay. She had to pay because she was in the ETJ, but she also agreed with staff in regards to a property that is 150' x 150' having to pay \$33,150 in order to be able to build their home.

Vice-Chairman Ned Sheats stated that these fees would be for a 1-lot subdivision.

Ms. Izaguirre stated that the \$33,150 was just for a 150' x 150' tract.

Mr. Tijerina stated that nobody ever pays the same amount of fees because the sewer fees could range from \$2,000 to \$15,000 it all depends on the particulars.

Vice-Chairman Sheats stated that he just couldn't see not requiring the people who are taking the benefits out of this lot not having to pay for it and having the future and present residents having to picking up the tab.

Ms. Diana Izaguirre asked how many single lot variances does the planning department see in a year.

Mr. Tijerina stated that roughly about 15.

Brief discussion continued amongst themselves.

Vice-Chairman Ned Sheats stated that he was not against the homestead exemption variance but was against doing away with all the costs.

Mrs. Marisela Marin stated that she was against the homestead exemption variance because she feels that the property owner should pay all the costs since they will benefit from the development.

Vice-Chairman Ned Sheats entertained a motion. Ms. Diana Izaguirre moved to approve the homestead exemption variance as per staff's recommendations. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed 4-1, with Mrs. Marisela Marin dissenting.

**ITEM #2.0  
OTHER BUSINESS**

There was no other business

**ITEM #3.0  
ADJOURNMENT**

There being no further items for discussion, Mr. Ned Sheats moved to adjourn the meeting. Mr. Mario Garza seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 6:08 p.m.

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Ned Sheats, Vice-Chairman  
Planning and Zoning Commission