

**PLANNING AND ZONING COMMISSION
MARCH 22, 2017
CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Ned Sheats
John Guerra
Marisela Marin
Carlos Lopez
Julio Cerda
Diana Izaguirre

P&Z ABSENT

Jaime Gutierrez

STAFF PRESENT

Jaime Acevedo
Virgil Gonzalez
Marie Villarreal
Joel Chapa

GUESTS PRESENT

Carmen Rivera
Jorge Pascual
Omar Perez
Cita Jimenez
Maria Vega
Blanca Ibarra
Ezequiel Morin
Irene Garza
Carlos Juvera
Hermelinda Salazar
Ismael Morin
Elias Ibarra
Lorena Calderon
Narce Flores
Ida Garza
Belinda Mata
Valeria Longoria

CALL TO ORDER

Chairman Ned Sheats called the meeting to order at 5:06 p.m.

CITIZENS PARTICIPATION

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

There was none.

APPROVAL OF MINUTES FOR MARCH 8, 2017

Chairman Sheats asked if there were any corrections to the minutes for March 8, 2017. Mr. Carlos Lopez moved to approve the minutes as corrected. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:07 p.m.

Ended: 5:09 p.m.

Item #1.1

Rezoning: 1.00 acre tract of land out of Lot 205,
John H. Shary Subdivision
AO-I to C-3
Alba Homes, LLC
c/o Javier Hinojosa Engineering

Mr. Jaime Acevedo went over the write up stating that the subject site is located approximately 600' north of 6th street along the east side of Shary Road.

SURROUNDING ZONES: N: C-3 – General Commercial
E: R-1 – Single Family Residential
W: C-4 – Heavy Commercial
S: C-3 – General Commercial

EXISTING LAND USES: N: Vacant Commercial
E: Residential
W: Commercial
S: Commercial

Site: Vacant

FLUM: The Future Land Use Map reflects a General Commercial (GC) designation along the Shary Rd. frontage.

REVIEW COMMENTS: The subject property has been a commercial 'reserve' since the inception of the Master Plan. The C-3 request is directly consistent with the FLUM and surrounding land uses and zones along Shary Road.

RECOMMENDATION: Approval.

Chairman Sheats asked if there were any comments or questions from the board or staff.

There were no comments.

Chairman Sheats asked if the applicant was present.

There was no response.

Chairman Sheats stated that everything was straightforward.

There being no further discussion, Chairman Sheats entertained a motion. Mrs. Marisela Marin moved to approve the rezoning as presented. Mrs. Diana Izaguirre seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:09 p.m.

Ended: 5:20 p.m.

Item #1.2

**Rezoning: A 4.33 acre tract of land out of Lot 20-4,
West Addition to Sharyland Subdivision
R-1 & C-2 to R-1T
Frut Mich, Inc.
c/o Luis Valencia**

Mr. Jaime Acevedo went over the write up stating that the subject site is located on the SW corner of Holland and Business Highway 83. The irregular site has access to Holland, Perez Street, and Walsh Street.

SURROUNDING ZONES: N: C-3 – General Commercial
E: C-3 – General Commercial &
I-1 – Light Industrial
W: I-1 – Light Industrial
S: R-1 – Single Family Residential

EXISTING LAND USES: N: Commercial & Institutional
E: Vacant Industrial
W: Vacant Single Family Residential
S: Residential

Site: Vacant

FLUM: Moderate Density Residential (MD) & Heavy Commercial (HC)

REVIEW COMMENTS: The predominant land use is long standing Single Family (R-1) residences. Everything south of Perez is Single Family Residential (R-1). Although the surrounding land uses do reflect a mixture of uses including Commercial and Light Industrial. Staff feels that any higher density land use would have a detrimental devaluation to the surrounding Single Family neighborhood in the area.

RECOMMENDATION: Denial.

Chairman Sheats asked if the applicant was present.

Mr. Carlos Juvera was present to address any questions the board may have.

Chairman Sheats mentioned to the applicant that staff was recommending denial and that there would be no reason to go against their recommendation. There are long standing residential lots to the South and it would not be fair to the existing homeowners to place townhomes next to them. The property owners should have the opportunity to live in the same type of neighborhood as they once purchased.

Chairman Sheats asked if there were any questions or comments he would like to address to the board.

Mr. Juvera stated that the last time he was present in the meeting an R-2 (Duplex-Fourplex Residential) was being proposed and the board was favoring an R1-T (Townhouse Residential).

Chairman Sheats stated that for this property the board proposed an R-1 and for the property adjacent an R-1T.

Chairman Sheats mentioned that he didn't recall recommending an R-1T for this property.

Mr. Acevedo stated that he didn't recall what was being favored in the last meeting but staff did receive opposition from neighbors on the South and a letter that was received from property owners on the West voicing their concerns.

Mr. Juvera mentioned that they were proposing R-2 which was just duplex and staff came back and proposed R1-T.

Mrs. Izaguirre mentioned that the board did not propose R1-T; board proposed residential homes on half of the property and anything R-2 or R1-T would be on the north side closer to highway 83.

Chairman Sheats mentioned that's what he had recalled being proposed and if the applicant wishes to come back with an R-1 proposal for this property.

Mr. Cerda stated that it would be best to wait being that staffs the one who received phone calls with objections on the established neighborhood.

Mr. Acevedo mentioned that as far as the townhomes and duplex, you can almost squeeze as many townhomes per acre as you could on a duplex-fourplex lot. The current zoning of the majority of this lot is already R-1 just a portion that is C-2.

Chairman Sheats asked if there were any comments in favor or against the request.

There were no comments.

Chairman Sheats stated that there was a letter received in opposition and phone calls received by staff.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Julio Cerda moved to deny the rezoning as per staff's recommendations. Dr. John Guerra seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:20p.m.

Ended: 5:23 p.m.

Item #1.3

**Rezoning: 10.36 acre tract of land out of Lot 20-4,
West Addition to Sharyland Subdivision
R-1 & C-2 to R-2
Frut Mich, Inc.
c/o Luis Valencia**

Mr. Jaime Acevedo went over the write-up stating that the subject site is located on the SW corner of Holland and Business Highway 83. The irregular site has access to Holland, Perez Street, and Walsh Street.

SURROUNDING ZONES: N: C-3 – General Commercial
E: C-3 – General Commercial &
I-1 – Light Industrial
W: I-1 – Light Industrial
S: R-1 – Single Family Residential

EXISTING LAND USES: N: Commercial & Institutional
E: Vacant & Institutional
W: Vacant
S: Vacant

Site: Vacant

FLUM: Moderate Density Residential (MD) & Heavy Commercial (HC)

REVIEW COMMENTS: The predominant land use is long standing Single Family (R-1) residences. Everything south of Perez is Single Family Residential (R-1). Although the surrounding land uses do reflect a mixture of uses including Commercial and Light Industrial. Staff feels that any higher density land use would have a detrimental devaluation to the surrounding Single Family neighborhood in the area.

RECOMMENDATION: Denial.

Chairman Sheats asked if the applicant or representative was present.

Mr. Juvera was present to address any questions that the board may have.

Chairman Sheats mentioned that for the record the applicant will have the opportunity to be seen by City Council and they will have the final say.

Mr. Juvera mentioned that he was aware.

Chairman Sheats asked if there were any comments in favor or against the request.

There were no comments.

There being no further discussion, Chairman Sheats entertained a motion. Mrs. Marisela Marin moved to deny the rezoning as per staff's recommendations. Dr. John Guerra seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:24 p.m.

Ended: 5:27 p.m.

Item #1.4

**Conditional Use Permit: Home Occupation – 2 Chair Beauty Salon
804 W. 24th Place
Lot 74, Chaparral Heights Subdivision
R-1
Hermelinda G. Salazar**

Mr. Jaime Acevedo went over the write up stating that the subject site is located 150' west of Holland Rd. along the north side of 24th Place. This 2-chair salon has been in operation since 11-17-10 and was most recently approved by P&Z on 6-22-11. The applicant has always complied with the "*home occupation*" regulations provided in sec. 1.56-1 of the Zoning Code. This CUP was previously approved by the P&Z on 6-27-2012 with a 3 year re-evaluation.

- **Days / Hours of operation:** Monday through Friday from 10:00 a.m. to 7:00 p.m. (by appointment only)
- **Staff:** Mrs. Salazar is the only person running the salon.
- **Parking:** There are 3 parking spaces which when considering that applicant works alone and by appointment only, meets code.

Staff has never received any complaints regarding this CUP.

RECOMMENDATION: Approval subject to a 3 year re-evaluation to keep monitoring this hair salon in the midst of a residential neighborhood.

Chairman Sheats asked if there were any questions from staff.

Mrs. Marin stated that it was mentioned that there was a mistake on the number of parking spaces instead of 18 there should be 5.

Mr. Acevedo mentioned that there was a typo and it should be 3 instead of 18, they are required to have 2 for the home and they have 3.

Chairman Sheats asked if there are only 2 chairs for the salon.

Mr. Acevedo stated that was correct that there are only 2 chairs.

Chairman Sheats asked if the applicant was present.

Mrs. Hermelinda Salazar who resides at 804 W. 24th Place was present to address any questions the board may have.

Chairman Sheats asked if she was in accordance with staff's recommendations and if everything will remain the same for the next 3 years.

Mrs. Salazar replied that she was in agreement and that everything will remain the same.

Chairman Sheats asked if there were any comments for or against the request.

There were no comments.

There being no discussion, Chairman Sheats entertained a motion. Mr. Carlos Lopez moved to approve the conditional use permit as per staff's recommendation. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:27 p.m.

Ended: 5:34 p.m.

Item #1.5

Conditional Use Permit:

**Drive-Thru Service Window - El Valle Supermarket
3201 N. Inspiration Road
Lots 170 & 171, Taurus Estates #2 Subdivision
C-3
Omar Perez**

Mr. Jaime Acevedo went over the write up stating that the subject site is located on the NW corner of Inspiration Rd. and Mile 2 Rd. The existing "El Valle Supermarket" is approx. 4,800 sq.ft. and has an existing drive-thru service window located on the NE area of the building. The location of the service window provides enough stacking for four vehicles. Existing access to the site is from a 36' driveway along Mile 2 and a 36' driveway along Inspiration. This CUP was previously approved by P&Z on 6-13-12 with a 3yr. re-evaluation.

- **Days / Hours of operation:** Everyday from 7 a.m. to midnight
- **Staff:** 12 employees, 4 per shift
- **Parking:** When factoring in the market and the seating spaces available for dining, the site requires 18 parking spaces. The site currently has 18 parking spaces, thus meeting code.
- Must continue to comply with the City's sign & landscaping codes.

RECOMMENDATION: Approval subject to:

1. 3 yr. re-evaluation in order to assess this operation;
2. Continue to comply with the City's sign & landscaping codes.

Chairman Sheats mentioned that they were approved for 3 years the last time is there anything in resistance for it to be approved for life of use.

Mr. Acevedo mentioned that if the P&Z Board is incline to give the life of use we can entertain as long as the CUP is not transferable to others.

Mrs. Marin asked if the pictures were current.

Mr. Acevedo stated that the pictures were from an old presentation.

Chairman Sheats asked if the area looks the same now.

Mr. Acevedo mentioned that it does but that due to construction going on the landscaping is not at its best.

Chairman Sheats asked if the applicant was present.

Mr. Omar Perez was present to address any questions the board may have.

Mr. Perez mentioned that everything remains the same but construction does not allow landscaping to be at its best.

Chairman Sheats commented that it was one of the best looking businesses on the corners of Mission.

Chairman Sheats asked the board if there were any questions.

Mrs. Izaguirre stated that the aerial and site plan don't look the same. She mentioned that on the front of the store there are 3 parking spaces and there's an island located there that's supposed to help but instead disturbs.

Mr. Acevedo stated that the parking stripes on the picture can't be defined clearly.

Mrs. Izaguirre mentioned that on the west side there's supposed to be 7 parking spaces and there seems to be 5; on the south side there seems to be 4 but there are only 3.

Chairman Sheats stated that the picture presented was old and if there have been any changes made.

Mr. Acevedo mentioned that he recommends tabling the item and bringing it back with the correct site plan.

Chairman Sheats stated that if the applicant needs to come back with a site plan showing what's existing.

Chairman Sheats asked if there were any comments for or against the request.

There were no comments.

There being no discussion, Chairman Sheats entertained a motion. Mrs. Diana Izaguirre moved to table the conditional use permit. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:34 p.m.

Ended: 5:38 p.m.

Item #1.6

**Conditional Use Permit: Drive-Thru Service Window - Tortilleria Carmelita
600 N. Shary Road, Ste. F
Lot 1, Esdras Vega Subdivision
C-3
Carmen Rivera**

Mr. Jaime Acevedo went over the write-up stating that the subject site is located at the NE corner of E. 6th Street and Shary Road. The applicant has been in operation at this location for 1 year now and her CUP for drive-thru service window needs reconsideration to continue in operation. Access to the site will be provided off E. 6th Street, through an existing 24' driveway. Customers can park within the shared parking area to walk in and purchase items, or they can use the drive-thru service window. This CUP was initially approved by the P&Z on 3-23-16 for a period of 1 year.

- **Days / Hours of operation:** Monday – Saturday from 7:00a.m. to 9:00p.m. and Sunday from 7:00a.m. to 7:00p.m.
- **Staff:** a total of 3 employees will man this operation
- **Parking:** There are a total of 58 parking spaces held in common for the plaza. In speaking to the applicant, close to 100% of her business is by take-out, thus staff parking has not been an issue at this location.
- **Landscaping:** The landscaping, paving, and drainage for the entire plaza meets code.
- **Menu:** Tortillas, sodas, milk, and other basic snacks will be the only items sold Monday through Friday. On Saturdays and Sundays they will offer barbacoa and menudo — (all items are to go).

REVIEW COMMENTS: Applicant will have to continue to comply with Health, Fire, Building, and Sign Codes.

RECOMMENDATION: Approval subject to:

1. 3 year re-evaluation..
2. CUP is not transferable to others.
3. Continued Compliance with Building, Fire, Health, and Sign Codes.

Chairman Sheats asked if there were any comments from the board.

There were no comments.

Chairman Sheats asked if the applicant or representative was present.

Carmen Rivera who resides at 2911 Sycamore Avenue was present to address any questions the board may have.

Chairman Sheats asked if there if there was a walkway.

Mr. Acevedo mentioned that there isn't a walkway because people exist off to 6th street and the back of the building is used for employee parking.

Chairman Sheats asked the applicant if she was happy with her business here in Mission.

Mrs. Rivera stated that she was happy with her business.

Chairman Sheats asked if there were any comments for or against the request.

There were no comments.

There being no further discussion, Chairman Sheats entertained a motion. Mrs. Marisela Marin moved to approve the conditional use permit as per staff's recommendation. Mrs. Diana Izaguirre seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:38 p.m.

Ended: 5:46 p.m.

Item #1.7

Conditional Use Permit:

Drive-Thru Business

1001 W. Expressway 83

Lot 35 & 36, Freeway #3 Subdivision

C-3

Gerardo Martinez

Mr. Jaime Acevedo went over the write-up stating that subject site is located the SW corner of Expressway 83 and San Pedro Street. The subject site has an existing building which in the past has been used as a drive-thru business. This CUP was originally approved on 3/12/14 for a period of one year but never opened. Additionally, on 4-22-15 the P&Z approved a CUP at this location for a period of 6 months but once again the business never opened. Prior concerns of the P&Z were the flow of traffic. To address that, Mr. Martinez has submitted a new layout showing various speed bumps and bollards along the drive-thru route to ensure the safe travel of vehicles into and through the building. He is also showing the main entrance located further south of the original proposal which would increase vehicle stacking by approximately 1 vehicle.

- **Hours of Operation:** Monday – Saturday – 10:00 a.m. to 12:00a.m., and Sundays 12p.m. to 12 a.m.

- **Staff:** 2 employees
- **Parking:** The applicant is showing 7 parking spaces, plus approximately 3 inside the drive-thru to exceed the parking requirement of 8 spaces.

RECOMMENDATION: Staff recommends approval for 1 year subject to:

1. Must install additional landscaping and sidewalks along the Expressway frontage;
2. Must complete the parking requirements as shown on the plan, including speed bumps and the fencing;
3. Must wet zone the property, if needed;
4. Must comply with all building, fire, health, and sign codes;
5. Obtain a Business License.

Chairman Sheats asked if there were any questions from the board.

Mrs. Marin stated that once a person decides to drive in they would have to go in through the drive-thru. If the person decides to get off the store through where would they enter?

Mr. Acevedo mentioned that once the business is in operation the gate door will be open.

Chairman Sheats stated that people enter from Pedro Street and exist off into east bound into the expressway. How much time would somebody have to see the vehicles coming from the west of the expressway?

Chairman Sheats asked if the last CUP was approved as presented.

Mr. Acevedo mentioned that it was approved the same way that it's being presented now.

Chairman Sheats asked if the applicant or representative were present.

Mr. Gerardo Martinez was present to address any questions the board may have.

Mr. Martinez stated that the department of TXDOT never went to do the inspection for the sidewalks. He stated that the City of Mission approved for the construction of the sidewalks but TXDOT never followed through with the inspection.

Mr. Acevedo mentioned that the applicant doesn't mind constructing the sidewalks he just never got the green lights from TXDOT.

Chairman Sheats asked if it was TXDOT or the City's responsibility to install the sidewalk.

Mrs. Izaguirre asked who required the sidewalks to be installed.

Mr. Acevedo mentioned that it was the P&Z board that required it the last meeting.

Mr. Martinez stated that he obtained that permit and paid for it but never got the ok from TXDOT.

Mr. Cerda stated that TXDOT doesn't allow property owners to construct a sidewalk maybe that's why they never went out there to do the inspection.

Chairman Sheats asked if there were any comments for or against the request.

There was no response.

There being no discussion, Chairman Sheats entertained a motion. Mrs. Diana Izaguirre moved to approve the conditional use permit as per staff's recommendations without the installation of sidewalks along expressway frontage. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:46 p.m.

Ended: 5:52 p.m.

Item #1.8

Conditional Use Permit:

**Manufacturing and Packaging of
Ice Cream and Chicharrones in a C-3 Zone
204 W. Tom Landry
Lots 3-6, Block 175,
Mission Original Townsite Subdivision
C-3
Jorge Pascual**

Mr. Jaime Acevedo went over the write-up stating that the subject site is located on the NE corner of Perkins and Tom Landry. The applicant is proposing to renew his CUP to manufacture, process, package, and store ice cream and chicharrones within his existing C-3 ice cream business.

The Zoning Code requires the "manufacturing...processing, packaging of food products" to be done within an I-1 (Light Industrial Zone). However, any I-1 permitted use may be permitted within a C-3 with a CUP (Zoning Code, Art. VIII, Sect. 1.43 (3)(i)).

The applicant utilizes only 1 frying machine for the chicharrones and 1 machine for making the ice cream. Once the products are packaged, the chicharrones are stored within the same building, while the ice cream is stored in their existing freezer building. This CUP was originally approved by P&Z on 5-14-14.

- **Hours of operation:** Monday - Saturday from 8am to 4pm.
- **Staff:** There are 4 employees operating the business.
- **Parking:** The applicant recently remodeled the site and made site improvements, improving the existing ice cream business. There are 24 parking spaces to accommodate customers and their delivery trucks. The applicant has also installed buffer fencing along Tom Landry which aids in screening the ice cream delivery trucks from the public view.
- Must continue to comply with all Building, Fire, Health, and Sign Codes.

REVIEW COMMENTS:

Staff has noticed that the applicant has continued to make improvements over the years at this location to improve the aesthetics of this business. Staff has not received any comments for or against this proposal.

RECOMMENDATION: Staff recommends approval for 3 years subject to continued compliance with all Building, Fire, Health, and Sign Codes.

Chairman Sheats asked if there were any questions from the board.

There was no response.

Chairman Sheats asked if the applicant or representative was present.

Mr. Jorge Pascual was present to address any questions the board may have.

Mr. Pascual asked if the board could consider the permit for life of use since he has always complied with everything and never had any problems.

Chairman Sheats mentioned that he had no objection to his request but the board would have to make a decision to consider life of use.

Dr. Guerra asked what are the objects on the far left corner of the property.

Mr. Pascual stated that the objects were freezers that are no longer being used and are stacked on that corner. The picture presented is old and the area looks neater with not as many freezers.

Chairman Sheats asked if the freezers are there now.

Mr. Pascual stated that he's not sure how many freezers are there because he hasn't counted them. The freezers that are not being used are stored in that corner; the area doesn't look as bad as what's presented on the picture.

Chairman Sheats stated you will probably get your life of use if it's cleaned up.

Mr. Pascual mentioned that it was cleaned up.

Chairman Sheats asked if there were any comments for or against the request.

There was no response.

Mr. Acevedo mentioned that he pulled out a permit for the canopies for his delivery trucks and he had a solid buffer and it does look nicer than what's presented on the picture.

Mr. Cerda mentioned that the Chamber of Commerce complained because of the refrigerators that were there on the corner.

Chairman Sheats asked when the complaints were.

Mr. Cerda stated that he didn't have dates.

There being no further discussion, Chairman Sheats entertained a motion. Mrs. Marisela Marin moved to approve the conditional use permit as per staff's recommendation. Dr. John Guerra seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:52 p.m.

Ended: 6:19 p.m.

Item #1.9

Conditional Use Permit:

**Sale and On-Site Consumption of Alcoholic
Beverages – Guera Bar & Grill
204 Melba Carter Road
Lots 35 & 36, Earnhard Subdivision
(aka Melba Carter Subdivision)
C-3
Jose Luis Marquez**

Mr. Jaime Acevedo went over the write up stating that the subject site is 450' east of S. Conway Ave. on South side of Melba Carter Rd. There is an existing building which has 1920 sq. ft. as per appraisal district and was built in 1980. Access to the site is provided from a 38' driveway off Melba Carter Rd.

- **Hours of Operation:** Monday – Saturday – 10:00 a.m. to 2:00a.m., and Sundays 12p.m. to 2 a.m.
- **Staff:** 2 employees
- **Parking:**In viewing the floor plan, the restaurant/bar has a total of 24 seats which requires a total of 8 parking spaces (24 seats/3 = 8 spaces). The site has 14 parking spaces which meets parking code.
- **Section 1.56.** Conditions of conditional use.
 3. Bars, cocktail lounges, taverns, cantinas, saloons, dancehalls, discotheques, discos or nightclubs:
 - a. The property line of the lot of any of the above-mentioned businesses, especially those businesses which have late hours (after 10:00 p.m. [12:00 noon]) must be at least 300 feet from the nearest residence, church, school or publicly owned property, or must provide sufficient buffering and sound insulation of the building such that the business is not visible and cannot be heard from such structures or areas, and must be designed to prevent disruption of the character of adjacent residential areas. The planning and zoning commission may, under extenuating or special circumstances unique to the site or event, recommend waiver of the 300-foot requirement on a temporary or permanent basis to the city council

who shall have the ultimate decision on the matter.

A site visit revealed that the City has invested in street lights, sidewalks, and even C.D.B.G. housing funds to improve the Melba Carter area. In addition, there are residences within the 300' feet of the subject site. Staff received a call by two area residents who were in opposition of the request. Although not abutting, bar & grill, their concern was that patrons will use Melba Carter to avoid Conway.

Mr. Acevedo mentioned that staff did receive a phone call from a couple with small children who was in objection with concerns regarding people taking Melba Carter instead on Conway due to police fueling up on Conway. Staff also received a letter with people in support of the bar & grill and I did speak to our City Attorney about this letter and the people will be allowed to speak their 3 minutes as well as the applicant.

RECOMMENDATION: Denial due to: 1) large number of residences lots affected by request; 2) Number of calls received by staff in opposition.

Chairman Sheats asked if there were any questions from commissioners to staff.

Mrs. Marin mentioned that there was a prequalification packet from TABC in the packet meaning that we wouldn't know if TABC has already qualified them.

Mr. Acevedo stated that TABC usually waits for the City's approval before giving the final approval.

Dr. Guerra mentioned what the deal was with this item because this was the third time it has been presented to the board.

Mr. Acevedo stated that this item should have been presented to the board the last meeting but proper notices were not sent out accordingly so it remained on the table till now. The building does meet code and I, Mr. Virgil Gonzalez and another inspector did go out there to see the site. Staff is recommending denial because of the use.

Dr. Guerra stated that the board would have to give a variance because of the 300 feet.

Mr. Acevedo mentioned that was correct.

Mrs. Marin asked if there were any names for the people who opposed.

Mr. Acevedo mentioned that they wanted to remain anonymous. I did speak to the wife first then the husband I'm not sure if they're here in the audience it's not on record it was just a phone call that came in.

Chairman Sheats asked if the applicant or representative was present.

Mr. Joe Marquez was present to address any questions the board may have.

Mr. Marquez stated that this was the 3rd time present here, the 1st time he was asked to do something and complied. He mentioned that he also called several times to see if there was anything missing and never received any calls back. The last meeting he was notified till the day of the meeting and he was not allowed to speak and was moved for today March 22. Another issue was that their stating that's residential when it's not, there's commercial around the area.

Chairman Sheats stated that the way you're looking at it is correct because you're seeing only 3 or 4 lots we are looking at it all the way from Conway to the Industrial Park. We are looking at the usage of the area and 90% are residential or vacant and as far as the City is concerned this is a residential neighborhood. This are has been residential neighborhood for years and the city has done some work in that area.

Mr. Marquez mentioned that it has been open for years the only thing he's doing was changing owners.

Chairman Sheats stated that he understands but the City requires for permits to be reapplied for when switching ownership or if the business has been closed for a period of 6 months.

Chairman Sheats asked if there were any questions or comments for or against.

Mr. Ezequiel Morin stated that he is the owner of the 4 acres and that area used to be the ghettos because of the sewer plant and people couldn't stand it, that's why there were 8 or 10 bars there in the past. Mr. Morin mentioned that the neighborhood was a bunch of little huts it wasn't a neighborhood then and he doesn't think anybody would want to go live there. He stated that theirs a bunch of cactus that grow there and top soil is needed for a little grass to grow. There are a couple of houses that are built there and are being built there from family of previous owners.

Chairman Sheats stated that the neighborhood isn't like it was back then and is currently being improved. The bar existed at one time and you want us to put a business that creates noise and a lot of traffic back in a residential area which would not be right.

Mr. Morin stated what was mentioned earlier about people cutting towards Bryan, there would be no need for people to cross through there they can use Conway. People assume that they're going to take Melba Carter but that's not necessarily true they can take Conway. There are railroad tracks where you can cross and there would be no need to go through Bryan.

Chairman Sheats mentioned that it could be true but people where choosing to go through Melba Carter instead of Conway meaning that it would create traffic and that's what the people were complaining about.

Mr. Morin stated that the fact that people got used to doing that route was because there were 3 or 4 state troopers on Conway waiting for them. Mr. Morin stated that the place where your at should not be blamed it's the decision made by you.

Chairman Sheats thanked him for his opinions.

Mr. Ismael Morin was present to address his opinions.

Mr. Morin mentioned that he was hired by 3 different people and pulled out all permits for them. Lorena Calderon was running a bar there for 7 years and she passed it over to Double Eagle Sports Pub who operated for 2 years but got evicted February 22 because they were passed due 2 months. On February 21st he evicted them so for the record it has been 30 days since the last license was issued not 60 days. There a website that can be checked where it states that Double Eagle Sports Pub under 97 LLC was put on hold by the TABC February 21.

Chairman Sheats stated that as far as the TABC is concerned he would be correct. The City requires that when there will be a change in ownership the new owner needs to apply for permits and licenses again.

Mr. Morin stated that the only reason Double Eagle was evicted was because he was 2 months overdue and wasn't going to allow for them not to pay the rent.

Chairman Sheats stated that Double Eagle has been non-operational.

Mr. Morin mentioned that it had only been for 30 days.

Mr. Acevedo stated that staff doesn't have records of when that person was evicted.

Mr. Morin stated that he had the records and the registered letter of the eviction.

Mr. Julio Cerda stated that Melba Carter is a beautiful neighborhood with beautiful people, it's a residential area, and the City has worked on this area for a long time. The area did have bars over the years they were shut down one at a time and this was the only bar left. Mr. Cerda mentioned that because of life and changes the City has the decision whether to allow it or not.

Chairman Sheats asked if there was anybody in opposition.

Mrs. Ida Garza who resides at 308 Melba Carter was present to voice her concerns.

Mrs. Garza mentioned that at one time there were many bars but they started closing them and people started building. The neighborhood is looking good and my daughter is also building a home in the area. As a resident in that neighborhood we want it to be a safe neighborhood for the children as well as the elderly people. The lady who lives next to the bar lives on her own and said that when the bar is open there's a lot of noise and cars get

on the curb. This area is known as la Escondida because of a bar that used to be there along time ago along time ago I came to a meeting because they wanted to open a bar right behind my lot and I was afraid the cars would go through and we opposed and it wasn't opened.

Mr. Morin mentioned that he spoke to Mrs. Blanca and she had said it was ok for the bar.

Mrs. Irene Garza who resides at 308 Melba Carter was present to voice her concerns.

Mrs. Garza mentioned that her family has been opposing businesses and her main concern was that the sale of alcohol would be a factor of safety to her neighborhood. She stated that people make their own choices and that's something that can't be controlled. More than likely people will go through Melba Carter, and that's a safety concern for our families because it is a residential area where more than 50 % are homes. There are only 2 ways out either East or West and it drives a concern to the residents in that area and she believes no one would want a bar their neighborhood.

Mr. Elias Ibarra is who resides at 1005 North 24th was present to represent the current owner Lorena Calderon.

Mr. Ibarra stated that the bar has not been closed for more than 6 months it barley closed February 21, it's only been 30 days there is no need to ask for another conditional use permit if it was granted for 3 years.

Mrs. Marin stated that the reason behind that would be because it's a new ownership and every time there's a change in ownership everything has to be applied for all over again There might have been a slight miss understand or miss communication about that.

Mr. Ibarra stated that the lots around us are commercial.

Mrs. Marin mentioned that it's the type of business that wants to be put on that property that brings concern.

Mr. Ibarra mentioned that it's not a bar it's a bar and grill and he had an updated menu for you all to see. There have never been reported accidents and people are basing it on what "ifs" which is not right. The place is going to sell food now basically going to be a restaurant. You all should not base it on what "ifs" because there nothing recorded where there have been tragedies.

Chairman Sheats thanked everyone for voicing their concerns and staff was recommending denial due to concerns with the sale of alcohol in a residential area.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Carlos Lopez moved to deny the conditional use permit as per staff's recommendation. Mr. Julio Cerda seconded the motion. Upon a vote, the motion passed unanimously

Started: 6:19 p.m.

Ended: 6:29 p.m.

Item #2.0

**Preliminary & Final
Plat Approval:**

**Replat of Lots 3 and 4,
Stewart Plaza Subdivision
Being a 3.057 acres of land, and
all of Lots 3 & 4, Stewart Plaza Subdivision
C-3
Developer: Canteras Enterprises
Engineer: Vanguard Engineering**

Mr. Jaime Acevedo went over the write up stating that the subject site is located on the SW area of Stewart Road and Expressway 83 Frontage Road.

The subdivision consists of 2 existing commercial lots that will be divided into 17 lots. There is a common access easement that runs west to east along the north and south portion of the subdivision. This access easement is for common parking and each lot owner will be responsible for the maintenance and of the access easement.

UTILITIES: When Stewart Plaza Subdivision was first subdivided, there were water and sewer services provided for each lot. A field visit revealed that each lot has its own water, sewer, and electrical connection. There is a 8" sewer line along the rear of the suites with 4" services to each of the exiting suites. Also, each suite has its own water and electrical meter.

STREETS & STORM DRAINAGE: This is simple a re-plat, any additional ROW required along the Express Frontage Road and Stewart Road has already been dedicated. Drainage is accomplished through an existing private system located within the parking lot.

OTHER COMMENTS

- Since the subdivision is commercial, no park fees are required.
- Stewart Plaza Subdivision is already excluded from the water district.
- Must comply with all other format findings.
- Street lighting already exists.

RECOMMENDATION: Staff recommends approval subject to complying with all typical format findings.

Mrs. Marin asked who's going to take responsibility for the sign.

Mr. Acevedo stated that in a multi-tenant facility the City only allows one sign.

Mrs. Marin stated asked what person will be responsible for that one lot.

Mr. Acevedo mentioned that he believes that all the owners would have to be responsible to maintain the sign.

Mrs. Marin stated asked if every tenant would be responsible for their own parking.

Chairman Sheats stated that a similar situation has been seen east on Shary where there are about 17 tenants.

Mr. Acevedo mentioned that they're going to have to add more plat notes for each lots.

Mrs. Marin asked will each owner or tenant have their own trash pick-up because trash is a common area.

Mr. Acevedo mentioned that in this area there would be two trash pick-up areas.

Mrs. Marin asked in that case who would be responsible to pay for the trash pick-up, in common area all tenants or owners pitch in and pay for the light and trash.

Chairman Sheats asked if the parking will be held in common.

Mr. Acevedo mentioned that the parking would be held in common because there wasn't a property owners association.

Mrs. Marin mentioned that the property owners are going to decide to do whatever they want with their area and everyone's going to have something different.

Dr. Guerra mentioned that Mrs. Marin brings up great points that happen in his office.

Mrs. Marin stated that it's a huge investment that will be right on frontage and not all tenants are the same.

Mr. Cerda mentioned that the representative that's here basically doesn't care how you divide the lots because he just wants to sell it. The best idea would be to add a lot of plat notes for each lot.

Mrs. Marin mentioned that adding a lot of plat notes for all the lots and everything else because basically without them there would be nothing to fall on.

Mr. Acevedo stated the best thing to do would be to table the item in order to get all the proper plat notes that are needed

There being no discussion, Chairman Sheats entertained a motion. Dr. John Guerra moved to table the pre-final plat approval. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #3.0
OTHER BUSINESS**

**ITEM #4.0
ADJOURNMENT**

There being no further items for discussion, Mr. Julio Cerda moved to adjourn the meeting. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 6:31 p.m.

Ned Sheats, Chairman
Planning and Zoning Commission