

**PLANNING AND ZONING COMMISSION  
MAY 22, 2013  
CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.**

**P&Z PRESENT**

Rene Flores  
Ned Sheats  
Abiel Flores  
Carlos Lopez  
Mario Garza  
Diana Izaguirre  
Marisela Marin

**STAFF PRESENT**

Daniel Tijerina  
Bobby Salinas  
Susana De Luna

**GUEST PRESENT**

Silvia Pulido  
Gricelda Elizondo  
Oscar Madrigal  
Doug Evans  
Maria E. Rodriguez  
Cesar Rodriguez  
Nick Galindo  
Martha Perez  
Luis Cortina  
Lilia & Miguel Vasquez  
Yrena Garza  
Donna Oakley  
Aaron Balli  
Fred Kurth, P.E.  
Ricardo Salinas  
Rene Lizcano

**CALL TO ORDER**

Chairman Rene Flores called the meeting to order at 5:00 p.m.

**CITIZENS PARTICIPATION**

Chairman Rene Flores if there was any citizens' participation.

There was no response.

**APPROVAL OF MINUTES FOR MAY 8, 2013**

Chairman Rene Flores asked if there were any corrections to the minutes for May 8, 2013. Mr. Ned Sheats moved to approve the minutes as presented. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

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

**Ended: 5:08 p.m.**

**ITEM #1.1**

**Rezoning:**

**25.9 Acres out of Lot 201,  
John H. Shary Subdivision  
R-4 to P  
Valley Baptist Retreat**

Mr. Bobby Salinas went over the write up stating that the subject site is located on the SE corner of Stewart Road and E. Business Hwy 83.

Surrounding Zones & Land Uses:	N:	C-4 & R-4 – Heavy Commercial & Mobile & Modular Homes; Mission Bell Resort & R.V. Storage Facility
	E:	C-3 & R-4 – General Business & Mobile & Modular Homes; Open Acreage & Lemon Tree R.V. Park
	W:	C-3 & R-4 – General Business & Mobile & Modular Homes; Aziz Convenience Store & Lemon Tree MH Subd.
	S:	R-5 – High Density Manufactured Housing; SF Homes
	Site:	R-4 – Mobile & Modular Homes; Valley Baptist Retreat

The Future Land Use Map reflects a Moderate Density (MD) designation.

On August 13, 2012, City Council created a new Zone which requires all public facilities such as City; County; Federal buildings; Churches; and Schools to fall within this zone. Valley Baptist Retreat wishes to change the zone from R-4 to P in order to be in compliance with the new Public zone ordinance. Notices were sent to property owners within 200' of the site. Staff has not received comments for or against this proposal. Staff recommends approval.

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

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

Mr. Doug Evans who resides at 1600 E. Business 83 stated that he managed the Rio Grande Valley Baptist Association.

Chairman Rene Flores asked Mr. Evans what would go on at the site.

Mr. Evans stated that the long building was sitting in 3 acres. He added the first half would house a retreat center, dorms, cafeteria, and their offices and the second half was used for open storage which used to store mobile homes, motor homes, RV's, boats, etc. All of those items have been cleaned out because they want to build a youth camp facility. He mentioned that they wanted the youth camp to have skate park, human maze, obstacle course, volleyball court, etc. Mr. Evans mentioned that they also had a recreational field, swimming pool, and walking track. He added that besides the camp facility they also host 18 to 25

Winter Texan couples which come in and they tend to our orchards. They help pick, sort, pack and ship the fruit. Mr. Evans mentioned that they stay at the property at no charge and in exchange they would help out. He stated that the main thing that they wanted to do is turn the place into a youth camp facility. Mr. Evans stated that this land was donated to Valley Baptist Retreat about 30 years ago.

There being no further discussion, Chairman Rene Flores entertained a motion. Mr. Mario Garza moved to approve the rezoning as per staff's recommendations. Ms. Diana Izaguirre seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 5:08 p.m.**

**Ended: 5:10 p.m.**

**ITEM #1.2**

**Rezoning:**

**Lot 3, Condy Place Subdivision  
C-1 to R-1T  
Silva Pulido**

Mr. Bobby Salinas went over the write up stating that the subject site is located 140' north of Griffin Parkway along the east side of Keralum. The lot measures 40' in width by 100' in length (4,000 sq. ft. total).

Surrounding Zones:	N:	R-1T	- Townhouse Residential
	E:	R-1	- Single Family Residential
	W:	C-3	- General Business
	S:	C-1	- Office Building

Land Uses: The surrounding land uses consist of a townhouse to the north, a commercial building to the south, Ric Brown Funeral Home to the west and, a single family home to the east. The subject site is currently open acreage.

FLUM: The Future Land Use Map reflects a Low Density (LD) designation.

The two lots north of this site are currently zoned R-1T and have existing townhouses thereon. The lot measurements of 40' x 100' are comparable to the sizes of other R-1T lots throughout the City. Since there are other R-1T zones and uses adjoining the site, Staff did not object to the rezoning proposal. Staff recommended approval.

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

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

Mrs. Silvia Pulido who resides at 705 E. Griffin Parkway was present to address any questions that the Board might have.

Mr. Mario Garza asked if staff had received any input from the mail outs.

Mr. Salinas replied, "No".

There being no further discussion, Chairman Rene Flores entertained a motion. Mr. Ned Sheats moved to approve the rezoning as per staff's recommendations. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 5:10 p.m.**

**Ended: 5:14 p.m.**

**ITEM #1.3**

**Conditional Use Permit:**

**Guest House on Residential Property  
2600 Antigua  
Lot 2, Antigua Subdivision, Ph. I  
PUD (Estate Lot Designation)  
Abel Hernandez**

Mr. Bobby Salinas went over the write up stating that the site is located within Antigua Subdivision located approximately ¼ Mile west of Shary Road along the north side of Los Milagros Road. The proposed 2 story game room/guest house is 1,862.42 sq. ft., which includes 1 bedroom, 1 bathroom, an exercise room, a living room and a sauna.

The conditions of the conditional use permit require:

- That the lot be a minimum of 12,000 sq. ft.
- Cannot be made available or used for lease, rent, hire, and the owner of such use may not receive remuneration for the use of one of the above.
- Proposal must be clearly secondary to the primary residence
- Shall not have access to a public street. (No shared/extended driveway)
- Shall not have a separate kitchen area

The lot is a little over an acre and all building setbacks will be met. The proposed driveway is more than sufficient to accommodate any guest vehicle. The guest home must be connected to the same water and electrical meters, i.e. no separate utilities. This proposal has already obtained the approval of the Sharyland Plantation's ARC. Staff recommends approval subject to: 1) no separate utility and electrical connections, 2) transferability to other future owners imposing the same conditions imposed to this applicant, and 3) not to be used for rental purposes.

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

There was no response.

Chairman Rene Flores asked if the applicant or representative was present.

There was no response.

There being no further discussion, Chairman Rene Flores entertained a motion. Ms. Diana Izaguirre moved to approve the conditional use permit as recommended by staff. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 5:14 p.m.**

**Ended: 5:24 p.m.**

**ITEM #1.4**

**Conditional Use Permit:**

**Home Occupation – Child Day Care**

**2207 E. 20<sup>th</sup> Street**

**Lot 12, Shary Palms, Unit 1 Subdivision**

**R-1**

**Gricelda Elizondo**

Mr. Bobby Salinas went over the write-up stating that the subject site is located approximately 800' west of Shary Road along the north side of E. 20<sup>th</sup> Street. The applicant wishes to obtain a Home Occupation conditional use permit for a licensed child care home. The home has a two car driveway off of E. 20<sup>th</sup> Street capable of accommodating the safe drop off and pick up of children. There is a six foot opaque buffer fence surrounding the rear of the residence to maximize protection of the children. Ms. Elizondo will primarily use her living room to care for the children.

- **Hours of Operation:** Monday – Friday from 6 a.m. to 6 p.m., Saturdays 6 a.m. to 1 p.m.
- **Staff:** Herself and 1 other adult run the registered home.
- Business license required prior to opening child day care.
- Applicant must be DHS certified in order to obtain business license.
- Must comply with Sec. 1.56-1, Zoning Code (home occupations regs.), inclusive of sign requirements.

Staff has received/reviewed several of these types of CUPs in the past and have not had any problems with previous others; and we have sent notices to property owners within a 200' radius surrounding the property without receiving comments for or against the request, thus Staff does not object to the CUP request. Staff recommended approval subject to: **1)** a 1 year re-evaluation in order to monitor the child care facility; **2)** must obtain a business license prior to opening the child

care home; **3)** must be DHS certified prior to obtaining a business license, and **4)** must continue to comply with the Home Occupations portion of the Zoning Code.

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

Mrs. Bertha Perez who resides at 2209 E. 20th stated that she was opposing this request because this was a neighborhood not a commercial area. She added that she bought her home about 1 year ago and it is a peaceful neighborhood and she wouldn't appreciate having a business next to her house.

Mr. Mario Olivera who resides at 2205 E. 20<sup>th</sup> Street stated that he bought this property thinking it was a quiet residential neighborhood and not for business. He added that he has children and would not like to have more traffic go in the neighborhood because of this business. Mr. Olivera stated that he would like to keep his neighborhood as it is without any businesses.

Chairman Rene Flores asked if the applicant or representative was present.

The applicant, Mrs. Gricelda Elizondo who resides at 2207 E. 20<sup>th</sup> Street was present to address any questions that the Board might have.

Chairman Rene Flores stated that the some of the concerns raised by the neighbors were regarding traffic and noise.

Mrs. Elizondo stated that she understood the neighbors' concerns regarding having a quiet neighborhood and if that was the reason she couldn't have a daycare in her house she would respect it. She added that the least thing she would want to do is to harm the neighborhood or have any problems with her neighbors.

Chairman Rene Flores asked if he understood correctly Mrs. Elizondo would like to withdraw her request.

Mr. Salinas replied, "Yes".

Chairman Rene Flores stated that this Board has approved daycares but they were usually on corner lots and commercial areas.

Mr. Ned Sheats stated that he shared the same concerns as the chairman but the Board position is that they want business to come in to the City of Mission but he recognizes that she takes her neighborhood concerns into consideration.

Chairman Rene Flores stated that he would like to have on record that Mrs. Elizondo desires to withdraw her request.

Mrs. Elizondo stated that she would like to withdraw her conditional use permit request.

No action was taken on this item since the item was withdrawn by the applicant.

**Started: 5:24 p.m.**

**Ended: 5:28 p.m.**

**ITEM #1.5**

**Conditional Use Permit: Home Occupation – Computer Repair Service  
718 N. St. Marie  
Lot 1, Block 114, Mission Original Townsite  
R-1  
Luis Cortina**

Mr. Bobby Salinas went over the write-up stating that this property is located on the SE corner of St. Marie and E. 8<sup>th</sup> Street. The applicant is proposing to use a room within his home as a work space for computer repair. Access to the site is off of both St. Marie and E. 8<sup>th</sup> Street.

- **Hours of Operation:** Monday – Saturday from 9 a.m. to 6 p.m.
- **Staff:** Mr. Cortina is proposing to have only 1 additional employee, thus in compliance with the Zoning Code.
- **Parking:** The home has an existing two car driveway. Staff anticipates minimal traffic, since most of the work will be done at the customers' homes. It is noted that there may be some occasional drop offs or pick-ups at the home.
- Must comply with Section 1.56(1) of the Zoning Code for home occupations, which states only one sign no more than a 1' x 1' may be permitted.
- Must acquire a business license.

Staff has seen and approved a home occupation for computer repair similar to this request. Staff has not received any complaints in regards to that CUP, thus staff anticipates the same for this CUP proposal. Since home occupations are permissible by the Zoning Code, Staff does not object to this CUP proposal. Staff recommends approval subject to: **1)** a 1 year re-evaluation in order to assess the new business, **2)** must comply with Section 1.56(1) of the Zoning Code (Home Occupations), **3)** must acquire a business license.

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

There was no response.

Chairman Rene Flores asked if the applicant or representative was present.

Mr. Luis Cortina who resides in McAllen, stated that his Mom and his little brother lived at 718 N. St. Marie where he was proposing to have his business. He added that his little brother would be helping him in this business. He mentioned that they don't anticipate in having a lot of traffic since they would be picking up and delivering the computers once repaired.

There being no further discussion, Chairman Rene Flores entertained a motion. Mr. Ned Sheats moved to approve the conditional use permit as recommended by staff. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 5:28 p.m.**

**Ended: 5:51 p.m.**

**ITEM #1.6**

**Conditional Use Permit: Home Occupation – Nail Salon  
3010 Abbott Avenue  
Lot 37, Fairmont Estates Subdivision  
R-1  
Maria E. Rodriguez**

Mr. Bobby Salinas went over the write-up stating that this property is located on the SE corner of 30 ½ Street and Abbott Avenue. The site has access to Abbott Avenue with a two car driveway with abutting sidewalks, thus compliant to the minimum code requirements for a residential lot. The applicant is proposing to convert two bedrooms in to the nail salon.

- **Days/Hours of Operation:** Monday – Saturday from 10 a.m. to 7 p.m. (by Appointment Only)
- **Staff:** Only the applicant will be operating the salon.
- Any signage would have to be a maximum of 1' x 1' and must be attached to the home; there are to be no exterior markings or lettering that may reflect a use other than a home.
- Must comply with Section 1.56(1) of the Zoning Code (for home occupations regulations).
- Must comply with Fire and Building Code requirements prior to obtaining a business license.

There are 127 single family residential lots in this subdivision. There are potentially 254 vehicles (2 vehicles per household) within this subdivision that would be exiting out of one of two entrances adjacent to Trosper Road. The CUP site is on the corner of one of these exists where staff believes that adding a CUP such as this would create more traffic in the area. We also note that they are converting 2 bedrooms out of 4 into the nail salon, which we feel is too large of a portion of the single family home. Staff recommended denial.



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

There was no response.

Chairman Rene Flores asked if the applicant or representative was present.

The applicant, Mrs. Martha E. Rodriguez who resides at 3010 Abbott Avenue was present to address any questions that the Board might have.

Chairman Rene Flores asked Mrs. Rodriguez is she understood that staff was recommending for the P&Z Board to deny the request.

Chairman Rene Flores asked Mrs. Rodriguez if she lived in this home.

Mrs. Rodriguez stated that she lived in this home with her husband and two children.

Chairman Rene Flores stated that a lot of the fumes and liquids used to do the nails are very strong and have strong odors. He asked Mrs. Rodriguez if she shouldn't be concern about exposing her children to those fumes or liquids.

Mrs. Rodriguez stated they were several products that could be considered dangerous but she had a designated area with a lock for this type of products. She added that the State also has the same requirement for these types of products. She mentioned that inclusive after she uses these products she immediately locks them up in the closet in the other bedroom designated for these types of products.

Chairman Rene Flores asked Mrs. Rodriguez despite the hazardous products what she was proposing to do with the fumes that are produced.

Mrs. Rodriguez stated that there would be no fumes because the State requires her to have an extractor right next to her that observes the fumes and power that has to be approved by the Fire Department.

Ms. Diana Izaguirre stated that the main concern was the traffic is what is taken into account you only have one street and all vehicles come through the same street.

Mr. Daniel Tijerina stated that aside from the fumes, most of the property owners own two or maybe 3 cars, which would have to come in and out of Troser which would generate more traffic. He mentioned that for any emergency vehicle like police, ambulance, and fire department it would be hard to go in the subdivision. He added that most of the home occupations require a city permit in order to get

a license with the State Comptroller's Office or Secretary of State permit. Mr. Tijerina stated that he believes that even the Fire Marshal would not agree with these type of business because even on the commercial locations where we have nail salons they have concerns regarding the fumes and everything else.

Mr. Ned Sheats stated that it would be of great concern to have these types of products that are hazardous in a residential home especially in an area that is enclosed and where it might cause a fire. Mr. Sheats mentioned that this was a residential neighborhood and should be kept that way this business should be in a commercial area.

Mr. Daniel Tijerina stated that this was the first time staff received a request for a nail salon in a residential area.

Mrs. Rodriguez stated that in regards to traffic she would only work by appointment only she would not have any walk-ins. It would only be one person at a time. She mentioned that in regards to the chemicals she didn't understand why it would be a big concern because she has seen other beauty salon that used chemicals that operate from a residence.

Chairman Rene Flores asked Mrs. Rodriguez to provide staff with the addresses of these beauty salons so staff could follow-up on them.

Mrs. Rodriguez stated that she imagined that they have permits from the city because they even had signs advertising the business.

Chairman Rene Flores stated that they might be in violation just like she was before coming to the city.

Mrs. Rodriguez stated that she started her business in January of this year to try to save some money to get a permit from the State to have a business from home. She added that as soon as she obtained the requirements from the State to have a business from home one of the requirements was to obtain a permit from the City to have a business from home and that was the reason she was applying for the conditional use permit. Mrs. Rodriguez stated that she really didn't accept the explanation given to her for denying her permit because of the chemicals when in reality the only chemical used was a container that was less than 12 ounces which she constantly has to be buying.

Mr. Cesar Rodriguez stated that they had already talked to the Fire Marshal because that was one of the requirements from the State. He added that the Fire Marshal didn't see any problem with this type of business the only requirement he had was the extractor and a fire extinguisher. He added that in regards to the fumes the State requires that if you are going to have a door connected to the home that it be sealed to avoid having any odors going into the home.

Mr. Daniel Tijerina apologized for not being present earlier and added that the City Council was looking in doing away with home occupations and the likelihood that this item and the other home occupations would be going to the City Council is probably not going to happen because they think these types of businesses take away from people that pay taxes and pay rent on commercial establishments.

Chairman Rene Flores stated that he had already mentioned this a long time ago but nothing had been considered.

Mr. Tijerina added that this issue is being under review at this time by the City Attorney, City Manager, and City Council so even despite the fact what the Board has heard from the applicant for this particular case. He mentioned that the remodeling has begun and the matter is self-inflicted they purchased items they conducted business now they want to get a permit but first thing first they need a permit from the City of Mission. He added that the City has concerns regarding traffic and fumes but it would be up to the P&Z to make the ultimate decision whether to approve or deny this request if it gets denied and if they continue staff would follow our procedure measures to ensure compliance staff will send a letter letting them know that all operations need to cease. Mr. Tijerina stated that this item had already been presented by Mr. Zavala in the past year regarding home occupations being removed from residential districts but nothing had been approved.

Ms. Diana Izaguirre asked if staff had a list of all the home occupations that have been approved by the City.

Mr. Tijerina stated that they had files of all the conditional use permit requests but a list could be provided if they needed one. He added that the existing conditional use permit would be grandfather but if they had been approved for a certain period of time then once the time is up for renewal the business needed to cease.

Mrs. Marisela Marin stated that the applicant had a point in stating that they are several people doing this type of businesses from home without permission.

Mrs. Rodriguez stated that she knows of a lot of business from home but she didn't know if they had permission from the city or not.

Mrs. Marisela Marin stated that they were because she was had her business since January and staff didn't find out until she came to apply for the conditional use permit.

Mrs. Rodriguez stated that she came to apply for the conditional use permit because she wanted to do things right because with the State she could have a business from home as long as the City would approve it so she didn't understand why the City was giving her so much trouble if the State allowed it.

Mrs. Marisela Marin stated that the reason she could not have these type of business from her home was because her property was zoned residential.

Mrs. Rodriguez stated that why would the State send her the specifications to have a business from her home if the City would not allow it she just didn't understand that.

Mrs. Marisela Marin stated that the community around her was very different from the state requirements.

Mrs. Rodriguez mentioned that her intentions were to register her business as a self-employee to pay taxes not like Mr. Tijerina mentioned earlier that this type of business would not pay taxes.

Mrs. Marisela Marin stated that she would be paying taxes for residential property versus a commercial property. She added that she would be paying a lot more money on commercial property because the taxes would be much higher which is what most people try to avoid.

Ms. Diana Izaguirre stated that she wished they had provided that information prior to considering any home occupations because the Board had just approved a request for a Computer Repair Service.

Mrs. Marisela Marin stated that the only reason she was for the Computer Repair Service was because he is planning to move out he just wants to build up a clientele but his plans are to eventually move out into a commercial establishment.

Mrs. Rodriguez stated that she could do the same think she would move into a commercial building once her kids grow up because right now they are small and there is nobody to pick them up from school so when they get home she is there to take care of them. She added that her husband works all day and she only works by appointment only.

Mrs. Marisela Marin stated that the only problem she sees is that once Mrs. Rodriguez has invested a lot of money on accommodating her house for the business, on products, etc. she will not be moving out to a commercial location in 2 years.

Mrs. Rodriguez stated that maybe she would if she gets enough clientele. She added that currently she has very few clients but in the future if she gets a lot of clients that she wouldn't be able to accommodate them from her house she would have to move out to get help.

Mr. Rodriguez stated that when they went to the city to ask for a permit they were told that nobody had ever asked for this type of permit but when they asked the state they send us the requirements to have a business from home. Mr. Rodriguez mentioned that they wanted to do the things right and comply with all the requirements he understands that they started off bad but wanted to correct the problem so he didn't see why the city would not want to work with them. Mr. Rodriguez stated that they are paying rent for the house and are willing to pay taxes for the business.

Mrs. Marisela Marin asked if it was there house or were they renting.

Mrs. Rodriguez stated that the house belongs to her dad and he would lend it to her without having to pay rent for it. She mentioned that her dad was present just in case the Board had any questions for him. She added that she really didn't understand why the city would not consider her request if it's a job like anything else. Mrs. Rodriguez stated that she started in January because she wanted to save money to add to the home for her business and get all the proper permits which she was doing. She added that the State requirements were to apply for the city permit, fire inspection approval in order to get her State License Permit.

Mr. Tijerina stated that she would need to comply with the City of Mission requirements first.

Mrs. Rodriguez stated that she understood that and was willing to comply just couldn't understand why the City would not want to work with her if the State allowed this type of business from her house.

Mr. Tijerina stated that regardless of what the State has to say it ultimately has to come to P&Z for their consideration and recommendation. He apologized to Mrs. Izaguirre for not mentioning the possibility of doing away with home occupations he had discussed this with Mr. Salinas but was not sure what they had decided but that would not change his recommendations for denial on this request or approval on the previous conditional use permit request. He added that the main reason this request were before the Board today was because the City Council has not officially acted upon deleting the home occupations for the Code of Ordinance.

Mr. Ned Sheats asked Mr. Tijerina if the Board denied the conditional use permit request as of this date she would still have the right to go to the City Council for their final consideration via the current ordinance.

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

There being no further discussion, Chairman Rene Flores entertained a motion. Mr. Ned Sheats moved to deny the conditional use permit as recommended by staff. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Chairman Rene Flores stated that staff should alert P&Z of the timeline or deadlines the City Council has for any changes done on all conditionals use permits. He believes the City should have a uniformity that should be given to this Board with respect to recommendations by staff that are consistent to the City Council guidelines regarding all home occupations.

Mr. Daniel Tijerina stated that our City Attorney, Mr. David Guerra was currently reviewing the home occupations ordinance. Mr. Tijerina mentioned that Mr. Ricardo Salinas who is representing the applicant had asked if they could push the item to the end of the agenda so that he could be present because he had an emergency and was not able to get here on time.

**Started: 6:18 p.m.**

**Ended: 6:47 p.m.**

**ITEM #1.7**

**Conditional Use Permit: Home Health Agency in an AO-I Zone  
2508 E. 2 Mile  
A .75 acre tract of land out of Lot 296,  
John H. Shary Subdivision  
AO-I  
Norma A. Torres**

Mr. Daniel Tijerina went over the write-up stating that this property is located 151' north of 2 Mile Road along the west side of Melody Lane. The lot measures 133.60' x 135' (18,036 sq. ft.). Staff notes that a portion of the lot is utilized as a private street/drive (Melody Lane aka E. Johnson Ln.). The site currently has an existing brick house with a large asphalt driveway and parking area. The applicant wishes to operate a home health agency from the residential home which will offer various medical services such as primary home care, wound care, diabetic management, etc.

On May 31, 2012, a letter was sent requesting to cease any potential commercial activity on the property and removing any indication of such activity from the property, i.e. removal of signage, etc. During a site visit it was determined that the business had ceased. However, upon a later inspection on 3-8-13, it was discovered that the business was still in operation. On 3-19-13, a letter was sent to the applicant requesting the termination of all commercial operations. After

non-compliance with the letter, Staff forwarded the case to Municipal Court where it was determined that the applicant should follow the process and apply for a CUP in an AO-I zone, thus the CUP request before you.

- **Days / Hours of Operation:** Monday – Friday from 8 a.m. to 5 p.m.
- **Staff:** 16 full time employees
- **Parking:** There is a large asphalt area available for employee and customer parking. There is enough room for 10+ vehicles to be parked on site.
- Must comply with Fire and Building Codes prior to acquisition of a business license.
- **Zoning Code:** Section 1.36(3n) states: Conditional Uses – Other uses which, as determined by the planning and zoning commission, are not contrary to the purpose established for this district.

This residential home is in the midst of a residential setting and had not been previously used as a business. Staff sent notices to property owners within a 200' radius of this site and we did receive several complaints regarding the business in the residential area regarding the higher amounts of traffic going through the small private drive and simply having the business in the middle of single family homes. Staff agrees that the amount of traffic due to the employees, customers, etc. have a negative impact on the residential neighborhood and must be re-located in an area designated for commercial use. Staff recommends denial.

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

There was no response.

Chairman Rene Flores asked if the applicant or representative was present.

A show of hands indicated that 5 people were present in opposition of this request.

Mrs. Donna Oakley who resides at 2609 E. Mile 2 Road directly north of the residence stated that basically she was thankful their business was prospering and she wishes them success but it has changed the landscape of their neighborhood which is a neighborhood. She mentioned that it has been really tranquil and serene for the 14 years that she has lived there up until the establishment of the business initially they moved in as a residence and worked from their home and it was a smaller scale than it's presently but on a given day there is 18 to 22 cars parked beside her house. Again she really, truly, sincerely only wish them success on their business but she doesn't truly feel that it's an appropriate location for the type of business and success they had.

Chairman Rene Flores asked Mrs. Oakley if there was anything that the applicant could do to ease any of her concerns.

Mrs. Oakley stated that truthfully it is a residential community and if it was a much smaller scale she probably would not have an objection at all but 18 to 22 cars in the front and their cars in the back at times. She added that they have a 1 lane private drive in which the traffic goes down that private road as well as now they also use Durango Street entrance as well as the entrance of 2 mile line. Mrs. Oakley stated that she truly feels that this business does change the landscaping of her neighborhood.

Chairman Rene Flores asked Mrs. Oakley how many direct neighbors does she have or live in her neighborhood.

Mrs. Oakley replied, "7 to 8 residents".

Chairman Rene Flores asked if all of them have direct access to the private drive.

Mrs. Oakley replied, "yes".

Chairman Rene Flores asked Mrs. Oakley if there was anything else she wishes to add.

Mrs. Oakley stated that just that she loves her neighborhood and sincerely wished them well.

Mr. Rene Lizcano who resides at 3213 Melody Lane stated that his wife and he have lived there for 28 years he raised is daughter there and his 3 grandchildren play there. He mentioned that another main concern besides the traffic was the two spot lights and sparkle that were at the site which makes it look like a nightclub. Mr. Lizcano stated that this might attract people who are looking for the night live and that all has changed their area of living. He added that he was a retired police office and his wife was a retired teacher who just wanted to enjoy life in their neighborhood and would like the Board to consider their request.

Mr. Nick Galindo who lives on one of the lots in the very back and the road is just too small for that much traffic and even if they come on 2 Mile line if you're trying to come in the neighborhood and there is traffic on the road your stuck there because there is no other place to go to. Mr. Galindo mentioned that their road was only about 10' wide which half of it was paved and the rest was not. He stated that this seems to be a full grown business that looks like it could afford to move someplace else if it was small it wouldn't be a problem but now it has a lot of traffic. Mr. Galindo stated that 14 years ago when he moved there were about 5 cars going through the road all day and now you see cars go in and out all day long he would like it to go back to how it was.



Mr. Lizcano stated that most of the neighborhood pitched in to pay to get the road paved it was not done by the City.

Representing Mr. Torres, Mr. Rick Salinas stated that he was very much surprised today because this had not been an issued before. He added that at least Mr. Oakley had been approached before why there taking the position now that they are objecting to it now he had no idea. Mr. Salinas stated that Mr. Torres had bend forward and backward to make any accommodation and is willing to make any accommodations necessary in order to please the neighbors in the area including widen the east Johnson Lane. He added that he is willing to make the expense to make that Road wider. Mr. Salinas stated that the Oakley's run a quality construction business, immediately south there is a large storage shed that is being used, there is also a ranch business called La Paloma Farms so this is not something that anyone can get up here and say wow this is anti-productive to what is happening in this neighborhood. He mentioned that we all have the tendency to not want a lot of change if it were in his neighborhood he probably would not want it either but the reality it's that it has been like that for a lot of time. Mr. Salinas stated that if they didn't like the lights they would remove the lights, if they didn't like the number of cars that are out there they would get rid of the cars. Mr. Salinas stated that he was going to ask the Board to 'table' the item and the only reason they had not asked was because since the beginning there had been no objection and this afternoon he finds out that there are 5 objections. Mr. Salinas mentioned that this was a relatively large neighborhood nobody else responded to these and he understands that the P&Z has a particular ratio to notifying the residents. He added that if they go out there and see how these homes were actually being used the way he is using it is not counterproductive. Mr. Salinas mentioned that if this Board wants to put limitations or ask him to do certain things he will do them.

Mr. Salinas stated that we are living in very difficult times and believe it or not there might be the appearance that some way or another he is breaking money hand over fist and one of the reasons he ended up with him was because he didn't know what to do. Mr. Salinas stated that he was Mr. Torres personal friend and were asking for two things to 'table it' let him address the issue with the five individuals that seem to now have an objection because they would not like to be in a position where money is tight and your neighbors around you want to keep you away from surviving. Mr. Salinas mentioned that this issue was addressed about a year ago when they were scheduled to go to municipal court the previous City Manager Julio Cerda talked to someone in P&Z and they had an informal agreement where he was allowed to continue. He stated that this has not been a disregard on behalf of Mr. Torres as an honest taxpayer member of this community he has run this business with the understanding that the City and he were okay.

Chairman Rene Flores mentioned that in the beginning he asked the residents if there was anything that could be done by the applicant to ease their concerns because he could recommend a few conditions like putting up a fence, remove the lights, remove the cars, pave and widen the private drive, etc.

Mr. Salinas answered that they would comply with anything that P&Z imposes.

Mrs. Marisela Marin mentioned that it would be too expensive to widen the road and comply with all the conditions; it would be more cost effective to move out the business since it's still a residential area due to this being a full blown Home Health Care.

Mr. Salinas replied that no patients are seen in the facility the vehicles belong to the employees.

Mr. Edgar Torres mentioned that facility was used only as an office. The only time that there are many vehicles is when we are having our conference meeting to follow up on patients with the nurses. Mr. Torres stated that due to the growth of the business they were looking into expanding in the near future. He mentioned that the lights were installed for security and visibility purposes.

Mrs. Marisela Marin stated that she understands the business has to start at a residential zone property and eventually as the business evolves they need to move into a commercial property and it seems that this business is at that point.

Mr. Ned Sheats stated that his main problem with this proposal was how they got the business started without any permits from the City including a conditional use permit and being that your counselor knows the laws.

Mr. Torres replied that his wife started the business in 2006 with the help of another attorney and she was into the impression she was doing everything by the book.

Mr. Ned Sheats mentioned that he still does not understand what made them think that placing a business in a residential neighborhood was okay with the city and that there were no permits required from the city. Mr. Sheats asked Mr. Torres if he considers the property his main residence.

Mr. Torres replied that he bought the house in 2004 where he used to live with his family and then moved out but now he still does have one bedroom where his mom stays eventually when she goes and cleans.

Mr. Ned Sheats stated that wouldn't it be more logical to move the business out of the residential area and continue living in the area instead of the other way around.

Mr. Salinas stated that sometimes people make mistakes but the whole purpose of this business is to cut checks and have staff meetings.

After brief aggravated discussion, Chairman Rene Flores stated that he asked the residents if there was anything that the applicant could do to ease their concerns and he would like for the applicant and the residents to meet to see if they could come to some sort of agreement, therefore he was asking the Board to place the item on the 'Table'.

There being no further discussion, Chairman Rene Flores entertained a motion. Ms. Diana Izaguirre moved to 'Table' the conditional use permit. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 5:56 p.m.**

**Ended: 6:05 p.m.**

**ITEM #1.8**

**Conditional Use Permit Renewal:                    Portable Building for the  
Sale of Sno-Cones  
501 N. Inspiration Road  
Lot 61, Georgeanna Estates Subd.  
C-3  
Oscar Madrigal**

Mr. Daniel Tijerina went over the write-up stating that the portable sno-cone stand is located on the NW corner of Alberto Trevino Dr. and Inspiration Rd. The 10' X 12' stand has been on the site since 2000. The most recent CUP renewal for this applicant was approved by P&Z for a period of 1 year on 5-9-12. The site has access to Inspiration Rd. from an existing 30' driveway. The portable building is equipped with its own restroom facilities.

- **Hours of Operation:** Every day from 10:00 a.m. to 8:00 p.m.
- **Number of Employees:** 1
- **Parking:** The stand requires a minimum of 4 parking spaces. There are a total of 42 common parking spaces shared with 6 other suites.
- **Signage:** There are also several banner signs that they need to be removed via prevailing sign codes.
- The business license has been obtained.

Staff recommendation was for approval subject to: **1)** 3 yr. re-evaluation to assess this business; and **2)** Remove banner signs via sign code's guidelines.

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

There was no response.

Chairman Rene Flores asked if the applicant or representative was present.

On behalf of Oscar Madrigal, Ms. Karina Madrigal was present to address any questions that the Board might have.

Chairman Rene Flores asked Ms. Madrigal if she understood that all the flags and banners needed to be removed probably at the end of the month for 6 months and then she could put them up again for another 30 days.

Ms. Madrigal understood that more than likely her permit would be approved with the exception of the banners.

Chairman Rene Flores mentioned that Board was considering her request but the flags/banners needed to be removed at the end of the month.

Ms. Madrigal asked the Board how they would recommend her to approach the tenants because the tenants within the plaza are the ones advertising with flags and banners. She added that they have relayed the message about not having any flags or banners but the tenants say that nothing was specified anything about a sign in the contract.

Chairman Rene Flores stated that they could just say that if they don't comply the permit would not be approved.

Ms. Madrigal stated that the sno cone stand does not have any signs, it's the tenants from the plaza that are advertising.

Mr. Salinas stated that staff would do whatever is necessary to make them comply.

Chairman Rene Flores asked if they would be willing to paint the portable building the same color as the plaza.

Mrs. Madrigal stated that in regards to the aesthetic request the portable stand people have like a franchise and all of their portable buildings are painted the same way so that everybody could recognize them.

Mr. Ned Sheats stated that actually this was one of the better looking portable buildings and well maintained.

There being no further discussion, Chairman Rene Flores entertained a motion. Mr. Mario Garza moved to approve the conditional use permit as recommended by staff. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 6:05 p.m.**

**Ended: 6:09 p.m.**

**ITEM #1.9**

**Preliminary & Final Re-Plat Approval: Lots 12A & 9B, Stewart Village**

**Ph. I Subdivision**

**Being a 0.1952 ac. Replat of all of Lots 12, 13, and part or portion of Lot 9 (common area and utility easement), Stewart Village Subdivision, Ph. I**

**C-3**

**Developer: Aaron Balli**

**Engineer: Hinojosa Engineering**

Mr. Daniel Tijerina went over the write-up stating that this property is located on the SE area of Stewart Rd. and Griffin Parkway. State Code requires all re-plats to have a public hearing.

The subdivision consists of two existing commercial lots and a portion of a common area that will be combined into a single lot. The developer wishes to combine the lots and abandon a portion of the Lot 9 common area in order to create a larger lot in order to have more buildable area.

Utilities: When Stewart Village was first subdivided, there were water and sewer services provided for each lot. Since the subdivision is reducing the number lots, the capital sewer recovery fee of \$750/acre will not be applied.

Streets & Storm Drainage: This re-plat abuts Stewart Rd., an existing 80' ROW collector street. The road does not require additional ROW. Drainage is accomplished through an existing private system located within the parking lot.

Other Comments Include:

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

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

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

There was no response.

Chairman Rene Flores asked if the applicant or representative was present.

Mr. Aaron Balli was present to address any questions that the Board might have.

Chairman Rene Flores asked Mr. Balli what he was proposing to do in the new lot.

Mr. Balli stated that he needed more storage area and would want to make a bigger building.

There being no further discussion, Chairman Rene Flores entertained a motion. Mr. Ned Sheats moved to approve the subdivision re-plat as recommended by staff. Ms. Diana Izaguirre seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 6:09 p.m.**

**Ended: 6:14 p.m.**

**ITEM #2.0**

**Single Lot Variance:**

**The N. 70' – S. 349.7' – W. 622.3' out  
of Lot 23-3 (1 acre)**

**West Addition to Sharyland Subd.**

**R-1**

**Jose E. Garcia**

Mr. Daniel Tijerina went over the write-up stating that this property is located on approx. 2,250' south of Griffin Parkway along the east side of Los Ebanos Rd. The property measures 70' X 622.3' for a total square footage of 43,561 sq. ft. The property currently has a home that the owner is attempting to complete. Since the property was divided after August, 1974, Mr. Garcia must comply with the Single Lot Variance process.

**Water:** There is an existing 8" water line along the east side of Los Ebanos Rd. There is an existing fire hydrant located at the NW corner of W. 18<sup>th</sup> St. and Los Ebanos. There is no need for an additional fire hydrant for this area.

**Sewer:** The site has access to an existing 10" sewer line located along Los Ebanos. The Capital Sewer Recovery will be required in the amount of \$200.00 (\$200/HUE).

**Streets & Drainage:** The property has frontage along Los Ebanos Rd., a future 80' ROW, 57' B/B Collector St. This property is required a minimum of 40' of additional ROW to be dedicated by the applicant in order to comply with the MPO Thoroughfare Plan. A ROW dedication document shall be prepared for the dedication of the ROW. There is also a widening cost that must be paid by the applicant in amount of \$3,913 (\$55.90/L.F. X 70'). Drainage is currently handled through on-site detention.

Other Comments:

- Park Fees in the amount of \$300.00 is required for the lot.
- Must install/escrow 5' sidewalks along Los Ebanos Rd. \$720 if escrowed; (70' – 10' for driveway = 60' X \$12/L.F.)
- Must provide proof of exclusion from the Water District. (Letter from UID)
- There are existing street lights along Los Ebanos; no new street lighting is required.

Staff recommends approval subject to: **1)** Dedication of a minimum of 40' of ROW from the centerline of Los Ebanos Rd., **2)** Payment of Capital Sewer Recovery & Park fees; **3)** Escrow the widening costs for Los Ebanos Rd.; **4)** Escrow/Install the 5' sidewalks along Los Ebanos; **5)** Provide proof of exclusion from the water district (water rights conversion).

Chairman Rene Flores asked if there was any input from the Board.

There was no response.

Chairman Rene Flores asked if the applicant or representative was present.

Mr. Tijerina mentioned that he had the opportunity to talk to Mr. Garcia but he would not be able to attend the meeting although he was willing to comply with staff's recommendations. Mr. Tijerina mentioned that Mr. Bobby Salinas had also talked to the applicant about the widening cost requirements which made him upset but staff could handle that via an agreement and whenever that widening takes places he would need to pay for it.

There being no further discussion, Chairman Rene Flores entertained a motion. Ms. Diana Izaguirre moved to approve the single lot variance as recommended by staff. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 6:14 p.m.**

**Ended: 6:18 p.m.**

**ITEM #3.0**

**Preliminary & Final Plat Approval: Retama Village, Ph. III Subdivision  
A 6.505 acre tract out of Lot 14,  
Del Monte Irrigation Company  
Subdivision & a 2.678 acre tract  
being a part of Lots 30 & 31,  
Bentsen Groves Addition "E"  
PUD  
Developer: Rhodes Enterprises, Inc.  
Engineer: Melden & Hunt, Inc.**

Mr. Daniel Tijerina went over the write-up stating that the proposed subdivision is the 3<sup>rd</sup> phase of Retama Village Subdivision located on the SE corner of Military and Bentsen Palm Drive. The developer is proposing 16 R.V. lots and 23 Single Family Residential lots combining for a total of 39 lots. This new phase will be a private subdivision, since Retama Village, Ph. I & II are already private. Staff has reviewed this proposal and does not see any detriment to the proposed subdivision or surrounding areas.

**Water:** A new 9" water line will be extended from Phase I of Retama Village and will be looped through to a future phase of Retama Village towards the east. Fire hydrants are shown pursuant to the direction of the Fire Marshal.

**Sewer:** In regards to sewer, the developer is proposing to extend an 8" sewer network to all of the lots along the west side of the proposed development and a new 10" sewer line to the lots along the east side of the proposed development. The Capital Sewer Recovery Fee will be imposed as required by Ordinance #3022, i.e. 16 R.V. lots x \$75/lot = \$1,200 and 23 residential lots x \$200/lot = \$4,600, a grand total of \$5,800.

**Street & Storm Drainage:** The subdivision is split into two different areas. In the first area, the developer is proposing to extend Seagull Lane to the north, then Hummingbird Lane to the east and will dead end. Both of which will be 50' ROW, 37' B-B Streets. On the eastern area, the developer will extend both Hummingbird Lane and Mallard Drive to the east both of which will be 50' ROW 37' B-B streets. He will also build a new N-S street (Robin Lane) which will be a 50' ROW 32' B-B St. They are also providing stub outs for future phases to connect. As for the storm drainage, the developer is proposing to install 3 sets of type "A" inlets and 24" and 30" R.C.P. lines that will flow towards the east of the subdivision, and discharge into an existing 42" drain line that connects to an existing drain ditch. The drain ditch discharges thru a 5'X5' box culvert under the Mission Main Canal and has an ultimate outfall into the Mission Pilot Channel.

Other Comments include:

- Dedication of water rights
- No park fees; M.L. Rhodes' dedication of park land still satisfies the Park Dedication Ord.
- Must provide a street light plan for review by Staff.
- 5' sidewalks are not required similar to the first phases of Retama Village; any sidewalks provided will be maintained by the HOA.

Staff recommends approval subject to: **1)** Must pay capital sewer recovery fees; **2)** No objection to private street but must meet maintenance and hold harmless requisites; **3)** Dedication of water rights; and **4)** Compliance with the Model Subdivision Rules.



Chairman Rene Flores asked if there was any input from the Board.

There was no response.

Chairman Rene Flores asked if the applicant or representative was present.

Mr. Fred Kurth from Melden & Hunt was present to address any questions that the Board might have.

There being no further discussion, Chairman Rene Flores entertained a motion. Ms. Diana Izaguirre moved to approve the subdivision plat as recommended by staff. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #3.0**  
**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 6:47 p.m.

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Rene A. Flores, Chairman  
Planning and Zoning Commission