

**PLANNING AND ZONING COMMISSION
JUNE 13, 2012
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

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

STAFF PRESENT

Sergio Zavala
Bobby Salinas
Susana De Luna

GUESTS PRESENT

Lucy Sisniega	Santos Mendoza
Pedro Benitez	Juan Jose Chapa Garza
David R. Peterson	John & Laura Harrison
Patrick McMonigal	Harvey & Minerva Mutz
William Gould	Diana & Gordon Austin
John E. Pawlik	Robert Anzaldua, Jr.
Julia D. Carrera	Norma Carrera
J.D. Carrera	Lindy & Lin Toy
Maxilou Link	Aurelio & Mareli Flores
Dennis Williams	Irma Saenz Rodriguez
Cesar Tovar	Aurora Lopez
Cori Carrizales	Marco Contreras
David Lee Garza	Omar & Monica Perez
Chris M. Van Dyck	

CALL TO ORDER

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

CITIZENS PARTICIPATION

Chairman Rene Flores asked if there was any citizens' participation. There was no response upon inquiry.

APPROVAL OF MINUTES FOR MAY 9, 2012

Chairman Rene Flores asked if there were any corrections to the minutes for May 9, 2012. There being no corrections, Mr. Ned Sheats moved to approve the minutes as presented. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:02 p.m.

Ended: 5:30 p.m.

ITEM # 1.1

Rezoning:

**A 1.50 acre tract out of Lot 108,
Sharyland Orchards Subdivision
R-1A to C-3
Aurelio Flores**

Mr. Bobby Salinas went over the write up stating that the site is located on the SW corner of Scout Lane and Shary Road. The surrounding zones include Large Lot Single Family Residential (R-1A) to the north, east, and west; and Agricultural Open Interim (AO-I) to the south. The existing land uses include Single Family

Residential to the north, west, south, and at the site; and Sharyland High School to the east. The Future Land Use Map reflects Lower Density Residential (LDA).

The ½ acre site is substantial enough to continue accommodating a residential use. Though it fronts Shary Road, this feature alone is not enough to over-ride the Future Land Use Map, area zonings, and area land uses. Staff recommended denial.

Mr. Salinas mentioned that staff had received a petition with 62% in opposition out of 13 notices.

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

In opposition, Mr. John Pawlik who resides at 2115 Scout Lane, stated that he has lived at this address for about 48 years. He added that the City has been doing a good job in keeping the traffic flowing but he didn't believe that they would need any more business in this area. Mr. Pawlik stated that they had a very nice neighborhood and would like to keep it the way it is.

Mr. Cori Carrizales who resides at 2106 Scout Lane, thanked the board for taking the time to hear the concerns of the residents. He mentioned that they were a very tight knit community and as very accurately described, the homes in the area are much older homes sitting on very big lots. Mr. Carrizales stated that it was a wonderful place to live and any time they had people coming over they just admire the ambiance and quietness of the neighborhood which is something that they valued tremendously. He added that it was kind of disturbing when they received the notice that their good neighbor wanted to rezone the property to commercial. Mr. Carrizales stated that they were wonderful people but there were just too many reasons not to rezone the property. He added that the City of Mission was growing so fast and the City is doing such a good job of Planning it and he just cannot understand why with all the available property that is out there they can't designate another location for commercial use than to take our beautiful neighborhood and destroying the integrity and beautiful dynamic the neighborhood has by putting a mom-pop store in front of that street. Mr. Carrizales stated that there were already too many of those in the city that don't look good. He mentioned that when they factor the ambiance of the neighborhood and the quality of living they have, he just cannot understand why they would even consider possibly putting another commercial establishment in that neighborhood. He added that as Mr. Pawlik mentioned earlier the school is to the east and the city is doing a wonderful job in keeping the traffic going in the mornings and the kids use that area as a drop off zone, which causes some traffic congestion but still he would hate to think how the problems would be compounded if this area was designated as commercial use. Mr. Carrizales encouraged the Board to deny the request.

Mr. Harvey Mutz who resides at 2120 Scout Lane, stated that he had lived in this neighborhood since 1969-1970 when there was nothing but a home and now it was

a beautiful & quiet neighborhood. He added that he was against the reclassification because it was in his backyard. He mentioned that the people that had submitted the request were wonderful neighbors and friends.

Mrs. Laura Harrison who resides at 2119 Scout Lane, stated that she had lived in this neighborhood for about 22 years. She stated that her home is directly across the street from the back part of the lot in question. Mrs. Harrison mentioned that Scout Lane is a neighborhood that was hard to put into words and many may not know but it is a short street with a dead end, it's a quiet neighborhood. She stated that the neighbors that she had were committed to the up keep of their own property. Mrs. Harrison stated that it was the perfect neighborhood to live in, the midst of a school zone and to be across the street from a major 5A High School. She added that Scout Lane had no parking signs 9 months out of the year from 8 to 4. She also mentioned that to the best of their ability they strive to uphold the ordinances that keep our city safe and keep it looking as beautiful as they want it to look. Mrs. Harrison added that they struggle with issues with this same property with breaking those city ordinances for almost a 1 year now and needed the Boards help as representatives to please vote against this rezoning.

Mr. Robert Anzaldua, Jr. who resides at 2118 Scout Lane, asked what type of business was being proposed and how would it affect the safety of their neighborhood.

Chairman Rene Flores stated that the applicant had not provided that information.

Mr. Anzaldua stated that he would like that question answered before any action is taken.

Chairman Rene Flores asked Mr. Anzaldua if he would still be in opposition regardless the type of business being proposed.

Mr. Anzaldua replied, "Yes, he was strongly opposed".

Mr. Albert McFresh stated that he represented 3 other families on his side which was on Scout Lane across the canal on Pleasant Lane. He added that they would like to see the community stay as it is because it is a very congenial area. He mentioned that he would like for it to stay as a single family residential area.

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

Mr. Aurelio Flores who resides 1217 N. Shary Road, stated that he has lived there for about 6 years. He mentioned that when he bought this property he was told that it could be easily converted into commercial which has not been the case. He added that he has tried to sell the property as residential but nobody has been interested. He mentioned that they have a 5-6 lane road in front of the house, there is a lot of noise trash coming from the school. Mr. Flores stated that his two

neighbors to the south were given the opportunity to convert their property to commercial on School Lane last year to a C-4 & C-3 zone. He added that they could not sell the property as residential because there is nobody interested in it. He stated that he could understand his neighbors living there for so many years and appreciated the community for being a very nice place, but he didn't see a good enough reason how they would be affected by having a commercial zone along Shary Road. Mr. Flores stated that all the cities throughout the United States have commercial properties on streets like this. He added that when the City allows a road to be widened, it should also allow properties to be converted into commercial; of course giving the residents time to adjust. Mr. Flores stated that when the property was bought they were proposing to do a very nice school that is now in McAllen on North 25th and Mile 3 a good investment for the City of Mission but was denied. Mr. Flores stated that he would like the Board's help because they didn't know what else to do. He added that they came to Mission to establish themselves but have been denied all their proposals. He mentioned that the City of McAllen had welcomed his investment on the school for children. Mr. Flores stated that he had requested a C-3 zone but would settle for a C-2 or C-1 as long as it was approved. He mentioned that he had strong reasons to ask for this request since he was the most affected with the traffic and noise. Mr. Flores stated that he was encouraged to apply since the city had approved two other rezonings within the same area and would like the same treatment as the other people.

Ms. Lucy Sisniega who resides 1605 Vintage Lane, stated that she was a commercial real estate realtor for over 10 years. She added that she was representing Mr. Flores on this rezoning. She mentioned that she understood the neighbor's concerns but also understood that they cannot stop growth especially for the City of Mission. She added that she was part of the development that happened on South Shary a few years ago when there was no Home Depot only some apartments and homes. Ms. Sisniega stated that she had the opportunity to work with several homeowners in that area which had their issues but worked them out. She mentioned that the City had rezoned a property on Shary Road that was not part of a subdivision but is facing a main road. She stated that she didn't think Mr. Flores request would cause any major problems because the noise and traffic the neighbors mentioned were already happening right now and it was not because of Mr. Flores. Ms. Sisniega stated that she understood the neighbors were concerned about the type of business that would be allowed but like Mr. Flores stated he was willing to consider a C-2 or C-1 zone as long as it was commercial because he didn't want to keep the property as residential. She mentioned that sooner or later that property would become commercial.

Mrs. Marisela Marin asked Mr. Zavala if he knew the dates when the properties were zoned C-4 and C-3.

Mr. Zavala stated that the property that was zoned C-4 was zoned because it is next to the railroad and adjoins Highway Business 83 and C-4 has been there since 1981. The C-3 zone however that is on the southwest corner of School Lane and

Shary Road was in 2010. He added that one of the reasons it was zoned C-3 was because of its proximity to the C-4 site which shares the same lot line and School Lane, which was a collector street.

Mr. Mario Garza asked Mr. Zavala if the properties were zoned Agricultural Open Interim before they were rezoned to commercial.

Mr. Zavala replied, "Yes, it was all agricultural".

Mr. Ned Sheats commented that the fact that the applicant was requesting a C-3 zone was extreme for the area and if he had requested a C-1, there would of been possibly a little different take on the matter. He mentioned that we have other C-1 developments such as the one on Fox Run that has seemed to have worked very well however, he has community response that state that they don't want commercial for their neighborhood. Mr. Sheats stated that he didn't see how the Board could ignore that for one person especially when he knew that the property was residential.

Mr. Mario Garza asked Mr. Sheats to explain the difference in each zoning.

Mr. Ned Sheats explained that the C-1 zone was the lightest use for professional/office buildings; very low traffic buildings, C-2 is the next step up like mom and pop stores but also limited, and a C-3 is basically just about anything you wish to put there short of a gas station. He stated that for him a C-3 would not fit the area.

Chairman Rene Flores stated that he agreed with Mr. Sheats. He added that he understood the need to want to make something commercial especially in this area given Shary Road and how busy it is with the traffic that goes through there. Chairman Flores stated that the Board considers both sides and have the obligation to do what they think is in the best interest of the city.

After a brief discussion, Chairman Rene Flores entertained a motion. Mr. Mario Garza moved to deny the rezoning as per staff's recommendations. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:30 p.m.

Ended: 5:41 p.m.

ITEM # 1.2

Rezoning:

**A 10.755 acre tract of land out
of Lots 292 & 302,
John H. Shary Subdivision
AO-I to R-1A
El Toro Builders, Inc.**

Mr. Bobby Salinas went over the write up stating that the subject site is located ¼ mile north of Mile 2 Road along the west side of Glasscock Road. The surrounding zones include Large Lot Single Family Residential (R-1A) to the north and west; Agricultural Open Interim (AO-I) to the south and east. The surrounding land uses includes Large Lot Single Family Subdivision (The Oaklands) to the north & west, and Single Family Estates settings to the south and east. The site is open acreage. The Future Land Use Map reflects a Lower Density (LDA) designation. The proposed zone readily complies with the City's Future Land Use Map, area residential uses, and the predominant R-1A zoning. Staff has reviewed the R-1A plat where private streets are proposed. Staff recommended approval to the R-1A zone.

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

Mrs. Chris Mari Van Dyck stated that she owns the property to the west of the property in question. She added that she had owned this property since 1992. Mrs. Van Dyck mentioned that she was not opposed to the rezoning but had a couple of concerns. She stated that when The Oaklands Subdivision was developed they dug 15' into her property, damaged her fence, they were suppose to add a utility and drainage easement which they never did. She mentioned that she just didn't want to go through the same thing with this new development. She asked that they maintained the trees that were in their property so that they won't damage her fence and asked if they would be required to fence the perimeter.

Chairman Rene Flores stated that this was just the rezoning aspect of the property once they are ready and they submit the plan of the development she would have the opportunity to look at it.

Mrs. Van Dyck stated that the city annexed both the Clark's and her property one month before the State of Texas passed the law to give notice. She stated that she was annexed into the city without ever receiving a notice what so ever and she just wanted to make that historical point.

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

Mr. Jaime Gomez from Quintanilla, Headley & Associates locate at 124 E. Stubbs in Edinburg stated they were representing the developer. He added that this subdivision was going to be a private gated subdivision with large design homes. He added that most of the perimeter would be block fence and would be inside their property. He mentioned that they had surveyed the property and were willing to comply with the City's requirements. Mr. Gomez stated that in regards to the detention area on the Oaklands Subdivision they will be expanding it making more capacity for the requirement the city has for this property. He mentioned that they were also adding a storm system to this subdivision which would drain to the detention area but will bleed at a small rate so they won't overflow that area.

Mr. Ned Sheats asked what the city ordinance called for on the trees regarding the need to maintain them or replace them.

Mr. Zavala stated that they didn't have to do either because the ordinance only effects non-res settings and if it were commercial development and they were going to remove 560 caliper inches of live oak then those inches would need to be replaced. This ordinance only applies to commercial/institutional or industrial use. He stated that on a residential subdivision this ordinance would not apply.

Mr. Gomez stated that the developer had asked them to design around most of the trees because he wants to keep as much as possible.

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

Started: 5:41 p.m.

Ended: 5:50 p.m.

ITEM # 1.3

Conditional Use Permit:

**To Construct a Single Family Residence
(conversion from a detached garage) on
Property Zoned Mobile/Modular Home
Dist. (R-4)
2101 Loker Street
Lot 18, Block 4, Valley View Estates Subd.
R-4
Dennis Williams**

Mr. Bobby Salinas went over the write up stating that the site is at the NE corner of Ragland Road/Loker Avenue. The corner lot has dimensions of 50' X 123.87'. The subject property has a mobile home and a detached 30' x 34' garage toward the rear area. Mr. Williams desires to **1)** remove the mobile home, **2)** convert the 30' x 34' detached garage into a 2-story residence, and **3)** then build a 25' x 25' (625 sq.ft.) into a detached garage.

The R-4 zone is for mobile homes and for RVs; however, it is a conditional use to have conventional housing in such an R-4 zoning district. The following regulation says this:

**Sect. 140-3(f), Zoning Code: One single-family dwelling per lot.
Structure must meet the requirements of the R-1 district.**

In other words, if there is a desire to have the effect of a site-built house, then the standard R-1 requirements must be met. This would include the following which are not quite compliant to the Williams CUP request:

- 1) R-1 corner lots must have a min. frontage of 65' (the subject site has 50');**
- 2) The rear setback is 10' (the subject site will have a 5' rear setback to the alley side);**
- 3) The front setback must be a min. 20' (the subject site will have 9').**

In conferring with the applicant, we indicated that ***IF*** the CUP was approved, ***then*** the Zoning Board of Adjustments (ZBA) will still have to be approached to see if they'd approve the variances cited above.

We realize that there have been more than a few similar CUPs approved in the past and we've prepared an exhibit showing this. The last approved CUP in VVE was on February 2007 for Lot 15, Block 7, (William Crockett). However, later that same year on Sept. 10, 2007, Staff was *firmly* directed by the Council that there were to be no further CUPs of this kind (when they considered a similar CUP on the R-4 zoned Lot 72, Inspiration Manor). This City Council directive was disclosed to the applicant. The alternative for Mr. Williams is to simply replace the weathered mobile home with an updated unit, remembering that the property is zoned R-4, and of course, continue using the detached garage as such.

Staff recommended denial since **1)** does not meet frontage 65' requirement, **2)** will not meet R-1's 10' rear setback, **3)** will not meet R-1's 20' front setback, and **4)** the City Council's directive has been prevailing ever since their directive was issued.

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

Mrs. Diane Austin who resides at 2102 Loker stated that she didn't not have any objection in him redoing his garage because its big and he could make a nice home out of it. She mentioned that the only objection she would have was if he put a detached garage in front or in the driveway she did not want sheet metal because it would not go with the "look" in Valley View. She didn't see why the Board would deny the request.

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

Mr. Dennis Williams stated that when he did the layout he was not concerned about the garage he just wanted something quick to do and have a garage in a day. He mentioned that he had talked to Mrs. Austin and agreed to do a non-metal garage because he was not opposed to changing or making it better. He added that in regards to the setback his garage would be further back than the rest of them.

Chairman Rene Flores stated that problem was that what he was proposing to do did not conform with what the city 1) does not allow, and 2) was already told that we were no longer approving similar conditional use permits. He stated that he understood he had good intentions but based on staff's recommendations what he was proposing doesn't necessarily fit this area. Mr. Flores stated that he is

proposing to convert a garage into a home where only mobile homes and RV's are allowed and if they approved it for him then they have to allow it for everyone.

Mr. Williams stated that the building already existed.

Mrs. Austin stated that the existing mobile home is very old and it didn't look good. She added that he has worked so much on that building to make it look better. She mentioned that she understood what he was saying regarding a new home but the building had been there for a while.

Chairman Rene Flores stated that him having an older mobile home is not so much of a concern as it is what he was ultimately trying to do with his property.

Mrs. Austin asked if the Board would give him a variance.

Chairman Rene Flores stated that this Board would not be able to give him a variance this Board would only consider whether they would be approving or denying the conditional use permit based on staff's recommendation and based on the Board's opinion of what they believe the City should enforce in codes and precedence that has already been set. Mr. Flores stated that they were bound by certain obligations to keep the City in some sort of uniformity and not divert from that.

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

Started: 5:50 p.m.

Ended: 5:59 p.m.

ITEM # 1.4

Conditional Use Permit:

Indoor Shooting Range in a C-3 Zone

703 W. 2 Mile Road

A 4.12 ac tract of land out of the E. ½ of the N. ½ of Lot 28-3, and 3.26 ac lying west of canal in the W. ½ of the N. ½ Of Lot 28-4, West Addition to Sharyland C-3

Danny Carrera

Mr. Bobby Salinas went over the write up stating that the site is located ¼ mile east of Los Ebanos Road along the south side of Mile 2 (within the Southwest Hay and Feed site). The applicant is proposing to build a new indoor shooting range. Access to the site is from an existing paved driveway off of 2 Mile Road that is currently used for the feed store. The proposed shooting range building measures approx.. 62.7' x 105' for a total of 6,583.5 square feet. On July 25th 2011, the City Council adopted a new ordinance authorizing indoor shooting ranges as a CUP in a C-3 zone

with 9 requirements, including noise abatement, ventilation systems, and a pre-set of rules and regulations. The applicant has provided their set of rules for review. The applicant has asked for a "Life of Use" approval for this CUP. Staff does not object since we are able to randomly monitor the site, and assure that all noise codes are being met. There will be no sale of alcohol either.

- **Hour of operation:** Everyday from 10:00 a.m. to 8:00 p.m.
- **Staff:** 6 employees per shift
- **Parking:** The number of parking spaces required for a building this size is 19. The area proposed for the new shooting range will include 24 new parking spaces.
- Must comply with landscaping and sign codes.
- Must comply with Building and Fire codes
- City Engineer to ensure that the proper drainage calculations are being met.
- A business license is required prior to occupancy.

It'd seem that the primary issue for the neighborhood of an indoor shooting range will be noise; thus so long as proper noise restrictive measures are taken, there should be minimal (if any) residual effect to the general area.

Staff recommended approval subject to: **1)** must comply with Ordinance # 3660, **2)** comply with landscaping and sign codes, **3)** drainage to comply with City policy, **4)** must comply with all Building and Fire Codes, **5)** acquire a business license, **6)** CUP not transferable to others, and **7)** approval for "Life of Use", and will be subject to random monitoring visits to assure continued compliance.

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

There was no response.

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

Mr. Danny Carrera stated that he has been in business in the City of Mission for almost 26 years. He mentioned that they worked with livestock, and were pet food distributors and retailer. Mr. Carrera stated that in 2006 they constructed their new building. He added that they were also engaged in the retail of firearms. Mr. Carrera stated that as most might be well aware that the City of Mission and neighboring cities are running out of ranges and a lot of the outdoor shooting ranges have been closed due to safety reasons and surrounding houses. Mr. Carrera stated that the people in their business and establishment have approached many of them about building this range and have decided that they are proposing to build this range within the city. He mentioned that they had a lot to offer and benefit the citizens of Mission in the sense that they would have a safe place to enjoy their firearms. Mr. Carrera stated that those people that are buying firearms and are not proficient with their firearms would be able to learn because they plan to offer classes. They will also have concealed weapon classes. He added that they

were also members of the National Shooting Sports Foundation. Mr. Carrera stated that they had a program that helps with the training of the youth and teach them how to fire arms and provides firearms safety classes. He mentioned that he was an ex-educator and an ex-school board member. He mentioned that he wanted to improve the safety for kids. Mr. Carrera stated that one of the primary reasons to install the range was to bring students or children in to give them proper training on firearm safety. He mentioned that he has talked to several members in the City and believes that this would be a win-win situation for the City since there is only 1 indoor range currently which is located in McAllen. He added that they were proposing 10 indoor lanes and would be certainly abiding by all the rules and specs. Mr. Carrera stated that he was very excited and hoped that the Board approved his request.

Chairman Rene Flores stated that if approved this would be at least the 2nd or 3rd indoor shooting range for the City of Mission.

Mr. Zavala stated that it would be the second because the first one was the Mission Skeet Club.

Chairman Rene Flores thanked Mr. Carrera for taking an interest in the City of Mission and bringing in a different interest to Mission such as an indoor shooting range since there are a lot of gun enthusiasts out there that would like to go out and fire out a few rounds and get proficient with their guns. He added that he didn't have a problem with the approval the only concern he had was that he was asking for life of use which is normally not something that this Board usually does. He mentioned that this Board usually wants to keep monitoring the business to make sure they're in compliance.

Mr. Ned Sheats asked if this would be a public range.

Mr. Carrera replied, "Yes".

Mr. Ned Sheats asked if a membership would be required.

Mr. Carrera stated that no membership would be required but there would be an hourly fee to participate in the range.

Mr. Ned Sheats reaffirmed what Chairman Flores said regarding life of use the first time around.

Mr. Carrera stated that considering the investment; he wanted to make sure staff knew he had to get life of use because he didn't know where he was going to shoot his gun after he lost his permit after the year with the investment he was making. He mentioned that this Board would certainly understand that it involves a lot of planning and a great investment to bring something of that magnitude. He

mentioned that they were trying to do their best to bring a first class indoor shooting range for the citizens of Mission.

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

Note: Mr. Ned Sheats my dissenting vote was NOT to the Gun Range but to the "special treatment" the applicant received by way of the "Life of Use" recommendation. As I stated we don't do that for even raspa stands which have a much less change of having a negative impact on the surrounding neighborhood.

Started: 6:00 p.m.

Ended: 6:04 p.m.

ITEM # 1.5

Conditional Use Permit:

**Sale & On-Site Consumption of Alcoholic Beverages – Dá Sán Yuán
1512 E. Expressway 83, Ste. 104
Lot 3, Stewart Plaza Subdivision
C-3
Lin Toy**

Mr. Bobby Salinas went over the write up stating that the subject site is located on the SW corner of Stewart Road and Expressway 83. There is a new commercial plaza located on the site which is proposing a new 4,200 sq.ft. Chinese restaurant with the sale and on-site consumption of alcohol. There will be no 'bar' component in the restaurant. Access to the site is from a 40' driveway entrance off of Expressway 83. There are no churches or public/private schools within 300' of the subject site, thus being compliant to Section 6-4.

- **Hours of Operation:** Everyday from 11:00 a.m. to 11:00 p.m. Alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 10 employees
- **Parking:** In viewing the floor plan for the family oriented restaurant, the suite has 108 seats, which requires 36 parking spaces (108 seats/3 = 36 spaces). It is noted that the parking area is held in common (219 existing parking spaces) and is shared with other "future" businesses.
- Must comply with sign codes
- Must comply with all Building, Fire, and Health Codes.
- Must acquire a business license prior to occupancy.

Staff recommended approval subject to: **1)** 1 year re-evaluation after business license issuance to assess this new operation, **2)** wet zone the property, **3)** must

comply with typical sign codes, **4)** comply with Building, Fire, and Health Codes, and **5)** must acquire a business license.

Chairman Rene Flores asked Mr. Salinas what he meant by wet zone.

Mr. Salinas stated that a wet zone was when they sell alcohol in an area where they have never sold alcohol in the property before. The City Secretary's office wet zones the area to allow the sale of alcohol.

Chairman Rene Flores asked if it was just a term used or if something was actually done to the property.

Mr. Salinas stated that at the Council level the City Secretary brings that up as a separate item and they call it a "wet zone".

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

There was no response.

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

Mrs. Lin Toy was present to address any questions that the Board might have.

Chairman Rene Flores asked Mrs. Toy if she had another restaurant before this one.

Mrs. Toy stated that this was her first restaurant and wanted to open with the option to offer beer and wine.

After a brief discussion, Chairman Rene Flores entertained a motion. Ms. Diana Izaguirre moved to approve the conditional use permit recommended by staff. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:04 p.m.

Ended: 6:08 p.m.

ITEM # 1.6

Conditional Use Permit:

Drive-Thru Service Window

"Piko's Restaurant"

1500 W. Griffin Parkway

W. 180' – E. 440' – S.100' out of Lot 25-2

West Addition to Sharyland Subdivision

C-3

Tres Rios, LLC

Mr. Bobby Salinas went over the write up stating that the subject site is located on the NW corner of Wednesday and Griffin Parkway. There is a newly remodeled 60' x 43.8' (2,628 sq.ft.) building which includes a drive-thru service window. The

location of the service window provides enough stacking for at least three vehicles. Access to the site is provided off of both Griffin Parkway (26' driveway) and Wednesday (24' driveway). A Drive-thru CUP was previously approved by P&Z on 8/26/10 for Logistica Frontera, LLC. Since the CUP was not transferable to others and a new operator is evident, the Drive-thru CUP needs to be re-considered.

- **Days/Hours of Operation:** Everyday from 6:00 a.m. to 10:00 p.m.
- **Staff:** 6 employees
- **Parking:** There are a total of 52 seating spaces which require 17 parking spaces ($52/3 = 17.3$). The site currently has 21 parking spaces, thus meeting code.
- Must comply with City's sign, landscaping, & fence buffer codes.
- Must comply with all Building, Fire, & Health Codes.
- A new business license is required prior to occupancy.

Staff recommended approval subject to: **1)** 1 year re-evaluation in order to assess this new operation, **2)** comply with all Building, Fire, & Health Codes, **3)** Comply with the City's sign, landscaping, and fence buffer codes, **4)** acquire a new business license prior to occupancy. (NOTE: All items must be met prior to receiving the 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 were present.

There was no response.

Mrs. Marisela Marin stated that the landscaping layout presented was very pretty but the actual pictures were not and she just wanted to make sure they maintained the landscaping.

After a brief discussion, Chairman Rene Flores entertained a motion. Mr. Ned Sheats 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: 6:08 p.m.

Ended: 6:37 p.m.

ITEM # 1.7

Conditional Use Permit:

Drive-Thru Convenience Store

210 N. Conway

Lot 4, Block 50,

Mission Original Townsite

C-3

Andres A. Adame c/o Lorenzo Adame

Mr. Bobby Salinas went over the write up stating that the property is located approximately 100' north of 2nd Street on the east side of Conway Avenue. The subject site has an existing 38' x 50' drive-thru convenience store.

- **Days/Hours of Operation:** Sunday – Friday from 10:00 a.m. to 12:00 a.m. & Saturday from 10:00 a.m. to 1:00 a.m.
- **Staff:** 2 employees
- **Parking:** The drive thru business requires 5 parking spaces; 5 are provided.
- **Landscaping:** At the time of the original approval there were 2 trees that were preserved in order to comply with the landscaping code, however the applicant has removed 1 of the trees and must now re-install the same number of calipers removed from the site. We estimate that the calipers removed were a minimum of 24". The Code requires the replacement of the 24" caliper equivalent in new shade trees.
- Must comply with the City's Sign Ordinance.

HISTORY: 6/27/07 & 10/15/08 – A CUP was approved/renewed for a drive-thru convenience store with several conditions which included: **1)** Directional arrows/signage installed within the drive-thru lane; **2)** relocate or install bollards to protect the gas meters in the in the area, **3)** install a speed bump prior to entering the alley.

8/20/10 – Letter sent to Mr. Adame asking that he install the speed bump and paint the directional arrows. The letter also mentioned complaints received regarding delivery trucks parking in the alley, impeding driveway access to the residential neighbors to the east. Staff asked to have delivery trucks "*park on paved drive-thru lane or unload in a way to not disrupt the access/exit rights of adjoining others*".

9/15/11 – Revocation proceedings commence due to several complaints from the neighboring properties. P&Z gave Mr. Adame the opportunity to remain open subject to: **1)** Install 4" high speed bump; **2)** NO DELIVERY in alley; **3)** Install bollards to protect gas meter, **4)** paint a "Stop Sign" for exiting cars into alley; **5)** elongate/raise existing speed bumps in the alley; **6)** replace existing trash bins with commercial dumpster, and **7)** must be done within 30 days revoke CUP.

9/19/11, 9/26/11, 9/27/11, & 10/18/11 – Coca-Cola Delivery trucks continued to park/deliver in the alley and the speed bump as you enter the alley was not installed, thus CUP revoked.

10/25/11 – City Council sustained P&Z's action to revoke the CUP due to delivery trucks still parking in the alley way.

10/31/11 – Charges filed for having the Drive-Thru open after revocation.

12/2011 – Charges dismissed since drive-thru was inoperable/de-activated.

2/22/12 – P&Z Mtg. where Adame was represented by attorney O.J. Morales; CUP denied.

2/23/12 – Letter of Action mailed outlining option to appeal to Council (no appeal filed).

5/2/12 – New CUP application filed w/proposal for no cigarettes, alcohol 2B sold; Adame Picks up beverages himself (no alley parking); (method for no left-turning as cars exit?)

In order to re-activate the drive-thru feature of the convenience store, Mr. Adame personally picks-up merchandise (to avoid any risk of alley parking), has deleted cigarettes & alcohol (beer/wine) from his inventory, and voiced a concept of exiting cars 'turning-right only' (thus completely avoiding the Santos Mendoza property. As of this writing, Staff has not rec'd any version of how the 'right-turn' measure will actually be done though.

Regardless of such admirable measures, it seems to still be impeded by the City Council's 'denial' of October 25, 2011. Staff recommended denial to the conditional use permit.

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

Mr. Santos Mendoza stated that once again he was present in opposition to the drive-thru request and it would be at least the third or fourth time that he attends a meeting for the same thing. Mr. Mendoza stated that he thought this problem had already been resolved since in the last meeting Mayor Salinas ordered that the applicant closed the drive-thru to avoid any traffic going directly to his property. Mr. Mendoza stated that he ordered this to avoid any future damages to his property because they had already done a lot of damage to his property and never compensated him. He mentioned that he wasn't looking to get compensated but his life has been at risk due to this problem. Mr. Mendoza added that he has been face to face with the vehicles and just because he has been obedient in going to the back of his property otherwise, he would have been run over or beaten up. He mentioned that nobody has helped him just a clerk that told him to go to the front of his property otherwise he might get killed. Mr. Mendoza stated that they had agreed to fix the problem which the applicant didn't do and the police had to go close down the drive-thru. He stated that in one of the previous meetings they had agreed to give him one month to resolve all the issues. Well, the month past and the applicant didn't do anything. Mr. Mendoza stated that he bought this property about 50 years ago and never had a problem with his neighbors not even with the previous owner of the lot who had a nursery because they would respect one another. He added that now there was no respect for anything and that was why there were problems. Mr. Mendoza stated that the vehicles park in the alley and he

sells them beer. Mr. Mendoza finalized by stating that he was not going to put his life at risk, he was going to try the most he could to get this problem resolved.

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

Mr. Lorenzo Adame who resides at 101 Davina Street stated that his family has owned this business for about 3 or 4 years and since this incident back in October - November where the drive-thru was revoked his business was no longer a good business. He added that his customers go in the business but can't see all the merchandise that he has to offer and won't buy it so he is barely surviving. He added that he had to go to San Antonio to work to make ends meet because he was not making any profit. Mr. Adame recognized that he had made several errors in the past which he has tried to fix and do the best that he could with his neighbors liked talked to Mr. Mendoza and Mr. Benitez. Mr. Adame stated that he had talked to Mr. Mendoza about the sign and he said he would be okay with it.

Chairman Rene Flores stated that he didn't think there was any doubt that he had definitely tried to do anything in his power do resolve these issues.

Mr. Adame stated that he had to because it was the only source of income he had to provide for his family. He added that he had gone through the LVN program which he finished but just didn't have the time to take the exam because he had to work. He added that if his drive-thru remains closed he will not be able to maintain his family. Mr. Adame stated that he has tried to take away the tobacco and alcohol and added sno-cones to make it a more family oriented business.

Chairman Rene Flores stated that he recognized the effort he has made to try to comply albeit late, albeit sometimes not to the satisfaction of the neighbors or to this Board. Mr. Flores stated that he appreciated the effort. He added that the last thing he would like to see is a business fail in the City of Mission especially one that is on a major road such as Conway. Mr. Flores stated that Conway was the heart street of Mission and the last thing he would like to see is an empty building on this street. He added that there were other places allocated on Conway that were much worse eyesores like the tire shop a couple of properties down that looks horrible. He stated that he understood Mr. Adame was a hard-working man that wanted to make this business work and personally would not have a problem approving this request. He stated that everybody should have access to the alley just like Mr. Mendoza has access to the alley way. He added that this business generates taxes for the city which is good. Now if damages were made to the other properties he should have been quick in repairing them. Mr. Flores stated that he has done every effort to try to satisfy his neighbors and even taking out alcohol and cigarettes from his business even though it was not good for his business. Mr. Flores stated that he was pro-business and he understood and respected Mr. Mendoza's concerns but he did see the effort that Mr. Adame had done and did want the business to survive in the City of Mission. He added that his vote would be in favor of the conditional use permit.

Mr. Abiel Flores stated that he concurred with Mr. Flores in that Mr. Adame had done a lot and had proven himself the only problem he had was that there was an appeal process and he didn't take advantage of that. Mr. Flores asked Mr. Zavala if he could have appealed the last decision.

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

Mr. Abiel Flores stated that to him the fact that he didn't take advantage of the appeal process concerned him because there was a process to all of this and for him to come back at this point and he recognized and appreciated all that he's done to improve it but the better thing he should do was to appeal the process. He added that this Board just simply recommends to the Council and the final action lies with the City Council and the last time he went before them they denied the request.

Mr. Adame stated that at that time he had engaged Mr. O.J. Morales to represent him and he felt that the attorney just took his money and didn't help him. He added that when he asked for more money he just didn't have it so that was why he decided to re-apply on his own and try to address all the concerns.

Mr. Ned Sheats stated that he had the opportunity to go to the site with Mr. Zavala about a year ago and he agreed that at that time it was a ½ hearted try. Only part of it was done but not quite complete. He stated that he was really conflicted by this because he drove by there today and the issue is not what has been done or not done the issue is the alley it's a narrow alley, its got garbage bins and gas meters on each side. He added that when the garbage truck is picking up the garage bin there is no room for another vehicle to pass by. He mentioned that he didn't know where the issue of the liquor, alcohol, and cigarettes came from because nothing was discussed and doing away with cigarettes and alcohol didn't come from the city. Mr. Sheats stated that he should get the conditional use permit in his own personal opinion even though it goes against everything he usually says, but only for 6 months.

Mr. Mario Garza agreed with Mr. Sheats because he was trying his best to work with them and there is nothing more that he could do.

Ms. Diana Izaguirre stated that the alcohol and cigarettes came from the last meeting where Mr. Mendoza stated that the people who buy alcohol would be drinking and hit his fence. She mentioned that he was really trying by taking away the sale of alcohol so that no drunk driver would damage Mr. Mendoza's property and then the right turn sign was also for Mr. Mendoza's benefit so that when he pulls up there would be no vehicles coming up his way, so the applicant is definitely trying.

Mrs. Marisela Marin stated that she was with the City Council and disagreed with the Board and just like Mr. Abiel Flores mentioned earlier if he would have followed

the rules and followed the process she would be definitely with him because last time basically he ignored the requirements from staff. She said that she was opposed because there were certain rules that he said he would abide by. She added that she agreed that he has tried and was almost there but feels that she was with staff and didn't feel they should approve the conditional use permit. Mrs. Marin stated that she knew it cost money to put the trees back like staff was asking but it was something that needed to be complied with and unfortunately he did this to himself because he didn't choose to go in and try to make it better when it was so easy. Mrs. Marin stated that there was a time when Mr. Mendoza was definitely working with you and it didn't happen.

Mr. Mario Garza stated that he disagreed with Mrs. Marin because he had done a lot to improve the area.

Mrs. Marisela Marin stated that she agreed with him in that he has done a lot to improve the area but it was just not enough for her.

Mr. Mario Garza stated that he was following the advise from his attorney at that time and he has improved the area and is definitely trying.

Mr. Adame stated that he had talked to Mr. Mendoza and everything seemed to be okay and when were here, I just don't know what happens. He added that Mr. Pedro Benitez had told him that he would do everything that Mr. Mendoza says.

Mr. Ned Sheats asked Mrs. Marin if they could grant the conditional use permit for 6 months based on what he's done.

Mrs. Marisela Marin stated she was still against it but was sure she was going to get out voted.

There being no further comments, Chairman Rene Flores entertained a motion. Mr. Ned Sheats moved to approve the conditional use permit subject to a 6 month review. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed 5-2 with Mrs. Marisela Marin and Abiel Flores dissenting. *Abiel Flores dissenting only because Mr. Adame didn't follow the process of appealing and going to the City Council.*

Started: 6:37 p.m.

Ended: 6:40 p.m.

ITEM # 1.8

Conditional Use Permit

Renewal:

**Home Occupation – Flower Shop
1632 N. Bryan Road
Lot 2 & the N. 39' of Lot 3, Block 2
Bryan Heights Subdivision
R-1**

Aurora Lopez

Mr. Bobby Salinas went over the write up stating that the site is approximately ½ mile south of FM 495 along the east side of Bryan Road. The applicant has been operating a flower shop within an existing detached garage with no incidents or complaints from surrounding property owners. Access is provided through an existing 20' concrete driveway that expands to allow for five parking spaces, with four open spaces available for the public during business hours. The previous renewal for the CUP was on 4/13/11 with a 1 year re-evaluation.

- **Hours of Operation:** Monday – Sunday from 9:00 a.m. to 6:00 p.m.
- **Staff:** Herself and 2 others; 1 not residing in the home. Ms. Lopez only utilizes the other two family members when needed, large orders/deliveries, etc. She is otherwise the only person working at the flower shop the majority of the time.
- Must continue to comply with Sect. 1.56-1, Zoning Code (home occupations regs.)
- Again, absolutely no exterior displays of *'flower shop'* items will be allowed, especially during Valentine's Day, Mother's Day, etc. This includes ribbons or any painting of trees.

According to the applicant, the majority of her business is phone based, i.e. customers call in orders and the shop delivers to the desired locations. However, there are occasions where walk-in traffic is expected, such as Valentine's Day, Mother's Day, Christmas, etc.

Staff recommended approval subject to: **1)** 1 year re-evaluation to continue monitoring the operation nestled within a full residential area, **2)** continued compliance with Sect. 1.56-1 of the Zoning Ordinance, and **3)** no exterior display of *"flower shop"* items.

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. Aurora Lopez was present to address any questions that the Board might have.

There being none, 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: 6:37 p.m.

Ended: 6:40 p.m.

ITEM # 1.9

**Conditional Use Permit
Renewal:**

**Sale & On-Site Consumption of Alcoholic
Beverages and a Drive-Thru Service
Window – Mariscos 7 Mares Restaurant
2301 E. Griffin Parkway, Suite “D”
C-3
Juan Jose Chapa**

Mr. Bobby Salinas went over the write up stating that Mariscos 7 Mares seafood restaurant is located within an existing commercial plaza located on the NW corner of Citrus Lane and Griffin Parkway. This CUP was previously approved on 3/23/11 by P&Z for 1 year. Access to the site is provided through a pair of existing 24' cuts along Citrus and a single 24' cut along Griffin Parkway.

After ordering, there is stacking for approximately 3 vehicles. There were no reports of any accidents or incidents occurring at this location since the last CUP approval. There are no churches or public/private schools within 300' of the subject site, thus being compliant to Section 6-4.

- **Hours of Operation:** Everyday from 7:00 a.m. to 11:00 p.m. Alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 4 employees
- **Parking:** The applicant has 80 total seating spaces, which requires 27 parking spaces (80 seats /1 space for every 3 seats = 26.6 parking spaces). It is noted that the parking area is held in common (67 existing parking spaces) and is shared with other businesses.
- We asked Mission PD for a report of any incidents in relation to the sale of alcohol.

There were no issues with this restaurant based on PD's comments, staff recommends approval subject to a 1 year re-evaluation.

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. Juan Jose Chapa was present to address any questions that the Board might have.

There being none, 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: 6:37 p.m.

Ended: 6:40 p.m.

ITEM # 2.0

Conditional Use Permit

Renewal:

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

Mr. Bobby Salinas went over the write up stating that the subject site is located on the NW corner of Inspiration Road and Mile 2 Road. The existing "El Valle Supermarket" is approximately 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 4/23/08 with a 3 year re-evaluation.

- **Days/Hours of Operation:** Everyday from 7:00 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. In this regard, additional 3" caliper shade trees are needed to equate to the 7 originally required during the building permit process.

Staff recommended approval subject to: **1)** 3 year re-evaluation in order to assess this new operation, and **2)** continue to comply with the City's Sign & Landscaping Codes.

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. Omar Perez was present to address any questions that the Board might have.

There being none, 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.

ITEM # 3.0

ADJOURNMENT

There being no further items for discussion, Mr. Mario Garza moved to adjourn the meeting. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 6:41 p.m.

Rene Flores, Chairman
Planning and Zoning Commission