

**PLANNING AND ZONING COMMISSION**  
**JULY 22, 2015**  
**CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.**

**P&Z PRESENT**

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

**STAFF PRESENT**

Daniel Tijerina  
Joe A. Garza  
Susana De Luna

**GUESTS PRESENT**

Rosa Esther Garcia  
Tiffany Espericueta  
Pat Espericueta  
Eduardo Hernandez

**CALL TO ORDER**

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

**CITIZENS PARTICIPATION**

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

There was none.

**APPROVAL OF MINUTES FOR JULY 8, 2015**

Chairman Sheats asked if there were any corrections to the minutes for July 8, 2015. Mr. Mario Garza moved to approve the minutes as presented. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

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

**Ended: 5:15 p.m.**

**ITEM #1.1**

**Rezoning:**

**Lot 3, Alex Cavazos Subdivision**

**AO-I to C-3**

**Eduardo Guerrero**

Mr. Joe Garza went over the write-up stating that the subject site is located at the NE area of W. 41½ Street and Inspiration Road on the east side of Inspiration Road. The lot measures 96.0' x 84.50' which equals to 8,112 sq. ft.

**SURROUNDING ZONES:**

N: AO-I Agriculture Open Interim  
E: AO-I Agriculture Open Interim  
W: R-2 Duplex – Fourplex Residential  
S: AO-I Agriculture Open Interim

**EXISTING LAND USES:**

- N: Single Family Home
- E: Single Family Home
- W: Duplex Residential
- S: Single Family Home
- Site: The site currently has metal building constructed in 1995 as per appraisal district records.

**FLUM:** The Future Land Use Map currently reflects a General Commercial (GC) land use designation.

**REVIEW COMMENTS:** (1) The property was annexed by the City in 2010. (2) The Interim Zoning given to annexed properties is Agricultural Open Interim (AO-I) until changed by the owner or by the City. (3) Existing uses are grandfathered. However, if water, electricity, or the actual use ceases for 6 months or more, the non-conforming (Grandfathered) status is lost and must now comply with all applicable ordinances. On October 18, 2012, a CUP for the Sale of Tacos was approved by the City. However, the owner never opened the business. Although the FLUM reflects a GC designation, the surrounding land uses and zones are residential. Staff has received numerous calls against the rezoning

**RECOMMENDATION:** Denial.

Mr. Daniel Tijerina mentioned that there had been 6 calls documented against this rezoning.

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

There was no response.

Chairman Sheats asked if the applicant or representative were present.

Mr. Eduardo Hernandez who resides at 1936 S. 34th Street in McAllen was present to address any questions from the Board.

Chairman Sheats asked if the property had lost its grandfathered clause.

Mr. Tijerina replied, "Yes".

Chairman Sheats stated that he noticed that the property was up for sale do we know if it will continue to be body shop once the property is sold.

Mr. Tijerina replied, "No". He added that currently the property was zoned agricultural and not unless the property is zoned to a commercial zone then at that time they would need to bring it up to commercial standards. He mentioned that the new owner or Mr. Hernandez would need to comply with the parking, landscaping, lighting, and the building would need to be up to code.

Chairman Sheats stated that he had a little problem with the illegal non-conforming use such as a body shop and with its close proximity to 24 residential lots with no filtering, no attempt at remediation for the air, dust, noise. He added that this particular application should not be allowed in this area.

Ms. Diana Izaguirre mentioned that it looks like there are two or three other businesses in the area.

Chairman Sheats stated that he had driven by the area and there is a junk yard and a tire shop.

Mr. Mario Garza stated that he recalled the applicant mentioned that he bought the property as commercial.

Mr. Tijerina mentioned that he might have been told that the property was commercial but it has always been agricultural open interim.

Mr. Joe Garza asked if he had purchased the property as commercial.

Mr. Hernandez replied, "Yes". He added that he was paying for commercial insurance as well.

Ms. Izaguirre asked how long ago he purchased the property.

Mr. Hernandez replied, "About 10 years ago".

Ms. Izaguirre stated that we allowed the Taco Stand.

Chairman Sheats stated that the Taco Stand was approved through a conditional use permit on an AO-I zone not as a rezoning.

Mr. John Guerra stated he has cleaned up the property since the last time he came before P&Z.

Chairman Sheats stated that usually when a property is up for sale they try to clean it up to make the sale more appealing.

Ms. Izaguirre asked if the applicant could consider a different zoning for this area.

Mr. Hernandez stated that he didn't understand Ms. Izaguirre's question.

Mr. Tijerina stated that based on the conversations with the applicant he mentioned he wanted a mechanic or body shop and those types of businesses require a C-3 zone that is the reason no other zone was suggested.

Mr. Guerra made a motion to approve the request based on the Future Land Use Map Designation since that is what is being proposed for the future.

Chairman Sheats stated that this was not a fixed statement this was based on a comprehensive plan that the City uses but this could happen in 20 years from now.

Mr. Guerra stated that this was a discussion and the applicant has come before P&Z with his request to rezone and based on the Future Land Use Map Designation his area is designation as General Commercial.

Ms. Izaguirre stated that she agreed with Mr. Guerra because whenever a site project is submitted to the State or City they have to comply with the Future Land Use Designation for that particular area.

Chairman Sheats stated that we should consider the surrounding neighborhood.

Mrs. Marin asked Mr. Tijerina if staff had received something in writing from the residents opposing the rezoning request.

Mr. Tijerina replied, "No". He added that he had only received calls and was under the impression that they would be submitting a petition but nothing was brought into the office.

There being no further discussion, Chairman Sheats entertained a motion. Mr. John Guerra moved to approve the rezoning based on the FLUM designation. Ms. Diana Izaguirre seconded the motion. Upon a vote, the motion passed 5-1 with Chairman Ned Sheats dissenting.

**Started: 5:15 p.m.**

**Ended: 5:19 p.m.**

**ITEM #1.2**

**Rezoning:**

**Lots 1 & 2, Block 194,  
Oblate Addition  
C-1 to C-3  
Dancing at Tiffany's**

Mr. Joe Garza went over the write-up stating that the subject site is located at NE corner of E. 12<sup>th</sup> Street and Keralum Ave.

<b>SURROUNDING ZONES: &amp; LAND USES:</b>	N:	R-1-	Single Family Residential
	E:	R-1-	Single Family Residential
	W:	R-1-	Single Family Residential
	S:	R-1-	Single Family Residential

<b>SURROUNDING LAND USES:</b>	N:	Single Family Home
	E:	Single Family Home
	W:	Single Family Home

S: Single Family Home

Site currently has an office building

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

**REVIEW COMMENTS:** The FLUM designation Low Density Residential (LD). This site contains an office building and is equipped with parking and buffer fence to the South to divide the residential district. History on the property on October 23, 2006 there was a City initiated rezoning of this property from C-1 to R-1 (**see ordinance 3178**) The Commission approved a rezoning from an R-1 to a C-1 on March 25, 2015. The applicant wishes to open a dance studio. A C-3 zoning will permit many other types of land uses besides a dance studio. Therefore, staff recommends a C-2, Neighborhood Commercial Zoning District instead.

**RECOMMENDATION:** Staff recommends Denial of C-3 request and approval of a C-2 Zoning.

Note: If the zoning is approved, the FLUM will be amended to reflect a commercial designation.

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

There was no response.

Chairman Sheats asked if the applicant or representative were present.

Mrs. Pat Espericueta who resides at 2811 Santa Ana stated that originally this property was intended to be used as a construction office. She added that she currently has 2 construction offices here in the City of Mission. Mrs. Espericueta stated that they started using this property as a fitness center for the employees and a lot of people started coming in wanting to see if they could join. She added that her daughter has 15 years' experience in dance and was helping out in a dance school so she showed an interest in opening a small dance studio fitness center for the area. Mrs. Espericueta stated that this was the reason for the request to change the zone of the property.

Chairman Sheats asked if a C-2 was acceptable to staff for the dance studio would she still want a C-2.

Mrs. Espericueta stated that she applied for a C-3 because that was what was recommended to her but if a C-2 allowed the dance studio that would be fine with her.

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

Mr. Julio Cerda walked in at 5:19 p.m.

**Started: 5:19 p.m.**

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

**ITEM #2.0**

**Homestead Exemption Variance:      The E. 75' of the West ½ of  
Lot 59, Mission Acres  
R-1  
Rosa Esther Garcia**

Mr. Joe Garza went over the write-up stating that the subject site is located at the SE corner area of Barnes Street and Washington Avenue. The lot measures 90' x 120' which equals to 9,000 sq. ft. On 11-10-14, the City Council passed the HEV ordinance which allows for homesteads to be granted various waivers to the City's subdivision requirements if and only if, the lot is being proposed for the applicant's personal single family home.

**WATER** - The water CCN belongs to Mission Water. The applicant is proposing to connect to an existing 6" line located along the South side of Barnes Street to provide water service to the lot.

**SEWER** – The developer is proposing to connect to existing 10" sanitary sewer line on the North side of Barnes St. The capital sewer recovery fee is waived via the HEV.

**STREETS & STORM DRAINAGE** - The subdivision abuts Barnes St., which is currently has 40' ROW and has 30' B/B paved street, no additional ROW is needed.

**OTHER COMMENTS**

- Must comply with Model Subdivision Rules;
- Must dedicate water rights;
- The street light requirement is also waived via the HEV.
- The park fees are also waived

**RECOMMENDATION:** Staff recommends approval subject to compliance with all homestead exemption variance requirements (i.e., affidavit, etc.).

Mr. Tijerina stated that the applicant would be saving \$550 for capital sewer recovery fees and park fees because everything else is already there.

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

There was no response.

Chairman Sheats asked if the applicant or representative were present.

Mrs. Rosa Esther Garcia was present to address any questions from the Board.

There being no discussion, Chairman Sheats entertained a motion. Mr. Mario Garza moved to approve the rezoning as per staff's recommendation. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #3.0  
OTHER BUSINESS**

**ITEM #4.0  
ADJOURNMENT**

There being no further items for discussion, Mr. John Guerra moved to adjourn the meeting. Mr. Julio Cerda seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 5:24 p.m.

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Ned Sheats, Chairman  
Planning and Zoning Commission