

**PLANNING AND ZONING COMMISSION
AUGUST 8, 2012
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

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

P&Z ABSENT

Abiel Flores

STAFF PRESENT

Sergio Zavala
Bobby Salinas
Sonia Marroquin
Martin Garza
Susana De Luna

GUESTS PRESENT

Steve Gano
Francis R. & Carlos Cuellar
Hector Tamez
Raul Garcia, Jr.
Jeff Underwood
Veronica Lopez
Cesar Tirado
Jimmy Quintero
Jaime Sanchez
Jose Luis Lopez
Ricardo Sepulveda
Antulio Abrego
Jose Mendez
Raul Santiago
Leticia Tamez

CALL TO ORDER

Vice-Chair Marisela Marin called the meeting to order at 5:02 p.m.

CITIZENS PARTICIPATION

Vice-Chair Marisela Marin asked if there was any citizens' participation. There was no response upon inquiry.

APPROVAL OF MINUTES FOR JULY 25, 2012

Vice-Chair Marisela Marin asked if there were any corrections to the minutes for July 25, 2012. There being no corrections, Mr. Ned Sheats moved to approve the minutes as presented. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:02 p.m.

Ended: 5:07 p.m.

ITEM # 1.1

Rezoning:

**1.89 acre tract of land out of Lot 25-6,
West Addition to Sharyland Subdivision
AO-I to C-3
Troy Investment Company No. 6, L.P.**

Mr. Bobby Salinas went over the write up stating that the subject site is located ¼ mile west of Conway Blvd. along the north side of Griffin Parkway, north of Storage Depot Subdivision, Lot 1. The site's dimensions are 411' x 199.82' (82,126.02 sq. ft.). The tract includes part of the "Storage Depot" self-storage facility and a proposed future phase of storage units.

The Surrounding Zones include: AO-I (Agricultural Open Interim) to the north and east, (R-1) Single Family Residential to the west, and C-3 (General Business) to the south. The surrounding land uses consist of single family homes to the west, Storage Depot to the south, an open ditch to the north, and open acreage to the east. The subject site currently has storage units with the northernmost area being vacant. The Future Land Use Map reflects a General Commercial (GC) designation.

The C-3 proposal is directly consistent to the City's GC designation. The lot is a part of the existing Storage Depot facility and will include an expansion of units in the future. Storage units are a low-key (silent) neighbor, where solid buffering will be required to the adjoining residential community. Staff recommended approval.

Mr. Rene Flores walked in at 5:06 p.m.

Vice-Chair Marisela Marin asked if there was any public opposition to the request.

There was no response.

Vice-Chair Marisela Marin asked if the applicant or representative were present.

Mr. Stephen Gano stated that his address was PO Box 3817, Brownsville, Texas 78523. He mentioned that the property had been acquired in 2000. He added that the entire property had been rezoned to C-3 in July of 2000. However, when planning for the 3rd phase, which is the raw land in the back of the property it was discovered that the City's zoning map only showed the front rezoned and so as we proposed to rezone the back piece, we were asked to include the 2nd phase that is already built in order to bring it into compliance.

There being no further discussion, Vice-Chair Marisela Marin entertained a motion. Mr. Mario Garza moved to approve the rezoning as per staff's recommendations. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:07 p.m.

Ended: 5:11 p.m.

ITEM # 1.2

Conditional Use Permit:

**Portable Building for a
Security Guard Purposes
Lot 10-13, Block 139
Mission Original Townsite
C-3
Raul Lopez/Jimmy Quintero**

Mr. Bobby Salinas went over the write up stating that the site is at the SW corner area of Mayberry Road and U.S. Business Hwy 83 (south side of the railroad). The

property currently has a fenced-in parking lot and warehouse structure that is equipped with loading docks. The applicants will disclose their reasons why they believe a security post in the form of the 8' x 12' portable building is needed at the meeting.

Section 1.43-3(h), Zoning Ordinance requires a CUP for 'portable buildings'; thus, the measure taken by the applicant.

Insofar as the structure, it'll be toward the middle part of the parking lot (next to several metal storage tanks) thus, it would not be highly visible from Mayberry Road. Since visibility is very minimal but would magnify security for a local business, staff does not object to the move-in. Staff recommended approval for life of use.

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. Jimmy Quintero who resides at 3724 N. 21st Street in McAllen was present to address any questions that the Board might have.

Chairman Rene Flores asked Mr. Quintero what type of business it was.

Mr. Quintero stated that they produce savila and cactus juice in their McAllen location and in this location; they store stainless steel gas tanks that are sent to their other plant in Mexico.

Chairman Rene Flores asked if he owned this building.

Mr. Quintero stated that the building was owned by Karlo Property, with Raul Lopez and Adrian Canal.

Chairman Rene Flores asked Mr. Quintero if he rented out the building from them.

Mr. Quintero replied, "No". We owned the building.

Chairman Rene Flores stated that staff was recommending approval for what appeared to be a security trailer and asked Mr. Quintero if the pictures that were shown were showing the inside of the trailer.

Mr. Quintero stated that the portable building shown on the pictures was in McAllen and if approved it would be moved to Mission.

Chairman Rene Flores asked if the portable building was currently in operation.

Mr. Quintero replied, "No".

Mr. Ned Sheats asked Mr. Quintero what was the reason his business required a security guard.

Mr. Quintero stated that they had 2" & 4" stainless steel pipes stolen from the site.

Mr. Ned Sheats mentioned that then the security guard was required due to the value of the merchandise that was being stored in the warehouse.

Mr. Quintero replied, "Yes".

Chairman Rene Flores asked if the property was going to be cleaned up.

Mr. Quintero mentioned that they used to have a gentleman that would stay at the site and would clean up the property but he had passed away. He added that he would clean up the property.

Chairman Rene Flores stated that he would appreciate if he could clean up the property so it would look nice.

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

Started: 5:11 p.m.

Ended: 5:20 p.m.

ITEM # 1.3

Conditional Use Permit:

**Place a Portable Building for
The Sale of Hotdogs
801 N. Inspiration Road
.69 ac. tract out of land known as
Fernandez Strip, out of Porcion 52
I-2
Jose Luis Lopez**

Mr. Bobby Salinas went over the write up stating that the subject site is located on the SW corner of Inspiration Road and Business Hwy. 83 within Los Primos Auto Sales. A CUP renewal for a hotdog cart was recently approved on 3-14-12 for 1 year. The cart is located under an existing covered area of Los Primos Auto Sales. Access to the site is from an existing driveway along Inspiration Road. There are existing restroom facilities located west of the cart, which are available for public use. The applicant had installed a portable building, with no permit, in addition to the existing hotdog cart.

Staff had received complaints regarding the use of the building for food sales without having the proper permits. On June 27, Staff sent a letter requesting the removal of the portable building, due to not having the CUP to install. Staff met with Mr. Lopez and explained that having the portable along Inspiration Road was not an aesthetic improvement to the area and since there was a similar building located 900' to the south, it would make it difficult to support the portable to remain. Mr. Lopez has stated that he would be removing the hotdog cart if the portable is approved.

- **Days/Hours of Operation:** Every day from 7 a.m. to 1:00 a.m.
- **Staff:** The applicant, and his family (3 others) will run the stand.
- **Parking:** The owner of the property has cleared out the front area (along Inspiration) to allow the stand the use of the parking area in front. Also, the car lot closes at 6 p.m., which currently allows the hotdog cart to run on its own without traffic from the car lot. Staff has not received any complaints regarding parking, however, we will continue to monitor that there are no cars parking along the Inspiration Road frontage.
- A business license is required prior to occupancy.
- Must meet the City's Sign Ordinance
- Requires the approval of the Health Department

Staff's 1st recommendation: Denial. Since this intersection needs its aesthetics enhanced, not detracted. Staff's 2nd recommendation: If P&Z is leaning towards approving the conditional use permit as proposed, then you may consider the following conditions: 1) 1 year re-evaluation to assess this new operation, parking, etc.; 2) removal of existing hotdog cart from the premises; 3) must comply with City's sign code; 4) Approval by the Health Department; and 5) acquisition of a business license.

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

There was no response.

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

Representing Veronica's Hotdogs, Ms. Veronica Lopez was present to address any questions that the Board might have.

Mr. Ned Sheats stated that he had a little bit of a problem with the fact that this Board granted a conditional use permit to move in a hotdog cart and then you decided to move in another structure to the property. He added that based on the pictures that had been presented it seems like the structure was not a place to have food prepared in as an example the water heater was improperly wired. Mr. Sheats mentioned that no permits had been obtained and he didn't really like the idea of

having another hotdog cart or portable building in the City of Mission since we already had quite a few.

Chairman Rene Flores stated that in the past he has mentioned that he would like to do away with this type of businesses in the City of Mission. He added that he understands that people are trying to supplement income or find means to make money and there was certainly no problem with that however, he felt that this Board has seen a number of conditional use permit where raspas and snacks are being sold. He added that in the past he has mentioned to the committee that the City needs to do away with these types of businesses because it is more of an eyesore than it is beneficial. Mr. Flores stated that restaurants put a lot of expense when opening or renting a business and this type of structure takes away from any type of enhancement of any kind of business. He mentioned that there are also health issues associated with opening "shacks" like this one in which the City is not allowed to monitor them which is of great concern for him. Mr. Flores stated that he was leaning towards denying the request based on the points that were made.

Ms. Lopez asked if he would still consider denying the request even if she removed the hotdog cart and only leave the portable structure.

Chairman Rene Flores stated that he recalled that even before applying for the first conditional use permit she was already operating the business and given that there was also defiance towards rules and permits, he didn't believe this Board was inclined to approve any type of permit to sell food.

Mr. Ned Sheats stated that the Mission Economic Development Council was offering grants for new businesses in Mission and it would be good for Ms. Lopez to contact them because she might benefit from this in maybe leasing a commercial establishment for her business.

There being no further comments, Chairman Rene Flores entertained a motion. Mrs. Marisela Marin moved to deny the request as per staff's 1st recommendation. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:21 p.m.

Ended: 5:26 p.m.

ITEM # 1.4

Conditional Use Permit:

**Institutional Use (Cemetery/New Mausoleum) in an AO-I Zone
All of Valley Memorial Gardens
West Subdivision
3605 N. Taylor Road
AO-I
Valley Memorial Gardens**

Mr. Bobby Salinas went over the write up stating that the site is located at ½ mile north of 2 Mile Road along the west side of Taylor Road. Valley Memorial Gardens West was recorded in 1987 and was annexed into the City in June, 2008. The property includes several structures, including a funeral home, cemetery offices, underground mausoleums and two existing above ground mausoleums. Since it was an existence and had not built any new improvements, the Cemetery had not formally filed for a CUP. Now with the proposal to build a new above ground burial mausoleum, VMG has applied for a CUP.

The applicant wishes to construct a new 25.2' x 43.7' mausoleum east of one of the existing mausoleums located north of the cemetery offices. The new granite building will be approximately 106' from Taylor Road. All minimum AO-I setbacks are being exceeded. Access to the site is through a paved driveway off of Taylor Road. There are several existing trees which not only beautify the area, but also help provide a natural screen to the proposed building.

- **Days/Hours of Operation:** Monday – Friday from 8 a.m. to 5 p.m. (Funeral Home hours vary)
- **Staff:** 40 (includes all Funeral Home & Cemetery Staff)
- **Parking:** In regards to parking, there are 76 spaces at the funeral home, 10 spaces for the cemetery offices, and 4 for the entrance of the mausoleum site, plus a long driveway that wraps around the entire cemetery/mausoleum site that also allows for parking during visitation.

The cemetery has been in operation for several years and will be for years to come. With such a low-key operation and the fact that staff has not received any complaints from any of the adjoining properties since being annexed, staff does not object to the CUP or the construction of the new mausoleum. Staff recommended approval subject to it being transferable to others.

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

There was no response.

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

Representing Valley Memorial Gardens, Mr. Rene Sepulveda stated that he was the General Manager for the Cemetery & Funeral Home. He added that he was in charge of the construction and overall operation.

Chairman Rene Flores stated that he had asked a fellow board member what a mausoleum was because he did not know what it was. He asked if they just put bodies in the mausoleum.

Mr. Sepulveda stated that it was a form of entombment above ground as oppose to the traditional underground burial.

Chairman Rene Flores asked if they had run out of spaces already.

Mr. Sepulveda stated that they were just about to run out of spaces. He added that currently they had two buildings but the original map was setup to do a total of 4 buildings. Mr. Sepulveda mentioned that they were constructing this one and in about 1 or 2 years hoping to do the 4th one. He mentioned that now people are moving towards cremation which was another way of entombment as well as this which was considered a higher end type of burial.

Chairman Rene Flores asked if it was a premium to be buried in a mausoleum.

Mr. Sepulveda replied, "Yes".

Chairman Rene Flores asked if the proposed mausoleum would be similar to the existing ones.

Mr. Sepulveda stated that they would be using the same materials but this new mausoleum would be done on the south side of the existing one and would be a little bit larger. He mentioned that they would be adding 8' to the end of sidewalk and then start the construction of the building.

There being no comments, 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: 5:26 p.m.

Ended: 5:40 p.m.

ITEM # 1.5

Conditional Use Permit:

**Drive-Thru Convenience Store
201 N. Glasscock Road
.40 acre tract out of Lot 182,
John H. Shary Subdivision
C-2
Antulio Abrego**

Mr. Bobby Salinas went over the write up stating that the site is located on the SW corner of 2 ½ Street and Glasscock Road. The applicant is proposing to construct a 24' x 36' addition for a new drive-thru business. The proposed drive-thru business is part of an overall remodeling/upgrade of the entire site, where the existing unsightly commercial building (old gas station) will be remodeled to be made available for a permitted C-2 use adjacent to the drive-thru convenience store. Access to the site is proposed through Glasscock Road via a 24' driveway and will exit onto 2 ½ Street. There will also be 24' driveway off of 2 ½ Street as well. Minimum setbacks are as follows: Front (2 ½ Street) – 20', Side (Glasscock) – 20' (15' if buffered), Rear – 5'. All minimum building setbacks are being met. There

may be a future need for utility installation along both streets (likely use by the City), thus a dedication of 10' utility easements along both streets is required.

- **Days/Hours of Operation:** Drive-Thru Business – Every day from 10 a.m. to 11 p.m. & C-2 Store – Every day from 10 a.m. to 4 p.m. (Restrooms will be available to Drive-Thru Business, even after store is closed)
- **Staff:** 3
- **Parking:** A total of 10 parking spaces are needed for the drive-thru/thrift store. The applicant is proposing 10 parking spaces along the west side of the property, plus the drive-thru allows for up to 2 vehicles inside the building.
- **Landscaping:** The applicant is proposing to install 7 shade trees though out the site, thus meeting code.
- **Ch. 6 – Sale of Alcohol:** There are no public/private schools, hospitals, or churches within 300' of this site, thus compliant to Sec. 6-4(a).
- A drainage plan must be submitted and approved by the City Engineer during building permit stage.
- Comply with Building & Fire Codes, including gas tank removal & asbestos report.
- Must acquire a business licenses for both businesses.

Staff recommended approval subject to: 1) 1 year re-evaluation to assess new business and traffic patterns; 2) Dedication of additional 10' utility easements along Glasscock and 2 ½ Street; 3) Must comply with the landscaping code; 4) Wet Zone the property (if needed); 5) Drainage Plan to be approved by City Engineer; 6) Must comply with Building & Fire Codes, including removal of the gas tanks & asbestos report; and 7) Must acquire business license.

Note: Sec. 6-4. – Location restrictions on sales.

(a) "Unless waived by the city council based on special or extenuating circumstances, the sale of all alcoholic beverages within 300' of any church, public school, private school, or public hospital, within the corporate limits of the city, is hereby prohibited. No alcoholic beverages of any kind shall be sold on any premises located within 300' of any church, public school, private school or public hospital."

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

There was no response.

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

Mr. Jaime Sanchez who resides at 4306 Canadiana Lane, stated that he was the business partner of Mr. Antulio Abrego which was the owner of the property and they were present to address any questions that the Board might have.

Chairman Rene Flores stated he has seen a lot of drive-thru stores opening up all over the place and he believe this would add as a convenience for people dropping by and not wanting to get off their vehicles. He mentioned that since this property is located next to residential there might be some concerns regarding a lot of traffic, loud music, etc. that might need to be taken into consideration.

Mr. Sanchez stated that they welcome any comments and agreed with Mr. Flores in regards to the possible concerns but they plan to operate a decent type of environment for the neighborhood.

Chairman Rene Flores stated a lot of the drive-thru's tend to put everything they sell outside the building as display and he really didn't like that see that.

Mr. Sanchez stated that they were not planning on putting any items outside the store. He mentioned that there were several neighbors in the audience that were in favor of this application.

Chairman Rene Flores stated that he liked drive-thru's because they were quick, and easy.

Mr. Sanchez stated that they already had a lot of traffic coming from the Expressway so they hoped it would be a good business.

Mr. Antulio Abrego stated that this business would be good for the neighborhood because there were no stores nearby besides the H.E.B. on Shary Road.

Mr. Sanchez stated that they were going to have good prices for the neighborhood.

Chairman Rene Flores stated that he hoped that when they open for business they invite the Board.

Mr. Sanchez stated that they were willing to comply with all of staff's recommendations and exceed them if they could.

Chairman Rene Flores suggested that there be no crazy colors on the building.

Mr. Sanchez stated that they were proposing to do something nice for the neighborhood.

Mrs. Diana Izaguirre walked in at 5:36 p.m.

Mrs. Leticia Tamez mentioned that it would be nice to have a drive-thru store but there was already a lot of traffic on Glasscock and this drive-thru was going to create more traffic.

Chairman Rene Flores asked Mrs. Tamez if the concern was the amount of traffic.

Mrs. Tamez stated that it was nice to have a store nearby and maybe it will work out or not but the traffic will still be generated.

Chairman Rene Flores asked Mrs. Tamez if she lived nearby the proposed site.

Mrs. Tamez stated that she lived caddy corner to the proposed site.

Chairman Rene Flores asked if children played out there quite frequently.

Mrs. Tamez stated that they were quite a few kids that had just moved across the street from the proposed drive-thru store.

Chairman Rene Flores asked Mrs. Tamez if there was anything that she could think of that the Board would need to require in order to make this a safe place; for example speed bumps.

Mrs. Tamez stated that speed bumps would definitely help the cars to slow down.

Chairman Rene Flores stated that this Board would want to take everybody's concerns into consideration.

Mrs. Tamez stated that years ago there used to be a convenience store but then they started selling alcohol to minors and then they were closed down.

Mr. Sheats stated that this was a conditional use permit and staff was recommending approval for 1 year, which means that they need to be re-evaluated in a year to address any concerns that the Board or neighbors might have.

Chairman Rene Flores asked Mr. Sanchez if he was receptive to installing speed bumps.

Mr. Sanchez asked where the speed bumps would be required at what location.

Chairman Rene Flores stated that staff was not requiring them but once the construction of the building starts staff would have a better idea if they would be required or not.

Mr. Abrego stated that traffic was heavy on Glasscock on the weekends and there was nothing they could do in regards to that.

Mr. Sanchez stated that more than likely the speed bumps would be required only on the exits. He added that if staff requires the speed bumps they would be willing to comply because they want to help the community.

There being no further discussion, Chairman Rene Flores entertained a motion. Mr. Mario Garza moved to approve the conditional use permit as per staff's

recommendations. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:40 p.m.

Ended: 5:44 p.m.

ITEM # 1.6

Conditional Use Permit:

**Sale & On-Site Consumption of Alcoholic Beverages – Muelle del Pacifico Restaurant
1522 E. Expressway 83, Suites 108 & 109
Lot 3, Stewart Plaza Subdivision
C-3
Miguel Angel Garza**

Mr. Bobby Salinas went over the write up stating that the 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 3,909.60 sq. ft. seafood restaurant with the sale and on-site consumption of alcohol. Access to the site will be provided from a 38' driveway off of Expressway 83.

- **Days/Hours of Operation:** Every day from 11 a.m. to 2 a.m. Alcoholic Beverages will only be served during the State selling hours.
- **Staff:** 15 employees, 2 shifts
- **Parking:** In reviewing the floor plan, the 3,909 sq. ft. restaurant /bar requires a total of 52 parking spaces (3909/75 sq. ft. = 52 spaces). It is noted that the parking area is held in common (219 existing parking spaces) and is shared with other "future" businesses.
- **Sale of Alcohol:** The proposed restaurant includes a 'bar' component. Section 1.56 (3a) of the Zoning code requires a minimum separation of 300' from the property line of any churches, schools, publicly owned property, and residences. There are 4 residential lots that are within the 300'
- Must comply with sign and noise codes.
- Must comply with all Building, Fire, and Health codes.
- Must acquire a business license prior to occupancy.

The suite is centrally located within the plaza which is beyond the 300' separation; thus being an extenuating circumstance. This being the case, there should be minimal impact from the restaurant/bar towards the residential neighborhood.

Staff recommended approval subject to: 1) No objection to waiver of the 300' separation requirement; 2) 1 year re-evaluation after business license issuance to assess this new operation; 3) Wet zone the property (if needed); 4) Must comply with typical sign and noise codes; 5) Comply with Building, Fire, and Health codes; and 6) Must acquire a business license.

Note: *(3)a. The property line of the lot of any of the above mentioned businesses, especially those businesses which have late hours (after 10:00 p.m. [12:00 noon] must be at least 300' from the nearest residence, church, school or publicly owned property, or must provide sufficient buffering and sound insulation of the building such that the business is not visible and cannot be heard from such structures or areas, and must be designed to prevent disruption of the character of adjacent residential areas. **The Planning and Zoning Commission may, under extenuating or special circumstances unique to the site or event, recommend waiver of the 300-foot requirement on a temporary or permanent basis to the City Council who shall have the ultimate decision on the matter.**

Chairman Rene Flores asked if there were 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.

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

Started: 5:44 p.m.

Ended: 5:50 p.m.

ITEM # 1.7

Conditional Use Permit:

**Sale & On-Site Consumption of Alcoholic Beverages – Evera Restaurant & Bar
4001 S. Shary Road, Ste. 100
Lot 1, Tech Center No. 2 Subdivision
PUD
L'Aureola Restaurant Group, LLC**

Mr. Bobby Salinas went over the write up stating that the existing 5,600 sq. ft. restaurant is located within an existing plaza located on the SE corner of San Mateo and Shary Road. Access to the site can be from one primary driveway to Shary Road, or from separate driveways from San Mateo or from San Gabriel. A CUP for the sale and on-site consumption of alcohol was last approved on 7-27-09 for a period of 3 years. A new owner is evident and wishes to continue to operate the existing restaurant/bar.

- **Days/Hours of Operation:** Monday – Saturday from 4 p.m. to 2 p.m., Sundays – Closed. Alcoholic beverages will only be served during allowable State selling hours.

- **Staff:** 12
- **Parking:** In reviewing the floor plan, there are 95 total seating spaces for the restaurant, which require 32 parking spaces (95 seats/3 = 31.6 parking spaces). It is noted that the parking area is held in common (180 existing parking spaces) and is shared with other businesses.
- **Sale of Alcohol:** The existing restaurant includes a 'bar' component. Section 1.56 (3a) of the Zoning Code requires a minimum separation of 300' from the property line of any churches, schools, publicly owned property, and residences. There is a single family residential neighborhood located within the 300' radius, thus a waiver of the separation requirement needs consideration.

Planning asked PD for a report of incidents (if any), and is pending. If there were no major incidents in relation to the sale and on-site consumption of alcohol to the previous restaurant, staff does not object to this proposal. Additionally, notices were sent to property owners within a 200' radius of the site and no comments against this request have been forwarded to the Planning Department. Staff recommended approval subject to: 1) 1 year re-evaluation to assess this new operation; and 2) must acquire business license.

Chairman Rene Flores asked Mr. Salinas if the restaurant was changing owners.

Mr. Salinas stated that it was pretty much the same name but they changed partners.

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

There was no response.

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

Mr. Hector Tamez of 4001 S. Shary Road, Suite 100 stated that he was the General Manger for Evera's and was present to answer any questions from the board.

Chairman Rene Flores asked Mr. Tamez if he was representing the new owner or the previous owner.

Mr. Tamez stated that he represented the new owner Mr. Cesar Valdez because before the previous owner was Abraham Sosa. Mr. Tamez stated that Mr. Valdez was a business man and had a lot of businesses.

Mrs. Marisela Marin asked Mr. Salinas if staff had received the police report.

Mr. Salinas replied "No", but he mentioned that Police Chief Martin Garza was present and he could ask him although he didn't foresee there being any complaints.

Chairman Rene Flores acknowledged Police Chief Martin Garza.

Mr. Garza stated that they didn't have incidents reported for this address.

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

Started: 5:50 p.m.

Ended: 5:57 p.m.

ITEM # 1.8

Conditional Use Permit: To Expand the Restaurant which includes the Sale & On-Site Consumption of Alcoholic Beverages with an existing Drive-Thru Service Window 2306 E. Expressway 83, Suites 1 & 2 Lot 1, Cimarron Crossing Phase I Subdivision C-3 100% Antojitos Mexicanos

Mr. Bobby Salinas went over the write up stating that the subject site is located near the SE corner of J. R. Drive and Expressway 83 along the Frontage Road. This CUP was most recently approved February, 2006 for the sale and on-site consumption of alcohol and for the drive-thru for the life of use. The applicant is now proposing to expand the restaurant, thus adding an additional 1,332 sq. ft.

- **Days/Hours of Operation:** Every day from 7 a.m. to 11 p.m. Alcohol beverages are only been served during allowable State selling hours.
- **Staff:** 8 employees
- **Parking & Landscaping:** There are 122 total seating spaces, which require 41 parking spaces (122 seats/ 1 space for every 3 seats = 40.6 parking spaces). It is noted that the parking area is held in common (105 existing parking spaces) and is shared with other businesses. This plaza is shared with Kave, which primarily operates at much later hours, thus, there shouldn't be major parking issues. However, we should re-evaluate the CUP in 1 year to ensure that there are no issues in regards to limited parking. If consistent parking issues are reported, the applicant may either remove some seats or provide some other parking alternative for our consideration; thus the intent of the 1 year re-evaluation period to assess this matter. Landscaping is currently exceeding City requirements and is maintained.
- Must comply with all Building, Fire, and Health Codes for the new operation.
- Must acquire a new business license for the expansion of the restaurant.
- Planning asked PD for a report of incidents and there have been no incidents at this location.

Staff recommended approval subject to: 1) 1 year re-evaluation to assess the parking situation; 2) must comply with all Building, Fire, and Health Codes for the new expansion; and 3) must acquire a new business license.

Chairman Rene Flores stated that he had mentioned the window advertisements before and asked what the code stated.

Mr. Salinas stated that the city did not have any regulations on window signs. He added that window signs were exempt from the sign code.

Chairman Rene Flores stated that the city should work on some type of regulation because they can put anything and we don't have any control. He mentioned that they had too much information posted on the window and it doesn't look good.

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

There was no response.

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

Mr. Jose Mendez whose address is 2306 E. Expressway 83, Suites 1 & 2 was present to answer any questions from the board.

Chairman Rene Flores asked Mr. Mendez how many locations they had.

Mr. Mendez stated that they had two locations one on Griffin Parkway and another on the Expressway 83.

Chairman Rene Flores asked Mr. Mendez if the business was doing well.

Mr. Mendez stated that it was and that was the reason for the expansion.

Chairman Rene Flores asked Mr. Mendez if he had heard his concern regarding the signs on the windows.

Mr. Mendez replied, "Yes".

Chairman Rene Flores asked if the window signs also provided shade.

Mr. Mendez stated that the window signs provided shade for the restaurant.

Chairman Rene Flores stated that personally he didn't like the window signs advertising the food. He added that the food should speak for itself and if he had good food in the restaurant the customers would keep coming without the need of any advertisements.

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

Started: 5:57 p.m.

Ended: 6:33 p.m.

ITEM # 1.8

**Conditional Use Permit Renewal: Sale & On-Site Consumption of Alcoholic Beverages – La Playita Restaurant & Bar
2120 E. Business Hwy 83
Lot 51, Sharyland Orchards Subdivision
C-4
Life of Use
CETM, LLC**

Mr. Sergio Zavala went over the write-up stating that the site is at the SE corner of Ragland and Business Hwy 83. Late last year, the Council approved the CUP subject to various conditions; the 6 months was deemed after occupancy/activation of the restaurant. Some of those conditions included waiving the 300' separation requirements to area residences due to the bar component, and planting some trees.

Access to the site can be gained from Business Highway 83 or Ragland; there is also a cross-access lane to the east. The hours of operation are: every day from noon to 2 a.m. One of the primary reasons to have a re-evaluation period is to see if compliance to parking, sign, plus health & fire codes are still evident. It is also a period to assess how the bar component (presence of alcohol) has affected the conduct of the applicant and their patrons - - to see if there is a noise or danger issue that may have evolved that may be linked to the alcohol sales CUP. In conferring with the Mission PD, there have been at least 2 incidents that could be linked to alcohol where one of them presented itself as a serious public danger issue. Staff recommended denial.

Mr. Zavala recognized Police Chief Martin Garza and asked him to express his thoughts.

Police Chief Garza stated that he was present to answer any questions that the Board might have. He mentioned that there had been two incidents that were reported to the District Attorney's Office, though the incidents are still pending prosecution so in reality it is still sealed and was not really public information other than the type of incidents they were investigating. Chief Garza stated that one was a disturbance that took place in the parking lot and as they were trying to leave the driver reversed and unfortunately ran over somebody's foot, and the other has to do with a disturbance or dispute that happen inside the bar and eventually ended up in the parking lot where a stabbing took place with a glass bottle that was taken

from inside the bar. He mentioned that he had checked with TABC to see the standing of the license that they had and apparently the owner has surrendered the license to TABC and they have their own investigation. His license is still in effect until October 31 to continue to sell alcohol, but after that there will be a re-application. Chief Garza stated that to his understanding according to TABC is that the applicant will re-apply for the permit.

Chairman Rene Flores asked if there were two separate incidents.

Chief Garza replied, "Yes".

Chairman Rene Flores asked if he had the dates of when the incidents happened.

Chief Garza stated the one incident happen on July 13, and the other happened on June 29. He mentioned that they happened between a 15 day period during the past 6 months.

Mrs. Marisela Marin stated that how can the license be surrendered and they could still be using it.

Chief Garza stated that the license is surrendered but it doesn't really expire until October 31st. What it basically means is that they do have the option to re-apply and to his understanding they will re-apply for that before September 1st.

Mrs. Marisela Marin asked if they could still be using it.

Chief Garza replied "Yes". He added that it was a little confusing but basically what they are saying is here is the license but we will still be using it until October 31st and then we are going to re-apply.

Mr. Ned Sheats asked Chief Garza if based on his experience could he tell if alcohol could have contributed a role in any of the incidents.

Chief Garza stated that unfortunately when you look at experience or based on the establishments that they are looking at and the fact that alcohol is involved and when he is asked by Planning & Zoning to look into this establishments what we look at is not necessarily the type of incidents that are reported but do any of those incidents have any contribution to alcohol. He added that when they see incidents dealing with disorderly conduct they usually have to do with alcohol.

Chairman Rene Flores asked Chief Garza if his presence meant that he was against the request.

Chief Garza stated that his presence was just to report to this Board and to the Planning Department the incidents, status of license with TABC.

Chairman Rene Flores asked Chief Garza if in his opinion this business poses a potential future risk for the community.

Chief Garza stated that as a law enforcement officer he had to say that the stabbing certainly concerns him and it could have happened in any other type of establishment but the fact that they sell alcohol plays a big role in these types of incidents.

Ms. Izaguirre stated that they sell alcohol next door and it didn't happen next door. This only gives us an idea of the type of people who go to La Playita.

Chairman Rene Flores stated that as a business owner he imagined that they should have some sort of intuition of the individuals/patrons that come into the bar and at what point they are intoxicated and if they impose a danger to the establishment.

Chief Garza stated that every establishment was different and depends on the crowd that is coming in that establishes the type of atmosphere; music that is provided, etc. He added that a bar was not just a bar it is what the owner and the people make out of it and even though you have a bar or place where they sell alcohol right next to each other the atmosphere is different and that needs to be taken into consideration. Chief Garza stated that he was just providing information that can possibly help the Board in making those decisions other than that his only recommendation was for them to get some type of security measures that can be placed out there something in uniform that can provide some type of presence.

Chairman Rene Flores asked Chief Garza what was his position in allowing police officers to take jobs as security guard.

Chief Garza stated that they didn't allow police officers to participate in any secondary employment where alcohol is being sold.

Mr. Ned Sheats asked Chief Garza if based on his experience would he say two calls within an approximately a month most of them being of concern would suggest that this establishment would be causing more trouble.

Chief Garza stated that based on his experience the establishment has been in business for 6 months; he believes it's a minimal time to make that determination because as it happens 2 incidents in two months then it could be quiet the next 6 months.

Mr. Ned Sheats asked if he had had any other type of establishment where it didn't matter how long they have been in business where there had been violent incidents such as these.

Chief Garza stated that Smokin Aces was one of the establishments where he had a concern that had multiple incidents that happen within a short period of time.

Mr. Ned Sheats stated that the city had a situation with Smokin Aces that did not get solved instead it got worse.

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

There was no response.

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

Mr. Cesar Tirado who resides at 4405 S. Shary Road, stated that he didn't speak English but he could get help with the translation from Mr. Raul Santiago who was helping him in obtaining the TABC license.

Chairman Rene Flores asked Mr. Santiago how was he connected to La Playita Restaurant & Bar.

Mr. Raul Santiago stated that he was the owner of a licensing service and he would do applications all over the valley.

Chairman Rene Flores asked Mr. Santiago what type of applications.

Mr. Santiago replied, "Liquor, beer, wine licenses and permits from South Padre all the way to Laredo".

Chairman Rene Flores asked Mr. Santiago if he was responsible in preparing the application for La Playita.

Mr. Santiago replied, "Yes, he was". He mentioned that he had learned a few tricks over the years because he used to be in charge of TABC for many years.

Chairman Rene Flores asked Mr. Santiago what kind of tricks.

Mr. Santiago stated that the laws, rules and regulations that apply to the liquor, beer, and wine permits.

Chairman Rene Flores asked Mr. Santiago if he had heard what had been expressed by Chief Garza and the concerns by the police department.

Mr. Santiago replied, "Yes".

Chairman Rene Flores stated that there have been two incidents where people have been injured and police action had to be taken so that is a concern not only for the police but for this Board because there is a business where patrons, customers, citizens of Mission are exposed to any type of danger, violence, etc. and that is

what is being address this day. He added that he would like to hear from Mr. Tirado on how these incidents can be avoided or prevented in the future.

Mr. Tirado stated that he could explain how the incidents happened.

Chairman Rene Flores asked Chief Garza if Mr. Tirado could elaborate on the incidents since the incidents were still under investigations.

Chief Garza stated that he personally couldn't elaborate on them because the investigation was still pending under the District Attorney's review, but Mr. Tirado could.

Mr. Tirado stated that he wouldn't want to have incidents happen like the ones in his business but on both incidents it involved women. It was because of a woman that two men fought. He added that he was in favor of having the police in his business and he personally had 4 securities but if that was not enough he was willing to hire police officers to help him.

Mrs. Marisela Marin stated that the police department could not send any police officers to work there but he could hire uniformed security guards so that the people could have a little more respect.

Ms. Diana Izaguirre asked if the security were inside or outside.

Mr. Tirado stated that there was one in the front door, one in the back door, and two inside the business.

Ms. Diana Izaguirre asked if the two people that were inside didn't see what had happened.

Mr. Tirado stated that yes they did but the men when outside the building.

Ms. Diana Izaguirre asked if the 4 securities weren't able to separate them.

Mr. Tirado stated that it was really only two securities that separated them because one was in the back door and the other security was inside but didn't find out until later.

Ms. Marin asked if by the time they separated them was it too late.

Mr. Tirado stated that in the cameras it shows that the fight only lasted a couple of minutes. He added that the securities separated them, one man was taken outside by a security and the other was left inside the building but what happened was that the friends of the man inside went outside through the back door to look for the man that was escorted out and it continued outside.

Mrs. Diana Izaguirre stated that even though the fight didn't last long it still happened in his business.

Mr. Tirado stated that it was not in his hands to avoid these incidents and he always cooperates with the police.

Mrs. Marisela Marin asked at what time the incidents happened.

Mr. Tirado stated that he didn't recall but it might have been after 12 a.m.

Mrs. Marisela Marin stated that she would hate to tell him to stop selling alcohol at 12:00 a.m. to avoid these incidents from happening but maybe his bartenders could not serve anymore alcohol if the individuals are already very intoxicated.

Mr. Tirado stated that because of those incidents, he hired more security and nothing has happened since.

Chief Garza added that some of the concerns he has with all the bars that serve alcohol is that they need to stop serving alcohol at a certain hour and he has met with Mr. Tirado regarding this issue and that has been taken care off. He added that one of the incidents happened at 1:00 a.m. and the other was about 2:30 a.m.

Chairman Rene Flores told Mr. Tirado that he was responsible for the incidents that happen in his business he could not say he wasn't responsible just because he wasn't involved. He added that it was his responsibility to make sure that his business runs smooth and that the people that attend his business are not in any type of danger.

Mr. Tirado stated that on one of the incidents both of the men that were involved in the fight had not been drinking one was sitting down with a women with no drink and the other had just arrived and he guessed since he saw him with the woman he got upset and came and hit him.

Mrs. Marisela Marin stated that then they both were not in the bar drinking it just happen that they came to the same place.

Mr. Tirado replied, "Yes".

Chairman Rene Flores stated that Chief Garza mentioned that they were surrendering the license what is the status on the new license.

Mr. Santiago stated that the license that was being canceled was the one for the previous owner he was in the process of getting a new license under his name.

Ms. Diana Izaguirre asked if he had been operating the business with a license that was not his.

Mr. Santiago stated that it was someone else operating the business he was working there but he was not the owner. He added that Mr. Tirado was now going to be the new owner.

Chairman Rene Flores stated that if it was a new owner it should not be considered as a renewal.

Mr. Santiago mentioned that whether if it was a previous owner or a new applicant the TABC license process was the same.

Chairman Rene Flores asked if the previous owner had agreed to let him use the license.

Mr. Santiago stated that the previous ownership has agreed to get his permits cancelled as punishment for some violence that occurred there and as far as the TABC license will be cancelled by the 31st no later.

Chief Garza stated that to his understanding from TABC, Mr. Cesar Tirado has always been the owner of the establishment. There was a violation because the license was obtained through his accountant and Mr. Tirado is trying to re-apply under his name. He added that when TABC finds out that Mr. Tirado is in violation because the license was under his accountant they recommended that he surrender the license so he could re-apply September 1st but he was always the owner.

Mr. Santiago stated that officially with TABC his name was not on the license but technically he was the owner.

Ms. Izaguirre asked what would happen if P&Z approves the permit and TABC reject the license.

Mr. Santiago stated that then they would be out of business. Mr. Santiago accepts the situation and decides that they will let him correct the problem by applying as an LLC removing the accountant from the license.

Chairman Rene Flores asked if his accountant received any profits from the business.

Mr. Tirado replied, "Yes, because he was his business partner". He added that they had split the partnership and now he was the only owner.

Mr. Zavala stated that if the business license is not awarded it doesn't mean that business shuts down although it has been testified that it will be all that this means is that alcoholic sales cannot be sold for on-site consumption. He added that

something similar happened to Smokin Aces. The CUP was not awarded and they continued anyway. Mr. Zavala stated that this venue has a menu and a co-worker had gone and when asked if it was a restaurant or bar he said it was a restaurant. He mentioned that bottom line we have one venue where he is responsible, the owner and those incidents happened and those are facts. As far as staff's recommendation he re-instate that the CUP should not be awarded from the Planning Department. The area of perspective that we have (Smoking Aces) is a good example that was cited and they were not awarded a CUP based on disturbances.

Mr. Ned Sheats stated that to him nothing would be changing because it was the same owner, same securities, and same recommendation from staff.

Discussion continued amongst themselves on whether they approve the conditional use permit for 6 or 3 months to see if TABC would grant them the license.

There being no further discussion, Chairman Rene Flores entertained a motion. Mr. Mario Garza moved to approve the conditional use permit subject to: 1) a 3 month re-evaluation period subject to engaging a professional uniformed security firm to patrol/monitor the site especially during the weekends. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed 5-1 with Mr. Ned Sheats dissenting.

Started: 6:33 p.m.

Ended: 6:34 p.m.

ITEM # 3.0

Preliminary

& Final Plat Approval:

Cohiba Subdivision

All of Lot 11, Block 20,

Texan Gardens Subdivision

Rural ETJ

Developer: Daniel Acevedo

Engineer: Javier Hinojosa Engineering

No action taken on this subdivision due to being outside city's rural etj.

Started: 6:33 p.m.

Ended: 6:34 p.m.

ITEM # 3.0

Preliminary

& Final Plat Approval:

Granada Subdivision

10.15 Ac. out of Lots 92 & 102,

John H. Shary Subdivision

PUD

Developer: Hunt Valley Dev. I, LLC

Engineer: Half Associates

Mr. Bobby Salinas went over the write-up stating that the proposed subdivision is at the NW corner of Glasscock Road and Los Indios Parkway. This subdivision was originally a 20.29 acre, 65 lot, SF subdivision that was approved by P&Z on 2-14-11. However, the developer decided to subdivide it into two phases with phase one consisting of 31 lots and phase two consisting of the remaining 34. Since more than 1 year has passed, a re-approval for the remaining lots is in order. The design has not changed since it's approval from 2-14-11. The remaining 34 lots range in size from 8,710 sq. ft. to 12,174 sq. ft. These lots are consistent with the PUD's land use designation profile.

WATER: An internal 8" water line system will provide service to all lots with 3 hydrants located via direction from the Fire Marshal's office. The system will be looped by connecting the internal 8" lines to existing 8" and 12" lines at various locations (northwest/southwest corners, the intersection at Los Indios, and between Lots 11 & 12).

SEWER: An internal 8" system will provide this service as it ties to the existing 15" sewer network along the west side of Glasscock Road. The capital sewer recovery fee will be imposed to the residential lots, \$200/lot x 34 lots = \$6,800.

STREETS & STORM DRAINAGE: This final phase consists of the extension of Grand Canal Drive, a 60' ROW/43' B-B residential collector street located on the subdivision's west side, that will connect to Los Indios Parkway. The extension will complete one of two points of access into the proposed subdivision, with the other 'existing' access being off of Los Indios Parkway. No additional ROW dedication is required along Glasscock or Los Indios. There are two internal 50' ROW/32' B-B street extensions from phase one with additional 15' U.E., thus exceeding our minimal standards. Storm drainage is accomplished through a series of 24" & 30" storm lines which connect into Hunt's regional drainage ditch system currently located on the north and west side of the subdivision. There is also a proposed 8' x 8' R.C.P. box crossing the extension of Grand Canal Drive.

OTHER COMMENTS: Street names to comply with street alignment policy; comply with all format findings; water rights dedication via Hunt-City policy; and comply with Park Fees Dedication Ordinance.

Staff recommended approval.

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

Mr. Raul Garcia, from Halff Associates was present to answer any questions from the board.

There being no comments, Chairman Rene Flores entertained a motion. Ms. Diana Izaguirre moved to approve the preliminary & final plat as presented by staff. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

ITEM # 4.0
ADJOURNMENT

There being no further items for discussion, Mr. Ned Sheats moved to adjourn the meeting. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 6:35 p.m.

Rene Flores, Chairman
Planning and Zoning Commission