

**PLANNING AND ZONING COMMISSION
SEPTEMBER 12, 2012
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

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

P&Z ABSENT

Rene Flores

STAFF PRESENT

Bobby Salinas
Patricio Martínez
Irasema Dimas
Julio Cerda

GUESTS PRESENT

Aurelio Flores
Laura Harrison
Florestella Martinez
Alfonso Peña
Karen Peterson
David Peterson
Aurelio Garza
Noel Garza
Minerva Mutz
Luis Treviño
Ryan Peterson
Cori Carrizales
Yesenia Treviño
Harvey Mutz
Fernando Ramirez
Fred Del Barrio
John Harrison

CALL TO ORDER

Vice-Chair Marisela Marin called the meeting to order at 5:00 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 AUGUST 22 & 29, 2012

Vice-Chair Marisela Marin asked if there were any corrections to the minutes for August 22 & 29, 2012. There being no corrections, Mr. Mario Garza moved to approve the minutes as presented. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:01 p.m.

Ended: 5:44 p.m.

ITEM # 1.1

Rezoning:

**A 240.43' x 196.76' tract out of
Lot 108, Sharyland Orchards Subdivision
R-1A to C-1
Aurelio Flores**

Mr. Bobby Salinas went over the write up stating that the subject site is located on the southwest corner of Scout Lane and Shary Road. Mr. Flores has previously applied for a zone change from R-1A to C-3 but was denied at both P&Z and City Council. Mr. Flores is now asking for a rezone from R-1A to C-1. The surrounding zones include: Agricultural Open Interim (AO-I) to the south and Large Lot Single Family Residential (R-1A) in all other directions. The Land Uses consist of: Residential Homes to the north and west, Sharyland High School to the east, and UID Right of Way to the south. The site currently has a residential home. The Future Land Use Map reflects a Lower Density (LDA) designation, which is consistent with an R-1A use.

Though the area is proposed as an LDA area, please remember that the FLUM is used primarily as a general guide.

- Staff is aware that the property abuts residentially used properties on the north, south and west side. However, staff believes the C-1 proposal is following a transition along Shary Road where development is ongoing at a healthy pace;
- The traffic produced by both Sharyland High School and inherent traffic using this major street is more conducive for a non-residential use, rather than having an R-1A home along such congestive traffic.
- C-1 businesses are typically 9 a.m. to 6 p.m. neighbors with no activity during the evening hours; thus, well lit for security but not emanating any noise during the evening nor early morning hours. C-1 is the most restrictive of the commercial zones, which allows doctor's offices, banks, etc. Typically, C-1 uses are silent neighbors for much of the time. No auto body shops, No convenience stores, etc. are allowed within this zone.
- Residential uses will be shielded by the installation of an 8' opaque buffer (via future plat note and landscaping code), which is required when a commercial property adjoins a residential property. Mr. Flores will also install a wrought iron fence along Scout Lane to impede commercial access, thus no traffic impact to Scout Lane. A very similar example of this is at the NW corner of Fox Run and Shary Road.

Staff believes since the property is adjacent to Shary Road, a 120' ROW TxDOT corridor; the property is more conducive for a non-residential use; and C-1 is a low keyed neighbor as proved in the Fox Run estate setting. Staff recommended approval.

Vice-Chair Marisela Marin stated that the item has gone through the Commission before and she noticed that there were several people present in opposition. She mentioned that she would like to give the opportunity for everyone to speak and to please keep the time in consideration and if possible to keep it a maximum of 5 minutes.

Mrs. Laura Harrison from 2119 Scout Lane stated that they are longtime residents and have lived there for 40 years. She mentioned that they continue without

hesitation 100% opposed to any level of commercial rezoning of the property. She stated that she, during the previous numerous times, expressed not only her and her husband's concerns but the neighbors' as well. She mentioned that during the last City Council meeting they told them that there would be a 6 month waiting period before Mr. Flores could re-apply for the rezoning, but they found out that Mr. Flores had asked for a waiver and in his waiver on section B he states: "City Management has helped us and most of our neighbors seemed receptive to allow the partial C-1 rezoning". She stated that that was not the case; the information is misleading and was not a reflection of what the majority of the residents feel like.

She stated that what she would like for the board to consider was that inside the city there are 3 major high schools, 2 of which are in the MCISD. She mentioned that she recently visited the other 2 high schools campuses and she noticed that there were no commercial structures immediately across the street from the entrance of the high school. She questioned why the sense of urgency, why Sharyland High School. She mentioned that in the previous meetings she had expressed all the personal reasons why the neighbors are opposed to the rezoning and why they have been friends and neighbors for a long time. She stated that they need an advocate from the committee to see the issue in their perspective.

She also mentioned that in the presentation from staff they included a site plan showing a 75' residential lot behind the commercial complex unit. If they drive thru the residential street they would find out that the majority of the lots along Scout Lane are an acre or over with the width exceeding 75'. She stated that the site plan, even with the sense of compromise from Mr. Flores, is not in keeping with their homes look and integrity of the street. Finally, she asked if the board could assure them that the property values of their homes that they have worked so hard in building, remodeling, and improving would not drop. She stated that none of the property owners along Scout Lane buy the properties thinking that they were going to sell their homes in a couple of years; they bought them for the long haul.

Mrs. Karen Peterson from 2101 Scout Lane stated that they have lived there for over 30 years. She presented a video showing the traffic across from Sharyland High School. She stated that the crosswalk is a very chancy area to cross. In the video, they showed that during the spring, students used Mr. Flores' property to park and then cross Shary Road to go to school. Also, in the video they showed different times of the day during school hours where traffic is at its worst. She stated that she has experience pulling a child out from under a car; and allowing a commercial complex to be across from the High School, there could be a chance of that happening. She finished by saying that they would like to keep the historical value of the homes along Scout Lane.

Mr. Noel Garza from 2011 E. 25th Street stated that he would like to echo Mrs. Peterson's comments. He stated that the video was self-explanatory and that it shows the endangerments of what could possibly happen with kids. He mentioned that his main concern was for the children's safety. He stated that Mr. Salinas

mentioned that example on Fox Run and Shary Road, but the difference is that across from Fox Run there is no school and that would be like comparing apples to oranges. He mentioned that it would be a different scenario all together and would like for the board to consider the children's safety.

Mr. Fernando Ramirez a Sharyland resident stated that child safety is a concern but another concern would be the vehicles that are being allowed to park in Mr. Flores' property. He stated that the reason why they park there was because they don't meet the Sharyland ISD requirements for a parking permit, which could be that they don't have insurance for those vehicles for those kids. He mentioned that another concern was aesthetics. If they allow this property to become commercial it would be in between houses to the south and north.

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

Mr. Aurelio Flores stated that he would like to mention that when he wrote the letter for the waiver, his understanding was that most of the residents were in agreement and they actually asked for a fence on the north side, landscaping, and they also asked for a traffic analysis and it turned out that the traffic impact would be so low that a traffic study was not required. He mentioned regarding traffic that it was unfortunate that due to the design of the city, most roads take you to Shary Road, Business 83, and FM 495, there is no other way. Traffic flows through this area and that the fact is that there is a school across his property which makes it difficult to live in. Mr. Flores also mentioned that when he purchased the property 7 years ago he was lead to believe by the previous owner that the neighbors were receptive of having a small children's school in that property and he never intended to live there. He stated that he has lived there for almost 7 years and that the house is collapsing as well as some of the houses in the area. He mentioned that he has tried to sell the house for almost 2 years, but there is no buyer because they don't want it for a residence. He stated that he can't refinance the home or even sell the property. He stated that on the part about the 75' wide lot, he read the subdivision rules on R-1A and a 75' wide lot is allowed under that zoning. He mentioned that he also has 2 kids that walk to the high school. Mr. Flores stated that this issue has been putting a lot of financial, personal, and family stress because there is nothing that he could do with this property. He has tried to compromise with the neighbors by leaving a 75' wide lot by 204', which makes sense economically and it will give them more space between the commercial and residences. He stated that his intentions are to live in that piece of property, build a nice home and live closer than all of them to the C-1 zone property.

Vice-Chair Marisela Marin thanked Mr. Flores for stepping forward and expressing his concerns and speaking to the neighbors' concerns as well. She mentioned that the zoning requirements on R-1A would be met, and that everyone is entitled to read those requirements. She stated that during the last meeting where Mr. Flores asked for the waiver there wasn't a single person in opposition to it and they were

under the impression that they were no longer against the rezoning request, but seeing so many people present in opposition, looks like they are still fully against it.

Mr. Bobby Salinas stated that there is no mail out on waivers.

Mr. Aurelio Flores stated that he didn't know that there weren't any mail outs.

Vice-Chair Marisela Marin stated that it was okay, but being that there were a lot of the neighbors present it seemed like they were still in opposition to the request.

Mr. Aurelio Flores stated that the owners within 200' are not all opposed to the request. He stated that no one that lives along Shary Road is opposed to the request.

Ms. Diana Izaguirre stated that the person adjacent to the property on the north side is, on Lot 99.

Mr. Aurelio Flores replied that he was surprised because he had met with them and they had mentioned to him that they were not against it.

Mr. Mario Garza stated that they would need to come up with a solution as to what is going to happen with the property. The owner is not going to sell it, nobody wants to buy it for a residence, so what is it good for right now, is it going to be an abandoned property, a parking lot, or they are going to allow the applicant to get the C-1 zone. In response to Mrs. Harrison's question about businesses across other high schools, there is a commercial strip across from Veterans High School, which hasn't developed yet. He mentioned that a C-1 zone is light dormant businesses and if the neighborhood cannot approve of it, how would they beautify the area, parking more cars, or giving the applicant the opportunity to build a nice commercial area. In his opinion it would help the community.

Vice-Chair Marisela Marin stated that this property was just across from the school and if the applicant would install a buffer maybe someone could buy it to be used as a residence.

Mr. Mario Garza stated that was not a solution and that was his personal opinion.

Mr. Ned Sheats stated that he was always trying to keep a residential subdivision residential and a commercial property commercial; however, this property is difficult, the reason being that staff and the board were comparing apples to oranges in many cases. First of all Shary Road in this area is a 100' wide road and along Fox Run is a 60' wide road. He mentioned that there is a lot of noise, just because it is Shary Road. He stated that in his opinion the commercial building along Shary Road and then the residential property would help more as a buffer to the other adjoining neighbors. Mr. Ned Sheats mentioned that one of the neighbors in opposition said that the property was ugly the way it is right now, and it is not

going to change because the applicant can't sell the property and there are no requirements from the City of Mission where they would ask a property owner to paint their houses every year or to maintain their homes. What the neighbors need to do is meet the applicant in the middle and come up with a proposal that is going to be satisfying to both the neighbors and the applicant. He mentioned that the proposed commercial site plan in his opinion has a minimal if any traffic impact along Shary Road than what it already has. He stated that Sharyland High School has probably somewhere between 1,500 to 1,700 parking spaces, being utilized every day compared to probably 10 to 15 parking spaces being proposed on this property, these numbers are not an increase to what already exists. He also addressed the concerned on why the applicant was rushing this rezoning by saying that the board was not rushing it, but as a matter of fact has been putting it on hold for quite some time. He mentioned that even though most of the time he tries to preserve the land use in any particular zone or area; in this case the property is tricky.

Mrs. Diana Izaguirre asked if there was a traffic count conducted.

Mr. Bobby Salinas replied that he received an email saying that due to the minimal traffic caused by a C-1 or that type of use, there's really no impact.

Mrs. Diana Izaguirre asked if the impact study was conducted by an engineer. She also mentioned that the report should've been included in the packet.

Mr. Bobby Salinas apologized for not including the report, but did distribute the original e-mail to the board for their reviews.

Mrs. Diana Izaguirre mentioned that based on the video it didn't look like it was minimal traffic along Shary Road.

City Manager Julio Cerda stated that in order to clarify; the traffic impact reports reflect the traffic of a new commercial development like H.E.B./Target area but due to the size of the property and the proposed zoning the impact would be a minimal one and therefore a study can't be done.

After a brief discussion on the traffic impact report, Mr. Abiel Flores stated that he was not related to Mr. Aurelio Flores in any way. He mentioned that the problem that he has was that when someone buys a property zoned residential with the intentions of converting it into commercial, but seeing the surrounding areas being as residential, it's a risk that the potential buyer is taking. The second thing that he mentioned was the board makes decisions based on the Future Land Use, and to ask the board to make a decision contradicting the Future Land Use based on the applicant's personal financial situation is hard. He stated that he does sympathize with the applicant's situation. As far as what's best for the neighborhood, the neighbors know what's best for the area and he does take that into consideration as well.

Vice-Chair Marisela Marin stated that the problem she has was that the entrance to the proposed development was just straight from the entrance to Sharyland High School, if the entrance to the proposed development would be either a little bit further to the north it would be considered differently. She mentioned that in her opinion the property should stay residential.

Mr. Ned Sheats asked how many homes were along Scout Lane.

A citizen from the audience replied 17 homes.

Mr. Ned Sheats asked how many of those residents were present in opposition.

A total of 4 property owners raised their hands.

Mr. Bobby Salinas replied that what staff looks at was the 200' radius and those go into consideration as far as the calculation and this time staff did not received a petition.

Vice-Chair Marisela Marin asked Mr. Salinas if he knew what the calculation of the percentage was opposition on the C-3 zone request.

Mr. Bobby Salinas asked Irasema Dimas, the Planning Administrative Assistant what the percentage was. Ms. Dimas replied that it was a 62%.

Vice-Chair Marisela Marin mentioned that 62% showed that they were not only in opposition to the C-3 zone request but to any type of commercial zone request.

Mr. Ned Sheats stated that this was a hard one, because on the Fox Run after meeting with the neighbors they came up with a solution that would satisfy both the applicant and the neighbors and in this case even though the applicant thought he had the approval from the neighborhood he doesn't have it.

After a brief discussion, Vice-Chair Marisela Marin entertained a motion. Ms. Diana Izaguirre moved to deny the request. Mr. Abiel Flores seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:45 p.m.

Ended: 5:48 p.m.

ITEM # 1.2

Conditional Use Permit:

**Sale & On-Site Consumption of
Alcoholic Beverages – Russo's
New York Pizzeria
201 S. Shary Road, Ste. 100
Lot 6, Block A, Shary-Taylor
Expressway Commercial Subdivision**

C-4 Russo's New York Pizzeria

Mr. Bobby Salinas went over the write up stating that the restaurant is located within an existing commercial plaza located near the NE corner of U.S. Expressway 83 and Shary Road. The new pizzeria will be located where the Blue Shell was once in operation. A conditional use permit for the sale and on-site consumption of alcohol was approved for the Blue Shell on 7-11-07. Primary access to the site is provided through an existing driveway cut along Shary Road, however, there are various existing access points to the restaurant. The applicant is proposing a "bar" component within the restaurant which requires the use of Sec. 1.56 (3a.) of the Zoning Code which states: *Bars, cocktail lounges, taverns, cantinas, saloons, dancehalls, discotheques, discos or nightclub*: "the property line of the lot of any of the above mentioned businesses which have late hours (after 10:00 p.m.) must be at least 300 feet from the nearest residence, church, school or publicly owned property..." There are no such uses within 300'.

In talking to the applicant, he stated that they are a restaurant that only offers beer & wine, there will be no liquor or mixed drinks served. They mentioned that the bar area would be more similar to a diner, where one could sit and eat. Also, the latest they will be closing will be at 12 a.m. on Friday and Saturday, which is early when compared to others "bar and grill" concepts.

- **Days/Hours of Operation:** Monday – Thursday from 11 a.m. to 10 p.m., Friday and Saturday from 9 a.m. to 12 a.m., and Sundays from 9 a.m. to 9 p.m. Alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 40 employees
- **Parking:** The applicant is proposing 131 total seating spaces, which require 44 parking spaces (131 seats/1 space for every 3 seats = 43.6 parking spaces). It is noted that a total of 129 parking spaces are held in common in this section of the development is shared with other businesses.
- Since it will not be open after 12 a.m., and the sale of alcohol is not the primary item of purchase, staff does not object to this proposal.

Staff recommends approval subject to a 1 year re-evaluation to assess this new operation and the acquisition of a business license.

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

There was no response.

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

There was no response.

Mr. Mario Garza mentioned that he was okay with the application especially because the site was already approved under the Blue Shell.

There being no further discussion, Vice-Chair Marisela Marin entertained a motion. Mr. Mario Garza moved to approve the conditional use permit request as recommended by staff. Ms. Diana Izaguirre seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:48 p.m.

Ended: 5:50 p.m.

ITEM # 1.3

Conditional Use Permit:

**Sale and On-Site Consumption of Alcoholic Beverages – Tacos La Silla Restaurant
808 W. Expressway 83
Lots 5 & 6, Block 4, Erdahl Subdivision
C-3
Alfonso Peña**

Mr. Bobby Salinas went over the write up stating that subject site is located 100' from Holland Road along the north side of Expressway 83. The existing Tacos La Silla Restaurant has been in operation since 2009. They are now proposing to offer alcoholic beverages with meals. Access to the site is provided from an existing 25' driveway off of Expressway 83.

- **Day/Hours of Operation:** Monday – Saturday from 6:30 a.m. to 9 p.m. & Sundays from 8 a.m. to 4 p.m. Alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 10 employees; 2 shifts.
- **Parking & Landscaping:** In reviewing the floor plan, the restaurant has a total of 48 seats which requires 16 parking spaces (48/3 seats = 16 spaces). It is noted that the parking area is held in common (29 existing parking spaces) and is shared with other businesses. The site has 4 shade trees along the Expressway area, thus compliant to the City's previous landscaping requirements.
- **Sale of Alcohol:** There are no churches or public/private schools within 300' of the subject site, thus being compliant to Section 6-4.

Since the restaurant will not be open after 9 p.m., and the sale of alcohol is not the primary item of purchase, staff does not object to this proposal. Staff recommends approval subject to a 1 year re-evaluation to assess the sale of alcohol and Wet Zoning the property (if needed).

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

There was no response.

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

Mr. Alonso Peña was present to answer any questions from the board.

There being no discussion, Vice-Chair Marisela Marin entertained a motion. Ms. Diana Izaguirre moved to approve the conditional use permit request as per staff's recommendation. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:51 p.m.

Ended: 5:55 p.m.

ITEM # 1.4

Conditional Use Permit Renewal:	<p>Sale & On-Site Consumption of Alcoholic Beverages – Shotz Bar & Grill 2530 E. Griffin Parkway, Ste. "C" Lot 12, Sharyland Plaza Subdivision C-3 Aurelio Garza</p>
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Mr. Bobby Salinas went over the write up stating that the subject site is located approximately 200' east of Hackberry along the south side of Griffin Parkway. A CUP for the sale of alcohol was most recently approved by P&Z at this site on 7-27-11. Mr. Garza has been in operation since then and offers such finger foods as wings, panchos, etc.

- **Days/Hours of Operation:** Monday through Sunday from 3:00p.m. to 2:00a.m. Alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 10 employees
- **Parking:** In reviewing the floor plan, the building has a total 109 seating spaces, which require 36 parking spaces (109 seats/1 space for every 3 seats = 36.3 parking spaces). It is noted that the parking area is held in common and is shared with other businesses. The Planning Department did not receive any complaints regarding intense overflow parking under Shotz's previous management.
- Section 1.56-3 of the Zoning Code cites that 'Bars' must be 300' from the nearest residence, church, school or publicly owned property. There is a residential subdivision located within 300'; however, P&Z and the Council waived this separation requirement in the CUP's previous approval.
- **Noise:** In speaking to the applicant there are certain nights where there may be a D.J. or Karaoke. The applicant has been in compliance with the noise code. If there are un-resolved noise issues, staff will approach the applicant and, if not compliant to noise codes/concerns, revocation of the CUP may be activated via policy.

Planning asked PD for a report of incidents and Police Chief Martin Garza advised staff that there were no incidents reported. Since there were no incidents in relation to the sale and on-site consumption of alcohol, 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 recommends approval subject to: **1)** 1 year evaluation to assess this operation; **2)** waiving the 300' separation requirement; and **3)** Must continue to comply with the noise code.

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

There was no response.

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

Mr. Aurelio Garza was present to answer any questions from the board.

Mr. Ned Sheats asked Mr. Aurelio Garza that if to his knowledge if there were any minor incidents that were not reported to the Police Department.

Mr. Aurelio Garza replied that as far as he was aware there haven't being any incidents at all.

There being no further comments, Vice-Chair Marisela Marin entertained a motion. Mr. Mario Garza moved to approve the conditional use permit as recommended by staff. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:55 p.m.

Ended: 5:59 p.m.

ITEM # 1.5

Conditional Use Permit Renewal:

**Drive-Thru Service Window with
2 Lanes – McDonald's
804 S. Shary Road
Lot 4,
Cimarron Crossing Ph. II Subd.
C-3
McDonald's Restaurant**

Mr. Bobby Salinas went over the write up stating that the site is located 250' south of Expressway 83 along the west side of Shary Road. This CUP for a drive-thru service window was most recently approved on 3-9-11. The applicant remodeled the restaurant and added a menu board located to the west adjacent to the existing menu board-see site plan. The additional lane provides an added route for

customers to order more promptly and allows for additional stacking. Access to the site is provided from an existing 45' driveway on Shary Rd. and is interconnected to adjoining commercial others.

- **Days/Hours of operation:** Monday – Sunday 5:30a.m. to 12a.m.; Drive thru - 24hrs.
- **Staff:** 8 employees (shifts)
- **Parking & Landscaping:** There are a total of 135 seating spaces which require 45 parking spaces (135/3 seats = 45). There are a total of 45 parking spaces provided, thus compliant to code. During the approval of the CUP, P&Z requested 2 trees to be installed along Shary Rd. The trees were installed; however they died due to the extreme heat. In talking to the applicant, he is proposing to install two new trees, plus an irrigation system to help keep them up.

Since Staff has not received any complaints in regards to the double drive-thru service lanes and the owner will be replacing the two trees along Shary Road, staff does not object to the renewing this CUP for a 3 year period.

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

There was no response.

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

Mr. Fred Del Barrio, the owner of the McDonald's Restaurant, stated they had kept planting the trees, but due to the heat they keep on dying. He also mentioned that they were working on the sprinkler system and that the following day they will be installing 2 oak trees along Shary Road.

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

Started: 5:59 p.m.

Ended: 6:02 p.m.

ITEM # 1.6

Conditional Use Permit Renewal:

**Drive-Thru Convenience Store &
Hotdog Cart – U & I Drive-Thru
1705 W. Griffin Parkway
Lot 2, Barrera Subdivision & Lot 74,
Las Misiones Subdivision
C-3
Florestella Martinez**

Mr. Bobby Salinas went over the write up stating that the site is located on the SW corner of Kirk Avenue and Griffin Parkway. The subject site currently has an existing drive-thru convenience store and hot dog cart. Access to the site is provided off of Griffin Parkway through an existing 16' concrete driveway. The building measures 40' by 45' for a total of 1,800 square feet. This CUP was most recently approved on 7-27-11.

- **Days/Hours of operation:** Monday – Friday from 10 a.m. to 12 a.m.; Saturday from 10 a.m. to 1 a.m. and Sunday from 12 p.m. to 12 a.m.
- **Staff:** 4 employees
- **Parking:** A total of 8 parking spaces have been provided and are in compliance to code.
- **Landscaping:** The new applicant had installed 3 new trees along Kirk Ave., as one of the requirements, and has been maintaining them.

Staff recommended approval subject to: **1)** 1 year re-evaluation to assess this new operation and; **2)** Continue to maintain the landscaping.

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

There was no response.

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

Mrs. Florestella Martinez stated that she waters the grass every single day, but due to the heat the trees still look withered.

There being no discussion, Vice-Chair Marisela Marin entertained a motion. Ms. Diana Izaguirre moved to approve the conditional use permit as per staff's recommendation. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:02 p.m.

Ended: 6:06 p.m.

ITEM # 1.7

Conditional Use Permit Renewal:

**Drive-Thru Service Window
for Delia's Tamales
800 W. Griffin Parkway
Lot 1, Chaparral Heights Subdivision
C-3
Delia's Tamales**

Mr. Bobby Salinas went over the write up stating that the subject site is located on the northeast corner of Holland Road and Griffin Parkway. The existing Delia's Tamales has been in operation since 2007 and has an existing drive-thru service window located on the east side of the building. Existing access to the site is from

Griffin Parkway and Holland Road. The location of the service window provides enough stacking for approximately 6-7 vehicles. This conditional use permit was most recently approved by P&Z on 7-8-09 with a 3year re-evaluation.

- **Days/Hours of operation:** Every day from 6 a.m. to 8p.m.
- **Staff:** 5 employees
- **Parking & Landscaping:** In regards to parking, there are 60 seating spaces available for dining; the restaurant requires 20 parking spaces. The site currently has 21 parking spaces, thus meeting code. In regards to the landscaping, the original approval of the CUP required 3 trees to be installed in clay pots however an on-site inspection of the property revealed that the trees were not maintained and need to be replaced.
- Must continue to comply with the City's sign

Delia's has been in operation since 2007 with no incidents reported regarding the drive-thru service window, thus Staff recommends approval subject to a 3 year re-evaluation in order to continue to assess the traffic patterns and must replace and maintain the required trees.

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

There was no response.

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

Mr. Luis Treviño representing Delia's Tamales stated that they have been having problems with the pots because every time they plant something there it dies and at one point they bought some small plants and they stole them.

Ms. Diana Izaguirre asked Mr. Treviño if there were any plans to remove the canopy.

Mr. Treviño replied that the owner hasn't told him anything but that he would bring it up to him.

Ms. Diana Izaguirre stated that the reason she was bringing that up was because since they were building a brand new store in McAllen and it would be aesthetically pleasing, maybe they should think about giving this location a makeover.

Mr. Treviño replied that he would be mentioning that to the owner.

Vice-Chair Marisela Marin asked Mr. Bobby Salinas if they could make the recommendation of making the location more aesthetically pleasing.

Mr. Bobby Salinas replied that it was a CUP and they could but then the City Council could say why now and not when they first applied.

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

Started: 6:06 p.m.

Ended: 6:09 p.m.

ITEM # 1.8

**Conditional Use Permit Renewal: Daycare in an AO-I Zone
121 E. 2 Mile Road
West 75' of the East 902' of
the South 105' out of Lot 29-7,
West Addition to Sharyland Subd.
AO-I
Yesenia Treviño**

Mr. Bobby Salinas went over the write-up stating that the subject site is located on the NW corner of Black Oak Lane and 2 Mile Rd. This conditional use permit was most recently approved by P&Z on 4-27-11 for 1 year. Since the applicant does not reside at the home, one requirement is to obtain 90% signatures of approval from the surrounding property owners within a 200' radius.

When the conditional use permit was approved there was a condition that was included in P&Z's action, which required the closing of the residential driveway along 2 Mile Road in order to comply with the marginal street accessibility portion of the subdivision code. The applicant was given the opportunity to retain the driveway for 1 year. However, since Mile 2 was widened and has more traffic at higher speeds, the closing of the driveway was recommended to ensure the safety of the applicant and those traveling along Mile 2 Road. The applicant has fenced in the driveway and no longer has access to 2 Mile Road.

Since Staff has not received any complaints regarding the daycare since it first opened in 2010 and since the applicant has enclosed the driveway off of 2 Mile Rd., Staff does not object to approving the renewal with a 3 year re-evaluation.

Note: **Sec. 98-134 Streets (o) Marginal Access Streets** reads as follows: *Where a subdivision has frontage on or borders an arterial street, the planning and zoning commission may require marginal access...on the subdivision side of the arterial street.*

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

There was no response.

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

Mrs. Yesenia Treviño, the applicant, was present to answer any questions from the board.

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

ITEM # 2.0
ADJOURNMENT

There being no further items for discussion, Mr. Mario Garza moved to adjourn the meeting. Mr. Ned Sheats seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 6:09 p.m.

Marisela Marin, Vice-Chair
Planning and Zoning Commission