

**PLANNING AND ZONING COMMISSION**  
**APRIL 25, 2018**  
**CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.**

**P&Z PRESENT**

Ned Sheats  
John Guerra  
Carlos Lopez  
Julio Cerda  
Jaime Gutierrez  
Marisela Marin  
Diana Izaguirre

**P&Z ABSENT**

**STAFF PRESENT**

Jaime Acevedo  
Virgil Gonzalez  
Susana De Luna  
Kristin J. Warshak  
Maribel Castellanos  
Alex Hernandez  
Robert Dominguez  
Marco Ramirez  
Rolando Flores  
Sam Reyna  
Rey Medrano

**GUESTS PRESENT**

Janie Cantu  
Abigail Alvarez  
Juan Cantu  
Elgin Xavier  
Leslie Peña  
Juan Cantu  
Yolanda Medina

Jessica Alvarez  
Lupe Cantu  
Lesvia Cardenas  
Ludovic Xavier  
Laura Camacho  
Ericka Perez  
Ruby Rangel

Joey Alvarez  
Junduck Han  
Maxilou Link  
Karol Ramirez  
Olga Cedillo  
Alondra Perez

**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 for any item on the Agenda.

There being none.

**APPROVAL OF MINUTES FOR APRIL 11, 2018**

Chairman Sheats asked if there were any corrections to the minutes for April 11, 2018. Mr. Julio Cerda 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: 5:08 p.m.**

**Item #1.1**

**Discussion and Action Amending Ordinance No. 4576, Amending Various Portions of Chapter 86, Sec.86-42(d)(2); Sec.86-153(5)(e); and Sec.86-154(5)(e) – Signs of the Mission Code of Ordinances**

Mr. Jaime Acevedo stated that the amendment being considered was for temporary signs specifically regarding the limitation. He added that currently there is a limitation of 25' spacing between each sign and staff feels that in certain elections there might be certain candidates or issues of interest which by limiting the number of signs could limit someone ability to express their support for certain candidates therefore the need to amend this ordinance. Mr. Acevedo stated that all we are removing the section where it stated that signs need to be 25' away from each other.

Chairman Sheats asked if after the elections were over this ordinance would have any effect or change on any other sign ordinance.

Mr. Acevedo replied, "No". He added that this amendment was for any temporary sign not just political.

Dr. John Guerra stated that he needed assurance that this was the only changed made to this ordinance.

Mr. Acevedo replied, "Yes".

Dr. Guerra stated that his concern and not only to him, the people that were running for elections and the citizens of Mission the amount of signs that are put out there is an extra ordinary amount. He added that some people can put over put there signs and some people can under put there signs. He added that in his opinion this ordinance was not accurate or could be written differently to better the citizens of Mission not only the people who were running and he didn't see anything regarding the 25' interval anywhere in this ordinance.

Mr. Acevedo stated that what brought up this change was because there was a lot of confusion from the property owners who wanted to support several candidates and were not aware there was a limitation of 25' intervals for each sign.

Chairman Sheats asked if there were any comments in favor or in opposition of this request.

There being no comments.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Carlos Lopez moved to approve the amendment as per staff's recommendations. Ms. Diana

Izaguirre seconded the motion. Upon a vote, the motion passed 6-1 with Vice-Chairman John Guerra dissenting.

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

**Ended: 5:11 p.m.**

**Item #1.2**

**Rezoning:**

**A 68.55 acre tract of land out of Lots 9-5, 9-6, and 10-5, West Addition to Sharyland;  
A 12.47 acre tract of land out of Lots 9-4, 10-3, and 10-4, West Addition to Sharyland;  
A 306.62 acre tract of land out of Lots 10-3, 10-4, 10-5, 10-6, 11-3, 11-4, 11-5, 11-6, 12-4, 12-5, and 12-6, West Addition to Sharyland; and  
A 24.96 acre tract of land out of Lots 11-3 and 11-4, West Addition to Sharyland Subdivision  
PUD to I-1  
City Initiated**

Mr. Jaime Acevedo went over the write-up stating the subject site is located near the NW area of Madero along the west side of Conway Avenue approximately 1 mile South of Expressway 83. The 412+ acres were rezoned as PUD by Tony Domit in 2006. However, no subdivisions were ever finalized in the original PUD.

**SURROUNDING ZONES:** N: A-OI – Agriculture Open Interim & County  
E: A-OI – Agriculture Open Interim  
W: County  
S: A-OI – Agriculture Open Interim & County

**EXISTING LAND USES:** N: Vacant  
E: Vacant & Mobile Home Residential  
W: Vacant  
S: Vacant

Site: Vacant

**FLUM:** Planned Unit Development

**REVIEW COMMENTS:** While the Future Land Use Map does reflect a Planned Unit Development designation, the Future Land Use Map can be amended to reflect an industrial designation. The overall projection for this area has changed since the mid-2000's when this area was last zoned. With the projection of the new International Bridge and future Loop 365, Staff does not object to the proposed re-zone to I-1 request.

**RECOMMENDATION:** Approval.

Chairman Sheats asked if there were any comments in favor or against the request.

There were no comments.

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

**Started: 5:11 p.m.**

**Ended: 5:16 p.m.**

**Item #1.3**

**Conditional Use Permit: Sale & On-Site Consumption of Alcoholic Beverages – Han's Katsuya Restaurant  
600 N. Shary Road, Ste. D  
Lot 1, Esdras Vega Subdivision  
C-3  
The Bab, LLC**

Mr. Acevedo went over the write-up stating the proposed 1,488 sq. ft. restaurant site is located at the Northeast corner of Shary Road and 6<sup>th</sup> Street with in Lot 1 of Esdras Vega Subdivision. Previously, a CUP for the sale of alcohol had been approved at this location since 2015 for Mariscos La Chivis. The applicant has leased the newly vacated building and desires a CUP at this location for the sale of alcohol for his proposed Japanese restaurant.

- **Hours of Operation:** Monday – Saturday 11:00a.m. to 9:00p.m.
- **Staff:** 4 employees and the owner
- **Parking:** Viewing the floor plan, there are 26 total seating spaces, which require parking spaces (26 seats/1 space for every 3 seats = 9 parking spaces). It is noted that the parking area is held in common (56 existing parking spaces) and will be shared with other businesses.
- **Sec. 6-4:** This request is compliant to Sec. 6-4 which requires that no alcoholic beverages be sold within 300' of a church, public or private school, or public hospital. There are none of these land uses within the above radius (measured *door to door* for church or hospital; measured *lot line to lot line* for schools.)

**RECOMMENDATION:** Staff recommends approval subject to a 2 year re-evaluation at which time the applicant will have to renew his CUP and TABC License.

Chairman Sheats asked if there were any comments in favor or in opposition of this request.

The applicant, Mr. Junduck Han was present to address any questions from the Board.

Dr. Guerra asked what kind of alcohol.

Mr. Acevedo stated that it was only wine and beer.

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

**Started: 5:16 p.m.**

**Ended: 5:52 p.m.**

**Item #1.4**

**Conditional Use Permit Renewal:**

**Drive-Thru Service Window**

**- Snowball Express**

**1712 W. Griffin Parkway**

**Lot 22, Block 4, Oakwood Estates Subdivision**

**C-3**

**Snowball Express, LLC (c/o Elgin Xavier)**

Mr. Acevedo went over the write-up stating the subject site is located approximately 64' west of Kristi Lane on the north side of Griffin Parkway. Access to the site is provided from Griffin Parkway through a 24' driveway. The applicant obtained a CUP for a snowcone stand with two drive thru service windows in 2013 with hours of operation from 7am to 10 pm. and has renewed it with the same hours of operation twice prior to this current renewal. However the owner of the business would now like to extend his hours of operation until 2 a.m. and increase the number of employees from 5 to 12 thus requiring reconsideration of his CUP.

- **Hours of Operation:** Every day from 10 a.m. to 2 a.m.
- **Staff:** 12 Employees
- **Parking:** The building measures approximately 830 sq. ft. The number of parking spaces required for this size building is 5. The applicant is providing 4 spaces along the front and 2 parallel spaces located on the west side of the lot. There is also stacking for 4 cars when placing orders.
- **Landscaping and buffering:** The applicant has two shade trees along the front of the lot and a 3' continuous landscape hedge and a 6 ft. cedar fence to provide buffering for the abutting residential and commercial uses.

**REVIEW COMMENTS:** The business has been in operation for over 4 years. According to the applicant, he has been ignoring his agreement to close at 10:00 p.m. and most recently extended his closing to 2 a.m. without requesting the city to approve such action. Any hardships brought on by his action are therefore self-inflicted. He states he was not aware he had to notify the city. It wasn't until Staff started receiving complaints from the nearby residential neighbors that the extended hours were discovered. The citizen complaints include excessive noise from loud car stereos and auto exhaust pipes.

Staff supports this local business and would like the applicant to continue using his drive thru windows. However, staff also recommends keeping the drive thru window open only until 10:00p.m. as per the original CUP. The long established residential community directly north of this more recently established business is being negatively impacted by noise from its late hour operations. The City has a noise ordinance and an obligation to

protect the citizens who have been there long before this business. There are documented calls to the police on noise, and long lines of customers parked on Griffin Parkway awaiting service at Snowball Express. Finally the addition of fried foods requires the installation of both a fire suppression hood and grease trap.

**RECOMMENDATIONS:** Denial of the request for extended drive thru hours past 10:00 p.m. and approval of the CUP the requirement to install the proper grease trap and suppression systems. In addition a 6' solid buffer fence is required along the north side of Lot 22.

Chairman Sheats asked for any comments from the Board.

Mrs. Marin asked if they had to close everything at 10 p.m.

Mr. Acevedo stated that the business could stay open past 10 p.m. it is just the drive-thru service window that cannot be utilized and needs to be close at 10 p.m.

Chairman Sheats mentioned that they could eat their snacks in the outside area, car or take it with them.

Mr. Acevedo stated that problem with that scenario is that there are only 6 parking spaces and they have 12 employees which would be hard to accommodate his employees plus his customers.

Chairman Sheats stated that the intent was not to close down the business but to relieve the noise the drive-thru generates after 10 p.m. when people are trying to put their children to sleep.

Dr. Guerra mentioned that there was another raspa stand on Business 83 and Glasscock at what time does that business shuts down and is the City being fair and looking at other similar businesses.

Mr. Acevedo stated that when the city starting receiving complaints one of the things the City looked at was monitor the other similar business and noticed that they all closed by 10 p.m. Xquinkles closes promptly at 10 p.m. they might stay cleaning a little after 10 p.m. but the window shuts down at 10 p.m. Mr. Acevedo added that the applicant alerted him of another business that is just a block away from his and they were open past 10 p.m. the city has not confirmed that but we will be monitoring it because they also need to close at 10 p.m. He added that he know is Griffin Parkway which is a five lane road but this is a residential subdivision and at one point there used to be homes. Mr. Acevedo stated that in a minute the applicant will probably say that there are other businesses open past 10 p.m. like Whataburger and he is correct but those business have also made changes to accommodate their customers like Chick-fil-A or McDonalds which had a stacking issue and they had to make a second drive-thru lane to take care of that issue and to take care of their customers as quickly as possible. He mentioned that in Mr. Xavier case his space is limited and there is no more room for expansion he mostly outgrown.

Ms. Diana Izaguirre asked Mr. Acevedo in regards to the buffer fence is there a specific material he would have to install.

Mr. Acevedo mentioned that there was no specific material it just has to be a solid fence it could be cedar or masonry.

Ms. Izaguirre suggested that P&Z could impose a masonry wall in the back of the property that would help with the noise concern and it should make a difference.

Mr. Julio Cerda mentioned that this item was being considered for the drive-thru service window which in his opinion should have been cited for noncompliance with the original CUP conditions imposed by City council to close at 10 p.m. among other violations.

Mr. Acevedo agreed with Mr. Cerda and added that that it was also because of the noise that was generated by the drive-thru.

Mr. Cerda mentioned that the ordinance clearly states that if you need to be in compliance in order to be considered for a renewal and in this case the closing hours were dictated by the Council.

Mr. Acevedo stated that he didn't think they could dictate the hours of operation of the business only the drive-thru service window. He added that the City has control of the drive-thru hours of operation.

Mr. Cerda added that the violation is going to continue because this business is a business because of the drive-thru not because of anything else. He mentioned that the applicant needs to understand that they need to shut down at 10 p.m.

Mr. Acevedo stated that had the applicant alerted staff of his late hours intentions he would have advised him that it would have not worked and it would not be approved because the norm has always been that at 10 p.m.

Chairman Sheats stated that he agreed with Mr. Cerda and Mr. Acevedo in that had staff known the number of employees and the late hours he wanted to be open they would have not granted the original conditional use permit.

Chairman Sheats asked if the applicant was present.

Mr. Elgin Xavier stated that he was the owner of Snowball Express. He added that he has two locations in the City of Mission one located at 1712 W. Griffin Parkway and the other at 3124 N. Mayberry. He added that he started his business in 2007 in Edinburg, then San Juan and McAllen and finally in 2014 in Mission with two locations. Mr. Xavier mentioned that he plans to open another location that would be open 24 hours in McAllen or Edinburg he was not sure yet. He added that he was not aware he needed to inform the city of any changes that he made to his business. He mentioned that recently he was

informed that his business was causing a lot of problems in regards to noise and to the late hours so they started alerting the customers of the complaints received by the City so customers started cooperating to help alleviate the problem in regards to the noise. Mr. Xavier stated that there was no other place in Mission that is open past 10 p.m. that sells snacks. He added that he didn't allow his employees to park on the parking spaces so that they could be available only for the customers. Mr. Xavier mentioned that he had an agreement with the flower shop nearby so that his employees and other customers could park there is there was a need for additional parking. He mentioned that he has always been in compliance that was the reason he had obtained his permit. Mr. Xavier mentioned that he had 72 items in his menu and has been told that he has the best raspas in the valley. He added that lately the City has been putting more restrictions on his business and just feel that they should be fair with him like they are with other drive-thru service business that are open 24 hours.

Chairman Sheats stated that it was not the responsibility of the City to go to the applicant to see in he plans to do any changes to his business it the business owner who needs to contact the City when he is thinking of changing anything to avoid having these type of issues. The City waited until they had a complaint in order to assess your business. Chairman Sheats added that these issues were self-inflicted and would have not been a concern if he had come to the City and informed us of the proposed hours of operation. Chairman Sheats told Mr. Xavier that he had agreed to close at 10 p.m. and he had put his own hours of operation the City had nothing to do with that because he is the person that fills out the application.

Mr. Xavier stated that he had several letters from the neighbors that were in support of his request.

Chairman Sheats asked him to give them to Mr. Acevedo so he could keep for the records.

In opposition, Mrs. Janie Cantu who resides at 1715 Kristi Lane stated that she lives 30 feet from the location at W. Griffin Parkway. The noise coming from customers is a nuisance and as a result she and her husband have missed several nights of sleep. She added that her health was starting to suffer. She mentioned that she had nothing against the business or people, but they are in the wrong location if they want to stay open until 2 a.m. She added that business owner cannot control the behavior of his customers. Mrs. Cantu mentioned that if they approved this request it would set precedence to others and might cause similar problems in other areas.

Chairman Sheats asked if there was anybody else that would like to be heard in favor or against this request.

There being no community input, he closed the public hearing.

Mr. Cerda stated that when conditions are placed on any conditional use permit they are placed based on the use of the business and one condition was to close at 10 p.m. and

that is for the entire business not only the drive-thru portion of it. As the applicant mentioned again and again the use of the business is from the drive-thru. So they are several concerns that need to be factored in which are: 1) employees, 2) traffic, 3) neighbors, and 4) noise. He mentioned that the City needs to consider the quality of life of the Mission residents. Mr. Cerda pointed to Progress Times Reporter in audience and told the Reporter, "Write this down, this is a Quality of Life Issue." Mr. Cerda stated that when the City imposes conditions aside from the barrier which is the solid wall and the other condition would be that they have to close at 10 p.m. are for a specific reason.

Mr. Acevedo stated that he had conferred with the City's legal department and they advised him that the Planning and Zoning & the City Council could only impose a closing time for the drive-thru service window and not the actual business. He mentioned that he understand what Mr. Cerda is trying to say because this business depends solely on the drive-thru service window.

Mrs. Izaguirre stated that it wouldn't because this was a conditional use permit and not a regular restaurant permit it's based on a condition to have this permit.

A lengthy discussion continued regarding the number of employees, lacking of parking of their employees and the zoning of this property, amount of traffic, alerting staff of their late hour's intentions, etc.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Julio Cerda moved to deny the extended hours for the drive-thru as per staff's recommendations but imposed the installation of a proper grease trap and hood suppression system; installation of a 6' solid buffer fence along the north side of Lot 22; and approval for 1 year at which time the applicant will need to re-apply for the conditional use permit. Dr. John Guerra seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 5:52 p.m.**

**Ended: 6:27 p.m.**

**Item #1.5**

**Conditional Use Permit Renewal:**

**4 Drive-Thru Service Windows**

**- Snowball Express #2**

**3124 N. Mayberry Road**

**Being 1.27 acres of land out of the**

**West 310' of the North 224' of Lot 28-9,**

**West Addition to Sharyland Subdivision**

**C-2**

**Snowball Express, LLC (c/o Elgin Xavier)**

Mr. Acevedo went over the write-up stating the property is located at the SE corner of Mayberry Road and E. 2 Mile Road. The owner of the existing sno-cone and snack stand is requesting a renewal of a CUP for 4 drive-thru service windows at this location. The original CUP was approved in April of 2017. At the time of that approval the applicant

requested hours of operation from 1:00 p.m. till 8:00 p.m. Mon. thru Fri. and from 12:00 p.m. to 9:00 pm. However the owner would now like to extend his hours of operation until 2 a.m. and increase the number of employees from 5 to 12 thus requiring reconsideration of his CUP.

- **Hours of Operation:** Every day from 10 a.m. to 2 a.m.
- **Staff:** 12 Employees
- **Parking:** There are a total of 20 striped parking places and a drive-thru lane that allows for the stacking of 9 vehicles for a total of 29. For a stand of this size a total of 6 parking places are required, thus exceeding code.
- **Landscaping and buffering:** Landscaping will have to be brought back to compliance with City code since whatever was planted has died.

**REVIEW COMMENTS:** The business has been in operation for one year. According to the applicant, he has been ignoring his agreement to close by 9:00 p.m. and most recently extended his closing from 1 a.m. to 2 a.m. without requesting the city to approve such action. Any hardships brought on by his action are therefore self-inflicted. He states he was not aware he had to notify the city. It wasn't until Staff started receiving complaints from the nearby residential neighbors that the extended hours were discovered. The citizen complaints include excessive noise from loud car stereos and auto exhaust pipes.

Staff supports this local business and would like the applicant to continue using his drive thru windows. However, staff also recommends allowing the drive thru window operation only until 10:00p.m. Residences to the North-east, East, and South of this new business are being negatively impacted by noise from its late hour operations. The City has a noise ordinance and an obligation to protect the citizens who have been there long before this business.

Mr. Acevedo stated that when they met with the applicant they informed him that a letter was sent out advising him that he needed to close at 9:00 p.m. He added that one weekend Code Enforcement shut them down and they closed the drive-thru service window a Friday, Saturday, and Sunday night so Monday morning they come to by office with his employees because he was claiming that the schedule had been made and that the employees would be hurting due to the City drastic reduction of hours so the City Manager, City Attorney and myself gave him two weeks to comply. Mr. Acevedo stated that he did comply with staff's requirements. He added that this request was similar to the one they had just acted on. He mentioned that he has not received any complaints for this location but was alerted by the City Manager that he has received several calls against this request.

**RECOMMENDATIONS:** Denial of the request for extended drive thru hours past 10:00 p.m. and the requirement to install and then permanently maintain new landscaping and install parking lighting within 30 days to comply with the City's landscaping and parking ordinance.

Mrs. Izaguirre asked when they stopped closing at 10 p.m.

Mr. Acevedo mentioned that it was about a month ago.

Ms. Izaguirre stated that she lives near this location and that is not true she often see that they are open past 10 p.m. and also has a stacking issue where the line at the drive-thru heads out to the street. She added that his was a great location but there shouldn't be a stacking issue if it's such a big lot and has all the parking space that is not being used.

Chairman Sheats asked if there were any comments from the Board.

Mr. Cerda stated that he had the same comments as before they need to take care of the quality of life of the residents because they were there prior to his business. Mr. Cerda stated that he knew this was not alcohol but he didn't like it. He added that when conditions are placed on a permit they are for a reason and to him the business should be closed at 10 p.m. not just the drive-thru. He mentioned that staff should put as many conditions as they feel are necessary to make this business be in compliance.

Mrs. Marin asked if there was a limit as to the amount of signs a business can have.

Mr. Acevedo stated that they are limited to 10% of the wall. He added that a lot of this is not actual signage it was part of their menu but staff could certainly look into this and make sure they are in compliance.

Chairman Sheats asked if the applicant was present.

Mr. Elgin Xavier was present to address any questions from the Board.

Chairman Sheats stated that the Board had a general idea the problems he had with this location. As Mr. Cerda pointed out the Planning & Zoning and the City Council work on the same set of rules and we are not singling you out or giving any type of special treatment.

Mr. Xavier asked Mr. Sheats if all the drive-thru service windows were closing at the same time.

Chairman Sheats mentioned that Mr. Acevedo was going to make sure that all the raspa stand would be closing at 10 p.m. and in this particular location you have an opportunity to change it and make it work.

Mr. Xavier mentioned that the customers will not want to get off their car because they are in pajamas and because it's a drive-thru and it's a convenience for them that we offer. He added that there is no other raspa stand that is open past 10 p.m. and everybody comes to them. He mentioned that they could take the orders from their cars but they expect to get the orders taken to their cars.

Mr. Cerda stated that he agrees with Mr. Xavier that the customers don't want to get down of their vehicle and this is the reason he believes the business should also close at 10 p.m.

Mr. Xavier compared other drive-thru businesses that sell alcohol they have late hours and he feels that the City should also close them down because of they are selling alcohol.

A brief discussion continued regarding having employees taking the orders from the vehicles, customers getting impatient for taking too long on their orders.

Mr. Cerda stated that if there were no rules in the City of Mission we would be no different than the Taquerias that are on 5 mile line the difference of being in a Municipality is that they are rules that are imposed or conditions that need to be followed in order for the residents of Mission to have a better quality of life.

Mr. Xavier stated that he understood Mr. Cerda concern but they are other drive-thru businesses that have residential neighborhoods like McDonalds, Taco Palenque, Whataburger, etc.

Mr. Cerda assured Mr. Xavier that if McDonald's, Taco Palenque, or Whataburger had this type of issues they would buy the property next door to be in compliance and take of the problem because it becomes a liability.

Mr. Xavier stated that in San Juan there is a McDonald's that has these issues.

Ms. Izaguirre stated that what he needs to understand is that conditions are imposed to all businesses not just his.

In favor, Ms. Olga Cedillo who resides at 1514 Thompson Road stated that she is the manager at this location and she could assure that 15 cars could be stacked there. She added that she had some signatures of the residents that might be affected due to the stacking of vehicles who are in favor of this request.

Ms. Izaguirre asked how long does it take for a car to get an order.

Ms. Cedillo stated that it depends on what the person orders it could be from 5 to 6 minutes.

Ms. Izaguirre stated that in Whataburger she could order 1 or 10 items and still get them all at the same time.

Mr. Cerda mentioned that it takes about 30 to 45 minutes to get an order.

Mr. Gutierrez stated that at Taco Palenque they take your order at the window and then they tell you where to park and they deliver the order to the car once the order is ready.

Chairman Sheats asked if there was any opposition.

There was none.

Ms. Joanna Median who resides at 5520 Cuevas Road stated that she also worked at this located and added that they have some control inside the business but not outside.

Chairman Sheats stated that the main problem is that they can't control their customers.

Lengthy discussion continued on suggesting whether and how they could take care of their customers to help alleviate the stacking problem.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Julio Cerda moved to deny the extended hours for the drive-thru as per staff's recommendations but imposed a requirement to install and maintain new landscaping; install parking lighting within 30 days; and a 1 year approval at which time applicant will need to re-apply for the CUP. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 6:27 p.m.**

**Ended: 6:31 p.m.**

**Item #1.6**

**Conditional Use Permit Renewal: Sale & On-Site Consumption of Alcoholic Beverages – La Mansion Ballroom & Catering  
507 N. Conway Avenue  
Lot 8, Block 92, Mission Original Townsite Subd.  
C-3  
La Mansion Ballroom & Catering, LLC  
(c/o Norma Guevara)**

Mr. Acevedo went over the write-up stating the subject site is located just off the NW corner of Conway and 5<sup>th</sup> Street. The site has been remodeled and opened as a Banquet and Conference Center for such activities as weddings, reunions, birthday parties, seminars, etc. This CUP was last renewed on February 25, 2015 for a period of 3 years. The banquet hall is 3,700 sq. ft. of which 450 sq. ft. will be used as a dance area and 169 sq. ft. for the band or D.J. The second floor is composed of approximately 900 sq. ft. equating to a total of 4,600 sq. ft. The maximum occupancy is 500 people (as per Fire Marshal).

- **Parking:** Typically, parking reflects a need of 46 parking spaces (1 space per 100 sq. ft.). The property is in Mission's Central Business District (CBD); thus, exempt from parking requirements for existing structures.
- **Hours of Operation:** For the most part, these events typically take place during evening hours from about 7:00 p.m. till 2:00 a.m.

- **Sale of Alcohol:** Such uses need to be 300' from residential and Institutional (church) areas. Area residences are beyond 415' and the church is over 500' (measured along front lot lines via code).
- Planning asked Mission PD for a report of incidents at this location since it was last approved. Mission PD has informed us that there have been no incidents at this location in relation to the sale and on-site consumption of alcohol.

**RECOMMENDATION:** Since there have not been any incidents since its last approval and we have not had any issues since 2002, staff recommends approval that this CUP until November 22, 2018 at which time their CUP and TABC license will need to be renewed.

Chairman Sheats asked if there were any comments in favor or opposition to the request.

There were no comments.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Jaime Gutierrez moved to approve the conditional use permit as presented. Mr. Julio Cerda seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 6:31 p.m.**

**Ended: 6:34 p.m.**

**Item #1.7**

**Conditional Use Permit Renewal: Sale & On-Site Consumption of Alcoholic Beverages – Kalo's Salon de Eventos  
1516 E. Expressway 83, Ste. K  
Lots 5, 5J, 5K & 5L, Stewart Plaza Subdivision  
C-3  
Corinthian Kalos Salon de Eventos, LLC  
(c/o Oscar Cardenas)**

Mr. Acevedo went over the write-up stating the subject site is located 400' south of U.S. Expressway 83 along the west side of Stewart Rd. within a commercial plaza. The 9,240 sq. ft. social events center was most recently approved by P&Z on January 11, 2017.

- **Hours of Operation:** For the most part, these events typically take place during evening hours from approximately 6p.m. to 2a.m., primarily on Fridays and Saturdays.
- **Staff:** 6 staff
- **Parking:** There are currently 170 existing parking spaces. The required parking for the event center is 58 (5,842sq.ft.(dance floor)/1 space per 100 sq. ft. = 58.4). The parking area is held in common at this development. This business also shares the parking with The Corinthian, which requires 70 parking spaces, thus requiring a minimum of 128 spaces for the two businesses. Since most activities are held at later hours and on weekends, when the other businesses at this development are closed, there haven't been any issues with parking.

- **Sale of Alcohol:** Section 1.56 (3a) of the Zoning code requires such uses to be 300' from residential areas. There is a residential subdivision within this radius (*Legends at Cimarron*); P&Z and City Council waived this separation requirement in the CUP's previous approval.
- Must continue to comply with Fire and Health Codes.

**REVIEW COMMENTS:** Staff requested a report from Mission PD in regards to the sale and on-site consumption of alcohol. Since this CUP was last seen, there have been no calls to PD from this location.

**RECOMMENDATION:** Staff recommends approval subject to a waiver of the 300' separation requirement from the residential neighborhood (*Legends at Cimarron*) and that this CUP be approved for a period of 2 years at which time their CUP and TABC license will need to be renewed.

Chairman Sheats asked if there were any comments in favor or opposition to the request.

Mr. Acevedo mentioned that the applicant Mr. Oscar Cardenas was present but had to leave due to a prior commitment.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Julio Cerda moved to approve the conditional use permit as per staff's recommendations. Mr. Jaime Gutierrez seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 6:34 p.m.**

**Ended: 6:38 p.m.**

**Item #1.8**

**Conditional Use Permit Renewal: Restaurant (Drunken Chicken) in property  
Zoned C-3 (Neighborhood Commercial)  
104 N. Mayberry Road, Ste. A  
Lot 52, Mayberry Plaza Unit #2 Subdivision  
C-2  
Juan A. Cantu**

Mr. Acevedo went over the write-up stating the subject site is located at the NE corner of Mayberry Road and 1<sup>st</sup> Street. The property currently has a commercial building with a convenience store, a flower shop and a barber shop within. This applicant was awarded a CUP for a restaurant in a Neighborhood Commercial Zone (C-2) on April 24, 2017.

- **Hours of Operation: Tuesday – Saturday** from 11:30 a.m. to 7:00 p.m.
- **Staff:** 6
- **Parking:** The restaurant will have a total of 20 seats which requires 7 parking spaces ( $20 \text{ seats} / 3 = 6.67 \text{ spaces}$ ) and the existing barber shop, flower shop, and convenient store requires an additional 13 parking spaces for a total of 20 total parking spaces at this commercial development. The site currently has a total of 17

parking spaces plus 3 stacking in convenient stores drive-thru thus in compliance with code.

- **Landscaping:** The site has minimal green space. It seems that a lot of the green area and trees that may have existed have been removed, only some green areas remain. After the completion of the construction, Staff is recommending the installation of at least 3 trees being 7' tall and three (3') inch caliper after planting. We are also asking that the landscaped areas be maintained and irrigated.
- Must comply with all Building, Health and Fire Codes prior to obtaining a business license.

**REVIEW COMMENTS:** P&Z has seen previous requests for restaurants in a C-2 zone without creating a negative impact to the surrounding areas. The current business has been in operation for 1 year now without any issues.

**RECOMMENDATION:** Staff recommends approval for 3 years at which time the applicant will have to apply for reconsideration.

Chairman Sheats asked if there were any comments in favor or opposition to the request.

Mr. Juan A. Cantu was present to address any questions from the Board.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Julio Cerda moved to approve the conditional use permit as per staff's recommendations. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

#### **ITEM #4.0 OTHER BUSINESS**

There was no other business.

#### **ITEM #5.0 ADJOURNMENT**

There being no further items for discussion, Dr. John Guerra moved to adjourn the meeting. Mrs. Diana Izaguirre seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 6:38 p.m.

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Ned Sheats, Chairman  
Planning and Zoning Commission