

**PLANNING AND ZONING COMMISSION
AUGUST 8, 2018
CITY HALL'S COUNCIL CHAMBERS @ 5:30 P.M.**

P&Z PRESENT

Carlos Lopez
Jaime Gutierrez
Hector Moreno
Ned Sheats
Diana Izaguirre
Marisela Marín

P&Z ABSENT

Julio Cerda

STAFF PRESENT

Jaime Acevedo
Virgil Gonzalez
Kristin J. Warshak
Maribel Castellanos

GUESTS PRESENT

Sharon Allison
Diana C. Guerrero
Emigdio Villanueva
David Villanueva

CALL TO ORDER

Chairman Ned Sheats called the meeting to order at 5:30 p.m.

CITIZENS PARTICIPATION

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

There was none.

APPROVAL OF MINUTES FOR JULY 25, 2018

Chairman Sheats asked if there were any corrections to the minutes for July 25, 2018. Mr. Carlos Lopez moved to approve the minutes as presented. Mr. Jaime Gutierrez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:31 p.m.

Ended: 5:32 p.m.

Item #1.1

**Discussion and Action to Amend the Planning and Zoning Commission Bylaws
Change the time of the Planning and Zoning Commission meeting from 5:00 p.m.
to 5:30 p.m. at Mission City Hall**

Mr. Jaime Acevedo went over the write-up stating that it would help people get here on time especially those that work and that get out at 5:00 p.m.

Mr. Ned Sheats agreed with Mr. Jaime Acevedo.

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

There was none.

Mr. Jaime Gutierrez moved to approve the Item. Ms. Diana Izaguirre seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:33 p.m.

Ended: 5:34 p.m.

Item #1.2

REZONING:

**Being a 0.76 acre tract of land, more or less,
out o Lot 42, Bell-Woods Co's Subdivision "C"
R-2 to C-2
Gilberto Gutierrez**

Mr. Jaime Acevedo went over the write-up stating the land uses reflect the zonings shown above. The Future Land Use Map reflects a Low Density Residential (LD) land use. This property was recently rezoned from AO-I to R-2 and a portion to C-2. However, when the engineer worked on the design of the plat, the best orientation of the proposed lots required that the existing street be shifted 20' south. Thus, an extension of the existing C-2 zoned area is needed. What this rezoning will accomplish is to simply extend the existing C-2 zoning an additional 20' to the south.

RECOMMENDATION: Approval.

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

There was none.

Mr. Carlos Lopez moved to approve the Item. Mr. Hector Moreno seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:34 p.m.

Ended: 5:38 p.m.

Item #1.3

CONDITIONAL USE PERMIT:

**Home Occupation–Licensed Home Day Care
on Property Zoned AO-I (Agricultural Open
Interim)
905 W. 20th Street
A 0.50 acre tract of land out of the E.
10 acres of the N. 15 acres out of Lot 23-4,
West Addition to Sharyland Subdivision
AO-I
Diana C. Guerrero**

Mr. Jaime Acevedo went over the write-up stating this Item CUP had originally been approved in 2007 and most recently in 2015. However, shortly after the 2015 approval, the applicant moved her operation to a leased commercial location in the 2000 block of Conway Avenue. However, business has slowed and the applicant would now like to once again operate from her residence. The subject site is located on the south side of West 20th Street 200' east of Holland Avenue. The applicant has her residence thereon with a 10' x 70' paved driveway along the west side of her property and a second

circular driveway along the front of the property. Both driveways can be utilized to safely drop off and pick up children. A 6’ cedar fence surrounds the property. The applicant cares for 6 children at a time and is permitted to care for up to 12.

- **Hours of Operation:** The days/hours of operation are: Monday through Friday from 5:30 a.m. to 12:00 a.m. and Saturday from 8:00 a.m. to 7:00 pm.
- **Staff:** the applicant and 1 other employee
- **Parking & Signage:** are meeting code.

REVIEW COMMENTS: This operation had been in existence at these locations for over 10 years without any issues. When imposed conditions, the applicant has complied with what was asked of her such as the installation of a circular paved driveway and 4’ sidewalks along 20th Street to interface Bubble Rise. Notices were sent out to property owners within the 200’ radius of the site. Staff has not received any comments for or against this request.

RECOMMENDATION: Staff recommends approval for 2 years.

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

There being none, Mr. Sheats ask if applicant was present.

Applicant, Mrs. Diana Guerrero, was present to answer any questions from the board.

Chairman Sheats asked if she was keeping everything the same only having 6 kids.

Mrs. Diana Guerrero replied “yes” to Mr. Sheats.

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

There were no comments.

Mr. Jaime Gutierrez moved to approve the Item as per staff’s recommendation. Ms. Diana Izaguirre seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:39 p.m.

Ended: 5:50 p.m.

Item #1.4

**CONDITIONAL USE PERMIT
RENEWAL:**

**Sale and On-Site Consumption of Alcoholic
Beverages – Whistling Duck
1603 E. Griffin Parkway
Lots 10 & 11, Block 3, Shary Gardens Subdivision
C-3
Whistling Duck, Inc.**

Mr. Jaime Acevedo went over the write up stating that the 5,274 sq. ft. establishment is located near the NW corner of Garden View Drive and Griffin Parkway (F.M. 495). The applicant has been in operation at this location for 1 year now and is requesting renewal of his Conditional Use Permit for the sale and on-site consumption of alcohol. The existing restaurant offers high end farm to table craft food and craft beer.

- **Hours of Operation:** Monday through Wednesday from 3:00 pm to 11:00 pm, Thursday 3:00 pm to 12:00 am, Friday 3:00 pm – 1:00 am, Saturday from 11:00 am to 1:00 am, and Sundays from 11:00 am to 11:00 pm.
- **Staff:** 38-40 employees during different shifts.
- **Parking:** The subject site has a total of 170 total seating spaces, which require 57 parking spaces (170 seats/1 space for every 3 seats = 56.7 parking spaces). It is noted that this location has 116 parking spaces plus 3 stacking spaces at a drive-thru service window for a total of 119 parking spaces, which exceeds code by 1.
- **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.)
- **Sale of Alcohol:** Such uses need to be 300' from residential uses. There are some residences within this radius); thus a waiver of the separation requirement needs consideration.
- **Other Requirements:** Must continue to comply with all Building, Fire and Health Codes prior to obtaining a business license.
The Police Department has no incident reports for this business.

RECOMMENDATION: Staff recommends denial since there are fire department requirements that are still pending.

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

Ms. Diana Izaguirre asked, "How long would it take to do the fire alarm test?"

Mr. Jaime Acevedo stated it would probably take five minutes.

Chairman Sheats expressed his concern about customer's safety.

Mr. Jaime Gutierrez asked how long the restaurant has been in operation.

Mr. Jaime Acevedo answered about a year.

Chairman Sheats stated that Staff made recommendations regarding fire code compliance, and the request was not fulfilled. His recommendation is to pull the Item back for 30 days.

Ms. Diana Izaguirre made a motion to deny until proper fire code tests can be conducted.

Mr. Jaime Gutierrez stated that Applicant can reapply once the test has been conducted.

Mrs. Sharon Ellison was there to express her concerns about the traffic, late hours and loud music. She stated that she was here at the meeting last year as well without her knowing that there was a second meeting that had the final authority in decision making.

Chairman Sheats asked, "How many times have you called the police to report your concerns?"

Mrs. Ellison responded, "Unless it is an actual emergency she would not call the police."

Mrs. Diana Izaguirre denied the Item until the correct test is done. Mr. Carlos Lopez seconded the motion.

Started: 5:50 p.m.

Ended: 5:56 p.m.

Item #2.0

**HOMESTEAD EXEMPTION
VARIANCE:**

**the East 139' of the North 459' of the South 660'
and the West 14' of the East 139' of the South 201'
of Lot 25-9, West Addition to Sharyland Subd.**

AO-I

Emmanuel Marquez

Mr. Jaime Acevedo went over write up stating that this tract is located along the north side of Griffin Parkway (F.M. 495) ¼ mile west of Bryan Road. The irregular lot with access to Griffin Parkway totals 1.53 acres. If applicant is requesting a Homestead Exemption Variance to build his single-family residence thereon. On 11-10-14, the City Council passed the HEV ordinance which allows for homesteads to be granted various waivers to the City's subdivision requirements if and only if, the lot is being proposed for the applicant's personal single-family home.

WATER: The applicant is proposing to connect to an existing 4" water line located along the alley between his property and Palm Acres No. 2 to provide water service to the lot.

SEWER: The applicant is proposing to connect to existing 4" sanitary sewer line located along the alley between his property and Palm Acres No. 2 to provide sewer services to the lot. The capital sewer recovery fee is waived via the HVE.

STREETS & STORM DRAINAGE: The subject site has frontage to Griffin Parkway (F.M. 495), which has a 100' ROW with a 65' B/B paved street. No additional ROW will be requested. Drainage will be onsite.

OTHER COMMENTS

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

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

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

Mrs. Marisela Marin asked if the Applicant owns all of the property.

Mr. Jaime Acevedo replied “yes”.

Mr. Sheats asked where would the primary access be to the property.

Mr. Acevedo indicated that Applicant will be installing a driveway through a 14’ strip.

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

There was none.

Marisela Marin moved to approve the Item as per staff’s recommendation. Mr. Jaime Gutierrez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:56 p.m.

Ended: 6:00 p.m.

Item #3.0

**SINGLE LOT VARIANCE: A tract of land out of the East ½ of Lot 21-11,
West Addition to Sharyland Subdivision
C-4
Emigdio Villanueva**

Mr. Jaime Acevedo went over the write-up stating that this property is located near the Bryan Road and Business 83 intersection along the north side of Business Highway 83. The interior lot measure 137.6’ x 260.9’ or 35,283.60 sq. ft. The purpose of this Single Lot Variance (SLV) is to comply with the subdivision ordinance so that a permit can be issued for the construction of a commercial development. The City Code allows for a Single Lot Variance when the property meets the following criteria: It is a single tract and not a series of proposed tracts, it has access to a paved public street, it does not require any new streets to be dedicated and/or improved, it does not require extension of municipal utilities, it is within the corporate limits or extraterritorial jurisdiction of the city. The subject property complies with all of these requirements.

WATER & SEWER: Water and sewer facilities are existing. There is an existing 8” water line along the south side of the property that will provide water to the proposed

development. With regards to sewer, there is an 8" sanitary sewer line along the north side of the property that will provide sewer services to the proposed development. Since this will be a commercial development, fire hydrants will be installed as per the direction of the Fire Chief. As required with all new subdivisions, a Capital Sewer Recovery will be assessed at a rate of \$750 per acre as per City Ordinance, based on the property's 0.81 acres the Capital Sewer Recover y fee equates to \$607.50.

OTHER COMMENTS: If not already, the property must be excluded from the United Irrigation District.

RECOMMENDATION: Staff recommends approval subject to:

1. Providing proof of exclusion from the water district.
2. Installation of fire hydrant(s) as recommended by the Fire Chief.
3. Submittal of a paving and grading plan.
4. Acquisition of a building permit for the construction.

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

There being none, Mr. Sheats ask if applicant was present.

The Applicant, Mr. Emigdio Villanueva, was present to answer any questions from the board.

Mr. Emigdio Villanueva stated he was happy to have his own business office after being in the market for years and leasing.

There being no more discussion, Chairman Sheats entertained a motion. Mr. Carlos Lopez moved to approve as to staff's recommendations. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:00 p.m.

Ended: 6:01 p.m.

Item #4.0

**PRELIMINARY & FINAL
PLAT APPROVAL:**

**Anzalduas Industrial Business Park Subdivision
Being 55.646 acres out of Lots 10-5, 10-6, 11-5,
and 11-6, West Addition to Sharyland Subdivision
I-1**

Developer: Jesus Cabello

Engineer: Mario Salinas, MAS Engineering, LLC.

Mr. Jaime Acevedo went over the write-up stating the subject site is located at the NW corner of Conway Boulevard and Military Parkway intersection. The developer is proposing 24 industrial lots.

VARIANCE: The developer is proposing the temporary usage of On-Site Sewage Facilities on Lot 1 until the City of Mission extends sewer services to this area. All of the

remaining lots will be on City sewer and will remain vacant until services are available. Lot 1 will also abandon the use of the proposed septic system and connect to City sewer services when made available.

WATER: There is currently a 12" waterline along the west side of Conway Boulevard. The developer is proposing to connect into the 12" water line at two points and looping water services within the proposed subdivision. Fire hydrants will be installed as per the Fire Marshal's direction.

SEWER: If variance is approved, the developer is proposing the temporary use of on-site sewage facilities until City services are extended. The subdivision will have internal 8" sewer lines pre-installed during the subdivision phase and will be connecting to City services when available.

STREETS & STORM DRAINAGE: The subdivision has access to Military Parkway, a future 120' ROW, 81' B/B Street. There is no additional ROW needed at this time along Military Parkway. The subdivision consists of a series of internal streets with a 60' ROW and a 43' B/B paved streets. Storm drainage is accomplished through a series of 24" storm lines which will connect into the TXDOT inlet located at Conway. The TXDOT drainage system runs north along Conway and discharges into Mission Inlet Drainage Canal.

OTHER COMMENTS:

Street names to comply with street alignment policy

Comply with all format findings

Must exclude the property from the Water District.

Must provide sewer capital recover fees in the amount of \$750/acre which equates to \$41,734.50

Must provide a street light plan for review by staff.

RECOMMENDATION: Approval subject to: 1) Payment of sewer capital recovery fees, 2) Abandonment of septic system and connection to City sewer system when available, 3) Water district exclusion, and 4) Comply with all other format findings

No action was taken on this item.

**ITEM #5.0
OTHER BUSINESS**

There was no other business.

**ITEM #6.0
ADJOURNMENT**

There being no further items for discussion, Mrs. Marisela Marin moved to adjourn the meeting. Mr. Jaime Gutierrez seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 6:00 p.m.

Ned Sheats, Chairman
Planning and Zoning Commission