

**PLANNING AND ZONING COMMISSION
JANUARY 9, 2019
CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Ned Sheats
Javier Barrera
Debra Lee Alvarez
Hector Moreno
Jose Luis Morin
Raquenel Austin
Diana Izaguirre

P&Z ABSENT

STAFF PRESENT

Jaime Acevedo
Virgil Gonzalez
Kristin J. Warshak
J.P. Terrazas
Joel Chapa, Jr.

GUESTS PRESENT

Maria de Jesus Saucedo
Abiel Ramon
Paula Weeks
Brian A. Weeks
Antonio Reyna
George Plickin (sic)
Jim Budd
Dennis Luther
Diane Luther
Gauge Gonzalez
Marcia Olivarez
Nydia Morales Terrazas
Miranda Vick
Ryan Vick
Grant Siegler
Elgin Xavier
Jessica Ochoa
Arnoldo Gonzalez

Juan Gomez
Jose Ancer
Jorge E. Hernandez
Araceli Hernandez
Amelia Gaytan
Tommy Thomson
Mirna Thomson
Juan Ojeda
Gilbert Dillard
Dodson Galloway
Maria B. Olivarez
Rosalinda Olivarez
Alma Bailey
Dario Rivas, Jr.
Hermila Rivas
Marisol Elizondo
Isauro Trevino

Grant Siegler
Irma Johnson
Rogelio Sanchez, Jr.
Robbin Salas
Martha Sanchez
Rocky Mendez
Andres Mendez
Rick Lopez
Kirk Clark
Jeri Clark
Martin Risley
Beverly Risley
Luis Elizondo
Homero Benavides
Felipe Cavazos
Mayor Armando O'caña
Mario Carrera

Mayor Armando O'caña welcomed the board members greeting the newly appointed board members and thanking each and every board member for their service in bringing experience to the City of Mission.

CALL TO ORDER

Chairman Ned Sheats called the meeting to order at 5:34 p.m.

CITIZENS PARTICIPATION

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

There was none.

APPROVAL OF MINUTES FOR DECEMBER 12, 2018

Chairman Sheats asked if there were any corrections to the minutes for December 12, 2018. Mr. Javier Barrera moved to approve the minutes as presented. Mr. Jose Luis Morin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:35 p.m.

Ended: 5:36 p.m.

Item #1.1 Election of Chairman and Vice-Chairman

Mr. Jaime Acevedo stated that it was common procedure to elect a Chairman and a Vice-Chairman every year.

Chairman Ned Sheats moved to nominate Ms. Diana Izaguirre for Chairman. Mrs. Debra Lee Alvarez seconded the motion. Chairman Izaguirre stated she would like to nominate Mr. Ned Sheats as Vice-Chairman. Mr. Javier Barrera seconded the nomination.

Started: 5:37 p.m.

Ended: 5:43 p.m.

Item #1.2

Rezoning:

**The East One (1) acre of the West 6 acres of the
North 16.65 acre of the South 21.65 acres of
Lot 195, John H. Shary Subdivision
R-3 to C-3
Abiel & Yadira Ramon**

Mr. Jaime Acevedo went over the write-up stating the subject site is located 550' east of Shary Rd. along the south side of E. 4th St. The property measures 111.26' x 391.32' which equates to 43,568.26 sq. ft. The applicant is proposing to rezone the north ½ of the property from R-3 to C-3.

SURROUNDING ZONES: N: R-1 – Single Family Residential
E: AO-I – Agricultural Open Interim
W: AO-I – Agricultural Open Interim
S: R-3 – Multi-Family Residential

LAND USES: The surrounding land uses consist of a residential subdivision (Shary Crossing) to the north, an electrical substation to the east, open acreage to the west, and La Fogata's parking lot to the south. The subject site currently has 2 single family homes.

FLUM: The Future Land Use Map reflects a General Commercial (GC) designation for this area.

REVIEW COMMENTS: The area to the west of this site has frontage to a widened Shary Rd. which is more compatible for non-residential uses as recognized by the City's FLUM designation of General Commercial (GC) thus consistent with the request. Staff mailed notices to property owners within a 500' radius of the site to solicit comments in favor or against this request. As of the date of this write-up, staff has not received any calls or written complaints on the proposed rezoning.

RECOMMENDATION: Approval.

Chairwoman Izaguirre asked if the applicant was present.

Mr. Abiel Ramon was present to answer any questions the board might have.

Chairwoman Izaguirre asked if there were any comments from the board or the audience in favor or in opposition to this request.

There was none.

There being no further discussion, Mrs. Raquene Austin moved to approve the rezoning request as per staff's recommendation. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:43 p.m.

Ended: 6:10 p.m.

Item #1.3

Rezoning:

**A tract of land containing 0.94 of an acre, more or less and being 0.19 of an acre, more or less out of Lot 21-9, West Addition to Sharyland Subdivision and 0.75 of an acre being 1.0 acre out of the Southwest ¼ of Section 19, La Lomita Subdivision now Lot 21-9, West Addition to Sharyland Subdivision of Porciones 53-57, less and except 0.25 of an acre
R-2 to R-3
Martha Sanchez**

Mr. Jaime Acevedo went over the write-up stating the subject site is located near the E. 12th Street/Highland Park Avenue intersection. This item was previously seen by the Planning and Zoning on October 25, 2018 at which time the Planning & Zoning Commission approved the rezoning change from R-2 to R-3. However, the City Council voted against the rezoning. Since the applicant had a medical emergency, they could not present their point at the City Council meeting and would like for this rezoning to be reconsidered.

SURROUNDING ZONES: N: R-2 – Duplex-Fourplex Residential
E: R-1 – Single Family Residential
W: R-3 – Multi-Family Residential
S: R-2 & C-2 – Duplex-Fourplex Residential & Neighborhood Commercial

EXISTING LAND USES: N: Multi-Family Residential
E: Single Family Residential
W: Multi-Family Residential
S: Vacant
Site: Vacant

FLUM: Moderate Density Residential (MD)

REVIEW COMMENTS: The Future Land Use Map reflects a Moderate Density Residential (LD) land use which is consistent with the R-3 Multi-Family request. A mixture of Multi-Family and Duplex-Fourplex seems to be the predominate land use north of 10th Street (Tom Landry) and west of Highland. We did have one property owner call against the rezoning request.

RECOMMENDATION: Approval.

Mr. Acevedo added there was a petition submitted to staff in which seven residents within the 500' radius voiced their concerns on the R-3 rezoning. In speaking with one of the people in opposition their concern is whenever it rains the runoff water from the new construction will go onto their property. Mr. Acevedo explained this concern could be addressed during the building permit phase wherein a retaining wall could be imposed around the perimeter of the apartment complex. So, there are solutions for what is being proposed.

Chairwoman Izaguirre asked if there was any one present for the item.

Mrs. Robbin Salas, Mr. Rogelio Sanchez, and Mrs. Rocky Mendez appeared on behalf of the applicant, and were available to answer questions the board might have.

Mr. Sanchez explained the purpose of the rezoning is to better utilize the property as it is an odd shape lot, and to esthetically build in the area as opposed to an R-2 development. He clarified the intention is to build between 10 and 16 units depending on what the property will lend itself to. With respect to the drainage any proposals will be taken into consideration. Mr. Sanchez compared the unprecedented amount of rainfall that occurred in November to newer developments. The plan is to have the 2 bedroom units built out of brick and stone and possibly a gated community to have for the area.

Chairwoman Izaguirre asked if the board had any questions.

Mr. Ned Sheats stated that he is opposed to the rezoning because of the drainage issue. The only way he would agree to the rezoning is if the applicant agreed to deflect the water away from the drive or onto the alley.

Mrs. Robbin Salas and Mr. Rogelio Sanchez both stated that it was a guarantee that this issue will be taken care of during the building process.

Chairwoman Izaguirre asked for any opposition to the rezoning.

Mr. Steve Spoor addressed the board on behalf of Gauge Gonzalez in opposition to the rezoning. He pointed out the frontage to the property fronts Highland Park Avenue which is a 30' wide street and all residential streets to the east are all 30' streets pointing out none of the streets in the area are wide enough for a multi-family development. All of the traffic from the proposed site plan would back out onto Highland Park which was never designed to serve as multi-family purposes. He then read definitions of city code for multi-family residential. Mr. Spoor pointed out the water lines surrounding the proposed rezoning are of 6" and 2" not being sufficient to support multi-family zones even though there are existing multi-family units currently there. He further had a topo map showing drainage problem in the area.

Mr. Gauge Gonzalez appeared before the board representing himself as well as the other seven property owners who signed the petition. Overall, they are not against an R-2 zoning development. Persons who signed the petition are heavily opposed to R-3 rezoning stating the area is not meant for this much density and traffic and have concerns for additional building if the applicant ever sells the property under an R-3 zoning.

Mr. Acevedo added if the current property owner does sell the property additional apartments could be added; however, if any construction of five units will still have to be reviewed by the Planning and Zoning Board.

Mrs. Rocky Mendez, daughter of applicant, assured the board that the property will not be sold to anybody else. That is not what the intent of the development would be.

Mr. Javier Barrera inquired as to the need for a retention pond if developed.

Mr. Acevedo said that would be a requirement.

There being no further discussion, Mrs. Debra Lee Alvarez moved to approve the rezoning request as per staff's recommendation. Mr. Jose Luis Morin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:10 p.m.

Ended: 6:17 p.m.

Item #1.4

Rezoning:

Lot 1 & the North ½ of Lot 2, Block 165,

**Mission Original Townsite Subdivision
(aka Oblate Addition)
C-3 to R-3
Gilbert Dillard, Jr.**

Mr. Jaime Acevedo went over the write-up stating the subject site is located at the SE corner of E. Tom Landry Blvd. and St. Marie Avenue.

SURROUNDING ZONES: N: C-1 – Office Building
E: C-3 – General Business
W: C-3 – General Business
S: C-3 – General Business

EXISTING LAND USES: N: Multi-Family Residential
E: Multi-Family Residential
W: Commercial
S: Residential
Site: Vacant

FLUM: Moderate Density Residential (MD)

REVIEW COMMENTS: The Future Land Use Map reflects a Moderate Density Residential (LD) land use which is consistent with the R-3 Multi-Family request. A mixture of Multi-Family and Duplex-Fourplex seems to be the predominate land use north of 10th Street (Tom Landry) and west of Highland. Staff mailed notices to property owners within a 500' radius of the site to solicit comments in favor or against this request. As of the date of this write-up, staff has not received any calls or written complaints on the proposed rezoning.

RECOMMENDATION: Approval.

Chairwoman Izaguirre asked if the applicant was present.

Mr. Gilbert Dillard was available to answer any questions the board might have.

Chairwoman Izaguirre asked if there was any opposition to the rezoning request.

Mrs. Maria B. Ojeda Olivarez read a letter addressed to Mayor O'caña in opposition to the reclassification of zoning on behalf of herself and her brother Juan de Dios Ojeda.

Chairwoman Izaguirre asked if there were any further comments in favor or opposition.

Mr. Acevedo expressed once again this rezoning request is actually a downgrade on rezoning from C-3 to R-3.

There being no further discussion, Mr. Javier Barrera moved to approve the rezoning request as per staff's recommendation. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:17 p.m.

Ended: 6:19 p.m.

Item #1.5

**Rezoning: A 0.64 acre tract of land out of
Lot 29, Melba Carter Subdivision
R-1 to R-3
Ricardo Lopez**

Mr. Jaime Acevedo went over the write-up stating the subject site is located 400' west of Mayberry along the north side of Melba Carter.

SURROUNDING ZONES: N: I-1 – Light Industrial
E: I-1 – Light Industrial
W: R-1 – Single Family Residential
S: R-1 – Single Family Residential

EXISTING LAND USES: N: Industrial
E: Vacant Industrial
W: Residential
S: Residential
Site: Vacant

FLUM: Industrial (I)

REVIEW COMMENTS: The Future Land Use Map reflects an Industrial (I) land use. Currently, zonings include a mixture of Industrial, Commercial, and Single Family Residential (R-1) for the Melba Carter area. What may be considered is a stair step effect coming off east to west. Zonings would come from I-1 to R-3 then to R-1. Staff mailed notices to property owners within a 500' radius of the site to solicit comments in favor or against this request. As of the date of this write-up, staff has not received any calls or written complaints on the proposed rezoning.

RECOMMENDATION: Approval.

Chairwoman Izaguirre asked if the applicant was present.

Mr. Ricardo Lopez was available to answer any questions the board might have.

Chairwoman Izaguirre asked if there was any opposition to Item #1.5.

There was none.

Chairwoman Izaguirre asked if there were any questions for the Item.

Mr. Javier Barrera inquired as to the frontage for the property.

Mr. Lopez replied, "Frontage is 56'."

There being no further discussion, Mrs. Raquene Austin moved to approve the rezoning request as per staff's recommendation. Mr. Hector Moreno seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:20 p.m.

Ended: 6:29 p.m.

Item #1.6

**Conditional Use Permit: To Designate an Area as a Mobile Food Park
for Operation of Mobile Food Units
2140 E. Business Highway 83
Lot 51, Sharyland Orchards Subdivision
C-4
Felipe Cavazos**

Mr. Jaime Acevedo went over the write-up stating the subject site is located on the SE corner of Business Highway 83 and Ragland Road. Mr. Cavazos is the owner of Incredibowl and has recently purchased the commercial property just west of the bowling alley. Mr. Cavazos is in the process of remodeling the commercial building thereon and is also proposing a mobile food park to offer food truck owners the opportunity to sell their products on a commercial space with paved parking, restrooms, and all the utilities necessary to hook up a mobile food truck. Recently, a similar CUP was approved by the PNZ on November 14, 2018 at the CEED/5x5 Brewing Company facility and then at 2 Mile Road and Inspiration. If approved, based on the current ordinance, each mobile food truck operator would still need to apply for their own CUP to operate within the mobile food park.

- **Parking:** With regards to parking, a new parking area will be constructed off Ragland but there will be additional common parking available along the north side of the commercial building and along both the front and rear of Incredibowl.
- **Hours of Operation:** The hours of operation will be from 6:00 am to 10:00 pm weekdays and 6:00 am to 12:00 midnight on weekends.
- **Sale of Alcohol:** Such uses need to be 300' from residential uses. There are no such uses within this radius.
- **Other Requirements:** Must continue to comply with all Building, Fire and Health Codes, and that each mobile food unit obtain a CUP and business license with the City of Mission.

RECOMMENDATION: Staff recommends approval for 2 years to access this new operation.

Chairwoman Izaguirre asked if the applicant was present.

Mr. Felipe Cavazos was present to answer any questions the board might have. He stated he bought the property because it was an eyesore and his plan is to develop suites in the front. In the back the plans are to develop a food truck park to have a more permanent location for the food trucks with a commissary for their use. His intent is to provide restrooms and grease traps for the food trucks to meet all health and city code requirements.

Chairwoman Izaguirre asked if anyone had any question for Mr. Cavazos.

There was none.

Chairwoman Izaguirre asked if there was any opposition to Item #1.6?

Mr. Martin Risley approached the board not with opposition but with questions with respect to Item #1.6. Mr. Risley stated that he is the Vice –President of the Board for Valley View Estates. The residents of Valley View are concerned about the increase of traffic and trash to Ragland.

There being no further discussion, Mr. Jose Luis Morin moved to approve the conditional use permit as presented. Mrs. Debra Lee Alvarez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:29 p.m.

Ended: 6:36 p.m.

Item #1.7

**Conditional Use Permit: Mobile Food Trailer - Taqueria Don Felipe Mobile #4
1418 E. Business Highway 83
Lot 1, Lemon Tree Plaza Subdivision
C-3
Felipe Vega**

Mr. Acevedo went over the write-up stating that the subject site is located on the 300' west of Steward Road along the south side of Business Highway 83. There is an existing used auto dealer on the property. The applicant wishes to place a portable for the sale of tacos on the north side of the property. Access to the site is from Business Highway 83.

- **Hours of operation:** Monday through Sunday from 6 a.m. to 2 p.m. and in the evening from 5 p.m. to 10 p.m. Monday through Thursday and from 5 p.m. to 2 a.m. Friday through Sunday.
- **Staff:** Only the applicant will be running the stand.
- **Parking:** The used auto sales lot has a large paved area which easily accommodates the min. 4 parking spaces for the food portable. The parking area is required to be properly striped.
- **Landscaping:** There are some green areas along Business Highway 83.

- Must comply with all City codes including Health and Fire Department requirements.
- A new business license is required prior to occupancy

REVIEW COMMENTS: We have seen several food carts come before us and Staff understands the previous concerns voiced by the P&Z regarding these types of carts. The property is located at a busy intersection and there are also several concerns that Staff has with approving this CUP. First, the hours of operation. Second, the applicant does not have permission from the operator of the used car sales office for the use of their restrooms. For this to work they would need a restroom facility for employees of the mobile food unit and the patrons of the food trailer. Even if the mobile food truck operator would secure such agreement, the hours of operation for the food trailer do not coincide with that of the used car lot.

RECOMMENDATION: Staff recommends denial.

Chairwoman Izaguirre asked if the applicant was present.

Mr. Mario Carrera, representative for applicant was able to answer any questions the board might have. He stated the hours of operation will be changed to 6:00 a.m. to 2:00 p.m. for the use of the restrooms. As far as the grease trap they will deposit all grease into their restaurant trap.

Chairwoman Izaguirre asked if the board had any questions.

Mr. Ned Sheats asked if the applicant would be willing to relocate to a food truck park.

“Yes, as long as it is developed we can change the location.” replied Mr. Carrera.

Chairwoman Izaguirre asked if anyone in the audience was in opposition for Item #1.7.

There was none.

Chairwoman Izaguirre asked staff if there were any other issues with the item.

Mr. Acevedo replied, “Another issue I had is I spoke to the gentleman who operates the used car lot who said he was not going to let them use his trailer. We can deny this until we get some further clarification from the used car salesman.”

Mrs. Debra Lee Alvarez stated that the food truck would stick out like a sore thumb and is best suited to be parked in one of the food truck parks. She stated she would not approve the Item.

There being no further discussion, Mr. Ned Sheats moved to deny the conditional use permit as per staff’s recommendation. Mr. Jose Luis Morin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:36 p.m.

Ended: 6:56 p.m.

Item #1.8

**Conditional Use Permit: Restaurant in a Property Zoned C-2
Neighborhood Commercial
2015 N. Shary Road
Being a 0.57 acre tract of land out of Lot 244,
John H. Shary Subdivision
C-2
Arnoldo R. Gonzalez**

Mr. Acevedo went over the write-up stating that the subject site is located at the SW corner of Shary Road and Summer Breeze. The property currently has a multi-unit commercial building under construction. The applicant intends to open a small Mexican Restaurant (Taqueria) on the property. The property zoned is zoned Neighborhood Commercial (C-2). Sec. 1.42(3)(e) of the Zoning Code states that restaurants require a CUP if in a Neighborhood Commercial Zone (C-2).

- **Hours of Operation:** Monday – Thursday from 8a.m. to 10p.m. and Friday – Sunday from 8a.m. to 11pm.
- **Staff:** 17
- **Parking:** The interior layout of the restaurant has still not been determined. The commercial complex has a total of 56 parking spaces that will be held in common. Staff will monitor the business that occupy the commercial development so that parking codes are met. For a restaurant code requires 1 parking space for every 3 seats.
- **Landscaping:** The site is still under construction but Staff has approved a landscaping plan for this development.
- 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. Staff believes that this proposal would not have a negative impact to the area since the hours of operation are reasonable. Staff mailed notices to property owners within a 500' radius of the site to solicit comments in favor or against this request. As of the date of this write-up, staff has not received any calls or written complaints on the proposed Conditional Use Permit.

RECOMMENDATION: Staff recommends approval for 1 year after business license issuance subject to:

1. Must comply with parking requirements;
2. Must comply with the landscaping code;
3. Must comply with Building, Health, and Fire Codes;
4. Must obtain a business license prior to business occupancy.

Chairwoman Izaguirre asked if the applicant was present.

Mr. Arnaldo Gonzalez was available to answer any questions the board might have.

Mrs. Alma Bailey asked Madame Chair if she could ask a question. Mrs. Bailey asked, "Is it a guarantee that they will not build a driveway onto Summer Breeze.?" Building onto the corner especially where the kids wait for the bus is not a good idea. Is that going to be approved?

Chairwoman Izaguirre stated that the issue at hand is for the rezoning, but according to the rendering submitted there is no driveway onto Summer Breeze.

Mrs. Bailey voiced being upset when the commercial development began because the developer cut down all the trees.

Mr. Tommy Thomson spoke to the board in opposition to the proposed restaurant in a C-2 zone with respect to his residential property and others in his community. His concerns included refuse or trash, the trees being torn down, flooding, added noise, traffic, and the contractor/developer being presumptuous in building a restaurant with a drive thru without having permission. The refuse from the restaurant will bring an increase in rats, opossums, and raccoons. Mr. Thomson reiterated, "there are so many inconveniences that don't even consider our community." The community has concern of the property being rezoned from an C-1 to C-2, now a C-2 to a restaurant with a proposed drive-thru. The community does not want possibility of the restaurant in the future applying for alcohol and waiver of hours and the trash that drive-thru will bring. All this should not be at the expense of property owners who do not want a restaurant with a drive thru in the community.

Mrs. Debra Lee Alvarez reiterated she knew about the concerns of the grease trap and dumpsters creating a lot of trash due to stench from increase rainfall.

Chairwoman Izaguirre called for a motion on Item #1.8. Mr. Ned Sheats moved to deny the conditional use permit. Mr. Javier Barrera seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:56 p.m.

Ended: 6:57 p.m.

Item #1.9

Conditional Use Permit:

Drive-Thru Service Window

2015 N. Shary Road

Being a 0.57 acre tract of land out of

Lot 244, John H. Shary Subdivision

C-2

Arnoldo R. Gonzalez

Mr. Acevedo went over the write-up stating that the subject site is located at the SW corner of Shary Road and Summer Breeze. The property currently has a multi-unit commercial building under construction. The applicant intends to open a small Mexican Restaurant (Taqueria) on the property. The property zoned is zoned Neighborhood Commercial (C-2) and requires a CUP for restaurant use on property zoned C-2 prior to considering a CUP for a drive thru service window. However, if approved for a restaurant use, the applicant is requesting consideration of a drive-thru service window at this location to be allowed. Traffic would enter the commercial complex from the sole driveway along Shary Road. Traffic would travel along the to the north side of the commercial building where a drive-thru window is proposed. To exit, traffic would wrap around the building to eventually exit back onto Shary Road.

- **Hours of Operation:** Monday – Thursday from 8a.m. to 10p.m. and Friday – Sunday from 8a.m. to 11pm.
- **Staff:** 17
- **Parking:** The interior layout of the restaurant has still not been determined. The commercial complex has a total of 56 parking spaces that will be held in common. Staff will monitor the business that occupy the commercial development so that parking codes are met. For a restaurant code requires 1 parking space for every 3 seats.
- **Landscaping:** The site is still under construction but Staff has approved a landscaping plan for this development.
- Must comply with all Building, Health and Fire Codes prior to obtaining a business license.

REVIEW COMMENTS: P&Z has seen previous requests for drive-thru service windows next to residential zones. However, most of these requests have been on C-3 zoned properties. The concerns that usually arise from drive-thru windows next to residential homes is that at night the lights from drive-thru traffic can be disruptive to the neighboring homes. If a revised site-plan is submitted addressing the lighting impact to abutting homes, Staff has no issue with allowing a CUP for 1 year to access the new operation. However, in viewing the site plan that was presented, Staff cannot support the use of the drive-thru window given the impact that it will have on the abutting residence. Staff mailed notices to property owners within a 500' radius of the site to solicit comments in favor or against this request. As of the date of this write-up, staff has not received any calls or written complaints on the proposed Conditional Use Permit.

RECOMMENDATION: Staff recommends approval for 1 year if a modified site-plan is submitted where lighting doesn't impact abutting residence. Otherwise, denial as presented.

Mr. Acevedo stated that Item #1.8 and Item #1.9 are similar and staff is recommending denial due to opposition stated in Item #1.8.

Mr. Ned Sheats moved to deny the conditional use permit. Mr. Javier Barrera seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:57 p.m.

Ended: 6:59 p.m.

Item #2.0

**Conditional Use Permit Renewal: Drive-Thru Service Window
2728 N. Conway Avenue
Lots 2 & 3, Northtown Unit #1 Subdivision
C-3
Israel Reyna**

Mr. Acevedo went over the write-up stating that the subject site is located approximately 120' west of Conway Blvd. on the south side of E. 28th Street. The applicant is requesting a renewal of a CUP for a *drive-thru service window* at this location. Previously, a CUP for drive-thru service window was approved on June 11, 2016 for the applicant. The drive-thru window is off of E. 28th Street along the north side of the building. Traffic must enter via the circular 14' drive then proceed to the northern side of the building to place and pay for their order. There is no separate outdoor speaker to place your orders. The drive-thru window location allows stacking for approximately 3 vehicles—see site plan. Exiting would be done by continuing out of the circular driveway back onto E. 28th Street.

- **Hours of Operation:** Monday - Sunday from 12 p.m. to 10 p.m.
- **Staff:** 2-3 Employees
- **Parking:** The 704 sq. ft. building will have a total of 12 outdoor seating spaces for the establishment. A total of 9 parking spaces are required for this site (704 sq. ft./75sq.ft.=9.38 parking spaces). It is noted that parking spaces are held in common within the commercial development and exceed code.
- Landscaping has been provided and meets code.
- Must comply with all Building, Fire, and Health Codes, prior to obtaining a business license.
- A business license is required prior to occupancy.

REVIEW COMMENTS: Staff does not object to the proposed drive-thru service windows.

RECOMMENDATION: Staff recommends approval for life of use subject to CUP not being transferable to others.

Mr. Antonio Reyna appeared as representative for the applicant.

Chairwoman Izaguirre asked if there was any opposition to Item #2.0.

There was none.

Chairwoman Izaguirre called for a motion. Mr. Javier Barrera moved to approve the conditional use permit as per staff's recommendation. Mrs. Debra Lee Alvarez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:59 p.m.

Ended: 7:01 p.m.

Item #2.1

**Conditional Use Permit Renewal: To keep 2 Mobile Homes for Ranch
& Security Purposes
3301 N. Glasscock Road
Being a 6.08 acre out of Lot 291,
John H. Shary Subdivision
AO-I
Kirk & Jeri Clark**

Mr. Acevedo went over the write-up stating that the subject site is located approximately ¼ mile north of N. 2 Mile Road along the east side of Stewart Rd. The applicants have had two mobile homes (a 16' x 70' and a 24' x 70') on the property since 2005. The smaller mobile home is occupied by an employee who maintains the horse barn and livestock located on the west end of the property. The other mobile home is used for personal and family use during the holidays and on weekends. They are soliciting renewal of their Conditional Use Permit to continue to keep the two Mobile Homes on the property. Their CUP was approved for a period of 5 years back in 2013.

Section 1.36(a) AO-I 'Interim Agriculture Use District', Permitted uses, states: 'farming, ranching, related activities, and accessory uses including the owner's single-family dwelling plus any housing for employees working on the premises'. The placement of mobile homes on five or more acres requires the acquisition of a CUP.

REVIEW COMMENTS: There have been no incidents at this location to report since the original approval of the CUP back on 2-9-05. Since the 5 year term seemed to work well in the past and since this scenario should be likened to that of a mobile home moved in to take of an elderly person; it would be wise to re-evaluate the CUP after a few years in order to assess the need of the mobile homes.

RECOMMENDATION: Staff recommends an approval subject to: 1) 5 years approval, and 2) shall not have separate water or electrical meters.

Chairwoman Izaguirre asked if the applicant was present.

Mrs. Jeri Clark and Mr. Kirk Clark were present to address any questions from the Board. Mrs. Clark noted that the request should be for one trailer.

Chairwoman Izaguirre asked if there was any opposition for Item #2.1.

There was none.

There being no further discussion, Chairman Izaguirre entertained a motion. Mrs. Raquene Austin 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: 7:01 p.m.

Ended: 7:17 p.m.

Item #2.2

**Conditional Use Permit Renewal: 4 Drive-Thru Service Windows for 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 subject site is located at the SE corner of Mayberry Road and E. 2 Mile Road. The most recent renewal came on September 26, 2018 at which time a 90-day renewal was awarded with extended hours until 12:00 am. The 90-day tenure is expiring and the owner of the operation would now like to extend his hours of operation for the drive-thru windows until 2 am.

- **Hours of Operation:** Every until 2 am
- **Staff:** 12 employees
- **Parking:** There are a total of 20 striped parking spaces and a drive-thru lane that allows for that stacking of 9 vehicles for a total of 29 parking spaces at Snow Ball Express #2. For a snack stand of this size a total of 6 parking spaces are required, thus exceeding code.
- **Landscaping:** Landscaping needs to meet City Code.

REVIEW COMMENTS: The snow cone business has been in operation for almost 2 years now. Recently, we were made aware by neighbors that the drive-thru business was staying open until 2:00 a.m. without PNZ or City Council consideration. The applicant claimed he was not aware that he needed to notify the City of any hour changes. The complaints received by Staff are that Snow Ball Express customers using the drive thru windows will idle waiting for their orders with loud exhaust mufflers and loud music playing from their vehicles.

Staff supports this local business and would like the applicant to continue his use of his drive-thru windows. However, Staff also recommends keeping the hours of the drive-thru windows until 10:00 p.m. on weekdays and until midnight on weekends. The long-established residential community directly south and residential lot just east of this newly established business is being impacted by the noise being created by the late

hour traffic. The City has a noise ordinance and an obligation to protect these citizens who have been there long before this new business.

RECOMMENDATION: Denial of the request for extended hours past 2:00 a.m. Staff recommends Sunday – Thursday 10:00 a.m. to 10:00 p.m. and Friday – Saturday 10:00 a.m. – 12:00 a.m.

Mrs. Debra Lee Alvarez asked staff to clarify if the hours of operation were just for the drive-thru or did it include the walk-up window as well.

Mr. Acevedo stated that it would be for the entire operation. He added, “We see this entire operation as a drive-thru.” Additionally, Mr. Acevedo showed an advertisement for Snowball Express showing the closing hours to be after 1:00 o’clock a.m.

Chairwoman Izaguirre asked if the applicant was present.

Mr. Elgin Xavier was present to answer any questions the board might have. He added as far as his advertisement for extended hours he did not have access to fix that web page. Mr. Xavier added that since the last 90 day approval from City Council there have been no complaints. [Inaudible]. Mr. Xavier explained that the houses in the surrounding area are far from the snow cone drive-thru.

Chairwoman Izaguirre asked if Mr. Xavier understood the hours of operation?

Mr. Acevedo stated the applicant is not closing at the times that were placed upon him.

Mr. Xavier explained he was given till 12:00 on the weekends and till 10:00 during the week.

Chairwoman Izaguirre asked staff if there was confirmation this was being followed.

Mr. Acevedo replied, “I have not sent out staff to the area, but I did receive a phone call from a neighbor who lives in the area reported there was traffic at the establishment as late as 1:20 a.m.”

Chairwoman Izaguirre added she lives in the area and can attest the drive-thru stays open past the time allowed.

Mr. Xavier said this was because of the walk up window for the customers who parked.

Chairwoman Izaguirre clarified that this was for operational hours not just for the drive-thru.

Mr. Xavier stated that the traffic at his location is 50% walk up window and 50% drive-thru window. There are 18 parking spaces for the people to utilize the patio and front window.

Chairwoman Izaguirre asked, "What time are you closing the operation on weekdays?"

"I close the drive-thru at 10:00," replied Mr. Xavier.

"No, what time do you close right now?" Asked Madame Chair.

Mr. Xavier replied, "Right now 12:00."

Chairwoman Izaguirre clarified what is being proposed is for the operational hours to close at 10:00 for the drive-thru and walk-up window.

Mr. Xavier stated that he is trying to explain that is "what is under debate."

"What time do you close on the weekends?" asked Chairwoman Izaguirre.

"On Friday, Saturday, and Sunday we close at 12:00," replied Mr. Xavier.

Mrs. Debra Lee Alvarez added that normally weekends are considered Friday and Saturday and not Sunday. The way she sees it the late hours should be applicable to Friday and Saturday only. Ms. Alvarez feels this is where the confusion is.

Chairwoman Izaguirre reiterated there have been reports of the operation being open past 1:00 o'clock a.m.

Mrs. Alvarez asked what staff was recommending.

Mr. Acevedo replied, "Sunday – Thursday 10:00 a.m. to 10:00 p.m. and Friday – Saturday 10:00 a.m. – 12:00 a.m. Which seems to be working."

Mrs. Alvarez stated that it is not working since the snow cone stand is open past the hours.

Mr. Xavier interjected there have been no complaints.

Mrs. Alvarez added it was not about the complaints it is being open after conditioned hours.

Mr. Xavier's explanation was it could be someone picking up one of his employees because they stay late to clean the snow cone stand.

Mr. Acevedo stated the person who called did report that the OPEN sign was turned off at 1:00 a.m., but yet the stand stayed open because there was a long line. In the past, citations have been issued at both locations. Everyone is under the opinion that he is closing at the hours that were approved, but apparently he is staying open longer.

Again, Mr. Xavier stated that the drive thru is being closed but the front window remains open.

Mr. Acevedo explained that Mr. Xavier's attorney has told the city that it cannot dictate the hours of operation for the walk up window.

Mrs. Alvarez commented that she worked for a large corporate restaurant for many year and the hours of operation need to be adhered to.

Chairwoman Izaguirre asked if there was any opposition to Item #2.2.

There being no further discussion, Chairwoman Izaguirre entertained a motion. Mrs. Debra Lee Alvarez moved to approve the operational hours for conditional use permit for a period of six months at Sunday – Thursday 10:00 a.m. to 10:00 p.m. and Friday – Saturday 10:00 a.m. – 12:00 a.m. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 7:17 p.m.

Ended: 7:21 p.m.

Item #3.0

**Homestead Exemption Variance: A tract containing 0.12 acres, also known as Lot 17-A, out of Lot 7-8, West Addition to Sharyland Subdivision & A tract containing 0.11 acres also known as Lot 17-B, out of Lot 7-8, West Addition to Sharyland Subdivision
AO-I
Maria De Jesus Saucedo**

Mr. Acevedo went over the write-up stating the subject site is located along the south side of San Esteban Road about 400' east of Military (F.M. 1016). The property consists of two partial lots equating two .23 net acres. 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 2" water line located along the south side of San Esteban to provide water service to the lot.

SEWER – The applicant is proposing to connect to an existing 6" sewer line located along the north side of San Esteban to provide sewer service to the lot. The capital sewer recovery fee is waived via the HVE.

STREETS & STORM DRAINAGE - The subject site has frontage to San Esteban Road, which has a 35' ROW with a 27' B/B paved street. There is an 7.5' additional ROW required for this request.

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.).

Chairwoman Izaguirre asked if there were any input from the Board.

There were no comments.

Mrs. Maria De Jesus Saucedo was present to address any questions from the Board.

There being no discussion, Mr. Jose Luis Morin moved to approve the homestead exemption variance as presented. Mrs. Debra Lee Alvarez seconded the motion. Upon a vote, the motion passed unanimously.

Chairwoman Diana Izaguirre stepped down from the Board.

Started: 7:21 p.m.

Ended: 7:23 p.m.

Item #4.0

Pre-Final Plat Approval:

Eduardo's Subdivision No. 23

A 9.886 acre tract of land, out of Tract 1,

Block 2, Citrus Groves Unit No. 1

ETJ

Developer: Diana Laura Izaguirre

Engineer: Izaguirre Engineering Group, LLC

Mr. Acevedo went over the write-up stating the subject site is located on La Homa Road approximately 6,660 feet north of Mile 3 Road (4 ¼ mile) along the east side of La Homa Road. The developer is proposing 38 Single Family Residential lots all exceeding area requirements.

WATER - The water CCN belongs to Sharyland Water Supply Corporation. The developer is proposing to connect to an existing 8" line located along south side of La Homa Road. The proposed 8" line will be run down along the proposed interior street (un-named at this time) to provide water service to each lot.

SEWER - In regards to sewer, the developer is proposing to extend an 8" sewer line to a manhole located along La Homa Road. The proposed residential lots will be serviced by 4" sewer lines that will be connecting to the larger 8" sewer line. The \$200.00/Residential Lot Capital Sewer Recovery Fee will be imposed as required by

Ordinance #4310, i.e. 38 lots X \$200.00/Lot = \$7,600.00. There will also be a \$260 sewer tap fee and \$58.50 Sewer Permit Fee imposed per lot x 38 lots = \$12,103.00.

STREETS & STORM DRAINAGE - The subdivision has frontage to La Home a paved county road with 80' of ROW, no additional ROW is needed for the future widening of La Homa. The internal lots will be fronting a 50' ROW 32' B/B paved street built to the County's construction specifications. Drainage for the subdivision is proposed via detention and through the use of 32" H.D.P.E. lines located within the proposed streets that will flow north into existing West Main Drain III—see HCDD #1 approved drainage report. It is also noted that the developer will be widening said West Main Drain III to provide an additional 23,800 cubic feet of detention.

RECOMMENDATION: Staff recommends approval subject to: 1) Must meet the Model Subdivision Rules; 2) Comply with the street alignment policy; 3) Must pay the capital sewer recovery fees; and 4) Comply with comments from the County Planning Department.

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

There was none.

There being no discussion, Mr. Jose Luis Morin moved to approve the subdivision plat as per staff's recommendation. Mr. Hector Moreno seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #5.0
OTHER BUSINESS**

There was no other business.

**ITEM #6.0
ADJOURNMENT**

There being no further items for discussion, Mrs. Debra Lee Alvarez moved to adjourn the meeting. Mr. Javier Barrera seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 7:24 p.m.

Diana Izaguirre, Chairwoman
Planning and Zoning Commission