

**PLANNING AND ZONING COMMISSION  
OCTOBER 24, 2018  
CITY HALL'S COUNCIL CHAMBERS @ 5:30 P.M.**

**P&Z PRESENT**

Carlos Lopez  
Ned Sheats  
Hector Moreno  
Jaime Gutierrez  
Raquenel Austin  
Diana Izaguirre

**P&Z ABSENT**

Marisela Marin

**STAFF PRESENT**

Jaime Acevedo  
Virgil Gonzalez  
Kristin J. Warshak  
Joel Chapa, Jr.  
Gilbert Dillard, Jr.

**GUESTS PRESENT**

Gauge Gonzalez  
Ricardo Garza  
Eva J. Gonzalez  
Rosalinda Trevino  
Jose Guadalupe Trevino  
Paula Zapata  
Stefany Gonzalez  
Karen Ortega  
Eduardo Castaneda  
Fred Kurth

**CALL TO ORDER**

Chairman Ned Sheats called the meeting to order at 5:32 p.m.

**CITIZENS PARTICIPATION**

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

There was none.

**APPROVAL OF MINUTES FOR OCTOBER 10, 2018**

Chairman Sheats asked if there were any corrections to the minutes for October 10, 2018. Mr. Carlos Lopez moved to approve the minutes as presented. Mr. Jaime Gutierrez seconded the motion. Upon a vote, the motion passed unanimously.

At 5:33 p.m. Chairman Sheats requested a consideration to hear Item #1.1 at the end of the P&Z Meeting and begin the meeting with Item #1.2.

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

**Ended: 6:10 p.m.**

**Item #1.1**

**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 acres 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. 12<sup>th</sup> Street/Highland Park Avenue intersection.

**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 10<sup>th</sup> 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.

Mr. Jaime Acevedo added that as of today he did receive a call from a local engineer with respect to the legal description on the public hearing notice, and concerns of rezoning itself.

Chairman Sheats asked Mr. Acevedo, "Exactly how many apartments can fit in there."

Mr. Acevedo, replied, "We are allowed to have up to 28 apartments per acre, this site location is just shy of a full acre, and the applicant is only proposing up to 16 apartments. Part of the reason the city is recommending approval of an R-3 is due to the irregular shape of the site location. It would be impossible, given the shape of the property, to subdivide into R-2 lots. The applicant's intent is to develop 16 apartments to be gated so somewhat private."

With respect to the question of the legal description of the 0.25, save and except, Mr. Acevedo clarified this parcel does belong to the applicant.

Chairman Sheats asked if the commission had any question to staff.

There was none.

Chairman Sheats asked if the applicant was present.

Mrs. Robin Salas, daughter of Martha Sanchez (owner), was able to answer any questions the board might have.

Chairman Sheats asked if the applicant was happy with the recommendations made by staff.

To which Ms. Salas replied, "Yes."

Chairman Sheats asked if there was any audience opposition.

Mr. Steve Spoor appeared before the board stating that at first he was concerned about the legal description which has since been resolved with the survey. Mr. Spoor went on to explain the concern of density to the area. He continued to state, "One of the concerns is drainage. If there is an increase in density then there is an increase in drainage. Right now this property and surrounding area drains east to Bryan Road. Increasing the density will increase the run-off from the property onto Bryan Road."

"Number two," continued Mr. Spoor, "If this site is rezoned, how do you get to it? How do you come and go? The width of the frontage on Highland Park is 60'. Highland Park is also acting as a collector street for the streets running east/west. There is a problem with people backing out onto Highland Park." He explained Highland Park is no way near a collector street creating traffic issues. Mr. Spoor expounded that he and his clients, the Gonzalez', believe there to be significant problems with drainage and traffic.

Mr. Gauge Gonzalez, appeared before the board in opposition to the rezoning.

Chairman Sheats inquired as to any flooding issues in June?

Mr. Gonzalez stated, "Yes, and in July once as well." He articulated his concern is the increased density to the area if the zoning were to be approved as well as the constant flooding. During heavy rains he has experienced up to an 1 inch of water in the back bedroom due to the way the land is leveled.

Chairman Sheats asked, "Did you have water into your house?"

"Yes, water collects in the center of the home and spreads around us to get out" replied Mr. Gonzalez. He reiterated if an R-3 were to be approved, there will be a lot of issues with traffic and drainage which would affect the value of his property as well.

Chairman Sheats asked if there were any questions or comments from the commissioners to staff.

Ms. Diana Izaguirre moved to approve the rezoning as per staff's recommendation. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed 5-1 with Chairman Sheats opposing.

**Started: 5:34 p.m.**

**Ended: 5:39 p.m.**

**Item #1.2**

**Rezoning:** All of Lots 1 and 2, Block 7,  
Bonito Subdivision  
R-1 to C-2  
Laura Escobedo

Mr. Jaime Acevedo went over the write-up stating the subject site is located near the SW corner of Holland Road and Hidalgo Street. The site measures 85' X 97' which equates to 8,245 sq. ft. The property is currently zoned Single Family Residential R-1.

**SURROUNDING ZONES:** N: R-1 – Single Family Residential  
E: R-1 – Single Family Residential  
W: R-1 – Single Family Residential  
S: R-1 – Single Family Residential

**EXISTING LAND USES:** N: Residential  
E: Residential  
W: Residential  
S: Institutional (Pearson Elementary)

Site: Commercial

**FLUM:** Moderate Density Residential (MD)

**REVIEW COMMENTS:** The Future Land Use Map reflects a Moderate Density Residential (LD) land use. This site has always operated as a neighborhood convenience store since 1983. Recently, the applicant came into the office requesting a sign permit for his grandfathered business. Since, the property is zoned residential, we were not able to issue a sign permit. The applicant would like to have the appropriate zoning so that he can have the signage that comes with being zoned commercial. 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.

Chairman Sheats asked if there were any questions or comments from the commissioners.

There was none.

Mrs. Laura Escobedo, applicant, was available to answer any questions the board might have.

Chairman Sheats explained this item would be an administrative correction to the City's rezoning. He asked if there was any opposition to the rezoning.

Mrs. Rosalinda Trevino stated that she was not in opposition to the rezoning, she was concerned the store would "go away."

Mr. Carlos Lopez moved to approve the rezoning as per staff's recommendation. Mr. Hector Moreno seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 5:39 p.m.**

**Ended: 5:42 p.m.**

**Item #1.3**

**Conditional Use Permit**

Renewal:

Sale & On-Site Consumption of Alcoholic  
Beverages – La Fogata Restaurant  
300 N. Shary Rd.  
Lot 1, El Lugar Subdivision  
C-3  
El Lugar Cabrito & Steak House

Mr. Jaime Acevedo went over the write-up stating the site is located 1/3 mile north of Expressway 83 along the east side of Shary Rd. La Fogata is a family oriented Mexican restaurant and bar that has been in operation since 2008. This CUP was most recently approved by P&Z on January 11, 2016 for a period of 3 years.

- **Hours of operation:** Mondays – Saturdays from 7a.m. to 12.a.m. & Sundays from 7a.m. to 10p.m.
- **Staff:** 114
- **Parking:** The existing 21,533 sq. ft. building has a grand total of 357 seating spaces which require 119 parking spaces (357/3 seats). There is a total of 168 parking spaces exceeding code by 49 spaces.
- **Landscaping:** The applicant is in compliance with the landscaping requirements by currently providing various trees, plants and shrubs within landscaped islands throughout the site.
- Section 1.56-3 of the Zoning Code cites that 'Bars' must be 300' from the nearest residence, church, school or publicly owned property. There is one single family home and several mobile homes within 300' (see aerial); however, P&Z and the Council waived this separation requirement in the CUP's previous approval.

**REVIEW COMMENTS:** Staff has asked Mission PD to provide a report in relation to the sale of alcohol which we should have by the meeting date.

**RECOMMENDATION:** Since La Fogata is a family-oriented restaurant and IF there are no incidents reported by PD, Staff recommends approval subject to a waiver of the 300' separation requirement from the residential neighborhood and that this CUP be approved for a period of two years at which time the applicant will have to renew their TABC license and Conditional Use Permit.

Mr. Jaime Acevedo did add that a report from PD was received, and there were no incidents to report.

Chairman Sheats asked if there were any questions from the commissioners to staff.

There was none.

Chairman Sheats asked if the applicant was present.

Ms. Karen Ortega, applicant, was available to answer any question the board might have.

Chairman Sheats asked if the applicant agreed with all of Staff's recommendations.

Ms. Ortega replied, "Yes."

Chairman Sheats asked if there was any audience opposition to the item.

There was none.

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

**Started: 5:42 p.m.**

**Ended: 5:46 p.m.**

**Item #1.4**

**Conditional Use Permit**

**Renewal:**

Drive-Thru Service Window and  
the Sale & On-Site Consumption of  
Alcoholic Beverages - Taco Palenque  
2420 E. Expressway 83  
Lot 5-C, Sharyland Place Subdivision  
C-3  
Eduardo Castaneda

Mr. Jaime Acevedo went over the write-up stating the site location of Taco Palenque is located ¼ mile east of Shary Rd. along the south side of Expressway 83, north of

Kohl's. The 5,939 sq. ft. restaurant has an existing a *drive thru service window* with access to the site through an existing off-site entrance located 42' from the site. The (12') drive-thru lane runs along the south and east sides of the building which allows stacking for 5+ vehicles. Taco Palenque also has a CUP for the *sale and on-site consumption of alcohol* with meals. There are no churches or schools within 300' of the subject site. Both CUPs were last approved on 4-22-15 for 3 years. The applicant is seeking renewal of both CUPs.

- **Days / Hours of operation:** Open 24hrs. - Everyday. Alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 50 employees
- **Parking:** The building requires 79 spaces. The applicant is providing 55 spaces *on-site* and is leasing an additional 24 for a total of 79 spaces, thus compliant to code. It is noted that the parking area is held in common (657 existing parking spaces) and is shared with other businesses. The parking area is also connected and has access to Wal-Mart's existing, interlocking parking lots. Staff has not received any complaints in regards to parking.
- **Sale of Alcohol:** This request is compliant to Sec. 6-4 which requires that no alcoholic beverages be sold within 300' to a church, public school, private school or public hospital. There are none of these land uses within the above radius.
- Planning asked Mission PD for a report of incidents (see attached e-mail). 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, staff recommends approval for life of use on the drive-thru window and recommends that their alcohol CUP be approved until 2/15/21 or 28 months at which time their TABC license will need to be renewed.

Chairman Sheats asked if there were any questions from the commissioners on this item.

There was none.

Chairman Sheats asked if the applicant was present.

Mr. Eduardo Castaneda, applicant, was available to answer any question the board might have.

Chairman Sheats asked Mr. Castaneda if he was in agreement with staff recommending 28 months for the sale and on-site consumption conditional use permit.

Mr. Castaneda replied, "Yes."

Chairman Sheats asked if there was any audience opposition.

There was none.

Mrs. Raquene Austin moved to approve the conditional use permit as per staff's recommendations. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 5:46 p.m.**

**Ended: 5:49 p.m.**

**Item #2.0**

**Site Plan Approval:** Construction of 13 Apartments  
Lot 4, Empire #1 Subdivision  
R-3  
Juan Munoz

Mr. Jaime Acevedo went over the write-up stating the property is located near the NE corner of 2 Mile Road and Moorefield. Site Plan approval is required prior to permit issuance for multi-unit complexes of five or more.

Viewing the site plan, there is a long two-story building, to be used as a multi-family apartment complex, 2 units (1 & 13) each measuring approximately 1,068 sq. ft. and 11 units (2-12) each measuring 1,050 sq. ft. or 13,687 sq. ft. for all of the 13 units on Lot 4. The building must comply with all fire code requirements for a multi-family 2 story building. All units will face the alley and each unit will have a downstairs and an upstairs. There are no exterior stair wells along the building however the building will not have open balconies on the second story.

The minimum required setbacks for the site are all complied with.

As seen, there will be no separate driveways from Moorefield onto Lot 2. Traffic will flow into and out of the facility from a shared (Lots 4 & 5) 24' driveway from the alley.

With regards to parking, the site plan shows 26 regular parking spaces. For a multi-family building of this size (13 units) the City Code requires 26, therefore meeting code.

5' sidewalks are required along Moorefield Road. Ten percent landscaping will be required with a combination of trees, plants, and shrubs.

When the plat was recorded, the park fee was levied at 12 units per lot @ \$200/unit— with the new upgrade in fees, the additional 1 unit (see total of 13 proposed apartments) will require the new 1 @ \$300/unit = \$300 park fee to be imposed. In addition, a \$120 sewer capital recover fee (1 @ \$120/unit) will be imposed.

**RECOMMENDATION:** Staff recommends approval subject to: 1) the location of the enclosed dumpsters be coordinated with City's Sanitation Department, 2) the submittal of grading and detention plan to our City Engineer, 3) compliance with landscaping requirements as noted above, 4) compliance with all building and fire codes, 5) \$120



sewer capital recover fees and \$200 park fees, and 5) compliance with Fire Marshal's requirements.

Chairman Sheats asked if there were any questions from the commissioners on this item.

There was none.

Ms. Diana Izaguirre moved to approve the site plan review as per staff's recommendation. Mr. Hector Moreno seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 5:49 p.m.**

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

**Item #3.0**

**Preliminary & Final  
Plat Approval:**

Las Comadres No. 5 Subdivision  
A Re-Subdivision of a 45.00-acre tract of land  
being all of Lots 19, 20, 21, 22, and the North  
½ of Lot 23, Block 3, Texan Gardens Subdivision  
ETJ  
Developer: Carlos G. Leal Jr.  
Engineer: Melden & Hunt, Inc.

Mr. Jaime Acevedo went over the write-up stating the proposed subdivision is located .09 of a mile south of Mile 4 Road along the west side of Texan Avenue. The developer is proposing 76 Single Family Residential lots all exceeding area requirements.

**WATER:** The water CCN belongs to Agua Special Utility District. The developer is proposing to connect to an existing 8" line located along Western Road to provide water service to each lot. There are no fire hydrants provided for this Rural ETJ subdivision.

**SEWER:** Sanitary sewer service for this subdivision will be addressed by individual on-site sewage facilities (OSSF) of a standard design septic tank and drain field on each lot. Each lot meets or exceeds the County's typical ½ acre standard where septic tanks are permitted. This area is not within the City of Mission's Sewer CCN.

**STREETS & STORM DRAINAGE:** The subdivision has frontage to Western Road a paved county road with 100' of ROW. 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 consists of surface runoff from lots onto proposed streets flowing towards type "A" inlets located in key areas. The proposed storm sewer system shall flow west to the east right-of-way of Iowa Road running south then west crossing Iowa Road discharging into a proposed Hidalgo County Precinct #3 Regional Detention facility that will be dedicated to the Hidalgo County by the developer of Las Comadres #5 Subdivision. The Regional Detention Facility will be situated at the corner of Iowa Road and Mile 3 Road. The proposed drainage pipes will range in size from 18" to 48".

**RECOMMENDATION:** Staff recommends approval subject to meeting the Model Subdivision Rules, complying with the street alignment policy and meeting any comments from the County Planning Department.

Chairman Sheats asked if there were any questions from the commissioners to staff on this item.

There was none.

Mr. Fred Kurth, P.E., representative for applicant, was available to answer any questions the board might have.

Chairman Sheats complimented Mr. Kurth with respect to the retention for the proposed site.

Ms. Diana Izaguirre moved to approve the preliminary and final plat approval as per staff's recommendation. Mr. Jaime Gutierrez 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, Mr. Carlos Lopez moved to adjourn the meeting. Mr. Jaime Gutierrez seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 6:10 p.m.

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Ned Sheats, Chairman  
Planning and Zoning Commission