

PLANNING AND ZONING COMMISSION
OCTOBER 10, 2012
CITY COUNCIL CHAMBERS @ 5:00 P.M.

P&Z PRESENT

Rene Flores
Carlos Lopez
Marisela Marin
Mario Garza
Ned Sheats
Abiel Flores

P&Z ABSENT

Diana Izaguirre

STAFF PRESENT

Bobby Salinas
Pat Martinez
Irasema Dimas
Susana De Luna
Roberto Salinas

GUESTS PRESENT

Aristeo Mireles
Petra Mireles
Mr. & Mrs. Dennis Grover
Luis Enrique Beltran Ramos
Ivan Camargo
Victoria R. Gonzalez
Javier G. Fernandez
Oscar Treniño
Jaime Sanchez
Iliana Bustamante
Jose Madrigal
Elias Eliseo
Stewart Skloss, P.E.

CALL TO ORDER

Chairman Rene Flores called the meeting to order at 5:01 p.m.

CITIZENS PARTICIPATION

Chairman Rene Flores asked if there was any citizens' participation. There was no response upon inquiry.

APPROVAL OF MINUTES FOR SEPTEMBER 26, 2012

Chairman Rene Flores asked if there were any corrections to the minutes for September 26, 2012. Mr. Ned Sheats moved to approve the minutes as corrected. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:01 p.m.

Ended: 5:13 p.m.

ITEM # 1.1

Discussion and Action to Amend Future Land Use Map within the Boundaries of Conway to the West, Stewart Rd. to the East, Griffin Parkway to the South, and 2 ½ Mile Line (City Limits) to the North

Mr. Bobby Salinas went over the write up stating that this is the 1st in a series of FLUM amendments. The FLUM gives the general public, developers, public officials, and interested others 'broad strokes' of how the City of Mission's land uses should

be located – it is not intended to be a rock solid depiction of a future zoning map. When determining general land use patterns, staff typically factors in the following:

- ❖ Frontage to Existing Major Streets such as FM Roads/MPO arterials – properties next to FM roads or State Highways (or the Expressway) have a larger tendency to be commercial or even attract apartments; if a property is next to Conway (SH 107)
- ❖ Frontage to *Future* Major streets – The MPO Thoroughfare Map is a Countywide map that requires uniform ROW profiles though the road is in different cities; this MPO Map has been reviewed and approved by all municipalities to require the ROWs
- ❖ Existing land uses – if adjoining next to SF Residences, the undeveloped acreage may have a higher tendency to be SF Res – the same for commercially used properties
- ❖ Existing zonings – if undeveloped acreage is in the midst of a certain *zoning* district (middle of R-1), the likelihood is that it will be SF used & zoned & should thus be designated for SF Res purposes
- ❖ Adjoining land uses – if undeveloped acreage is in the middle of a certain *land use*, then it will likely be used similarly
- ❖ Elevation of tracts – if property is naturally in a very low-lying area and it's flood zone reflects this as a perpetual hazard, then it should likely be designated as "Public" for area wide detention purposes and not be designated for SF Res purposes
- ❖ Highest & Best use analysis – this is a common sense approach after factoring all the above items, i.e., Staff can determine what the highest & best use should be for a certain acreage. For example, though there may be estate residential settings along FM 495, the long term effect should likely be for non-residential purposes such as offices, etc.

In order to fully understand the FLUM acronyms, we provide the following legend:

- **LD** – Low Density Residential; typical Single Family Residential setting; zoning would include R-1
- **LDA** – Lower Density Residential; typical SF Residential setting; zoning would include R-1A
- **MD** – Moderate Density Residential; typical uses would reflect townhomes, mobile homes, duplexes; zonings would include R-1T, R-2, R-4 (mobile homes)
- **HD** – High Density Residential; typical uses would reflect apartments; possibly clustered townhouses; RV parks; zonings would usually include R-3 and R-4 (RV's)

- ● Neighborhood Commercial; typical uses would include convenience stores, barber shops, day cares, etc.; usually found at major intersections or in midst of older residential communities to serve the immediate neighborhood; Zoning is C-2
- **GC** – General Business; typically uses would include retail sales, restaurants, shops, offices, etc.; zonings include C-1, C-2, C-3
- **HC** – Heavy Commercial; typical uses would include heavy equipment sales or uses that require a large outdoor sales area; zoning would be C-4
- **P** – Public – typically includes schools, parks, city or county property

ANALYSIS

In this component of the FLUM, there should be several reconciliations of land uses/zonings and proposals to the FLUM that are the following:

SITE LOCATION	FROM/TO	JUSTIFICATION
Acreage out of Lot 29-7, West Addition to Sharyland	LD to HD	This change would reconcile the FLUM due to the existing R-3 zone
Pueblo De Paz Subdivision	LD to HD	This change would reconcile the FLUM due to the existing R-3 use
NE corner of Mayberry Road and 2 Mile Road	LD to ●	The widening of 2 Mile Rd. and the C-2 to the south lends itself to C-2 zoning
N. 10 acres of Lot 30-11, West Addition to Sharyland	LDA to HD	There has been intense interest in possibly building apartments at this juncture; also properties abutting Major thoroughfares have a higher tendency to attract apartments
Lot 1, Blocks 1, 4, & 8, Gulf Breeze Addition	LD to GC	Lots front Conway and 1 of the lots has already been re-zoned to C-2
Area south of Dawson Lane along the east side of Conway	LD to GC	This extension of GC will reconcile the FLUM to the size of commercial lots in that vicinity
SW corner of Francisco Avenue and 2 Mile Road	LD to GC	The widening of 2 Mile Road makes this property more conducive for a non-residential use, rather than having an R-1 home along such congestive traffic
SE corner of Mayberry Road and 2 Mile Road	LD to ●	Due to existing C-2 zone on this corner reconciliation of the FLUM is in order

SW corner of Bryan Road and 2 Mile Road	LDA to P	This change will reconcile the FLUM to the future LDS church use
NE corner of Griffin Parkway and E. Palm Circle	LD to P	This change will reconcile the FLUM to the existing Church of Nazarene on this corner
Yessica Pedraza Subdivision, Lot 1	LDA to GC	This change will reconcile the FLUM to the size of the Yessica Pedraza lot length
Lots 1, 6, & 7, Stewart Place, Phase I & II	GC to HD	This change would reconcile the FLUM due to the existing R-3 zone and uses.

See exhibits A & B.

Chairman Rene Flores stated that he would like to comment that the P&Z board needs those maps and that they are important for developers and investors that are trying to come into the city and set up various businesses. He mentioned that it was a good idea to set up a plan for the future establishing what they would like to see in the different areas of the city. He asked if this was the only area of the city.

Mr. Bobby Salinas replied that because the city was so big, he needed it to cut it in pieces in order to examine each of them; and some maybe skipped if there is no change.

Chairman Rene Flores stated that Conway was a big street like Shary Road and that the focus needs to come to the downtown area. He mentioned that the heart to every city is the downtown area and he believes that the city needs to focus more on the downtown area.

Chairman Rene Flores asked if there was any public opposition to the request.

There was no response.

Chairman Rene Flores asked if there were any comments from the board.

Mr. Mario Garza stated that he was ok with the changes.

After a brief discussion, Chairman Rene Flores entertained a motion. Mr. Mario Garza moved to approve the amendment to the FLUM as per staff's recommendations. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:13 p.m.

Ended: 5:20 p.m.

ITEM # 1.2

To Consider Abandoning a 60' County Road Easement that lies within Lots 37 thru Lot 44 as recorded in Toellner Subdivision, requested by Francisco Reyna

Mr. Bobby Salinas went over the write up stating that in 2009, the City Council desired to hold public hearings on issues involving any abandonment of public ROWs. Public notification procedures (similar to re-zonings) have been activated, i.e. notices to owners within 200' radius, plus a publication of such 'ROW abandonment' placed in the City's newspaper.

SITE: The site is located south of the intersection of Toledo and E. 2nd ½ Street. The proposed abandonment is located along the south sides of Lots 37 to 43 and along the south and east side of Lot 44 as recorded in Toellner Subdivision, Vol. 15 –Page 28.

We received a request from Mr. Francisco Reyna, the owner of Lot 44, to abandon the 60' road easement, since it takes up most of his lot. He is hoping to build a future 12,000+ sq.ft. home on the property. Though it is not required, he submitted a petition from the majority of the owners that abut the 60' road easement.

The Toellner plat was recorded on August 18, 1964. Fiesta Village, which is located west of Toellner, was recorded on January 23, 1978. As shown in the vicinity map, Fiesta Village currently blocks the 60' county road easement from continuing west. If the City's intentions were to have the road built, it would have also required the street to connect to Fiesta Village and continue westward.

Also, in reviewing the City's Master Transportation Plan and a street and utility project map that was done by Melden & Hunt for the Toellner area, we found that there was no future proposal for the construction of the street south of 2nd ½ Street. The map not showing the street once again proves that there was no intention of the street going south of 2nd ½ Street.

The 60' road easement has never been used as such and does not have any public utilities within. The roadway easement has been fenced in and maintained by the adjacent owners for several years. This abandonment will not interfere with the City's future plans of extending 2 ½ Street through to Glasscock Road.

Since it seems that the street would only benefit those who wish to have the roadway easement abandoned, staff does not object to the abandonment of the 60' road easement.

Chairman Rene Flores asked if there was any public opposition to the request.

Mr. Dennis Grover from the ACC of Fiesta Village stated that several of the residents from Fiesta Village received the notice but didn't know what it was about.

Chairman Rene Flores asked Mr. Bobby Salinas if the abandonment would affect the property owners of Fiesta Village.

Mr. Bobby Salinas replied that it wouldn't affect them; it will only affect the owners from Lots 37 thru 44, Toellner Subdivision.

Chairman Rene Flores asked if the applicant was present.

Mr. Bobby Salinas stated that Mr. Francisco Reyna had just walked in.

Chairman Rene Flores asked the board members if they had any questions.

There was no response.

There being no discussion, Chairman Rene Flores entertained a motion. Mr. Ned Sheats moved to approve the abandonment as per staff's recommendations. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:20 p.m.

Ended: 5:23 p.m.

ITEM # 1.3

Rezoning:

**A .78 acre tract of land out of Lot 23-4,
West Addition to Sharyland Subdivision
AO-I to R-1
Rosie Cedillo**

Mr. Bobby Salinas went over the write up stating that the subject site is located ¼ mile west of Holland Road along the south side of West 20th Street. The surrounding zones are (AO-I) Agricultural Open Interim to the east, west, and north, and (R-1) Single Family Residential to the south. The land uses include single family homes in all directions. The FLUM shows a Low Density (LD) designation. There are existing homes within the surrounding properties and R-1 is directly consistent with an LD designation. Staff recommended approval to the R-1 zone request.

Chairman Rene Flores asked if there were any public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

There was no response.

There being no discussion, Chairman Rene Flores entertained a motion. Mr. Mario Garza moved to approve the R-1 zone request. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:23 p.m.

Ended: 5:27 p.m.

ITEM # 1.4

Rezoning:

**A 1.258 acre tract of land out of Lot 254,
John H. Shary Subdivision
AO-I to C-1
Bel-Vill Investments, Inc.**

Mr. Bobby Salinas went over the write up stating that the subject site is located on the SW corner of Fox Run and Shary Road. The surrounding zones include C-1 (Office Building) to the north; R-1 (Single Family Residential) to the east and west; and AO-I (Agricultural Open Interim) to the south. The surrounding land uses consist of open acreage to the south, a professional office building to the north, and residential subdivisions to the east and west. The subject site is currently open acreage. The FLUM reflects a General Commercial (GC) designation along the Shary Road frontage.

The site should be rezoned to C-1 due to the FLUM compliance, frontage to a widened major thoroughfare, and it is adjacent to a similar existing commercial user and zone to the north. Staff recommended approval to the C-1 zone request.

Chairman Rene Flores asked if there were any public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

Mr. Leo Montalvo stated that he was representing the buyer as well as the seller. He mentioned that the buyer would comply with all the requirements from the city including landscaping, sidewalks, parking, etc.

Mr. Ned Sheats stated that he was glad to hear that the applicant was cognizant of the neighborhood.

Mr. Leo Montalvo replied that they don't want to have any problems with the neighborhood and they were willing to do anything necessary to avoid any problems.

There being no further comments, Chairman Rene Flores entertained a motion. Mr. Ned Sheats moved to approve the C-1 zone request as recommended by the staff. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:27 p.m.

Ended: 5:37 p.m.

ITEM # 1.5

Conditional Use Permit:

Home Occupation – "Business Office"

1210 Elm Street

Lot 6, Block 4, Pecan Heights Subdivision

R-1

Iliana M. Bustamante

Mr. Bobby Salinas went over the write up stating that the site is located at the SW corner of Elm Street and Bryan Road. You may recall that a CUP for this site was previously approved for a "construction office" by Terra Homes. Mr. De La Tejera has now sold the property to Mrs. Bustamante who now wishes to utilize her home as an office for her glass business, thus the new CUP application.

Mr. & Mrs. Bustamante currently live at the home and own a glass installation business where they are proposing to utilize the portion of the home that was the office for Terra Homes. In speaking to the applicant, they do not have any inventory at the home. They would simply show the customer the items through the internet and set up the installation at the customer's home.

- **Hours of Operation:** Monday – Friday from 8:00 a.m. to 5:00 p.m.
- **Staff:** Only the applicant's husband will run the glass business.
- **Parking:** The owners of the home park in the rear via the alley's access. Thus, the 'front' parking is always available. Since the office has minimal traffic, traffic is not an issue. The Fire Marshal had reviewed the first CUP request for Terra Homes and did not require any additional fire hydrants for the site.

Upon an on-site inspection of the property there is no storage of glass materials on-site and the customer traffic is minimal. Since the site has been used as a business office before and staff has not received any complaints against the proposal, staff does not object to the CUP's continuation as a business office.

Staff recommended approval subject to: **1)** 1 year re-evaluation in order to assess the glass business, **2)** compliance with Section 1.56-1 of the Zoning Code (Home Occupation), **3)** no signage permitted on the home larger than a 1' x 1' name plate, and **4)** acquisition of a business license.

Chairman Rene Flores asked if there were any public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

Mrs. Iliana Bustamante from 1210 Elm Street was present to answer any questions from the board.

Chairman Rene Flores asked Mrs. Bustamante if she had bought the house.

Mrs. Iliana Bustamante replied that they recently bought the house from Mr. De La Tejera.

Chairman Rene Flores asked Mrs. Bustamante how long ago she had the business and where was the business located.

Mrs. Iliana Bustamante replied that she had the business for about 2 years and that it was located in Monterrey.

Chairman Rene Flores mentioned that he was hesitant in approving a conditional use permit within residential homes depending on the type of business being proposed, for example a catering business or small beauty shop they are okay, but a glass business.

Mr. Ned Sheats stated that he believe this was an internet business and that it wouldn't interfere with the residential atmosphere. He asked the applicant how often they get walk-ins.

Mrs. Iliana Bustamante stated that they have a very low percentage of walk-ins, and she stated that they don't keep any materials on-site.

Chairman Rene Flores stated that he understood that but a glass business would require more like a commercial atmosphere setting, on the other hand he stated that he didn't know how much business they would generate at the beginning and that he wouldn't have a problem approving it for a period of time and see how the business develops.

Mr. Bobby Salinas stated that he wouldn't have a problem in the future because if in the future there are traffic issues, then when it happens it would be the time to talk about relocation.

Chairman Rene Flores mentioned that based on the 2 pictures provided by staff the site does look more like a commercial building than a home.

Mr. Ned Sheats stated that based on the write up he was made to believe that the business was done majorly through the internet.

Mr. Bobby Salinas asked Mrs. Bustamante how many customers go the site during a week.

Mrs. Iliana Bustamante replied that they have very little.

Mr. Jose Madrigal husband of Mrs. Bustamante stated that they bring the glass from Monterrey and they deliver the glass to his home, but the very next day or that same day they deliver the material to the residence where they are going to do the work. He mentioned that customers only go to the site when asked to go see the products on the computer. He mentioned that very few people would want to see the material they are buying before confirming the purchase. He mentioned that the previous owner had a beautiful place set up which include an office, waiting area, meeting room, and a place to live; and that was the main reason why they bought the home. He stated that all he was asking for was for permission to start his business at this location and maybe in the near future move to a commercial location and leave the site for a residence.

Chairman Rene Flores stated that that's what the board wants to see, new businesses coming and growing to commercial.

Mr. Jose Madrigal replied that they do like the area to live in especially because of the school was across the street.

After a brief discussion, Chairman Rene Flores entertained a motion. Mr. Carlos Lopez moved to approve the conditional use permit as per staff's recommendations. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:37 p.m.

Ended: 5:50 p.m.

ITEM # 1.6

Conditional Use Permit:

**Place a portable building for the
Sale of Hot Dogs
801 N. Inspiration Road**

**.69 acre tract out of land known as
Fernandez Strip, out of Porcion 52
I-2
Oscar Treviño**

Mr. Bobby Salinas went over the write up stating that the site is located on the SW corner of Inspiration Road and Business Highway 83 within Los Primos Auto Sales. The board may recall a request to have a CUP for a portable building to be located at this site that was denied by P&Z on 8/8/12. During the CUP's review at the City Council level there was a sentiment to allow Mr. Lopez, the original applicant, the opportunity to have a portable building on the property however, the item was not approved due to a tie vote of 2-2. He was afforded the opportunity to come back and re-apply for a favorable recommendation from the Council, thus the re-application from the owner.

The owner now wishes to keep a new portable and remove the existing hotdog cart. Access to the site is from an existing driveway along Inspiration Road. There are existing restrooms facilities located west of the cart which are available for public use.

- **Hours of Operation:** Every day from 8:00 a.m. to 12:00 a.m.
- **Staff:** The owner will be allowing Mr. Lopez to rent the portable from him where he and his family would run the stand
- **Parking:** The owner has cleared out the front area (along Inspiration) to allow the stand the use of the parking area in front. Staff has not received any complaints regarding parking; however we will continue to monitor that there are no cars parking along the Inspiration Road frontage.
- A new business license is required prior to occupancy
- Requires the approval of the Health and Fire Department

Staff recommended approval subject to: **1)** 1 year re-evaluation to assess this new operation, parking, etc., **2)** removal of existing hot dog cart from the premises, **3)** approval by the Health and Fire Department, and **4)** acquisition of a business license.

Chairman Rene Flores asked if there were any public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

Mr. Jaime Sanchez from 4306 Canadiana stated that he was representing Mr. Oscar Treviño and that they will be answering any concerns or question from the board.

Chairman Rene Flores mentioned that he had made his point clear in the previous meetings that he does not like these types of food businesses. If they would propose this type of business along Shary Road it wouldn't be approved but because, it's on Inspiration the board tends to be more lenient and in his opinion they should take the same approach all across the City of Mission in order to have some consistency in what's allowed and what's not allowed. In his opinion these types of businesses, do not add value to the city, it do not help the city aesthetically, and he doesn't like the image that it projects.

Mr. Jaime Sanchez stated that he appreciated the opinion of the Chairman and what Mr. Treviño is trying to do is establish a restaurant business at the location but due to the economy he is forced to start with a portable building.

Chairman Rene Flores asked if there were any other comments from the board.

Mrs. Marisela Marin mentioned that this portable was much better than several of the previous proposals that have been introduced to the City of Mission. In her opinion as long as the clientele, Health & Fire Department are happy; and as long as it doesn't look crowded, she was okay with it.

Mr. Jaime Sanchez replied that they appreciate all the comments and what Mr. Treviño was asking for was a year in order to get clientele and then relocate to the restaurant into the main building.

Mr. Ned Sheats asked what the existing building was for.

Mr. Jaime Sanchez replied that it used as an office and a storage area.

Mr. Ned Sheats replied if it was nothing residential.

Mr. Jaime Sanchez no, it was used for the main office of the car lot sales.

Mr. Ned Sheats mentioned that he does not like food carts, but he does respect the fact that people do need to make a living. He mentioned that this was an improvement based on several others that they have seen.

Mr. Mario Garza asked if the cart would remain on the property when not in operation.

Mr. Jaime Sanchez replied that it does stay in the property, and as a matter of fact it was relocated to the south side of the property about 20' away from the fence and if the board wishes for the applicant to install trees, he mentioned that there was some area along the north side of the property where they could install the trees.

Mr. Ned Sheats stated that he does not see any requirement as far as skirting the building and landscaping requirements.

Mr. Bobby Salinas replied that based on the new adopted landscaping ordinance and being that the property is mostly paved; the idea from City Council is removing the requirement of planters, and avoiding the customers continually replanting on them due to the plants dying, and as far as the skirting it was his mistake but the board could add it as a requirement.

Chairman Rene Flores stated that he would like to start setting the position of the board on the regulations as far as if another citizen comes to the board saying that he or she wants to open a restaurant but due to the economy they need to start with a portable building, where would the board would start saying no, as beautiful as the cart is, as far as the business is booming, the board is denying the conditional use permit.

Mr. Bobby Salinas replied that it would be kind of hard to say at this time, because it goes back on the economy and people trying to make ends meet, and that was the consensus that he got from management. He mentioned that he was informed that the stopping point would be on a case by case basis.

After a brief discussion, Chairman Rene Flores entertained a motion. Mr. Mario Garza moved to approve the conditional use permit as per staff's recommendations and skirting the portable building. Mr. Ned Sheats seconded the motion. Upon a vote, the motion passed 5-1 with Chairman Rene Flores dissenting.

Started: 5:50 p.m.

Ended: 6:00 p.m.

ITEM # 1.7

Conditional Use Permit Renewal:

**Sale and On-Site Consumption of
Alcoholic Beverages – KAVE Bar
2306 E. Expressway 83, Stes. 8 & 9
Lot 1,
Cimarron Crossing Phase I Subd.
C-3
Javier Gonzalo Fernandez**

Mr. Bobby Salinas went over the write up stating that the subject site is located near the SE corner of J.R. Drive and Expressway 83 along the Frontage Road. This CUP was most recently approved by P&Z on 3/14/12 for a period of 13 months where the recommendation was reduced by City Council for a period of 3 months (from 3/26/12 to 6/26/12). The Kave Bar had been closed since June 2012, however in September it was discovered to be open once again. Mission PD went in

and ordered the bar to be closed until the CUP process was met. Ms. Sylvia Guerrero, a potential buyer of the Kave, claimed that she was not aware of the CUP requirement and complied with the closing of the bar until the CUP process was complete.

- **Hours of Operation:** Wednesday – Saturday from 9:00 pm. to 2:00 a.m. Sunday – Tuesday will be closed. Alcoholic beverages have only been served during allowable State selling hours.
- **Staff:** 15 employees
- **Parking & Landscaping:** There are 80 total seating spaces, which require 27 parking spaces (80 seats/1 space for every 3 seats = 26.6 parking spaces). It is noted that the parking area is held in common (100 existing parking spaces) and is shared with other businesses. Kave has been in operation since '07 and there have been no issues in regard to off-street parking. Landscaping is currently meeting City code.
- In speaking to Mission PD, there were no incidents to report beginning October 2011 to now, except for the incident in September, where Ms. Guerrero was unaware of the CUP requirement.

Staff believes that due to the issues in early September, and the fact that a new owner may be forth coming, we must proceed with caution and require a 6 month approval. In addition, Planning and Mission PD would like to impose a policy for businesses that are primarily bars which would require uniformed security at such types of businesses. The applicants must file, with the City, a copy of the contract for the security.

Staff recommended approval for a period of 6 months with the requirement of "uniformed" security guards to be placed inside the bar and within the parking area of the establishment.

Chairman Rene Flores stated that as far as the policy requirement on uniformed security guards it would require making some changes.

Mr. Bobby Salinas replied that it can be a policy, due to this being a conditional use permit and the board could add any additional requirements.

Chairman Rene Flores stated that it might interfere with freedom of business or it could become a legal issue.

Mr. Bobby Salinas replied that he would get with the City Attorney in order to make sure that it wouldn't be a legal issue.

Mr. Ned Sheats stated that he had asked Mr. Salinas to start requesting security guards on businesses which sell alcohol and also requiring a certain amount of guards depending on the business.

Mrs. Marisela Marin asked Mr. Bobby Salinas if Mission PD was the one that noticed that they had reopened and not a call from a nearby resident.

Mr. Bobby Salinas replied that they do what they call a Bar check and they went in there and noticed that they were open when in fact they shouldn't have been opened. The only incident that the Police Department mentioned was that they were opened without the approval of the Conditional Use Permit.

Chairman Rene Flores stated that his main concern was what would happen if someone gets shot in Chili's and there is no security guard, due to being a restaurant setting. In his opinion, that's where the board needed to come up with restrictions and require security guards in any place that sells alcohol and not only in bars. He mentioned that he would like some clarification from legal as to what they could impose and on whom.

Mr. Bobby Salinas stated that if there were some issues or concerns they should be resolved prior to opening for business.

Chairman Rene Flores stated that based on the pictures he saw that there were some flag signs or banners and wanted to know what's the city's position on these, especially because they are all over Mission and would like to see them taken down.

Mr. Bobby Salinas replied that the flag signs seen on businesses are permitted by the sign code to not require a sign permit and they are only allowed for 30 days and they need to be removed for 6 months, after that the problem that staff has encountered is that since there is no permit required, staff does not know they are in existence unless they drive by the area and see them.

Chairman Rene Flores stated that he has a lot of pictures showing those types of signs all over the city.

Mr. Bobby Salinas stated that because a lot of them were new businesses, when Sergio was here, he would allow them so they could get their clientele settled because they want the businesses to survive.

Chairman Rene Flores stated that in his opinion a sign on a building would not help a business to survive, and the city would need to come up with different ways besides allowing them to keep an unattractive sign on the side of the building.

Mrs. Marisela Marin mentioned that she was surprised to see that the association is allowing them.

Chairman Rene Flores stated that the association probably wouldn't even know unless they drive by.

Chairman Rene Flores asked if there were any public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

Mr. Elias Eliseo was present to translate to Mr. Javier G. Fernandez.

Chairman Rene Flores mentioned to Mr. Elias Eliseo that staff had some recommendations prior to approving the conditional use permit; one of the requirements would be the uniformed security guards.

Mr. Elias Eliseo replied that they would comply with all the requirements.

Mrs. Marisela Marin stated that also the banner sign would have to be removed.

Mr. Elias Eliseo replied that it will be removed.

There being no further discussion, Chairman Rene Flores entertained a motion. Mr. Ned Sheats moved to approve the conditional use permit as per staff's recommendations. Mr. Abiel Flores seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:00 p.m.

Ended: 6:07 p.m.

ITEM # 1.8

Conditional Use Permit Renewal:

**Sale and On-Site Consumption of
Alcoholic Beverages & Drive-Thru
Service Window at Tino's Seafood
Restaurant
2310 E. Expressway 83, Suite 8
Lot 1,
Cimarron Crossing Phase I Subd.
C-3
Ivan Camargo**

Mr. Bobby Salinas went over the write-up stating that subject site is located approximately 250' west of Shary Road on the south side of U.S. Expressway 83

within an existing commercial plaza. A CUP for the sale and on-site consumption of alcohol and a drive-thru service window was most recently approved at this location on 10/12/11. The applicant is proposing to continue operating the restaurant with the drive-thru service window. Access to the site is provided via a common access drive that runs throughout the plaza. Access to the drive-thru is from the south 'rear' of the plaza. The existing drive-thru window's location allows stacking for approximately 3 vehicles.

The applicant 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. Staff requested a report from PD to see if there were any issues with this business in relation to the sale and on-site consumption of alcohol; where they mentioned that there were no incidents to report.

- **Parking:** The 1,380 sq.ft. building will have a total of 35 seating spaces for the restaurant. A total of 18 spaces are required for this site (1,380 sq.ft. /75 sq.ft. = 18.4 parking spaces). It is noted that a total of 66 parking spaces are held in common within the commercial development.
- **Days & Hours of Operation:** Monday – Thursday from 12:00 p.m. to 9:00 p.m., Friday – Sunday from 12:00 p.m. to 10:00 p.m. Alcoholic beverages will only be served during the allowable State selling hours.
- **Number of Employees:** 5
- Landscaping has been provided as a part of the overall commercial plaza
- A speed bump has been installed in order to slow traffic down when exiting the drive-thru; there is also a landscape island impeding pedestrian traffic onto the existing traffic's lane.

Since the restaurant has been in operation since October 2010 with no reported incidents in relation to the sale of alcohol, staff does not object to a 3 year extension to continue to assess this operation.

Chairman Rene Flores asked if there were any public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

Mr. Ivan Camargo the applicant was present to answer any questions.

Chairman Rene Flores stated that his biggest concern was the signage in the windows. He mentioned that it does not look aesthetically pleasing and in his opinion, if they want to lure customers in, they would need to let the food speak for itself and not post pictures of the plates along the windows.

Mr. Bobby Salinas replied that the City of Mission does not have anything on the sign code prohibiting this type of advertising.

Mr. Ned Sheats mentioned that he does not like them either but unfortunately they can't do anything about it and what they would need to do is make an amendment to the existing sign code prohibiting them.

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

Started: 6:07 p.m.

Ended: 6:12 p.m.

ITEM # 1.9

Conditional Use Permit Renewal: Sale and On-Site Consumption of Alcoholic Beverages – Villa Del Mar 207 E. Expressway 83 Lot 3, El Pueblo Phase II Subd. C-3 VIGA Restaurant Inc.

Mr. Bobby Salinas went over the write-up stating that this 4,500 sq.ft. site is located within a plaza approximately 600' east of Conway Avenue along the north side of the Frontage Road of Expressway 83. This CUP was originally approved on 10/27/10, when it was expanded to include a bar component that would only offer beer. It was compared more to a 'diner' seating, than a bar. The most recent CUP approval was on 9/28/11 for a period of 1 year.

- **Sale of Alcohol (Section 1.56-3):** The Zoning Code cites that 'Bars' must be 300' from the nearest residence, church, school, or public owned property. There are residences within 300' however; P&Z and the Council waived this separation requirement in the CUP's previous approvals. In speaking to Mission PD regarding any incidents due to the sale and on-site consumption of alcohol. They mentioned that there were no incidents to report.
- **Hours of Operation:** Sunday – Thursday from 10:00 a.m. to 9:00 p.m. & Friday & Saturday from 10:00 a.m. to 11:00 p.m. Alcoholic beverages will only be served during allowable State selling hours.
- **Parking:** In viewing the floor plan, there are 194 total seating spaces for the restaurant, which require 65 parking spaces (194 total seating spaces / 3 = 65 parking spaces). It is noted that the parking area is held in common (225 existing parking spaces) and is shared with other businesses. The parking area is also connected and has access to existing, interlocking parking lots.

- There is a small stage area for 'light' music from a single guitar player or piano, no DJs or Bands utilize the stage.

Since the restaurant has been in operation since January 2010 with no reported incidents in relation to the sale of alcohol, staff does not object to a 3 year extension to ensure continued compliance within a family retail setting and continued waiver of the 300' separation requirement.

Chairman Rene Flores stated that this is the reason (mentioning the type of tint in the doors) why the city needs to come up with a requirement on the type of advertising. In his opinion it looks tacky.

Mr. Ned Sheats agreed with the chairman and suggested that they would need to get together with the Mayor and show him pictures of different establishments that use that type of advertisement; maybe that way they could come up with a policy or an ordinance prohibiting them and stating that there would be no grandfather clause.

Chairman Rene Flores asked if there were any public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

There was no response.

There being no further discussion, Chairman Rene Flores entertained a motion. Mr. Carlos Lopez moved to approve the conditional use permit as per staff's recommendations. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:12 p.m.

Ended: 6:14 p.m.

ITEM # 2.0

**Conditional Use Permit Renewal: Drive-Thru Business
3300 N. Inspiration Road
Lot 1, Gomez Estates Subdivision
C-2
Elias Gonzalez**

Mr. Bobby Salinas went over the write-up stating that the site is located on the NE corner of Inspiration Road and Mile 2 Road. The subject site currently has an existing drive-thru business. A CUP for the drive-thru business was approved on 4/27/11 for a period of 1 year from the date of the business license issuance

(Licensed issued 9/23/11). Primary access into the drive-thru business is from Mile 2 Road, then exiting out through Inspiration Road.

- **Days/Hours of Operation:** Sunday – Thursday from 11:00 a.m. to 11:00 p.m. & Friday – Saturday from 11:00 a.m. to 12:00 a.m.
- **Staff:** 4 employees.
- **Parking:** The drive thru business measures 3,506.1 which requires 12 parking spaces and the existing water mill requires 4 spaces. There are a total of 17 parking spaces, thus in compliance with code.

Notices were sent within a 200' radius of the site. Staff had not received any complaints regarding the drive-thru business. Staff's recommendation was for approval subject to a 1 year re-evaluation to continue to assess this operation.

Chairman Rene Flores asked if there were any public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

Mrs. Victoria Gonzalez was present to answer any questions from the board.

There being no discussion, Chairman Rene Flores entertained a motion. Mr. Ned Sheats 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: 6:14 p.m.

Ended: 6:16 p.m.

ITEM # 2.1

Conditional Use Permit Renewal:

**Daycare in an AO-I Zone
.91 ac tract being the NW
Corner of Lot 19-11, W.A.S.
610 N. Bryan Rd.
AO-I
Catalina Hernandez**

Mr. Bobby Salinas went over the write up stating that the subject site is located at 610 N. Bryan Road. This CUP was previously approved by P&Z on 9/28/11 for 1 year. The daycare has been in operation under Ms. Hernandez, with no incidents reported to staff.

- **Hours of Operation:** Monday – Friday from 7:00 a.m. to 6:00 p.m.
- **Staff:** 5, including the owner

- **Parking:** The site has a 'horseshoe' driveway, where customers enter along the south and exit through the north end back onto Bryan Road. This driveway is utilized for the safe drop off and pick up of children at the site. There are also 2 paved parking spaces located on the south side of the lot used as employee parking. Since its first approval in 2004, Staff has not received any complaints regarding parking.
- **Landscaping and Buffering:** The site currently has several mature trees and other plants in the area. When the daycare was first being established, there was some concern regarding proper buffering along Winter Green Estates. Since then, there was a chain link fence installed to provide such a buffer to WGE. Planning Staff has not had any complaints from WGE regarding buffering.

The daycare use has not been a detriment to the neighborhood, recalling that the site fronts a 5-lane thoroughfare, i.e., inclined to a non-residential use, thus not contrary to the purposes established for the zoning district in this area. Due to the CUP being under new management in the 9/28/11 proposal, a cautious 1 year re-evaluation term seemed prudent. Since there were no issues reported, staff does not object to an extended re-evaluation period.

Staff recommended approval subject to a 3 year re-evaluation.

Chairman Rene Flores asked if there were any public opposition to the request.

There was no response.

Chairman Rene Flores asked if the applicant or representative were present.

There was no response.

There being no discussion, Chairman Rene Flores entertained a motion. Mr. Mario Garza 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: 6:16 p.m.

Ended: 6:23 p.m.

ITEM # 3.0

Preliminary

& Final Plat Approval:

Stewart Estates Subdivision Phase II

A 2.05 acre tract of land out of

Lot 261, John H. Shary Subdivision

R-1A

Developer: Hart Land & Cattle, LLC

Engineer: SJS Engineering

Mr. Bobby Salinas went over the write up stating that the subject site is located approximately ¼ mile north of Griffin Parkway along the east side of Stewart Road, along the north side of Thornwood Drive. The proposed subdivision consists of 9 single family residential lots. All lot areas are 9,897 sq.ft. These lot sizes are consistent with the minimum R-1A area requirements. All proposed lots will front and have access to the existing Thornwood Street. Notices were sent to the residences of Stewart Estates, Phase I as a courtesy to notify them of the developer's proposal.

WATER: The developer is proposing water service by performing 5 bores under Thornwood Street and extending 2" dual service connections to serve each lot. There are 2 existing fire hydrants that were provided during the completion of Stewart Estates Subdivision, placed via the direction of the Fire Marshal's office. The contractor will be responsible to coordinate the removal and re-installation of the existing sidewalk on the south side of Thornwood and will be responsible for providing safety measures to protect the residences along the south side of the street.

SEWER: There is an existing 12" sewer line located along the north side of Thornwood Street that will be used to serve the 9 lots. The Capital Sewer Recovery Fee is required at \$200/Lot 2 which equates to \$1,800.00 (\$200.00 x 9 lots).

STREETS & STORM DRAINAGE: As mentioned above the subdivision will access Thornwood Drive an existing 50' ROW, 32' B/B street. No additional ROW is required for this development. Storm drainage will be accomplished by utilizing the existing drainage system that was provided by Stewart Estates Subdivision.

OTHER COMMENTS: Park Fees - \$300.00/Lot = \$2,700.00; 4' sidewalks will be required along the north side of Thornwood Drive at building permit stage; must provide reimbursement costs for on-site and off-site utilities and pavement in the amount of \$21,186.81 via the Stewart Estates Subdivision reimbursement contract made payable to the City of Mission; street lights are currently in existence along Thornwood Drive; must provide Water District Exclusion; and must comply with all other format findings.

Staff recommended approval subject to the following: **1)** must coordinate and provide safety measures for the removal and replacement of the existing sidewalks along the south side of Thornwood Drive, **2)** must pay park, capital sewer recovery, and reimbursements fees to the City of Mission, **3)** must provide proof of exclusion from the Water District, and **4)** comply with all other format findings.

Chairman Rene Flores asked if the applicant or representative were present.

Representing the developer, Mr. Stewart Skloss, P.E. from SJS Engineering, was present to answer any questions from the board.

Mr. Ned Sheats asked if the long strip north of the property was an easement or a way to get to a property.

Mr. Stewart Skloss stated that was strictly land that the developer has.

Mr. Ned Sheats asked who would maintain the property, making sure that the grass is cut.

Mr. Stewart Skloss replied that the land was being used for agricultural and that it would maintain the same use.

Chairman Rene Flores asked if lots 1-13 had already been developed.

Mr. Stewart Skloss replied that all the lots with the exception of Lot 1 have a home constructed on it.

Chairman Rene Flores asked if it would be a gated subdivision.

Mr. Stewart Skloss replied that it would not be a gated subdivision.

Mr. Bobby Salinas mentioned that the engineer had submitted a master plan including the property to the north.

Mr. Stewart Skloss stated that the development of the property to the north would be done in the future.

Chairman Rene Flores stated that if they were going to use heavy machinery, if he was aware that they could disturb the foundation of the existing homes.

Mr. Stewart Skloss replied that he was aware and that was the reason why they were going to bore since it's less disruptive to the existing homes. He stated that he talked to the contractors and they mentioned that the sidewalk cut would be a 4' x 4' area only where they need to tap to the existing waterline. He mentioned that there would be as minimal disturbance as possible.

Chairman Rene Flores asked Mr. Stewart Skloss if he was willing to comply with all the recommendations.

Mr. Stewart Skloss replied that they will comply with all the requirements.

After a brief discussion, Chairman Rene Flores entertained a motion. Mr. Ned Sheats moved to approve the preliminary plat as per staff's recommendations. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:23 p.m.

Ended: 6:23 p.m.

ITEM # 4.0

Tabled

Conditional Use Permit:

Home Occupation – "Construction Office"

1210 Elm Street

Lot 6, Block 4, Pecan Heights Subdivision

R-1

Edward De La Tejera

Chairman Rene Flores entertained a motion to remove the item from the "Table". Mr. Ned Sheats moved to remove the item from the "Table". Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Bobby Salinas stated that No Action would be taken on this item.

ITEM # 5.0

ADJOURNMENT

There being no further items for discussion, Mr. Ned Sheats moved to adjourn the meeting. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 6:24 p.m.

Rene A. Flores, Chairman
Planning and Zoning Commission