

**PLANNING AND ZONING COMMISSION  
DECEMBER 17, 2014  
CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.**

**P&Z PRESENT**

Ned Sheats  
Marisela Marin  
Mario Garza  
Diana Izaguirre  
Carlos Lopez

**P&Z ABSENT**

Rene Flores  
Abiel Flores

**STAFF PRESENT**

Daniel Tijerina  
Patricio Martinez  
Susana De Luna

**GUESTS PRESENT**

Bill Filut  
Florentino Vasquez  
Andres A. Cavazos  
Isela M. Villalobos  
Jesse Muniz  
Manuel De La Garza  
Maria Alanis

Bibi Peña  
Lizette M. De La Garza  
Lupe A. Gonzalez  
Alejandro Moreno  
Jose Esquivel  
Miguel Cisneros

Noel Garza  
Miguel Brito  
Laura A. Gonzalez  
Joe O. Espinoza  
Mauro Lopez  
Stephen M. Gano

**CALL TO ORDER**

Vice-Chairman Ned Sheats called the meeting to order at 5:00 p.m.

**CITIZENS PARTICIPATION**

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

There was none.

**APPROVAL OF MINUTES FOR NOVEMBER 19, 2014**

Vice-Chairman Ned Sheats asked if there were any corrections to the minutes for November 19, 2014. Mrs. Marisela Marin moved to approve the minutes as presented. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 5:01 p.m.**

**Ended: 5:04 p.m.**

**ITEM #1.1**

**Rezoning:**

**A 0.56 acre tract out of Lot 186,  
John H. Shary Subdivision  
AO-I to R-1  
Manuel De La Garza**

Mr. Daniel Tijerina went over the write-up stating that the property is located approximately 300' north of Cassandra on the west side of Taylor Road.

**SURROUNDING ZONES:** The surrounding zones are AO-I to the north, south, and west (east is City of McAllen).

**LAND USES:** The surrounding land uses consist of vacant to the north, and residential to the south and west. The subject site is currently open acreage.

**FLUM:** The Future Land Use Map reflects a General Commercial (GC) designation along the Taylor Road frontage.

**REVIEW COMMENTS:** The applicant obtained this parcel of land from a family member and is proposing to construct a new single family residence thereon. There is a Homestead Exemption Variance associated with this applicant and property on this agenda as well.

Staff does not foresee any problems with the request since the surrounding land uses and zones are predominately single family. The FLUM can be amended to reflect the proposed Single Family (R-1) zoning as part of this Public Hearing.

**RECOMMENDATION:** Approval.

Vice-Chairman Ned Sheats asked if there was any public opposition to the request.

There was no response.

Vice-Chairman Ned Sheats asked if the applicant or representative were present.

Mrs. Lizette & Mr. Manuel De La Garza stated that their address would be 100 S. Taylor Road, Unit A if they are given permission to construct their home.

Vice-Chairman Ned Sheats asked if it was going to be their personal home.

Mrs. De La Garza replied, "Yes".

There being no discussion, Vice-Chairman Ned Sheats entertained a motion. Mr. Mario Garza moved to approve the rezoning as per staff's recommendations. Ms. Diana Izaguirre seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 5:04 p.m.**

**Ended: 5:12 p.m.**

**ITEM #1.2**

**Conditional Use Permit:**

**Texas Citrus Fiesta Carnival  
7.4 acres out of Lot 25-6,  
West Addition to Sharyland Subdivision  
& Lot 1, North Star Plaza  
AO-I & C-3**

**January 18, 2015 – February 1, 2015  
Texas Citrus Fiesta**

Mr. Daniel Tijerina went over the write-up stating that the subject site is located near the NW corner of Conway and Griffin Parkway (F.M. 495). Texas Citrus Fiesta organizers have been given permission to have their annual carnival on the vacant lots to the north and west of the old Carl's Supermarket.

- **Hours of Operation:** Weekdays 5:30 p.m. to 10:30 p.m. and Weekends 1:00 p.m. to 11:30 p.m.
- **Parking:** Parking for the event will be provided by utilizing the old Carl's parking lot located to the south. Staff encourages that "No Parking" signs be placed along Conway and F.M. 495 and that there be early morning trash pick-up throughout the entire site during the "Heart of America Shows" Carnival's tenure.
- The Zoning code states that a carnival site should be a minimum of 300' away from any residentially used property from lot line to lot line. This CUP is compliant to this Code, i.e., there are no homes within 300'.

**REVIEW COMMENTS:** Security will be evident as in past years via Mission PD officers (as hired by TCF) and sufficient restrooms will be available. All provisions of Chapter 10 – Amusements and Entertainment– will need to be complied with, in particular the insurance coverage requirements for such amusements.

**RECOMMENDATION:** Staff recommends approval subject to:

1. Installation of a perimeter fence/debris stop;
2. Installation of "No Parking" signs along Conway and Griffin Parkway; and
3. Meet Noise, Insurance, and any other related Codes.

Vice-Chairman Ned Sheats asked if there was any public opposition to the request.

There was no response.

Vice-Chairman Ned Sheats asked if the applicant or representative were present.

Mr. Bill Filut stated that he has been the President for Texas Citrus Fiesta for the past 19 years. He added that his wife Berta Peña has just passed away and she was the Executive Director and now Bibi Peña is now taking over as the Executive Director who has been working with them for the past 10 years so everything is on course and going good.

Mr. Sheats offered his condolences.

Mrs. Marisela Marin asked Mr. Tijerina if the carnival was from January 18 to February 1<sup>st</sup>.

Mr. Tijerina stated that based on the information provided by Texas Citrus Fiesta that was correct.

Mrs. Marisela Marin mentioned that the insurance certificate was good until January 31<sup>st</sup> should be changed to February 1<sup>st</sup>.

Mr. Filut stated that the carnival was in operation until the January 31<sup>st</sup> they tear down and move out on February 1<sup>st</sup>.

Mrs. Marisela Marin asked if they should amend the insurance certificate to include February 1<sup>st</sup>.

Mr. Tijerina stated that he could have them include it and get a new copy by the time they go before the City Council.

Mr. Filut assured Mrs. Marin that the insurance certificate would include February 1<sup>st</sup>.

There being no further discussion, Vice-Chairman Ned Sheats 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: 5:04 p.m.**

**Ended: 5:12 p.m.**

**ITEM #1.3**

**Conditional Use Permit:**

**Texas Citrus Fiesta Fun Fair  
807 N. Conway Avenue  
(a.k.a. La Lomita Plaza & The Rotary Park)  
C-3  
January 31, 2015  
Texas Citrus Fiesta**

Mr. Daniel Tijerina went over the write-up stating that the site for the Texas Citrus Fiesta 'Fun Fair' will be located at La Lomita Plaza (Leo Pena Park). Texas Citrus Fiesta organizers will be having their annual 'Fun Fair' event on January 31, 2015. The fun fair will include use of the area east of the Chamber of Commerce building and La Lomita Plaza (Leo Pena Park). It will be used for various vendors, Vaqueros' cook-off and other food vendors. There will be continued trash pick-up throughout the event.

- **Hours of Operation:** 10:00 a.m. to 10:00 p.m.
- **Parking:** Parking for this event will be provided east and north of the Chamber of Commerce building and east of Fallas Paredes.
- The Zoning code requires the 'Fun Fair' to be a minimum of 300' separation from residentially used property from lot line to lot line. There are several residential properties within this radius; thus a waiver of the separation requirement needs consideration.

- **Ch. 10 – Amusements and Entertainment:** Security will be evident as in past events via Mission PD officers (as hired by TCF). Restrooms will be available. All provisions of the Chapter 10 Mission Code of Ordinances – Amusements and Entertainment– will need to be complied with.

**REVIEW COMMENTS:** With sufficient professional security, barricades, lighting, & TCF monitoring, this event will again be very successful and well attended. TCF has assured the City that all aspects of security will be taken care of.

**RECOMMENDATION:** Staff recommends approval subject to:

1. Waiver of the 300' separation;
2. Must comply with Health and Fire Codes; and
3. Must meet Noise, Amusement and Entertainment, and any other related codes.

Vice-Chairman Ned Sheats asked if there was any public opposition to the request.

There was no response.

Vice-Chairman Ned Sheats asked if the applicant or representative were present.

Mr. Bill Filut stated that he has been the President for Texas Citrus Fiesta for the past 19 years. He added that his wife Berta Peña has just passed away and she was the Executive Director and now Bibi Peña is now taking over as the Executive Director who has been working with them for the past 10 years so everything is on course and going good.

There being no discussion, Vice-Chairman Ned Sheats 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: 5:12 p.m.**

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

**ITEM #1.4**

**Conditional Use Permit:**

**Restaurant on property zoned C-2  
1233 E. Griffin Parkway  
Lot 1 & the S. 25' of Lot 2,  
Block 1, Bel-Aire Heights Subdivision  
C-2  
Lupe A. Gonzalez**

Mr. Daniel Tijerina went over the write-up stating that the property is located on the NW corner of Orange Drive and Griffin Parkway. The dimensions of the site are 150' x 150' equating to 22,500 square feet. The owner originally planned to construct an adult daycare. However, based on changes to Medicaid and Medicare laws and other related laws associated with adult daycares, the original plan is no longer feasible. Therefore,

he wishes to open a Coffee Shop/Bistro restaurant. Based on Sec. 1.42(3)(e) of the Zoning Code, restaurants require a CUP proposed in a Neighborhood Commercial Zone (C-2).

- **Hours of Operation:** Tuesday – Saturday from 7 a.m. to 7 p.m., Sunday 9 a.m. to 3 p.m., Closed Mondays.
- **Staff:** 4
- **Parking:** There are four administrative offices that will be used by the owner. They will not be leased out. As far as the seating area for the restaurant area, there are a total of 40 seats proposed and 2,335 square feet proposed for the coffee shop, dining, and seating area. The parking code calls for one space for every three seats or one parking space for every 75 square feet, whichever is greater. In this case, the square footage requires 31 parking spaces where 32 are proposed thereby meeting code.
- **Landscaping:** During the review of the permit, staff required various trees, landscape hedges, etc. and should be in compliance with the City's landscaping code prior to occupancy.

**REVIEW COMMENTS:** The applicant is proposing a coffee shop/bistro restaurant – **see attached**. The Menu includes breakfast and lunch. The proposed hours of operation are: 1) Mondays – closed, 2) Tuesday through Saturday – 7 am to 7 pm, and 3) Sundays - 9 am to 3.

The site plan shows 32 parking spaces with 15 spaces along the west side of the property backing up into 20' alley. Staff has a concern with mixture of residential and commercial traffic at this juncture since traffic exists onto FM 495 at this juncture. It is important to note that the adult daycare originally proposed only required 13 spaces. Staff has received calls against the proposal as of the date of this write up.

Mr. Tijerina mentioned that originally he was recommending something more feasible but after looking at the proposal and receiving some calls against the request. Staff recommends denial based on: 1) A restaurant in a C-2 zone located at the entrance to an established residential neighborhood will create a mixture of commercial and residential traffic, although the revised site plan shows the driveway closed on Orange, and 2) this proposal deviates from the original permissible C-2 use/building permit.

Mr. Tijerina mentioned that Mrs. Gonzalez had sent an email in which it states that she has spoken to several property owners and the dates that she spoke to them and it also talks about some points that were addressed during the meeting. He added that she was able to get some support from her neighbors.

Vice-Chairman Ned Sheats asked Mr. Tijerina if he felt that for any reason this particular use was not appropriate for this area.

Mr. Tijerina stated that for the reasons he mentioned in the write-up but also the stacking of vehicle is Orange Street if the driveway is not closed off, although the new site plan shows it being closed. He added that he believed this would be a good use especially now that they are proposing to close Orange Street but he still concerned about the calls he had received and that most of the businesses in that area are offices that are allowed on a C-1 zone and not C-2.

Mr. Mario Garza asked how many residents have access to Orange Street.

Chairman Ned Sheats stated that there were 10 lots in that area.

Vice-Chairman Ned Sheats asked if there was any public opposition to the request.

Mr. Joe Espinoza who resides at 2308 Orange stated that his concern was basically traffic. He added that they already had some issues with the pickup trash trucks because most of the times there was no way around them and with the new business this would just create more traffic.

Vice-Chairman Ned Sheats asked if he was referring to the traffic in the alley.

Mr. Espinoza stated that it was a mess there because everybody who makes a mistake and gets into Orange winds up in the alley or backs up to that street to the extent that one of the neighbors at the far end decided to put up a fence. He mentioned that to him all of the traffic was already there and this would only add to the existing problem.

Vice-Chairman Ned Sheats asked Mr. Tijerina if it was possible that the City place a No – Through street sign on Orange Street.

Mr. Tijerina stated that he could talk to Public Works Director Roberto Salinas about this and he didn't think this would be a problem. Mr. Tijerina pointed out that a portion of the alley about 300' to 400' is paved which would be about 12' and they are showing 20'.

Vice-Chairman Ned Sheats mentioned that if he understood correctly what we are saying is that we are not using the entire width for that alley.

Mr. Tijerina replied, "That's correct".

Vice-Chairman Ned Sheats asked if the City can guarantee this board that the alley would be expanded the entire 20'.

Mr. Tijerina stated that what has been done in the past is a 1/3 from the City, a 1/3 from each of the property owner on each side. He added that there are several options that could be factored to get the alley widen to meet the 20'.

Vice-Chairman Ned Sheats asked if the alley were widened the entire 20' would that address Mr. Espinoza's concern.

Mr. Espinoza stated that it would help but there would still be some lost traffic going in the street.

Vice-Chairman Ned Sheats stated that if this proposal goes through he was going to ask the city to install no thru traffic on Orange Street that way it would prevent lost traffic from going into the street.

Vice-Chairman Ned Sheats asked if the applicant or representative were present.

Mr. Lupe Gonzalez stated that he has been a long life resident most of his life and has dedicated 30 years of public service with the Mission Schools. He added that he has been active in community affairs and has also service in the Planning and Zoning Board for many years so was familiar with the process. Mr. Gonzalez stated that they are trying to establish a business and they chose Mission because this is where they live. He added that they took a home that had been deserted for more than 20 years and built a beautiful building that would improve that area.

Mrs. Laura Gonzalez who resides at 2111 Dorado Drive stated that they were asking for 40 seats not the 75 seats that were originally proposed and hopefully this would alleviate the problem. She added that they were proposing to have bistro which was smaller than a restaurant something different for the community with healthy food. Mrs. Gonzalez stated that she had an upscale catering service and since she has been asked by her clients for a healthy menu she decided to invest in this business. She mentioned that it was the same layout as the adult day care center but because of the state regulatory process they had to consider other options. Mrs. Gonzalez stated that her building has been appraised at over \$700,000 and the investment that her husband and she are making is for about 1 million dollars with an SPA guarantee which means that they are here for a long time. Mrs. Gonzalez stated that one of Mr. Tijerina's suggestions was that she approached the neighbors and explain their proposal which she did and now they are not against the request anymore.

Mr. Tijerina stated that the parking requirements would be the same because they are calculated based on the square footage and not the number of seats.

Vice-Chairman Ned Sheats asked Mrs. Gonzalez is the offices spaces would be leased out.

Mrs. Gonzalez replied, "No".

Vice-Chairman Ned Sheats asked staff to monitor this closely to make sure that the office spaces don't get leased out.

There being no further discussion, Vice-Chairman Ned Sheats entertained a motion. Ms. Diana Izaguirre moved to approve the conditional use permit subject to: 1) complying with all Building, Fire, and Health Codes, 2) offices spaces must not be

leased, 3) alley must be 20' wide, and 4) place a "Only Residential Traffic" on Orange Street. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

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

**Ended: 5:48 p.m.**

**ITEM #1.5**

**Conditional Use Permit:**

**To place a Hotdog Cart  
1710 W. Business Highway 83  
Being a 1 acre tract of land  
out of Lot 20-1, West Addition  
to Sharyland Subdivision Subdivision  
C-3  
Florentino Vasquez, Jr.**

Mr. Daniel Tijerina over the write-up stating that the property is located at the NE corner area of Adams Street and Business Highway 83. The hot dog cart is proposed to be placed within the green area along the east side of the entrance of the drive-thru business. The site has an existing building (drive-thru), four (4) paved parking spaces (2 cars fit inside the drive-thru area), landscaping along the west, east, and south side (along the entrance off of Business 83). Access to the site is from an existing driveway along Business 83 that leads to the drive-thru lane and parking area.

The applicant has contacted the Health Department regarding the cart and has obtained food-handlers certification. There is a 3 compartment sink in the main building as well as restroom facilities. In speaking to the applicant, his plans are for customers to order hot dogs to go as they enter the drive-thru. No tables or chairs will be placed for customers. All hot dogs will be to go. The cart will be stored inside and set outside the drive-thru business **daily**.

- **Hours of operation:** Sunday – Friday from 6 pm to 12 am, and Saturdays from 7 pm to 1 am.
- **Staff:** The applicant and one other employee will be running the stand.
- **Parking:** Paved parking is available for all users including this temporary use.
- A business license is required
- Must obtain approval from the City Health Department.

**RECOMMENDATION:** Approval subject to:

1. Approval for 1 year.
2. Approval from the Health Department.
3. Must meet the sign code (no flags, etc.)
4. Acquire a business license.

Vice-Chairman Ned Sheats asked if there was any public opposition to the request.

There was no response.

Vice-Chairman Ned Sheats asked if the applicant or representative were present.

Mr. Florentino Vasquez, Jr. whose address is 1710 W. Business Highway 83 stated that she was the owner of the Executive Inn Drive-Thru. He added that they were not proposing to have any tables or chairs and the hotdog cart would be placed inside the drive-thru on a daily basis. Mr. Vasquez stated that they had several locations for the hotdog cart but they would abide with the city requirements.

Mrs. Marisela Marin asked what happens if he puts the hotdog inside the building.

Mr. Vasquez stated that he originally wanted the hotdog cart inside the building but the Health Department said it would be a fire hazard.

Mrs. Marisela Marin mentioned that she just couldn't see the people crossing the driveway to get the hotdogs.

Mr. Vasquez stated that they had 3 parking spaces where they could park to wait for the hotdogs.

Mr. Tijerina stated that staff could meet with the applicant at the site to establish the location of the hotdog cart.

There being no further discussion, Vice-Chairman Ned Sheats entertained a motion. Mrs. Marisela Marin moved to approve the conditional use permit as per staff's recommendations and revisiting the location of the hotdog cart. Ms. Diana Izaguirre seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 5:48 p.m.**

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

**ITEM #1.6**

**Conditional Use Permit Renewal:            Drive-Thru Service Window –  
Banana Leaf Jarocho's Restaurant  
3604 N. Conway Blvd.  
.63 acre tract out of Lot 30-7,  
West Addition to Sharyland Subdivision  
C-3  
Alejandro Moreno**

Mr. Daniel Tijerina went over the write-up stating that the site is located in the SE area of Victory and Conway Blvd. The applicant is proposing to continue to utilize the existing drive thru service window in conjunction with the primary restaurant. Access to the site will be provided off Conway Blvd., through an existing 40+' driveway. Last year, there was a concern with an existing billboard. That concern has been allayed.

- **Days / Hours of operation:** Every day from 7a.m. to 10p.m.

- **Staff:** 5 employees per shift. 2 shifts per day
- **Parking:** There are a total of 44 seating spaces which require 15 parking spaces (44/3seats = 14.6 spaces). There are a total of 19 spaces being provided. In speaking to the owner, approx. 80% of his business will be for take-out, thus staff does not anticipate any concerns with parking.
- **Landscaping:** There are a few existing trees within the property, however none along Conway Blvd. This site has an existing building with existing pavement throughout the front. No landscaping is being required at this time.
- Must comply with Building, Fire, and Health codes prior to obtaining a business license

**REVIEW COMMENTS:** This CUP was originally was seen by P & Z on 8/14/13. Since the last review, staff has not received any complaints regarding the location of the drive-thru window. Letters were sent to the property owners within 200' of the subject tract. Staff has not received any comments for or against this request.

**RECOMMENDATION:** Approval subject to: 1) 3 year re-evaluation, 2) CUP is not transferable to others, and 3) Continued compliance with Building, Fire and Health codes.

Vice-Chairman Ned Sheats asked if there was any public opposition to the request.

There was none.

Vice-Chairman Ned Sheats asked if the applicant or representative were present.

Mr. Alejandro Moreno whose resides at 904 Dawson Lane was present to address any questions from the Board.

Vice-Chairman Ned Sheats asked Mr. Moreno how long has he been in business.

Mr. Moreno replied, "1 year".

There being no discussion, Vice-Chairman Ned Sheats entertained a motion. Mr. Mario Garza moved to approve the conditional use permit renewal subject to staff's recommendations. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

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

**Ended: 5:53 p.m.**

**ITEM #1.7**

**Conditional Use Permit Renewal:**

**Sale & On-Site Consumption of Alcoholic  
Beverages – Dai Tung Restaurant  
2402 Brock St., Suite A  
Lots 22 & 23, Shary Business Center Subd.  
C-3**

**Li Min-Do**

Mr. Daniel Tijerina went over the write-up stating that the 4,550 sq. ft. restaurant site is located within a commercial plaza approximately 420' south of Griffin Parkway along the east side of Shary Road.

- **Hours of Operation:** Everyday from 11:00 a.m. to 9:30 p.m. Alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 16 employees
- **Parking:** There are 140 total seating spaces, which require 47 parking spaces (140 seats/ 1 space for every 3 seats = 46.6 parking spaces). It is noted that the parking area is held in common (153 existing parking spaces) and is shared with other businesses.

Since there have been no issues at this family-oriented restaurant, staff does not object to this proposal.

**RECOMMENDATION:** Staff recommends approval subject to a 3 year re-evaluation to assure continued compliance.

Vice-Chairman Ned Sheats asked if there was any public opposition to the request.

There was no response.

Vice-Chairman Ned Sheats asked if the applicant or representative were present.

There was no response.

There being no discussion, Vice-Chairman Ned Sheats entertained a motion. Ms. Diana Izaguirre moved to approve the conditional use permit renewal subject to staff's recommendations. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 5:53 p.m.**

**Ended: 6:00 p.m.**

**ITEM #1.8**

**Conditional Use Permit:**

**Sale & On-Site Consumption of Alcoholic Beverages – Evera Restaurant & Bar  
4001 S. Shary Road, Suite 100  
Lot 1, Tech Center No. 2 Subdivision  
PUD  
L'Aureola Restaurant Group, LLC**

Mr. Daniel Tijerina stated that the existing 5,600 sq. ft. restaurant is located within an existing plaza located on the SE corner of San Mateo and Shary Road. Access to the site can be from one primary driveway to Shary Road or from separate driveways from

San Mateo or from San Gabriel. P&Z most recently approved a CUP for the sale and on-site consumption of alcohol on 8-14-13 for a period of 1 year.

- **Hours of Operation:** Monday – Saturday from 4p.m. to 2a.m. Sundays - Closed  
Alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 12
- **Parking:** In viewing the floor plan, there are 95 total seating spaces for the restaurant, which require 32 parking spaces (95 seats/3 = 31.6 parking spaces). It is noted that the parking area is held in common (180 existing parking spaces) and is shared with other businesses.
- **Sale of Alcohol:** The existing restaurant includes a 'bar' component. Section 1.56 (3a) of the Zoning code requires a minimum separation of 300' from the *property line* of any churches, schools, publicly owned property, and residences. There is a single family residential neighborhood located within the 300' radius; however P&Z and the City Council waived this separation requirement in the CUP's previous approval.

**REVIEW COMMENTS:** Planning asked PD for a report of incidents (if any), and is pending. If there were no major incidents in relation to the sale and on-site consumption of alcohol, staff does not object to a 3 year renewal.

**RECOMMENDATION:** If there are no issues based on P.D.'s report, Staff recommends approval subject to a 3 yr. renewal and a waiver of the 300' separation requirement.

P.D. provided staff with 2 incident reports at this location. Mr. Tijerina mentioned that based on the recommendation made by Chief Robert Dominguez and the reports submitted he would like to amend his recommendation to a 1 year approval.

Vice-Chairman Ned Sheats asked if there was any public opposition to the request.

There was no response.

Vice-Chairman Ned Sheats asked if the applicant or representative were present.

Mr. Miguel Cisneros whose address is 4001 S. Shary Road stated that he was the manager for Evera.

Vice-Chairman Ned Sheats asked Mr. Cisneros what type of incidents did they have .

Mr. Cisneros stated that they had people arguing outside the building and that was why they called the Police Department.

Vice-Chairman Ned Sheats asked Mr. Cisneros if they had any security.

Mr. Cisneros stated that they had 1 inside the building and 1 outside the building.

Mrs. Diana Izaguirre walked out of the meeting at 6:03 p.m. due to an emergency.

There being no discussion, Vice-Chairman Ned Sheats entertained a motion. Mrs. Marisela Marin moved to approve the conditional use permit renewal subject to staff's recommendations. Ms. Diana Izaguirre seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 6:00 p.m.**

**Ended: 6:08 p.m.**

**ITEM #2.0**

**Single Lot Variance:**

**A 3.523 acre tract of land out of Lot 25-5,  
West Addition to Sharyland Subdivision  
C-2 & C-3  
Troy Investment Company No. 7, L.P.**

Mr. Daniel Tijerina went over the write-up stating that the property is located approximately ¼ mile west of Conway Avenue on the north side of FM 495. A 2 lot plat was submitted by Norma Andis in May of 2004 but never recorded. Since then, all infrastructure improvements have been installed. A permit was issued for the construction of a daycare on September 2004 pending the recording of the plat. The dimensions of the property are 225'x 622'.

The property was purchased by the applicant in October of this year. They own the adjacent storage facility to the east and wish to use the existing building on this tract for office use. According to my discussion with Steve Gano, company representative, they want to repair the building and use it for office space. Since the original plat was never recorded, the applicant must comply with the Subdivision Code by going through the Single Lot Variance process in order to obtain the necessary construction/remodeling permits.

**WATER:** There is an existing 10" line located along the north side of FM 495, which currently serves this tract. An 8" line has been extended and looped around the 80' x 350' area where the building sits.

**SEWER:** The site has access to an existing 8" sewer line located along the north side of FM 495. As required with all new subdivisions, a Capital Sewer Recovery will be assessed in the amount of \$750 per acre (\$2,642.25).

**STREETS & DRAINAGE:** The subject property has access to FM 495, which is identified as a 120' ROW, 81' B/B street. In viewing the survey of the property it appears that the owner has already dedicated the 60' from centerline to the State of Texas, thus no additional ROW is required. Storm drainage will be accomplished through on-site detention.

**OTHER COMMENTS:**

- The property must be excluded from the Irrigation District.

- Escrow for 5' sidewalks is required which equates to \$1,740 (145' X \$12/L.F.)
- There are existing street lights along FM 495.

**RECOMMENDATION:** Approval subject to:

1. Payment of the Capital Sewer Recovery.
2. Escrow 5' sidewalk costs.
3. Must provide proof of water district exclusion.

Mr. Tijerina mentioned that to his understanding from Mr. Gano they do plan to subdivide in the future but for right now they were just proposing to fix the existing building.

Vice-Chairman Ned Sheats asked why didn't staff considered the whole area instead of keeping them separate.

Mr. Tijerina stated that it was because it was one tract of land and if consider as two different lots then they would need to file a 2 lot plat.

Mr. Stephen M. Gano who resides at 1244 Robin Hood Drive in Brownsville, Texas stated that he was the General Counselor and Partner of the Troy Investment company. He mentioned that they own all the Storage Depots in the State, which were 32. Mr. Gano stated that this property was foreclosed on by BBVA some time back and they acquired it for future expansion. He added that the property has a 36,000 sq.ft. building on the front and because they have not fully leased they place yet they are not ready for expansion. He mentioned that they were about 2 years away from doing any expansion in this area but they would like to refurbish the existing building and use it for office use. Mr. Gano stated that it was not until they started to refurbish the building that the City stop the work and asked them to get a building permit but they couldn't get a building permit until they filed either a 1 lot subdivision or go through a single lot variance. Mr. Gano stated that since they were not ready for the expansion it would not be appropriate for them to file a 1 lot subdivision so that was the reason they filed for a single lot variance instead.

There being no further discussion, Vice-Chairman Ned Sheats entertained a motion. Mr. Mario Garza moved to approve the single lot variance subject to staff's recommendations. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 6:08 p.m.**

**Ended: 6:13 p.m.**

**ITEM #3.0**

**Homestead Exception Variance:           A .56 acre tract of land out of Lot 186,  
John H. Shary Subdivision  
AO-I (R-1 proposed)  
Manuel De La Garza**

Mr. Daniel Tijerina went over the write-up stating that this property is located approximately 300' north of Cassandra along the west side of Taylor Road. The property measures 135.80' x 180' for a total square footage of 24,444 square feet. The site is currently vacant and the applicant wishes to construct a new home. The applicant is requesting a homestead exemption variance (HEV) pursuant to the recently approved ordinance passed by City Council on 11-10-14. The HEV ordinance 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:** There is an existing 8" line located along the west side of Taylor Road which currently serves this tract. The Fire Marshal is not requiring an additional fire hydrant for the site since there is an existing Fire Hydrant located within 500' of the site

**SEWER:** The site has access to an existing 8" sewer line located along the west side of Taylor Road. The capital sewer recovery fee is waived via the HEV.

**STREETS & STORM DRAINAGE:** The subject property has access to Taylor Road which is a future 80' ROW, 57' B/B Street. In viewing the survey of the property, it appears that the owner as already dedicated an additional 10' of ROW in order to equate to the necessary 40' of ROW from centerline, thus no additional ROW is needed. Storm drainage will be accomplished through on-site detention. The street widening fee is waived via the HEV.

**OTHER COMMENTS:**

- Must comply with Model Subdivision Rules;
- Must dedicate water rights;
- The HEV waives the need for 5' sidewalks along Taylor Road;
- The street light requirement is also waived via the HEV.

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

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

There was no response.

Vice-Chairman Ned Sheats asked if the applicant or representative were present.

Mrs. Lizette & Manuel De La Garza were present to address any questions from the Board.

Mrs. Marisela Marin asked if staff could include the amount being saved by the owner in write-ups.

Mr. Tijerina replied, "Yes".

There being no discussion, Vice-Chairman Ned Sheats entertained a motion. Mr. Mario Garza moved to approve the homestead exception variance subject to staff's recommendations. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 6:13 p.m.**

**Ended: 6:39 p.m.**

**ITEM #4.0**

**Variance Request to Have Residential Lots Not Front a Public Street at Shary Springs Subdivision, as requested by Shary Springs Homeowners Association**

Mr. Daniel Tijerina went over the write-up stating that Shary Springs Subdivision is located at the SE corner of 2 Mile and Shary Road. The HOA desires to convert the 23 lot subdivision (Lot 1 is commercial and has direct access to 2 Mile and Shary) into a private subdivision. The subdivision has three internal streets with primary access off of 2 Mile. Hackberry Avenue runs north and south and interfaces with Shary Forest Phases I-III to the south. Sandstone Drive runs east and west through the center of the subdivision. Woodfair Avenue is the entrance street onto the subdivision from 2 Mile Road. Privatizing Shary Springs Subdivision would close public access to all of these streets within this subdivision, and prohibit existing access from Hackberry Street south of Shary Springs Subdivision to 2 Mile.

As with other gated communities that the Planning & Zoning Board has considered and approved, these streets would now be considered non-public (private) with the Homeowner's Association being responsible for the monthly street lighting bill, the maintenance and incidental sweeping of streets, and that the desired type of gate /lock first be approved by the Fire Department and Police Department. Also, attached you will find the City Attorney's Hold Harmless Agreement imposed on the affected.

**RECOMMENDATION:** Staff does not objection to the request subject to:

1. Lien agreement signed/recorded by the HOA;
2. HOA is responsible for the monthly street lighting bill;
3. HOA is responsible for all street maintenance, inclusive of storm drainage, and sidewalks;
4. Prior approval of gate/locking mechanism by Fire and Police Departments.
5. The access code to the gate be provided to the residents of Shary Forest and Orchards at Shary, and to the City for trash pickup, police, fire, EMS, and water meter reading.

**Note:** Staff took this request before City Council on 12/17/12 seeking direction on this matter.

Mr. Tijerina mentioned that a petition in opposition to this requests has been submitted to staff.

Mrs. Marisela Marin asked which streets would be closed.

Mr. Tijerina replied, "Wood fair Avenue, Sandstone Drive, and Hackberry.

Vice-Chairman Ned Sheats asked if this was a gated community.

Mr. Tijerina replied, "No".

Mrs. Marisela Marin asked if this was supposed to be a phase II.

Mr. Tijerina replied, "No"

Vice-Chairman Ned Sheats asked if there was any public opposition to the request.

There were two people present in opposition to this request.

Mr. Jesse Muniz who resides at 2502 E. 35<sup>th</sup> Street stated that he recalls being before this Board several years ago when they were actually building the road out to 2 mile line. He added that at that time they had a lot of community of 35<sup>th</sup> Street that was against this and the City however convinced us that this was for the betterment of the fire and police protection and it has worked out very well. Mr. Muniz stated that the traffic on Shary Road was horrendous in the mornings and in the evening. He added that the community uses the 2 Mile line exits to go to the schools on the north side and east side as well as the Medical people that work in the McAllen area. Mr. Muniz mentioned that the idea that was sold by the City a few years back as betterment for fire and police protection has worked well and if they approve this request then you would be sending the people to the Shary Road traffic. He mentioned that as being an employee for the school that manages transportation they actually have two pick up zone in that area. Mr. Muniz stated that he had talked to the former City Manager Julio Cerda about putting speed humps in this subdivision. He added that he had about 90% of the residents that were in opposition to this request.

Mr. Gary Garcia who resides at 2406 E. 35<sup>th</sup> Street stated that he has lived in this area for 11 years. He added that if the people that bought lot in that area wanted to live in a gated community then they should have bought in a gated community. He agreed with Mr. Muniz that traffic on Shary Road was horrendous. Mr. Garcia stated that he works in McAllen and he uses Wood fair to exit out. He mentioned that if the streets were closed it would be a huge inconvenience for the residents that live there.

Representing the developer, Mr. Andres Cavazos who resides at 1530 W. Hall Acres in Pharr, Texas stated that the main objective was not to fully privatize the subdivision but semi-privatize the subdivision by setting up the gate on the entry of Wood fair Avenue & 2 Mile Line and not touching Hackberry Avenue. He added that they would allow everybody inside to go out to exit preventing strangers from this subdivision and the neighboring south subdivisions from entering through this gate. Mr. Cavazos stated that there have been cases of breakages in to homes where there are ladies with their kids by themselves and when they call the police the intruders jump the fence and get picked

up on the southern subdivisions. Mr. Cavazos stated that he understood the positions of the neighboring subdivision and thank the City for having this type of meeting to allow the residents to expose their concerns. He mentioned that in this subdivision they have a Homeowners Association which doesn't mind making the investment to semi-privatize the subdivision and share the entry code with the southern subdivisions in order to prevent strangers from coming into their subdivision. The main concern of the property owners in this subdivision is safety. He added that this may help clarify the concern of the opposing subdivision because anybody exiting the subdivision as they approach the gate it will automatically be open. Mr. Cavazos stated that he would like to encourage the City Council to consider their request.

Mr. Noel Garza who resides at 2508 Sandstone reiterated that they are not trying to block it all up they were just trying to put a gate on Wood fair. He added that they didn't want to hinder anybody from leaving or exiting because they could just drive up to the gate and leave. He mentioned that at one point they maybe want to talk to the neighbors to the south which represent 36 lots and maybe at a later point talk about other measures of security for the subdivisions. Mr. Garza stated that they main issue was safety.

Vice-Chairman Ned Sheats stated that he understands what they are trying to do but he would rather 'Table the item' so that they could talk to the surrounding neighborhoods about their proposal because they seem very firm about not having any street being closed. He added that they just saw how a little consideration to the neighborhood residents would probably have a better outcome just like the conditional use permit request.

Mr. Jose Esquivel who resides at 2507 Sandstone stated that they wanted to close the street because they get a lot of traffic from 2 Mile as opposed to Hackberry. He added that safety is really their main concern.

At this time, Vice-Chairman Ned Sheats closed the public hearing.

There being no further discussion, Vice-Chairman Ned Sheats entertained a motion. Mr. Mario Garza moved to 'Table the item' so that the applicant can talk to the neighbors. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

**Started: 6:40 p.m.**

**Ended: 6:43 p.m.**

**ITEM #5.0**

**Variance Request to Have No Frontage to a Public Street and not meeting the 6,000 square feet R-1 (Single Family Residential District) requirements for all that part of Lot 2, and the North 45' of all that part of Lot 3, Block 94, Mission Original Townsite Subdivision, as requested by Maria Alanis**

No action taken on this item.

**ITEM #6.0**  
**OTHER BUSINESS**

Mr. Tijerina advised the Board that the City had offered the Assistant Planning Director position to a gentleman from Edinburg who seemed to be best candidate for the position. He also advised the Board that the City would be distributing toys at the Mission Police Department and they were welcome to attend it would be on Friday from 1:30 p.m. to 3:00 p.m. He also wished the Board a Merry Christmas & Happy New Year.

**ITEM #7.0**  
**ADJOURNMENT**

There being no further items for discussion, Mr. Mario Garza moved to adjourn the meeting. Mrs. Marisela Marin seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 6:42 p.m.

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Ned Sheats, Vice-Chairman  
Planning and Zoning Commission