

**PLANNING AND ZONING COMMISSION
JULY 8, 2009
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Raul Sesin
Ned Sheats
Jose G. Vela
Marisela Marin

P&Z ABSENT

Luann Caudle
Henry Rodriguez
Mario Garza

STAFF PRESENT

Sergio Zavala
Bobby Salinas
Jaime Acevedo
Irasema Dimas
Susana De Luna

GUESTS PRESENT

Eloisa E. Duran
Rebeca Regalado
Dorian Madrigal
Oscar Del Angel
Juan F. Zuñiga
Abraham Sosa
Corina Ortiz
Raul Saenz

Diana Castilleja
Jorge Duran Garcia
Guadalupe Flores
Sofia Lubin
George & Lois Brooks
Gabriel Price
Daniel Silva

Danielle Smith
Barbara Contreras
Raul E. Garcia
Stanley Jacobson
Alberto Cepeda
Yvonne Arregotia
Melissa Gutierrez

CALL TO ORDER

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

CITIZENS PARTICIPATION

There was no response upon inquiry.

APPROVAL OF MINUTES FOR JUNE 17, 2009

Chairman Sesin asked if there were any corrections to the minutes. There being no corrections. Mr. Sheats moved to approve the minutes as presented. Mr. Vela seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:02 p.m.

Ended: 5:19 p.m.

Item# 1.1

Rezoning:

**Lots 1 & 2, Block 1,
North Hampton Subdivision
R-1 to C-3
Eloisa E. Duran**

Mr. Zavala went over the write-up stating that the site was located 355' north of Expressway 83 along the east side of Mayberry Road. The property's dimensions are 25' x 145' each. The surrounding zones include: Agricultural Open-Interim (AO-I) to the east; Single Family Residential (R-1) to the west and north; and General Commercial to the (C-3) to the south. The land uses reflect that the site

is currently vacant where previously there was a home. To the south is a funeral home, to the north are residential uses, to the west is an elementary school, to the east is open acreage. The Future Land Use Map showed this area developing as a Moderate Density Residential (MD) land use area, which was more consistent with a residential zone such as R-1, R-1T, or R-2 zoning.

The land use for this property has been residential for years and staff believes that it still remains as a viable boundary between commercial and residential uses. Though the site is located adjacent to a commercial use, the desired C-3 zone is in conflict with the recently updated FLUM. The FLUM is not 'set in stone' and zoning does not have to match, BUT unless there is a predominant and unique reason to deviate from it, the City should abide by the FLUM as much as possible to sustain its confidence to the general public. Staff recommended denial. Mr. Zavala mentioned that the applicant had submitted a petition reflecting 46% in favor of the request. He added that the manager of Luby's Restaurant had also signed the petition but his signature could not be factored since he was not the property owner.

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

There was none.

Chairman Sesin asked if the applicant or representative were present.

The applicant, Mrs. Eloisa Duran stated that she would like the Board to consider the rezoning of her property. She added that her neighbor was present as well supporting the request.

Chairman Sesin asked Mr. Zavala if they owned more property to the north.

Mr. Zavala stated that they owned Lots 1-5 of the same block.

Chairman Sesin stated that then there was only one person that sign other than the property owner that was within the 200' radius.

Mrs. Duran stated that there were other people who signed which were Flores Funeral Home, Luby's Restaurant, Mr. Enrique Gutierrez and Mr. Rios that were within the 200' radius.

Chairman Sesin asked if the only reason staff was against the request was because of the Future Land Use Map.

Mr. Zavala stated that he had visited with the applicants and what they wanted to do was to setup some type of carwash to keep their kids occupied and have them earn some money. Mr. Zavala added that if the CUP gets approved the property

owner would need to install a fence to buffer the commercial from the residential uses and they would also need a business license.

Mr. Sheats stated that he liked the idea but didn't want to change the zone.

Mrs. Duran stated that they were very interested in opening the business especially because it would help the area and since neighbors were in favor of the request she didn't see a reason why the request couldn't be approved.

Chairman Sesin asked Mr. Zavala if once the property was rezoned to C-3 it would open the door to other types of businesses allowed within that business district.

Mr. Zavala stated that when they mentioned a carwash he reviewed the zoning code and unfortunately they would need a C-3 in order to open such a use.

Mr. Sheats asked if the carwash could be accomplished in a C-2 zone with a CUP.

Mr. Zavala replied that it would not be an option.

Mr. Jorge Duran Garcia stated that the main reasons for this request were for his family and for the opportunity to create more jobs, though it may be only 3 or 4 jobs. He added that he just wanted to continue to provide that opportunity for those people out there that want to work and if he needed to expand in the future he would consider it.

Mrs. Marin asked Mr. Zavala if the applicant understood that staff was recommending denial because of what could happen if the property was rezoned to C-3 and not because of what they were trying to do.

Mr. Zavala stated that when the applicants came to visit in his office he explained the matter of the adjacent zonings and the future land use map. He added that there needed to be a boundary between residential and commercial. Mr. Zavala explained that when a property changes zone the zone remains with the property it doesn't change because the business didn't work out and it opens the door to any type of retail businesses, which might not be adequate for the location.

Mr. Duran stated that the main reason he wanted to pursue the request was for his family. He wanted to try the carwash but if it didn't work out, then he would try something else.

Mrs. Marin stated that it was the area that they wanted to keep residential not so much the idea or type of business that they were proposing. She added that once the property was rezoned to commercial it would be very difficult to change it back to residential and the Board needed to protect the families that lived there.

Mrs. Melissa Gutierrez the next door neighbor stated that she was in support of the request and she understood that once the property was changed to commercial it would stay that way, which that was their intentions because if the carwash didn't work they would try other types of businesses. Hopefully and god willing it would work.

Chairman Sestin stated that the Board's main concern was approving the C-3 zone, because it would open the door to any other type of retail business, which might not be appropriate for the location.

Mrs. Gutierrez asked what's allowed in a C-3.

Chairman Sestin stated that it was a much heavier commercial activity than a hand carwash.

Mrs. Gutierrez stated that they could then have other types of businesses.

Chairman Sestin stated that those businesses may not be conducive in that area. He added that in a C-3 zone, they could open a retail store, which would not be a good location for it. He added that he didn't know if the lot size had anything to do with it but the applicant did own 3 or 4 other lots.

Mrs. Duran stated currently they just wanted to change the zone on the first two lots but maybe in the future if things went well they might expand.

Mrs. Gutierrez stated that she understood that the commercial property needed to be divided from the residential and the applicant could put some type of fence to divide the area. Mrs. Gutierrez stated that most of the area was already commercial because they had Luby's, Spikes, Flores Funeral Home, and on the other corner they had two convenience stores. She added that there were approximately 4 or 5 properties that were residential; the rest were commercially zoned.

Mrs. Marin stated that the Board needed to take into consideration the school that was across the street.

Mrs. Gutierrez asked what zone was needed to open a carwash.

Chairman Sestin stated that unfortunately it needed a C-3 zone. He added that Mr. Zavala had done his research on this type of business in a lower density zone, but for a carwash, the zone that was needed was a C-3.

Mr. Zavala stated that the City worked with existing ordinances and that was the way the existing law read, however they have been amended occasionally. He added that an alternative might be to amend the R-1 code to allow some type

exterior service with a conditional use permit. Mr. Zavala mentioned that a conditional use permit of this sort within a residential area would be unable to have a CUP. However, if the Board feels that an amendment may be acceptable then he could come back at that next P&Z meeting with a proposed amendment and then take it to the Council if it gets approved.

Chairman Sesin stated that the amendment could be narrowed even further to address areas adjoining arterials.

Mr. Zavala suggested that the item be placed on the table until the amendment gets approved.

There being no further discussion, Chairman Sesin entertained a motion. Mr. Vela moved to 'Table' the rezoning request as recommended by staff. Mr. Sheats seconded the motion. Upon a vote the motion passed unanimously.

Mr. Zavala asked Chairman Sesin that in order to facilitate the lengthy agenda and with there being several conditional use permits that appeared to be non-controversial and where the city's codes were fully being complied with, staff requested that the P&Z Commission consider a consent agenda on several items. He added that on this matter he would read five (5) conditional use permits (Items #1.2, 1.6, 1.7, 1.9, & 2.2), their location, their intent, and staff recommendation on each of the 5. Thereafter, the Chair would ask if there was any public input on any of the 5 conditional use permits. After public comments if any, the Chairman would ask the P&Z members if they had any specific questions or comments on any of the 5 conditional use permits. After the question & answer dialogue, staff would likely recommend that P&Z approve the conditional use permits subject to staff's recommendations.

Started: 5:19 p.m.

Ended: 5:25 p.m.

Item# 1.2

**Conditional Use Permit: Sale & On-Site Consumption of
Alcoholic Beverages**

4001 S. Shary Road, Suite 100

Lot 1, Sharyland Plantation Grove Tech Center #2

PUD

Life of Use

L'Aureola Restaurant Group, LLC

Mr. Zavala went over the write-up stating that the site is located at the SE corner of Shary Road and San Mateo. In the past several CUP's for the sale and on-site consumption of alcohol have been awarded at this location, the most recent on June 14, 2006. Currently, there are several businesses within the commercial complex including: two restaurants, a nail salon, a tea shop, a dry cleaning

establishment, a dance studio, a beer and wine store, four vacant lease spaces, a tennis retail store, and a Salon & Spa equating to a total of 15 lease spaces. The total lease area for this development is 24,980 sq. ft. of which 5,600 sq. ft. is proposed for this restaurant. Access onto the commercial site is from 2 primary driveways from Shary, 2 driveways from San Mateo, and a driveway connection to T-Mobile to the east, and 2 driveways to the south or San Gabriel.

In reviewing the floor plan, 21 tables that seat 4 people each are proposed. There are 11 additional seats located around the bar area for a total of 95 seats. The parking required is 75 parking spaces; 180 are in existence for common parking. The proposed days and hours of operation are Monday through Sunday from 7:00 a.m. to 2:00 a.m. According to the applicant, the bar & grill will have a full service menu serving appetizers, a lunch and dinner menu, deserts, and beer, wine, and alcoholic beverages. A total of 12 employees will provide service to the patrons.

Section 1.56-3(a), Zoning Code requires that a 'bar' be 300' from the nearest residence, church, school, or publicly owned property . . . unless P&Z/City Council waive this code. There are several residences within the 300' separation though located to the west of Shary Road behind a masonry buffer wall. Staff recommends approval subject to: 1) waive 300' separation requirement, 2) compliance with Chapter 6 of Mission's Code of Alcoholic Beverages, 3) acquisition of a business license, and 4) re-evaluate for renewal in 3 years.

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

There was none.

Chairman Sesin asked if the applicant or representative were present.

The applicant, Mr. Abraham Soto was present to answer any questions from the board.

There being no discussion, Chairman Sesin entertained a motion. Mr. Sheats moved to approve the conditional use permit as recommended by staff. Mrs. Marin seconded the motion. Upon a vote the motion passed unanimously.

Started: 5:25 p.m.

Ended: 5:34 p.m.

Item# 1.3

Conditional Use Permit:

**Re-Activate Boutique Use in AO-I Zone
2421 N. Shary Road, Suite B
E. 148' of Lot 1A,
Mission Park Plaza Subdivision (U/R)
AO-I
Life of Use**

Sylvia Gutierrez

Mr. Zavala went over the write-up stating that the applicant was proposing to re-open a boutique for the sale of home décor, antiques, clothing, and jewelry. The boutique had been in operation since before being annexed by the City back in March 1998. When the property was annexed, it entered the City under an AO-I zone along with the existing businesses. The Zoning Code allows non-conforming uses to operate when annexed as long as they do not discontinue the business. If it is discontinued, it cannot be closed for more than 180 days otherwise it cannot re-open. Staff had previously denied the request to re-activate the use due the 180 day expiration; however management wanted to see if a CUP could be considered since this minor use had been in operation for over a decade with no problems.

The site is located at 2 ½ Shary (W. Side). The property includes several structures, which include a grandfathered metal structure for the boutique and a brick residence which is currently being used for storage. The majority of the property is still utilized for the operation of the Shary Acres Nursery. The hours of operation would be Monday – Saturday from 10 a.m. to 6 p.m. and may be considered an accessory (home décor) business to the nursery. No pole sign would be allowed for the proposed boutique. The boutique has one unisex restroom already. There would also be a need for a new fire hydrant; to be located as per the direction of the Fire Marshal. Commercial buildings should not have more than a 300' separation to the furthest point of the building.

The nursery requires 10 parking spaces and the boutique requires 7 spaces. There were currently only 12 spaces for both businesses. Staff does not anticipate large volumes of traffic for the boutique; however, additional parking (for the employees) may be placed on the north side of the boutique to better meet our parking code. The existing parking spaces should be re-stripped in order to avoid confusion and better utilize the parking area.

The 2+ acres, including the nursery, have a sufficient amount of landscaping along the parking area however the boutique itself needs some landscaping along its very visible frontage of Shary Road in order to provide increased aesthetics to the front of the business. The front of the boutique is primarily pavement and concrete, so the use of large potted plants might be a good way to meet this need. Staff recommended approval subject to: 1) 6 month re-evaluation to assess any traffic and parking concerns, 2) obtain a business license, 3) re-stripe the existing parking lot, 4) providing 5 off-street parking spaces along the north side of the boutique, 5) additional landscaping along the front of the building.

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

There was none.

Chairman Sesin asked if the applicant or representative were present.

Mr. Dorian Madrigal owner of Shary Acres stated that he had purchased this property, which the existing boutique. He mentioned that he attempted to lease it to a lady but closed exceeding the 180 days, thus the laws of the AO-I use wouldn't allow it and that was the reason for the request to see if the Board could re-activate it. Mr. Madrigal mentioned that he wanted to be present to support it because it was rental income and was aesthetic pleasing than what it was before the lady has invested money in it to improve it. He added that it would be good to have a retail business right next to their nursery. He mentioned that he understood Mr. Zavala's concern regarding the parking spaces but unfortunately they didn't have walking traffic like they had before.

Chairman Sesin asked Mr. Madrigal if he was in agreement with staff recommendations including the fire hydrant.

Mr. Madrigal asked why they were requiring a fire hydrant.

Chairman Sesin stated that there were several recommendations made by staff which were the following: 1) the installation of a fire hydrant, 2) 6 month re-evaluation, which the Board could consider 1 year, 3) a business license, 4) re-striping existing parking lot, 5) providing 5 off-street parking spaces along the north side of the boutique, and 6) additional landscaping along the front of the building.

Mr. Madrigal asked if the City would install the fire hydrant.

Chairman Sesin stated that the applicant would pay somebody to install it.

Mr. Madrigal asked if a fire hydrant would still be required even though they had given certain rights to the City.

Chairman Sesin advised Mr. Madrigal that regardless of the rights given to the City he was requesting a conditional use permit to have a boutique and one of the requirements was to install a fire hydrant and if there was no fire hydrant, the applicant or owner would need to install the fire hydrant to meet code.

Mr. Madrigal asked if staff would work with him on the installation of the fire hydrant.

Chairman Sesin stated that the Board and staff would work with him and could give him 60 days to install the hydrant.

There being no further discussion, Chairman Sesin entertained a motion. Mr. Vela moved to approve the conditional use permit as recommended by staff for 1 year

and gave 60 days for the installation of the fire hydrant. Mrs. Marin seconded the motion. Upon a vote the motion passed unanimously.

Started: 5:34 p.m.

Ended: 5:40 p.m.

Item # 1.4

Conditional Use Permit:

**Portable Building-Sale of Snacks
3300 N. Inspiration Road (King's Mart)
Lot 1, Gomez Estates Subdivision
C-2
Life of Use
Oscar G. Del Angel**

Mr. Zavala stated that when the applicant filed for a CUP there was no indication in the application that there would be drive-thru service, so that would not be considered in this hearing. The applicant could file for a separate hearing for the drive-thru service window if he desired it.

Mr. Zavala stated that Mr. Oscar Del Angel desires a CUP to be allowed to open a new 12' x 12' portable building for the sale of snacks and sno-cones at King's Mart Convenience Store located at 3300 N. Inspiration Road. Entrance to this site was from one driveway cut along Inspiration and one along Mile 2 Road. Mr. Zavala stated that the King's Mart is currently inactive, but once they attempt to re-activate, the applicant would have to re-curb the cut along Mile 2 to maximize safety. Mr. Del Angel desires to have the following as his days/hours of operation: Monday-Sunday from 1:00 p.m. to 10:00 p.m. Mr. Del Angel and two other part-time employees would be the operators. Omar Perez, lessor of King's Mart Convenience Store, has authorized Mr. Del Angel to setup the portable building on the premises and utilize the King's Mart restroom facilities. Mr. Perez issued a key to Mr. Del Angel in order to access the restrooms at his convenience as shown on the signed statement of usage and tenure (until December 2009).

A conditional use permit for the portable building was previously approved on 3-12-08 to another operator. There were a total of 16 parking spaces at King's Mart Convenience Store. Parking was sufficient for the proposed use since the King's Mart Convenience Store was not active and was used for "storage". Staff recommended approval subject to acquiring a business license (which would include striping the parking spaces), and if renewed by the owner for a longer period of time, then renewal of the CUP to be considered in January 2010.

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

There was none.

Chairman Sesin asked if the applicant or representative were present.

The applicant, Mr. Oscar G. Del Angel was present to answer any questions from the board.

Chairman Sesin asked Mr. Del Angel if he was willing to comply with staff's recommendation.

Mr. Del Angel stated that he was willing to comply with the recommendations.

There being no further discussion, Chairman Sesin entertained a motion. Mr. Sheats moved to approve the conditional use permit as recommended by staff. Mr. Vela seconded the motion. Upon a vote the motion passed unanimously.

Started: 5:40 p.m.

Ended: 5:42 p.m.

Item# 1.5

Conditional Use Permit:

Guest House on Property

**Zoned Large Lot Single Family Residential
2024 Lambethway**

**Lot 42, Sharyland Orchards Subdivision
R-1A**

Juan F. Zuñiga

Mr. Zavala went over the write-up stating that the subject site was located at the SW corner of Ragland and Lambethway. The applicant desires to move his wood-frame home to the west in order to build a new SF Residence. The 'guest house' would be 70' to the primary home. As shown on the site plan, all building setbacks and structure-to-structure separation codes are being exceeded. The existing garage structure to the south of the property would remain as is. Planning has informed Mr. Zuñiga that the following would have to be evident in order to be compliant to Mission's typical 'guest house' policy:

1. **No kitchen** – the kitchen must be removed to qualify.
2. **No separate water meter** – must be linked to the applicant's main home.
3. **No separate electrical meter** – must be linked to the applicant's main home.
4. **No rental purposes** – must not be rented either by direct payment or indirect payments – only used for legitimate *guest house* purposes.

Staff recommendation was for approval subject to compliance to 1-4 above, and perpetual 3- year renewals to maintain city's monitoring of applicant's full conformance.

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

There was none.

Chairman Sesin asked if the applicant or representative were present.

The applicant, Mr. Juan F. Zuñiga stated that he was in agreement with staff's recommendation.

There being no discussion, Chairman Sesin entertained a motion. Mr. Vela moved to approve the conditional use permit as recommended by staff. Mrs. Marin seconded the motion. Upon a vote the motion passed unanimously.

Started: 5:19 p.m.

Ended: 5:25 p.m.

Item # 1.6

**Conditional Use Permit Renewal: Home Occupation – Registered Family Home Day Care on property Zoned AO-I
905 W. 20th Street
.50 Acre tract of land out of the E. 10 Acres of the N. 15 Acres out of Lot 23-4, West Addition to Sharyland Subdivision
AO-I
Life of Use
Diana Castilleja**

Mr. Zavala went over the write-up stating that this conditional use permit was originally approved on 8/22/07 and again on 11/19/08. When this item was last approved on 8/22/08, the following conditions were imposed: 1) a circular driveway to be paved no later than 2/28/09, 2) 4' sidewalks to be completed no later than 3/31/09, and a re-assessment to be done by May 2009. A field visit on 6/25/09 revealed that all of the required conditions had been met. The field visit also revealed that there was no signage on the property.

The subject site is located on the south side of West 20th Street, 200' east of Holland Avenue. The applicant has her residence thereon with a 10' x 70' paved driveway along the west side of her property and a second 12' x 70' paved driveway along the east side of the property. A 12' wide connection links both driveways together and creates a half circle effect, which allows parents to drive into one driveway and exit out the other to safely drop off and pick up children. A 6' cedar fence surrounds the property. The applicant cares for 6 children at a time and is permitted to care for up to 12. Mrs. Castilleja has the following as her days/hours of operation: Monday through Friday from 7:00 a.m. to 6:00 p.m. with herself and an assistant as the only employees running the operation. Staff recommends approval for 3 years; renewed thereafter to monitor traffic patterns in the residential area.

Chairman Sesin asked if there was any public opposition.

There was no response.

Chairman Sesin asked if the applicant or representative were present.

The applicant, Mrs. Diana Castilleja was present to address any questions that the Board might have.

There being no discussion, Chairman Sesin entertained a motion. Mr. Sheats moved to approve the conditional use permit as recommended by staff. Mrs. Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:19 p.m.

Ended: 5:25 p.m.

Item # 1.7

**Conditional Use Permit Renewal: Home Occupation – CPA Office
1524 E. Doherty
Lots 1-3, & 10-12, Block 245,
Mission Original Townsite Subdivision
R-1
Life of Use
Sam Rodio**

Mr. Zavala went over the write-up stating that the subject site was at the SE corner of Doherty Avenue and Kika De La Garza Loop. Staff noted that Kika Loop is a vital collector to Mission's central core; thus having non-residential traffic as a constant feature for these lots.

Mr. Sam Rodio has a 2,263 sq. ft. single family residence, one 'grandfathered' rental unit, and two guesthouses with the main residential unit to be used for the home occupation. Currently, a CPA uses a 41' x 21' open covered carport fronting Kika Loop for personal and customer parking. This area can house up to 4 vehicles. If needed there is a long driveway on the east side of Lot 10 leading to a two car garage that can also house 2 additional vehicles. There is also a sidewalk from this covered carport leading to the side entry of the residence. This entry along with the primary entrance fronting Doherty is used to access the CPA office.

Only 1 employee mans the operation. The existing hours of operation are Monday through Friday from 8:00 a.m. to 5:00 p.m. Traffic is minimal, and strictly by appointment only, walk-ins are not part of the business. The peak period for this operation is from January through April during income tax preparation season. After that, bookkeeping services are offered year round. The applicant has complied with all of the conditions of the CUP. Staff's recommendation was for

approval subject to re-evaluation in 3 years to maintain monitoring of any traffic issues of cars backing up to Kika.

Chairman Sesin asked if there was any public opposition.

There was no response.

Chairman Sesin asked if the applicant or representative were present.

There was no response.

There being no discussion, Chairman Sesin entertained a motion. Mr. Sheats moved to approve the conditional use permit as recommended by staff. Mrs. Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:43 p.m.

Ended: 5:46 p.m.

Item # 1.8

Conditional Use Permit Renewal:

Group Home Day Care

At 3801 San Roman

Lot 122, Sharyland Plantation

Village Las Palmas Del Sol

PUD

Life of Use

Cesar Flores

Mr. Zavala went over the write-up stating that this ongoing CUP was last approved by the P&Z on July 11, 2007 with these conditions: 1) compliance with Sec. 1.56-1 of the Zoning Code, 2) the garage remain unenclosed (deed restriction), and 5) a 2 year re-evaluation.

The subject site is located between Santa Rita and Santa Ana along the north side of San Roman—see vicinity map. A *Group Home Day Care* - is defined as a facility that provides care for 7 to 12 children under the age of 14 for less than 24 hours a day.

The applicant has been caring for 3 children but can care for up to 12 children, the maximum number of children permitted under a group day care home. The current hours of operation are Monday through Sunday from 7:00 a.m. to 6:00 p.m. Two sections within the home are being used in connection with the daycare, a 14' x 14' section of the home located at the SW corner, and a 17' x 18' section within the garage area (SE corner) for 'storage' purposes.

There is a wooden fence around the rear perimeter of the home. Both the applicant and his wife are DHS certified at this time. They have one other

employee that helps them out with the care of the children. Staff has not received any complaints as of this writing. The applicant has not posted or intends to post any signage at this location.

Notice of the hearing was sent to 33 property owners. As of this writing (6-25-09), staff has not received any comments for or against. Staff's recommendation was for approval subject to: 1) continued compliance with 1.56-1 of the Zoning Code, 2) the garage remain unclosed (deed restriction), and 3) Re-evaluation after 3 years.

Chairman Sesin asked if there was any public opposition.

There was no response.

Chairman Sesin asked if the applicant or representative were present.

Representing the applicant, Mrs. Guadalupe Guerrero was present to address any questions that the Board might have.

There being no discussion, Chairman Sesin entertained a motion. Mr. Sheats moved to approve the conditional use permit as recommended by staff. Mrs. Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:19 p.m.

Ended: 5:25 p.m.

Item# 1.9

Conditional Use Permit Renewal:

Drive-Thru Service Window

At Delia's Tamales

Lot 1, Chaparral Heights Subdivision

C-3

Life of Use

Delgar Foods, LLC

Mr. Zavala went over the write up stating that this conditional use permit was originally approved on 10/22/2007 and needed renewal consideration. The site is at the NW corner of Griffin Parkway and Holland Road. The previous convenience store was remodeled and converted into Delia's Tamales. Although the canopy remains, there is no sale of gasoline and the tanks were removed.

There are 21 parking spaces, 9 fronting the store, 7 along the western perimeter, and 5 in the central area (where the gas islands were). There is 1 driveway cut onto Griffin Parkway and 1 driveway cut onto Holland. As far as stacking for the drive-thru window, 6-7 cars are capable of stacking on the drive-thru's route; maximizing the parking potential to the site. The days and hours of operation are

Monday through Sunday from 6:00 a.m. until 8:00 p.m. Also, there is no alcohol sold at this restaurant.

Other improvements that were done to the site include landscaping upgrades (where possible) though most of the lot was previously paved. A new solid buffer fence was installed along the west and northern property line and the trash bin was also enclosed with a solid wood buffer. Staff recommended approval subject to a 3 year re-evaluation to assess the traffic pattern and its safety.

Chairman Sesin asked if there was any public opposition.

There was no response.

Chairman Sesin asked if the applicant or representative were present.

The applicant, Mrs. Sofia Lubin was present to answer any questions.

There being no discussion, Chairman Sesin entertained a motion. Mr. Sheats moved to approve the conditional use permit as recommended by staff. Mrs. Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:46 p.m.

Ended: 5:48 p.m.

Item# 2.0

Conditional Use Permit Renewal:

'Ballet Studio'

1309 E. Griffin Parkway

Lot 1, Yessica Pedraza Subdivision

AO-I

Life of use

Yessica Pedraza

Mr. Zavala went over the write-up stating that this conditional use permit was originally approved by the Planning & Zoning Commission on December 8, 2004 conditionally for one year. Since then several CUP's have been approved conditionally by P&Z with a 1 year re-evaluation clause the most recent being on July 11, 2007. On May 5, 2008 the ballet studio obtained a Business License and finally opened its doors. Since its initial approval, the property has been rezoned and subdivided into a two lot subdivision.

The current hours and days of operation are Monday through Friday 4:00 p.m. to 9:00 p.m. No classes are being held on weekends. Four different classes per day are given for different age groups and individuals with different levels of ballet experience. In viewing the site plan, there are some offices and a reception/waiting area where the old Cirro Ochoa residence was located. The expanded area includes two studios, two restroom and locker facilities, and a

larger dance floor area. The dimensions of the proposed completed building will be 78' wide by 130' in length equating to 10,140 sq. ft.

The parking code requires 4 spaces for the first 400 sq. ft. plus one space for each additional four hundred square feet or 25 total parking spaces. There are 25 existing parking spaces, complying with the minimum parking requirements for a structure of this size. Landscaping and buffer requirements are also being complied with. Staff recommendation was for approval of this CUP with a re-evaluation every 3 years.

Chairman Sesin asked if there was any public opposition.

There was no response.

Chairman Sesin asked if the applicant or representative were present.

There was no response.

There being no discussion, Chairman Sesin entertained a motion. Mrs. Marin moved to approve the conditional use permit as recommended by staff. Mr. Vela seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:48 p.m.

Ended: 5:52 p.m.

Item# 2.1

**Conditional Use Permit Renewal: Limousine Service from Neighborhood Commercial (C-2) Zone Property
423 E. Griffin Parkway
W. 660' – E. 140' – S. 208' out of
Lot 25-8, West Addition to Sharyland
C-2
Life of Use
Manuel Gonzalez**

Mr. Zavala went over the write-up stating that this conditional use permit was originally approved on 4/23/08 and needed renewal consideration. The C-2 site is at the NE corner of Tanglewood Drive and Griffin Parkway (F.M. 495). The site measures 140' in width by a lot depth of 208'. Currently Mr. Gonzalez has his limousine service and a photo studio thereon (the existing photo studio is allowed in a C-2 and does not require CUP approval). Mr. Gonzalez has the following as his days and hours of operation: Monday – Saturday from 9:00 a.m. to 6:00 p.m. with himself and his daughter as the only employees running the operation. As far as signage, the applicant has installed a wall sign and has a free standing ground pole sign, which meets code and does not obstruct or impede the visibility of traffic. With regard to parking, the attached site plan shows the revised parking layout, which now utilizes the alley to enter and exit onto 4 additional parking

spaces at the NW corner of the property. These additional parking spaces were required for the new photo studio. A field visit with the neighbor (to the north) revealed that they did not object to the additional parking. (NOTE: Mr. Gonzalez has allowed the neighbor to use the additional parking during non-working hours). Since its approval on 4/23/08, there have been no complaints or concerns with Mr. Gonzalez's operation. Staff recommends approval subject to: 1) a 3 year re-evaluation to assess any concerns or traffic issues, and 2) once the CUP is no longer in service, there will be re-construction of the curb to eliminate the oversized driveway cut on Tanglewood Drive (re-construction costs to be held in escrow).

Chairman Sesin asked if there was any public opposition.

There was no response.

Chairman Sesin asked if the applicant or representative were present.

There was no response.

Mr. Sheats stated that he had an issue with having 2 wall signs on the building.

Mr. Zavala stated that staff worked on the sign ordinance for a long time and one of the encumbrances was that on commercial operations were entitled to one wall sign per wall. He added that since they had 2 wall signs they could either merge them or remove one.

There being no discussion, Chairman Sesin entertained a motion. Mr. Sheats moved to approve the conditional use permit as recommended by staff. Mr. Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:19 p.m.

Ended: 5:25 p.m.

Item# 2.2

Conditional Use Permit Renewal:

**To keep a 14' x 30' Portable Building
for Office Use**

1501 Industrial Way

Lot 3, Mission Business Park Subd.

I-1 (Light Industrial District)

Life of Use

George & Lois Brooks

Mr. Zavala went over the write-up stating that this conditional use permit was originally approved on 05/11/05 and needed renewal consideration. The subject site is located at the SW corner of Los Ebanos and Industrial Way. The applicant has been in operation at this location since 2005 and has a 14' x 30' portable building as an office in connection with their shed business. All parking and

landscaping requirements are being met. Also, a deferral on sidewalks was (temporarily) granted pending on how development evolves.

Mr. & Mrs. Brooks have been in the business of constructing and selling wooden sheds for nearly 30 years now. Their business has proven to be successful thus they moved to their current larger location in 2005. In viewing the site-plan, there are two 24' driveway cuts that lead traffic into and out of the facility—one onto Industrial Way and the other onto Los Ebanos. The existing hours of operation are Monday through Friday from 11:00 a.m. to 4:00 p.m. and Saturdays from 8:00 a.m. to 4:00 p.m. with Mr. and Mrs. Brooks as the only employees.

One of the initial concerns of this CUP request was that having a portable building near the Expressway and along an arterial may not be deemed aesthetic; thus the 4 year re-evaluation. The applicant has alerted Staff that he is selling his property at this location and that if approved, this should be the last CUP that he requests at this location. Staff recommended approval for another 4 year increment.

Chairman Sesin asked if there was any public opposition.

There was no response.

Chairman Sesin asked if the applicant or representative were present.

The applicants, Mr. George & Mrs. Lois Brooks were present to address any questions that the Board might have.

There being no discussion, Chairman Sesin entertained a motion. Mr. Sheats moved to approve the conditional use permit as recommended by staff. Mrs. Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:53 p.m.

Ended: 6:05 p.m.

Item# 2.3

**Conditional Use Permit Renewal: To have a Mobile Home for Office Use
107 International Blvd.
Lot 2, Mission Business Park Subd.
I-1
Life of Use
Jose Arvizu**

Mr. Zavala went over the write-up stating that the site was located toward the SW area of Expressway 83 & Los Ebanos (south of Tractor Supply). The first conditional approval was on September 12, 2007; renewable in 1 year; to have met all basic codes within one year. The second conditional approval was on November 19, 2008 wherein the primary issue dealt with was the lack of paved

parking. Since the 'portable building' (mobile home) was not very visible (behind Tractor Supply) and it was skirted, the aesthetics was not a major consideration during this November 2008 review hearing. However, P&Z's condition was very explicit, i.e., "subject to the paved parking be evident WITHIN the next renewal tenure, which would be at the end of 6 months" ... on July 19th, it would be 8 months.

In reviewing the evolving construction of other buildings within this I-1 zoned subdivision, there are now several site-built structures where this mobile home seems increasingly out of order as the years pass by. Sect. 1.54-2, Zoning Code cites that upon determination of noncompliance with the provisions of the CUP, staff shall take action as follows: a) give written notice of the violation, the necessary action to remedy the violation, and the time period (not less than 10 days nor more than 30 days) within which to comply, b) notify the P&Z of the noncompliance if the violations have not been corrected within the prescribed time period. Section 1.54-3, Zoning Code cites that 'the P&Z, after due hearing, may revoke any conditional use permit that has been reported in violation by staff. Continued use without a permit would be a violation of the Zoning Ordinance and subject to the same penalties provided therein'. Staff and P&Z are ordained by Mission's Zoning Code to do the following: staff to send Arvizu written notice of the violation; give him 30 days to complete paved parking; if not complied within the 30 days, then staff alerts P&Z of the violation; IF still non-compliant after 30 days, then hold hearing to entirely revoke conditional use permit. Staff recommended to impose Sect. 1.54-2 and 3 (if needed).

Note: If paved & striped parking code is complied with, P&Z will re-consider for renewal having complied with your November 2009 terms of approval.

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

There was none.

Chairman Sesin asked if the applicant or representative were present.

Representing the applicant, Mrs. Danielle Smith & Mrs. Barbara Contreras were present to answer any questions that the Board might have.

Mrs. Contreras stated that she would like the Board to consider the conditional use permit for another 6 months. She added that because of the economy the sales have been very low. She mentioned that Mr. Arvizu has been in business for about 15 to 16 years and by moving to this location, business has been bad. Mrs. Contreras stated that Mr. Arvizu had staff's recommendations under consideration but because of the economy he has not been able to comply. She added that Mr. Arvizu's plans were to rent or sell the property since it was very big for his business in order to comply with the construction of a building and parking area that the City was requiring. Mrs. Contreras stated that Mr. Arvizu wanted the

Board to consider his permit for another 6 months and during that time frame he would either get a loan to move to a different location, sell the property, or comply with the City's requirements.

Chairman Sesin stated that the Board had already approved it for more than a year and they still have not complied with the requirements.

Mr. Zavala mentioned that on November 19, 2008 Mr. Arvizu and Mr. Sanchez stated that the reason they had not complied with the paved parking was because of the high price of diesel and the economy. He added that Mr. Arvizu also mentioned that he was waiting on a loan to re-plat and develop the eastern section of the land for retail office buildings.

Chairman Sesin stated the applicant was at the same point as last year.

Mrs. Smith mentioned that Mr. Arvizu had attempted a couple of times to get loans but they never went through. She added that he didn't expect to still be there, in fact, they expected to have sold about 6 months ago, but sometimes things took a little longer than expected.

Chairman Sesin asked Mrs. Smith if he was still operating from that location.

Mrs. Smith stated that he was selling the few remaining things that he has on the lot since the business basically failed already. She added that they didn't really have a lot of equipment left and he was just trying to sell whatever was left because he really needed the money. She mentioned that he was not really operating any business but just trying to sell what he had left.

Chairman Sesin asked what type of equipment he was selling from that location.

Mrs. Smith stated that it was the sale of tractors and trailers. She added that they have been in business since 1995.

Chairman Sesin stated that if the business had already failed why there was a need to have a mobile home.

Mrs. Smith stated that he was trying to sell the mobile home as well because even to move it would cost them \$500 at least. She mentioned that Mr. Arvizu had several interested buyers but even then, they didn't know how much time it would take for the financing.

Chairman Sesin asked Mr. Zavala if the business was not a business anymore why would they need a conditional use permit. "Why couldn't the Board just revoke the permit."

Mrs. Smith stated that the permit was needed because in order to sell everything Mr. Arvizu needed to be there when people go by. She added that he needed to have the mobile home there for some sort of comfort since he still had equipment on the location.

Mr. Zavala stated that the way to discern if this was an active operation was if they had active water and electrical meters. He mentioned if the mobile home was not connected to water or electricity then it would just be considered to be stored there therefore, the conditional use permit would not be needed because it would be considered as storage.

Chairman Segin asked Mrs. Smith if they needed to have water and electricity at the site.

Mrs. Smith replied, "Yes".

Mr. Zavala stated that an alternative would be to consider the 6 months that they were asking for but letting them know that it would be a drop dead 6 months no more extensions.

Chairman Segin asked Mr. Zavala if the conditional use permit needed to come back to P&Z in 6 months or could the Board just give staff direction as to if the business was active in 6 months to shut them down.

Mr. Zavala stated that the Board could consider the 6 months that the applicant was asking for and in 6 months there would be another meeting just to inform if the business was active or not.

Chairman Segin stated that if the Board does consider the 6 months approval, regardless of the economy being good or bad, and if they come again asking for more time, he would say no because he is recommending a drop dead 6 months from today and that's it. He added that if they decide to stay, then they need to make sure that they have complied with all of staff's recommendations.

Mr. Sheats stated that he agreed with Chairman Segin recommendation.

There being no further discussion, Chairman Segin entertained a motion. Mr. Sheats moved to approve the conditional use permit for 6 months in which, the applicant must install paved parking or have the CUP revoked without further extensions. Mr. Vela seconded the motion. Upon a vote the motion passed unanimously.

Started: 6:05 p.m.

Ended: 6:13 p.m.

Item# 3.0

Pre-Final Plat Approval:

Amistad Subdivision

13.81 Ac. tract being all of Lot 270

And the N. 3.81 ac. of Lot 268,

Bentsen Groves Subdivision Unit "C"

Rural ETJ

Developer: Pablo Munoz

Engineer: R.E. Garcia & Associates

Mr. Salinas went over the write-up stating that the subdivision is located approximately 2,600' south of Mile 7 (FM 492) along the west side of Bentsen Palm Drive. The subdivision consists of 23 lots, where Lots 1 & 23 shall have the option of being used for commercial or multi-family purposes. The remaining lots shall be used for residential purposes.

The water CCN belongs to SWSC. The developer is providing water by connecting to an existing 8" water line located along the west side of Bentsen Palm Drive and extending a new 8" line west into the proposed subdivision. The City's Rural ETJ regulations do not require fire hydrants.

The sanitary sewer service for this subdivision would be addressed by individual on-site sewage facilities (OSSF) of a standard design septic tank and drain field on each lot. Each lot meets or exceeds the County's typical ½ acre standard where septic tanks are permitted. This area is not within the City of Mission's Sewer CCN. (Note: Mission sewer is 2.23 miles away).

The lots would be facing a 50' ROW 32' B/B paved street built to the County's construction specifications. Dove Weed Street would have a temporary cul-de-sac located at the western perimeter of the subdivision to allow for the future extension of the street through future developments. No residential access would be allowed from Lots 1 & 23 onto Bentsen Palm Drive. Drainage for the subdivision is proposed through the use of swales located in the rear of each property as permitted under County guidelines as shown on the HCDD#1 approved drainage report. Staff recommended approval subject to meeting the Model Subdivision Rules, and meeting any comments from the County Planning Department.

Chairman Sesin asked Mr. Salinas if staff had looked at the north and south cross streets and if the City required any north and south extensions to vacant properties.

Mr. Salinas replied, "Yes". He added that he didn't recall when this subdivision was first approved, however he mentioned that they had considered a southern

street to cross onto Lot 266 in that area but then just decided to approve it with a an extension to a temporary cul-de-sac.

Chairman Sesin asked if it got preliminary approval.

Mr. Salinas mentioned that it got preliminary approval at the P&Z level.

Chairman Sesin asked why was P&Z reviewing this subdivision again.

Mr. Salinas stated that this subdivision would be considered a new subdivision since it was seen over a year ago because and did not complete the subdivision process.

Mr. Raul Garcia stated that he was the consulting engineer for this development and this subdivision was approved back in October 2006. He added that the issue was that the City required that the canal be placed underground. Mr. Garcia stated that through negotiations the canal was now underground and approved by the Irrigation District. He added that since the time had elapse the approvals had to be re-done.

Chairman Sesin asked if the plat had already been submitted to the County.

Mr. Garcia replied, "Yes". He added that they had already gotten the initial redlines back from the County.

Chairman Sesin asked if the County had required a north south extension.

Mr. Garcia replied, "No". He mentioned that they got the north-south extension the first time from the City, which was then taken out to remain as it currently was.

Chairman Sesin asked if any of the redlines received from the County mentioned anything regarding the extension.

Mr. Garcia replies, "No".

Mr. Zavala mentioned that staff had evaluated the short stub out on the south side and not so much the north side because it appeared to be land locked. He added that staff has seen this inside City limits and in the County as well because they typically don't have a problem circulation wise north and south because at almost every ½ mile juncture there are arterials. Mr. Zavala stated that if it were stub out to the north the likelihood would be that they would have a cul-de-sac that would be linked to Lot 272 or Lot 274. He added that staff felt that the stub out to the east-west was more appropriate for this subdivision.

Mr. Garcia mentioned that in 2006 they had originally put in a cul-de-sac but then staff suggested the stub out to the west so that was why the subdivision layout was that way.

Chairman Sesin asked if the County hadn't required a mid-point turnaround.

Mr. Garcia stated that he had been working on the redlines but had not seen anything regarding a turnaround.

There being no further discussion, Chairman Sesin entertained a motion. Mr. Sheats moved to approve the plat as recommended by staff. Mrs. Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:13 p.m.

Ended: 6:21 p.m.

Item# 4.0

Tabled Conditional Use Permit:

**Portable Building-Sale of Water
2205 N. Inspiration Road
Lot 18, Southern Oaks Subdivision
C-3
Life of Use
Jose Rojas (Aqua Blue)**

Chairman Sesin entertained a motion to remove the item from the table. Mr. Vela moved to remove the item from the table. Mr. Sheats seconded the motion. Upon a vote, the motion was unanimously approved.

Mr. Zavala went over the write-up stating that this item was last seen on April 29, 2009 at which time the P&Z tabled the item so a scaled site plan could be provided to Staff. Mr. Rojas desires a CUP to be allowed to place an 8' diameter portable structure for the sale of water in Lot 18, Southern Oaks Subdivision or Toscano's Tires/Car Wash located at 2205 N. Inspiration Road. The self-sustained, fully automated, Aqua Blue would operate 24-hours a day/365 days a year. A technician would conduct a service inspection on a regular basis to ensure that the water dispensing unit is clean and functioning properly. Mr. Luis Toscano has authorized Mr. Rojas to set up his structure in the parking area east of his car wash upon receiving a Conditional Use Permit. The proposed site plan showed a total of 6 parking spaces for both the Car Wash and the proposed Aqua Blue business.

City Code requires a minimum of 4 parking spaces for each individual business. The site plan shows 6 paved parking spaces and 2 paved vehicles under the canopies = 8 spaces. A viable alternative would be to not cut 22nd Street but have 2 parking spaces in that area and just have the cars continue to exit onto the paved alley, which already had a cut onto 22nd Street. Perimeter 5' sidewalks

were required as well as 7 -3" caliper trees. Since the sign ordinance appears to be continually violated and the current car wash does not meet parking codes at this moment, no permit for the Aqua Blue facility should be given until the paved parking, sidewalks, and landscaping was substantially compliant.

The concern was that if the Aqua Blue permit was issued and it was installed (in a few days) the remainder of improvements would be lacking, which would induce Municipal Court procedure with the conditional use permit also being at risk of revocation due to owner's lack of compliance. Staff recommends approval subject to: 1) have car wash substantially complete the paved parking, sidewalks, and landscaping prior to issuing Aqua Blue permit, 2) 1 year re-evaluation to assess internal traffic circulation and incidence of any on-street parking, 3) the installation of concrete bollards around the water dispensing structure, 4) compliance with the minimum landscaping requirements, and 5) acquiring a business license.

Chairman Sesin asked if there was any public opposition.

There was no response.

Chairman Sesin asked if the applicant or representative were present.

There was no response.

Chairman Sesin asked if staff had talked to the applicant regarding the recommendations and if he was receptive to them.

Mr. Zavala stated that he was not sure if Mr. Acevedo had talked to the applicant.

Chairman Sesin stated that he didn't recall this conditional use permit.

Mr. Zavala stated that the first time the conditional use permit was seen, the Board didn't like the site plan because it was irregular and not to scale.

Chairman Sesin stated that he recalled the site plans that were provided at that time.

Mr. Zavala stated that his concern was that they already had a carwash operation that was not meeting paving, landscaping codes, and didn't have a business license so why would staff consider a conditional use permit to magnify the use of the property. He added that he wouldn't like to hold the applicant back but the owner had to comply with his own requirements. Mr. Zavala suggested 'tabling' the item since nobody was present to address any questions that the Board might have.

Mr. Sheats stated that this item should be 'tabled' because the applicant needed to be present to be in agreement.

There being no further discussion, Chairman Segin entertained a motion. Mr. Sheats moved to table the conditional use permit as recommended by staff. Mr. Vela seconded the motion. Upon a vote, the motion passed unanimously.

Started: 6:21 p.m.

Ended: 6:21 p.m.

Item# 4.1

Tabled Conditional Use Permit:

**Portable Building-Sale of Water
1500 W. Business Highway 83
Lot A, Mission Acres Subdivision
C-3
Life of Use
Jose Rojas (Aqua Blue)**

No discussion this item remained on the 'Table'.

5.0 OTHER BUSINESS

Mr. Zavala stated a follow up to the City Council Meeting for June 22, 2009, regarding the Palm Valley Church variance with the collector street in which the church didn't want to pursue it. The Planning and Zoning Commission unanimously voted against the subdivision and sustained staff & the master plan recommendation, that matter went before City Council and they voted 4-0 to override P&Z action so the collector would not go through.

6.0 ADJOURNMENT

There being no further items for discussion, Mr. Sheats moved to adjourn. Mr. Vela seconded the motion. Upon a unanimous vote, the meeting adjourned at 6:22 p.m.

Raul Segin, P.E., Chairman
Planning and Zoning Commission