

**PLANNING AND ZONING COMMISSION  
MARCH 10, 2010  
CITY COUNCIL CHAMBERS @ 5:00 P.M.**

**P&Z PRESENT**

Ned Sheats  
Luann Caudle  
Rene A. Flores  
Mario Garza  
Carlos Lopez

**P&Z ABSENT**

Marisela Marin  
Jose G. Vela

**STAFF PRESENT**

Sergio Zavala  
Bobby Salinas  
Julio Cerda  
Sonia Carnes  
Irasema Dimas

**GUESTS PRESENT**

Abelina Pacheco  
Virginia Morales  
Dagoberto Salinas  
*Indiscernible Signature*  
Brian Price  
Alejandra Khit  
Cesar Rivera  
Steve Villarreal  
Belinda Villarreal  
Maria G. Flores  
Wenceslado Guerrero

**CALL TO ORDER**

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

**CITIZENS PARTICIPATION**

There was no response upon inquiry.

**APPROVAL OF MINUTES FOR FEBRUARY 24, 2010**

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

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

**Ended: 5:08 p.m.**

**Item# 1.1**

**Rezoning:**

**Lot 9, Block 8,  
South Bryan Ridge Subdivision No. 2  
R-1 to C-1  
Alejandra Khit**

Mr. Salinas briefed over the write-up stating that the subject site is located approximately 2000 feet south Business 83 along the west side of Bryan Road. The surrounding zonings include R-4 (Mobile & Modular Home) to the East; R-1 (Single Family Residential) to all other directions. The existing

land uses are vacant to the north; mobile home development to the east; single family homes to the west; and non-residential parking to the south. The Future Land Use Map reflects a Low Density (LD) designation. Though the subject property shows a FLUM designation of LD, a C-1 rezoning seems reasonable due to: a widened Bryan Road; other approved commercial rezonings to the north and south along the west side of Bryan Road inclusive of commercial and non-residential uses. Ultimately, the highest and best long-term use for these series of lots is not single family residential, but of a commercial nature. Staff recommended approval.

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

There was no response.

Chairman Sheats asked if the applicant or representative were present.

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

Mrs. Caudle asked Mrs. Khit what she was proposing to construct in the property.

Mrs. Khit replied that it would be a Chiropractic Clinic.

Mrs. Caudle mentioned that she thought that it was a small lot for a clinic and it looked like it was not very deep. She asked the size of the lot, because it was not included on the write up.

Chairman Sheats asked Mrs. Khit if there was a pre-existing building at the site.

Mrs. Khit replied that there are 3 apartments that were for rent.

Chairman Sheats asked if she was planning on using the existing building for the chiropractic office.

Mrs. Khit replied that 2 of the apartments would be remodeled and used for the clinic.

Mr. Salinas mentioned that 2 of the apartments would be interlinked for the clinic and the other one would be used for storage.

Chairman Sheats stated if there would be any mixing of a chiropractic office and an apartment.

Mr. Salinas replied "No".

Mr. Salinas stated that staff had looked at a proposal as far as to what they were doing with parking and landscaping, and whatever is out there now compared to what they are proposing is a significant improvement.

Chairman Sheats mentioned that if staff was happy with what they were seeing then he didn't have any problems.

Mr. Salinas stated that to answer Mrs. Caudle's question about the size of the lot, it measures 77.5' in width by 94' in length.

Mrs. Caudle mentioned that a doctor's office requires a lot of parking and in her opinion it wouldn't meet the parking requirements.

Mr. Salinas replied that staff had taken a lot of that into consideration and that was the reason why Mrs. Khit was only using two of the apartments for the clinic and the other apartment would be only used for storage, based on this she would be able to comply with the requirements.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Garza moved to approve the C-1 rezoning as recommended by staff. Mr. Lopez seconded the motion. Upon a vote the motion passed unanimously.

**Started: 5:08 p.m.**

**Ended: 5:15 p.m.**

**Item# 1.2**

**Conditional Use Permit:**

**Home Occupation – 'Group**

**Home Daycare'**

**1520 Oak Drive**

**Lot 55, Orange Blossom Subdivision**

**R-1A**

**Life of Use**

**Abelina Pacheco**

Mr. Salinas briefed over the write-up stating that the subject site was located at the SE area of Oak Drive and Dora Jeanne Drive. The home has a two-car driveway off of Oak Drive capable of accommodating the safe drop off and pick up of children. There is also an existing 4' sidewalk for

pedestrian traffic. There is a six-foot opaque buffer fence surrounding the rear of the residence to maximize protection of the children. The garage area is proposed to be utilized for childcare.

- Days/Hours of operation: Monday – Saturday from 7:00 a.m. to 6:00 p.m.
- Staff: Herself and 1 other employee that does not live at the home, thus in compliance to code.
- Must obtain DHS certification, which will assign the maximum number of children to be cared for.
- Any signage would have to be a max. of 1' X 1'.
- Must comply with Sect. 1.56-1, Zoning Code (home occupations regs.)

Mr. Salinas mentioned that staff had received only 1 call in opposition to the request in fear that there would be too many cars.

Staff recommended approval subject to: **1)** 1 year re-evaluation to assess this new operation, **2)** must obtain DHS Certification, **3)** comply with Sect. 1.56-1 of the Zoning Ordinance and **4)** acquiring a business license.

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

There was no response.

Chairman Sheats asked if the applicant or representative were present.

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

Mr. Flores asked what was the DHS Certification?

Mr. Salinas replied that it was the State License.

Mr. Flores asked if at this point Mrs. Pacheco didn't have the license.

Mr. Salinas replied that he researched her name and it didn't show that she had it.

Mr. Flores asked why they didn't have the state certification prior to presenting it to the board.

Mrs. Pacheco replied that she does have the certification, she took the 1-day course and after that she sent in an application, which will take 21 days for

the application. By the time the state comes to inspect the daycare shall be in full force and she can't do that unless she had a approval from the city.

Chairman Sheats asked if staff had the right sequence of events or if it need it to change.

Mr. Salinas replied that it was correct.

Mrs. Caudle asked if she was going to convert the garage into the daycare.

Mrs. Pacheco replied 'Yes'.

Mrs. Caudle asked if she was going to add a bathroom.

Mrs. Pacheco replied that she would need to add a bathroom and a sink.

Mrs. Caudle stated that if she was going to hire 1 employee then it would be 2 cars parked on the driveway all day.

Mrs. Pacheco replied that they have the capacity for 6 cars on the existing driveway. She mentioned that she had filed an application to expand the driveway another 6 feet.

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

**Started: 5:15 p.m.**

**Ended: 5:21 p.m.**

**Item #1.3**

**Conditional Use Permit:**

**Drive-thru Service Window  
Lot 1, Shary Springs Subdivision  
C-2  
Life of Use  
Matt Holleb**

Mr. Salinas briefed over the write-up stating that the site is located on the SE corner of Shary Road and Mile 2 Road. The applicant is proposing to build a new CVS Pharmacy with a double drive thru service window. Access to the site will be provided off of both Shary and Mile 2 Road with 35' driveways. The building measures 139.2' X 95' for a total of 13,225 square feet. The number of parking spaces required for this size building is 36. The

applicant is providing 73 leaving a surplus of 37 spaces. Letters were sent to the property owners within 200' of the subject tract. Staff has not received any comments for or against this request.

- Days/Hours of operation: Everyday from 7 a.m. to 10 p.m.
- Staff: 5 employees per shift. 2 shifts per day
- Must comply with landscaping code.
- A 6' cedar fence will be imposed to provide a buffer from the commercial use and the residential uses.
- A 5' sidewalk will be provided through the Mile 2 widening project funded through TXDOT.
- City Engineer to ensure that the proper drainage calculations are being met as per the plat.
- Comply with the City's Sign Ordinance. (Changeable copy sign, etc.)
- A business license is required prior to occupancy.
- The AO-I tract to the south (and fronting Shary) will likely go commercial (C-1), thus the driveway should flare-out to the perimeter south to maximize the public's traffic safety. There will need to be some slight adjustments to the site plan due to this change.

Staff recommended approval subject to: **1)** provide a connection to the driveway entrance to the perimeter south in preparation for future traffic interface, **2)** installation of buffer adjoining residentially used properties, **3)** comply with landscaping and sign codes, and **4)** acquire a business license.

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

There was no response.

Chairman Sheats asked if the applicant or representative were present.

Representing the applicant, Mr. Brian Price was present to address any questions that the Board might have.

Chairman Sheats suggested that since the property was in an area where it was almost all surrounded by residential properties, he asked that the lighting stay within the property so that it will not affect surrounding residences.

Mr. Price replied that all the lights were shielded and CVS Pharmacy ensures that the lighting is 0' candles at the property line.

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

**Started: 5:21 p.m.**

**Ended: 5:51 p.m.**

**Item #2.0**

**Conditional Use Permit:**

**Practice Baseball Fields on  
Property zoned AO-I  
5 Ac. out of Lot 27-8,  
West Addition to  
Sharyland Subdivision  
AO-I  
Cesar Rivera**

Mr. Salinas briefed over the write-up stating that the subject site is located approximately 2,100' south of Mile 2 Road along the west side of Mayberry Road. The applicant (Cesar Rivera) lives adjacent to the tract on the larger home facing Mayberry Road. Mr. Rivera desires to provide two practice baseball fields to be privately used by his 2 son's little league baseball team (6-7 years olds). The Rivera's have other family members assisting on the team. It is anticipated that the effects of their work will hopefully instill healthy competitive attitudes, teamwork, discipline, and keep the kids involved in outdoor sports.

Due to increasing lines to 'wait' for practice fields to be available (with associated practice fees), the Rivera family would like to provide the practice fields themselves seeing that he does own this vacant tract next to his home.

- Days / Hours of operation:  
Practice Fields: Monday – Thursday from 4:00 p.m. to 6:30 p.m.  
Saturday – Sunday from 10:00 a.m. to 6:00 p.m.  
(only if needed).  
Batting Cages: Everyday from 4:00 p.m. to 6:00 p.m.
- Staff: There are 4 coaches for the 7u kids;  
There are 3 coaches for the 6u kids.  
There would be approximately 20 kids utilizing the baseball fields.

Regarding the site plan, we have the following comments:

1. Access to the 2 fields will be via the stubbed public street from Ashbrook. Due to the difference in material (asphalt to caliche which will induce caliche residue on the public street), a paved 30' x 30' section should be provided at the interface juncture of the AO-I tract. The posting of 'No Trespassing' signs on the chain-link fencing, too.
2. A caliche parking lot will be provided; recall that this is a temporary recreational use; the parking along Mayberry Road should be deleted in its entirety due to the arterial's speed where there are no 'Stop' signs on Mayberry Road near this juncture, i.e., for safety purposes.
3. Site built restroom facilities are proposed which is much liked by Staff as opposed to port-a-potties; connection to the city's sanitary sewer system will be mandated. Also any graffiti that may result on the facilities' walls are to be promptly painted over and/or removed.
4. Being next to an excavated drainage ditch on the perimeter north and Mayberry Road to the perimeter east (with High School traffic, etc.), a 6' chain link fence is absolutely recommended with NO gates. (NOTE: if gates are provided, temptation will be to park along the ditch or Mayberry and walk through the gates to the practice fields; thus 'no gates – no unsafe parking'). On the Ashbrook access point area, there should also be indented chain link fencing to prevent others from going onto the property (trespassing) and thus having the effect of an un-authorized public park. There shall be no advertising signage on the fencing or anywhere on the premises from baseball teams, sponsors, etc. As an incidental effect, any flying debris will be captured by the chain link fence though several garbage receptacles should be provided with firm counsel to the Rivera to clean-up the site after all practice sessions.
5. A solid 6' wood buffer will be strongly recommended to adjoining residential lots that may not have any buffer or a chain link buffer, i.e., replace the chain-link fence with wood fencing (unless the owner desires to keep their chain-link fencing of course.) This should buffer some residual noise.
6. No area lighting is proposed thus not being potentially invasive to the surrounding neighborhood.
7. A petition is attached where 9 owners (28%) within the neighborhood have no objection to the proposal. (NOTE: 3 others signed 'in favor' within the 200' radius BUT these 3 are not listed as the 'owners of record' thus not factored into the 28%).

Mr. Salinas stated that as of this write up staff hadn't received any calls against this request until this afternoon. Staff received 8 calls against this request and 2 of those calls were not within the 200' radius leaving only 6 within the 200' radius against the request.

He stated that seeing that this is a CUP where it can be closely monitored combined with the intent of keeping kids occupied in outdoor sports while they have fun while learning discipline, Staff does not object so long as the following are imposed: **1)** pave a 30' x 30' pavement section at the interface juncture of the stubbed street and provide caliche parking (NOTE: if paved parking is desired, this can be permitted), **2)** delete any parking along Drainage Ditch and Mayberry Road, **3)** restroom facilities to connect to sanitary sewer system, **4)** have sufficient garbage receptacles to dispose of water bottles, etc., which includes required clean-up by the kids after the practice sessions, **5)** promptly remove any graffiti that may occur on the facilities, **6)** provide perimeter chain link fencing along the north side and the east side with no gates as indicated above; to include fencing as needed & agreed upon by adjoining residences; fencing shall include the south street access point at Ashbrook (indented fencing to avoid waiting cars parking in front of existing residences); again, no signage of any teams/sponsors, etc., shall be permitted on the fencing or anywhere on the premises, **7)** no area lighting shall be provided since the practice sessions terminate at dusk...there shall be no post-dusk/night-time practice sessions, and **8)** to be re-evaluated in a non-hearing setting 6 months after the provision of improvements to assess acclimation to neighborhood; and to officially re-evaluate in a public hearing setting 1 year after activation for (possible) renewal.

Chairman Sheats asked if there was any public in opposition to the request to raise their hands.

(5 people raised their hands.)

Chairman Sheats asked the people in opposition to select 1 or 2 people to express the views of the group.

Mr. Wenceslado Guerrero from 2804 Keralum Ave., stated that he understood the reasons for having a park, since he was a volunteer coach and a school coach for one of the various boys clubs for the past 15 years. He stated that he knows the importance of finding practice space, kids having outdoor activities. He also mentioned that due to the proximity of the homes, what would happen when the 6 and 7 year olds become 14 and

15 year olds and they would be hitting the ball over the fence; there's not enough room for a regular baseball field, out there. Another concern was, who would pay for damages to the homes and properties due to a baseball or whatever activities are being conducted in the fields. He also mentioned that specific conditions of the proposed permit were not mentioned as to what they could do or what it was going to be. He stated that he didn't get the information until earlier that day, and didn't have time to explain to the rest of the neighbors. He stated that there was some misleading information given to the people when they signed the petition in favor. He also mentioned that some of the people tried calling the Planning Department to change their vote and there was an attempt to change their vote. He stated that traffic was already a problem on Mayberry and being that staff had recommended for that access to be removed, then the only access would be through the neighborhood, which has about 34 kids from high school age down that play on the street; he asked who would be monitoring the traffic flow and the speed zone within the subdivision. He also asked if there was any type of activity after hours would the police department be able to go in and stop the activity since it was private property.

Chairman Sheats replied that they had stated that there would be no after dark activities.

Mr. Guerrero asked who would stop kids from coming in, that are not part of the practice.

Chairman Sheats responded that that was the purpose of the fence with no gates, but as well as they know kids can jump the fence.

Mr. Guerrero agreed with the comment, and he asked again who would monitor that. He stated that he was not given enough time to talk to the neighbors that had signed the petition in favor to give them the specifics of the proposal and he would like more time in order to give them the facts of the proposal.

Mrs. Maria G. Flores from 609 E. 28<sup>th</sup> Street, stated that she was approached when the applicant was trying to obtain the signatures and she was advised that the neighborhood kids would have access to the field. She stated that they would have the availability to play in there and that no one else would be able to. She stated that a lot of people that signed were misled by different comments that were said to them and it was her opinion that if they knew the facts they would be opposing the request. She stated that their main concern was the safety of the children within the neighborhood,

not only would other children go into the fields, but adults that want to do things that are inappropriate, also.

Chairman Sheats asked if the applicant or representative were present.

Mr. Cesar Rivera the applicant stated that he was a Mission High School graduate and he played baseball and has been a baseball fan all his life. He attended the University of St. Marie and has a major in business finance. He is a business owner of several oil field companies. He stated that he started this baseball organization basically for the kids and they have nowhere else to practice. Right now the only place available is the park on Ware Road; and it's very hard because there are always grown men practicing baseball and soccer. Mr. Rivera mentioned that they also practice in a car lot owned by one of the parents but the car lot is located in Palmview next to the Expressway 83 along the Frontage Road and that's a more dangerous location. Mr. Rivera stated that the reason why he wants to do this was because God had blessed him with his business and he wants to give back to the community since that was something that his father taught him when he was growing up. He stated that his father built an organization back in the mid 80's up to the mid 90's where 6 of those players made it to the professionals and 3 are in the major league today. Some of those people come during the off-season to train the kids. He stated that they have represented the City of Mission in Championships in Houston and Corpus Christi and they come back with at least second place always, never under that. In the baseball association that they play in the teams are ranked 2<sup>nd</sup> and 3<sup>rd</sup> in state. He mentioned that Mayberry Road was an important area in Mission and that was the reason why they decided to proposed the practice fields there so that kids see it and they want to come and be part of the organization. He stated that there were 2 teams approximately 23 kids currently within the organization, but it can grow. Mr. Rivera stated that these fields were designed for kids up to 12-years-old so the baseball wouldn't hit the neighboring properties and in the event that it occurs he was willing to pay for the damages.

Chairman Sheats mentioned that Mr. Rivera's intention was in the right place but he does have neighbors and because of that the board has to consider their feelings, their properties and their kids safety. He stated that it appeared that there were some objections voiced to the board and it appeared that there was an interesting question that somebody was trying to mislead people from looking against this request. He stated that in his opinion he would like for something like this to happen for the kids.

Mr. Flores asked how many kids were currently within the organization.

Mr. Rivera replied that currently there were 23 kids, 13 kids in the 6 and under team and 10 kids in the 7 and under team.

Mr. Flores asked what would be the policy on other kids from the neighborhood.

Mr. Rivera replied that they could go and use the fields to play. On Saturdays it would be open all daylight hours and they can use it after the practices are over which would probably only last a couple of hours. He stated that they could probably set up a schedule as to who can use it and at what time.

Mr. Flores asked if there would be some type of restriction as to the age limit.

Mr. Rivera replied that it would probably be up to the 12-years of age, where they can't hit home runs that would cause damage.

Mr. Flores stated that this was a big proposal and asked Mr. Rivera why he didn't start with only 1 field and say that he was going to minimize the proposal to 1 field and see how it works and maybe that would alleviate some of the concerns from the neighbors. He asked Mr. Rivera what was the reason that he was proposing 2 fields.

Mr. Rivera replied that currently there were 2 teams in the organization and the only hours that they can practice is after school and there is only enough daylight for 1 practice session.

Mr. Flores asked why he doesn't look for another location, where he might be able to purchase a property that is not too close to residences.

Mr. Rivera replied that because that's where he grew up and that was the only property that he owned in Mission, that's he wants it to be.

Mr. Flores stated that he was not suggesting going outside of Mission.

Mrs. Caudle stated that Mr. Rivera already own the property.

Mr. Rivera stated that what he was trying to do was not having the parents pay to practice.

Mrs. Caudle asked if the fields layout could be turned in a way that if a home run is hit, it would go to the drainage ditch.

Mr. Rivera replied that it could be turned but the reality was that a lot of foul balls would go to the drainage ditch, since there would be a lot more of those than home runs.

Mr. Garza stated that it was great what Mr. Rivera was trying to do but it would be better if he meet with the people because he needs the support from the community and as of right now some of the community is against and some are in favor, and it seems he needs more time to explain to them what he was proposing.

Mr. Rivera stated that he would like to ask the community what they would like for him to do.

Chairman Sheats stated that that was something that he would need to do on his own.

Mrs. Caudle mentioned that he would probably need to do a meeting with all of the neighbors, or invite them to his house for a barbecue or something and explain to them exactly what he was proposing and answer all their questions. She also stated that she noticed that staff did not want access off of Mayberry Road because they think that people drive too fast, but in reality the people on Mayberry Road drive so slow because of the school and there is a lot of police activity down Mayberry. In her opinion, she doesn't have a problem with the Mayberry Road access; she wouldn't like the access to be to Keralum Ave.

Chairman Sheats asked Mr. Rivera if the petition was circulated the way that it was presented to the board.

Mr. Rivera replied, 'Yes'.

Chairman Sheats mentioned that the petition wouldn't answer any of his questions, and in the petition there was no access or comments of how the people would get there. He also mentioned that there was a 200' radius for notification of the people who would be affected but in reality the whole neighborhood would be affected by the proposal.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Garza moved to 'Table' the CUP. Mrs. Caudle seconded the motion. Upon a vote the motion passed unanimously.

## **2.0 OTHER BUSINESS**

There was no other business.

## **3.0 ADJOURNMENT**

There being no further items for discussion, Chairman Sheats entertained a motion to adjourn. Mrs. Caudle moved to adjourn. Mr. Garza seconded the motion. Upon a unanimous vote, the meeting adjourned at 5:53 p.m.

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Ned Sheats, Chairman  
Planning and Zoning Commission