

**PLANNING AND ZONING COMMISSION
DECEMBER 8, 2010
CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Ned Sheats
Carlos Lopez
Marisela Marin
Jose G. Vela
Mario Garza
Rene Flores

P&Z ABSENT

Luann Caudle

STAFF PRESENT

Sergio Zavala
Bobby Salinas
Sonia Carnes
Roberto Salinas
Susana De Luna
Annette Zavala

GUESTS PRESENT

George S. Wyant III
Mark Gillin
Danny Boultinghouse
Sergio F. Solis
Diana Saucedo
Aurora Acosta
Daniel Garcia
Lee Roy Valdez
Oscar & Norma Alvarez
Guillermo Martinez
Elizabeth L. Martinez
Jose O. Oyervides, Jr.
Hector & Monica Moreno
Francisca J. Rios
Ricardo Garcia
Pastor Rafael Núñez

Ann Wyant
Brice Chandler
Jose O. Oyervides, Sr.
Gabriela Saucedo
Carmen Acosta
Dalia Salinas
Irvin Spence
Prisalla Solis
Ariel King
Marlena L. Rodriguez
Ashley C. Martinez
Gerardo Oyervides
Jim Brunson
Nidia A. Rios
Martinez Garza
Jerry Sanchez

Hector Cavazos
Don Curl
Inocencio Peña
Romana Saucedo
Abel Acosta Jr.
Oscar Salinas
Rebecca Valdez
George Powell
Luis Garza
Guillermo J. Martinez
Tomaso Castillo
Eleazar Zavala
Ricardo Rios
Gris Puell
Jesus Garza
Jesse Arriola

CALL TO ORDER

Chairman Ned Sheats called the meeting to order at 5:04 p.m.

CITIZENS PARTICIPATION

There was no response upon inquiry.

APPROVAL OF MINUTES FOR NOVEMBER 17, 2010

Chairman Sheats asked if there were any corrections to the minutes. There being no corrections, Mr. Vela moved to approve the minutes of November 17, 2010 as

presented. Mrs. Marin seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:06 p.m.

Ended 5:15 p.m.

Item# 1.1

**Conditional Use Permit: Non-Residential Facilities on an R-1 Lot
linked to the adjoining Waterford Gardens
2211 Betty Dr.
R-1
Life of Use
Lucille G. Cavazos**

Mr. Sergio Zavala briefed over the write-up stating that the site is located at the northern perimeter of the 2200 block of Betty Drive. The irregularly-shaped R-1 lot is located south of and adjoins the Waterford Gardens, a retirement/nursing home that is owned by the applicant.

Ord. 3557 allows, under CUP approval, certain non-residential facilities to be placed on R-1 lots. In this regard, the applicant is proposing to install 8' walkways, a driveway, and a gazebo for the use of the residents of the Waterford Gardens. There is also an opaque buffer fence that surrounds the sides and the frontage onto Betty Drive with additional landscaping already provided.

Analyzing the proposal, certainly the applicant was aware that the property was zoned R-1 and intended for R-1 purposes. However, an opportunity was seen to enhance the walking areas and outdoors experience for those needing assisted living especially during their latter years, outdoor therapy. Being buffered to the minor street, there will be zero-impact to Betty's traffic and residential neighborhood. The driveway is perceived to be occasionally used for landscaping maintenance.

Staff recognizes that this applicant's CUP inherently has a deadline; that is, one day the CUP will terminate and the lot will be used for R-1 purposes. If approved, the day-to-day effect to the residents will be 'zero' since there is no integration to Betty Drive. Staff wants to be sure that the elderly do not go beyond the fence; thus the gate will have to be locked (unless maintenance is required). Staff recommended approval subject to: 1) 1 year re-evaluation to assure smooth acclimation; may be renewed for extended periods after 1 year; 2) pave sidewalks along Betty Drive (via plat note); 3) keep gate locked; to be opened only for landscape maintenance, etc.; 4) no commercial signage on R-1 property; 5) maintain landscaping in particular, to the exterior and south of the wood fence, in

a professional manner; also, fence to be maintained professionally; and 6) any security lighting to be downcast into the same property.

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

Mr. Jerry Sanchez who resides at 2209 Betty Drive stated that he had never really been informed on what was supposed to be going on with this property. He had originally being told that the subject area was going to be used as a water retainer. Then he was told that the property would not be used for commercial purposes and now it seemed like that was what they wanted to do. He added that this property was supposed to be used for beautification.

Chairman Sheats stated that the purpose of a conditional use permit was so staff could monitor the site/use and if approved, it would be subject to specific conditions that needed to be complied with before any business could be open. He added that this particular CUP started as an empty R-1 Lot, and now they want to convert it into a nice little place for the residents to enjoy. Mr. Sheats added that from what he could see the applicant wanted to convert this area into a little garden for people to enjoy. He mentioned that he should have received a notification from the City alerting him of the applicant's proposal; therefore he didn't understand why he would still think that it would be a retention area. Mr. Sheats stated that P&Z would consider if the garden area could be built next to his property. He added that he would like to have something like that next to his house.

Mr. Sanchez stated that all he really wanted to know was what restrictions were imposed if the property was being used as commercial versus non-commercial? He asked if the building on the commercial side would have any additions that would make the building move further back into the proposed site.

Chairman Sheats stated that the building could not cross the lot line because it was not commercially zoned.

Mr. Sanchez asked if they would be able to put any type of building in the future.

Chairman Sheats stated that they would not be able to put a building in this lot at all. He mentioned that this was just to be an open spot with a fountain and little pad for probably a table and chairs for the older people to enjoy nature.

Mr. Sanchez stated that if they moved the walkway they could expand further south on the building.

Chairman Sheats stated that they wouldn't be able to do that because they would need to change the setbacks and that was not going to happen with this conditional use permit.

Mr. Garza stated that they would need to rezone the property.

Chairman Sheats stated that they would need to come back to P&Z with a different site plan.

Mr. Garza stated that the property was not zoned commercial; therefore they would not be able to expand onto the residential property.

Mr. Sanchez stated that he was just concerned about what restriction would be put in place regarding the usage of the property.

Chairman Sheats stated that as Mr. Zavala had mentioned earlier the restrictions would be that elderly do not go beyond the fence; thus the gate will have to be locked (unless maintenance is required), 1 year re-evaluation to assure smooth acclimation; may be renewed for extended periods after 1 year; pave sidewalks along Betty Drive (via plat note); keep gate locked; to be opened only for landscape maintenance, etc.; no commercial signage on R-1 property; maintain landscaping in particular, to the exterior and south of the wood fence, in a professional manner; also, fence to be maintained professionally; and any security lighting to be downcast into the same property.

Chairman Sheats asked if the applicant or representative were present.

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

Chairman Sheats asked Mr. Garza if he had anything else to add.

Mr. Garza assured P&Z that there would not be any building on the proposed site only the sidewalk.

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

Started: 5:15 p.m.

Ended: 5:34 p.m.

Item# 1.2

Conditional Use Permit: Institutional Use – Church on

**Property Zoned R-1
N. ½ of E. 5 ac. out of the W. 10 ac.
of Lot 28-6, West Addition to Sharyland
Subdivision
R-1
Mission MB Church**

Mr. Salinas briefed over the write-up stating that the site is located 700' west of Conway along the south side of Mile 2 Road. The property currently has a single family home located in the northeast area of the property with a 20' driveway onto Mile 2 Road. The existing residence will be used as the pastor's home where the existing residential driveway will not intersect with the church parking lot which is preferred by staff (less conflict points). The 5,995 sq. ft. pre-manufactured metal church building* will have access to Mile 2 Road from a new 25' driveway cut along the center area of the property. If approved, future buildings will require P&Z and site plan approval. The primary concern is allayed by NOT having traffic integrated into adjoining residential areas. Proper buffering also segregates the differing land uses. Recognizing that 2 Mile Road is a Minor Arterial (100' ROW, 65' B/B pavement street) in our MPO policy, having exclusive access to 2 Mile Road is conducive to the CUP proposal.

The parking requirements for a church are based on 1 space for every 4 seats in the main auditorium. The proposed number of seating spaces is 250, which will require 63 parking spaces (250 seating spaces/4 seats = 62.5). The applicant is proposing 70 parking spaces, which provide 7 surplus spaces.

A 6' opaque buffer was required along any residentially used property and along Dawson Lane. Landscaping complies with code. In addition to new shrubs and hedges, staff is encouraging the applicant to salvage as many of the existing trees as possible and will be requiring the equal amount of caliper inches removed to be replanted as per the Tree Preservation Code.

Other comments include:

- Days/Hours of operation: Wednesday & Sunday 7:00 p.m. to 10:00 p.m.
- Must meet City Noise Code; professional sound installation required due to nearby residences.
- Must install 5' sidewalks along Mile 2 Road (Subdivision Process)
- A drainage plan must be submitted for review by the City Engineer (Subdivision Process)
- Dumpster area must be buffered with a 6' opaque fence and door.

Staff recommended approval subject to: **1)** meet subdivision code with 6' buffer fence to the south side, **2)** meet tree preservation code, **3)** install opaque buffer along residentially used properties and trash bin area, **4)** meet noise code.

Note: The subdivision process is mandated where utility improvements for the area, inclusive of storm & street widening will be imposed. * - A pre-manufactured metal building is allowable along Mile 2, since Mile 2 was not listed in Ordinance 3602. Ord. 3602 requires the *front* of buildings along selected thoroughfares to be masonry, brick, or stucco.

Chairman Sheats asked for a show of hands of the people who were in opposition to the request.

A show of hands indicated that there were 3 people present in opposition to this particular request.

Mrs. Ann Wyant stated that she lived on the fence line of the proposed site on the corner of Dawson and Perkins. She added that they owned Lots 39 & 41. She mentioned that she has lived at this site for 33 years and had no city drainage in their subdivision. Mrs. Wyant stated that their drainage would go to this field. She asked if they built on this field where would the water go?

Chairman Sheats asked Mrs. Wyant if she had contacted Public Works about additional drainage for her subdivision.

Mrs. Wyant stated that she had tried. She added that 12 years ago she was told they were going to get drainage in their subdivision but they still don't have it. She stated that when it rains the water was usually a good 1 ½' more than her land now if they built on the field where was that water going to go.

Chairman Sheats stated that this item would ultimately have to come back again once they subdivide and provide a drainage plan. He suggested that they contact Mr. Zavala's office or go to Public Works and ask how they are proposing to take care of this problem since it was not really a zoning issue. All P&Z could do was see if they met all qualifications to allow a use on this property.

Mrs. Wyant asked if they were just proposing to build a church or also a housing area.

Chairman Sheats stated that in the plan the applicant submitted all they show was the church, parking area, an auditorium, and the pastor's home.

Mr. Salinas clarified that the only items up for consideration would be the church, parking area, and the pastor's home. The other two buildings in the site plan would need to come back to P&Z for approval.

Mrs. Wyant asked what those buildings would be used for.

Mr. Salinas stated that he believed they would be church expansion.

Mrs. Wyant asked if they could be dormitories.

Chairman Sheats replied, "No". He added that the applicant was listening and could tell everyone exactly the answer in regards to the uses for this property.

Mr. Jesse Arriola stated that he owns Lot 6. He asked if the open area shown on the exhibit would remain as an open area.

Chairman Sheats stated that at this time there was no consideration of that piece of property.

Mr. Arriola asked if the applicant purchased all of the property.

Chairman Sheats replied, "Yes".

Mr. Arriola mentioned that if future development was proposed for that area they would probably need to come back before the Board but his concern like it was mentioned earlier was when it rains heavily there was water everywhere especially on Cummings Street. He asked P&Z if he could get the name of the gentleman who would be able to help him. Mr. Arriola stated that he assumed 2 Mile was where it was going to feed into.

Chairman Sheats replied, "That's correct".

Mr. Arriola stated that he has lived in this subdivision for about 15 years and their roads were not that good he recalls that the only street improvement done were the street lights, and any pot hole repairs are just put down stepped on and they walk away. He mentioned that he shared Mrs. Wyant feelings in the sense that their subdivision has been neglected.

Chairman Sheats stated this was the time for the neighborhood to get together and talk to someone in Public Works regarding the drainage for this subdivision.

Mr. Arriola stated that he was not sure what type of church it was but hopefully it was a good church.

Chairman Sheats stated that to be honest he didn't know either; all he knew was that it was a church.

Mr. Arriola asked if he would need to be concerned about having more people coming in and the possibility of more crime.

Chairman Sheats stated that since it was a church he didn't believe they would have trouble with that although their hours of operation may change due to school and things like these. He added that they were going to have very good quiet neighbors.

Mr. Arriola asked if their concern regarding the drainage would be resolved prior to any construction.

Mr. Garza stated that the drainage plan had to be approved by the City prior to any construction.

Mr. Salinas stated that this property would need to go through a subdivision process which drainage would be discussed at that time. He added that the Public Works Director, Roberto Salinas, was in the audience and could expand a little bit on what was going to happen for drainage on 2 Mile since it will be expanded in the future. He added that Mr. Roberto Salinas would also be the contact person for the city regarding the existing drainage concerns.

Mr. George Wyant who resides at 3018 N. Perkins submitted a petition with the signatures of most of the residents of Mission North Subdivision. He added that he had nothing personal against the church his primary concern was the drainage. He mentioned that any improvement on that property would cause flooding in their neighborhood and even if they build retainer toward the back corner of the property it would not be able to contain what's there. Mr. Wyant stated that as far as getting a hold of other city departments they have been arguing with them literally for 33 years. He stated that to give you an example about 25 years ago they reported a water leak and it was still leaking.

Chairman Sheats stated that the water leak issue would be something that could be taken care of by the water department.

Mr. Wyant stated that he had someone from the water department come to look at it about 3 or 4 months ago but as of this date it still has not been fixed.

Chairman Sheats stated that without sounding humorous this was the night that he had the Public Works & Planning Directors present to get some actions started in resolving his concerns.

Mr. Wyant stated that basically all the individuals who signed the petition were asking that P&Z does not consider any building onto the property until proper drainage is provided to them. He mentioned that they were just trying to cover all bases making sure that they are taken care off. He added that he understood most of his concerns were out of his hands but would appreciate any help he could get.

Chairman Sheats stated that he understood Mr. Wyant's position completely because he lived about 100' from the Mission Lateral and when it rains he would get nervous. He also stated that the item being considered was for the conditional use permit for the use only then it would need to come back to P&Z.

Mr. Wyant asked the committee if he could get some type of assurance that nothing would be built on the property until the drainage issue gets resolved.

Chairman Sheats stated that he could not give that assure because that would happen along with the planning and examining the property and what they want to do with the property exactly. He mentioned that all he currently had was a site plan of what was being proposed.

Mr. Wyant asked what would happen if a building does go up on the property and they do start getting flooded, who would be in charge of fixing the problem.

Chairman Sheats stated that they were going to make sure that the applicant follows the proper process when it comes back to the City with drainage plans and the residents will have another opportunity to make their case.

Chairman Sheats asked if the applicant or representative was present.

Mr. Moses Tagle who resides in Sullivan City stated that he was currently a member of the church. He added that most of the questions had already been addressed as far as meeting times. He mentioned that the pastor and his family would use the existing residential building. Mr. Tagle stated that in regards to the drainage they would be working with the City and City Engineer to make sure that things are done adequately and they were willing to do that.

Chairman Sheats asked if the parking lot was already done.

Mr. Tagle replied, "No".

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

Started: 5:34 p.m.

Ended: 6:22 p.m.

Item# 1.3

**Conditional Use Permit: Institutional Use – Church on
Property Zoned AO-I
E. 330’ – 660’ out of Lot 28-10,
West Addition to Sharyland Subdivision
AO-I
Martin Garza**

Mr. Zavala briefed over the write-up stating that the site is located at the SW corner of Bryan Road and Mile 2. The MPO Thoroughfare map that Mission has sustained designates both 2 Mile Road and Bryan as 100’ Minor Arterials with an ultimate pavement width of 65’. The site has 330’ of frontage along 2 Mile Road and 660’ along Bryan Road. The property is currently vacant. The 15,597 sq. ft. church proposes access to Bryan Road from two 30’ driveways, and one 30’ driveway to access 2 Mile Road.

The parking requirements for a church are based on 1 space for every 4 seats in the main auditorium. The proposed number of seating spaces is 632, which will require 158 parking spaces (632 seating spaces/4 seats = 158). The applicant is proposing 200 parking spaces, which exceed code by 42 spaces.

A 6’ opaque buffer will be required along any residentially used property. In regards to landscaping, the applicant is substantially exceeding code providing 30% green area available for landscaping. In addition to new shrubs and hedges, staff has alerted the applicant to salvage as many of the existing trees as possible and will be requiring the equal amount of caliper inches removed to be recaptured as per the Tree Preservation Code.

Other comments include:

- Days/Hours of Operation: Tuesday, Wednesday & Thursday – 7:00 p.m. – 8:30 p.m. (Youth Meetings, etc.); Sunday 9:00 a.m. to 12:00 p.m.; 1:00 p.m. – 4:00 p.m. (services)
- Must meet City Noise Code
- A drainage plan must be submitted for review by the City Engineer
- Dumpster area must be buffered with a 6’ opaque fence and door.
- Being at a major intersection of 2 minor arterials, any incoming/exiting traffic can easily be managed by these (widened) perimeter streets. As an example of this, if a high school at 2 Mile and Mayberry (collector/not even a minor arterial) can handle the school’s traffic on a daily basis, then logically 2 Mile and Bryan can handle the Sunday traffic of this church. The primary

traffic influx will be on Sundays, of course, with much lower traffic generated during other days.

- This church, as others, is usually a dormant neighbor for much of the week. Lush landscaping is the norm with similar chapels in other cities where they have assimilated well next to those residential areas.

Staff recommends approval subject to: **1)** meet subdivision code, **2)** meet tree preservation code, and **3)** install opaque buffer along residentially used properties and trash bin area.

Note: The subdivision process is mandatory; issues relating to extensive street widening, extensive utility work, 5' sidewalks, etc. will be imposed.

Chairman Sheats asked for a show of hands of the people who were in opposition to the request.

A show of hands indicated that there were about 10 people present against this request.

Chairman Sheats stated that he would like for the people to come forward one by one provide their name and address and give the Board their concerns. He added that he understood that most of them have the same concerns so if they could go over their concerns as fast as possible since they had more items on the agenda.

Mr. George Powell who resides at 1¾ N. Bryan, which is immediately adjacent to the south of the proposed site stated that just by looking at the map it appears to be encroaching on property he owns. He added that his wife actually brought that, up to the attention of the Planning and Zoning Department but aside from that what bothered him was that they were looking at a lot of structure, concrete, asphalt, widening which completely changes the nature of this area. Mr. Powell stated that he and Mrs. Alvarez and their spouses were at this point in the process of negotiating a sale with people to buy the 20 acres that were immediately to the south of the site. Mr. Powell stated that they were buying it because they wanted to live in an area that is clearly residential with fairly large lots. Something that doesn't have all the concrete, light, buildings, and the potential noise. He added that he disagreed with Mr. Zavala about the street being able to easily handle the traffic. He also stated that this completely changes the nature of the property and what they have in the area. Mr. Powell stated that staff came up with a recommendation that was determined without having any kind of input. He mentioned that as a matter of fact they had received a notice just a few days ago and even when they received a notice they didn't get a map, a plat, or the design changes that were going to be made. He added that his wife had called on the phone and requested them and they hadn't sent notice to everyone that was

entitled to a notice and the recommendation is coming out under these circumstances. Mr. Powell stated that in going back to the sale that they had regarding their property were proposing to have restrictions on how the property could be used because they were buying for this same reason. He mentioned that they were not going to want to buy the property from them if P&Z approved the request and it would cost them about \$1.3 or \$1.4 million dollars. Mr. Powell mentioned that as many might know he is a lawyer and he might end up suing the City for what its done, and probably end up suing the church, and end up suing everybody because he is going to want for somebody to end up covering their loss. So, this is the situation that they find themselves in and this is a complete change in the use of it.

Chairman Sheats stated that in an AO-I that particular zoning could be changed into just about anything. It has been in the history of the City that this is where they get all of the sea and raw land that is where everything starts. Now as you being a lawyer you could understand that you cannot control how somebody else uses his or her land. He stated that that it was not fair and didn't care whether he had \$1.5 or \$2 million invested, you don't come to P&Z and say that you are going to sue everybody because you don't get your way. Those remarks kind of put him, as well as other people on the board in opposition right away. However, we will consider this item fairly. He mentioned that he appreciated his input, but this property is in a more or less undeveloped area. He then asked "Are we to understand you to say that the P&Z could not longer function as a commission until we asked you about any property that is within a mile or two of your property.

Mr. Powell replied, "No".

Chairman Sheats asked Mr. Powell to please move forward to his next problem.

Mr. Powell stated that the problem was that it was a complete change in the nature of the property. He also mentioned that there are several large estate settings in the area and would like for it to continue that way.

Chairman Sheats stated that the Commission tries to do what's best for the City of Mission.

Dr. Ivan Melendez stated that he lives on the NW property. He mentioned that he bought this property about 9 years ago from the Buckleys with the promise to respect the history and the nature of the property. He gave her a gentleman's promise that he would never subdivide and make smaller lots. Mr. Melendez stated that if you go into any bookstore and look into the City of Mission, City of San Juan, City of Pharr, you would see probably that there are pictures of this

corner property back in the 1920's. He mentioned that you would also see pictures of the Buckley's, Mr. Bryan, and the Shary's you will see all these pillars in the community that we live in now. He added that there was a historical marker caddy corner to his property. Dr. Melendez stated that he owned approximately 23 to 24 acres and had 6 acres as natural shrub that was almost 100 years old just for animals. He added that they still had coyotes that come out in that area and all sorts of migrating birds. Dr. Melendez stated that he wanted for P&Z to appreciate how special this property is. He added that he had trees that were estimated to be at least 300 years old. He mentioned that he didn't believe it would be prudent to say that his property was worth 2 million dollars because that was not the issue the issue is that this property has a very particular character. Mr. Garza notified us of what he wanted to do. However, there is 100% opposition from all the people that surround the proposed change. Dr. Melendez stated that there might be people from different areas that are part of the church and he respected them, however, they were not the ones that lived there. He mentioned that 4 years ago without due source they were annexed into the City and this past year they took a significant amount of land for road expansion so we all understand progress and participating in our community. The concerns from those of us who are directly affected are the asphalt and lights at night. We decided to move there because we wanted to live in this particular unique area. He added that as a Christian man he felt extremely uncomfortable because he hopes God does not get mad at him for opposing this church. He also stated that it would be the same issue if it were an orphanage, Sister Teresa or a church. It's the issue of the asphalt, high frequency, high traffic volume, and lights. He mentioned that he strongly disagreed with Mr. Zavala and was not sure what his role was but there were tremendous traffic problems. He added that what they proposed to do will unduly compromise the quality of life that they have chosen. We do not believe that the unique benefits provided to the citizens of Mission are worth our personal sacrifice in this particular area.

Chairman Sheats stated that if there wasn't anything different if would like to ask that this gentleman be the last person.

Mr. Hector Cavazos stated that the majority of the people that were opposing had retained him. He mentioned that he was a realtor with Real Estate Investments. Mr. Cavazos submitted a petition in opposition for 86%. Mr. Cavazos stated as Mr. Powell mentioned earlier most of the homes or land there were anywhere from 2 ½ to 10 acre tracts now if anybody knows Mission which he was sure most of them do recall that this is a very unique area of town, very well preserved by larger tracts of land. He added that people have invested a lot of money to be in the country but still in the city. Mr. Cavazos stated that Bryan couldn't handle the traffic as it is right now. He added that on Sect. 1.23 of protest and recommendations for denial it states the following: In case of a written protest

against any change in zoning, signed by the owners of 20 percent or more either of the area of the lots or land included in such proposed change, or of the lots or land immediately adjoining the same and extending 200 feet there from, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the legislative body of the City of Mission. Mr. Cavazos stated that they don't oppose change as long as it is consistent with the zoning. He added that he respected the Board members position because he had served on the commission a few years back. Mr. Cavazos stated that the Future Land Map designation for this area was zoned R-1A and that all the residents want is to keep the consistency of the City of Mission and zoning. He added that in his professional opinion this would be considered spot zoning. He mentioned that there were other areas in the City that anybody can go to on 2 Mile and Mayberry which is about a 4-½ acre tract of land on the northwest corner that is for sale that could easily be purchased which was not far away.

Mr. Rick Garcia stated that he lived across the street at 1317 E. 2 Mile and he agreed with what the other residents have said and would like for the Board to consider being in their shoes. Mr. Garcia stated that when they were invited to meet with the church group they were told that they would take into consideration what the residents surrounding the property wanted. Its not that they don't want a church, but would rather keep it residential. He mentioned that he was sure the owner of the property would eventually get an offer from someone to buy his property to build a residential home. Mr. Garcia asked the Board to consider if they would like to have asphalt, a big structure, and lights at night as a neighbor before they make the decision.

Chairman Sheats asked if the applicant or representative were present.

Mr. Rice Chandler who resides at 2515 Dove Avenue stated that he was the ecclesiastical leader for the church in this area. He added that he was responsible for 9 congregations from 23rd in McAllen and west to Rio Grande City, which had about 1500 members and right now the members go over to McAllen on 29th and Dove to attend Sunday Services. Mr. Chandler stated that this location was very central to our members and to their needs. He mentioned that he would like to address the concern regarding traffic and would have their architect address the rest of the concerns. He added that on Wednesday nights from 7:00 to 9:00 p.m. they had youth activities, Tuesday & Thursday nights were occasional meetings with a small group of people consisting of maybe 10 to 15, and Sunday they would have 2 congregations meeting in this building one from 9:00 a.m. – 12:00 p.m. and the other from 1:00 p.m. – 4:00 p.m. Traffic would be about 15 minutes before 9:00 a.m. and after 12:00 p.m. it would be much more than that. He added that the volume would only be for two days and for a very short period of

time. Mr. Chandler asked P&Z if they would consider the people present in favor of the request.

Chairman Sheats stated that he would in a few minutes.

Mr. Chandler stated that he would like Mr. Danny Boultinghouse the church architect to address the concerns regarding the asphalt and lighting.

Mr. Danny Boultinghouse stated that his address was 2208 Westway in McAllen. He added that the technology in lighting now allow them to have down lighting without the over spill. He mentioned that he lives across the tennis courts from Mac High and there was no over spill. He added that they had designed those lights to control the lighting and the church doesn't use that much light after dark anyway. Mr. Boultinghouse stated that in regards to concrete or asphalt the church is extremely big on landscaping and they feel that they can exceed the landscaping requirements that the City's of Mission. He mentioned that the other concern the residents had was more regarding zoning. However, this is a conditional use permit and churches are allowed historically in any zone from agricultural, commercial, industrial, and residential. He added that there the reason is that historically, churches were viewed as an asset to any zone regardless the uses in that zone and he believed they could find that throughout the country. Some concerns that some folks have in neighborhood is that the church may make the value of the property deteriorate, and quiet frankly churches are historically known to enhance the value of the property. Mr. Boultinghouse stated that this was a major intersection and when they look at the long-range plans those corners will be considered for commercial uses. He added that if he lived in that area he would rather have a church than a Stripes Store. Mr. Boultinghouse stated that even if the property is zoned residential and a residence was built there the neighbors have no say so in what the house looks like and architecture could look pretty bad no matter it is, be it a church or residence. He submitted a layout of the church for the Board to review.

Chairman Sheats asked for a show of hands in support of the church on this property.

A show of hands indicated that they were about 32 people present in favor of the request.

Dr. Melendez stated that the people in the audience did not live in that area.

Chairman Sheats asked for a show of hand of the people that live within the 200' radius of this site.

Mr. Chandler stated that nobody that lived within the 200' radius were present in support of the request.

Mr. Jim Brunson who resides at 2200 Clinton in Mission stated that they were representing the church and wanted to be good neighbors in this community. He added that they have looked forward for this construction for a very long time. He mentioned that he has lived in the City of Mission for almost 30 years and they have talked about building a church in Mission for the entire time and probably before he arrived. He added that they were excited about the prospect of having a building in Mission since they currently attended a chapel in McAllen and while he resides at 2200 Clinton he also owns a residence just down the street from this property which was on the corner of Bryan and 29th Street. He mentioned that the policy of the church throughout the country has been to build their new chapels in residential areas and the churches typically look for nicer areas that will have good value and are complimentary with the church. Mr. Brunson stated that the church helps maintain property values as mentioned earlier by the architect because of the aggressive maintenance the church provides as seen in the church layout. He mentioned that there was a reference earlier about the importance of church in the community and we know that John Conway as the founder of Mission made sure that they were some sites available for churches in Mission Original Townsite. Mr. Brunson stated that today we have all come to value the important role of churches even more in our community and in our nation as our youth face increasing challenges in social morale and declining values. One of the chief tenants of the Church of Jesus Christ of Latter Saints was to promote family and family values. The church also goes through great measures so instill values into our youths on our meetings held on Wednesday evenings. He stated that he looked forward to being good neighbors, good citizens and to join the other churches and community organizations in Mission to promote wholesome family value activities and provide a house of worship in this area.

The applicant, Mr. Martin Garza, Jr. who resides at 1401 Barcelona stated that he owns the property at 2 Mile and Bryan. He stated that it has been a challenge for him because even though he does not live there, he still considers them his neighbors. He said that he believes this is a good option to bring to the area. He mentioned that he has owned this property for approximately 5 years and has had it on the market for 2. During those 2 years he has had several offers but most of the offers have been for commercial interest since the property is on the corner of Bryan and 2 Mile. He mentioned that he had not talked to the Planning Department regarding the proposed offers for commercial because he wanted to be fair to the neighbors since he lives and works in Mission. Mr. Garza stated that he wanted to be able to hear their concerns but also feel comfortable when he sees them in the stores or street but he also wanted to be fair to his family and to himself. He added that about 8 months ago the P&Z rezoned a property on

Mayberry and 2 Mile about ½ mile from his property to commercial with similar characteristics as his property. He mentioned that the commercial areas are expanding and when he got an offer from the church he thought it would be a good idea. Mr. Garza stated that he respected the neighbors concerns but would like the Board to be a little open minded about considering his request. He mentioned that based on the work he does for the City he knows that there is not a lot of traffic on Sunday's mornings besides the traffic from other churches. He stated that he had not seen the petition from the neighbors but there were not too many people within the 200' radius.

Mrs. Marin asked if she could get clarification on the Section of the code that Mr. Cavazos had read.

Mr. Zavala stated that the Section that Mr. Cavazos had read deals with the City Council. The Zoning Commission was not the legislative body so the final vote for the conditional use permit or zoning issue would require a 4/5ths vote out of the City Council and had no bearing to P&Z.

Mr. Flores stated that staff makes conditional use permit recommendations and in addition to that, staff has public meetings that allow people that own land within a 200' radius to voice their concerns regarding the request. He said that those are obviously in place for a reason. So what function does that serve for the Board in general, since the Board had an obligation not only to the City but to the residents as well?

Mr. Zavala stated that the recommendation made by staff is one component that should be factored by P&Z. The other component would be the input that has been convened by the people in the audience in favor and against. If there was any information needed by the Board as far as codes, staff was present to help. He added that staff provides the information and recommendation and then P&Z decides what they want to do and since this is a conditional use permit, it will be going to the City Council for final action.

Mr. Flores stated that Mr. Garza mentioned that there was a rezoning on a corner lot that was approved and wanted to know if there was as much opposition as in this request.

Mr. Zavala stated that the rezoning was on the SE corner of 2 Mile and Mayberry and was a different type of neighborhood. The lots are smaller, even the ones on the estate setting. The property belongs to Angie Vela and if there was opposition, he stated that he didn't recall if it was conveyed, he didn't believe it was substantial.

Chairman Sheats stated that he considers how this particular church would look across the road from his property versus Stripes. Commercial is moving toward 2 mile and who knows what will be next. He added that he didn't see any reason to tell someone that they can't improve the looks of what is there now.

Mr. Vela stated that he felt for the people because they have made an investment in their property, but progress was progress.

There being no further discussion, Chairman Sheats entertained a motion. Mrs. Marin moved to approve the conditional use permit as recommended by staff. Mr. Sheats seconded the motion. Upon a vote, the motion passed 4-2 with Mr. Flores, and Mr. Vela dissenting.

Started: 6:22 p.m.

Ended: 6:24 p.m.

Item # 1.4

**Conditional Use Permit Renewal: Home Occupation – Registered
Home Daycare
3304 Santa Inez
Lot 123, Los Nogales Subd. Ph. III
PUD
Life of Use
Martina D. Almazan**

Mr. Salinas went over the write up stating that this CUP was approved by P&Z earlier this year on 1/6/2010. The subject site is located 136' from the SW intersection of San Armando and Santa Inez. The home has a two-car driveway off of Santa Inez capable of accommodating the safe drop off and pick up of children. There is also an existing 4' sidewalk of pedestrian traffic. There is an existing 6' opaque buffer fence surrounding the rear of the residence to maximize protection of the children. The dining room and living room are the areas utilized for child care.

- Days/Hours of operation: Monday–Friday from 7:00 a.m. to 7:00 p.m.
- Staff: Herself and 3 others. All live in the home except one, thus complying to code.
- DHS certification has been obtained as previously required.
- Must continue to comply with Sec. 1.56-1, Zoning Code (home occupations regs.)

Staff recommended approval subject to a 1-year re-evaluation to continue to monitor this daycare operation at Hunt Valley.

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.

There was no response.

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

Started: 6:24 p.m.

Ended: 6:25 p.m.

Item # 1.5

**Conditional Use Permit Renewal: Home Occupation – Computer
Repair Service
1409 Evergreen
South E. 38' of Lot 5 & SW 4' of
Lot 6, Evergreen Manor Subdivision
R1-T
Life of Use
Glen Wise**

Mr. Salinas went over the write up stating that the most recent approval of this CUP was on 1/6/10. This conditional use permit has been in operation since December 2007. The subject site is located 125' east of Bryan Road along the north side of Evergreen. The applicant uses his enclosed garage as his shop area. Mr. Wise has minimal traffic, approximately 1-3 repairs a week and is strictly by appointment or referrals only.

- Days/Hours of operation: Monday–Friday from 5:00 p.m. to 8:00 p.m.; and Saturday from 1:00 p.m. – 6:00 p.m.
- Staff: Mr. Wise is the only person running the home occupation.

Due to the retirement (sensitive) community feature, staff recommended approval subject to perpetual 1-year re-evaluations.

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.

There was no response.

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

Started: 6:25 p.m.

Ended: 6:26 p.m.

Item # 1.6

**Conditional Use Permit Renewal: Sale & On-Site Consumption of
Alcoholic Beverages –
Los Pescadores Restaurant
601 "C" Business 83
Lots 4-8, Block 165,
Mission Original Townsite Subd.
C-3
Life of Use
Eleazar Zavala**

Mr. Salinas went over the write up stating that this CUP was approved by P&Z on 9/9/09 and was now up for renewal. The subject site is on the NE corner of Business 83 and St. Marie where there are several commercial suites.

- Days/Hours of operation: Everyday - 11:00 a.m. to 10:00 p.m.
- Staff: 5 full time employees
- Parking for this multi-unit complex includes 24 spaces that are held in common for two restaurants, a retail outlet, and a carwash. Staff has not received any complaints regarding this CUP or any comments regarding parking.

Staff recommended approval subject to a 3-year re-evaluation to continue to assess this operation.

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, Mr. Eleazar Zavala was present to address any questions that the Board might have.

There being no discussion, Chairman Sheats 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: 6:27 p.m.

Ended: 6:32 p.m.

Item # 1.7

**Tabled Re-Evaluation of
Conditional Use Permit:**

**To have a Portable Building with a Drive-Thru
Service for Sno-Cones Sales
1234 E. Business Hwy 83
125.06' x 125' tract, Lot 20-11, W.A.S.
C-3
Life of Use
Jose Daniel Garcia**

Chairman Sheats entertained a motion to remove the item from the Table. Mr. Garza move to remove the item from the 'Table'. Mr. Vela seconded the motion upon a vote, the motion passed unanimously.

Mr. Salinas went over the write up stating that this site is located approximately 800' east of Bryan Road along the south side of Business Hwy 83. The CUP was approved by P&Z on 7/14/10 for 1 year. During the CUP hearing, staff had required 1) the removal of a sign that resembled a traffic signal and 2) secure a written consent from the adjoining water mill owner to allow exiting traffic through their paved area.

After receiving counsel from the City Attorney via Code, staff does not object if the 'traffic' light remains since it is not at a juncture that can misconstrue it as an official traffic control device.

With regard to 'consent form the owner to the west', staff found that the Watermill did not own the property and that the owner of the old Fontana site owned it. In speaking to the owner of the Fontana site, they do not wish to allow sno-cone customers to exit out through their property.

Conferring with Mr. Garcia, he proposed traffic to go around his stand and then exit through the parking. Notice the installation of poles to ensure that the vehicles no longer go through the watermill property. Since spaces would be displaced, the applicant is proposing two new temporary spaces located along the south property to compensate. Since the stand is temporary and will likely get terminated once the old Fontana site is built, staff does not object in allowing the temporary all weather parking in this manner. Staff recommendation was to allow

the sign to remain, install poles/chains and parking before window is used, and perpetual 1-year re-evaluations with notice that this CUP is temporary pending completion of commercial facility to the adjoining west.

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

Mr. Irvin Spence who resides at 1240 E. Hwy 83 stated that he felt that they should not have the temporary parking on the fence of Tropical Valley Acres.

Mr. Zavala stated that he agreed with Mr. Spence and the temporary parking could face westward.

Chairman Sheats asked if the applicant or representative were present.

The applicant, Mr. Daniel Garcia was present to address any questions that the Board might have.

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

2.0 ADJOURNMENT

There being no further items for discussion, Chairman Sheats entertained a motion to adjourn. Mr. Vela moved to adjourn. Mr. Flores seconded the motion. Upon a unanimous vote, the meeting adjourned at 6:33 p.m.

Ned Sheats, Chairman
Planning and Zoning Commission