

**Minutes  
Planning and Zoning Meeting  
August 13, 2012**

On this 13<sup>th</sup> day of August, 2012, at 7:00 p.m., the Planning and Zoning Commission convened in a Regular Meeting, and the same being opened to the public at their regular meeting place; thereof, at City Hall, 303 S. Teel Drive, Devine, Texas. Notice of said meeting having been prescribed in Chapter 551, Government Code, and Vernon's Texas Codes, Annotated, and the following members thereof, being present, namely:

Doug Wilkins, Chairman  
Onis Wiemers, Secretary  
Darrell Murdock  
Jim Lawler  
Mike Herring  
Rick Maxwell

Absent being: Ed Dougherty; thus constituting a quorum.

Personnel present: Bill Herring, Mayor; Darrell Rawlings, Code Compliance Officer.

Others present: Brandon Sneed, 907 Magnolia Bend, San Antonio, Texas 78251; Doug Trott, 401 Mockingbird Lane, Devine, Texas 78016; Alex Gonzalez, 322 Fox Run, Devine, Texas 78016; Howard R. Hicks, 1301 Libold Drive, Devine, Texas 78016; Roberto Gonzalez and Cindy Gonzalez, 1408 Libold Drive, Devine, Texas 78016; Mrs. Norman G. Bynum, 321 Mockingbird Lane, Devine, Texas 78016.

Commissioner Wilkins called the meeting to order.

The first order of business was to discuss and consider approving minutes from the meetings on May 7<sup>th</sup>, 2012 and May 14<sup>th</sup>, 2012.

The Planning & Zoning Commissioners reviewed the minutes.

Motion made by Commissioner Lawler, seconded by Commissioner Herring to approve the minutes from the meetings on May 7<sup>th</sup>, 2012 and May 14<sup>th</sup>, 2012.

Ayes	--	Six
Nays	--	None
Absent	--	One (Commissioner Dougherty)

Motion carried.

The second order of business was to discuss and consider request made by Doug Trott for a variance to Article 3, Section 1 (Use Regulation) of the Zoning Ordinance to allow one room of an existing one-family dwelling located at 401 Mockingbird Lane which is described as Colonial Oaks Subdivision, Block 4 (NCB 130), Lot 12, to be used for a business venture with Brandon Sneed of South Texas Arms to provide for custom gunsmithing, firearm manufacturing and retail sales.

**Planning and Zoning Meeting**  
**August 13, 2012**  
**Page 2**

Commissioner Lawler noted that the submitted request has a different address than the agenda; 401 Mockingbird Lane was on the written request and 410 Mockingbird Lane was on the agenda. Doug Trott stated that the address of the property for which the variance is being sought is 401 Mockingbird Lane. Darrell Rawlings, Code Compliance Officer, informed the commissioners that despite the error on the agenda, notices were sent to all neighboring property owners within 200-feet of 401 Mockingbird Lane.

Brandon Sneed and Mr. Trott were present to speak for the granting of the requested variance. Mr. Sneed addressed the Commissioners regarding the request and stated that the business in question is currently in operation under another address outside of the Devine City Limits; however, operation has ceased because his lease agreement ended. He stated that under ATF Federal Regulations a Federal Firearms License is required for the manufacturing of firearms, including the assembling of firearms from kits or providing gunsmithing services. He stated that he would not be physically manufacturing parts, but simply assembling firearms. Mr. Trott stated that at the present time there were no plans to store any large quantities of ammunition or powder and that they would not be reloading as part of the business, but only the assembling of firearms from kits.

Commissioner Wilkins asked if this business would have to be open to the public and Mr. Sneed stated that according to ATF's regulations, the business would have to be open to the public. Commissioner Wilkins asked Mr. Sneed where his previous business was located. He explained to the Commissioners that he was operating his business out of his residence in Pipe Creek in Medina County, which was an unincorporated community and that such operation there was legally allowed.

Mr. Alex Gonzalez was present to speak in opposition to the granting of the variance. He expressed sympathy to Mr. Sneed for losing his original business location in Pipe Creek. He stated that his opposition to the request was not personal and that he wouldn't mind having Mr. Sneed as a neighbor, but that he did not want to have a business in his neighborhood. He stated that ATF would allow the manufacturing of parts, ammunition manufacturing, retail sales, et cetera, and, while it was being stated that this would not be done there, this may change at a later date. Mr. Alex Gonzales stated that he had safety concerns over a firearms business across the street from his home and stated that he had children. He also stated that allowing this variance may allow for other businesses to move into residential neighborhoods. He stated that homes were not set up for business use.

Mr. Trott stated that their goal was to rent a place to operate the business, but that it was not feasible at this time and that they needed to build some capital first.

Mrs. Cindy Gonzalez was present to speak in opposition to the granting of the variance. She also stated that it was not personal and that she and her husband had been neighbors of the Trott's for many years, but that this area was a residential subdivision. She also stated that there were subdivision restrictions on this area and that they are in place for a reason. She had concerns over future owners continuing the operation of a business at the property.

**Planning and Zoning Meeting**  
**August 13, 2012**  
**Page 3**

Mr. Sneed stated that they would not seek this and stated that there was a similar business in same subdivision and that his operation is only for him and does not run with the property. He explained that under the ATF rules, he must continue to do business at the premise while they are seeking an amendment to a new address for a new premise. He stated that they were asking for this variance to allow time to find another location and that if a new location was not licensed before the end of the amendment period, the operation of the business would have to stop. He stated that they did not want to affect anyone detrimentally. He stated that there were no plans to advertise other than by word-of-mouth, and that transactions would be by appointment only. He stated that the ruling that the premise has to be open to the public is for ATF rules, but that homes were open to the public at the discretion of the occupant. He stated that this business was not his regular full-time employment, and that firearm manufacturing started off as a hobby, but federal laws require a license for this activity. He stated that the subdivision does not have specific restrictions for commercial business activities. He stated that he was a professional "Land Man" and that he had read the restrictions and done research and that the subdivision predates Home Owner Associations (HOAs) but the operation of a business out of a dwelling is regulated under the City's zoning regulations.

Mrs. Gonzales stated that she does not know if this is true regarding the restrictions, but stated that if the zoning was changed, this could pertain to future owners. She stated that she knew his intentions at this time as they have been explained, but that did not mean that it would stay that way; it may only be one room now, but it may not end there. She stated that businesses had separate zoning from residential for a reason and residential neighborhoods were not the place to start a business. She stated that it would not help with property values.

Mr. Alex Gonzalez stated that Mr. Sneed mentioned that there were other similar businesses in the Colonial Oaks Subdivision and inquired how long they have been there. Mr. Trott stated that the two people that operated similar businesses were Ronnie Harrison and Bob Stanton. Mr. Alex Gonzales asked how long they have been in operation. Mr. Stanton's business is no longer in operation. Mr. Sneed stated that Mr. Harrison had been in operation for many years. Mr. Alex Gonzales stated that he had spoken to several people regarding the past history of Devine and stated that just because it was done several years ago, especially those that existed prior to rules and regulations being in place, it did not mean that we as a community should continue to allow them. Commissioner Wilkins stated that Mr. Harrison had been in operation before the city had these regulations. Mr. Alex Gonzales stated that he was not aware of that and that this gave him concerns and that he would be looking into this matter. He stated that he did not want the city to continue to allow businesses in residential neighborhoods. He stated that he could appreciate Mr. Sneed wanting to open a business, but not in a residential neighborhood.

Mr. Howard Hicks was present to speak in opposition to the granting of the variance. He stated that he was hard of hearing and did not know what had been said up to this point in the meeting; but he wanted to state the fact that he had been denied a request to divide his property which is across the alley from 401 Mockingbird Lane, twice. During previous meetings, parking was among the concerns in dividing this property. Mr. Hicks stated that he felt that a business in this area would affect parking for his tenants, particularly at 1505 Libold Drive.

**Planning and Zoning Meeting**  
**August 13, 2012**  
**Page 4**

Commissioner Wiemers addressed Mr. Rawlings regarding city regulations and correspondence with ATF regarding the request. Mr. Rawlings stated that the City's Zoning Ordinance, which was first adopted in 1959, does not clearly state what constitutes a "Home Occupation". He stated that it could be argued that working on guns is something that may be customarily done in a home because there are people that work on guns and reload ammunition in their homes. He stated that the ATF Senior Investigator had informed him that the license that Mr. Sneed currently has requires the premise to be open to the public, not by appointment only, and the license allows for the manufacture of firearms which would include manufacturing parts, the use of chemicals, such as for bluing firearms. He explained that ATF would not limit them on being able to do this at this property. He stated that there were non-conforming uses in the city which were in existence prior to the city having regulations prohibiting them; however, there were steps in place to phase them out. The fact that the business was required to be open to the public meant that the city needed to take into consideration that it had the potential to increase traffic and parking in the neighborhood. It also meant that consideration must be given to the fact that the traffic and parking would not just be from people that are friends and family, but would bring people into the area that were not part of the neighborhood. It can be argued that a person having a party on their property can generate traffic and parking issues; however, this is usually not a weekly event. ATF has stated that they consider it open to the public if it is open to at least once a week for several hours regularly. As with any request of this nature, the neighboring property owners within 200-feet are notified of the request and notice is published in the paper. Commissioner Wiemers asked Mr. Rawlings about sign regulations in Class A. Single Family Residence Districts. Mr. Rawlings stated that signs were allowed for lease, hire, sale or construction of a building, which are not to exceed 12-square feet, and for churches, which are not to exceed 18-square feet; he stated that no other sign for advertising is allowed.

Commissioner Lawler inquired about Mr. Sneed's Federal Firearm License, which, according to ATF is a Type 07 Manufacturer. Mr. Sneed explained that under ATF Regulations, Title 18 has series of licenses for various dealer types. He explained that a Type 01 license was for standard dealers such as Devine Pawn Shop and Harrison Supply and that a Type 06 was for manufacturing ammunition only. A Type 07, he continued, allowed the manufacture of any type of firearm that was not considered to be "a destructive device". Commissioner Wiemers asked for an elaboration on what "a destructive device" was. Mr. Sneed stated that this applied to grenade, rocket launchers or other devices that are only allowed through military contracts. He stated that the manufacturing license allows for all types of manufacturing, but that his niche and his market was solely the assembling of kit-guns and that he did not own reloading equipment for ammunition or desire to manufacture ammunition. He emphasized that his business plan was derived around putting parts together to manufacture guns.

Commissioner Wiemers asked Mr. Sneed if he had considered another location. Mr. Sneed stated that most of the locations were cost prohibitive for him at this time. He stated that he had limited time for manufacturing firearms and that he did not advertise, and it did not generate a lot of income. He stated that his main source of income generated a lot of cost; therefore he was not able to invest as much as he would need to for another location. Commissioner Wiemers asked if he planned on expanding and relocating if he was successful in securing the variance. Mr. Sneed stated that his current business plan was to supplement his main source of income and eventually overtake it. He has considered in expanding into a full-service manufacturing facility and move outside of the City Limits but remain in the

**Planning and Zoning Meeting**  
**August 13, 2012**  
**Page 5**

Devine area. He stated that he would like to acquire 15-20 acres of land. Commissioner Wiemers asked what happened in Pipe Creek to end the business. Mr. Sneed stated that he was operating out of his residence when his lease expired. He moved into San Antonio but was not aware that the City of San Antonio does not allow variances for firearms of any type and any businesses of retail nature are prohibited and do not offer any variances. He stated that, as previously mentioned by Mrs. Gonzales, businesses are zoned differently for a reason and that in San Antonio there is a fantastic reason for it. This was not discovered until after the amendment to change the address of the business had already been submitted to ATF. Commissioner Wiemers asked if he currently lived in Devine. Mr. Sneed stated that he currently lived in San Antonio but that he planned on moving into 401 Mockingbird Lane with Mr. Trott in the future. Mr. Trott stated that the long-term goal is to eventually rent a place in Devine or on the outskirts to be a full-fledged manufacturer.

Mrs. Gonzalez stated that allowing the operation of the business would leave an open time frame for them to look to relocating to a commercial area or outside of town. She pointed out that it would be whenever Mr. Trott and Mr. Sneed thought they had enough capital to invest in another location. She stated that Mr. Sneed and Mr. Trott have stated that they will not advertise on the property or in the newspaper, but let's not forget about the internet.

Mr. Alex Gonzalez asked Mr. Sneed what his response time would be if he was at his home in San Antonio and he was called to the property for an emergency. Mr. Sneed stated that it would take approximately 20-minutes for him to drive from his house to 401 Mockingbird Lane. Mr. Alex Gonzalez stated that he works on the South-side of San Antonio and it takes him about 45-min to drive to Devine from South San Antonio at any time of the day, which was a considerable amount of time in the event of an emergency. He pointed out that Mr. Sneed is the license holder, not Mr. Trott. He stated that he enjoys living in Devine, but it bothers him that someone who does not live in the city and is not part of the community wants to move a business into a residential neighborhood. Businesses are set up to make a profit and to grow; people don't go into business not to make a profit and not to grow.

Mrs. Norma Bynum asked if this would have an impact on their homeowner's insurance by having a business move into her neighborhood. Commissioner Wilkins stated that he did not know if it would affect the neighboring property owners or not.

Mr. Alex Gonzalez asked how this would impact his property values. Mrs. Gonzalez asked what type of impact will there be for others who want to open businesses in their home if the city grants the variance. Mr. Rawlings stated that variance requests are taken on a case by case basis, but there has to be valid reasons for why it was granted; generally any hardships that exist cannot be financial or self-created.

Commissioner Maxwell asked how it would impact Mr. Sneed's business if the variance was not granted. Mr. Sneed stated that not receiving the variance would mean his business ending, which would include him having to dispose of his inventory. He explained that it became a part of his inventory once a serial number was assigned to the firearm. Up until that point it was considered a part and not part of his inventory.

**Planning and Zoning Meeting**  
**August 13, 2012**  
**Page 6**

Mr. Sneed stated that in his main line of work, he does understand that property sales increase and decrease over time, and in looking at Mr. Harrison's property, he does not see a detriment to property values and apparently the homes in this neighborhood have sold during the 40-plus years that Mr. Harrison has been in operation. Mr. Sneed stated that when he said "by appointment only", he meant that the business would only be open at times that he was available. He explained that the hours of operation that were listed with ATF for his business to be open were on Saturdays and 3:00 p.m. to 5:00 p.m. on Fridays. He stated that ATF would not allow a person to have a license if all of their sales take place at gun shows or off-site and that the transactions would have to take place at the licensed premise. Mr. Sneed stated that it generally would not be an in-and-out business and that there would be required paperwork that would take time; paperwork which would be tracked and logged. He stated that it would be possible for him to store his inventory at another location and just conduct the transactions at the business. He said that, with regards to those concerned about firearms in the neighborhood, if the inventory was stored off-site there would probably be fewer guns in his business than in many of the houses in the neighborhood. He stated that he did not see an immediate threat to the general safety or intrinsic values of the neighboring properties.

Mr. Roberto Gonzalez asked Mr. Sneed how many firearms are sold on average per day or week, or month, or what his anticipated sales would be. Mr. Sneed stated that, in the past 6-months that he has been in business, he has had 10-firearms transferred, which would be about 1.5 firearms per month during the four days that he is technically open for business. Mrs. Gonzalez asked how long he had been in business. Mr. Sneed stated that he had been in business for seven months total, but only actively for four and a half months because of the licensing transfer process.

Commissioner Lawler informed Mr. Sneed that in correspondence from the ATF to the City of Devine, it was stated that there was nothing in ATF's paperwork that signifies Mr. Trott is involved as a partner, associate, or employee, while stating during the meeting that he is a business partner with Mr. Trott. Mr. Sneed stated that there is nothing regarding the firearms business, but that he owned three businesses currently and that he and Mr. Trott were business partners in one of these businesses.

Mr. Alex Gonzalez asked if there might be someone else that he could partner with that would not be in a residential neighborhood. Mr. Sneed stated that, while this was a possibility, the time frame that he had to work with to seek a variance in the city has not allowed this to take place.

Mr. Roberto Gonzalez asked Mr. Sneed how many guns he would have to sell to be able to afford a business or property somewhere else. Mr. Sneed stated that it would depend on the type of property. He stated that smaller tracts have a higher per acre cost than larger tracts. Mr. Sneed also explained that the reason that he is seeking to eventually have more than 10-acres available is to also have a gun range for testing purposes and to be open for the public commercially. He said that the property cost would be a major factor in determining the cost outlay. He said that if he assumed that the land would be between \$5,000.00 and \$6,000.00 an acre, his initial outlay would be between \$70,000.00 and \$80,000.00. Mr. Sneed stated that he would need to sell around 30-50 full guns a year to provide enough income to cover the expenses.

**Planning and Zoning Meeting**  
**August 13, 2012**  
**Page 7**

Commissioner Maxwell noted the following points:

1. Firearm Manufacturing is not Mr. Sneed's main source of income; and,
2. The requested business has the potential to impact people that have lived in a residential neighborhood most of their lives.

Mr. Maxwell asked Mr. Rawlings if a variance would be required if Mr. Sneed was asking for a different type of business such as a retail costume jewelry store or manufacturing jewelry. Mr. Rawlings stated that any type of retail sales in this particular zoning classification anywhere in the city would need to be approved by the city through the Planning & Zoning Commission and Council meetings. Mr. Maxwell asked the audience if the objections were centered on the business dealing with firearms. Mr. Alex Gonzalez stated that he would not see it as much of a threat if it was jewelry, but that he did not want to have any business in his neighborhood. Mr. Alex Gonzalez stated that he had more concerns because of the firearms. Mrs. Gonzalez stated that she felt the same about any business be opened in a residential neighborhood. She also said that, as a real estate agent it did not matter where the property was located in the Colonial Oaks Subdivision, if someone wanted to open a business she would attend the meeting because she feels businesses should not be allowed to operate in a residential neighborhood. Mr. Alex Gonzalez stated that he wanted to see businesses flourish, but in the appropriate areas, not in a residential setting.

Mrs. Norman G. Bynum stated that all of the residents present would like to have additional income, but they make do with what they have and save when they need to but they do not open businesses out of their homes. She stated they should find a way to rent a location in a business area.

The Commissioners agreed that the fact that the business would be dealing in firearms was irrelevant, but that codes and regulations exist to keep businesses out of residential areas due to the impact they can have.

Commissioner Wilkins called for a motion on the requested variance, and explained to those present that the Planning & Zoning Commission makes recommendations to the City Council and that a public hearing would be held on this matter before the City Council at 6:00 p.m. on August 21, 2012, and following the public hearing, the City Council will make their ruling on the requested variance.

Motion made by Commissioner Wiemers, seconded by Commissioner Maxwell to recommend the City Council deny to grant the variance as requested by Doug Trott regarding Article 3, Section 1 (Use Regulation) of the Zoning Ordinance to allow one room of an existing one-family dwelling located at 401 Mockingbird Lane which is described as Colonial Oaks Subdivision, Block 4 (NCB 130), Lot 12, to be used for a business venture with Brandon Sneed of South Texas Arms to provide for custom gunsmithing, firearm manufacturing and retail sales.

Ayes	--	Six
Nays	--	None
Absent	--	One (Commissioner Dougherty)

Motion carried.

**Planning and Zoning Meeting**  
**August 13, 2012**  
**Page 8**

The third order of business was to discuss Informational Items.

Mr. Darrell Rawlings, Code Compliance Officer discussed the status of development and housing in the City Limits and the on-need for more residential rental property in the City of Devine. He also spoke regarding the recent increase in unsightly properties due to the rains from the spring, which required more violation notices to be sent, but that the public in general has been very responsive in remedying the conditions. He explained that there were several properties that are abandoned that are in violation and efforts are continuing to determine the best way to address these properties.

Mr. Rawlings also informed the Commissioners that the Hazard Mitigation Plan was adopted by the City Council and all required information has been submitted to Witt Associates, who has been contracted by AACOG to develop the plan. He explained that once all of the communities in the plan adopt it and send their documentation to FEMA, the communities receive notice of the plans effective date. Once it is in effect, the City will be eligible to apply for grants relating to the proposed improvements on Burnt Boot Creek to mitigate flooding hazards.

There being no further business to come before the Planning and Zoning Commission, Commissioner Wilkins called for a motion to adjourn the meeting.

Motion made by Commissioner Wiemers, seconded by Commissioner Herring to adjourn the meeting.

Ayes	--	Six
Nays	--	None
Absent	--	One (Commissioner Dougherty)

Motion carried.

---

Chairman

---

Secretary