



## **PLANNING & ZONING COMMISSION**

*City Commissioner's Room*

*118 S. Cage Blvd. September 28, 2015 – 6:00 p.m.*

A meeting of the Planning & Zoning Commission of the City of Pharr was held on Monday, September 28, 2015. The meeting was called to order by Romeo Robles at 6:00 p.m. at the City Commissioners' Room, located at 118 S. Cage Blvd., 2nd Floor, Pharr, Texas.

### **ATTENDANCE**

**MEMBERS PRESENT:** Romeo Robles                      Charlie Ramirez  
Tom Greuner    Danny Wylie  
Dr. Kenneth Fletcher                      Porfirio Rodriguez  
Paco Aleman

**ABSENT:**    Guadalupe Cano                      Victor Carrillo III  
Noe Pruneda

**OTHERS PRESENT:**                      See attached list

**STAFF PRESENT:**                      Edward Wylie, Assistant City Manager  
Patricia Rigney, City Attorney  
Melanie Cano, Interim Director of Development Services  
Roland Gomez, Senior Planner  
Heriberto Martinez, Planner I  
George Martinez, Building Official  
Johanna Maldonado, Subdivision Coordinator  
Janie Benedict, Administrative Assistant  
Della Robles, Administrative Secretary

### **CALL TO ORDER**

Romeo Robles called the meeting to order at 6:00 p.m. and welcomed all to the meeting. Roll call established a quorum.

Melanie Cano, Interim Director of Development Services, introduced the new members to the Planning and Zoning Commission as follows: Danny Wylie and Dr. Kenneth Fletcher as regular members and Porfirio Rodriguez, Paco Aleman and Noe Pruneda as alternate members. All welcomed the new members.

### **ELECTION OF OFFICERS**

Romeo Robles stated that the next item on the agenda was the election of officers and asked if there was enough present to proceed. Melanie Cano stated that enough members were present to proceed with the election of officers.

Ms. Cano stated that since the departure of Mr. Hector Villarreal as Chairman, the Planning and Zoning Commission was in need of a new Chairman.

Dr. Fletcher stated he would like to retain our excellent Chairmanship. Mr. Robles asked if there were any other nominations. There being no other nominations Danny Wylie seconded the motion. Melanie Cano advised the Commission that Mr. Villarreal was no longer a member of the Planning and Zoning Commission.

There being no discussion, Tom Greuner **moved** to nominate Romeo Robles, Vice-Chairman, be appointed Chairman for the Planning and Zoning Commission. Charlie Ramirez second the motion. Mr. Robles asked if there was any other nominations there being none he accepted the nomination and when put to a vote, it polled as follows: Danny Wylie: approved the nomination; Ramirez: approved the nomination; Robles: abstained from voting; Greuner: approved the nomination; Rodriguez: approved the nomination; Aleman: approved the nomination; and Dr. Fletcher: approved the nomination.

The motion carried unanimously to approve Mr. Romeo Robles as Chairman for the Planning and Zoning Commission. Congratulations were made to Mr. Robles.

Mr. Edward Wylie, Assistant City Manager, addressed the Board and stated for clarification to the new members that when a vote is taken it takes a strong vote and it is polled independently. He stated it was either a yea or nay so that everyone knows. Mr. Robles thanked him for the clarification.

Mr. Robles stated that there was a need for Vice-Chairman for the Planning and Zoning Commission and asked for nominations.

There being no discussion, Tom Greuner **moved** to nominate Charlie Ramirez for Vice-Chairman for the Planning and Zoning Commission. Dr. Fletcher second the motion. Mr. Robles asked if there was any other nominations there being none he asked Mr. Ramirez if he accepted the nomination. Mr. Ramirez accepted the nomination and when put to a vote, it polled as follows: Danny Wylie: approved the nomination; Ramirez: abstained from voting; Robles: approved the nomination; Greuner: approved the nomination; Rodriguez: approved the nomination; Aleman: approved the nomination; and Dr. Fletcher: approved the nomination.

The motion carried unanimously to approve Mr. Charlie Ramirez as Vice-Chairman for the Planning and Zoning Commission. Congratulations were made to Mr. Ramirez.

Mr. Robles asked if they needed to nominate a Secretary for the Planning and Zoning Commission. Melanie Cano stated that Mr. Cano was still in his term as Secretary and it was not up for election.

## **APPROVAL OF MINUTES**

There being no discussion, Charlie Ramirez **moved** to approve the minutes of September 14, 2015, be accepted as submitted. Tom Greuner second the motion and when put to a vote it polled as follows: Danny Wylie: approved as submitted; Ramirez: approved as submitted; Robles: approved as submitted; Greuner: approved as submitted; Rodriguez: abstained from voting; Aleman: approved as submitted and Dr. Fletcher: abstained from voting.

The motion carried by majority with five (5) of the members voting yea and two (2) members abstaining from the vote to approve the minutes of September 28, 2015 as submitted.

## **PUBLIC COMMENTS:**

Romeo Robles called forth any individuals who signed up to speak at the Public Comments portion of the meeting.

Della Robles advised that no one had signed up to speak at the public comments portion of the meeting. Mr. Robles stated they would then proceed with the Public Hearing.

## **PUBLIC HEARING:**

Heriberto Martinez introduced himself as Planner I for the City of Pharr and congratulated the new members and welcomed them to the Board. He then stated he had four (4) items for recommendation and proceeded to introduce the first item.

## **EL BUCANERO, L.L.C.**

**CUP-ABC:  
CUP#150953**

El Bucanero, L.L.C., has filed with the Planning and Zoning Commission a request for a Conditional Use Permit and Late Hours Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C). The property is legally described as being a 1.765 acre tract of land, more or less, out of Lot 97, Kelly-Pharr Subdivision, Pharr, Hidalgo County, Texas. The property is located at 1209 East Nolana Loop. The property is currently zoned General Business District (C). The surrounding area is zoned Agricultural and/or Open Space District (A-O) to the North, and General Business District (C) to the East, West and South. The area is generally designated for commercial and industrial use in the Land Use Plan. Code Compliance, the Fire Marshal, the Police Chief and the Planning Department all recommend approval of the Conditional Use Permit. Six (6) surrounding property owners were notified of the request by letter and a legal notice was published in the Advance News Journal. Staff received no response to the letters or the legal notice. Development Services Staff is recommending approval of the request for a Conditional Use Permit and Late Hours Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C) subject to site being in compliance with all City Ordinances and City Department requirements.

Heriberto Martinez advised that this item will go before the City Commission Meeting of October 06, 2015 at 5:00 p.m.

Romeo Robles advised this item requires a public hearing and asked if there was anyone in the audience wishing to address this item, either for or against, to please come forth. There being no one who signed up, Romeo Robles waived the public hearing and opened the item to the Commission for discussion and action.

Dr. Fletcher commended the applicant for beautifying the property with trees and everything. He stated he was not aware of how much landscaping was required but that the applicant went above and beyond. Mr. Martinez stated that the applicant was present in the audience.

Mr. Rodriguez stated he was looking through the conditions on the Conditional Use Permit regarding the facilities. He stated that if they had failed any items would they need to be addressed for instance bathroom facilities, doors and things of that nature. He stated he noticed those items on the City of Pharr Community Planning and Development Certificate of Occupancy and Conditional Use Permit Inspection Form. Mr. Robles asked if he was looking at the inspection form. He affirmed. Melanie Cano stated that the Conditional Use Permit will not get released until all items have been addressed and in compliance. Mr. Rodriguez stated that as long as they are addressed and approved he sees no reason why they would not be allowed.

There being no further discussion, Charlie Ramirez **moved** to approve the request for a Conditional Use Permit and Late Hours Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C). Tom Greuner second the motion and when put to a vote it polled as follows: Danny Wylie: approved the request; Ramirez: approved the request; Robles: approved the request; Greuner: approved the request; Rodriguez: approved the request; Aleman: approved the request and Dr. Fletcher: approved the request.

Motion carried unanimously to approve the request for a Conditional Use Permit and Late Hours Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C).

**LA FONDA**

**CUP-ABC  
CUP#150954**

Heriberto Martinez, Planner I, introduced the second item as follows:

La Fonda, has filed with the Planning and Zoning Commission a request for a Conditional Use Permit and Late Hours Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C). The property is legally described as being a 0.07 acre tract of land, more or less, out of Lot 1, Jackson Ridge Court Subdivision Phase II, Pharr, Hidalgo County, Texas. The property's physical address is 1201 South Jackson Road, Suite 7. The property is currently zoned General Business District (C). The surrounding area is zoned General Business District (C) to the North, East, South and city limits lie to

the West. The area is generally designated for commercial use in the Land Use Plan. Code Compliance, the Fire Marshal, the Police Chief and the Planning Department recommend approval of the Conditional Use Permit. Two (2) surrounding property owners were notified of the request by letter and a legal notice was published in the Advance News Journal. Staff received no response to the letters or the legal notice. Development Services Staff is recommending approval of the request for a Conditional Use Permit and Late Hours Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C) subject to site being in compliance with all City Ordinances and City Department requirements.

Heriberto Martinez advised that this item will go before the City Commission Meeting of October 06, 2015 at 5:00 p.m.

Romeo Robles advised this item requires a public hearing and asked if there was anyone in the audience wishing to address this item, either for or against, to please come forth. There being no one who signed up, Romeo Robles waived the public hearing and opened the item to the Planning and Zoning Commission for discussion and action.

There being no discussion, Charlie Ramirez **moved** to approve the request for a Conditional Use Permit and Late Hours Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C). Dr. Fletcher second the motion and when put to a vote it polled as follows: D. Wylie: approved the request; Ramirez: approved the request; Robles: approved the request; Greuner: approved the request; Rodriguez: approved the request; Aleman: approved the request and Dr. Fletcher: approved the request.

Motion carried unanimously to approve the request for a Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C).

**NORMA RODRIGUEZ**

**HOME OCCUPATION  
DAYCARE CENTER  
CUP#150955**

Heriberto Martinez, Planner I, introduced the third item as follows:

Norma Rodriguez has filed with the Planning and Zoning Commission a request for a Conditional Use Permit to allow a home occupation (Daycare Center) in a Residential Townhouse District (R-TH). The property is legally described as Lot 59, Villa Del Rey Amended Subdivision, Pharr, Hidalgo County, Texas. The property's physical address is 1407 West Sevilla Street. The property is currently zoned Residential Townhouse District (R-TH). The adjacent properties are zoned Residential Townhouse District (R-TH) to the North, East and West and Agricultural and/or Open Space District (A-O) to the South. The area is generally designated for residential use in the Land Use Plan. Thirty-one (31) surrounding property owners were notified of the request by letter and a legal notice was published in the Advance News Journal. Staff received one (1) person who signed

up for the public hearing in favor of the item and fourteen (14) individuals signed up for the public hearing in opposition of the item. With nine (9) of the individuals living within the 300 foot radius. Planning Staff is recommending approval of the request for a Conditional Use Permit to allow a home occupation (Daycare Center) in a Residential Townhouse District (R-TH) subject to applicant and site being in compliance with all City Ordinances and City Department requirements.

1. The applicant shall comply with all City of Pharr Ordinance requirements; any violation of City Ordinance will terminate this Conditional Use Permit;
2. Applicant shall conform to all Texas Department of Protective and Regulatory Service requirements;
3. The area used in conducting the home occupation will be clearly secondary to the home use;
4. A non-illuminated sign of not more than eighteen (18) inches by twenty-four (24) inches identifying the name of the owner and his/her title or occupation may be permitted when attached flush to the main building;
5. There shall be no more than one (1) additional unrelated employee other than immediate members of the family residing on the premises;
6. There shall be at least 30 square feet of indoor activity space, measured wall-to-wall on the inside, for each child in the center, not including restrooms and kitchens;
7. There shall be 80 square feet of outdoor play space for each child using the outdoor area at one time;
8. Any change in location, change in ownership or business entity owning or carrying out its operation on the property shall terminate this Conditional Use Permit;
9. All outdoor play areas regularly used by children must be accessible by a safe route and enclosed by a building or fence at least 4 feet high with at least two exits. An entrance to the house may count as one exit, but one exit must be away from the house. Staff must be able to open exits immediately in an emergency;
10. Restrooms must be inside and located and equipped so that children can use them independently and staff can supervise as needed;
11. Any request to revise, alter or amend the conditions or requirements shall require the applicant to apply for a new Conditional Use Permit;
12. This Conditional Use Permit shall be issued for a period of one (1) year. It shall be the owner's responsibility to apply for renewal thirty (30) days before its expiration date;
13. Garages, carports or accessory buildings, shall not be used for home occupation other than for the storage of an automobile;
14. There shall be no exterior display or alterations indicating that the building is being used for any purpose other than that of a dwelling;
15. There shall be no entrance or exit way specifically provided in the dwelling or on the premises for the conduct of the home occupation thereon;
16. A home occupation that serves as a daycare, group home, registered home, or the like, shall be incidental to the use of a dwelling unit for residential purposes. No more than 360 square feet of indoor floor area of the dwelling may be used in connection with a home occupation or for storage purposes.

- Floor area of a dwelling shall include the floor area of all heated and ventilated and thereby habitable rooms and areas within the dwelling;
17. No more than one (1) home occupation shall be permitted within any single dwelling;
  18. The Conditional Use Permit shall limit the number of children to a maximum of 12 at one time; any violation of this condition will terminate this Conditional Use Permit;
  19. All doors must open towards the outside;
  20. The kitchen cannot be used as the primary entry/exit for the home occupation;
  21. Applicant shall be in full compliance with all conditions as set forth by all City Departments; and
  22. The following shall be considered as grounds for the revocation of a home occupation Conditional Use Permit:
    - Any change in use or change in extent of use, area or location of the dwelling being used.
    - Failure to allow periodic inspections by representatives of the City of Pharr at any reasonable time.
    - Failure to pay the annual renewal fee shall result in the assessment of an additional five dollars (\$5.00) per business day late fee up to thirty (30) days after the date of expiration of the Conditional Use Permit; or revocation of the permit if not paid by the 31<sup>st</sup> day.
    - Conditional Use Permits for home occupations that have been revoked may not be applied for again until a period of one year has lapsed from the date of revocation.

Romeo Robles stated that since there were several members signed up to speak he requested if they could choose a spokesperson to address the Commission.

An individual approached the podium and stated that she was surprised that this was the second time that this item had come up to the Commission. Della Robles asked if the individual could identify herself for the record. The individual identified herself as Patricia Martinez, licensed counselor in the State of Texas. Ms. Martinez stated: She stated she had a copy of the homeowner's rules of the association and in Volume 1805 page 956. Della Robles apologized for the interruption and asked her to please state her address.

Ms. Martinez stated she lived at 1415 Sevilla Street and she was located two (2) houses from her. Ms. Martinez continued and stated:

- She stated she had been living there all her life.
- Her husband was one of the developers of the subdivision.
- She stated it was very clear that it was never intended to conduct any type of business there.
- She stated it was only for residential.
- Ms. Martinez stated it would lower the value of the property.
- She stated with crime the way it was right now they will not know who will be coming in and out the neighborhood.

- She stated it only has one entrance and it would affect all the neighborhood and not only that street.
- She stated she wished we could show the plan the way it is because they were across from Lowe's and there is only one entrance and use the same one to exit.
- She iterated that it was the whole neighborhood who would be affected not just the people that were sent the letters.
- Ms. Martinez stated that the whole neighborhood opposed the building of this daycare.
- She stated it was mainly because of the safety and the Homeowner's Association.
- She stated it was never intended to have a business.
- She pointed out on Section 2 that it was single-family residential use shall be used and be occupied for single family residential purposed only. She stated that single family residential purposes and shall be deemed to prohibit and specifically but without limitations the use of lots for duplex, apartments, garage apartments, or other apartment use. No lot shall be use or occupied for any business, businesses, commercial or professional services.
- Ms. Martinez stated that she has her license but she is unable to have her practice there in her home because she knows it is not allowed even though she was only going to see one client.
- She stated she does not see how or why they are going to allowed to open a daycare.

Mr. Robles asked if there was anyone else since she was the spokesperson for and in consensus of the neighborhood.

Norma Rodriguez applicant approached the podium and she stated:

- That Ms. Martinez said there was an association.
- She stated that she has tried to contact the President and she had sent letters and no one had responded.
- She stated that back in 2000 when she had moved in there was a daycare center on 1212 Madrid Street, a group home.
- She stated she did not know when the association started but she did not base herself on that.
- Ms. Rodriguez stated she has never been introduced to the President or Vice-President from the association.
- She stated that she had tried to contact someone with a letter and they never contacted her back.
- She stated that was the reason she had come before the Commission for the permit.

Another individual approached the podium and stated his name as Robert Lopez and he resided at 1407 Sevilla Street. He stated it was his home. Mr. Lopez stated:

- That Ms. Martinez stated something about a homeowners association.
- A homeowner's to him was a private subdivision.
- He stated that according to Ms. Martinez it was a single family home.

- He stated there were forty-seven (47) homes in neighborhood and many people have more than one family in their homes.
- He stated that they are building homes for rent as well.
- He stated all he was requesting was a daycare for ten (10) children.
- Some of the families they will be servicing work for the City of Pharr.
- Many are Firefighters and Police Officers.
- It will only be dropping off and pick up children.
- He stated as for violence in the neighborhood, he has several police reports on all rental homes in the subdivision.
- He stated as many as fifteen of the homes have either assaults, drugs or a lot of different stuff against them.
- He stated they only want ten (10) kids and nothing more.

Ms. Rodriguez continued stating:

- She had a daycare business on 101 West Jones before.
- She sold the business and wants to work from home.
- The business is just going to be pick up, drop off and they would transport a few from school.
- She stated there will not be a lot of traffic.
- She stated in the morning there would be four (4) kids and then they will pick up from school.
- She stated she will not have more than ten (10) kids enrolled.
- She stated that since there was a daycare when she first bought there she did not think there was a problem.
- Ms. Rodriguez stated she had letters from people that are for it.
- She stated one (1) was her neighbor from across the street and the other was next to her.

A member of the audience approached the podium and stated his name as Mario Solis, 1815 Barcelona Avenue. Mr. Solis stated:

- The house that is next to Ms. Rodriguez is for sale.
- The homeowner's association was mentioned when he closed on his house but it was never finalized.
- Googled Homeowner's Association Pharr, Texas. Only three (3) come up and this one was not listed.
- The subdivision is not a private subdivision.
- He lives there with his family and it would not bother them if she opened a daycare.
- He needed the paperwork for the Homeowner's Association.
- He does not know any of the members.
- He would like to meet the President of Homeowner's Association.
- How is he supposed to give money to the Homeowner's Association if he doesn't know where it is going to and what it is going to be used for.

Ms. Martinez continued by stating:

- Homeowner's ask for one-hundred dollars (\$100.00) a year but he probably does not pay because he doesn't know it must be paid.

- Mr. Barillo knocked on every single door to have the meetings of the Association and if they did not attend them, it was their choice.
- There have been meetings for the concerns of the subdivision.
- The City of Pharr conducted a presentation for neighborhood crime and neighborhood watch and everything.
- She does not know why people say it does not exist.

Ms. Rodriguez continued by stating:

- She had on two (2) occasions give money but she never received a letter.
- She does not know how money was going to be used, how much was in there or how they were going to use the money.
- She stated that twice that they did go, she did pay.
- She stated they had not gone again.
- She has not received letters.
- She would like to know who the president is.
- Would like to know where the funds go.
- She stated she did not believe anyone was doing anything.
- She stated there is nothing in writing or all hearsay for the Homeowners Association.

Mr. Greuner asked if they had board meetings.

Ms. Rodriguez stated they did not and continued:

- There have not had any meetings
- She does not know who the president is.
- She submitted a letter asking who the President was.
- She stated that they said it was a guy in that house over there.
- She gave the letter to the Treasurer she thinks.
- She stated it said she wanted to open a daycare and this and that.
- Ms. Rodriguez stated no one responded.
- She stated she waited three (3) weeks for that.
- She then came to the City of Pharr for permission.

Mr. Porfirio Rodriguez stated that Ms. Norma Rodriguez came to the city and gave the information to the staff. Ms. Rodriguez affirmed. Mr. Rodriguez asked what the occupancy was and how many children she was going to have. Ms. Rodriguez stated for a home it was twelve (12) and the state counts her children as part of the twelve. She stated that because of that she was only allowed ten (10). Mr. Rodriguez asked how many of these types of businesses are in the neighborhood. Ms. Cano asked if he meant home-occupation daycares. She then answered that she did not have an exact number but there were several in the City of Pharr. Ms. Rodriguez stated they were regulated by the State. Ms. Cano stated that she was not allowed more than twelve (12) children. Ms. Rodriguez stated that the families that she had at the old daycare want to relocate with her and one of the families have three (3) children and the other has two (2). She stated that there was not going to be ten (10) cars that drive through. Mr. Rodriguez stated he thought she

was going to provide transportation. Ms. Rodriguez stated that she would drop off some of them and she picked up some from school and drop off at home.

Dr. Fletcher congratulated her for getting through the red-tape and keeping her license with the state. Dr. Fletcher asked what ages of the children were. Ms. Rodriguez stated they were infants all the way to twelve (12) years. She stated she had her center for 23 years. Dr. Fletcher asked in those 23 years if she had ever received a complaint, a complaint file filed on her or action from the City of Pharr. She stated that she had no complaints or action ever taken against her. Dr. Fletcher asked if her previous business was a neighborhood business. She stated it was not that it was in a commercial location on Cage Boulevard. Dr. Fletcher asked what her hours were. Ms. Rodriguez stated from 8:00 am to 5:30 p.m. Dr. Fletcher stated that some of the neighbors were concerned about the kids playing on the street. Ms. Rodriguez stated that those kids need to be in the back yard where it is fenced. She stated she thinks this all has to do with the Association but when she moved in, there was a group home in that same subdivision. Dr. Fletcher asked what was her impression of the turnover of the real-estate in the area and said that the houses looked like they were moving pretty well. Ms. Rodriguez stated it was a good location since there were across from Lowe's. Dr. Fletcher asked if she felt her property had appreciated or depreciated. She stated she felt they had appreciated in value.

An individual approached the podium and stated his name as Edmundo Uribe, 810 Granada Avenue. Mr. Uribe stated:

- He was a concerned parent.
- He stated he was not against any business.
- He stated business are good for the community.
- He stated he has two (2) children.
- Mr. Uribe stated she did not answer the questions about the children playing on the street.
- He stated he has an empty lot next door and sometimes he has to cut the grass and clean it up and he has his girls with him playing.
- He is afraid if it is one or two even three cars.
- He is a teacher and he always has to remind the parents when they are picking up their children to get their phone and turn it off and put it down.
- He is afraid that her customers or anyone could do it.
- More cars means more probability of accidents.
- His concern here is his children and the children of others.
- Mr. Uribe stated he was not against any businesses.

Danny Wylie stated he was at a loss for words and did not understand if there is an Association that was supposed to be looking over this subdivision and seeing that everybody meets all these requirements that is set within this packet of the Association, where is the Association at this meeting.

A member of the audience being to speak. (Inaudible)

Mr. Ramirez asked for the gentleman to step up to the podium.

The gentleman approached the podium and stated his name as Alejandro Urbina, 809 Barcelona Avenue.

*Conversation ensued in Spanish.*

Mr. Ramirez stated that the president of the Association stated that:

- They had put out notices on everyone's mail box.
- Send out formal letter where they have everyone's name, address and lot number.
- They have tried to collect money.
- In works for knocking down front wall and doing something more aesthetic and betterment of the subdivision.
- Has gone to the City Manager and Assistant City Manager is involved.
- As president they are trying to move forward with the subdivision.

Robert Lopez approached the podium again and stated:

- They have approached him and asked for money.
- He has always helped out.
- Main concern is it an Association or a committee.
- If it is a committee then it is a committee.
- If it is an Association then it is regulated and we will follow.

*Charlie Ramirez addressed the President of the Association and conversation ensued in Spanish.*

Mr. Solis returned to the podium and stated:

- He asked if the gentleman was the President.
- He stated he has been living at his address for one year this month.
- He stated he has seen him but never met him.
- Mr. Solis understands the concerns of the cars going in and out.
- Mr. Solis asked if they were a gated subdivision there would be people with codes driving in and out.
- He stated his house has cameras and the house on the west has cameras.
- He stated a man stopped a ten year old got out and did something and got in the van and took off.
- He stated that the alley was open and they had several ways in and out and it was not only that one entrance.
- Mr. Solis stated that he was unable to pave his alley and he loses out and when it rained he gets a muddy mess.
- He stated he cannot just give money when someone comes around and asks for it each month.
- Mr. Solis wants to know where the money is going.
- He wants to know where everyone lives.
- He wants to know his neighbors.
- In a Homeowner's you cannot rent house you have to live there and buy it.

*Alejandro Urbina addressed the Commission in Spanish.*

Ms. Martinez stated that on the regulations for the City of Pharr is that every time they are going to build something on any of the lots they have to come with the signatures of the President of the Association it is a requirement of the city. She stated she did not know who was approving to build something without the signatures. She stated it was required from her all the time and she used to own all those lots. Ms. Martinez stated that they would always tell her know that she needed to bring the building permit and she would need the signature of the President which was Mr. Olvera. Ms. Martinez stated that the reason it was not gated is because if they were not aware if you live in a gated community the police cannot come and help you. She stated that it was not private because then the City of Pharr would not help them take care of the streets, maintenance and these people do not want to pay one hundred dollars (\$100.00) a year. She asked if they believed they would help if to fix the streets. She stated it was impossible. She stated that they know who they are and where they live and now they pretend that they do not. Mr. Robles stated that the citizens needed to stay on point of topic of the proposed daycare. Ms. Martinez stated that they are saying that the subdivision does not have a gate. She stated that those things were discussed before and Mr. Barillo...Mr. Robles stated that he believes that has to do with the Homeowner's Association and has to be dealt with through the Association. Ms. Martinez stated that is what she was trying to explain is that the Association exists. Mr. Robles asked staff if they are recognized as an Association in the City of Pharr and if it is against the Associations rules can they have a daycare center business inside the subdivision then the Planning and Zoning Commission does not have to deal with that. Melanie Cano stated that regardless if there is a HOA the City of Pharr does not enforce the covenants or by-laws of the HOA. She stated that the applicant came in and applied for a Conditional Use Permit with the Development Services Department and it is valid and as far as proceeding with the HOA, if she is correct, they would have to seek legal counsel and file civil suit. Ms. Cano stated that as far as them coming in to apply for a Conditional Use Permit through the Development Services office, they have a right to do that. Mr. Robles stated that the HOA would have to fight their own battle and not through the Planning and Zoning Commission.

There being no further discussion, Charlie Ramirez **moved** to table the request for a Conditional Use Permit to allow a home occupation (Daycare Center) in a Residential Townhouse District (R-TH). Porfirio Rodriguez second the motion.

Danny Wylie stated that it looked like the issue was between the Association and the residents and it has to be resolved and as far as the applicant coming in and meeting the city requirements for what they are applying for why are we not going to act on that. He stated that the problems they have do not connect with the city as far as he is concerned. Mr. Danny Wylie stated that the applicant meets the City of Pharr's requirements he does not see why the Commission should not approve it. Charlie Ramirez stated he still sees this as between them they need to resolve it since all these people live in that same community, there needs to be harmony. Mr. Ramirez stated that they can come in and we could approve it and move forward.

Mr. Robles stated that there had been a motion made by Charlie Ramirez to table the request for a Conditional Use Permit to allow a home occupation (Daycare Center) in a Residential Townhouse District (R-TH). Mr. Robles asked who had seconded the motion and Porfirio Rodriguez stated he had and when put to a vote it polled as follows: D. Wylie: denied to table the request; Ramirez: approved to table the request; Robles: approved to table the request; Greuner: approved to table the request; Rodriguez: approved to table the request; Aleman: approved to table the request and Dr. Fletcher: approved to table the request.

The motion carried by majority with six (6) of the members voting yea and one (1) member denying to table the request for a Conditional Use Permit to allow a home occupation (Daycare Center) in a Residential Townhouse District (R-TH). Item will be tabled.

Mr. Edward Wylie addressed the Chairman and stated that he may need some direction to the applicant and Association and what he may be looking for as far as to get it off the table and to act on it. Mr. Robles stated that what they were needing to hear as a Board is that they had heard both sides and if the City of Pharr is not bound by the rules of the Association then they will need to act on the item. Mr. Porfirio Rodriguez stated he would like for the item to be resolved and wanted to know the legalities that need to be worked out by the Association and the in house and see what we could decide to do. Mr. Rodriguez stated he wanted to be informed. Patricia Rigney, City Attorney, stated she would like to address the concerns of the Board with respect to the HOA. She stated that the Homeowners Association is its own entity so to speak and it was up to them to enforce their own restrictions and regulations. Ms. Rigney stated that the Board could act in respect to the city permit however whatever HOA restrictions that are there may not be in compliance or in line with the city rules, that would be up to the HOA to seek legal review or advice. She stated they would need to take some sort of action in court to enforce their own HOA restrictions and it should have no bearing on the Boards decision today. Ms. Martinez asked that it be clarification.

*Ms. Rigney addressed the audience in Spanish.*

Ms. Rigney stated she was not giving legal advice just advising the Board. Mr. Edward Wylie stated that they would need to look into their Association paperwork and whatever legal remedies that is in that paperwork is what you would need to pursue. Ms. Rigney stated they would need for them to go to their own attorney to review that and advise you what your best action is. Dr. Fletcher asked staff if his was a Conditional Use Permit. Melanie Cano affirmed. He stated if there was a spirit of homeowner's Association they should advise the people who are doing business to get introduced to the neighbors, so that no one is a stranger. Dr. Fletcher addressed the people who are opposed and explained that they have the appropriate city department to report to. Charlie Ramirez asked to go into Executive session.

*The Planning and Zoning Commission went into executive session at 6: 49 p.m.*

*The Planning and Zoning Commission ended their Executive Session at 7:09 p.m.*

Charlie Ramirez stated he made a **motion** to rescind the recommendation to table. Danny Wylie second the motion and when put to a vote it polled as follows: D. Wylie: approved to un-table the request; Ramirez: approved to un-table the request; Robles: approved to un-table the request; Greuner: approved to un-table the request; Rodriguez: approved to un-table the request; Aleman: approved un-table the request and Dr. Fletcher: approved un-table the request.

There being no further discussion, Dr. Fletcher **moved** to approve the request for a Conditional Use Permit to allow a home occupation (Daycare Center) in a Residential Townhouse District (R-TH). Danny Wylie second the motion and when put to a vote it polled as follows: D. Wylie: approved the request; Ramirez: approved the request; Robles: approved the request; Greuner: denied the request; Rodriguez: denied the request; Aleman: denied the request and Dr. Fletcher: approved the request.

The motion carried by majority with four (4) of the members voting yea and three (3) members abstaining from the vote to approve the request for a Conditional Use Permit to allow a home occupation (Daycare Center) in a Residential Townhouse District (R-TH).

Ms. Martinez stated that the HOA could go against. Mr. Robles stated that it had become a legal matter.

**STEVE SPOOR, P.E.**  
**Rep. ZUKO FAMILY LIMITED PARTNERSHIP**

**COZ: A-O-L-I**  
**COZ#150956**

Heriberto Martinez, Planner I, introduced the forth item as follows:

Steve Spoor, P.E., representing Zuko Family Limited Partnership, is requesting a change of zone from an Agricultural and/or Open Space District (A-O) to a Limited Industrial District (L-I). The property is located at 201 East Anaya Road. The property consists of 1 lot and is legally described as being the East 20 acres of Lot 356, Kelly-Pharr Subdivision, Pharr, Hidalgo County, Texas. The property fronts East Anaya Road, an 80 foot Major Collector which runs East and West with a posted speed limit of 30 miles per hour as identified in the City of Pharr's Thoroughfare Plan. The property is currently zoned Agricultural and/or Open Space District (A-O). The property is designated for industrial and commercial use in the Land Use Plan. The owner of the property is requesting a change of zone to Limited Industrial District (L-I) in order to build warehouses on said property. The adjacent zonings are Single-Family Residential District (R-1) to the North, Agricultural and/or Open Space District (A-O) to the East and South and General Business District (C), Heavy Commercial District (H-C), Agricultural and/or Open Space District (A-O), and Limited Industrial District (L-I) to the West. The Limited Industrial District (L-I) is intended for industrial parks and larger cleaner types of industries. The manufacturing uses should be conducted within a totally enclosed building. Any activities conducted outside should be screened and buffered. Limited Industrial uses are suitable for high-visibility locations such as along the freeway, or within a reasonable distance of residential areas. Forty-one (41) letters were mailed out to the surrounding property owners and a legal notice was

published in the Advance News Journal. Staff received one call for information only. Planning staff is recommending approval of the request to re-zone to Limited Industrial District (L-I) as the property meets area requirements and has adequate ingress and egress. If approved, applicant must subdivide and comply with all City Ordinances and City Department requirements.

Heriberto Martinez advised that this item will go before the City Commission Meeting of October 06, 2015 at 5:00 p.m.

Romeo Robles advised this item requires a public hearing and asked if there was anyone in the audience wishing to address this item, either for or against, to please come forth. There being no one who signed up, Romeo Robles waived the public hearing and opened the item to the Planning and Zoning Commission for discussion and action.

Dr. Fletcher asked staff what was going on in there and what was the Limited Industry business they wanted to put in. Mr. Martinez stated that warehouses would be on said property and if the Commission needed to ask questions the Engineer was present.

An individual approached the podium and stated his name as Steve Spoor, 202 South 4<sup>th</sup> McAllen, Texas, Spoor Engineering Consultants representing Zuko Industries. He stated that they are obviously in favor of staff recommendation. Mr. Spoor stated that the owner wanted to put in a series of truck dock areas and warehouses on the property and develop a master plan for the entire 20 acres. Mr. Greuner asked if the property would be paved. Mr. Spoor stated that they would meet all City Ordinance requirements, so yes it will be paved. Dr. Fletcher asked Mr. Spoor if it was possible to put the docks opposite side of the warehouse from the existing residence. Mr. Spoor stated that the way it was initially planning had been they will have a total of 20 acres that they are going to develop in probably six (6) phases. The first phase will be the southwest corner of the 20 acres and it will have the plan that he had come up with the initial site plan that has the warehouse backing up to the west and facing to the east in a truck court area. He stated that a similar idea for the east half where the warehouse will back up to east property line and they would have the warehouses facing the internal with the truck dock areas internal to both halves. Dr. Fletcher stated he understood if at all possible they put the warehouses perpendicular to that but if not for them to use some of the spoil dirt that they will have and build a 100% opaque buffer that is resistant to glare of light, transmission and sound. He stated he assumed that the hours would be 24/7. Mr. Spoor stated that if he had to he would guess 24/7 however if they were familiar with the regulations that it would probably have a secure area with guard houses. He stated that the majority of the truck traffic would be during the day hours and they would have much less traffic. Dr. Fletcher asked if the trucks going to be (wet loads) with refrigeration of -20 and -10. Mr. Spoor stated he did not have that information. Dr. Fletcher stated if so and those trucks were idling all night it would be quite a disturbance for the existing houses. Mr. Spoor stated that at the present time he has not been told what will be the nature of the warehouses. He stated that in the particular case there will be 20 acres of warehouse it would not be uncommon to have some cold storage involved. Dr.

Fletcher stated he would be particularly mindful of those trucks arriving at night and he knows from personal experience. Mr. Greuner asked how Mr. Spoor could assure the residence that on the north side of the property will not be kept up all night by trucks, lights or slamming doors. Mr. Spoor stated that the City of Pharr's Ordinances address that with the method of buffering, landscaping, etc. and noise control and they intend to meet all the requirements. Mr. Rodriguez asked what the city was requiring for the buffering and height. Mr. Spoor stated he would let the planning department answer that question. Ms. Cano stated that the City of Pharr does require a 100% opaque buffer and she believes the height restriction, George Martinez, Building Official can correct, is eight (8) feet all around the property so as to not disturb the residence. Dr. Fletcher stated if they read the Ordinance they could make the wall as high as they want and could be more than eight (8) feet. Ms. Cano stated that the maximum would be eight (8) feet. Mr. Ramirez stated that his biggest concern would be the on the north side, the neighborhood to the north and suggested a block fence. Mr. Spoor stated that to his understanding they could not make the zoning conditional, however, as was noted in the staff write-up they would be subject to subdivision regulations, landscaping regulations and setback regulations as well as the City Ordinances. Mr. Spoor stated that it would be at that time to be controlled and they will be seeing the property coming back in various phases along with a Master Plan for the entire property. He stated that it would be the proper procedure and he would defer to City Staff and it would be the proper timing for the conditions. Mr. Greuner stated that the Planning and Zoning could put conditions. Ms. Cano stated that they would not be able to on a change of zone. Mr. Danny Wylie asked if this was the only subdivision in the City of Pharr in regards to the residential situation. Mr. Martinez stated it was not. Mr. Danny Wylie stated that the requirements that were in place right now was if the applicant was meeting the residence safety, noise protections and all of that. Mr. Martinez affirmed and stated that they were with the opaque fence and fence. Danny Wylie stated that the application that was submitted was only for a change of zone and not to build the whole thing right now. Mr. Martinez affirmed and stated it was going to be built by phases. Mr. Ramirez stated he understood that it was only the zoning right now and the fence might not come into play until ten (10) years from now by the time they get to phase 3, 4, 5 and 6. Mr. Spoor stated that according to the Subdivision Ordinance they would be submitting a Master Plan for the entire 20 acres. He stated that was an ordinance requirement. Dr. Fletcher asked staff if they sent out letters as a change of zone and no one responded to them. Mr. Martinez stated only one person citizen called for information only. Mr. Edward Wylie stated that Mr. Spoor was correct and at the subdivision requirements they could put a plat note that they require an eight (8) foot block buffer fence at the 1<sup>st</sup> phase, last phase or any phase of the project. Edward Wylie stated if they decided to do the southwest corner or the southeast corner first it can be incumbent upon them to put the northern fence first at any phase of the project and we need to be mindful of that and we will catch them at subdivision. Charlie Ramirez advised that everything on the west side is commercial with there being no residence and there was just one on the east side. Mr. Ramirez stated that his biggest concern is the neighborhood to the north.

There being no further discussion, Charlie Ramirez moved to approve the request for a change of zone from an Agricultural and/or Open Space District (A-O) to a Limited Industrial District (L-I). Tom Greuner second the motion and when put to a vote it polled as follows: D. Wylie: approved the request; Ramirez: approved the request; Robles: approved the request; Greuner: approved the request; Rodriguez: approved the request; Aleman: approved the request and Dr. Fletcher: approved the request.

Motion carried unanimously to approve the request for a change of zone from an Agricultural and/or Open Space District (A-O) to a Limited Industrial District (L-I).

**PLAT APPROVAL:**

Johanna Maldonado introduced herself as Subdivision Coordinator for the City of Pharr and stated that she had one item for recommendation and proceeded to introduce the item with minor corrections as follows:

**SAM ENGINEERING & SURVEYING, INC.**  
**Rep. MATTHEW CAMP, AIV**

**MASTER PLAN OF RK**  
**COMMERCIAL SUBDIVISION**  
**SUB#140611**

Sam Engineering & Surveying, Inc., representing Matthew Camp, AIV, is requesting preliminary plat approval of the proposed Master Plan of RK Commercial Subdivision. The property is legally described as being a 10.90 acre tract of land being 9.64 acres out of Lot 17, and 1.26 acres out of Lots 18, Block 161, L.R. Bell Development "E" Subdivision, Pharr, Hidalgo County, Texas. The property is located between the 1200 and 1600 Block of Interstate 2 E (US HWY 83). The property is currently zoned General Business District (C). The adjacent zones are Single-Family Residential District (R-1) to the North, City Limits to the East, General Business District (C) and Heavy Commercial (H-C) to the South, and General Business District (C) to the West. The property is designated for commercial use in the Land Use Plan. Property proposed use: 24 Hour Hospital. Variances: None requested. Planning staff recommends preliminary plat approval of the proposed Master Plan of RK Commercial Subdivision subject to the following conditions:

**STREETS, PAVING AND R.O.W.:** 1) Label the size of the R.O.W. on N. Veterans Blvd.  
2) Need documentation on who the owner is for the H.C.I.D. No. 2 40' R.O.W.  
3) Add 30' corner clips at Kumquat and Juniper.

**EASEMENTS:** 1) No Comments.

**SIDEWALK:  
ADA:** 1) No Comments.

**FIRE PROTECTION:** 1) See attached Comments.

**WATER:** 1) See attached Comments.

- SEWER:** 1) See attached Comments.
- DRAINAGE:** 1) See attached Comments.
- OTHER:**
- 1) Reference only City of Pharr Benchmark.
  - 2) Will need a notarized letter from the owner giving authorization to Mr. Camp to subdivide.
  - 3) Remove "Amos" from the Mayor's name.
  - 4) Bold the Phases.
  - 5) On the south east corner of Lot 3 verify the words that are almost visible or remove them.
  - 6) Verify the Meets and Bound.
  - 7) Identify the 1.49' on the south west corner of Lot 3.
  - 8) Plat note # 6 needs to be revised to include all streets.
  - 9) Plat note # 7 should be on an as per lot basis.
  - 10) Provide Survey Closure.
  - 11) Verify if it is Block 160 or 161.

Johanna Maldonado advised that this item will go before the City Commission Meeting of October 06, 2015 at 5:00 p.m.

Romeo Robles advised this item does not require a public hearing and opened it up to the Planning and Zoning Commission for discussion and action.

Dr. Fletcher asked staff how many stories the hospital would be. Johanna Maldonado stated from what the applicant is stating it would be one story, it could change but that would be during the building permit phase. Dr. Fletcher stated he would be mindful where the ambulances is put and he would think it would be better and faster on the frontage road side and not next to the houses. Ms. Maldonado stated that too would be addressed during the building permit phase and they would have to go through approval as well. Mr. Danny Wylie asked if there was a city ordinance on the ambulance and siren leaving and arriving at the hospital. Melanie Cano stated that there was not a City Ordinance in regards to the ambulance siren but there was a noise ordinance. Mr. Danny Wylie asked if it was in regards to the ambulance siren itself leaving and arriving at the hospital during emergencies. Ms. Cano stated that specifically for emergency care she did not believe there was. Dr. Fletcher stated that the Noise Ordinance now stated that emergency vehicle and they can turn it on all the way up to the docks of the emergency room. Danny Wylie stated then that the neighbors were not going to have any peace. Dr. Fletcher stated they would if they place the entrance in the front. Mr. Ramirez stated that most ambulances shut everything off once they get to the hospital zone for the very same reason.

There being no further discussion, Tom Greuner moved to approve the preliminary plat approval of the proposed Master Plan of RK Commercial Subdivision. Charlie Ramirez second the motion and when put to a vote it polled as follows: Danny Wylie: approved the request; Ramirez: approved the request; Robles: approved the request; Greuner: approved the request; Rodriguez: approved the request; Aleman: approved the request and Dr. Fletcher: approved the request.

Motion carried by unanimous vote to approve the request for preliminary plat approval of the proposed Master Plan of RK Commercial Subdivision.

**ANNOUNCEMENTS/OTHER BUSINESS:**

Melanie Cano just wanted to welcome the new members to the Planning and Zoning Commission.

**ABSENTEE REPORT:** Guadalupe Cano, Victor Carrillo III and Noe Pruneda were the absent members. Dr. Fletcher moved to excuse the absent member. Charlie Ramirez second the motion and when put to a vote it polled as follows: Danny Wylie: approved the request; Ramirez: approved the request; Robles: approved the request; Greuner: approved the request; Rodriguez: approved the request; Aleman: approved the request and Dr. Fletcher: approved the request.

The motion carried unanimously to excuse the absent members.

**ADJOURNMENT:** There being no further business, Dr. Fletcher moved that the meeting be adjourned. Tom Greuner second the motion and when put to a voted they voted unanimously.

Motion carried unanimously and the Planning and Zoning Meeting adjourned at 7:32 p.m.

  
\_\_\_\_\_  
Romeo Robles, Chairman

ATTEST:  
  
\_\_\_\_\_  
Charlie Ramirez, Vice-Chairman

**CITY OF PHARR  
CERTIFIED AGENDA – CLOSED SESSION  
DATE:**

**A. ANNOUNCEMENT BY PRESIDING OFFICER:**

The Planning and Zoning Commission convened into Closed Session on the 28<sup>th</sup> day of Sept., 2015, at 6:49 p.m. pursuant to the Texas Government Code, Section 557., \_\_\_\_\_, and \_\_\_\_\_ to discuss matters relating

Tom Graner  
Danny Wyllie, Dr. Kenneth Fletcher, Romeo Robles, ~~P. Rodriguez~~

The following members were present: Charlie Ramirez, Paco Aleman,

Absent: Guadalupe Cano, Victor Camello, noc Pruneda

Others present: Ed Wyllie, Melanie Cano, Patricia Riqueros,

The subject matter of the closed session deliberation concerned:

- a. Conditional use permit
- b. \_\_\_\_\_
- c. \_\_\_\_\_
- d. \_\_\_\_\_
- e. \_\_\_\_\_

No other items were discussed in this closed session on the 28 day of September, 2015, which ended at 7:09 p.m.

**B. CERTIFICATION**

I hereby certify that this agenda of a closed session of the Planning and Zoning Commission of the City of Pharr is a true and correct record of the proceedings pursuant to Texas government Code, Chapter 551.

CITY OF PHARR  
Romeo Robles  
Hector Villarreal, Chairman  
Romeo Robles

# Audience Attendance Sheet



DATE: SEPTEMBER 28, 2015

MEETING: P&Z MEETING

NAME: PRINT	ADDRESS:	PHONE NO.	-AGENDA- ITEM NUMBER
PATRICIA STEELE	1415 Sevilla St <sup>HARL</sup> <sub>1857</sub>	956-5705262	# 4
DINA SEGOVIA	809 GRANADA AVE	956-243-0066	
Sergio LLANAS	1407 Sevilla		#4
Norma Rodriguez	1407 Sevilla	956-225-3283	#4
R. Lopez	1407 Sevilla St	956-283-4242	#4
Porfirio Rodriguez	916 W. Lee	956-562-4043	
Mario Solis	815 Barcelona Ave	(956) 279-9860	#4
Sanjuanita	807 Granada Ave	(956) 821-7623	#4
Alma Rodriguez	1201 S. JACKSON ST	956-6270737	# 3
Odette Gittins	1209E Nolana Loop	956-6551073	# 2
Jorge Garcia	201 N 41st McAllen	956-7890608	# 2
Quilma Espinoza	1501 Sevilla	956-460-2423	# 4
Blanca Martinez	812 Barcelona Ave	956-739-0214	#4
Edmundo Uribe	810 Granada Ave	956-900-2728	# 4
Blanca Rodriguez	1409 Sevilla St	956-212-5335	# 4
Francisco A. Fardo	813 BARCELONA ST	(303) 5788693	#4
SIGIFRADO ORTIZ	817 GRANADA ST	(956) 2020385	
Bertha Cesarea	1414 Madrid St.	(956) 781-7704	# 4
JODIE RAMIREZ	802 Barcelona	956-787-5444	