

**MINUTES OF THE REGULAR MEETING
OF THE PLANNING AND ZONING COMMISSION
OF THE CITY OF ROWLETT, TEXAS, HELD IN THE MUNICIPAL CENTER
4000 MAIN STREET, AT 7:00 P.M., JANUARY 8, 2008**

PRESENT: Chairman Kevin Moore, Vice-Chairman Greg Peebles,
Commissioners Chris Kilgore, Charles Alexander, Chuck
Knickerbocker, Patrick Jackson, Jeff Thomas

ALSO PRESENT: Alternates Chris Cigainero and Rick Sheffield

STAFF PRESENT: City Attorney David Berman, Development Services Director Keri
Samford, Planner II Alaina Ray, Planner II Erin Jones,
Commission Secretary Dawn Frye

A. CALL TO ORDER

Chairman Moore called the meeting to order at 7:28 p.m.

B. CONSENT AGENDA

1. **Minutes of the regular meeting of December 11, 2007.**
2. **Consider and take appropriate action on the Final Plat for a single-family residential subdivision containing 60.9± acres of land located on the east side of Dalrock Road, 1,050± feet south of Liberty Grove Road. [FP07-277 Waters Edge]**

Mr. Thomas moved to approve the Consent Agenda with the correction to the minutes of the regular meeting of December 11, 2007, that was noted in the Work Session. "HERZ" Index should be changed to "HERS" Index on Page 3969, the first paragraph, and the fourth line. The motion was seconded by Mr. Kilgore. The motion passed with a 7-0 vote.

C. PUBLIC HEARINGS

1. **Conduct a public hearing to consider and take appropriate action on a Conditional Use Permit (CUP) for a "Heavy Manufacturing" use on .72+ acre of land zoned General Manufacturing District (M-2) located at 4821 Grisham Drive, a portion of Block 3, Lot 35, of Toler Business Park #3. [CUP07-332 – Architectural Roof Coatings]**

Ms. Jones came forward and reported that this potential use would take 4,200 square feet of an existing 10,200 sq. ft. building. Due to the proposed uses, which include liquid sealants, insulation, reflectants, paint, etc., staff believes that this falls under a heavy manufacturing use that requires a Conditional Use Permit in the M-2 Zoning District. The Fire Marshal has worked in detail with the applicant regarding the chemicals that are being used that were mentioned in the Work Session. The building and the parking meet the 1972 Code, which requires six (6) parking spaces. It does not meet current Code, which requires nine (9) spaces. The applicant is not

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requesting to change the footprint of the building or add square footage; therefore, he requests that he be allowed to keep the six (6) parking spaces as the standard. Ms. Jones indicated that the applicant was present.

Chairman Moore opened the public hearing and asked anyone wishing to testify concerning this application to come forward.

Greg Cole, Architectural Roof Coatings, 2217 Royal Crest Drive, Garland, came forward and thanked Ms. Jones for the work she did to help him comply with the City's requirements. They want to come into Rowlett and continue to do what they have been doing for nearly 30 years.

Mr. Thomas asked how many other manufacturing facilities of this type they have had. Mr. Cole explained that they do different things at different locations. What they plan to do in Rowlett is what they did in the Downtown Dallas area for nearly 17 years. What they do in Muskegon and Oklahoma City is not what they will be doing at this location. They will start small and anticipate in the future purchasing the building, the property, and the lot next door to expand, changing the front, adding more parking space on the empty lot next door, and putting masonry in front. Mr. Thomas asked if they had ever had any accidents in their facility downtown. Mr. Cole replied that there had never been a single incident. They operate a family-owned business and have employed as many as 11 people in Dallas. They pride themselves on safety first. Mr. Knickerbocker asked what they plan to do at this facility? Mr. Cole explained that they make a finished product from raw materials, liquids and dirt fillers, package it in 5-gallon or 55-gallon drums, and sell them to retail or sub-contractors. Their product is used to seal commercial metal buildings or for insulation on walls, ceilings, and boilers. Mr. Knickerbocker observed that some neighboring property owners were opposed to this because of concerns about smells and noise. Mr. Cole commented that using the very offensive smells in barber shops and ladies salons as a standard, they do not have that with their business at all. He added that his sons, daughter, and grandchildren work there.

Mr. Peebles asked how many employees they have? Mr. Cole answered that he and his two sons would be at this location. He added that they will probably have 14-16 employees ultimately when they expand. Mr. Peebles asked about the OSHA standards ratio of certified employees versus the number of employees on site. Mr. Cole indicated that his son, Mark, would know that but he didn't. Mr. Moore asked if they have customers who come to the site. Mr. Cole replied that in 30 years, they had probably seven or eight customers. He explained that people do not come to them. They don't want people seeing what they do; it is proprietary information so they discourage people from coming to their location. A couple of raw material suppliers, usually the freight people, drop by once a month. Mr. Moore observed a dumpster in parking space #6 and asked if they planned to add a dumpster or obtain a larger dumpster. Mr. Cole indicated that he probably wouldn't put a dumpster there. If he did, it probably would be the same size and

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configuration as the one the air conditioner company has next door. Mr. Cole explained that they don't produce much trash. The raw materials they use are dry and come in bags; they are cut, emptied, stacked, then put inside the dumpster. During peak season they go through one a week and then once a month after that. They have closed their Dallas facility and this Rowlett location is their number one choice. They plan on buying this building and developing next door.

There were no further witnesses. Chairman Moore closed the public hearing.

Mr. Kilgore considered questions that might be raised by those residents who live just to the south of this site. He commented on the response of the Fire Marshal and Mr. Cole's quick response in providing the information. The Fire Marshal has reviewed most of the material safety data sheets and ascertained that Mr. Cole's company had taken the additional step of registering with FEMSA (the Federal Pipeline and Hazardous Material Safety Administration), which regulates at least three of the chemicals Mr. Cole plans to use on his property. Staff took the additional step to check with the facility in Garland to see what kind of neighbors they had been there. Staff learned that they have done quite well in Garland without any complaints. Mr. Kilgore commended staff for doing a great job of getting a lot of material together so that he feels that his vote on this is fairly well informed and he feels fairly confident that he knows what the City is dealing with here. It would be very scary to him without knowing more about it. He expressed kudos to the Rowlett staff and to Mr. Cole for his response in working with them.

Mr. Moore commented that there was some discussion in the Work Session and the Fire Marshal indicated that the only problem he had with this whole site is the company that is there now in the front of this building, which doesn't have anything to do with Mr. Cole's business. The Fire Marshal expressed that he was in favor of this item and he didn't see a problem in it. That was the opinion Mr. Moore wanted to hear.

Mr. Kilgore moved that this application be approved as requested. Mr. Thomas seconded the motion. The motion passed with a 7-0 vote.

2. Conduct a public hearing to consider and take appropriate action on the application for a Replat of Block E, Lot 14, of Westwood Shores Phase II, containing 0.96± acre of land, 2401 Mystic Trail. [FP07-314]

Chairman Moore stepped down from this item due to a conflict of interest.

Ms. Ray came forward and reported that this property is zoned Single Family Residential SF-10. According to the Final Plat, this is apparently the largest lot in the subdivision. The lot is developed on the northern end as one single-family residence. The applicant is proposing to divide the lot in order to create two lots. The division of the two lots meets or exceeds all of the Rowlett Subdivision Ordinances. The setbacks allow for a house that meets the square footage requirements for this subdivision to be developed on the new lot. Staff received four (4) responses in favor of this request; two (2) were opposed; and one did not indicate a preference. One in opposition felt that it should be a park, which is not feasible since it is not City property.

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The other one in opposition felt that a smaller lot would be created that would reduce the property values in the area. However, both of the newly-created lots would still exceed the average square footage of the lots in this development.

Mr. Thomas asked if a house built there could be less than the square footage of the surrounding houses. Ms. Ray indicated that the house would have to meet the minimum square footage requirement for this zoning district.

Vice-Chairman Peebles opened the public hearing and asked anyone wishing to testify concerning this application to come forward. There were no witnesses. Mr. Peebles closed the public hearing.

Mr. Thomas commented that since the lot size is going to be larger than the average lot size in the neighborhood and the minimum house size requirement is the same, he didn't see any evidence that this would lower housing values. He supported this request.

Mr. Kilgore moved to approve this application as requested. Mr. Alexander seconded the motion. The motion passed with a 6-0 vote.

3. Accept public comment regarding City of Rowlett adopting a residential Energy Conservation Program similar to the City of Frisco.

Ms. Samford came forward and reported that the City Council had looked at the Commission's recent recommendation to adopt an energy conservation program for the City of Rowlett. There were some attachments and exhibits that were presented that included four (4) additional items, mainly under water conservation, that the Commission had not discussed in general; such as construction waste, etc. The Council asked that the Commission review these additional documents and see if there were any comments. The four additional items regarding water conservation had to do mostly with landscaping, particularly having the type of landscaping that would live under Stage 3 drought conditions. The documents also had to do with the type of components on the irrigation systems, which was taken from a different city's ordinance. Rowlett does not require irrigation systems to be installed. That would need to be changed if the Commission wants to do that, or it could be a condition so that if one is installed, those items would have to be done.

Chairman Moore asked if a specific energy conservation program needed to be pinpointed. Ms. Samford thought that the Commission would like some more information. The City's Building Official could come in to discuss the alternatives. Energy Star is a brand and has a compliance program, but there are other ways to get compliance too. She would be happy to bring in some outside sources to discuss that. Mr. Peebles referred to the foundation drip-line and indicated that he would like to get some information on how this is done through irrigation. He doesn't know what types of systems are out there now and how to incorporate this into the Code.

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Mr. Thomas asked to see some items on paper that he could review. Mr. Berman's sense was that the Council didn't want to take lots of time on this. He indicated that staff could circulate as much information as possible so that the Commission can make a coherent, educated-based recommendation on the actual standards and criteria. Mr. Moore commented that there are so many items on the residential, from the edge of the lot to the center of the house, every air quality, windows, and sprinkler systems that would need to be researched. Mr. Berman suggested that the Commission come up with a cogent set of regulations rather than simply plagiarizing what the City of Frisco does. He doesn't know how much thought they had put into it.

Chairman Moore opened the public comment session.

Paul Cauduro, 5816 W. Plano Parkway, Plano, came forward and stated that he is a fulltime staff member with the Homebuilders Association. He would be happy to provide information, work as a task force, work with staff, anything he could do to help the Commission get their arms around it. Rowlett is just one of several cities that are contemplating above-code programs. Frisco adopted Energy Star Program for residential construction several years ago. It should be comprehensive and apply to every municipal structure and all commercial construction too. Mr. Cauduro advocated adopting an efficiency standard and making the builder prove that they have met the standard with an Energy Star certificate or an independent third-party inspector verifier. The efficiency standard could be set at 15 percent above Code and that level can move up over time. The onus is not on the City to prove the compliance.

They believe that the City should offer incentives for programs that are way above Energy Star. They advocate a program called Greenbelt North Texas, which addresses a wide variety of construction components including indoor air quality and water efficiency. The LEED Program is the commercial construction program and LEEDH applies to home building. He suggested that the City look at the Landscape Ordinance. There are underground technologies now. The average price of a new home in Frisco is \$303,000. Before adding costs to construction, the City should take a leadership position to meet or exceed the standards and talk to the building community more about what they can do to improve energy and water efficiency in the City.

Mr. Thomas asked if Mr. Cauduro could provide staff with exactly what the starting point is and the specifics of what 15 percent would save in energy. Mr. Cauduro explained that through the energy systems lab at Texas A&M, an e-calculator calculates the energy savings of a home, gives a scale to measure how far above Code, and equates that to emissions saved, emissions reduced, and other calculators for consumer savings. He indicated that the City of Dallas is going through this exact same exercise and they have provided some documentation that shows if 2,000 homes were built at this level, for example, what that equates to, and the consumer savings over time. Mr. Jackson asked if this could be calculated per square foot and determine how many years after a house is built it would take to recover the initial costs. Mr. Cauduro replied that it is difficult to do a cost per square foot; Energy Star's cost to the builder is about \$2500. Mr. Moore commented that it really isn't a cost to the builder since the builder passes the cost on to the homeowner.

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Jerry Carter, 3321 S. Broadway, Garland, came forward and stated that he a custom home builder and is not in opposition to the goal. The people who build the City need to be part of the process. He indicated that he has been a student of energy conservation and energy conservation construction since the City of Garland, the first city in the U.S. to have an energy code, worked with home builders in 1977 to help them create it. He has been aware, engaged, and tried diligently to do many of the things that are just now becoming more of the norm. Mr. Carter recommended talking to the Council about creating a subcommittee of those most interested or most qualified to learn this to work with staff and the residential and commercial builders to accomplish this goal while not being any more of a burden than it has to be on either the construction industry or the people who don't live here yet. All are part of the process and the solution.

Mr. Carter mentioned the law of unintended consequences. If Energy Star requirements are adopted, this will very negatively impact the custom home market because all houses are different, so all would have to be tested. This would raise the average cost of \$150 per home to \$1,500 per home. He referred to #3 in Exhibit A, which states that a minimum of one programmable thermostat is required on every story. They can now air-condition any one room in the house, but it is not programmable. Mr. Carter suggested that a group be put together to determine what is most reasonable for the City to allow in order for the City of Rowlett to be a leader. He referred to #4 under Air-Conditioning and stated that the production builders don't put return airs in every bedroom; however, most of the custom builders do. He doesn't want to see all the custom builders working outside the City limits.

Mr. Carter offered his services free of charge. He stated that he appreciated the opportunity to work with the Commission to help achieve the goals for the City. Mr. Thomas asked if Mr. Carter builds in Frisco, and Mr. Carter answered that he does not. He added that with all his years of construction, and helping with the first energy code adopted by the State of Texas before Energy Star was accepted, he was not qualified to build in Frisco. If Energy Star is adopted in Rowlett, he will not be qualified to build on the 84 acres he owns on Dexham Road.

There were no further speakers. Chairman Moore closed the public discussion.

Mr. Kilgore moved to table this item to the next meeting of January 22, 2008, at which time staff can report on some of the available options. Mr. Thomas seconded the motion. The motion passed with a 6-1 vote. Mr. Peebles cast the dissenting vote.

D. ITEM FOR INDIVIDUAL CONSIDERATION

1. **Consider and take appropriate action on a request to defer the required Tree Survey/Preservation Plan for property containing 10± acres of land generally located on the east side of Liberty Grove Road, 275± feet north of Flamingo Drive. [DP07-335 Cleo Murry Tree Survey Deferral]**

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Ms. Ray came forward and explained that this request is the result of the construction of the President George Bush Turnpike that will take the resident's house and a portion of her property. They have been given a deadline to move her home by approximately April. The existing house is within the right-of-way of the new PGBT thoroughfare. The applicant requests to relocate her home further back on the property; however, the property is not currently platted and does have to be platted prior to constructing the new home. City requirements are that when a property is platted, a Tree Survey/Preservation Plan is required to be submitted at the time of the Final Plat. However, because of time constraints with the current home being demolished, and the resident is not building this new home in an area that would result in the removal of any protected or unprotected trees on the property, they request to defer this requirement until such time that the property may in the future be subdivided or another building be built on the property that would require the removal of trees. Staff suggests that approval of this request be conditioned upon any trees in the future being required to be removed due to the construction of another home on the site or any other additional building, a Tree Survey/Preservation Plan would be required at that time. Also, if the property is ever replatted or further subdivided, a Tree Survey/Preservation Plan would be required at that time also.

Mr. Jackson asked if this would be a deferral or a waiver. Ms. Ray indicated that the applicant is asking that this plan not be required at this time. The homeowner is aware that should any other building be constructed on this property, or if a replat is requested in order to subdivide this property, they would have to do one at that time. Based on time constraints they have right now, they request that it not be required at the time of Final Plat. Ms. Samford pointed out that a waiver would mean that they wouldn't have to submit this plan at all. Mr. Alexander asked if the applicant would be willing to start the process if she is given a reasonable timeframe. Ms. Ray explained that a property of this size with this number of trees takes a long time to survey. Once the tree survey is completed, and no trees are being moved at this time, if there is a replat on this property in the future, or any other structure is built on the property that would require the removal of trees, the tree survey might need to be redone since trees and their condition change. If a tree survey is done today, that survey might not be valid in two or three years. Ms. Samford asked if the cost had been discussed, and Ms. Ray replied that the cost to do the tree survey was substantial and prohibitive for this homeowner at this time. Mr. Thomas asked, for the record, if any trees would be affected by the applicant building her home. Ms. Ray stated that they are not taking out any trees at all on the property, even trees that are not protected under the City's Ordinance.

Mr. Thomas commented that no trees were being affected; the applicant is being forced to move out of her present house; and they are intentionally building in an area where no trees are being affected. He didn't see any reason why the Commission shouldn't grant this deferral request.

Mr. Kilgore moved to approve the requested deferral of the Tree Survey/Preservation Plan for this site subject to the following conditions: 1. should the new home's location change such that protected trees are affected by construction, and/or further construction be conducted on the site that would affect protected trees, re-approval would be required; and 2. this Tree

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Survey/Preservation Plan deferral only applies to the Final Plat of the property as a single lot; future replats would invoke the Tree Survey/Preservation Plan requirement. Mr. Berman asked for clarification of the motion: if re-approval is required, at that point in time, would a Tree Survey/Preservation Plan be required? Mr. Kilgore replied that it would. The motion was seconded by Mr. Knickerbocker. The motion passed with a 7-0 vote.

Ms. Samford announced that a resource guide binder had been given to the Commissioners this evening that puts maps and information together in one place for their reference at home and at the Commission meetings.

E. ADJOURNMENT

Chairman Moore adjourned the meeting at 8:24 p.m.

Chairman

Secretary