

**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., DECEMBER 23, 2008**

**PRESENT:** Chairman Kevin Moore, Vice-Chairman Greg Peebles, Commissioners Chuck Knickerbocker, Chris Cigainero, Rick Sheffield, Greg Landry

**ALSO PRESENT:** Alternate Joe Charles

**STAFF PRESENT:** Development Services Director Keri Samford, Amy Mathews Planner II, Erin Jones Planner II, Sr. Administrative Assistant Kendra Frederick

**A. CALL TO ORDER**

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Chairman Moore called the meeting to order at 7:10 p.m.

**B. CONSENT AGENDA**

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**1. Minutes of the regular meeting of December 9, 2008.**

Vice President Greg Peebles made a motion to approve the minutes of December 9, 2008 with the two changes recommended at the preceding work session. Commissioner Rick Sheffield seconded the motion. Motion approved 6-0-1 with Mr. Knickerbocker abstaining from voting since he was not seated at the dais on December 9, 2008.

**C. PUBLIC HEARINGS**

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**1. Conduct a Public Hearing to consider and take appropriate action on a Conditional Use Permit (CUP) application for a 788± square foot accessory structure. The subject property is located at 4001 Chiesa Road and is part of the James Hobbs Abstract 571 PG 721. [CUP08-397 Tabled 12-09-2008]**

Amy Mathews came forward to present this case. Ms. Mathew's stated that a Conditional Use Permit is needed because the structure is over 500 square feet, the structure is over 25% the size of the primary structure, and currently there is already one accessory storage building on the lot and our code states approval of a Conditional Use Permit is needed to have a second accessory building. This item in question was tabled at the December 9, 2008 meeting because of questions regarding the building material. The applicant stated that they will use real stone or brick instead of manufactured stone. Commissioner Chuck Knickerbocker made a motion to close the public hearing. Commissioner Chris Cigainero seconded the motion. Motion passed with a 7-0 vote. Mr. Landry made a motion to approve the Conditional Use Permit as long as the building meets the city's masonry requirements. Mr. Peebles

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amended the motion and added that the applicant use either stone or natural brick as opposed to a cultured product. Commissioner Rick Sheffield seconded the motion. Motion passed with a 7-0 vote.

**D. ITEMS FOR INDIVIDUAL CONSIDERATION**

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- 1. Consider a request and make a recommendation to City Council regarding alternate building materials for an addition to a single family home. The subject property is located at 2122 Miller road and is part of the Cambridge Meadow Thomas Collins Abstract 332 PG 515.**

Ms. Mathews came forward to present this case. She stated that the Final Plat has been approved but is not signed or filed with the county yet. She stated that the applicant is requesting to use wood for the upper portion of the addition and hardy plank for the lower portion of the addition to match the existing home. The original home is 1,900 square feet and the proposed addition will be 1,700 square feet which is almost doubling the size of the home. Mr. Peebles made a motion to recommend approval to City Council regarding the alternate building materials being requested. Commissioner Chris Cigainero seconded the motion. Motion passed with a 7-0 vote.

- 2. Consider and take appropriate action on a request to approve a Site Plan for Primo Plaza for a 1.252± acre lot. The subject property is located at 8100 Lakeview Parkway. [DP08-371]**

Ms. Mathews came forward to present this case. Originally, a Conditional Use Permit was approved in September 2008 to have a shopping center less than 20,000 square feet. The applicant is asking that the Site Plan be approved without the deceleration lane, however, the city engineer requests that there needs to be a deceleration lane.

Tom Harris, Assistant City Engineer, came forward to address the Commission's questions. Mr. Sheffield stated that regarding traffic studies that there was an existing study performed at Lakeview Parkway and Liberty Grove which naturally the counts would be different at that site but the percentages of the east bound versus west bound traffic were considerably different than what the applicant had provided. Mr. Sheffield asked if this information was available to the applicant and Mr. Harris stated that the applicant could have received this information by accessing the city's website. Mr. Sheffield stated that with the addition of a deceleration lane, there are extra costs but, for assurance, wanted to know if cost is not a factor in determining whether or not code is met. Mr. Harris agreed stating that it's the safety of the traffic and the public.

Mr. Peebles asked Mr. Harris his opinion on why one engineering company would say the deceleration lane is required and why one company would say the deceleration lane is not required. Mr. Harris stated that the firm that did the study for this project used a 50/50 percent traffic study traveling east bound and west bound on the pm hour. With their numbers, they used their counts, and what our engineers did was once we received their percentages, once applied to their numbers, it throws them over the threshold for TXDot's 50 or 51.

Chairman Kevin Moore stated that on the Site Plan, the plan shows three retail places and a restaurant

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and both traffic studies show a bank. One study shows with two drive-thru lanes and the other Site Plan shows a 3,500 square foot bank without drive-thru lanes. He also asked if the Site Plan would change because in one of the paragraphs written by Lee Engineering, it says inbound trips generated by a 3,500 square foot bank, 80 trips or higher than the inbound trips by a 10,000 square foot shopping center. Mr. Harris stated that the Site Plan used for the traffic study was based on the Site Plan with the bank. Ms. Mathews stated that the current Site Plan is correct, so the study would have reflected the previous plan. Mr. Moore clarified that the Site Plan that is current does not reflect a bank but the two traffic studies on hand do reflect a bank which makes the traffic counts higher on this site rather than retail. According to Lee Engineering, a 3,500 square foot bank is 80 trips and a 10,000 square foot shopping center is 66 trips in PM peak hours so with the bank being taken out of the Site Plan, the traffic to this site would be less than what the study reflects. Mr. Sheffield added that 66 trips for a retail center is still above the threshold for the deceleration lane.

Neal Jones at 5433 Ranger Dr., Rockwall, TX, who is a representative for the applicant, stated that he feels like opinions are overriding the professional reports done on traffic and the traffic report that was done on Liberty Grove and Hwy 66 cannot be interpolated or extrapolated into another situation without much more consideration that has been given so far. From what the applicant understands, after speaking with the engineer and people from TXDOT, the traffic does not need a deceleration lane and that if the property to the west were to develop, traffic count numbers would change which would make more sense to have that property add a deceleration lane. Mr. Jones stated he feels as though the deceleration lane is not required, it's desired. Mr. Sheffield clarified with Mr. Jones that he did in fact have a representative from TXDOT that stated there is no requirement for the lane. Mr. Sheffield stated that given the study provided for the Commission, it shows trip distribution 51% expected to originate to the west and 49% to the east and asked Mr. Jones if he felt those percentages were valid and Mr. Jones replied that he had his doubts about it with Mr. Sheffield agreeing. Mr. Sheffield said that 64% from the study that was generated from down the road, which Mr. Jones feels is not relevant, is closer to reality and asked the applicant if they desired more study to come up with more realistic numbers. Mr. Jones suggested the technique of tabling and coming back to the next meeting with more accurate information.

Boyd O'Conner at 2221 Meadowview Dr., Garland, TX, who is an associate of the applicant and representative, came forward to speak. Mr. O'Conner asked why from Centerville Road, Hwy 66 heading east, not one property has a deceleration lane. He stated that the properties that are currently there are well used up. Mr. O'Conner pointed out that there are deceleration lanes going towards Centerville Road from Rowlett Road but going the other way, there are no deceleration lanes and with that, Primo Plaza would be the only one with a deceleration lane. Mr. Harris came forward to address some of Mr. O'Conner's concerns. He stated that most of the properties along Hwy 66 were developed under an older code and the new properties that have come in did not have the room to have a deceleration lane added. Mr. Moore asked how many deceleration lanes there were on the north side of Hwy 66 from city limit to city limit in which Mr. Harris stated there are a few but there are engineering circumstances where a deceleration cannot fit.

Mr. Knickerbocker asked Mr. Harris if a deceleration lane needed to go in if the property to the west of this property was developed and Mr. Harris stated yes. Mr. Harris stated that engineering would be

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happy to look at a new traffic study since Mr. Jones mentioned tabling this item and to come back later with the new traffic study. He suggested that Mr. Jones and his applicant set up a meeting with the City Engineer and scope the study prior to getting someone to do it.

Mr. Knickerbocker asked if the Commission approved the Site Plan without the deceleration lane, could the state come back and tell the city it is required or is it completely up to the city to make the decision. TXDot does not mandate deceleration lanes, it is up to the city to decide whether or not to have a deceleration lane, but they do have a threshold requirement and if TXDot's threshold requirements are followed with the way that the study is now, it exceeds the threshold for the deceleration lane requirements, Mr. Harris stated.

Mr. Sheffield stated that he feels all the parties should take time and get the right data applied to the right spot on the road and gets the number to look at. Commissioner Chris Cigainero asked about the future development of the PGBT and if that was put into consideration with the traffic study. Mr. Harris stated that generally a 20 year projection of what's going to be on that road way which would help consider if there needs to be a deceleration lane but for this project, it was not done. Mr. Landry asked if the traffic report also included the trailer park traffic. Mr. Peebles stated that per code, which was voted on by the Commission about two and a half years ago, that as a trailer becomes unusable or unlivable, it cannot be replaced at that site so the traffic behind the proposed area could possibly decrease. Keri Samford clarified that the SUP that was in place for the trailer park was removed which made the park become a non-conforming use. The state passed a new regulation that stated that a person can replace a new mobile home with a newer or larger HUD manufactured home and Rowlett adopted an ordinance that allows only a one time replacement. Mr. Peebles made a motion to table the item.

Applicant Denisio Malo at 5501 Lakeview Pkwy Apt 121, Rowlett, TX came forward. Mr. Malo wanted to thank everyone for being there that evening and apologize for not understanding everything that has been said due to a language barrier. Mr. Malo stated that he has been in Rowlett for about three years and opened up an Italian restaurant where there are a bunch of them and has been doing very well because he has worked very hard. He also said that his family has an existing restaurant in Sulphur Springs, Texas that has been there for ten years and since him and his family wanted to be closer to the city, they chose to come Rowlett because they believed in the city and the restaurant is proving that. His family in Sulphur Springs wants to leave everything and come to Rowlett. Mr. Malo stated that he wanted the property and when it went up for sale, he put in his offer and he got it but ever since he bought it, he has had more frustration than he has ever had in fifteen years in America. He stated that he appreciates everyone's job here in the city and that his family is not rich so they are dumping everything they have into the city and is asking for everyone's help.

Ben White, Economic Director for the City of Rowlett, came forward in support of Denisio Malo. Mr. White stated that this project came before the Economic Development Advisory Board, which has two city council members and members of the Chamber of Commerce. He stated that the members were very excited and was voted unanimously to support the project and for it to move forward. Mr. White stated that one of the things that Ms. Samford worked very hard on was the development process on how Rowlett can get good developments into this community and this project for him was a real eye opener. Mr. Malo works very hard and it's a Rowlett business that he is trying to grow and not take it to

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another community which could happen, as Mr. White stated. Mr. White stated that through the process, Mr. Malo was given many mixed signals; he did what he was told to do, hired an engineer in which they did their study, and on two separate occasions their recommendations showed that the deceleration lane was not needed. Mr. White stated that if a recommendation comes back stating that a deceleration lane is not needed, the item should be considered and Mr. Malo would rather have an answer at this meeting.

Mr. Harris stated that the engineering department is not trying to put an undue hardship on Mr. Malo and his restaurant but what is looked at are the documents, the content, and whether it is correct or not correct. He stated that they send back engineering documents all the time and that is why the engineering department has a review process and weeks are spent looking at the plans to make sure they meet engineering standards and that they are as correct as they can be. He stated that if the applicant feels as though their study is flawed or is not correct, he suggested that a new study be provided with correct data before a decision is made. Mr. Peebles asked if this matter had been brought up before the Traffic and Safety Commission and Mr. Harris stated no. Ms. Samford stated that site plan decisions are the sole responsibility of the Planning and Zoning Commission. Mr. Peebles stated that the matter is based on a deceleration lane, the traffic impact, etc... and the safety of the community. Mr. Peebles asked the Commission if this matter should be taken to the Traffic and Safety Commission to review and Mr. Harris said no because the matter is an engineering issue.

Mr. Jones came forward again to speak to the Commission. He stated that at the beginning of the process, which started in February of this year, the deceleration lane was brought up in the initial meeting. Between then and now, there have been four, five, if not six city meetings and the deceleration lane was never brought up and then on the final meeting, the deceleration lane was put in as a criteria that if there was no deceleration lane, there was no approval, stated Mr. Jones. Mr. Jones stated that Mr. Malo has been to many of the meetings and he himself has been to all of the meetings and if there is an issue that is a "dig your heels in" issue, then the issue should have been discussed at all of the meetings. He stated that if the engineering department had talked about the deceleration lane at each and every meeting then later came at the last meeting and said now we are going to stop the project because of it happened then Mr. Malo would not have been confused. Mr. Jones stated that the lane was brought up at the first meeting, then nothing, then at the end "dig in the heels."

Mr. Knickerbocker asked the applicant if he wanted the Commission to rule on the project as is or table the item and come back with other data. Mr. Malo came forward and stated that a meeting was held with Mr. Harris, Mr. Poe, and a woman from Dallas who did their study. He stated that as soon as the meeting finished, she told Mr. Malo that the city engineers want a deceleration lane and he said "ok" and walked away. Mr. Malo stated that it has been a long time and this sticks like a sore thumb; the deceleration lane is mentioned one time and goes away, mentioned one time and then goes away. Mr. Malo stated, "I just want to open the restaurant and make each and every one of you proud because it's going to be a really good thing. I don't know if I have seen some of you at the restaurant because sometimes I am very busy because I am a bus boy, I'm a waiter, a chef, I'm everything but as I mentioned earlier all my family is going to come over here and just want to get going so yes I want a ruling tonight."

Mr. Harris came forward and stated that the date on the traffic report was June 12, 2008, which was

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seven months ago, and the meeting requesting a deceleration lane was before that so the deceleration lane was not a last minute topic or request. He also stated that the memo he put together is based on factual information about the studies and the requirements.

Mr. Moore asked if the bank was still on the site as of September 30, 2008 since Lee Engineering data came out September 30, 2008. Mr. Harris stated that the bank was in the study as of August 13, 2008 which was sent to Lee Engineering for final review at that time. Mr. Jones came forward and spoke of the original plans of a bank at the beginning of the process. He stated that the city was not thrilled with the idea of another bank because banks were popping up all over the place and since the applicant was bringing a restaurant and were screening a trailer park, it was then said that if the drive-thru was put around and behind, made the trailer park look more covert, then the CUP will more than likely go through. He stated that through the process, the original engineering was that the bank could either be left in or taken out so that it wouldn't interfere with the fire lane. He also stated that he could bring both designs to show where the intent was to allow for a bank to change its mind and somehow all of the paperwork did not get paired back up again so that's why there is one copy showing a bank and one copy not showing a bank.

Mr. Moore then clarified with Mr. Harris that TXDot does not require a deceleration lane although the numbers do exceed the threshold.

Commissioner Greg Landry asked Mr. Harris about engineering forecasting traffic patterns twenty years in advance and Mr. Harris stated that generally that is the case but with this project, the only counts projected are theoretical counts based on the site that is going there. Once a site is put in place, the numbers are forecasted.

Mr. Sheffield stated that he wanted to thank Mr. Malo for all of his input. He stated that no one seated at the dais has been at any of the numerous meetings that the applicant had been involved in and the intent of the city is to try and make the process as streamline and as easy as possible. Mr. Sheffield stated that spending years on Council as well, he sat through some very painful meetings and knows how it feels when no one is real sure what is going on, however, all that can be looked at is what is presented and what is seen is a traffic study that shows the amount of cars going east is about the same as the amount of cars going west in the evening and if someone lives on Lakeview Parkway and tries to get out to go to that restaurant, there is a lot more cars going that way than the other way. Mr. Sheffield then stated that immediately there is an alarm that goes off in his head that says the numbers and the data being dealt with is not correct and the decision is going to be based off of that and feels he does not want to be forced to make a decision because the numbers given show there needs to be a deceleration lane but if there are numbers that will tell him something different, get actual data, he is open to seeing that but that says Mr. Sheffield cannot make a decision at the meeting. Mr. Sheffield closes by stating that not only does the city want the restaurant but the city is also looking out for the safety of the other 50,000 people in the city, looking at the traffic and trends, and when the turnpike comes through, all of the numbers will continue to grow so the city is trying to balance traffic and get the applicants business in here as well but do what's best for everyone.

Mr. Peebles made a motion to table the item. With further discussion, Mr. Peebles withdrew his motion. Mr. Sheffield made a motion to approve the Site Plan with the added requirement that the applicant provide a deceleration lane. Mr. Knickerbocker seconded the motion. Motion passed with a

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4-3 vote.

**3. Consider and take appropriate action on a request to approve a Final Plat for Primo Plaza for a 1.252± acre lot. The subject property is located at 8100 Lakeview Parkway. [FP08-373]**

Ms. Mathews came forward to present this case. She stated that the plat meets all planning requirements except the applicant needs to remove the rear set back line from the Final Plat because this is not required on Final Plats. Mr. Harris came forward to clarify that there will not need to be any additional requirement of right-of-way so it is not necessary for the plat to show any reference to a deceleration lane so that plat would be a stand-alone by itself. Mr. Knickerbocker made a motion to approve the Final Plat. Mr. Cigainero seconded the motion. The motion was then amended to include the removal of the 30 foot setback line on the rear of the property and Mr. Cigainero accepted the amendment. With acceptance of the amendment, motion passed with a 7-0 vote.

**4. Consider and take appropriate action on a request to approve a Site Plan for Store Décor located on .77 acres, being Block 1, Lot 7 of the Toler Industrial Park. [DP08-380]**

Erin Jones came forward to present this case. She stated that, for the sake of time, she wanted to discuss items D.4 and D.5 together since they are related and asked the Commissioners to make two separate motions.

She stated that Store Décor is located at 5050 Boyd in the Toler Industrial Park. Mr. Potts has owned Store Decor since 1983 here in Rowlett, TX. She stated that their business manufactures and warehouses graphics and interior design elements for retail and architectural firms. The applicant came to the city about August of this year requesting an additional building on his lot in which he already has an existing warehouse on that lot. Originally, the development fell under a Planned Development 9-29-77B which fell under the 1972 code. Ms. Jones stated that the 1972 code was very vague when it came to landscape requirements and architectural requirements; in fact, it only required that buildings be architecturally attractive and have landscaped yards. Due to the vagueness of the ordinance staff makes the interpretation that architecturally attractive and landscaped yards means what the current City Council has deemed attractive and landscaped per current code requirements. Ms. Jones also pointed out that while many of the buildings in the area where Store Decor is located are non-conforming by today's standards as buildings are left vacant over the years they will be required to be brought up to code. She also pointed out that some of the surrounding area is vacant and although zoned for manufacturing uses the buildings will be required to meet current code requirements for landscaping and building materials. She stated that over time this area will be brought up to code. As non-conformities are brought forward to the Planning and Zoning Commission and City Council seeking variances the decision will have to be made to allow non-conforming buildings to be expanded or require conformity to current standards when the opportunities arises.

The applicant requests that the Landscape requirements be completely waived for this project. The applicant also requests that part of the fire lane, approximately 75 feet, be permitted to remain partially graveled and that all the parking associated with the existing building remain graveled but the new

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building parking will be concrete.

Mr. Landry asked Ms. Jones if the fire lane remaining partially gravel was approved by engineering or Planning. Ms. Jones stated that the fire marshal went out to the site and has reviewed the plans several times and has approved the graveled lane.

Applicant Robert Potts at 13840 Rock Bend Place, Dallas, TX came forward. He stated that Store Décor has 85 employees, have had as many as 135 at one time. The thrust of the business is towards chain/retail organizations and have designed and installed over 1,100 Petsmart stores across the United States and Canada, HEB stores, Tom Thumb grocery stores, Academy Sports, McDonalds, and Smoothie King Restaurants as well as many others. He explained that what prompted the desire to build a new building was that staff operates three \$500,000 presses on the east side of Boyd Blvd. The material used for the presses is currently stored on the west side of Boyd Blvd which causes staff to use forklifts to bring the merchandise back and forth across the street. The purpose of the new building would be to replace the warehouse on the west side of Boyd Blvd and it will also free up 5,000 feet of space in a building owned by the applicant that could possibly be utilized by their tenant. Mr. Sheffield made a motion to approve the Site Plan with the following variances: 1. all landscape requirements to be waived, 2. fire lane permitted to be partially graveled, and 3. all existing graveled parking spaces remain so. Mr. Peebles seconded the motion. Motion passed with a 7-0 vote.

- 5. Consider and make a recommendation to City Council regarding a Façade Plan with an alternative materials request for Store Décor located on .77 acres, being Block 1, Lot 7 of the Toler Industrial Park. [DP08-380]**

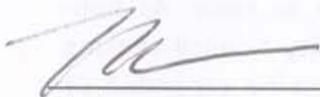
Ms. Jones stated that the applicant is requesting that the new building match the metal exterior of the original building.

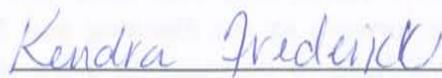
Mr. Landry made a motion to recommend approval to City Council the use of alternate building materials for Store Décor to match the existing building as submitted. Mr. Sheffield seconded the motion. Motion carried with a 7-0 vote.

**E. ADJOURNMENT**

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Chairman Moore adjourned the meeting at 8:19 p.m.

  
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Chairman

  
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Secretary