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., APRIL 22, 2008

PRESENT:	Chairman Kevin Moore, Vice-Chairman Greg Peebles, Commissioners Charles Alexander, Chuck Knickerbocker, Patrick Jackson, Alternate Chris Cigainero
ALSO PRESENT:	Alternate Rick Sheffield
ABSENT:	Commissioner Jeff Thomas
STAFF PRESENT:	Development Services Director Keri Samford, Planner II Erin Jones, Sr. Administrative Assistant Kendra Frederick

A. CALL TO ORDER

Chairman Moore called the meeting to order at 7:00 p.m.

B. CONSENT AGENDA

1. **Minutes of the regular meeting of April 8, 2008.**

Commissioner Peebles made a motion to approve as amended the April 8, 2008 minutes due to Alternate Rick Sheffield not being present. Alternate Sheffield seconded the motion. Motion passed with a 6-0-1 with Rick Sheffield abstaining.

2. **Minutes of the regular meeting of March 25, 2008.**

Commissioner Patrick Jackson made a motion to approve the minutes of the regular meeting of March 25, 2008. Commissioner Charles Alexander seconded the motion. Motion passed with a 6-0-1 vote with Commissioner Chuck Knickerbocker abstaining due to not being present.

3. **Minutes of the regular meeting of March 11, 2008.**

Alternate Rick Sheffield made a motion to approve the minutes of the regular meeting of March 11, 2008. Commissioner Patrick Jackson seconded the motion. Motion passed with a 6-0-1 vote with Commissioner Chuck Knickerbocker abstaining due to not being present. Commissioner Knickerbocker requested that the motion be corrected to a 7-0 vote since he was accounted for in the March 11, 2008. Motion passed 7-0 vote.

C. PUBLIC HEARINGS

1. **Conduct a public hearing and take appropriate action on a Conditional Use Permit (CUP) application for an 11,205 sq. ft. shopping center with a drive-thru for a proposed 4,000± sq. ft. pharmacy with adjacent 7,205± sq. ft. retail/restaurant. The property is located at 9015**

Lakeview Parkway being 1.25± acres located 1,100 feet west of Scenic Drive. [Case No. – CUP08-0357]

Ms. Jones stated that this property is zoned for C-2. She stated that the public hearing was taking place because in C-2 shopping centers less than 20,000 square feet require a conditional use permit as well as any business with a drive-thru window. The proposed pharmacy at this location is requesting a drive-thru window. Ms. Jones stated that twenty five notices were sent out to the public and five were received in opposition, one being in e-mail form. She also stated that the Staff recommends that if the Commission moves to approve this item that the condition be made that all retail uses including those less than 14,000 square feet are allowed by right with the exception of individual uses specifically listed as requiring a CUP (Conditional Use Permit) per the use chart in the *Rowlett Development Code.* The recommendation is made to prevent each tenant going into the proposed shopping center from having to get an individual CUP. Ms. Jones reviewed some of the comments received by the residents which included concern that the pharmacy would be a 24 hour operation. Ms. Jones stated that she did confirm with the applicant that they will not be operating 24 hours a day, that Monday through Friday their business hours will be from 8:00 am to 6:00 pm, Saturday from 10:00 am to 2:00 pm and closed on Sundays. Ms. Jones stated that another concern would be that Silverlake Drive would be extended to Highway 66. Currently, Highway 66 is an access easement owned by the City and the City has no plans to extend Silverlake Drive and also have not made steps to abandon the easement. Ms. Jones stated that the applicant is not interested in extending that road. Ms. Jones asked if there were any questions and mentioned that the applicant was not present.

Chairman Kevin Moore stated that Commissioner Peebles noticed that the public hearing notice indicated that the shopping center was 11,205 square feet but the request shows 11,415 square feet. Ms. Jones stated that the applicant added additional square footage after the public hearing notice was sent. Ms. Jones verified that the shopping center is in fact 11,415 square feet. Chairman Moore asked if there were any questions for Staff. Alternate Rick Sheffield asked for clarification in the discussion on the extension of Silverlake Drive and the easement; that in the City's five year plan and beyond that there are no plans to abandon the easement or any plans to extend the street. Ms. Jones clarified that there are no plans to abandon the easement or to extend at this time.

Chairman Moore asked if there were statements or comments on the presented item. Tom Helms at 9014 Chimneywood, Rowlett, TX came forward. He questioned what side of the property sanitation will be on. He asked what type of restaurant the applicant would be putting in and what type of separation would be provided to maintain the enjoyment of their property so that there property value would not decrease. Ms. Jones stated that the separation would be a 6ft. screening wall required by code. Mr. Helms had asked how far the wall will come out because the alley is already considerably narrow. His concern is would he be able to pull into his driveway. Chairman Moore stated that in the Work Session, it was acknowledged that any commercial development has to have a screening wall but if the applicant was present they could discuss the possibility of having a living screening wall instead of the wall. Chairman Moore also stated that it is possible for the applicant to move his fence in on his property because he has a 10 foot landscape buffer in the rear of this property. Chairman

Moore stated that the Rowlett Code does require a 6 ft. masonry screening wall. Tom Helms asked if there will be a time that could be allowed to be able to speak to the applicant and voice their concerns. Chairman Alexander stated that the Commission assumed the applicant would have been at the regular meeting. Keri Samford stated that the meeting is a public hearing and that the citizen's can express their concerns to the Commission members. Keri Samford stated that the current CUP regulations would require tenants to come back in if it they were less than 14,000 square feet to get a conditional use permit. The Commission stated that if anything were allowed in general retail that isn't specifically listed out needing a CUP would be allowed by right. Ms. Samford stated that if the shopping center was more than 20,000 square feet and was a restaurant without a drive-thru, it would be allowed by right in this district. Tom Helms had asked for a map to see how close his family would be living to the back of the building. Chairman Moore stated that the back of the building would be 30 ft. from their property line and the property line is on an alleyway which is two to three feet from the edge of the pavement. Ms. Samford stated that Tom Helms is the second lot west of Silverlake Drive and the easement. Chairman Moore stated that typically property owners will develop a site and put the building in without knowing the kind of tenant they will have.

Della Vickers at 9006 Chimneywood Dr, Rowlett, TX asked if the development would be one story and Chairman Moore confirmed that it would be. She also stated that there are utility poles on their alley and that the City trash company could not run their trash trucks because they were messing up the alley and the poles were causing them no room to move. With that, Ms. Vickers asked if the screening wall could be put on the other side of the utility poles since they are already in close proximity. Chairman Moore stated that an email was received from John Teal including pictures of the poles next to the alley. He stated that the wall would actually go not on the alley side but the property side which would be behind the poles. Chairman Moore stated that there would be a utility easement that would run next to the alley. He also stated that the city has no control where the utility poles go. Chairman Moore stated that if the CUP is passed, a condition can be placed stating where the screening wall can be. Ms. Vickers asked what kind of easement they had from the electrical transfer station and shopping center. Chairman Moore stated that there is an easement somewhere because the TXU substation is to the left of the next parcel. Ms. Vickers also asked if there was an easement for the electrical company to go down on the other side of the alley. Ms. Samford stated that there is no easement between the substation and the property next to it but there is an easement where the utility poles follow the alley. Chairman Moore stated that the utility poles have to fall into a utility easement because when they plat property they put easements in for utilities, sewers, etc. Ms. Jones stated that applicants are not required to show easements on the concept plans.

Tom Helms came forward again and asked about lighting because he does not want to see "day light" all night in his back yard. Chairman Moore stated that there are lighting standards in the development code in which he directed the explanation to Ms. Samford. Ms. Samford stated that a new code was enforced that no glare or shine would be allowed on the property line or the property zoned residential next to it. All of the lighting is required to be angled down and any signage glare cannot go over the property line. Mr. Helms mentioned back lights and Ms. Samford stated that the applicant would be allowed to have back lights but they have to be directed towards the ground and cannot filter over into the residential area. Mr. Kilgore asked Mr. Helms if he preferred a masonry wall or a living screening

wall. Mr. Helms stated he preferred the masonry screening wall because kids can hop over fences and that if the restaurant were to serve alcohol, no intoxicated persons can stumble into their property. Mr. Helms also expressed concern on the value of his home. Chairman Moore stated that anything that will go into this proposed area will be commercial. He also stated that the Commission her no control over the decrease of home values because the property is zoned for commercial.

Chairman Moore stated that the concerns brought up about the hours of operation can be dictated to show that this operation cannot be a 24 hour operation. He also reiterated that there will not be any parking behind this building so the noise should not be a concern. Chairman Moore mentioned the concern for hours of deliveries which would have to be during the hours of operation and trash pick up would also have to be between 8:00 am and 6:00 pm. Mr. Helms asked if there was a way to stipulate where the applicant would place the trash because commercial trash smells. Chairman Moore stated that the dumpsters put in would have to be behind a screening wall and gated. The health department would have control over the smell. Ms. Jones stated that the dumpsters are not shown on this plan but they will have to show in detail on the site plan. She also stated that the dumpster has to have a 6 ft. screening wall with a metal gate. Helms stated that since there was a 10 ft. landscape strip and a 12 ft. driveway, the homeowners would be within 30 ft. of commercial trash. Ms. Jones stated that the health department can enforce the applicant to bag their trash a certain way to reduce the smell.

Kelly Lindock at 9106 Chimneywood, Rowlett, TX came forward. She stated that originally she had preferred the masonry wall but through the course of the discussion during the meeting and from her own research she realized that behind every wall in Rowlett in her area, there is graffiti. She also stated that when her car got broken into in October 2007, the officer that took the report mentioned that the neighborhood was a very good neighborhood and was not a high crime area. Ms. Lindock stated that she feels her neighborhood is good because it is so open and exposed because of the open field. She stated that she feels that if a business and a wall was put in place it would make the neighborhood bad. Mary Young, the owner of the home at 9106 Chimneywood, is the mother of Kelly Lindock. Ms. Lindock stated that her mother had moved to another city and when she found out the property was being foreclosed she bought the house back because she loved the area so much. With a business being put in place, the neighborhood would be hidden so things like criminal mischief would heighten. Ms. Lindock stated another concern about the economic development and the fact that Rowlett has many vacant buildings. She stated that she wished the applicant could redevelop a vacant building rather than build a new building because vacant buildings do not have any economic stimulus and makes the area look bad. Ms. Lindock also shared that there is property for sale that does not back up to residential areas and there are also birds and ducks that rest on this land. Ms. Lindock stated that her mother would now like to get out and buy another home because they did not buy a home to be backed up to a building.

Chairman Moore stated that he would like to see the vacant buildings developed but it's the applicant's prerogative to buy this property and that regardless this property will be used for commercial use. Commissioner Knickerbocker had asked if the masonry wall around the utility area have had problems with graffiti and Ms. Lindock stated there had been problems in the past with graffiti on the back of the wall.

Ms. Vickers came forward and asked if there was a living screening wall put up, would the trees go behind the fence or would the wrought iron fence be next to the alley and the trees following. Chairman Moore told Ms. Vickers that the trees would be on the property side with the wrought iron fence by the alley. Chairman Moore asked if there were any other questions and with none he asked to close the public hearing.

Commissioner Sheffield stated that he wanted to thank all the citizens for coming to the public hearing. He also mentioned hearing Tom Helms say that what the citizens say makes no difference as to what the Commissioners think. He stated to the public that he hoped that they will see that that statement is not true; that this is the only country that has this right. He also stated that after all of the discussion, it seemed as though the screening wall was the biggest issue.

Commissioner Knickerbocker stated next that if the City is not careful, the City will have un-unified walls behind commercial businesses and feels as though the city should have consistency. He also stated that he appreciated everyone's comments and for being at the public hearing.

Commissioner Alexander stated that he was sorry that the developer did not show to hear what the public had to say. He also agreed with Comissioner Knickerbocker on the living screening walls and that there needed to be consistency.

Commissioner Kilgore stated that he has empathy for the situation the residents are in since he himself was in a similar situation with his home. He also stated he was in favor of a living screening wall because the masonry walls that were previously put up are looking bad and keep looking worse. He also stated that the living screening wall would most likely not have trees like Tatiano's living screening wall with those being too large.

Chairman Moore stated that in the motion there could be a stipulation added to not allow a 24-hour operation of the pharmacy and a condition that has requirements for the living screening wall. Chairman Moore stated that trees going in would go up higher than 6 foot and possibly up to 10 to 12 feet so they would help block a lot of the noise and odor from the restaurant. He stated that he would like for the fence be a minimum of five feet from the property line. Chairman Moore asked if there was anymore discussion and with none Comissioner Rick Sheffield made a motion for the Commission to approve case number [CUP08-0357] changing the square footage of the shopping center posted in the public hearing from 11,205 square feet to 11,415 square feet with the following conditions: 1. All retail uses including those under 14,000 square feet are allowed by right with the exception of individual uses specifically listed as requiring a CUP per the use chart referenced in the *Rowlett Development Code*. 2. 24 hour operation is prohibited. 3. The screening wall must be a minimum of a 10 foot living screen with wrought iron fence and must be installed (measured relative to the wrought iron fence) 5 feet from the alley or at the edge of the utility easement whichever distance is greater. Commissioner Alexander seconded the motion. The motion was approved with a 7-0 vote.

D. ADJOURNMENT

Chairman Moore adjourned the meeting at 8:11 pm.

Chairman

Secretary