

**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., JULY 26, 2011**

PRESENT: Chairman Rick Sheffield, Vice-Chairman Greg Landry, Commissioners Greg Peebles, Chris Cigainero, Joe Charles, Charles Alexander, Karl Crawley

ALSO PRESENT: Alternate Robert Kittrell (non-voting member)

ABSENT:

STAFF PRESENT: Planning Manager Erin Jones, Senior Planner Marc Kurbansade, Planning Intern Michele Berry, Development Services Technician Ashley McCoy

**A. CALL TO ORDER**

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Chairman Rick Sheffield called the meeting to order at 7:06 p.m.

**B. CONSENT AGENDA**

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**1. Minutes of the Regular Meeting of July 12, 2011**

**2. Consider and take appropriate action on a single lot residential final plat. The subject property is 1021 Lake North Drive, located at the southeast corner of Dalrock Road and Lake North Drive, being an unplatted 0.417 ± acre portion of Tract 35, Page 692 from the Harrison Blevins Abstract 94. (FP11-522)**

Commissioner Karl Crawley requested the items of the Consent Agenda to be separated into two votes since he was not present at the July 12, 2011 meeting and could not vote on the minutes. Chairman Rick Sheffield separated the items of the Consent Agenda into individual voting topics. Commissioner Chris Cigainero made a motion to approve the minutes of the Regular Meeting of July 12, 2011 and Commissioner Charles Alexander seconded the motion. Motion passed with a 6-0-1 vote with Commissioner Crawley abstaining from voting. Commissioner Crawley made a motion to approve the single lot residential final plat and Vice-Chairman Greg Landry seconded the motion. The motion passed with a 7-0 vote.

**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 to allow the operation of an Indoor Recreation and Entertainment Use for a portion of an existing building within an existing Planned Development with a Light Manufacturing/M-1 base zoning district. The subject property is located at 2502 Lawing Lane, being Lot 5, Block B of the Highpoint Industrial Park Addition. (CUP11-514)**

Marc Kurbansade, Senior Planner came forward to present the case. He presented a location map showing the property and its adjacency to the new Katy Railroad Park. He stated that the entire building is currently vacant and the applicant requests to occupy slightly less than a fourteen thousand square foot portion of the existing building. Mr. Kurbansade noted that this item had been before the Commission twice before and tabled so the owner could address some concerns with the tenant and so the applicant could have a parking study conducted. The site parking has spaces according to industrial use with relatively low parking needs and the applicant is proposing an indoor recreational use which typically requires a higher parking rate. The

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applicant and/or property owner contracted a traffic consultant specifically for the purpose of preparing an alternate parking study in accordance with the Development Code using the evaluation of other facilities and comparison with the City of Rowlett requirements for an industrial use. The study showed the existing parking spaces would adequately serve the times of use and the expected demand for parking at the business and remaining industrial uses in the building. Staff have reviewed and approved the parking study and concur with the findings of the traffic consultant. Mr. Kurbansade stated that D-Bat is a tenant looking to occupy space in an existing building currently zoned M-1 based on the approved PD for the site. He noted the easement crossing the south end of the property as the only access to the future Katy Railroad Park and showed photos of the site where D-Bat proposed to occupy the building and of the rear/north side of the building with existing bay doors. Mr. Kurbansade also showed a photo of the existing eight foot masonry wall along the easement separating the site from residential homes. He noted that other developed properties in the industrial zone had uses including warehouse space and dock loading spaces and that the batting cage would be a less intensive use than those already existing. Mr. Kurbansade stated that staff had reviewed the request based on CUP criteria in Section 77-807 of the code and found it did conform to the requirements in the code and would not cause any adverse impact on adjacent properties and staff would recommend approval. He noted that of the fourteen total notices mailed out April 25, 2011 and July 11, 2011, two were returned in favor of the request and one resident on the south side of the site expressed some concern. Commissioner Crawley inquired if the Commission could place conditions on their approval to have the use away from the bay doors to minimize the exposure of the noise to the nearby residents and Erin Jones, Planning Manager stated that it was under the purview of the Commission to put conditions on their approval and the Commission could condition that the bay doors remain closed and could also condition the hours of operation. Mrs. Jones stated that it could be conditioned how the applicant designs the interior layout of the space but the condition would be difficult and Commissioner Crawley stated that he was more interested in the location within the building since the applicant would not be occupying the whole building and he would like to see them occupy the back portion of the building. Mrs. Jones responded that interior finish out building permits would be required so the Commission could condition the layout and it could be confirmed through those permits. Commissioner Crawley inquired if the Commission needed to condition the square footage allowed to be occupied and Mrs. Jones replied that the square footage was set within the Conditional Use Permit based on the application submitted. Chairman Sheffield opened the public hearing and recognized Ryan Bonesio, 3852 Alto Avenue, Carrollton, Texas as the applicant to answer any questions the Commission may have. Commissioner Cigainero inquired about the intended hours of operation at the facility and Mr. Bonesio replied that on weekdays they are open from 10:00 am to 9:00 pm with peak hours from 5:30 pm to closing and on weekends the facility closes at 6:00 pm. Commissioner Greg Peebles asked if those were standard hours and if the hours would be posted on the door and Mr. Bonesio replied that they were and would be posted. Commissioner Peebles stated that there was some concern about potential loitering and noise affecting nearby residents and asked if there have been any experiences in the past with loitering and Mr. Bonesio responded that the D-Bat franchise requires security cameras both outside and inside the facility and that offered some security and that the facility operates on a mostly private instruction basis that typically puts 5-10 customers there at one time. Mr. Bonesio also stated that in some instances there may be teams of approximately thirty players at the location possibly in the event of rain. Commissioner Peebles inquired if the interior finish would include sound proofing. Mr. Bonesio replied that there would be nets to blocks balls from hitting the walls and from his experience the noise is contained within the building and not heard from the exterior. Chairman Sheffield asked for clarification if there would be any sound baffling in the walls and stated that the concern was not as much with balls hitting against the wall as the sound of the pinging as balls are hit by the bats. Mr. Bonesio affirmed that though the sound can definitely be heard inside the building the noise is cut by everything within the facility and not heard from the outside. Commissioner

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Crawley inquired if the bay doors would be opened at any time and Mr. Bonesio stated that the bay doors would remain closed and the facility would be air conditioned. Commissioner Crawley asked if there would be any objection to a condition of 10:00 am to 9:00 pm hours of operation and was told there would not be any objections. Chairman Sheffield closed the public hearing and Commissioner Crawley made a motion to approve the Conditional Use Permit with the condition that operating hours not extend beyond 10:00 am to 9:00 pm, seven days a week and Commissioner Cigainero seconded the motion. The motion passed with a 7-0 vote.

**D. ITEMS FOR INDIVIDUAL CONSIDERATION**

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- 1. Consider and make a recommendation to City Council regarding a request for alternative building materials for a proposed restaurant use in an existing lease space located at 5000 Rowlett Road, further described as Lot 1, Block 1 of the Rowlett Business Park 3 Addition. (DP11-523)**

Marc Kurbansade, Senior Planner came forward to present the case. He presented a location map showing the property to be at the corner of Rowlett Road and Melcer Drive and was formerly the site for Dickey's Barbecue on the south end of the building. He stated that the structure is not nonconforming since it has been vacant less than 180 days therefore none of the issues for a nonconforming structure are applicable. Mr. Kurbansade stated that the façade improvements were unknowingly done by the applicant without the proper approvals and the applicant is requesting the Commission recommend to City Council that alternate building materials be allowed so that the changes can remain on the building. He presented photos of the site before the renovations were completed and after along with an architectural rendering of the façade changes. He stated that staff believed that the changes would prove to be an asset to the site and the community by adding another business to the location and that the use of alternate building materials would not be detrimental to the adjacent properties in terms of quality or appearance and would therefore recommend approval and ask that the Commission make a favorable recommendation to Council. Vice-Chairman Landry inquired if the owner of the business was the same as the owner of the building and Mr. Kurbansade stated that there were three people associated with the request, the owner of the property Ron Emert, the owner of the business, and the architect. Vice-Chairman Landry expressed concerns about the applicant not being present to respond to questions about not obtaining the proper approvals before the work was done. Commissioner Peebles stated that some people may feel that it is easier to obtain approval after the work has been done than before. Commissioner Cigainero expressed concerns about other work being done without approvals. Mr. Kurbansade stated that he felt the applicant had been as open as possible and submitted the appropriate applications within four days of being notified of the issue and had been very cooperative with staff. He also stated that the applicant had been working with the Building Inspections and Health Departments to meet their requirements. Vice-Chairman Landry stated that the applicant was allowed to be approved by right since it was within 180 days of the last tenant in the space but offered some resistance to the fact that the work was done before approvals were sought and obtained. Commissioner Crawley asked if the applicant had come forward on his own or if he had to be notified by the City and Mr. Kurbansade answered that he was making the changes when Building Inspections asked Planning & Zoning if alternate building materials would be allowed before issuing the permit for the work that had already been started. He also noted that alternate building materials did fall into a gray area in this instance due to the fact that the building already did not meet current code and in some instances when not increasing the nonconformity changes would be allowed without prior approval. Commissioner Crawley clarified if staff felt that these

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particular changes would not be increasing the level of nonconformity on the site and Mr. Kurbansade stated that staff felt there was enough of a change that it warranted bringing before the Commission and Council for approval for the new materials used. Commissioner Crawley inquired if the alternate building materials were to be approved if a separate building permit would need to be obtained for the work and Mr. Kurbansade answered that the applicant had already obtained a building permit for the other work being done on site. Commissioner Crawley expressed concerns about the construction and potential damage to the building in the future and Vice-Chairman Landry asked if the exterior work was included in the permit on file. Mr. Kurbansade stated that Development Services Technician Ashley McCoy believed it was part of the tenant finish out permit. Commissioner Crawley inquired if there would be inspections done to the outside work to ensure the materials were properly installed and Mr. Kurbansade responded that the Building Inspector would review the work appropriately. Commissioner Crawley commented that he would suggest that the owner and/or applicant be present at the City Council meeting if approval is recommended. Commissioner Cigainero asked if the applicant owned other restaurants in the area and if he was familiar with the restaurant business and Mr. Kurbansade answered that it had been indicated that he had opened other establishments but it was not known the locations. Vice-Chairman Landry made a motion to recommend approval to City Council to allow alternate building materials to be used as presented and Commissioner Crawley seconded the motion. The motion passed with a 7-0 vote.

**E. ADJOURNMENT**

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Chairman Rick Sheffield adjourned the meeting at 7:34 p.m.

  
Chairman

  
Secretary