



**AGENDA
PLANNING & ZONING COMMISSION
TUESDAY, NOVEMBER 10, 2009**

The Planning and Zoning Commission will convene into a Work Session at 6:15 p.m. in the City Hall Conference Room at the Municipal Center, 4000 Main Street, Rowlett, at which time the following items will be considered:

- I. Call to Order
- II. Discussion of items of the Regular Agenda
- III. Update from Staff
- IV. Adjournment

The Planning and Zoning Commission will convene into a Regular Meeting at 7:00 p.m. in the Council Chambers at the Municipal Center, 4000 Main Street, Rowlett, at which time the following items will be considered:

A. CALL TO ORDER

B. CONSENT AGENDA

- 1. Minutes of the Regular Meeting of September 22, 2009.
- 2. Consider and take appropriate action on a request to allow more than one accessory structure on a residential lot. The property is located at 9414 Shearer Street, being Block G, lot 4 of the Highland Meadows North No. 1 subdivision.

C. PUBLIC HEARINGS

- 1. Conduct a public hearing and make a recommendation regarding an application for a request to amend Planned Development (PD) 5-5-87B in order to revise the setback requirements for 4402 Scenic Drive being 0.24± acres, Block F, Lot 61 of the Lakeshore Park Estates Subdivision.
- 2. Conduct a public hearing and make a recommendation on the request of the City of Rowlett to make text amendment to the Rowlett Development Code pertaining to limiting homeowner association's authority to regulate solar energy and wind energy systems.

3. Conduct a public hearing to consider and take appropriate action on a Conditional Use Permit (CUP) application for a 250± square foot Bail Bonds office. The subject property is located at 4501 Rowlett Road, Rowlett, TX and is part of the Toler Business Park No. 2 subdivision.

D. ADJOURNMENT

NOTE: THE PLANNING AND ZONING COMMISSION MAY RETIRE AND CONVENE INTO EXECUTIVE, CLOSED SESSION ON ANY MATTER RELATED TO ANY OF THE ABOVE AGENDA ITEMS FOR THE PURPOSES OF PRIVATE CONSULTATION WITH THE CITY ATTORNEY UNDER SECTION 551.071 OF THE TEXAS GOVERNMENT CODE.

NOTE: THE CITY OF ROWLETT MEETING ROOMS ARE ACCESSIBLE IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND PARKING SPACES ARE AVAILABLE. REQUESTS FOR ACCOMMODATIONS OR INTERPRETIVE SERVICES MUST BE MADE 48 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT THE PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT FOR FURTHER INFORMATION.

CERTIFICATE

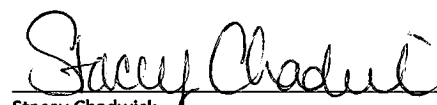
I certify that the above notice of meeting was posted on the bulletin board at the City Hall of the City of Rowlett, Texas, on or before the 4th day of November, by 5:00 p.m.


Susie Quinn, City Secretary

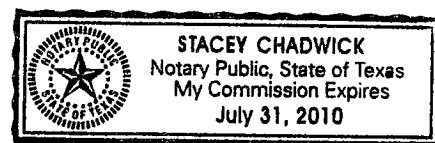
I certify that the above notice of meeting was posted on the bulletin board inside the Municipal Center, as well as outside the Municipal Center, 4000 Main Street, Rowlett, Texas, on or before the 4th day of November, 2009, by 5:00 p.m.

State of Texas, Dallas County, Texas

This instrument was acknowledged before me on November 4, 2009, by Susie Quinn, City Secretary.


Stacey Chadwick

Commission Expires:



**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., SEPTEMBER 22, 2009**

PRESENT: Chairman Kevin Moore, Commissioners Charles Alexander, Rick Sheffield, Chris Cigainero, Greg Landry

ALSO PRESENT: Alternate Robert Kittrell, Karl Crawley

ABSENT: Vice-Chairman Greg Peebles, Commissioner Joe Charles

STAFF PRESENT: Interim Planning Manager Erin Jones, Kendra Frederick, Sr. Administrative Assistant.

A. CALL TO ORDER

Chairman Moore called the meeting to order at 7:12 p.m.

B. CONSENT AGENDA

1. Minutes of the Regular Meeting of August 25, 2009.

Commissioner Charles Alexander made a motion to approve the minutes of the August 25, 2009 meeting. Commissioner Chris Cigainero seconded the motion. Motion passed with a 5-0-2 vote with Alternate Robert Kittrell abstaining from voting since he was not seated at the dais at the August 25, 2009 meeting. Alternate Karl Crawley abstained from voting as he was seated at the dais as an inactive member at the August 25, 2009 meeting.

C. PUBLIC HEARINGS

1. Conduct a public hearing and make a recommendation to city council on a request by the City of Rowlett to make text amendments to the Rowlett Code of Ordinances.

Erin Jones came forward to present the proposed text revisions. She stated that the revisions related to tree mitigation/preservation are the first of at least two code revisions related to the topic. The commission can expect to see more detailed revisions within the next year, however, the revisions presented are items that City Council felt were urgent in nature and should be put in place as soon as possible. With no discuss from the public, Commissioner Rick Sheffield made a motion to close the public hearing. Commissioner Greg Landry seconded the motion. Motion passed with a 7-0 vote. After the commissioners discussed the item, Commissioner Rick Sheffield made a motion to recommend approval to City Council of the text amendments to the Rowlett Code of Ordinances as submitted. Alternate Karl Crawley seconded the motion. Motion passed with a 6-1 with Commissioner Chris Cigainero casting the opposing vote.

**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., SEPTEMBER 22, 2009, Cont.**

D. ITEMS FOR INDIVIDUAL CONSIDERATION

- 1. Consider and take appropriate action on a request to allow more than one accessory structure on a residential lot. The property is located at 2313 Brownlee Boulevard, being block 10, lot 14 of the Toler Ridge II subdivision.**

Erin Jones presented the case stating that if the request is approved the applicant will have to detach the existing carport to consider it an accessory structure instead of an addition to the house as it is currently encroaching in the required setbacks. With no further discussion, Commissioner Charles Alexander made a motion to approve the item as submitted with the condition that the carport be constructed per code requirements. Commissioner Chris Cigainero seconded the motion. Motion passed with a 7-0 vote.

A. ADJOURNMENT

Chairman Moore adjourned the meeting at 7:24 p.m.

Chairman

Secretary



Department of Public Works
Planning Division

Agenda Item – B.2 9414 Shearer - Accessory Structure (Carport)

Request *Joe Rushing, Home Owner*

Consider and take appropriate action on a request to allow more than one accessory structure on a residential lot. The property is located at 9414 Shearer Street, being block G, lot 4 of the Highland Meadows North No. 1 subdivision.

Background *Amy Mathews, Planner II*

The subject property is located at 9414 Shearer Street and is zoned Planned Development (PD) 12-18-84A for residential uses.

The applicant has an existing 120 square foot storage shed located in the backyard. The applicant is requesting to install a 20' x 20' square foot carport in the rear of their property, detached from the existing garage.

The applicant requests that the Planning and Zoning Commission approve their request to maintain two accessory structures on their property.

Staff Analysis/Recommendation

The Rowlett Development Code states the following in Section 77:303:

“No more than one accessory structure (excluding covered patios or play structures) will be allowed on a residential lot unless approved by the Planning and Zoning Commission”.

Due to the fact that the proposed carport is not an enclosed structure and would not be adding to the overall lot coverage because it will be constructed over an existing paved area, staff recommends that the Planning and Zoning Commission approve the applicant's request to maintain two accessory structures on their property.

Attachments

- 1- Location Map
- 2- Photos provided by the applicant
- 3- Concept Plan

ATTACHMENT 1 – Location Map



9414 Shearer- Carport
November 10, 2009
Planning and Zoning Commission

ATTACHMENT 2– Photos provided by the applicant

Existing driveway and garage



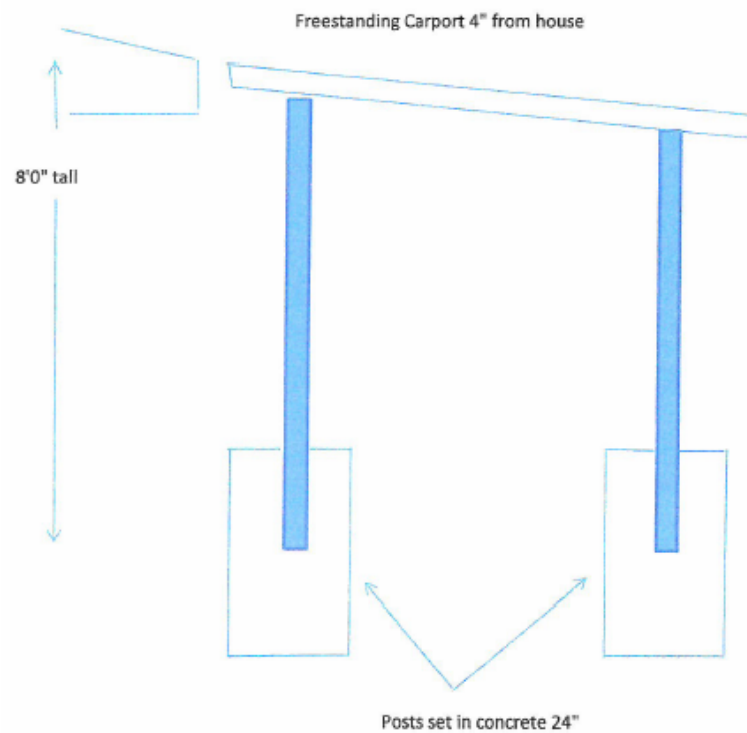
Backyard



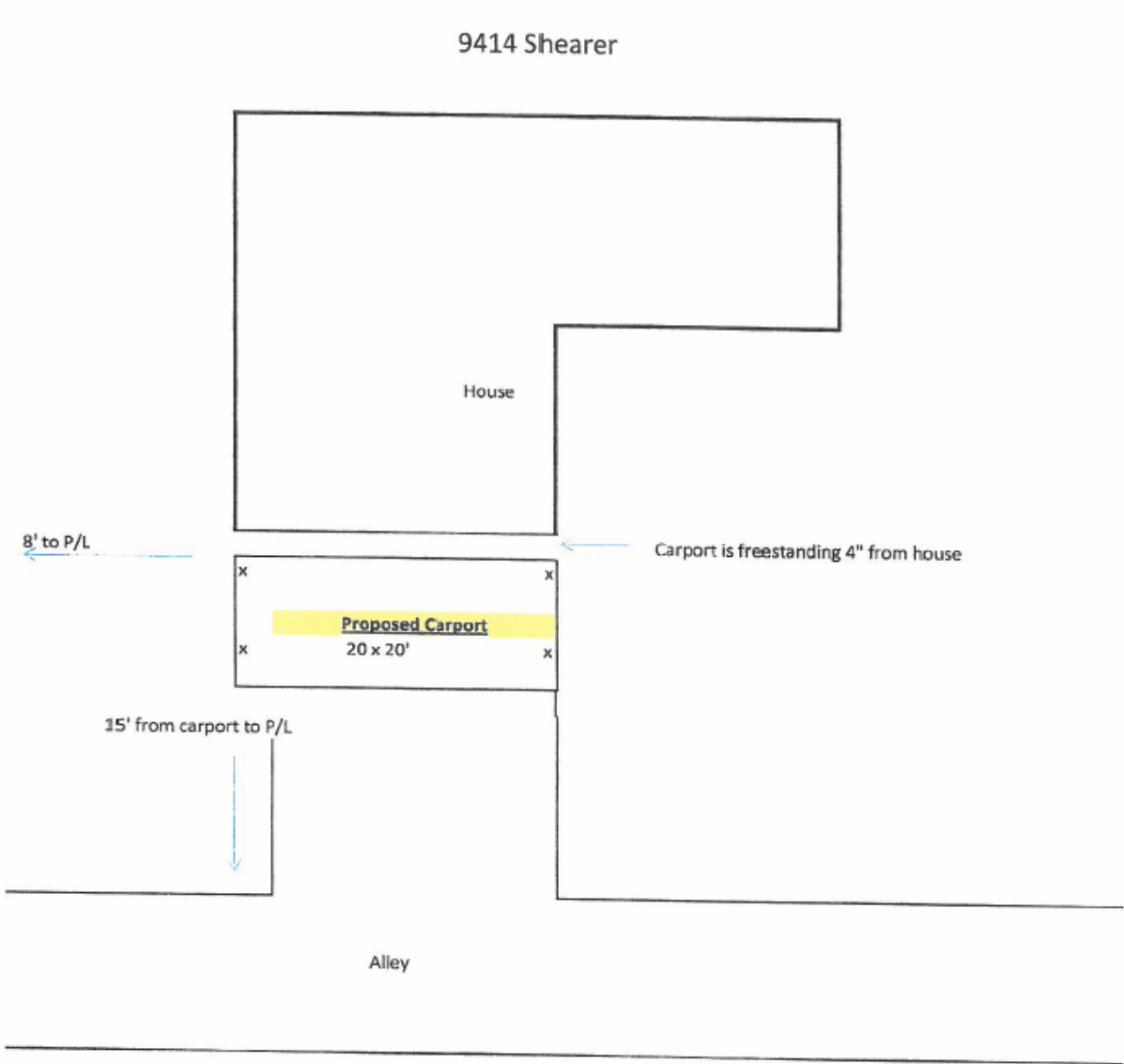
Carport Example

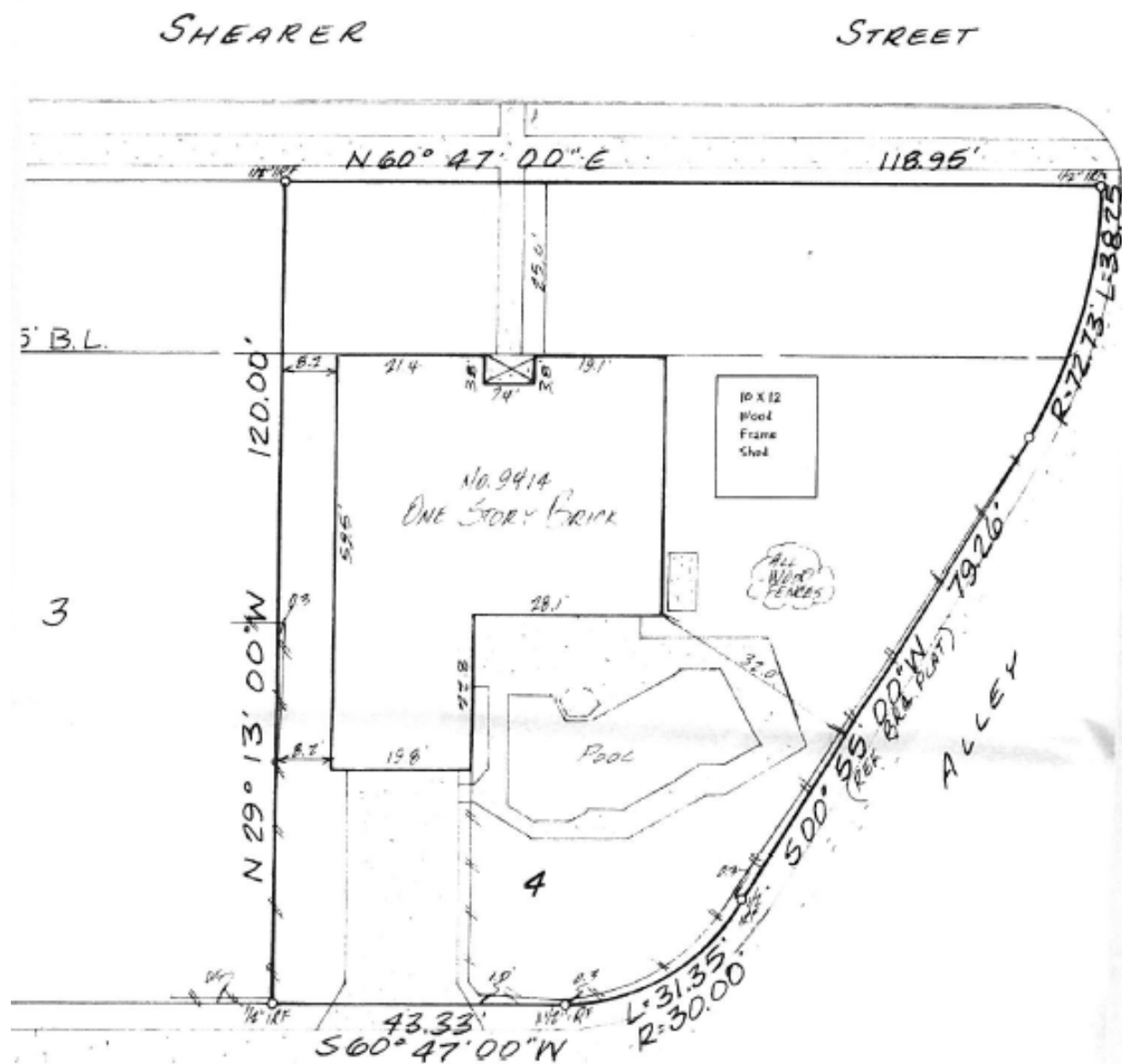


Side View of proposed Carport



ATTACHMENT 3- Concept Plan







**Department of Public
Works/Planning Division**

Agenda Item –C.1 PD09-441 Planned Development 5-5-87B Revision

Request *Vaughn Garret, Home Owner /Applicant*

Conduct a public hearing and make a recommendation regarding an application for a request to amend Planned Development (PD) 5-5-87B in order to revise the setback requirements for 4402 Scenic Drive being 0.24 \pm acres, Block F, Lot 61 of the Lakeshore Park Estates Subdivision.

Background *Erin Jones, Interim Planning Manager*

4402 Scenic Drive is located within Planned Development (PD) 5-5-87B. This PD was adopted on May 5th, 1987. The building lines and setback requirements for the homes within this PD are specifically called out as a part of the concept plan, Exhibit 'B'.

Vaughn Garrett, the applicant and homeowner, contacted staff in mid September, 2009 regarding a proposed 726 \pm sq. ft. addition to his existing home. The addition, as proposed, will encroach into the required rear and side setbacks as outlined in the PD. The design for the addition has fluctuated in size; however, Mr. Garrett is certain that the final design will not exceed 726 \pm sq. ft. so he has based his request on the setback required to accommodate an addition of that size.

Staff researched the appropriate course of action that would allow the homeowner to seek relief from the setback requirement. Typically when property owners request a variance from setback requirements that cannot be achieved through the minor modification process they must go before the Board of Adjustment (BOA), however, BOA does not have the authority to "grant a variance from any written conditions attached by another decision-making body to the approval of a planned development district, conditional use permit, subdivision plat, or development plan." (77:812 of the *Rowlett Development Code*). The only option that would allow the applicant to build his desired addition is to change the setback requirements by revising the PD.

Request

The applicant requests that the Planning and Zoning Commission recommend approval to the City Council to amend PD 5-5-87B to allow 4402 Scenic Drive being 0.24 \pm acres, Block F, Lot 61 of the Lakeshore Park Estates Subdivision, a rear build line of six feet and side build line of five feet.

Considerations

4402 Scenic Drive backs up to the Lake Ray Hubbard take area, thus, there will not be future development located behind this house. In addition staff has calculated the lot coverage taking into consideration the existing house, driveway, shed and the proposed addition. The request meets the 45% maximum lot coverage requirement. The homeowner proposes to make the new addition a seamless extension of the existing house to preserve the architectural integrity of the home and neighborhood as seen in the Photoshop rendering submitted as Attachment 2.

Section 77:805 of the *Rowlett Development Code (RDC)* states that the Planning and Zoning Commission shall consider the following when making their recommendation to the City Council as it pertains to rezoning requests including PD amendments. Staff has added additional commentary in bold beneath each point of consideration.

- (1) Whether the proposed rezoning corrects an error or meets the challenge of some changing condition, trend, or fact;

The reduction in setbacks would enable the applicant to build an addition to his existing home, thus accommodating a changing condition in the applicant's personal life as outlined in his letter included as Attachment 1, however, there is not a challenge, condition or fact that renders the land difficult or impossible to use for the intended purpose.

Reducing the side build line will correct an error as the PD requires a 15 ft. side build line, however, the homes were constructed with a 5 ft. side build line. There seems to be contradicting requirements in the original PD as the side build line was required to be 15ft., however, the regulations go on to require a 5 ft. side yard. It appears the homes were built with the 5 ft. side yard as the standard side build line.

- (2) Whether the proposed rezoning is consistent with the comprehensive plan and the purposes of this code stated in subchapter 77-103, Purpose of this Code;

This request is consistent with the comprehensive plan as the applicant is not proposing to change the use of the property. It will still be a single family residence. In addition, the expansion of the home does not increase the lot coverage beyond the maximum allowed 45%. Typically setbacks are indented to provide space between properties for aesthetic and safety reasons. As noted above this house backs up to the take area not another residence.

- (3) Whether the proposed rezoning will protect or enhance the health, safety, morals, or general welfare of the public;

It is staff's opinion that this request will neither protect and enhance nor endanger or reduce the health, safety, morals, or general welfare of the public.

- (4) Whether the municipality and other service providers will be able to provide sufficient transportation and utility facilities and services to the subject property, while maintaining sufficient levels of service to existing development;

No additional services are known to be needed at this time.

- (5) Whether the proposed rezoning is likely to have significant adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation;

Single family residences under two acres are exempt from protected tree removal regulations. The engineering department reviewed the proposed plans and did not have comments related to storm water management.

- (6) Whether the proposed rezoning will have significant adverse impacts on other property in the vicinity of the subject tract;

The applicant has discussed his plans for expanding his home with adjacent homeowners and has not been met with opposition. Staff sent out notices to all properties within 200 ft. of the subject property and as of November 4, 2009 no notices have been returned in opposition of the request. Again, due to the take area there is no residential property abutting the rear of the home.

- (7) The suitability of the subject property for the existing zoning classification and proposed zoning classification;

The site is suitable for the proposed addition. The use is not changing.

- (8) Whether there is determined to be an excessive proliferation of the use or similar uses;

The use is suitable for the zoning district. The applicant is not proposing to build a new house or increase the number of houses in the neighborhood. He would like to change the setback requirements for his lot so that he may build an addition to his existing home.

- (9) Whether the proposed rezoning will ensure that future uses on the subject tract will be compatible in scale with uses on other properties in the vicinity of the subject tract; and

The applicant has gone to great lengths to plan an addition that would be seen as a seamless extension of his existing house. It is staff's opinion that if built as proposed the subject tract will be compatible in scale with uses on other properties in the vicinity of the subject tract.

Staff Recommendation

Staff recommends approval of the proposed PD amendment.

Notices

Notice of this public hearing was mailed, published, and posted as required by the *Rowlett Development Code*. Ten notices were mailed to property owners within 200 ft. of the subject property. As of Wednesday, November 4, 2009 no notices were returned for or against this request.

Attachments

- 1- Applicant's Letter to the Commission
- 2- Photoshop renderings supplied by the applicant
- 3- Concept Plan
- 4- Proposed Development Regulations
- 5- PD 5-5-87B

Attachment 1

Garrett Estate, Downstairs Master Bedroom Addition

To the Planning and Zoning Committee and City Council of Rowlett, TX, I am writing this letter to give the Rowlett Planning and Zoning Committee and Rowlett City Council a clear picture why I am pursuing this Planned Development Amendment.

I love my lakefront home in Rowlett and would like to continue to raise my family here. My wife and I have two very young infants, ages 10 months and 2 years. The current design of our 3 bedroom home has the two children's bedrooms downstairs and the master bedroom upstairs on the opposite side of the house from the children's rooms. As parents we need to be near our children and have all three bedrooms on the same floor close together, downstairs.

Also, back in 2004 my wife Angela hurt her knee at Albertsons while employed. After receiving treatments for one year her knee became better but is aggravated by climbing stairs. She is not able to go to the upstairs master without feeling discomfort. Simply, the upstairs master will not work.

Thus, at our home we are living downstairs and making a makeshift master in one of the children's bedrooms temporarily. Thus my wife and I really need to add a master bedroom downstairs as we plan to stay in our home and raise our children here.

Presently, we are fortunate to have 450 square feet of land next to our home to add this master bedroom. Yet 450 is not quite enough. We would like to replicate the design and square footage of the upstairs master which is approximately 600 square feet. This will honor the integrity of the original master bedroom design.

Aesthetically, I wish to make the additional master a seamless integration to the home design, maintaining the styling as if it were constructed at the time of the original build of 1989/90. On the exterior front elevation I wish to have the front of the new master in line with the existing front bedroom to complement the original build. If the new master is pulled forward toward Scenic Drive, the home will take on a U-shape which will not look right, plus it may infringe upon vehicles backing up in the driveway. So keeping it in line with the other front bedroom is by far the preferred location.

Therefore, the rear of the new master will need to push across the rear build line, which is currently set back 20 feet from the rear property line.

The architect I am currently working with has made a few designs. The latest design shows a 720 square foot addition, which may be somewhat large, but represents the maximum build idea, and incorporates a 6' set back from the rear property line. Likely I may not need to build this far back, but less than a ten foot set back will be necessary to add on the 600 square feet needed.

Behind my property is over three acres of Lake Ray Hubbard waterfront take land. This rear set back will not encroach upon any rear neighbors as there are none back there.

One additional note, to further ensure seamless integration, I plan to remove the brick off the west wall of the home where the new addition will be adjoined. This brick will be removed, cleaned, and reused on the front of the new addition so that the brick will match exactly, as seen from the front of the home. New brick will be used on the new side and rear and will be carefully selected to match existing brick.

I have spoken with my neighborhood's voluntary Home Owner's Association and they have stated that they have no jurisdiction or objection to my plans. I have also spoken with my neighbors as well and received no objection to my plans. In fact I have received encouragement from my neighbors and my HOA to do it.

I encourage the City of Rowlett to give my request careful consideration of this residential addition so that my wife and I can utilize our downstairs most effectively and continue to reside in Rowlett in our beautiful waterfront home and raise our family here.

Sincerely,

A handwritten signature in cursive script that reads "Vaughan Garrett". The signature is written in dark ink and is positioned above the printed name and address.

Vaughan Garrett
4402 Scenic Dr.
Rowlett, TX 75088

October 22, 2009

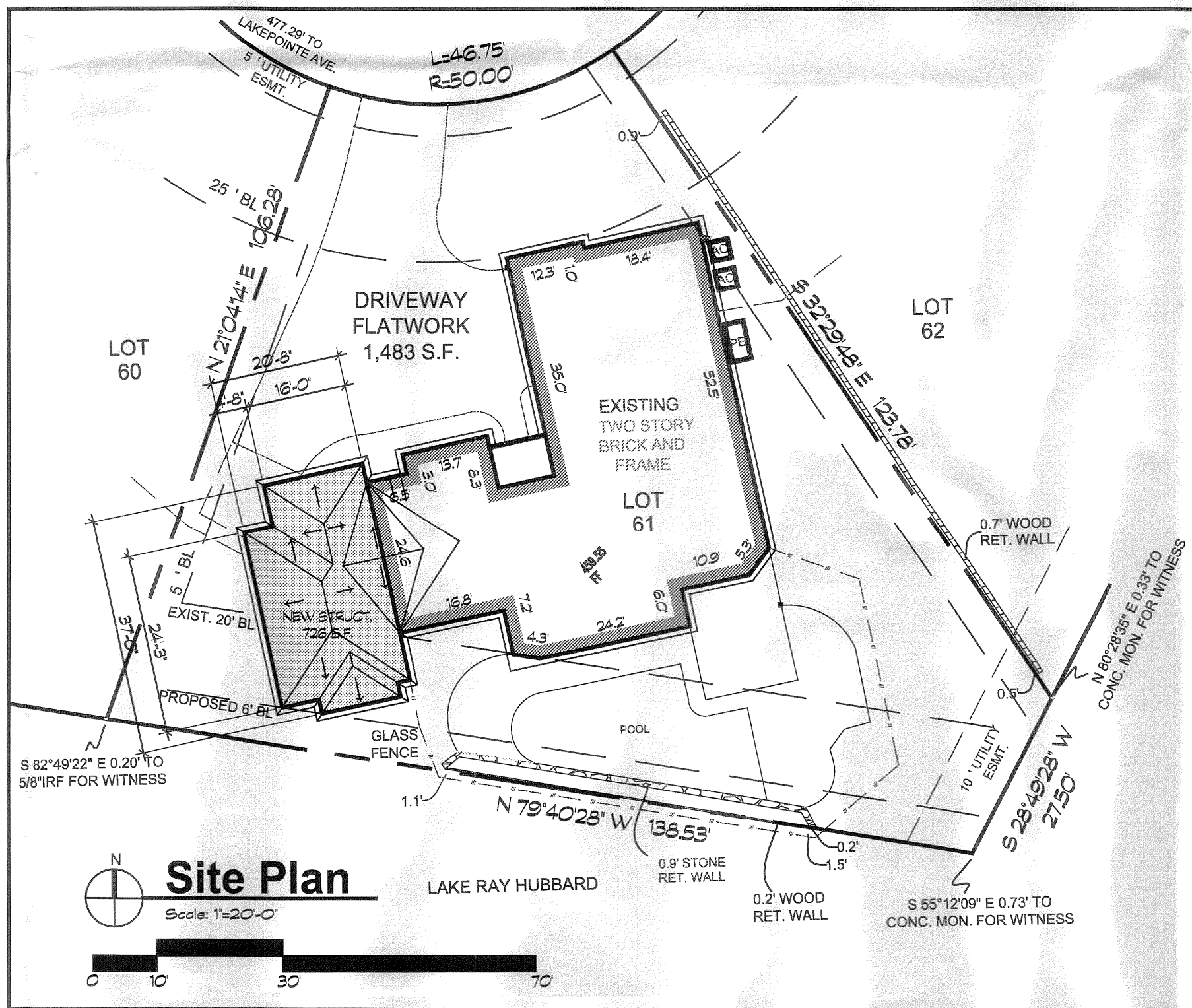
BEFORE- Shows available space near end of driveway.

Attachment 2



AFTER- Shows basic idea of new master bedroom.

Attachment 3



ZONING CONCEPT PLAN - EXHIBIT B

THIS CONCEPT PLAN IS FOR ILLUSTRATIVE PURPOSES ONLY AND SUBJECT TO CHANGE. THIS CONCEPT PLAN, ALONG WITH DEVELOPMENT REGULATIONS (FOR PLANNED DEVELOPMENT REQUEST ONLY), ARE INTENDED TO DESCRIBE THE INTENT OF THE PLANNED DEVELOPMENT. SIGNIFICANT DEVIATIONS FROM THIS CONCEPT PLAN, AS DETERMINED BY THE DIRECTOR OF PLANNING, WILL REQUIRE AN AMENDMENT TO THE CONCEPT PLAN AND, AS NECESSARY, THE DEVELOPMENT REGULATIONS.

NOTE: DEVIATIONS FROM CURRENT DEVELOPMENT STANDARDS NOT SPECIFICALLY ADDRESSED/LISTED FOR APPROVAL AS PART OF PLANNED DEVELOPMENT REGULATIONS MAY REQUIRE A HEARING/APPROVAL BY THE BOARD OF ADJUSTMENTS (BOA).

Owner Information

OWNER:

Mr. Vaughan Garrett
4402 Scenic Dr.
Rowlett, TX

Jurisdiction of Project

REGULATORY AUTHORITIES:

CITY OF ROWLETT
3901 MAIN STREET
ROWLETT, TEXAS 75088

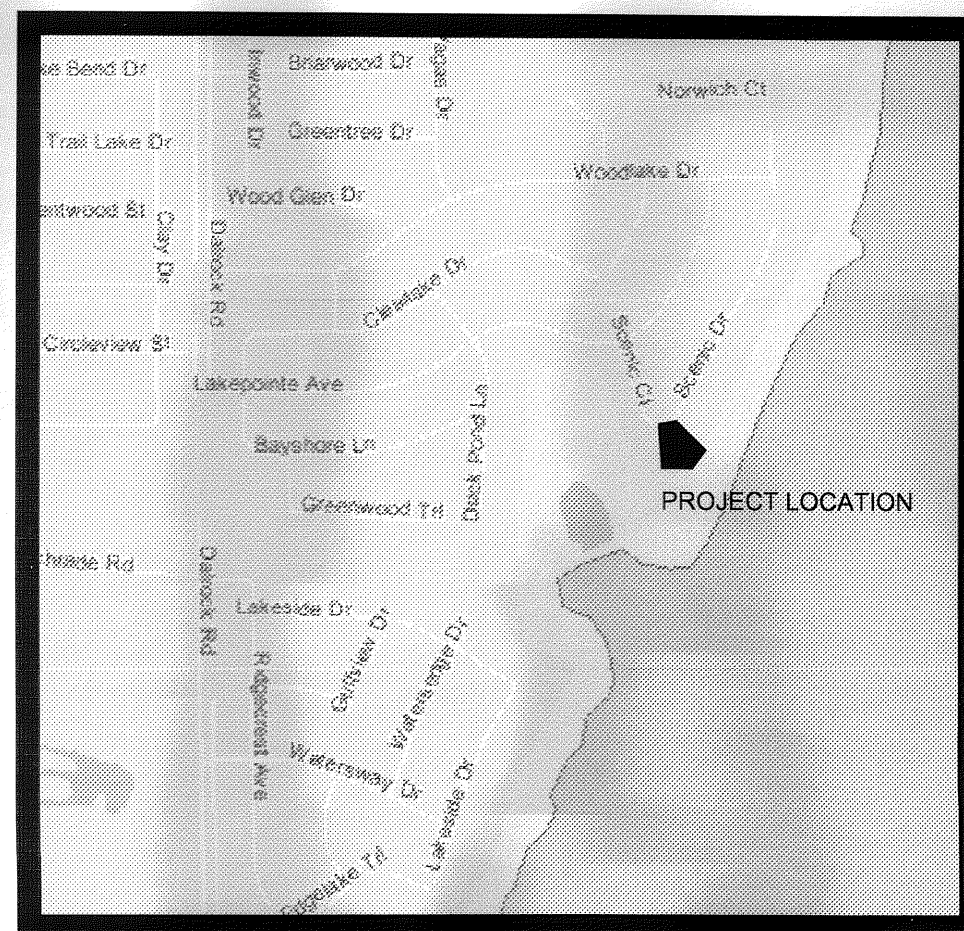
Property Information

SITE LOCATION:
4402 SCENIC DRIVE
ROWLETT, TEXAS 75088

ZONING DISTRICT: PD

LEGAL DESCRIPTION:
LOT NO. 61, BLOCK NO. F OF LAKESHORE PARK ESTATES,
AN ADDITION TO THE CITY OF ROWLETT, ROCKWALL COUNTY,
TEXAS, ACCORDING TO THE PLAT RECORDED IN CABINET C AT
SLIDE 5&6 OF THE MAP RECORDS OF ROCKWALL COUNTY, TEXAS.

PROPERTY AREA: 11,283 S.F. +- (0.295 ACRES)



Vicinity Map

Scale: N.T.S.

Seitz Architects, Inc.

2231 Ridge Road, Suite 201, Rockwall, Texas 75087
972.772.9006 Fax: 972.722.7002 www.seitzarchitects.com

Garrett Residence Expansion

Rowlett, Texas

file #

09-013 Site G

project #

09-013

date

5 October 2009

Revisions

sheet

A1.01

Attachment 4

Exhibit “C- Development Standards

Planned Development 09-441 (Revised PD 5-5-87B)

Statement of Purpose:

Revise PD 5-5-87B to alter the setback requirements for 4402 Scenic Drive being 0.24 ± acres, Block F, Lot 61 of the Lakeshore Park Estates Subdivision.

Required Rear Building Line Setback (for primary structure) – Minimum of 6 feet.

Required Side Building Line Setback (for primary structure) - Minimum of 5 feet.

All other properties associated with PD 5-5-87B shall follow the provisions as stated in PD 5-5-87B. Guidelines not specifically stated in PD 5-5-87B shall conform to current code standards.

Attachment 5

CITY OF ROWLETT, TEXAS

ORDINANCE NO. 5-5-87B

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF ROWLETT, TEXAS, BY GRANTING A ZONING CHANGE ON A TRACT OF LAND WHICH IS WITHIN THE CORPORATE LIMITS OF THE CITY OF ROWLETT, TEXAS, AND MORE FULLY DESCRIBED HEREIN; ORDERING A CHANGE IN THE USE OF SAID PROPERTY FROM "PD4682B" PLANNED DEVELOPMENT DISTRICT CLASSIFICATION TO "REVISED PD4682B" PLANNED DEVELOPMENT DISTRICT CLASSIFICATION; CONDITIONING SUCH CHANGE UPON CERTAIN REQUIREMENTS SET FORTH IN THE RELATED DEVELOPMENT PLAN MORE FULLY DESCRIBED HEREIN; CORRECTING THE OFFICIAL ZONING MAP; PRESERVING ALL OTHER PORTIONS OF THE ZONING ORDINANCE; DETERMINING THAT THE PUBLIC INTEREST, MORALS AND GENERAL WELFARE DEMAND A ZONING CHANGE AND THE AMENDMENTS HEREIN MADE; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS IN OTHER ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF NOT LESS THAN ONE DOLLAR (\$1.00) NOR MORE THAN ONE THOUSAND DOLLARS (\$1,000.00) FOR EACH OFFENSE PROVIDING THAT EACH DAY ANY VIOLATION OR NONCOMPLIANCE CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a change in the classification of a zoning district has been requested by Fred Balster/ PAWA Winkelman (the "Applicant"), on behalf of Daymer Corporation (the "Owner") of the property more specifically described on Exhibit "A" attached hereto and incorporated herein; and

WHEREAS, the requested change was submitted to the Planning and Zoning Commission of the City of Rowlett, Texas (hereinafter referred to as the "Planning and Zoning Commission"), for its recommendation and report; and

WHEREAS, on February 24, 1987, a public hearing on the Applicant's request was conducted by the Planning and Zoning Commission, notice of the public hearing having been given in accordance with law, at which all interested citizens were invited to attend and express their views; and

WHEREAS, subject to certain imposed stipulations as more fully described herein, the Planning and Zoning Commission

recommended approval of the requested change to the City Council of the City of Rowlett, Texas (hereinafter referred to as the "City Council"); and

WHEREAS, on April 21, 1987, a public hearing on the Applicant's requests was conducted by the City Council, notice of the public hearing having been given in accordance with law, at which all interested citizens were invited to attend and express their views; and

WHEREAS, the City Council of the City of Rowlett, Texas, does hereby find and determine that the granting of such change in the classification and use of a zoning district, as recommended by the Planning and Zoning Commission are in the best interest of the public health, safety, morals and general welfare of the City of Rowlett, Texas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS:

Section 1. That all of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. That the request for a change in the zoning classification and use applicable to the property described in Exhibit "A" attached hereto and incorporated herein, from "PD4682B" Planned Development District Classification to "Revised PD4682B" Planned Development District Classification, is hereby granted.

Section 3. That the granting of the request for a change in the classification and use of the zoning applicable to the property described in Exhibit "A" is subject to the additional terms, conditions, regulations and stipulations as are more particularly described in the Development Plan attached hereto as Exhibit "B".

Section 4. That the City Secretary is hereby directed to correct the official Zoning Map of the City to reflect the change in zoning made herein.

Section 5. That in all other respects the use of the tract of land described on Exhibit "A" attached hereto shall be subject to all the applicable regulations contained in said Comprehensive Zoning Ordinance of the City and all other applicable and pertinent ordinances of the City.

Section 6. That the zoning regulations and district as herein established have been made in accordance with the Comprehensive Plan for the purpose of promoting the health, safety, morals and general welfare of the community. They have been designed, with respect to both present conditions and the conditions reasonably anticipated to exist in the foreseeable future, to lessen congestion in the streets; to secure safety from fire, panic, flood and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, drainage and surface water, parks and other public requirements; and to make adequate provisions for the normal business, commercial needs and development of the community. They have been made with reasonable consideration, among other things, of the character of the District and its peculiar suitability for the particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of the land throughout the community.

Section 7. This Ordinance shall be cumulative of all other ordinances of the City affecting zoning and shall not repeal any of the provisions of said ordinances, except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance.

Section 8. That the terms and provisions of this Ordinance shall be deemed to be severable and that if the validity of the zoning affecting any portion of the property described in Exhibit "A" shall be declared to be invalid, the same shall not effect the validity of the zoning of the balance of the property in Exhibit "A".

Section 9. Any person violating or failing to comply with any of the provisions of this Ordinance shall be fined upon conviction, not less than One Dollar (\$1.00) nor more than One Thousand Dollars (\$1,000.00), and each day any violation or noncompliance continues, shall constitute a separate offense.

Section 10. The fact that the present zoning ordinances and regulations of the City of Rowlett, Texas, are inadequate to properly safeguard the health, safety, morals, peace and general welfare of the inhabitants of the City of Rowlett, Texas, creates an emergency for the immediate preservation of the public business, property, health, safety, and general welfare of the public which requires that this Ordinance become effective from and after the date of its passage, and it is accordingly so ordained.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
ROWLETT, TEXAS, this 5th day of May, 1987.

H. C. Ruyke Jr.
Mayor, City of Rowlett, Texas

ATTEST:

Gloria Bean
City Secretary,
City of Rowlett, Texas

[SEAL]

APPROVED AS TO FORM:

P. H. Lee
City Attorney,
City of Rowlett, Texas

EXHIBIT "A"

Legal Description

BEING a 70.791 acre tract of land situated in the W. Crabtree Survey, Abstract No. 60, the W. Adams Survey, Abstract No. 3 and the J. Hart Survey, Abstract No. 111 in Rockwall County, Texas and being part of a 72.9618 acre tract of land conveyed to Daymer Corporation N.V., a Netherland Antilles Corporation by deed recorded in Volume 253, Page 951-959 of the Deed Records of Rockwall County, Texas. (DRRCT) and being more particularly described as follows:

BEGINNING at a point in the easterly right-of-way line of Dalrock Road (80 foot right-of-way) said point being the southwest corner of Woodlake Subdivision and addition to the City of Rowlett according to the plat recorded in Slide A-361 and Slide A-342 of the Plat Records of Rockwall County, Texas (PRRCT);

THENCE following the southeasterly line of said Woodlake Subdivision as follows:

North $89^{\circ}40'40''$ East a distance of 525.38 feet to a point for corner;

South $00^{\circ}19'20''$ East a distance of 3.00 feet to a point for corner;

North $89^{\circ}40'40''$ East a distance of 50.00 feet to a point for corner;

North $00^{\circ}19'20''$ West a distance of 5.44 feet to the beginning of a curve to the left from which the radius point bears North $05^{\circ}53'36''$ West a distance of 515.00 feet;

Northeasterly along said curve to the left through a central angle of $31^{\circ}08'37''$ for an arc length of 279.93 feet to the point of tangency;

North $52^{\circ}57'47''$ East a distance of 205.00 feet to the beginning of a curve to the right from which the radius point bears South $37^{\circ}02'13''$ East a distance of 801.66 feet;

Northeasterly along said curve to the right through a central angle of $19^{\circ}30'13''$ for an arc length of 272.89 feet to a point for corner;

North $17^{\circ}32'00''$ West a distance of 125.00 feet to the beginning of a non-tangent curve to the right from which the radius point bears South $17^{\circ}31'59''$ East a distance of 926.66 feet;

Northeasterly along said non-tangent curve to the right through a central angle of $01^{\circ}10'45''$ for an arc length of 19.07 feet to a point for corner;

North $17^{\circ}49'40''$ West a distance of 60.02 feet to the beginning of a non-tangent curve to the left from which the radius point bears South $16^{\circ}26'37''$ East a distance of 986.66 feet;

Southwesterly along said non-tangent curve to the left through a central angle of $00^{\circ}10'27''$ for an arc length of 3.00 feet to a point for corner;

North 17°49'10" West a distance of 147.40 feet to a point for corner;

North 00°19'20" West a distance of 21.59 feet to a point for corner;

THENCE departing the southeasterly line of said Woodlake Subdivision and following the northerly line of said 72.9618 acre tract of land, North 89°16'19" East a distance of 1,374.45 feet to a point for corner;

THENCE departing the northerly line of said 72.9618 acre tract of land, South 00°16'07" West a distance of 500.23 feet to point for corner;

THENCE North 73°16'42" East a distance of 138.59 feet to a point for corner in the northwesterly line of Lake Ray Hubbard;

THENCE following the northwesterly line of said Lake Ray Hubbard as follows:

South 29°08'04" West a distance of 296.25 feet to a Corps of Engineers monument No. W-7-6;

South 28°49'28" West a distance of 849.77 feet to a Corps of Engineers Monument No. W-7-5;

North 79°40'28" West a distance of 258.61 feet to a Corps of Engineers Monument No. W-7-4;

North 18°58'17" West a distance of 390.69 feet to a Corps of Engineers Monument No. W-7-3;

North 79°45'47" West a distance of 350.42 feet to a Corps of Engineers Monument No. W-7-2;

South 04°19'42" West a distance of 897.80 feet to a point for corner in the north line of a tract of land described in a quit claim deed to the City of Dallas recorded in Volume 104, Page 272 (DRRCT) said monument being the beginning of a non-tangent curve to the right from which the radius point bears North 00°16'48" East a distance of 4,962.17 feet;

THENCE following the northerly line of said City of Dallas tract of land as follows:

Westerly with said non-tangent curve to the right through a central angle of 03°24'43" for an arc length of 295.51 feet to the point of tangency;

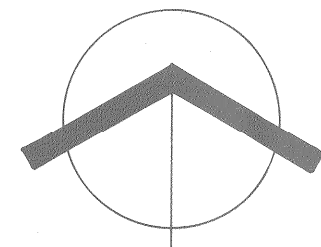
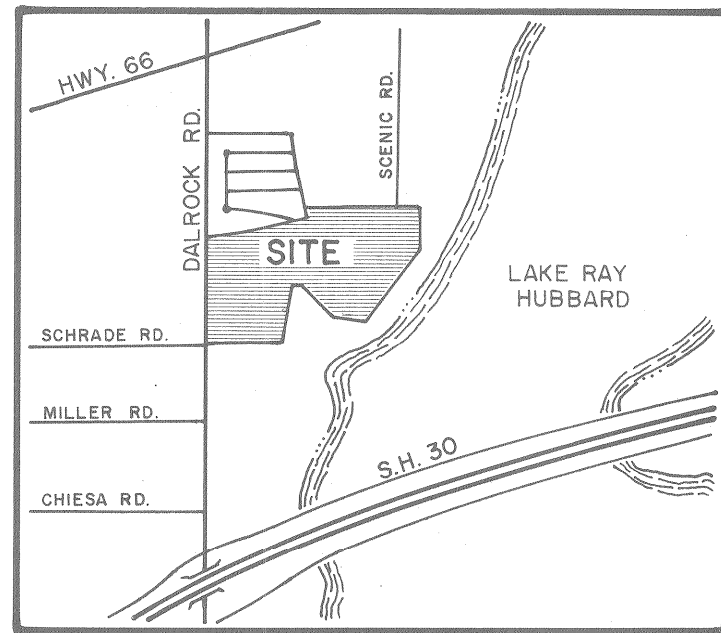
North 86°23'11" West a distance of 990.46 feet to a point for corner in the easterly line of said Dalröck Road;

THENCE following the easterly line of said Dalrock Road as follows:

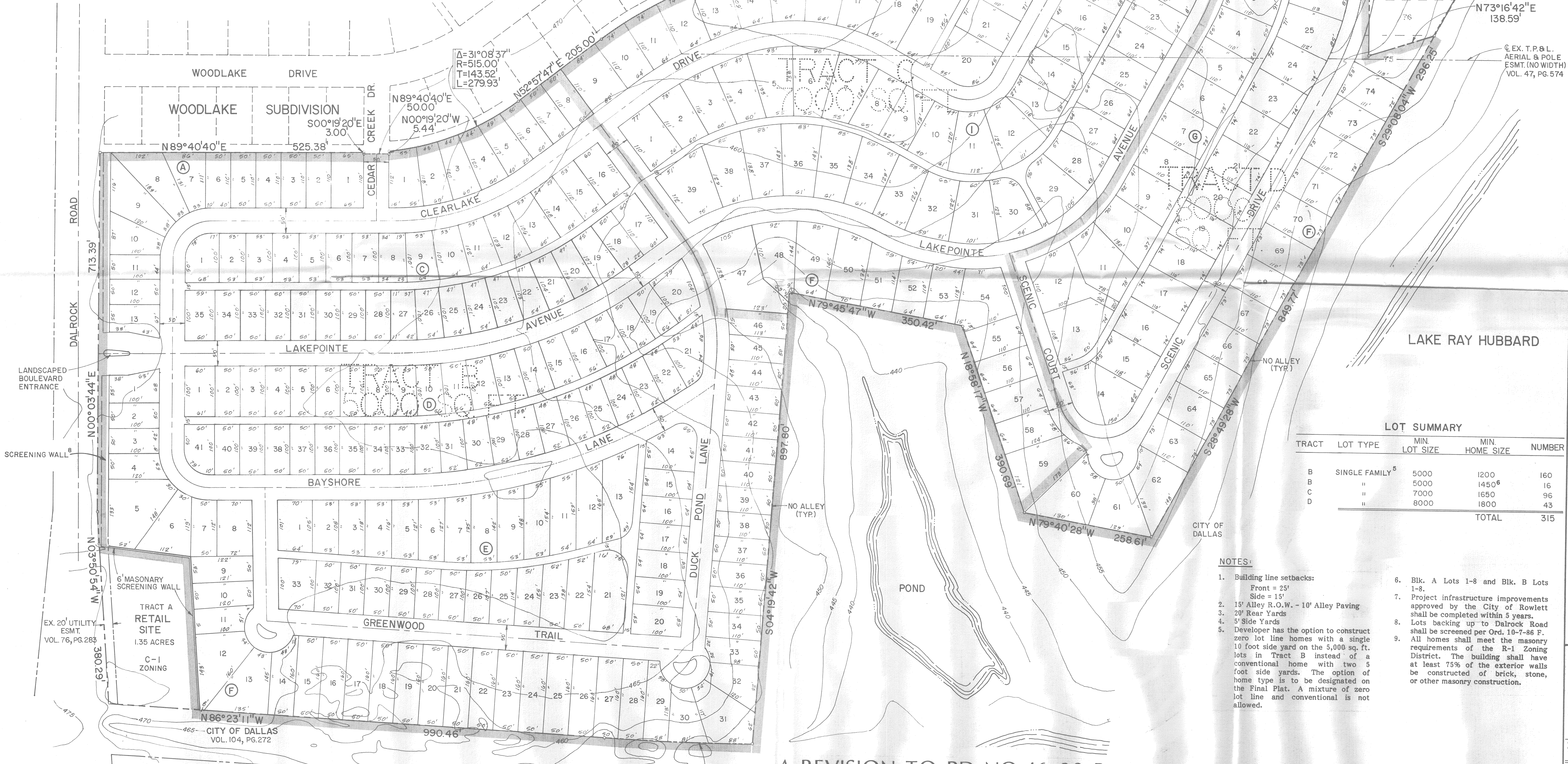
North 03°50'54" West a distance of 380.29 feet to a point for corner;

North 00°03'45" East a distance of 713.39 feet to the POINT OF BEGINNING;

CONTAINING within these metes and bounds 70.791 acres or 3,083,657 square feet of land, more or less.



0 100 200
Scale 1" = 100' feet



LOT SUMMARY				
TRACT	LOT TYPE	MIN. LOT SIZE	MIN. HOME SIZE	NUMBER
B	SINGLE FAMILY ⁵	5000	1200	160
B	"	5000	1450 ⁶	16
C	"	7000	1650	96
D	"	8000	1800	43
TOTAL				315

- NOTES:
- Building line setbacks:
Front = 25'
Side = 15'
 - 15' Alley R.O.W. - 10' Alley Paving
 - 20' Rear Yards
 - 5' Side Yards
 - Developer has the option to construct zero lot line homes with a single 10 foot side yard on the 5,000 sq. ft. lots in Tract B instead of a conventional home with two 5 foot side yards. The option of home type is to be designated on the Final Plat. A mixture of zero lot line and conventional is not allowed.
 - Blk. A Lots 1-8 and Blk. B Lots 1-8.
 - Project infrastructure improvements approved by the City of Rowlett shall be completed within 5 years.
 - Lots backing up to Dalrock Road shall be screened per Ord. 10-7-86 F.
 - All homes shall meet the masonry requirements of the R-1 Zoning District. The building shall have at least 75% of the exterior walls be constructed of brick, stone, or other masonry construction.

A REVISION TO PD NO.46 82 B

Approved: *H.C. Rawls*
MAYOR
Attest: *Heane Bean*
CITY SECRETARY

PAWA-Winkelmann & Associates, Inc.
CIVIL TRANSPORTATION ENGINEERS - PLANNERS - SURVEYORS
12660 COTT ROAD, SUITE 200
DALLAS, TX 75241

No.	Date	Revisions	App.

OWNER:
DAYNER CORPORATION
5819 SHERRY LANE, SUITE 1635
DALLAS, TEXAS 75220

LAKESHORE PARK ESTATES
W. CHART SURVEY, ABST. NO. 60
J. HART SURVEY, ABST. NO. 111

DEVELOPMENT PLAN
for
LAKESHORE PARK ESTATES

Scale: 1" = 100'
Date: MAY 5, 1987
Designed by: F. BALSTER
Drawn by: T. KETON
Checked by: F. BALSTER
Approved by:
Project No. 40003

SHEET
OF 1

Exhibit "B"
Ordinance No. 5-5-87B



Department of Planning and Community Development

Agenda Item – C.2

Rowlett Development Code Revisions

Request

Conduct a public hearing and make a recommendation on the request of the City of Rowlett to make text amendments to the *Rowlett Development Code* pertaining to limiting homeowner association's authority to regulate solar energy and wind energy systems.

Background *Erin Jones, Interim Planning Manager*

At the May 5th, 2009 City Council work session a draft ordinance was discussed that would limit the authority of homeowner associations (HOA) to regulate and/or prohibit installation and operation of residential wind energy and solar energy systems. At that time Council asked that this item be deferred until an ordinance specifically detailing wind energy regulations could be brought before the Council for consideration. At the October 27th, 2009 joint City Council and Planning and Zoning Commission work session a draft wind energy ordinance was discussed. It was determined that additional research was necessary and that the draft wind energy ordinance should not be brought forward at this time. Council did however direct staff to bring the draft ordinance limiting the authority of homeowner associations (HOA) to regulate and/or prohibit installation and operation of residential wind energy and solar energy systems forward at this time as it was deemed necessary to put regulations in place that will give citizens in HOA's organized or created in the future the ability to utilize these alternative energy sources as regulations permit.

As staff works to establish specific wind and solar energy ordinances it is their goal to work with existing HOA's to help encourage the use of solar and wind energy in the future as the proposed ordinance limiting the authority of HOA's will only affect new to HOA's, not existing.

Policy Explanation

The proposed ordinance limiting the authority of HOAs to regulate and/or prohibit installation and operation of residential solar and wind energy systems is an amendment to Chapter 77, section 600 of the *Rowlett Development Code*. Currently the *Rowlett Code of Ordinances* does not specifically address solar or wind energy systems. In the past the code was interpreted to prohibit the equipment associated with solar and wind energy based on the fact that it was not specifically addressed in the code. Interpretations of the code are at the discretion of the Director of Planning. In July, 2009 Patrick Baugh, Director of Public Works became the city manager's designee and assumed the duties previously assigned to the Director of Planning. Since that time the equipment associated with wind and solar energy has been interpreted as an accessory structure and is evaluated in light of code requirements as they pertain to noise, lot coverage, setbacks, and maximum height of the

zoning district, etc. In addition, all equipment must be installed to meet the electrical and building standards set forth in the city. Staff is working to draft specific ordinances regulating solar and wind energy, however, until those ordinances are adopted this interpretation allows staff to work with citizens who desire alternative energy options, thus promoting flexibility and customer service. To date there have been inquiries, however, no permits have been applied for associated with wind or solar energy.

The alternative energy industry is growing and is expected to continue to grow as energy costs increase and more people explore alternative ways to reduce their energy costs. Many HOAs limit or prohibit the installation of accessory structures and alterations to the exterior of residences. In many cases, HOA regulations prohibit the installation and operation of wind energy and solar energy systems.

The draft ordinance would apply to HOAs established after the date of adoption of this ordinance and would limit the authority of these HOAs to regulate and/or prohibit the installation and operation of solar energy systems.

Staff Recommendation

Staff recommends approval of the proposed text amendments to the *Rowlett Development Code* attached herein and requests that the Planning and Zoning Commission recommend approval to the City Council.

Notices

Notice of this public hearing was published in the *Rowlett Lakeshore Times* Newspaper as required by Texas Local Government Code and *Rowlett Development Code*. In addition, per a request from Councilmen, Patrick Jackson, all existing HOA's were specifically informed of the Public Hearings associated with this proposed amendment.

Attachments

- 1- Proposed Ordinance

Attachment 1

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ROWLETT, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING SECTION 77-605 OF CHAPTER 77-600 ("SUBDIVISION AND LAND DEVELOPMENT") OF CHAPTER 77 ("DEVELOPMENT CODE") TO DECLARE AND RENDER INVALID DEED RESTRICTIONS, RESTRICTIVE COVENANTS OR CONDITIONS APPLICABLE IN RESIDENTIAL SUBDIVISIONS THAT PROHIBIT SOLAR AND WIND ENERGY SYSTEMS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and City Council of the City of Rowlett, in compliance with state laws with reference to amending the Comprehensive Zoning Ordinance, and in compliance with the procedures set forth in the Rowlett Development Code, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally, the City Council is of the opinion and finds that the Rowlett Development Code should be amended as necessary to advance the public health, safety, morals, and general welfare of the city and the goals of the City Council as provided herein; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS:

Section 1. That the Code of Ordinances of the City of Rowlett, Texas be and is hereby amended by amending Chapter 77, "Rowlett Development Code," by amending subsection (H) of Section 77-605 of Chapter 77-600, "Subdivision and Land Development," to add a new subpart 4, without amendment, repeal or change to any other subpart, part, or provision of Section 77-605, such that the new subpart 4 of subsection (H) shall read as follows:

"CHAPTER 77

ROWLETT DEVELOPMENT CODE

...

Sec. 77-605. Dedication and reservations.

...

H. *Homeowners association.*

...

4. *Solar and Wind energy systems.* No homeowners association covenant, condition or deed restriction applicable within residential subdivisions shall prohibit or unreasonably limit or restrict the use of solar or wind energy systems, and any such covenant, condition or deed restriction is void and unenforceable. For the

Rowlett Development Code Revision
November 10, 2009
Planning and Zoning Commission

purposes of this provision, a "solar energy system" refers to a device or structural feature for the collection, storage, conversion and distribution sand use of solar energy for heating, cooling or electricity generation. A "wind energy system" refers to equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system."

Section 2. That all ordinances of the City of Rowlett in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the City of Rowlett not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 3. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

Section 4. This ordinance shall take effect from and after its passage and the publication of the caption as the law and Charter in such cases provide.

DULY PASSED by the City Council of the City of Rowlett, Texas, this the _____ day of _____, 2009.

APPROVED:

Dr. John E. Harper, Mayor
City of Rowlett, Texas

ATTEST:

Susie Quinn, City Secretary
City of Rowlett, Texas

APPROVED AS TO FORM:

David M. Berman, City Attorney



**Department of Public Works
Planning Division**

Agenda Item – C.3

Case Number – CUP09-440

Maverick Bail Bonds – Conditional Use Permit

Request *Lawrence McCurdy, Applicant*

Conduct a Public Hearing to consider and take appropriate action on a Conditional Use Permit (CUP) application for a 250± square foot Bail Bonds office. The subject property is located at 4501 Rowlett Road, Rowlett, TX, and is a part of the Toler Business Park No. 2 subdivision.

Background *Amy Mathews, Planner II*

The subject property is located at 4501 Rowlett Road. A location map is included as attachment 1 for reference. The proposed use is for a bail bonds office. The *Rowlett Development Code* (RDC) does not specifically define the bail bonds use. It is staff's interpretation after receiving guidance from the City Attorney, David Berman, that a bail bonds use is most closely related to a general office use. The subject property is zoned C-2 (General Commercial/Retail District), which requires a CUP for single tenant office uses.

Per the RDC, the required parking for general office is one space per 300 square feet of lease space; therefore, the required parking is one (1) space for the proposed use. There is sufficient parking available in the shopping center to accommodate this use along with the existing uses.

Since the subject property is an existing location for lease and the building and site are not being altered, the applicant was not required to provide revised Development Plans at this time. Please see attachment 2 for the lease space location.

Notices

Notice of this public hearing was mailed to the property owner and all other property owners within 200-feet (ft) of the subject property, as indicated by the most recently approved municipal tax roll and as required by Texas Local Government Code and RDC.

Nineteen (19) notices were mailed on October 26, 2009. As of Wednesday, November 4th, one response was returned in opposition due to lack of compatibility of the use adjacent to the Downtown District.

Existing Land Use and Zoning

The property is located in the General Commercial/Retail (C-2) district and contains a single story retail/office building. A CUP is required for a single tenant office use located in C-2 zoning.

Section 77:203 of the RDC defines C-2 as follows:

“General Commercial/Retail District--C-2. The C-2 district is intended for the conduct of retail sales-type uses, with only a subordinate percentage of a development associated with other retail and office uses. Traffic generated by the uses will be primarily passenger vehicles and only those trucks and commercial vehicles required for stocking and delivery. The C-2 district is intended to be applied primarily to areas of high traffic volume and along areas accessing high-volume streets.”

Zoning Adjacent to the Property

NORTH: MU-DT AND PD (DEVELOPED AS COMMERCIAL, MANUFACTURING, AND OFFICE)

SOUTH: C-2 (DEVELOPED AS COMMERCIAL AND OFFICE)

EAST: MU-DT SUP (DEVELOPED AS COMMERCIAL AND OFFICE)

WEST: PD (UNDEVELOPED)

Conclusion

A CUP is required for a single tenant office use located in the C-2 zoning district. Chapter 77, Section 807 of the RDC states that, “a conditional use permit is not transferable and does not constitute a change of zoning.” If approved, this CUP will only be associated with the Maverick Bail Bonds office. If in the future a new similar use takes over the lease space, a new CUP will be required.

In addition, the RDC states that the purpose of a CUP is as follows:

“A conditional use permit is intended to address compatibility issues to adjacent or neighboring properties, available infrastructure, and the corridor where such is proposed in keeping with the goals of the corridor. The conditional use permit review and approval procedure provides a discretionary approval process for uses that may have unique or widely varying operating characteristics or unusual site development features. An application for a conditional use permit is not a zoning within the meaning of Section 211 of the Texas Local Government Code. The procedure encourages public review and evaluation of a use's operating characteristics and site development features and is also intended to ensure that proposed uses will not have a significant adverse impact on surrounding uses, infrastructure, the transportation corridors, or on the community-at-large.”

The RDC states that a CUP application shall be approved by the Planning and Zoning Commission if **all** of the following criteria have been met (staff has added bulleted commentary beneath each point of consideration as applicable):

1. The proposed use is consistent with the purpose and intent of the zoning district in which it is located;
 - The subject shopping center currently has several office uses that were in place prior to the CUP requirement for single tenant office uses in C-2 zoning. The C-2 district is intended for the conduct of retail sales-type uses, with only a subordinate percentage of a development associated with other retail and office uses. Based on the definition of C-2 it is staff's opinion that the proposed use is not consistent with the purpose and intent of the zoning district.
2. The proposed use is consistent with any applicable use-specific standards set forth in subchapter 77-303;
3. The use as proposed is compatible with adjacent uses in terms of scale, site design, operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts) ;
 - Staff is concerned about compatibility issues with adjacent uses if the Bail Bonds office is to be open at times other than traditional office hours. Staff has made several attempts since the CUP submittal on October 6, 2009, to contact the applicant both by phone and e-mail. As of November 4, 2009, staff has received no response or additional information from the applicant. It is staff's opinion that there has not been sufficient evidence presented to make the determination that the Bail Bonds office use would be compatible with surrounding uses.
4. The proposed use is compatible with city council goals related to the corridor upon which it is proposed, as applicable;
 - The proposed office use is not compatible with city council goals for the proposed area based on the previously mentioned definition of C-2 zoning district.
5. Any significant adverse impacts anticipated to result from the use will be mitigated or offset to the maximum extent practicable; and
6. The proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

Staff Recommendation

Staff recommends denial based on the fact that the proposed use does not meet the intent of C-2 retail uses, is not compatible with the Comprehensive Plan, and no evidence was provided to show that the use is "compatible with adjacent uses in terms of scale, site design, operating characteristics".

Staff contacted Chief of Police, Matt Walling, regarding the proposed use. He stated that he has no issues with a bail bonds office use at the proposed location.

If the Planning and Zoning Commission votes to approve the requested CUP staff request the hours of operation be restricted as a condition of approval to prevent the office from being opened 24 hours a day.

Attachments

1. Location Map
2. Photo of lease space location
3. Public Hearing Response

ATTACHMENT 1

Project Location Map



ATTACHMENT 2

Lease Space Location



ATTACHMENT 3

Public Hearing Response



Department of Public Works/
Planning Division

NOTICE OF PUBLIC HEARING

TO: Property Owner
RE: Application for a Conditional Use Permit (CUP)
LOCATION: The subject property is located at 4501 Rowlett Road, Rowlett, TX, and is a part of the Toler Business Park No. 2 subdivision. A location map depicting the 200 foot notification area is attached for reference. This notice and the notification area are required under Chapter 211.007 of the Texas Local Government Code.
EXPLANATION OF REQUEST: The applicant, representing Maverick Bail Bonds, requests the granting of a Conditional Use Permit (CUP) for a 250⁺ square foot Bail Bonds Office within an existing retail/office building located in General Commercial (C-2) Zoning. (CUP09-440)

- ☐ I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:
☒ I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

COMMENTS: WITH ALL THE RESTRICTIONS PLACED ON US REGARDING THE DOWNTOWN DISTRICT.

IT SEEMS TO ME THAT A BAIL BONDS OFFICE SO CLOSE TO THIS DOWNTOWN DISTRICT
IS NOT THE IMAGE THE CITY IS TRYING TO PROMOTE.

SIGNATURE:

[Handwritten Signature]

ADDRESS:

4518 ROWLETT ROAD ROWLETT, TX 75088

Your written comments are being solicited in the above case. Additional information is available through the Department of Public Works/Planning Division located at 3901 Main Street. The Planning and Zoning Commission will hold a public hearing and take final action on the above case. The meeting will be in the City Council Chambers, located at 4000 Main Street, Rowlett, Texas, at 7 PM on Tuesday, November 10, 2009.

Please respond legibly in ink. If the signature and/or address is missing, your comments will not be recorded. Your response must be received in the Department of Public Works/Planning Division by 5 pm on Wednesday, November 4, 2009, for your comments to be included in the Planning and Zoning Commission's November 10, 2009, packet. Responses received after that time will be forwarded to the Commission at the respective public hearing.

If you have any questions concerning this request, please contact Amy Mathews at Department of Public Works/Planning Division.
Phone 972-463-3904
FAX 972-412-6228

RETURN BY FAX OR MAIL
City of Rowlett
Department of Public Works/Planning Division
PO Box 99
Rowlett, TX 75080-0099