

# **A G E N D A**

A regular meeting of the Mayor and City Council of the City of Waxahachie, Texas to be held in the Council Chamber at City Hall, 401 S. Rogers, Waxahachie, Texas, on ***Monday, December 6, 2021 at 7:00 p.m.***

Council Members: Doug Barnes, Mayor, Council Member Place 2  
Billie Wallace, Mayor Pro Tem, Council Member Place 4  
David Hill, Council Member Place 1  
Melissa Olson, Council Member Place 3  
Travis Smith, Council Member Place 5

1. Call to Order
2. Invocation
3. Pledge of Allegiance and Texas Pledge of Allegiance
4. ***Public Comments:*** Persons may address the City Council on any issues. This is the appropriate time for citizens to address the Council on any concern whether on this agenda or not. In accordance with the State of Texas Open Meetings Act, the Council may not comment or deliberate such statements during this period, except as authorized by Section 551.042, Texas Government Code. ***Speakers must observe the five (5) minute time limit.***
5. ***Consent Agenda***  
  
All matters listed under Item 5, Consent Agenda, are considered to be routine by the City Council and will be enacted by one motion. There will not be separate discussion of these items. Approval of the Consent Agenda authorizes the Mayor/City Manager to execute all matters necessary to implement each item. Any item may be removed from the Consent Agenda for separate discussion and consideration by any member of the City Council.
  - a. Minutes of the City Council meeting of November 15, 2021
  - b. Minutes of the City Council briefing of November 15, 2021
6. ***Continue Public Hearing*** on a request by Yomi and Siyanade Fayiga for a Zoning Change from a Future Development Zoning to Planned Development-General Retail (PD-GR) zoning district, located along Broadhead Road, East of Robbie E. Howard Junior High School (Property ID 178923) - Owner: EQUITY TRUST COMPANY CUSTODIAN FBO (ZDC-146-2021)
7. ***Consider*** proposed Ordinance approving ZDC-146-2021
8. ***Continue Public Hearing*** on a request by Jonathan Cruz, HGO Tire Shop, for a Zoning Change from a Future Development (FD) zoning district to Planned Development – Future Development (PD-FD) zoning district, to allow an outside storage use, located at 211 E. Sterrett Road (Property ID 187131) - Owner: DAYSTAR COACHES & TOURS INC (ZDC-164-2021)
9. ***Consider*** proposed Ordinance approving ZDC-164-2021

10. **Public Hearing** on a request by Akhila Reddy Gondi, Triangle Engineering, LLC, for a Specific Use Permit (SUP) for a Drive-Through Establishment (Starbucks) use within a General Retail zoning district located 1,500 feet South of Butcher Road and East of Hwy 77 (Property ID 189379) - Owner: VAQUERO HIGHWAY 77 WAXAHACHIE PARTNERS LP (ZDC-174-2021)
11. **Consider** proposed Ordinance approving ZDC-174-2021
12. **Consider** Development Agreement for Buffalo Creek, lots 1-10, Block A, being 30.35 acres situated in the J.B. & Ann Adams Survey, Abstract 5, John Gooch Survey, Abstract 393, an addition in the City of Waxahachie (Property ID 179000) – Owner: BUFFALO CREEK PLAZA, LLC (SUB-175-2021)
13. **Consider** request by Jason P. Volk, J. Volk Consulting, for a Final Plat of The Place Townhomes, Lots 3-10, 11X, Block 1, being 1.766 acres situated in the John B. Adams & Ann Survey, Abstract 5, Robert Russell Survey, Abstract 911, and Henry Sange Survey, Abstract 1009, an addition in the City of Waxahachie (Property ID 283993) – Owner: NORTH GROVE 12.5 LLC SERIES 1 (SUB-177-2021)
14. **Public Hearing** on a request by Danny Wood, Wood Brothers Construction, LLC, for a Specific Use Permit (SUP) for an Accessory Structure +700SF use within a Single Family-1 zoning district located at 2305 Marshall Road (Property ID 203935) - Owner: JORGE & JAZMIN A PURICELLI (ZDC-171-2021)
15. **Consider** proposed Ordinance approving ZDC-171-2021
16. **Public Hearing** on a request by Drew Donosky, Claymoore Engineering, for a Specific Use Permit (SUP) for a Hospital (Inpatient Rehabilitation Facility) use within a General Retail zoning district located at East of the intersection of Indian Drive and Brown Street (Property ID 179000) - Owner: BUFFALO CREEK PLAZA, LLC (ZDC-173-2021)
17. **Consider** proposed Ordinance approving ZDC-173-2021
18. **Consider** Development Agreement for ZDC-173-2021
19. **Public Hearing** on a request by Rafael Benavides for a Zoning Change from a Single Family-2 (SF2) zoning to Planned Development-Single Family-2 (PD-SF2) to allow an existing Additional Single-Family Residence for rent use located at 314 Kaufman Street (Property ID 170847) - Owner: RAFAEL & GREGORIA S BENAVIDES (ZDC-176-2021)
20. **Consider** proposed Ordinance approving ZDC-176-2021
21. **Consider** bid award to Utility Trailer of Dallas, Inc. for stainless steel end dump trailer for the Wastewater Treatment Plant
22. Comments by Mayor, City Council, City Attorney and City Manager
23. Adjourn

**The City Council reserves the right to go into Executive Session on any posted item.** This meeting location is wheelchair-accessible. Parking for mobility-impaired persons is available. Any request for sign interpretive services must be made forty-eight hours ahead of the meeting. To make arrangements, call the City Secretary at 469-309-4006 or (TDD) 1-800-RELAY TX

(50)

City Council  
November 15, 2021

A briefing session of the Mayor and City Council of the City of Waxahachie, Texas was held in the City Council Conference Room at City Hall, 401 S. Rogers, Waxahachie, Texas, on Monday, November 15, 2021 at 6:00 p.m.

Council Members Present: Doug Barnes, Mayor, Council Member Place 2  
Billie Wallace, Mayor Pro Tem, Council Member Place 4  
David Hill, Council Member Place 1  
Melissa Olson, Council Member Place 3  
Travis Smith, Council Member Place 5

Others Present: Michael Scott, City Manager  
Albert Lawrence, Deputy City Manager  
Shon Brooks, Executive Director of Development Services  
Gumaro Martinez, Executive Director Park & Leisure Services  
Richard Abernethy, Director of Administrative Services  
Robert Brown, City Attorney  
Amber Villarreal, City Secretary

**1. Call to Order**

Mayor Doug Barnes called the meeting to order.

**2. Conduct a briefing to discuss items for the 7:00 p.m. regular meeting**

City Manager Michael Scott reviewed the following items:

- Item 5d, annual Interlocal Agreement with Ellis County to coordinate services to efficiently repair roads that align with our ETJ.
- Item 5e, Impact Fee Capital Improvement Advisory Committee's Capital Improvement Plan annual fiscal year update.
- Item 5f, private Sanitary Sewer Easement within Sports Complex property.
- Item 5g, resolution electing to participate in the proposed Opioid Settlements presented by the State of Texas.

Gumaro Martinez, Executive Director Park & Leisure Services, reviewed item 5h. noting the request would use WCDC reserves to fund power distribution boxes and cable connections to Railyard Park.

James Villarreal, Assistant Director of Sports Complex, reviewed item 5i. noting the request is to approve the Synthetic Turf Improvements Project Phase 2 and approve supplemental appropriation in the amount of \$75,000.

Shon Brooks, Executive Director of Development Services, reviewed the following cases:

- ANX-DNX-178-2021, applicant requested to continue this case to the December 20, 2021 City Council meeting.
- ZDC-162-2021, applicant requested to continue this case to the December 20, 2021 City Council meeting.

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- ZDC-105-2021, applicant requested to continue this case to the December 20, 2021 City Council meeting.
- ZDC-155-2021, applicant requested to continue this case to the December 20, 2021 City Council meeting.
- ZDC-146-2021, applicant requested to continue this case to the December 6, 2021 City Council meeting.
- ZDC-157-2021, applicant is requesting approval to construct a 288 sq. ft. accessory structure to be used as a dwelling and staff recommends approval per staff comments.
- ZDC-164-2021, applicant is requesting a zoning change from Future Development to Planned Development-Future Development to allow for outside storage and trailer parking for HGO Tire Shop. Due to staff's concerns with safety and the Zoning Ordinance, staff and the Planning and Zoning Commission recommend denial. He explained there is no primary use for the site and the use of storage is considered an accessory use. The Zoning Ordinance states an accessory use cannot occupy the property alone.
- ZDC-150-2021, applicant is requesting a Specific Use Permit (SUP) to allow outside storage as part of a proposed Caliber Collision and staff recommends approval per staff comments.

Council Member Travis Smith expressed concerns with the sufficiency of the screening wall.

Anita Simpson, Downtown Development Director, reviewed the following items:

- Item 23, the Residential Historic Preservation Design Guidelines has been an extensive project led by the Heritage Preservation Commission and consultant Winter & Company, along with public input through meetings and surveys. She explained the guidelines will be voluntary and only used as a tool to assist property owners with maintaining the investment of their historic homes.

Mayor Barnes and Council Member Melissa Olson thanked the Heritage Preservation Commission for all their work noting the guidelines are easy to read and understand.

- Item 24, the Farmers Market vendors reported 2021 seasonal sales of \$257,352.36. She explained this is the 19<sup>th</sup> year of the Farmers Market and 2021 sales represents the highest sales total ever reported for a season and an almost 42% increase over the previous best year in 2019.

Police Chief Wade Goolsby reviewed item 25 noting the proposed golf cart ordinance was drafted from comments and requests from City Council at their September Work Session. He explained the proposed ordinance would make the rules the same for golf carts, neighborhood electric vehicles, and off-highway vehicles in order to simplify the rules. The ordinance would provide a balance of allowing the operation of those vehicles on streets in the safest manner.

Mayor Pro Tem Billie Wallace expressed her concern with the safety of passengers by allowing those vehicles on the roadway and explained she could not support the ordinance for that reason.

Council Member David Hill requested to change the term "golf cart" to "vehicles" in the proposed ordinance.

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Council Member Smith inquired about the operation hours and noted he supports allowing the vehicles to be driven at night with appropriate lighting. He noted allowance will support quality of life in neighborhoods.

Council Member Olson explained she supports the ordinance as written to allow police enforcement, but is apprehensive about extending the hours to after dark.

Chief Goolsby shared the same concerns as Mayor Pro Tem Wallace and explained the ordinance was written per Council's direction. He explained the ordinance can be revised with Council's requests.

### **3. Adjourn**

There being no further business, the meeting adjourned at 7:00 p.m.

Respectfully submitted,

Amber Villarreal  
City Secretary

(5b)

City Council  
November 15, 2021

A regular meeting of the Mayor and City Council of the City of Waxahachie, Texas was held in the Council Chamber at City Hall, 401 S. Rogers, Waxahachie, Texas, on Monday, November 15, 2021 at 7:00 p.m.

**Council Members Present:** Doug Barnes, Mayor, Council Member Place 2  
Billie Wallace, Mayor Pro Tem, Council Member Place 4  
David Hill, Council Member Place 1  
Melissa Olson, Council Member Place 3  
Travis Smith, Council Member Place 5

**Others Present:** Michael Scott, City Manager  
Albert Lawrence, Deputy City Manager  
Shon Brooks, Executive Director of Development Services  
Gumaro Martinez, Executive Director Park & Leisure Services  
Richard Abernethy, Director of Administrative Services  
Robert Brown, City Attorney  
Amber Villarreal, City Secretary

**1. Call to Order**

Mayor Doug Barnes called the meeting to order.

**2. Invocation**

**3. Pledge of Allegiance and Texas Pledge of Allegiance**

Aaron Clayton, Remedy Church, gave the invocation. Council Member David Hill led the Pledge of Allegiance and the Texas Pledge of Allegiance.

**4. Public Comments**

Andrew Green, 200 Longhorn Drive, Waxahachie, Texas, introduced his new business "Texas Bin Wash" which will clean, sanitize, and deodorize trash bins.

Patrick Souter, 700 W. Main, Waxahachie, Texas, encouraged exhibits to ordinances, such as the Historic Residential Design Guidelines, be available on the City's website for public review. He thanked the Heritage Preservation Commission and City staff for their work on the guidelines.

**5. Consent Agenda**

- a. Minutes of the City Council meeting of November 1, 2021
- b. Minutes of the City Council briefing of November 1, 2021
- c. Minutes of the City Council Work Session of November 1, 2021
- d. Interlocal Agreement with Ellis County for maintenance of roads, bridges, waterways and ditches
- e. Accept the Impact Fee Capital Improvement Advisory Committee's Capital Improvement Plan Recommendation Letter
- f. Request to allow for private Sanitary Sewer Easement within Waxahachie Sports Complex property

(5b)

- g. Resolution Electing to Participate in the Proposed Opioid Settlements Presented by the State of Texas
- h. Supplemental Appropriation from WDCDC reserves to fund power distribution boxes and cable connections for Railyard Park
- i. Award and Supplemental Appropriation for the Synthetic Turf Improvements Project Phase 2 at the Sports Complex

**RESOLUTION NO. 1320**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, ELECTING TO PARTICIPATE IN THE PROPOSED OPIOID SETTLEMENTS BROUGHT BY THE STATE OF TEXAS AND OTHER JURISDICTIONS AGAINST VARIOUS PHARMACEUTICAL COMPANIES FOR THEIR ROLES IN THE NATIONAL OPIOID CRISIS; MAKING FINDINGS; AUTHORIZING THE CITY MANAGER TO EXECUTE APPROPRIATE DOCUMENTATION RELATED THERETO; ADOPTING THE TEXAS TERM SHEET; AND PROVIDING FOR AN EFFECTIVE DATE.**

**Action:**

*Mayor Pro Tem Billie Wallace moved to approve items a. through i. on the Consent Agenda. Council Member David Hill seconded, All Ayes.*

- 6. Public Hearing on a request by Susan M. Calvert, Owner, for a Voluntary Annexation of approximately 19.25 acres located in the William Irwin Survey, Abstract No 545, at 823 Ovilla Road (Property ID 185891 & 185980) - Owner: SUSAN M CALVERT (ANX-DNX-178-2021)**

Mayor Barnes opened the Public Hearing and announced the applicant requested to continue ANX-DNX-178-2021 to the December 20, 2021 City Council meeting.

- 7. Consider proposed Ordinance adopting ANX-DNX-178-2021**

**Action:**

*Council Member Melissa Olson moved to continue the Public Hearing on a request by Susan M. Calvert, Owner, for a Voluntary Annexation of approximately 19.25 acres located in the William Irwin Survey, Abstract No 545, at 823 Ovilla Road (Property ID 185891 & 185980) - Owner: SUSAN M CALVERT (ANX-DNX-178-2021) to the December 20, 2021 City Council meeting. Mayor Pro Tem Billie Wallace seconded, All Ayes.*

- 8. Public Hearing on a request by Chip Boyd, JHDMC, LLC, for a Zoning Change from a Single Family-1 zoning district to Planned Development - Single Family-3 (PD-SF-3) zoning district, located at 823 Ovilla Road (Property ID 185893, 185891, 185980, 185979, 200064) - Owner: SUSAN M CALVERT (ZDC-162-2021)**

Mayor Barnes opened the Public Hearing and announced the applicant requested to continue ZDC-162-2021 to the December 20, 2021 City Council meeting.

(5b)

**9. Consider proposed Ordinance approving ZDC-162-2021**

**Action:**

*Mayor Pro Tem Billie Wallace moved to continue the Public Hearing on a request by Chip Boyd, JHDMC, LLC, for a Zoning Change from a Single Family-1 zoning district to Planned Development - Single Family-3 (PD-SF-3) zoning district, located at 823 Ovilla Road (Property ID 185893, 185891, 185980, 185979, 200064) - Owner: SUSAN M CALVERT (ZDC-162-2021) to the December 20, 2021 City Council meeting. Council Member Melissa Olson seconded, All Ayes.*

**10. Continue Public Hearing on a request by Josh Dunlap, for a Zoning Change from a Planned Development-General Retail to Planned Development-Multiple Family-2 (PD-MF-2) zoning district, located at 809 Dr. Martin Luther King Jr. Blvd. (Property ID 205458 and 171253) - Owner: GIBSON & GIBSON, LLC (ZDC-105-2021)**

Mayor Barnes continued the Public Hearing and announced the applicant requested to continue ZDC-105-2021 to the December 20, 2021 City Council meeting.

**11. Consider proposed Ordinance approving ZDC-105-2021**

**Action:**

*Council Member Melissa Olson moved to continue the Public Hearing on a request by Josh Dunlap, for a Zoning Change from a Planned Development-General Retail to Planned Development-Multiple Family-2 (PD-MF-2) zoning district, located at 809 Dr. Martin Luther King Jr. Blvd. (Property ID 205458 and 171253) - Owner: GIBSON & GIBSON, LLC (ZDC-105-2021) to the December 20, 2021 City Council meeting. Mayor Pro Tem Billie Wallace seconded, All Ayes.*

**12. Continue Public Hearing on a request by Michael C. Jackson, Wynne Jackson, for Zoning Change from a Single Family-1 (SF1) zoning to Planned Development-Light Industrial-1 (PD-LI-1) for an Industrial Complex (Manufacturing/Distribution) use located West of Solon Road and East of Patrick Road (Property ID 182299) - Owner: REED LAND MANAGEMENT (ZDC-155-2021)**

Mayor Barnes continued the Public Hearing and announced the applicant requested to continue ZDC-155-2021 to the December 20, 2021 City Council meeting.

**13. Consider proposed Ordinance approving ZDC-155-2021**

**Action:**

*Mayor Pro Tem Billie Wallace moved to continue the Public Hearing on a request by Michael C. Jackson, Wynne Jackson, for Zoning Change from a Single Family-1 (SF1) zoning to Planned Development-Light Industrial-1 (PD-LI-1) for an Industrial Complex (Manufacturing/Distribution) use located West of Solon Road and East of Patrick Road (Property ID 182299) - Owner: REED LAND MANAGEMENT (ZDC-155-2021) to the December 20, 2021 City Council meeting. Council Member Melissa Olson seconded, All Ayes.*



(5b)

- 14. Continue Public Hearing on a request by Yomi and Siyanade Fayiga for a Zoning Change from a Future Development Zoning to Planned Development-General Retail (PD-GR) zoning district, located along Broadhead Road, East of Robbie E. Howard Junior High School (Property ID 178923) - Owner: EQUITY TRUST COMPANY CUSTODIAN FBO (ZDC-146-2021)**

Mayor Barnes continued the Public Hearing and announced the applicant requested to continue ZDC-146-2021 to the December 6, 2021 City Council meeting.

- 15. Consider proposed Ordinance approving ZDC-146-2021**

**Action:**

*Council Member Melissa Olson moved to continue the Public Hearing on a request by Yomi and Siyanade Fayiga for a Zoning Change from a Future Development Zoning to Planned Development-General Retail (PD-GR) zoning district, located along Broadhead Road, East of Robbie E. Howard Junior High School (Property ID 178923) - Owner: EQUITY TRUST COMPANY CUSTODIAN FBO (ZDC-146-2021) to the December 6, 2021 City Council meeting. Mayor Pro Tem Billie Wallace seconded, All Ayes.*

- 16. Public Hearing on a request by Tarayn Dickerson, for a Specific Use Permit (SUP) for an Accessory Dwelling use within a Single Family-2 (SF-2) zoning district located at 1109 W Main St (Property ID 176626) - Owner: MICAH MUNCHRATH (ZDC-157-2021)**

Shon Brooks, Executive Director of Development Services, presented the case noting the applicant is requesting approval to construct a 288 sq. ft. accessory structure to be used as a dwelling and staff recommends approval per the following staff comments:

1. The applicant will need to obtain a building permit from the City of Waxahachie Building Inspections department prior to construction of the proposed structure.
2. The structure shall not, in any case, be leased or sold separately and shall not be separately metered.

Mayor Barnes opened the Public Hearing.

Council Member Melissa Olson asked the applicant if they had any additional consideration to modify the accessory structure with a historic look.

Tarayn Dickerson, 1109 W. Main Street, Waxahachie, Texas, explained she will keep their initial proposal to stay within their budget.

Mayor Pro Tem Billie Wallace asked if the building will be seen from any right-of-way and Ms. Dickerson noted it will not be visible except from her own backyard.

There being no others to speak for or against ZDC-157-2021, Mayor Barnes closed the Public Hearing.

(5b)

**17. Consider proposed Ordinance approving ZDC-157-2021**

**ORDINANCE NO. 3303**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT AN ACCESSORY DWELLING USE WITHIN A SINGLE FAMILY – 2 (SF-2) ZONING DISTRICT, LOCATED 1109 W MAIN STREET, BEING PROPERTY ID 176626, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 1A, BLOCK 9 IN THE WEST END REVISION SUBDIVISION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Mayor Pro Tem Billie Wallace moved to approve Ordinance No. 3303. Council Member Melissa Olson seconded, All Ayes.*

**18. Public Hearing on a request by Jonathan Cruz, HGO Tire Shop, for a Zoning Change from a Future Development (FD) zoning district to Planned Development – Future Development (PD-FD) zoning district, to allow an outside storage use, located at 211 E. Sterrett Road (Property ID 187131) - Owner: DAYSTAR COACHES & TOURS INC (ZDC-164-2021)**

Mr. Brooks presented the case noting the applicant is requesting a zoning change from Future Development to Planned Development-Future Development to allow for outside storage and trailer parking for HGO Tire Shop. He explained the applicant is currently leasing the property from Daystar Coaches & Tours since August 2020. Code Enforcement received a complaint regarding the storage on the property and it discovered the non-compliance with zoning for the use. The applicant has since cleaned the property and removed visible storage into the existing building.

Mayor Barnes opened the Public Hearing.

Vanessa Cabrera, HGO Tire Shop, 137 Deer Creek, Waxahachie, Texas, requested approval to continue the use. She explained the applicant is open to adding additional screening, landscaping, or fencing in order to continue the use at this site. She reported she spoke with the Fire Department to address their concerns. She explained she is waiting on TCEQ to inquire about where and how tires can be safely stored.

Council Member Olson noted her biggest concern is with fire safety.

There being no others to speak for or against ZDC-164-2021, Mayor Barnes closed the Public Hearing.

Council Member Travis Smith suggested continuing the case to allow the applicant more time to work with staff on options for properly storing tires. He expressed his concern with shutting down the operations of a small business.

Mayor Pro Tem Billie Wallace asked what can be done to mitigate fire concerns to make sure the site is safe.

(5b)

Council Member David Hill noted the building size does not require a fire suppression system; however, fire safety is still a concern.

Deputy City Manager explained former Fire Chief David Hudgins noted a fire on the site would require evacuation of the surrounding homes.

City Manager Michael Scott noted the property is currently zoned Future Development which does not allow for commercial use.

**19. Consider proposed Ordinance approving ZDC-164-2021**

**Action:**

*Council Member Travis Smith moved to continue the Public Hearing on a request by Jonathan Cruz, HGO Tire Shop, for a Zoning Change from a Future Development (FD) zoning district to Planned Development – Future Development (PD-FD) zoning district, to allow an outside storage use, located at 211 E. Sterrett Road (Property ID 187131) - Owner: DAYSTAR COACHES & TOURS INC (ZDC-164-2021) to the December 6, 2021 City Council meeting. Council Member Melissa Olson seconded, the vote was as follows: Ayes: Doug Barnes, David Hill, Melissa Olson, and Travis Smith. Noes: Billie Wallace.*

*The motion carried.*

**20. Continue Public Hearing on a request by Sidney Stratton, Manhard Consulting, for a Specific Use Permit (SUP) for an Auto Repair, Major (Caliber Collision) use within a Light Industrial-1 zoning district located at the intersection of Dart Way and North Highway 77 (Property ID 222752) - Owner: ADEMM 1 FAMILY LIMITED PARTNERSHIP LTD (ZDC-150-2021)**

Mr. Brooks presented the case noting the applicant is requesting a Specific Use Permit (SUP) to allow outside storage as part of a proposed Caliber Collision and staff recommends approval per the following staff comments:

1. A mutually agreed upon Development Agreement will be required for the development.
2. The applicant shall submit a detailed elevation/façade plan to staff for administrative review.

Mayor Barnes continued the Public Hearing.

Chris Wright, 808 W. Marvin, Waxahachie, Texas, requested Council Member Smith to abstain from voting on this case due to his family previously owning a similar business.

Council Member Smith confirmed his family no longer owns a similar collision center.

There being no others to speak for or against ZDC-150-2021, Mayor Barnes closed the Public Hearing.

**21. Consider proposed Ordinance approving ZDC-150-2021**

(5b)

**ORDINANCE NO. 3304**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT AN OUTSIDE STORAGE/AUTO REPAIR, MAJOR (CALIBER COLLISION) USE WITHIN A LIGHT INDUSTRIAL-1 (LI1) ZONING DISTRICT, LOCATED AT THE SOUTHWEST CORNER OF DART WAY AND US HWY 77, BEING PROPERTY ID 222752, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 1-A A OF THE REVCO SUBDIVISION-REV, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Council Member Melissa Olson moved to approve Ordinance No. 3304. Mayor Doug Barnes seconded, the vote was as follows: Ayes: Doug Barnes, David Hill, and Melissa Olson. Noes: Billie Wallace and Travis Smith.*

***The motion carried.***

**22. Consider Development Agreement for ZDC-150-2021**

**Action:**

*Council Member Melissa Olson moved to approve a Development Agreement for ZDC-150-2021. Mayor Pro Tem Billie Wallace seconded, the vote was as follows: Ayes: Doug Barnes, David Hill, Melissa Olson, and Billie Wallace. Noes: Travis Smith.*

***The motion carried.***

**23. Consider proposed Ordinance adopting Historic Residential Design Guidelines**

Anita Simpson, Downtown Development Director, presented the proposed Historic Residential Design Guidelines. She explained the guidelines are not a regulatory document but a tool for property owners to protect their investment. She recognized the Heritage Preservation Commission for diligently working on this project and she thanked City Council for their support. Once approved, the guidelines will be available for viewing on the City's website and printed copies will be available for viewing or checking out.

Mayor Barnes thanked the Heritage Preservation Commission for their work noting historic preservation is a part of Waxahachie's history.

**ORDINANCE NO. 3305**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS ADOPTING RESIDENTIAL DESIGN GUIDELINES FOR HISTORIC PROPERTIES AND NEIGHBORHOODS AND SETTING AN EFFECTIVE DATE.**

**Action:**

*Mayor Pro Tem Billie Wallace moved to approve Ordinance No. 3305. Council Member Melissa Olson seconded, All Ayes.*

**24. Hear 2021 Farmer's Market Season Report**

Ms. Simpson presented the 2021 Farmer's Market Season Report noting the Farmer's Market has completed it's 19<sup>th</sup> year in operation and this was the first year in the new location at 701 Howard Road. Vendors reported annual sales of \$257,352.36 over 26 weeks, operating for five hours on Saturdays. She explained this number represents the highest total ever reported for a season. Ms. Simpson recognized and thanked the Farmers Market vendors noting the obstacles they overcame this season.

Mayor Barnes thanked the Farmer's Market vendors.

**25. Consider proposed Ordinance regulating the operation of golf carts on public highways**

Police Chief Wade Goolsby presented the proposed ordinance regulating the operation of golf carts on public highways. He explained the proposed ordinance is an effort to clarify and simplify the State statutes, legalize the use of golf carts, neighborhood electric vehicles, and off-highway vehicles with certain limitations.

**ORDINANCE NO. 3306**

**AN ORDINANCE OF THE CITY OF WAXAHACHIE, TEXAS, AMENDING CHAPTER 32, TRAFFIC, OF THE WAXAHACHIE CODE OF ORDINANCES BY ADDING A NEW ARTICLE XVII, OPERATION OF GOLF CARTS ON PUBLIC HIGHWAYS; REGULATING THE OPERATION OF GOLF CARTS ON PUBLIC HIGHWAYS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS, AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**Action:**

*Council Member Travis Smith moved to approve Ordinance No. 3306 as presented, with the exception of replacing the singular use of "Golf Carts" to "vehicles" and adding "with seatbelts secured" as an operational requirement. Council Member David Hill seconded, the vote was as follows: Ayes: Doug Barnes, David Hill, Melissa Olson, and Travis Smith. Noes: Billie Wallace.*

***The motion carried.***

**26. Comments by Mayor, City Council, City Attorney and City Manager**

Mayor Doug Barnes and Shon Brooks, Executive Director of Development Services, introduced and welcomed Planning Director Jennifer Pruitt.

Planning Director Jennifer Pruitt noted she is happy to be a part of the Waxahachie team.

Council Member Travis Smith congratulated the Farmer's Market vendors on an outstanding season and noted they are an asset to our city.

City Council  
November 15, 2021  
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Council Member Melissa Olson echoed Council Member Smith's comments. She applauded the Heritage Preservation Commission for their work on the Historic Residential Design Guidelines.

City Manager Michael Scott echoed sentiments for the Heritage Preservation Commission and thanked them for protecting the City's historical integrity. He explained exhibits will be added to the City's website for review in the future.

Mayor Pro Tem Billie Wallace thanked the Heritage Preservation Commission for all their work on the guidelines.

**27. Adjourn**

There being no further business, the meeting adjourned at 7:58 p.m.

Respectfully submitted,

Amber Villarreal  
City Secretary

(647)



## Memorandum

To: Honorable Mayor and City Council  
From: Jennifer Pruitt, Director of Planning  
Thru: Michael Scott, City Manager

Date: November 29, 2021

Re: ZDC-146-2021 – Broadhead Road Mixed Use Development


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At the November 23, 2021 Planning and Zoning Commission meeting, the Planning and Zoning Commission voted 7-0 to continue case no. ZDC-146-2021 from the November 23, 2021 Planning and Zoning Commission agenda and the December 6, 2021 City Council meeting agenda to the December 14, 2021 Planning and Zoning Commission agenda and the December 20, 2021 City Council meeting agenda.

(8+9)



## Memorandum

To: Honorable Mayor and City Council  
From: Jennifer Pruitt, Director of Planning  
Thru: Michael Scott, City Manager   
Date: November 30, 2021  
Re: ZDC-164-2021 – HGO Tires

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On November 18, 2021, the applicant requested to continue case number ZDC-164-2021 from the December 6, 2021 City Council meeting agenda to the January 3, 2022 City Council meeting agenda.



(10 + 11)



## Memorandum

To: Honorable Mayor and City Council  
From: Jennifer Pruitt, Director of Planning  
Thru: Michael Scott, City Manager   
Date: November 29, 2021  
Re: ZDC-174-2021 – Starbucks

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At the November 23, 2021 Planning and Zoning Commission meeting, the Planning and Zoning Commission voted 7-0 to continue case no. ZDC-174-2021 from the November 23, 2021 Planning and Zoning Commission agenda and the December 6, 2021 City Council meeting agenda to the December 14, 2021 Planning and Zoning Commission agenda and the December 20, 2021 City Council meeting agenda.

(12)

STATE OF TEXAS	§	DEVELOPMENT AGREEMENT
	§	FOR BUFFALO CREEK ADDITION
COUNTY OF ELLIS	§	

This Development Agreement for Buffalo Creek Addition ("**Agreement**") is entered into between Buffalo Creek Plaza LLC ("**BCP**") and the City of Waxahachie, Texas ("**City**"). BCP and the City are sometimes referred herein together as the "**Parties**" and individually as a "**Party**."

**Recitals:**

1. BUFFALO CREEK PLAZA LLC is the owner of 30.35 acres of real property generally located East of the intersection of Brown Street and Indian Drive, Parcel Number 179000, in the City of Waxahachie, Texas (the "**Property**"), for which the applicant has requested a Development Agreement for the road construction of Indian Drive. The Property is currently zoned General Retail by the City.

2. The planned use of the Property is to create a Development Agreement that allows for the extension and construction of Indian Drive from Brown Street to US Highway 287 Access Road. The Development Agreement is utilized to ensure that the Property would develop in a manner that meets the City's desired development standards, as well as providing BCP with agreed-upon and negotiated standards consistent with their business objectives.

3. As is reflected by the public records of the City, significant discussions and negotiations between representatives of BCP and the City of Waxahachie staff have occurred during various meetings, in an effort to obtain an agreed-upon and negotiated set of development standards to be reflected in the Development Agreement for Buffalo Creek Addition.

4. This Agreement seeks to incorporate the negotiated and agreed upon development standards contained in the Buffalo Creek Addition Development Agreement as contractually-binding obligations between the City of Waxahachie and BCP, and to recognize BCP's reasonable investment-backed expectations in the Buffalo Creek Addition Development Agreement and the planned development of Buffalo Creek Addition.

**NOW, THEREFORE**, for and in consideration of the above and foregoing premises, the benefits to each of the Parties from this Agreement, and other good and valuable consideration, the sufficiency of which is hereby acknowledged and agreed, the Parties do hereby agree as follows:

**Section 1. Incorporation of Premises.** The above and foregoing Recitals are true and correct and are incorporated herein and made a part hereof for all purposes.

**Section 2. Term.** This Agreement shall be effective as of the date of execution of this Agreement by the last of the Parties to do so ("**Effective Date**"). This Agreement shall remain in full force and effect from the Effective Date until terminated by the mutual agreement of all of the Parties in writing ("**Term**").

**Section 3. Agreements.** The Parties agree as follows:

**Incorporation of Investment-Backed Expectations:** The negotiated and agreed upon development standards contained in the Buffalo Creek Addition Development Agreement, which incorporate by reference the general regulations of the City of Waxahachie Code of Ordinances, are hereby adopted and incorporated into this Agreement as contractually-binding obligations of the Developer.

The Developer agrees to:

- (A) Dedicate Right-of-Way (ROW) for, and construct, Indian Drive from Brown Street to US Highway 287 Access Road prior to a plat being filed for the 9.322 acre remainder of the Buffalo Creek Addition Plat. The 9.322 acre remainder being the Residue of 28.3691 Acres Pope-Bentley Holdings, LLC to Buffalo Creek Plaza, LLC Volume 2742, Page 2444, O.P.R.E.C.T..
- (B) The construction of Indian Drive from Brown Street to US Highway 287 Access Road shall provide a creek crossing, in the form of a bridge, over Mustang Creek.
- (C) The construction of Indian Drive from Brown Street to US Highway 287 Access Road shall be constructed using reinforced concrete and per the specifications in the City of Waxahachie C & D Manual.
- (D) The Right-of-Way (ROW) dedication for, and construction of, Indian Drive from Brown Street to US Highway 287 Access Road shall be indicated on any future plat for the 9.322 acre remainder of the Buffalo Creek Addition Plat. The 9.322 acre remainder being the Residue of 28.3691 Acres Pope-Bentley Holdings, LLC to Buffalo Creek Plaza, LLC Volume 2742, Page 2444, O.P.R.E.C.T..

In consideration of BCP's agreement in this regard, the City of Waxahachie agrees that BCP has reasonable investment-backed expectations in the Buffalo Creek Addition Development Agreement, and that the City of Waxahachie may not unilaterally change the development standards contained in the Buffalo Creek Addition Development Agreement without impacting BCP's reasonable investment-backed expectations.

**Section 4. Miscellaneous**

A. This Agreement and any dispute arising out of or relating to this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without reference to its conflict of law rules. In the event of any dispute or action under this Agreement, venue for any and all disputes or actions shall be instituted and maintained in Ellis County, Texas.

B. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership, joint venture, joint enterprise, or other relationship between or among the Parties.

C. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

D. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either Party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the Parties may have by law statute, ordinance, or otherwise. The failure by any Party to exercise any right, power, or option given to it by this Agreement, or to insist upon strict compliance with the terms of this Agreement, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach thereof, nor a waiver by such Party of its rights at any time thereafter to require exact and strict compliance with all the terms hereof. Any rights and remedies any Party may have with respect to the other arising out of this Agreement shall survive the cancellation, expiration or termination of this Agreement, except as otherwise expressly set forth herein.

E. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

F. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination or expiration of this Agreement shall survive termination or expiration.

G. This Agreement is made subject to the existing provisions of the City of Waxahachie, its present rules, regulations, procedures and ordinances, and all applicable laws, rules, and regulations of the State of Texas and the United States.

H. The undersigned officers and/or agents of the Parties hereto are the properly authorized persons and have the necessary authority to execute this Agreement on behalf of the Parties hereto.

I. This Agreement may be only amended or altered by written instrument signed by the Parties.

J. The headings and captions used in this Agreement are for the convenience of the Parties only and shall not in any way define, limit or describe the scope or intent of any provisions of this Agreement.

K. This Agreement is the entire agreement between the Parties with respect to the subject matters covered in this Agreement. There are no other collateral oral or written agreements between the Parties that in any manner relates to the subject matter of this Agreement, except as provided or referenced in this Agreement.

L. This Agreement shall be recorded in the real property records of Ellis County, Texas. This Agreement and all of its terms, conditions, and provisions is and shall constitute a restriction and condition upon the development of the Property and all portions thereof and a covenant running with the Property and all portions thereof, and is and shall be binding upon BCP and all heirs,

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successors, and assigns and the future owners of the Property and any portion thereof; provided, however, this Agreement shall not constitute an obligation of or be deemed a restriction or encumbrance with respect to any platted residential lot upon which a completed structure has been constructed.

- M.           **Form 1295 Certificate.** The Developer agrees to comply with Texas Government Code, Section 2252.908 and in connection therewith, the Developer agrees to go online with the Texas Ethics Commission to complete a Form 1295 Certificate and further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 2252.908 and the rules of the Texas Ethics Commission and provide to the Town, at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate.
- N.           **Undocumented Workers Provision.** The Developer certifies that Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of any public subsidy provided under this Agreement to Developer plus six percent (6.0%), not later than the 120<sup>th</sup> day after the date the Town notifies Developer of the violation.
- O.           **Non-Boycott of Israel Provision.** In accordance with Chapter 2270 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a business entity for the provision of goods or services unless the agreement contains a written verification from the business entity that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement. Chapter 2270 of the Texas Government Code does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) the contract has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless Developer is not subject to Chapter 2270 of the Texas Government Code for the reasons stated herein, the signatory executing this Agreement on behalf of Developer verifies that Developer does not boycott Israel and will not boycott Israel during the Term of this Agreement.
- P.           **Prohibition on Contracts with Certain Companies Provision.** In accordance with Section 2252.152 of the Texas Government Code, the Parties covenant and agree that Developer is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.
- Q.           **Verification Against Discrimination of Firearm or Ammunition Industries.** Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 19, 87<sup>th</sup> Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Developer employs at least ten (10) fulltime employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the Town, the Developer represents that: (1) the Developer does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the

(12)

Developer will not discriminate during the Term of the Agreement against a firearm entity or firearm trade association.

- R. **Verification Against Discrimination Developer Does Not Boycott Energy Companies.** Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 13, 87<sup>th</sup> Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Developer employs at least ten (10) fulltime employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the Town, the Developer represents that: (1) the Developer does not boycott energy companies; and (2) the Developer will not boycott energy companies during the Term of this Agreement.

(12)

**{Signature Pages Follow}**

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**EXECUTED** by the Parties on the dates set forth below, to be effective as of the date first written above.

**CITY OF WAXAHACHIE, TEXAS**

By: \_\_\_\_\_  
Michael Scott, City Manager

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
City Secretary

**STATE OF TEXAS       §**  
**§**  
**COUNTY OF ELLIS     §**

Before me, the undersigned authority, on this \_\_\_\_\_ day of \_\_\_\_\_, personally appeared MICHAEL SCOTT, City Manager of the City of Waxahachie, Texas, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

[Seal]

By: \_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_



(18)

**: Buffalo Creek Plaza LLC (Developer)**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**: Buffalo Creek Plaza LLC (Owner)**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**STATE OF TEXAS**

§

§

**COUNTY OF ELLIS**

§

Before me, the undersigned authority, on this \_\_\_\_\_ day of \_\_\_\_\_, personally appeared \_\_\_\_\_, representative of Buffalo Creek Plaza LLC, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

[Seal]

By: \_\_\_\_\_

Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

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## Planning & Zoning Department

### Plat Staff Report

Case: SUB-177-2021



#### MEETING DATE(S)

Planning & Zoning Commission: November 23, 2021

City Council: December 6, 2021

#### ACTION SINCE INITIAL STAFF REPORT

At the Planning & Zoning Commission meeting, held November 23, 2021, the Commission voted 7-0 to recommend approval of SUB-177-2021, per conditions. As part of this vote, the P&Z Commission recommended approval of the applicant's variance request.

#### CAPTION

**Consider** request by Jason P. Volk, J. Volk Consulting, for a **Final Plat** of The Place Townhomes, Lots 3-10, 11X, Block 1, being 1.766 acres situated in the John B. Adams & Ann Survey, Abstract 5, Robert Russell Survey, Abstract 911, and Henry Sange Survey, Abstract 1009, an addition in the City of Waxahachie (Property ID 283993) – Owner: NORTH GROVE 12.5 LLC SERIES 1 (SUB-177-2021)

#### APPLICANT REQUEST

The applicant is requesting to plat the subject property into 8 lots for townhome use.

#### CASE INFORMATION

**Applicant:** Claudio Segovia, J. Volk Consulting Inc.

**Property Owner(s):** North Grove 12.5 LLC Series 1

**Site Acreage:** 1.766 acres

**Number of Lots:** 9 lots

**Number of Dwelling Units:** 8 units

**Park Land Dedication:** The cash in lieu of park land dedication is \$3,200.00 (8 residential dwellings at \$400.00 per dwelling).

**Adequate Public Facilities:** Adequate public facilities are available to the site.

#### SUBJECT PROPERTY

**General Location:** Directly North of 532 Washington Avenue

**Parcel ID Number(s):** 283993

**Current Zoning:** PD-SF-1,2,3, MF-1, GR

(13)

**Existing Use:**

The subject property is currently undeveloped.

**Platting History:**

The subject property is a part of the John B Adams & Ann Survey, Abstract 5, Robert Russell Survey, Abstract 911, and Henry Sange Survey, Abstract 1009.

**Site Aerial:**



**PLATTING ANALYSIS**

The applicant is proposing to plat the subject property into 8 lots for townhome use and one (1) open space X lot. In accordance with the Planned Development zoning for the site, there will be no side setbacks on internal lot lines since the property will be developed with attached townhomes. The eight (8) proposed townhome lots will be split by an open space X lot, to be used as a drainage easement. Offsite easements are proposed with this plat and instrument numbers for the easements will need to be provided on the plat document prior to filing. Adequate sewer and water facilities are available to the site along Washington Avenue.

**VARIANCE REQUESTS**

The applicant is requesting a variance from the Utility Easement requirement along Washington Avenue. A 10' Utility Easement is requested in the place of the required 15' Utility Easement. The City of Waxahachie Utilities Department has stated this variance is acceptable as long as it does not cause issues for any franchise utilities in the area. As of Thursday, December 2<sup>nd</sup>, the applicant has not provided staff with confirmation that a 10' Utility Easement is acceptable for the other utility providers in the area (AT&T, Atmos, Oncor). If confirmation from these utilities is not provided to staff, a typical 15' utility easement will be required along Washington Avenue.

**RECOMMENDATION**

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning and Zoning Department recommends:

- ☐ Denial
- ☐ Approval, as presented.
- ☒ Approval, per the following condition:
  1. Confirmation of the acceptance of the 10' Utility Easement is required from all utility providers in the area, including AT&T, Atmos and Oncor.

**ATTACHED EXHIBITS**

1. Plat

**APPLICANT REQUIREMENTS**

1. If approved by City Council, within 30 days the applicant shall provide the Planning Department one revised electronic plan set that incorporates all comments.

**CITY REQUIREMENTS FOR PLAT RECORDING AND FILING**

A plat shall not be filed with the Ellis County Clerk until:

1. All utilities, infrastructure, and other required improvements have been installed and a letter of acceptance associated with the utilities and infrastructure installation has been received from the Public Works Department;
2. A drainage study has been conducted and/or a traffic impact analysis has been conducted as required by the City's Subdivision ordinance.

**STAFF CONTACT INFORMATION**

*Prepared by:*

Zack King

Planner

[zking@waxahachie.com](mailto:zking@waxahachie.com)

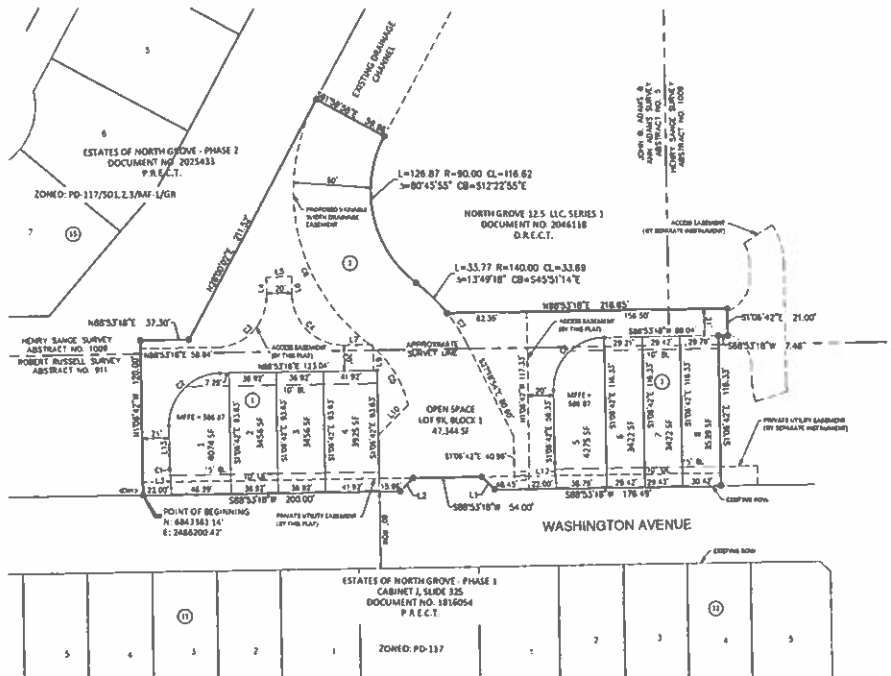
*Reviewed by:*

Jennifer Pruitt, AICP, LEED-AP, CNU-A

Senior Director of Planning

[jennifer.pruitt@waxahachie.com](mailto:jennifer.pruitt@waxahachie.com)

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SCALE 1" = 50'

#### LEGEND

- Point of Curvature or Tangency on Center Line
- 1/2" Iron rod set with a yellow plastic cap stamped "NC" (unless otherwise noted)
- 1/2" "X" (unless otherwise noted)
- AC Acre
- BL Building Line
- CL Curve No.
- CMO Control Monument
- DE Drainage Easement
- Emit Easement
- LI Line No.
- SF Square Feet
- UE Utility Easement
- VSM Visibility Easement
- FEE Fence Encroachment Easement
- D.R.E.C.T. = Deed Records of Ellis County, Texas

#### PLAT

### THE PLACE TOWNHOMES

1.766 ACRES

LOTS 1-8, 9X, BLOCK 1

8 TOWNHOME LOTS

1 OPEN SPACE/COMMON AREA

OUT OF THE

JOHN B. ADAMS & ANN ADAMS SURVEY, ABSTRACT NO. 5

ROBERT RUSSELL SURVEY, ABSTRACT NO. 913

HEINRY SANGE SURVEY, ABSTRACT NO. 1009

ZONED: PD-S01.2.3/MF-1 GR

CASE #: SUB-177-2021

CITY OF WAXAHACHIE

ELLIS COUNTY, TEXAS

27 OCTOBER 2021

SHEET 1 OF 2

#### BENCHMARKS

##### MONUMENT NO. 1:

Mag nail set in concrete on the north sidewalk of North Grove Boulevard approximately 1100' east of the centerline intersection of U.S. Highway No. 77 and North Grove Boulevard. The monument is located approximately 45' west of a fire hydrant and 54' northeast of a light pole. Elevation = 630.23'

##### MONUMENT NO. 3:

Mag nail set in concrete on the north sidewalk of North Grove Boulevard approximately 390' west of the centerline intersection of North Grove Boulevard and Highland Drive. The monument is located approximately 15' northeast of a fire hydrant and 100 feet northwest of a storm inlet. Elevation = 616.73'

##### MONUMENT NO. 4:

Mag nail set in concrete on the north sidewalk of North Grove Boulevard at the northeast corner of the intersection of North Grove Boulevard with Vista Way. The monument is located approximately 15' north of a fire hydrant and 3' from a pair of water valves. Elevation = 596.12'

#### Line Table

Line #	Length	Direction
L1	14.14	N46° 08' 47" W
L2	14.14	S47° 53' 18" W
L3	19.77	N17° 58' 29" W
L4	14.00	N17° 08' 47" W
L5	20.00	N08° 53' 18" E
L6	14.00	S1° 05' 42" E
L7	22.31	N08° 53' 18" E
L8	20.00	S1° 05' 42" E
L9	32.58	N43° 58' 57" E
L10	20.00	N17° 45' 04" E
L11	20.00	S7° 58' 29" E
L12	33.38	N17° 08' 47" W

#### Curve Table

Curve #	Length	Radius	Bearing	Tangent	Chord Length	Chord Bearing
C1	0.50	40.00	002° 51' 47"	0.25	0.50	N07° 37' 36" W
C2	42.83	40.00	080° 07' 00"	40.00	58.57	N47° 53' 18" E
C3	42.83	40.00	080° 07' 00"	40.00	58.57	N47° 53' 18" E
C4	42.83	40.00	080° 07' 00"	40.00	58.57	S46° 08' 42" E
C5	57.01	80.00	040° 50' 00"	29.78	55.62	N52° 20' 33" W
C6	211.43	149.92	080° 48' 24"	127.80	194.34	N12° 27' 22" W
C7	28.41	140.00	017° 27' 41"	14.26	28.36	S33° 07' 45" E
C8	42.83	40.00	080° 07' 00"	40.00	58.57	S47° 53' 18" W
C9	42.83	40.00	080° 07' 00"	40.00	58.57	S47° 53' 18" W

#### GENERAL NOTES:

- All lot corners monumented with a 1/2" iron rod with a yellow plastic cap stamped "NC" unless otherwise noted.
- All Utility easements and Drainage easements within this platted property are created by this plat, unless otherwise noted.
- Basis of Bearing and Coordinates shown herein refer to "Texas State Plane Coordinate System, North Central Zone (4202), North American Datum of 1983 on Grid Coordinate values.
- Pavement is allowed to extend a maximum of 5' into the building setback.
- Open space lots shall be maintained by HOA.
- No portion of the subject property is located within the zone "A" FEMA 100-YR floodplain per FEMA map panel 48139CD190F. No residential lots are within the limits of said floodplain.

Engineer/Surveyor:  
J. Volk Consulting, Inc.  
830 Central Parkway East, Suite 300  
Plano, Texas 75074  
Phone: 972-211-3100  
Contact: Jay Volk, PE

Owner/Applicant:  
North Grove 12.5, LLC Series 1  
200A N Rogers St  
Waxahachie, Texas 75165  
Phone: 214-505-5503  
Contact: Terry Weaver



**J. VOLK**  
consulting  
830 Central Parkway East, Suite 300  
Plano, Texas 75074  
972-211-3100 Texas Registration No. F-118642

(13)

STATE OF TEXAS

COUNTY OF ELLIS

LEGAL DESCRIPTION

THE PLACE TOWNHOMES  
1.766 ACRES

WHEREAS, Marsh Singleton is the Owner of land situated in the JOHN B. ADAMS & ANN ADAMS SURVEY, ABSTRACT NO. 3, the ROBERT RUSSELL SURVEY, ABSTRACT NO. 911, and the HENRY SARGE SURVEY, ABSTRACT NO. 1009, City of Waxahachie, Ellis County, Texas, and being part of that tract of land described in Deed to Alex Harris Grove Development LLC, as recorded in Document No. 1610002, Deed Records, Ellis County, Texas, and being part of that tract of land described in Deed to Alex Harris Grove Development LLC, as recorded in Document No. 1709397, Deed Records, Ellis County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod with a yellow plastic cap stamped "JVC" set in the north line of Washington Avenue, a 60 foot right-of-way, for the most southwest corner of THE ESTATES OF NORTHERN PHASE TWO, an Addition to the City of Waxahachie, Ellis County, Texas, according to the Plat thereof recorded in Document Number 2023433, Plat Records, Ellis County, Texas;

THENCE North 01 degree 06 minutes 42 seconds West, leaving said north line, a distance of 120.00 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "JVC" set for corner;

THENCE North 88 degrees 53 minutes 18 seconds East, a distance of 37.50 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "JVC" set for corner;

THENCE North 28 degrees 00 minutes 02 seconds East, a distance of 211.52 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "JVC" set for corner;

THENCE South 01 degree 35 minutes 58 seconds East, a distance of 59.96 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "JVC" set for corner at the beginning of a non-tangent curve to the left having a central angle of 80 degrees 45 minutes 55 seconds, a radius of 90.00 feet and a chord bearing and distance of South 12 degrees 22 minutes 55 seconds East, 116.62 feet;

THENCE Southeastery, with said curve to the left, an arc distance of 126.87 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "JVC" set for corner at the beginning of a tangent curve to the right having a central angle of 13 degrees 49 minutes 18 seconds, a radius of 142.00 feet and a chord bearing and distance of South 45 degrees 51 minutes 14 seconds East, 13.69 feet;

THENCE Southeastery, with said curve to the right, an arc distance of 33.77 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "JVC" set for corner;

THENCE North 88 degrees 53 minutes 18 seconds East, a distance of 216.85 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "JVC" set for corner;

THENCE South 01 degree 06 minutes 42 seconds East, a distance of 21.00 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "JVC" set for corner;

THENCE South 88 degrees 53 minutes 18 seconds West, a distance of 7.46 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "JVC" set for corner;

THENCE South 01 degree 06 minutes 42 seconds East, a distance of 116.33 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "JVC" set for corner;

THENCE South 88 degrees 53 minutes 18 seconds West, a distance of 178.49 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "JVC" set for corner;

THENCE North 45 degrees 06 minutes 42 seconds West, a distance of 14.14 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "JVC" set for corner;

THENCE South 88 degrees 53 minutes 18 seconds West, a distance of 54.00 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "JVC" set for corner;

THENCE South 45 degrees 53 minutes 18 seconds West, a distance of 14.14 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "JVC" set for corner;

THENCE South 88 degrees 53 minutes 18 seconds West, a distance of 200.00 feet to the POINT OF BEGINNING and containing 1.766 acres of land, more or less.

SURVEYORS CERTIFICATE:

KNOW ALL MEN BY THESE PRESENTS: That I, Ryan S. Reynolds, a Registered Professional Land Surveyor, licensed by the State of Texas, do hereby certify that I have prepared this plat from an actual and accurate survey of the land, and that the corner monuments shown thereon were found or placed under my personal supervision in accordance with the Subdivision Ordinance of the City of Waxahachie.

RYAN S. REYNOLDS, RPLS  
Registered Professional Land Surveyor No. 6385

OWNER'S DEDICATION:

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT NORTH GROVE 12.5, LLC, Series 1, acting by and through its duly authorized agent, does hereby adopt this plat, designating the herein described property as THE PLACE TOWNHOMES, on addition to the City of Waxahachie, Texas, and do hereby dedicate in fee simple the streets, alleys, and common areas shown thereon. The streets, alleys are dedicated for street purposes. The Easements and public use areas, as shown, are dedicated for the public use forever, for the purposes indicated on this plat. No buildings, fences, trees, shrubs, or other improvements or grounds shall be constructed or placed upon, over or across the Easements as shown, except that landscape improvements may be placed in Landscape Easements, if approved by the City of Waxahachie. In addition, Utility Easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use, in particular utilities, and use by public utilities being subordinate to the Public's and City of Waxahachie's use thereof. The City of Waxahachie and public utility utilities shall have the right to remove and keep removed all or parts of any building, fences, trees, shrubs, or other improvements or grounds which may in any way endanger or interfere with the construction, maintenance or efficiency of its respective system in said Easements. The City of Waxahachie and public utility utilities shall at all times have the full right of ingress and egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, pot-holing, maintaining, reading meters, and adding to or removing all or parts of its respective systems without the necessity at any time of procuring the permission from anyone.

This plat approved subject to all platting ordinances, rules, regulations and resolutions of the City of Waxahachie, Texas.

WITNESS, OUR HANDS this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

By \_\_\_\_\_

NAME:

TITLE:

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State on this date personally appeared \_\_\_\_\_, Owner's Agent, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Notary Public in and for the State of Texas

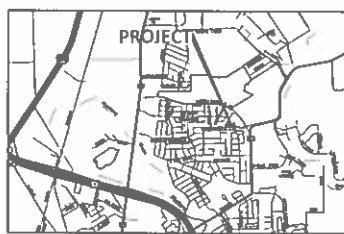
My Commission Expires \_\_\_\_\_

APPROVED BY: Planning and Zoning Commission City of Waxahachie	
By: _____	_____
Chairperson	Date
_____	_____
Attest	Date
IF APPLICABLE, APPROVED BY: City Council City of Waxahachie	
By: _____	_____
Mayor	Date
_____	_____
Attest	Date

Engineer/Surveyor:  
J. Volk Consulting, Inc.  
830 Central Parkway East, Suite 300  
Plano, Texas 75074  
Phone: 972-201-3100  
Contact: Jay Volk, PE

Owner/Applicant:  
North Grove 12.5, LLC Series 1  
2004 N Rogers St  
Waxahachie, Texas 75165  
Phone: 214-505-5503  
Contact: Terry Weaver

J. VOLK  
consulting  
880 Crest of Parkway East, Suite 300  
Plano, Texas 75074  
972-201-3100 Texas Registration No. 7-11862



BENCHMARKS:

MONUMENT NO. 1:  
Mag nail set in concrete on the north sidewalk of North Grove Boulevard approximately 1100' east of the centerline intersection of U.S. Highway No. 77 and North Grove Boulevard. The monument is located approximately 45' west of a fire hydrant and 54' northeast of a light pole.  
Elevation = 630.23'

MONUMENT NO. 3:  
Mag nail set in concrete on the north sidewalk of North Grove Boulevard approximately 390' west of the centerline intersection of North Grove Boulevard and Highland Drive. The monument is located approximately 15' northeast of a fire hydrant and 100 feet northwest of a storm inlet.  
Elevation = 616.73'

MONUMENT NO. 4:  
Mag nail set in concrete on the north sidewalk of North Grove Boulevard at the northeast corner of the intersection of North Grove Boulevard with Vista Way. The monument is located approximately 15' north of a fire hydrant and 3' from a pair of water valves.  
Elevation = 596.12'

PLAT

THE PLACE TOWNHOMES

1.766 ACRES  
LOTS 1-8, 9X, BLOCK 1  
8 TOWNHOME LOTS  
1 OPEN SPACE/COMMON AREA  
OUT OF THE  
JOHN B. ADAMS & ANN ADAMS SURVEY, ABSTRACT NO. 3  
ROBERT RUSSELL SURVEY, ABSTRACT NO. 911  
HENRY SARGE SURVEY, ABSTRACT NO. 1009  
ZONED: PD-501.2.3 MF-1 GR  
CASE #: SUB-177-2021  
CITY OF WAXAHACHIE  
ELLIS COUNTY, TEXAS  
27 October 2021  
SHEET 2 OF 2

(14)

## Planning & Zoning Department

### Zoning Staff Report

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**Case: ZDC-171-2021**

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#### **MEETING DATE(S)**

*Planning & Zoning Commission:* November 23, 2021

*City Council:* December 6, 2021

#### **ACTION SINCE INITIAL STAFF REPORT**

At the Planning & Zoning Commission meeting, held November 23, 2021, the Commission voted 7-0 to recommend approval of case number ZDC-171-2021, subject to staff comments.

#### **CAPTION**

**Public Hearing** on a request by Danny Wood, Wood Brothers Construction, LLC, for a **Specific Use Permit (SUP)** for an **Accessory Structure +700SF** use within a Single Family-1 zoning district located at 2305 Marshall Road (Property ID 203935) - Owner: JORGE & JAZMIN A PURICELLI (ZDC-171-2021)

#### **APPLICANT REQUEST**

The applicant is requesting to construct a +700 sq. ft. (3,000 sq. ft.) accessory structure (barn) in the rear of a single family property.

#### **CASE INFORMATION**

*Applicant:* Jorge Puricelli

*Property Owner(s):* Jorge and Jazmin A. Puricelli

*Site Acreage:* 26.218 acres

*Current Zoning:* Single-Family-1

*Requested Zoning:* Single Family-1 with SUP

#### **SUBJECT PROPERTY**

*General Location:* 2305 Marshall Rd.

*Parcel ID Number(s):* 203935

*Existing Use:* Single Family Residence

*Development History:* N/A

(14)

**Table 1: Adjoining Zoning & Uses**

Direction	Zoning	Current Use
North	SF1	Single Family Residences
East	SF1	Single Family Residences
South	SF1	Undeveloped Land
West	SF1	Single Family Residences

*Future Land Use Plan:*

Low Density Residential

*Comprehensive Plan:*

This category is representative of smaller single family homes and some duplex units. The majority of Waxahachie's current development is of similar density. It is appropriate to have approximately 3.5 dwelling units per acre.

*Thoroughfare Plan:*

The subject property is accessible via Marshall Rd.

*Site Image:*



### **PLANNING ANALYSIS**

#### **Purpose of Request:**

The applicant is requesting to construct a +700 sq. ft. (3,000 sq. ft.) accessory structure (barn) in the rear of a single family property. Ellis County Appraisal District states that the primary structure on the property is 3,275 sq. ft. Per the City of Waxahachie Zoning Ordinance, an accessory structure that is equal to or greater than 700 square feet requires a SUP to be approved by City Council.

#### **Proposed Use:**

The applicant is requesting approval to construct a 50ft. x 60ft. x 16ft. tall accessory structure (barn). The applicant is proposing to construct the structure out of metal, and intends to use the accessory structure to store tractors, trailers, and tool equipment for the property. In addition to the primary structure, the property consist of a guest house, storage structure (used to store feed for animals), a garden, and a corral



for animals (goats and horses) on the property. During site visits, staff noticed there are other similar accessory structures and uses within the surrounding neighborhood area.

Subject to approval of this application, an approved building permit will be required prior to the commencement of the construction. As part of the building permit review process, the Building Inspections department will ensure construction complies with all regulations.

#### **PUBLIC NOTIFICATIONS**

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 9 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Sun and a sign was visibly posted at the property.

#### **PROPERTY OWNER NOTIFICATION RESPONSES**

Staff received one (1) letter of support for the proposed development.

#### **RECOMMENDATION**

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning and Zoning Department recommends:

- ☐ Denial
- ☐ Approval, as presented.
- ☒ **Approval, per the following comments:**
  1. The applicant will need to obtain a building permit from the City of Waxahachie Building Inspections department prior to construction of the proposed structure.
  2. Any new pavement added to the site shall be concrete.
  3. The structure shall not be used as a dwelling.

#### **ATTACHED EXHIBITS**

1. Property Owner Notification Responses
2. Ordinance
3. Location Exhibit
4. Site Layout Plan
5. Staff Report

#### **APPLICANT REQUIREMENTS**

1. If approved by City Council, applicant can apply for building permits from the Building and Community Services Department.

#### **STAFF CONTACT INFORMATION**

*Prepared by:*  
Colby Collins  
Planning Manager  
[ccollins@waxahachie.com](mailto:ccollins@waxahachie.com)

*Reviewed by:*  
Jennifer Pruitt, AICP, LEED-AP, CNU-A  
Director of Planning  
[jennifer.pruitt@waxahachie.com](mailto:jennifer.pruitt@waxahachie.com)

1  
(14)

PropertyID	Owner's Name	Owner's Address	Owner's City	Owner's State	Owner's ZIP
180351	ARBORS DEVELOPMENT LLC	1612 ARBORCREEK TRL	MANSFIELD	TX	76063
203926	BIZZELL RONALD J & BECKY S	2231 MARSHALL RD	WAXAHACHIE	TX	75167
203925	CLAYTON JAMES A & TINA M SVRCEK	2251 MARSHALL RD	WAXAHACHIE	TX	75167
203934	HEARN WENDELL	2281 MARSHALL RD	WAXAHACHIE	TX	75167
203935	PURICELLI JORGE F & JAZMIN A	2305 MARSHALL RD	WAXAHACHIE	TX	75167
203933	CORP PAUL D & AMY	2325 MARSHALL RD	WAXAHACHIE	TX	75167
203836	ROWAN JOHN E & MARSHA L	2341 MARSHALL RD	WAXAHACHIE	TX	75167
203835	FEDORKO TRUDY E	2357 MARSHALL RD	WAXAHACHIE	TX	75167
185893	CALVERT SUSAN M	PO BOX 856	WAXAHACHIE	TX	75168

(14)



City of Waxahachie, Texas  
Notice of Public Hearing  
Case Number: ZDC-171-2021

CORP PAUL D & AMY  
2325 MARSHALL RD  
WAXAHACHIE, TX 75167

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, November 23, 2021 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, December 6, 2021 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

1. Request by Danny Wood, Wood Brothers Construction, LLC, for a **Specific Use Permit (SUP)** for an **Accessory Structure +700SF** use within a **Single Family-1** zoning district located at 2305 Marshall Road (Property ID 203935) - Owner: JORGE & JAZMIN A PURICELLI (ZDC-171-2021)

You received this notice because your property is within the area of notification as required by law. As an interested party you are welcome to make your views known by attending the hearings. If you cannot attend the hearings, you may express your views by filling in and returning the bottom portion of this notice. Please contact the Planning Department at (469) 309-4290 or via email: [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) for additional information on this request.

Case Number: ZDC-171-2021

City Reference: 203933

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on **Tuesday, November 16, 2021** to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 401 South Rogers Street, Waxahachie, TX 75165.

☒ SUPPORT

☐ OPPOSE

Comments:

Paul & Amy Corp  
Signature

11/7/21  
Date

Paul & Amy Corp, owners  
Printed Name and Title

2325 Marshall Rd  
Address

*It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)*

*If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.*

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A +700 SQUARE FOOT ACCESSORY BUILDING USE WITHIN A SINGLE FAMILY – 1 (SF-1) ZONING DISTRICT, LOCATED AT 2305 MARSHALL RD., BEING PROPERTY ID 203935, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 8 OF MARSHALL ROAD ESTATES, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

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

**WHEREAS**, the City Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and

**WHEREAS**, the described property is classified in said ordinance and any amendments thereto as SF-1; and

**WHEREAS**, a proper application for an SUP has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number ZDC-171-2021. Said application having been referred to the Planning and Zoning (P&Z) Commission was recommended by the P&Z Commission for approval and the issuance thereof; and

**WHEREAS**, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and,

**WHEREAS**, a proper hearing was held as required by law and the Council having heard all arguments for and against said SUP;

**NOW, THEREFORE**, this property is rezoned from SF-1 to SF-1, with an SUP in order to permit a +700 square foot Accessory Building use on the following property: Lot 8 of Marshall Road Estates, which is shown on Exhibit A, in accordance with the Site Layout Plan attached as Exhibit B, and the Staff Report attached as Exhibit C.

#### **SPECIFIC USE PERMIT**

##### **Purpose and Intent**

The purpose of this Ordinance is to provide the appropriate restrictions and development controls that ensure this Specific Use Permit is compatible with the surrounding development and zoning and to also ensure that the development complies with the City's Comprehensive Plan and Zoning Ordinance.

Specific Use Permit

**FOR OPERATION OF A SPECIFIC USE PERMIT FOR A +700 SQUARE FOOT ACCESSORY BUILDING USE WITHIN A SINGLE FAMILY – 1 (SF-1) ZONING DISTRICT;** the following standards and conditions are hereby established as part of this ordinance:

1. The site plan shall conform as approved by the City Council under case number ZDC-171-2021.
2. The development shall adhere to the City Council approved Exhibit A – Location Exhibit, Exhibit B- Site Layout Plan, and Exhibit C – Staff Report.
3. The applicant will need to obtain a building permit from the City of Waxahachie Building Inspections department prior to construction of the proposed structure.
4. Any new pavement added to the site shall be concrete.
5. The structure shall not be used as a dwelling.
6. The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Municipal Code and City of Waxahachie Zoning Ordinance.
7. If approved, City Council reserves the right to review the Specific Use Permit at any point in the future, if needed.

Compliance

1. It shall be unlawful for the owner, manager, or any person in charge of a business or other establishment to violate the conditions imposed by the City Council when a Specific Use Permit is granted, and the violation of those conditions could result in a citation being issued by the appropriate enforcement officers of the City of Waxahachie.
2. Furthermore, by this Ordinance, if the premises covered by this Specific Use Permit is vacated and/or ceases to operate for a period exceeding six months (6 months), a new Specific Use Permit shall be required to reestablish the use.

An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage.

The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance therewith.

**PASSED, APPROVED AND ADOPTED** on this 6<sup>th</sup> day of December, 2021.

(15)

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MAYOR

ATTEST:

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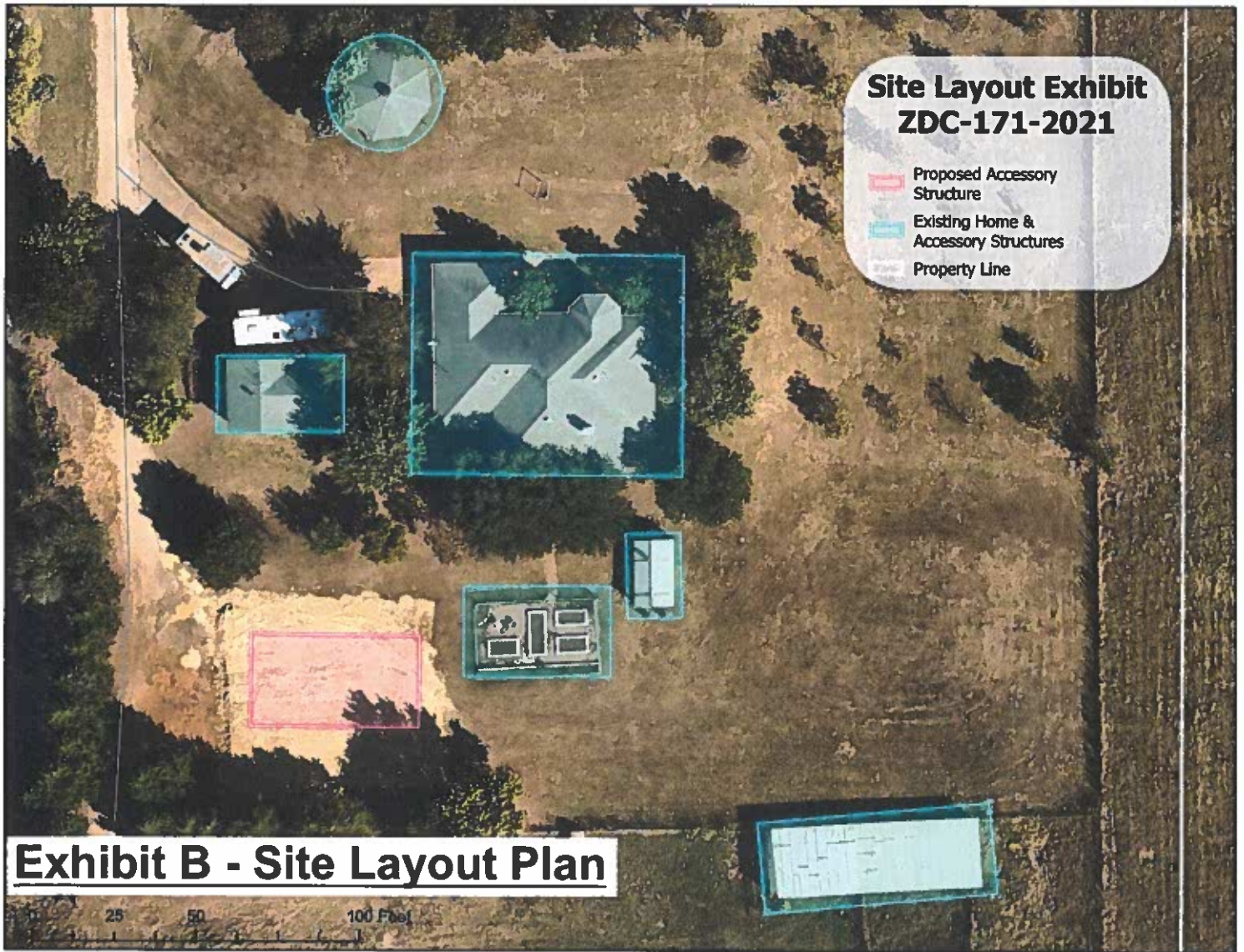
City Secretary

(15)





(15)





# Exhibit C - Staff Report

(15)

## Planning & Zoning Department Zoning Staff Report

Case: ZDC-171-2021



### MEETING DATE(S)

*Planning & Zoning Commission:* November 23, 2021

*City Council:* December 6, 2021

### ACTION SINCE INITIAL STAFF REPORT

At the Planning & Zoning Commission meeting, held November 23, 2021, the Commission voted 7-0 to recommend approval of case number ZDC-171-2021, subject to staff comments.

### CAPTION

**Public Hearing** on a request by Danny Wood, Wood Brothers Construction, LLC, for a **Specific Use Permit (SUP)** for an **Accessory Structure +700SF** use within a Single Family-1 zoning district located at 2305 Marshall Road (Property ID 203935) - Owner: JORGE & JAZMIN A PURICELLI (ZDC-171-2021)

### APPLICANT REQUEST

The applicant is requesting to construct a +700 sq. ft. (3,000 sq. ft.) accessory structure (barn) in the rear of a single family property.

### CASE INFORMATION

*Applicant:* Jorge Puricelli

*Property Owner(s):* Jorge and Jazmin A. Puricelli

*Site Acreage:* 26.218 acres

*Current Zoning:* Single-Family-1

*Requested Zoning:* Single Family-1 with SUP

### SUBJECT PROPERTY

*General Location:* 2305 Marshall Rd.

*Parcel ID Number(s):* 203935

*Existing Use:* Single Family Residence

*Development History:* N/A

## Exhibit C - Staff Report

(15)

Table 1: Adjoining Zoning & Uses

Direction	Zoning	Current Use
North	SF1	Single Family Residences
East	SF1	Single Family Residences
South	SF1	Undeveloped Land
West	SF1	Single Family Residences

*Future Land Use Plan:*

Low Density Residential

*Comprehensive Plan:*

This category is representative of smaller single family homes and some duplex units. The majority of Waxahachie's current development is of similar density. It is appropriate to have approximately 3.5 dwelling units per acre.

*Thoroughfare Plan:*

The subject property is accessible via Marshall Rd.

*Site Image:*



### **PLANNING ANALYSIS**

#### **Purpose of Request:**

The applicant is requesting to construct a +700 sq. ft. (3,000 sq. ft.) accessory structure (barn) in the rear of a single family property. Ellis County Appraisal District states that the primary structure on the property is 3,275 sq. ft. Per the City of Waxahachie Zoning Ordinance, an accessory structure that is equal to or greater than 700 square feet requires a SUP to be approved by City Council.

#### **Proposed Use:**

The applicant is requesting approval to construct a 50ft. x 60ft. x 16ft. tall accessory structure (barn). The applicant is proposing to construct the structure out of metal, and intends to use the accessory structure to store tractors, trailers, and tool equipment for the property. In addition to the primary structure, the property consist of a guest house, storage structure (used to store feed for animals), a garden, and a corral

## Exhibit C - Staff Report

(15)

for animals (goats and horses) on the property. During site visits, staff noticed there are other similar accessory structures and uses within the surrounding neighborhood area.

Subject to approval of this application, an approved building permit will be required prior to the commencement of the construction. As part of the building permit review process, the Building Inspections department will ensure construction complies with all regulations.

### **PUBLIC NOTIFICATIONS**

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 9 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Sun and a sign was visibly posted at the property.

### **PROPERTY OWNER NOTIFICATION RESPONSES**

Staff received one (1) letter of support for the proposed development.

### **RECOMMENDATION**

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning and Zoning Department recommends:

- ☐ Denial
- ☐ Approval, as presented.
- ☒ **Approval, per the following comments:**
  1. The applicant will need to obtain a building permit from the City of Waxahachie Building Inspections department prior to construction of the proposed structure.
  2. Any new pavement added to the site shall be concrete.
  3. The structure shall not be used as a dwelling.

### **ATTACHED EXHIBITS**

1. Property Owner Notification Responses
2. Ordinance
3. Location Exhibit
4. Site Layout Plan
5. Staff Report

### **APPLICANT REQUIREMENTS**

1. If approved by City Council, applicant can apply for building permits from the Building and Community Services Department.

### **STAFF CONTACT INFORMATION**

*Prepared by:*  
Colby Collins  
Planning Manager  
[ccollins@waxahachie.com](mailto:ccollins@waxahachie.com)

*Reviewed by:*  
Jennifer Pruitt, AICP, LEED-AP, CNU-A  
Director of Planning  
[jennifer.pruitt@waxahachie.com](mailto:jennifer.pruitt@waxahachie.com)

(14)

## Planning & Zoning Department

### Zoning Staff Report

Case: ZDC-173-2021



#### MEETING DATE(S)

*Planning & Zoning Commission:* November 23, 2021

*City Council:* December 6, 2021

#### ACTION SINCE INITIAL STAFF REPORT

At the Planning & Zoning Commission meeting, held November 23, 2021, the Commission voted 7-0 to recommend approval of case number ZDC-173-2021, subject to staff comments.

#### CAPTION

**Public Hearing** on a request by Drew Donosky, Claymoore Engineering, for a **Specific Use Permit (SUP)** for a **Hospital (Inpatient Rehabilitation Facility)** use within a General Retail zoning district located at East of the intersection of Indian Drive and Brown Street (Property ID 179000) - Owner: BUFFALO CREEK PLAZA, LLC (ZDC-173-2021)

#### APPLICANT REQUEST

The applicant is requesting approval to allow an Inpatient Rehabilitation Facility (ClearSky Rehabilitation Hospital) 5 acres.

#### CASE INFORMATION

*Applicant:* David Ransom, Waxahachie IRF, LLC

*Property Owner(s):* Buffalo Creek Plaza, LLC

*Site Acreage:* 5 acres

*Current Zoning:* General Retail (GR)

*Requested Zoning:* General Retail with SUP

#### SUBJECT PROPERTY

*General Location:* Located East of the intersection of Indian Drive and Brown Street

*Parcel ID Number(s):* 179000

*Existing Use:* Undeveloped

*Development History:* N/A

**Table 1: Adjoining Zoning and Uses**

Direction	Zoning	Current Use
North	N/A	US 287 Bypass
East	PD-SF	Undeveloped Land
South	GR & SF2	Regional Orthopedic & Sports Medicine Center
West	GR	Retail & Multi-Family Apartments

*Future Land Use Plan:*

Office

*Comprehensive Plan:*

This land use type is intended for businesses such as banks, insurance agencies, and accounting offices. Office land uses are generally compatible with residential area, with the exception of high-rise office buildings. Land designated for office is appropriate along U.S. Highway 287, at a close proximity to IH-35E within Mixed Use Nonresidential areas, as well as within the Medical District.

*Thoroughfare Plan:*

The subject property is accessible via Brown St.

*Site Image:***PLANNING ANALYSIS****Purpose of Request:**

The applicant is requesting approval to allow an Inpatient Rehabilitation Facility (ClearSky Rehabilitation Hospital) 5 acres. Per the City of Waxahachie Zoning Ordinance, the use of a Hospital within a General Retail zoning district requires a Specific Use Permit to be reviewed by City Council.

Proposed Use:Operation

The ClearSky Rehabilitation Hospital is a facility that will provide care for patients recovering from stroke, heart attack, brain injury, spinal cord injury, orthopedic conditions, cancer, and pulmonary conditions. The facility will offer physical therapy, speech therapy, and occupational therapy services that will help patients transition from acute care facilities, back to home living with an average 12-day patient stay at the hospital. The facility is intended to be licensed as a specialty rehabilitation hospital and is 40,000 gross square feet. Due to the use of a hospital, ClearSky Rehabilitation Hospital is proposing to operate 24 hours & 7 days per week.

**Table 2: Proposed Development Standards (General Retail)**

Standard	City of Waxahachie	ClearSky	Meets Y/N
Min. Lot Area (Sq. Feet)	7,000	217,293	Yes
Min. Front Yard (Feet)	40	40	Yes
Min. Side Yard (Feet)	20	20	Yes
Min. Rear Yard (Feet)	20	20	Yes
Max. Height	2 stories	1 story	Yes
Max. Lot Coverage (%)	40	18	Yes
*Parking:Hospital 1 space per 2 beds	15 spaces	93 spaces	Yes

\*Per the City of Waxahachie Zoning Ordinance, a Hospital use requires 1 parking space for every 2 beds (15 spaces for the proposed development). Though the proposed parking (93 spaces) for the development exceeds the requirement by 78 spaces, staff believes that the parking will be consistent with the use to help further accommodate employees as well as visitors to the facility. For this facility, the peak staffing number at shift change will be around 60. This peak staffing level typically occurs at around 6:30pm for a 7:00pm shift change.

Landscaping

The property is subject to landscaping requirements per the City of Waxahachie Zoning Ordinance. Table 3 provides a summary of the landscaping for the development.

**Table 3: Landscape Requirements**

Standard	City of Waxahachie	ClearSky	Meets Y/N
Area (Sq. Feet)	16,589	49,206	Yes
Trees (Landscape Buffer)	19	19	Yes
Shrubs	69	184	Yes
Street Trees	25	25	Yes

Building Design/Facade

The development is proposed to be constructed of brick, stucco, and metal. 81% of the building will consist of brick and stucco, and the remaining 19% of the building will primarily consist of metal and window glazing.

Future Site Development:

The proposed ClearSky Rehabilitation Hospital (5 acres) is envisioned to be a part of a Planned Development district (30 acres) surrounding the subject property consisting of potential retail, commercial, and residential located east of the intersection of Indian Drive and Brown Street. Due to scheduling conflicts, ClearSky Rehabilitation Hospital is requesting approval of a Specific Use permit independently opposed to being presented under one Planned Development request.

Conformance with the Comprehensive Plan:

The Future Land Use Plan (FLUP) per the City of Waxahachie zoning map is intended as an outlook for future land use of land and the character of the development in the city. The FLUP designates the subject property as Office.

The proposed development is consistent with the following goals and objectives in the 2016 Comprehensive Plan Addendum:

- Growth Strategies – Goal 1: Encourage the most desirable, efficient use of land while maintaining and enhancing local aesthetics.
- Growth Strategies – Goal 2: Encourage a balance of land uses to serve the needs of citizens and to ensure a diverse economic base.
- Growth Strategies – Goal 12: Promote growth of the community where infrastructure exists.
- Growth Strategies – Goal 14: Prioritize roadway planning and construction in areas where growth is desirable.

PUBLIC NOTIFICATIONS

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 9 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Sun and a sign was visibly posted at the property.

PROPERTY OWNER NOTIFICATION RESPONSES

Staff received two (2) letters of support for the proposed development.

RECOMMENDATION

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning and Zoning Department recommends:

- ☐ Denial
- ☐ Approval, as presented.
- ☒ **Approval, per the following comments:**
  1. A mutually agreed upon Development Agreement will be required for the development.

ATTACHED EXHIBITS

1. Property Owner Notification Responses
2. Development Agreement/Ordinance
3. Operational Plan
4. Location Exhibit
5. Site Plan
6. Landscape Plan
7. Elevation/Façade Plan
8. Staff Report

APPLICANT REQUIREMENTS

1. If approved by City Council, applicant can apply for building permits from the Building and Community Services Department.

**STAFF CONTACT INFORMATION**

*Prepared by:*

Colby Collins

Planning Manager

[ccollins@waxahachie.com](mailto:ccollins@waxahachie.com)

*Reviewed by:*

Jennifer Pruitt, AICP, LEED-AP, CNU-A

Director of Planning

[jennifer.pruitt@waxahachie.com](mailto:jennifer.pruitt@waxahachie.com)



(114)

PropertyID	Owner's Name	Owner's Address	Owner's City	Owner's State	Owner's ZIP
173012	SMITH GARY D & DAWN	100 APACHE CT	WAXAHACHIE	TX	75165
184249	AMERITAI PARTNERSHIP	1015 FERRIS AVE	WAXAHACHIE	TX	75165
173011	CONANT PAUL F & VADA L	102 APACHE CT	WAXAHACHIE	TX	75165
173010	HAYES ALAN J & JANCY M	104 APACHE CT	WAXAHACHIE	TX	75167
207721	ROYE FAMILY ENTERPRISES L P	1324 BROWN ST # A	WAXAHACHIE	TX	75165
278239	INDIAN DRIVE HOLDINGS LLC	200 N ELM ST	WAXAHACHIE	TX	75165
193939	WAXAHACHIE ISD	411 N GIBSON ST	WAXAHACHIE	TX	75165
179000	BUFFALO CREEK PLAZA LLC	440 GINGERBREAD LN	WAXAHACHIE	TX	75165
240366	WELLTOWER LANDLORD GROUP LLC	4500 DORR ST	TOLEDO	OH	43615



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City of Waxahachie, Texas  
Notice of Public Hearing  
Case Number: **ZDC-173-2021**

BUFFALO CREEK PLAZA LLC  
440 GINGERBREAD LN  
WAXAHACHIE, TX 75165

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, November 23, 2021 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, December 6, 2021 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

1. Request by Drew Donosky, Claymoore Engineering, for a **Specific Use Permit (SUP)** for a **Hospital (Inpatient Rehabilitation Facility)** use within a General Retail zoning district located at East of the intersection of Indian Drive and Brown Street (Property ID 179000)  
- Owner: BUFFALO CREEK PLAZA, LLC (ZDC-173-2021)

You received this notice because your property is within the area of notification as required by law. As an interested party you are welcome to make your views known by attending the hearings. If you cannot attend the hearings, you may express your views by filling in and returning the bottom portion of this notice. Please contact the Planning Department at (469) 309-4290 or via email: [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) for additional information on this request.

Case Number: **ZDC-173-2021**

City Reference: 179000

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on **Tuesday, November 16, 2021** to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 401 South Rogers Street, Waxahachie, TX 75165.

☒ SUPPORT

☐ OPPOSE

Comments:

Joe Rust  
Signature

Joe Rust, Property Owner  
Printed Name and Title

11-5-21  
Date

440 Ginge.bread Ln.  
Address  
Waxahachie, TX 75165

*It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)*

*If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.*



(14)

**City of Waxahachie, Texas**  
**Notice of Public Hearing**  
**Case Number: ZDC-173-2021**

AMERITAI PARTNERSHIP  
1015 FERRIS AVE  
WAXAHACHIE, TX 75165

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, November 23, 2021 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, December 6, 2021 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

1. Request by Drew Donosky, Claymoore Engineering, for a **Specific Use Permit (SUP)** for a **Hospital (Inpatient Rehabilitation Facility)** use within a General Retail zoning district located at East of the intersection of Indian Drive and Brown Street (Property ID 179000)  
- Owner: BUFFALO CREEK PLAZA, LLC (ZDC-173-2021)

You received this notice because your property is within the area of notification as required by law. As an interested party you are welcome to make your views known by attending the hearings. If you cannot attend the hearings, you may express your views by filling in and returning the bottom portion of this notice. Please contact the Planning Department at (469) 309-4290 or via email: [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) for additional information on this request.

Case Number: ZDC-173-2021

City Reference: 184249

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on **Tuesday, November 16, 2021** to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 401 South Rogers Street, Waxahachie, TX 75165.

☒ SUPPORT

☐ OPPOSE

Comments:

Ladd Vien  
Signature

Ladd Vien  
Printed Name and Title

11/11/2021  
Date

1015 Ferris Ave  
Address  
Waxahachie, Tx  
75165

*It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)*

*If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.*

(17)

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT AN INPATIENT REHABILITATION FACILITY (CLEARSKY REHABILITATION HOSPITAL) USE WITHIN A GENERAL RETAIL (GR) ZONING DISTRICT, LOCATED EAST OF THE INTERSECTION OF INDIAN DRIVE AND BROWN STREET, BEING PROPERTY ID 179000, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING ABSTRACT 5 OF THE JB & A ADAMS SURVEY AND ABSTRACT 393 OF THE J GOOCH SURVEY, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

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

**WHEREAS**, the City Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and

**WHEREAS**, the described property is classified in said ordinance and any amendments thereto as GR; and

**WHEREAS**, a proper application for an SUP has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number ZDC-173-2021. Said application having been referred to the Planning and Zoning (P&Z) Commission was recommended by the P&Z Commission for approval and the issuance thereof; and

**WHEREAS**, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and,

**WHEREAS**, a proper hearing was held as required by law and the Council having heard all arguments for and against said SUP;

**NOW, THEREFORE**, this property is rezoned from GR to GR, with an SUP in order to permit an Inpatient Rehabilitation Facility (Clearsky Rehabilitation Hospital) use on the following property: Abstract 5 of the JB & A Adams Survey and Abstract 393 Of The J Gooch Survey, which is shown on Exhibit A, in accordance with the Site Plan attached as Exhibit B, Landscape Plan attached as Exhibit C, Elevation/Façade Plan attached as Exhibit D, and the Staff Report attached as Exhibit E.

#### **SPECIFIC USE PERMIT**

##### **Purpose and Intent**

The purpose of this Ordinance is to provide the appropriate restrictions and development controls that ensure this Specific Use Permit is compatible with the surrounding development and zoning and to also ensure that the development complies with the City's Comprehensive Plan and Zoning Ordinance.

### Specific Use Permit

**FOR OPERATION OF A SPECIFIC USE PERMIT FOR AN INPATIENT REHABILITATION FACILITY (CLEARSKY REHABILITATION HOSPITAL) USE IN THE GENERAL RETAIL (GR) DISTRICT;** the following standards and conditions are hereby established as part of this ordinance:

1. A mutually agreed upon Development Agreement will be required for the development.
2. The site plan shall conform as approved by the City Council under case number ZDC-173-2021.
3. The development shall adhere to the City Council approved in Exhibit B – Site Plan, Exhibit C - Landscape Plan, Exhibit D – Elevation/Façade Plan, and Exhibit E – Staff Report.
4. The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Municipal Code and City of Waxahachie Zoning Ordinance.
5. Any zoning, land use requirement, or restriction not contained within this Zoning Ordinance, Development Agreement, or Staff Report as approved by City Council, shall conform to those requirements and/or standards prescribed in Exhibits B – Site Plan, Exhibit C – Landscape Plan, Exhibit D – Elevation/Façade Plan, and Exhibit E - Staff Report of the approved Ordinance. Where regulations are not specified in Exhibits B, C, D, E, zoning ordinance, or Development Agreement, the regulations of the General Retail Zoning District shall apply to this development.
6. City Council shall have the right to review the Specific Use Permit at any point, if needed.

### Compliance

1. It shall be unlawful for the owner, manager, or any person in charge of a business or other establishment to violate the conditions imposed by the City Council when a Specific Use Permit is granted, and the violation of those conditions could result in a citation being issued by the appropriate enforcement officers of the City of Waxahachie.
2. Furthermore, by this Ordinance, if the premises covered by this Specific Use Permit is vacated and/or ceases to operate for a period exceeding six months (6 months), a new Specific Use Permit shall be required to reestablish the use.
3. This Specific Use Permit shall run with the land and therefore may be transferred from owner to owner; however, each new owner shall obtain a new Certificate of Occupancy.
4. The Certificate of Occupancy shall note the existence of this Specific Use Permit by its number and title.

An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage.

The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance therewith.

(17)

**PASSED, APPROVED AND ADOPTED** on this 6th day of December, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Secretary

(17)

November 1, 2021

Colby Collins  
Planning Manager  
City of Waxahachie  
401 S. Rogers St., P.O. Box 757  
Waxahachie, TX 75168

DEKKER  
PERICH  
SABATINI

Project Operational Narrative for the proposed ClearSky Rehabilitation Hospital of Waxahachie

a. Typical business operations.

The ClearSky Rehabilitation Hospital of Waxahachie is a facility that will provide care for patients recovering from stroke, heart attack, brain injury, spinal cord injury, orthopedic conditions, cancer, and pulmonary conditions. The facility will offer physical therapy, speech therapy, and occupational therapy services that bridge an important gap in transitioning patients from acute care facilities back to home living. With a 12-day average stay, the hospital strives to maintain a friendly environment that promotes healing of the body, mind and spirit. The facility is intended to be licensed as a specialty rehabilitation hospital. The facility is a single-story building that is approximately 40,000 gross square feet.

b. Hours of operation.

Due to the nature of its business operations the ClearSky Rehabilitation Hospital of Waxahachie will be open 24 hours & 7 days per week.

c. Parking and circulation.

Having operated similar facilities for over 15 years, it has been determined that the optimum number of parking spaces for one of these facilities is right around 90 spaces for a 30 bed facility and 120 spaces for a 40 bed facility. In calculating the number of parking spaces allowed by the City of Waxahachie zoning code at one space per two beds, the number of spaces required is substantially less than this amount.

Dekker/Perich/Sabatini has designed over 30 other physical rehabilitation hospitals similar to this project across the Country and have collected the typical parking usage of these facilities. We have also worked with several different cities that use a variety of parking calculation methods for hospital facilities. Parking requirements for hospital facilities vary widely from jurisdiction to jurisdiction and rarely have an accurate way to determine a method that gives a functional parking count. The most widely used method for calculating required parking for hospitals is using a space count per bed. A lot of times this is a space requirement that is either 1, 1.5 or 2 spaces per bed. This typically generates a number that is way lower than the actual space need. With more and more cities making the parking requirement both a minimum and maximum parking number to try and reduce the urban heat island effect, this is becoming problematic. The other main way of calculating parking requirements is using a space per square foot calculation. The main issue with using a square footage number to determine parking, and in particular a low square foot per space number like 200, is that hospitals are required to have a lot of circulation space (8 foot wide corridors) as well as having several rooms that are not used concurrently. This facility in particular is a prime example of having

(17)

several spaces that are not used concurrently. The facility is comprised of 30 private patient rooms. Each room has a toilet room that cannot be occupied by anyone else other than the patient in the room. The facility also has a large rehabilitation/occupational therapy gym that is not occupied by anyone other than the patients that also occupy the 30 beds and the staff. These same 30 patients and staff are also the only ones that occupy the dining area. There are 5 different types of spaces that will only be occupied 1 at a time by patients and staff. The requirement to have parking spaces calculated for the other 4 spaces drives the minimum number of spaces to a very high number. This becomes problematic because a larger area of paving is required than needed and it exacerbates the urban heat island effect and the parking areas that are not used deteriorate quickly.

The "rule of thumb" that we have created that gets the closest to a workable number is providing 1 space per patient room and 1 space per every peak staff member. The peak staffing occurs at shift change and give enough overlap that when the night shift is coming on duty and the day shift is doing the patient information transition. For this facility, the peak staffing number at shift change will be around 60. Add in the 1 space per bed and the total maximum number of spaces that will likely be used is 90. This peak staffing level typically occurs at around 6:30pm for a 7:00pm shift change.

Below are several examples of similar rehabilitation hospital facilities that DPS has completed. These facilities are all 40 bed facilities so there is a slightly higher number of spaces needed at 120 (40 beds + 80 staff). These facilities had parking calculated by square footage and had a higher required number of spaces required than was needed. These numbers are daily average numbers provided by the facility and not the peak load which is a bit higher. A table of the actual provided spaces vs the used spaces of each facility is below:

	spaces provided	average space usage
Elkhorn Valley Rehabilitation Hospital	187	65
Lafayette Regional Rehabilitation Hospital	150	65
New Braunfels Regional Rehabilitation Hospital	150	60
Rehabilitation Hospital of Northwest Ohio	163	45

\*\*The Rehabilitation Hospital of Northwest Ohio is located on the campus of the University of Toledo medical center and the doctor parking is located on the campus in a different location which explains why the average number of spaces used is less than the others.

Each of the facilities is represented by an aerial image of the facilities that are taken during a typical day and show how little of the parking is actually used.



(17)

Elkhorn Valley Rehabilitation Hospital – Casper, WY



Lafayette Regional Rehabilitation Hospital – Lafayette, IN



(17)

New Braunfels Regional Rehabilitation Hospital – New Braunfels, TX



Rehabilitation Hospital of Northwest Ohio – Toledo OH



(17)

The design team is proposing a parking count that is based on the reality of how the facility is used and not according to the use table. Based on 1 space per bed plus one space for peak staff the max parking load will be 90. The originally submitted site plan showed 104 spaces and we have scaled this back to 94 spaces to match the "rule of thumb" for these facilities as explained above.

The site design and circulation is primarily driven by functional and regulatory requirements of a hospital facility. Providing a covered area at the entry for patient drop off and pick up is required by the health codes. The covered entry canopy is sized and located to keep the area shaded and keep the rain from reaching patients waiting pick up or drop off. The need for an on-site loop access road to aide in fire department circulation is critical. Due to the critical nature of hospital facilities and the defend in place firefighting strategy in place make this loop road a requirement of the fire code. Service deliveries to the facility are primarily delivered by small trucks and vans. There is occasional large truck traffic to the facility and the site has been designed to be easy to navigate with an 18 wheeled truck. The large truck traffic happens at the facility opening when furniture is being delivered and then is very sparse and typically occurring less than once a week for delivery of liquid oxygen. Noise from frequent ambulance trips is usually a question that we get from cities and neighborhood groups. Ambulance traffic to the facility is minimal and usually only occurs when patients are transferred to the facility from an acute care hospital (no lights and sirens). It is extremely rare to have an ambulance access the facility with lights and sirens.

#### d. Conclusion

ClearSky Health is excited to be joining the Waxahachie community. They are a great corporate citizen and will bring significant amounts of economic activity to the area. Their facilities are top notch and something that the community can be proud to welcome to the area. Medical care for the community will also be enhanced by the addition of a top tier healthcare provider to partner with local hospitals in providing excellent post-acute care. ClearSky Health has also been working closely with local acute care hospitals in the development of this facility to ensure there is a well-planned continuum of care for the community. The planned facility will meet all of the requirements of the zoning code and we welcome the opportunity to work with City planning staff to make the process as smooth as possible.

Very truly yours,

**Dekker/Perich/Sabatini Ltd.**



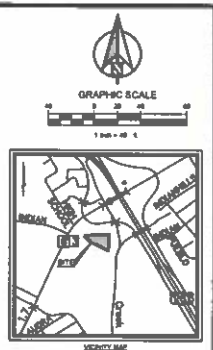
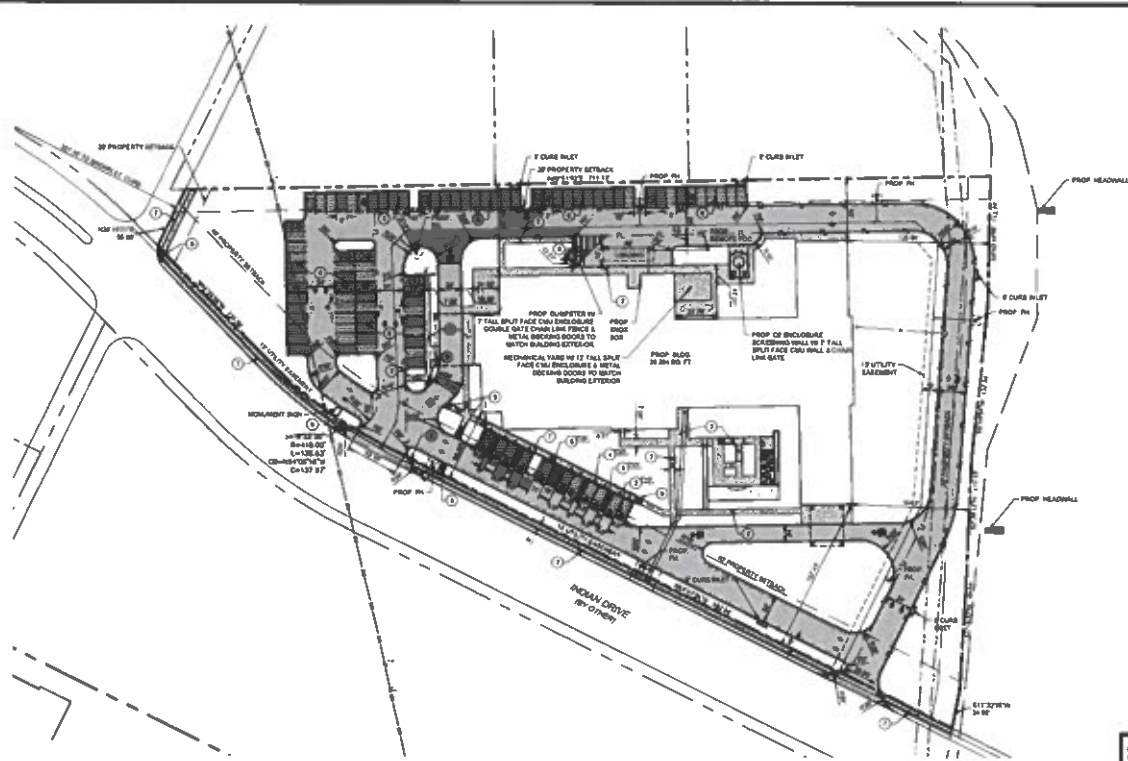
Robert C. George, AIA, LEED AP  
Principal



(17)



(17)



- LEGEND**
- STANDARD DUTY CONCRETE PAVEMENT
  - HEAVY DUTY CONCRETE PAVEMENT
  - DRIVEWAY AREA CONCRETE PAVEMENT
  - SIDEWALK CONCRETE PAVEMENT
  - PROPOSED CONCRETE CURB AND GUTTER
  - PARKING LOT
  - PROPOSED FIRE LANE STRIPPING

- NOTES**
1. ALL DIMENSIONS ARE TO FACE OF WALL UNLESS OTHERWISE NOTED
  2. REFER TO ARCHITECTURAL PLANS FOR BUILDING FOOTPRINTS AND EXACT DOOR LOCATIONS
  3. REFER TO ARCHITECTURAL PLANS FOR FENCE AND GATE DETAILS

**CONSTRUCTION SCHEDULE**

1. SET OUT PALL BENCH EXISTING PAVEMENT
2. PROPOSED SIDEWALK PAVEMENT
3. PROPOSED DRIVEWAY STRIPPING
4. PROPOSED SIDEWALK SIGN
5. PROPOSED CURB STOP
6. 4" PARKING STALL STRIPING COLOR WHITE (TYP)
7. PROPOSED CONCRETE SIDEWALK
8. DRIVEWAY WITH ENGLISH (REFER TO ARCHITECTURAL PLANS FOR DETAILS)
9. PROPOSED PAVING STONE LAMP

**PROPOSED CONSTRUCTION**

NO.	DESCRIPTION	DATE	BY	CHECKED	DATE	BY
1	GENERAL LAYOUT	10/15/11	W. W. W.	J. J. J.	10/15/11	W. W. W.
2	PROPOSED CONSTRUCTION	10/15/11	W. W. W.	J. J. J.	10/15/11	W. W. W.
3	PROPOSED CONSTRUCTION	10/15/11	W. W. W.	J. J. J.	10/15/11	W. W. W.
4	PROPOSED CONSTRUCTION	10/15/11	W. W. W.	J. J. J.	10/15/11	W. W. W.
5	PROPOSED CONSTRUCTION	10/15/11	W. W. W.	J. J. J.	10/15/11	W. W. W.

# Exhibit B - Site Plan

**SITE DATA SUMMARY**

NO.	DESCRIPTION	DATE	BY	CHECKED	DATE	BY
1	GENERAL LAYOUT	10/15/11	W. W. W.	J. J. J.	10/15/11	W. W. W.
2	PROPOSED CONSTRUCTION	10/15/11	W. W. W.	J. J. J.	10/15/11	W. W. W.
3	PROPOSED CONSTRUCTION	10/15/11	W. W. W.	J. J. J.	10/15/11	W. W. W.
4	PROPOSED CONSTRUCTION	10/15/11	W. W. W.	J. J. J.	10/15/11	W. W. W.
5	PROPOSED CONSTRUCTION	10/15/11	W. W. W.	J. J. J.	10/15/11	W. W. W.

**CLAYMORE ENGINEERING**

11000 N. W. 11TH AVE., SUITE 100  
FORT WORTH, TEXAS 76116  
TEL: 817-335-1111 FAX: 817-335-1112  
WWW.CLAYMORE-ENGINEERING.COM

**MEDCORE WAXAHACHIE**  
BROWN STREET & INDIAN DRIVE  
WAXAHACHIE, TX

**SUP SITE PLAN**

SP-1

PLANNED BY: MEDCORE WAXAHACHIE  
 DATE: 10/15/11  
 SCALE: 1" = 40'  
 SHEET: SP-1 OF 1





### PLANTING SPECIFICATIONS

[illegible]

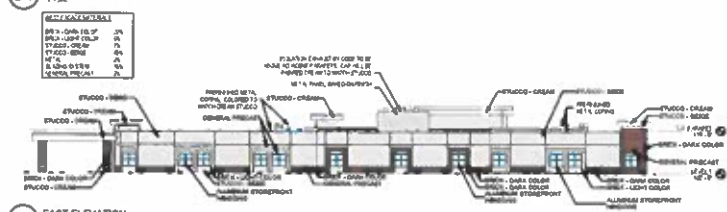
GENERAL SHEET NOTES

- A. Өзгөчтөгү жана жалпы дүйнөдө өткөн жана өткүзүлгөн конференциялардын, семинарлардын, лекциялардын, курсунун, жана башкалардын темасын, мазмунун, максатын, жана башкаларды белгилөө.

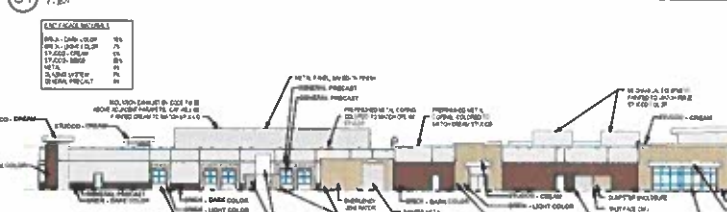
**TOTAL FACADE MATERIALS**

የግንባታ ሥራ ስራ	7%
የግንባታ ሥራ ስራ	2%
የግንባታ ሥራ ስራ	6%
የግንባታ ሥራ ስራ	6%
የግንባታ ሥራ ስራ	7%
የግንባታ ሥራ ስራ	7%
የግንባታ ሥራ ስራ	7%

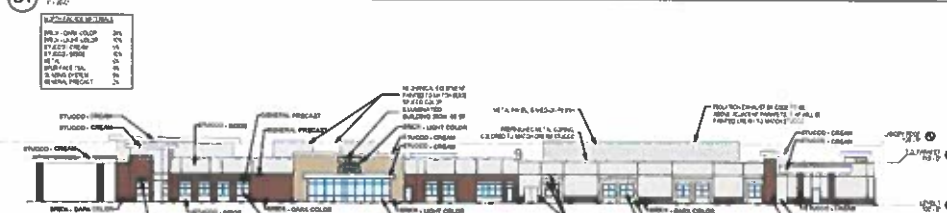
**D1 WEST ELEVATION**



**C1 EAST ELEVATION**



**B1 NORTH ELEVATION**



**A1 SOUTH ELEVATION**



### Exhibit D - Elevation/Facade Plan

**DEKKER  
PERICH  
SABATINI**

ARCHITECTURE  
DESIGN  
INSPIRATION

NOT FOR CONSTRUCTION

**CLEARSKY  
REHABILITATION  
HOSPITAL OF  
WAXAHACHIE**  
5 JB&A ADAMS, 393 J GOOCH

## ENTITLEMENTS



QUARTER IN	1/4"
QUARTER IN	1/4"
QUARTER IN	1/4"
QUARTER IN	1/4"

EXTERIOR ELEVATIONS

EN201



# Exhibit E - Staff Report

(17)

## Planning & Zoning Department Zoning Staff Report

Case: ZDC-173-2021



### MEETING DATE(S)

Planning & Zoning Commission: November 23, 2021

City Council: December 6, 2021

### ACTION SINCE INITIAL STAFF REPORT

At the Planning & Zoning Commission meeting, held November 23, 2021, the Commission voted 7-0 to recommend approval of case number ZDC-173-2021, subject to staff comments.

### CAPTION

**Public Hearing** on a request by Drew Donosky, Claymoore Engineering, for a **Specific Use Permit (SUP)** for a **Hospital (Inpatient Rehabilitation Facility)** use within a General Retail zoning district located at East of the intersection of Indian Drive and Brown Street (Property ID 179000) - Owner: BUFFALO CREEK PLAZA, LLC (ZDC-173-2021)

### APPLICANT REQUEST

The applicant is requesting approval to allow an Inpatient Rehabilitation Facility (ClearSky Rehabilitation Hospital) 5 acres.

### CASE INFORMATION

Applicant: David Ransom, Waxahachie IRF, LLC

Property Owner(s): Buffalo Creek Plaza, LLC

Site Acreage: 5 acres

Current Zoning: General Retail (GR)

Requested Zoning: General Retail with SUP

### SUBJECT PROPERTY

General Location: Located East of the intersection of Indian Drive and Brown Street

Parcel ID Number(s): 179000

Existing Use: Undeveloped

Development History: N/A

# Exhibit E - Staff Report

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**Table 1: Adjoining Zoning and Uses**

Direction	Zoning	Current Use
North	N/A	US 287 Bypass
East	PD-SF	Undeveloped Land
South	GR & SF2	Regional Orthopedic & Sports Medicine Center
West	GR	Retail & Multi-Family Apartments

*Future Land Use Plan:*

Office

*Comprehensive Plan:*

This land use type is intended for businesses such as banks, insurance agencies, and accounting offices. Office land uses are generally compatible with residential area, with the exception of high-rise office buildings. Land designated for office is appropriate along U.S. Highway 287, at a close proximity to IH-35E within Mixed Use Nonresidential areas, as well as within the Medical District.

*Thoroughfare Plan:*

The subject property is accessible via Brown St.

*Site Image:*



## **PLANNING ANALYSIS**

### **Purpose of Request:**

The applicant is requesting approval to allow an Inpatient Rehabilitation Facility (ClearSky Rehabilitation Hospital) 5 acres. Per the City of Waxahachie Zoning Ordinance, the use of a Hospital within a General Retail zoning district requires a Specific Use Permit to be reviewed by City Council.

# Exhibit E - Staff Report

(17)

## Proposed Use:

### Operation

The ClearSky Rehabilitation Hospital is a facility that will provide care for patients recovering from stroke, heart attack, brain injury, spinal cord injury, orthopedic conditions, cancer, and pulmonary conditions. The facility will offer physical therapy, speech therapy, and occupational therapy services that will help patients transition from acute care facilities, back to home living with an average 12-day patient stay at the hospital. The facility is intended to be licensed as a specialty rehabilitation hospital and is 40,000 gross square feet. Due to the use of a hospital, ClearSky Rehabilitation Hospital is proposing to operate 24 hours & 7 days per week.

**Table 2: Proposed Development Standards (General Retail)**

Standard	City of Waxahachie	ClearSky	Meets Y/N
Min. Lot Area (Sq. Feet)	7,000	217,293	Yes
Min. Front Yard (Feet)	40	40	Yes
Min. Side Yard (Feet)	20	20	Yes
Min. Rear Yard (Feet)	20	20	Yes
Max. Height	2 stories	1 story	Yes
Max. Lot Coverage (%)	40	18	Yes
*Parking: Hospital 1 space per 2 beds	15 spaces	93 spaces	Yes

\*Per the City of Waxahachie Zoning Ordinance, a Hospital use requires 1 parking space for every 2 beds (15 spaces for the proposed development). Though the proposed parking (93 spaces) for the development exceeds the requirement by 78 spaces, staff believes that the parking will be consistent with the use to help further accommodate employees as well as visitors to the facility. For this facility, the peak staffing number at shift change will be around 60. This peak staffing level typically occurs at around 6:30pm for a 7:00pm shift change.

### Landscaping

The property is subject to landscaping requirements per the City of Waxahachie Zoning Ordinance. Table 3 provides a summary of the landscaping for the development.

**Table 3: Landscape Requirements**

Standard	City of Waxahachie	ClearSky	Meets Y/N
Area (Sq. Feet)	16,589	49,206	Yes
Trees (Landscape Buffer)	19	19	Yes
Shrubs	69	184	Yes
Street Trees	25	25	Yes

### Building Design/Facade

The development is proposed to be constructed of brick, stucco, and metal. 81% of the building will consist of brick and stucco, and the remaining 19% of the building will primarily consist of metal and window glazing.

### Future Site Development:

The proposed ClearSky Rehabilitation Hospital (5 acres) is envisioned to be a part of a Planned Development district (30 acres) surrounding the subject property consisting of potential retail, commercial, and residential located east of the intersection of Indian Drive and Brown Street. Due to scheduling conflicts, ClearSky Rehabilitation Hospital is requesting approval of a Specific Use permit independently opposed to being presented under one Planned Development request.

# Exhibit E - Staff Report

(17)

## Conformance with the Comprehensive Plan:

The Future Land Use Plan (FLUP) per the City of Waxahachie zoning map is intended as an outlook for future land use of land and the character of the development in the city. The FLUP designates the subject property as Office.

The proposed development is consistent with the following goals and objectives in the 2016 Comprehensive Plan Addendum:

- Growth Strategies – Goal 1: Encourage the most desirable, efficient use of land while maintaining and enhancing local aesthetics.
- Growth Strategies – Goal 2: Encourage a balance of land uses to serve the needs of citizens and to ensure a diverse economic base.
- Growth Strategies – Goal 12: Promote growth of the community where infrastructure exists.
- Growth Strategies – Goal 14: Prioritize roadway planning and construction in areas where growth is desirable.

## PUBLIC NOTIFICATIONS

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 9 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Sun and a sign was visibly posted at the property.

## PROPERTY OWNER NOTIFICATION RESPONSES

Staff received two (2) letters of support for the proposed development.

## RECOMMENDATION

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning and Zoning Department recommends:

- ☐ Denial
- ☐ Approval, as presented.
- ☒ **Approval, per the following comments:**
  1. A mutually agreed upon Development Agreement will be required for the development.

## ATTACHED EXHIBITS

1. Property Owner Notification Responses
2. Development Agreement/Ordinance
3. Operational Plan
4. Location Exhibit
5. Site Plan
6. Landscape Plan
7. Elevation/Façade Plan
8. Staff Report

## APPLICANT REQUIREMENTS

1. If approved by City Council, applicant can apply for building permits from the Building and Community Services Department.

## Exhibit E - Staff Report

(17)

### STAFF CONTACT INFORMATION

*Prepared by:*

Colby Collins

Planning Manager

[ccollins@waxahachie.com](mailto:ccollins@waxahachie.com)

*Reviewed by:*

Jennifer Pruitt, AICP, LEED-AP, CNU-A

Director of Planning

[jennifer.pruitt@waxahachie.com](mailto:jennifer.pruitt@waxahachie.com)

STATE OF TEXAS	§	DEVELOPMENT AGREEMENT
	§	FOR CLEARSKY REHAB. HOSPITAL
COUNTY OF ELLIS	§	

This Development Agreement for Clearsky Rehabilitation Hospital ("**Agreement**") is entered into between Clearsky Rehabilitation Hospital ("**CRH**") and the City of Waxahachie, Texas ("**City**"). CRH and the City are sometimes referred herein together as the "**Parties**" and individually as a "**Party**."

**Recitals:**

1. BUFFALO CREEK PLAZA, LLC. is the owner of approximately 5 acres of real property generally located East of the intersection of Indian Drive and Brown Street, Parcel Number 179000, in the City of Waxahachie, Texas (the "**Property**"), for which the applicant has requested a change in the Property's General Retail to General Retail with Specific Use Permit ("**SUP**") zoning, revising specific development standards. The Property is currently zoned General Retail by the City, and is anticipated to have the SUP reviewed on December 6, 2021.

2. The planned use of the Property is to create a Specific Use Permit to allow for the use of an Inpatient Rehabilitation Facility (Clearsky Rehabilitation Hospital). The SUP process is utilized to ensure that the Property would develop in a manner that meets the City's desired development standards, as well as providing CRH with agreed-upon and negotiated standards consistent with their business objectives.

3. As is reflected by the public records of the City, significant discussions and negotiations between representatives of CRH and the City of Waxahachie staff have occurred during various meetings, in an effort to obtain an agreed-upon and negotiated set of zoning and development standards to be reflected in the SUP zoning amendment **Ordinance No. (TBD)** (the "**Clearsky Rehabilitation Hospital SUP Ordinance**"), a copy of which is attached hereto as **Exhibit A** and which contains the negotiated zoning and development standards for Clearsky Rehabilitation Hospital.

4. This Agreement seeks to incorporate the negotiated and agreed upon zoning and development standards contained in the Clearsky Rehabilitation Hospital SUP Ordinance as contractually-binding obligations between the City of Waxahachie and CRH, and to recognize CRH's reasonable investment-backed expectations in the Clearsky Rehabilitation Hospital SUP Ordinance and the planned development of Clearsky Rehabilitation Hospital.

**NOW, THEREFORE**, for and in consideration of the above and foregoing premises, the benefits to each of the Parties from this Agreement, and other good and valuable consideration, the sufficiency of which is hereby acknowledged and agreed, the Parties do hereby agree as follows:

**Section 1. Incorporation of Premises.** The above and foregoing Recitals are true and correct and are incorporated herein and made a part hereof for all purposes.

**Section 2. Term.** This Agreement shall be effective as of the date of execution of this Agreement by the last of the Parties to do so ("**Effective Date**"). This Agreement shall remain in full force and effect from the Effective Date until terminated by the mutual agreement of all of the Parties in writing ("**Term**").

**Section 3. Agreements.** The Parties agree as follows:

**Incorporation of Zoning and Recognition of Investment-Backed Expectations:**

The negotiated and agreed upon zoning and development standards contained in the Clearsky Rehabilitation Hospital SUP Ordinance, which incorporate by reference the general zoning regulations of the City of Waxahachie zoning ordinance, are hereby adopted and incorporated into this Agreement as contractually-binding obligations of the Developer.

The Developer agrees to:

- (A) The site plan shall conform as approved by the City Council under case number ZDC-173-2021.
- (B) The development shall adhere to the City Council approved in Exhibit B – Site Plan, Exhibit C - Landscape Plan, Exhibit D – Elevation/Façade Plan, and Exhibit E – Staff Report.
- (C) All materials, location of materials, and percentage of materials for the building shall be consistent with the Elevation/Facade Concept Plan (Exhibit D).
- (D) All development within the subject property will be subject to obtaining building permits from the City in accordance with the City's applicable rules and regulations governing such permits.
- (E) The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Municipal Code and City of Waxahachie Zoning Ordinance.
- (F) Any zoning, land use requirement, or restriction not contained within this Development Agreement, Zoning Ordinance, or Staff Report as approved by City Council, shall conform to those requirements and/or standards prescribed in Exhibits B – Site Plan, Exhibit C – Landscape Plan, Exhibit D – Elevation/Façade Plan, and Exhibit E - Staff Report of the approved Ordinance. Where regulations are not specified in Exhibits B, C, D, E, zoning ordinance, or Development Agreement, the regulations of the General Retail Zoning District shall apply to this development.

In consideration of CRH's agreement in this regard, the City of Waxahachie agrees that CRH has reasonable investment-backed expectations in the Clearsky Rehabilitation Hospital SUP Ordinance, and that the City of Waxahachie may not unilaterally change the zoning and development standards contained in the Clearsky Rehabilitation Hospital SUP Ordinance without impacting CRH's reasonable investment-backed expectations.

**Section 4. Miscellaneous**

A. This Agreement and any dispute arising out of or relating to this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without reference to its conflict of law rules. In the event of any dispute or action under this Agreement, venue for any and all disputes or actions shall be instituted and maintained in Ellis County, Texas.

B. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership, joint venture, joint enterprise, or other relationship between or among the Parties.

C. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

D. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either Party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the Parties may have by law statute, ordinance, or otherwise. The failure by any Party to exercise any right, power, or option given to it by this Agreement, or to insist upon strict compliance with the terms of this Agreement, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach thereof, nor a waiver by such Party of its rights at any time thereafter to require exact and strict compliance with all the terms hereof. Any rights and remedies any Party may have with respect to the other arising out of this Agreement shall survive the cancellation, expiration or termination of this Agreement, except as otherwise expressly set forth herein.

E. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

F. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination or expiration of this Agreement shall survive termination or expiration.

G. This Agreement is made subject to the existing provisions of the City of Waxahachie, its present rules, regulations, procedures and ordinances, and all applicable laws, rules, and regulations of the State of Texas and the United States.



H. The undersigned officers and/or agents of the Parties hereto are the properly authorized persons and have the necessary authority to execute this Agreement on behalf of the Parties hereto.

I. This Agreement may be only amended or altered by written instrument signed by the Parties.

J. The headings and captions used in this Agreement are for the convenience of the Parties only and shall not in any way define, limit or describe the scope or intent of any provisions of this Agreement.

K. This Agreement is the entire agreement between the Parties with respect to the subject matters covered in this Agreement. There are no other collateral oral or written agreements between the Parties that in any manner relates to the subject matter of this Agreement, except as provided or referenced in this Agreement.

L. This Agreement shall be recorded in the real property records of Ellis County, Texas. This Agreement and all of its terms, conditions, and provisions is and shall constitute a restriction and condition upon the development of the Property and all portions thereof and a covenant running with the Property and all portions thereof, and is and shall be binding upon CRH and all heirs, successors, and assigns and the future owners of the Property and any portion thereof; provided, however, this Agreement shall not constitute an obligation of or be deemed a restriction or encumbrance with respect to any platted residential lot upon which a completed structure has been constructed.

M. **Form 1295 Certificate.** The Developer agrees to comply with Texas Government Code, Section 2252.908 and in connection therewith, the Developer agrees to go online with the Texas Ethics Commission to complete a Form 1295 Certificate and further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 2252.908 and the rules of the Texas Ethics Commission and provide to the Town, at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate.

N. **Undocumented Workers Provision.** The Developer certifies that Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of any public subsidy provided under this Agreement to Developer plus six percent (6.0%), not later than the 120<sup>th</sup> day after the date the Town notifies Developer of the violation.

O. **Non-Boycott of Israel Provision.** In accordance with Chapter 2270 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a business entity for the provision of goods or services unless the agreement contains a written verification from the business entity that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement. Chapter 2270 of the Texas Government Code does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) the contract has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless Developer is not subject to Chapter 2270

of the Texas Government Code for the reasons stated herein, the signatory executing this Agreement on behalf of Developer verifies that Developer does not boycott Israel and will not boycott Israel during the Term of this Agreement.

- P. **Prohibition on Contracts with Certain Companies Provision.** In accordance with Section 2252.152 of the Texas Government Code, the Parties covenant and agree that Developer is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.
- Q. **Verification Against Discrimination of Firearm or Ammunition Industries.** Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 19, 87<sup>th</sup> Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Developer employs at least ten (10) fulltime employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the Town, the Developer represents that: (1) the Developer does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the Developer will not discriminate during the Term of the Agreement against a firearm entity or firearm trade association.
- R. **Verification Against Discrimination Developer Does Not Boycott Energy Companies.** Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 13, 87<sup>th</sup> Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Developer employs at least ten (10) fulltime employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the Town, the Developer represents that: (1) the Developer does not boycott energy companies; and (2) the Developer will not boycott energy companies during the Term of this Agreement.

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**{Signature Pages Follow}**

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**EXECUTED** by the Parties on the dates set forth below, to be effective as of the date first written above.

**CITY OF WAXAHACHIE, TEXAS**

By: \_\_\_\_\_  
Michael Scott, City Manager

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
City Secretary

**STATE OF TEXAS       §**  
**§**  
**COUNTY OF ELLIS     §**

Before me, the undersigned authority, on this \_\_\_\_\_ day of \_\_\_\_\_, personally appeared MICHAEL SCOTT, City Manager of the City of Waxahachie, Texas, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

[Seal]

By: \_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

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**: Clearsky Rehabilitation Hospital (Developer)**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**: Buffalo Creek Plaza, LLC (Owner)**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**STATE OF TEXAS**

§

§

**COUNTY OF ELLIS**

§

Before me, the undersigned authority, on this \_\_\_\_\_ day of \_\_\_\_\_, personally appeared \_\_\_\_\_, representative of Clearsky Rehabilitation Hospital, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

[Seal]

By: \_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

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## Planning & Zoning Department Zoning Staff Report

Case: ZDC-176-2021



### MEETING DATE(S)

Planning & Zoning Commission: November 23, 2021

City Council: December 6, 2021

### ACTION SINCE INITIAL STAFF REPORT

At the Planning & Zoning Commission meeting, held ZDC-176-2021, the Commission voted 5-2 to recommend denial of case number ZDC-176-2021.

### CAPTION

**Public Hearing** on a request by Rafael Benavides for **Zoning Change** from a Single Family-2 (SF2) zoning to **Planned Development-Single Family-2 (PD-SF2)** to allow an existing accessory structure for rent use located at 314 Kaufman Street (Property ID 170847) - Owner: RAFAEL & GREGORIA S BENAVIDES (ZDC-176-2021)

### APPLICANT REQUEST

The applicant is requesting a zoning change from Single Family-2 to Planned Development-Single Family-2 to allow an existing accessory structure for rent located at 314 Kaufman St.

### CASE INFORMATION

**Applicant:** Rafael Benavides  
**Property Owner(s):** Rafael and Georgia Benavides  
**Site Acreage:** 0.478 acres  
**Current Zoning:** Single Family-2 (SF2)  
**Requested Zoning:** Planned Development-Single Family-2

### SUBJECT PROPERTY

**General Location:** 314 Kaufman St.  
**Parcel ID Number(s):** 170847  
**Existing Use:** Existing single family residence with accessory structure

Table 1: Adjoining Zoning & Uses

Direction	Zoning	Current Use
North	SF2	Single Family Residences
East	SF3	Single Family Residences
South	SF3	Single Family Residences
West	SF2	Single Family Residences

*Future Land Use Plan:*

Low Density Residential

*Comprehensive Plan:*

This category is representative of smaller single family homes and some duplex units. The majority of Waxahachie's current development is of similar density. It is appropriate to have approximately 3.5 dwelling units per acre.

*Thoroughfare Plan:*

The subject property is accessible via Kaufman St.

*Site Image:***PLANNING ANALYSIS****Purpose of Request**

The applicant is requesting a zoning change from Single Family-2 to Planned Development-Single Family-2 to allow an existing accessory structure for rent located at 314 Kaufman St.

**Site History:**

The applicant is currently using an accessory structure on the subject property as an accessory dwelling to rent to non-family members. The property currently consist of a single family residence and an accessory structure, which was constructed in 1940 (per Ellis County Appraisal District). Both structures on the property have separate water, gas, and electric meters. However, the city has no record of the meters being installed at the property. The accessory structure previously had uses of a retail store and church. The applicant, Mr. Benavides, has occupied the property since 1997 (per Ellis County Appraisal District).

On June 9, 2021, staff received a complaint from a resident within the surrounding area stating that the site needed to be cleaned due to excessive trash along the front of the property. Per the City of Waxahachie Code Enforcement Department, violations for trash on the property and citation #2498 was created. At the time of this report (11/30/2021), there are no tenants occupying the accessory structure and the trash has been removed from the property.

Proposed Use/Analysis

The applicant is requesting to allow an existing accessory structure for rent on the subject property. The applicant is currently using an accessory structure on the subject property as an accessory dwelling to rent to non-family members. Though the applicant used the accessory structure as a dwelling for rent, there are no records of the accessory structure being approved as a legally habitable use. Per city records, there were no inspections completed at the property for the structure either. Due to the structure not being inspected by the City of Waxahachie, staff has concerns regarding the safety of the structure as a habitable use.

**STAFF CONCERNS**

Habitable Use/Safety

There are no official city records that indicate any permits issued or inspections at the subject property to allow the use of an accessory dwelling on the site. Due to the structure not being inspected by the City of Waxahachie, staff has concerns regarding the safety of the structure as a habitable use.

**PUBLIC NOTIFICATIONS**

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 24 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Sun and a sign was visibly posted at the property.

**RECOMMENDATION**

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning and Zoning Department recommends:

☒ **Denial**

1. Note: Due to the Planning and Zoning Commission recommending denial, "A favorable vote of three-fourths (¾) of all members, which equates to four (4) of the five (5) members, of the City Council is also required for any zoning request that was recommended for denial by the Planning and Zoning Commission. (Sec. 2.04, City of Waxahachie Zoning Ordinance)"
2. Due to staff concerns, staff recommends denial for the proposed use. Typically, if an accessory dwelling is allowed, staff consistently requires that the structure is not leased or sold separately.
3. Note: If City Council votes to approve the requested use:
  - a. Staff suggests that the applicant receive an official inspection for the structure from the City of Waxahachie Building Inspections Department. In addition, the structure must come into compliance with the 2018 International Building Code and 2018 International Residential Code regarding habitable structures.
  - b. If 50% or more of the structure is destroyed for any reason, staff suggests that the property come into compliance with the City

☐ Approval, as presented.

☐ Approval, per the following comments:

**ATTACHED EXHIBITS**

1. Ordinance
2. Location Exhibit
3. Site Layout Plan
4. Code Enforcement Report Code



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**APPLICANT REQUIREMENTS**

1. If approved by City Council, applicant can apply for building permits from the Building and Community Services Department.

**STAFF CONTACT INFORMATION**

*Prepared by:*

Colby Collins

Planning Manager

[ccollins@waxahachie.com](mailto:ccollins@waxahachie.com)

*Reviewed by:*

Jennifer Pruitt, AICP, LEED-AP, CNU-A

Director of Planning

[jennifer.pruitt@waxahachie.com](mailto:jennifer.pruitt@waxahachie.com)



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## CODE CASE DETAILED REPORT CODE-001532-2021 FOR CITY OF WAXAHACHIE, TX

**Case Type:** Code Enforcement **Project:** **Opened Date:** 06/09/2021  
**Status:** Escalated **District:** Roadway Impact District 4 **Closed Date:** 07/07/2021  
**Assigned To:** Michael Carrillo **Description:** TRASH AT CURB - NO PINK TAGS, ZONING VIOLATION

**Parcel:** 170847 **Main** **Address:** 314 Kaufman St **Main**  
Waxahachie, TX 75165

**Owner**  
Gregoria S & Rafael Benavides  
503 Farley St  
Waxahachie, TX 75165

Note	Created By	Date and Time Created
1. I RECEIVED AN ANONYMOUS COMPLAINT REGARDING TRASH AT THE CURB.	Michael Carrillo	6/9/2021 2:12 pm
2. I OBSERVED BLACK PLASTIC TRASH BAGS AT THE CURB WITH NO PINK TAGS	Michael Carrillo	6/9/2021 2:17 pm
3. WHILE RESEARCHING THE LOCATION I FOUND THAT THERE IS ONLY ONE ADDRESS "314" LISTED IN "ECAD" FOR THE PROPERTY, BUT THERE ARE TWO DIFFERENT BUILDINGS "314" AND "316" AT THE LOCATION.	Michael Carrillo	6/9/2021 2:17 pm
I CHECKED WITH THE WATER BILLING DEPARTMENT AND FOUND THAT THERE ARE TWO DIFFERENT WATER ACCOUNTS FOR EACH BUILDING.		
I THEN CHECKED WITH THE PLANNING & ZONING DEPARTMENT AND VERIFIED THAT THE LOCATION IS ZONED SINGLE-FAMILY (SF-2) AND THERE IS NO "SUP" TO ALLOW FOR A RENTAL "ADU" AT THE LOCATION.		
4. I ISSUED CITATION #2498 TO MRS. GREGORIA SOTO BENAVIDES, dob 07/07/1945, FOR VIOLATIONS: SECTIONS 14-21(d), AND 4.02 (a)(i), AND MAILED HER COPY, ALONG WITH THE NOTICE OF VIOLATION, TO HER VIA CERTIFIED MAIL.	Michael Carrillo	6/10/2021 10:05 am
5. MRS. BENAVIDES HAS CONTACTED THE P&Z DEPARTMENT TO SUBMIT AN "S" APPLICATION.	Michael Carrillo	6/18/2021 6:05 pm
6. ALL VIOLATIONS HAVE BEEN ABATED.	Michael Carrillo	7/7/2021 10:16 am

**Violation Code:** Sec. 14-21 (d) **Violation Status:** In Violation **Citation Issue Date:** 06/09/2021  
**Code Description:** Sec. 14-21 (d) **Compliance Date:** 06/19/2021  
**Corrective Action:** ANY/ALL TRASH BAGS THAT ARE NOT PLACED IN A POLYCARB WILL NOT BE COLLECTED BY WASTE CONNECTIONS UNLESS A PINK TAG IS AFFIXED.  
**Resolved Date:**  
PLEASE PURCHASE PINK TAGS AND PROVIDE THEM TO YOUR TENANTS.  
ENSURE THAT YOUR TENANTS DO NOT PLACE TRASH/LITTER IN ANY POLYCARBS EXCEPT THOSE THAT ARE ASSIGNED TO YOUR PROPERTY.

**Violation Code:** Sec. 4.02 (a) (i) **Violation Status:** In Violation **Citation Issue Date:** 06/09/2021  
**Code Description:** Zoning Use **Compliance Date:** 06/19/2021  
**Corrective Action:** THE RENTAL BUILDING ADDRESSED AT 316 KAUFMAN IS A PROHIBITED "ADU".  
**Resolved Date:**  
EITHER OBTAIN A SPECIAL USE PERMIT "SUP" FROM THE PLANNING & ZONING DEPARTMENT OR RETURN THE BUILDING TO ORIGINAL USE AND REFRAIN FROM RENTING IT FOR HABITATION.  
CALL ME AT (469) 309-4135.

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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM SINGLE FAMILY-2 (SF2) TO PLANNED DEVELOPMENT-SINGLE FAMILY-2 (PD-SF2), TO ALLOW AN EXISTING ACCESSORY STRUCTURE FOR RENT USE, LOCATED AT 314 KAUFMAN STREET, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 0.478 ACRES KNOWN AS PROPERTY ID 170847, BEING LOT 1, BLOCK B OF THE WAXAHACHIE TOWN ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

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

**WHEREAS**, the City Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and

**WHEREAS**, a proper application for a PD, with Concept Plan has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number ZDC-176-2021. Said application, having been referred to the Planning and Zoning (P&Z) Commission for their final report, was recommended by the P&Z Commission for zoning change denial of the subject property from SF2 to PD-SF2, with Concept Plan; and

**WHEREAS**, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and

**WHEREAS**, a proper hearing was held as required by law and the Council having heard all arguments for and against said zoning amendment;

**NOW, THEREFORE**, this property is rezoned from SF2 to PD-SF2, with Concept Plan in order to allow an Existing Accessory Structure for Rent use on the following property: Property ID 170847, being known as Lot 1, Block B of the Waxahachie Town Addition, which is shown on Exhibit A, and Site Layout Plan which is shown as Exhibit B.

### **PLANNED DEVELOPMENT**

#### **Purpose and Intent**

The purpose of this planned development to allow for an Existing Accessory Structure for Rent use, and to establish appropriate restrictions and development controls necessary to ensure predictable land development, safe and efficient vehicular and pedestrian circulation, compatible uses of land and compliance with appropriate design standards.

#### **Development Standards**

All development on land located within the boundaries of this Planned Development District shall adhere to the rules and regulations set forth in this ordinance. The locations of buildings, driveways, parking areas, amenity areas, trails, fencing, and other common areas shall substantially conform to

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the locations shown on the approved Site Layout Plan packet (Exhibits B).

Development Regulations

1. The applicant shall receive an official inspection for the structure from the City of Waxahachie Building Inspections Department. In addition, the structure must come into compliance with the 2018 International Building Code and 2018 International Residential Code regarding habitable structures.
2. If 50% or more of the structure is destroyed in any way, or if the property owner vacates or sells the property, the property shall revert to the use of Single Family-2 zoning.
3. The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Municipal Code and City of Waxahachie Zoning Ordinance.

An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage.

The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance therewith.

**PASSED, APPROVED, AND ADOPTED** on this 6<sup>th</sup> day of December, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Secretary

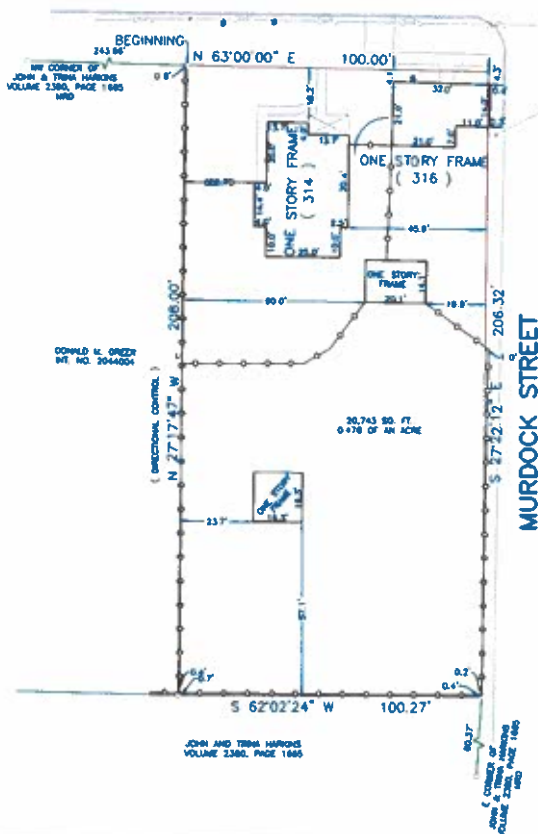
(20)



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## Exhibit B - Site Layout Plan

KAUFMAN STREET



## SURVEY PLAT



**RHODES**  
Surveying  
www.BRIANRHODES.COM

BRIAN S. RHODES Registered Professional Land Surveyor (972) 475-8940  
This is to certify that I have, this date, made a careful and accurate survey on the ground of property located at No. 314 KAUFMAN STREET, in the city of WAXAHACHIE, ELLIS COUNTY Texas.

STATE OF TEXAS:  
COUNTY OF ELLIS:

BEING a tract of land situated in the A.M. Keen Survey, Abstract No. 596, of Ellis County, Texas, and being a tract of land conveyed to Rafael and Gregoria S. Benavides, as recorded in Volume 1399, Page 665, of the Deed records of Ellis County, Texas, as shown on this survey, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1 inch pipe found for corner being the West corner of said Benavides tract, and being on the Southeast right-of-way line of Kaufman Street, and being the North corner of a tract of land conveyed to Donald M. Greer, as recorded in Instrument No. 2044004, of the Deed records of Ellis County,

THENCE North 63 degrees 00 minutes 00 seconds East, a distance of 100.00 feet, to a 1/2 inch yellow capped iron rod set for corner;

THENCE South 27 degrees 22 minutes 12 seconds East, a distance of 206.32 feet, to a 1/2 inch iron rod found for corner;

THENCE South 62 degrees 02 minutes 24 seconds West, a distance of 100.27, feet to a 1/2 inch iron rod found for corner;

THENCE North 27 degrees 17 minutes 47 seconds West, a distance of 208.00 feet, to the PLACE OF BEGINNING and containing 20,743 square feet, or 0.476 of an acre of land.



THIS CERTIFICATION DOES NOT  
TAKE INTO CONSIDERATION  
ADDITIONAL FACTS THAT AN  
ACCURATE TITLE SEARCH AND OR  
EXAMINATION MIGHT DISCLOSE.

1538 E. I-30, STE. 106, GARLAND, TX 75043 - FIRM REGISTRATION NO. 10194002  
The plat herein is true, correct, and accurate representation of the property as determined by survey, the lines and dimensions of said property being as indicated by the plat, the site, location and type of building and improvements are as shown, all improvements being within the boundaries of the property, set back from property lines the distance indicated, or visible and approved easements. TITLE AND ABSTRACTING WORK FURNISHED BY RAFAEL BENAVIDES  
THERE ARE NO ENCUMBRANCES, CONFLICTS, OR PROTRUSIONS, EXCEPT AS SHOWN.  
Scale: 1" = 30'  
Date: 09/14/2021  
G. F. No.: 109660  
Job No.: 109660  
Drawn by: BR







## Memorandum

To: Honorable Mayor and City Council  
From: David R. Bailey, Senior Director of Utilities  
Thru: Michael Scott, City Manager  
Date: December 6, 2021  
Re: Consider Bid Award Approval for the Replacement of one Stainless Steel End Dump Semi-trailer from Utility Trailer of Dallas, Inc.

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**Item Description:** This item will provide for the replacement of an end dump stainless steel semi-trailer for the Wastewater Treatment Plant, Department 780, to transport de-watered biosolids for permitted disposal at the landfill in Alvarado, Texas.

**Item Summary:** During the FY2022 Capital Budget process, funding was approved in the Wastewater Treatment Plant Operations & Maintenance Budget to purchase a new semi-tractor / trailer combo to replace aging equipment. Both pieces of equipment have exceeded the manufacturer's recommended service life. The Semi-tractor/trailer being replaced were originally purchased in year 2008. The new replacement semi-tractor has a purchase order issued (Oct. 1<sup>st</sup>) for its purchase through a cooperative purchasing agreement to allow for best pricing. No cooperative purchasing agency have the end-dump stainless steel trailers available through their agreements. Sealed bids were advertised, received, opened and read aloud, on November 16, 2021, with Utility Trailer of Dallas, Inc. submitting the only qualified bid in the amount of \$71,185.00.

**Fiscal Impact:** The trailer is part of the Department's Five-Year Capital Improvements Budget with funding approved in this current FY2022 Budget. The total funding for both items is \$190,000.00. However, the total cost for both, the semi-tractor and trailer is \$199,781.00. Due to the rising cost of materials and labor shortage, the truck and trailer combo is \$9,781.00 over budget. Staff has identified funds from project savings in another capital item within the department budget that would be used along with funds from the department's budgeted contingency to make up the funding shortfall. The quoted delivery date is 38-weeks from the date of purchase order. This puts delivery date around the Mid-August 2022, if purchase order is issued the week of December 6, 2021. Staff is recommending approval of the end-dump stainless steel trailer bid in the amount of \$71,185.00 to Utility Trailer of Dallas.