

Planning and Zoning Commission
February 14, 2023

The Waxahachie Planning & Zoning Commission held a regular meeting on Tuesday, February 14, 2023 at 7:00 p.m. in the Council Chamber at 401 S. Rogers St., Waxahachie, TX.

Members Present: Rick Keeler, Chairman
Betty Square Coleman
Bonney Ramsey
David Hudgins
Erik Test

Members Absent: Melissa Ballard, Vice Chairman
Ron Ansell

Others Present: Shon Brooks, Executive Director of Development Services
Jennifer Pruitt, Senior Director of Planning
Zack King, Senior Planner
Eleana Tuley, Senior Planner
Macey Martinez, City Engineer
Amber Villarreal, City Secretary
Chris Wright, Council Representative

1. **Call to Order**
2. **Invocation**

Chairman Rick Keeler called the meeting to order and gave the invocation.

3. **Public Comments**

Ira Tenpenny, 109 Rosa, Waxahachie, Texas, asked the City to identify separately metered and/or addressed accessory dwelling units and find out how those were allowed in the city.

4. **Consent Agenda**

- a. Minutes of the regular Planning & Zoning Commission meeting of January 24, 2023
- b. Minutes of the Planning and Zoning Commission briefing of January 24, 2023

Action:

Ms. Bonney Ramsey moved to approve items a. and b. on the Consent Agenda. Mr. Erik Test seconded, All Ayes.

5. **Consider a request by Shawne Walker, Walker Land Surveying Company, for a Plat of the Montes Addition, Lot 1, Block A, being 3.186 acres, located approximately 250 feet North of 1744 Butcher Road, situated in the Ashton Slayback Survey, Abstract 1005, an addition to the City of Waxahachie (Property ID: 289912) – Owner: JORGE MONTES & Yael Montes (SUB-182-2022) Staff: Zack King**

Zack King, Senior Planner, presented the case noting the applicant requests to plat the subject property into one (1) lot for single-family residential use. He explained the proposed lot meets all lot size and dimension requirements of the Future Development zoning district and the applicant is proposing a roughly 10' right-of-way (ROW) dedication along FM 387 in compliance with the City of Waxahachie Thoroughfare Plan. Staff recommends approval of the plat as presented.

Action:

Mr. David Hudgins moved to approve SUB-182-2022, a plat of the Montes Addition, authorizing the Planning & Zoning Commissioner to sign the associated documents accordingly. Ms. Bonney Ramsey seconded, All Ayes.

6. Public Hearing on a request by Henry Quigg, Richmond Group, for a Replat of a portion of Lot 3A, Block 30 of the Bullard's Revision, to create Lot 3A-R, being 0.324 acres, located at 100 S US Highway 77 (Property ID: 172431) Owner: PEARMAN OIL & LP GAS, INC. (SUB-146-2022) Staff: Zack King

Mr. King presented the case noting the applicant is requesting to replat the subject property into one (1) lot for commercial use. The proposed lot meets the minimum required size and dimension standards of the Commercial zoning district and the applicant has filed a mutual access easement on the southeastern corner of the property to allow for access to the site via a shared driveway on S US Highway 77.

Mr. King noted the applicant has requested a Petition of Relief Waiver for the right-of-way (ROW) dedication requirement along S Rogers Street and S US Highway 77. The City of Waxahachie Thoroughfare Plan identifies S Rogers Street as a future 80' thoroughfare and S US Highway 77 as a future 110' thoroughfare. Due to this, the applicant is required to provide an additional 10' of ROW dedication along S Rogers Street and an additional 15' of ROW dedication along S US Highway 77. The applicant is requesting to provide no additional ROW dedication due to adverse effects on the subject property. The applicant has noted that a previously existing building on the property had to be demolished when TxDOT acquired ROW for the recent expansion of Highway 77. At that time, TxDOT did not opt to acquire additional ROW from the subject property. The applicant is pursuing a replat of the property in order to prepare it for future development. Due to the recent acquisition of ROW from the subject property and the TxDOT control of Highway 77 and S Rogers Street, staff is supportive of the variance request for ROW dedication.

Mr. Erik Test inquired about potential adverse effects on the property if the Petition of Relief Waiver is not granted and Mr. King explained the lot size would reduce significantly.

Chairman Keeler opened the Public Hearing.

Ira Tenpenny, 109 Rosa, Waxahachie, Texas, asked who owned the previous restaurant on the property and Chairman Keeler explained the Commission is only considering the request for the replat of this lot and the Commission does not have the name of the owner for the demolished building.

There being no others to speak for or against SUB-146-2022, Chairman Keeler closed the Public Hearing.

7. Consider recommendation of SUB-146-2022

Action:

Ms. Bonney Ramsey moved to recommend approval of SUB-146-2022, a replat of the Bullard's Revision, with the associated Petition for Relief Waiver. Ms. Betty Square Coleman seconded, All Ayes.

8. Public Hearing on a request by Erica Duncan for a Replat of Lots 6, 7, 8, & 9, Block 2 of the Cotton Mill Addition, to create Lots 7R & 9R, Block 2 of the Cotton Mill Addition, two (2) residential lots, being 0.8796 acres, located at 232 Patrick Street, (Property ID: 172979 & 172988) Owner: ERICA DUNCAN & DONALD DUNCAN (SUB-176-2022) Staff: Zack King

Mr. King presented the case noting the applicant is requesting to replat four (4) lots of the subject property into two (2) lots for residential use. He noted the proposed lots meet or exceed all lot size and dimension requirements of the Two-Family-Residential-Duplex zoning district and staff recommends approval as presented.

Chairman Keeler opened the Public Hearing.

Ms. Bonney Ramsey noted the home on the property burned completely to the ground and inquired about the future use of the property. Mr. King explained only the replat request is being reviewed at this time.

There being no others to speak for or against SUB-176-2022, Chairman Keeler closed the Public Hearing.

9. Consider approval of SUB-176-2022

Mr. Erik Test moved to approve SUB-176-2022, a replat of the Cotton Mill Addition, authorizing the Planning & Zoning Commissioner to sign the associated documents accordingly. Ms. Bonney Ramsey seconded, All Ayes.

10. Public Hearing on a request by Chris Snow for a Specific Use Permit (SUP) for an accessory structure +700 sf use within a Single Family Residential-2 zoning district located at 107 University Avenue (Property ID 176369) - Owner: CHRISTOPHER & KAREN SNOW (ZDC-160-2022) Staff: Eleana Tuley

Eleana Tuley, Senior Planner, presented the case noting the applicant is requesting a specific use permit to construct an 864 sq. ft. accessory structure in the rear portion of the single-family residential lot. The accessory structure consists of an enclosed building with an attached carport and the applicant has confirmed the structure will not be used as a dwelling of any kind and will not be metered, sold, or leased separately from the existing home. Ms. Tuley explained the owner received a building permit prior to approval of the specific use permit and improved his existing gravel drive. She noted the accessory building and carport were not originally constructed as one unit and that is why the building permits were granted.

Ms. Tuley explained the property owner is not proposing to improve the driveway with concrete surface material as required, but instead utilize the existing gravel driveway. Staff recommends approval per the following comments:

1. The accessory structure shall not be used as a dwelling.
2. The accessory structure shall not be used for commercial purposes.
3. The accessory structure shall not be leased or sold separately from the primary residence and shall not be separately metered.

Chairman Keeler opened the Public Hearing.

Chris Snow, 107 University Avenue, Waxahachie, Texas, explained the original intent was for a permit to construct an accessory structure; however, when the carport was constructed and attached to the accessory structure, the increased size required a specific use permit. Mr. Snow noted he was not aware of the requirement to provide a concrete drive and had already improved the existing gravel drive.

Ms. Tuley clarified the request for the specific use permit is for the accessory structure already constructed.

There being no others to speak for or against ZDC-160-2022, Chairman Keeler closed the Public Hearing.

11. Consider recommendation of Zoning Change No. ZDC-160-2022

Action:

Mr. David Hudgins moved to recommend approval of ZDC-160-2022, a Specific Use Permit (SUP) for an accessory structure +700 sf use, subject to the modified conditions of the staff report, authorizing the City Manager and or Mayor to execute all documents accordingly. Ms. Bonney Ramsey seconded, All Ayes.

12. Public Hearing on a request by Steve Homeyer, Homeyer Engineering Inc., for a Specific Use Permit (SUP) for a Drive-Through Car Wash use within a General Retail (GR) zoning district located directly North 500 N US Highway 77 (Property ID: 289738) – Owner: RS WAXAHACHIE LLC (ZDC-173-2022) Staff: Zack King

Mr. King presented the case noting the applicant proposes constructing a 4, 456 sq. ft. express tunnel car wash. The development is proposed to include a 273 square foot office and 13 self-service vacuum bays. An 8' masonry thinwall is proposed along the eastern boundary of the property, as required by the existing zoning for the property (PD-24-GR). The applicant is proposing to access the site via mutual access easements connecting to existing private drives to the north and south; however, these access easements do not currently exist. The proposed carwash is expected to operate from 7:30am to 8:00pm Monday-Saturday and 8:00am to 7:00pm on Sundays. The applicant expects the facility to serve 450 guests per day with an average of 4 employees on site at any one time. No detail services are proposed as part of the car wash.

Mr. King explained the applicant has proposed one elevation/façade plan for consideration with this SUP. The primary façade material proposed for the car wash is a painted concrete masonry unit. The façade plan also utilizes tile, glass and metal panels to a lesser degree. It is important to note that roof-mounted equipment for development is proposed to be screened by louvered metal panels. and the “Renderings” exhibit showcases a woven canopy for the proposed vacuum bays; however, the applicant is proposing a metal canopy for all vacuum bays. The applicant is proposing to meet all landscaping requirements for the site.

Mr. King reported the applicant has requested a variance to deviate from the minimum rear setback requirement of the General Retail (GR) zoning district. The GR zoning district requires a minimum rear setback of 25’ when adjacent to residential uses. The applicant is proposing to proceed with a minimum rear setback of 15’. The applicant is also seeking a variance to deviate from the minimum side setback requirement of 20’ along the northern property line.

Staff recommends denial of ZDC-173-2022 due to the following staff concerns:

- Access: At the time of this request, the applicant has not provided staff with filed copies of the mutual access easements necessary to facilitate access to the development as shown on the site plan. The applicant has also provided no confirmation that the adjacent property owners are amenable to granting said mutual access easements. Staff has concern that the proposed access for the development may be unfeasible due to the absence of these mutual access easements.
- Proximity to Residential Uses: The applicant has requested a variance to deviate from the minimum rear setback requirement of the General Retail (GR) zoning district. The GR zoning district requires a minimum rear setback of 25’ when adjacent to residential uses. The applicant is proposing to proceed with a minimum rear setback of 15’. Given the adjacency of existing single-family residences at the rear of the subject property, and the intensity of the proposed use, staff is not supportive of this variance request.
- Saturation: It is important to note that the proposed development is located less than half a mile from the existing Waxahachie Express Wash. Staff is concerned that the construction of an additional car wash at this location would lead to an oversaturation of car wash uses in the area.
- Compatibility with the Site: Staff has concern that the scale and intensity of the proposed use is not compatible with the unique conditions of the subject property or the surrounding area. The Clear Water Express Carwash design is proposed to feature interior lighting displays. Staff has concern that this lighting will result in a nuisance for the residences immediately adjacent to the site. The applicant has provided a photometric plan to address this concern; but this plan does not account for the internal lighting of the carwash. The subject property’s small size paired with a lack of direct access to Highway 77 also raises a specific concern with traffic and vehicular flow on site, given that the applicant expects an average of 450 customers per day. Staff is concerned that the level of noise and light associated with the development will constitute a nuisance for the existing residences immediately adjacent to the site. With these concerns in mind, staff does not believe the proposed development is the highest and best use for the subject property.

Chairman Keeler opened the Public Hearing.

Heather Rimmer, 4336 Marsh Ridge, Carrollton, Texas, explained there is an approved access easement with Braums that doesn't match the site plan, but the developer plans to revise the easement once the zoning case is approved. She explained the developer is committed to adding a wall to the east of the property, adjacent to the residences. Ms. Rimmer provided a letter of support from an adjacent neighbor.

Chairman Keeler acknowledged the drive-through stacking at Braums occasionally extends to Highway 77 and Ms. Rimmer noted there will be an employee available to assist with traffic.

The Commission expressed concern with the setback variance requests needed to operate the carwash on the small lot.

Those who spoke in opposition:

Ira Tenpenny, 109 Rosa, Waxahachie, Texas
Faye Ellison, 1611 Alexander Drive, Waxahachie, Texas
Jorge Montes, 1744 Butcher Road, Waxahachie, Texas
Don Ellison, 1611 Alexander Drive, Waxahachie, Texas

There being no others to speak for or against ZDC-173-2022, Chairman Keeler closed the Public Hearing.

13. Consider recommendation of Zoning Change No. ZDC-173-2022

Action:

Mr. Erik Test moved to recommend denial of ZDC-173-2022, a Specific Use Permit (SUP) request for a Drive-Through Carwash use at Property ID: 289738. Ms. Bonney Ramsey seconded, All Ayes.

14. Public Hearing on a request by Iris Showalter, Owner of Studio Iris, for a Zoning Change from a General Retail (GR) zoning district to Planned Development – General Retail (PD-GR) zoning district, located at 120 North Highway 77 (Property ID 173425) - Owner: 120 NORTH, LLC (ZDC-177-2022) Staff: Eleana Tuley

Ms. Tuley presented the case noting the applicant is requesting a zoning change from General Retail District (GR) to a Planned Development District (PD) with a base zoning of General Retail District (GR) to allow for a tattoo shop. The applicant is not proposing to modify the zoning district regulations, but to simply allow the use since it is currently prohibited in the GR zoning district.

Ms. Tuley explained the applicant is the owner of Studio Iris, which is a tattoo shop focused on cosmetic and restorative tattooing. Cosmetic services may include beauty enhancements, such as tattooing eyebrows, lip liner, and other beauty marks. Restorative services are tattooing services that cover scars from an accident or a medical procedure. The operational plan discloses more details on the services provided by this business. The applicant is proposing to operate the tattoo shop in Suite A (approximately 550 square feet) in the multi-tenant building at 120 N. Highway 77 and will only have one employee, the applicant, and will generally operate Monday through Friday, 10 am to 6 pm, Saturday, 11 am to 5 pm, and closed on Sunday. Services will be performed by-appointment-only and will not be open for general walk-ins.

Ms. Tuley explained, in light of the numerous zoning requests the City has received for tattoo shops, staff recommends denial for consistency with past recommendations. Currently, tattoo shops are permitted within the Commercial (C) District, and staff recommends the applicant choose another location where the zoning allows the use. Should the Planning and Zoning Commission and City Council consider allowing the use in other zoning districts, staff can facilitate the process to discuss the amendment in a workshop or future meeting.

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning Department recommends denial of the zoning request, however, if the zoning request is approved, the applicant will need to comply with the development standards (Exhibit B) listed below.

1. Permission to operate a tattoo shop on the subject property is only granted to Iris Showalter as the owner of Studio Iris. Approval to operate a tattoo shop within the limits of the subject property will not transfer to another tattoo establishment or another tattoo shop owner for Studio Iris.
2. The tattoo shop can only operate in Suite A in the building located at 120 North Highway 77 and cannot expand beyond the existing footprint (550 square feet) unless requested through a zoning amendment approved by City Council.
3. The hours of operation are limited to Monday through Friday from 10 am to 6 pm, Saturday 11 am to 5pm and closed on Sunday. Modifications to the hours of operation shall require a zoning amendment approved by City Council.
4. A tattoo shop shall require a license from the Texas Department of State Health Services (DSHS) at all times.
5. All exterior signage shall require a sign permit from the Building Department.

Chairman Keeler opened the Public Hearing.

Mr. Test asked if the state identifies the difference between tattoos and microblading and Ms. Tuley explained the State does not; however, the City zoning ordinance distinguishes the uses.

Iris Showalter, 120 North Highway 77, Waxahachie, Texas, explained her studio would provide a spa like environment and clients are serviced by appointments only. She reviewed her business plan noting she specializes in subtle beauty enhancements as well as paramedical restorative or cosmetic tattoo work due to cancer, surgery, autoimmune, and other circumstances.

The Commission expressed support for services provided for paramedical restorative tattoos and encouraged Ms. Showalter to work with staff on finding a studio location in the Commercial zoning district where the use is permitted. The Commission also clarified that they are a recommending body to City Council who has the authority to grant zoning changes.

Mayor Pro Tem Chris Wright explained the Commission can request City Council to consider changes to the zoning ordinance to allow this use in other zoning districts.

Those who spoke in favor:

Ben Wilson, 120 N. Hwy. 77, Waxahachie, Texas
Ira Tenpenny, 109 Rosa, Waxahachie, Texas

There being no others to speak for or against ZDC-177-2022, Chairman Keeler closed the Public Hearing.

15. Consider recommendation of Zoning Change No. ZDC-177-2022

Action:

Mr. Erik Test moved to recommend approval of ZDC-177-2022, a Zoning Change from a General Retail (GR) zoning district to Planned Development – General Retail (PD-GR) zoning district, incorporating development standards and staff comments located in Exhibit B.

Motion failed due to lack of second.

Action:

Mr. David Hudgins, with regret, moved to recommend denial of ZDC-177-2022, a Zoning Change from a General Retail (GR) zoning district to Planned Development – General Retail (PD-GR) zoning district. Ms. Betty Square Coleman, with regret, seconded, the vote was as follows: Ayes: Rick Keeler, Betty Square Coleman, Bonney Ramsey, and David Hudgins. Noes: Erik Test.

The motion carried.

16. Adjourn

Eleana Tuley, Senior Planner, announced the Public Hearing on the adoption of the Waxahachie Comprehensive Plan will be held at the February 28, 2023 Planning and Zoning Commission meeting and the March 6, 2023 City Council meeting. The draft plan is available on the Planning Department's website.

Betty Square Coleman recognized February as Black History Month.

Mayor Pro Tem Chris Wright announced the memorial service for City employee Steve Brigman will be held on February 25, 2023 from 10am-noon at Big Al's Down the Hatch.

There being no further business, the meeting adjourned at 8:44 p.m.

Respectfully submitted,

Amber Villarreal
City Secretary