

Planning and Zoning Commission  
March 28, 2023

The Waxahachie Planning & Zoning Commission held a regular meeting on Tuesday, March 28, 2023 at 7:00 p.m. in the Council Chamber at 401 S. Rogers St., Waxahachie, TX.

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

None

4. **Consent Agenda**

- a. Minutes of the regular Planning & Zoning Commission meeting of March 15, 2023

**Action:**

*Ms. Bonney Ramsey moved to approve item a. on the Consent Agenda. Ms. Betty Square Coleman seconded, All Ayes.*

5. **Consider a request by Scott Sandlin, Sheppard's Place Development Co., LLC, for a Plat of Sheppard's Place, Phase 3, Lots 9-16, Block 12, Lots 1-16, Block 13, Lots 1-16, Block 14, Lots 2-39 & Lot A, Block 15, being 29.469 acres, located South of Hwy 287, West of FM 664, 78 Residential Lots and 1 Open Space, situated in the E. Horton Survey, Abstract 466 an addition to the City of Waxahachie (Property ID 277458) – Owner: SHEPPARD'S PLACE HOLDING CO, LLC (SUB-38-2022) Staff: Zack King**

Zack King, Senior Planner, presented the case noting the applicant is requesting to plat the subject property into 79 lots as part of the third phase of the Sheppard's Place subdivision. This phase of the subdivision is proposed to consist of seventy-eight (78) single-family residential lots and one (1) open-space lot. The proposed final plat aligns with the approved preliminary plat for the subject property. The applicant is providing a 10.279-acre open space lot on the western edge of the site,

in accordance with the property's planned development (PD) zoning. This open space lot will serve as a large drainage easement and the green belt required by the PD.

Commissioner David Hudgins asked if the open space lot will be maintained by a Homeowners Association and Mr. King concurred.

**Action:**

*Vice Chairman Melissa Ballard moved to approve SUB-38-2022, a plat of Sheppard's Place Phase 3, authorizing the Planning & Zoning Commissioner to sign the associated documents accordingly. Mr. David Hudgins seconded, All Ayes.*

**6. Public Hearing on a request by Gilberto Escobedo, LGE Investment Homes LLC, for a Replat of Lot 1A of the Martin Addition, to create Lot 1AR & 1BR of the Martin Addition, two (2) residential lots, being 0.192 acres, located at 215 Finley Street (Property ID: 175899) – Owner: LGE INVESTMENT HOMES LLC (SUB-180-2022)  
Staff: Zack King**

Mr. King presented the case noting the applicant proposes to replat the subject property into two (2) lots for residential use. The subject property was originally platted as Lots 1 & 2 of Thompson's Southland Addition. In 2020, the property was replatted into a single lot as part of the Martin Addition. A total of 5' of right-of-way (ROW) dedication was provided along Finley Street at this time. The current replat sought by the applicant would provide an additional 5' of ROW dedication along Henrietta Street and Finley Street while establishing a similar lot arrangement to the original Thompson's Southland Addition.

Mr. King explained the proposed lots do not meet the minimum lot size or utility easement requirements of the Single Family-3 (SF-3) Zoning District or the Infill Overlay District. Due to this, the applicant has requested a Petition for Relief Waivers for both minimum lot size and minimum utility easement size. Specifically, the applicant seeks a variance to allow a minimum lot size of 3,700 square feet. Additionally, the applicant seeks a variance to allow a 10' utility easement along Finley Street and a 5' utility easement along Henrietta Street.

Mr. King noted staff is supportive of the variance for minimum lot size due to the size of the proposed lots remaining comparable to neighboring properties and the provision of additional ROW. (Neighboring residential properties vary in size between 4,000 and 5,000 square feet.) Staff is also supportive of the variance for utility easements smaller than 15' in size because the City utility facilities are located in the Finley Street and Henrietta Street ROW. Staff recommends approval of the replat request, subject to the conditions listed below:

1. The applicant shall provide written documentation from franchise utility providers (Atmos, AT&T, and Oncor) to confirm whether existing franchise utilities are located on the subject property. The letters will also confirm that franchise utility providers have no objection to a 5' utility easement along Henrietta Street and a 10' utility easement along Finley Street. The applicant shall provide this documentation to staff prior to the recordation of the replat.

Mr. King noted two letters of opposition were received after the agenda packet was posted and presented them to the Commission.

Chairman Keeler opened the Public Hearing.

Gilberto Escobedo, owner, explained he has built about 15 homes on the east side of Waxahachie and he plans to build the residential homes facing Finley Street to provide more yard space for the lots.

Michael Byrd, 224 Henrietta Street, Waxahachie, Texas, explained his home was purchased by his father more than 40 years ago with the lot fenced in. He noted when the proposed replatted property was purchased by Mr. Escobedo, he was told to remove his fence and shed due to them being on Mr. Escobedo's property. Mr. Byrd presented a letter from his attorney stating his claim to the property since he has openly and adversely used it as his own property for more than 10 years. Mr. Byrd also noted Mr. Escobedo's case against him was dismissed by Ellis County Justice of the Peace, Precinct 3.

The Commission discussed the proposed replat's accuracy. Shon Brooks, Executive Director of Development Services, explained the surveyor's certification and stamp is what staff relies on to ensure the plat is correct. Chairman Keeler explained the surveyor must research recorded deeds to identify the boundaries of the property, and if discrepancies are found, they must be decided in a court of law.

There being no others to speak for or against SUB-180-2022, Chairman Keeler closed the Public Hearing.

## **7. Consider recommendation of SUB-180-2022**

### **Action:**

*Ms. Betty Square Coleman moved to recommend denial of SUB-180-2022, a replat of the Martin Addition, subject to the conditions of the staff report, authorizing the Planning & Zoning Commissioner to sign the associated documents accordingly. Mr. David Hudgins seconded.*

Jennifer Pruitt, Senior Director of Planning, explained the motion must specifically include the reasons for denial.

### **Action:**

*Ms. Betty Square Coleman amended her motion and moved to recommend disapproval of SUB-180-2022, a replat of the Martin Addition and its associated Petition for Relief Waivers, due to (1) Failure to comply with the Single Family-3 zoning district and Infill Overlay District minimum lot size standards, as required by Section 2.2(a) of the Waxahachie Subdivision Ordinance. (2) Failure to provide a fifteen (15) foot utility easement adjacent to all street rights-of-way, as required by Section 3.3(a) of the Waxahachie Subdivision Ordinance. (3) Failure to provide adequate right-of-way dedication, as required by Section 3.1(a) and 3.1(m) of the Waxahachie Subdivision Ordinance. Mr. David Hudgins seconded. The vote was as follows: Ayes: Melissa Ballard, Betty Square Coleman, Bonney Ramsey, David Hudgins, and Ron Ansell. Noes: Rick Keeler and Erik Test.*

***The motion carried.***

**8. Public Hearing on a request by Jake Fears, JHF Engineering, for a Specific Use Permit (SUP) for a restaurant with a drive-through use (Dutch Bros) within a General Retail (GR) zoning district located at 1995 North Highway 77 (Property ID 262424) - Owner: SAI COMMERCIAL GROUP, LLC (ZDC-5-2023) Staff: Eleana Tuley**

Eleana Tuley, Senior Planner, presented the case noting the applicant requests a Specific Use Permit for a restaurant with a drive-through (Dutch Bros) at 1995 North Highway 77. The applicant proposes constructing a 950-square-foot building on a 0.5-acre tract where customers can order food and drink through the drive-through or the walk-up order window. The establishment will not have an indoor dining area and the building's occupancy will be limited to employees. The establishment has provided a 504-square-foot outdoor seating area for customers. Since the restaurant parking requirement is based on the floor area of the dining area, the applicant has provided six (6) parking spaces for the outdoor seating area to ensure adequate parking for customers. Additionally, the applicant has provided two stacking lanes for the drive-through to manage typical business demands. Typically, only six (6) stacking spaces are required; however, the applicant has provided thirteen (13) stacking spaces for vehicle queuing.

Ms. Tuley explained the proposed project satisfies all the zoning ordinance requirements, including but not limited to, parking, stacking, screening, and landscaping. Most notably, the applicant has proposed constructing a 6-foot-wide sidewalk along US Highway 77, Victory Drive, and North Boulevard with canopy trees on both sides to encourage pedestrian connectivity among commercial pad sites in the general area. Since the initial submission of plans, the applicant has made a concerted effort to revise the site layout to meet the City's driveway spacing along Victory Drive from US Highway 77 to address the City's traffic safety concerns. The proposed development is compatible and appropriate in the proposed location.

Ms. Tuley reviewed the two sets of architectural elevations provided by the applicant. Both sets of elevations have the same color scheme but utilize different exterior finishing materials. Option 1: In this option, each building elevation is composed of 90 to 100 percent metal siding with 0 to 10 percent split face CMU. The north, east (US Highway 77), and south (Victory Drive) elevations have the split-face CMU at the base of the building. The west elevation (North Town Boulevard) comprises 100 percent metal siding and does not have the split-face CMU at the base of the building. Option 2: In this option, each building elevation is composed of a maximum of 85 percent stucco with a horizontal fiber cement accent siding, and cultured stone at the base of the building. The north, east (US Highway 77), and south (Victory Drive) elevations have cultured stone at the base of the building. The west elevation (North Town Boulevard) does not have cultured stone at the base of the building.

Ms. Tuley noted staff recommends approval of the SUP request with the conditions listed below:

1. The applicant agrees to execute a mutually agreed upon Development Agreement for the development.
2. The applicant must submit a plat application to the Planning Department to replat the subject property in the lot configuration reflected on the site plan.
3. The applicant shall obtain a permit from the City of Waxahachie Building Department before construction.

Chairman Keeler opened the Public Hearing.

Commissioner Bonney Ramsey inquired about which elevation is mostly used in the DFW area and Jake Fears, JHF Engineering, explained the option with the stucco façade.

Tony Scardino, owner representative, provided a history overview of Dutch Bros. Mr. Scardino explained at this time, the coffee shop will sell pre-packaged food, specialty coffee, smoothies, teas, and Dutch Bros Blue Rebel energy drink. He reported there are approximately 100 Texas locations.

There being no others to speak for or against ZDC-5-2023, Chairman Keeler closed the Public Hearing.

**9. Consider recommendation of Zoning Change No. ZDC-5-2023**

**Action:**

*Mr. David Hudgins moved to recommend approval of ZDC-05-2023, a Specific Use Permit (SUP) for a restaurant with a drive through use (Dutch Bros), subject to the conditions the staff report with elevation option 2, authorizing the City Manager and/or Mayor to execute all documents accordingly. Mr. Erik Test seconded, All Ayes.*

**10. Adjourn**

There being no further business, the meeting adjourned at 7:52 p.m.

Respectfully submitted,

Amber Villarreal  
City Secretary