

The Waxahachie Planning & Zoning Commission held a regular meeting on Tuesday, November 23, 2021 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
Jim Phillips
David Hudgins
Erik Test

Others Present: Shon Brooks, Executive Director of Development Services
Jennifer Pruitt, Director of Planning
James Gaertner, Director of Public Works & Engineering
Colby Collins, Planning Manager
Zack King, Planner
Jami Bonner, Assistant City Secretary
David Hill, 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 November 9, 2021
- b. Minutes of the Planning & Zoning Commission briefing of November 9, 2021

Action:

Ms. Bonney Ramsey moved to approve items a. and b. on the Consent Agenda. Vice Chairman Melissa Ballard seconded, All Ayes.

5. **Consider request by David Norris, Foresite Group, LLC, for a Plat of The Fitzgerald, being a 12.6563 acre tract of land situated in the Albert S. Pruett Survey, Abstract 848 (Property ID 275563) – Owner: KALTERRA CAPITAL PARTNERS, LLC (SUB-168-2021)**

Planner Zack King presented the case noting the applicant is requesting to plat the subject property into one (1) lot for multi-family residential use and staff recommends approval as presented.

Action:

Vice Chairman Melissa Ballard moved to approve a request by David Norris, Foresite Group, LLC, for a Plat of The Fitzgerald, being a 12.6563 acre tract of land situated in the Albert S. Pruett Survey, Abstract 848 (Property ID 275563) – Owner: KALTERRA CAPITAL PARTNERS, LLC (SUB-168-2021) as presented. Mr. David Hudgins seconded, All Ayes.

6. **Consider request by Mike Davis, Bannister Engineering, for a Final Plat of Victron Park, Lot 1, Block 9, being 1.283 acres situated in the Albert Pruitt Survey, Abstract 848, an addition in the City of Waxahachie (Property ID 189377) – Owner: DMJ PROPERTIES, LTD (SUB-172-2021)**

Mr. King presented the case noting the applicant is requesting to plat the subject property into one (1) lot for commercial use (carwash) and staff recommends approval as presented.

Action:

Mr. David Hudgins moved to approve a request by Mike Davis, Bannister Engineering, for a Final Plat of Victron Park, Lot 1, Block 9, being 1.283 acres situated in the Albert Pruitt Survey, Abstract 848, an addition in the City of Waxahachie (Property ID 189377) – Owner: DMJ PROPERTIES, LTD (SUB-172-2021) as presented. Ms. Betty Square Coleman seconded, All Ayes.

7. **Consider request by Jace Huffman, Huffman Consulting Engineers, for a Plat of Scarborough Carwash, Lot 1, Block 1, being 1.571 acres situated in the J.C. Armstrong Survey, Abstract 6, an addition in the City of Waxahachie (Property ID 223397 & 179035) – Owner: H & D REALTY INVESTMENTS, LLC (SUB-163-2021)**

Mr. King presented the case noting the applicant is requesting to plat the subject property into one (1) lot for commercial use (carwash) and the staff recommends approval as presented.

Action:

Ms. Bonney Ramsey moved to approve a request by Jace Huffman, Huffman Consulting Engineers, for a Plat of Scarborough Carwash, Lot 1, Block 1, being 1.571 acres situated in the J.C. Armstrong Survey, Abstract 6, an addition in the City of Waxahachie (Property ID 223397 & 179035) – Owner: H & D REALTY INVESTMENTS, LLC (SUB-163-2021) as presented. Mr. Erik Test seconded, All Ayes.

8. **Consider request by Michael Westfall, P.E., Westfall Engineering, for a Plat of 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)**

Mr. King presented the case noting the applicant is requesting to plat the subject property into nine (9) lots for commercial use. He stated the applicant is providing a fifteen foot (15') Right-of-Way dedication along Brown Street and an 80' Right-of-Way dedication for the extension of Indian Drive in alignment with the City of Waxahachie thoroughfare plan. Mr. King added the applicant has agreed to sign a Development Agreement for the property stipulating the developer will extend Indian Drive across Mustang Creek when the remainder of the property is platted.

Action:

Mr. Jim Phillips moved to approve a request by Michael Westfall, P.E., Westfall Engineering, for a Plat of 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) as presented. Vice Chairman Melissa Ballard seconded, All Ayes.

- 9. 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)**

Mr. King presented the case noting the applicant is requesting to plat the subject property into eight (8) lots for single family residential use as townhomes. He stated the applicant is also requesting a variance from the 15' Utility Easement requirement along Washington Avenue. Mr. King explained the 10' Utility Easement variance request is acceptable for the City of Waxahachie Utilities Department as long as it does not cause issues for franchise utilities in the area. Mr. King noted that City Council will approve the Utility Easement variance request. Staff recommends approval per the following condition:

1. Confirmation of acceptance of the 10' Utility Easement is required from all utility providers in the area, including AT&T, Atmos, and Oncor.

Action:

Vice Chairman Melissa Ballard moved to approve a 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) per staff condition, supporting variance request. Mr. Jim Phillips seconded, All Ayes.

- 10. 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)**

Chairman Keeler opened the Public Hearing.

Planning Manager Colby Collins presented the case noting the applicant is requesting to construct a +700 sq. ft. accessory structure in the rear of a single family property. Mr. Collins stated staff recommends approval per staff comments:

1. Due to the size of the proposed structure (3,000 sq. ft.), staff suggests that the applicant remove the existing storage structure (used to store feed for animals) from the property.
2. The applicant will need to obtain a building permit from the City of Waxahachie Building Inspections Department prior to construction of the proposed structure.
3. Any new pavement added to the site shall be concrete.
4. The structure shall not be used as a dwelling.

Mr. Jim Phillips requested clarification in regards to the recommendation of removing the existing storage building. He inquired due to the large size of the property and set back off of the road, would it be harmful to allow the existing storage structure to stay. Mr. Collins replied that staff's recommendation is consistent with the City ordinance in regards to structure buildings on a single property; however, staff recognizes this case is unique as the property is over 26 acres.

Mr. Jorge Puricelli, 2305 Marshall Road, Waxahachie, stated the existing building has electricity, stores animal food, tools, and houses animals during cold weather. Mr. Puricelli stated he agrees with the other staff comments.

Ms. Betty Square Coleman asked Mr. Puricelli how long the existing building has been on the property. Mr. Puricelli replied that he purchased the property two years ago and the building was there prior to his purchase.

There being no others to speak for or against ZDC-171-2021, Chairman Keeler closed the Public Hearing.

11. Consider recommendation of Zoning Change No. ZDC-171-2021

Action:

Vice Chairman Melissa Ballard moved to approve 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) as presented, with the exception of leaving the +700 existing building in place. Mr. Erik Test seconded, All Ayes.

12. 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)

Chairman Keeler opened the Public Hearing.

Mr. Collins reported the applicant is requesting approval to allow a drive-through establishment (Starbucks) on 0.912 acres. He noted City staff has recommended the applicant incorporate more windows and/or wood siding along the North elevation and the applicant provided a revised façade rendering. Mr. Collins explained the proposed driveway does not meet TxDOT standards for driveway spacing and does not match the overall driveway plan submitted by O'Reilly Auto Parts development previously approved by City Council. Staff recommends the applicant remove the proposed access point from US Highway 77 and use the mutual access connection between O'Reilly Auto Parts and the subject property. Staff recommends approve per staff comments.

Mr. David Hudgins asked if there will be any assurance that O'Reilly Auto Parts will be unable to close the previously approved driveway if their store closes. Mr. James Gaertner, Director of Public Works and Engineering, stated that when the property is platted, an access easement will be required so that the driveway cannot be closed.

Chairman Keeler asked if the applicant is aware of the driveway access issue and if the applicant is agreeable to revisit the façade materials.

Mr. Patrick Noonan, Vaquero Ventures, 2900 Wingate St., Ft. Worth, replied that Vaquero Ventures is developing both the O'Reilly Auto Parts store and Starbucks and are aware there will be shared access. Mr. Noonan explained the North side of the Starbucks building holds the kitchen and would not be an appropriate location for large windows. He noted Starbucks would prefer to stay consistent with the standard Starbucks layout.

Chairman Keeler acknowledged the standard Starbucks layout, but stated that the locations he researched did not include stucco as part of the façade contrasting elements. He encouraged Mr. Noonan to continue design discussions with Starbucks. Mr. Noonan agreed to continue the case until the December 14th meeting.

Ms. Siyanade Fayiga, 1111 W. Main St., Waxahachie, asked if stucco is undesirable for the city of Waxahachie. Chairman Keeler replied that visually he personally prefers to see materials such as wood, steel, glass, stone, brick opposed to stucco. He explained that if a zoning change or Specific Use Permit is requested, there is opportunity to negotiate materials utilized for the site plan.

There being no others to speak for or against ZDC-174-2021, Chairman Keeler closed the Public Hearing.

13. Consider recommendation of Zoning Change No. ZDC-174-2021

Action:

Vice Chairman Melissa Ballard moved to continue 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) to the December 14, 2021 Planning & Zoning Commission meeting. Ms. Betty Square Coleman seconded, All Ayes.

14. 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)

Chairman Keeler opened the Public Hearing.

Mr. Collins presented the case noting the applicant is requesting approval to allow an inpatient rehabilitation facility (ClearSky Rehabilitation Hospital) on five (5) acres. He noted the proposed site plan provides sufficient landscaping and exceeds the parking space requirement significantly; however, staff understands the number of parking spaces proposed is needed to accommodate peak employee hours during shift change. Mr. Collins detailed the elevation/façade plan, noting the plan included in the packet was updated from stucco to metal material for a portion of the roof due to feasibility of changing out HVAC equipment. Staff recommends approval per the following comment:

1. A mutually agreed upon Development Agreement will be required for the development.

Mr. David Ransom, 693 Gulf Shores Dr., Frisco, stated he is a developer and ClearSky Rehabilitation Hospital will be a tenant. He noted ClearSky has locations around DFW, Arizona, and Ohio.

Ms. Bonney Ramsey recognized the importance of a rehabilitation hospital for the city of Waxahachie.

Mr. Phillips shared the City's comprehensive improvement plan vision to move traffic off of the 77 corridor and asked if there are retailers or restaurants targeted for the surrounding pad sites. Mr. Ransom replied that although he is not the developer for the surrounding pad sites, he often sees restaurants, ancillary care offices, or other doctors' offices near ClearSky hospitals.

There being no others to speak for or against ZDC-173-2021, Chairman Keeler closed the Public Hearing.

15. Consider recommendation of Zoning Change No. ZDC-173-2021

Action:

Mr. Jim Phillips moved to approve 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) per staff comments. Ms. Bonney Ramsey seconded, All Ayes.

16. 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 Additional Single-Family Residence for rent use located at 314 Kaufman Street (Property ID 170847) - Owner: RAFAEL & GREGORIA S BENAVIDES (ZDC-176-2021)

Chairman Keeler opened the Public Hearing.

Mr. Collins presented the case noting 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. He provided the following details in regards to the property:

- In June of 2021, Code Enforcement received a complaint about trash in the front yard of the accessory structure. Code Enforcement found the accessory structure has been utilized as a rental property for years. Mr. Collins noted the property was cleared of trash.
- The structures were built in 1940, predating City permitting systems. Staff was unable to find any record of a building inspection for the accessory structure, thus staff does not know if the structure is appropriate for habitable use.
- The two structures on the property are separately metered for gas, water and utilities. The accessory structure has a separate address, 316 Kaufman St.; however, the City of Waxahachie and Ellis County Appraisal District do not have record of this address. Mr. Collins explained that anyone can apply for an address with the United States Postal Service.

- Due to staff concerns, staff recommends denial for the proposed use. If the case is approved, staff suggests that the applicant receive an official inspection for the structure from the City of Waxahachie Building Inspections Department to confirm the property is up to code compliance regarding habitable structures. In addition, the structure only be used as a dwelling, not a dwelling for rent.

Mr. David Hudgins commented the case is difficult to consider due to the history. He expressed his support for structures to be inspected for safety purposes.

Ms. Betty Square Coleman requested clarification in regards to what determines the structure in question to be an accessory structure that cannot be rented versus a structure that can be rented. Mr. Collins replied that staff could not find anything in current ordinance or previous ordinances that would allow an accessory structure to be rented. Ms. Square Coleman stated that many structures in the area are rental properties.

After further discussion, the Planning & Zoning Commission resolved that zoning would allow the applicant to use the structure in question as an accessory structure or an accessory dwelling; however, due to City ordinance, the structure may not be a dwelling for rent.

Mr. Rafael Benavides, 503 Forney, Waxahachie, stated when he purchased the property, he was unaware that he could not rent out both structures which was the intention when purchased. He noted that he evicted the tenant after the trash complaint during the summer. There is no one currently living in the accessory structure.

Those who spoke in favor:

Mr. Ira Tenpenny, 109 Rosa St., Waxahachie

There being no others to speak for or against ZDC-176-2021, Chairman Keeler closed the Public Hearing.

17. Consider recommendation of Zoning Change No. ZDC-176-2021

Action:

Vice Chairman Melissa Ballard moved to deny 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 Additional Single-Family Residence for rent use located at 314 Kaufman Street (Property ID 170847) - Owner: RAFAEL & GREGORIA S BENAVIDES (ZDC-176-2021). Mr. Jim Phillips seconded, the vote was as follows: Ayes: Rick Keeler, Melissa Ballard, Bonney Ramsey, Jim Phillips, and David Hudgins. Noes: Betty Square Coleman and Erik Test.

The motion carried.

18. 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 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)

Chairman Keeler continued the Public Hearing.

Mr. Collins presented the case noting the applicant is requesting to rezone the subject property from Future Development to Planned Development-General Retail to allow for a Planned Development consisting of retail and townhomes. Staff recommends denial due to the following concerns:

- There is minimal visitor parking reflected on the plan for the townhome portion of the development.
- Staff suggests the applicant reduce the number of townhome units to help the layout and density of the development.
- Staff believes that the proposed development would be more aesthetically pleasing and offer more functionality with rear entry access as opposed to the proposed front entry access.
- The applicant's proposed turn radius of 40 ft. does not meet the minimum requirement for the turn radius for a cul-de-sac of 48 ft. to meet the 96 ft. diameter requirement for a fire truck.

Mr. Collins noted the applicant is working to meet some of the staff concerns by reducing townhomes from 22 to 21 units, creating visitor parking spaces and showing what street parking may look like. The applicant verbally informed staff there will be a landscape buffer and masonry screening wall between retail and the townhomes.

Mr. Phillips encouraged the consideration of vertical development to particularly on the backside of the property. Mr. Collins replied that although the topic of vertical development has not been discussed significantly, it could be a part of potential further discussions.

Chairman Keeler and Mr. Phillips stated their support for rear entry access.

Ms. Ramsey expressed her concerns with fire trucks being able to navigate the property due to the turn radius not meeting requirements.

Mr. Yomi Fayiga, 1111 W. Main, Waxahachie expressed his frustration with the process, stating he works with staff to alleviate concerns, but feels the "goal posts" have been moved. Mr. Fayiga stated he has provided a plan that meets all City requirements.

Ms. Siyanade Fayiga, 1111 W. Main St., Waxahachie, explained the rear of the townhomes will be utilized for private backyards and the open space will offer landscape. Ms. Fiyaga addressed concerns in regards to the turn radius stating Fire Marshall Rodgers indicated the cul-de-sac is not needed for a fire truck. Ms. Fayiga stated their plan meets Fire Marshall Rodgers' requirements for access.

After further discussion, the applicant requested to continue the case in order to revise the development plan to include both rear entry and front entry townhomes.

Those who spoke in favor:

Mr. Ken Box, 330 Hunter Pass, Waxahachie

Ms. Melissa McClain, 232 McKinley Circle, Waxahachie

Ms. Ramsey expressed her gratitude to Mr. and Ms. Fayiga for working with staff and P&Z Commission.

19. Consider recommendation of Zoning Change No. ZDC-146-2021

Action:

Vice Chairman Melissa Ballard moved to continue a request by Yomi and Siyanade Fayiga for a Zoning Change from a Future Development Zoning to Planned Development-General Retail 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 14, 2021 Planning & Zoning Commission meeting. Ms. Bonney Ramsey seconded, All Ayes.

20. Adjourn

Ms. Square Coleman requested clarification in regards to the stucco presented for Starbucks and the stucco presented for ClearSky Rehabilitation Hospital. Chairman Keeler replied that each design that includes stucco is considered individually for the purpose of use by the P&Z Commission.

There being no further business, the meeting adjourned at 9:30 p.m.

Respectfully submitted,

Jami Bonner
Assistant City Secretary