

City Council
November 21, 2022

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 21, 2022 at 7:00 p.m.

Council Members Present: David Hill, Mayor, Council Member Place 1
Chris Wright, Mayor Pro Tem, Council Member Place 3
Patrick Souter, Council Member Place 2
Billie Wallace, Council Member Place 4
Travis Smith, Council Member Place 5

Others Present: Michael Scott, City Manager
Albert Lawrence, Deputy City Manager
Robert Brown, City Attorney
Amber Villarreal, City Secretary

1. Call to Order

Mayor David Hill called the meeting to order.

2. Invocation

3. Pledge of Allegiance and Texas Pledge of Allegiance

City Manager Michael Scott gave the invocation and led the Pledge of Allegiance and the Texas Pledge of Allegiance.

4. Public Comments

Kathy Kacal, 405 Brookside Road, Waxahachie, Texas, inquired about future retail development near Brookside Road and the veterinarian office.

5. Consent Agenda

- a. Minutes of the City Council meeting of November 7, 2022
- b. Minutes of the City Council briefing of November 7, 2022
- c. Event application for “Dara and the Gift of Dance” to be held December 18, 2022 at Railyard Park
- d. Event application for SAGU Half Marathon & 5k to be held February 4, 2023
- e. Interlocal Agreement with City of Grand Prairie for the purchase of various goods and services
- f. Ratify recommendation from Waxahachie Community Development Corporation approving a contract with Sports Fields, Inc. for Synthetic Turf Improvements Project Phase III

Action:

Council Member Billie Wallace moved to approve items a. through f. on the Consent Agenda. Council Member Travis Smith seconded, All Ayes.

6. Introduce Honorary Councilmember

Council Member Patrick Souter announced November Honorary Council Member Yusef Smith will be recognized at a future meeting.

7. Public Hearing on a request by David Thompson, United Presbyterian Homes, Owner, for voluntary annexation of approximately 199.95 acres located in the J. Barker Survey, Abstract 40 and the E. Bellow Survey, Abstract 101, at 300 Brookside Road (Property ID 193815 & 193822) - Owner: UNITED PRESBYTERIAN HOMES (ANX-DNX-110-2022)

Mayor Hill announced the applicant requested to withdraw ANX-DNX-110-2022.

8. Consider proposed Ordinance approving ANX-DNX-110-2022

No action taken.

9. Public Hearing on a request by John Poston, for a Zoning Change from a Single Family-1 (SF-1) zoning district to a Planned Development-Mixed Use Residential (Brookside PD), located at 300 Brookside Road (Property ID 193815, 193822, & 193823) – Owner: UNITED PRESBYTERIAN HOMES (ZDC-92-2022)

Mayor Hill announced the applicant requested to withdraw ZDC-92-2022.

10. Consider proposed Ordinance approving ZDC-92-2022

No action taken.

11. Public Hearing on a request by Leigh Ferguson, Vaquero Highway 77 Waxahachie Partners LP, for an Amendment of a previously approved Specific Use Permit (SUP) for a Drive-Through Establishment use within a Planned Development-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-123-2022)

Jennifer Pruitt, Senior Director of Planning, presented the case noting the applicant is requesting to amend the previously approved Specific Use Permit (SUP) for the Starbucks drive-through establishment along Highway 77. She noted no written opposition was received. The applicant amended the Site Plan to include rear ornamental iron fencing adjacent to the drive-through entrance on top of the retaining wall that runs along the rear of the property as well as adding additional landscaping. Staff is supportive of the proposed changes.

Ms. Pruitt noted the applicant requests to remove references to the Staff Report from the zoning ordinance to clarify what is truly required with the SUP. The applicant is also requesting to add the following language to the SUP ordinance regarding the term of the SUP:

- “If the premises covered by this Specific Use Permit is vacated and/or ceases to operate for a period exceeding one year, a new Specific Use Permit shall be required to re-establish the use; provided, however, in the event of damage to the Property or the improvements

thereon by fire, weather, or other casualty, or condemnation of any portion of the Property, a reasonable period to repair or reconstruct such structure or to modify the premises to address the impacts of the condemnation or casualty will be excluded from the above-mentioned one-year period, not to exceed five years after the date of such casualty or condemnation.”

Apart from these changes, the applicant has proposed minor grammar changes throughout the ordinance. Staff has no concern with these proposed changes.

Development Agreement:

The applicant is requesting the following substantive changes to the development agreement:

- References to the Staff Report are also removed from the development agreement to clarify what is truly required with the development agreement.
- The agreement has been updated to reflect the creation of a mutual access easement (Instrument No. 2120553) that connects the subject property with adjacent property to the north and south.
- The agreement has been updated to reflect that neither the SUP ordinance nor the development agreement are intended to conflict with Chapter 245 of the Texas Local Government Code.
- The agreement has been updated to remove typical City of Waxahachie provisions regarding Form 1295 Certificates, Undocumented Workers, Non-Boycott of Israel, Prohibition on Contracts with Certain Companies, Verification Against Discrimination of Firearm or Ammunition Industries, and Verification Against Discrimination/Boycott of Energy Companies. The applicant requested to remove these provisions, stating that they generally did not apply to the agreement.

Staff and legal counsel have reviewed the proposed changes to the Development Agreement and staff recommends approval.

Mayor Hill opened the Public Hearing.

There being no others to speak for or against ZDC-123-2022, Mayor Hill closed the Public Hearing.

Council Member Travis Smith inquired about rear access to Butcher Road and Ms. Pruitt confirmed, subject to approved plat, there will be access from the front of the property.

12. Consider proposed Ordinance approving ZDC-123-2022

ORDINANCE NO. 3349

AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A DRIVE-THROUGH ESTABLISHMENT USE WITHIN A PLANNED DEVELOPMENT-GENERAL RETAIL (PD-GR) ZONING DISTRICT, CONSISTING OF APPROXIMATELY 0.912 ACRES OF LAND LOCATED

APPROXIMATELY 1,000 FEET SOUTH OF BUTCHER ROAD AND EAST OF HWY 77, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING ABSTRACT 848 OF THE AS PRUITT SURVEY, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

Action:

Council Member Patrick Souter moved to approve, Ordinance No. 3349, ZDC-123-2022, an amendment to a previously approved Specific Use Permit (SUP) for a Drive-Through Establishment use (Ordinance 3310), within a Planned Development-General Retail zoning district located 1,500 feet South of Butcher Road and East of Hwy 77 (being a portion of Property ID 189379) subject to the conditions of the staff report, authorizing the City Manager, and or Mayor, to sign the associated documents accordingly. Council Member Billie Wallace seconded, All Ayes.

13. Consider Development Agreement for ZDC-123-2022

Action:

Council Member Billie Wallace moved to approve a Development Agreement for ZDC-123-2022 as presented. Council Member Patrick Souter seconded, All Ayes.

14. Public Hearing on a request by Caitlin Adkins, Vaquero Highway 77 Waxahachie Partners LP, for an Amendment of a previously approved Specific Use Permit (SUP) for Auto Parts and Accessory Sales use within a Planned Development-General Retail zoning district located south of 2980 N Highway 77 (being a portion of Property ID 189379) - Owner: VAQUERO HIGHWAY 77 WAXAHACHIE PARTNERS LP (ZDC-127-2022)

Ms. Pruitt presented the case noting the applicant is requesting to amend the previously approved Specific Use Permit (SUP) for an auto parts and accessory sales use (O'Reilly's) along Highway 77. She noted no written opposition was received. The applicant amended the Site Plan by adding a "right turn only" and two "Exit Only" signs located on either side of the site's driveway connection to Highway 77, as required by TxDOT, two (2) parking spaces have been relocated from the northern property line to the eastern property line along Highway 77, as well as adding additional landscaping. Staff is supportive of the proposed changes.

The applicant requests to remove references to the Staff Report from the zoning ordinance to clarify what is genuinely required with the SUP. The applicant is also requesting to add the following language to the SUP ordinance regarding the term of the SUP:

- "If the premises covered by this Specific Use Permit is vacated and/or ceases to operate for a period exceeding one year, a new Specific Use Permit shall be required to re-establish the use; provided, however, in the event of damage to the Property or the improvements thereon by fire, weather, or other casualty, or condemnation of any portion of the Property, a reasonable period to repair or reconstruct such structure or to modify the premises to address the impacts of the condemnation or casualty will be excluded from the above-

mentioned one-year period, not to exceed five years after the date of such casualty or condemnation.”

Apart from these changes, the applicant has proposed minor grammar updates throughout the ordinance. Staff has no concern with these proposed changes.

Development Agreement

The applicant is requesting the following substantive changes to the development agreement:

- References to the Staff Report are also removed from the development agreement to clarify what is genuinely required with the development agreement.
- The agreement has been updated to reflect the creation of a mutual access easement (Inst.t No. 2120553) that connects the subject property with adjacent property to the north and south.
- The agreement has been updated to reflect that neither the SUP ordinance nor the development agreement are intended to conflict with Chapter 245 of the Texas Local Government Code.
- The agreement has been updated to remove typical City of Waxahachie provisions regarding Form 1295 Certificates, Undocumented Workers, Non-Boycott of Israel, Prohibition on Contracts with Certain Companies, Verification Against Discrimination of Firearm or Ammunition Industries, and Verification Against Discrimination/Boycott of Energy Companies. The applicant requested to remove these provisions, stating that they generally did not apply to the agreement.

Mayor Hill opened the Public Hearing.

Council Member Smith asked if adding “right turn only” signage will provide a safe exit to Highway 77. Ms. Pruitt explained the plan was thoroughly reviewed by staff (Engineering, Public Works, and Planning) and TxDOT to provide this solution.

Mayor Pro Tem Chris Wright confirmed the main reason the applicants for ZDC-127-2022 and ZDC-123-2022 requested reconsideration was to amend the wording in the previously approved Development Agreements and Ms. Pruitt concurred. She explained staff and legal counsel reviewed the proposed changes to the Development Agreement and staff recommends approval.

There being no others to speak for or against ZDC-127-2022, Mayor Hill closed the Public Hearing.

15. Consider proposed Ordinance approving ZDC-127-2022

ORDINANCE NO. 3350

AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT AN AUTO PARTS AND ACCESSORY SALES USE WITHIN A PLANNED DEVELOPMENT-GENERAL RETAIL (PD-GR) ZONING DISTRICT, PROPERTY ID 189379, CONSISTING OF APPROXIMATELY ONE

ACRE OF LAND FRONTING HIGHWAY 77, BEING LOCATED IN ABSTRACT 848 OF THE AS PRUITT SURVEY, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

Action:

Mayor Pro Tem Chris Wright moved to approve Ordinance No. 3350, ZDC-127-2022, an amendment to a previously approved Specific Use Permit (SUP) for an Auto Parts and Accessory Sales use (Ordinance 3234), within a Planned Development-General Retail zoning district located south of 2980 N Highway 77 (being a portion of Property ID 189379) subject to the conditions the staff report, authorizing the City Manager and or Mayor to sign the associated documents accordingly. Council Member Billie Wallace seconded, All Ayes.

16. Consider Development Agreement for ZDC-127-2022

Action:

Council Member Billie Wallace moved to approve a Development Agreement for ZDC-127-2022. Council Member Patrick Souter seconded, All Ayes.

17. Public Hearing on a request by Osberto Geno, for a Specific Use Permit (SUP) for an Accessory Structure +700sf use within a Planned Development-Single Family-1 zoning district located at 157 Homestead Lane (Property ID: 269673) – Owner: GENO CHRISTINE M & OSBERTO ETAL (ZDC-131-2022)

Ms. Pruitt presented the case noting the applicant is requesting to construct an accessory structure greater than 700 square feet (2,520 square feet) to the side and rear of a single-family residential lot. Staff received three (3) letters of support and recommend approval per the following staff 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.
4. The applicant shall obtain a permit from the City of Waxahachie Building Department prior to construction of the accessory structure.

Mayor Hill opened the Public Hearing.

There being no others to speak for or against ZDC-131-2022, Mayor Hill closed the Public Hearing.

18. Consider proposed Ordinance approving ZDC-131-2022

ORDINANCE NO. 3351

AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT AN ACCESSORY STRUCTURE EQUAL TO OR GREATER THAN 700 SQUARE FEET USE

WITHIN A PLANNED DEVELOPMENT-SINGLE FAMILY-1 (PD-SF-1) ZONING DISTRICT, LOCATED 157 HOMESTEAD LANE, BEING PROPERTY ID 269673, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 14, BLOCK A IN THE HOMESTEAD ESTATES SUBDIVISION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

Action:

Council Member Patrick Souter moved to approve Ordinance No. 3351, ZDC-131-2022, a Specific Use Permit (SUP) for an Accessory Structure Greater than 700 Square Feet, within a Planned Development-Single Family-1 zoning district located at 157 Homestead Lane (being Property ID 269673) subject to the conditions the staff report, authorizing the City Manager and or Mayor to sign the associated documents accordingly. Council Member Billie Wallace seconded, All Ayes.

19. Consider bid award and authorization of contract for Non-Civil Service and Civil Service Employee Compensation Study

Lindsey Mearns, Senior Director of Human Resources & Civil Service, requested approval for bid award and authorization of contract to McGrath Consulting for non-civil service and civil service employee compensation study in the amount of \$88,695. She explained the last compensation study was completed in 2017 and established the current salary structure.

Action:

Council Member Billie Wallace moved to approve a contract with McGrath Consulting in the amount of \$88,695 for a non-civil service and civil service employee compensation study and authorize the City Manager to negotiate and execute all documents as necessary. Council Member Travis Smith seconded, All Ayes.

20. Consider approval of an Engineering Professional Service Agreement with Gresham Smith for Water and Wastewater Rehab Projects

Brandon Lacy, Assistant Director of Utilities, requested approval of an engineering professional services agreement with Gresham Smith in an amount not to exceed \$401,653 for engineering services related to the following water and sewer rehab projects in the 5-year Capital Improvement Plan:

Water Main Replacement Designs

- Coleman-from Marvin Garden to Lake Park
- N. Jackson-from Marvin to Parks Street
- Pasley St.-from Givens St. to W Avenue C
- Sycamore-from N. Grand to Cynisca
- Chieftain Street-from Sagebrush to Park Place Boulevard
- Grace Street-from W. Parks to McMillan
- W. Parks-from Gibson Street to Highway 77
- Jim St.-from Jefferson to Jim St.

Wastewater Main Replacement Designs

- W. Parks Street-from Gibson to Highway 77
- Bryson St.-approximately 250 linear feet northwest from W. Parks to end of wastewater main
- Grace Street-from W. Parks to McMillan Street
- McMillan-from N. Hawkins to Ferris

Action:

Council Member Billie Wallace moved to approve an engineering professional services agreement with Gresham Smith for an amount not to exceed \$401,653 and authorize the City Manager to negotiate and execute all documents as necessary. Council Member Travis Smith seconded, All Ayes.

21. Consider Change Order #12 and extension of project duration with BAR Constructors for the Jefferson Lift Station Capacity Expansion Project

Mr. Lacy requested approval of a change order in the amount of \$286,385 and an extension of the schedule to the construction services contract with BAR Constructors for the Jefferson Lift Station Capacity Expansion Project. He noted the new completion date is September 1, 2023. Staff also requested a \$50,000 construction contingency. Mr. Lacy noted the change order will cover unanticipated expenses and extend the construction schedule due to supply shortages (pumps), relocation of electrical structures, electrical equipment HVAC, excavation, and demolition of old treatment structures required for the expansion construction and improvements of the Jefferson Street Lift Station. The improvements will increase the pumping capacity from 28 MGD to 32 MGD, and allow for future expansion to 48 MGD.

Action:

Council Member Billie Wallace moved to approve the proposed change order with BAR Constructors in the amount of \$286,385, as well as the additional \$50,000 construction contingency and authorize the City Manager to negotiate and execute all documents as necessary. Council Member Patrick Souter seconded, All Ayes.

24. Comments by Mayor, City Council, City Attorney and City Manager

Council Member Billie Wallace thanked City employees for their hard work.

City Manager Michael Scott thanked Senior Human Resources Director Lindsey Mearns for her work on the Compensation Study and also thanked City Council for their support.

Mayor Pro Tem Chris Wright thanked Chad Tustison and the Finance Department for the FY 23 Budget Book. He encouraged everyone to attend the Waxahachie ISD Town Hall meeting on November 30th to learn about student enrollment numbers and the needs to address growth in the district.

Council Member Patrick Souter encouraged the community to visit the Ellis County African American Hall of Fame and Museum to learn more about those who have contributed and directly impacted our community. He noted the Habitat for Humanity Festival of Trees fundraiser was a

success. Council Member Souter addressed a question he received regarding motions during Council meetings and explained there is no hierarchy when making motions and all Council Members can make the motion or second.

City Attorney Robert Brown commended staff for providing a recommended motion for City Council to ensure transparency and certainty.

Mayor Hill echoed all comments and noted all first responders are remembered in daily prayer.

City Council and staff wished everyone a Happy Thanksgiving.

22. Convene into Executive Session for consultation with attorney regarding pending or contemplated litigation as permitted under Section 551.071, Texas Government Code and for deliberation regarding real property as permitted under Section 551.072, Texas Government Code

Mayor Hill announced at 7:36 p.m. the City Council would convene into Executive Session for consultation with attorney regarding pending or contemplated litigation as permitted under Section 551.071, Texas Government Code and for deliberation regarding real property as permitted under Section 551.072, Texas Government Code.

23. Reconvene and take any necessary action

The meeting reconvened at 8:51 p.m.

Action:

*Council Member Billie Wallace moved to authorize acceptance of a donation of approximately 0.0490 acres of land located at the intersection of Westgate Drive and Brookside Road described as Lot Part of 5 Block 1 Westgate Park-REV 0.049 AC and authorize the City Manager to execute all documents and pay any applicable fees necessary to facilitate the transfer of property. Mayor Pro Tem Chris Wright seconded, **All Ayes.***

25. Adjourn

There being no further business, the meeting adjourned at 8:52 p.m.

Respectfully submitted,

Amber Villarreal
City Secretary