

# **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, April 3, 2023 at 7:00 p.m.***

Council Members: 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

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 March 20, 2023
- b. Renewal of National Sign Plazas agreement
- c. Interlocal Agreement with the City of Burleson for the purchase of various goods and services

6. ***Introduce*** Honorary Councilmember
7. ***Consider*** City of Waxahachie Annual Financial Report for year ended September 30, 2022
8. ***Continue 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)
9. ***Consider*** proposed Ordinance approving ZDC-177-2022

10. **Consider** a request by Massey Shaw, Blue Bonnet Trails, LLC, for a Plat extension of Silverthorne Addition, being 32.56 acres, located directly south of 140 Lavender Drive, situated in the B.B. Davis Survey, Abstract No. 290, and W.C. Calder Survey, Abstract No. 235, an addition to the City of Waxahachie (Property ID 182275) – Owner: Blue Bonnet Trails, LLC (SUB-20-2023 AKA SUB-15-2021)
11. **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)
12. **Consider** approval of SUB-180-2022
13. **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)
14. **Consider** proposed Ordinance approving ZDC-5-2023
15. **Consider** Development Agreement for ZDC-5-2023
16. **Consider** professional services agreements for architectural services and project management services for the City Hall Renovation Project
17. **Consider** approval of Steele and Freeman as the Construction Manager at Risk for the City Hall Renovation Project
18. **Consider** proposed Resolution opposing special districts, including Municipal Utility Districts, in the City of Waxahachie and its extraterritorial jurisdictions
19. **Convene** into Executive Session for consultation with attorney regarding pending or contemplated litigation as permitted under Section 551.071, Texas Government Code
20. **Reconvene** and take any necessary action
21. Comments by Mayor, City Council, City Attorney and City Manager
22. Adjourn

**The City Council reserves the right to go into Executive Session as authorized by Section 551.071(2) of the Texas Government Code, for the purpose of seeking confidential legal advice from legal counsel on any agenda item listed herein.** 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

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, March 20, 2023 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: Shon Brooks, Executive Director of Development Services  
Terry Welch, 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**

Mayor Hill gave the invocation and led the Pledge of Allegiance and the Texas Pledge of Allegiance.

**4. Public Comments**

David Bibel, 305 W. University Avenue, Waxahachie, Texas, presented a petition that was signed by 100% of the residents on W. University. He confirmed the request is for street, sidewalks, and lighting improvements to enhance safety in the area.

**5. Consent Agenda**

- a. Minutes of the City Council meeting of March 6, 2023
- b. Event application for Run for Our Life 5k to be held May 20, 2023 at Getzendaner Park
- c. Parking/Loading Zone renewals from April 1, 2023-March 31, 2024
- d. Variance request from QuikTrip #1940 for beer and wine retailers off-premise permit located at 1342 Brown Street
- e. Engineering Professional Services Agreement with Freese and Nichols, Inc.
- f. Contract amendment with Brenntag Southwest, Inc. to purchase Aquapure 3673, a water treatment chemical, for the Howard Road Water Treatment Plant in the amount of \$69,120
- g. Supplemental appropriation in the amount of \$4,250 for joint election services for May 6, 2023 General Election
- h. Purchase of video surveillance server with Network Cabling Services in the amount of \$61,613 from within the FY23 budget

(5a)

- i. Funding request from the Waxahachie Community Development Corporation (WCDC) to construct a nature trail on recently acquired parkland adjacent to Lion's Park in the amount of \$40,000 from WCDC unrestricted reserves

**Action:**

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

**6. Introduce Honorary Councilmember**

Mayor Hill presented Judson Willett with a Certificate of Appreciation for serving as the March 2023 Honorary Council Member. Jud is a senior at Waxahachie High School and serves as student body president. He is an active member of the FFA, UIL debate, and Editor in Chief of broadcast media at WHS. Mr. Willett is currently tied for first in his class of 571 students and plans to attend the University of Texas at Austin, College of Liberal Arts, with a major in government. Jud is the son of Robin and Jason Willett.

- 7. Public Hearing on a request by Tim Jackson, Texas Realty Capture & Surveying LLC for a Replat of Lot 9A, Leo Hightower Lots subdivision, to create Lot 9A-R, Leo Hightower Lots subdivision, 1 residential Lot, being 1.515 acres, located at 153 Lakeshore Drive, (Property ID 230811) – Owner: JEROME BEGNAUD (SUB-57-2022)**

Jennifer Pruitt, Senior Director of Planning, announced the applicant requested to continue the Public Hearing for SUB-57-2022 to the May 1, 2023 City Council meeting.

**8. Consider approval of SUB-57-2022**

**Action:**

*Council Member Billie Wallace moved to continue the Public Hearing on a request by Tim Jackson, Texas Realty Capture & Surveying LLC for a Replat of Lot 9A, Leo Hightower Lots subdivision, to create Lot 9A-R, Leo Hightower Lots subdivision, 1 residential Lot, being 1.515 acres, located at 153 Lakeshore Drive, (Property ID 230811) – Owner: JEROME BEGNAUD (SUB-57-2022) to the May 1, 2023 City Council meeting. Council Member Travis Smith seconded, All Ayes.*

- 9. Public Hearing on a request by Jeff Head, Evolving Texas for a Specific Use Permit (SUP) for a Franchised Private Utility (Oncor Electric) and Outdoor Storage use within a Light Industrial (LI-1) zoning district located directly north of the property at 3841 S Interstate 35 (Property ID 202984) - Owner: ONCOR ELECTRIC DELIVERY COMPANY, LLC (ZDC-165-2022)**

Ms. Pruitt presented the case noting the applicant is requesting a Specific Use Permit (SUP) for a new service facility for Oncor Electric on a 14.8-acre tract of land located directly north of the property at 3841 S. Interstate 35. She noted Oncor is proposing to build a 17,318 square foot building for administrative personnel and plan to build an outdoor storage area consisting of two accessory structures for service trailers and trucks. They will also have an above ground fuel tank

(5a)

and pump and a small repair shop for service vehicles. The applicant is proposing to screen the entire parameter with a six-foot concrete panel wall with two security gates. She noted the applicant made concerted efforts to comply with the City's development standards including the building design, screening, and landscaping requirements. In addition, the applicant will utilize concrete surface material for the entire outdoor storage area. The Planning and Zoning Commission recommended approval, selecting option one for the elevation facade, by a 5-0 vote. Option one utilizes a brown color scheme with a light brown concrete masonry units (CMU) on the majority of the building and a dark brown CMU on the lower and top segments of the building. The two accessory structures and the repair shop are metal buildings that match the color of the main building. Staff recommended approval with the conditions listed below:

1. The applicant agrees to execute a mutually agreed upon Development Agreement for the development.
2. The applicant shall obtain a permit from the City of Waxahachie Building Department before construction.

Mayor Hill opened the Public Hearing.

There being no others to speak for or against ZDC-165-2022, Mayor Hill closed the Public Hearing.

**10. Consider proposed Ordinance approving ZDC-165-2022**

**ORDINANCE NO. 3364**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO ALLOW FOR A FRANCHISED PRIVATE UTILITY (ONCOR ELECTRIC) AND OUTDOOR STORAGE USE WITHIN A LIGHT INDUSTRIAL-1 DISTRICT (LI-1) LOCATED DIRECTLY NORTH OF THE PROPERTY AT 3841 S INTERSTATE 35 IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 14.8 ACRES KNOWN AS PROPERTY ID 184700, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Council Member Billie Wallace moved to approve the Ordinance for ZDC-165-2022, a Specific Use Permit (SUP) for a franchised private utility (Oncor Electric) and outdoor storage use, subject to the conditions in the staff report, selecting elevation option 1, and authorizing the City Manager and/or Mayor to execute all documents accordingly. Council Member Travis Smith seconded, All Ayes.*

**11. Consider approval of Development Agreement for ZDC-165-2022**

**Action:**

*Council Member Billie Wallace moved to approve a Development Agreement for ZDC-165-2022. Council Member Travis Smith seconded, All Ayes.*

(5a)

**12. Public Hearing on a request by Anna Carrillo, Carrillo Engineering, for a Zoning Change from a General Retail zoning district to Planned Development-General Retail, located at the northeast corner of US Highway 77 and E North Grove Boulevard (Property ID: 191121, 262125, and 262126) – Owner: HIGH FIVE TRUST – BJA (Mark) (ZDC-178-2022)**

Ms. Pruitt presented the case noting the applicant is requesting approval of a Planned Development (PD) for the North Grove Center to allow for the development of a full-service grocery store (Tom Thumb), a convenience store with gasoline sales, a self-storage facility, and general retail establishments with drive-throughs. She stated the applicant met with adjacent residential property owners to address concerns. She explained the applicant intends to develop the property in three (3) phases. Phase 1 will consist of infrastructure improvements to the site. Phase 2 will occur immediately following the completion of Phase 1 and will consist of the development of lots 2, 7, 9, and 10. Construction during Phase 2 will include the full-service grocery store, convenience store and gas station, self-storage facility and one strip retail center with a drive-through. The applicant does not have an anticipated completion date for Phase 3 of the development which includes lots 3, 4, 5, 6, and 8. Development on these tracks will require the approval of separate detailed site plans, but no specific users are contemplated at this time.

Proposed uses include:

Full-service grocery store – Lot 9: 60,000 square foot Tom Thumb grocery store for Lot 9 of the North Grover Center PD. The Tom Thumb will offer online grocery pickup, a pharmacy with a drive-thru and a deli area. The grocery store will also include a roughly 600 square foot outdoor display area and outdoor seating. Tom Thumb is anticipated to operate from 6:00 am to 11:00 pm, but can operate 24 hours a day if there is additional demand. A total of 150 employees are expected to staff the Tom Thumb. 320 parking spaces are proposed for the grocery store, with up to ten (10) spaces designated for electric vehicle use and up to seven (7) spaces for online order pickup.

- The grocery store elevation is proposed to feature painted concrete masonry units (CMUs), Nichiha panels, and window glazing as the primary exterior construction materials. A total of four (4) colors are proposed to be utilized for the CMU. The Nichiha panels utilize two colors, cedar and tobacco.

Mini warehouse – Lot 2: The proposed mini-warehouse facility is currently anticipated to operate under the Store House Storage brand. The structure is a 130,000 square foot, fully indoor, climate-controlled storage facility that is anticipated to be staffed daily from 9:00 am to 6:00 pm with tenant access allowed from 6:00 am to 10:00 pm. The facility is proposed to be fully gated with all loading and unloading occurring behind the gated entrance. Adequate on-site parking has been provided for this use.

- The mini warehouse facility elevation is proposed to utilize a façade comprised primarily of stucco, thin stone veneer, and window glazing. A total of 96% of the façade will be comprised of masonry stucco or thin stone veneer. The varying stucco colors and articulation proposed for the facility serve to eliminate the monotony in the façade.

Convenience store and gas station – Lot 7: The proposed convenience store and gas station is anticipated to operate under the Tom Thumb Express brand. Twelve (12) fuel pumps are proposed

(5a)

to be open for public use 24/7; while the typical convenience store hours will be 7:00 am – 9:00 pm. Adequate on-site parking is proposed for this use.

- The convenience store and gas station elevation is proposed to utilize a complimentary façade with the grocery store. The proposed materials for the convenience store include painted concrete masonry units (CMUs), Nichiha panels, and window glazing. The fuel pump canopy is proposed to utilize the Nichiha panels with a cedar finish.

Multi-tenant retail building and drive through – Lot 10: A 11,000 square foot multi-tenant retail building is proposed on Lot 10. Specific users are not contemplated for the retail building at this time, but provisions have been made to allow for a single drive-through establishment to operate in the northernmost suite. Adequate parking is available if all suites are occupied by retail or office users; however, the applicant has requested that the proposed parking be considered sufficient for all potential uses allowable in the General Retail District, including restaurants. If all suites are occupied by restaurants, there is a potential for the proposed parking to be up to ten (10) spaces short of the requirement for this lot.

- The façade of the multi-tenant retail building on Lot 10 is designed to compliment the design of the grocery store, but will not utilize the same exterior construction materials. The façade is comprised by 100% masonry materials (stucco and thin stone veneer) and window glazing with minor aluminum accents.

Ms. Pruitt noted Lot 1 will not be developed for anything other than a detention lot and will be screened off.

#### Access:

The North Grove Center PD is proposed to have five (5) points of access. Three (3) drives will be available off of E North Grove Boulevard to provide direct access to Tom Thumb proposed on Lot 10. Curb cuts and dedicated turn lanes will be provided on E North Grove Boulevard for two of these access points. One (1) point of access is proposed off of Highway 77 with a deceleration lane. A single point of access with a dedicated turn lane will be provided for the development on Hedgewood Drive. A private drive will extend through the center of the development to provide cross-access between each proposed lot. This access drive will be memorialized with a mutual access easement. The applicant is pursuing options to install a traffic signal at the intersection of Hedgewood Drive and Highway 77 in order to improve traffic control on the site.

#### Landscaping:

The applicant is proposing landscaping for Phase 2 with the exception of Lot 1. Due to the size of the proposed buildings and the subsequent parking requirements for each lot, the applicant is unable to meet the minimum landscaping requirements of the Waxahachie Zoning Ordinance; however, staff believes the applicant has provided the landscaping necessary to adequately screen the development with ample trees along the outside of the 8' masonry screening wall to further buffer the site from adjacent residences. The applicant has also provided street trees along Hedgewood Drive, Highway 77, and E North Grove Boulevard. Lots included in Phase 3 will be required to adhere to landscape requirements of the Waxahachie Zoning Ordinance.

#### Signage:

The applicant is proposing to construct multiple freestanding monument signs for the shopping center. Multi-tenant monument signs are proposed on Lots 3, 6, and 7 while single-tenant signs

(5a)

are proposed on Lots 4, 5, 6, 8, and 9. The single-tenant monument signs are proposed to meet the requirements of the Waxahachie Zoning Ordinance. The multi-tenant monument signs are proposed to increase the maximum allowable height to up to 15' and maximum allowable size up to 205 square feet.

Mayor Hill inquired about a traffic signal at Hedgewood Drive and Ms. Pruitt stated the Traffic Impact Analysis has been completed and reviewed by staff. Mr. James Gaertner, Executive Director of Public Works and Engineering, noted the developer has offered to pay for the proposed traffic signal at Hedgewood Drive. Mr. Gaertner explained the proposed sign does not meet TxDOT spacing requirements and currently does not meet the warrants of traffic for a traffic signal; however, staff is prepared to send TxDOT a letter of support to install the traffic signal now, as opposed to after the development is built.

Mayor Hill opened the Public Hearing.

Mayor Pro Tem Wright asked if the landscaping on outside masonry wall will be sprinkled.

Robert Horton, 3815 Lisper St., Fort Worth, Texas, replied it would be irrigated so that the landscaping does not die.

There being no others to speak for or against ZDC-178-2022, Mayor Hill closed the Public Hearing.

**13. Consider proposed Ordinance approving ZDC-178-2022**

**ORDINANCE NO. 3365**

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM GENERAL RETAIL (GR) & PLANNED DEVELOPMENT (PD) TO PLANNED DEVELOPMENT-GENERAL RETAIL (PD-GR), WITH A CONCEPT PLAN, LOCATED AT THE NORTHEAST CORNER OF N US HIGHWAY 77 & E NORTH GROVE BOULEVARD IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 20.010 ACRES KNOWN AS PROPERTY ID 191121, 262125, & 262126, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Council Member Billie Wallace moved to approve the Ordinance for ZDC-178-2022, a Zoning Change request from a General Retail zoning district to a Planned Development-General Retail zoning district, subject to the conditions of the staff report, authorizing the City Manager and/or Mayor to execute all documents accordingly. Council Member Travis Smith seconded, All Ayes.*

**14. Consider approval of Development Agreement for ZDC-178-2022**

**Action:**

*Council Member Billie Wallace moved to approve a Development Agreement for ZDC-178-2022. Council Member Travis Smith seconded, All Ayes.*



(5a)

**15. Consider approval of a construction contract with Advance Paving Company for the 2022 Asphalt Street Rehabilitation**

Mr. Gaertner requested approval to award a construction contract with Advance Paving Company for the 2022 Asphalt Street Rehabilitation. The project consists of the asphalt rehabilitation for the following streets throughout the city, including the scarification, cement stabilization and compaction of the pavement subgrade, and repaving the asphalt driving surface. It also includes the concrete flume and some curb repair to improve drainage.

Street Name	From	To	Length (ft)	Width (ft)
Breezeway St	E Marvin Ave	Lake Park Ave	814	25
Lancaster St	Ross St	Lewis St	665	15
Coleman St	E Marvin Ave	Lake Park	1,482	22/25
E Marvin Ave	Ennis St	Emanuel St	1,249	25
W Jefferson St	S Grand Ave	W Main St	903	25/30
McClain St	Oldham Ave	Smokey Ln	652	12/20
Montgomery St	Kaufman St	McClain St	612	12
Gardner St	N Aiken St	208 Gardner St	480	10/15/18
John Arden Dr	Civic Center Ln	1900 John Arden	2,805	24
Floyd St	E University Ave	Harbin Ave	1,607	25
Bid Add Alternate Locations				
Pecan St	E Marvin Ave	N. End	1,180	20/28
Lewis St	E Marvin Ave	Lancaster St	1,324	20
Pueblo Drive & Pueblo Cir	Buffalo Creek Dr	104 Pueblo Dr	1,221	25/29
Redman Ln	Buffalo Creek Dr	116 Redman Ln	695	27

The streets in the table below will be considered for the \$397,000 contingency as project budget allows. These streets were selected based on conditions of the streets and proximity to other streets within the project.

Street Name	From	To
Amanda	Solon Place Way	Rusty
Solon Place Way	Solon	US 287

(5a)

McMillan	US77	College
Virginia	Almond	Sycamore
East Light	US77	College

Mr. Gaertner explained the total cost of the Asphalt Street Rehabilitation project (with contingency) will be \$1,985,041. Funding for this project is available from FY22 Asphalt Street Rehabilitation (\$943,500 now in Street Capital Fund) and the FY23 Operating Fund (\$1,105,000) for a total available budget of \$2,048,500.

Mayor Pro Tem Chris Wright asked if McClain Street can be paved last so that the property owners for the four vacant lots can have the water line extended to the properties. He explained he will bring forth a request for the City to fund the waterline extending services to the four additional property owners.

Mr. Gaertner noted staff can request McClain Street be paved last; however, if the delay continues past the project timeline, then that street may have to be done next budget year. He explained that information will need to be communicated to the other residents on McClain Street who are expecting their street to be paved during this project.

**Action:**

*Council Member Patrick Souter moved to approve a construction contract with Advance Paving Company for the 2022 Asphalt Street Rehabilitation in the amount of \$1,588,041 and a contingency of \$397,000, and authorize the City Manager to execute all necessary documents. Council Member Travis Smith seconded, All Ayes.*

**16. Consider approval of a contract with Circle H Contractors for the construction of the Grove Creek Parallel Gravity Trunk Sewer Phase IV project**

David Bailey, Director of Utilities, requested approval to award a construction contract for the Grove Creek Parallel Gravity Trunk Sewer Phase IV Project to Circle H Contractors, LP in the amount of \$6,924,000, and a \$150,000 contingency, for a total of \$7,074,000. The project is for the construction of approximately 18,675 linear feet of new 33-inch diameter sanitary sewer line, manholes, and appurtenances upstream of the Grove Creek Lift Station. The project will extend along Grove Creek to the confluences of the north and south prong of Grove Creek at Highland Village. These improvements are necessary to accommodate the growing demand for sanitary sewer services in the northeast portion of the city. This item would approve the construction portion of this project. The proposed construction contract is part of an approved project and is currently within the project budget. The project is funded through 2021 Wastewater Bonds and Wastewater Impact Fees.

**Action:**

*Mayor Pro Tem Chris Wright moved to approve a construction contract with Circle H Contractors, LP for \$6,924,000 and a \$150,000 contingency for the Grove Creek Parallel Gravity Trunk Sewer Phase IV Project, and authorize the City Manager to execute all necessary documents. Council Member Patrick Souter seconded, All Ayes.*

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

(5a)

City Council  
March 20, 2023  
Page 9

Council Member Travis Smith congratulated Economic Development Director Warren Ketteman and his team for bringing another grocery store to Waxahachie. He announced the Waxahachie Film and Music Festival will be held April 20-22, 2023.

Council Member Billie Wallace thanked the Honorary Council Member Judson Willett for his participation.

Mayor Pro Tem Chris Wright recognized Jon and Alyssa Garrett for their investments in downtown and the revival of the Texas Theater. He encouraged everyone to support their efforts.

Council Member Patrick Souter noted he attended the Waxahachie Symphony performance recently and encouraged citizens to look for family-friendly events in Waxahachie to attend. He thanked Mr. Bibel for his attendance and noted the Waxahachie Comprehensive Plan encourages lights and sidewalks in our historic district to increase walkability.

Honorary Council Member Judson Willett thanked City Council for allowing him to participate and learn.

Mayor David Hill thanked everyone for their attendance and wished Mr. Willett the best in his future endeavors. Mayor Hill recognized the new Tom Thumb that is forthcoming and the proposed new traffic light at Hedgewood Drive and Highway 77.

## **18. Adjourn**

There being no further business, the meeting adjourned at 7:46 p.m.

Respectfully submitted,

Amber Villarreal  
City Secretary

(5b)



## Memorandum

To: Honorable Mayor and City Council

From: Michael Scott, City Manager

Thru:

Date: March 30, 2023

Re: Renewal of National Sign Plazas Agreement

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**Recommended Motion:** "I move to approve of the renewal agreement with National Sign Plazas for the management of the City-wide developers and homebuilders signage program and authorize the City Manager to execute said agreement."

**Item Description:** This item involves renewing the agreement with National Sign Plazas for the promotion, installation, maintenance and management of the shared builders and developers promotional signage program.

**Item Summary:** Back in 2008, the City entered into a contract to develop a shared signage program to promote the active subdivisions around town. This was in response to the proliferation of the "bandit signs" around town that were both unsightly and quite difficult for the City to regulate. The sign program has been quite successful as gaining support by the development community came quite naturally as many other cities have implemented a similar type program.

Another benefit to this program is the City is compensated as these signs are utilized. Historically, in lieu of collecting a check, the City elects to accept credits with National Sign Plazas to use towards the City's directional wayfinding sign program. The plan is to continue this practice going forward.

(5b)

The renewal term for this agreement is another 10 years in addition to having a 5-year extension option.

**Fiscal Impact:** There is no fiscal impact to the City for the renewal of this agreement.

**Recommendation:** As this program has been quite successful over the past 15 years and is essentially, a "turn-key" program with very little additional effort required by City staff. staff recommends the approval of the agreement renewal as presented.

(5c)



## Memorandum

To: Honorable Mayor and City Council

From: Chad Tustison, Finance Director

Thru: Michael Scott, City Manager

Date: March 30, 2023

Re: City of Burleson - Interlocal Agreement

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**Recommended Motion:** "I move to approve an interlocal agreement with the City of Burleson to provide for the efficient procurement of certain goods and services."

**Item Description:** On Monday, April 3, 2023 an interlocal agreement between the City of Burleson and the City of Waxahachie will be presented to Council for consideration.

**Item Summary:** Staff is requesting the City Council's approval to enter into an interlocal agreement with the City of Burleson in reference to Chapter 791 of the Texas Government Code (hereinafter "Interlocal Cooperation Act") to set forth the terms and conditions upon which the City of Burleson and the City of Waxahachie may purchase various goods and services on contract that are commonly utilized by each party. The City of Burleson and the City of Waxahachie shall each be individually responsible for payments directly to the vendor and for the vendor's compliance with all conditions of delivery and quality of purchased items under such contracts.

**Fiscal Impact:** Approving this interlocal agreement will allow for future potential cost savings for various products and services as well as more efficient procurement practices.

## INTERLOCAL AGREEMENT

This Interlocal Agreement ("Agreement") is made and entered into this 3<sup>rd</sup> day of April, 2023, by and between the CITY OF BURLESON, Texas (hereinafter called "CITY OF BURLESON"), and the CITY OF WAXAHACHIE, Texas (hereinafter called "WAXAHACHIE"), each acting by and through its duly authorized officials:

WHEREAS, CITY OF BURLESON and WAXAHACHIE are both governmental entities engaged in the purchase of goods and services, which is a recognized governmental function;

WHEREAS, CITY OF BURLESON and WAXAHACHIE wish to enter into this Agreement pursuant to Chapter 791 of the Texas Government Code (hereinafter "Interlocal Cooperation Act") to set forth the terms and conditions upon which CITY OF BURLESON and WAXAHACHIE may purchase various goods and services commonly utilized by each party;

WHEREAS, participation in an interlocal agreement will be highly beneficial to the taxpayers of CITY OF BURLESON and WAXAHACHIE through the anticipated savings to be realized and is of mutual concern to the contracting parties;

WHEREAS, CITY OF BURLESON and WAXAHACHIE have current funds available to satisfy any fees owed pursuant to this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises, covenants and obligations as set forth herein; CITY OF BURLESON and WAXAHACHIE agree as follows:

1. CITY OF BURLESON and WAXAHACHIE may cooperate in the purchase of various goods and services commonly utilized by the participants, where available and applicable, and may purchase goods and services from vendors under present and future contracts.
2. CITY OF BURLESON and WAXAHACHIE shall each be individually responsible for payments directly to the vendor and for the vendor's compliance with all conditions of delivery and quality of purchased items under such contracts. CITY OF BURLESON and WAXAHACHIE shall each make their respective payments from current revenues available to the paying party.
3. Notwithstanding anything herein to the contrary, participation in this Agreement may be terminated by any party upon thirty (30) days written notice to the other participating party(ies).
4. The undersigned officer and/or agents of the party(ies) hereto are duly authorized officials and possess the requisite authority to execute this Agreement on behalf of the parties hereto.

(50)

5. This Agreement may be executed separately by the participating entities, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

6. This Agreement shall become effective on the day and year first written above (the "Effective Date"). The primary term of this Agreement shall be for one (1) year, commencing on the Effective Date and terminating on April 3, 2024, and shall thereafter automatically renew for successive one-year terms, unless terminated according to the terms set forth in Paragraph 3.

7. To the extent allowed by law, each party agrees to release, defend, indemnify, and hold harmless the other (and its officers, agents, and employees) from and against all claims or causes of action for injuries (including death), property damages (including loss of use), and any other losses, demands, suits, judgments and costs, including reasonable attorneys' fees and expenses, in any way arising out of, related to, or resulting from its performance under this agreement, or caused by its negligent acts or omissions (or those of its respective officers, agents, employees, or any other third parties for whom it is legally responsible) in connection with performing this agreement.

8. The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Agreement.

9. The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation having the force and effect of the law, the remaining portions of the Agreement shall be enforced as if the invalid provision had never been included.

10. This Agreement embodies the entire agreement between the parties and may only be modified in writing executed by both parties.

11. This Agreement shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns. Neither party will assign or transfer an interest in this Agreement without the written consent of the other party.

12. It is expressly understood and agreed that, in the execution of this Agreement, neither party waives, nor shall be deemed hereby to have waived any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied other than those set forth herein, and this Agreement shall not create any rights in parties not signatories hereto.

13. The declarations, determinations and findings declared, made and found in the preamble to this Agreement are hereby adopted, restated and made part of the operative provisions hereof.



(5c)

EXECUTED hereto on the day and year the agreement is approved and signed by the final party.

CITY OF BURLESON

CITY OF WAXAHACHIE

\_\_\_\_\_  
By: Bryan Langley,  
City Manager

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

STATE OF TEXAS §

COUNTY OF TARRANT §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2023, by Bryan Langley of the **CITY OF BURLESON, TEXAS**, a home-rule municipal corporation, on behalf of such corporation.

\_\_\_\_\_  
Notary Public in and for the  
State of Texas

STATE OF TEXAS §

COUNTY OF ELLIS §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2023, by Michael Scott, City Manager of the **CITY OF WAXAHACHIE, TEXAS**, a home-rule municipal corporation, on behalf of such corporation.

\_\_\_\_\_  
Notary Public in and for the  
State of Texas

## Planning & Zoning Department

### Zoning Staff Report

Case: ZDC-177-2022



#### MEETING DATE(S)

Planning & Zoning Commission: February 14, 2023

City Council: April 3, 2023

#### CAPTION

**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)

#### RECOMMENDED MOTION

*"I move to approve ZDC-177-2022, a Zoning Change from a General Retail (GR) zoning district to Planned Development – General Retail (PD-GR) zoning district, authorizing the City Manager and or Mayor to execute all documents accordingly."*

#### ACTION SINCE INITIAL STAFF REPORT

At the Planning and Zoning Commission meeting on February 14, 2023, the Commission voted 4-1 to recommend denial of case number ZDC-177-2022. At the City Council meeting on February 20, 2023, the City Council voted 5-0 to continue the public hearing for this case at the April 3, 2023 City Council meeting.

#### APPLICANT REQUEST

The Applicant is requesting approval of a Planned Development District (PD) with a base zoning of General Retail District (GR) to allow a tattoo shop in Suite A in the building located at 120 North Highway 77. Currently, the tattoo shop use is prohibited in the GR District.

#### CASE INFORMATION

Applicant: Iris Showalter

Property Owner(s): 120 North, LLC

Site Acreage: 0.65 acres

Current Zoning: General Retail District (GR)

Requested Zoning: Planned Development District (PD) – General Retail District (GR)

#### SUBJECT PROPERTY

General Location: 120 North Highway 77

Parcel ID Number(s): 173425

*Existing Use:* Multi-tenant Retail Building

*Development History:* N/A

*Adjoining Zoning & Uses:*

Direction	Zoning	Current Use
North	GR	Texas Farm Bureau
East	SF-2	Single Family Residences
South	GR	Everly Rose Event Center
West	GR	Professional Office (Pinkerton Law Firm & Associates)

*Future Land Use Plan:* Retail

*Comprehensive Plan:* Retail includes areas that have restaurants, shops, grocery stores, and personal service establishments. Retail businesses generally require greater visibility than other types of nonresidential land use (e.g., office, commercial).

*Thoroughfare Plan:* The subject property is fronting onto North Highway 77, which is classified as a Major Thoroughfare in the Thoroughfare Plan. Roadway improvements are not required for this request.

*Site Image:*



### **PLANNING ANALYSIS**

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 cosmetic and restorative tattoo establishment. The Applicant is not proposing to modify the zoning district regulations, but to allow the use since it is currently prohibited in the GR District.

#### **Proposed Use**

The purpose of this Planned Development District is to allow for a tattoo establishment (Studio Iris) that specializes in cosmetic and restorative tattooing services often provided as a post-surgical service. This Planned Development is not intended to allow for a traditional tattoo shop in which tattoo services are solely for artistic purposes.

Restorative tattooing services aim to restore the natural appearance of a certain area of the skin or body that has been altered due to a medical condition or procedure, such as scars, burns, or surgical incisions. The procedure involves the application of pigmentation into the skin and advanced tattooing techniques to blend the tattooed area with the surrounding skin, resulting in a more aesthetically pleasing and natural-looking appearance.

Cosmetic tattooing services include the application of permanent or semi-permanent pigmentation into the skin for eyebrows, eyeliner, lip liner/color/bblend, blush, beauty marks, hair imitation, and other facial cosmetics. Cosmetic tattooing can also include restorative tattooing services that aim to enhance or improve the natural appearance of other body parts not previously impacted by a medical condition or procedure, such as areola repigmentation.

The Applicant is proposing to operate the cosmetic and restorative tattoo establishment in Suite A (approximately 550 square feet) in the multi-tenant building at 120 North Highway 77. The cosmetic and restorative tattoo establishment will only have one employee, the Applicant, and will generally operate Monday through Friday, 10:00 am to 6:00 pm, Saturday, 11:00 am to 5:00 pm, and closed on Sunday. Services will be performed on a by-appointment-only basis and will not be open for general walk-ins.

#### **Proposed Development Standards**

- A cosmetic and restorative tattoo use shall be limited to Suite A (550 square feet) in the building at 120 North Highway 77, as shown in the image below. A cosmetic and restorative tattoo use shall not be permitted anywhere else in the building or within the subject property.



*The image above shows the location of suite A.*

- Permission to operate a cosmetic and restorative tattoo use in Suite A is only granted to "Iris Showalter" as the owner of "Studio Iris." Approval to operate a cosmetic and restorative tattoo establishment within the limits of the subject property will not transfer to another cosmetic and restorative tattoo establishment or owner for Studio Iris.

- Studio Iris can only operate in Suite A, which is approximately 550 square feet. Modifications to expand the floor area of the use shall require a zoning amendment approved by City Council.
- The hours of operation for Studio Iris are limited to Monday through Friday from 10 am to 6 pm, Saturday from 11 am to 5 pm, and closed on Sunday. Modifications to the hours of operation shall require a zoning amendment approved by City Council.
- Services will be performed on a by-appointment basis only.
- Studio Iris shall at all times have a valid license from the Texas Department of State Health Services (DSHS).
- All exterior signage shall require a sign permit from the Building Department.

#### **NOTIFICATIONS**

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 21 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. At time of publishing this report, Staff received one letter of support and one letter of opposition. The letter of support was from the property owner.

#### **RECOMMENDATION**

Based on the details provided in this Staff Report and the present status of the documents associated with the request, the Planning Department recommends approval of the zoning request, given the clarification and definitions of services performed for the proposed cosmetic and restorative tattoo establishment.

#### **ATTACHED EXHIBITS**

1. PD Zoning Ordinance
2. Location Map (Exhibit A)
3. Development Standards (Exhibit B)
4. Operational Plan
5. Letters of Support and Opposition

#### **STAFF CONTACT INFORMATION**

*Prepared by:*

Eleana Tuley, AICP

Senior Planner

[eleana.tuley@waxahachie.com](mailto:eleana.tuley@waxahachie.com)

*Reviewed by:*

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

Senior Director of Planning

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

(8)



# STUDIO IRIS

DEFINING (NATURAL) IN COSMETIC TATTOOING

Iris Showalter  
120 N Hwy 77 Ste A  
Waxahachie, TX 75165

Re: ZDC-177-2022 Zoning Request for Studio Iris

- What is the scope of your work? Providing realistic and natural cosmetic and restorative tattooing for those seeking natural subtle results in beauty enhancements (brows, lips, freckles and beauty marks, and lash enhancement eyeliner) as well as reconstruction services (Areola for cancer survivors, after surgery, auto-immune diseases or disorders, and other special circumstances).
- What are your hours of operation? By Appointment only through website. Hours Available for bookings are Monday through Friday 10am - 6pm, Saturday 11am to 5pm, Sundays Closed
- What is the total floor area for your business? Less than 500 SF
- How many employees will you have? At the moment, just myself. Future plan is to hire on an apprentice with future Artist position.
- Where do you currently operate your business? Studio room rental out of Wild Sage Salon & Spa, 406 W Franklin Street, Waxahachie, TX 75165 (By Appointment Only), and Koneko Studio in Dallas, TX.
- Why did you choose to establish your business in Waxahachie? This is my home and where my family resides. We chose to live in Waxahachie because of the strong community foundations, the family friendly town, and the charm of the downtown.

Thank you,

Iris DeSoto Showalter  
Studio Iris

(8)

Case Number: ZDC-177-2022

City Reference: 239568

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on **February 8, 2023** 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:

No music that can be heard @ residences  
No nighttime lighting that will shine in my yard disturbing  
the wildlife or my Bedroom

Signature

Parag Gordon

Printed Name and Title

Date

1-27-2023

1411 Fernis Ave

Address

RECEIVED JAN 27 2023

*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.*





(8)

**City of Waxahachie, Texas**  
**Notice of Public Hearing**  
**Case Number: ZDC-177-2022**

◇◇◇◇

**PINKERTON LLC**  
**610 Uptown Blvd Ste 3000**  
**Cedar Hill, TX 75104-3535**

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, February 14, 2023 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, February 20, 2023 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

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

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-177-2022

City Reference: 175551

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on **February 8, 2023** 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:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
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 ZONING CHANGE FROM GENERAL RETAIL DISTRICT (GR) TO PLANNED DEVELOPMENT DISTRICT- GENERAL RETAIL DISTRICT (PD-GR) LOCATED 120 NORTH HIGHWAY 77 IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 0.65 ACRES KNOWN AS PROPERTY ID 173425, 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 adopted a zoning ordinance and map showing the classification of the property located within the city limits of said City; and

**WHEREAS**, a proper application for a Zoning Change has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number ZDC-177-2022. 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 GR to PD-GR; 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 GR to PD-GR in order to facilitate the development of the subject property in a manner that allows a cosmetic and restorative tattoo use in (Suite A only, 550 square feet) on the following property: Property ID 173425, which is shown on the location map (Exhibit A) and development standards (Exhibit B).

#### **PLANNED DEVELOPMENT**

The subject property shall develop in accordance with the "PD-GR" Planned Development-General Retail as follows:

1. The subject property shall develop in accordance with the Development Standards in Exhibit B.
2. 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. Where regulations are not specified in this ordinance, or the

(9)

development agreement, the development shall comply with the City of Waxahachie Municipal Code of Ordinances.

3. All development within the subject property will be subject to obtaining permits from the City in accordance with the City's applicable rules and regulations governing such permits.
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 Code of Ordinances.

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 3<sup>rd</sup> day of April, 2023.

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MAYOR

ATTEST:

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City Secretary

(9)



## EXHIBIT B – DEVELOPMENT STANDARDS

### STUDIO IRIS

#### **PURPOSE AND INTENT**

The purpose of this Planned Development District is to allow for a tattoo establishment (Studio Iris) that specializes in cosmetic and restorative tattooing services often provided as a post-surgical service. This Planned Development is not intended to allow for a traditional tattoo shop in which tattoo services are solely for artistic purposes. The subject property will comply with the regulations for the General Retail (GR) zoning district, and the Waxahachie Code of Ordinances, except as provided herein.

#### **DEFINITIONS**

*Restorative Tattooing* – Services aim to restore the natural appearance of a certain area of the skin that has been altered due to a medical condition or procedure, such as scars, burns, or surgical incisions. The procedure involves the application of pigmentation into the skin and advanced tattooing techniques to blend the tattooed area with the surrounding skin, resulting in a more aesthetically pleasing and natural-looking appearance.

*Cosmetic Tattooing* – Services include the application of permanent or semi-permanent pigmentation into the skin for eyebrows, eyeliner, lip liner/color/blend, blush, beauty marks, hair imitation, and other facial cosmetics. Cosmetic tattooing can also include restorative tattooing services that aim to enhance or improve the natural appearance of other body parts not previously impacted by a medical condition or procedure, such as areola repigmentation.

#### **DEVELOPMENT STANDARDS**

- A cosmetic and restorative tattoo use shall be limited to Suite A (550 square feet) in the building at 120 North Highway 77, as shown in the image below. A tattoo shop use shall not be permitted anywhere else in the building or within the subject property.



The image above shows the location of suite A at 120 North Highway 77.

(9)

## EXHIBIT B – DEVELOPMENT STANDARDS

- Permission to operate a cosmetic and restorative tattoo use in Suite A is only granted to "Iris Showalter" as the owner of "Studio Iris." Approval to operate a cosmetic and restorative tattoo use within the limits of the subject property will not transfer to another cosmetic and restorative tattoo establishment or owner for Studio Iris.
- Studio Iris can only operate in Suite A, which is approximately 550 square feet. Modifications to expand the floor area of the use shall require a zoning amendment approved by City Council.
- The hours of operation for Studio Iris are limited to Monday through Friday from 10 am to 6 pm, Saturday from 11 am to 5 pm, and closed on Sunday. Modifications to the hours of operation shall require a zoning amendment approved by City Council.
- Services will be performed on a by-appointment basis only.
- Studio Iris shall at all times have a valid license from the Texas Department of State Health Services (DSHS).
- All exterior signage shall require a sign permit from the Building Department.

(10)

# Planning & Zoning Department

## Plat Staff Report

Case: SUB-20-2023



### MEETING DATE(S)

Planning & Zoning Commission: N/A

City Council: April 3, 2023

### CAPTION

**Consider** a request by Massey Shaw, Blue Bonnet Trails, LLC, for a **Plat Extension** of Silverthorne Addition, being 32.56 acres, located directly south of 140 Lavender Drive, situated in the B.B. Davis Survey, Abstract No. 290, and W.C. Calder Survey, Abstract No. 235, an addition to the City of Waxahachie (Property ID 182275) – Owner: Blue Bonnet Trails, LLC (SUB-20-2023 AKA SUB-15-2021)

### RECOMMENDED MOTION

*"I move to approve a two-year plat extension for SUB-20-2023 also known as SUB-15-2021 a plat for Silverthorne Addition, authorizing the City Council to sign the associated documents accordingly."*

### APPLICANT REQUEST

The Applicant is requesting a plat extension for Silverthorne Addition, a 32-acre plat for 77 single-family residential lots. The Planning and Zoning Commission approved the plat on April 13, 2021, under case SUB-15-2021. Since the plat is due to expire on April 13, 2023, the Applicant is requesting a plat extension for an additional two (2) years.

### CASE INFORMATION

**Applicant:** Massey Shaw, Blue Bonnet Trails, LLC

**Property Owner(s):** Blue Bonnet Trails, LLC

**Site Acreage:** 32.564 acres

**Number of Lots:** 77 lots

**Number of Dwelling Units:** 77 units

**Park Land Dedication:** The cash-in-lieu for parkland dedication is \$30,800 (77 lots at \$400 per lot)

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

### SUBJECT PROPERTY

**General Location:** Located directly south of 140 Lavender Drive

**Parcel ID Number(s):** 182275

**Current Zoning:** Single Family-2 (SF-2)

**Existing Use:** Undeveloped Land



**Platting History:**

A plat was initially platted for the subject property on April 13, 2021, under case SUB-15-2021

**Site Aerial:****PLANNING ANALYSIS**

The Applicant is requesting a plat extension for Silverthorne Addition, a 32-acre plat for 77 single-family residential lots. The Planning and Zoning Commission approved the plat on April 13, 2021, under case SUB-15-2021. Since the plat is due to expire on April 13, 2023, the Applicant is requesting a plat extension for an additional two (2) years. The Applicant still needs to receive approval for the associated construction plans. The construction plans were initially submitted to the Public Works and Engineering Department in October 2021 and resubmitted for a second review in October 2022. The Applicant did not provide Staff with a timeline to complete the construction of the subdivision within the next two years.

**RECOMMENDATION**

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning Department recommends approval of the two-year plat extension with the motion and the conditions noted below.

1. The Applicant shall remove note #2 regarding the traffic impact analysis assessment performed on the subject property and located in the lower left-hand corner of the page on both plat pages prior to filing the plat with the County.
2. The Applicant shall revise the ownership on the plat to match the ownership information on the Ellis County Appraisal District prior to filing the plat with the County.
3. The Applicant shall revise the plat in the future to revise, add, or remove easements on the plat per the construction plans approved by the Public Works and Engineering Department, subject to review and approval of the City Engineer.
4. The Applicant choose another street name for "Stellar Drive" due to the potential conflict with "Stella Drive" in Ellis County, subject to review and approval of the Planning Director.

**ATTACHED EXHIBITS**

1. Plat
2. Plat Extension Letter

**CITY REQUIREMENTS FOR PLAT RECORDING AND FILING**

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

1. The Applicant has received a letter of acceptance from the Public Works Department confirming all utilities, infrastructure, and other required improvements have been installed, inspected, and accepted by the City.

**STAFF CONTACT INFORMATION**

*Prepared by:*

Eleana Tuley, AICP

Senior Planner

[eleana.tuley@waxahachie.com](mailto:eleana.tuley@waxahachie.com)

*Reviewed by:*

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

Senior Director of Planning

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







(10)



P.O. Box 185  
Milford, TX 76670  
(972) 921-4206  
(469) 327-2527 Fax  
[www.aai-texas.com](http://www.aai-texas.com)

March 14, 2023

Eleana Tuley, AICP  
Planning Department  
City of Waxahachie  
401 S. Rogers  
Waxahachie, TX 75167

**RE: Silverthorne Addition – Request to extend approval of the Plat for Silverthorne Addition.**

Eleana Tuley:

The developer/owner of the proposed Silverthorne Addition residential subdivision, that was approved by the city of Waxahachie Planning & Zoning Commission on April 13, 2021 (SUB-15-2021) is formally petitioning the City of Waxahachie to extend its approval of the Silverthorne Addition Plat for two years.

Please contact me if you have any questions.

Respectfully,



Alan Lauhoff, P.E.  
Atlas Associates, Inc.

(11+12)



## Memorandum

To: Honorable Mayor and City Council

From: Jennifer Pruitt, Senior Director of Planning

Thru: Michael Scott, City Manager

Date: April 3, 2023

Re: SUB-180-2022- Martin Addition, Lots 1RA and 1RB – Replat

---

On March 29, 2023, the applicant requested to continue case no. SUB-180-2022 from the April 3, 2023 City Council meeting agenda to the May 15, 2023 City Council meeting agenda.

(13)

## Planning & Zoning Department

### Zoning Staff Report

Case: ZDC-05-2023



#### MEETING DATE(S)

Planning & Zoning Commission: March 28, 2023

City Council: April 3, 2023

#### CAPTION

**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-05-2023)

#### RECOMMENDED MOTION

*"I move to approve 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, authorizing the City Manager and or Mayor to execute all documents accordingly."*

#### ACTION SINCE INITIAL STAFF REPORT

At the Planning and Zoning Commission meeting held on March 28, 2023, the Commission voted 7-0 to recommend approval of case number ZDC-05-2023. Additionally, the Commission chose option 2 for the architectural elevations.

#### APPLICANT REQUEST

The Applicant is requesting a specific use permit for a restaurant with a drive-through (Dutch Bros) at 1995 North Highway 77.

#### CASE INFORMATION

Applicant: Jake Fears, JHF Engineering

Property Owner(s): SAI Commercial Group, LLC

Site Acreage: 0.605 acres

Current Zoning: General Retail District (GR)

Requested Zoning: GR with a specific use permit (SUP) for a restaurant with a drive-through use (Dutch Bros)

#### SUBJECT PROPERTY

General Location: 1995 North Highway 77

Parcel ID Number(s): 262424

Existing Use: Undeveloped Land

*Development History:*

N/A

*Adjoining Zoning & Uses:*

Direction	Zoning	Current Use
North	GR	Undeveloped Land
East	PD-GR	Future North Grove Shopping Center
South	GR	Community National Bank
West	LI-1	Undeveloped Land

*Future Land Use Plan:*

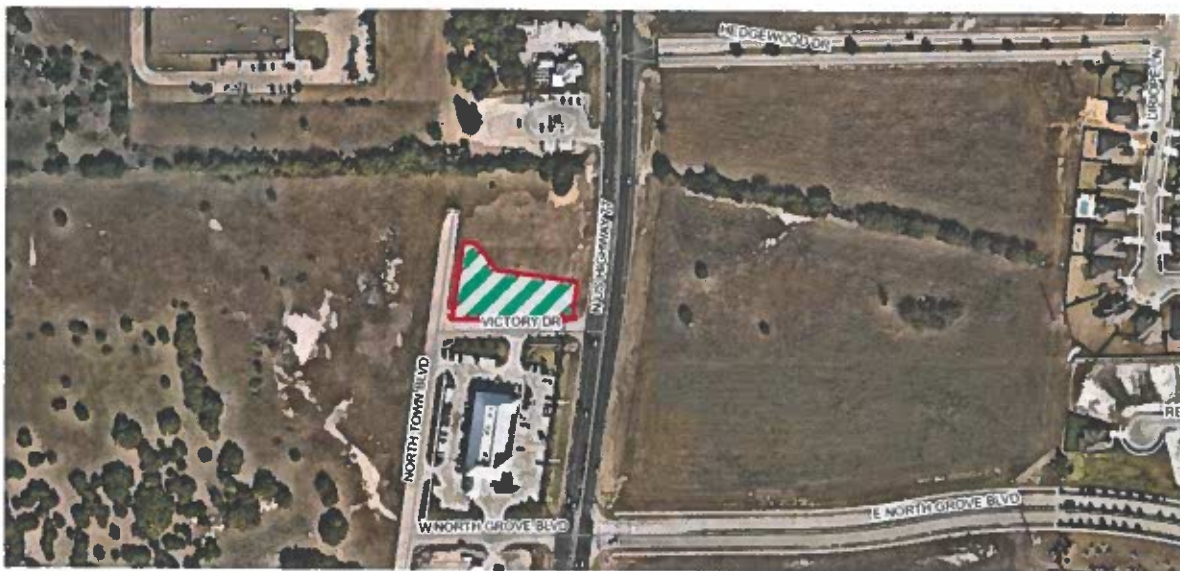
Local Commercial

*Comprehensive Plan:*

The local commercial placetype includes areas for restaurants, shops, grocery stores, offices, and personal service establishments. This placetype was incorporated to preserve the City's commercial corridors. Where appropriate, local commercial uses should be located at the intersection or frontage of major thoroughfares (60 feet or greater). The intensity of this placetype falls between neighborhood scale commercial and regional commercial. Local commercial will consist of a single or cluster of standalone office, retail or commercial buildings with an anchor. Local commercial uses should be interconnected with sidewalks to increase walkability. In addition, a shared open space comprised of a plaza or park is encouraged for multi-pad site developments.

*Thoroughfare Plan:*

The primary access to the subject property is from Victory Drive (60' right-of-way) and North Town Boulevard (60' right-of-way). These roadways are constructed, and no additional right-of-way is required.

*Site Image:*



## PLANNING ANALYSIS

Proposed Use

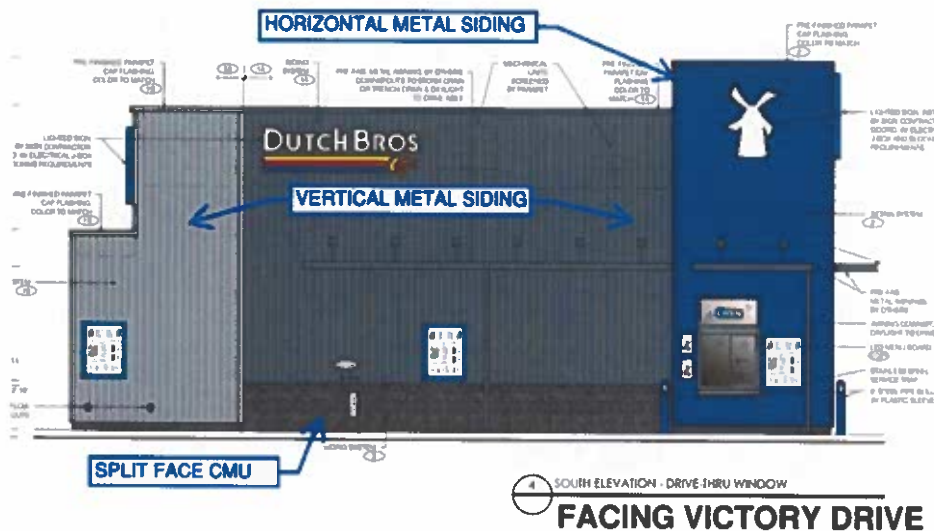
The Applicant requests a specific use permit for a restaurant with a drive-through (Dutch Bros) at 1995 North Highway 77. The Applicant proposes constructing a 950-square-foot building on a 0.5-acre tract where customers can order food and drink through the drive-through or the walk-up order window. The establishment will not have an indoor dining area. The building's occupancy will be limited to employees. However, 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 fourteen (14) stacking spaces for vehicle queuing.

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. Additionally, 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. Furthermore, the proposed development is compatible and appropriate in the proposed location.

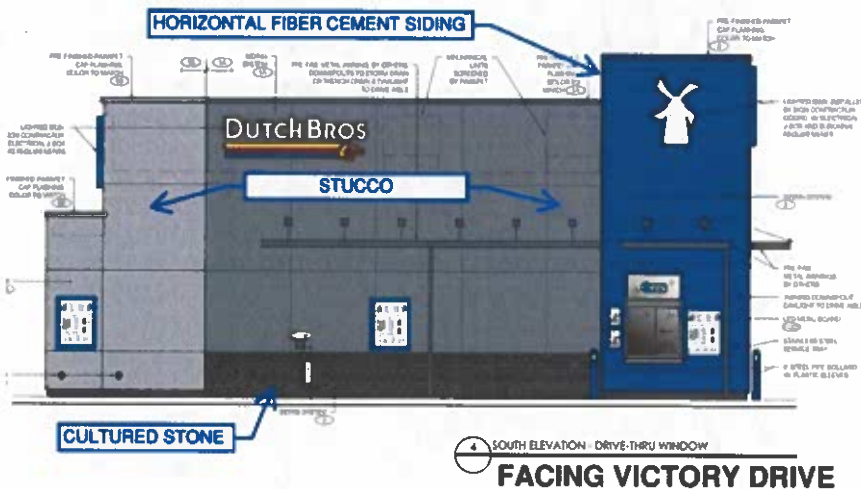
### Proposed Elevations

The Applicant has provided two sets of architectural elevations. Both sets of elevations have the same color scheme but utilize different exterior finishing materials. At the Planning and Zoning Commission meeting held on March 28, 2023, the Commission recommended approval of option 2.

**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.



#### **PUBLIC NOTIFICATIONS**

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 10 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 associated with the request, the Planning Department 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 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.

#### **ATTACHED EXHIBITS**

1. Development Agreement/SUP Ordinance
2. Location Map (Exhibit A)
3. Site Plan (Exhibit B)
4. Landscape Plan (Exhibit C)
5. Architectural Elevations (Exhibit D)
6. Operational Plan

#### **STAFF CONTACT INFORMATION**

*Prepared by:*  
 Eleana Tuley, AICP  
 Senior Planner  
[eleana.tuley@waxahachie.com](mailto:eleana.tuley@waxahachie.com)

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



1995 Hwy 77, Waxahachie, TX 75080

**Specific Use Permit**

**Operational Plan**

**Summary:**

Dutch Brothers is a quick serve facility for coffee and related beverage sales, as well as pre-packaged food selections, for drive-thru and walk-up customers only. No indoor seating, but occasionally offer some chairs or tables outside to allow for pedestrian/bike friendly operation. No speaker box is used at the menus, only human with portable POS stations (iPad) as runners.

**Hours of operation:**

5am-10pm daily (Monday – Sunday) with peak hours between 7am-9am and 3pm-5pm

**Number of Employees:**

Approx. 4-5 people during each shift with 40 total employees per shop

**Compatibility with adjoining uses:**

All proposed uses are consistent with the existing zoning.

**Company's Business Plan:**

Dutch Bros Coffee is a fun-loving, mind-blowing company dedicated to making a massive difference one cup at a time. Dutch Bros was founded by two real life bros in 1992. The drive-thru coffee chain has since grown to more than 500 locations in 13 states and is on pace to grow to 4,000+ shops by in the next 10-15 years.

The menu offers a range of drinks from specialty coffee, smoothies, freezes, teas, a private-label Dutch Bros Blue Rebel energy drink to nitrogen-infused cold brew coffee. All drinks are handcrafted for each customer and guaranteed to satisfy!

Dutch Bros isn't your traditional sit down, quiet place to work, coffee shop. Customers can expect upbeat music, energetic broistas (Dutch Bros' version of baristas) and outstanding speed, quality, and service. It doesn't use a speaker box for ordering; instead, a broista takes your order with an iPad for a more personal experience.

Dutch Bros believes in a non-traditional franchise model with a unique growth path which further cultivates the experience it's known for. The growth path for operators starts in the shops- to be eligible to become an operator, broistas must first work at a shop, move up within shop leadership, receive positive peer and leadership reviews, and continue to share the culture until an operating opportunity arises!

Dutch Bros also believes in giving back to the communities it serves. Through the Dutch Bros Foundation, the company donates several million dollars to its communities and nonprofit organizations!

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

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO ALLOW A DRIVE THROUGH ESTABLISHMENT USE (DUTCH BROS) WITHIN A GENERAL RETAIL DISTRICT LOCATED 1995 NORTH HIGHWAY 77 IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 0.605 ACRES KNOWN AS PROPERTY ID 262424, 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 adopted a zoning ordinance and map showing the classification of the property located within the city limits of said City; 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-05-2023. 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 City 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 allow a Drive Through Establishment use on the following property: Property ID 262424, which is shown on the location map (Exhibit A), site plan (Exhibit B), landscape plan (Exhibit C), and architectural elevations (Exhibit D).

#### **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 the Zoning Ordinance.

Specific Use Permit

**FOR OPERATION OF A SPECIFIC USE PERMIT FOR A DRIVE THROUGH ESTABLISHMENT (DUTCH BROS) USE IN THE GENERAL RETAIL DISTRICT;** the following standards and conditions are hereby established as part of this ordinance:

1. A mutually agreed upon Development Agreement is required.
2. The subject property shall conform to the site plan approved by the City Council under case number ZDC-05-2023.
3. Development on the subject property shall adhere to the following exhibits approved by the City Council: Exhibit A - Location Map, Exhibit B – Site Plan, Exhibit C - Landscape Plan, and Exhibit D – Architectural Elevations.
4. The building shall consist of the building design and composed of the exterior finishing materials and their associated percentages as provided in Exhibit D – Architectural Elevations.
5. The Applicant and/or Developer for the subject property shall be responsible for obtaining building permits per the City's applicable rules and regulations governing such permits.
6. The subject property shall comply with the City of Waxahachie Municipal Code and Zoning Ordinance when any zoning, land use requirement, or restriction is not addressed or disclosed in Exhibits B, C, and D.
7. 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.
8. City Council shall have the right to review the Specific Use Permit at any point, necessary.

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.

(14)

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.

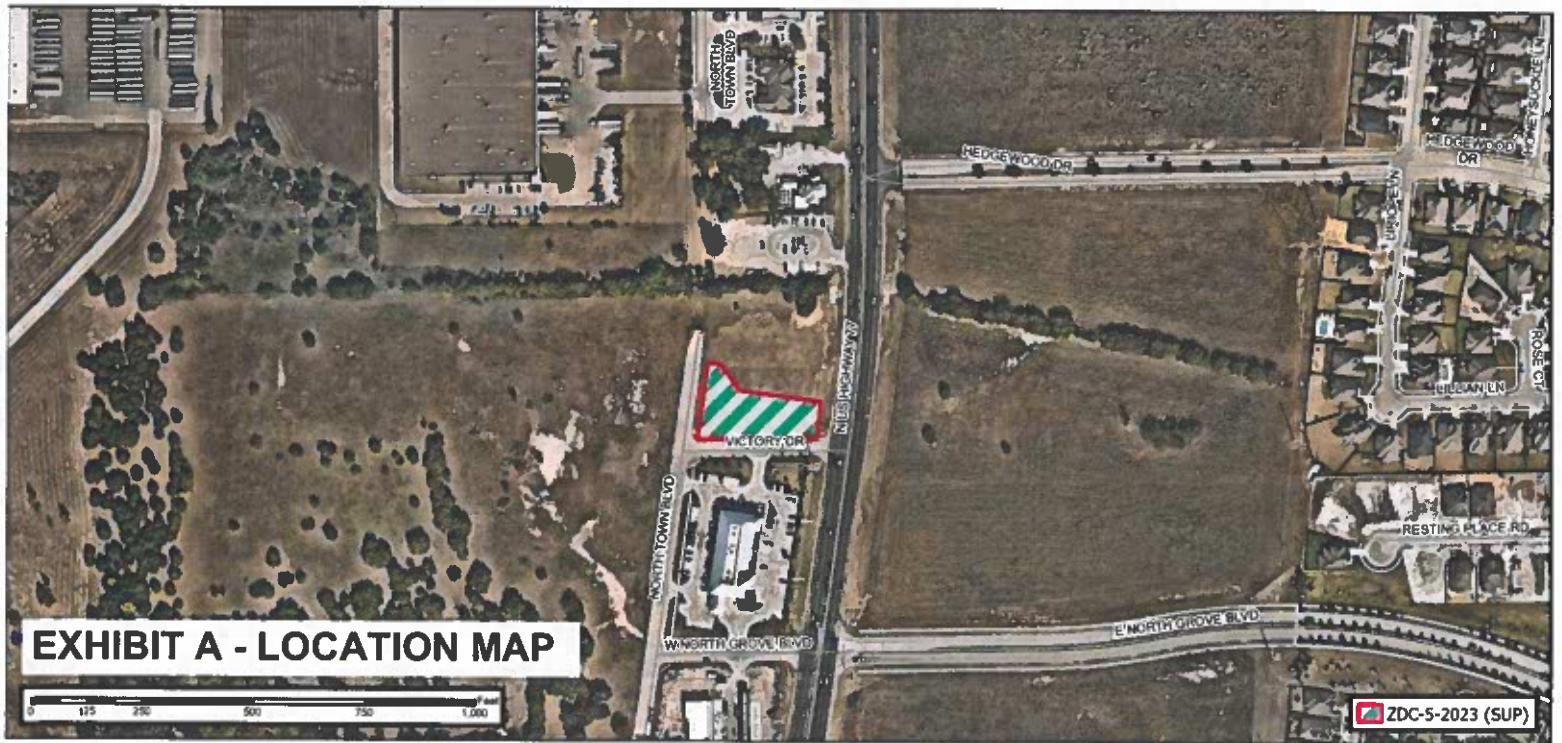
**PASSED, APPROVED AND ADOPTED** on this 3<sup>rd</sup> day of April, 2023.

\_\_\_\_\_  
MAYOR

ATTEST:

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

(14)

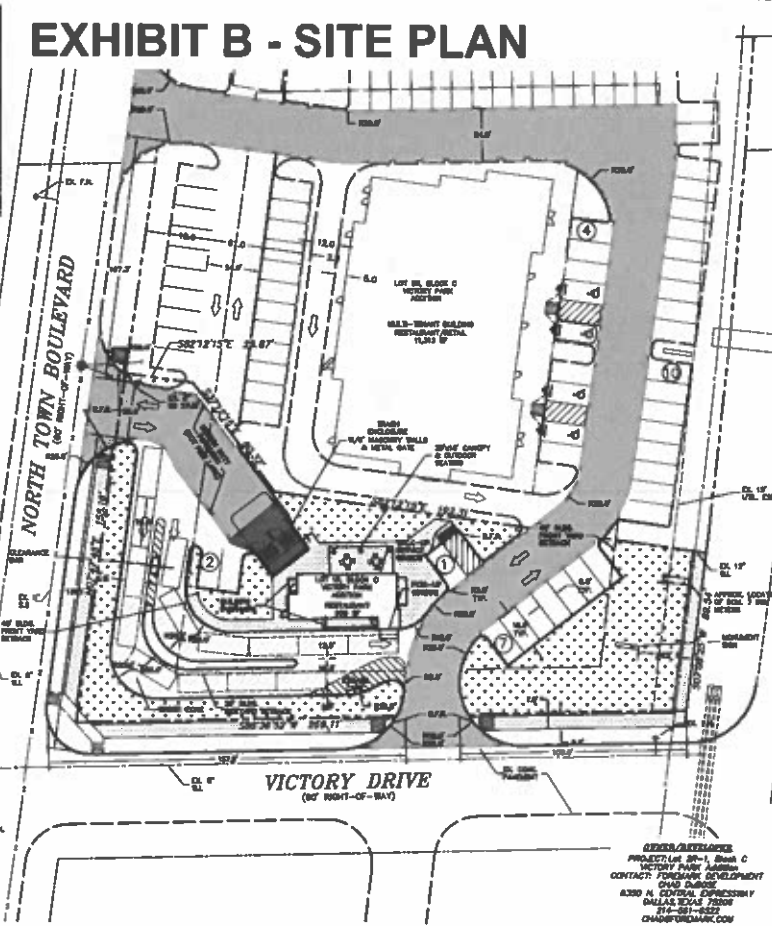


(14)

## EXHIBIT B - SITE PLAN



- GENERAL NOTES**
1. ALL COORDINATES ARE TO THE BACK OF CURB, UNLESS NOTED OTHERWISE.
  2. DIMENSIONS SHOWN ARE TO THE BACK OF CURB, UNLESS NOTED OTHERWISE.
  3. ALL PROPOSED CURB RADIUS ARE 25' R/C, UNLESS NOTED OTHERWISE.
  4. SEE ARCHITECTURAL PLANS FOR BLDG. DIMENSIONS.
  5. ALL CONCRETE PAVEMENT SHALL HAVE 6" CURB, UNLESS OTHERWISE NOTED.



SITE DATA CHART	
EXISTING ZONING	OR
PROPOSED USE	RESTAURANT W/DRIVE THRU
LOT AREA	0.805 AC
BUILDING SF	950 SF
SEATING AREA	204 SF (DINING & PATIO)
PARKING REQ'D	1 SPACE/100 SF (SEAT AREA)
PARKING PROVIDED	6 TOTAL REQUIRED 10 SPACES
BUILDING HEIGHT	24' TOP OF PARAPET
FLOOR AREA RATIO	0.84 F.A.R.
IMPERVIOUS AREA	10004 SF (64%)

EXISTING UTILITIES ARE LOCATED ON THE PLANS FROM AVAILABLE INFORMATION. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY THE LOCATION OF ALL UTILITIES TO NOTIFY ALL UTILITY COMPANIES OF THE CONTRACTOR'S OPERATIONS TO PROTECT ALL UTILITIES FROM DAMAGE, TO REPAIR ALL UTILITIES DAMAGED DUE TO THE CONTRACTOR'S OPERATIONS, AND TO NOTIFY THE ENGINEER PROMPTLY OF ALL CONFLICTS OF THE WORK WITH EXISTING UTILITIES.

LEGEND	
[Pattern]	PROPOSED LANDSCAPE / TREESING AREAS
[Pattern]	PROPOSED CONCRETE SIDEWALK
[Pattern]	6" PRECAST CONCRETE PAVEMENT
[Pattern]	4\"/>

SUP DATA	
SPECIFIC USE PERMIT	
DUTCH BROTHERS	
DRIVE-THROUGH	
0.562 ACRES	
WAXAHACHIE, TEXAS	
CASE NO. ZDC-5-2023	

**JHF ENGINEERING, PLLC**  
REGISTERED PROFESSIONAL ENGINEER  
LAND PLANNING  
1000 N. HWY. 77  
SUITE 100  
WAXAHACHIE, TEXAS 76798  
PHONE: 817.939.1111  
FAX: 817.939.1112  
WWW.JHFENGINEERING.COM

**PROJECT INFORMATION**

PROJECT NO.	2023-001
DATE	01/10/2023
BY	JHF
CHECKED BY	JHF
DATE	01/10/2023

**SHEET No.**  
S101



## EXHIBIT D - ELEVATIONS

የገንዘብ ምንጮች ለጥቅምት 2018				
የገንዘብ ምንጭ	የገንዘብ ምንጭ	የገንዘብ ምንጭ	የገንዘብ ምንጭ	የገንዘብ ምንጭ
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የገንዘብ ምንጭ	የገንዘብ ምንጭ	የገንዘብ ምንጭ	የገንዘብ ምንጭ	የገንዘብ ምንጭ
የገንዘብ ምንጭ	የገንዘብ ምንጭ	የገንዘብ ምንጭ	የገንዘብ ምንጭ	የገንዘብ ምንጭ
የገንዘብ ምንጭ	የገንዘብ ምንጭ	የገንዘብ ምንጭ	የገንዘብ ምንጭ	የገንዘብ ምንጭ



**GNICH**  
ARCHITECTURE  
STUDIO

A6.1



(14)

## EXHIBIT D - ELEVATIONS



LOOKING NORTH-EAST



LOOKING NORTH-WEST

(14)

## EXHIBIT D - ELEVATIONS



LOOKING SOUTH-WEST



LOOKING SOUTH-EAST

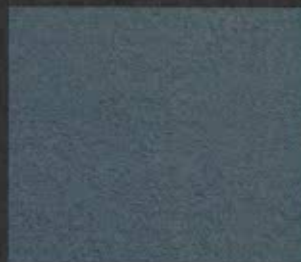
## EXHIBIT D - ELEVATIONS



FIBER CEMENT BOARD  
MANUFACTURER: NICHIA  
PROFILE: ILLUMINATION  
COLOR: BLDG DB BLUE



STUCCO SYSTEM  
MANUFACTURER: DRYVIT  
PROFILE: CCP-2 SYSTEM  
SANDPEBBLE FINE & FINISH  
COLOR: PAINTED BLDG DB GRAY DARK



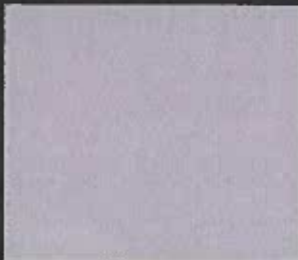
STUCCO SYSTEM  
MANUFACTURER: DRYVIT  
PROFILE: CCP-2 SYSTEM  
SANDPEBBLE FINE & FINISH  
COLOR: PAINTED BLDG DB GRAY LIGHT



CULTURED STONE  
MANUFACTURER: ELDORADO STONE  
PROFILE: CLIFFSTONE - BANFF SPRINGS  
COLOR: PER MFR



CANOPY SOFFIT  
MANUFACTURER: HEWITT  
PROFILE: NW SPRUCE  
NATURAL & SEALED  
COLOR: PER MFR



WINDOW SYSTEM  
MANUFACTURER: KAWNEER OR SIMILAR  
PROFILE: CLEAR ANODIZED ALUMINUM  
FINISH: CLEAR NO. 14 / 17



AWNINGS & DOORS - PAINT  
MANUFACTURER: SHERWIN-WILLIAMS  
COLOR: BLDG DB GRAY DARK



ROOFING MATERIAL  
MANUFACTURER: DURO-LAST  
DL-60 - 60 MIL  
COLOR: WHITE

STATE OF TEXAS	§	DEVELOPMENT AGREEMENT
	§	FOR DUTCH BROS
COUNTY OF ELLIS	§	

This Development Agreement for Dutch Bros ("Agreement") is entered between C&C Waxahachie, a limited liability company ("C&C" or "Developer"), and the City of Waxahachie, Texas ("City"). C&C and the City are sometimes referred herein together as the "Parties" and individually as a "Party."

**Recitals:**

1. C&C is the owner of approximately 0.605 acres of real property located at 1995 N. Highway 77, Parcel Number 262424 in the City of Waxahachie, Texas (the "Property"), for which the applicant has requested a specific use permit ("SUP") for a restaurant with a drive-through use (Dutch Bros). The Property is currently zoned General Retail by the City, and is anticipated to have the SUP reviewed on April 3, 2023.

2. The planned use for the Property is for a SUP to allow for a restaurant with a drive-through use (Dutch Bros). The SUP process is utilized to ensure that the Property would develop in a manner that meets the City's desired development standards and provides C&C 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 C&C 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. \_\_\_\_\_ (the "Dutch Bros SUP Ordinance"), a copy of which is attached hereto as Exhibit A and which contains the negotiated zoning and development standards for Dutch Bros.

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

**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 Dutch Bros SUP Ordinance, which incorporated 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 development shall conform to the site plan approved by the City Council under case number ZDC-05-2023.
- (B) The development shall adhere to the following plans approved by City Council: Exhibit A – Location Map, Exhibit B – Site Plan, Exhibit C – Landscape Plan, and Exhibit D – Architectural Elevations.
- (C) The building shall consist of the building design and composed of the exterior finishing materials and their associated percentages as provided in Exhibit D – Architectural Elevations.
- (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) Any zoning, land use requirement, or restriction not contained within this Zoning Ordinance or the Development Agreement shall conform to those requirements and/or standards prescribed in Exhibit A – Location Map, Exhibit B – Site Plan, Exhibit C – Landscape Plan, and Exhibit D – Architectural Elevations. Where regulations are not specified in Exhibits B, C, D, and E, in this ordinance, the development shall adhere to the regulations of the General Retail Zoning District and the City of Waxahachie Zoning Ordinance in the future.
- (F) 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.

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



(15)

**{Signature Pages Follow}**

(15)

**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: \_\_\_\_\_

(15)

**DEVELOPER:**

**C&C Waxahachie, LLC**  
a limited liability corporation

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

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

STATE OF \_\_\_\_\_

§

§

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

§

Before me, the undersigned authority, on this \_\_\_\_\_ day of \_\_\_\_\_, personally appeared \_\_\_\_\_, representative of C&C Waxahachie, a limited liability corporation, 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 Georgia

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



## Memorandum

To: Honorable Mayor and City Council

From: Richard B. Abernethy, Director of Administrative Services

Thru: Michael Scott, City Manager

Date: April 3, 2023

Re: Consider Professional Services Agreements for Architectural Services and Project Management Services for the City Hall Renovation Project

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**Recommended Motion:** "I move to approve authorizing the City Manager to enter into agreement with Architexas for phase II architectural services and Vidaurri Management Group for project management services for the City Hall Renovation Project."

**Item Description:** Consider approval to authorize the City Manager to enter into agreement with Architexas for phase II architectural services and Vidaurri Management Group for project management services for the City Hall Renovation Project.

**Item Summary:** In May 2022, the City Council approved a contract with Architexas to complete a space planning design for the City Hall Renovation Project. The final space plan document with budget costs was completed and discussed at the Council workshop on February 24th. The next step commences construction of the renovation project. This will require entering into a second phase of the architectural services to finalize design and bid out the project. In addition, utilizing a project management service will ensure the project meets critical milestones in a timely manner as well as identifying cost-saving options throughout the project.

(16)

The phase II professional services agreement with Architexas will provide for the development of construction documents to be bid while the Vidaurri Management Group (VMG) agreement will provide for oversight in project organization, planning, schedule management, design, bidding and negotiation, and construction and closeout.

As part of the phase II, Architexas will also assist in routing the exterior design of the additional office space through the Historic Preservation Commission (HPC) for their review and approval

The total cost for the architectural services contract is \$496,000 and the VMG contract total is \$293,000.

**Fiscal Impact:** The total cost for these contracts are planned expenses and have been allocated within the budget for the City Hall Renovation Project.



## Memorandum

To: Honorable Mayor and City Council

From: Richard B. Abernethy, Director of Administrative Services

Thru: Michael Scott, City Manager

Date: April 3, 2023

Re: Consider Approval of Steele and Freeman as the Construction Manager at Risk for the City Hall Renovation Project

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**Recommended Motion:** "I move to approve Steele and Freeman as the Construction Manager at Risk for the City Hall Renovation Project."

**Item Description:** Consider approval of Steele and Freeman as the Construction Manager at Risk for the City Hall Renovation Project.

**Item Summary:** In September/October 2022, the City advertised for a Construction Manager at Risk ("CMAR") for the City Hall Renovation Project. On October 11, 2022 the City received two proposals. After thorough review, staff recommended Steele & Freeman, Inc. from Fort Worth Texas to be the CMAR for the project. Steele and Freeman, Inc. are also currently the CMAR for Fire Station No. 4 and the Chuck Beatty Municipal Services Building and as such, the City is familiar with the quality of their work.

The CMAR will begin working closely with the project architect, Architexas. Their role will include planning for the construction phase of the project, but even more important will be to begin the pre-construction services phase, which includes pricing of the various design elements to make sure that what is being designed falls within the project budget. The early involvement of the construction manager in the project and the ability to minimize budget surprises later are some of the key advantages of the CMAR project delivery method.

(17)

As a reminder, the anticipated cost of this project remains at \$8.75M in construction cost. This project budget figure has been made clear to the architect as well the proposing CMAR. The final construction cost or Guaranteed Maximum Price (GMP) will be brought back to Council in the future for final approval of these expenses.

**Fiscal Impact:** The total cost for these contracts are a planned expense and have been allocated within the budget for the City Hall Renovation Project.

(18)



## Memorandum

To: Honorable Mayor and City Council

From: Michael Scott, City Manager

Thru:

Date: March 31, 2023

Re: Resolution in opposition to the creation of Municipal Utility Districts

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The attached resolution is being presented in effort to formally state the City's opposition to the proliferation of special district requests being submitted around Waxahachie and Ellis County. A number of other jurisdictions in the County have passed similar resolutions, including Midlothian, Ferris and Ellis County. Others are likely to follow.

While the resolution in itself does not carry weight of a formal limitation on the formation of such districts, it states the City's position and concern with them. The intention of staff, once the resolution is adopted, is to provide a copy of the resolution to various legislators and committee chairs in Austin.

Staff recommends the adoption of this resolution as presented.



**RESOLUTION NO. \_\_\_\_\_****A RESOLUTION OPPOSING SPECIAL DISTRICTS, INCLUDING MUNICIPAL UTILITY DISTRICTS, IN THE CITY OF WAXAHACHIE AND ITS EXTRATERRITORIAL JURISDICTION**

WHEREAS, the City of Waxahachie and Ellis County, Texas have been and continue to experience significant growth, and;

WHEREAS, city government and county government should have the appropriate authority to regulate growth in their respective cities and counties; and

WHEREAS, special districts have been improperly used by certain developers to avoid compliance with city and county infrastructure plans; and

WHEREAS, Municipal Utility Districts (MUDs) create a taxing authority within their jurisdiction that increases property taxes, allow for high-density development and seem to be automatically approved by the Texas Commission on Environmental Quality (TCEQ), and;

WHEREAS, MUDs impact on the existing infrastructure and environment does not appear to be considered in the current approval process leaving the cities and counties to deal with increased wastewater and drainage runoff, flooding impacts, school overcrowding, crime and other strains on services leading to a reduction in the quality of life for all citizens.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:**

The City opposes the formation, by a developer, of any and all special districts, including MUDs in the City of Waxahachie and its Extraterritorial Jurisdiction, without City Council consent.

And further, request that the Texas Senate Committee on Water, Agriculture, and Rural Affairs reform the way that Municipal Utility Districts are created, whether administratively or legislatively, and provide for greater transparency and local input.

**ADOPTED THIS 3<sup>RD</sup> DAY OF APRIL, 2023.**

**APPROVED:**

\_\_\_\_\_  
David Hill, Mayor

**ATTEST:**

\_\_\_\_\_  
Amber Villarreal, City Secretary