



# TOWN COUNCIL COMMUNICATION

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**DATE:** August 20, 2024

**FROM:** Thad Chambers, Town Administrator

**AGENDA ITEM:** Discuss and consider a Preliminary Plat for 461.858 acres of property situated in the Pinson Wiles Survey, Abstract Number 1339, and A.M. Feltus Survey, Abstract Number 1595, in the western Extraterritorial Jurisdiction (ETJ) of the Town of Bartonville, Denton County, Texas. The property is located generally east of State Highway 377 between Keith Road and Smoot Lane. The applicant is Old WR Ranch 1 Hacker, LP. [Town of Bartonville File Number PP-2024-002.] ***(The Planning & Zoning Commission recommended approval by a vote of 5-0 at its August 7, 2024, meeting.)***

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**Land Use and Zoning:** The property is located in the Bartonville ETJ, thus no land use or zoning designations apply.

**Summary:** On June 18, 2002, the Town of Bartonville and Denton County entered into an Interlocal Cooperation Agreement (ICA), authorized by Texas Local Government Code section 242.001.(d). On May 8, 2024 Town staff met with the applicant's development consultants in a formal Development Review Committee (DRC) meeting to discuss the project and provide preliminary feedback on policy and procedure. The first submission of the High Plains at Furst Ranch preliminary plat was submitted on June 3, 2024; it was deemed incomplete due to a lack of a flood study and other plat details. The plat was resubmitted on July 8; this submission was deemed complete.

The applicant is the owner of five tracts of land, totaling 461.858 acres, located in the western Extraterritorial Jurisdiction (ETJ) of the Town of Bartonville, generally east of State Highway 377 between Keith Road and Smoot Lane. The legal description of the property is A1339A PINSON WILES, TR 3B, .28 ACRES; A1339A PINSON WILES, TR 9, 131.307 ACRES; A1339A PINSON WILES, TR 10, 72.7 ACRES; A1339A PINSON WILES, TR 14, 164.34 ACRES; and A1595A A.M. FELTUS, TR 29, 79.82 ACRES. The corresponding Denton CAD parcel numbers are 270706, 64921, 64910, 64909, and 64879.

The submitted preliminary plat (see Exhibit A) is designed to create 1,150 legal lots, including 1,115 single-family residential lots and 35 non-residential lots, including one mixed-use lot. The applicant has submitted a preliminary water layout, preliminary sewer layout, preliminary drainage layout, and preliminary pad grading plan, along with the preliminary plat. As requested by Town staff, the applicant also prepared a Flood Study for that portion of Whites Branch that runs through the subdivision property.

The subject property is part of a former agricultural tract. The property is undeveloped.

## *Preliminary Plat*

Bartonville Development Ordinance (BDO) Section 2.5.g lists the criteria of approval for a preliminary plat:

1. The plat substantially conforms with the approved land study or other studies and plans, as applicable;

2. The preliminary layouts of required public improvements and Town utilities have been approved by the Town Engineer; and
3. The plat conforms to applicable zoning and other regulations.
4. The plat has been approved by the Permitting Authority, as defined in Chapter 285 of the Texas Administrative Code, in accordance with Title 30, Texas Administrative Code, Chapter 285, Section 285.4(c) relating to the review of subdivision plans prior to the application for a permit for an on-site sewage facility.

Because this preliminary plat is in the Bartonville ETJ, where zoning does not apply, and the project is intended to be served by sewer, criteria 1, 3, and 4 do not apply. The Interlocal Cooperation Agreement (ICA) between the Town of Bartonville and Denton County references the authority to regulate subdivision under Chapter A of Chapter 212 of the Texas Local Government Code (TLGC). The criteria for approval in Section 212.010 of the TLGC are as follows:

- (a) The municipal authority responsible for approving plats shall approve a plat if:
  - (1) it conforms to the general plan of the municipality and its current and future streets, alleys, parks, playgrounds, and public utility facilities;
  - (2) it conforms to the general plan for the extension of the municipality and its roads, streets, and public highways within the municipality and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities;
  - (3) a bond required under Section 212.0106, if applicable, is filed with the municipality; and
  - (4) it conforms to any rules adopted under Section 212.002.

In earlier negotiations with the developer of the Furst Ranch property, the Town expressed a strong desire to not have any street connections between the new development and the existing Town street network. The proposed street layout honors this request and does not connect to any existing Town streets, thereby meeting criteria (1) and (2). Criterion (3) doesn't generally apply in this case. Criterion (4) permits the town to apply standards to the plat that "promote[s] the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality." The assurance that the plat provides adequate utility services does much to ensure public health and safety. However, the lack of a secondary access to the project for emergency service causes the plat to be deficient in meeting the International Fire Code 503.1.2, which requires "more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions, or other factors that could limit access." This policy is also reflected in Bartonville Development Ordinance Section 3.1.v. A recommended condition of approval requires a secondary access to the project site from State Highway 377 to meet this standard.

On sheet 4 of the preliminary plat set, Marigold Trail and Peppervine Lane have an offset of approximately 140 feet. Bartonville Development Ordinance Section 3.1.k states that "Intersecting streets with centerline offsets of less than three hundred feet (300') are prohibited unless a waiver is first obtained from the Town Council in accordance with the requirements of the waiver provisions set forth in Section 1.11 of the Town's Development Ordinance, as amended." A recommended condition of approval would require a realignment of the two roadways to intersection rather than maintain the offset.

As the ETJ does not afford any zoning authority to the Town of Bartonville, and Section 212 of the Texas Local Government Code further limits the regulation of buildings, density, and utilities, the review of the High Plains at Furst Ranch preliminary plat is focused on meeting basic technical requirements. In the review, staff observed a number of parcels through or into which the preliminary water and sewer layouts showed utility lines encroaching. In order to meet the easement requirements in Bartonville Development Ordinance Section 3.3.e., a condition of approval recommends adding the required easements to the affected lots to accommodate the utilities.

The Denton County Flood Damage Prevention Regulations establish the requirements for vertical separation between the base flood elevation (BFE) established in the Flood Study performed by GM Civil,

dated July 2024, and the finished floor elevation shown on the preliminary grading layout. Based on staff review, all finished floor elevations are shown to be at least two feet above BFE, thereby meeting the County's flood prevention requirements for residential development.

In order to accommodate the provision of franchise utilities to the future residences within the subdivision, a recommended condition of approval would require the addition of 10-foot utility easements to be located along the front property line (i.e., street frontage) of all lots and adjacent to a right-of-way, in accordance with Bartonville Development Ordinance section 3.3.d.

**Planning & Zoning Commission Recommendation:** Approve with Conditions.

**Planning & Zoning Commission's Recommended Conditions of Approval:**

1. On the final plat, a minimum 15-foot public utility easement for water and sewer utilities shall be established on the following lots to correspond with either or both utilities traversing the lot:
  - a. Block 48, Lot 1X (water, sewer)
  - b. Block 48, Lot 2X (water, sewer)
  - c. Block 14, Lot 8 (sewer)
  - d. Block 1, Lot 5 (sewer)
  - e. Block 47, Lot 1X (sewer)
  - f. Block 25, Lot 25 (sewer)
  - g. Block 25, Lot 40 (sewer)
2. On the final plat, a 10-foot-wide utility easement shall be located along the front property line (i.e., street frontage) of all lots and adjacent to a right-of-way.
3. The final plat shall show Marigold Trail and Peppervine Lane meeting as a four-way intersection at Brushlands Trail, rather than creating an offset of less than 300 feet.
4. A second access point from State Highway 377, other than High Plains Trail, shall be constructed, installed, or otherwise established on the final plat for the first phase of the development, and this secondary access shall be maintained until such time as another secondary access road (e.g., Street A) is completed.
5. In the preliminary sewer layout, the sewer section in the vicinity of Blocks 25, 26, 27, and 35 (located within Streets BB, CC, DD, and JJ) is not connected to the greater system. Check grades and provide for a positive drainage connection to the remainder of the system within the civil design set.
6. On the final plat, the 20-foot-wide water easement located on Block 14, lots 48 & 49 shall be labeled "20' W.E. by this plat"
7. On the final plat, the Notes section on Sheet 8 of 8 of the preliminary plat shall have a new Note 7, which shall read, "All parcels ending in 'X', with the exception of Block 48, Lot 1X, are open space parcels to be owned and maintained by the HOA. Said parcels shall be encumbered with a public access and utility easement over their entirety."
8. The final plat shall show a drainage easement over the entirety of all open space lots containing the revised 100-year floodplain, as determined by the Flood Study performed by GM Civil, dated July 2024.
9. A Letter of Map Revision (LOMR) shall be submitted to FEMA for the revised Zone AE flood plain for the portion of Whites Branch as established in the Flood Study performed by GM Civil, dated July 2024. The zone AE floodplain boundary shall be reflected on the final plat.
10. General correction: Under the Owner's Certification, the fifth to last "Thence" appears to be superfluous.

**Exhibits:**

- High Plains at Furst Ranch Preliminary Plat Application Packet