

# STAFF REPORT



**SUBJECT:** Case No.: FP2023-001

Applicant Taylor Kanute, representing Bosque Clark, LLC is requesting approval of a final plat of property located at 110 Clark Lane, Parcel R63366 of the City Addition, being Block 85, Lots 1 and 2A (parts of) to the City of Stephenville, Erath County, Texas.

**DEPARTMENT:** Development Services

**STAFF CONTACT:** Steve Killen, Director of Development Services

## RECOMMENDATION:

The applicant has submitted a Final Plat which, outside minor revisions, conforms with the Preliminary Plat previously approved by the Commission. Staff recommends the Final Plat be approved subject to the following conditions:

1. Public Improvements be accepted by the City of Stephenville Public Works Department.
2. A maintenance bond be submitted to the City of Stephenville Public Works Department.
3. Ensure plat reflects the required city language for the owner's certificate section.
4. Clark lane will require additional land dedication to enable a 50' ROW. Note ROW is dedicated to the City of Stephenville and show Clark Lane as a 50' ROW.
5. Show Washington St. as a 100' ROW.
6. Add front, rear and side setbacks. R-2.5 zoning requires setbacks of 15' front and rear, 5' for side and 15' from intersecting streets.
7. Add a plat note that common areas are privately maintained.
8. Establish a HOA per requirements of Section 155.6.09 of the City of Stephenville Code of Ordinances.
9. Drainage study may require dedicated drainage easements to be reflected on final plat.
10. Label retaining wall note as privately maintained.
11. Verify the accuracy of the reference to Blk 85, Lot 1, being owned by the City of Stephenville.
12. Add a utility easement for all lots of 8' in width for sides and back.
13. Townhomes are to be individually platted – shared access drive not permitted. Establish as privately maintained street and adjust lot dimensions accordingly.
14. Add a plat note that "private streets are not provided city services, specifically, police patrols or accident reports, traffic or parking enforcement.
15. The Final Plat shall contain the following language:
  - a. Whereby the Homeowners' or Property Owners' Association, as owner of the private streets and appurtenances, agrees to release, indemnify, defend and hold harmless the City, any governmental entity and public utility:
  - b. For damages to the private street occasioned by the reasonable use of the private street by the City, governmental entity of public utility.
  - c. For damages and injury (including death) arising from the condition of said private street.
  - d. For damages and injury (including death) arising out of the use by the City, governmental entity or public utility of any restricted access gate or entrance; and e. For damages and injury

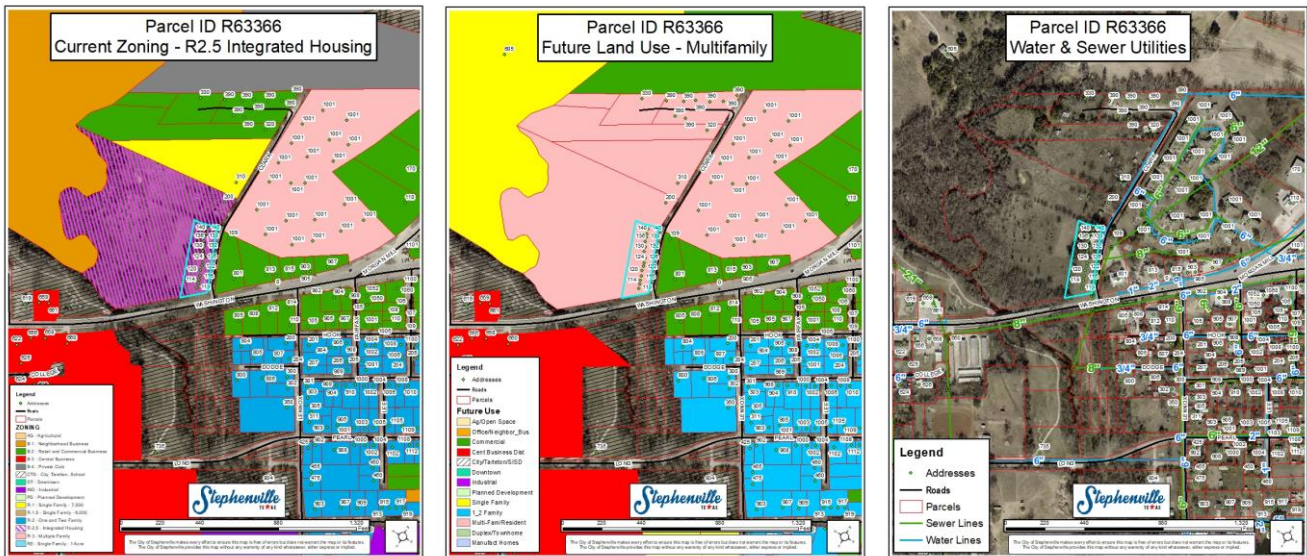
(including death) arising out of any use of the subdivision by the City, governmental entity or public utility.

- f. Lot owners shall release the City, governmental entities and public utilities for such damages and injuries, regardless of whether or not such damages and injury (including death) are caused by the negligent act or omission of the City, governmental entity or public utility, or their representative officers, employees or agents.

**BACKGROUND:**

A Preliminary Plat was approved with conditions in December 2021. The project is progressing, and applicant is requesting approval of Final Plat.

**PROPERTY PROFILE:**



**Sec. 155.406. Final plat.**

- A. *Purpose.* The purpose of a Final Plat is to ensure:
  1. That the proposed Subdivision and development of the land is consistent with all standards of this Subdivision Ordinance pertaining to the adequacy of public facilities,
  2. That Public Improvements to serve the Subdivision or development have been installed and accepted by the City, or that provision for such installation has been made, and
  3. That all other City requirements and conditions have been satisfied or provided for to allow the Final Plat to be recorded.
- B. *Applicability.* No subdivision of land shall be allowed without proper submittal, approval, and adoption of a Final Plat.
- C. *Exceptions.* A Final Plat is not required when a Minor Plat is submitted (See Section 4.07).
- D. *Ownership.*
  1. The Applicant shall furnish with the Application to the City a current title commitment issued by a title insurance company authorized to do business in Texas, a title opinion letter from an attorney licensed to practice in Texas, or some other acceptable proof of ownership, identifying all persons having an ownership interest in the property subject to the Final Plat.

2. The Final Plat shall be signed by each owner, or by the representative of the owners authorized to sign legal documents for the owners and lienholder, effectively denoting that they are consenting to the platting of the property and to the dedications and covenants that may be contained in the Final Plat.
- E. *Accompanying Applications.*
1. An Application for a Final Plat may be accompanied by Construction Plans if also accompanied by a Development Agreement and appropriate surety in accordance with Section 5.05.
  2. Approval of each shall be separate and in accordance with Section 5.05.
- F. *Prior Approved Preliminary Plat.* The Final Plat and all accompanying data shall conform to the approved Preliminary Plat, or as the Preliminary Plat may have been amended subsequently, incorporating all conditions imposed or required, if applicable.
- G. *Review by City Administrator.* The City Administrator shall:
1. Initiate review of the plat and materials submitted,
  2. Make available Plats and reports to the Commission for review, and
  3. Upon determination that the Application is ready to be acted upon, schedule the Final Plat for consideration on the agenda of the next available meeting of the Commission.
- H. *Action by Planning and Zoning Commission.* The Commission shall:
1. Review the Final Plat Application, the findings of the City Administrator, and any other information available.
    - a. From all such information, the Commission shall determine whether the Final Plat conforms to the applicable regulations of this Subdivision Ordinance.
    - b. All Public Improvements have been installed (For exception, See Section 5.05)
  2. Act within thirty (30) calendar days following the Official Submission Date, unless the Applicant submits a Waiver of Right to 30-Day Action.
    - a. If no decision is rendered by the Commission within the thirty (30) day period described above or such longer period as may have been agreed upon, the Final Plat, as submitted, shall be deemed to be approved by the Commission.
  3. Take one of the following actions:
    - a. Approve the Final Plat;
    - b. Approve the Final Plat with conditions, which shall mean that the Final Plat shall be considered to have been approved once such conditions are fulfilled, and until the conditions are satisfied, it is considered denied; or
    - c. Deny the Final Plat.
  4. A motion to approve a Final Plat shall be subject to the following conditions, whether or not stated in the motion to approve:
    - a. All required fees shall be paid.
    - b. All conditions required by ordinances have been reviewed and approved by the City.
    - c. On-site easements and rights-of-way have been dedicated and filed of record and properly described and noted on the proposed plat.
    - d. All required abandonments of public rights-of-way or easements that must be approved by the City Council and the abandonment ordinance numbers are shown on the plat.
    - e. Original tax certificates have been presented from each taxing unit with jurisdiction of the real property showing the current taxes are paid.
- I. *Final Plat Criteria for Approval.* The following criteria shall be used by the Commission to determine whether the Application for a Final Plat shall be approved, approved with conditions, or denied.
1. *With Prior Approved Preliminary Plat.*

- a. The Final Plat conforms to the approved Preliminary Plat except for minor amendments that are authorized under Section 4.05.K.1 and that may be approved without the necessity of revising the approved Preliminary Plat;
  - b. All conditions imposed at the time of approval of the Preliminary Plat, as applicable, have been satisfied;
  - c. The Construction Plans conform to the requirements of Section 5 and have been approved by the City Administrator.
  - d. Where Public Improvements have been installed, the improvements conform to the approved Construction Plans and have been approved for acceptance by the City Administrator;
  - e. Where the City Administrator has authorized Public Improvements to be deferred, a Development Agreement has been executed and submitted by the property owner in conformity with Section 5.05;
  - f. The final layout of the Subdivision or development meets all standards for adequacy of public facilities contained in this Subdivision Ordinance;
  - g. The Plat conforms to design requirements and construction standards as set forth in the Engineering Standards Manual; and
  - h. A plat prepared by a registered public surveyor conforms to the City Administrator's subdivision Application checklists and Subdivision Ordinance regulations.
2. **Without Prior Approved Preliminary Plat.**
- a. The Final Plat conforms to all criteria for approval of a Preliminary Plat;
  - b. The Construction Plans conform to the requirements of Section 5 and have been approved by the City Administrator;
  - c. A Development Agreement with surety for installation of Public Improvements has been prepared and executed by the property owner in conformance with 5.05;
  - d. The final layout of the Subdivision or development meets all standards for adequacy of public facilities contained in this Subdivision Ordinance; and
  - e. The Final Plat conforms to the City's subdivision Application checklist and Subdivision Ordinance regulations.
- J. *Procedures for Final Plat Recordation upon Approval.* The Applicant shall supply to the City Administrator the required number of signed and executed copies of the Final Plat that will be needed to file the Plat, upon approval, with the County (in the County's required format) at least seven (7) calendar days prior to the meeting at which it will be considered for approval.
1. *General.*
    - a. Signatures. After approval of the Final Plat, the City Administrator shall procure the appropriate City signatures on the Final Plat.
    - b. Recording upon Performance. The Final Plat shall be recorded after:
      - i. The Final Plat is approved by the City;
      - ii. All required Public Improvements have been completed and accepted by the City or a Development Agreement has been executed and appropriate surety provided in accordance with Section 5.05; and
      - iii. All County filing requirements are met.
  2. *Submittal of Final Plat Where Improvements Installed.* Where all required Public Improvements have been installed prior to recording of the Final Plat, the Applicant shall meet all requirements in accordance with Section 4.06.I.
  3. *Submittal of Final Plat Where Improvements Have Not Been Installed.* Where some or all required Public Improvements are not yet completed in connection with an approved Final Plat, the Applicant shall submit the Final Plat as approved, revised to reflect any conditions imposed as part of approval.
  4. *Update of Proof of Ownership.* If there has been any change in ownership since the time of the Proof of Ownership provided under 4.05.D, the Applicant shall submit a new consent agreement executed

by each owner and lienholder consenting to the platting of the property and the dedications and covenants contained in the Plat.

- K. *Effect of Approval.* The approval of a Final Plat:
1. Supersedes any prior approved Preliminary Plat for the same land.
  2. If applicable, authorizes the Applicant to install any improvements in public Right-of-Way in conformance with approved Construction Plans and under a Development Agreement (refer to 5.05).
  3. Authorizes the Applicant to seek Construction Release and/or issuance of a Building Permit.
- L. *Revisions Following Recording/Recordation.* Revisions may only be processed and approved as a Replat, Minor Replat, or Amending Plat, as applicable.
- M. *Signature Blocks.* Unless otherwise modified by the City Administrator, the following signature blocks shall be used in conjunction with the Final Plat.
1. Certificate of Surveyor.
  2. Owner's Statement for Fire Lane Easement.
  3. Owner's Acknowledgement and Dedication.
  4. Lienholder's Ratification of Plat Dedication.
  5. Certificate of Final Plat Approval.
  6. Certificate of Completion and Authorization to File.
  7. County Authorization (If Applicable).
- N. *Expiration of Approved but not Filed Plat.*
1. *Two-Year Validity.*
    - a. The approval of a Final Plat shall remain in effect for a period of two (2) years following the date of approval, during which period the Applicant shall submit and receive approval for Construction Plans for the land area shown on the Final Plat.
    - b. If Construction Plans have not been approved within the two (2) year period, the Final Plat shall expire.
  2. *Relationship to Construction Plans.* A Final Plat shall remain valid for the period of time in which approved Construction Plans are valid (5.01.G Expiration Date for Construction Plans).
  3. *Void If Not Extended.* If the Final Plat is not extended as provided in 4.06.O Final Plat Extension for Approved but not Filed Plat, it shall expire and shall become null and void.
  4. *Approved Final Plat that have been Filed (Recorded with the County).* Approved plats that have been filed with the County shall not expire.
- O. *Final Plat Extension for Approved but not Filed Plat.* A Final Plat may be extended for a period not to exceed one (1) year beyond the Final Plat's initial expiration date. A request for extension shall be submitted to the City Administrator in writing at least thirty (30) calendar days prior to expiration of the Final Plat, and shall include reasons why the Final Plat should be extended.
1. *Decision by the City Administrator.*
    - a. The City Administrator will review the extension request and shall approve or deny the extension request within thirty (30) calendar days following the date of the request.
    - b. Should the City Administrator fail to act on an extension request within thirty (30) calendar days, the extension shall be deemed to be approved.
  2. *Considerations.* In considering an extension, the City Administrator shall consider whether the following conditions exist:
    - a. Construction Plans have been submitted and/or approved for any portion of the property shown on the Final Plat;
    - b. Construction, including the installation of public improvements, is occurring on the property;

- c. The Final Plat complies with new ordinances that impact the health, safety and general welfare of the community; and/or
  - d. If there is a need for a park, school or other public facility or improvement on the property.
3. *Conditions.*
- a. In granting an extension, the City Administrator may impose such conditions as are needed to ensure that the land will be developed in a timely fashion and that the public interest is served.
  - b. Any extension may be predicated upon compliance with new development regulations and/or the Applicant waiving any vested rights.
4. *Appeal of the Denial of a Final Plat Approval Extension.*
- a. Appeal of the City Administrator's Decision on a Final Plat Extension.
    - i. The denial of an extension by the City Administrator may be appealed to the Commission.
    - ii. A written request for such appeal shall be received by the City Administrator within fourteen (14) calendar days following the denial.
    - iii. The Commission shall hear and consider such an appeal within thirty (30) calendar days following receipt of the appeal request by the City Administrator.
  - b. Appeal of the Commission's Decision on a Final Plat Extension.
    - i. The denial of an extension by the Commission may be appealed to the City Council.
    - ii. A written request for such appeal shall be received by the City Administrator within fourteen (14) calendar days following the denial.
    - iii. The City Council shall hear and consider such an appeal within thirty (30) calendar days following receipt of the appeal request by the City Administrator.
    - iv. The decision of the City Council is final.

**FACTORS TO CONSIDER:**

- Compliance with Comprehensive Plan?
- Is application consistent with Plan?
- If not, have conditions changed or new information been offered to support change?
- Surrounding Zoning and Land Use
- Infrastructure Impacts
- Size and Location of Parcel – is land large enough and in property location for proposed use?
- Reasonable Use of Property – does proposed change provide reasonable use of property?
- Zoning has great discretion – deny if applicant has not proven it is in the best interest of City to approve

**ALTERNATIVES:**

- 1) Approve the Final Plat
- 2) Approve the Final Plat with conditions, which shall mean that the Final Plat shall be considered to have been approved once such conditions are fulfilled, and until the conditions are satisfied, it is considered denied; or
- 3) Deny the Final Plat