

# Quick Facts and FAQs

## Milestone Development

### (Bailey/Armbruster/Persimmon)

#### Current Project

##### PP 23-01

On Tuesday, Jan. 17, 2023, the City of Buda accepted an application submittal for a Preliminary Plat for the Bailey Tract for an ETJ development. Milestone Community Builders elected to pursue approval under the statutory review process.

Development of +/- 175 acres in the Buda Extraterritorial Jurisdiction (ETJ) portions of the Bailey Tract is about 22.5% of the entire development.

- Preliminary Plat for the Bailey Tract = 176.613 acres of land out of the greater 348.277 acre tract conveyed to Bailey Land Investments, LP (Bailey tract)
  - ★ Preliminary Plat = 176.613 +/- acres
    - Number of lots by type
      - ◆ 462 single family lots
      - ◆ 2 multifamily lots consisting of 37 townhomes (13.06 acres and 5.02 acres)
      - ◆ 15 open space/drainage lots
      - ◆ 2 park/amenity lots (3.52 acre amenity lot and 0.44 acre pocket park)
      - ◆ 1 lift station lot
      - ◆ +/-39,967 linear feet of new public streets
    - Acreage by lot type:
      - ◆ +/- 39.60 acres ROW
      - ◆ +/- 45.78 acres Open Space/Drainage (at least 37.67 acres of which are drainage/detention pond lots)
      - ◆ +/- 91.23 acres Development

**The City of Buda Planning and Zoning Commission denied the first submittal of the PP 23-01 on Feb. 14, 2023 due to deficiencies found in the application by City Staff.** The full list of deficiencies found by staff can be found [here](#).

#### Meetings planned before public governing bodies:

- ★ **Future Planning and Zoning Commission meeting** – Milestone Community Builders may submit a written response addressing the deficiencies in accordance with the [statutory review timeline](#). The

Planning and Zoning Commission will approve or deny the plat within 15 days of the second submission.

## What is the Statutory Review Process?

Texas Local Government Code sections 212.009, 212.0091, and 212.0093 establish that the Planning and Zoning Commission is required to approve, approve with conditions, or deny a Plat or Plan within 30 calendar days of filing, or the application is approved by inaction. This is referred to as the “Statutory” or “Shot-Clock” review process.

## What is a “Preliminary Plat”?

A Plat is a legal division of land. It’s similar to a survey but has more detail and is officially recorded with the County. A Plat will establish subdivision of land into blocks and lots, record easements, rights-of-way for roads, utility providers, and more. A Preliminary Plat is used to determine the general layout of a subdivision, adequacy of public facilities intended to determine the development, and the overall compliance of the land division with subdivision requirements and development standards.

## Who approves a preliminary plat?

Under HB 3167, all plats and plans must receive Planning and Zoning Commission approval. However, the City offers an alternative approval process that is portrayed in the Unified Development Code (UDC). The following applications may be approved by the staff/commission/council if selecting the alternative approval process. The current application requires Planning and Zoning Commission approval.

- Preliminary Plat- Planning & Zoning Commission
- Minor Plat- Planning Director/ Administrative
- Re-Plat- Planning & Zoning Commission
- Amending Plat- Planning Director/ Administrative
- Final Plat- Planning & Zoning Commission
- Plat Vacation- City Council

## Why won’t it be considered by City Council under this process?

The Unified Development Code (UDC) outlines the types of plats required and who is the [review authority](#). City Council has delegated the review authority to the Planning and Zoning Commission and only considers plat vacations.

## How is this different than other reviews?

Developers have the option to waive this process under Texas Local Government Code section 212.0096 and engage under an “Alternative Review” process established by the City that has more flexibility for timelines and processes for city, staff, and developers. Under Buda’s Alternative Review process, staff reviews applications and provides notes to developers, who will then resubmit with corrections. This back-and-forth review process continues until staff is ready to provide a recommendation for approval to the Planning and Zoning Commission (P&Z). Most developers choose this option as it allows simultaneous review of multiple projects and has a less-strict submission calendar that isn’t dependent on P&Z meeting dates.

## How will the Statutory Review Process work for this application?

Upon acceptance of the Application on Jan. 17, staff began its review of the application. At the Planning and Zoning Commission meeting on Feb. 14, City staff presented a report on the Plat's non-compliance with codes and ordinances made a recommendation of denial to the Commission. Under the statutory review process, the Planning and Zoning Commission must approve, approve with conditions, or deny the plat application. If no action is taken, it is automatically approved.

On February 14<sup>th</sup>, 2023, the Planning and Zoning Commission unanimously voted to deny the Plat. The City provided the applicant a written statement of the reasons for denial, including citations to the law, statute, or municipal ordinance that is the basis for the decision.

**Plat review is not discretionary.** The commission has limited flexibility in reviewing a plat for approval. The approving authority is obligated to approve a plat if the technical requirements and standards are met. Subdivision plat approval is different than zoning approval, and no zoning approval is required if this project remains an ETJ project.

After disapproval, the applicant may submit a written response (2nd submittal) that remedies each reason for denial. The Planning and Zoning Commission must approve or disapprove the plat or plan within 15 days of the 2nd submittal.

## How does the timeline for statutory reviews work?

The City of Buda cannot set an absolute deadline by which a second submittal must be made. However, the City does have the authority to select which days an application is accepted for the statutory review process based on the calendar for the Planning and Zoning Commission. There is only one day each month when applications for this process are accepted for either the first or second submittal. The submittal dates for the 2023 P&Z calendar are listed below.

Persimmon Plat  
Submission Date

Plat denied by P&Z

Earliest Possible Date  
for 2<sup>nd</sup> submission  
(as of 3/20/2022)

Earliest Possible Date  
for 2<sup>nd</sup> submission on  
P&Z Agenda  
(as of 3/20/2022)

Statutory Review Timeline 2023		
Application Deadline (12 p.m. CST)		Planning And Zoning Meeting Date
First Submittal (30 day review)	Second Submittal (15 day review)	
12/12/2022	<b>12/27/2022</b>	1/10/2023
<b>1/17/2023</b>	1/30/2023	2/14/2023
2/27/2023	3/13/2023	3/28/2023
3/13/2023	3/27/2023	4/11/2023
4/10/2023	4/24/2023	5/9/2023
5/15/2023	<b>5/30/2023</b>	6/13/2023
6/12/2023	6/26/2023	7/11/2023
7/24/2023	8/7/2023	8/22/2023
8/14/2023	8/28/2023	9/12/2023
9/11/2023	9/25/2023	10/10/2023
10/16/2023	10/30/2023	11/14/2023
11/13/2023	11/27/2023	12/12/2023

**Bold** dates indicate weeks where Monday is a City Holiday and deadline is moved to next business day.

## How does this differ from previous P&Z and Council Action?

Previous Public meetings at Council and Planning and Zoning have been held regarding a proposed **Development Agreement (DA)** (Project DA 22-01) for Persimmon. A Development Agreement, if approved, would provide Persimmon with certain City Services including water and wastewater service in exchange for the meeting certain City codes and standards, and would include annexation of the property into the City of Buda. Approval of the DA is a legislative process, and the city is not obligated to approve.

A Development Agreement, however, is not necessary to develop the property. The owners (Milestone) have rights to develop their land under the established standards for plat approval that are contained within the Unified Development Code (UDC). The approving authority must approve a plat if it meets the applicable technical standards.

## Wasn't the Development Agreement denied by P&Z?

Development Agreement DA 22-01 received a recommendation of denial from the Planning and Zoning Commission on July 26, 2022. However, City Council is the ultimate authority on Development Agreements and still has the authority to approve, approve with conditions, or deny the DA. City Council tabled the issue for further discussion with Milestone at their Oct. 18, 2022, meeting.

## How is this project different than the DA?

Milestone has indicated that they are still interested in pursuing the Development Agreement, but in the event an agreement cannot be met, they have the right to pursue an ETJ development. This preliminary plat application is for portions of the development area.

## What is the ETJ?

ETJ stands for "Extraterritorial Jurisdiction." It is a buffer region just outside the City Limits expanding up to 1 mile. It is a transitional zone where the city maintains limited authority. Importantly, the City has no Zoning (land use) regulations and has limited permitting jurisdiction.

## What authority *does* the City have in the ETJ?

The City's authority in the ETJ is limited. From a Development standpoint, the City has certain jurisdiction over the division of land, Site Development, Signage, and Tree Preservation.

## What about traffic?

As part of the plat application, Milestone has provided a Traffic Impact Analysis (TIA) that is being analyzed by staff. Any negative traffic impact from the development must be mitigated by Milestone. That mitigation can take many forms, from the construction of new infrastructure to cost-sharing of improvements with the City proportional to the development's impact on traffic.