

Quick Facts and FAQs

Milestone Development

(Bailey/Armbruster/Persimmon)

Current project
As of Jan. 24, 2023

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 Baily 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

Meetings planned before public governing bodies:

- ★ Tuesday, February 14, 2023, Planning and Zoning Commission meeting –will consider the Preliminary Plat and approve, approve with conditions, or deny a Plat.
- ★ Future Planning and Zoning Commission meeting – Buda Planning and Zoning Commission will discuss the Preliminary Plat (if disapproved) 15 days from the second submittal in accordance with the statutory review timeline.

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 this Statutory Review Work?

Now that the application has been taken in, City staff is reviewing the application. At the Planning and Zoning Commission meeting on February 14th, City staff will present a report on the Plat’s compliance or non-compliance with codes and ordinances and will make a recommendation to the Commission. The

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Planning and Zoning Commission must approve, approve with conditions, or deny the plat application. If no action is taken, it is automatically approved.

If the Planning and Zoning Commission denies or approves with conditions, the Planning and Zoning Commission shall provide the applicant a written statement of the conditions for the conditional approval or 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. It is not a discretionary process; 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.

If an applicant receives conditional approval or disapproval, they may submit a written response (2nd submittal) that satisfies each condition of the conditional approval or 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 has 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 1 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.

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

Statutory Review Timeline 2023		
Persimmon Plat Submission Date Plat on P&Z Agenda Earliest Possible Date for 2 nd submission Earliest Possible Date for 2 nd submission on P&Z Agenda	Application Deadline (Noon Central Time)	Planning And Zoning Meeting Date
First Submittal (30 day review)	Second Submittal (15 day review)	
12/12/2022	12/27/2022	1/10/2023
1/17/2023	1/30/2023	2/14/2023

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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	5/30/2023	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

In the event a second submission is required, the applicant is *not* required to submit for the next available meeting. The dates indicated above represent the fastest-possible timeline if a second review is required.

How does this differ from the 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 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 October 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.

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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.

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The Milestone Community Builders

Meetings before public governing bodies:

- ★ Tuesday, Sept. 20 City Council meeting – Buda City Council deliberated details of the proposed development during executive session and reported their discussion after executive session. Council did not vote on the Development Agreement on this date. To view the term sheet Buda City Council discussed during this meeting, please visit this [link](#).

Development of +/- 775 acres in the City of Buda, Buda Extraterritorial Jurisdiction (ETJ) and Austin ETJ.

- Persimmon Development = 775 +/- acres
 - ★ Bailey Tract = 349 +/- acres
 - ★ Armbruster Tract = 426 +/- acres
 - ★ 2,800 residential units, including townhomes no apartments/multifamily
 - ★ 10 acres minimum of commercia
- Buda City/ETJ (referenced as "Property" in the Development Agreement (DA))
 - 471 +/- acres in the City of Buda/ETJ
 - ★ Bailey 178 +/- acres in the Buda ETJ
 - ★ Armbruster 283 +/- acres in Buda ETJ
 - ★ Armbruster 12 +/- acres in the City of Buda zoned B2
 - ★ 2,100 residential units

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- ★ 10 acres minimum of commercial
- ★ Public Improvement District (PID) / Tax Increment Refinance Zone (TIRZ) financing
- City of Austin ETJ (referenced as “Additional Property” in the DA)
 - 302 +/- acres in the City of Austin ETJ
 - ★ Bailey = 171 +/- acres in the Austin ETJ
 - ★ Armbruster = 131 +/- acres Austin ETJ
 - ★ 700 residential unit

Where is the development?

City of Buda city limits and ETJ. Requesting a release of the ETJ from the City of Austin – Buda has submitted the request and is waiting for additional correspondence from the City of Austin

What is the developer seeking?

The developer is seeking a Development Agreement (DA) and future Public Improvement District (PID) and Tax Increment Financing District (TIRZ) for financing. Current consideration is for the DA which will set up the rules and procedures of development within the City of Buda and Buda ETJ.

What utilities is the developer seeking from the City of Buda?

The developer is requesting the City of Buda for utilities. 3,275 Living Unit Equivalent (LUE) - water/sewer service commitment request. If unable to reach an agreement on the DA, the Developer is separately seeking water and wastewater service for the Buda ETJ portion of the Project from the City of Buda. The developer submitted a Service Extension Request for Water and Wastewater for the Buda ETJ Only (without annexation) on Jan. 25, 2022.

What are the next steps?

- ★ The DA was denied by the Planning and Zoning Commission on July 26, 2022.
- ★ City Council consideration of the Development Agreement on Sept. 20, 2022.

What is the Development Agreement (DA) that the City Council is being asked to consider?

A DA is allowed under the City’s Unified Development Code (UDC), [subsection 3.03.12](#) and Texas Local [Government Code Chapter 212.172](#) for land located within the city's Extraterritorial Jurisdiction. A DA provides direction for how the land will develop and may address topics such as the timing of annexation, land uses, building construction, development standards, subdivision, and infrastructure.

What happens if the City Council denies the Development Agreement? Can the project be built without the City's consent?

The City can deny the DA, but development can still occur on the property as an ETJ project. Milestone could seek approval as a Hays County and Travis County subdivision. The City of Buda would have limited review authority within the Buda ETJ, but the project would be subject to development regulations of other governing jurisdictions. Because the project would occur in the ETJ and not within the City of Buda city limits, the City would be unable to enforce zoning regulations that could allow or prohibit certain uses. Counties do not have zoning authority meaning that an ETJ project could be built so long as minimum requirements are met. Few City ordinances are enforceable in the City's ETJ.

On Aug. 10, 2022, Milestone submitted a petition for a Municipal Utility District (MUD) as an alternative. The City has 90 days to consider the MUD petition. If the City refuses to grant consent, Milestone may submit a petition for water/wastewater service to be acted on within 120 days after receipt. If no agreement on service is executed within 120 days, consent is granted by operation of law, and the Developer may seek MUD creation from Texas Commission on Environmental Quality (TCEQ).

What is the ETJ? What is the ETJ release being discussed with the City of Austin?

The ETJ is a designated buffer area located just outside of a city's limits. Persimmon is located both within the City of Buda's and Austin's ETJ.

Austin has a 5-mile ETJ, and Buda generally has a 1-mile ETJ. The City of Buda ETJ abuts Austin to the north and Kyle to the south and east and Dripping Springs to the west. From time to time, two cities may agree to adjust their ETJ boundaries to achieve more logical boundaries.

Austin adopted a policy related to the release of ETJ. To proceed with an ETJ exchange/release to add the Austin ETJ portion of this project to the City of Buda, the City of Buda must make a request for an ETJ adjustment directed to the Mayor with copies to the City Manager and appropriate Planning and Zoning Department staff. All adjustments are evaluated according to [Austin ETJ Policy](#) to ensure that they will not negatively impact Austin's interests.

The City of Buda has initiated this request in order to explore all possible options as it relates to this project.

Is the City obligated to provide water and wastewater to this project?

The City is obligated to serve a small portion of this property, approximately 12- acres, that is already located within the City of Buda city limits and is within the City of Buda's water service area. The remaining portions of the property are not within Buda's CCN (See question 5) and Buda is not required to serve. The majority of Persimmon is not within other jurisdictional CCNs. However, Milestone has requested that Buda serve the entire property and is seeking a commitment of water and wastewater to serve the entire tract at 3,275 LUEs.

What is a CCN, Certificate of Convenience and Necessity?

[The Public Utility Commission of Texas oversees the CCN.](#) A Certificate of Convenience and Necessity (CCN) grants a CCN holder the exclusive right to provide retail water or sewer utility service to an identified geographic area. Chapter 13 of the Texas Water Code requires a CCN holder to provide continuous and adequate service to the area within its CCN boundary. Municipalities and districts are not required to have a CCN to serve in areas that are not already being lawfully served by another retail public utility; however, some municipalities and districts choose to obtain a CCN to protect their service area from encroachment. A district may not provide retail water or sewer service within the certificated service area of a retail public utility or within the boundaries of another district without the retail public utility's or district's consent, unless the district has a CCN to provide retail water or sewer utility service to that area. Similarly, a municipality may not provide retail water or sewer service within the certificated service area of a retail public utility unless the municipality has a CCN to provide retail water or sewer utility service to that area.

What is a Public Improvement District (PID)?

A PID is a "Public Improvement District." A PID is a special district created by a city or county under the authority of Chapter 372 of the Texas Local Code. This law allows a city or county to levy an assessment against properties within the designated area, or district, to pay for improvements. PIDs can be used to finance the same infrastructure a MUD would finance but are more commonly used to fund additional infrastructure items such as sidewalks, landscaping, parks, and recreation. Most PID assessments run 20-40 years and payments end when the bonds are paid. PID assessments can also be paid in full up-front by a buyer.

A PID charges an assessment to properties within a certain area (like a new neighborhood) to build out additional infrastructure. While MUDs typically focus on utilities, PID proceeds could pay for:

- ★ Enhanced landscape
- ★ Additional open space
- ★ Lakes and fountains
- ★ Improved city parks
- ★ Shade structures
- ★ Various recreational and pedestrian improvement

What is a Tax Increment Refinance Zone (TIRZ)?

TIRZ stands for "Tax Increment Reinvestment Zone." TIRZs are governed by Chapter 311 of the Texas Tax Code. TIRZs are used as forms of tax increment financing, which is an economic development tool to incentivize both development and redevelopment. The City is asked to reinvest some of the property taxes generated by the project back into the development to help fund infrastructure.

What is a Municipal Utility District (MUD) and how are they created?

MUD stands for Municipal Utility District and is a subdivision of the State of Texas that is created to build infrastructure and provide services like water, sewer, and stormwater drainage in areas where a city cannot provide them.

MUDs use the sale of bonds to raise funds needed to build out infrastructure for new development. The homeowners within the MUD pay off the bonds and pay for utility services through a MUD tax.

For a MUD within Buda's jurisdiction, the City would be asked to "consent" to the creation of a MUD. If the City fails to consent, the Developer could ask for a MUD directly from the State.

What is a TIA?

A Traffic Impact Analysis (TIA) is intended to coordinate land use and transportation facility development and to adequately assess the traffic-related impacts of a development proposal on the existing and planned thoroughfare system.

The TIA for Bailey + Armbruster is currently underway. The TIA is being conducted by LJA. A report of findings has not yet been provided by Milestone.

Does the project have an approved TIA?

The TIA for Bailey + Armbruster is currently underway. A report of findings has not yet been provided by Milestone.

Texas Department of Transportation (TxDOT) approved a TIA for the Bailey tract alone in accordance with the terms of the letter Milestone presented on Feb. 28, 2022, which indicated that the RM 967 roundabout and the Bailey TIA were solely for that tract of land. As such, the study along with the clarifying letter satisfied TxDOT requirements for the Bailey project as presented in 2019 (474 single-family residential homes; 250 multifamily units; and approximately 60,000 square feet of commercial land use). The Bailey-only site plan includes one access driveway to serve these land uses at Armbruster's Curve on RM 967. It was anticipated the singlefamily residences would build out at a rate of roughly 100 to 150 homes per year in 2019. TxDOT will 5 of 6 issue a notice to proceed with construction on the roundabout once Milestone finalizes all payments and remits any remaining outstanding documentation (e.g., insurance certificates).

The focus of mitigation in the Bailey TIA is the new RM 967 intersection and internal construction to connect to right-of-way for parkways and arterials adjacent to the site. There were no additional external mitigation measures proposed in the Bailey TIA beyond the roundabout.

How does the City of Buda plan on handling increased traffic on RM 967 and FM 1626?

The developer plans to install a large roundabout at Armbruster's curve as approved by TxDOT in the initial TIA.

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How does the City of Buda plan to address increased traffic on Dove Drive?

When the subdivision is developed, the connectivity streets will provide some relief with additional ways in and out of Cimarron Cove to RM 967 and FM 1626.

What steps will the developers take to account for the slope and the amount of drainage that could potentially inundate adjacent lots?

Drainage issues are not specifically addressed in a Development Agreement. However, the developer will provide more information on drainages concerns during the subdivision process.

What is the timing for this project?

Milestone is seeking to continue the entitlement process for these properties. They have separate applications submitted for the proposed PID and TIRZ agreements. They have also submitted a Preliminary Plat (PP 22-12) for 176.613 acres (Bailey ETJ portion) that proposes 484 residential units to be constructed in several phases. If the City chooses not to approve the DA with a PID/TIRZ, Milestone will continue with the process to gain approval for the MUD and will seek to develop the project as an ETJ Municipal Utility District without oversight by the City.

How much water will this project require? Will it impact local water wells?

Milestone is asking for 3,275 LUE's for utilities to construct 2,800 residential units, HOA amenities, a commercial area, and provision for a school site and an emergency services facility. Milestone is requesting the City to serve the project with water and wastewater. Milestone has also submitted a service extension request with the City of Austin for water and sewer if the City of Buda declines to serve the project. If both cities refuse to provide service, Milestone could seek service from a private water supply company, develop wells onsite to serve the property, or construct a wastewater treatment plant for this project.

The LUEs requested is equivalent to an average of 0.98 million gallons/day (MGD) of water. If the property is served by the City of Buda, this supply would be provided within the current BSEACD permitted amount and contracted wholesale water supply from Guadalupe-Blanco River Authority (GBRA) and Alliance Reginal Water Authority (ARWA). However, the City would need to amend our current wholesale water agreement to acquire additional supplies. Water service by the City of Buda will not impact local domestic wells.

The Barton Springs Edwards Aquifer Conservation District (BSEACD) would regulate new groundwater supplies sought by the developer from the Edwards Aquifer or the Lower Trinity Aquifer. There are no local domestic wells currently being served from the Trinity Aquifer.

What public park and open space improvements are planned with this project?

The City requires 1-acre of parkland for every 50-units of residential development in accordance with the [UDC subsection 4.04.02](#). Persimmon is proposing both parkland and open space within the development. The current DA defaults to the UDC for parkland requirements. The amount of parkland/open space dedication in the DA meets the standards of the UDC for an ETJ subdivision

Why can't the City prohibit the properties from being developed at all?

Land/property owners have rights and can develop their property. Cities/jurisdictions have rules and regulations, the City of Buda has the UDC. The UDC, or Unified Development Code, outlines the rules and 6 of 6 regulations for developing a project within the jurisdiction of Buda. If a property owner meets the requirements for development the City must review and approve the individual applications submitted. The current DA outlines the rules and exceptions that Milestone is seeking that differs from the UDC requirements.