



CITY OF KYLE

Community Development Department



MEMORANDUM

TO: Planning & Zoning Commission

FROM: Will Atkinson – Interim Director of Planning & Community Development

DATE: Tuesday, August 9, 2022

SUBJECT: Dairy Queen Plat Vacation Request

REQUEST

Upon the request of both property owners associated with the Dairy Queen plat “Lot 1A of the Kyle 150/I-35 Subdivision, Patrick Kilroy (SMW Engineering Group Inc.) is requesting to vacate the existing replat.

CODE SECTION

Sec. 41-57

(a)

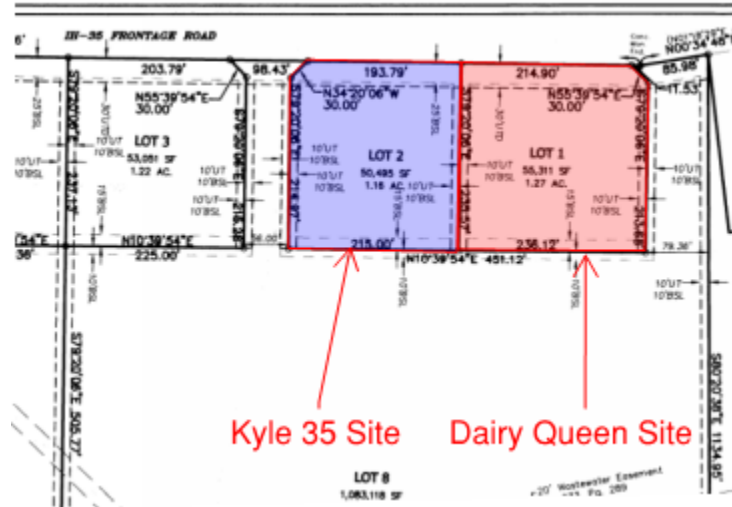
Upon approval by the planning and zoning commission and the city council, the owner of a tract covered by a plat may vacate the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat; provided that the planning and zoning commission and the council may establish requirements as may be reasonable in the discretion of the city to protect the public interest.

***As subdivision plat approval stops with the Planning & Zoning Commission, Council will not consider the requested plat vacation as indicated in Sec. 41-57(a).**

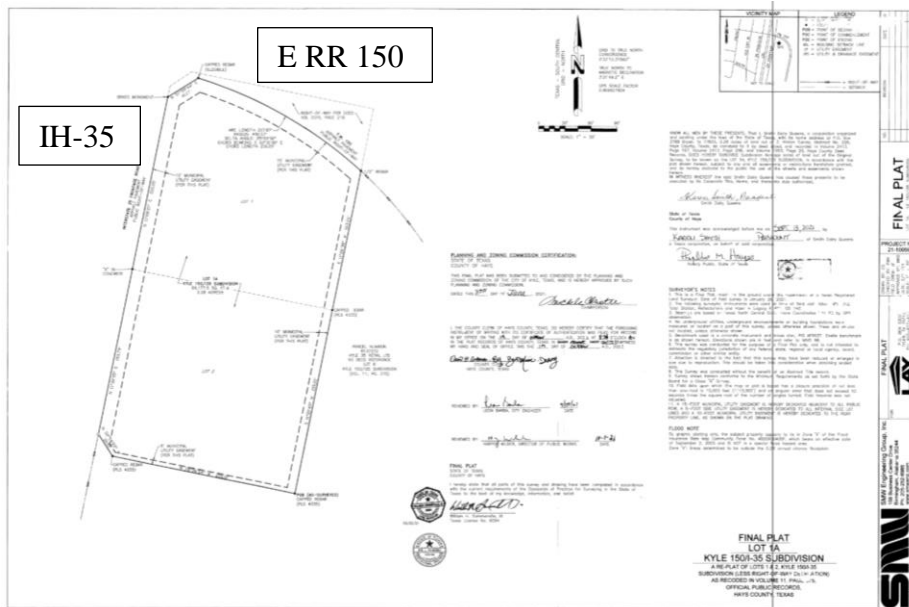
STAFF ANALYSIS

In early 2021, the owners of the local Dairy Queen franchise began meeting with City staff to redevelop their site on Lot 1 of Kyle 150/I-35 Subdivision. They wanted to demolish the existing restaurant move it to the space Lot 2 is located, and add sufficient parking on Lot 1. In doing so, all indications were that they legally owned Lot 1 & Lot 2 of the subdivision.

Lot 1 was on the hard corner of IH-35 & E RR 150. Lot 2 was adjacent and to the south.



As a function of development processes/requirements, they were required to replat both Lots 1 & 2 into 1 development lot, to ensure the new building didn't cross property lines. This resulted in a replat that was recorded over the previous subdivision. Per state law, it is legal to record a replat over an existing plat. The existing lot, per recorded documents is not Lot 1A of the Kyle 150/I-35 Subdivision. Essentially, the lot line between Lots 1 & 2 was removed and a larger lot was created.



Earlier this year, staff began having conversations with the Kyle 35 group who owns the land adjacent and to the south of the Dairy Queen site. They too need to follow the same replatting process to accomplish their goals for developing the remainder of the property surrounding Dairy Queen. As discussions were occurring, it was found that the owners of Dairy Queen do not actually own what was Lot 2 (southern half of Lot 1A). To resolve this ownership issue on the plat, the proper course is to vacate the subdivision plat creating

Lot 1A. With the vacation of the plat, the underlying plat will control. Both Lots 1 & 2 will be valid lots with this resolution.

RECOMMENDATION

Staff fully supports the requested plat vacation and asks the Planning & Zoning Commission to vote to approve the request.