



TOWN OF LITTLE ELM PLANNING & ZONING COMMISSION

July 21, 2022

Persons may address the Planning and Zoning Commission on any issue. This is the appropriate time for citizens to address the Commission on any concern whether on this agenda or not. Each member of the public who desires to address the P&Z Commission regarding an item on an agenda for an open meeting of the P&Z Commission shall have the right to address the Commission on the item before the Commission's consideration of the item. All speakers not requiring a translator are given 3 minutes to speak and may address the Commission only once on each agenda item. Non-English Speakers who require a translator are given 6 minutes to speak and may address the Commission only once on each agenda item. In accordance with the State of Texas Open Meeting Act, the board may not comment or deliberate such statements during this period, except as authorized by Section 551.042, Texas Government Code. To address the Commission for any public hearing item please sign a speaker's sheet located on the tables by the front entry and submit to a Staff member.

1. **5:30 PM Work Session**

- Agenda items brief and clarifications.
- Discussion of "Training 2 - Essential Skills Topics Continued."

2. **Roll Call**

3. **6:00 PM Regular Meeting**

1. **Consent Agenda**

1. Discuss and take action regarding the approval of the July 7, 2022 regular Planning and Zoning commission meeting minutes.
2. **FINAL PLAT/** Union Park Phase 9 (FP-22-03913). Presentation, discussion, and consideration on a request for approval of a Final Plat consisting of 23.240 acres, situated in the William Lumpkin survey, Abstract No. 730, within Little Elm's Town limits in order to establish 124 residential lots, 5 open space lots, and establish the appropriate Fire Lane, Utility, and Water easements.
 - Staff Report
 - Applicant Presentation
 - Discussion and Recommendation
3. **FINAL PLAT/** Bracha Addition (FP-22-04347). Presentation, discussion, and consideration on a request for approval of a Final Plat consisting of 1.583 acres, situated within the Henry Kendall survey, Abstract No. 713, within Little Elm's Town limits in order to establish one commercial lot with the appropriate Fire Lane, Utility, and Water easements.
 - Staff Report
 - Applicant Presentation
 - Discussion and Recommendation

2. **Regular Agenda**

1. **PUBLIC HEARING/** Comprehensive Plan FLUP Amendment. Public hearing, discussion, and take action on a recommendation regarding a proposed amendment to the Town of Little Elm Comprehensive Plan Future Land Use Map (FLUP), in order to establish and located the envisioned land uses resulting from the adopted West Side Study.
 - Staff Report/Applicant Presentation
 - Open Public Hearing
 - Receive Public Comment
 - Close Public Hearing
 - Discussion and Recommendation
2. **PUBLIC HEARING/**Text Amendment - Light Commercial (LC) District. Public hearing, discussion, and take action on a recommendation regarding a proposed text amendment to Chapter 106, Zoning Ordinance, by amending Sec.106.03.03(e) Light Commercial District, Sec. 106.05.01 Schedule of Uses, and Sec. 106.05.02.2 Special Regulations for Specific Permanent Land Uses (other than accessory uses), Sec. 106.06.42 Parking Access from a Public Street and Sec. 106.06.44 Off-street Parking Standards, in order to provide additional site layout, access, and specific use requirements.
 - Staff Report/Applicant Presentation
 - Open Public Hearing
 - Receive Public Comment
 - Close Public Hearing
 - Discussion and Recommendation
4. **Discussion of future agenda items, update on Council action, and requests for new business considerations**
5. **Adjourn**

Certificate

I certify that the above notice of the Planning & Zoning Commission meeting was posted on the bulletin board of the Town of Little Elm, Texas on July 18, 2022, prior to 5:00 p.m. The Little Elm Town Hall is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive service must be made 48 hours prior to this meeting. Please contact the Town Secretary's office at 214-975-0404 or 972-377-5540 (fax) for arrangements.

Olga Chernomorets - Planning Manager



TOWN OF LITTLE ELM PLANNING & ZONING COMMISSION

07/21/2022

OVERVIEW

Project	Adoption of the July 7, 2022 Planning & Zoning Commission Meeting Minutes
P&Z Hearing	07/21/2022
Council Hearing	N/A
Size	N/A
Current Zoning	N/A
Proposed Use	N/A
Existing Use	N/A
Future Land Use Plan Designation	N/A
Applicant	N/A
Owner	N/A
Strategic Goal	

Agenda Item

Discuss and take action regarding the approval of the July 7, 2022 regular Planning and Zoning commission meeting minutes.

Location

N/A

Planning Analysis

N/A

Recommended Action

N/A

Attachments

P&Z Minutes July 7, 2022

DRAFT



Minutes

Town of Little Elm
PLANNING & ZONING COMMISSION
Regular Meeting
Thursday, JULY 7, 2022 - 7:00 pm

Present: Michael Bell, Chairman; Ron Trees, Vice Chairman; Tom Ocelli, Commissioner; Brent Thibaux, Commissioner; Robert Martin, Commissioner; Chip Norman, Alternate Commissioner

Absent: Stephen Horn, Commissioner; Jack Skinner, Alternate Commissioner

Staff Present: Olga Chernomoretz, Planning Manager
Rachel Mendoza, Development Manager
Wesley Brandon, Town Engineer
Brian Salvesen, Planner

1. **5:30 PM Work Session**
2. **Roll Call**
3. **6:00 PM Regular Meeting**

Chairman Bell opened the regular meeting at 6:00pm.

1. Discuss and take action regarding the approval of the June 16, 2022 Regular Planning and Zoning Commission Meeting Minutes.

Motion: Approve meeting minutes with correction on vote of (PD-22-03036) to reflect a 6-1.

Motion by Vice Chairman Ron Trees, seconded by Commissioner Brent Thibaux

AYE: Chairman Michael Bell, Vice Chairman Ron Trees, Commissioner Tom Ocelli, Commissioner Brent Thibaux, Commissioner Robert Martin, Alternate Commissioner Chip Norman

6 - 0 Passed - Unanimously

2. **FINAL PLAT/** Carbajal Addition (FP-22-03910). Presentation, discussion, and consideration on a request for approval of a Final Plat for Carbajal Addition Block 1, Lots 1 and 2, establishing 2 residential lots, , situated in the Marsella Jones Survey, Abstract No. 667, within Little Elm's Town Limits.
- Staff Report
 - Applicant Presentation
 - Discussion and Recommendation

Staff presented the request to withdraw the item.

Motion: Approve request to withdraw the item.

Motion by Commissioner Robert Martin, seconded by Commissioner Tom Ocelli

AYE: Chairman Michael Bell, Vice Chairman Ron Trees, Commissioner Tom Ocelli, Commissioner Brent Thibeaux, Commissioner Robert Martin, Alternate Commissioner Chip Norman

6 - 0 Passed - Unanimously

3. **PUBLIC HEARING /** Smotherman Road (PD-22-03036). Public hearing, discussion, and take action on a recommendation regarding a request to rezone approximately 6.686 acres of land, currently zoned as Light Commercial (LC), in order to establish a new Planned Development district based on Light Commercial (LC) district, to allow a new commercial development with modified development standards and establish a new type of office/warehouse/showroom product.
- Staff Report/Applicant Presentation
 - Open Public Hearing
 - Receive Public Comment
 - Close Public Hearing
 - Discussion and Recommendation

Staff briefed the commission on updates since the presentation at the last meeting. Applicant Steve Alford presented updated data on the drainage of the site and the extenuating impacts it would have in the drainage basin.

Chairman Bell asked about outreach to the nearby neighborhood, clarification on conditioning the amenities, and parking.

Chairman Bell opened the public hearing at 6:11pm. With no one indicating they wished to speak, Chairman Bell closed the public hearing at 6:11pm.

Town Engineer Wesley Brandon briefed the Commission on what the Town will look for when reviewing the drainage of a development project.

Motion: Approve with condition that amenities are in place prior to obtaining a Certificate of Occupancy.

Motion by Commissioner Brent Thibeaux, seconded by Commissioner Robert Martin

AYE: Chairman Michael Bell, Vice Chairman Ron Trees, Commissioner Tom Ocelli, Commissioner Brent Thibeaux, Commissioner Robert Martin, Alternate Commissioner Chip Norman

6 - 0 Passed - Unanimously

4. **Discussion of future agenda items, update on Council action, and requests for new business considerations**
5. **Adjourn**

Chairman Bell adjourned the meeting at 6:18pm.



TOWN OF LITTLE ELM PLANNING & ZONING COMMISSION

07/21/2022

OVERVIEW

Project	FINAL PLAT/ Union Park Phase 9 (FP-22-03913)
P&Z Hearing	07/21/2022
Council Hearing	N/A
Size	Approximately 23.240 acres
Current Zoning	Planned Development
Proposed Use	Single Family Residential
Existing Use	Vacant
Future Land Use Plan Designation	Residential
Applicant	Andrea Saaverdra
Owner	Steven C. Porath
Strategic Goal	

Agenda Item

FINAL PLAT/ Union Park Phase 9 (FP-22-03913). Presentation, discussion, and consideration on a request for approval of a Final Plat consisting of 23.240 acres, situated in the William Lumpkin survey, Abstract No. 730, within Little Elm's Town limits in order to establish 124 residential lots, 5 open space lots, and establish the appropriate Fire Lane, Utility, and Water easements.

- Staff Report
- Applicant Presentation
- Discussion and Recommendation

Location

Located approximately 320 feet south of the intersection of Union Park Blvd and Fieldwood Way, within Little Elm's Town limits.

Planning Analysis

The purpose of a Final Plat is to ensure 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, that public improvements to serve the subdivision or development have been installed and accepted by the Town or that provision for such installation has been made, that all other requirements and conditions have been satisfied or provided to allow the Final Plat to be recorded.

Engineering.

Staff has reviewed the submitted plat documents and found it out of compliance with Section 107 – Subdivision Ordinance due to outstanding comments.

In coordination with Staff, the applicant has requested an extension to the August 4, 2022 regular Planning and Zoning Commission meeting.

Recommended Action

Staff recommends approval of the extension request.



TOWN OF LITTLE ELM PLANNING & ZONING COMMISSION

07/21/2022

OVERVIEW

Project	FINAL PLAT/ Bracha Addition (FP-22-04347)
P&Z Hearing	07/21/2022
Council Hearing	N/A
Size	1.583
Current Zoning	Light Commercial (LC)
Proposed Use	Commercial
Existing Use	Vacant
Future Land Use Plan Designation	Commercial/Retail
Applicant	Hank Ingram
Owner	Sayra Carpenter
Strategic Goal	

Agenda Item

FINAL PLAT/ Bracha Addition (FP-22-04347). Presentation, discussion, and consideration on a request for approval of a Final Plat consisting of 1.583 acres, situated within the Henry Kendall survey, Abstract No. 713, within Little Elm's Town limits in order to establish one commercial lot with the appropriate Fire Lane, Utility, and Water easements.

- Staff Report
- Applicant Presentation
- Discussion and Recommendation

Location

Located approximately 380 feet west of the King Road and FM 423 intersection, within Little Elm's Town limits.

Planning Analysis

The applicant purchased the currently vacant nonconforming, unplatted property with the intent to improve and occupy it for office and retail use. Upon reviewing the submitted plat document, Staff has determined that given the scope of work, required in order to meet the Town Subdivision and Zoning Ordinance regulations, results in extensive site civil work that would need to be reviewed through a civil plan submittal before a plat document. Therefore, in coordination with the Staff, the applicant has requested to withdraw this request and pursue their civil review, prior to returning for a Final Plat request.

Recommended Action

Staff recommends approval of the request to withdraw.



TOWN OF LITTLE ELM PLANNING & ZONING COMMISSION

07/21/2022

OVERVIEW

Project	PUBLIC HEARING/ Comprehensive Plan FLUP Amendment
P&Z Hearing	07/21/2022
Council Hearing	August 23, 2022
Size	N/A
Current Zoning	N/A
Proposed Use	N/A
Existing Use	N/A
Future Land Use Plan Designation	N/A
Applicant	N/A
Owner	N/A
Strategic Goal	

Agenda Item

PUBLIC HEARING/ Comprehensive Plan FLUP Amendment. Public hearing, discussion, and take action on a recommendation regarding a proposed amendment to the Town of Little Elm Comprehensive Plan Future Land Use Map (FLUP), in order to establish and located the envisioned land uses resulting from the adopted West Side Study.

- Staff Report/Applicant Presentation
- Open Public Hearing
- Receive Public Comment
- Close Public Hearing
- Discussion and Recommendation

Location

N/A

Planning Analysis

The purpose of the Comprehensive Plan is to serve as official policy of the Town and guide future zoning decisions. The Future Land Use Plan (FLUP) is part of the Comprehensive Plan that is meant to provide a map locating the future envisioned land uses for each area of Town.

Over the past few years, the Town has been experiencing an increased interest in developed and undeveloped property on the west side of town. With the addition of the newly built Walker Middle School

and the transportation and improvements made by the Town and TxDOT, this area is prime for new development, as well as redevelopment. As a result, Staff initiated a special area study of the West Side, in order to provide official direction for this area.

The West Side Study produced a plan for unified development pattern and desire for specific types of uses and densities that better align with Town's most current overall vision and identity. Key takeaways are to focus on infrastructure improvements, utility extensions, design standards for walkability and connectivity, and updating the comprehensive plan and zoning to reflect appropriate housing and land use types in the Town.

The Study built on existing land uses within the Comprehensive Plan and identified and defined several additional uses as follow:

- *Neighborhood*
 - Based on existing neighborhood layout and context
 - Appropriate transitions to existing neighborhoods with respect to densities, screening, and buffering within new neighborhoods
 - Density range: 3-6 DU/AC
- *Retail/Commercial*
 - Mostly neighborhood retail with restaurants uses or mid-rise office buildings
 - May include lodging and related uses
 - May include professional offices as a transition to adjoining neighborhoods
 - One to two stories generally
- *Mixed Residential*
 - Range of single family from large lot, to patio homes, to townhome transitions to neighborhood commercial
 - Recreation related uses with access to parks and open space
 - Overall residential density of 6 to 10 units per acre

There is currently a retail/commercial land use within the FLUP, however, it is defined very generally as "establishments providing merchandise for retail or commercial sale and professional, corporate, or administrative office." The retail/commercial use identified through the Study, builds on the existing land use, but specifically calls for more neighborhood scale retail with restaurant uses and/or mid-rise office buildings, with a max height limit of two stories.

After the Study's adoption by Town Council in 2021, Staff is proposing to amend the current FLUP to officially reflect and memorialize the Study's envisioned land uses for the area. This would allow Staff to be able to provide official guidance to the continued interested in development and redevelopment of the West Side.

Staff utilized the newly created uses and their locations as identified by the West Side Study, as well as the newly approved development projects, to clean up and connect existing residential and commercial areas, in order to create a cohesive future land use vision. The amended future land uses for the West Side are shown in the attached snapshot of the area from the FLUP document.

Staff is requesting to amend the Town of Little Elm Comprehensive Plan, adopted in 2017, in order to establish and define the above identified new land uses and their locations within the FLUP.

Recommended Action

Staff recommends approval of the request as presented.








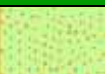






Attachments

Comp Plan FLUP 2017

West Side Study Final Concept - Future Land Uses

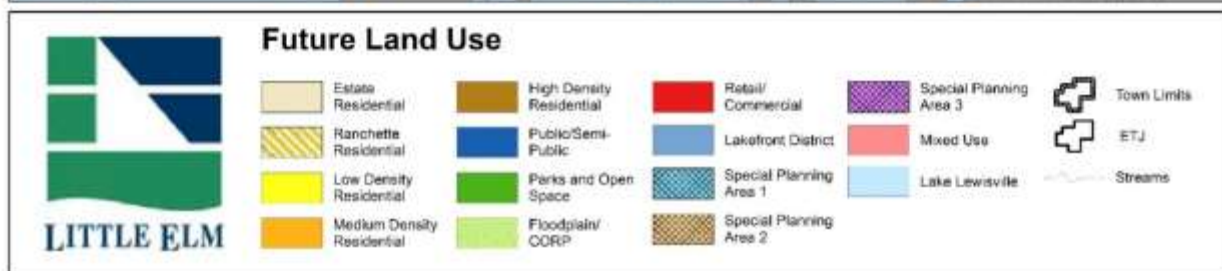
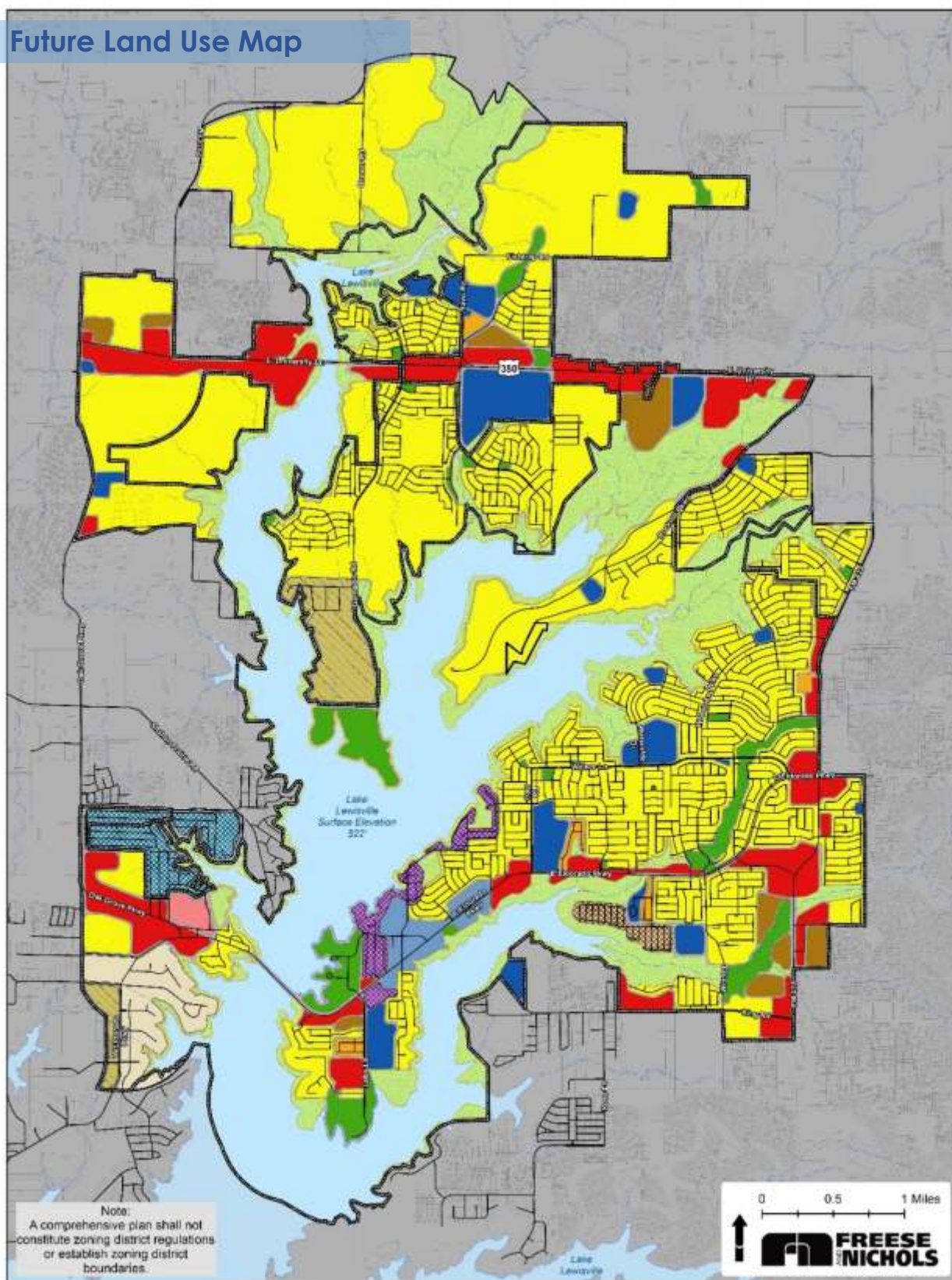
Proposed FLUP

Comparison of FLUP 2017 and Proposal

Land Use Categories	Color	Description
Residential		
Estate Residential		Single-family homes with lot sizes of one acre or greater
Ranchette Residential		Single-family homes with lot sizes of 15,000 sq. ft. to one acre
Low Density Residential		Single-family homes of varying lot sizes that are smaller than 15,000 sq. ft.
Medium Density Residential		Townhomes or Duplexes
High Density Residential		Apartments and Condominiums
Public Use		
Public/Semi-Public		Educational, governmental, or institutional uses such as schools, hospitals, places of worship or community organizations etc.
Parks and Open Space		Community parks, recreational facilities, cemeteries, and open space and private recreation
Floodplain/CORP properties		Conservation area based on FEMA map and CORP properties
Non-residential		
Retail/Commercial		Establishments providing merchandise for retail or commercial sale and professional, corporate, or administrative offices
Special Uses		
Lakefront District		A mixture of civic, park, cultural, retail, and residential uses, which is designed to be a focal point of the community
Special Planning Area 1		"Hilltown" area with redevelopment potential
Special Planning Area 2		"Preston on the Lake" area with redevelopment potential
Special Planning Area 3		Lakefront area with mostly residential redevelopment potential
Mixed Use		Vertical and horizontal mix of residential, non-residential and public uses



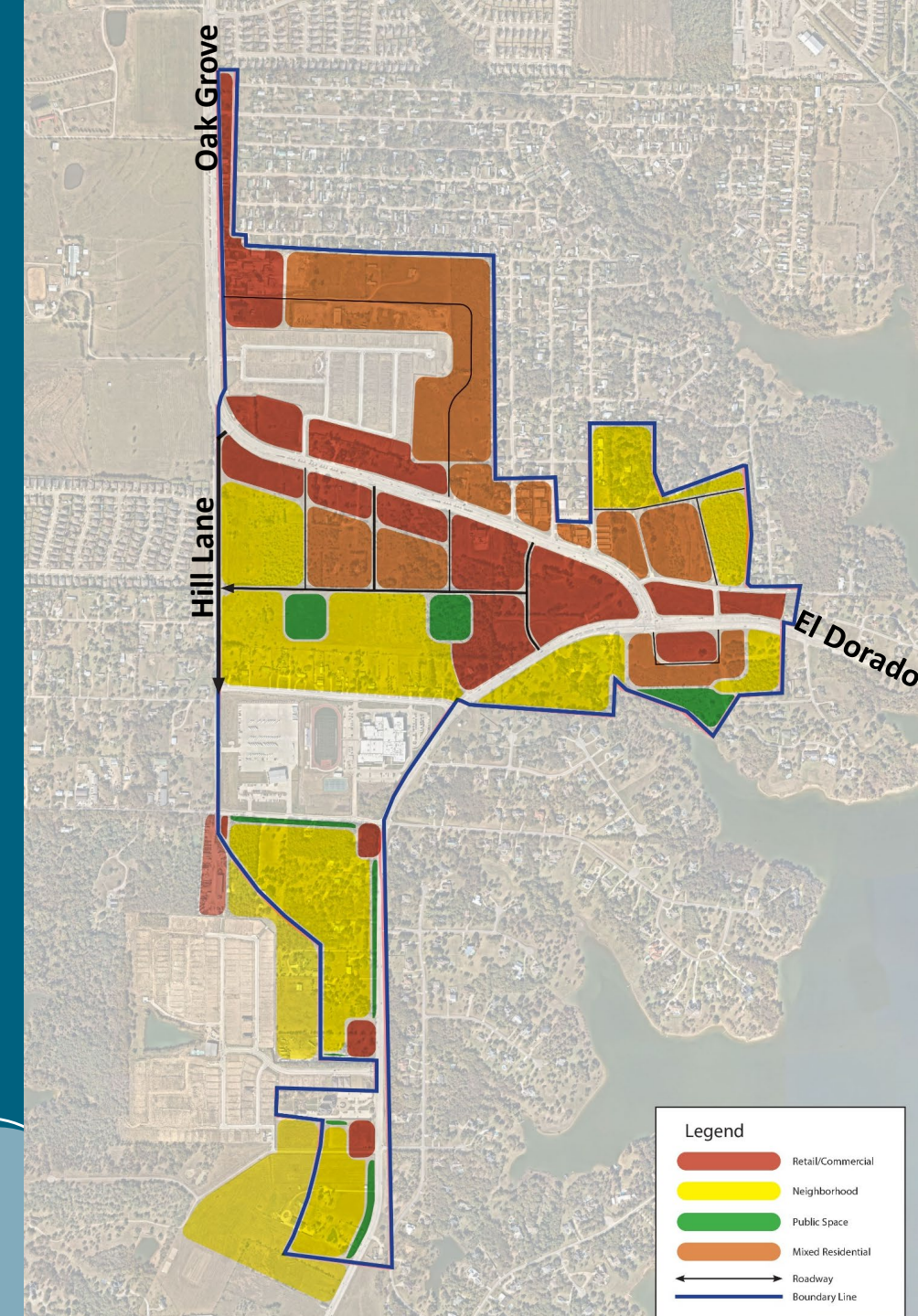
Future Land Use Map



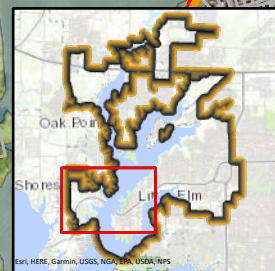
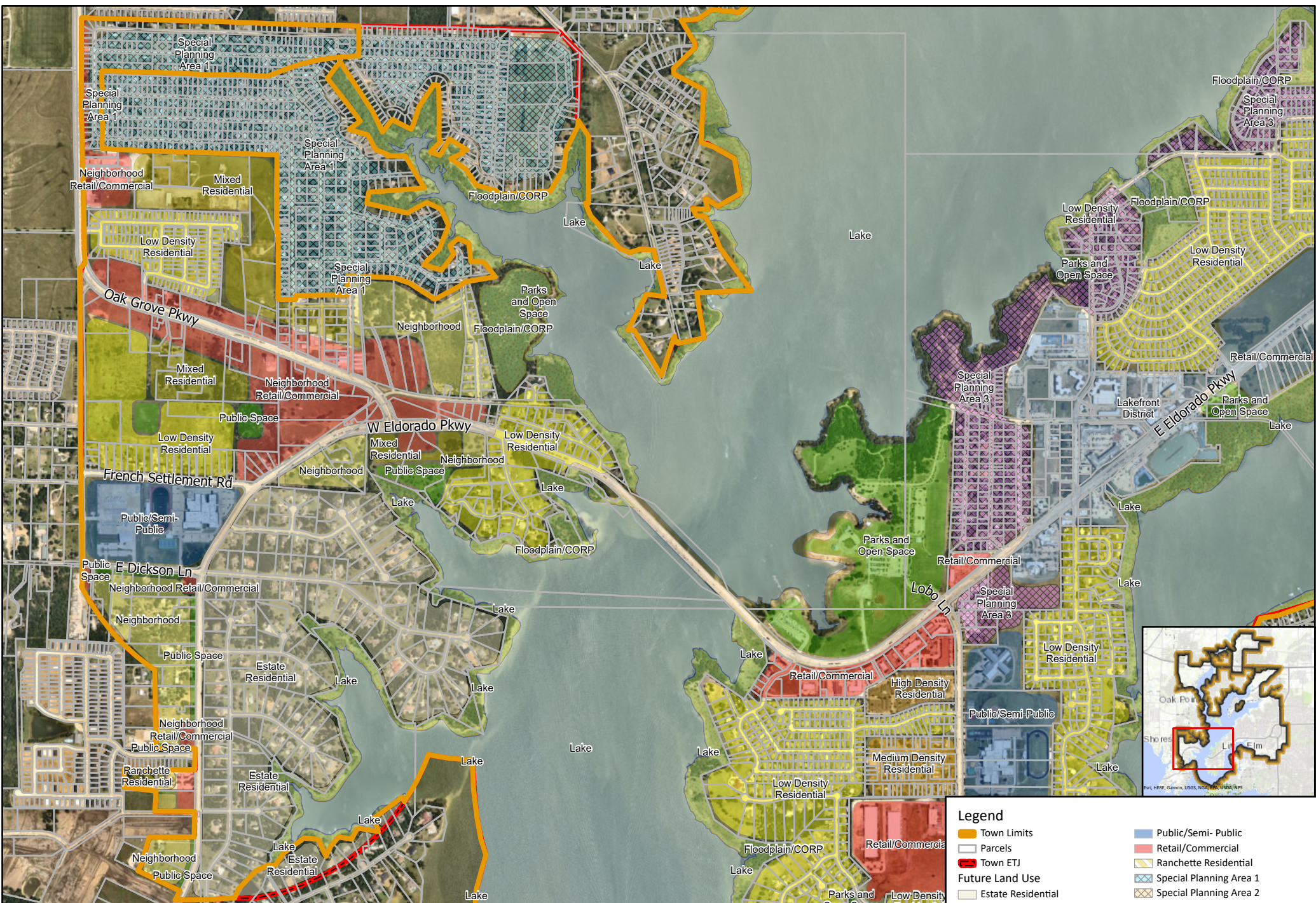
Final Concept


Based on input from the third committee meeting, this concept was determined to be an approach for the west side area.

- Focuses neighborhood commercial along Oak Grove, and at key intersections along El Dorado
- Incorporates greenspace to provide stormwater detention as amenities in development
- Buffers existing residential with new residential; densities from 3-6 dwelling units per acre (du/ac)
- Manages mobility and connectivity through interconnected local streets
- Focuses neighborhood commercial west of intersection at Oak Grove and El Dorado



Path: C:\GIS\2022\Town\Employee\Doc\Service\Gis\Gis\Random\SmallMap\Project\Random\SmallMap\Project.aprx





This product is to be used for graphical representation only. The accuracy is not to be taken as data produced for engineering purposes or by a Registered Professional Land Surveyor for the State of Texas. For this level of detail, supervision and certification of the produced data by a Registered Professional Land Surveyor for the State of Texas would have to be performed. Town of Little Elm and its members assume no responsibility for the accuracy of said data.



2022 FLUP Update

Town of Little Elm
Denton County, TX
Date: 7/18/2022



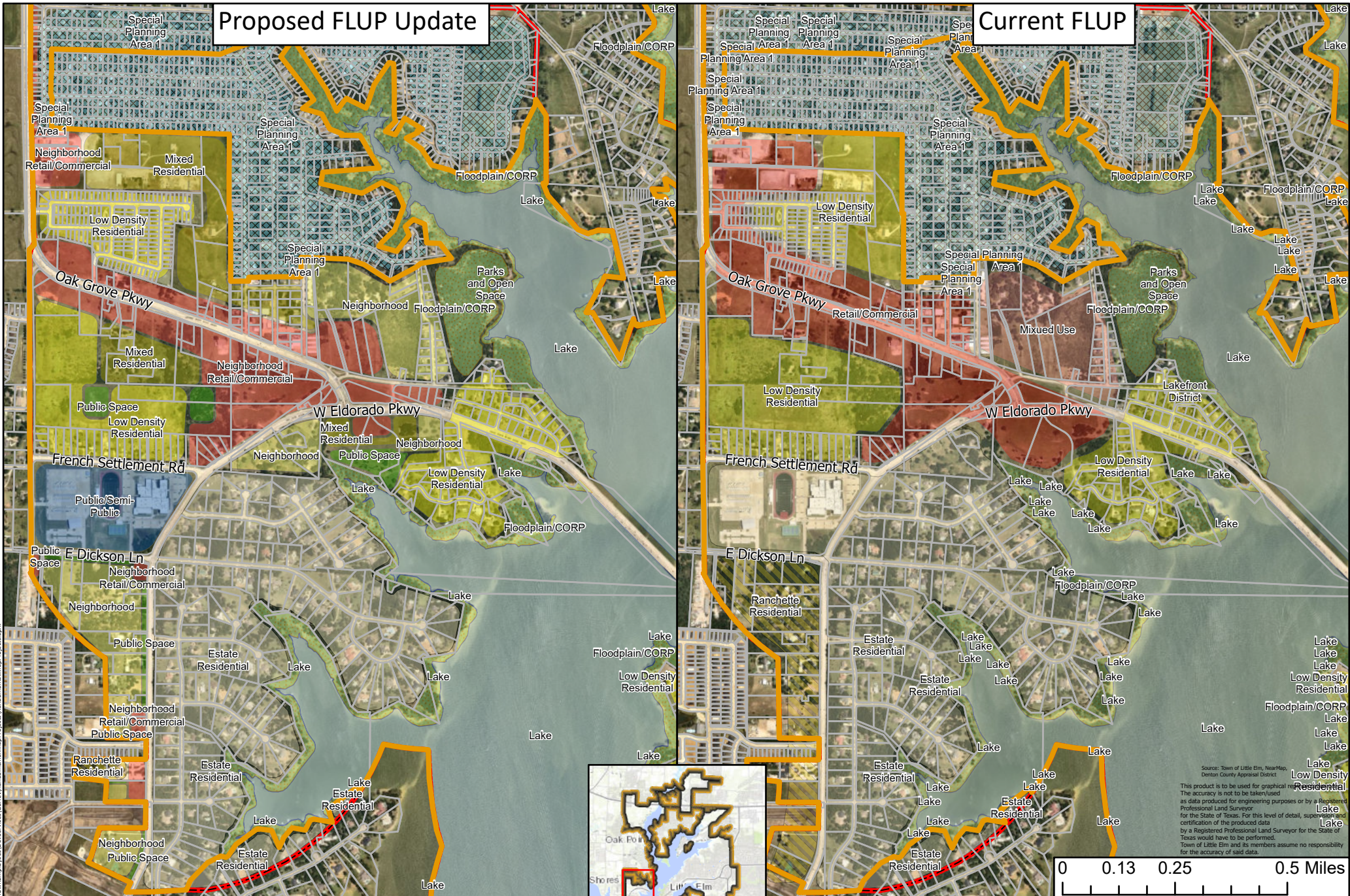
Legend

- Town Limits
- Parcels
- Town ETJ
- Future Land Use
 - Estate Residential
 - Floodplain/ CORP
 - High Density Residential
 - Lake Lewisville
 - Low Density Residential
 - Lakefront District
 - Medium Density Residential
 - Mixed Use

- Public/Semi- Public
- Retail/Commercial
- Ranchette Residential
- Special Planning Area 1
- Special Planning Area 2
- Special Planning Area 3
- Neighborhood
- Public Space
- Mixed Residential
- Neighborhood Retail/Commercial
- Parks and Open Space

Proposed FLUP Update

Current FLUP



Legend

Future Land Use	Medium Density Residential	Special Planning Area 3
Estate Residential	Mixed Use	Neighborhood
Floodplain/ CORP	Public/ Semi- Public	Public Space
High Density Residential	Retail/ Commercial	Mixed Residential
Lake Lewisville	Ranchette Residential	Neighborhood Retail/ Commercial
Low Density Residential	Special Planning Area 1	Parks and Open Space
Lakefront District	Special Planning Area 2	

2022 FLUP Update

Town of Little Elm
Denton County, TX
Date: 7/18/2022



Legend

Town Limits	Low Density Residential	Lakefront District
Parcels	Medium Density Residential	Special Planning Area 1
Town ETJ	High Density Residential	Special Planning Area 2
Future Land Use	Public/ Semi- Public	Special Planning Area 3
Future Land Use	Parks and Open Space	Mixed Use
Estate Residential	Floodplain/ CORP	Lake Lewisville
Ranchette Residential	Retail/ Commercial	Road Centerlines

Source: Town of Little Elm, NearMap, Denton County Appraisal District
This product is to be used for graphical representation only. The accuracy is not to be taken as data produced for engineering purposes or by a Registered Professional Land Surveyor for the State of Texas. For this level of detail, a professional certification of the produced data by a Registered Professional Land Surveyor for the State of Texas would have to be performed. Town of Little Elm and its members assume no responsibility for the accuracy of said data.



TOWN OF LITTLE ELM PLANNING & ZONING COMMISSION

07/21/2022

OVERVIEW

Project	PUBLIC HEARING/Text Amendment - Light Commercial (LC) District.
P&Z Hearing	07/21/2022
Council Hearing	August 23, 2022
Size	N/A
Current Zoning	N/A
Proposed Use	N/A
Existing Use	N/A
Future Land Use Plan Designation	N/A
Applicant	N/A
Owner	N/A
Strategic Goal	

Agenda Item

PUBLIC HEARING/Text Amendment - Light Commercial (LC) District. Public hearing, discussion, and take action on a recommendation regarding a proposed text amendment to Chapter 106, Zoning Ordinance, by amending Sec.106.03.03(e) Light Commercial District, Sec. 106.05.01 Schedule of Uses, and Sec. 106.05.02.2 Special Regulations for Specific Permanent Land Uses (other than accessory uses), Sec. 106.06.42 Parking Access from a Public Street and Sec. 106.06.44 Off-street Parking Standards, in order to provide additional site layout, access, and specific use requirements.

- Staff Report/Applicant Presentation
- Open Public Hearing
- Receive Public Comment
- Close Public Hearing
- Discussion and Recommendation

Location

N/A

Planning Analysis

The West Side Study, adopted in 2021, identified the West Side of Town as an important commercial node, calling for enhanced regulations to stimulate high-quality development opportunities. The Study produced a plan for unified development pattern and desire for specific types of uses and densities that better align with Town's most current overall vision and identity. Key takeaways were to focus on infrastructure improvements, utility extensions, design standards for walkability and connectivity, and updating the comprehensive plan and zoning to reflect appropriate housing and land use types in the Town. After the adoption of the West Side Study, the Town also underwent strategic visioning involving all the boards, commissions, and the Town Council. The resulting strategic vision for the Town directs Staff to focus on prioritizing quality, connectivity, and cohesiveness of new development, as well as redevelopment, within the Town overall.

Based on these two actions, Staff created a set of enhanced standards and site development criteria for commercial sites and specific uses, reflecting the desired design standards prioritizing walkability, connectivity, and activating commercial frontages. These regulations are also intended to substantially advance a legitimate governmental interest that focuses on promoting the economic development of the area, enhancing the job base for residents of Little Elm, and regulating the character of growth. Initially created as a West Side Overlay District, specific to commercial property within the West Side Study boundary, in June 2022 Town Council directed Staff to apply these standards to commercial properties town-wide.

In order to implement this new criteria, Staff is proposing to amend Chapter 106, Zoning Ordinance, by amending Sec.106.03.03(e) Light Commercial District, Sec. 106.05.01 Schedule of Uses, and Sec. 106.05.02.2 Special Regulations for Specific Permanent Land Uses (other than accessory uses, Sec. 106.06.42 Parking Access from a Public Street and Sec. 106.06.44 Off-street Parking Standards, in order to provide additional site layout, access, and specific use requirements.

Sec.106.03.03(e) Light Commercial District, "TABLE U, LC LIGHT COMMERCIAL DISTRICT DEVELOPMENT STANDARDS" currently reads as follows:

(e) LC Light Commercial District.

(1) *Use regulations.* No building, structure, land or premises will be used, and no building or structure shall hereafter be erected, constructed, reconstructed, or altered, except for one or more of the uses specified in section 106.05.01(b), "schedule of uses - nonresidential."

(2) *Height and area regulations.* The height of buildings, the minimum dimensions of the lots and yards shall be as follows:

Maximum height	160'
Minimum front yard setback	20'
Maximum front yard setback	100'
Minimum side yard setback ²	No minimum
Minimum side yard setback adjacent to residential ²	5'
Minimum rear yard setback	No minimum
Minimum rear yard setback adjacent to residential	35'
Minimum lot width	50'
Minimum lot area ³	1 acre

Note 1. Height. Nonresidential buildings shall not exceed 60 feet. Portions of buildings within 120 feet of a single-family residential lot may not exceed 45 feet in height. Beyond 120 feet, the building must fit within a plane created by a slope of one foot in additional height for each additional three feet from the property line.

Note 2. Side yard. Where a lot abuts upon the side of a lot zoned for dwelling purposes there shall be a side yard of not less than five feet, otherwise no side yard shall be required but, if provided, it shall be

not less than five feet. On corner lots, with lots having reversed frontage at the rear, the side yard requirements shall be the same as A-2 Single-Family District.

Note 3. Lot size. The minimum lot size for nonresidential districts is one acre, unless otherwise approved through the site plan process.

Staff is proposing the following changes to Sec.106.03.03(e) Light Commercial District, "TABLE U, LC LIGHT COMMERCIAL DISTRICT DEVELOPMENT STANDARDS":

(e) *LC Light Commercial District.*

(1) *Use regulations.* No building, structure, land or premises will be used, and no building or structure shall hereafter be erected, constructed, reconstructed, or altered, except for one or more of the uses specified in section 106.05.01(b), "schedule of uses - nonresidential."

(2) *Height and area regulations.* The height of buildings, the minimum dimensions of the lots and yards shall be as follows, **with allowance for administrative modification of up to 10%:**

Maximum height ¹	60'
Minimum front yard setback on TxDOT roadways	20'
Minimum front yard setback on all other roadways	10'
Maximum front yard setback on TxDOT roadways	80'
Maximum front yard setback on all other roadways	30'
Minimum side yard setback ²	No minimum
Minimum side yard setback adjacent to residential²	20'
Minimum rear yard setback	No minimum
Minimum rear yard setback adjacent to residential	35'
Minimum lot width	50'
Minimum lot area³	10,000 square feet
Maximum Lot Coverage	70%

The changes shown above would allow flexibility for infill development and redevelopment, encourage buildings to locate closer to the street in order to activate the commercial frontages, and provide maximum impervious surface coverage, as one does not currently exist within this district. Additionally, the side yard setback, when commercial development is adjacent to single-family residential, is revised from 5 feet to 20 feet in order to match the current landscape requirements for a 20-foot landscaped buffer along the same adjacency.

Sec. 106.05.01 Schedule of Uses currently allows the following uses as-of-right or through a Conditional Use Permit (CUP) within the Light Commercial District:

- Alternate energy systems; Solar panels/devices and Wind energy conversion systems (WECS).
- Alternative financial services
- Auto Parking, lot or garage
- Bank, savings and loan, credit union
- Communication Tower
- Mixed-used Building
- Motorcycle sales/service
- Restaurant, drive-in
- Restaurant, drive-thru

Staff is proposing that these uses require a Specific Use Permit (SUP), per Sec. 106.05.02.2 Special Regulations for Specific Permanent Land Uses (other than accessory uses), in order to allow the Administration to review each application for situational suitability, and ensure that the site layout criteria are being followed. It should be noted that Alternative Financial Services and Communication Towers are

currently shown on the use chart as allowed through CUP, but within the special regulations sections they are identified as requiring SUP, so this is simply a correction to the use chart, across all districts.

It should also be noted that mixed-use buildings (retail ground floor and/or residential/commercial above) are currently allowed through CUP within the Light Commercial, Heavy Commercial, Light Industrial, and Heavy Industrial districts; which is an administrative approval if the site meets the criteria outlined through the CUP section. Staff has concerns about the current definition and criteria lacking appropriate regulation and believes that it would be more appropriate to require review and approval by Town Council. As part of this amendment process, Staff is proposing to make the mixed-use building use require an SUP within the Light Commercial, Heavy Commercial, Light Industrial, and Heavy Industrial districts.

Sec. 106.05.02.2 Special Regulations for Specific Permanent Land Uses (other than accessory uses) subsequently has to be amended, especially to include the specific criteria for the newly listed uses requiring a Specific Use Permit (SUP). The following subsection will be added for uses containing drive-thru and drive-in facilities:

(y) Drive-in or drive-thru facilities

(1) Application. Drive-in or drive-thru facilities shall be considered through the specific use permit process, subject to review and approval by Town Council.

(2) Definition. Establishments providing services to customers in motor vehicles that are either temporarily parked, or through a service window and a drive-thru lane, such as drive-in or drive-thru restaurants, banks offering drive-thru services, gas pumps/fuel sales, or similar concepts.

(3) Regulations.

a. Drive-thru and queue lanes shall not be located between the front of the building (primary entrance) and a public right-of-way.

b. Auto-oriented facilities shall not block or conflict with pedestrian or bicycle access or walkways.

c. Screening shall be provided between the facility and any public right-of-way using evergreen screening vegetation, at least 36 inches in height, at the time of planting, a low fence or wall, no more than 42 inches in height, or a combination of both.

d. Pertaining to corner lots, the first 25 feet on a side street from the intersection, shall also be considered front of the building and a primary entrance.

(4) Approval. Town council through the SUP process.

The following subsection will be added to Sec. 106.06.42 Parking Access from a Public Street in order to provide for additional access and connectivity standards for all commercial properties.

(g) Commercial property access and connectivity.

(1) Access to the parking lot shall be limited to a side street, common drive, or from a cross-access easement through the block. Access from TxDOT roadways shall be managed through TxDOT permitting process.

(2) Cross-access priority shall be at the rear of the lot or through an alley. When rear cross-access or alley is not available, a slip lane condition at the front of the lot may be permitted.

(3) Driveways shall be limited to side streets as a primary option. An alternative to side street access, shared driveways between lots, may be permitted. Preference will be given towards overall corridor connectivity.

(4) Director of Development Services, or assignee, shall have the discretionary authority to consider and approve exceptions to these requirements, on a case-by-case basis, based on compelling evidence requiring alternate measures to ensure traffic safety and circulation.

The following subsection will be added to Sec. 106.06.44 Off-street Parking Standards - Nonresidential and Multifamily Districts in order to limit parking lot location to the side and back of the building, and allow for a slip road condition limiting parking along the street frontage.

(m) *New construction.* All new construction shall have parking developed to the side or rear of the building, with cross-access connectivity between lots to access parking from side streets.

(1) Temporary driveways may be used to provide access to side and rear parking lots while cross-access is being established.

(2) Front parking may be accommodated by using slip lanes along TxDOT highways.

i. If a slip lane is planned, there shall be no more than one row of head-in parking on either side of the drive aisle (one row along the right-of-way and one row along the building).

ii. If a slip lane is planned, screening of the front parking is required using evergreen screening vegetation, at least 36 inches in height, at the time of planting, a low fence or wall, no more than 42 inches in height, or a combination of both.

The proposed amendments will allow flexibility for new development, infill development, and redevelopment on commercial property throughout Town, as well as allow Staff official regulations and flexibility to ensure quality unique development in line with the Town's Strategic Vision.

Recommended Action

Staff recommends approval of the request as persented.

Attachments

Sec. 106.03.03 Zoning districts—Non-residential, commercial, industrial. (redlined)

Sec. 106.05.01 Schedule of uses. (redlined)

Sec. 106.05.02.2 Permanent land uses (other than accessory uses). (redlined)

Sec. 106.06.42 Parking access from a public street—All districts. (redlined)

Sec. 106.06.44 Off-street parking standards—Nonresidential and multifamily districts. (redlined)

Sec. 106.03.03 Zoning districts—Non-residential/commercial/industrial.

(e) *LC Light Commercial District.*

- (1) *Use regulations.* No building, structure, land or premises will be used, and no building or structure shall hereafter be erected, constructed, reconstructed, or altered, except for one or more of the uses specified in section 106.05.01(b), "schedule of uses - nonresidential."
- (2) *Height and area regulations.* The height of buildings, the minimum dimensions of the lots and yards shall be as follows, with allowance for administrative modification of up to 10%:

ARTICLE III, TABLE U	
LC LIGHT COMMERCIAL DISTRICT DEVELOPMENT STANDARDS	
Maximum height ¹	60'
Minimum front yard setback <u>on TxDOT roadways</u>	20'
<u>Minimum front yard setback on all other roadways</u>	<u>10'</u>
Maximum front yard setback <u>on TxDOT roadways</u>	<u>80 100'</u>
<u>Maximum front yard setback on all other roadways</u>	<u>30'</u>
Minimum side yard setback ²	No minimum
Minimum side yard setback adjacent to residential ²	<u>20 5'</u>
Minimum rear yard setback	No minimum
Minimum rear yard setback adjacent to residential	35'
Minimum lot width	50'
Minimum lot area ³	<u>10,000 square feet 1-acre</u>
<u>Maximum Lot Coverage</u>	<u>70%</u>

Note 1. Height. Nonresidential buildings shall not exceed 60 feet. Portions of buildings within 120 feet of a single-family residential lot may not exceed 45 feet in height. Beyond 120 feet, the building must fit within a plane created by a slope of one foot in additional height for each additional three feet from the property line.

Note 2. Side yard. Where a lot abuts upon the side of a lot zoned for dwelling purposes there shall be a side yard of not less than five feet, otherwise no side yard shall be required but, if provided, it shall be not less than five feet. On corner lots, with lots having reversed frontage at the rear, the side yard requirements shall be the same as A-2 Single-Family District.

Note 3. Lot size. The minimum lot size for nonresidential districts is one acre, unless otherwise approved through the site plan process.

Dwelling, multifamily									
Dwelling, single-family detached	P								
Dwelling, townhome							P	S	S
Senior living facility		S			S		S		
Mixed use building					ES	ES	P	ES	ES
Accessory and Incidental Uses									
Accessory structure	C	C	C	C	C	C	C	C	C
Automated dispenser machine			P		P	P		P	P
Automated intake machine			S		S	S		S	S
Automated teller machine, off-site			S		S	S		S	S
Caretaker's/guard's residence						C		C	C
Construction yard, field office, temporary	C	C	C		C	C	C	C	C
Farm accessory building	C								
Home occupation	C				C	C	C		
Open storage, permanent/ongoing	S				S	S		S	S
Open storage, temporary					C	C		C	C
Seasonal sales	C				C	C		C	C
Solar panels, devices, commercial		C			ES	C	C	C	C
Vending kiosk, commercial		C			C	C	C	C	C
Vending kiosk, not-for-profit	C	C	C	C	C	C	C	C	C
Wind energy conversion system (WECS)	C	C	C	C	ES	C	C	C	C
Assembly uses	S	P	P	P	P	P	P	P	P
Athletic stadium or field	S	S	S	P	S	S		S	S

Sewage pumping station	P	P	P	P	P	P	P	P	P
Sewage treatment plant	S	S	S	S	S	S		S	S
Telephone exchange	S	S	P		P	P	P	P	P
Transit center/bus terminal		P	P		P	P	P	P	P
Utility distribution/transmission line	S	S	S		S	S	S	S	S
Water Reservoir, water pumping station, water well	P	P	P		P	P	P	P	P
Water treatment plant	S	S	S		S	S		S	S
Retail Uses									
Antique shop and used furniture, inside only					P	P	P	P	P
Arcade					S	S	S	S	S
Bakery, candy or ice-cream shop			P		P	P	P	P	P
Bar/brewpub					S	S	P	S	S
Building material and hardware sales, major					P	P	P	P	P
Building material and hardware sales, minor					P	P	P	P	P
Commercial amusement, indoor					P	P	P	P	P
Commercial amusement, outdoor					S	S	S	P	P
Farmers market					S	S	S	S	
Florist			P		P	P	P	P	P
Greenhouse/nursery for plant sales		S			P	P	P	P	P
Heavy machinery sales and storage						P		P	P
Portable building sales					S	P		P	P
Private club					S	S			
Restaurant, dine-in		S	P		P	P	P	P	P
Restaurant, drive-in			S		<u>PS</u>	P	P	P	P

Restaurant, drive-thru			S		P S	P	P	P	P
Restaurant, with brewpub					P	P	P	P	P
Restaurant, pick-up only					P	P	P	P	P
Smoking Establishment		S	S		S	S	S	S	S
Store, big box					P	P	P	P	P
Store, convenience			P		P	P	P	P	P
Store, discount, variety, or department store					P	P	P	P	P
Store, drugstore or pharmacy					P	P	P	P	P
Store, feed					P	P		P	P
Store, florist			P		P	P	P	P	P
Store, grocery					P	P	P	P	P
Store, hardware and home imp.					P	P	P	P	P
Store, incidental (within another use)					P	P	P	P	P
Store, liquor					S	S	S	S	S
Store, pet shop					S	S	S	S	S
Store, shopping center					P	P	P	P	P
Store, other than listed above					P	P	P	P	P
Theatre, indoor		S			P	P	P	P	P
Theatre, drive-in					S	P		P	P
Winery/brewery retail sales					P	P	P	P	P
Service Uses									
Alternative financial services					E S	C		C	C
Bank, savings and loan, or credit union		P			P S	P	P	P	P
Bed and breakfast inn	S	P	P		P		P		

Body art studio						S	S	S	S
Business Service	S	S	S		S	S	S	S	S
Campground or RV park	S								
Catering service					P	P	P	P	P
Child care center		S	S		S	S	S	S	S
Child care center, in-home	C								
Cleaning and pressing (small shop/pickup)			P		P	P	P	P	P
Clinic/medical lab		P	P		P	P	P	P	P
Clinic, animal (no outside runs)	S		P		P	P	P	P	P
Clinic, animal (with outside runs)	S				S	P		P	P
Commissary					S	S		S	S
Contractor's shop with outside storage						P		P	P
Contractor's shop inside only					P	P		P	P
Custom personal service		P	P		P	P	P	P	P
Day Service, Adult		S	S		S	S	S	S	S
Fairgrounds/exhibition area		S			S	P		P	P
Fortune teller/psychic						S		S	S
Funeral home/crematorium		S			S	S		S	S
Funeral home/mortuary		S			P	P	P	P	P
Gunsmith					P	P	P	P	P
Gymnastics/dance studio/martial arts		P	P		P	P	P	P	P
Health/fitness center		P			P	P	P	P	P
Hotel, extended stay					S	S	S	S	S
Hotel, full service					P	P	P	P	P
Hotel, limited service					S	S	S	S	S

Household appliance service and repair		S	P		P	P	P	P	P
Incidental retail and service uses			P		P	P	P	P	P
Kennel, no outside runs					P	P	P	P	P
Kennel, with outside runs					S	S	S	S	S
Laundry/dry cleaning, commercial						P		P	P
Laundry/dry cleaning, pickup station			P		P	P	P	P	P
Laundry/dry cleaning, self-service					P	P		P	P
Motel									
Office, professional and general administrative		P	P		P	P	P	P	P
Personal service (other than listed)					P	P	P	P	P
Print shop, minor retail shop					P	P	P	P	P
Sexually oriented businesses								C	C
Studio, photography, music, artistry		P	P		P	P	P	P	P
Studio, media		P			P	P	P	P	P
Automobile and Vehicular Uses									
Auto/boat repair, major					S	S		S	S
Auto/boat repair, minor					S	S		S	S
Auto/boat sales, accessories only					P	P	P	P	P
Auto/boat sales/leasing, new, outdoor display					S	S		P	P
Auto/boat sales, used, outdoor display						S		P	P
Auto/boat/RV storage						S		P	P
Auto parking, lot or garage		P			<u>PS</u>	P	P	P	P
Auto wash, automated					S	S		S	S
Auto wash, full-service					S	S		S	S

Auto wash, self-serve						S		S	S
Gas pumps/fuel sales					S	S		S	S
Manufactured/mobile home display and sales								S	P
Motorcycle sales/service					<u>PS</u>	P		P	P
Truck, trailer, heavy equipment, RV, bus repair								P	P
Truck, trailer, heavy equipment, RV and bus sales and leasing						P		P	P
Truck terminal						P		P	P
Industrial and Manufacturing Uses									
Concrete batch plant, permanent									S
Concrete batch plant, temporary	C	C	C		C	C		C	C
Machine/welding shop								P	P
Manufacturing or industrial uses, heavy									C
Manufacturing or industrial uses, light								C	C
Mini-warehouse/self-storage						S		S	S
Office/showroom						P		P	P
Print shop, industrial						P		P	P
Research and dev't center						P		P	P
Salvage yard, wrecking yard									S
Warehouse/distribution center								P	P
Winery/brewery/distillery manufacturing					S	S	P	P	P

(Ord. No. 1407, § 2, 8-15-2017; Ord. No. 1582, § 2, 12-1-2020; Ord. No. 1587, § 2, 1-5-2021)

Sec. 106.05.02.2 Permanent land uses (other than accessory uses).

(a) *Airport/helipad/heliport.*

- (1) *Application.* Approval of an airport, landing field, or heliport requires a special use permit, subject to review and approval by town council.
- (2) *Definitions.*
 - a. *Airport/heliport.* A place where aircraft and/or helicopters can land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for pilots and passengers.
 - b. *Helipad.* A place, typically on the roof of a hospital or a small ground area where helicopters may land and take off, but without any service or fueling capabilities.
- (3) *Regulations.*
 - a. No such use shall be located within 400 feet of any residential structure, and no residential structure shall be located within 400 feet of any such use.
 - b. No such use shall be located within 400 feet of any area zoned residential by the town or shown as residential on the existing Comprehensive Land Use Plan of the town.
 - c. Such distances shall be measured as the shortest possible distance in a straight line from the closest point of the proposed use to the closest point of the residential structure or area.
 - d. Notwithstanding the foregoing, such uses may be located in closer proximity by specific use permit.
- (4) *Approval.* Town council through the SUP process.

(b) *Alternative energy sources—Solar panels/devices.*

- (1) *Application.* The application to allow a solar device or system, for residential use, requires the approval of a conditional use permit, issued at the discretion of the director; for non-residential use, requires the approval of a specific use permit, subject to the review and approval by Town Council.
- (2) *Definition.* A solar panel or device is a structure that is intended to capture the light from the sun and transfer that energy to electricity for general use.
- (3) *Regulations for single-family residential use:*
 - a. Is in compliance with state law and poses no threat to public health or safety;
 - b. Is located solely on private property;
 - c. Includes approval letter from the HOA with submittal for the CUP, if applicable.
 - d. Installation and maintenance in compliance with manufacturer's recommendations and warranties;
 - e. Roof mounted:
 1. Panels shall be designed and installed in conformance with the International Fire Code, as amended;
 2. Panels must conform to the slope of the roof, unless mounted on a roof slope that is not visible from the right-of-way; and
 3. Roof mounted panels should be designed and installed to reduce excessive glare.

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- f. Ground mounted:
 - 1. Prohibited in front yards.
 - 2. Ground mounted devices shall follow the setbacks required for accessory structures within the specific zoning district.
 - 3. Device shall not be visible from either the public right-of-way or the adjacent properties;
 - 4. Device shall be screened by a wooden or masonry fence and no device shall extend above the fence line.
 - 5. Where fences are not allowed within the residential subdivision, a solid evergreen hedge which shall be maintained at a minimum of six feet in height within 18 months of planting.
 - (4) Regulations for nonresidential structures:
 - a. Is in compliance with state law and poses no threat to public health or safety;
 - b. Is located solely on private property;
 - c. Installation and maintenance in compliance with manufacturer's recommendation and warranties;
 - d. Is located on the roof;
 - e. Panels located on a sloped roof may not extend beyond the roofline and must conform to the slope of the roof, unless mounted on a roof slope that is not visible from the public right-of-way.
 - f. Panels located on a flat roof must be screened from view from the adjacent roadways.
 - ~~g. No ground mounted solar panels are permitted in nonresidential districts without the approval of a specific use permit, subject to the review and approval of the town council.~~
 - (5) *Approval.* ~~For residential use, Once the director has determined that the conditions listed in (3) above have been met, approval for the conditional use permit may be granted.~~ For non-residential use, approval is subject to review by Town Council through the SUP process.
 - (c) *Alternative energy sources—Wind energy conversion system (WECS).*
 - (1) *Application.* The application to allow a WECS system, for residential use, requires the approval of a conditional use permit, issued at the discretion of the director; for non-residential use, requires the approval of a specific use permit, subject to the review and approval by Town Council.
 - (2) *Definition.* A WECS device is a structure that is intended to capture the wind and transfer that energy to electricity for general use.
 - (3) *Regulations for single-family residential use:*
 - a. Freestanding WECS are prohibited on residential lots less than one acre in size.
 - b. Shall not be allowed in the front yard.
 - c. The highest point of a roof-mounted WECS shall not project more than five feet above the roof line, excluding the highest point of the blade arc.
 - d. Freestanding WECS shall be of monopole design and shall not be located in any required setback.
 - e. Freestanding WECS shall abide by the height and setback regulations of the specific zoning district and be located at least a distance equal to the height of the pole away from any structure or property line.
 - (4) *Regulations for other than single-family residential use:*

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- a. WECS may exceed the height limits of the zoning district, up to a maximum of 80 feet, if located at least a distance from any residential district boundary line or residential dwelling equal to the height of the support structure. Height shall not include the highest point of the blade arc and shall refer to the highest point of the pole structure.
 - b. The minimum lot size required for a WECS is one acre. Only one low impact WECS shall be allowed per platted lot.
 - c. The WECS shall not be located within any required setback area for the front, side or rear yards.
 - d. The WECS' freestanding blade arc spheres shall have a minimum 30-foot clearance from any structure, tree or any other impediment.
 - e. All associated wiring shall be buried underground by means of a conduit system, or if ground-mounted equipment is required, then a minimum eight-foot-high masonry wall shall be constructed.
 - f. The WECS shall be constructed in a monopole design of tubular steel and shall be self-supporting without the use of guy wires or other similar features.
 - g. The WECS shall be a neutral or earth tone color. The proposed paint type shall be a dull or matte finish so as to reduce the possibility of any glare or reflection and to minimize the visual obtrusiveness of the WECS.
 - h. All commercial signs, flags, lights and attachments shall be prohibited on the WECS, unless required for structural stability, or as required for flight visibility by the Federal Aviation Administration (FAA).
 - i. The WECS shall be equipped with both a manual and an automatic braking device capable of stopping the WECS' operation in high winds.
 - j. The WECS shall meet or exceed current standards and regulations of the FAA and any other agency of the state or federal government with the authority to regulate such systems.
 - k. The WECS shall not be grid-interconnected until and unless evidence has been provided to the town that the appropriate electric power provider has approved the customer's intent to install a grid-connected customer-owned WECS and that the customer's system meets the utility's approved specifications for interconnection.
 - l. The WECS shall be grounded and shielded to protect against natural lightning strikes and stray voltage, including the blades.
 - m. The WECS shall be adequately designed structurally, electrically, and in all other respects to accommodate the safety and general well-being of the public.
 - n. The WECS shall be maintained at all times according to the manufacturer's specifications.
 - o. The WECS shall be filtered, shielded or otherwise designed and constructed so as not to cause electrical, radio frequency, television and other communication signal interference.
 - p. The WECS shall be prohibited from including a tower climbing apparatus within 12 feet of the ground.
 - q. The WECS shall adhere to the performance standards of the zoning ordinance, in regard to maximum sound pressure levels. The noise levels measured at the property line of the property on which the conversion system has been installed shall not exceed 60 decibels and in no event shall the conversion system create a nuisance.

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- r. If the WECS is not in operation for a period of six months, it shall be deemed abandoned and shall be removed at the owner's expense.
- s. ~~With the approval of a specific use permit, in any district, any one or more of the above development standards may be excused, subject to review and approval by the town council.~~
- (5) *Approval.* For residential use, Once the director has determined that the conditions listed in (3) or (4) above, as applicable, have been met, approval for the conditional use permit may be granted. For non-residential use, approval is subject to review by Town Council through the SUP process.
- (d) *Alternative financial services.*
- (1) *Application.* Approval of an alternate financial services facility requires a specific use permit, subject to review and approval by town council.
- (2) *Definition.* A check cashing business, payday advance or loan business, money transfer business, car title loan business or pawn shop (see section 106.01.14, "land use definitions" for more detailed definitions of each type of alternative financial services).
- (3) *Regulations.*
- a. Alternative financial services shall be situated only within a freestanding building on a platted lot and shall not be co-located in the same structure as other uses.
- b. A lot containing an alternative financial service shall be located at least 1,000 feet from any lot containing another alternative financial service, as measured in a straight line between the nearest points of one lot to the other lot.
- c. A lot containing an alternative financial service shall be located at least 200 feet from any lot zoned or used for residential purposes, as measured in a straight line between the nearest points of one lot to the other lot.
- d. No lot containing an alternative financial service shall be located within 500 feet of the rights-of-way of Eldorado Parkway, F.M. 720 or F.M. 423.
- e. No alternative financial services shall be permitted within the Lakefront District.
- (4) *Approval.* Town council through the SUP process.
- (e) *Bars/brewpubs (this classification also includes wine tasting bars, growlers, and other similar uses).*
- (1) *Application.* Approval of a bar or brewpub requires a specific use permit, subject to review and approval by town council, unless located within a zoning district or overlay district that allows these uses by right.
- (2) *Definition.* An establishment principally for the sale and consumption of alcoholic beverages on the premises that derives 75 percent or more of its gross revenue on a quarterly (three-month) basis from the sale or service of alcoholic beverages, as defined in the Texas Alcoholic Beverage Code, for on-premises consumption.
- (3) *Regulations.*
- a. Prior to issuance of a certificate of occupancy, the business owner shall provide the town with a copy of its state permit to operate as a bar, brewpub, or similar use.
- b. All alcohol-related activities must meet all standards found in chapter 10, alcoholic beverages, of the Little Elm Code of Ordinances.
- (4) *Approval.* Town council through the SUP process, unless located within a zoning district that allows these uses by right.

(f) *Bed and breakfast.*

- (1) *Application.* The application to allow a bed and breakfast within a private residence requires the approval of a conditional use permit, issued at the discretion of the director.
- (2) *Definition.* A residential home, occupied by the owner or manager, where the owner or manager rents one or more bedrooms for remuneration and provides a breakfast meal to the guest(s).
- (3) *Regulations.*
 - a. Guest parking must be provided on the residential lot and not on the street.
 - b. The owner or manager shall be responsible for any noise or disruption of the neighborhood caused by the guests.
 - c. The owner or manager shall register with the state to pay any applicable taxes and shall pay the hotel occupancy tax to the Town of Little Elm on a quarterly basis.
- (4) *Approval.* Once the director has determined that the bed and breakfast is appropriate for the location requested and that the regulations listed in (3), above, have been met and will continue to be met, approval for the conditional use permit may be granted.

(g) *Caretaker or guard residence.*

- (1) *Application.* Part of the site plan process.
- (2) *Definition.* A residence located on a premises with a main nonresidential use and occupied only by a caretaker or guard, and his/her family, employed on the premises.
- (3) *Regulations—No specific regulations.* Approval is subject to the director's discretion.
- (4) *Approval.* A caretaker or guard residence shall be approved as part of the site plan process.

(h) *Communication antennas.*

- (1) *Application.* Approval of an additional or substitute antennas on an existing communication tower requires a conditional use permit, issued at the discretion of the director.
- (2) *Definition.* An antenna is an instrument or device consisting of wires, poles, rods, or reflecting discs, designed for transmitting or receiving any portion of the radio, microwave, or electromagnetic spectrum.
- (3) *Regulations.*
 - a. A commercial antenna may be attached to a utility structure (elevated water tank, electric transmission pole, etc.) regardless of the height of said structure, provided that the antenna does not extend more than ten feet above the height of said structure.
 - b. A commercial antenna may be placed wholly within any building permitted in the zoning district. A commercial antenna may be mounted flush to the exterior of a building/structure if it is painted and/or disguised to integrate into the overall architectural design and is not readily visible/identifiable as an antenna from public roadways or neighboring residential properties.
 - c. All commercial signs, flags, lights and attachments shall be prohibited on any antenna or antenna support structure, unless required for communications operations, structural stability, or as required for flight visibility by the FCC and the Federal Aviation Administration (FAA).
 - d. No communication tower, antenna, antenna support structure, microwave reflector/antenna, or associated foundations or support wires or appurtenances shall be located within any required setback area for the front, side or rear yards.

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- e. At time of application, existing condition coverage maps of the vicinity shall be submitted showing current coverage and coverage after construction.
 - 6. Collocation of antennas and antenna support structures shall be required.
 - (4) *Approval.* Once the director has determined that the location of the antenna or antennas is appropriate for the tower or location requested and that the regulations listed in (3), above, have been met and will continue to be met, approval for the conditional use permit may be granted.
- (i) *Communication support structure/tower.*
- (1) *Application.* Approval of a communication tower or support structure requires a special use permit, subject to review and approval by town council.
 - (2) *Definitions.*
 - a. *Antenna support structure, commercial.* An antenna and its support structure used for commercial broadcasting or telecommunication purposes. This definition shall also include a satellite dish exceeding 12 feet in diameter and a microwave-transmitting tower. All radiating equipment must comply with Federal Communications Commission (FCC), Environmental Protection Agency (EPA), Occupational Health and Safety Administration (OSHA), and all other applicable state and federal regulatory agency requirements and guidelines for human safety, as they exist or may be amended. Definition includes ancillary ground equipment.
 - b. *Antenna and/or antenna support structure, noncommercial.* An instrument or device consisting of wires, poles, rods, or reflecting discs and its support structure not exceeding 40 feet in height above the ground elevation at the base of the support structure, designed for transmitting or receiving any portion of the radio, microwave, or electromagnetic spectrum. This definition shall also include a satellite dish antenna not to exceed 12 feet in diameter.
 - c. *Antenna, stealth.* A stealth antenna is a commercial antenna that is designed to be non-obtrusive, or virtually transparent or invisible to the surrounding neighborhood. Stealth antennas include, but are not limited to:
 - 1. Antennas within a building's attic space,
 - 2. Antennas on the roof of a minimum three-story building and not visible from the property line of the lot on which the antenna is located,
 - 3. Antennas on a public utility structure, such as a water tower or high transmission line support tower, and painted to match the structure,
 - 4. Antennas located within a structure such as a flagpole, church steeple, subdivision monument, clock tower, or similar architectural feature, and antennas located on an athletic field light pole.
 - d. *Antenna support structure.* Any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of transmission, retransmission, and/or reception of electromagnetic, radio, television, or microwave signals.
 - (3) *Regulations.*
 - a. Commercial towers may exceed the height limits of the zoning district, up to a maximum height of 125 feet, if located a distance from any residential district boundary line or residential dwelling at least equal to the height of the support structure.
 - b. Towers shall be of stealth, monopole design with no visible antennas, wires, racks or transmitters.

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- c. Tower sites shall be screened with a minimum eight-foot-high solid masonry wall with a solid metal gate.
 - d. Towers shall be designed structurally, electrically, and in all respects to accommodate both the applicant's antennas and comparable antennas for at least three additional users if the tower is 100 feet or greater in height, or for at least two additional users if the tower is over 50 feet, but less than 100 feet in height.
 - e. Towers shall be a muted and dull shade of grey or blue to match the sky, or if applicable, shall match the background color of the landscape and terrain.
 - f. Towers shall be accessible by a 24-foot-wide concrete fire lane, subject to review and approval by the fire marshal.
 - g. There shall be a minimum of one concrete parking space that is not located in a fire lane.
 - h. A commercial antenna may be attached to a utility structure (elevated water tank, electric transmission pole, etc.) regardless of the height of said structure, provided that the antenna does not extend more than ten feet above the height of said structure.
 - i. A commercial antenna may be placed wholly within any building permitted in the zoning district. A commercial antenna may be mounted flush to the exterior of a building/structure if it is painted and/or disguised to integrate into the overall architectural design and is not readily visible/identifiable as an antenna from public roadways or neighboring residential properties.
 - j. All commercial signs, flags, lights and attachments shall be prohibited on any antenna or antenna support structure, unless required for communications operations, structural stability, or as required for flight visibility by the FCC and the Federal Aviation Administration (FAA).
 - k. No communication tower, antenna, antenna support structure, microwave reflector/antenna, or associated foundations or support wires or appurtenances shall be located within any required setback area for the front, side or rear yards.
 - l. At time of application, existing condition coverage maps of the vicinity shall be submitted showing current coverage and coverage after construction. Communication towers require site plan approval, prior to making application for a building permit.
 - m. Collocation of antennas and antenna support structures shall be required. No new towers shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the town that no existing antenna support structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:
 - 1. No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements;
 - 2. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements;
 - 3. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment; or
 - 4. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - n. A lot containing a communication tower shall be located at least 2,000 feet away from any lot containing another communication tower greater than 50 feet in height, as measured in a straight line between the nearest points of one lot to the other lot.

- o. With the approval of a specific use permit, any one or more of the above development standards may be excused, subject to review and approval by the town council.
 - (4) *Approval*. Town council through the SUP process.
- (j) *Home child care*.
 - (1) *Application—None required from the town* . Home child care facilities are regulated by the state.
 - (2) *Definition*. A home occupation that provides regular child care for compensation in their primary residence for less than 24 hours a day.
 - (3) *Regulations*. It is considered a violation of this section for a facility to provide care for a number of children that exceeds what is allowed per the classification shown on the state permit to be submitted with the town's home occupation registration. Uses must register with the town annually and show proof of state permit. This use is subject to regulation by the Texas Department of Family and Protective Services and all home occupation regulations of the Town of Little Elm Code of Ordinances.
 - (4) *Approval*. No approval is needed from the town.
- (k) *Home occupations*.
 - (1) *Application*. None required unless if subsection (3) applies. Home occupations are conducted at the discretion of the property owner.
 - (2) *Definition*. A home occupation is defined as a business, occupation or profession which is an accessory use of a residential dwelling unit conducted by a resident thereof and which is clearly customary, incidental and a subordinate secondary use of the residential dwelling unit or residential premises by the resident thereof and which does not alter the exterior of the property or affect the residential character of the neighborhood. Home occupations may be permitted in accordance with the use chart in section 106.05.01(a), "schedule of uses - residential." A home-based business is permitted as an incidental use and is secondary to the use of a dwelling. As such, the town council may at any time amend this subsection to terminate any or all home-based business uses without creating nonconforming rights to the continuance of a home-based business.
 - (3) *Certificate of occupancy (CO) required in specific cases*. No resident shall be allowed to operate a home-based business that employs anyone other than the occupants of the residence unless and until the building official has issued an annual registration certificate and has conducted a certificate of occupancy inspection. The issuance of a certificate requires that a person operating a home occupation affirm knowledge of, and intent to comply with, all ordinances applicable to home occupations. The building official shall establish that the proposed use is allowable under the terms of this chapter. The issuance of a certificate of occupancy shall not authorize any violations of any ordinance, rule, code or regulation of the Town of Little Elm.
 - (4) *Regulations*. Home occupations are subject to the following conditions and requirements:
 - a. No signage associated with the home occupation and visible from outside of the dwelling shall be allowed on the premises, except as may be authorized or permitted by other applicable ordinances of the town.
 - b. Only occupants of the residence may be employed on-site at any time. This shall not include the coordination or supervision of employees who do not regularly visit the house or premises for purposes related to the business. If employees other than the residents of the house are present, then a certificate of occupancy must be obtained from the building official (see 3, above).
 - c. Outdoor activities are not allowed, unless the activities are screened from neighboring property and public rights-of-way.

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- d. Hours of operation shall be limited from 8:00 a.m. to 8:00 p.m. for outdoor activities.
 - e. There shall be no exterior storage of material, equipment, vehicles and/or supplies used in conjunction with the home occupation.
 - f. A home occupation shall not serve as an office or storage facility for a vehicle fleet operation in which fleet vehicles visit the site. A "fleet" is defined as three or more business vehicles.
 - g. The home occupation shall not produce offensive noises, vibrations, smoke, dust, odors, heat or glare that extend beyond the property lines.
 - h. No major alterations to the property or exterior of the dwelling unit shall be allowed that changes the residential character of the dwelling unit or premises. The occupation use must be clearly incidental and secondary to the residential use of the dwelling and may not alter the existing residential character of the principal dwelling or the garage/accessory building.
 - i. No repair or servicing of vehicles, internal combustion engines, large equipment or large appliances shall be allowed.
 - j. No storing of hazardous materials for business purposes shall be allowed on the premises either inside or outside the structures.
 - k. Merchandise, commodities, goods, wares, materials or products shall not be offered or displayed for sale on the premises, excluding fruits and vegetables grown on-premises. Sales incidental to a service shall be allowed; and orders previously made by telephone or at a sales party may be filled on the premises.
 - l. No traffic shall be generated by a home occupation in greater volumes than normally expected in a residential neighborhood or create unreasonable parking or traffic congestion for the abutting or adjoining neighbors or for the immediate neighborhood, and any need for parking must be accommodated within the off-street parking provided for the residence (i.e. the driveway or garage) and along the street frontage of the lot in question.
 - m. Homeowners/occupants who establish an occupation in their residence must adhere to all of the above conditions.
- (5) *Approval.* No approval is needed unless the home based business meets the criteria listed in (3), above. In that case, the building official must determine that the home based business meets all the criteria listed in (4) above and issue a certificate of occupancy (CO) for a period of one year. This CO must be renewed each year.

(l) *Hotel, extended stay.*

- (1) *Application.* The application to allow a residence or extended stay hotel requires the approval of a specific use permit, subject to review and approval by town council.
- (2) *Definition.* A building or group of buildings used as a temporary dwelling place for individuals in exchange for financial consideration where customary hotel services such as linen, housekeeping service, and telephone are provided. Residence hotel room units are designed to be suitable for long term occupancy with financial consideration typically being calculated on a weekly or monthly basis. Typical residence hotel attributes include, but are not limited to, kitchen facilities and living spaces in addition to a sleeping area.
- (3) *Regulations.* Residence or extended stay hotels shall include all of the following amenities:
 - a. A minimum of 80 guest rooms and/or suites;
 - b. Guest room access from an interior hallway;

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- c. Laundry facilities adequate to serve the residents at full capacity;
 - d. Playground equipment and open space as determined by the director; and
 - e. Minimum of 800 square feet of pool surface area;
- (4) *Approval.* Following a recommendation from the planning and zoning commission, the town council has the discretion to approve or deny the SUP for an extended stay hotel based on if the regulations listed in (3), above, have been met and that the proposed location is in keeping with the Comprehensive Plan.
- (m) *Hotel, full service.*
- (1) *Application.* A full service hotel that meets all of the requirements listed in (3) below requires only site plan approval since they are allowed by right in those districts that allow hotels. Any failure to meet one or more of the listed regulations requires an application for a special use permit, which is subject to review and approval by the town council.
 - (2) *Definition.* A full service hotel is considered a top tier hotel in terms of amenities and service. It includes all of the amenities listed in (3) below and often exceeds these minimum standards.
 - (3) *Regulations.* Full service hotels shall include all of the following amenities:
 - a. A minimum of 80 guest rooms and/or suites;
 - b. A minimum of 4,000 square feet of meeting room space;
 - c. A minimum of one restaurant that provides three meals per day with on-site preparation and service provided by wait staff, hostesses, etc. and seating for a minimum of 30 customers;
 - d. Guest room access from an interior hallway;
 - e. Minimum of 800 square feet of pool surface area; and
 - f. Attached covered drive-through area adjacent to the hotel lobby or reception area.
 - (4) *Approval.* Full service hotels that meet all of the amenities listed above may be approved by right in those districts that allow hotels. Any failure to meet one or more of the above list of amenities shall be considered by the town council through the SUP process.
- (n) *Hotel, limited service.*
- (1) *Application.* The application to allow a limited service hotel requires the approval of a special use permit, subject to review and approval by town council.
 - (2) *Definition.* A limited service hotel provides travelers an economical choice with fewer amenities than a full service hotel.
 - (3) *Regulations.* Limited service hotels shall include all of the following amenities:
 - a. A minimum of 700 square feet of meeting room space;
 - b. Limited food and beverage service, but including breakfast buffet service;
 - c. Guest room access from an interior hallway;
 - d. Minimum of 400 square feet of pool surface area; and
 - e. Attached covered drive-through area adjacent to the hotel lobby or reception area.
 - (4) *Approval.* Following a recommendation from the planning and zoning commission, the town council has the discretion to approve or deny the SUP for a limited service hotel based on if the regulations

listed in (3), above, have been met and that the proposed location is in keeping with the comprehensive plan.

(o) *Liquor stores.*

- (1) *Application.* The application to allow a liquor store requires the approval of a special use permit, subject to review and approval by town council.
- (2) *Definition.* A retail establishment that offers for sale beer, wine and liquor and related accessory items. Subject to the review and approval by TABC.
- (3) *Regulations.*
 - a. The lot containing a liquor store shall be located at least 1,000 feet from any lot containing another like use, as measured in a straight line between the nearest points of one lot to the other.
 - b. Prior to issuance of a certificate of occupancy, the business owner shall provide the town with a copy of its state permit to operate a liquor store.
 - c. All alcohol-related activities must meet all standards found in chapter 10, alcoholic beverages, of the Little Elm Code of Ordinances
- (4) *Approval.* Town council through the SUP process.

(p) *Manufactured home replacement.*

- (1) *Application.* The application to allow the one-time replacement of a manufactured home requires the approval of a conditional use permit, issued at the discretion of the director.
- (2) *Definition.* The federal government allows a one-time replacement of a manufactured home under certain circumstances.
- (3) *Regulations.*
 - a. In the event that a HUD-Code manufactured home occupies a lot within the town, the owner of the HUD-Code manufactured home may remove the HUD-Code manufactured home from its location and place another HUD-Code manufactured home on the same property, provided that the replacement is a newer HUD-Code manufactured home, and is at least as large in living space as the prior HUD-Code manufactured home. Except in the case of a fire or natural disaster, the owner of the HUD-Code manufactured home is limited to a single replacement of the HUD-Code manufactured home on the same property.
 - b. Property owners who have a HUD-Code manufactured home which has been placed on a lot in violation of the terms of this chapter shall not have the right to replace the illegal use. This subsection shall not be interpreted to legitimize an otherwise illegal use.
 - c. Except with regard to the above clause, the replacement provisions of this section shall not apply in the MH-1 zoning district.
- (4) *Approval.* Once the director has determined that the replacement of the manufactured home has met the regulations listed in (3), above, approval for the conditional use permit may be granted.

(q) *Media studios (radio/television/cable).*

- (1) *Application.* The application to allow media studios requires the approval of a conditional use permit, issued at the discretion of the director.
- (2) *Definition.* A facility where radio, television or similar uses are produced, edited, and broadcast.
- (3) *Regulations.*

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- a. Internal noise shall not be audible from the outside of the building.
 - b. All activity must take place within an enclosed building.
 - c. Mass reproduction, duplication or storage of recorded material for distribution, sale or promotion is prohibited.
 - d. Parking requirements shall be the same as for a commercial use.
- (4) *Approval.* Once the director has determined that the media studio is appropriate for the location requested and that the regulations listed in (3), above, have been met, approval for the conditional use permit may be granted.
- (r) *Mixed use building.*
- (1) *Application.* ~~Where allowed by right, a site plan application is used for approval, administratively approved through a conditional use permit. When part of a planned development, the map amendment application is used for approval. Requires the approval of a specific use permit,~~ subject to review and approval by town council.
 - (2) *Regulations.* Mixed use buildings shall follow the following regulations:
 - a. The ground floor entry must be located at the approximate elevation of the adjacent sidewalk and should be inset by at least four feet.
 - b. Retail uses at-grade adjacent to the sidewalk shall:
 - 1. Be constructed to meet fire code separation from any other uses constructed on upper floors;
 - 2. Have a minimum clear height of 16 feet between finished floor and the bottom of the structure above. Mezzanines within the retail space shall be allowed per building code;
 - 3. Have an awning or canopy which extends at least six feet over the sidewalk for at least 75 percent of the frontage on any portion of a building. Such awning or canopy shall maintain a minimum eight foot clearance over the sidewalk; and
 - 4. Have highly transparent glass windows for at least 60 percent, but no greater than 80 percent, of the ground floor facade.
 - c. Two zones, between back of curb and the building line, shall be created and maintained:
 - 1. *Streetscape zone.* A minimum five-foot-wide area adjacent to the back-of-curb for trees and street furniture, including a one-foot dismount strip. An urban tree in a tree well shall be provided for each 25 linear feet in the streetscape zone. For each three urban trees, a bike rack, trash receptacle, bench, lighted bollard, or other approved street furniture is required.
 - 2. *Sidewalk zone.* A minimum ten-foot-wide sidewalk. The sidewalk zone may be encroached by a three-foot-high fenced patio area for dining, as long as a minimum clearance is maintained for pedestrian traffic.
 - d. Build-to line. At least 70 percent of the building face shall be constructed within a minimum of 15 feet from the back of curb and a maximum of 20 feet. The remainder of the building frontage may be setback further to allow such things as outdoor dining, plazas, entry courts, and pass-throughs to parking.
 - (3) *Exceptions.* ~~Deviations from the above mixed use building regulations may be granted through the site plan process, subject to review and approval by the planning and zoning commission and town council in public hearings.~~

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- (4) *Approval.* ~~Where mixed-use buildings are allowed by right, the site plan may be administratively approved through a conditional use permit if all the regulations listed in (2) above are met. If an exception is required, or if the mixed-use building is part of a planned development in a zoning district that does not allow a mixed-use building by right, then the mixed-use building approval will be approved by the town council through a zoning map amendment or the SUP process. If all the regulations listed in (2) above are met, approval is subject to review by Town Council through the SUP process.~~

(s) *Open storage, permanent or ongoing.*

- (1) *Application.* The application to allow permanent or ongoing open storage shall be considered through the special use permit process or a PD amendment, subject to review and approval by town council.
- (2) *Applicability.* This only includes storage in zoning districts where outside storage of equipment, material, goods and supplies is allowed as an accessory use to a primary use on the same lot. The restriction on open storage does not apply to the display of goods for sale incidental to a retail use; plant nursery; sale and rental of motor vehicles, mobile homes, boats, or trailers and utility equipment. Retail use is defined as an establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.
- (3) *Definition.* For the purposes of this subsection, the definition of open storage is the keeping of any goods, material, merchandise, vehicles, trailers, modular storage units, or equipment outside a building on a lot. Examples are home and garden supplies, bagged mulch and seed, and automobiles and other vehicles for sale.
- (4) *Prohibited.* There shall be no outside storage of tires or readily flammable merchandise of any kind, either for display or storage purposes. Tires and readily flammable merchandise must be housed indoors at all times, on fire department approved storage racks to minimize the fire hazard.
- (5) *Regulations.*
 - a. Open storage is only allowed in zoning districts as indicated in section 106.05.01(b), "schedule of uses - nonresidential," of the zoning ordinance.
 - b. The area designated as open storage in LC Light Commercial or related PD Planned Development zoning districts shall not exceed 15 percent of the total gross square foot of the building located on the same lot as the open storage. Permanent open storage shall not be permitted in any portion of the lot between a public street and a lines projected from the faces of the building lot lines, except as described in subsection (5)i, below.
 - c. The square footage of the area designated for open storage in HC Heavy Commercial, LI Light Industrial, HI Heavy Industrial, or related PD-Planned Development zoning districts is not restricted as long as it is located on the same lot.
 - d. The storage area must be attached to a wall of the principal building and enclosed by a solid masonry wall a minimum of eight feet in height abutting the principal building, when a principal building exists. Additional wall height may be constructed of screening material.
 - e. An exception to the location of open storage in subsection (5)(a) above shall be the location of shopping carts, which may utilize designated areas within the store's parking lot, so long as the shopping carts are gathered within steel corrals suitable for retaining carts and preventing carts from interfering with traffic flow or customer parking. (See section 106.05.03(g), "open storage under eave display" for regulations)
 - f. Open storage may not be permanently located in any fire lane, maneuvering aisle, or customer pick-up lane.

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- g. Open storage may not be located in any required front, side, or rear setback.
 - h. Open storage may not be located in any parking space (except as described in (5)i below).
 - i. "Big box" stores (i.e. stores greater than 50,000 square feet in size) may display garden merchandise for sale within excess parking spaces on a temporary basis. Examples of appropriate merchandise for this type of parking lot storage include, but is not limited to, mulch or soil bags, bedding plants, saplings, and storage sheds. Approval of any parking lot open storage or display shall require a revised site plan showing the location of the open storage or display, indicating the number of parking spaces required to ensure that the storage or display is located in spaces in excess of those required, and the type of merchandise to be displayed or stored. The director shall approve or disapprove any parking lot storage or display.
 - j. Open storage may not obstruct visibility or interfere with pedestrian or vehicular circulation. If items are placed on a sidewalk or other pedestrian area, a six-foot-wide pedestrian path shall be maintained through or adjacent to the outside display area. The pedestrian path must be concrete or asphalt and may not be located within off-street parking areas, including parking spaces, fire lanes, maneuvering aisles, and customer pick-up lanes.
 - k. Nothing in this article shall prohibit temporary open storage of merchandise for display and sale during a sidewalk sale (considered "under eave" storage - See section 106.05.03(g), "open storage - under eave display" for regulations).
 - l. Special standards for businesses in operation prior to the adoption date of this ordinance [from which this chapter is derived] (date of ordinance):
 - 1. Businesses existing prior to the adoption of this ordinance have until (one year from passage) to come into compliance with these standards.
 - 2. If the facility's primary structure is a nonconforming structure in regard to the town's existing masonry requirements and has less than 75 percent masonry content, the owner may apply for administrative approval for a wooden screening fence built to the town standards with the following additional standard: When the storage is located adjacent to public streets, a minimum seven and one-half-foot and maximum eight-foot tall wood privacy fence with masonry columns located at a minimum of every 40 feet is required.

(6) *Screening of open storage.*

- a. All open storage and outside display shall be screened from the view of adjacent streets and adjacent properties unless located in an LI Light Industrial or HI Heavy Industrial zoning district, where open storage is required to be screened only from the street right-of-way.
- b. Screening shall be a minimum of eight feet in height; and
 - 1. Be of masonry construction; or
 - 2. Be constructed of metal ornamental fencing in combination with a landscape screen; or
 - 3. Be constructed of a solid, evergreen shrub landscape screen without a fence or wall.
 - 4. Evergreen shrubs used for a landscape screen shall be placed so as to create at least a six foot tall solid screen within two years of their planting. All landscaping shall be irrigated with an automatic sprinkler system and maintained in a healthy and growing condition.
- c. Screening may not be constructed of wood fencing or chain link with slats. No screening fence may exceed eight feet, six inches in height.
- d. Open storage may not exceed the height of screening, unless evergreen shrubs used for a landscape screen are placed so as to create at least a six-foot tall solid screen within two years of

their installation along the length of the stored material. The open storage of living plants and trees as inventory for freestanding garden center uses may exceed the height of screening, when the garden center is developed as the primary use of the lot.

- e. No materials stored shall be stacked in such a manner as to be visible above the top of the screening device. Individual items that exceed the height of the screening device are permitted provided they are not stacked.
- f. Vehicles kept overnight which are under or awaiting repair shall be screened from public view or stored inside the building.
- g. All storage areas, including modular storage units, not screened by an intervening building shall be screened from view from any public street right-of-way and from residential uses or districts, unless located in a LI Light Industrial or HI Heavy Industrial zoning district.
- h. Utilities or accessory facilities, such as storage tank towers that cannot feasibly be completely screened by a masonry wall shall be located and designed so as to "blend in" and to minimize visual impact from public rights-of-way and adjacent properties. Architectural design and landscaping materials shall be used in order to lessen any negative visual impact.
- i. If the standards required for screening of open storage cannot be met due to site-specific issues the property owner or developer may petition the planning and zoning commission to approve alternative screening methods that meet the purpose and intent of the ordinance.
- j. All screening shall be accomplished by an opaque screen built according to the standards outlined in section 106.06.31, "screening."

(7) *Exceptions to screening requirements.*

- a. No screening is required for open storage and outside display of goods, materials, merchandise, or equipment as an accessory use if generally placed "under eaves." This area is defined as the area not more than ten feet from the front building face, as designated by the main entrance and not stacked to exceed four feet in height. (See section 106.05.03(g), "open storage, under eave display" for regulations)
- b. Screening is not required for items placed adjacent to a gasoline pump island that do not exceed three feet in height, except for those items expressly prohibited in subsection (4) above.
- c. Parked self-propelled vehicles or trailers shall not constitute open storage or outside display, except when staged, parked, or stored at collision, towing, auto storage, mini-warehouse, auto repair, or wrecker service.
- d. Temporary outdoor storage may be allowed under certain circumstances. Please see sections 106.05.03(f), "open storage, temporary" and 106.05.03(g), "open storage, under eave display" for regulations.
- e. The town council may waive these requirements if no public purpose would be served by the construction of a required screen, or if natural features exist that sufficiently screen the open storage.

(8) *Approval.* Town council through the SUP or PD process.

(t) *Private street developments/gated communities—Existing subdivisions.*

- (1) *Application.* Private street developments for existing residential tracts shall be considered through the specific use permit process, subject to review and approval by town council.

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- (2) *Definition.* To convert public streets to private streets, the ownership and maintenance of said streets shall be transferred to the homeowners association (HOA) and that association may be restrict public access on them to residents and emergency vehicles only.
- (3) *Regulations.*
- a. *Thoroughfare plan.* Private street developments are subject to provisions of the master thoroughfare plan and the subdivision ordinance, as it exists or may be amended. Private street developments may not cross an existing or proposed thoroughfare as shown on the town's adopted thoroughfare plan nor shall a private street development disrupt an existing or proposed hike and bike route.
 - b. *Locations.* Private street developments shall be located in an area that is surrounded on at least three sides, and in any event no less than approximately 75 percent of the perimeter, by natural barriers or similar physical barriers created by man. Examples of natural barriers would be creeks and floodplains. Examples of similar barriers created by man would be a golf course, school location, park, railroad tracks or a limited access roadway. Non-qualifying manmade barriers include screening walls, local roadways, manmade drainage ditches, detention ponds, landscape buffers, earthen berms, utility easements and right-of-way.
 - c. *Connectivity.* The comprehensive plan calls for all plans for development in the town to include a high degree of connectivity within developments and between one development and another. Any proposed private street development adjacent to an existing public street subdivision that can be reasonably connected, including by constructing a bridge or culvert, for example, should not be approved as a private street development. The two adjacent subdivisions should allow cross-connectivity using public streets. This is especially critical when one of the two adjacent subdivisions has a school site within one of the developments.
 - d. *Established escrow account.* Any private street development proposed for an existing subdivision must show that the home owners association has established an escrow account to be kept for the purposes of street repair and replacement.
- (4) *Considerations for approval.* The planning and zoning commission and town council shall use the criteria listed within the subsection for approval for private streets within new subdivisions, when considering a private street development plus:
- a. Submittal of a petition signed by 100 percent of the property owners in the existing subdivision requesting conversion to private streets;
 - b. Existence of a home owners association (HOA) that is financially able and willing be responsible for owning and maintaining the converted streets and rights-of-way;
 - c. Applicants must agree to contract with the town for the purchase of the installed infrastructure and rights-of-way from the town at fair market appraised value for cash in full payment, and agree to maintain the infrastructure and rights-of-way at town standards thereafter prior to the approval of the special use permit;
 - d. All documents are subject to the review and approval of the town attorney; and/or
 - e. Subsequent to the approval of the private street designation, the entire subdivision affected shall be replatted to reflect the ownership changes and remove the town's ownership and maintenance obligation from the streets and rights-of-way.
- (5) *Approval.* Town council through the SUP or PD process.
- (u) *Private street developments/gated communities—New subdivisions.*

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- (1) *Application.* Private street developments for new residential tracts shall be considered through the specific use permit process or through the approval of a planned development district, subject to review and approval by town council.
 - (2) *Definition.* Private streets are constructed and maintained by the (HOA) and may be restrict public access on them to residents and emergency vehicles only.
 - (3) *Regulations.*
 - a. *Thoroughfare plan.* Private street developments are subject to provisions of the master thoroughfare plan and the subdivision ordinance, as it exists or may be amended. Private street developments may not cross an existing or proposed thoroughfare as shown on the town's adopted thoroughfare plan nor shall a private street development disrupt an existing or proposed hike and bike route.
 - b. *Locations.* Private street developments shall be located in an area that is surrounded on at least three sides, and in any event no less than approximately 75 percent of the perimeter, by natural barriers or similar physical barriers created by man. Examples of natural barriers would be creeks and floodplains. Examples of similar barriers created by man would be a golf course, school location, park, railroad tracks or a limited access roadway. Non-qualifying manmade barriers include screening walls, local roadways, manmade drainage ditches, detention ponds, landscape buffers, earthen berms, utility easements and right-of-way.
 - c. *Connectivity.* The comprehensive plan calls for all plans for development in the town to include a high degree of connectivity within developments and between one development and another. Any proposed private street development adjacent to an existing public street subdivision that can be reasonably connected, including by constructing a bridge or culvert, for example, should not be approved as a private street development. The two adjacent subdivisions should allow cross-connectivity using public streets. This is especially critical when one of the two adjacent subdivisions has a school site within one of the developments.
 - d. *Established escrow account.* Any private street development proposed for a new subdivision must show that the home owners association has established an escrow account to be kept for the purposes of street repair and replacement.
 - (4) *Considerations for approval.*
 - a. No disruption of planned public roadways or facilities/projects (thoroughfares, parks, park trails, public pedestrian pathways, etc.);
 - b. No disruption to and from properties of future developments either on site or off site to the proposed subdivision;
 - c. No negative effect on traffic circulation on nearby public streets;
 - d. Not less than 100 feet of street frontage on which to locate the main entrance gate;
 - e. No more than two gated street entrances, subject to approval by the city engineer, may face a designated thoroughfare within a one-mile segment of that thoroughfare;
 - f. No impairment of access to and from public facilities including schools or public parks;
 - g. No impairment of the adequate and timely provision of essential municipal services (emergency services, water/sewer improvements or maintenance, etc.);
 - h. The main entrance to the private street development shall have adequate throat depth to provide for residents, their guests and any accidental access and have an escape aisle for those vehicles not admitted into the subdivision;

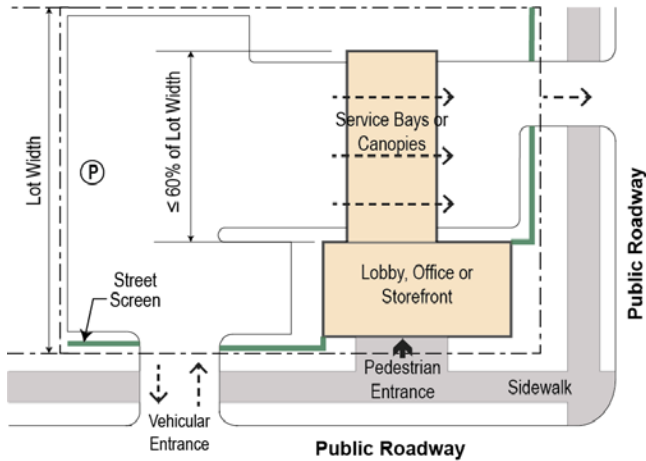
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- i. Existence of natural and/or qualifying manmade boundaries around 75 percent of the development;
 - j. Absence of a concentration of private street developments in the vicinity of the requested private street development; and
 - k. Developers who wish to develop as a private street/gated community shall agree to maintain the infrastructure and rights-of-way at town standards.
- (5) *Approval.* Town council through the SUP or PD process.
- (v) *Sexually oriented businesses.* Sexually oriented businesses are governed by chapter 82 of the Little Elm Code of Ordinances.
- (w) *Vending kiosk, commercial.*
- (1) *Application.* Approval of a commercial vending kiosk greater than 120 square feet in size requires a conditional use permit, issued at the discretion of the director.
 - (2) *Definition.* An unmanned structure that provides a product for remuneration. Examples are ice machines, video vending machines.
 - (3) *Regulations.*
 - a. A permanent structure with a permanent foundation is required.
 - b. The structure should have a primarily brick/stone veneer that matches adjacent development.
 - c. All utility service lines shall be buried.
 - d. No commercial kiosk 120 square feet or greater shall be installed within two miles of another such structure.
 - e. Site location should not provide a strong visual presence on a major thoroughfare, nor impede fire lanes or cause other traffic flow problems, subject to review and approval by staff.
 - f. Lighting and signage shall be minimal, per existing regulations.
 - g. Concrete parking shall be available, and a restroom agreement or other accommodation with a public store within 100 feet is required if manned.
 - h. Permits are required, as is property owner authorization, and installation shall abide by all applicable building, fire, health, subdivision, engineering design, and zoning codes.
 - i. The site location shall be a part of a platted lot.
 - j. Structures shall be removed with a valid demolition permit by the property owner if inoperable or abandoned for more than six months. Seasonal sales are not allowed per this use.
 - k. The planning and zoning commission has jurisdiction over any appeals to staff determination.
 - l. A development agreement between the town and the conditional use applicant regarding the commercial vending kiosk shall be required prior to issuance of a conditional use permit for the commercial vending kiosk. The development agreement shall contain, at a minimum, the conditions and standards required by the town for a commercial vending kiosk.
 - (4) *Approval.* Once the director has determined that the commercial vending kiosk is appropriate for the location requested and that the regulations listed in (3), above, have been met, approval for the conditional use permit may be granted.
- (x) *Vending kiosk, not-for-profit.*

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- (1) *Application.* Approval of a not-for-profit vending kiosks requires a conditional use permit, issued at the discretion of the director.
 - (2) *Definition.* An unmanned structure that provides a product. The fee for such product may be reduced or waived.
 - (3) *Regulations.*
 - a. If the kiosk is greater than 120 square feet in size, a structure with a permanent foundation is required.
 - b. The structure should have a primarily brick/stone veneer that blends with adjacent development.
 - c. All utility service lines shall be buried.
 - d. Not-for-profit kiosks greater than 120 square feet in size shall not be installed within two miles of another such structure.
 - e. Site locations should not provide a visual distraction for drivers along major thoroughfares, nor impede fire lanes or cause other traffic flow problems, subject to review and approval by staff.
 - f. The site location should be a part of a platted lot and written permission for placement from the owner of the property shall be included in the permit application.
 - g. Lighting and signage shall be minimal, per existing regulations.
 - h. Structures shall be removed with a valid demolition permit by the property owner if inoperable or abandoned for more than six months.
 - i. The planning and zoning commission has jurisdiction over any appeals to staff determination.
 - j. A development agreement between the town and the applicant regarding not-for-profit vending kiosks shall be required prior to issuance of a conditional use permit for the not-for-profit vending kiosk. The development agreement shall contain, at a minimum, the conditions and standards required by the town for a not-for-profit vending kiosk.
 - (4) *Approval.* Once the director has determined that the not-for-profit vending kiosk is appropriate for the location requested and that the regulations listed in (3), above, have been met, approval for the conditional use permit may be granted.

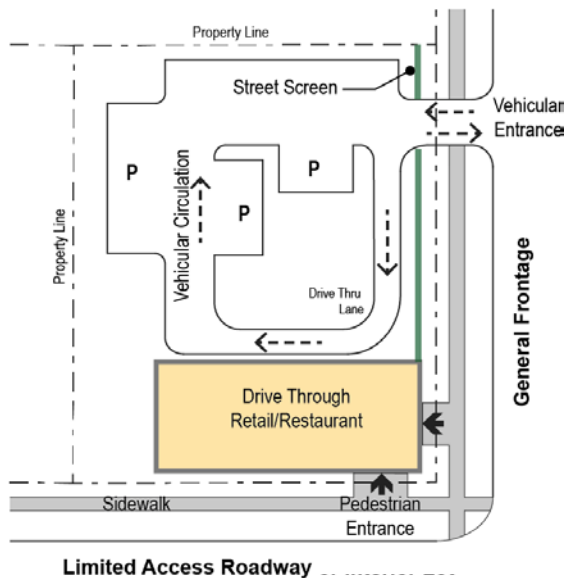
(y) Drive-in or drive-thru facilities

- (1) *Application.* Drive-in or drive-thru facilities shall be considered through the specific use permit process, subject to review and approval by Town Council.
- (2) *Definition.* Establishments providing services to customers in motor vehicles that are either temporarily parked, or through a service window and a drive-thru lane, such as drive-in or drive-thru restaurants, banks offering drive-thru services, gas pumps/fuel sales, or similar concepts.
- (3) *Regulations.*
 - a. Drive-thru and queue lanes shall not be located between the front of the building (primary entrance) and a public right-of-way.
 - b. Auto-oriented facilities shall not block or conflict with pedestrian or bicycle access or walkways.
 - c. Screening shall be provided between the facility and any public right-of-way using evergreen screening vegetation, at least 36 inches in height, at the time of planting, a low fence or wall, no more than 42 inches in height, or a combination of both.

d. Pertaining to corner lots, the first 25 feet on a side street from the intersection, shall also be considered front of the building and a primary entrance.



Placement example on a corner lot



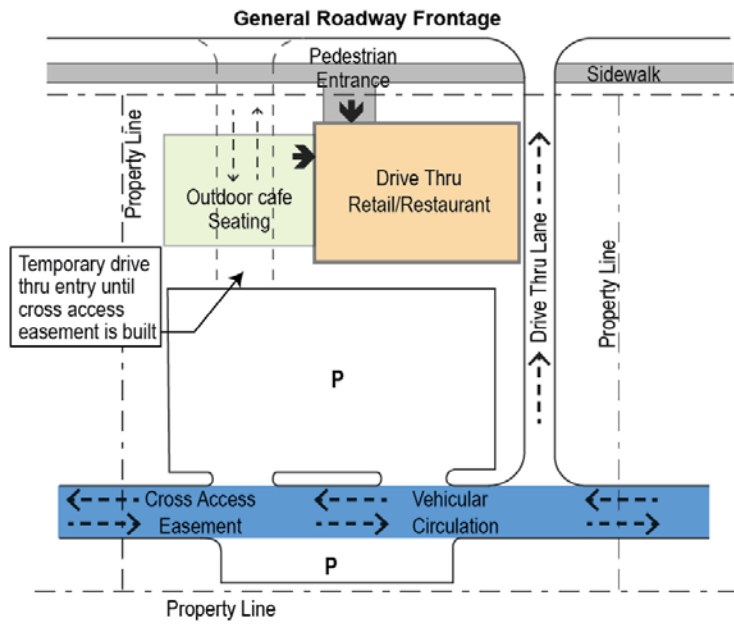
Placement example on a limited access roadway

(4) Approval. Town council through the SUP process.

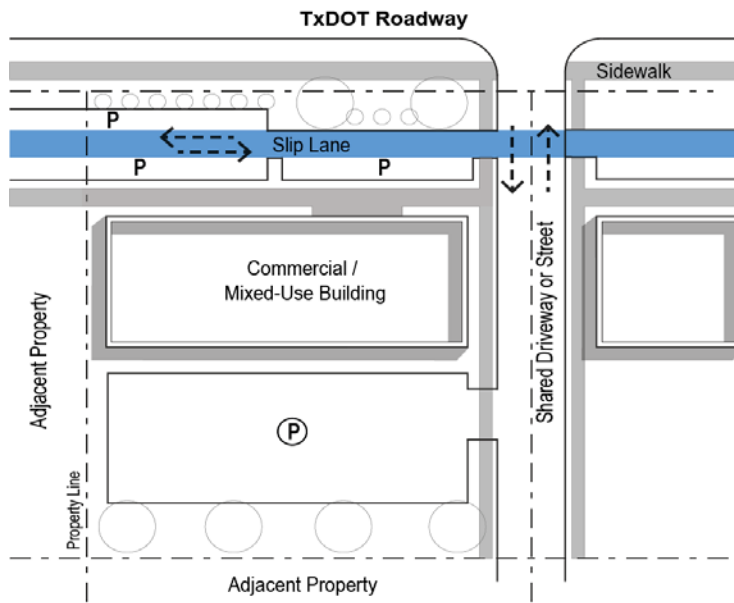
(Ord. No. 1407, § 2, 8-15-2017; Ord. No. 1527, § 2, 10-15-2019; Ord. No. 1587, § 2, 1-5-2021)

Sec. 106.06.42 Parking access from a public street—All districts.

- (a) *[Parking space.]* All parking space configuration, location, arrangement, size and circulation in all districts shall be constructed according to this section.
- (b) *Entrances to developments.* During the review and approval of a conceptual plan or site plan, design consideration shall be given to providing entrance and exit drives which extend out from the site to provide adequate queuing of vehicles on the site and outside of the public rights-of-way.
- (c) *Minimizing traffic congestion.* In all districts, except single-family zoning districts, building plans shall provide for entrance and exit drives appropriately designed and located to minimize traffic congestion or conflicts within the site and that align with adjoining public streets, as approved by the director.
 - (1) Based upon analysis by the town, if projected volumes of traffic entering or leaving a development are likely to interfere with the projected peak traffic flow volumes on adjacent streets, additional right-of-way and paving in the form of a deceleration lane or additional turn lane may be required of a developer in order to reduce such interference.
 - (2) The determination of additional right-of-way or paving requirements shall be made at the time the final site plan is approved.
 - (3) Any additional right-of-way required by the town shall be dedicated to the town with the cost of engineering design, materials and installation borne entirely by the developer.
- (d) *No alley access.* Vehicular access to nonresidential uses shall not be permitted from alleys serving residential areas.
- (e) *"Head-in" parking restrictions.* Head-in parking spaces that are accessed directly from the street are prohibited in all nonresidential uses except in the Office, Neighborhood Services, and the Lakefront Districts. Head in spaces are to be avoided if possible in all districts.
- (f) *Perimeter landscaping.* Necessary access drives from the public right-of-way shall be permitted through all perimeter landscaping required in section 106.06.18(b), "commercial landscape requirements - perimeter landscape requirements." The width for access drives shall be between 30 and 50 feet for nonresidential two-way movements and a minimum 20 feet for nonresidential one-way movement.
- (g) *Commercial property access and connectivity.*
 - (1) Access to the parking lot shall be limited to a side street, common drive, or from a cross-access easement through the block. Access from TxDOT roadways shall be managed through TxDOT permitting process.
 - (2) Cross-access priority shall be at the rear of the lot or through an alley. When rear cross-access or alley is not available, a slip lane condition at the front of the lot may be permitted.
 - (3) Driveways shall be limited to side streets as a primary option. An alternative to side street access, shared driveways between lots may be permitted. Preference will be given towards overall corridor connectivity.
 - (4) Director of Development Services, or assignee, shall have the discretionary authority to consider and approve exceptions to these requirements, on a case-by-case basis, based on compelling evidence requiring alternate measures to ensure traffic safety and circulation.



Interior lot drive thru with temporary driveway entrance until cross access is built



Slip lane cross-access connectivity example

Sec. 106.06.44 Off-street parking standards—Nonresidential and multifamily districts.

- (a) *Lighting provided in parking lots.* To prevent nuisance or unsafe situations, parking lots serving multiple-family residential developments shall provide sufficient lighting for safe movement to and from vehicles. All parking area lighting shall be designed and operated so as not to reflect or shine on adjacent properties.
- (b) *Emergency access.* For safety and firefighting purposes, free access through to adjacent nonresidential parking areas shall be provided in accordance with the following:
 - (1) *Location.* Fire lanes shall be provided in all multiple-family, manufactured home, and nonresidential developments, and in some single-family attached, as required by the adopted fire code of the town and the subdivision ordinance.
 - (2) *Dimension.* Fire lanes shall be a minimum width of 24 feet of paving, and shall have a minimum inside turning radius at curves of 30 feet, or as required by the adopted fire code of the Town of Little Elm.
 - (3) *Vertical clearance.* The minimum overhead vertical clearance over fire lanes shall be 14 feet for a linear distance of 50 feet on each side (in front of and behind, as a fire apparatus would traverse underneath) of any overhead structure, such as a canopy, roof overhang or vertical height control device.
- (c) *Concrete parking standard.* All off-street parking, maneuvering, loading and storage areas shall be constructed of concrete in accordance with the parking lot paving requirements in the town's Code of Ordinances and with any other applicable state or local requirements.
- (d) *Entrances.* Entrances to thoroughfares shall consist of decorative pavement at a width matching the required 20-foot landscape buffer plus the width of the crosswalk.
- (e) *Parking space markings.* Parking spaces shall be permanently and clearly identified by stripes, buttons, tiles, curbs, barriers, or other approved methods. Non-permanent type marking, such as paint, shall be regularly maintained to ensure continuous clear identification of the space.
- (f) *Curb stops.* All parking and loading spaces, and vehicle sales areas on private property shall have a vehicle stopping device, such as a curb or wheel stop at the perimeter of parking lots, installed so as to prevent encroachment of motor vehicles in any required landscaped areas, to prevent vehicles from damaging buildings, to protect public and/or private utility structures or facilities, and to prevent parked vehicles from overhanging into a public right-of-way line, a public or private sidewalk, or into adjacent private property. An extra-wide walkway on private property may be permitted so as to allow encroachment of vehicle overhang while maintaining an unobstructed four-foot minimum walkway width. The requirement shall apply only where spaces are adjacent to the walks, right-of-way, and required landscaping. Parking shall not be permitted to encroach upon the public right-of-way in any case. In all nonresidential and multiple-family zoning districts, the perimeter of all parking lots and driveways shall be provided with ribbon concrete curbs or other means to control traffic, unless an approved landscape swale system has been utilized between parking rows and at the perimeter of parking lots to allow free water run-off into landscaped areas. Curb stops shall be used to prohibit vehicle encroachment into landscaped areas and/or walkways when swales are used.
- (g) *On-street parking adjacent to multifamily development.* When a public roadway bisects a multiple-family residential development, no on-street parking shall be allowed unless the following conditions apply:
 - (1) The planned development district regulations specifically call out on-street parking as part of the required parking;
 - (2) The public roadway is designed for on-street parking and is of sufficient right-of-way width to accommodate parking and travel lanes, as determined by the town engineer;
 - (3) The on-street parking includes landscaped bump-outs a minimum of every three parking spaces;
 - (4) Sufficient spaces for visitor parking are provided on site;
 - (5) Crosswalks are provided with protective bump-outs at sidewalk corners and are either painted or constructed of stamped concrete to afford a high degree of visibility for pedestrians, bikers and drivers; and
 - (6) The director has approved the overall parking plan.

- (h) *Location of refuse storage facilities.* Refuse storage facilities placed in a parking lot shall not be located in a designated parking or loading space. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies, with a minimum of 40 feet of clear backing space, and shall be appropriately screened, as required by section 106.06.31(e)(5), "screening."
- (i) *Handicapped parking spaces.* Parking space(s) for persons with disabilities and other associated provisions shall be provided according to building codes, state laws, and requirements of the Americans with Disabilities Act (ADA). Parking spaces for persons with disabilities shall be as close as possible to the entryway of the appropriate structure, and shall be appropriately and clearly marked with ADA standard signage and pavement markings.
- (j) *Prohibited activities in parking lots.* In all nonresidential and multiple-family zoning categories, designated parking and loading areas shall not be used for the repair, storage, dismantling or servicing (except for normal maintenance of a private vehicle) of vehicles or equipment, or for the storage of materials or supplies, or for any other use in conflict with the designated parking and loading areas, including, but not limited to, advertising or open storage of raw materials.
- (k) *Maintenance.* To ensure that all requirements set forth in this section are carried forward, it will be the responsibility of the owner of the parking area to adequately maintain the facility, including but not limited to timely repainting parking space markings and repair of pavement. All off-street parking areas shall be kept free of trash, debris, vehicle repair operation or display and advertising uses. At no time after initial approval of the parking area layout can changes be made in the location and number of provided spaces without approval of the city manager or his designee.
- (l) *Infrastructure for electric charging stations.* Infrastructure for one electric charging station shall be provided for every 25 required parking spaces.

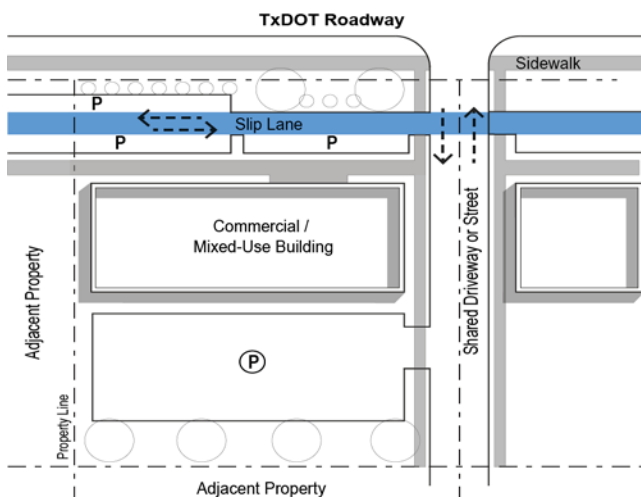
(m) *New construction.* All new construction shall have parking developed to the side or rear of the building, with cross-access connectivity between lots to access parking from side streets

(1) *Temporary driveways may be used to provide access to side and rear parking lots while cross-access is being established.*

(2) *Front parking may be accommodated by using slip lanes along TxDOT highways.*

i. *If a slip lane is planned, there shall be no more than one row of head-in parking on either side of the drive aisle (one row along the right-of-way and one row along the building).*

ii. *If a slip lane is planned, screening of the front parking is required using evergreen screening vegetation, at least 36 inches in height, at the time of planting, a low fence or wall, no more than 42 inches in height, or a combination of both.*



Frontage of a building on a corner lot and points of access to the building.