



City of Azle
Regular Agenda
Planning and Zoning Commission

505 W. Main Street
Azle, Texas 76020

March 21, 2024

6:00 PM

Council Chambers

Pursuant to Section 551.071 of the Texas Government Code, the Commission may convene into Executive Session(s) from time to time as deemed necessary during the meeting for any posted agenda item and may receive advice from its attorney as permitted by law.

REGULAR SESSION

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC PARTICIPATION

This is an opportunity for the public to address the Planning and Zoning Commission on posted agenda items or non-agenda items. In order to address the Commission, please complete a Speaker's Request Form and submit to the Secretary prior to the start of the meeting. All comments must be directed to the Presiding Officer, rather than an individual commissioner or city staff. All speakers must refrain from personal attacks toward any individual. Comments are limited to three (3) minutes and must pertain to the subject matter listed on the Speaker's Request Form. Speakers requiring the assistance of a translator shall be provided four (4) minutes. The Commission may not comment publicly on non-agenda items, but may direct the staff to resolve the matter or request the matter be placed on a future agenda. Public comments regarding non-agenda items shall not include any "deliberation" as defined by Chapter 551 of the Government Code, as now or hereafter amended. If you have a subject that may require Commission action, you may obtain a form from the Secretary and request the item be placed on a future agenda.

CONSENT AGENDA

1. Consider approval of the minutes of the Planning and Zoning Commission meeting held February 15, 2024.

David Hawkins, Director of Planning and Development

PUBLIC HEARING

2. Conduct a public hearing and make a recommendation to the City Council regarding text amendments to Chapter 14 "Zoning Ordinance" of the Code of Ordinances, City of Azle, Texas. The purpose of the text amendment is to consider amendments to the minimum requirements for Planned Development (PD) Districts.

David Hawkins, Director of Planning and Development

3. Conduct a public hearing and make a recommendation to the City Council regarding text amendments to Chapter 14 "Zoning Ordinance" of the Code of Ordinances, City of Azle, Texas. The purpose of the text amendment is to consider amendments to the Permitted Use Schedule.

David Hawkins, Director of Planning and Development

DISCUSSION ITEMS

4. Lakeview Heights Development Easement

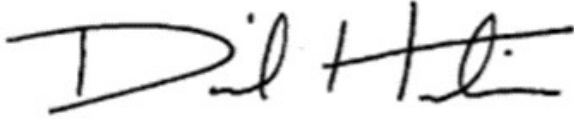
David Hawkins, Director of Planning and Development

EXECUTIVE SESSION

Pursuant to Section 551.071 of the Texas Government Code, the Commission may convene into Executive Session(s) from time to time as deemed necessary during the meeting for any posted agenda item, and may receive advice from its attorney as permitted by law.

ADJOURNMENT

I, the undersigned authority, do hereby certify the above Agenda was posted at City Hall on March 15, 2024, at the City's official bulletin board and is readily accessible to the public at all times in accordance with V.T.C.A. Chapter 551, Texas Government Code.

A handwritten signature in black ink, appearing to read "D. Hawkins", written over a horizontal line.

David Hawkins, AICP
Director of Planning and Development

This facility is wheelchair accessible and handicapped parking spaces are available. Auxiliary aids and services are available to a person when necessary to afford an equal opportunity to participate in city functions and activities. Auxiliary aids and services or accommodations should be requested forty-eight hours prior to the scheduled starting time by calling the City Secretary's Office at 817-444-7101. Complete Planning and Zoning Commission agenda packet is available for review at the City Secretary's Office and on our website www.cityofazle.org.



MINUTES
Regular
Azle Planning and Zoning
Commission

505 W. Main Street
Azle, Texas 76020

February 15, 2024

6:00 PM

Council Chambers

NOTICE IS HEREBY GIVEN THAT ONE OR MORE PLANNING AND ZONING COMMISSION MEMBERS MAY PARTICIPATE IN THE THURSDAY, FEBRUARY 15, 2024 MEETING OF THE CITY OF AZLE PLANNING AND ZONING COMMISSION VIA VIDEOCONFERENCE. A QUORUM OF THE GOVERNING BODY AND THE PRESIDING OFFICER WILL BE PRESENT AT THE ABOVE-NAMED LOCATION.

REGULAR SESSION

CALL TO ORDER

Vice Chairman Jim Carlson called the meeting to order at 6:00 p.m.

Members Present:

Vice Chairman Jim Carlson
Commissioner Jared Arneson
Commissioner Rick Simmons
Commissioner Cynthia Barrios
Commissioner Laurel Mosier
Commissioner Curt Lampkin
Chairman Leonard Wheeler attended remotely

Members Absent:

None

Staff Present:

David Hawkins, AICP	Director of Planning and Development
Malinda Nowell	Sr. Administrative Assistant

INVOCATION

Vice Chairman Jim Carlson gave the invocation.

PLEDGE OF ALLEGIANCE

Commissioner Rick Simmons led the pledge.

PUBLIC PARTICIPATION

Mr. Jim Kirk, 116 Westlake Woods Drive, requested a discussion item be placed on the next regular meeting agenda regarding Lakeview Heights' development, slope, grading, and fill easement of Azle Elementary School property and the City's Tree Preservation Ordinance.

CONSENT AGENDA

1. Consider approval of the minutes of the Planning and Zoning Commission meeting held January 18, 2024.

Commissioner Rick Simmons moved to approve the minutes of the Planning and Zoning Commission meeting held January 18, 2024, as presented. Commissioner Laurel Mosier seconded the motion. Motion carried.

Yes: (7) Jim Carlson, Jared Arneson, Rick Simmons, Cynthia Barrios, Laurel Mosier, Curt Lampkin, Leonard Wheeler

No: (0)

Absent: (0)

PUBLIC HEARING

2. Conduct a public hearing and consider a recommendation to the City Council regarding text amendments to Chapter 10 “Subdivision Ordinance” and Chapter 14 “Zoning Ordinance” of the Code of Ordinances, City of Azle, Texas. The purpose of the text amendment is to consider amendments to the screening wall requirements for single-family residential developments.

Director of Planning and Development David Hawkins presented this item. On January 23, 2024, Council directed staff to proceed with amendments to the screening wall requirements for residential developments. Currently, six-foot (6') tall solid masonry screening walls are required to be installed when a residential lot backs up to an arterial or collector-type street. Only a wood fence would be installed when the side of the residential lot is adjacent to an arterial or collector street. Amendments are proposed in the Subdivision Ordinance - Section 7: Standards and Specifications, and Zoning Ordinance - Section 27A: New Construction Design Criteria.

Vice Chairman Jim Carlson opened the public hearing at 6:09 p.m. As there were no speakers, Mr. Carlson closed the hearing at 6:09 p.m.

After discussion, Commissioner Rick Simmons motioned to recommend approval to the City Council the proposed text amendments to Chapter 10 “Subdivision Ordinance” and Chapter 14 “Zoning Ordinance” of the Code of Ordinances as presented, with minor grammatical changes as needed. Commissioner Jared Arneson seconded the motion. Motion carried.

Yes: (7) Jim Carlson, Jared Arneson, Rick Simmons, Cynthia Barrios, Laurel Mosier, Curt Lampkin, Leonard Wheeler

No: (0)

Absent: (0)

3. Conduct a public hearing and consider a recommendation to the City Council regarding text amendments to Chapter 4 “Business Regulations”, Chapter 6 “Health and Sanitation” and Chapter 14 “Zoning Ordinance” of the Code of Ordinances, City of Azle, Texas. The purpose of the text amendment is to consider adding regulations for Food Truck Parks.

Director of Planning and Development David Hawkins presented this item. The City of Azle is currently developing a new Food Truck Park named The Feedlot to be located on city-owned property at 225 Church Street (former Azle Manor site) and it is scheduled to open on March 29, 2024. The City of Azle has no regulation in place to address the use of a Food Truck Park within its corporate boundary. On January 23, 2024, Council directed staff to proceed with amendments to the Code of Ordinances, codifying the use of a Food Truck Park in Azle. Amendments are proposed to Zoning Ordinance - Section 3: Definitions, and Zoning Ordinance - Section 27: Supplementary Regulations to add a new Section 27.8 Food Truck Parks.

Vice Chairman Jim Carlson opened the public hearing at 6:24 p.m. As there were no speakers, Mr. Carlson closed the hearing at 6:24 p.m.

Discussion included types of entertainment; whether people could rent the food truck park for their own private use; use of generators; special use permits for non-city food truck parks; consequences if litter or debris is left onsite; management of the food truck park by city staff since it is on city property; zoned as INS (institutional); and that no amendments to the mobile food vendor ordinance were proposed.

Commissioners discussed modifications to various sections pertaining to "non-residential" classification, the use of a generator, and overnight stay at the Food Truck Park.

Vice Chairman Jim Carlson motioned to recommend approval to the City Council the proposed text amendments to Chapter 4 "Business Regulations", Chapter 6 "Health and Sanitation" and Chapter 14 "Zoning Ordinance" of the Code of Ordinances, City of Azle, Texas as written with the following conditions:

1. Change "commercial" to "non-residential" under Section 27.8 (A.5).
2. Add "Generators may be used if approved by the City of Azle" under Section 27.8 (B.8).
3. Add "unless approved by the City of Azle" under Section 27.8 (B.10).

Commissioner Rick Simmons seconded the motion. The motion carried.

Yes: (7) Jim Carlson, Jared Arneson, Rick Simmons, Cynthia Barrios, Laurel Mosier, Curt Lampkin, Leonard Wheeler

No: (0)

Absent: (0)

DISCUSSION ITEMS

4. Comprehensive Master Plan Update

David Hawkins provided an update on the Comprehensive Master Plan Update and announced the upcoming Downtown Planning Workshop to be held at the Azle Christian Church on Thursday, February 29, 2024 at 6:00 p.m.. This meeting is open to the public and will have public participation from attendees.

EXECUTIVE SESSION

None

ADJOURNMENT

Meeting was adjourned at 6:46 p.m..

Presented and approved on _____

Leonard Wheeler, Chairman

Attest:

David Hawkins, AICP
Director of Planning and Development



Presenter: David Hawkins, Director of Planning and Development

Agenda Item: Conduct a public hearing and make a recommendation to the City Council regarding text amendments to Chapter 14 “Zoning Ordinance” of the Code of Ordinances, City of Azle, Texas. The purpose of the text amendment is to consider amendments to the minimum requirements for Planned Development (PD) Districts.

Background and Explanation:

On February 20, 2024, City Council directed the City staff to proceed with amendments to the requirements for Planned Development (PD) Districts. Per the Zoning Ordinance, Planned Developments are *"intended to provide for combining and mixing of uses allowed in various districts with appropriate regulations, and to permit growth flexibility in the use and design of land and buildings in situations where modification of specific provisions of this ordinance is not contrary to its intent and purpose or significantly inconsistent with the planning on which it is based and will not be harmful to the neighborhood. A PD district may be used to permit new and innovative concepts in land utilization."*

Currently, the minimum acreage for a PD district request is two (2) acres for nonresidential development and five (5) acres for residential development. City Council would like to see this be amended to remove the minimum acreage requirement for a nonresidential planned development to allow for more flexible development opportunities.

Current Text Language:

Zoning Ordinance - Section 24: PD, Planned Development states the following:

24.3 DEVELOPMENT REQUIREMENTS.

- A. Development requirements for each separate PD district shall be set forth in the ordinance granting the PD district and may include but not be limited to uses, density, lot area, lot width, lot depth, yard depths and widths, building size, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, management associations, and other requirements as the City Council and Planning and Zoning Commission may deem appropriate.
- B. In the PD district, if uses conform to the standards and regulations of the zoning district to which it is most similar, the particular district must be stated in the application. All applications to the city shall list all requested variances from the standard requirements set forth throughout this ordinance (applications without this list will be considered incomplete).
- C. The PD district shall conform to all other sections of the ordinance unless specifically excluded in the granting ordinance.
- D. The minimum acreage for a PD district request shall be two (2) acres for nonresidential development and five (5) acres for residential development.
- E. For multifamily uses a common open space shall be designated for the leisure and recreational

use of the occupants. The open space shall be a minimum of 10% of the total land area devoted to the multifamily use. This requirement may be varied downward by the City Council when a lesser amount of open space would be more appropriate based on the density of the development, the installation of private recreational amenities, or where the availability and nature of adjacent public open space is such that a lesser amount would adequately accommodate the development.

Proposed Text Amendment:

Zoning Ordinance - Section 24: PD, Planned Development states the following:

24.3 DEVELOPMENT REQUIREMENTS.

A. Development requirements for each separate PD district shall be set forth in the ordinance granting the PD district and may include but not be limited to uses, density, lot area, lot width, lot depth, yard depths and widths, building size, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, management associations, and other requirements as the City Council and Planning and Zoning Commission may deem appropriate.

B. In the PD district, if uses conform to the standards and regulations of the zoning district to which it is most similar, the particular district must be stated in the application. All applications to the city shall list all requested variances from the standard requirements set forth throughout this ordinance (applications without this list will be considered incomplete).

C. The PD district shall conform to all other sections of the ordinance unless specifically excluded in the granting ordinance.

D. The minimum acreage for a PD district request shall be **zero (0) two (2) acres for nonresidential development and five (5) acres for residential development.**

E. For multifamily uses a common open space shall be designated for the leisure and recreational use of the occupants. The open space shall be a minimum of 10% of the total land area devoted to the multifamily use. This requirement may be varied downward by the City Council when a lesser amount of open space would be more appropriate based on the density of the development, the installation of private recreational amenities, or where the availability and nature of adjacent public open space is such that a lesser amount would adequately accommodate the development.

Board/Commission/Committee Recommendation:

After the conclusion of the public hearing, the P & Z Commission may make a recommendation on the proposed amendments to the Zoning Ordinance pertaining to requirements for Planned Development (PD) Districts. Any recommendation will be forwarded to the City Council for final action.

Staff Recommendation:

Staff forwards this proposed code amendment for P & Z Commission consideration. Staff has provided a benchmark of surrounding cities in the DFW Metroplex that have Planned Development (PD) standards for comparison.

Attachments:

1. PD Standards Comparison Spreadsheet - 3.21.2024
2. Section 24 - Planned Development Districts

Acreage Standards for PD Zoning Designations in Comparison Cities

3.21.2024

Column1	Minimum required for non-residential	Minimum required for residential	Minimum required regardless of use type	Ordinance
Azle	2 acres	5 acres		https://ecode360.com/39138449#39138449
Fort Worth	no minimum	no minimum		https://codeoflibrary.amlegal.com/codes/ftworth/latest/ftworth_tx/0-0-0-33679#JD_App.ACh.4Art.3
Keller			1 acre	https://library.municode.com/tx/keller/codes/code_of_ordinances?nodeId=PTIIJUNDECO_ARTEIGHTZODI_S8_27PLADE
North Richland Hills	3 acres	10 acres		https://library.municode.com/tx/north_richland_hills/codes/building_and_land_use_regulations?nodeId=PTIICOOR_CH118ZO_ARTIVDI_DIV11PDPLDEDI
Roanoke	see below	see below		https://library.municode.com/tx/roanoke/codes/code_of_ordinances?nodeId=PTIICOOR_CH12CIOTECOCZOOR_ARTIVOVSPDI_DIV2PDPLDEOVDI_S12_622PLDERE
Southlake	5 acres	1 acre		https://library.municode.com/tx/southlake/codes/development_ordinances?nodeId=Section%2030%20-%20PUD%20Planned%20Unit%20Development%20District
Weatherford	no minimum	no minimum		https://library.municode.com/tx/weatherford/codes/code_of_ordinances?nodeId=COOR_TITXIIZOOR_CH3ZODI_S12-3-500PDPLDE
Arlington	no minimum	no minimum		https://cdnsms5-hosted.civiclive.com/UserFiles/Servers/Server_14481062/File/City%20Hall/Depts/City%20Secretary/City_Code_of_Ordinances/UDCChapter.pdf
Colleyville	no minimum*	no minimum*		https://library.municode.com/tx/colleyville/codes/code_of_ordinances?nodeId=PTIICOOR_APXBLADECO_CH3LAUS_S3_23PUPLUNDE
				* https://www.colleyville.com/home/showpublisheddocument/9744/637964386040930000
Grapevine	see below	see below		https://library.municode.com/tx/grapevine/codes/code_of_ordinances?nodeId=PTIICOOR_APXDZORDNO82-73_S41PDPLDEOV
Denton	no minimum	no minimum		https://library.municode.com/tx/denton/codes/development_code?nodeId=CITY_DENTONDECO_SUBCHAPTER_3ZODI
Flower Mound	no minimum	no minimum		https://library.municode.com/tx/flower_mound/codes/code_of_ordinances?nodeId=SPBLADERE_CH98ZO_ARTIIIDIRE_DIV21PDPLDEDI
Westlake	no minimum	no minimum		https://library.municode.com/tx/westlake/codes/code_of_ordinances?nodeId=COOR_CH102ZO_ARTVIPLDERE
Saginaw	no minimum	no minimum		https://library.municode.com/tx/saginaw/codes/code_of_ordinances?nodeId=CICO_APXAZO_ART7SPDI_S7-1PDPLDEDI
Argyle	see below	see below		https://library.municode.com/tx/argyle/codes/development_standards?nodeId=ARTIIIZO

Roanoke:

- (1)Residential Development (SF, SFA): Twenty (20) contiguous acres
- (2)Multi-Family Development (MF-12 or MH): Ten (10) contiguous acres
- (3)Nonresidential Development (O, R, LC, BP, HI): Ten (10) contiguous acres
- (4)Mixed Use (residential and nonresidential): Fifty (50) contiguous acres

Grapevine:

PRD-6	Planned Residential Low Density District	minimum 25 contiguous acres	https://www.grapevinetexas.gov/DocumentCenter/View/283/Section-34---PRD-6?bidId=
PRD-12	Planned Residential Medium Density District	minimum 15 contiguous acres A Master Development Plan shall not be approved unless the total site contains not less than twenty-five (25) contiguous acres of gross area, provided, however, the Planning and Zoning Commission may recommend and the City Council may approve a PCD Master Development Plan for a site containing less than twenty-five (25) acres if they find that unusual or unique characteristics of the site or its vicinity make development pursuant to a Master Development Plan advisable and if the proposed development of the site is consistent with the purpose and intent of this section.	https://www.grapevinetexas.gov/DocumentCenter/View/284/Section-35---PRD-12?bidId=
PCD	Planned Commerce Development District	STANDARD DEVELOPMENT OPTION: Any use permitted in the LI-Light Industrial District shall be permitted as a matter of right within a PID District. In the event the standard development option is chosen by the landowner, all development shall be regulated by the criteria established in Section 31 for the LI-Light Industrial District except that the minimum lot size shall be not less than three (3) acres.	https://www.grapevinetexas.gov/DocumentCenter/View/285/Section-36---PCD?bidId=
PID	Planned Industrial Development District	MINIMUM PARCEL SIZE: A Master Development Plan shall not be approved unless the total site contains not less than twenty (20) acres of gross area, provided, however, the Planning and Zoning Commission may recommend and the City Council may approve a PID Master Development Plan for a site containing less than twenty (20) contiguous acres if they find that unusual or unique characteristics of the site or its vicinity make development pursuant to a Master Development Plan advisable and if the proposed development of the site is consistent with the purpose and intent of this Section	https://www.grapevinetexas.gov/DocumentCenter/View/286/Section-37---PID?bidId=

Argyle:

- Single-Family and Two-Family Development: 20 contiguous acres.
- Multifamily Development: 10 contiguous acres.
- Nonresidential Development: 10 contiguous acres.
- Large Commercial/Mixed-Use PD: 85 acres

Exhibit 14A. Zoning Ordinance

SECTION 24. PD, PLANNED DEVELOPMENT DISTRICT

§ 24.1. INTENT.

The planned development district, PD, is intended to provide for combining and mixing of uses allowed in various districts with appropriate regulations, and to permit growth flexibility in the use and design of land and buildings in situations where modification of specific provisions of this ordinance is not contrary to its intent and purpose or significantly inconsistent with the planning on which it is based and will not be harmful to the neighborhood. A PD district may be used to permit new and innovative concepts in land utilization.

While great flexibility is given to provide special restrictions which will allow development not otherwise permitted, procedures are established herein to ensure against misuse of the increased flexibility.

(Ordinance 2013-09, ex. A, adopted 5/7/13)

§ 24.2. PERMITTED USES.

Any use shall be permitted if such use is specified in the ordinance granting a planned development district. The size, location, appearance, and method of operation may be specified to the extent necessary to ensure compliance with the purpose of this ordinance.

(Ordinance 2013-09, ex. A, adopted 5/7/13)

§ 24.3. DEVELOPMENT REQUIREMENTS.

- A. Development requirements for each separate PD district shall be set forth in the ordinance granting the PD district and may include but not be limited to uses, density, lot area, lot width, lot depth, yard depths and widths, building size, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, management associations, and other requirements as the City Council and Planning and Zoning Commission may deem appropriate.
- B. In the PD district, if uses conform to the standards and regulations of the zoning district to which it is most similar, the particular district must be stated in the application. All applications to the city shall list all requested variances from the standard requirements set forth throughout this ordinance (applications without this list will be considered incomplete).
- C. The PD district shall conform to all other sections of the ordinance unless specifically excluded in the granting ordinance.
- D. The minimum acreage for a PD district request shall be two (2) acres for nonresidential development and five (5) acres for residential development.

- E. For multifamily uses a common open space shall be designated for the leisure and recreational use of the occupants. The open space shall be a minimum of 10% of the total land area devoted to the multifamily use. This requirement may be varied downward by the City Council when a lesser amount of open space would be more appropriate based on the density of the development, the installation of private recreational amenities, or where the availability and nature of adjacent public open space is such that a lesser amount would adequately accommodate the development.

(Ordinance 2013-09, ex. A, adopted 5/7/13)

§ 24.4. APPROVAL PROCESS.

In establishing a PD district in accordance with this section, the City Council shall approve and file, as part of the amending ordinance, appropriate plans and standards for each PD district. During the review and public hearing process, the Planning and Zoning Commission and City Council shall require a conceptual plan and/or a detail site plan.

- A. Conceptual Plan: This plan shall be submitted by the applicant. The plan shall show the applicant's intent for the use of the land within the proposed PD district in a graphic manner and as may be required, supported by written documentation of proposals and standards for development.
1. A conceptual plan for residential land use shall show general use, thoroughfares, and preliminary lot arrangements. For residential development which does not propose platted lots, the conceptual plan shall set forth the size, type and location of buildings and building sites, access, density, building height, fire lanes, screening, parking areas, landscaped areas, and other pertinent development data.
 2. A conceptual plan for uses other than residential uses shall set forth the land use proposals in a manner to adequately illustrate the type and nature of the proposed development. Data which may be submitted by the applicant, or required by the Planning and Zoning Commission or City Council, may include but is not limited to the types of use(s), topography and boundary of PD area, physical features of the site, existing streets, alleys, and easements, location of future public facilities, building height and location, parking ratios, and other information to adequately describe the proposed development and to provide data for approval which is to be used in drafting the final detailed plan.
- B. Detailed Site Plan: This plan shall set forth the final plans for development of the PD district and shall conform to the data presented and approved on the conceptual plan. Approval of the detailed plan shall be the basis for issuance of a building permit. The detailed plan may be submitted for the total area of the PD or for any section or part as approved on the conceptual plan. The detailed plan must be approved by the City Council upon recommendation of the Planning and Zoning Commission.

The detailed site plan shall include:

1. A site inventory analysis including a scale drawing showing existing vegetation, natural watercourses, creeks or bodies of water, and an analysis of planned changes in such natural features as a result of the development. This should include a delineation of any flood-prone areas.
2. A scale drawing showing any proposed public or private streets and alleys, building sites or lots, and areas reserved as parks, parkways, playgrounds, utility easements, school sites, street widening and street changes, the points of ingress and egress from existing streets, general location and description of existing and proposed utility services including size of water and sewer mains, the location and width for all curb cuts, and the land area of all abutting sites and the zoning classification thereof on an accurate survey of the tract.
3. A site plan for proposed building complexes showing the location of separate buildings and the minimum distance between buildings, and between buildings and property lines, street lines

and alley lines. Also to be included on the site plan is a plan showing the arrangement and provision of off-street parking.

4. A landscape plan showing screening walls, ornamental planting, wooded areas, and trees to be planted.
5. An architectural plan showing elevations and signage style to be used throughout the development in all districts except single-family and two-family may be required by the Planning and Zoning Commission or City Council, if deemed appropriate.
6. Any or all of the required information may be incorporated on a single drawing if one (1) drawing is clear and can be evaluated by the city manager or his designated representatives.
7. Supplemental data. All concept or detail site plans may have supplemental data describing standards, schedules, or other data pertinent to the development of the PD district which is to be included in the text of the amending ordinance. Additional information needed to adequately analyze the development may be required by planning staff, the Planning and Zoning Commission or the City Council.

(Ordinance 2013-09, ex. A, adopted 5/7/13)

§ 24.5. ESTABLISHMENT OF DISTRICT.

Procedure for establishing a PD district shall follow the procedure for zoning amendments as set forth in the code of ordinances. This procedure is further expanded as follows for approval of conceptual and development plans.

- A. Separate public hearings shall be held by the Planning and Zoning Commission and City Council for the approval of the conceptual plan and the detailed plan or any section of the detailed plan unless such requirement is waived by the City Council when it is determined a single public hearing is adequate. A single public hearing is adequate when:
 1. The applicant submits adequate data with the request for the PD district to fulfill the requirements for both plans.
 2. Information on the concept plan is sufficient to determine the appropriate use of the land and the detail site plan will not deviate substantially from this plan.
 3. The requirement is waived at the time the amending ordinance is approved. If the requirement is waived, the conditions shall be specifically stated in the amending ordinance.
- B. The ordinance establishing the PD district shall not be approved until the conceptual plan is approved unless the conceptual plan step is bypassed.
 1. The detailed plan may be approved in sections. When the plan is approved in sections, then separate approvals by the Planning and Zoning Commission and City Council for the initial and subsequent sections will be required. If the detailed plan is approved in phases a conceptual plan for the entire site shall be approved by the City Council upon recommendation of the Planning and Zoning Commission.

(Ordinance 2013-09, ex. A, adopted 5/7/13)

§ 24.6. STAFF REPORT.

When a PD district is being considered, a written staff report shall be submitted to the Planning and Zoning Commission and City Council discussing the impact on planning, engineering, water utilities, electric, sanitation, building inspection, tax, police, fire, and traffic.

(Ordinance 2013-09, ex. A, adopted 5/7/13)

§ 24.7. ZONING MAP.

All PD districts approved in accordance with the provisions of this ordinance in its original form, or by subsequent amendments thereto, shall be referenced on the zoning district map, and a list of such PD districts, shall be maintained in the appendix of this ordinance.

(Ordinance 2013-09, ex. A, adopted 5/7/13)

§ 24.8. MINOR AMENDMENTS TO A DETAILED PLAN.

Upon request of the applicant, the city manager or his designee may authorize minor amendments to a detail plan so long as such minor amendments do not change the land use or substantially change the character, development standards, or design of the development as shown on the approved detailed plan. For purposes of this provision, a “substantial change” shall mean a change which will increase the number of proposed dwelling units, increase the floor to area ratio, size of structure, height, lot coverage, or number of stories or buildings, reduce lot, yard, or space size, decrease the amount of required off-street parking spaces, change types of buildings, setback, street access points, or lots, or increase density, change traffic patterns, or alter the basic relationship of the proposed development to adjacent properties. The city manager or his designee shall make such authorization only in writing and such document shall be placed in the ordinance file governing the specific plan.

(Ordinance 2013-09, ex. A, adopted 5/7/13)

§ 24.9. PLANNED DEVELOPMENT ORDINANCES CONTINUED.

Prior to adoption of this ordinance, the City Council had established various PD districts, some of which are to be continued in full force and effect. The ordinances or parts of ordinances approved prior to this ordinance shall be carried forth in full force and effect and are the conditions, restrictions, regulations, and requirements which apply to the respective PD districts shown on the zoning map at the date of adoption of this ordinance

(Ordinance 2013-09, ex. A, adopted 5/7/13)



Presenter: David Hawkins, Director of Planning and Development

Agenda Item: Conduct a public hearing and make a recommendation to the City Council regarding text amendments to Chapter 14 “Zoning Ordinance” of the Code of Ordinances, City of Azle, Texas. The purpose of the text amendment is to consider amendments to the Permitted Use Schedule.

Background and Explanation:

At the City Council meeting on February 6, 2024, there was a discussion on reviewing the Permitted Use Schedule and making some revisions to the list of allowed businesses on it. The purpose of this agenda item is to review the Permitted Use Schedule and determine which type of business to change and whether it will be allowed by right (P) or by a Specific Use Permit (SUP). Permitted uses would only require a building permit/Certificate of Occupancy from the City to open the business. Specific Use Permits require a public hearing and approval by the P & Z Commission and City Council before opening that type of business.

Current Text Language:

Zoning Ordinance - Section 3 Definitions and Section 4.10 - Permitted Use Schedule are attached to this agenda item.

Proposed Text Amendment:

At the Feb. 6, 2024 meeting, City Council made some recommended changes to the Permitted Use Schedule. Below is an abbreviated use chart focused only on non-residential land uses and non-residential zoning districts for evaluation which includes the Council's recommended changes in red text. The full Permitted Use Schedule and Definitions are attached to the end of this staff report.

Zoning Ordinance - Section 3.2 - Definitions - Add the following new definition:

SMOKE SHOP AND TOBACCO STORE: Any retail establishment that is dedicated, in whole or in part, to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, tobacco paraphernalia, electronic vaping devices or other similar substances; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes or tobacco as an ancillary sale shall not be defined as a "smoke shop and tobacco store" and shall not be subject to the restrictions in this section.

Zoning Ordinance - Section 4.10 - Permitted Use Schedule

Commercial Uses	O	CBD	INS	C	HC	IND
Auto and RV sales					S P	S P
Bar		S		S	S	S

Bed and breakfast		S				
Broadcasting or production studio				P	P	P
Car wash				S	S P	S P
Commercial parking lots	S P	S P	S P	S P	S P	S P
Equestrian facilities						
Equipment rental					P	S P
Food Truck Park	S	S	P	S	S	S
Free standing emergency medical care facility/urgent care	L10 12	L10 12	L10 12	L10 12	L10 12	L10 12
Hotel /motel	S	S	S	S P	S P	P
Indoor recreation		P	P	P	P	P
Laundry facilities				S	S P	P
Major event entertainment				S P	S P	S P
Medical laboratories	P	P	P	P	P	P
Movie theaters				P	P	P
Outdoor recreation				P	P	P
Private club		S		S	S	S
Professional services and offices	P	P	P	P	P	P
Quick vehicle servicing		S P		P	P	P
Restaurant	P	P	P	P	P	P
Retail sales and service	S	P	P	P	P	P
RV camp ground/park				S	S	
Scientific research	P	P		P	P	P
Sexually oriented business						S
Smoke Shop and Tobacco Store					S	S
Temporary construction office	L8	L8	L8	L8	L8	L8
Vehicle repair					S P	P

Industrial Uses	O	CBD	INS	C	HC	IND
Bakeries		P		P	P	P
Construction material sales					P	P
Construction equipment sales/storage						P
Distribution center				S P	S P	S P
Feed lots						
Food processing						S
Gas wells/oil wells	S	S	S	S	S	S
Junk yards and auto wrecking						S
Kennels				S, L9 11	S, L9 11	S, L9 11
Manufacturing, light		S, L7		S, L7	S, L7	P
Manufacturing, heavy					S, L7	S, L7 P
Manufacturing of non-odoriferous foods						P
Motor freight terminal						S P
Printing/publishing		P			P	P
Radio, tv or cellular towers	S	S	S	S	S	S
Recycling business					S	S P
Sanitary landfills, commercial incinerators, transfer stations						S
Self-service storage					S P	S P
Temporary concrete batch plant	P	P	P	P	P	P
Veterinary clinics				P	P	P
Wholesale sales				S	P	P
Wholesale nurseries						
Wholesale storage and distribution					S P	S P

Wrecker services and impound lots	S L9	S L9	S L9	S L9	S L9	S L10
Service Uses	O	CBD	INS	C	HC	IND
Barber, beauty & nail salon	P	P		P	P	P
Dance studio	P	P		P	P	P
Fitness facility	P	P	P	P	P	P
Health studio	P	P	P	P	P	P
Tattoo parlor				S P	S P	S P
Tanning Salon		P		P	P	P
P - Permitted Use L5 - Building mounted wind generators may not extend higher than ten (10) feet above where the wind generator is mounted on the building. The height shall be measured from the base of the wind generator where it is mounted on the building to the highest point of the arc of the blades' elevation. If the wind generator does not use blades, then height is measured from the base of the wind generator where it is mounted on the building to the highest point of the wind generator. L1012 - A minimum	S - Specific Use Permit Required L6 - Lots where the proposed wind generators will be located shall have a minimum lot area of two (2) acres. A maximum of one (1) wind generators is permitted by right. Wind generators shall be located a minimum of 150 feet from the property lines. Multiple	L - Permitted Use with designated limitations L7 - No outside storage of materials is allowed. No measurable increase in ambient sound shall be detectable at the property line.	L1 - Live stock are permitted in accordance with Chapter 2 of the City of Azle Code of Ordinances L8 - Temporary Construction Office may be erected 30 days prior to construction activities and shall be removed within 10 days of completion of construction activity[.]	L2 - HUD-Code manufactured homes are allowed in the SF-4 district only when replacing an existing non-HUD Code trailer house. L9--No vehicle storage allowed[.]	L3 - Accessory structures directly related to an agriculture function are allowed without a primary structure on platted land greater than 5 acres. L10--A maximum of 30 vehicles may be stored[.]	L4 - Accessory Dwelling shall not exceed the total square footage of the primary use, including all ancillary uses. Accessory Dwelling are only allowed on properties with frontage on and addressed from Main Street. Accessory Dwellings must be attached to the structure housing the primary use. Only 1

separation of 300' shall be maintained to any adjacent residential use[.]	wind generators are permitted only with approval of a SUP. The maximum height of a wind generators shall not exceed the maximum height of a structure per the zoning district without an SUP[.]					Accessory Dwelling is allowed per platted lot[.]
						L 911 - A minimum separation of 500' from any outdoor kennel or run shall be maintained to any adjacent residential use.

Board/Commission/Committee Recommendation:

After the conclusion of the public hearing, the P & Z Commission may make a recommendation on the proposed amendments to the Zoning Ordinance pertaining to the Permitted Use Schedule. Any recommendation will be forwarded to the City Council for final action.

Staff Recommendation:

Staff forwards this proposed code amendment for P & Z Commission consideration.

Attachments:

1. Section 4.10 - Permitted Use Schedule
2. Section 3 - Definitions

Exhibit 14A. Zoning Ordinance

SECTION 4. ZONING DISTRICTS REGULATIONS

§ 4.10. PERMITTED USE SCHEDULE.

PERMITTED USES	AG	LFO	E-1	E-2	E-3	SF-1	SF-2	SF-3	SF-4	SF-5	SF-MHP	MD-1	MD-2	MF-1	MF-2	O	CBD	INS	C	HC	IND
Residential Uses																					
Agriculture activity	P																				
Livestock	L1	L1	L1	L1	L1	L1	L1	L1	L1	L1	L1	L1	L1	L1	L1						
Single-family detached	P	P	P	P	P	P	P	P	P												
Two family/duplex												P	P	P	P						
Accessory dwellings																	L4				
HUD-code manufac-tured homes									L2	P	P										
Community homes forthe disabled	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
Multifamily 3 or moreunits												S	S	P	P						
Home occupation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
Group homes/halfway house	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S						
Accessory buildings	L3	L3	L3	L3	L3	L3	L3	L3	L3	L3	L3	L3	L3	L3	L3						
Educational Uses																					
Public schools	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P
College or university																P	P	P	P	P	P
Private school													S	S	S	S	S	P	S	S	S
Trade school																S	S	P	S	P	P
Adult or child day-care																S	P	P	P	P	P
Child day-care 12 chil-dren or less	S	S	S	S	S	S	S	S	S	S	S	S	S								
Institutional Uses																					
Basic utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Churches	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Community service	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Conference/convention centers																S	S	P	S	P	P
Cemeteries																		P			

PERMITTED USES	AG	LFO	E-1	E-2	E-3	SF-1	SF-2	SF-3	SF-4	SF-5	SF-MHP	MD-1	MD-2	MF-1	MF-2	O	CBD	INS	C	HC	IND
Elderly housing														P	P			P			
Hospital																		P	P	P	
Medical centers																P	P	P	P	P	P
Parks and recreation(public or private)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Wind generator(build- ing mounted)																L5	L5	L5	L5	L5	L5
Wind generator (free- standing monopole)	L6	L6	L6	L6	L6	L6	L6	L6	L6	L6	L6	L6	L6	L6	L6	L6	L6	L6	L6	L6	L6
Commercial Uses																					
Auto and RV sales																				P	P
Bar																	S		S	S	S
Bed and breakfast	S	S	S	S	S												S				
Broadcastin g or pro- duction studio																			P	P	P
Car wash																			S	P	P
Commercial parking lots																P	P	P	P	P	P
Equestrian facilities	P																				
Equipment rental																				P	P
Free standing emer- gency medical care facility/urgent care																L12	L12	L12	L12	L12	L12
Hotel /motel																S	S	S	P	P	P
Indoor recreation																	P	P	P	P	P
Laundry facilities																			S	P	P
Major event entertainment	S																		P	P	P
Medical laboratories																P	P	P	P	P	P
Movie theaters																			P	P	P
Outdoor recreation	P																		P	P	P
Private club																	S		S	S	S
Professional services andoffices																P	P	P	P	P	P
Quick vehicle servicing																	P		P	P	P
Restaurant																P	P	P	P	P	P
Retail sales and service																S	P	P	P	P	P
RV camp ground/park																			S	S	
Scientific research																P	P		P	P	P
Sexually oriented business																					S
Temporary construc- tion office	L8	L8	L8	L8	L8	L8	L8	L8	L8	L8	L8	L8	L8	L8	L8	L8	L8	L8	L8	L8	L8

PERMITTED USES	AG	LFO	E-1	E-2	E-3	SF-1	SF-2	SF-3	SF-4	SF-5	SF-MHP	MD-1	MD-2	MF-1	MF-2	O	CBD	INS	C	HC	IND
Vehicle repair																				P	P
Industrial Uses																					
Bakeries																	P		P	P	P
Construction material sales																				P	P
Construction equipment sales/storage																					P
Distribution center																			P	P	P
Feed lots	S																				
Food processing	S																				S
Gas wells/oil wells	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Junk yards and auto wrecking																					S
Kennels	S																		L11	L11	L11
Manufacturing, light																	L7		L7	L7	P
Manufacturing, heavy																				L7	P
Manufacturing of non-odoriferous foods																					P
Motor freight terminal																					P
Printing/publishing																	P			P	P
Radio, tv or cellular towers																S	S	S	S	S	S
Recycling business																				S	P
Sanitary landfills, commercial incinerators, transfer stations	S																				S
Self-service storage																				P	P
Temporary concrete batch plant	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Veterinary clinics	P																		P	P	P
Wholesale sales																			S	P	P
Wholesale nurseries	P																				
Wholesale storage and distribution																				P	P
Wrecker services and impound lots																L9	L9	L9	L9	L9	L10
Service Uses																					
Barber, beauty & nail salon																P	P		P	P	P
Dance studio																P	P		P	P	P
Fitness facility																P	P	P	P	P	P
Health studio																P	P	P	P	P	P
Tattoo parlor																			P	P	P

PERMITTED USES	AG	LFO	E-1	E-2	E-3	SF-1	SF-2	SF-3	SF-4	SF-5	SF-MHP	MD-1	MD-2	MF-1	MF-2	O	CBD	INS	C	HC	IND
Tanning Salon																	P		P	P	P

P - Permitted Use

S - Specific Use Permit Required

L - Permitted Use with designated limitations

L1 - Live stock are permitted in accordance with Chapter 2 of the City of Azle Code of Ordinances

L2 - HUD-Code manufactured homes are allowed in the SF-4 district only when replacing an existing non- HUD Code trailer house.

L3 - Accessory structures directly related to an agriculture function are allowed without a primary structure on platted land greater than 5 acres.

L4 - Accessory Dwelling shall not exceed the total square footage of the primary use, including all ancillary uses. Accessory Dwelling are only allowed on properties with frontage on and addressed from Main Street. Accessory Dwellings must be attached to the structure housing the primary use. Only 1 Accessory Dwelling is allowed per plat- ted lot[.]

L5 - Building mounted wind generators may not extend higher than ten (10) feet above where the wind generator is mounted on the building. The height shall be measured from the base of the wind generator where it is mounted on the building to the highest point of the arc of the blades' elevation. If the wind generator does not use blades, then height is measured from the base of the wind generator where it is mounted on the building to the highest point of the wind generator.

L6 - Lots where the proposed wind generators will be located shall have a minimum lot area of two (2) acres. A maxi- mum of one (1) wind generators is permitted by right. Wind generators shall be located a minimum of 150 feet from the property lines. Multiple wind generators are permitted only with approval of a SUP. The maximum height of a wind generators shall not exceed the maximum height of a structure per the zoning district without an SUP[.]

L7 - No outside storage of materials is allowed. No measurable increase in ambient sound shall be detectable at the property line.

L8 - Temporary Construction Office may be erected 30 days prior to construction activities and shall be removed within 10 days of completion of construction activity[.]

L9 - No vehicle storage allowed[.]

L10 - A maximum of 30 vehicles may be stored[.]

L11 - A minimum separation of 500' from any outdoor kennel or run shall be maintained to any adjacent residential use.

L12 - A minimum separation of 300' shall be maintained to any adjacent residential use[.]

(Ordinance 2013-09, ex. A, adopted 5/7/13; Ordinance 2022-18 adopted 8/2/2022)

Exhibit 14A. Zoning Ordinance

SECTION 3. DEFINITIONS

§ 3.1. INTERPRETATION OF CERTAIN WORDS AND PHRASES.

For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows:

- A. The word person includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.
- B. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- C. The word shall is mandatory, the word may is permissive.
- D. The word used or occupied includes the words intended, designed, or arranged to be used or occupied.
- E. Words shall be construed in their common and usual significance unless the contrary is clearly indicated.

§ 3.2. DEFINITIONS.

For the purpose of this ordinance, the following definitions shall apply:

ABANDONED: When a building, lot, or structure has become vacant or out of use for a continuous period as specified in this ordinance, or when the intention of the owner to permanently discontinue occupancy of the premises is apparent.

ABUTTING, ADJACENT, ADJOINING: Contiguous or sharing a common border or boundary with other property. Abutting, adjacent, and adjoining shall include property immediately across an alley, but shall not include property across a street.

ACCESSORY BUILDING: A subordinate building, excluding garages, having a use customarily incidental to the main structure. A structure housing an accessory use is considered part of the main structure and not an accessory building when it has any part of a wall in common with the main structure or is under an extension of the main roof and designed as part of the main structure.

ACCESSORY DWELLING: A single-family dwelling ancillary to the primary commercial use of the property that is attached to the structure housing the primary business.

ACCESSORY USE: A land use subordinate to and customarily incidental to the primary use of the main structure or the premises.

ADMINISTRATIVE OR RESEARCH FACILITIES: A facility used for the management of an enterprise or research and development activities such as improving technologies, developing products and scientific research.

AGRICULTURAL ACTIVITY: Land used exclusively as a bonafide agricultural operation by the owner or tenant. The use of land for agricultural purposes including farming, horticulture, animal and poultry husbandry, and the necessary accessory uses, provided that the operation of the accessory use is clearly incidental to the agricultural activity. An accessory use shall include incidental sales by the producer of products raised on the farm.

ALLEY: A minor way which is used primarily for vehicular service access to the back or side of properties also abutting on a street.

ANTENNA: Any apparatus external to or attached to the exterior of a structure, together with any supporting structure for sending or receiving electromagnetic waves.

AREA OF THE LOT: That net portion of the lot which does not include portions of streets or alleys.

ASSISTED LIVING CENTER: A quasi-residential facility where room, board, and personal care services are provided within a structure containing multiple living quarters for seven (7) or more elderly persons who are not related to the owner. Personal care services include assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or administration of medication by a person licensed to administer medication, as defined by the Personal Care Facility Licensing Act, Section 247.002, Texas Health and Safety Code, V.T.C.A.

AUTOMOBILE AND RV SALES: A structure and/or lot dedicated to the retail sale of new or used motor vehicles and boats.

AUTOMOTIVE WRECKING AND SALVAGE YARD: A business that stores three (3) or more wrecked vehicles outdoors for the purpose of selling the vehicles whole; or dismantling or otherwise wrecking the vehicles to remove parts for sale or for use in an automotive repair or rebuilding business.

BAKERY: A place for baking or selling baked goods.

BAR: An establishment where 51% or more of the revenues are from the sale of alcoholic beverages.

BARN (OR STABLE): An accessory building having an agricultural or livestock use incidental to the main structure.

BASEMENT: A building story which is partly underground, but having at least one-half (1/2) of its height above the average level of the adjoining ground. A basement shall be counted as a story in computing building height.

BASIC UTILITIES: Infrastructure services and the structures necessary to provide those services including electricity, natural gas, telephone, telecommunications, water, or sewer.

BED AND BREAKFAST FACILITIES: A detached dwelling in which rooms are rented and meals may be served to transient guests on an overnight basis.

BLOCK: An area enclosed by streets, or if said word is used as a term of measurement, it shall mean the distance along a side of a street between two (2) intersecting streets, or if the street is of a dead-end type, a block shall be considered to be measured between the nearest intersecting street and the end of such dead-end street. In cases where platting is incomplete or disconnected, the Zoning Administrator shall determine the outline of the block.

BOARD OF ADJUSTMENT/BOARD: The Board of Adjustment of the City of Azle, Texas.

BOARDING HOUSE: A building where lodging and meals for five (5) or more persons are served for compensation.

BREEZEWAY: A covered passage six (6) feet or more in length connecting a main structure and an accessory building. A breezeway shall be considered an accessory building.

BROADCASTING OR PRODUCTION STUDIOS: A structure designed for making and transmitting programs for radio or television or for the production/editing of films, videos, commercials, etc.

BUILDABLE AREA: That portion of a building site, exclusive of the required yards, on which a structure or building improvement may be erected, and including the actual structure, driveway, parking lot, pool, and other construction as shown on the site plan.

BUILDING: Any permanent structure designed, used, or intended to be used for human occupancy or use or to support the human occupancy or use of land, including manufactured homes.

BUILDING: Any structure built for the support, shelter, and/or enclosure of persons, animals, possessions, or movable property of any kind.

BUILDING LINE: A line established beyond which no part of a building shall project, except as otherwise provided in this Chapter.

BUILDING PERMIT: A document signed by the Building Official or their authorized representative as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, repair, remodeling, rehabilitation, alteration, conversion, demolition, moving, installment, or portion of a structure or building, which acknowledges that such use or building complies with the provisions of this Chapter or an authorized variance or Specific Use Permit there from.

BUILDING SETBACK: The minimum horizontal distance between the front property line and the front wall of any projection of the structure, excluding steps and unenclosed porches.

BUSINESS: Includes retail, commercial, industrial, and manufacturing uses and zoning districts.

BUSINESS OR TRADE SCHOOL: A secondary school offering instruction in a professional, vocational, or technical field.

CARPORT: A partially enclosed structure used for the housing of motor vehicles, the property of, and for use only by the occupants of the lot upon which such structure is located. For purposes of zoning, a carport attached to a principal structure shall be regarded as part of that principal structure and not as an accessory structure. A detached carport shall be classified as an accessory structure.

CELLAR: A building story with more than one-half (1/2) of its height below the average level of the adjoining ground. A cellar shall not be counted as a story in computing building height.

CERTIFICATE OF OCCUPANCY: Certificate issued by the Building Official for the use of a building, structure or land, when it is determined by the Building Official that the building, structure or proposed land use complies with the provisions of all applicable Codes of the City of Azle.

CHURCH: A place of public worship and religious training including the on-site housing of ministers, rabbis, priests, nuns, and similar staff personnel.

CITY COUNCIL: The governing body of the City of Azle, Texas.

CLINIC: Offices for one or more physicians, or other health care personnel, engaged in treating the sick or injured, but not including rooms with hospital beds for overnight care.

COLLEGE OR UNIVERSITY: An institution of higher learning providing facilities for teaching and research and authorized to grant academic degrees[.]

COMMERCIAL PARKING LOTS: An area devoted to the standing, maneuvering, and circulation of motor vehicles in commercial areas.

COMMUNITY HOME: A home as defined in Chapter 123 of the Texas Human Resources Code.

COMMUNITY HOME FOR DISABLED PERSONS: A community-based residential home containing not more than six (6) disabled persons with two (2) supervisory personnel which meets the requirements of the Community Homes for the Disabled Persons Location Act, Tex. Hum. Res. Code Chapter 123.001, et seq. (Vernon 1990), as amended.

COMMUNITY SERVICE: A structure or group of structures for a community's governmental, social, educational, and/or recreational activities. Community Service facilities include federal, state, county, and local government activities.

COMPREHENSIVE PLAN: The Comprehensive Plan of the city as adopted by the City Council. The Comprehensive Plan shall consist of a Land Use Plan, a Thoroughfare Plan, a Water System Plan, a Sanitary Sewer Plan, a Storm Drainage Plan, a Park System Plan, and such other plans as may be adopted from time-to-time by the City Council.

CONFERENCE/CONVENTION CENTERS: A facility with a capacity of greater than 500 seats used for conferences, conventions, seminars, or similar functions.

CONSTRUCTION EQUIPMENT SALES/STORAGE: A business involved in the sale or storage of construction equipment including backhoes, excavators, loaders, compactors, dozers, etc.

CONSTRUCTION MATERIALS SALES: A business involved in the sale of structure supplies and services including lumber, plywood, drywall, siding, windows, molding, cabinets, insulation, etc.

DAY-CARE, ADULT: A facility that provides services under an Adult Day-Care Program on a daily or regular basis, but not overnight, to four or more elderly or handicapped persons who are not related by blood, marriage, or adoption to the owner of the facility.

DAY-CARE, CHILD: Means an establishment licensed by the state that provides care, protection and supervision for four or more children for periods of less than 24 hours per day on a regular basis for a fee or other compensation. This classification shall not include overnight lodging, medical treatment, counseling, and/or rehabilitative services and does not apply to any public school.

DISH ANTENNA: Any antenna which incorporates a reflective surface that is designed to transmit or receive microwave signals from terrestrial and/or orbital based uses.

DISTRIBUTION CENTER/WAREHOUSE, GENERAL: A facility where goods or products that are manufactured or assembled off-site are received and stored in bulk, and are then distributed to customers.

DISTRICT, ZONING: A section of the city for which the regulations governing the use and development of properties are uniform for each type and class of structure.

DISTURBED AREA: An area of land subjected to erosion due to the removal of vegetative cover and/or earthmoving activities, including but not limited to filling.

DWELLING, ATTACHED: A building attached to another building by a common wall, such wall being a solid wall with or without windows and doors and a common roof.

DWELLING, DETACHED: A dwelling which is designed to be and is substantially separate from any other structure or structures except accessory buildings without a common roof.

DWELLING, DUPLEX: A structure that contains two (2) attached dwellings that are separated by a fire-rated wall.

DWELLING, HUD-CODE MANUFACTURED HOME: A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is four hundred (400) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 C.F.R. Section 3282.8(g).

DWELLING, MULTIFAMILY: A structure that contains three (3) or more dwellings and any ancillary uses.

DWELLING, SINGLE-FAMILY: A building arranged, intended or designed for one-family occupancy.

DWELLING, TWO-FAMILY: A building arranged, intended or designed for two-family occupancy.

DWELLING UNIT: A building or portion of a building which is arranged, occupied, or intended to be occupied as living quarters for one family and including facilities for food preparation and sleeping.

EASEMENT: A grant of the right to use a strip of land for specific purposes.

EFFICIENCY APARTMENT: A dwelling unit having a combination living and bedroom, with no separate bedroom.

ELDERLY HOUSING: A structure licensed by the Texas Department of Aging and Disability, eighty (80) percent of whose occupants are fifty-five (55) years of age and older, and that; meets the definition of one (1) of the three (3) uses listed below:

- A. **Elderly Housing, Assisted Living:** Services in these establishments include assistance with daily activities, such as dressing, grooming, bathing, etc.
- B. **Elderly Housing, Congregate Care Facility:** A facility for long-term residence generally for persons fifty-five (55) years of age or older, and which shall include, without limitation, common dining, social and recreational features, special safety and convenience features designed for the needs of the elderly, such as emergency call systems, grab bars and handrails, special door hardware, cabinets, appliances, passageways, and doorways designed to accommodate wheelchairs, and the provision of social services for residents which shall include at least two (2) of the following: meals services, transportation, housekeeping, linen, and organized social activities.
- C. **Elderly Housing, Life Care Housing and Services:** A residential complex, which may contain multifamily dwellings, attached dwellings, single-family dwelling and other types of dwellings and structures designed for and principally occupied by senior citizens. Such facilities will include one of the following: A congregate meals program in a common dining area, assisted living housing, nursing home facilities, congregate care facilities, or medical facilities.

EQUESTRIAN FACILITIES: A structure or area for horseback riding activities including boarding, training, lessons, and shows.

EXTRATERRITORIAL JURISDICTION: The unincorporated area outside of and contiguous to the corporate boundaries of the City as defined and established in accordance with Chapter 42 of the Texas Local Government Code.

FABRICATING: The process of assembling using standardized parts.

FAMILY: One or more persons who are related by blood or marriage, living together, and occupying a single housekeeping unit or a group of not more than five (5) persons living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities on a nonprofit, cost-sharing basis.

FEEDLOT: A lot, corral, yard, or other area in which livestock are confined, primarily for the purposes of feeding and growth prior to slaughter. The term shall not include areas which are used for raising crops or other vegetation or upon which livestock are allowed to graze, nor shall it allow the slaughter of said animals and livestock on premises.

FESTIVAL, CARNIVAL, OR FAIR: A temporary public or commercial gathering where entertainment, food, crafts, amusement rides, games of chance, and the like are offered to the public for viewing or sale.

FIELD OR CONSTRUCTION OFFICE: A temporary modular building located at a construction site which serves only as an office until the given construction work is completed.

FLOOR AREA: The total (net) usable square footage of floor space within the interior wall of a structure or room, including each floor level, but excluding cellars, mechanical rooms, attics, carports, or garages that are not designed for residential or business occupancy.

FLOOR AREA RATIO (FAR): The ratio between the total square feet of floor area in a structure and the total square feet of land in the lot or tract on which the structure is located.

FOOD PROCESSING FACILITIES: Industrial operations in which raw food is made suitable for consumption, cooking or storage. Such facilities include commercial slaughterhouses for poultry, livestock, or other animals, hog farms, and egg farms.

FREE STANDING EMERGENCY MEDICAL CARE FACILITY / URGENT CARE FACILITY: is a facility operating 24 hours a day, seven days a week, that is structurally separate and distinct from a hospital and which receives an individual and provides emergency care. Emergency care is defined as health care services provided in a freestanding emergency care facility to evaluate and stabilize a medical condition of a recent onset and severity, including severe pain, psychiatric disturbances, or symptoms of substance abuse, that would lead a prudent layperson possessing an average knowledge of medicine and health to believe that the person's condition, sickness, or injury is of such a nature that failure to get immediate medical care could result in:

- A. Placing the person's health in serious jeopardy
- B. Serious impairment to bodily functions
- C. Serious dysfunction of a bodily organ or part
- D. Serious disfigurement
- E. Or in the case of a pregnant woman, serious jeopardy to the health of the woman or fetus

GAMES OF CHANCE: Any electronic, electromechanical, or mechanical contrivance that for a consideration affords the player an opportunity to obtain anything of value, the award of which is determined solely or partially by chance, even though accompanied by some skill.

GAMES OF SKILL: Any other electronic, electromechanical, or mechanical contrivance not deemed as a game of chance.

GARAGE, ATTACHED: A building designed primarily for storage of motor vehicles which shares a common wall with the main structure or is attached to the main structure by a breezeway.

GARAGE, DETACHED: A free standing building of similar construction and architecturally compatible with the main structure and designed primarily for storage of motor vehicles.

GARAGE PRIVATE PARKING: An accessory building, portion of a main building, or building attached thereto, used for the storage of private motor vehicles.

GARAGE, PUBLIC: A building or portion designed or used for the storage, sale, care, or repair of motor vehicles operated for commercial business purposes.

GRADE: The average elevation or level of the finished surface of the ground adjacent to the exterior wall of the structure.

GROSS FLOOR AREA: Measured as the outside dimension of the structure at each floor level, excluding the floor area of basements or attics not used for occupancy.

GROUP HOME: A profit or nonprofit facility, home, or structure for the protective care of persons, both adult and adolescent, who need a watchful environment, but do not have an illness, injury, or disability which requires chronic or convalescent care, including medical and nursing services. Protective care and watchful oversight includes, but is not limited to, a daily awareness by management of the residents' whereabouts, the asking and reminding of residents of their appointments for medical checkups, the ability and readiness of management to intervene if a crisis arises for a resident, and supervision by management in areas of nutrition, medication, and actual provision of transient medical care, with a twenty-four (24)-hour responsibility for the well-being of residents of the facility.

GROUP HOMES FOR DISABLED PERSONS: A shared residential living arrangement which provides a family-type environment for six (6) or more handicapped persons supervised by one or more primary caregivers and has obtained a license to operate under the Personal Care Facilities Licensing Act. Tex. Health & Safety Code Sec. 247.001 et.seq. A Group Home for Disabled Persons does not include Community Homes for Disabled Persons.

HEAVY MANUFACTURING: Industrial operations for the production of a good using raw materials and mechanical power and machinery.

HEIGHT: The vertical distance measured from the average finish ground level within five (5) feet of the building, to the highest point of the building. In measuring the height of the building, the following structures shall be excluded: chimneys, cooling tower, radio antennas, ornamental cupolas or spires, elevator bulk heads, tanks, water towers, and parapet walls (not exceeding four (4) feet in height). In measuring the height of a building having a roof inclining more than one inch (1) per foot the highest point of the building shall be the mean height level of the top of the main plates and highest ridge.

HOME OCCUPATION: Any occupation that does not involve a structural change in the building nor requires the employment of help or displaying a sign and shall not include beauty schools or parlors or doctors' offices. The use of the home as an occupation shall be incidental and subordinate to the use of the home as a dwelling.

HOSPITAL: An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care and nursing service on a continuous basis; or a nursing home (see definition).

HOTEL OR MOTEL: A facility offering transient lodging accommodations to the general public at a daily rate for a period of time not to exceed thirty (30) days, and providing additional services, such as restaurants, meeting rooms, and recreational facilities.

IMPERVIOUS SURFACE: A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

INDOOR AMUSEMENT: A facility providing game equipment for entertainment and amusement as a source of income. Games contained in the facility may include coin operated machines utilizing balls, pins, and baskets, video equipment, and pin balls. Other equipment may include skill games such as pool, billiards, shuffleboard, darts, and batting cages. Any combination of these games may be used in the facility. However, the combination of one (1) or more games of chance and/or three (3) or more games of skill shall constitute an amusement center.

INDOOR RECREATION: Indoor commercial uses which by their nature are recreational. Examples include bowling alleys, skating rinks, health clubs, racquetball or squash courts, indoor swimming pools, video arcades, pool halls, shooting range, etc.

JUNKYARD: A business that stores, buys, or sells materials that have been discarded or sold at a nominal price by a previous owner and that keeps all or part of the materials outdoors until disposing of them.

KENNEL: Any shelter where dogs or cats are bred, boarded, or held in return for payment. It includes the term "boarding kennel". Please refer to Chapter 2, Article 2.10 [Article **2.02**, division 2] of the City of Azle Code of Ordinances for additional requirements and/or restrictions.

KINDERGARTEN: A school for children of pre-public school age in which constructive endeavors, object lessons, and helpful games are prominent features of the curriculum.

LAUNDRY FACILITIES: A commercial laundering establishment which cleans clothing, carpeting, drapes, and other cloth or synthetic fiber materials using a chemical process. Such establishments may also include self-service laundering facilities.

LIGHT MANUFACTURING: Industrial operations relying on the assembly of products using parts previously developed from raw material and not classified as a point source of objectionable pollutants.

LIVESTOCK: Facilities for the raising, breeding, or maintenance of domestic animals including, but not limited to cattle, horses, sheep, swine, goats, and poultry. This definition does not include feed lots or similar uses.

LOADING SPACE, OFF-STREET: Space logically and conveniently located for bulk pickups and deliveries, and scaled to delivery vehicles expected to be used.

LOT: A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required, and having frontage on an approved public or private street. A lot may consist of a parcel of land designated as a lot on a plat filed in the County Plat Records.

LOT AREA: The area of a lot within the lot lines, expressed in square feet or acreage, including easements, and not including portions of any public street or alley.

LOT COVERAGE: The percentage of the total area of a lot occupied by the base (first story floor) of structure located on the lot.

LOT DEPTH: The mean horizontal distance from the front lot line to the rear lot line.

LOT FRONTAGE: The side of a lot which is adjacent to a street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered front yards, and yards shall be provided as indicated under YARD in this section.

LOT LINE, FRONT: The boundary between a lot and the street on which it fronts.

LOT LINE, REAR: The boundary line which is opposite and most distant from the front street line.

LOT LINE, SIDE: Any lot boundary not a front or rear line. A side lot line may be a party lot line, a line bordering on an alley, or side street line.

LOT LINES: The lines bounding a lot as defined herein.

LOT WIDTH: The horizontal distance between side lot lines, measured at the front building line, as established by the minimum front yard requirement of this ordinance.

LOT, CORNER: A lot abutting two (2) or more streets at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension.

LOT, INTERIOR: A lot whose side lines do not abut upon any street.

LOT, REVERSED FRONTAGE: A lot which has setback lines on both streets equal to the front setback line as required by this ordinance unless such lots align back-to-back which would allow both lots to show a side yard setback along the side street.

LOT, THROUGH: An interior lot having frontage on two (2) streets.

MAIN (PRINCIPAL) STRUCTURE: The structure or structures on a lot, which are occupied by the primary use.

MANUFACTURE OF NONODIFEROUS FOODS: Industrial operations for the manufacturing of nonodiferous foods.

MAJOR EVENT ENTERTAINMENT: A structure or area with a capacity of greater than one thousand (1,000) seats for public performances and sporting events. Major event entertainment facilities include concert halls, stadiums, and arenas.

MEDICAL CENTER: A walk-in facility for medical, obstetrical, or surgical care limited to day use only.

MINI-WAREHOUSE OR SELF-STORAGE FACILITY: A totally enclosed facility involving one (1) or more buildings that contain individual, compartmentalized, and controlled access stalls or lockers of varying sizes not to exceed six hundred (600) square feet inside, designed and used for the purpose of individual storage spaces for tenants for the sole purpose of the dead storage of the tenants' goods, wares, or personal property. No retail, wholesale, manufacturing, fabrication, service, repair, office, transfer/storage business, or other business will be allowed. Additionally, the operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns, or similar equipment shall not be allowed. The storage of hazardous or flammable materials as designed by the Fire Marshal is expressly prohibited.

MINIMUM LIVING SPACE: The least amount allowed for a dwelling area. See floor area in these definitions.

MOBILE HOME: A structure that was constructed before June 15, 1976, transportable in one (1) or more sections, which, in the traveling mode, is eight body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems.

NONCONFORMING USE OR STRUCTURE: Any structure or use of land lawful at the time of passage or amendment of this Chapter which does not conform, after the passage or amendment of this Chapter, with the regulations of the district in which it is located.

OCCUPANCY PERMIT: An official certificate issued by the city which indicates conformance with building, zoning, and health and safety regulations and authorizes legal use and occupancy of the premises for which it is issued.

OPEN SPACE: The area included in any side, rear, or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projection of cornices, eaves, or porches. Parking space is not considered open space.

OUTDOOR RECREATION: Outdoor commercial uses which by their nature are recreational such as golf courses, outdoor swimming pools, tennis courts, and basketball courts.

OUTDOOR STORAGE: The storage of any equipment, machinery, commodities, raw or semi finished materials, and building materials which are not within a fully enclosed building.

PARK OR RECREATION, PRIVATE: A noncommercial, not for profit facility designed to serve the open space and recreation needs of the residents of a development.

PARK OR RECREATION, PUBLIC: The real property and improvements thereon owned, operated, or maintained by the City, university, or other public entity, which are designed or used for recreational purposes and are available to the general public. The recreational purposes includes, but is not limited to public swimming pools, golf courses, tennis courts, stadiums, and recreational centers.

PARKING AREA: An open, unoccupied space exclusively for the parking of vehicles.

PARKING LOT: An off-street, all weather paved open surface area used exclusively for the parking of motor vehicles for less than a twenty-four (24) hour period.

PARKING SPACE: An unobstructed area for the storage of cars which meets the requirements of this ordinance.

PERMITTED USES: Any use allowed in a zoning district without additional approval and subject to the restrictions applicable to a particular zoning district.

PERSON: Any corporation, partnership, association, or other artificial entity; or any individual; or any agent or employee of the foregoing.

PLANNING AND ZONING COMMISSION: The agency appointed by the City Council as an advisory body to it, and which is authorized to recommend to the City Council changes in zoning boundaries and the text of this ordinance.

PLAT: A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the city. The plat must be prepared by a professional civil engineer registered in the State of Texas or a Public Surveyor registered in the State of Texas. Reference to a plat in this ordinance means an official plat of record which has been approved by the Planning and Zoning Commission and filed in the plat records of Tarrant or Parker County.

PLAYGROUND: An outdoor area used for recreation.

PREMISES: Land together with any structures occupying it.

PRINTING/PUBLISHING: An establishment where printed material is produced, reproduced and/or copied by either a printing press, photographic reproduction techniques, or other similar techniques. This use does not include copy shops.

PRIVATE CLUB: A group of people associated with or formally organized for a common purpose, interest or pleasure, including organizations with facilities for the storage, sale, possession, or serving of any alcoholic beverage permitted by the law of the State of Texas and where none of such facilities are available except to a member or their guests.

PRIVATE RECREATION: Belonging to or concerning a particular person or a group of persons.

PROFESSIONAL SERVICES AND OFFICES: Offices used for the conduct of business-related activities, excluding the sale of merchandise or storing of merchandise on the premises.

QUICK VEHICLE SERVICING: A business providing service to the motoring public. Such uses can include gasoline sales, light repair, tune-ups, oil changes, transmission or drive train repairs to automobiles or light trucks. No outside storage of any automobiles or materials such as tires, auto parts, etc., is allowable. The sale of motor vehicles shall be prohibited[.]

RECREATIONAL VEHICLE: A motorized vehicle, designed or maintained for use as a temporary dwelling or sleeping place for travel or recreation purposes exclusively, having no foundation other than wheels or jacks.

RECREATIONAL VEHICLE PARK: A parcel of land which is used solely for the rental or lease of lots for transient campers, trailers, motor homes, or temporary parking of any other recreational vehicle that is not a mobile home or HUD-code manufactured home.

RECYCLING BUSINESS: A business that is primarily engaged in:

- A. Converting ferrous or nonferrous metals or other materials into raw material products having prepared grades and having an existing or potential economic value;
- B. Using raw material products of that kind in the production of new products; or
- C. Obtaining or storing ferrous or nonferrous metals or other materials for a purpose described by Paragraph A or B.

RESIDENCE: A building occupied as the abiding place of one (1) or more persons which contains sleeping quarters, all appliances for cooking, ventilating, heating or lighting, and which shall be the principal building on any lot in residential zoning districts.

RESTAURANT: A structure that prepares and serves food to customers, including sit down, fast food, drive-through, and drive-in facilities.

RETAIL SALES AND SERVICE: A business established for the sale of goods or services to consumers, usually in small quantities (as opposed to wholesale) and does not include wholesale goods or services.

ROOM: A building or portion of a building which is arranged, occupied, or intended to be occupied as living or sleeping quarters, but not including toilet or cooking facilities.

SALVAGE YARD: Any lot or parcel of land on which wastes or used secondhand materials are bought, sold, exchanged, stored, processed, or handled. Materials include but are not limited to: scrap iron and other ferrous metals, paper; rags, rubber tires, bottles, discarded goods, machinery, or two (2) or more inoperable motor vehicles.

SANITARY LANDFILLS: A system of trash and garbage disposal in which the waste is buried between layers of earth.

SEXUALLY ORIENTED BUSINESS: Means:

- A. An adult arcade, adult bookstore, adult video store, adult novelty store, adult service establishment, adult cabaret, adult motel, adult theater, adult motion picture theater, escort agency, nude model business, sex parlor, or sexual encounter center, and/or
- B. Any establishment whose principal or primary business is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to its customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas; or whose employees or customers appear in a state of nudity, semi-nudity, or simulated nudity.
- C. The term "sexually oriented business" shall not be construed to include:
 - 1. Any business operated by or employing licensed psychologists, licensed physical therapists, registered massage therapists, registered nurses, licensed athletic trainers in the practice of their professions;
 - 2. Any business operated by or employing licensed physicians or licensed chiropractors engaged in practicing the healing arts;

3. Any retail establishment whose principal or primary business is the offering of wearing apparel for sale to customers and which does not exhibit merchandise on live models; or
4. Any activity conducted or sponsored by any Texas Independent School District, licensed or accredited private school, or public or private college or university.

Please refer to Chapter 4, Article 4.1100 [article **4.10**] of the City of Azle Code of Ordinances for additional requirements and/or restrictions.

SEXUALLY ORIENTED BUSINESS- ADULT ARCADE: Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”

SEXUALLY ORIENTED BUSINESS - ADULT BOOKSTORE/ADULT VIDEO STORE:

- A. A commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:
 1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides, or other visual representations distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”; or
 2. Instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities.”
- B. For the purpose of this definition, a commercial establishment shall be considered to have as “one of its principal business purposes” the sale or rental of the materials described in subsection **(A)** above, if:
 1. The establishment makes use of a sign visible from any public street, whether located on or off the property of the establishment, advertising the availability at the establishment of any materials described in subsection (A);
 2. The establishment devotes more than thirty (30) percent of its total floor area which is open to the public to the display of items for sale or rental that are materials described in subsection (A);
 3. More than thirty (30) percent of the total number of items displayed for sale or rental by the establishment are materials described in subsection (A); or
 4. The establishment regularly maintains on the property for sale or rental materials described in subsection (A) whose total retail value is more than fifty (50) percent of the total retail value of all materials kept on the premises for sale or rental.

SEXUALLY ORIENTED BUSINESS - ADULT CABARET: A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- A. Persons who appear in a state of nudity; or
- B. Live performances which are distinguished or characterized by an emphasis on “specified sexual activities” or the exposure of “specified anatomical areas”; or
- C. Films, motion pictures, videocassettes, slides, or other photographic reproductions which are distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”

SEXUALLY ORIENTED BUSINESS - ADULT MOTEL: A hotel, motel, or similar commercial establishment which:

- A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
- B. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

SEXUALLY ORIENTED BUSINESS - ADULT MOTION PICTURE THEATER: A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

SEXUALLY ORIENTED BUSINESS - ADULT THEATER: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are distinguished or characterized by an emphasis on "specified sexual activities" or the exposure of "specified anatomical areas."

SPECIFIC USE PERMIT: A permit recommended by the Planning and Zoning Commission and authorized by the City Council for the use of land or structures in accordance to the provisions of this ordinance.

STREET: A public way between two (2) right-of-way lines, other than an alley or private drive, which has been dedicated or deeded to the public and accepted by the city for public use and affords a principal means of access (vehicular or otherwise) to property abutting thereon, as well as for utilities and sidewalks.

STORY: That part of a structure included between the surface of one (1) floor and the surface of the floor next above, or if there is no floor above, the part of the structure which is above the surface of the highest floor thereof. A top story attic is a half story when the main line of the eaves is not above the middle of the interior height of such story. The first story is the highest story having its interior floor surface not more than four (4) feet above the adjoining ground level. The standard height for a story is eleven (11) feet, six (6) inches.

STRUCTURAL ALTERATIONS: Any change in the supporting members of a structure, such as bearing walls, columns, beams or girders, or any substantial changes in the roof or exterior walls excepting such repair or replacement as may be required for the safety of the structure, but not including openings in bearing walls as permitted by the city building code.

STRUCTURE: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, manufactured homes, walls, fences, and poster panels.

TRACT: An un-platted parcel of land described by metes and bounds and typically recorded in the County Deed Records.

VARIANCE: A modification or variation of the provisions of this ordinance, which may be approved by the Zoning Board of Adjustment as to a specific piece of property, in accordance with this ordinance.

VEHICLE: Every mechanical device in, upon, or by which any person or property is or may be transported or drawn upon a public highway except devices moved by human power or used exclusively

upon stationary rails or tracks.

VEHICLE STORAGE FACILITY: A garage, parking lot, or any type of facility used for the storing or parking of vehicles. The storing or selling of vehicle parts, the removal of vehicle parts from stored vehicles, and the repair or reconstruction of vehicles is prohibited. A vehicle storage facility does not include an “automobile graveyard” as defined in Section 391.001, Texas Transportation Code.

WHOLESALE NURSERIES: An area where plants are grown for transplanting, for use as stocks for budding and grafting, or for sale in large quantities for resale purposes. The business may have up to fifty (50) percent retail sales in conjunction with the wholesale sales[.]

WIND GENERATOR: Is a machine that, powered by the energy of the wind, to power an electrical generator for making electricity.

WRECKER SERVICE: A wrecker or tow truck operator registered as such with the State of Texas.

YARD: An open space at grade between a structure and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except driveways and sidewalks and as otherwise provided.

YARD, FRONT: An open, unoccupied landscaped space on a lot facing a street between a building and a street line.

YARD, LAKE: A yard on a lot in a Lake Front Overlay District which is located between the structure and the property line which abuts the lake.

YARD, REAR: A yard between the rear lot line and the rear line of the main structure and the side lot lines.

YARD, SIDE: A yard between the structure and the side line of the lot and extending from the front yard to the required minimum rear yard.

ZONING ADMINISTRATOR: The administrator or the designee, appointed by the City Manager, to enforce and administer the terms of this ordinance. The individual whose decisions and interpretations may be appealed to the Zoning Board of Adjustment.



Presenter: David Hawkins, Director of Planning and Development

Agenda Item: Lakeview Heights Development Easement

Background and Explanation:

Mr. Jim Kirk, Azle resident, 116 Westlake Woods Drive, Azle, TX 76020, spoke at the February 15, 2024 Planning and Zoning Commission meeting and requested that a new discussion be added to the next P & Z meeting to discuss his concerns about the Lakeview Heights development. Attached to this agenda item is a presentation and a news article.

Below is a timeline of development applications for the Lakeview Heights development:

1. First development application for Lakeview Heights property was zoning change request on July 1, 2020 (application was withdrawn prior to P & Z Commission meeting)
2. 2nd zoning change request dated January 2021 (request was denied by City Council on April 6, 2022)
3. Preliminary Plat application submitted on May 27, 2021 for Lakeview Heights
4. Initial Civil Plans for Lakeview Heights was submitted November 16, 2021 (shows off-site grading on Azle Elementary School property - Sheet 57)
5. Final Plat for Lakeview Heights was submitted on January 5, 2022

No tree survey was required for Lakeview Heights as the initial development application was submitted prior to the adoption of the Azle Tree Preservation Ordinance on October 19, 2021.

Board/Commission/Committee Recommendation:

No formal action is needed on this agenda item. Discussion only.

Staff Recommendation:

N/A

Attachments:

1. 240307 Lakeview Heights Easement PRESENTATION P&Z 230321
2. 240308 Lakeview Heights easement TIERRA GRANDE VESTED RIGHTS Jan 2012

Lakeview Heights Development



Slope, Grading and Fill Easement of Azle Elementary School Property



Azle Tree Preservation Ordinance 2021-15

Before

Azle Planning and Zoning Commission convening as the Tree Board

James E. Kirk, Jr. BS AsE, MS ME
Retired Aerospace Engineer
116 Westlake Woods Dr
Azle, TX 76020-4960
(817) 681-0143
jimkirkjr@icloud.com

March 21, 2024

Timeline:

- **July 1, 2020:** Conti & Sons LTD submitted 1st application for Planning and Development with a request for zoning changes **on 43.4 acres** for 120 residential lots. Thus grandfathering all Azle City rules in effect on that date for that designated property, no Tree Preservation Ordinance, and no Azle ISD Easement.
- **January 26, 2021:** Conti & Sons LTD submitted 2nd application for Planning and Development with request for zoning changes for 91 residential lots.
- **May 27, 2021:** Conti & Sons LTD submitted 3rd application for Planning and Development without zoning changes.
- **July 15, 2021:** The Lakeview Heights developer presented their Preliminary Plat to P & Z.
- **October 19, 2021: Azle Tree Preservation Ordinance No. 2021-15, Passed and approved by Azle City Council.**
- **November 16, 2021:** Initial Civil Plans for Final Plat submitted.
- **January 5, 2022:** Saginaw 106, Ltd submitted 4th application for Planning and Development including the Final Plat for 79 residential lots.
- **February 8, 2022:** Slope, Grading and Fill Easement granted by Azle ISD to Saginaw 106, Ltd (for \$10): **Riverside Builders Submitted** to, Filed and Recorded with Tarrant County of Texas, but not the City of Azle.
- **June 6, 2022:** Without fair notice to the City of it's project and without a Permit from the City, the Lakeview Heights developer clear cut (bulldozed) trees from the Azle ISD land covered by their Easement. (This was the first time City of Azle became aware of the Easement. The Easement has never been filed with the City)

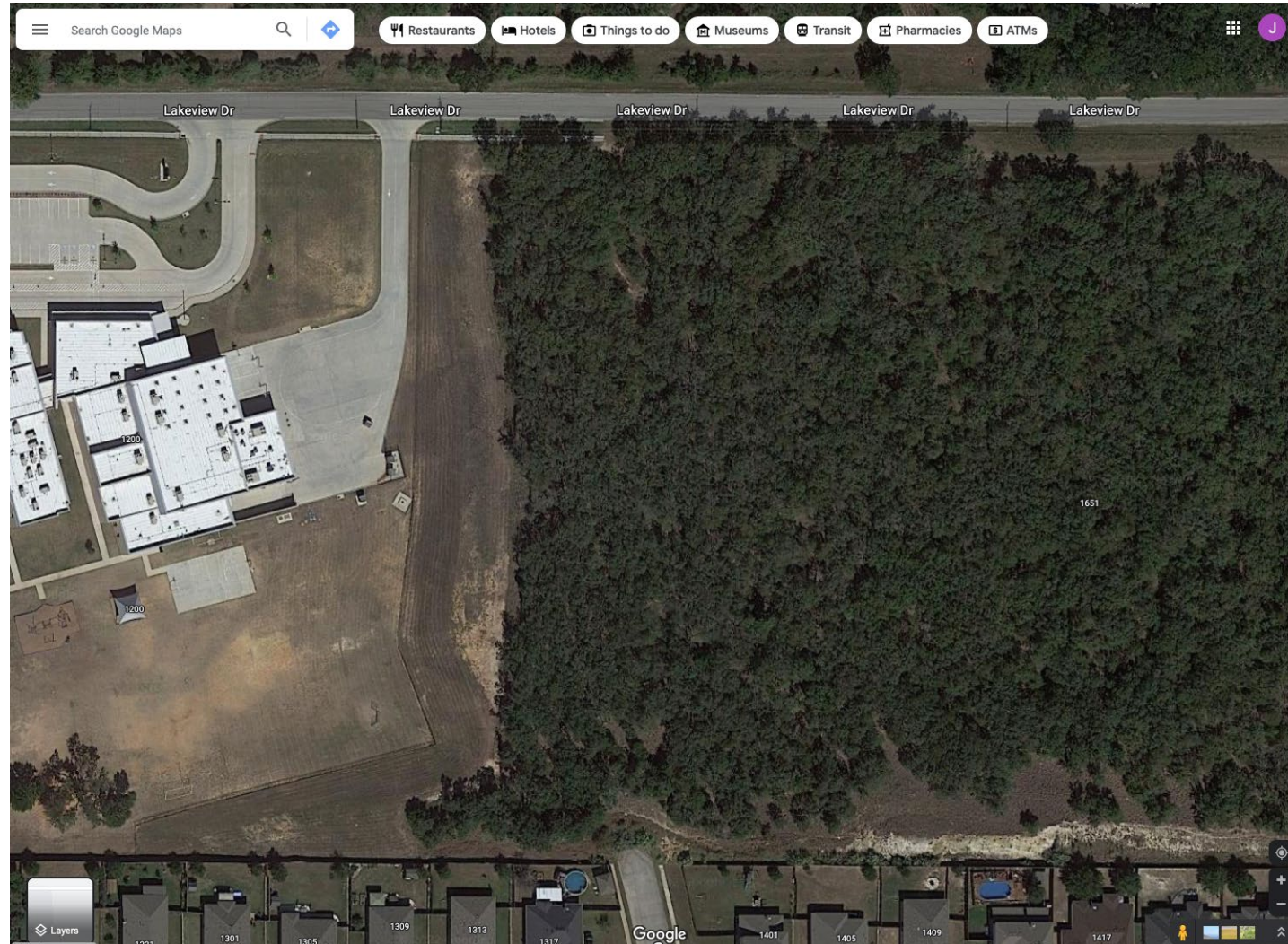
Problem:

- The 43.395 acres of the Project's land shown in the 1st application and the Preliminary Plat are exempt from the Tree Preservation Ordinance.
- The Slope, Grading and Fill Easement land (1.145 acres) was obtained after the effective date of the Tree Preservation Ordinance and the Easement land was not part of the project land in the 1st application or the Preliminary Plat, thus the Easement land is subject to the rules of the Tree Preservation Ordinance.

A Remedy:

- Lakeview Heights developer to pay a fine in accordance to the provisions of the Tree Preservation Ordinance for not adhering to it's requirements in clearing the 1.145 acres.
- Provide a onetime compensation, determined by an agreement between the City of Azle and the Azle ISD, paid by Lakeview Heights developer to the Azle ISD for the Azle ISD to provide perpetual landscape care and erosion control for their 1.145 acres covered by the Easement.

Lakeview Heights development forested area as seen before construction



A full and complete tree canopy existed over Lakeview Heights land and the Azle IDS Easement land

Lakeview Heights development and the Azle IDS Easement lands as seen after clear cutting.



Virtually no ground cover exists after construction started

Lakeview Heights Development Grandfathered its 43.395 acres of land
with their 1st application for Planning and Development; 7/1/20
and Preliminary (No Change Zoning) Plat P&Z; 7/15/21

Texas Local Government Code: Chapter 245 Section 245.002

(a) Each regulatory agency shall consider the approval, disapproval, or conditional approval of an application for a permit solely on the basis of any orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements in effect at the time:

- (1) the original application for the permit is filed for review for any purpose, including review for administrative completeness; or
- (2) a plan for development of real property or plat application is filed with a regulatory agency.

(a-1) Rights to which a permit applicant is entitled under this chapter accrue on the filing of an original application or plan for development or plat application that gives the regulatory agency fair notice of the project and the nature of the permit sought. An application or plan is considered filed on the date the applicant delivers the application or plan to the regulatory agency or deposits the application or plan with the United States Postal Service...

(b) If a series of permits is required for a project, the orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements in effect at the time the original application for the first permit in that series is filed shall be the sole basis for consideration of all subsequent permits required for the completion of the project. All permits required for the project are considered to be a single series of permits. Preliminary plans and related subdivision plats, site plans, and all other development permits for land covered by the preliminary plans or subdivision plats are considered collectively to be one series of permits for a project.

The Land covered by the preliminary plan and plat is Grandfathered, NOT the Project

First Application for Planning and Development July 1, 2020

With a Letter Showing a Novel Position on Maintaining Trees

CITY OF AZLE
APPLICATION FOR PLANNING AND DEVELOPMENT

PLEASE PRINT AND COMPLETE EACH ITEM ON THIS FORM. FAILURE TO COMPLETE THE APPLICATION WILL DELAY THE PROCESS.

Date of Application: 7/1/2020	
Property Location: EAST OF AZLE ELEMENTARY, ON LAKEVIEW DR	
Subdivision: BEVOLI FARMS	Block: N/A Lot: N/A
Current Zoning/Use: SF-1, SF-2, E-2, E-3	Requested Zoning/Use: PD
☐ Preliminary Plat ☐ Final Plat ☐ Re-plat ☐ Amending Plat ☐ Minor Plat ☒ Zoning Change ☐ Specific Use Permit ☐ Vacating a Plat ☐ Variance ☐ Zoning Board of Adjustment	
If owner or applicant is a corporation or business, please list a contact name.	
PROPERTY OWNER INFORMATION	
Name: CONTI & SONS LTD	Cell Phone: N/A
Address: 6813 CAMPANIE BLVD	Work Phone: N/A
City/State/Zip: FT. WORTH, TX, 76116	FAX Number: N/A
Phone: (855) 589-8326	Email: bruceconti@gmail.com
Contact Name: BRUCE CONTI	Owner Signature: [Signature]
APPLICANT/DEVELOPER INFORMATION	
Name: TEAGUE, NALL & PERKINS	Cell Phone: 817-8910-8580
Address: 5137 N. RIVERSIDE DR.	Work Phone: N/A
City/State/Zip: FT. WORTH, TX, 76137	FAX Number: N/A
Phone: 817-1865-7144	Email: sknight@tnpinc.com
Contact Name: Sam Knight	Applicant Signature: [Signature]

Submittal Requirements:
An application is considered complete if all required documents are submitted. Failure to submit the required documents will delay the approval process.

PRELIMINARY PLAT	MINOR AND AMENDING PLATS
1. A completed application.	1. A completed application.
2. An approved drainage plan.	2. Minor or Amending plat checklist.
3. Nine (9) copies of the plat + 1 digital plat	3. 3 (3) copies of the plat for staff review.
Note: Upon staff approval, an additional ten (10) copies will be required for the Planning and Zoning Commission meeting.	4. An original Tax Certificate.
	Note: Upon staff approval, one (1) signed plat to be filed with the appropriate county office. Parker Co. requires a mylar.
Re-plat and Final Plat	Zoning Changes or Variance
1. A completed application.	1. A completed application.
2. An original Tax Certificate.	2. Metes and bounds description of the property. (Zoning Change Only)
3. Nine (9) copies of the plat + 1 digital plat	3. Lot boundary survey. (Zoning Change Only)
Note: Upon staff approval, an additional ten (10) copies will be required for the Planning and Zoning Commission meeting.	4. Justification letter (optional).
Note: Upon approval, one (1) signed plat to be filed with the appropriate county office. Parker Co. requires a mylar.	Note: Additional documentation may be needed once staff has reviewed the application

FOR OFFICE USE ONLY

Case Number: _____ Fee Amount: _____ Receipt Number: _____
 DRC Date: _____ P & Z Date: _____ Application Date: _____
 Employee: _____



July 1, 2020

City of Azle
 Planning and Zoning Department
 Mr. Greg Mitchell
 505. W. Main Street
 Azle, Texas 76098

**RE: Conti Tract – PD Zoning
 Justification Letter**

Greg:

Conti & Sons is currently proposing a planned residential development for the 43.4 acres of undeveloped land that is located on the south side of Lakeview Drive between the Azle Elementary School and Broadway Road. The existing zoning designation for the property consists of multiple residential zonings; Single-Family One District (SF-1), Single-Family Two District (SF-2), Estate Two District (E-2) and Estate Three District (E-3).

Per the 2017 Land Use Map, the entirety of the planned development is currently identified as "Low Density Residential" which is defined as 2-4 lots per acre. The attached planned development site plan has a total of 120 proposed residential lots that are contained within the 43.4 tract. This equates to 2.76 lots per acre and fits well within the 2017 Land Use Map criteria.

A preliminary site plan review meeting was held with the City on February 11th, 2020. Based on feedback received from city staff, some revisions to the site plan were made. We are proposing that a greenbelt be maintained between the proposed development and the surrounding road frontage of Lakeview Drive and Broadway Road. These greenbelt areas will largely consist of the existing mature trees that are currently on site. It is important for the proposed development as well as the adjacent property owners to maintain as many of the existing trees as practical. By maintaining the "tree buffer", it allows for a more fluid transition between the larger estates lots to the north and the smaller, more similar sized lots to the south and west.

Per city staff, traffic congestion is created in front of the Elementary school along Lakeview Drive during peak hours. Our proposed site plan provides two additional street connections and extensions to Ash Avenue that will facilitate better traffic circulation in the area and provide some relief for the Ash/Lakeview intersection.

Teague Nall & Perkins respectfully requests approval of the planned development zoning. We believe that the proposed site plan provides the best suited development plan for this property, honors the 2017 Land Use Map, and incorporates feedback received from the city.

Thank you for your consideration on the planned development.

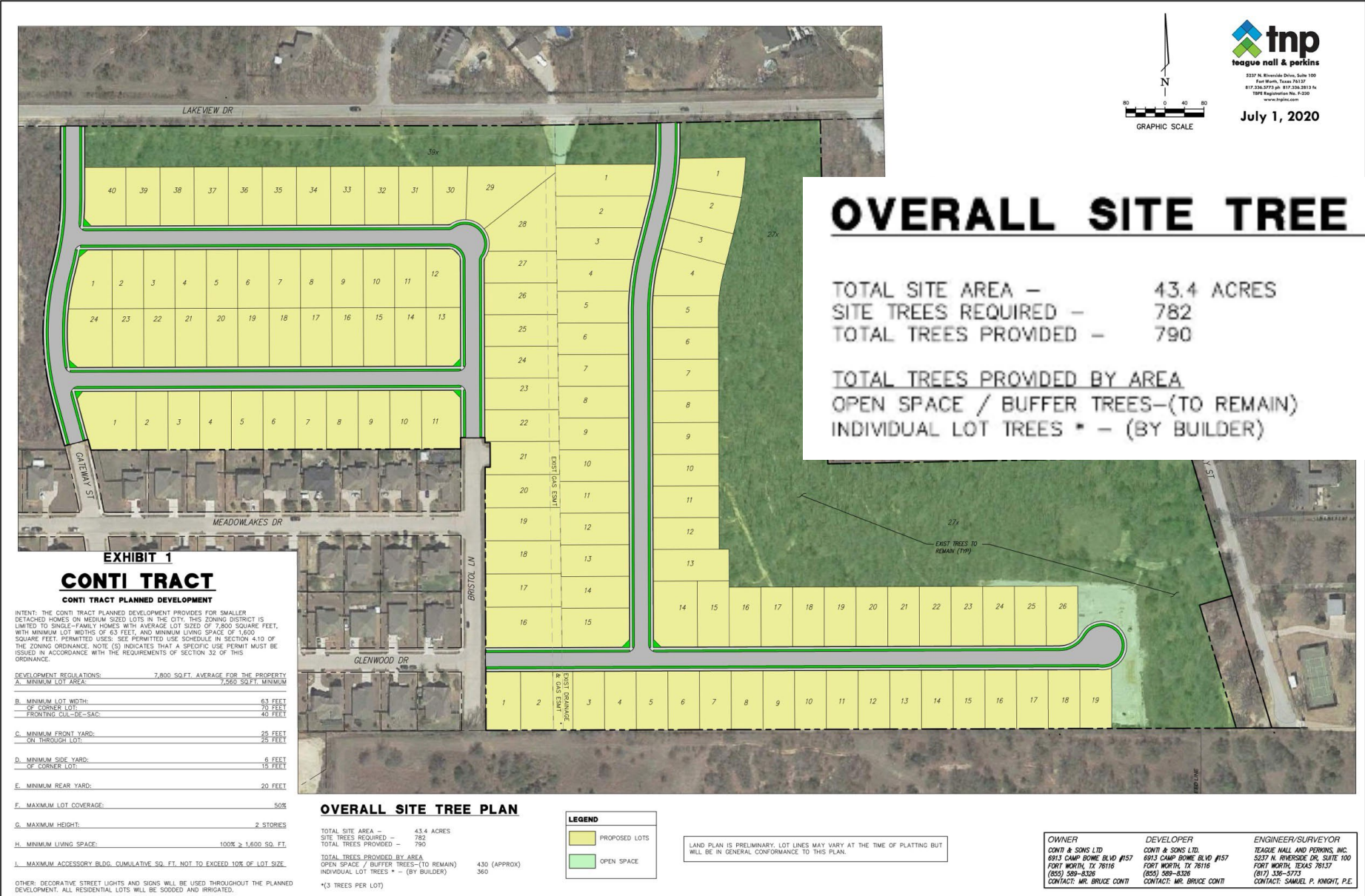
Sincerely,
 tnp
 teague nall & perkins

[Signature]
 Samuel Knight, P.E.
 Residential Development Manager

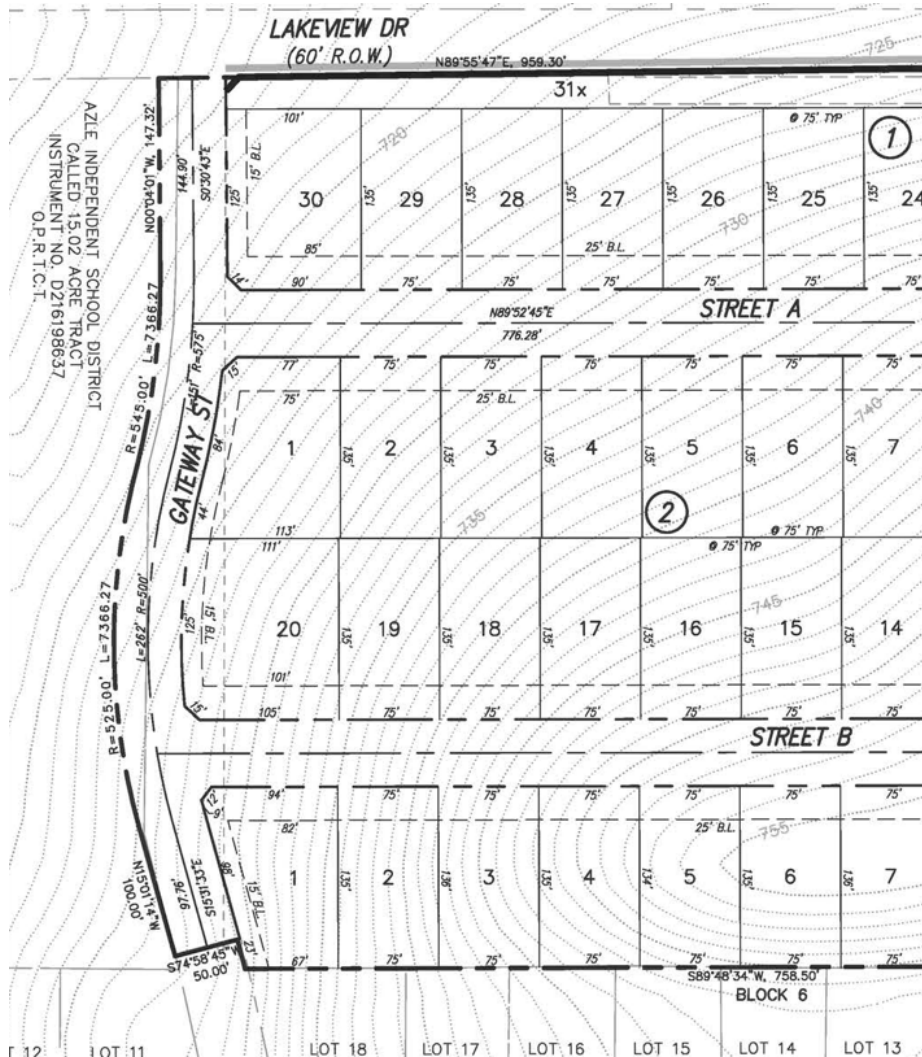
"It is important for the proposed development as well as the adjacent property owners to maintain as many of the existing trees as practical" Mr. Samuel Knight, P.E. of tnp

No Easement
included

The accompanying
Legal Description
more accurately
says 43.395 acres



Lakeview Heights Preliminary Plat P & Z July 15, 2021



LAND USE SUMMARY TABLE		
SINGLE FAMILY RESIDENTIAL	79 LOTS	35.18 Ac.
PRIVATE OPEN SPACE	3	2.37 Ac.
STREET R.O.W.		
THOROUGHFARE	0 LF	0 Ac.
COLLECTOR	0 LF	0 Ac.
RESIDENTIAL	5,602 LF	5.85 Ac.

POPULATION DENSITIES	
PROJECT AREA	43.40 Acres
LOTS PER ACRE (79 LOTS/43.40 Ac.)	1.82 LOTS/ACRE
POPULATION YIELD	79 LOTS x 3.00 PEOPLE/LOT = 237 PEOPLE

A PRELIMINARY PLAT FOR
LAKEVIEW HEIGHTS
 43.4 ACRES SITUATED IN THE JACOB WILCOX
 SURVEY, #49 ABSTRACT 1730,
 TARRANT COUNTY, TEXAS

AZLE, TEXAS
 June 30, 2021

OWNER	DEVELOPER	ENGINEER/SURVEYOR
CONTI & SONS LTD 6913 CAMP BOWIE BLVD #157 FORT WORTH, TX 76116 817-926-2067	LACKLAND HOLDINGS 3045 LACKLAND RD FORT WORTH, TEXAS 76116 817-717-7133	TEAGUE NALL AND PERKINS, INC. 5237 N. RIVERSIDE DR, SUITE 100 FORT WORTH, TEXAS 76137 (817) 336-5773 CONTACT: SAMUEL P. KNIGHT, P.E.

Plat published a year after the 1st Application and with 2 subsequent applications still states the project area is 43.4 acres
 Land west of the Plat boundary is designated as owned by the Azle ISD with no mention of a proposed
 Slope, Grading and Fill Easement, or the City of Azle's Drainage Facility Easement

Lakeview Heights Development and Azle Elementary School Boundary as shown on the Tarrant Appraisal District map



Azle Tree Preservation Ordinance (excerpted and simplified)

- Passed and Approved by Azle City Council October 19, 2021
- The Purpose and Intent: 6.08.001
 1. Prohibit the indiscriminate clearing of property.
 4. Protect healthy protected trees that contribute to noise reduction, air protected, glare reduction, and promote the natural ecological environmental and aesthetic qualities of the City.
- Definitions: 6.08.002
 2. Tree Mitigation Plan: A plan to replace trees or payment into a tree replacement fund. Provide for a 1:1 caliper inch replacement
 3. LARGE TREE: Any Protected tree that has a diameter of 24" or greater.
 4. PROTECTED TREE: A tree listed in Exhibit A (ex. All native oak) and has a diameter of six inches (6") or greater.
 7. TREE SURVEY: A survey of protected trees indication size, type and location done by a professional arborist.
- Applicability: 6.08.003
 - Developer must demonstrate that all options have been considered to preserve as many trees as possible in accordance with the Ordinance.
- 1. Requires of Single-Family Residential Subdivision Developments:
 - a) An aerial photo of the property showing the tree coverage, superimposed on this photo will be overlay of the proposed development showing all improvements.
 - b) A Tree Survey and Tree Mitigation Plan of all areas of soil disturbance and construction activity including all work within rights of way and easements shall be submitted at time of platting.
 - 1) Signed by a certified arborist and licensed surveyor.
 - 2) No older than 2 years.
 - 3) Reviewed in conjunction with grading plans for consistent.
 - c) Requirements of a Tree Survey and Tree Mitigation Plan may be appealed to the Tree Board who may make recommendation to City Council. City Council has final decision.

Azle Tree Preservation Ordinance (continued)

3. Requires of Non-Residential Development:

- a) An aerial photo of the property showing the tree coverage, superimposed on this photo will be overlay of the proposed development showing all improvements.
- b) A Tree Survey and Tree Mitigation Plan showing all protected trees and all proposed improvements submitted with site plan.
 - 1) Signed by a certified arborist and licensed surveyor.
 - 2) No older than 2 years.
 - 3) Reviewed in conjunction with grading plans for consistent.
- c) A tree removal permit is required for all non-residential developments.
- d) Trees may be removed for building pads, fire lanes, and may be exempt from the tree protection and replacement requirements, plus and additional 20% for parking lots and/or for grading and drainage purposes.

• Exceptions: 6.08.004

- A Tree removal permit shall be issued and tree protection and replacement requirements shall no be required under any of the following circumstances. The burden of proof as a qualified exemption is upon the remover of a tree.

1. Approved Plans: All construction activities for which a final construction plans and building permit applications have been submitted prior to the effective date of this Article shall be exempt.

• Tree Removal Permit Required: 6.08.005

1. The Clear-cutting of land is prohibited and all permits for tree removal shall be subject to the Ordinance.
2. No grading or tree removal shall take place on any undeveloped property without obtaining a tree removal permit.
3. All trees not listed as a protected tree within this Article may be removed with a tree removal permit.

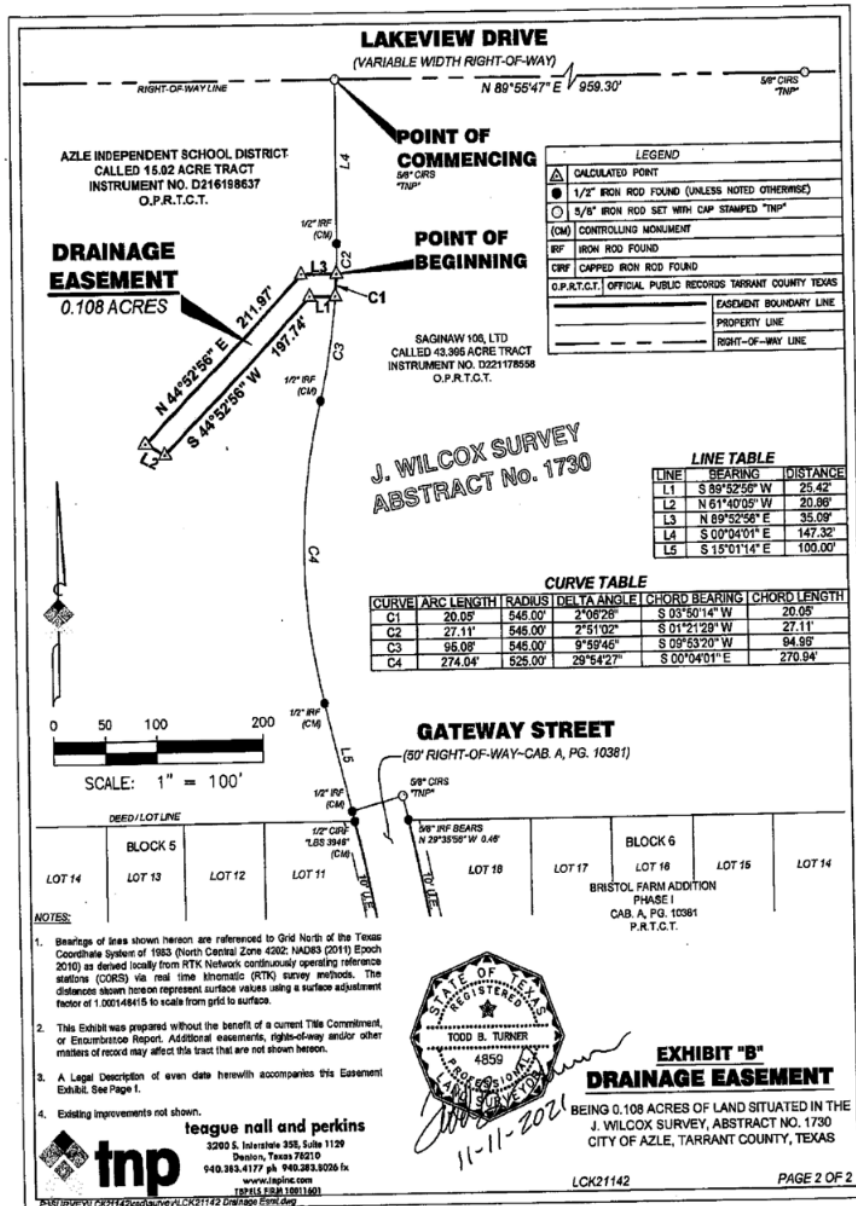
• Tree Replacement Requirement: 6.08.007

1. With the removal of a protected tree the developer shall be required to replace the removed protected trees with trees defined in Exhibit A. A sufficient number of trees shall be planted to equal or exceed the diameter of each tree removed. The replacement trees shall be a minimum of 2 " in diameter and 7' in height when planted.
2. A replacement tree that dies within 2 years will be replaced with another like tree.
3. Mitigation Fee
 - a. If approved by the Director of Planning Development a payment in lieu of compliance may be made to a City special fund. The fee will be \$200 per caliper inch of Protected Trees and \$500 for Large Trees.

Azle Tree Preservation Ordinance (continued)

- Enforcement: 6.08.011
 1. Permit Required: No development or grading activity shall commence until all applicable requirement of this Article are met and a notice to proceed or a tree removal permit has been issued for the site.
 2. Acceptance of Improvements: No acceptance of public improvements shall be authorized until all requirements of this Article are met and all fines for violations of this Article have been paid and all replacement trees have been planted or payment has been made to the Tree Reforestation Fund.
 3. Certificate of Occupancy: No Certificate of Occupancy shall be issued until all requirements of the Article are met and all fines for violations of this Article have been paid and all replacement trees have been planted or payment has been made to the Tree Reforestation Fund.
- Penalty: 6.08.012
 1. Any person, firm, cooperation, agent, or employee thereof who violates the provisions of this Article by removing trees without a permit shall be guilty of a misdemeanor and upon conviction hereof shall be fined in an amount not to exceed two hundred and fifty dollars (\$250) per caliper inch of the tree(s) removed or damaged not to exceed two thousand dollars (\$2,000) per incident.
 2. A person firm, corporation, agent, or employee thereof violates any of the provisions of this Article shall be guilty of a misdemeanor and upon conviction hereof shall be fined a minimum of five hundred dollars (\$500.00) but not to exceed two thousand dollars (\$2,000) per incident. The unlawful injury, destruction or removal of each protected tree shall be considered a separate incident and each incident subjects the violator to the maximum penalty set forth herein per tree.

Azle ISD (Grantor) of Drainage Easement on 0.108 acres of Azle Elementary School land west of Lakeview Heights Development tp City of Azle (Grantee), for \$10. Recorded with the County on 02/09/2023 by Teague Nail and Perkins.



GRANTOR:
Azle Independent School District

BY: Bill Lane
ITS: Board President

GRANTEE:
City of Azle

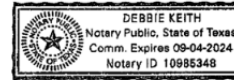
By: Alan Brundrett

Title Mayor

EASEMENT

STATE OF TEXAS §
COUNTY OF TARRANT §

This instrument was acknowledged before me on December 13, 2021 by Bill Lane, known to me to be the same person whose name is subscribed to the foregoing instrument.



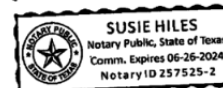
Debbie Keith
Notary Public, State of Texas

ACKNOWLEDGEMENT

STATE OF TEXAS §
COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Alan Brundrett of the City of Azle, known to me to be the same person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the City of Azle and that he/she executed the same as the act of the City of Azle for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 17 day of January, 2021/2023



Susie Hiles
Notary Public, State of Texas

Approval by School Board president and the Mayor of Azle.

Mayor's signature
Notarized by City employee.

Engineer/Surveyor:
Teague Nail and Perkins

Observations of the Drainage Facility Easement Granted to the City of Azle

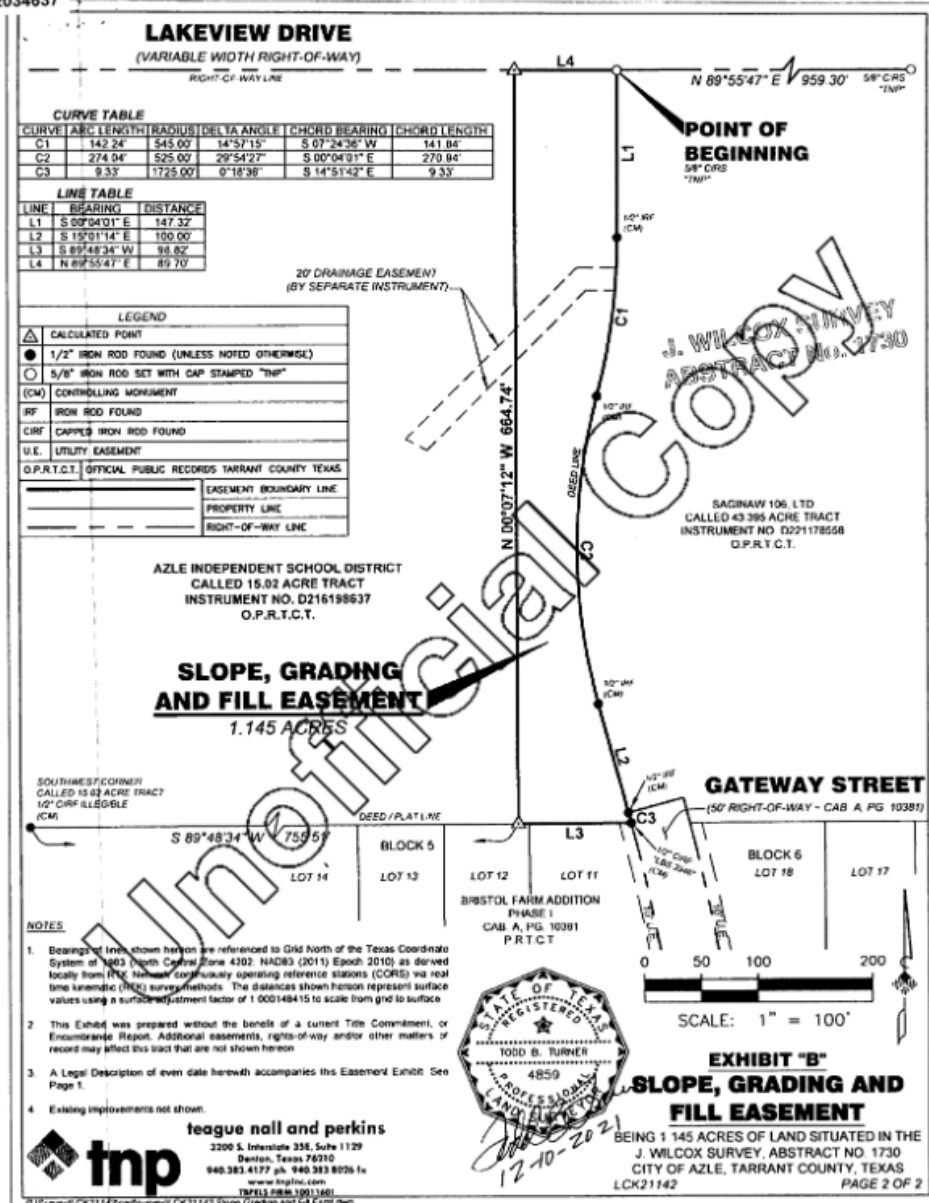
- The Easement:
 - Was bought for \$10.00,
 - It is a perpetual easement,
 - A temporary construction easement of a 15 foot wide strip of land until dedicated to and accepted by the City.
 - Was recorded with Tarrant County, and notarized by a City employee.
 - The Azle ISD shall not interfere with the easement by building anything over the easement.
 - Azle ISD warrants there are no liens on the easement land.

The work within the Easement land was accomplished by the Lakeview Heights developer.

Azle ISD (Grantor) of Slope, Grading and Fill (*Perpetual*) Easement on 1.145 acres of Azle Elementary School land west of Lakeview Heights Development to Saginaw 106 LTD, for \$10.
Recorded with the County on 02/08/2022, by Riverside Builders.

D222034637
D222034637

Page 7 of 8



Approval by School Board president.

D222034637
D222034637

Page 4 of 1

EXECUTED to be effective as of the 24 day of January, 2022

Grantor:
Azle Independent School District

By: [Signature]

Name: Bill Lane

Title: Board President

THE STATE OF TEXAS

COUNTY OF Tarrant

This instrument was acknowledged before me on January 24, 2022 by Bill Lane, the Board President for Azle Independent School District.

[Signature]
Notary Public, State of Texas

DEBBIE KEITH
Notary Public, State of Texas
Comm. Expires 09-04-2024
Notary ID 10985348

Engineer/Surveyor: Teague Nall and Perkins

Observations of the Slope, Grading and Fill Easement Granted to Saginaw 106 Ltd

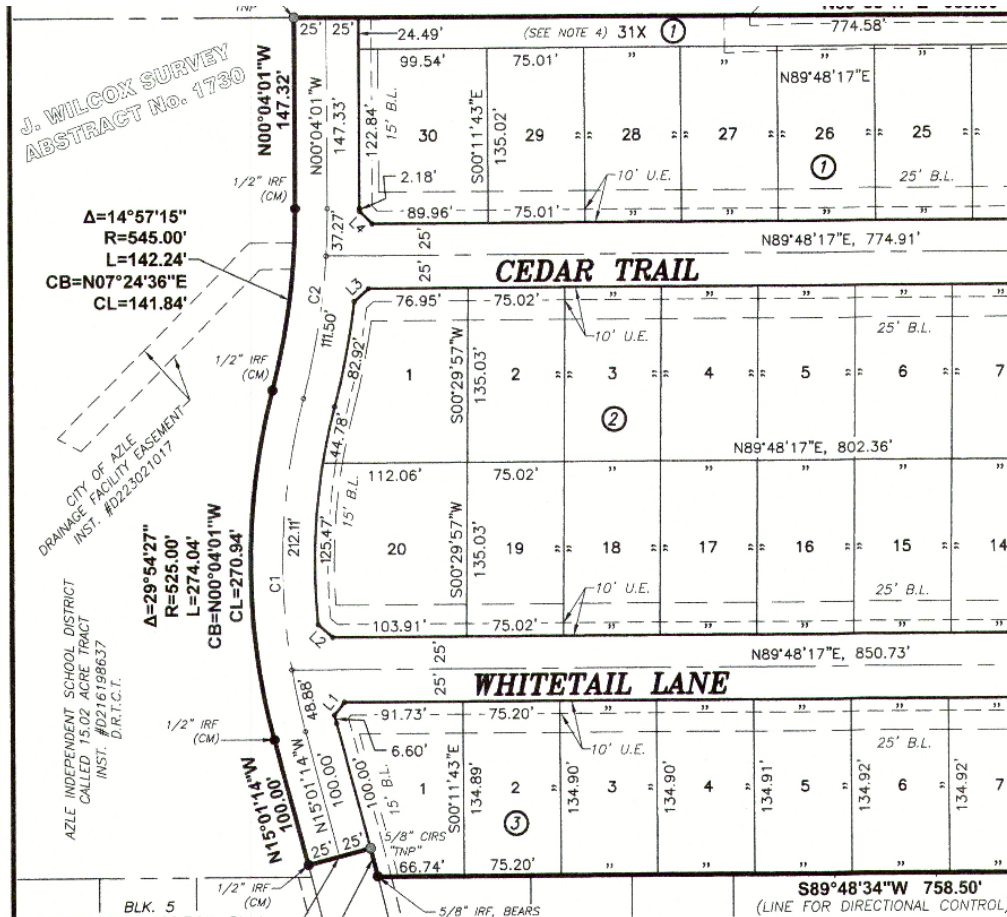
- The Easement:
 - Was bought for \$10.00,
 - It is a perpetual easement,
 - Was recorded with Tarrant County,
 - **Has never been recorded with the City of Azle, fair notice of project intentions was never given to the City of Azle, has never appeared on any application, plan, or on the Final Plat. And, thus appears to be a separate project.**
 - Rights of the easement are subject to all laws regulations and restrictions by municipal governmental authority applicable to and enforceable against it,
 - Can be amended or terminate by the Azle ISD,
 - Requires that before work was to begin, Saginaw 106 Ltd was to submit plans for the work to Azle ISD for approval,
 - States: Saginaw 106 Ltd will perform the work in conformance with applicable laws and regulations.
 - States: Saginaw 106 Ltd will keep the Easement land free and clear of liens resulting from and relating to their work.
 - States: If Saginaw 106 Ltd damages the Easement land or the adjacent Azle ISD land, it will repair and restore the lands to its former condition at its expense.
 - States: Saginaw 106 Ltd will hold Azle ISD harmless from any and all claims, demands, liabilities, and costs with any injury or property damage resulting from it's work on the Easement land.
 - States: Saginaw 106 Ltd will carry \$1M Liability Insurance including Broad Form property damage Liability Coverage, and a \$1M Umbrella policy,
 - States: Azle ISD is not a partner in this work.

The work within the Easement land appears to have been done as a separate project with Azle ISD approval, not part of the residential development of Lakeview Heights land. And, was started after the Tree Preservation Ordinance became effective and thus is subject to the Ordinance's regulations.

Lakeview Heights Recorded Final Plat 8/26/2023

Note the land west of the Plat boundary is designated as owned by the Azle Independent School District.

The City of Azle Drainage Facility Easement is called out but NO mention of the Slope, Grading and Fill Easement obtained from the Azle ISD.



THE CITY OF AZLE, TARRANT COUNTY, TEXAS.

APPROVED by the Planning and Zoning Commission
of Azle, Tarrant County, Texas.

[Signature] 2/3/22
Planning & Zoning Chairman Date

[Signature] 2/3/22
Planning & Zoning Secretary Date



THIS

D223153754
PLAT
Pages: 4
Fees: \$76.00

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS OF
TARRANT COUNTY, TEXAS
08/25/2023 11:53 AM

[Signature]
MARY LOUISE NICHOLSON
COUNTY CLERK

FINAL PLAT

LAKEVIEW HEIGHTS

LOTS 1x, 2 THRU 30 & 31x, BLK. 1, LOTS 1 THRU 20, BLK. 2,
LOTS 1 THRU 10, BLK. 3, LOTS 1 THRU 13, BLK. 4,
AND LOTS 1 THRU 7 & 8x, BLK. 5

BEING TWO TRACTS OF LAND CONSISTING OF 43.407 ACRES
SITUATED IN THE J. WILCOX SURVEY, ABSTRACT NO. 1730

City of Azle, Tarrant County, Texas
(79 Residential Lots & 3 Open Space Lots)

DATE: JUNE 5, 2023

Pile of trees bulldozed on Azle ISD land allowed by easement to Lakeview Heights development



(220606 13:26)

Trees bulldozed on Azle ISD land allowed by easement to Lakeview Heights development



(220606 12:24)

One pile of bulldozed trees on Azle ISD land by easement to Lakeview Heights development



(220606 13:28)

Examples of the size of trees bulldozed that were available at the outside of the piles



17.25 inches Diameter (220607 08:40)



9.60 inches Diameter (220607 08:43)



8.60 inches Diameter(220607 08:48)

Views of the of piles of trees bulldozed



(220607 09:03)



(220607 09:04)

Examples of the of trees bulldozed that were available to see from outside of the piles



(220607 08:55)



(220606 09:02)

Lakeview Heights developer did mulch the piles of trees that had been bulldozed and hauled the mulch off.



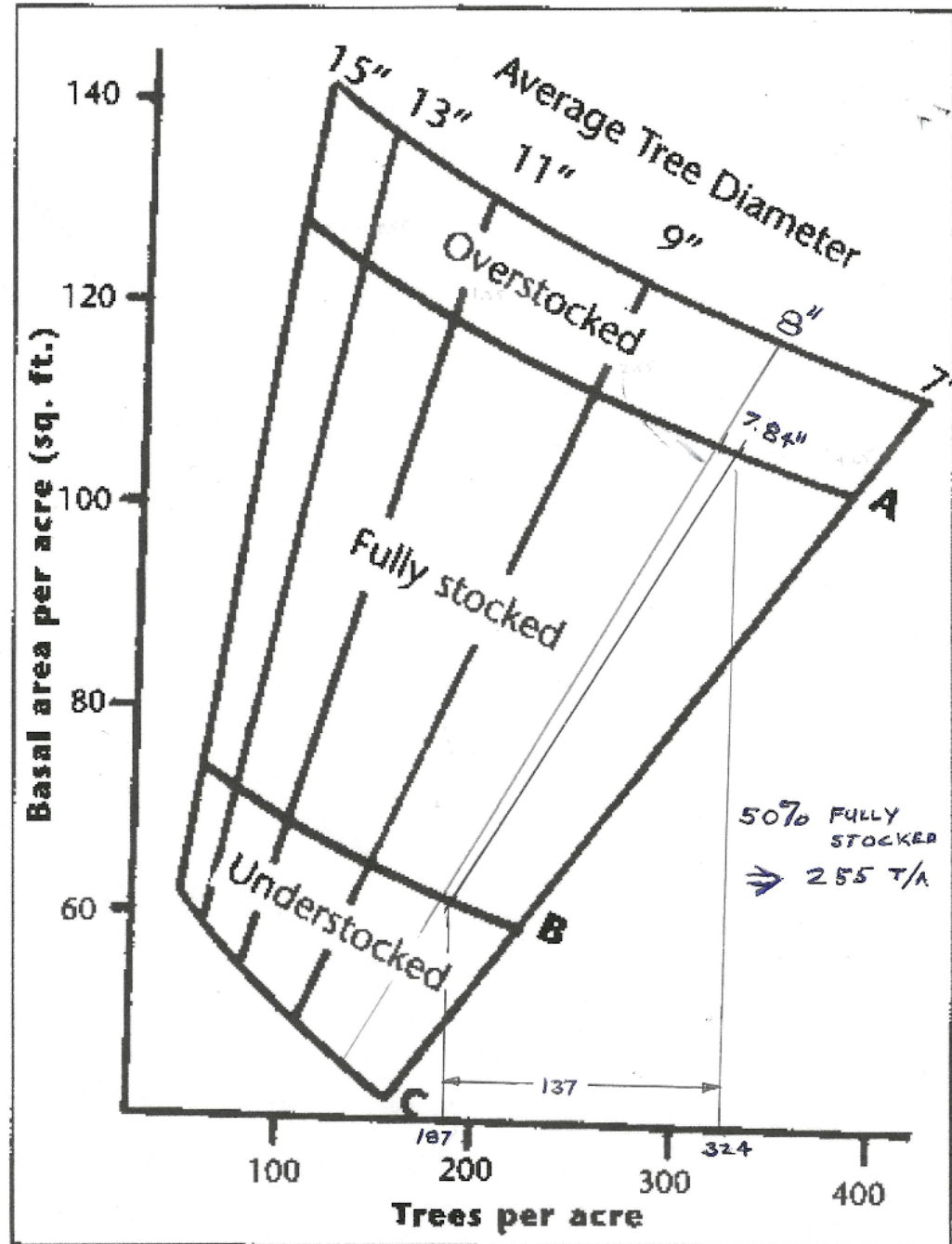
(220615 07:38)

The 14 trees remaining after bulldozing gives an estimate of the size of the trees and the number of Protected Trees that were in the Easement grove.



(240209 08:06)

Tree R-L	Dia (inch)	Protected Tree Dia (inch)	Protected Tree Number	Unprotected Tree Dia (inch)	Unprotected Tree Number
1	19.4	19.4	1		
2	5.9			5.9	1
3	5.2			5.2	2
4	7.1	7.1	2		
5	4.3			4.3	3
6	7.6	7.6	3		
7	8.4	8.4	4		
8	4.9			4.9	4
9	6.6	6.6	5		
10	11.1	11.1	6		
11	5.4			5.4	5
12	10.7	10.7	7		
13	6.1	6.1	8		
14	7.1	7.1	9		
Total Caliber	109.8	84.1	64%	25.7	36%
Avg Dia	7.84	9.34		5.14	



Using the Average diameter of the 14 trees (Slide 25), that are still standing that were part of the grove that was removed with the Azle ISD Easement by the Lakeview Heights developer and the data plot from the University of New Hampshire the number of trees that were in an acre of that plot was calculated as between 187 Minimum Fully Stocked, and 324 Maximum Fully Stocked.

Thus if it is assumed the Easement grove was 50% Fully Stocked 255 trees per acre [=187 + (0.5 x 137)] it can be estimated that there were **291 trees (=255 x 1.145) with an average diameter of 7.84 inches** and that there were **186 protected trees (=291 x 64%) of 6 inch caliper or larger in the grove.** And, there are **105 (=291 x 36%) unprotected trees with an average diameter of 5.14 inches in the grove.**

Basal area: is the cross-sectional area of a tree stem at breast height (4.5 feet above the ground) in square feet.

Basal area per acre: is the total of Basal area of each tree in an acre.

Land south of the sidewalk along Lakeview Dr. with ground stabilizing grass impregnated mats installed Spring of 2023 by June barren ground with most grass dead



(230603 06:54)

“Spoke with the development engineer yesterday and brought this up (*Lakeview Heights Sprinkler System*). They do have plans for irrigation system install upon completion of the screening wall construction. They will be applying for an irrigation permit soon.”
eMail 1/19/2024 Mr. Hawkins to Jim Kirk

Without a functioning sprinkler system, erosion protecting ground cover on Lakeview Heights property will die.

The Easement Land with ground stabilizing grass impregnated mats.



(240302 09:17)

A Sprinkler System and Lawn Care are needed to keep ground cover stable and prevent erosion

The City of Azle and the Azle City Council have been strong advocates of the Tree Preservation Ordinance

- June 7, 2022: Azle City council denied (6-0) a request for tree burn pit at the Sandy Beach Addition development because the Tree Preservation Ordinance disallows burning trees as a way of disposing of them. (*Azle News*: 6/1/2022)
- April, 2023: The City fined Mr. Robert Petrie approximately \$30,000 for improperly removing trees at 1330 Northwest Parkway in April 2023 *before he had a permit*. (*Tri-County Reporter*: 2/1/24)
- February 6, 2024: Azle City Council denied (5-1) an appeal to the Tree Preservation Ordinance, to allow a reduction in tree mitigation requirements, partial fee waiver and partial tree replacement for Kodiak Car Wash at 905 Boyd Road. (*Azle City Council minutes*)

The Tree Board should likewise continue as strong advocates of the Tree Preservation Ordinance

Request of Tree Board

1. Determine that the land in the Azle ISD Easement, 1.145 acres, to not be part of the 1st application dated 7/1/2020 for Planning and Development of 43.395 acres, subsequent applications, nor the Preliminary Plat dated 7/15/2021 of the Lakeview Heights development. And, as such the Easement land is not Grandfathered under the Texas Local Government Code: Chapter 245 Section 245.002.
2. Determine that the Easement was obtained 2/8/2022, after the duly passed and approved Azle Tree Preservation Ordinance No. 2021-15, dated 10/19/2021.
3. Determine that the Easement land, 1.145 acres, are thus subject to the rules and regulations of the Azle Tree Preservation Ordinance No. 2021-15.
4. Determine that the Easement land, with no residential housing, is an independent project separate from the Lakeview Height residential development. And, as such is considered a Non-Residential Development per the Tree Preservation Ordinance.
5. Determine that the Lakeview Heights developer did not give fair notice of the project and the nature of the permit sought to the City for the Easement Land as required by the City.
6. Determine that the Lakeview Heights developer did indiscriminately clear the Easement property and did not protect healthy protected trees that contribute to noise reduction, air protected, glare reduction, and promote the natural ecological environmental and aesthetic qualities of the City as required by the Ordinance.
7. Determine that the Lakeview Heights developer did not demonstrate that all options had been considered to preserve as many trees as possible as is required in accordance with the Ordinance.
8. Determine that the Lakeview Heights developer did not provide an aerial photo of the property showing the tree coverage, superimposed on this photo with an overlay of the proposed development as is required in accordance with the Ordinance.
9. Determine that the Lakeview Heights developer did not provide a Tree Survey and Tree Mitigation Plan showing all protected trees submitted with site plan development as is required in accordance with the Ordinance.
10. Determine that the Lakeview Heights developer did not obtain a tree removal permit as is required for all non-residential developments as is required in accordance with the Ordinance.
11. Determine that no Certificate of Occupancy shall be issued until all requirements of the Ordinance are met and all fines for violations of this Article have been paid and all replacement trees have been planted or payment has been made to the Tree Reforestation Fund.

Request of Tree Board (continued)

11. Determine that the Lakeview Heights developer graded and did tree removal on undeveloped property without obtaining a tree removal permit in violation of the Ordinance.
12. Determine that the Lakeview Heights developer with the removal of protected trees the developer did not replace the removed protected trees in accordance with the requirements of the Ordinance.
13. Determine that no Certificate of Occupancy shall be issued until all requirements of the Ordinance are met and all fines for violations of the Ordinance have been paid and all replacement trees have been planted or payment has been made to the Tree Reforestation Fund.
14. Determine that the Lakeview Heights developer has violated the provisions of the Ordinance by removing trees without a permit and is guilty of a misdemeanor and shall be fined in an amount of two hundred and fifty dollars (\$250) per caliper inch of the tree(s) removed not to exceed two thousand dollars (\$2,000) per incident.
 - ☐ Have a professional land surveyor, civil engineer, landscape architect or arborist confirm the best estimate (Slides 25 & 26) of 291 trees on the Easement Land with an average diameter of 7.84 inches. Of those 291 trees, 105 trees (36%) are considered unprotected. With each tree removed assumed and considered a separate incident the determined fine for removing the unprotected trees is (105 trees x 5.14 inches diameter per tree x 250 dollars per caliper inch) = **\$134,925**, but limited to \$2,000 per incident (105 x \$2,000) = ~~\$210,000~~. Or have the professional determine their best estimate of the fine to be imposed.
15. Determine that the Lakeview Heights developer has violated several other provisions of the Ordinance (above Requests 5 thru 12) and is guilty of a misdemeanor and shall be fined a minimum of five hundred dollars (\$500.00) but not to exceed two thousand dollars (\$2,000) per incident. The unlawful removal of each protected tree shall be considered a separate incident and each incident subjects the violator to the maximum penalty set forth herein per tree.
 - ☐ Have a professional land surveyor, civil engineer, landscape architect or arborist confirm the best estimate (Slides 25 & 26) of 291 trees on the Easement Land with an average diameter of 7.84 inches. Of those 291 trees, 186 trees (64%) are considered protected. With each tree removed considered a separate incident the determined fine for removing the protected trees is (186 trees x 2,000 dollars per incident) = **\$372,000**. Or have the professional determine their best estimate of the fine to be imposed.

Total Fine is \$506,925.00 (= \$134,925.00 + \$372,000.00)

16. **Initiate a process to provide a onetime compensation, determined by an agreement between the City of Azle and the Azle ISD, paid by the Lakeview Height developer to the Azle ISD for the Azle ISD to provide preputial landscape care and erosion control for the 1.145 acres covered by the Easement, including a permeant underground sprinkler system used and maintained to sustain all vegetation, city water, seeding and planting as needed, fertilizing and weed killing, lawnmowing, and general grounds keeping on a regular basis.**

Request for an Agenda Discussion Item before
Azle Planning and Zoning Commission acting as Tree Board
at the next scheduled meeting: March 7, 2024

Topic:
Lakeview Heights Development
Slope, Grading and Fill Easement of Azle Elementary School Property
Azle Tree Preservation Ordinance 2021-15

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Vested Rights

Project Protection for Developers

by Reid C. Wilson

Historically, local governments could change land use regulations, then apply the new rules to planned projects that did not yet have a permit, and sometimes, even to projects with permits. They also could limit certain changes to existing but newly nonconforming projects, which were considered grandfathered under prior regulations.

Grandfathered rights were based on legal principals of equity and fairness resulting in a judicial balancing of private property owners' rights to use real estate and local governments' rights to regulate land use for the benefit of the public. The result was limited protection of private property rights.

The Texas Legislature expanded this protection in Chapter 245 of the Texas Local Government Code, which protects owners from changes in certain regulations once they have filed a development permit *application* (<http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.245.htm>). These vested rights apply to some, but not all, land use regulations, and only to the project described in the application. If the project becomes dormant, the vested rights may be lost. Although these protections have been in place since 1987, many owners are not aware of them.

According to the Texas attorney general, statutory vested rights run with the real property, much like a restrictive covenant (deed restriction). They do not belong to the party filing the application.

When does vesting occur?

A project is vested on submission of an application for a required permit. The permit may be the first in a series of permits for a project.

A "mailbox rule" applies, which allows the application to be mailed by certified mail, return receipt requested. In that case, vesting occurs when the application is deposited in the mail, as documented on a certified mail receipt. This provision enables owners to submit last-minute applications before regulations change.

The application must describe the proposed project in enough detail that the local government receives "fair notice" of the nature and scope of the project, with a particular focus on the features to be vested.

How is 'project' defined?

The definition of *project* is broad and includes "an endeavor over which a regulatory agency exerts its jurisdiction and for which one or more permits are required to initiate, continue or complete the endeavor." It leaves much room for litigation, and there are already several reported decisions.

In one case, the court held that a residential subdivision development was a single project including the design, platting and construction of the lots, as well as the subsequent construction of houses on the lots. The courts look to the specific facts of each matter to determine if the current project is sufficiently similar to the project covered by an earlier application.

How long does vesting continue?

Vested rights continue as long as the project is not dormant, and the permit does not lapse. An owner may prevent a project

from becoming dormant by making "progress toward completion," which is evidenced by:

- filing an application for a final plat or plan;
- a good-faith attempt to file a permit application necessary to begin or continue toward completion of the project;
- costs being incurred for developing the project, such as roadway, utility and other infrastructure facilities (but not land costs) exceeding 5 percent of the appraised market value of the land for the project;
- posting of fiscal security; or
- payment of utility connection or impact fees.

A local government may pass regulations that cause an individual permit to expire no less than two years from application, and an entire project to expire no less than five years from application, if no progress is made toward completion. Vesting will also expire.

What land use regulations may be vested?

- Landscaping
- Tree preservation
- Open space
- Park dedication
- Property classification
- Lot size/dimensions/coverage
- Building size
- Regulations that do not change development permitted by a restrictive covenant required by a municipality

What regulations may not be vested?

- Zoning regulations not listed previously.
- Nonzoning land use regulations not listed previously.
- Certain construction regulations.
- Regulations relating to sexually oriented business, colonias, permit fees, annexation, utility connections, flooding, public works, imminent destruction of property or injury of persons.

Why did Texas Legislature adopt vested rights?

Vested rights protect the reasonable expectation of owners and developers to be able to develop under the regulations applicable at the inception of a project. Substantial risk, costs and time are saved if the regulatory scheme is "frozen" when the development process is commenced. A recent court decision describes the justification for vested rights:

... to prohibit land-use regulators from changing the rules governing development projects "in the middle of the game," thereby insulating already-underway development and related investment from the vicissitudes and uncertainties of regulatory decision making and all that may influence it. That intent is further confirmed by the Legislature's

explicit findings regarding chapter 245's purpose: to combat "administrative and legislative practices that often result in unnecessary governmental regulatory uncertainty that inhibits the economic development of the state[,] increases the costs of housing and other forms of land development[,] and often resulted in the repeal of previously issued permits causing decreased property and related values, bankruptcies, and failed projects." . . . [the] purpose of chapter 245's statutory predecessor, former chapter 481 of the government code, was to "establish requirements relating to the processing and issuance of permits and approvals by governmental regulatory agencies in order to alleviate bureaucratic obstacles to economic development." . . . Moreover, as an incidental matter of historical fact, the legislative record reflects that bill proponents advocated chapter 245 as an appropriate response to instances when the City of Austin had purportedly imposed new regulatory restrictions retroactively on development projects that were already underway, causing project failures, bankruptcies, and regulatory uncertainty for developers and landowners.

Although statutory vested rights have been around for almost 15 years, some real estate practitioners are not aware of them. Local governments, which have an interest in applying current regulations, are unlikely to notify owners or developers of their vested rights. It is up to owners or developers to understand and assert their vested rights. Even then, some local governments interpret vested rights narrowly.

Significant Areas of Protection

Property Classification

The Texas Association of Realtors interprets the 2005 addition of "Property Classification" to the list of land use regulations

that may be vested as preventing application of use limitations in new zoning regulations to a vested project. For example, if a multifamily project is vested, the rezoning of the project area to single family after the date of vesting will not prevent the development of that project.

This is a dramatic change from prior law, which would grandfather only a similar multifamily project if it had received a permit and construction had commenced. The extent of property classification vesting is an ongoing debate between lawyers representing owners who assert broad application and

those representing cities who assert a narrower scope. Guidance from the courts will be needed to settle the issue.

Building Size

The allowable size of a building may not be reduced by subsequent regulation after vesting. This broad protection should apply to limits on setback, buildable area or footprint, height, floor area ratios, square footage and any other land use regulation that has a direct impact on building size.

Lot Size/Dimensions/Coverage

Residential lot developers have significant protection from post-application

regulatory changes attempting to reduce density by increasing minimum lot sizes or dimensions, or reducing maximum building or impervious coverage. ♣

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THE TAKEAWAY

Vested rights freeze land use regulations affecting property classification, building size, lot size/dimension/coverage and certain other matters once the owner or developer files a permit application for that project.



STATUTORY VESTED RIGHTS were created to ensure that changes in land use regulations could not be applied to development projects already in progress. This protection ends if a project becomes dormant or if the project permit lapses.