



Lewisville City Council

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A G E N D A

**LEWISVILLE CITY COUNCIL MEETING
JUNE 7, 2010**

**LEWISVILLE CITY HALL
151 WEST CHURCH STREET
LEWISVILLE, TEXAS 75057**

**WORKSHOP SESSION - 6:00 P.M.
REGULAR SESSION - 7:00 P.M.**

Call to Order and Announce a Quorum is Present.

WORKSHOP SESSION - 6:00 P.M.

- A. Presentation by Denton County Transportation Authority on New Member Policy and Status of Rail Project
- B. Discussion of Regular Agenda Items and Consent Agenda Items

REGULAR SESSION - 7:00 P.M.

- A. **INVOCATION:** Deputy Mayor Pro Tem Durham
- B. **PLEDGE TO THE AMERICAN AND TEXAS FLAGS:** Councilman Tierney
- C. **CLOSED SESSION:** In Accordance with Texas Government Code, Subchapter D, Section 551.074 (PERSONNEL): Discussion of Election of Mayor Pro Tem and Deputy Mayor Pro Tem.
- D. **RECONVENE** into Regular Session and Consider Action, if Any, on Items Discussed in Closed Session.

**AGENDA
LEWISVILLE CITY COUNCIL
JUNE 7, 2010**

E. PUBLIC HEARINGS:

- 1. Public Hearing: Consideration of an Ordinance for a Zone Change Request From Agricultural Open Space (AO) and Light Industrial (LI) to Public Use (PU) on a 77.98 Acre Tract Located on the West Side of Railroad Street, Approximately 2450 Feet North of Bennett Lane; Further Identified as Tracts 35, 36, 73 and 74 of the John W. King Survey, Abstract 695 and Tract 15 of the John H. Havens Survey, Abstract 541; as Requested by Denton County Transportation Authority (DCTA) and the Estate of Tilford Berry, the Property Owners (Case No. PZ20100508).**

ADMINISTRATIVE COMMENTS:

DCTA plans to convert this site into their maintenance facility. An engineering site plan is currently in review by staff. Public governmental agency uses are permitted in all zoning districts although the agency must follow the general regulations of the district in which the use is located. The proposed zoning will better reflect the use of the property by a governmental agency and will be in keeping with the past zone changes of DCTA sites and those of other governmental facilities. The Planning and Zoning Commission recommended unanimous approval of the zoning request at their May 4, 2010 meeting,

RECOMMENDATION:

That the City Council approve the proposed ordinance amending the Lewisville City Code, Chapter 17, the Comprehensive Zoning Ordinance, as set forth in the caption above.

PRESENTATION: Eric Ferris, Community Development Director
Tim Schmidt, Sr. Associate, Lockwood, Andrews & Newman, Inc.

- 2. Public Hearing: Consideration of an Ordinance for a Zone Change Request From Agricultural Open Space (AO) to Light Industrial (LI) on 2.44 Acres, Three Tracts Located on the West Side of Holfords Prairie Road, Approximately 1,220 Feet South of Midway Road; Further Identified as S. Hayden Survey, Abstract 537, Tracts 27, 28, and 29, as Requested by the Van Tuyl Group on Behalf of the Property Owners, Milton Houser and G & H Storage (Case No. PZ20100509).**

**AGENDA
LEWISVILLE CITY COUNCIL
JUNE 7, 2010**

ADMINISTRATIVE COMMENTS:

The proposed zoning classification, Light Industrial (LI) is in keeping with the recommendations of the East Lewisville Plan and existing zoning in the surrounding area. The applicant would like to rezone in order to expand the existing auto auction facility that they plan to buy. A site plan and plat are being drawn up to combine these tracts and the other existing lots into one large lot. Other properties in this area are zoned Light Industrial (LI) and Agricultural Open Space (AO). The Planning and Zoning Commission voted 6-0 in favor of the zone change request at their May 4, 2010, meeting.

RECOMMENDATION:

That the City Council approve the proposed ordinance amending the Lewisville City Code, Chapter 17, the Comprehensive Zoning Ordinance, as set forth in the caption above.

PRESENTATION: Eric Ferris, Community Development Director
Von Beougher, G&A Consultants, Inc.

- F. **VISITORS/CITIZENS FORUM:** At this time, any person with business before the Council not scheduled on the agenda may speak to the Council. No formal action can be taken on these items at this meeting.
- G. **CONSENT AGENDA:** All of the following items on the Consent Agenda are considered to be self-explanatory by the Council and will be enacted with one motion. There will be no separate discussion of these items unless a Council Member or citizen so request. For a citizen to request removal of an item, a speaker card must be filled out and submitted to the City Secretary.
3. **APPROVAL OF MINUTES:** City Council Minutes of the May 17, 2010, Workshop Session and Regular Session.
4. **Approval of a Resolution Approving the Terms and Conditions of an Agreement in Reinvestment Zone #31 and Providing for Commercial Tax Abatement By and Between the City of Lewisville, Texas, and Jafra Cosmetics International, Inc. for Property Located on a 8.867 Acre Tract of Land Know as Lot 1, Block A in the Majestic Addition; and Authorization for the City Manager to Execute the Contract.**

**AGENDA
LEWISVILLE CITY COUNCIL
JUNE 7, 2010**

ADMINISTRATIVE COMMENTS:

Cosmetics distribution company, Jafra Cosmetics International, Inc. (Jafra) has been working with staff since early March to establish a distribution center in Majestic Airport Center. The proposed agreement provides for 75% abatement of taxes for a period of 5 years on tenant improvements and business personal property owned by Jafra. These terms are the same as the original agreement on real property with DFW Lewisville Partners set forth in establishing Reinvestment Zone #31. Notice has been provided to the other taxing entities having jurisdiction in Lewisville as is required by statute.

RECOMMENDATION:

That the City Council approve the resolution; and authorize the City Manager to execute the contract as stated in the caption above.

- 5. Approval of a Bid Award for Sludge Handling and Dewatering Improvements to Crescent Constructors, Inc., Richardson, Texas, in the Amount of \$682,890 (Which Includes 3% for Contingencies); and Authorization for the City Manager to Execute the Contract.**

ADMINISTRATIVE COMMENTS:

A total of twenty-three (23) bid invitations were downloaded from Bidsync.com. Five (5) bids were received and opened May 6, 2010. This project involves providing equipment and installation of a 2.0 Meter Belt Press, catwalk modifications, two new polymer systems, extension of the existing belt conveyor, a 250-gallon progressive cavity sludge pump and appurtenances, and associated electrical, instrumentation and control wiring at the Wastewater Treatment Plant. Funds are available from the Wastewater Treatment Plan Sludge Management Capital Project.

RECOMMENDATION:

That the City Council approve a bid award for Sludge Handling and Dewatering Improvements as set forth in the caption above; and authorize the City Manager to execute the contract.

- 6. Approval of a Multimedia Franchise Interlocal Agreement With Denton County Freshwater Supply District 1-A; and Authorization for the City Manager to Execute the Agreement.**

**AGENDA
LEWISVILLE CITY COUNCIL
JUNE 7, 2010**

ADMINISTRATIVE COMMENTS:

The 1996 Project Management Agreement between the City, Denton County Fresh Water Supply Districts (DCFWSOs) 1-A and 1-B and Bright Farm Partnership provides to the Districts the power to grant franchise agreements. The Strategic Partnership Agreement between the City and the DCFWSOs 1-A through 1-H requires that the Districts manage the delivery of cable services to Castle Hill residents in exchange for receipt of the franchise fees. The proposed agreement provides City support to the efforts of DCFWSO 1-A to collect and enforce franchise fees but clarifies that the City will pay no costs associated with these efforts.

RECOMMENDATION:

That the City Council approve the proposed agreement as set forth in the caption above; and authorize the City Manager to execute the agreement.

7. Approval of the FY 2009-2010 Mid-Year Budget Report.

ADMINISTRATIVE COMMENTS:

Staff completed an analysis of the financial position of all operating funds. Due to reduced actual collections so far this year in major revenue accounts such as sales tax collections, fines and forfeitures, hotel motel tax receipts, and interest earnings, reductions were made to the General, Hotel Motel, and 4B Fund revenue projections. However, increases in other revenue accounts such as property tax collections and building permits, as well as modifications in expenditures in these funds have also been made so that no supplemental appropriations will be required.

RECOMMENDATION:

That the City Council approve the FY 2009-2010 Mid-Year Budget Status report.

8. Approval of Acceptance of a Donation in the Amount of \$25,000 From the M.R. and Evelyn Hudson Foundation for the Purchase of an Upright Piano.

**AGENDA
LEWISVILLE CITY COUNCIL
JUNE 7, 2010**

ADMINISTRATIVE COMMENTS:

The M.R. Hudson Foundation invited the City to submit an application. The application focused on pianos needed for the arts center as well as monies for children's programming. A donation of \$25,000 was approved for the purchase of an upright piano that will be used in both the black box theatre and the multipurpose room.

RECOMMENDATION:

That the City Council approve the donation as set forth in the caption above.

- 9. Approval of a Contract Between the City of Lewisville and Sawko & Burroughs, L.L.P. for the Collection of Delinquent Taxes; and Authorization for the City Manager to Execute the Contract.**

ADMINISTRATIVE COMMENTS:

On June 20, 2005 the City of Lewisville and the law firm of Sawko & Burroughs, L.L.P., entered into a contract for the collection of delinquent taxes. The contract was for the period of July 1, 2005 through June 30, 2008, and was renewed for an additional two-year term, which expires June 30, 2010. During the contract period, collections have been consistently strong. The proposed contract is identical in all essential terms to the 2005 contract, being for three years with an option to renew for two years. It should be noted that all attorney fees for collection are paid 100% by the delinquent taxpayer.

RECOMMENDATION:

That the City Council approve the contract with Sawko & Burroughs, L.L.P.; and authorize the City Manager to execute the contract.

- 10. Approval of Acceptance of a U.S. Department of Homeland Security Grant in the Amount of \$193,708.15; Approval of a Supplemental Budget Appropriation to the FY 2009/2010 Grant Fund in the Amount of \$193,708; and Authorization for the City Manager or his Designee to Execute the Agreement.**

**AGENDA
LEWISVILLE CITY COUNCIL
JUNE 7, 2010**

ADMINISTRATIVE COMMENTS:

Under the Buffer Zone Protection Plan Program from the U.S. Department of Homeland Security, the City of Lewisville is eligible to receive a grant award of \$193,708.15. The award is to enhance security at the Lewisville Lake Dam against terrorist use of a weapon of mass destruction.

RECOMMENDATION:

That the City Council approve acceptance of the grant, the supplemental budget appropriation, and the execution of the agreement as set forth in the caption above.

- 11. Approval of Final Acceptance of the Kealy Avenue Parking Lot Project; and Authorization to Make Final Payment to L and S Asphalt Construction, Inc., in the Amount of \$12,845.20.**

ADMINISTRATIVE COMMENTS:

On November 2, 2009, the City Council awarded a contract to L and S Asphalt Construction, Inc. with a total budget amount of \$122,050 for the construction of the Kealy Avenue Parking Lot project. The actual construction cost of the project was \$119,488, resulting in a savings of \$2,562. The work has been completed in accordance with the contract documents and it is now in order to formally accept the project and make final payment. The final payment in the amount of \$12,845.20 is available in the Old Town Parking/Plaza/Pedestrian Improvements Capital Project. The warranty period is two years from the date of final acceptance by the City Council.

RECOMMENDATION:

That the City Council accept the Kealy Avenue Parking Lot project as set forth in the caption above; and authorize final payment.

H. REGULAR HEARINGS:

- 12. Consideration of Three (3) Variance Requests for the Hebron 121 Station Engineering Site Plan, Zoned Mixed Use Ninety (MU-90), Bounded by Lakeside Circle to the North, S.H. 121 to the South, the Timber Creek to the West and the D.G.N.O. Railroad to the East.**

**AGENDA
LEWISVILLE CITY COUNCIL
JUNE 7, 2010**

ADMINISTRATIVE COMMENTS:

The Hebron 121 Station project is a proposed mixed use development with residential, retail, commercial and office component, located near the DCTA Hebron Station in the southern portion of Lewisville. The project is within the City's Tax Increment Reinvestment Zone #2. Phase I of the development consists of 234 residential units. The developer is requesting the following variances: (1) allow Palm trees as an approved tree for required landscaping on both public ROW and private property. The developer is escrowing funds for the trees in case they have to be replaced in the future and will support formation of a Public Improvement District (PID) for further maintenance; (2) use of brick pavers within the public right-of-way, medians and sidewalks with an agreement for maintenance of the pavers until a separate maintenance mechanism is put in place as part of the Tax Increment Reinvestment Zone or a PID; (3) allow a Completion and Payment Bond for Public Improvements in lieu of a cash escrow or Third Party Agreement.

RECOMMENDATION:

That the City Council approve the requested variances as set forth in the caption above.

PRESENTATION: Howard Porteus, Huffines Communities

- 13. Consideration of Seven Variances to the Lewisville City Code Section 6 – Land Development Regulations, Relating to Denton County Transportation Authority's Proposed Operation and Maintenance Facility, Zoned Public Use (PU) to be Located Along the D.G.N.O. Railroad Between Business S.H. 121 and Bennett Lane.**

**AGENDA
LEWISVILLE CITY COUNCIL
JUNE 7, 2010**

ADMINISTRATIVE COMMENTS:

Denton County Transportation Authority (DCTA) is proposing to construct an operations and maintenance facility in Lewisville for their rail transit services which are proposed to start at the end of this year. An engineering site plan has been reviewed by staff. DCTA is requesting, six permanent variances (A-F) and one temporary variance (G). The requested variances include: A) to reduce the number or required parking spaces; B) to allow a screening berm with trees in lieu of the required masonry wall; C) to pave over a City maintained waterline; D) requesting early grading and tree removal on the site prior to site plan approval; E) to allow a portion of an existing channel to remain earth lined; F) to allow less than the required 80% brick veneer; and G) to have a temporary operations and equipment facility while construction occurs for the permanent facilities for a period of up to 12 months from site plan approval.

RECOMMENDATION:

That the City Council approve requested variances A-F as listed in the caption above; and approve variance G for a period of 12 months from site plan approval.

PRESENTATION: Eric Ferris, Community Development Director
Steve Widacki, Sr. Engineer, Lockwood, Anders &
Newman, Inc.

14. Consideration of an Ordinance Amending the Lewisville City Code, Chapter 6, Articles I, III, and V, Relating to Various Fire Prevention Amendments.

ADMINISTRATIVE COMMENTS:

Staff has identified the need to amend the current requirements related to the fire prevention requirements contained in the General Development Ordinance (GDO). The amendment will correct contradictions with the adopted Fire Code and current practices in relation to fire hydrant spacing and minimum fire lane width, replace fire chief with fire marshal as the authority, remove requirements for color-coding water main size on fire hydrant, require that privately owned and maintained fire hydrants be painted white, remove the reflective blue dot street marker requirement, and reinstitute a provision for when an engineering site plan is required.

**AGENDA
LEWISVILLE CITY COUNCIL
JUNE 7, 2010**

RECOMMENDATION:

That the City Council approve the proposed ordinance as set forth in the caption above.

15. Consideration of a Resolution Nominating One Member to the Board of Managers of the Denco Area 9-1-1 District.

ADMINISTRATIVE COMMENTS:

Harlan Jefferson, Flower Mound Town Manager, currently represents area municipalities on the Denco Area 9-1-1 District Board of Managers. Mr. Jefferson's term expires on September 30, 2010 and the District has requested that each participating city submit their nomination for a candidate to represent their municipality by July 15, 2010. Mr. Jefferson has expressed his desire to serve another term, if appointed.

RECOMMENDATION:

That the City Council approve the resolution nominating one member to the Board of Managers of the Denco Area 9-1-1 District.

16. Consideration of Appointment of General Growth Properties Representative for the Ad Hoc I-35 Corridor Plan Advisory Committee.

ADMINISTRATIVE COMMENTS:

On May 3, 2010, the City Council appointed members of an Ad Hoc I-35 Corridor Plan Advisory Committee. Leanne Lowry, General Manager of Vista Ridge Mall and Kevin Connell, Senior Director of Development for General Growth Properties had been recommended by City staff to serve on this committee to represent Vista Ridge Mall. Leanne Lowry was named by the City Council as the official representative; however, both nominees have expressed a desire that Mr. Connell serve as the official representative for General Growth Properties.

RECOMMENDATION:

That the City Council approve the appointment of Kevin Connell as the General Growth Properties Representative to the Ad Hoc I-35 Corridor Plan Advisory Committee.

**AGENDA
LEWISVILLE CITY COUNCIL
JUNE 7, 2010**

17. Discussion and Consideration of Appointments to Various City Boards/Commissions/Committees.

ADMINISTRATIVE COMMENTS:

On June 30, various terms of office on the City's boards, commissions, and committees will be expiring. Those positions have been identified and current appointees notified. The Board/Commission/Committee Appointment Process Notebooks have been created for City Council's review. Data sheets for members requesting reappointment and all new applicants have been included in the books along with attendance data for existing members requesting to be reappointed. City Council will need to identify interview teams, interview dates, and determine which team will interview which board, commission, or committee.

RECOMMENDATION:

That the City Council proceed with the appointment process to the various City Boards/Commissions/Committees; identify interview teams, interview dates, and determine which team will interview which board, commission, or committee.

- I. **REPORTS:** Reports about items of community interest regarding which no action will be taken.
- J. **CLOSED SESSION:** In Accordance with Texas Government Code, Subchapter D,
 - 1. Section 551.072 (Real Estate): Property Acquisition
 - 2. Section 551.087 (Economic Development): Deliberation Regarding Economic Development Negotiations
- K. **RECONVENE** into Regular Session and Consider Action, if Any, on Items Discussed in Closed Session.
- L. **ADJOURNMENT**

<p>The City Council reserves the right to adjourn into closed session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by <u>Texas Government Code</u> Section 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).</p>

New Member Cities Admission Policy

A. Introduction

The statutory charge and the desire of DCTA is to encourage the development and provision of transit services in and for Denton County. To achieve that goal, DCTA welcomes inquiries from all Denton County areas that may be interested in receiving DCTA transit services.

B. Background

The Denton County Transportation Authority (DCTA) was created in 2001 by the Denton County Commissioners Court pursuant to House Bill 3323 (Acts 2001, 77th Leg., ch. 1186, §1, eff. Sept. 1, 2001), codified as Chapter 460, Tex. Transportation Code.

The formation of DCTA was confirmed by a countywide election on November 5, 2002 with a favorable vote of greater than 73%. A subsequent transit sales tax authorization election was held on September 13, 2003 and the municipalities of Denton, Highland Village, and Lewisville authorized the collection of a ½-cent transit sales and use tax for the benefit of DCTA and formed the initial service delivery area.

Since the initial service area was formed the Authority has established numerous transit services operating within and between the member cities and has initiated the construction of a commuter rail line (A-train) to connect the member cities along the rail right of way to the Trinity Mills station on the DART Green Line.

DCTA recognizes that as Denton County and its cities continue to experience rapid population and employment growth, the transportation contingencies and mobility needs of our citizens will evolve. Because of the changing mobility needs, other cities in Denton County may wish to participate in the transportation services of DCTA in a fashion that meets their individual needs and the long-term regional transportation needs outlined in the Authority's Service Plan. As a result, DCTA has updated its New Member Cities Admission Policy in an effort to accommodate various levels of participation and funding.

C. Application for Full Membership

This policy applies to the addition of any municipality that desires to become a full participating member of the DCTA through the adoption of the DCTA transit sales and use tax or a comparable dedicated, continuous funding source.

1. A municipality adjacent to an existing or near-term fixed-guideway prioritized in the Authority's Service Plan and programmed in the Authority's five year capital plan may become a DCTA member by:
 - (1) The voter approval of the DCTA transit sales and use tax at an election called by the governing body of the municipality and the execution of an Interlocal Cooperation Agreement or dedication of a comparable dedicated, continuous funding source by the governing body comparable to the DCTA transit sales and use tax and the execution of an Interlocal Cooperation Agreement
 - (2) Payment of related capital recovery fees as established by the DCTA

Board of Directors

2. A municipality near a potential fixed guideway identified in the Authority's Service Plan for future, long-term investment may become a DCTA member by:

- (1) The voter approval of the DCTA transit sales and use tax at an election called by the governing body of the municipality and the execution of an Interlocal Cooperation Agreement or dedication of a dedicated funding source by the governing body comparable to the DCTA transit sales and use tax and the execution of an Interlocal Cooperation Agreement.
- (2) Payment to Authority's fund balance reserves as determined by the DCTA Board of Director's based on percentage of anticipated annual revenues.

D. Preliminary Assessment of Transit Services and Funding Requirements

Upon receiving an official "Expression of Interest" for full-membership consisting of a Resolution adopted by the governing body of a municipality (the "Applicant") indicating the desire to become a full-member of the DCTA, the DCTA shall perform a preliminary needs assessments to determine the scope and feasibility of providing transit service to the interested municipality.

The initial phase of planning shall be summarized in a Preliminary Assessment of transit services and funding requirements (Preliminary Assessment). The Preliminary Assessment shall include a determination of the scope and type of transit services that are feasible in the short term and an evaluation of longer term service needs in accordance with the DCTA Service Plan and DCTA's Capital Financial Plan. The Preliminary Assessment shall be based on input from the proposed service area, including its residents, and shall consider growth and development patterns, and projected transportation needs.

If a more detailed analysis or assessment is warranted, the applicant must participate in the cost of the additional analysis.

E. Proposed Amendment to Service Plan and Interlocal Cooperation Agreement

If the results of the Preliminary Assessment are approved by the DCTA Board; all requirements are met by the governing body of the Applicant; and, an amendment to the Service Plan is required; DCTA shall prepare a proposed Interlocal Cooperation Agreement and a proposed amendment to the DCTA Service Plan. The proposed amendment to the Service Plan shall: (i) describe the type, amount and forecasted timing of services that may be provided; and (ii), describe the short term services and facilities for the new territory to be served. An Interlocal Cooperation Agreement between the DCTA and the Applicant shall provide for the payment of any capital recovery fees or other charges (as described in Section I below) to be paid by the Applicant; and shall describe the agreed amendment to the DCTA Service Plan. Any amendment to the DCTA Service Plan shall be subject to the following:

1. Any programmed capital projects for the proposed service area shall not impair or materially delay the schedule for capital projects planned in accordance with the

DCTA Service Plan or Capital Improvement Plan.

2. All transit services planned for the proposed service area shall be qualified by the same system-wide planning processes and criteria governing transit services in the existing DCTA service delivery areas.
3. Any requested transit service necessitating a material or significant capital investment or connecting to an existing material or significant capital investment may require a capital recovery fee or similar capital payment.
4. Municipalities adopting a DCTA transit sales and use tax or comparable dedicated funding source after January 1, 2004 shall continue to fund all previously existing or funded transit services until the first day of the tenth (10th) calendar month after the imposition of the DCTA transit sales and use tax or comparable fee or assessment.

F. Election Requirement

To become a member of the DCTA through the adoption of the DCTA transit sales and use tax, the governing body of a municipality shall call an election to authorize the levy of the DCTA transit sales and use tax of one-half cent and submit the following proposition to the voters: *“Shall the Denton County Transportation Authority levy of a proposed tax, not to exceed one-half of one percent, be authorized.”*

If a municipality chooses to become a member through a comparable, multi-year funding source and that funding source requires the governing body of the municipality to call an election, the DCTA Board of Directors shall have the right to approve the election ballot proposition language.

The municipality shall, within 60 days after execution of the Inter Local Cooperation Agreement, call the election to be held on the next uniform election date allowed by law..

Subsequent to the last of the following to occur: (i) the voter authorization of the dedicated funding source; and (ii) the payment of the Capital Fees or Fund Reserves pursuant to the Interlocal Cooperation Agreement, the DCTA shall amend the Service Plan consistent with the Interlocal Cooperation Agreement.

The Interlocal Cooperation Agreement shall be negotiated on a case-by-case basis. The Interlocal Cooperation Agreement shall be executed by the parties prior to the call for the election and shall provide for the payment of Capital Recovery Fee and/or Fund Reserves to be paid by the municipality to the DCTA as described in Section H below, and shall describe the agreed amendment to the DCTA Service Plan, subject to voter approval of the authorization of the DCTA transit sales and use tax or other dedicated funding source.

G. Application for Associate Membership

This policy applies to the addition of any municipality or entity that desires to become an associate member of the DCTA for long-range planning and limited transit service through an annual payment to DCTA. The annual provision of services by DCTA and the terms and

conditions of the annual payment will be detailed through an Interlocal Cooperation Agreement between DCTA and the municipality or entity.

Associate members must become full-members before significant fixed capital investments will be made by DCTA within or near the municipality.

Associate members, may at the discretion of the DCTA Board of Directors, participate on DCTA committees and subcommittees.

H. Contracting for Limited Transit Services

A municipality or other entity may contract with the DCTA for a specific type of transit services through an Interlocal Cooperation Agreement which shall provide for: (1) the payment of Capital Recovery Fees, if any; and (2) the agreed transit services and/or the amendment of the DCTA Service Plan, as appropriate. Additionally, the agreement will include considerations of the value of access to DCTA including its resources and expertise, the stability of the funding source for the contracted service, and the recovery by DCTA of the fully burdened cost of providing the service. The provision of these services shall not materially impact the provision of services in cities with full-membership, nor will it materially impact any major capital projects underway or planned in the Authority's Service Plan. Municipalities or entities receiving DCTA transit services under a contract shall not be eligible for enhanced voting privileges.

I. Capital Recovery Fees

Municipalities adjacent to an existing or near-term fixed guideway that authorize a dedicated funding source either through the DCTA transit sales tax or other comparable fees, assessment or taxes pursuant to an Interlocal Cooperation Agreement, as a condition to the amendment of the DCTA Service Plan, must fund and pay to the DCTA a Capital Recovery Fee. This payment recognizes initial capital investments and contributions made by existing municipalities with full membership and pays the full cost of any capital improvements related to the addition of the new member (i.e. new station, vehicle acquisition, etc). The estimated amount of the Capital Recovery Fees or necessary investment shall be determined by DCTA and shall be provided to the municipality prior to such municipality calling the election to authorize the DCTA transit sales and use tax.

The Capital Recovery Fees shall be calculated in accordance with the following:

1. Municipalities contiguous to, or within ½ mile of, an existing or near-term fixed guideway:
 - a. A pro-rata share of "Fixed-Guideway Project Development Costs" incurred by DCTA members cities over the life of the project; or
 - b. Full-payment of any additional capital investments required to accommodate service to the municipality.

2. Municipalities not contiguous to, or within ½ mile of, an existing or near-term fixed guideway maybe required to provide related data to DCTA, at its cost, for the DCTA to develop the preliminary assessment and conduct necessary analysis for the modification of the service plan.
3. Municipalities contributing a multi-year funding source that is not originated from sales tax revenue must at its own cost develop and provide to DCTA a 10-year revenue model that projects the anticipated revenue that will be directed to DCTA for capital, operational and maintenance needs. This 10-year revenue model may be subject to a third-party review and must illustrate that revenue generated from the comparable source is equivalent to sales-tax revenue for same period. Additionally, any financial risk associated from this funding method will not be borne by DCTA.
4. The pro-rata share and Capital Recovery Fee amounts shall be determined by DCTA, in its sole discretion.

J. Programming of Transit Services

While DCTA may choose to study and identify transit needs outside of its participating cities for the purposes of long-range planning efforts and to support regional mobility, DCTA shall commence detailed programming of transit services upon the later: of (a) the canvas of the results of an election authorizing the DCTA transit sales tax for the use and benefit of DCTA or the dedication of comparable funding source; and (b) the effective date of an Interlocal Cooperation Agreement between DCTA and the municipality for payment of the Capital Recovery Fees.

The programming of transit services will be detailed in the Authority's Service Plan which will be reviewed and updated a minimum of every five years.

K. Voting Privileges:

A new member contributing ½ cent sales and use tax or comparable continuous funding source shall assume enhanced voting privileges as set forth in the then current bylaws after one calendar year following effective date of the Interlocal Cooperation Agreement. Municipalities receiving DCTA transit services under a contract or through an Associate Membership shall not be eligible for enhanced voting privileges.

L. Update to New Member Policy

This New Member Cities Admission Policy may be reviewed and updated annually by the DCTA Board of Directors.

M. Definitions:

- a. Pro-Rata Share shall mean the proportion of the total sales subject to sales and use tax within the municipal boundaries compared to the aggregate of sales in all Denton County municipalities, or portions thereof, as reported to the Comptroller of Public Accounts within the project's timeframe.

- b. Calculation of the one-time payment to fund balance reserves by a new member shall be equivalent to 25% of ½ cent sales and use tax collections for most recently completed fiscal year.
- c. Fixed Guideway Project Development Costs shall mean the sum of DCTA operating expenses plus capital expenditures for the fixed-guideway project.
- d. Fiscal year shall mean a 12-month period at the end of which all accounts are completed in order to furnish a statement of the DCTA's financial condition or for tax purposes from October 1 through September 30,
- e. Near-term will be any fixed guideway project to be completed within five-years of the membership request and included in DCTA's five-year Capital Plan.
- f. Long-term will be any fixed guideway project included in the Authority's Service Plan but not programmed in the DCTA's five-year Capital Plan.
- g. Comparable funding source must be a multi-year commitment allowable under state law that can be used for capital, operations and maintenance costs. This source can not be subject to annual renewal and/or annual appropriation.

DRAFT

MEMORANDUM

TO: Planning and Zoning Commission

FROM: Nika Reinecke, Director of Economic Development & Planning

DATE: May 14, 2010

SUBJECT: **Public Hearing: Consideration of an Ordinance for a Zone Change Request From Agricultural Open Space (AO) and Light Industrial (LI) to Public Use (PU) on a 77.98 Acre Tract Located on the West Side of Railroad Street, Approximately 2,450 Feet North of Bennett Lane; Further Identified as Tracts 35, 36, 73 and 74 of the John W. King Survey, Abstract 695 and Tract 15 of the John H. Havens Survey, Abstract 541; as Requested by Denton County Transportation Authority and the Estate of Tilford Berry, the Property Owners (Case No. PZ20100508).**

BACKGROUND:

There are five tracts listed as part of the zone change request. The property is currently zoned Agricultural Open Space (AO) and Light Industrial (LI). The majority of properties in the area are also zoned Light Industrial (LI). DCTA has rezoned all of their facilities in the City to Public Use (PU) zoning. There are plans to convert this site into their maintenance facility. An engineering site plan is currently in review by staff.

ANALYSIS:

Public governmental agency uses are permitted in all zoning districts although the agency must follow the general regulations of the district in which the use is located. The DCTA could have chosen to leave the property zoned as it currently is but is requesting the PU zoning as the city has requested. The proposed site will include a maintenance facility and the proposed zoning will allow them more flexibility in using the property. There will not be a park and ride facility located on this lot. The proposed zoning will better reflect the use of the property by a governmental agency and will be in keeping with the past zone changes of DCTA sites and those of other governmental facilities. The Planning and Zoning Commission recommended unanimous approval at their May 4, 2010, meeting.

RECOMMENDATION:

It is City staff's recommendation that the City Council approve the proposed ordinance amending the Lewisville City Code, Chapter 17, the Comprehensive Zoning Ordinance approving the requested zone change from Agriculture Open Space (AO) and Light Industrial (LI) to Public Use (PU).

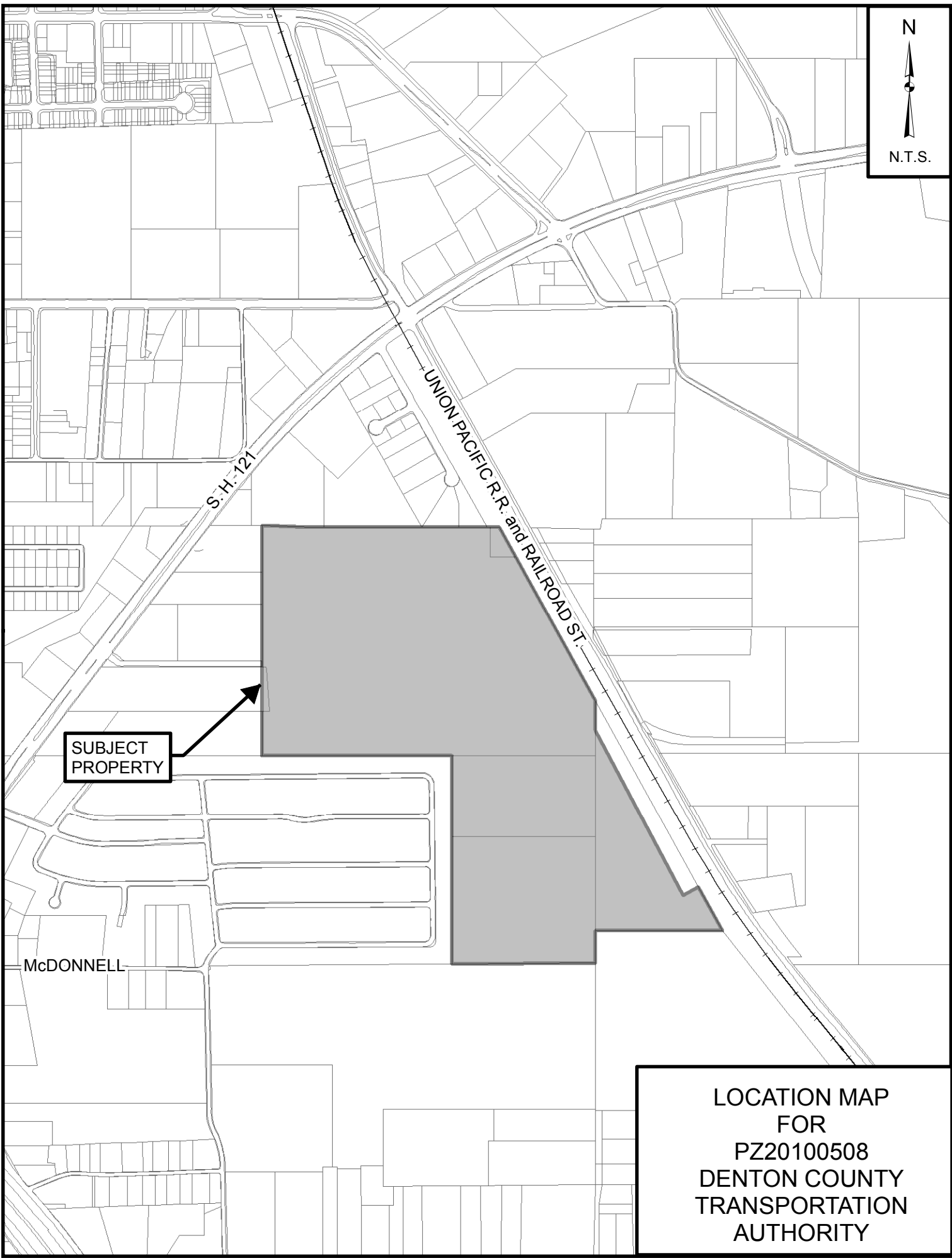
MINUTES
PLANNING AND ZONING COMMISSION
MAY 4, 2010

Item 4:

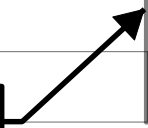
The next item on the agenda was the public hearing zoning. There were two items for consideration. The first item for consideration was:

- A. Consideration of a zone change request from Agricultural Open Space (AO) and Light Industrial (LI) to Public Use (PU) on a 77.98 acre tract located on the west side of Railroad Street, approximately 2450 feet north of Bennett Lane; further identified as Tracts 35, 36, 73 and 74 of the John W. King Survey, Abstract 695 and Tract 15 of the John H. Havens Survey, Abstract 541. The request is being made by Denton County Transportation Authority and the Estate of Tilford Berry, the property owners (Case No. PZ20100508).

Staff gave a brief presentation indicating the location of the five tracts and the requested zoning classification. DCTA will use this site for a maintenance facility. The public hearing was then opened. With no one present to speak to the issue, Karen Boenker made a motion to close the public hearing, seconded by James Davis and it passed unanimously (6-0). Karen Boenker then made a motion to recommend approval of the zone change request, seconded by Bill Price. The item passed unanimously (6-0).



SUBJECT
PROPERTY

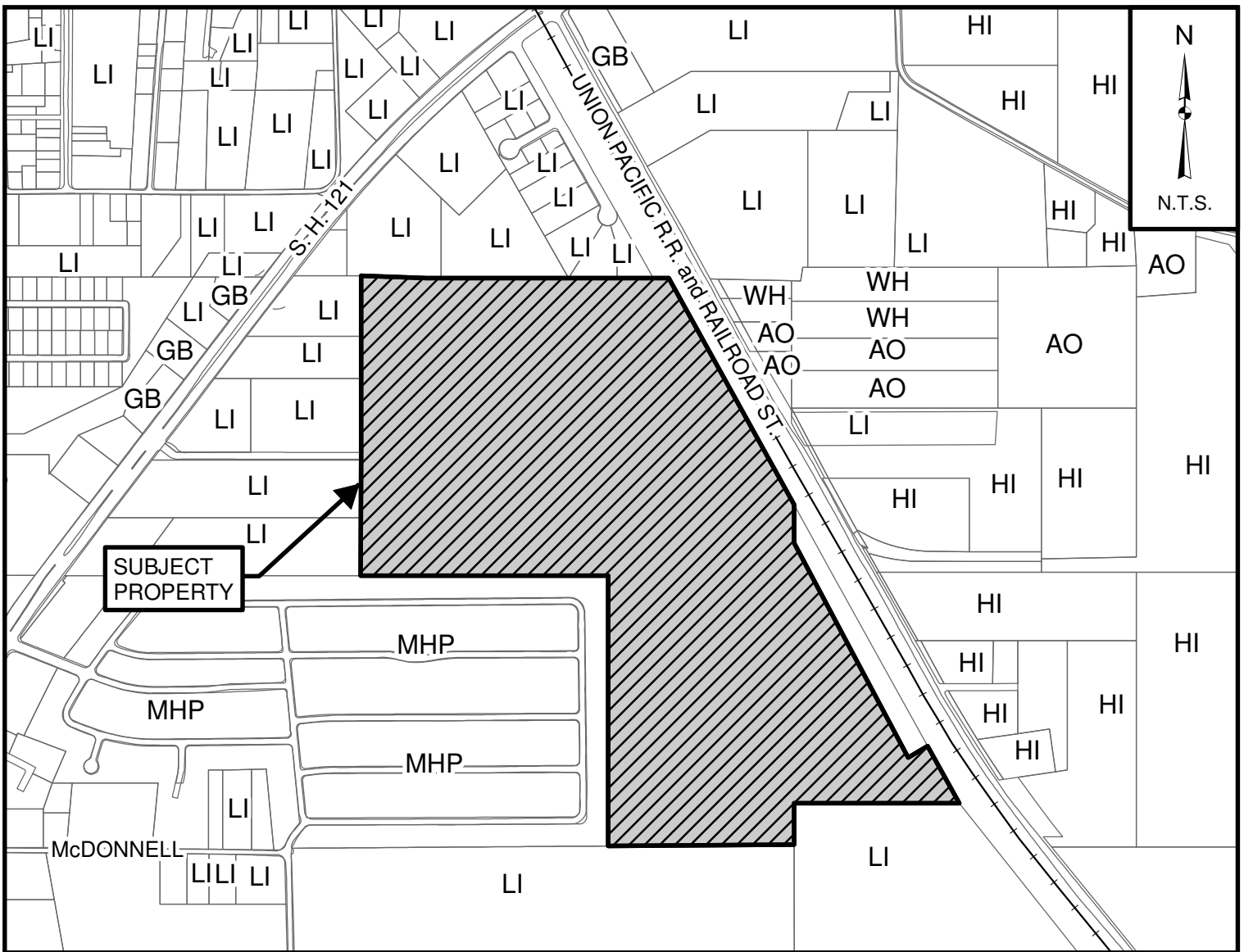


McDONNELL

S.H. 121

UNION PACIFIC R.R. and RAILROAD ST.

LOCATION MAP
FOR
PZ20100508
DENTON COUNTY
TRANSPORTATION
AUTHORITY



ZONING CASE NO. PZ20100508

PROPERTY OWNERS: DENTON COUNTY TRANSPORTATION AUTHORITY AND THE ESTATE OF TILFORD BERRY

APPLICANT: DENTON COUNTY TRANSPORTATION AUTHORITY

PROPERTY LOCATION: WEST SIDE OF RAILROAD STREET, APPROXIMATELY 2450 FT NORTH OF BENNETT LANE
TRACT 35, 36, 73 & 74 OF THE JOHN W. KING SURVEY, ABSTRACT 695, AND TRACT 15 OF THE JOHN H. HAVENS SURVEY, ABSTRACT 541

CURRENT ZONING: LIGHT INDUSTRIAL (LI) AND AGRICULTURAL OPEN SPACE (AO)

PROPOSED ZONING: PUBLIC USE (PU)

ACRES: 77.986 ACRES

SECTION 17-28. "PU" PUBLIC USE DISTRICT REGULATIONS

(a) **Use Regulations:** A building or area shall be used only for the following purposes:

- (1) Public Schools.
- (2) Parks and Playgrounds.
- (3) Community Centers.
- (4) Public Golf Courses.
- (5) Civic Centers and Municipal Offices.
- (6) Fire Stations.
- (7) Libraries.
- (8) Municipal Service Centers.
- (9) Public Utility facilities.
- (10) Church worship facilities.
- (11) Other buildings and uses owned or operated by public governmental agencies.
- (12) Other publicly owned uses similar to the above, providing all meet the requirements of this and all other City Ordinances.
- (13) Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.

(b) **Height Regulations:** No building shall exceed forty-five (45) feet or three (3) stories in height, except that a building may be erected to a height of eighty (80) feet and eight (8) stories if set back from all required yard lines a distance of one (1) foot for each two (2) feet of additional height above forty-five (45) feet.

(c) **Area Regulations:**

(1) **Size of Yards:**

- a. **Front Yard:** There shall be a front yard having a minimum depth of twenty-five (25) feet. No parking, storage or similar use shall be allowed in the required front yards in District "PU", except that automobile parking will be permitted in such yards if separated by at least twenty-five (25) feet from any residential district.
- b. **Side Yard:** No side yard is required, except that a side yard of not less than fifteen (15) feet in width shall be provided on the side of a lot adjoining a side street. A side yard of not less than ten (10) feet in width shall be provided on the side of a lot adjoining a residential district.
- c. **Rear Yard:** No rear yard is required except that a rear yard of not less than twenty-five (25) feet in depth shall be provided upon that portion of a lot abutting or across a rear street from a residential district, except that such yard requirement shall not apply where the property in the residential district also backs up to the rear street.

(2) **Reserved:**

SECTION 17-6. "AO" AGRICULTURE - OPEN SPACE DISTRICT REGULATIONS

- (a) **Use Regulations:** A building or premise shall be used only for the following purposes:
- (1) All general and special agricultural, farming, ranching, stock and poultry raising, dairy and other related uses so long as same does not cause a hazard to health by reason of unsanitary conditions; and are not offensive by reason of odors, dust, fumes, noise or vibration; and are not otherwise detrimental to the public welfare; and in all cases poultry or livestock shall be kept as per the City of Lewisville Animal Control Ordinances.
 - (2) Public parks and recreation areas.
 - (3) Single-family dwellings on building lots of one (1) acre or more in areas where such dwellings can be served by City water and/or sanitary sewer services if practical or can be adequately served by water wells and/or septic tanks located on the building lot. The minimum floor area of any dwelling shall be one thousand four hundred (1400) square feet, exclusive of garages, breezeways and porches.
 - (4) Country clubs or golf courses, but not including miniature golf courses, driving ranges or similar forms of commercial amusement.
 - (5) Buildings and uses owned or operated by public governmental agencies.
 - (6) Church worship facilities.
 - (7) Schools, private, with full curriculum accredited by the State of Texas equivalent to that of a public elementary or high school.
 - (8) Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.
 - (9) Accessory buildings and uses, customarily incident to the above uses and located on the same lot therewith, not involving the conduct of a retail business except as provided herein and for home occupations as defined by this Ordinance.
- (b) **Height Regulations:** No building shall exceed thirty-five (35) feet or two and one-half (2-1/2) stories in height.
- (c) **Area Regulations:**
- (1) **Size of Yards:** All front, side, and rear yards shall have a dimension of not less than one hundred (100) feet.
 - (2) **Size of Lot:** No lot shall have an area of less than one (1) acre.
 - (3) **Lot Coverage:** In no case shall more than ten percent (10%) of the total area of the lot be covered by the combined area of the main buildings and accessory buildings.