

Planning Staff Analysis

S24-0001 / RDO Equipment

City Council District 3

REQUEST:

Specific Use Permit (SUP) to allow for an Equipment Sales and Rental use on approximately 10 acres of land. The subject property is zoned Light Industrial (LI). The Equipment Sales and Rental use is an allowed use with an approved Specific Use Permit.

OWNER:

Henry Property Development, LLC

APPLICANT:

Aimee Bissett with 97 Land Company

STAFF RECOMMENDATION:

Staff recommends **approval** of the SUP request with the following conditions:

1. Development of the site shall substantially comply with the attached Site Plan and Landscape Plan. Administrative approval of changes that do not increase the size of the designated equipment rental display and storage areas, change the number of parking spaces, decrease the buffer and screening requirements, or result in a decrease of more than 5 percent in the landscape area for the whole site may be administratively approved, if such changes are permissible per the Denton Development Code. All other changes shall require a Specific Use Permit amendment in accordance with the Denton Development Code.
2. Notwithstanding the limited administrative approvals authorized in condition 1, the City reserves the right to require approval by ordinance of any amendments or alterations to the SUP, the attached site plan, and the attached landscape plan, including those referenced in condition 1. The attached site plan and landscape plan are incorporated as requirements of the SUP.
3. An encroachment agreement must be obtained prior to the approval of the Civil Engineering Plans for all encroachments into the private easements located on the property. Failure to obtain an encroachment agreement will require approval of an amendment to the SUP by ordinance.
4. Improvements within the TxDOT roadway require approval by TxDOT. If the modified traffic impact analysis (TIA) submitted to TxDOT requires minor alterations to relocate the cross-access connection, relocate the proposed driveway along US 380, relocate parking spaces impacted by the driveway relocation, or modify the median opening and turn lanes, or any other changes required by TxDOT, these changes may be approved by City staff, provided that the final configuration of the driveway and cross-access complies with the Texas Department of Transportation (TxDOT) requirements as well as all elements of the DDC. All other changes to site access shall require a Specific Use Permit amendment in accordance with the Denton Development Code.
5. Construction of the pavement within the cross-access easement is required when the adjacent property to the east develops.

6. The zoning map shall reflect the Specific Use Permit on the property consistent with the DDC.
7. Minor alterations to the building elevations may be approved by City staff, provided that the final project complies with Denton Development Code Subsection 7.10.5D, Building Mass and Form.

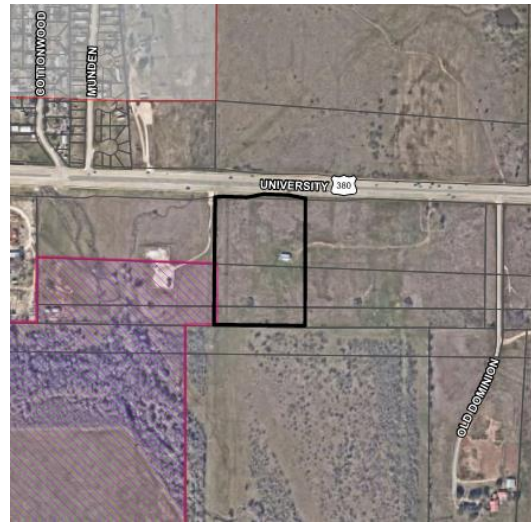
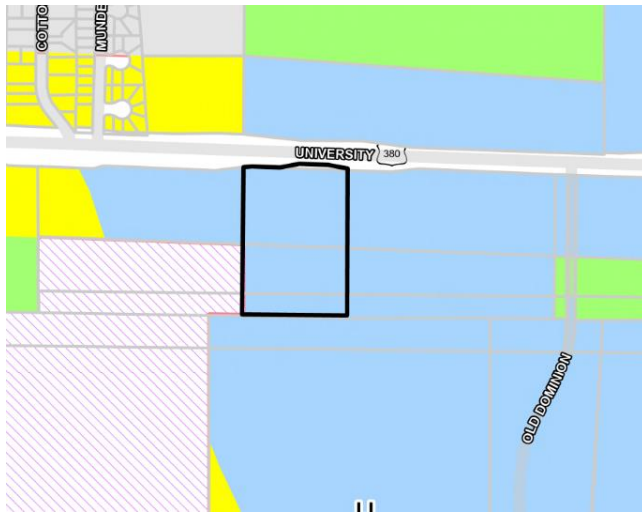
SITE DATA:

The subject property, an approximate 10-acre site, is currently undeveloped except for one agricultural structure located on site (see inset maps below and maps provided as Exhibits 3 and 5). The western portion of the site is encumbered by a variety of easements, primarily associated with overhead utilities, thus making the property difficult to develop. A portion of the property was recently zoned Light Industrial. There is no FEMA floodplain or floodway located on the property. There are no designated Environmentally Sensitive Areas (ESAs) on the property.

The subject property has approximately 545 feet of frontage on US 380. US 380 is a freeway on the current Mobility Plan and is maintained by the Texas Department of Transportation (TxDOT). Access in and out of the site will be through one driveway located on US 380, which is subject to the approval of a TxDOT permit as noted in the recommended conditions. See Exhibit 7 – Proposed Site Plan.

SURROUNDING ZONING AND LAND USES:

Northwest: <ul style="list-style-type: none"> • Zoning: Residential 2 (R2) • Use: US 380 and Residential 	North: <ul style="list-style-type: none"> • Zoning: Light Industrial District • Uses: Undeveloped Land and Agriculture 	Northeast: <ul style="list-style-type: none"> • Zoning: Light Industrial District • Use: Undeveloped Land
West: <ul style="list-style-type: none"> • Zoning: ETJ/Non-Annexation Agreement (NAA) • Use: Gas Well 	SUBJECT PROPERTY	
Southwest: <ul style="list-style-type: none"> • Zoning: ETJ/Non-Annexation Agreement • Use: Undeveloped Land 		
	South: <ul style="list-style-type: none"> • Zoning: Light Industrial District • Use: Undeveloped Land and gas well 	Southeast: <ul style="list-style-type: none"> • Zoning: Light Industrial District • Use: Undeveloped land, rural residential use, and gas well



CONSIDERATIONS:

A. Section 2.4.5E of the Denton Development Code (DDC) provides approval criteria applicable to all applications.

1. *General Criteria*

a. *Unless otherwise specified in this DDC, City review and decision-making bodies must review all development applications submitted pursuant to this subchapter for compliance with the general review criteria stated below.*

The general criteria have been applied.

b. *The application may also be subject to additional review criteria specific to the type of application, as set forth in sections 2.5 through 2.9.*

Section 2.5.2D of the DDC applies to Specific Use Permit (SUP) requests. An analysis of this request per those criteria can be found below in Consideration B.

c. *If there is a conflict between the general review criteria in this section and the specific review criteria in sections 2.5 through 2.9, the applicable review criteria in sections 2.5 through 2.9 controls.*

There are no conflicts between the general criteria and the criteria specific for Specific Use Permit requests.

2. *Prior Approvals*

The proposed Specific Use Permit is consistent with the March 2024 rezoning from Rural Residential (RR) to Light Industrial (LI) zoning.

3. *Consistent with the Comprehensive Plan and Other Applicable Plans*

The decision-making authority:

a. *Shall weigh competing goals, policies, and strategies.*

The proposed Specific Use Permit is consistent with the goals, policies, and actions of the Comprehensive Plan and with the Future Land Use Designations of Light Industrial

and Industrial Commerce (see inset map below and in Exhibit 4), including the goals and actions listed below:

GOAL FEV-2: Improve the City's job-to-worker ratio by increasing the number of jobs available to the resident workforce and local graduates.

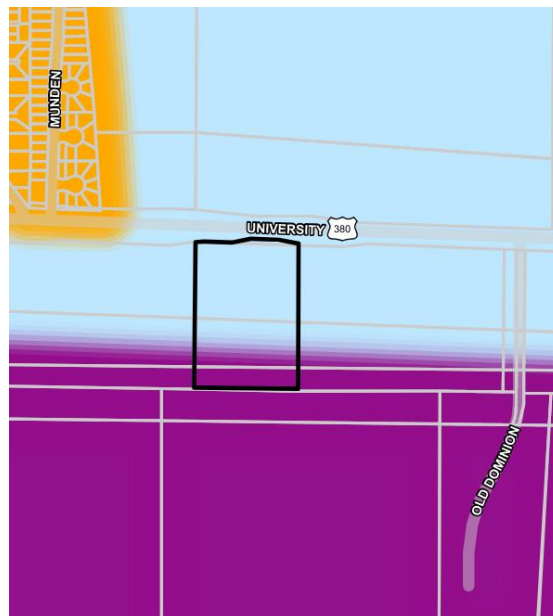
GOAL FEV-5: Design a fiscally advantageous land use pattern paired with fiscally responsible infrastructure management and investment.

Action 3.1.1: Ensure adequate land for future economic growth, particularly in the non-residential future land use categories, including a sufficient buffer zone to adjacent protected land uses.

The applicant's requested use is consistent with the overall goals of the Denton 2040 Comprehensive Plan to provide for a robust and diverse economy and increase jobs within Denton by bringing a new commercial business to Denton that would also support area agricultural uses with the types of equipment sold and rented. Additionally, given the surrounding zoning pattern and the proximity of more intensive uses such as gas well drilling and production sites, the potential for any nuisance or compatibility issues to arise from this use are limited and proper screening for outdoor storage areas is proposed, which aligns with Action 3.1.1 cited above. The proposed use is less intense than other uses that are permitted by right in Light Industrial zoning, such as warehousing and self-storage, and this use would serve as a buffer between the existing single-family neighborhood located to the northeast of the subject site, on the north side of US 380, and future development of the existing Light Industrial zoning to the east of the subject site.

- b. *May approve an application that furthers the overall goals of the Comprehensive Plan even if the development does not match the future land use designation in the Comprehensive Plan.*

The use and scale of the proposed Equipment Sales and Rental use conforms to the Future Land Use Element of the Denton 2040 Comprehensive Plan.



Per the Future Land Use Map in the Denton 2040 Comprehensive Plan, the subject property is designated as Light Industrial and Industrial Commerce (see image above and provided as Exhibit 5). The description for the Future Land Use designations are provided below:

The Light Industrial designation is intended for tracts of land that are appropriate for light industrial activity. Primary uses include light manufacturing, assembling, and warehousing and distribution, and include associated supporting uses, such as offices, retail, and restaurants. Light Industrial areas should have adequate access to infrastructure, including the transportation network. It is important in future development that transitions to adjacent sensitive land uses are considered.

Industrial Commerce applies to areas where the predominant uses include both light and heavy industrial uses, such as moderate to heavy manufacturing, assembly, fabrication, and wholesaling. Distribution warehouses may be included in this designation if used to replace underutilized and heavy industrial uses, or if ultimately reused to house future industrial development. This designation is located primarily west of I-35W near the Denton Municipal Airport. It is important in future development that transitions to adjacent sensitive land uses are considered.

The proposed John Deere commercial business consists of Equipment Sales and Rental and use, which includes accessory uses such as outdoor display, storage, and servicing for equipment. The uses contribute to the mix of uses in the area and will increase the City's economic vitality as envisioned by the Denton 2040 Comprehensive Plan.

The sale of farm equipment is considered as an Equipment Sales and Rental use per the definition of the use in the Denton Development Code. See definition below:

Equipment Sales and Rental

An establishment engaged in the display, sale, and rental of equipment, tools, supplies, machinery or other equipment used for building construction, manufacturing, farming or agriculture. This use includes the sale of farm-specific vehicles such as tractors, tillers, farm trailers, back hoes, graders, boom lifts, and front-end loaders, but not including car or truck rentals.

The Equipment Sales and Rental Use is consistent with the Light Industrial Future Land Use designation which includes supporting uses such as retail, especially due to the more intensive nature of the equipment being sold. Industrial Commerce applies to both light and heavy and industrial uses, which would include the warehouse accessory use proposed on the subject site. Furthermore, the existing Light Industrial zoning that allows warehouse uses, it is appropriate to consider allowing the equipment sales and rental component associated with this business. As was noted in the AIS, the DDC does distinguish between the outdoor display of item immediately intended for sale and the outdoor storage of items not intended for immediate sale, and thus the reason for the opaque wooden fence interior to the site to screen storage areas from public view.

4. *Compliance with this DDC*

- a. *The proposed development shall comply with all applicable standards in this DDC, unless the standard is to be lawfully modified.*

If the subject Specific Use Permit request is approved, all subsequent development on this site will comply with applicable standards in the DDC, including, but not limited to, minimum lot size and dimensions, building coverage, access, parking, tree preservation, and landscaping.

- b. *Compliance with these standards is applied at the level of detail required for the subject submittal.*

The proposed site plan and landscape plan were reviewed to ensure compliance with the Denton Development Code. If the proposed Specific Use Permit request is approved, prior to development, a detailed plan review will accompany all required civil engineering plans, final plat, and building permit submittals. As noted below, the applicant did seek administrative deviations from certain code requirements, as allowed for in the DDC.

Parking

The total parking required for the proposed development is 31 parking spaces. Twenty-six (26) spaces for the Equipment Sales and Rental use and five (5) spaces for the accessory warehouse and storage space. However, during the site plan review process the applicant requested to provide 35 parking spaces, which is 4 parking spaces over the required parking. Per DDC 7.9.6C.4, a development may provide up to 125% of the minimum parking (38 spaces) if the parking spaces provided above the minimum required parking spaces are designed to iSWM standards. The applicant will demonstrate compliance with this requirement for treating the stormwater associated with the 4 additional parking spaces with their Civil Engineering Plans.

Landscaping

The applicant also submitted an Alternative Landscape Plan. The purpose of the Alternative Landscape Plan is to deviate from the requirements of 7.7.7: Street Tree Requirements of the Denton Development Code. The Section requires the elements listed in the table below.

Street trees shall be located within the street right-of-way or within 10 feet of the street right-of-way.
At least one street tree is required for every 30 feet of street frontage.
Street trees are not required to be regularly spaced at 30-foot intervals; however, street trees shall not be planted further apart than 50-foot intervals and not closer than 25 feet apart.

The applicant requested alternate locations and spacing for the street trees due to the easements that encumber the site as well as the desire to have the equipment that will be on display visible from the right-of-way. As an alternative, the street trees are located outside several large easements that are located on the western portion of the site, outside of the TxDOT right-of-way that does not permit street trees, and outside of the 20' utility easement along the TxDOT frontage. Ornamental trees have been clustered to provide the required number of street trees in a smaller area due to the site constraints.

The applicant also requested to deviate from the landscape buffer requirements. A minimum 20 points, minimum 10-foot width landscape buffer is required between this developing commercial use (Equipment Sales and Rental) and the adjacent industrial use (Gas Well) to the west. Due to the existing easements that span the entirety of the

western property line, the applicant has proposed a coated chain link fence along the western portion of the property in place of a wood or masonry fence due to the ease of removal if the easement holder needed to access the easement. The applicant has also planted large canopy trees along the entirety of the eastern property line, as opposed to the western property line as would have been required.

Pursuant to Section 7.7.3C Alternative Landscaping of the Denton Development Code, the Director may approve alternative landscape plans that do not meet the specific requirements stated in Section 7.7 Landscaping, Screening, Buffering, and Fences, when the Director determines that the alternatives meet the criteria listed in Section 7.73C.2 Alternative Landscape Plan Approval Criteria. After review of a submitted Alternative Landscape Plan, staff has determined that the information and assumptions used in the plan meets the approval criteria listed in Section 7.73C.2 Alternative Landscape Plan Approval Criteria and has approved the applicant's proposed Alternative Landscape Plan, which is provided as Exhibit 8.

Access

The applicant also submitted requests to vary from transportation related criteria. DDC 8.3.2C.1.c.ii requires two full points of vehicular access for developments on lots 20,000 square feet or larger. The subject site is a large lot, exceeding 20,000 square feet, but only has approximately 500 feet of frontage on US 380, which would not be appropriate for the required two access points directly from US 380. The proposed development is expected to generate low daily trips and the applicant proposing to construct a right-turn lane on US 380 pending TXDOT's approval. If another access drive connection to US 380 were to be added for this site to meet the DDC's requirement, it could potentially interfere with future access to other developments on adjacent properties due to the required driveway spacing. A cross access and public access easement is shown on the proposed plan, and when the property to the east develops, a second point of access will be provided through the cross-access connection.

Pursuant to 8.3.2C.1.d, the requirement for two full points of access in Subsection 8.3.2C.1.c.ii may be waived when it is shown to the satisfaction of the City Engineer that two points of vehicular access are deemed unattainable on the basis of: topography; the presence of natural drainage features or Environmentally Sensitive Areas; adjacent site improvements making it unattainable to provide second access; or vehicular or pedestrian safety factors. After review of the submitted variance request, staff has approved the variance request as an interim condition for this development in order to preserve future drive connections that maintain appropriate drive spacing intervals for when adjacent properties develop in the interest of traffic safety, yet allowing the site to have two-points of access in the future via the cross-access easement.

DDC 7.8.10A requires all non-residential development to be designed to allow cross-access to adjacent properties. The applicant has requested a variance (in accordance with DDC 7.8.10.B) to construct the cross-access pavement connection at a later date due to the topography of the subject site in relation to the neighboring site. The driveway, if constructed at this time, would need to be in excess of 12% grade. The cross-access easement is being provided with this development, and the future cross-access drive will be constructed when the adjacent site develops, and the two properties can coordinate to install the cross-access connection with a slope that meets the DDC requirements for grading. Staff has approved the variance request provided that the cross-access easement is provided at the time of development.

5. *Compliance with Other Applicable Regulations*

This proposed request complies with all other applicable regulations.

6. *Consistent with Interlocal and Development Agreements*

There are no interlocal or development agreements for the subject site.

7. *Minimizes Adverse Environmental Impacts*

There is no FEMA floodplain or floodway located on the property. There are no designated Environmentally Sensitive Areas (ESAs) on the property. All developments shall comply with applicable standards in the DDC, Criteria Manual, Municipal Code of Ordinances, and other state and federal standards. Development of the site will require a full review of all site conditions. Additionally, the applicant has provided a letter from an arborist stating that there are no protected trees on site, so the site is in compliance with the DDC's tree preservation standards.

8. *Minimizes Adverse Impacts on surrounding Property*

The proposed Equipment Sales and Rental use will not have any adverse impact on surrounding property. The existing land use pattern in the surrounding area is a mix of undeveloped land and industrial uses. The Equipment Sales and Rental use is appropriately incorporated into the overall design of the site and is compatible with this land use pattern.

During the final platting and civil engineering process, the precise requirements for public infrastructure improvements, including water, sewer, and drainage will be determined.

9. *Minimizes Adverse Fiscal Impacts*

The proposed Equipment Sales and Rental use will not have an adverse fiscal impact. A Fiscal Impact Summary has been completed and it provided in Exhibit 9. This summary report indicates that the commercial use would have a positive net impact on the City's General Fund.

10. *Compliance with Utility, Service, and Improvement Standards*

Water is available along US 380, and sewer is available to the southwest of the subject site. A full review of their capacity level and the plans for extension of these utility lines will be conducted as part of the Civil Engineering Plan review prior to final platting.

No negative drainage impact is permitted onto adjacent properties upon development. Detention requirements will be assessed as part of the Civil Engineering Plan review prior to final platting. Drainage facilities required on site will need to comply with the DDC prior to any building permit being issued.

11. *Provides Adequate Road Systems*

The subject property has approximately 550 feet of frontage on US 380. US 380 (University Drive) is an existing freeway on the current Mobility Plan. Access in and out of the site will be through one driveway located on US 380. See Exhibit 7 – Proposed Site Plan. Additionally, any work within the TxDOT right-of-way will require approval of a TxDOT permit.

12. *Provides Adequate Public Services and Facilities*

The proposed Equipment Sales and Rental use will not affect public services and facilities within the area.

13. *Rational Phasing Plan*

The project does not have a phasing plan.

- B. Section 2.5.2D of the DDC states that in reviewing a proposed SUP, the Planning and Zoning Commission and City Council shall consider the general approval criteria in Subsection 2.4.5E and whether:

1. *The specific use proposed is compatible with the surrounding area;*

The proposed Equipment Sales and Rental use is compatible with the surrounding area. The existing land use pattern in the surrounding area is a mix of undeveloped land and industrial uses (gas wells).

2. *The specific use proposed has negative impacts on future development of the area; and*

The proposed Equipment Sales and Rental use is anticipated to have no negative impacts on future development of the area. The development of this property would improve the area by building on an undeveloped property along a major corridor in the city.

3. *Any impacts associated with access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, and odor have been adequately mitigated.*

The proposed site plan and landscape plan depict that the development would be in conformance with the requirements of the DDC (as allowed to be administratively modified) in terms of parking and landscaping as described in criterion A.4.b above.

After construction, the proposed use is not anticipated to generate offensive odors, fumes, dust, noise, or vibrations.

Water and sewer lines are available in the vicinity of the subject site. A full review of the plans for extension of these utility lines will be conducted as part of the Civil Engineering Plan review prior to final platting.

No negative drainage impact is permitted onto adjacent properties upon development. Detention requirements will be assessed as part of the Civil Engineering Plan review prior to final platting. Drainage facilities required on site will need to comply with the DDC prior to any building permit being issued.

During the final platting and Civil Engineering Review process, the precise requirements for public infrastructure improvements, including water, sewer, and drainage, will be determined.