

To: City Council

From: Hector Soto, Jr., AICP, Senior Planner

Date: December 8, 2023

Re: Appl. #PL2023-326 - APPEAL of prohibited uses in the EnVision LS Area Development Plan (ADP), UDO Section 5.650.E – 101 SW Oldham Pkwy and 1310 SW Market St; Drake Development, LLC, applicant

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The EnVision LS area is composed of approximately 76 acres at the northwest, southwest and southeast intersection of US 50 Hwy and South M-291 Hwy, which are the current site of Pine Tree Plaza, the former site of Adessa Auto Auction and the former site of Calmar, respectively (see Appendix A). The EnVision LS ADP is a conceptual master plan approved by City Council on March 2, 2017, to serve as a vision that guides redevelopment efforts for the area and is incorporated into the UDO as an overlay district (see Appendix B). Land uses in the EnVision LS ADP are governed under UDO Section 5.650. Said section established three governing classes of land uses for the area: 1) uses permitted throughout the boundaries of the EnVision LS area; 2) uses permitted within each of the three established EnVision LS sub-areas depicted (i.e. LS Gateway, LS Mixed Use and LS Arts and Entertainment District depicted in Appendix C); and 3) prohibited uses throughout the boundaries of the EnVision LS area.

### **Proposal/Request**

The applicant has made an initial submittal of a preliminary development plan (Appl. #PL2023-188) for the redevelopment of the former Adessa site (see Appendix D) plus the area located north of SW Persels Rd between SW Market St and SW Jefferson St that collectively makes up the LS Mixed Use sub-area. Included in the plan are certain land uses that fall under the class of prohibited uses (UDO Section 5.650.E) for the EnVision LS area, namely: automotive/truck related uses; retail—big box in excess of 80,000 sq. ft. on one level; car wash—indoor, outdoor or automated; and day care—except as an accessory use within a larger building for a permitted use. The applicant is pursuing approval to allow the aforementioned “prohibited” uses as permitted uses as part of a redevelopment plan.

### **Process**

Within the section governing land uses for the EnVision LS ADP is the establishment of a process to pursue an appeal through City Council for any listed prohibited use (UDO Section 5.650.F). The City Council may grant approval to the appeal or deny the appeal by motion, resolution or ordinance.

Should City Council grant an appeal, said decision “only provide[s] relief from the prohibited use restriction..., in that the proposed use will be considered as **a potentially allowable use** [emphasis added] for the applicant’s subject property, but no additional rights shall accrue to the applicant. All other UDO requirements which would apply to development of the property shall be satisfied if an appeal is granted (UDO Section 5.650.F.3)”. In other words, granting the appeal does not bestow unto the applicant any entitlement for the proposed land use. Granting the appeal only provides the applicant direction at an early stage that the City Council is amenable to

considering the requested land use(s) as part of a subsequent preliminary development plan application, rather than require applicants to wait for the full preliminary development plan process to run its course. The outcome of the appeal process allows applicants to adjust how or if they choose to proceed with the preliminary development plan process for project.

The UDO explicitly limits the scope of the subject appeal process to seeking relief from the prohibition of listed “prohibited” uses. Relief from all other requirements of the EnVision LS standards (e.g. design standards) and the UDO in general may only be considered and granted through the normal preliminary development plan application process.

## **Analysis**

As previously mentioned, the applicant has filed an appeal so that the following “prohibited” uses may be considered for approval under a forthcoming preliminary development plan application:

- automotive/truck related uses;
- retail—big box in excess of 80,000 sq. ft. on one level;
- car wash—indoor, outdoor or automated; and
- day care.

Although the ADP (the conceptual master plan) includes a list of both allowed and prohibited uses, the “uses depicted on the ADP are considered flexible and will be viewed and considered per development application and site location. The overall mix of uses should remain consistent with the overall approved ADP (UDO Section 5.620.A).” The appeal process preserves to City Council the discretion to allow a path for identified “prohibited” uses to be considered for approval as part of a subsequent preliminary development plan if found to further the vision for the redevelopment of the area.

The subject area composed of the former Adessa site and the area north of SW Persels Rd between SW Jefferson St and SW Market St makes up the LS Mixed Use sub-area. A comparison of the identified allowed uses in the three sub-areas reveals that the subject LS Mixed Use sub-area includes auto-oriented uses not allowed in other sub-areas, namely drive-through restaurants and convenience stores. In this regard, the applicant’s appeal for consideration of automotive/truck-related uses or car washes for the area would not be out of character with the auto-centric uses identified as allowed in the sub-area, as well as the history of the sub-area. The boundaries of the LS Mixed Use sub-area includes the site of the former Paradise Car Wash located at the northwest intersection of SW Market St and SW Persels Rd, which operated from 1997 until relatively recently.

The LS Mixed Use sub-area currently allows for big box retail uses, provided they are configured so as not to exceed 80,000 sq. ft. on a single level. One of the design intents for the area is to encourage compact development in order to foster a more pedestrian-oriented built environment. One way to encourage more walkable and pedestrian-friendly development is to regulate building footprints so as to promote vertical development for single- and multi-user buildings. Given the size of the LS Mixed Use sub-area (approximately 46 acres), there is ample space where a big box or similar large user exceeding 80,000 sq. ft. on a single level could incorporate strategic urban design elements such as increased landscaping; orientation of buildings and building entrances to the street; and minimizing the prominence of parking lots to create more pedestrian-scale development.

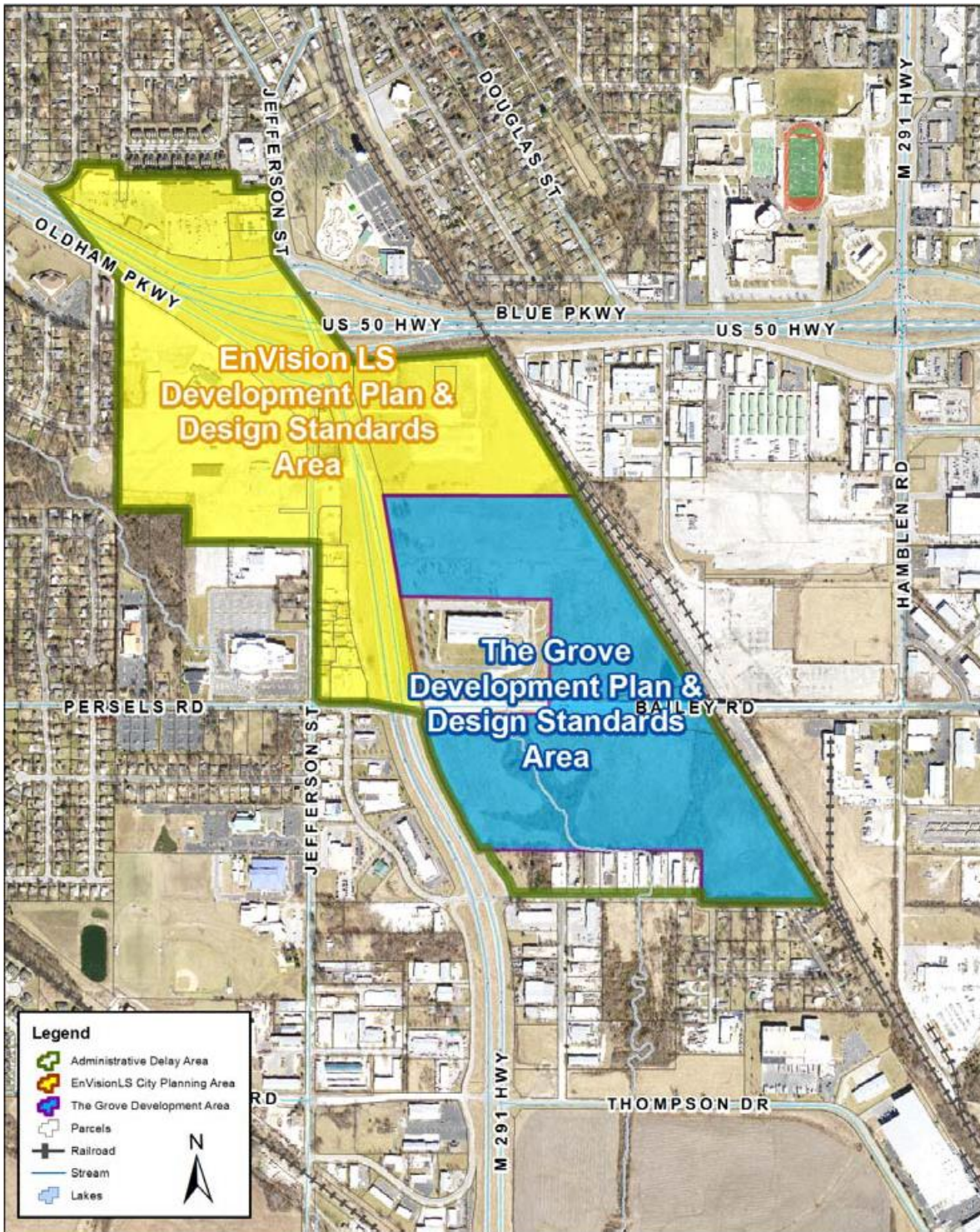
The LS Mixed Use sub-area is located at one of the city's major highway intersections and sits adjacent to existing residential development. The applicant's redevelopment plan for the area includes multi-family residential. The inclusion of certain automotive-related uses (e.g. express oil change, tire shops, auto parts, etc.), car washes and day cares supplement allowed convenience- and service-oriented uses such as restaurants, pharmacies, fitness centers, and grocery stores to satisfy existing and future area demand, as well as serving needs of travelers of both intersecting highway corridors.

### **Recommendation**

The aforementioned history and characteristics of the LS Mixed Use sub-area lends itself for the inclusion of certain uses currently identified as "prohibited" to provide a positive benefit to the area and help drive redevelopment of one of the city's significant highway intersections with an appropriate redevelopment plan. By granting the applicant's use appeal, the City Council is only providing direction that the requested uses may be considered for approval as part of a separate preliminary development plan application. Granting the appeal bestows no entitlements or other rights for any land use or development plan.

Staff recommends granting an appeal to allow consideration of the following "prohibited" uses under a future preliminary development plan: automotive/truck related uses; retail—big box in excess of 80,000 sq. ft. on one level; car wash—indoor, outdoor or automated; and day care.

## Appendix A – EnVision LS area overview

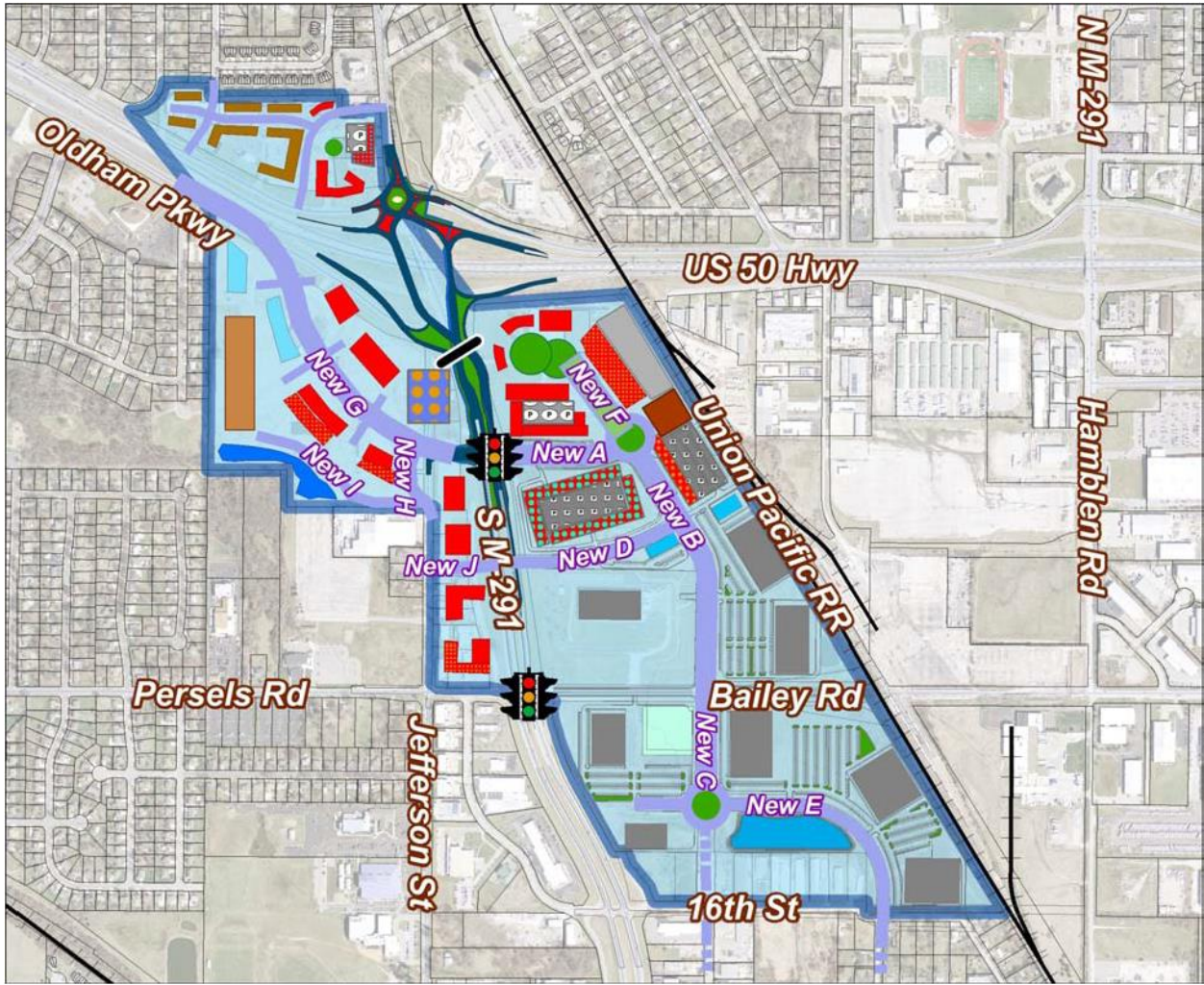


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Appendix B – Adopted Conceptual Master Development Plan



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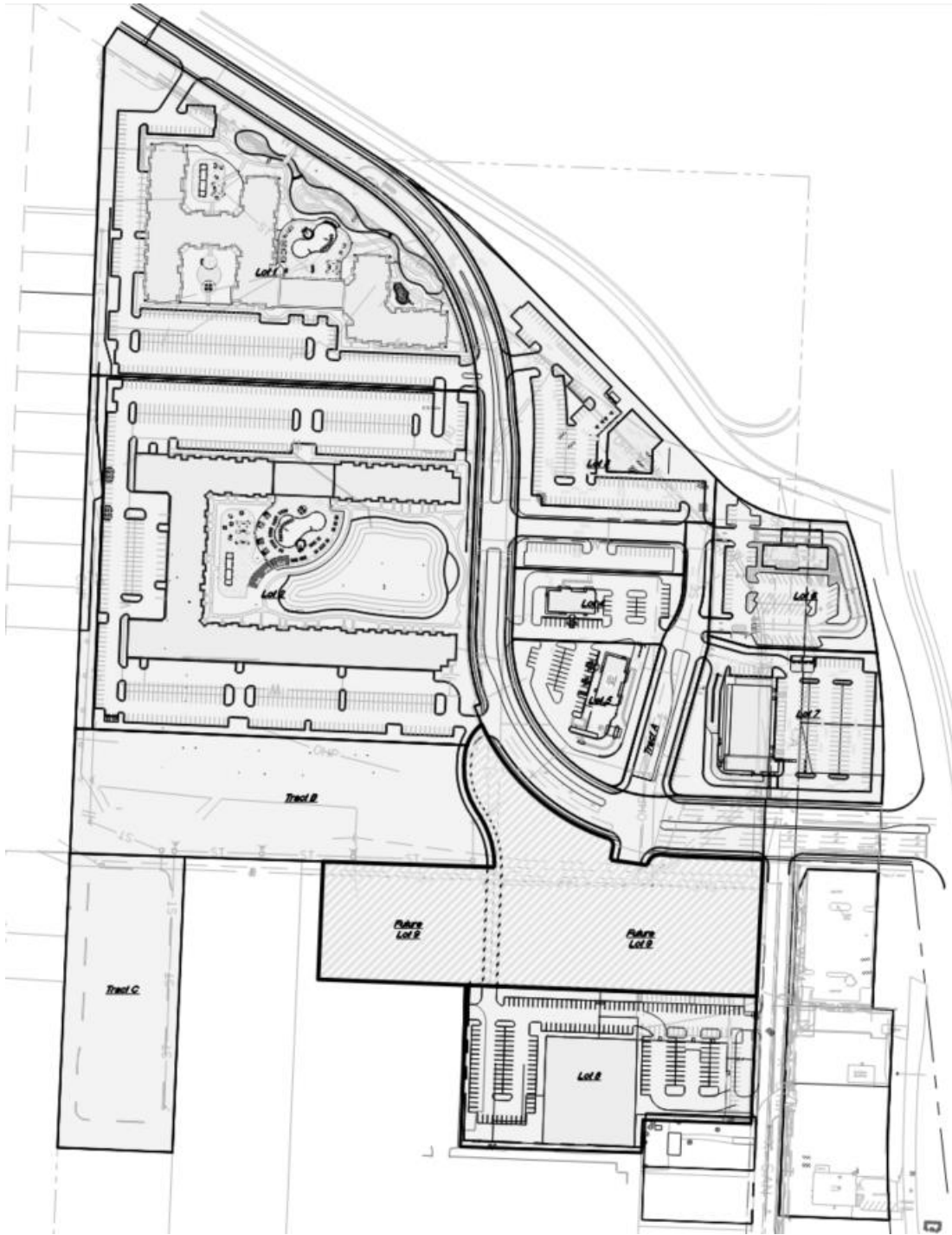
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Appendix C – EnVision LS sub-area map



Appendix D – Preliminary Development Plan (initial iteration dated July 14, 2023)



Proposed Site Lot	Area (Ac)	Building Area / Residential Units	FAR / Density	Use
1	7.27	99,780 / 256	35.21 Units per Acre	Residential Multi-Family
2	11.21	69,026 / 322	28.72 Units per Acre	Residential Multi-Family
3	3.30	8,550 sf	16.81%	Multi-Tenant
4	0.93	3,730 sf	9.20%	Commercial Drive Thru
5	1.18	3,700 sf	7.22%	Commercial Drive Thru
6	1.68	5,350 sf	7.31%	Commercial Drive Thru
7	2.39	12,500 sf	12.01%	Commercial Drive Thru
8	3.50	40,000 sf	26.4%	Health Care Gym
9	5.22	Future	Future	Future