

Frequently Asked Questions (FAQ) regarding Planned District One (PD1) & Zoning Case Z-06-19-17



1. What is the “10% coverage provision” mentioned as it relates to Solana?

Answer: The Planned Development District Number One (PD1) zoning was originally approved under Ordinance 202 on November 16, 1992. Included in the ordinance was a requirement that no more than 10% of the total land area of the PD1 district could be occupied by a principal use building. Specifically, Section 3(B) of Ordinance 202 reads as follows:

“The maximum percent of PD1 to be occupied by (i) principal use buildings shall be ten percent (10%) of the land area as defined below, excluding court yards, atria, etc. not enclosed within the buildings. Parking garages shall not be included in the calculation of density or site coverage (underline added). For these purposes PD1 shall be deemed to have 251.757 acres of land area which is its original acreage before donations for roadways except for right of way within PD1 donated for S. H. 114.”

Given the above requirement, this meant that, as of November 16, 1992, the total aggregate building footprint area for principal use buildings in PD1 could not exceed 1,096,653 square feet.

On March 10, 2008, Ordinance 202 was amended by Ordinance 588. Section 3(B) of Ordinance 588 amended the above 10% requirement by expanding the total land area of the PD1 district as follows:

“The maximum percent of PD1 to be occupied by (i) principal use buildings shall be ten percent (10%) of the land area (as defined below), excluding courtyards, atria, etc. not enclosed within the buildings. Parking garages shall not be included in the calculation of density or site coverage. For these purposes PD1 shall be deemed to have 436.077 acres of land area which is its original acreage, plus the additional acreage added by this amendment, before donations for roadways except for right of way within PD1 donated for S. H. 114.”

Given the above requirement, this meant that, as of March 10, 2008, the total aggregate building footprint area for principal use buildings in PD1 could not exceed 1,899,551 square feet.

On January 7, 2013, Ordinance 202 and 588 were amended by Ordinance 691. The purpose of Ordinance 691 was to split the PD1 zoning district into Planning Area 1 (PD1-1), Planning Area 2 (PD1-2), and Planning Area 3 (PD1-3). Section 4(B) of Ordinance 691 amended the above 10% requirement as follows:

“The maximum percent of PD1 to be occupied by (i) principal use buildings shall be ten percent (10%) of the land area (as defined below), excluding courtyards, atria, etc.; not enclosed within the buildings. Parking garages shall not be included in the calculation of density or site coverage. For these purposes PD1 shall be deemed to have 436.077 acres of land area which is its original acreage before donations for roadways except for right of way within PD1 donated for SH114. Planning Area 1 shall be deemed to be 251.757 acres. Planning Area 2 shall be deemed to be 92.08 acres. Planning area 3 shall be deemed to be 92.24 acres.”

PD1-1 contains the area generally known as The Solana, PD1-2 contains the Entrada development and PD1-3 contains the Granada development. Ordinance 691 did not change the total aggregate building footprint area for principal use buildings in PD1: 1,899,551 square feet.

Therefore, currently, the total allowable building footprint area for principal use buildings in the PD1 district, including all planning areas, is 1,899,551 square feet. The following is a breakdown of current principal building coverage for the entire PD1-1 district:

PD1-1 (Solana): 448,000 square feet

**Total remaining
for future construction: 1,451,571 square feet**

- 2. If the current zoning change request is denied, what size building does the Town realistically expect could be built on the site in question under the existing zoning regulations?**

Answer: Matching the total square footage of The Terrace buildings across Solana Blvd., a total of 1,140,000 square feet of office space (with a total footprint of 285,000 square feet at 4 stories) could be built on the subject property accommodating a total of 5,700 surface parking spaces.

- 3. Could the Town, through the P & Z and Town Council prevent such a building from being built?**

Answer: No.

- 4. What would be the consequences of the P & Z Commission and Town Council just saying “no?”**

Answer: Denial of vested development rights on the property could result in litigation that would seek to overturn the Town Council’s decision and seek liquidated damages resulting from the Council’s action.

- 5. Is there a concept plan for the PD1 zoning district?**

Answer: No

6. **What is “understory”?**

Answer: Understory is a layer of vegetation beneath the main canopy of a forest. Sometimes it is also referred to as “undergrowth”. Together with the canopy trees, this can create a vegetative screen as well as mitigate roadway noise migration. Often it is the understory that creates more screening than the larger specimen trees due to the tall height of those trees.



Understory on undeveloped property south of Solana Blvd. (taken Winter 2015)

7. **Can the current owner remove the understory under current zoning as well as under the Town tree mitigation ordinance regulations?**

Answer: Yes

8. **Can the current owner level the land under the current zoning?**

Answer: Yes

9. **What is a Comprehensive Plan and why is it important?**

Answer: A comprehensive plan is necessary in order to achieve the following:

- To improve the physical environment of the community as a setting for human activities — to make it more functional, beautiful, decent, healthy, interesting and efficient.
- To promote the public interest, the interest of the community at large, rather than the interests of individuals or special groups within the community.
- To facilitate the democratic determination and implementation of community policies on physical development.
- To effect political and technical coordination of community development.
- To inject long-range considerations into the determination of short-range actions. And;
- To bring professional and technical knowledge to bear on the making of political decisions concerning the physical development of the community.”

With these intents in mind, the latest Westlake Comprehensive Plan, titled [Forging Westlake](#), was adopted on March 2, 2015 after receiving significant input from the community. It serves as a guide to current and future Planning & Zoning Commissions and Town Councils for promoting future growth in the community that meets or exceeds community expectations as adopted in the plan.

10. Does the current zoning comply with the Comprehensive Plan? If not, why not? If the Town adopted the Plan AFTER the zoning was in place, why wouldn't the Town have drafted the Plan to show the current zoning?

Answer: This tract's current zoning only partially comports to the current Comprehensive Plan. The Land Use Plan portion of the Comprehensive Plan serves as a guide for future rezoning requests. However, it does not replace existing zoning, it only guides future zoning decisions if the existing zoning be proposed for a change by the owner or their agent.

It is common for municipalities to establish a Land Use Plan in their Comprehensive Plan that may differ entirely or partially from a tract's current zoning. This is in order to create discussions with the owner or their agent should there come a time when they wish to pursue a change in zoning. At that time, the Comprehensive Plan's recommended land uses then come into discussion as they have with this request.

This zoning change request is proposing a land use (transitional residential) that the Comprehensive Plan supports for this area. Transitional residential means higher density residential that would be located in between existing single family residential low density housing (i.e. Glenwyck) and office uses (i.e. office buildings north of Solana Blvd.).

Since 1992, when the original Comprehensive Plan for the Town was approved, the Land Use Plan portion of the Comprehensive Plan has been amended four times. The following is a chronology of Land Use Plan amendments:

- Ordinance 199 – Original Westlake Comprehensive Plan: Approved on August 24, 1992
- Ordinance 450 – Land Use Plan Amendment: March 22, 2004
- Ordinance 690 – Land Use Plan Amendment: February 25, 2013

- Ordinance 702 – Land Use Plan Amendment: April 22, 2013
- Ordinance 747 – Comprehensive Plan Update: March 2, 2015 (current adopted Land Use Plan)

Regarding Zoning Case Z-06-19-17 for this 62.53 acre parcel of land, the following is a summary of Land Use Plan recommendations when cross-referenced with the above ordinances including the approximate acreage breakdowns:

- Ordinance 199: “Office Park” district (all 62.53 acres)
- Ordinance 450: “Office (Park or Campus)” district (all 62.53 acres)
- Ordinance 690: “Open Space” district (approximately 41 acres);
- “Office (Park or Campus) district (approximately 22 acres)”
- Ordinance 702: “Open Space” district (approximately 41 acres);
- “Office (Park or Campus) district (approximately 22 acres)”
- Ordinance 747: “Open Space” district (approximately 33 acres);
- “CC2-A Community Commercial 2/View Shed Zone” district (approximately 30 acres)

As indicated above, on February 25, 2013 an approximately 41 acre portion of the subject property was reclassified from “Office (Park or Campus)” to “Open Space”. The reason for the change was due to citizen feedback received at various public hearings for the rezoning of the Granada development (west of the subject property). Again, this was a future land use designation change, not a zoning change. The specific reason for land use designation change was to start a conversation about the future use of that property. The current zoning of the subject property (PD1-1) allows for non-residential uses with no requirements for any open space set-asides.

Concerning the 2015 Comprehensive Plan’s recommendations, the Parks, Open Space and Trail Plan in the 2015 Comprehensive Plan designates primarily western portion of the 62.53 acre parcel as open space with a special “natural preserve” designation.

However, breaking from the 1992 and the 2004 Comprehensive Plan recommendations, the 2015 Comprehensive Plan, in expanding on the February 25, 2013 Land Use Plan amendment, also designates a future “community park” on the western portion of the property in addition to the open space designation. The 2015 Comprehensive Plan defines a community park as a “central community park area that provides opportunities for shared community activities. These can include open fields for impromptu sport activities as well as park bench areas, dog-park facilities, pavilions, picnic areas, etc.” The plan further states that a community park should be between 25 and 35 acres in size.

11. **If the current zoning doesn’t comply with the Comprehensive Plan, can the land be developed in a manner consistent with the existing zoning, but not consistent with the Comprehensive Plan’s Land Use Plan?**

Answer: Yes.

12. Does the Wilbow request comply with the Comprehensive Plan?

Answer: The short answer is yes. In Staff's view, this request meets, in large measure, the intent of the current Comprehensive Plan's Land Use Plan and the Open Space Plan. While office uses are shown as a use appropriate for this area on the Comprehensive Plan's Land Use Plan, it also designates transitional residential as a land use that fits this land use character district and is an appropriate use for it as well.

This zoning change request is proposing a land use (transitional residential) that the Comprehensive Plan supports for this area. Transitional residential means higher density residential that would be located in between existing single family residential low density housing (i.e. Glenwyck) and office uses (i.e. office buildings north of Solana Blvd.). Additionally, while the open space proposed by this request does not align exactly with the Open Space portion of the Comprehensive Plan, it meets the intent of creating open space in this area linked to other open space and is in fact, more open space than what the Open Space portion of the Comprehensive Plan now shows for this location.

For a more detailed analysis of this request as related to the Comprehensive Plan, please see the staff report for the zoning case in the P&Z Commission's [agenda packet](#) for their November 13, 2017 meeting (which is also on the Town's website, www.westlake-tx.org, under *Government*, then *Agendas & Minutes*, under P&Z *Agendas*).

13. If the Wilbow request did not comply with the Comprehensive Plan, can the P&Z and Council approve it?

Answer: Yes, with a companion amendment to the Land Use Plan portion of the Comprehensive Plan.

14. Is there a 500 foot setback or buffer in this tract's current zoning?

Answer: There is a 500 foot setback on this tract's southside under its current zoning.

15. What is the impact of a buffer or setback in the current zoning? What is the difference between a setback and a buffer?

Answer: A setback is the minimum distance from a building line (i.e. the foundation) to the property line. In this tract's current zoning, a setback applies only to buildings. In other words, principal and accessory buildings must be a minimum 500 feet from the property line. Other ancillary uses that are not buildings related to the principal building may be placed in this set back. For example, a surface parking lot is allowed within the setback.

Different than a setback is a buffer. A buffer is not defined in Westlake's ordinance. Usually, a buffer is understood to be different from a setback. Generally, a buffer is understood to be an amount of property measured from a principal building to the property line where no principal building or ancillary use related to the principal building may be built. Instead of being called a buffer, such areas can also be called conservation areas or no-build zones. Whatever title is given to an area like this, the net effect is nothing can be built within it.

This tract's zoning presently only provides for a setback. By way of contrast, the applicant for this request is proposing a buffer area between their principal buildings and the single family residential area (Glenwyck Farms) to the south of this tract.

16. What is the effect of a concept plan? Is it binding or is it not?

Answer: A Concept Plan is intended to show how the PD district will develop and serve as a guide for any successive phases of the development as they are built over time. However, PD1 was approved without a Concept Plan. As the PD1 Ordinance (202) states, any requirement of a Concept Plan is satisfied by the site plans. The zoning regulations state that all Site Plans in a PD district shall be in substantial conformity with the approved Concept Plan. Since there is no concept plan, as long as the site plans meet the other provisions of PD1 including setbacks, building height, lot coverage, etc., then the site plan is deemed to be in substantial conformance with the PD1 ordinance and should be approved.

17. The applicant for this zoning change is now proposing 61 single family residential lots. What would prevent them from coming back later and asking for more, say 100 lots?

Answer: If approved, both the applicant's PD concept plan and the other provisions of the new PD zoning would have the effect of locking in the total lot number provision. Any change to the total lot number would require a PD amendment, which is completely discretionary on the Town Council's part.

18. The original concept plan was developed by IBM who built the original Solana complex. It has been stated that through this original IBM concept plan, IBM acquired the vested right to cluster their buildings in exchange for open space as reflected on the concept plan. Thus, no vested right to build in the open space reflected on the plan.

Answer: There is no concept plan. Nor is there any officially adopted language that reflects this position.

19. Ordinance 124, page 5, refers to buffer area.

Answer: Ordinance 124 was approved in 1982 and is the Solana zoning that preceded the tract's current zoning which was later changed. The buffer/setback area approved by Ordinance 124 was eliminated by a variance granted by the Town Council on November 20, 1985. In 1992, the 500 foot setback requirement returned as part of Ordinance 202 approving PD1. However, it was brought back ONLY AS A BUILDING SETBACK, not a buffer.

20. Doesn't the zoning district's concept plan vest the owner's rights as to what they can build on this tract? If the original concept plan shows no buildings on this tract, then nothing can be built there. Is that correct?

Answer: No, that is not correct. The plat is what vests the owner's rights. Again, there is no concept plan. But even if there were, what creates vesting is a plat. And the plat for this property was approved in 1988, when the zoning only required a site plan.

Therefore, it can be argued that the property owner is vested under the 1988 zoning regulations – including all corresponding variances granted to that date (i.e. it can be argued that not even the current zoning from 1992 forward apply to this tract, only those zoning regulations and ordinances that existed in 1988 when it was platted).

- 21. What about the “10% rule” (i.e. that only 10% of a lot can be covered by the principal building)? Doesn’t that apply to the entire PD1, including the Entrada and Granada developments?**

Answer: Let’s assume it does. Even then there is still approximately 250,000 square feet left of available principal building square footage to develop in PD1-1.

- 22. Is there a two percent maximum lot coverage requirement for accessory uses?**

Answer: The two percent maximum lot coverage requirement was repealed by Ordinance 202, approving the PD1 zoning ordinance approved on November 16, 1992.

- 23. Does the disannexed portion of Solana now in Southlake count against the “10 percent rule”?**

Answer: No. The 10 percent requirement is tied to ten percent of 436.077 acres. Location of Solana acreage in Southlake doesn’t change that. Westlake zoning cannot regulate or include land outside of Westlake