



AGENDA

TOWN OF FLOWER MOUND PLANNING AND ZONING COMMISSION MEETING

NOVEMBER 13, 2017

**FLOWER MOUND TOWN HALL
2121 CROSS TIMBERS ROAD
FLOWER MOUND, TEXAS**

.....
AN AGENDA INFORMATION PACKET IS AVAILABLE FOR PUBLIC INSPECTION
ONLINE AT www.flower-mound.com/AgendaCenter
.....

A. CALL TO ORDER: 6:30 P.M.

B. INVOCATION AND PLEDGE OF ALLEGIANCE

C. CITIZEN'S COMMENTS

The purpose of this item is to allow citizens an opportunity to address the Commission on issues that are not the subject of a public hearing. Items requiring a public hearing are clearly marked as such on the agenda, and citizens and visitors will be allowed to speak on those items during the public hearing.

D. DIRECTOR'S REPORT

- a. Presentation and discussion regarding development activity over the past year (application statistics, major project approvals, and regulation amendments), with particular focus on activity during the past three months.

E. REGULAR ITEMS

1. *Minutes of October 23, 2017*

Consider approval of the minutes of the October 23, 2017, Planning and Zoning Commission Regular Session.

2. *ZPD16-0007 – Serenity*

Public Hearing

Public Hearing to consider a request for rezoning from Agricultural District (A) to Planned Development District No. 149 (PD-149) for a cluster development with certain modifications, exceptions and waivers to the Code of Ordinances. The property is generally located south of FM 1171 and west of High Road.

3. *MPA17-0011 – Lake Forest Blvd Thoroughfare Plan Amendment Public Hearing*

Public Hearing to consider a request for a Master Plan Amendment to amend Section 7.0, Thoroughfare Plan, by removing the section of Lake Forest Boulevard between Lakeside Parkway and Silveron Boulevard from the Town's Thoroughfare Plan.

4. *LDR17-0003 – Tree Ordinance Amendment*

Public Hearing

Public Hearing to consider a request to amend the Land Development Regulations by amending Section 94-38, entitled "Per-caliper inch cash value; replacement trees," of Chapter 94, entitled "Trees," of the Town's Code of Ordinances.

F. ADJOURNMENT

I do hereby certify that the Notice of Meeting was posted on the bulletin board in Town Hall of the Town of Flower Mound, Texas, a place convenient and readily accessible to the general public at all times, on the following date and time: Nov. 9, 2017, at 3:30pm, at least 72 hours prior to the scheduled time of said meeting.



Cindi Price, Executive Assistant

Pursuant to Section 551.071 of the Texas Government Code, the Planning and Zoning Commission reserves the right to consult in closed session with its attorney and to receive legal advice regarding any item listed on this agenda.

The Flower Mound Town Hall and Council Chambers are wheelchair accessible. Requests for accommodations or interpretive services must be made at least 48 hours prior to this meeting by contacting Planning Services at (972) 874-6350.

THE FLOWER MOUND PLANNING & ZONING COMMISSION MEETING HELD ON THE 23RD DAY OF OCTOBER, 2017, IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS, AT 6:30 PM

The Planning & Zoning Commission met in a regular session with the following members present:

Brad Ruthrauff	Commissioner, Place 1
Laile Neal	Commissioner, Place 2
David Johnson	Commissioner, Place 4
Albert Picardi	Commissioner, Place 5
Laura Dillon	Commissioner, Place 6
Heth Kendrick	Commissioner, Place 8
Rob Rawson	Commissioner, Place 9

Constituting a quorum with the following members absent:

Perfecto Solis	Chair
Mike McCall	Vice Chair

(Places 8 and 9 of the Commission do not vote on items unless they sit in place of one of the regular members, Places 1-7.)

And the following members of Town staff present:

Andrea Russell	Town Attorney
Doug Powell	Executive Director
Chuck Russell	Town Planner
Robert Pegg	Engineering Manager
Poornima Srinarasi	Senior Planner
Richard Brown	Senior Planner
Cindi Price	Executive Assistant

- A. CALL TO ORDER: 6:30 P.M.**
- B. INVOCATION AND PLEDGE OF ALLEGIANCE**
- C. SELECTION OF ACTING CHAIR**

Commissioner Ruthrauff nominated Commissioner Johnson to serve as Acting Chair. Commissioner Dillon seconded the nomination.

VOTE ON THE NOMINATION

AYES: Ruthrauff, Neal, Rawson, Johnson, Picardi, Dillon, Kendrick

NAYS: None

ABSTAIN: None

ABSENT: Solis, McCall

The nomination passed with a vote of 7-0.

D. CITIZENS/VISITORS COMMENTS

There were none.

E. REGULAR ITEMS

1. Consider approval of the minutes of the October 9, 2017, Planning and Zoning Commission Regular Session.

Commission Deliberation

Commissioner Neal moved to approve the October 9, 2017, minutes as presented. Commissioner Ruthrauff seconded the motion.

VOTE ON THE MOTION

AYES: Dillon, Picardi, Johnson, Rawson, Neal, Ruthrauff

NAYS: None

ABSTAIN: Kendrick

ABSENT: Solis, McCall

The motion passed with a vote of 6-0-1.

2. Consider a request for a Record Plat (RC17-0006 – Kanumuri Addition) to create a non-residential subdivision. The property is generally located south of Cross Timbers Road and west of Garden Ridge Boulevard.

Staff Presentation

Poornima Srinarasi, Senior Planner

Commission Deliberation

Commissioner Neal moved to approve RC17-0006 – Kanumuri Addition. Commissioner Ruthrauff seconded the motion.

VOTE ON THE MOTION

AYES: Ruthrauff, Neal, Rawson, Johnson, Picardi, Dillon, Kendrick

NAYS: None

ABSTAIN: None

ABSENT: None

The motion passed with a vote of 7-0.

F. ADJOURNMENT – REGULAR SESSION

i. CALL TO ORDER – WORK SESSION: 6:42 P.M.

- a. Presentation and discussion regarding The Point development proposal (ZPD17-0007).

Presenter(s)

Doug Powell, Executive Director
Richard Brown, Senior Planner
Kendra Stephenson, Portmanteau Consulting
David Watson, Direct Development
Brian Keith, JHP Architecture and Urban Design
Megan Smith, Trammell Crow Residential

The work session was closed at 9:13 p.m.

TOWN OF FLOWER MOUND, TEXAS

DOUGLAS S. POWELL, AICP
Executive Director, Development Services

ATTEST:

Cindi Price, Executive Assistant



PLANNING AND ZONING COMMISSION AGENDA ITEM NO: 2

DATE: November 13, 2017

FROM: Chuck Russell, Town Planner

ITEM: Public Hearing to consider a request for rezoning (ZPD16-0007 - Serenity) from Agricultural District (A) to Planned Development District No. 149 (PD-149) for a cluster development with certain modifications, exceptions and waivers to the Code of Ordinances. The property is generally located south of FM 1171 and west of High Road.

I. ITEM SUMMARY

This application has been reviewed by DRC and, aside from the requested exception, has been found to be in conformance with all applicable Town regulations. Specifically, this application has been reviewed under the SMARTGrowth program and has met all applicable criteria.

This application will require final action by the Town Council.

II. APPLICATION ANALYSIS

The purpose of this request is to rezone approximately 28.92 acres of land in order to develop residential lots in accordance with the 'cluster development' option outlined in the Cross Timbers Conservation Development District (CTCDD) Area Plan of the Town's Master Plan (see below). The cluster development standards allow for lots that are smaller than the minimum two acres required by the existing Agricultural District (A) zoning.

The accompanying concept plan (Attachment B(1)) depicts the proposed lot layout, which includes designated open space areas. The applicant is proposing a maximum of 16 developable single-family lots with a minimum lot size of 30,000 square feet, and is requesting Planned Development District (PD) standards based on the Single-Family District-30 (SF-30) standards in the Town Code with two modifications. Maximum lot coverage is proposed to be 40% (including accessory structures) instead of the SF-30 standard of 35%. Also, the applicant is increasing the minimum floor area per house from 2,100 square feet in the SF-30 standards to 2,800 square feet in the proposed PD.

The proposed development will have two primary access points from High Road. Since the property is located outside the Town's wastewater service area, all proposed residential lots will contain individual septic systems.

On December 16, 2013, the Town Council approved Ordinance No. 64-13 which amended the CTCDD. The CTCDD is described in the Master Plan as:

"Predominantly residential development, typically being single family residential development at net densities no greater than one unit per two acres. Moderate increases in densities may be appropriate in combination with cluster developments, conservation easements and/or other conservation techniques that preserve the Cross Timbers ecosystem, other natural systems, and Scenic Corridors and Vistas. Commercial recreation uses, such as equestrian facilities, golf courses and other uses compatible with the conservation goals of the district are also suitable.

The Cross Timbers Conservation Development District Area Plan preserves the integrity of the largely intact Cross Timbers ecological area in central Flower Mound, which provides the Town with its unique country atmosphere and natural environment, while allowing environmentally sensitive development to occur. The area plan establishes development options within the district and identifies specific elements needing consideration."

The area plan contains established development options within the district, one of which is the cluster development option:

"8. Develop the property as a cluster development. The intent of the clustering option is to maximize open space conservation, including preserving Scenic Corridors and Vistas, on a site by site basis to realize a community benefit that provides the Town with its unique country atmosphere and natural environment. The continuation and/or connection of open space areas between adjacent developments are important in protecting the ecological value in the District. Cluster developments may be allowed in the District and must demonstrate the following:

- a. Density shall be commensurate with the quality and character of the open or natural lands conserved and the extent to which the conserved land contributes to the preservation of the Cross Timbers Conservation Development District's country character, including its open, natural, scenic and ecological values. Density will be evaluated on a project-by-project basis. The maximum density that can be granted for a cluster development can be no more than 1 unit per 1.6 acres ($100/1.6 = 62$ units or a 24% increase above the base density). For example, on a 100 acre development, the 100 acres is divided by 1.6 to produce 62 units or a 24% (12 unit) increase in density above the base density of 1:2 or 50 units.*
- b. Minimum lot size is one-half acre or 21,780 square feet; however, any development shall contain a mixture of lot sizes and any development shall be cognizant of external adjacent lot sizes.*
- c. Open space may be managed by a land trust, Homeowners Association, and/or the Town. Any development proposal must detail the perpetual maintenance and funding for the open space areas, which must be feasible and appropriate for the areas preserved. Recreational uses may*

be allowed which may be appropriate given the type, location, intensity, and adjacency. Any recreational use should be characteristic of the District, compatible with adjacent land uses and should be open to the public. Floodplain may be counted as open space.

- d. Cluster development shall demonstrate how the development provides an appropriate transition to existing land uses. Factors to be considered include lot sizes, intervening roadways, and use of open space, among other factors."*

The current gross land area for the proposed development is 28.92 acres. Approximately 0.513 acres will be dedicated as right-of-way for High Road when the property is platted, leaving a balance of 28.407 acres. The maximum density allowed utilizing the cluster development ordinance would be 17 buildable lots on 28.407 acres. The applicant is proposing 16 buildable lots.

Approximately 15.263 acres of land is being dedicated as open space (53.73%). It is the applicant's plan for the Home Owners Association (HOA) Board of Directors in conjunction with an ISA Certified Arborist to manage the open space. According to the applicant, approximately 9.17 acres will remain in its natural state. The applicant is speaking with a Land Trust Company about their willingness to partner with the applicant relating to the donation of a Conservation Easement over the subject 9.17 acres.

The open space areas include two large tracts along the western and eastern portions of the site. The western open space area contains steep topography and several acres of upland habitat, as well as four specimen trees (Attachment B(4)). The eastern open space area is relatively flat and contains two specimen trees. An open space management plan has been reviewed by the Environmental Conservation Commission (ECC), see below, and the final document including open space easements must be approved and recorded prior to approval of a record plat for the property. The applicant has provided a 25-foot-wide landscape buffer and split rail fence along High Road in accordance with the Town's Urban Design standards.

Through the course of reviewing this project, staff has expressed concerns to the applicant regarding the project's compliance with both the Cross Timbers Conservation Development District and cluster development standards. Staff has indicated to the applicant it will be incumbent upon them to demonstrate how the proposed development meets or exceeds the intent of the Town's Master Plan and standards.

One concern continues to be how the proposed lot configuration provides any scenic views from High Road. The perimeter fencing and location of the lots seem to inhibit any view corridors as well as defeat the purpose of the split rail fence providing a rural feel (See Landscape Plans in Attachment B(1)). Another concern is whether the request demonstrates an appropriate transition to existing land uses (lot sizes, intervening roadways, and use of open space, among other factors). Much of the surrounding area contains large lots or tracts and the concept of a

gated community surrounded by a six-foot-tall, wrought-iron security fence is arguably not in character with the surrounding land uses.

A. Exception to Topographic Slope Protection

According to Section 98-147 of the Town Code, no development application or project shall be approved that proposes development on any existing topographical slopes of 12 percent or greater, or that proposes to alter any existing topographical slopes that are less than 12 percent but equal to or greater than five percent then available (other than within five feet of the footprint of the proposed structure or structures). The purpose of this criterion is to ensure that development is respectful of and appropriately integrated with the natural physical geography of the land in Flower Mound by requiring environmentally sensitive development techniques to eliminate "scrape and build." According to the applicant's Environmental Protection Plan (Attachment B(4)):

Several locations on the proposed Serenity residential development have been mapped by the Town as areas having between 5% and 12% topographic slopes (7.8 acres) and having greater than 12% slopes (9.3 acres). The areas with greater than 12% slopes are generally located along the western property boundary and in the west-central portion of the site (Figure 10). Areas with slopes of between 5% and 12% are generally in the northern portion of the site. These areas are considered an ESA by the Town and meet the criterion for topographic slope protection.

Approximately 5.1 acres with topographic slopes between 5% and 12% are proposed to be impacted by the development (Figure 10). Approximately 1.6 acres of areas with slopes of greater than 12% slopes are proposed to be impacted by the development. An exception for the 5.1 acres of impacted land that have topographic slopes between 5% and 12% and the 1.6 acres of impacted land that have topographic slopes greater than 12% slopes is being requested.

As a part of the cluster development process, an enhanced public notification process is required that mandates a minimum of two neighborhood meetings be held to discuss the project prior to the application being considered by the Planning and Zoning Commission. Anyone who has signed up online is invited to these meetings as well as adjacent property owners and HOA's. The first informational meeting was held on June 15, 2016, and the second informational meeting was held on May 30, 2017. Concerns raised by the participants at these meetings included:

- Proposed lot sizes are too small and are not consistent with the surrounding lot sizes.
- The number of trees that would need to be removed to accommodate the proposed development.
- The proposed development being gated and surrounded by a security fence, again, not in keeping with the surrounding development.
- Impact of traffic on High Road and the existing condition of High Road.

- Compliance with the standards of the CTCDD and cluster developments.

On November 2, 2017, the Parks Board recommended approval to Planning and Zoning Commission and Town Council cash, in the amount of \$17,976.00, be accepted in lieu of the otherwise required Park Land Dedication, and Park Development Fees in the amount of \$22,208.00 for the Serenity residential project. The items will be forwarded to the Town Council for consideration at the same time as the subject project.

The link to the November 2, 2017, Parks Board meeting is:

<http://flowermoundtx.swagit.com/play/11022017-811/9/>

On November 7, 2017, the Environmental Conservation Commission (ECC) reviewed an application for a proposed concept plan depicting open space areas. The ECC recommended denial of the request. The item will be forwarded to the Town Council for consideration at the same time as the subject project.

The link to the November 7, 2017, ECC meeting is:

<http://flowermoundtx.swagit.com/play/11072017-1183/5/>

III. CORRESPONDENCE

The Town Code requires both public notice in a newspaper of general circulation (Denton Record Chronicle) and notification of the property owners within 200 feet of the subject property for all zoning change requests. At the time this report was written, staff had received numerous correspondence in opposition to the project (Attachment C(1)).

Also, Section 78-154 of the Town's Code of Ordinances states in part:

Upon receipt of a written protest, a proposed amendment, supplement, or change shall become effective only upon the favorable vote of three-fourths of all the members of the town council when such protest meets one or more of the following enumerated conditions:

i. When such protest contains the signatures of the owner or the owners of 20 percent or more of the total area of the land (whether platted or otherwise) included within the boundaries of the proposed change, or

ii. When such protest contains the signatures of the owner or owners of 20 percent or more of the total area of land (whether platted or otherwise) outside of the boundaries of the proposed change and within 200 feet of any point of the land proposed to be changed.

For purposes of this section the terms "owner" and "owners" shall mean and refer to those persons or entities indicated by the most recently approved municipal tax roll as owning such land.

On January 13, 2017, staff received a petition and calculated the opposition received exceeds 20% as defined and highlighted above. Therefore, a favorable vote of three-fourths of all the members of the town council will be required to approve the rezoning request (Attachment C(2)).

IV. ATTACHMENTS

A. Background Information

1. Vicinity Map
2. Letter of Intent
3. Cross Timbers Conservation Development District Area Plan

B. Application Details

1. Zoning Package
2. Draft Development Standards
3. Draft Open Space Management Plan
4. Environmental Protection Plan

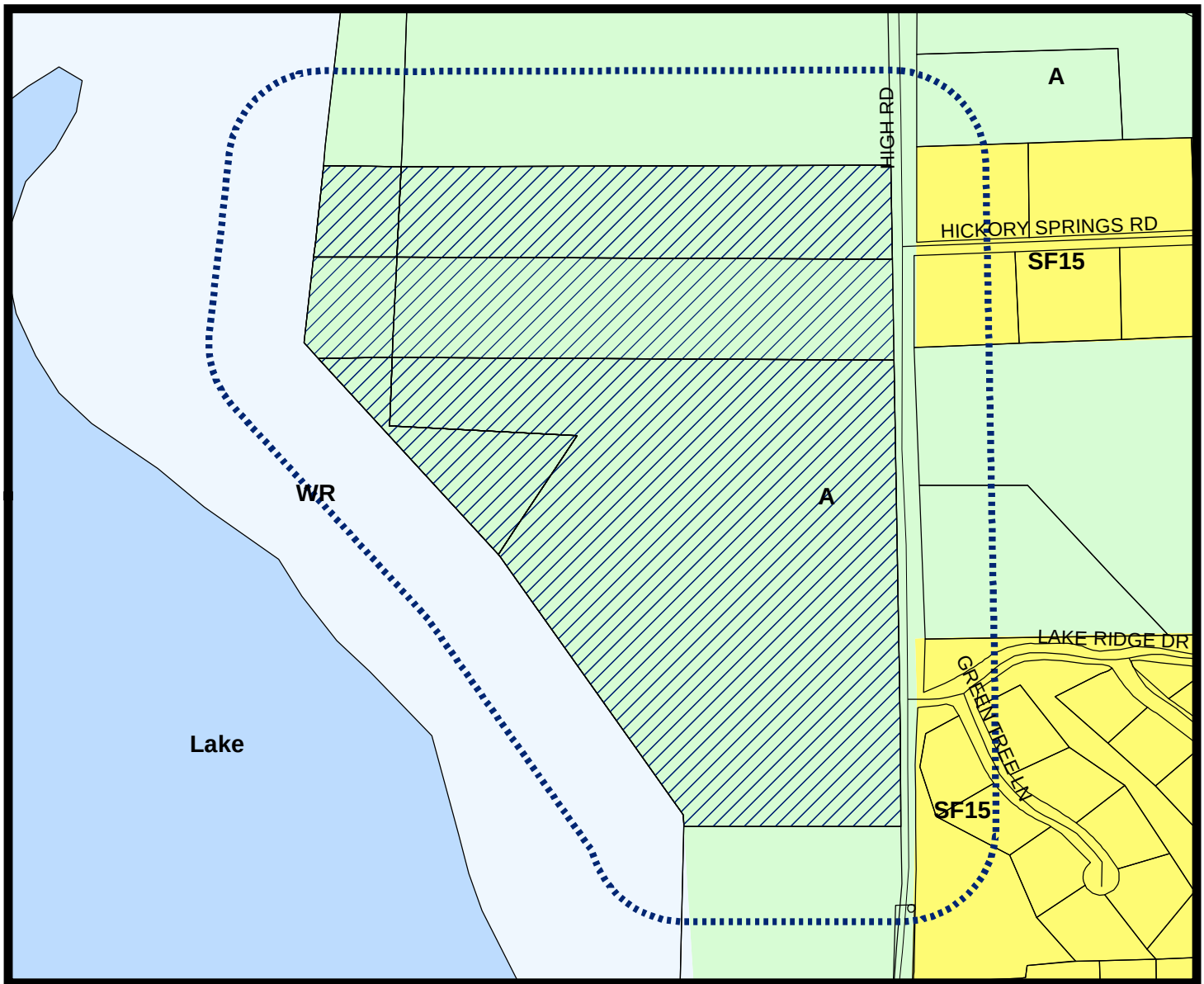
C. Correspondence

1. Correspondence in Opposition
2. Petition in Opposition and Verification of Town Code Section 78-154



Vicinity Map

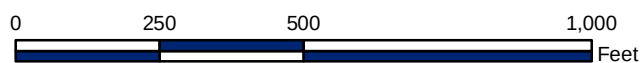
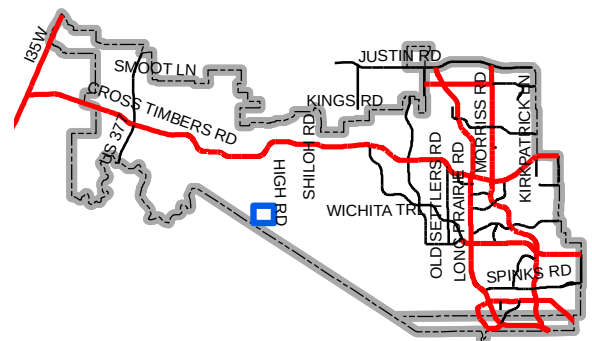
Reference Project: ZPD16-0007



LEGEND

- Agriculture
- Lake
- Single Family 15
- Water Recreation

- Subject Property
- 200 ft Notification Buffer around Property



Map Location



Rembert Enterprises, Inc.

3625 Bonanza Lane Flower Mound, TX 75022

November 6, 2017

Executive Director of Development Services
Planning Division
1001 Cross Timbers Road #2330
Flower Mound, TX 75028

RE: Serenity (Community)
Flower Mound, Texas

Dear Mr. Powell,

Please accept this as our formal Letter of Intent to describe the requested Zoning Planned Development.

The Serenity community will be a high quality, open space, lake-front community consisting of a +/- 28.92 acre tract of land on High Road, south of Cross Timers Road (also known as F.M. 1171 a public roadway). The proposed community is consistent with the stated goals of the Town's Master Plan. We are utilizing site features such as topography, size, and shape to develop this community. We have taken the input received from a community meeting and prepared a Zoning Planned Development Exhibit, proposed development regulations, Concept Plan, and Tree Survey. We are preserving the natural topography, a portion of large canopy trees, rambling brooks, large tree stands, and large parcels of open space.

The tracts are currently identified on the Town's Master Land Use Plan as Cross Timbers Conservation Development District (CTCDD). The existing zoning is agricultural. The proposed zoning is for a single-family residential development, which is consistent with the updated 2013 Master Plan. The Serenity community will consist of 16 lots, with four (4) X-lots. The current zoning in the immediate area consists of SF-10, SF-15, and agricultural uses. We are proposing to change the Zoning to accommodate a uniquely developed community that is compatible with the existing land uses and character of the neighborhoods in which the project is located (High Road Ridge and Hickory Springs Addition).

Adequate public facilities are already in place to support the proposed development. Although we are asking for a cluster development, we are not using the minimum lot sizes. We are using a base zoning of Single Family-30 (SF-30) which has a minimum lot size of 30,000 sf (not 21,780 sf, which is the minimum for a cluster development in CTCDD. Proposed uses and development standards exceed and are consistent with the purposes of the base zoning district.

The proposed Planned Development District is consistent with the Town's vision, goals, objectives, and policies adopted in the master plan. Density of the proposed community shall not exceed 1.8 dwelling units per acre which is less dense than the ordinance requirement of 1.6 dwelling units per acre. The development will be completed in a single phase. Our plans conform to the Town's land development regulations.

We are providing approximately 15.263 acres or (53.72%) of open space along with preserving all large specimen trees and are preserving a high percentage of the Upland Habitat onsite.

This site has numerous protected and specimen trees, as indicated in the tree survey included in our application. In an effort to maintain the natural beauty of our Town, we have made every effort to preserve trees when and where possible.

We have had two meetings with the adjacent homeowners prior to the scheduling of the Planning and Zoning meeting, per the enhance notification requirement.

We would like to respectfully request an exception for approximately 5.1 acres of topographic slopes between 5% and 12% and we respectfully request an exception for approximately 1.6 acres of topographic slopes over 12%. The 1.6 acres of topographic slopes over 12% impacted is only about 17% of the 9.3 acres total on the property. Approximately 7.7 acres of topographic slopes over 12% will have no impact whatsoever.

We are currently discussing how to manage our open space and we understand that it must be managed by a land trust, HOA or the Town. We are looking at a combination of land trust and HOA. The HOA will maintain the property along High Road and a land trust will manage the undisturbed open space adjacent to Lake Grapevine.

Should you have any questions, please feel free to contact us.

Sincerely,

Reginald Rembert

2.0 AREA PLANS

Cross Timbers Conservation Development District Area Plan

The Cross Timbers Conservation Development District Area Plan preserves the integrity of the largely intact Cross Timbers ecological area in central Flower Mound, which provides the Town with its unique country atmosphere and natural environment, while allowing environmentally sensitive development to occur. The area plan establishes development options within the district and identifies specific elements needing consideration.

There are several development options within the District:

1. Retain all or part of the property for personal use. This option would include (but not require) the potential of donating a conservation easement on all or part of the property in order to realize some economic benefit.
2. Develop all or part of the property, or sell all or part of the property to others for development, on two acre lots as permitted under the existing Agricultural zoning.
3. Develop all or part of the property, or sell all or part of the property to others for development, as a conservation development, with the number of lots as permitted under the existing Agricultural zoning, but with smaller lots and eligibility for incentive benefits as established by the Town's SMARTGrowth Program. This option would include the potential donation of a conservation easement on all or part of the property in order to realize some additional economic benefit.
4. Develop all or part of the property at lot sizes larger than two acres, as permitted under the existing Agricultural zoning.
5. Develop all or part of the property in Rural Development (lot sizes five acres or larger) that reflects the country atmosphere and natural environment of Flower Mound, as permitted under the existing Agricultural zoning. This could include coordinated development for specialized types of development, such as equestrian oriented developments.
6. Coordinate development planning with adjoining land owners as a combined conservation development, with the number of lots as permitted under the existing Agricultural zoning, but with smaller lots and eligibility for incentive benefits as established by the Town's SMARTGrowth Program, as a coordinated Planned Development. This option would include (but not require) the potential of donating a conservation easement on all or part of the property in order to realize some additional economic benefit.
7. Develop all or part of the property as appropriate non-residential development. Appropriate non-residential development might include active equestrian commercial activities (similar to the existing Flower Mound Equestrian Center), active use "country" commercial uses (similar to the Circle R Ranch, or roadside farm product stands), or other commercial uses that reinforce the "country atmosphere and natural environment"

2.0 AREA PLANS

that is characteristic of the Cross Timbers Conservation Development District, and are fully compatible with and acceptable to neighbors and landowners in the Zone.

8. Develop the property as a cluster development. The intent of the clustering option is to maximize open space conservation, including preserving Scenic Corridors and Vistas, on a site-by-site basis to realize a community benefit that provides the Town with its unique country atmosphere and natural environment. The continuation and/or connection of open space areas between adjacent developments are important in protecting the ecological value in the District. Cluster developments may be allowed in the District and must demonstrate the following:

- a. Density shall be commensurate with the quality and character of the open or natural lands conserved and the extent to which the conserved land contributes to the preservation of the Cross Timbers Conservation Development District's country character, including its open, natural, scenic and ecological values. Density will be evaluated on a project-by-project basis. The maximum density that can be granted for a cluster development can be no more than 1 unit per 1.6 acres ($100/1.6 = 62$ units or a 24% increase above the base density). For example, on a 100 acre development, the 100 acres is divided by 1.6 to produce 62 units or a 24% (12 unit) increase in density above the base density of 1:2 or 50 units.
- b. Minimum lot size is one-half acre or 21,780 square feet; however, any development shall contain a mixture of lot sizes and any development shall be cognizant of external adjacent lot sizes.
- c. Open space may be managed by a land trust, Homeowners Association, and/or the Town. Any development proposal must detail the perpetual maintenance and funding for the open space areas, which must be feasible and appropriate for the areas preserved. Recreational uses may be allowed which may be appropriate given the type, location, intensity, and adjacency. Any recreational use should be characteristic of the District, compatible with adjacent land uses and should be open to the public. Floodplain may be counted as open space.
- d. Cluster development shall demonstrate how the development provides an appropriate transition to existing land uses. Factors to be considered include lot sizes, intervening roadways, and use of open space, among other factors.
- e. The approval of a development application for a cluster development shall require an enhanced public notification process. This process is to increase notice and encourage participation of the adjacent property owners and includes the following:
 1. Any developer using the cluster option must present plans to adjacent property owners and Homeowner Associations for comment and input on the proposed application.

2.0 AREA PLANS

2. At the time of pre-application, Town staff will notify the affected property owners of the potential development.
3. A meeting will be coordinated with the Developer and interested parties prior to the submittal of a development application.
4. A second meeting will be held prior to the Planning and Zoning Commission meeting to update the interested parties prior to the public hearing. The agenda item for the proposal will reflect any consensus reached by the group as well as individual comments.

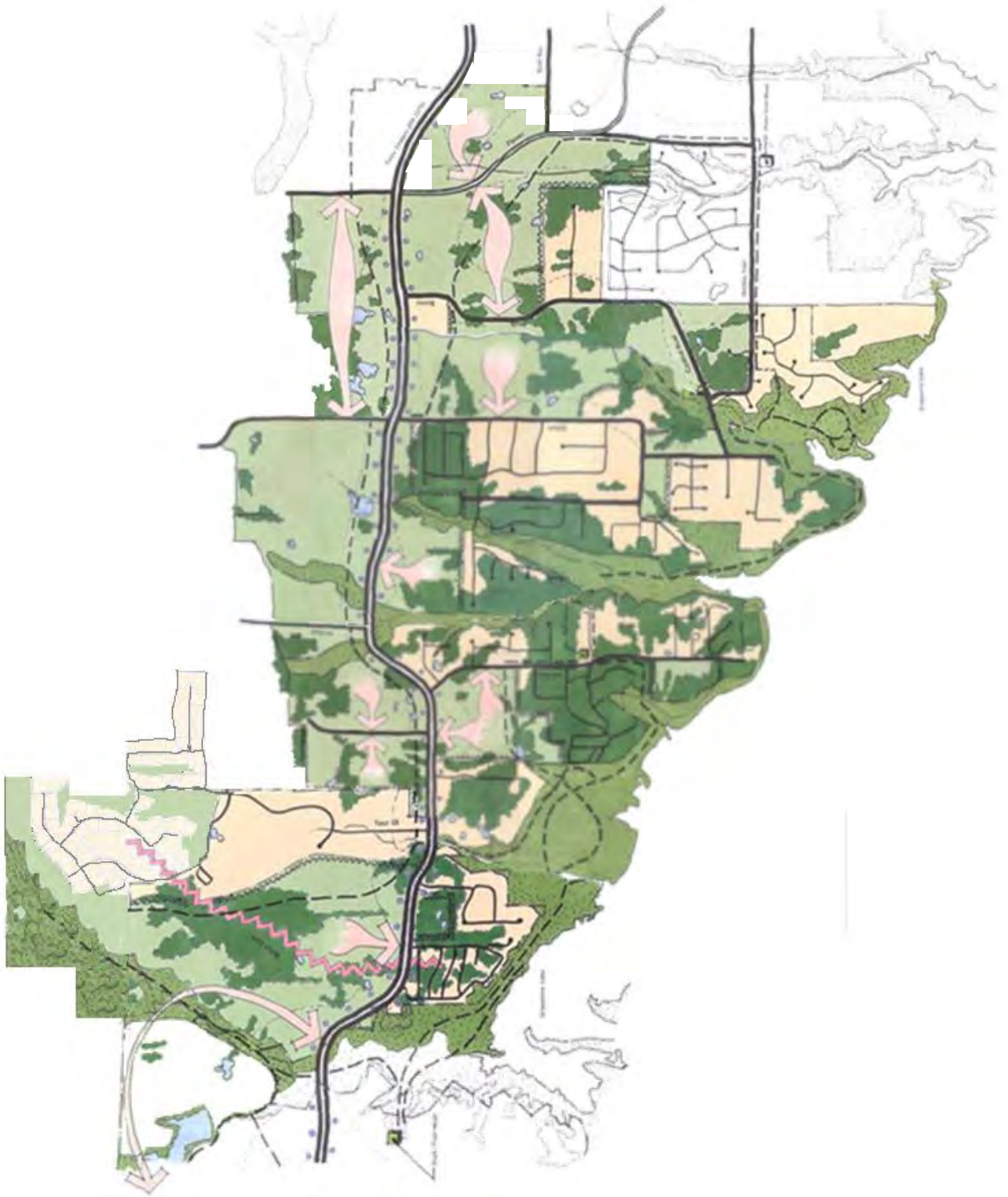
Elements needing consideration within the district include:

1. Scenic Corridors and Vistas - The scenic corridor along FM 1171 has extensive views into the District. These viewsheds need to be incorporated into any development proposal, if development is contemplated, and would require compliance with the "Town of Flower Mound SMARTGrowth Program" SMARTGrowth Analysis. Compliance with the SMARTGrowth Analysis could be achieved by conservation or cluster development, placing new houses outside of the view area, or by siting any new lots so the houses face toward FM 1171 across conserved open space, with access from a street internal to the development, rather than providing a view from FM 1171 into back yards or rear alleys.
2. Scenic corridors are present along the following roadways in addition to the roads identified in the Town's Urban Design Plan within the Cross Timbers Conservation Development District:
 - a. Skillern Road
 - b. Scenic Road
 - c. Shiloh Road
 - d. Rocky Point Road
 - e. Red Rock Road
 - f. High Road
 - g. FM 1171 at the Cross Timbers Escarpment

Properties adjacent to these roads provide extensive views into the District. Compliance with the SMARTGrowth Analysis could be achieved by conservation or cluster development, placing new houses outside of the view area, or by siting any new lots so the houses face the roadways across conserved open space, with access from a street internal to the development, rather than providing a view from the roadways into back yards or rear alleys.

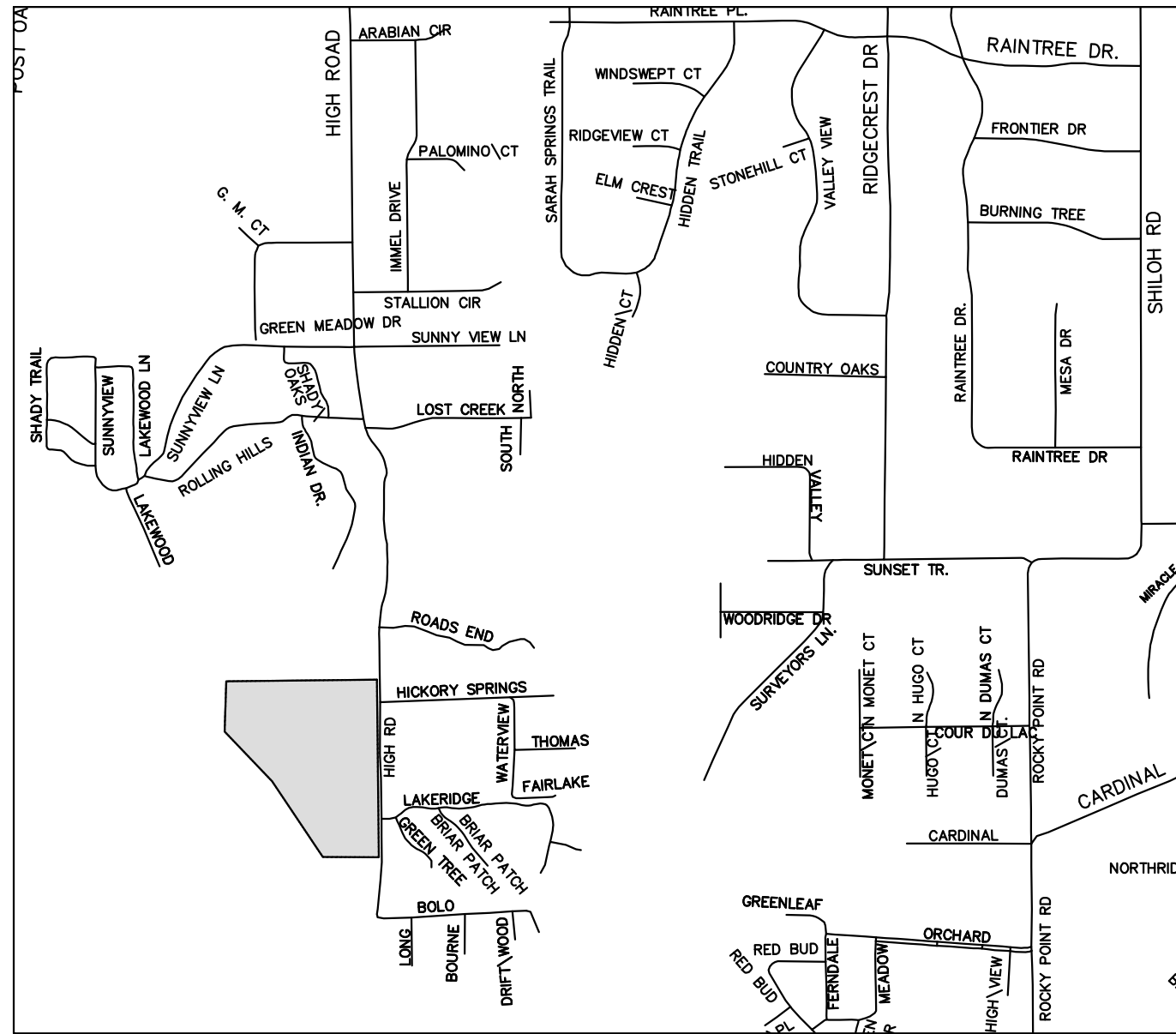
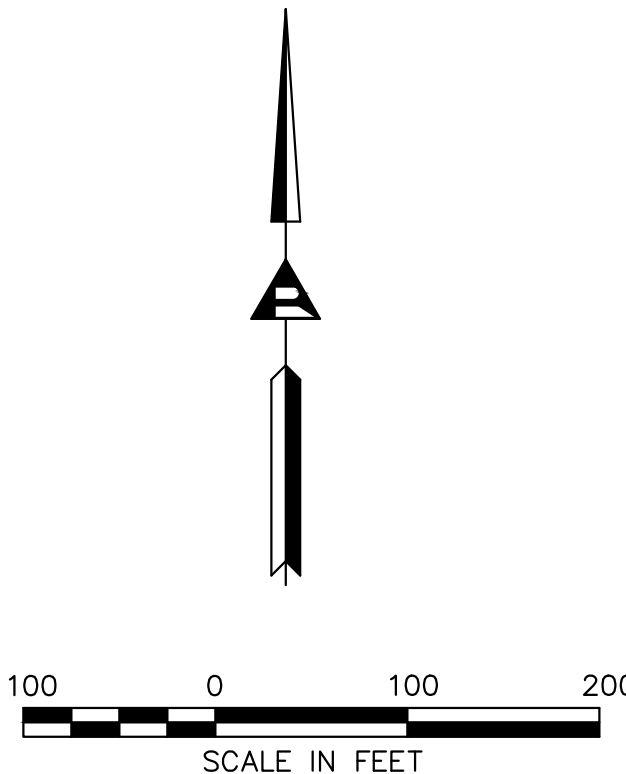
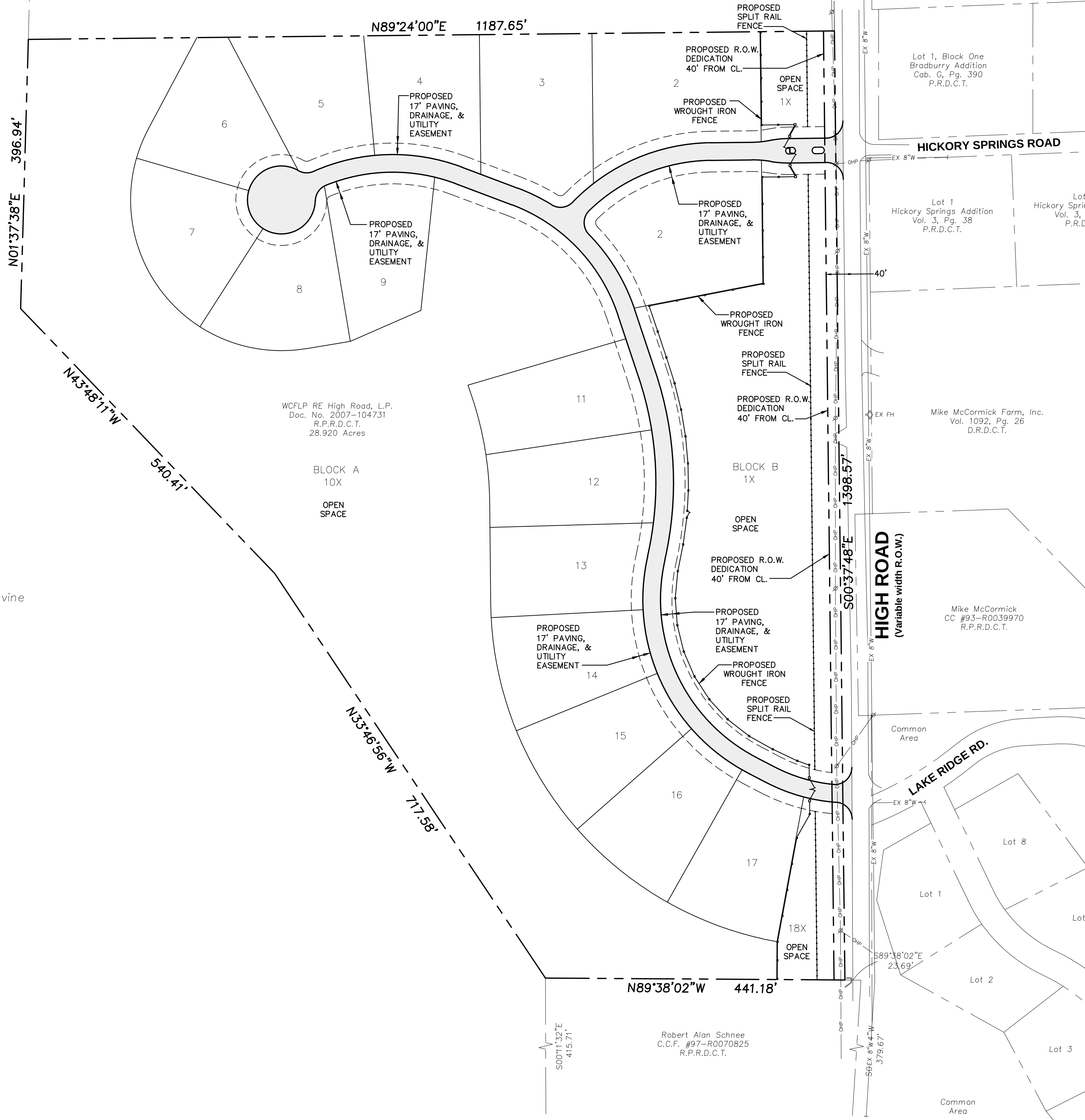
2.0 Area Plans

Cross Timbers Conservation Development District



Attachment B(1): Zoning Package

Marian Eloise Reuther
Doc. No. 2005-116893
R.P.R.D.C.T.



LOCATION MAP
NOT TO SCALE

DEVELOPMENT DATA	
PROPOSED USE:	SINGLE FAMILY RESIDENTIAL
CURRENT ZONING:	AGRICULTURAL
PROPOSED BASE ZONING:	SF-30
TOTAL LAND AREA:	±28.92 ACRES
MINIMUM LOT SIZE:	30,000 S.F.
MAXIMUM LOT SIZE:	43,818 S.F.
AVERAGE LOT SIZE:	32,265 S.F.
TOTAL AREA OF LOTS =	11.85 AC. 40.98%
TOTAL AREA OF OPEN SPACE =	15.263 AC. 53.73%

PROJECT DATA TABLE	
GROSS SITE AREA	28.92 ACRES
PROPOSED USE	SINGLE FAMILY RES.
CURRENT ZONING	AGRICULTURAL
PROPOSED BASE ZONING	SF-30
EXTERNAL/COLLECTOR RIGHT-OF-WAY	
HIGH ROAD	0.513 ACRES
TOTAL RIGHT-OF-WAY	0.513 ACRES
OPEN SPACE	
PRIVATE OPEN SPACE LOTS	15,263 ACRES
TOTAL OPEN SPACE	15,263 ACRES
PROPOSED LOTS	
RESIDENTIAL	16 LOTS
RESIDENTIAL LOTS AREA	11,85 ACRES
MIN. RESIDENTIAL LOT SIZE	30,000 S.F.
MAX. RESIDENTIAL LOT SIZE	43,818 S.F.
AVG. RESIDENTIAL LOTS SIZE	32,265 S.F.
PRIVATE OPEN SPACE	4 LOTS
TOTAL ALL LOTS	20 LOTS

<i>LEGEND</i>	
	LOT LINE
 D.R.D.C.T.	DEED RECORDS, DENTON COUNTY, TEXAS
 P.R.D.C.T.	PLAT RECORDS, DENTON COUNTY, TEXAS
 R.P.R.D.C.T.	REPLAT RECORD DENTON COUNTY, TEXAS
	PROPERTY BOUNDARY
	ADJACENT PROPERTY BOUNDARY
	PROPOSED R.O.W.
	PROPOSED EDGE OF PAVEMENT

AREA DATA TABLE	
GROSS SITE AREA	28.92 ACRES
HIGH RD. R.O.W. DEDICATION	<u>0.513 ACRES</u>
TOTAL R.O.W. DEDICATION	0.513 ACRES
NET SITE AREA	28.407 ACRES
TOTAL OPEN SPACE AREA	15.263 ACRES (53.73%)

MASTER PLAN FEATURES	
Land Use Plan	Cross Timbers Conservation Development District
Specific Plans	None
Urban Design Plan	Cross Timbers Conservation Development District
Parks and Trails	
Open Space Plan	
Thoroughfare Plan	High Road – Rural Collector, Variable Width ROW.
Water Plan	West (High) Pressure Plane, Existing 8" WM, E. Side of High Road.
Wastewater Plan	Unsewered Area. Cross Timbers Conservation District.

OWNER

(1) WCFLLP RE HIGH RD P
14241 Dallas Pkwy Ste. 800
Dallas, TX 75254-2919

SERENITY
Residential Subdivision
28.920 acres
in the
J. Phillips Survey, Abst. No. 1019
in the
Town of Flower Mound
Denton County, Texas

	No.	Date	Revisions	App.

**Ridinger
Associates, Inc.**
Civil Engineers - Planners

Firm No. 1969
 550 S. Edmonds
 Lewisville, Texas 75087
 Tel. No. (972) 353-8000
 Fax No. (972) 353-6011

Serenity
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

CONCEPT PLAN 16 RESIDENTIAL LOTS

Scale: 1" = 100'

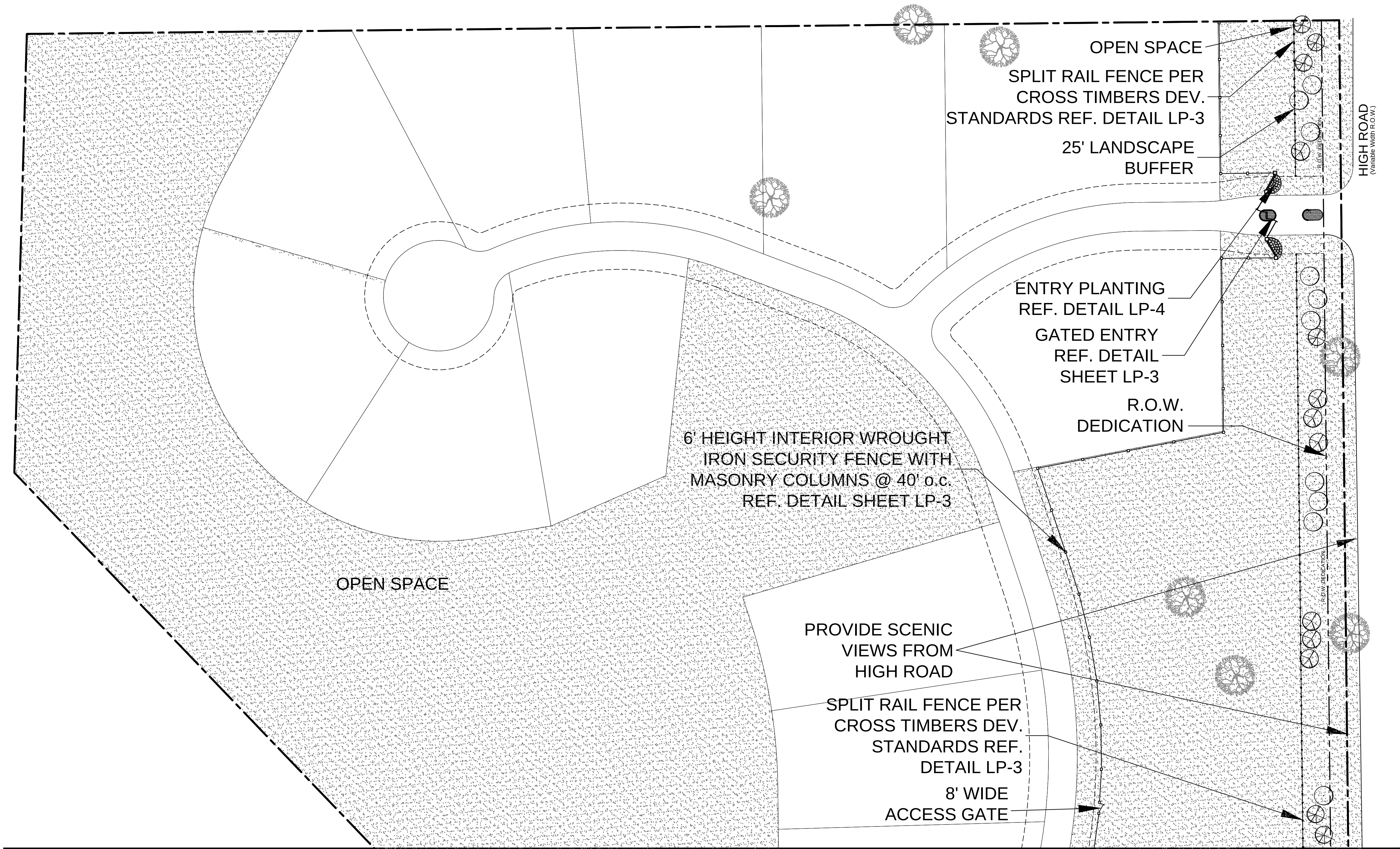
Designed by INB

Checked by: TAL

Project No. 075 032

SHEET

1



MATCHLINE SHEET LP-2

STREET LANDSCAPE BUFFER			
STANDARD	REQUIRED BUFFER	PROVIDED	
HIGH ROAD	25 FT.	25 FT.	
STREET BUFFER TREES			
STANDARD	STREET FRONTAGE (LINEAR FEET)	REQUIRED	PROVIDED
1 PER 30 L.F.			
HIGH ROAD	1,336.36 LF	45 TREES	45 TREES

500

0

50

100

1" = 50'-0"

▲

North Arrow

LEGEND

DENOTES PROPOSED OPEN SPACE

ALL EXISTING SPECIMEN TREES TO REMAIN-REF. TO TREE SURVEY

BUR OAK

CEDAR ELM

TEXAS ASH

LIVE OAK

RED OAK

NATCHEZ CRAPE MYRTLE

TEXAS SAGE

HAMELIN GRASS

SEASONAL COLOR

ST. CLAIR DESIGN GROUP, INC.

Landscape Architecture

P. O. Box 12519
Dallas, Texas 75225
T. 214-394-3641

Professional Seal of J. Phillips, Surveyor, No. 2210, State of Texas

DATE SEALED: 9-25-17

DESIGN BY: JBS

DRAWN BY: JBS

CHECKED BY: SCDC

DATE: JULY 30, 2017

LANDSCAPE PLAN
Serenity
Residential Subdivision
28.920 acres
in the
J. Phillips Survey, Abst. No. 1019
in the
Town of Flower Mound
Denton County, Texas

Ridinger Associates, Inc.

Civil Engineers - Planners

Firm No. 1368
13301 Commerce
Covington, Texas 75007

Tel. No. (972) 353-8000
Fax No. (972) 353-8011

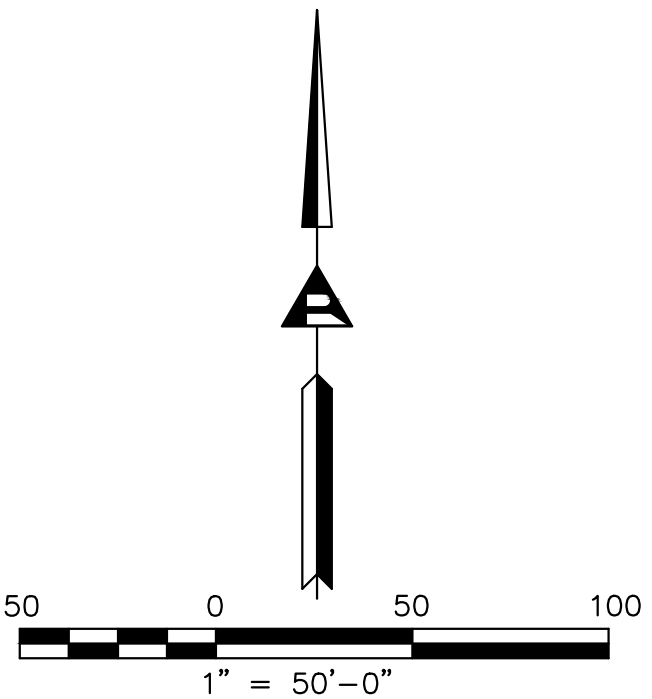
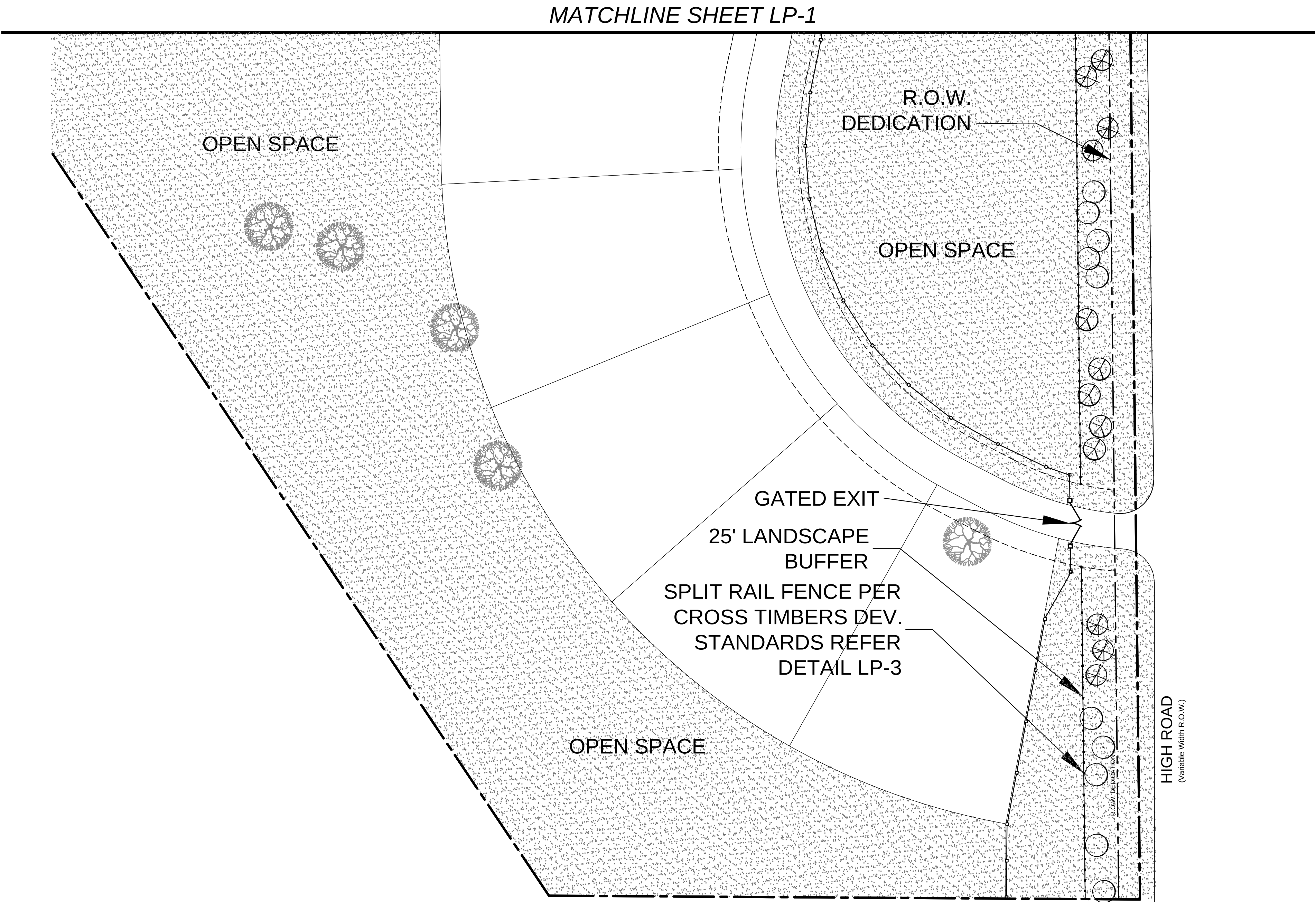
Serenity
RESENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

LANDSCAPE PLAN

Scale: 1"=50'-0"
Designed by: JBS
Drawn by: JBS
Checked by: SCDC
Date: JULY 30, 2017
Project No. 035-023

SHEET
LP-1

No.1	8-28-17	Revised ROW	App.
No.2	9-25-17	Revised Per Town Comments	



ST. CLAIR DESIGN GROUP, INC

Landscape Architecture

P. O. Box 12519
 Dallas, Texas 75225
 T. 214-394-3641

DATE SEALED: 9-25-17

DESIGN BY: JBS
 DRAWN BY: JBS
 CHECKED BY: SCDG
 DATE: JULY 30, 2017

LANDSCAPE PLAN
 SERENITY
 Residential Subdivision
 28.920 acres
 in the
 J. Phillips Survey, Abst. No. 1019
 in the
 Town of Flower Mound
 Denton County, Texas

Scale: 1"=50'-0"
Designed by: JBS
Drawn by: JBS
Checked by: SCDG
Date: JULY 30, 2017
Project No. 035-023

SHEET
 LP-2

Serenity
 RESIDENTIAL SUBDIVISION
 FLOWER MOUND, TEXAS

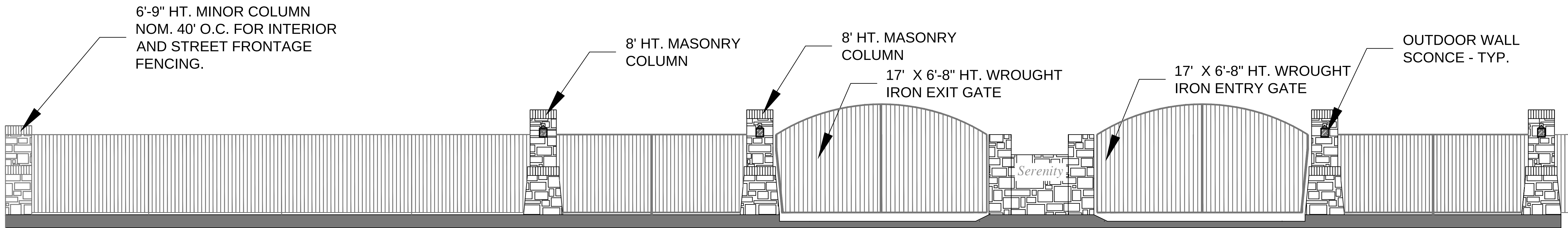
LANDSCAPE PLAN

No. 2	9-25-17	Revised Per Town Comments	
No. 1	8-28-17	Revised ROW	App.

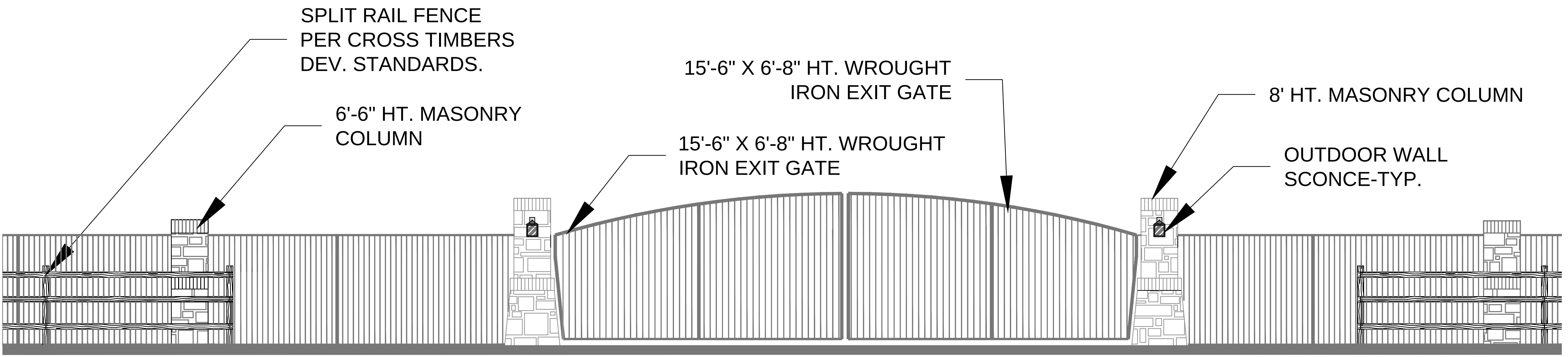
Ridinger Associates, Inc.
 Civil Engineers - Planners

Firm No. 13689
 5300 Commerce Lane, Suite 101
 Lewisville, Texas 75067

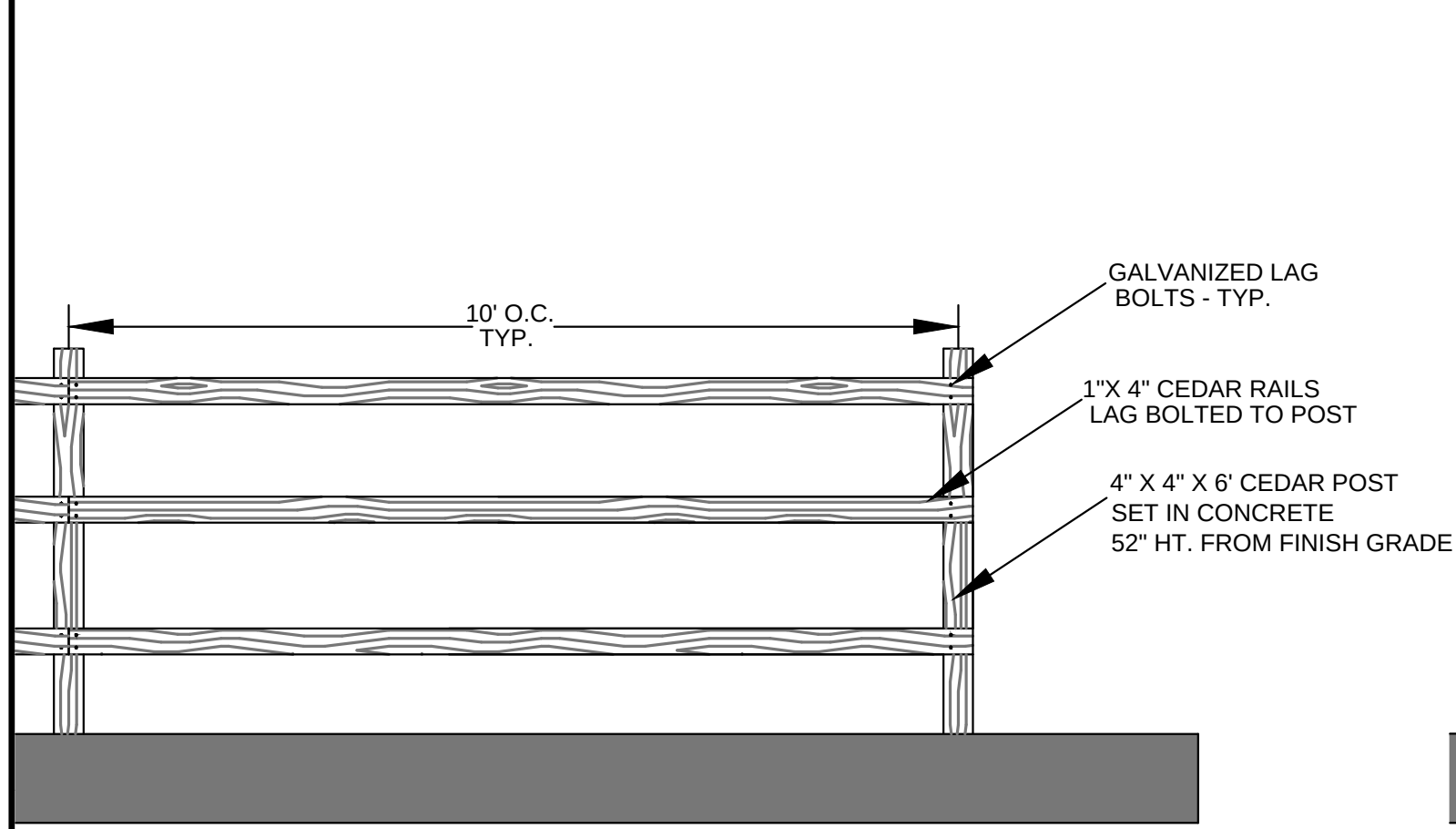
Tel. No. (972) 353-8000
 Fax No. (972) 353-8011



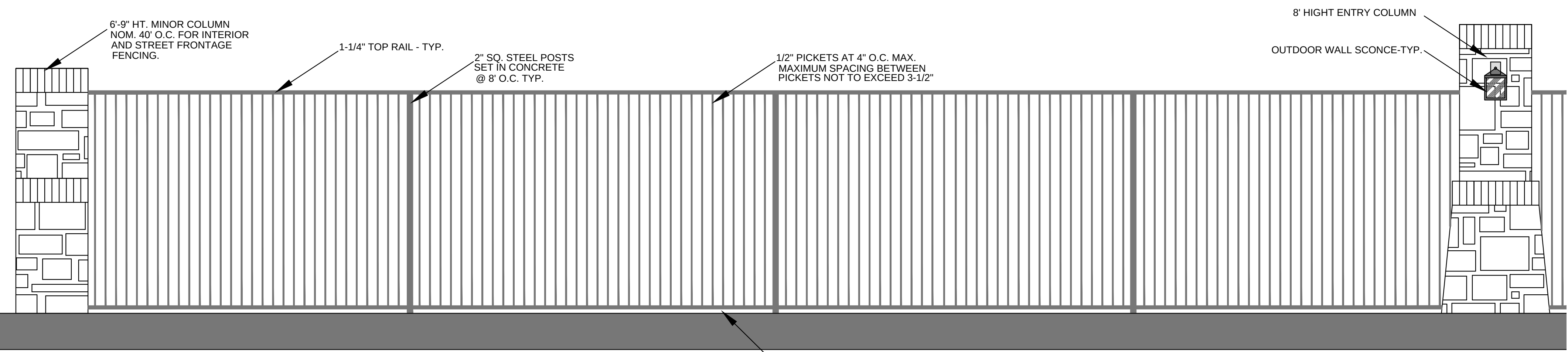
WROUGHT IRON SECURITY FENCE AND ENTRY ELEVATION
NOT TO SCALE



EXIT GATE DETAIL
NOT TO SCALE



SPLIT RAIL FENCE DETAIL
NOT TO SCALE



WROUGHT IRON FENCE DETAIL
NOT TO SCALE

ST. CLAIR DESIGN GROUP, INC

Landscape Architecture

P. O. Box 12519
Dallas, Texas 75225
T. 214-394-3641

DESIGN BY: JBS
DRAWN BY: JBS
CHECKED BY: SCDD
DATE: JULY 30, 2017

LANDSCAPE ELEVATIONS
SERENITY
Residential Subdivision
28.920 acres
in the
J. Phillips Survey, Abst. No. 1019
in the
Town of Flower Mound
Denton County, Texas

NO.1

8-9-16

PER CITY COMMENTS

App.

Ridinger Associates, Inc.

Civil Engineers - Planners

Firm No. 1969
550 S. Edmonds Lane, Suite 101
Lewisville, Texas 75067

MR. RICHARD LANDSCAPE ARCHITECT

STATE OF TEXAS

2210

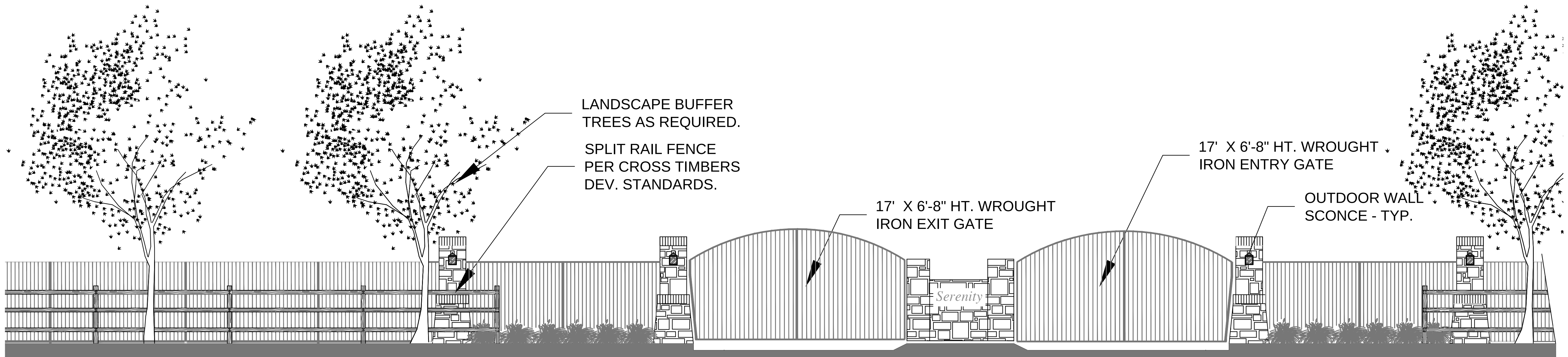
DATE SEALED: 7-30-17

Serenity
RESENTAL SUBDIVISION
FLOWER MOUND, TEXAS

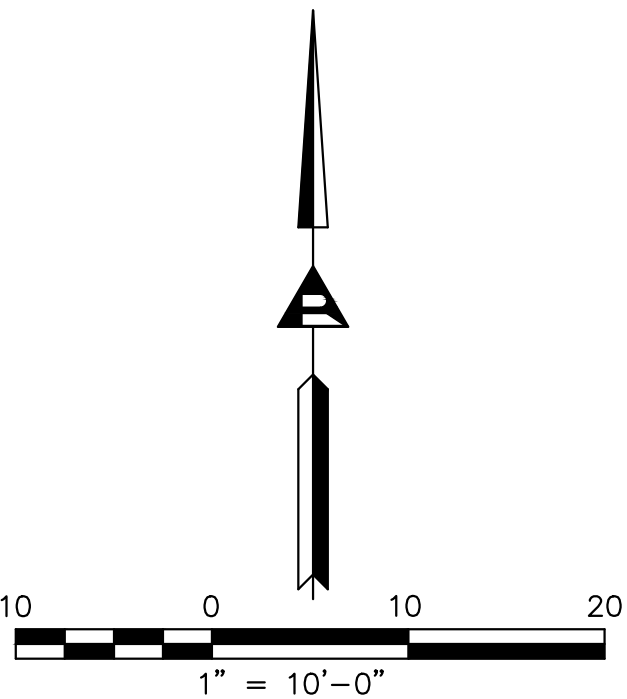
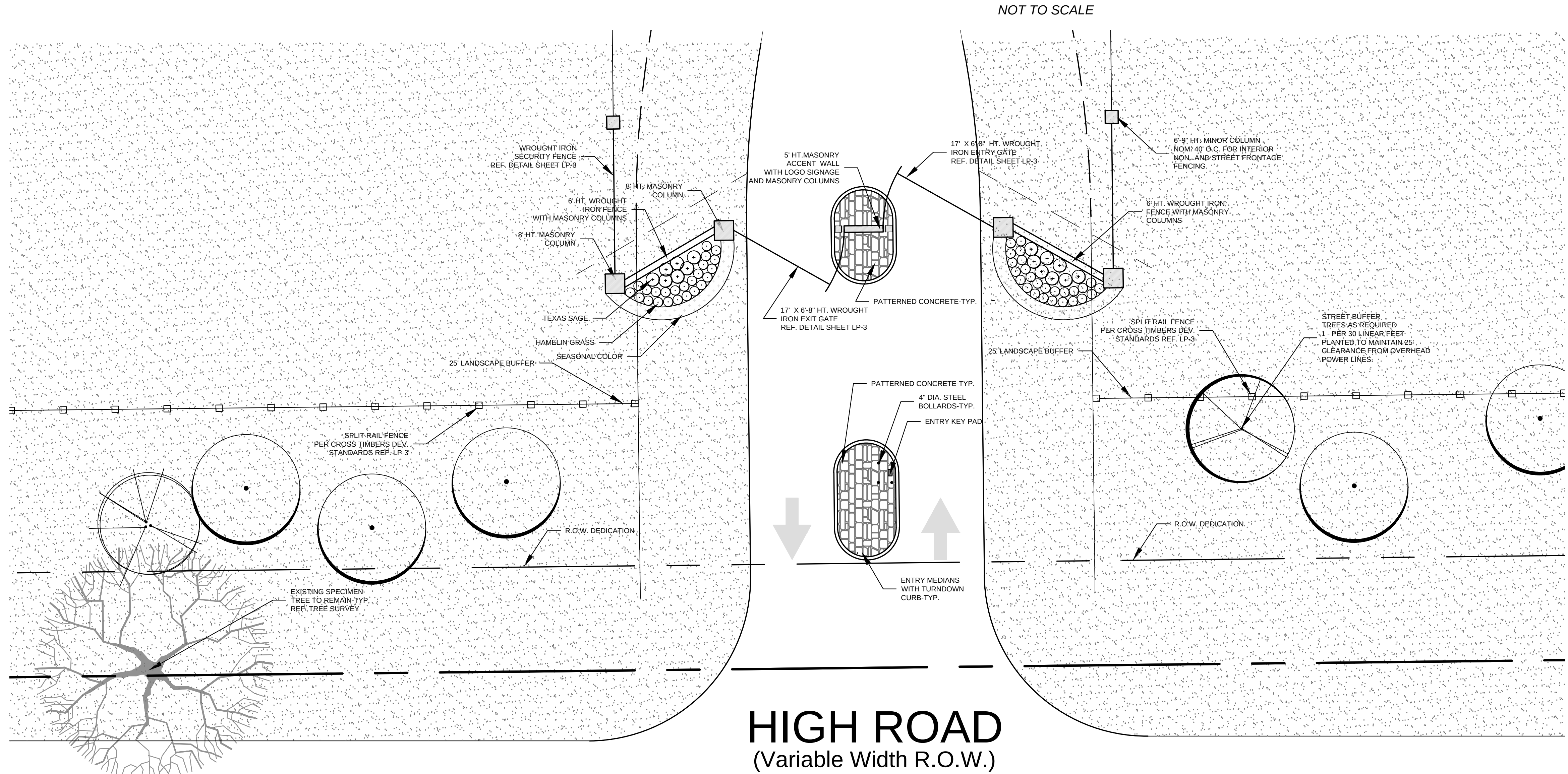
LANDSCAPE
ELEVATIONS

Scale: NOT TO SCALE
Designed by: JBS
Drawn by: JBS
Checked by: SCDD
Date: JULY 30, 2017
Project No. 035-023

SHEET
LP-3



ENTRY ELEVATION SHOWING RAIL FENCE AND STREET TREES



ST. CLAIR DESIGN GROUP, INC

Landscape Architecture

P. O. Box 12519
Dallas, Texas 75225
T. 214-394-3641

DESIGN BY: JBS
DRAWN BY: JBS
CHECKED BY: SCDC
DATE: JULY 30, 2017

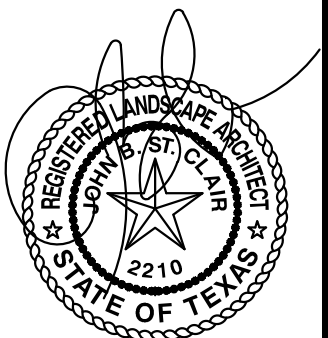
ENTRY PLAN AND
DETAIL
SERENITY
Residential Subdivision
28.920 acres
in the
J. Phillips Survey, Abst. No. 1019
in the
Town of Flower Mound
Denton County, Texas

ENTRY PLAN

SCALE: 1"=10'-0"

Ridinger
Associates, Inc.
Civil Engineers - Planners

Firm No. 13989
15300 Ridgeway Lane, Suite 101
Coppell, Texas 75067
Tel. No. (972) 353-8000
Fax No. (972) 353-8011



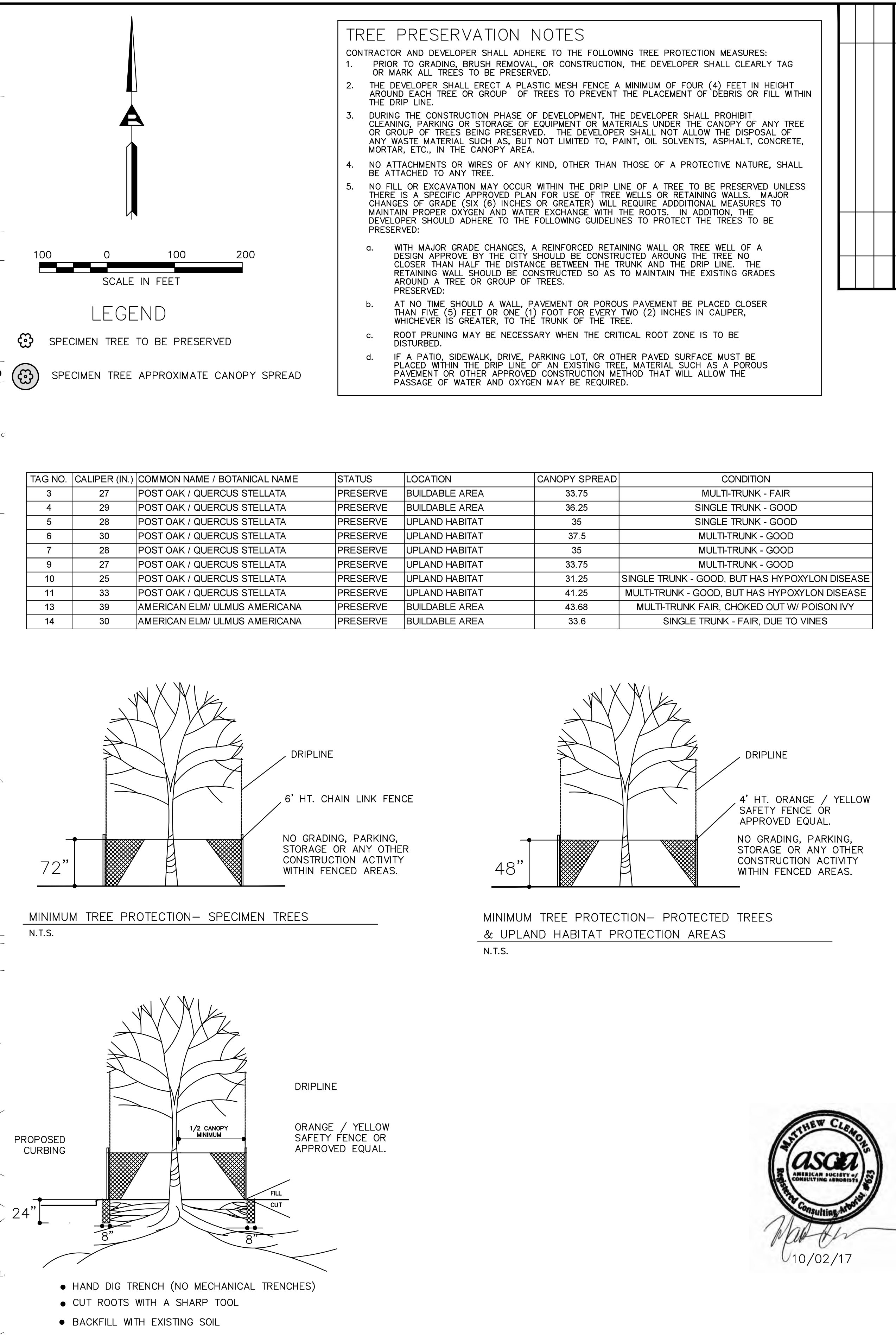
DATE SEALED: 9-25-17

Serenity
RESENIAL SUBDIVISION
FLOWER MOUND, TEXAS

ENTRY PLAN
AND DETAIL

Scale: 1" = 10'-0"
Designed by: JBS
Drawn by: JBS
Checked by: SCDC
Date: JULY 30, 2017
Project No. 035-023

SHEET
LP-4



72"

DRIPLINE

6' HT. CHAIN LINK FENCE

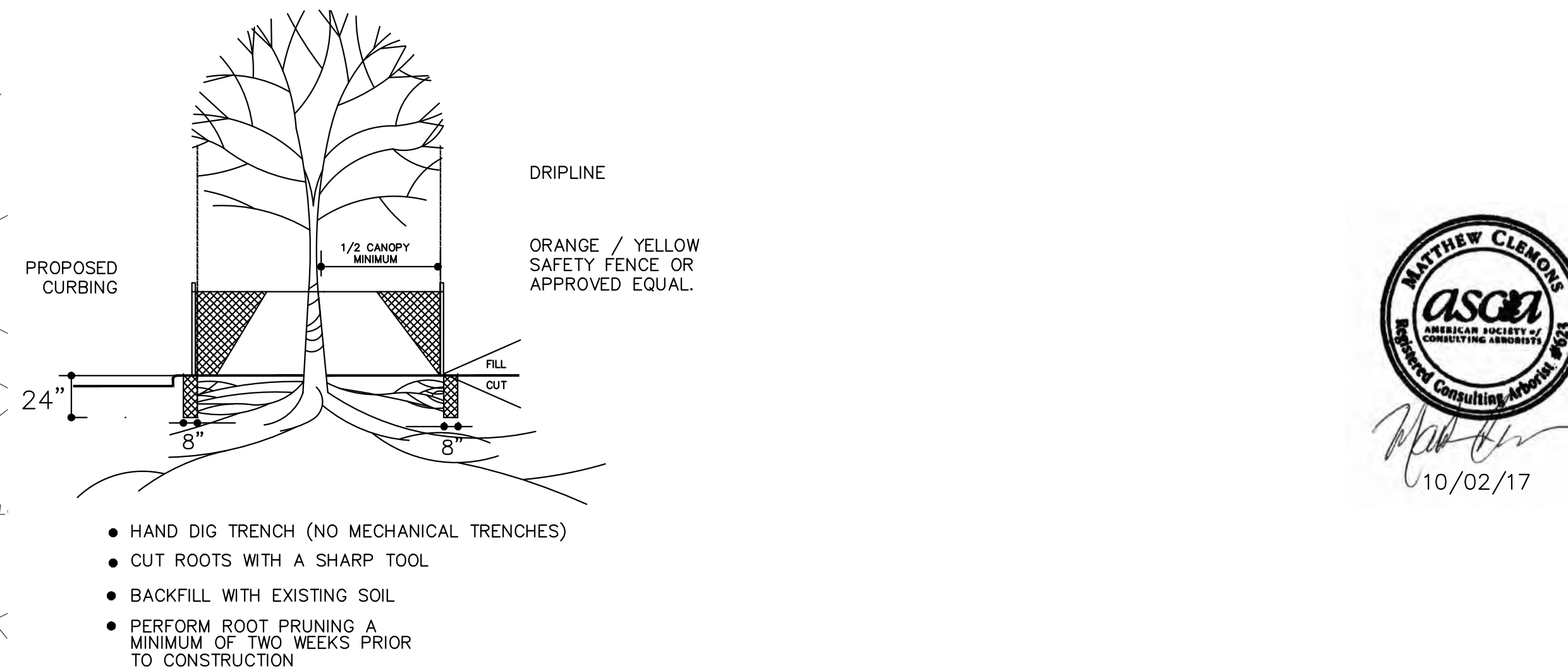
NO GRADING, PARKING, STORAGE OR ANY OTHER CONSTRUCTION ACTIVITY WITHIN FENCED AREAS.

48"

DRIPLINE

4' HT. ORANGE / YELLOW SAFETY FENCE OR APPROVED EQUAL.

NO GRADING, PARKING, STORAGE OR ANY OTHER CONSTRUCTION ACTIVITY WITHIN FENCED AREAS.

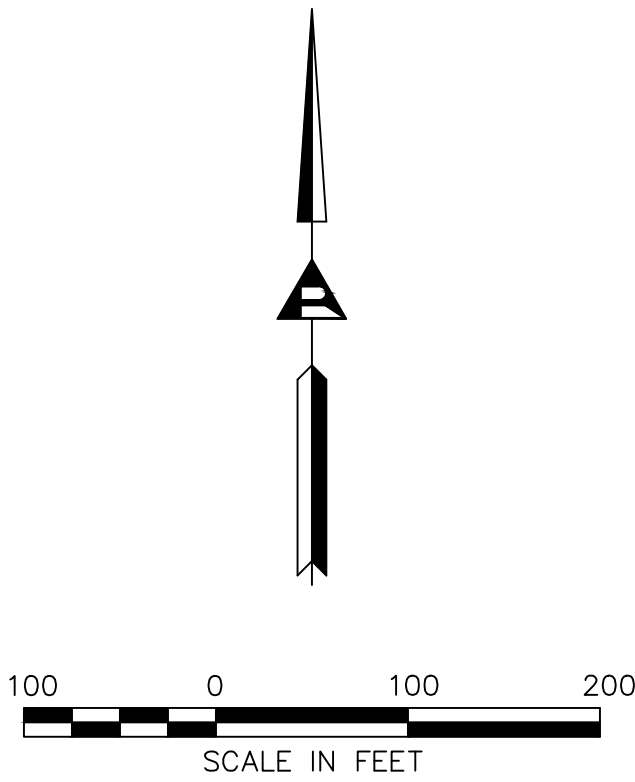


ROOT PRUNING DETAIL
N.T.S.

SHEET TS-1	Scale: 1" = 100'	<i>Tree Survey</i> RESIDENTIAL SUBDIVISION FLOWER MOUND, TEXAS		 Ridinger Associates, Inc. <i>Civil Engineers - Planners</i> Firm No. 1969 Luns, Suite 101 Tel. No. (972) 353-8000 550 S. Edmunds Lewisville, Texas Fax No. (972) 353-8011	No. Date Revisions App.
	Designed by: LDR				
	Drawn by: JWH				
	Checked by: TAL				
	Date: OCTOBER 2, 2017				
	Project No. 035-023				

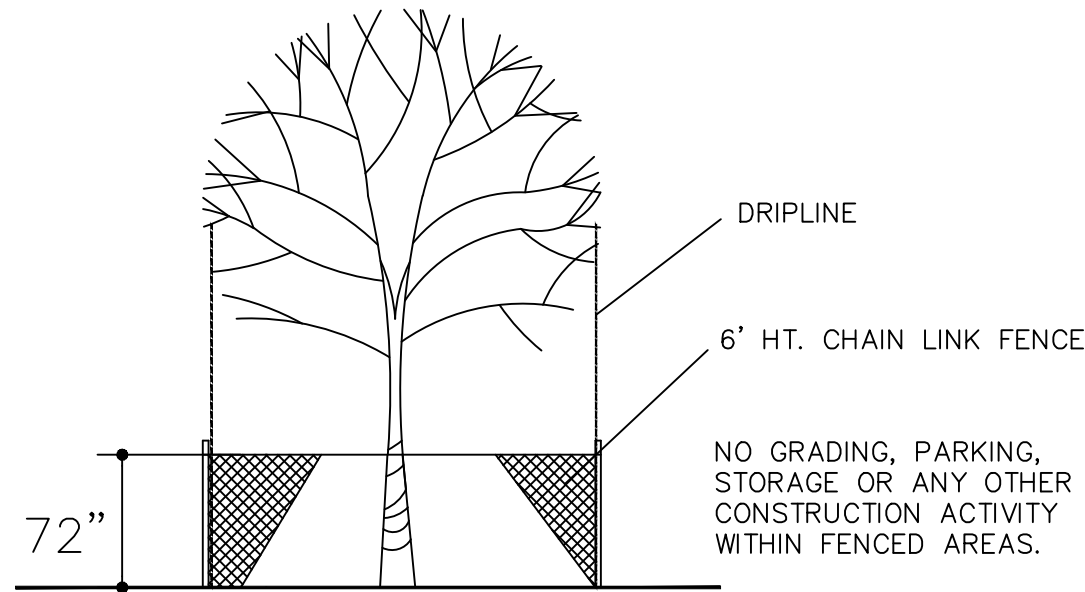


OWNER:
(1) WCFLLLP RE HIGH RD P
14241 Dallas Pkwy Ste. 800
Dallas, TX 75254-2919

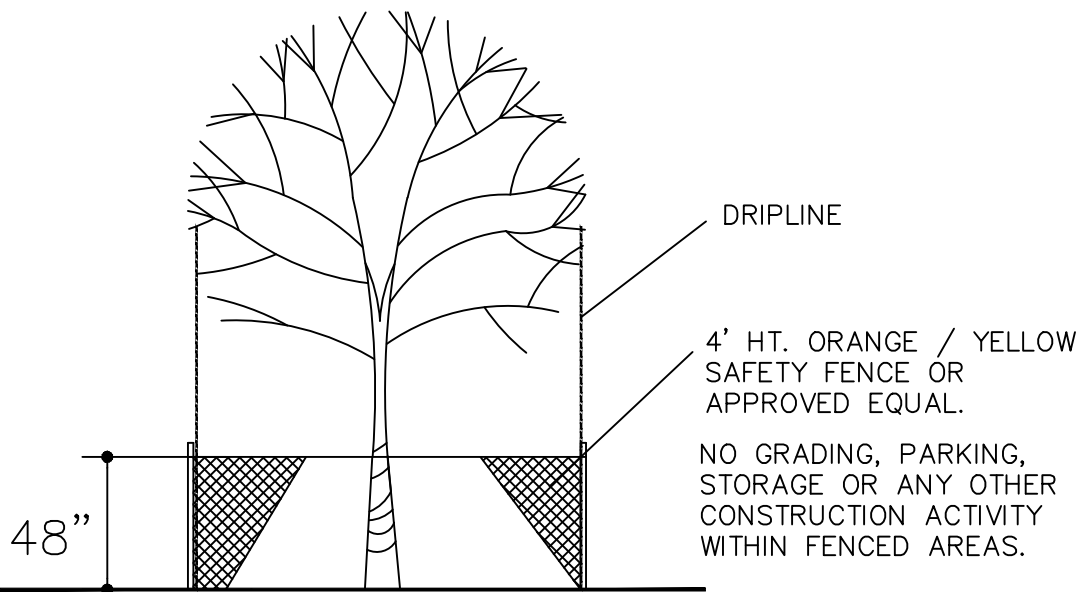


- LEGEND
- SPECIMEN TREE TO BE PRESERVED
 - SPECIMEN TREE TO BE REMOVED
 - SPECIMEN TREE APPROXIMATE CANOPY SPREAD

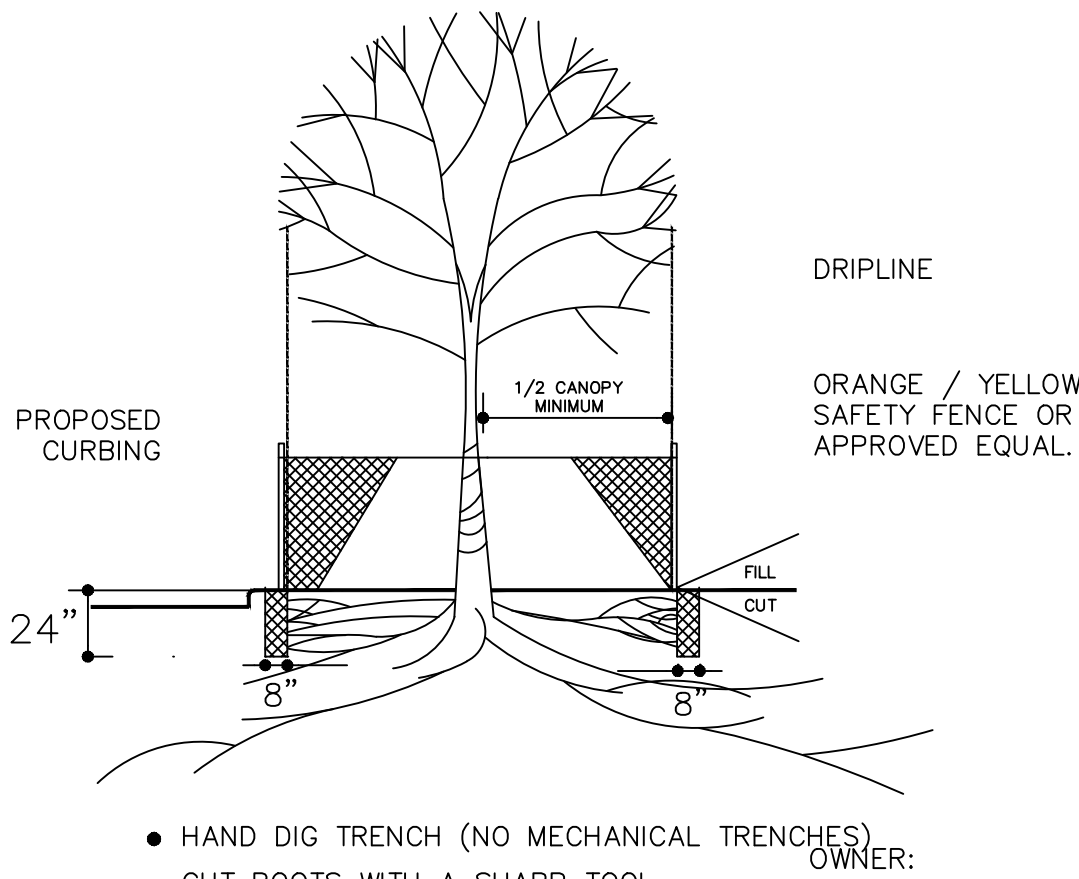
TAG NO.	CALIPER (IN.)	COMMON NAME / BOTANICAL NAME	STATUS	LOCATION	CANOPY SPREAD	CONDITION
3	27	POST OAK / QUERCUS STELLATA	PRESERVE	BUILDABLE AREA	33.75	MULTI-TRUNK - FAIR
4	29	POST OAK / QUERCUS STELLATA	PRESERVE	BUILDABLE AREA	36.25	SINGLE TRUNK - GOOD
5	28	POST OAK / QUERCUS STELLATA	PRESERVE	UPLAND HABITAT	35	SINGLE TRUNK - GOOD
6	30	POST OAK / QUERCUS STELLATA	PRESERVE	UPLAND HABITAT	37.5	MULTI-TRUNK - GOOD
7	28	POST OAK / QUERCUS STELLATA	PRESERVE	UPLAND HABITAT	35	MULTI-TRUNK - GOOD
9	27	POST OAK / QUERCUS STELLATA	PRESERVE	UPLAND HABITAT	33.75	MULTI-TRUNK - GOOD
10	25	POST OAK / QUERCUS STELLATA	PRESERVE	UPLAND HABITAT	31.25	SINGLE TRUNK - GOOD, BUT HAS HYPOXYLON DISEASE
11	33	POST OAK / QUERCUS STELLATA	PRESERVE	UPLAND HABITAT	41.25	MULTI-TRUNK - GOOD, BUT HAS HYPOXYLON DISEASE
13	39	AMERICAN ELM / ULMUS AMERICANA	PRESERVE	BUILDABLE AREA	43.68	MULTI-TRUNK FAIR, CHOKED OUT W/ POISON IVY
14	30	AMERICAN ELM / ULMUS AMERICANA	PRESERVE	BUILDABLE AREA	33.6	SINGLE TRUNK - FAIR, DUE TO VINES
15	24	POST OAK / QUERCUS STELLATA	REMOVE	UPLAND HABITAT	30	SINGLE TRUNK - GOOD
16	24	POST OAK / QUERCUS STELLATA	REMOVE	UPLAND HABITAT	30	SINGLE TRUNK - GOOD



MINIMUM TREE PROTECTION- SPECIMEN TREES
N.T.S.



MINIMUM TREE PROTECTION- PROTECTED TREES
& UPLAND HABITAT PROTECTION AREAS
N.T.S.



- HAND DIG TRENCH (NO MECHANICAL TRENCHES)
- CUT ROOTS WITH A SHARP TOOL
- BACKFILL WITH EXISTING SOIL
- PERFORM ROOT PRUNING A MINIMUM OF TWO WEEKS PRIOR TO CONSTRUCTION

ROOT PRUNING DETAIL
N.T.S.

TREE PRESERVATION NOTES

- CONTRACTOR AND DEVELOPER SHALL ADHERE TO THE FOLLOWING TREE PROTECTION MEASURES:
- PRIOR TO GRADING, BRUSH REMOVAL, OR CONSTRUCTION, THE DEVELOPER SHALL CLEARLY TAG OR MARK ALL TREES TO BE PRESERVED.
 - THE DEVELOPER SHALL ERECT A PLASTIC MESH FENCE A MINIMUM OF FOUR (4) FEET IN HEIGHT AROUND EACH TREE OR GROUP OF TREES TO PREVENT THE PLACEMENT OF DEBRIS OR FILL WITHIN THE DRIP LINE.
 - DURING THE CONSTRUCTION PHASE OF DEVELOPMENT, THE DEVELOPER SHALL PROHIBIT CLEANING, PARKING OR STORAGE OF EQUIPMENT OR MATERIALS UNDER THE CANOPY OF ANY TREE OR GROUP OF TREES BEING PRESERVED. THE DEVELOPER SHALL NOT ALLOW THE DISPOSAL OF ANY WASTE MATERIAL SUCH AS, BUT NOT LIMITED TO, PAINT, OIL SOLVENTS, ASPHALT, CONCRETE, MORTAR, ETC., IN THE CANOPY AREA.
 - NO ATTACHMENTS OR WIRES OF ANY KIND, OTHER THAN THOSE OF A PROTECTIVE NATURE, SHALL BE ATTACHED TO ANY TREE.
 - NO FILL OR EXCAVATION MAY OCCUR WITHIN THE DRIP LINE OF A TREE TO BE PRESERVED UNLESS THERE IS A SPECIFIC APPROVED PLAN FOR USE OF TREE WELLS OR RETAINING WALLS. MAJOR CHANGES OF GRADE (SIX (6) INCHES OR GREATER) WILL REQUIRE ADDITIONAL MEASURES TO MAINTAIN PROPER OXYGEN AND WATER EXCHANGE WITH THE ROOTS. IN ADDITION, THE DEVELOPER SHOULD ADHERE TO THE FOLLOWING GUIDELINES TO PROTECT THE TREES TO BE PRESERVED:
 - WITH MAJOR GRADE CHANGES, A REINFORCED RETAINING WALL OR TREE WELL OF A DESIGN APPROVE BY THE CITY SHOULD BE CONSTRUCTED AROUND THE TREE NO CLOSER THAN HALF THE DISTANCE BETWEEN THE TRUNK AND THE DRIP LINE. THE RETAINING WALL SHOULD BE CONSTRUCTED SO AS TO MAINTAIN THE EXISTING GRADES AROUND A TREE OR GROUP OF TREES.
 - AT NO TIME SHOULD A WALL, PAVEMENT OR POROUS PAVEMENT BE PLACED CLOSER THAN FIVE (5) FEET OR ONE (1) FOOT FOR EVERY TWO (2) INCHES IN CALIPER, WHICHEVER IS GREATER, TO THE TRUNK OF THE TREE.
 - ROOT PRUNING MAY BE NECESSARY WHEN THE CRITICAL ROOT ZONE IS TO BE DISTURBED.
 - IF A PATIO, SIDEWALK, DRIVE, PARKING LOT, OR OTHER PAVED SURFACE MUST BE PLACED WITHIN THE DRIP LINE OF AN EXISTING TREE, MATERIAL SUCH AS A POROUS PAVEMENT OR OTHER APPROVED CONSTRUCTION METHOD THAT WILL ALLOW THE PASSAGE OF WATER AND OXYGEN MAY BE REQUIRED.



10/02/17

DRAFT DEVELOPMENT STANDARDS

Planned Development District No. 149 (PD-149) Serenity

The development on the property comprising approximately 28.92 acres of land within the corporate limits of the Town of Flower Mound ("Town") and as described on Exhibit "A" to this Zoning Ordinance adopting PD-149 shall be in accordance with the Town of Flower Mound *Master Plan* and the Land Development Regulations of the Town of Flower Mound, Texas, as amended, and shall be subject to the following conditions and requirements:

A. PD-149 with Single-Family District-30 (SF-30) uses.

Development of PD-149 as designated on Exhibit "C," the Concept Plan for Serenity shall be in compliance with all regulations applicable to Single-Family District-30 (SF-30) uses contained in the Town's Land Development Regulations as amended, except as otherwise provided and/or limited herein.

1. Minimum floor area per unit. The minimum floor area per dwelling unit shall be 2,800 square feet, subject to Section 98-1025.
2. Maximum lot coverage. The maximum lot coverage shall be 40% for all uses, subject to Section 98-1029. All accessory structures shall be included in the maximum of 40% coverage.
3. The dimensional and area regulations contained in this section shall not apply to common areas or lots owned by the homeowner's association for Serenity ("HOA"). Any common areas or lots owned by the HOA and any structure(s) thereon shall conform to all relevant provisions of the Town's code of ordinances and land development regulations.

B. Residential Lot Requirements. The following requirements shall apply to the residential lots within Hillside at Flower Mound.

1. The maximum density shall be no more than 1 dwelling unit per 1.6 acres ($100/1.6 = 62$ units or a 24% increase above the base density).
2. There shall be a maximum of 16 residential lots as depicted on the attached Zoning Conceptual Plan.

C. Supplemental Standards.

1. As a Cluster Development, PD-149 shall have a minimum of fifty percent (50%) of the gross land area preserved as open space for the development as depicted in Exhibit "E" below. In meeting requirements for open space, the developer must demonstrate how open space designated in Exhibit "E" shall be managed. Open Space shall be managed by a qualified nonprofit entity or organization that manages open space, such as a land trust, HOA or other qualified entity, pursuant to section 170(h) of the Internal Revenue Code, as amended, and as may be approved and accepted by the Town. All designated open space areas shall be conserved in a

recorded conservation easement as applicable prior to Planning and Zoning Commission approval of the first record plat within the development. The final Open Space Management Plan (OSMP) shall conform with the following:

- a. Be submitted and approved by the Town prior to the submittal of the first record plat within the development.
 - b. Be recorded in the deed records of Denton County Texas as a restriction running with the land prior to the submittal of the first record plat within the development.
 - c. Substantially conform to the draft OSMP submitted to the Planning and Zoning Commission for consideration of the Zoning application (ZPD 16-0007) and identified as Attachment B3 of the agenda item.
2. All landscaping, trails and open space shall be in conformance with Exhibit "D", the Conceptual Landscape Plan.
 3. The development of PD-149 is subject to the approved Environmental Protection Plan.

D. House Pad Benching. Developer shall prepare and submit a complete subdivision design including general grading with approximate pad elevations and drainage plans in accordance with the Engineering Design Criteria and Construction Standards. The grading and drainage within Serenity and along the perimeter of all lots within each phase of the development shall be complete prior to final acceptance of that phase of the development by the Town. The approximate pad elevations for the lots within the development shall be included in the subdivision design plans but are not required to be "benched" prior to the Town's final acceptance of the overall development.

1. Developer agrees that for each lot that is not being benched, as identified herein-above, prior to the issuance of the building permit for the home on that particular lot the following will occur:
 - a. Developer shall retain a professional licensed engineer to design plans for the review and approval of any modification in the benching data for each and every lot identified herein as well as any design modifications required to address changes in drainage flows, velocities and direction that deviate from the original approved plans and prepare and submit any proposed revisions to the Town for approval prior to the issuance of the building permit for that particular home;
 - b. Erosion control measures including silt fencing, check dam, bar ditch and storm water pipe system cleaning shall be performed on a routine basis as needed and no less frequently than at least one time every six months or more frequently as may be required and directed by the Town Manager or his designee;

- c. Developer shall be responsible for weekly monitoring, clean-up and removal of construction debris, waste and litter that is dumped, accumulates or is otherwise stockpiled within the development;
 - d. Developer shall remove check dams and silt fencing as appropriate and in accordance with best management practices after all pad sites within the phase have been benched and stabilized and a final phase inspection of the newly benched pad sites has been performed and approved by the Town.
- E. Exceptions to Topographic Slope Protection: An exception to Section 98-147, Topographical Slope Protection is granted; however, the developer shall provide detailed drawings that illustrate the impact of the proposed development on the natural topography and the manner by which the development is integrated into, reflects and maintains the overall integrity of the natural topography with subsequent record plat applications. In addition, the developer shall conform with the following requirements with subsequent record plat applications:
- 1. The identification of those specific Best Management Practices ("BMPs") that will be used to maintain and responsibly integrate the development into the natural topography together with an explanation regarding their use within the plans for such development. The BMPs to be used shall include, but are not limited to, those BMPs found within the Town's Engineering Design and Construction Standards.
 - 2. While recognized as a potential BMP, the use of retaining walls should be kept to a minimum. Any retaining wall four foot (4') or greater in height shall be designed by a professional engineer licensed by the State of Texas.

OPEN SPACE MANAGEMENT PLAN

Planned Development District 149 (PD-149)

Serenity Flower Mound

Property Description

As set forth in the Open Space Plan (Exhibit “A”) hereto, which is hereby incorporated herein by reference for all purposes.

As set forth in the Landscape Plan (Exhibit “B”) hereto, which is hereby incorporated herein by reference for all purposes.

Present Condition of the Property

The natural characteristics of the Property will be outlined in a report (Exhibit “C”) completed on July 26, 2017 (the “EPP”), by GES Groundwater & Environmental Services, Inc.

Introduction

It is our plan for the Home Owners Association (HOA) Board of Directors in conjunction with an ISA Certified Arborist to manage the Open Space related to the Serenity Flower Mound project. There are 4 open space lots consisting of 15.26 acres with approximately 9.17 acres remaining in its natural state per our EPP. This is considered a small parcel of land to be dedicated to a Land Trust for a Conservation Easement. However, we are speaking with a Land Trust Company about their willingness to partner with us relating to the donation of a Conservation Easement over the subject tract of land.

Purpose

The purpose of the preservation of open space includes but is not limited to one or more of the following:

- Retaining or protecting the relatively natural habitat of wildlife, plants, and similar ecosystems on the Property;
- Protecting natural resources, maintaining or enhancing air and water quality;
- Preserving the historical, architectural, archaeological, or cultural aspects of the Property;
- Preserving the open space characteristic of Property pursuant to The Town of Flower Mound’s Master Plan 2001 (including, but not limited to, the Land Use Plan for the “Cross Timbers Conservation Development District”),

Open Space Plan, SMARTGrowth Management Plan, Land Development Regulations governing the Cross Timbers Conservation Developments, and Planned Development District No. 149;

- Permitting the Property (as suitable) for non-intensive outdoor recreation by the public, including hiking, horseback riding, nature observation, and enjoyment of open space, all in accordance with applicable laws and regulations.
- Land in its natural state requires little to no maintenance and carry minimal costs for maintenance.

Prohibited Activities

Any activity on, or use of, the Property inconsistent with the purpose of the open space is prohibited. The Property shall be preserved, to the extent practicable, in its natural condition and restricted from any development that would impair or interfere with the values of the Property. Without limiting the following activities and uses are expressly prohibited, restricted, or reserved as indicated hereunder:

Vegetation: There shall be no large-scale removing, destroying, cutting, trimming, burning, harming, or altering of any vegetation, or disturbing or changing in any way the natural habitat existing on the Property after the Final Acceptance Date by the Town. The use of pesticides, biocides, insecticides, fungicides, rodenticides, and herbicides on the Property shall be limited so as to preserve the natural characteristics of the Property. The use of such products and/or mowing of the Property, as necessary to control pests or vermin, may be allowed. Mowing and/or trimming may be conducted along boundary lines to allow access for maintenance. If any trails are constructed on the Property, trail boundaries may be maintained through trimming or mowing. In the event that vegetation must be altered in order to or remedy a condition which presents a danger to persons, such alterations shall be allowed, notwithstanding the foregoing.

Uses: No commercial, residential or industrial activity shall be conducted upon the Property. There shall be no storing or dumping of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances, machinery, hazardous or toxic substances or waste, or any placement of underground or above ground storage tanks or other materials on the Property that may negatively impact or be detrimental to the Property or to the surface or subsurface waters of the Property. Livestock animals shall not be allowed on the Property.

Topography: After the Final Acceptance Date by the Town, there shall be no change in the topography of the Property. There shall be no filling, excavating,

grading, dredging, mining or drilling upon the Property. There shall be no removing of topsoil, peat, sand, gravel, rock, minerals or other materials from the Property.

Soil or Water Degradation: After the Final Acceptance Date by the Town, there shall be no use of or the conducting of any activity on the Property that is likely to cause soil degradation, erosion, depletion or pollution of, or siltation on, any surface or subsurface waters of the Property, and there shall be no change to the surface or subsurface hydrology of the Property.

Construction: There shall be no constructing or placing of any building, mobile home, asphalt or concrete pavement, permanent billboard or other advertising display, antenna, utility pole, tower, conduit, line, pier, landing, dock, or any other temporary or permanent structure or facility or any other man-made structures on the Property.

Roads: There shall be no construction of new roads on the Property or any enlargement, widening, or modification to any existing roads on the Property.

Waters: There shall be no polluting, altering, manipulating, depleting or extracting of surface or subsurface water (including, but not limited to, ponds, creeks or other water courses) or any other water bodies on the Property. There shall be no conducting or allowing any entity or person to conduct activities on the Property that would be detrimental to water purity or that alter the natural water level or flow in or over the Property (including, but not limited to, damming, dredging or construction in any free flowing water body, nor any manipulation or alteration of natural water courses, fresh water lake and pond shores, marshes or other water bodies).

Vehicles: After the Final Acceptance Date by the Town, and subject to compliance with the Americans with Disabilities Act, there shall be no operating or allowing the operation of any motorized vehicles on the Property.

Easements: There shall be no new easements on, over, under, across, along or through the Property, including, but not limited to, access easements and utility easements provided.

Signage: No permanent signage shall be permitted on or over the Property, except the posting of no trespassing signs, signs giving directions or proscribing rules and regulations for use of the Property and/or signs identifying the purpose of the

preserved property. Until the sale of the last of the lots owned by developer in the Serenity Flower Mound subdivision, the developer or his designee may place "For Sale" signs on the Property, provided that the total number of such signs does not exceed the total number of such lots owned by the developer.

Duration

Perpetual.

General Provisions

(l) Amendment.

1. Maintenance of Common Areas:

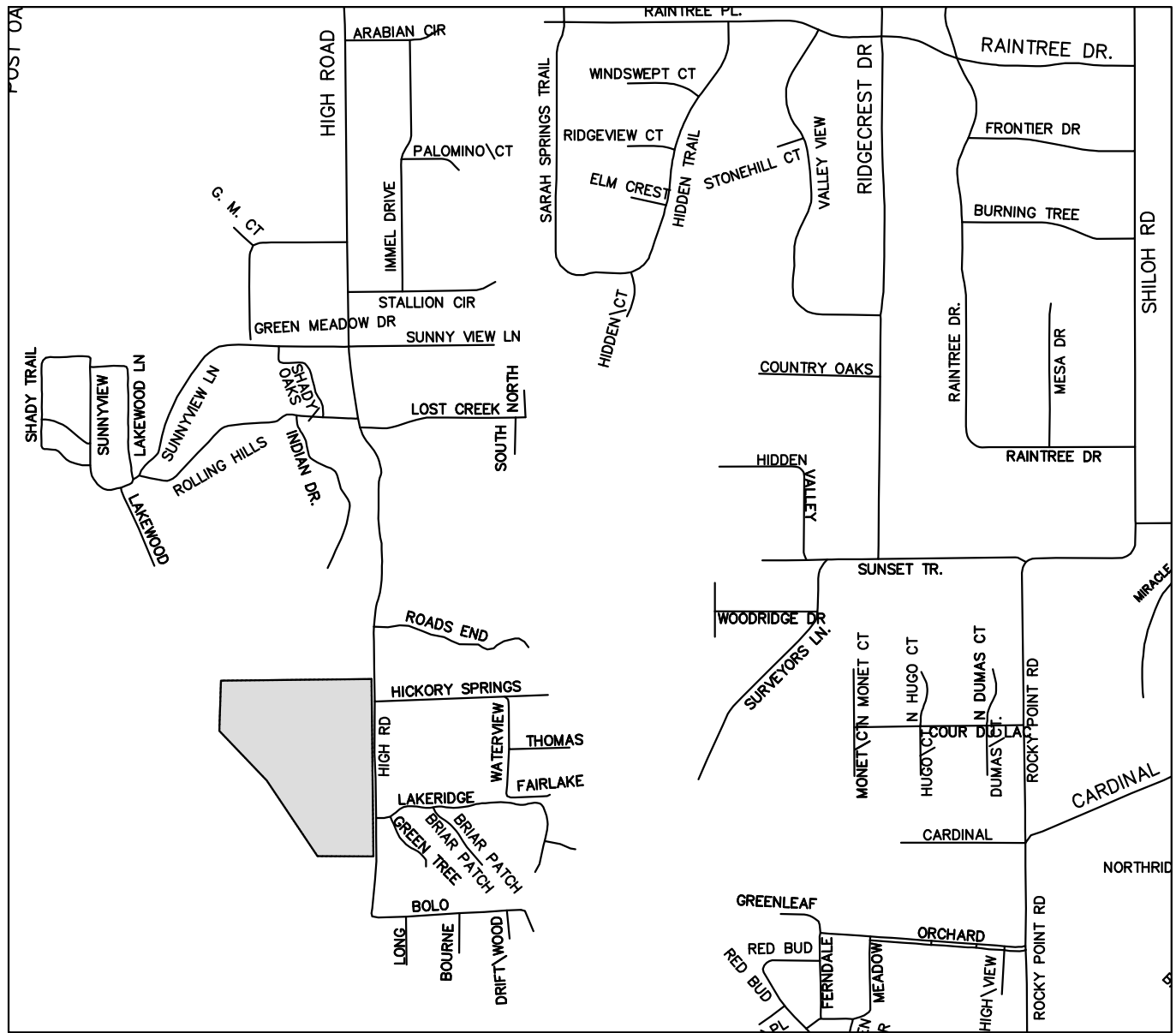
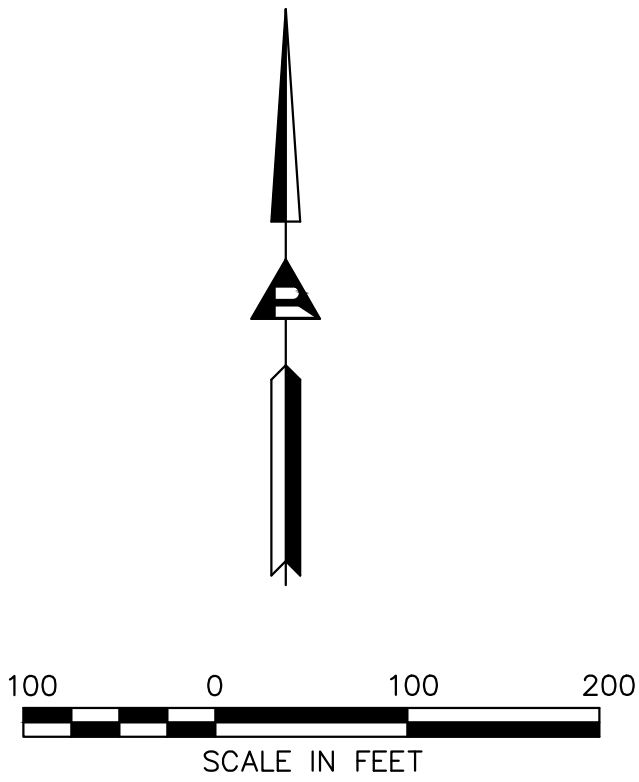
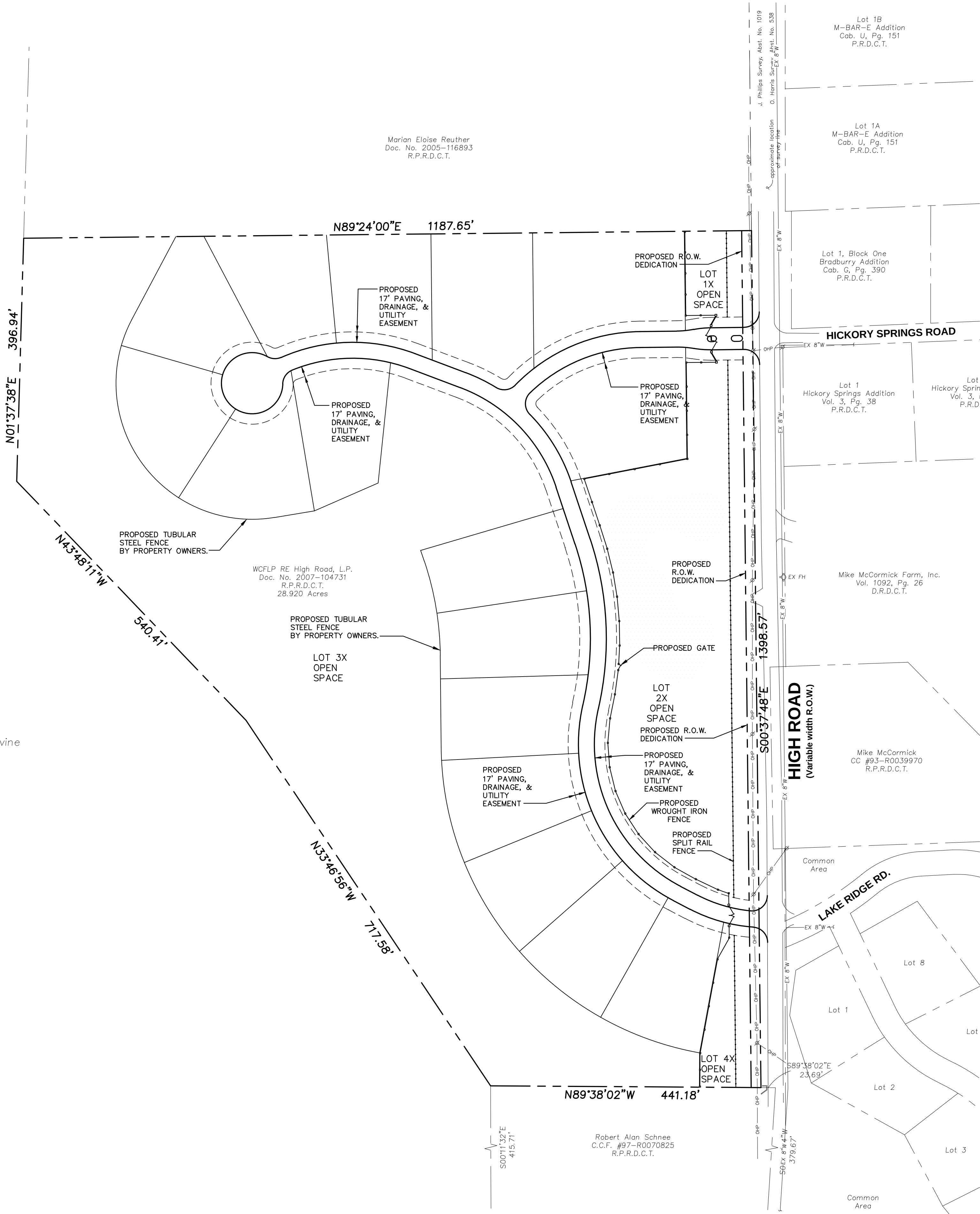
- a. All Common Areas (X-Lots) are to be conveyed to the Homeowners Association (HOA) by the Developer. The HOA will be established by the Developer as a Nonprofit Corporation. The members will be the Serenity Flower Mound lot owners with one (1) vote for each Lot Owner in all matters. The initial Board of Directors will be appointed by the developer. Once the Serenity Flower Mound community is 80% complete (12 homes occupied), a Board of Directors will be elected by the Homeowners to manage and oversee the business and all other matters of the HOA, including the conservation (Open Space) requirements of the Town.
- b. The structure and guidelines for the HOA will be defined by the Dedications and Restrictions (Deed Restrictions), which will be recorded by the Developer after the Final Plat is approved, as required by the Town. The Covenants, Conditions and Restrictions shall set forth all enforcement guidelines.
- c. The maintenance and management of the Common Areas (X-Lots) will be the responsibility of the HOA Board of Directors. The Common Areas (X-Lots) and their care will be as follows:
- d. Woodland/Open Space (X-Lots)
 1. Lot 1X, 2X and 3X Landscape Buffer to be maintained by the HOA during regular maintenance, and on an as needed basis.
 2. Lot 1X, 2X and 3X excluding Landscape Buffer to remain in its natural state and mowed approximately 2 to 3 times per year as determined by the HOA.
 3. Lot 3X, to remain in its natural state.
- e. Bar Ditches in Open Space
 1. Bar ditches in Lot 1X, 2X and 4X to be maintained by the HOA during regular maintenance.

- f. Drainage Culverts in Open Space
 - 1. All Drainage culverts in open space to be maintained by the HOA during regular maintenance.
- g. Fencing in Open Space
 - 1. Lot 1X, 2X and 4X to be maintained by the HOA during regular maintenance.
- h. Masonry Entry Feature in Open Space
 - 1. All masonry features in open space to be maintained by the HOA during regular maintenance.

All open space areas may be either; Placed under a Conservation Easement to be supervised by a Licensed or Certified Conservator, or managed by the HOA Board of Directors. The HOA Board of Directors must be under the direction of a licensed ISA Certified Arborist.

The HOA will fulfill the conservation covenants as provided in the deed restrictions.

EXHIBIT “A”
Open Space Plan



LOCATION MAP
NOT TO SCALE

DEVELOPMENT DATA	
PROPOSED USE:	SINGLE FAMILY RESIDENTIAL
CURRENT ZONING:	AGRICULTURAL
PROPOSED BASE ZONING:	SF-30
TOTAL LAND AREA:	±28.92 ACRES
MINIMUM LOT SIZE:	30,000 S.F.
MAXIMUM LOT SIZE:	43,818 S.F.
AVERAGE LOT SIZE:	32,265 S.F.
TOTAL AREA OF LOTS =	11.85 AC. 40.98%
TOTAL AREA OF OPEN SPACE =	15.263 AC. 53.72%

LEGEND	
—	LOT LINE
D.R.D.C.T.	DEED RECORDS, DENTON COUNTY, TEXAS
P.R.D.C.T.	PLAT RECORDS, DENTON COUNTY, TEXAS
R.P.R.D.C.T.	REPLAT RECORD DENTON COUNTY, TEXAS
- - -	PROPERTY BOUNDARY
- - -	ADJACENT PROPERTY BOUNDARY
- - -	PROPOSED R.O.W.
- - -	PROPOSED EDGE OF PAVEMENT

PROJECT DATA TABLE	
GROSS SITE AREA	28.92 ACRES
PROPOSED USE	SINGLE FAMILY RES.
CURRENT ZONING	AGRICULTURAL
PROPOSED BASE ZONING	SF-30
EXTERNAL/COLLECTOR RIGHT-OF-WAY	
HIGH ROAD	0.513 ACRES
TOTAL RIGHT-OF-WAY	0.513 ACRES
OPEN SPACE	
PRIVATE OPEN SPACE LOTS	15.263 ACRES
TOTAL OPEN SPACE	15.263 ACRES
PROPOSED LOTS	
RESIDENTIAL	16 LOTS
RESIDENTIAL LOTS AREA	11.85 ACRES
MIN. RESIDENTIAL LOT SIZE	30,000 S.F.
MAX. RESIDENTIAL LOT SIZE	43,818 S.F.
AVG. RESIDENTIAL LOTS SIZE	32,265 S.F.
PRIVATE OPEN SPACE	4 LOTS
TOTAL ALL LOTS	20 LOTS

AREA DATA TABLE	
GROSS SITE AREA	28.92 ACRES
HIGH RD. R.O.W. DEDICATION	0.513 ACRES
TOTAL R.O.W. DEDICATION	0.513 ACRES
NET SITE AREA	28.407 ACRES
TOTAL OPEN SPACE AREA	15.263 ACRES (53.73%)

OPEN SPACE LOT TABLE	
PRIVATE OPEN SPACE LOTS:	
LOT 1X	0.341 ACRES
LOT 2X	4.132 ACRES
LOT 3X	10.379 ACRES
LOT 4X	0.411 ACRES
TOTAL PRIVATE OPEN SPACE AREA	15.263 ACRES
TOTAL OPEN SPACE AREA	15.263 ACRES

OWNER:
(1) WCFLLP RE HIGH RD P
14241 Dallas Pkwy Ste. 800
Dallas, TX 75254-2919

SERENITY
Residential Subdivision
28.920 acres
in the
J. Phillips Survey, Abst. No. 1019
in the
Town of Flower Mound
Denton County, Texas

Scale: 1" = 100'
Designed by: LDR
Drawn by: JWH
Checked by: TAL
Date: OCTOBER 2, 2017
Project No. 035-023

SHEET
1

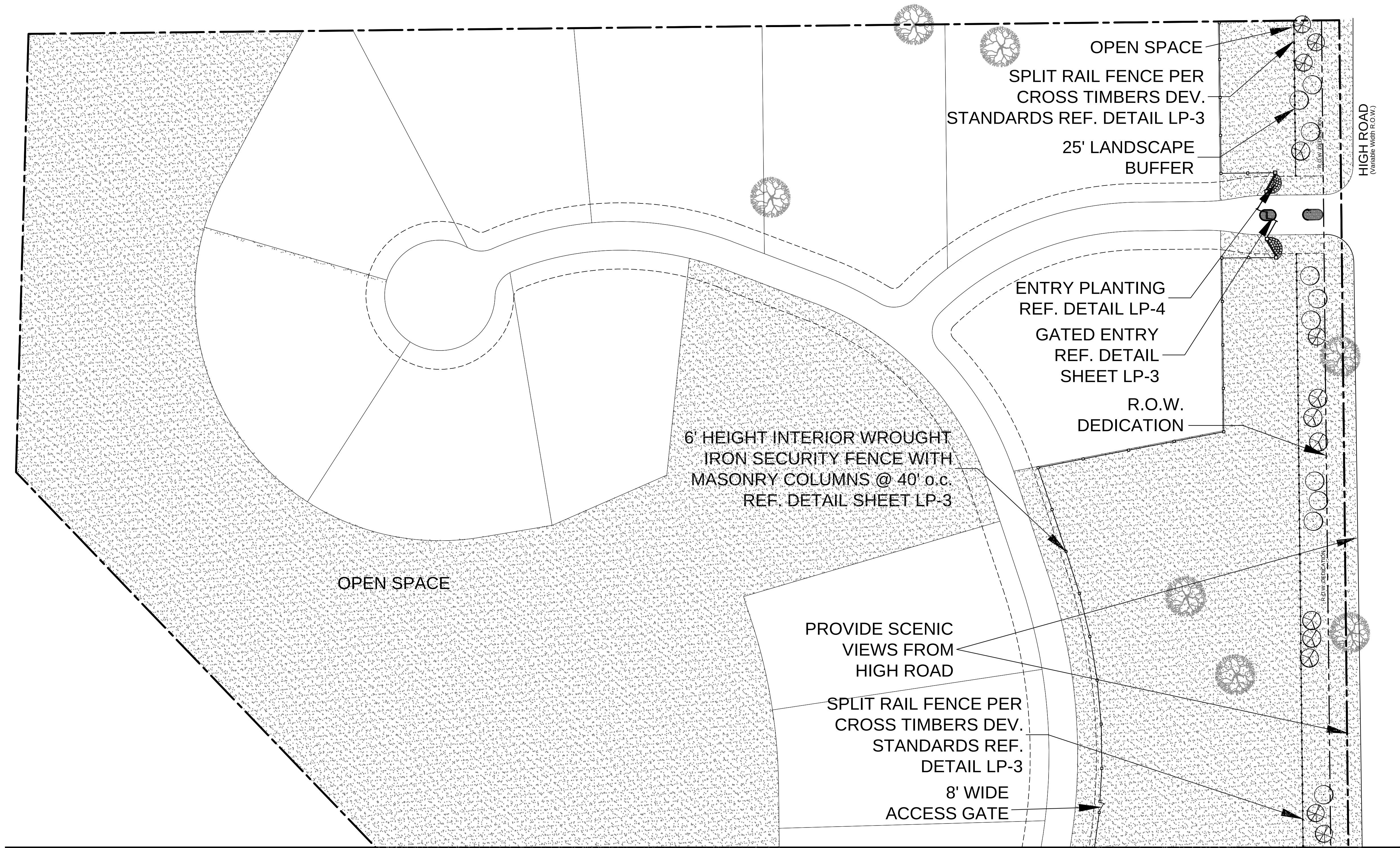
Serenity
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

OPEN SPACE PLAN

Ridinger
Associates, Inc.
Civil Engineers - Planners
Firm No. 1969
550 S. Edmonds Lane, Suite 101
Lewisville, Texas 75067
Tel. No. (972) 353-8000
Fax No. (972) 353-8011

No.	Date	Revisions	App.

EXHIBIT “B”
CONCEPTUAL LANDSCAPE PLAN



MATCHLINE SHEET LP-2

STREET LANDSCAPE BUFFER			
STANDARD	REQUIRED BUFFER	PROVIDED	
HIGH ROAD	25 FT.	25 FT.	
STREET BUFFER TREES			
STANDARD	STREET FRONTAGE (LINEAR FEET)	REQUIRED	PROVIDED
1 PER 30 L.F.			
HIGH ROAD	1,336.36 LF	45 TREES	45 TREES

500

0

50

100

1" = 50'-0"

A

LEGEND

DENOTES
PROPOSED
OPEN SPACE

ALL EXISTING SPECIMEN
TREES TO REMAIN-REF.
TO TREE SURVEY

BUR OAK

CEDAR ELM

TEXAS ASH

LIVE OAK

RED OAK

NATCHEZ CRAPE MYRTLE

TEXAS SAGE

HAMELIN GRASS

SEASONAL COLOR

ST. CLAIR DESIGN GROUP, INC.

Landscape Architecture

P. O. Box 12519
Dallas, Texas 75225
T. 214-394-3641

JOHN B. ST. CLAIR

2210

STATE OF TEXAS

DATE SEALED: 9-25-17

DESIGN BY: JBS

DRAWN BY: JBS

CHECKED BY: SCDCG

DATE: JULY 30, 2017

CONCEPTUAL
LANDSCAPE PLAN
*Serenity
Residential Subdivision*
28.920 acres
in the
J. Phillips Survey, Abst. No. 1019
in the
Town of Flower Mound
Denton County, Texas
EXHIBIT B

Ridinger
Associates, Inc.

Civil Engineers - Planners

Firm No. 1368
1330 Commerce
Lawrenceville, Georgia 30047

Tel. No. (877) 353-8000
Fax No. (877) 353-8011

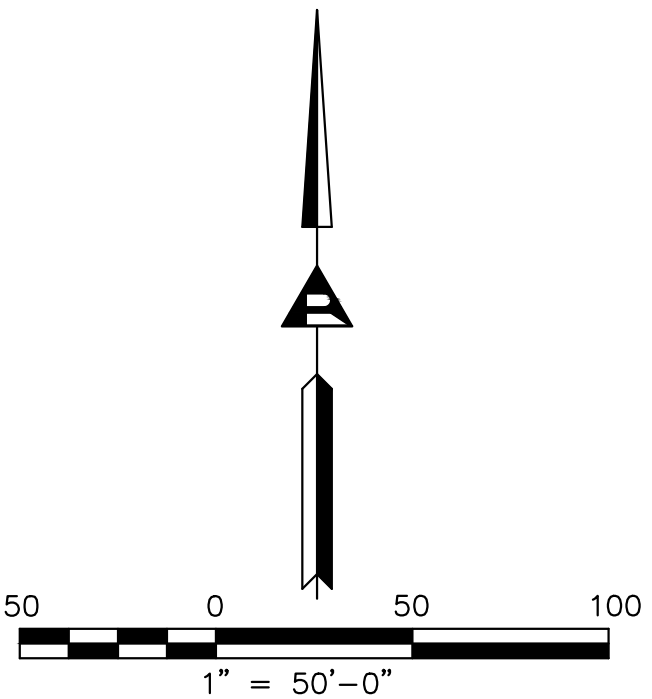
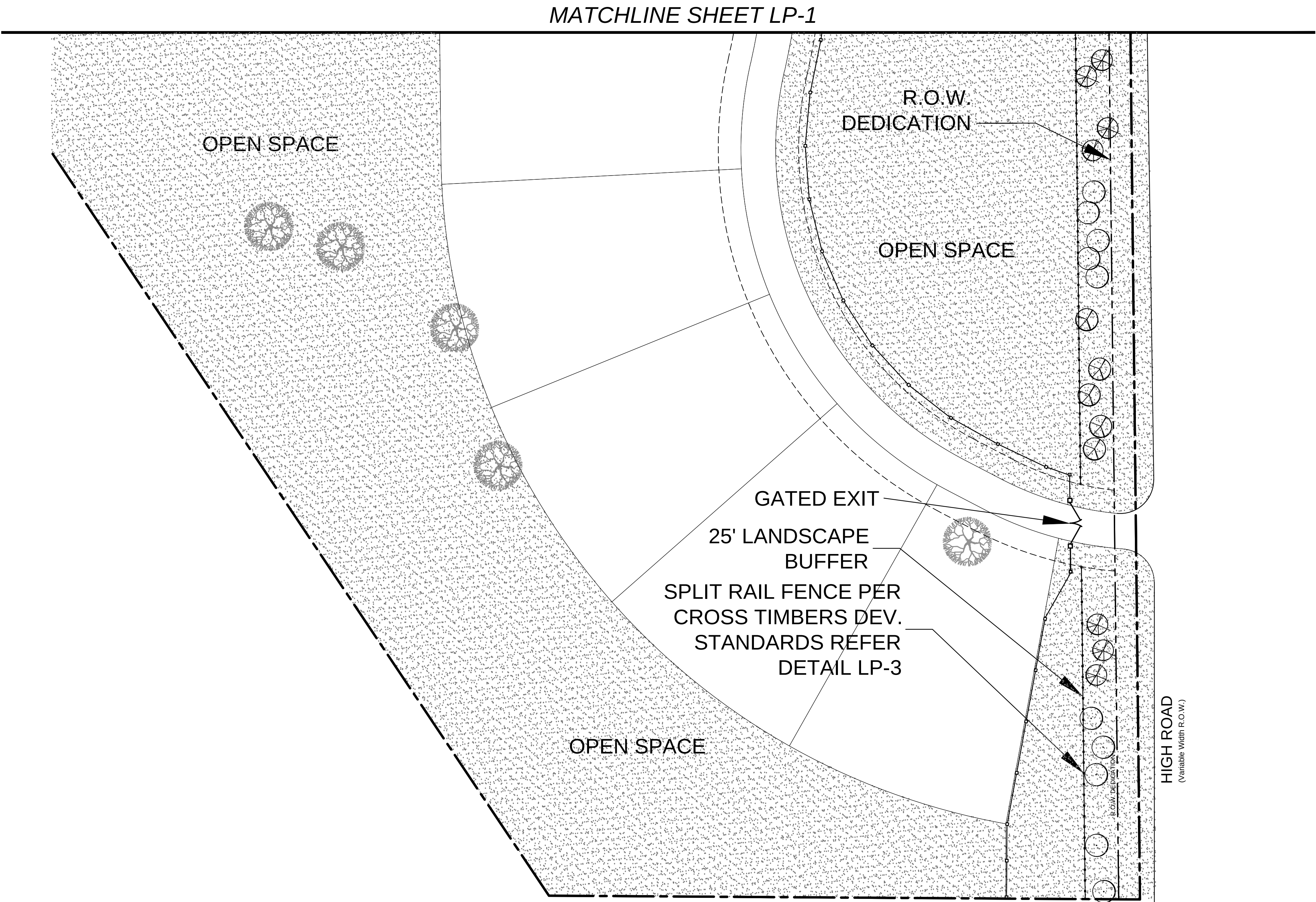
Serenity
RESENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

CONCEPTUAL
LANDSCAPE PLAN

Scale: 1"=50'-0"
Designed by: JBS
Drawn by: JBS
Checked by: SCDCG
Date: JULY 30, 2017
Project No. 035-023

SHEET
LP-1

No.1	8-28-17	Revised ROW	App.
No.2	9-25-17	Revised Per Town Comments	



ST. CLAIR DESIGN GROUP, INC

Landscape Architecture

P. O. Box 12519
Dallas, Texas 75225
T. 214-394-3641

DATE SEALED: 9-25-17

DESIGN BY: JBS
DRAWN BY: JBS
CHECKED BY: SCDG
DATE: JULY 30, 2017

CONCEPTUAL
LANDSCAPE PLAN
SERENITY
Residential Subdivision
28.920 acres
in the
J. Phillips Survey, Abst. No. 1019
in the
Town of Flower Mound
Denton County, Texas
EXHIBIT B

No.2	9-25-17	Revised Per Town	Comments	
No.1	8-28-17	Revised ROW		App.

Ridinger
Associates, Inc.

Civil Engineers - Planners

Firm No. 1368
P.O. Box 100
Lawrenceville, Georgia 30046
Tel. No. (770) 353-8000
Fax No. (770) 353-8011

Serenity
RESENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

CONCEPTUAL
LANDSCAPE PLAN

Scale: 1"=50'-0"
Designed by: JBS
Drawn by: JBS
Checked by: SCDG
Date: JULY 30, 2017
Project No. 035-023

SHEET
LP-2

See Attachment B(4) for Complete Environmental Protection Plan

EXHIBIT “C”
EPP



DALLAS OFFICE

February 15, 2017
Revised July 26, 2017

Dale Ridinger, President
Ridinger Associates
550 S. Edmonds Lane, Suite 101
Lewisville, TX 75067

Subject: Environmental Protection Plan for the Proposed Serenity Development, Flower Mound, Texas

Dear Mr. Ridinger:

This Environmental Protection Plan (EPP) was prepared to satisfy the Town of Flower Mound (Town) development requirements for the proposed residential development in Flower Mound (Proposed Serenity Development). The project site is an approximately 29-acre tract of mostly undeveloped grassland with wooded riparian corridors along the drainage features on site with areas of hay production located within a developing area of Flower Mound. The property is located west of High Road, near its southern terminus in Flower Mound, Denton County, Texas (**Figure 1**). This EPP summarizes a survey performed to identify Environmentally Sensitive Areas (ESAs) potentially present on the property. This EPP was developed in accordance with the Town of Flower Mound SMARTGrowth Program, Category E (6) Environmental Quality.

Site Description

On December 8, 2016, John Kemmey of GES (formerly KBA EnviroScience, Ltd.), performed a site investigation of the proposed development property to assess environmental features, and to determine whether there are any ESAs, as described in the SMARTGrowth Program, located on site. On February 10, 2017, Jose Alvarez of KBA performed a follow up site visit to determine the presence of prairie habitat. The proposed development design is provided as **Figure 2**.

The majority of the site is undeveloped grassland with wooded riparian corridors along the drainage features on site. The northeastern and east-central portions of the site are in hay production. Vegetation on the site is dominated by upland grasses and forbs including *Baptisia australis* (wild blue indigo), *Bouteloua dactyloides* (buffalograss), *Bromus arvensis* (field brome), *Celtis laevigata* (hackberry), *Digitaria ciliaris* (southern crabgrass), *Gutierrezia sarothrae* (broomweed), *Ilex vomitoria* (yaupon holly), *Juniperus virginiana* (eastern red cedar), *Ligustrum* sp. (privet), *Prosopis glandulosa* (honey mesquite), *Ailanthus altissima* (tree of heaven), *Quercus marilandica* (blackjack oak), *Quercus stellata* (post oak), *Schizachyrium scoparium* (little bluestem), *Smilax bona-nox* (greenbrier), *Solanum elaeagnifolium* (silver leaf nightshade), *Solidago* sp. (goldenrod), and *Sporobolus pyramidatus* (whorled dropseed).



One ephemeral stream originates on site in the northwestern portion of the site and flows west, eventually flowing into Lake Grapevine off site to the west. (**Figure 3**).

Soils onsite consist of clay. Elevation of the project area ranges from 560 to 640 feet above mean sea level (msl) as indicated on the USGS topographic map (USGS 2014) (**Figure 4**).

A review of the US Fish and Wildlife Service National Wetland Inventory (NWI) Map (**Figure 5**), shows surface waters regardless of their federal or state jurisdiction. The NWI map that includes this site (USFWS 2014) depicts no features on the project site.

Habitat Evaluation

A habitat evaluation was conducted to assess the presence, or likely presence, of federal and state-listed threatened or endangered species potentially occurring at the site. A protected species list for Denton County was obtained from the United States Fish and Wildlife Service (USFWS) and Texas Parks and Wildlife Department (TPWD) prior to the site visits. The evaluation considered the habitat provided by the site compared to the location of critical habitat and habitat preferences of the listed species.

There are fourteen species designated by the USFWS and/or the TPWD as threatened or endangered species in Denton County, as shown in **Table 1**.

Table 1: Federal and State-Listed Threatened and Endangered Species Potentially Present in Denton County, Texas

Species (Scientific Name) Federal, State Status	Species Habitat Description	Habitat Present	Effect	Pertinent Information
Peregrine Falcon (<i>Falco peregrinus anatum</i> and <i>Falco peregrinus tundrius</i>) --,T	Both subspecies migrate across the state from more northern breeding areas in US and Canada to winter along coast and farther south; subspecies (<i>F. p. anatum</i>) is also a resident breeder in west Texas; the two subspecies' listing statuses differ, <i>F.p. tundrius</i> is no longer listed in Texas; but because the subspecies are not easily distinguishable at a distance, reference is generally made only to the species level.	Yes	No	Species could potentially utilize the site temporarily during migration but is unlikely to be affected by the proposed project.
Bald Eagle (<i>Haliaeetus leucocephalus</i>) --, T	Found primarily near rivers and large lakes; nests in tall trees or on cliffs near water; communally roosts, especially in winter; hunts live prey, scavenges, and pirates food from other birds	No	No	Although no large lakes are located on the property, Lake Grapevine is adjacent to the west of the property. However, the site is too close to human activity to be attractive to this species.



Species (Scientific Name) Federal, State Status	Species Habitat Description	Habitat Present	Effect	Pertinent Information
Least Terns (<i>Sterna antillarum</i>) E, --	Migratory and breed along the river systems of Texas, especially the Red and Rio Grande River systems. Most often seen on sandbars in rivers and lakes or on pond edges free of vegetation, but may also breed on man-made structures such as water treatment plants. The birds nest in Texas during May through August, and winter in Central and South America.	No	No	Conditional species, adversely affected with conditions or activities related to wind energy projects. Current project not wind energy related. No sandbars on ponds or rivers are present on site.
Piping Plover (<i>Charadrius melodus</i>) T, --	Breeding area extends along the eastern coast of the United States south to southern Texas and includes the Great Lakes region, the northern Midwestern states, and south central Canada. The Piping Plover winters along the eastern Mexico coast. Piping Plovers nest on sandy beaches along the ocean or inland lakes; bare to sparsely vegetated areas on dredge-created and natural alluvial islands in rivers; gravel pits along rivers; and salt-encrusted bare areas of sand, gravel, or pebbly mud on alkaline interior lakes and ponds.	No	No	Conditional species, adversely affected with conditions or activities related to wind energy projects. Current project not wind energy related. No sandy beaches are located on site.
Red Knot (<i>Calidris canutus rufa</i>) T, --	Migratory and may stopover in gulf coast. Breeding habitat consist of slightly vegetated land in tundra. Wintering habitats consist of large sandy tidal flats and coastlines.	No	No	Conditional species, adversely affected with conditions or activities related to wind energy projects. Current project not wind energy related. No sandy tidal flats or coastlines are located on site.
White-faced Ibis (<i>Plegadis chihi</i>) --, T	Prefers freshwater marshes, sloughs, and irrigated rice fields, but will attend brackish and saltwater habitats; nests in marshes, in low trees, on the ground in bulrushes or reeds, or on floating mats.	No	No	No wetlands are located on site.
Whooping Crane (<i>Grus americana</i>) E, E	Potential migrant via plains throughout most of the state to coast; winters in coastal marshes of Aransas, Calhoun, and Refugio counties.	No	No	No large expansive wetland located on site to provide adequate habitat.
Wood Stork (<i>Mycteria americana</i>) --, T	Forages in prairie ponds, flooded pastures or fields, ditches, and other shallow standing water, including salt-water; usually roosts communally in tall snags, sometimes in association with other wading	No	No	No habitat conducive to this species is located on the site.



Species (Scientific Name) Federal, State Status	Species Habitat Description	Habitat Present	Effect	Pertinent Information
	birds (i.e. active heronries); breeds in Mexico and birds move into Gulf States in search of mud flats and other wetlands, even those associated with forested areas; formerly nested in Texas, but no breeding records since 1960.			
Red wolf (<i>Canis rufus</i>) E, E	Extirpated; formerly known throughout eastern half of the state in brushy and forested areas, as well as coastal prairies	No	No	Extirpated in Texas.
Louisiana pigtoe (<i>Pleurobema riddellii</i>) --, T	Streams and moderate-size rivers, usually flowing water on substrates of mud, sand, and gravel; not generally known from impoundments; Sabine, Neches, and Trinity (historic) River basins	No	No	Ephemeral channel on site not conducive to bivalves. Extirpated in Trinity Basin.
Sandbank pocketbook (<i>Lampsilis satura</i>) --, T	Small to large rivers with moderate flows and swift current on gravel, gravel sand, and sand bottoms; east Texas, sulfur through San Jacinto River Basins; Neches River	No	No	Ephemeral channel on site not conducive to bivalves.
Texas heelpitter (<i>Potamilus amphichaenus</i>) --, T	Found in flowing water, but not necessarily in riffles and shoals. It prefers quiet waters in mud or sand in small to medium rivers and reservoirs. Sabine, Neches, and Trinity River basins	No	No	Ephemeral channel on site not conducive to bivalves
Texas Horned Lizard (<i>Phrynosoma cornutum</i>) --, T	Open, arid and semi-arid regions with sparse vegetation, including grass, cactus, scattered brush or scrubby trees; soil may vary in texture from sandy to rocky. Feeds on harvester ants.	No	No	No habitat or harvester ants found on site.
Timber/Canebrake rattlesnake (<i>Crotalus horridus</i>) --, T	Swamps, floodplains, upland pine and deciduous woodlands, riparian zones, abandoned farmland; limestone bluffs, sandy soil or black clay, prefers dense ground cover, i.e. grapevines or palmetto	Yes	No	Woodlands, riparian forest, and dense ground cover are present on the western portion of the site. However, habitat on project site not unique. Surrounding, undeveloped properties provide similar habitat.

E = Endangered; T = Threatened

Based on the site visit, it is GES's opinion that the site offers potential habitat for the following threatened or endangered species:

- Peregrine Falcon (TPWD "threatened"), potential migrant;
- Timber/Canebrake rattlesnake (TPWD "threatened"), potential resident



None of the species identified as potentially inhabiting or feeding on the site were observed on the site and no field observations indicate their presence. Although the site offers potential habitat for the above-noted species, habitat on the project site is not unique in the area and surrounding, undeveloped land provides similar habitat. Therefore, the project is not likely to negatively affect the listed species potentially present in Denton County.

Environmentally Sensitive Areas

GES (formerly KBA) conducted a desktop analysis and field verification of the site and identified the following ESAs on the site:

Upland Habitat

The Town defines upland habitat as:

“Areas, a minimum of ten (10) acres in size, equal to or exceeding 50 trees per acre, which contain a predominate matrix of tree species identified in the Town’s Protected Tree List. Any tree species that makes up over thirty percent (30%) of the population within a complex is considered to be the predominate species.”

GES (formerly KBA) identified upland habitat in the western portion of the property. The upland habitat consisted of over 10 contiguous acres of forested land that contained greater than 50 trees per acre that was dominated by trees on the Town's Protected Species List. The site contains approximately 14.94 acres of upland habitat (**Figure 6**).

The upland habitat included *Baptisia australis* (wild blue indigo), *Bromus arvensis* (field brome), *Celtis laevigata* (hackberry), *Digitaria ciliaris* (southern crabgrass), *Gutierrezia sarothrae* (broomweed), *Ilex vomitoria* (yaupon holly), *Juniperus virginiana* (eastern red cedar), *Ligustrum* sp. (privet), *Prosopis glandulosa* (honey mesquite), *Quercus marilandica* (blackjack oak), *Quercus stellata* (post oak), *Schizachyrium scoparium* (little bluestem), *Smilax bona-nox* (greenbrier), and *Solidago* sp. (goldenrod). The vegetation observed appeared to be in good health.

Based on the vegetation present, this area is considered an ESA by the Town’s definition of upland habitat. Although there is approximately 14.94 acres of upland habitat on site, only 5.48 acres will be impacted by residential lots in the development and another 0.29 acres will be impacted by the Town-required roads. The remaining 9.17 acres of upland habitat will be preserved (Figure 5).

Riparian Habitat

The Town defines riparian habit as:

“Areas designated within the FEMA 100-year floodplain or interconnected and adjacent to wetland, tree and understory vegetation and including significant stands of predominately native water related habitat. These areas include wetlands.”



GES (formerly KBA) identified riparian habitat in the northwestern portion of the property along the western property boundary associated with the FEMA 100-year floodplain located in that area. The site contains approximately 0.38 acres of riparian habitat (**Figure 7**). Based on the vegetation present and its location, this area is considered an ESA by the Town's definition of riparian habitat. None of the riparian habitat will be impacted by the proposed development.

Prairie Habitat

The Town defines prairie habitat as:

"Areas designated as containing onsite predominate distributions of climax or mid-successional native grass species underlain by intact (non-eroded) prairie and savannah soil types."

The Town of Flower Mound's ESA Survey indicated that there are a few pocket prairies situated within the confines of the upland habitat area. The town notes that these areas are comprised of blue grama (*Bouteloua gracilis*), gayfeather (*Liatris* sp.), little bluestem (*Schizachyrium scoparium*), and Nuttall's wild indigo (*Baptisia nuttalliana*). A follow up GES site evaluation confirmed areas on site that meet the definition of prairie habitat as well as areas that appeared to be dominated by *Bromus arvensis* (field brome) and *Gutierrezia sarothrae* (broomweed). GES delineated prairie habitat based on the presence of little bluestem and gayfeather. GES concludes 0.18 acres of prairie habitat are located on the site. The proposed development will impact all 0.18 acres of prairie habitat (Figure 6).

Waters of the State

The Town defines waters of the State as:

"Groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state."

GES (formerly KBA) performed a jurisdictional determination of wetlands and other "waters of the United States" (as defined by the Clean Water Act) for the project. An ephemeral stream (Stream A) is located in the northwestern portion of the site (Figure 3). The stream is jurisdictional and is considered Waters of the State, and is therefore an ESA by the Town. Approximately 279 linear feet of ephemeral stream is proposed to be impacted by the development (**Figure 8**).

Developed Floodplain

The Town defines developed floodplain as:

“Any area defined as a floodplain within the FEMA 100-year floodplain and which has been channelized or the land within these areas have been graded, filled, or otherwise disturbed.”

The majority of the project site is located within “Zone X,” an area determined to be outside the 500-year floodplain, as mapped by the Federal Emergency Management Agency (FEMA) (Flood Insurance Rate Map Q3 Digital Data). The extreme northwest corner of the site is shown as being in “Zone AE”, areas that have a 1% probability of flooding every year (also known as the “100-year floodplain”), and where predicted flood water elevations above mean sea level have been established, as mapped by FEMA. A map showing the limits of Zone AE and Zone X is included as **Figure 9**. The FEMA-mapped 100-year floodplain area located within the property totals approximately 0.38 acres; however, the floodplain will not be impacted by the proposed development (Figure 9).

Topographical Slope Protection

The Town of Flower Mound’s SmartGrowth Implementation manual states:

“No development application or project shall be approved that proposes development on any existing topographical slopes of twelve percent (12.0%) or greater, or that proposes to alter any existing topographical slopes that are less than twelve percent (12.0%) but equal to or greater than five percent (5.0%) (other than within five feet of the footprint of the proposed structure or structures).”

Several locations on the proposed Serenity residential development have been mapped by the Town as areas having between 5% and 12% topographic slopes (7.8 acres) and having greater than 12% slopes (9.3 acres). The areas with greater than 12% slopes are generally located along the western property boundary and in the west-central portion of the site (**Figure 10**). Areas with slopes of between 5% and 12% are generally in the northern portion of the site. These areas are considered an ESA by the Town and meet the criterion for topographic slope protection.

Approximately 5.1 acres with topographic slopes between 5% and 12% are proposed to be impacted by the development (Figure 10). Approximately 1.6 acres of areas with slopes of greater than 12% slopes are proposed to be impacted by the development. An exception for the 5.1 acres of impacted land that have topographic slopes between 5% and 12% and the 1.6 acres of impacted land that have topographic slopes greater than 12% slopes is being requested.

Proposed Development Plan

The proposed site plan calls for the property to be developed as a residential development. In an attempt to preserve the natural habitat on the proposed Serenity residential development, tree and vegetation removal will be limited to only those trees and natural vegetation that would be affected by the proposed construction of the onsite roads, utilities, and structures.



Several mitigation strategies are proposed to compensate for any permanent impacts to environmentally sensitive areas. Best Management Practices (BMPs) will also be employed to retain sediments and other pollutants onsite during construction activities. A figure showing the overall development plan and impacts to Town-defined ESAs is shown as Figure 5 and 9.

Mitigation Measures During Project Planning and Construction

The following mitigation measures will be employed throughout the planning and construction of the project:

- The development plan has been designed to preserve as many trees and natural vegetation as possible while still allowing an economically viable development.
- Approximately 0.38 acres of Town-defined Riparian Habitat exists on site. The proposed development plan has been designed to preserve all of this habitat.
- Approximately 14.94 acres of Town-defined Upland Habitat exists on the site. The development plan has been designed to preserve more than half of this habitat. Approximately 5.48 acres of upland habitat is proposed to be impacted by lots and another 0.29 acres of upland habitat is proposed to be impacted by town roads. Approximately 9.17 acres of upland habitat will be completely unimpacted by the proposed project. Mitigation for the 5.48 acres of upland habitat impacted by the development will be accomplished by the preservation of 9.17 acres of upland habitat.

The new Town's ordinance, Section 94-40, Item 4 clearly states that mitigation credits will be given for Upland and Riparian Habitat, based on each acre of protected habitat preserved.

- Approximately 0.18 acres of Town-defined Prairie Habitat exists on the site. The proposed development will impact all 0.18 acres of prairie habitat. Mitigation for the impacted prairie habitat will be accomplished by transplanting native prairie vegetation on site. In addition, native vegetation will be planted onsite where feasible. The remainder of the mitigation for prairie habitat impacts will be fulfilled by planting native vegetation at Lewisville Lake Environmental Learning Area (LLELA). The transplanted and replanted vegetation will result in no net loss of prairie vegetation.
- A portion of Stream A will be filled to allow for the development of residential lots. Any fill in jurisdictional waters will be authorized under a US Army Corps of Engineers Section 404 permit. Specifically, Nationwide Permit 29 will be utilized for the aforementioned fill activity.
- Although every attempt has been made to minimize the number of trees damaged or removed during development, some impacts to trees will occur. The removal of trees will be limited to stressed or dead trees, trees within the footprint of proposed structures and roads, and trees needed to be removed to level the building lots. To reduce impacts, roads will be constructed so as to minimize the number of trees

needing to be removed. Mitigation for the impact to trees that must be removed will include tree preservation (where possible), additional tree and other native vegetation plantings, habitat improvement projects, and green space preservation.

- No areas with topographic slopes between 5% and 12% will be altered unless they are within five feet of a proposed structure or an exception of this requirement is issued by the Town. An exception of this requirement is being requested for approximately 5.1 acres of land with slopes between 5% and 12%. An exception is also being requested for the impacts to 1.6 acres of land with slopes greater than 12%.
- Silt fencing will be installed and maintained in compliance with TCEQ Construction General Permit requirements. This structural feature will minimize sediments from entering the Town's storm sewer system.
- Silt fencing will be installed perpendicular to the direction of flow, especially along roadways and drainage/low elevation areas.
- Stabilized construction entrances will be installed at appropriate locations onsite. These structural features will reduce the risk of transporting mud or sediment onto the adjacent roads and other nearby roadways.
- Major soil disturbing activities will be sequenced to preserve existing vegetation.
- Storm water control devices will be installed to promote sedimentation onsite, limit runoff, and reduce the velocity of concentrated flows to reduce erosion and scouring to onsite and adjacent drainages.
- Storm water control devices will be maintained until stabilized disturbed areas have achieved final stabilization.
- Active migratory bird nesting areas will not be disturbed during site development. Although not anticipated, if a threatened or endangered species is encountered during site development, the USFWS and/or TPWD authorities will be contacted immediately.

Conclusions

Based on the site visit, ESA Survey performed by GES (formerly KBA), and proposed zoning for the site, GES concludes the following:

- The project site contains potentially suitable habitat for the Peregrine Falcon (*Falco peregrinus*) and the timber/canebrake rattlesnake (*Crotalus horridus*). Neither of these listed species were observed onsite. Potential habitat for these species does exist on site, however, the habitat on the project site is not unique and surrounding, undeveloped properties will provide adequate habitat to prevent negative impacts to these species.



- Town-defined Environmentally Sensitive Areas exist on the project site. Prairie habitat, upland habitat, riparian habitat, waters of the state, developed floodplain, and topographical slope protection areas have been identified on site. No other environmentally sensitive areas were observed on the site. Although some impacts to these areas are anticipated, mitigation measures that compensate for these impacts will be conducted.
- The project will strictly adhere to the Town's tree ordinance and other environmental mandates.

The proposed Serenity residential development will be designed to allow for the partial preservation of existing natural habitat. The preserved trees will provide an aesthetic value to the site and continue to provide habitat for a variety of biota including songbirds, mammals, reptiles, and insects.

Please let either of us know if additional information would be helpful.

Groundwater & Environmental Services, Inc.

Sincerely,

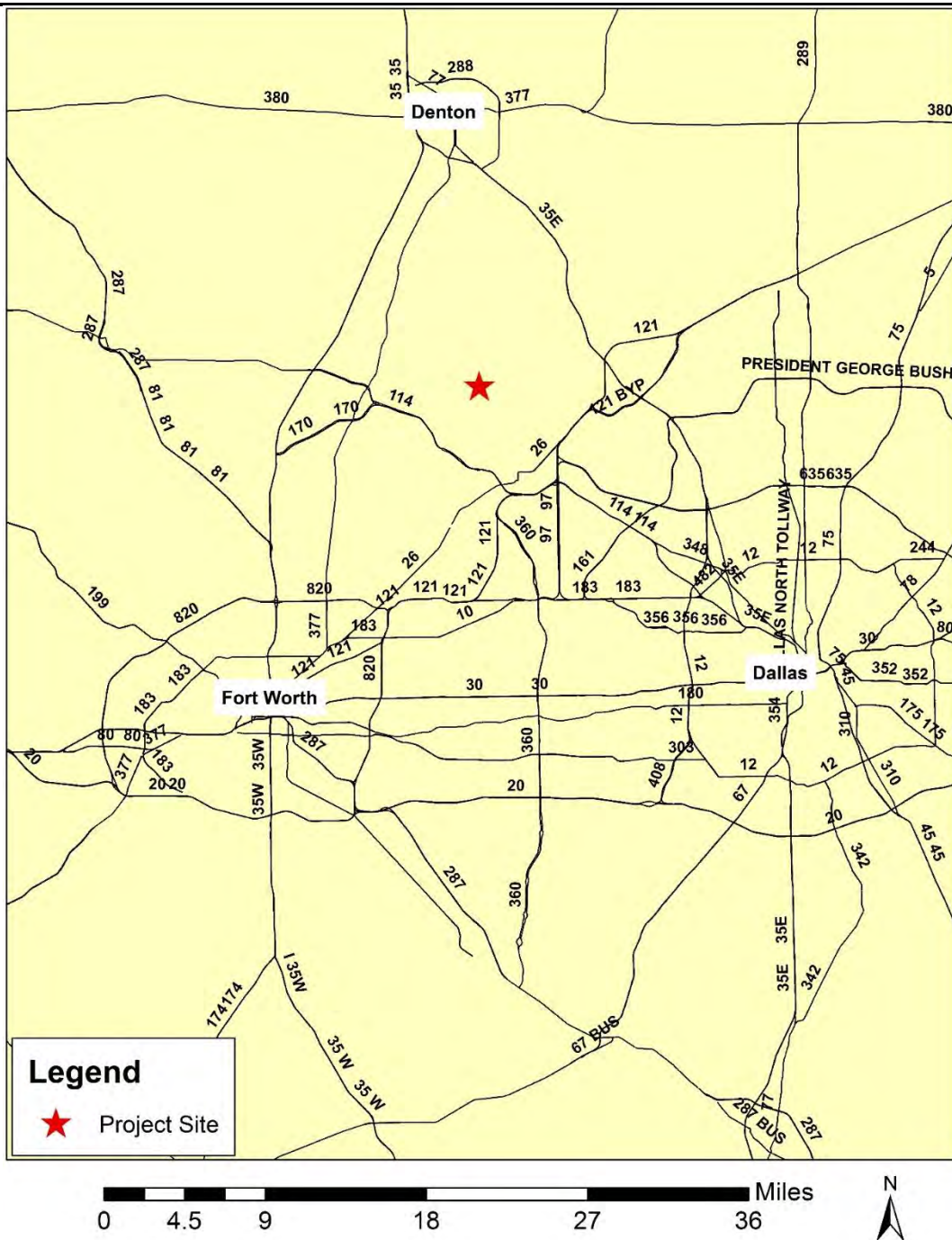
A handwritten signature in blue ink, appearing to read 'Joe Schwartz', with a long horizontal flourish extending to the right.

Joseph Schwartz
Principal Environmental Scientist

A handwritten signature in blue ink, appearing to read 'C. Keith Bradley', with a long horizontal flourish extending to the right.

C. Keith Bradley, REP, CWB
Director, Water and Natural Resources

FIGURES



Ridinger Associates
Project # 4300040



Date: 7/25/2017
Prepared by: M. Peters

Figure 1. Site Location Map for the Proposed Serenity Residential Development, Flower Mound, Denton County, Texas.

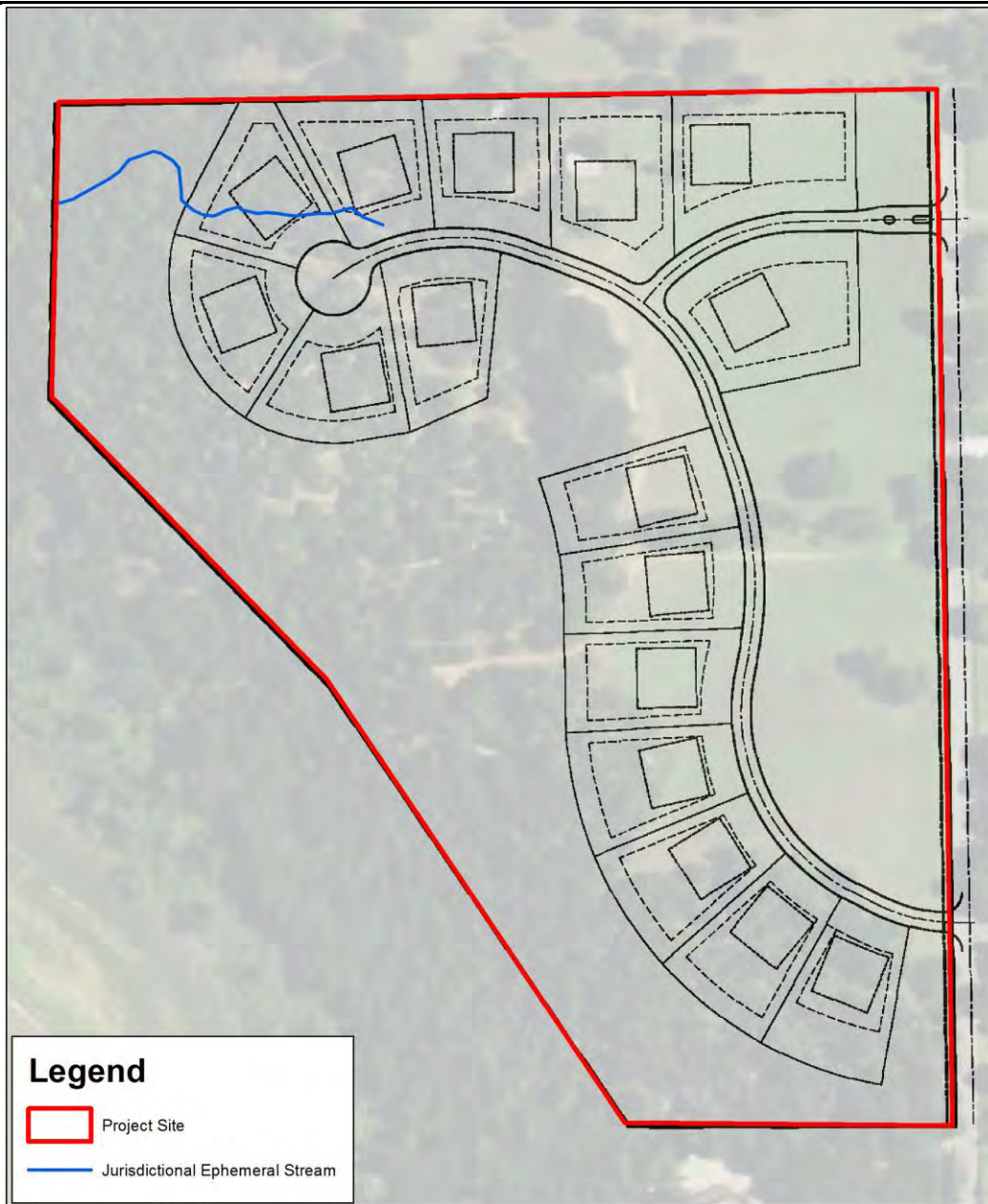


Ridinger Associates
Project # 4300040



Date: 7/25/2017
Prepared by: M. Peters

Figure 2. Proposed Serenity Residential Development Plan,
Flower Mound, Denton County, Texas.

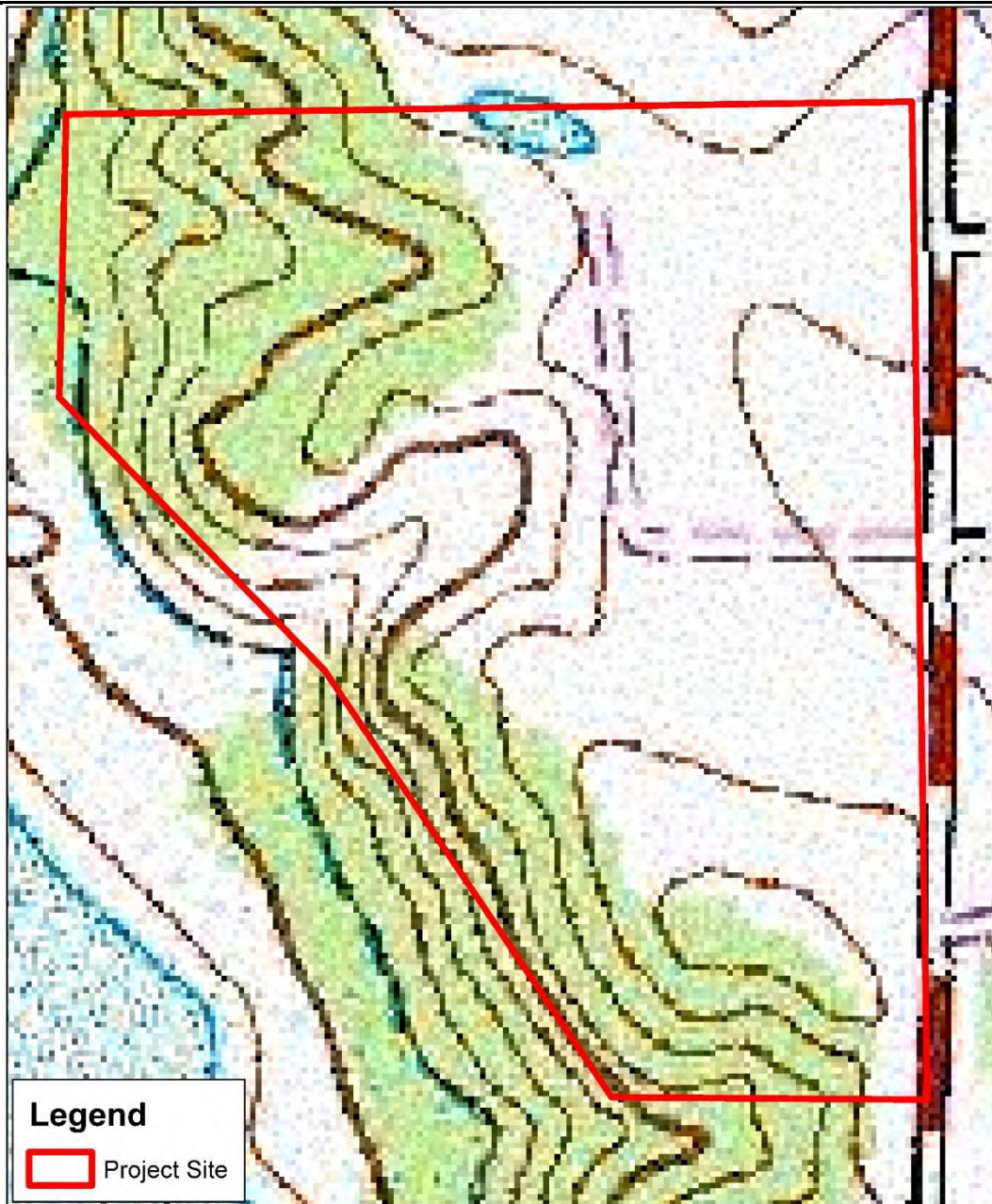


Ridinger Associates
Project # 4300040



Date: 7/25/2017
Prepared by: M. Peters

Figure 3. Jurisdictional Waters for the Proposed Serenity Residential Development, Flower Mound, Denton County, Texas.



0 120 240 480 720 960 Feet

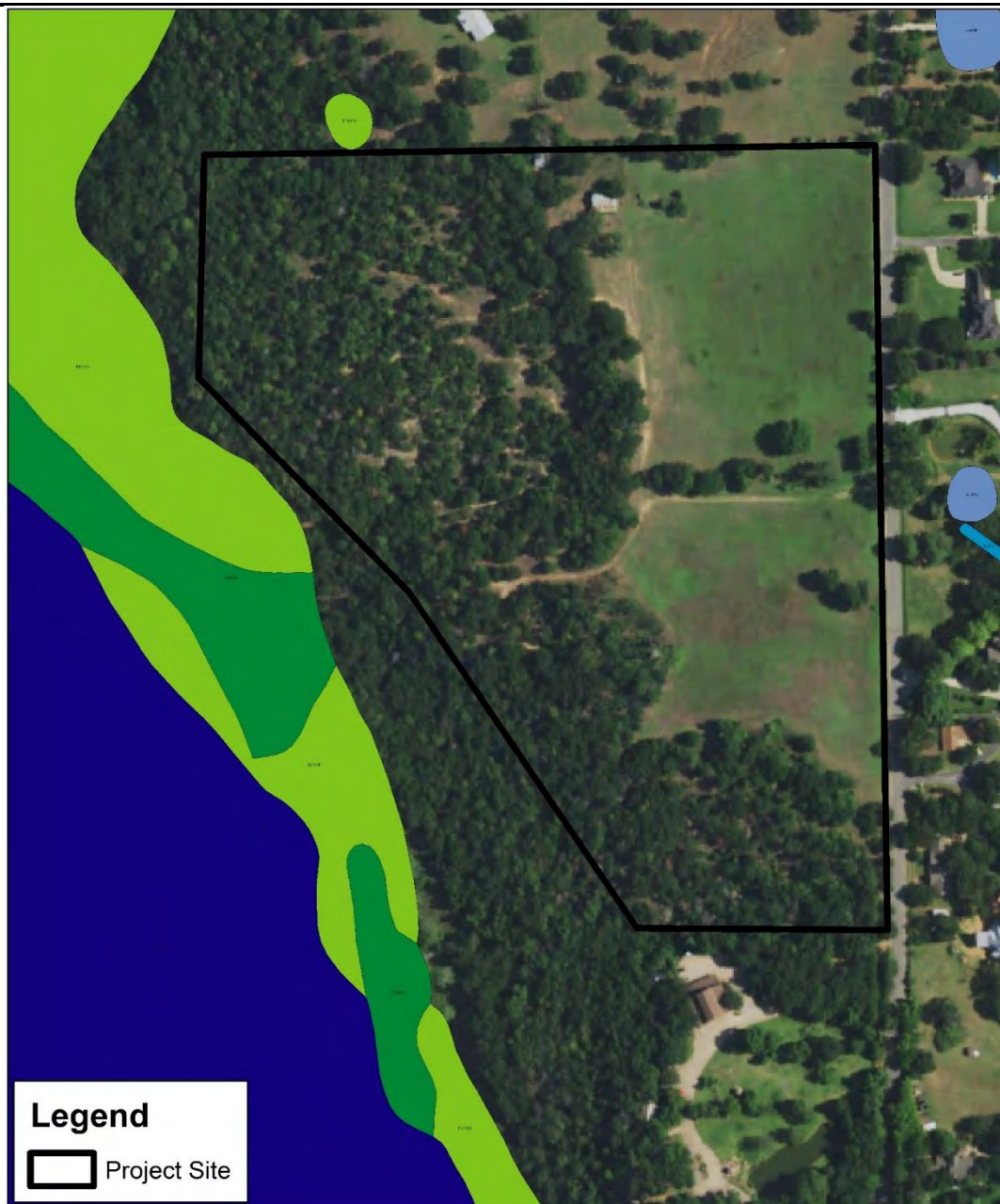


Ridinger Associates
Project # 4300040



Date: 7/25/2017
Prepared by: M. Peters

Figure 4. USGS Topographic Map of the Proposed Serenity Residential Development, Flower Mound, Denton County, Texas.

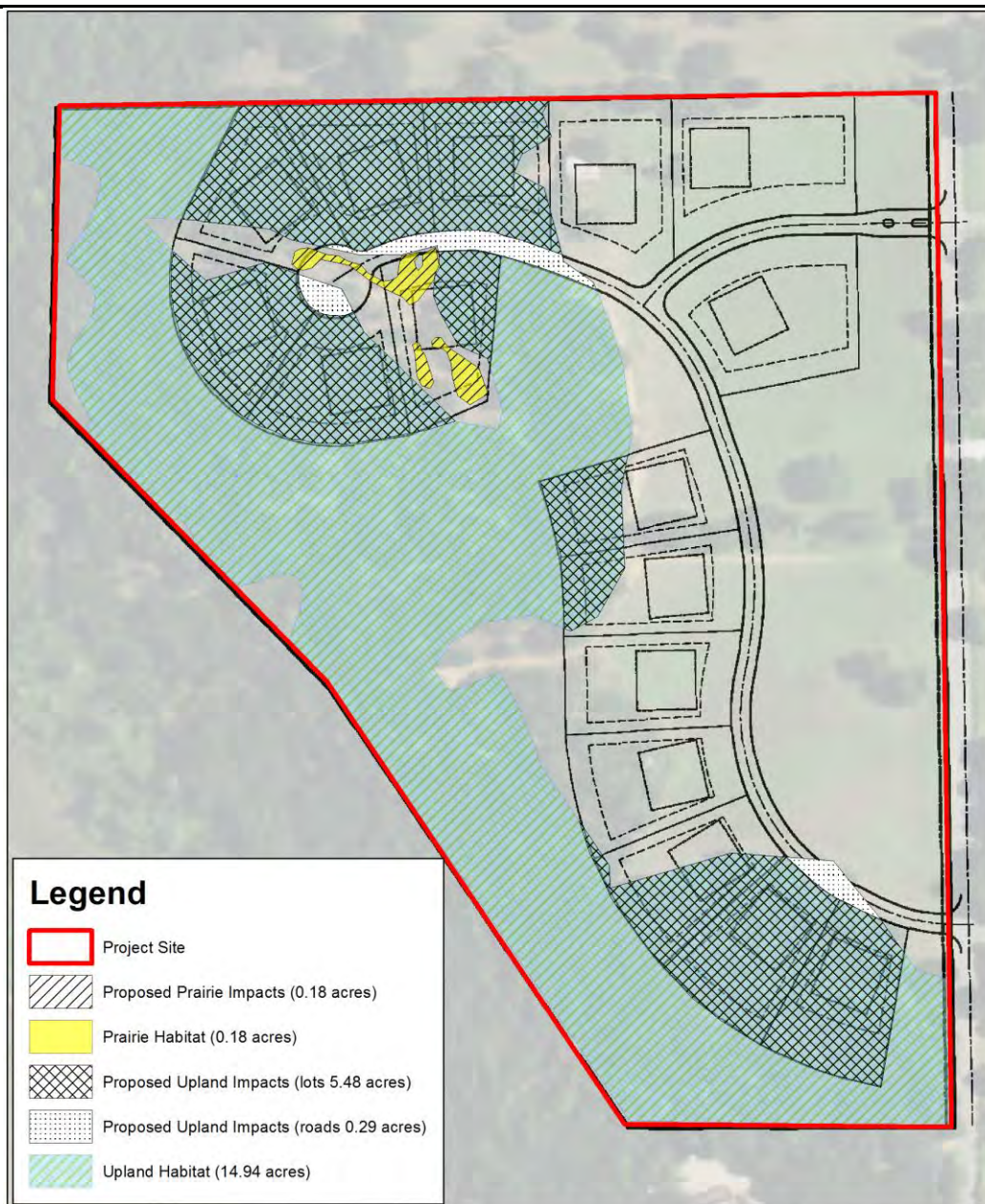


Ridinger Associates
Project # 4300040



Date: 7/25/2017
Prepared by: M. Peters

Figure 5. NWI Map of the Proposed Serenity Residential Development, Flower Mound, Denton County, Texas.

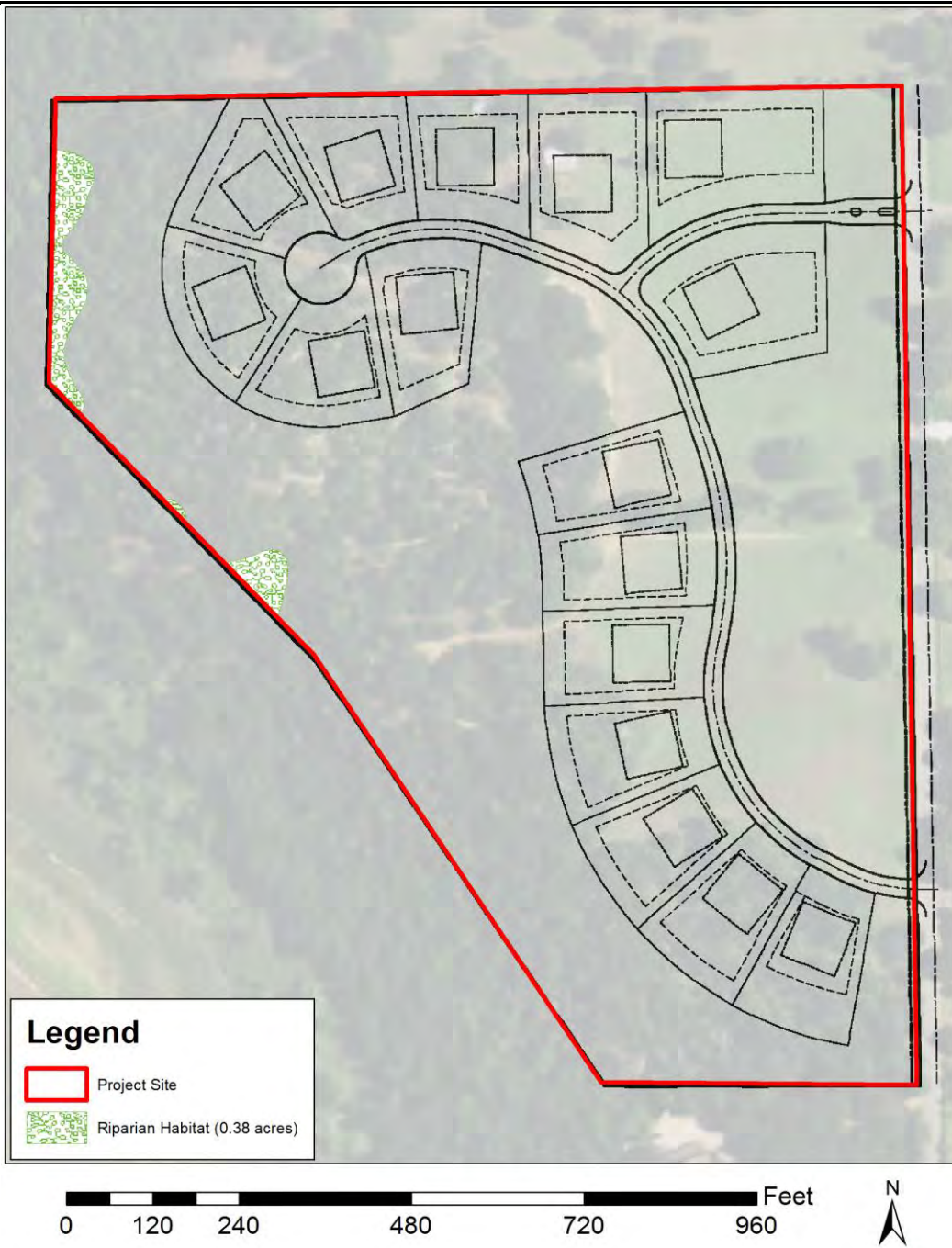


Ridinger Associates
Project # 4300040



Date: 7/25/2017
Prepared by: M. Peters

Figure 6. Habitat and Proposed Habitat Impacts for the Proposed Serenity Residential Development, Flower Mound, Denton County, Texas.

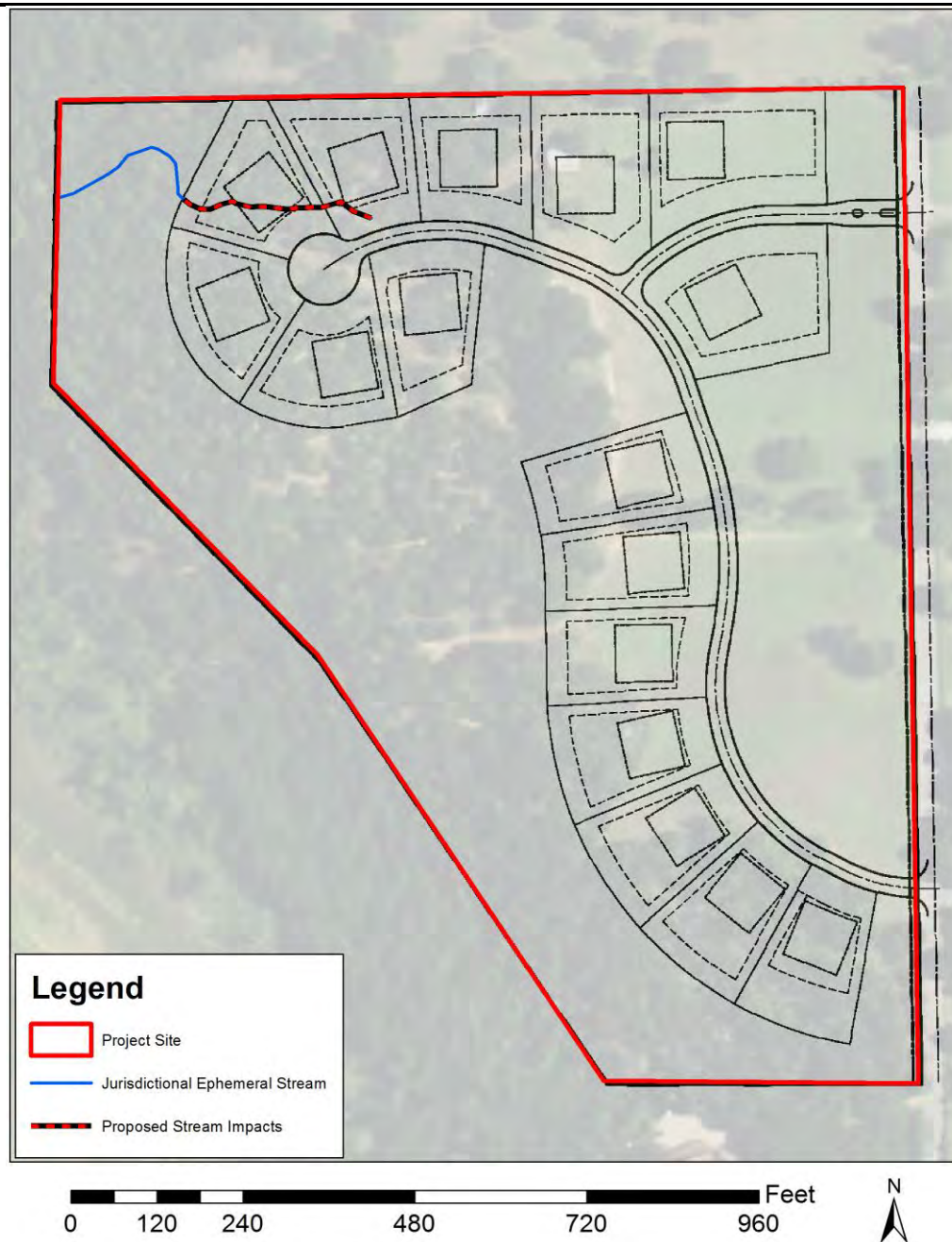


Ridinger Associates
Project # 4300040



Date: 7/25/2017
Prepared by: M. Peters

Figure 7. Riparian Habitat for the Proposed Serenity Residential Development, Flower Mound, Denton County, Texas.



Ridinger Associates
Project # 4300040



Date: 7/25/2017
Prepared by: M. Peters

Figure 8. Jurisdictional Waters Impacts for the Proposed Serenity Residential Development, Flower Mound, Denton County, Texas.

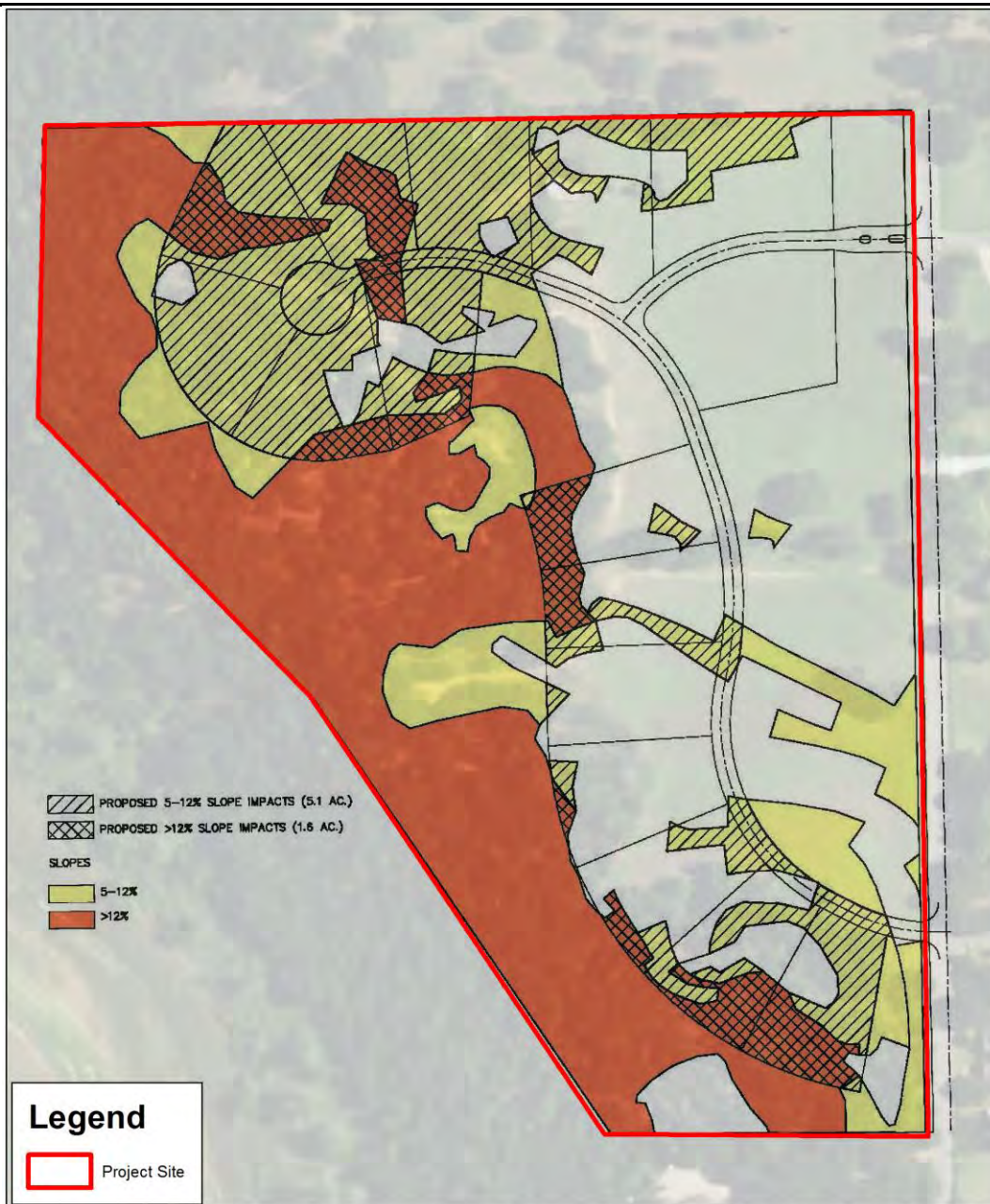


Ridinger Associates
Project # 4300040



Date: 7/25/2017
Prepared by: M. Peters

Figure 9. FEMA 100-year Floodplain Map for the Proposed Serenity Residential Development, Flower Mound, Denton County, Texas.



Ridinger Associates
Project # 4300040



Date: 7/25/2017
Prepared by: M. Peters

Figure 10. Topographic Slopes Impacts Map for the Proposed Serenity Residential Development, Flower Mound, Denton County, Texas

Attachment C(1): Correspondence in Opposition

From: [Acermovers](#)
To: [planning](#)
Subject: Opposing Serenity
Date: Thursday, November 09, 2017 2:23:47 PM

Dear Planning Commissioners, Town Council & Mayor,

As concerned neighbors of a High Road subdivision, we are opposed to the proposed cluster development located at 2801 High Road. We respectfully asked for our voices to be heard not because we are anti-growth, but because we are enthusiastic supporters of smart, planned urban development. Our most compelling reasons include 1) When we first remodeled our home in this area, we were forced to follow and maintain the rural feel of the area and ecological values. 2) This is an inappropriate use of large scale development in an Area of Stability. 3) The proposed rezoning is inconsistent with safety and general welfare of those living in this community. 4) The neighborhoods surrounding the property will witness a dramatic increase in traffic. Furthermore, 5) the proposed rezoning is inconsistent with Ordinance No. 64-13 that allows for cluster developments Cross Timbers Conservation Development District. For the aforementioned reasons we urge you to listen to our concerns regarding this matter before making your decisions. I hope we can agree in a decision that will be acceptable to all the parties involved . Thank you, Javier and Adriana Araya

From: [Tim Bushee](#)
To: [planning](#)
Subject: Against Serenity ZPD16-0007
Date: Thursday, November 09, 2017 1:53:33 PM

P&Z Commissioners and Town Councilmen,

We are writing to share our opposition to the proposed cluster development called Serenity, located on the southwest side of High Road.

High Road is one of the most unique areas in Flower Mound. We make certain sacrifices to live in the Cross Timbers. We don't have sewer, high-speed internet isn't even an option, when a water main breaks (which it frequently does), the entire area is without water for a good portion of the day while repairs are made. The roads are very narrow, drainage is an issue, and it is not uncommon for feral hogs to tear up our yards or foxes and coyotes to run off with our pets.

But we are willing to make those sacrifices for the rural feel our neighborhoods have. We trade certain amenities for the country atmosphere and proximity to Lake Grapevine.

So when we look at this proposed neighborhood, it just doesn't feel right for the area. Our neighborhoods aren't gated communities, they aren't even fenced in. Serenity would be surrounded by properties zoned agriculture, with pastures and cows, llamas and horses. It's just not the right spot for a development like this, and we are against the rezoning to allow this to happen.

Erika and Tim Bushee
3304 Indian Trail
Flower Mound, TX 75022

From: [Dana](#)
To: [planning](#)
Subject: Opposition to Serenity (ZPD16-0007).
Date: Wednesday, November 08, 2017 5:10:28 PM

Flower Mound has plenty high-density housing options. I oppose Serenity as it is being planned currently. Follow the master plan for development as is stands now.

Dana Clark

From: [Clint Cornett](#)
To: [planning](#)
Cc: [Mayor - Tom Hayden](#); [Place1 - Jason Webb](#); [Place2 - Bryan Webb](#); [Place3 - Kevin Bryant](#); [Place4 - Don McDaniel](#); [Place5 - Claudio Forest](#)
Subject: Proposed Serenity Cluster Development - Public Hearings (11/13 & 11/20)
Date: Wednesday, November 08, 2017 5:26:37 PM
Attachments: [Proposed Serenity Cluster Development - Public Hearing Views 11-09-2017.pdf](#)

P&Z Commission and Town Council,

Please find attached my views and concerns pertaining to the proposed Serenity cluster development within the Cross Timbers Conservation Development District.

Thank you for taking the time to review and consider the information provided.

Regards,

--

Clint Cornett

President | Appraisers Direct, Inc.

Texas Certified Residential Appraiser – TX-1327017-R (25 Years)

[Redacted]

[Redacted]

Proposed “Serenity” Cluster Development (CTCDD)

November 9, 2017

To: P&Z Commission and Town Council

RE: Public Hearing “Serenity” Cluster Development (November 13th and November 20th)

The following information is being provided for consideration during the public hearings regarding the Serenity Cluster Development which has been proposed for 2801 High Road, a 28.911 acre tract located within the Cross Timbers Conservation Development District.

High Road is currently designated as a Country Road (Rural Collector) by the Town of Flower Mound Urban Design Plan.

Country Roads provide preservation of the natural landscape, naturalized new landscape, and design features to preserve the country atmosphere and natural environment which distinguishes the Cross Timbers Conservation Development District. Country Roads include the Town’s Rural Collectors and High Road.

A Scenic Corridor is comprised of any land, whether public or private that is visible from scenic or **Country Roads** and that possesses any of the open space or natural elements indicative of the country atmosphere and natural environment as described in the Flower Mound Open Space Plan.

Scenic Corridor Development Patterns:

- Placement of ***new house lots should be outside of the view area if feasible, or sited so that any new houses face toward the Scenic or Country Road across conserved open space.***
- New house lots should be accessed by internalized roadways, and not directly from Scenic or Country Roads.
- House lots should be grouped and dispersed to minimize linear relationships visible inside of the scenic corridor.

Scenic Corridor Perimeter Fencing Elements:

- **Views of scenic corridors and vistas should be retained** by the limited use of foreground plantings.
- No earthen berm or solid masonry walls will be allowed within this district; **however, multi-rail or pipe fencing with stone columns in either white, black, dark green, or an earth-tone color is allowable for new development.**
- Plantings should include native species only and arranged in groupings (groves or drifts) verses a continuous massing screen.
- Implementation will be provided at the time of development by the private developer.

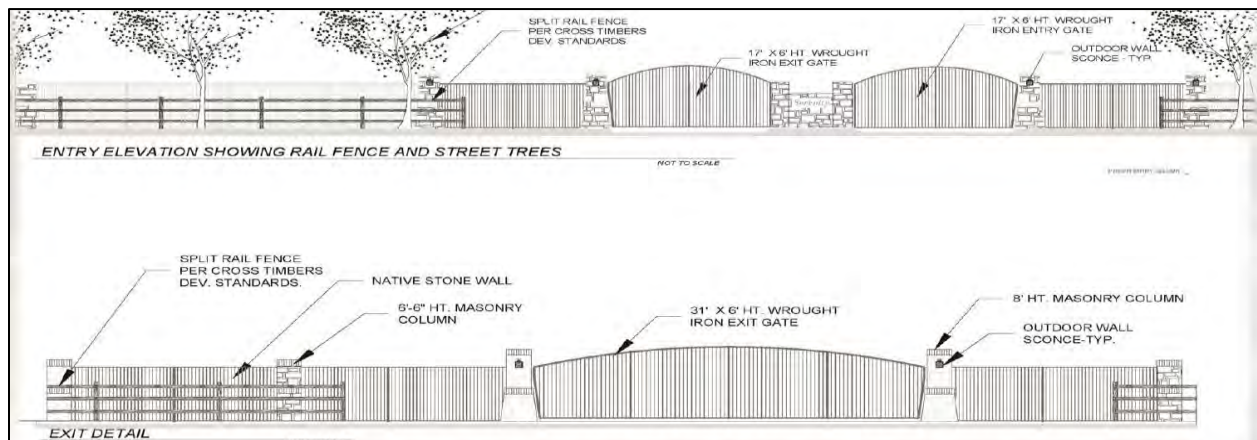
Proposed “Serenity” Cluster Development (CTCDD)

Proposed Security Fencing:

Based on the proposed concept below the development will have a standard rural split rail fence **however the concept plan also proposes the development will have along High Road (Country Road - Scenic Corridor) a six foot iron security fence approximately fifteen feet inside of the standard rural fence.**

The split rail fence conforms to the immediate market area which will preserve the “Country Atmosphere”. However, the proposed six foot iron security fence inside the split rail fence is **non-conforming to the immediate market area and does not preserve the “Country Atmosphere” along High Road, a Country Road.**

Proposed Perimeter Fence and Gates:



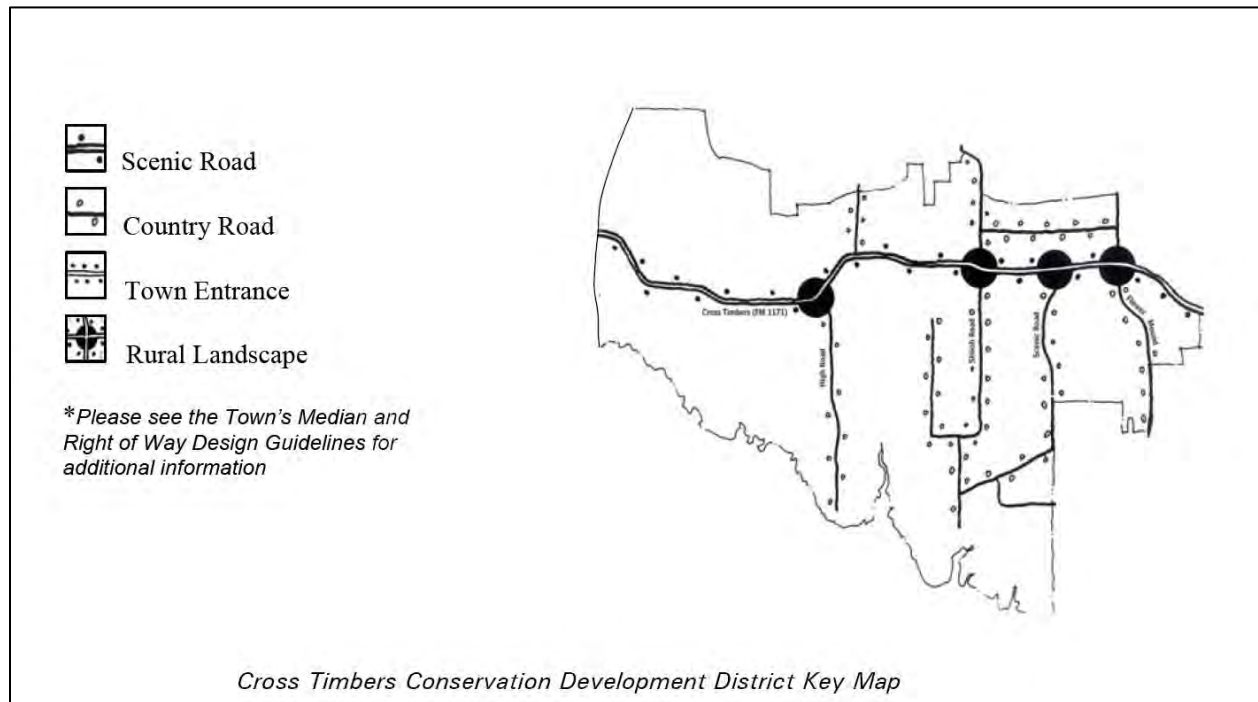
It is noted, driveways and private roads leading to residences within this “Country Atmosphere” are gated; however the biggest distinguishing factor is that these properties all have a three to four foot iron fence or a split rail fence which conforms to the overall “Country Atmosphere” along High Road.

The proposed development will be the only fully gated secure multi home development along a defined “Country Road” within the central portion of the Cross Timbers Conservation Development District, to my knowledge. Based on the Town ordinances and the Town’s Urban Design Plan, the intended purpose is to retain the “Country Atmosphere” and **the proposed development is inconsistent with the Towns vision within the Cross Timbers Conservation Development District.**

The Urban Design Plan also defines Flower Mound Road as a Country Road. The newly developed Town Lake at Flower Mound development on Flower Mound Road is the gateway to the Cross Timbers Conservation Development District and this development was developed with an attractive split rail fence running parallel to Flower Mound Road with appealing entrances. This preserves the “Country Atmosphere” which is consistent with the Towns vision. With that said, a similar split rail fence with an appealing neighborhood entrance would be most conforming to the immediate market area along High Road and it will be consistent with the Towns vision within the Cross Timbers Conservation Development District.

Proposed “Serenity” Cluster Development (CTCDD)

Cross Timbers Development District Key Map:



The proposed gated development does not preserve the “Open Space” concept on a Country Road within a Scenic Corridor within the Cross Timbers Conservation Development District.

The High Road market appeal is the open space and by having a gated development with a six foot iron fence adversely impacts the market appeal of this market area at the end of High Road. **The proposed development is located in a rural setting, with a “Country Atmosphere” with extensive open space along a Country Road. The proposed development is not conforming to the immediate market area.**

Towns Example – Country Road:



Towns Example – Sample Requirement:

[illegible]

Proposed “Serenity” Cluster Development (CTCDD)

High Road Construction Traffic – Concerns:

High Road as defined by the Town of Flower Mound Country Road. Currently High Road is a small two lane (limited width) asphalt road which provides access for homeowners in the general market area. High Road currently suffers from deferred maintenance, specifically south of Rolling Hills all the way to the southern end, which is a dead end road. Due to the current condition of High Road, homeowners that utilize High Road to access their residences have significant concerns regarding the adverse impact of the construction traffic along High Road and the overall condition and maintenance of the road going forward.

Substantial construction traffic over a 2-3 year period will further deteriorate the condition of High Road, therefore adversely impacting residences in the market area.

Public Hearing Questions Regarding High Road:

- What will be the Town's plan to preserve High Road for the 1000's of residences in this market area that utilize it on a daily basis?
- Will there be an impact test completed, to determine how the construction traffic could potentially adversely impact the condition and use of High Road?
- If High Road is significantly damaged or it further deteriorates, will the Town have a plan of action in place to repair and/or resurface High Road?
- Will the developer be liable (funds in escrow to repair) for any damage and/or further deterioration of High Road from construction traffic? If so, what will be the required time frame to complete necessary repairs?
- Will there be a designated turn around for construction traffic, to prevent construction traffic from accessing private roads along High Road?
- Will there be a designated wash out area to prevent construction trucks from cleanout on High Road?

Proposed “Serenity” Cluster Development (CTCDD)

Closing Statement:

As a homeowner in the immediate area (High Road Ridge Neighborhood) I understand property owners have the right to develop their land for an economic benefit. However, the development must comply with all of the Towns ordinances within the Cross Timbers Conservation Development District as well as be conforming to the immediate market area to preserve the “Country Atmosphere”. After review of the proposed development and based on the public information available through the Towns website the development does not appear to be consistent with the Towns vision within the Cross Timbers Conservation Development District. As representatives of the Town and residences, please consider the Towns original vision within the Cross Timbers Conservation Development District, specifically along a designated Country Road.

The market appeal of this area in Flower Mound within the Cross Timbers Conservation Development District is the rural setting, “Country Atmosphere”. A gated development with a six foot security fence running parallel with High Road does not conform to the immediate market area and the “Country Atmosphere”. The proposed development could potentially adversely impact the overall market appeal of the immediate market area and market demand for other homes in the market area. The proposed development will be a “white elephant” for this market area. Individuals that purchase homes to live within this market area do so for the “Country Atmosphere”, not to live behind a secure gated development. Gated developments are more suited for high density market areas, not a “Country Atmosphere”.

Thank you for taking time to review and consider my concerns and that of many homeowners in the immediate market area. Please evaluate all concerns addressed and consider them in your final decision regarding the proposed Serenity development along High Road.

Respectfully,

Clint Cornett
Certified Real Estate Appraiser – 25 Years
Flower Mound Resident
2718 Lake Ridge Road
Flower Mound, TX 75022

From: [C. Finley](#)
To: [planning](#)
Subject: Opposition to the Serenity Development on High Road (ZPD16-0007)
Date: Wednesday, November 08, 2017 10:32:22 PM

Dear Planning Commissioners, Town Council & Mayor,

My husband and I are writing in opposition to the proposed cluster development located at 2801 High Road. We live near this planned development and feel it does not fit with our more established area which maintains a rural feel, nor does it comply with Ordinance No. 64-13 that amends the Cross Timbers Conservation Development District to allow for cluster developments. Per the ordinance, the cluster is to be developed in such a way so as "to preserve scenic corridors and vistas," yet this development will have the backsides of homes facing the property to the north and south of it. There will be no "continuation of open space" between adjacent properties and there will be no protection of "ecological values" as stated in the ordinance to justify this cluster development. This proposed cluster of homes, along with its open space, will be completely encased by a 6 foot tall security fence which is a very unwelcoming site in an established neighborhood where many of us know each other and socialize together. The developer wants it to be a gated closed community. We like the rural and open space feel of our neighborhood which is what attracted many of us to live here. This proposed development is bounded on the north by a 10 acre parcel of land where cattle graze and to the south by eight acres with llamas on it. Directly across from this proposed development is an 18 acre horse farm.

We also have a number of other concerns with this development as it pertains to Lake Grapevine on the western side. We are worried about soil erosion into the lake with the significant cutting of the upland habitat's trees, bushes, and vegetation. The root system of this habitat also acts as a filter for water run-off from outside pollutants such as herbicides and pesticides, and helps keep our lake clean. More importantly, no studies were done on the effect on water quality by adding 16 septic systems in a concentrated area next to the shallow end of the lake. We are concerned about the western slope exceptions the developer is requesting as well.

It is also well known that the farm and some of the houses on the east side of High Road deal with flooding during hard rains which will only be made worse by this cluster development since much of the run-off comes from this property.

We hope you will do the right thing by denying this zoning change request.

Sincerely,
Caroline & Marc Finley
2600 Bourne Lane
Flower Mound, TX 75022

From: [REDACTED]
To: [Chuck Russell](#)
Subject: Re: Serenity - 29 Acres
Date: Saturday, July 23, 2016 5:38:58 PM

On Jul 23, 2016, at 2:50 PM, C Finley

[REDACTED] <mailto:[REDACTED]> wrote:

Chuck,

Thanks for keeping me in the loop. I know you are extremely busy so I decided to go ahead and e-mail you some of our concerns regarding Reginald's proposed development. We read through your comments on the Serenity property dated July 17, 2016. One of the first things we noticed is that there is no sign on the property stating a zoning request change as required by your document. If it is there, then it is not prominently displayed as we could not see it. Also regarding point #11 of your document requesting more information on how the lot sizes and configuration fit with the surrounding neighborhood, we would argue it doesn't. The 10 acre rectangular lot just north of the 29 acres (3031 High Road) would be severely devalued if Reginald's plan were allowed to proceed as is. The back's of all his homes would face that property which no one would be happy with. Unfortunately the sole landowner of this property, Marian Eloise Reuther, has recently passed away and is unable to complain herself. An additional concern is the number of trees that will be clear cut on the western side of the Serenity property facing the lake. Please note that after 10 years of living here and also coming to this area to hike the lake trails many years previous to that, we have seen this finger of the lake completely dry up. In the last ten years our area has suffered through two of the worst droughts ever. They lasted a number of years. If Reginald cuts down a large number of those trees, more often than not, the houses will be overlooking a caked mud flat than a full lake. The owners of those expensive homes will not be very happy. As you don't need to be reminded, our area suffers from many more droughts than floods (which is current state of the lake now). Are there additional people we may speak with at the Town regarding our concerns?

Caroline & Marc Finley

To: Flower Mound Town Council and P&Z Members

From: Lori Holland, a High Road resident

Date: November 8, 2017

Re: South High Road, Zoning Change from Ag to Cluster (Serenity Development)

I would like to invite each of you to take a drive down High Road, if you haven't already, so that you may make an informed decision regarding increasing the current density of the above-mentioned property. It is a very scenic and historic road. And, to my knowledge there is not another road like it in Flower Mound.

I have been a High Road resident for over 22 years; I raised my children here. Fourteen years ago, I started a pet sitting business serving High Road and Chimney Rock residents. I have been fortunate to serve over 150 families in this time period. Because of it, I am up and down High Road many times a day. I fervently believe that High Road cannot SAFELY accommodate the increase in traffic a cluster development would bring for the following reasons:

- It has 2 curves, a right-angle curve near the beginning and an S-curve about a mile down. Both of these curves have blind spots.
- The S-curve is built into a side of a hill overlooking Lake Grapevine. To the west (downhill), there are 3 homes with driveways accessing High Road; to the east (uphill), there is a rock retaining wall lining a portion of the curve. There is essentially no shoulder to the west and only a partial shoulder intermittently to the east.
- This is a narrower than average road which doesn't even qualify for a center yellow stripe.
- This is the only entrance/exit for the 230+ families that live here.
- There are approximately 80 homes currently in and south of the S-curve.

I have heard more than once that there isn't a big difference between building 14 homes (based on current agricultural designation) and 16 homes (based on cluster designation) on this property. It is my understanding that if this property were to stay zoned agricultural, 17 of the 28-29 acres are not buildable. So now we're talking that possibly only 6 homes can actually be built. I believe that it is in the best interest and safety of the current and future High Road residents that the amount of homes built on this property be kept to an absolute minimum.

I have heard about the possibility of widening High Road and putting in a bike path. If you drive down High Road you will see that that would be almost impossible. And if done, it would be astronomically expensive, plus an engineering nightmare.

The people who live and move here do so because of the semi-rural/country feel it has. All I can ask is that when you vote on whether or not to increase the density, please keep in mind the havoc and safety issues that an increase would create for this wonderfully unique community.

Respectfully,



Lori Holland

From: [JON HOWES](#)
To: [planning](#)
Subject: Opposition to Serenity (ZPD16-0007)
Date: Thursday, November 09, 2017 7:10:41 AM

I am Jon Howes and reside at 7401 Bolo Ln, Flower Mound, Texas 75022.

I oppose approving the Serenity cluster development. I believe this project does not meet the spirit of the CTCDD ordinance and will negatively and permanently affect the safety and character of the High Road neighborhood.

From: [J. Johnson](#)
To: [planning](#)
Subject: Serenity ZPD16-0007
Date: Thursday, November 09, 2017 1:37:57 PM

Hi there,

I am a resident of the Franklin Hills subdivision.

I have heard about the new proposed development, and have a concern about the increased traffic on High Road. I have a dog and walking in our neighborhood can be very tough. Already on High Road there are many curves with no shoulders (and of course no side walks) which makes walking dangerous.

I think if there is more traffic, it is going to make it very hard for current residents to have the lifestyle we came to Flower Mound to achieve.

Judy

From: [Cindi Price](#)
To: [Chuck Russell](#)
Subject: FW: Letter of protest about Serenity Subdivision to :P&Z commission and to the Town Council.
Date: Wednesday, October 05, 2016 11:34:28 AM

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, October 04, 2016 9:20 PM
To: Cindi Price
Subject: Letter of protest about Serenity Subdivision to :P&Z commission and to the Town Council.

As a resident of Flower mound since 1980 my family and I have witnessed a lot of change over the years. We were very happy to see the Town take notice of the wild development in towns and cities around the Dallas area and spend the time and money to develop the Smart Growth Master Plan so we could have sensible , planned growth. There are environmentally unique areas like the land at the end of High Road where the planned Serenity Residential Subdivision would like to develop with no regard to Master plans or surrounding neighborhood styles. Nowhere along the High Road area do we have stone walls and gated communities trying to disrupt the close knit community feel we have in this neighborhood. The "Clustering Option" Serenity Developers are trying to use is intended to help preserve the Flower Mound country feel in areas where it might be in higher density areas. The Serenity Developers only want to crowd as many houses as they can get away with on this unique wild field area bordering Grapevine Lake. You have multi acre properties all around this area that promote the open feeling neighborhood we are so proud of. Serenity Developers are so confident they can do want they want , you can find them offering proposed lots for sale on the internet, even before anything has been approved. Please do not allow this unique area to be spoiled by a developer that has no regard for the flavor of our neighborhood or town.

Thank you

Stephen and Deborah Kaiser

From: [Cindi Price](#)
To: [LauriAnn Cash](#)
Subject: FW: Serenity development opposition
Date: Thursday, November 09, 2017 1:12:22 PM

-----Original Message-----

From: Michael Kirby [REDACTED]
Sent: Monday, October 10, 2016 5:41 PM
To: Cindi Price [REDACTED]
Subject: Serenity development opposition

Mrs. Price,

Please forward to all members of the Town Council and Planning And Zoning Commission

I am in opposition to the proposed Serenity Development (ZPD16-0007) as it stands because it does not adhere to the town's master plan that is in place for the cross timbers area. The density is too high and it does not fit with the existing country feel especially as it is zoned agricultural. There is also a concern over loss of trees, and habitat as well as run off issues into the lake. The other major concern is traffic on High Road and the impact on the road which is already in very bad shape at the far end of High Rd. There has been no maintenance done on our end for a long time and the construction traffic will only make it worse. There is also a concern of construction vehicles turning around at entrance of Bolo which is a private road and the entrance is already in bad shape from the turn around from the school buses. Again the town has not maintained this end of the road! The whole point of having a master plan in place is to protect the unique nature of the cross timbers area and keep the aesthetics of the country living. Residents in this area chose to buy a home because it was protected yet the town is constantly allowing developments that do not adhere to the current master plan and that needs to end.

I appreciate your consideration.

Carol Kirby
7308 Bolo Lane
Flower Mound TX 75022

From: [Cindi Price](#)
To: [LauriAnn Cash](#)
Subject: FW: Serenity Developement (ZPD16-0007)
Date: Thursday, November 09, 2017 1:15:36 PM

From: joeknill@verizon.net [REDACTED]
Sent: Thursday, October 20, 2016 4:06 PM
To: Cindi Price [REDACTED]
Subject: Serenity Developement (ZPD16-0007)

Ms Price,
Please forward this email to all members of the Town Council and planning and zoning commission.

I am strongly opposed to the Serenity development as it stands proposed because I have great concern about the traffic that will increase if this was to happen. My driveway is hidden by the curve on High Road, and it is already dangerous at times with the current traffic flow that exists.

In addition, a big part of the reason we purchased our home on High Road this year is because we like the peace and tranquility this neighborhood has to offer. I am extremely disappointed to hear that there may be a zoning change on my street. My wife and I took the time to call the Town of Flower Mound before we closed on our property to make sure that the area in question was not zoned for anything that would change the look of our neighborhood, or greatly increase the traffic. We were told in December 2015 that this area was zoned for multi acreage agriculture. I hope that what we were told will continue to stand true.

Thank you for your consideration.

Joe Knill
3225 High Road
Flower Mound, Tx 75022

From: [Kim Knill](#)
To: [planning](#)
Cc: [Joe Knill](#)
Subject: Re zoning on High Road
Date: Tuesday, October 31, 2017 2:30:06 PM

I am writing to tell you that I am 100% OPPOSED to any re zoning on the west side of High Road. My husband and I purchased our home on High Road approximately 20 months ago. As I was concerned with what the "empty field" was zoned for, I actually called the town to ask that question. I was told it would be zoned for multi-acreage agriculture. There was no mention of a 18 home gated community. We are greatly concerned about the amount of extra traffic we would have to endure in front of our house on High Road. There are blind curves and hills and with the traffic that is already present it is a bit dangerous. I am very disappointed that I was not given this information about a zoning change when I called to inquire about this land.

Please do not let our wonderful, scenic neighborhood be turned into something that takes away from the unique sense of tranquility that brought us out here in the first place.

Thank you,
Kim Knill
3225 High Road

Sent from my iPhone

From: [Cindi Price](#)
To: [LauriAnn Cash](#)
Subject: FW: Serenity Developement (ZPD16-0007)
Date: Thursday, November 09, 2017 1:15:08 PM

-----Original Message-----

From: Kim Knill [REDACTED]
Sent: Thursday, October 20, 2016 2:28 PM
To: Cindi Price [REDACTED]
Subject: Serenity Developement (ZPD16-0007)

Ms Price,
Please forward this email to all members of the Town Council and planning and zoning commission.

I am strongly opposed to the Serenity development as it stands proposed because I have great concern about the traffic that will increase if this was to happen. My driveway is hidden by the curve on High Road, and it is already dangerous at times with the current traffic flow that exists.

In addition, a big part of the reason we purchased our home on High Road this year is because we like the peace and tranquility this neighborhood has to offer. I am extremely disappointed to hear that there may be a zoning change on my street. I took the time to call the Town of Flower Mound before we closed on our property to make sure that the area in question was not zoned for anything that would change the look of our neighborhood, or greatly increase the traffic. I was told in December 2015 that this area was zoned for multi acreage agriculture. I hope that what I was told will continue to stand true.

Thank you for your consideration.

Kim Knill
3225 High Road
Flower Mound, Tx 75022

Sent from my iPhone

RL Langran

3205 Indian Trail

Flower Mound, Texas 75022

March 30, 2017

Mr. Chuck Russell

Town of Flower Mound Planning Department

2121 Cross Timbers Road

Dear Mr. Russell,

I am writing regarding my concerns with the proposed development on High Road. The development is named Serenity. As you know, many of the properties situated around Lake Grapevine slope down towards the lake, accepting storm water as it drains toward the lake. I am concerned higher density development will affect storm water drainage in a detrimental way. The property is currently zoned agriculture and development of such is consistent with existing properties. A higher density neighborhood is not suited for this location and I feel will not be welcomed. Please do not support any attempt to modify our town growth plan.

Considering the possible impact on multiple properties and lives, I believe the proposed development Serenity should not be allowed to proceed without a detailed study by a registered professional engineer—a most comprehensive calculation showing topography and how the water is impounded, rerouted, surface coverage, etc. This in relation to the proposed development and existing and proposed improvements located upstream. Even though this may be an expense for the developers, existing homes must never be placed in peril.

Regards,

RL Langran

July 12, 2016

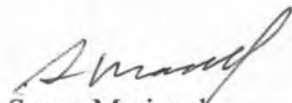
2121 Flower Mound Planning Services Department,
2001 Cross Timbers Road, Suite 2330
Flower Mound, TX, 75028

Susan Marincel
2613 Briar Patch Lane
Flower Mound, TX 75022

As a homeowner, I am concerned about water drainage issues with the proposed Serenity development on High Road (<http://www.flower-mound.com/DocumentCenter/View/1208>). Please ensure that almost **all** of the water runoff from this development drains to the west (directly to the lake) for the following reasons:

- The land currently drains to a small creek which crosses High Road and flows down Briar Patch Ln.
- Under heavy rain conditions (ground saturation) this drainage creek will occasionally overflow into our yards and driveways. I have seen it as high as ankle deep on Briar Patch Ln .
- The land currently absorbs a lot of water (sandy with grass), but roads and roofs do not absorb water.
- Contour lines on the proposed development currently show **all** the roofs and roads to be on the east side of the contour ridge, which means they will drain down Briar Patch Ln.
- If the proposed streets drain to High Road, they will drain down Briar Patch Ln.
- Please ensure the development has proper grade and adequate storm drains to take the runoff to the west side of the development where it will not impact our neighborhood. I am concerned about possible damage to roads, culverts, yards, and a pond dam along Lakeridge Dr., Briar Patch Ln., and Bolo Ln. if we take more runoff.

Thank you for your consideration,


Susan Marincel

[Redacted]
[Redacted]

From: [REDACTED]
To: [planning](#)
Subject: Opposition to Serenity (ZPD16-0007)
Date: Thursday, November 09, 2017 11:20:55 AM

I am opposed to this planned development for two very practical reasons:

1. **No drainage/catchment plan?**—it appears the drainage from all these houses and streets will be sent right down the very small drainage ditch on my street (Briar Patch Ln). The current drainage system already floods in heavy rains, covers the road and driveways, and has closed Bolo Ln at least twice in 20 years. The drainage system barely handles the runoff now. Even doubling or tripling that volume of water would be disastrous for properties on Briar Patch. Two neighbors would likely see water all the way up to their front steps and into a garage, driveway damage, street and property erosion, and damage to a pond dam. Bolo Ln would likely wash out completely at the culvert, which barely handles the current flow with heavy rains.

All the those planned roofs, driveways, and roads will add to the current runoff. Their spray septic systems and lawns will increase the level of groundwater and saturation in that field—ensuring that rain will runoff, rather than soak in. It appears that this development would likely put out a lot more than the “double” or “triple” amounts. Did they have their engineering estimate the amounts of runoff this plan will generate, using possible max historical values of hourly rainfall from the last 30 years, and assuming ground saturation (which often happens in the rainy season)? You don’t have to be a rocket scientist to add up even 1 inch of rain from a thunderstorm, multiplied by the collection area on all those roofs and roads, and send it down one little ditch with predictable results.

2. **The appearance of a bunch of big houses, packed together in a line, does not really fit with the rural character** of the properties along this end of High Road. It looks more like a subdivision from the

denser side of town. The open space **behind** the houses will be unseen from High Road, as it is down a steep hill (probably unbuildable) to the Corp of Engineers property and lake. The only “open space” that neighbors will see is the small strip along High Road.

The contour line marked “ridge” on the plan roughly follows the back of the lots on the west side (behind the houses). The “open space” on the west side of the property (behind the houses) is down a steep hill and completely out of view from the road and neighbors. **In other words, all we will see from High Road will be a bunch of “dense pack” houses, slightly set back from the road. From the point of view of High Road and the neighbors, approximately 75% of the land will be houses.** Contrast this view with the neighbors across the street and next door, who have big rural “Ag” lots with several acres and much more open space. The eyesore will likely drop their property values

Changing the contours of the land to make it drain out the west side of the property would probably necessitate major earth moving and the destruction of trees on the ridge behind the houses. A storm drain system could likely take the runoff west, so it doesn’t damage other properties but would have to be engineered, so they do it properly.

Why not just develop this land under the current “Ag” rules, into several 2 acre lots, so it fits with the neighborhood and ensure it has proper drainage that doesn’t impact the neighbors adversely?

Thank you for considering preserving the country atmosphere in Flower Mound. Copied below my signature is a letter I walked into the engineers office in The Atrium over a year ago, concerning the drainage problem. A copy was sent to the developer.

Sue Marincel, BS MBA
2613 Briar Patch Ln
Flower Mound

July 12,

2016

Flower Mound Planning Services Department,
1001 Cross Timbers Road, Suite 2330
Flower Mound, TX, 75028

Susan Marincel
2613 Briar Patch Lane
Flower Mound, TX 75022

As a homeowner, I am concerned about water drainage issues with the proposed Serenity development on High Road (<http://www.flower-mound.com/DocumentCenter/View/1208>). Please ensure that almost **all** of the water runoff from this development drains to the west (directly to the lake) for the following reasons:

- The land currently drains to a small creek which crosses High Road and flows down Briar Patch Ln.
- Under heavy rain conditions (ground saturation) this drainage creek will occasionally overflow into our yards and driveways. I have seen it as high as ankle deep on Briar Patch Ln .
- The land currently absorbs a lot of water (sandy with grass), but roads and roofs do not absorb water.
- Contour lines on the proposed development currently show **all** the roofs and roads to be on the east side of the contour ridge, which means they will drain down Briar Patch Ln.
- If the proposed streets drain to High Road, they will drain down Briar Patch Ln.
- Please ensure the development has proper grade and adequate storm drains to take the runoff to the west side of the development where it will not impact our neighborhood. I am concerned about possible damage to roads, culverts, yards, and a pond dam along Lakeridge Dr., Briar Patch Ln., and Bolo Ln. if we take more runoff.

Thank you for your consideration,

Susan Marincel

[REDACTED]

[REDACTED]

Copy sent to developer

From: [Cindi Price](#)
To: [LauriAnn Cash](#)
Subject: FW: Concerns over senenity
Date: Thursday, November 09, 2017 1:11:07 PM

-----Original Message-----

From: Letha Morgan [REDACTED]
Sent: Monday, September 26, 2016 12:49 PM
To: Cindi Price [REDACTED]
Subject: Concerns over senenity

One of my major concerns is the developer is wanting to cut trees along the lake side. The only listed elevation I have seen displayed on a map by the developer is 564.

564 is an arbitrary number. 566 is the point where the lake goes over the spill way and 572 elevation is the elevation army Corp is allow to flood. Which is also the elevation the army Corp has an easement. As any homeowner who lives on the lake knows, over the past two years the amount of wildlife searching for a place live has substantially increased due to increased lake levels. If the developer removes more trees, they are removing homes for this wildlife to go with increased lake levels. And not only that but soil erosion is a higher concern. Removing the trees and other vegetation will no longer protect the erosion of the property even without the high lake levels, simple heavy rains will erode the property. Particularly for those individuals who would be adjacent to this properties. Where in which retaining walls will require army Corp approvals at or below 572 elevation. And rearrangement of soil to fill requirements for approval by Corps.

These seem like problems easily remediate by not altering the master plan.

Thanks,
Letha Morgan

From: [Cindi Price](#)
To: [LauriAnn Cash](#)
Subject: FW: SERENITY (ZPD16-0007)
Date: Thursday, November 09, 2017 1:10:50 PM
Attachments: [Serenity Objections.docx](#)

From: Jim [REDACTED]
Sent: Sunday, September 25, 2016 9:53 AM
To: Cindi Price [REDACTED]
Subject: SERENITY (ZPD16-0007)

Ms. Price,

Please forward to all members of the Town Council and Planning and Zoning Commission.

Jim Pierson
3209 High Rd
Flower Mound, Tx 75022

September 26, 2016

SERENITY (ZPD16-0007)

Comments and Objections to this concept plan as submitted:

1. The Land Use Plan – Cross Timbers Conservation Development District
 - a. “being single family residential.....at net densities no greater than one unit per two acres”
 - b. “Moderate increases in densities *may be appropriate*”.
2. The developers of this tract have requested 18 lots for a density of 1.6.
 - a. This is the maximum density that can be granted and does not comply with either the letter or the intent of the MP which states “Density shall be commensurate with the quality and character of the open or natural lands”
3. The developers appear to be asking for “gates” and two entrances to this tract.
 - a. High Road is a “Scenic corridor” As such houses should be placed “outside of the view area or by sitting new lots so the houses face the roadways across conserved open space with access from a street internal to the development”
 - b. This requirement has been consistent since the 2001 MP and all developments that have gone on in this area have been managed in this manner.
4. As mentioned in Chuck Russell’s Memorandum of 7/17/2016 it is incumbent on the developer to demonstrate how the proposed development meets or exceeds the intent of :
 - a. “Vision Statement for the Town of flower Mound Master Plan” which states
 - i. “preserve the country atmosphere and natural environment that makes Flower Mound a unique and desirable community”.
 - b. “Crosstimbers Conservation Development District”
 - i. “Scenic Corridors and vistas”

This development as submitted is outside of the intent of the MP and those areas singled out as requiring special consideration for development.

1. “Moderate increases in densities *may be appropriate*”, *not maximum allowed*
2. houses should be placed “outside of the view area or by sitting new lots so the houses face the roadways across conserved open space with access from a street internal to the development”
3. Adhere to entrance and fencing requirements within the “Scenic Corridors and Vistas”

The key to making this development acceptable is to not only meet but exceed the intent of the MP for this area.

Further, the addition of the requested number of houses will negatively impact traffic on a narrow, winding and already risky road by adding a significant number of trips for the full length of High Road. In 2009, the following data was published for traffic by NTCOG:

Location						
ID	Date	Source	Count	Roadway	Direction	City
12244	9/14/2009	Saturation Count Program, TxDOT	362	SUNNYVIEW	Both	Flower Mound

Note: this does not measure traffic south of Sunnyview. I would also point out that since 2009 there has been a significant increase in new homes in this protected and eclectic neighborhood. I'm sure the Town can provide an estimate of the number of trips the addition of these proposed homes will generate. To continue to escalate traffic on High Road creates a dangerous scenario for the existing residents and their children.

I would suggest that the developers redesign this layout to move the homes to the back of the property and create the required open space adjacent to High Road to ""preserve the country atmosphere and natural environment that makes Flower Mound a unique and desirable community". The net affect would be to reduce the number of houses to between 12-14, do away with the double entry (excluding any required fire entry) and create a significant landscape buffer to High Road.

From: [Tommy Dalton](#)
To: [Doug Powell](#); [Chuck Russell](#)
Subject: "High Road" Development
Date: Monday, June 20, 2016 1:46:16 PM

From: Tim Runte [REDACTED]
Sent: Monday, June 20, 2016 11:19 AM
To: Town Council
Subject: "High Road" Development

Council,

Regarding Ordinance No. 64-13 and how it relates to the proposed High Road development presented by Reginald Rembert of Rembert Builders, Inc. As you may be aware, the first formal meeting regarding this project was on June, 15, 2016 at 6:30pm.

Ordinance No. 64-13 Section 4.

- "...at net densities no greater than one unit per two acres." – Fail. This development does **not** meet this requirement. It was presented that it would be one unit per 1.6 acres.
- "Moderate increases in densities may be appropriate in combination with cluster developments..." – Fail. A 25% increase in density is hardly "Moderate".
- "...preserve the Cross Timbers ecosystem, other natural systems..." – Fail. It was presented that the HOA would mow, trim up, manicure and maintain the open space. This open space adjoins Corp property met by Lake Grapevine. Manicuring this space will displace countless species of wildlife including but not limited to deer, mountain lion, turkey, dove, snakes, squirrels, wild hogs, etc.
- "...preserve Scenic Corridors and Vistas." Fail. The large majority of the open space as it was presented in the meeting was on the west side of the property. The now Scenic Corridors and Vistas from High Road will become completely invisible; blocked by fences, gates and 5,000sf two-story homes.

Ordinance No. 64-13 Section 5.

- "Cluster developments may be allowed in the District and **must** demonstrate the following."
- "...and shall contain a mixture of lot sizes and any development shall be cognizant of external adjacent lot sizes." Fail. The lot size of the property directly to the north is approximately 8 acres, to the south 7 acres, to the east (north of Lake Ridge) 12 acres, to the east (south of Hickory Springs) is 1 acre, and (north of Hickory Springs) is 1 acre. Rembert presented these lots would be approximately 30,000sf or about .688 of an acre. Again, this development fails.
- "...placing new houses outside of the view area." Fail. All 18 new houses will be clearly **inside** the view area.
- "...rather than providing a view from the roadways into back yards or rear alleys." Fail. Clearly, at least three homes are planned to adjoin High Road.

Gentlemen, these are simply only a few facts regarding this proposed development for High Road. I have intentionally left out my personal opinions of the MPA change of 2013 and the impact (either positive or negative) it's had on our community to date. As it's written today, the High Road development as presented by Rembert Builders is not in compliance with the Towns' Ordinances. I would appreciate any facts you can provide me that would support this development moving forward.

Please, if you do not have a response to my request, please simply send me a reply email so that I know that this email was received.

Kind regards,

Tim Runte'
3480 High Road

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From: [Tommy Dalton](#)
To: [Doug Powell](#); [Chuck Russell](#); [Cindi Price](#)
Subject: FW: Proposed Serenity development
Date: Wednesday, May 31, 2017 11:51:49 AM

From: Tim Runte [REDACTED]
Sent: Wednesday, May 31, 2017 11:42 AM
To: Town Council
Cc: Jimmy Stathatos
Subject: Proposed Serenity development

Mayor and Council,

My initial email to you regarding this proposed development was emailed on June 20, 2016, 5 days after the developer's required first meeting with the residents. I would now like to follow up and share my thoughts after attending the second required meeting which took place on May 30, 2017. I'll limit my comments completely to the facts of this specific proposed development, the Town's Master Plan and Ordinance No. 64-13.

Ordinance No. 64-13 Section 5 describes eight development options within the District (CTCDD). Number eight pertains to the proposed Serenity development as Mr. Rembert mentioned last night that was the only option he would be interested in deploying for this particular project.

Ordinance No. 64-13 Section 5, No. 8 states the intent of the clustering option is to maximize open space conservation, including preserving Scenic Corridors and Vistas, on a site by site basis to realize a community benefit that provides the Town with its unique country atmosphere and natural environment. The continuation and/or connection of open space areas between adjacent developments are important in protecting the ecological value in the District. **Cluster developments may be allowed in the District and must demonstrate the following:**

No. 8, b. states "Minimum lot size is one-half acre or 21,780 square feet; however, any development shall contain a mixture of lot sizes and any development shall be cognizant of external adjacent lot sizes." **Mr. Rembert represented his minimum lot size is 30,002 square feet and maximum lot size is 30,586 square feet; a difference of 584 square feet or 1.95%. In addition, the property directly to the north of this planned development is 8 acres, to the south 7 acres, to the east (north of Lake Ridge) 12 acres, to the east (south of Hickory Springs) is 1 acre.**

No. 8, c. says Any recreational use should be characteristic of the District, compatible with adjacent land uses and should be open to the public. **The developer of Serenity is proposing a gated community, not assessable to the public.**

Elements needing consideration within the district include:

1. Scenic Corridors and Vistas – "...Compliance with SMARTGrowth Analysis could be achieved by conservation or cluster development, placing new houses outside of the view area..." **There are clearly 3, maybe 4 home sites presented last night in which the view from High Road would be into rear alleys or back yards. ALL of the homes would**

be in the “view area” of the High Road Scenic Corridors and Vistas.

2. High Road is one of these “scenic corridors.” The ordinance states that properties adjacent to these roads provide extensive views into the District. It goes on to say compliance could be achieved in a cluster development by placing new houses outside of the view area, or by siting any new lots so the houses face the roadways across conserved open space...” **As I mentioned earlier, between 3 and 4 home sites do not face the roadways across conserved open space. More importantly, the majority of the open space as it was presented in the meeting was on the west side of the property (assessable by boat). The now scenic corridors and vistas from High Road will be replaced with a fence surrounding the entire gated community followed by two-story 5,000 sf plus houses.**

I could go on further as to how this development would have numerous violations of Ordinance No. 64-13. At this point I’ll spare you of any additional details. I would encourage and invite each of you to drive a few miles west, grab a cold beverage at my home on High Road and tour the proposed Serenity project. Contrary to what you may think, I am not anti-growth, anti-property owner’s rights, nor do I believe/expect the 30 acres in question will sit idle for ever. However, I do expect my Council representatives uphold the current Ordinances or go through the proper channels/processes to change them. The Serenity project currently does not meet the requirements of our Town’s Ordinances.

Kind regards,
Tim Runte’
3480 High Road
[REDACTED]

This e-mail and any attachments may be confidential or legally privileged. If you received this message in error or are not the intended recipient, you should destroy the e-mail message and any attachments or copies, and you are prohibited from retaining, distributing, disclosing or using any information contained herein. Please inform us of the erroneous delivery by return e-mail. Thank you for your cooperation.

From: [REDACTED]
To: [planning](#)
Subject: opposition to the proposed CTCDD cluster development Serenity
Date: Thursday, November 09, 2017 1:37:48 PM

To Whom it May Concern,

It is disturbing and alarming to all the residents in the High Road Community that there is a proposal for cluster housing for the Serenity development. This is not consistent with both the existing agricultural zoning nor single family estate zoning.

This proposal affects all the residents of this semi-rural community and all are opposed to it. We ask that it remain as agricultural zoning for the benefit of all the residents. No-one wants this. The "serenity" proposal will only take away from the wild serenity of the area, and once lost, will never be retrieved. This proposed development not only threatens many native oaks, but also numerous other species of fauna and flora. We welcome all into our neighborhood who settled here for the reasons that we did and appreciate the openness and beauty of the area. We would like to keep the High Road Community beautifully country.

Many Thanks

Julianne Stewart
[REDACTED]

Please see the attached letter from Jerry Tobin, the property owner to the north.

OPPOSITION to CLUSTER on HIGH ROAD

Up-date: November 8, 2017

Yesterday, Nov. 7th, the Town's ECC (Environmental Conservation Commission) heard the Developer's Submittal. The task of the ECC is to recommend or deny to the Planning & Zoning Dept and Town Counsel.

The Commissioners made a motion to DENY approval on the basis it is "inconsistent" with the area. The Motion to Deny passed 5 to 2.

Next step:

Nov 13th, 6:30 p.m. in Town Hall PLANNING & ZONING

Nov. 20th, 6:00 p.m. (please note earlier time) in Town Hall TOWN COUNCIL.

TURNOUT IS EXTREMELY IMPORTANT!! Your presence is needed at both, however, if you can only make ONE of the two meetings PLEASE opt to come to the Nov. 20th meeting at 6 p.m. when the Town Council will hear and VOTE to approve or deny the Serenity CLUSTER development.

Mr. Michael Coker, Michael R. Coker Company, will be making a Power Point presentation in OPPOSITION to the Cluster on High Rd. Mr. Coker has been retained by a few of the neighbors with property within 200 feet of the "Serenity" 29 acres. Mr. Coker's power point presentation will take about 15 minutes.

Usually, each town resident is allowed to speak at both P&Z and Town Council. When you enter the Town Hall there will be a slip of paper to fill out to speak. We are asking for residents who do not want to speak to "assign" either all or a portion of their 3 minutes. You do that by filling in the form as you enter the meeting, you check "against" and you write in "I am against the proposition and want to give my time to Michael Coker"

I cannot emphasize enough the IMPORTANCE of these two Town Meetings. The nature of High Rd. and our neighborhoods will be changed for the worse and totally out of character for what we now have along High Rd. The Cluster proposed will impact: environment, flooding, trees, traffic, create a gated closed off HOA etc.. Please show up to PROTEST and to maintain the AG Exemption on that land. The owner can develop lots 2 acres (5 or 6 max houses) and above as it is now zoned. The Cluster will crowd 16 new large houses on small lots.

Jerry Tobin

3031 High Rd. (we have the pasture to north of Serenity) 602 363 8767

From: [REDACTED]
To: [planning](#)
Subject: Opposition to Serenity (ZPD16-0007).
Date: Wednesday, November 08, 2017 6:35:59 PM

To Whom it may concern,

Please note below.

Opposition to Serenity (ZPD16-0007).

Many Thanks,

Keith

Keith Stewart
7585 Lost Creek
Flower Mound Texas, 75022

[REDACTED]
[REDACTED]



Virus-free. www.avast.com

From: [Neil](#)
To: [planning; Town Council](#)
Subject: Serenity Development, High Road, Flower Mound, TX
Date: Tuesday, August 29, 2017 2:55:10 PM

To: Chuck Russell, Town Planner

Sir,

I have taken the opportunity to review the three of the more-recent documents regarding the Serenity Development and, although I have several thoughts and concerns about the development, I think the following are among the most relevant.

In the Chuck Russell memorandum dated Aug. 23, 2017, staff repeat comment #4 stated:

Develop the property as a cluster development. The intent of the clustering option is to maximize open space conservation, including preserving Scenic Corridors and Vistas, on a site by site basis to realize a community benefit that provides the Town with its unique country atmosphere and natural environment. The continuation and/or connection of open space areas between adjacent developments are important in protecting the ecological value in the District. Cluster developments may be allowed in the District and must demonstrate the following

I believe we must try to keep in mind the original intentions behind the concept of cluster development. In a nutshell, cluster development was proposed and reluctantly agreed to for the following two reasons:

- 1) Find a way to violate the Flower Mound Master Plan and SMART Growth Management Plan, while
- 2) Giving back to the existing community and the town something in return that made #1 palatable.

The proposed Serenity Development certainly achieves the first, but comes nowhere close to the second. Cluster development is intended to increase the number of residences AND provide the existing community and the town access to park and recreational areas. That is the whole purpose of cluster development – give the existing community something in return for violating the Master Plan. The proposed Serenity Development gives nothing back. It will simply result in the complete devastation of what is now a very scenic view at the end of High Rd and result in a vista of nothing but a gated community looking onto the backs and sides new housing.

The developer's response was as follows:

Because of the unique topography of this site, views through the entire property are not possible. The property rises in elevation from High Road to the west and then drops dramatically to the west in the middle of the property to Lake Grapevine. In its existing condition, the western portion of the property, approximately 17.6 acres, cannot be viewed from High Road because of topography. This is 61% of the property that cannot be viewed prior to any development. We have located the houses in the middle of the project near the top of this hill. The only place where the top of the hill is near High Road is at the far south end of the property. At this location, our new revised concept plan provides a view corridor all the way through the property that is a minimum of 56' in width. The western portion of this property contains the highest level of ecological value and great care has been taken to preserve this portion of the property. We believe that we have gone far and above in order to protect the valuable traits of this property.

So, as per document 3a3-Concept Plan-080417.pdf, the developer is planning to devastate approximately 1398.7 frontage-feet of property (along High Rd) containing a magnificent meadow, spring and summer wildflowers, with an amazing backdrop of oaks on the ridge, and in exchange for that, we, the existing community, will get back a 56' view corridor so that we can see, what, a tree or two, maybe? Again, the existing community, and the town as a whole, get nothing in return for the developer's demand that the Master Plan be ignored.

One issue that does not appear to be considered is traffic. Traffic along High Rd is already excessive and dangerous. The speed limit is 30 mph, which is probably too high because of the blind hills, driveways, and roads, but even that speed limit is not enforced. Pedestrians and cyclists are in ever-present danger due to the speeders on the road. The traffic situation sharply degraded when Immel Estates was added, and there's every reason to believe the situation on High Rd will worsen dramatically with the addition of 20 – 40 new motorists from Serenity.

I ask that you reject the current plan. Stay within the confines of the Master Plan and the SMART Growth Management Plan. However, if a cluster development is approved, remove the gated community aspect of the development. At least allow the current community to get some use out of the development. There is no reason to add a gated community. Require the developer to add a park and recreational area in the "open area" and make it available to everyone in the general Franklin Hills / Immel Estates vicinity.

Additionally, please address the traffic issue. Provide some mechanism to monitor and control the speed limits on High Rd. It is dangerous and needs to be fixed.

Respectfully,
Neil Sutter

From: [Chuck Russell](#)
To: [REDACTED]
Cc: [Matthew Hotelling](#); [LauriAnn Cash](#)
Subject: RE: Serenity Development, High Road, Flower Mound, TX
Date: Friday, September 08, 2017 11:31:05 AM

From: Neil [REDACTED]
Sent: Tuesday, August 29, 2017 2:58 PM
To: planning; Town Council
Subject: Serenity Development, High Road, Flower Mound, TX

To: Chuck Russell, Town Planner

Sir,

I have taken the opportunity to review the three of the more-recent documents regarding the Serenity Development and, although I have several thoughts and concerns about the development, I think the following are among the most relevant.

In the Chuck Russell memorandum dated Aug. 23, 2017, staff repeat comment #4 stated:

Develop the property as a cluster development. The intent of the clustering option is to maximize open space conservation, including preserving Scenic Corridors and Vistas, on a site by site basis to realize a community benefit that provides the Town with its unique country atmosphere and natural environment. The continuation and/or connection of open space areas between adjacent developments are important in protecting the ecological value in the District. Cluster developments may be allowed in the District and must demonstrate the following

I believe we must try to keep in mind the original intentions behind the concept of cluster development. In a nutshell, cluster development was proposed and reluctantly agreed to for the following two reasons:

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- 2) Giving back to the existing community and the town something in return that made #1 palatable.

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The developer's response was as follows:

Because of the unique topography of this site, views through the entire property are not possible. The property rises in elevation from High Road to the west and then drops dramatically to the west in the middle of the property to Lake Grapevine. In its existing condition, the western portion of the property, approximately 17.6 acres, cannot be viewed from High Road because of topography. This is 61% of the property that cannot be viewed prior to any development. We have located the houses in the middle of the project near the top of this hill. The only place where the top of the hill is near High Road is at the far south end of the property. At this location, our new revised concept plan provides a view corridor all the way through the property that is a minimum of 56' in width. The western portion of this property contains the highest level of ecological value and great care has been taken to preserve this portion of the property. We believe that we have gone far and above in order to protect the valuable traits of this property.

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Additionally, please address the traffic issue. Provide some mechanism to monitor and control the speed limits on High Rd. It is dangerous and needs to be fixed.

Respectfully,

Neil Sutter

From: [Cindi Price](#)
To: [LauriAnn Cash](#)
Subject: FW: Opposition to Serenity Development (ZPD16-0007)
Date: Thursday, November 09, 2017 1:12:57 PM

From: Michelle Talaifar [REDACTED]
Sent: Tuesday, October 11, 2016 8:25 AM
To: Cindi Price [REDACTED]
Subject: Opposition to Serenity Development (ZPD16-0007)

Good morning Ms.Price,
Please forward to all members of the Town Council and Planning and Zoning Commission.

My husband and I are in opposition to the Serenity Development (ZPD16-0007) as it stands proposed for a few different reasons.

1, As the current plan is set up for the Serenity project shows a wall to be built surrounding the property and and does not fit in with the High Rd area at all. There are no structures like this any where in the area.

2.The lot sizes for sale to the " new homeowners are too small", a suggestion is new lots be at a 2 acres plus size. We moved out here over 10 years ago to get away from Cluster Housing (which this area is not currently zoned for) and by allowing the new developer to build lots of less that .6 acres that is what this is new development would turn into..Cluster Housing.

In the 10 plus years we have lived here we know that as it stands there is a dangerous curve just south on High Road as you pass Rolling Hills. This Curve right now is very dangerous and there have been several incidents where people have almost ended up with head on collisions both with other vehicles as well as pedestrians. New neighbors move in and they walk against the traffic around this curve where site line is very obscure. If you can't see the next vehicle coming surely you can't see people walking against the traffic. Just the other day there was again a new neighbor pushing a baby carriage with her son on a bicycle in front of her riding it around this dangerous curve. Living here for so long I know to obey the speed law however even with the law (speed zone) in place it doesn't help much.By keeping the Acreage size to a 2 acre minimum the threat to imminent danger to the neighborhood as a whole is safer for us all.

3. Currently there are new drivers to this Curve, teenagers getting their licenses. This curve is hard to navigate already with experienced drivers and the new drivers (teenagers) to the road it is surely being set up as an accident prone area. If the current plan for Serenity is allowed to move forward, I foresee that there will be future accidents around this curve that could have been prevented. Less housing = Less drivers on the road.

I have spoken with several neighbors regarding this matter and as whole we all

agree... we move here to have a safer environment. To sleep better at night, and be able to raise our children in a safe environment and allowing this housing development to move forward will put us all in more danger while on the road.

We appreciate your consideration in this matter.

Michelle & Bahram Talaifar
7505 Hickory Springs Rd
Flower Mound TX 75022

Warm Regards,
Michelle Talaifar



From: [Tommy Dalton](#)
To: [Doug Powell](#); [Chuck Russell](#)
Subject: FW: Serenity
Date: Tuesday, September 27, 2016 9:53:22 AM

From: jena toich [REDACTED]
Sent: Monday, September 26, 2016 3:36 PM
To: Town Council
Subject:

Hi Town Council,
Here are a few of my concerns with the Serenity proposal:

- 1) The developer will be requesting an exemption from the Town's master plan requirement to preserve the upland riparian habitat. The upland riparian habitat on this property encompasses the woodlands on the west side of the property facing the lake. It is my understanding from the developer that most, if not all, those trees, will be cut down for his development. As with all riparian ecosystems, forests near a body of water act as nutrient and pollution filters for surface run-off which helps keep our lake cleaner. I also fear that the developer may not be aware that the "lake view" he hopes to create by cutting down the trees will instead be one of dried mud flats most of the time. The last two years have given us bountiful rainfall and floods which is hardly our normal weather pattern. The 29 acres really overlook a tributary to the lake which will dry-up often when we get back to our more "normal" drier weather.
- 2) Eighteen additional homes means 18 additional septic systems very close to the lake. The increased septic run-off can create the potential for lake dead zones in an already stressed ecosystem. Florida has been contending with this in their own rivers and lakes and now bans all additional septic systems next to a body of water. Dead zones are created by human related nutrient run-off as well as other factors that deplete the oxygen level in water making it harder for marine life to survive.
- 3) Another requirement of the Town is that the proposed development "fit" with the surrounding neighborhood. I am not sure a cluster development sandwiched in between its north and south side neighbors that own 10 acre rural plots and the horse farm that sits across from it makes it a desirable development there. I think the backs of many of those homes will be our new view driving down High Road.
- 4) My other personal distaste is putting in a gated community in our neighborhood that, per the Cross Timbers Development District Master Plan, is suppose to be developed to maintain a rural and open feel. We don't have a high crime rate, so is the developer protecting his new development from the rest of us? In other words, they can walk in our neighborhoods, but we are not allowed in theirs. We are a friendly bunch here and I just don't see the fit. While the horse farm and the large 10 acre plot do have gates, those gates are for individual houses, not streets.

Thank you!
Jena Toich
7408 Bolo Lane
Flower Mound, TX 75022

From: [KC Walsh](#)
To: [planning](#)
Subject: Opposition to SERENITY (zpd16-0007)
Date: Wednesday, November 08, 2017 4:01:42 PM

Please provide the following to the Planning & Zoning Commission for the November 13 meeting as well as the Town Council for their meeting on November 20. Thank you for your help.

DEVELOPMENT DOESN'T MEET TOWN VISION

The developer does not demonstrate how the proposed development meets or exceeds the intent of Vision Statement for the Town of Flower Mound Master Plan which states developments should "preserve the country atmosphere and natural environment that makes Flower Mound a unique and desirable community". *There is neither an explained or realized community benefit from this development.*

DEVELOPMENT DOESN'T PRESERVE SCENIC CORRIDORS AND VISTAS

High Road is a "Scenic corridor," as such houses should be placed "outside of the view area or by sitting new lots so the houses face the roadways across conserved open space with access from a street internal to the development." The fronts of the three houses in the development that sit closest to High Road face an internal street, **while the side views of these houses face High Road.**

The development's 6' tall interior wrought iron security fence eliminates visibility into the property to view the scenic corridor and vista. (A scenic corridor is comprised of any land which is visible from High Road that possesses any of the open space or natural elements indicative of the country atmosphere and natural environment.) It also discourages community access to the existing trails on the west side of the development except through a pedestrian gate accessible only from Corps property. (Note: the OPEN SPACE MANAGEMENT PLAN is not finalized, the developer THINKS he will use an HOA. What is the likelihood that an HOA will keep these theoretical pedestrians gates unlocked for access through their SECURITY FENCE into their neighborhood??? For that matter, or not replace the prairie in front with sod?)

Conserved open space should be integrated into the setback buffer to maintain the country atmosphere of the CTCDD and to protect existing neighborhoods. The majority (over two thirds) of Serenity's open space is on the west side of the development, only benefitting the development itself, not the community. It is not visible at all from High Road due to the houses and security wrought iron fence in front of it, neither is it "OPEN."

DEVELOPMENT IS NOT COGNIZANT OF EXTERNAL ADJACENT LOT SIZES AND DOESN'T PROVIDE AN APPROPRIATE TRANSITION TO EXISTING LAND USES

Adjacent properties on the west side of High: Property to the south is 7.28 acres and zoned Agriculture, to the north is 10 acres, also zoned Agriculture. The lots on the east side of High within 200 feet are as follows (in acres): .98, 10.56, 18.73, .95, 1.0 and 2.0. The largest of these properties are comprised of pasture and improved pasture and house llamas, cattle and horses. The largest lot in the proposed development is the same size as the smallest lot within 200 feet.

DEVELOPMENT DOESN'T CONTAIN A MIXTURE OF LOT SIZES

With the exception of the two lots at the main entrance, the lot sizes are .7 acres and are laid out very similarly.

DEVELOPMENT DOESN'T CONNECT OPEN SPACES BETWEEN ADJACENT PROPERTIES

The development places five lots directly on the north property line next to the adjacent property's open space of pasture and improved pasture. Though the proposed lots of the development on the south side of the property do not sit on the property line as they do on the north side, the lots leave very little open space next to the adjacent property's improved pasture.

DEVELOPMENT ISN'T CONSISTENT WITH THE LOT SIZES & PATTERNS OF SURROUNDING NEIGHBORHOODS

According to the developer during the second public meeting, houses will be 30' apart from each other, I'd be extremely surprised if any other houses along High Road are that close to one another and if they are, it would be an anomaly.

There are 10 neighborhoods off of High Road. ***Not one neighborhood is fenced in or gated.*** The 6' wrought iron fence sitting behind the split rail defeats the purpose of the fence requirements for the CTCDD.

DENSITY: 16 lots over 28.92 acres for a density of 1.8

This density does not comply with either the letter or the intent of the Master Plan which states "density shall be commensurate with the quality and character of the open or natural lands."

Land Use Plan in the CTCDD dictates single family residential should have densities no greater than one unit per two acres.

Over the last twenty years, the two developments built off of High Road: High Meadow in 2013 (with a 2.15 density) and Immel Estates in 1997 (2.33 density) have established the appropriate density standard for the area.

KC Walsh
3525 High Rd
Flower Mound, TX 75022

From: [Cindi Price](#)
To: [Doug Powell](#); [Chuck Russell](#)
Subject: FW: Serenity Development 2nd public meeting
Date: Tuesday, June 06, 2017 1:37:17 PM

----- Forwarded message -----

From: [REDACTED]
Date: Thu, Jun 1, 2017 at 8:41 PM
Subject: Serenity Development 2nd public meeting
To: mayor@flower-mound.com, Place1 - Jason Webb <place1@flower-mound.com>, place2@flower-mound.com, place3@flower-mound.com, place4@flower-mound.com, place5@flower-mound.com

Mayor and Council,

This past Tuesday, I attended the second public meeting presented by the developer of the proposed Serenity Development, a cluster development on High Road allowed under Ordinance 64-13.

The developer made it quite clear he was there only because he was required to. He has not addressed the public's nor the planning department's concerns or comments with the exception of a minor fence detail. He was unable to answer simple questions about this development, such as setbacks and buffers. He has shown blatant disregard to the entire process by grading and clearing sections of the property. He lied on numerous occasions.

One question I did specifically ask the developer was his intent to ask for an exception to the Upland Habitat Mitigation requirements, as he requested this exception in his Letter of Intent. He answered that there had been a change in the Town where he no longer needs to ask for the exception. I found this answer to be very strange, do you happen to know what he was referring to?

All and all, I found the meeting to be insulting, a joke, a complete farce. This development is a far cry from resembling the requirements of cluster development outlined in 64-13. But the developer is not going to change anything because according to him at the conclusion of the meeting, his other clusters were the same and they were passed, so this is going through.

Thank you for your service to the Town, and I appreciate being able to voice my concerns to you,

KC Walsh
3525 High Rd

Sent from my iPad

THE SILVERA FIRM

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

17070 DALLAS PARKWAY
SUITE 100
DALLAS, TEXAS 75248

TELEPHONE (972) 715-1750
FACSIMILE (972) 715-1759
MMYERS@SILVERALAW.COM

October 20, 2017

***Via First Class Mail and
E-mail: townsecretary@flower-mound.com***

Ms. Theresa Scott
Town Secretary
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028

Re: Serenity (ZPD16-0007)

Proposed Development at 2801 High Road, Flower Mound, Texas (the
“Development”)

Dear Ms. Scott, Town Council Members, Planning and Zoning Members, and Town Staff:

As you may already know, I represent one or more property owners within 200' of the above-referenced Development, and I have been retained to express some of the concerns various neighbors have with regard to the Development as well as the conduct of the developer Rembert Enterprises, Inc. (the “Developer”) through the application process. First and foremost, please recall a petition was filed with the Town of Flower Mound (the “Town”) signed by nearly 200 citizens of the Town indicating their opposition to the Development. Not only is it important to note the number of signatures obtained by neighbors of the proposed Development, but it is equally important to note the signatures included 7 of the 8 neighbors within 200' of the proposed Development. Just for your information, it has come to my attention now all 8 neighbors within 200' of the proposed Development have voiced their opposition to the proposed Development. Please allow this letter to serve as an explanation as to why such opposition to the proposed Development exists.

Developer Disregards Municipal Code and Destroys Protected Habitat

According to the Town of Flower Mound's active case log, the application related to the Development was filed on June 20, 2016 (the “Application”). Pursuant to the “enhanced notification requirements” the Developer was required to place an informational sign within five

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(5) days after the date the Application was filed. The Developer failed to place any such informational sign on the property until September 15, 2016. One of my clients actually witnessed the Developer placing the informational sign on the property on September 15, 2016, and if inquiry is made into photographs the Developer provided to the Town of Flower Mound (the "Town") to evidence his compliance with this provision of the Municipal Code, you will discover the metadata indicates both pictures were taken on the same date, which is September 15, 2016. Apparently the Developer believes posting the signage required by the enhanced notification requirements eighty-two (82) days late provides the "enhanced notification" the Town intended for such a cluster development.

I must credit the Town and their legal counsel for the amount of time and energy invested in responding to my Freedom of Information Act request, I appreciate the thoroughness with which the Town and their legal counsel provided documents in response. I invested a significant amount of time reviewing each and every page produced in response to my Freedom of Information Act request. Notably, while I was able to locate a copy of the notification of the second public meeting to landowners regarding the Development, I was unable to locate a copy of the notification of the first public meeting. This fact might be the reason why the first meeting was so sparsely attended, while the second meeting related to this Development was a "standing-room-only" event. It seems readily apparent the intent of the "enhanced notification requirements" was not achieved by the Developer.

On January 30, 2017, I was contacted by one of my clients who indicated work was being conducted on the property related to the Development (the "Property"). I instructed my client to take pictures and to send me a copy of the pictures evidencing the work being conducted on the Property. With great credit to legal counsel for the Town (Mr. Bryn Meredith) responded the same day indicating the Town did not authorize the work and the office of Code Enforcement would be investigating the matter. On February 2, 2017, I followed up with Mr. Meredith indicating my concern the unauthorized work, which felled large swaths of trees and vegetation and leveled paths through the Property (apparently in an attempt to provide dirt roads for heavy equipment to ingress and egress from the Property), had impacted both the Upland Habitat and the Topographical Slope present on the Property (the "Violation E-mails"). A true and correct copy of said Violation E-mails are attached hereto as "Exhibit 1," and are incorporated by reference as if fully set forth herein.

On January 31, 2017, Mr. Matthew Woods (Director of Environmental Services for the Town) issued a communication to the Developer confirming: (a) grading work was done on the Property; (b) trees were removed from the Property; (c) brush was removed from the Property; and (d) the unauthorized work impacted both the Environmentally Sensitive Areas of Upland Habitat and Topographical Slope at the Property. The Town properly issued a citation and directed the Developer to discontinue work on the Property without first obtaining a proper permit and authorization (the "Woods E-mail"). A true and correct copy of the Woods E-mail is attached hereto as "Exhibit 2," and is incorporated by reference as if fully set forth herein.

On February 9, 2017, a citation was issued to the owner of the Property related to the improper tree removal and dirt work conducted without a permit (the "Citation"). A true and

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correct copy of said Citation is attached hereto as "Exhibit 3," and is incorporated by reference as if fully set forth herein.

The Developer has not yet appeared before Planning & Zoning or Town Council, but already the Developer: (a) failed to timely post the zoning-change signs on the Property; (b) failed to have the first neighborhood meeting properly noticed to neighbors of the Property; (c) destroyed environmentally sensitive areas of Upland Habitat; and (d) destroyed environmentally sensitive areas containing protected topographical slope. This behavior calls into question the protections the Developer will provide for the "open space," which the Developer proposes be regulated by a homeowners' association the Developer will form. After exhibiting blatant disregard for the environmentally sensitive areas in violation of the Town's ordinances, the Developer cannot be trusted to implement rules, regulations, covenants and/or declarations requiring the homeowners' association to respect these areas.

The Development is Not Cognizant of Adjacent Lot Sizes

The Property is located within the Cross Timbers Conversation Development District Plan as set forth in the Town of Flower Mound Master Plan: Ordinance 26-11 (the "CTCD Area Plan"). A true and correct copy of the pertinent portion of the CTCD Area Plan is attached hereto as "Exhibit 4," and is incorporated by reference as if fully set forth herein. The Developer proposes the Development to the Town as a cluster development. The CTCD Area Plan requires any development to contain a mixture of lot sizes and be cognizant of external adjacent lot sizes. The Development neither contains a mixture of lot sizes nor is it cognizant of external adjacent lot sizes. The lots adjacent to the Development have lot sizes as follows:

- 435,600 total square feet - adjacent lot to the north of the Development (130,680 square feet of residential lot, 217,800 square feet of native pasture, and an 87,120 square foot home site). Owned by the Kieckhefer Trust.
- 317,251 total square feet – adjacent to the south of the Development (273,691 square feet of improved pasture, and a 43,560 square foot home site). Owned by Robert Schnee.
- 43,036 total square feet – across High Road to the south, southeast of the Development. Owned by Mr. Dewberry.
- 459,994 total square feet – north of Mr. Dewberry's lot and comprised of common area. Owned by Hi Road Home Owners.
- 815,848 total square feet – north of the lot owned by Hi Road Home Owners (153,766 square feet of pasture, 588,030 square feet of improved pasture, and 74,052 square feet of resident lot). Owned by Mike McCormick and/or Mike McCormick Farm, Inc.

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- 41,505 total square feet – north of the lots owned by Mike McCormick and/or Mike McCormick Farm, Inc. Owned by Peter Perfetti.
- 43,625 total square feet – north of the lot owned by Peter Perfetti. Owned by David Hobt.
- 87,120 total square feet – north of the lot owned by David Hobt.

A true and correct copy of the Denton Central Appraisal District map of the area in question (the “DCAD Map”) is attached to this letter as “Exhibit 5,” and is incorporated by reference as if fully set forth herein. None of these properties contain more than one single family residence. Even a cursory review of the DCAD Map demonstrates the fact the Development is not cognizant of external adjacent lot sizes.

The Developer submitted a concept plan for the Development (the “Concept Plan”) to the Town, and a true and correct copy of said Concept Plan is attached hereto as “Exhibit 6,” and is incorporated by reference as if fully set forth herein. Because the Concept Plan does not provide the lot sizes, and therefore, it is impossible to make a determination regarding the amount of variance exists between each of the sixteen (16) lots. However, it seems apparent the lots are fairly close in size.

Development Does Not Provide an Appropriate Transition to Existing Land Uses

The CTCD Area Plan requires the Development provide an appropriate transition to existing land uses. *See* Exhibit 4, pg. 2, paragraph 8.d. The proposed Development consists of sixteen (16) lots with sixteen (16) family residences. A These sixteen residences are grouped together in clumps of eight (8) and seven (7) contiguous lots with a single lot separated from both clumps of lots by a street. *See* Exhibit 6 – Concept Plan. To the north of the Development exists 217,800 square feet of native pasture, to the south of the Development exists 273,691 square feet of improved pasture, and to the east of the Development exists 153,766 square feet of pasture and 588,030 square feet of improved pasture. Currently the Property upon which the Developer proposes to place the Development is comprised of 787,827 square feet of improved pasture, 438,649 square feet of native pasture, with a 21,780 square foot home site. Grouping a cluster of sixteen (16) lots into clumps of eight (8) and seven (7) contiguous lots is not an appropriate transition from the properties to the north and south of the Development.

Additionally, according to the Developer’s landscape plans (the “Landscape Plans”), the Development will be a gated community surrounded by a wrought iron fence between masonry columns as well as a split rail fence. A true and correct copy of said Landscape Plans is attached hereto as “Exhibit 7,” and is incorporated by reference herein. *See* Exhibit 7. None of the properties adjacent to the Development are gated communities. The transition from a lot to the north with a large quantity of pasture to gated community (the Development) and then back to a lot with a large quantity of pasture to the south does not provide for an appropriate transition required by the CTCD Area Plan. Moreover, the wrought iron fence is not consistent with the requirements for a standard rural fence as set forth in the Urban Design Plan (the “Urban Design Plan”). A true and correct copy of the pertinent portions of the Urban Design Plan are attached hereto as “Exhibit

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8,” and are incorporated by reference as if fully set forth herein. *See* Exhibit 8 – Urban Design Plan, pg. 4.40.

Development Destroys Scenic Corridor

It should be noted the purpose of allowing cluster developments is to preserve the scenic corridors which provide extensive views into the Cross Timbers Conservation District for the benefit of the community. *See* Exhibit 4, pg. 2, paragraph 8 and pg. 3, paragraph 2. The CTCD Area Plan states High Road is a scenic corridor. *See* Exhibit 4, pg. 3, paragraph 2.f. The CTCD Area Plan states properties adjacent to scenic corridors provide extensive views into the Cross Timbers Conservation District. *See* Exhibit 4, pg. 3, paragraph 2. The CTCD Area Plan states compliance with SMARTGrowth Analysis can be achieved by a cluster development, placing new houses outside of the view area, or by siting any new lots so the **houses face the roadways across conserved open space** rather than providing a view from the roadways into back yards or rear alleys. *See* Exhibit 4, pg. 3, paragraph 2 (emphasis added); *see also* Exhibit 8, pg. 4.41.

The Concept Plan shows the sixteen (16) lots are not placed outside of the view area. Seven (7) lots on the north side of the Property and at least two (2) lots on the south side of the Property will provide views into the backyards of the houses from High Road. While the houses are situated across from a small partition of “open space,” the vast majority of the “open space” is situated behind the sixteen (16) lots and will not be visible from the Scenic Corridor of High Road, and only a two of the eight (8) lots on the north of the Development face High Road. *See* Exhibit 6 – Concept Plan. The Development does not place the new houses outside the view area of High Road, a majority of the houses do not face High Road, about half of the houses will provide views into the backyards of the houses, and the open space which is being conserved will not be viewable from High Road.

Additionally, the Urban Design Plan states house lots should be grouped and dispersed to minimize linear relationships visible inside the scenic corridor. *See* Exhibit 8, pg. 4.41. The Concept Plan demonstrates the Development essentially is comprised of two groupings of eight (8) and seven (7) houses. *See* Exhibit 6. At the north end of the Development, it cannot be argued that at least five (5) lots are linear in relationship to each other. Towards the middle of the Development and leading to the south end of the Development, all seven (7) lots have a linear relationship.

The Development does not provide extensive views into the Cross Timbers Conservation District for the benefit of the community, but instead blocks the view into the Cross Timbers Conservation District and offers slivers of open space viewable from High Road in exchange. The Development is a feeble attempt by the Developer to feign compliance with the CTCD Area Plan, and allowing this Development to proceed will destroy the scenic corridor which currently exists on the Property. Section 98-166 of the SMARTGrowth Program states “[n]o development application or project shall be approved unless the proposed development shall occur in patterns that minimize the visual impacts of the development in relation to scenic roads, country roads and scenic corridors as designated in the master plan or any component plan thereof. The Development should not be approved because it destroys the view from High Road into the Cross Timbers Conservation District.

LETTER TO TOWN OF FLOWER MOUND
OCTOBER 20, 2017
PAGE - 6

Development Destroys Significant Amounts of Environmentally Sensitive Areas

During the application process, an Environmental Sensitive Area Survey was conducted on the Property (the “ESA Survey”). A true and correct copy of said ESA Survey is attached hereto as “Exhibit 9,” and is incorporated by reference as if fully set forth herein. The ESA Survey indicates the existence of Upland Habitat, Riparian Habitat, Prairie Habitat, and areas subject to Topographical Slope Protection. *See Exhibit 9*. As required by the ordinances of the Town, the Developer provided the Town with an Environmental Protection Plan (the “First EP Plan”). A true and correct copy of said First EP Plan is attached hereto as “Exhibit 10,” and is incorporated by reference as if fully set forth herein. The First EP Plan was prepared by KBA EnviroScience, Ltd. on January 4, 2016 and was revised on January 6, 2017. Another Environmental Protection Plan was prepared by Groundwater & Environmental Services, Inc. on February 15, 2017 and was revised on July 26, 2017 (the “Second EP Plan”). A true and correct copy of said Second EP Plan is attached hereto as “Exhibit 11,” and is incorporated by reference as if fully set forth herein.

The ESA Survey indicates approximately 16.48 acres of Upland Habitat was found on the Property. *See Exhibit 9*. The ESA Survey is dated August 10, 2016. The First EP Plan indicates approximately 15.43 acres of Upland Habitat was found on the Property. *See Exhibit 10*, pg. 5. The First EP Plan was revised on January 6, 2017. The Second EP Plan indicates approximately 14.94 acres of Upland Habitat was found on the Property. *See Exhibit 11*, pg. 5. The difference in the amount of Upland Habitat noted in the ESA Survey prepared by the Town and the First EP Plan and Second EP Plan are not insignificant. The difference in the amount of Upland Habitat between the ESA Survey and the First EP Plan is 1.05 acres. The difference in the amount of Upland Habitat between the ESA Survey and the Second EP Plan is 1.54 acres.

Between the time the ESA Survey was conducted (August 10, 2016), the Developer engaged in the removal of trees and engaged in grading the Property. *See Exhibit 3*. The Director of Environmental Services for the Town (Mr. Matthew Woods) indicated in his e-mail to the Developer that “unauthorized work impacted both the Environmentally Sensitive Areas of Upland Habitat and Topographical Slope at the Property.” In conducting the unauthorized work, the Developer destroyed between 1.05 to 1.54 acres of Upland Habitat on the Property. Unfortunately, the ESA Survey did not indicate the amount of acres of the Property which were subject to Topographical Slope Protection or it might be possible to determine how the Developer impacted those areas as well. The Second EP Plan requests a mitigation credit for 9.17 acres of Upland Habitat preserved by the Development due to the 5.77 acres of Upland Habitat impacted by the Development, however, nothing in the Second EP Plan takes into account the 1.05 acres to 1.54 acres of Upland Habitat the Developer destroyed in January 2017.

In addition to the destruction of Upland Habitat both pre-development and post development, the Development will also impact significant amounts of land subject to Topographical Slope Protection. The First EP Plan states the Development will impact 4.9 acres of land with topographical slopes between 5% to 12%. *See Exhibit 10*, pg. 7. The Second EP Plan indicates the Development will impact 5.1 acres of land with topographical slopes between 5% to 12%. Additionally the First EP Plan states the Development will impact .11 acres of land with topographical slopes in excess of 12% and the Second EP Plan states the Development will impact 1.6 acres of land with topographical slopes in excess of 12%. Section 98-147(a) of the

LETTER TO TOWN OF FLOWER MOUND
 OCTOBER 20, 2017
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SMARTGrowth Plan states “[n]o development application or project shall be approved that proposes development on any existing topographical slopes of 12% or greater or that proposes to alter any existing topographical slopes that are less than 12 percent but equal to or greater than five percent then available (other than within five feet of the footprint of the proposed structure or structures).” Not only did the Developer engage in illegal grading activities prior to presenting the Development to the Planning & Zoning Commission or the Town Council, but the Developer has failed to even attempt to qualify for an exception related to topographical slope protection set forth in Section 98-147(b) of the SMARTGrowth Plan.

Despite the fact: (a) the Development will impact 5.77 acres of Upland Habitat (in addition to the 1.05 to 1.54 acres of Upland Habitat the Developer destroyed in January 2017); and (b) the Development will impact between 5 to 6.7 acres of land subject to Topographical Slope Protection, apparently neither the Town nor the Developer deemed it necessary to conduct an analysis of the Development’s impact on Watershed Protection. Section 98-145 of the SMARTGrowth Plan states “[n]o development application or project with a project area greater than one and one-half acres shall be approved if the projected velocity exceeds predevelopment conditions or runoff exceeds the runoff that would occur for single-family residential development, with any additional runoff projected to be generated by development being retained on site and absorbed, evaporated and/or released from the development at a rate not exceeding single-family residential conditions.” The Development is approximately 29 acres in size having significant impact to existing Upland Habitat, Prairie Habitat, and land subject to Topographical Slope Protection but no one conducted an analysis to determine whether the Development will have any impact on the watershed, and if there is an impact, how the Developer plans to mitigate the effects.

Development Does Not Detail How Maintenance of Open Space will be Funded

The CTCD Area Plan requires a proposal for a development to “detail the perpetual maintenance and funding for the open space areas, which much be feasible and appropriate for the areas preserved.” See Exhibit 4, pg. 2, paragraph 8.c. The Developer submitted an incomplete Open Space Management Plan (the “Open Space Plan”) to the Town for consideration. A true and correct copy of said Open Space Plan is attached hereto as “Exhibit 12,” and is incorporated as if fully set forth herein. The Open Space Plan describes “Dedications and Restrictions” and “Covenants, Conditions and Restrictions” but does not include a copy of said documents for the Town or the public to review. See Exhibit 12, pg. 4, paragraphs 1.b. and 1.c. The Open Space Plan generally describes the maintenance of Woodland/Open Space (paragraph 1.d.), Bar Ditches (paragraph 1.e.), Drainage Culverts in Open Space (paragraph 1.f.), Fencing in Open Space (paragraph 1.g.) and Masonry Entry Feature in Open Space (paragraph 1.h.). Not only is the maintenance of masonry features, bar ditches, fences and drainage culverts confusing (why would those features be included in the “open space”), but the Open Space Plan is absolutely and completely devoid of any information related to the costs associated with maintaining the open space or any information related to how much the owners of the proposed houses will be required to pay to maintain the open space. The Developer’s Open Space Plan is not only incomplete because it does not have any of the exhibits referenced therein, but it is devoid of the information required by the CTCD Area Plan related to the funding for the maintenance of the open areas.

LETTER TO TOWN OF FLOWER MOUND
OCTOBER 20, 2017
PAGE - 8

For the reasons, the citizens of the Town of Flower Mound request the Planning & Zoning Commission and/or the Town Council for the Town of Flower Mound to deny the Developer's application for the proposed Development.

Sincerely yours,


Michael H. Myers

Enclosures

cc: *Via First Class Mail*
Tom Hayden

Via First Class Mail
Bryan Webb

Via First Class Mail
Don McDaniel

Via First Class Mail
Claudio Forest

Via First Class Mail
Brad Ruthrauff

Via First Class Mail
Mike McCall

Via First Class Mail
Laura Dillon

Via First Class Mail
David Johnson

Via First Class Mail
Jimmy Strathos

Via First Class Mail
Jason Webb

Via First Class Mail
Kevin Bryant

Via First Class Mail
Albert Picardi

Via First Class Mail
Perfecto Solis

Via First Class Mail
Laile Neal

Via First Class Mail
Al Linley

Via First Class Mail
Heth Kendrick

Via First Class Mail
Chuck Russell

EXHIBIT 1

Michelle Roberts

From: Michael Myers <mmyers@curtislaw.net>
Sent: Wednesday, February 01, 2017 2:13 PM
To: Bryn Meredith
Subject: RE: Town of Flower Mound - Zoning case number: ZPD 16-0007
Attachments: Serenity - ESA Survey Map Slope Map.pdf

Importance: High

Bryn,

Can you provide me with an update regarding the outcome of this matter?

There is an additional concern that I have regarding Mr. Rembert's unauthorized work on the property. Attached to this e-mail is a document that I obtained from the Town of Flower Mound that indicates, *inter alia*, that the area is subject to "Topographical Slope Protection" and includes "Upland Habitat." From the pictures that I provided to you, it seems relatively obvious that large swaths of trees and vegetation were leveled in order to provide dirt roads for the ingress and egress of equipment. Additionally, if Mr. Rembert engaged in any grading of the property, which appears at least possible from the pictures that I sent you, then it is possible that Mr. Rembert altered the topographical slope of the property prior to obtaining approval of the development and/or obtaining a change in the zoning related to the property.

In my opinion, Mr. Rembert's recent activity on the property is just more evidence of his penchant to disregard the ordinances of the Town of Flower Mound as well as the procedures for obtaining a change in the current zoning, and will, no doubt, only intensify the opposition to the proposed development.

On a related note, since it is my perception that Mr. Rembert seems to have a pathological tendency to disregard the Town of Flower Mound's requirements related to this property, I will likely be issuing a Freedom of Information Act Request (the "FOIA Request") to the Town of Flower Mound. Would you prefer that I send the FOIA Request to you or to the Secretary for the Town of Flower Mound? Please let me know at your earliest convenience so that I can get the FOIA Request sent out as soon as possible.

If you have any questions regarding the foregoing or the attached, please do not hesitate to contact me.

MICHAEL H. MYERS
CURTIS | CASTILLO PC
 Bank of America Plaza
 901 Main Street, Suite 6515
 Dallas, TX 75202
 Telephone: 214.752.2222 ext. 116
 Facsimile: 214.752.0709
 Email: mmyers@curtislaw.net
 Website: www.curtislaw.net

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From: Bryn Meredith [mailto:bmeredith@toase.com]
Sent: Monday, January 30, 2017 3:57 PM
To: Michael Myers <mmyers@curtislaw.net>
Subject: RE: Town of Flower Mound - Zoning case number: ZPD-16-0007

Michael,

Thank you for bringing this to my attention. This work was not authorized by the Town and Code Enforcement is investigating the matter. The work was ordered to be stopped and a tree assessment will be performed to determine whether any protected trees were removed.

Sincerely,

Bryn D. Meredith

Attorney at Law

Taylor, Olson, Adkins, Sralla & Elam, L.L.P.

6000 Western Place, Suite 200

Fort Worth, Texas 76107

Telephone: 817.332.2580

Facsimile: 817.332.4740

Email: bmeredith@toase.com

www.toase.com

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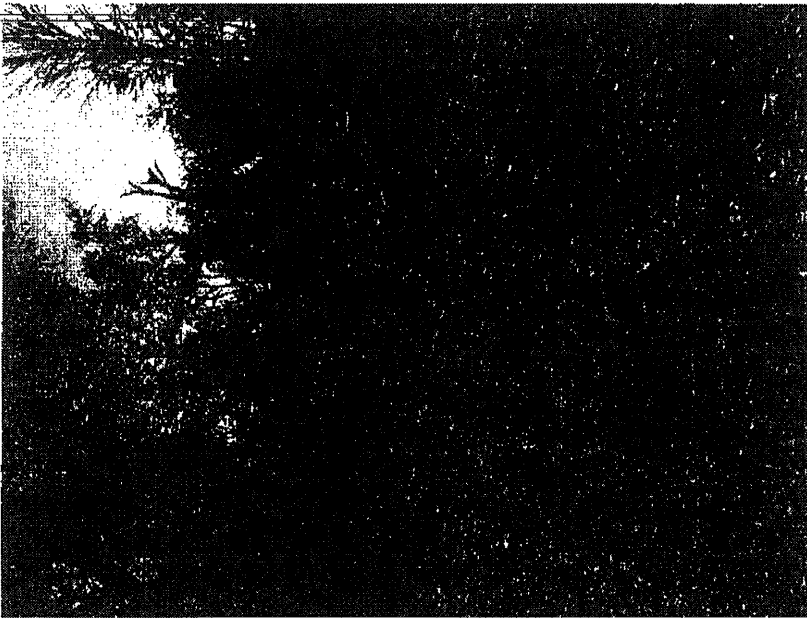
----- Original message -----

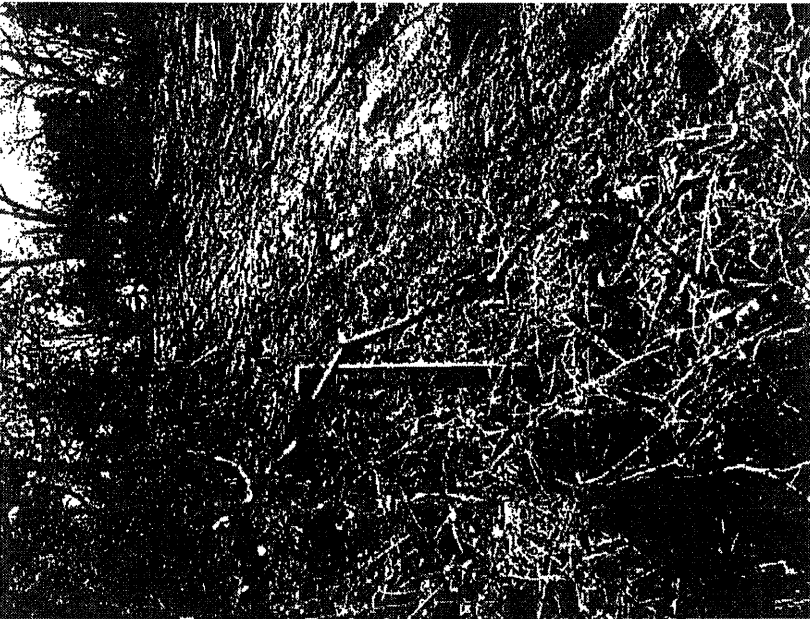
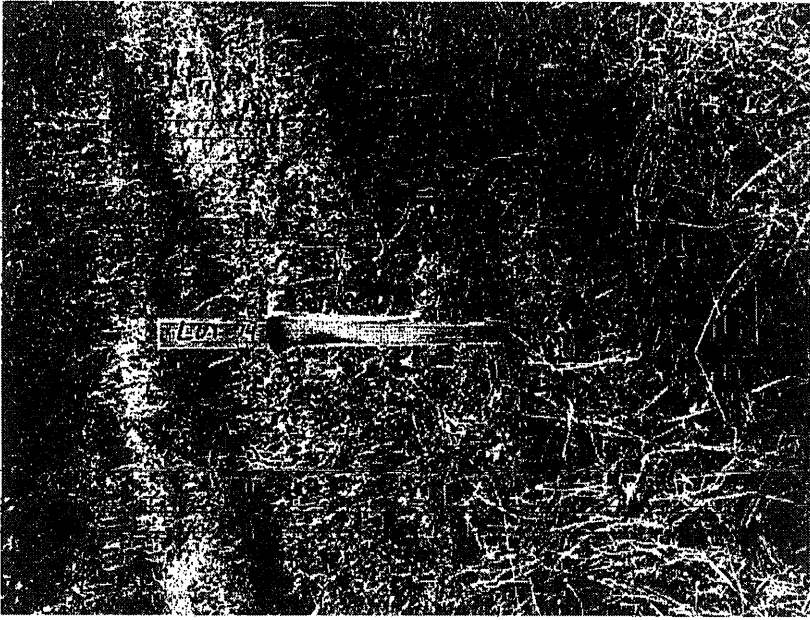
From: Michael Myers <mmyers@curtislaw.net>
Date: 01/30/2017 2:12 PM (GMT-06:00)
To: Bryn Meredith <bmeredith@toase.com>
Cc:
Subject: Town of Flower Mound - Zoning case number: ZPD 16-0007

Bryn,

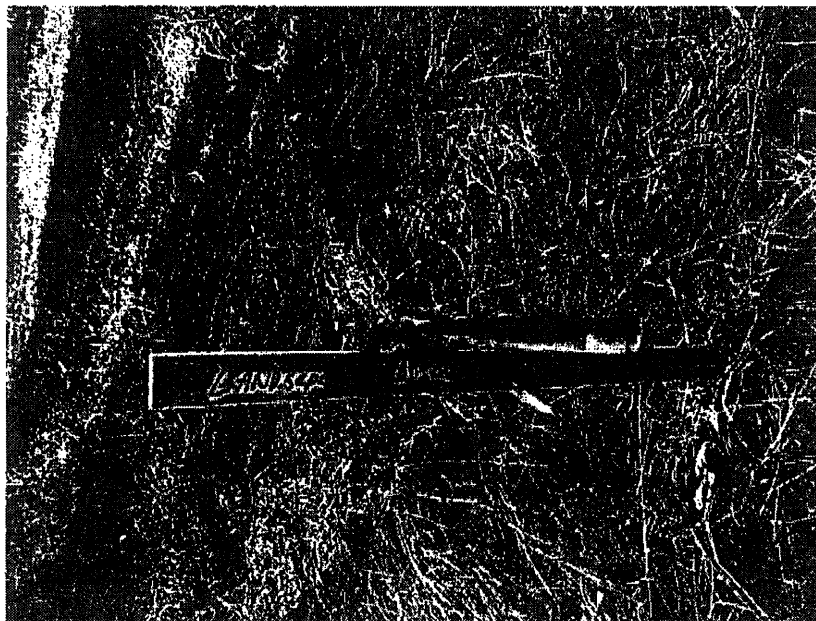
There has been activity on the property that is the subject of the above-referenced zoning case number, and I would like to know what level of construction is going to be allowed by the Town of Flower Mound before (a) the second neighborhood meeting occurs; and/or (b) the application is submitted for approval to the Planning and Zoning Commission. Please let me know at your earliest convenience so that I can report to my clients. Thank you.

I've included some pictures for you to reference.









MICHAEL H. MYERS

CURTIS | CASTILLO PC

Bank of America Plaza
901 Main Street, Suite 6515
Dallas, TX 75202
Telephone: 214.752.2222 ext. 116
Facsimile: 214.752.0709

Email: mmyers@curtislaw.net

Website: www.curtislaw.net

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EXHIBIT 2

Michelle Roberts

From: Matthew Woods <matthew.woods@flower-mound.com>
Sent: Tuesday, January 31, 2017 4:26 PM
To: 'Rembert Builders, Inc. <
Cc: Robert Pegg; Doug Powell
Subject: Serenity application - unauthorized work

Reginald,

As a follow up from our discussion yesterday afternoon about the grading work done on the Serenity property on High Rd (ZPD16-0007), we inspected the area and have confirmed that grading work, small tree/brush removal, and other potential impacts to Environmentally Sensitive Areas (ESAs) have occurred. The ESAs on the properties were identified in both the Town's environmental assessment as part of the ongoing ZPD application process and within the Environmental Protection Plan submitted by your consultant; which is currently under review. Potential ESAs impacted include upland habitat and 5-12% slope and/or slope areas greater than 12%.

Enforcement action, including a citation, will be issued relative to the work done on the property without receiving a permit and proper authorization. Could you please clarify what the intent of the work was. You indicated to me the owner was the responsible party for authorizing or initiating the work.

Also, as there is an active application and ongoing review for the properties tied to this application, no further dirt work, grading, tree/vegetation removal, or similar work is allowed to occur on the site. If it's desired to conduct any geotech work, the permitting process through Engineering must be adhered to.

Please contact me with any questions.

Matthew Woods
Director of Environmental Services
Town of Flower Mound
972.874.6348
matthew.woods@flower-mound.com

EXHIBIT 3

DEVELOPMENT AND ENVIRONMENTAL SERVICES



STATE OF TEXAS
COUNTY OF DENTON
TOWN OF FLOWER MOUND

VS. ☒ STATE VIOLATION
☒ ORDINANCE VIOLATION

NAME (LAST) CROSBY	(FIRST) RONALD	(MIDDLE) W
ADDRESS 116741 VILLAGE LN		
CITY DALLAS	STATE TX	ZIP 75248
HOME PHONE		WORK INFO.
DATE OF BIRTH [REDACTED]	RACE M	SEX M
HEIGHT [REDACTED]	WEIGHT [REDACTED]	HAIR [REDACTED]
STATE TX	TYPE [REDACTED]	YEAR EXPIRED 8
VEH. YEAR [REDACTED]	VEH. MAKE [REDACTED]	VEH. TYPE [REDACTED]
LICENSE/ST. YR. [REDACTED]		

VIOLATION

- ☐ DUMPING
- ☒ FAILURE TO OBTAIN PERMIT DIRT WORK, TREE REMOVAL
- ☐ NUISANCE
- ☐ TRASH AND/OR DEBRIS (UNSIGHTLY MATTER)
- ☐ HIGH GRASS AND WEEDS IN EXCESS OF 12"
- ☐ PARKING
- ☐ ALLOWING EXPOSED WASTEWATER
- ☐ OCCUPYING BUILDING WITHOUT A CERTIFICATE OF OCCUPANCY OR WITHOUT A BUILDING FINAL
- ☐ PERFORMING WITHOUT A LICENSE
- ☐ FAILURE TO MAINTAIN CONSTRUCTION OR PERMANENT POOL ENCLOSURE
- ☐ FAILURE TO PROVIDE CERTIFIED FOOD PROTECTION MANAGER ON DUTY.
- ☐ OTHER OFFENSE

COMMENT/DESCRIPTION SUBDIVISION DIRT WORK PERFORMED WITHOUT PERMITS APPLIED FOR OR ISSUED

IN VIOLATION OF: STATUTE CN 14 SECTION 32

ON (DAY) THUR DATE 9 FEB 2017 AT 11:30 AM

LOCATION 2800 BLOCK HIGH RD
FLOWER MOUND, TX

OFFICER TETENS ID# 0882

Disposition of Violation(s) cited above must be on or before the 9th day of MARCH 2017 before 5:30 p.m., by one of the following methods: 1) Appear in person on or before the date and time specified above to set a hearing date. 2) Appear to request other disposition of violation(s) cited on or before the due date. Failure to make disposition on or before the due date will result in issuance of a failure to appear and/or a warrant. Violator is advised to carefully read important instructions on reverse side of this notice. Flower Mound Municipal Court is located at 4150 Kirkpatrick Lane, Flower Mound, Texas 75028. (972) 874-3370.

Signed X 7015 0640 0004 5919 8955
(SIGNING OF THIS CITATION IS NOT AN ADMISSION OF GUILT)

WHITE-COURT

PINK-OFFICER

YELLOW-DEFENDANT

CERTIFIED MAIL

ES 7569

EXHIBIT 4

2.0 AREA PLANS

Cross Timbers Conservation Development District Area Plan

The Cross Timbers Conservation Development District Area Plan preserves the integrity of the largely intact Cross Timbers ecological area in central Flower Mound, which provides the Town with its unique country atmosphere and natural environment, while allowing environmentally sensitive development to occur. The area plan establishes development options within the district and identifies specific elements needing consideration.

There are several development options within the District:

1. Retain all or part of the property for personal use. This option would include (but not require) the potential of donating a conservation easement on all or part of the property in order to realize some economic benefit.
2. Develop all or part of the property, or sell all or part of the property to others for development, on two acre lots as permitted under the existing Agricultural zoning.
3. Develop all or part of the property, or sell all or part of the property to others for development, as a conservation development, with the number of lots as permitted under the existing Agricultural zoning, but with smaller lots and eligibility for incentive benefits as established by the Town's SMARTGrowth Program. This option would include the potential donation of a conservation easement on all or part of the property in order to realize some additional economic benefit.
4. Develop all or part of the property at lot sizes larger than two acres, as permitted under the existing Agricultural zoning.
5. Develop all or part of the property in Rural Development (lot sizes five acres or larger) that reflects the country atmosphere and natural environment of Flower Mound, as permitted under the existing Agricultural zoning. This could include coordinated development for specialized types of development, such as equestrian oriented developments.
6. Coordinate development planning with adjoining land owners as a combined conservation development, with the number of lots as permitted under the existing Agricultural zoning, but with smaller lots and eligibility for incentive benefits as established by the Town's SMARTGrowth Program, as a coordinated Planned Development. This option would include (but not require) the potential of donating a conservation easement on all or part of the property in order to realize some additional economic benefit.
7. Develop all or part of the property as appropriate non-residential development. Appropriate non-residential development might include active equestrian commercial activities (similar to the existing Flower Mound Equestrian Center), active use "country" commercial uses (similar to the Circle R Ranch, or roadside farm product stands), or other commercial uses that reinforce the "country atmosphere and natural environment"

2.0 AREA PLANS

that is characteristic of the Cross Timbers Conservation Development District, and are fully compatible with and acceptable to neighbors and landowners in the Zone.

8. **Develop the property as a cluster development.** The intent of the clustering option is to maximize open space conservation, including **preserving Scenic Corridors** and Vistas, on a site-by-site basis to **realize a community benefit** that provides the Town with its unique country atmosphere and natural environment. The continuation and/or connection of open space areas between adjacent developments are important in protecting the ecological value in the District. Cluster developments may be allowed in the District and must demonstrate the following:
 - a. Density shall be commensurate with the quality and character of the open or natural lands conserved and the extent to which the conserved land contributes to the preservation of the Cross Timbers Conservation Development District's country character, including its open, natural, scenic and ecological values. Density will be evaluated on a project-by-project basis. The maximum density that can be granted for a cluster development can be no more than 1 unit per 1.6 acres ($100/1.6 = 62$ units or a 24% increase above the base density). For example, on a 100 acre development, the 100 acres is divided by 1.6 to produce 62 units or a 24% (12 unit) increase in density above the base density of 1:2 or 50 units.
 - b. Minimum lot size is one-half acre or 21,780 square feet; however, **any development shall contain a mixture of lot sizes and any development shall be cognizant of external adjacent lot sizes.**
 - c. Open space may be managed by a land trust, Homeowners Association, and/or the Town. **Any development proposal must detail the perpetual maintenance and funding for the open space areas,** which must be feasible and appropriate for the areas preserved. Recreational uses may be allowed which may be appropriate given the type, location, intensity, and adjacency. Any recreational use should be characteristic of the District, compatible with adjacent land uses and should be open to the public. Floodplain may be counted as open space.
 - d. Cluster development shall **demonstrate how the development provides an appropriate transition to existing land uses.** Factors to be considered include lot sizes, intervening roadways, and **use of open space,** among other factors.
 - e. The approval of a development application for a cluster development shall require an **enhanced public notification process.** This process is to increase notice and encourage participation of the adjacent property owners and includes the following:
 1. Any developer using the cluster option must present plans to adjacent property owners and Homeowner Associations for comment and input on the proposed application.

2.0 AREA PLANS

2. At the time of pre-application, Town staff will notify the affected property owners of the potential development.
3. A meeting will be coordinated with the Developer and interested parties prior to the submittal of a development application.
4. A second meeting will be held prior to the Planning and Zoning Commission meeting to update the interested parties prior to the public hearing. The agenda item for the proposal will reflect any consensus reached by the group as well as individual comments.

Elements needing consideration within the district include:

1. Scenic Corridors and Vistas - The scenic corridor along FM 1171 has extensive views into the District. These viewsheds need to be incorporated into any development proposal, if development is contemplated, and would require compliance with the "Town of Flower Mound SMARTGrowth Program" SMARTGrowth Analysis. Compliance with the SMARTGrowth Analysis could be achieved by conservation or cluster development, placing new houses outside of the view area, or by siting any new lots so the houses face toward FM 1171 across conserved open space, with access from a street internal to the development, rather than providing a view from FM 1171 into back yards or rear alleys.
2. **Scenic corridors** are present along the following roadways in addition to the roads identified in the Town's Urban Design Plan within the Cross Timbers Conservation Development District:
 - a. Skillern Road
 - b. Scenic Road
 - c. Shiloh Road
 - d. Rocky Point Road
 - e. Red Rock Road
 - f. **High Road**
 - g. FM 1171 at the Cross Timbers Escarpment

Properties adjacent to these roads provide extensive views into the District. Compliance with the SMARTGrowth Analysis could be achieved by conservation or cluster development, placing new houses outside of the view area, or by siting any new lots so the houses face the roadways across conserved open space, with access from a street internal to the development, rather than providing a view from the roadways into back yards or rear alleys.

2.0 Area Plans

Cross Timbers Conservation Development District

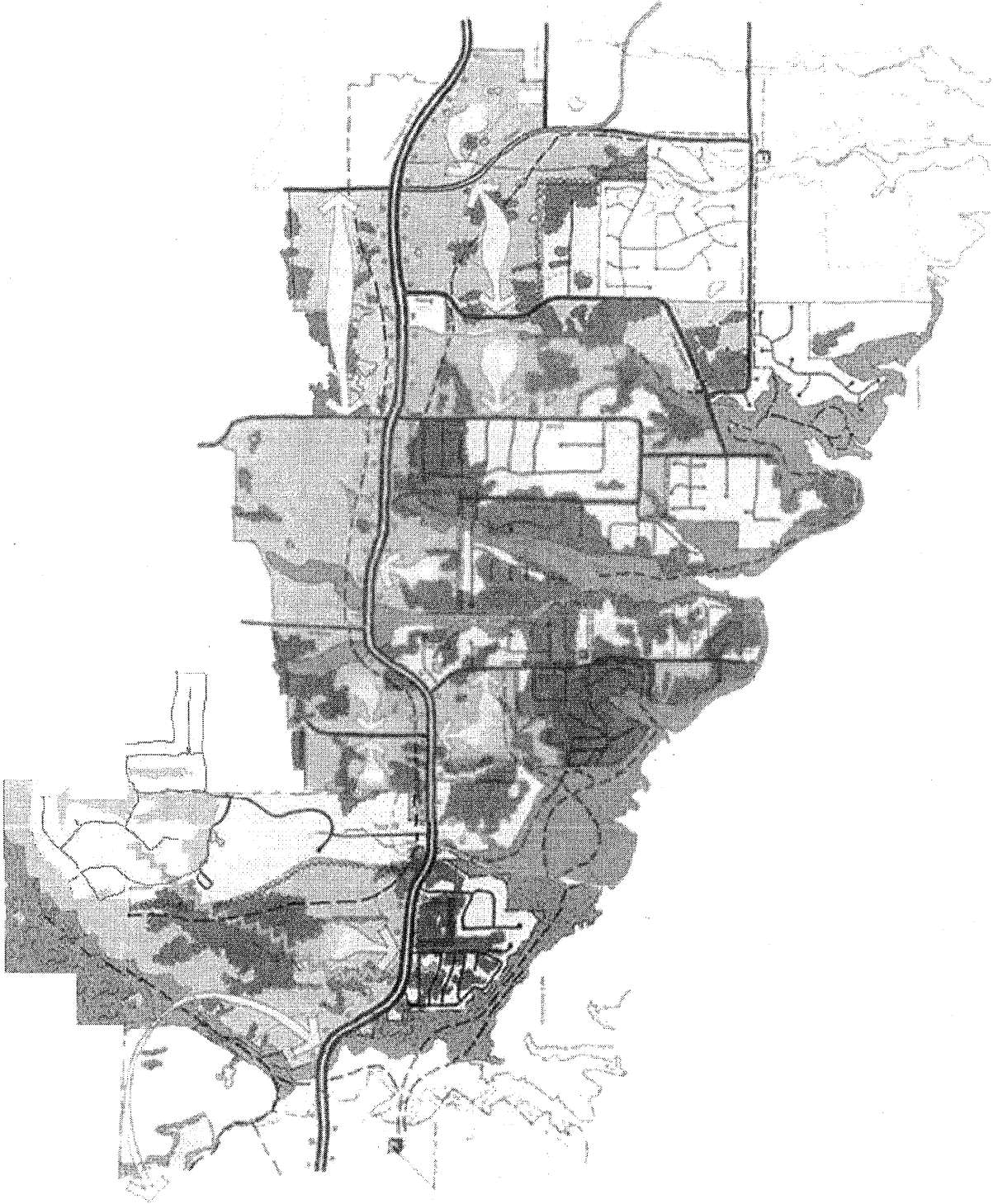
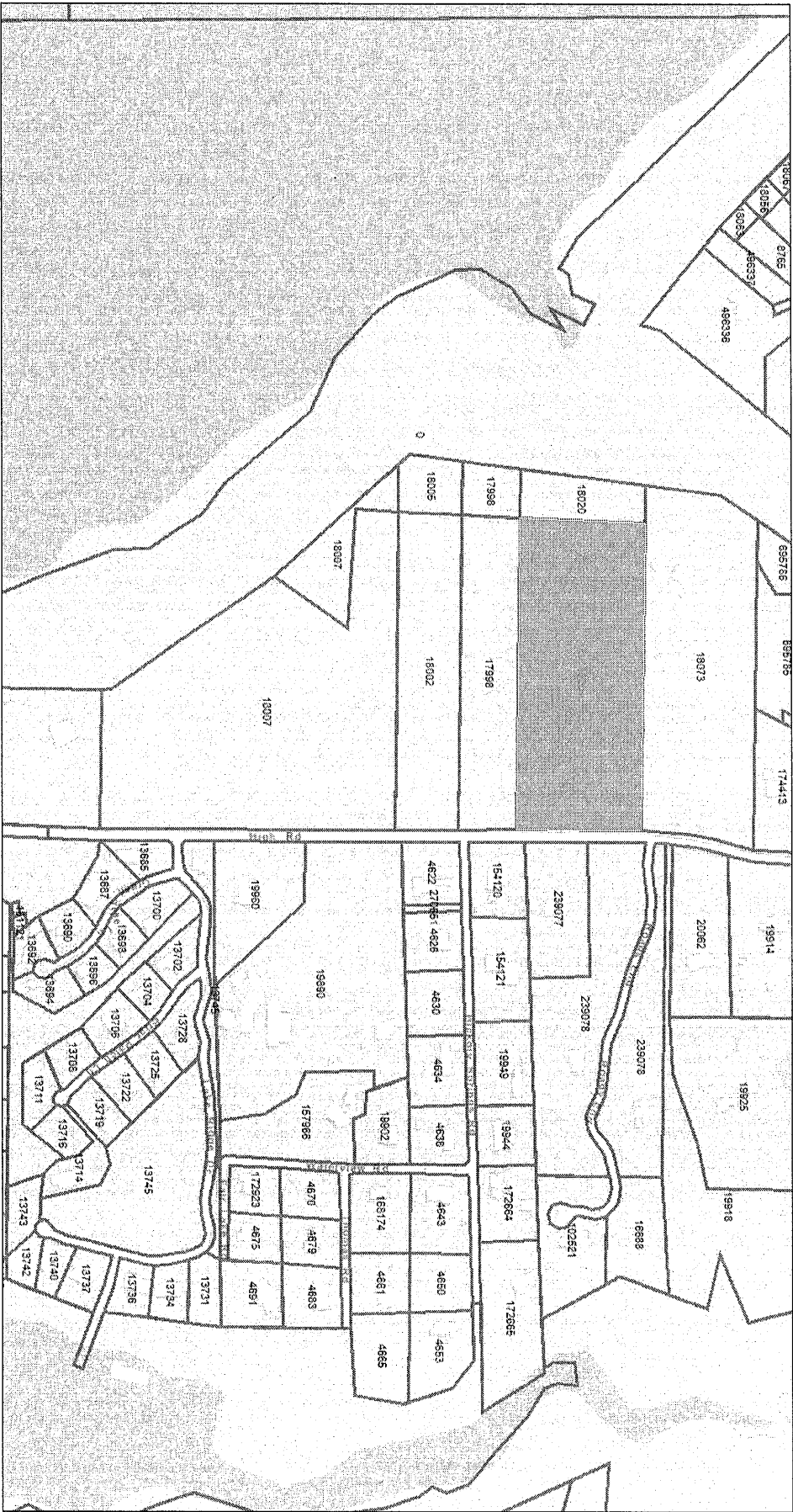


EXHIBIT 5

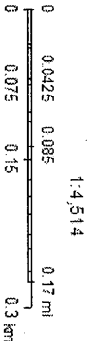
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Denton CAD Webmap

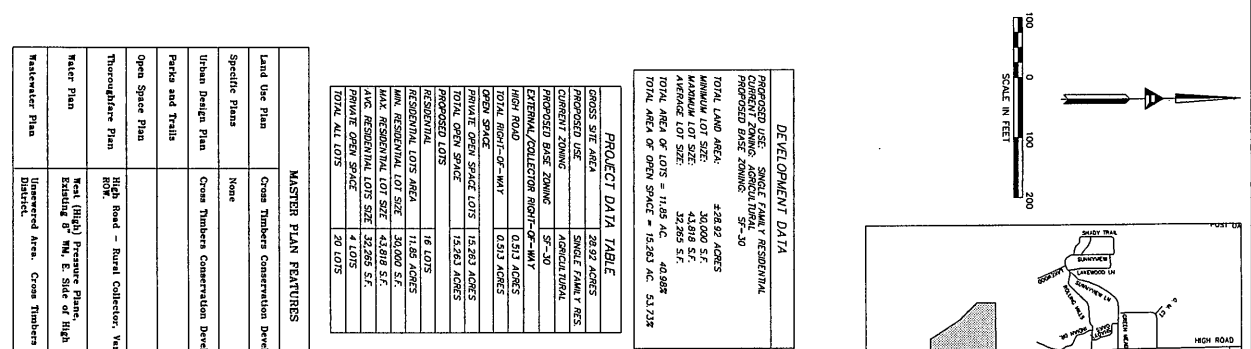


October 19, 2017



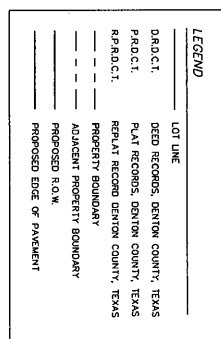
SOURCE: Esri HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCA, Esri Japan, METI, Esri China (Hong Kong), Swis, (Vieland), MapInfo, NOAA, © OpenStreetMap contributors, and the GIS User Community

EXHIBIT 6



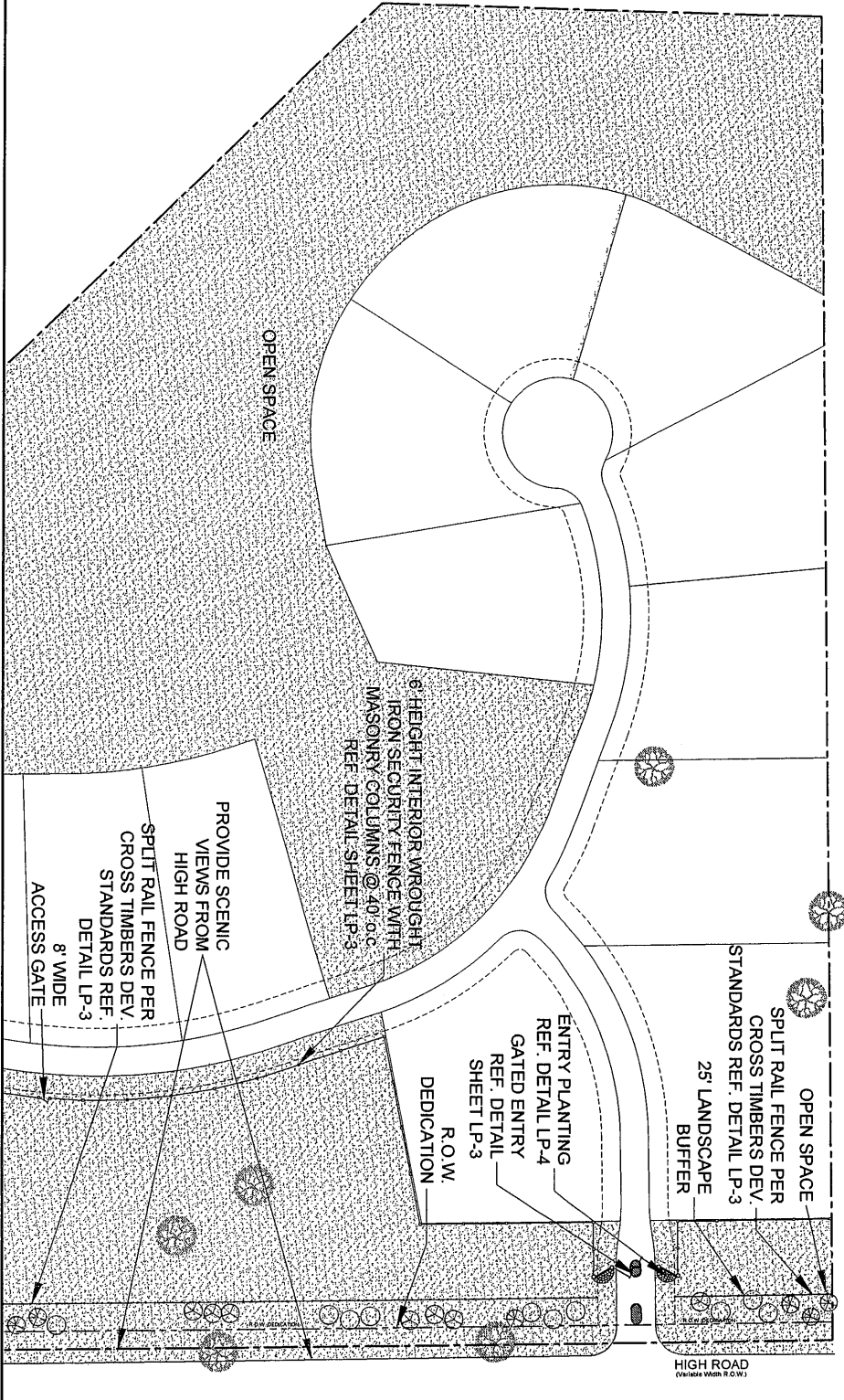
PROPOSED USE: SINGLE FAMILY RESIDENTIAL	
CURRENT ZONING: AGRICULTURAL	
PROPOSED BASE ZONING: SF-50	
TOTAL LAND AREA:	328.92 ACRES
MINIMUM LOT SIZE:	30,000 S.F.
MAXIMUM LOT SIZE:	43,818 S.F.
AVERAGE LOT SIZE:	32,265 S.F.
TOTAL AREA OF LOTS = 11,655 AC.	40,584
TOTAL AREA OF OPEN SPACE = 15,263 AC.	53,735

PROJECT DATA TABLE	
GROSS SITE AREA	328.92 ACRES
PROPOSED USE	SINGLE FAMILY RES.
CURRENT ZONING	AGRICULTURAL
PROPOSED BASE ZONING	SF-50
EXTEND COLLECTOR ROAD-OF-WAY	0.51 ACRES
TOTAL RIGHT-OF-WAY	0.51 ACRES
OPEN SPACE	
PRIVATE OPEN SPACE LOTS	15,263 ACRES
TOTAL OPEN SPACE	15,263 ACRES
PROPOSED LOTS	
RESIDENTIAL	16 LOTS
RESIDENTIAL LOTS AREA	11.85 ACRES
MAX. RESIDENTIAL LOT SIZE	30,000 S.F.
MAX. RESIDENTIAL LOT SIZE	43,818 S.F.
Avg. RESIDENTIAL LOT SIZE	32,265 S.F.
PRIVATE OPEN SPACE	4 LOTS
TOTAL ALL LOTS	20 LOTS

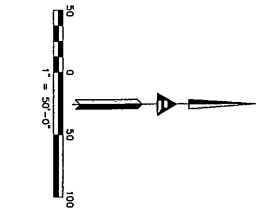


(1) WCLIFF RE HIGH RD. P.
1421 Dallas Park St. S00
Denton, TX 76244-2919

EXHIBIT 7



STANDARD	STREET LANDSCAPE BUFFER	REQUIRED BUFFER	PROVIDED
HIGH ROAD	25 FT.	25 FT.	
STANDARD	STREET BUFFER TREES (UNDER TREE)	REQUIRED	PROVIDED
1 PER 30 L.F.	1,335.36 L.F.	45 TREES	45 TREES



LEGEND	
■	PROPOSED OPEN SPACE
○	ALL PLANTING SPECIES TO BE SURVEY
○	BUR OAK
○	CEDRAR ELM
○	TEXAS ASH
○	LIVE OAK
○	RED OAK
○	NATCHEZ GRAPE VITIFL
○	TEXAS SAGE
○	HAMELIN GRASS
○	SEASONAL COLOR

ST. CLAIR DESIGN GROUP, INC.
Landscape Architecture
P.O. Box 1,527
Dallas, Texas 75201
Tel. 214-588-8811
Fax 214-588-8811

DATE: JULY 30, 2017
DESIGNED BY: JBS
CHECKED BY: JBS
SCALE: 1"=50'-0"

LANDSCAPE PLAN
Serenity
Residential Subdivision
28.920 acres
In the
J. Phillips Survey, Abstr. No. 1019
in the
Town of Flower Mound
Denton County, Texas

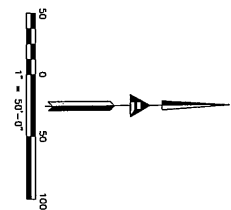
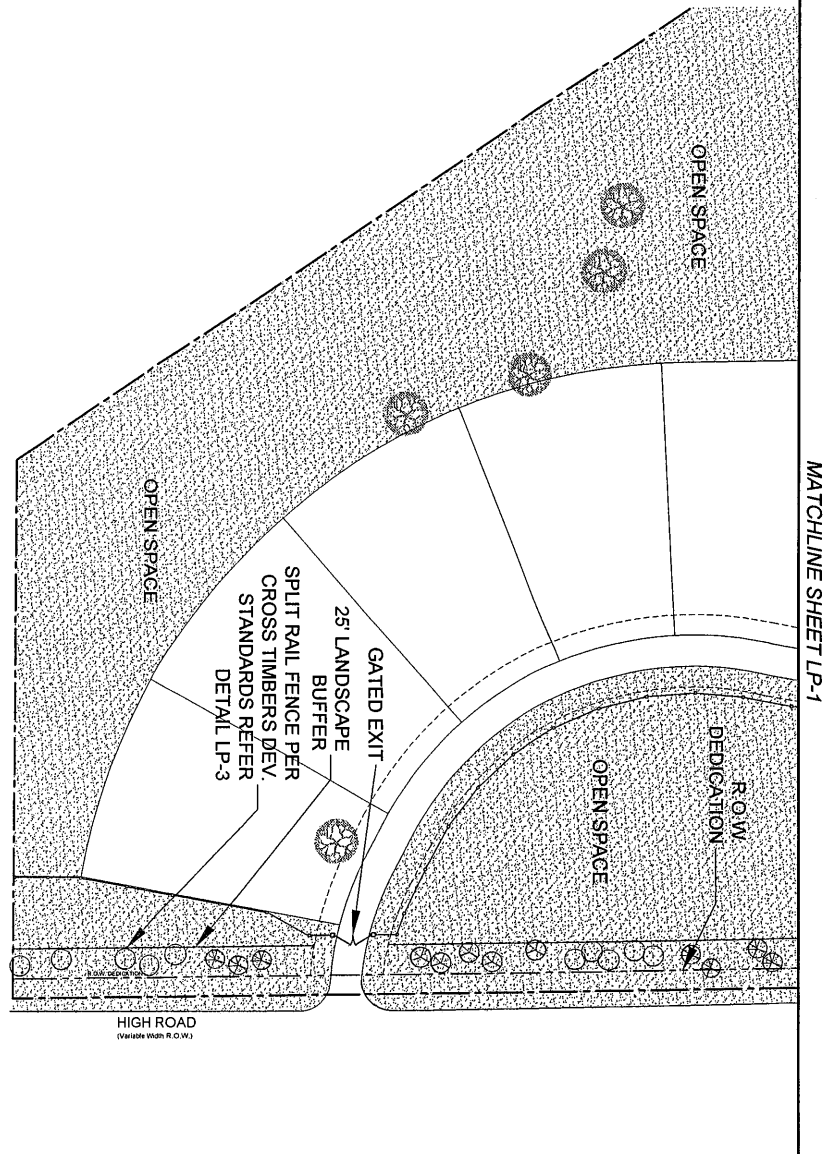
LP-1
SHEET
Scale: 1"=50'-0"
Designed by: JBS
Drawn by: JBS
Checked by: SCDG
Date: JULY 30, 2017
Project No. 035-023

LANDSCAPE PLAN

Serenity
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

Ridinger Associates, Inc.
Civil Engineers - Planners
Form No. 1005
550 E. Emerson Lane, Suite 101
Lewisville, Texas 75067
Tel. No. (972) 353-8000
Fax No. (972) 353-8011

No. 2	9-25-17	Revised Per Town Comments	
No. 1	8-28-17	Revised ROW	App.



No. 2	8-25-17	Revised Per Town Comments	
No. 1	8-28-17	Revised ROW	App.

Ridinger Associates, Inc.
Civil Engineers - Planners
Firm No. 1858
550 S. Edwards Lane, Suite 101
Lewisville, Texas 75067
Tel. No. (972) 353-8000
Fax No. (972) 353-8011

ST. CLAIR DESIGN GROUP, INC.
Landscape Architecture
P.O. Box 12515
Dallas, Texas 75225
1-214-464-0241
DATE: JULY 26, 2017
DESIGNER: JBS
CHECKED: SCDG
DATE: JULY 26, 2017

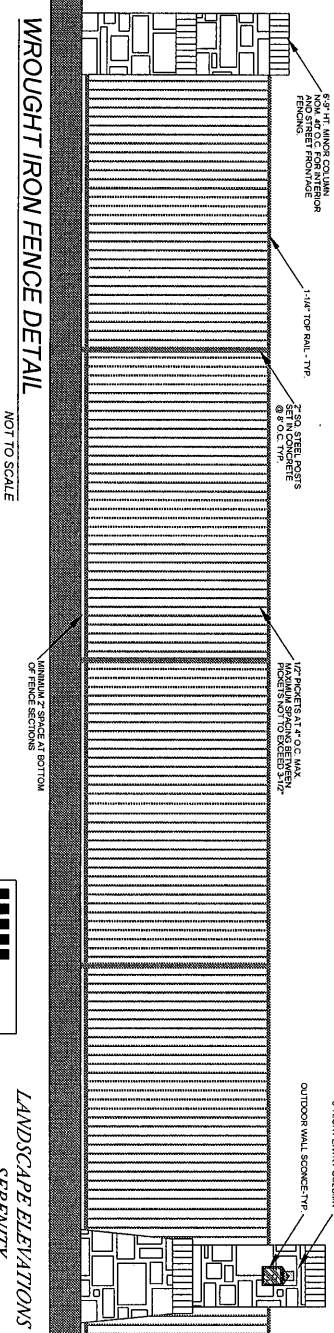
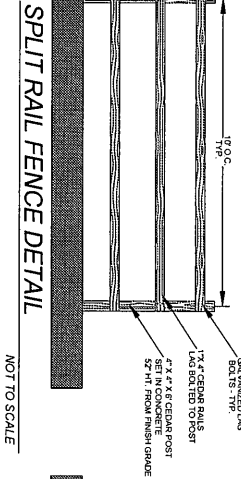
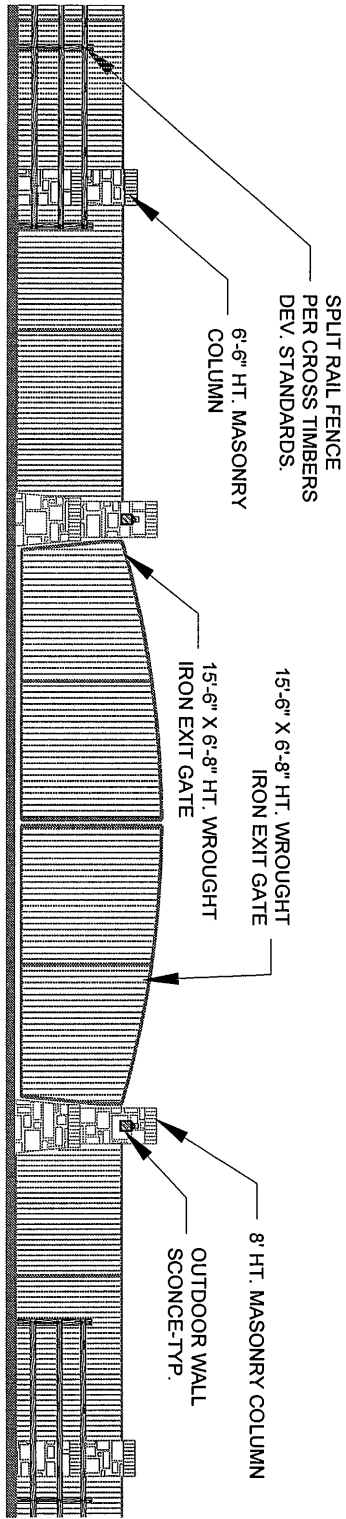
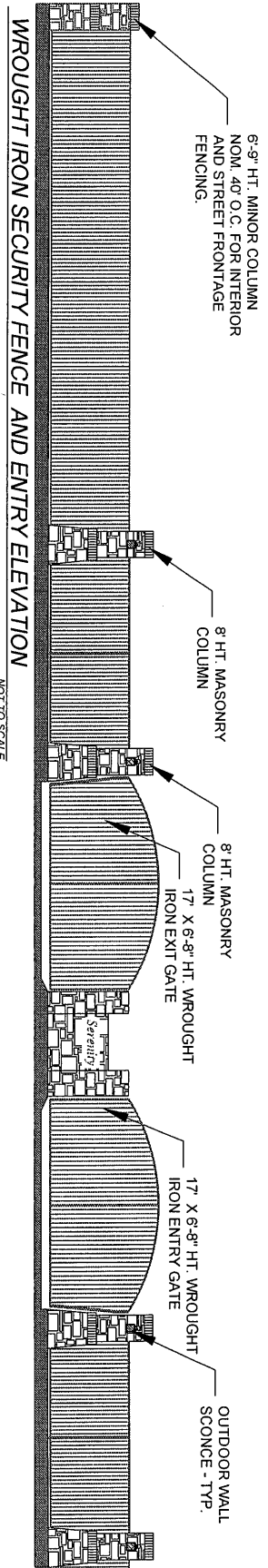
LANDSCAPE PLAN
Serenity
Residential Subdivision
28.920 acres
In the
Town of Flower Mound
Denton County, Texas
J. Phillips Survey, Abst. No. 1019

Scale: 1"=50'-0"
Designed by: JBS
Drawn by: JBS
Checked by: SCDG
Date: JULY 30, 2017
Project No. 035-023

LANDSCAPE PLAN

Serenity
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

LP-2
SHEET



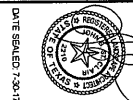
ST. CLAIR DESIGN GROUP, INC.	ST. CLAIR DESIGN GROUP, INC.
Landscape Architecture	Landscape Architecture
P.O. Box 15219	P.O. Box 15219
Dallas, Texas 75219	Dallas, Texas 75219
214.343.8800	214.343.8800
www.stclair.com	www.stclair.com

LANDSCAPE ELEVATIONS
SERENITY
 Residential Subdivision
 28.920 acres
 In the
 J. Phillips Survey, Abst. No. 1019
 in the
 Town of Flower Mound
 Denton County, Texas

Scale: NOT TO SCALE
 Designed by: JBS
 Drawn by: JBS
 Checked by: SCDG
 Date: JULY 30, 2017
 Project No. 035-023

**LANDSCAPE
 ELEVATIONS**

Serenity
 RESIDENTIAL SUBDIVISION
 FLOWER MOUND, TEXAS

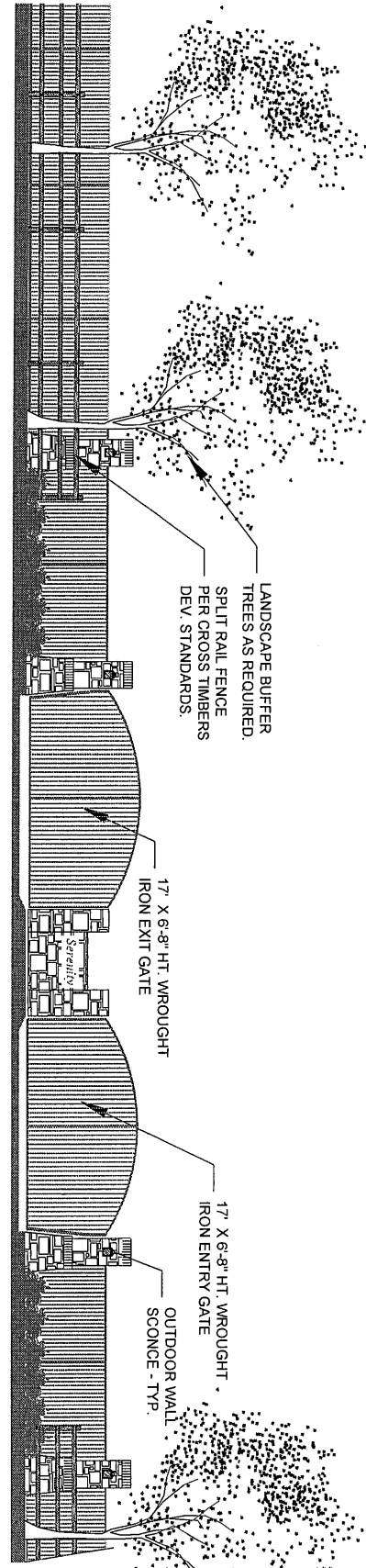


NO.1	8-9-16	PER CITY COMMENTS	App.
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Ridinger Associates, Inc.
 Civil Engineers - Planners
 Firm No. 1088
 550 S. Edmonds Lane, Suite 101
 Lewisville, Texas 75067
 Tel. No. (972) 353-8000
 Fax No. (972) 353-8011

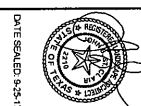
ENTRY ELEVATION SHOWING RAIL FENCE AND STREET TREES

NOT TO SCALE



No.2	8-25-17	Revised Per Town Comments	App.
No.1	8-28-17	REVISED ROW	

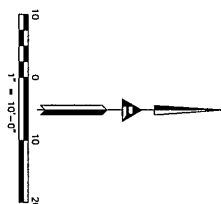
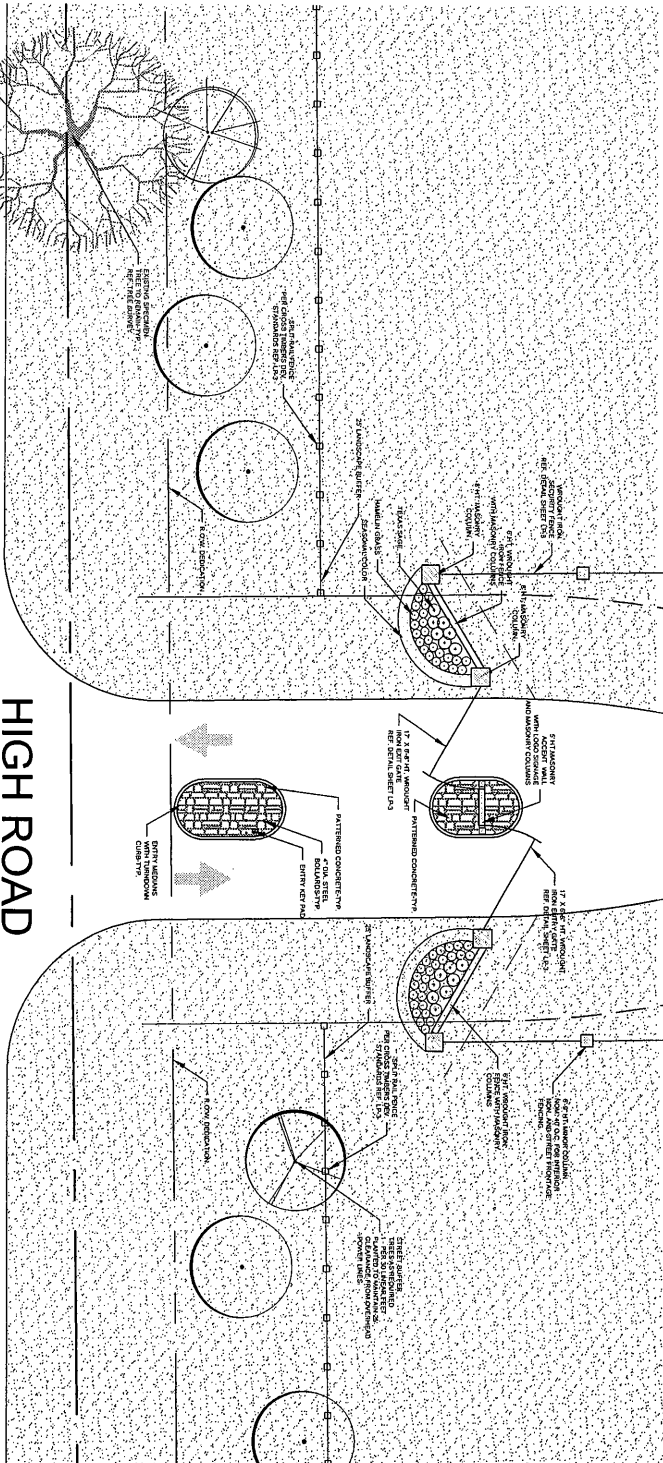
Ridinger Associates, Inc.
Civil Engineers - Planners
Firm No. 1969
500 S. Edwards Lane, Suite 101
Lewisville, Texas 75067
Tel. No. (972) 353-8000
Fax No. (972) 353-8011



ENTRY PLAN

SCALE 1"=10'-0"

HIGH ROAD
(Variable Width R.O.W.)



ST. CLAIR DESIGN GROUP, INC.
Landscape Architecture
P.O. Box 5053
17345 Highway 101
Overton, TX 75686

ENTRY PLAN AND DETAIL

Serenity
Residential Subdivision
28.920 acres
In the
J. Phillips Survey, Abst. No. 1019
in the
Town of Flower Mound
Denton County, Texas

Scale: 1" = 10'-0"
Designed by: JBS
Drawn by: JBS
Checked by: SCOG
Date: JULY 30, 2017
Project No. 035-023

SHEET
LP-4

ENTRY PLAN
AND DETAIL

Serenity
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

EXHIBIT 8

4.0 URBAN DESIGN PLAN

Definitions

Articulation: The use of varying depth of wall planes both in the vertical and horizontal dimension to create interest and an aesthetically pleasing appearance in a building facade.

Compatibility Buffer: A 60' min. width Landscape Buffer that includes the use of earthen berms, shrubs, trees and other plant screening elements without suggesting a walled structure. The 60' Compatibility Buffer is located on existing or proposed non-residential or multifamily property.

Curvilinear edge: A curvilinear edge is an undulating line where the planting bed and or groundcover/shrubs meet the lawn area. Curvilinear lines in a natural landscape are considered more aesthetically pleasing.

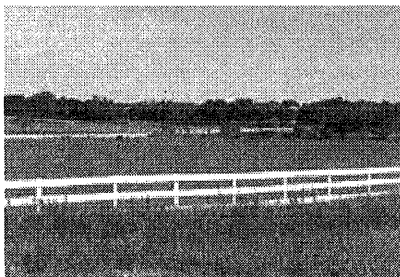
District Arterials: District Arterials mentioned in the Lakeside Business and Denton Creek Districts, refers to the four lane; 90' R.O.W. Urban minor arterials from the Thoroughfare Plan.

Drifts: A grouping of trees consisting of two to three different species. This condition is found in natural settings, large shade trees are to be randomly spaced (as a standard) at 15' minimum to 35' maximum.

Earthen Berm: An earthen berm is a small man made earth mound that is usually elongated and natural in shape and character, as a landscape element, a berms primary purpose is to both limit views in a natural way and to enhance the ground plane vegetation.

Gateways: Gateways are referred to the impression upon entering the town limits of Flower Mound. A statement of rural character is emphasized by the use of groves and/or drifts, a standard rural fence or other similar fencing and landscape elements, signage and plantings dependant on which district within which they occur. **Please see the Town's Median and Right of Way Design Guideline for additional information.*

Groves: A grouping of trees comprised of the same species. Large shade trees are to be randomly spaced (as a standard) at 15' minimum to a 35' maximum spacing distance.



Standard Rural Fence

Standard Rural Fence: A multi-railed or pipe fence, with a minimum of two rails or pipes, with the bottom rail/pipe at least twelve inches (12") above ground for a two-rail/pipe fence, in white, black, dark green, or an earth-tone color used to reinforce the rural and equestrian nature of the Cross Timbers Conservation Development District.

Street Buffer: A landscape screening element located on private property adjacent to the street right of way line.

Town Entrance Landscape: The Town Entrance Landscape is the R.O.W. area in principal arterials located in both Lakeside Business & Denton Creek districts.

4.0 URBAN DESIGN PLAN

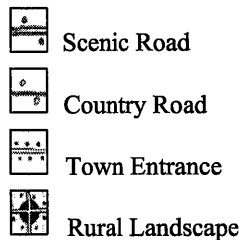
Cross Timbers Conservation Development District

The Cross Timbers Conservation Development District is predominantly a residential area, typically being single family residential development in combination with conservation easements that preserve the Cross Timbers ecosystem and other natural systems. Recreation uses, such as riding stables, golf courses and other uses compatible with the conservation goals of the district are also suitable. The Cross Timbers Conservation Development District is located in central Flower Mound with FM 1171 providing good access. Lake Grapevine is located to the south and provides a unique environmental resource.

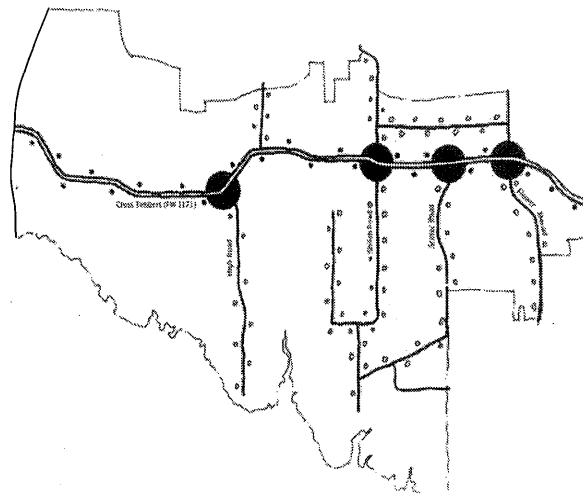
The Urban Design Plan addresses four major elements which affect the overall image of the Cross Timbers Conservation Development District. These elements were developed with community participants as part of development of the Area Plans in the district, and also are derived from the scenic qualities identified in the Open Space Plan.

The elements are:

- Scenic Road (F.M. 1171)
- Country Roads (Rural Collectors)
- Scenic Corridors and Vistas
- Landscape and Setback Buffers



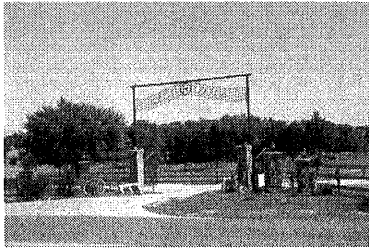
**Please see the Town's Median and Right of Way Design Guidelines for additional information*



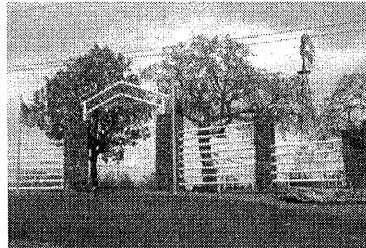
Cross Timbers Conservation Development District Key Map

4.0 URBAN DESIGN PLAN

- Subdivision Entrances should reinforce Texas Ranch entrances, elements such as open rail fencing, metal signage, limited use of masonry columns are acceptable, solid masonry walls are not acceptable.
- Planting for new Tree lined drive entrances are only acceptable if the trees are native species and do not obstruct views of open spaces in the scenic corridor, (i.e. drives can be located directly alongside a substantial existing tree stand or grove).



Ranch Entrance example



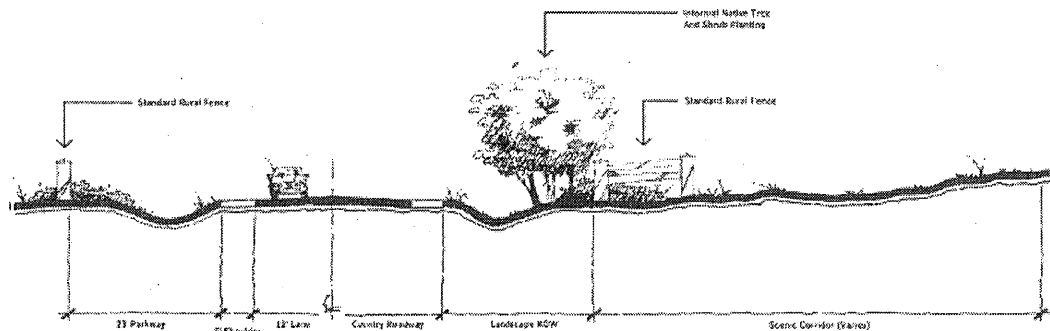
Ranch Entrance Example



Tree Lined Driveway example

Country Roads

Country Roads provide preservation of the natural landscape, naturalized new landscape, and design features to preserve the country atmosphere and natural environment which distinguishes the Cross Timbers Conservation Development District. **Country Roads include the Town's Rural Collectors and High Road.**



Country Roadway Typical Section

Country Road Public Landscape Treatment (within the right of way)

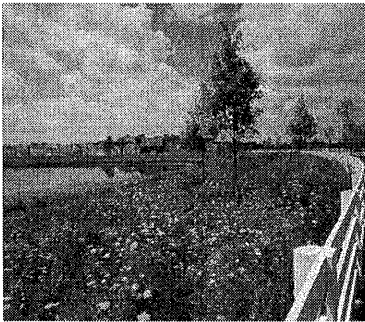
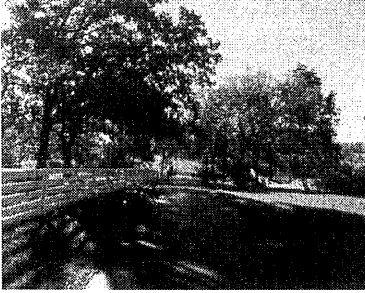
- Limited native tree plantings to preserve scenic views.
- Trees to be planted in odd numbered groves or drifts of no less than three trees.
- Native low habit shrub and/or ground cover plantings in association with intersections.

Country Road Standard Rural Fence

- **Either white, black, dark green, or an earth-tone color, multi-rail or pipe styled fences (photo examples above) will be allowed along Country Roads except where code prescribes otherwise.**

4.0 URBAN DESIGN PLAN

Country Road examples



Scenic Corridors and Vistas

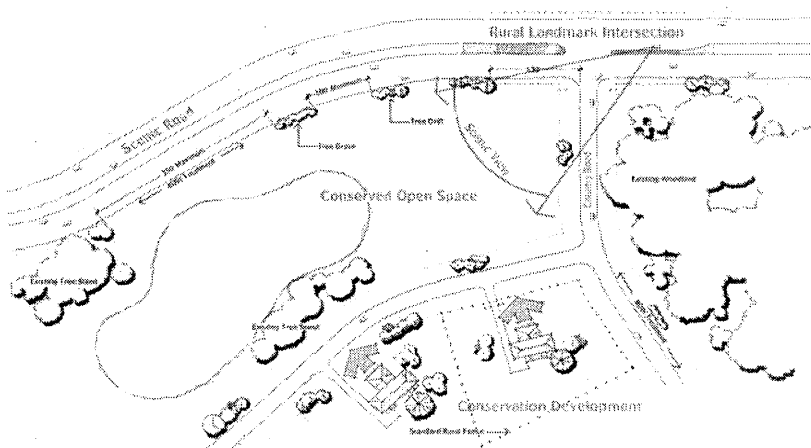
A Scenic Corridor is comprised of any land, whether public or private, that is visible from scenic or country roads, and that possesses any of the open space or natural elements indicative of the country atmosphere and natural environment as described in the Flower Mound Open Space Plan.

Scenic Corridor Development Patterns

- Placement of new house lots should be outside of the view area if feasible, or sited so that any new houses face toward the Scenic or Country Road across conserved open space.
- New house lots should be accessed by internalized roadways, and not directly from Scenic or Country Roads.
- House lots should be grouped and dispersed to minimize linear relationships visible inside of the scenic corridor.

Scenic Corridor Perimeter Fencing Elements

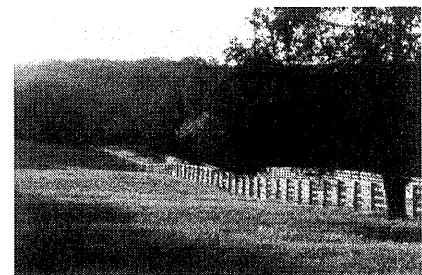
- Views of scenic corridors and vistas should be retained by the limited use of foreground plantings.
- No earthen berm or solid masonry walls will be allowed within this district; however, multi-rail or pipe fencing with stone columns in either white, black, dark green, or an earth-tone color is allowable for new development.
- Plantings should include native species only and arranged in groupings (groves or drifts) verses a continuous massing screen.
- Implementation will be provided at the time of development by the private developer.



Scenic Corridor/ Open Space Typical Plan



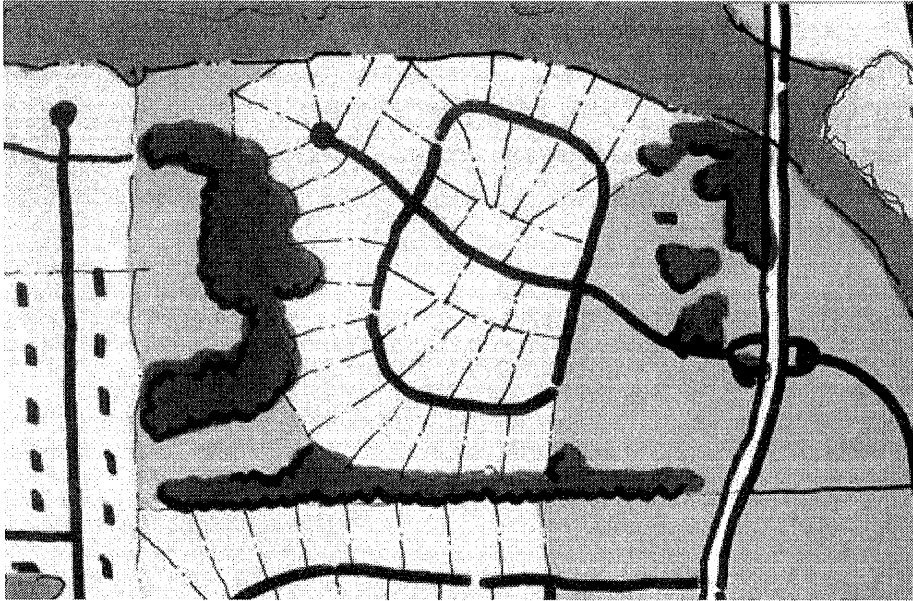
Open Space views examples



4.0 URBAN DESIGN PLAN

Landscape and Setback Buffers

These buffers will help to maintain the country atmosphere of the Cross Timbers Conservation Development District, and to protect existing neighborhoods as new development occurs.



Land Planning for Conservation Development Typical Plan

Landscape and Setback Buffer Elements

- In instances where existing tree stands or other natural features do not provide a natural buffer, the land plan for proposed development should site proposed residential lots in a manner which respects the privacy and individual features of adjacent residences.
- If the land is developed as a conservation development, the conserved open space system should be integrated into this buffer if appropriate.
- If the land is not developed as a conservation development, land acquired through the park land dedication requirements should be incorporated into this buffer.
- All new Landscape plantings should be native species only.

EXHIBIT 9



Environmentally Sensitive Area Survey

Property Name: Serenity		Contact: Reginald Rembert
Property Address: Generally located south of FM 1171 and west of High Road		
Environmentally Sensitive Area Criteria	ESA Criteria Description & Notes	
Upland Habitat Criteria Present? ☒ Yes ☐ No	There are approximately 16.48 acres of Upland Habitat found on this property. The predominant tree species found within the Upland Habitat area are post oak, blackjack oak and ash sp.	
Riparian Habitat Criteria Present? ☒ Yes ☐ No	The Riparian Habitat on this site is encompassed within the 100-year Floodplain along on the west side of the property.	
Prairie Habitat Criteria Present? ☒ Yes ☐ No	There are a few pocket prairies situated within the confines of the upland habitat area. These areas are comprised of blue grama, little bluestem, gayfeather, and nuttall's wild indigo.	
Waters of the State Criteria Present? ☐ Yes ☒ No	While there appears to be a small ephemeral stream on the north west side of the property, there was no water observed within that area. Since we have not received any form of precipitation in the last week, this area is extremely dry. Now that the lake level for Lake Grapevine has receded, there was no water observed anywhere on the west portion of the property.	
Floodplain Criteria Present? ☒ Yes ☐ No	The FEMA floodplain is shown on the northwest side of this property. The proposed development of this site appears to be far enough away from the floodplain that there should be no impacts to this area.	
Wetlands Criteria Present? ☐ Yes ☒ No	None	
Water Impoundment Protection Criteria Present? ☐ Yes ☒ No	None	
Topographical Slope Protection Criteria Present? ☒ Yes ☐ No	There are several areas on the site with significant slope ($\geq 5\%$). The estimated location of these areas is shown on the slope map provided. This map shows areas where these slope conditions could exist. This data is not exact and is meant to be used as a guide. Based on Town staff's field observations, there appear to be additional areas on this property that exceed slopes of 12%, which might be significantly impacted by the proposed development. The Town's SMARTGrowth Program allows modification of slopes between 5% and 12% - but only up to 5 feet outside the footprint of the structure or structures being built. The objective of this provision of SMARTGrowth is to preserve topographic features and the topographic character of each site, and to avoid the "balancing" or flattening of sites. A thorough analysis to identify all areas on the site with slopes greater than or equal to 5% will need to be completed by the applicant's consultant and forwarded to Town staff for review.	
Action Steps/Additional Notes		
Multiple ESAs were identified on this site. Therefore, an EPP will be required. The construction plans will need to show that the developer is working with existing slopes on the site. The applicant needs to demonstrate that the development complies with the topographic slope requirements found in the Town's SMARTGrowth Program – Environmental Quality Section.		
EPP Required? ☒ Yes ☐ No	Attachments ☒ Site Orthographic Aerial Photograph ☐ Other:	
EPP Consultant: N/A		
Submitted by: (print)		Signature & Date:

Attachment C(1): Correspondence in Opposition

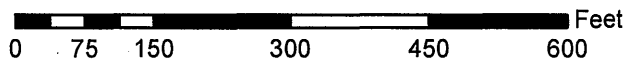
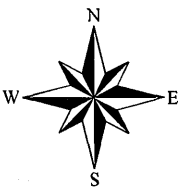
James Hoefert		James Hoefert	8/10/2016
Forwarded to EPP Consultant: N/A	Filed with Development Services & Environmental Services		Last Modified: 8/10/2016



Environmentally Sensitive Area Survey Serenity

Map Created: August 10, 2016
Environmental Services Department
Town of Flower Mound

1 inch = 199 feet

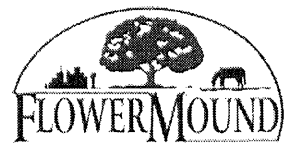
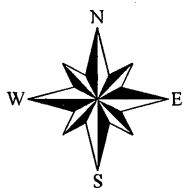
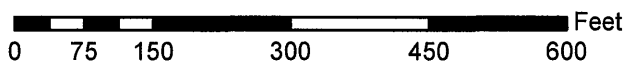




Serenity - Slope Map

Map Created: August 10, 2016
Environmental Services Department
Town of Flower Mound

1 inch = 199 feet



— Streets	□ Property	Slope Percent	□ < 5.0	□ > 5.0 - 12.0
				■ > 12.0

EXHIBIT 10



101 E. Southwest Pkwy, Ste. 114
Lewisville, TX 75067
(972) 436-9669
FAX: (972) 436-9667

January 4, 2016
Revised January 6, 2017

Dale Ridinger, President
Ridinger Associates
550 S. Edmonds Lane, Suite 101
Lewisville, TX 75067

Subject: Environmental Protection Plan for the Proposed Serenity Development, Flower
Mound, Texas

Dear Mr. Ridinger:

This Environmental Protection Plan (EPP) was prepared to satisfy the Town of Flower Mound (Town) development requirements for the proposed residential development in Flower Mound (Proposed Serenity Development). The project site is an approximately 29-acre tract of mostly undeveloped grassland with wooded riparian corridors along the drainage features on site with areas of hay production located within a developing area of Flower Mound. The property is located west of High Road, near its southern terminus in Flower Mound, Denton County, Texas (**Figure 1**). This EPP summarizes a survey performed to identify Environmentally Sensitive Areas (ESAs) potentially present on the property. This EPP was developed in accordance with the Town of Flower Mound SMARTGrowth Program, Category E (6) Environmental Quality.

Site Description

On December 8, 2016 John Kemmey of KBA EnviroScience, Ltd. (KBA), performed a site investigation of the proposed development property to assess environmental features, and to determine whether there are any ESAs, as described in the SMARTGrowth Program, located on site. The proposed development design is provided as **Figure 2**.

The majority of the site is undeveloped grassland with wooded riparian corridors along the drainage features on site. The northeastern and east-central portions of the site are in hay production. Vegetation on the site is dominated by upland grasses and forbs including *Baptisia australis* (wild blue indigo), *Bouteloua dactyloides* (buffalograss), *Bromus arvensis* (field brome), *Celtis laevigata* (hackberry), *Digitaria ciliaris* (southern crabgrass), *Gutierrezia sarothrae* (broomweed), *Ilex vomitoria* (yaupon holly), *Juniperus virginiana* (eastern red cedar), *Ligustrum* sp. (privet), *Prosopis glandulosa* (honey mesquite), *Quercus macrocarpa* (bur oak), *Quercus marilandica* (blackjack oak), *Quercus stellata* (post oak), *Schizachyrium scoparium* (little bluestem), *Smilax bona-nox* (greenbrier), *Solanum elaeagnifolium* (silver leaf nightshade), *Solidago* sp. (goldenrod), and *Sporobolus pyramidatus* (whorled dropseed).

Mr. Dale Ridinger
Page 2 of 10

One ephemeral stream originates on site in the northwestern portion of the site and flows west, eventually flowing into Lake Grapevine off site to the west. (**Figure 3**).

Soils onsite consist of clay. Elevation of the project area ranges from 560 to 640 feet above mean sea level (msl) as indicated on the USGS topographic map (USGS 2014) (**Figure 4**).

A review of the US Fish and Wildlife Service National Wetland Inventory (NWI) Map (**Figure 5**), shows surface waters regardless of their federal or state jurisdiction. The NWI map that includes this site (USFWS 2014) depicts no features on the project site.

Habitat Evaluation

A habitat evaluation was conducted to assess the presence, or likely presence, of federal and state-listed threatened or endangered species potentially occurring at the site. A protected species list for Denton County was obtained from the United States Fish and Wildlife Service (USFWS) and Texas Parks and Wildlife Department (TPWD) prior to the site visits. The evaluation considered the habitat provided by the site compared to the location of critical habitat and habitat preferences of the listed species.

There are fourteen species designated by the USFWS and/or the TPWD as threatened or endangered species in Denton County, as shown in **Table 1**.

Table 1: Federal and State-Listed Threatened and Endangered Species Potentially Present in Denton County, Texas

Species (Scientific Name) Federal, State Status	Species Habitat Description	Habitat Present	Effect	Pertinent Information
Peregrine Falcon (<i>Falco peregrinus anatum</i> and <i>Falco peregrinus tundrius</i>) --,T	Both subspecies migrate across the state from more northern breeding areas in US and Canada to winter along coast and farther south; subspecies (<i>F. p. anatum</i>) is also a resident breeder in west Texas; the two subspecies' listing statuses differ, <i>F.p. tundrius</i> is no longer listed in Texas; but because the subspecies are not easily distinguishable at a distance, reference is generally made only to the species level.	Yes	No	Species could potentially utilize the site temporarily during migration but is unlikely to be affected by the proposed project.
Bald Eagle (<i>Haliaeetus leucocephalus</i>) --, T	Found primarily near rivers and large lakes; nests in tall trees or on cliffs near water; communally roosts, especially in winter; hunts live prey, scavenges, and pirates food from other birds	No	No	No large lakes located on the property. In addition, the site is too close to human activity.

Mr. Dale Ridinger
Page 3 of 10

Species (Scientific Name) Federal, State Status	Species Habitat Description	Habitat Present	Effect	Pertinent Information
Least Terns (<i>Sterna antillarum</i>) E, --	Migratory and breed along the river systems of Texas, especially the Red and Rio Grande River systems. Most often seen on sandbars in rivers and lakes or on pond edges free of vegetation, but may also breed on man-made structures such as water treatment plants. The birds nest in Texas during May through August, and winter in Central and South America.	No	No	Conditional species, adversely affected with conditions or activities related to wind energy projects. Current project not wind energy related. No sandbars on ponds or rivers are present on site.
Piping Plover (<i>Charadrius melodus</i>) T, --	Breeding area extends along the eastern coast of the United States south to southern Texas and includes the Great Lakes region, the northern Midwestern states, and south central Canada. The Piping Plover winters along the eastern Mexico coast. Piping Plovers nest on sandy beaches along the ocean or inland lakes; bare to sparsely vegetated areas on dredge-created and natural alluvial islands in rivers; gravel pits along rivers; and salt-encrusted bare areas of sand, gravel, or pebbly mud on alkaline interior lakes and ponds.	No	No	Conditional species, adversely affected with conditions or activities related to wind energy projects. Current project not wind energy related. No sandy beaches are located on site.
Red Knot (<i>Calidris canutus rufa</i>) T, --	Migratory and may stopover in gulf coast. Breeding habitat consist of slightly vegetated land in tundra. Wintering habitats consist of large sandy tidal flats and coastlines.	No	No	Conditional species, adversely affected with conditions or activities related to wind energy projects. Current project not wind energy related. No sandy tidal flats or coastlines are located on site.
White-faced Ibis (<i>Plegadis chihi</i>) --, T	Prefers freshwater marshes, sloughs, and irrigated rice fields, but will attend brackish and saltwater habitats; nests in marshes, in low trees, on the ground in bulrushes or reeds, or on floating mats.	No	No	No wetlands are located on site.
Whooping Crane (<i>Grus americana</i>) E, E	Potential migrant via plains throughout most of the state to coast; winters in coastal marshes of Aransas, Calhoun, and Refugio counties.	No	No	No large expansive wetland located on site to provide adequate habitat.

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Wood Stork (<i>Mycteria americana</i>) --, T	Forages in prairie ponds, flooded pastures or fields, ditches, and other shallow standing water, including salt-water; usually roosts communally in tall snags, sometimes in association with other wading birds (i.e. active heronries); breeds in Mexico and birds move into Gulf States in search of mud flats and other wetlands, even those associated with forested areas; formerly nested in Texas, but no breeding records since 1960.	No	No	No habitat conducive to this species is located on the site.
Red wolf (<i>Canis rufus</i>) E, E	Extirpated; formerly known throughout eastern half of the state in brushy and forested areas, as well as coastal prairies	No	No	Extirpated in Texas.
Louisiana pigtoe (<i>Pleurobema riddellii</i>) --, T	Streams and moderate-size rivers, usually flowing water on substrates of mud, sand, and gravel; not generally known from impoundments; Sabine, Neches, and Trinity (historic) River basins	No	No	Ephemeral channel on site not conducive to bivalves. Extirpated in Trinity Basin.
Sandbank pocketbook (<i>Lampsilis satura</i>) --, T	Small to large rivers with moderate flows and swift current on gravel, gravel sand, and sand bottoms; east Texas, sulfur through San Jacinto River Basins; Neches River	No	No	Ephemeral channel on site not conducive to bivalves.
Texas heelpitter (<i>Potamilus amphichaenus</i>) --, T	Found in flowing water, but not necessarily in riffles and shoals. It prefers quiet waters in mud or sand in small to medium rivers and reservoirs. Sabine, Neches, and Trinity River basins	No	No	Ephemeral channel on site not conducive to bivalves
Texas Horned Lizard (<i>Phrynosoma cornutum</i>) --, T	Open, arid and semi-arid regions with sparse vegetation, including grass, cactus, scattered brush or scrubby trees; soil may vary in texture from sandy to rocky. Feeds on harvester ants.	No	No	No habitat or harvester ants found on site.
Timber/Canebrake rattlesnake (<i>Crotalus horridus</i>) --, T	Swamps, floodplains, upland pine and deciduous woodlands, riparian zones, abandoned farmland; limestone bluffs, sandy soil or black clay, prefers dense ground cover, i.e. grapevines or palmetto	Yes	No	Woodlands, riparian forest, and dense ground cover are present on the western portion of the site. However, habitat on project site not unique. Surrounding, undeveloped properties provide similar habitat.

E = Endangered; T = Threatened

Based on the site visit, it is KBA's opinion that the site offers potential habitat for the following threatened or endangered species:

- Peregrine Falcon (TPWD "threatened"), potential migrant;
- Timber/Canebrake rattlesnake (TPWD "threatened"), potential resident

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None of the species identified as potentially inhabiting or feeding on the site were observed on the site and no field observations indicate their presence. Although the site offers potential habitat for the above-noted species, habitat on the project site is not unique in the area and surrounding, undeveloped land provides similar habitat. Therefore, the project is not likely to negatively affect the listed species potentially present in Denton County.

Environmentally Sensitive Areas

KBA conducted a desktop analysis and field verification of the site and identified the following ESAs on the site:

Upland Habitat

The Town defines upland habitat as:

“Areas, a minimum of ten (10) acres in size, equal to or exceeding 50 trees per acre, which contain a predominate matrix of tree species identified in the Town’s Protected Tree List. Any tree species that makes up over thirty percent (30%) of the population within a complex is considered to be the predominate species.”

KBA identified upland habitat in the western portion of the property. The upland habitat consisted of over 10 contiguous acres of forested land that contained greater than 50 trees per acre that was dominated by trees on the Town's Protected Species List. **The site contains approximately 15.43 acres of upland habitat (Figure 6).**

The upland habitat included *Baptisia australis* (wild blue indigo), *Bromus arvensis* (field brome), *Celtis laevigata* (hackberry), *Digitaria ciliaris* (southern crabgrass), *Gutierrezia sarothrae* (broomweed), *Ilex vomitoria* (yaupon holly), *Juniperus virginiana* (eastern red cedar), *Ligustrum* sp. (privet), *Prosopis glandulosa* (honey mesquite), *Quercus marilandica* (blackjack oak), *Quercus stellata* (post oak), *Schizachyrium scoparium* (little bluestem), *Smilax bona-nox* (greenbrier), and *Solidago* sp. (goldenrod). The vegetation observed appeared to be in good health.

Based on the vegetation present, this area is considered an ESA by the Town’s definition of upland habitat. Although there is approximately **15.43 acres of upland habitat on site, only 5.1 acres will be impacted by residential lots in the development and another 0.30 acres will be impacted by the Town-required roads. The remaining 10.03 acres of upland habitat will be preserved (Figure 5).**

Riparian Habitat

The Town defines riparian habit as:

“Areas designated within the FEMA 100-year floodplain or interconnected and adjacent to wetland, tree and understory vegetation and including significant stands of predominately native water related habitat. These areas include wetlands.”

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KBA identified riparian habitat in the northwestern portion of the property along the western property boundary associated with the FEMA 100-year floodplain located in that area. **The site contains approximately 0.38 acres of riparian habitat (Figure 7).** Based on the vegetation present and its location, this area is considered an ESA by the Town's definition of riparian habitat. None of the riparian habitat will be impacted by the proposed development.

Prairie Habitat

The Town defines prairie habitat as:

"Areas designated as containing onsite predominate distributions of climax or mid-successional native grass species underlain by intact (non-eroded) prairie and savannah soil types."

The Town of Flower Mound's ESA Survey indicated that there are a few pocket prairies situated within the confines of the upland habitat area. The town notes that these areas are comprised of blue grama (*Bouteloua gracilis*), little bluestem, gayfeather (*Liatris* sp.), and Nuttall's wild indigo (*Baptisia nuttalliana*). KBA's site evaluation did not find areas on site that meet the definition of Prairie Habitat. The areas indicated by the town as having prairie habitat appeared to be dominated by *Bromus arvensis* (field brome) and *Gutierrezia sarothrae* (broomweed). Although little bluestem, gayfeather, and wild indigo were observed, they were not the dominant species located at this location; therefore, **KBA concludes that Prairie Habitat is not located on the site.**

Waters of the State

The Town defines waters of the State as:

"Groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state."

KBA performed a jurisdictional determination of wetlands and other "waters of the United States" (as defined by the Clean Water Act) for the project. An ephemeral stream (Stream A) is located in the northwestern portion of the site (Figure 3). The stream is jurisdictional and is considered Waters of the State, and is therefore an ESA by the Town. Approximately 249 linear feet of ephemeral stream is proposed to be impacted by the development (**Figure 8**).

Developed Floodplain

The Town defines developed floodplain as:

"Any area defined as a floodplain within the FEMA 100-year floodplain and which has been channelized or the land within these areas have been graded, filled, or otherwise disturbed."

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The majority of the project site is located within "Zone X," an area determined to be outside the 500-year floodplain, as mapped by the Federal Emergency Management Agency (FEMA) (Flood Insurance Rate Map Q3 Digital Data). The extreme northwest corner of the site is shown as being in "Zone AE", areas that have a 1% probability of flooding every year (also known as the "100-year floodplain"), and where predicted flood water elevations above mean sea level have been established, as mapped by FEMA. A map showing the limits of Zone AE and Zone X is included as **Figure 9**. The FEMA-mapped 100-year floodplain area located within the property totals approximately 0.38 acres; however, the floodplain will not be impacted by the proposed development (Figure 9).

Topographical Slope Protection

The Town of Flower Mound's SmartGrowth Implementation manual states:

"No development application or project shall be approved that proposes development on any existing topographical slopes of twelve percent (12.0%) or greater, or that proposes to alter any existing topographical slopes that are less than twelve percent (12.0%) but equal to or greater than five percent (5.0%) (other than within five feet of the footprint of the proposed structure or structures)."

Several locations on the proposed Serenity residential development have been mapped by the Town as areas having between 5% and 12% topographic slopes (12.0 acres) and having greater than 12% slopes (6.89 acres). The areas with greater than 12% slopes are generally located along the western property boundary and in the west-central portion of the site (**Figure 10**). Areas with slopes of between 5% and 12% are generally in the northern portion of the site. These areas are considered an ESA by the Town and meet the criterion for topographic slope protection.

Approximately 4.9 acres with topographic slopes between 5% and 12% are proposed to be impacted by the development (Figure 10). Approximately 0.11 acres of areas with slopes of greater than 12% slopes are proposed to be impacted by the development. An exception for the 4.9 acres of impacted land that have topographic slopes between 5% and 12% and the 0.11 acres of impacted land that have topographic slopes greater than 12% slopes is being requested.

Proposed Development Plan

The proposed site plan calls for the property to be developed as a residential development. In an attempt to preserve the natural habitat on the proposed Serenity residential development tree and vegetation removal will be limited to only those trees and natural vegetation that would be affected by the proposed construction of the onsite roads, utilities, and structures. Several mitigation strategies are proposed to compensate for any permanent impacts to environmentally sensitive areas. Best Management Practices (BMPs) will also be employed to retain sediments and other pollutants onsite during construction activities. A figure showing the overall development plan and impacts to Town-defined ESAs is shown as Figure 5 and 9.

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Mitigation Measures During Project Planning and Construction

The following mitigation measures will be employed throughout the planning and construction of the project:

- The development plan has been designed to preserve as many trees and natural vegetation as possible while still allowing an economically viable development.
- Approximately 0.38 acres of Town-defined Riparian Habitat exists on site. The proposed development plan has been designed to preserve all of this habitat.
- Approximately 15.43 acres of Town-defined Upland Habitat exists on the site. The development plan has been designed to preserve more than half of this habitat. Approximately 5.1 acres of upland habitat is proposed to be impacted by lots and another 0.11 acres of upland habitat is proposed to be impacted by town roads. Approximately 10.03 acres of upland habitat will be completely unimpacted by the proposed project. Mitigation for the 5.4 acres of upland habitat impacted by the development will be accomplished by the preservation of 10.03 acres of upland habitat.

The new Town's ordinance, Section 94-40, Item 4 clearly states that mitigation credits will be given for Upland and Riparian, based on each acre of protected habitat preserved.

- A portion of Stream A will be filled to allow for the development of residential lots. Any fill in jurisdictional waters will be authorized under a US Army Corps of Engineers Section 404 permit. Specifically, Nationwide Permit 29 will be utilized for the aforementioned fill activity.
- Although every attempt has been made to minimize the number of trees damaged or removed during development, some impacts to trees will occur. The removal of trees will be limited to stressed or dead trees, trees within the footprint of proposed structures and roads, and trees needed to be removed to level the building lots. To reduce impacts, roads will be constructed so as to minimize the number of trees needing to be removed. Mitigation for the impact to trees that must be removed will include tree preservation (where possible), additional tree and other native vegetation plantings, habitat improvement projects, and green space preservation.
- No areas with topographic slopes between 5% and 12% will be altered unless they are within five feet of a proposed structure or an exception of this requirement is issued by the Town. An exception of this requirement is being requested for approximately 4.9 acres of land with slopes between 5% and 12%. An exception is also being requested for the impacts to 0.11 acres of land with slopes greater than 12%.
- Silt fencing will be installed and maintained in compliance with TCEQ Construction General Permit requirements. This structural feature will minimize sediments from entering the Town's storm sewer system.

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- Silt fencing will be installed perpendicular to the direction of flow, especially along roadways and drainage/low elevation areas.
- Stabilized construction entrances will be installed at appropriate locations onsite. These structural features will reduce the risk of transporting mud or sediment onto the adjacent roads and other nearby roadways.
- Major soil disturbing activities will be sequenced to preserve existing vegetation.
- Storm water control devices will be installed to promote sedimentation onsite, limit runoff, and reduce the velocity of concentrated flows to reduce erosion and scouring to onsite and adjacent drainages.
- Storm water control devices will be maintained until stabilized disturbed areas have achieved final stabilization.
- Active migratory bird nesting areas will not be disturbed during site development. Although not anticipated, if a threatened or endangered species is encountered during site development, the USFWS and/or TPWD authorities will be contacted immediately.

Conclusions

Based on the site visit, ESA Survey performed by KBA, and proposed zoning for the site, KBA concludes the following:

- The project site contains potentially suitable habitat for the Peregrine Falcon (*Falco peregrinus*) and the timber/canebrake rattlesnake (*Crotalus horridus*). Neither of these listed species were observed onsite. Potential habitat for these species does exist on site, however, the habitat on the project site is not unique and surrounding, undeveloped properties will provide adequate habitat to prevent negative impacts to these species.
- Town-defined Environmentally Sensitive Areas exist on the project site. upland habitat, riparian habitat, waters of the state, developed floodplain, and topographical slope protection areas have been identified on site. No other environmentally sensitive areas were observed on the site. Although some impacts to these areas are anticipated, mitigation measures that compensate for these impacts will be conducted.
- The project will strictly adhere to the Town's tree ordinance and other environmental mandates.

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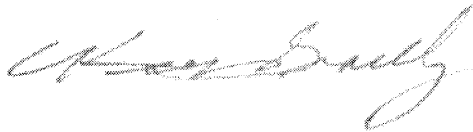
The proposed Serenity residential development will be designed to allow for the partial preservation of existing natural habitat. The preserved trees will provide an aesthetic value to the site and continue to provide habitat for a variety of biota including songbirds, mammals, reptiles, and insects.

Please let either of us know if additional information would be helpful.

Sincerely,

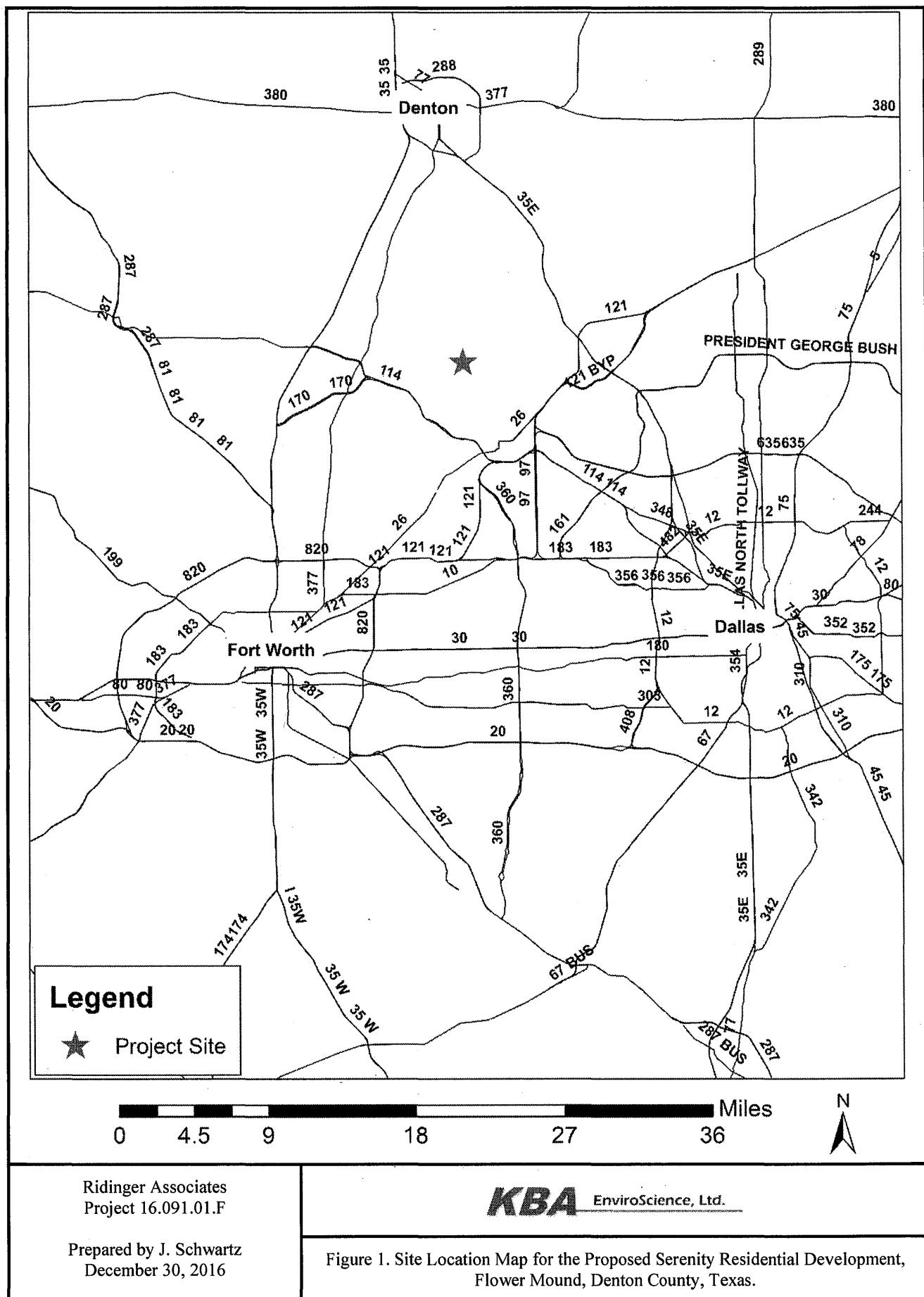
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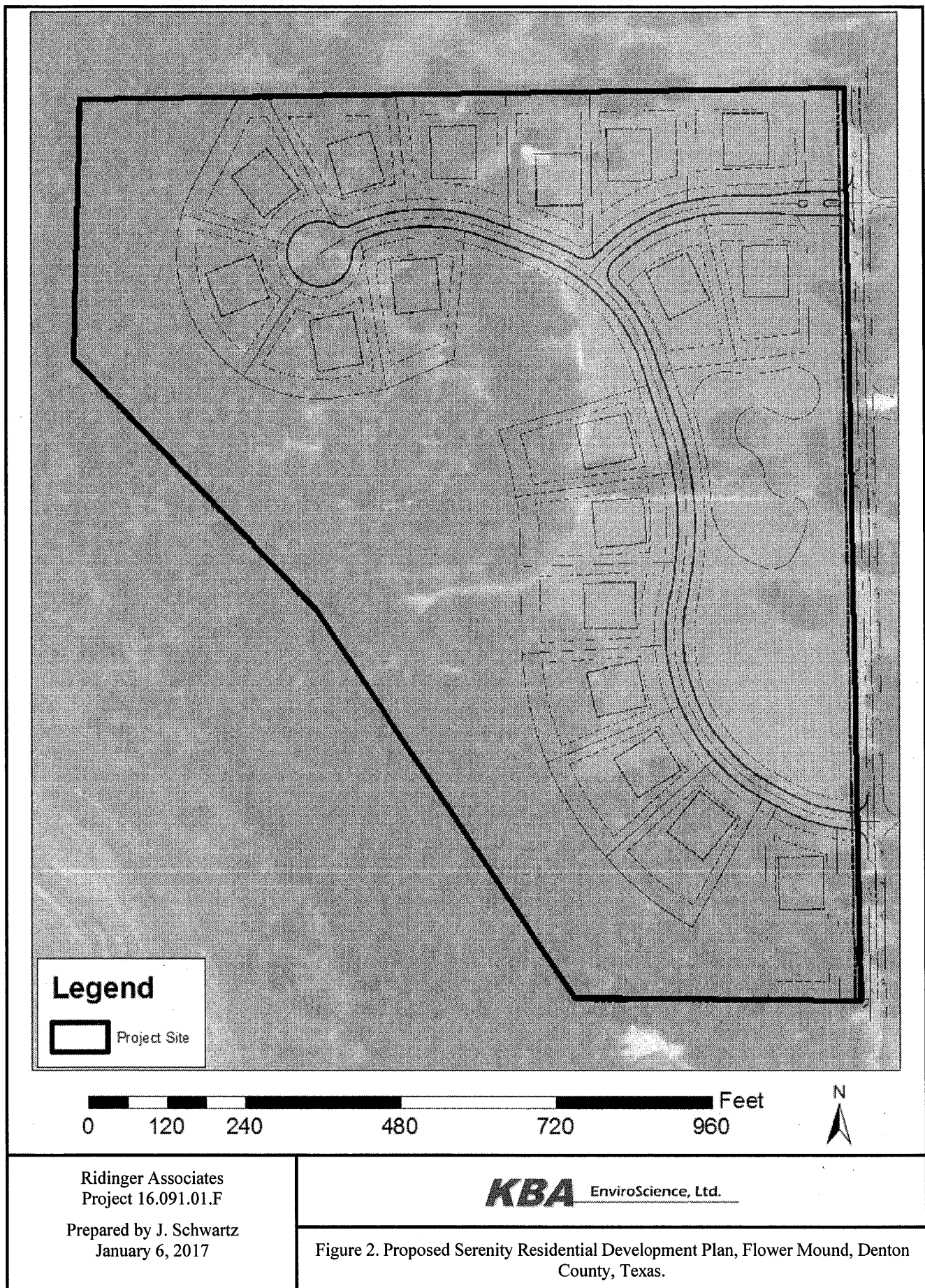
Joseph Schwartz, Project Manager
KBA EnviroScience, Ltd.

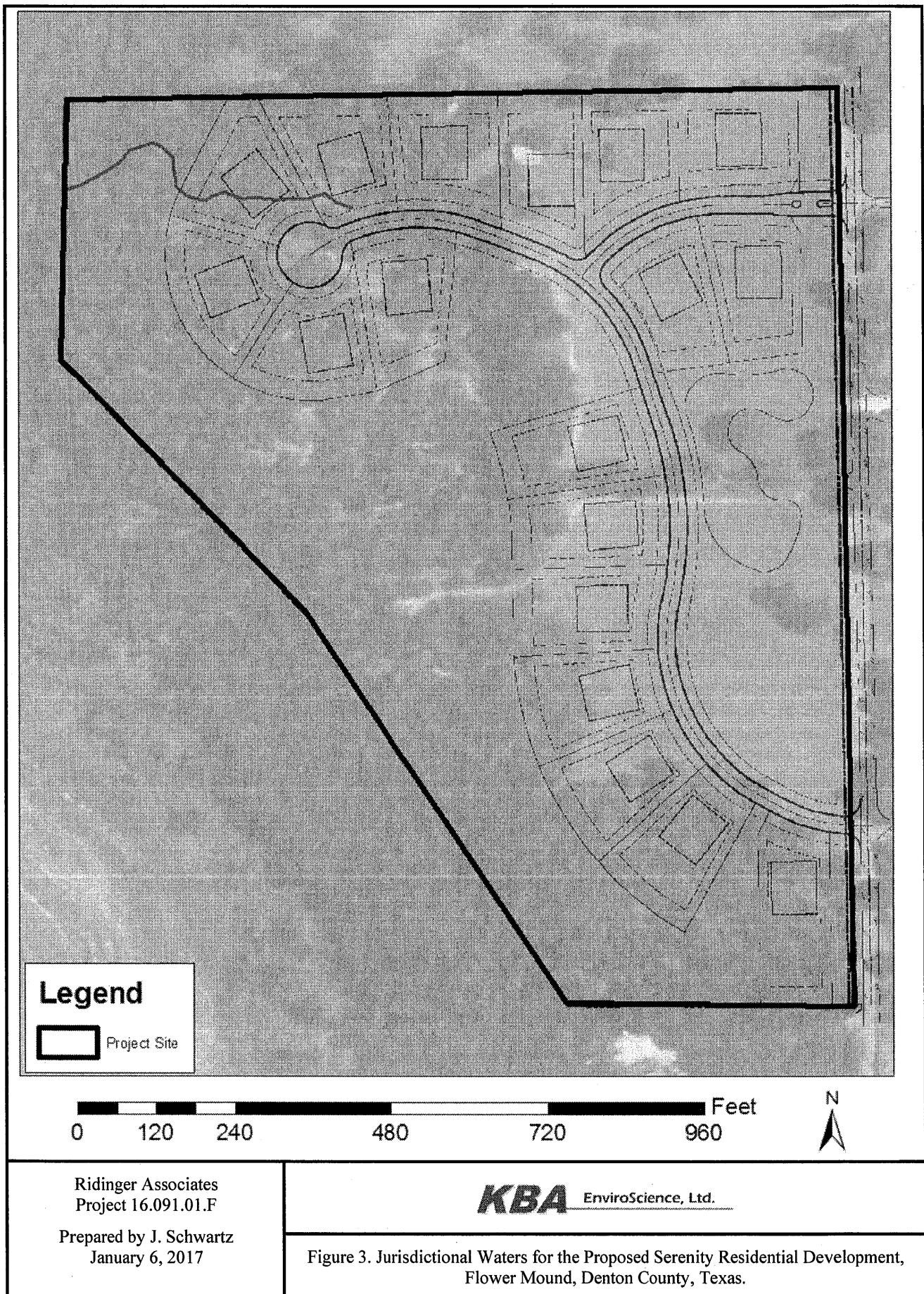
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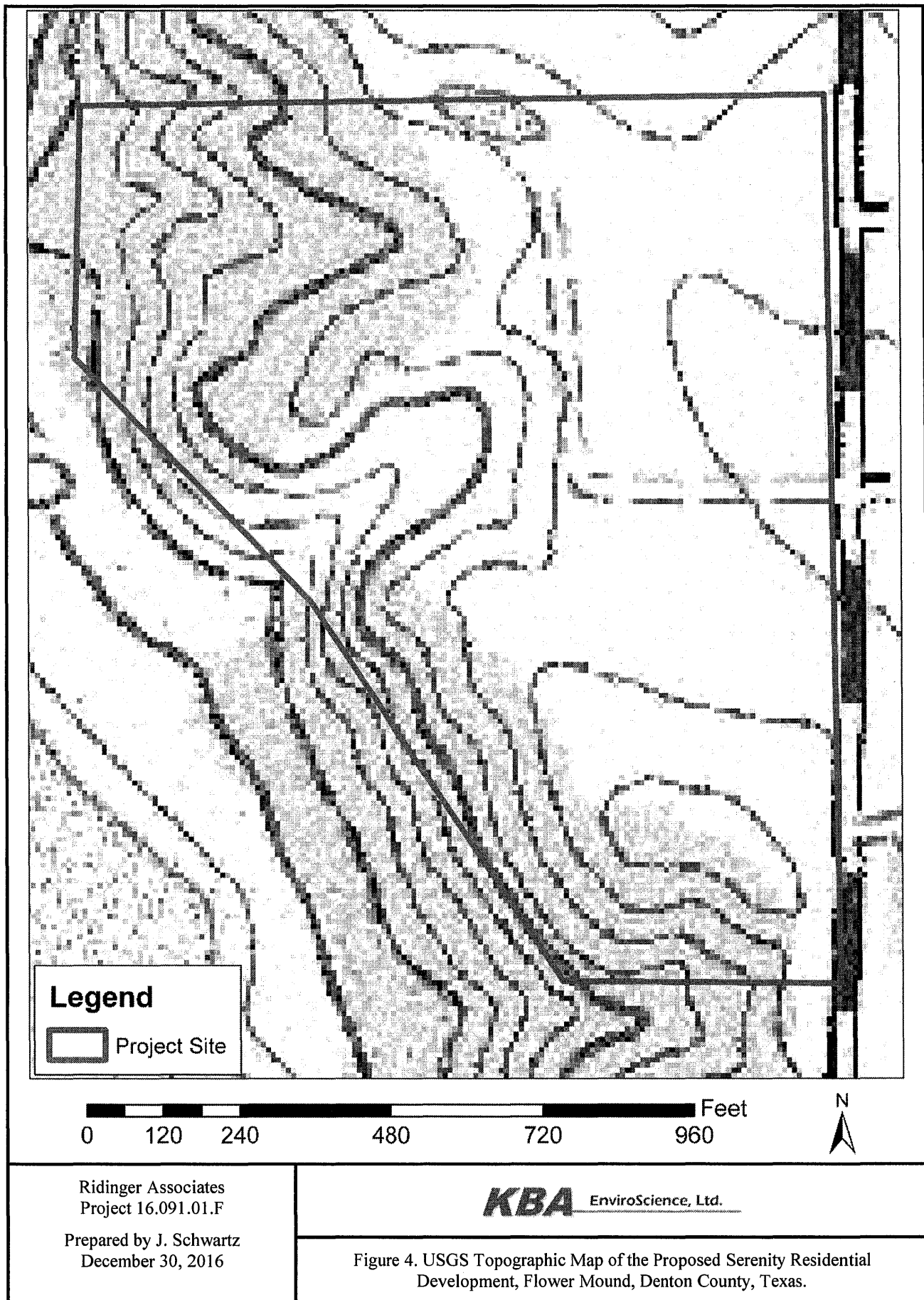
C. Keith Bradley, REP, CWB
KBA EnviroScience, Ltd.

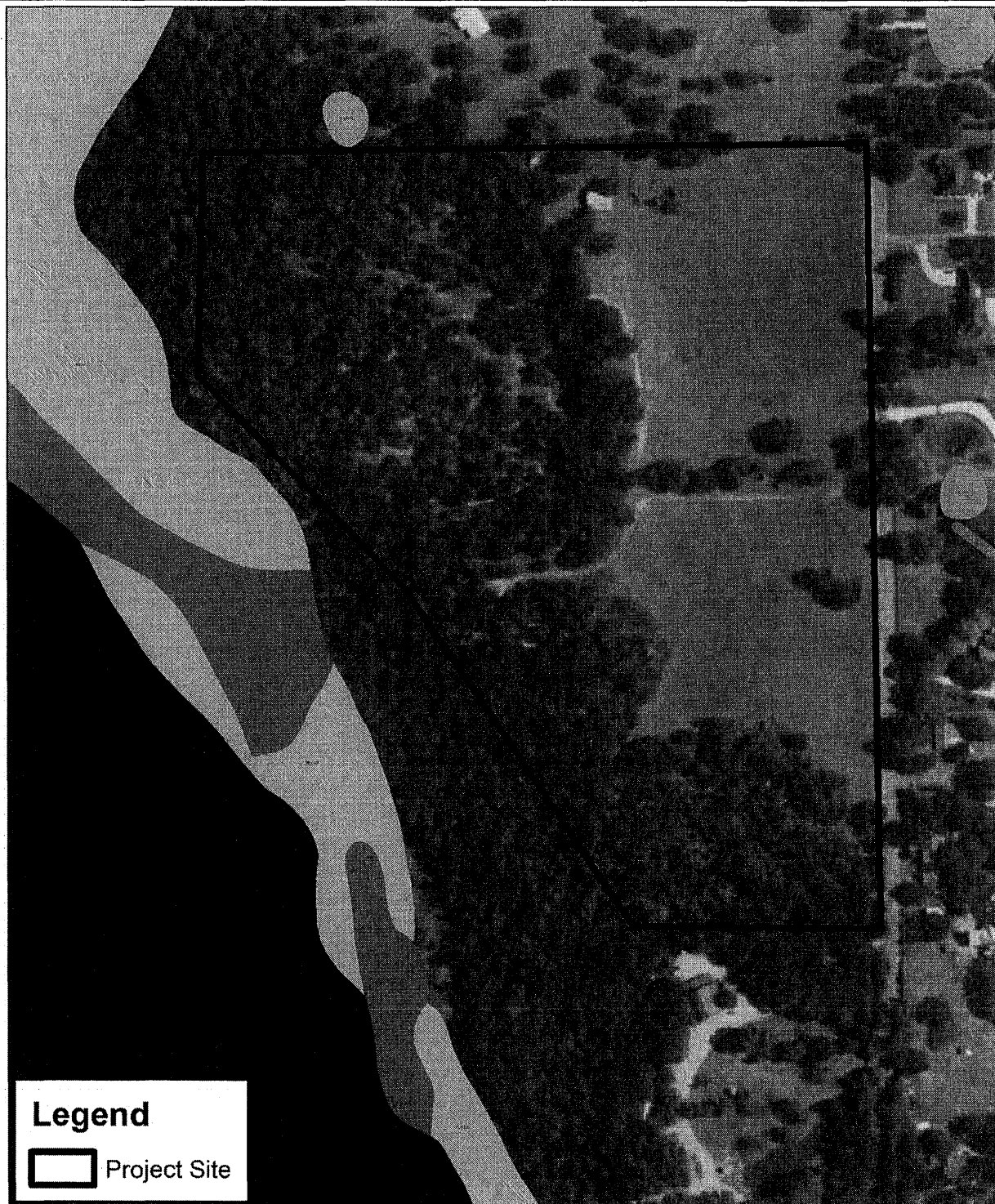
FIGURES











Legend

 Project Site

0 155 310 620 930 1,240 Feet

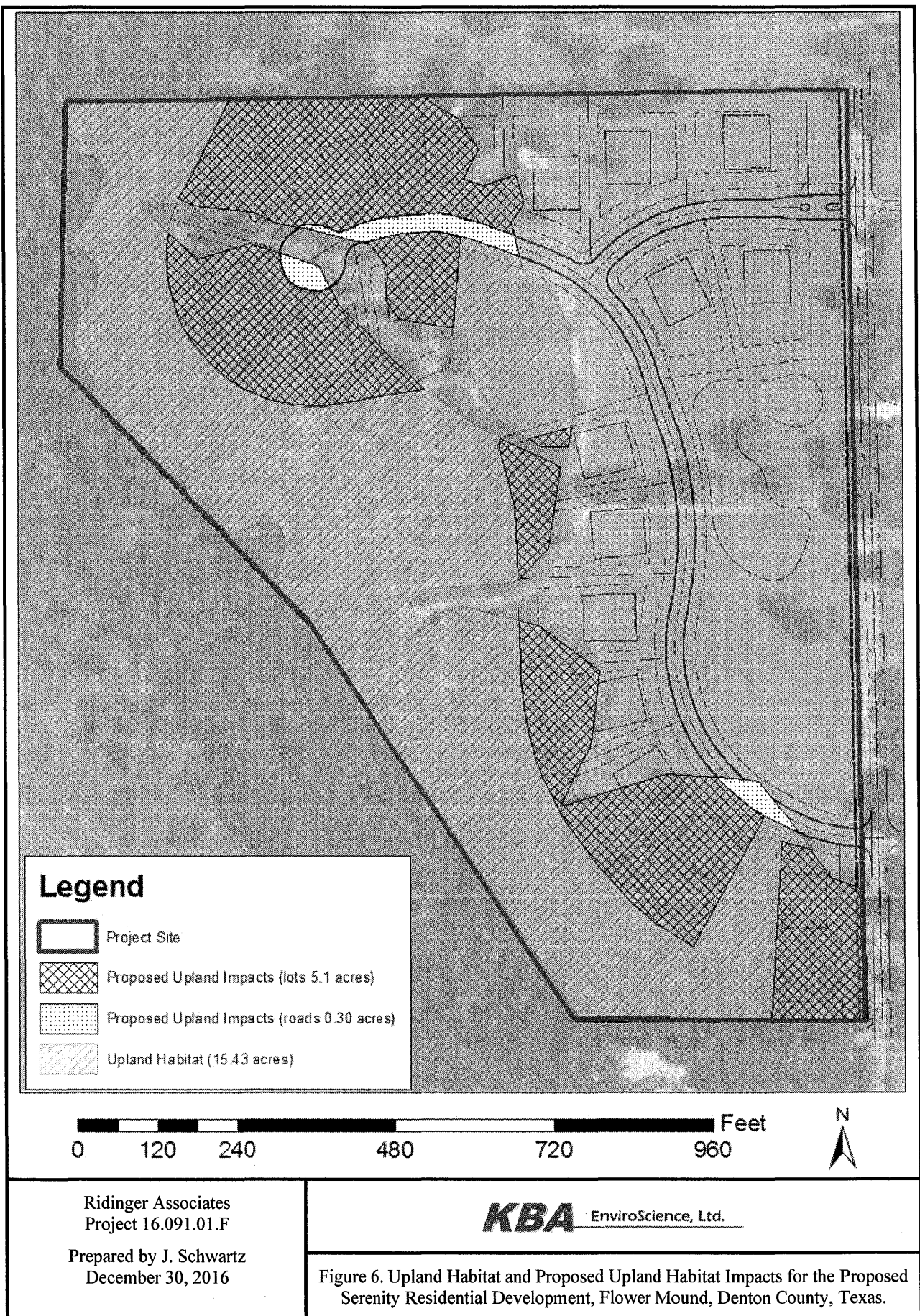


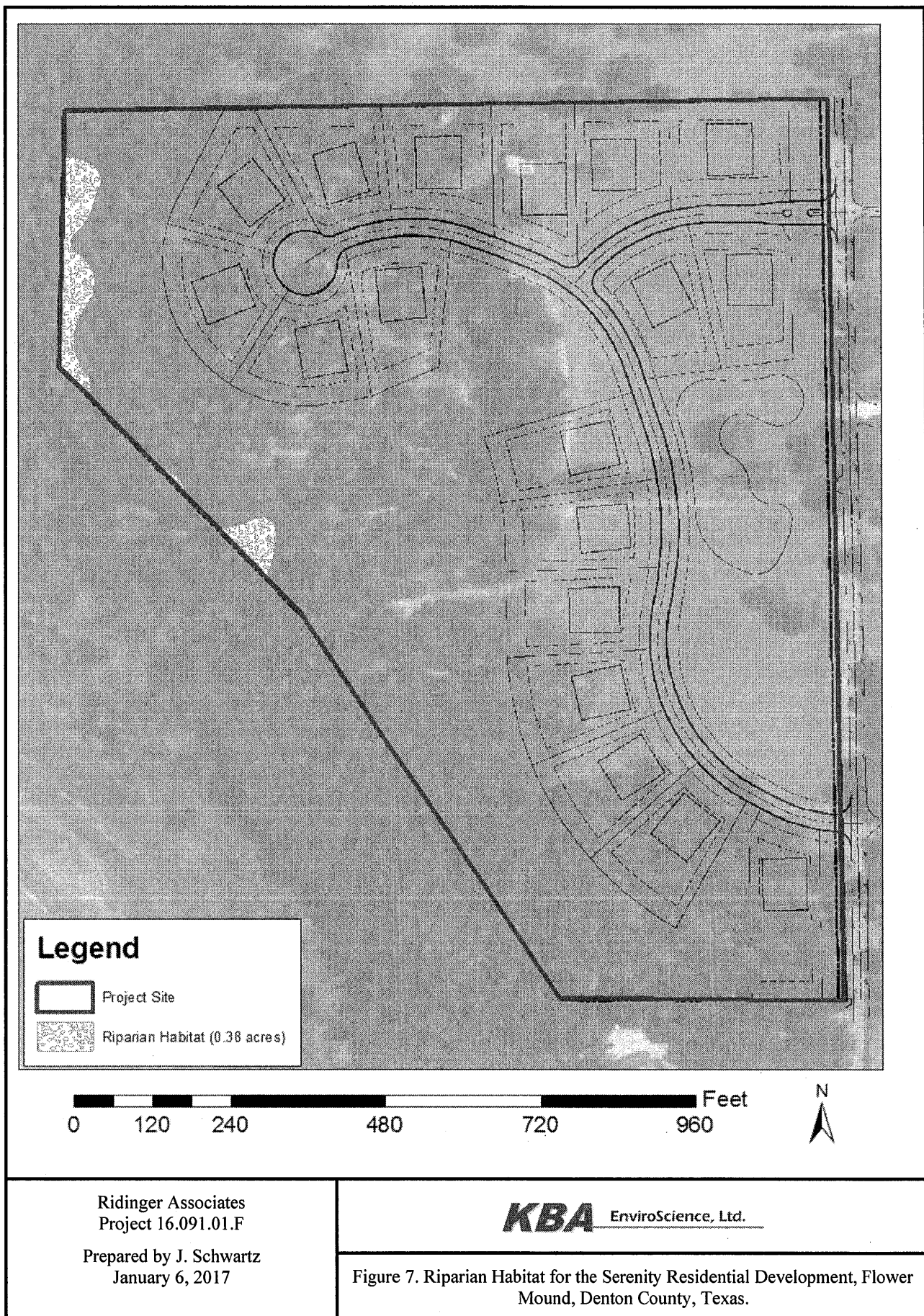
Ridinger Associates
Project 16.091.01.F

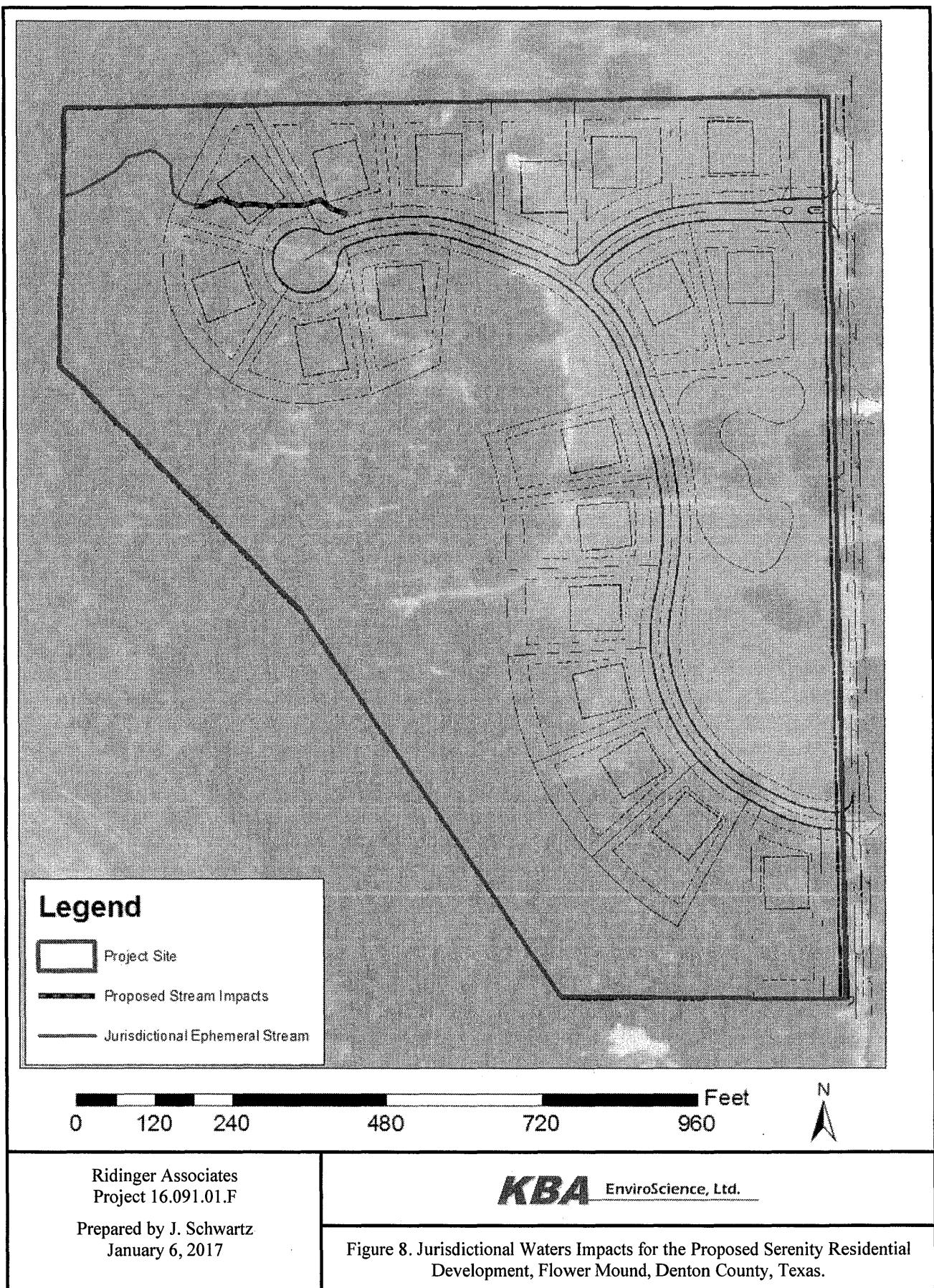
Prepared by J. Schwartz
January 3, 2017

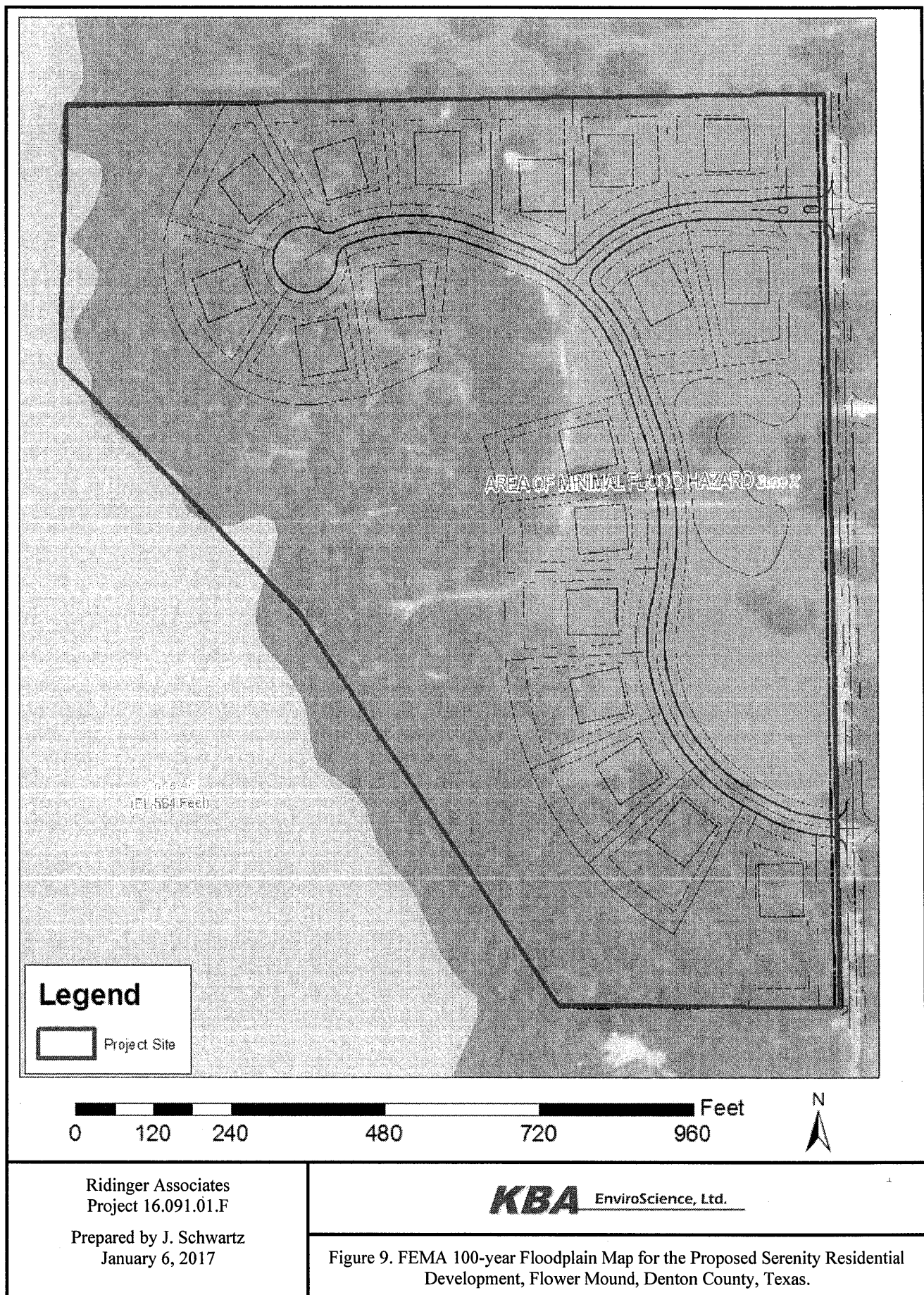
KBA EnviroScience, Ltd.

Figure 5. NWI Map of the Proposed Serenity Residential Development, Flower Mound, Denton County, Texas.









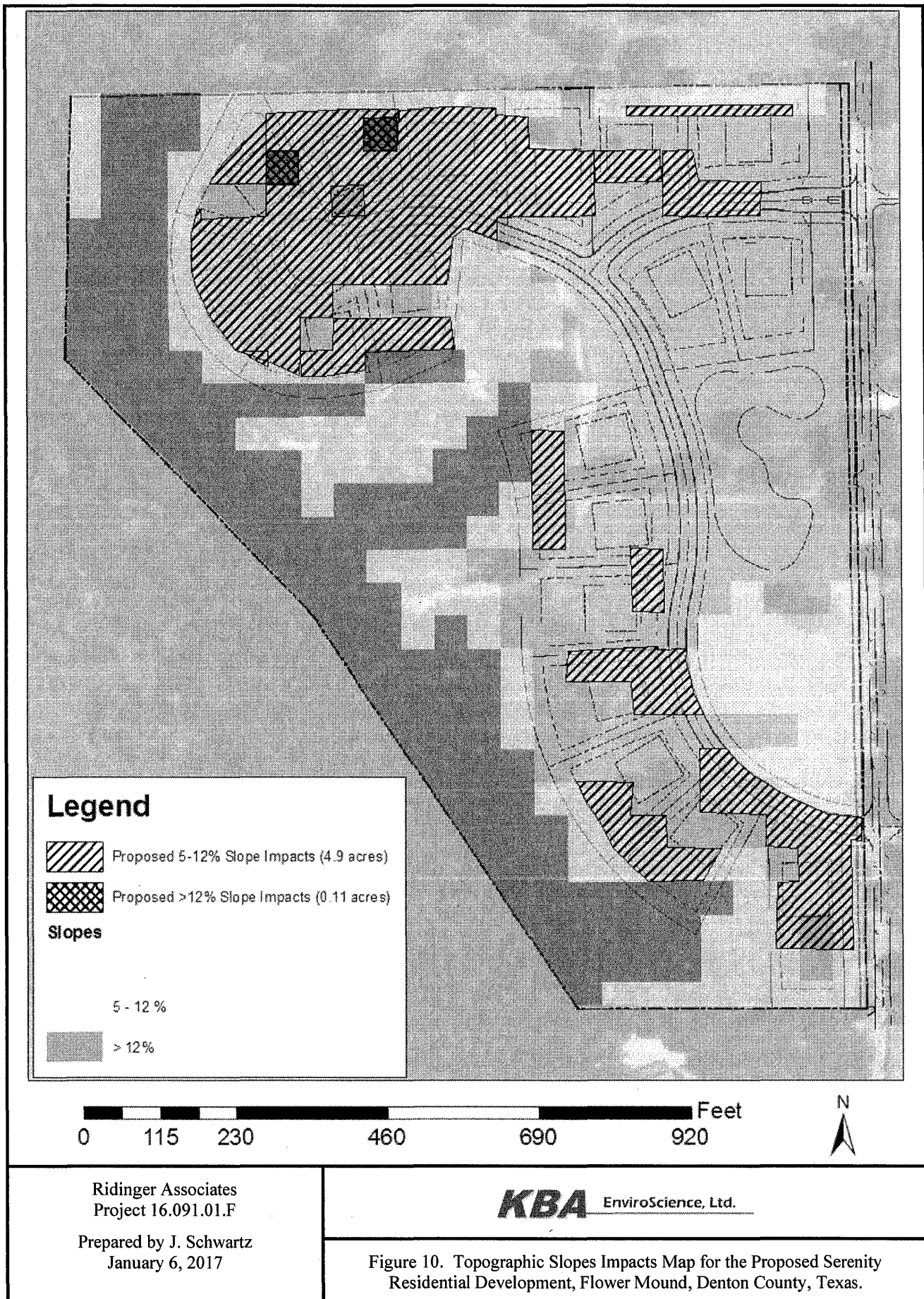


EXHIBIT 11



DALLAS OFFICE

February 15, 2017
Revised July 26, 2017

Dale Ridinger, President
Ridinger Associates
550 S. Edmonds Lane, Suite 101
Lewisville, TX 75067

Subject: Environmental Protection Plan for the Proposed Serenity Development, Flower Mound, Texas

Dear Mr. Ridinger:

This Environmental Protection Plan (EPP) was prepared to satisfy the Town of Flower Mound (Town) development requirements for the proposed residential development in Flower Mound (Proposed Serenity Development). The project site is an approximately 29-acre tract of mostly undeveloped grassland with wooded riparian corridors along the drainage features on site with areas of hay production located within a developing area of Flower Mound. The property is located west of High Road, near its southern terminus in Flower Mound, Denton County, Texas (**Figure 1**). This EPP summarizes a survey performed to identify Environmentally Sensitive Areas (ESAs) potentially present on the property. This EPP was developed in accordance with the Town of Flower Mound SMARTGrowth Program, Category E (6) Environmental Quality.

Site Description

On December 8, 2016, John Kemmey of GES (formerly KBA EnviroScience, Ltd.), performed a site investigation of the proposed development property to assess environmental features, and to determine whether there are any ESAs, as described in the SMARTGrowth Program, located on site. On February 10, 2017, Jose Alvarez of KBA performed a follow up site visit to determine the presence of prairie habitat. The proposed development design is provided as **Figure 2**.

The majority of the site is undeveloped grassland with wooded riparian corridors along the drainage features on site. The northeastern and east-central portions of the site are in hay production. Vegetation on the site is dominated by upland grasses and forbs including *Baptisia australis* (wild blue indigo), *Bouteloua dactyloides* (buffalograss), *Bromus arvensis* (field brome), *Celtis laevigata* (hackberry), *Digitaria ciliaris* (southern crabgrass), *Gutierrezia sarothrae* (broomweed), *Ilex vomitoria* (yaupon holly), *Juniperus virginiana* (eastern red cedar), *Ligustrum* sp. (privet), *Prosopis glandulosa* (honey mesquite), *Ailanthus altissima* (tree of heaven), *Quercus marilandica* (blackjack oak), *Quercus stellata* (post oak), *Schizachyrium scoparium* (little bluestem), *Smilax bona-nox* (greenbrier), *Solanum elaeagnifolium* (silver leaf nightshade), *Solidago* sp. (goldenrod), and *Sporobolus pyramidatus* (whorled dropseed).

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One ephemeral stream originates on site in the northwestern portion of the site and flows west, eventually flowing into Lake Grapevine off site to the west. (**Figure 3**).

Soils onsite consist of clay. Elevation of the project area ranges from 560 to 640 feet above mean sea level (msl) as indicated on the USGS topographic map (USGS 2014) (**Figure 4**).

A review of the US Fish and Wildlife Service National Wetland Inventory (NWI) Map (**Figure 5**), shows surface waters regardless of their federal or state jurisdiction. The NWI map that includes this site (USFWS 2014) depicts no features on the project site.

Habitat Evaluation

A habitat evaluation was conducted to assess the presence, or likely presence, of federal and state-listed threatened or endangered species potentially occurring at the site. A protected species list for Denton County was obtained from the United States Fish and Wildlife Service (USFWS) and Texas Parks and Wildlife Department (TPWD) prior to the site visits. The evaluation considered the habitat provided by the site compared to the location of critical habitat and habitat preferences of the listed species.

There are fourteen species designated by the USFWS and/or the TPWD as threatened or endangered species in Denton County, as shown in **Table 1**.

Table 1: Federal and State-Listed Threatened and Endangered Species Potentially Present in Denton County, Texas

Species (Scientific Name) Federal, State Status	Species Habitat Description	Habitat Present	Effect	Pertinent Information
Peregrine Falcon (<i>Falco peregrinus anatum</i> and <i>Falco peregrinus tundrius</i>) --,T	Both subspecies migrate across the state from more northern breeding areas in US and Canada to winter along coast and farther south; subspecies (<i>F. p. anatum</i>) is also a resident breeder in west Texas; the two subspecies' listing statuses differ, <i>F.p. tundrius</i> is no longer listed in Texas; but because the subspecies are not easily distinguishable at a distance, reference is generally made only to the species level.	Yes	No	Species could potentially utilize the site temporarily during migration but is unlikely to be affected by the proposed project.
Bald Eagle (<i>Haliaeetus leucocephalus</i>) --, T	Found primarily near rivers and large lakes; nests in tall trees or on cliffs near water; communally roosts, especially in winter; hunts live prey, scavenges, and pirates food from other birds	No	No	Although no large lakes are located on the property, Lake Grapevine is adjacent to the west of the property. However, the site is too close to human activity to be attractive to this species.



Species (Scientific Name) Federal, State Status	Species Habitat Description	Habitat Present	Effect	Pertinent Information
Least Terns (<i>Sterna antillarum</i>) E, --	Migratory and breed along the river systems of Texas, especially the Red and Rio Grande River systems. Most often seen on sandbars in rivers and lakes or on pond edges free of vegetation, but may also breed on man-made structures such as water treatment plants. The birds nest in Texas during May through August, and winter in Central and South America.	No	No	Conditional species, adversely affected with conditions or activities related to wind energy projects. Current project not wind energy related. No sandbars on ponds or rivers are present on site.
Piping Plover (<i>Charadrius melodus</i>) T, --	Breeding area extends along the eastern coast of the United States south to southern Texas and includes the Great Lakes region, the northern Midwestern states, and south central Canada. The Piping Plover winters along the eastern Mexico coast. Piping Plovers nest on sandy beaches along the ocean or inland lakes; bare to sparsely vegetated areas on dredge-created and natural alluvial islands in rivers; gravel pits along rivers; and salt-encrusted bare areas of sand, gravel, or pebbly mud on alkaline interior lakes and ponds.	No	No	Conditional species, adversely affected with conditions or activities related to wind energy projects. Current project not wind energy related. No sandy beaches are located on site.
Red Knot (<i>Calidris canutus rufa</i>) T, --	Migratory and may stopover in gulf coast. Breeding habitat consist of slightly vegetated land in tundra. Wintering habitats consist of large sandy tidal flats and coastlines.	No	No	Conditional species, adversely affected with conditions or activities related to wind energy projects. Current project not wind energy related. No sandy tidal flats or coastlines are located on site.
White-faced Ibis (<i>Plegadis chihi</i>) --, T	Prefers freshwater marshes, sloughs, and irrigated rice fields, but will attend brackish and saltwater habitats; nests in marshes, in low trees, on the ground in bulrushes or reeds, or on floating mats.	No	No	No wetlands are located on site.
Whooping Crane (<i>Grus americana</i>) E, E	Potential migrant via plains throughout most of the state to coast; winters in coastal marshes of Aransas, Calhoun, and Refugio counties.	No	No	No large expansive wetland located on site to provide adequate habitat.
Wood Stork (<i>Mycteria americana</i>) --, T	Forages in prairie ponds, flooded pastures or fields, ditches, and other shallow standing water, including salt-water; usually roosts communally in tall snags, sometimes in association with other wading	No	No	No habitat conducive to this species is located on the site.



Species (Scientific Name) Federal, State Status	Species Habitat Description	Habitat Present	Effect	Pertinent Information
	birds (i.e. active heronries); breeds in Mexico and birds move into Gulf States in search of mud flats and other wetlands, even those associated with forested areas; formerly nested in Texas, but no breeding records since 1960.			
Red wolf (<i>Canis rufus</i>) E, E	Extirpated; formerly known throughout eastern half of the state in brushy and forested areas, as well as coastal prairies	No	No	Extirpated in Texas.
Louisiana pigtoe (<i>Pleurobema riddellii</i>) --, T	Streams and moderate-size rivers, usually flowing water on substrates of mud, sand, and gravel; not generally known from impoundments; Sabine, Neches, and Trinity (historic) River basins	No	No	Ephemeral channel on site not conducive to bivalves. Extirpated in Trinity Basin.
Sandbank pocketbook (<i>Lampsilis satura</i>) --, T	Small to large rivers with moderate flows and swift current on gravel, gravel sand, and sand bottoms; east Texas, sulfur through San Jacinto River Basins; Neches River	No	No	Ephemeral channel on site not conducive to bivalves.
Texas heelpitter (<i>Potamilus amphichaenus</i>) --, T	Found in flowing water, but not necessarily in riffles and shoals. It prefers quiet waters in mud or sand in small to medium rivers and reservoirs. Sabine, Neches, and Trinity River basins	No	No	Ephemeral channel on site not conducive to bivalves
Texas Horned Lizard (<i>Phrynosoma cornutum</i>) --, T	Open, arid and semi-arid regions with sparse vegetation, including grass, cactus, scattered brush or scrubby trees; soil may vary in texture from sandy to rocky. Feeds on harvester ants.	No	No	No habitat or harvester ants found on site.
Timber/Canebrake rattlesnake (<i>Crotalus horridus</i>) --, T	Swamps, floodplains, upland pine and deciduous woodlands, riparian zones, abandoned farmland; limestone bluffs, sandy soil or black clay, prefers dense ground cover, i.e. grapevines or palmetto	Yes	No	Woodlands, riparian forest, and dense ground cover are present on the western portion of the site. However, habitat on project site not unique. Surrounding, undeveloped properties provide similar habitat.

E = Endangered; T = Threatened

Based on the site visit, it is GES's opinion that the site offers potential habitat for the following threatened or endangered species:

- Peregrine Falcon (TPWD "threatened"), potential migrant;
- Timber/Canebrake rattlesnake (TPWD "threatened"), potential resident

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None of the species identified as potentially inhabiting or feeding on the site were observed on the site and no field observations indicate their presence. Although the site offers potential habitat for the above-noted species, habitat on the project site is not unique in the area and surrounding, undeveloped land provides similar habitat. Therefore, the project is not likely to negatively affect the listed species potentially present in Denton County.

Environmentally Sensitive Areas

GES (formerly KBA) conducted a desktop analysis and field verification of the site and identified the following ESAs on the site:

Upland Habitat

The Town defines upland habitat as:

"Areas, a minimum of ten (10) acres in size, equal to or exceeding 50 trees per acre, which contain a predominate matrix of tree species identified in the Town's Protected Tree List. Any tree species that makes up over thirty percent (30%) of the population within a complex is considered to be the predominate species."

GES (formerly KBA) identified upland habitat in the western portion of the property. The upland habitat consisted of over 10 contiguous acres of forested land that contained greater than 50 trees per acre that was dominated by trees on the Town's Protected Species List. **The site contains approximately 14.94 acres of upland habitat (Figure 6).**

The upland habitat included *Baptisia australis* (wild blue indigo), *Bromus arvensis* (field brome), *Celtis laevigata* (hackberry), *Digitaria ciliaris* (southern crabgrass), *Gutierrezia sarothrae* (broomweed), *Ilex vomitoria* (yaupon holly), *Juniperus virginiana* (eastern red cedar), *Ligustrum* sp. (privet), *Prosopis glandulosa* (honey mesquite), *Quercus marilandica* (blackjack oak), *Quercus stellata* (post oak), *Schizachyrium scoparium* (little bluestem), *Smilax bona-nox* (greenbrier), and *Solidago* sp. (goldenrod). The vegetation observed appeared to be in good health.

Based on the vegetation present, this area is considered an ESA by the Town's definition of upland habitat. Although there is approximately 14.94 acres of upland habitat on site, only **5.48 acres will be impacted by residential lots in the development and another 0.29 acres will be impacted by the Town-required roads. The remaining 9.17 acres of upland habitat will be preserved (Figure 5).**

Riparian Habitat

The Town defines riparian habit as:

"Areas designated within the FEMA 100-year floodplain or interconnected and adjacent to wetland, tree and understory vegetation and including significant stands of predominately native water related habitat. These areas include wetlands."

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GES (formerly KBA) identified riparian habitat in the northwestern portion of the property along the western property boundary associated with the FEMA 100-year floodplain located in that area. **The site contains approximately 0.38 acres of riparian habitat (Figure 7).** Based on the vegetation present and its location, this area is considered an ESA by the Town's definition of riparian habitat. None of the riparian habitat will be impacted by the proposed development.

Prairie Habitat

The Town defines prairie habitat as:

"Areas designated as containing onsite predominate distributions of climax or mid-successional native grass species underlain by intact (non-eroded) prairie and savannah soil types."

The Town of Flower Mound's ESA Survey indicated that there are a few pocket prairies situated within the confines of the upland habitat area. The town notes that these areas are comprised of blue grama (*Bouteloua gracilis*), gayfeather (*Liatris* sp.), little bluestem (*Schizachyrium scoparium*), and Nuttall's wild indigo (*Baptisia nuttalliana*). A follow up GES site evaluation confirmed areas on site that meet the definition of prairie habitat as well as areas that appeared to be dominated by *Bromus arvensis* (field brome) and *Gutierrezia sarothrae* (broomweed). GES delineated prairie habitat based on the presence of little bluestem and gayfeather. **GES concludes 0.18 acres of prairie habitat are located on the site.** The proposed development will impact all 0.18 acres of prairie habitat (Figure 6).

Waters of the State

The Town defines waters of the State as:

"Groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state."

GES (formerly KBA) performed a jurisdictional determination of wetlands and other "waters of the United States" (as defined by the Clean Water Act) for the project. An ephemeral stream (Stream A) is located in the northwestern portion of the site (Figure 3). The stream is jurisdictional and is considered Waters of the State, and is therefore an ESA by the Town. Approximately 279 linear feet of ephemeral stream is proposed to be impacted by the development (Figure 8).

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Developed Floodplain

The Town defines developed floodplain as:

"Any area defined as a floodplain within the FEMA 100-year floodplain and which has been channelized or the land within these areas have been graded, filled, or otherwise disturbed."

The majority of the project site is located within "Zone X," an area determined to be outside the 500-year floodplain, as mapped by the Federal Emergency Management Agency (FEMA) (Flood Insurance Rate Map Q3 Digital Data). The extreme northwest corner of the site is shown as being in "Zone AE", areas that have a 1% probability of flooding every year (also known as the "100-year floodplain"), and where predicted flood water elevations above mean sea level have been established, as mapped by FEMA. A map showing the limits of Zone AE and Zone X is included as **Figure 9**. The FEMA-mapped 100-year floodplain area located within the property totals approximately 0.38 acres; however, the floodplain will not be impacted by the proposed development (Figure 9).

Topographical Slope Protection

The Town of Flower Mound's SmartGrowth Implementation manual states:

"No development application or project shall be approved that proposes development on any existing topographical slopes of twelve percent (12.0%) or greater, or that proposes to alter any existing topographical slopes that are less than twelve percent (12.0%) but equal to or greater than five percent (5.0%) (other than within five feet of the footprint of the proposed structure or structures)."

Several locations on the proposed Serenity residential development have been mapped by the Town as **areas having between 5% and 12% topographic slopes (7.8 acres) and having greater than 12% slopes (9.3 acres)**. The areas with greater than 12% slopes are generally located along the western property boundary and in the west-central portion of the site (**Figure 10**). Areas with slopes of between 5% and 12% are generally in the northern portion of the site. These areas are considered an ESA by the Town and meet the criterion for topographic slope protection.

Approximately **5.1 acres with topographic slopes between 5% and 12% are proposed to be impacted by the development** (Figure 10). Approximately **1.6 acres of areas with slopes of greater than 12% slopes are proposed to be impacted by the development**. An exception for the 5.1 acres of impacted land that have topographic slopes between 5% and 12% and the 1.6 acres of impacted land that have topographic slopes greater than 12% slopes is being requested.

Proposed Development Plan

The proposed site plan calls for the property to be developed as a residential development. In an attempt to preserve the natural habitat on the proposed Serenity residential development, tree and vegetation removal will be limited to only those trees and natural vegetation that would be affected by the proposed construction of the onsite roads, utilities, and structures.

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Several mitigation strategies are proposed to compensate for any permanent impacts to environmentally sensitive areas. Best Management Practices (BMPs) will also be employed to retain sediments and other pollutants onsite during construction activities. A figure showing the overall development plan and impacts to Town-defined ESAs is shown as Figure 5 and 9.

Mitigation Measures During Project Planning and Construction

The following mitigation measures will be employed throughout the planning and construction of the project:

- The development plan has been designed to preserve as many trees and natural vegetation as possible while still allowing an economically viable development.
- Approximately 0.38 acres of Town-defined Riparian Habitat exists on site. The proposed development plan has been designed to preserve all of this habitat.
- Approximately 14.94 acres of Town-defined Upland Habitat exists on the site. The development plan has been designed to preserve more than half of this habitat. Approximately 5.48 acres of upland habitat is proposed to be impacted by lots and another 0.29 acres of upland habitat is proposed to be impacted by town roads. Approximately 9.17 acres of upland habitat will be completely unimpacted by the proposed project. Mitigation for the 5.48 acres of upland habitat impacted by the development will be accomplished by the preservation of 9.17 acres of upland habitat.

The new Town's ordinance, Section 94-40, Item 4 clearly states that mitigation credits will be given for Upland and Riparian Habitat, based on each acre of protected habitat preserved.

- Approximately 0.18 acres of Town-defined Prairie Habitat exists on the site. The proposed development will impact all 0.18 acres of prairie habitat. Mitigation for the impacted prairie habitat will be accomplished by transplanting native prairie vegetation on site. In addition, native vegetation will be planted onsite where feasible. The remainder of the mitigation for prairie habitat impacts will be fulfilled by planting native vegetation at Lewisville Lake Environmental Learning Area (LLELA). The transplanted and replanted vegetation will result in no net loss of prairie vegetation.
- A portion of Stream A will be filled to allow for the development of residential lots. Any fill in jurisdictional waters will be authorized under a US Army Corps of Engineers Section 404 permit. Specifically, Nationwide Permit 29 will be utilized for the aforementioned fill activity.
- Although every attempt has been made to minimize the number of trees damaged or removed during development, some impacts to trees will occur. The removal of trees will be limited to stressed or dead trees, trees within the footprint of proposed structures and roads, and trees needed to be removed to level the building lots. To reduce impacts, roads will be constructed so as to minimize the number of trees



needing to be removed. Mitigation for the impact to trees that must be removed will include tree preservation (where possible), additional tree and other native vegetation plantings, habitat improvement projects, and green space preservation.

- No areas with topographic slopes between 5% and 12% will be altered unless they are within five feet of a proposed structure or an exception of this requirement is issued by the Town. An exception of this requirement is being requested for approximately 5.1 acres of land with slopes between 5% and 12%. An exception is also being requested for the impacts to 1.6 acres of land with slopes greater than 12%.
- Silt fencing will be installed and maintained in compliance with TCEQ Construction General Permit requirements. This structural feature will minimize sediments from entering the Town's storm sewer system.
- Silt fencing will be installed perpendicular to the direction of flow, especially along roadways and drainage/low elevation areas.
- Stabilized construction entrances will be installed at appropriate locations onsite. These structural features will reduce the risk of transporting mud or sediment onto the adjacent roads and other nearby roadways.
- Major soil disturbing activities will be sequenced to preserve existing vegetation.
- Storm water control devices will be installed to promote sedimentation onsite, limit runoff, and reduce the velocity of concentrated flows to reduce erosion and scouring to onsite and adjacent drainages.
- Storm water control devices will be maintained until stabilized disturbed areas have achieved final stabilization.
- Active migratory bird nesting areas will not be disturbed during site development. Although not anticipated, if a threatened or endangered species is encountered during site development, the USFWS and/or TPWD authorities will be contacted immediately.

Conclusions

Based on the site visit, ESA Survey performed by GES (formerly KBA), and proposed zoning for the site, GES concludes the following:

- The project site contains potentially suitable habitat for the Peregrine Falcon (*Falco peregrinus*) and the timber/canebrake rattlesnake (*Crotalus horridus*). Neither of these listed species were observed onsite. Potential habitat for these species does exist on site, however, the habitat on the project site is not unique and surrounding, undeveloped properties will provide adequate habitat to prevent negative impacts to these species.

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- Town-defined Environmentally Sensitive Areas exist on the project site. Prairie habitat, upland habitat, riparian habitat, waters of the state, developed floodplain, and topographical slope protection areas have been identified on site. No other environmentally sensitive areas were observed on the site. Although some impacts to these areas are anticipated, mitigation measures that compensate for these impacts will be conducted.
- The project will strictly adhere to the Town's tree ordinance and other environmental mandates.

The proposed Serenity residential development will be designed to allow for the partial preservation of existing natural habitat. The preserved trees will provide an aesthetic value to the site and continue to provide habitat for a variety of biota including songbirds, mammals, reptiles, and insects.

Please let either of us know if additional information would be helpful.

Groundwater & Environmental Services, Inc.

Sincerely,

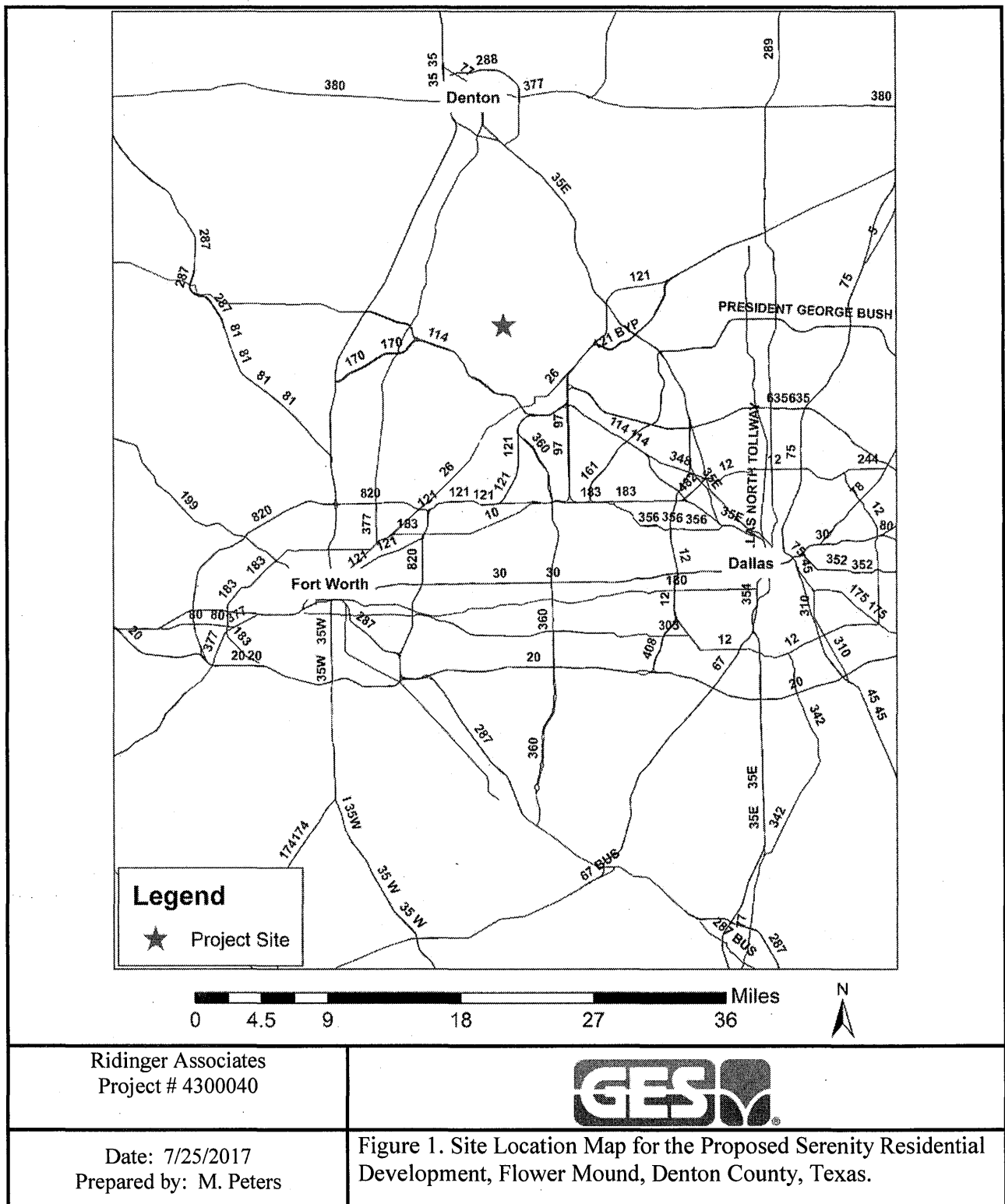
A handwritten signature in dark ink, appearing to read 'Joe Schwartz', written over a light blue horizontal line.

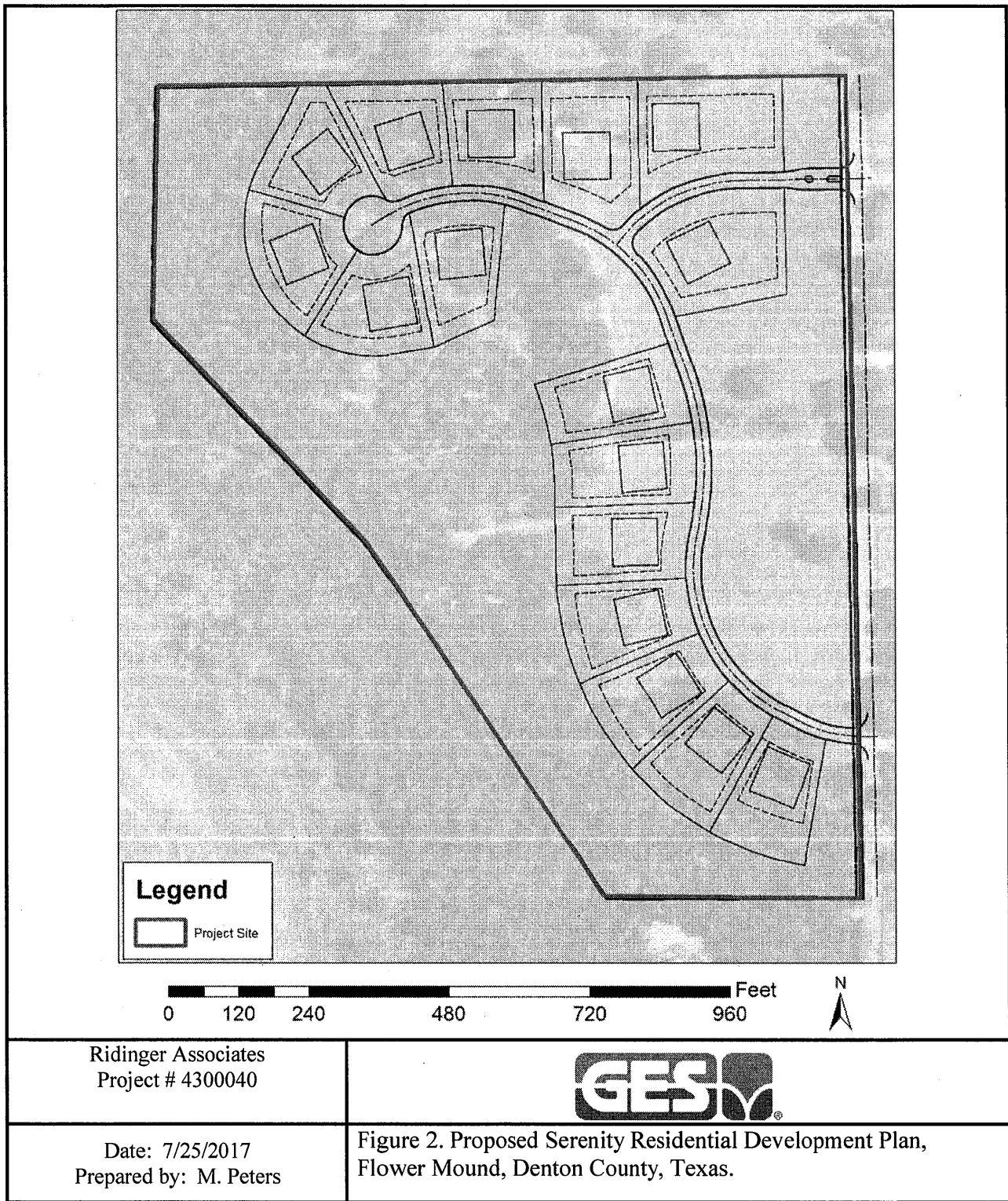
Joseph Schwartz
Principal Environmental Scientist

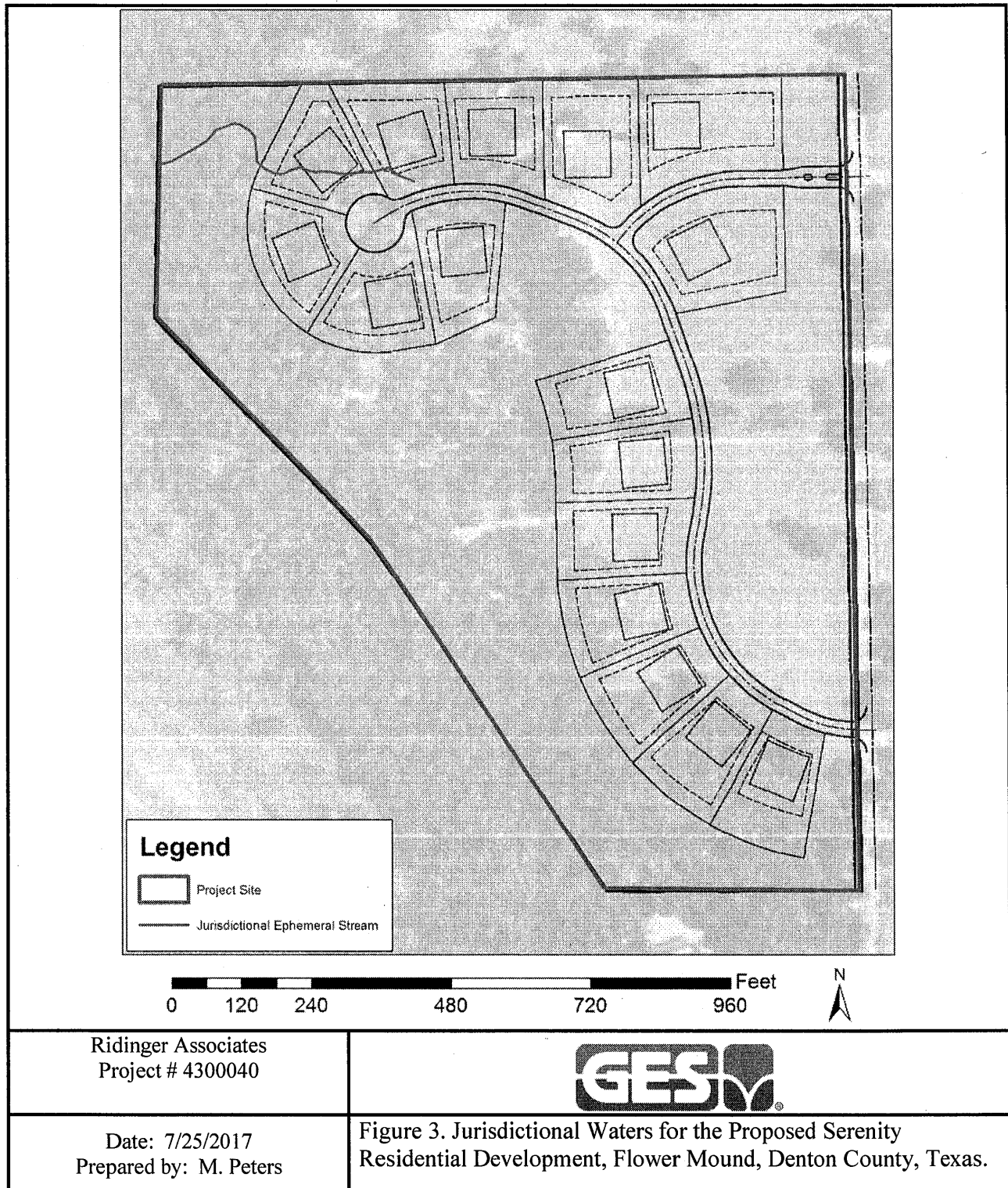
A handwritten signature in dark ink, appearing to read 'C. Keith Bradley', written over a light blue horizontal line.

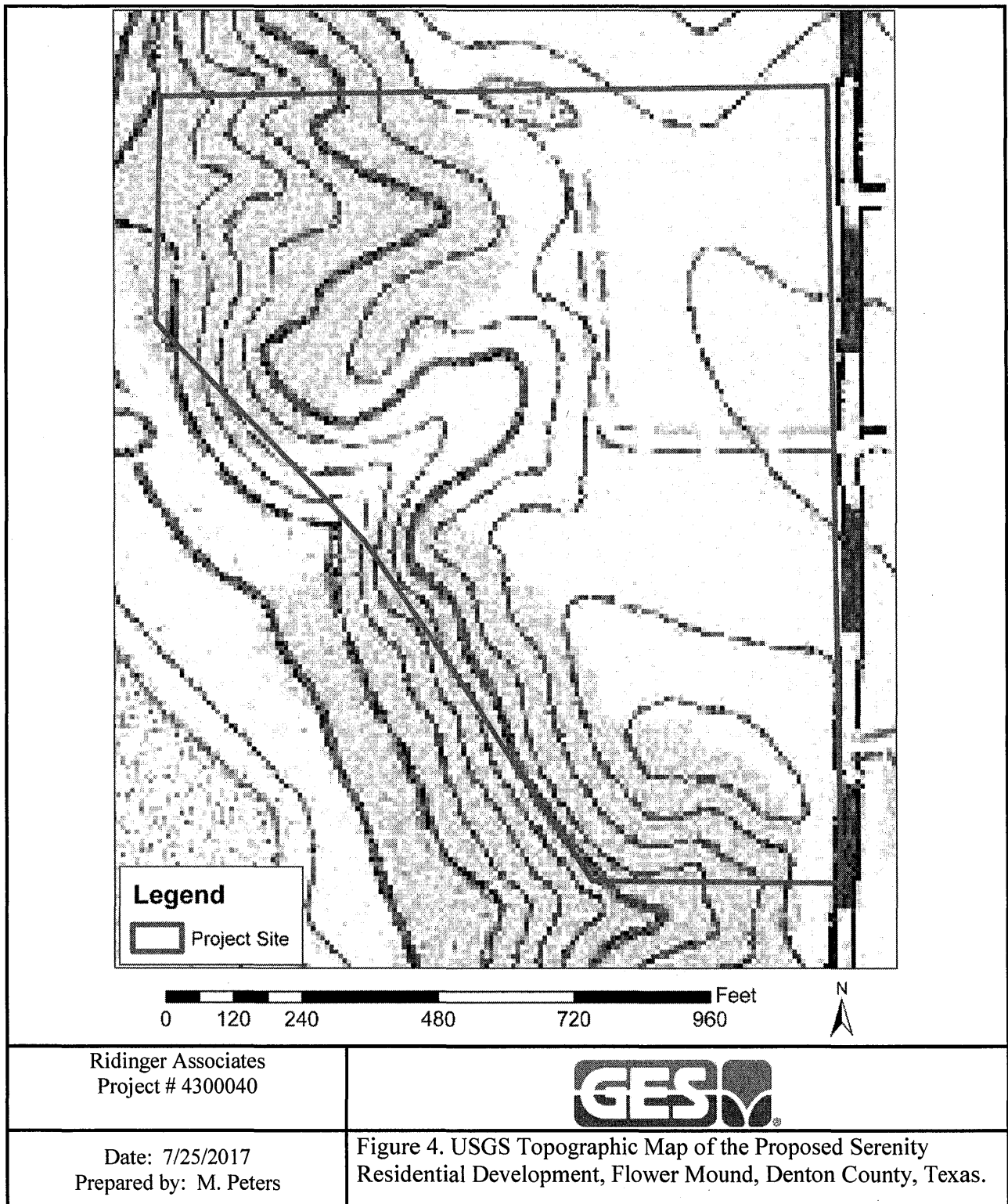
C. Keith Bradley, REP, CWB
Director, Water and Natural Resources

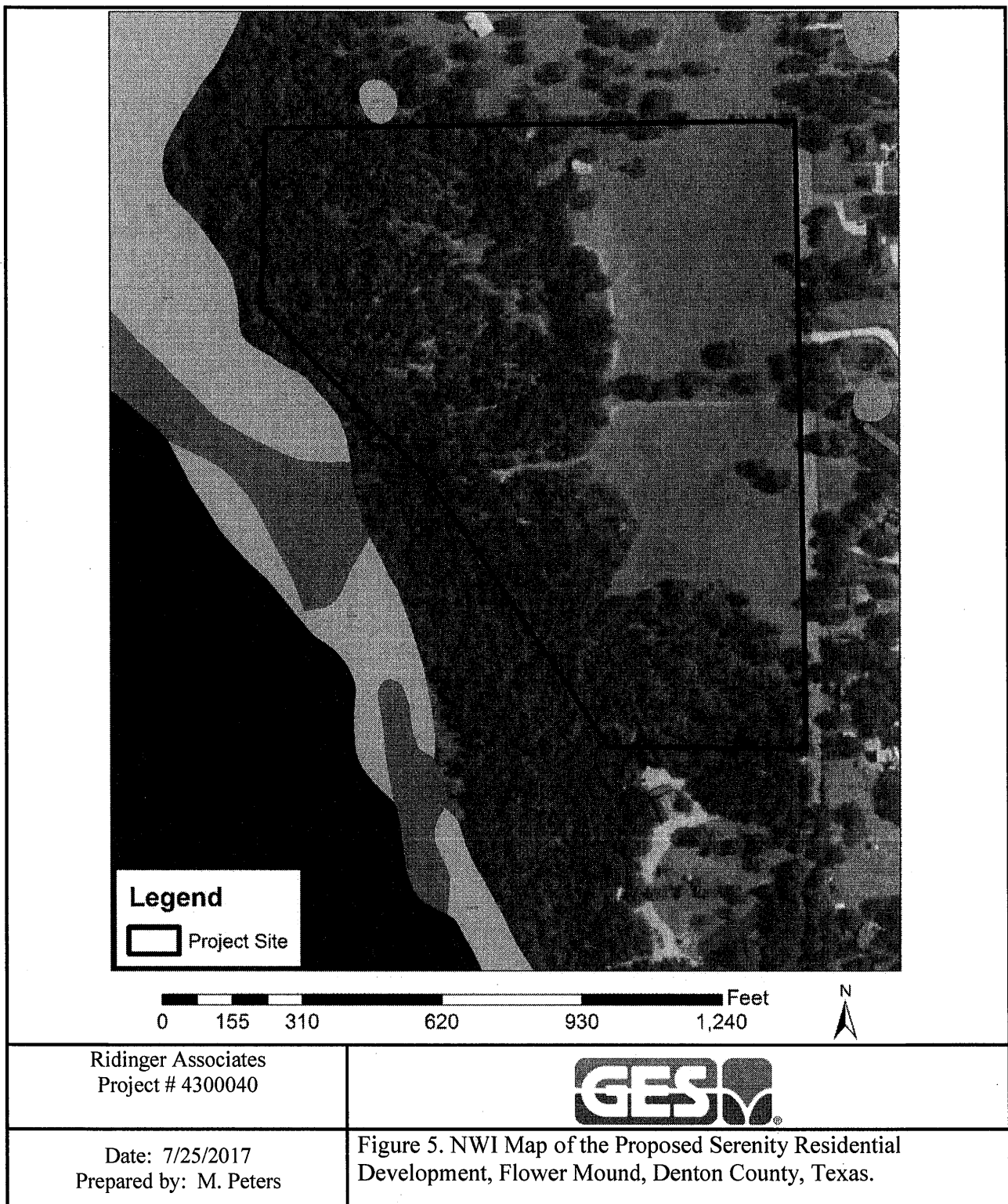
FIGURES

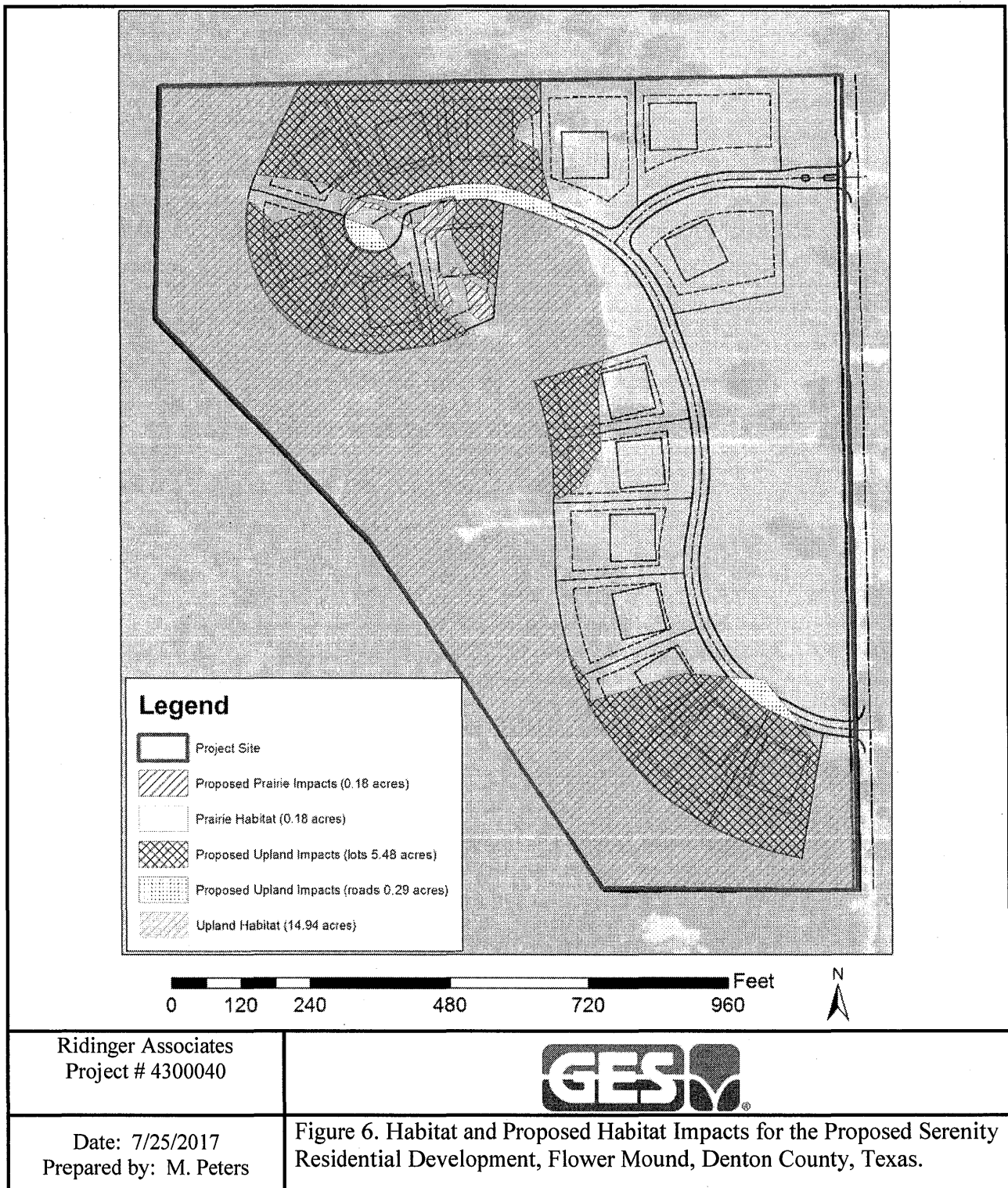


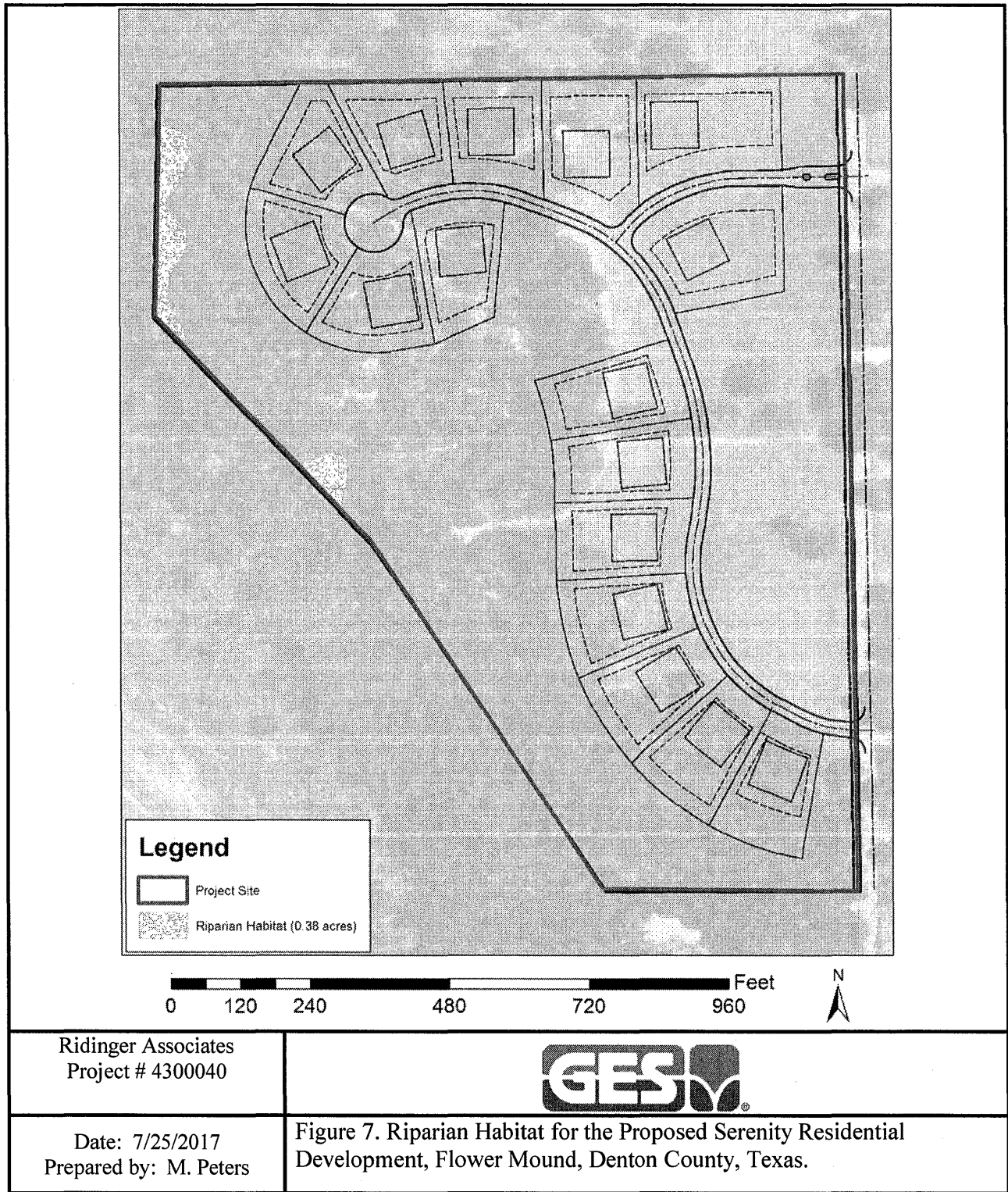


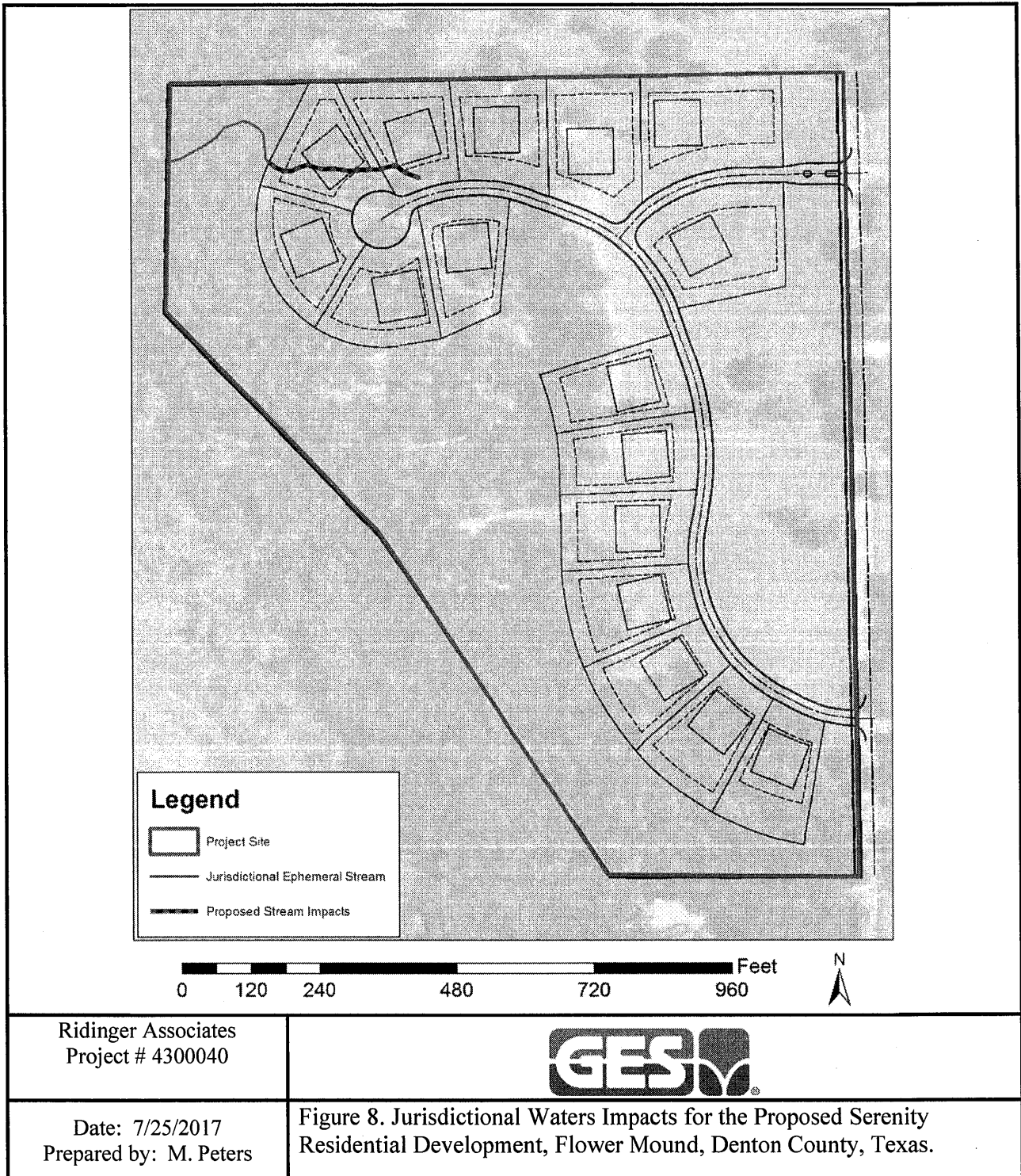


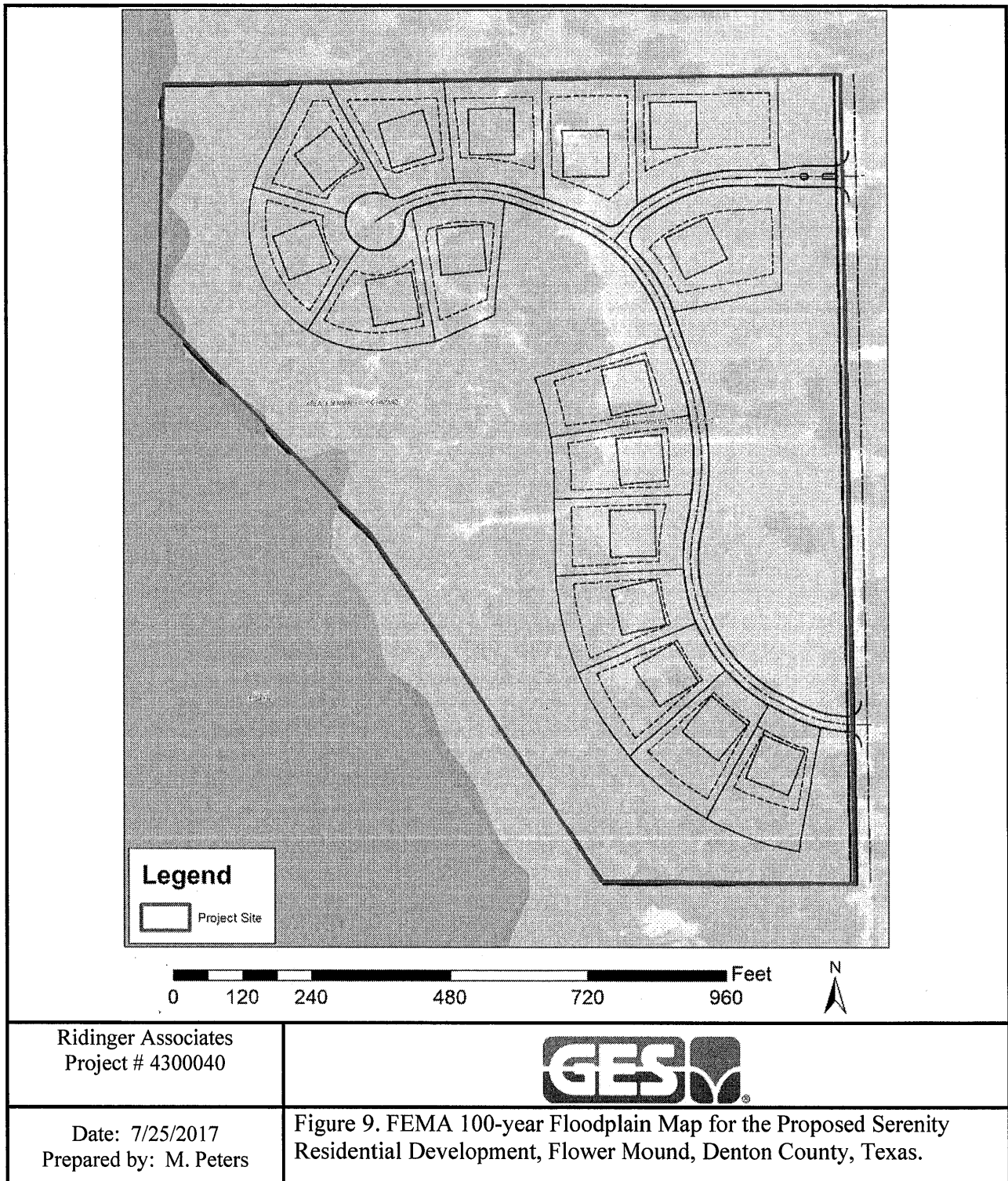












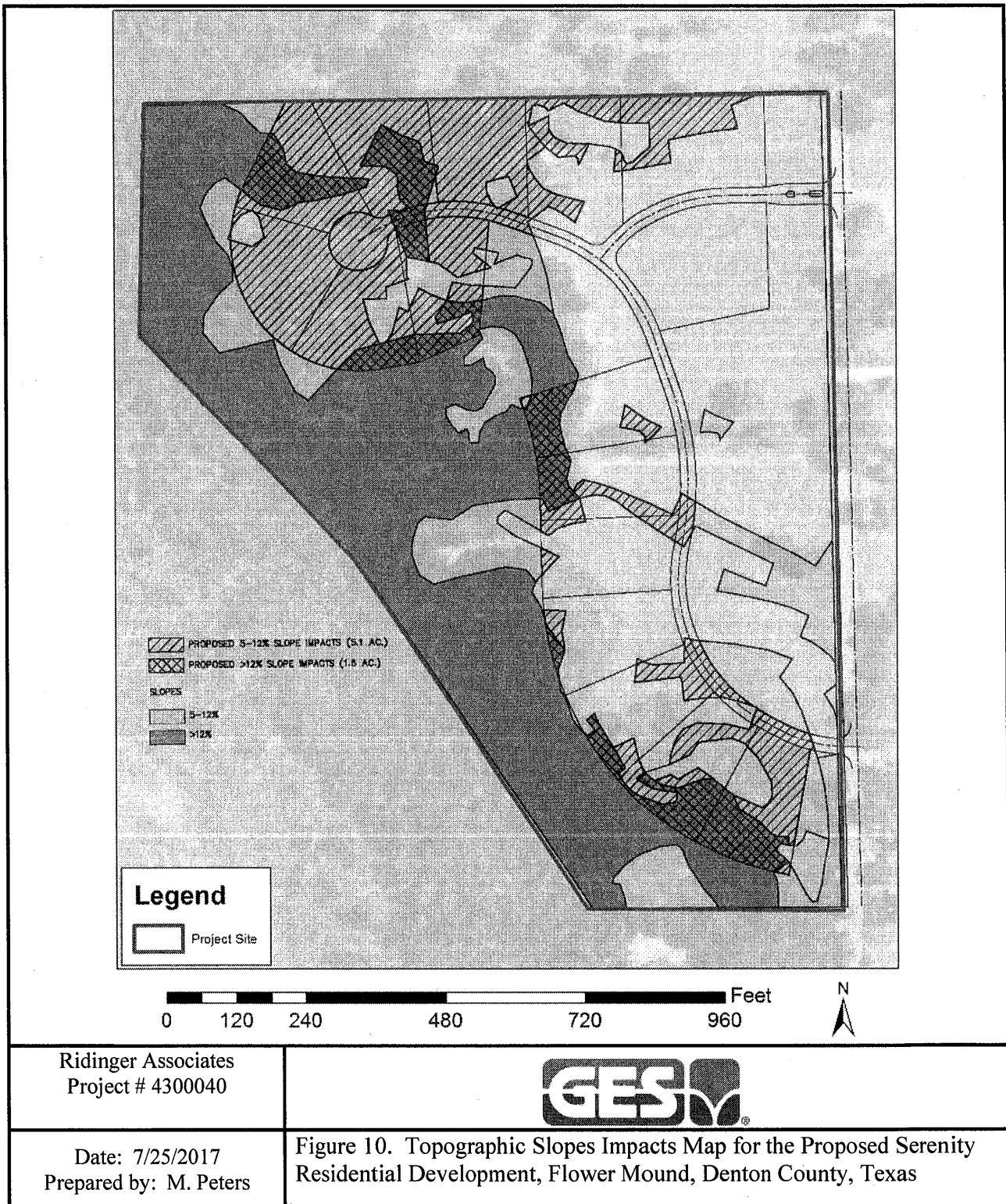


EXHIBIT 12

OPEN SPACE MANAGEMENT PLAN

Planned Development District 149 (PD-149)

Serenity Flower Mound

Property Description

As set forth in the Open Space Plan (Exhibit “A”) hereto, which is hereby incorporated herein by reference for all purposes.

As set forth in the Landscape Plan (Exhibit “B”) hereto, which is hereby incorporated herein by reference for all purposes.

Present Condition of the Property

The natural characteristics of the Property will be outlined in a report (Exhibit “C”) completed on July 26, 2017 (the “EPP”), by GES Groundwater & Environmental Services, Inc.

Introduction

It is our plan for the Home Owners Association (HOA) Board of Directors in conjunction with an ISA Certified Arborist to manage the Open Space related to the Serenity Flower Mound project. There are 4 open space lots consisting of 15.26 acres with approximately 9.17 acres remaining in its natural state per our EPP. This is considered a small parcel of land to be dedicated to a Land Trust for a Conservation Easement. However, we are speaking with a Land Trust Company about their willingness to partner with us relating to the donation of a Conservation Easement over the subject tract of land.

Purpose

The purpose of the preservation of open space includes but is not limited to one or more of the following:

- Retaining or protecting the relatively natural habitat of wildlife, plants, and similar ecosystems on the Property;
- Protecting natural resources, maintaining or enhancing air and water quality;
- Preserving the historical, architectural, archaeological, or cultural aspects of the Property;
- Preserving the open space characteristic of Property pursuant to The Town of Flower Mound’s Master Plan 2001 (including, but not limited to, the Land Use Plan for the “Cross Timbers Conservation Development District”),

Open Space Plan, SMARTGrowth Management Plan, Land Development Regulations governing the Cross Timbers Conservation Developments, and Planned Development District No. 149;

- Permitting the Property (as suitable) for non-intensive outdoor recreation by the public, including hiking, horseback riding, nature observation, and enjoyment of open space, all in accordance with applicable laws and regulations.
- Land in its natural state requires little to no maintenance and carry minimal costs for maintenance.

Prohibited Activities

Any activity on, or use of, the Property inconsistent with the purpose of the open space is prohibited. The Property shall be preserved, to the extent practicable, in its natural condition and restricted from any development that would impair or interfere with the values of the Property. Without limiting the following activities and uses are expressly prohibited, restricted, or reserved as indicated hereunder:

Vegetation: There shall be no large-scale removing, destroying, cutting, trimming, burning, harming, or altering of any vegetation, or disturbing or changing in any way the natural habitat existing on the Property after the Final Acceptance Date by the Town. The use of pesticides, biocides, insecticides, fungicides, rodenticides, and herbicides on the Property shall be limited so as to preserve the natural characteristics of the Property. The use of such products and/or mowing of the Property, as necessary to control pests or vermin, may be allowed. Mowing and/or trimming may be conducted along boundary lines to allow access for maintenance. If any trails are constructed on the Property, trail boundaries may be maintained through trimming or mowing. In the event that vegetation must be altered in order to or remedy a condition which presents a danger to persons, such alterations shall be allowed, notwithstanding the foregoing.

Uses: No commercial, residential or industrial activity shall be conducted upon the Property. There shall be no storing or dumping of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances, machinery, hazardous or toxic substances or waste, or any placement of underground or above ground storage tanks or other materials on the Property that may negatively impact or be detrimental to the Property or to the surface or subsurface waters of the Property. Livestock animals shall not be allowed on the Property.

Topography: After the Final Acceptance Date by the Town, there shall be no change in the topography of the Property. There shall be no filling, excavating,

grading, dredging, mining or drilling upon the Property. There shall be no removing of topsoil, peat, sand, gravel, rock, minerals or other materials from the Property.

Soil or Water Degradation: After the Final Acceptance Date by the Town, there shall be no use of or the conducting of any activity on the Property that is likely to cause soil degradation, erosion, depletion or pollution of, or siltation on, any surface or subsurface waters of the Property, and there shall be no change to the surface or subsurface hydrology of the Property.

Construction: There shall be no constructing or placing of any building, mobile home, asphalt or concrete pavement, permanent billboard or other advertising display, antenna, utility pole, tower, conduit, line, pier, landing, dock, or any other temporary or permanent structure or facility or any other man-made structures on the Property.

Roads: There shall be no construction of new roads on the Property or any enlargement, widening, or modification to any existing roads on the Property.

Waters: There shall be no polluting, altering, manipulating, depleting or extracting of surface or subsurface water (including, but not limited to, ponds, creeks or other water courses) or any other water bodies on the Property. There shall be no conducting or allowing any entity or person to conduct activities on the Property that would be detrimental to water purity or that alter the natural water level or flow in or over the Property (including, but not limited to, damming, dredging or construction in any free flowing water body, nor any manipulation or alteration of natural water courses, fresh water lake and pond shores, marshes or other water bodies).

Vehicles: After the Final Acceptance Date by the Town, and subject to compliance with the Americans with Disabilities Act, there shall be no operating or allowing the operation of any motorized vehicles on the Property.

Easements: There shall be no new easements on, over, under, across, along or through the Property, including, but not limited to, access easements and utility easements provided.

Signage: No permanent signage shall be permitted on or over the Property, except the posting of no trespassing signs, signs giving directions or proscribing rules and regulations for use of the Property and/or signs identifying the purpose of the

preserved property. Until the sale of the last of the lots owned by developer in the Serenity Flower Mound subdivision, the developer or his designee may place "For Sale" signs on the Property, provided that the total number of such signs does not exceed the total number of such lots owned by the developer.

Duration

Perpetual.

General Provisions

(l) Amendment.

1. Maintenance of Common Areas:

- a. All Common Areas (X-Lots) are to be conveyed to the Homeowners Association (HOA) by the Developer. The HOA will be established by the Developer as a Nonprofit Corporation. The members will be the Serenity Flower Mound lot owners with one (1) vote for each Lot Owner in all matters. The initial Board of Directors will be appointed by the developer. Once the Serenity Flower Mound community is 80% complete (12 homes occupied), a Board of Directors will be elected by the Homeowners to manage and oversee the business and all other matters of the HOA, including the conservation (Open Space) requirements of the Town.
- b. The structure and guidelines for the HOA will be defined by the Dedications and Restrictions (Deed Restrictions), which will be recorded by the Developer after the Final Plat is approved, as required by the Town. The Covenants, Conditions and Restrictions shall set forth all enforcement guidelines.
- c. The maintenance and management of the Common Areas (X-Lots) will be the responsibility of the HOA Board of Directors. The Common Areas (X-Lots) and their care will be as follows:
- d. Woodland/Open Space (X-Lots)
 1. Lot 1X, 2X and 3X Landscape Buffer to be maintained by the HOA during regular maintenance, and on an as needed basis.
 2. Lot 1X, 2X and 3X excluding Landscape Buffer to remain in its natural state and mowed approximately 2 to 3 times per year as determined by the HOA.
 3. Lot 3X, to remain in its natural state.
- e. Bar Ditches in Open Space
 1. Bar ditches in Lot 1X, 2X and 4X to be maintained by the HOA during regular maintenance.

- f. Drainage Culverts in Open Space
 - 1. All Drainage culverts in open space to be maintained by the HOA during regular maintenance.
- g. Fencing in Open Space
 - 1. Lot 1X, 2X and 4X to be maintained by the HOA during regular maintenance.
- h. Masonry Entry Feature in Open Space
 - 1. All masonry features in open space to be maintained by the HOA during regular maintenance.

All open space areas may be either; Placed under a Conservation Easement to be supervised by a Licensed or Certified Conservator, or managed by the HOA Board of Directors. The HOA Board of Directors must be under the direction of a licensed ISA Certified Arborist.

The HOA will fulfill the conservation covenants as provided in the deed restrictions.

EXHIBIT "A"
Open Space Plan

EXHIBIT "B"
OPEN SPACE LANDSCAPE PLAN

EXHIBIT "C"
EPP



Writer's Direct Dial:
(214) 752-2222, ext. 116

Writer's E-mail Address:
mmyers@curtislaw.net

January 13, 2017

***Via Hand Delivery and
E-mail: townsecretary@flower-mound.com***

Ms. Theresa Scott
Town Secretary
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028

Re: *Petition Protesting Rezoning (the "Petition") for the Proposed Development at 2801 High Road, Flower Mound, Texas (the "Development").*

Dear Ms. Scott:

Enclosed with this letter is the Petition protesting the rezoning of the property located at 2801 High Road, Flower Mound, Texas (the "Property") in order to facilitate the Development proposed by Reginald Rembert of Rembert Enterprises, Inc. (the "Developer"). While technically the Petition only requires 20% of the owners of the land immediately adjoining Property and extending 200 feet from that area in order to require an affirmative vote of three-fourths of all the members of the governing body considering the change,¹ the Petition contains the signatures of the owners of 7 out of the 8 pieces of land immediately adjoining the Property² as well as nearly 200 additional signatures of other citizens of the Town of Flower Mound who oppose the zoning change and the Development.

If the Planning and Zoning Commission (the "P&Z") or the Town Council for the Town of Flower Mound require additional signatures, my clients are confident that an additional 100 to 150 signatures could be obtained since the holiday season has come to an end. The fact that the citizenry of the Town of Flower Mound oppose the zoning change and the Development coupled with the Developer's failure to follow the local ordinances to obtain approval of the proposed zoning change and the fact that the Development fails to meet the standards set forth in the Town of Flower Mound's Master Plan should provide sufficient grounds for denial of the Developer's application. Should the P&Z and/or the Town Council need an additional reason to deny the Developer's application, the Developer has had an inexplicable and inexcusable delay in proceeding with the application since hosting the improperly noticed and, therefore, sparsely attended first meeting.

¹ See Tex. Local Gov't Code §211.006(d)

² Landowners who have signed are: Bob and Kathy Schnee; Jeff and Adrienne Dewberry; William and Martha Dewberry; Peter Perfetti; David and Eileen Hobt; Thomas and Shannon Becker; and Gerard and Katherine Tobin.

The Town of Flower Mound has taken no action to address the Developer's failure to proceed with the application for the zoning change, however, if it is the Developer's strategy to wait until the opposition to the Development subsides, it will not work. The opposition to the Development by the citizenry of the Town of Flower Mound will subside due to the passage of time.

If you have any questions regarding the foregoing or the attached, please do not hesitate to contact me. Please note that your copy of the Petition bears the original signatures, and are being entrusted to your care, custody, control and possession.

Sincerely yours,

By:


Michael H. Myers

Enclosure

cc: ***Via First Class Mail***
Mr. Tom Hayden

Via First Class Mail
Bryan Webb

Via First Class Mail
Don McDaniel

Via First Class Mail
Claudio Forest

Via First Class Mail
Brad Ruthrauff

Via First Class Mail
Mike McCall

Via First Class Mail
Laura Dillon

Via First Class Mail
David Johnson

Via First Class Mail
Mr. Jason Webb

Via First Class Mail
Kevin Bryant

Via First Class Mail
Itamar Gelbman

Via First Class Mail
Perfecto Solis

Via First Class Mail
Laile Neal

Via First Class Mail
Al Linley

Via First Class Mail
Heth Kendrick

Via Hand Delivery
Chuck Russell

REZONING PROTEST PETITION

TOWN OF FLOWER MOUND, TEXAS

TO THE TOWN COUNCIL AND PLANNING AND ZONING COMMISSION

We, the undersigned owners of property in the Town of Flower Mound, Texas, are potentially affected by the requested zoning change [Zoning case number: ZPD 16-0007] described in the referenced file and do hereby protest any change to the existing zoning [Agricultural].

The subject property is described as follows:

A 28.911 Acre Tract of land in the Cross Timbers Conservation Development District located at 2801 High Road, Flower Mound, Texas (Parcel ID#: R17998; R18002; R18005; and R18007). The Property is located south of Roads End Road, west of High Road, and north of Bolo Point Road, and its western border being Grapevine Lake.

Current Land Use/Zoning: The land is located in the Cross Timbers Conservation Development District (CTCDD). The property is currently zoned Agricultural (A).

Proposed Land Use/Zoning: The proposed land use Planned Cluster Development (PCD). The proposed PCD would allow for eighteen (18) single family residences with actual lot sizes of approximately ½ acre.

Basis for Protest: The proposed development is inconsistent with the Town of Flower Mound's Master Plan (the "Master Plan") and sub-elements of the Master Plan. Further, the proposed development is inconsistent with character of the residential development that exists within the surrounding area.

The property may be developed in accordance with its current Agricultural zoning.

Many property owners in the area surrounding the subject property did not receive notice of the "Pre-Application/First Informational Meeting" (which was allegedly held at 7:00 p.m. on June 15, 2016 at Salerno's Italian Restaurant).

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
[SIGNATURE BLOCKS TO FOLLOW]**

Ashley Steffen 8313 Rolling Hills Flower Mound TX 75022
(Printed Name and Address of Each Person Signing Petition)

Julie Campbell Julie Campbell 3709 Sunnyview Ln
(Printed Name and Address of Each Person Signing Petition) FM TX 75022

EODIE CAMPBELL Ed Campbell 3709 SONNYVIEW LN
(Printed Name and Address of Each Person Signing Petition) FLOWER MOUND TX 75022

NICK SUMM N. Sum 3525 High Rd. Fm. TX 75022
(Printed Name and Address of Each Person Signing Petition)

Karyn Walsh Karyn Walsh 3525 High Rd
(Printed Name and Address of Each Person Signing Petition) FM TX 75022

Tim Runte Tim Runte 3430 High Road, FM TX 75022
(Printed Name and Address of Each Person Signing Petition)

FRED Howell Fred Howell 3823 Sunnyview Ln., FM, TX
(Printed Name and Address of Each Person Signing Petition)

Cristy McCallum Cristy McCallum 3220 Lakewood Lane, Fm
(Printed Name and Address of Each Person Signing Petition)

Debra Canalizo Debra Canalizo 3337 Rolling Hills, FM, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Heather Adriance Heather Adriance 3552 Green Meadows Ln Fm, TX
(Printed Name and Address of Each Person Signing Petition) 75022

Jennifer Christmas Jennifer Christmas 3443 Shady Oaks Dr.
(Printed Name and Address of Each Person Signing Petition) Flower Mound, TX 75022

Janet m. Carty Janet m Carty
7300 Bobo Lane
(Printed Name and Address of Each Person Signing Petition)

Becky Johns 3520 Sunnyview Ln. Becky Johns
(Printed Name and Address of Each Person Signing Petition)

Marie Hartfeld 3412 Shady Oaks Dr. Marie Hartfeld
(Printed Name and Address of Each Person Signing Petition) (PROPERTY OWNED: 3221 High Rd)

MARY Lonadue 3320 Rolling Hill Flower Mound TX
(Printed Name and Address of Each Person Signing Petition)

NATALIE Bunce 1210 Brandon Ct - Reno TX 76262
(Printed Name and Address of Each Person Signing Petition) (3320 Rolling Hills property owned)

Kathleen L. Hawkins 3209 Lakewood Lane Flower Mound TX 7656
(Printed Name and Address of Each Person Signing Petition)

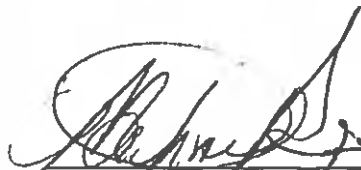
Debbie Pace 7412 Emerson Lane Flower Mound 75022 Debbie Pace
(Printed Name and Address of Each Person Signing Petition)

David Robison 3328 Rolling Hills Flower Mound, 75022 DSR
(Printed Name and Address of Each Person Signing Petition)

R.I. WESTBROOK 3920 Sunnyview Flower Mound, 75022 R.I. Westbrook
(Printed Name and Address of Each Person Signing Petition)

Justin Vaughn 3425 High Rd Flower Mound TX 75022 JV
(Printed Name and Address of Each Person Signing Petition)

Marlana Marshall 3425 High Rd Flower Mound TX 75022 Marlana Marshall
(Printed Name and Address of Each Person Signing Petition)

 MIKE RAMOS 3904 Sunnyview
FLOWERMOON
(Printed Name and Address of Each Person Signing Petition)

3304 INDIAN TRAIL
ERIK BISHOP FLOWERMOON, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Joel Murphy 3401 High Rd
Flowermound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

A. Gilene Carver 3530 High Road / Auleia Caver
Flower Mound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Dana Clark 3208 Miracle Lane FM 75022
(Printed Name and Address of Each Person Signing Petition)

Melanie Fusilier 3427 Lakewood Ln 75022
(Printed Name and Address of Each Person Signing Petition)

Brandon Fusilier 3427 Lakewood Ln 75022 TX 75022
(Printed Name and Address of Each Person Signing Petition)

Jeffrey Hartle 3217 Lakewood Ln
(Printed Name and Address of Each Person Signing Petition)

Kathleen Dieker 3640 Valley View
(Printed Name and Address of Each Person Signing Petition)

Carla S. Madien 3113 Lakewood Ln, 75022
(Printed Name and Address of Each Person Signing Petition)

DAVID A. McALLUM, 3220 LAKEWOOD LN.
(Printed Name and Address of Each Person Signing Petition)

ANDREA CAMPBELL 3116 High Chaparral AndreaCampbell
(Printed Name and Address of Each Person Signing Petition)

Rex MADISON 3113 LAKEWOOD LN Rex Madison
(Printed Name and Address of Each Person Signing Petition)

3920 Sunnyview Flower Mound TX
Ken Schwendeman
(Printed Name and Address of Each Person Signing Petition)

Jenice Goetz 4205 Calloway Ct. FM 75022
(Printed Name and Address of Each Person Signing Petition)

Sam S. Smith 3480 High Rd F.M. 75022
(Printed Name and Address of Each Person Signing Petition)

Jim McElroy 3216 LAKEWOOD LN F.M. 75022
(Printed Name and Address of Each Person Signing Petition)

Sarah McElroy 3216 Lakewood Ln Fm 75022
(Printed Name and Address of Each Person Signing Petition)

Michael Archer 5312 Singing Brook Road 75022
(Printed Name and Address of Each Person Signing Petition)

Sherri Briley 3450 Sunnyview Lane 75022
(Printed Name and Address of Each Person Signing Petition)

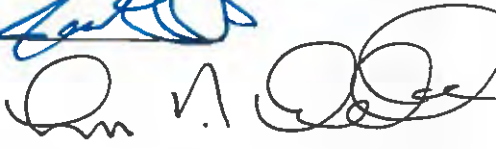
Sarah Bailey 3446 Sunnyview Ln 75022
(Printed Name and Address of Each Person Signing Petition)

BRAD BAILEY 3446 SUNNYVIEW LN FM 75022
(Printed Name and Address of Each Person Signing Petition)

Clay Barnes 3812 Sunnyview Ln 
(Printed Name and Address of **Each** Person Signing Petition)

Molly Blaine 3500 Sunnyview Ln 
(Printed Name and Address of **Each** Person Signing Petition)

Todd Briley 3450 Sunnyview Ln 
(Printed Name and Address of **Each** Person Signing Petition)

Louis J. SHIELL II 3817 SUNNYVIEW LN 
(Printed Name and Address of **Each** Person Signing Petition)

(Printed Name and Address of **Each** Person Signing Petition)

(Printed Name and Address of **Each** Person Signing Petition)

(Printed Name and Address of **Each** Person Signing Petition)

(Printed Name and Address of **Each** Person Signing Petition)

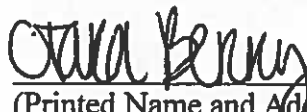
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(Printed Name and Address of **Each** Person Signing Petition)

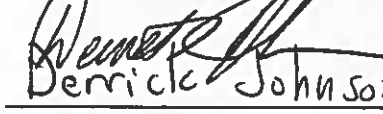
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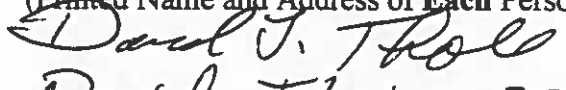
 Richard Poulsen 3345 Rolling Hills
(Printed Name and Address of Each Person Signing Petition)

✓ (COMPLETESIGNATURE) Sherry L. Fincher 3933 SUNNYVIEW Lane
(Printed Name and Address of Each Person Signing Petition)

 Ciara Berry 3357 Rolling Hills
(Printed Name and Address of Each Person Signing Petition)

William Berry 3357 Rolling Hills
(Printed Name and Address of Each Person Signing Petition)

 Derrick Johnson 3333 Rolling Hills, Flower Mound, TX
(Printed Name and Address of Each Person Signing Petition)

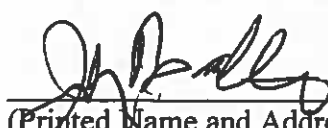
 David Thole 3340 Rolling Hills FM TX
(Printed Name and Address of Each Person Signing Petition)

 HEINRICH STEFFEN 3313 ROLLING HILLS, Flower Mound, TX
(Printed Name and Address of Each Person Signing Petition)

Ashley Steffen  3313 Rolling Hills Flower Mound TX
(Printed Name and Address of Each Person Signing Petition)

JONATHAN SUMNER  3309 ROLLING HILLS, Flower Mound, TX
(Printed Name and Address of Each Person Signing Petition)

Andrea Sumner  3309 Rolling Hills, FM, TX
(Printed Name and Address of Each Person Signing Petition)

 JOHN BAILEU 3305 " L
(Printed Name and Address of Each Person Signing Petition)

~~Steven Brady~~
Steven Brady, 3528 Shady Trl, Flower Mound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Anastasia Brady 3528 Shady Trl Flowermound TX 75022
(Printed Name and Address of Each Person Signing Petition)

Donna Conrad 7516 Emerson Ln. Flower Mound TX 75022
(Printed Name and Address of Each Person Signing Petition)

SUZY HURST
Suzy Hurst 3705 IMMEL DR., FLOWER MOUND, TX 75022
(Printed Name and Address of Each Person Signing Petition)

KAREN HARPER
Karen Harper 7517 SUNNYVIEW FLOWER MOUND, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Ray Hurst 3705 IMMEL DR FM 75022
(Printed Name and Address of Each Person Signing Petition)

Mary Jane Hous 7401 Bololu - 75022
(Printed Name and Address of Each Person Signing Petition)

HARRISON TOBIN 3131 High Rd Flower Mound 75022
(Printed Name and Address of Each Person Signing Petition)

KATHERINE K. TOBIN 3031 High Rd Flower mound 75022
(Printed Name and Address of Each Person Signing Petition)

GERALD W. TOBIN 3031 High Rd. Flower Mound 75022
(Printed Name and Address of Each Person Signing Petition)

(Printed Name and Address of Each Person Signing Petition)

Leslie Childs, 7336 Hickory Springs RD., Leslie Childs
(Printed Name and Address of Each Person Signing Petition)

Ally 7336 Hickory Springs PETER COLLORA
(Printed Name and Address of Each Person Signing Petition)

✓ Alexandra Canei 2930 Waterview Ln, FM, TX 75022
(Printed Name and Address of Each Person Signing Petition)

✓ Melissa Canei 2930 Waterview Ln, FM, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Julie Canei 2930 Waterview Ln, Flower Mound, TX 75022 J Canei
(Printed Name and Address of Each Person Signing Petition)

Stephen Eads 7305 Hickory Springs
(Printed Name and Address of Each Person Signing Petition)

Jennifer Eads 7305 Hickory Springs
(Printed Name and Address of Each Person Signing Petition)

Amanda Gay 7400 Hickory Springs
(Printed Name and Address of Each Person Signing Petition)

Kevin M. Gay 7400 Hickory Springs
(Printed Name and Address of Each Person Signing Petition)

Paula Pokorney 2900 Waterview Lane Flower Mound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

✓ Matt Pokorney 2900 Waterview Lane
(Printed Name and Address of Each Person Signing Petition) Flower Mound, TX 75022

David Aost, 3000 High Rd, Flower Mound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Eileen R Hult 3000 High Rd, FM, 75022
(Printed Name and Address of Each Person Signing Petition)

~~Tim Wise 2624 Briar Patch Lane FM 75022~~
(Printed Name and Address of Each Person Signing Petition)

M Lou Wise
M Lou Wise 2624 Briar Patch Ln. Flr. Mo TX 75022
(Printed Name and Address of Each Person Signing Petition)

~~BRID~~ Brooklyn Pulley 3321 Fox Hollow Court, Flower Mound TX 75022
(Printed Name and Address of Each Person Signing Petition)

Kathy Schne
Kathy Schne 2701 High Road, Flowermound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Adrienne Dewberry
2619 Greentree Lane
Flower Mound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Robert Schne
2701 High Rd,
Flower Mound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Martha Dewberry
2627 Greentree Ln
Flower Mound TX 75022
(Printed Name and Address of Each Person Signing Petition)

William F. Dewberry
2627 GREENTREE
Flower Mound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Peter Perfe H:
7535 Hickory Springs Rd
Flower Mound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Jeff Dewberry
2619 Greentree Ln
Flower Mound TX 75022
(Printed Name and Address of Each Person Signing Petition)

Leslie Childs, 7336 Hickory Springs RD., Leslie Childs
(Printed Name and Address of Each Person Signing Petition)

Allison 7336 Hickory Springs PETER COLLORA
(Printed Name and Address of Each Person Signing Petition)

✓ Alexandra Canei [Signature] 2930 Waterview Ln. FM. TX 75022
(Printed Name and Address of Each Person Signing Petition)

✓ Melissa Canei [Signature] 2930 Waterview Ln. FM. TX 75022
(Printed Name and Address of Each Person Signing Petition)

Julie Canei 2930 Waterview Ln. Flower Mound, TX 75022 J Canei
(Printed Name and Address of Each Person Signing Petition)

Stephen Eads [Signature] 7305 Hickory Springs
(Printed Name and Address of Each Person Signing Petition)

Jennifer Eads [Signature] 7305 Hickory Springs
(Printed Name and Address of Each Person Signing Petition)

Amanda Gay [Signature] 7400 Hickory Springs
(Printed Name and Address of Each Person Signing Petition)

Kevin M. Gay [Signature] 7400 Hickory Springs
(Printed Name and Address of Each Person Signing Petition)

Paula Pokorney 2900 Waterview Lane Flower Mound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Matt Pokorney [Signature] 2900 Waterview Lane Flower Mound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Lori B. Holland Lori B. Holland 3033 High Rd., FM 75022
(Printed Name and Address of Each Person Signing Petition)

Thomas C. Scott Thomas Scott 2619 Briar Patch Ln, FM 75022
(Printed Name and Address of Each Person Signing Petition)

Barbara J. Scott 2619 Briar Patch Ln FM 75022
(Printed Name and Address of Each Person Signing Petition)

Sue Marincel 2613 Briar Patch Ln FM 75022
(Printed Name and Address of Each Person Signing Petition)

Debbie Watts 2612 Briar Patch Ln. FM. 75022
(Printed Name and Address of Each Person Signing Petition)

Stephen Watts 2612 Briar Patch Ln. FM 75022
(Printed Name and Address of Each Person Signing Petition)

Shannon Becker 3004 High Rd FM 75022
(Printed Name and Address of Each Person Signing Petition)

Thomas Becker 3004 HIGH RD FM 75022
(Printed Name and Address of Each Person Signing Petition)

Steve Kaiser 3229 High Rd FM 75022
(Printed Name and Address of Each Person Signing Petition)

Debbie Kaiser 3229 HIGH RD FM 75022
(Printed Name and Address of Each Person Signing Petition)

Joseph L. Knill 3225 HIGH RD FM 75022
(Printed Name and Address of Each Person Signing Petition)

Brent Henderson Brent Hill 3224 Lakewood Ln, Flower Mound, TX
(Printed Name and Address of Each Person Signing Petition) 75022

Todd McNeil 4105 Thoreau Circle
(Printed Name and Address of Each Person Signing Petition)

April Franzen April Franzen, 7405 Palomino Circle, Flower Mound TX
(Printed Name and Address of Each Person Signing Petition) 75022

Gary A. Franzen Gary A. Franzen 7405 Palomino Circle, FM, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Mark S. Reinecke Mark S. Reinecke 3201 Lakewood Lane FM TX
(Printed Name and Address of Each Person Signing Petition) 75022

Jon T. Gienfranz 3205 Lakewood La
(Printed Name and Address of Each Person Signing Petition) FM, Texas 75022

Stephen Wetzel 3438 Sunnyview Ln, FM TX 75022
(Printed Name and Address of Each Person Signing Petition)

B. B. Boudreau Bertrand Boudreau 3438 Sunnyview Ln FM TX 75022
(Printed Name and Address of Each Person Signing Petition)

Neil Sutter NEIL SUTTER 3442 Sunnyview Ln 75022
(Printed Name and Address of Each Person Signing Petition)

Linda Sutter Linda Sutter 3442 Sunnyview 75022
(Printed Name and Address of Each Person Signing Petition)

Jared Sutter Jared Sutter 3442 Sunnyview Ln 75022
(Printed Name and Address of Each Person Signing Petition)

Ray Bach Craig Beidler 3333 High Road
(Printed Name and Address of Each Person Signing Petition) Flower Mound, TX 75022

Leslie Delozier Julie Delozier 7612 Green Meadow
(Printed Name and Address of Each Person Signing Petition) Flower Mound TX

John Delozier [Signature] 7612 GREEN MEADOW
(Printed Name and Address of Each Person Signing Petition) FLOWER MOUND, TX

Dana Pence D. Pence 3666 Green Meadow LN
(Printed Name and Address of Each Person Signing Petition) Flower Mound, TX

Marsha L. Hamel [Signature] 4104 Thoreau Cir
(Printed Name and Address of Each Person Signing Petition) F.M., TX 75022

SATTIE HOWELL [Signature] 7305 Thomas Rd, FM 75022
(Printed Name and Address of Each Person Signing Petition)

Carl [Signature] Carla Murphy 3401 High Rd, FM 75022
(Printed Name and Address of Each Person Signing Petition)

Barbara Clayton Barbara Clayton 2607 Briar Patch L. 75022
(Printed Name and Address of Each Person Signing Petition)

Richard Clayton [Signature] 2607 Briar Patch L. 75022
(Printed Name and Address of Each Person Signing Petition)

Joe Solinski 2624 Lake Ridge Rd 75022 [Signature]
(Printed Name and Address of Each Person Signing Petition)

Audrey Morgan 2618 Lake Ridge Rd 75022 [Signature]
(Printed Name and Address of Each Person Signing Petition)

Kim Knill Kim Knill 3225 High Road Flower Mound 75022
(Printed Name and Address of Each Person Signing Petition)

Victor LARSEN 3694 GREEN MEADOW LN
FLOWER MOUND
TX 75022
(Printed Name and Address of Each Person Signing Petition)

Albert Hughes 7660 GREEN MEADOW
F.M. 75022
(Printed Name and Address of Each Person Signing Petition)

JANNE HUGHES 7660 GREEN MEADOW
FLOWER MOUND 75022
(Printed Name and Address of Each Person Signing Petition)

Jeri Harrison 3360 South Dr. Flower Mound TX
(Printed Name and Address of Each Person Signing Petition)

Michelle Talafar 7505 Hickory Springs Rd Flower Mound TX 75022
(Printed Name and Address of Each Person Signing Petition)

Bahram Talafar 7505 Hickory Springs Rd Flower Mound TX 75022
(Printed Name and Address of Each Person Signing Petition)

Wanda Happe 7300 Thoma Rd Flower Mound, 75022
(Printed Name and Address of Each Person Signing Petition)

Don Hopp 7300 Thoma Rd Flower Mound 75022
(Printed Name and Address of Each Person Signing Petition)

Pamela J. Thomas 3116 High Rd., FM 75022
(Printed Name and Address of Each Person Signing Petition)

Joni Cox 4108 Thoreau FM 75022 Joni Cox
(Printed Name and Address of Each Person Signing Petition)

Amy Ley 3666 green meadow lane Amy Ley
Flomo 75022
(Printed Name and Address of Each Person Signing Petition)

David Adrianus David Adrianus 3652 Green Meadow Ln. 75022
(Printed Name and Address of Each Person Signing Petition)

Mark Fulfer Mark E. Fulfer 3638 Green Meadow Ln. 75022
(Printed Name and Address of Each Person Signing Petition)

Vicki Fulfer Vicki Fulfer 3638 Green Meadow Ln 75022
(Printed Name and Address of Each Person Signing Petition)

Traci Thane Traci Thane 3639 Green Meadow Ln. 75002
(Printed Name and Address of Each Person Signing Petition)

Michael Thane Michael Thane 3639 Green Meadow Ln 75022
(Printed Name and Address of Each Person Signing Petition)

Farah Boban Farah Boban 3625 Green Meadow Ln. 75022
(Printed Name and Address of Each Person Signing Petition)

Ruth Schwendemann Ruth M. Schwendemann 3920 Sunnyview 75022
(Printed Name and Address of Each Person Signing Petition)

J. Eric Conrad J. Eric Conrad 7516 Emerson Ln, FM 75022
(Printed Name and Address of Each Person Signing Petition)

R.S. PODERSEN R.S. Podersen 7512 Emerson Ln F.M. 75022
(Printed Name and Address of Each Person Signing Petition)

CHRISTINE SAWINSKI Christine Sawinski 4100 Thoreau Ci. FM 75022
(Printed Name and Address of Each Person Signing Petition)

John J. Cani JOHN J. CANI 2930 WATERVIEW, FM, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Brian Lopas BRIAN LOPAS 2830 WATERVIEW, FM, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Jerry Dodson JERRY DODSON 7335 THOMAS RD. FM TX 75022
(Printed Name and Address of Each Person Signing Petition)

Lina Dodson LINA DODSON 7335 THOMAS RD F.M TX 75022
(Printed Name and Address of Each Person Signing Petition)

Jason Easterling Jason Easterling 7330 Thomas RD TX 75022
(Printed Name and Address of Each Person Signing Petition)

Whitney Lopas Whitney Lopas 2830 Waterview, FM 75022
(Printed Name and Address of Each Person Signing Petition)

Kelly McGreger Kelly McGreger 7330 Thomas Rd. Flower Mound TX 75022
(Printed Name and Address of Each Person Signing Petition)

John C. Wells John C. Wells 7360 Fair Lake Rd, Flower Mound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Kathryn B. Wells KATHRYN B. WELLS 7360 FAIR LAKE ROAD, FLOWER
(Printed Name and Address of Each Person Signing Petition) MOUND, TX 75022

Michael R. Johnson MICHAEL R. JOHNSON 7405 HICKORY SPRINGS Rd. FM 75022
(Printed Name and Address of Each Person Signing Petition)

Tammy Floyd Tammy Floyd 7405 Hickory Sp Rd FM 75022
(Printed Name and Address of Each Person Signing Petition)

Ralph Canalizo 3337 Rolling Hills F.M. TX 75022 *Ralph Canalizo*
(Printed Name and Address of Each Person Signing Petition)

Bruce Embue 3010 3016 High Rd FM TX 75022 *Bruce Embue*
(Printed Name and Address of Each Person Signing Petition)

FRANCIS J GOVEDNIK
2606 GREEN TREE
FLOWER MOUND, TX 75022 *Francis J Govednik*
(Printed Name and Address of Each Person Signing Petition)

TRACY MAHONEY
7600 Emerson Ln.
Flower Mound TX 75022 *Tracy Mahoney*
(Printed Name and Address of Each Person Signing Petition)

PHILLIP MAHONEY
7600 Emerson Ln
Flower Mound TX 75022 *Phillip Mahoney*
(Printed Name and Address of Each Person Signing Petition)

SHELLEY INGRAM
3929 SUNNYVIEW LN.
FLOWER MOUND, TX 75022 *Shelley Ingram*
(Printed Name and Address of Each Person Signing Petition)

SHANNON WOLFE
3929 SUNNYVIEW LN
Flower Mound TX 75022 *Shannon Wolfe*
(Printed Name and Address of Each Person Signing Petition)

MARY ANN OLSON
3695 HIGH RD.
FLOWER MOUND TX 75022 *Mary Ann Olson*
(Printed Name and Address of Each Person Signing Petition)

7672 Green Meadow Ct.
Flower Mound, TX 75022
YVONNE MURKEY *Yvonne Murkey*
(Printed Name and Address of Each Person Signing Petition)

7672 Green Meadow Ct.
Flower Mound TX 75022
Steve Murkey *Steve Murkey*
(Printed Name and Address of Each Person Signing Petition)

GAROLYN STANDLEY
3653 Green Meadow Ln. Flower Mound, TX. 75022
Carolyn Standley
(Printed Name and Address of Each Person Signing Petition)

Tony Cox 4108 Thoreau Circle, FM, TX 75022
(Printed Name and Address of Each Person Signing Petition)

JOHN SAWINSKI 4100 THOREAU CIR. FM, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Linda Pedersen 7512 Emerson Lane FM TX 75022
(Printed Name and Address of Each Person Signing Petition)

KIMBERLY KERR 4204 Thoreau Circle FM TX 75022
(Printed Name and Address of Each Person Signing Petition)

Holly Earl 2901 Waterview, FM, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Daniel Earl 2901 Waterview, FM, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Donald Harvey 2624 Green Tree Ln FM TX 75022
(Printed Name and Address of Each Person Signing Petition)

Kathleen Harvey 2624 Green Tr Ln FM TX 75022
(Printed Name and Address of Each Person Signing Petition)

Julie Miller 2600 Green Tree Ln. F. Mound 75022
(Printed Name and Address of Each Person Signing Petition)

Scott Miller 2600 Green Tree Ln. F. M. 75022
(Printed Name and Address of Each Person Signing Petition)

ALFRED A. ZWANENBURG 2631 BRIAR PATCH LANE
FLOWER MOUND TX 75022
(Printed Name and Address of Each Person Signing Petition)

Signature / Printed Name / Address

Roger Fry 900 Hwy 7404 Belo Ln. Flower Mound, TX 7502
(Printed Name and Address of Each Person Signing Petition)

SHANNON BARKETT [Signature] 7500 Belo Ln Flower Mound 75022
(Printed Name and Address of Each Person Signing Petition)

Wendy Barkett [Signature] 7500 Belo Lane Flower Mound TX 75022
(Printed Name and Address of Each Person Signing Petition)

CARDLKANE C. Kane 2606 Long Lane, Flower Mound TX 7502
(Printed Name and Address of Each Person Signing Petition)

MICHAEL REDENBAUGH [Signature] 2601 DRIFTWOOD FLOWER MOUND TX 75022
(Printed Name and Address of Each Person Signing Petition)

JOHN [Signature] 7401 Belo Ln Flower Mound TX 75022
(Printed Name and Address of Each Person Signing Petition)

Judith A. Frappier [Signature] 2600 Long Lane Flower Mound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Jay Frappier [Signature] 2600 Long Ln Flower Mound TX
(Printed Name and Address of Each Person Signing Petition)

Mark Van Tilburg [Signature] 7504 Belo Lane Flower Mound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

BETH E VAN TILBURG [Signature] 7504 BOLD LN FLOW MOUND TX 75022
(Printed Name and Address of Each Person Signing Petition)

Afton Fitzek [Signature] 7405 Belo Ln, Flower TX, 75022
(Printed Name and Address of Each Person Signing Petition)

* Signature Printed Name Address *

Carrie Finley CAROLINE FINLEY 2600 Bourne LN Flower Mound 75022
(Printed Name and Address of Each Person Signing Petition)

Marc Finley Marc Finley 2600 Bourne Ln Flower Mound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Jena Toich Jena Toich 7408 Bolo Lane Flower Mound TX 75022
(Printed Name and Address of Each Person Signing Petition)

Matt Toich Matt Toich 7408 Bolo Lane Flower Mound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Tom Eldred Tom Eldred 7409 Bolo Lane Flower Mound TX
(Printed Name and Address of Each Person Signing Petition)

Kimberly Eldred Kimberly Eldred 7409 Bolo Lane Flower Mound TX
(Printed Name and Address of Each Person Signing Petition)

DANIEL FITZGERALD DANIEL FITZGERALD 7405 BOLO LN, FLOWER MOUND TX 75022
(Printed Name and Address of Each Person Signing Petition)

Marvin Holland Marvin Holland 7400 Bolo Lane, Flower Mound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

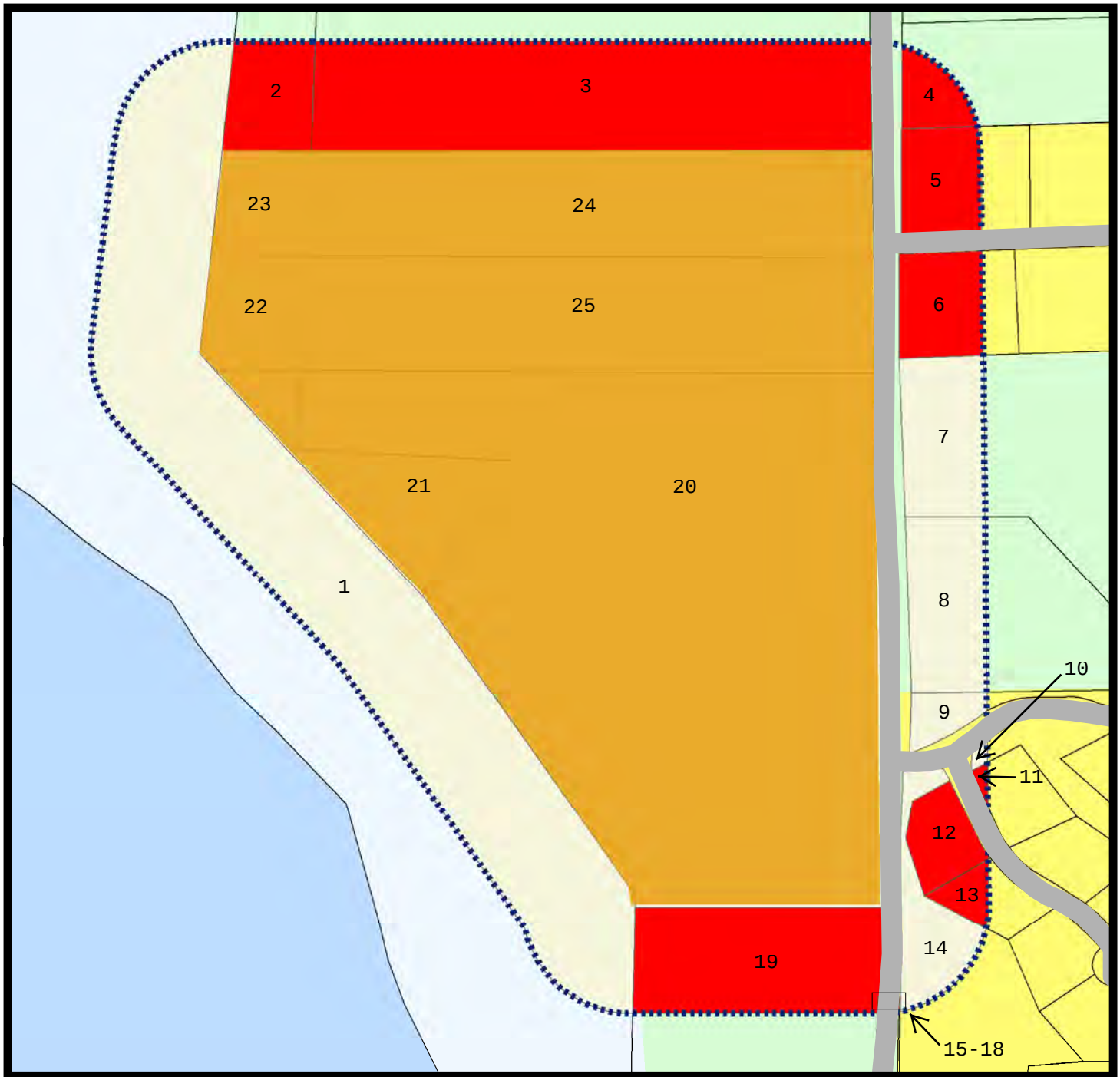
Carol Kirby Carol Kirby 7308 Fole Lane Flower Mound TX 75022
(Printed Name and Address of Each Person Signing Petition)

Edw-2-6-2 EDWIN CANTY 7300 Bolo Ln. FM TX 75022
(Printed Name and Address of Each Person Signing Petition)

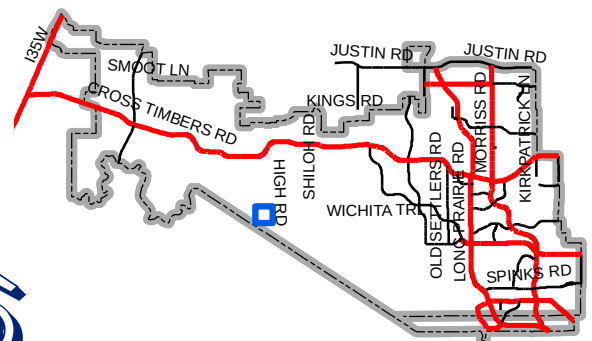
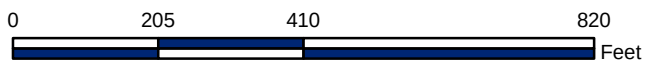
Dara Fry Dara Fry 7404 Bolo Lane, Flower Mound, TX 75022
(Printed Name and Address of Each Person Signing Petition)

Vicinity Map

Reference Project: ZPD16-0007



- | | |
|---|--|
|  Subject Property (20-25) |  Agriculture |
|  Opposed Property |  Lake |
|  Unopposed Property |  Single Family 15 |
|  200ft Buffer |  Streets |



Map Location

MAP #	PARCEL_ID	OWN_NAME	Acreage	Percentage	Opposed
1	USACOE	USA CORE OF ENGINEERS	9.123988	41.391%	
2	R18020	TOBIN, KATHERINE K & KIECKHEFER, JOHN I TRS	0.727269	3.299%	Y
3	R18020	TOBIN, KATHERINE K & KIECKHEFER, JOHN I TRS	4.735958	21.485%	Y
4	R239077	BECKER, THOMAS	0.332394	1.508%	Y
5	R154120	HOBTE, DAVID A	0.668617	3.033%	Y
6	R04622	PERFETTI, PETER	0.679806	3.084%	Y
7	R19890	MIKE MCCORMICK FARM INC	1.021220	4.633%	
8	R19960	MCCORMICK, MIKE	1.060527	4.811%	
9	R13745	HI ROAD HOME OWNERS	0.250031	1.134%	
10	R151127	NORTH SHORE WATER SUPPLY	0.025809	0.117%	
11	R13700	BOBKAT GREENTREE LLC (HARVEY, DONALD & KATIE)	0.029744	0.135%	Y
12	R13685	DEWBERRY, WILLIAM F	0.441817	2.004%	Y
13	R13687	DEWBERRY, WILLIAM FLOYD & DEWBERRY, WILLIAM J	0.175221	0.795%	Y
14	R151121	NORTH SHORE WATER SUPPLY	0.691664	3.138%	
15	R18070	SCHNEE, ROBERT A	0.005567	0.025%	Y
16	R330606	SCHNEE, ROBERT A	0.016434	0.075%	Y
17	R330606	SCHNEE, ROBERT A	0.005567	0.025%	Y
18	R330606	SCHNEE, ROBERT A	0.004218	0.019%	Y
19	R18070	SCHNEE, ROBERT A	2.047445	9.288%	Y
20	R18007	WCFLP RE HIGH RD LP	16.597184		
21	R18007	WCFLP RE HIGH RD LP	1.523239		
22	R18005	WCFLP RE HIGH RD LP	0.872667		
23	R17998	WCFLP RE HIGH RD LP	0.744296		
24	R17998	WCFLP RE HIGH RD LP	4.620029		
25	R18002	WCFLP RE HIGH RD LP	5.094805		

Total Acreage - all parcels 51.495516

Serenity parcels 29.452219

Property within 200ft buffer zone 22.043297

Opposition % w/out HOA parcels 45%



PLANNING AND ZONING COMMISSION AGENDA ITEM NO: 3

DATE: November 13, 2017

FROM: Matthew J. Hotelling, P.E., PTOE, Traffic Engineer

ITEM: **Public Hearing to consider a request for a Master Plan Amendment (MPA17-0011 – Lake Forest Boulevard Thoroughfare Plan Amendment) to amend Section 7.0, Thoroughfare Plan, by removing the section of Lake Forest Boulevard between Lakeside Parkway and Silveron Boulevard from the Town’s Thoroughfare Plan. The roadway is generally located east of Long Prairie Road, south of Lakeside Parkway and north of Silveron Boulevard. *(The Transportation Commission recommended approval by a vote of 5 to 1 at its September 12, 2017, meeting.)***

I. ITEM SUMMARY

This application has been reviewed by DRC and has been found to be in conformance with all applicable Town regulations. The Transportation Commission packet for this case and associated attachments are included with this item (Attachment A.1).

This application will require final action by the Town Council.

II. APPLICATION ANALYSIS

This application was presented to the Transportation Commission (TRC) on September 12, 2017. The details of the request and staff report are contained in Attachment A.1. The video of the meeting can be viewed at:

<http://flowermoundtx.swagit.com/play/09122017-1595> (Item F.)

A. Thoroughfare Plan Amendment

Section 7.0 of the Master Plan contains the Thoroughfare Plan for the Town. This particular requested amendment concerns the section of Lake Forest that is south of Lakeside Parkway and north of Silveron Boulevard. The current Thoroughfare Plan has this section of Lake Forest Boulevard as an Urban Minor Arterial (UMA). An UMA is a 4-lane divided roadway in 90 feet of Right of Way (ROW) with a median. This area of Lake Forest Boulevard was reviewed at the request of The Point Development. A traffic impact analysis (TIA) was conducted to determine whether or not this section of Lake Forest needed to remain as an UMA or could be something different. The results of the TIA indicate that this section of Lake Forest Boulevard, while being an important connection that should remain between Lakeside Parkway and Silveron Boulevard, could be removed from the Thoroughfare Plan. The recommendation of the TIA is that Lake Forest Boulevard, since it will be serving only local traffic, could be reduced to a typical mutual access easement between all of the properties. In order for that to happen, the ROW northern section of Lake Forest that has been dedicated to the Town would need to be

abandoned as ROW and converted to mutual access easements for access to the adjacent properties.

This change would allow for more developable area along both sides of Lake Forest and eliminate the need to dedicate any ROW from the remaining undeveloped parcels. An alternative would be to keep a Local Commercial street in place of the UMA from Lakeside Parkway to Silveron Boulevard. This new section would serve all of the adjacent properties, maintain connectivity as recommended by the TIA, but also have ROW dedication and associated setbacks that would not be required of a mutual access easement. There would be no need to abandon any ROW for the Local Commercial option.

III. CORRESPONDENCE

The Town Code requires both public notice in a newspaper of general circulation (Denton Record Chronicle) and notification of the property owners within 200 feet of the subject property for all Master Plan amendment requests. Any correspondence received after this packet is posted will be handed out at the Planning and Zoning Commission meeting. To date, no correspondence has been received.

IV. ATTACHMENTS

A. Background Information

1. Transportation Commission Agenda Item F, September 12, 2017



TRANSPORTATION COMMISSION AGENDA ITEM NO. 2

REGULAR ITEM

DATE: September 11, 2017

FROM: Matthew J. Hotelling, P.E., PTOE, Traffic Engineer

ITEM: **Consider a recommendation regarding a Thoroughfare Plan Amendment for the section of Lake Forest Boulevard south of Lakeside Parkway to Silveron Boulevard to the Town Council.**

BACKGROUND INFORMATION: This item is to consider changes to the Master Transportation Plan, more specifically the Thoroughfare Plan regarding Lake Forest Boulevard between Lakeside Parkway and Silveron Boulevard. A copy of the existing Thoroughfare Plan is included as attachment 1. This section of Lake Forest Boulevard was originally connected on the Thoroughfare Plan to the other section of Lake Forest Boulevard north of Aberdeen Drive. With the construction of the two Lewisville Independent School District at the intersection of Aberdeen/Lake Forest/Spinks intersection and the warehouse district to the south of Spinks where truck traffic was a concern on Spinks Road, the portion of Lake Forest to the south of Lakeside Parkway was split from the northern sections. The southern section remained on the Thoroughfare Plan, as it was uncertain what the development was going to occur in this area. This is master planned as the Lakeside Business District.

Currently there is a proposed development called The Point development that is the catalyst for this proposed Thoroughfare Plan change. As part of this development, the request was made to reanalyze this section of Lake Forest Boulevard to determine if the Urban Minor Arterial (UMA) shown on the Thoroughfare Plan was the appropriate designation for this street. An UMA is a 4 lane divided arterial street with a 90 foot right of way (ROW).

One of the results of the The Point development was a traffic impact analysis (TIA) to look at both the proposed development and an analysis of Lake Forest. An excerpt from the TIA is included as attachment 2. The proposed development was included in the model run and Kimley Horn and Associates (KHA), who maintains the Town's Transportation Model was used for the TIA and the Thoroughfare Plan analysis. A representative from KHA will be available at the meeting if the Commission has questions as regarding the modeling results.

The results of the TIA were that with the discontinuity of Lake Forest to the north of Lakeside Parkway, that the majority of the traffic on Lake Forest would be only local traffic. Therefore, it is the recommendation of the TIA that this section of Lake Forest could be reduced from an UMA to a simple mutual access easement between all of the existing properties. It does not recommend that the roadway could be eliminated altogether. This would allow for this ROW to be returned to the adjacent property owners and completely removed from the Town's maintenance responsibilities. There would need to be utility easements to incorporate existing franchise utilities and any Town utilities that may be within the existing ROW. The intersection of Lake Forest and Lakeside Parkway would still need to be centered on the driveway to the north.

ALTERNATIVES/OPTIONS: Leave Lake Forest on the Thoroughfare Plan as it or a different cross section.

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Existing Thoroughfare Plan
2. Excerpt from The Point Traffic Impact Analysis

RECOMMENDATION: Move to recommend that Lake Forest south of Lakeside Parkway to Silveron Boulevard be removed from the Thoroughfare Plan.

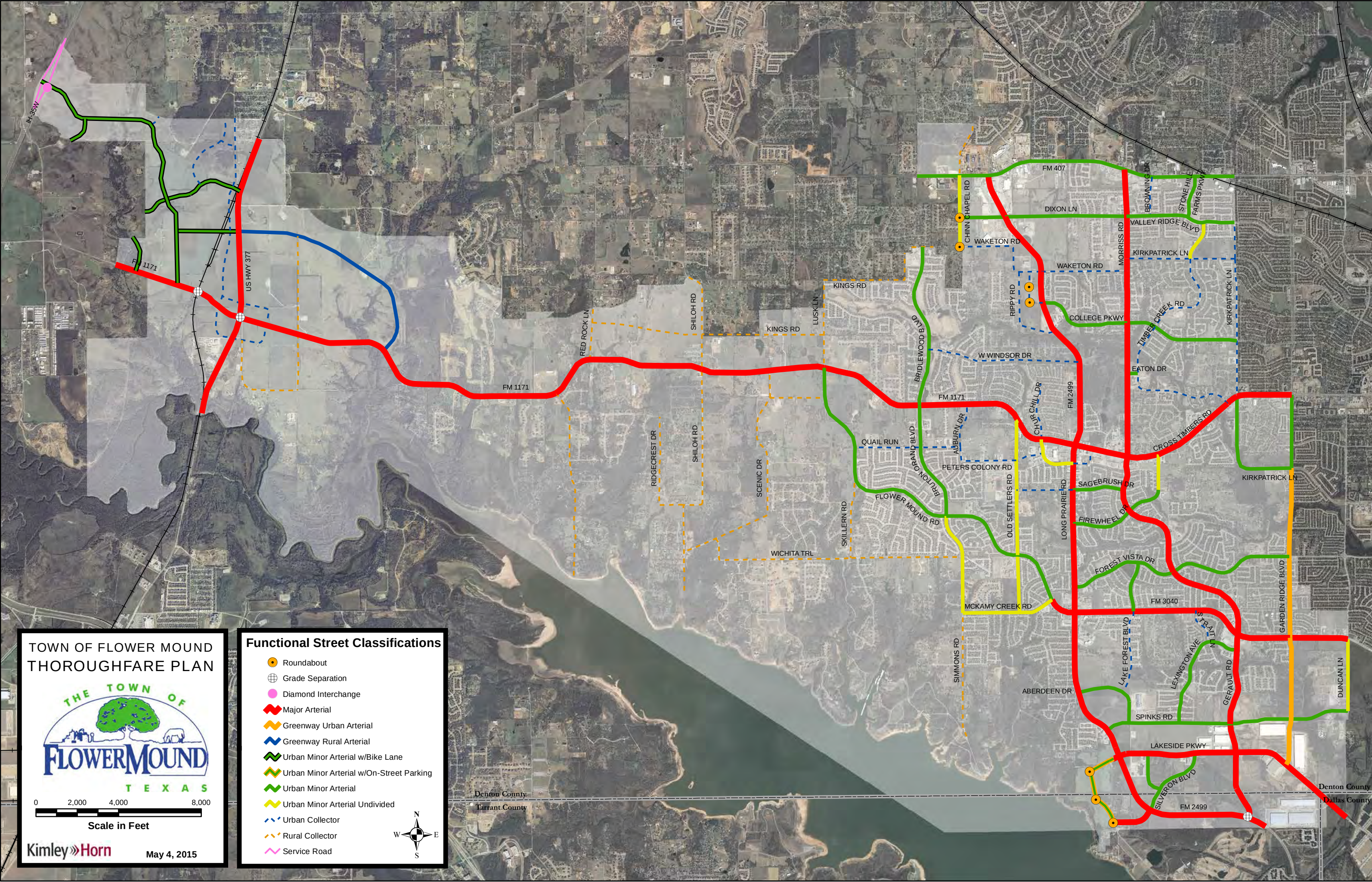


Table 12. Lakeside Parkway Thoroughfare Capacity Analysis

Scenario	Direction	Lane Capacity	AM Peak Hour			PM Peak Hour		
			Volume	V/C Ratio	LOS	Volume	V/C Ratio	LOS
Existing (2017)	EB	1,400	499	0.36	Acceptable	556	0.40	Acceptable
	WB	1,400	168	0.12	Acceptable	496	0.35	Acceptable
	Two-Way	2,800	667	0.24	Acceptable	1,052	0.38	Acceptable
Build Out Background (2022)	EB	1,400	608	0.43	Acceptable	676	0.48	Acceptable
	WB	1,400	204	0.15	Acceptable	604	0.43	Acceptable
	Two-Way	2,800	812	0.29	Acceptable	1,280	0.46	Acceptable
Build Out Total (2022)	EB	1,400	624	0.45	Acceptable	690	0.49	Acceptable
	WB	1,400	225	0.16	Acceptable	640	0.46	Acceptable
	Two-Way	2,800	849	0.30	Acceptable	1,330	0.48	Acceptable

Thoroughfare Plan Impact Analysis

Currently, the Town of Flower Mound's Thoroughfare Plan shows a proposed thoroughfare extension of Lake Forest Boulevard from Home Depot Drive to Silveron Boulevard. The Point development will affect this connection. A Travel Demand Model was originally used to develop the Town's Thoroughfare Plan. This model shows that most traffic projected on Lake Forest Boulevard between Silveron Boulevard and Lakeside Parkway is local traffic for development like The Point. Minimal traffic is projected to use Lake Forest Boulevard to travel from Silveron Boulevard to Lakeside Parkway. In addition, past iterations of the Thoroughfare Plan showed Lake Forest Boulevard extending further north. As the Town has developed, several of these segments have been removed or downgraded, reducing the emphasis on Lake Forest Boulevard as primary north-south connection in the Town. Based on these considerations, it is anticipated that downgrading the Lake Forest Boulevard extension from a thoroughfare facility to a mutual access drive would have minimal impact to the traffic network assuming efficient connectivity is maintained between the proposed development and Lakeside Parkway and Silveron Boulevard.

Auxiliary Lane Analysis

Turn lane requirements at the study intersections were based on the Town of Flower Mound's *Design Criteria* (April 2010). Based on the criteria, right-turn deceleration lanes will be required at all driveways served by a median opening and all driveways with a projected peak-hour right-turn entering volume of 50 vehicles or more. Also, right turn deceleration lanes will be required at any intersection of collectors and arterials as shown on the Town of Flower Mound Thoroughfare Plan.

TxDOT's Access Management Manual was used to provide reference criteria for auxiliary lanes on FM 2499. According to Table 2.3, *Auxiliary Lane Thresholds*, a right-turn deceleration lane must be considered on roadways with a posted speed greater than 45 mph if the projected right-turn volume into the driveway is greater than 50 vehicles per hour.

Based on the above criteria, the following are the recommendations for auxiliary lanes at the intersections:



PLANNING AND ZONING COMMISSION AGENDA ITEM NO: 4

DATE: November 13, 2017

FROM: James Hoefert, Environmental Review Analyst

ITEM: **Public Hearing to consider a request to amend the Land Development Regulations (LDR17-0003 – Tree Ordinance Amendment) by amending Section 94-38, entitled “Per-caliper inch cash value; replacement trees,” of Chapter 94, entitled “Trees,” of the Town’s Code of Ordinances.**

I. ITEM SUMMARY

The proposed ordinance amendment to Chapter 94, “Trees”, was considered by the Environmental Conservation Commission (ECC) at its November 7, 2017, regular meeting. The ECC recommended approval to amend the tree ordinance to include the tree planting credit process outlined in House Bill 7 and Section 212.905 of the Texas Local Government Code for residential and commercial development applications.

This ordinance amendment will require final action by the Town Council.

II. APPLICATION ANALYSIS

The Town’s tree ordinance was originally adopted in 1993 and subsequently amended in 2000. The original ordinance was then replaced in 2008, and recently amended in 2015 to remove a mitigation exception clause in Section 94-81 for non-residential uses within the Lakeside Business District, the Denton Creek District, and all Specific Plan Areas (SPAs). In 2016, the tree ordinance was amended again to address provisions such as post oak specimen tree sizes and preservation incentive options.

During the Special Session of the 85th Texas Legislative Session, House Bill 7, which established requirements related to municipal tree regulations, was approved and then signed into law. Municipal tree regulations that include a mitigation fee for tree removals are now required to provide a process for tree planting credits. Although the impact to the Town’s Tree Ordinance, Chapter 94 “Trees”, is minimal, the Tree Ordinance needs to be amended to address the changes made to the Texas Local Government Code.

The new Section 212.905 of the Local Government Code requires the Town to amend its ordinance to include the tree planting credit process outlined in House Bill 7 for residential and commercial development applications. The new credit standards will allow a developer to apply for a credit of 40% of the mitigation fee for commercial projects and 50% of the mitigation fee for residential projects if the developer plants additional mitigation trees in compliance with both Chapter 94 “Trees” and the planting

standards established in the new legislation. There are additional standards or requirements within the legislation; however, they either do not require an amendment to the Town's tree ordinance and/or are already addressed within the Town's tree ordinance.

III. CORRESPONDENCE

The Town Code requires public notice in a newspaper of general circulation (Denton Record Chronicle) for all Land Development Regulation amendments. At the time this report was written, staff had not received additional correspondence.

IV. ATTACHMENTS

1. Proposed Amendment
2. House Bill No. 7
3. Chapter 94 "Trees"

SECTION 1

That Section 94-38 “Per-caliper-inch cash value; replacement trees” of Chapter 94 of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended by to read as follows:

Sec. 94-38. Per-caliper-inch cash value; replacement trees; mitigation fee credit.

- (a) A per-caliper-inch cash value for replacement trees shall be set, and updated as necessary by the town council after review and recommendation by the environmental conservation commission. The per-caliper-inch cash value shall be used to calculate mitigation costs for authorized and unauthorized removals of protected, specimen, and historic trees. The tree preservation and enforcement officer or his authorized designee shall maintain a record of the current per-caliper-inch cash value of replacement trees.
- (b) Whenever a mitigation fee is imposed in accordance with this Chapter, a mitigation fee credit will be given for replacement tree(s), that are at least two inches in diameter at the point on the trunk 4.5 feet above ground, planted on the property for which the tree mitigation fee was assessed or property mutually agreed upon by the Town and the person. The calculation for the credit will be done in the same manner as the tree mitigation fee assessed against the person and be:
 - (1) 50 percent of the amount of the tree mitigation fee assessed against the person if:
 - (A) the property is a residential structure or pertains to the development, construction, or renovation of a residential structure; and
 - (B) the person is developing, constructing, or renovating the property not for use as the person's residence; or
 - (2) 40 percent of the amount of the tree mitigation fee assessed against the person if:
 - (A) the property is not a residential structure; or
 - (B) the person is constructing or intends to construct a structure on the property that is not a residential structure.
- (c) An application for a mitigation fee credit under Subsection (b) must be done in conjunction with an application for a tree removal permit as prescribed within this Chapter.

H.B. No. 7

AN ACT

relating to municipal regulation of the removal of trees on private property.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter Z, Chapter 212, Local Government Code, is amended by adding Section 212.905 to read as follows:

Sec. 212.905. REGULATION OF TREE REMOVAL. (a) In this section:

(1) "Residential structure" means:

(A) a manufactured home as that term is defined by Section 1201.003, Occupations Code;

(B) a detached one-family or two-family dwelling, including the accessory structures of the dwelling;

(C) a multiple single-family dwelling that is not more than three stories in height with a separate means of entry for each dwelling, including the accessory structures of the dwelling;
or

(D) any other multifamily structure.

(2) "Tree mitigation fee" means a fee or charge imposed by a municipality in connection with the removal of a tree from private property.

(b) A municipality may not require a person to pay a tree mitigation fee for the removed tree if the tree:

(1) is located on a property that is an existing

H.B. No. 7

one-family or two-family dwelling that is the person's residence;
and

(2) is less than 10 inches in diameter at the point on
the trunk 4.5 feet above the ground.

(c) A municipality that imposes a tree mitigation fee for
tree removal on a person's property must allow that person to apply
for a credit for tree planting under this section to offset the
amount of the fee.

(d) An application for a credit under Subsection (c) must be
in the form and manner prescribed by the municipality. To qualify
for a credit under this section, a tree must be:

(1) planted on property:

(A) for which the tree mitigation fee was
assessed; or

(B) mutually agreed upon by the municipality and
the person; and

(2) at least two inches in diameter at the point on the
trunk 4.5 feet above ground.

(e) For purposes of Subsection (d)(1)(B), the municipality
and the person may consult with an academic organization, state
agency, or nonprofit organization to identify an area for which
tree planting will best address the science-based benefits of trees
and other reforestation needs of the municipality.

(f) The amount of a credit provided to a person under this
section must be applied in the same manner as the tree mitigation
fee assessed against the person and:

(1) equal to the amount of the tree mitigation fee

H.B. No. 7

assessed against the person if the property is an existing one-family or two-family dwelling that is the person's residence;

(2) at least 50 percent of the amount of the tree mitigation fee assessed against the person if:

(A) the property is a residential structure or pertains to the development, construction, or renovation of a residential structure; and

(B) the person is developing, constructing, or renovating the property not for use as the person's residence; or

(3) at least 40 percent of the amount of the tree mitigation fee assessed against the person if:

(A) the property is not a residential structure; or

(B) the person is constructing or intends to construct a structure on the property that is not a residential structure.

(g) As long as the municipality meets the requirement to provide a person a credit under Subsection (c), this section does not affect the ability of or require a municipality to determine:

(1) the type of trees that must be planted to receive a credit under this section, except as provided by Subsection (d);

(2) the requirements for tree removal and corresponding tree mitigation fees, if applicable;

(3) the requirements for tree-planting methods and best management practices to ensure that the tree grows to the anticipated height at maturity; or

(4) the amount of a tree mitigation fee.

H.B. No. 7

1 (h) A municipality may not prohibit the removal of or impose
2 a tree mitigation fee for the removal of a tree that:

3 (1) is diseased or dead; or

4 (2) poses an imminent or immediate threat to persons
5 or property.

6 (i) This section does not apply to property within five
7 miles of a federal military base in active use as of December 1,
8 2017.

9 SECTION 2. The changes in law made by this Act apply only to
10 a tree mitigation fee assessed by a municipality on or after the
11 effective date of this Act.

12 SECTION 3. This Act takes effect December 1, 2017.

H.B. No. 7

President of the Senate

Speaker of the House

I certify that H.B. No. 7 was passed by the House on July 28, 2017, by the following vote: Yeas 130, Nays 9, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 7 on August 15, 2017, by the following vote: Yeas 119, Nays 23, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 7 was passed by the Senate, with amendments, on August 15, 2017, by the following vote: Yeas 17, Nays 14.

Secretary of the Senate

APPROVED: _____

Date

Governor

Chapter 94 - TREES^[1]

Footnotes:

--- (1) ---

Editor's note— Ord. No. 63-08, § 3, adopted Oct. 6, 2008, repealed the former Ch. 94, Art. I, Art. II, Div. 1, Subdiv. I, Subdiv. II, §§ 94-71—94-73, Subdiv. III, §§ 94-91—94-94, Div. 3, §§ 94-121—94-128, Div. 4, Subdiv. I, §§ 94-151—94-156, Subdiv. II, §§ 94-181—94-183, Subdiv. III, §§ 94-201, 94-202, Subdiv. IV, §§ 94-221, 94-222, Subdiv. V, §§ 94-241, 94-242 and enacted a new Ch. 94 as set out herein. The former Ch. 94 pertained to vegetation and derived from Code 1989, ch. 12, § 5.03(e)(1)—(e)(8), ch. 12, §§ 5.08(a)—(d), ch. 12, §§ 5.08(e)(1)—(e)(3), ch. 12, § 5.08(f)(1), (f)(2), ch. 12, §§ 5.08(g)(1), (g)(2), ch. 12, §§ 5.08(h)—(k), ch. 12, § 6.15(a)(1), (2), ch. 12, §§ 6.15(b)(1)—(b)(3), ch. 12, § 6.15(c); Ord. No. 12-00, §§ 2, 6, 2-17-2000; Ord. No. 101-02, § 1, 12-16-2002.

ARTICLE I. - GENERALLY

Sec. 94-1. - Purpose.

The terms and provisions of this chapter are intended to accomplish the following public purposes:

- (1) Establish rules and regulations for the protection and preservation of native and/or established trees within the town.
- (2) Encourage the preservation and replacement of the town's tree canopy by establishing a 35 percent canopy goal for the town as outlined in guidelines established by "American Forests," the nation's oldest nonprofit citizens' conservation organization.
- (3) Encourage the protection of healthy trees and provide for the replacement and/or replanting of trees that are necessarily removed during construction, development or redevelopment.
- (4) Provide for the preservation and protection of larger native and/or established trees, which provide a valuable amenity to the urban environment and which, once destroyed, can only be replaced after generations, if at all.
- (5) Provide for shade, windbreaks and the cooling of air; thereby, reducing the requirements for air conditioning and heating and the utilization of scarce energy sources.
- (6) Provide for open space and more efficient drainage of land; thereby, reducing the effects of soil erosion and the need for additional drainage facilities.
- (7) Reduce the clear-cutting of land.
- (8) Preserve the country atmosphere and natural environment that define the community character of the town and make it a unique and desirable community.
- (9) Mitigate the ill effects of rapid and intense urbanization.

(Ord. No. 63-08, § 3(94-1), 10-6-2008)

Sec. 94-2. - Applicability of chapter provisions.

The terms and provisions of this chapter shall apply to real property within the town's corporate limits and extraterritorial jurisdiction as follows:

- (1) All real property upon which any protected, specimen, or historic tree is located, excluding property that has already been developed for single-family and two-family residential uses.
- (2) All vacant and undeveloped real property.
- (3) All real property to be subdivided or re-subdivided, including record plats and replats.
- (4) The yard areas of all developed property, excluding property already developed for single-family and two-family residential uses.

(Ord. No. 63-08, § 3(94-2), 10-6-2008)

Secs. 94-3—94-12. - Reserved.

ARTICLE II. - MEASUREMENT

Sec. 94-13. - Landscape, nursery, or replacement trees.

Unless specified otherwise, tree caliper (diameter) or circumference shall be measured at a height of 12 inches above ground level. The caliper of multi-trunk trees shall be measured by determining the diameter or circumference of the largest trunk at full caliper added to one-half of the diameter or circumference of each remaining trunk, measured at a height of 12 inches above ground level.

(Ord. No. 63-08, § 3(94-3), 10-6-2008)

Sec. 94-14. - Existing, established, and/or native trees.

The caliper or circumference of existing, established, and/or native trees shall be measured in accordance with the measuring rules and procedures as developed and updated by the Texas Forest Service. A copy of these procedures shall be made available for review in the office of the tree preservation and enforcement officer. The current procedure is outlined below.

- (1) *Caliper width or circumference.*

General rule: Measure the smallest trunk caliper width or circumference between the diameter at breast height ("DBH") point (4.5 feet) and the ground, but below the lowest fork. Also record the height above the ground, in inches, where the measurement was taken.

- (2) *Determining DBH point.*

Tree on slope: Measure up 4.5 feet along the axis of the trunk on both the high and low sides of the trunk; DBH point is midway between these two planes.

Leaning tree: Measure 4.5 feet along both the top and under sides of the trunk; DBH point is midway between these two planes.

Low branches: When determining where on the trunk to measure circumference, ignore portions of the tree that do not form part of the tree's crown, such as dead branches or forks, and epicormic sprouts.

Obstruction at DBH: If there is a bump, burl, branch, or other obstruction at the DBH point, measure the circumference of the trunk above and below the obstruction and record the smaller value. A buttress that forms between the trunk and root system as a natural feature of the species (e.g.—bald cypress, water tupelo) should not be considered an obstruction.

- (3) *Multiple trees.* In practice, it must be determined whether a tree has a single trunk, or whether it represents two or more stems growing very close to one another. Trunks that have clear separation or included bark at or near the ground line should be considered separate trees; trunks of different species should also be considered separate stems, no matter how closely aligned. When following the measurement rules above, if the point below the lowest fork places the measurement at the ground line, the stems should be considered and measured as separate.

(Ord. No. 63-08, § 3(94-4), 10-6-2008)

Secs. 94-15—94-20. - Reserved.

ARTICLE III. - PRESERVATION

Sec. 94-21. - Tree designations.

Protected, specimen, and historic trees, except as specified in this section, shall possess the following respective characteristics or criteria:

- (1) *Protected trees.* Any tree listed on the small, medium, or large protected tree lists in section 94-22 that measures six inches in caliper width or greater and which is at least ten feet in height and located outside of existing public streets, alleys, rights-of-way, utility easements, drainage easements, fence easements, pedestrian access easements, or other existing public rights-of-way or easements.
- (2) *Specimen tree.* Except as specified in this section, any tree listed on the town's small, medium, or large protected tree lists can be considered a specimen tree if it reaches the designated size for that list. For the small tree list, a specimen tree shall be any tree that measures 13 inches or more in caliper width. For the medium tree list, a specimen tree shall be any tree that measures 19 inches or more in caliper width. For the large tree list, a specimen tree shall be any tree that measures 25 inches or more in caliper width. All measurements shall be taken in accordance with the measuring rules and procedures as outlined and maintained by the Texas Forest Service. These procedures are outlined in section 94-14 of this chapter. In addition to the provisions of this subsection, a specimen tree shall be any other tree that has been designated by the town council, upon recommendation by the environmental conservation commission, after public hearing and due notice to the owner of the tree, to be of high value because of its type, size, age or other relevant criteria. Specimen trees shall not be regulated as protected trees. Specific requirements are set forth in this chapter regarding specimen trees.

Post oak trees shall receive a separate designation and specimen size classification of 22 inches or more in caliper width as listed within section 94-22.

- (3) *Historic tree.* Upon recommendation by the environmental conservation commission, a historic tree shall be any tree that has been designated by the town council, after public hearing and due notice to the owner of the tree, as a tree of notable historical interest and value to the town because of its location or historical association with the community. A listing and map of all designated historic trees shall be maintained and updated by the tree preservation and enforcement officer or authorized designee and made available to the public upon request. Historic trees are not dependant on or determined by diameter or caliper width as are protected and specimen trees. Specific requirements are set forth in this chapter regarding historic trees.

Subject to the review and approval of the tree preservation and enforcement officer or authorized designee, a protected or specimen tree shall not include any living tree that a registered arborist or landscape architect certifies in writing is injured, dying, diseased or infested with harmful insects; that is in danger of falling, interferes with utility service or creates unsafe vision clearance; in any manner creates a hazardous or

dangerous condition so as to endanger the public health, welfare or safety. Further, a protected tree shall not include any living tree that is identified on approved subdivision construction plans as necessary to be removed to comply with EPA storm water permitting requirements or FHA lot grading plans.

Subject to review and approval of the tree preservation and enforcement officer or authorized designee, a protected, specimen, or historic tree shall not include any tree that a registered arborist or landscape architect certifies in writing is dead.

(Ord. No. 63-08, § 3(94-5), 10-6-2008; [Ord. No. 62-16](#), § 2, 11-21-2016)

Sec. 94-22. - Protected tree lists.

- (a) *Generally.* The tree species lists contained in this section have been developed and will be periodically updated by the town's environmental conservation commission and shall be maintained and distributed to the public by the tree preservation and enforcement officer or authorized designee as guides for the identification and selection of tree species that meet the various standards and requirements of this chapter. Trees included on this tree species list were selected on the basis of one or more of the following criteria or factors: hardiness, resistance to disease, suitability relative to local climate and soil conditions, adaptability for transplantation, longevity, adaptability to various landscape conditions, resistance to drought, aesthetic qualities, shade provision, windbreak provision, and screening qualities.
- (b) *Lists of trees that are protected.* Unless otherwise specified in this chapter, only those tree species found on the following lists shall be subject to the preservation, protection and replanting requirements of this section.

Small Tree List

Common Name	Scientific Name
Carolina buckthorn	(Rhamnus caroliniana)
Yaupon holly	(Ilex vomitoria)
Possum haw	(Ilex deciduas)
Redbud	(Cercis species)
Texas buckeye	(Aesculus glabra variety arguta)
Chickasaw plum	(Prunus agustifolia)
Mexican plum	(Prunus mexicana)

Medium Tree List

Common Name	Scientific Name
Slippery elm	(Ulmus rubra)
Cedar elm	(Ulmus crassifolia)
Winged elm	(Ulmus alata)
Blackjack oak	(Quercus marilandica)
Persimmon species	(Diospyros species)
Chittamwood	(Bumelia languinosa)
Western soapberry	(Sapindus drummondii)
Sweetgum	(Luquidambar styraciflua)

Large Tree List

Common Name	Scientific Name
Shumard red oak	(Quercus shumardi)
Texas red oak	(Quercus texana)
Southern live oak	(Quercus virginiana)
Water oak	(Quercus nigra)
Bur oak	(Quercus macrocarpa)
Chinquapin oak	(Quercus muehlenbergii)
American elm	(Ulmus americana)
Pecans and hickories	(Cayra species)

Magnolia	(Magnolia grandiflora)
Bald cypress	(Taxodium distichum)
Pine species	(Pinus species)
Ash species	(Fraxinus species)
Sycamore	(Plantanus occidentalis)
Black walnut	(Juglans nigra)

Post Oak — 22" Specimen Size

Common Name	Scientific Name
Post oak	(Quercus stellata)

(Ord. No. 63-08, § 3(94-6), 10-6-2008; [Ord. No. 62-16](#), § 3, 11-21-2016)

Sec. 94-23. - Tree survey; development projects.

Tree surveys are required to accompany an application for a development plan, site plan, record plat, replat, oil and gas well drilling permit, oil and gas pipeline permit, tree removal permit, or tree transplanting permit. A tree survey may be required to accompany a zoning application or a master plan amendment if it is deemed necessary by the town's tree preservation and enforcement officer. Each tree survey shall contain, but not be limited to, the following information/parts:

- (1) The location of all specimen trees and historic trees on the subject site.
- (2) The location of the trunk and the extent of the canopy spread of each specimen tree and historic tree on the subject site.
- (3) A table containing the following information for each specimen tree and historic tree:
 - a. Tree number;
 - b. Common and scientific name of each tree;
 - c. Diameter (DBH) of each tree measured in accordance with section 94-14 of this chapter;
 - d. General health/condition of each tree;
 - e. Average canopy spread;
 - f. Status (specimen or historic) of each tree;

- g. Whether each identified tree will remain or be removed; and
 - h. Location coordinates (northings and eastings, State Plane - NAD 1983) for each tree.
- (4) Each specimen tree and historic tree shall be affixed with a permanent tag bearing the corresponding number on the tree survey. This tag shall be placed on the trunk of the tree, between five and six feet in height on the south face of the tree's trunk.
 - (5) Each tree survey shall contain a count of all protected trees located on the property.
 - (6) Each tree survey shall contain a count of all protected trees that will be removed from the buildable area on the property. The phrase "buildable area" is defined in section 94-32 of this chapter.
 - (7) Protected trees designated for preservation shall be flagged in a distinguishing manner approved by the town for such purpose. In addition, those trees designated for removal shall be flagged in a different distinguishing manner as approved by the town.
 - (8) The tree survey must be signed, and stamped or sealed, by a certified arborist, certified forester, or a registered landscape architect. Each tree survey submitted shall contain one sheet of the tree survey as described above, one sheet with the tree survey data overlain with the site information, and one sheet with the site information overlain on an aerial photo for the site. The tree survey shall be on drawings measuring 24 inches by 36 inches and shall be drawn to a scale of no less than 100 feet to one inch, unless otherwise approved by the tree preservation and enforcement officer. When necessary the tree survey shall be on several sheets accompanied by an index sheet, showing the entire area of the survey. Necessary site information includes:
 - a. The location and dimensions of all existing or proposed public streets, alleys, rights-of-way, utility easements, drainage easements, fence easements, pedestrian access easements or other public rights-of-way or easements;
 - b. The location and dimensions of the designated parking area and designated stockpile area required in this subdivision and of any site proposed or anticipated to be proposed for a temporary batching plant permit; and,
 - c. The location of all existing or proposed property lines, lot lines, building lines, setback and yard requirements, any proposed building footprint or floor plan, and other special relationships or significant features of the proposed development plan, record plat or site plan of the development.
 - d. The location of designated upland, riparian habitat, and FEMA floodplain, if identified through an environmentally sensitive area survey and subsequent environmental protection plan, as defined in the town's SMARTGrowth Program and Analysis Manual.

(Ord. No. 63-08, § 3(94-7), 10-6-2008; [Ord. No. 62-16](#), § 4, 11-21-2016)

Sec. 94-24. - Tree survey; residential lots.

Tree surveys are required to accompany an application for a building permit for the construction of homes on undeveloped residential lots. For lots that are one acre in size or larger, the tree survey shall be completed as described in section 94-23 of this chapter. For lots that are less than one acre in size, the tree survey shall contain, but not be limited to, the following information/parts:

- (1) A site plan showing: The location and configuration of the proposed house/structure, all required setbacks, sidewalks, driveway locations, porches, etc.
- (2) Further, the site plan shall show the location of all specimen or historic trees located on the site.
- (3) The survey shall depict the location of the trunk and the extent of the canopy spread of each specimen or historic tree.

- (4) A table (spreadsheet) shall be supplied containing the common name, caliper width (DBH), and tree number of each specimen tree and historic tree shown on the site plan/tree survey. All measurements shall be in accordance with section 94-14 of this chapter.
- (5) A count of all protected trees on the site and all protected trees proposed for removal shall be included on the tree survey.

(Ord. No. 63-08, § 3(94-8), 10-6-2008)

Secs. 94-25—94-30. - Reserved.

ARTICLE IV. - PERMITS, MITIGATION, PENALTIES, AND INCENTIVES

Sec. 94-31. - Generally.

No person, directly or indirectly, shall cut down, destroy, remove or effectively destroy through damaging any protected, specimen, or historic tree on any real property within the town without first obtaining a tree removal permit as required in the terms and provisions of this article. Further, the replanting of any protected, specimen, or historic tree requires a tree replanting permit in accordance with the terms and provisions of this article.

(Ord. No. 63-08, § 3(94-9), 10-6-2008)

Sec. 94-32. - Trees located in a buildable area.

The phrase "buildable area" shall mean and include all of a commercial or residential building lot, oil and gas pad site, development site or other site, excluding the fully developed FEMA floodplain as defined in section 90-403 and required street/landscaping buffer areas. Trees located within TXDOT rights-of-way are exempt from the terms and provisions of this chapter.

(Ord. No. 63-08, § 3(94-10), 10-6-2008; [Ord. No. 62-16](#), § 5, 11-21-2016)

Sec. 94-33. - Tree transplanting permit.

An application for a tree transplanting permit for protected trees located on undeveloped property or developed nonresidential property within the town may be submitted at any time and need not be submitted in conjunction with a development plan or record plat or a building permit. Tree transplanting permits shall be obtained by making application to the town's tree preservation and enforcement officer or authorized designee on forms prescribed by the town when a protected tree is proposed to be transplanted within the town. No fee shall be charged to make application for a tree transplanting permit. The application shall also be accompanied by a written document indicating the reasons for transplanting the protected tree and two copies of a legible tree survey. The tree survey should be prepared in accordance with section 94-24 of this chapter.

Upon receipt of a proper application for a tree transplanting permit, the town's tree preservation and enforcement officer or authorized designee shall review the application and may conduct field inspections of the site or development and/or refer the permit application to other departments for review and recommendations as deemed necessary and appropriate by the town manager or authorized designee. The application for a tree transplanting permit shall be approved unless the town's tree preservation and enforcement officer or authorized designee determines that the proposed transplanting will unnecessarily damage or jeopardize the health of the trees proposed to be transplanted. A denial of an application for a tree transplanting permit by the tree preservation and enforcement officer or authorized designee may be

appealed to the environmental conservation commission. The decision of the environmental conservation commission regarding the appeal from the denial of such tree transplanting permit application shall be final.

(Ord. No. 63-08, § 3(94-11), 10-6-2008)

Sec. 94-34. - Tree removal permit.

Tree removal permits are required for the removal of protected trees located outside the buildable area of a lot or site, and for any specimen trees and historic trees that are intended for removal from a lot or site in conjunction with the development, redevelopment, subdivision and/or re-subdivision of real property within the town.

An application for a tree removal permit, when required, shall be submitted at the earliest point in the application process where entitlements and/or buildable area are established. The following outlines the process associated with tree removal permit applications.

- (1) Tree removal permit applications, when required, shall be submitted in conjunction with a zoning planned development (ZPD) or a development plan and shall be considered by the environmental conservation commission prior to the project proceeding to the planning and zoning commission. The application shall be placed on the same town council agenda for action as the ZPD or development plan; or
- (2) Tree removal permit applications, when required, shall be submitted in conjunction with site plans or record plats for the development of subdivisions of four lots or less where the construction of necessary infrastructure necessitates a tree removal permit, and shall be considered by the environmental conservation commission and acted upon by the town council prior to the site plan or record plat proceeding to the planning and zoning commission for approval; or
- (3) Tree removal permit applications, when required, shall be submitted in conjunction with the development of individual residential or nonresidential platted lots and shall be considered by the environmental conservation commission and acted upon by the town council prior to the issuance of a building permit.

No protected trees located outside the buildable area, specimen trees, or historic trees approved for removal in accordance with this chapter shall be removed from any building lot or site until:

- (1) Proper mitigation or replacement requirements have been determined and approved for the lot or site; and
 - (2) A preconstruction meeting has been held with proper town staff authorizing grading and construction activities to begin on the lot or site; and/or
 - (3) A building permit, where needed, has been issued for the lot or site.
- (a) *Tree removal permits for fewer than ten protected trees or four specimen trees.* A tree removal permit shall be obtained by making application to the town's tree preservation and enforcement officer or authorized designee on forms prescribed by the town. The application shall include the following:
- (1) A written document indicating the reasons for removal of the protected, specimen, or historic trees on the lot or site.
 - (2) Photographs of each tree requested for removal.
 - (3) Photographs of required signage on the site as described below.
 - (4) Two copies of a tree survey for the lot or site prepared as described in section 94-23 of this chapter.
- (b) *Tree removal permits for greater than ten protected trees or four specimen trees.* Applicants requesting to remove greater than ten protected trees or greater than four specimen trees, shall have the option

of requesting a comprehensive tree removal permit. The fee for this permit will be \$1,000.00. All other requirements and incentives remain unchanged.

- (c) A sign shall be placed on each separate lot or tract for which a tree removal permit is requested to inform the general public that an application for a tree removal permit has been filed relative to a protected, specimen, or historic tree.

- (1) The size of the signs shall be three feet by four feet.
- (2) The signs shall be made out of aluminum or corrugated plastic material.
- (3) The signs shall be mounted on stakes/poles.
- (4) The signs shall be visible from the street.
- (5) There shall be one sign for each street frontage.
- (6) The signs shall have a white background, with letters and borders being green in color. The signs shall state the following:

TOWN		OF		FLOWER		MOUND,		TX
A		TREE		REMOVAL				REQUEST
IS	BEING		MADE	ON	THIS			PROPERTY
FOR			INFORMATION					CALL

(Ord. No. 63-08, § 3(94-12), 10-6-2008)

Sec. 94-35. - Tree removal permit on property zoned agricultural district (A) uses.

No fee shall be charged to make application for a tree removal permit for the removal of protected trees located on real property having an agricultural zoning district classification. However, if within any 12-month period, tree removal permits for the removal of 20 or more protected trees are issued for the same agricultural property or tract, or any of its portions, the agricultural zoning district classification of such property cannot be changed, nor can an application for approval of a development plan, planned development or zoning amendment relative to such property be made, for a period of 60 months following the most recent 12-month period during which 20 or more protected trees were removed from such agricultural zoned property.

(Ord. No. 63-08, § 3(94-13), 10-6-2008)

Sec. 94-36. - Special provisions for agricultural district (A) uses.

Notwithstanding anything contained in this chapter to the contrary, for tracts zoned agricultural district (A) uses, the tree survey requirements contained in this article shall be limited in their application to proposed rights-of-way, easements and an area equal to 20 feet on any side of such rights-of-way and easements, provided that the applicant executes a development agreement with the town that all trees on the tract and outside of such areas, for the purposes of such agreement, are protected trees (regardless of their species or caliper width) and that the unauthorized removal of such trees shall result in the revocation of any previously approved development plan and record plat for a period of 60 months from the date of the most recent unauthorized removal of one or more trees from the subject property.

(Ord. No. 63-08, § 3(94-14), 10-6-2008)

Sec. 94-37. - Review of application.

- (a) An application for a tree removal permit for a protected tree located outside of the buildable area shall be accompanied by an administrative fee per tree proposed for removal in the amount listed in appendix A of this Code, not to exceed a total per permit application in an amount listed in appendix A of this Code. An application for a tree removal permit for a specimen tree, or historic tree shall be accompanied by an administrative fee per tree proposed for removal in the amount listed in appendix A of this Code. Upon receipt of a properly completed application accompanied by the appropriate fee, the tree preservation and enforcement officer or his authorized designee shall review the application and may conduct field inspections of the development and/or refer the permit application to other departments for review and recommendations as deemed necessary and appropriate by the tree preservation and enforcement officer or his authorized designee.
- (b) The application for a tree removal permit, if required, shall be considered an integral part of the application for development plan or site plan approval, or the application for an oil and gas well permit. No development plan or site plan for any development, or oil and gas well permit, subject to the terms and provisions of this subdivision, shall be approved without approval of such tree removal permit. It is further provided that if a property owner or developer does not submit a tree removal permit application prior to town approval of a development plan covering a particular site, then if a tree removal permit application for the site is submitted later, approval of the development plan may be revoked. In this event, a revised development plan must be submitted for review by the town.
- (c) The tree preservation and enforcement officer may approve, approve with conditions, or deny a request for a tree removal permit for protected trees located outside the buildable area of a lot or site, provided that the requested tree removal permit is for the removal of trees in a development district other than the Cross Timbers Conservation Development District. An appeal of the decision of the tree preservation and enforcement officer may be made to the Environmental Conservation Commission.
- (d) An application for a tree removal permit for specimen, historic, or protected trees located outside the buildable area of a lot or site within the Cross Timbers Conservation Development District or an application for a tree removal permit for specimen, or historic trees within all other districts shall be submitted to the environmental conservation commission for review and recommendation to the town council that the permit application be approved, approved with conditions or denied. The environmental conservation commission shall not recommend an application for a tree removal permit be approved or approved with conditions, unless the commission finds that the subject development, redevelopment, subdivision or re-subdivision cannot reasonably be developed, based on economic and/or practical considerations, without removal of the trees included in the permit application.
- (e) The environmental conservation commission's recommendation concerning an application for tree removal permit shall be reviewed by the town council. The town council may then approve the application, approve it with conditions, or deny the application; however, the town council may overturn the denial of an application for tree removal permit by the environmental conservation commission only upon a finding that the subject development, redevelopment, subdivision or re-subdivision cannot reasonably be developed, based on economic and/or practical considerations, without removal of the trees included in the permit application.
- (f) Approval for removal of a historic tree shall require a three-fourths majority vote of the environmental conservation commission and the town council, respectively.

(Ord. No. 63-08, § 3(94-15), 10-6-2008)

Sec. 94-38. - Per-caliper-inch cash value; replacement trees.

A per-caliper-inch cash value for replacement trees shall be set, and updated as necessary by the town council after review and recommendation by the environmental conservation commission. The per-caliper-inch cash value shall be used to calculate mitigation costs for authorized and unauthorized removals of protected, specimen, and historic trees. the tree preservation and enforcement officer or his authorized designee shall maintain a record of the current per-caliper-inch cash value of replacement trees.

(Ord. No. 63-08, § 3(94-16), 10-6-2008)

Sec. 94-39. - Mitigation requirements for authorized tree removal.

- (a) *Replacement trees required for the removal of protected trees located within the buildable area on a lot or site.* It shall be the responsibility of any person removing a protected tree located within the buildable area of a lot or site to replace each protected tree removed with one, two and one-half to three-inch caliper tree measured in accordance with section 94-13 of this chapter. Replacement trees shall be of a species listed on the town's approved mitigation and replacement tree planting list. Replacement trees shall have a minimum height of at least six feet, and shall be planted in locations approved by the tree preservation and enforcement officer or authorized designee. Acceptable locations shall include reforestation sites designated by the town. At the discretion of the tree preservation and enforcement officer or authorized designee, money in an amount equal to the per-caliper-inch cash value of the removed tree(s) may be paid to the town instead of providing the replacement trees required by this article. Any such payments shall be deposited in a special account or fund and used by the town to provide and/or support supplemental landscape plantings in public areas of the town and/or to support the administration and enforcement of the town's tree preservation regulations. A per-caliper-inch cash value for replacement trees shall be set by the town council in accordance with section 94-38 of this article.
- (b) *Mitigation of loss of habitat .* When any person seeks to develop property, rezone property, or amend the master plan regarding property, so that an application for a development plan, site plan, record plat, re-plat, oil and gas well drilling permit, oil and gas pipeline permit, tree removal permit, or tree transplanting permit is required by this chapter, and such person wishes to remove protected trees from an environmentally sensitive area (ESA), such as upland habitat and/or riparian habitat as defined in the town's SMARTGrowth Program and Analysis Manual, it shall be the responsibility of such person to mitigate the acreage of habitat lost or negatively impacted through either the payment to the town of mitigation fees or the planting of replacement trees included in the required environmental protection plan (EPP) for the development project, or a combination thereof that results in the required mitigation. This required habitat mitigation only applies to impacts to designated upland or riparian habitats. The mitigation for the removal of protected trees located outside of the designated habitats as established in an approved EPP is addressed in section 94-39(a). The monetary value of upland habitat and riparian habitat is set at \$15,000.00 per acre. Preservation incentives for upland and/or riparian habitat preserved within a project are established in section 94-40. At the discretion of the tree preservation and enforcement officer or authorized designee, money in an amount equal to the value of the removed habitat may be paid to the town instead of providing the replacement trees. Any such payments shall be deposited in a special account or fund and used by the town to provide and/or support supplemental landscape plantings in public areas of the town and/or to support the administration and enforcement of the town's tree preservation regulations.
- (c) *Replacement trees required for the removal of protected trees located outside the buildable area on a lot or site.* It shall be the responsibility of any person obtaining a tree removal permit for a protected tree located outside of the buildable area on a lot or site to provide replacement with trees having a total caliper width equivalent to one and one-half times that of the tree(s) to be removed. Total caliper width for replacement trees shall be calculated using measurements taken in accordance with section 94-14 of this chapter. For example, if a ten-inch protected tree is removed, then that tree must be replaced by trees having a total caliper width of 15 inches. This total caliper width could be satisfied by an approved combination of replacement trees to meet the required caliper width replacement. Replacement trees shall be of a species listed on the town's approved mitigation and replacement tree planting list. Such replacement trees shall be container-grown and each replacement tree shall have a minimum caliper width of two and one-half inches to three inches, measured in accordance with section 94-13 of this chapter. Replacement trees shall have a minimum height of at least six feet, and shall be planted in locations approved by the tree preservation and enforcement officer or his authorized designee. Acceptable locations shall include reforestation sites designated by the town. At the discretion of the tree preservation and enforcement officer or authorized designee, money in an amount equal to the per-caliper-inch cash value of the removed tree(s) may be paid to the town instead

of providing the replacement trees required by this article. Any such payments shall be deposited in a special account or fund and used by the town to provide and/or support supplemental landscape plantings in public areas of the town and/or to support the administration and enforcement of the town's tree preservation regulations. A per-caliper-inch cash value for replacement trees shall be set by the town council in accordance to section 94-38 of this chapter.

- (d) *Replacement trees required for the authorized removal of specimen trees.* It shall be the responsibility of any person obtaining a tree removal permit for a specimen tree to provide replacement trees having a total caliper width equivalent to two times that of the tree(s) to be removed. Total caliper width for replacement trees shall be calculated using measurements taken in accordance with section 94-14 of this chapter. Replacement trees shall be of a species listed on the town's approved mitigation and replacement tree planting list. Such replacement trees shall be container-grown and have a minimum caliper width of two and one-half inches to three inches, measured in accordance with section 94-13 of this chapter. Replacement trees shall have a minimum height of at least six feet, and shall be planted in a location approved by the tree preservation and enforcement officer or authorized designee. Acceptable locations shall include reforestation sites designated by the town. At the discretion of the tree preservation and enforcement officer or authorized designee, money in an amount equal to the per-caliper-inch cash value of the removed tree(s) may be paid to the town instead of providing the replacement trees required by this article. Any such payments shall be deposited in a special account or fund and used by the town to provide and/or support supplemental landscape plantings in public areas of the town and/or to support the administration and enforcement of the town's tree preservation regulations. A per-caliper-inch cash value for replacement trees shall be set by the town council in accordance to section 94-38 of this chapter.
- (e) *Replacement trees required for the authorized removal of historic trees.* It shall be the responsibility of any person obtaining a tree removal permit for a historic tree to provide replacement trees having a total caliper width equivalent to two and one-half times that of the tree(s) to be removed. Total caliper width for replacement trees shall be calculated using measurements taken in accordance with section 94-14 of this chapter. Replacement trees shall be of a species listed on the town's approved mitigation and replacement tree planting list. Such replacement trees shall be container-grown and have a minimum caliper width of two and one-half inches to three inches, measured in accordance with section 94-13 of this chapter. Replacement trees shall have a minimum height of at least six feet, and shall be planted in locations as approved by the tree preservation and enforcement officer or authorized designee. Acceptable locations shall include reforestation sites designated by the town. At the discretion of the tree preservation and enforcement officer or authorized designee, money in an amount equal to the per-caliper-inch cash value of the removed tree(s) may be paid to the town instead of providing the replacement trees required by this article. Any such payments shall be deposited in a special account or fund and used by the town to provide and/or support supplemental landscape plantings in public areas of the town and/or to support the administration and enforcement of the town's tree preservation regulations. A per-caliper-inch cash value for replacement trees shall be set by the town council in accordance to section 94-38 of this chapter.

Any fees or payments made to the town to satisfy the mitigation or replacement requirements of this article shall be paid at the time of a preconstruction meeting authorizing grading or construction activities to occur on the lot or site. In cases where a preconstruction meeting is not required, all fees or payments shall be made prior to the issuance of a building permit for the lot or site.

(Ord. No. 63-08, § 3(94-17), 10-6-2008; [Ord. No. 62-16](#), § 6, 11-21-2016)

Sec. 94-40. - Incentives for preservation of protected, specimen, and historic trees.

If any protected, specimen, or historic tree is preserved within an area that would otherwise be considered a buildable area, credit for preservation shall be given that will be counted toward the mitigation requirements for the removal of protected trees within the buildable area on a site or project. Such mitigation credits shall be given only for those trees whose critical root zones are left predominately in their natural state. No cutting, filling, or other construction related activities are allowed within the critical root zones of

trees eligible for mitigation credit unless otherwise approved in writing and in advance by the town. Existing trees that are preserved within required street yard landscaping areas shall be counted for credit toward the requirements of section 82-241 of this Code, street yard landscaping, provided that they are located within the street yard and/or parking area. Following is a list of credits available for the preservation of protected and specimen trees on a site or project, and a separate credit schedule for the preservation of protected and specimen post oak trees on a site or project.

- (1) One mitigation tree credit will be given for each protected tree preserved within a buildable area on a site or project.
- (2) The following schedule outlines tree credits that will be given for each specimen tree preserved within a buildable area on a site or project.

*Buildable Area Mitigation Specimen
Tree Credit Schedule*

Caliper Size (Diameter)	Tree Credits
13—18 inches	3
19—24 inches	4
25—30 inches	5
Greater than 30 inches	6

- (3) The following schedule outlines tree credits that will be given for each protected or specimen post oak tree preserved on a site or project and located outside of an ESA.

Post Oak Tree Credit Schedule

Post Oak Caliper Size (Diameter)	Tree Credits
6—12 inches	2
13—21 inches	4
22 inches and greater	6

- (4) Mitigation credits for preservation of protected trees within designated upland and/or riparian habitat will be given for each acre of habitat protected on a site or project.
- (5) For purposes of this section, one mitigation tree credit shall be the equivalent of the person developing the property providing one container-grown tree as provided in section 94-39 of a variety selected from the replacement tree list having a minimum caliper width of two and one-half inches to three inches, measured in accordance with section 94-13 of this chapter. In the event the tree preservation and enforcement officer or authorized designee approves the payment of money in an amount equal to the per-caliper-inch cash value of the removed tree(s) instead of providing the replacement trees required by this article, one mitigation tree credit shall be the equivalent of the per-caliper-inch cash value for a replacement tree having a minimum caliper width of two and one-half inches to three inches. However, no tree credits shall be allowed or permitted for trees that are dead, dying, diseased or infested with harmful insects (as determined by the tree preservation and enforcement officer or authorized designee), or for trees which have not been adequately protected using required tree protection measures, as defined in article V of this chapter, or which are otherwise likely to die (as determined by the tree preservation and enforcement officer or authorized designee); or trees that are not included on the protected tree list.

(Ord. No. 63-08, § 3(94-18), 10-6-2008; [Ord. No. 62-16](#), § 7, 11-21-2016)

Sec. 94-41. - Penalties for unauthorized removal of protected, specimen, and historic trees.

If any protected, specimen, or historic trees are removed from any real property without a tree removal permit, or if a protected, specimen, or historic tree is injured because of failure to follow required tree protection measures such that the tree dies or may reasonably be expected to die, the town shall have the authority to impose one or more of the following administrative and civil penalties on the developer and/or owner of the property:

- (1) A monetary penalty of \$250.00 per-caliper-inch of width of the protected tree(s) removed or damaged, payable to the town. A monetary penalty of \$500.00 per-caliper-inch of width of the specimen tree(s) removed or damaged, payable to the town. A monetary penalty of \$750.00 per-caliper-inch of width of the historic tree(s) removed or damaged, payable to the town. Funds paid to the town as tree removal penalties shall be deposited in a special account or fund and used by the town to provide and/or support supplemental landscape plantings in public areas of the town, and/or to support the administration and enforcement of the town's tree preservation regulations.
- (2) For each protected tree that is removed or damaged, replacement with new trees having a total tree caliper width equivalent to five times that of the removed or damaged tree(s). For each specimen tree that is removed or damaged, replacement with new trees having a total tree caliper width equivalent to ten times that of the removed or damaged tree(s). For each historic tree that is removed or damaged, replacement with new trees having a total tree caliper width equivalent to 15 times that of the removed or damaged tree(s). Replacement trees shall be of a species listed on the town's approved mitigation and replacement tree planting list. Such replacement trees shall be container-grown and have a minimum caliper width of two and one-half inches to three inches, measured in accordance with section 94-13 of this chapter. Replacement trees shall have a minimum height of at least six feet, and shall be planted in locations as approved by the tree preservation and enforcement officer or authorized designee. Acceptable locations shall include reforestation sites designated by the town. At the discretion of the tree preservation and enforcement officer or authorized designee, money in an amount equal to the per-caliper-inch cash value of the removed or damaged tree(s) may be paid to the town instead of providing replacement trees required by this article. Any such payments shall be deposited in a special account or fund and used by the town to provide and/or support supplemental landscape plantings in public areas of the town and/or to support the administration and enforcement of the town's tree preservation regulations. A per-caliper-inch cash value for replacement trees shall be set by the town council in accordance with section 94-38 of this article.

(Ord. No. 63-08, § 3(94-19), 10-6-2008)

Secs. 94-42—94-50. - Reserved.

ARTICLE V. - TREE PROTECTION

Sec. 94-51. - Enumeration.

The following tree protection measures shall be required:

- (1) Prior to any and all construction or land development activity, the developer or property owner shall install four-foot-high plastic (or equivalent) safety fencing around the drip line of protected trees and six-foot-high chain-link fencing around the drip line of specimen and historic trees.
- (2) Prior to any and all construction or land development activity, the developer or property owner shall establish designated parking areas for the parking and maintenance of all vehicles, trailers, construction equipment and related items, designated stockpile areas for the storage of construction supplies and materials during construction of the subdivision and designated drive areas for vehicles and equipment. The location and dimensions of such designated areas shall be clearly identified on both subdivision construction and site plans and shall be approved by the tree preservation and enforcement officer or authorized designee prior to any construction or land development activity in, on or about the subdivision. Such designated areas shall be completely fenced with chain-link fencing and gates for safety purposes and to separate protected, specimen, or historic trees from the construction area and related construction activity. With the approval of the tree preservation and enforcement officer or authorized designee, the designated parking and stockpile areas may be combined into one fenced area, provided that the preservation of protected trees is not adversely affected or jeopardized. Supplies and pipe and other items that are customarily unloaded where installed shall not be required to be stored within the designated stockpile areas. Sites approved for temporary batching plant permits shall be fenced and gated in the same manner as designated parking and stockpile areas. Temporary batching plant permits shall also be required for the operation of all batching plants, pursuant to the regulations of this chapter.
- (3) During construction, the developer or property owner shall prohibit the cleaning of equipment or materials and/or the disposal of any waste material, including, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., under the canopy or drip line of any protected, specimen, or historic tree or group of such trees.
- (4) No attachments or wires of any kind, other than those of a protective nature, shall be attached to any protected tree(s).
- (5) With major grade changes of six inches or greater, a retaining wall or tree well of rock, brick, landscape timbers or other approved materials shall be constructed around the tree no closer than the drip line of the tree. The top of the retaining wall or tree well shall be constructed at the new grade.
- (6) Unless otherwise approved by the town, no construction or construction-related activity shall occur under the canopy or drip line of any protected, specimen, or historic tree or group of such trees.
- (7) Any tree(s) removed during land development, construction or construction-related activities shall be chipped or hauled off site. Burning of removed trees is prohibited unless prior approval is given by the town's fire marshal.
- (8) The tree preservation and enforcement officer or authorized designee may require additional protection measures or best management practices as needed on a case by case basis to

adequately protect protected, specimen, historic trees, or trees required as part of an approved landscape plan.

(Ord. No. 63-08, § 3(94-20), 10-6-2008; [Ord. No. 62-16](#), § 8, 11-21-2016)

Secs. 94-52—94-60. - Reserved.

ARTICLE VI. - TREE PLANTING REQUIREMENTS AND PLANTING LISTS

Sec. 94-61. - Street yard trees.

Trees shall be planted or existing trees preserved within the street yard of a nonresidential lot or building tract according to the following provisions:

- (1) For street yards less than 10,000 square feet in area, one tree shall be provided for each 1,000 square feet, or fraction of such amount, of street yard.
- (2) For street yards between 10,000 and 110,000 square feet in area, ten trees shall be required for the first 10,000 square feet plus one additional tree shall be required for each 2,500 square feet, or fraction of such amount, of street yard area in excess of 10,000 square feet.
- (3) For street yards over 110,000 square feet in area, 50 trees shall be required for the first 110,000 square feet plus one additional tree shall be required for each 5,000 square feet, or fraction of such amount, of street yard area in excess of 110,000 square feet.
- (4) Street yard trees shall be a minimum of three-inch caliper.
- (5) Trees required to satisfy other provisions of this article and lying within the street yard may be used to satisfy the requirements of this section.

(Ord. No. 63-08, § 3(94-21), 10-6-2008)

Sec. 94-62. - Street buffer trees.

Trees shall be planted or existing trees preserved within the street buffer landscaping area required by section 82-242 of this Code, street buffer landscaping, according to the following provisions:

- (1) Street buffer trees shall be provided in a ratio of one tree for every 30 feet of lineal frontage, except that a ratio of one tree for every 25 feet of lineal frontage shall be provided along scenic roadways.
- (2) Street buffer trees shall be a minimum of three-inch caliper.

(Ord. No. 63-08, § 3(94-22), 10-6-2008)

Sec. 94-63. - Parking area trees.

Trees shall be planted or existing trees preserved within off-street parking areas according to the following provisions:

- (1) One tree shall be provided for each ten parking spaces provided on the site; provided, however, that churches and/or schools shall be required to provide one tree for each 20 parking spaces provided on the site.

- (2) Parking area trees shall be minimum of three-inch caliper, except as provided in subsection (4) of this section.
- (3) All parking spaces shall be located within 50 feet of a tree that is located within the same parking area, measured from the trunk of the tree; provided, however, that for churches and/or schools, all parking spaces shall be located within 100 feet of a tree that is located within the same parking area, measured from the trunk of the tree.
- (4) A maximum of 30 percent of the trees used to satisfy the requirements of this section may come from subsection 94-66(b), approved median and right-of-way planting list.

(Ord. No. 63-08, § 3(94-23), 10-6-2008)

Sec. 94-64. - Median and right-of-way trees.

Trees may be planted in medians and rights-of-way only with the approval of the town, provided that such trees are selected from subsection 94-66(b), approved median and right-of-way planting list.

(Ord. No. 63-08, § 3(94-24), 10-6-2008)

Sec. 94-65. - Residential lots.

The following tree planting requirements shall be satisfied prior to the issuance of a certificate of occupancy for a single-family, duplex or multi-family use:

- (1) A minimum of three trees, with a minimum caliper width of two and one-half inches to three inches, and at least six feet in height, shall be provided on each 10,000 square foot and greater single-family and duplex lot prior to the issuance of a certificate of occupancy. A minimum of two trees, with a minimum caliper width of two and one-half inches to three inches, and at least six feet in height, shall be provided on each single-family and duplex lot between 5,000 and 10,000 square feet prior to the issuance of a certificate of occupancy. At least one of the required trees shall be located within the front yard area of the lot.
- (2) A minimum of one tree, with a minimum caliper width of two and one-half inches to three inches, shall be provided for each 3,000 square feet of gross lot area on each multi-family lot prior to the issuance of a certificate of occupancy. At least 50 percent of the required trees shall be located within either the front or side yard area of the lot.
- (3) From July 1 until September 1 of each year, only container grown trees shall be used to satisfy the requirements of this section; and, the builder/developer shall certify that any such trees are container grown.
- (4) Homeowners desiring to plant trees of a caliper width in excess of two times the requirements of this article may, from July 1 until September 1 of each year, file a town-approved affidavit with the town manager to this effect. Such trees shall be planted by March 1 of the following year in which the affidavit was filed. Failure to comply with the requirements of this article shall be considered a misdemeanor, punishable as such by a fine in accordance with section 1-13 of this Code.
- (5) There shall be no more than 50 percent of any tree species, and no more than 75 percent of any tree genus permitted to satisfy the planting requirements.

(Ord. No. 63-08, § 3(94-25), 10-6-2008; [Ord. No. 62-16](#), § 9, 11-21-2016)

Sec. 94-66. - Approved tree planting lists.

Unless otherwise specified in this chapter, only those tree species included in this section shall satisfy the tree planting requirements of this article.

Generally. The tree species lists contained in this section have been developed and will be periodically updated by the town's environmental conservation commission and shall be maintained and distributed to the public by the tree preservation and enforcement officer or authorized designee as guides for the identification and selection of tree species that meet the various standards and requirements of this article. Trees included on these tree species lists were selected on the basis of one or more of the following criteria or factors: hardiness, resistance to disease, suitability relative to local climate and soil conditions, adaptability for transplantation, longevity, adaptability to various landscape conditions, resistance to drought, aesthetic qualities, shade provision, windbreak provision, and screening qualities. To promote biodiversity, there shall be no more than 20 percent of a tree species, and no more than 50 percent of any tree genus permitted to satisfy the planting requirements on all new developments.

- (1) *Approved tree planting list.* Only those tree species found on the following approved tree planting list shall satisfy the tree planting standards and requirements of this article.

Approved Tree Planting List

Common Name	Scientific Name
Southern live oak	(<i>Quercus virginiana</i>)
Escarpment live oak	(<i>Quercus fusiformis</i>)
Shumard oak	(<i>Quercus shumardi</i>)
Chinkapin oak	(<i>Quercus muehlenbergii</i>)
Monterrey oak	(<i>Quercus polymorpha</i>)
Bur oak	(<i>Quercus macrocarpa</i>)
Texas red oak	(<i>Quercus texana</i>)
Water oak	(<i>Quercus nigra</i>)
American elm	(<i>Ulmus americana</i>)
Cedar elm	(<i>Ulmus crassifolia</i>)
Winged elm	(<i>Ulmus alata</i>)
Lacebark elm	(<i>Ulmus parvifolia</i>)
Bald cypress	(<i>Taxodium distichum</i>)

Pecans and hickories	(Carya species)
Juniper tree	(Juniperus species)
White ash	(Fraxinus americana)
Green ash	(Fraxinus pennsylvanica)
Texas ash	(Fraxinus texensis)
Western soapberry	(Sapindus drummondii)
Sweet gum	(Liquidambar styraciflua)
Eastern red cedar	(Juniperus virginiana)
Pines	(Pinus species)
Leyland cypress	(Cypressocyparis leylandi)
Black walnut	(Juglans nigra)
Magnolia	(Magnolia grandiflora)

- (2) *Approved median and right-of-way tree planting list.* The following tree species shall be allowed to be planted in medians and rights-of-way when approved by the town. Additional tree species with non-aggressive root systems/deep root systems maybe authorized for planting in such areas by the director of recreational services.

*Approved Median and ROW Tree
Planting List*

Common Name	Scientific Name
Sweet gum	(Liquidambar styraciflua)
Crepe myrtle	(Lagerstroemia indica)

Wax myrtle	(Myrica cerifera)
Plum	(Prunus species)
Holly	(Ilex species)
Possum haw	(Ilex decidua)
Native pecan	(Carya species)
Redbuds/whitebuds	(Cercis species)
Fruitless crabapples	(Malus species)
Southern live oak	(Quercus virginiana)
Escarpment live oak	(Quercus fusiformis)
Texas red oak	(Quercus texana)
Shumard oak	(Quercus shumardi)
Chinkapin oak	(Quercus muehlenbergii)
Bur oak	(Quercus macrocarpa)
Water oak	(Quercus nigra)
Winged elm	(Ulmus alata)
Cedar elm	(Ulmus crassifolia)
Lacebark elm	(Ulmus parvifolia)
Slippery elm	(Ulmus rubra)
Bald cypress	(Taxodium distichum)
Hickories	(Carya species)

Pines	(Pinus species)
Chinese pistache	(Pistachia chinensis)
Juniper tree	(Juniperus species)
Texas buckeye	(Aesculus glabra variety arguta)
Common persimmon	(Diospyros virginiana)
Texas ash	(Fraxinus texensis)
White ash	(Fraxinus Americana)
Green ash	(Fraxinus pennsylvanica)
Western soapberry	(Sapindus drummondii)
Black walnut	(Juglans nigra)
Magnolia	(Magnolia grandiflora)
Yaupon holly	(Ilex vomitoria)
Carolina buckthorn	(Rhamnus caroliniana)
Thornless honey locust	(Gleditsia triacanthos variety inermis)

- (3) *Approved mitigation and replacement tree planting list.* The following list of tree species shall be allowed to be planted to satisfy mitigation and replacement standards for trees removed from the buildable area on sites, trees removed with approved tree removal permits, and/or trees removed without authorization.

*Approved Mitigation and Replacement
Tree Planting List*

Common Name	Scientific Name
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Native pecan	(Carya species)
Texas red oak	(Quercus texana)
Shumard oak	(Quercus shumardi)
Bur oak	(Quercus macrocarpa)
Water oak	(Quercus nigra)
Winged elm	(Ulmus alata)
Slippery elm	(Ulmus rubra)
Post oak	(Quercus stellata)
Cedar elm	(Ulmus crassifolia)

- (4) *Approved overhead utility easement tree planting list.* The following list of tree species shall be allowed to be planted in overhead utility easements where required. These species were selected due to their relatively small mature size and growth characteristics. Trees planted in these areas shall be planted at a ratio of three trees for every one tree required.

Common Name	Scientific Name
Yaupon holly	(Ilex vomitoria)
Carolina buckthorn	(Rhamnus caroliniana)
Possum haw	(Ilex decidua)
Plum	(Prunus species)
Redbuds/whitebuds	(Cercis species)
Wax myrtle	(Myrica cerifera)
Crepe myrtle	(Lagerstroemia indica)

(Ord. No. 63-08, § 3(94-26), 10-6-2008; [Ord. No. 62-16](#), § 10, 11-21-2016)

Sec. 94-67. - Limits on credit for preservation of existing or established trees.

Existing protected trees, which are not being applied toward compliance with landscaping requirements, may be applied as a credit against required buildable area mitigation. Similarly, existing specimen trees, which are not being applied toward compliance with landscaping requirements, may be applied as credit toward required buildable area mitigation. In order for trees to qualify for credit, all standards described in article V of this chapter, shall be met completely. Further, all requirements set forth in section 94-40 shall also be met for credit to apply toward required buildable area mitigation for such trees. If the trees are compromised in any way, credit will not be given. Eligibility for credit will be determined by the tree preservation and enforcement officer or authorized designee. In no event shall any tree be counted for credit against both the landscaping requirements and the buildable area mitigation requirements.

(Ord. No. 63-08, § 3(94-28), 10-6-2008; [Ord. No. 62-16](#), § 11, 11-21-2016)

Editor's note— [Ord. No. 62-16](#), § 11, adopted Nov. 21, 2016, repealed § 94-67, and renumbered former § 94-68 as new § 94-67 as set out herein. The former § 94-67 pertained to landscape credit for large trees and derived from Ord. No. 63-08, § 3(94-27), 10-6-2008.

Secs. 94-68—94-80. - Reserved.

ARTICLE VII. - MISCELLANEOUS

Sec. 94-81. - Exceptions.

The following exceptions from the terms and provisions of this chapter are hereby authorized and granted:

- (1) If any protected, specimen, or historic tree shall be determined to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety, and require immediate removal without delay, authorization for removal may be given by the town manager, upon recommendation of the tree preservation and enforcement officer or authorized designee, and such protected, specimen, or historic tree may then be removed without obtaining a written permit as required in this article.
- (2) During the period of an emergency, such as a tornado, storm, flood or other act of God, the requirements of this article may be waived as may be deemed necessary by the town council.
- (3) All licensed plant or tree nurseries shall be exempt from the terms and provisions of this article only in relation to those trees planted and growing on the premises of such licensee that are so planted and growing for the sale or intended sale to the general public in the ordinary course of such licensed business.
- (4) Utility companies, franchised or otherwise, that are authorized to provide utility service within the town may remove protected, specimen, or historic trees that endanger public safety and welfare by interfering with utility service, except that where such trees are on owner-occupied properties developed for single-family or duplex use, removal of such trees shall be at the option of the property owners and require the property owners' consent and approval.

- (5) For recreational property or uses, such as golf courses and baseball, soccer, football or similar athletic facilities, and public works projects such as water or wastewater treatment plants, pump stations, storage tanks, and public streets and drainage improvements, the buildable area of the property shall include that portion of the property necessary for the construction of such recreational and public works improvements, including sufficient adjacent area, to allow the normal operation of construction equipment.
- (6) The terms and provisions of this article shall not apply to any development, subdivision or re-subdivision for which a record plat has been approved by the town council and filed in the plat records of the county prior to October 6, 2008.
- (7) All easements and rights-of-way included on a record plat approved by the town and filed in the plat records of the county.

(Ord. No. 63-08, § 3(94-29), 10-6-2008; [Ord. No. 43-15](#), § 2, 7-20-2015; [Ord. No. 62-16](#), § 12, 11-21-2016)

Sec. 94-82. - Penalty upon failure to comply with chapter provisions.

- (a) Any person violating or failing to comply with any provision or requirement of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall, without exception, be fined the maximum amount provided in section 1-13 of this Code. A separate offense shall be deemed committed upon each day or portion of a day during or on which each separate violation or failure to comply occurs or continues to occur and shall be punishable as such.
- (b) Notwithstanding the foregoing, any violation by any person of any provision of this chapter that constitutes an immediate danger or threat to any protected, specimen, or historic tree shall be subject to the administrative penalties set forth in this chapter.
- (c) Notwithstanding the foregoing, any violation by any person of any provision of this chapter that constitutes an immediate danger or threat to the health, safety and welfare of the public may be enjoined in a suit brought by the town for such purpose.
- (d) In addition to any other remedies or penalties contained in this section, the town may enforce the provisions of this chapter pursuant to the applicable provisions of V.T.C.A., Local Government Code ch. 54, which chapter provides for the enforcement of municipal ordinances.
- (e) Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this chapter.

(Ord. No. 63-08, § 3(94-30), 10-6-2008)

Sec. 94-83. - Informational assistance.

- (a) In furtherance of the purposes and provisions of this article, the town's tree preservation and enforcement officer or authorized designee shall develop and distribute to persons making application for either tree removal permits or tree replanting permits and make available to the general public an informational pamphlet identifying appropriate and useful facts, guidelines and how-to information relative to the preservation, protection and replanting of trees.
- (b) The tree preservation and enforcement officer or authorized designee shall also develop, maintain and make available to applicants for tree removal permits or tree replanting permits and to the general public a tree species reference book to provide more detailed information concerning tree care in general and the characteristics, soil and growth requirements and other traits of specific tree species identified on the town's protected tree list and approved tree planting and replacement list.
- (c) A current edition of the Texas Association of Nurserymen Grades and Standards, as applicable to the tree species on the town's protected tree list and approved tree planting and replacement list, shall be

maintained by the tree preservation and enforcement officer or his authorized designee and made available to applicants for building permits, tree removal permits or tree replanting permits and to the general public, as only those trees meeting and planted or replanted in accordance with the applicable Texas Association of Nurserymen Grades and Standards shall satisfy the tree planting, replanting and/or replacement standards and requirements contained in this chapter.

(Ord. No. 63-08, § 3(94-31), 10-6-2008)