

AGENDA

FLOWER MOUND TOWN COUNCIL REGULAR MEETING

NOVEMBER 21, 2016

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

6:00 P.M.

An agenda information packet is available online at www.flower-mound.com/AgendaCenter

Please silence or turn off all electronic devices in the Council Chambers.

A. CALL MEETING TO ORDER

B. INVOCATION

C. PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG AND TO THE TEXAS FLAG

"Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."

D. PRESENTATIONS

1. Check presentation from Denton County Sheriff Will Travis.
2. Presentation of Certificate of Recognition from Senator Jane Nelson in honor of Police Chief Andy Kancel receiving the 2016 Best of Denton County Award.
3. Small Business Saturday (November 26, 2016) Proclamation.

E. PUBLIC PARTICIPATION

Please fill out a speaker form, available in the Town Hall on the night of the meeting, in order to address the Council and turn it in to the Town Secretary prior to Public Participation. Speakers are normally limited to three minutes. Time limits can be adjusted by the Mayor as to accommodate more or fewer speakers. For additional instructions or to complete your speaker form in advance [click here](#).

The purpose of this item is to allow the public an opportunity to address the Town Council on issues that are not the subject of a public hearing. Any item requiring a public hearing will allow the public to speak at the time that item appears on this agenda as indicated as a "Public Hearing." Items that are the subject matter jurisdiction of the Town Council include Town policy and legislative issues. Issues regarding daily operational or administrative matters should first be dealt with at the administrative level by calling Town Hall at 972-874-6000 during business hours.

F. ANNOUNCEMENTS

1. Announce recent and upcoming civic and social events.

G. TOWN MANAGER'S REPORT

1. Update and status report related to capital improvement projects.
2. Update and discussion on Economic Development projects.
3. Update and discussion on town hall and library expansion.
4. Update and discussion on senior housing.

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H. FUTURE AGENDA ITEMS

The purpose of this item is to allow the Mayor and members of Council an opportunity to bring forward items they wish to discuss at a future meeting, with the understanding a consensus of Council is needed in order for that item to be placed on a future agenda and in accordance with the Town Council Agenda Setting Policy (Ord. 65-15).

I. COORDINATION OF CALENDARS

1. The next regular scheduled meeting is December 5th

J. CONSENT AGENDA - Consent Items

This agenda consists of non-controversial or "housekeeping" items required by law. Items may be removed from the Consent Agenda by any Councilmember by making such request prior to a motion and vote on the Consent Agenda.

1. **Minutes 11/7** - Consider approval of the minutes from a regular meeting of the Town Council held on November 7, 2016.
2. **Employee insurance** - Consider approval of the award of RFP No. 2017-3 for Employee Basic Life Insurance, Employee Long Term Disability Insurance, Employee and Dependent Optional Life Insurance, and Employee & Dependent Optional Accidental Death and Dismemberment Insurance to CIGNA Group Insurance, in the estimated annual amount of \$89,773 totaling \$269,319, for the initial three-year contract term; and authorization for the Mayor to execute same on behalf of the Town.
3. **Insurance services** - Consider approval of the award of RFP No. 2017-2 for Administrative Services Only (ASO) for Medical, Dental, Vision, Preferred Provider Organization (PPO) Network Services, and Pharmacy Network Services to Blue Cross Blue Shield of Texas in the estimated annual amount of \$234,865 totaling \$704,595 for the initial three-year contract term; and authorization for the Mayor to execute same on behalf of the Town.
4. **SIM event** - Consider approval of the consumption of alcoholic beverages at the Flower Mound Senior Center during the SIM Auxiliary's Elite Chef Competition fundraiser.
5. **LISD Hike and Bike trails** - Consider approval of an Interlocal Agreement with Lewisville Independent School District for Construction and Maintenance of Hike and Bike Trail on School Property behind Forest Vista Elementary School; and authorization for the Mayor to execute same on behalf of the Town.
6. **PSA Waketon Road** - Consider approval of a Professional Services Agreement for design phase services for the Waketon Road project, with Halff Associates, Inc., for \$243,225.00; and authorization for the Mayor to execute same on behalf of the Town.
7. **Heritage Park** - Consider approval of final acceptance of the Heritage Park of Flower Mound Phase II project, for Northstar Construction LLC., and authorization for final payment to Northstar Construction, in the amount of \$73,434.44.

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8. **PSA Rippy Road** - Consider approval of the Professional Services Agreement with Urban Engineers Group, Inc., to provide professional engineering services, for the Rippy Road Water Line Improvements project, for an amount not to exceed \$78,300.00; and authorization for the Mayor to execute same on behalf of the Town.
9. **PSA Canyon Falls Park** - Consider approval of a Professional Services Agreement with MESA Design Consultants, Inc., to provide design services associated with Canyon Falls Park, in the amount of \$44,000.00; and authorization for the Mayor to execute same on behalf of the Town.
10. **Strategic Plan** - Consider adoption of the Town Council Strategic Plan for Fiscal Year 2016-2017.
11. **Election Canvass** - Consider approval of an ordinance canvassing and declaring the results of a special election held November 8, 2016, for charter amendments.
12. **Chapter 6 – Animal Ordinance** - Review amendments to Chapter 6, "Animals," Article VI, "Wild or Exotic Animals," Section 6-203, "Exceptions to General Prohibition," of the Code of Ordinances, Town of Flower Mound, Texas.

K. REGULAR ITEMS

13. Prairie Plaza – ZPD16-0008

Public Hearing

Public Hearing to consider a request for rezoning (ZPD16-0008 - Prairie Plaza) from Agricultural District (A) uses to Planned Development District No. 150 (PD-150) with Office District (O) uses, with an exception to Section 90-423, "Underground utilities," of the Code of Ordinances, and to consider adopting an ordinance providing for said amendment. The property is generally located north of Cross Timbers Road and west of Long Prairie Road. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its November 14, 2016, meeting.)*

14. Land Use Definitions - MPA16-0013

Public Hearing

Public Hearing to consider a request for a Master Plan Amendment (MPA16-0013 - Land Use Definitions) to amend Section 1, Land Use Plan, by modifying the Medium Density and High Density definitions, and by creating two new residential land use categories, "Medium High Density" and "High Density Single-Family Detached", and to consider adopting an ordinance providing for said amendment. *(The Planning and Zoning Commission recommended approval by a vote of 5 to 1 at its November 14, 2016, meeting.)*

Town Council Meeting Agenda**November 21, 2016****Page 4****15. Chapter 94 Tree Ordinance – LDR16-0002****Public Hearing**

Public Hearing to consider approval of an ordinance amending Chapter 94, "Trees", of the Land Development Regulations (LDR16-0002 – Tree Ordinance Amendments) of the Code of Ordinances by amending Section 94-22, entitled "Protected tree lists," Section 94-23, entitled "Tree survey; development projects," Section 94-32, entitled "Trees located in buildable area," Section 94-39, entitled "Mitigation requirements for authorized tree removal," Section 94-40, entitled "Incentives for preservation of protected, specimen, and historic trees," Section 94-51, entitled "Enumeration," Section 94-65, entitled "Residential lots," Section 94-66, entitled "Approved tree planting lists," Section 94-81, entitled "Exceptions," and deleting Section 94-67, entitled "Landscape credit for large trees." *(The Environmental Conservation Commission recommended approval by a vote of 6 to 0 at its May 3, 2016, meeting.) (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its October 10, 2016, meeting.)*

16. Chapter 94 Tree Ordinance – LDR16-0006**Public Hearing**

Public Hearing to consider approval of an ordinance amending Chapter 94, "Trees" of the Land Development Regulations (LDR16-0006 – Tree Ordinance Permits) of the Code of Ordinances by amending Section 94-34, entitled "Tree removal permit" and Section 94-37, entitled "Review of application." *(The Environmental Conservation Commission recommended denial by a vote of 6 to 0 at its November 1, 2016, meeting.) (The Planning and Zoning Commission recommended approval by a vote of 4 to 3 at its November 14, 2016, meeting.)*

L. BOARDS/COMMISSIONS *(Bold text represents boards with vacancies)*

Discuss and consider resignations, appointments, or evaluations for the following boards or commissions: Animal Services Board, Cultural Arts Commission, Environmental Conservation Commission, **Parks, Arts and Library Services Board**, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number One (TIRZ #1), and Transportation Commission.

M. CLOSED MEETING

The Town Council to convene into closed meeting pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.074, 551.087, 551.072, and 551.071 to discuss matters relating to personnel, economic development negotiations, real property, and consultation with attorney, as follows:

- a. Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, **Community Development Corporation**, Planning and Zoning Commission.
- b. Conduct interviews for the position of Municipal Court Judge, including appointment deliberation.

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- c. Discuss and consider economic development incentives, including retail centers, corporate relocation/expansion/retention, hospitality projects, and performance related to certain incentive agreements.
- d. Discuss and consider purchase, exchange, lease or value of real property for parks, public rights of way, and/or other municipal purposes and all matters incident and related thereto.

Pursuant to Section 551.071 of the Texas Government Code, the Town Council reserves the right to consult in a closed meeting with its attorney and to receive legal advice regarding any item listed on this agenda.

N. RECONVENE TO REGULAR MEETING

The Town Council to reconvene into an open meeting to take any action deemed necessary as a result of the closed meeting.

O. ADJOURN MEETING

I do hereby certify that the Notice of Meeting was posted on the bulletin board at the Town Hall for the Town of Flower Mound, Texas, in a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time: November 18, 2016, at 11:40 a.m. at least 72 hours prior to the scheduled time of said meeting.

Theresa Scott, Town Secretary



TOWN COUNCIL AGENDA ITEM NO. 1

CONSENT ITEM

DATE: November 21, 2016

FROM: Theresa Scott, Town Secretary

ITEM: Consider approval of the minutes from a regular meeting of the Town Council held on November 7, 2016.

BACKGROUND INFORMATION: The Town Council held a regular meeting on November 7, 2016.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

Proposed Expenditure:

Account Number(s):

Finance Review by: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Draft minutes

RECOMMENDATION: Move to approve the minutes from a regular meeting of the Town Council held on November 7, 2016.

FLOWER MOUND TOWN COUNCIL MEETING OF NOVEMBER 7, 2016 BOOK 44 PAGE 1

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 7TH DAY OF NOVEMBER 2016, IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 6:00 P.M.

The Town Council met in a regular meeting with the following members present:

Kevin Bryant	Mayor Pro Tem
Bryan Webb	Deputy Mayor Pro Tem
Jason Webb	Councilmember Place 1
Don McDaniel	Councilmember Place 4
Itamar Gelbman	Councilmember Place 5

with the following member absent:

Tom Hayden	Mayor
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constituting a quorum with the following members of the Town Staff participating:

Theresa Scott	Town Secretary
Bryn Meredith	Town Attorney
Jimmy Stathatos	Town Manager
Debra Wallace	Deputy Town Manager/CFO
Tommy Dalton	Assistant Town Manager
Doug Powell	Executive Director of Development Services
Ken Parr	Executive Director of Public Works
Jimmy Hoefert	Environmental Review Analysis
Molly Fox	Director of Communications

A. CALL REGULAR MEETING TO ORDER

Mayor Pro Tem Bryant called the regular meeting to order at 6:00 p.m.

B./C. INVOCATION/PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG AND THE TEXAS FLAG

Chaplain Jon Bell gave the invocation and Mayor Pro Tem Bryant led the pledges.

D. PRESENTATIONS

1. Presentation by Mayor Pro Tem Bryant relative to the L.I.S.D. grade scoring system, and special recognition to Ed Horne for his work in getting numbers adjusted

Mayor Pro Tem Bryant gave a presentation relative to a change in the LISD grade scoring system, and the subsequent impact of those scores on the community as a whole. He also presented Ed Horne with a Certificate of Appreciation for his efforts in getting the scoring system on track.

Dr. Beth Brockman, Assistant Superintendent of Strategic Initiatives and Community Engagement for LISD, extended words of appreciation for the Town and Mr. Horne.

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2. 'National Night Out' neighborhood winner award presentation

Officer Justin Buck recognized representatives from the Bridlewood Homeowners Association and presented them with a neighborhood sign for being the 2016 National Night Out neighborhood winner.

3. Recognition of the Communications Department's recent national and state awards

Molly Fox, Director of Communications, provided an update on various awards the Communications team recently received.

4. Certificate of Recognition from Senator Jane Nelson in honor of Fire Chief Eric Greaser receiving the 2016 Fire News Outstanding Leadership Award

Mayor Pro Tem Bryant presented Chief Greaser with a Certificate of Recognition from Senator Nelson in honor of this recognition.

E. PUBLIC PARTICIPATION

Names listed below don't necessarily reflect the order in which each person spoke and all addresses are located in Flower Mound unless otherwise indicated.

	Speaker names and address	Subject (as written on the form)
1.	Sarah Bailey, 3446 Sunnyview Lane	Water issues for Sunnyview Lane
2.	Denis Toth, 202 Skelton St	Gelbman article in CTG
3.	Mary Kay Walker, 3229 Oak Meadow Dr	Senior Housing
4.	Doug Brown, 1721 Ingleside Dr	Veterans
5.	Clare Schroeder Brown, 1721 Ingleside Dr	Senior Housing
6.	Kristi Hasset, 3500 Beringer Ct	LISD scores and opportunity for community to start talking about what is important to the Town

F. ANNOUNCEMENTS

Councilmember J. Webb announced that tomorrow is Election Day and encouraged everyone to vote. He also offered comments relative to the national election and the community impact.

Councilmember McDaniel announced that October was Dyslexia Awareness Month.

Councilmember McDaniel, Councilmember B. Webb, and Mayor Pro Tem Bryant expressed condolences for the recent loss of two individuals in the community, followed by offering encouraging words to Flower Mound citizens and how they can get involved to help the youth in our community pull through some of the struggles they may be experiencing.

Mayor Pro Tem Bryant had the following announcements:

- tomorrow is Election Day and encouraged everyone to know their polling location and to get out and vote

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- extended words of thanks to the communication staff for the Town's new website and to the Parks staff for the successful Veterans Day ceremony
- UIL Band competition update
- extended words of thanks for election workers

G. TOWN MANAGER'S REPORT

1. Update and status report related to capital improvement projects.

Mr. Stathatos gave a report on the following capital improvement projects:

- Forest Vista road project
- McKamy Creek road project
- Twin Coves cabins will be delivered in December

2. Update and discussion on Economic Development projects.

Mr. Stathatos gave a report on the following economic development projects:

- The Cross Fire Defense Academy had their ground breaking on October 20th.
- The Texas Economic Development Council recognized the Town for the efforts associated with the Stryker project

3. Update and discussion on town hall and library expansion.

Mr. Stathatos gave an update on the work being done for the new town hall.

Mayor Pro Tem Bryant indicated he would like to see a memorial wall incorporated in the flag plaza at the new Town Hall.

4. Update and discussion on senior housing.

Mr. Stathatos gave an update on the recruitment efforts underway for a senior housing development.

Mr. Stathatos provided a statement of fact as it relates to the water issue brought up by Ms. Bailey during public participation. Deputy Mayor Pro Tem Bryan Webb requested Council be updated once a resolution gets identified.

Deputy Mayor Pro Tem Webb requested staff work with Denton County to pursue a 2nd early voting location for the next gubernatorial election.

H. FUTURE AGENDA ITEMS

1. There were no items brought forward for consideration.

I. COORDINATION OF CALENDARS

1. Mayor Pro Tem Bryant announced that the next Town Council meeting is a joint work session with the Transportation Commission scheduled for November 17th and the next regular meeting is November 21st.

FLOWER MOUND TOWN COUNCIL MEETING OF NOVEMBER 7, 2016 BOOK 44 PAGE 4**J. CONSENT ITEMS**

1. Consider approval of the minutes from a regular meeting of the Town Council held on October 17, 2016.

RECOMMENDATION: Move to approve the minutes from a regular meeting of the Town Council held on October 17, 2016.

2. Consider approval of the minutes from a Joint Town Council/Planning and Zoning work session held on October 20, 2016.

RECOMMENDATION: Move to approve the minutes from a Joint Town Council/Planning and Zoning work session held on October 20, 2016.

3. Consider approval of a resolution declaring expectation to reimburse expenditures with proceeds of future debt and authorizing the preparation of the documents associated with the issuance, sale, and delivery of the debt obligations; and providing an effective date.

RECOMMENDATION: Move to approve a resolution declaring expectation to reimburse expenditures with proceeds of future debt and authorizing the preparation of the documents associated with the issuance, sale, and delivery of the debt obligations; and providing an effective date.

RESOLUTION NO. 24-16

A RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, DECLARING EXPECTATION TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT, AND AUTHORIZING THE PREPARATION OF THE DOCUMENTS ASSOCIATED WITH THE ISSUANCE, SALE AND DELIVERY OF THE DEBT OBLIGATIONS; AND PROVIDING AN EFFECTIVE DATE.

4. Consider acceptance of grant funds from the U.S. Department of Justice Office of Justice Programs for the FY 2016 Bulletproof Vest Partnership.

RECOMMENDATION: Move to approve grant funds from the U.S. Department of Justice Office of Justice Programs for the FY 2016 Bulletproof Vest Partnership.

RESOLUTION NO. 23-16

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS AUTHORIZING THE ACCEPTANCE OF GRANT FUNDS FROM THE DEPARTMENT OF JUSTICE OFFICE OF JUSTICE PROGRAMS FOR THE FISCAL YEAR 2016 BULLETPROOF VEST PARTNERSHIP PROGRAM; APPROVING THE PURCHASE OF BULLETPROOF VESTS FOR THE TOWN USING AWARDED GRANT FUNDS; PLEDGING THAT THE TOWN OF FLOWER MOUND WILL COMPLY WITH ALL PROGRAM REQUIREMENTS OF THE BULLETPROOF VEST PARTNERSHIP PROGRAM.

5. Consider approval of the purchase of three outdoor warning sirens to add to the Town's existing Outdoor Warning Siren System, in the amount of \$72,750.00 and authorization for the Mayor to execute same on behalf of the Town.

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RECOMMENDATION: Move to approve the purchase of three outdoor warning sirens to add to the Town's existing Outdoor Warning Siren System, in the amount of \$72,750.00 and authorization for the Mayor to execute same on behalf of the Town.

6. Consider approval of the purchase of fifteen Zoll X Series EKG Heart Monitors and two Automatic External Defibrillators, in the amount of \$484,286.01.

RECOMMENDATION: Move to approve the purchase of fifteen Zoll X Series EKG Heart Monitors and two Automatic External Defibrillators, in the amount of \$484,286.01.

7. Consider approval of an Advance Funding Agreement (AFA) with Texas Department of Transportation (TXDOT) for work on FM1171.

RECOMMENDATION: Move to approve an Advance Funding Agreement (AFA) with Texas Department of Transportation (TXDOT) for work on FM1171.

8. Consider approval of Amendment No. 2 to the Fiscal Year 2016-2017 Capital Improvement Program.

RECOMMENDATION: Move to approve Amendment No. 2 to the Fiscal Year 2016-2017 Capital Improvement Program.

9. Consider approval of a Professional Services Agreement with Innovative Transportation Solutions, Inc., to provide professional transportation services in the amount of \$75,000.00 annually, with a one year renewal option; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve a Professional Services Agreement with Innovative Transportation Solutions, Inc., to provide professional transportation services in the amount of \$75,000.00 annually, with a one year renewal option; and authorization for the Mayor to execute same on behalf of the Town.

10. Consider approval of the Professional Services Agreement with Nathan D. Maier Consulting Engineers, Inc., to provide professional engineering services, for the Firewheel Drive project, at an amount not to exceed of \$59,560.00; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve the Professional Services Agreement with Nathan D. Maier Consulting Engineers, Inc., to provide professional engineering services, for the Firewheel Drive project, at an amount not to exceed of \$59,560.00; and authorization for the Mayor to execute same on behalf of the Town.

11. Consider approval of a Professional Services Agreement for the design phase services for the Lake Forest Boulevard Bridge and Water Line project, with CP&Y, Inc., for \$123,510.00; and authorization for the Mayor to execute same on behalf of the Town.

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RECOMMENDATION: Move to approve a Professional Services Agreement for the design phase services for the Lake Forest Boulevard Bridge and Water Line project, with CP&Y, Inc., for \$123,510.00; and authorization for the Mayor to execute same on behalf of the Town.

12. Consider approval of Change Order No. 1 for the Timber Creek Road Paving Improvements project, amending the contract with XIT Paving and Construction, Inc., for an increase to the contract amount of \$17,952.55; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve Change Order No. 1 for the Timber Creek Road Paving Improvements project, amending the contract with XIT Paving and Construction, Inc., for an increase to the contract amount of \$17,952.55; and authorization for the Mayor to execute same on behalf of the Town.

13. Consider approval of an ordinance amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound, Texas, relating to the prima facie speed limits for specific streets by amending a reduced school speed zone for Argyle Independent School District in Canyon Falls.

RECOMMENDATION: Move to approve an ordinance amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound, Texas, relating to the prima facie speed limits for specific streets by amending a reduced school speed zone for Argyle Independent School District in Canyon Falls.

ORDINANCE NO. 58-16

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 66-214, "ENUMERATION FOR SPECIFIC STREETS;" PROVIDING FOR THE MAXIMUM PRIMA FACIE SPEED LIMIT FOR CERTAIN STREETS AND PORTIONS OF CERTAIN STREETS WITHIN THE TOWN AT CERTAIN TIMES; PROVIDING A PENALTY NOT TO EXCEED \$200 FOR VIOLATIONS HEREOF; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

14. Consider approval to purchase materials and installation for the resurfacing of the Community Activity Center's indoor pool and deck area, for the Community Activity Center Improvements project, from DCC, a Buy Board participant; in the amount of \$79,460.91.

RECOMMENDATION: Move to approve purchase materials and installation for the resurfacing of the Community Activity Center's indoor pool and deck area, for the Community Activity Center Improvements project, from DCC, a Buy Board participant; in the amount of \$79,460.91.

15. Consider approval of a Professional Services Agreement for the design phase services of the Lift Station Improvements and Decommissioning Phase I project, with Alan Plummer Associates, Inc., for \$246,000; and authorization for the Mayor to execute same on behalf of the Town.

FLOWER MOUND TOWN COUNCIL MEETING OF NOVEMBER 7, 2016 BOOK 44 PAGE 7

RECOMMENDATION: Move to approve a Professional Services Agreement for the design phase services of the Lift Station Improvements and Decommissioning Phase I project, with Alan Plummer Associates, Inc., for \$246,000; and authorization for the Mayor to execute same on behalf of the Town.

16. Consider acceptance of cash in lieu of land in the amount of \$12,600.00, in place of the otherwise required Park Land dedication and Park Development Fees in the amount of \$6,940.00, for Parkside at Woodlake Phase 2. *(Parks, Arts and Library Services Board recommended approval by a vote of 5 to 0 at its February 24, 2016, meeting.)*

RECOMMENDATION: Move to approve acceptance of cash in lieu of land in the amount of \$12,600.00, in place of the otherwise required Park Land dedication and Park Development Fees in the amount of \$6,940.00, for Parkside at Woodlake Phase 2. *(Parks, Arts and Library Services Board recommended approval by a vote of 5 to 0 at its February 24, 2016, meeting.)*

17. *Item 17 was pulled from Consent and moved to Regular items.*

Councilmember Jason Webb moved to approve by consent Items 1 - 16. Councilmember McDaniel seconded the motion. Each item, as approved by consent, is restated above along with the approved recommendation, and if applicable, the Ordinance or Resolution caption for each, for the record.

VOTE ON MOTION:*Motion passed***AYES: GELBMAN, B WEBB, BRYANT, MCDANIEL, J WEBB****NAYS: NONE****K. REGULAR ITEMS**

17. Consider approval of a Development Agreement for the River Walk at Central Park and authorization for the Mayor to execute same on behalf of the Town.

Mr. Dalton gave a presentation identifying or noting:

- Development agreement background information and associated factors such as the River Walk Ordinance, Town Ordinances, and CLOMR/LOMR as a result of the October 20, 2016 work session
- Current status of the River Walk (CLOMR, Drainage/flood plain improvements complete)
- River Walk Ordinance versus Town Ordinance
- Concept plan and associated impact

Mr. Dalton or Mr. Meredith responded to questions from Council as follows:

- Clarification that the indemnity from the developer protects the Town from any damages

FLOWER MOUND TOWN COUNCIL MEETING OF NOVEMBER 7, 2016 BOOK 44 PAGE 8**Council Discussion**

There was Council discussion regarding appreciation for staff efforts to date in getting to this point.

Councilmember McDaniel moved to approve a Development Agreement for the River Walk at Central Park and authorization for the Mayor to execute same on behalf of the Town, and allowing for the Town Attorney to incorporate any legal language necessary. Deputy Mayor Pro Tem Bryan Webb seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: J. WEBB, MCDANIEL, BRYANT, B. WEBB, GELBMAN****NAYS: NONE**

18. Public Hearing to consider an application for a tree removal permit for two (2) specimen trees on property proposed for development as The Preserve at Flower Mound. The property is generally located on the northwest corner of Chaparral Lane and Long Prairie Road. *(The Environmental Conservation Commission recommended approval by a vote of 6-0-0 at its October 4, 2016 meeting).*

Staff Presentation

Mr. Hoefert gave a presentation identifying or noting:

- Map of location for the tree removal request
- Project information related to the subdivision
- Plot plan (tree 1 and tree 2 being requested to be removed)
- Initial tree survey
- Other trees that will be preserved
- Photos of the two trees in question

Mayor Pro Tem Bryant opened the Public Hearing at 7:25 p.m.

The following individuals either spoke in support or opposition, or had questions / comments related to the item:

Support: Comments/Questions	Opposition: Comments/Questions	Question(s)/Comments Only
Jack Stanley, Applicant (Toll Brothers) (no address provided)	None.	None.

Mayor Pro Tem Bryant closed the Public Hearing at 7:27 p.m.

Deputy Mayor Pro Tem Bryan Webb moved to approve the requested permit for the removal of two (2) specimen trees on property proposed for development as The Preserve at Flower Mound. The property is generally located on the northwest corner of Chaparral Lane and Long Prairie Road. Councilmember McDaniel seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: GELBMAN, B WEBB, BRYANT, MCDANIEL, J WEBB****NAYS: NONE**

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19. Consider approval of the award of Bid No. 2016-77 to Tiseo Paving Company, for the 2015 Street Reconstruction, McKamy Creek Road Reconstruction and McKamy Creek Right Turn Lane projects, in the amount of \$1,453,874.98; and authorization for the Mayor to execute same on behalf of the Town.

Staff Presentation

Mr. Parr gave a presentation identifying or noting:

- Clarification relative to what the project includes and next steps if approved

Mr. Parr responded to questions from Council regarding:

- Project timing
- Will the grading on the road be changed due to the slope
- Traffic management as it relates to lane changes during peak periods

Deputy Mayor Pro Tem Bryan Webb moved to approve award Bid No. 2016-77 to Tiseo Paving Company, for the 2015 Street Reconstruction, McKamy Creek Road Reconstruction and McKamy Creek Right Turn Lane projects, in the amount of \$1,453,874.98; and authorize the Mayor to execute same on behalf of the Town. Councilmember McDaniel seconded the motion.

VOTE ON MOTION:

Motion passed

AYES: J WEBB, MCDANIEL, BRYANT, B WEBB, GELBMAN

NAYS: NONE

L. BOARDS/COMMISSIONS (Executive Conference Room)

Discuss and consider resignations, appointments, or evaluations for the following boards or commissions: Animal Services Board, Cultural Arts Committee, Environmental Conservation Commission, **Parks, Arts and Library Services Board**, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number One (TIRZ #1), and Transportation Commission.

No action taken.

M./N. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 7:35 p.m. on Monday, November 7, 2016, pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.074, 551.087, 551.072, and 551.071 to discuss matters relating to personnel, economic development negotiations, real property, and consultation with attorney,, and reconvened into an open meeting at 9:27 p.m. on November 7, 2016, to take action on the items as follows:

- Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, Community Development Corporation, Planning and Zoning Commission.

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No action taken.

- b. Conduct interviews for the position of Municipal Court Judge, including appointment deliberation.

No action taken.

- c. Discuss and consider economic development incentives, including retail centers, corporate relocation/expansion/retention, hospitality projects, and performance related to certain incentive agreements.

No action taken.

- d. Discuss and consider purchase, exchange, lease or value of real property for parks, public rights of way, and/or other municipal purposes and all matters incident and related thereto.

1. Prospect Park, Ltd. Property Acquisition

Deputy Mayor Pro Tem Bryan Webb moved to authorize staff to purchase the property referred to as Prospect Park, Ltd. for a purchase price of \$1,060,000.00 plus closing costs; authorize the Town Manager, or his designee, to close on the property and to pay all costs associated with said closing in addition to the purchase price of the property, and to execute all necessary documents at closing on behalf of the Town. Councilmember McDaniel seconded the motion.

Deputy Mayor Pro Tem Webb clarified that the property is adjacent to the library and Flower Mound High School, and noted it will be a tremendous addition to the Town given its central location.

VOTE ON MOTION:

Motion passed

AYES: J WEBB, MCDANIEL, BRYANT, B WEBB, GELBMAN

NAYS: NONE

O. ADJOURN REGULAR MEETING

Mayor Pro Tem Bryant adjourned the meeting at 9:30 p.m. on Monday, November 7, 2016, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

THOMAS E. HAYDEN, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY



TOWN COUNCIL AGENDA ITEM NO. 2

CONSENT ITEM

DATE: November 21, 2016

FROM: Lynda B. Bolitho, Director of Human Resources

ITEM: Consider approval of the award of RFP No. 2017-3 for Employee Basic Life Insurance, Employee Long Term Disability Insurance, Employee and Dependent Optional Life Insurance, and Employee & Dependent Optional Accidental Death and Dismemberment Insurance to CIGNA Group Insurance, in the estimated annual amount of \$89,773 totaling \$269,319 for the initial three-year contract term; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: A request for proposal was released in October 2016. Three proposals were received for Plan Year 2017. A summary of the proposals is attached as compared to the current coverage with Cigna Group Life Insurance.

The Human Resources Division recommends award of the request for proposal to Cigna Group Life Insurance in the amount of \$89,773 for Calendar Year 2017. There is no renewal increase from Calendar Year 2016. The initial term of the contract will be three years with two optional one-year renewal periods.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$89,773

Proposed Expenditure:	Account Number(s):
\$89,773	840-710-17600-8510

Finance Review by: Debra Wallace, Deputy Town Manager/CFO

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Combined Evaluation Matrix
2. Proposal Summary
3. Cigna Group Life Insurance Renewal Letter

RECOMMENDATION: Move to approve the award of RFP No. 2017-3 for Employee Basic Life Insurance, Employee Long Term Disability Insurance, Employee and Dependent Optional Life Insurance, and Employee & Dependent Optional Accidental Death and Dismemberment Insurance to CIGNA Group Insurance, in the estimated annual amount of \$89,773 totaling \$269,319 for the initial three-year contract term; and authorization for the Mayor to execute same on behalf of the Town.

**RFP NO. 2017-3 - COMBINED
LIFE/LTD, OPTIONAL LIFE LTD**

EVALUATION MATRIX		POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE
Evaluation Criteria	Weighting	CIGNA		MINNESOTA LIFE		LINCOLN FINANCIAL	
Scope of Services	25%	98	24.50	94	23.50	95	23.75
Customer Service/On-going Support Plan & Reporting	25%	95	23.75	89	22.17	94	23.42
Implementation	15%	100	15.00	86	12.85	91	13.60
Price & Network Discounts	15%	96	14.40	90	13.50	92	13.75
References/Experience & Multi-Year Rate	20%	92	18.47	92	18.40	94	18.73
TOTAL	100%		96.12		90.42		93.25

Town of Flower Mound
Summary of Employer Paid Life and LTD Costs
Effective Date: 1/1/2017

	CURRENT	RENEWAL		
Benefits	CIGNA	CIGNA	Lincoln	Minnesota Life
Basic Life and AD&D	\$45,086.397	\$45,086.397	\$55,694.961	\$47,738.538
% Difference Over Current	-	0.00%	23.53%	5.88%
LTD	\$44,686.872	\$44,686.872	\$44,686.872	\$59,768.691
	-	0.00%	0.00%	33.75%
Combined Total	\$89,773.27	\$89,773.27	\$100,381.83	\$107,507.23
% Difference Over Current	-	0.00%	11.82%	19.75%



Town of Flower Mound
Employer Paid Life Marketing Analysis
Effective Date: 1/1/2017

CURRENT RENEWAL

Benefits	CIGNA	CIGNA	Lincoln	Minnesota Life
Employee Life Amount	2 x BAE	2 x BAE	2 x BAE	2 x BAE
Employee AD&D Amount	2 x BAE	2 x BAE	2 x BAE	2 x BAE
Guarantee Issue Amount	\$100,000	\$100,000	\$100,000	\$100,000
Maximum Amount	\$100,000	\$100,000	\$100,000	\$100,000
Conversion Privilege	Included	Included	Included	Included
Accelerated Benefit	12 Months Expectancy 80% to \$500,000	12 Months Expectancy 80% to \$500,000	12 Months Expectancy 75% to \$250,000	24 Months Expectancy 100% of face amount
Waiver of Premium	9 Months Elimination To SSNRA	9 Months Elimination To SSNRA	9 Months Elimination To SSNRA	9 Months Elimination To SSNRA
Age Reduction Formula	65% at age 65 50% at age 70	65% at age 65 50% at age 70	65% at age 65 50% at age 70	65% at age 65 50% at age 70
Rate Guarantee	2 Years	3 Years	2 Years	3 Years
Covered Volume	\$44,202,350	\$44,202,350	\$44,202,350	\$44,202,350
Life Rates (Per \$1,000)	\$0.06	\$0.06	\$0.08	\$0.07
AD&D Rate (Per \$1,000)	\$0.025	\$0.025	\$0.025	\$0.020
Monthly Total	\$3,757.20	\$3,757.20	\$4,641.25	\$3,978.21
Annual Total	\$45,086.40	\$45,086.40	\$55,694.96	\$47,738.54
% Difference Over Current	--	0.00%	23.53%	5.88%



Town of Flower Mound
Employer Paid LTD Marketing Analysis
Effective Date: 1/1/2017

	CURRENT	RENEWAL		
Benefits	CIGNA	CIGNA	Lincoln	Minnesota Life
Benefit Percentage	60%	60%	60%	60%
Maximum Monthly Benefit	\$5,000	\$5,000	\$5,000	\$5,000
Elimination Period	120 Days	120 Days	120 Days	120 Days
Own Occupation Period	24 Months Own Occupation	24 Months Own Occupation	24 Months Own Occupation	24 Months Own Occupation
Definition of Disability	Loss of Duties & Earnings	Loss of Duties & Earnings	Loss of Duties or Earnings	Loss of Duties & Earnings
Survivor Benefit	3 Months	3 Months	3 Months	3 Months
Mental Illness	24 Months	24 Months	24 Months	24 Months
Substance Abuse	24 Months	24 Months	24 Months	24 Months
Self Reported Symptoms	None	None	None	24 Months
Pre-existing Conditions	3/12	3/12	3/12	3/12
Duration	To SSNRA	To SSNRA	To SSNRA	To SSNRA
Return to Work Benefit	24 Months	24 Months	SSNRA	24 Months
FICA Match	Included	Included	Included	Included
Rate Guarantee	2 Years	3 Years	2 Years	3 Years
Covered Volume	\$2,327,441	\$2,327,441	\$2,327,441	\$2,327,441
LTD Rates (Per \$100 payroll)	\$0.16	\$0.16	\$0.16	\$0.214
Monthly Total	\$3,723.91	\$3,723.91	\$3,723.91	\$4,980.72
Annual	\$44,686.87	\$44,686.87	\$44,686.87	\$59,768.69
% Difference Over Current	--	0.00%	0.00%	33.75%



Town of Flower Mound

Supplemental Life Marketing Analysis: Employee

Effective Date: 1/1/2017

	CURRENT	RENEWAL		
Benefits	CIGNA	CIGNA	Lincoln	Minnesota Life
Employee Benefit	\$10,000 Increments	\$10,000 Increments	\$10,000 Increments	\$10,000 Increments
Employee Voluntary AD&D	Same as Life	Same as Life	Same as Life	Same as Life
Maximum Benefit	Lesser of 5 x BAE or \$500,000	Lesser of 5 x BAE or \$500,000	Lesser of 5 x BAE or \$500,000 (\$50K for > age 70)	\$500,000
Guarantee Issue Amount	\$200,000	\$200,000	\$200,000	\$250,000
Conversion	Included	Included	Included	Included
Portability	Included	Included	Included	Included
Accelerated Death Benefit	12 Months Expectancy 80% to \$250,000	12 Months Expectancy 80% to \$250,000	12 Months Expectancy 75% to \$250,000	24 Months Expectancy 100%
Waiver of Premium	9 Months Elimination To age 65	9 Months Elimination To age 65	9 Months Elimination To age 65	9 Months Elimination To age 65
Participation Requirement	-	-	25%	None
Age Reduction Formula	65% at age 65 50% at age 70	65% at age 65 50% at age 70	65% at age 65 50% at age 70	65% at age 65 50% at age 70
Rate Guarantee	2 Years	3 Years	2 Years	3 Years
Voluntary EE Life Rates (Per \$1,000)				
<20	\$0.086	\$0.086	\$0.116	\$0.086
20-25	\$0.086	\$0.086	\$0.116	\$0.086
25-29	\$0.086	\$0.086	\$0.116	\$0.086
30-34	\$0.093	\$0.093	\$0.123	\$0.093
35-39	\$0.121	\$0.121	\$0.151	\$0.123
40-44	\$0.175	\$0.175	\$0.205	\$0.175
45-49	\$0.259	\$0.259	\$0.289	\$0.259
50-54	\$0.423	\$0.423	\$0.453	\$0.423
55-59	\$0.717	\$0.717	\$0.747	\$0.717
60-64	\$1.108	\$1.108	\$1.138	\$1.108
65-69	\$1.871	\$1.871	\$1.901	\$1.871
70-74	\$3.118	\$3.118	\$3.148	\$3.118
75+	\$4.790	\$4.790	\$4.820	\$4.790
Voluntary EE AD&D Rate (Per \$1,000)	\$0.031	\$0.031	\$0.030	\$0.030



Town of Flower Mound

Supplemental Life Marketing Analysis: Dependent

Effective Date: 1/1/2017

	CURRENT	RENEWAL		
Benefits	CIGNA	CIGNA	Lincoln	Minnesota Life
Spouse Benefit	\$5,000 Increments	\$5,000 Increments	\$5,000 Increments	\$5,000 Increments
Spouse Maximum	50% of EE amount or \$250,000	50% of EE amount or \$250,000	\$250,000	100% of EE amount or \$250,000
Spouse Guarantee Issue	\$20,000	\$20,000	\$20,000	\$50,000
Child Benefit	\$2,000 Increments	\$2,000 Increments	Age 6 months to 25yrs- \$10,000 Age 14 days to 6 months- \$250	\$10,000 or \$15,000
Child Maximum	\$10,000 (\$500 for < 6 months)	\$10,000 (\$500 for < 6 months)	\$10,000	\$15,000
Child Guaranteed Issue	\$10,000	\$10,000	\$10,000	\$15,000
Age Reduction Formula	65% at age 65 50% at age 70	65% at age 65 50% at age 70	65% at age 65 50% at age 70	None
Rate Guarantee	2 Years	3 Years	2 Years	3 Years
Voluntary Spouse Life Rates (Per \$1,000)				
<20	\$0.086	\$0.086	\$0.116	\$0.086
20-24	\$0.086	\$0.086	\$0.116	\$0.086
25-29	\$0.086	\$0.086	\$0.116	\$0.086
30-34	\$0.093	\$0.093	\$0.123	\$0.093
35-39	\$0.121	\$0.121	\$0.151	\$0.123
40-44	\$0.175	\$0.175	\$0.205	\$0.175
45-49	\$0.259	\$0.259	\$0.289	\$0.259
50-54	\$0.423	\$0.423	\$0.453	\$0.423
55-59	\$0.717	\$0.717	\$0.747	\$0.717
60-64	\$1.108	\$1.108	\$1.138	\$1.108
65-69	\$1.871	\$1.871	\$1.901	\$1.871
70-74	\$3.118	\$3.118	\$3.148	\$3.118
75+	\$4.790	\$4.790	\$4.820	\$4.790
Child Rate	\$0.076 per \$1,000	\$0.076 per \$1,000	\$2.00 per Month	\$0.076 per \$1,000



Quinton Moore
Regional Account Manager

Brant Brinlee
McGriff, Seibels and Williams of Texas, Inc.

RE: Town of Flower Mound - January 1, 2017



25600 North Norterra Drive
Phoenix, AZ 85085
Telephone: 623.277.1450
Email: Quinton.Moore@cigna.com

Dear Brant,

Thank you for allowing Cigna Group Insurance to provide the Life, Accident, and Disability benefits for the employees of Town of Flower Mound. We appreciate the opportunity to serve you both and assist in meeting your employee benefits needs.

Below are Town of Flower Mound's rates effective January 1, 2017: In addition, CIGNA agrees to provide two, one year renewal options after 2020.

Plan	Policy	Current Rate	Rate Basis	Rates Effective 1/1/2017	Rate Guarantee
Voluntary LTD	LK963104	\$0.16	Per \$100 Covered Payroll	\$0.16	36 Months
Basic Life	FLX964408	\$0.06	Per \$1,000	\$0.06	36 Months
Employee & Spouse Voluntary Life	FLX964408	Age Banded*	Per \$1,000	Age Banded*	36 Months
Dependent Child Voluntary Life	FLX964408	\$0.076	Per \$1,000	\$0.076	36 Months
Basic Accident	OK966003	\$0.025	Per \$1,000	\$0.025	36 Months
Voluntary Accident	OK966003	Employee Rate: \$0.03	Per \$1,000	Employee Rate: \$0.03	36 Months

*Age Banded Rates can be found below

"Cigna" is a registered service mark, and, the "Tree of Life" logo is a service mark, of Cigna Intellectual Property, Inc., licensed for use by Cigna Corporation and its operating subsidiaries. All products and services are provided exclusively by such operating subsidiaries and not by Cigna Corporation. Such operating subsidiaries include Connecticut General Life Insurance Company (CGLIC), Cigna Health and Life Insurance Company (CHLIC), and HMO or service company subsidiaries of Cigna Health Corporation and Cigna Dental Health, Inc.

Employee Voluntary Life Insurance

Monthly Rates are based on units of \$1,000

Under Age 20	\$.086	Age 60 - 64	\$1.108
Age 20 - 24	\$.086	Age 65 - 69	\$1.871
Age 25 - 29	\$.086	Age 70 - 74	\$3.118
Age 30 - 34	\$.093	Age 75 - 79	\$4.79
Age 35 - 39	\$.121	Age 80 - 84	\$4.79
Age 40 - 44	\$.175	Age 85 - 89	\$4.79
Age 45 - 49	\$.259	Age 90 - 94	\$4.79
Age 50 - 54	\$.423	Age 95 and over	\$4.79
Age 55 - 59	\$.717		

Spouse Voluntary Life Insurance

Monthly Rates are based on units of \$1,000.

Under Age 20	\$.086	Age 60 - 64	\$1.108
Age 20 - 24	\$.086	Age 65 - 69	\$1.871
Age 25 - 29	\$.086	Age 70 - 74	\$3.118
Age 30 - 34	\$.093	Age 75 - 79	\$4.79
Age 35 - 39	\$.121	Age 80 - 84	\$4.79
Age 40 - 44	\$.175	Age 85 - 89	\$4.79
Age 45 - 49	\$.259	Age 90 - 94	\$4.79
Age 50 - 54	\$.423	Age 95 and over	\$4.79
Age 55 - 59	\$.717		

Cigna reserves the right to change premium rates if any of the following occurs:

- The policy terms change
- A division, subsidiary, eligible company, or class is added/deleted
- There is a change of more than 10% in the number of employees

Cigna is pleased to offer you pre-disability vocational services as standard feature along with your long-term disability policy. Pre-disability vocational services is a voluntary service feature of Cigna's Healthy Working Life™ program of vocational services to assist insured, actively at work employees with a serious medical condition to remain productive and at work, while also helping them manage limitations that may be associated with their condition.

There is no cost to the policyholder for this enhancement which provides for approved stay-at-work expenses of up to \$1,000 per employee per diagnostic event. A Schedule of Services delineating the details for this offering accompanies this letter, and if you currently are not receiving these services, here is the link to the client orientation website for this program www.cigna.com/predisability where you will also obtain all the information, tools and forms you need to use the service and make referrals.

Should you have any questions, please do not hesitate to call me.

Thank you,

Quinton Moore
Regional Account Manager



TOWN COUNCIL AGENDA ITEM NO. 3

CONSENT ITEM

DATE: November 21, 2016

FROM: Lynda B. Bolitho, Director of Human Resources

ITEM: Consider approval of the award of RFP No. 2017-2 for Administrative Services Only (ASO) for Medical, Dental, Vision, Preferred Provider Organization (PPO) Network Services, and Pharmacy Network Services to Blue Cross Blue Shield of Texas in the estimated annual amount of \$234,865 totaling \$704,595 for the initial three-year contract term; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: A request for proposal was released in October 2016. Six proposals were received for Plan Year 2017. A summary of the proposals is attached as compared to the current coverage with Blue Cross Blue Shield of Texas.

The Human Resources Division recommends award of the request for proposal to Blue Cross Blue Shield of Texas in the amount of \$234,865 for Plan Year 2017. This negotiated renewal includes a \$10,000 wellness fund for each year of the three-year contract.

By continuing to partner with Blue Cross and Blue Shield of Texas, Town employees are able to continue to utilize the Blue Cross and Blue Shield provider network. This renewal results in a \$53,616 savings to the Town of Flower Mound. The initial term of the contract will be three years with two optional one-year renewal periods. Blue Cross Blue Shield of Texas will provide a Benefit Program Application which will require the Mayor's signature at a future date.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$234,865

Proposed Expenditure:	Account Number(s):
\$234,865	840-710-17600-8510

Finance Review by: Debra Wallace, Deputy Town Manager/CFO

DW

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Combined Evaluation Matrix
2. Marketing Analysis

RECOMMENDATION: Move to approve the award of RFP No. 2017-2 for Administrative Services Only (ASO) for Medical, Dental, Vision, Preferred Provider Organization (PPO) Network Services, and Pharmacy Network Services to Blue Cross Blue Shield of Texas in the estimated annual amount of \$234,865 totaling \$704,595 for the initial three-year contract term; and authorization for the Mayor to execute same on behalf of the Town.

RFP NO. 2017-2 - COMBINED

ADMINISTRATIVE SERVICES ONLY FOR MEDICAL, Rx, DENTAL, AND VISION BENEFITS

EVALUATION MATRIX		POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE
Evaluation Criteria	Weighting	Blue Cross Blue Shield of Texas		Aetna		CIGNA Healthcare		United Healthcare		TML		Eye Med (Vision Only)	
Scope of Services	25%	95	23.67	91	22.75	92	23.08	91	22.67	86	21.50	50	12.50
Provider Disruption and Reporting	15%	99	14.80	93	14.00	92	13.85	94	14.15	92	13.75	90	13.50
Implementation	15%	96	14.45	90	13.50	94	14.10	95	14.20	92	13.85	92	13.75
Price & Network Discounts	15%	98	14.70	90	13.55	89	13.40	96	14.40	87	13.00	92	13.75
Customer Service/On-going Support Plan	20%	93	18.67	90	17.93	93	18.67	94	18.87	92	18.47	88	17.53
References/Experience & Multi-Year Rate	10%	95	9.50	93	9.33	95	9.53	95	9.53	89	8.93	92	9.17
TOTAL	100%		95.78		91.07		92.63		93.82		89.50		80.20

Town of Flower Mound ASO Marketing Analysis Effective Date: 1/1/2017

Third Party Administrator Network		BCBSTX - Current Blue Choice PPO	BCBSTX - Renewal Blue Choice PPO	BCBSTX - Negotiated Renewal Blue Choice PPO	Aetna CPOS II	CIGNA Open Access Plus
Set Up Fee		Included	Included	Included	Included	Included
Renewal Fee (1/1/17)		Included	Included	Included	Included	Included
Administration Fees						
Medical Administration Fee PEPM - EEs = 506	506	\$43.37	\$43.37	\$34.84	\$23.44 Choice POS II \$27.64 HSA	\$38.65
Rx Administration (Dispensing Fees below)		Included	Included	Included	Included	Included
Network Access Fee		Included	Included	Included	Included	Included
Dental Claims Administration Fee		\$4.14	\$4.14	\$3.84	\$3.79	Included
Vision Claims Administration Fee		Included	Included	Included	Included	Included
Condition Management/ Case Management		Included	Included	Included	\$4.20	Included
Large Case Management Fee		Included	Included	Included	Included	Included
Total Admin Fees PEPM		\$47.51	\$47.51	\$38.68	\$31.43 POS II; \$35.63 H S A	\$38.65
Rate Guarantee		N/A	1 Year	2nd/3rd Year = +5% Rate Caps	2nd Year = 0%, 3rd = +5%	3 Years
Total Monthly Admin Fee		\$24,040	\$24,040	\$19,572	\$15,805	\$19,557
Annual Admin Fee		\$288,481	\$288,481	\$234,865	\$189,660	\$234,683
% Increase		-	0.0%	-18.6%	-34.3%	-18.6%
\$ Increase		-	\$0	-\$53,616	-\$98,820	-\$53,798
2017 Projected Medical + Rx Claims		\$7,300,000	\$7,300,000	\$7,300,000	\$7,545,000	\$7,447,000
Total Annual Fees + Projected Med/Rx Claims		\$7,588,481	\$7,588,481	\$7,534,865	\$7,734,660	\$7,681,683
% Increase		-	\$0	\$0	\$0	\$0
\$ Increase		-	\$0	-\$53,616	\$146,180	\$93,202
Additional						
24 Hour Nurse Line		Included	Included	Included	Included	Included
Rx Dispensing Fees		Included	Included	Included	\$1.30 for Retail years 1-3 and \$0.00 for Mail Order years 1-3	\$1.40 per prescription
COBRA/HIPAA PEPM		\$10 Per Participant	\$10 Per Participant	\$10 Per Participant	Not given- can provide a full COBRA quote on a PEPM basis upon request	N/A
Miscellaneous Printing Costs		Included	Included	Included	\$5,000 implementation/communication allowance to cover printing costs included in fee	Included
Miscellaneous				\$10,000 Wellness Fund for 2017-2018-2019	Beginning Right Maternity Program = \$.65 pepm Health Management Disease Reporting = \$4.20 \$.50 pepm credit if dental/life/disability sold	\$50,000 for a wellness fund. \$25,000 for transition/implementation fund. 50% pharmacy rebate sharing which equates to \$17 per employee per month. Included a 2 month fee holiday worth roughly \$40,000.



Town of Flower Mound ASO Marketing Analysis Effective Date: 1/1/2017

Third Party Administrator Network		BCBSTX - Current Blue Choice PPO	BCBSTX - Renewal Blue Choice PPO	TML UHC Options PPO	United Healthcare Choice Plus	EyeMed Vision Only
Set Up Fee		Included	Included	\$50	Included	N/A
Renewal Fee (1/1/17)		Included	Included	Included	Included	N/A
Administration Fees						
Medical Administration Fee PEPM - EEs = 506	506	\$43.37	\$43.37	\$13.25	\$33.49 POS (Medical/RX Only) \$35.08 HSA (Medical/RX Only)	N/A- Vision Only
Rx Administration (Dispensing Fees below)		Included	Included	\$1.50 per claim	Included	N/A- Vision Only
Network Access Fee		Included	Included	\$14.20	Included	\$0.80
Dental Claims Administration Fee		\$4.14	\$4.14	\$1.15	\$4.44	N/A- Vision Only
Vision Claims Administration Fee		Included	Included	Included	\$1.25	Included
Condition Management/ Case Management		Included	Included	\$4.00	Included	N/A- Vision Only
Large Case Management Fee		Included	Included	Included	Included	N/A- Vision Only
Total Admin Fees PEPM		\$47.51	\$47.51	\$32.60	\$39.18 POS; \$40.77 H S A	\$0.80
Rate Guarantee		N/A	1 Year	2 Years	3 Years	4 Years
Total Monthly Admin Fee		\$24,040	\$24,040	\$16,496	\$19,662	\$405
Annual Admin Fee		\$288,481	\$288,481	\$197,947	\$235,944	\$4,858
% Increase		-	0.0%	-31.4%	-18.2%	N/A- Vision Only
\$ Increase		-	\$0	-\$90,534	-\$52,537	N/A- Vision Only
2017 Projected Medical + Rx Claims		\$7,300,000	\$7,300,000	\$7,545,000	\$7,300,000	
Total Annual Fees + Projected Med/Rx Claims		\$7,588,481	\$7,588,481	\$7,742,947	\$7,535,944	
% Increase		-	\$0	\$0	\$0	
\$ Increase		-	\$0	\$154,466	-\$52,537	
Additional						
24 Hour Nurse Line		Included	Included	\$40 per call	Included	N/A
Rx Dispensing Fees		Included	Included	Retail (34 day supply): \$0.90 Retail (35-90): \$0.50 Mail Order: \$0	\$1.19 per prescription	N/A
COBRA/HIPAA PEPM		\$10 Per Participant	\$10 Per Participant	\$0.50 Per Participant	\$0.55	N/A
Miscellaneous Printing Costs		Included	Included	Included every 2 yrs for # of Ees + 10%	Included	N/A
Miscellaneous				ID card printing and postage will be passed on to the group at cost annually: - One card avg cost is \$0.99; Two card avg cost is \$1.08 plus - Employer has option to have cards shipped in bulk or mailed to Ees directly	KA PHS with DM 2.0 Not included Care 24 Not Included (24 hour health/wealth/stress counseling)	Quoted Plan: \$0.00 Exam Copay \$25.00 Materials Copay Exam/Lenses/Frame Plans: A - 12/24/24 B - 12/12/24 C - 12/12/12





TOWN COUNCIL AGENDA ITEM NO. 4

CONSENT ITEM

DATE: November 21, 2016

FROM: Jaime Jaco-Cooper, Senior Center Manager – Reviewed by Gary Sims

ITEM: Consider approval of the consumption of alcoholic beverages at the Flower Mound Senior Center during the SIM Auxiliary's Elite Chef Competition fundraiser.

BACKGROUND INFORMATION: Mary Kay Walker with the SIM Auxiliary, Inc. is requesting approval from the Town Council to serve wine at their Elite Chef Competition fundraiser on Thursday, January 12, 2017, from 6:00 – 8:00 p.m. at the Flower Mound Senior Center.

The SIM Auxiliary (SIMA) was formed in 2009 as a 501(c)3 to support Flower Mound seniors and the Town's Seniors In Motion Program. SIMA has raised and contributed over \$100,000, which has been used to purchase equipment and furniture for the Town's senior program.

The Elite Chef Competition is an exciting event for SIM members and is also open to the general public. For this event, SIMA partners with four local businesses who each donate a chef and tasting-servings for 200 people. During the event, four chefs will do cooking demonstrations and prepare small plates for each guest to sample. Guests will get to sample each dish while the chefs are performing their demonstrations. Each guest will vote for their favorite dish, and the winning chef will receive the Elite Chef Trophy. Guests will purchase a ticket for \$20 which will include appetizers, wine, and beverages. SIMA previously held this event at the Flower Mound Senior Center in July 2015. The previous Elite Chef Competition fundraiser brought in \$2,400 for the Flower Mound Seniors In Motion Program.

During the fundraiser, a TABC licensed server will be onsite to serve wine, as well as monitor participant consumption to ensure that no one is overserved. There will be enough wine for two servings per person registered for the event. SIMA will take on the risk and liability of providing the alcohol at the event. The Town will be named as an additional insured on their liability insurance. No one under 21 will be admitted access to the event.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: The Town Council can deny the request and the SIM Auxiliary can work with Town staff to host their event without offering alcoholic beverages.

FISCAL IMPACT: N/A

LEGAL REVIEW: The sale of beer or wine on Town property requires Town Council's approval.

ATTACHMENT:

1. SIMA Elite Chef Flyer

RECOMMENDATION: Move to approve the consumption of alcoholic beverages at the Flower Mound Senior Center during the SIM Auxiliary's Elite Chef Competition fundraiser.

ELITE CHIEF COMPETITION

January 12, 2017

6 p.m. \$20 per person

**Featuring chefs from
Autumn Leaves Assisted Living
Hollymead by Cantex Continuing Care
Pinewood Hills Independent Living
Texas Health Presbyterian of Flower Mound**



**FLOWER MOUND SENIOR CENTER
2701 West Windsor Dr.
972.874.6110**



TOWN COUNCIL AGENDA ITEM NO. 5

CONSENT ITEM

DATE: November 21, 2016

FROM: Kari Biddix, Park Development Manager

ITEM: Consider approval of an Interlocal Agreement with Lewisville Independent School District for Construction and Maintenance of Hike and Bike Trail on School Property behind Forest Vista Elementary School; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: On October 17, 2016, Lewisville Independent School District (LISD) approved and executed a Public Access Easement (Attachment 1) to the Town across the school property for a portion of trail to be connected. This section of trail currently utilizes a portion of the fire lane at the school as part of the trail. Per the request of LISD, the Town has agreed to construct this portion of trail so that the fire lane does not have to be utilized in order to travel the trail which connects the existing neighborhoods to the east and west of the school. The request with this item is for execution of the construction and maintenance agreement with LISD that will allow us to construct and maintain the trail within the provided easement.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: Tim G. Sralla, of TOASE, L.L.P., reviewed the Public Access Easement and Interlocal Agreement for Construction and Maintenance of Hike and Bike Trail on School Property as to form and legality.

ATTACHMENTS:

1. Interlocal Agreement for Construction and Maintenance of Hike and Bike Trail on School Property

RECOMMENDATION:

Move to approve an Interlocal Agreement with Lewisville Independent School District for Construction and Maintenance of Hike and Bike Trail on School Property behind Forest Vista Elementary School; and authorize the Mayor to execute same on behalf of the Town.

**INTERLOCAL AGREEMENT FOR CONSTRUCTION AND MAINTENANCE OF
HIKE AND BIKE TRAIL ON SCHOOL PROPERTY**

STATE OF TEXAS §
 §
COUNTY OF DENTON §

This Agreement is entered into by and between the TOWN OF FLOWER MOUND, TEXAS (“the Town”), a home rule municipality located in Denton County, Texas, operating herein by and through its duly authorized Mayor, the Honorable Thomas E. Hayden, and the LEWISVILLE INDEPENDENT SCHOOL DISTRICT (“LISD”), an independent school district located in Denton County, Texas, operating herein by and through its duly authorized President of the Board of Trustees, Trisha Sheffield (collectively referred to as “the Parties”).

I. RECITALS

Whereas, the Town is a municipal corporation located in Denton and Tarrant County, Texas, created and organized under the laws of the State of Texas; and is authorized to enter into agreements with other units of local government with respect to the provision of governmental functions and services by the Interlocal Cooperation Act, codified as Texas Government Code Chapter 791; and

Whereas, LISD is an independent school district located in Denton County, Texas, created and organized under the laws of the State of Texas; and

Whereas, both the Town and LISD are authorized to enter into agreements with other units of local government with respect to the provision of governmental functions and services by the Interlocal Cooperation Act, codified as Texas Government Code Chapter 791; and

Whereas, the Town wishes to build and connect two ends of Town’s hike and bike trail (the Purple Coneflower Trail) existing behind LISD’s Forest Vista Elementary School in order to bypass a portion of the fire lane currently being used as part of the trail; and

Whereas, LISD wishes to accommodate the Town’s wishes and allow the construction of such a trail across its property, and to provide an easement to the Town for such purposes, in return for certain consideration described herein.

II. TERMS OF AGREEMENT

Now, therefore, for the purposes and consideration expressed herein, the Parties agree as follows:

A. Grant of Access Easement

Subject to the terms and conditions set forth in this Agreement, LISD agrees to grant and convey to the Town a non-exclusive public access easement (“the Easement Property”), by

execution of the Easement document which is attached hereto as Exhibit 1, over, under, through, across, and along certain real property which is described in said Exhibit 1, for the purpose of constructing, operating, maintaining, repairing, and enlarging a hike and bike trail and related improvements, as shown in Exhibit A to Exhibit 1 ("the Allowed Improvements"). The easement shall not be used for any other purposes than as set out herein.

B. Consideration

The consideration for the grant of the easement described above and herein is Ten Dollars (\$10.00), the receipt of which is hereby acknowledged, and other good and valuable consideration, including but not limited to the benefits to be derived by LISD for and to LISD's remaining property as a result of projected public improvements to be constructed and to conform to the requirements of the Land Development Regulations of the Town, and the covenants and agreements of the Town agreed to herein.

C. Agreements and Covenants of the Town

1. At the Town's sole cost and expense, the Town shall design, construct and maintain the Allowed Improvements shown in Exhibit 1, attached hereto and incorporated herein for all purposes. The Town shall be responsible for the cost of all design, construction, operation, repair, maintenance, and enlargement of the Allowed Improvements on the Easement Property. Town shall pay any and all costs associated with the Allowed Improvements, including but not limited to, labor, materials, repair, parts and replacement as needed or required and any retaining wall or curb needed to prevent erosion from covering the trail when it rains. Town further agrees to comply with all ordinances, zoning, laws and regulations, now existing or hereafter enacted, at the Town's sole cost and expense, including any Town ordinances, other laws or regulations, or any requirements imposed by any court of law regarding the Allowed Improvements and the Easement Property. At no time shall LISD be required to install or pay for the installation of any fencing or wall surrounding or adjacent to the Allowed Improvements or Easement Property. Prior to any construction or work on the Easement Property, the Town shall obtain written consent from LISD of any plans for construction, additions or improvements. The provisions of this Section shall survive the termination of this Agreement or the abandonment of the easement.

2. The Town shall keep the Easement Property free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of the Town. The Town shall cause any such lien imposed on the Easement Property to be released of record by payment or posting of a proper bond within ten (10) days after written request by LISD.

3. TO THE EXTENT PERMITTED BY LAW, THE TOWN SHALL INDEMNIFY, PROTECT, DEFEND, AND HOLD HARMLESS LEWISVILLE INDEPENDENT SCHOOL DISTRICT, AND ITS BOARD OF TRUSTEES, OFFICERS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, LOSSES, SUITS, LIABILITIES, JUDGMENTS, COSTS, DAMAGES, AND EXPENSES OF ANY KIND, INCLUDING ATTORNEY'S FEES, ARISING OUT OF OR IN ANY WAY

RELATED TO THE EASEMENT PROPERTY, INCLUDING BUT NOT LIMITED TO ANY CLAIMS FILED BY ANY MEMBERS OF THE PUBLIC. ALL COSTS AND EXPENSES SO INCURRED BY ANY OF THE INDEMNIFIED PARTIES IN THAT EVENT SHALL BE REIMBURSED BY THE TOWN TO THE INDEMNIFIED PARTIES.

4. The Town shall require any contractor and/or subcontractor that will perform any work on the construction of the Allowed Improvements to indemnify LISD from and against any claims, damages, losses, causes of action, suits, judgments, and expenses, including but not limited to attorney's fees, arising out of or resulting from the work performed by the contractor and/or subcontractor on the Easement Property.

5. The public access easement granted herein shall at all times remain open and accessible to the public for the purposes herein stated, except as the Town or LISD reasonably determines is necessary or advisable to effect necessary repairs and/or maintain public safety. Upon notice to and approval from the Town, which approval shall not be unreasonably withheld, LISD reserves the right, but not the obligation, to make improvements to the grade and according to such plans and specifications, as will, in its and the Town's opinion, best serve the public purpose of public use of the easement area, subject to and in accordance with the Land Development Regulations of the Town. However, at no time shall LISD be required to install or pay for the installation of any fencing or wall surrounding or adjacent to the Allowed Improvements or Easement Property, even if LISD develops any of LISD's surrounding property.

6. The Town acknowledges that the Easement Property is useful to Town in its current condition, "AS IS, WHERE IS AND WITH ALL FAULTS" without any modification or maintenance required on the part of LISD. Security of the Easement Property shall be the Town's responsibility. During the term of this Agreement, and any extensions thereof, Town agrees to take such measures as the Town and LISD reasonably determine is appropriate to protect the Easement Property and the adjacent property against abuse or loss through vandalism, destruction, or theft. Town shall perform and exercise all rights, duties and functions and services in compliance with all valid and applicable laws, statutes, codes, regulations, policies and ordinances of the United States, the State of Texas, the County of Denton, Town, LISD, or other lawful authority with jurisdiction over the premises.

D. Agreements and Covenants of LISD

1. LISD covenants and agrees, on behalf of LISD's representatives, successors and assigns, that neither LISD nor LISD's representatives, successors and assigns shall erect, place or construct, or cause to be erected, placed or constructed in, into, upon, over, across or under the Allowed Improvements any temporary or permanent structures or improvements of any kind which would interfere with the Town's use of the Easement Property as permitted herein. If LISD wishes to construct any temporary or permanent structures or improvements on or across any portion of the Allowed Improvements, LISD shall first consult with the Town so that the Town can reasonably assess the potential impact of such on the Allowed Improvements, and LISD shall obtain Grantee's written consent permitting such activities and construction, which consent will not be unreasonably withheld.

2. If the Town so desires, the Town may conduct environmental studies on the Easement Property to determine whether there are any hazardous materials on the Easement Property.

E. Mutual Representations

By execution of this Agreement, each party represents to the other that:

1. In performing its duties and obligations hereunder, it will be carrying out one or more governmental functions or services which it is authorized to perform;

2. The undersigned officer or agent of the party has been properly authorized by that party's governing body to execute this Agreement and that any necessary resolutions extending such authority have been duly passed and are now in effect;

3. All payments required or permitted to be made by a party will be made from current revenues available to the paying party; and

4. Any payments provided to be paid hereunder by one party to the other shall be such amounts as to fairly compensate the other party for the services or functions performed hereunder.

F. Miscellaneous Provisions

1. **Legal Construction.** Both parties have had this Agreement reviewed by their legal counsel, or been provided the opportunity to do so, and both parties agree that this Agreement shall be construed in a fair and balanced manner, and not against any party, regardless of which party drafted the Agreement.

2. **Assignment.** Neither this Agreement nor the benefits thereof may be assigned by either party without the express prior written consent of the non-assigning party.

3. **Notice.** Any notice provided for or permitted by this Agreement to be made or accepted by either party must be in writing. Notice may, unless otherwise provided herein, be served by receipted hand delivery, receipted delivery by courier service, or by depositing the same in the United States certified mail, postage paid. Notice deposited in the mail shall be effective upon actual receipt. Notice given in any other manner shall be effective upon receipt if received by the party to be notified between the hours of 8:00 A.M. and 5:00 P.M. of any business day, or if at a later time, the following business day. The parties hereto shall have the right from time to time to change their respective addresses by written notice as provided herein. For the purposes of notice, until changed as hereinafter provided, the addresses of the parties shall be as follows:

If to the Town:

Town Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028

If to LISD:
Superintendent
Lewisville Independent School District
1565 West Main Street
Lewisville, Texas 75067

4. Multiple Counterparts Permitted. This Agreement may be executed in any number of counterparts, each of which shall constitute an original but all of which, taken together, shall constitute but one and the same instrument.

5. Entire Agreement. This Agreement and the exhibits attached hereto contains the entire agreement of the parties hereto with respect to the subject matter hereof. There are no other agreements, oral or written, with respect to the transaction contemplated hereby.

6. No Joint Enterprise. No provision of this Agreement shall be construed to create any type of joint ownership of any property, nor shall same be deemed to create a partnership, joint venture or other agreement which would be construed as granting partial control, ownership of or equity in the Allowed Improvements described herein. It is understood and agreed that the Allowed Improvements shall be owned and maintained by the Town. Furthermore, the parties hereto acknowledge and agree that the doctrine of respondent superior shall not apply between the parties with regard to the activities permitted by this Agreement.

7. No third party beneficiaries. It is understood by the parties that this Agreement is entered into for the mutual convenience and purposes of the parties hereto, and it is the parties' intent that no other parties shall be construed as beneficiaries of this Agreement, except that it is intended that the general public shall have use of the Allowed Improvements.

8. Venue. This Agreement shall be construed under the substantive laws of the State of Texas, without reference to its choice of law provisions. This Agreement shall be fully performable in Denton County, Texas, and the exclusive venue for any action arising under state law under this Agreement shall be the District Courts of Denton County, Texas, or, if permitted, in the District Courts of the United States for such locality.

9. Severability. In the event any section, subsection, paragraph, subparagraph, sentence, phrase, or word herein is held invalid, illegal, or unenforceable, the balance of this Agreement shall be enforceable, and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase, or word. In such event there shall be substituted for such deleted provision a provision as similar in terms and in effect to such deleted provision as may be valid, legal and enforceable.

10. Authority. This Agreement was authorized by the Town Council of the Town of Flower Mound at its regular meeting on the _____ day of _____, 2016, authorizing the Town's Mayor to execute this Agreement on behalf of the Town, and by the Board of Trustees of the Lewisville Independent School District at its regular meeting on the day of _____, 2016, authorizing LISD's President to execute this Agreement on behalf of LISD.

11. Section or Other Headings. Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

12. Amendment. This Agreement may only be amended, altered, or revoked by written instrument signed and authorized by both parties.

13. Binding Effect. This Agreement shall inure to the benefit of and bind the parties hereto and their respective successors and, to the extent permitted herein, their assigns.

14. Preservation of Governmental Immunity and Limitations of Damages. By entering into or performing the terms and conditions of this Agreement, LISD and the Town do not waive its right of governmental immunity from suit or liability to any third party, nor does LISD or the Town waive the benefit of any damage cap or limitation of liability owed by entering into or performing the terms and conditions of this Agreement, except as expressly provided herein. This section shall be liberally construed to carry out the intent of LISD and the Town to preserve its immunities and privileges to the greatest extent possible under the law not inconsistent with the express terms of this Agreement.

15. Title Work. If the Town so desires, the Town may perform title work at its sole cost and expense, to confirm whether there are any liens, attachments, easements, or other encumbrances which would affect the title or right of LISD to convey the Access Easement to the Town for the purposes described herein.

16. Term and Termination. The initial term of this Agreement shall be for a period of twenty- five years, beginning on the date this Agreement is fully executed by both parties, but shall automatically renew from year to year thereafter unless terminated by either party for cause in accordance with the terms herein. The Agreement may only be terminated during its term only for cause, and then only as provided herein. Either party may terminate this Agreement, if the other party is in material breach of any provision of this Agreement, by written notice to the other party effective thirty (30) days after the receipt of such notice unless the other party cures such breach within the thirty (30) day period or, if such breach cannot be cured within thirty (30) days, the other party commences its best efforts to cure such breach immediately and such breach is cured within sixty (60) days after receipt of the original notice of breach. If this Agreement is terminated by LISD for cause, LISD shall be entitled to unilaterally terminate the Public Access Easement and file a notice of termination in the public records of Denton County, Texas.

17. Abandonment. If the Town of Flower Mound shall ever cease using the Easement Property for the hike and bike purposes set out herein (except for temporary closures for repairs or safety concerns lasting no longer than sixty (60) days unless otherwise agreed to in writing by LISD), LISD shall have the right to terminate the easement after notice as set out in Section 16 above.

18. Insurance. During the term of this Agreement, and any extensions thereof, the Town agrees to obtain and maintain, at its sole expense, a general liability insurance policy covering damages arising out of personal or bodily injury or death and damage to property, including the loss thereof, occurring on or in any way related to the use of the Easement Property covered by this Agreement. The initial limits shall be of not less than two million dollars (\$2,000,000.00) dollars annual aggregate limit or one million dollars (\$1,000,000.00) single limit per occurrence annual aggregate. Such insurance policy shall provide that the insurer shall give not less than thirty (30) days prior written notice of the cancellation thereof to LISD. The Town shall furnish proof of insurance to LISD each year upon renewal of the Town's coverage as described herein, and upon any material change in the Town's policy. The insurance limits shall be reviewed by the parties every five (5) years.

END OF PAGE

Executed this 17th day of October, 2016.

LEWISVILLE INDEPENDENT SCHOOL DISTRICT

By: 
Trisha Sheffield, President

Attest:


Kristi Hassett, Secretary

Executed this _____ day of _____, 2016.

TOWN OF FLOWER MOUND

By: _____
The Honorable Thomas E. Hayden, Mayor

Attest:

Theresa Scott, Town Secretary

EXHIBIT 1

Pedestrian Public Common Access Easement

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

PEDESTRIAN PUBLIC COMMON ACCESS EASEMENT

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF DENTON §

Date: _____, 2016

Grantor: LEWISVILLE INDEPENDENT SCHOOL DISTRICT

Grantor's Mailing Address: 1565 West Main Street
Lewisville, Texas 75067

Grantee: TOWN OF FLOWER MOUND
Grantee's Mailing Address: 2121 Cross Timbers Road
Flower Mound, Texas 75028

Consideration:

Ten Dollars and No cents (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, including but not limited to the benefits to be derived by Grantor for and to Grantor's remaining property as a result of projected public improvements to be constructed and to conform to the requirements of the Land Development Regulations of the Town of Flower Mound, Texas.

The Allowed Improvements:

The following shall all be allowed improvements within the Easement Property: Hike and bike trail improvements shown on Exhibits "A" and "B", attached hereto and incorporated herein for all purposes, together with any associated improvements, but not for other purposes.

The Easement Property:

A public common access easement for the purpose of pedestrian public access in, on, upon, over, under, through, and across the following described property, including necessary drainage and underground utilities, over, under, through, across, and along all that property, together with the customary uses attendant thereto, including construction, operation, maintenance, repair of pedestrian public access facilities constructed on said property, to wit:

a 0.442 acre parcel of land located in the James Edmonson Survey, Abstract No. 399, in the Town of Flower Mound, Denton County, Texas, and being more particularly described by metes and bounds in Exhibit "A" attached hereto and incorporated herein for all purposes, and being more particularly depicted on a survey drawing marked as Exhibit "A," attached hereto and incorporated herein for all purposes (the "Easement Property").

Warranty of Title:

Grantor hereby binds itself and Grantor's successors, heirs, executors, administrators and assigns to warrant and forever defend the easement and rights granted herein unto Grantee, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said Grantee, its successors and assigns forever, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof, by, through, and under Grantor, but not otherwise.

Reservations from and Exceptions to Conveyance and Warranty:

If Grantee so desires, Grantee may perform title work at Grantee's sole cost and expense, to confirm whether there are any liens, attachments, easements, or other encumbrances which would affect the title or right of Grantor to convey the Easement Property to the Grantee for the purposes described herein. If such condition does exist, Grantee shall inform Grantor of the condition and Grantor will determine, in Grantor's sole discretion, whether such lien or encumbrance may be subordinated to the easement granted herein.

Conveyance:

For the consideration stated above, Grantor does hereby grant, give and convey unto the Grantee, and its successors and assigns, the Easement Property, AS IS, WHERE IS AND WITH ALL FAULTS. If Grantee so desires, Grantee may conduct environmental studies on the Easement Property to determine whether the Easement Property is suitable for the purposes described herein.

Covenants of Grantee:

1. At Grantee's sole cost and expense, Grantee shall design, construct and maintain the Allowed Improvements shown in Exhibit "B", attached hereto and incorporated herein for all purposes. Grantee shall be responsible for the cost of all design, construction, operation, repair, maintenance, and enlargement of the Allowed Improvements on the Easement Property. Prior to any construction or work on the Easement Property, Grantee shall provide Grantor with a copy of any plans for construction, additions or improvements. Grantee shall pay any and all costs associated with the Allowed Improvements, including but not limited to, labor, materials, repair, parts and replacement as needed or required. Grantee further agrees to comply with all ordinances, zoning, laws and regulations, now existing or hereafter enacted, at the Grantee's sole cost and expense, including any ordinances, other laws or regulations, or any requirements imposed by any court of law regarding the Allowed Improvements and the Easement Property.

At no time shall Grantor be required to install or pay for the installation of any fencing or wall surrounding or adjacent to the Allowed Improvements or Easement Property.

2. Grantee shall keep the Easement Property free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Grantee.

3. TO THE EXTENT PERMITTED BY LAW, GRANTEE SHALL INDEMNIFY, PROTECT, DEFEND, AND HOLD HARMLESS LEWISVILLE INDEPENDENT SCHOOL DISTRICT, AND ITS BOARD OF TRUSTEES, OFFICERS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, LOSSES, SUITS, LIABILITIES, JUDGMENTS, COSTS, DAMAGES, AND EXPENSES OF ANY KIND, INCLUDING ATTORNEY'S FEES, ARISING OUT OF OR IN ANY WAY RELATED TO THE EASEMENT PROPERTY, INCLUDING BUT NOT LIMITED TO ANY CLAIMS FILED BY ANY MEMBERS OF THE PUBLIC. ALL COSTS AND EXPENSES SO INCURRED BY ANY OF THE INDEMNIFIED PARTIES IN THAT EVENT SHALL BE REIMBURSED BY THE GRANTEE TO THE INDEMNIFIED PARTIES.

4. Grantee shall require any contractor and/or subcontractor that will perform any work on the construction of the Allowed Improvements to indemnify Grantor from and against any claims, damages, losses, causes of action, suits, judgments, and expenses, including but not limited to attorney's fees, arising out of or resulting from the work performed by the contractor and/or subcontractor on the Easement Property. By entering into this instrument, neither Grantor nor Grantee waives any governmental immunity provided under law to Grantor or Grantee.

5. The public access easement granted herein shall at all times remain open and accessible to the public for the purposes herein stated, except as the Grantee or Grantor reasonably determines is necessary or advisable to effect necessary repairs and/or maintain public safety. Upon notice to and approval from the Grantee, which approval shall not be unreasonably withheld, Grantor reserves the right, but not the obligation, to make improvements to the grade and according to such plans and specifications, as will, in its and the Grantee's opinion, best serve the public purpose of public use of the easement area, subject to and in accordance with the Land Development Regulations of the Grantee. However, at no time shall Grantor be required to install or pay for the installation of any fencing or wall surrounding or adjacent to the Allowed Improvements or Easement Property, even if Grantor develops any of Grantor's surrounding property.

Covenants of Grantor:

1. Grantor covenants and agrees, on behalf of Grantor's representatives, successors and assigns, that neither Grantor nor Grantor's representatives, successors and assigns shall erect, place or construct, or cause to be erected, placed or constructed in, into, upon, over, across or under the Allowed Improvements any temporary or permanent structures or improvements of any kind which would interfere with the Grantee's use of the Easement Property as permitted herein. If Grantor wishes to construct any temporary or permanent structures or improvements on or across any portion of the Allowed Improvements, Grantor shall first consult with the Grantee so that the Grantee can reasonably assess the potential impact or such on the Allowed

Improvements, and Grantor shall obtain Grantee's written consent permitting such activities and construction, which consent will not be unreasonably withheld.

2. The undersigned is the authorized agent of the Grantor and has been and is authorized to execute this instrument.

WITNESS THE GRANTOR'S HAND this 17th day of October, 2016.

LEWISVILLE INDEPENDENT SCHOOL DISTRICT


Trisha Sheffield
President, Board of Trustees

ACKNOWLEDGEMENT

STATE OF TEXAS §
 §
COUNTY OF DENTON §

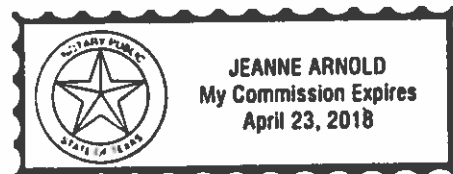
BEFORE ME, the undersigned authority, personally appeared Trisha Sheffield, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledges that he executed the same for the purpose and consideration therein expressed and in the capacity therein stated as the act and deed of the Owner of said property.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 17th day of October, 2016.


Notary Public in and for the State of Texas

My commission expires:

April 23, 2018



AFTER RECORDING, RETURN TO:

Town Engineer
Town of Flower Mound, Texas
2121 Cross Timbers Road
Flower Mound, Texas 75028

EXHIBIT "A"

METES AND BOUNDS EASEMENT PROPERTY DESCRIPTION & SURVEY

Exhibit A

Public Common Access Easement

Being all that certain lot, tract or parcel of land situated in the James Edmonson Survey, Abstract Number 399, Town of Flower Mound, Denton County, Texas, and being Part of Lot 1, Block A of Forest Vista Elementary Addition, an addition to the Town of Flower Mound according to the plat thereof recorded in Cabinet M, Page 219 of the Plat Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a "+" set in concrete on the east line of said Lot 1 and the west line of Lot 3, Block A of said addition, from which the southeast corner of Lot 1 and the southwest corner of Lot 3 bears S 28°17'08" E, 61.79 feet, S 32°48'03" E, 269.40 feet, S 56°47'11" E, 121.56 feet and S 02°57'15" E, 275.47 feet, being on the south line of that certain called 13.815 acre tract of land described in deed to the Town of Flower Mound recorded in Volume 5273, Page 2614 (Document Number 2003-23811) of the Real Property Records of Denton County, Texas, from which the southeast corner thereof bears N 83°00'00" E, 324.86 feet;

THENCE S 28°17'08" E, 37.15 feet with the east line of Lot 1 and the west line of Lot 3;

THENCE S 79°00'00" W, 145.63 feet to the north line of a 15' Waterline Easement shown on said plat of Forest Vista Elementary Addition;

THENCE S 87°44'42" W, 27.74 feet with the north line of said 15' Waterline Easement to an angle point therein;

THENCE S 71°08'42" W, 23.59 feet continuing with the north line of said 15' waterline easement to the north line of a 20' Access Easement and Fire Lane recorded in Volume 4592, Page 765 of the Real Property Records of Denton County, Texas;

THENCE N 75°39'18" W, 21.83 feet with the north line of said Access Easement and Fire Lane to a point of curvature;

THENCE continuing with the north line of said Access Easement and Fire Lane with the arc of a curve to the left having a central angle of 16°36'00", a radius of 140.00 feet and an arc length of 40.56 feet whose chord bears N 83°57'18" W, 40.42 feet to a point of tangency;

THENCE S 87°44'42" W, 7.19 feet continuing with the north line of said Access Easement and Fire Lane;

THENCE N 80°00'00" W, 125.12 feet to a point of curvature of a curve to the left;

THENCE with the arc of said curve to the left having a radius of 20.00 feet, a central angle of 70°01'49" and an arc length of 24.45 whose chord bears S 64°59'05" W, 22.95 feet to a point of reverse curvature of a curve to the right;

THENCE with the arc of said curve to the right having a radius of 50.00 feet, a central angle of 58°01'49" and an arc length of 50.64 whose chord bears S 58°59'05" W, 48.50 feet to a point of tangency;

THENCE S 88°00'00" W, 24.89 feet to the west line of said Lot 1 and the east line of Lot 2 of said PLOT

addition;

THENCE N 02°15'18" W, with the west line of said Lot 1 and the east line of said Lot 2, passing at 5.00 feet the south line of said 13.815 acre tract continuing with the south line thereof a total distance of 40.00 feet to a 1/2" rebar found;

THENCE with the south line of said 13.815 acre tract the following:

N 88°00'00" E, 31.94 feet;

N 19°00'00" E, 45.00 feet;

S 80°00'00" E, 232.62 feet;

N 79°00'00" E, 118.00 feet;

N 83°00'00" E, 64.96 feet to the **POINT OF BEGINNING** and containing approximately 0.442 acres of land.



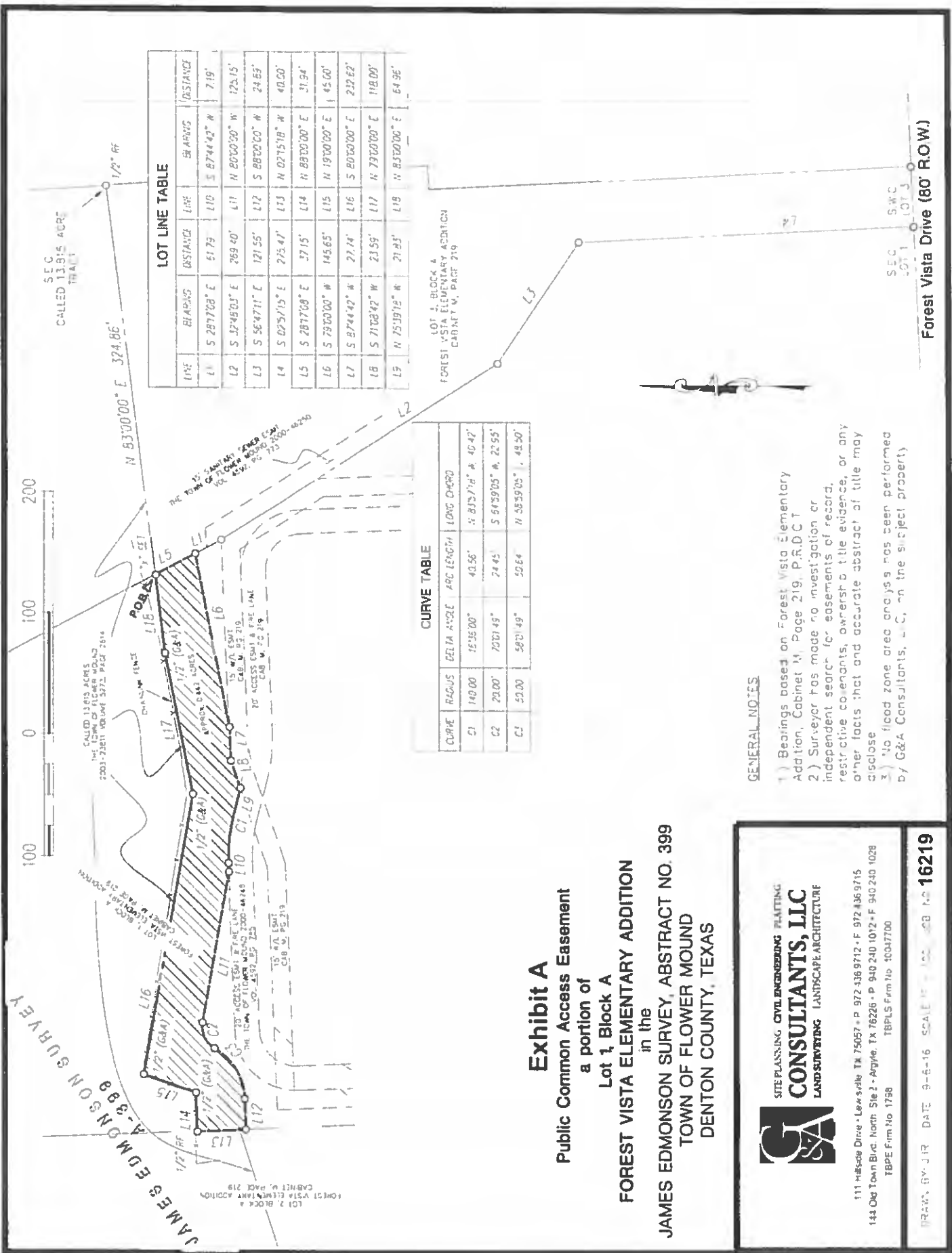


Exhibit A
Public Common Access Easement
 a portion of
Lot 1 Block A
FOREST VISTA ELEMENTARY ADDITION
 in the
JAMES EDMONSON SURVEY, ABSTRACT NO. 399
TOWN OF FLOWER MOUND
DENTON COUNTY, TEXAS

G&A
 SITE PLANNING CIVIL ENGINEERING PLATTING
CONSULTANTS, LLC
 LAND SURVEYING LANDSCAPE ARCHITECTURE

111 HESSLOE DRIVE • LEWISVILLE, TX 75057 • P. 972.436.9712 • F. 972.436.9715
 144 OLD TOWN BLVD. NORTH • SILE, TX 76226 • P. 940.240.1012 • F. 940.240.1028
 TBPE Firm No. 1758 TBPLS Firm No. 10047700

DRAWN BY: JIR DATE: 9-6-16 SCALE: 1" = 100' JOB NO. **16219**

GENERAL NOTES

- 1) Bearings based on Forest Vista Elementary Addition, Cabinet M, Page 219, P.R.D.C.T
- 2) Surveyor has made no investigation or independent search for easements of record, restrictive covenants, owners' title evidence, or any other facts that and accurate abstract of title may disclose
- 3) No flood zone area analysis has been performed by G&A Consultants, L.C. on the subject property



1. LOCATE DOWELED EXPANSION JOINTS ON 30'-0" CENTERS (MAX.).
2. USE #4 SMOOTH DOWEL 1'-6" LONG & LUBRICATED ON ONE END.
4 PER JOINT @ 1'-6" O.C. WITH CAP.
3. INSTALL REDWOOD EXPANSION JOINT 1/2" BELOW FINISHED GRADE
OF TRAIL. FILL DOWELED EXPANSION JOINTS WITH SILICONE JOINT
SEALANT DOW CORNING 890 SL OR APPROVED EQUAL, GREY IN COLOR.



PARKS & RECREATION CONSTRUCTION DETAILS
8'-0" WIDE MULTI-USE CONCRETE TRAIL
NOT TO SCALE

SHEET: P-1



TOWN COUNCIL AGENDA ITEM NO. 6

CONSENT ITEM

DATE: November 21, 2016

FROM: Brian Waltenburg, P.E., Senior Project Engineer

ITEM: Consider approval of a Professional Services Agreement for design phase services for the Waketon Road project, with Halff Associates, Inc., for \$243,225.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The Waketon Road project includes design of approximately 1,650 linear feet of two-lane concrete roadway (urban collector) from Chinn Chapel Road to the western limits of the Bradford Parks Subdivision. The project includes curb and gutter, enclosed drainage systems, and a roundabout at Chinn Chapel Road.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$ 243,225.00

Proposed Expenditure:	Account Number(s):
\$182,386.20	308-103-70465
\$60,838.80	520-220-70465

Finance Review by: Debra Wallace, Deputy Town Manager/CFO

LEGAL REVIEW: The Town's standard professional services agreement form documents, prepared by Taylor, Olson, Adkins, Sralla, & Elam L.L.P., were used to draft this agreement. No alteration to the legal content of this form document was made in preparation of this Professional Services Agreement.

ATTACHMENTS:

1. Professional Services Agreement

RECOMMENDATION: Move to approve the Professional Services Agreement for design phase services for the Waketon Road project, with Halff Associates, Inc., for \$243,225.00; and authorize the Mayor to execute same on behalf of the Town.

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
Halff Associates, Inc.**

This contract is entered into on this _____ day of _____, 20____, by and between the **TOWN OF FLOWER MOUND, TEXAS**, a municipal corporation located in Denton County, Texas, (hereinafter referred to as "TOWN"), acting by and through its Mayor, and **Halff Associates, Inc.**, ("hereinafter referred to as "CONSULTANT") whose address is 1001 Cross Timbers Rd # 2020, Flower Mound, TX 75028.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, design and providing construction documents for the Waketon Road project; and

WHEREAS, CONSULTANT is an engineering firm qualified to provide such services and is willing to undertake the performance of such services for the TOWN in exchange for fees hereinafter specified;

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

I.

Employment of Consultant

CONSULTANT will perform as an independent contractor all services under this Contract to the prevailing professional standards consistent with the level of care and skill ordinarily exercised by members of the architectural, engineering and planning professions, both public and private, currently practicing in the same locality under similar conditions including but not limited to the exercise of reasonable, informed judgments and prompt, timely action. If CONSULTANT has represented or is representing that it has special expertise in one or more areas to be utilized in this Contract, then CONSULTANT agrees to perform those special expertise services to the appropriate local, regional and national professional standards.

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide services for the Waketon Road project specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment "A" hereto entitled "Scope of Work" (hereafter referred to as the "Project"). Attachment "A" is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment "A" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed Two Hundred Forty-Three Thousand Two Hundred Twenty-Five (\$243,225.00). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT. If CONSULTANT retains any subcontractors to perform any of the work, CONSULTANT acknowledges that payments to such subcontractors are due and payable in accordance with the provisions of Texas Government Code Section 2251.022, and that interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

CONSULTANT will bill TOWN on a lump sum basis in accordance with Attachment "A"; provided however that this Contract shall control in the event of any conflict between the language in Attachment "A" and the language in this Contract. If additional services, trips or expenses are requested, CONSULTANT will not provide such additional services until authorized by TOWN in writing to proceed. The scope of services shall be strictly limited. TOWN shall not be required to pay any amount in excess of the amount identified in the preceding paragraph unless TOWN shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

Each month CONSULTANT will submit to TOWN an invoice for supporting the percentage for which payment is sought by CONSULTANT during the previous month for which payment is sought. Each invoice shall also state the percentage of work completed on the Project, the total of the current invoice amount and a running total balance for the Project to date.

Assuming that TOWN agrees with the invoice, that TOWN has not determined any of the work to be unsatisfactory, or that TOWN otherwise does not dispute any of the amounts billed, TOWN shall make payments in the amount shown by CONSULTANT's approved monthly statements and other documentation submitted in compliance with the Texas Prompt Payment Act, Texas Government Code Chapter 2251.

Nothing contained in this Contract shall require TOWN to pay for any work that TOWN has determined has not been successfully completed or is unsatisfactory as determined by TOWN, or which is not otherwise submitted in compliance with the terms of this Contract, nor shall failure to withhold payment pursuant to the provisions of this section constitute a waiver of any right, at law or in equity, which TOWN may have if CONSULTANT is in default, including the right to bring legal action for damages or for specific performance of this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default.

IV.

Revisions of the Scope of Services

TOWN reserves the right to revise or expand the scope of services after due approval by TOWN as TOWN may deem necessary, but in such event TOWN shall pay CONSULTANT equitable compensation for such services. In any event, when CONSULTANT is directed to revise or expand the scope of services under this Section of the Contract, CONSULTANT shall provide TOWN a written proposal for the entire costs involved in performing such additional services. Prior to CONSULTANT undertaking any revised or expanded services as directed by TOWN under this Contract, TOWN must authorize in writing the nature and scope of the services and accept the method and amount of compensation and the time involved in all phases of the Project.

It is expressly understood and agreed by CONSULTANT that any compensation not specified in Paragraph III herein above may require Flower Mound Town Council approval and is subject to the current budget year limitations.

V.

Term

This Contract shall begin on the date first written above, and shall terminate when TOWN has approved the Project as being final or otherwise terminates this Contract as provided herein.

VI.

Contract Termination Provision

Notwithstanding any other provision of this Contract, this Contract may be terminated at any time by TOWN for any reason, with or without cause, by providing

CONSULTANT thirty (30) days written notice of such termination. Upon receipt of such notice, CONSULTANT shall immediately terminate working on, placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract.

VII.

Ownership of Documents

All materials and documents prepared or assembled by CONSULTANT under this Contract shall become the sole property of TOWN and shall be delivered to TOWN without restriction on future use. CONSULTANT shall provide documents in any commonly-used electronic file format as requested by TOWN. CONSULTANT may retain in its files copies of all drawings, specifications and all other pertinent information for the work. CONSULTANT shall have no liability for changes made to any materials or other documents by others subsequent to the completion of the Contract.

VIII.

Insurance

A. CONSULTANT shall, at its own expense, purchase, maintain and keep in force during the term of this Contract such insurance as set forth below. CONSULTANT shall not commence work under this Contract until CONSULTANT has obtained all the insurance required under this Contract and such insurance has been approved by TOWN, nor shall CONSULTANT allow any subcontractor to commence work on its own subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this Contract shall be written on an "occurrence" basis save and except the Professional Liability Insurance which may be written on a "claims-made" basis, provided that "tail coverage" or continuation coverage is provided. The insurance requirements shall remain in effect throughout the term of this Contract.

The CONSULTANT shall furnish to TOWN certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the Project and be addressed as follows:

Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028
Email: purchasing@flower-mound.com

The following policies and coverage shall be required:

1. Worker's Compensation Insurance (as required by law) with the policy endorsed to provide a waiver of subrogation as to TOWN; such policy to provide for Employers' Liability Insurance of not less than \$100,000.00 for each accident, \$100,000.00 disease-each employee, \$500,000.00 disease-policy limit;
2. Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractor's and Contractual Liability, including but not limited to coverage for all of the indemnification obligations of CONSULTANT under this Contract, and fully insuring CONSULTANT's liability for injury to or death of employees of TOWN and of third parties, extended to include personal injury liability coverage and for damage to property of third parties, with minimum combined single limits of \$1,000,000 per occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$1,000,000 general aggregate per occurrence. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis;
3. Business Automobile Liability Insurance, covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000.00 per occurrence; and
4. Professional Liability Insurance: CONSULTANT shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance, which may be written on a claims made form provided that "tail coverage" or continuation coverage is provided. Limits of liability shall be \$1,000,000.00 per claim, \$1,000,000.00 annual aggregate. The coverage under this policy shall include a contractual liability endorsement.

If any of the foregoing insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than thirty-six (36) months following completion of the Contract and acceptance by the TOWN. All such insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by A.M. Best Company or equivalent.

B. Each insurance policy to be furnished by CONSULTANT shall include the following conditions by endorsement to the policy

1. The TOWN shall be named as an additional insured on the Commercial General Liability policy, by using endorsement CG2026 or broader;

2. The TOWN shall also be named as an additional insured as to all other applicable coverage save and except the Worker's Compensation Insurance and Professional Liability Insurance;
3. Each policy will require that thirty (30) days prior to the expiration, cancellation, nonrenewal or any material change in coverage, a notice thereof shall be given to TOWN by certified mail to:

Brian Waltenburg, P.E.,
Senior Project Engineer
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6234 Telephone

However, if the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to TOWN is required. CONSULTANT shall also notify TOWN within twenty-four (24) hours after receipt of any notices of expiration, cancellation, nonrenewal or any material change in coverage it receives from its insurer(s);

4. The term "Owner" or "TOWN" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of TOWN and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of TOWN;
5. The policy phrase "Other Insurance" shall not apply to TOWN where TOWN is an additional insured on the policy; and
6. All provisions of the Contract concerning liability, duty and standards of care together with the indemnification provision shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

C. Concerning insurance to be furnished by CONSULTANT, it is a condition precedent to acceptability thereof that:

1. Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by CONSULTANT. The TOWN's decision(s) thereon shall be final;
2. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and
3. All liability policies required herein, save and except Professional Liability Insurance, shall be written with an "occurrence" basis coverage trigger.

D. CONSULTANT agrees to the following:

1. CONSULTANT hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against TOWN, it being the intention that the insurance policies shall protect all parties to this Contract and be primary coverage for all losses covered by the policies;
2. Companies issuing the insurance policies and CONSULTANT shall have no recourse against TOWN for payment of any premiums, or assessments for any deductible, as all such premiums are the sole responsibility and risk of CONSULTANT;
3. Approval, disapproval or failure to act by TOWN regarding any insurance supplied by CONSULTANT (or any subcontractors) shall not relieve CONSULTANT of full responsibility or liability for damages and accidents as set forth in the Contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate CONSULTANT from liability; and
4. No special payments shall be made for any insurance that the CONSULTANT and subcontractors are required to carry; all are included in the contract price and the contract unit prices.

Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

IX.
Right to Inspect Records

CONSULTANT agrees that TOWN shall have access to and the right to examine any directly pertinent books, documents, papers and records of CONSULTANT involving transactions relating to this Contract. CONSULTANT agrees that TOWN shall have access during normal working hours to all necessary CONSULTANT facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. TOWN shall give CONSULTANT reasonable advance notice of intended audits.

If TOWN agrees that CONSULTANT may retain any subcontractors, CONSULTANT further agrees to include in subcontract(s), if any, a provision that any subcontractor or engineer agrees that TOWN shall have access to and the right to examine any directly pertinent books, documents, papers and records of such engineer or sub-contractor involving transactions to the subcontract, and further, that TOWN shall have access during normal working hours to all such engineer or sub-contractor

facilities and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of the paragraph. TOWN shall give any such engineer or sub-contractor reasonable advance notice of intended audits.

X.
Successors and Assigns

TOWN and CONSULTANT each bind themselves and their successors, executors, administrators and assigns to the other party to this Contract and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Contract. Neither TOWN nor CONSULTANT shall assign or transfer its interest herein without the prior written consent of the other.

XI.
CONSULTANT's Liability

Acceptance of the final plans by the TOWN shall not constitute nor be deemed a release of the responsibility and liability of CONSULTANT, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by TOWN for any defect in the designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by TOWN for any defect in the designs, working drawings, specifications or other documents and work prepared by said CONSULTANT, its employees, associates, agents or sub-consultants. In this regard, CONSULTANT acknowledges that TOWN is retaining CONSULTANT to provide the services described herein, in reliance upon CONSULTANT's specialized expertise and experience, and in reliance thereon.

XII.
Indemnification

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION, INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, THAT MAY ARISE BY REASON OF DEATH OR INJURY TO PERSONS OR DAMAGE TO OR LOSS OF USE OF PROPERTY OCCASIONED BY ANY WRONGFUL INTENTIONAL ACT OR OMISSION OF CONSULTANT AS WELL AS ANY NEGLIGENT OMISSION, ACT OR ERROR OF CONSULTANT, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, OR OTHER PERSONS FOR WHOM CONSULTANT IS LEGALLY LIABLE WITH REGARD TO THE PERFORMANCE OF THIS CONTRACT, REGARDLESS OF WHETHER SUCH LIABILITY, CLAIMS, SUITS, DEMANDS

OR CAUSES OF ACTION IS THE RESULT IN PART OF TOWN'S NEGLIGENCE OR FAULT, AND CONSULTANT WILL, AT ITS OWN COST AND EXPENSE, DEFEND AND PROTECT TOWN AGAINST ANY AND ALL SUCH CLAIMS AND DEMANDS, INCLUDING PAYMENT OF TOWN'S REASONABLE ATTORNEYS' FEES. IN THE EVENT OF A CLAIM IS BROUGHT AGAINST TOWN, TOWN SHALL HAVE THE RIGHT TO RETAIN LEGAL COUNSEL OF ITS CHOOSING IN DEFENSE OF SUCH A CLAIM, AND SUCH ELECTION SHALL NOT RELIEVE CONTRACTOR OF ITS OBLIGATIONS UNDER THIS SECTION.

XIII.

Independent Contractor

CONSULTANT's status shall be that of an Independent Contractor and not an agent, servant, employee or representative of TOWN in the performance of this Contract. No term or provision of or act of CONSULTANT or TOWN under this Contract shall be construed as changing that status. CONSULTANT will have exclusive control of and the exclusive right to control the details of the work performed hereunder, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and engineers and the doctrine of respondeat superior shall not apply as between TOWN and CONSULTANT, its officers, agents, employees, contractors, subcontractors and engineers, and nothing herein shall be construed as creating a partnership or joint enterprise between TOWN and CONSULTANT.

XIV.

Default

If at any time during the term of this Contract, CONSULTANT shall fail to commence the work in accordance with the provisions of this Contract, or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract, or fail to use an adequate number or quality of personnel to complete the work or fail to perform any of its obligations under this Contract, then TOWN shall have the right, if CONSULTANT shall not cure any such default after thirty (30) days written notice thereof, to terminate this Contract for cause. Any such act by TOWN shall not be deemed a waiver of any other right or remedy of TOWN. If after exercising any such remedy due to CONSULTANT's nonperformance under this Contract, the cost to TOWN to complete the work to be performed under this Contract is in excess of that part of the Contract sum which has not theretofore been paid to CONSULTANT hereunder, CONSULTANT shall be liable for and shall reimburse TOWN for such excess.

TOWN's remedies for CONSULTANT's default or breach under this Contract shall be limited to one or more of the following remedies which may be exercised separately or in combination at TOWN's sole exclusive choice:

- (a) Specific performance of the Contract;
- (b) Re-performance of this Contract at no extra charge to TOWN; or
- (c) Monetary damages.

XV.

Provisions Surviving Termination

The terms of Sections XII entitled Indemnification, and XVII entitled Confidential Information shall survive termination of this Contract.

XVI.

Changes

TOWN may, from time to time, require changes in the scope of services to be performed under this Contract. Such changes as are mutually agreed upon by and between TOWN and CONSULTANT shall be incorporated by written modification to this Contract.

XVII.

Conflicts of Interest

CONSULTANT covenants and agrees that CONSULTANT and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities, investigations and other efforts made by CONSULTANT pursuant to this Contract will be conducted by employees, associates or subcontractors of CONSULTANT.

No officer or employee of TOWN shall have any personal, financial interest, direct or indirect, in this Contract nor have any direct financial interest in the sale to TOWN of any land, materials, supplies, or services under this Contract, except on behalf of TOWN as a TOWN officer or employee. Any violation of this prohibition with knowledge, expressed or implied, of the person or corporation contracting with TOWN shall render the Contract voidable by the Director or the Town Council.

XVIII.

Confidential Information

CONSULTANT hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations in accordance with this Contract, which is of a confidential, non-public or proprietary nature. CONSULTANT shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for its own use or the use of any third party at any time during or subsequent to this Contract. As used herein,

“Confidential Information” means all oral and written information concerning TOWN, its affiliates and subsidiaries, and all oral and written information concerning TOWN or its activities, that is of a non-public, proprietary or confidential nature including, without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilation, studies or other documents, whether prepared by CONSULTANT or others, which contain or otherwise reflect such information. The term “Confidential Information” shall not include such materials that are or become generally available to the public other than as a result of disclosure of CONSULTANT, or are required to be disclosed by a governmental authority or by law, as determined by TOWN’s attorney.

XIX.
Notice Information

All notices and communications under this CONTRACT to be mailed to TOWN shall be sent to the address of TOWN’s agent as follows, unless and until CONSULTANT is otherwise notified:

Brian Waltenburg, P.E.,
Senior Project Engineer
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6234 Telephone

Notices and communications to be mailed or delivered to CONSULTANT shall be sent to the address of CONSULTANT as follows, unless and until TOWN is otherwise notified:

Brian C. Haynes, P.E., CFM
Vice President/ Branch Manager
Halff Associates, Inc.
1001 Cross Timbers Rd # 2020
Flower Mound, TX 75028
972-956-0801 Telephone

Any notices and communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted, faxed or personally delivered by the sending party.

XX.
Applicable Law

The Contract is entered into subject to the Flower Mound Town Charter and ordinances of TOWN, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and

federal laws. CONSULTANT will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with CONSULTANT's income.

XX.
Non-Discrimination

CONSULTANT shall not discriminate against any employee, applicant for employment, contractor, or sub-contractor because of the race, age, color, religion, sex, or national origin of such person. Engineer shall take affirmative action to insure that all such persons are treated equally during their employment without regard to their race, age, color, religion, sex, or national origin. If CONSULTANT fails to comply with the federal or state laws relating to Equal Employment Opportunity, it is agreed that TOWN, at its option, may do either or both of the following:

- (a) Cancel, terminate, or suspend the Contract in whole or in part; or
- (b) Declare CONSULTANT ineligible for future TOWN contracts until it is determined to be in compliance.

XXI.
Arbitration

CONSULTANT agrees not to enter into any agreement to arbitrate arising out of, or relating to, this Contract which would subject TOWN to being a party to any arbitration without TOWN's prior written consent.

XXII.
No Waiver of Governmental Immunity

Nothing in this Contract shall be construed as a waiver of TOWN'S governmental immunity, or of any applicable limitation on damages, or any other legal protection or defense or privilege of TOWN, except to the extent expressly provided otherwise herein.

XX.
Severability

If any of the terms, provisions, covenants, conditions or any other part of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XXI.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

XXII.
Entire Agreement

This Contract embodies the entire agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein cannot be modified without written agreement of the parties.

XXIII.
Non-Waiver

It is further agreed that one (1) or more instances of forbearance by TOWN in the exercise of its rights herein shall in no way constitute a waiver thereof.

XXIV.
Headings

The headings of this Contract are for the convenience of reference only and shall not affect any of the terms and conditions hereof in any manner.

XXV.
Venue

Situs of this Contract is agreed to be Denton County, Texas, for all purposes, including performance and execution, and the parties to this Contract agree and covenant that this Contract will be enforceable in Flower Mound, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Denton County, Texas.

XXVI.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (TOWN and CONSULTANT) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual

relationship with TOWN or CONSULTANT or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either TOWN or CONSULTANT.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the date first above written.

**THE TOWN OF FLOWER MOUND,
TEXAS**

By: _____
The Honorable Thomas E Hayden
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

Approved:

Town Attorney

CONSULTANT:
Halff Associates, Inc.

By: _____

Name:

Title:

Date Signed: _____

State of Texas §
 §
 County of _____ §

This instrument was acknowledged before me on the _____ day of _____, 20____, by _____ in his capacity as _____ of _____, a _____ Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of _____.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF _____, 20____.

 Notary Public, State of Texas

My Commission Expires:

**EXHIBIT A**

October 28, 2016
1008-16-0310

Mrs. Tiffany Bruce
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028

RE: Professional Services for the Waketon Road Reconstruction Project

Dear Mrs. Bruce,

The Town of Flower Mound has requested Halff Associates, Inc. (Halff) to provide professional design services for the Waketon Road Reconstruction Project. This proposal (Exhibit A) includes the Project Description, Scope of Work, Deliverables, Project Schedule, and Fees. The following exhibits are attached to the Proposal:

Exhibit B	Exclusions
Exhibit C	Project Fee Schedule
Exhibit D	Schedule of Rates (Hourly Services)
Exhibit E	Preliminary Cost Estimate
Exhibit F	Project Schedule
Exhibit G	Proposal from Alliance Geotechnical Group

PROJECT DESCRIPTION

The Waketon Road Project limits shall be from Chinn Chapel Road to the western limits of the proposed Bradford Park Subdivision (approximately 1,450' east of Chinn Chapel Road) a total length of approximately 1,650 linear feet. A preliminary construction cost estimate (Exhibit 'E') dated October 18, 2016 was prepared for the Waketon Road Reconstruction Project. Halff will provide Professional Services for Surveying, Design, Coordination, Bidding, and Limited Construction Administration as detailed in this proposal. The following assumptions were made when preparing this proposal:

1. The Waketon Road Reconstruction Project will require additional right-of-way and easements to be constructed. The Roadway Schematic will identify the required number of right-of-way parcels and easements for this project.
2. The Town of Flower Mound will manage and perform the right-of-way\easement acquisition services for this project.
3. Road will be constructed in concrete pavement. No add bid for asphalt pavement.



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4. Halff will sub-contract with a Geotechnical Engineering Firm to perform the Geotechnical Investigation and Report. Halff has asked the Alliance Geotechnical Group to provide a proposal. See Exhibit 'G' for Geotechnical Proposal.
5. The Town of Flower Mound will select a Geotechnical Engineering Firm to perform the Construction Material Testing.
6. Halff Associates will design the Landscaping and Irrigation for the Roundabout in the Final Design Phase of the project.
7. The round-a-bout at the intersection of Waketon Road and Chinn Chapel Road was designed in a previous contract between the Town and Teague, Nall, and Perkins. Halff will review this round-a-bout design and prepare construction plans for the round-a-bout.
8. Halff will coordinate the Waketon Road Design with Engineer/Surveyor (J. Volk Consulting) for the Bradford Park Sub-Division.



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SCOPE OF WORK

The project will be designed in accordance with the following standards and specifications (where applicable): Town of Flower Mound, Texas Department of Transportation (TxDOT), and North Central Texas Council of Governments (NCTCOG).

A. Surveying

The Survey will include the following tasks:

1. Right of Entry – Right of Entry letters will be prepared and submitted to property owners that we require access from.
2. Survey Control – Establish project horizontal and vertical survey control based on project specific coordinates and benchmarks. The project survey control will be checked against existing survey control that is adjacent to the project area where available.
3. Field Survey for Design – A field survey of the existing ground, property corners, utilities (surface), trees, pavement, and other improvements will be performed within the project area.
4. Tree Survey – Identify Tree Species, measure diameter, and tag trees with sequential numbers. A landscape architect will catalog the diameter and species of trees with a 6" or greater diameter along the proposed alignment of the road.
5. Topographic Map – A Digital Terrain Model (DTM) will be generated using the field survey information. A topographic map will be generated using the DTM. The map will contain 1-ft contour intervals.
6. Sub-Surface Utility Engineering (SUE) - Halff will perform a Subsurface Utility Exploration (SUE) in accordance with ASCE CI/ASCE 38-02 "*Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data.*" The SUE will be at a Quality Level A. Halff will perform subsurface utility excavation with a vacuum truck for **up to three (3) locations** in the project area. **One (1) day** with the vacuum truck is assumed for the three (3) locations. Halff will hire a qualified company to perform traffic control during the excavations in or adjacent to the existing pavement. The traffic control company will provide, maintain, and remove daily routine/ordinary traffic control consisting of cones, free-standing signage, lane closure(s), and flag person(s) for this project. The horizontal and vertical location of the utility will be recorded and marked at each of the locations. A field work sheet will be prepared at each location.



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B. Study Phase

Halff will sub-contract with a Geotechnical Engineering Firm to perform the Geotechnical Investigation and Report. Halff has asked the Alliance Geotechnical Group to provide a proposal. The geotechnical report will generally include the following:

1. Geotechnical Investigation and Report (See Exhibit 'G' for Details)
 - a. Field Investigation
 - b. Laboratory Investigation
 - c. Engineering Analysis and Report

The Town will be provided with two (2) copies and a PDF file of the geotechnical report.

C. Schematic Phase (30% Design)

A Preliminary and Final Roadway Schematic of Waketon Road from Chinn Chapel to the western limits of the proposed Bradford Park Subdivision (approximately 1,450' east of Chinn Chapel Road) will be prepared and submitted to the Town for review. The schematic shall be considered the 30% submittal. The schematic will aid in the following for design of the roadway: 1) Identify required easements or right-of-way, 2) Identify horizontal and vertical alignment issues, and 3) Determine existing utility relocations (if any are required).

The schematic phase will generally include the following tasks:

2. Base Map
 - a. Planimetrics of the existing roadways, buildings, and other objects within the project limits will be drawn using Computer-Aided-Design (CAD). The planimetrics will be based on the field survey, record drawings, and the best available information.
 - b. Existing utilities, including franchise utilities, storm drain, water lines and other known facilities, will be drawn using Computer-Aided-Design (CAD). The existing utilities will be based on the field survey, record drawings, and the best available information.
3. Preliminary Drainage Calculations
4. Preliminary Horizontal and Vertical Roadway Alignment
5. Preliminary Proposed Typical Sections



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6. Construction cost estimate based on the Schematic Plan.
7. Site Visits to collect information for the project. One (1) site visits were assumed.
8. Prints of Schematic – Prints will include:
 - One (1) full size color preliminary schematic at a scale of 1"=100'
 - Two (2) half size color preliminary schematics at a scale of 1"=200'
 - One (1) half size color schematic of final schematic mounted on foam core board and a PDF File.

The schematic will generally include the following information:

- 1) Aerial Image
- 2) Plan and Profile of Roadway
- 3) Storm Drain (Plan View)
- 4) Typical Sections
- 5) Existing Property, Easement Lines, and Ownership
- 6) Proposed Property and Easement Lines

D. Preliminary Design Phase (60% Design)

Preliminary Plans of Waketon Road from Chinn Chapel Road to the western limits of the proposed Bradford Park Subdivision (approximately 1,450' east of Chinn Chapel Road) will be prepared and submitted to the Town for review. The preliminary plans will be approximately 60% complete. The schematic will be updated at the end of this phase.

The preliminary design phase will include the following tasks:

1. Update Schematic
2. Preliminary Horizontal and Vertical Roadway Alignment; including round-a-bout design.
3. Preliminary Typical Sections & Cross Sections
4. Preliminary Demolition Plan
5. Preliminary Grading Plan
6. Preliminary Storm Drain Design
7. Preliminary Sequence of Construction and Traffic Control Plan
8. Preliminary Signage and Pavement Marking Plans
9. Preliminary Erosion Control Plan
10. Preliminary Construction Details



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11. Construction Cost Estimate based on Preliminary Plans
12. Site Visits to collect information for the project. One (1) site visits were assumed.
13. Prints of Preliminary Plans
 - Three (3) sets of 11"x17" preliminary plans will be provided for review.
 - One (1) half size color final schematic at a scale of 1"=200' will be provided to the Town. Schematic will be mounted on foam core board and a PDF file.

Preliminary Construction Plans will generally include the following plan sheets:

- 1) Cover Sheet, Index of Sheets, and General Notes
- 2) Project Layout (Scale: 1"=100')
- 3) Typical Sections (Scale: H: 1"=5', V: 1"=2')
- 4) Demolition (Scale: 1"=20')
- 5) Sequence of Construction and Traffic Control (Scale: 1"=50')
- 6) Paving Plan and Profile (Scale: H: 1"=20', V: 1"=4')
- 7) Grading Plan (Scale: H: 1"=20')
- 8) Drainage Area Map (Scale: 1"=100' To 1"=200')
- 9) Drainage Calculations
- 10) Storm Drain Plan and Profile (Scale: H: 1"=20', V: 1"=4')
- 11) Construction Details

Halff will submit 60% construction plans to franchise utilities for review.

E. Final Design Phase (95% Design)

Final Plans of Waketon Road from Chinn Chapel Road to the western limits of the proposed Bradford Park Subdivision (approximately 1,450' east of Chinn Chapel Road) will be prepared and submitted to the Town for review. The final plans will be 95% complete. Upon completing final revisions 100% Final Plans will be issued for bidding.

The preliminary design phase will include the following tasks:

1. Contract Documents and Specifications
 - a. Contract Documents
 - b. Specifications
 - c. Forms
 - d. Other information (i.e. – permits, reports, etc.)
2. Final Horizontal and Vertical Roadway Alignment; including round-a-bout design.



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3. Final Typical Sections & Cross Sections
4. Final Demolition Plan
5. Final Grading Plan
6. Final Storm Drain Design
7. Final Sequence of Construction and Traffic Control Plan
8. Final Signage and Pavement Marking Plans
9. Final Erosion Control Plan
10. Final Construction Details
11. Construction Cost Estimate based on Final Plans
12. Final Site Visits to collect information for the project. One (1) site visits were assumed.
13. Prints of Final Plan
 - Three (3) sets of 11"x17" final plans will be provided for review.

Final Construction Plans will generally include the following plan sheets:

- 1) Cover Sheet, Index of Sheets, and General Notes
- 2) Project Layout (Scale: 1"=100')
- 3) Typical Sections (Scale: H: 1"=5', V: 1"=2')
- 4) Demolition (Scale: 1"=20')
- 5) Sequence of Construction and Traffic Control (Scale: 1"=50')
- 6) Paving Plan and Profile (Scale: H: 1"=20', V: 1"=4')
- 7) Grading Plan (Scale: H: 1"=20')
- 8) Cross Sections (Scale: H: 1"=20', V: 1"=4')
- 9) Signage and Pavement Markings (Scale 1"=20')
- 10) Drainage Area Map (Scale: 1"=100' To 1"=200')
- 11) Drainage Calculations
- 12) Storm Drain Plan and Profile (Scale: H: 1"=20', V: 1"=4')
- 13) Erosion Control Plan (Scale: 1"=20')
- 14) Irrigation/Landscape Plan for Roundabout
- 15) Construction Details

Halff will submit 95% construction plans to franchise utilities for review.



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F. Landscaping and Irrigation Design

Once 60% Plans are completed, the landscape and irrigation design will begin for Roundabout at the intersection of Waketon Road and Chinn Chapel Road. The landscape and irrigation plans will be submitted at the 95% plan submittal to the Town.

The landscaping and design phase will include the following tasks:

1. Landscaping – Prepared landscaping plans, including decorative wall and similar plantings to the Chinn Chapel Road at Dixon Lane Roundabout.
2. Irrigation – Prepare irrigation plans for the Waketon Road at Chinn Chapel Road Roundabout. Irrigation design will comply with local and state requirements.

G. TDLR Compliance

Once Final Plans are completed, the construction plans will be submitted to a Texas Accessibility Specialist (TAS) to review the plans for Texas Department of Licensing and Regulation (TDLR) compliance. Upon completion of the construction, a Texas Accessibility Specialist will perform a site visit to check for TDLR compliance.

The TDLR Compliance will include the following tasks:

1. TDLR Plan Review - Have a qualified Texas Accessibility Specialist (TAS) review the plans to make sure they conform to the Texas Department of Licensing and Regulation (TDLR) requirements.
2. TDLR On-Site Inspection – Have a qualified Texas Accessibility Specialist (TAS) one (1) on-site inspect to make sure the project conforms to the Texas Department of Licensing and Regulation (TDLR) requirements.

H. Right-of-Way Acquisition

Halff will prepare right-of-way and easement metes and bounds exhibits (field sketches) for the project. This proposal includes a total of five (5) right-of-way metes and bound exhibits (field sketches) and one (1) easement for the Waketon Road Project. Below is the scope of work for preparing right-of-way metes and bounds sketches. The Town of Flower Mound will be responsible for right-of-way negotiation, appraisal services, title and closing services.



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1. Field Survey – Locate existing property monuments necessary to determine existing right-of-way and parcels adjacent to right-of-way.
2. Office Survey – Resolve property documents, deeds, and plats necessary to determine existing right-of-way and parcels adjacent to right-of-way.
3. Right-of-Way Field Sketches – A survey field sketch will be prepared for each right-of-way taking. Five (5) right-of-way field sketches are included in this contract.
4. Easement Field Sketches - A survey field sketch will be prepared for each easement taking. One (1) easement field sketch is included in this contract.
5. R.O.W. Monuments – Set right-of-way monuments upon finalizing survey field sketches.

I. Coordination

Halff Associates will coordinate with franchise utilities and other agencies as necessary to obtain the necessary permits and permissions to construct the project. Halff Associates anticipates coordination will be required with the following:

1. Agency Coordination (including, but not limited to):
 - a. Town of Flower Mound
 - b. Town of Double Oak
2. Public Meetings – Anticipate two (2) public meetings for this project. One (1) public meeting during the Schematic Phase and one (1) public meeting during the Final Design Phase (prior to construction).
3. Franchise Utilities Coordination (including, but not limited to):
 - a. Communication
 - b. Electric
 - c. Gas
4. Others
 - a. J. Volk Consulting (Engineer/Surveyor for the Bradford Park Sub-Division)

J. Bidding Phase

1. Print Final Plans – Five (5) sets of each 100% Final Plans (11"x17") will be provided for bidding purposes.



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2. Bid Contract Documents and Specifications – Five (5) sets of each of final Contract Documents and Specifications will be provided for bidding purposes.
3. Issue Addenda – Prepare addendums for clarifications to the construction documents and answer contractors' questions.
4. Final Construct Contract Documents – Prepare final construction contract documents (for selected contractor). Provide five (5) half size (11"x17") sets of conformed plans, one (1) full size (22"x34") set of conformed plans, and a PDF file.

K. Construction Phase

Day-to-day Construction Administration and Inspections will be performed by the Town. Halff will performed limited construction administration as described below. Any construction phase services requested by the Town beyond those described below will be provided as an Additional Services at the hourly rates described in Exhibit 'D' or lump sum fee.

1. Limited Construction Administration

a. Record Drawings

- 1) The record drawings will be based on inspector and contractor's markups.
- 2) One (1) CD containing with AutoCAD (*.DWG), PDF (entire set), and an individual *.TIFF file of each sheet.



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DELIVERABLES

The following deliverables will be provided to the Town:

1. Two (2) Copies and a PDF file of a Geotechnical Report
2. Preliminary Schematic
3. Final Schematic
4. Preliminary Plans
5. Final Plans
6. Five (5) Field Sketches for Right-of-Way Takings
7. One (1) Field Sketches for Easement Takings
8. Five (5) sets of 11"x17" Final Plans for bidding purposes
9. Five (5) sets of final Contract Documents and Specifications for bidding purposes
10. Provide five (5) half size (11"x17") sets of conformed plans, one (1) full size (22"x34") set of conformed plans, and a PDF file for construction purposes.
11. Record Drawings (as described in scope of work)
12. Construction Cost Estimates at Schematic, Preliminary, and Final Phases

PROJECT SCHEDULE

Halff will begin work immediately after receipt of written notice to proceed. The tasks will be completed in accordance with the following project milestones in Working Days upon written notice. See attached Exhibit 'F' for detailed Project Schedule.

The schedule does not include review time and delays by others. The schedule is subject to change based on direction from the Town of Flower Mound.



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FEES

The project will be a Lump Sum fee. Lump sum fee tasks will be billed monthly based on percentage of work that has been completed. See Project Fee Schedule (Exhibit 'C') for a detailed fee description. A summary of the professional services fees is listed in the following table.

PROFESSIONAL SERVICES FEE SUMMARY	
PROJECT TASKS	FEE
A. SURVEYING	\$20,140.00
B. STUDY PHASE	\$8,055.00
C. SCHEMATIC PHASE (30% DESIGN)	\$22,430.00
D. PRELIMINARY DESIGN PHASE (60% DESIGN)	\$70,450.00
E. FINAL DESIGN PHASE (95%)	\$49,240.00
F. LANDSCAPING AND IRRIGATION DESIGN	\$16,680.00
G. TDLR COMPLIANCE	\$2,750.00
H. RIGHT-OF-WAY ACQUISITION	\$19,490.00
I. COORDINATION	\$22,860.00
J. BIDDING PHASE	\$8,140.00
K. CONSTRUCTION PHASE	\$2,990.00
TOTAL FEE	\$243,225.00

The basic services fee includes the following: design phases, coordination, bidding phase, and construction administration. The additional services fee includes the following: surveying and right-of-way acquisition. A summary of the basic and additional service fees is listed in the following table.

BASIC\ADDITIONAL SERVICES SUMMARY	
BASIC SERVICES FEE	\$176,110.00
ADDITIONAL SERVICES FEE	\$67,115.00
TOTAL SERVICES FEE	\$243,225.00

Direct Costs for expenses such as mileage, copies, scans, sub-consultants, etc. are included in the lump sum fees. Sub-consultants fee includes an administration cost. For Schedule of Rates (Hourly Services) see Exhibit 'D'.



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We appreciate the opportunity to be of service to the Town of Flower Mound. If you have any questions please do not hesitate to call me at (972) 956-0801.

Sincerely,

HALFF ASSOCIATES, INC.

A handwritten signature in blue ink, appearing to read "Brian C. Haynes", is written over the printed name and title.

Brian C. Haynes, P.E., CFM
Vice President/Branch Manager

EXHIBIT B**Waketon Road – Chinn Chapel Rd to 1,450 East of Chinn Chapel Road
Exclusions from the Proposed Scope of Services**

The following services are not included in the scope of work of this proposal. Halff Associates can provide estimated fees for these services, if needed.

1. Construction Material Testing
2. Construction survey staking. The Contractor will be responsible for construction survey staking.
3. Right-of-Way and Easement acquisition
4. Flood-plain Studies
5. Environmental permitting
6. Permit fees
7. Texas Department of Transportation (TxDOT) Permits.
8. Project Storm Water Pollution Prevention Plan (SWPPP). The Contractor will be responsible for the preparation, implementing, and maintaining the SWPPP.
9. TCEQ Notice of Intent (NOI) and Notice of Termination application and fee. Contractor will be responsible for the application and fee.
10. Traffic engineering studies or reports.
11. Revisions and the associated change orders due to Owner requested changes once construction is under way.
12. Condemnation Services (Eminent Domain Services)
13. Special investigations involving detailed consideration of operations, maintenance, and overhead expenses; preparation of rate schedule, earning, and expense statements; special feasibility studies; appraisals, valuations; and material audits or inventories required for certification of force account construction performed by the Owner.
14. Design of franchise utility relocations.
15. Construction Inspection

HALFF ASSOCIATES, INC.

PROJECT FEE SCHEDULE

EXHIBIT C

	PROJECT TASK	CIVIL-GENERAL ENGINEER GRAD ENG	CIVIL-GENERAL ENGINEER PROJ ENG	CIVIL-GENERAL ENGINEER SR. PROJ MANAGER	CIVIL-GENERAL ENGINEER PRINCIPAL ENG	LANDSCAPE ARCHITECT PROJ LAND ARCH	LANDSCAPE ARCHITECT PROJ MANAGER	DRAFTSMAN CIVIL CADD DRAFTER	SURVEY SIT	SURVEY RPLS	SUE CREW	SURVEY 2-MAN CREW	ADMIN SECRETARY	DIRECT COSTS		TOTAL
														EXPENSES	SUB-CONSULT	
	A. SURVEYING															
1	Right of Entry		0.75						0.75	0.50			1.00	\$50.00		\$2,360.00
2	Survey Control								0.75	0.50		2.00		\$100.00		\$3,170.00
3	Field Survey for Design								0.75	0.50		5.00		\$100.00		\$6,170.00
4	Tree Survey		0.50			1.50	1.50							\$100.00		\$3,460.00
5	Topographic Map	0.50						1.00	0.75	0.50				\$50.00		\$2,060.00
6	Sub-Surface Utility Engineering (SUE) (3 Locations)	0.50	0.25								1.00			\$500.00		\$2,920.00
	SUBTOTAL: SURVEYING	1.00	1.50			1.50	1.50	1.00	3.00	2.00	1.00	7.00	1.00	\$900.00		\$20,140.00
	B. STUDY PHASE															
1	Geotechnical Investigation and Report	1.00	0.50											\$50.00	\$6,765.00	\$8,055.00
	SUBTOTAL: SCHEMATIC PHASE	1.00	0.50											\$50.00		\$8,055.00
	C. SCHEMATIC PHASE (30% DESIGN)															
1	Base Map	1.00	0.50	0.25				2.50						\$50.00		\$2,990.00
2	Preliminary Drainage Calculations	3.00	1.50	0.50	0.25									\$50.00		\$4,750.00
3	Preliminary Horizontal and Vertical Road Alignment	3.00	1.50	0.50	0.25			3.00						\$75.00		\$6,455.00
4	Preliminary Typical Sections	1.50	0.75	0.50	0.25			1.50						\$25.00		\$3,705.00
5	Cost Estimate	1.00	0.50	0.25	0.25			1.00						\$25.00		\$2,505.00
6	Site Visits (1)	0.50	0.50	0.25										\$25.00		\$1,185.00
7	Prints of Schematic for Review	0.50						0.50					0.25	\$50.00		\$840.00
	SUBTOTAL: SCHEMATIC PHASE	10.50	5.25	2.25	1.00			8.50					0.25	\$300.00		\$22,430.00
	D. PRELIMINARY DESIGN PHASE (60% DESIGN)															
1	Update Final Schematic	1.50	0.50	0.25				1.50						\$75.00		\$2,835.00
2	Horizontal and Vertical Roadway Alignment	7.00	3.50	1.00				7.00						\$100.00		\$13,900.00
3	Proposed Typical Sections & Cross Sections	2.00	1.00	0.50				2.00						\$50.00		\$4,250.00
4	Demolition Plan	2.00	1.00	0.50				2.00						\$50.00		\$4,250.00
5	Grading Plan	4.00	2.00	1.00				4.00						\$100.00		\$8,500.00
6	Storm Drain Design	5.00	2.50	1.00				4.00						\$100.00		\$9,740.00
7	Traffic Control Plan	3.00	1.50	0.50				3.00						\$75.00		\$6,075.00
8	Signage and Pavement Marking Plan	2.00	1.00	0.50				2.00						\$50.00		\$4,250.00
9	Erosion Control Plan	2.00	1.00	0.50				2.00						\$50.00		\$4,250.00
10	Construction Details	4.00	2.00	1.00				4.00						\$50.00		\$8,450.00
11	Construction Cost Estimate	1.00	0.50	0.25				1.00						\$50.00		\$2,150.00
12	Site Visits (1)	0.50	0.50											\$50.00		\$910.00
13	Prints of Plans for Review	0.50						0.50					0.25	\$100.00		\$890.00
	SUBTOTAL: PRELIMINARY DESIGN PHASE	34.50	17.00	7.00				33.00					0.25	\$900.00		\$70,450.00
	E. FINAL DESIGN PHASE (95%)															
1	Contract Documents and Specifications	1.00	2.00	1.00	0.50									\$100.00		\$4,740.00
2	Horizontal and Vertical Roadway Alignment	4.00	2.00	1.00				4.00						\$150.00		\$8,550.00
3	Proposed Typical Sections & Cross Sections	1.00	0.50	0.25				1.00						\$75.00		\$2,175.00
4	Demolition Plan	1.00	0.50	0.25				1.00						\$75.00		\$2,175.00
5	Grading Plan	3.00	1.50	0.75				3.00						\$100.00		\$6,400.00
6	Storm Drain Design	4.00	2.00	1.00				4.00						\$100.00		\$8,500.00
7	Traffic Control Plan	2.00	1.00	0.50				2.00						\$100.00		\$4,300.00
8	Signage and Pavement Marking Plan	1.00	0.75	0.50				1.00						\$50.00		\$2,690.00
9	Erosion Control Plan	1.00	0.75	0.50				1.00						\$50.00		\$2,690.00
10	Construction Details	1.50	0.75	0.50				1.50						\$50.00		\$3,350.00
11	Construction Cost Estimate	0.75	0.50	0.25				0.75						\$50.00		\$1,820.00
12	Site Visits (1)	0.50	0.50											\$50.00		\$910.00
13	Prints of Plans for Review	0.50						0.50					0.25	\$150.00		\$940.00
	SUBTOTAL: FINAL DESIGN PHASE	21.25	12.75	6.50	0.50			19.75					0.25	\$1,100.00		\$49,240.00
	F. LANDSCAPING AND IRRIGATION DESIGN															
1	Landscaping Plan	1.00	0.50			5.00	2.50							\$100.00		\$8,340.00
2	Irrigation Plan	1.00	0.50			5.00	2.50							\$100.00		\$8,340.00
	SUBTOTAL: LANDSCAPING DESIGN	2.00	1.00			10.00	5.00							\$200.00		\$16,680.00
	G. TDLR COMPLIANCE															
1	TDLR Plan Review	0.50	0.25										0.25	\$200.00	\$500.00	\$1,450.00
2	TDLR Inspection	0.50	0.25										0.25	\$50.00	\$500.00	\$1,300.00
	SUBTOTAL: TDLR COMPLIANCE	1.00	0.50										0.50	\$250.00	\$1,000.00	\$2,750.00

HALFF ASSOCIATES, INC.

PROJECT FEE SCHEDULE

EXHIBIT C

	PROJECT TASK	CIVIL-GENERAL ENGINEER GRAD ENG	CIVIL-GENERAL ENGINEER PROJ ENG	CIVIL-GENERAL ENGINEER SR. PROJ MANAGER	CIVIL-GENERAL ENGINEER PRINCIPAL ENG	LANDSCAPE ARCHITECT PROJ LAND ARCH	LANDSCAPE ARCHITECT PROJ MANAGER	DRAFTSMAN CIVIL CADD DRAFTER	SURVEY SIT	SURVEY RPLS	SUE CREW	SURVEY 2-MAN CREW	ADMIN SECRETARY	DIRECT COSTS		TOTAL
														EXPENSES	SUB-CONSULT	
	H. RIGHT-OF-WAY ACQUISITION															
1	Field Survey								1.00	0.50		2.00		\$100.00		\$3,340.00
2	Office Survey								4.00	0.50				\$100.00		\$3,380.00
3	Right-of-Way Field Sketches (5 Total)	1.50	0.75	0.25				5.00	2.50	1.50			1.00	\$200.00		\$9,060.00
4	Easement Field Sketch (1 Total)	0.50	0.25					1.00	0.50	0.25			0.25	\$50.00		\$1,980.00
5	Set R.O.W. Monuments								1.00			1.00		\$50.00		\$1,730.00
	SUBTOTAL: RIGHT-OF-WAY ACQUISITION	2.00	1.00	0.25				6.00	9.00	2.75		3.00	1.25	\$500.00		\$19,490.00
	I. COORDINATION															
1	Agency Coordination	1.50	1.50	3.00	1.00									\$150.00		\$7,850.00
2	Public Meetings			1.50	0.75									\$200.00		\$3,140.00
3	Franchise Utility Coordination	4.00	2.00	0.50	0.25									\$150.00		\$6,090.00
4	Others	3.00	1.50	1.00	0.50									\$100.00		\$5,780.00
	SUBTOTAL: COORDINATION	8.50	5.00	6.00	2.50									\$600.00		\$22,860.00
	J. BIDDING PHASE															
1	Final Plans (5 Sets)	0.50		0.25				0.50					0.25	\$100.00		\$1,190.00
2	Bid Contract Documents and Specifications (5 Sets)	1.50	1.00	0.50	0.25								0.25	\$100.00		\$3,310.00
3	Issue Addenda	1.00	0.50	0.25									0.25	\$100.00		\$1,770.00
4	Final Construction Contract Documents	1.00	0.50	0.25									0.25	\$200.00		\$1,870.00
	SUBTOTAL: BIDDING PHASE	4.00	2.00	1.25	0.25			0.50					1.00	\$500.00		\$8,140.00
	K. CONSTRUCTION PHASE															
1	Limited Construction Administration	1.50	0.50	0.25				1.50					0.25	\$100.00		\$2,990.00
	SUBTOTAL: CONSTRUCTION PHASE	1.50	0.50	0.25				1.50					0.25	\$100.00		\$2,990.00
	TOTAL	87.25	47.00	23.50	4.25	11.50	6.50	70.25	12.00	4.75	1.00	10.00	4.75	\$5,400.00	\$1,000.00	\$243,225.00
	DAILY RATES	\$760	\$960	\$1,200	\$1,520	\$880	\$1,040	\$560	\$680	\$1,120	\$1,800	\$1,000	\$520			
	HOURLY RATES	\$95	\$120	\$150	\$190	\$110	\$130	\$70	\$85	\$140	\$225	\$125	\$65			

EXHIBIT D
SCHEDULE OF RATES
FOR
PROFESSIONAL SERVICES
October 18, 2016 (thru June 2017)

Engineering Services:

CADD Draftsman	\$65.00
CADD Technician	\$80.00
Graduate Engineer (Engineer-In-Training)	\$100.00
Senior CADD Technician	\$95.00
Project Engineer	\$125.00
Project Manager	\$155.00
Senior Project Manager	\$165.00
Principal Engineer	\$195.00

GIS Services:

GIS Entry Level	\$75.00
GIS Analyst	\$90.00
Senior GIS Analyst	\$100.00

Surveying Services:

Surveyor-In-Training (SIT)	\$90.00
Field Party Coordinator/RPLS	\$110.00
2-Man Survey Crew	\$125.00
Registered Professional Land Surveyor (RPLS)	\$145.00
3-Man Survey Crew	\$155.00

Administrative:

Clerical	\$65.00
Administrative Secretary	\$70.00
Office Manager	\$90.00

This Schedule of hourly rates may be modified by Engineer at his discretion, with Town approval. Time billed at hourly rates shall be in minimum increments of ¼ hour.

ENGINEER'S STATEMENT OF PROBABLE COST**WAKETON ROAD**

CHINN CHAPEL ROAD TO 400' WEST OF LONG PRAIRIE ROAD (FM 2499) - 4,575 LF
37' B-B WIDE (TYPICAL) 8" CONCRETE

Project: Waketon Road
Client: Town of Flower Mound

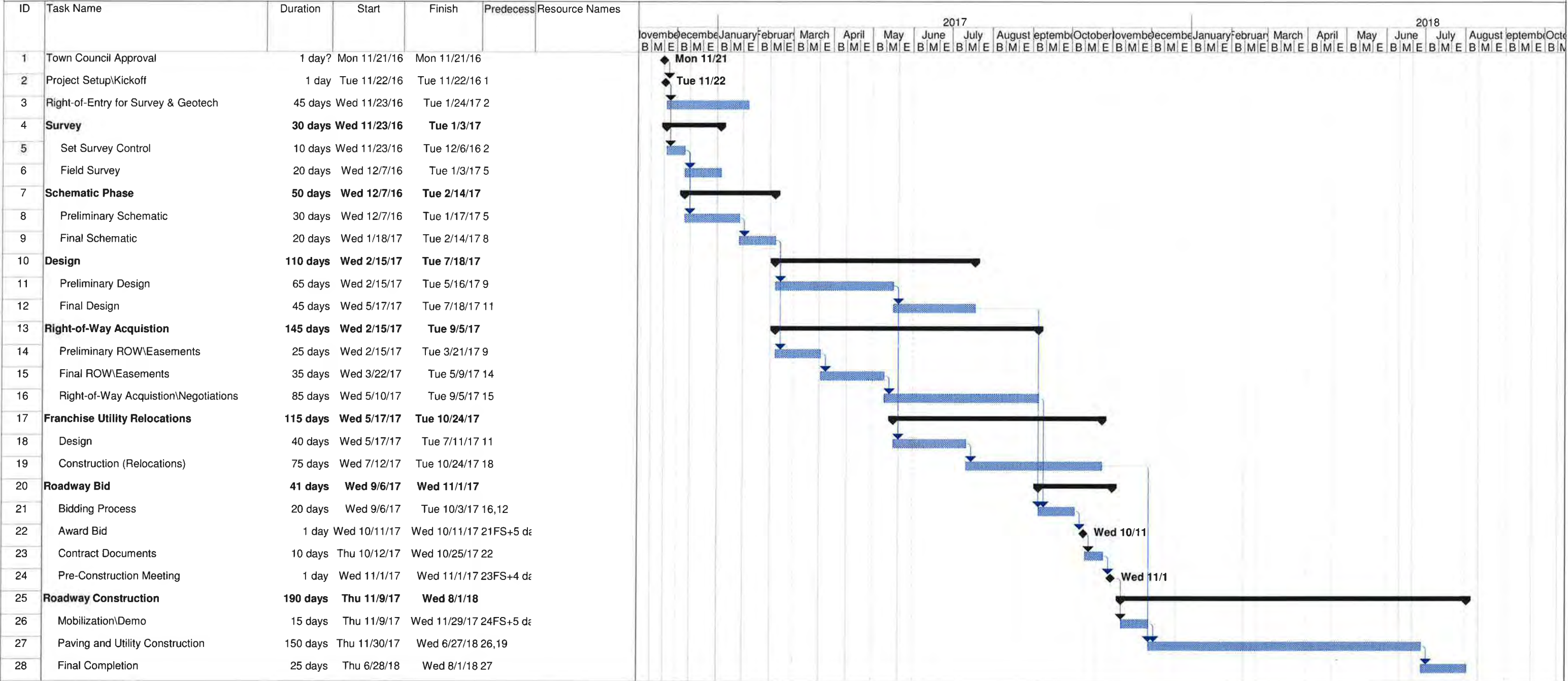
Prepared by: Brian C. Haynes, P.E., CFM
Date: October 28, 2018

Pavement Material: Concrete
Pavement Width: 37 feet
Pavement Thickness: 8 in
Right-of-Way Width: 60 feet
Roadway Length: 1650 feet
Current Date: 2016 year
Estimated Construction Date: 2017 year

ITEM NO.	DESCRIPTION	UNIT	QTY	Engineer's Estimate	
				UNIT PRICE	EXTENDED PRICE
Section I - Waketon Road - Chinn Chapel Road to 1,450' East of Chinn Chapel Road					
1	Road Preparation (5% Maximum)	STA	16.5	\$4,700.00	\$77,550.00
2	Mobilization (5% Maximum)	LS	1	\$76,000.00	\$76,000.00
3	Project Signs	EA	2	\$1,000.00	\$2,000.00
4	Barricades, Signs and Traffic Handling	MO	9	\$3,000.00	\$27,000.00
5	Construction Staking	STA	16.5	\$750.00	\$12,375.00
6	Remove and Dispose of Asphalt Pavement	SY	6,125	\$6.00	\$36,750.00
7	Remove and Dispose of Concrete Pavement	SY	750	\$12.00	\$9,000.00
8	Earthwork (Excavation)(Assuming 1-ft depth)	CY	4,450	\$12.00	\$53,400.00
9	Cement Treated Subgrade (8")	SY	10,525.0	\$7.50	\$78,937.50
10	Cement Slurry (24 lbs./SY)	TON	126.0	\$250.00	\$31,500.00
11	Concrete Sidewalk (4") (5' Width)	SY	2,225	\$50.00	\$111,250.00
12	Accessible Ramps	EA	10	\$3,500.00	\$35,000.00
13	Concrete Pavement (8") (4,000 PSI)	SY	10,050	\$65.00	\$653,250.00
14	Concrete Pavement (6") (Driveways)	SY	300.0	\$70.00	\$21,000.00
15	Asphalt Pavement Transitions (6")(Type B&D)	SY	250.0	\$40.00	\$10,000.00
16	Topsoil (4")	SY	5,500.0	\$8.00	\$44,000.00
17	Grass Sodding	SY	5,500.0	\$6.00	\$33,000.00
18	Adjust Fire Hydrant Assemblies	EA	3.0	\$2,750.00	\$8,250.00
19	Adjust Manhole to Grade	EA	3.0	\$1,500.00	\$4,500.00
20	Fence (5 Strand Barbwire)	LF	1,250.0	\$20.00	\$25,000.00
21	Gate	EA	2.0	\$1,500.00	\$3,000.00
22	Reinforced Concrete Pipe (CL III) (18 IN)	LF	25.0	\$75.00	\$1,875.00
23	Reinforced Concrete Pipe (CL III) (24 IN)	LF	350.0	\$100.00	\$35,000.00
24	Reinforced Concrete Pipe (CL III) (30 IN)	LF	90.0	\$125.00	\$11,250.00
25	Trench Safety	LF	465.0	\$5.00	\$2,325.00
26	Inlets (Curb or Grate)	EA	4.0	\$5,000.00	\$20,000.00
27	Storm Drain Junction Boxes (4'x4')	EA	1.0	\$8,500.00	\$8,500.00
28	Erosion Control	LS	1.0	\$12,500.00	\$12,500.00
29	Landscaping, Irrigation, Walls, Pavers for Roundabout	LS	1.0	\$150,000.00	\$150,000.00
30	Pavement Markings and Signage	LS	1.0	\$30,000.00	\$30,000.00
Subtotal Section I					\$1,624,212.50

ITEM NO.	DESCRIPTION	UNIT	QTY	Engineer's Estimate	
				UNIT PRICE	EXTENDED PRICE
	SUBTOTAL CONSTRUCTION IMPROVEMENTS				\$1,624,200.00
	CONTINGENCY (15%)				\$243,630.00
	TOTAL CONSTRUCTION				\$1,867,830.00
	BASIC ENGINEERING SERVICES				\$176,110.00
	SPECIAL ENGINEERING SERVICES				\$67,115.00
	CONSTRUCTION MATERIAL TESTING (2.5%)				\$40,605.00
	TOTAL PROJECT COSTS				\$2,151,660.00
	INFLATION ADJUSTMENT (2.5% PER YEAR)				\$40,600.00
	TOTAL IMPROVEMENTS (ASSUMING CONSTRUCTION BEGINS IN 2017)				\$2,200,000.00
Notes: 1. Street lighting is <u>excluded</u> from this estimate. 2. An inflation rate of 2.5% was assumed based on the average Consumer Price Index from 2000 to 2013. 3. Right-of-Way Acquisition Services are excluded from this estimate. 4. Construction Material Testing costs were estimated at 2.5% of the overall construction cost.					
NOTE: This statement was prepared utilizing standard cost and/or estimating practices. It is understood and agreed that this is a statement of probable construction cost only, and the Engineer shall not be liable to the Owner or any Third Party.					

Exhibit "F"
Waketon Road - Chinn Chapel Road to FM 2499
Town of Flower Mound
Project Schedule



Task

Split

Milestone

Summary

Project Summary

External Tasks

External Milestone

Inactive Task

Inactive Task

Inactive Milestone

Inactive Summary

Manual Task

Duration-only

Manual Summary Rollup

Manual Summary

Start-only

Finish-only

Progress

Deadline

October 12, 2016

Mr. Brian Haynes, P.E., C.F.M.
Vice President, Branch Manager
Halff Associates, Inc.
1001 Cross Timbers Road, Suite 2020
Flower Mound, Texas 75028

Phone: (972) 829-8954
Email: bHaynes@Halff.com

Re: Proposal for Geotechnical Investigation
Pavement Reconstruction
Waketon Road
Flower Mound, Texas
AGG Proposal No. P16-1006E

Dear Mr. Haynes,

We are pleased to submit this proposal for geotechnical engineering services for the project referenced above. This proposal includes a description of the project, scope of work, fee and term and conditions.

PROJECT DESCRIPTION

The project consists of replacing approximately 1,425 linear feet of Waketon Road east of Chinn Chapel Road in Flower Mound, Texas. We understand that the existing roadway consists of a 2-lane asphalt pavement that is about 20 feet in width. We further understand that the proposed reconstructed pavement will consist of 3-lanes undivided concrete pavement and will be 37 feet wide.

SCOPE OF WORK

The geotechnical investigation performed for the referenced project will consist of field and laboratory investigations, engineering analysis, and a report prepared by a Registered Professional Engineer.

FIELD INVESTIGATION

The field investigation will consist of drilling four (4) test borings along the proposed alignment. The test borings will be drilled to depths of ten (10) feet below the existing ground surface. Two (2) of the borings will be drilled on the existing pavement and the remaining two (2) borings will be drilled on the grass within pavement widening areas.



Proposal for Geotechnical Investigation
Pavement Reconstruction
Waketon Road
Flower Mound, Texas
AGG Proposal No. P16-1006E
Page 2

Subsurface soil samples will be secured with thin walled tube and/or split spoon samples depending on soil type and consistency. All samples will be properly logged, packaged, sealed, and placed in a core box for transportation to the laboratory. The test borings will be backfilled with soil cuttings and the pavements patched upon drilling completion.

AGG assumes that the client has the right-of-entry to the property and that the boring locations will be accessible to our conventional truck mounted drilling equipment during normal working hours. Should unusual soil conditions be encountered, we will call you with a recommendation and cost estimate to explore these unusual conditions. Minor traffic control consisting of signs, cones and flagmen is anticipated for this project.

Alliance Geotechnical Group will contact Texas 811 and the City of Flower Mound water department to have them locate underground utilities. However, Alliance Geotechnical Group is not responsible for damage to underground utilities that are not identified prior to drilling.

Laboratory Investigation

Laboratory tests will be conducted to classify the soil and to evaluate the volume change potential and strength of the soil present at the site. Soil classification tests will consist of Atterberg limits (plasticity index), moisture content, and dry unit weight. The volume change potential of the soils will be evaluated by swell tests. The strength of the soil will be estimated using hand penetrometer test. A lime/PI series test and sulfate testing will be performed on selected clay samples.

Engineering Analyses

Results of field and laboratory work will be presented in an engineering report. The report will include our recommendations to guide design and construction of the foundations and will include the following:

1. Plan of borings, boring logs, water level observations, and laboratory test results.
2. Pavement thickness recommendations based upon design traffic data provided by others.
3. Pavement subgrade stabilization recommendations.
4. Comments on the presence and effect of expansive soils on pavement construction will be provided. Alternative methods of reducing any anticipated shrink/swell movements associated with expansive clays will be included for pavement construction, if required.



Proposal for Geotechnical Investigation
Pavement Reconstruction
Waketon Road
Flower Mound, Texas
AGG Proposal No. P16-1006E
Page 3

GEOTECHNICAL FEES

Based on the proposed scope of work, we will provide the geotechnical investigation for this project for a lump sum fee of **\$6,150.00**.

TERMS AND CONDITIONS

The proposed work will be performed in accordance with AGG's "General Conditions". If this proposal meets with your approval (including AGG's "General Conditions"), please sign below to authorize Alliance Geotechnical Group to perform the work. Please contact us after reviewing our proposal if you have any questions. We look forward to working with you on this project.

Sincerely,

ALLIANCE GEOTECHNICAL GROUP

A handwritten signature in blue ink, appearing to read 'FM'.

Francis Mbogning, E.I.T.
Project Manager

A handwritten signature in blue ink, appearing to read 'M. Roland'.

Michael D. Roland, P.E.
Vice President

Attached: AGG's General Conditions

ACCEPTED BY:

Name

Date

Title



TOWN COUNCIL AGENDA ITEM NO. 7

CONSENT ITEM

DATE: November 21, 2016

FROM: David Bauer, Construction Manager

ITEM: Consider approval and final acceptance of the Heritage Park of Flower Mound Phase II project, for Northstar Construction LLC., and authorization for final payment to Northstar Construction, in the amount of \$73,434.44.

BACKGROUND INFORMATION:

The Heritage Park of Flower Mound Phase II project is complete. This item provides for the final project acceptance, at a final payment of \$73,434.44 of retainage, for a total contract amount of \$1,469,085.00.

FISCAL IMPACT: \$73,434.44

Proposed Expenditure:	Account Number(s):
\$73,434.44	317-110-90705

Finance Review by: Debra Wallace, Deputy Town Manager/CFO

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Final Contract Estimate for Payment
2. Consent of Surety
3. Affidavit of Bills Paid

RECOMMENDATION: Move to approve the final acceptance of the Heritage Park of Flower Mound Phase II project, and authorize final payment to Northstar Construction, LLC., in the amount of \$73,434.44.

CONTRACT ESTIMATE FOR PAYMENT

Project: Heritage Park Phase II Estimate No.: Final

Item No.	Description of Item	Unit of Measure	Contract Quantities	Unit Price	Contract Amount	Quantities Completed Previous	Quantities Completed This Month	Quantities Completed To Date	Dollar Amount Previous	Dollar Amount This Month	Amount Completed To date	% of Quantity Complete
1	CLEARING AND GRUBING AND REMOVAL	LS	1	\$ 75,000.00	\$ 75,000.00	1.00	0.00	1.00	\$ 75,000.00	\$ -	\$ 75,000.00	100.00%
2	EROSION CONTROL	LS	1	\$ 5,000.00	\$ 5,000.00	1.00	0.00	1.00	5,000.00	-	5,000.00	100.00%
3	EARTHWORK AND FINE GRADING	LS	1	\$ 50,000.00	\$ 50,000.00	1.00	0.00	1.00	50,000.00	-	50,000.00	100.00%
4	IRRIGATION SYSTEM (INCLUDING TAP, METER, METER VAULT, RIP DEVICE)	LS	1	\$ 25,000.00	\$ 25,000.00	1.00	0.00	1.00	25,000.00	-	25,000.00	100.00%
5	SOLID SOD AROUND DISTURBED AREA OF POND AS INDICATED ON PLANS	SF	6500	\$ 0.50	\$ 3,250.00	6500.00	0.00	6500.00	3,250.00	-	3,250.00	100.00%
6	HYDROMULCH IN DISTURBED AREA ASSOCIATED WITH PARKING OR SIDEWALK	LS	1	\$ 10,000.00	\$ 10,000.00	1.00	0.00	1.00	10,000.00	-	10,000.00	100.00%
7	5 1/2" CONCRETE PARKING ON 6" TREATED SUBGRADE	SF	17311	\$ 6.00	\$ 103,866.00	17311.00	0.00	17311.00	103,866.00	-	103,866.00	100.00%
8	7" CONCRETE FIRE LANE ON 6' TREATED SUBGRADE	SF	14302	\$ 7.00	\$ 100,114.00	14302.00	0.00	14302.00	100,114.00	-	100,114.00	100.00%
9	5 1/2" CONCRETE SIDEWALK PAVING ON COMPACTED SUBGRADE	SF	5547	\$ 5.00	\$ 27,735.00	5547.00	0.00	5547.00	27,735.00	-	27,735.00	100.00%
10	POND, IN ITS ENTIRETY, BUT NOT LIMITED TO THE FOLLOWING: GRADING, PAVING, LIGHTING, PUMP, POWER CONTROLS, RELOCATING EXISTING ONSITE BOULDERS, RIVER COBBLE, ELECTRICAL ITEMS, AND CONCRETE WATER FALL BASE STRUCTURE	LS	1	\$ 250,000.00	\$ 250,000.00	1.00	0.00	1.00	250,000.00	-	250,000.00	100.00%
11	WATER FEATURE, IN ITS ENTIRETY, BUT NOT LIMITED TO THE FOLLOWING: GRADING, PAVING, LIGHTING, PUMP, POWER CONTROLS, RELOCATING EXISTING ONSITE BOULDERS, RIVER COBBLE, ELECTRICAL ITEMS, AND CONCRETE WATER FALL BASE STRUCTURE	LS	1	\$ 445,000.00	\$ 445,000.00	1.00	0.00	1.00	445,000.00	-	445,000.00	100.00%
12	BOARDWALK, IN ITS ENTIRETY, INCLUDING THE FOLLOWING: CONCRETE ABUTMENT, CONCRETE PIERS (BEAMS, JOIST), PLANKS, RAILING AND LIGHTING	LS	1	\$ 140,000.00	\$ 140,000.00	1.00	0.00	1.00	140,000.00	-	140,000.00	100.00%
13	WHEELSTOPS	EA	88	\$ 60.00	\$ 5,280.00	88.00	0.00	88.00	5,280.00	-	5,280.00	100.00%
14	FIRE HYDRANT RELOCATION	EA	2	\$ 14,000.00	\$ 28,000.00	2.00	0.00	2.00	28,000.00	-	28,000.00	100.00%
15	PARKING LOT AND ACCESSIBILITY STRIPING	LS	1	\$ 1,500.00	\$ 1,500.00	1.00	0.00	1.00	1,500.00	-	1,500.00	100.00%
16	ACCESSIBLE PARKING SIGNS	EA	2	\$ 500.00	\$ 1,000.00	2.00	0.00	2.00	1,000.00	-	1,000.00	100.00%
17	PARKING LOT LIGHTING	EA	7	\$ 10,000.00	\$ 70,000.00	7.00	0.00	7.00	70,000.00	-	70,000.00	100.00%
18	BORING FOR ELECTRICAL CONDUIT	LS	1	\$ 5,000.00	\$ 5,000.00	1.00	0.00	1.00	5,000.00	-	5,000.00	100.00%
	BID OPTIONS											
19	BID OPTION 1: SIDEWALK, WHERE INDICATED ON THE PLANS	SF	8998	\$ 5.00	\$ 44,990.00	8998.00	0.00	8998.00	44,990.00	-	44,990.00	100.00%
20	BID OPTION 2: ADA PICNIC STATIONS ON 188 SF CONCRETE SLAB AND NINE (9) STANDARD PICNIC STATIONS ON 144SF CONCRETE SLAB	EA	11	\$ 2,850.00	\$ 31,350.00	11.00	0.00	11.00	31,350.00	-	31,350.00	100.00%
21	BID OPTION 3: POND AERATOR	LS	1	\$ 25,000.00	\$ 25,000.00	1.00	0.00	1.00	25,000.00	-	25,000.00	100.00%
22	BID OPTION 4: LANDSCAPE PLANTINGS (INCLUDES SHRUBS AND GROUNDCOVERS, 3" HARDWOOD MULCH AND BED PREP)	LS	1	\$ 14,000.00	\$ 14,000.00	1.00	0.00	1.00	14,000.00	-	14,000.00	100.00%
23	BID OPTION 5: ALLOWANCE TO INSTALL BOULDERS THROUGHOUT THE POND AREA SUPPLIED BY OWNER (RENTAL OF BACKHOE TO MOVE BOULDERS - 6 HOURS EQUIPMENT AND 60 HOURS OPERATOR)	LS	1	\$ 8,000.00	\$ 8,000.00	1.00	0.00	1.00	8,000.00	-	8,000.00	100.00%
TOTAL					1,469,085.00				1,469,085.00	-	1,469,085.00	100.00%



AIA Document G707™ – 1994

Consent of Surety to Final Payment

Bond #1039806

PROJECT: (Name and address)

Heritage Park - Phase II
600 Spinks Road
Flower Mound, TX 75028

ARCHITECT'S PROJECT NUMBER:

OWNER ☐CONTRACT FOR: general construction ARCHITECT ☐CONTRACTOR ☐

CONTRACT DATED: January 19, 2016

SURETY ☐OTHER ☐

TO OWNER: (Name and address)

Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the
(Insert name and address of Surety.)

The Hanover Insurance Company
5910 North Central Expressway #300
Dallas, TX 75026

, SURETY,

on bond of

(Insert name and address of Contractor.)

Northstar Construction, Inc.
2112 Solona Street
Haltom City, TX 76117

, CONTRACTOR,

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve
the Surety of any of its obligations to

(Insert name and address of Owner.)

Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028

, OWNER,

as set forth in said Surety's bond.

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date: September 16, 2016
(Insert in writing the month followed by the numeric date and year.)

The Hanover Insurance Company

(Surety)



(Signature of authorized representative)

Attest:

(Seal)

Staci Gross, Attorney-in-Fact

(Printed name and title)

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

**THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA**

**POWERS OF ATTORNEY
CERTIFIED COPY**

KNOW ALL MEN BY THESE PRESENTS: That THE HANOVER INSURANCE COMPANY and MASSACHUSETTS BAY INSURANCE COMPANY, both being corporations organized and existing under the laws of the State of New Hampshire, and CITIZENS INSURANCE COMPANY OF AMERICA, a corporation organized and existing under the laws of the State of Michigan, do hereby constitute and appoint

Staci Gross, Julie Smith and/or Josh Andrajack

of **Boley Featherston Huffman & Deal Co. of Wichita Falls,, TX** and each is a true and lawful Attorney(s)-in-fact to sign, execute, seal, knowledge and deliver for, and on its behalf, and as its act and deed any place within the United States, or, if the following line be filled in, only within the area therein designated any and all bonds, recognizances, undertakings, contracts of indemnity or other writings obligatory in the nature thereof, as follows:

Any such obligations in the United States, not to exceed Thirty Million and No/100 (\$30,000,000) in any single instance

and said companies hereby ratify and confirm all and whatsoever said Attorney(s)-in-fact may lawfully do in the premises by virtue of these presents. These appointments are made under and by authority of the following Resolution passed by the Board of Directors of said Companies which resolutions are still in effect:

"RESOLVED, That the President or any Vice President, in conjunction with any Vice President, be and they are hereby authorized and empowered to appoint Attorneys-in-fact of the Company, in its name and as its acts, to execute and acknowledge for and on its behalf as Surety any and all bonds, recognizances, contracts of indemnity, waivers of citation and all other writings obligatory in the nature thereof, with power to attach thereto the seal of the Company. Any such writings so executed by such Attorneys-in-fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company in their own proper persons." (Adopted October 7, 1981 - The Hanover Insurance Company; Adopted April 14, 1982 - Massachusetts Bay Insurance Company; Adopted September 7, 2001 - Citizens Insurance Company of America)

IN WITNESS WHEREOF, THE HANOVER INSURANCE COMPANY, MASSACHUSETTS BAY INSURANCE COMPANY and CITIZENS INSURANCE COMPANY OF AMERICA have caused these presents to be sealed with their respective corporate seals, duly attested by two Vice Presidents, this 12th day of November 2014.



**THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA**

Robert Thomas
Robert Thomas, Vice President

Joe Brenstrom
Joe Brenstrom, Vice President

THE COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF WORCESTER) ss.

On this 12th day of November 2014 before me came the above named Vice Presidents of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, to me personally known to be the individuals and officers described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, respectively, and that the said corporate seals and their signatures as officers were duly affixed and subscribed to said instrument by the authority and direction of said Corporations.



BARBARA A. GARLICK
Notary Public
Commonwealth of Massachusetts
My Commission Expires Sept. 21, 2018

Barbara A. Garlick
Barbara A. Garlick, Notary Public
My Commission Expires September 21, 2018

I, the undersigned Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, hereby certify that the above and foregoing is a full, true and correct copy of the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Powers of Attorney are still in force and effect.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America.

"RESOLVED, That any and all Powers of Attorney and Certified Copies of such Powers of Attorney and certification in respect thereto, granted and executed by the President or any Vice President in conjunction with any Vice President of the Company, shall be binding on the Company to the same extent as if all signatures therein were manually affixed, even though one or more of any such signatures thereon may be facsimile." (Adopted October 7, 1981 - The Hanover Insurance Company; Adopted April 14, 1982 - Massachusetts Bay Insurance Company; Adopted September 7, 2001 - Citizens Insurance Company of America)

GIVEN under my hand and the seals of said Companies, at Worcester, Massachusetts, this 16th day of September 2016.

**THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA**

J. Michael Pete
J. Michael Pete, Vice President

**CONTRACTOR'S
AFFIDAVIT OF
PAYMENT OF
DEBTS AND CLAIMS**
AIA DOCUMENT G706

OWNER ☐
ARCHITECT ☐
CONTRACTOR ☐
SURETY ☐
OTHER ☐

TO (Owner)

L

Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028

ARCHITECT'S PROJECT NO:

1 CONTRACT FOR:

Heritage Park – Phase II

PROJECT:

Heritage Park – Phase II

600 Spinks Road

(name, address)

Flower Mound, Texas 75028

CONTRACT DATE: January 19, 2016

State of: TEXAS

County of: TARRANT

The undersigned, pursuant to Article 9 of the General Conditions of the Contract for Construction, AIA Document A201, hereby certifies that, except as listed below, he has paid in full or has otherwise satisfied all obligations for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or his property might in any way be held responsible.

EXCEPTIONS: (If none, write "None". If required by the Owner, the Contractor shall furnish bond satisfactory to the Owner for each exception.)

N/A

SUPPORTING DOCUMENTS ATTACHED HERETO:

CONTRACTOR:

Northstar Construction, LLC.

1. Consent of Surety to Final Payment. Whenever Surety is involved, Consent of Surety is required. AIA DOCUMENT G707, CONSENT OF SURETY, may be used for this purpose.

Address:

2112 Solona Street
Fort Worth, Texas 76117

BY:

Michael A. Heimlich
Michael A. Heimlich, President

Indicate attachment: (Yes X) (No)
The following supporting documents should be attached hereto if required by the Owner:

Subscribed and sworn to before me this

Day of

16th of September, 2016

Notary Public:

Sandy Q. Martinez
SANDY Q. MARTINEZ
NOTARY PUBLIC
STATE OF TEXAS
09/15/2016
My Commission Expires 9-25-2018

1. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment
Separate Releases or Waivers of Liens from Sub-contractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.

3. Contractor's Affidavit of Release of Liens (AIA DOCUMENT G706A)

My Commission Expires 9-25-2018

**CONTRACTOR'S
AFFIDAVIT OF
RELEASE OF LIENS**
AIA DOCUMENT G706A

OWNER ☐
ARCHITECT ☐
CONTRACTOR ☐
SURETY ☐
OTHER ☐

TO (Owner)

[]
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028

ARCHITECT'S PROJECT NO:

CONTRACT FOR:

Heritage Park – Phase II

[

] CONTRACT DATE: January 19, 2016

PROJECT: Heritage Park – Phase II

600 Spinks Road

(Name, address) Flower Mound, Texas 75028

State of: TEXAS

County of: TARRANT

The undersigned, pursuant to Article 9 of the General Conditions of the Contract for Construction, AIA Document A201, hereby certifies that to the best of his knowledge, information and belief, except as listed below, the Releases or Waivers of Lien attached hereto include the Contractor, all Subcontractors, all suppliers of materials and equipment, and all performers of Work, labor or services who have or may have liens against any property of the Owner arising in any manner out of the performance of the Contract referenced above.

EXCEPTIONS: (If none, write "None". If required by the Owner, the Contractor shall furnish bond satisfactory to the Owner for each exception.)

N/A

SUPPORTING DOCUMENTS ATTACHED HERETO:

1. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
2. Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.

CONTRACTOR: Northstar Construction, LLC.

Address: 2112 Solona Street
Fort Worth, Texas 76117

BY:

Michael A. Heimlich
Michael A. Heimlich, President

Subscribed and sworn to before me this
16th day of September, 2016.

Notary Public:

Sandy Q. Martinez

My Commission Expires: 09-25-2018.





TOWN COUNCIL AGENDA ITEM NO. 8

CONSENT ITEM

DATE: November 21, 2016

FROM: Clay Riggs, PE, CFM, Senior Project Engineer

ITEM: Consider approval of the Professional Services Agreement with Urban Engineers Group, Inc., to provide professional engineering services, for the Rippy Road Water Line Improvements project for an amount not to exceed \$78,300.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The Rippy Road Water Line Improvements project includes the preparation of design plans, specifications, cost estimate data, and bid book (contract documents) for construction of a 12-inch water line along Rippy Road, from Speyside Drive to Waketon Road.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$78,300.00

Proposed Expenditure:	Account Number(s):
\$78,300.00	601-900-98625

Finance Review by: Debra Wallace, Deputy Town Manager/CFO 

LEGAL REVIEW: The Town's standard professional services agreement form documents, prepared by Taylor, Olson, Adkins, Sralla, & Elam L.L.P., were used to draft this agreement. No alteration to the legal content of this form document was made in preparation of this Professional Services Agreement.

ATTACHMENTS:

1. Professional Services Agreement

RECOMMENDATION: Consider approval of the Professional Services Agreement with Urban Engineers Group, Inc., to provide professional engineering services, for the Rippy Road Water Line Improvements project for an amount not exceed \$78,300.00; and authorize the Mayor to execute same on behalf of the Town.

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
URBAN ENGINEERS GROUP, INC.**

This contract is entered into on this _____ day of _____, 20____, by and between the **TOWN OF FLOWER MOUND, TEXAS**, a municipal corporation located in Denton County, Texas, (hereinafter referred to as “TOWN”), acting by and through its Mayor, and **Urban Engineers, Inc.**, (“hereinafter referred to as “CONSULTANT”) whose address is 167 Turtle Creek Blvd., Suite A, Dallas, TX 75207.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, design and providing construction documents for the Rippey Road 12-Inch Water Line project; and

WHEREAS, CONSULTANT is an engineering firm qualified to provide such services and is willing to undertake the performance of such services for the TOWN in exchange for fees hereinafter specified;

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

I.

Employment of Consultant

CONSULTANT will perform as an independent contractor all services under this Contract to the prevailing professional standards consistent with the level of care and skill ordinarily exercised by members of the architectural, engineering and planning professions, both public and private, currently practicing in the same locality under similar conditions including but not limited to the exercise of reasonable, informed judgments and prompt, timely action. If CONSULTANT has represented or is representing that it has special expertise in one or more areas to be utilized in this Contract, then CONSULTANT agrees to perform those special expertise services to the appropriate local, regional and national professional standards.

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide services for the Rippy Road 12-Inch Water Line project specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment "A" hereto entitled "Scope of Work" (hereafter referred to as the "Project"). Attachment "A" is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment "A" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed Seventy-Eight Thousand Three Hundred and No/100 Dollars (\$78,300.00). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT. If CONSULTANT retains any subcontractors to perform any of the work, CONSULTANT acknowledges that payments to such subcontractors are due and payable in accordance with the provisions of Texas Government Code Section 2251.022, and that interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

CONSULTANT will bill TOWN on a lump sum basis in accordance with Attachment "B"; provided however that this Contract shall control in the event of any conflict between the language in Attachment "B" and the language in this Contract. If additional services, trips or expenses are requested, CONSULTANT will not provide such additional services until authorized by TOWN in writing to proceed. The scope of services shall be strictly limited. TOWN shall not be required to pay any amount in excess of the amount identified in the preceding paragraph unless TOWN shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

Each month CONSULTANT will submit to TOWN an invoice for supporting the percentage for which payment is sought by CONSULTANT during the previous month for which payment is sought. Each invoice shall also state the percentage of work completed on the Project, the total of the current invoice amount and a running total balance for the Project to date.

Assuming that TOWN agrees with the invoice, that TOWN has not determined any of the work to be unsatisfactory, or that TOWN otherwise does not dispute any of the amounts billed, TOWN shall make payments in the amount shown by CONSULTANT's approved monthly statements and other documentation submitted in compliance with the Texas Prompt Payment Act, Texas Government Code Chapter 2251.

Nothing contained in this Contract shall require TOWN to pay for any work that TOWN has determined has not been successfully completed or is unsatisfactory as determined by TOWN, or which is not otherwise submitted in compliance with the terms of this Contract, nor shall failure to withhold payment pursuant to the provisions of this section constitute a waiver of any right, at law or in equity, which TOWN may have if CONSULTANT is in default, including the right to bring legal action for damages or for specific performance of this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default.

IV. **Revisions of the Scope of Services**

TOWN reserves the right to revise or expand the scope of services after due approval by TOWN as TOWN may deem necessary, but in such event TOWN shall pay CONSULTANT equitable compensation for such services. In any event, when CONSULTANT is directed to revise or expand the scope of services under this Section of the Contract, CONSULTANT shall provide TOWN a written proposal for the entire costs involved in performing such additional services. Prior to CONSULTANT undertaking any revised or expanded services as directed by TOWN under this Contract, TOWN must authorize in writing the nature and scope of the services and accept the method and amount of compensation and the time involved in all phases of the Project.

It is expressly understood and agreed by CONSULTANT that any compensation not specified in Paragraph III herein above may require Flower Mound Town Council approval and is subject to the current budget year limitations.

V. **Term**

This Contract shall begin on the date first written above, and shall terminate when TOWN has approved the Project as being final or otherwise terminates this Contract as provided herein.

VI. **Contract Termination Provision**

Notwithstanding any other provision of this Contract, this Contract may be terminated at any time by TOWN for any reason, with or without cause, by providing

CONSULTANT thirty (30) days written notice of such termination. Upon receipt of such notice, CONSULTANT shall immediately terminate working on, placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract.

VII.

Ownership of Documents

All materials and documents prepared or assembled by CONSULTANT under this Contract shall become the sole property of TOWN and shall be delivered to TOWN without restriction on future use. CONSULTANT shall provide documents in any commonly-used electronic file format as requested by TOWN. CONSULTANT may retain in its files copies of all drawings, specifications and all other pertinent information for the work. CONSULTANT shall have no liability for changes made to any materials or other documents by others subsequent to the completion of the Contract.

VIII.

Insurance

A. CONSULTANT shall, at its own expense, purchase, maintain and keep in force during the term of this Contract such insurance as set forth below. CONSULTANT shall not commence work under this Contract until CONSULTANT has obtained all the insurance required under this Contract and such insurance has been approved by TOWN, nor shall CONSULTANT allow any subcontractor to commence work on its own subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this Contract shall be written on an “occurrence” basis save and except the Professional Liability Insurance which may be written on a “claims-made” basis, provided that “tail coverage” or continuation coverage is provided. The insurance requirements shall remain in effect throughout the term of this Contract.

The CONSULTANT shall furnish to TOWN certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the Project and be addressed as follows:

Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028
Email: purchasing@flower-mound.com

The following policies and coverage shall be required:

1. Worker's Compensation Insurance (as required by law) with the policy endorsed to provide a waiver of subrogation as to TOWN; such policy to provide for Employers' Liability Insurance of not less than \$100,000.00 for each accident, \$100,000.00 disease-each employee, \$500,000.00 disease-policy limit;
2. Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractor's and Contractual Liability, including but not limited to coverage for all of the indemnification obligations of CONSULTANT under this Contract, and fully insuring CONSULTANT's liability for injury to or death of employees of TOWN and of third parties, extended to include personal injury liability coverage and for damage to property of third parties, with minimum combined single limits of \$1,000,000 per occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$1,000,000 general aggregate per occurrence. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis;
3. Business Automobile Liability Insurance, covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000.00 per occurrence; and
4. Professional Liability Insurance: CONSULTANT shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance, which may be written on a claims made form provided that "tail coverage" or continuation coverage is provided. Limits of liability shall be \$1,000,000.00 per claim, \$1,000,000.00 annual aggregate. The coverage under this policy shall include a contractual liability endorsement.

If any of the foregoing insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than thirty-six (36) months following completion of the Contract and acceptance by the TOWN. All such insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by A.M. Best Company or equivalent.

B. Each insurance policy to be furnished by CONSULTANT shall include the following conditions by endorsement to the policy

1. The TOWN shall be named as an additional insured on the Commercial General Liability policy, by using endorsement CG2026 or broader;

2. The TOWN shall also be named as an additional insured as to all other applicable coverage save and except the Worker's Compensation Insurance and Professional Liability Insurance;
3. Each policy will require that thirty (30) days prior to the expiration, cancellation, nonrenewal or any material change in coverage, a notice thereof shall be given to TOWN by certified mail to:

Brian Waltenburg, P.E.,
Senior Project Engineer
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6234 Telephone

However, if the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to TOWN is required. CONSULTANT shall also notify TOWN within twenty-four (24) hours after receipt of any notices of expiration, cancellation, nonrenewal or any material change in coverage it receives from its insurer(s);

4. The term "Owner" or "TOWN" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of TOWN and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of TOWN;
5. The policy phrase "Other Insurance" shall not apply to TOWN where TOWN is an additional insured on the policy; and
6. All provisions of the Contract concerning liability, duty and standards of care together with the indemnification provision shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

C. Concerning insurance to be furnished by CONSULTANT, it is a condition precedent to acceptability thereof that:

1. Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by CONSULTANT. The TOWN's decision(s) thereon shall be final;
2. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and
3. All liability policies required herein, save and except Professional Liability Insurance, shall be written with an "occurrence" basis coverage trigger.

D. CONSULTANT agrees to the following:

1. CONSULTANT hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against TOWN, it being the intention that the insurance policies shall protect all parties to this Contract and be primary coverage for all losses covered by the policies;
2. Companies issuing the insurance policies and CONSULTANT shall have no recourse against TOWN for payment of any premiums, or assessments for any deductible, as all such premiums are the sole responsibility and risk of CONSULTANT;
3. Approval, disapproval or failure to act by TOWN regarding any insurance supplied by CONSULTANT (or any subcontractors) shall not relieve CONSULTANT of full responsibility or liability for damages and accidents as set forth in the Contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate CONSULTANT from liability; and
4. No special payments shall be made for any insurance that the CONSULTANT and subcontractors are required to carry; all are included in the contract price and the contract unit prices.

Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

IX.

Right to Inspect Records

CONSULTANT agrees that TOWN shall have access to and the right to examine any directly pertinent books, documents, papers and records of CONSULTANT involving transactions relating to this Contract. CONSULTANT agrees that TOWN shall have access during normal working hours to all necessary CONSULTANT facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. TOWN shall give CONSULTANT reasonable advance notice of intended audits.

If TOWN agrees that CONSULTANT may retain any subcontractors, CONSULTANT further agrees to include in subcontract(s), if any, a provision that any subcontractor or engineer agrees that TOWN shall have access to and the right to examine any directly pertinent books, documents, papers and records of such engineer or sub-contractor involving transactions to the subcontract, and further, that TOWN shall have access during normal working hours to all such engineer or sub-contractor

facilities and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of the paragraph. TOWN shall give any such engineer or sub-contractor reasonable advance notice of intended audits.

X.

Successors and Assigns

TOWN and CONSULTANT each bind themselves and their successors, executors, administrators and assigns to the other party to this Contract and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Contract. Neither TOWN nor CONSULTANT shall assign or transfer its interest herein without the prior written consent of the other.

XI.

CONSULTANT's Liability

Acceptance of the final plans by the TOWN shall not constitute nor be deemed a release of the responsibility and liability of CONSULTANT, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by TOWN for any defect in the designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by TOWN for any defect in the designs, working drawings, specifications or other documents and work prepared by said CONSULTANT, its employees, associates, agents or sub-consultants. In this regard, CONSULTANT acknowledges that TOWN is retaining CONSULTANT to provide the services described herein, in reliance upon CONSULTANT's specialized expertise and experience, and in reliance thereon.

XII.

Indemnification

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION, INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, THAT MAY ARISE BY REASON OF DEATH OR INJURY TO PERSONS OR DAMAGE TO OR LOSS OF USE OF PROPERTY OCCASIONED BY ANY WRONGFUL INTENTIONAL ACT OR OMISSION OF CONSULTANT AS WELL AS ANY NEGLIGENT OMISSION, ACT OR ERROR OF CONSULTANT, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, OR OTHER PERSONS FOR WHOM CONSULTANT IS LEGALLY LIABLE WITH REGARD TO THE PERFORMANCE OF THIS CONTRACT, REGARDLESS OF WHETHER SUCH LIABILITY, CLAIMS, SUITS, DEMANDS

OR CAUSES OF ACTION IS THE RESULT IN PART OF TOWN'S NEGLIGENCE OR FAULT, AND CONSULTANT WILL, AT ITS OWN COST AND EXPENSE, DEFEND AND PROTECT TOWN AGAINST ANY AND ALL SUCH CLAIMS AND DEMANDS, INCLUDING PAYMENT OF TOWN'S REASONABLE ATTORNEYS' FEES. IN THE EVENT OF A CLAIM IS BROUGHT AGAINST TOWN, TOWN SHALL HAVE THE RIGHT TO RETAIN LEGAL COUNSEL OF ITS CHOOSING IN DEFENSE OF SUCH A CLAIM, AND SUCH ELECTION SHALL NOT RELIEVE CONTRACTOR OF ITS OBLIGATIONS UNDER THIS SECTION.

XIII.

Independent Contractor

CONSULTANT's status shall be that of an Independent Contractor and not an agent, servant, employee or representative of TOWN in the performance of this Contract. No term or provision of or act of CONSULTANT or TOWN under this Contract shall be construed as changing that status. CONSULTANT will have exclusive control of and the exclusive right to control the details of the work performed hereunder, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and engineers and the doctrine of respondeat superior shall not apply as between TOWN and CONSULTANT, its officers, agents, employees, contractors, subcontractors and engineers, and nothing herein shall be construed as creating a partnership or joint enterprise between TOWN and CONSULTANT.

XIV.

Default

If at any time during the term of this Contract, CONSULTANT shall fail to commence the work in accordance with the provisions of this Contract, or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract, or fail to use an adequate number or quality of personnel to complete the work or fail to perform any of its obligations under this Contract, then TOWN shall have the right, if CONSULTANT shall not cure any such default after thirty (30) days written notice thereof, to terminate this Contract for cause. Any such act by TOWN shall not be deemed a waiver of any other right or remedy of TOWN. If after exercising any such remedy due to CONSULTANT's nonperformance under this Contract, the cost to TOWN to complete the work to be performed under this Contract is in excess of that part of the Contract sum which has not theretofore been paid to CONSULTANT hereunder, CONSULTANT shall be liable for and shall reimburse TOWN for such excess.

TOWN's remedies for CONSULTANT's default or breach under this Contract shall be limited to one or more of the following remedies which may be exercised separately or in combination at TOWN's sole exclusive choice:

- (a) Specific performance of the Contract;
- (b) Re-performance of this Contract at no extra charge to TOWN; or
- (c) Monetary damages.

XV.
Provisions Surviving Termination

The terms of Sections XII entitled Indemnification, and XVII entitled Confidential Information shall survive termination of this Contract.

XVI.
Changes

TOWN may, from time to time, require changes in the scope of services to be performed under this Contract. Such changes as are mutually agreed upon by and between TOWN and CONSULTANT shall be incorporated by written modification to this Contract.

XVII.
Conflicts of Interest

CONSULTANT covenants and agrees that CONSULTANT and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities, investigations and other efforts made by CONSULTANT pursuant to this Contract will be conducted by employees, associates or subcontractors of CONSULTANT.

No officer or employee of TOWN shall have any personal, financial interest, direct or indirect, in this Contract nor have any direct financial interest in the sale to TOWN of any land, materials, supplies, or services under this Contract, except on behalf of TOWN as a TOWN officer or employee. Any violation of this prohibition with knowledge, expressed or implied, of the person or corporation contracting with TOWN shall render the Contract voidable by the Director or the Town Council.

XVIII.
Confidential Information

CONSULTANT hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations in accordance with this Contract, which is of a confidential, non-public or proprietary nature. CONSULTANT shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for its own use or the use of any third party at any time during or subsequent to this Contract. As used herein,

“Confidential Information” means all oral and written information concerning TOWN, its affiliates and subsidiaries, and all oral and written information concerning TOWN or its activities, that is of a non-public, proprietary or confidential nature including, without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilation, studies or other documents, whether prepared by CONSULTANT or others, which contain or otherwise reflect such information. The term “Confidential Information” shall not include such materials that are or become generally available to the public other than as a result of disclosure of CONSULTANT, or are required to be disclosed by a governmental authority or by law, as determined by TOWN’s attorney.

XIX.
Notice Information

All notices and communications under this CONTRACT to be mailed to TOWN shall be sent to the address of TOWN’s agent as follows, unless and until CONSULTANT is otherwise notified:

Brian Waltenburg, P.E.,
Senior Project Engineer
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6234 Telephone

Notices and communications to be mailed or delivered to CONSULTANT shall be sent to the address of CONSULTANT as follows, unless and until TOWN is otherwise notified:

Faisal Syed, P.E., P.T.O.E
Principal
Urban Engineers Group, Inc.
167 Turtle Creek Blvd., Suite A
214-252-1600 Telephone

Any notices and communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted, faxed or personally delivered by the sending party.

XX.
Applicable Law

The Contract is entered into subject to the Flower Mound Town Charter and ordinances of TOWN, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and

federal laws. CONSULTANT will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with CONSULTANT's income.

XX.
Non-Discrimination

CONSULTANT shall not discriminate against any employee, applicant for employment, contractor, or sub-contractor because of the race, age, color, religion, sex, or national origin of such person. Engineer shall take affirmative action to insure that all such persons are treated equally during their employment without regard to their race, age, color, religion, sex, or national origin. If CONSULTANT fails to comply with the federal or state laws relating to Equal Employment Opportunity, it is agreed that TOWN, at its option, may do either or both of the following:

- (a) Cancel, terminate, or suspend the Contract in whole or in part; or
- (b) Declare CONSULTANT ineligible for future TOWN contracts until it is determined to be in compliance.

XXI.
Arbitration

CONSULTANT agrees not to enter into any agreement to arbitrate arising out of, or relating to, this Contract which would subject TOWN to being a party to any arbitration without TOWN's prior written consent.

XXII.
No Waiver of Governmental Immunity

Nothing in this Contract shall be construed as a waiver of TOWN'S governmental immunity, or of any applicable limitation on damages, or any other legal protection or defense or privilege of TOWN, except to the extent expressly provided otherwise herein.

XX.
Severability

If any of the terms, provisions, covenants, conditions or any other part of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XXI.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

XXII.
Entire Agreement

This Contract embodies the entire agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein cannot be modified without written agreement of the parties.

XXIII.
Non-Waiver

It is further agreed that one (1) or more instances of forbearance by TOWN in the exercise of its rights herein shall in no way constitute a waiver thereof.

XXIV.
Headings

The headings of this Contract are for the convenience of reference only and shall not affect any of the terms and conditions hereof in any manner.

XXV.
Venue

Situs of this Contract is agreed to be Denton County, Texas, for all purposes, including performance and execution, and the parties to this Contract agree and covenant that this Contract will be enforceable in Flower Mound, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Denton County, Texas.

XXVI.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (TOWN and CONSULTANT) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual

relationship with TOWN or CONSULTANT or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either TOWN or CONSULTANT.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the date first above written.

**THE TOWN OF FLOWER MOUND,
TEXAS**

By: _____
The Honorable Thomas E Hayden
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

Approved:

Town Attorney

CONSULTANT:
Urban Engineers Group, Inc.

By: _____

Name:

Title:

Date Signed: _____

State of Texas §

§

County of _____ §

This instrument was acknowledged before me on the _____ day of _____, 20____, by _____ in his capacity as _____ of _____, a _____ Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of _____.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF _____, 20____.

Notary Public, State of Texas

My Commission Expires:

ATTACHMENT A

SCOPE OF SERVICES

PROJECT NAME: RIPPY ROAD WATER LINE IMPROVEMENTS

PROJECT UNDERSTANDING

The limits of the portion of the Rippy Road Water Line Improvements project are along Rippy Road from the proposed Speyside Drive of the proposed Highland Court Development to the 16-inch water main in Waketon Road. The total length of the water line to be installed is approximately 3,700 linear feet of 12-inch water line. It is assumed that the water line will be installed within the north and east side of the Rippy Road right-of-way or in an easement to be acquired by the town.

SCOPE OF PROFESSIONAL SERVICES

TASK 1: Survey

Perform field survey to identify and locate existing topographic elements within the alignment corridor including, but not limited to, the following:

- Property pins
- Existing pavement, curbs, sidewalks, barrier free ramps, etc. on both sides of the road
- Lane striping
- Driveways
- Existing storm sewer inlets, manholes, junction boxes, outfalls, and erosion control
- Culverts and bridges
- Guardrail
- Utility manholes, vaults, water valves, water meters, sprinkler heads, telephone poles, power poles, utility markers, other public utilities, and franchise utilities
- Existing crossing water and sewer lines with upstream and downstream valves and manholes
- Traffic signal poles, cabinets, and other signal equipment
- Signs (excluding temporary signs)
- Buildings
- Retaining walls
- Fence limits and material types
- Other applicable physical features that could impact design

Review the final topographic drawing in digital format (including one foot contours and breaklines) showing the features located in the field as well as right-of-way strip map information. Document and incorporate minor changes into the base map. Minor changes are anticipated not to require additional survey ties. If field work by a survey crew is required it shall be considered additional services.

Prepare right of entry letters.

TASK 2: Design

A. Design

Conduct kick-off meeting with the Town during monthly progress meetings

Prepare plan and profile sheets as necessary based on existing surface features and current design standards. Plan sheet will consist of a 22"x34" sheet at a scale of 1"=40' horizontal.

Prepare specifications which include technical specifications for materials and installation of the proposed facilities. The contract documents shall be based upon Flower Mound Contract Documents. The NCTCOG Standard Specifications for Public Works Construction and the Town of Flower Mound's requirements for Public Works Construction will govern all other specifications.

Submit to the Town 50% plan view only plans and opinion of probable construction cost for review and comments.

Submit to the Town 95% complete plans (plan and profile), specifications, contract documents, and opinion of probable construction cost for review and comments.

Submit to the franchise utility companies 95% complete plans for review and comment.

Submit final plans to appropriate regulatory agencies (Corps of Engineers, TxDOT, and TCEQ) for review and comments.

Conduct meeting with Town to review 50% plans

Conduct meeting with Town to review 95% plans

Make revisions based on the Town's review of the 95% submittal

B. Design Deliverables

Three (3) copies of the 50% Construction Plans

Three (3) copies of the 95% Construction Plans

Three (3) copies of the 95% Construction Specifications and Contract Documents

Three (3) copies of the Opinion of Probable Construction Cost

C. Final Design

Prepare 100% Plans and Specifications

D. Final Design Deliverables

Five (5) copies of the Final Construction Plans

Five (5) copies of the Final Construction Specifications and Contract Documents

One (1) copy of Reproducible Bidding Documents (Plans)

One (1) copy of Reproducible Bidding Documents (Final Construction Specifications and Contract Documents)

E. Meetings

Kick-off meeting with the Town

Meet with Town to review 50% plans.

Meet with Town to review 95% plans.

Meet with property owners for easement coordination.

F. Services provided by the Town

Review and comment on 50% plan view only plans and opinion of probable construction cost

Review and comment on 95% complete plans, specifications, contract documents, and opinion of probable construction cost

TASK 3: BIDDING PHASE SERVICES

A. Print and issue 7 sets of bidding documents. Additional sets of bidding documents shall be printed, only upon the Town's authorization, as Additional Professional Services. Bidding documents will be issued to potential bidders upon the payment of a non-refundable fee to cover the cost of printing those documents.

B. Issue addenda as required.

C. In this phase, The Consultant will provide the following deliverables:

Notice to Bidders for Advertising by the Town

Addenda as required

Print and deliver to the Town up to 7 sets of bid documents

TASK 4: RECORD DRAWINGS

A. Record Drawing Preparation

Prepare record drawings from contractor's marks showing changes made during construction. Transfer contractor's marks to digital format. The Consultant will be provided the contractor's revisions and shall not be responsible for verifying their completeness or accuracy.

B. Deliverables

One (1) compact disc containing Record Drawing in digital format (PDF, TIFF, CAD)

C. Services Provided by the Town

Review of contractor's marks for completeness and accuracy

TASK 5: EASEMENTS

A. Easement Document Preparation

Prepare permanent and temporary easement instruments (narrative and graphic exhibits as required for proposed water improvements). The following numbers of instruments are anticipated:

Up to three (3) instruments anticipated

One (1) instrument shall consist of a permanent and temporary easement.

Easement preparation will begin after the 50% design has been approved by the Town. Easement preparation is anticipated to take 21days.

Individual parcel exhibits shall be on 8 ½"x11" paper, shall be sealed, dated, and signed by a Registered Professional Land Surveyor, shall conform to standard format provided by the Owner and shall contain the following at a minimum:

- Parcel number
- Area required
- Area remaining
- Legal description
- Current owner
- Any existing platted easements or easements filed by separate instrument including easements provided by utility companies
- All physical features

B. Deliverables

Two (2) paper copies of field notes and exhibits, and an electronic version of the exhibits (i.e. PDF) for permanent and temporary construction easements

ADDITIONAL SERVICES

Any services not specifically provided for in the above scope will be considered additional services and can be performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Assisting Town or contractor in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this Agreement. Such services, if any, shall be furnished by the Consultant on a fee basis negotiated by the respective parties outside of and in addition to this Agreement.
- Sampling, testing, or analysis beyond that specifically included in the
- Scope of Services referenced herein above.
- Preparing applications and supporting documents for government grants, loans, or planning advances, and providing data for detailed applications.
- Appearing before regulatory agencies or courts as an expert witness in any litigation with third parties or condemnation proceedings arising from the development or construction of the Project, including the preparation of engineering data and reports for assistance to the Town.
- Providing professional services associated with the discovery of any hazardous waste or materials in the project route.
- Providing additional presentations to the Town Council.
- Providing construction staking, additional platting, or other surveying services not identified in the above Scope of Services.
- Providing additional printing for bidding document distribution.
- Providing additional documentation required by the Town's legal representative during condemnation proceedings.
- Providing any easement acquisition services.
- Attending additional public meetings during the project.
- Providing professional services associated with the construction phase of the project.
- Attending a Pre Bid Meeting
- Preparing a Bid Tabulation or Recommendation Letter
- Reviewing Contractor's References
- Cathodic Protection Design
- Any services not listed in the Scope of Services.

ATTACHMENT B
COMPENSATION

The Consultant will provide the Scope of Services for a lump sum fee.

TASK 1 – Survey	\$ 16,500.00
TASK 2 – Design	\$ 51,300.00
TASK 3 – Bidding Phase Services	\$ 3,500.00
TASK 4 – Record Drawings	\$ 4,000.00
TASK 5 – Easements (If Necessary, \$ 1,500/EA)	\$ 3,000.00
<u>TOTAL</u>	<u>\$ 78,300.00</u>

Additional services will be negotiated at the time they are identified.



TOWN COUNCIL AGENDA ITEM NO. 9

CONSENT ITEM

DATE: November 21, 2016

FROM: Kari Biddix, Park Development Manager

ITEM: Consider approval of a Professional Services Agreement with MESA Design Consultants, Inc., to provide design services associated with Canyon Falls Park, in the amount of \$44,000.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: This item provides for approval of a Professional Services Agreement (PSA) with Mesa Design Associates, Inc., to create a Master Plan for the dedicated park land of 10.756 acres within the Canyon Falls development generally located north of FM 1171, between Interstate 35W, and SH 377. The scope of work also includes multiple opportunities for public outreach and input during the master plan process in order to create the final master plan which will be presented for recommendation to the Parks, Arts, and Library Services Board and presented to Town Council at a later date for approval. The PALS Board supports the design services for the Canyon Falls Park project.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$44,000.00

Proposed Expenditure:	Account Number(s):
\$44,000.00	310-320-00000-5110

Finance Review by: Debra Wallace, Deputy Town Manager/CFO

LEGAL REVIEW: The Town's standard professional services agreement form documents, prepared by Taylor, Olson, Adkins, Sralla, & Elam L.L.P., were used to draft this agreement. No alteration to the legal content of this form document was made in preparation of this Professional Services Agreement.

ATTACHMENTS:

1. Professional Services Agreement

RECOMMENDATION: Move to approve a Professional Services Agreement with MESA Design Consultants, Inc., to provide design services associated with Canyon Falls Park, in the amount of \$44,000.00; and authorization for the Mayor to execute same on behalf of the Town.

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
MESA DESIGN ASSOCIATES, INC.**

This contract is entered into on this _____ day of _____, 20____, by and between the **TOWN OF FLOWER MOUND, TEXAS**, a municipal corporation located in Denton County, Texas, (hereinafter referred to as “TOWN”), acting by and through its Mayor, and **MESA Design Associates, Inc.**, (“hereinafter referred to as “CONSULTANT”) whose address is 2001 North Lamar Street, Suite 100, Dallas, TX 75202.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to design services for the Canyon Falls Park project; and

WHEREAS, CONSULTANT is a Landscape Architecture, Planning, and Urban Design firm qualified to provide such services and is willing to undertake the performance of such services for the TOWN in exchange for fees hereinafter specified;

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

I.

Employment of Consultant

CONSULTANT will perform as an independent contractor all services under this Contract to the prevailing professional standards consistent with the level of care and skill ordinarily exercised by members of the architectural, engineering and planning professions, both public and private, currently practicing in the same locality under similar conditions including but not limited to the exercise of reasonable, informed judgments and prompt, timely action. If CONSULTANT has represented or is representing that it has special expertise in one or more areas to be utilized in this Contract, then CONSULTANT agrees to perform those special expertise services to the appropriate local, regional and national professional standards.

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide services for the Canyon Falls Park project specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment "A" hereto entitled "Scope of Work" (hereafter referred to as the "Project"). Attachment "A" is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment "A" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed Forty-Four Thousand and No/100 Dollars (\$44,000.00). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT. If CONSULTANT retains any subcontractors to perform any of the work, CONSULTANT acknowledges that payments to such subcontractors are due and payable in accordance with the provisions of Texas Government Code Section 2251.022, and that interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

CONSULTANT will bill TOWN on a lump sum basis in accordance with Attachment "B"; provided however that this Contract shall control in the event of any conflict between the language in Attachment "B" and the language in this Contract. If additional services, trips or expenses are requested, CONSULTANT will not provide such additional services until authorized by TOWN in writing to proceed. The scope of services shall be strictly limited. TOWN shall not be required to pay any amount in excess of the amount identified in the preceding paragraph unless TOWN shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

Each month CONSULTANT will submit to TOWN an invoice for actual services performed and reimbursable expenses incurred by CONSULTANT during the previous month for which payment is sought. Each invoice shall be itemized to show the amount of work performed that month broken down by the identity of the person(s) performing such work, the amount of time expended by such person(s) in performing that work, the billing rate for each such person, and a brief summary of the work or testing performed by each such person. Each invoice shall also state the percentage of work completed on

the Project, the total of the current invoice amount and a running total balance for the Project to date.

Assuming that TOWN agrees with the invoice, that TOWN has not determined any of the work to be unsatisfactory, or that TOWN otherwise does not dispute any of the amounts billed, TOWN shall make payments in the amount shown by CONSULTANT's approved monthly statements and other documentation submitted in compliance with the Texas Prompt Payment Act, Texas Government Code Chapter 2251.

Nothing contained in this Contract shall require TOWN to pay for any work that TOWN has determined has not been successfully completed or is unsatisfactory as determined by TOWN, or which is not otherwise submitted in compliance with the terms of this Contract, nor shall failure to withhold payment pursuant to the provisions of this section constitute a waiver of any right, at law or in equity, which TOWN may have if CONSULTANT is in default, including the right to bring legal action for damages or for specific performance of this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default.

IV.

Revisions of the Scope of Services

TOWN reserves the right to revise or expand the scope of services after due approval by TOWN as TOWN may deem necessary, but in such event TOWN shall pay CONSULTANT equitable compensation for such services. In any event, when CONSULTANT is directed to revise or expand the scope of services under this Section of the Contract, CONSULTANT shall provide TOWN a written proposal for the entire costs involved in performing such additional services. Prior to CONSULTANT undertaking any revised or expanded services as directed by TOWN under this Contract, TOWN must authorize in writing the nature and scope of the services and accept the method and amount of compensation and the time involved in all phases of the Project.

It is expressly understood and agreed by CONSULTANT that any compensation not specified in Paragraph III herein above may require Flower Mound Town Council approval and is subject to the current budget year limitations.

V.

Term

This Contract shall begin on the date first written above, and shall terminate when TOWN has approved the Project as being final or otherwise terminates this Contract as provided herein.

VI.
Contract Termination Provision

Notwithstanding any other provision of this Contract, this Contract may be terminated at any time by TOWN for any reason, with or without cause, by providing CONSULTANT thirty (30) days written notice of such termination. Upon receipt of such notice, CONSULTANT shall immediately terminate working on, placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract.

VII.
Ownership of Documents

All materials and documents prepared or assembled by CONSULTANT under this Contract shall become the sole property of TOWN and shall be delivered to TOWN without restriction on future use. CONSULTANT shall provide documents in any commonly-used electronic file format as requested by TOWN. CONSULTANT may retain in its files copies of all drawings, specifications and all other pertinent information for the work. CONSULTANT shall have no liability for changes made to any materials or other documents by others subsequent to the completion of the Contract.

VIII.
Insurance

A. CONSULTANT shall, at its own expense, purchase, maintain and keep in force during the term of this Contract such insurance as set forth below. CONSULTANT shall not commence work under this Contract until CONSULTANT has obtained all the insurance required under this Contract and such insurance has been approved by TOWN, nor shall CONSULTANT allow any subcontractor to commence work on its own subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this Contract shall be written on an “occurrence” basis save and except the Professional Liability Insurance which may be written on a “claims-made” basis, provided that “tail coverage” or continuation coverage is provided. The insurance requirements shall remain in effect throughout the term of this Contract.

The CONSULTANT shall furnish to TOWN certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the Project and be addressed as follows:

Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028
Email: purchasing@flower-mound.com

The following policies and coverage shall be required:

1. Worker's Compensation Insurance (as required by law) with the policy endorsed to provide a waiver of subrogation as to TOWN; such policy to provide for Employers' Liability Insurance of not less than \$100,000.00 for each accident, \$100,000.00 disease-each employee, \$500,000.00 disease-policy limit;
2. Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractor's and Contractual Liability, including but not limited to coverage for all of the indemnification obligations of CONSULTANT under this Contract, and fully insuring CONSULTANT's liability for injury to or death of employees of TOWN and of third parties, extended to include personal injury liability coverage and for damage to property of third parties, with minimum combined single limits of \$1,000,000 per occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$1,000,000 general aggregate per occurrence. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis;
3. Business Automobile Liability Insurance, covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000.00 per occurrence; and
4. Professional Liability Insurance: CONSULTANT shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance, which may be written on a claims made form provided that "tail coverage" or continuation coverage is provided. Limits of liability shall be \$1,000,000.00 per claim, \$1,000,000.00 annual aggregate. The coverage under this policy shall include a contractual liability endorsement.

If any of the foregoing insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than thirty-six (36) months following completion of the Contract and acceptance by the TOWN. All such insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by A.M. Best Company or equivalent.

B. Each insurance policy to be furnished by CONSULTANT shall include the following conditions by endorsement to the policy

1. The TOWN shall be named as an additional insured on the Commercial General Liability policy, by using endorsement CG2026 or broader;
2. The TOWN shall also be named as an additional insured as to all other applicable coverage save and except the Worker's Compensation Insurance and Professional Liability Insurance;
3. Each policy will require that thirty (30) days prior to the expiration, cancellation, nonrenewal or any material change in coverage, a notice thereof shall be given to TOWN by certified mail to:

Kari Biddix, RLA, LI
Park Development Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6278 Telephone

However, if the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to TOWN is required. CONSULTANT shall also notify TOWN within twenty-four (24) hours after receipt of any notices of expiration, cancellation, nonrenewal or any material change in coverage it receives from its insurer(s);

4. The term "Owner" or "TOWN" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of TOWN and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of TOWN;
5. The policy phrase "Other Insurance" shall not apply to TOWN where TOWN is an additional insured on the policy; and
6. All provisions of the Contract concerning liability, duty and standards of care together with the indemnification provision shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

C. Concerning insurance to be furnished by CONSULTANT, it is a condition precedent to acceptability thereof that:

1. Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by CONSULTANT. The TOWN's decision(s) thereon shall be final;

2. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and
3. All liability policies required herein, save and except Professional Liability Insurance, shall be written with an "occurrence" basis coverage trigger.

D. CONSULTANT agrees to the following:

1. CONSULTANT hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against TOWN, it being the intention that the insurance policies shall protect all parties to this Contract and be primary coverage for all losses covered by the policies;
2. Companies issuing the insurance policies and CONSULTANT shall have no recourse against TOWN for payment of any premiums, or assessments for any deductible, as all such premiums are the sole responsibility and risk of CONSULTANT;
3. Approval, disapproval or failure to act by TOWN regarding any insurance supplied by CONSULTANT (or any subcontractors) shall not relieve CONSULTANT of full responsibility or liability for damages and accidents as set forth in the Contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate CONSULTANT from liability; and
4. No special payments shall be made for any insurance that the CONSULTANT and subcontractors are required to carry; all are included in the contract price and the contract unit prices.

Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

IX.

Right to Inspect Records

CONSULTANT agrees that TOWN shall have access to and the right to examine any directly pertinent books, documents, papers and records of CONSULTANT involving transactions relating to this Contract. CONSULTANT agrees that TOWN shall have access during normal working hours to all necessary CONSULTANT facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. TOWN shall give CONSULTANT reasonable advance notice of intended audits.

If TOWN agrees that CONSULTANT may retain any subcontractors, CONSULTANT further agrees to include in subcontract(s), if any, a provision that any subcontractor or engineer agrees that TOWN shall have access to and the right to examine any directly pertinent books, documents, papers and records of such engineer or sub-contractor involving transactions to the subcontract, and further, that TOWN shall have access during normal working hours to all such engineer or sub-contractor facilities and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of the paragraph. TOWN shall give any such engineer or sub-contractor reasonable advance notice of intended audits.

X.

Successors and Assigns

TOWN and CONSULTANT each bind themselves and their successors, executors, administrators and assigns to the other party to this Contract and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Contract. Neither TOWN nor CONSULTANT shall assign or transfer its interest herein without the prior written consent of the other.

XI.

CONSULTANT's Liability

Acceptance of the final plans by the TOWN shall not constitute nor be deemed a release of the responsibility and liability of CONSULTANT, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by TOWN for any defect in the designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by TOWN for any defect in the designs, working drawings, specifications or other documents and work prepared by said CONSULTANT, its employees, associates, agents or sub-consultants. In this regard, CONSULTANT acknowledges that TOWN is retaining CONSULTANT to provide the services described herein, in reliance upon CONSULTANT's specialized expertise and experience, and in reliance thereon.

XII.

Indemnification

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION, INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, THAT MAY ARISE BY REASON OF DEATH OR INJURY TO PERSONS OR DAMAGE TO OR LOSS OF USE OF PROPERTY OCCASIONED

BY ANY WRONGFUL INTENTIONAL ACT OR OMISSION OF CONSULTANT AS WELL AS ANY NEGLIGENT OMISSION, ACT OR ERROR OF CONSULTANT, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, OR OTHER PERSONS FOR WHOM CONSULTANT IS LEGALLY LIABLE WITH REGARD TO THE PERFORMANCE OF THIS CONTRACT, REGARDLESS OF WHETHER SUCH LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION IS THE RESULT IN PART OF TOWN'S NEGLIGENCE OR FAULT, AND CONSULTANT WILL, AT ITS OWN COST AND EXPENSE, DEFEND AND PROTECT TOWN AGAINST ANY AND ALL SUCH CLAIMS AND DEMANDS, INCLUDING PAYMENT OF TOWN'S REASONABLE ATTORNEYS' FEES. IN THE EVENT OF A CLAIM IS BROUGHT AGAINST TOWN, TOWN SHALL HAVE THE RIGHT TO RETAIN LEGAL COUNSEL OF ITS CHOOSING IN DEFENSE OF SUCH A CLAIM, AND SUCH ELECTION SHALL NOT RELIEVE CONTRACTOR OF ITS OBLIGATIONS UNDER THIS SECTION.

XIII.

Independent Contractor

CONSULTANT's status shall be that of an Independent Contractor and not an agent, servant, employee or representative of TOWN in the performance of this Contract. No term or provision of or act of CONSULTANT or TOWN under this Contract shall be construed as changing that status. CONSULTANT will have exclusive control of and the exclusive right to control the details of the work performed hereunder, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and engineers and the doctrine of respondeat superior shall not apply as between TOWN and CONSULTANT, its officers, agents, employees, contractors, subcontractors and engineers, and nothing herein shall be construed as creating a partnership or joint enterprise between TOWN and CONSULTANT.

XIV.

Default

If at any time during the term of this Contract, CONSULTANT shall fail to commence the work in accordance with the provisions of this Contract, or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract, or fail to use an adequate number or quality of personnel to complete the work or fail to perform any of its obligations under this Contract, then TOWN shall have the right, if CONSULTANT shall not cure any such default after thirty (30) days written notice thereof, to terminate this Contract for cause. Any such act by TOWN shall not be deemed a waiver of any other right or remedy of TOWN. If after exercising any such remedy due to CONSULTANT's nonperformance under this Contract, the cost to TOWN to complete the work to be performed under this Contract is in excess of that part of the Contract sum which has

not theretofore been paid to CONSULTANT hereunder, CONSULTANT shall be liable for and shall reimburse TOWN for such excess.

TOWN's remedies for CONSULTANT's default or breach under this Contract shall be limited to one or more of the following remedies which may be exercised separately or in combination at TOWN's sole exclusive choice:

- (a) Specific performance of the Contract;
- (b) Re-performance of this Contract at no extra charge to TOWN; or
- (c) Monetary damages.

XV.

Provisions Surviving Termination

The terms of Sections XII entitled Indemnification, and XVII entitled Confidential Information shall survive termination of this Contract.

XVI.

Changes

TOWN may, from time to time, require changes in the scope of services to be performed under this Contract. Such changes as are mutually agreed upon by and between TOWN and CONSULTANT shall be incorporated by written modification to this Contract.

XVII.

Conflicts of Interest

CONSULTANT covenants and agrees that CONSULTANT and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities, investigations and other efforts made by CONSULTANT pursuant to this Contract will be conducted by employees, associates or subcontractors of CONSULTANT.

No officer or employee of TOWN shall have any personal, financial interest, direct or indirect, in this Contract nor have any direct financial interest in the sale to TOWN of any land, materials, supplies, or services under this Contract, except on behalf of TOWN as a TOWN officer or employee. Any violation of this prohibition with knowledge, expressed or implied, of the person or corporation contracting with TOWN shall render the Contract voidable by the Director or the Town Council.

XVIII.
Confidential Information

CONSULTANT hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations in accordance with this Contract, which is of a confidential, non-public or proprietary nature. CONSULTANT shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for its own use or the use of any third party at any time during or subsequent to this Contract. As used herein, "Confidential Information" means all oral and written information concerning TOWN, its affiliates and subsidiaries, and all oral and written information concerning TOWN or its activities, that is of a non-public, proprietary or confidential nature including, without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilation, studies or other documents, whether prepared by CONSULTANT or others, which contain or otherwise reflect such information. The term "Confidential Information" shall not include such materials that are or become generally available to the public other than as a result of disclosure of CONSULTANT, or are required to be disclosed by a governmental authority or by law, as determined by TOWN's attorney.

XIX.
Notice Information

All notices and communications under this CONTRACT to be mailed to TOWN shall be sent to the address of TOWN's agent as follows, unless and until CONSULTANT is otherwise notified:

Kari Biddix, RLA, LI
Park Development Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6278 Telephone

Notices and communications to be mailed or delivered to CONSULTANT shall be sent to the address of CONSULTANT as follows, unless and until TOWN is otherwise notified:

Fred Walters
Principal
MESA Design Associates, Inc.
2001 North Lamar Street, Suite 100
Dallas, Texas 75202
214-871-4411 Telephone

Any notices and communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted, faxed or personally delivered by the sending party.

XX.
Applicable Law

The Contract is entered into subject to the Flower Mound Town Charter and ordinances of TOWN, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and federal laws. CONSULTANT will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with CONSULTANT's income.

XX.
Non-Discrimination

CONSULTANT shall not discriminate against any employee, applicant for employment, contractor, or sub-contractor because of the race, age, color, religion, sex, or national origin of such person. Engineer shall take affirmative action to insure that all such persons are treated equally during their employment without regard to their race, age, color, religion, sex, or national origin. If CONSULTANT fails to comply with the federal or state laws relating to Equal Employment Opportunity, it is agreed that TOWN, at its option, may do either or both of the following:

- (a) Cancel, terminate, or suspend the Contract in whole or in part; or
- (b) Declare CONSULTANT ineligible for future TOWN contracts until it is determined to be in compliance.

XXI.
Arbitration

CONSULTANT agrees not to enter into any agreement to arbitrate arising out of, or relating to, this Contract which would subject TOWN to being a party to any arbitration without TOWN's prior written consent.

XXII.
No Waiver of Governmental Immunity

Nothing in this Contract shall be construed as a waiver of TOWN'S governmental immunity, or of any applicable limitation on damages, or any other legal

protection or defense or privilege of TOWN, except to the extent expressly provided otherwise herein.

XX.
Severability

If any of the terms, provisions, covenants, conditions or any other part of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XXI.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

XXII.
Entire Agreement

This Contract embodies the entire agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein cannot be modified without written agreement of the parties.

XXIII.
Non-Waiver

It is further agreed that one (1) or more instances of forbearance by TOWN in the exercise of its rights herein shall in no way constitute a waiver thereof.

XXIV.
Headings

The headings of this Contract are for the convenience of reference only and shall not affect any of the terms and conditions hereof in any manner.

XXV.
Venue

Situs of this Contract is agreed to be Denton County, Texas, for all purposes, including performance and execution, and the parties to this Contract agree and covenant that this Contract will be enforceable in Flower Mound, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Denton County, Texas.

XXVI.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (TOWN and CONSULTANT) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with TOWN or CONSULTANT or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either TOWN or CONSULTANT.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the date first above written.

**THE TOWN OF FLOWER MOUND,
TEXAS**

By: _____
The Honorable Thomas E Hayden
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

Approved:

Town Attorney

**CONSULTANT:
MESA Design Associates, Inc.**

By: _____

Name: Fred Walters

Title: Principal

Date Signed: _____

State of Texas §

§

County of _____ §

This instrument was acknowledged before me on the _____ day of _____, 20____, by _____ in his capacity as _____ of _____, a _____ Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of _____.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF ____, 20____.

Notary Public, State of Texas

My Commission Expires:

ATTACHMENT A – SCOPE OF SERVICES

October 18, 2016

Town of Flower Mound
Kari Biddix, Parks Development Manager
1001 Cross Timbers Rd., # 2330
Flower Mound, TX 75028

Project: Flower Mound Community Park
Flower Mound, Texas

Dear Kari,

This proposal and contract describes the landscape architectural services to be provided by MESA, the costs of these services and general terms and conditions under which these services would be executed.

SCOPE OF SERVICES

STAGE 1: MASTER PLANNING

Task 1: Data Collection and Project Kickoff

Data Collection

MESA will collect from Client and other sources made available by the Client the following graphic materials necessary for preparation of the following described plan documents. MESA has the right to rely on this information. These materials include, but are not limited to:

- A. Identification of the geographic limits of the project area.
- B. Inventory of existing facilities, features, and utilities
- C. Easements, utility and other
- D. Topography
- E. Major tree groups
- F. Collection of final base data from the Client

Kickoff & Programming

MESA will attend a kickoff meeting with the Client to further define the scope, design program and intent, schedule and deliverable expectations.

Product: Base map for use in the future design tasks.

Meetings: One (1) kickoff/coordination meeting with the Client. *Additional meetings shall be billed as additional services as per the attached hourly rate schedule.*

Task 1A: Topo, Boundary, and Tree Survey

MESA will prepare a Topographical, Boundary (if needed), and tree survey for the site. We will walk the entire site to visually locate all specimen trees and tag all required trees per Town of Flower Mound Ordinance. MESA will prepare a tree index table including: tree number, common and scientific name of all specimen and historic trees, tree diameter, general health/condition, and average canopy spread. We will incorporate the site plan and surveyed location coordinates generated by a Civil Engineer or Surveyor, into the overall tree survey plan. Additionally, MESA will coordinate with the Civil Engineer to determine which trees will be removed or remain on the site, per the site plan.

Product: Topographic, boundary, and tree survey.

Meetings: One (1) site visit to inspect and tag all trees. *Additional site visits/meetings shall be billed as additional services as per the attached hourly rate schedule.*

Task 2: Conceptual Master Plan

After collection of base data, MESA will prepare two (2) site master plan alternatives that evaluate the relationships between the existing adjacent development, the Park site and the surrounding amenities. The master plan will address the following:

A. Programming

MESA will map the anticipated patterns of usage and circulation based upon Town feedback at the Kickoff Meeting (as well as positive and negative impacts of these activities) to gain an understanding of current and potential usage levels, and the inter-relationship between various programs. MESA will review the Flower Mound Parks Master Plan and compare with an analysis of recent trends or demographic shifts and their impact on what the community may consider based on future park facility trends, interest and participation levels for a variety of activities, and what is new in recreational facilities. The programming will graphically depict zones for each activity on site and serve to describe the relationships between each. Through the identification of various “programming” rooms, and the characteristics associated with those spaces, MESA will be able to develop a master plan responsive to site-specific opportunities and constraints. The plan will include the minimum program desired by the Town, including: pavilions, trails, playground and parking.

B. Park Integration

- 1. Park Circulation** – MESA will review the existing vehicular entrances and parking and make recommendations for the incorporation with any future parking expansion plans, if any. The master plan will describe the list of structures and infrastructure that are necessary to provide and support the programs framework, also denoting circulation patterns, arrival sequences, and other patterns.
- 2. Park Hardscape Integration** – MESA will work with the existing park natural character and the Canyon Falls vernacular to prepare a master plan that unifies it with the adjacent development.

C. Opinion of Probable Costs

Based on the park master plan, MESA will prepare an opinion of probable cost for review by the Client

Product: MESA will prepare two (2) master plan alternatives (plan graphic) and opinion of probable cost that depicts the information outlined above. The master plan design will include a computer rendered plan graphic, images, sketches and/or diagrams.

Meetings: Two (2) coordination meetings. *Additional meetings shall be billed as additional services as per the attached hourly rate schedule.*

Task 3: Refined Master Plan

MESA and the design team will refine the Conceptual Master Plan to incorporate comments received by the Town. This will be a descriptive level graphic plan, including sections and perspectives necessary to convey the design, which will graphically depict all park amenities at an appropriate scale – depicting forms, material concepts, habitat enhancements, and detailed connections.

Product: MESA and the design team will prepare one (1) revised master plan graphic and report that depicts the information outlined above – specific area enlargements, sections, elevations, and sketches may be prepared as necessary.

Meetings: One (1) presentation/coordination meeting, *Additional meetings shall be billed as additional services as per the attached hourly rate schedule.*

Task 4: Project Phasing/Prioritization

Based on the opinion of probable cost, MESA will work with the Town to finalize the program for inclusion in the Phase 1 detailed design. MESA will prepare revised opinions of probable cost and a corresponding cost estimate diagram delineating which elements are in each phase.

Product: Cost projections and corresponding plan diagrams

Meetings: One (1) coordination meeting. *Additional meetings shall be billed as additional services as per the attached hourly rate schedule.*

Task 5: Public Input Presentation

MESA will host a public input presentation with the Town staff to present the assessments, master plan, programming and design process to the public. MESA will host an assessment and programming workshop for Town staff. The meeting is designed to take into account all assessments and assist in determining the public's perception and desires for the proposed park.

Product: MESA will host an assessment and programming workshop for Town staff.

Meetings: One (1) ¼ day presentation meetings. *Additional meetings shall be billed as additional services as per the attached hourly rate schedule.*

Task 6: PALS Board Presentation

MESA will attend the PALS board meeting and present the refined master plan design to the Board. Input and comment to the design from the PALS meeting will be addressed in Task 7.

Product: One (1) PALS board meeting and potential site visit is included.

Meetings: One (1) meeting. *Additional meetings shall be billed as additional services as per the attached hourly rate schedule.*

Task 7: Revised Master Plan

MESA and the design team will revise the Master Plan to incorporate comments received by the Town. This will be a descriptive level graphic plan, including sections and perspectives necessary to convey the design, which will graphically depict all park amenities at an appropriate scale – depicting forms, material concepts, habitat enhancements, and detailed connections. Comments that result in a wholesale revision/entirely new concept will be billed as an additional service.

Product: MESA and the design team will prepare one (1) master plan graphic and report that depicts the information outlined above – specific area enlargements, sections, elevations, and sketches may be prepared as necessary.

Meetings: One (1) presentation/coordination meetings, *Additional meetings shall be billed as additional services as per the attached hourly rate schedule.*

Task 8: Town Council Presentation

MESA will attend one (1) Town Council meeting and present the refined master plan design to the Town Council. Minor design changes to incorporate Town Council comments will be addressed in Task 7.

Product: One (1) Town Council meeting is included.

Meetings: One (1) meeting. *Additional meetings shall be billed as additional services as per the attached hourly rate schedule.*

ATTACHMENT B – COST OF SERVICES

COST OF SERVICES

The below scope of services will be billed on a percentage completion basis or hourly not to exceed as applicable (in accordance with the fee schedule specified below) with the total cost of services not to exceed the amount specified for each without a written addendum to this contract. The below tasks shall be billed as follows:

Task	Base Fees	Optional Fees
Stage 1: Master Planning		
Task 1: Data Collection & Project Kickoff <i>Lump Sum</i>	\$ 500.00	
Task 1A: Topo, Boundary, and Tree Survey <i>Lump Sum</i>	\$17,500.00	
Task 2: Conceptual Master Plan <i>Lump Sum</i>	\$ 5,000.00	
Task 3: Refined Master Plan <i>Lump Sum</i>	\$ 7,500.00	
Task 4: Project Phasing/Prioritization <i>Lump Sum</i>	\$ 2,500.00	
Task 5: Public Input Presentation <i>Lump Sum</i>	\$ 4,000.00	
Task 6: PALS Board Presentation <i>Lump Sum</i>	\$ 3,000.00	
Task 7: Revised Master Plan <i>Lump Sum</i>	\$ 3,000.00	
Task 8: Town Council Presentation <i>Lump Sum</i>	\$ 1,000.00	
Total Cost of Base Services:	\$44,000.00	

REIMBURSABLE Expenses are included in the Fee. Estimated at \$4,000.00

We have not included any Sub-Consultant fees at this time. Fees for the survey (Task 1A) are estimated, and will be amended if necessary upon quotation of by registered PLS. No other sub-consultants are anticipated at this time for the Master Plan phase of this project.

ADDITIONAL SERVICES/HOURLY FEE SCHEDULE

Services requested, but not specifically included in the scope of services listed above, will be considered additional services. Modifications to drawings, after approval by Owner, as a result of changes requested by Owner or other consultant will be considered additional services and billed at an hourly rate as follows:

Senior Principal	\$235.00
Principal	\$180.00
Associate Principal	\$150.00
Associate	\$130.00
Senior Project Manager	\$110.00
Project Manager	\$100.00
Senior Designer	\$ 90.00
Designer	\$ 75.00
Marketing/Acct./Admin	\$ 75.00
Intern	\$ 50.00

1. The client will provide the following and MESA has the right to rely on this information and rely on any information provided by others:
 - a. Boundary and general survey locating structures, property lines, utilities that cross the property and interior lobby plans in AutoCAD format.
 - b. Soils Report (if required).
 - c. Budgetary Considerations.
2. Not included are the following:
 - a. Vehicular Paving Improvements
 - b. Utilities (water, sewer, storm, electrical, cable, telephone, etc.)
 - c. Architectural, Civil, Structural, Mechanical and Electrical Engineering
 - d. Hardscape and Flatwork Design
 - e. Landscape Lighting Electrical Plans
 - f. Project Signage and Graphics
 - g. Design of new or additional elements added to the scope of work or any related off-site improvements
 - h. Redesign of elements due to site plan changes (i.e., buildings relocated, site grading changes)
 - i. Geotechnical Information
 - j. Water features
 - k. Illustrative plans, models and drawings not specifically described in the Scope of Services
 - l. TDLR Submittal
 - m. As Built Drawings
 - n. On-Site Construction Management
 - o. Irrigation Design
3. MESA Design Associates may subcontract consultants in the performance of any services described in this agreement.
4. MESA Design Associates does not act as General Contractor in any way, or accept responsibility for poor craftsmanship.



TOWN COUNCIL AGENDA ITEM NO. 10

CONSENT ITEM

DATE: November 21, 2016

FROM: Tommy Dalton, Assistant Town Manager

ITEM: Consider adoption of the Town Council Strategic Plan for Fiscal Year 2016-2017.

BACKGROUND INFORMATION: The Town is guided by its vision statement: “The vision of Flower Mound is to preserve our unique country atmosphere, heritage, and quality of life while cultivating a dynamic economic environment.” This vision statement is embraced by the Town Council, Town Manager, and Executive Team, and underpins the Town’s strategic planning and daily operations. The Town’s strategic plan to achieve this vision is set by the Town Council during long-term planning sessions held annually. The Town has conducted strategic planning since 1997 when it first adopted its vision statement.

Goals and objectives agreed upon during previous Town Council Strategic Planning Sessions have historically been incorporated into the Town’s budget (<http://www.flower-mound.com/index.aspx?nid=314>). Separate adoption of the Town Council Strategic Plan provides clear direction on the Town Council’s goals and objectives while continuing to be incorporated into the Town’s budget.

This is the third year the Town has elevated its strategic planning process with documentation and adoption separate of the budget. The purpose is to raise awareness of the Town’s strategic planning efforts as well as strengthen the connection between the Town’s performance and the Town Council goals.

Upon adoption, staff will monitor the targets and provide updates to the Council as needed or as requested.

BOARD REVIEW/CITIZEN FEEDBACK: It is vital to the Town’s strategic planning and communication efforts to solicit Board and Commission (“Board”) input on various programs and initiatives. It is equally important that the various programs and initiatives created, reviewed, recommended, and acted on by the Town’s Boards are consistent with Town Council goals and strategic planning efforts. Ensuring consistency provides for the most effective use of the Town’s collective resources. In 2014, the Town created an input process that established guidelines to collect feedback in a consistent manner from the Town’s various Boards.

The Town’s Transportation Commission and Planning and Zoning Commission conducted input sessions on January 12 and February 22 respectively to provide the Council feedback for the July 22, 2016 Strategic Planning Session. The Animal Services Board had their work topics considered by the Town Council during the March 21, 2016 regular meeting.

Other boards did not conduct input session for various reasons. For example, the Parks, Arts, and Library Services Board is updating the 2010 Parks and Trails Master Plan that will guide most, if not all, of their work over the next few years.

ALTERNATIVES/OPTIONS: N/A

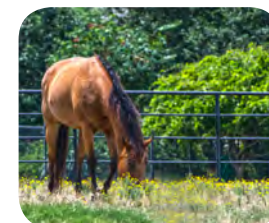
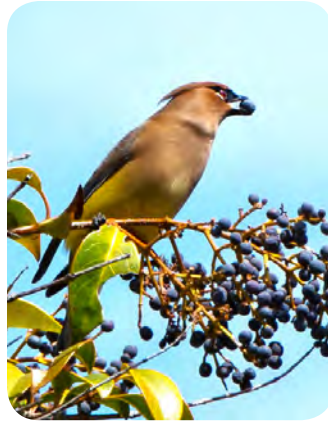
FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Town Council Strategic Plan for FY 2016-2017

RECOMMENDATION: Move to adopt the Town Council Strategic Plan for Fiscal Year 2016-2017.



Flower Mound Town Council



(From left to right: Itamar Gelbman, Kevin Bryant, Tom Hayden, Don McDaniel, Bryan Webb, and Jason Webb)

Mayor Tom Hayden

Mayor Pro Tem Kevin Bryant

Deputy Mayor Pro Tem Bryan Webb

Jason Webb, Place 1

Don McDaniel, Place 4

Itamar Gelbman, Place 5

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Vision

The Town of Flower Mound is guided by its vision statement: “To preserve our unique country atmosphere, heritage, and quality of life while cultivating a dynamic economic environment.” This vision statement is embraced by the Town Council, Town Manager, and Executive Team, and underpins the Town’s strategic planning and daily operations. The Town’s strategic plan to achieve this vision is set by the Town Council during long-term planning sessions held annually. The Town has conducted strategic planning since 1997 when it adopted its current vision statement, and is designed to achieve that vision.

The following Strategic Goals were unanimously established by the Town Council during the 2015 strategic planning cycle, and remain for Fiscal Year 2016-2017:

1. Safety and Security
2. First Rate Infrastructure
3. Financial Soundness, and Operational Excellence
4. Superior Quality of Life
5. Dynamic Economic Environment
6. Regional Cooperation
7. Community Engagement
8. Quality Workforce

In order to effectively achieve the Town vision, the goals must fit into an overall coherent plan that reflects the Town’s adopted vision, its purpose, the community’s values, the Town’s Master Plan, and the real and perceived needs of residents and businesses.

Vision:

Established in 1997, the vision of Flower Mound is to preserve our unique country atmosphere, heritage, and quality of life while cultivating a dynamic economic environment.

Purpose & Core Values

The Town's purpose is to provide a healthy and safe community with essential infrastructure and vital services. This is done while protecting property values and the welfare of residents through fair and effective ordinances supported by fiscal responsibility. The community's core values are a reflection of the Town's established vision that translates into a high quality of life. Elements of the Town's vision include country atmosphere, heritage, and dynamic economic development. Those life qualities include: safety, good schools, excellent customer service, great neighborhoods, enduring development, and superior leisure opportunities among others. Residents also value open space; scenic views and corridors; trees and habitat; the ability to live, work, and play in Town; being regionally competitive to encourage employment and quality development; and having a balanced tax base.

Master Plan

With vision, purpose, and core values in mind, any strategic plan must align with the community's Master Plan. A Master Plan is a statement of a community's current and future goals and objectives. Used as a guide to direct future growth, development, and redevelopment of a community, a Master Plan plays an important role in a community's decision-making process. The plan is comprehensive in that it links the different geographic and functional components of a Town to each other in such a way that the community's goals and objectives can be achieved, issues resolved, and opportunities for improved quality of life realized. The Master Plan is a document that sets the framework for the physical development of the Town over a 20-year period. The plan includes sections devoted to land use, parks, trails, open space, roadways, water, wastewater, and economic development.

The Master Plan is also an important policy tool that sets a vision for the orderly growth and development of the Town and provides the framework for many of Flower Mound's governing policies, specifically zoning regulations. Zoning regulations provide the method of implementing the Master Plan by prescribing the use, density, and development standards for each parcel of land.

Community Core Values:

High Quality of Life: Safety, good schools, excellent customer service, great neighborhoods, enduring development, superior leisure opportunities, open space, scenic views and corridors, trees and habitat, the ability to live, work, and play in Town, regionally competitive, and a balanced tax base.

Since the adoption of the Master Plan in 2001, there have been several major updates to the document with the latest occurring in 2010-2011 to address the Urban Design Plan component. Generally, Master Plans are evaluated every 5 to 10 years which can include minor updates or comprehensive review. The Town completed a focused update of the Town's Master Plan in 2013 to ensure its stated goals are in alignment with the Town's vision, and the community's core values. The vision of the Master Plan is to further the established community-based vision to:

- Preserve the country atmosphere and natural environment that makes Flower Mound a unique and desirable community.
- Mitigate the ill effects of rapid and intense urbanization.
- Create a balanced tax base to ensure the Town's long-term economic health and prosperity.
- Ensure all development is of enduring and exemplary quality and design.

Master Plan

The purpose of the Master Plan is to further the established community-based vision.

Resident and Business Needs

The Town has several different categories of customers. Taxpayers are considered our largest and most valuable customers. Taxpayers are identified as residents and businesses within the Town's geographic borders as well as those who receive police, fire, and emergency services; infrastructure repairs and improvements; water, sewer, and trash services; recreational services; and development services. Visitors to Flower Mound are also valued customers, and considered, but not limited to, individuals who live outside the geographic borders and travel Flower Mound's roads; shop within Flower Mound's commercial districts; and utilize Town parks, trails, and other recreational venues. Visitors are also recognized as potential customers who are individuals or companies considering Flower Mound as a place of establishment for their home or business. These potential customers are identified through community surveys, input at public hearings, requests for information, and marketing efforts by our Economic Development staff.

Residents:	Businesses:
Reliable Infrastructure	Predictability
Safety	Business-Friendly Practices
Low Tax Rates	Reasonable Fees & Processes
Recreation	Low Tax Rates
Shopping	Safe and Attractive Community
Quality Schools	Healthy Economy
Sound Ordinances	Customer Service
Quality Standards	
Customer Service	

Understanding customers' real and perceived needs is critical in developing a responsive strategic plan to bring forward the Town's vision. Over time, the Town has identified these needs.

Strategic Planning

The desire for a high quality of life is the common link between the Town's vision, community core values, Master Plan, and needs of the community. The quality of life the Town provides places it as one of the most desirable communities in the North Texas area. Sustaining that quality of life requires discipline, obtainable and measurable goals, and commitment. Strategic planning provides a systematic approach to evaluate the Town's vision and goals, as well as make decisions and actions to guide the organization.

Developing and prioritizing the strategic goals is the first step toward making decisions. Priorities are determined by the Town Council once staff has been able to articulate budget and operational impacts, policy implications, and timing. Measurement of the goals is equally important and provided in the following performance targets.

The following is a list of the Town's strategic goals and definitions, followed by a description of the Strategic Planning process and an implementation plan outlining objectives, action items, and performance targets.

1. **Safety and Security:** Ensure the safety and security of individuals and property for those who live, work, and play in Flower Mound.
2. **First Rate Infrastructure:** Provide high-quality water, wastewater, transportation, drainage systems and facilities to meet the current and future needs of the Town.
3. **Financial Soundness and Operational Excellence:** Ensure Flower Mound's long-term financial viability and organizational success through reliable financial controls, work systems, and processes.
4. **Superior Quality of Life:** Provide opportunities for a superior quality of life expected by Flower Mound residents through high development standards, protection of public health, vibrant and sustainable neighborhoods, and ample leisure opportunities.
5. **Dynamic Economic Environment:** Cultivate a dynamic and diverse economic development environment to strengthen the local economy and ensure the long-term success of Flower Mound.
6. **Regional Cooperation:** Provide leadership and influence to promote the success of the region and ensure cooperation with other area entities.
7. **Community Engagement:** Promote open communication, transparency, and partnerships with residents and businesses.
8. **Quality Workforce:** Ensure Flower Mound's long-term success by attracting, retaining, and empowering a workforce that delivers excellent service for an excellent value.

The Process

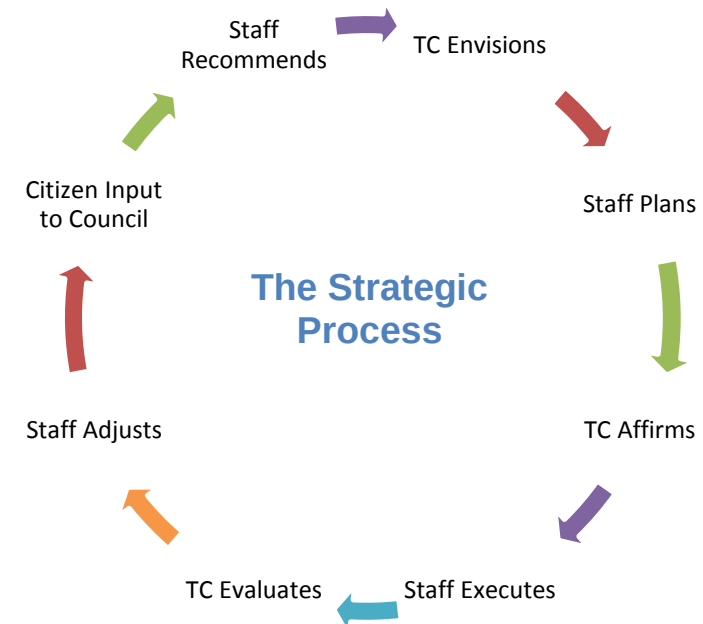
At its core, the Town uses strategic planning as a communication tool to provide a reliable system for feedback and adjustments. Below is a visual representation of the process. The process begins with the Town Council thinking about the future and developing a vision to establish the direction for the Town moving forward. This part of this process is typically accomplished during Town Council Strategic Planning Sessions.

Staff is responsible for developing and executing a plan to achieve the Council's vision. The plan is developed in concert with the Council, so there is clear understanding of the Council's vision, mutually agreed upon goals, and the plan to accomplish those goals.

The vision must be in alignment with the Town's purpose, core values, Master Plan, and the real and perceived needs of citizens. In turn, the goals, objectives, and action items must be in alignment with the vision. Creating alignment with the annual budget and the vision is critical to empower the Town to accomplish the vision. Once alignment is achieved, leaders must be diligent to maintain alignment, including continuous adjustment of the vision based on new information, changing situations, and new insights.

Communication and feedback must be maintained between Council and staff in order to preserve alignment, evaluate performance, and make adjustments due to changing factors. This enables leadership to keep the vision relevant, empowering, and achievable. To keep the communication loop open, staff presents updates to the Town Council on a regular basis to report status and performance, and to discuss necessary adjustment in real time.

During budget preparation the Town Council and staff use the plan as a guide for budget decisions, specifically to compare the priorities of the plan versus the budget priorities. The plan does not assume budget decisions, rather serves to create discussion on the many action items and the limited amount of funds available to implement them.



Town of Flower Mound Strategic Plan
Performance Targets: Fiscal Year 2016-2017

STATUS CODE: **COMPLETED:** ✓ **FAVORABLE:** ↑ (>100%) **ON TARGET:** → (95% - 100%) **UNFAVORABLE:** ↓ **DELAYED:** ←

GOAL: 1. Safety and Security: Ensure the safety and security of individuals and property for those who live, work and play in Flower Mound.

Department	Action Items (in bold) and Performance Target	Current Performance
Objective a. Ensure adequate equipment and personnel needs are being met, including staffing, support and training		
Police	1) Participate in at least one interdepartmental training with local law enforcement One training event	
Police	2) Implement an online reporting option for specified offenses August 2017	
Police	3) Implement digital body camera program September 2017	
Police/Fire	4) Complete radio system agreement with Denton County and prepare system for digital conversion August 2017	
Police/Fire	5) Plan and coordinate joint incident and operations exercises Complete 1 full and 2 tabletop exercises	
Fire	6) Continue training & education for first line supervisors, managers and administrative personnel Train 100% of targeted personnel	
Fire	7) Provide annual officer development sessions Train 100% of targeted personnel	
Fire	8) Continue ISO 1 compliant training Train 100% of operations personnel	
Fire	9) Continue to provide personnel opportunities to participate in national conferences Send 5 staff members to national conferences annually	
Fire	10) Develop best practices recognition program (Texas Fire Chief's Association Accreditation) October 2018	
Fire	11) Monitor demand for EMS service October 2016	
Objective b. Continue community policing practices to promote safety, address crime and communication with public		
Police	1) Enhance social media presence by increasing FMPD Facebook and Twitter followers - 8,000 Likes on Facebook - 6,000 Followers on Twitter	
Police	2) Complete four public safety PSA's September 2017	
Police	3) Maintain community engagement initiatives Quarterly Reporting	
Objective c. Demonstrate service levels related to equity, effectiveness, and efficiency		
Police/Fire	1) Complete annual SMARTGrowth report March 2017	
Objective d. Evaluate and update the Town's Emergency Management Plan		
Fire	1) Annually review the plan and assigned annexes Annual	

Town of Flower Mound Strategic Plan

Performance Targets: Fiscal Year 2016-2017

 STATUS CODE: **COMPLETED:** ✓ **FAVORABLE:** ↑ (>100%) **ON TARGET:** → (95% - 100%) **UNFAVORABLE:** ↓ **DELAYED:** ←

GOAL: 1. Safety and Security: Ensure the safety and security of individuals and property for those who live, work and play in Flower Mound.

Department	Action Items (in bold) and Performance Target	Current Performance
Fire	2) Provide Town-wide NIMS Implementation Training Train 100% of targeted personnel	
Fire	3) Test the plan with annual tabletop, functional, and building toward a full scale exercise in 2018 - Annual table top and functional - Full scale in 2018	
Communications	4) Evaluate communication annex of the Town's Emergency Management Plan August 2017	

 STATUS CODE: **COMPLETED:** ✓ **FAVORABLE:** ↑ (>100%) **ON TARGET:** → (95% - 100%) **UNFAVORABLE:** ↓ **DELAYED:** ←

GOAL: 2. First Rate Infrastructure: Provide high quality water, wastewater, transportation, drainage systems, and facilities to meet the current and future needs of the Town.

Department	Action Items (in bold) and Performance Target	Current Performance
Objective a. Develop and Implement infrastructure maintenance programs		
Public Works	1) Utilize preemptive street maintenance program to respond to pavement maintenance service requests Work orders completed	
Public Works	2) Track service requests, completed work orders, and the time work orders are open (Steets) Completion of work orders within 3 business days (average)	
CIP	3) Implement ADA Transition Plan Number of completed projects	
Public Works	4) Complete sign replacement program for FY 2015-2016 Number of signs maintained	
Public Works	5) Maintain and run diagnostics on Town traffic signals Number of units	
Public Works	6) Maintain Town roadway markings Lane miles of markings maintained	
Public Works	7) Monitor utility line maintenance work orders Number of work orders	
Public Works	8) Continue Sanitary Sewer Overflow Initiative (Year 3 of 10) - Linear feet of pipe inspected - Number of manholes inspected	
Public Works	9) Comply with EPA and TCEQ wastewater treatment standards 100%	
Objective b. Plan and/or construct Town Facilities		
CIP	1) Implement the 2016-2017 FY Capital Improvement Program Number of completed projects	

Town of Flower Mound Strategic Plan

Performance Targets: Fiscal Year 2016-2017

 STATUS CODE: **COMPLETED:** ✓ **FAVORABLE:** ↑ (>100%) **ON TARGET:** → (95% - 100%) **UNFAVORABLE:** ↓ **DELAYED:** ←

GOAL: 2. First Rate Infrastructure: Provide high quality water, wastewater, transportation, drainage systems, and facilities to meet the current and future needs of the Town.

Department	Action Items (in bold) and Performance Target	Current Performance
Public Works/CIP	2) Continue working with NCTCOG to identify outside funding sources for transportation projects Amount of total funds awarded	
Community Services/CIP	3) Update the Town's Parks Master Plan March 2017	
Police	4) Evaluate police building capacity regarding ten year plan to develop a renovation and/or facility construction plan to address future growth September 2017	
CIP/Fire	5) Design Fire Station 7 Begin Design and architectural process October 2017	
CIP/Fire	6) Construct Fire Station 7 Begin process October 2018	
CIP/Fire	7) Station 6 Land Acquisition Begin process October 2017	
CIP/Fire	8) Design Station 6 Begin Design and architectural process October 2018	
CIP/Fire	9) Construct Station 6 Begin process October 2019	
CIP/Community Services	10) Design Library Expansion Begin process October 2017	
CIP	11) Initiate Master Plan for Spinks/Lakeside Business District Reuse System February 2017	
Community Services	12) Construct a Town Operated Tree Farm at Green Acres Memorial Farm Park May 2017	
Community Services/CIP	13) Master Plan Dunham Ranch Recreational Area and Canyon Falls Park September 2017	

 STATUS CODE: **COMPLETED:** ✓ **FAVORABLE:** ↑ (>100%) **ON TARGET:** → (95% - 100%) **UNFAVORABLE:** ↓ **DELAYED:** ←

GOAL: 3. Financial Soundness and Operational Excellence: Ensure Flower Mound's long-term financial viability and organizational success through reliable financial controls, work systems, and processes.

Department	Action Items (in bold) and Performance Target	Current Performance
Objective a. Utilize technology for optimal performance and customer service		
TSO	1) Convert Town documents to the Laserfiche system 10 boxes	
Administrative Services	2) Expand Town's virtual server environment & network drive space September 2016	

Town of Flower Mound Strategic Plan

Performance Targets: Fiscal Year 2016-2017

 STATUS CODE: **COMPLETED:** ✓ **FAVORABLE:** ↑ (>100%) **ON TARGET:** → (95% - 100%) **UNFAVORABLE:** ↓ **DELAYED:** ←

GOAL: 3. Financial Soundness and Operational Excellence: Ensure Flower Mound's long-term financial viability and organizational success through reliable financial controls, work systems, and processes.

Department	Action Items (in bold) and Performance Target	Current Performance
Administrative Services	3) Replace software and hardware technology by following/funding the technology replacement schedule 100% completion by September 2016	
Objective b. Maintain Town facilities/infrastructure		
Administrative Services	1) Continue planned preventive maintenance on real property and equipment 100% completion by September 2017	
Administrative Services	2) Complete Central Fire Station Expansion of Administrative areas February 2018	
Administrative Services	3) Complete CAC Natatorium Improvements May 2017	
Administrative Services	4) Complete Police/Court Building Improvements, New Parking, and Storage Areas June 2017	
Administrative Services	5) Complete Renovations at Fire Stations 2, 3, 4 and 5 July 2017	
Administrative Services	6) Complete interior renovation of the Wastewater Treatment Plan building May 2017	
Objective c. Meet or exceed financial policies		
Financial Services	1) Prepare the CAFR and the budget in accordance with national criteria for excellence in financial reporting and budgeting Annually	
Financial Services	2) Maintain the Town's unassigned fund balance in the General Fund per the Town's adopted financial policies Minimum 15% of annual General Fund expenditures	
Financial Services	3) Maintain the Town's fund balance in the Debt Service Fund per the Town's adopted financial policies Minimum 4% of Debt Service Fund expenditures	
Financial Services	4) Maintain the Town's debt service tax rate at the lower level outlined in the Town's adopted Financial Policies 12 cents or lower	
Financial Services	5) Continue to budget for vehicle and equipment replacements through the Town's Vehicle and Equipment Replacement Fund (VERF) Maintain VERF at 85% funding level or higher	
Financial Services	6) Evaluate all the Town's expenditure and revenue sources including taxes, fees, and utility rates Annually	
Financial Services	7) Monitor grant and outside funding awards - Total number of applications - Total dollars awarded	

 STATUS CODE: **COMPLETED:** ✓ **FAVORABLE:** ↑ (>100%) **ON TARGET:** → (95% - 100%) **UNFAVORABLE:** ↓ **DELAYED:** ←

Town of Flower Mound Strategic Plan

Performance Targets: Fiscal Year 2016-2017

GOAL: 4. Superior Quality of Life: Provide opportunities for a superior quality of life expected by Flower Mound residents through high development standards, protection of public health, vibrant and sustainable neighborhoods, and ample leisure opportunities.

Department	Action Items (in bold) and Performance Target	Current Performance
Objective a. Maximize leisure opportunities		
Community Services	1) Evaluate point of service surveys for Parks and Recreation programming to identify potential enhancements Quarterly	
Community Services	2) Monitor family oriented special events in Town parks and/or facilities Overall attendance/registrations	
Community Services	3) Create and publish annual special events calendar Annually in December	
Objective b. Support Education and Quality of Life for Flower Mound Residents		
Community Services	1) Develop a Cultural Arts Master Plan Prepare RFP by March 2017	
Community Services	2) Increase Inventory of Beginning Reader Books in Library 4,500 books by June 2017 aligned with ISD leveling practices	
Community Services	3) Add Chinese/Japanese/Korean Language Collection to Library June 2017	
Objective c. Continue to review Town Development Codes for necessary amendments		
CIP/ Environmental/Development Services	1) Review Landscape Standards to address use of xeriscape techniques and design August 2017	
CIP	2) Review the Town's Floodplain Standards March 2017	
Public Works	3) Review the Town's standards and practices for Traffic Impact Analyses March 2017	
Objective d. Preserve and Protect the Town's natural environment		
Environmental Services	1) Continue identification of ESAs and work with the development community/applicants to preserve unique natural habitats Identify ESAs through the development application process and continue to compile and report data on the ESA acreage preserved	
Objective e. Monitor existing tree canopy coverage in the Town		
Environmental Services	1) Establish and continue a program to periodically review the Town's tree canopy - Conduct a canopy analysis at least every 2 years - Assess designated development project canopy impacts as aerial data allows	
Objective f. Continue to provide effective and efficient public health services		
Environmental Services	1) Promote proper on-site sewage maintenance and installation through an inspection and education program - Complete over 900 maintenance contract reviews - Complete over 2,000 maintenance inspection verifications - Continue educational program	

Town of Flower Mound Strategic Plan

Performance Targets: Fiscal Year 2016-2017

 STATUS CODE: **COMPLETED:** ✓ **FAVORABLE:** ↑ (>100%) **ON TARGET:** → (95% - 100%) **UNFAVORABLE:** ↓ **DELAYED:** ←

GOAL: 4. Superior Quality of Life: Provide opportunities for a superior quality of life expected by Flower Mound residents through high development standards, protection of public health, vibrant and sustainable neighborhoods, and ample leisure opportunities.

Department	Action Items (in bold) and Performance Target	Current Performance
Environmental Services	2) Evaluate the current food establishment and public pool inspection frequency goals and meet annual inspection goals - Conduct 650 unannounced food inspections - 80 public swimming pools inspected annually	
Environmental Services	- Assess annual food inspection scores and promote food safety through the annual Excellence in Food Safety award program. - Evaluate the inspection scores for each permitted food establishment and annually recognize the top performers. - Promote food safety practices quarterly	
Environmental Services	3) Monitor mosquito activity and implement the appropriate surveillance and control measures - Set minimum of 3 sentinel traps weekly and additional RAMP traps as needed - Continue larvicide/dunk giveaway program	
Objective g. Maintain neighborhood vitality through effective code enforcement		
Environmental Services	1) Conduct SWEEP inspections in designated areas Quarterly	
Environmental Services	2) Conduct neighborhood cleanup events and coordinated revitalization efforts with local non-profits and organizations Quarterly events and periodic revitalization projects	
Environmental Services	3) Evaluate and enhance proactive enforcement efforts for non-mandatory HOA areas. - Meet 70% proactivity goals - Maintain 48 hr. response times	
Objective h. Uphold the standards for protection, maintenance, and expansion of "Public Space Trees" (Intensively maintained areas in Town parks, Town medians and right-of-ways, and Town facilities)		
Community Services	1) Implement strategy to maintain Public Space Trees Hours devoted to tree maintenance	
Objective i. Implement the Town's Draft Sustainability Plan		
Environmental Services	1) Bring forward update on Sustainability Plan initiatives February 2017	

 STATUS CODE: **COMPLETED:** ✓ **FAVORABLE:** ↑ (>100%) **ON TARGET:** → (95% - 100%) **UNFAVORABLE:** ↓ **DELAYED:** ←

GOAL: 5. Dynamic Economic Environment: Cultivate a dynamic and diverse economic development environment to strengthen the local economy and ensure the long-term success of Flower Mound.

Town of Flower Mound Strategic Plan

Performance Targets: Fiscal Year 2016-2017

Department	Action Items (in bold) and Performance Target	Current Performance
Objective a. Promote Flower Mound as a place to do business		
Communications	1) Use press releases to highlight positive economic development news Number of releases	
Economic Development	2) Actively pursue contacts in the business community and work with allied agencies to promote the Town's business environment Number of meetings	
Economic Development	3) Attend local and national trade shows to promote the Town as a desired investment location At least 5 trade shows by September 2017	
Economic Development	4) Work with the Flower Mound Chamber of Commerce on programs, including those outlined in the 2015-16 approved MOU Host Leadercast and 9 ED Forums by September 2017	
Economic Development	5) Evaluate the economic development incentive policy to ensure competitive opportunities for businesses Biennially	
Economic Development	6) Plan and host a Town showcase event September 2017	
Economic Development	7) Attain international, national, state, and/or regional recognition for economic development projects September 2017	
TSO	8) Continue Government 12 @ 12 with FM Chamber and Business Community with Councilmember representation Five events by September 2017	
Development Services	9) Continue builders' luncheon as requested by development community Number of meetings	
Objective b. Encourage Business Retention, Expansion, and Job Growth		
Economic Development	1) Meet regularly with existing major employers to discuss their future in Flower Mound and offer assistance with future expansion plans Number of meetings	
Economic Development	2) Aggressively recruit top-tier companies and corporations Number of companies contacted	
Objective c. Attract desired retail, restaurant, and entertainment opportunities		
Economic Development	1) Administer biennial Retail & Restaurant Survey Biennially	
Economic Development	2) Aggressively pursue preferred retailers and restaurants identified on the Town's Retail & Restaurant Survey Number of contacts with representatives of the Top 20	
Economic Development	3) Meet regularly with property owners and brokers as well as tenant representatives on finding space that meets their needs Number of meetings with development representatives	
Economic Development	4) Evaluate and implement alternative Economic Development website strategies and formats to enhance the Town's ED initiatives August 2017	
Communications	5) Monitor and evaluate monthly Shop Small program Average monthly submissions	

Town of Flower Mound Strategic Plan
Performance Targets: Fiscal Year 2016-2017

STATUS CODE: **COMPLETED:** ✓ **FAVORABLE:** ↑ (>100%) **ON TARGET:** → (95% - 100%) **UNFAVORABLE:** ↓ **DELAYED:** ←

GOAL: 5. Dynamic Economic Environment: Cultivate a dynamic and diverse economic development environment to strengthen the local economy and ensure the long-term success of Flower Mound.

Department	Action Items (in bold) and Performance Target	Current Performance
Objective d. Monitor economic development incentive agreements to ensure compliance		
Economic Development	1) Develop evaluation scorecards for all current incentive agreements to evaluate the compliance of agreement terms Annually	
Economic Development	2) Administer payment of incentives with third parties in accordance with approved agreements 100% of payments made in accordance with agreement	
Economic Development	3) Ensure accurate billing of Lakeside Business District debt service payments in accordance with approved agreements Annually in December	

STATUS CODE: **COMPLETED:** ✓ **FAVORABLE:** ↑ (>100%) **ON TARGET:** → (95% - 100%) **UNFAVORABLE:** ↓ **DELAYED:** ←

GOAL: 6. Regional Cooperation: Provide leadership and influence to promote the success of the region and ensure cooperation with other area entities.

Department	Action Items (in bold) and Performance Target	Current Performance
Objective a. Launch Periodic Community Well-being Summits		
TSO	1) Evaluate existing programs run by LISD & NWISD and explore what the Town can do to support them Ongoing	
Objective b. Cooperate more intensively with neighboring cities and counties, including shared services discussions		
All	1) Continue staff involvement in professional organizations Number of professional partnerships/memberships	
TSO	2) Continue Town participation in Leadership Flower Mound Retain at least 1 town representative annually	
TMO/ATM/TSO	3) Identify opportunities for elected officials through TML and other resources Six regional events per calendar year	
Environmental Services	4) Conduct quarterly best practices meetings and/or activities with neighboring cities Participate in four sessions annually	

STATUS CODE: **COMPLETED:** ✓ **FAVORABLE:** ↑ (>100%) **ON TARGET:** → (95% - 100%) **UNFAVORABLE:** ↓ **DELAYED:** ←

GOAL: 7. Community Engagement: Promote open communication, transparency and partnerships with businesses and residents.

Town of Flower Mound Strategic Plan

Performance Targets: Fiscal Year 2016-2017

Department	Action Items (in bold) and Performance Target	Current Performance
Objective a. Improve Citizen Communication		
Communications	1) Continue implementation of the Town's 3 - year Comprehensive Communication Plan August 2019	
Communications	2) Monitor resident service requests by function Annually	
Communications	3) Monitor the Town's notification outreach Quarterly Notify Me subscriptions	
Environmental Services	4) Conduct additional HOA and non-HOA neighborhood outreach activities relative to informational Code Enforcement procedures - Four HOA and 4 non-HOA outreach activities annually - Quarterly information on Utility Bill insert	
CIP	5) Conduct informational neighborhood meetings prior to beginning Park and Roadway CIP projects Number of meetings conducted	
Development Services	6) Identify long-term maintenance needs for TRAKIT software system and long range planning Submit decision package for FY 17-18	
Communications	7) Re-design and launch new Town website with responsive design November 2016	
Communications	8) Update and Re-launch Town's "FM Connect" app December 2016	
Communications	9) Create short and informative videos highlighting opportunities for residents to participate in their local government Two by September 2017	
Objective b. Encourage community support organizations to contribute to the Town's overall quality of life initiatives		
Financial Services	1) Evaluate community support applications and organize in preparation of the budget submittal to the Town Council - Annually - Total dollars funded	
Objective c. Strengthen relationships with Board and Commission members		
TSO	1) Continue banquet, including recognition of past members Annually	
TSO	2) Continue training for new and existing members Annually	
TSO	3) Continue joint Council and Board/Commission meeting with appropriate boards Number of meetings held	
Objective d. Provide opportunities for the public to interact with elected officials		
TSO	1) Continue new/past member reception for the public Annually	
TSO	2) Continue monthly public forum for resident interaction (Mornings with the Mayor) Eight sessions by September 2016	

 STATUS CODE: **COMPLETED:** ✓ **FAVORABLE:** ↑ (>100%) **ON TARGET:** ➡ (95% - 100%) **UNFAVORABLE:** ↓ **DELAYED:** ⬅

Town of Flower Mound Strategic Plan

Performance Targets: Fiscal Year 2016-2017

GOAL: 8. Quality Workforce: Ensure Flower Mound's long-term success by attracting, retaining and empowering a workforce that delivers excellent service for an excellent value.

Department	Action Items (in bold) and Performance Target	Current Performance
Objective a. Maximize employee development training and educational opportunities		
Administrative Services	1) Provide Town staff with internal and external customer service training Number of training sessions provided	
Administrative Services	2) Offer training sessions based on needs assessment feedback Number of training sessions	
Administrative Services	3) Review Customer Service Award Program Fall 2016	
Objective b. Provide competitive salary and benefits to retain a motivated workforce		
Administrative Services	1) Maintain funding of the compensation plan Submit budget package for FY 17-18	
Administrative Services	2) Review benefit plan for possible additions and changes Submit budget package for FY 17-18	
Administrative Services	3) Adhere to and monitor changes to Affordable Care Act regulations March 2017	
Objective c. Increase employee engagement within the organization		
TMO	1) Continue Town Manager Tour & Talks to discuss issues faced by the Town and ones important to employees At least 2 annually	
TMO	2) Continue organization-wide team building events At least 2 annually	



TOWN COUNCIL AGENDA ITEM NO. 11

CONSENT ITEM

DATE: November 21, 2016

FROM: Theresa Scott, Town Secretary

ITEM: Consider approval of an ordinance canvassing and declaring the results of a special election held November 8, 2016, for charter amendments.

BACKGROUND INFORMATION: A Special Election was held on November 8, 2016, with voters casting ballots on Election Day and during early voting. The Texas Election Code requires that canvassing the results takes place no later than the 14th day after the election (November 22nd). The Town Council adopted Ordinance 44-16 on August 15, 2016, calling for the Election. The Town contracted with Denton and Tarrant Counties to conduct the election in conjunction with the State Constitutional Amendment Election.

The official results from Denton County were not available at the time of the agenda packet posting; however, are anticipated to be received prior to the meeting date and start time and will be presented then. In the event the report is still unavailable on Monday, November 21st, a Special Meeting of the Town Council is expected to take place on November 22, 2016, solely for the purpose of canvassing the election in accordance with state law.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

Finance Review by: N/A

LEGAL REVIEW: Cara White with Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the ordinance, as to form and legality.

ATTACHMENTS:

1. Draft ordinance
2. Unofficial Results – Denton County (unavailable at the time of agenda packet posting)
3. Unofficial Results – Tarrant County (available but will be presented at the same time with Denton County)

RECOMMENDATION: Move to approve an ordinance canvassing and declaring the results of a special election held November 8, 2016, for charter amendments.

TOWN OF FLOWER MOUND, TEXAS**ORDINANCE NO.**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, CANVASSING RETURNS AND DECLARING RESULTS OF A SPECIAL ELECTION HELD NOVEMBER 8, 2016, FOR THE PURPOSE OF AMENDING THE HOME RULE CHARTER OF THE TOWN OF FLOWER MOUND, TEXAS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of Flower Mound, Texas (the "Town") caused to be published in accordance with the laws of the State of Texas, notice of the election held November 8, 2016, to amend the Home Rule Charter of the Town; and

WHEREAS, notice of election was properly given by the Town as required by law; and

WHEREAS, said election was duly and legally held on November 8, 2016, in the Town and in conformity with the election laws of the State of Texas, and the results of said election have been certified and returned by the proper judge and clerks thereof; and

WHEREAS, the Town Council has considered the returns of said election held November 8, 2016; and pursuant to state law and Section 5.07 of the Home Rule Charter of the Town, the Council shall canvass and declare the official results; and

WHEREAS, the election returns, duly and legally made, showed that there were cast at said election a total of **xxxx** valid and legal votes, of which **xxxx** were cast early, and **xxxxx** were cast on election day; and that each of the measures in said election received the following votes:

PROPOSITION NO. 1- Town Council

Shall Section 3.01 of the Flower Mound Home Rule Charter be amended to provide that an individual elected to serve on Town Council shall serve a three year term and to provide for a transition plan for implementing three year terms; and shall Section 3.02 be amended to provide term limits of no more than two full consecutive terms and allow an additional two terms if a councilmember becomes mayor; and shall Section 3.03.1 be amended to comply with the Texas Constitution regarding vacancies on Town Council?

	Early Voting	Election Day	Total Percentage
YES			
NO			

PROPOSITION NO. 2 - Candidacy

Shall Sections 3.02.1 and 5.04 of the Flower Mound Home Rule Charter be amended to comply with state law to permit a Town employee to announce candidacy for elective office without forfeiting his employment with the Town and to clarify that employment with the Town will be forfeited only if the candidate is elected to office?

	Early Voting	Election Day	Total Percentage
YES			
NO			

PROPOSITION NO. 3 - Procedure for Determining Forfeiture

Shall Section 3.02.3 be added to the Flower Mound Home Rule Charter and section 3.09 be revised to provide for a procedure for the Town Council to follow to determine whether a sitting councilmember has forfeited his office and to determine whether a sitting councilmember should be expelled from office?

	Early Voting	Election Day	Total Percentage
YES			
NO			

PROPOSITION NO. 4 - Publication of Ordinances

Shall Section 3.07 of the Flower Mound Home Rule Charter be amended to remove the requirement that all ordinances adopted by the Town be published except those ordinances required to be published by law?

	Early Voting	Election Day	Total Percentage
YES			
NO			

PROPOSITION NO. 5 - Procedure for Removal of Municipal Judge

Shall Section 4.04.1 of the Flower Mound Home Rule Charter be amended by providing that the Town Council has the discretion to remove a duly appointed municipal judge after notice and an opportunity to be heard at a public hearing?

	Early Voting	Election Day	Total Percentage
YES			
NO			

PROPOSITION NO. 6 - Petition Requirements

Shall Sections 6.02, 7.04, 7.05, and 7.15 of the Flower Mound Home Rule Charter be amended to modify the petition requirements related to signatures needed for recall, initiative, and referendum?

	Early Voting	Election Day	Total Percentage
YES			
NO			

PROPOSITION NO. 7 - Parks, Arts, and Library Board

Shall Section 8.04 of the Flower Mound Home Rule Charter be deleted in its entirety to remove the discussion of the Parks, Arts, and Library Services Board from the Charter to allow provisions governing such boards to be governed by Town Ordinance exclusively?

	Early Voting	Election Day	Total Percentage
YES			
NO			

PROPOSITION NO. 8 - Budget and Finance

Shall Section 9.10 of the Flower Mound Home Rule Charter be deleted in its entirety to remove the requirement that the Town budget be filed with various county and state agencies; and shall Section 9.14 of the Flower Mound Home Rule Charter be amended to allow transfer of funds between departments without the requirement of a budget amendment?

	Early Voting	Election Day	Total Percentage
YES			
NO			

WHEREAS, in order to be declared approved, a proposition must receive the majority of votes cast for YES.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS:

SECTION 1

That each and every one of the recitals, findings and determinations contained in the preamble of this Ordinance are found to be true and correct and are hereby repeated and incorporated herein as if copied in their entirety.

SECTION 2

That it is further found and determined that the results of the election as canvassed and tabulated in the preamble reflect the expressed desires of the resident, qualified electors of the Town, and that the above canvass is hereby approved.

SECTION 3

The Town Council officially finds, determines and declares the result of said election to be that the following propositions received a favorable majority vote, and such propositions have therefore passed:

Proposition 1	Yes
Proposition 2	Yes
Proposition 3	Yes
Proposition 5	Yes
Proposition 6	Yes
Proposition 7	Yes

The Town Council hereby directs the amendment of Flower Mound Home Rule Charter in accordance with the election.

SECTION 4

The Mayor is hereby authorized and directed to execute and deliver this Ordinance canvassing the Special Election in accordance with the Texas Election Code and all other necessary action in connection therewith.

SECTION 5

This Ordinance shall take effect and be in force from and after its final passage and approval, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ___ TO ___, ON THIS THE 21ST DAY OF NOVEMBER, 2016.

Thomas E. Hayden, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

APPROVED AS TO FORM AND LEGALITY:

Bryn Meredith, TOWN ATTORNEY



TOWN COUNCIL AGENDA ITEM NO. 12

CONSENT ITEM

DATE: November 21, 2016

FROM: Wess Griffin, Flower Mound Police Department Captain

ITEM: Review amendments to Chapter 6, "Animals," Article VI, "Wild or Exotic Animals," Section 6-203, "Exceptions to General Prohibition," of the Code of Ordinances, Town of Flower Mound, Texas.

BACKGROUND INFORMATION: In February of 2015 it came to Animal Services' attention that there was a gap in State Law and Ordinance that allowed for the keeping of venomous, non-indigenous species of snakes in households without a permit or record of any kind to document how many, or what species of snakes may be housed inside any particular home.

Flower Mound Animal Services, Fire Department and Police Department believe that housing of highly venomous, non-indigenous snake species presents a potential danger to first responders as well as the public at-large.

Animal Services began to review the Town ordinances and requested the assistance from the Town Attorney's office for their interpretation to understand if they were strong enough to prohibit the ownership of such animals. The conclusion was a recommendation to draft an ordinance to tighten restrictions on the keeping of such animals.

The new ordinance does not prevent ownership of exotic snake species, but does provide a provision whereby owners will be required to obtain a permit and allow inventory and inspection of any exotic venomous snakes.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: Ashley Dierker of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the resolution as to form and legality.

ATTACHMENTS:

1. Ordinance

RECOMMENDATION: Move to approve amendments to Chapter 6, "Animals," Article VI, "Wild or Exotic Animals," Section 6-203, "Exceptions to General Prohibition," of the Code of Ordinances, Town of Flower Mound, Texas.

TOWN OF FLOWER MOUND, TEXAS**ORDINANCE NO. _____**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS BY AMENDING CHAPTER 6, "ANIMALS," ARTICLE VI, "EXCEPTIONS TO GENERAL PROHIBITION," AND "PERMITS," PROVIDING REGULATIONS RELATED TO THE POSSESSION OF CERTAIN ANIMALS; PROVIDING FOR THE INSPECTION, SEARCH, AND SEIZURE OF WILD OR EXOTIC ANIMALS; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound is a home rule municipality acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and,

WHEREAS, the Town Council of the Town of Flower Mound has previously adopted certain regulations related to possession and maintenance of wild or exotic animals; and,

WHEREAS, the Town Council now desires to update and amend those regulations; and,

WHEREAS, the Town Council finds and determines that these regulations should be amended as set out herein and that the regulations proposed are in the best interest of and are necessary to protect the health, safety, and general welfare of the citizens of the Town and the general public;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS:

SECTION 1

That Chapter 6, "Animals," Article VI, "Wild or Exotic Animals," Section 6-203, "Exceptions to General Prohibition," of the Code of Ordinances, Town of Flower Mound, Texas is hereby amended to read as follows:

"Section 6-203. Exceptions to General Prohibition.

a) The following wild or exotic animals may be kept within the town, provided that certain requirements are met:

- (1) Bison, provided that they are kept on lots or tracts of land two acres or greater in area; however, it shall be a defense to prosecution regarding the keeping of bison on lots or tracts of land less than two acres in area that no more than the

number of bison in question were being kept on the same premises, by the same owner, prior to the adoption of this chapter;

- (2) Emus, ostriches, or rheas, pursuant to the provisions of article VII of this chapter; however, it shall be a defense to prosecution regarding the number of emus, ostriches or rheas being kept, that no more than the number of emus, ostriches or rheas in question were being kept on the same premises, by the same owner, prior to the adoption of this chapter; and
 - (3) Exotic birds, provided that they are not birds of prey;
 - (4) Any other animal not previously excluded in section 6-201 and legally procured from breeders, pet stores or other persons, businesses or corporations engaged in the buying, selling or trading of such animals; or
 - (5) Snakes that are venomous and indigenous as well as snakes that are venomous and not indigenous to Texas, provided a permit has been issued from the appropriate federal or state department and from the town; provided that the snake is maintained in an enclosure, coral, pen, cage, or restrictive area that contains at least three (3) locking mechanisms to ensure that the snake is unable to escape; and provided that if a snake permitted pursuant to this subsection and kept within the town escapes from its enclosure, coral, pen, cage, or restrictive area the owner or possessor immediately notifies the town of such escape and cooperates with the town in recovery of the escaped snake.
- (b) The animals listed in subsection (a) of this section may be kept within the town, provided that the owner or possessor of such animals meets the following requirements:
- (1) Any area within the town where these animals are kept is zoned so as to allow the keeping of such animals;
 - (2) Any enclosure, coral, pen, cage or restrictive area in which these animals are kept is constructed so as to prevent their escape;
 - (3) All necessary international, federal, state, or town licenses and/or permits have been obtained, if required."

SECTION 2

That Chapter 6, "Animals," Article VI, "Wild or Exotic Animals," Section 6-204. "Permits," of the Code of Ordinances, Town of Flower Mound, Texas is hereby amended to read as follows:

"Section 6-204. Permits.

- (a) The town animal control officer or his designee shall register and issue wild or exotic animal permits. Such issuance will be for the purpose of owner identification in cases where an animal has bitten, scratched, attacked, or injured a human being or another

animal and in cases where the animal might become impounded, lost, or injured. In cases where international, federal or state licenses and/or permits are required, the owner of the wild or exotic animal shall also obtain a wild or exotic animal permit from the town. A separate permit from the town shall be required for each animal.

(b) An application submitted to the town for a permit to possess a snake as required by subsection 6-203(a)(5) and subsection 6-204(a) shall include the following:

- (1) the name, address, and telephone number of the individual who will be in possession of the animal to be governed by the permit;
- (2) color pictures of the animal to be governed by the permit;
- (3) a detailed description of the animal to be governed by the permit, including the name(s) given to the animal and the length, weight, and girth of the animal;
- (4) the approximate age of the animal to be governed by the permit;
- (5) the sex, species, and breed of the animal to be governed by the permit; and
- (6) color pictures of the enclosure, coral, pen, cage, or restrictive area in which the animal will be maintained.

(c) Prior to the issuance of a wild or exotic animal permit for the possession of a snake pursuant to subsection 6-203(a)(5) and subsection 6-204(a), the town animal control officer or his designee shall inspect any and all premises at which a snake may be kept. After the issuance of a wild or exotic animal permit for the possession of a snake, the town animal control officer or his designee may annually inspect any and all premises at which a snake is kept. A permit to possess a snake may not be issued unless the inspection is conducted as required herein and unless the requirements of subsection 6-203(a)(5) and subsection 6-204(b) are complied with. The town animal control officer or his designee may revoke the town permit for possession of a snake if the individual who is in possession of the animal governed by the permit does not comply with subsection 6-203(a)(5), subsection 6-204(b), or the annual inspection requirement of this subsection 6-204(c). The individual who is in possession of the animal shall apply for a new permit under subsection 6-204(b) each time the premises at which the snake is kept changes.

(d) The town animal control officer or his designee may inspect at any time, without a warrant, any premise within town limits where probable cause exists that a wild or exotic animal covered by this Article VI is present and a proper federal or state license and/or permit from the town has not been issued.

(e) The town animal control officer or his designee may arrange for the seizure or removal of wild or exotic animals covered by this Article VI from a person who possesses the animal without the required license and/or permit."

SECTION 3

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the Town of Flower Mound, Texas, as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

ORDINANCE NO. _____

Page 4

SECTION 4

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine in accordance with Section 1-13 of the Code of Ordinances of the Town of Flower Mound.

SECTION 5

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 6

The Town Secretary of the Town of Flower Mound is hereby directed to publish the caption in the official newspaper of the Town of Flower Mound as required by Section 3.07 of the Charter of the Town of Flower Mound.

SECTION 7

This Ordinance shall be in full force and effect from and after the date of its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 21ST DAY OF NOVEMBER, 2016.

APPROVED:

Thomas E. Hayden, MAYOR**ATTEST:**

Theresa Scott, TOWN SECRETARY**APPROVED AS TO FORM AND LEGALITY:**

Bryn D. Meredith, TOWN ATTORNEY



TOWN COUNCIL AGENDA ITEM NO. 13 REGULAR ITEM

DATE: November 21, 2016

FROM: Poornima Srinarasi, Senior Planner

ITEM: Public Hearing to consider a request for rezoning (ZPD16-0008 - Prairie Plaza) from Agricultural District (A) to Planned Development District No. 150 (PD-150) for Office District (O) uses, with an exception to Section 90-423, "Underground utilities," of the Code of Ordinances, and to consider adopting an ordinance providing for said amendment. The property is generally located north of Cross Timbers Road and west of Long Prairie Road. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its November 14, 2016, meeting.)*

BACKGROUND INFORMATION: Attached is the Planning and Zoning Commission (P&Z) report and backup for this item. No changes or new information has been received since that meeting.

ATTACHMENTS:

1. Planning and Zoning Commission Staff Report
2. Draft Ordinance

DRAFT MOTION: Move to approve a request for rezoning (ZPD16-0008 - Prairie Plaza) from Agricultural District (A) to Planned Development District No. 150 (PD-150) for Office District (O) uses, with an exception to Section 90-423, "Underground utilities," of the Code of Ordinances, and adopt an ordinance providing for said amendment.



PLANNING AND ZONING COMMISSION AGENDA ITEM NO: 6

DATE: November 14, 2016

FROM: Poornima Srinarasi, Planner

ITEM: **Public Hearing to consider a request for rezoning (ZPD16-0008 - Prairie Plaza) from Agricultural District (A) to Planned Development District No. 150 (PD-150) with Office District (O) uses, with an exception to Section 90-423, "Underground utilities," of the Code of Ordinances. The property is generally located north of Cross Timbers Road and west of Long Prairie 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 5.0 acres of land currently zoned Agricultural District (A) in order to develop six buildings, containing approximately 42,190 square feet, with uses allowed under the Office zoning district. The subject property is located within Specific Plan Area 4 (SPA 4) which recommends professional office use on the west side of Long Prairie Road. The proposal is consistent with this recommendation.

The conceptual site plan depicts the layout of the proposed buildings, parking lots, open space and landscaped areas. Primary access to the lot will be provided by mutual access easements from properties located to the north and to the south. The proposed use requires 270 parking spaces and the plan depicts 217 parking spaces indicating that the development is within the 20% deviation as allowed by the Town's parking regulations.

The proposed elevations comply with the design standards in SPA 4, as well as the Town's Urban Design Plan, and show sloped roofs consistent with the surrounding developments.

The conceptual landscape plan shows the areas planned for landscaping which are in compliance with the Town's Land Development Regulations. In accordance with SPA 4, a 30-foot compatibility buffer, six-foot masonry wall, and 60-foot building setback are being provided along the western property boundary, and a 60-foot building setback along with a 25-foot landscape buffer are being provided along Long Prairie Road.

A. Exception to Overhead Utilities

Approximately 335 feet of overhead power lines are located within the subject property along the frontage of Long Prairie Road. The applicant is requesting an exception to Section 90-423, Underground utilities, of the Code of Ordinances to allow the overhead power lines to remain in the existing location. At the Town's request, the applicant has provided email correspondence from CoServ stating that CoServ does not allow overhead primary facilities to be placed underground where the facilities to be placed underground measure less than 1,200 linear feet (Attachment A(3)).

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 rezoning requests. At the time this report was written, staff had not received any correspondence regarding this request.

IV. ATTACHMENTS

A. Background Information

1. Vicinity Map
2. Letter of Intent
3. Correspondence from CoServ
4. Specific Plan Area 4

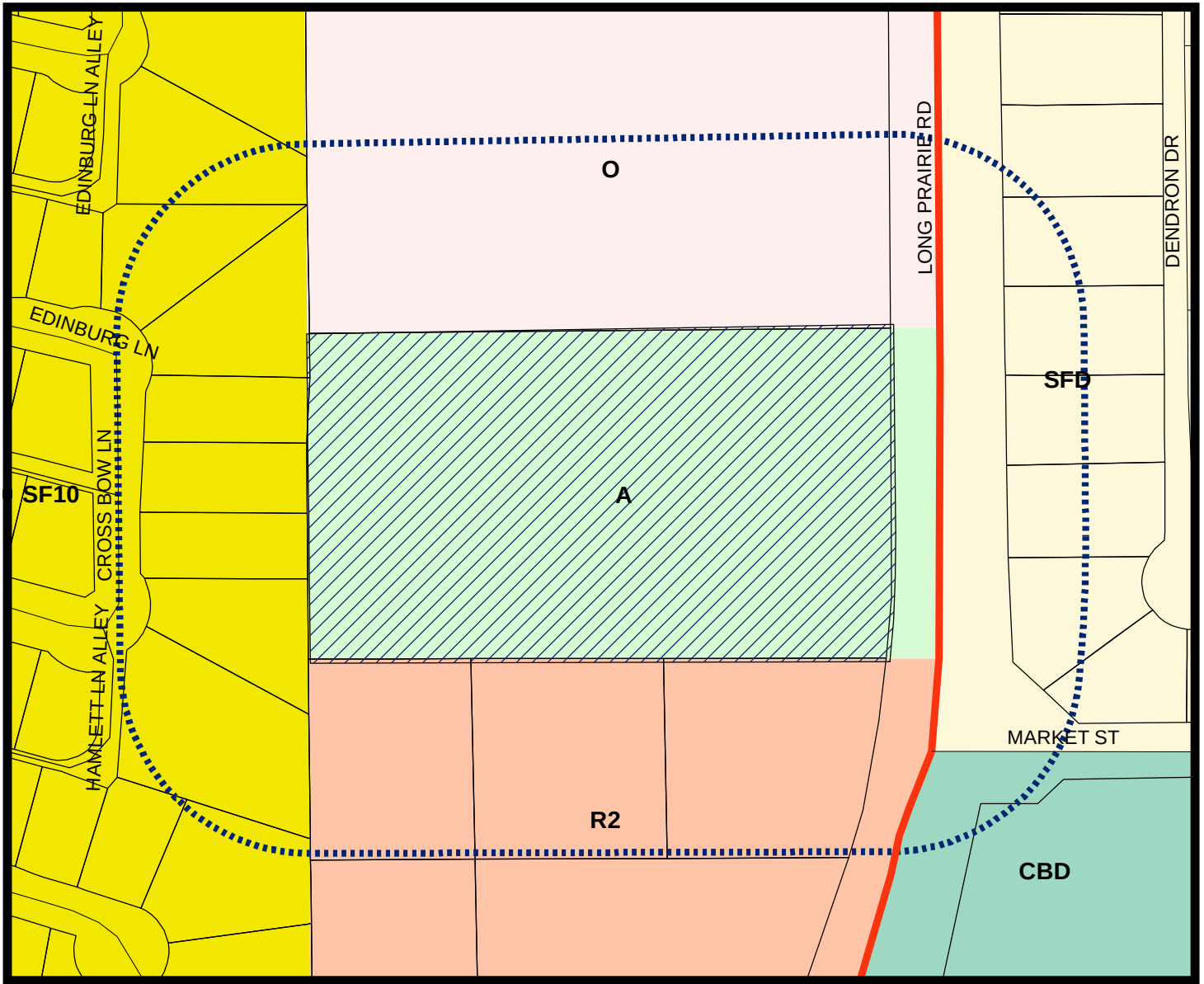
B. Application Details

1. Zoning Planned Development Package
2. Draft Development Standards



Vicinity Map

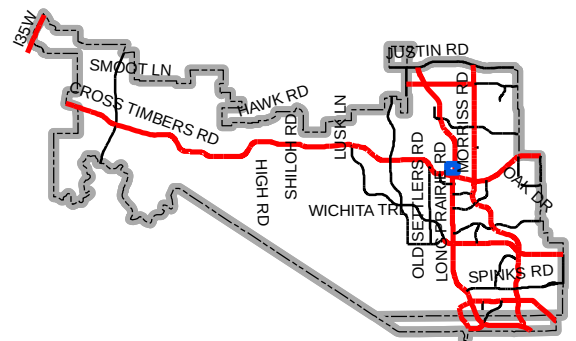
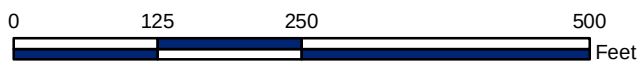
Reference Project: ZPD16-0008



LEGEND

- Agriculture
- Central Business District
- Office
- Retail 2
- Single Family 10
- Single Family Density

- Subject Property
- 200 ft Notification Buffer around Property



Map Location



11 August 2016

REVISED 04 October 2016

Ms. Poornima Srinarasi, AICP
Senior Planner, Planning Services Division
Town of Flower Mound
1001 Cross Timbers Road
2121 Cross Timbers Road (Mailing Address)
Flower Mound, TX 75028
972.874.6349

RE: Letter of Intent (*Revised*)

Ms. Srinarasi,

On behalf of our Client, we submit the following statements of intent for Prairie Plaza (ZPD16-0008).

The Client is looking to rezone the property from Agriculture to a Planned Development that conforms with SPA4. The reason for this request is to take the property from a single family use to the parcel's highest and best use – which are the allowable uses under the “Office” zoning within this SPA.

The gross acreage of the property is 5.000 acres. 0.2396 acres of this property are in the ROW Easement which results in a net acreage of 4.7604 acres of developable property.

The proposed development will be in phases. Phase I is all of the infrastructure of the project and the two buildings on the East side of the project (closest to FM2499). The remainder of the buildings will be built in Phase II.

Pertaining to the SPA4 district that this project is within, the development sets forth a design that is complimentary and in keeping with the surrounding and adjacent projects. Vernacular architecture in conformance with the Urban Design Guidelines are being used and are depicted in the submitted renderings. The buildings are designed in such a way as to be in keeping with the transitional nature of this area from Residential (Single Family) to the more intense Retail area at the intersection of FM2499 and FM1171. The uses within the site will conform to the allowable uses under the Office designation. These will include Medical Office Buildings, Professional Services along with the allowable Retail and Restaurant uses stipulated within the Office zoning designation.



We are requesting an exception, such as it is, pertaining to the existing 335' of overhead power lines on this property along FM2499. As requested by the Town of Flower Mound, our Client reached out to CoServ pertaining to the burying of this overhead line. The response email is included within our submittal. The letter states that CoServ has implemented a policy to not bury sections of overhead power lines of less than 1200' in length. As such, we are unable to comply with the request to bury these overhead lines. The remainder of the project will have underground electric lines.

We appreciate your consideration and time with this project – we feel that the design is complimentary of the surrounding sites and will add value to the citizens of Flower Mound.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew J Peterson', followed by a horizontal line and a period.

Matthew J Peterson, AIA
Architect – Vice-President – Design

cc : Jeff Toon, President, db constructors, inc
Rajeshnani Dasari



Rajesh Dasari [REDACTED]

3901 Long Prairie: Manager's contact

Dean Rhea [REDACTED] >
To: Rajesh Dasari [REDACTED] >

Mon, Oct 3, 2016 at 3:12 PM

From: Brant Hargrave
Sent: Friday, September 30, 2016 7:40 AM
To: Dean Rhea [REDACTED]
Subject: RE: 3901 Long Prairie: Manager's contact

Rajesh,

This is to confirm that the overhead power lines running parallel to Long Prairie Rd in Flower Mound, Texas are CoServ Electric's.

Due to the large number of failure points created by short sections of CoServ Electric's distribution system being placed underground, CoServ Electric implemented a policy that does not allow overhead facilities of less than 1,200' in length to be placed underground.

Upon written request, and if approved by CoServ Engineering, CoServ Electric will provide a ballpark estimate to convert an overhead section of not less than 1,200' in length, to underground; however, the Town of Flower Mound's request for a letter does not meet CoServ's minimum requirements for a ballpark estimate, being that your property line along Long Prairie Rd is approximately 335' in length. It is CoServ's position that burying this section of overhead primary line is not practical, in that it would jeopardize the integrity of the electrical circuit and possibly affect the quality of service provided in this area; therefore, CoServ will forgo any consideration of converting these facilities to underground. If you have any questions or need additional information, please don't hesitate to contact me.



Thank you,

Brant Hargrave

Engineering Services Manager

O (940) 321-7854 | C [REDACTED]

7701 S Stemmons, Corinth, TX 76210



*"CoServ's Mission is to deliver excellent service to our Members
and Customers by providing safe and reliable energy solutions."*

From: Dean Rhea
Sent: Thursday, September 29, 2016 4:41 PM
To: Brant Hargrave [REDACTED]
Subject: FW: 3901 Long Prairie: Manager's contact

Brant,

How do we need to respond to Mr. Dasari on his request for a letter? The city is apparently requesting that he obtain a letter from us.

From: Rajesh Dasari [mailto:[REDACTED]]
Sent: Thursday, September 29, 2016 3:46 PM



3.0 SPECIFIC PLANS

Specific Plan Area #4

The study area that is proposed as Specific Plan Area #4 is defined by property that exists on both sides of FM 2499, north of Euclid and south of Timber Creek.

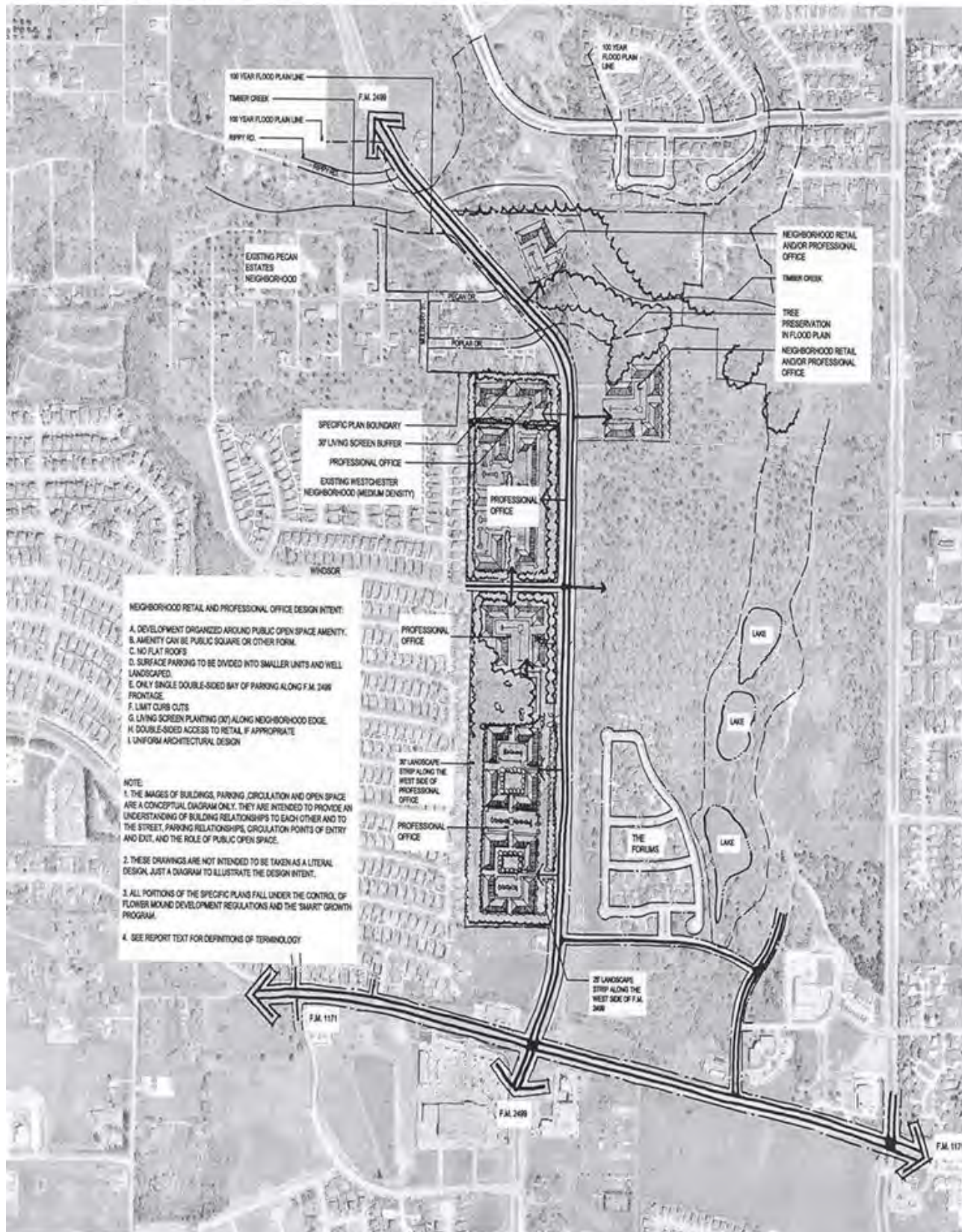
The general land use concept for Specific Plan Area #4 is one that mixes medium density residential with neighborhood retail, professional office and a combination of the two. The locations for commercial land uses are established from an analysis of the proposed transportation system and existing development patterns. Many, if not all, of the land use recommendations are established to be compatible with existing development patterns and natural features in the existing landscape.

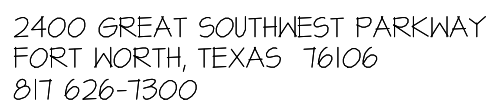
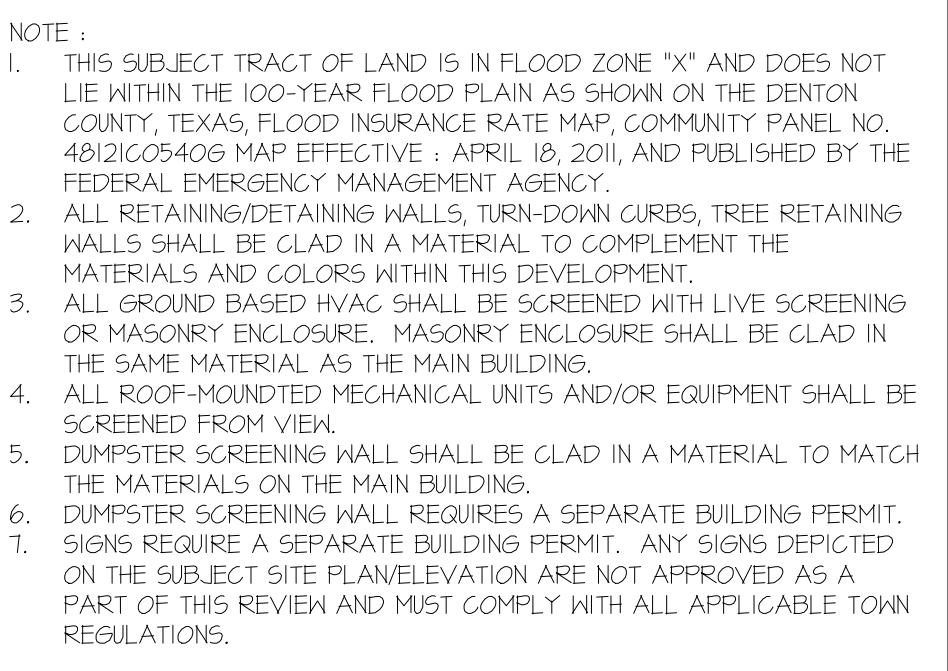
Elements included in Specific Plan Area #4 are as follows:

- a. Professional office is recommended along the west side of FM 2499. This land use should be developed in a pattern that creates courtyards and pedestrian-scaled spaces. Surface parking for the development should be screened from FM 2499 and the Westchester neighborhood with a wide landscaped area. This site is proposed to be nestled into areas of existing trees in a manner intended to save natural trees stands and make maximum use of their screening and buffering potential.
- b. Neighborhood retail and/or professional office are recommended along the eastern side of FM 2499 with appropriate landscape buffers and development controls. In this area no development or fill can occur in the adjacent 100-year flood plain. Protection and preservation of mature trees in accordance with the Town's Tree Ordinance is required for development along this side of FM 2499.
- c. A 30' wide living screen landscape buffer is recommended between commercial developments adjacent to all residential land uses. These buffers would also be required to include masonry walls between dissimilar land uses, as required by the Town's Land Development Regulations. One example of a location where the landscape screen would be required would be between the Pecan Estates/Westchester neighborhoods and the adjoining land, which is recommended to be professional office.
- d. Limited curb cuts will be allowed along FM 2499. Access drives should be coordinated so that they allow cross-vehicular movement for more than one property.
- e. The black arrows connecting roadways with development areas identify primary curb cuts for vehicular access. The specific locations of property access will be dependent on adjacent property circulation, final site plan design and projected traffic data as defined by a transportation planner.
- f. Roofs of commercial buildings 15,000 SF and under are to be hip, gable or a combination of the two. Structures larger than 15,000 SF should have no visible area of flat roof from any adjacent properties. A mansard parapet structure, in a combination of vertical and sloping sections, will be required along 100% of the roof perimeter.
- g. No development should occur in the Timber Creek 100-year floodplain.

3.0 SPECIFIC PLANS

Specific Plan Area #4





MASTER PLAN FEATURES	
LAND USE PLAN :	PROFESSIONAL OFFICE USES
SPECIFIC PLAN :	SPA 4
URBAN DESIGN PLAN :	LONG PRAIRIE DISTRICT
PARKS AND TRAILS :	6' WIDE SIDEWALK TO CONNECT TO ADJACENT DEVELOPMENTS
OPEN SPACE PLAN :	NOT A CONSERVATION DEVELOPMENT
THOROUGHFARE PLAN :	LONG PRAIRIE ROAD - MAJOR ARTERIAL W/130' ROW; SPA4 MUTUAL ACCESS - CROSS ACCESS BETWEEN ADJACENT LOTS TO BE PROVIDED
WATER PLAN :	STONE HILL/PINTAIL DISTRICT, EXISTING LINE 12" ON THE EAST SIDE OF THE PROPERTY ALONG FM 2499 EAST (LOW) PRESSURE PLANE
WASTEWATER PLAN :	LONG PRAIRIE SERVICE AREA, EXISTING LINE 8" TO PROPERTY, SOUTHEAST PROPERTY CORNER. AN 8" SEWER LINE WILL BE EXTENDED THROUGH THE PROPERTY AS PART OF THIS DEVELOPMENT

CONCEPTUAL SITE PLAN



2 LEFT ELEVATION

SCALE: 1/4" = 1'-0" (24"X36")



1 FRONT ELEVATION

SCALE: 1/4" = 1'-0" (24"X36")



2 RIGHT ELEVATION

SCALE: 1/4" = 1'-0" (24"X36")



1 FRONT ELEVATION

SCALE: 1/4" = 1'-0" (24"X36")



2 MEDICAL OFFICE BUILDING : SOUTH ELEVATION
SCALE: 1/4" = 1'-0" (24"X36")

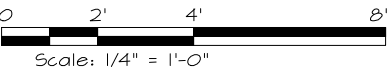


ELEVATIONS : MATERIAL CALCULATIONS TABLE
MEDICAL OFFICE BUILDING

	NORTH*	SOUTH*	EAST*	WEST*
TOTAL FAÇADE SQUARE FOOTAGE :	846	796	1609	1458
FACED SQUARE FOOTAGE (EXCLUSIVE OF DOORS/WINDOWS)	634	679	1119.5	1240.5
DOORS AND WINDOWS SQ. FT.	212	117	489.5	217.5
PRIMARY MASONRY TOTALS (%)	100.00%	100.00%	99.11%	99.19%
BRICK SQ. FT.	467	382	621	739
STONE SQ. FT.	167	297	488.5	491.5
SECONDARY MASONRY TOTALS (%)	0.00%	0.00%	0.89%	0.81%
FIBERCEMENT (AKA HARDIPLANK) SQ. FT.	0	0	10	10

*All numbers with the column are in square feet (SQ. FT.), U.N.O.

1 MEDICAL OFFICE BUILDING : EAST ELEVATION
PER CONCEPTUAL SITE PLAN, 3 BUILDINGS OF THIS ELEVATION ARE BEING PROPOSED. A FOURTH MEDICAL OFFICE BUILDING IS ALSO SHOWN, THIS BUILDING (HALF OF THE ONE DEPICTED) WILL MATCH THESE IN ARCHITECTURE, DESIGN, COLOR AND CONSTRUCTION.
SCALE: 1/4" = 1'-0" (24"X36")



prairie plaza

3901 long prairie road
flower mound, tx



2 MEDICAL OFFICE BUILDING : NORTH ELEVATION
SCALE: 1/4" = 1'-0" (24"X36")

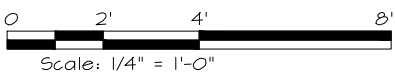


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SCALE: 1/4" = 1'-0" (24"X36")

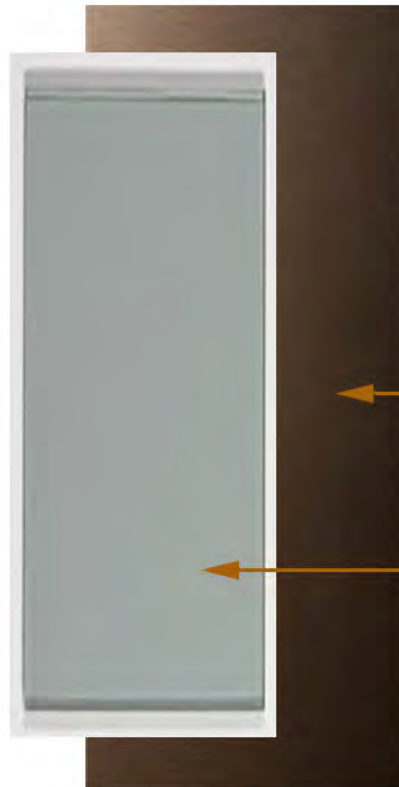
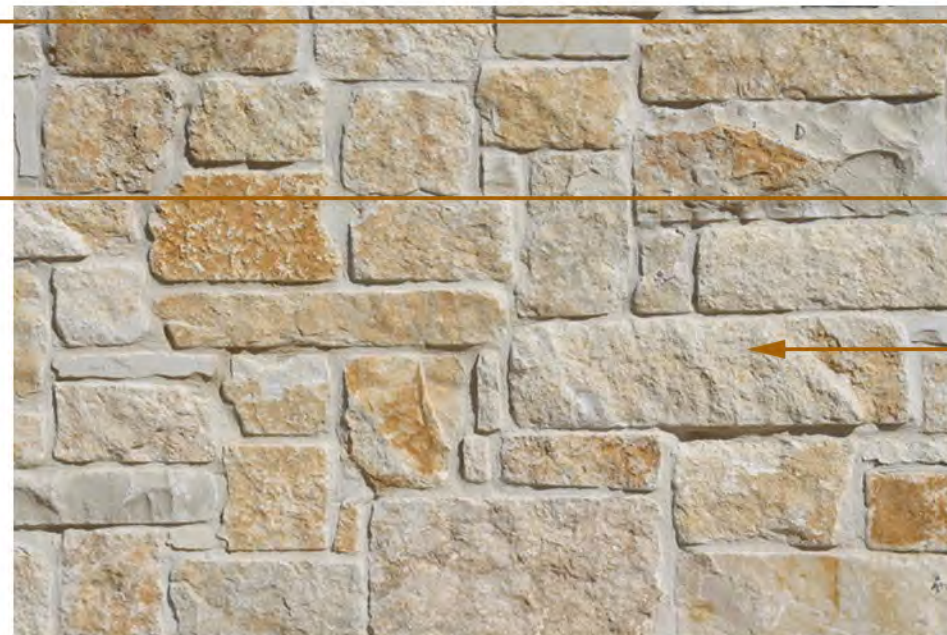
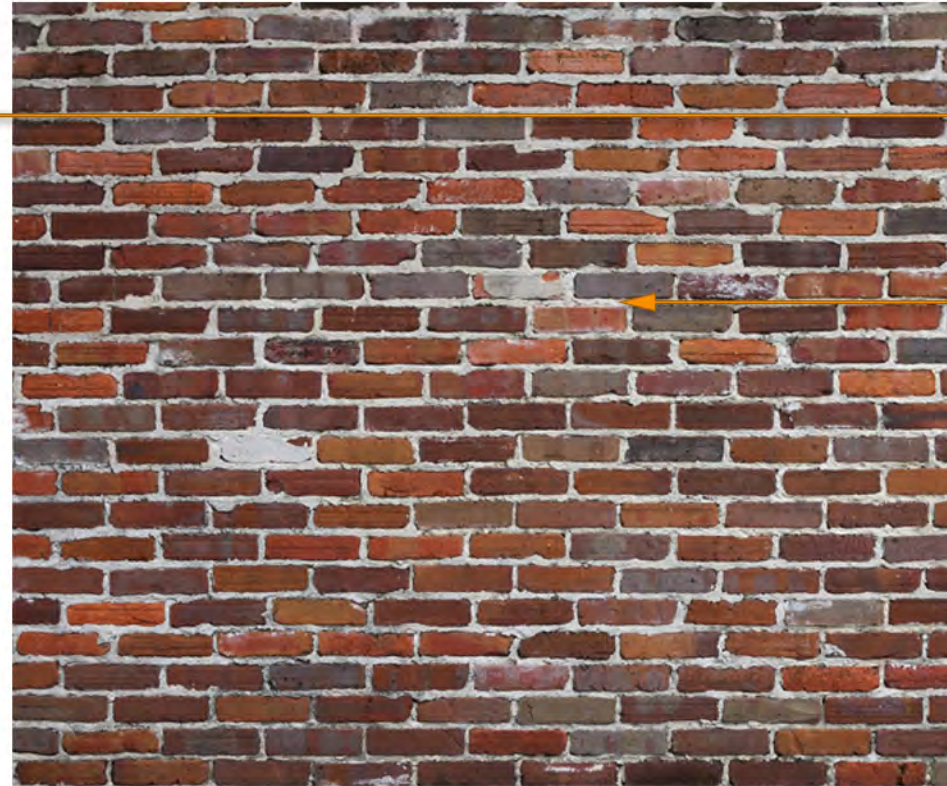
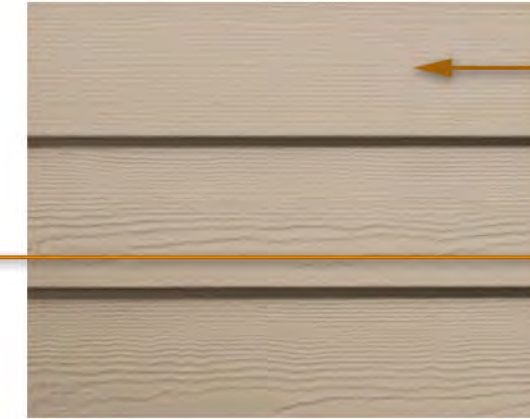
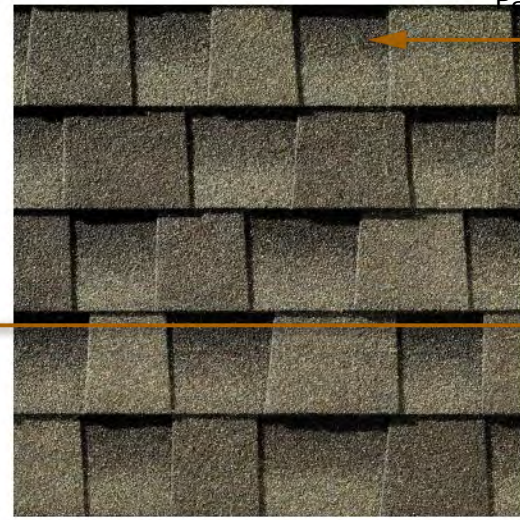
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FIBERCEMENT (AKA HARDIPLANK) SQ. FT.	0	0	10	10

*All numbers with the column are in square feet (SQ. FT.), U.N.O.



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flower mound, tx



Weathered Wood Shingles
(typical roof)

Galvalume Standing Seam
Metal Roof (at accent roofs)

Stained cedar brackets

Fibercement Siding (painted)
Color to be similar to Bleeker
Beiger (BM HC-80)

Recliamed or faux recliamed
wood beams (headers)

Brick (tones to be darker reds,
browns and greys, mortar to be
slurried onto brick)

Bronze finished Iron Doors

Bronze annodized window
frames (at storefront &
operable office windows)

Low-e Glass with light
gray tint

Austin chopped Chalk Stone



2 BUILDING 1 : SOUTH ELEVATION

SCALE: 1/4" = 1'-0" (24"X36")



1 BUILDING 1 : EAST ELEVATION

SCALE: 1/4" = 1'-0" (24"X36")

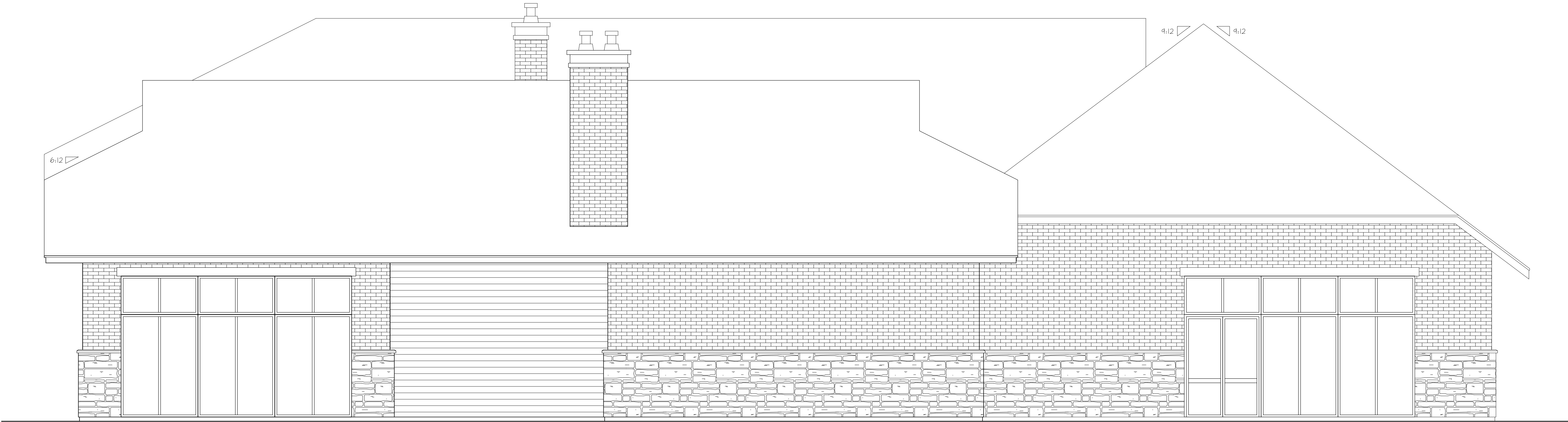
ELEVATIONS : MATERIAL CALCULATIONS TABLE
BUILDING 1

	NORTH*	SOUTH*	EAST*	WEST*
TOTAL FAÇADE SQUARE FOOTAGE :	1436	1692	2011	1766
FACED SQUARE FOOTAGE (EXCLUSIVE OF DOORS/WINDOWS)	1040	1032	1079	1452
DOORS AND WINDOWS SQ. FT.	396	660	932	314
PRIMARY MASONRY TOTALS (%)	80.67%	100.00%	97.78%	81.13%
BRICK SQ. FT.	534	672	965	629
STONE SQ. FT.	305	360	90	549
SECONDARY MASONRY TOTALS (%)	19.33%	0.00%	2.22%	18.87%
FIBERCEMENT (AKA HARDPLANK) SQ. FT.	201	0	24	274

*All numbers with the column are in square feet (SQ. FT.), U.N.O.

prairie plaza

3901 long prairie road
flower mound, tx



2 BUILDING 1 : NORTH ELEVATION

SCALE: 1/4" = 1'-0" (24"x36")



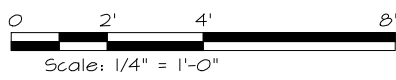
1 BUILDING 1 : WEST ELEVATION

SCALE: 1/4" = 1'-0" (24"x36")

ELEVATIONS : MATERIAL CALCULATIONS TABLE
BUILDING 1

	NORTH*	SOUTH*	EAST*	WEST*
TOTAL FAÇADE SQUARE FOOTAGE :	1436	1692	2011	1766
FACED SQUARE FOOTAGE (EXCLUSIVE OF DOORS/WINDOWS)	1040	1032	1079	1452
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*All numbers with the column are in square feet (SQ. FT.), U.N.O.



prairie plaza

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flower mound, tx



2 BUILDING 2 : NORTH ELEVATION

SCALE: 1/4" = 1'-0" (24"X36")

BRICK DETAIL
DECORATIVE CHIMNEY



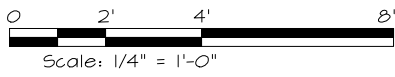
1 BUILDING 2 : EAST ELEVATION

SCALE: 1/4" = 1'-0" (24"X36")

ASPHALT SHINGLES
FIBER CEMENT FASCIA (PAINTED)
BRICK
APPROX. SIGN LOCATIONS
STANDING SEAM METAL ROOF
WOOD BEAM HEADER (DECORATIVE / STAINED)
WOOD BRACKET (STAINED)
ALUMINUM STOREFRONT GLAZING
STONE CAP
STONE VENEER

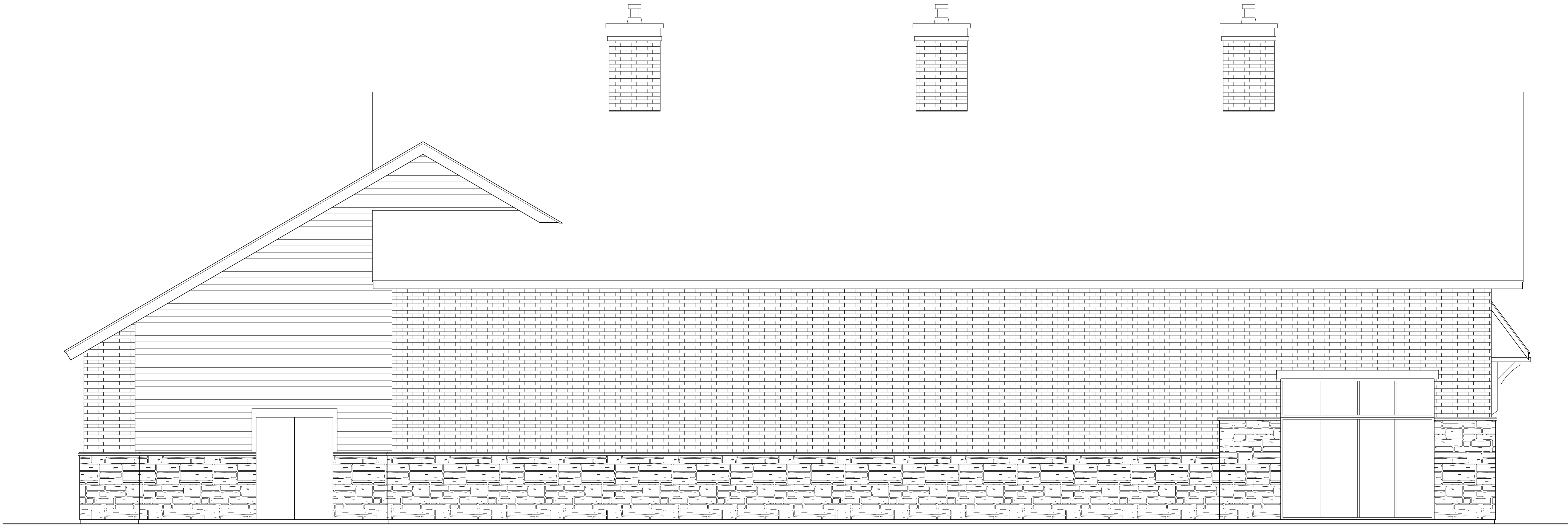
ELEVATIONS : MATERIAL CALCULATIONS TABLE				
BUILDING 2				
	NORTH*	SOUTH*	EAST*	WEST*
TOTAL FAÇADE SQUARE FOOTAGE :	1802	2119	1742	1180
FACED SQUARE FOOTAGE (EXCLUSIVE OF DOORS/WINDOWS)	1069	1939	1158	736
DOORS AND WINDOWS SQ. FT.	733	180	584	444
PRIMARY MASONRY TOTALS (%)	80.36%	83.60%	100.00%	96.20%
BRICK SQ. FT.	528	1106	912	480
STONE SQ. FT.	331	515	246	228
SECONDARY MASONRY TOTALS (%)	19.64%	16.40%	0.00%	3.80%
FIBERCEMENT (AKA HARD/PLANK) SQ. FT.	210	318	0	28

*All numbers with the column are in square feet (SQ. FT.), U.N.O.



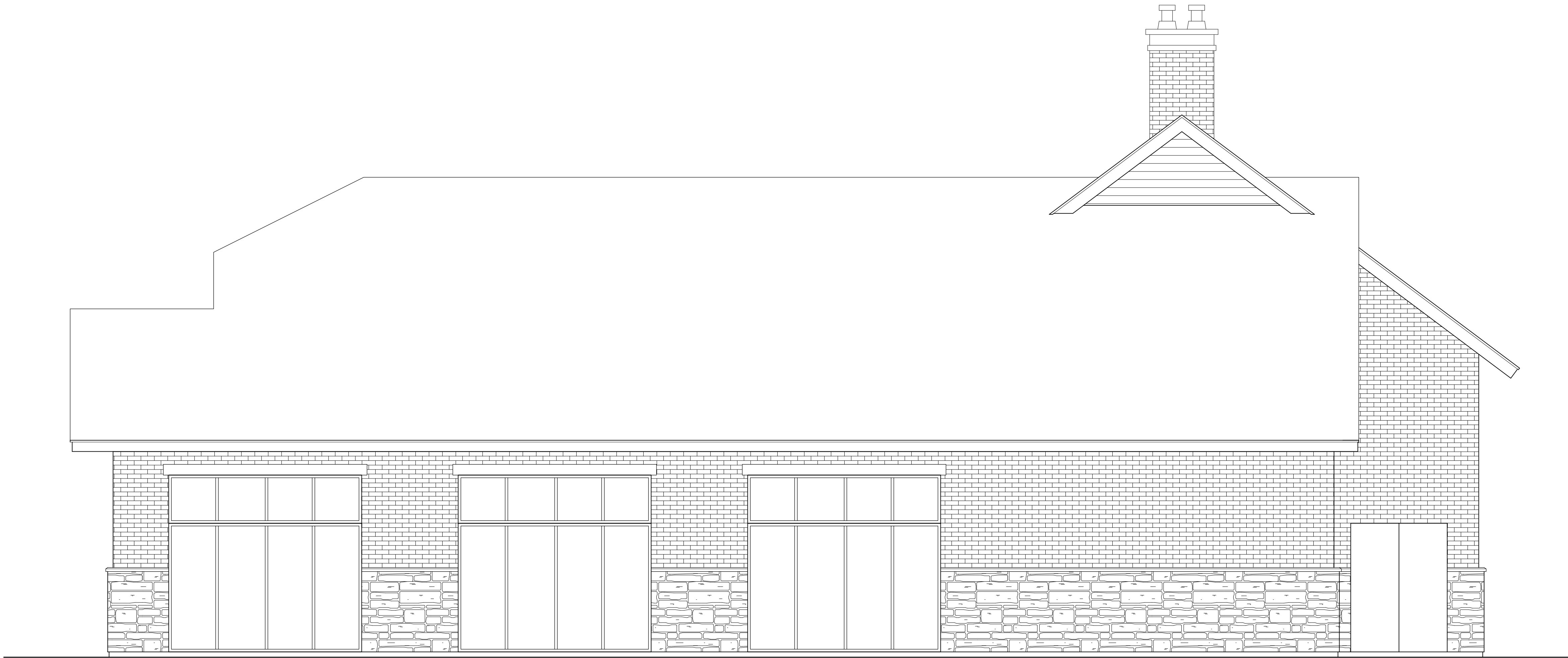
prairie plaza

3901 long prairie road
flower mound, tx



2 BUILDING 2 : SOUTH ELEVATION

SCALE: 1/4" = 1'-0" (24"X36")



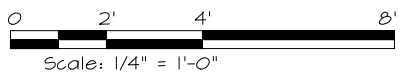
1 BUILDING 2 : WEST ELEVATION

SCALE: 1/4" = 1'-0" (24"X36")

ELEVATIONS : MATERIAL CALCULATIONS TABLE
BUILDING 2

	NORTH*	SOUTH*	EAST*	WEST*
TOTAL FAÇADE SQUARE FOOTAGE :	1802	2119	1742	1180
FACED SQUARE FOOTAGE (EXCLUSIVE OF DOORS/WINDOWS)	1069	1939	1158	736
DOORS AND WINDOWS SQ. FT.	733	180	584	444
PRIMARY MASONRY TOTALS (%)	80.36%	83.60%	100.00%	96.20%
BRICK SQ. FT.	528	1106	912	480
STONE SQ. FT.	331	515	246	228
SECONDARY MASONRY TOTALS (%)	19.64%	16.40%	0.00%	3.80%
FIBERCEMENT (AKA HARDPLANK) SQ. FT.	210	318	0	28

*All numbers with the column are in square feet (SQ. FT.), U.N.O.



prairie plaza

3901 long prairie road
flower mound, tx



2 MEDICAL OFFICE BUILDING : SOUTH ELEVATION
SCALE: 1/4" = 1'-0" (24"X36")

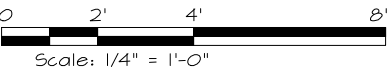


ELEVATIONS : MATERIAL CALCULATIONS TABLE
MEDICAL OFFICE BUILDING

	NORTH*	SOUTH*	EAST*	WEST*
TOTAL FAÇADE SQUARE FOOTAGE :	846	796	1609	1458
FACED SQUARE FOOTAGE (EXCLUSIVE OF DOORS/WINDOWS)	634	679	1119.5	1240.5
DOORS AND WINDOWS SQ. FT.	212	117	489.5	217.5
PRIMARY MASONRY TOTALS (%)	100.00%	100.00%	99.11%	99.19%
BRICK SQ. FT.	467	382	621	739
STONE SQ. FT.	167	297	488.5	491.5
SECONDARY MASONRY TOTALS (%)	0.00%	0.00%	0.89%	0.81%
FIBERCEMENT (AKA HARDIPLANK) SQ. FT.	0	0	10	10

*All numbers with the column are in square feet (SQ. FT.), U.N.O.

1 MEDICAL OFFICE BUILDING : EAST ELEVATION
PER CONCEPTUAL SITE PLAN, 3 BUILDINGS OF THIS ELEVATION ARE BEING PROPOSED. A FOURTH MEDICAL OFFICE BUILDING IS ALSO SHOWN, THIS BUILDING (HALF OF THE ONE DEPICTED) WILL MATCH THESE IN ARCHITECTURE, DESIGN, COLOR AND CONSTRUCTION.
SCALE: 1/4" = 1'-0" (24"X36")



prairie plaza

3901 long prairie road
flower mound, tx



2 MEDICAL OFFICE BUILDING : NORTH ELEVATION
SCALE: 1/4" = 1'-0" (24"X36")

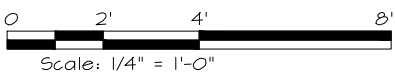


1 MEDICAL OFFICE BUILDING : WEST ELEVATION
SCALE: 1/4" = 1'-0" (24"X36")

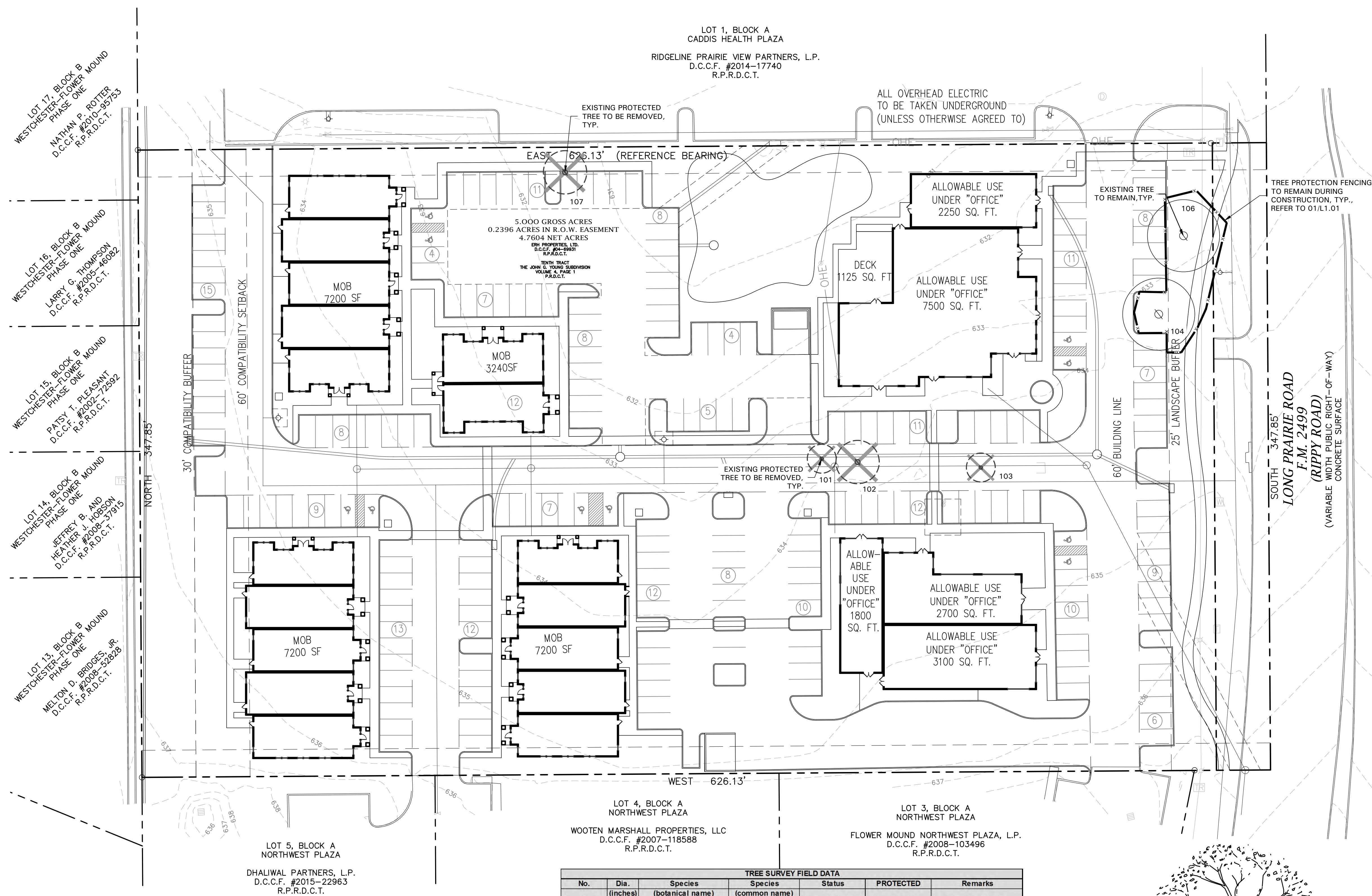
ELEVATIONS : MATERIAL CALCULATIONS TABLE
MEDICAL OFFICE BUILDING

	NORTH*	SOUTH*	EAST*	WEST*
TOTAL FAÇADE SQUARE FOOTAGE :	846	796	1609	1458
FACED SQUARE FOOTAGE (EXCLUSIVE OF DOORS/WINDOWS)	634	679	1119.5	1240.5
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FIBERCEMENT (AKA HARDIPLANK) SQ. FT.	0	0	10	10

*All numbers with the column are in square feet (SQ. FT.), U.N.O.



prairie plaza
3901 long prairie road
flower mound, tx

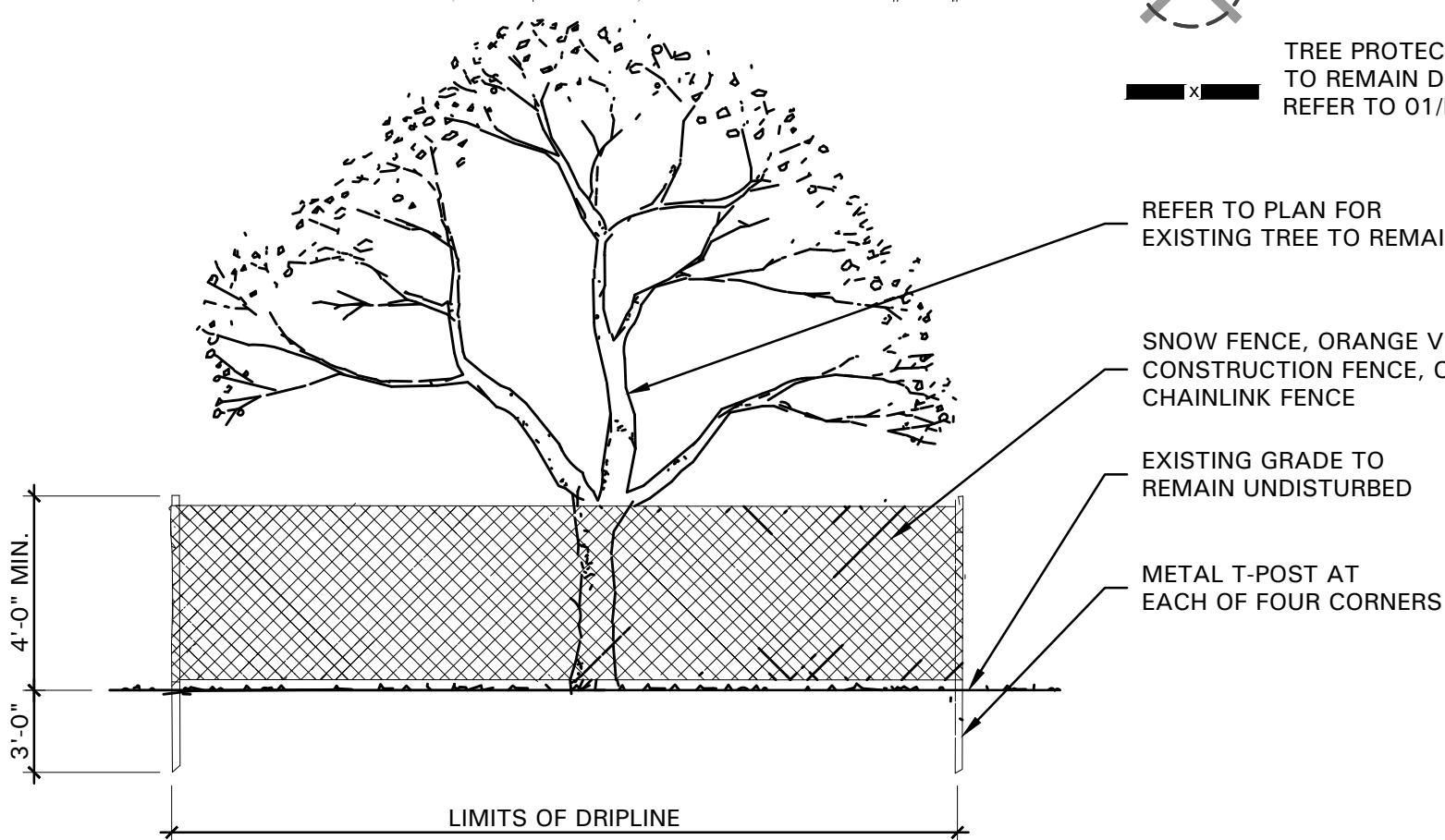


TREE PRESERVATION NOTES

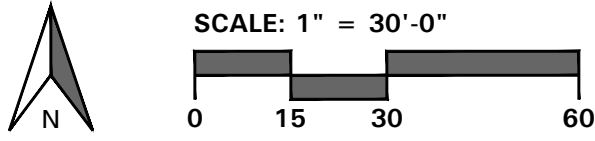
- EXISTING TREES TO REMAIN SHALL BE PROTECTED DURING CONSTRUCTION FROM TREE STRUCTURE DAMAGE AND COMPACTION OF SOIL UNDER AND AROUND DRIP LINE (CANOPY) OF TREE.
- IF ANY ROOT STRUCTURE IS DAMAGED DURING ADJACENT EXCAVATION / CONSTRUCTION, NOTIFY OWNER'S AUTHORIZED REPRESENTATIVE IMMEDIATELY. IT IS RECOMMENDED THAT A LICENSED ARBORIST BE SECURED FOR THE TREATMENT OF ANY POSSIBLE TREE WOUNDS.
- NO DISTURBANCE OF SOIL WITHIN THE LIMITS OF THE DRIP LINE OF A PROTECTED TREE, ONLY HAND CLEARING IS PERMITTED.
- NO WORK IS PERMITTED WITHIN THE CRITICAL ROOT ZONE OF A PROTECTED TREE.
- NO MATERIALS INTENDED FOR USE IN CONSTRUCTION OR WASTE MATERIALS ACCUMULATED DUE TO EXCAVATION OR DEMOLITION SHALL BE PLACED WITHIN THE LIMITS OF THE DRIP LINE OF ANY TREE.
- NO EQUIPMENT MAY BE CLEANED OR TOXIC SOLUTIONS, OR OTHER LIQUID CHEMICALS, SHALL BE DEPOSITED WITHIN THE LIMITS OF THE DRIP LINE OF A TREE, INCLUDING BUT NOT LIMITED TO: PAINT, OIL, SOLVENTS, ASPHALT, CONCRETE, MORTAR, PRIMERS, ETC.
- NO SIGNS, WIRES OR OTHER ATTACHMENTS, OTHER THAN THOSE OF A PROTECTIVE NATURE, SHALL BE ATTACHED TO ANY TREE.
- NO VEHICULAR / CONSTRUCTION EQUIPMENT TRAFFIC OR PARKING IS ALLOWED WITHIN THE LIMITS OF THE DRIP LINE OF TREES.
- BORING OF UTILITIES MAY BE PERMITTED UNDER PROTECTED TREES IN CERTAIN CIRCUMSTANCES. THE MINIMUM LENGTH OF THE BORE SHALL BE THE WIDTH OF THE TREE'S CANOPY AND SHALL BE A MINIMUM DEPTH OF FORTY-EIGHT (48") INCHES.
- IRRIGATION TRENCHING WHICH MUST BE DONE WITHIN THE CRITICAL ROOT ZONE OF A TREE SHALL BE DUG BY HAND AND ENTER THE AREA IN A RADIAL MANNER.
- ALL TREES TO BE REMOVED FROM THE SITE SHALL BE FLAGGED BY THE CONTRACTOR WITH BRIGHT RED VINYL TAPE (3" WIDTH) WRAPPED AROUND THE MAIN TRUNK AT A HEIGHT OF FOUR (4') FEET ABOVE GRADE. FLAGGING SHALL BE APPROVED BY OWNER'S AUTHORIZED REPRESENTATIVE PRIOR TO ANY TREE REMOVAL. CONTRACTOR SHALL CONTACT OWNER'S AUTHORIZED REPRESENTATIVE WITH 72 HOURS NOTICE TO SCHEDULE ON-SITE MEETING.
- ALL TREES TO REMAIN, AS NOTED ON DRAWINGS, SHALL HAVE PROTECTIVE FENCING LOCATED AT THE TREE'S DRIP LINE. THE PROTECTIVE FENCING MAY BE COMPRISED OF SNOW FENCING, ORANGE VINYL CONSTRUCTION FENCING, CHAIN LINK FENCE OR OTHER SIMILAR FENCING WITH A FOUR (4') FOOT APPROXIMATE HEIGHT. THE PROTECTIVE FENCING SHALL BE LOCATED AS INDICATED ON THE TREE PROTECTION DETAIL.
- WHEN A LOW HANGING LIMB IS BROKEN DURING THE COURSE OF CONSTRUCTION, THE CONTRACTOR SHALL NOTIFY THE OWNER'S AUTHORIZED REPRESENTATIVE IMMEDIATELY. UNDER NO CIRCUMSTANCE SHALL THE CONTRACTOR PRUNE ANY PORTION OF THE DAMAGED TREE WITHOUT THE PRIOR APPROVAL BY THE OWNER'S AUTHORIZED REPRESENTATIVE.

EXISTING TREE LEGEND

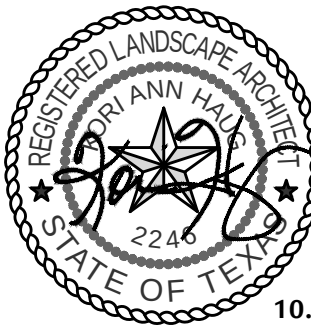
- EXISTING TREE TO REMAIN
- EXISTING PROTECTED TREE TO BE REMOVED
- TREE PROTECTION FENCING TO REMAIN DURING CONSTRUCTION, REFER TO 01/L1.01



01 TREE PROTECTIVE FENCING
NOT TO SCALE



4245 North Central Expy
Suite 501
Dallas, Texas 75205
214.865.7192 office



3901 Long
Prairie Road
PRAIRIE PLAZA
Flower Mound, Texas

Project Number: 16055
Issue Date: 10.05.2016
Drawn By: APL
Checked By: KAH

Revisions
No. Date: Detail:

Sheet Title:
TREE
PRESERVATION
PLAN

Sheet Number:

L1.01



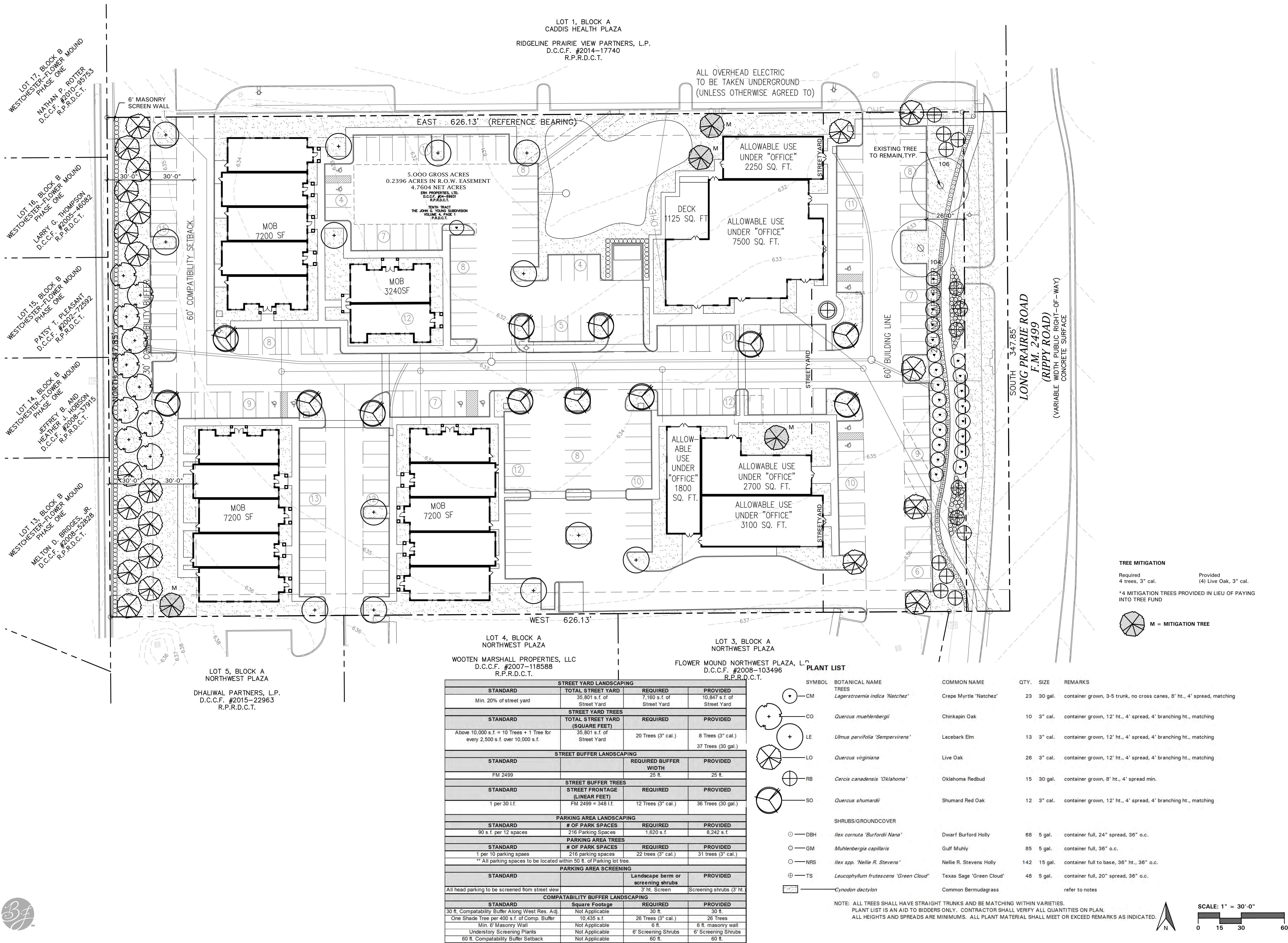


EXHIBIT “B”**Development Standards
Planned Development District No. 150 (PD-150) with
Office District (O) uses****PRAIRIE PLAZA**

The Development depicted on the Conceptual Plan shall be in accordance with the Town of Flower Mound’s Master Plan and Land Development Regulations as amended, and shall be subject to the following requirements and conditions.

A. Office District (O) uses.

Development of PD-150 as designated on Exhibit “C”, the Concept Plan for Prairie plaza, comprised of approximately 5.00 gross acres of land / 4.7604 net acres developable, shall be in compliance with all regulations applicable to Office District (O) uses contained in the Town’s Land Development Regulations as amended, except as otherwise provided in this Ordinance.

B. PROHIBITED USES: Uses will be limited to the Permitted Uses, Specific Uses and/or Temporary Uses as set forth by the above mentioned Office District (O).**C. ARCHITECTURAL STANDARDS:** Development of Planned Development District No. 150 is subject to the Town’s Urban Design Plan and the following specific building component elements:

1. The Development’s Architectural theme will utilize cultured stone, brick, asphalt roof, metal roof accents, and the use of natural wood accents represented by the North Texas adapted Texas Hill Country aesthetic. The scale and use of materials will allow a visual transition in this area from more intense commercial uses to the surrounding single family residential.
2. Building Component Standards; Building Elevation Profiles and Roof Form shall substantially conform to the approved Concept Elevations.
3. Contrasting wall planes, architectural elements, and rooflines shall be used to create these approved elevations. Building entries will be identified by various architectural features including decorative doors, porches, canopies, and building projections or recessions to draw attention to these entries. Additionally, the building design will ultimately incorporate lighting to accent the entries.
4. All building elevations will be articulated to meet the Town of Flower Mound Urban Design Plan. The buildings and site were designed in a

way that creates a cohesive design theme throughout the development.

5. Franchise utility panels and connection points shall be painted to match the color and texture of the building and located so that they are not visible from public roadways, except that Franchise utility panels and connection points facing Arterial Roadways will be kept at a minimum and adequately screened, with additional landscaping or other approved material during the Site Plan approval process, to obstruct visibility from Long Prairie Road.
6. Colors will be warm earth tones.
7. Roof pitches shall conform to the Town's Master Plan. Sloped roofing shall be required for structures 15,000 square feet in area and less. Buildings of one or two stories over 15,000 square feet in area may have a flat or low-slope roof, but shall use a parapet wall or mansard roof along the building perimeter, so that the flat or low-slope roof and any roof top mounted mechanical equipment is not visible from the public right-of-way or from neighboring residential buildings.
8. Specific Building Material Standards shall comply with the Town's Urban Design Plan and Specific Plan Area 4 requirements.

D. LANDSCAPE STANDARDS

1. Landscaping shall be in accordance with the Town's landscape ordinance as amended, Urban Design Plan, and the Town's Median and Right of Way Design Guidelines.

E. MISCELLANEOUS STANDARDS:

1. Any onsite fencing, not to include perimeter fencing, shall be decorative metal that is primed and painted with rust prohibiting paint.
2. Open Space and Pedestrian connectivity requirements within Planned Development is subject to the Town's Urban Design Plan and the following specific elements:
 - a. Town required sidewalks shall be provided that establish connection to the adjacent properties to the north and south.
 - b. Internal sidewalks shall be provided that establish connection from the public sidewalks to the internal property.
 - c. The retention pond, acting as the public amenity, shall be designed to serve as a prominent visual enhancement for the development

and include enhanced landscape plantings and features that are connected to the development by sidewalks.

3. Phasing: Phase I shall include installation of infrastructure for the entire site, compatibility buffer landscaping and wall, landscape buffer and sidewalk along FM 2499, retention pond, and the amenity area.
4. Retention pond requirements:
 - a. If retaining walls are required for the Retention pond, these retaining walls shall utilize stacked stone, stone veneer, cut stone or engineered block walls that complement the material standards and colors for the development.
 - b. An aerator shall be provided in the retention pond.
 - c. Any pump equipment for the aerator that is above-ground shall be screened in accordance with Sec. 82-272, "Outdoor storage areas." Such screening shall be designed and constructed of materials that complement the development.
5. Site retaining wall requirements: If any site retaining walls are required, these walls shall utilize stacked stone, stone veneer, cut stone, or faux stone that complements the material standards and colors for the development.
6. Reciprocal Easement requirements: The development shall be subject to an overall reciprocal easement agreement granting cross-access to the properties to the north and south.

F. EXCEPTION

The following exception shall be granted with the approval of the Planned Development District:

1. Section 90-423-Underground utilities: Approximately 335 feet of overhead power lines located within the subject property along the frontage of Long Prairie Road shall remain in the existing location.

TOWN OF FLOWER MOUND, TEXAS**ORDINANCE NO. _____**

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY CHANGING THE ZONING ON APPROXIMATELY 5.0 ACRES OF LAND, BEING ALL OF LOT 10 OF THE JOHN G. YOUNG SUBDIVISION, FROM AGRICULTURAL DISTRICT (A) TO PLANNED DEVELOPMENT DISTRICT NO. 150 (PD-150) WITH OFFICE DISTRICT (O) USES, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN AND SPECIFIC REQUIREMENTS AND EXHIBITS INCORPORATED HEREIN; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF IN ACCORDANCE WITH SECTION 1-13 OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and,

WHEREAS, the Town Council of the Town of Flower Mound heretofore adopted the Land Development Regulations of the Town of Flower Mound, as amended, which Ordinance regulates and restricts the location and use of buildings, structures and land for trade, industry, residence and other purposes, and provides for the establishment of zoning districts of such number, shape and area as may be best suited to carry out these regulations; and,

WHEREAS, in accordance with Chapter 78 of the Land Development Regulations, the owners of the property described as 5.0 acres of land, being all of Lot 10 of the John G. Young Subdivision, have filed an application for a Zoning Planned Development amendment to change the zoning from Agricultural District (A) to Planned Development District No. 150 (PD-150) with Office District (O) uses; and,

WHEREAS, the Planning and Zoning Commission of the Town of Flower Mound, Texas held a public hearing on November 14, 2016, and the Town Council of the Town of Flower Mound, Texas, held a public hearing on November 21, 2016, with respect to the proposed planned development district as described herein; and,

WHEREAS, the Town has complied with all requirements of Chapter 211 of the Local Government Code, Chapter 78 of the Land Development Regulations, and all other laws dealing with notice, publication and procedural requirements for the approval of a planned development district on the property;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

ORDINANCE NO. _____**Page 2**

SECTION 1

The Land Development Regulations of the Town of Flower Mound, Texas, as amended, are hereby amended on the hereinafter described property and area to establish a planned development district as shown below:

5.0 acres of land, being all of Lot 10 of the John G. Young Subdivision, Denton County, Texas, and more fully described in Exhibit "A" hereto.

Planned Development District No. 150 (PD-150) with Office District (O) uses.

SECTION 2

The development standards, conceptual site plan, conceptual landscape plan, and conceptual elevations of the proposed Planned Development District No. 150 (PD-150), attached hereto as Exhibits "B," "C," "D," and "E," each incorporated herein for all purposes allowed by law, are hereby approved as the development standards, conceptual site plan, conceptual landscape plan, and conceptual elevations for this Planned Development District No. 150 (PD-150).

SECTION 3

The official map of the Town of Flower Mound is amended and the Executive Director of Development Services is directed to revise the official zoning map to reflect the approved Planned Development District No. 150 (PD-150), as set forth above.

SECTION 4

The use of the property described above shall be subject to all restrictions, terms and conditions contained in Exhibits "B," "C," "D," and "E," attached hereto, as well as the applicable regulations contained in the Land Development Regulations and all other applicable and pertinent ordinances of the Town of Flower Mound.

SECTION 5

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the Town of Flower Mound, Texas, as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 6

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction,

ORDINANCE NO. _____**Page 3**

such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 7

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council of the Town of Flower Mound shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances of the Town of Flower Mound. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 8

All rights and remedies of the Town of Flower Mound are expressly saved as to any and all violations of the provisions of the Land Development Regulations or any ordinances governing zoning that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 9

The Town Secretary of the Town of Flower Mound is hereby directed to publish the caption in the official newspaper of the Town of Flower Mound as required by Section 3.07 of the Charter of the Town of Flower Mound.

SECTION 10

This Ordinance shall take effect and be in full force from and after the date of its passage and publication as required by law, and it is so ordained.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE ____ DAY OF _____, 2016.

APPROVED:

Thomas E. Hayden, **MAYOR**

ORDINANCE NO. _____

ATTEST:

Theresa Scott, **TOWN SECRETARY**

APPROVED AS TO FORM AND LEGALITY:

Bryn Meredith, **TOWN ATTORNEY**

ORDINANCE NO. _____

Page 5

Exhibit "A"
Legal Description

BEING ALL OF LOT 10, JOHN G. YOUNG SUBDIVISION, AN ADDITION TO THE TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4, PAGE 1, PLAT RECORDS, DENTON COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 3/8-INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID LOT 10, ALSO BEING IN THE EAST LINE OF LOT 17, BLOCK B, WESTCHESTER-FLOWER MOUND PHASE ONE AND ALSO BEING THE SOUTHWEST CORNER OF LOT 1, BLOCK A, CADDIS HEALTH PLAZA;

THENCE EAST, WITH THE COMMON LINE BETWEEN SAID LOT 10 AND SAID LOT 1, AT A DISTANCE OF 596.13 PASSING A 1/2-INCH IRON ROD FOUND IN THE WEST LINE OF A 30' ROAD EASEMENT AS SHOWN ON SAID JOHN G. YOUNG SUBDIVISION, CONTINUING FOR A TOTAL OF 626.13 FEET TO THE NORTHEAST CORNER OF SAID LOT 10, ALSO BEING THE SOUTHEAST CORNER OF SAID LOT 1 AND ALSO BEING IN THE WEST RIGHT-OF-WAY LINE OF LONG PRAIRIE ROAD, F.M. 2499 (RIPPY ROAD) (VARIABLE WIDTH PUBLIC RIGHT-OF-WAY);

THENCE SOUTH, WITH THE COMMON LINE BETWEEN SAID LOT 10 AND SAID RIGHT-OF-WAY, A DISTANCE OF 347.85 FEET TO THE SOUTHEAST CORNER OF SAID LOT 10;

THENCE WEST, CONTINUING WITH SAID COMMON LINE, AT A DISTANCE OF 42.27 FEET PASSING A 1/2-INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF LOT 3, BLOCK A, NORTHWEST PLAZA, CONTINUING WITH THE COMMON LINE BETWEEN SAID LOT 10 AND SAID NORTHWEST PLAZA A TOTAL DISTANCE OF 626.13 FEET TO A 1/2-INCH IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID LOT 10, ALSO BEING THE NORTHWEST CORNER OF LOT 5, BLOCK A OF SAID NORTHWEST PLAZA AND ALSO BEING IN THE EAST LINE OF LOT 13, BLOCK B OF THE AFOREMENTIONED WESTCHESTER-FLOWER MOUND PHASE ONE;

THENCE NORTH, WITH THE COMMON LINE BETWEEN SAID LOT 10 AND SAID WESTCHESTER-FLOWER MOUND PHASE ONE, A DISTANCE OF 347.85 FEET TO THE POINT OF BEGINNING AND CONTAINING 217,799 SQUARE FEET OR 5.000 ACRES OF LAND, MORE OR LESS.

BASIS OF BEARING IS THE NORTH LINE (EAST) OF THE TENTH TRACT IN THE JOHN G. YOUNG SUBDIVISION, AN ADDITION TO THE TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS AS RECORDED IN VOLUME 4, PAGE 1, PLAT RECORDS, DENTON COUNTY, TEXAS.

EXHIBIT “B”**Development Standards
Planned Development District No. 150 (PD-150) with
Office District (O) uses****PRAIRIE PLAZA**

The Development depicted on the Conceptual Plan shall be in accordance with the Town of Flower Mound’s Master Plan and Land Development Regulations as amended, and shall be subject to the following requirements and conditions.

A. Office District (O) uses.

Development of PD-150 as designated on Exhibit “C”, the Concept Plan for Prairie plaza, comprised of approximately 5.00 gross acres of land / 4.7604 net acres developable, shall be in compliance with all regulations applicable to Office District (O) uses contained in the Town’s Land Development Regulations as amended, except as otherwise provided in this Ordinance.

B. PROHIBITED USES: Uses will be limited to the Permitted Uses, Specific Uses and/or Temporary Uses as set forth by the above mentioned Office District (O).**C. ARCHITECTURAL STANDARDS:** Development of Planned Development District No. 150 is subject to the Town’s Urban Design Plan and the following specific building component elements:

1. The Development’s Architectural theme will utilize cultured stone, brick, asphalt roof, metal roof accents, and the use of natural wood accents represented by the North Texas adapted Texas Hill Country aesthetic. The scale and use of materials will allow a visual transition in this area from more intense commercial uses to the surrounding single family residential.
2. Building Component Standards; Building Elevation Profiles and Roof Form shall substantially conform to the approved Concept Elevations.
3. Contrasting wall planes, architectural elements, and rooflines shall be used to create these approved elevations. Building entries will be identified by various architectural features including decorative doors, porches, canopies, and building projections or recessions to draw attention to these entries. Additionally, the building design will ultimately incorporate lighting to accent the entries.
4. All building elevations will be articulated to meet the Town of Flower Mound Urban Design Plan. The buildings and site were designed in a

way that creates a cohesive design theme throughout the development.

5. Franchise utility panels and connection points shall be painted to match the color and texture of the building and located so that they are not visible from public roadways, except that Franchise utility panels and connection points facing Arterial Roadways will be kept at a minimum and adequately screened, with additional landscaping or other approved material during the Site Plan approval process, to obstruct visibility from Long Prairie Road.
6. Colors will be warm earth tones.
7. Roof pitches shall conform to the Town's Master Plan. Sloped roofing shall be required for structures 15,000 square feet in area and less. Buildings of one or two stories over 15,000 square feet in area may have a flat or low-slope roof, but shall use a parapet wall or mansard roof along the building perimeter, so that the flat or low-slope roof and any roof top mounted mechanical equipment is not visible from the public right-of-way or from neighboring residential buildings.
8. Specific Building Material Standards shall comply with the Town's Urban Design Plan and Specific Plan Area 4 requirements.

D. LANDSCAPE STANDARDS

1. Landscaping shall be in accordance with the Town's landscape ordinance as amended, Urban Design Plan, and the Town's Median and Right of Way Design Guidelines.

E. MISCELLANEOUS STANDARDS:

1. Any onsite fencing, not to include perimeter fencing, shall be decorative metal that is primed and painted with rust prohibiting paint.
2. Open Space and Pedestrian connectivity requirements within Planned Development is subject to the Town's Urban Design Plan and the following specific elements:
 - a. Town required sidewalks shall be provided that establish connection to the adjacent properties to the north and south.
 - b. Internal sidewalks shall be provided that establish connection from the public sidewalks to the internal property.
 - c. The retention pond, acting as the public amenity, shall be designed to serve as a prominent visual enhancement for the development

and include enhanced landscape plantings and features that are connected to the development by sidewalks.

3. Phasing: Phase I shall include installation of infrastructure for the entire site, compatibility buffer landscaping and wall, landscape buffer and sidewalk along FM 2499, retention pond, and the amenity area.
4. Retention pond requirements:
 - a. If retaining walls are required for the Retention pond, these retaining walls shall utilize stacked stone, stone veneer, cut stone or engineered block walls that complement the material standards and colors for the development.
 - b. An aerator shall be provided in the retention pond.
 - c. Any pump equipment for the aerator that is above-ground shall be screened in accordance with Sec. 82-272, "Outdoor storage areas." Such screening shall be designed and constructed of materials that complement the development.
5. Site retaining wall requirements: If any site retaining walls are required, these walls shall utilize stacked stone, stone veneer, cut stone, or faux stone that complements the material standards and colors for the development.
6. Reciprocal Easement requirements: The development shall be subject to an overall reciprocal easement agreement granting cross-access to the properties to the north and south.

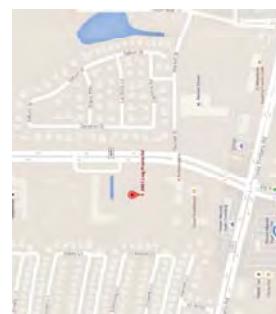
F. EXCEPTION

The following exception shall be granted with the approval of the Planned Development District:

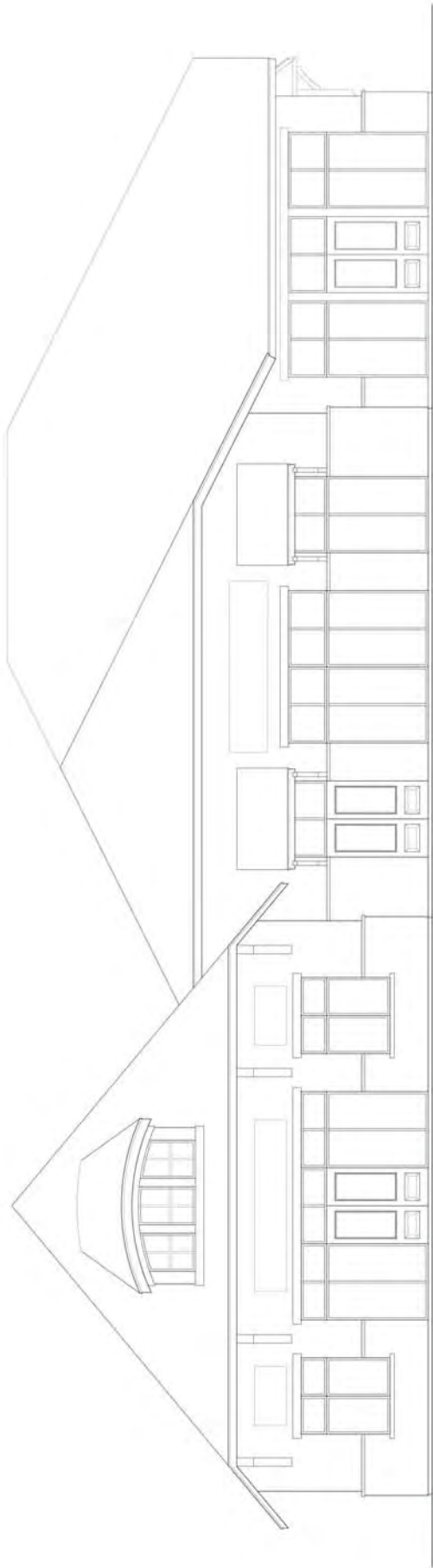
1. Section 90-423-Underground utilities: Approximately 335 feet of overhead power lines located within the subject property along the frontage of Long Prairie Road shall remain in the existing location.

SILE PLAN

PERVOCYCLIC COVERAGE :	102390 SQ. FT. / 198
PERVOCYCLIC AREA :	102390 SQ. FT. / 30%
PERVOCYCLIC AREA :	65271 SQ. FT. / 30%
BUILDING DATA :	
BUILDINGS :	ALL BUILDINGS ARE ONE (1) STORY
PEAK HEIGHT :	BUILDING 1 : 36'-2" BUILDING 2 : 30'-5" MOB : 3'-7"
MEAN HEIGHT :	BUILDING 1 : 26'-6" BUILDING 2 : 24'-3" MOB : 24'-3"
TOTAL SQUARE FOOTAGE :	42390 SQ. FT.



SCALE: 1" = 30'-0"



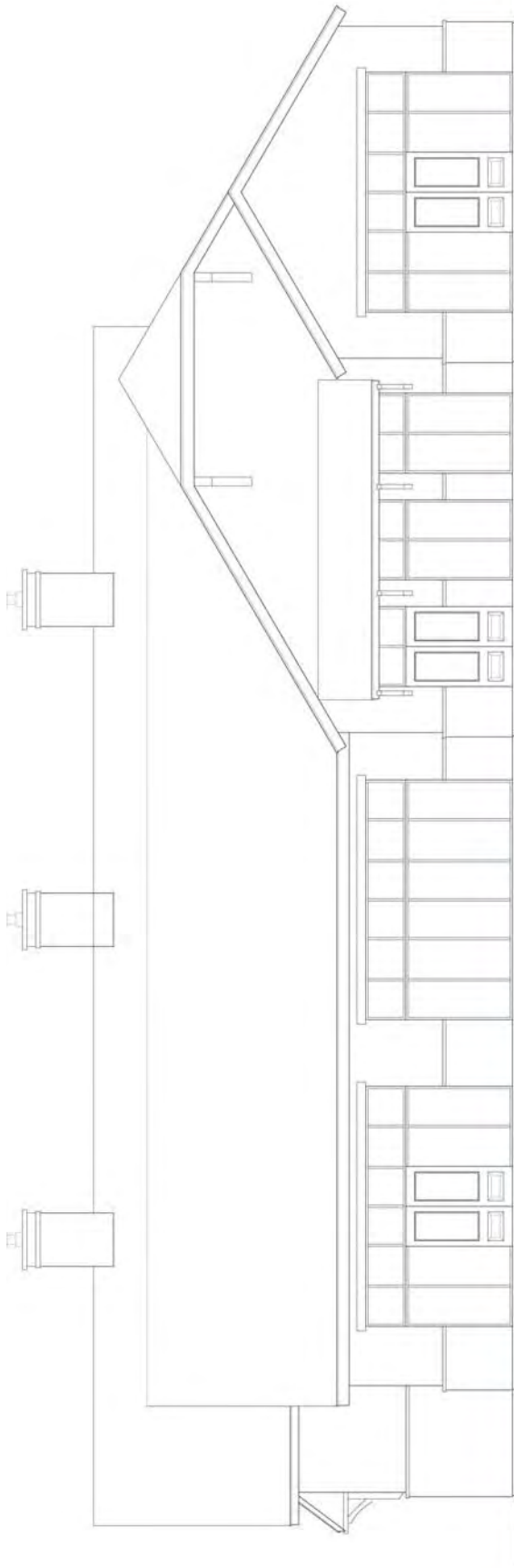
2 LEFT ELEVATION
SCALE: 1/4" = 1'-0" (GRAPHIC)



1 FRONT ELEVATION
SCALE: 1/4" = 1'-0" (GRAPHIC)



prairie plaza
3901 long prairie road
flower mound, tx



2 RIGHT ELEVATION

SCALE: 1/4" = 1'-0" (NOT TO SCALE)



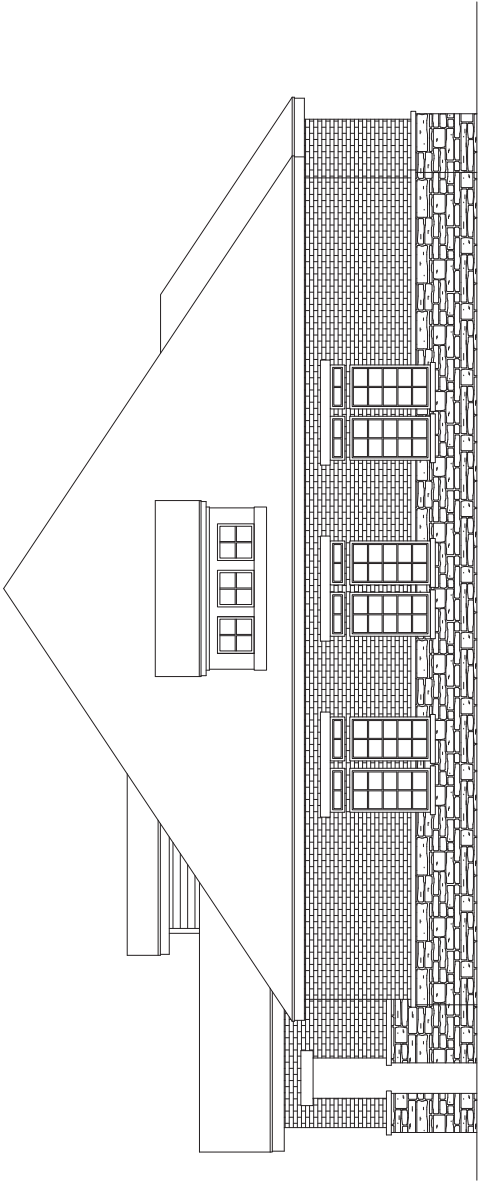
1 FRONT ELEVATION

SCALE: 1/4" = 1'-0" (NOT TO SCALE)

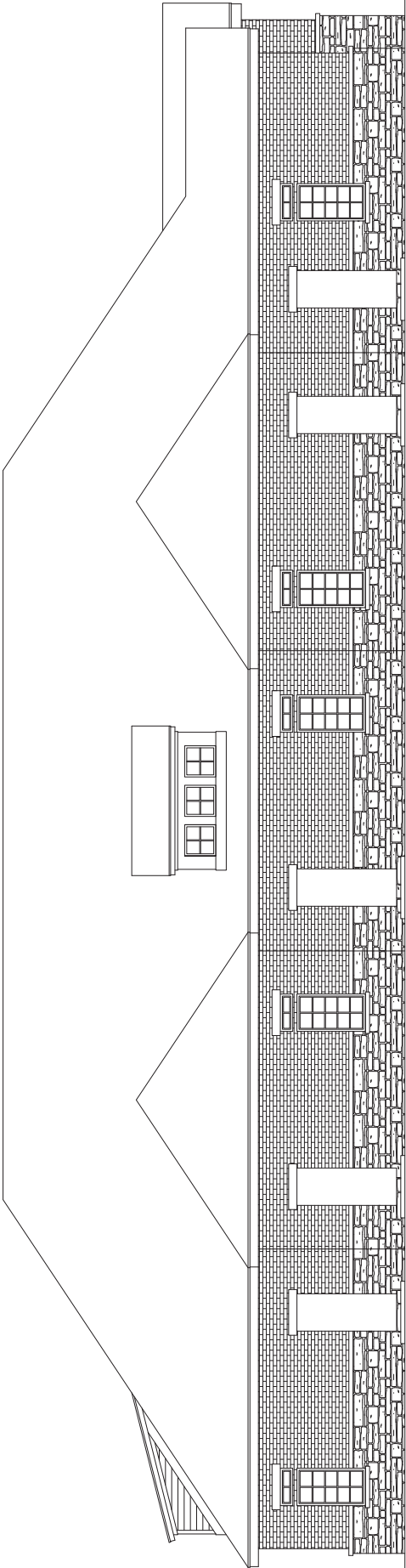


db constructors inc.

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② MEDICAL OFFICE BUILDING : NORTH ELEVATION
SCALE: 1/4" = 1'-0" (APPROX)



① MEDICAL OFFICE BUILDING : WEST ELEVATION
SCALE: 1/4" = 1'-0" (APPROX)

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544	545	546	547	548	549	550	551	552	553	554	555	556	557	558	559	560	561	562	563	564	565	566	567	568	569	570	571	572	573	574	575	576	577	578	579	580	581	582	583	584	585	586	587	588	589	590	591	592	593	594	595	596	597	598	599	600	601	602	603	604	605	606	607	608	609	610	611	612	613	614	615	616	617	618	619	620	621	622	623	624	625	626	627	628	629	630	631	632	633	634	635	636	637	638	639	640	641	642	643	644	645	646	647	648	649	650	651	652	653	654	655	656	657	658	659	660	661	662	663	664	665	666	667	668	669	670	671	672	673	674	675	676	677	678	679	680	681	682	683	684	685	686	687	688	689	690	691	692	693	694	695	696	697	698	699	700	701	702	703	704	705	706	707	708	709	710	711	712	713	714	715	716	717	718	719	720	721	722	723	724	725	726	727	728	729	730	731	732	733	734	735	736	737	738	739	740	741	742	743	744	745	746	747	748	749	750	751	752	753	754	755	756	757	758	759	760	761	762	763	764	765	766	767	768	769	770	771	772	773	774	775	776	777	778	779	780	781	782	783	784	785	786	787	788	789	790	791	792	793	794	795	796	797	798	799	800	801	802	803	804	805	806	807	808	809	810	811	812	813	814	815	816	817	818	819	820	821	822	823	824	825	826	827	828	829	830	831	832	833	834	835	836	837	838	839	840	841	842	843	844	845	846	847	848	849	850	851	852	853	854	855	856	857	858	859	860	861	862	863	864	865	866	867	868	869	870	871	872	873	874	875	876	877	878	879	880	881	882	883	884	885	886	887	888	889	890	891	892	893	894	895	896	897	898	899	900	901	902	903	904	905	906	907	908	909	910	911	912	913	914	915	916	917	918	919	920	921	922	923	924	925	926	927	928	929	930	931	932	933	934	935	936	937	938	939	940	941	942	943	944	945	946	947	948	949	950	951	952	953	954	955	956	957	958	959	960	961	962	963	964	965	966	967	968	969	970	971	972	973	974	975	976	977	978	979	980	981	982	983	984	985	986	987	988	989	990	991	992	993	994	995	996	997	998	999	1000
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prairie plaza
3901 long prairie road
flower mound, tx

GAF Timberline HD
Weathered Wood Shingles
(typical roof)
Galvalume Standing Seam
Metal Roof (at accent roofs)
Stained cedar brackets

Fibercement Siding (painted)
Color to be similar to Bleeker
Beiger (BM HC-80)

Reclaimed or faux reclaimed
wood beams (headers)

Brick (tones to be darker reds,
browns and greys, mortar to be
slurried onto brick)

Bronze finished Iron Doors

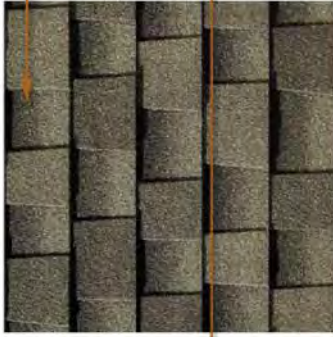
Bronze anodized window
frames (at storefront &
operable office windows)

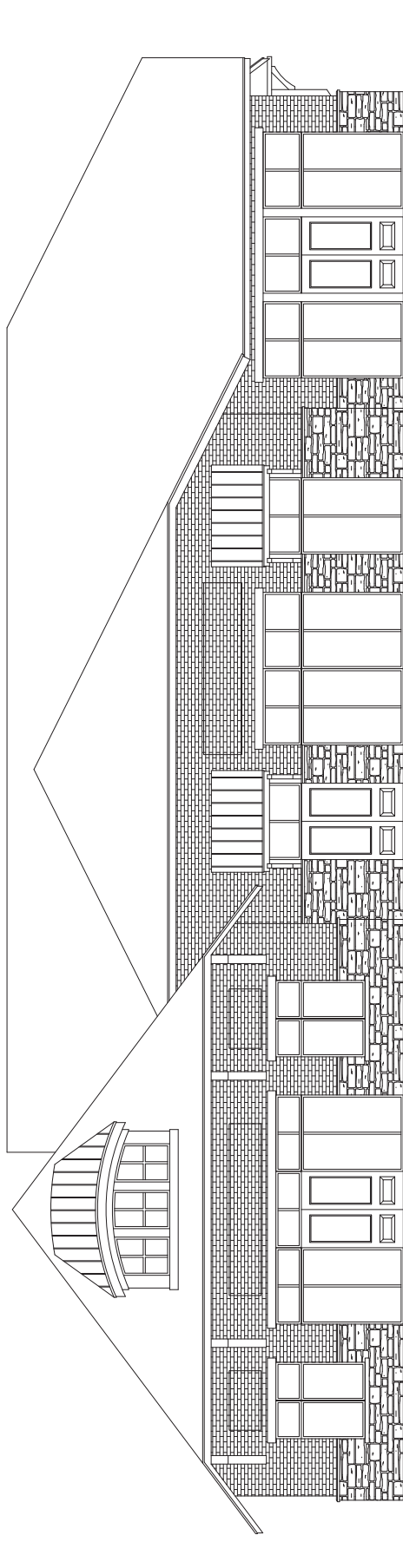
Low-e Glass with light
gray tint

Austin chopped Chalk Stone

prairie plaza

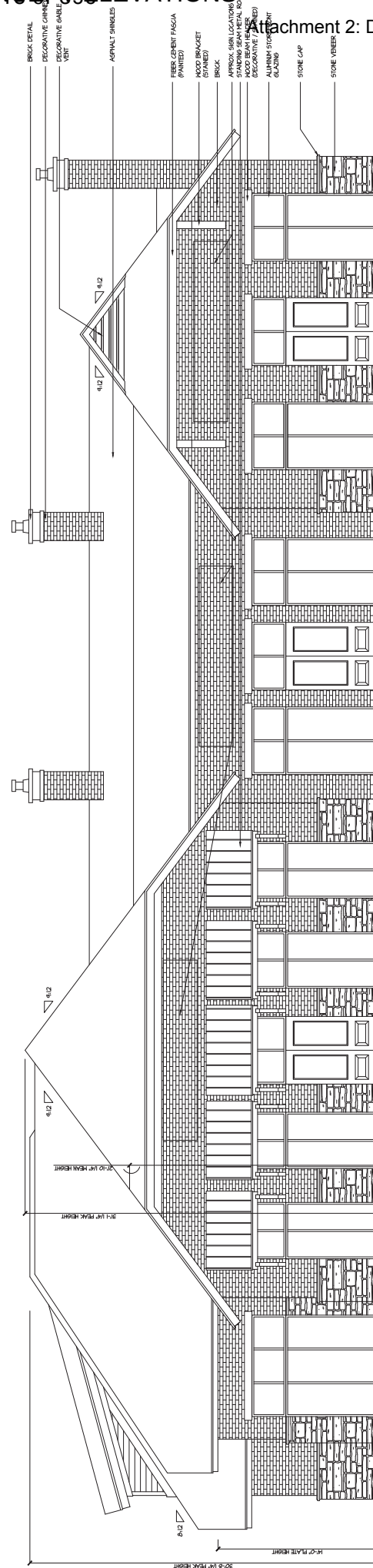
3901 long prairie road
flower mound, tx





BUILDING 1 : SOUTH ELEVATION

SCALE: 1/4" = 1'-0" (24"x36")

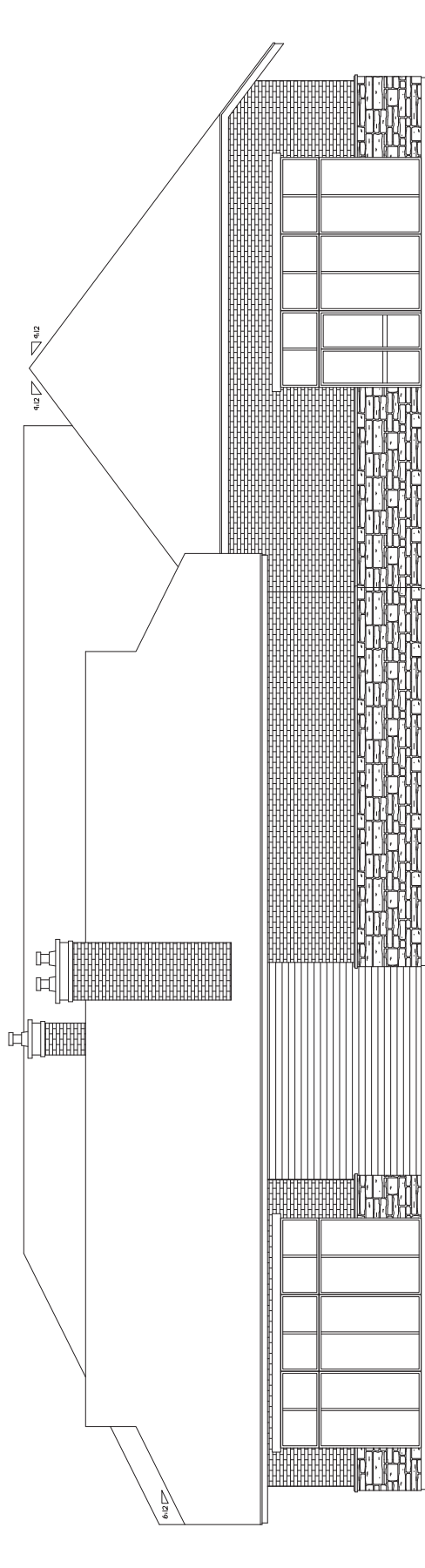


BUILDING I : EAST ELEVATION

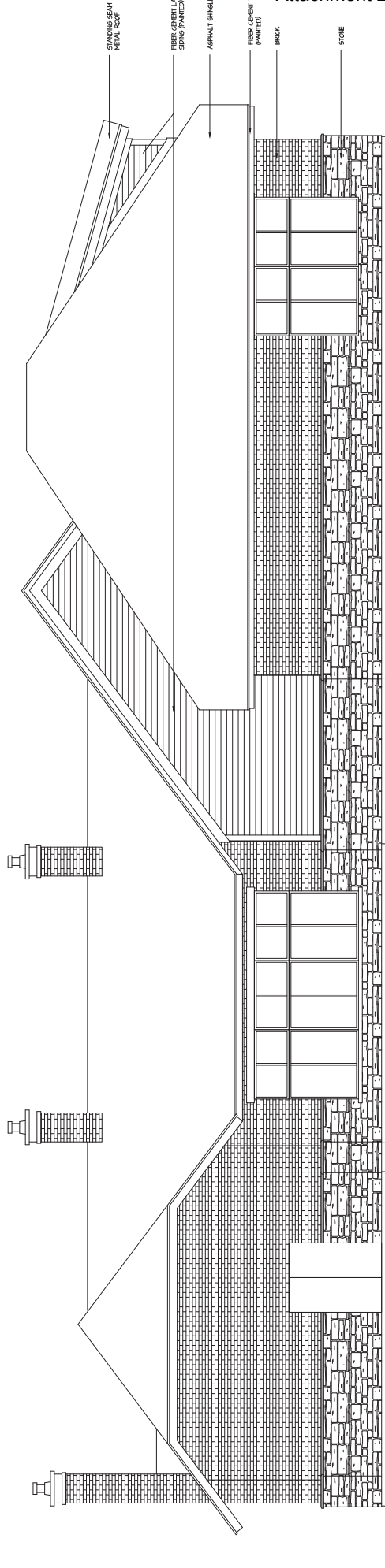
SCALE: 1/4" = 1'-0" (24"x36")

prairie plaza
3901 long prairie road
flower mound, tn

01 JULY 2016
REVISED 11 AUG 2016



2 BUILDING 1 : NORTH ELEVATION
SCALE 1/4" = 1'-0" (APPROX)



1 BUILDING 1 : WEST ELEVATION
SCALE 1/4" = 1'-0" (APPROX)

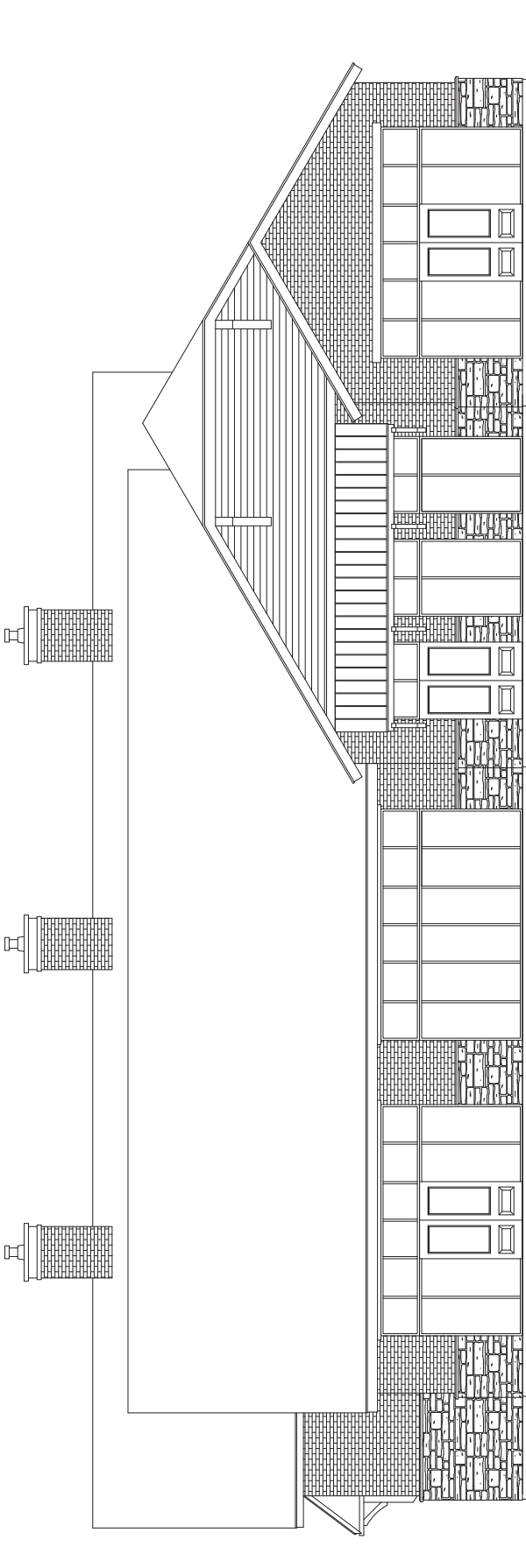
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prairie plan
3901 long prairie road
flower mound, tn

prairie plaza
3901 long prairie road
flower mound, tx

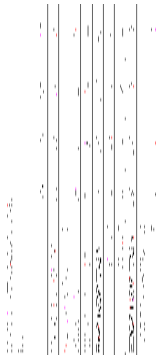
01 JULY 2016
REVISED 1 AUG 2016



2 BUILDING 2 : NORTH ELEVATION

SCALE: 1/4" = 1'-0" (DWG#89)

BRICK DETAIL
DECORATIVE CHIMNEY

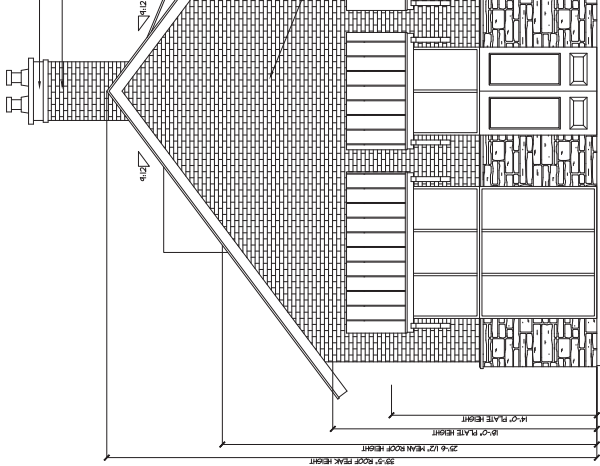


ASPHALT SHINGLES

FIBER CEMENT FASCIA
(PAINTED)
WOOD SHAKES (STAINED)
WOOD BRACES (STAINED)
WOOD BEAM RENCER
(STAINED)
ALUMINUM STOREFRONT
STONE LAP
STONE VENER

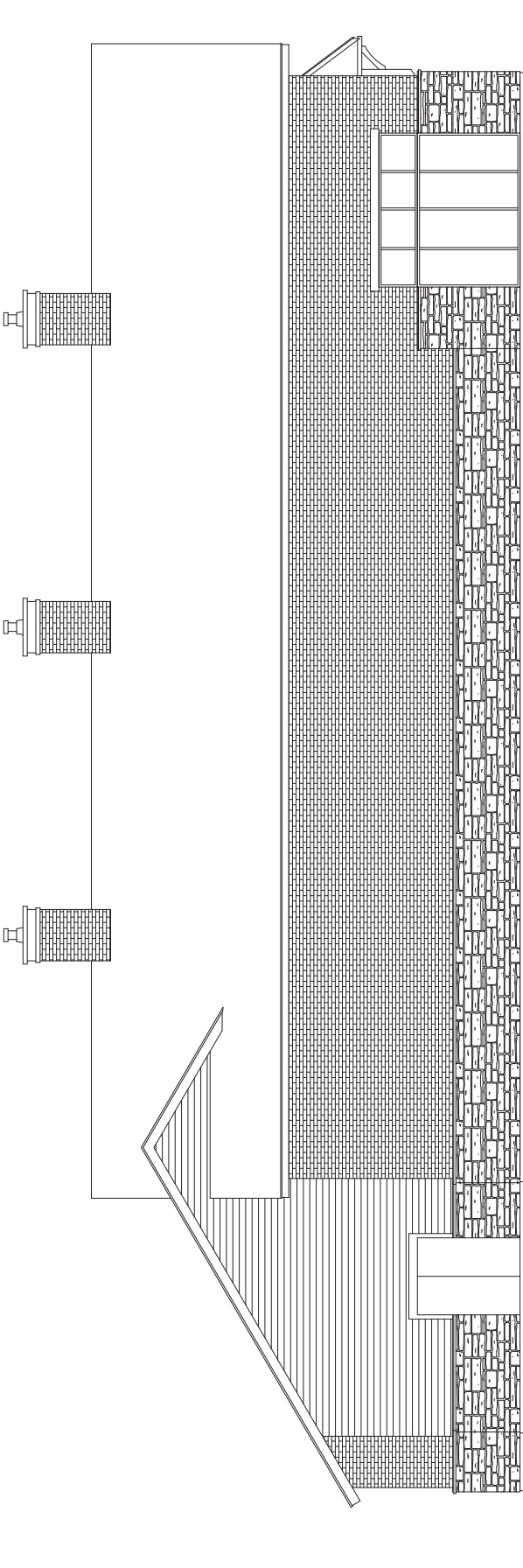
1 BUILDING 2 : EAST ELEVATION

SCALE: 1/4" = 1'-0" (DWG#89)



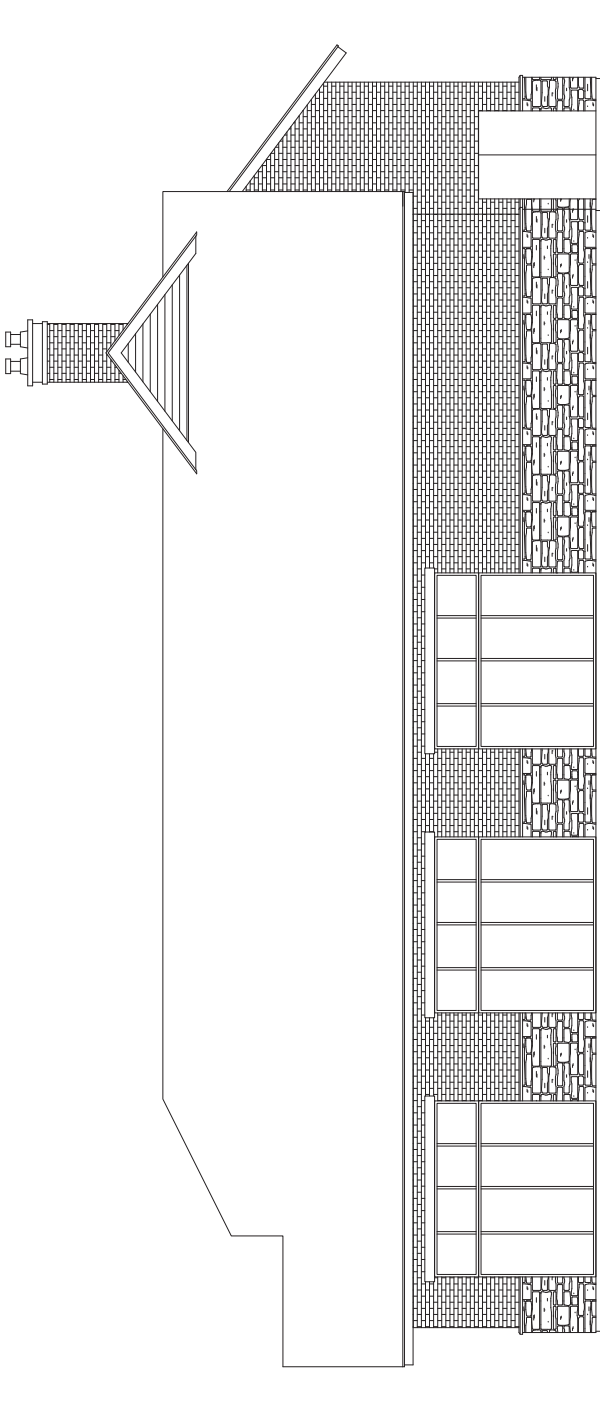
29'-0" ROOF PEAK HEIGHT
18'-0" PLATE HEIGHT
14'-0" PLATE HEIGHT

EXHIBIT "E" - CONCEPT ELEVATIONS Attachment 2: Draft Ordinance



2 BUILDING 2 : SOUTH ELEVATION

SCALE 1/4" = 1'-0" (24"=8')



1 BUILDING 2 : WEST ELEVATION

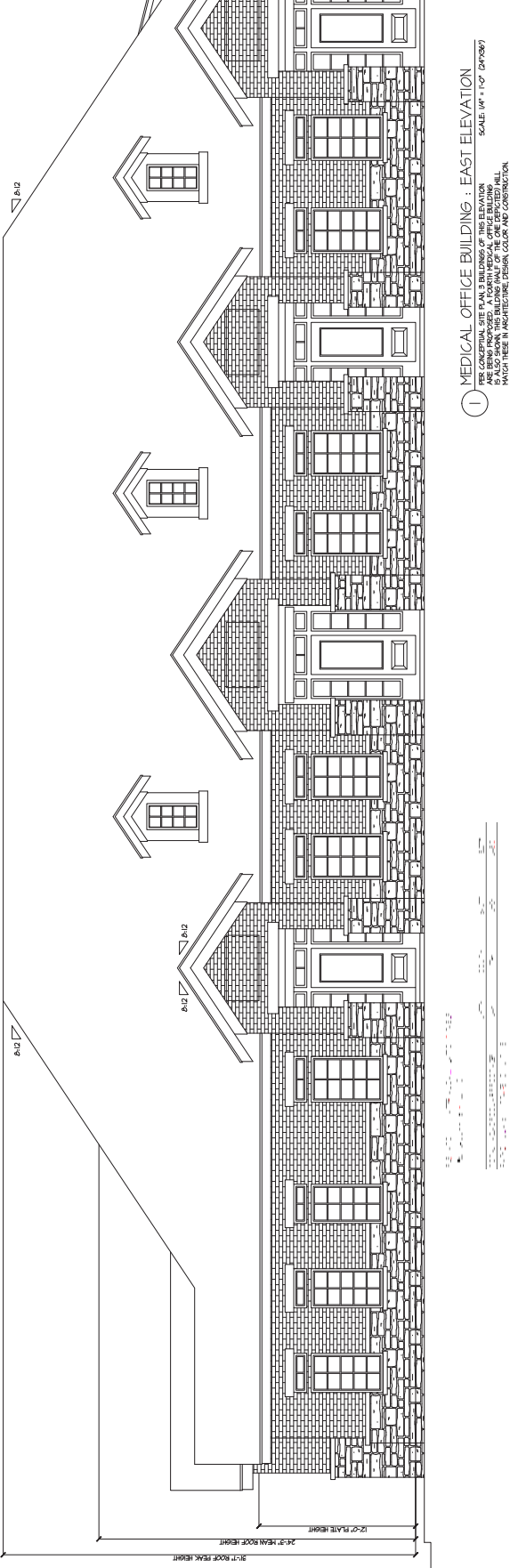
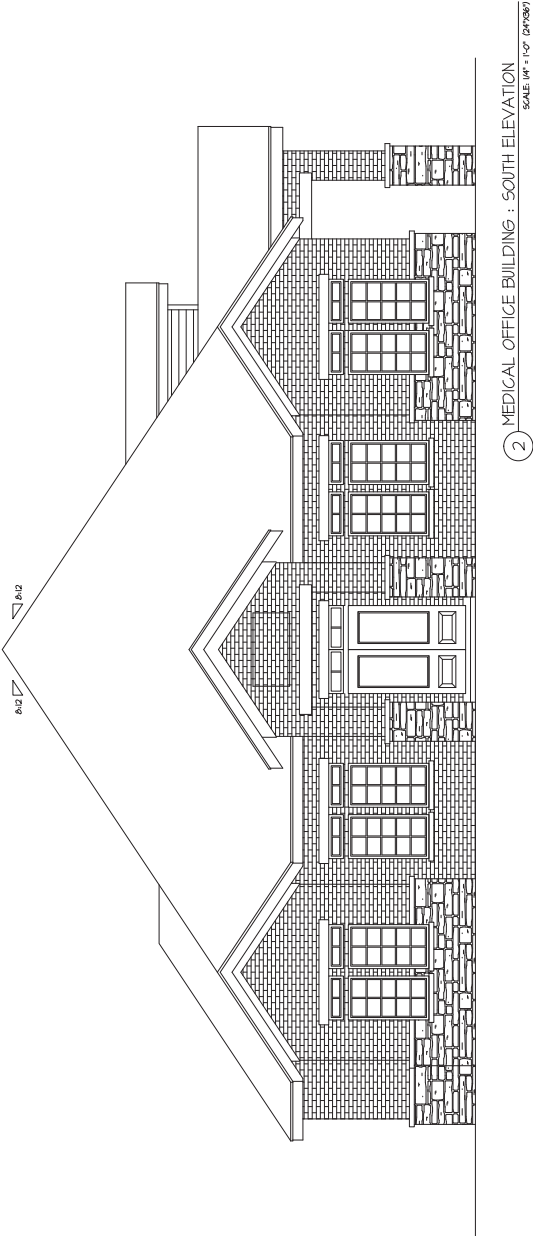
SCALE 1/4" = 1'-0" (24"=8')

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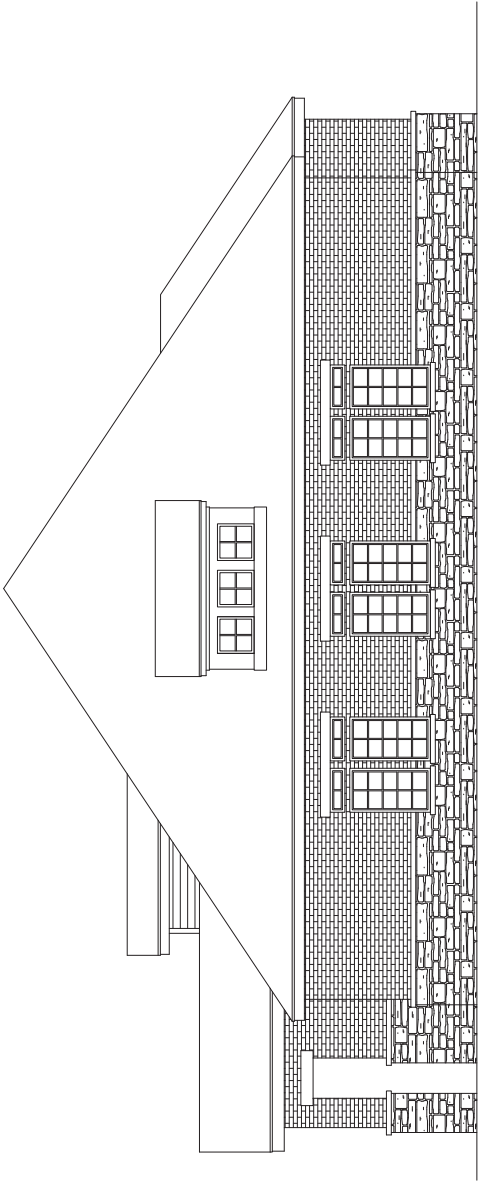
prairie plaza
3901 long prairie road
flower mound, tx



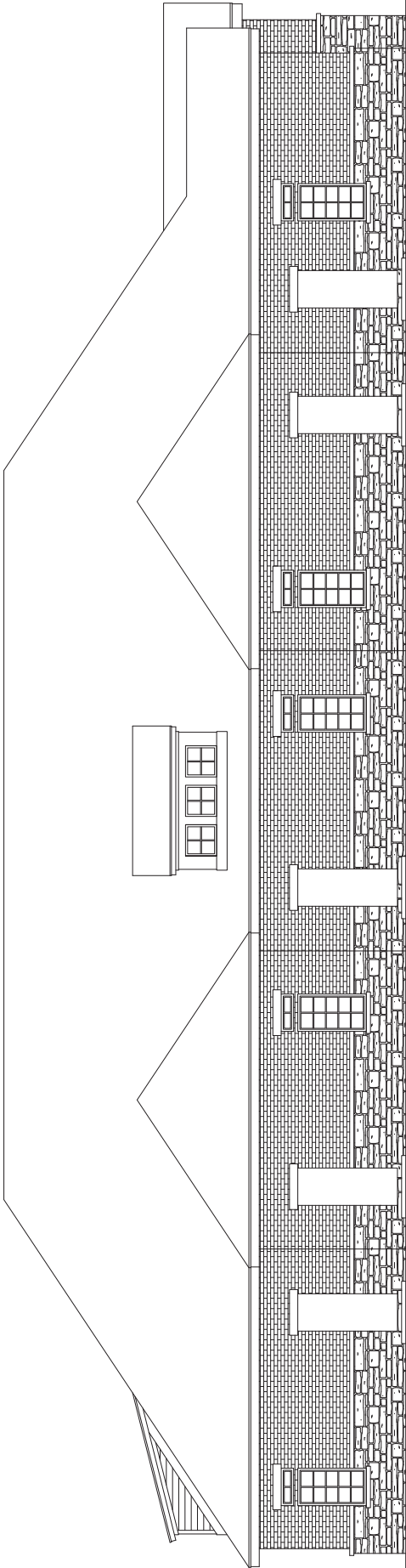
01 JULY 2006
REVISED 11 AUG 2006



prairie place
3901 long prairie road
flower mound, tx



② MEDICAL OFFICE BUILDING : NORTH ELEVATION
SCALE: 1/4" = 1'-0" (APPROX)



① MEDICAL OFFICE BUILDING : WEST ELEVATION
SCALE: 1/4" = 1'-0" (APPROX)

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prairie plaza
3901 long prairie road
flower mound, tx



TOWN COUNCIL AGENDA ITEM NO. 14 REGULAR ITEM

DATE: November 21, 2016

FROM: Doug Powell, Executive Director of Development Services

ITEM: Public Hearing to consider a request for a Master Plan Amendment (MPA16-0013 – Land Use Definitions) to amend Section 1, Land Use Plan, by modifying the Medium Density and High Density definitions, and by creating two new residential land use categories, “Medium High Density” and “High Density Single-Family Detached,” and to consider adopting an ordinance providing for said amendment. *(The Planning and Zoning Commission recommended approval by a vote of 5 to 1 at its November 14, 2016, meeting.)*

BACKGROUND INFORMATION: Attached is the Planning and Zoning Commission report and backup for this item. No changes or new information has been received since that meeting.

ATTACHMENTS:

1. Planning and Zoning Commission Staff Report
2. Draft Ordinance

DRAFT MOTION: Move to approve a request for a Master Plan Amendment (MPA16-0013 – Land Use Definitions) to amend Section 1, Land Use Plan, by modifying the Medium Density and High Density definitions, and by creating two new residential land use categories, “Medium High Density” and “High Density Single-Family Detached,” and adopt an ordinance providing for said amendment.



PLANNING AND ZONING COMMISSION AGENDA ITEM NO: 8

DATE: November 14, 2016

FROM: Doug Powell, Executive Director of Development Services

ITEM: **Public Hearing to consider a request for a Master Plan Amendment (MPA16-0013 – Land Use Definitions) to amend Section 1, Land Use Plan, by modifying the Medium Density and High Density definitions, and by creating two new residential land use categories, “Medium High Density” and “High Density Single-Family Detached.”**

I. ITEM SUMMARY

There are no outstanding issues with this request.

This application will require final action by the Town Council.

II. APPLICATION ANALYSIS

This item is the culmination of the discussion of the perceived “density gap” between the Town’s Medium Density and High Density land use definitions. In 2015, several work sessions were held at both Planning and Zoning Commission (Commission) and Town Council to discuss this item. Subsequently, on February 8, 2016, the Commission held a public hearing and recommended not to change the Master Plan by a vote of 4 to 3. The discussion can be viewed at: <http://flowermoundtx.swagit.com/play/02082016-1250>.

After revisiting the issue with the Commission at the joint work session on October 20, 2016, the Town Council directed staff to bring back the item. This item is, therefore, a continuation of the earlier effort contained in MPA16-0002.

The density gap issue was initially raised as part of the Highland Court rezoning request which was approved by the Town Council in April of 2015. At the May 29, 2015, Strategic Planning Session, the Town Council directed staff to review the issue with the Commission. The issue was raised again with the Canyon Falls Master Plan amendment request, which failed to receive a supermajority vote of approval by the Town Council in August of 2015.

Two work sessions were held by the Planning and Zoning Commission, one on August 10, 2015, and the other on November 9, 2015. The feedback from the Commission was presented to the Town Council at a work session on November 19, 2015. Although there was discussion at that time about possible

corresponding amendments to the Land Development Regulations, the direction was to proceed with a narrow focus and to only amend the Master Plan. This direction was presented to the Commission at its December 14, 2015, meeting. That resulted in the following options for amending the Master Plan land use definitions:

- A. Medium High (new definition under Medium Density) – Residential development, typically being single family detached residential development with minimum 7,500 square foot lots or greater.
- B. High SFD (new definition under High Density) – Residential development, typically being single family detached residential development with minimum 3,000 square foot lots or greater.
- C. High (revised definition under High Density) – Residential development with 5 dwelling units per net acre or greater. ~~Single family detached residential development with 5,000 to 8,000 square foot lots falls within this category, as do zero-lot line houses~~ Included in this category are duplexes, townhouses and garden apartments.

Approval of this item will amend the Master Plan's residential land use category definitions. It will not amend the Town's Future Land Use Map or Zoning Map. The result will be that new applications for zoning changes will be able to request the new land use designations. For example, a new residential zoning application for minimum 3,500-square-foot, single-family detached lots can be approved under the designation of High SFD; this would require both a Master Plan and zoning amendment. The designation of High SFD would restrict the property from being zoned for apartment development without a Master Plan amendment.

Attached are several documents from the earlier discussion regarding the proposed amendments.

III. CORRESPONDENCE

The Town Code requires public notice in a newspaper of general circulation (Denton Record Chronicle) for all Master Plan amendment requests. At the time this report was written, staff had received no new correspondence regarding the request. Correspondence received in February regarding MPA16-0002 is attached.

IV. ATTACHMENTS

A. Background Information

- 1. Density Gap Memo
- 2. Density Gap Presentation
- 3. Residential Lot Sizes

B. Correspondence

- 1. February 2016 Correspondence

**MEMORANDUM – NOVEMBER 9, 2015****TO:** Planning and Zoning Commission**FROM:** Tommy Dalton, Director of Strategic Services**THROUGH:** Doug Powell, Exec. Dir. Dev. Services**RE:** Work Session on Density Gap

During the August 10, 2015, Planning and Zoning Commission work session discussion regarding a perceived density gap in the Town's Master Land Use Plan, a Commissioner suggested a study of the Town's current medium density land use layer. The suggestion included reviewing the average lot size of residential developments currently identified as medium density residential (MDR) on the Town's Land Use Map.

In order to collect this information, staff worked with the Town's Geographic Information System (GIS) department to pull data from all residential properties currently master planned as MDR. GIS is explained in the following section. The data pull returned 16,908 records or parcels contained within the Town's MDR land use layer. For quality control purposes, the data was filtered to only reflect parcels within a typical subdivision such as Wellington, Bridlewood, Westchester, etc. Further discussion on the data is provided below. The Commission has been provided an Excel copy of this data for its information. An electronic copy of the Excel file is available upon request by contacting the Town's Planning Services Division at 972-874-6350, or by emailing planning@flowermound.com.

Production of the corresponding map (Attachment 1) illustrating the Town's MDR land use layer is a straightforward GIS process. The subject parcels underneath that layer are simply selected and highlighted. The map is then formatted for presentation purposes.

Staff also analyzed land use data for the remaining undeveloped properties east of Skillern/Flower Mound Road/Lusk Lane (Attachment 2). This information represents the remaining developable residential properties in eastern Flower Mound and should be taken into consideration when making any recommended changes to the Town's density definitions.

The work session will consist of two parts: the first will cover the data presented in this memo, and the second will review options for the Commission to consider for addressing the perceived gap.

GEOGRAPHIC INFORMATION SYSTEM

The Town's GIS is a computerized system of hardware, software, data, storage and analytics. The GIS allows for the display of spatial data to make maps and models, the ability to identify spatial relationships between data layers or types, as well as trends over time. It also provides the potential to model future situations. The GIS allows for better decision making by combining location information with other attributes.



MEMORANDUM – NOVEMBER 9, 2015

PARCEL DATA

In order to accurately analyze the data several parcels were filtered out of the dataset to create a representative sample. Items filtered out of the final data include the following:

1. Open space lots
2. Unbuildable X-lots
3. Properties with non-residential uses (i.e. daycares, churches, schools, civic buildings, etc.)
4. Rights-of-way (i.e. roads, easements, etc.)
5. Undeveloped properties
6. Atypical subdivisions (i.e. Allison 1 Addition, Ivy estates [2 lots], Cundiff Addition [2 lots], seven lots within Churchill Crossing all facing and accessed off of Sagebrush Drive)
7. New subdivisions lacking parcel data

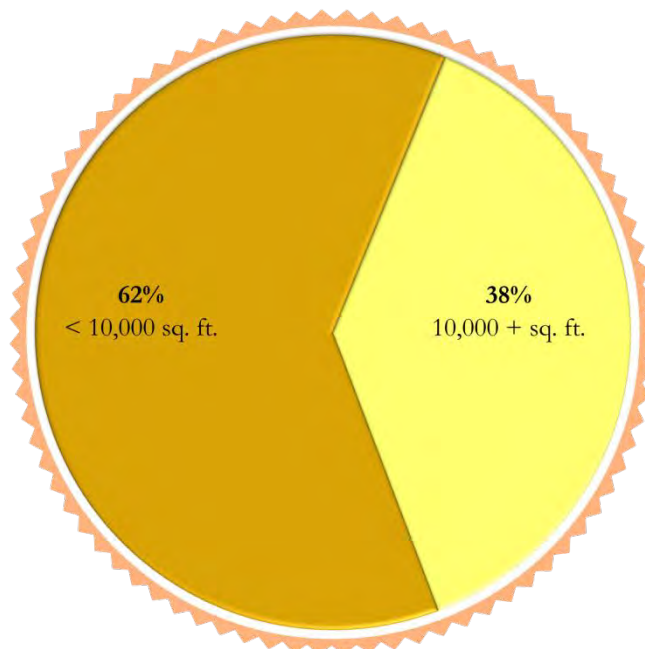
The analyzed dataset contains 16,269 parcels and represents 96.2% of the initial data pull. Below are a few statistics.

PARCEL DATA STATISTICS

Average Lot Size	9,638
Median Lot Size	8,886
Mode	5,001

Of the MDR parcels analyzed, 62% are less than 10,000 square feet, and 38% are greater than 10,000 square feet.

Medium Density Lot Sizes



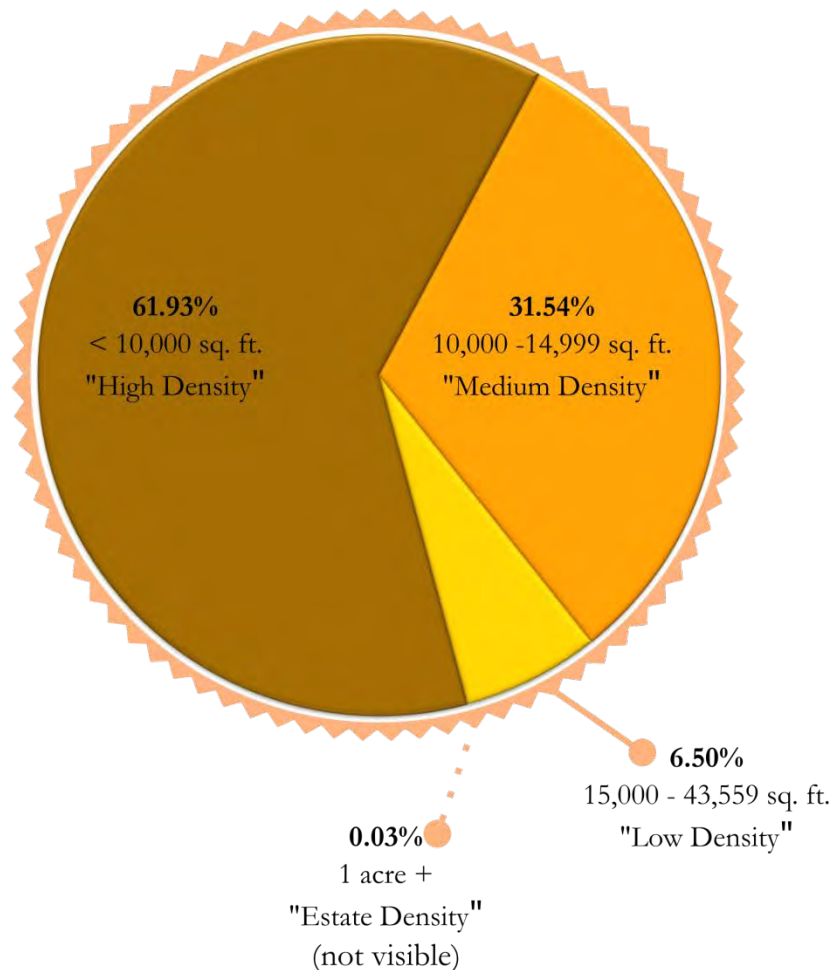
**MEMORANDUM – NOVEMBER 9, 2015**

The following table provides the distribution of the dataset along with the number of lots within each segment, the average lot size of the segment, and finally the percentage the segment accounts for in the dataset.

Lot Size	No. of Lots	Average Lot Size	Percentage of Total lots
5,000 & Fewer	107	4,507	0.658%
5,001 – 6,000	1,385	5,424	8.513%
6,001 – 7,000	1,449	6,602	8.907%
7,001 – 8,000	2,612	7,455	16.055%
8,001 – 9,000	2,870	8,518	17.641%
9,001 – 9,999	1,653	9,473	10.160%
10,000 – 11,000	2,172	10,371	13.351%
11,001 – 12,000	1,259	11,460	7.739%
12,001 – 13,000	783	12,467	4.813%
13,001 – 14,000	570	13,481	3.504%
14,001 – 14,999	347	14,426	2.133%
15,000 – 43,559	1,057	18,961	6.497%
43,560 +	5	44,629	0.031%

The following chart provides the distribution into fewer segments.

Distribution of Lot Sizes

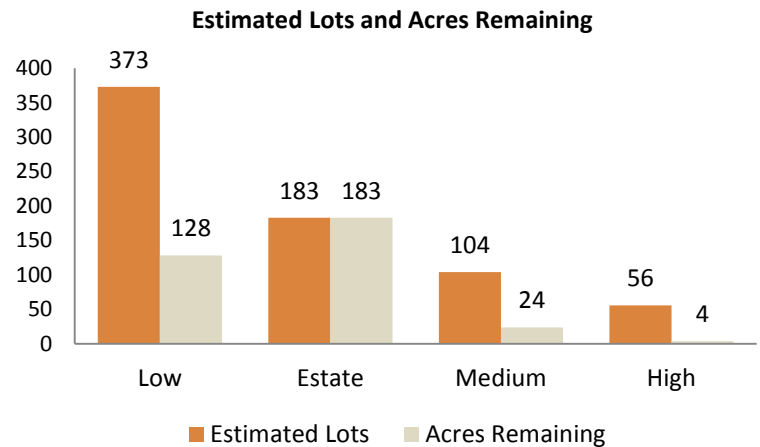


**MEMORANDUM – NOVEMBER 9, 2015****LAND USE DATA**

The Town's current land use plan provides approximately 54% (15,525 acres) of the land to be residential uses; 72% (11,255 acres) is developed, leaving 28% or 4,270 total acres remaining to be developed as residential. MDR accounts for about 36% of all of the residential land use designations on the Town's Master Plan.

There are approximately 339 developable acres east of Skillern/Flower Mound Road/Lusk Lane designated for residential under the Town's current Master Plan. The chart below provides the land use breakdown for the remaining acreage, and the graph provides estimated gross lot yield per land use category compared to the acreage remaining per land use. The high density category assumes a minimum 3,000 square foot lot.

Land Use Category (min lot size)	Acres	% of Remaining
Estate (min 1 ac)	183	54%
Low (min 15,000)	128	38%
Medium (min 10,000)	24	7%
High (less than 10,000)	4	1%

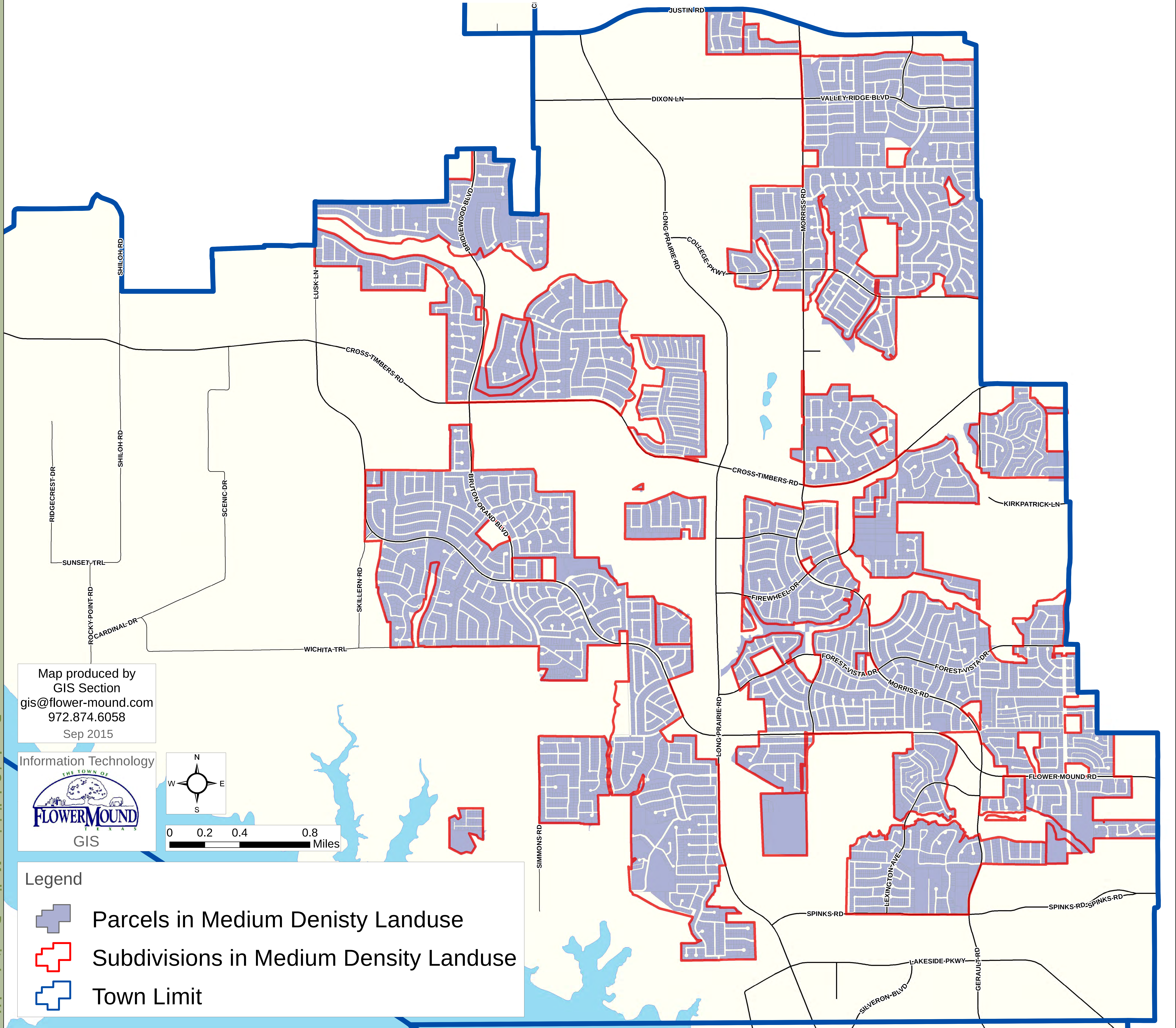
**ATTACHMENTS**

1. Medium Density Residential Location Map
2. Remaining Developable Acres in east Flower Mound Map

Attachment 1: Medium Density Residential Location Map



Parcels & Subdivisions Within Medium Density Landuse



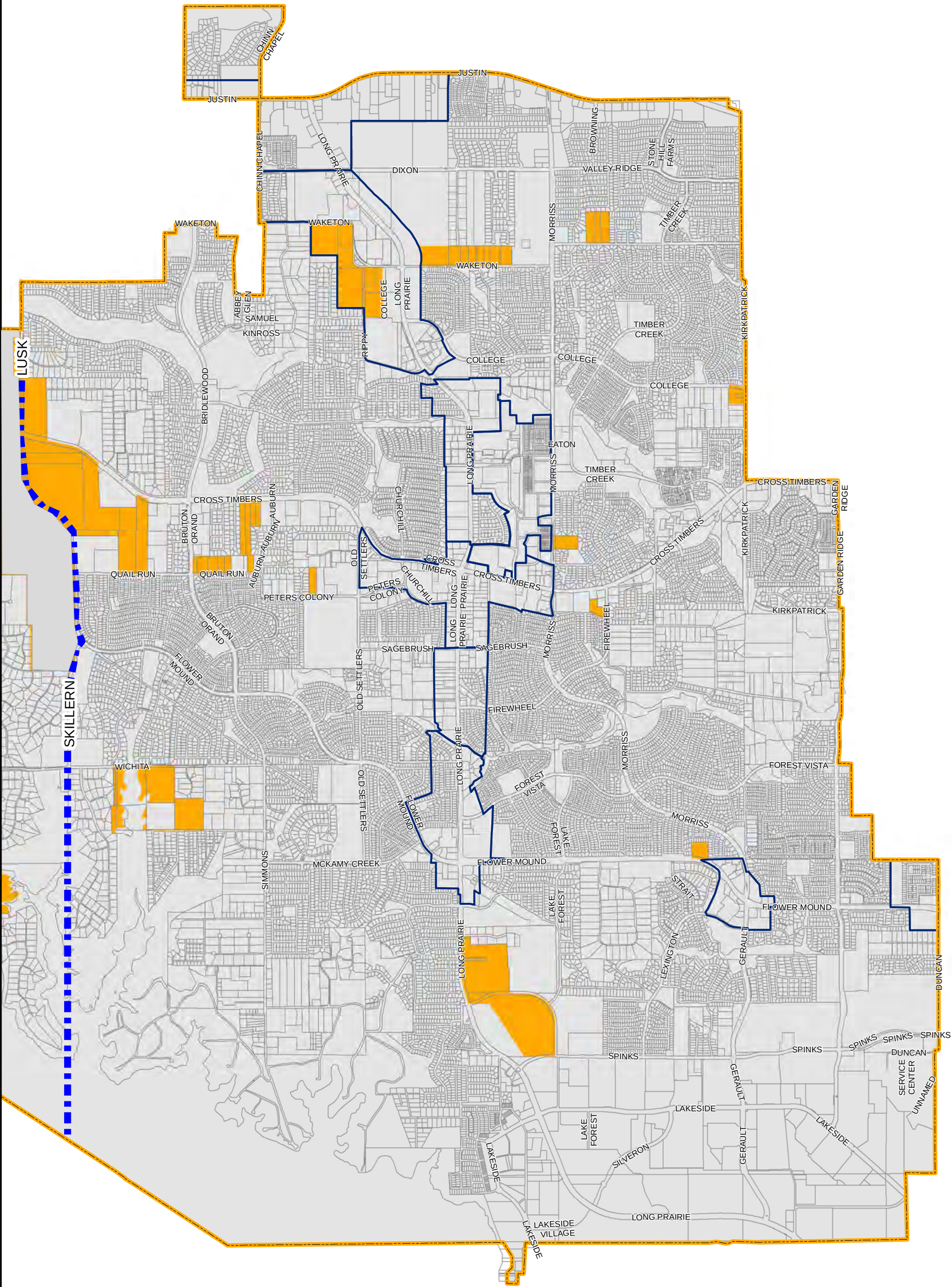
Parcels / Subdivisions Medium Density Land Use

Parcels / Subdivisions Medium Density Land Use

Attachment 2: Remaining Developable Acres in east Flower Mound



Undeveloped
Residential Areas



Developed and Undeveloped Areas - 11/5/15

Developed and Undeveloped Areas - 11/5/15

LEGEND

Specific Plan Area

Undeveloped Residential

Dividing Line

N

W

S

E

0

2,500

SCALE IN FEET

Density Gap Work Session

Planning and Zoning Commission
November 9, 2015

Part 1

Review

Overall Land Uses

Medium Density Map

Data

Undeveloped areas in eastern FM

Data

Review

August 10, 2015 – Last work session discussion

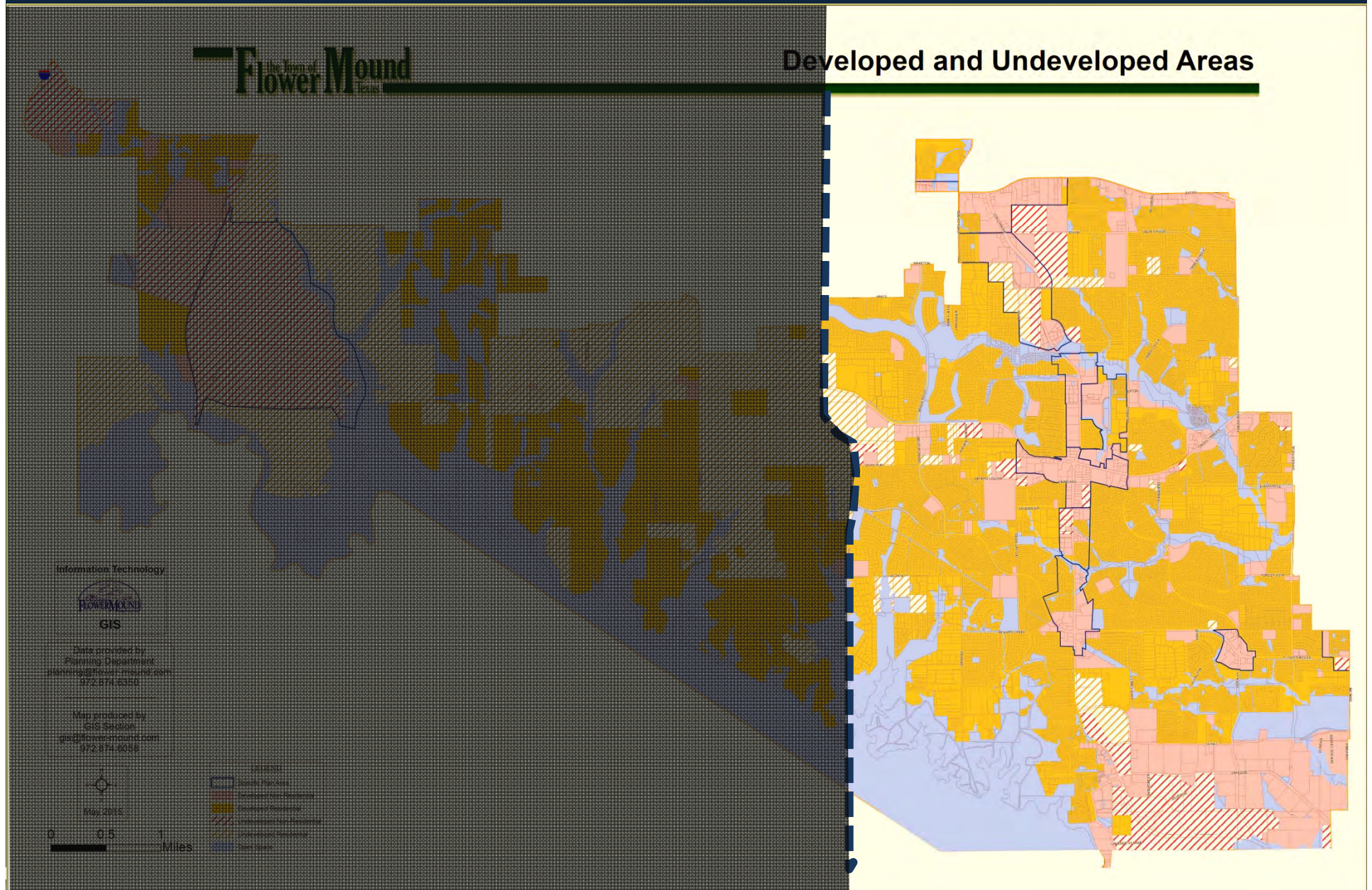
Analyze Medium Density Land Use layer

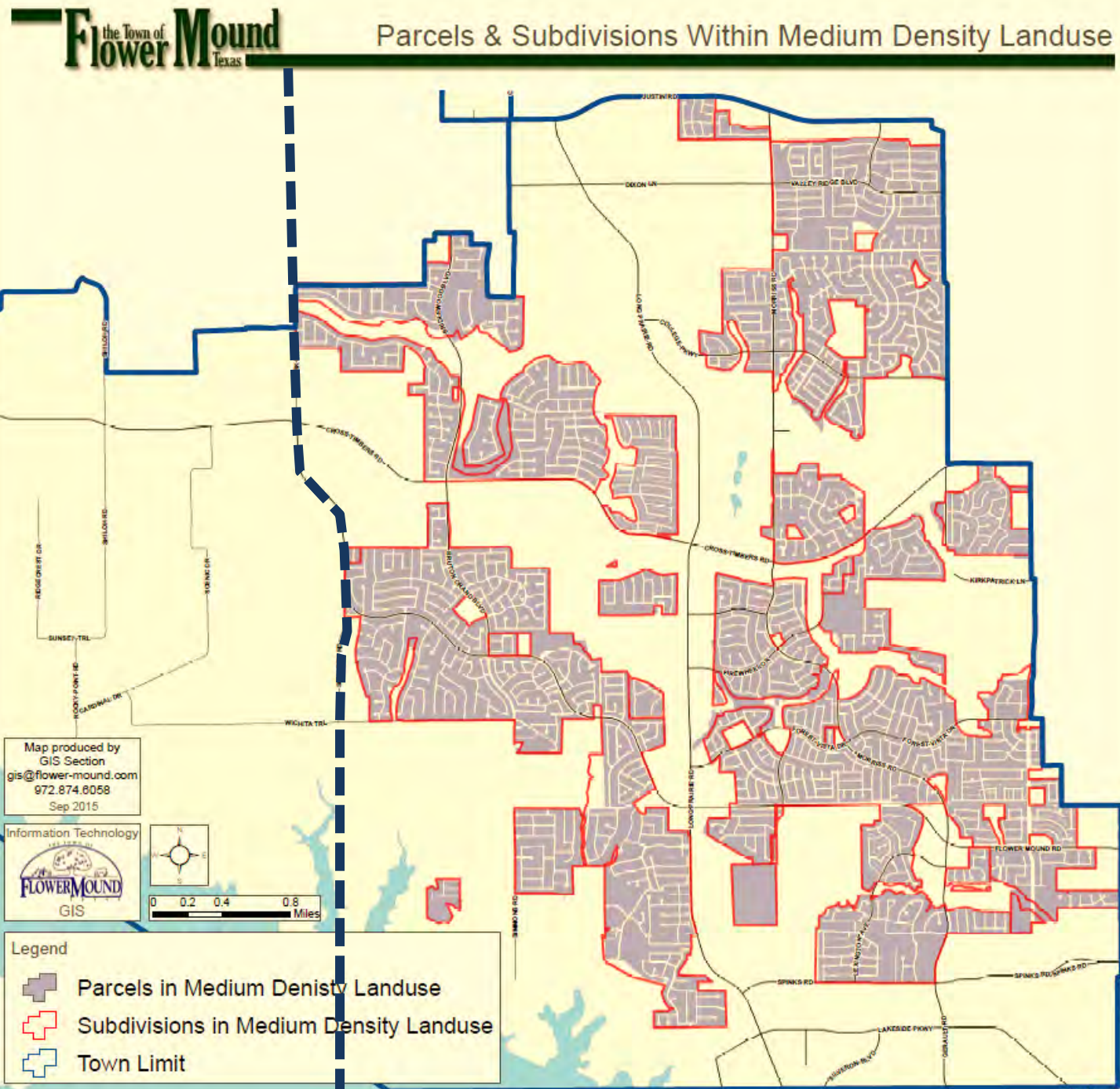
Overall Land Uses

Totals	Acres	%
Residential	15,525	53.9%
Non-Residential	5,439	18.9%
Open Space	7,823	27.2%
Total	28,787	100%

Developed	Acres	%
Residential	11,255	72.5%
Non-Residential	2,912	53.5%
Total	14,167	67.6%

Undeveloped	Acres	%
Residential	4,270	27.5%
Non-Residential	2,527	46.5%
Total	6,797	32.4%







16,908 records

Non-residential
Open Space
Xlots
Roads
Easements
Incomplete Data



16,269 records



Overall Stats

**Average Lot Size:
9,638 sq. ft.**

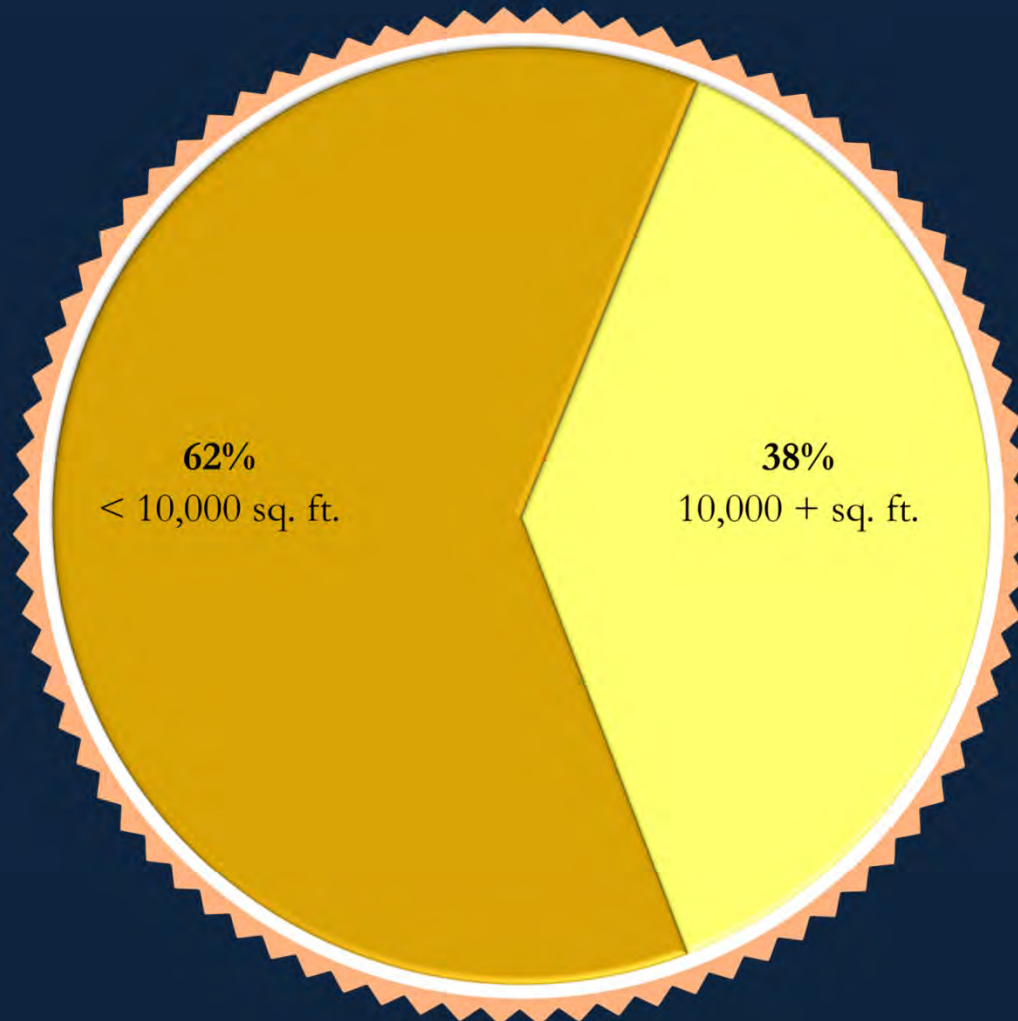
**Median Lot Size:
8,886 sq. ft.**

**Mode:
5,001 sq. ft.**

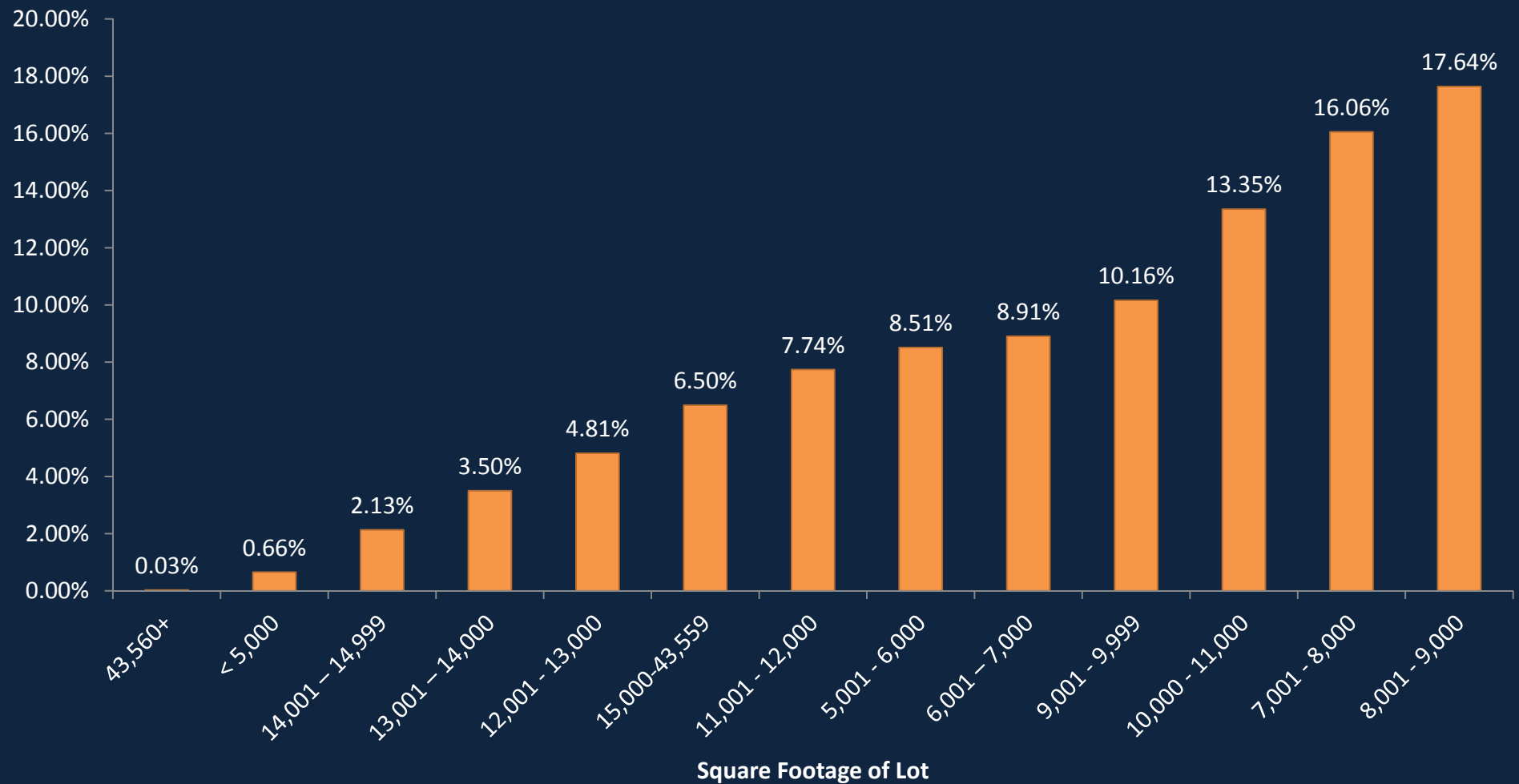
291 parcels
2% of data set



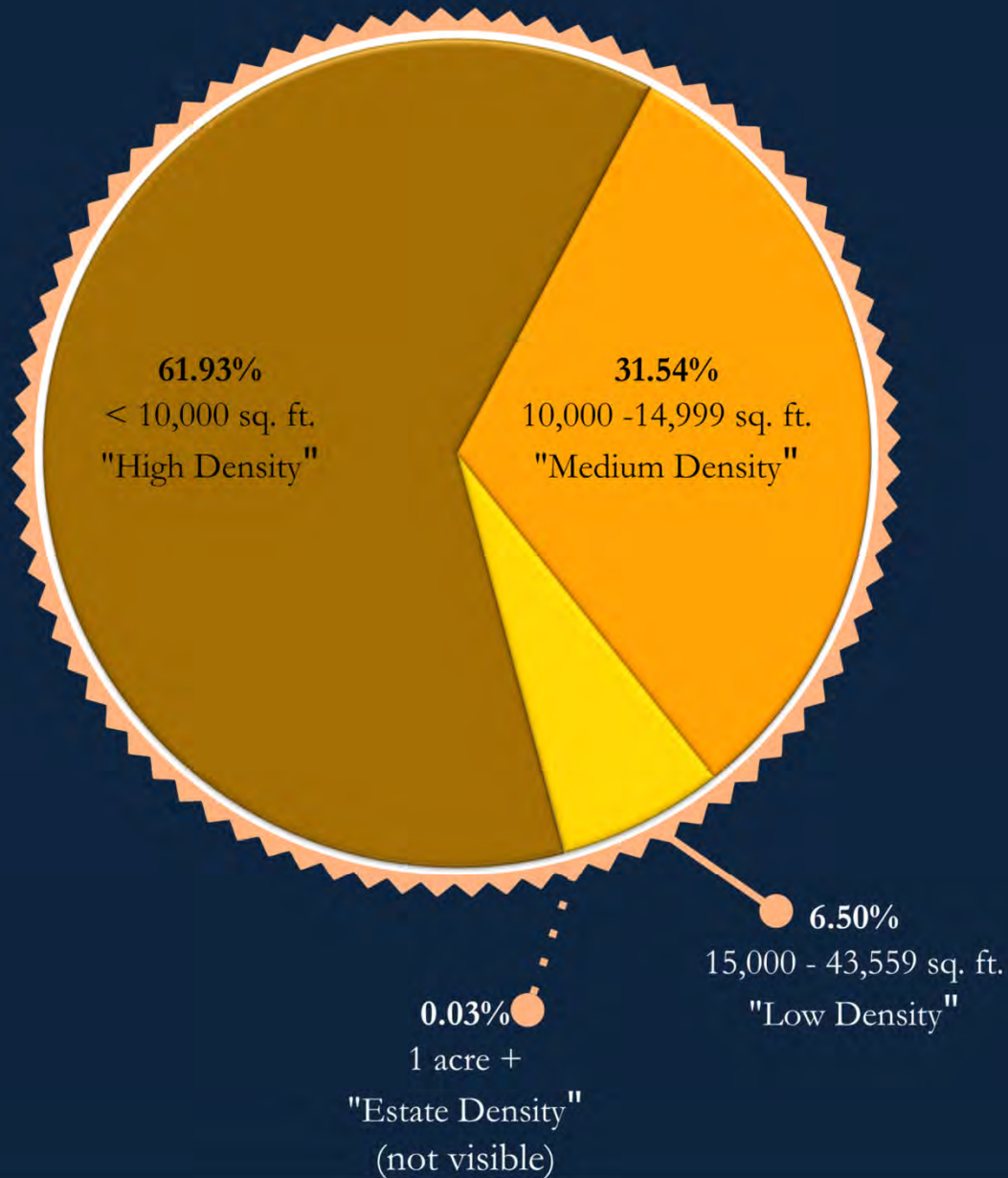
Medium Density Lot Sizes



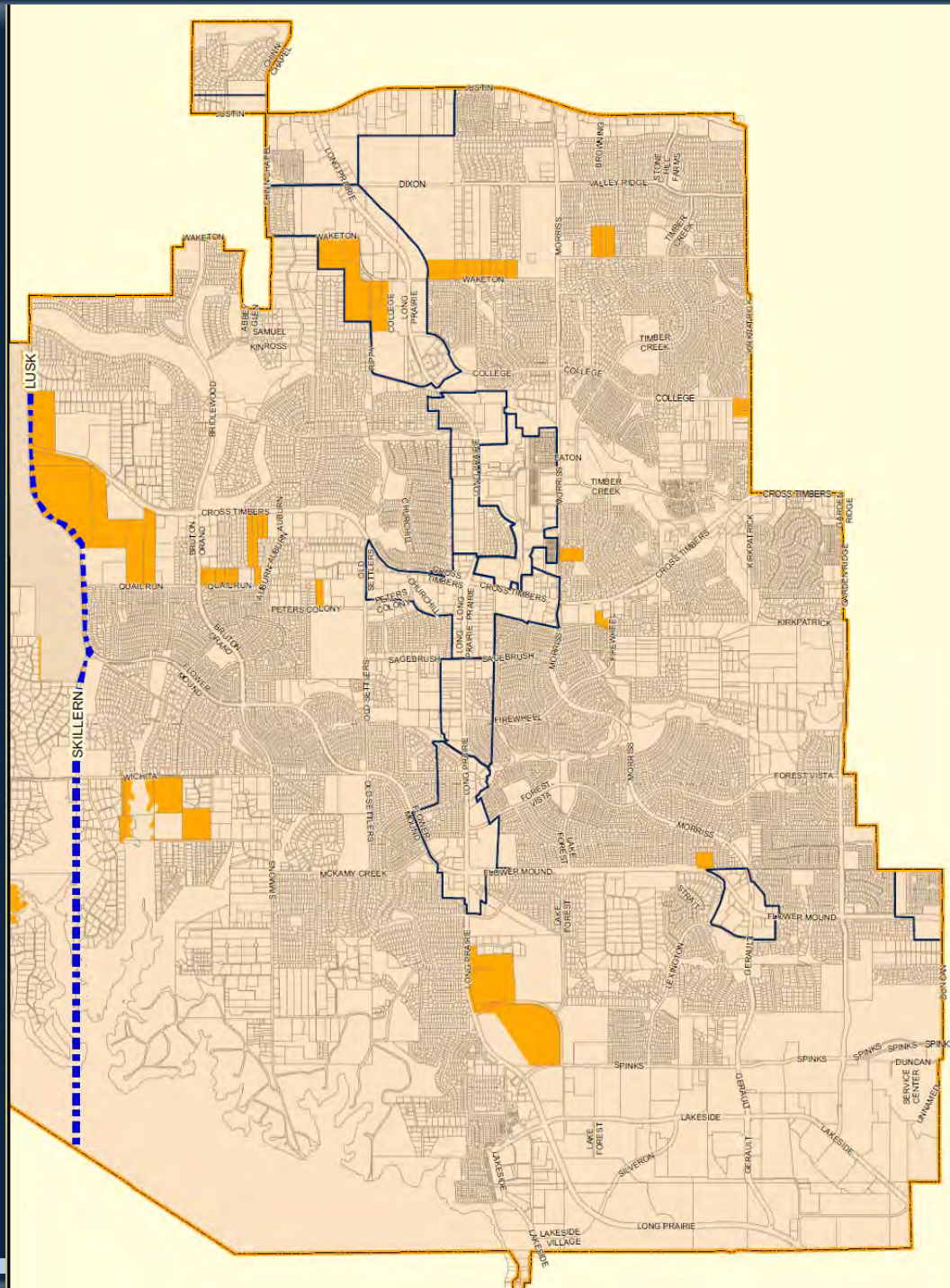
Lot Size Percentage



Distribution of Lot Sizes



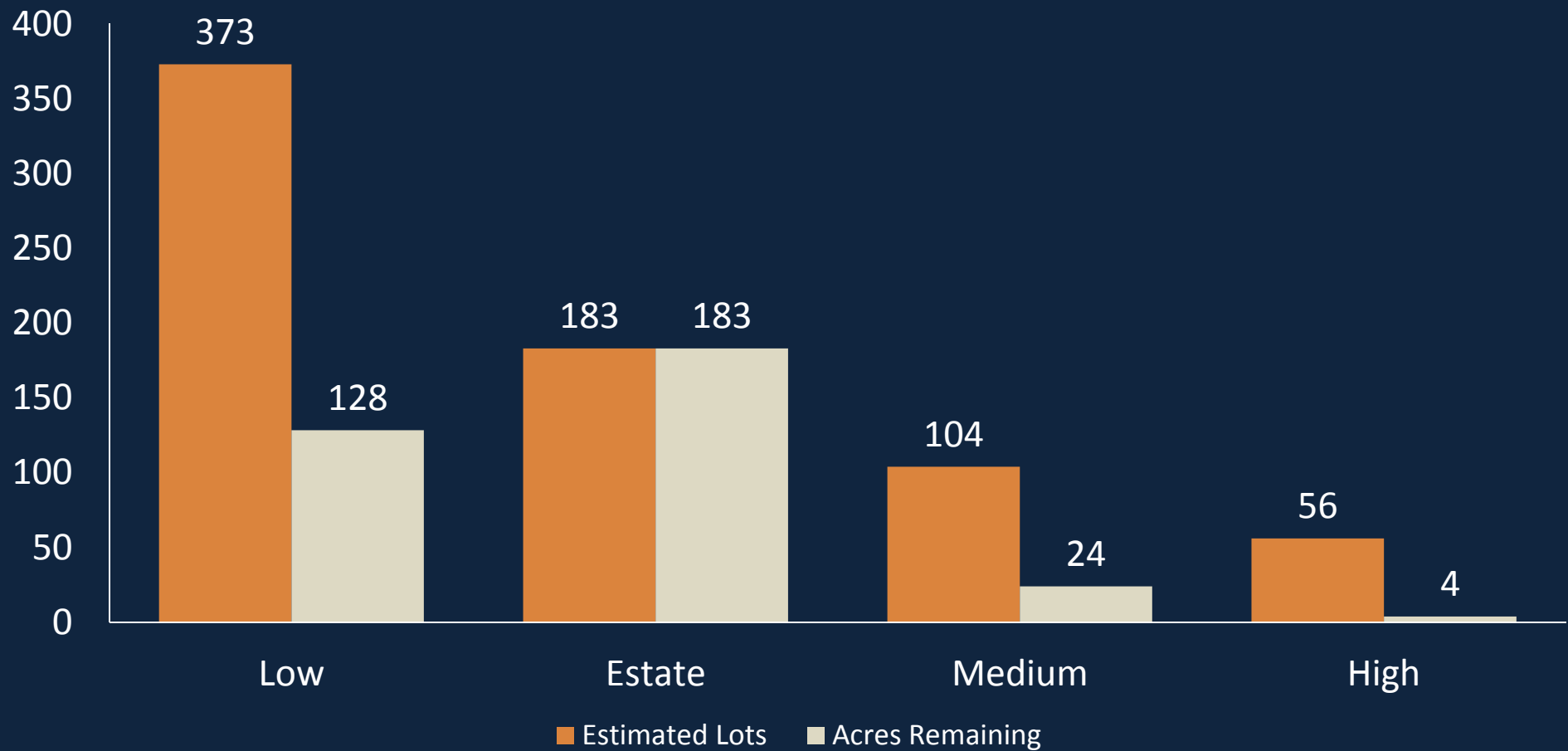
Undeveloped areas in eastern FM

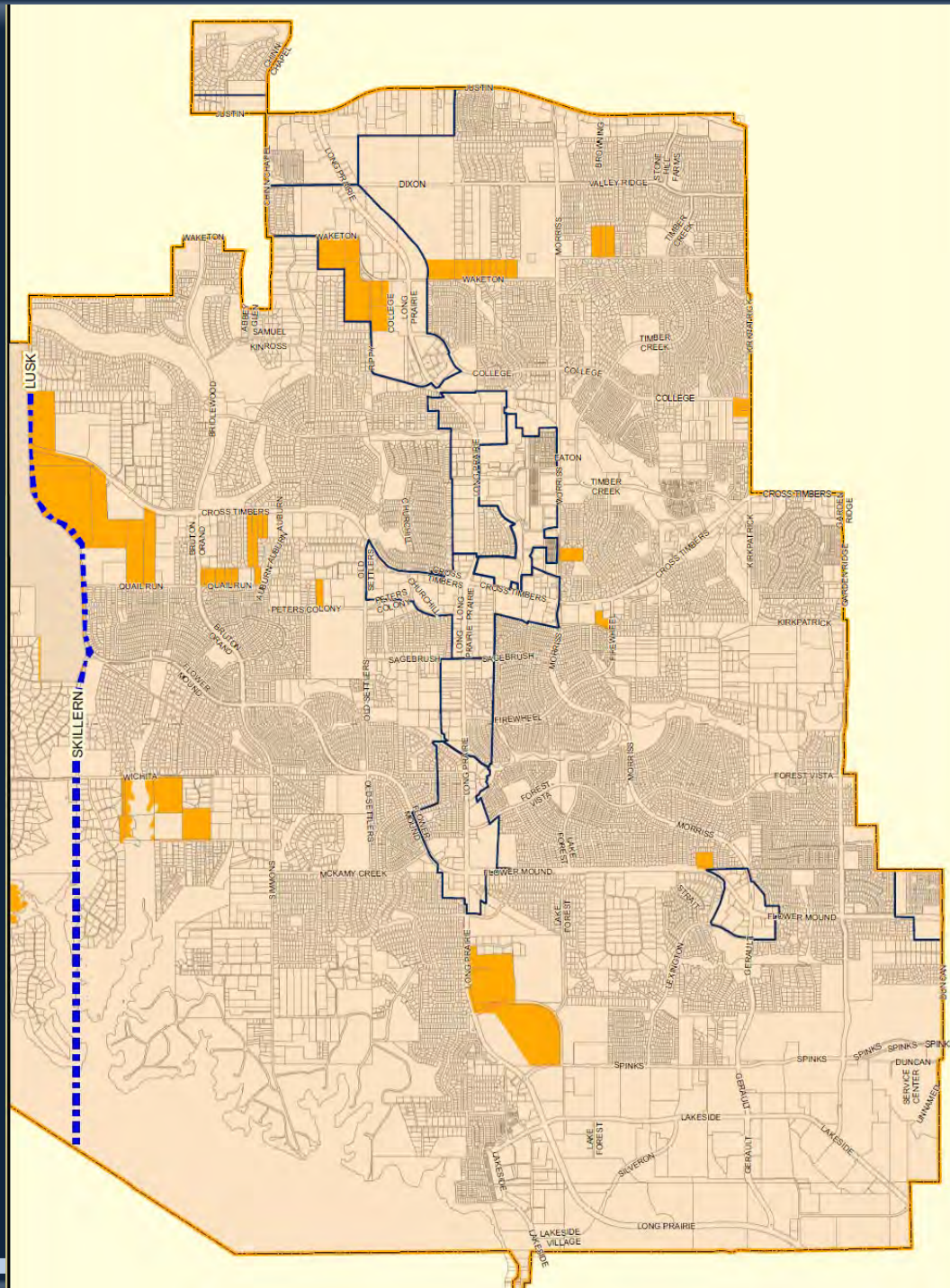


Remaining Acres by Land Use

Land Use Category (min lot size)	Acres	% of Remaining
Estate (min 1 ac)	183	54%
Low (min 15,000)	128	38%
Medium (min 10,000)	24	7%
High (less than 10,000)	4	1%

Estimated Lots (gross) and Acres Remaining

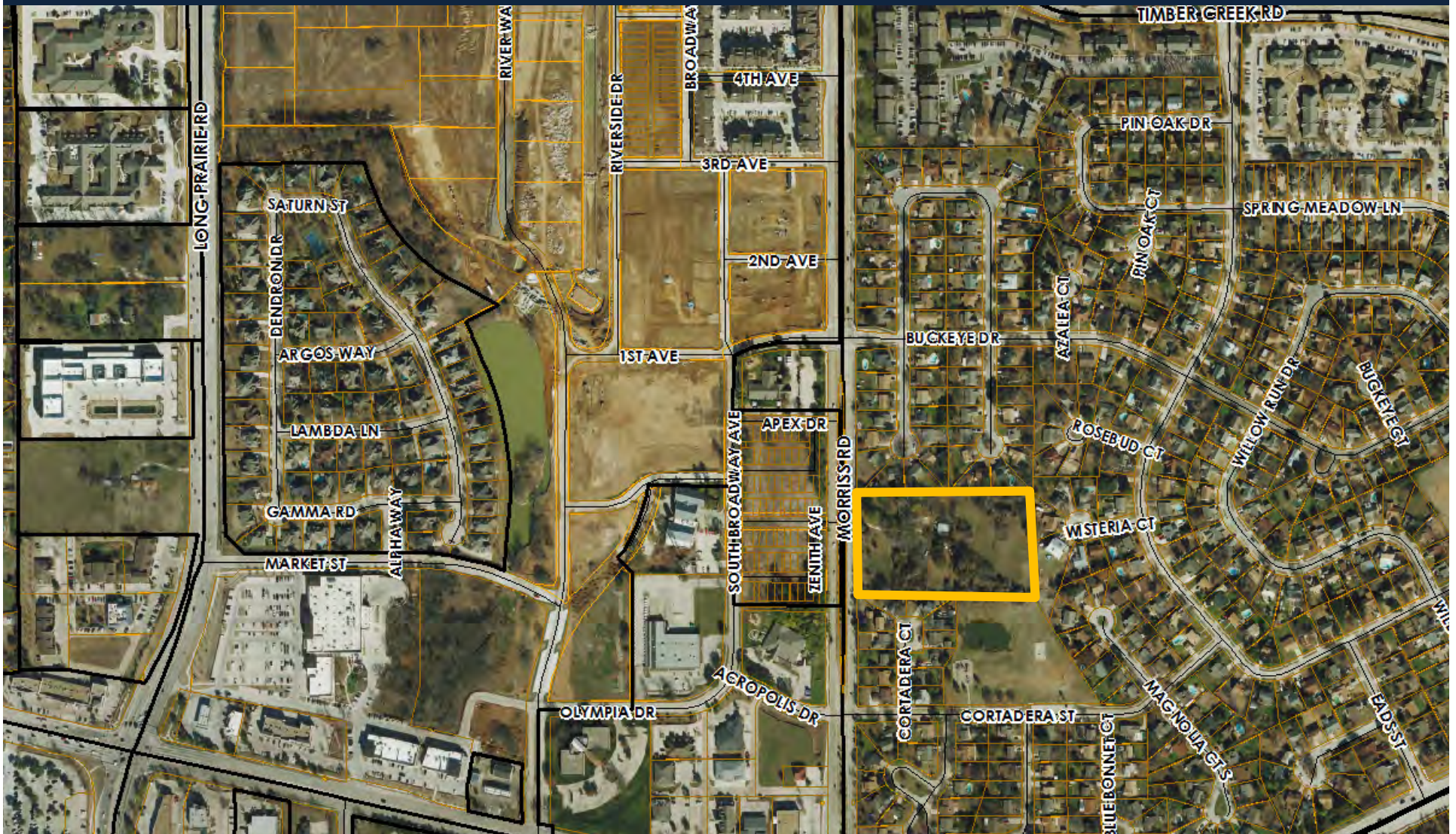




Remaining Parcels - High



Remaining Parcels - Medium



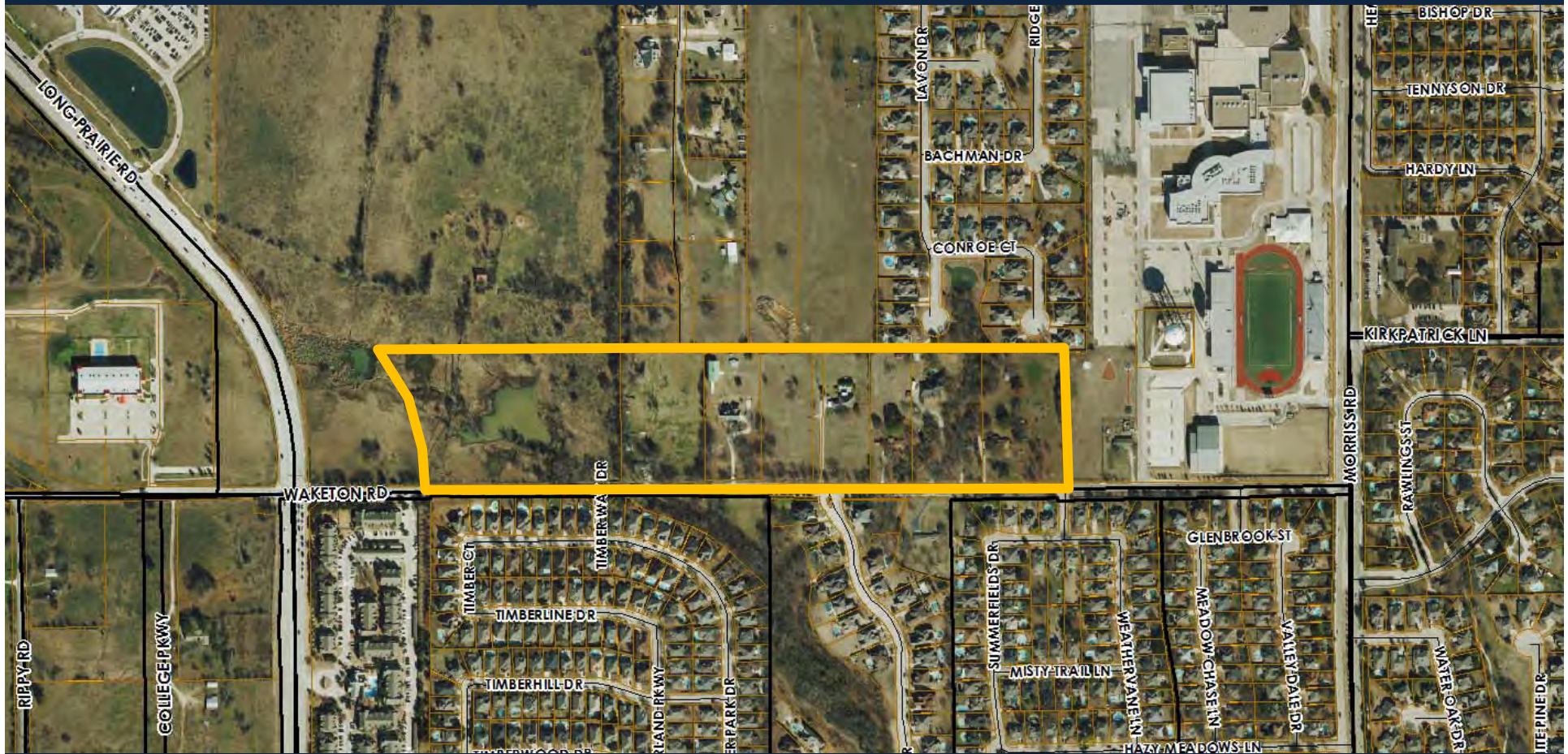
Remaining Parcels - Medium



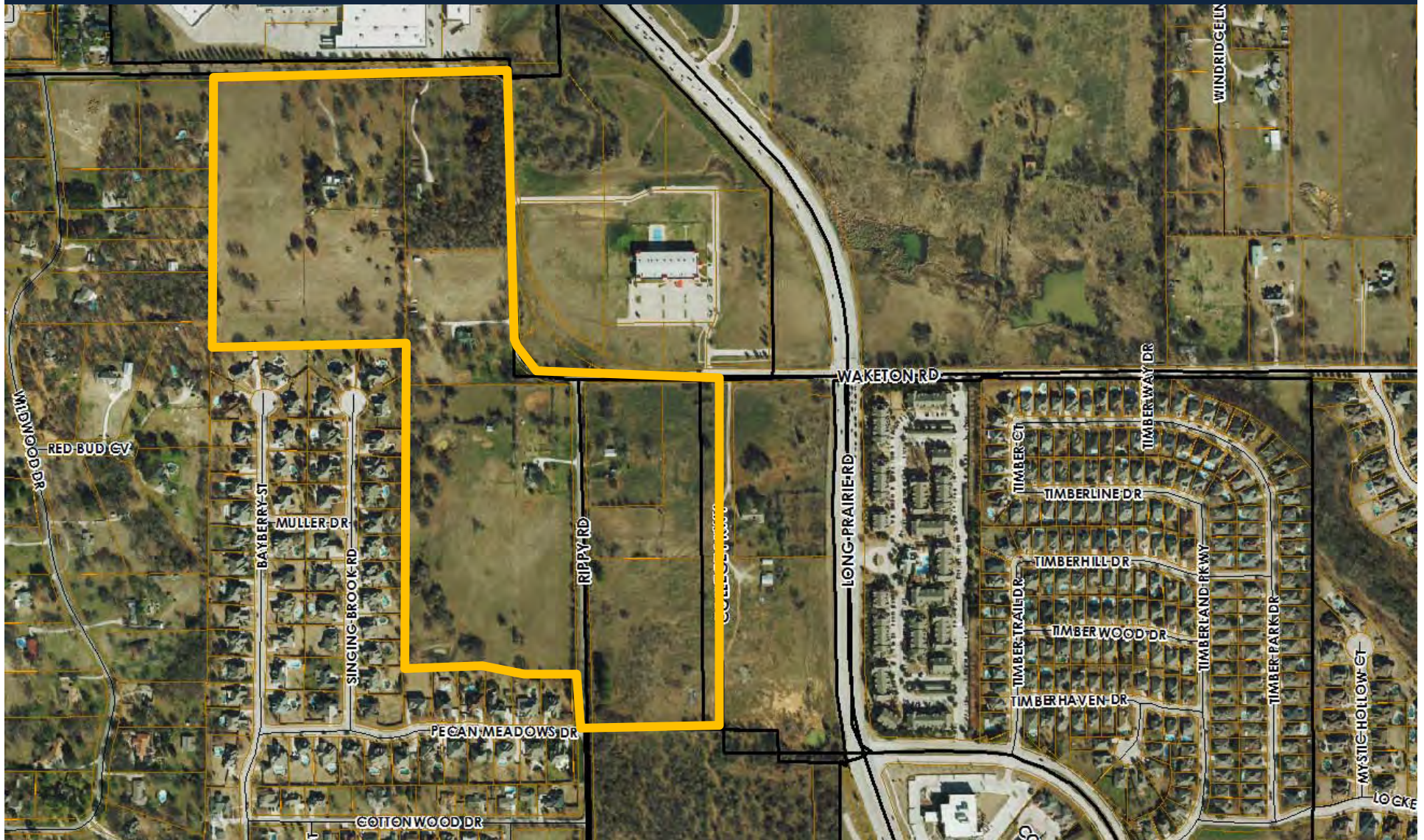
Remaining Parcels - Medium



Remaining Parcels - Low



Remaining Parcels - Low



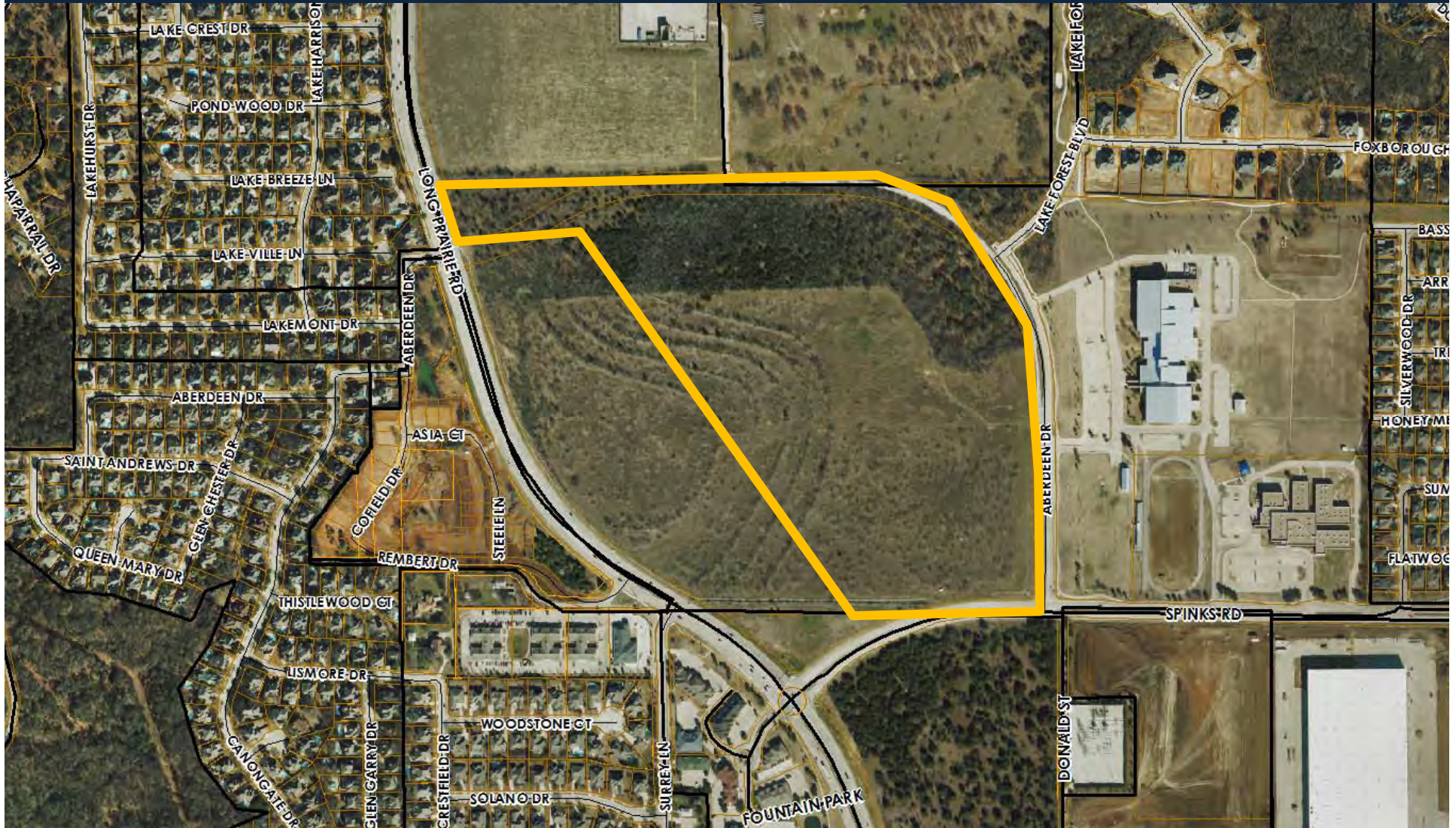
Remaining Parcels - Low



Remaining Parcels - Estate



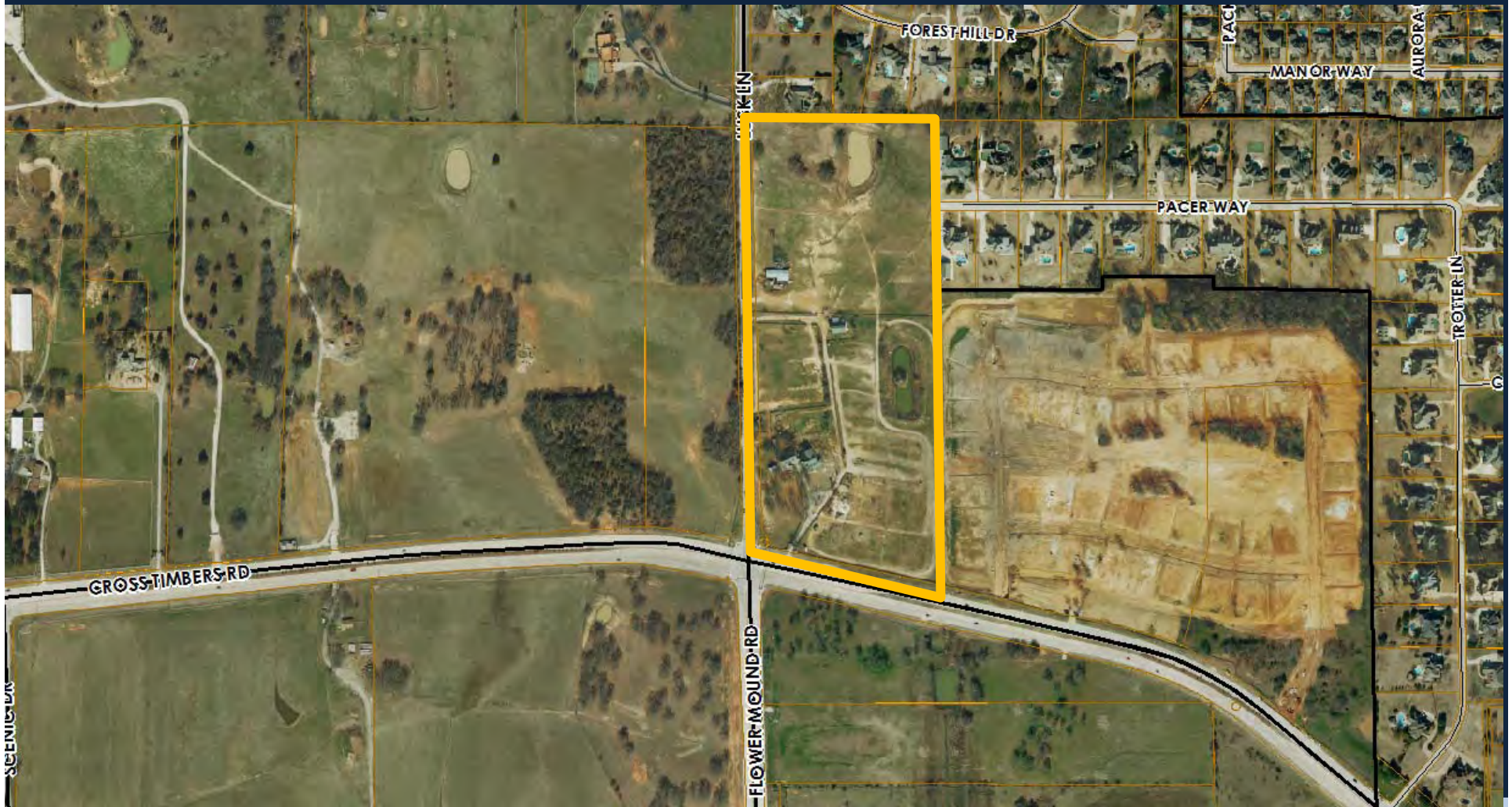
Remaining Parcels - Estate



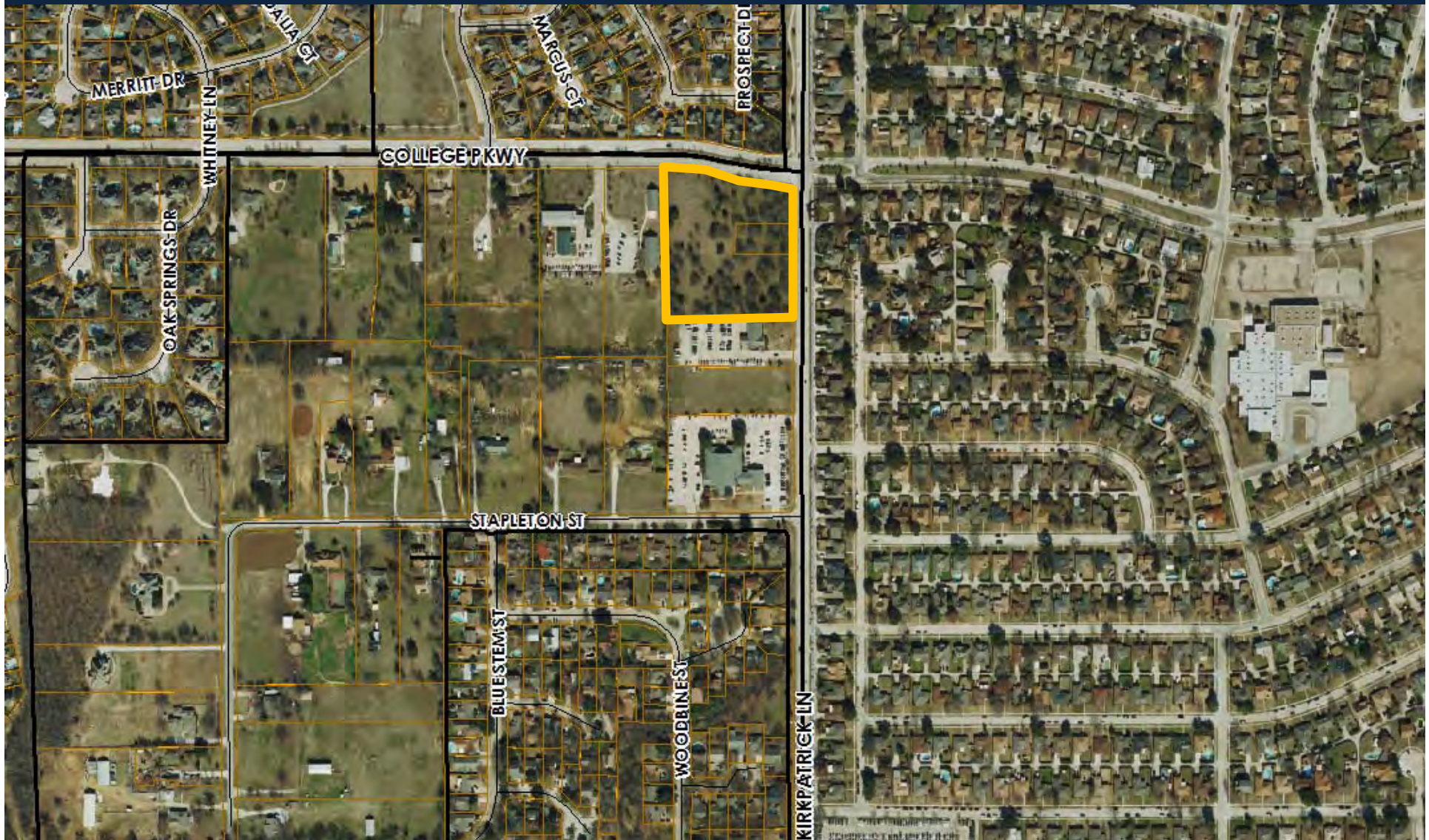
Remaining Parcels - Estate



Remaining Parcels - Estate



Remaining Parcels - Estate



Density Gap Work Session

Planning and Zoning Commission
November 9, 2015



Residential Parcels

Residential Parcels - Nov 2015

Residential Parcels - Nov 2015

Residential Parcels
Square Feet

	<7,500
	7,501 - 10,000
	10,001 - 43,559
	>43,560

GIS.SDE.TownLimits_Poly

Information Technology

gis-helpdesk@flower-mound.com
972.874.6058

0 0.5 1 2 Miles

N



DEVELOPMENT SERVICES
PLANNING **S**ERVICES **D**IVISION
Memorandum

DATE: February 8, 2016

TO: Planning and Zoning Commission

FROM: Chuck Russell, Town Planner

SUBJECT: Land Use Definitions (MPA16-0002)

Chairman Forest and Commissioners,

Attached is correspondence we received regarding this item after the packets were completed from Commissioner Strittmatter and staff's responses.

Thank you.

From: Cindy Spilberg
Sent: Monday, February 08, 2016 1:44 PM
To: Chuck Russell
Subject: Master Plan redefined

Hi Chuck,

Hope all is well. I understand clarification of Master Plan definitions is on the agenda tonight. Unfortunately, I work this evening and will miss the discussion but I did want to forward my opinion on the matter.

First and foremost, I did a research project for a commercial evaluations company over the summer and apartments, and other multi-family dwellings that provide income, are considered commercial. Therefore, multi-family units should be considered commercial under land use and have a separate category for density.

Second, define "Net Acre." The Master Plan uses this term in several areas yet it is never defined. Based on resources I found it is usually just the land that will be built upon, sans infrastructure. Likewise, even "infrastructure" could use some definition because it is debateable whether it includes open spaces like parks and green belts.

Third, clarify the Master Plan statement "Residential development with 5 dwelling units per net acre or greater." In this statement the word *greater* actually refers to the acreage. Hence the number of dwellings will always be maxed at 5 regardless of the land size. While this may not make sense or even be the intent of the statement, it IS what's stated. Under the current definition if you take an acre and divide it by the max of 5 units you get lots that are 8,712 sq ft. This is well above the 5,000 to 8,000 square ft lots that are listed as the actual high density range.

Fourth, intent. It is important to recognize the reason that 8,000 - 10,000 sq ft lots went from being medium density to high density. Do those conditions exist today? What was being developed at that time? How fast were things being developed? What was the desired effect of raising those standards - Land preservation? Sustainability? Aesthetics? Are those factors still important, if not critical today?

Please feel free to share with the Planning and Zoning Commissioners.

Thank you,
Cindy Spilberg

Statement to Planning & Zoning
March 4, 2015

Re: MPA15-0001 Highland Court
ZPD15-0001 Highland Court

From: Cynthia Spilberg
5204 Bayberry St.
Flower Mound, TX 75028

In reading the Town's Land Use Definitions I discovered something that most of you probably already know but for the sake of this discussion I think it bears reviewing. Density, lot sizes and lot coverage, are not as cut and dry as I thought. In fact, some square footage isn't defined at all. And High Density apparently has two parts to its definition.

Table 1 – Town of Flower Mound Land Use Plan & Definitions

Density Category	Min Square Footage	Max Square Footage	Min Acre	Units Per Acre	Land Use Category Definitions as per Town of Flower Mound
Rural	87,120		2		Rural Density Residential development, typically being single family detached residential development with minimum 2-acre lots (87,120 square feet) or greater.
Estate	43,560	87,119	1	1	Estate Density: Residential development, typically being single family detached residential development with minimum 1-acre lots (43,560 square feet) or greater.
Low	15,000	43,559	1/3	3	Low Density Residential development, typically being single family detached residential development with minimum 15,000 square foot lots (nominally 1/3 acre) or greater.
Medium	10,000	14,999	1/4	4	Medium Density Residential development, typically being single family detached residential development with minimum 10,000 square foot lots (nominally 1/4 acre) or greater.
Moderate ?	8,001	9,999	?	?	Undefined
High	8,712	?	1/5	5	Residential development with 5 dwelling units per net acre or greater.
	5,000	8,000	?	?	Single family detached residential development with 5,000 to 8,000 square foot lots falls within this category, as do

					zero-lot line houses, duplexes, townhouses and garden apartments.
Super ?	1	4,999	?	?	Undefined

I find it interesting that it specifically states “5 dwellings” and not 5 or more, or even greater than 5 as 5 units yields a nominal lot of 8,712 sq ft. It also says “Net acre **or greater**”, noting that the area defined may be **no less than** an acre. But the real key word here is **NET** because that’s the “portion of an acre from which economic benefit can be derived directly.” It is the total or gross amount of land **minus** infrastructure.

Table 2 – Real Estate Definition

Real Estate Definition - net acre

Net Acre - that portion of an acre from which economic benefit can be derived directly. A net acre is usually a remaining area expressed in acres after the dedication of land for public use (streets, sidewalks, utilities, schools, fire stations, etc.), or the reservation of common areas such as a condominium complex's tennis courts, swimming pools, clubhouses, etc., are established, on which housing or commercial structures may be built.

To further make sure that not every inch of net land was built upon it appears the added designation of 5,000 to 8,000 sq feet was added. So if you have smaller 5,000 sq ft lots with only 5 units allowed you’d be preserving up to 42% of the natural land.

Obviously you can see my confusion. So I contacted Planning and Zoning to clarify. I learned that pre 2001, 8001 sq ft lots and above were considered medium density. Around 2001 there was apparently a change to help mitigate the effects of the massive development that was occurring in Flower Mound and the density definitions were changed. However, the 8,001 – 9,999 sq ft lots were not assigned a density designation. It’s now simply assumed that everything less than 10,000 sq ft is high-density. Likewise it appears it was deemed not necessary to define lots smaller than 5,000 sq ft. because at the time there was nothing smaller and it was foreseen that there would not be anything smaller.

My point in all this is that there are several areas, definitions if you will, that are subject to interpretation. What was once considered medium density and approved as such for the town is now assumed high density because the town wanted to raise the minimum standards. That’s a good thing. I think it’s fair to say that the Town’s density map does not reflect today’s definitions because there is no definition for the 8,001 to 9,999 sq ft range, and the less than 5,000 sq ft. lots aren’t even categorized.

Now I’d like to show you how this applies to Highland Court.

Table 3- Lots Per Net Acre

		1		acre		=	43560	sq ft
	# Lots	Lot Dimensions				Lot Sq Ft	Lots Per Net Acre	
small	95	30	x	90	=	2700	16.13	
medium	50	50	x	120	=	6000	7.26	
large	16	54	x	120	=	6480	6.72	

When you look at Highland Court in regards to square footage and total dwellings per net acre you see that 59% (95 out of 161) of the developers units don't meet the towns minimum square footage requirements and 100% of the development is over the 5 dwelling per **net acre** limit. In fact the developer specifically states in his proposal that the lots are "per Gross acre." (pg 1). If you add up all the square footage [(95x2700)+(50x6000)+(16x6480) = 660,180 then divide by square footage per acre /43560 =15)] you're looking at a lump sum of 15.16 total equitable Net acres.

Table 4- Total Net Acres

	# Lots	Lot Sq Ft	Total Lot Sq Ft	
small	95	2700	256500	
medium	50	6000	300000	
large	16	6480	103680	
				Total
				Net
				Acres
660180				divide
				by 43560 =
				15.16

Add to this the fact that each lot will be 90% covered by driveways, walkways, patios and house. When a lot is 90% covered that to me is not just high density, but super or even ultra-dense. From a taxation perspective, this is a gold mine, from a neighborhood perspective; this is excessive and mirrors density volumes in big city centers. The simple truth is the proposed densities are so far out there they're not recognized much less designated by the Town of Flower Mound. So what density is the developer actually looking to build? Even more worrisome what density are they looking to amend the Master Plan's Land Use Plan to? This new Super Density that they've created?

Simply put Direct Developments plan does not fit into the current neighborhoods. It is neither consistent with neighboring lot sizes nor cohesive with neighboring lot coverage. If they were proposing a congruent mix of densities that blends into the existing neighborhoods it would be a different story. But they're not. The fact that Direct Development is trying to fit a maximum of 170 dwellings, up to 35 feet tall, with 90% covered lots on a little more than 15 net acres makes Highland Court the single densest development in all of Flower Mound. (agenda packet pg.295/ pg2 of the Draft Development Standards)

For the Rippy Road area residents this is not a debate about being anti-density, it's about being pro-neighborhood and protecting what we love.

We ask that you vote to protect ours.

Thank you

References:

Direct Development's proposal – see Town of Flower Mound Planning & Zoning agenda packet (pg 157 – 161, 288, 294 -297)

<http://www.flower-mound.com/AgendaCenter/ViewFile/Agenda/02232015-1774>

Net Acre vs Gross Acre definition

http://www.homesurfer.com/real-estate-definitions/g/gross_acre.html

Town of Flower Mound - www.flower-mound.com

Current Land Use Plan

<http://www.flower-mound.com/DocumentCenter/Home/View/6733>

Current Land Use Map

<http://www.flower-mound.com/DocumentCenter/View/68>

GIS – Interactive Maps

<http://flowermound.dfwmaps.com/>

Current Specific Plan Areas – SPA 5

<http://www.flower-mound.com/DocumentCenter/View/767>

Historical Master Plans

<http://www.flower-mound.com/index.aspx?nid=1177>

SMARTGrowth Management Plan

<http://www.flower-mound.com/DocumentCenter/View/1436>

Master Plan Amendments

<http://www.flower-mound.com/DocumentCenter/View/9088>

Flower Mound Code of Ordinances

https://www.municode.com/library/tx/flower_mound/codes/code_of_ordinances

From: Kristi Hassett
Sent: Monday, February 08, 2016 1:03 PM
To: Tommy Dalton; Theresa Scott; Doug Powell
Subject: P&Z Agenda Item #9 Feb 8, 2016

I have comment for tonight's Planning and Zoning meeting as I am unable to attend. I apologize for the tardiness of my email.

I am against the changes to the land use plan listed on Agenda Item 9. I am against the change in the definition of Medium Density from 10,000 to 7,500 as well as a new definition of under High Density. I do not believe it should be the goal of the Master Plan to determine and define "density gap" issue. That is the purpose of the town's codes.

I had hoped to do more research on the town's comparison cities, but failed to make time to do so. I only looked at Southlake. Southlake's Comprehensive Plan does not have a definition of high density, yet its codes allow for two levels of high density.

I have several questions:

- What is the goal of these changes?
- What is the benefit to the town?
- What do the changes allow that could not be accomplished today?
- Is the town trying to define the remaining applicable areas? Is the town basing future development on current stock of Flower Mound's houses or according to the type of development that Flower Mound would like to offer going forward?

Sincerely,

Kristi Hassett
3500 Beringer Ct
Flower Mound, TX 75022

From: Kris Thompson < >

Date: February 8, 2016 at 4:12:18 PM CST

To: "planning@flower-mound.com" <planning@flower-mound.com>, Town Council
<towncouncil@flower-mound.com>

Subject: Opposition to MPA16-0002

Good afternoon Mayor, Councilmembers and Commissioners,

I am writing in opposition to MPA16-0002.

First of all, I am disappointed that after multiple meetings and work sessions regarding a possible Master Plan Amendment to amend our Land Use Definitions for Medium Density Residential and High Density Single-Family Detached, only two pages of detail were provided in the large agenda packet for tonight's meeting for this agenda item. I feel that more information should have been provided for the residents to review so that they could gain a better understanding of this agenda item so that they could send in emails or speak tonight in favor or against this Master Plan Amendment.

Second, I am disappointed that at least one email, possibly more, sent to the Town by a resident regarding this agenda item, was not included in tonight's agenda packet.

The Planning and Zoning Commissioners were told at the November 9th worksession that based on the current Land Use Definitions (not including this proposed Master Plan Amendment), the estimated build out population Flower Mound is 108,000 residents. That is already 40,000 more residents than we currently have today. 40,000 more residents. However there have already been changes approved by Town Council in the past year which have impacted that number. They were also told that the 108,000 estimated build out population was used to base our Town's infrastructure models on and in early 2015 plans were adopted for water and waste water.

If we change the Land Use Definitions now, and reduce medium density lot sizes from 10,000 square foot lots to 7,500 square foot lots, the estimated build out population of Flower Mound could potentially greatly increase, especially if a developer asks to have land previously designated as estate or low density residential rezoned to medium density residential.

That could have serious impacts on our Town's infrastructure. This is not something that we can afford to ignore.

I am also concerned that the Rippey Road residents may be impacted, once again, unfortunately, as there is another large tract of undeveloped land next to them. They should have been able to count on the Master Plan when they bought their homes. It truly is a disservice to the residents of Flower Mound to change our Master Plan in this manner, time and again.

I don't mind seeing high density residential further defined and split into sub categories, but to create a medium density level of 7,500 sq ft lots is unfair when medium density currently is a minimum of 10,000 sq ft lots. Residents who purchased homes next to land zoned for medium density residential could not have anticipated that the definition of medium density residential

would be changed to allow for smaller lot sizes than 10,000 sq ft lots via a Master Plan Amendment.

Please understand the power that you have as representatives of our town. You are shaping the direction of our future. There are almost 70,000 residents looking to you to make the right decision. This decision can not be short sighted. All potential impacts down the road should be considered. But most importantly, I would ask you to question why you are being asked to change the Land Use Definitions of our Master Plan in the first place. Who will it benefit? Who will it betray? Is it absolutely necessary?

Thank you for your time.

-Kris Thompson
1501 Holly Oak Court
Flower Mound, TX 75028

From: sharon.gentry
Sent: Monday, February 08, 2016 10:29 AM
To: planning
Subject: MPA16-0002 Land Use designation proposed change

Dear Planning and Zoning Members,

Agenda item MPA16-0002 Land Use designation proposed change

Let's talk process. When big land use changes are in the works, there is a Town-wide Master Plan review process. Experts in Town Planning are hired and committees of citizens are formed to collect the concerns of the Town Residents to feed into the process. This Review is very public with plenty of time and opportunity for Residents to provide their input and counterbalance the lobbying of the Development community.

Then for more localized changes to the Master Plan, a large sign goes up on the property in question. Letters are mailed to homeowners within 200' of the property under review. People in the area can drive by that sign and know they need to find out what is going on, write emails and show up a P&Z and Council. Often they have an opportunity to meet with the developer. Again a drawn out process of change.

However, this agenda item MPA16-0002 Land Use designation proposed change is an effort to get around this carefully constructed process. Now by a simple redefinition of Medium Density tonight you are proposing to change the Master Plan without following the rules. Suddenly, residents who think they are living next to land which will be developed one way, will be surprised when new houses go up to see the lots are considerably different than expected. How is this fair to slip in changes without due process?

Well, let's call it what it is: Giving developers a gift without alerting the residents.

I am asking you not to be a party to this deception. Vote No.

Regards,
Sharon Gentry
2750 Bob White Lane
Flower Mound, TX 75022

From: Janvier Scott
Sent: Monday, February 08, 2016 6:53 AM
To: planning
Subject: MPA16-0002 Land Use designation proposed change

I am writing to you in response to MPA16-0002 Land Use designation proposed changes.

I do not see a zoning “Gap” in regard to Medium Density. **What is the problem that we are trying to fix with this change?** If a residential developer wishes to build on a lot that is 7,500 SF and he gets approval, he can. I see no problem or “gap”.

The town is proposing to **CHANGE the meaning** of Medium Density so that developers can develop 7,500 SF lots and call it Medium Density. How is this not deception?

By making a change to the **definition** of Medium Density, our Town is nullifying our current Master Plan. All the build-out projections and balancing infrastructure requirements laid out by our Master Plan will be void.

Can YOU justify this change?

The packet does not contain much detail, but from what I have seen, I do not have a problem with the proposal to further define High Density. My problem is with changing the definition of Medium Density.

I have included the email that I sent last August on this subject. It was not included in the packet.

Please vote to reject the change to the minimum lot size definition of Medium Density.

Janvier Scott
2829 Bob White Lane
Flower Mound, TX 75022

From
To: towncouncil@flower-mound.com; planning@flower-mound.com
Subject: The Density GAP
Date: Wed, 12 Aug 2015 13:36:04 -0500

Town Council members and Planning & Zoning Commission:

I watched the Planning and Zoning work session on Monday, Aug 10th. I was alarmed that the conversation seemed to be centered on pleasing developers with our lot sizes!

Developers can maximize their profit by packing as many homes on an acre as a town will allow. I'm sure they can sell little tiny houses on little tiny lots to someone. That is not the goal of our town, however.

We have a Master Plan in Flower Mound for a reason. We have set minimum standards and minimum densities for development for a reason. And that reason is NOT to put more money in a developer's pocket.

I believe the medium-density category must remain the same. That density is tied to the current build-out projections and infrastructure capacity in our Master Plan.

I agree that we do need to further clarify the high density category.

I propose that high-density could be divided into three categories:

- ♣ single family minimum 8500 SF,
- ♣ single family minimum 5000 SF and
- ♣ multi-family/zero-lot-line "Urban Density" designations.

This could bridge the perceived "GAP" without adversely unbalancing our Master Plan and stressing our infrastructure.

One of the four vision statements of the Master Plan is to "Mitigate the ill effects of rapid and intense urbanization". Reducing the minimum density designations would only contribute to the intense urbanization of our town, rather than mitigate the ill effects.

Sincerely,

Janvier Scott
2829 Bob White Lane
Flower Mound, TX 75022

TOWN OF FLOWER MOUND, TEXAS**ORDINANCE NO. _____**

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 1.0, LAND USE PLAN, OF THE MASTER PLAN BY AMENDING ORDINANCE NO. 24-01, IN PART, WHICH ADOPTED THE MASTER PLAN, TO MODIFY THE DEFINITION FOR THE HIGH DENSITY RESIDENTIAL LAND USE CATEGORY, AND TO ADD TWO NEW RESIDENTIAL LAND USE CATEGORIES, "MEDIUM HIGH DENSITY" AND "HIGH DENSITY SINGLE FAMILY DETACHED;" PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, on March 19, 2001, the Town Council of the Town of Flower Mound adopted all nineteen component plans, specifically including the Land Use Plan, together with all amendments thereto, by Ordinance No. 24-01 as a component to the Flower Mound Master Plan; and

WHEREAS, the Planning and Zoning Commission of the Town of Flower Mound, Texas, held a public hearing on November 14, 2016, and the Town Council of the Town of Flower Mound, Texas, held a public hearing on November 21, 2016, with respect to the Master Plan Amendment described herein; and,

WHEREAS, the Town has complied with all requirements of Chapter 213 of the Local Government Code, Chapter 78 of the Town's Land Development Regulations, and all other laws dealing with notice, publication and procedural requirements for the approval of the Master Plan Amendment described herein;

WHEREAS, the Town Council finds that amendment of the Master Plan as outlined herein is in the best interest of the Town of Flower Mound and will promote the health, safety and general welfare of the citizens of the Town of Flower Mound and the general public;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

SECTION 1

The Master Plan of the Town of Flower Mound, Texas, as amended, is hereby amended as described below:

The definition for the High Density Residential Land Use Category in Section 1.0, Land Use Plan, is hereby amended to read as follows:

Ordinance No. _____

Page 2*High Density*

"Residential development with 5 dwelling units per net acre or greater. Included in this category are duplexes, townhouses and garden apartments."

The definitions for two new Residential Land Use Categories are hereby added to Section 1.0, Land Use Plan, to read as follows:

"Medium High Density

Residential development, typically being single family detached residential development with minimum 7,500 square foot lots or greater."

"High Density Single Family Detached

Residential development, typically being single family detached residential development with minimum 3,000 square foot lots or greater."

SECTION 2

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the Town of Flower Mound, Texas, as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 3

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 4

The Town Secretary of the Town of Flower Mound is hereby directed to publish the caption in the official newspaper of the Town of Flower Mound as required by Section 3.07 of the Charter of the Town of Flower Mound.

SECTION 5

This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

Ordinance No. _____

Page 3

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF
FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE ____ DAY OF
_____, 2016.

APPROVED:

Thomas E. Hayden, **MAYOR**

ATTEST:

Theresa Scott, **TOWN SECRETARY**

APPROVED AS TO FORM AND LEGALITY:

Bryn Meredith, **TOWN ATTORNEY**



TOWN COUNCIL AGENDA ITEM NO. 15

REGULAR ITEM

DATE: November 21, 2016

FROM: Matthew Woods, Director of Environmental Services

ITEM: Public Hearing to consider approval of an ordinance amending Chapter 94, "Trees", of the Land Development Regulations (LDR16-0002 – Tree Ordinance Amendments) of the Code of Ordinances by amending Section 94-22, entitled "Protected tree lists," Section 94-23, entitled "Tree survey; development projects," Section 94-32, entitled "Trees located in buildable area," Section 94-39, entitled "Mitigation requirements for authorized tree removal," Section 94-40, entitled "Incentives for preservation of protected, specimen, and historic trees," Section 94-51, entitled "Enumeration," Section 94-65, entitled "Residential lots," Section 94-66, entitled "Approved tree planting lists," Section 94-81, entitled "Exceptions," and deleting Section 94-67, entitled "Landscape credit for large trees." (*The Environmental Conservation Commission recommended approval by a vote of 6 to 0 at its May 3, 2016, meeting. The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its October 10, 2016, meeting).*

BACKGROUND INFORMATION:

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).

Following the amendment to the exception clause, Town staff began working with the Environmental Conservation Commission (ECC) to conduct a comprehensive review of the tree ordinance. The primary objectives of the new tree ordinance amendments are to reduce the specimen size of post oak (*Quercus stellata*) trees from 25 caliper inches to 19 caliper inches, while also providing additional tree credits for the post oak trees to be preserved within the Buildable Area of a site. The proposed amendments also re-define the Buildable Area and provide additional tree credits for other protected and specimen trees located within areas of a site that would not be impacted by construction related activities as part of a new development, along with any Upland and Riparian Habitat to be preserved. Under the present tree ordinance, there are no credits available for the preservation of trees in these open space areas and/or x-lots. Staff will present an analysis of the potential effect of the proposed reduction in the specimen post oak size and incentive credits for multiple development projects.

Staff previously solicited feedback from representatives of the local development community regarding the proposed tree ordinance amendments during the ordinance review process. Feedback received included concerns related to the potential increase in the number of specimen trees that would need to be requested for removal at ECC and Town Council meetings if the post oak tree specimen size is reduced. In addition to the concerns related to the increased number of potential specimen trees, feedback included additional mitigation costs, construction and preservation related costs for additional identified specimen trees, and the potential impact to the application, review, and development approval processes. Incentive options were also discussed and feedback was generally positive if preservation incentives were able to offset some of the potential increases in mitigation requirements.

The majority of the current Tree Ordinance will carry over largely unchanged. However, amendments are being proposed for several sections within the ordinance. The attached draft of the proposed amendments is a redline version which outlines each specific amendment. The proposed amendments would revise the language in the following sections of the ordinance:

- Sec. 94-22. - Protected tree lists;
- Sec. 94-23. - Tree survey; development projects;
- Sec. 94-32. - Trees located in a buildable area;
- Sec. 94-39. - Mitigation requirements for authorized tree removal;
- Sec. 94-40. - Incentives for preservation of protected, specimen, and historic trees;
- Sec. 94-51. - Enumeration;
- Sec. 94-65. - Residential lots;
- Sec. 94-66. - Approved tree planting lists;
- Sec. 94-67. - Landscape credit for large trees; and
- Sec. 94-81. - Exceptions.

BOARD REVIEW/CITIZEN FEEDBACK: This application was considered by the Environmental Conservation Commission (ECC) at its May 3, 2016, meeting and the Planning and Zoning Commission at its October 10, 2016, meeting. A link to the meetings can be found at:

<http://www.flower-mound.com/index.aspx?NID=969>

CITIZEN FEEDBACK: As of November 8, 2016, staff has not received any additional feedback related to this item.

ALTERNATIVES/OPTIONS: The Town Council may approve the proposed amendments to Chapter 94 of the Land Development Regulations, may choose to deny the proposed amendments, or may choose to approve the proposed amendments with conditions or changes.

LEGAL REVIEW: Tim Sralla of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the ordinance as to form and legality.

ATTACHMENTS:

1. Draft Ordinance
2. Chapter 94 "Trees"

DRAFT MOTION: Move to approve an ordinance amending Chapter 94, "Trees", of the Land Development Regulations (LDR16-0002 – Tree Ordinance Amendments) of the Code of Ordinances by amending Section 94-22, entitled "Protected tree lists," Section 94-23, entitled "Tree survey; development projects," Section 94-32, entitled "Trees located in buildable area," Section 94-39, entitled "Mitigation requirements for authorized tree removal," Section 94-40, entitled "Incentives for preservation of protected, specimen, and historic trees," Section 94-51, entitled "Enumeration," Section 94-65, entitled "Residential lots," Section 94-66, entitled "Approved tree planting lists," Section 94-81, entitled "Exceptions," and deleting Section 94-67, entitled "Landscape credit for large trees."

TOWN OF FLOWER MOUND, TEXAS**ORDINANCE NO.**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY AMENDING SUBPART B, "LAND DEVELOPMENT REGULATIONS," THROUGH THE AMENDMENT OF CHAPTER 94, "TREES."

WHEREAS, after public notice and public hearing as required by law, the Planning and Zoning Commission of the Town of Flower Mound, Texas, has recommended the amendment of Chapter 94 of the Code of Ordinances, entitled "Trees."; and

WHEREAS, after public notice and public hearing as required by law, and upon due deliberation and consideration of the recommendation of said Planning and Zoning Commission and of all testimony and information submitted during said public hearing, the Town Council of the Town of Flower Mound, Texas, has determined that it is in the public's best interest and in furtherance of the health, safety, morals, and general welfare of the citizens of the Town to amend the Town Code of Ordinances as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

SECTION 1

All of the above premises are hereby found to be true and correct legislative and factual determinations of the Town of Flower Mound and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

From and after the effective date of this Ordinance, Section 94-22 of Chapter 94 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Trees," is hereby amended to read as follows:

“Sec. 94-22. Protected tree lists.*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)
Post oak	(Quercus stellata)

Large Tree List

Common Name	Scientific Name
Post oak	(Quercus stellata)
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)

SECTION 3

From and after the effective date of this Ordinance, Section 94-23 of Chapter 94 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled “Trees,” is hereby amended to read as follows:

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 x 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.

SECTION 4

From and after the effective date of this Ordinance, Section 94-32 of Chapter 94 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Trees," is hereby amended to read as follows:

Sec. 94-32. - Trees located in a buildable area.

The phrase "buildable area" shall mean and include all that ~~portion of the~~ **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.** ~~inclusive of the approved footprint of the building, structure, or oil and gas pad site, and projected ten feet from the outside of each such structure or facility. "Buildable area" shall also mean and include those areas on a building lot, oil and gas pad site, development site, or other site as shown on the required site plan or development plan that is necessary for the construction of other improvements such as driveways, parking areas, pools, detention ponds/structures, tennis courts, and accessory buildings including sufficient adjacent area to allow the normal operation of construction equipment. Further, "buildable area" shall also mean and include all new commercial and residential rights of way and easements as shown on newly approved record plats, replats, and amended plats. Buildable area shall not include~~ **Trees located within TXDOT rights-of-way are exempt from the terms and provisions of this chapter.** ~~or town-required easements.~~

SECTION 5

From and after the effective date of this Ordinance, a new Subsection (b) is added to Section 94-39 of Chapter 94 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Trees," which new subsection shall provide as follows:

Sec. 94-39. - Mitigation requirements for authorized tree removal.

(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 per acre. Preservation incentives for upland and/or riparian habitat preserved within a project are established in Sec. 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.

The existing Subsections (a) and (b) of Section 94-39 of Chapter 94 shall remain unchanged, but Subsection (b) is renumbered to Subsection (c).

SECTION 6

From and after the effective date of this Ordinance, Section 94-40 of Chapter 94 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Trees," is hereby amended to read as follows:

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.**

SECTION 7

From and after the effective date of this Ordinance, Section 94-51 of Chapter 94 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Trees," is hereby amended to read as follows:

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 offsite. 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.

SECTION 8

From and after the effective date of this Ordinance, Section 94-65 of Chapter 94 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Trees," is hereby amended to read as follows:

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% of any tree species, and no more than 75% of any tree genus permitted to satisfy the planting requirements.

SECTION 9

From and after the effective date of this Ordinance, Section 94-66 of Chapter 94 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Trees," is hereby amended to read as follows:

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% of a tree species, and no more than 50% 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	(Quercus muehlenbergii)
Monterrey oak	(Quercus polymorpha)
Bur oak	(Quercus macrocarpa)
Texas red oak	(Quercus texana)
Water oak	(Quercus nigra)
American elm	(Ulmus americana)
Cedar elm	(Ulmus crassifolia)
Winged elm	(Ulmus alata)
Lacebark elm	(Ulmus parvifolia)
Bald Cypress	(Taxodium distichum)
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)
Chinese pistache	(Pistachia chinensis)
Leyland Cypress	(Cypressocyparis leylandi)
Black Walnut	(Juglans nigra)
Magnolia	(Magnolia grandiflora)

SECTION 10

From and after the effective date of this Ordinance, the existing Section 94-67 of Chapter 94 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Trees," is hereby deleted, and the existing Section 94-68 shall be renumbered as Section 94-67.

Sec. 94-67. -- Landscape credit for large trees.

~~(a) Trees that are newly planted or already established and growing shall be counted for credit toward the requirements of section 82-241 of this Code, street yard landscaping, and section~~

~~82-243 of this Code, parking area landscaping, as follows, provided that they are located within the street yard and/or parking area:~~

12 inches or greater diameter:	2,000 square feet
6 inches or greater diameter:	1,000 square feet

~~-~~

~~No credit shall be allowed or given if, in the opinion of the tree preservation and enforcement officer or authorized designee, grade alterations surrounding the established tree are detrimental to the survival of the tree. It shall be incumbent upon the developer to demonstrate the site development follows recommended procedures to guarantee survival of established trees. If existing trees are to be retained in a parking lot area, sufficient ground (the drip line) shall be left ungraded around each tree to allow for the survival of the tree. Special consideration shall be given to the preservation of large oak, elm, pecan and hickory trees. Preservation of trees shall be in conformance with article V of this chapter.~~

~~Existing trees that have either been preserved or replanted and meet the minimum standards of the following tree credit schedule may be substituted or credited toward the requirements of this article, tree planting requirements and planting lists as follows. Fractional measurements shall be rounded to the nearest whole number. Caliper width shall be measured at a point four and one-half feet above natural grade level.~~

~~Tree Credit Schedule~~

Caliper Size (Diameter)	Tree Credits
Less than 6 inches	0
6—10 inches	2
11—14 inches	3
15—20 inches	4
21—26 inches	5
27—32 inches	6
Greater than 32 inches	7

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~~However, no tree credits shall be allowed or permitted for trees that are dead, dying, diseased or infested with harmful insects; 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; trees that are not included on the~~

~~protected tree list; or trees that are located within recreational tracts, golf courses or similar sub-areas of planned developments which are not intended to be developed for either residential or nonresidential uses.~~

SECTION 11

From and after the effective date of this Ordinance, Section 94-81 of Chapter 94 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Trees," is hereby amended to read as follows:

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.

~~(8) Trees that are situated within a town-required easement shall not be considered as being located within the "buildable area" as that term is defined herein above.~~

SECTION 12

This Ordinance shall be cumulative of all provisions of ordinances of the Town of Flower Mound, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 13

It is hereby declared to be the intention of the Town Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 14

Any person, firm, or corporation who violates any provision of this

Ordinance as adopted by the Town Council of the Town of Flower Mound shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances of the Town of Flower Mound. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 15

This Ordinance shall take effect and be in full force from and after its passage and publication, as provided by the Revised Civil Statutes of the State of Texas and the Home Rule Charter of the Town of Flower Mound, Texas.

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE
TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF___ TO___ , ON THIS
THE ___ DAY OF _____, 2016.**

APPROVED:

Thomas E. Hayden, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

APPROVED AS TO FORM AND LEGALITY:

Bryn Meredith, TOWN ATTORNEY

Chapter 94 - TREES

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.

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.

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.

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.

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.
- (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.

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)
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Large Tree List

Common Name	Scientific Name
Post oak	(Quercus stellata)
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)

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 x 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.

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.

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.

Sec. 94-32. - Trees located in a buildable area.

The phrase "buildable area" shall mean and include all that portion of the building lot, oil and gas pad site, development site or other site inclusive of the approved footprint of the building, structure, or oil and gas pad site, and projected ten feet from the outside of each such structure or facility. "Buildable area" shall also mean and include those areas on a building lot, oil and gas pad site, development site, or other site as shown on the required site plan or development plan that is necessary for the construction of other improvements such as driveways, parking areas, pools, detention ponds/structures, tennis courts, and accessory buildings including sufficient adjacent area to allow the normal operation of construction equipment. Further, "buildable area" shall also mean and include all new commercial and residential rights-of-way and easements as shown on newly approved record plats, replats, and amended plats. Buildable area shall not include TXDOT rights-of-way or town-required easements.

The following provisions shall apply to trees located within the buildable area:

- (1) For residential building lots one acre in size or larger, no protected, specimen, or historic trees shall be removed from the lot or site prior to the issuance of a building permit relating to the lot or site, prior to the issuance of any necessary tree removal permits, and prior to determining mitigation or replacement requirements on the lot or site. The removal of protected and/or non-protected trees located within the approved buildable area on a lot or site does not require a tree removal permit; however, such trees shall not be removed from a lot or site prior to all of the other conditions listed above being met.
- (2) For residential building lots less than one acre in size, as well as for existing public rights-of-way and easements, protected and non-protected trees located within the buildable area of a building lot or site may be removed without a tree removal permit and prior to the issuance of a building permit, with prior approval of the tree preservation and enforcement officer and after determining mitigation or replacement requirements for the lot or site. However, a tree removal permit is required prior to the removal of any specimen or historic trees on the lot or site.
- (3) For all other development projects, no protected, specimen, or historic trees shall be removed from the lot or site prior to the approval of a record plat, site plan, development plan, zoning planned development, or oil and gas well permit, where buildable area is established, and prior to a preconstruction meeting with appropriate town staff authorizing grading and construction activities to begin on the lot or site, and prior to the issuance of any necessary tree removal permits, and prior to determining mitigation or replacement requirements on the lot or site. The removal of protected and non-protected trees located within the approved buildable area on a lot or site does not require a tree removal permit, however; such trees shall not be removed from a lot or site prior to all of the other conditions listed above being met.

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.

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

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.

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.

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.

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.

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) *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.
- (c) *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.
- (d) *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.

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. Following is a list of credits available for the preservation of protected and specimen 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

For purposes of this section, one mitigation tree credit shall be the equivalent of one container-grown tree 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.

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.

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 offsite. 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, or historic trees.

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.

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.

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.

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.

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 single-family and duplex lot 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.

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.

- (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	(Quercus virginiana)

Escarpment live oak	(Quercus fusiformis)
Shumard oak	(Quercus shumardi)
Chinkapin oak	(Quercus muehlenbergii)
Bur oak	(Quercus macrocarpa)
Texas red oak	(Quercus texana)
Water oak	(Quercus nigra)
American elm	(Ulmus americana)
Cedar elm	(Ulmus crassifolia)
Winged elm	(Ulmus alata)
Lacebark elm	(Ulmus parvifolia)
Bald Cypress	(Taxodium distichum)
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)

Chinese pistache	(Pistachia chinensis)
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
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)

Sec. 94-67. - Landscape credit for large trees.

- (a) Trees that are newly planted or already established and growing shall be counted for credit toward the requirements of section 82-241 of this Code, street yard landscaping, and section 82-243 of this Code, parking area landscaping, as follows, provided that they are located within the street yard and/or parking area:

12 inches or greater diameter:	2,000 square feet
6 inches or greater diameter:	1,000 square feet

No credit shall be allowed or given if, in the opinion of the tree preservation and enforcement officer or authorized designee, grade alterations surrounding the established tree are detrimental to the survival of the tree. It shall be incumbent upon the developer to demonstrate the site development follows recommended procedures to guarantee survival of established trees. If existing trees are to be retained in a parking lot area, sufficient ground (the drip line) shall be left ungraded around each tree to allow for the survival of the tree. Special consideration shall be given to the preservation of large oak, elm, pecan and hickory trees. Preservation of trees shall be in conformance with article V of this chapter.

Existing trees that have either been preserved or replanted and meet the minimum standards of the following tree credit schedule may be substituted or credited toward the requirements of this article, tree planting requirements and planting lists as follows. Fractional measurements shall be rounded to the nearest whole number. Caliper width shall be measured at a point four and one-half feet above natural grade level.

Tree Credit Schedule

Caliper Size (Diameter)	Tree Credits
Less than 6 inches	0
6—10 inches	2
11—14 inches	3
15—20 inches	4
21—26 inches	5
27—32 inches	6
Greater than 32 inches	7

However, no tree credits shall be allowed or permitted for trees that are dead, dying, diseased or infested with harmful insects; 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; trees that are not included on the protected tree list; or trees that are located within recreational tracts, golf courses or similar sub-areas of planned developments which are not intended to be developed for either residential or nonresidential uses.

Sec. 94-68. - 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.

Secs. 94-69—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.
- (8) Trees that are situated within a town-required easement shall not be considered as being located within the "buildable area" as that term is defined herein above.

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.

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.



TOWN COUNCIL AGENDA ITEM NO. 16

REGULAR ITEM

DATE: November 21, 2016

FROM: Matthew Woods, Director of Environmental Services

ITEM: Public Hearing to consider approval of an ordinance amending Chapter 94, "Trees", of the Land Development Regulations (LDR16-0006 – Tree Ordinance Permits) of the Code of Ordinances by amending Section 94-34, entitled "Tree removal permit," and Section 94-37, entitled "Review of application." *(The Environmental Conservation Commission recommended denial by a vote of 6 to 0 at its November 1, 2016, meeting. The Planning and Zoning Commission recommended approval by a vote of 4 to 3 at its November 14, 2016, meeting).*

BACKGROUND INFORMATION: Following the recent tree ordinance review process, staff received direction at Town Council work sessions in September and October to bring forward an additional proposed amendment to allow specimen tree removal requests to be processed administratively. Specimen tree removal permit requests are currently required to receive a recommendation from the Environmental Conservation Commission (ECC) and final consideration from Town Council. The proposed amendments would allow the permits to be processed administratively at the staff level and would not require a recommendation from ECC or subsequent Town Council consideration.

The topic of administrative review and approval of specimen tree removal permits was discussed by representatives of the development community during the ordinance review process. Discussion included allowing more flexibility relative to which trees would need to go before the ECC and Town Council for consideration. The ECC members present at the developer meeting and at the subsequent ECC regular meeting felt that the public review and recommendation process was needed for the removal of specimen trees.

If the proposed amendments are approved, staff would review and approve specimen tree removal requests for specimen trees located within the designated buildable area. Staff would apply any applicable mitigation requirements for the removal of specimen trees located within the buildable area. Staff would have the ability to deny incomplete application submittals and specimen tree removal requests for specimen trees located in areas outside of the designated buildable area.

BOARD REVIEW/CITIZEN FEEDBACK: This application was considered by the Environmental Conservation Commission (ECC) at its November 1, 2016, meeting and the Planning and Zoning Commission at its November 14, 2016, meeting. A link to the meetings can be found at: <http://www.flower-mound.com/index.aspx?NID=969>

CITIZEN FEEDBACK: As of November 8, 2016, staff has not received any additional feedback related to this item.

ALTERNATIVES/OPTIONS: The Town Council may approve the proposed amendments to Chapter 94 of the Land Development Regulations, may choose to deny the proposed amendments, or may choose to approve the proposed amendments with conditions or changes.

LEGAL REVIEW: Tim Sralla of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the ordinance as to form and legality.

ATTACHMENTS:

1. Draft Ordinance
2. Chapter 94 "Trees"

DRAFT MOTION: Move to approve an ordinance amending Chapter 94, "Trees", of the Land Development Regulations (LDR16-0006 – Tree Ordinance Amendments) of the Code of Ordinances by amending Section 94-34, entitled "Tree removal permit," and Section 94-37, entitled "Review of application."

TOWN OF FLOWER MOUND, TEXAS**ORDINANCE NO.**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY AMENDING SUBPART B, "LAND DEVELOPMENT REGULATIONS," THROUGH THE AMENDMENT OF CHAPTER 94, "TREES."

WHEREAS, after public notice and public hearing as required by law, the Planning and Zoning Commission of the Town of Flower Mound, Texas, has recommended the amendment of Chapter 94 of the Code of Ordinances, entitled "Trees."; and

WHEREAS, after public notice and public hearing as required by law, and upon due deliberation and consideration of the recommendation of said Planning and Zoning Commission and of all testimony and information submitted during said public hearing, the Town Council of the Town of Flower Mound, Texas, has determined that it is in the public's best interest and in furtherance of the health, safety, morals, and general welfare of the citizens of the Town to amend the Town Code of Ordinances as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

SECTION 1

All of the above premises are hereby found to be true and correct legislative and factual determinations of the Town of Flower Mound and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

From and after the effective date of this Ordinance, Section 94-34 of Chapter 94 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Trees," is hereby amended to read as follows:

"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 ~~processed administratively and approved, approved with conditions, or denied, as appropriate~~ 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 ~~processed administratively and approved, approved with conditions, or denied as appropriate~~ 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 ~~processed administratively and approved, approved with conditions, or denied, as appropriate~~ 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.~~

(4-3) 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

SECTION 3

From and after the effective date of this Ordinance, Section 94-37 of Chapter 94 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Trees," is hereby amended to read as follows:

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 ~~or specimen~~ 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 ~~located within the buildable area~~ within all other districts shall be submitted to the ~~town's tree preservation officer for review and mitigation assessment.~~ ~~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- e) Approval for removal of a historic tree shall require a three-fourths majority vote of the environmental conservation commission and the town council, respectively.”

SECTION 4

This Ordinance shall be cumulative of all provisions of ordinances of the Town of Flower Mound, Texas, except where the provisions of this Ordinance are

in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 5

It is hereby declared to be the intention of the Town Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 6

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council of the Town of Flower Mound shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances of the Town of Flower Mound. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 7

This Ordinance shall take effect and be in full force from and after its passage and publication, as provided by the Revised Civil Statutes of the State of Texas and the Home Rule Charter of the Town of Flower Mound, Texas.

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE
TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF___ TO___ , ON THIS
THE ___ DAY OF _____, 2016.**

APPROVED:

Thomas E. Hayden, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

APPROVED AS TO FORM AND LEGALITY:

Bryn Meredith, TOWN ATTORNEY

Chapter 94 - TREES

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.

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.

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.

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.

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.
- (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.

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	(Liquidambar styraciflua)
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Large Tree List

Common Name	Scientific Name
Post oak	(Quercus stellata)
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	(Carya species)
Magnolia	(Magnolia grandiflora)
Bald cypress	(Taxodium distichum)
Pine species	(Pinus species)
Ash species	(Fraxinus species)
Sycamore	(Plantanus occidentalis)
Black walnut	(Juglans nigra)

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 x 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.

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.

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.

Sec. 94-32. - Trees located in a buildable area.

The phrase "buildable area" shall mean and include all that portion of the building lot, oil and gas pad site, development site or other site inclusive of the approved footprint of the building, structure, or oil and gas pad site, and projected ten feet from the outside of each such structure or facility. "Buildable area" shall also mean and include those areas on a building lot, oil and gas pad site, development site, or other site as shown on the required site plan or development plan that is necessary for the construction of other improvements such as driveways, parking areas, pools, detention ponds/structures, tennis courts, and accessory buildings including sufficient adjacent area to allow the normal operation of construction equipment. Further, "buildable area" shall also mean and include all new commercial and residential rights-of-way and easements as shown on newly approved record plats, replats, and amended plats. Buildable area shall not include TXDOT rights-of-way or town-required easements.

The following provisions shall apply to trees located within the buildable area:

- (1) For residential building lots one acre in size or larger, no protected, specimen, or historic trees shall be removed from the lot or site prior to the issuance of a building permit relating to the lot or site, prior to the issuance of any necessary tree removal permits, and prior to determining mitigation or replacement requirements on the lot or site. The removal of protected and/or non-protected trees located within the approved buildable area on a lot or site does not require a tree removal permit; however, such trees shall not be removed from a lot or site prior to all of the other conditions listed above being met.
- (2) For residential building lots less than one acre in size, as well as for existing public rights-of-way and easements, protected and non-protected trees located within the buildable area of a building lot or site may be removed without a tree removal permit and prior to the issuance of a building permit, with prior approval of the tree preservation and enforcement officer and after determining mitigation or replacement requirements for the lot or site. However, a tree removal permit is required prior to the removal of any specimen or historic trees on the lot or site.
- (3) For all other development projects, no protected, specimen, or historic trees shall be removed from the lot or site prior to the approval of a record plat, site plan, development plan, zoning planned development, or oil and gas well permit, where buildable area is established, and prior to a preconstruction meeting with appropriate town staff authorizing grading and construction activities to begin on the lot or site, and prior to the issuance of any necessary tree removal permits, and prior to determining mitigation or replacement requirements on the lot or site. The removal of protected and non-protected trees located within the approved buildable area on a lot or site does not require a tree removal permit, however; such trees shall not be removed from a lot or site prior to all of the other conditions listed above being met.

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.

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

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.

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.

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.

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.

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) *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.
- (c) *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.
- (d) *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.

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. Following is a list of credits available for the preservation of protected and specimen 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

For purposes of this section, one mitigation tree credit shall be the equivalent of one container-grown tree 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.

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.

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 offsite. 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, or historic trees.

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.

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.

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.

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.

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 single-family and duplex lot 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.

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.

- (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	(Quercus virginiana)

Escarpment live oak	(Quercus fusiformis)
Shumard oak	(Quercus shumardi)
Chinkapin oak	(Quercus muehlenbergii)
Bur oak	(Quercus macrocarpa)
Texas red oak	(Quercus texana)
Water oak	(Quercus nigra)
American elm	(Ulmus americana)
Cedar elm	(Ulmus crassifolia)
Winged elm	(Ulmus alata)
Lacebark elm	(Ulmus parvifolia)
Bald Cypress	(Taxodium distichum)
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)

Chinese pistache	(Pistachia chinensis)
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
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)

Sec. 94-67. - Landscape credit for large trees.

- (a) Trees that are newly planted or already established and growing shall be counted for credit toward the requirements of section 82-241 of this Code, street yard landscaping, and section 82-243 of this Code, parking area landscaping, as follows, provided that they are located within the street yard and/or parking area:

12 inches or greater diameter:	2,000 square feet
6 inches or greater diameter:	1,000 square feet

No credit shall be allowed or given if, in the opinion of the tree preservation and enforcement officer or authorized designee, grade alterations surrounding the established tree are detrimental to the survival of the tree. It shall be incumbent upon the developer to demonstrate the site development follows recommended procedures to guarantee survival of established trees. If existing trees are to be retained in a parking lot area, sufficient ground (the drip line) shall be left ungraded around each tree to allow for the survival of the tree. Special consideration shall be given to the preservation of large oak, elm, pecan and hickory trees. Preservation of trees shall be in conformance with article V of this chapter.

Existing trees that have either been preserved or replanted and meet the minimum standards of the following tree credit schedule may be substituted or credited toward the requirements of this article, tree planting requirements and planting lists as follows. Fractional measurements shall be rounded to the nearest whole number. Caliper width shall be measured at a point four and one-half feet above natural grade level.

Tree Credit Schedule

Caliper Size (Diameter)	Tree Credits
Less than 6 inches	0
6—10 inches	2
11—14 inches	3
15—20 inches	4
21—26 inches	5
27—32 inches	6
Greater than 32 inches	7

However, no tree credits shall be allowed or permitted for trees that are dead, dying, diseased or infested with harmful insects; 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; trees that are not included on the protected tree list; or trees that are located within recreational tracts, golf courses or similar sub-areas of planned developments which are not intended to be developed for either residential or nonresidential uses.

Sec. 94-68. - 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.

Secs. 94-69—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.
- (8) Trees that are situated within a town-required easement shall not be considered as being located within the "buildable area" as that term is defined herein above.

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.

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.

Town Council Future Agenda Items



SCHEDULED	12/5/2016	Presentation	2016 Outstanding Citizenship Award Presentation (individual and group categories)
		Presentation	Certificate of Achievement to UIL 6A State Champions Flower Mound High School Marching Band
		Presentation	Annual update on Innovate Flower Mound entrepreneurial center
		Consent	Consider approval of the award of Bid No. 2017-7 to Utility Service Company, Inc., for the Bruton Orand Elevated Storage Tank Rehabilitation project, in the amount of \$1,185,450.00; and authorization for the Mayor to execute same on behalf of the Town.
		Consent	Consider approval of the award of the Sidewalk Links and ADA Improvements projects, Annual Contract Bid No. 2017-6 to VA Construction Inc., and Apex Concrete Construction Inc., to establish an annual unit bid price contract for the installation of sidewalk and ADA improvements for a first-year estimated amount of \$416,000.00; and authorization for the Mayor to execute same on behalf of the Town. The contract is for one-year with four one-year renewal options.
		Consent	Consider approval of a resolution authorizing the adoption of the Program Year 2015 Consolidated Annual Performance & Evaluation Report for the Community Development Block Grant; and authorization for the Mayor to execute same on behalf of the Town and submit to the U.S. Department of Housing and Urban Development.
		Consent	Consider approval of an ordinance for MISC16-0003 street name change for Lake Ridge Drive to Lake Ridge Road. (The Transportation Commission recommended changing of this street name change by a vote of 6 to 0 at its October 11, 2016, meeting.)
		Consent	Consider approval of the purchase of pavement marking services, in the estimated annual amount of \$150,000.00, from Stripe-A-Zone, through a City of Grand Prairie contract.
		Consent	Consider approval of Change Order No. 1 and final acceptance of the FM 1171 at Kirkpatrick – Reconstruction and FM 1171 at Timber Creek – Reconstruction signal projects amending the contract with Roadway Solutions, Inc., for an increase of \$26,107.30; authorization for final payment to Durable Specialties Inc., in the amount of \$56,141.44; and authorization for the Mayor to execute same on behalf of the Town.
		Consent	Consider approval of the purchase of mobile computers and related software for the implementation of an Incident Based Reporting System for Animal Services.

SCHEDULED	12/5/2016	Consent	Consider approval of a Professional Services Agreement for the 2016 Water and Wastewater Model Update projects, with Kimley-Horn and Associates, Inc., for \$21,500.00; and authorization for the Mayor to execute same on behalf of the Town.
		Consent	Consider approval of final acceptance and Change Order No. 1, of the Bakersfield Park Pedestrian Bridge project for Humphry and Morton Construction Company, Inc., and authorization for final payment to Northstar Construction, in the amount of \$24,140.97; and authorization for the Mayor to execute same on behalf of the Town.
		Consent	PLACEHOLDER: Modern Geosciences PSA
		Consent	Consider and approve a new contract with the City of Dallas for wholesale treated water, describing the terms and conditions relating to the purchase and delivery of potable water to the existing Pintail Pump Station.
		Consent	Consider approval of the minutes from a regular meeting of the Town Council held on November 21, 2016.
12/15/2016	Work Session		Presentation and discussion regarding the Parks and Trails Master Plan
12/19/2016	Consent		Pintail Pump Station Capacity Improvements Change Order No. 1.
		Consent	Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning October 1, 2016 and ending on September 30, 2017, as adopted by Ordinance No. __-16 for adjustments to the _____ Fund, _____ Fund, _____ Fund, _____ Fund, _____ Fund, and _____ Fund.
		Consent	Heritage Park Phase IV Design Award.
		Consent	High Road Water Line Design Award.
		Consent	Timber Creek Road Paving Improvements (Kirkpatrick Lane to Glen Hollow) Change Order No.1 and Final Acceptance.
		Consent	Consider approval of a contract with TBD in the amount of \$\$\$ for reinsurance coverage for the Town's Group Health Plan.
		Consent	Inflow/Infiltration Evaluation and Repair (2016 Manhole Rehabilitation) Testing Award.
		Consent	Heritage Park Phase III Construction Award.
		Consent	Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning October 1, 2015 and ending on September 30, 2016, as adopted by Ordinance No. 52-15 and amended by Ordinance No. 70-15, No. 04-16, No. 09-16, No. 13-16 and No. 29-16 for an adjustment to the _____ Fund and _____ Fund.

SCHEDULED	12/19/2016	Consent	Consider approval of the sale and consumption of alcoholic beverages (beer and wine) at Bakersfield Park, during the 2017 Independence Fest.
		Consent	Consider approval of Standards of Care for Youth Recreation Programs operated by the Town, in accordance with the Texas Human Resources Code - Section 42.041 and to adopt an ordinance providing for said Standards.
		Consent	Oak Drive Water Main Replacement CO 3 and Final Acceptance.
		Consent	Consider approval of the 2016 Annual Report for the Flower Mound Tax Increment Reinvestment Zone #1 (TIRZ #1) in accordance with Chapter 311 of the Texas Tax Code.
		Consent	Town Hall CMR.
		Consent	Consider approval to purchase materials and installation for the Inflow & Infiltration Evaluation and Repair (2016 Manhole Rehabilitation) project, from Fuquay, Inc., a Buy Board participant; in the amount of \$488,154.00.
		Consent	Bruton Orand Elevated Storage Tank Rehab CCA Award.
		Consent	Consider approval of the minutes from a regular meeting of the Town Council held on December 5, 2016.
	1/17/2017	Consent	Oak Street Lift Station and Force Main Change Order No. 3 and Final Acceptance.
		Consent	FM 2499 / Gerault Drainage and Intersection Construction Award.
		Consent	Oak Drive Water Main Replacement Change Order 3 and Final Acceptance.
		Consent	Bruton Orand Elevated Storage Tank Rehab Testing Award.
		Consent	FM 1171 @ FM 2499 Eastbound Right Turn Lane Construction Award.
		Consent	Western O&M Facility (Temporary Fire Station No.6) Final Acceptance.
		Consent	Lakeside Lift Station and Force Main Change Order 3 and Final Acceptance.
	1/19/2017	Work Session	Discuss and receive direction on Community Support funding policy
	2/16/2017	Work Session	PLACEHOLDER: Joint Work Session with ECC to include a presentation and discussion involving the Town's Sustainability Plan
	3/16/2017	Work Session	Presentation and discussion regarding the undergrounding of overhead utilities

FUTURE	Presentation	Public Information Act and Open Records Request review and discussion.
	Consent	Consider approval of the purchase of The Brazos Technology eCitation/Accident Reporting Data Capture System by the Flower Mound Police.
	Consent	Shady Point Acres Water Main Replacement Construction Award.
	Consent	Waketon Road Drainage Study.
	Regular	Public Hearing to consider an application for a tree removal permit for nineteen (19) specimen trees on property proposed for development as The Lakes. The property is generally located west of Shiloh Road and north of Cross Timbers Road. (The Environmental Conservation Commission recommended approval by a vote of 4-2-0 at its June 7, 2016, meeting).