

AGENDA

FLOWER MOUND TOWN COUNCIL REGULAR MEETING; TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT SPECIAL MEETING; AND CRIME CONTROL AND PREVENTION DISTRICT SPECIAL MEETING

12/19/2016

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."

Cub Scout Troop 1171 to lead the pledges.

D. PRESENTATIONS

1. Presentation of Lifesaving Award to Battalion Chief Kelley Cato, Captain John Wright, Engineer Steve Sunthimer, and Firefighters Travis Walker, Darren Miller, Matthew Frisinger, Dustin Brewer and Wade Cannon.

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 new town hall and library expansion.
4. Update and discussion on the quality of cell service in certain parts of Flower Mound.

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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 Town Council meeting is a scheduled for Tuesday, January 17, 2017 (*Jan. 2 has been cancelled due to the New Year Holiday and Jan. 16 rescheduled to Tues. due to the Martin Luther King, Jr. Holiday*).

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 12/5-** Consider approval of the minutes from a regular meeting of the Town Council held on December 5, 2016.
2. **Minutes 12/15** - Consider approval of the minutes from a work session of the Town Council held on December 15, 2016.
3. **PALS board renaming-** Consider changing the name from the 'Parks, Arts, and Library Services Board (PALS)' to the 'Parks Board' and removing the arts and library functions (in coordination with Proposition No. 7 from the November 8, 2016, Special Charter Amendment Election).
4. **Part-Time Employee CAC Benefit-** Consider approval of an ordinance amending Appendix A "Fee Schedule" to establish the fee for the usage of the Town Community Activity Center (CAC) by part-time town employees.
5. **Stop Loss Insurance Coverage-** Consider approval of a contract with Stealth - HIIG in the amount of \$458,147 for reinsurance coverage for the Town's Group Health Plan.
6. **Standards of Care - Youth Programs-** 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.
7. **Alcohol Approval - Independence Fest-** Consider approval of the sale and consumption of alcoholic beverages (beer and wine) at Bakersfield Park, during the 2017 Independence Fest.
8. **Crime District Budget Amend 16-17-** Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to consider approval of a resolution amending the Town of Flower Mound Crime Control and Prevention District budget for the fiscal year beginning on October 1, 2016, and ending on September 30, 2017, as adopted by Resolution No. 20-16.
9. **Fire District Budget Amend FY 15-16-** Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider approval of a resolution amending the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget for the fiscal year beginning on October 1, 2015, and ending on September 30, 2016, as adopted by Resolution No. 18-15.

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10. **Final Budget Amend FY 15-16-** 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 General Fund, General Debt Service Fund, Utility Fund, Chapter 59 Seizure Fund, and the Vehicle and Equipment Replacement Fund.
11. **Budget Amend FY 16-17-** 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. 52-16 for adjustments to the General Fund, Utility Fund, Library Development Fund, IRS Equitable Sharing Fund, Chapter 59 Seizure Fund, and Vehicle and Equipment Replacement Fund.
12. **Log Cabin Grant-** Consider acceptance of a Texas Preservation Trust Fund grant from the Texas Historical Commission (THC) and execution of an agreement with the THC; and authorization for the Mayor to execute said agreement on behalf of the Town.
13. **Town Hall project-** Consider approval of a Construction Manager at Risk Agreement, for the construction of the Town Hall project, with Steele Freeman Inc.; and authorization for the Mayor to execute the same on behalf of the Town.
14. **Pintail Pump Station CO 1-** Consider approval of Change Order No. 1 for the construction of the Pintail Pump Station Capacity Improvements project, amending the contract with Felix Construction Company, Corp., to provide for additional contract days and an increase to the contract in the amount of \$47,212.37, increasing the total contract amount to \$1,056,592.37; and authorization for the Mayor to execute same on behalf of the Town.
15. **Manhole Rehabilitation Construction Award-** 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 \$483,644.00.
16. **Bruton Orand Elevated Storage Tank Agreement-** Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide contract construction administration phase services, associated with the Bruton Orand EST Rehabilitation project, in the amount of \$54,500.00; and authorization for the Mayor to execute same on behalf of the Town.
17. **2016 TIRZ Annual Report-** 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.
18. **Equipment purchase-** Consider approval of the purchase of two (2) Toro Groundsmaster GM4300 TIV with service pack combo for the Park Services Department from Professional Turf Products, L.P., in the amount of \$102,450.68.

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K. REGULAR ITEMS

19. Bradford Park - DP16-0003

Public Hearing

Public Hearing to consider a request for a Development Plan (DP16-0003 - Bradford Park) to develop a residential subdivision, with an exception to Section 90-423, "Underground utilities," of the Code of Ordinances. The property is generally located south and west of the intersection of Rippy Road and Waketon Road. (The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its December 12, 2016, meeting.)

20. Enterprise Storage - SUP16-0013

Public Hearing

Public Hearing to consider a request for a Specific Use Permit No. 448 (SUP16-0013 - Enterprise Storage) to permit a mini-warehouse facility with an exception to the access management policy and criteria regarding driveway spacing contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances, and to consider adopting an ordinance providing for said amendment. The property is generally located west of Enterprise Drive and north of Long Prairie Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its December 12, 2016, meeting.)

- 21. River Walk - SP16-0009-** Consider a request for a Site Plan (SP16-0009 - River Walk Amphitheater) to develop an outdoor amusement and recreation building. The property is generally located south of Royal Crescent Drive North and east of River Walk Drive. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its December 12, 2016, meeting.)

22. River Walk - SUP16-0003

Public Hearing

Public Hearing to consider a request for a Specific Use Permit No. 445 (SUP16-0003 - River Walk Amphitheater and Splash Pad) to permit an outdoor amusement and recreation use, and to consider adopting an ordinance providing for said amendment. The property is generally located south of Royal Crescent Drive North and east of River Walk Drive. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its December 12, 2016, meeting.)

23. Specific Plan Area - MPA16-0014

Public Hearing

Public Hearing to consider a request for a Master Plan Amendment (MPA16-0014 – Specific Plan Areas) to delete Section 3, Specific Plans, in its entirety and to amend Section 1, Land Use Plan, by removing the summary description of Specific Plan Areas and by adopting a revised Land Use Map which replaces the white SPA boundary overlays with colors of the existing land use designations, and to consider adopting an ordinance providing for said amendment. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its December 12, 2016, meeting.)

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L. 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: **Community Development Corporation**.
- b. Discuss and consider economic development incentives, including retail centers, corporate relocation/expansion/retention, hospitality projects, and performance related to certain incentive agreements.
- c. 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.
- d. Consultation with Town Attorney:
 1. Public Utility Commission of Texas (Docket No. 45175) and State Office of Administrative Hearings (SOAH) (Docket No. 473-16-1119)
 2. Tree preservation ordinance

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.

M. 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.

N. 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: December 16, 2016, at 11:30 a.m., at least 72 hours prior to the scheduled time of said meeting.

Theresa Scott, Town Secretary

The Flower Mound Town Hall and Council Chambers are wheelchair accessible. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting by contacting Theresa Scott, Town Secretary, at (972) 874-6076.



TOWN COUNCIL AGENDA ITEM NO. 1

CONSENT ITEM

DATE: December 19, 2016

FROM: Theresa Scott, Town Secretary

ITEM: Consider approval of the minutes from a regular meeting of the Town Council held on December 5, 2016.

BACKGROUND INFORMATION: The Town Council held a regular meeting on December 5, 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 December 5, 2016.

FLOWER MOUND TOWN COUNCIL MEETING OF DECEMBER 5, 2016 BOOK 44 PAGE 1

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 5TH DAY OF DECEMBER, 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.

Meeting Video Link: <http://flowermoundtx.swagit.com/play/12052016-926> (subject to change)

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

Tom Hayden	Mayor
Kevin Bryant	Mayor Pro Tem
Bryan Webb	Deputy Mayor Pro Tem
Jason Webb	Councilmember Place 1
Don McDaniel	Councilmember Place 4

With the following members absent:

Itamar Gelbman	Councilmember Place 5
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constituting a quorum with the following members of the Town Staff participating:

Theresa Scott	Town Secretary
Ashley Dierker	Town Attorney
Jimmy Stathatos	Town Manager
Tommy Dalton	Assistant Town Manager
Doug Powell	Executive Director of Development Services
Ken Parr	Executive Director of Public Works
Doug Stevens	Assistant Director of Public Works

A. CALL REGULAR MEETING TO ORDER

Mayor Hayden called the regular meeting to order at 6:00 p.m.

Don McDaniel, 3801 Hide-A-Way Ln, Flower Mound

Mr. McDaniel recited the following statement while surrounded by those who either knew him or had advance knowledge of his comments and share his beliefs:

We, this collection of Flower Mound leadership, stand before you in solidarity to express our dedication to the following principles:

- That every person in our community is an important part of its uniqueness and success.
- That every citizen deserves all the protections and liberties afforded by our constitution.
- That everyone has a right to equal protection under the law and equal opportunity in employment, education, and housing.

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- That all people deserve equitable treatment regardless of race, religion, age, gender, national origin, or sexual orientation.
- That hate, whether in speech, action, or behavior, has no place in our community and that we reject such with no reservation or hesitation.

These principles have always been at the root of what Flower Mound is and will continue to be so. Each of the organizations that we represent, be it a social group, a place of worship, philanthropy, or civic agency, has these ideals at its core. They are reflected in our mission statements, our texts, and our oaths. We affirm that we will use our roles as leaders in this community and the organizations we represent to promote and act on these principles at all times for our residents and anyone in our community.

We ask that you join us in living these principles in your daily life, in your place of worship, in your schools, and in your place of employment. Diversity and inclusion, of people, thoughts, and ideals, are a fundamental strength of our community and should be fostered and protected by each of us every day.

Moreover, we pledge to counter any manifestation of hate in our community with a greater showing of love, kindness, and friendship.
-end-

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

Chaplain Richard Plunk gave the invocation and Mayor Hayden led the pledges.

D. PRESENTATIONS

1. 2016 Outstanding Citizenship Award Presentation (individual and group categories)

Barbara Baily, Outstanding Citizenship Award Chair, gave a presentation providing background information about the program and she introduced the committee members and announced the winners:

1. Kathy O'Keefe (individual category)
2. Vicki Toothman, representing the Young Men's Service League (group category).

The winners in each category were presented special recognition awards and gifts by the Town.

2. Certificate of Achievement to UIL 6A State Champions Flower Mound High School Marching Band

The following representatives from Flower Mound High School accepted the Certificate of Achievement:

Directors: Brent Biskup, Jana Harvey, Zach Sherburn, Darrin Hicks, and William Martin; and Student Drum Majors: Marshall Cahill, Alex Palma, Jacob Stiller, and Nicole Zhang

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3. Update from L.I.S.D. Liaison Joanna Crowell-Dreiling on district news.

Ms. Crowell-Dreiling gave a report as a result of a recent meeting with LISD Superintendent of Schools Dr. Kevin Rogers on the topics of:

- Bond election in the spring and a proposed item related to facilities
- How Dr. Rogers was open to the idea of allowing the Town to use some of their unused land for practice fields until such time that it would be needed by the school

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 speaker form)
1.	Narayan Srinivasan, 3813 Appleton Ln	Public participation
2.	Carol Kohankie, 4312 Lauren Way	Citizen of the Year
3.	Shameet Luqman, 3429 Jameston	Public participation
4.	Geoffrey W. Dennis, 2104 Margie Ct	Statement of Unity and non-discrimination
5.	Lorraine Sheldon, 4218 Spring Meadow Ln	Public statement

F. ANNOUNCEMENTS

Councilmember Jason Webb offered appreciation for the comments made relative to loving others and stressed the significance of it.

Councilmember McDaniel thanked everyone who stood with him during his statement.

Mayor Pro Tem Bryant offered his thanks for the collective efforts of everyone pulling together with the goal of doing great things in the community.

Councilmember Webb commented about the social media reaction after the election and the use of safety pins, a meme aimed to subtly signal solidarity. He pointed out that tonight there was a box full of safety pins.

Mayor Hayden recited a Bible verse about loving your neighbor as yourself.

G. TOWN MANAGER'S REPORT

Update and discussion on:

1. Report related to capital improvement projects

Mr. Stathatos provided an update on the following CIP Projects:

- Forest Vista

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- Sagebrush

And Mr. Stathatos or Mr. Parr responded to questions from Council as follows:

- A request for an update on the lane closures on FM 2499/3040, including a completion time frame

2. Economic Development projects

Mr. Stathatos provided an update on the following ED Projects:

- Local Pint beer garden and restaurant
- Innovate Flower Mound event
- Asian Fusion Grill coming to Lakeside

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

Mr. Stathatos provided an update on the following town hall and library expansion projects:

- The Library topic will be coming to the TIRZ Board first quarter of 2017
- Town Hall is moving forward on the design and there will be site work in March with the actual construction of Town Hall being closer to May/June

4. Update and discussion on the town-wide pavement analysis.

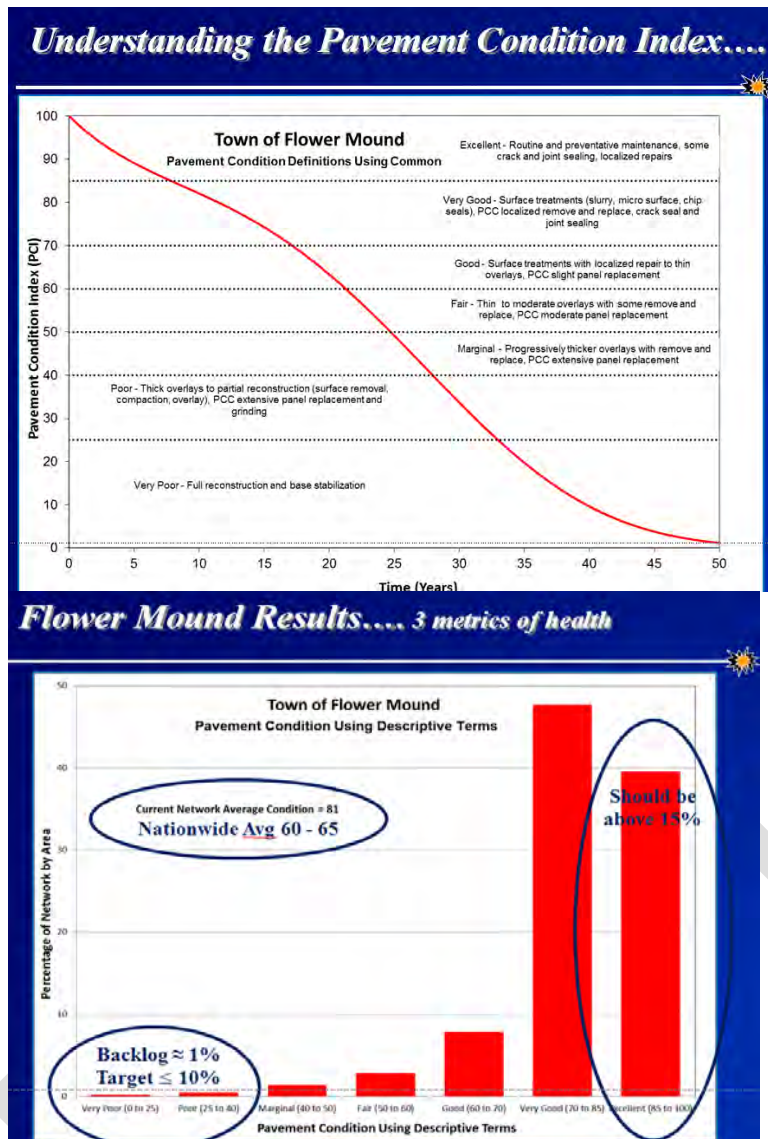
Mr. Stevens provided background information regarding the Town-wide pavement analysis project with Infrastructure Management Services (IMS)

Zac Thomason, with IMS gave a presentation identifying or noting:

- Scale of Investment
- Tools to rate the streets – objective surveys and condition focused on
- Understanding the Pavement Condition Index (PCI)
- Flower Mound results (81) (and nationwide average is 60-65)
- Backlog of 1% and the target is 10%
- Post rehab PCA and annual funding
- Town of Flower Mound recommendations

The information contained in this document is unofficial until such time as the minutes are approved by the Town Council.

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Mr. Thomason noted that overall the Town of Flower Mound is in excellent shape and needs to define a level of service target (PCI, backlog, etc.). He further added that:

- The % of excellent roads is very high which reflects a relatively young network that has experienced growth over the last decade.
- The majority of the network falls under the Excellent and Very Good categories, and the Town's amount of failed streets is well below the control backlog target of 10%. 15% represents a maximum recommended backlog with 20% representing the maximum sustainable. Above 20% and things start to spiral out of control very quickly. The Town is in great shape.

Mr. Thomason or Mr. Stevens responded to questions or statements from Council as follows:

- Where the focus of the dollars is allocated to in the budget model
- Does the model adjust for the future road network (growth or inflation)

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- Use of sales tax revenue allocations helps the Town to service the roads

Mayor Hayden asked for an update on the Town's workman's comp provider, given some concerns brought forward by fire department personnel relative to timing in getting authorization through TML for job related medical needs.

H. FUTURE AGENDA ITEMS

1. Discuss and consider having a future agenda item to change the 'Parks, Arts, and Library Services' to the 'Parks Board'.

Ms. Scott asked for Council direction relative to bringing forward an agenda item to initiate the name change from PALS to Parks Board. The majority of Council was acceptable to having an agenda item come forward for this purpose.

I. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

1. The next Town Council meeting is a work session scheduled for December 15, 2016.

Mayor Hayden announced that the next Council meeting is a work session on December 15th.

J. CONSENT ITEMS

1. Consider approval of the minutes from a Joint Town Council/Transportation Commission work session held on November 17, 2016.

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

2. Consider approval of the minutes from a regular meeting of the Town Council held on November 21, 2016.

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

3. Consider approval of a Professional Services Agreement for monthly gas well pad site air monitoring by Modern Geosciences, LLC, in the amount of \$139,800; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve a Professional Services Agreement for monthly gas well pad site air monitoring by Modern Geosciences, LLC, in the amount of \$139,800.00; and authorization for the Mayor to execute same on behalf of the Town.

4. 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

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increase of \$26,107.30; authorization for final payment to Roadway Solutions, Inc., in the amount of \$56,141.44; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve Change Order No. 1 and final acceptance of the FM 1171 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; authorize final payment to Roadway Solutions, Inc., in the amount of \$56,141.44; and authorize the Mayor to execute same on behalf of the Town.

5. 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.

RECOMMENDATION: Move to approve 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, at a first-year estimated amount of \$416,000.00; and authorize the Mayor to execute same on behalf of the Town. The contract is for one-year with four one-year renewal options.

6. 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.

RECOMMENDATION: Move to approve a resolution authorizing the adoption of the Program Year 2015 Consolidated Annual Performance & Evaluation Report, which is required under Flower Mound's Community Development Block Grant; and authorize the Mayor to execute same on behalf of the Town and submit to the U.S. Department of Housing and Urban Development.

RESOLUTION NO. 25-16

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, PROVIDING FOR THE ADOPTION OF FLOWER MOUND'S PROGRAM YEAR 2015 CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM; PROVIDING AUTHORIZATION FOR THE MAYOR TO EXECUTE SAID REPORT; AND PROVIDING AN EFFECTIVE DATE.

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7. Consider approval of final acceptance and Change Order No. 1, for the Bakersfield Park Pedestrian Bridge project, and authorization for final payment to Humphry and Morton Construction Company, Inc., in the amount of \$24,140.97; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve final acceptance and Change Order No. 1, for the Bakersfield Park Bridge project, and authorize final payment to Humphry and Morton Construction Company, Inc., in the amount of \$24,140.97; and authorize the Mayor to execute same on behalf of the Town.

8. 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.

RECOMMENDATION: Move to approve the purchase of Pavement Markings Services, in the estimated annual amount of \$150,000.00, from Stripe-A-Zone, through a City of Grand Prairie Contract.

9. Consider approval of the purchase of mobile computers and related software for the implementation of an Incident Based Reporting System for Animal Services.

RECOMMENDATION: Recommend approval of the purchase of mobile computers and related software for the implementation of an Incident Based Reporting System for Animal Services.

10. 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.

RECOMMENDATION: Move to 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.

11. 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.

RECOMMENDATION: Move to approve the Professional Services Agreement for the 2016 Water and Wastewater Model Update projects, with Kimley-Horn and Associates, Inc., for \$21,500.00; and authorize the Mayor to execute same on behalf of the Town.

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12. 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.)*

RECOMMENDATION: Move to approve an ordinance for MISC16-0003 a street name change for Lake Ridge Drive to Lake Ridge Road.

ORDINANCE NO. 65-16

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AUTHORIZING A STREET NAME CHANGE OF LAKE RIDGE DRIVE (2600-2700 BLOCK) AND (7400-7500 BLOCK) TO LAKE RIDGE ROAD (2600-2700) AND (7400-7500 BLOCK); PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

Mayor Pro Tem Bryant moved to approve by consent Items 1-12. Councilmember Jason Webb 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: J WEBB, MCDANIEL, BRYANT, B WEBB****NAYS: NONE****ABSENT: GELBMAN****K. REGULAR ITEMS**

13. 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.

Staff Presentation

Mr. Parr gave a presentation identifying or noting:

- Background information regarding the history of the tank and additional amenities that will be included in the project, such as the school state championship recognition.

Mayor Pro Tem Bryant moved to approve 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 authorize the Mayor to execute same on behalf of the Town. Councilmember Jason Webb seconded the motion.

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

FLOWER MOUND TOWN COUNCIL MEETING OF DECEMBER 5, 2016 BOOK 44 PAGE 10**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.

Deputy Mayor Pro Tem Bryan Webb moved to appoint Albert Picardi to serve as Chair of the Tax Increment Reinvestment Zone No. 1 (TIRZ) Board with a term expiration date of December 31, 2017. Councilmember McDaniel seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: J WEBB, MCDANIEL, BRYANT, B WEBB****NAYS: NONE****ABSENT: GELBMAN****M./N. CLOSED/OPEN MEETING**

The Town Council convened into a closed meeting at 7:33 p.m. on December 5, 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 7:57 p.m. on December 5, 2016, to take action on the items 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, and Planning and Zoning Commission.

No action taken.

- b. 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.

- c. 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.

No action taken.

- d. Consultation with Attorney as follows:

1. Discuss and consider the proposed settlement agreement in Cause Number 2012-40480-362, Larissa Lanette Williams a/n/f A.W., a Minor Child v. Town of Flower Mound, and authorizing the Town Manager to execute the proposed settlement agreement.

The information contained in this document is unofficial until such time as the minutes are approved by the Town Council.

FLOWER MOUND TOWN COUNCIL MEETING OF DECEMBER 5, 2016 BOOK 44 PAGE 11

Deputy Mayor Pro Tem Bryan Webb moved to approve the proposed settlement agreement in Cause Number 2012-40480-362, and authorize the Town Manager to execute the proposed agreement. Mayor Pro Tem Bryant seconded the motion.

VOTE ON MOTION:

Motion passed

AYES: B WEBB, BRYANT, MCDANIEL, J WEBB

NAYS: NONE

ABSENT: GELBMAN

O. ADJOURN REGULAR MEETING

Mayor Hayden adjourned the meeting at 7:58 p.m. on Monday, December 5, 2016, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

THOMAS E. HAYDEN, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY

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TOWN COUNCIL AGENDA ITEM NO. 2

CONSENT ITEM

DATE: December 19, 2016

FROM: Theresa Scott, Town Secretary

ITEM: Consider approval of the minutes from a work session of the Town Council held on December 15, 2016.

BACKGROUND INFORMATION: The Town Council held a work session on December 15, 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 work session of the Town Council held on December 15, 2016.

FLOWER MOUND TOWN COUNCIL MEETING OF DECEMBER 15, 2016 BOOK 44 PAGE 1

THE FLOWER MOUND TOWN COUNCIL WORK SESSION MEETING HELD ON THE 15th DAY OF DECEMBER, 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 work session 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 members absent:

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

Theresa Scott	Town Secretary
Jimmy Stathatos	Town Manager
Debra Wallace	Deputy Town Manager/CFO
Tommy Dalton	Assistant Town Manager
Gary Sims	Executive Director of Community Services
Chuck Jennings	Director of Parks and Recreation

A. CALL WORK SESSION TO ORDER

Mayor Pro Tem Bryant called the work session to order at 6:00 p.m.

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

Councilmember Jason Webb gave the invocation and Mayor Pro Tem Bryant led the pledges.

D. WORK SESSION ITEM

1. Presentation and discussion regarding the Parks, Recreation and Open Space Draft Master Plan

Mr. Jennings gave a presentation identifying or noting:

- Background information regarding accomplishments associated with the last Master Plan
- How the new Master Plan will be used
- Draft master plan public meetings update (past and future)
- Survey response information
- Scope of work for Pros Consulting

FLOWER MOUND TOWN COUNCIL MEETING OF DECEMBER 15, 2016 BOOK 44 PAGE 2

Ron Vine, with Ron Vine and Associates, and Leone Younger, President, and Mike Svetz, Senior Project Manager with Pros Consulting gave a presentation identifying or noting:

- Benchmark cities comparison information related to:
 - o System acreage
 - o Trail miles
 - o Operating budget and cost recovery
 - o Operating cost per acre
 - o Staffing levels
- Qualitative Community Input
 - o Focus group/stakeholder interviews summary
- Statistically valid survey
 - o Methodology
 - o Importance of continued improvement
 - o Unmet needs for parks and facilities
 - o Program participation
 - o Program quality
 - o Most important programs
 - o Program barriers
 - o Overall satisfaction with value received
 - o Potential indoor space
 - o Indoor space youth would use
 - o Most important projects
- Park typology
 - o Pocket parks
 - o Community parks
 - o Regional parks
 - o Sports complexes
 - o Special use
 - o Open space/conservation park
 - o Service level standards
 - o Service level equity standards
 - o Shelters and pavilions
 - o Multipurpose fields (football, cricket, lacrosse)
 - o Soccer fields
 - o Outdoor basketball courts
 - o Playgrounds
 - o Dog Parks
 - o Recreation center
 - o Resident need – indoor spaces
- Service level standards
- Equity mapping

- Priority rankings
 - o Methodology
 - o Priority investment rating – facilities
 - o Critical projects
 - o Sustainable projects
 - o Visionary projects
- Capital improvements
- CAC expansion
 - o CAC existing first and second floor and proposed expansion
- Staffing needs
 - o Current parks org functionality and staff
 - o Park staffing needs analysis
- Strategic approach
 - o Key strategies
- Next steps

Mr. Vine, Mr. Younger, Mr. Svetz, or Mr. Jennings responded to questions from Council as follows:

- Clarification regarding the request for more trails
- Clarification regarding the survey response numbers
- What kind of activities define what adult fitness wellness programs are
- What analysis was done relative to use of facilities
- Statistics regarding how far people are willing to drive to a park
- How many acres is an 8 field soccer center
- Cost of expansion versus a ground up building and if it makes more sense to build the second facility now
- When was the CAC built
- For the trails is it more about miles or connectivity
- What is the actual additional square footage for the CAC expansion proposal
- How realistic is the expansion plans and if it takes into account the engineering aspect
- Does the new design of the CAC include additional track space
- Is there cost recovery analysis on a facility such as a dog park
- What is the current utilization of the CAC during peak time, and is the Town close to capacity
- Rules related to not being able to reserve space at the CAC within 30 days
- What segment of the population uses soccer fields
- What is the need associated with pocket parks
- Was any work done regarding a need for a park by the Library
- What type of amenities does a park labeled a community park require
- If the Master Plan was adopted as presented, what would the associated estimated budget be

There was Council discussion as follows:

- Consideration needs to be given relative to the impact on the private sector (market capture)
- A possible disconnect with the information presented in that if people can say they need something, but on the other hand say they are not using what we have now

E. ADJOURN WORK SESSION

Mayor Pro Tem Bryant adjourned the work session at 8:20 p.m. on Thursday, December 15, 2016, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

KEVIN BRYANT, MAYOR PRO TEM

ATTEST:

THERESA SCOTT, TOWN SECRETARY



TOWN COUNCIL AGENDA ITEM NO. 3

CONSENT ITEM

DATE: December 19, 2016

FROM: Theresa Scott, Town Secretary

ITEM: Consider changing the name from the "Parks, Arts, and Library Services Board (PALS)" to the "Parks Board" and removing the arts and library functions (*in coordination with the November 8, 2016 Special Election, Proposition No. 7, as approved by the voters*).

BACKGROUND INFORMATION: In 2014 there was Council action to shift the responsibilities of the arts and library services duties from the PALS Board to the Cultural Arts Commission (previously known as the Public Arts Committee). This change was primarily due to park items dominating the agenda because of activity level.

This change allowed members of the PALS Board to shift to the newly created Cultural Arts Commission (CAC) where their interests were more aligned. In addition, library staff was able to utilize their time more efficiently.

Currently there are two governing documents that have the arts and library functions defined (PALS Ord. No. 106-07 and CAC Res. No. 19-14). In order to change the PALS Ordinance to reflect what is actually happening now, a name change and an update of the duties and responsibilities (parks functions only) would be needed. At that time Council indicated a preference to not make any changes to the Ordinance given the reference of the PALS Board in the Charter.

A Special Election was held on November 8, 2016, resulting in voter approval of Proposition No. 7, authorizing the removal of the reference to the PALS Board in the Charter as well as any subsequent changes to this board to be made by Ordinance.

This agenda item changes the name from the Parks, Arts, and Library Services Board (PALS) to the Parks Board and removes the functions as it relates to arts and library services, given those are now under the function of the CAC.

BOARD REVIEW/CITIZEN FEEDBACK: The CAC has been a proponent of this change for quite some time given the confusion it has caused in the community given the functions of arts and library are identified in both boards.

Finance Review by: N/A

LEGAL REVIEW: Jeremy Page of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the Ordinance as to form and legality.

ATTACHMENTS:

1. Draft Ordinance

RECOMMENDATION: Move to approve the name change from the "Parks, Arts, and Library Services Board (PALS)" to the "Parks Board" and remove the arts and library functions.

TOWN OF FLOWER MOUND, TEXAS**ORDINANCE NO.**

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 2, ARTICLE III, "BOARDS, COMMITTEES, AND COMMISSIONS" IN ORDER TO CHANGE THE NAME OF THE "PARKS, ARTS, AND LIBRARY SERVICES (PALS) BOARD" TO THE "PARKS BOARD"; MODIFYING THE AUTHORITY OF SAID BOARD; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound, Texas 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, Texas has previously established certain Boards and Commissions that effectuate good government; and,

WHEREAS, the Town Council has determined that changing the name of the Parks, Arts and Library Services (PALS) Board to Parks Board and modifying its authority would best serve the interests of the citizens of Flower Mound;

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

SECTION 1

Chapter 2, "Administration," Article III, "Boards, Committees, Commissions," Division 2, "Parks, Arts, and Library Services (PALS) Board," of the Code of Ordinances, Town of Flower Mound, Texas is hereby amended to read as follows:

"DIVISION 2. - PARKS BOARD**Sec. 2-111. - Created.**

There is hereby created an advisory board known as the Parks Board.

Sec. 2-112. - Organization.

- (a) The Parks Board shall consist of seven regular members and three alternates appointed by a majority vote of the Town Council in accordance with established procedures.
- (b) Each member of the board shall be a resident citizen and qualified voter of the town, at the time of his appointment. A member who ceases to reside in the town during his term of office shall immediately forfeit his office.

ORDINANCE NO. _____

- (c) Members shall be designated as places number one through ten, with places 8, 9, and 10 designated as alternates.
- (d) The term of office of members of the board shall be for two years. Places one, three, five, seven, and nine, shall be appointed to two-year terms ending on September 30 in odd-numbered years. Places two, four, six, eight, and ten, shall be appointed to two-year terms ending on September 30 in even-numbered years. Members of the board may be removed before their terms of office expire.
- (e) Other qualifications for membership shall be a genuine interest in parks, programs for seniors, preservation of the town's history, the community, the ability to work with the public, and time to devote to this service.
- (f) Members of the board shall serve without compensation.

Sec. 2-113. - Officers and procedures.

- (a) At the first scheduled board meeting in October of each year, or as soon thereafter as practicable, the first item of business shall be the selection of the board's chairperson and vice-chairperson from among the membership of the board.
- (b) The chairperson shall preside over meetings and shall vote only in case of a tie. In the event a question over procedures arises, Robert's Rules of Order, Newly Revised, shall serve as a guide.
- (c) The vice-chairperson shall assist the chairperson in directing the affairs of the Parks Board. In the absence of the chairperson, the vice-chairperson shall assume the duties of the chairperson. The vice-chairperson, when acting as chairperson, shall retain the right to vote.
- (d) In the event of the absence of both the chairperson and vice-chairperson, any member of the board may be selected as acting chairperson for that particular meeting by majority vote of the members present. Any board member acting as chairperson shall retain the right to vote. No member shall be required to act as chairperson if the member so declines.
- (e) The recording of minutes of all board meetings shall be the responsibility of town staff.
- (f) A majority of the board, four members, shall constitute a quorum to do business and the affirmative vote of the majority of those attending shall be necessary to pass any motion.
- (g) The board shall establish rules and procedures that govern its operation.

ORDINANCE NO. _____

- (h) All voting shall be by roll call.

Sec. 2-114. - Powers and duties.

The Parks Board shall have the following powers and duties:

- (a) Advise the Town Council and staff in policy matters regarding parks and recreation: goals, objectives and programs.
- (b) Assist the Town Council and staff in the planning process: parks and recreation programs.
- (c) Promote parks and recreation participation.
- (d) Assist the Town Council and staff in the recruitment of volunteers.
- (e) Advise the Town Council and staff regarding policies, services and programs provided or sponsored by the community services department. This includes, but is not limited to: parks and recreation programming, senior citizen activities, and fees for community services programs and activities.
- (f) Advise the Town Council and staff regarding revenues and expenditures from dedicated funding sources including the special activities fund, park development funds and any similar fund created to support the community services department.
- (g) Promote the benefits of community services' facilities, programs and activities, and when necessary, solicit public volunteer assistance.
- (h) Oversee and advise the Town Council and staff regarding any issues or updates to the recorded history of Flower Mound in the book Sweet Flower Mound Land.
- (i) Consider, investigate, make findings, report and recommend upon any special matter or question coming before the board within the scope of its duties and responsibilities or referred to it by the Town Council or Town Manager."

SECTION 2

Any references in the Town's Code of Ordinances to the "Parks, Arts, and Library Services Board" or "PALS Board" shall be replaced with "Parks Board".

ORDINANCE NO. _____

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.

SECTION 4

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 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.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 19TH DAY OF DECEMBER, 2016.

APPROVED:

Thomas E. Hayden, MAYOR**ATTEST:**

Theresa Scott, TOWN SECRETARY**APPROVED AS TO FORM AND LEGALITY:**

ORDINANCE NO. _____

Bryn Meredith, TOWN ATTORNEY



TOWN COUNCIL AGENDA ITEM NO. 4

CONSENT ITEM

DATE: December 19, 2016

FROM: Lynda B. Bolitho, Director of Human Resources

ITEM: Consider approval of an ordinance amending Appendix A "Fee Schedule" to establish the fee for the usage of the Town Community Activity Center (CAC) by part-time employees.

BACKGROUND INFORMATION: Currently 10 of 68 employees (15%) have a single or family membership at the CAC. The Town Council previously approved removing the membership fee for full-time employees. The Town's Wellness Committee requested that consideration be made to extending this same benefit to part-time employees. While this benefit would decrease revenue by approximately \$8,160 (should all part-timers take advantage of this opportunity), increased usage by employees could increase overall wellness, productivity and decrease absenteeism.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$8,160

Proposed Expenditure:	Account Number(s):
N/A	N/A

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

LEGAL REVIEW: Steve Wood of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the ordinance as to form and legality.

ATTACHMENTS:

1. Draft ordinance

RECOMMENDATION: Move to approve an ordinance amending Appendix A "Fee Schedule" to establish the fee for the usage of the Town Community Activity Center (CAC) by part-time employees.

TOWN OF FLOWER MOUND, TEXAS**ORDINANCE NO. _____**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING APPENDIX A “FEE SCHEDULE,” OF THE CODE OF ORDINANCES TO ESTABLISH THE FEE FOR THE USAGE OF THE TOWN COMMUNITY ACTIVITY CENTER BY PART-TIME TOWN EMPLOYEES; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; 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 has previously adopted a Fee Schedule for the use of the Town’s Community Activity Center; and

WHEREAS, the Town Council has determined that it is in the best interests of the Town of Flower Mound to permit part-time persons employed by the Town to use the Community Activity Center free of charge; and

WHEREAS, the Town Council wishes to amend the Fee Schedule to reflect a fee of zero (0) for part-time Town employees.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS:

SECTION 1

That Appendix A of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended by amending the schedule of fees corresponding to Section 54-2(c) “Flower Mound Community Activity Center: Usage Fees” by adding a fee for an Annual Pass for part-time Town employees to read as follows:

“Membership Rates— Pass Type	Resident Rates	Resident Business Rates	Nonresident Rates
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* * *

Annual Pass— Part-time Town Employee	\$ 0	\$ 0	\$ 0
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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

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.

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 DECEMBER, 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. 5

CONSENT ITEM

DATE: December 19, 2016

FROM: Lynda B. Bolitho, Director of Human Resources

ITEM: Consider of a contract with Stealth – HIIG in the amount of \$458,147 for reinsurance coverage for the Town's Group Health Plan.

BACKGROUND INFORMATION: The Town is self-insured for health, dental and vision benefits for Town employees and dependents. The Town purchases reinsurance to limit liability from any single participant up to \$125,000 per year. The reinsurance also limits the total aggregate insurance claims during any calendar year.

In November 2016, the Human Resources Division in conjunction with McGriff, Seibels & Williams of Texas, Inc., requested and received four proposals for Calendar Year 2017. A summary of the proposals is attached as compared to current coverage. The recommendation is to accept the Stealth – HIIG proposal based on their comparability to the Town's current contract structure. Stealth – HIIG will provide a contract which will require the Mayor's signature at a future date.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$458,147

Proposed Expenditure:	Account Number(s):
\$458,147	840-710-17600-8510

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Stop Loss Renewal Analysis

RECOMMENDATION: Move to approve a contract with Stealth – HIIG in the amount of \$458,147 for reinsurance coverage for the Town's Group Health Plan.

Town of Flower Mound

Stop Loss Renewal Analysis

Effective Date: 1/1/2017

Stop Loss Carrier	HCC Life - Current	HCC Life - Renewal	Stealth- HIIG	Stealth- HM	Stealth- Berkshire Hathaway
TPA / Network	BCBS TX	BCBS TX	BCBS TX	BCBS TX	BCBS TX
SPECIFIC RETENTION	\$125,000	\$125,000	\$125,000	\$125,000	\$125,000
Aggregating Specific Contract	N/A	N/A	N/A	N/A	N/A
Coverages	24/12	24/12	24/12	24/12	24/12
Lifetime Maximum Reimbursement	Medical + Rx Unlimited	Medical + Rx Unlimited	Medical + Rx Unlimited	Medical + Rx Unlimited	Medical + Rx Unlimited
Specific Rates					
Single 159	\$30.27	\$34.93	\$43.68	\$47.90	\$44.43
Family 343	\$89.09	\$102.40	\$86.67	\$123.94	\$130.38
Composite 502	\$70.46	\$81.03	\$73.05	\$99.86	\$103.16
Specific Monthly Premium	\$35,371	\$40,677	\$36,673	\$50,127.52	\$51,784.71
Specific Annual Premium	\$424,450	\$488,125	\$440,075	\$601,530.24	\$621,416.52
Aggregate Rate					
Composite	\$5.32	\$6.40	\$3.00	\$8.08	\$4.01
Monthly Accomodation	N/A	N/A	N/A	N/A	N/A
Aggregate Monthly Premium	\$2,671	\$3,213	\$1,506	\$4,056.16	\$2,013.02
Aggregate Annual Premium	\$32,048	\$38,554	\$18,072	\$48,673.92	\$24,156.24
AGGREGATE RETENTION					
Contract	24/12	24/12	24/12	24/12	24/12
Coverages	Medical + Rx	Medical + Rx	Medical + Rx	Medical + Rx	Medical + Rx
Run-In Limit	\$0	\$0	\$0	\$1,500,001	\$1,782,601
Maximum Reimbursement	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Annual Minimum Attachment Point	\$9,278,179	\$9,529,292	n/a	n/a	n/a
Corridor	125%	125%	125%	125%	125%
Aggregate Factors					
Single 159	\$789.21	\$795.95	\$675.35	\$795.41	\$738.31
Family 343	\$1,888.33	\$1,946.21	\$1,838.00	\$1,908.98	\$2,063.81
Composite 502	\$1,540.20	\$1,581.88	\$1,469.75	\$1,556.28	\$1,643.98
Monthly Attachment Factor	\$773,182	\$794,106	\$737,815	\$781,250	\$825,278
Annual Attachment Factor	\$9,278,179	\$9,529,273	\$8,853,776	\$9,375,003.96	\$9,903,337.44
Annual Difference	-	\$251,094.00	(\$424,403.16)	\$96,825.00	\$625,158.48
%	-	2.71%	-4.57%	1.04%	6.74%

TOTAL FIXED COSTS

Total Monthly Premium	\$38,041	\$43,890	\$38,179	\$54,183.68	\$53,797.73
Total Annual Premium	\$456,497	\$526,678	\$458,147	\$650,204.16	\$645,572.76
Annual Difference	-	\$70,181	\$1,650	\$193,706.88	\$189,075.48
Percent Difference	-	15.37%	0.36%	42.43%	41.42%

Additional Comments:

Laser for claimant with Liver
Disease: \$500k if Transplant;
\$210k if No Transplant

No Lasers





TOWN COUNCIL AGENDA ITEM NO. 6 CONSENT ITEM

DATE: December 19, 2016

FROM: Chuck Jennings, Parks and Recreation Director

ITEM: 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.

BACKGROUND INFORMATION: The State of Texas Department of Family and Protective Services administer state regulations and general licensing procedures for all child-care facilities. Municipalities are exempted from the licensing requirement for programs provided for elementary age youth provided the Town Council annually adopts standards of care by ordinance after a public hearing. The required public hearing took place at the November 3, 2016 PALS Board meeting, and the Board unanimously approved recommending the proposed ordinance for Town Council consideration. Additionally, the following criteria must be met in order to receive the exemption:

- Standards of care are provided to the parents of each program participant.
- Ordinance includes at a minimum: staffing ratios; staff qualifications; facility, health, and safety standards; and mechanisms for monitoring and enforcing the adopted local standards.
- Parents are informed that the program is not operated or advertised as a licensed day care.

The request for the exemption is necessary as the Town currently offers different day camps and programs throughout the year to youth 5 – 14 years of age. The Town received its exempt status from the State in 2011. On December 21, 2015, the Town Council enacted Ordinance No. 72-15, which adopted Standards of Care for the Town's Parks and Recreation youth recreation programs.

Staff is recommending that no changes be made to the proposed Standards of Care in accordance with Section 42.041(b)(14) of the Texas Human Resources Code and Section 54-206 of the Code of Ordinances, Town of Flower Mound, Texas.

BOARD REVIEW/CITIZEN FEEDBACK: The Parks, Arts and Library Services (PALS) Board recommended approval of the Standards of Care by a vote of 5 to 0 at its November 3, 2016 meeting.

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: Ashley Dierker, of Taylor, Olson, Adkins, Sralla, Elam, LLP has reviewed the proposed ordinance as to form and legality.

ATTACHMENTS:

1. Proposed Ordinance (Standards of Care – Exhibit "A")
2. Draft minutes of the November 3, 2016, PALS Board meeting for this item

RECOMMENDATION: Move to approve 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.

TOWN OF FLOWER MOUND, TEXAS**ORDINANCE NO. _____**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, TOWN OF FLOWER MOUND, TEXAS; AMENDING CHAPTER 54, "PARKS AND RECREATION," SECTION 54-202, "ADOPTION;" ADOPTING UPDATED STANDARDS OF CARE FOR YOUTH RECREATION PROGRAMS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound, Texas ("Town") is a home rule municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas and by its Home Rule Charter, adopted November 3, 1981; and

WHEREAS, the Town operates a recreation program for elementary age children as a service to residents of the Town, and surrounding communities; and

WHEREAS, the State of Texas has adopted licensing requirements and regulations under Chapter 42 of the Texas Human Resources Code for facilities providing care to children, with which all facilities must comply, unless an exemption under Section 42.041(b) applies; and

WHEREAS, Section 42.041(b)(14) of the Texas Human Resources Code provides an exemption from the requirements of Chapter 42 to a municipality operating a recreation program for elementary age children (5-13 years); and

WHEREAS, on February 11, 2011, the Town received an exemption from the requirements of Chapter 42 of the Texas Human Resources Code from the Texas Department of Family and Protective Services ("TDFPS"); and

WHEREAS, the TDFPS will not monitor the Town's Parks and Recreation's youth recreation programs because the exempt status has been granted, and the TDFPS will not be responsible for investigating complaints regarding the Town's Parks and Recreation's youth recreation programs, so that any complaints shall be made to the Town Parks and Recreation Division; and

WHEREAS, the Town adopted Ordinance No. 72-15 on December 21, 2015 setting forth the standards of care for the Town Parks and Recreation's youth recreation programs; and

WHEREAS, the Town's standards of care for the Town Parks and Recreation's youth recreation programs must be adopted annually by the Town of Flower Mound Town Council, after public hearing, in order to maintain the exemption under Section 42.041(b)(14) of the Texas Human Resources Code; and

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WHEREAS, the Director of the Town Parks and Recreation Division has recommended no changes be made to the standards of care adopted on December 21, 2015, in accordance with Section 42.041(b)(14) of the Texas Human Resources Code and Section 54-206 of the Code of Ordinances, Town of Flower Mound, Texas; and

WHEREAS, a public hearing was held on November 3, 2016, by the Parks, Arts and Library Services ("PALS") Board regarding the revised standards of care, and the adoption of such revised standards of care by the Town Council of the Town of Flower Mound ("Town Council") has been recommended by the PALS Board; and

WHEREAS, the Town Council finds that it 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 to adopt the revised standards of care as recommended by the PALS Board.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

SECTION 1

All the above premises are found to be true and correct legislative and factual determinations of the Town of Flower Mound, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

The Town Council hereby adopts local standards of care for the Parks and Recreation Division ("Division") youth recreation programs in compliance with the requirements of Texas Human Resources Code Section 42.041(b)(14) and pursuant to Section 54-206 of the Code of Ordinances of the Town of Flower Mound. The standards of care adopted by this Ordinance are available for inspection in the office of the Town Secretary and in the Town Parks and Recreation Division office.

SECTION 3

That Section 54-202, "Adoption," of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to read as follows:

"Sec. 54-202. Adoption.

The local standards of care ("Standards of Care"), as set forth in Exhibit "A" which is attached to the ordinance adopting the Standards of Care are incorporated by reference for all purposes as if written word for word herein, and are hereby adopted by the Town Council as the Standards of Care for the Parks and Recreation Division of the

Ordinance No. _____

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Town of Flower Mound. The Standards of Care are available for inspection in the office of the Town Secretary and in the Town Parks and Recreation Division office."

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, and said remaining portions shall remain in full force and effect.

SECTION 6

This Ordinance shall take effect and be in full force on and after 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 19TH DAY OF DECEMBER, 2016.

Thomas E. Hayden, MAYOR

ATTEST:

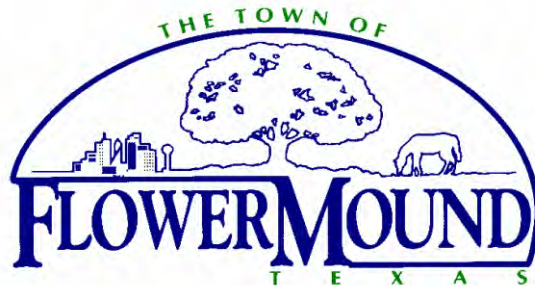
Theresa Scott, TOWN SECRETARY

APPROVED AS TO FORM AND LEGALITY:

TOWN ATTORNEY

Exhibit "A"

Parks & Recreation Division



Standards of Care For Youth Programs

Parks and Recreation Division
1200 Gerault Road
Flower Mound, TX 75028
972.874.6300
972.874.6471 (Fax)
www.flower-mound.com

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FLOWER MOUND YOUTH PROGRAMS

STANDARDS OF CARE

The following Standards of Care have been adopted by the Town Council of the Town of Flower Mound, Texas, to comply with Chapter 42 of the Texas Human Resources Code, specifically Section 42.014(b)(14) regarding an exemption for the Town of Flower Mound's Youth Programs, as defined herein. These Standards of Care are intended to be minimum standards by which the Town of Flower Mound Parks and Recreation Division will operate the Town's youth programs. The Youth Programs are recreational in nature and are not child-care facilities or day care programs.

General Administration

1. Organization

- A. The governing body of the Town of Flower Mound youth programs is the Town of Flower Mound Town Council.
- B. Implementation of the Youth Programs Standards of Care ("Standards of Care") is the responsibility of the Director of Parks and Recreation and divisional employees.
- C. These Standards of Care apply to all Youth Programs operated by the Division, including but not limited to: the Summer Day Camp Program, Holiday Day Camp Program, and Spring Break Day Camp Program.
- D. Each Program Site will have available for public and staff review a current copy of the Standards of Care.
- E. Parents of participants may obtain a copy of the Standards of Care from the Town during the registration process or the Standards of Care can be accessed on the Town's website at: www.flower-mound.com/cac.
- F. Criminal background checks are conducted on all prospective Program Employees. If the results of a criminal background check indicate that a prospective Program Employee has been convicted of any of the following offenses, he or she will not be considered for employment:
 - (1) A felony or a misdemeanor classified as an offense against a person or family member.
 - (2) A felony or misdemeanor classified as public indecency.
 - (3) Any offense involving moral turpitude.

- (4) Any offense that, in the Director's sole opinion, would place the participants of the Youth Programs at risk.

2. Definitions

- A. Camp Director: A temporary Division employee who is assigned responsibility to implement and direct a Youth Program, and oversee the Program Employees that are assigned to the corresponding Youth Program.
- B. Community Activity Center or CAC: Town of Flower Mound Community Activity Center located at 1200 Gerault Road, Flower Mound, TX, 75028, 972.874.7275.
- C. Division: Parks and Recreation Division of the Town of Flower Mound.
- D. Employee(s): Term used to describe people who have been hired to work for the Town of Flower Mound and have been assigned responsibility for managing, administering, or implementing some portions of the Youth Programs.
- E. Parent(s): This term will be used to represent one or both parent(s) or legal guardian(s) who have legal custody and authority to enroll their child(ren) in the Youth Programs.
- F. Participant: A Youth whose parent(s) or legal guardian(s) have completed all required registration procedures and determined to be eligible for the Youth Programs.
- G. Program Coordinator or Coordinator: A full-time Division employee who has been assigned administrative responsibility for the Youth Programs and oversees the Camp Directors.
- H. Program Employee: A temporary Division employee who is assigned to work with participants of a Youth Program at a Program Site.
- I. Program Manual: Notebook of policies, procedures, required forms, and organizational and programming information relevant to Youth Programs.
- J. Program Site: The facilities and surrounding property where Youth Programs are held, consisting of, but not limited to, the Community Activity Center.
- K. Program Supervisor: A full-time Division employee who oversees the Program Coordinator and operations of all Youth Programs.
- L. Director: Town of Flower Mound Parks and Recreation Director, or his or her designee.

- M. Town: Town of Flower Mound.
- N. Town Council: Town Council of the Town of Flower Mound.
- O. Youth: A school aged person between the ages of 5 and 13 as of the enrollment date of the Youth Program.
- P. Youth Programs: The Town of Flower Mound youth programs consisting of the Summer Day Camp Programs, Holiday Day Camp Programs, and Spring Break Day Camp Program. A single camp may be referred to as a Youth Program.

3. Objectives of Youth Programs

- A. To provide Youth with the opportunity of recreational activities which may include sports, games, arts and crafts, education, dance, drama, special events, field trips, tournaments, etc.
- B. To provide an encouraging atmosphere by emphasizing the positive development of physical skills, emotional development and growth of self-confidence.
- C. To provide a safe environment by promoting good health and welfare for all participants.
- D. To teach Youth how to spend their leisure time wisely in an effort to meet the emotional, physical and social needs of the Youth.

4. Inspections/Monitoring/Enforcement

- A. The Town has established these Standards of Care in order to obtain an exemption from the State regarding the Youth Programs. Once the exemption is established, the State will not monitor the Youth Programs. These Standards of Care will be reviewed annually and brought before the Town Council for consideration, regarding any amendments recommended by the Director, and approval after a public hearing regarding the Standards of Care is held, pursuant to Texas Human Resources Code § 42.041(b)(14).
- B. A monthly inspection report will be prepared and submitted to the Program Supervisor by the Coordinator to confirm the Standards of Care are being adhered to.
 - (1) Monthly inspection reports will be sent to the Director for review and maintained by the Town in accordance with applicable record retention policies.

- (2) The Director will review the monthly inspection report and shall establish deadlines and criteria for compliance with the Standards of Care where failure to comply is noted.
 - C. The Director will make visual inspections of the Youth Programs based on the following schedule.
 1. Youth Programs operating during the summer will be inspected no less than twice during the Youth Program's summer schedule.
 2. Youth Programs which operate during the regular Lewisville Independent School District school year, for two (2) weeks or less, will be inspected at least once during the Youth Program's schedule.
 - D. Complaints regarding enforcement of the Standards of Care will be directed to the Coordinator. The Coordinator will be responsible to take the necessary steps to address the complaint and resolve the problem, if any. Complaints regarding enforcement of the Standards of Care and resolution of complaints arising under the Standards of Care will be recorded by the Coordinator. All complaints regarding enforcement of the Standards of Care where a deficiency is noted will be forwarded to the Director with the complaint and the resolution noted.
5. Enrollment
- Before a child may be enrolled in a Youth Program, the parents must sign registration forms that contain the following information about the child:
- (1) Name, home address, home telephone number;
 - (2) Name and address of parent(s) and contact telephone number(s) during Youth Program hours;
 - (3) The names and telephone numbers of people to whom the child can be released;
 - (4) If requested, a statement of the child's physical health, including a physician's signed statement detailing any special needs the child may have;
 - (5) Emergency medical authorization, current shot records, and valid insurance information;
 - (6) Proof of CAC Membership or Non-Membership, when appropriate; and

- (7) A signed liability waiver.

6. Suspected Abuse

Program Employees will report suspected child abuse or neglect in accordance with the Texas Family Code. In a situation where an Employee is involved in an incident with a child that could be considered to be child abuse, the incident shall be immediately reported to the Program Supervisor. The Program Supervisor will immediately notify the Police Department and any other agency, as may be appropriate.

Texas State law requires the Employees of the Youth Programs to report any suspected abuse or neglect of a child to the Texas Department of Family and Protective Services or a law enforcement agency. Failure to report suspected abuse is punishable by fines up to \$1000 and/or confinement up to one hundred eighty (180) days. Confidential reports may be made by calling 1.800.252.5400.

A complete copy of the Texas Family Code regulations regarding child abuse can be found at www.statutes.legis.state.tx.us/docs/FA/htm/FA.261.htm.

Staffing - Responsibilities and Training

1. Camp Director

A. Qualifications. A Camp Director must:

- (1) Consistently exhibit competency, good judgment, and self-control when working with Youth and other Town employees.
- (2) Interact with Youth with courtesy, respect, tolerance, and patience.
- (3) Successfully complete a course in first aid, CPR, and AED, in compliance with American Red Cross standards.
- (4) Pass a background investigation and testing for illegal substances.
- (5) Be mature, responsible, and able to complete duties with minimal supervision.
- (6) Communicate effectively with the public.
- (7) Possess a valid Texas driver's license.

- (8) Have previous experience in supervising Youth of varying age levels in a group setting and possess knowledge of recreational games, crafts, and activities.
- (9) Complete Town-mandated training.
- (10) Be at least eighteen (18) years of age.

B. Job Functions. A Camp Director shall endeavor to:

- (1) Direct and supervise Program Employees. Hiring and training of staff shall be the responsibility of the Coordinator with assistance from the Camp Director.
- (2) Complete and submit proper records, including Youth Program schedules, Program Employee schedules, accident/incident reports, and participant attendance.
- (3) Schedule appropriate activities in accordance with the philosophy of the Youth Program and coordinate with Coordinator to ensure appropriate reservations and transportation are secured in order to complete activities.
- (4) Maintain an orderly, clean and safe environment for the Youth while promoting a non-competitive program directed toward accentuating positive behaviors, physical development, and emotional growth.
- (5) Maintain supplies, equipment and all necessary documentation for the operation of the Youth Program.
- (6) Communicate with Parent(s) as necessary.
- (7) Conduct on-going evaluations regarding the Youth Program and implement approved recommendations as needed.
- (8) Provide reports to Coordinator on a weekly basis regarding Youth Program activities.
- (9) Know and follow all Town, Division, and Program Manual standards, policies, and procedures that apply to Youth Programs.
- (10) Ensure that participants are released only to a Parent or an adult designated by the Parent. All Program Sites will have a copy of the

Division approved plan to verify the identity of a person authorized to pick-up a participant if that person is not known to the Camp Director.

2. Program Employees

A. Qualifications. A Program Employee must:

- (1) Consistently exhibit competency, good judgment, and self-control when working with Youth.
- (2) Interact with Youth with courtesy, respect, tolerance, and patience.
- (3) Successfully complete a course in first aid, CPR, and AED, in compliance with American Red Cross standards.
- (4) Pass a background investigation and testing for illegal substances.
- (5) Be mature, responsible, and able to complete duties with minimal supervision.
- (6) Possess a valid Texas driver's license.
- (7) Have previous experience in working with Youth of varying age levels in a group setting and possess knowledge of recreational games, crafts, and activities.
- (8) Complete Town-mandated training.
- (9) Be at least sixteen (16) years of age.

B. Essential Job Functions. A Program Employee shall endeavor to:

- (1) Promote a non-competitive, positive, image-enhancing environment for each participant through the direction of fun, varied, and well-organized activities.
- (2) Directly lead activities using a method that will provide opportunities for the involvement of all participants on an equal basis.
- (3) Exhibit enthusiasm for the activity to impart a feeling of excitement in the participants.
- (4) Follow procedures for Youth Programs drop off and pick-up and preparation of accident/incident reports.

- (5) Follow guidelines for safety and storage of equipment and notify Camp Director regarding supply inventories.
- (6) Ensure safety of Youth at Program Site and on field trips.
- (7) Provide and adhere to Standards of Care.

3. Personnel Restriction

A person will not be employed as an Employee in a Youth Program if:

- (1) The person would be permanently barred from being present at a child care operation while children are in care under the Texas Administrative Code Title 40, Part 19, Chapter 745 (Licensing); or
- (2) The Director determines that, based on the criminal history and other relevant and credible information, the person poses a risk to the safety or health of participants.

4. Training/Orientation

- A. The Division is responsible to provide training and orientation to all Youth Programs employees who work with children regarding their specific job responsibilities. Coordinators will provide each Camp Director with a staff program manual specific to each Youth Program.
- B. Employees must be familiar with these Standards of Care for Youth Programs.
- C. Employees will be trained in appropriate procedures to handle emergencies.
- D. Employees will be trained in Town, Division, and Program Manual policies and procedures applicable to Youth Programs.
- E. Employees will be required to sign an acknowledgment that they received the required training.

Service Standards

1. Appearance

- A. Youth Programs shirts and name badges will be worn and clearly visible.

- B. The Town's dress code policy shall be adhered to at all times. Failure to comply with the dress code will result in an Employee being sent home.
- 2. Interaction with Parents and Participants
 - A. Participants and Parents will be treated with respect at all times.
 - B. Program Employees and Camp Directors will keep Parents continuously informed of activities and schedules. A weekly schedule will be distributed and copies will be kept with the daily sign in sheets.
 - C. Staff will note details of behavior of participants (accomplishments, discipline problems, general activities, etc.) and update Parents as much as possible.
 - D. The Camp Director will listen to complaints and forward to Coordinator as appropriate. All complaints will be followed up on within 24 hours, if they are not resolved on site. All complaints must be recorded, including resolution, and forwarded to Coordinator.
- 3. Additional Staff Responsibilities
 - A. Program Employees will monitor the sign in/out log at all times.
 - B. Program Employees will spend 100% of their time actively involved with Participants and/or Parents.
 - C. Program Employees will pick-up the area used by their group after each activity.
 - D. Prior to beginning work each day all staff will check in at the appointed location for any messages, instructions, or information.

Operations

- 1. Staff/Participant Ratio
 - A. Pursuant to Texas mandated standards, the maximum ratio of Participants to Program Employees will be 12 to 1. In the event an employee is unable to report to the Program Site, a replacement will be assigned.
 - B. Each Participant shall have a Program Employee who is responsible for him or her and who is aware of the Participant's habits, interests, and any special needs, as identified by the Participant's parent(s) during the registration process.

2. Discipline

- A. Program Employees will implement discipline and guidance in a consistent manner based on the best interests of the program participants.
- B. There must be no cruel, harsh or corporal punishment used as a method of discipline.
- C. Program Employees may use brief, supervised separation from the group if necessary. Participants will be informed of Youth Program rules.
- D. As necessary, Program Employees will initiate discipline reports to the Parent(s) of Participants. Parents will be asked to sign discipline reports to indicate they have been advised about specific problems or incidents.
- E. A sufficient number and/or severe nature of discipline reports as detailed in the program manual may result in a Participant being suspended or removed from the Youth Programs. Parents will be contacted to pick up their Youth immediately.
- F. In instances where there is a danger to Participants or Employees, offending Participants will be removed from the Program Site immediately.
- G. Any person(s) creating a nuisance, causing a disturbance, or creating an unsafe environment at any Program Site will be subject to ejection from the site and possible arrest and legal action.

3. Programming

- A. Program Employees will attempt to provide activities for each group according to the Participant's age, interests, and abilities. The activities must be appropriate to Participants' health, safety, and well-being. The activities also must be flexible and promote the Participants' emotional, social, and mental growth.
- B. Program Employees will attempt to provide indoor and outdoor time periods, weather permitting, that include:
 - (1) Alternating active and passive activities; and
 - (2) Opportunity for individual and group activities.
- C. Program Employees will be attentive and considerate of the Participants' safety on field trips and during any transportation provided by the Youth Programs. Participants must be counted before leaving the Program Site and before boarding the transportation to return to the Program Site.

- (1) During trips, Program Employees supervising Participants must have immediate access to Participant forms and emergency contact information for each Participant;
- (2) Program Employees must have a written list of the Participants in the group and must check the attendance frequently; and
- (3) Program Employees must have First Aid supplies, a guide to First Aid and emergency care available on field trips.

4. Communication

The Program Site will have a telephone to allow the Program Employees to be contacted by Parks and Recreation personnel or for making emergency calls.

5. Transportation

- A. First Aid supplies and a First Aid and emergency care guide will be available in all Youth Program vehicles that transport Youth.
- B. All Program vehicles used for transporting Participants must have available a 6-BC portable fire extinguisher in the vehicle which must be accessible to the adult occupants.

Facility Standards

1. Safety

- A. Program Employees will inspect the Program Site daily to detect sanitation and safety concerns that might affect the health and safety of the Participants. A daily inspection report will be completed by Camp Director and kept on file by the Program Coordinator.
- B. Buildings, grounds, and equipment on the Program Site will be inspected, cleaned, repaired, and maintained to protect the health of the Participants.
- C. Program equipment and supplies must be safe for Participants use.
- D. Program Employees must have First Aid supplies available at the Program Site, during transportation, and for the duration of any off-site activity.
- E. Program Employees must have First Aid supplies and a guide to First Aid and emergency care readily available in a designated location.

2. Fire

- A. In case of fire, danger of fire, explosion, or other emergency, Program Employee's first priority is to evacuate the Participants to a designated safe area. Emergency evacuation and relocation plans will be posted within the Program Site.
- B. The Program Site will have an annual fire inspection by the local Fire Marshal, and the resulting report will detail any safety concerns observed. The report will be forwarded to the Director who will review and establish deadlines and criteria for compliance.
- C. Each Program Site must have at least one (1) fire extinguisher approved by the Fire Marshal readily available to all Program Employees. The fire extinguisher is to be inspected monthly by the Program Coordinator, and a monthly report will be forwarded to the Program Supervisor who will keep the report on file for a minimum of two (2) years. All Employees will be trained in the proper use of a fire extinguisher.
- D. Fire drills shall be conducted monthly.

3. Health

- A. Illness or Injury
 - (1) Participants shall have and maintain immunizations in accordance with those required by the Texas Department of Health for public school attendance according to age.
 - (2) Illnesses and injuries will be handled in a manner to protect the health of all participants and employees. Parents will be notified in cases of illness or injury. Paramedics will be notified in the event of an injury that cannot be remedied through basic first aid. An accident report shall be completed for all injuries and forwarded to the Camp Director.
 - (3) An ill Youth will not be allowed to attend or participate if the Youth is suspected of having a temperature and/or accompanied by behavior changes or other signs or symptoms until a medical evaluation indicating that the Youth can return to the Youth Program.
 - (4) Employees will follow the recommendation of the Texas Department of Health concerning the admission or readmission of any Participant after a communicable disease.

B. Program Employees will administer medication only if:

- (1) Parent(s) complete and sign a Medicine Dispensation Form that provides authorization for Employees to dispense medication with details as to time(s) and dosage(s).
- (2) Prescription medications are in original containers labeled with the Youth's name, a date, directions, and the prescribing physician's name. Employees will administer the medication only as stated on the label. Employees will not administer medication after the expiration date.
- (3) Non-prescription medications are labeled with the Youth's name and the date the medication was brought to the Youth Program. Non-prescription medication must be in the original container. The Employees will administer non-prescription medications only according to label direction.
- (4) Medications dispensed will be limited to routine oral ingestion not requiring special knowledge or skills on the part of Program Employees.
- (5) Program Employees must ensure medications are inaccessible to Participants.

C. Toilet Facilities

- (1) The Program Site will have adequate indoor toilets and lavatories located and equipped so Youth can use them independently and Program Employees can supervise as needed.
- (2) There must be one (1) flush toilet for every thirty (30) participants. Urinals may be counted in the ratio of toilets to participants, but must not exceed fifty percent (50%) of the total number of toilets.

D. Sanitation

- (1) The Program Site must have adequate light, ventilation, and heat.
- (2) The Program Site must have an adequate supply of water meeting the standards of the Texas Department of Health for drinking water and ensure that it will be supplied to the Participants in a safe and sanitary manner.
- (3) Program Employees must see that garbage is removed from buildings daily.

Participants

1. General

- A. All Participants must wear tennis shoes daily. Sandals or thongs are not permitted unless approved by Program Employees on certain occasions.
- B. Shoes must be worn at all times, unless the Youth is in the swimming pool or participating in an activity that requires shoes to not be worn.
- C. Youth must respect the Employees, the Program Site, Program Rules, and each other.
- D. Youth may not use the Youth Programs telephone unless it is an emergency with the permission of a Program Employee.

Parks, Arts and Library Services (PALS) Board Regular Meeting Minutes
November 3, 2016

DRAFT

Kari Biddix, Park Development Manager reported the following:

- Pink Evening Primrose Trail – Segment 1 should have the completed design next month, go out to bid in early spring, and start construction mid spring.
- Rheudasil and Wilkerson Park pond dredging and bank stabilization permits have been submitted, additional survey work has been completed, and design is expected to be complete in the spring, pending permit approval.
- Heritage Park Master Plan will go out to bid next Tuesday and construction may start in January.
- Glenwick Bridge is currently in construction.
- Twin Coves Park construction is underway. All RV pads have been poured, 45% complete on all paving, almost done with service lines, and cabins are anticipated for delivery in January. The completion of the park will be late spring or early summer.
- Timber Creek Park playground replacement project is complete.

F. CONSENT AGENDA

- 1. Consider approval of minutes from a regular meeting of the PALS Board held on October 6, 2016.**

Board Deliberation

Board member Denise Johnson moved to approve the minutes of a regular meeting of the PALS Board held on October 6, 2016. Board member Rick Kenyon seconded the motion.

VOTE ON THE MOTION

AYES: Kelly, Kenyon, Johnson, Handren, Seay
NAYS: None

G. REGULAR ITEMS

- 2. Public Hearing to consider recommending for Town Council consideration, 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.**

Staff Presentation

Michael Davenport – CAC Manager

Board Deliberation

Board member Denise Johnson moved to approve for Town Council consideration, Standards of Care for Youth Recreation Programs operated by the Town, in accordance with the Texas Human Resources Code – Section 4.041 and to adopt an ordinance providing for said Standards. Board member Michael Kelly seconded the motion.

VOTE ON THE MOTION

AYES: Seay, Handren, Johnson, Kenyon, Kelly
NAYS: None

- 3. Consider recommending approval for Town Council consideration the sale and consumption of alcoholic beverages (beer and wine) at Bakersfield Park during the 2017 Independence Fest.**

Staff Presentation

Chuck Jennings – Director of Parks and Recreation

Board Deliberation

Board member Michael Kelly moved to approve for Town Council consideration the sale and consumption of alcoholic beverages (beer and wine) at Bakersfield Park during the 2017 Independence Fest. Board member Ann Handren seconded the motion.

VOTE ON THE MOTION

AYES: Kelly, Kenyon, Johnson, Handren, Seay
NAYS: None

H. RECESS REGULAR MEETING

I. CALL WORK SESSION TO ORDER

J. WORK SESSION ITEM

- 3. Review and discuss recommendations from Barker Rinker Seacat Architecture on potential expansion options at the Community Activity Center.**

Staff Presentation

Chuck Jennings – Director of Parks and Recreation

Pros Consulting

Mike Svetz – Certified Public Manager

Barker Rinker Seacat Architecture

Steve Blackburn – Partner with BRS Architecture

K. ADJORN – WORK SESSION

L. RECONVENE REGULAR MEETING

M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- The next PALS Board Meeting is scheduled for December 1, 2016.

N. ADJOURNMENT



TOWN COUNCIL AGENDA ITEM NO. 7

CONSENT ITEM

DATE: December 19, 2016

FROM: Chuck Jennings, Parks and Recreation Director

ITEM: Consider approval of the sale and consumption of alcoholic beverages at Bakersfield Park, during the 2017 Independence Fest.

BACKGROUND INFORMATION: The Town has started planning the 2017 Independence Fest that will be held on Tuesday, July 4 at Bakersfield Park. Staff is requesting approval of the sale of alcoholic beverages for the festival. On December 21, 2015, the Town Council unanimously approved alcohol sales for the festival that was held on July 4, 2016. The Town has allowed the sale of alcoholic beverages for the Wild About Flower Mound Festival and the Independence Fest since 2009. There have been no issues or concerns related to the sale of alcoholic beverages during any of the previous events.

The sale of alcoholic beverages on park property requires PALS Board consideration and the Town Council's approval since the event will be held at Bakersfield Park, as stipulated in [Sec. 54-31\(b\)\(2\)](#) of the Town's Code of Ordinances.

Similar to what was planned for last year's event, Promoter Line, Inc., will secure a third party retailer to handle the sale of alcoholic beverages. The retailer will take on the risk and liability of selling alcohol at the festival. Additionally, the retailer will acquire all appropriate licenses and permits from the Texas Alcoholic Beverage Commission and name the Town as an additional insured on their liability insurance. The Town will be paid a 25% commission of the total beverage sales.

Alcohol consumption at city festivals and Independence Day celebrations is not uncommon in the Dallas-Fort Worth area (i.e. Lewisville's Western Day Festival, Grapevine's Grapefest and Main Street Days, Addison's Kaboom Town, Celebrate Highland Village Festival, and Southlake's Oktoberfest).

If approved for the event, alcohol would be prohibited from being taken out of the fenced in festival area. Similar to last year, this would be controlled by fencing, signage, police officers, and festival staff. With the festival taking place on Independence Day, the Town has instructed the Flower Mound Youth Sports Association to not schedule their AAYBA baseball tournament the week of July 4th.

If the sale of alcohol is not approved for the event, the Town could lose significant sponsorship opportunities and the revenue stream created by the sale of alcoholic beverages. For the 2016 festival, Budweiser sponsored the festival by contributing \$3,000, donating the backdrops for the stage, and produced event signage. In addition, the Town received \$8,444.50 in commissions from the sale of beverages.

BOARD REVIEW/CITIZEN FEEDBACK: The PALS Board recommended approval by a unanimous vote of 5 to 0 at its November 3, 2016, meeting.

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENT:

1. Draft minutes from the November 3, 2016, PALS Board meeting for this item

RECOMMENDATION: Move to approve the sale and consumption of alcoholic beverages at Bakersfield Park, during the 2017 Independence Fest.

AYES: Seay, Handren, Johnson, Kenyon, Kelly
NAYS: None

3. Consider recommending approval for Town Council consideration the sale and consumption of alcoholic beverages (beer and wine) at Bakersfield Park during the 2017 Independence Fest.

Staff Presentation

Chuck Jennings – Director of Parks and Recreation

Board Deliberation

Board member Michael Kelly moved to approve for Town Council consideration the sale and consumption of alcoholic beverages (beer and wine) at Bakersfield Park during the 2017 Independence Fest. Board member Ann Handren seconded the motion.

VOTE ON THE MOTION

AYES: Kelly, Kenyon, Johnson, Handren, Seay
NAYS: None

H. RECESS REGULAR MEETING

I. CALL WORK SESSION TO ORDER

J. WORK SESSION ITEM

3. Review and discuss recommendations from Barker Rinker Seacat Architecture on potential expansion options at the Community Activity Center.

Staff Presentation

Chuck Jennings – Director of Parks and Recreation

Pros Consulting

Mike Svetz – Certified Public Manager

Barker Rinker Seacat Architecture

Steve Blackburn – Partner with BRS Architecture

K. ADJORN – WORK SESSION

L. RECONVENE REGULAR MEETING

M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- The next PALS Board Meeting is scheduled for December 1, 2016.

N. ADJOURNMENT



TOWN COUNCIL AGENDA ITEM NO. 8

CONSENT ITEM

DATE: December 19, 2016

FROM: Kay Wilkinson, Budget and Grants Manager

ITEM: Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to consider approval of a resolution amending the Town of Flower Mound Crime Control and Prevention District budget for the fiscal year beginning on October 1, 2016, and ending on September 30, 2017, as adopted by Resolution No. 20-16.

BACKGROUND INFORMATION: At the March 3, 2008 Town Council meeting, the Town Council acting as the Board of Directors for the Crime District, adopted alternative budget procedures for the Crime District to follow similar procedures and dates to the Town's annual budget.

The attached budget amendment represents an adjustment of the FY 2016-2017 Crime District Budget. According to Section 12 of Resolution No. 06-08, "During the fiscal year, the Town Council shall have the power to transfer funds allocated by the budget from one department to another department, and to re-estimate revenues and expenditures."

This budget amendment is to re-appropriate the balances of outstanding purchase orders for Items or services ordered but not received by September 30, 2016.

In the Crime District Fund, expenditures will increase by \$12,544.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$12,544

Proposed Expenditure:	Account Number(s):
\$ 12,544	Fund 318 Crime District Fund
\$ 12,544	

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

LEGAL REVIEW: Rob Allibon, of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the proposed resolution as to form and legality.

ATTACHMENTS:

1. Proposed Resolution

RECOMMENDATION: The Town Council acting, as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District, moves to approve a resolution amending the Town of Flower Mound Crime Control and Prevention District budget for the fiscal year beginning on October 1, 2016, and ending on September 30, 2017, as adopted by Resolution No. 20-16.

TOWN OF FLOWER MOUND, TEXAS**RESOLUTION NO. _____**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND CRIME CONTROL AND PREVENTION DISTRICT, AMENDING THE BUDGET FOR THE TOWN OF FLOWER MOUND CRIME CONTROL AND PREVENTION DISTRICT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2016, AND ENDING SEPTEMBER 30, 2017, AS ADOPTED BY RESOLUTION NO. 20-16; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Town Council acting as the Board of Directors of the Town of Flower Mound Crime Control and Prevention District ("Crime District") has adopted procedures for adopting and amending a budget that are different from the procedures outlined in Texas Local Government Code Section 363.204, as permitted by such section; and

WHEREAS, the Town Council acting as the Board of Directors of the Crime District caused to be filed with the Town Secretary, in accordance with the procedures adopted therefore, a budget to cover all proposed expenditures of the Crime District for the fiscal year beginning October 1, 2016, and ending September 30, 2017; and

WHEREAS, said Crime District Budget was adopted by Resolution No. 20-16 on September 19, 2016; and

WHEREAS, after approval of said Resolution, unexpected needs have arisen which require amendment of the Crime District Budget adopted thereby.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND CRIME CONTROL AND PREVENTION DISTRICT, 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 Resolution as if copied in their entirety.

SECTION 2

The Crime District Budget, for the fiscal year beginning on October 1, 2016, and ending on September 30, 2017, as heretofore adopted by Resolution No. 20-16, is hereby amended to provide for adjustments as shown in Exhibit "A", attached hereto and incorporated herein.

SECTION 3

The expenditures and amendments authorized by this Resolution are necessary to meet unusual and/or unforeseen conditions or circumstances that could not have been included in the original budget through the use of reasonably diligent thought and attention.

RESOLUTION NO. _____**PAGE 2****SECTION 4**

The Town Manager shall file or cause to be filed three (3) true and correct copies of said amended budget, along with this Resolution, with the Town Secretary, who shall file or cause to be filed one (1) true and correct copy of same in the office of the County Clerk of Denton County, Texas and one (1) true and correct copy of same in the office of the County Clerk of Tarrant County, Texas.

SECTION 5

If any section, paragraph, sentence, clause, phrase, or word in this Resolution, or application thereof by any persons or circumstances is held invalid in any Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Resolution; and the Town Council acting as the Board of Directors of the Crime District hereby declares it would have passed such remaining portions of the resolution despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 6

This Resolution shall take effect and be in full force from and after its passage and adoption.

DULY PASSED, APPROVED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF _____ TO _____ ON THIS 19th DAY OF DECEMBER, 2016.

APPROVED:

Thomas E. Hayden, MAYOR**ATTEST:**

Theresa Scott, TOWN SECRETARY**APPROVED AS TO FORM AND LEGALITY:**

Bryn Meredith, TOWN ATTORNEY

RESOLUTION NO. _____

PAGE 3

EXHIBIT "A"

**Town of Flower Mound
Crime Control and Prevention District
Amended Budget
Fiscal Year 2016-2017**

REASON FOR ADJUSTING THE CRIME DISTRICT FUND APPROPRIATION:

The Crime District Fund, expenditures will increase by \$12,544 from \$2,725,898 to \$2,738,442, to re-appropriate funds budgeted in prior years for outstanding purchase orders at September 30, 2016.

<u>Crime District Fund</u>	<u>Original Budget</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase / (Decrease)</u>
Expenditures:				
Police Services	\$ 2,725,898	\$ 2,725,898	\$ 2,738,442	\$ 12,544
Total	\$ 2,725,898	\$ 2,725,898	\$ 2,738,442	\$ 12,544



TOWN COUNCIL AGENDA ITEM NO. 9

CONSENT ITEM

DATE: December 19, 2016

FROM: Kay Wilkinson, Budget and Grants Manager

ITEM: Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider approval of a resolution amending the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget for the fiscal year beginning on October 1, 2015, and ending on September 30, 2016, as adopted by Resolution No. 18-15.

BACKGROUND INFORMATION: At the March 3, 2008 Town Council meeting, the Town Council acting as the Board of Directors for the Fire Control, Prevention, and Emergency Medical Services District (Fire District), adopted alternative budget procedures for the Fire District to follow similar procedures and dates to the Town's annual budget.

The attached budget amendment represents an adjustment of the FY 2015-2016 Fire District Budget. According to Section 12 of Resolution No. 06-08, "During the fiscal year, the Town Council shall have the power to transfer funds allocated by the budget from one department to another department, and to re-estimate revenues and expenditures."

The year-end budget amendment request allows staff to adjust the financial reports to ensure that expenses do not exceed the approved budget at the departmental level.

The Fire District Fund expenditures will increase by \$45,945 from \$3,400,029 to \$3,445,974. The expenditure increase is due to personnel costs.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT:

Proposed Expenditure:

Fire District	\$ 45,945
	<u>\$ 45,945</u>

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

LEGAL REVIEW: Rob Allibon, of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the proposed resolution as to form and legality.

ATTACHMENTS:

1. Resolution

RECOMMENDATION: The Town Council, acting as the Board of Directors for the Fire Control, Prevention, and Emergency Medical Services District, move to approve a resolution amending the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget for the fiscal year beginning on October 1, 2015, and ending on September 30, 2016, as adopted by Resolution No. 18-15.

TOWN OF FLOWER MOUND, TEXAS**RESOLUTION NO. _____**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT, AMENDING THE BUDGET FOR THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2015, AND ENDING SEPTEMBER 30, 2016, AS ADOPTED BY RESOLUTION NO. 18-15; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Town Council acting as the Board of Directors of the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District (Fire District) has adopted procedures for adopting a budget that are different from the procedures outlined in Texas Local Government Code Section 344.204, as permitted by such section; and

WHEREAS, the Town Council acting as the Board of Directors of the Fire District caused to be filed with the Town Secretary, in accordance with the procedures adopted therefore, a budget to cover all proposed expenditures of the Fire District for the fiscal year beginning October 1, 2015, and ending September 30, 2016; and

WHEREAS, said budget was adopted by Resolution No. 18-15 on September 21, 2015; and

WHEREAS, after approval of said Resolutions, unexpected needs have arisen which require amendment of the Fire District Budget adopted thereby.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT, 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 Resolution as if copied in their entirety.

RESOLUTION NO. _____

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SECTION 2

The Fire District Budget, for the fiscal year beginning on October 1, 2015, and ending on September 30, 2016, as heretofore adopted by Resolution No. 18-15 is hereby amended to provide for adjustments as shown in Exhibit "A", attached hereto and incorporated herein.

SECTION 3

The expenditures and amendments authorized by this Resolution are necessary to meet unusual and/or unforeseen conditions or circumstances that could not have been included in the original budget through the use of reasonably diligent thought and attention.

SECTION 4

The Town Manager shall file or cause to be filed three (3) true and correct copies of said amended budget, along with this Resolution, with the Town Secretary, who shall file or cause to be filed one (1) true and correct copy of same in the office of the County Clerk of Denton County, Texas and one (1) true and correct copy of same in the office of the County Clerk of Tarrant County, Texas.

SECTION 5

If any section, paragraph, sentence, clause, phrase, or word in this Resolution, or application thereof by any persons or circumstances is held invalid in any Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Resolution; and the Town Council acting as the Board of Directors of the Fire District hereby declares it would have passed such remaining portions of the resolution despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 6

This Resolution shall take effect and be in full force from and after its passage and adoption.

DULY PASSED, APPROVED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ACTING AS THE BOARD OF DIRECTORS FOR THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT BY A VOTE OF _____ TO _____ ON THIS 19th DAY OF DECEMBER, 2016.

APPROVED:

Thomas E. Hayden, MAYOR

RESOLUTION NO. _____

PAGE 3

ATTEST:

Theresa Scott, TOWN SECRETARY

APPROVED AS TO FORM AND LEGALITY:

Bryn Meredith, TOWN ATTORNEY

RESOLUTION NO. _____

PAGE 4

EXHIBIT "A"

**Town of Flower Mound
Fire Control, Prevention, and Emergency Medical Services District
Amended Budget
Fiscal Year 2015-2016**

**REASON FOR ADJUSTING THE FIRE DISTRICT FUND
APPROPRIATION:**

The Fire District Fund expenditures will increase by \$45,945 from \$3,400,029 to \$3,445,974. The expenditure increase is due to personnel costs.

<u>Fire Control, Prevention, & Emergency Medical Services District Fund</u>	<u>Original Budget</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase / (Decrease)</u>
Expenditures:				
Fire & Emergency Services	\$ 3,400,029	\$ 3,400,029	\$ 3,445,974	\$ 45,945
Total	\$ 3,400,029	\$ 3,400,029	\$ 3,445,974	\$ 45,945



TOWN COUNCIL AGENDA ITEM NO. 10

CONSENT ITEM

DATE: December 19, 2016

FROM: Kay Wilkinson, Budget & Grants Manager

ITEM: 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 General Fund, General Debt Service Fund, Utility Fund, Chapter 59 Seizure Fund, and the Vehicle and Equipment Replacement Fund.

BACKGROUND INFORMATION: The attached budget amendment represents the sixth proposed adjustment of the FY 2015-2016 Annual Budget. According to Section 9.14 of the Town Charter, "During the fiscal year, the Town Council shall have the power to transfer funds allocated by the budget from one department to another department, and to re-estimate revenues and expenditures." Transfers such as these are presented to the Town Council throughout the fiscal year in an effort to resolve variances from the Annual Budget and reallocate resources to cover unanticipated expenditures.

The year-end budget amendment request allows staff to adjust the financial reports to ensure that expenses do not exceed the approved budget at the departmental level. A discussion of the adjustments being requested in this budget amendment is provided below.

General Fund

Total General Fund expenditures are currently \$3,193,033 below the FY 2015-2016 budgeted expenditures. (These numbers are preliminary and subject to audit adjustments.)

The following department budgets will increase or decrease by the amounts listed.

Town Manager's Office	\$	-
Legislative Services		-
Development Services		-
Community Services		-
Police Services	(500,000)	
Financial Services		-
Administrative Services		-
Fire & Emergency Services	500,000	
Community Relations		-
Non-Departmental		-
Public Works		-
Environmental Services		-
	\$	-

General Debt Service Fund

In the General Debt Service Fund, revenues will increase by \$9,759,880, from \$8,946,358 to \$18,706,238 and expenditures will increase by \$9,759,880, from \$8,898,255 to \$18,658,135. In April 2016, the Town issued general obligation refunding bonds for the current refunding of a portion of the Town's tax supported bond issues, lowering overall debt service requirements. The increase in revenue is due to the proceeds and the increase in expenditures is due to the refunding payment to escrow.

Utility Fund

In the Utility Fund, Public Works requires a budget adjustment. The expenditure reallocation is necessary primarily due to unexpected expenditures associated with the wholesale purchase of water. The Non-Departmental Services increase is due to the Town issuing general obligation refunding bonds, lowering overall debt service requirements.

Development Services	\$	-
Financial Services		-
Non-Departmental Services		145,780
Public Works		<u>605,000</u>
	\$	750,780

Chapter 59 Seizure Fund

In the Chapter 59 Seizures Fund, expenditures will increase by \$440, from \$0 to \$440. Police had to pay court fees for seized vehicles received.

Homeland Security Grant Program Fund

In the Homeland Security Grant Program Fund, revenues will increase by \$327,000 from \$0 to \$327,000 and expenditures will increase by \$327,000 from \$7,300 to \$334,300. This fund is tracking the expenditures for flood clean-up. It is anticipated that these expenses will be reimbursed by FEMA.

Vehicle & Equipment Replacement Fund

In the Vehicle and Equipment Replacement Fund, revenues will increase by \$95,319 from \$1,392,379 to \$1,487,698 and expenditures will increase by \$11,100 from \$1,331,000 to \$1,342,100 to reflect auction revenue and expenditures.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT:**Proposed Revenue:**

General Debt Service Fund	\$ 9,759,880
Homeland Security Grant Program Fund	327,000
Vehicle & Equipment Replacement Fund	<u>95,319</u>
	<u>\$ 10,182,199</u>

Proposed Expenditure:

General Debt Service Fund	\$ 9,759,880
Utility Fund	750,780
Chapter 59 Seizure Fund	440
Homeland Security Grant Program Fund	327,000
Vehicle & Equipment Replacement Fund	<u>11,100</u>
	<u>\$ 10,849,200</u>

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

LEGAL REVIEW: Rob Allibon, of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the proposed ordinance as to form and legality.

ATTACHMENTS:

1. Proposed Ordinance

RECOMMENDATION: Move to approve 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 General Fund, General Debt Service Fund, Utility Fund, Chapter 59 Seizure Fund, and the Vehicle and Equipment Replacement Fund.

TOWN OF FLOWER MOUND, TEXAS**ORDINANCE NO. _____**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2015, AND ENDING ON SEPTEMBER 30, 2016, AS ADOPTED BY ORDINANCE NO. 52-15 AND AMENDED BY ORDINANCE NO. 70-15, 04-16, 09-16, 13-16 and 29-16, BY PROVIDING FOR ADJUSTMENTS TO THE GENERAL FUND, GENERAL DEBT SERVICE FUND, UTILITY FUND, CHAPTER 59 SEIZURE FUND, HOMELAND SECURITY GRANT PROGRAM FUND, AND VEHICLE AND EQUIPMENT REPLACEMENT FUND; PROVIDING THAT EXPENDITURES FOR SAID FISCAL YEAR SHALL BE MADE IN ACCORDANCE WITH SAID BUDGET, AS AMENDED; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Flower Mound, Texas ("Town Council") has heretofore adopted its Annual Budget for the fiscal year beginning on October 1, 2015, and ending on September 30, 2016; and,

WHEREAS, said Annual Budget was adopted by Ordinance No. 52-15 on September 21, 2015; and,

WHEREAS, said Annual Budget was amended by Ordinance No. 70-15 on December 21, 2015, Ordinance No. 04-16 on February 1, 2016, Ordinance No. 09-16 on February 15, 2016, Ordinance No. 13-16 on March 21, 2016, and Ordinance No. 29-16 on June 20, 2016; and,

WHEREAS, after approval of said Annual Budget, unexpected needs have arisen which require amendment of the Annual Budget; and,

WHEREAS, Section 102.010 of the Local Government Code allows the Town to make changes to the budget for municipal reasons;

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 factual and legislative determinations of the Town of Flower Mound and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

The Annual Budget of the Town of Flower Mound, Texas, for the fiscal year beginning on October 1, 2015, and ending on September 30, 2016, as heretofore 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, is hereby amended to provide for adjustments to the General Fund, General Debt Service Fund, Utility Fund, Chapter 59 Seizure Fund, Homeland Security Grant Program Fund, and Vehicle and Equipment Replacement Fund, as shown in Exhibit "A,"

ORDINANCE NO. _____

PAGE 2

attached hereto and incorporated herein, and expenditures for said fiscal year shall be made in accordance with said Annual Budget, as amended.

SECTION 3

The expenditures and amendments authorized by this Ordinance are necessary to meet unusual and/or unforeseen conditions or circumstances that could not have been included in the original budget through the use of reasonably diligent thought and attention.

SECTION 4

A true and correct copy of this ordinance showing the approved budget amendments shall be filed with the Town Secretary and in the office of the County Clerk as required by Section 102.009 of the Local Government Code.

SECTION 5

All ordinances, orders or resolutions heretofore passed and adopted by the Town Council of the Town of Flower Mound, Texas, are hereby repealed to the extent that said ordinances, orders or resolutions, or parts thereof, are in conflict herewith.

SECTION 6

It is hereby declared to be the intention of the Town Council of the Town of Flower Mound 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 should 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, or sections of this Ordinance, since the same would have been enacted by the Town Council of the Town of Flower Mound, Texas, without incorporation in this Ordinance of such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 7

This Ordinance shall take effect and be in full force from and after its passage and adoption.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF _____ TO _____, ON THIS 19th DAY OF DECEMBER, 2016.

APPROVED:

Thomas E. Hayden, MAYOR

ORDINANCE NO. _____

PAGE 3

ATTEST:

Theresa Scott, TOWN SECRETARY

APPROVED AS TO FORM AND LEGALITY:

Bryn Meredith, TOWN ATTORNEY

ORDINANCE NO. _____

PAGE 4

EXHIBIT "A"

**Town of Flower Mound
Amended Budget
Fiscal Year 2015-2016**

REASON FOR ADJUSTING THE GENERAL FUND APPROPRIATION:

In the General Fund, two departments require budget adjustments. Total General Fund expenditures are currently \$3,193,033 below the FY 2015-2016 budgeted expenditures. (These numbers are preliminary and subject to audit adjustments.)

General Fund	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Expenditures:				
Town Manager's Office	\$ 1,255,710	\$ 1,952,210	\$ 1,952,210	\$ -
Legislative Services	455,085	455,085	455,085	-
Development Services	2,083,806	2,083,806	2,083,806	-
Community Services	8,670,620	8,709,850	8,709,850	-
Police Services	12,864,270	12,896,770	12,396,770	(500,000)
Financial Services	3,387,266	3,387,266	3,387,266	-
Administrative Services	5,452,736	5,769,602	5,769,602	-
Fire & Emergency Services	12,175,447	12,429,528	12,929,528	500,000
Community Relations	765,992	765,992	765,992	-
Non-Departmental	3,268,797	3,723,797	3,723,797	-
Public Works	4,668,701	4,895,848	4,895,848	-
Environmental Services	1,415,005	1,415,005	1,415,005	-
Total	\$ 56,463,435	\$ 58,484,759	\$ 58,484,759	\$ -

REASON FOR ADJUSTING THE GENERAL DEBT SERVICE FUND APPROPRIATION:

In the General Debt Service Fund, revenues will increase by \$9,759,880, from \$8,946,358 to \$18,706,238 and expenditures will increase by \$9,759,880, from \$8,898,255 to \$18,658,135. In April 2016, the Town issued general obligation refunding bonds for the current refunding of a portion of the Town's tax supported bond issues, lowering overall debt service requirements. The increase in revenue is due to the proceeds and the increase in expenditures is due to the refunding payment to escrow.

General Debt Service Fund	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Revenues:				
General Debt Service	\$ 8,946,358	\$ 8,946,358	\$ 18,706,238	\$ 9,759,880
Total	\$ 8,946,358	\$ 8,946,358	\$ 18,706,238	\$ 9,759,880
Expenditures:				
General Debt Service	\$ 8,898,255	\$ 8,898,255	\$ 18,658,135	\$ 9,759,880
Total	\$ 8,898,255	\$ 8,898,255	\$ 18,658,135	\$ 9,759,880

ORDINANCE NO. _____

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EXHIBIT "A"

**Town of Flower Mound
Amended Budget
Fiscal Year 2015-2016**

REASON FOR ADJUSTING THE UTILITY FUND APPROPRIATION:

In the Utility Fund, Public Works requires a budget adjustment. The expenditure reallocation is necessary primarily due to unexpected expenditures associated with the wholesale purchase of water. The Non-Departmental Services increase is due to the Town issuing general obligation refunding bonds, lowering overall debt service requirements.

Utility Fund	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Expenditures:				
Development Services	\$ 370,755	\$ 442,435	\$ 442,435	\$ -
Financial Services	1,595,781	1,613,234	1,613,234	-
Non-Departmental Services	10,212,159	10,212,159	10,357,939	145,780
Public Works	26,276,427	26,416,117	27,021,117	605,000
Total	\$ 38,455,122	\$ 38,683,945	\$ 39,434,725	\$ 750,780

REASON FOR ADJUSTING THE CHAPTER 59 SEIZURE FUND APPROPRIATION:

In the Chapter 59 Seizures Fund, expenditures will increase by \$440, from \$0 to \$440. Police had to pay court fees for seized vehicles received.

Chapter 59 Seizure Fund	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Expenditures:				
Police Services	\$ -	\$ -	\$ 440	\$ 440
Total	\$ -	\$ -	\$ 440	\$ 440

ORDINANCE NO. _____

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EXHIBIT "A"

**Town of Flower Mound
Amended Budget
Fiscal Year 2015-2016**

**REASON FOR ADJUSTING THE HOMELAND SECURITY GRANT PROGRAM FUND
APPROPRIATION:**

In the Homeland Security Grant Program Fund, revenues will increase by \$327,000 from \$0 to \$327,000 and expenditures will increase by \$327,000 from \$7,300 to \$334,300. This fund is tracking the expenditures for flood clean-up. It is anticipated that these expenses will be reimbursed by FEMA.

<u>Homeland Security Grant Program Fund</u>	<u>Original Budget</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase / (Decrease)</u>
Revenues:				
Intergovernmental	\$ -	\$ -	\$ 327,000	\$ 327,000
Total	\$ -	\$ -	\$ 327,000	\$ 327,000
Expenditures:				
FEMA Reimbursements	\$ -	\$ 7,300	\$ 334,300	\$ 327,000
Total	\$ -	\$ 7,300	\$ 334,300	\$ 327,000

**REASON FOR ADJUSTING THE VEHICLE AND EQUIPMENT REPLACEMENT FUND
APPROPRIATION:**

In the Vehicle and Equipment Replacement Fund, revenues will increase by \$95,319 from \$1,392,379 to \$1,487,698 and expenditures will increase by \$11,100 from \$1,331,000 to \$1,342,100 to reflect auction revenue and expenditures.

<u>Vehicle & Equipment Replacement Fund</u>	<u>Original Budget</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase / (Decrease)</u>
Revenues:				
Investment Earnings	\$ 10,000	\$ 10,000	\$ 10,000	\$ -
Sale of Equipment	-	-	95,319	95,319
Transfers In	1,382,379	1,382,379	1,382,379	-
Total	\$ 1,392,379	\$ 1,392,379	\$ 1,487,698	\$ 95,319
Expenditures:				
Vehicles & Equipment	\$ 705,000	\$ 1,331,000	\$ 1,342,100	\$ 11,100
Total	\$ 705,000	\$ 1,331,000	\$ 1,342,100	\$ 11,100



TOWN COUNCIL AGENDA ITEM NO. 11

CONSENT ITEM

DATE: December 19, 2016

FROM: Kay Wilkinson, Budget & Grants Manager

ITEM: 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. 52-16 for adjustments to the General Fund, Utility Fund, Library Development Fund, IRS Equitable Sharing Fund, Chapter 59 Seizure Fund, and Vehicle and Equipment Replacement Fund.

BACKGROUND INFORMATION: The attached budget amendment represents the first proposed adjustment of the FY 2016-2017 Annual Budget. According to Section 9.14 of the Town Charter, "During the fiscal year, the Town Council shall have the power to transfer funds allocated by the budget from one department to another department, and to re-estimate revenues and expenditures." Transfers such as these are presented to the Town Council throughout the fiscal year in an effort to resolve variances from the Annual Budget and reallocate resources to cover unanticipated expenditures.

This budget amendment is to re-appropriate the balances of outstanding purchase orders for items or services ordered but not received by September 30, 2016.

Also included in this amendment is \$397,900 in the General Fund for economic development. This is the budget balance remaining for economic development funding, which is utilized to incentivize desirable projects to choose Flower Mound. All economic development incentives must be approved by the Town Council after a public hearing. Maintaining the funds in this manner will allow the Town to better compete with surrounding municipalities that have sales tax dedicated for economic development or other funding mechanisms that the Town does not have.

Several Facilities Management projects budgeted in FY 15-16 were unable to be completed during the fiscal year. Included in this amendment is \$374,500 for Library furniture replacement and renovating the interior of the Waste Water Treatment Plant.

Police Services budget will increase by \$99,015 for police body worn cameras that were originally budgeted for in FY 15-16 and public safety radio upgrades.

Police Services will add four additional authorized crossing guards or one (1) FTE for the new Argyle ISD school in Canyon Falls. The four crossing guard positions will be funded with salary savings.

The Utility fund also has \$1,300,000 for increases in wholesale water purchases.

The Library Development Fund will increase by \$5,000 to fund additional library programs.

In the IRS Equitable Sharing Fund, \$415,000 of fund balance will be used for police programs, vehicles, technology and other equipment for the police department. The revenue collected in this fund is restricted for use by the Police Department.

In the Chapter 59 Seizure Fund, \$72,000 of fund balance will be used for equipment, a referral bonus program, electronic fingerprints and a commercial refrigerator for the police department. The revenue collected in this fund is restricted for use by the Police Department.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$3,454,870

Proposed Expenditure:	Account Number(s):
\$ 1,154,170	Fund 100 General Fund
1,307,500	Fund 200 Utility Fund
5,000	Fund 300 Library Development Fund
635,444	Fund 331 IRS Equitable Sharing Fund
72,000	Fund 333 Chapter 59 Seizure Fund
<u>280,756</u>	Fund 565 Vehicle Replacement Fund
\$ 3,454,870	

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

LEGAL REVIEW: Rob Allibon, of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the proposed ordinance as to form and legality.

ATTACHMENTS:

1. Proposed Ordinance

RECOMMENDATION: Move to approve an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning on October 1, 2016, and ending on September 30, 2017, as adopted by Ordinance No. 52-16 for adjustments to the General Fund, Utility Fund, Library Development Fund, IRS Equitable Sharing Fund, Chapter 59 Seizure Fund, and Vehicle and Equipment Replacement Fund.

TOWN OF FLOWER MOUND, TEXAS**ORDINANCE NO. _____**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2016, AND ENDING ON SEPTEMBER 30, 2017, AS ADOPTED BY ORDINANCE NO. 52-16, BY PROVIDING FOR ADJUSTMENTS TO THE GENERAL FUND, UTILITY FUND, LIBRARY DEVELOPMENT FUND, IRS EQUITABLE SHARING FUND, CHAPTER 59 SEIZURE FUND, AND VEHICLE AND EQUIPMENT REPLACEMENT FUND; PROVIDING THAT EXPENDITURES FOR SAID FISCAL YEAR SHALL BE MADE IN ACCORDANCE WITH SAID BUDGET, AS AMENDED; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Flower Mound, Texas ("Town Council") has heretofore adopted its Annual Budget for the fiscal year beginning on October 1, 2016, and ending on September 30, 2017; and,

WHEREAS, said Annual Budget was adopted by Ordinance No. 52-16 on September 19, 2016; and,

WHEREAS, after approval of said Annual Budget, unexpected needs have arisen which require amendment of the Annual Budget; and,

WHEREAS, Section 102.010 of the Local Government Code allows the Town to make changes to the budget for municipal reasons;

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 factual and legislative determinations of the Town of Flower Mound and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

The Annual Budget of the Town of Flower Mound, Texas, for the fiscal year beginning on October 1, 2016, and ending on September 30, 2017, as heretofore adopted by Ordinance No. 52-16, is hereby amended to provide for adjustments to the General Fund, Utility Fund, Library Development Fund, IRS Equitable Sharing Fund, Chapter 59 Seizure Fund, and Vehicle and Equipment Replacement Fund, as shown in Exhibit "A," attached hereto and incorporated herein, and expenditures for said fiscal year shall be made in accordance with said Annual Budget, as amended.

SECTION 3

ORDINANCE NO. _____

PAGE 2

The expenditures and amendments authorized by this Ordinance are necessary to meet unusual and/or unforeseen conditions or circumstances that could not have been included in the original budget through the use of reasonably diligent thought and attention.

SECTION 4

A true and correct copy of this ordinance showing the approved budget amendments shall be filed with the Town Secretary and in the office of the County Clerk as required by Section 102.009 of the Local Government Code.

SECTION 5

All ordinances, orders or resolutions heretofore passed and adopted by the Town Council of the Town of Flower Mound, Texas, are hereby repealed to the extent that said ordinances, orders or resolutions, or parts thereof, are in conflict herewith.

SECTION 6

It is hereby declared to be the intention of the Town Council of the Town of Flower Mound 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 should 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, or sections of this Ordinance, since the same would have been enacted by the Town Council of the Town of Flower Mound, Texas, without incorporation in this Ordinance of such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 7

This Ordinance shall take effect and be in full force from and after its passage and adoption.

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 19th DAY OF
DECEMBER, 2016.

APPROVED:

Thomas E. Hayden, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

APPROVED AS TO FORM AND LEGALITY:

Bryn Meredith, TOWN ATTORNEY

ORDINANCE NO. _____

PAGE 4

EXHIBIT "A"

**Town of Flower Mound
Amended Budget
Fiscal Year 2016-2017**

REASON FOR ADJUSTING THE GENERAL FUND APPROPRIATION:

In the General Fund, expenditures will increase by \$1,154,170, from \$58,961,411 to \$60,115,581; to re-appropriate funds budgeted in prior years for outstanding purchase orders at September 30, 2016. Included in the General Fund is \$397,900 for economic development, \$49,500 to complete the public safety radio upgrades, \$49,515 for police body worn cameras and \$374,500 for Facilities Management projects that were unable to be completed during the 2015-2016 fiscal year.

General Fund	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Expenditures:				
Town Manager's Office	\$ 1,296,014	\$ 1,296,014	\$ 1,693,914	\$ 397,900
Legislative Services	453,170	453,170	453,170	-
Development Services	2,255,052	2,255,052	2,255,052	-
Community Services	9,292,408	9,292,408	9,367,363	74,955
Police Services	12,783,200	12,783,200	12,886,915	103,715
Financial Services	3,489,625	3,489,625	3,497,725	8,100
Administrative Services	5,404,559	5,404,559	5,779,059	374,500
Fire and Emergency Services	12,870,161	12,870,161	13,065,161	195,000
Community Relations	824,374	824,374	824,374	-
Non-Departmental Services	4,079,257	4,079,257	4,079,257	-
Public Works	4,719,115	4,719,115	4,719,115	-
Environmental Services	1,494,476	1,494,476	1,494,476	-
Total	\$ 58,961,411	\$ 58,961,411	\$ 60,115,581	\$ 1,154,170

REASON FOR ADJUSTING THE UTILITY FUND APPROPRIATION:

In the Utility Fund, expenditures will increase by \$1,307,500, from \$41,018,926 to \$42,326,426; to re-appropriate funds budgeted in prior years for outstanding purchase orders at September 30, 2016. Included in the Utility Fund is \$1,300,000 for wholesale water purchases.

Utility Fund	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Expenditures:				
Development Services	\$ 468,116	\$ 468,116	\$ 468,116	\$ -
Financial Services	1,642,003	1,642,003	1,642,003	-
Non-Departmental Services	11,746,437	11,746,437	11,746,437	-
Public Works	27,162,370	27,162,370	28,469,870	1,307,500
Total	\$ 41,018,926	\$ 41,018,926	\$ 42,326,426	\$ 1,307,500

ORDINANCE NO. _____

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EXHIBIT "A"

**Town of Flower Mound
Amended Budget
Fiscal Year 2016-2017**

REASON FOR ADJUSTING THE LIBRARY DEVELOPMENT FUND APPROPRIATION:

In the Library Development Fund, expenditures will increase by \$5,000, from \$25,000 to \$30,000; for library programs.

<u>Library Development Fund</u>	<u>Original Budget</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase / (Decrease)</u>
Expenditures:				
Community Services	\$ 25,000	\$ 25,000	\$ 30,000	\$ 5,000
Total	\$ 25,000	\$ 25,000	\$ 30,000	\$ 5,000

REASON FOR ADJUSTING THE IRS EQUITABLE SHARING FUND APPROPRIATION:

In the IRS Equitable Sharing Fund, expenditures will increase by \$635,444, from \$0 to \$635,444; to re-appropriate \$220,000 of funds budgeted in prior years for outstanding purchase orders at September 30, 2016. \$415,000 will be used for police programs, vehicles, technology and other equipment for the police department.

<u>IRS Equitable Sharing Fund</u>	<u>Original Budget</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase / (Decrease)</u>
Expenditures:				
Police Services	\$ -	\$ -	\$ 635,444	\$ 635,444
Total	\$ -	\$ -	\$ 635,444	\$ 635,444

REASON FOR ADJUSTING THE CHAPTER 59 SEIZURE FUND APPROPRIATION:

In the Chapter 59 Seizure Fund, expenditures will increase by \$72,000, from \$0 to \$72,000; for equipment, a referral bonus program, electronic fingerprints and a commercial refrigerator for the police department.

<u>Chapter 59 Seizure Fund</u>	<u>Original Budget</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase / (Decrease)</u>
Expenditures:				
Police Services	\$ -	\$ -	\$ 72,000	\$ 72,000
Total	\$ -	\$ -	\$ 72,000	\$ 72,000

ORDINANCE NO. _____

PAGE 6

EXHIBIT "A"

**Town of Flower Mound
Amended Budget
Fiscal Year 2016-2017**

**REASON FOR ADJUSTING THE VEHICLE AND EQUIPMENT REPLACEMENT FUND
APPROPRIATION:**

In the Vehicle and Equipment Replacement Fund, expenditures will increase by \$280,756, from \$3,750,000 to \$4,030,756, to re-appropriate funds budgeted in prior years for outstanding purchase orders at September 30, 2016.

<u>Vehicle & Equipment Replacement Fund</u>	<u>Original Budget</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase / (Decrease)</u>
Expenditures:				
Vehicles & Equipment	\$ 3,750,000	\$ 3,750,000	\$ 4,030,756	\$ 280,756
Total	\$ 3,750,000	\$ 3,750,000	\$ 4,030,756	\$ 280,756



TOWN COUNCIL AGENDA ITEM NO. 12

CONSENT ITEM

DATE: December 19, 2016

FROM: Brittnei Barnett, Grants and Financial Analyst

ITEM: Consider acceptance of a Texas Preservation Trust Fund grant from the Texas Historical Commission (THC) and execution of an agreement with the THC; and authorization for the Mayor to execute said agreement on behalf of the Town.

BACKGROUND INFORMATION: The Town applied for and was awarded a Texas Preservation Trust Fund grant in the amount of \$15,000.00 from the Texas Historical Commission (THC). The grant requires a one-to-one match from the Town, which will come from the fund established for the Gibson-Grant Log Cabin Homestead.

In May 2015, developer Curtis Grant of Vaquero Development discovered a log cabin hidden in the walls of a home slated for demolition in Flower Mound. The Flower Mound Foundation, with the support of the developer, expressed interest in saving the log cabin. The Town of Flower Mound acquired the property in December 2015 from Curtis Grant. Mr. Grant agreed to sell the property and allow the Town to create a park near his new development. The ultimate plan for the Gibson-Grant Log Cabin Homestead is to open the cabin and site for visitors and educational tours. The Town entered into a partnership with Denton County in March 2016. The staff of the Denton County Office of History and Culture serves as the consultant in planning and operating the site, while the Town manages the property.

If approved, the grant will be used to fund the development of a Master Plan for the Gibson-Grant Log Cabin Homestead. The Master Plan will include a scope of work for the restoration and use of the log cabin and site, an evaluation of existing conditions, recommendations for rehabilitation, and an overall plan for the site. The Master Plan is a partnership between the Town of Flower Mound and the Denton County Office of Historic and Culture.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$15,000.00

Proposed Expenditure:	Account Number(s):
\$15,000.00	Grant Fund

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

LEGAL REVIEW: James Donovan, of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the attachments as to form and legality.

ATTACHMENTS:

1. Award Letter
2. Texas Historical Commission Funding Agreement

RECOMMENDATION: Move to authorize the acceptance of grant funds, and execution of an agreement with the Texas Historical Commission for the Texas Preservation Trust Fund grant, and authorize the Mayor to execute said agreement on behalf of the Town.

TEXAS HISTORICAL COMMISSION
real places telling real stories

October 20, 2016

Ms. Peggy Riddle
Denton County Office of History & Culture
110 West Hickory
Denton, TX 76201

Re: Texas Preservation Trust Fund Grant Award of \$15,000
for the William Gibson Log Cabin and Homestead, Flower Mound, Denton County

Dear Ms. Riddle:

Congratulations! We are pleased to inform you that the Texas Historical Commission (THC) has awarded a Texas Preservation Trust Fund (TPTF) grant for the William Gibson Log Cabin and Homestead project.

In January 2016, the THC received 80 grant applications requesting over \$2.4 million in grant funds. Forty-two projects were selected from the initial application stage to proceed to the project proposal stage. Thirty-six project proposals were submitted to the THC in July 2016. Today at the THC's quarterly meeting, twenty-three proposals were approved for grant funding totaling \$530,000.

Please remember that project work cannot begin until you complete the next steps of the process by signing the funding agreement. Once the THC staff verifies if any revisions are necessary to the project's scope of work this document will be sent to you for signature.

The THC looks forward to working with you on this important preservation project. If you need additional information or have any questions, please contact your project reviewer Alex Toprac in the Architecture Division at 512.463.6183.

Sincerely,



Mark Wolfe
Executive Director



**STATE OF TEXAS
COUNTY OF DENTON**

FUNDING AGREEMENT

This Funding Agreement ("Agreement") is entered into by and between the State of Texas, acting by and through the Texas Historical Commission ("Commission") and Town of Flower Mound ("Grant Recipient"), a political subdivision of the State of Texas.

For good and valuable consideration, the receipt of which is hereby acknowledged, the parties do hereby contract, covenant, and agree as follows:

**ARTICLE I
PURPOSE**

- 1.01 The purpose of this Agreement is to provide for the administration of grant of funds for a Planning grant to the Town of Flower Mound for the William Gibson Log Cabin and Homestead project.

**ARTICLE II
AUTHORITY**

- 2.01 This Agreement is authorized under the Texas Preservation Trust Fund Account, Texas Government Code §§442.015, et seq. (Program), and the rules promulgated thereunder at 13 Texas Administrative Code §§17.1, et seq.
- 2.02 This Agreement is subject to the Uniform Grant and Contract Management Act, Government Code Chapter 783, and the conditions and assurances promulgated thereunder by the Office of the Governor.

**ARTICLE III
PERIOD OF THE AGREEMENT**

- 3.01 This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until the completion of the project, as provided in Article V hereof, and the Commission's final approval of such work, or until earlier terminated as provided in Article VIII hereof.

ARTICLE IV GRANT OF FUNDS

- 4.01 The amount of the grant under the Program, which is the subject of this Agreement will not exceed \$15,000. The grant of funds shall be paid to the Grant Recipient in accordance with the procedure described in Article VII hereof.
- 4.02 The Grant Recipient acknowledges matching funds are available as outlined directly below to complete the project:
- | | |
|--|-----------------|
| Total Grant Award: | \$15,000 |
| Total Required Grant Recipient's Match: | \$15,000 |
| Other funds available to complete the project: | |
| Total Project Cost: | \$30,000 |
- 4.03 The Grant Recipient shall be responsible for contributing all matching funds at an amount not less than that specified in 4.02, unless the final project cost is less than that specified in 4.02. If the final cost is less than that specified in 4.02, there will be a commensurate reduction to each party's contribution.
- 4.04 The Grant Recipient shall be responsible for funding any non-Program eligible costs associated with the Project including any cost overruns in excess of the Project Cost Estimate, operating and maintenance expenses, or interest on borrowed funds associated with this Project.
- 4.05 The Grant Recipient shall have sufficient funds available to meet the non-state share of the cost for the project.

ARTICLE V SCOPE OF WORK

- 5.01 The parties hereby agree that the Scope of Work the Grant Recipient shall perform under this Agreement is attached as Attachment "A" and incorporated herein for all purposes ("Scope of Work"). Changes shall not be made to the Scope of Work without prior approval of the Commission and substantive changes may require bilateral amendments to this contract.

ARTICLE VI

GRANT RECIPIENT'S RESPONSIBILITIES

- 6.01 The Grant Recipient shall ensure that all matters pertaining to the Project are conducted in conformance with the procedures described in the *Texas Preservation Trust Fund Planning Project Manual, A Checklist of Procedures for Selected Participants* all applicable state and federal laws, rules and regulations and the legal directives of the Commission and its staff.

- 6.02 If applicable, the Grant Recipient shall provide for the procurement of all necessary professional (e.g., architecture, engineering, archeologist and/or consultant) services related to the Project. The Grant Recipient's contract(s) for professional services shall be submitted to and reviewed by the Commission. The Grant Recipient shall provide and maintain competent and adequate architectural/engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved plans and specifications.

- 6.03 If applicable, the Grant Recipient shall ensure that planning documents, architectural plans and/or specifications for the Project shall be in accordance with the treatment for restoration, rehabilitation, reconstruction or preservation, as applicable, described the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties, 1995 (36 Code of Federal Regulations Part 68), the Archeological and Historic Preservation Secretary of the Interior's Standards and Guidelines, the Texas Accessibility Standards (State Architectural Barriers Act, Texas Government Code, Chapter 469) as determined by the Commission.

- 6.04 If applicable, the Grant Recipient shall submit architectural plans, specifications and/or other planning products for the Project to the Commission for review and approval. The Grant Recipient shall make all necessary revisions to the Project as determined by the Commission.

- 6.05 The Grant Recipient shall ensure that the Project deadlines as outlined in this Agreement and in the *Texas Preservation Trust Fund Planning Project Manual, A Checklist of Procedures for Selected Participants*, are met unless an extension is approved in advance by the Commission. Extension requests shall be made in writing by the Grant Recipient at least 14 days prior to the scheduled deadline.

- 6.06 If applicable, any field changes, supplemental agreements, or revisions to the plans and specifications related to a particular phase of the Project that occur after the construction contract is awarded must be mutually agreed to by the Commission and the Grant Recipient prior to the commencement of the work related to that phase of the Project.

- 6.07 The Grant Recipient shall submit a "Project Completion Report" to the Commission upon completion of the Project and prior to final reimbursement. Three (3) copies shall be provided to the Commission. For Projects involving planning only, a draft plan shall be provided to the Commission for review and comment prior to the completion of the planning report. The Grant Recipient shall allow approximately 30 days from date of receipt for the Commission to respond with comments and allow adequate time for the incorporation of those comments and any additional research required to complete the product prior to the

project completion deadline. The Grant Recipient shall make all necessary revisions to the planning report as determined by the Commission.

- 6.08 The Grant Recipient shall establish safeguards to prohibit employees from using their positions for a purpose that is, or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- 6.09 The Grant Recipient shall not dispose of or encumber its title or other interests in the site and facilities during the period of state interest without the written consent of the Commission.
- 6.10 The Grant Recipient shall comply with Title VI of the Civil Rights Act of 1964 [42 USC 2000(d)], and the American's with Disabilities Act of 1990, in that no person in the United States shall, on the ground of race, religion, color, disability, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives financial assistance and will immediately take any measures necessary to effectuate this agreement.
- 6.11 The Grant Recipient of a Acquisition Grant shall agree to repay the State of Texas the full amount of the Texas Preservation Trust Fund Grant if the purchased property, wholly or in part, is sold within one year of the date of the purchase assisted with said Texas Preservation Trust Fund Grant.

ARTICLE VII REIMBURSEMENT

- 7.01 The Grant Recipient shall be reimbursed for costs and expenses incurred to perform the work related to the Project by submitting to the Commission documentation showing that such costs and expenses have been paid. Reasonable, allowable, and allocable costs incurred by the Grant Recipient, after the Grant Recipient has obtained written authorization from the Commission to incur such costs, shall be eligible for reimbursement at an amount not to exceed the stated maximum of the eligible authorized costs. Documentation for costs and expenses shall amount to twice the amount for which the Grant Recipient is requesting reimbursement. The Commission shall reimburse the Grant Recipient for such expenses and costs in accordance with the State Prompt Payment Law after the Grant Recipient submits the documentation required hereunder.
- 7.02 Only costs and expenses identified as eligible by the Commission shall be eligible for reimbursement in accordance with Article VII hereof. Notwithstanding, the parties agree that costs may be shifted between budget categories with written approval from the Commission.
- 7.03 Documentation necessary for reimbursement of Project costs and expenses shall include a completed and signed Request for Reimbursement Form; verification of each cost presently claimed; verification of each corresponding payment; and, appropriate documentation for all

in-kind match work or donations if applicable.

- 7.04 For each reimbursement request, reimbursement of all eligible Project costs and expenses shall be made by the Commission on a one-to-one match of local to state dollars. This means for every two dollars spent on approved Project costs, one dollar of state grant money will be reimbursed to the Grant Recipient.
- 7.05 The Grant Recipient may request an interim reimbursement after the award of contract and submission of proof of all incurred allowable expenses in increments of at least \$2,500 or at least 10 percent of the total project cost, whichever is lesser; or according to a schedule as determined by the executive director of the Commission. If interim reimbursements are requested 10 percent of the grant allocation will be retained for the final payment.
- 7.06 The deadline to incur project expenses and make final application for payment is August, 31, 2018. **If an extension is needed, a written request by the Grant Recipient must be received by the THC at least 14 business days prior to the August 31 deadline.**

ARTICLE VIII TERMINATION

- 8.01 This Agreement may be terminated prior to completion of the Project by mutual consent and agreement in writing signed by all parties. In addition, this Agreement may be terminated by either party upon the failure of the other party to fulfill the obligations set forth in this Agreement, in the manner provided in Article 8.02 hereof.
- 8.02 If an event of termination is based on a material breach of the obligations of a party under this Agreement, then the party seeking termination shall notify the party of such breach and provide such party a reasonable period of time, which shall not be less than thirty (30) days, to cure such breach. If the breach is cured within the time permitted, no termination shall occur. Otherwise, this Agreement shall terminate after the period to cure the breach has expired. Any cost incurred due to such a breach of contract shall be paid by the breaching party.

- 8.03 If the Grant Recipient withdraws from the Project after this Agreement is executed, but prior to completion of the Project, all previously reimbursed Project costs shall be repaid to the Commission by the Grant Recipient within sixty (60) days of termination.
- 8.04 The termination of this Agreement shall extinguish all rights, duties, obligations, and liabilities of either party under this Agreement except the repayment provision under Article 8.03 and the inspection provisions under Article XVIII.

ARTICLE IX AMENDMENTS

- 9.01 This Agreement is the entire agreement between the parties. Any changes, deletions, extensions, or amendments to this Agreement shall be in writing and signed by all parties hereto prior to the ending date hereof. Any other attempted changes, including oral modifications, written notices that have not been signed by both parties, or other modifications of any type, shall be invalid.

ARTICLE X NOTICES

- 10.01 All notices to either party by the other required under this Agreement shall be delivered personally or sent by certified or U. S. Mail, postage prepaid or sent by electronic mail, (electronic notice being permitted to the extent permitted by law but only after a separate written consent of the parties), addressed to such parties at the following addresses:

Commission: Texas Historical Commission
Post Office Box 12276
Austin, Texas 78711

Grant Recipient: Town of Flower Mound
P.O. Box 609
Flower Mound, TX 76202

ARTICLE XI SEVERABILITY

- 11.01 In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

**ARTICLE XII
RESPONSIBILITIES OF PARTIES**

- 12.01 The Commission and the Grant Recipient agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

**ARTICLE XIII
OWNERSHIP OF DOCUMENTS**

- 13.01 Upon completion or termination of this Agreement, all documents prepared by either party shall remain the property of such party. All documents and data prepared under this Agreement shall be made available to the Commission without restriction or limit on their further use.

**ARTICLE XIV
COMPLIANCE WITH LAWS**

- 14.01 The parties hereof shall comply with all applicable Federal, State, and Local laws, statutes, ordinances, rules, and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement. When required, either party shall furnish satisfactory proof of their compliance with such requirements stated above.

**ARTICLE XV
LIMITATION OF LIABILITY**

- 15.01 The Commission shall not be liable for any direct or consequential damages to Grant Recipient or any third party for any act or omission of the Grant Recipient in the performance of this Agreement. The Commission shall neither indemnify nor guarantee any obligation of the Grant Recipient.

**ARTICLE XVI
DISPUTE RESOLUTION**

- 16.01 The dispute resolution process provided for in Government Code Chapter 2260 shall be used, as further described herein, by the parties to attempt to resolve any claim for breach of this Agreement made by either party.
- 16.02 A claim by the Grant Recipient for breach of this Agreement that cannot be resolved between the parties in the ordinary course of business shall be submitted to the negotiation process provided in Government Code Chapter 2260, Subchapter B. Compliance by Grant Recipient with Government Code Chapter 2260, Subchapter B is a condition precedent to the filing of a contested case proceeding under Government Code Chapter 2260, Subchapter C.

- 16.03 The contested case process provided in Government Code Chapter 2260, Subchapter C is Grant Recipient's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by Commission if the parties are unable to resolve their disputes under this Article XVII.
- 16.04 Compliance with the contested case process as provided in Article 16.02 hereof is a condition precedent to seeking consent to sue from the Texas Legislature under Civil Practices and Remedies Code Chapter 107. Neither the execution of this Agreement by the Commission nor any other conduct of any representative of Commission relating to the Agreement shall be considered a waiver of sovereign immunity to suit.
- 16.05 The submission, processing, and resolution of any claim by Grant Recipient hereunder is governed by 1 Texas Administrative Code §§68.1, et seq., now and as hereafter amended.
- 16.06 Neither the occurrence of an event alleged to constitute breach of this Agreement nor the pendency of a claim constitute grounds for the suspension of performance by the Grant Recipient, in whole or in part.

ARTICLE XVII SOLE AND ENTIRE AGREEMENT

- 17.01 This Agreement constitutes the sole and entire agreement between the parties and supersedes any prior understandings or written or oral agreements with respect to the Project or the grant of award funds under the Program.

ARTICLE XVIII INSPECTION OF BOOKS, RECORDS, AND WORK

- 18.01 The parties to this Agreement shall maintain all books, documents, papers, accounting records and other documentation relating to costs incurred under this Agreement and shall make such materials available to the Commission, the Grant Recipient, and the Comptroller, or their duly authorized representatives for review and inspection at its office during the contract period and for four (4) years from the date of completion of the work defined under this Agreement or until any impending litigation, or claims are resolved. Additionally, the Commission, the Grant Recipient, and the Comptroller and their duly authorized representatives shall have access to all the governmental records that are directly applicable to the Agreement for the purpose of making audits, examinations, excerpts, and transcriptions. The Commission may, during normal business hours, inspect the work on the Project undertaken through this Agreement.

ARTICLE XIX SIGNATORY WARRANTY

- 19.01 The signatories to this Agreement warrant that each has the authority to enter into this Agreement on behalf of the party represented.

IN WITNESS WHEREOF, this Agreement is executed in duplicate originals as of the dates herein below.

TEXAS HISTORICAL COMMISSION

THE TOWN OF FLOWER MOUND

By:

Mark Wolfe

Title: Executive Director

Date:

By:

Title:

Date:

Attachment A
Scope of Work
William-Gibson Log Cabin, Denton County

Scope of Work
William-Gibson Log Cabin Project

The Town of Flower Mound in partnership with Denton County Office of History and Culture (OHC) has hired Quimby McCoy Preservation Architects to produce a Historic Structures Report as part of the Master Plan for the William Gibson Log Cabin historic site. The Historic Structures Report will include a history of the building, assessment of the current condition, and recommendations for treatment and restoration. The Historic Structures Report will be included as part of the Master Plan, which will additionally include a scope of work and development plan for the restoration and use of the log cabin and site. The preparation of the HSR will follow the Secretary of Interior Standards for Historical Documentation and the guidelines contained in Technical Preservation Services Preservation Brief #43: The Preparation and Use of Historic Structure Reports.

Attachment B
Project Budget
William Gibson Log Cabin, Denton County

Project Budget
William Gibson Log Cabin Project

Work Category	Grant Funds Requested	Applicant Match	Total Project Cost
1. Historic Structure Report N/A	\$	\$	\$
2. Master Plan	\$15,000	\$15,000	\$30,000
3. Feasibility Study N/A	\$	\$	\$
4. Architectural Plans And Specifications N/A	\$	\$	\$
5. Professional Fees (specify) N/A	\$	\$	\$
6. Photography N/A	\$	\$	\$
7. Publication Costs of Final Report (three copies) N/A	\$	\$	\$
8. Other (describe) N/A	\$	\$	\$
Total Architecture Planning Project Costs	\$15,000	\$15,000	\$30,000

No changes to the budget occurred during the grant selection process. The project did not receive reduced funding, and the scope of work does not need to be adjusted. This budget is the same as the one provided with the project proposal.



TOWN COUNCIL AGENDA ITEM NO. 13

CONSENT ITEM

DATE: December 19, 2016

FROM: David Bauer, Construction Manager

ITEM: Consider approval of a Construction Manager at Risk Agreement, for the construction of the Town Hall project, with Steele Freeman Inc.; and authorization for the Mayor to execute the same on behalf of the Town.

BACKGROUND INFORMATION: The Town Hall project consists of an approximately 45,000 sq. foot municipal multi-purpose building and associated site improvements on approximately 3+ acres located at the south east of the intersection of Cross Timbers Road (FM 1171) and Morriss Road. The project is using the Construction Manager at Risk (CMR) delivery method.

A request for Statement of Qualifications (SOQ) from prospective Construction Manager at Risk (CMR) firms was advertised on October 16, 2016, and October 30, 2016. Each firm was requested to submit their qualifications. Nine firms responded to the request for SOQ. The project team reviewed each submittal based upon qualifications, experience, financial viability, and previous experience with the Town. Of those responses, three were selected to submit a best and final offer or Request for Proposals (RFP) for the project.

The project team reviewed the submittals and recommends Steele Freeman as the CMR for the Town Hall project. The CMR shall prepare a Guaranteed Maximum Price (GMP) proposal for the Town's review and acceptance. The GMP in the proposal will be the sum of the construction manager's estimate of the cost of the work, including contingencies, described in Section 2.2.4 of the agreement, and the construction manager's fee of \$675,000.00.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: Bradley A. Anderle, of Taylor, Olson, Adkins, Sralla & Elam, L.L.P., has reviewed the attached contract as to form and legality.

ATTACHMENTS:

1. AIA Contract
2. AIA General Conditions
3. Supplementary Conditions
4. Amendments to Supplementary Conditions

RECOMMENDATION: Move to approve the Agreement for the Construction Manager at Risk Agreement for the construction of a Town Hall with Steele Freeman Inc., and authorize the Mayor to execute same on behalf of the Town.

AIA® Document A133™ – 2009

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the Fifteenth day of December in the year Two Thousand Sixteen

(In words, indicate day, month and year.)

BETWEEN the Owner:

(Name, legal status and address)

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

and the Construction Manager:

(Name, legal status and address)

Steele & Freeman, Inc.
1301 Lawson Road
Fort Worth, Texas 76131

for the following Project:

(Name and address or location)

Town Hall Facility

The Architect:

(Name, legal status and address)

Oxley Williams Tharp Architects, PLLC
509 Pecan Street, Suite 100
Fort Worth, Texas 76102

The Owner's Designated Representative:

(Name, address and other information)

Debra Wallace
Assistant Town Manager/CFO
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
Telephone Number: 972.874.6020

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

The Construction Manager's Designated Representative:
(Name, address and other information)

Michael D. Freeman
President
Steele & Freeman, Inc.
1301 Lawson Road
Fort Worth, Texas 76131
Telephone Number: 817.232.4742

The Architect's Designated Representative:
(Name, address and other information)

Andrew Oxley
Principal
Oxley Williams Tharp Architects, PLLC
509 Pecan Street, Suite 100
Fort Worth, Texas 76102
Telephone Number: 817.993.9844

The Owner and Construction Manager agree as follows.

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TABLE OF ARTICLES

1	GENERAL PROVISIONS
2	CONSTRUCTION MANAGER'S RESPONSIBILITIES
3	OWNER'S RESPONSIBILITIES
4	COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
5	COMPENSATION FOR CONSTRUCTION PHASE SERVICES
6	COST OF THE WORK FOR CONSTRUCTION PHASE
7	PAYMENTS FOR CONSTRUCTION PHASE SERVICES
8	INSURANCE AND BONDS
9	DISPUTE RESOLUTION
10	TERMINATION OR SUSPENSION
11	MISCELLANEOUS PROVISIONS
12	SCOPE OF THE AGREEMENT

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT**ARTICLE 1 GENERAL PROVISIONS****§ 1.1 The Contract Documents**

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.

§ 1.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 1.3 General Conditions

For the Preconstruction Phase, AIA Document A201™–2007, General Conditions of the Contract for Construction, shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2007, which document is incorporated herein by reference. The term "Contractor" as used in A201–2007 shall mean the Construction Manager.

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ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 2.1 Preconstruction Phase

§ 2.1.1 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 2.1.2 Consultation

The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 2.1.3 When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; and the occupancy requirements of the Owner.

§ 2.1.4 Phased Construction

The Construction Manager shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, or phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues.

§ 2.1.5 Preliminary Cost Estimates

§ 2.1.5.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Architect's review and Owner's approval. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 2.1.5.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.1.6 Subcontractors and Suppliers

The Construction Manager shall develop bidders' interest in the Project.

§ 2.1.7 The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager

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shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 2.1.8 Extent of Responsibility

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 2.1.9 Notices and Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi governmental authorities for inclusion in the Contract Documents.

§ 2.2 Guaranteed Maximum Price Proposal and Contract Time

§ 2.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's review and acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, including contingencies described in Section 2.2.4, and the Construction Manager's Fee.

§ 2.2.2 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 2.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, contingency, and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 2.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include its contingency for the Construction Manager's exclusive use to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order.

§ 2.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner and Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

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§ 2.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 2.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs.

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications.

§ 2.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 2.3 Construction Phase

§ 2.3.1 General

§ 2.3.1.1 For purposes of Section 8.1.2 of A201–2007, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal or the Owner's issuance of a Notice to Proceed, whichever occurs earlier.

§ 2.3.2 Administration

§ 2.3.2.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 2.3.2.2 If the Guaranteed Maximum Price has been established and when a specific bidder (1) is recommended to the Owner by the Construction Manager, (2) is qualified to perform that portion of the Work, and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Contract Time and the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 2.3.2.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the Subcontract is awarded on a cost plus a fee basis, the Construction Manager shall provide in the Subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Section 6.11 below.

§ 2.3.2.4 If the Construction Manager recommends a specific bidder that may be considered a "related party" according to Section 6.10, then the Construction Manager shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction, according to Section 6.10.2.

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§ 2.3.2.5 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner and Architect.

§ 2.3.2.6 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and submittal schedule in accordance with Section 3.10 of A201–2007.

§ 2.3.2.7 The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner. The Construction Manager shall also keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 2.3.2.8 The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 2.3.2.7 above.

§ 2.4 Professional Services

Section 3.12.10 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 2.5 Hazardous Materials

Section 10.3 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

ARTICLE 3 OWNER'S RESPONSIBILITIES

§ 3.1 Information and Services Required of the Owner

§ 3.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 3.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect.

§ 3.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 3.1.4 **Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

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§ 3.1.4.1 The Owner shall furnish tests, inspections and reports required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 3.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 3.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 3.1.4.4 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 3.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2007, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 3.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 3.3 Architect

The Owner shall retain an Architect to provide services, duties, and responsibilities as described in AIA Document B133™-2014, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition. The Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 4.1 Compensation

§ 4.1.1 For the Construction Manager's Preconstruction Phase services, the Owner shall compensate the Construction Manager as follows:

§ 4.1.2 For the Construction Manager's Preconstruction Phase services described in Sections 2.1 and 2.2:
(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

No Charge (\$0.00)

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within Not Applicable (N/A) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 4.1.4 Compensation based on Direct Personnel Expense includes the direct salaries of the Construction Manager's personnel providing Preconstruction Phase services on the Project and the Construction Manager's costs for the mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

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§ 4.2 Payments

§ 4.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 4.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid Not Applicable (N/A) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager. *(Insert rate of monthly or annual interest agreed upon.)*

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ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 5.1 For the Construction Manager's performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager the Contract Sum in current funds. The Contract Sum is the Cost of the Work as defined in Section 6.1.1 plus the Construction Manager's Fee.

§ 5.1.1 The Construction Manager's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

§ 5.1.2 The method of adjustment of the Construction Manager's Fee for changes in the Work:

Profit part of the Construction Phase Fee:	2.50% of the GMP
Overhead part of the Construction Phase Fee:	\$375,000.00
Performance and Payment Bonds:	0.85% of the GMP
General Liability, Automobile Liability and Umbrella Liability Insurance:	0.38% of the GMP
Builders Risk Insurance:	0.15% of the GMP

§ 5.1.3 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

Two and One-Half Percent (2.50%) for any changes in excess of the original GMP

§ 5.1.4 Rental rates for Construction Manager-owned equipment shall not exceed One Hundred percent (100 %) of the standard rate paid at the place of the Project.

§ 5.1.5 Unit prices, if any:

(Identify and state the unit price; state the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
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§ 5.2 Guaranteed Maximum Price

§ 5.2.1 The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.

(Insert specific provisions if the Construction Manager is to participate in any savings.)

§ 5.2.2 The Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

Init.

§ 5.3 Changes in the Work

§ 5.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201–2007, General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 5.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Section 7.3.3 of AIA Document A201–2007, General Conditions of the Contract for Construction.

§ 5.3.3 In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis of cost plus a fee), the terms "cost" and "fee" as used in Section 7.3.3.3 of AIA Document A201–2007 and the term "costs" as used in Section 7.3.7 of AIA Document A201–2007 shall have the meanings assigned to them in AIA Document A201–2007 and shall not be modified by Sections 5.1 and 5.2, Sections 6.1 through 6.7, and Section 6.8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 5.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in the above-referenced provisions of AIA Document A201–2007 shall mean the Cost of the Work as defined in Sections 6.1 to 6.7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 5.1 of this Agreement.

§ 5.3.5 If no specific provision is made in Section 5.1.2 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 5.1.2 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 6 COST OF THE WORK FOR CONSTRUCTION PHASE**§ 6.1 Costs to Be Reimbursed**

§ 6.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in Sections 6.1 through 6.7.

§ 6.1.2 Where any cost is subject to the Owner's prior approval, the Construction Manager shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing Guaranteed Maximum Price Amendment.

§ 6.2 Labor Costs

§ 6.2.1 Wages of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ 6.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site with the Owner's prior approval.

(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager's principal or other offices shall be included in the Cost of the Work, identify in Section 11.5, the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

§ 6.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 6.2.4 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements,

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customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 6.2.1 through 6.2.3.

§ 6.2.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, with the Owner's prior approval.

§ 6.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts.

§ 6.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 6.4.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ 6.4.2 Costs of materials described in the preceding Section 6.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 6.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 6.5.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 6.5.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Construction Manager-owned item may not exceed the purchase price of any comparable item. Rates of Construction Manager-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

§ 6.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 6.5.4 Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

§ 6.5.5 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 6.5.6 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 6.6 Miscellaneous Costs

§ 6.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 6.6.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Construction Manager is liable.

§ 6.6.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Construction Manager is required by the Contract Documents to pay.

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§ 6.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AIA Document A201–2007 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 6.7.3.

§ 6.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Construction Manager's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201–2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

§ 6.6.6 Costs for electronic equipment and software, directly related to the Work with the Owner's prior approval.

§ 6.6.7 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 6.6.8 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

§ 6.6.9 Subject to the Owner's prior approval, expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work.

§ 6.7 Other Costs and Emergencies

§ 6.7.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ 6.7.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 10.4 of AIA Document A201–2007.

§ 6.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Construction Manager and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 6.7.4 The costs described in Sections 6.1 through 6.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2007 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 6.8.

§ 6.8 Costs Not To Be Reimbursed

§ 6.8.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 6.2, or as may be provided in Article 11;
- .2 Expenses of the Construction Manager's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Sections 6.1 to 6.7;
- .4 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .5 Except as provided in Section 6.7.3 of this Agreement, costs due to the negligence or failure of the Construction Manager, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Sections 6.1 to 6.7;

Init.

- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .8 Costs for services incurred during the Preconstruction Phase.

§ 6.9 Discounts, Rebates and Refunds

§ 6.9.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 6.9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 6.9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ 6.10 Related Party Transactions

§ 6.10.1 For purposes of Section 6.10, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Construction Manager; any entity in which any stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Construction Manager. The term "related party" includes any member of the immediate family of any person identified above.

§ 6.10.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3. If the Owner fails to authorize the transaction, the Construction Manager shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3.

§ 6.11 Accounting Records

The Construction Manager shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 7.1 Progress Payments

§ 7.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Construction Manager as provided below and elsewhere in the Contract Documents.

§ 7.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 7.1.3 Provided that an Application for Payment is received by the Architect not later than the last day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the last day of the following month. If an Application for Payment is received by the Architect after the application date fixed above,

payment shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 7.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, less that portion of those payments attributable to the Construction Manager's Fee, plus payrolls for the period covered by the present Application for Payment.

§ 7.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 7.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 7.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201-2007;
- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Construction Manager's Fee, less retainage of five percent (5 %). The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of five percent (5 %) from that portion of the Work that the Construction Manager self-performs;
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

§ 7.1.8 The Owner and Construction Manager shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 7.1.9 Except with the Owner's prior approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

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§ 7.1.10 In taking action on the Construction Manager's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 7.2 Final Payment

§ 7.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract except for the Construction Manager's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-2007, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect.

The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 7.2.2 The Owner's auditors will review and report in writing on the Construction Manager's final accounting within 30 days after delivery of the final accounting to the Architect by the Construction Manager. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Construction Manager's final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 9.5.1 of the AIA Document A201-2007. The time periods stated in this Section supersede those stated in Section 9.4.1 of the AIA Document A201-2007. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 7.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Construction Manager's final accounting to be less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Section 15.2 of A201-2007. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 7.2.4 If, subsequent to final payment and at the Owner's request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager such costs and the Construction Manager's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If the Construction Manager has participated in savings as provided in Section 5.2.1, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager.

ARTICLE 8 INSURANCE AND BONDS

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201-2007.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007.)

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Type of Insurance or Bond	Limit of Liability or Bond Amount (\$0.00)
Performance and Payment Bonds	100% of Contract Amount
General Liability	\$ 2,000,000.00 General Aggregate
Automobile Liability	\$ 1,000,000.00 Combined Single Limit
Workers' Compensation	\$ 1,000,000.00 Each Accident/Disease/Employee
Umbrella/Excess Liability	\$ 10,000,000.00 Occurrence/Aggregate

ARTICLE 9 DISPUTE RESOLUTION

§ 9.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of A201–2007. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 9.3 of this Agreement shall not apply.

§ 9.2 For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

- ☒ [X] Arbitration pursuant to Section 15.4 of AIA Document A201–2007
- ☐ [] Litigation in a court of competent jurisdiction
- ☐ [] Other: *(Specify)*

§ 9.3 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

ARTICLE 10 TERMINATION OR SUSPENSION

§ 10.1 Termination Prior to Establishment of the Guaranteed Maximum Price

§ 10.1.1 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Section 14.1.1 of A201–2007.

§ 10.1.2 In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 4.1.

§ 10.1.3 If the Owner terminates the Contract pursuant to Section 10.1.1 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 10.1.2:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;

- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 10, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 10.2 Termination Subsequent to Establishing Guaranteed Maximum Price

Following execution of the Guaranteed Maximum Price Amendment and subject to the provisions of Section 10.2.1 and 10.2.2 below, the Contract may be terminated as provided in Article 14 of AIA Document A201-2007.

§ 10.2.1 If the Owner terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager pursuant to Sections 14.2 and 14.4 of A201-2007 shall not exceed the amount the Construction Manager would otherwise have received pursuant to Sections 10.1.2 and 10.1.3 of this Agreement.

§ 10.2.2 If the Construction Manager terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager under Section 14.1.3 of A201-2007 shall not exceed the amount the Construction Manager would otherwise have received under Sections 10.1.2 and 10.1.3 above, except that the Construction Manager's Fee shall be calculated as if the Work had been fully completed by the Construction Manager, utilizing as necessary a reasonable estimate of the Cost of the Work for Work not actually completed.

§ 10.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2007. In such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201-2007, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 5.1 and 5.3.5 of this Agreement.

ARTICLE 11 MISCELLANEOUS PROVISIONS

§ 11.1 Terms in this Agreement shall have the same meaning as those in A201-2007.

§ 11.2 Ownership and Use of Documents

Section 1.5 of A201-2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.3 Governing Law

Section 13.1 of A201-2007 shall apply to both the Preconstruction and Construction Phases.

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§ 11.4 Assignment

The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement. Except as provided in Section 13.2.2 of A201-2007, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 11.5 Other provisions:**ARTICLE 12 SCOPE OF THE AGREEMENT**

§ 12.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 12.2 The following documents comprise the Agreement:

- .1 AIA Document A133-2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A201-2007, General Conditions of the Contract for Construction
- .3 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:
- .4 AIA Document E202™-2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
- .5 Other documents:
(List other documents, if any, forming part of the Agreement.)

Supplementary Conditions to AIA Document A133-2009

This Agreement is entered into as of the day and year first written above.

OWNER (Signature)

Thomas E. Hayden, Mayor of Flower Mound
(Printed name and title)

CONSTRUCTION MANAGER (Signature)

Michael D. Freeman, President
(Printed name and title)

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Additions and Deletions Report for **AIA® Document A133™ – 2009**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:45:08 on 12/15/2016.

PAGE 1

AGREEMENT made as of the Fifteenth day of December in the year Two Thousand Sixteen

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

...

Steele & Freeman, Inc.
1301 Lawson Road
Fort Worth, Texas 76131

...

Town Hall Facility

...

Oxley Williams Tharp Architects, PLLC
509 Pecan Street, Suite 100
Fort Worth, Texas 76102

...

Debra Wallace
Assistant Town Manager/CFO
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
Telephone Number: 972.874.6020

PAGE 2

Michael D. Freeman
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...

Andrew Oxley
Principal
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Fort Worth, Texas 76102
Telephone Number: 817.993.9844

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No Charge (\$0.00)

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within Not Applicable (N/A) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

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§ 4.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid Not Applicable (N/A) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

...

Profit part of the Construction Phase Fee:	2.50% of the GMP
Overhead part of the Construction Phase Fee:	\$375,000.00
Performance and Payment Bonds:	0.85% of the GMP
General Liability, Automobile Liability and Umbrella Liability Insurance:	0.38% of the GMP
Builders Risk Insurance:	0.15% of the GMP

...

Two and One-Half Percent (2.50%) for any changes in excess of the original GMP

§ 5.1.4 Rental rates for Construction Manager-owned equipment shall not exceed One Hundred percent (100 %) of the standard rate paid at the place of the Project.

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§ 7.1.3 Provided that an Application for Payment is received by the Architect not later than the last day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the last day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.

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- .3 Add the Construction Manager's Fee, less retainage of five percent (5 %). The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of five percent (5 %) from that portion of the Work that the Construction Manager self-performs;

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<u>Performance and Payment Bonds</u>	<u>100% of Contract Amount</u>
<u>General Liability</u>	<u>\$ 2,000,000.00 General Aggregate</u>
<u>Automobile Liability</u>	<u>\$ 1,000,000.00 Combined Single Limit</u>
<u>Workers' Compensation</u>	<u>\$ 1,000,000.00 Each Accident/Disease/Employee</u>
<u>Umbrella/Excess Liability</u>	<u>\$ 10,000,000.00 Occurrence/Aggregate</u>

...

☒ Arbitration pursuant to Section 15.4 of AIA Document A201-2007

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Supplementary Conditions to AIA Document A133-2009

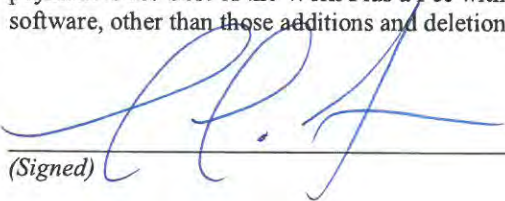
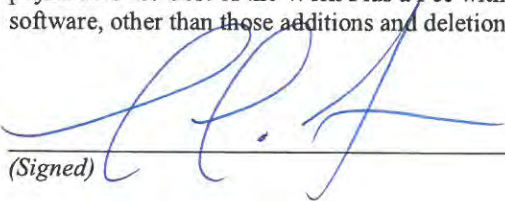
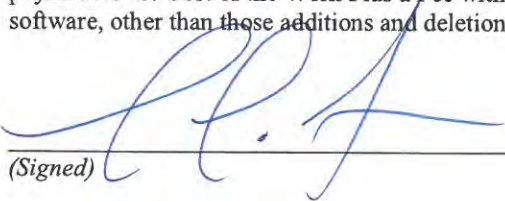
...

Thomas E. Hayden, Mayor of Flower Mound

Michael D. Freeman, President

Certification of Document's Authenticity**AIA® Document D401™ – 2003**

I, Michael D. Freeman, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:45:08 on 12/15/2016 under Order No. 1925061869_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ – 2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.


(Signed)
(Title)
(Dated)



AIA® Document A201™ – 2007

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Town Hall Facility

THE OWNER:

(Name, legal status and address)

Town of Flower Mound

2121 Cross Timbers Road

Flower Mound, Texas 75028

THE ARCHITECT:

(Name, legal status and address)

Oxley Williams Tharp Architects, PLLC

509 Pecan Street, Suite 100

Fort Worth, Texas 76102

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 GENERAL PROVISIONS**§ 1.1 BASIC DEFINITIONS****§ 1.1.1 THE CONTRACT DOCUMENTS**

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.

§ 1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by separate contractors.

§ 1.1.5 THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

§ 1.1.6 THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 INSTRUMENTS OF SERVICE

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 INITIAL DECISION MAKER

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2 and certify termination of the Agreement under Section 14.2.2.

§ 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 CAPITALIZATION

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 INTERPRETATION

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants.

§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

ARTICLE 2 OWNER

§ 2.1 GENERAL

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 Prior to commencement of the Work, the Contractor may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Contractor may only request such evidence if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or

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the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.2 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.2.3 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.2.4 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.2.5 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.3 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 3 CONTRACTOR

§ 3.1 GENERAL

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required means, methods, techniques, sequences or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 LABOR AND MATERIALS

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other

facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work authorized by the Architect in accordance with Sections 3.12.8 or 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 WARRANTY

The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.6 TAXES

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume

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the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 ALLOWANCES

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 Allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 Whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 SUPERINTENDENT

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to the proposed superintendent or (2) that the Architect requires additional time to review. Failure of the Architect to reply within the 14 day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

§ 3.10.2 The Contractor shall prepare a submittal schedule, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Architect's approval. The Architect's approval shall not unreasonably be delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

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§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE

The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be

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required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

§ 3.13 USE OF SITE

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 CUTTING AND PATCHING

§ 3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition existing prior to the cutting, fitting and patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

§ 3.15 CLEANING UP

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 ACCESS TO WORK

The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

§ 3.18 INDEMNIFICATION

§ 3.18.1 To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 4 ARCHITECT**§ 4.1 GENERAL**

§ 4.1.1 The Owner shall retain an architect lawfully licensed to practice architecture or an entity lawfully practicing architecture in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

§ 4.1.3 If the employment of the Architect is terminated, the Owner shall employ a successor architect as to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 4.2 ADMINISTRATION OF THE CONTRACT

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

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§ 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

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§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 DEFINITIONS

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 SUBCONTRACTUAL RELATIONS

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may

be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

§ 6.2 MUTUAL RESPONSIBILITY

§ 6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that

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the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 6.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 GENERAL

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

§ 7.2 CHANGE ORDERS

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 CONSTRUCTION CHANGE DIRECTIVES

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

.4 As provided in Section 7.3.7.

§ 7.3.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 7.3.5 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.6 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

- .1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .2 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 Additional costs of supervision and field office personnel directly attributable to the change.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 MINOR CHANGES IN THE WORK

The Architect has authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor.

ARTICLE 8 TIME**§ 8.1 DEFINITIONS**

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 PROGRESS AND COMPLETION

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 DELAYS AND EXTENSIONS OF TIME

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control; or by delay authorized by the Owner pending mediation and arbitration; or by other causes that the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION**§ 9.1 CONTRACT SUM**

The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.2 SCHEDULE OF VALUES

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 9.3 APPLICATIONS FOR PAYMENT

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents.

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§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 CERTIFICATES FOR PAYMENT

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data comprising the Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 DECISIONS TO WITHHOLD CERTIFICATION

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;

- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Architect will reflect such payment on the next Certificate for Payment.

§ 9.6 PROGRESS PAYMENTS

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor no later than seven days after receipt of payment from the Owner the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.

§ 9.6.5 Contractor payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors and suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.7 FAILURE OF PAYMENT

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect or awarded by binding

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dispute resolution, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 SUBSTANTIAL COMPLETION

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 PARTIAL OCCUPANCY OR USE

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

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§ 9.10 FINAL COMPLETION AND FINAL PAYMENT

§ 9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents; or
- .3 terms of special warranties required by the Contract Documents.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS**

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 SAFETY OF PERSONS AND PROPERTY

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and

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- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

§ 10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 HAZARDOUS MATERIALS

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

§ 10.3.2 Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be

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extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

§ 10.4 EMERGENCIES

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 CONTRACTOR'S LIABILITY INSURANCE

§ 11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the

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Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

§ 11.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner, the Architect and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

§ 11.2 OWNER'S LIABILITY INSURANCE

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ 11.3 PROPERTY INSURANCE

§ 11.3.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

§ 11.3.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.

§ 11.3.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance that will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor in writing, then the Owner shall bear all reasonable costs properly attributable thereto.

§ 11.3.1.3 If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ 11.3.1.4 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

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§ 11.3.1.5 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ 11.3.2 BOILER AND MACHINERY INSURANCE

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

§ 11.3.3 LOSS OF USE INSURANCE

The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

§ 11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

§ 11.3.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ 11.3.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

§ 11.3.7 WAIVERS OF SUBROGATION

The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 11.3.8 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

§ 11.3.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

§ 11.4 PERFORMANCE BOND AND PAYMENT BOND

§ 11.4.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

§ 11.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 UNCOVERING OF WORK

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 CORRECTION OF WORK

§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 AFTER SUBSTANTIAL COMPLETION

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct

nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 ACCEPTANCE OF NONCONFORMING WORK

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 GOVERNING LAW

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 SUCCESSORS AND ASSIGNS

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

§ 13.3 WRITTEN NOTICE

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 13.4 RIGHTS AND REMEDIES

§ 13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 13.4.2 No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing.

§ 13.5 TESTS AND INSPECTIONS

§ 13.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

§ 13.5.2 If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses shall be at the Contractor's expense.

§ 13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.5.5 If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.6 INTEREST

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

§ 13.7 TIME LIMITS ON CLAIMS

The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in the Agreement within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all claims and causes of action not commenced in accordance with this Section 13.7.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 TERMINATION BY THE CONTRACTOR

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

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- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 TERMINATION BY THE OWNER FOR CAUSE

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the above reasons exist, the Owner, upon certification by the Initial Decision Maker that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

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§ 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 15 CLAIMS AND DISPUTES**§ 15.1 CLAIMS****§ 15.1.1 DEFINITION**

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 15.1.2 NOTICE OF CLAIMS

Claims by either the Owner or Contractor must be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3 CONTINUING CONTRACT PERFORMANCE

Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

§ 15.1.4 CLAIMS FOR ADDITIONAL COST

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.5 CLAIMS FOR ADDITIONAL TIME

§ 15.1.5.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

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§ 15.1.5.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

§ 15.1.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 INITIAL DECISION

§ 15.2.1 Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

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§ 15.2.6.1 Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 MEDIATION

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.6 shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 ARBITRATION

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 CONSOLIDATION OR JOINDER

§ 15.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration

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permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Contractor under this Agreement.

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Town Hall Facility

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(Name, legal status and address)

Town of Flower Mound

2121 Cross Timbers Road

Flower Mound, Texas 75028

...

(Name, legal status and address)

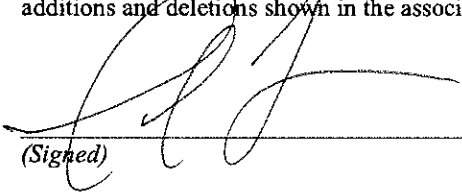
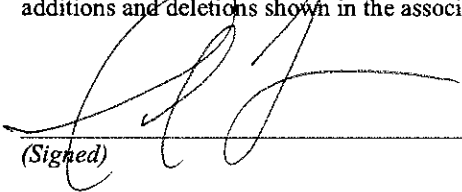
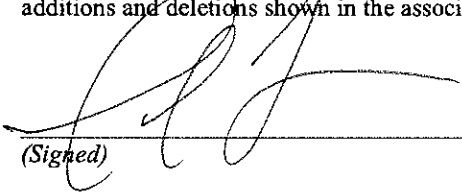
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Fort Worth, Texas 76102

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I, Michael D. Freeman, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:47:44 on 12/15/2016 under Order No. 1925061869_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2007, General Conditions of the Contract for Construction, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.


(Signed)
President
(Title)
12/15/2016
(Dated)

THE TOWN OF FLOWER MOUND, TEXAS**SUPPLEMENTARY CONDITIONS
TO AIA DOCUMENT A133-2009**

These Supplementary Conditions are incorporated into the Construction Manager at Risk Agreement between Steele & Freeman, Inc. ("Contractor") and the TOWN OF FLOWER MOUND, TEXAS ("Town" or "Owner"), dated December 19, 2016. The following terms and conditions supplement and modify the "Standard Form of Agreement Between Owner and Construction Manager as Constructor," AIA Document A133-2009. Where a portion of AIA Document A133-2009 is modified or deleted by these Supplementary Conditions, the unaltered portions of AIA Document A133-2009 shall remain in effect.

SUPPLEMENTARY CONDITIONS TO AIA DOCUMENT A133-2009**ARTICLE 1 GENERAL PROVISIONS****§1.1 The Contract Documents**

Delete the last sentence of this section.

§1.2 shall be amended as follows:

At the end of the first sentence add ", and to perform the Work defined in the Contract Documents, in accordance with the Owner's requirements and construction cost limitations, as approved by the Owner and set forth in the Contract Document."

§1.3 shall be amended as follows:

Any reference to the AIA Document A201-2007, General Conditions of the Contract for Construction, shall mean "as amended by the parties."

ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES**§2.1 Preconstruction Phase**

§2.1.3 In the first sentence, after the word "shall," add: "coordinate with the Project schedule already developed by the Architect" and delete the rest of the sentence. Delete the second sentence of this section. In the last sentence, delete the word "and" between "advance of construction;" and "the occupancy requirements" and add the following to the end of the sentence:

"and proposed date of Substantial Completion. If preliminary Project schedule updates indicate that previously approved schedules may not be met, the Construction Manager shall make appropriate recommendations to the Owner and Architect."

§2.1.5.2 shall be amended by adding the following language at the end of the section:

“ . . ., including but not limited to, substitution of materials, or revisions or alterations to the Design Development Documents or the Construction Documents, to bring the Project within the Owner’s budget, but shall not delete necessary components of the Project without Owner’s consent, In the event that the quality or scope identified in the estimates are unacceptable or exceed the Owner’ identified budget, the Construction Manager shall work with the Architect to develop options that are acceptable to Owner and are within the Owner’s budget to the extent feasible.”

§2.1.8 Extent of Responsibility

Add the following language at the end of this section: “The Construction Manager shall certify to the Owner that the facility, to the best of his knowledge, has been constructed in accordance with the Architect’s construction documents. The certification shall be in a form which is acceptable to the Owner and Construction Manager.”

§2.2 Guaranteed Maximum Price Proposal and Contract Time

§2.2.2 In the last sentence of this section, replace “shall” with “may.”

§2.2.3.5 Add the following language at the end of this subsection: “, but in any event not less than sixty (60) days.”

Add the following new subsection after subsection §2.2.3.5:

“§2.2.3.6 If Owner requests, Construction Manager shall make available for inspection the background documents and information that form the basis of the Construction Manager’s Guaranteed Maximum Price proposal.”

§2.2.4 Delete this section in its entirety.

§2.2.9 Delete this section in its entirety and replace it with the following: “The Guaranteed Maximum Price shall not include in the Cost of the Work any taxes from which the Owner is exempt by virtue of its status as a governmental entity. In the event that the Contractor is required to pay or bear the burden of any new federal, state, or local tax, or if any rate increase of an existing tax (except a tax on net profits), as a result of any statute, court decision, written ruling, or regulation takes effect after the contract date, the Guaranteed Maximum Price shall be increased by the amount of the new tax, or tax increase.”

§2.3 Construction Phase

§2.3.1 General

§2.3.1.2 At the end of the section, replace “earlier” with “later.” Add the following language at the end of the section: “Other than services normally associated with Construction

Manager's performance of the General Conditions, Construction Manager shall not perform any portions of the Work unless it has been awarded such portion in accordance with the same procedures imposed upon all other trade contractors or subcontractors, and then, only if the Owner has determined that the Construction Manager's bid or proposal provides the best value for the Owner."

§2.3.2 Administration

§2.3.2.1 Delete this section in its entirety and replace it with the following: "All portions of the Work, other than minor work, site clean-up, etc. ("General Conditions"), shall be performed by trade contractors or subcontractors, including the Construction Manager, who have been selected using competitive bids or competitive sealed proposals. With the Owner's approval, the Construction Manager shall publicly advertise and solicit either competitive bids or competitive sealed proposals in accordance with the policies and procedures approved by Owner. On all portions of the Work for which the Construction Manager does not submit a bid or proposal, the Construction Manager and the Owner shall receive and open all trade contractor and subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process. On any portion of the Work for which the Construction Manager submits a bid or proposal, the Owner shall receive and open the trade contractors', subcontractors' and Construction Manager's bids or proposals, but shall not disclose the contents of the bids or proposals until the selection process therefore is completed. All bids or proposals shall be made public within seven (7) days after the date of final selection."

§2.3.2.2 In the first sentence of this section, delete "and" from between "Work" and "(3)" and insert the following in between "exceptions," and "but": "and (4) offers the best value to the Owner."

§2.3.2.5 shall be amended by adding the following language at the end of the existing section:

"The Construction Manager shall provide periodic presentations updating the progress, quality and status of the Work to Owner's Town Council, at Owner's request, at no additional cost to Owner."

Add the following new subsections after §2.3.2.8:

"§2.3.2.9 Liquidated Damages for Failure to Complete on Time. The time of completion is of the essence of this Agreement. For each day that any work shall remain uncompleted after the time specified in the Contract Documents, or the increased time granted by the Owner, or as agreed upon to be increased by additional Work or materials ordered after this Agreement is signed, the sum of One Thousand and No/100 Dollars (\$1,000.00) shall be deducted from the monies due the Construction Manager. The sum of money thus deducted for such delay, failure or non-completion is not to be considered as a penalty, but shall be deemed, taken and treated as reasonable liquidated damages per day that the Construction Manager shall be in default after the time stipulated in the Contract Documents for completing the Work. The said amount is fixed and agreed upon by and between the Owner and Construction Manager

because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner in such event would sustain; and said amount is agreed to be the amount of damages which the Owner would sustain and which shall be retained from the monies due, or that may become due, the Construction Manager under this Agreement; and if said monies are insufficient to cover the amount owing, then the Construction Manager or its surety shall pay any additional amounts due. In the event that the actual damages incurred by the Owner exceed the amount of liquidated damages, Owner shall be entitled to recover its actual damages.

§2.3.2.10 Claims for Additional Time. The Construction Manager shall be entitled to an extension of the contract time for delays or disruptions due to unusually severe weather in excess of that normally experienced at the job site only as determined from climatological data set forth in this subsection. The Construction Manager shall bear the entire economic risk of all weather delays and disruptions, and shall not be entitled to any increase in the Guaranteed Maximum Price by reason of such delays or disruptions. Rainy days shall not be considered an abnormal or adverse weather condition for which an extension of time will be granted unless and except in those months during which the actual cumulative number of rainy days within the month exceed the historical average cumulative number of rainy days for said month, provided that the rainfall prevented the execution of major items of work on normal working days. A rain day is defined as a day when rainfall exceeds one-tenth (.1) inch during a twenty-four (24) hour period. The historical average cumulative number of rainy days per calendar month is agreed by the Owner and Construction Manager to be as set forth in the following Rainfall Table:

Rainfall Table

JAN	7 calendar days	APR	7 calendar days	JUL	4 calendar days	OCT	7 calendar days
FEB	6 calendar days	MAY	9 calendar days	AUG	4 calendar days	NOV	6 calendar days
MAR	8 calendar days	JUN	7 calendar days	SEP	6 calendar days	DEC	6 calendar days

The number of rain days shown in the Rainfall Table for the first and last months of this Agreement will be prorated in determining the total number of rain days expected during the period of this Agreement. Time extensions may also be granted for any day following a period of precipitation during which muddy conditions exist and prevent performance of major items of work conducted on normal working days, which muddy conditions are subject to confirmation by the Owner.

Requests for an extension of time pursuant to this subsection shall be submitted to the Owner and Architect not later than the fifteenth (15th) day of the month following the month during which the delays or disruptions occurred, and shall include documentation demonstrating the nature and duration of the delays or disruptions and the anticipated effect it will have on the Construction Manager's abilities to perform its obligations along with a plan to deal with the effects of such abnormal or adverse weather conditions and proposed amendments to all affected schedules and the Gantt Chart necessarily resulting therefrom. Failure to timely submit a complete notice of claim for delays and extension of time for completion due to abnormal or adverse weather conditions or rainy days pursuant to this subsection shall result in the denial of a

request for extra time for performance under the Contract Documents. In the event of such failure, no adjustment shall be made to the Guaranteed Maximum Price, and the Construction Manager shall not be entitled to claim or receive any additional compensation as a result of or arising out of any delay resulting in the adjustment of the working time, due to any of the factors outlined within this subsection.

No payment, compensation, or adjustment of any kind (other than the extensions of time provided for in the Contract Documents) shall be made to the Construction Manager for damages because of hindrances or delays from any cause other than intentional interference of the Owner, whether such hindrances or delays be avoidable or unavoidable, and the Construction Manager agrees that he will make no claim for compensation, damages or mitigation of liquidated damages for any such delays.”

Add the following new section after section §2.5:

“§2.6 The Construction Manager shall be responsible for all construction surveys and staking. Dimensions of Work shall not be determined by scale or rule, but figured dimensions shall be followed at all times. The Construction Manager shall compare all drawings and verify all dimensions, and shall take any and all measurements necessary to verify the Drawing dimensions in relation to conditions already established at the Project site before laying out the Work. Any discrepancy will be immediately called to the attention of the Architect and Owner by the Construction Manager. The Construction Manager will be held responsible for subsequent errors which could have been avoided.”

ARTICLE 3 OWNER’S RESPONSIBILITIES

§3.1 Information and Services Required of the Owner

§3.1.2 Delete this section in its entirety.

§3.1.3 Delete this section in its entirety.

§3.1.4 shall be amended by deleting the third sentence and replacing it with the following:

“Such information or services shall be provided for informational purposes only and are not warranted or represented to accurately show the conditions at the Project site. Construction Manager may use the information at its own risk and shall use customary precaution relating to the performance of the Work. Notwithstanding the preceding sentences and the delivery of surveys or other documents and reports by Owner, Construction Manager shall perform all work in such a non-negligent manner so as to avoid damaging any utility lines, cables, pipes, or pipelines on the Property. Contractor shall be responsible for any damage done to such lines, cables, pipes and pipelines during the Work.”

§3.2 Owner’s Designated Representative

§3.2 shall be deleted and replaced with the following language:

"The Owner shall designate a representative with respect to the Project. Such representative shall not have authority to make final decisions on behalf of the Owner concerning Change Orders, changing the Guaranteed Maximum Price, extending the date of Substantial or Final Completion, or other items requiring Town Council approval; however, the Owner or such authorized representative, shall render decisions in a timely manner in order to avoid unreasonable delay in the service or Work of the Contractor."

§3.2.1 Legal Requirements

Delete this section in its entirety.

§3.3 Architect

Substitute "B101-2007" for "B103-2007" in the second line.

Add the following language at the end of the first sentence:

“, unless such Additional Services are caused by or attributable to the fault of the Construction Manager, in which case the Construction Manager shall be responsible for the cost of such Additional Services. Upon request, . . .”

Add the following new section after §3.3:

“§3.4 Inspection and Testing

The Owner shall provide or contract for, independently of the Construction Manager, the inspection services, the testing of construction materials engineering and the verification testing services necessary for acceptance of the Work by the Owner.”

ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§4.2.2 shall be amended by deleting all original language after the first sentence, and replacing it with the following language:

“, in accordance with the provisions of Texas Government Code section 2251.021, including computation of interest on unpaid amounts.

ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§5.1.2 Delete everything after the word “Work” and add the following in its place: “shall be by formal Change Order.”

§5.1.3 Add after the word “Work” the following: “shall be no more than five percent (5%) of the subcontractor’s cost, for overhead, and shall be no more than five percent (5%) of the subcontractor’s cost, for profit.”

§5.1.4 Delete everything after the words “not exceed” and add the following in its place: “six thousand and no/100 dollars (\$6,000.00).”

§5.2 Guaranteed Maximum Price

§5.2.1 Add the following language at the end of this section: “In case of any “buy out” transaction or agreement by the Construction Manager with a subcontractor for the subcontractor’s cost of its portion of the Work, then such savings shall be shared with the Owner in the following percentages: one hundred percent (100%) to Owner, zero percent (0%) to Construction Manager. Said savings shall be memorialized by appropriate change order. Documentation regarding such “buy out” transactions/agreements shall be subject to the Owner’s audit and inspection rights set forth in §6.11.”

§5.3 Changes in the Work

§5.3.2 shall be amended by adding the following to the end of the existing sentence:

“, unless such costs are caused by or attributable to the fault of the Construction Manager.”

§5.3.3 shall be amended by adding the following to the end of the first sentence in this section:

“, except that the term shall take into account the limitations provided in §5.1.3 of this Agreement.”

§5.3.5 Delete this section in its entirety and replace with: “In the case of changes in the Work, the fee will be adjusted as provided for in Section 5.1.1, if both parties agree that the scope of services has changed significantly. No change in the Work, whether by way of alteration or addition to the Work, shall be the basis of an addition to the Guaranteed Maximum Price or a change in the Contract Time unless and until such alteration or addition has been authorized by a change order executed and issued in accordance with and in strict compliance with the requirements of the Contract Documents. This requirement is of the essence of the Contract Documents. Accordingly, no course of conduct or dealings between the parties, nor express or implied acceptance of alterations or additions to the Work, and no claim that the Owner has been unjustly enriched by any alteration or addition to the Work, whether or not there is in fact any such unjust enrichment, shall be the basis for any claim to an increase in the Guaranteed Maximum Price or change in the Contract Time.”

ARTICLE 6 COST OF THE WORK FOR CONSTRUCTION PHASE

§6.1.1 shall be amended by adding after the second “Work”:

“, unless such costs are caused by or attributable to the fault of the Construction Manager.”

§6.2 Labor Costs

§6.2.4 Delete this section in its entirety, and replace it with the following language: “Costs paid or incurred by the Construction Manager for payroll taxes, insurance, and customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 6.2.1 through 6.2.3, and provided that such costs do not exceed thirty percent (30%) of such wages and salaries.”

§6.2.5 Delete this section in its entirety.

§6.3 Subcontract Costs

Delete from this section the last word “subcontracts” and replace it with “Guaranteed Maximum Price Amendment.”

§6.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§6.5.5 Add at the end of this section, after the word “Work,” the following language: “subject to the Owner’s approval.”

§6.6 Miscellaneous Costs

§6.6.2 Delete this section in its entirety.

§6.6.5 Delete this section in its entirety.

§6.6.6 Delete this section in its entirety.

§6.6.7 Delete this section in its entirety.

§6.6.8 Delete this section in its entirety.

§6.6.9 Delete this section in its entirety.

§6.7 Other Costs and Emergencies

§6.7.3 Delete this section in its entirety.

§6.7.4 Delete this section in its entirety.

§6.8 Costs Not To Be Reimbursed

§6.8.1 In the first line of this section, delete the phrase “The Cost of the Work shall not include the items listed below” and replace it with the following: “The Cost of the Work shall exclude items including, but not limited to, those items listed below:”

§6.9.1 shall be amended as follows:

At the beginning of this section add “Construction Manager shall take advantage of all available discounts, rebates and refunds for supplies, materials and equipment connected with the Work and which conform to the Contract Documents, which discounts, rebates and refunds shall accrue to the benefit of the Owner.”

Place a period after “Owner” in the original first sentence and delete the remainder of that sentence.

ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§7.1 Progress Payments

§7.1.5 Add the following at the end of this section: “Construction Manager shall use AIA Document G702 for Application and Certificate for Payments, and shall use AIA Document G703 for necessary continuation sheets related to AIA Document G702, or shall use such documents in a similar format approved by the Owner.”

Add the following new subsection after §7.1.10:

“§7.1.11 In conjunction with any application for payment submitted by the Construction Manager, the Construction Manager shall comply with the release, lien waiver and other documentation requirements set forth in, but not limited to, AIA Document A201-2007, §9.3.3 and §9.10.2.”

§7.2 Final Payment

§7.2.1 shall be amended by deleting the word “and” at the end of subsection .2, replacing the period at the end of subsection .3 with “; and”, and adding a subsection .4 as follows:

“.4 Owner’s receipt of an “All Bills Paid” affidavit signed by the Construction Manager affirming that all indebtedness associated with the Work and all sums of money due for labor, materials, fixtures, equipment and machinery have been paid in full.”

§7.2.1 shall be further amended by adding the following to the end of the section:

"The amount of final payment shall be calculated as follows:

- .1 Take the sum of the Cost of the Work substantiated by the Construction Manager's final accounting and the Construction Manager's fee, but not more than the Guaranteed Maximum Price.
- .2 Subtract amounts, if any, for which the Architect or Owner disputes, refuses or withholds payment, including liquidated damages, if any.
- .3 Subtract the aggregate of previous payments made by Owner.
- .4 The final payment amount determined in accordance with this Section shall be further modified under the following circumstances:
 - .1 If Owner is entitled to deduct liquidated damages, or any other damages or amounts provided in the Contract Documents, including clean-up fees, then Owner shall be entitled to deduct such liquidated damages, amounts and fees due Construction Manager at any time.
 - .2 If Construction Manager fails or refuses to complete the Work, or has unsettled claims with Owner, any final payment to Construction Manager shall be subject to deduction for such amounts as the Architect shall determine as the cost for completing incomplete Work and the value of unsettled claims."

§7.2.3 In the first sentence after word "amount" add the following: "in accordance with the Contract Documents" and delete the remainder of the sentence. Delete the second and third sentences of this section.

ARTICLE 8 INSURANCE AND BONDS

Add to the table in Article 8, in the Type of Insurance or Bond column, an entry that reads "Builders' Risk Insurance". Add to the Limit of Liability or Bond Amount column in the table in Article 8 the following entry, which corresponds to the "Builders Risk Insurance" entry: "Completed value form, insurance carried must be equal to the completed value of the structure. Town shall be listed as Loss Payee."

ARTICLE 9 DISPUTE RESOLUTION

§9.2 shall be amended to select the option for "Litigation in a court of competent jurisdiction" as the method of binding dispute resolution.

ARTICLE 10 TERMINATION OR SUSPENSION

§10.1.3 shall be amended by deleting the words "or indemnify" in the final paragraph of the section.

§10.2.2 shall be amended by deleting the remainder of the sentence after the word "above".

ARTICLE 11 MISCELLANEOUS PROVISIONS

The following provisions shall be added to Section 11.5:

“§11.5.1 No delay or omission by either of the parties hereto in exercising any right or power accruing upon the noncompliance or failure of performance by the other party hereto of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

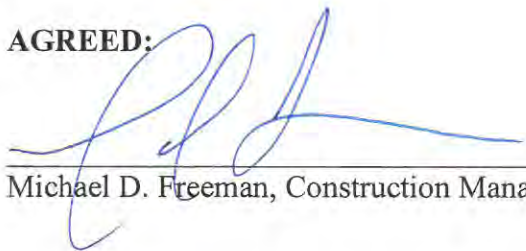
§11.5.2 Construction Manager stipulates that Owner is a political subdivision of the State of Texas, and as such, may enjoy immunities from suit and liability under the Constitution and laws of the State of Texas. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§11.5.3 If any portion of this Agreement is determined to be invalid, unenforceable, or void, then that portion shall be severed, and all other portions of this Agreement shall remain in full force and effect.”

ARTICLE 12 SCOPE OF THE AGREEMENT

§12.2 The first sentence shall be amended to add ", as amended by the parties:" after the word "Agreement".

AGREED:



Michael D. Freeman, Construction Manager

Thomas E. Hayden, Mayor, Town of Flower Mound

**Amendments to AIA Document
A201-2007 Edition
(General Conditions of the Contract for Construction)**

Owner: Town of Flower Mound, Texas

Project: Town Hall Facility Project

Architect: Oxley Williams Tharp Architects PLLC

Construction Manager: Steele and Freeman, Inc.

- Amend Section 1.1.2 by adding the following after the second sentence:

1.1.2 As a material consideration for the making of the Contract Documents, modification to this Contract shall not be construed against the maker of said modifications.

- Add the following to Section 1.2:

1.2.4 In case of discrepancy between two or more drawings (Architectural, Structural, Mechanical, etc.) or drawings and specifications, the Architect shall be the sole judge as to which takes precedence, but in any case it shall be assumed that bids are based on the most expensive procedure shown.

1.2.5 Do not scale drawings for dimensions. Accurately lay out such work from dimensions indicated on architectural drawings unless such is found in error. Dimensions found in error should be submitted to Architect for resolution before proceeding with the Work. Consult Architect for interpretations concerning locations of equipment, fixtures, and access panels not dimensioned on drawings.

- Amend 1.5.2 by adding the following at the end of the existing paragraph:

1.5.2 Should the Contractor find discrepancies, omissions or conflicts within the Contract Documents, or be in doubt as to their meaning, the Contractor shall at once notify in writing the Architect and Owner, and Architect will issue a written addendum to all parties that is consistent with the Owner's Scope of the Work.

- Add the following new Section 1.7:

1.7 Property of Political Subdivision. It is distinctly understood that by virtue of this Contract, no mechanic, contractor, materialmen, artisan, laborer, or subcontractor, whether skilled or unskilled, shall ever in any manner have, claim, or acquire any lien upon the project of whatever nature or kind so erected or to be erected by virtue of this Contract, nor upon any of the land upon which said improvements are so erected, built,

or situated, such property being public property belonging to a political subdivision of the State of Texas.

- Delete second sentence of Section 2.1.1 and replace it with the following:

2.1.1 The Owner shall designate a representative with respect to the Project. Such representative shall not have authority to make final decisions on behalf of the Owner concerning Change Orders, changing the Guaranteed Maximum Price, extending the date of Substantial or Final Completion, or other items requiring City Council approval; however, the Owner or such authorized representative, shall render decisions in a timely manner in order to avoid unreasonable delay in the service or Work of the Contractor.

- Delete Section 2.1.2.

- Delete Section 2.2.3 and replace with the following:

2.2.3 The Owner shall furnish surveys describing physical characteristics, legal limitations, and utility locations for the site of the Project, and a legal description of the site. Owner does not guarantee the accuracy of the survey as describing the site of the Project and Contractor should determine the sufficiency of same before beginning the work. The Owner does not guarantee the utility lines to be in the exact locations as shown on plans and surveys. Contractor shall verify with the utilities the location of utility lines. Any water, gas or sewer line, telephone, telegraph or electric wire, or cable broken or cut by the Contractor or any of his workmen or subcontractors, shall be replaced by the Contractor at his own expense, or by the responsible subcontractor at its own expense, and will not be paid for by the Owner. Repairs shall be made immediately and no other work shall be done until breaks or damages have been repaired and service restored. Any delay caused by the cut or break shall be solely attributed to the Contractor.

- Add the following sentence at the end of the existing Section 2.2.4:

Absent such written request, any Claim based upon lack of such information or service shall be waived.

- Add Section 3.1.4 as follows:

3.1.4 The Contractor represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work:

.1 that it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and perform its

obligations under the Contract Documents;

.2 that it is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;

.3 that it is authorized to do business in the State where the Project is located and properly licensed by all necessary governmental, public and quasi-public authorities having jurisdiction over it, the Work, or the site of the Project; and

.4 that the execution of the Contract and its performance thereof are within its duly-authorized powers.

➤ Add Section 3.3.4 as follows:

3.3.4 The Contractor shall properly and efficiently coordinate the timing, scheduling and routing of all Work performed by all trades and sub-contractors.

➤ Add the following to Section 3.4.2:

3.4.2.1 After the Contract has been executed, the Owner and Architect will consider requests for the substitution of products in place of those specified only under conditions set forth in the General Requirements (Division 1 of the Specifications). Requests for substitution, when forwarded by the Contractor to the Architect, are understood to mean that the Contractor:

.1 Represents that he has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified.

.2 Will provide the same guarantee for the substitution that he would for that specified;

.3 Certified that the cost data presented is complete and includes all related costs under this Contract, but excludes costs under separate contracts and the Architect's redesign costs, and that he waives all claims for additional costs related to the substitution which subsequently becomes apparent; and

.4 Will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.

3.4.2.2 Substitutions will not be considered if they are indicated or implied on shop drawing submissions without the formal request required in Section 3.4.2.1.

➤ Add the following Sections 3.4.4 and 3.4.5:

3.4.4 Prevailing Wages. Attention is called to the Government Code, Chapter 2258, Prevailing Wage Rates. Among other things, this Article provides that it shall be mandatory upon the Contractor and upon any subcontractor under him to pay not less than the prevailing rates of per diem wages in the locality at the time of construction to all laborers, workmen, and mechanics employed by them in the execution of the Contract. The Owner has established such prevailing wage rates. No claims for additional compensation shall be considered by Owner because of payments of wage rates in excess of the applicable rate provided herein. A contractor or subcontractor who fails to pay the required prevailing wage rate shall be subject to the penalty specified in Chapter 2258.

3.4.5 Owner reserves the right to receive and review payroll records, payment records, and earnings statements of employees of Contractor, and of Contractor's Subcontractors, and of Sub-Subcontractors.

➤ Add the following Subparagraphs 3.5.1 and 3.5.2:

3.5.1 Except where otherwise stipulated in the Contract Documents, the Contractor shall, as per its Contract, warranty all materials and workmanship furnished under this Contract for a period of two years after the date of Substantial Completion and shall repair and make good, without expense to the Owner, any and all defects in his work which may develop within that time. If within two years after the date of Substantial Completion, any Work is found to be defective, the Contractor shall promptly, without cost to the Owner and in accordance with the Owner's written instructions, either correct such defective Work, or, if it has been rejected by the Owner, remove it from the Site and replace it with non-defective Work. If the Contractor does not promptly comply with the terms of such instructions, or in any emergency where delay could cause serious risk of loss or damage, the Owner may have the defective Work corrected by others and the Contractor shall reimburse the Owner its actual costs for such corrections (such costs to include but not limited to fees and charges of engineers, architects, attorneys and other professionals).

3.5.2 All required warranties on equipment, machinery, materials, or components shall be submitted to the Architect on the manufacturer's or supplier's approved forms at the time of Substantial Completion.

➤ Add the following to Section 3.6:

3.6.1 This Project is eligible for exemption from the State Sales Tax on materials incorporated in the Project, provided that Contractor fulfills the requirements of State Tax Laws. For the purpose of establishing exemption, it is understood and agreed that Contractor will be required to segregate materials and labor costs at the time a Contract is awarded, and will accept an exemption certificate from Owner. The Contractor shall pay any taxes otherwise assessed because of Contractor's failure to comply with the requirements of State Law to qualify for that tax exemption.

- Add the following to Section 3.12:

3.12.11 The Architect's review of Contractor's submittals will be limited to examination of an initial submittal and one (1) resubmittal. The Owner is entitled to obtain reimbursement from the Contractor for amounts paid to the Architect for evaluation of additional submittals.

- Add the following to the end of Section 3.16:

Contractor shall ensure that the Work, at all times, is performed in a manner that affords Owner reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed in such a manner that public areas adjacent to the Site of the Work shall be free from all debris, building material and equipment likely to cause hazardous conditions. Contractor shall use its best efforts to minimize any interference with the occupancy or beneficial use of any area or building adjacent to the site of the Work, or the building, in the event of partial occupancy. The presence of the Owner, Architect or their representatives does not constitute acceptance or approval of the Work.

- Add the following to Section 4.2.2:

4.2.2.1 The Owner is entitled to reimbursement from the Contractor for amounts paid to the Architect for site visits made necessary by the fault of the Contractor or by defects and deficiencies in the work.

- Amend Section 4.2.4 by adding the following new sentence after the second sentence:

However, Owner reserves the right to communicate directly with the Contractor.

- Revise Section 4.2.13 to read as follows:

The Owner's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents. The Architect shall be the sole interpreter of the design intent with respect to such matters, but the Architect's authority with respect thereto shall not contravene any other rights of the Owner ascribed to the Owner by other provisions of the Contract.

- Add the following Sections 5.3.1 and 5.3.2:

5.3.1 Contractor shall promptly notify Owner and Architect of any material defaults by any Subcontractor. Notwithstanding any provision contained in Article 5 to the contrary, it is hereby acknowledged and agreed that Owner has in no way agreed, expressly or implicitly, nor will Owner agree, to allow any Subcontractor or other

materialman or workman employed by Contractor the right to obtain a personal judgment or to create a lien against Owner for the amount due from the Contractor.

5.3.2 In the event of any termination of the Contract in accordance with Article 14, Owner shall not be liable to any subcontractor. Contractor shall be responsible for any claim of a subcontractor for Work executed under the Contract.

➤ Add Section 5.4.4 as follows:

5.4.4 Such assignment shall not constitute a waiver by Owner of its rights against Contractor, including, but not limited to, claims for defaults, delays or defects for which a subcontractor or material vendor may also be liable. Owner shall only be responsible for compensating subcontractors for Work performed or material furnished from and after the date on which the Owner gives written notice of its acceptance of the subcontract agreement. Owner shall not be responsible for any Work performed or materials furnished by subcontractors prior to the date of Owner's written notice of acceptance.

➤ Section 8.3.1 shall be amended by replacing the word "shall" with the word "may".

➤ Add Section 9.5.4 as follows:

9.5.4 Notwithstanding any provision contained within this Article, if the Work has not attained Substantial Completion or Final Completion by the required dates, subject to extensions of time allowed under these Conditions, then Architect may withhold any further payment to Contractor to the extent necessary to preserve sufficient funds to complete the construction of the Project and to cover liquidated damage. The Owner shall not be deemed in default by reason of withholding such payment.

➤ Delete Section 9.6.7 and replace with the following language:

9.6.7 Payments received by the Contractor for Work properly performed by Subcontractors or materials properly provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor of which payment was made by the Owner.

➤ Add Section 9.7.1 as follows:

9.7.1 If the Owner is entitled to reimbursement or payment from the Contractor under or pursuant to the Contract Documents, then such payment shall be made promptly upon demand by the Owner. Notwithstanding anything contained in the Contract Documents to the contrary, if the Contractor fails to promptly make any

payment due to Owner, or the Owner incurs any costs and expense to cure any default of the Contractor or to correct defective Work, pursuant to the Contract, the Owner shall have an absolute right to offset such amount against the Contract Sum and, in the Owner's sole discretion and without waiving any other remedies, may elect either to:

.1 deduct an amount equal to that which the Owner is entitled from any payment then or thereafter due to Contractor from the Owner, or

.2 issue a written notice to the Contractor reducing the Contract Sum by an amount equal to that which the Owner is entitled.

➤ Add the following to Section 9.8.3:

9.8.3.1 The Architect will perform no more than two (2) inspections to determine whether the Work or a designated portion thereof has attained Substantial Completion in accordance with the Contract Documents. The Owner is entitled to reimbursement from the Contractor for amounts paid to the Architect for any additional inspections.

➤ Add the following to Section 9.8.5:

9.8.5.1 The application for payment to release retainage will not be approved by the Architect until the completed and corrected closeout documents are provided to the Architect by the Contractor. Closeout documents shall be delivered to the Architect under conditions and times set forth in the contract documents and specifications.

➤ Add the following new Section 9.8.6:

9.8.6 Notwithstanding any provision contained within this Article, if the work has not attained Substantial Completion with the contract time, subject to extensions of time allowed under these Conditions, Architect may withhold any further payment to Contractor to the extent necessary to preserve sufficient funds to complete the construction of the Project and to cover liquidated damages assessed against Contractor up to the time of Application for Payment and to the time it is reasonably anticipated that Substantial Completion will be achieved.

➤ Add the following to Section 9.10.1:

9.10.1.1 The Architect will perform no more than one (1) inspection to determine whether the Work or a designated portion thereof has attained Final Completion in accordance with the Contract Documents. The Owner is entitled to reimbursement from the Contractor for amounts paid to the Architect for any additional inspections.

➤ Replace 9.10.4 in its entirety with the following language:

9.10.4 The making of final payment shall not constitute a wavier of any Claims by the Owner.

- Add Sections 11.1.5, 11.1.6 and 11.1.7 as follows:

11.1.5 By signing this Contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the Owner that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor for administrative penalties, criminal penalties, civil penalties, or other civil actions.

11.1.6 The Contractors' failure to comply with any of these provision is a breach of contract by the Contractor which entitles the Owner to declare the Contract void if the Contractor does not remedy the breach within ten days after receipt of notice of breach from the Owner.

11.1.7 Any failure of Contractor to comply with the reporting provisions of the policies shall not affect the coverage provided to the Owner, its officers, employees, or volunteers.

- Delete Section 11.4 and replace with the following:

11.4.1 With the execution and delivery of the Contract, the Contractor shall furnish and file with the Owner, the surety bonds specified in this Section. Without exception, the Owner's bond forms must be used, and exclusive venue for any lawsuit in connection with the bonds shall be Tarrant County. The surety bonds shall be in accordance with the provisions of Chapter 2253, Government Code, Vernon's Texas Codes Annotated. These bonds shall automatically be increased by the amount of any change order or supplemental agreement which increases the Contract Sum with or without notice to the surety, but in no event shall a change which reduces the Contract Sum reduce the penal amount of such bonds.

11.4.2 The Contractor shall provide a good and sufficient performance bond in an amount not less than one hundred (100) percent of the approximate total amount of the Contract, as evidenced by the proposal tabulation, or otherwise guaranteeing the full and faithful execution of the Work and performance of the Contract in accordance with the Contract Documents, including any extensions, for the protection of the Owner.

11.4.3 The Contractor shall provide a good and sufficient payment bond in an amount not less than one hundred (100) percent of the approximate total amount of the Contract, as evidenced by the proposal tabulation, or otherwise guaranteeing the full and proper protection of all claimants supplying labor and material in the execution of the Work provided for in this Contract and for the use of each claimant.

11.4.4 The Contractor shall provide a good and sufficient maintenance bond in

an amount not less than one hundred percent (100%) of the approximate total amount of the Contract, as evidenced by the bid tabulation, providing for the repair and/or replacement of all defects due to faulty materials and workmanship that appear within a period of two years from the date of completion and acceptance of the improvement by the Owner or such lesser or greater period as may be designated in the Contract Documents.

11.4.5 No sureties shall be accepted by the Owner who are now in default or delinquent on any bonds or who are interested in any litigation against the Owner. All bonds shall be made on forms furnished by the Owner, and shall be executed by not less than one corporate surety authorized to do business in the State of Texas and acceptable to the Owner. Each bond shall be executed by the Contractor and surety. Each surety shall designate an agent resident in the Owner's jurisdictional area acceptable to the Owner to whom any requisite notices may be delivered and on whom service of process may be obtained in matters arising out of the suretyship.

11.4.6 If at any time the Owner determines that the Contractor's surety has experienced financial losses such that the Owner's ability to enforce the bond obligations is substantially at risk, the Contractor shall within thirty (30) days after notice from the Owner to do so, substitute an acceptable bond (or bonds), or provide an additional bond, in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums on such bonds shall be paid by the Contractor without recourse to the Owner. No further progress payments under the contract shall be deemed due or payable until the substitute or additional bonds shall have been furnished and accepted by the Owner; however, in such event, final payment shall be due and payable as provided in this Contract whether or not such additional bonds are obtained, to the extent that the project is complete and the Owner is not exposed to liability for payment bond claims.

➤ Add the following to Section 12.2.2:

12.2.2.4 Upon request by the Owner or prior to the expiration of one year from the date of Substantial Completion, the Architect will conduct and the Contractor shall attend a meeting with the Owner to review the facility operations and performance.

➤ Delete Section 13.6 and replace with the following:

13.6 Payments under the Contract Documents shall be due and payable in accordance with Section 2251.022 of the Texas Government Code. Interest and any unpaid and overdue amount shall accrue in accordance with Section 2251.025, Texas Government Code.

➤ Add the following new Section 13.8:

13.8 EQUAL OPPORTUNITY

13.8.1 The Contractor shall maintain policies of employment as follows:

13.8.1.1 The Contractor and the Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, or national origin. The Contractor agrees to post in conspicuous places, available to employees and applicants, notices setting forth the nondiscrimination policies.

13.8.1.2 The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, or national origin.

➤ Add Section 13.9 as follows:

13.9 Contractor stipulates that Owner is a political subdivision of the State of Texas, and, as such, may enjoy immunities from suit and liability under the Constitution and laws of the State of Texas. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

➤ Amend Section 14.1.3 as follows:

Add "incurred to the date of termination" after the phrase ", including reasonable overhead and profit" at the end of the paragraph, and delete the remainder of the paragraph.

➤ Add the following subsections to Section 14.2.1:

.5 fails to furnish the Owner, upon request, with assurances satisfactory to the Owner, evidencing the Contractor's ability to complete the Work in compliance with all the requirements of the Contract Documents;

.6 engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, the law prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies; or

.7 fails to proceed continuously and diligently with the construction and completion of the Work; except as permitted under the Contract Documents.

➤ Amend Section 14.3.2 as follows:

Delete "shall" and replace it with "may" after "Contract Time".

➤ Delete Section 14.4.1 and replace with the following:

14.4.1 The Owner may, at any time, terminate the Contract, or any part or portion thereof, for the Owner's convenience and without cause.

➤ Delete Section 14.4.3 and replace with the following:

14.4.3 In the case of such termination for the Owner's convenience, the Contractor shall only be entitled to receive payment for work properly executed, and costs directly attributable to such termination.

➤ Add the following Section 14.4.4:

14.4.4 Owner shall be entitled to delete or terminate any portion of the Contract bid as an alternate component, at any time at the Owner's convenience and without cause. In the event of such termination, the Contractor shall only be entitled to receive payment for Work properly executed on the alternate component, if any, through the date of termination.

➤ Add the following to Section 15.1.5:

15.1.5.3 Claims for increase in the Contract Time shall set forth in detail the circumstances that form the basis for the Claim, the date upon which each cause of delay began to affect the progress of the Work, the date upon which each cause of delay ceased to affect the progress of the Work and the number of days' increase in the Contract Time claimed as a consequence of each such cause of delay. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised construction schedule indicating all the activities affected by the circumstances forming the basis of the Claim.

15.1.5.4 Extension of time for completion of the work on account of weather or other circumstances beyond the Contractor's control will be subject to submission of verifiable data. Request for extension of time shall be submitted in writing with each Request for Payment. If Contractor fails to submit request, time extension will not be approved for the pay period.

15.1.5.5 No extension of time shall be made to the Contractor because of hindrances or delays from any cause which is the fault of Contractor or Contractor's Subcontractors or under Contractor's control. Claims for extension of time may only be considered because of rain delays, or hindrances or delays which are the fault of Owner and/or under Owner's control, but only to the extent that Substantial Completion of the Project is adjusted beyond the original Substantial Completion date. City Council approval shall be required for any extension of time. No damages shall be paid for delays. Contractor shall only be entitled to time extensions per the terms of the Contract Documents.



TOWN COUNCIL AGENDA ITEM NO. 14

CONSENT ITEM

DATE: December 19, 2016

FROM: Tiffany Bruce, P.E., CIP Engineering Manager

ITEM: Consider approval of Change Order No. 1 for the construction of the Pintail Pump Station Capacity Improvements project, amending the contract with Felix Construction Company, Corp., to provide for additional contract days and an increase to the contract in the amount of \$47,212.37, increasing the total contract amount to \$1,056,592.37; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: On March 21, 2016, Felix Construction Company was awarded the bid for the Pintail Pump Station Capacity Improvements project in the amount of \$1,009,380.00. Change Order No. 1 provides for additional exploration of yard piping and replacement of existing pipe in poor condition, as well as a critical valve between the Pintail Pump Station and one of the existing ground storage tanks. Also provided with this Change Order is the addition of fifteen (15) days to the contract for the additional work to be completed.

The project provides for increased capacity of the Pintail Pump Station by replacing one of the existing small pumps with a larger pump. The project is required to meet residential demands in the Lakeside Business District. The project includes developer funding in accordance with a development agreement.

FISCAL IMPACT: \$47,212.37

Proposed Expenditure:	Account Number(s):
\$31,700.33	610-980-98342
\$15,512.04	630-960-98342

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Change Order No. 1

RECOMMENDATION: Move to approve Change Order No.1 for the construction of the Pintail Pump Station Capacity Improvements project, amending the contract with Felix Construction Company, Corp., to provide for additional contract days and an increase to the contract in the amount of \$47,212.37, increasing the total contract amount to \$1,056,592.37, and authorize the Mayor to execute same on behalf of the Town.

CHANGE ORDER 1

Effective Date: Upon execution by the Mayor

Owner: Town of Flower Mound
 Contractor: Felix Construction Company
 Attn: Ryan Koontz
 3321 Towerwood Drive, Suite 120
 Farmers Branch, Texas 75234

Project: **Pintail Pump Station Capacity Improvements****CHANGE ORDER NO. 1**

The compensation agreed upon in this Change Order is a full, complete, and final payment for all costs the Contractor incurs as a result of or relating to the change, whether said costs are known, unknown, foreseen, or unforeseen at this time, including without limitation, any costs for delay, extended overhead, ripple or impact costs, or any other effect on changed or unchanged work as a result of this change.

You are directed to make the following changes in the Contract Documents:

Item No.	Description	Unit	Add/ Deduct	Quan	Unit Price	Extended Amount
CO1A	Additional Discovery	LS	Add	1.00	\$5,700.00	\$5,700.00
CO1B	Additional Install	LS	Add	1.00	\$41,512.37	\$41,512.37
Subtotal						\$47,212.37

Original Contract Price

Change Order No. 1

Revised Contract Price

\$ 1,009,380.00
\$ 47,212.37
\$ 1,056,592.37

Original Substantial Completion Days

Change Order No. 1 Additional Days

Revised Substantial Completion Days

270
15
285

Original Final Completion Days

Change Order No. 1 Additional Days

Revised Final Completion Days

300
15
315

JUSTIFICATION

Items CO1A and Items CO1B provide for additional discovery of yard piping at the Pintail Pump Station. The contract included some pipe discovery and replacement, however, it was determined once that discovery was started that the piping in question extended further to the east of the building on route to the ground storage tank. Staff determined that the best opportunity for replacement of the yard piping is with this project while the pump station is off line. This item provided for the additional discovery and will provide for the additional replacement. Included in this price is the replacement of a critical valve that provides for control of the ground tank and 45 additional linear feet of 24" ductile iron supply header.

Additional days (15) are being provided to the substantial and final completion days to accommodate the work associated with these items.

Recommended

for Approval

Tiffany Bruce, P.E.
 CIP Engineering Manager

Date

Date

Contractor

Approved

Thomas E. Hayden
 Mayor



TOWN COUNCIL AGENDA ITEM NO. 15

CONSENT ITEM

DATE: December 19, 2016

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

ITEM: Consider approval to award the Inflow & Infiltration, Evaluation and Repair (2016 Manhole Rehabilitation) project, to Fuquay, Inc., a Buy Board participant; in the amount of \$483,644.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: On July 19, 2016, bids were received and opened (Bid # 2016-73) for the Inflow & Infiltrations Evaluation and Repair (2016 Manhole Rehabilitation) project. One qualified bid was received in the amount of \$988,737.00. In an effort to minimize costs while still meeting all project objectives and requirements, Town staff explored other project delivery methods. Fuquay, Inc. provided a Buy Board proposal in the amount of \$483,644.00.

FISCAL IMPACT: \$483,644.00

Proposed Expenditure:	Account Number(s):
\$483,644.00	630-970-98030

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

LEGAL REVIEW: The Town's standard construction 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 Construction Agreement.

ATTACHMENTS:

1. Construction Agreement

RECOMMENDATION: Move to award the Inflow & Infiltration, Evaluation and Repair (2016 Manhole Rehabilitation) project, to Fuquay, Inc., a Buy Board participant; in the amount of \$483,644.00; and authorize the Mayor to execute on behalf of the Town.

TOWN OF FLOWER MOUND
INFLOW / INFILTRATION EVALUATION AND REPAIR - 2016 MANHOLE
REHABILITATION PROJECT

BuyBoard #462-14

CONSTRUCTION AGREEMENT

THIS CONSTRUCTION AGREEMENT (the "Agreement", made and entered into this ____ day of _____, 20____, by and between the Town of Flower Mound, County of Denton, Texas, hereinafter referred to as the "Town," and Fuquay, Inc., a Corporation, hereinafter referred to as the "Contractor." For and in consideration of the payment, agreements, and conditions hereinafter mentioned, and under the conditions expressed in the bonds herein, Contractor hereby agrees to complete the construction of improvements described as follows:

INFLOW – INFILTRATION / EVALUATION & REPAIR
(2016 MANHOLE REHABILITATION)
BuyBoard #462-14

in the Town of Flower Mound, Texas, and all extra work in connection therewith, under the terms as stated in this Agreement, and under the terms of the Contract Documents; and at his, her, or their own proper cost and expense to furnish all superintendence, labor, insurance, equipment, tools, and other accessories and services necessary to complete the said construction in accordance with all the Contract Documents, incorporated herein as if written word for word, and in accordance with the Plans, which include all maps, plats, blueprints, and other drawings and printed or written explanatory manner therefore, and the Conditions and Specifications as prepared by the Town or its consultant hereinafter called "Engineer", who has been identified by the endorsement of the Contractor's written proposal, and the General Conditions, Supplemental Conditions, and Special Provisions of this Agreement, and the payment, performance, and maintenance bonds hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire Agreement.

ARTICLE 1. The Contract Documents shall consist of the following documents:

- A. The Construction Agreement;
- B. Properly executed Change Orders and Field Orders in writing and executed by the Town, the last in time being first in precedence;
- C. Any listed and numbered addenda;

- D. Special Provisions;
- E. Supplementary Conditions;
- F. Construction Drawings or Plans;
- G. Technical Specifications;
- H. Town's Standard Construction Details;
- I. The most current edition of the *Town of Flower Mound Design Criteria and Construction Standards* (by reference);
- J. *Occupational Safety and Health Standards – Excavation*, 20 CFR Part 1926 (by reference);
- K. *Texas Manual on Uniform Traffic Control Devices (TMUTCD)* (by reference);
- L. The General Conditions;
- M. *Public Works Construction Standards - North Central Texas, as amended* (by reference);
- N. Notice to Bidders;
- O. Instructions to Bidders;
- P. The Town's written notice to proceed to Contractor;
- Q. The Contractor's Bid Proposal;
- R. The Performance Bond, Payment Bond and Maintenance Bond; and
- S. Bid materials distributed by the Town that relate to the Project.

These Contract Documents are incorporated by reference into this Agreement as if set out in their entirety. The Contract Documents are intended to be complementary; what is called for by one document shall be as binding as if called for by all Contract Documents. It is specifically provided; however, that in the event of any inconsistency in the Contract Documents, the inconsistency shall be resolved by giving precedence to the Contract Documents in the order in which they are listed herein above. If, however, there exists a conflict or inconsistency between the Technical Specifications and the Construction Drawings, it shall be the Contractor's obligation to seek clarification as to which requirements or provisions control before undertaking any work on that component of the project. Should the Contractor fail or refuse to seek a clarification of such conflicting or inconsistent requirements or provisions prior to any work on that component of the project,

the Contractor shall be solely responsible for the costs and expenses - including additional time - necessary to cure, repair, and/or correct that component of the project.

ARTICLE 2. For performance of the Work in accordance with the Contract Documents, the Town shall pay the Contractor in current funds an amount not to exceed **Four Hundred Eighty-Three Thousand Six Hundred Forty-Four Dollars and 00 cents (\$ 483,644.00)** taking into consideration additions to or deductions from the Total Bid through properly executed change orders by reason of alterations or modifications of the original quantities or by reason of "Extra Work" authorized under this Agreement in accordance with the provisions of the Contract Documents. It is hereby mutually agreed that for and in consideration of the payments as provided for herein to the Contractor by the Town, the said Contractor shall furnish all labor, equipment, and material (except as otherwise specified above) and shall perform all work necessary to complete the improvements in a good and workmanlike manner, ready for use, within the specified time for substantial completion of one hundred twenty (120) calendar days, and final completion of one hundred fifty (150) calendar days ready for final payment, as measured from the Effective Start Date shown in the Notice to Proceed. The work shall be in strict accordance with this Agreement, a copy of which is filed pursuant to law in the office of the legal representative of the Town.

ARTICLE 3. Before commencing work, the Contractor shall, at its own expense, procure, pay for, and maintain the insurance coverage required by the Contract Documents written by companies approved by the State of Texas and acceptable to the Town of Flower Mound. Contractor shall provide the Town Purchasing Manager with certificates of insurance indicating coverage's required by the Contract Documents. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificate of Insurance similar to the ACORD Form are acceptable. Town will not accept Memorandums of Insurance or Binders as proof of insurance. The Town reserves the right to require complete, certified copies of all required insurance policies at any time.

ARTICLE 4. The Contractor shall procure and pay for performance and payment bonds applicable to the work in the amount of the total bid price. The Contractor shall also procure and pay for a maintenance bond applicable to the work in the amount of one hundred percent (100%) of the total bid price. The period of the Maintenance Bond shall be two years from the date of acceptance of all work done under the contract, to cover the guarantee as set forth in the Special Conditions. The performance, payment, and maintenance bonds shall be issued on the forms attached to this Construction Agreement. Other performance, payment, and maintenance bond forms shall not be accepted. Among other things, these bonds shall apply to any work performed during the two-year warranty period after acceptance as described in this Construction Agreement.

The performance, payment, and maintenance bonds shall be issued by a corporate surety, acceptable to and approved by the Town, authorized to do business in the State of Texas, pursuant to Chapter 2253 of the Texas Government Code. Further, the Contractor shall supply capital and surplus information concerning the surety and reinsurance information concerning the performance, payment, and maintenance bonds upon Town request. In addition to the foregoing requirements if the amount of the bond exceeds One Hundred

Thousand and Zero/One Hundredths Dollars (\$100,000.00) the bond must be issued by a surety that is qualified as a surety on obligations permitted or required under federal law as indicated by publication of the surety's name in the current U.S. Treasury Department Circular 570. In the alternative, an otherwise acceptable surety company (not qualified on federal obligations) that is authorized and admitted to write surety bonds in Texas must obtain reinsurance on any amounts in excess of One Hundred Thousand and Zero/One Hundredths Dollars (\$100,000.00) from a reinsurer that is authorized and admitted as a reinsurer in Texas who also qualifies as a surety or reinsurer on federal obligations as indicated by publication of the surety's or reinsurer's name in the current U.S. Treasury Department Circular 570.

ARTICLE 5. It is hereby further agreed that in consideration of the faithful performance of the work by the Contractor, the Town shall pay the Contractor the compensation due him by reason of said faithful performance of the work in accordance with the provisions of this Agreement. As it completes portions of the Work, the Contractor may request progress payments from the Town. Progress payments shall be made by the Town based on the Town's estimate of the value of the Work properly completed by the Contractor since the time the last progress payment was made. The "estimate of the value of the work properly completed" shall include the net invoice value of acceptable, non-perishable materials actually delivered to and currently at the job site only if the Contractor provides to the Town satisfactory evidence that material suppliers have been paid for these materials.

No progress payment shall be due to the Contractor until the Contractor furnishes to the Town:

1. copies of documents reasonably necessary to aid the Town in preparing an estimate of the value of Work properly completed;
2. full releases of liens, including releases from subcontractors providing materials or delivery services relating to the Work, in a form acceptable to the Town releasing all liens or claims relating to goods and services provided up to the date of the most recent previous progress payment;
3. an updated and current schedule clearly detailing the project's critical path elements; and
4. any other documents required under the Contract Documents.

Progress payments shall not be made more frequently than once every thirty (30) calendar days unless the Town determines that more frequent payments are appropriate. Further, progress payments are to be based on estimates and these estimates are subject to correction through the adjustment of subsequent progress payments and the final payment to Contractor. If the Town determines after final payment that it has overpaid the Contractor, then Contractor agrees to pay to the Town the overpayment amount specified by the Town within thirty (30) calendar days after it receives written demand from the Town.

The fact that the Town makes a progress payment shall not be deemed to be an admission by the Town concerning the quantity, quality, or sufficiency of the Contractor's work. Progress payments shall not be deemed to be acceptance of the Work nor shall a progress payment release the Contractor from any of its responsibilities under the Contract Documents.

After determining the amount of a progress payment to be made to the Contractor, the Town shall withhold a percentage of the progress payment as retainage. The amount of retainage withheld from each progress payment shall be set depending upon the value of the Contract Work on the effective date of the Contract:

<u>Contract Amount</u>	<u>Retainage Percentage</u>
Up to \$25,000.00	15%
\$25,000.00 to \$400,000.00	10%
Over \$400,000.00	5%

Retainage shall be withheld and may be paid to:

1. ensure proper completion of the Work. The Town may use retained funds to pay replacement or substitute contractors to complete unfinished or defective work;
2. ensure timely completion of the Work. The Town may use retained funds to pay liquidated damages; and
3. provide an additional source of funds to pay claims for which the Town is entitled to indemnification from Contractor under the Contract Documents.

Retained funds shall be held by the Town in accounts that shall not bear interest. Retainage not otherwise withheld in accordance with the Contract Documents shall be returned to the Contractor as part of the final payment.

ARTICLE 6. The Town may withhold payment of some or all of any progress or final payment that would otherwise be due if the Town determines, in its discretion, that the Work has not been performed in accordance with the Contract Documents. The Town may use these funds to pay replacement or substitute contractors to complete unfinished or defective Work.

The Town may withhold payment of some or all of any progress or final payment that would otherwise be due if the Town determines, in its discretion, that it is necessary and proper to provide an additional source of funds to pay claims for which the Town is entitled to indemnification from Contractor under the Contract Documents. Amounts withheld under this section shall be in addition to any retainage.

ARTICLE 7. When the erosion control measures have been completed, the Contractor shall request that the Town perform a final inspection. The Town shall inspect the Work. If the Town determines that the Work has been completed in accordance with the Contract Documents and per TPDES General Construction Permit, it shall issue a written Notice of Acceptance of the Work. If the Town determines that the Work has not been completed in accordance with the Contract Documents or TPDES General Construction Permit, then it shall provide the Contractor with a verbal or written list of items to be completed before another final inspection shall be scheduled.

ARTICLE 8. When the Work is completed, the Contractor shall request that the Town perform a final inspection. The Town shall inspect the Work. If the Town determines that the Work has been completed in accordance with the Contract Documents, it shall issue a written notice of acceptance of the Work. If the Town determines that the Work has not been completed in accordance with the Contract Documents, then it shall provide the Contractor with a written list of items to be completed before another final inspection shall be scheduled.

It is specifically provided that Work shall be deemed accepted on the date specified in the Town's written notice of acceptance of the Work. The Work shall not be deemed to be accepted based on "substantial completion" of the Work, use or occupancy of the Work, or for any reason other than the Town's written Notice of Acceptance. Further, the issuance of a certificate of occupancy for all or any part of the Work shall not constitute a Notice of Acceptance for that Work.

In its discretion, the Town may issue a Notice of Acceptance covering only a portion of the Work. In this event, the notice shall state specifically what portion of the Work is accepted.

ARTICLE 9. After all Work required under the Contract Documents has been completed, inspected, and accepted, the Town shall calculate the final payment amount promptly after necessary measurements and computations are made. The final payment amount shall be calculated to:

1. include the estimate of the value of Work properly completed since the date of the most recent previous progress payment;
2. correct prior progress payments; and
3. include retainage or other amounts previously withheld that are to be returned to Contractor, if any.

Final payment to the Contractor shall not be due until the Contractor provides original full releases of liens, or other evidence satisfactory to the Town to show that all sums due for labor, services, and materials furnished for or used in connection with the Work have been paid or shall be paid with the final payment. To ensure this result, Contractor consents to

the issuance of the final payment in the form of joint checks made payable to Contractor and others. The Town may, but is not obligated to, issue final payment using joint checks.

Final payment to the Contractor shall not be due until the Contractor has supplied to the Town copies of all documents that the Town determines are reasonably necessary to ensure both that the final payment amount is properly calculated and that the Town has satisfied its obligation to administer the Agreement in accordance with applicable law.

Subject to the requirements of the Contract Documents, the Town shall pay the Final Payment within thirty (30) calendar days after the date specified in the Notice of Acceptance. This provision shall apply only after all Work called for by the Contract Documents has been accepted.

ARTICLE 10. CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE TOWN, ITS TOWN COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS FROM AND AGAINST ALL CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES, OR SUITS, WHICH IN ANY WAY ARISE OUT OF, RELATE TO, OR RESULT FROM THE PERFORMANCE OF THE WORK OR WHICH ARE CAUSED BY THE INTENTIONAL ACTS OR NEGLIGENT ACTS OR OMISSIONS OF CONTRACTOR, ITS SUBCONTRACTORS, ANY OFFICERS, AGENTS, OR EMPLOYEES OF EITHER CONTRACTOR OR ITS SUBCONTRACTORS, AND ANY OTHER THIRD PARTIES FOR WHOM OR WHICH CONTRACTOR IS LEGALLY RESPONSIBLE (THE "INDEMNIFIED ITEMS").

BY WAY OF EXAMPLE, THE INDEMNIFIED ITEMS MAY INCLUDE PERSONAL INJURY AND DEATH CLAIMS AND PROPERTY DAMAGE CLAIMS, INCLUDING THOSE FOR LOSS OF USE OF PROPERTY.

INDEMNIFIED ITEMS SHALL INCLUDE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS. INDEMNIFIED ITEMS SHALL ALSO INCLUDE ANY EXPENSES, INCLUDING ATTORNEYS' FEES AND EXPENSES, INCURRED BY AN INDEMNIFIED INDIVIDUAL OR ENTITY IN ATTEMPTING TO ENFORCE THIS INDEMNITY.

In its sole discretion, the Town shall have the right to approve counsel to be retained by Contractor in fulfilling its obligation to defend and indemnify the Town. Contractor shall retain approved counsel for the Town within seven business days after receiving written notice from the Town that it is invoking its right to indemnification under this Agreement. If Contractor does not retain counsel for the Town within the required time, then the Town shall have the right to retain counsel and the Contractor shall pay the attorneys' fees and expenses.

The Town retains the right to provide and pay for any or all costs of defending indemnified items, but it shall not be required to do so. To the extent that Town elects to provide and pay for any such costs, Contractor shall indemnify and reimburse Town for such costs.

ARTICLE 11. The Contractor understands and agrees that time is of the essence in performing and completing the Work. The Town and Contractor acknowledge that the actual damages the Town may sustain if the Contractor fails to complete the Work on time are uncertain and will be difficult to ascertain. The Contractor agrees that the sum of \$240.00 and Zero/One Hundredths Dollars (\$240.00) per day or portion of a day in Liquidated Damages will be deducted from the Contract price by the Town for each calendar day or portion thereof that the work is not substantially complete beyond the Substantially Complete Contract time, or within such extra time as may have been allowed by an extension approved by the Town. The Contractor also agrees that the sum of \$240.00 and Zero/One Hundredths Dollars (\$240.00) per day or portion of a day in Liquidated Damages for each calendar day or portion thereof the work has not been finally completed by the Contractor beyond the Contract time for final completion, or within such extra time as may have been allowed by an extension approved by the Town. The Town and the Contractor agree that this amount is payable as reasonable and just compensation for failure to complete the Work on time. This amount is payable as liquidated damages and not as a penalty.

ARTICLE 12. For a five-year period after the date specified in a written notice of acceptance of Work and authorization to make final payment by the Flower Mound Town Council, Contractor shall provide and pay for all labor and materials that the Town determines are necessary to correct all defects in the Work arising because of defective materials or workmanship supplied or provided by Contractor or any subcontractor. This shall also include areas of vegetation that did meet TPDES General Construction Permit during final close out but have since become noncompliant.

Forty-five (45) to sixty (60) calendar days before the end of the two-year warranty period, the Town may make a warranty inspection of the Work. The Town shall notify the Contractor of the date and time of this inspection so that a Contractor representative may be present. After the warranty inspection, and before the end of the five-year warranty period, the Town shall mail to the Contractor a written notice that specifies the defects in the Work that are to be corrected.

The Contractor shall begin the remedial work within ten (10) calendar days after receiving the written notice from the Town. If the Contractor does not begin the remedial work timely or prosecute it diligently, then the Town may pay for necessary labor and materials to effect repairs and these expenses shall be paid by the Contractor, the performance bond surety, or both.

If the Town determines that a hazard exists because of defective materials and workmanship, then the Town may take steps to alleviate the hazard, including making repairs. These steps may be taken without prior notice either to the Contractor or its surety.

Expenses incurred by the Town to alleviate the hazard shall be paid by the Contractor, the performance bond surety, or both.

Any Work performed by or for the Contractor to fulfill its warranty obligations shall be performed in accordance with the Contract Documents. By way of example only, this is to ensure that Work performed during the warranty period is performed with required insurance and the performance and payment bonds still in effect.

Work performed during the five-year warranty period shall itself be subject to a one-year warranty. This warranty shall be the same as described in this section.

The Town may make as many warranty inspections as it deems appropriate.

ARTICLE 13. The Contractor shall be responsible for ensuring that it and any subcontractors performing any portion of the Work required under the Contract Documents comply with all applicable federal, state, county, and municipal laws, regulations, and rules that relate in any way to the performance and completion of the Work. This provision applies whether or not a legal requirement is described or referred to in the Contract Documents.

Ancillary/Integral Professional Services: In selecting an architect, engineer, land surveyor, or other professional to provide professional services, if any, that are required by the Contract Documents, Contractor shall not do so on the basis of competitive bids but shall make such selection on the basis of demonstrated competence and qualifications to perform the services in the manner provided by Section 2254.004 of the Texas Government Code and shall so certify to the Town the Contractor's agreement to comply with this provision with Contractor's bid.

ARTICLE 14. The Contractor shall sign the Construction Agreement, and deliver signed performance, payment, and maintenance bonds and proper insurance policy endorsements (and/or other evidence of coverage) within fifteen (15) calendar days after the Town makes available to the Contractor copies of the Contract Documents for signature. Six copies of the Contract Documents shall be signed by an authorized representative of the Contractor and returned to the Town.

The Construction Agreement "effective date" shall be the date on which the Town Council acts to approve the award of the Contract for the Work to Contractor. It is expressly provided; however, that the Town Council delegates the authority to the Town Manager or his designee to rescind the Contract award to Contractor at any time before the Town delivers to the Contractor a copy of this Construction Agreement that bears the signature of the Mayor or Town Manager and Town Secretary or their authorized designees. The purpose of this provision is to ensure that:

1. the Contractor timely delivers to the Town all bonds and insurance documents; and

2. the Town retains the discretion not to proceed if the Town Manager or his designee determines that information indicates that the Contractor was not the lowest responsible bidder or that the Contractor cannot perform all of its obligations under the Contract Documents.

THE CONTRACTOR AGREES THAT IT SHALL HAVE NO CLAIM OR CAUSE OF ACTION OF ANY KIND AGAINST THE TOWN, INCLUDING A CLAIM FOR BREACH OF CONTRACT, NOR SHALL THE TOWN BE REQUIRED TO PERFORM UNDER THE CONTRACT DOCUMENTS, UNTIL THE DATE THE TOWN DELIVERS TO THE CONTRACTOR A COPY OF THE CONSTRUCTION AGREEMENT BEARING THE SIGNATURES JUST SPECIFIED.

Contractor stipulates that the Town is a political subdivision of the State of Texas, and, as such, may enjoy immunities from suit and liability under the Constitution and laws of the State of Texas. By entering into this Agreement, the Town does not waive any of its immunities from suit and/or liability, except as otherwise expressly and specifically provided herein or as specifically provided by law.

Payments under this Contract are due and payable in accordance with the provisions of Texas Government Code Section 2251.022. Interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

Attention is called to the Government Code, Chapter 2258, Prevailing Wage Rates. Contractor and any subcontractor shall pay not less than the prevailing rates of per diem wages in the locality at the time of construction to all laborers, workmen, and mechanics employed by them in the execution of this Agreement. The Town has determined the general prevailing rate of per diem wages in the locality in which the public work is to be constructed by using the prevailing wage rates as determined by the United States Department of Labor in accordance with the Davis-Bacon Act as applicable to this Project. Contractor or a subcontractor who violates this provision shall be liable for the penalty specified in Texas Government Code Section 2258.023, which as of the date of this Agreement is \$60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the contract. Town reserves the right to receive and review payroll records, payment records, and earnings statements of employees of Contractor, and of Contractor's Subcontractors, and of Sub-Subcontractors to verify payments made to same. However, no Claim for additional compensation shall be considered by Town because of payments of wage rates in excess of the applicable rate provided herein.

It is distinctly understood that by virtue of this Contract, no mechanic, contractor, materialmen, artisan, laborer, or subcontractor, whether skilled or unskilled, shall ever in any manner have, claim, or acquire any lien upon the project of whatever nature or kind so erected or to be erected by virtue of this Contract, nor upon any of the land upon which said improvements are so erected, built, or situated, such property being public property belonging to a political subdivision of the State of Texas.

The Contractor represents and warrants the following to the Town (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Town to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work:

1. that it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;
2. that it is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;
3. that it is authorized to do business in the State of Texas and properly licensed by all necessary governmental, public and quasi-public authorities having jurisdiction over it, the Work, or the site of the Project; and
4. that the execution of the Contract and its performance thereof are within its duly-authorized powers.

The Contract Documents shall be construed and interpreted by applying Texas law. Exclusive venue for any litigation concerning the Contract Documents shall be Denton County, Texas.

Although the Construction Agreement has been drafted by the Town, should any portion of the Construction Agreement be disputed, the Town and Contractor agree that it shall not be construed more favorably for either party.

The Contract Documents are binding upon the Town and Contractor and shall inure to their benefit as well as that of their respective successors and assigns.

If Town Council approval is not required for the Construction Agreement under applicable law, then the Construction Agreement "effective date" shall be the date on which the Mayor or Town Manager and Town Secretary or their designees have signed the Construction Agreement. If the Mayor or Town Manager and Town Secretary sign on different dates, then the later date shall be the effective date.

IN WITNESS WHEREOF, the Town and the Contractor, respectively, have caused this Agreement to be duly executed in the day and year first herein written in two copies, all of which to all intents and purposes shall be considered as the original.

This Agreement will be effective on the ____ day of _____, 20__.

TOWN OF FLOWER MOUND

CONTRACTOR

Thomas E. Hayden, MAYOR

(Signature)
(Printed Name)
(Position)

(CORPORATE SEAL)

(CORPORATE SEAL)

ATTEST:_____
Theresa Scott, TOWN SECRETARY

ATTEST:_____
(Signature)

APPROVED AS TO FORM AND
LEGALITY:

(Position)

TOWN ATTORNEY



4861 Old Hwy 81, New Braunfels, TX 78132

Phone (830) 606-1882 Fax (830) 606-1885

PROPOSAL

DATE: November 10, 2016
PROJECT: Inflow / Infiltration Evaluation and Repair (2016 Manhole Rehabilitation)

Cured In Place Pipe & Pipeline Rehabilitation, Underground Asset Renewal,
and Water Tank Asset Management #462-14

LIST PRICING

MEMBER PRICING

PROJECT SPECIFIC
DISCOUNTED PRICING

ITEM 17

Structure (Manhole) Rehabilitation and Corrosion Protection and Corrosion Protection and Additional Associated Items		Unit	Quantity
17101	Condition Standards and Repair Methods -- Condition 1	SQFT	226.08
17104	Inflow & Infiltration Repair -- Injection of Chemical Grout Material	GAL	40
17105	Inflow & Infiltration Repair -- Injection of Chemical Grout Material-Labor & Equipment	HR	40
17106	Manhole Bench and Invert Repair 4' Diameter Base	EA	9
17111	All Sizes Installation of Manhole Chimney Seal	EA	290
17112	New manhole frame and cover	EA	48
17114	Adjust manhole frame and cover	EA	5
17115	Manhole Rehabilitation - Cementitious (CRM) only -- 1/2 inch thickness	SQFT	4207.71
17116	Manhole Rehabilitation - Cementitious (CRM) only -- 1 inch thickness	SQFT	1544.88
17117	Manhole Rehabilitation - Polyurethane (PCM) only -- 250 mils thickness	SQFT	1356.48
17120	Provide and Install Internal Drop Assembly, up to 12"	EA	1
17127	Install Ring Encasement	EA	48
17128	Travel and Mobilization- Manhole Rehabilitation Crew from New Braunfels, TX	MILE	280

List Price	Total
\$15.50	\$3,504.24
\$267.50	\$10,700.00
\$203.50	\$8,140.00
\$669.00	\$6,021.00
\$562.00	\$162,980.00
\$1,439.00	\$69,072.00
\$856.00	\$4,280.00
\$18.00	\$75,738.78
\$24.50	\$37,849.56
\$27.00	\$36,624.96
\$1,872.50	\$1,872.50
\$802.50	\$38,520.00
\$12.00	\$3,360.00
\$1,070.00	\$38,520.00
\$1,070.00	\$303,880.00

7% Discount	Price	Total
-\$1.09	\$14.42	\$3,258.94
-\$18.73	\$248.78	\$9,951.00
-\$14.25	\$189.26	\$7,570.20
-\$46.83	\$622.17	\$5,599.53
-\$39.34	\$522.66	\$151,571.40
-\$100.73	\$1,338.27	\$64,236.96
-\$59.92	\$796.08	\$3,980.40
-\$1.26	\$16.74	\$70,437.07
-\$1.72	\$22.79	\$35,200.09
-\$1.89	\$25.11	\$34,061.21
-\$131.08	\$1,741.43	\$1,741.43
-\$56.18	\$746.33	\$35,823.60
-\$0.84	\$11.16	\$3,124.80
-\$74.90	\$995.10	\$35,823.60
-\$74.90	\$995.10	\$282,608.40

Discount Price	Total
\$14.00	\$3,165.12
\$245.00	\$9,800.00
\$189.00	\$7,560.00
\$620.00	\$5,580.00
\$522.00	\$151,380.00
\$1,335.00	\$64,080.00
\$795.00	\$3,975.00
\$16.40	\$69,006.44
\$22.00	\$33,987.36
\$25.00	\$33,912.00
\$1,438.08	\$1,438.08
\$745.00	\$35,760.00
\$11.00	\$3,080.00
\$540.00	\$19,440.00
\$95.00	\$26,980.00

ITEM 29

All Other Underground Construction and Supplemental Items and Additional Associated Items			
Supplemental Items			
29383-A	Traffic control- Collector Streets	DAY	36
29383- B	Traffic control- Residential Streets	DAY	284

\$801,063.04

\$744,988.63

\$469,144.00

PERFORMANCE, PAYMENT, & MAINTENANCE BONDS (IF NEEDED):

\$14,500.00

TOTAL: \$483,644.00

SPECIAL PROJECT NOTES

- 1) NO OPEN CUT WORK INCLUDING BUT NOT LIMITED TO POINT REPAIRS AND MANHOLES REPLACEMENTS ARE INCLUDED IN THIS PROPOSAL.
2) NO CLEANING AND CCTV OF EXISTING LINES OR INTERNAL POINT REPAIR WORK IS INCLUDED IN THIS PROPOSAL.
3) NOTE ADDITIONAL EXCLUSIONS BELOW.

ALL MATERIAL IS GUARANTEED TO BE AS SPECIFIED, AND THE WORK TO BE PERFORMED IN ACCORDANCE WITH THE DRAWING AND SPECIFICATIONS SUBMITTED FOR THE ABOVE WORK AND COMPLETED IN A SUBSTANTIAL WORKMANLIKE MANNER. ANY ALTERATION OR DEVIATION FROM SPECIFICATIONS AND DRAWINGS INVOLVING EXTRA COSTS WILL BE EXECUTED ONLY UPON WRITTEN ORDERS AND WILL BECOME AN EXTRA CHARGE OVER AND ABOVE THE QUOTATION. WORKER'S COMPENSATION AND PUBLIC LIABILITY INSURANCE ON ABOVE WORK TO BE FURNISHED BY FUQUAY, INC. THERE MAY BE AN ADDITIONAL CHARGE FOR PROVIDING A WAIVER OF SUBROGATION AND/OR BEING LISTED AS AN ADDITIONAL INSURED ON FUQUAY'S INSURANCE. THE CHARGE SHALL BE EQUAL TO THE AMOUNT CHARGED TO FUQUAY FOR SAID SERVICE.

EXCLUSIONS:

PERMITS, BURDENS, FEES
ALL BYPASS PUMPING AND PIPE PLUGGING

SURVEYING
SITE CLEARING
PROVIDING AND/OR PERFORMING ANY TESTING

TERMS:

PAYMENT FOR SERVICES SHALL BE DUE AND PAYABLE WITHIN THIRTY DAYS OF THE DATE/MONTH THE WORK IS PERFORMED. THIS PROPOSAL MAY BE WITHDRAWN BY US IF NOT ACCEPTED WITHIN SIXTY DAYS.

ACCEPTED BY: _____

COMPANY: _____

RESPECTFULLY SUBMITTED,

NAME: _____

FUQUAY, INC.

TITLE: _____



TOWN COUNCIL AGENDA ITEM NO. 16

CONSENT ITEM

DATE: December 19, 2016

FROM: Tiffany Bruce, P.E., CIP Engineering Manager

ITEM: Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide contract construction administration phase services, associated with the Bruton Orand EST Rehabilitation project, in the amount of \$54,500.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: On December 5, 2016, the construction contract for the Town's 2.0 Million Gallon Bruton Orand Elevated Tank Rehabilitation project, in the amount of \$1,279,050.00, was awarded to Utility Service Company, Inc. The project is required to provide routine 15 year cycle rehabilitation and repainting of the tank.

FISCAL IMPACT: \$54,500.00

Proposed Expenditure:	Account Number(s):
\$ 54,500.00	630-960-98340

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 Kimley-Horn and Associates, Inc., to provide construction phase services, associated with the Bruton Orand EST Rehabilitation Improvements project, in the amount of \$54,500.00; and authorize the Mayor to execute same on behalf of the Town.

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
Kimley-Horn and 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 **Kimley-Horn and Associates, Inc.**, ("hereinafter referred to as "CONSULTANT") whose address is 12750 Merit Drive, Suite 1000, Dallas, TX 75251

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to providing construction contract services for the Bruton Orand EST Rehabilitation Project; and

WHEREAS, CONSULTANT is a is an architectural, engineering, professional planning, urban design, or landscape architecture firm qualified to provide such services 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 construction contract services for the Bruton Orand EST Rehabilitation 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 Fifty-Four Thousand, Five Hundred and No/100 Dollars (\$54,500.00). 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 labor fee plus expense 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 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
c/o Ebix BPO
Department 97
PO Box 257

Portland, MI 48875-0257
Fax: 517-647-7900
Email: certsonly@periculum.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:

Tiffany Bruce, P.E., Engineering Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6310 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:

Tiffany Bruce, P.E., Engineering Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874- 6310 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:

Kyle Sanderson, P.E.
Kimley-Horn and Associates, Inc.
12750 Merit Drive, Suite 1000
Dallas, TX 75251
972-770-3033 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.

[The remainder of this page is left blank intentionally]

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:
KIMLEY-HORN & 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:

ATTACHMENT A**SCOPE OF SERVICES**

PROJECT NAME: 2.0 MG Bruton Orand EST Rehabilitation and Repaint Construction Phase Services

PROJECT UNDERSTANDING

This project consists of construction phase services associated with the rehabilitation and repaint of the Town's 2.0 million gallon (MG) Bruton Orand Elevated Storage Tank (EST).

SCOPE OF PROFESSIONAL SERVICES**TASK 1: BRUTON EST RE-DESIGN AND RE-BID**

The project was originally designed and bid under a separate contract in the fall of 2015. Following bid opening, the Town elected to place the project on hold due to schedule constraints. In the fall of 2016, Kimley-Horn updated the plans and specifications to re-bid the project. This task accounts for the effort associated with updating the plans as well as additional effort associated with re-bidding the project.

TASK 2: CONSTRUCTION PHASE SERVICES

- A. Pre-Construction Conference – Kimley-Horn will conduct a Pre-Construction Conference prior to commencement of Work at the Site.
- B. Visits to Site and Observation of Construction – Kimley-Horn will provide on-site construction observation services during the construction phase. Kimley-Horn will make visits at intervals as directed by the Town in order to observe the progress of the Work. A maximum of three (3) site visits are anticipated. Such visits and observations by Kimley-Horn are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on Consultant's exercise of professional judgment. Based on information obtained during such visits and such observations, Kimley-Horn will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Documents, and Kimley-Horn will keep the Town informed of the general progress of the Work.

The purpose of Kimley-Horn's site visits will be to enable Kimley-Horn to better carry out the duties and responsibilities specifically assigned in this Agreement to Kimley-Horn, and to provide the Town a greater degree of confidence that the completed Work will conform in general to the Contract Documents. Kimley-Horn shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall Kimley-Horn have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, nor for any failure of Contractor to comply with laws and regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Kimley-Horn neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

- C. Recommendations with Respect to Defective Work – Kimley-Horn will recommend to the Town that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, Kimley-Horn believes that such work will not produce a completed Project that conforms generally to Contract Documents.
- D. Requests for Information (RFI's) – Respond to reasonable and appropriate Contractor requests for information and issue necessary clarifications and interpretations of the Contract Documents to the Town as appropriate to the orderly completion of Contractor's work. Any orders authorizing variations from the Contract Documents will be made by the Town. A maximum of five (5) RFI's are anticipated.
- E. Work Change Directives (WCD), Field Orders (FO), and Proposed Contract Modifications (PCM) – Prepare work change directives and field orders as requested by the Town or required by construction. Review contractor proposed contract modifications and make recommendations to the Town. A maximum of two (2) work change directives, field orders, and/or proposed contract modifications (2 combined between the three types) are assumed for budget purposes.
- F. Shop Drawings and Samples – Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs.

This task also includes administrative responsibilities associated with maintaining the online ShareFile site used for distribution of documents, updating and distribution of shop drawing logs, and coordination with Contractor, Town, Subconsultants, and Telecommunication companies. Forty (40) shop drawings are assumed for budget purposes.

- G. Substitutes and "or-equal." – Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.
- H. Disagreements between Client and Contractor – If requested by the Town, render written decision on all claims of the Town and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the progress of Contractor's work. In rendering such decisions, Kimley-Horn shall be fair and not show partiality to the Town or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
- I. Substantial Completion. –After notice from Contractor that it considers the entire Work ready for its intended use, in company with the Town and Contractor, conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list.
- J. Final Notice of Acceptability of the Work – Conduct a final site visit to determine if the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list. Recommend in writing, final payment to Contractor.
- K. Limitation of Responsibilities – Kimley-Horn shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing the Work. Kimley-Horn shall not have the authority or responsibility to stop the work of any Contractor.

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 Kimley-Horn 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 any easement acquisition services.
- Attending additional public meetings during the project.
- Preparation of Easement Documents
- Providing on-site inspection, during the construction phase of the project.
- Perform any materials testing.
- Perform welding and coating inspections.
- Application for Payment
- Any services not listed in the Scope of Services.

ATTACHMENT B**COMPENSATION**

Kimley-Horn will provide the Scope of Services detailed in Task 1 for a lump sum fee.

Kimley-Horn will provide the Scope of Services detailed in Task 2 on a hourly not to exceed basis inclusive of expenses. Labor fee will be billed according to the attached rate schedule, which is subject to annual adjustment. Direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.10 times cost. A 4.6% fee will be added to each invoice to cover certain other expenses such as in-house duplicating, local mileage, telephone calls, facsimiles, postage, and word processing. Administrative time related to the project may be billed hourly. All permitting, application, and similar project fees will be paid directly by the Client.

TASK 1 – Bruton EST Re-Design and Re-Bid	\$6,500
TASK 2 – Construction Phase Services	\$48,000
• <i>Preconstruction Conference</i>	\$2,000
• <i>Shop Drawings</i>	\$29,300
• <i>Requests for Information</i>	\$5,500
• <i>WCDs, FOs, and PCMs</i>	\$3,000
• <i>Field Visits</i>	\$4,000
• <i>Substantial Completion</i>	\$2,500
• <i>Final Completion</i>	\$1,700
<u>TOTAL</u>	<u>\$54,500</u>

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

Kimley-Horn and Associates, Inc.**Standard Rate Schedule**

(Hourly Rate)

Senior Professional I	\$230 - \$250
Senior Professional II	\$190 - \$240
Professional	\$150 - \$205
Analyst	\$145 - \$165
Designer	\$170 - \$180
Technical Support	\$65 - \$160
Clerical/Administrative Support	\$70 - \$125

Effective July 2016



TOWN COUNCIL AGENDA ITEM NO. 17

CONSENT ITEM

DATE: December 19, 2016

FROM: Alora Wachholz, Economic Development Manager

ITEM: 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.

BACKGROUND INFORMATION: On September 19, 2005, the Flower Mound Town Council established the TIRZ #1 by creating the zone, a Board of Directors, and a TIRZ fund. At the December 5, 2016 TIRZ #1 Board meeting, the Board voted unanimously to approve the 2016 Annual Report. The Annual Report provides a summary of the action steps taken by the Board of Directors and the Town Council for fiscal year 2015-2016. It also outlines the net taxable value and captured appraised value within the zone as well as the increment for fiscal year 2015-2016, which is \$3,381,167.22. The Annual Report is required by law to be filed annually with Denton County and the Comptroller of Public Accounts in Austin before the 90th day following the end of the fiscal year, which would be on or before December 30, 2016.

BOARD REVIEW/CITIZEN FEEDBACK: The TIRZ #1 Board of Directors unanimously approved the 2016 Annual Report at its December 5, 2016 Board meeting.

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

Proposed Expenditure:

Account Number(s):

N/A

N/A

Finance Review by: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. 2016 Annual Report

RECOMMENDATION: Move to approve 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.



Town of Flower Mound, Texas

Tax Increment Reinvestment Zone #1 (TIRZ #1)

ANNUAL REPORT

2016

Town of Flower Mound, Texas
Tax Increment Reinvestment Zone #1
As of September 30, 2016

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- 1) Cover**
- 2) Index**
- 3) Year End Summary of Meetings/Town Council/Board Actions**
- 4) Public Infrastructure/Building Projects**
- 5) Capital Improvement Plan Budget**
- 6) Budget vs. Expenditures**
- 7) TIRZ Fund**
- 8) Annual Report**

Town of Flower Mound, Texas
Tax Increment Reinvestment Zone #1

As of September 30, 2016

YEAR END SUMMARY OF MEETINGS/TOWN COUNCIL/BOARD ACTIONS

During the period from October 1, 2015, through September 30, 2016, the Town of Flower Mound Tax Increment Reinvestment Zone #1 (TIRZ) Board of Directors met twice. The first meeting was held on December 7, 2015, to approve the 2015 Annual Report and minutes from the November 17, 2014, TIRZ board meeting. The second meeting was held August 9, 2016, and included three items: review and approval of the meeting minutes from the December 7, 2015, TIRZ board meeting, review and consider approval of revisions to the TIRZ #1 Project Plan, and consideration to recommend TIRZ #1 funding to pay the annual debt service on the issuance of \$10 million for a new Town Hall. The revisions to the Project Plan were outlined by Director of Economic Development Mark Wood, and included increasing the recommended budget for a street project on Waketon Road, reducing the anticipated budget for a street project on Churchill Drive, a water line project on the west side of FM 2499 from FM 1171 to Dixon Lane, and a facilities project for a new Town Hall. Other changes included a reduction to \$0 for a facilities project for a performing arts auditorium, the addition of two street projects to provide for an east and westbound right turn lane at FM 1171 and FM 2499, the addition of a facilities project for a library renovation/expansion, and the redistribution of some of the banked funding from the Other Projects line item to other projects in the Plan.

A presentation was made to the Board regarding a preliminary Town Hall site plan and the history of the current Town Hall building by Assistant Town Manager Tommy Dalton. A feasibility study had been previously conducted for the property on which the current Town Hall is located and presented to the TIRZ board at the November 17, 2014 meeting. The new Town Hall project is eligible to receive TIRZ funding, if recommendation for approval is made from the TIRZ #1 board to the Town Council. The request for recommendation is to approve \$10 million from the TIRZ to pay the annual debt service on the project. Additional information about the project was given by Director of Economic Development Mark Wood, Deputy Town Manager/Chief Finance Office Debra Wallace, and Town Manager Jimmy Stathatos. The motion to recommend to Council approval for the new Town Hall debt obligation funding was approved by unanimous vote.

Board members appointed and currently serving are: Town—Jeff Tasker, Bill Collins, Bryan Webb and County—Larry Lipscomb and Lori Fickling. Ex-Officio members are Mayor Tom Hayden and Town Manager Jimmy Stathatos.

Town of Flower Mound, Texas
Tax Increment Reinvestment Zone #1

As of September 30, 2016

During the period from October 1, 2015, through September 30, 2016, the Flower Mound Town Council took the following action:

- At a meeting on December 21, 2015, the Town Council approved the 2015 Annual Report for the Flower Mound Tax Increment Reinvestment Zone #1 (TIRZ) in accordance with Chapter 311 of the Texas Tax Code.
- At a meeting on August 15, 2016, the Town Council approved the revised TIRZ #1 Project Plan recommended by the TIRZ Board at the August 9 meeting.
- At a meeting on September 19, 2016, the Town Council approved an architectural design concept for a new Town Hall facility presented by firm Oxley Williams Tharp.
- At a meeting on September 19, 2016, the Town Council voted to approve the Fiscal Year 2016-17 budget including a continued tax rate of \$0.4390 per \$100 valuation.

PUBLIC INFRASTRUCTURE/BUILDING PROJECTS

2016-2017

On October 20, 2014, a Chapter 380 Partnership Agreement was authorized by the Town of Flower Mound and RMI River Walk Investors, LP, which included the use of TIRZ funding for up to \$1 million for a public parking structure on the site of a nationally-branded hotel; later named a Courtyard by Marriott. The structure is required to include no fewer than 300 vehicle spaces and must comply with the development regulations approved by Town Council. Section 7 of the Agreement specifies that this financial assistance provided by the TIRZ may not exceed \$1 million and will be paid as a reimbursement for infrastructure costs following the issuance of a Certificate of Occupancy for the parking structure. A First Amendment to the Chapter 380 Agreement was approved by Town Council on May 4, 2015 and placed additional requirements on the acceptance of these TIRZ funds. Section 5.C of the original Agreement was amended to include that the parking structure must be fully constructed and accessible to the public no later than the Opening Date of the hotel, and that the Town will not issue a Certificate of Occupancy for the Hotel until a Certificate of Occupancy has been issued for the parking structure. The building permit deadline was also extended to September 30, 2015. The hotel development group hosted an official ground-breaking ceremony summer 2015. The project received its building permit on September 30, 2015, and is scheduled to be completed by April 2017.

Town of Flower Mound, Texas
Tax Increment Reinvestment Zone #1

As of September 30, 2016

CAPITAL IMPROVEMENT PLAN BUDGET

Project	Estimated Cost
STREETS	
Dixon Lane (Chinn Chapel to Crestside)	\$2,685,267
Chinn Chapel (FM 407 to Dixon)	1,387,500
Chinn Chapel (Dixon to Waketon)	941,305
Waketon Road (Rippy to Chinn Chapel)	5,270,000
Rippy Road (FM 2499 to Waketon)	2,115,000
Churchill (East end to Yucca)	400,000
FM 1171 at FM 2499 Westbound Right Turn Lane	998,000
FM 1171 at FM 2499 Eastbound Right Turn Lane	785,000
Subtotal	\$14,582,072
SIGNALS	
College Parkway at FM 2499	\$150,000
Subtotal	\$150,000
WATER	
FM 2499 west side from FM 1171 to Dixon	\$1,700,000
FM 407 from FM 2499 to Country Meadows Addition	438,039
Subtotal	\$2,138,039
FACILITIES	
Town Hall	\$10,000,000
Senior Citizen Activity Center	4,900,000
Library renovation/expansion	10,900,000
Subtotal	\$25,800,000
PARKS	
Timber Trails Park	\$400,000
Subtotal	\$400,000
Improvements in Forum (Riverwalk) Area	\$4,000,000
Parking Structure	1,000,000
Subtotal	\$5,000,000
Other Projects	\$399,204
Town Center Master Plan	50,685
Retail Developments Shared Drive (FM 407 & Chinn Chapel)	180,000
Subtotal	\$629,889
TOTAL	\$48,700,000

Town of Flower Mound, Texas
Tax Increment Reinvestment Zone #1

As of September 30, 2016

BUDGET VS EXPENDITURES

Project	Current Budget	Expended Costs to Date	Remaining Balance
STREETS			
Dixon Lane (Chinn Chapel to Crestside)	\$2,685,267	\$2,685,267	\$0
Chinn Chapel (FM 407 to Dixon)	1,387,500	1,387,500	0
Chinn Chapel (Dixon to Waketon)	941,305	941,305	0
Waketon Road (Rippy to Chinn Chapel)	5,270,000	0	5,270,000
Rippy Road (FM 2499 to Waketon)	2,115,000	0	2,115,000
Churchill (East end to Yucca)	400,000	0	400,000
FM 1171 at FM 2499 Westbound Right Turn Lane	998,000	0	998,000
FM 1171 at FM 2499 Eastbound Right Turn Lane	785,000	0	785,000
Subtotal	\$14,582,072	\$5,014,072	\$9,568,000
SIGNALS			
College Parkway at FM 2499	\$150,000	\$0	\$150,000
Subtotal	\$150,000	\$0	\$150,000
WATER			
FM 2499 west side from FM 1171 to Dixon	\$1,700,000	\$0	\$1,700,000
FM 407 from FM 2499 to Country Meadows Addition	438,039	438,039	0
Subtotal	\$2,138,039	\$438,039	\$1,700,000
WASTEWATER			
FM 2499 east side from Valley Creek Church to Dixon	\$0	\$0	\$0
FM 407 from FM 2499 to County Meadows Addition	0	0	0
Subtotal	\$0	\$0	\$0
FACILITIES			
Town Hall	\$10,000,000	\$0	\$10,000,000
Senior Citizen Activity Center	4,900,000	4,845,517	54,483
Library renovation/expansion	10,900,000	0	10,900,000
Subtotal	\$25,800,000	\$4,845,517	\$20,954,483
PARKS			
Timber Trails Park	\$400,000	\$0	\$400,000
Subtotal	\$400,000	\$0	\$400,000
Improvements in Forum (Riverwalk) area			
Parking Structure	\$4,000,000	\$0	\$4,000,000
	1,000,000	0	1,000,000
Subtotal	\$5,000,000	\$0	\$5,000,000
Other Projects			
	\$399,204	\$0	\$399,204
Town Center Master Plan	50,685	50,685	0
Retail Developments Shared Drive (FM 407 & Chinn Chapel)	180,000	180,000	0
Subtotal	\$629,889	\$230,685	\$399,204
TOTAL	\$48,700,000	\$10,528,313	\$38,171,687

Town of Flower Mound, Texas
Tax Increment Reinvestment Zone #1

As of September 30, 2016*

TIRZ FUND

	CAPITAL PROJECTS	DEBT SERVICE	TOTAL
Beginning Balance:			
<i>October 1, 2015</i>	\$4,197,279	\$0	\$4,197,279
Revenues:			
Property Tax	\$3,381,167	\$0	\$3,381,167
Interest	<u>\$19,856</u>	\$0	<u>\$19,856</u>
TOTAL REVENUES	\$3,401,023	\$0	\$3,401,023
Expenditures:			
Land Purchases	\$0	\$0	\$0
Professional Services	\$24,143	\$0	\$24,143
Construction/Improvements	<u>\$0</u>	\$0	<u>\$0</u>
TOTAL EXPENDITURES	\$24,143	\$0	\$24,143
Ending Balance:			
<i>September 30, 2016*</i>	\$7,574,159	\$0	\$7,574,159

* Unaudited, subject to change.

Town of Flower Mound, Texas
Tax Increment Reinvestment Zone #1

As of September 30, 2016

ANNUAL REPORT

Chapter 311.016 of V.C.T.A. requires the following information as part of the annual report on the status of the TIRZ District. Information is contained in detail on the attached financial statements.

1. Amount and source of revenue in the tax increment fund established for the zone:

\$3,401,023 Total Revenue

2. Amount and purpose of expenditures from the fund:

\$24,143 Total Expenditures

3. Amount of Principal and Interest due on outstanding indebtedness is as follows:

- I. Contributions /Advances from developers— none.
- II. Bonds issued and payment schedule to retire bonds— none.

4. Tax Increment base and current captured appraised value retained by the zone:

Taxing Jurisdiction	Net Taxable Fiscal Year Value 2015 - 2016	Base Year* Value Jan 1, 2005	Captured App. Value Fiscal Year 2015 - 2016
Town of Flower Mound	\$716,135,259	\$228,290,889	\$487,844,370
Denton County	\$755,052,950	\$229,382,705	\$525,670,245

5. Captured appraised value by the municipality and other taxing units, the total amount of the tax increment received, and any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the governing body of the municipality.

- A. Captured appraised value shared by the municipality and other participating taxing jurisdictions received in Fiscal Year 2015-2016:

Taxing Jurisdiction	Participation Per \$100/Value	Amount of 2015-2016 Increment
Town of Flower Mound (100%)	\$0.439000	\$2,141,636.78
Denton County (90%)	\$0.235800	\$1,239,530.44
Total	\$0.674800	\$3,381,167.22

- B. Amount of tax increment received in 2016 from the municipality and the other taxing jurisdictions based on 2015 valuations: \$3,381,167

- C. Other information: None

* Base Year Value as of January 1, 2005 is for Fiscal Year 2005-2006.



TOWN COUNCIL AGENDA ITEM NO. 18

CONSENT ITEM

DATE: December 19, 2016

FROM: Rochelle Ragas, Purchasing Manager

ITEM: Consider approval of the purchase of two (2) Toro Groundsmaster GM4300 TIV with service pack combo for the Park Services Department from Professional Turf Products, L.P., in the amount of \$102,450.68.

BACKGROUND INFORMATION: The Park Services Department is requesting the purchase of a two (2) new Toro Groundsmaster GM 4300 TIV with service pack combo, in the amount of \$102,450.68.

The purchase of these vehicles was approved in the 2016-2017 Vehicle Equipment Replacement Fund (VERF) budget. These units replace units #3300-96 and #3300-97.

FISCAL IMPACT: \$102,450.68

Proposed Expenditure:

\$102,450.68

Account Number(s):

565-450-84500-6130

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

ATTACHMENTS:

1. Quote from Professional Turf Products, L.P.
2. Bid Award Recommendation

RECOMMENDATION: Move to approve the purchase of two (2) Toro Groundsmaster GM4300 TIV with service pack combo for the Park Services Department from Professional Turf Products, L.P., in the amount of \$102,450.68.



Professional Turf Products, L.P.

1010 North Industrial Blvd.

Euless, Texas 76039

Will Dutton

(888) 776-8873 ext. 5410

duttonw@proturf.com



Count on it.

Ship To	Town Of Flower Mound - Fleet Services		Date	9/22/2016
Bill To	BUYBOARD (CONTRACT # 447-14)		Tax Rate	
Contact	Chase Houston		Destination	2.00%
Address	9610 S. Garnett		Trade-In	
City	Flower Mound, TX		Finance	
State	TX	Comments:	Account Type	Contract
Postal Code	75028	2097388		
Phone				
Fax				

SAT HNL

Proposal

Qty	Model #	Description	Unit	Extended
1	30864	Groundsmaster 4300-D (Tier 4 Final Compliant) (30864 / 30864A)		
1	30349	Universal Sunshade (White)		
1	119-6957	SERVICE PACK - COMBO BLADE, 5 Pack		
		Toro GM4300 TIV	\$	51,225.34
SubTotal				\$ 51,225.34
Destination				Included
Tax (Estimated)				\$ -
TOTAL				\$ 51,225.34

Comments:

For all New Equipment, Demo units may be available for up to 20% savings.

For all New Equipment, Refurbished units may be available for up to 40% savings.

Terms & Conditions:

- Orders are considered contractual. Order cancellations are subject to fees up to 10% of the original order value.
- New equipment delivery time is estimated at six weeks from the time credit is approved & documents are executed.
- Pricing, including finance options, valid for 30 days from time of quotation.
- After 30 days all prices are subject to change without notice.
- Used and Demo equipment is in high demand and availability is subject to change.
 - Upon firm customer commitment to purchase, said equipment availability will be determined and "locked".
 - In the event equipment is unavailable at time of order, PTP will employ every resource to secure an acceptable substitute.
 - PTP strongly advises the customer to issue a firm PO as quickly as possible after acceptance of quotation.
- "Trade In Allowances" will be treated as a credit for future parts purchases on PTP account unless other arrangements have been made.

Returns Policy:

- All returns are subject to restocking, refurbishing, usage, and shipping fees.
- All returns must be able to be sold as new.
- Items missing parts are non returnable.

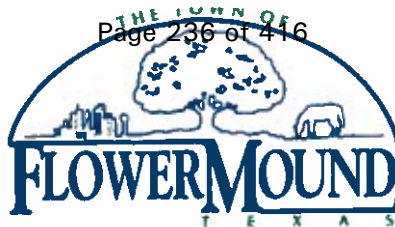
4. Professional Turf Products will have sole discretion as to the resalable condition of the product.
5. This policy does not apply to items that are defective, or shipped incorrectly by PTP or one of its vendors.

Payment:

1. Terms are net 10 unless prior arrangements have been made.
2. Quoted prices are subject to credit approval.
 - A. PTP will work with third party financial institutions to secure leases when requested to do so.
 - B. When using third party financiers, documentation fees & advance payments may be required.
 - C. For convenience, monthly payments are estimated based on third party rate factors in effect at time of the quotation.
 - D. PTP assumes no liability in the event credit becomes unavailable or rates change during the approval process.
3. There will be a service charge equal to 1.5% per month (18% per annum) on all past due invoices.
4. By Law we are required to file a "Notice to Owner" of our intent to file lien in the event of payment default.
This notice must be sent within 60 days of the date the original invoice and will happen automatically regardless of any special payment arrangements that may have been made.

Authorized Signature: _____

Date: _____



Bid Award Recommendation

Buyboard Contract #447-14

Date: 11-03-2016

Description: **Toro Groundsmaster 4300-D**

Replaces/Trade-in: Unit 3300-96
Unit 3300-97

Bidder #1: Professional Turf Products, L.P. 888-776-8873

Bid: Toro Toro Groundsmaster GM4300 TIV w/service pack combo blade- 5 pack.

Per: Quote specs

Unit Price: \$51,225.34

Quantity: Two (2)

Total Price: \$102,450.68

**Delivered to Town of Flower Mound Fleet Service Center
1101 Duncan Ln.
Flower Mound, Tx**

It is Fleet Services recommendation to award the bid to **Professional Turf Products, L.P.** as the lowest responsible bidder in the amount of \$ **102,450.68**.

H. Deats Stewart

Fleet Services Manager

11-03-2016

Date



TOWN COUNCIL AGENDA ITEM NO. 19 REGULAR ITEM

DATE: December 19, 2016

FROM: Richard Brown, Senior Planner

ITEM: Public Hearing to consider a request for a Development Plan (DP16-0003 – Bradford Park) to develop a residential subdivision, with an exception to Section 90-423, “Underground utilities,” of the Code of Ordinances. The property is generally located south and west of the intersection of Rippy Road and Waketon Road. *(The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its December 12, 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.

ATTACHMENT:

1. Planning and Zoning Commission Staff Report

DRAFT MOTION: Move to approve a request for a Development Plan (DP16-0003 – Bradford Park) to develop a residential subdivision, with an exception to Section 90-423, “Underground utilities,” of the Code of Ordinances.



PLANNING AND ZONING COMMISSION AGENDA ITEM NO: 4

DATE: December 12, 2016

FROM: Richard Brown, Senior Planner

ITEM: **Public Hearing to consider a request for a Development Plan (DP16-0003 – Bradford Park) to develop a residential subdivision, with an exception to Section 90-423, “Underground utilities,” of the Code of Ordinances. The property is generally located south and west of the intersection of Rippy Road and Waketon 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 focus of this application is to obtain approval for a residential subdivision containing 156 residential lots, 12.06 acres of open space, and two points of ingress/egress. The property is zoned Planned Development District-148 (PD-148) with Single-Family District-10 (SF-10) and Single-Family District-5 (SF-5) uses with certain exceptions and modifications. The SF-10 lots require a minimum lot size of 10,125 square feet of land area and are limited to a maximum of 28 lots. The SF-5 lots require a minimum of 6,000 square feet of land area and are limited to a maximum of 128 lots.

The development plan depicts required setbacks, buffers, and minimum open space areas, as well as other PD standards. Additionally, a requirement that a minimum of three open space areas be improved to accommodate small gatherings of residents and their guests (see PALS recommendation, below) is noted on the attached landscape plan.

On September 6, 2016, the Town Council approved a request for a Master Plan Amendment (MPA16-0004) to amend Section 1.0, Land Use Plan, and Section 3.0, Specific Plans, to change the land use designation from Low Density Residential and Village Retail to Medium Density Residential, High Density Residential, and Village Retail within Specific Plan Area 5 (SPA 5), and to amend

certain development controls outlined within SPA 5 that apply to the property. At the same meeting, the Town Council approved a request for rezoning (ZPD16-0006 – Bradford Park) from Agricultural District (A) and Planned Development District No. 89 (PD-89) with Retail District-2 (R-2) uses to Planned Development District No. 148 (PD-148) with Single-Family District-10 (SF-10) and Single-Family District-5 (SF-5) uses with certain exceptions and modifications to the Code of Ordinances.

The link to the September 6, 2016 Town Council meeting is:

Part 1 of 2-

<http://flowermoundtx.swagit.com/play/09062016-1521/12/>

Part 2 of 2-

<http://flowermoundtx.swagit.com/play/09062016-1521/13/>

On August 2, 2016, the Environmental Conservation Commission (ECC) reviewed a tree removal permit request for 26 specimen trees. The ECC recommended approval for the removal of the requested specimen trees. On September 6, 2016, the Town Council approved the request for the removal of the 26 specimen trees.

The following link will provide additional detail related to the ECC public meeting:

<http://flowermoundtx.swagit.com/play/08022016-1127>

On August 3, 2016, the Parks, Arts and Library Services (PALS) Board voted to recommend acceptance of cash in lieu of land of \$660,441.60 in the place of otherwise required Park Land dedication and Park Development Fees in the amount of \$216,528, with the stipulation that they will include benches and meet with Town staff to discuss gazebos or any other amenities that may contribute to more of a park setting. The attached landscape plan provides for this action. On September 6, 2016, the Town Council adopted the PALS Board action.

The following link will provide additional detail related to the PALS Board public meeting:

<http://flowermoundtx.swagit.com/play/08032016-838/#7>

A. Exception to Overhead Utilities

Approximately 972 feet of overhead power lines are located within the subject property along the frontage of Rippy 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. The applicant has provided an explanation for the requested exception in the letter of intent [see Attachment A(2)].

III. ATTACHMENTS

A. Background Information

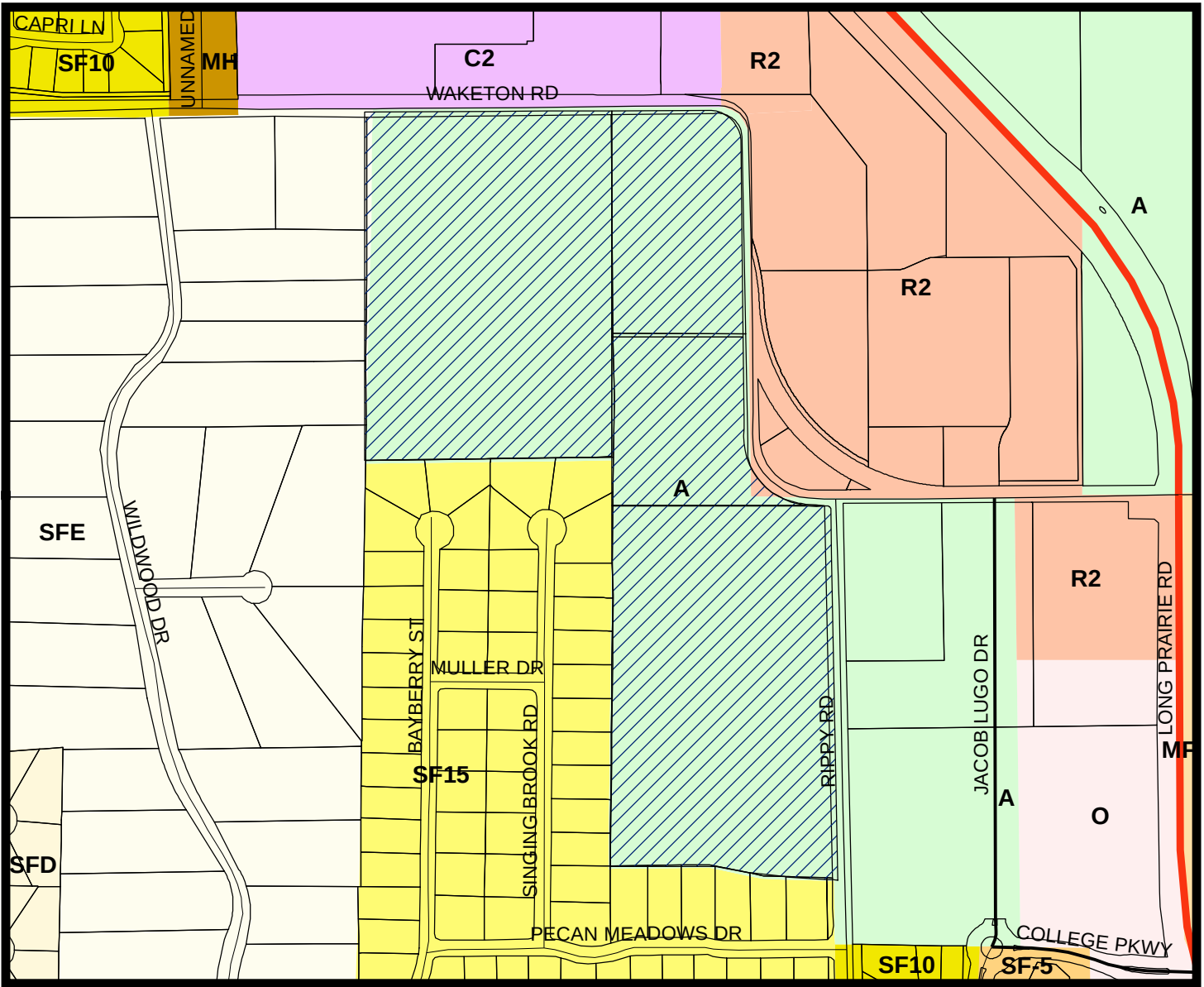
1. Vicinity Map
2. Letter of Intent
3. PD-148 Ordinance

B. Application Details

1. Development Plan Package

Vicinity Map

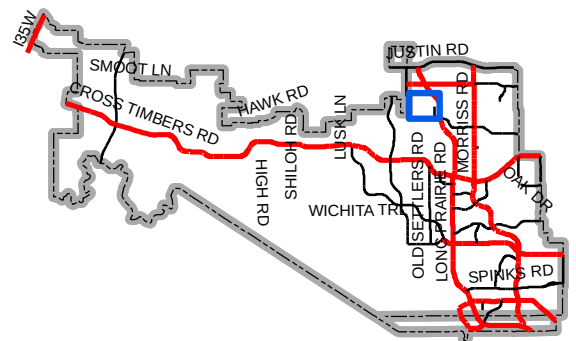
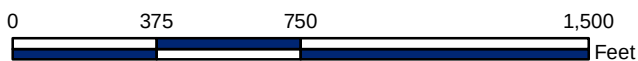
Reference Project: DP16-0003



LEGEND

	Agriculture		Commercial 2		Mobile Home		Office		Retail 2		Single Family Estate
	Single Family 5		Single Family 10		Single Family 15		Single Family Density				

Subject Property



Map Location



December 1, 2016

Mr. Richard Brown
Senior Planner
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75022

RE: Bradford Park – Letter of Intent - Updated

Dear Mr. Brown,

A Development Plan application has been submitted on behalf of my client, CalAtlantic Homes, for the residential subdivision, Bradford Park. The development is approximately 49.5 acres and is generally located west of Rippy Road and south of Waketon Road. The property is currently zoned medium and high density single family residential.

The development is in substantial compliance with the concept plan approved with ZPD 16-0006 and will contain 156 lots.

An exception to 90-423(5) Underground Utilities is being requested. The existing overhead utilities are located between 1 and 2 feet to the west of the Rippy Road right of way that is being dedicated to the Town by CalAtlantic Homes. It is believed the utilities were originally placed in the current location in anticipation of a wider rural collector road profile which require 80' of ROW. The Town subsequently changed the road profile to the narrower urban collector road profile which only requires 60' of ROW. The alternative to the exception is to relocate the utilities into the Town's ROW. There would be no benefit to the alternative and residents would be negatively impacted by the increased construction time for the section of Rippy Road that is being improved.

Please let me know if there are additional questions I or the CalAtlantic team can answer.

Sincerely,

Kendra Stephenson

Kendra Stephenson,
Principal, Portmanteau Consulting

ORDINANCE NO. _____

Page 1

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. 51-16

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 54.052 ACRES OF LAND SITUATED IN THE J. WATKINS SURVEY, ABSTRACT NUMBER 1324, DENTON COUNTY, TEXAS, FROM AGRICULTURAL DISTRICT (A) AND PLANNED DEVELOPMENT DISTRICT NO. 89 (PD-89) WITH RETAIL DISTRICT-2 (R-2) USES TO PLANNED DEVELOPMENT DISTRICT NO. 148 (PD-148) WITH SINGLE-FAMILY DISTRICT-10 (SF-10) AND SINGLE-FAMILY DISTRICT-5 (SF-5) 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 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, 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 54.052 acres of land situated in the J. Watkins Survey, Abstract Number 1324, Denton County, Texas, have filed an application to change the zoning from Agricultural District (A) and Planned Development District No. 89 (PD-89) with Retail District-2 (R-2) uses to Planned Development District No. 148 (PD-148) with Single-Family District-10 (SF-10) and Single-Family District-5 (SF-5) uses; and,

WHEREAS, the Planning and Zoning Commission of the Town of Flower Mound, Texas held a public hearing on August 22, 2016, and the Town Council of the Town of Flower Mound, Texas, held a public hearing on September 6, 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; and

WHEREAS, the Town Council finds that amendment of the Zoning map 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.

ORDINANCE NO. 51-16

Page 2

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

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:

54.052 acres of land situated in the J. Watkins Survey, Abstract Number 1324, Denton County, Texas, and more fully described in Exhibit "A" hereto.

Planned Development District No. 148 (PD-148) with Single-Family District-10 (SF-10) and Single-Family District-5 (SF-5) uses.

SECTION 2

The development standards, conceptual site plan, and conceptual landscape plan of the proposed Planned Development District No. 148 (PD-148), attached hereto as Exhibits "B," "C," and "D," each incorporated herein for all purposes, are hereby approved as the development standards, conceptual site plan, and conceptual landscape plan for this Planned Development District No. 148 (PD-148).

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. 148 (PD-148), 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," and "D," 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, 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,

ORDINANCE NO. 51 - 16

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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

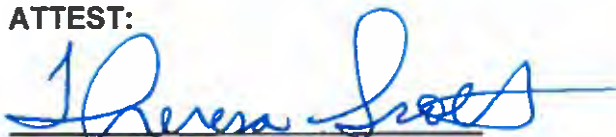
This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF 4 TO 1, ON THIS THE 6 DAY OF SEPTEMBER, 2016.

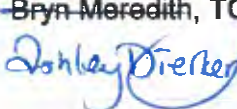
APPROVED:


Thomas E. Hayden, MAYOR

ATTEST:


Theresa Scott, TOWN SECRETARY

APPROVED AS TO FORM AND LEGALITY:


Bryn Meredith, TOWN ATTORNEY


ORDINANCE NO. 5116

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Exhibit "A"
Legal Description

54.052 ACRES

BEING a tract of land situated in the J. WATKINS SURVEY, ABSTRACT NO. 1324, Town of Flower Mound, Denton County, Texas and being all of that tract of land described in Deed to W.E. Bradford and wife, Clair Bradford, as recorded in Volume 579, Page 261, Deed Records, Denton County, Texas and being all of Lots 1-2, Block B of WAKETON RANCH, an Addition to the Town of Flower Mound, Denton County, Texas according to the Plat thereof recorded in Cabinet X, Page 9, Plat Records, Denton County, Texas and being part of that tract of land described as Lot 9X, Block A of said WAKETON RANCH Addition and being part of that tract of land described in Deed to Donald R. Parks and wife, Margaret M. Parks, as recorded in Volume 929, Page 508, Deed Records, Denton County, Texas and being part of that tract of land described in Deed to Donald R. Parks and wife, Margaret Mary Parks, as recorded in Volume 1669, Page 292, Deed Records, Denton County, Texas and being all of that tract of land described in Deed to Ricky Dale Cain and Lisa Renee Cain, as recorded in Document No. 94-R0085198, Deed Records, Denton County, Texas and being part of that tract of land described in Deed to Hawks Ramsey, LLC, as recorded in Document No. 2007-51767, Deed Records, Denton County, Texas and being more particularly described as follows:

BEGINNING at a 5/8 inch iron rod found for the southwest corner of said W.E. Bradford and wife, Clair Bradford tract;

THENCE North 00 degrees 31 minutes 52 seconds East, with the west line of said W.E. Bradford and wife, Clair Bradford tract, a distance of 1,134.10 feet to a point for the northwest corner of said W.E. Bradford and wife, Clair Bradford tract;

THENCE North 89 degrees 05 minutes 46 seconds East, a distance of 0.35 feet to a point for corner;

THENCE North 00 degrees 23 minutes 27 seconds East, a distance of 157.88 feet to a 2 inch iron pipe found for the southeast corner of the above mentioned Donald R. Parks and wife, Margaret M. Parks tract;

THENCE South 89 degrees 04 minutes 11 seconds West, a distance of 786.64 feet to a 2 inch iron pipe found for the southwest corner of said Donald R. Parks and wife, Margaret M. Parks tract;

THENCE North 00 degrees 29 minutes 15 seconds East, a distance of 1,113.41 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "JVC" found in the south line of Waketon Road, a 30 foot right-of-way, for the northwest corner of the above mentioned Donald R. Parks and wife, Margaret M. Parks tract;

THENCE North 89 degrees 23 minutes 46 seconds East, with said south line, a distance of 548.85 feet to a point for corner;

THENCE North 00 degrees 36 minutes 14 seconds West, leaving said south line, a distance of 30.00 feet to a point for corner in the north line of said Waketon Road at the beginning of a curve to the right having a central angle of 03 degrees 37 minutes 06 seconds, a radius of

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680.00 feet and a chord bearing and distance of South 88 degrees 47 minutes 40 seconds East, 42.94 feet;

THENCE Easterly, leaving said north line and with said curve to the right, an arc distance of 42.94 feet to a point for corner at the beginning of a curve to the left having a central angle of 01 degrees 55 minutes 21 seconds, a radius of 1,595.97 feet and a chord bearing and distance of South 87 degrees 56 minutes 48 seconds East, 53.55 feet;

THENCE Easterly, with said curve to the left, an arc distance of 53.55 feet to a point for corner at the beginning of a curve to the right having a central angle of 10 degrees 53 minutes 43 seconds, a radius of 282.03 feet and a chord bearing and distance of South 83 degrees 27 minutes 37 seconds East, 53.55 feet;

THENCE Easterly, with said curve to the right, an arc distance of 53.63 feet to a point for corner at the beginning of a curve to the right having a central angle of 08 degrees 38 minutes 49 seconds, a radius of 686.00 feet and a chord bearing and distance of South 73 degrees 41 minutes 22 seconds East, 103.43 feet;

THENCE Easterly, with said curve to the right, an arc distance of 103.53 feet to a point for corner at the beginning of a reverse curve to the left having a central angle of 03 degrees 57 minutes 09 seconds, a radius of 1,019.27 feet and a chord bearing and distance of South 71 degrees 20 minutes 33 seconds East, 70.30 feet;

THENCE Easterly, with said curve to the left, an arc distance of 70.32 feet to a point for corner at the beginning of a reverse curve to the left having a central angle of 15 degrees 31 minutes 54 seconds, a radius of 259.71 feet and a chord bearing and distance of South 65 degrees 33 minutes 11 seconds East, 70.19 feet;

THENCE Easterly, with said curve to the right, an arc distance of 70.40 feet to a point for corner at the beginning of a compound curve to the right having a central angle of 06 degrees 56 minutes 04 seconds, a radius of 543.00 feet and a chord bearing and distance of South 54 degrees 19 minutes 12 seconds East, 65.68 feet;

THENCE Southeasterly, with said curve to the right, an arc distance of 65.72 feet to a point for corner at the beginning of a compound curve to the right having a central angle of 18 degrees 44 minutes 54 seconds, a radius of 275.34 feet and a chord bearing and distance of South 43 degrees 04 minutes 06 seconds East, 89.70 feet;

THENCE Southeasterly, with said curve to the right, an arc distance of 90.10 feet to a point for corner at the beginning of a curve to the left having a central angle of 04 degrees 14 minutes 02 seconds, a radius of 1,145.78 feet and a chord bearing and distance of South 35 degrees 48 minutes 40 seconds East, 84.65 feet;

THENCE Southeasterly, with said curve to the left, an arc distance of 84.67 feet to a point for corner at the beginning of a curve to the right having a central angle of 12 degrees 46 minutes 21 seconds, a radius of 680.00 feet and a chord bearing and distance of South 31 degrees 32 minutes 30 seconds East, 151.27 feet;

THENCE Southerly, with said curve to the right, an arc distance of 151.59 feet to a point for corner at the beginning of a curve to the right having a central angle of 22 degrees 38 minutes

ORDINANCE NO. 51-16

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00 seconds, a radius of 670.00 feet and a chord bearing and distance of South 13 degrees 50 minutes 20 seconds East, 262.95 feet;

THENCE Southerly, with said curve to the right, an arc distance of 264.67 feet to a point for corner at the beginning of a curve to the left having a central angle of 12 degrees 11 minutes 22 seconds, a radius of 411.85 feet and a chord bearing and distance of South 08 degrees 37 minutes 01 seconds East, 87.46 feet;

THENCE Southerly, with said curve to the left, an arc distance of 87.62 feet to a point for corner at the beginning of a curve to the left having a central angle of 04 degrees 18 minutes 29 seconds, a radius of 1,158.78 feet and a chord bearing and distance of South 16 degrees 51 minutes 57 seconds East, 87.11 feet;

THENCE Southerly, with said curve to the left, an arc distance of 87.13 feet to a point for corner at the beginning of a curve to the left having a central angle of 61 degrees 44 minutes 58 seconds, a radius of 604.00 feet and a chord bearing and distance of South 49 degrees 53 minutes 41 seconds East, 619.90 feet;

THENCE Southeasterly, with said curve to the left, an arc distance of 650.95 feet to a point for corner at the beginning of a curve to the right having a central angle of 02 degrees 35 minutes 51 seconds, a radius of 1,086.50 feet and a chord bearing and distance of South 79 degrees 28 minutes 14 seconds East, 49.25 feet;

THENCE Easterly, with said curve to the right, an arc distance of 49.26 feet to a point for corner at the beginning of a curve to the left having a central angle of 11 degrees 35 minutes 56 seconds, a radius of 229.00 feet and a chord bearing and distance of South 83 degrees 58 minutes 16 seconds East, 46.28 feet;

THENCE Easterly, with said curve to the right, an arc distance of 46.36 feet to a point for corner in the north line of the above mentioned Waketon Road;

THENCE North 89 degrees 30 minutes 59 seconds East, with said north line, a distance of 86.06 feet to a point for corner;

THENCE South 00 degrees 38 minutes 38 seconds East, leaving said north line, a distance of 60.00 feet to a point for corner;

THENCE South 89 degrees 28 minutes 55 seconds West, a distance of 142.16 feet to a point for corner at the beginning of a curve to the right having a central angle of 10 degrees 38 minutes 45 seconds, a radius of 330.00 feet and a chord bearing and distance of North 85 degrees 11 minutes 42 seconds West, 61.23 feet;

THENCE Westerly, with said curve to the right, an arc distance of 61.32 feet to a point for corner at the beginning of a curve to the right having a central angle of 12 degrees 03 minutes 36 seconds, a radius of 676.00 feet and a chord bearing and distance of North 73 degrees 50 minutes 32 seconds West, 142.03 feet;

THENCE Westerly, with said curve to the right, an arc distance of 142.29 feet to a point for corner;

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THENCE South 68 degrees 39 minutes 26 seconds West, a distance of 21.52 feet to a point for corner at the beginning of a curve to the left having a central angle of 03 degrees 10 minutes 14 seconds, a radius of 610.00 feet and a chord bearing and distance of South 22 degrees 12 minutes 04 seconds West, 33.75 feet;

THENCE Southerly, with said curve to the left, an arc distance of 33.76 feet to a point for corner;

THENCE South 20 degrees 36 minutes 57 seconds West, a distance of 26.57 feet to a point for corner at the beginning of a curve to the left having a central angle of 21 degrees 49 minutes 19 seconds, a radius of 232.33 feet and a chord bearing and distance of South 09 degrees 42 minutes 17 seconds West, 230.93 feet;

THENCE Southerly, with said curve to the left, an arc distance of 232.33 feet to a point for corner;

THENCE South 01 degrees 12 minutes 22 seconds East, a distance of 927.93 feet to a point for corner;

THENCE North 88 degrees 23 minutes 04 seconds West, a distance of 274.47 feet to a point for corner;

THENCE North 79 degrees 12 minutes 28 seconds West, a distance of 176.40 feet to a point for corner;

THENCE South 89 degrees 09 minutes 18 seconds West, a distance of 313.92 feet to the **POINT OF BEGINNING** and containing 54.052 acres of land, more or less.

Exhibit "B"
DEVELOPMENT STANDARDS

Planned Development District No. 148 (PD-148)
Bradford Park

The development on the property comprising approximately 54.052 acres of land within the corporate limits of the Town of Flower Mound ("Town") and as described on Exhibit "A" to this Zoning Ordinance adopting PD-148 shall be in accordance with the Town of Flower Mound Master Plan and the Land Development Regulations of the Town of Flower Mound, Texas, as amended, and shall be subject to the following conditions and requirements:

A. PERMITTED USES

The following uses shall be the only uses permitted in the Planned Development District.

1. Permitted Uses. The following uses shall be permitted in the Planned Development District, subject to compliance with all applicable conditions and provisions of the Town's Land Development Regulations, as amended:

- a. Dwelling, single-family detached;
- b. Accessory use, general, subject to section 98-972;
- c. Garage Sale, subject to section 98-982;
- d. Home occupation, subject to section 98-984;
- e. Model home; and
- f. Swimming pool, private.

2. Specific Uses. No specific uses requiring the issuance of a specific use permit shall be permitted in PD-148.

3. Temporary Uses. Only the following temporary uses may be permitted in areas designated on Exhibit "C" as Single-Family District-10 (SF-10) and Single-Family District-5 (SF-5) uses subject to approval of a temporary use permit in accordance with the procedures and standards of section 78-87 of the Code, "Temporary Use Permits":

- a. Asphalt/concrete batch plant, temporary, subject to section 98-974.
- b. Field office, temporary.

B. RESIDENTIAL DIMENSIONAL REGULATIONS

- 1. Single-Family District-10 (SF-10)

a. Minimum lot area per dwelling. The minimum lot area shall be ten thousand one hundred twenty-five (10,125) square feet, subject to section 98-1023.

b. Minimum lot width. The minimum lot width, measured at the permitted building line, shall be seventy-five feet (75').

c. Minimum front yard.

i. Except as provided in this paragraph, the minimum front yard setback shall be twenty feet (20'), subject to section 98-1026. Minimum setback for corner lots must match the front yard setback for key lots. Minimum setback for non-key lots is fifteen feet (15').

ii. A front entry garage shall be set back twenty feet (20') from the front property line.

iii. Porches may encroach a maximum of eight feet (8') into the front yard.

iv. Fences may not extend into the front yard beyond the front façade of the residential dwelling.

d. Minimum side yard. The minimum side yard shall be seven and one-half feet (7.5'), subject to section 98-1027.

e. Minimum rear yard. The minimum rear yard shall be twenty-five feet (25'), subject to section 98-1027.

f. Minimum floor area per unit. The minimum floor area per dwelling unit shall be 2,400 square feet.

g. Maximum lot coverage. The maximum lot coverage shall be fifty-five percent (55%), subject to section 98-129.

h. Maximum height. The maximum height of buildings and structures shall be two (2) stories or thirty-five feet (35'), subject to section 98-1031.

2. Single-Family District-5 (SF-5)

a. Minimum lot area per dwelling. The minimum lot area shall be six thousand (6,000) square feet, subject to section 98-1023.

b. Minimum lot width. The minimum lot width, measured at the permitted building line, shall be fifty feet (50'), subject to section 98-1024.

c. Minimum front yard.

i. Except as provided in this paragraph, the minimum front yard setback shall be twenty feet (20'), subject to section 98-1026. Minimum setback for corner lots

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must match the front yard setback for key lots. Minimum setback for non-key lots is fifteen feet (15').

ii. A front entry garage shall be set back twenty feet (20') from the front property line.

iii. Porches may encroach a maximum of eight feet (8') into the front yard.

iv. Fences may not extend into the front yard beyond the front façade of the residential dwelling.

d. Minimum side yard. The minimum side yard shall be five feet (5'), subject to section 98-1027.

e. Minimum rear yard. The minimum rear yard shall be twenty feet (20'), subject to section 98-1027.

f. Minimum floor area per unit. The minimum floor area per dwelling unit shall be 2,000 square feet.

g. Maximum lot coverage. The maximum lot coverage shall be fifty-five percent (55%), subject to section 98-129.

h. Maximum height. The maximum height of buildings and structures shall be two (2) stories or thirty-five feet (35'), subject to section 98-1031.

3. THE DIMENSIONAL AND AREA REGULATIONS CONTAINED IN SUBPARAGRAPHS 1 AND 2 OF THIS PARAGRAPH B SHALL NOT APPLY TO COMMON AREAS OR LOTS OWNED BY THE HOMEOWNER'S ASSOCIATION FOR BRADFORD PARK ("HOA").

C. RESIDENTIAL LOT REQUIREMENTS

The following requirements shall apply to the residential lots within Bradford Park.

1. There shall be a maximum of 28 SF-10 residential lots and a maximum of 128 SF-5 residential lots.

2. SF-10 residential lots shall be located in the area abutting Wildwood Estates and Pecan Meadows as designated on Exhibit "C."

3. SF-5 residential lots shall be located as designated on Exhibit "C."

D. SUPPLEMENTAL STANDARDS

1. Required fencing where a residential lot abuts an open space area shall be installed in conformance with Exhibit "D."

2. The minimum amount of open space for Bradford Park shall be twenty-four percent (24%) of the gross land area.

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3. Improvements within open space areas should be provided with sensitivity to integrating in areas where specimen and protected trees exist. Examples of improvements generally can include such improvements as benches, seat walls, fountains, and shaded picnic areas. The development will include a minimum of 3 such areas that will be designated during consideration of the development plan.

4. All landscaping and open space shall be in conformance with Exhibit "D", the Conceptual Landscape Plan.

5. Protected trees in the landscape buffer and/or open space areas indicated on Exhibit "D" that are preserved will be considered trees required for buffering in accordance with 82-241 and 82-242.

6. The development of Bradford Park is subject to the Phasing Plan as shown on Exhibit "C".

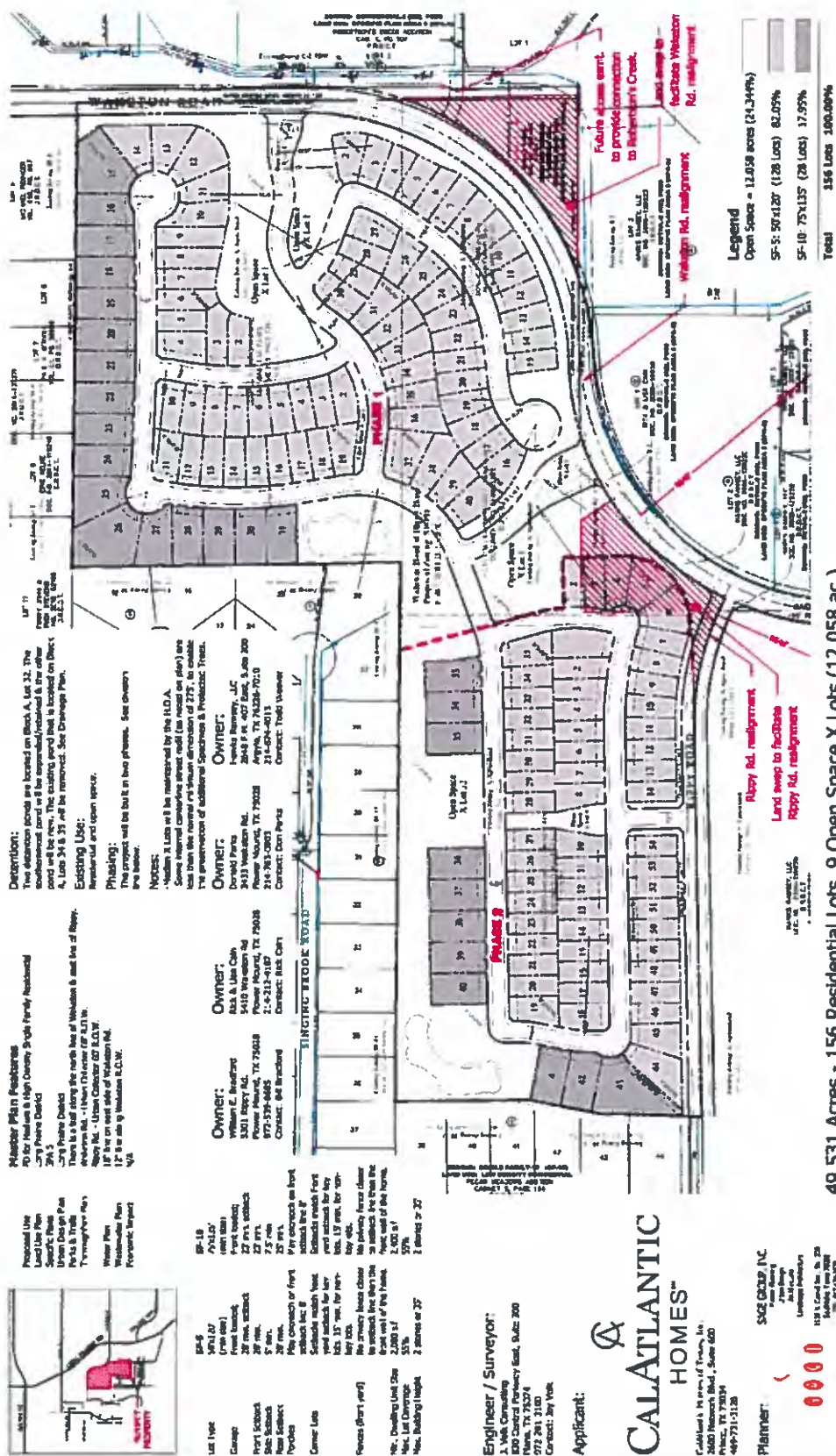
7. The first phase of development shall include all of the improvements as depicted on Exhibit "C". Such improvements together with all other improvements necessary to serve the development shall be installed prior to the Town's acceptance of the subdivision.

E. WAIVERS

The following waiver shall be granted with the approval of the Planned Development District.

1. An exception to the Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances requiring a minimum centerline radius of 275 feet for the Local Residential Urban classification, in the locations as shown on Exhibit "C".

Exhibit "C"-CONCEPTUAL SITE PLAN



49.531 Acres - 156 Residential Lots, 9 Open Space X Lots (12.058 ac.)

Conceptual Site Plan

Bradford Park

Flower Mound, Denton County, Texas

Engineer / Surveyor:

J. Wolf Consulting
100 Central Parkway East, Suite 200
Mans, TX 75324
972 281 3100
Contact: Jay Wolf

Applicant:

&
 CALATLANTIC
 HOMES™

Calladine & Partners Ltd
2400 University Blvd., Suite 100

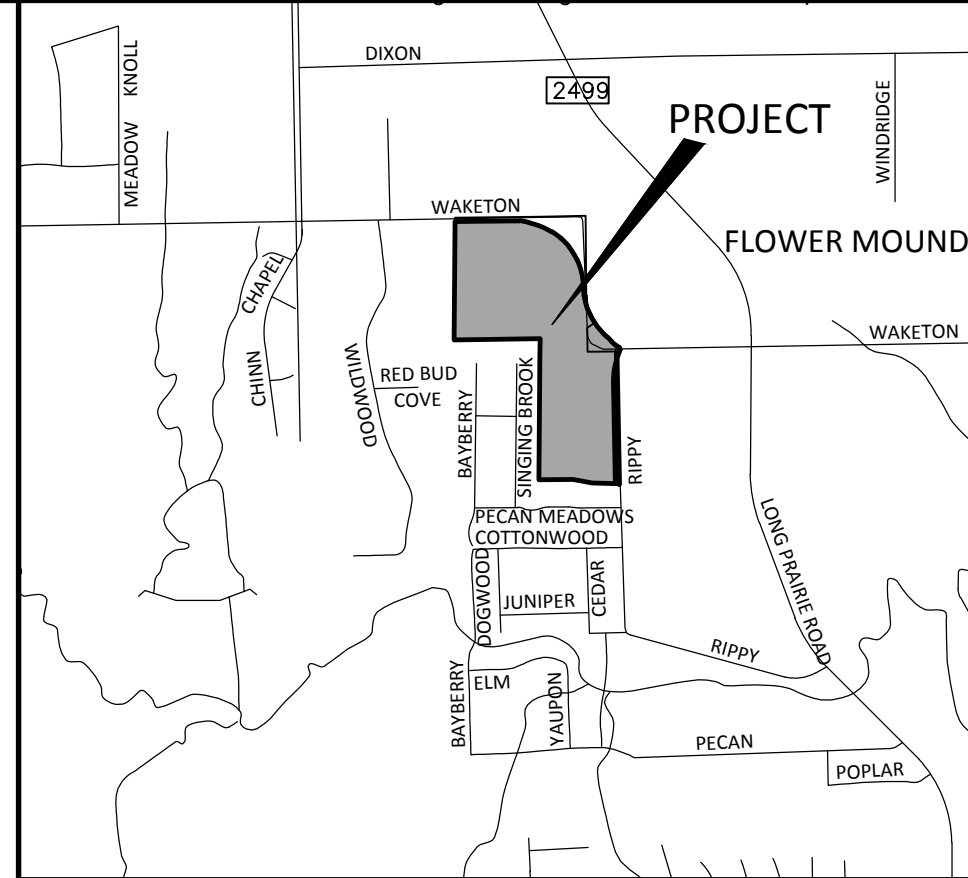
IN 1990, THE

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DEC 16

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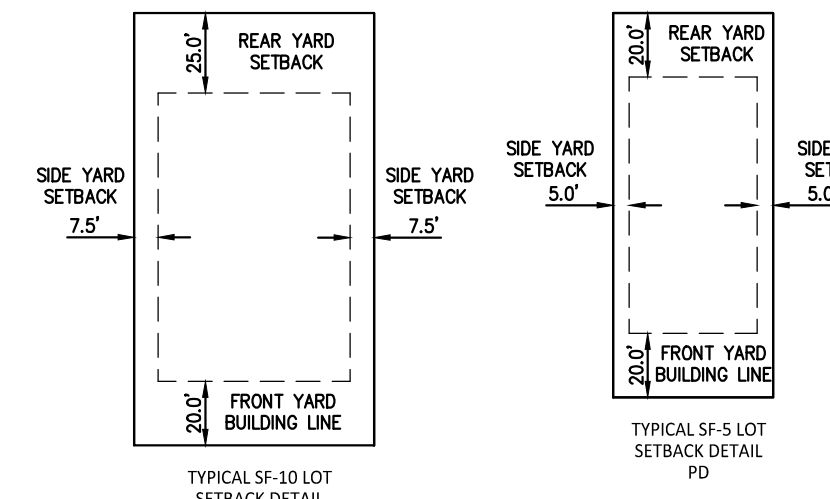
COMMON AREA ACREAGE		
NAME	BLOCK	S.F.
1X	BLOCK D	83522
1X	BLOCK B	81919
1X	BLOCK A	88578
1X	BLOCK E	1053
1X	BLOCK C	4474
1X	BLOCK F	5951
9X	BLOCK G	11862
32X	BLOCK A	233431
55X	BLOCK A	14734



- Point of Curvature or Tangency on Center Line
- 1/2" Iron rod set with a yellow plastic cap stamped "JVC" (unless otherwise noted)
- ◎ 1/2" IRF

AC Acre
BL Building Line
C1 Curve No.
<CM> Control Monument
DE Drainage Easement
Esmt Easement
IPF Iron Pipe Found
L1 Line No.
SF Square Feet
SL Setback Line
UE Utility Easement

D.R.D.C.T. = Deed Records of Santa Cruz County, Texas
P.R.D.C.T. = Official Public Records of Santa Cruz County, Texas



Gross Land Area	54,052 acres
Waketon Road R.O.W.	3.560 acres
Rippy Road R.O.W. (1/2)	0.960 acres
Net Land Area	49,532 acres
Open Space	12,058 acres
Open Space %	24.344%

BRADFORD PARK

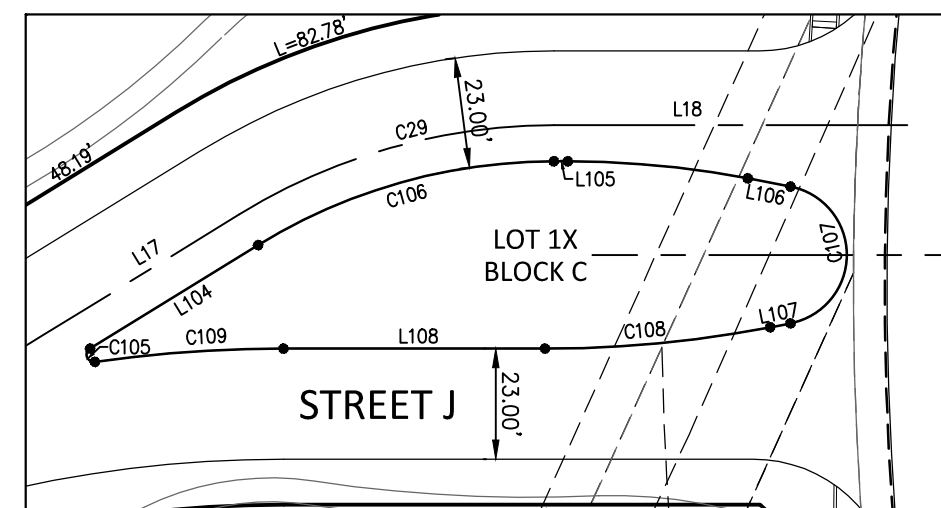
TOWN OF FLOWER MOUND
DENTON COUNTY, TEXAS



J. VOLK
consulting

830 Central Parkway East, Suite 300
Plano, Texas 75074
972.201.3100 Texas Registration No. F-1

830 Central Parkway East, Suite 300
Plano, Texas 75074
972.201.3100 Texas Registration No. F-11962



DETAIL 'B'
SCALE: 1"=40'

Parcel Line Table			Parcel Line Table		
Line	Length	Direction	Line	Length	Direction
L1	25.00	S87° 11' 13"W	L19	157.88	N0° 23' 27"E
L2	41.56	S88° 13' 30"E	L20	3.00	N0° 36' 14"E
L3	19.71	N80° 35' 25"E	L21	86.06	N89° 30' 59"E
L4	35.76	N51° 47' 48"E	L22	60.00	S0° 38' 38"E
L5	35.91	S0° 20' 27"E	L23	142.16	S89° 28' 55"W
L6	37.47	S12° 46' 09"W	L24	21.52	S88° 39' 26"W
L7	69.39	S36° 41' 32"E	L25	26.57	S20° 36' 27"E
L8	9.12	S66° 56' 49"E	L26	76.76	N89° 31' 22"E
L9	85.55	S20° 18' 40"W	L27	26.54	S26° 00' 35"W
L10	15.78	N69° 41' 40"W	L28	26.57	S20° 36' 27"E
L11	43.29	N37° 49' 55"W	L101	66.24	S0° 20' 58"W
L12	35.01	S52° 10' 05"E	L102	11.07	N0° 34' 02"E
L13	50.51	N80° 35' 25"E	L103	34.46	N19° 54' 27"E
L14	6.11	S88° 52' 11"W	L104	41.99	S33° 31' 57"W
L15	89.79	S79° 11' 06"E	L105	2.90	S65° 09' 02"W
L16	34.94	N88° 52' 11"E	L106	9.05	S75° 59' 09"W
L17	48.19	S33° 31' 57"W	L107	4.31	N54° 18' 56"E
L18	73.59	S65° 09' 02"E	L108	54.47	N65° 09' 02"E

Curve Table						Curve Table						Curve Table					
Curve #	Length	Radius	Delta	Chord Length	Chord Bearing	Curve #	Length	Radius	Delta	Chord Length	Chord Bearing	Curve #	Length	Radius	Delta	Chord Length	Chord Bearing
C1	309.48	60.00	295°30'55"	64.02	N68° 27' 16" W	C21	62.83	40.00	090°00'00"	56.57	S46° 07' 49" E	C42	87.62	41.85	012°11'22"	87.46	S08° 37' 01" E
C2	35.14	300.00	006°42'39"	35.12	N84° 52' 10" W	C22	57.33	275.00	011°56'43"	57.23	N85° 09' 28" W	C43	87.13	1158.78	004°18'29"	87.11	S16° 51' 57" E
C3	296.72	950.00	01°75'34"	295.52	N89° 32' 18" E	C23	52.12	250.00	011°56'43"	52.03	S85° 09' 28" E	C44	49.26	1086.50	002°35'51"	49.25	S79° 28' 14" E
C4	87.95	157.00	028°47'37"	87.02	N66° 11' 37" E	C24	54.98	35.00	090°00'00"	49.50	N43° 52' 11" E	C45	46.36	229.00	011°35'56"	46.28	S83° 58' 16" E
C5	54.36	300.00	010°22'59"	54.29	N04° 51' 02" E	C25	116.06	50.00	132°59'24"	91.70	N65° 21' 53" E	C46	61.32	330.00	010°38'45"	61.23	N85° 11' 42" W
C6	107.82	300.00	020°35'33"	107.24	N00° 15' 15" E	C26	55.59	35.00	090°00'00"	49.93	S29° 51' 07" E	C47	142.29	670.00	0120°34'36"	142.03	N73° 50' 32" W
C7	71.23	107.00	023°19'11"	70.74	N01° 06' 34" E	C27	112.32	40.00	160°52'59"	78.89	N56° 01' 41" E	C48	33.76	610.00	0100'23'14"	33.75	S22° 12' 04" W
C8	129.49	150.00	049°27'41"	125.51	S11° 57' 41" E	C28	227.93	350.00	037°16'48"	223.93	N52° 11' 21" E	C49	232.33	610.00	021°49'19"	230.93	S42° 42' 17" W
C9	59.32	150.00	019°25'17"	59.04	S46° 24' 10" E	C29	68.98	125.00	031°37'05"	68.11	S49° 20' 30" W	C50	60.37	640.00	0005°24'17"	60.35	S23° 19' 05" W
C10	302.13	275.00	06°25'56"	287.16	N24° 38' 22" W	C31	42.94	680.00	003°07'42"	42.84	S88° 47' 40" E	C101	41.41	15.00	158°54'31"	2.95	S80° 13' 13" W
C11	144.00	250.00	033°00'08"	142.02	S38° 46' 24" W	C32	53.55	1595.97	001°55'21"	53.55	S87° 56' 48" E	C102	29.85	9.00	180°00'00"	19.00	S89° 39' 33" W
C12	54.98	35.00	090°00'00"	49.50	S85° 18' 20" W	C33	53.55	288.32	010°53'43"	53.55	S87° 27' 37" E	C103	29.85	9.00	180°00'00"	19.00	S89° 39' 33" W
C13	62.83	40.00	090°00'00"	56.57	S85° 18' 20" W	C34	103.53	686.00	008°38'49"	103.43	S73° 41' 22" E	C104	23.85	67.50	0201°4'29"	23.72	N09° 46' 47" E
C14	83.76	325.00	014°46'01"	83.53	N62° 18' 40" W	C35	70.32	1019.27	003°37'09"	70.30	S71° 20' 33" E	C105	40.09	1.50	156°22'25"	2.94	S44° 39' 36" E
C15	94.04	175.00	030°47'20"	92.91	S22° 26' 15" W	C36	70.40	259.71	015°31'54"	70.19	S65° 33' 11" E	C106	64.84	117.50	0131°37'05"	64.42	S49° 20' 30" W
C16	289.61	90.00	268°12'19"	85.44	N07° 33' 55" E	C37	65.72	543.00	065°56'04"	65.68	S54° 19' 12" E	C107	40.07	14.50	158°19'47"	28.48	N24° 50' 58" W
C17	51.54	35.00	084°22'28"	47.01	S38° 39' 15" E	C38	90.00	275.00	018°54'44"	89.70	S43° 04' 06" E	C108	47.18	249.50	0104°00'06"	47.11	N59° 43' 59" E
C18	47.35	50.00	054°15'38"	45.60	S52° 50' 58" E	C39	84.67	1145.78	004°01'42"	84.65	S35° 48' 40" E	C109	39.40	282.50	007°59'30"	39.37	N61° 09' 11" E
C19	112.89	350.00	018°26'49"	112.40	N10° 22' 14" W	C40	155.90	689.00	0124°26'21"	151.27	S13° 32' 30" E						
C20	54.98	35.00	090°00'00"	49.50	N46° 02' 49" W	C41	264.67	627.00	022°38'00"	262.95	S13° 50' 20" E						

LEGAL DESCRIPTION
BRADFORD PARK
54.052 ACRES

BEING a tract of land situated in the J. WATKINS SURVEY, ABSTRACT NO. 1324, Town of Flower Mound, Denton County, Texas and being all of that tract of land described in Deed to W.E. Bradford and wife, Clair Bradford, as recorded in Volume 579, Page 261, Deed Records, Denton County, Texas and being all of Lots 1-2, Block B of WAKETON RANCH, an Addition to the Town of Flower Mound, Denton County, Texas according to the Plat thereof recorded in Cabinet X, Page 9, Plat Records, Denton County, Texas and being part of that tract of land described as Lot 9X, Block A of said WAKETON RANCH Addition and being part of that tract of land described in Deed to Donald R. Parks and wife, Margaret M. Parks, as recorded in Volume 929, Page 508, Deed Records, Denton County, Texas and being part of that tract of land described in Deed to Donald R. Parks and wife, Margaret Mary Parks, as recorded in Volume 1669, Page 292, Deed Records, Denton County, Texas and being all of that tract of land described in Deed to Ricky Dale Cain and Lisa Renee Cain, as recorded in Document No. 94-R0085198, Deed Records, Denton County, Texas and being part of that tract of land described in Deed to Hawks Ramsey, LLC, as recorded in Document No. 2007-51767, Deed Records, Denton County, Texas and being more particularly described as follows:

BEGINNING at a 5/8 inch iron rod found for the southwest corner of said W.E. Bradford and wife, Clair Bradford tract;

THENCE North 00 degrees 31 minutes 52 seconds East, with the west line of said W.E. Bradford and wife, Clair Bradford tract, a distance of 1,134.10 feet to a point for the northwest corner of said W.E. Bradford and wife, Clair Bradford tract;

THENCE North 89 degrees 05 minutes 46 seconds East, a distance of 0.35 feet to a point for corner;

THENCE North 00 degrees 23 minutes 27 seconds East, a distance of 157.88 feet to a 2 inch iron pipe found for the southeast corner of the above mentioned Donald R. Parks and wife, Margaret M. Parks tract;

THENCE South 89 degrees 04 minutes 11 seconds West, a distance of 786.64 feet to a 2 inch iron pipe found for the southwest corner of said Donald R. Parks and wife, Margaret M. Parks tract;

THENCE North 00 degrees 29 minutes 15 seconds East, a distance of 1,113.41 feet to a 1/2 inch iron rod with a yellow plastic cap stamped 'JVC' found in the south line of Waketon Road, a 30 foot right-of-way, for the northwest corner of the above mentioned Donald R. Parks and wife, Margdret M. Parks tract;

THENCE North 89 degrees 23 minutes 46 seconds East, with said south line, a distance of 548.85 feet to a point for corner;

THENCE North 00 degrees 36 minutes 14 seconds West, leaving said south line, a distance of 30.00 feet to a point for corner in the north line of said Waketon Road at the beginning of a curve to the right having a central angle of 03 degrees 37 minutes 06 seconds, a radius of 680.00 feet and a chord bearing and distance of South 88 degrees 47 minutes 40 seconds East, 42.94 feet;

THENCE Easterly, leaving said north line and with said curve to the right, an arc distance of 42.94 feet to a point for corner at the beginning of a curve to the left having a central angle of 01 degrees 55 minutes 21 seconds, a radius of 1,595.97 feet and a chord bearing and distance of South 87 degrees 56 minutes 48 seconds East, 53.55 feet;

THENCE Easterly, with said curve to the left, an arc distance of 53.55 feet to a point for corner at the beginning of a curve to the right having a central angle of 10 degrees 53 minutes 43 seconds, a radius of 282.03 feet and a chord bearing and distance of South 83 degrees 27 minutes 37 seconds East, 53.55 feet;

THENCE Easterly, with said curve to the right, an arc distance of 53.63 feet to a point for corner at the beginning of a curve to the right having a central angle of 08 degrees 38 minutes 49 seconds, a radius of 686.00 feet and a chord bearing and distance of South 73 degrees 41 minutes 22 seconds East, 103.43 feet;

THENCE Easterly, with said curve to the right, an arc distance of 103.53 feet to a point for corner at the beginning of a reverse curve to the left having a central angle of 03 degrees 57 minutes 09 seconds, a radius of 1,019.27 feet and a chord bearing and distance of South 71 degrees 20 minutes 33 seconds East, 70.30 feet;

THENCE Easterly, with said curve to the left, an arc distance of 70.32 feet to a point for corner at the beginning of a reverse curve to the left having a central angle of 15 degrees 31 minutes 54 seconds, a radius of 259.71 feet and a chord bearing and distance of South 65 degrees 33 minutes 11 seconds East, 70.19 feet;

THENCE Easterly, with said curve to the right, an arc distance of 70.40 feet to a point for corner at the beginning of a compound curve to the right having a central angle of 06 degrees 56 minutes 04 seconds, a radius of 543.00 feet and a chord bearing and distance of South 54 degrees 19 minutes 12 seconds East, 65.68 feet;

THENCE Southeasterly, with said curve to the right, an arc distance of 65.72 feet to a point for corner at the beginning of a compound curve to the right having a central angle of 18 degrees 44 minutes 54 seconds, a radius of 275.34 feet and a chord bearing and distance of South 43 degrees 04 minutes 06 seconds East, 89.70 feet;

THENCE Southeasterly, with said curve to the right, an arc distance of 90.10 feet to a point for corner at the beginning of a curve to the left having a central angle of 04 degrees 14 minutes 02 seconds, a radius of 1,145.78 feet and a chord bearing and distance of South 35 degrees 48 minutes 40 seconds East, 84.65 feet;

THENCE Southeasterly, with said curve to the left, an arc distance of 84.67 feet to a point for corner at the beginning of a curve to the right having a central angle of 12 degrees 46 minutes 21 seconds, a radius of 680.00 feet and a chord bearing and distance of South 31 degrees 32 minutes 30 seconds East, 151.27 feet;

THENCE Southerly, with said curve to the right, an arc distance of 151.59 feet to a point for corner at the beginning of a curve to the right having a central angle of 22 degrees 38 minutes 00 seconds, a radius of 670.00 feet and a chord bearing and distance of South 13 degrees 50 minutes 20 seconds East, 262.95 feet;

THENCE Southerly, with said curve to the right, an arc distance of 264.67 feet to a point for corner at the beginning of a curve to the left having a central angle of 12 degrees 11 minutes 22 seconds, a radius of 411.85 feet and a chord bearing and distance of South 08 degrees 37 minutes 01 seconds East, 87.46 feet;

THENCE Southerly, with said curve to the left, an arc distance of 87.62 feet to a point for corner at the beginning of a curve to the left having a central angle of 04 degrees 18 minutes 29 seconds, a radius of 1,158.78 feet and a chord bearing and distance of South 16 degrees 51 minutes 57 seconds East, 87.11 feet;

THENCE Southerly, with said curve to the left, an arc distance of 87.13 feet to a point for corner at the beginning of a curve to the left having a central angle of 61 degrees 44 minutes 58 seconds, a radius of 804.00 feet and a chord bearing and distance of South 49 degrees 53 minutes 41 seconds East, 619.90 feet;

THENCE Southeasterly, with said curve to the left, an arc distance of 650.95 feet to a point for corner at the beginning of a curve to the right having a central angle of 02 degrees 35 minutes 51 seconds, a radius of 1,086.50 feet and a chord bearing and distance of South 79 degrees 28 minutes 14 seconds East, 49.25 feet;

THENCE Easterly, with said curve to the right, an arc distance of 49.26 feet to a point for corner at the beginning of a curve to the left having a central angle of 11 degrees 35 minutes 56 seconds, a radius of 229.00 feet and a chord bearing and distance of South 83 degrees 58 minutes 16 seconds East, 46.28 feet;

THENCE Easterly, with said curve to the right, an arc distance of 46.36 feet to a point for corner in the north line of the above mentioned Waketon Road;

THENCE North 89 degrees 30 minutes 59 seconds East, with said north line, a distance of 86.06 feet to a point for corner;

THENCE South 00 degrees 38 minutes 38 seconds East, leaving said north line, a distance of 60.00 feet to a point for corner;

THENCE South 89 degrees 28 minutes 55 seconds West, a distance of 142.16 feet to a point for corner at the beginning of a curve to the right having a central angle of 10 degrees 38 minutes 45 seconds, a radius of 330.00 feet and a chord bearing and distance of North 85 degrees 11 minutes 42 seconds West, 61.23 feet;

THENCE Westerly, with said curve to the right, an arc distance of 61.32 feet to a point for corner at the beginning of a curve to the right having a central angle of 12 degrees 03 minutes 36 seconds, a radius of 676.00 feet and a chord bearing and distance of North 73 degrees 50 minutes 32 seconds West, 142.03 feet;

THENCE Westerly, with said curve to the right, an arc distance of 142.29 feet to a point for corner;

THENCE South 68 degrees 39 minutes 26 seconds West, a distance of 21.52 feet to a point for corner at the beginning of a curve to the left having a central angle of 03 degrees 10 minutes 14 seconds, a radius of 610.00 feet and a chord bearing and distance of South 22 degrees 12 minutes 04 seconds West, 33.75 feet;

THENCE Southerly, with said curve to the left, an arc distance of 33.76 feet to a point for corner;

THENCE South 20 degrees 36 minutes 57 seconds West, a distance of 26.57 feet to a point for corner at the beginning of a curve to the left having a central angle of 21 degrees 49 minutes 19 seconds, a radius of 232.33 feet and a chord bearing and distance of South 09 degrees 42 minutes 17 seconds West, 230.93 feet;

THENCE Southerly, with said curve to the left, an arc distance of 232.33 feet to a point for corner;

THENCE South 01 degrees 12 minutes 22 seconds East, a distance of 927.93 feet to a point for corner;

THENCE North 88 degrees 23 minutes 04 seconds West, a distance of 274.47 feet to a point for corner;

THENCE North 79 degrees 12 minutes 28 seconds West, a distance of 176.40 feet to a point for corner;

THENCE South 89 degrees 09 minutes 18 seconds West, a distance of 313.92 feet to the POINT OF BEGINNING and containing 54.052 acres of land, more or less.

OWNER'S DEDICATION:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT CalAtlantic Homes of Texas, Inc., acting herein by and through it's duly authorized officers, does hereby adopt this plat designated herein as BRADFORD PARK, an addition to the Town of Flower Mound, Denton County, Texas. The easements shown hereon are hereby reserved for the purposes as indicated. All streets, alleys, rights-of-way, and Lots/Blocks _____, are hereby dedicated in fee simple to the Town of Flower Mound for municipal purposes. The utility and fire lane easements (streets, alleys, and common areas) shall be open to the public, fire and police units, garbage and rubbish collection agencies and all public and private utilities for each particular use. No buildings, trees, shrubs or other improvements or growths shall be constructed, reconstructed or placed upon, over or across the utility easements as shown. Said utility easements being hereby reserved for the mutual use and accommodation of all public utilities using or desiring to use same.

All and any public utility shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs, or other improvements or growths which in any way endanger or interfere with the construction, maintenance of efficiency of its respective system on the utility easements and all public utilities shall at all times have the full right of ingress and egress to and from and upon the said utility easements for the purpose of construction, reconstructing, inspecting, patrolling, maintaining and adding to or removing al or parts of its respective systems without the necessity at any time of procuring the permission of anyone. Any public utility shall have the right of ingress and egress to private property for the purposes of reading meters and any maintenance and service required or ordinarily performed by that utility.

This plat approved subject to all platting ordinances, rules, regulations and resolutions of the Town of Flower Mound.

Witness, my hand at Dallas, Texas, this _____ day of _____, 20_____.

CalAtlantic Homes of Texas, Inc.

By: _____

NAME: CHIP BOYD

TITLE: VICE PRESIDENT OF LAND DEVELOPMENT

STATE OF TEXAS §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared Chip Boyd (of CalAtlantic Homes of Texas, Inc.) known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration therein expressed, in the capacity therein stated, and as the act and deed of said partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE

THIS_____DAY OF_____, 20_____

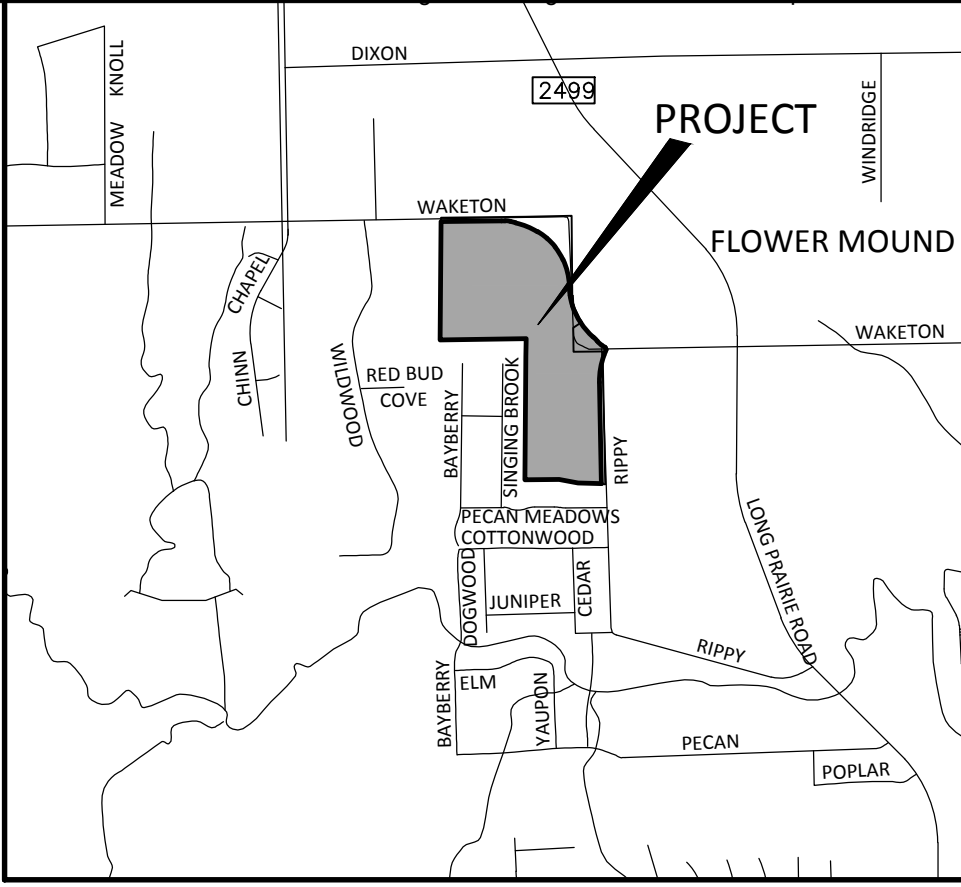
NOTARY PUBLIC in and for the STATE OF TEXAS

My commission expires: _____

NOTES:

1. Lots developed to SF-10 and SF-5 standards.
2. Pursuant to the Ordinance No. 36-92 of the Town of Flower Mound, Texas, a mandatory Homeowners Association shall be established and created to assume and be responsible for the continuous and perpetual operation maintenance and/or supervision of drainage easements, landscaping systems or their physical facilities of ground held in common and necessary or desirable for the welfare of the area of subdivision or that are of common use or benefit. Said mandatory Homeowners's Association shall be responsible for the continuous and perpetual operation maintenance and/or supervision of the landscape systems, features or elements located in parkway common area, between screening walls or living screens and adjacent curbs or street pavement edges, adjacent to drainage ways or drainage structures, or at subdivision entryways.
3. All x-lots are unbuildable and shall be dedicated to and maintained by the HOA. All x-lots are Pedestrian Access Easements. X-lots shall also be used for water, sewer & drainage easements where necessary.
4. Wall maintenance easements shall be dedicated to the HOA for perpetual maintenance.
5. Any fence constructed adjacent and/or parallel to open space shall consist of wrought iron or tubular steel.
6. All overhead utilities will be removed or placed underground.
7. All retaining/detaining walls, turn-down curbs, tree retaining walls shall be clad in a material to complement the materials and colors within this development.
8. This development is subject to approved environmental protection plan.

BLOCK TABLE		
BLOCK NO.	ZONING	NO. OF LOTS
BLOCK A	SF-10	28
BLOCK A	SF-5	24
BLOCK B	SF-5	13
BLOCK C	SF-5	0
BLOCK D	SF-5	39
BLOCK E	SF-5	0
BLOCK F	SF-5	18
BLOCK G	SF-5	34
TOTAL LOTS		156



VICINITY MAP
NOT TO SCALE

MASTER PLAN FEATURES	
Land Use Plan	Long Prairie District
Specific Plans	SPA 5
Urban Design Plan	Long Prairie District
Parks and Trails	None
Open Space Plan	N/A
Thoroughfare Plan	Waketon Road - Urban Collector 60' R.O.W. Rippy Road - Urban Collector 60' R.O.W.
Water Plan	Long Prairie District Service Area 16" Water line on east side of Waketon Road 12" Water line along west side of Rippy Road 8" Water lines within proposed development
Wastewater Plan	Long Prairie District Service Area 8" Wastewater lines within proposed development
Economic Impact	N/A

APPROVED:

TOWN OF FLOWER MOUND
PLANNING AND ZONING COMMISSION

Claudia Forest
Chairman, Planning & Zoning Commission

Doug Powell
Executive Director of Development Services

_____, 20_____
Date

SIGNED AND SEALED:

TOWN OF FLOWER MOUND

Theresa Scott, Town Secretary
Town of Flower Mound

DEVELOPMENT PLAN

BRADFORD PARK

54.052 ACRES

LOTS 2-31, 33-54, BLOCK A; LOTS 2-14, BLOCK B;
LOTS 2-40 BLOCK D; LOTS 2-19, BLOCK F;
LOTS 1-8, 10-35, BLOCK G;

156 LOTS &

9 OPEN SPACE "X" LOTS - 12.058 ACRES (24.35%)

OUT OF THE

J. WATKINS SURVEY, ABSTRACT NO. 1324

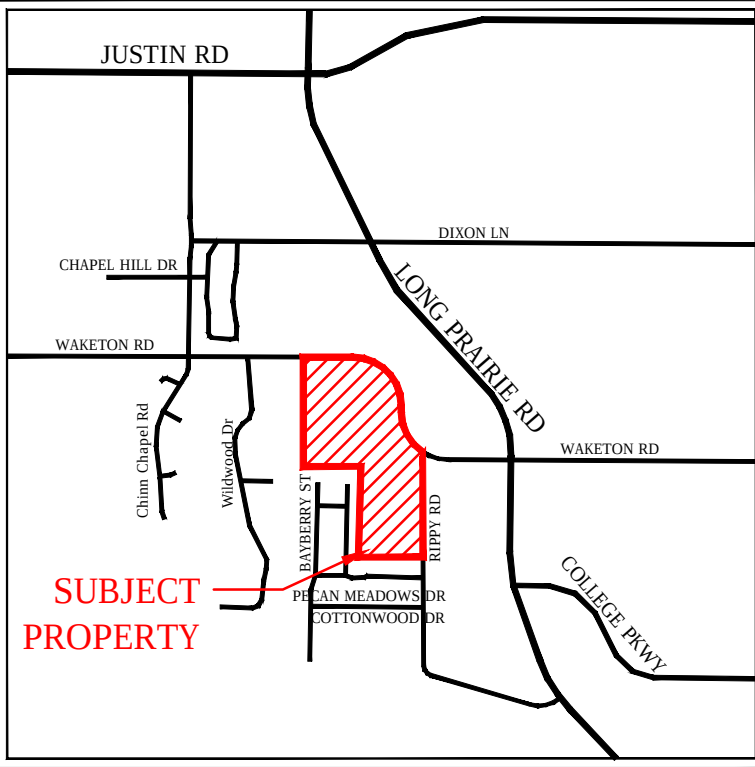
TOWN OF FLOWER MOUND,
DENTON COUNTY, TEXAS

30 November 2016

SHEET 2 OF 2

Engineer/Surveyor:
J. Volk Consulting, Inc.
830 Central Parkway East, Suite 300
Plano, Texas 75074
972-201-3100

**J. VOLK**
consulting
830 Central Parkway East, Suite 300
Plano, Texas 75074
972.201.3100 Texas Registration No. F-11962




SAGE GROUP, INC.
1130 N. Carroll Ave., Ste. 200
Southlake, Texas 76092
TEL 817-424-2626

Master Planning
Urban Design
Architecture
Landscape Architecture



APPLICANT
CalAtlantic Homes of Texas, Inc.
2600 Network Blvd, Suite 600
Frisco, TX 75034
Phone: 972.590.2400
Contact:

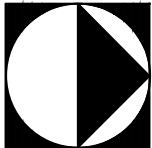
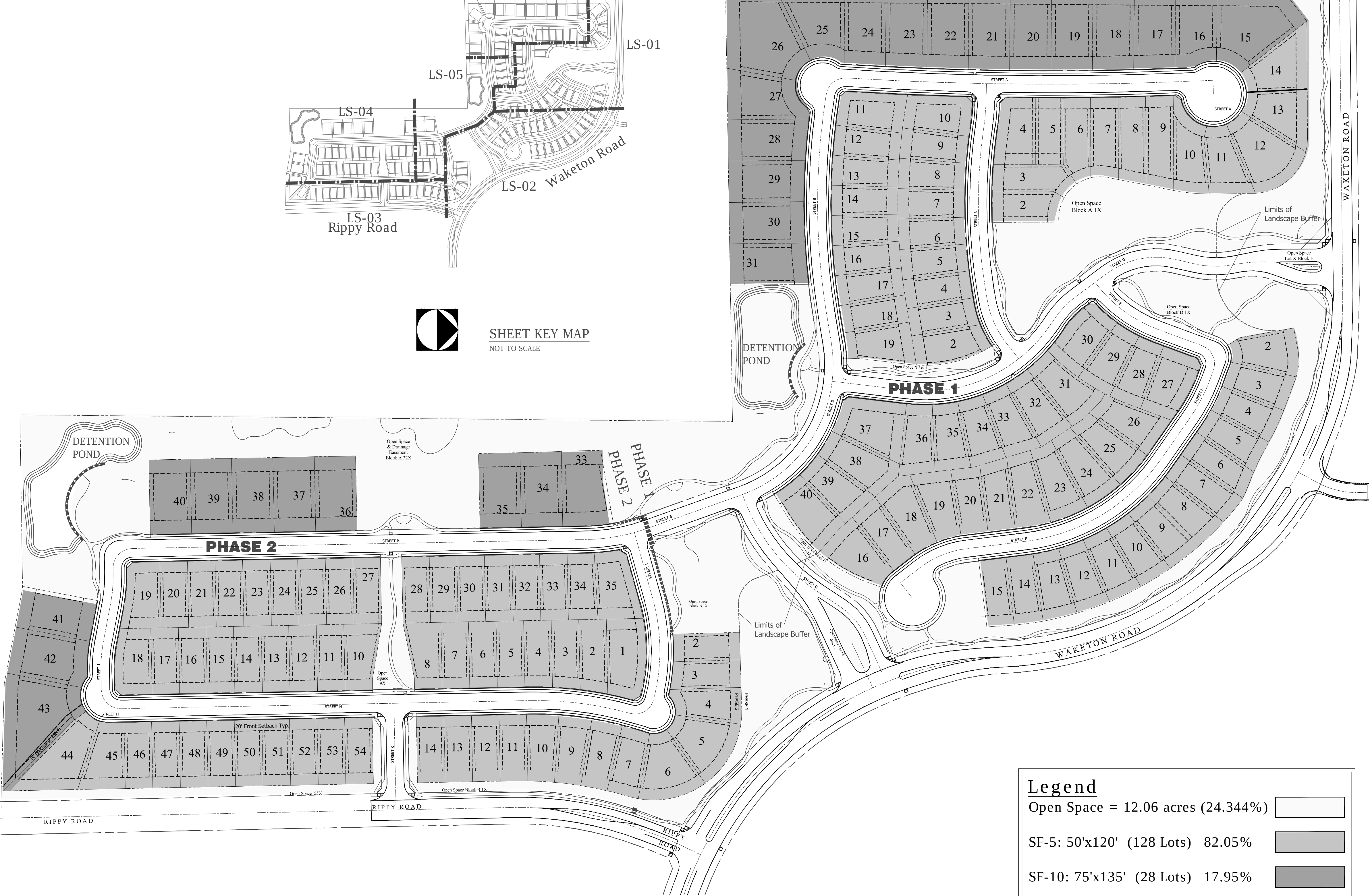
**BRADFORD PARK
FLOWER MOUND, TEXAS**

Issued
OCT.10,2016

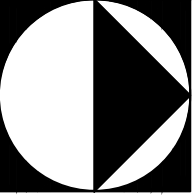
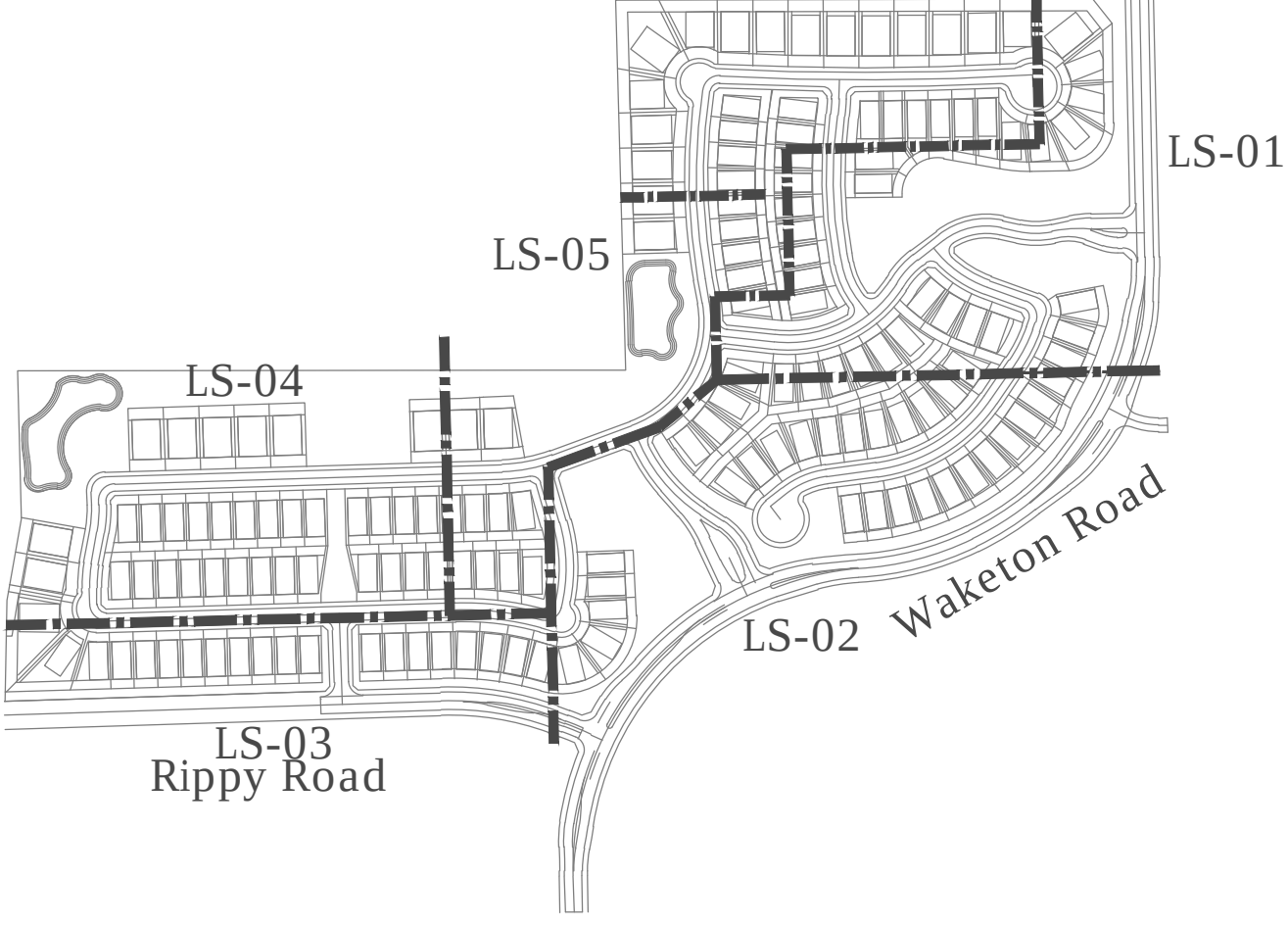
Revisions
Town comments 11/2/16
Town comments 11/29/16
Open Space rev. 11/30/16

SITE PLAN

SHEET
SP-01



SHEET KEY MAP
NOT TO SCALE



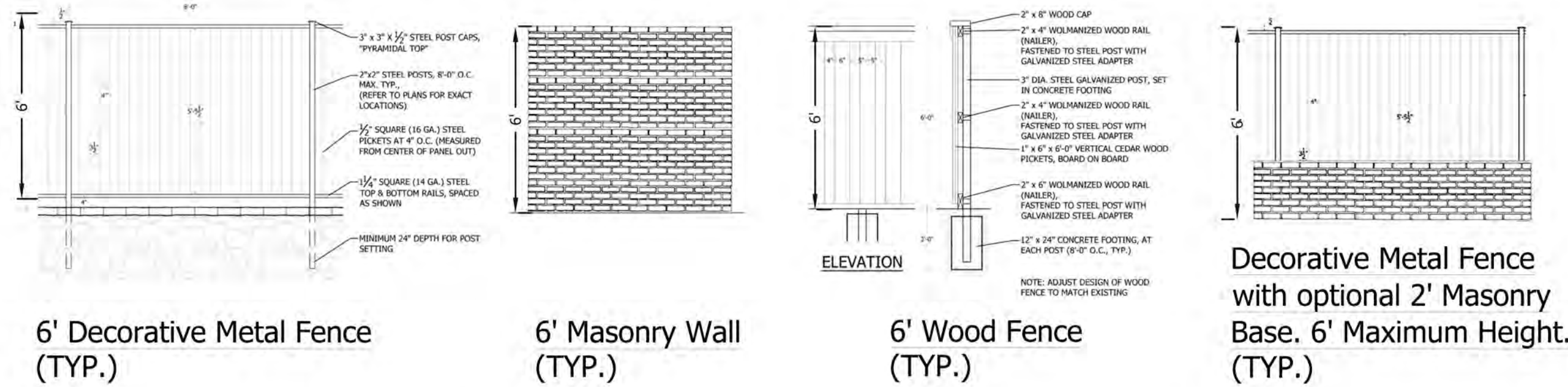
0 100' 200' 400'
1" = 100'-0"

Landscape Requirement Compliance Town of Flower Mound

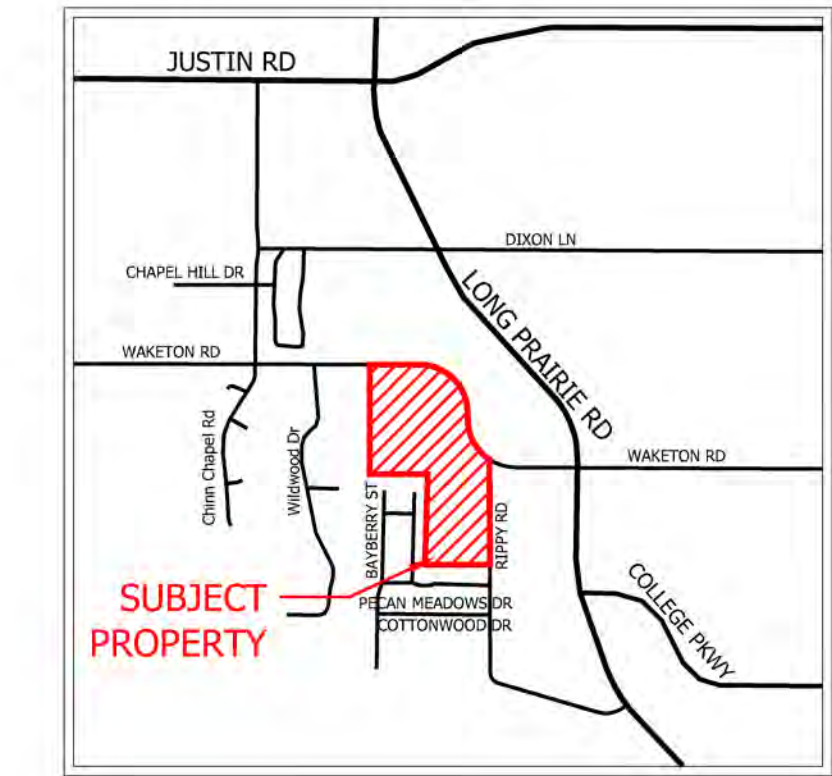
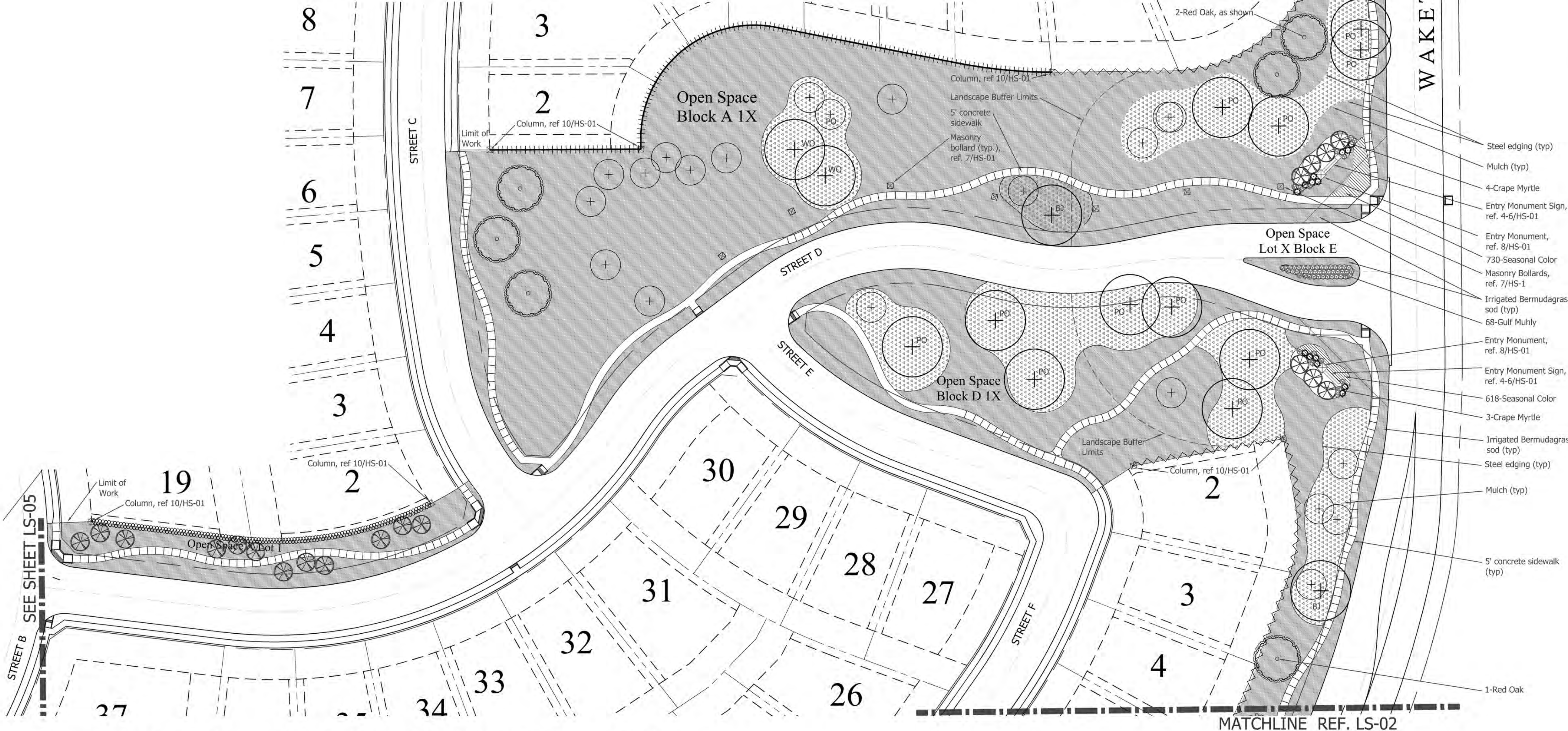
STREET BUFFER LANDSCAPING		
	Required Buffer Width	Provided Width
Rippy Road	15'	15'
Waketon Road	15'	25' min.

STREET BUFFER TREES		
Standard	Street Frontage (linear feet)	Required
1 per 30 l.f.	Rippy Road = 1,205 l.f.	41 trees (3" cal.)
1 per 30 l.f.	Waketon Road = 1,980 l.f.	123 ornamental trees (eq to 41 trees) instead of large trees due to overhead utilities.
		66 trees (3" cal.) 16 new trees from the Flower Mound Large Tree List.
		107 trees required 139 trees required (using * overhead utility easement formula)
		-50 existing trees from the Flower Mound Large Tree List exist in the identified landscape buffer
		57 trees required 139 trees provided
		*(PROVIDED 100 ornamental trees + 8-3" cal shade trees = 41 req. trees along Rippy Road)

NOTE:
The credit received for existing trees within the landscape buffer is subject to change depending on the most recent revised tree survey.



Decorative Metal Fence with optional 2' Masonry Base. 6' Maximum Height. (TYP.)



Legend	
6' Decorative Metal Fence	=====
6' Masonry Wall	=====
6' Masonry Wall or 6' Decorative Metal or Combination	=====
Decorative Metal Fence with optional 2' Masonry Base. 6' Maximum Height.	=====
Retain Existing Fence, or Replace or install 6' Wood Fence	=====

Legend	
Specimen Tree to Remain	+
Non Specimen Tree to Remain	o
Irrigated Areas	[Pattern]
Mulch Areas	[Pattern]
Planting Areas	[Pattern]

Landscape Legend

[Symbol]	Shumard Red Oak <i>Quercus shumardii</i>
[Symbol]	Live Oak <i>Quercus virginiana</i>
[Symbol]	Bald Cypress <i>Taxodium distichum</i>
[Symbol]	Cedar Elm <i>Ulmus crassifolia</i>
[Symbol]	'Little Gem' Magnolia <i>Magnolia grandiflora</i> 'Little Gem'
[Symbol]	Crape Myrtle 'Tuscora' <i>Lagerstromia indica</i> 'Tuscora'
[Symbol]	Burford Holly <i>Ilex cornuta</i> 'Burfordia'
[Symbol]	Maidengrass <i>Miscanthus sinensis</i> 'Gracillimus'
[Symbol]	Gulf Muhly <i>Muhlenbergia capillaris</i>
[Symbol]	Mexican Feather Grass <i>Nasella tenuissima</i>
[Symbol]	Seasonal Color <i>varies with season</i>
[Symbol]	Blue Gramma <i>Bouteloua gracilis</i>
[Symbol]	Bermudagrass sod <i>Cynodon dactylon</i>
[Symbol]	Giant Bermudagrass hydromulch <i>Cynodon dactylon</i>



0 40' 80' 160'
1" = 40'-0"

Zoning No.



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Frisco, TX 75034
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Contact:

BRADFORD PARK
FLOWER MOUND, TEXAS

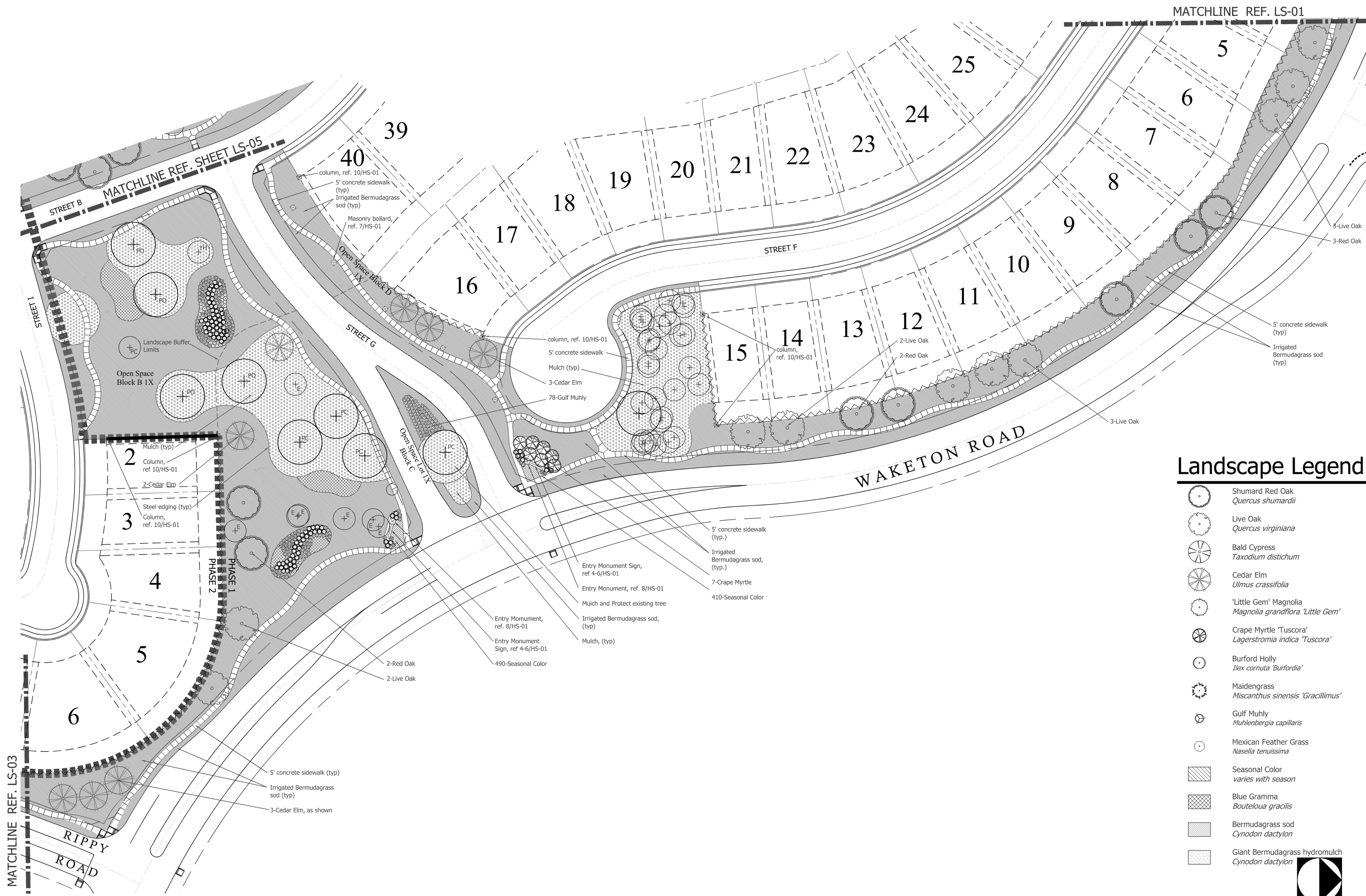
Issued
OCT.10,2016

Revisions
Town comments 11/2/16
Town comments 11/29/16

LANDSCAPE
PLAN

SHEET
LS-01

1 LANDSCAPE AND SCREENING PLAN - ENTRY 1
PLAN





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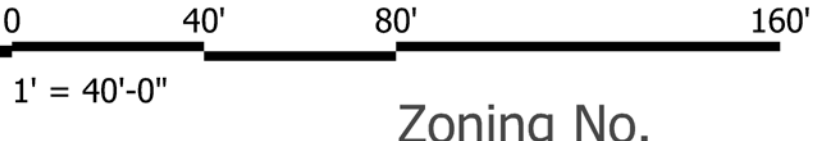
BRADFORD PARK
FLOWER MOUND, TEXAS

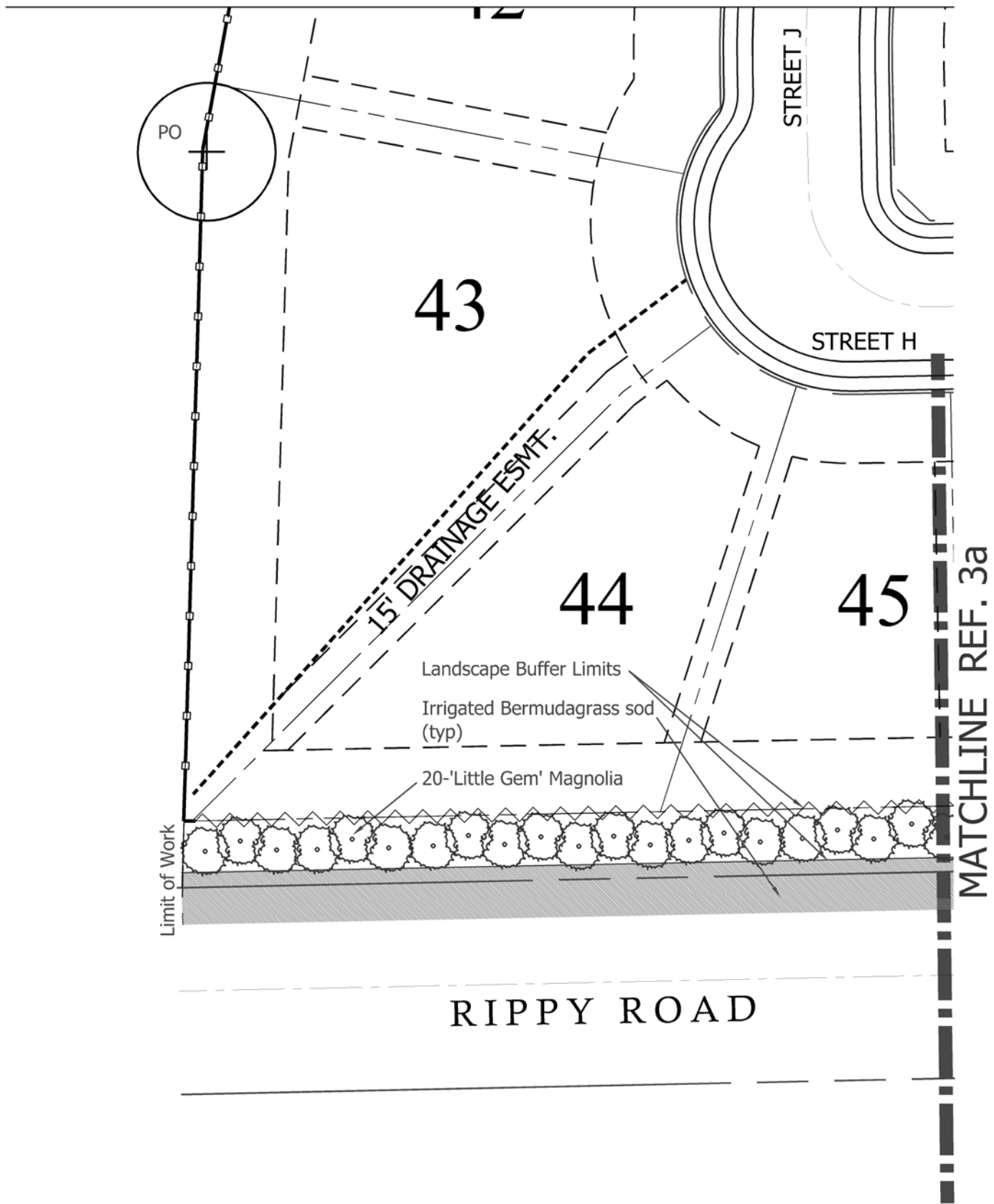
Issued
OCT.10,2016

Revisions
Town comments 11/2/16
Town comments 11/29/16

LANDSCAPE PLAN

SHEET
LS-02

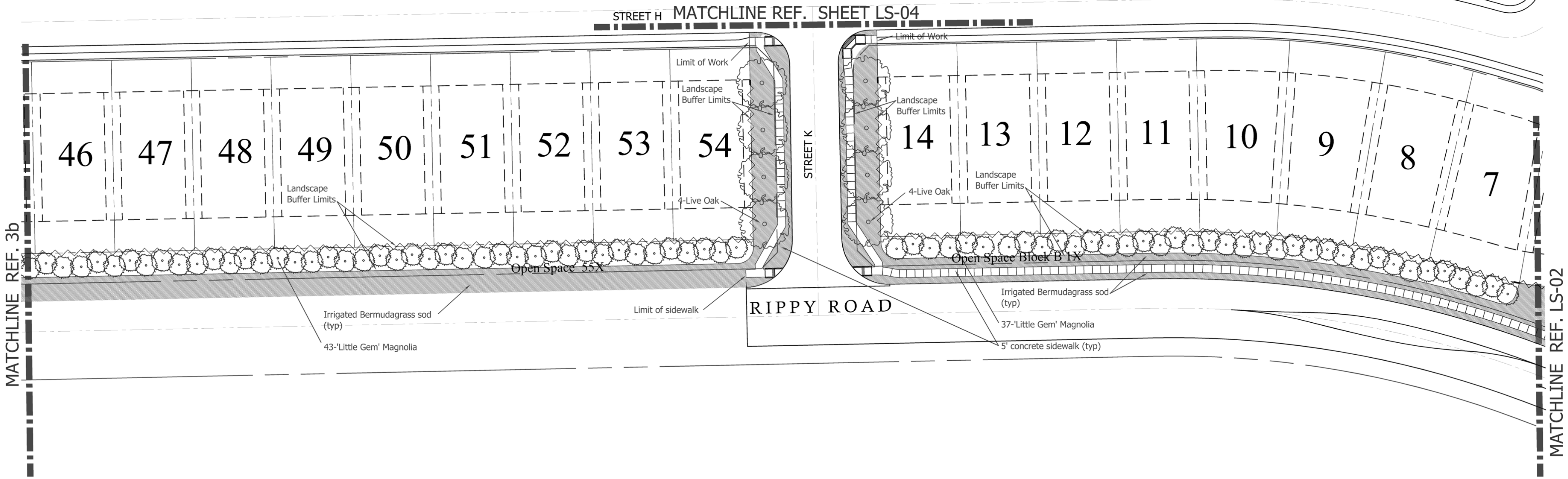
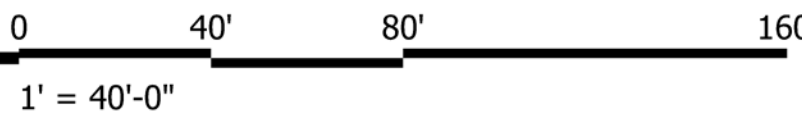




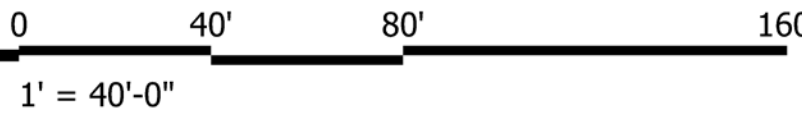
Landscape Legend

- Shumard Red Oak
Quercus shumardii
- Live Oak
Quercus virginiana
- Bald Cypress
Taxodium distichum
- Cedar Elm
Ulmus crassifolia
- 'Little Gem' Magnolia
Magnolia grandiflora 'Little Gem'
- Crape Myrtle 'Tuscora'
Lagerstromia indica 'Tuscora'
- Burford Holly
Ilex cornuta 'Burfordia'
- Maidengrass
Miscanthus sinensis 'Gracillimus'
- Gulf Muhly
Muhlenbergia capillaris
- Mexican Feather Grass
Nasella tenuissima
- Seasonal Color
varies with season
- Blue Gramma
Bouteloua gracilis
- Bermudagrass sod
Cynodon dactylon
- Giant Bermudagrass hydromulch
Cynodon dactylon

3b LANDSCAPE AND SCREENING PLAN - RIPPY ROAD
PLAN



3a LANDSCAPE AND SCREENING PLAN - RIPPY ROAD
PLAN



Zoning No.


SAGE GROUP, INC.
1130 N. Carroll Ave., Ste. 200
Southlake, Texas 76092
TEL 817-424-2626

Master Planning
Urban Design
Architecture
Landscape Architecture


Killee D. Lee
11/29/16

APPLICANT
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Contact:

BRADFORD PARK
FLOWER MOUND, TEXAS

Issued
OCT.10,2016

Revisions
Town comments 11/2/16
Town comments 11/29/16

**LANDSCAPE
PLAN**

SHEET
LS-03

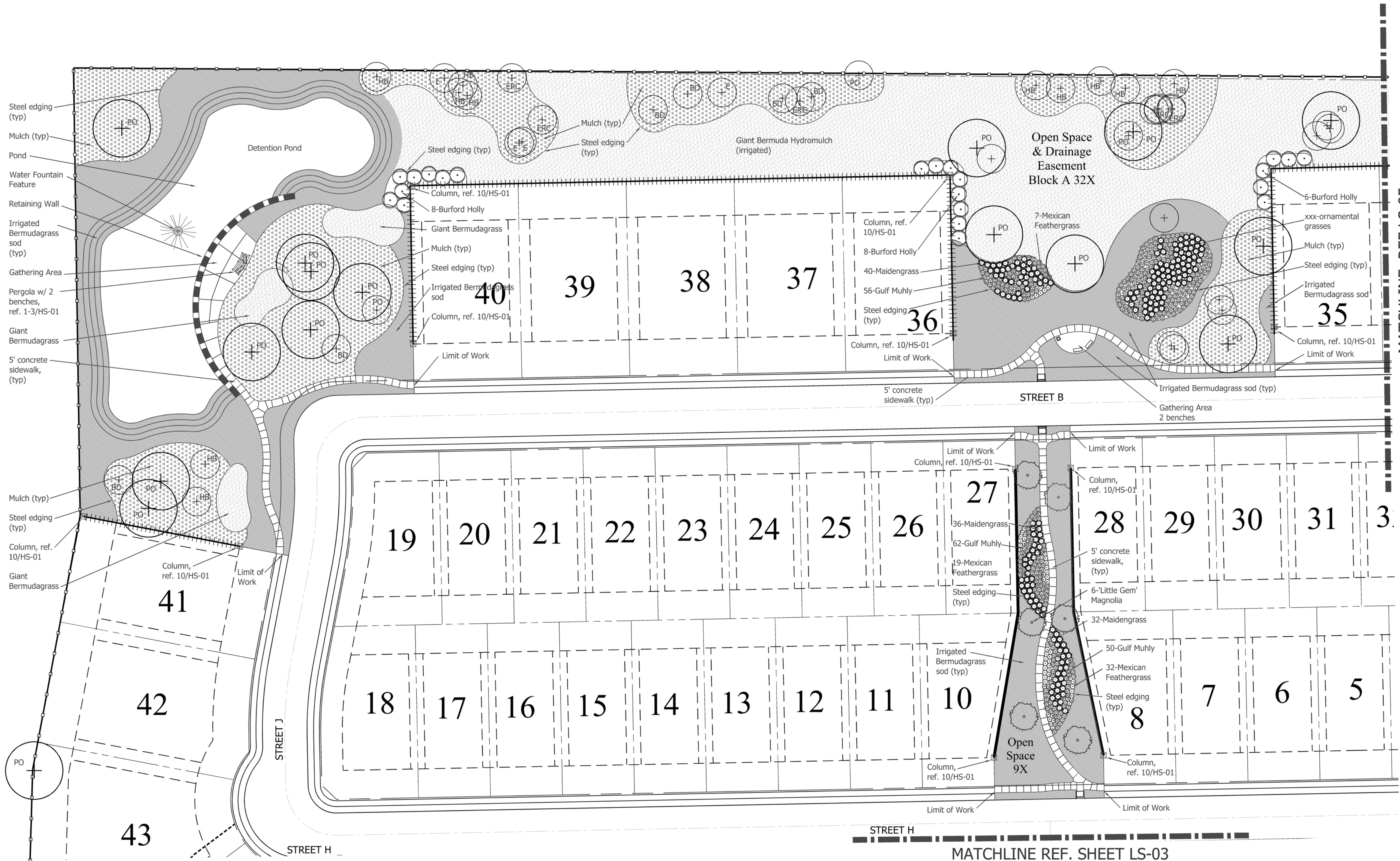
BRADFORD PARK
FLOWER MOUND, TEXAS

Issued
OCT.10,2016

Revisions
Town comments 11/2/16
Town comments 11/29/16

LANDSCAPE
PLAN

SHEET
LS-04



SITE FURNITURE

- 6' BENCH, TO BE OWNER SELECTED
- LITTER RECEPTACLE, TO BE OWNER SELECTED

Landscape Legend

- Shumard Red Oak
Quercus shumardii
- Live Oak
Quercus virginiana
- Bald Cypress
Taxodium distichum
- Cedar Elm
Ulmus crassifolia
- 'Little Gem' Magnolia
Magnolia grandiflora 'Little Gem'
- Crape Myrtle 'Tuscora'
Lagerstromia indica 'Tuscora'
- Burford Holly
Ilex cornuta 'Burfordia'
- Maidengrass
Miscanthus sinensis 'Gracillimus'
- Gulf Muhly
Muhlenbergia capillaris
- Mexican Feather Grass
Nasella tenuissima
- Seasonal Color
varies with season
- Blue Gramma
Bouteloua gracilis
- Bermudagrass sod
Cynodon dactylon
- Giant Bermudagrass hydromulch
Cynodon dactylon



0 40' 80' 160'
1" = 40'-0"

Zoning No.

4 LANDSCAPE AND SCREENING PLAN - SW DETENTION & OPEN SPACE
PLAN



SAGE GROUP, INC.
1130 N. Carroll Ave., Ste. 200
Southlake, Texas 76092
TEL 817-424-2626

Master Planning
Urban Design
Architecture
Landscape Architecture



APPLICANT
CalAtlantic Homes of Texas, Inc.
2600 Network Blvd, Suite 600
Frisco, TX 75034
Phone: 972.590.2400
Contact:

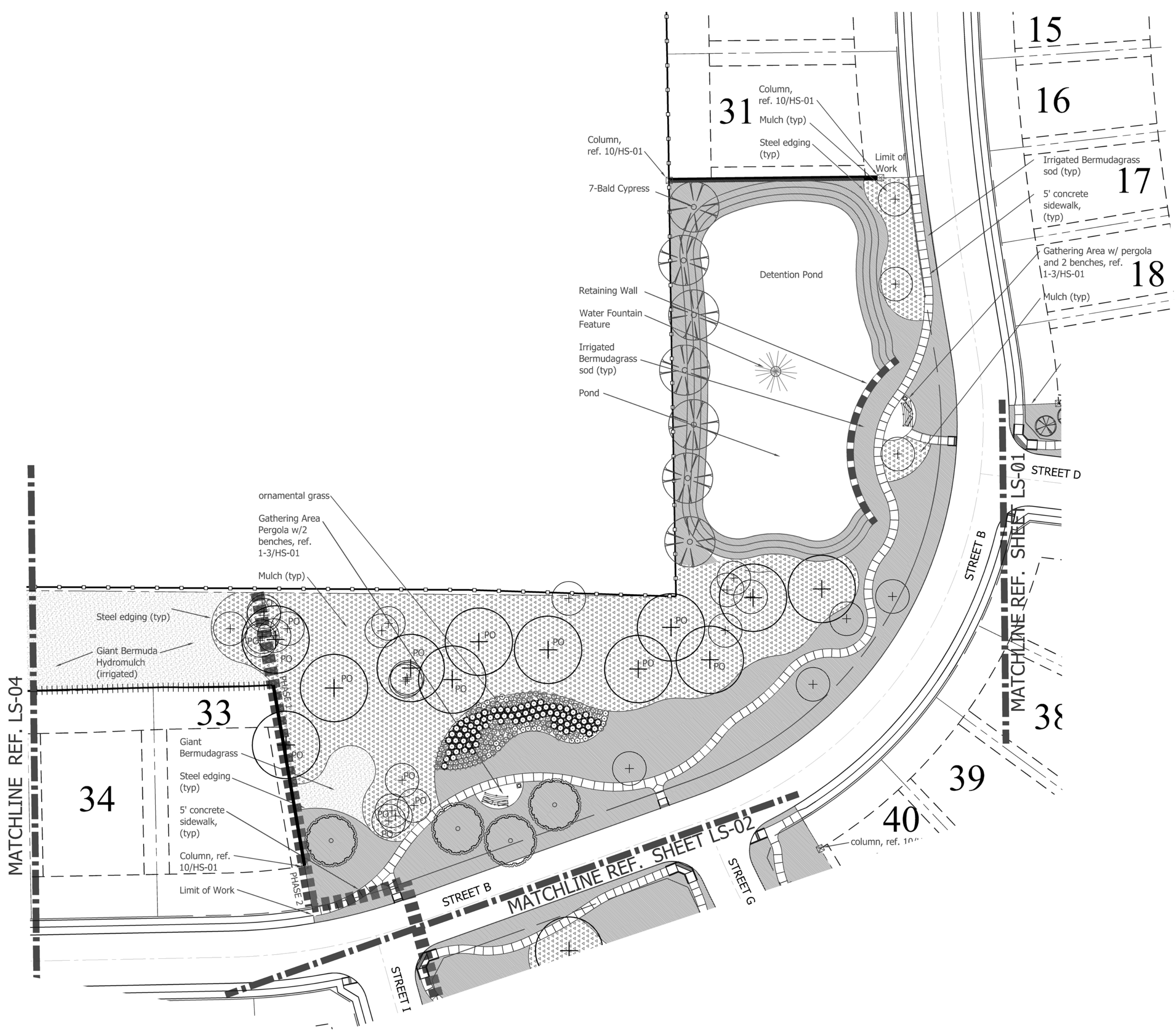
**BRADFORD PARK
FLOWER MOUND, TEXAS**

Issued
OCT.10,2016

Revisions
Town comments 11/2/16
Town comments 11/29/16

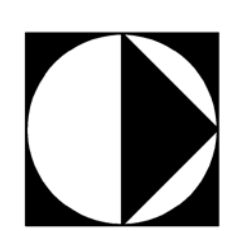
**LANDSCAPE
PLAN**

SHEET
LS-05



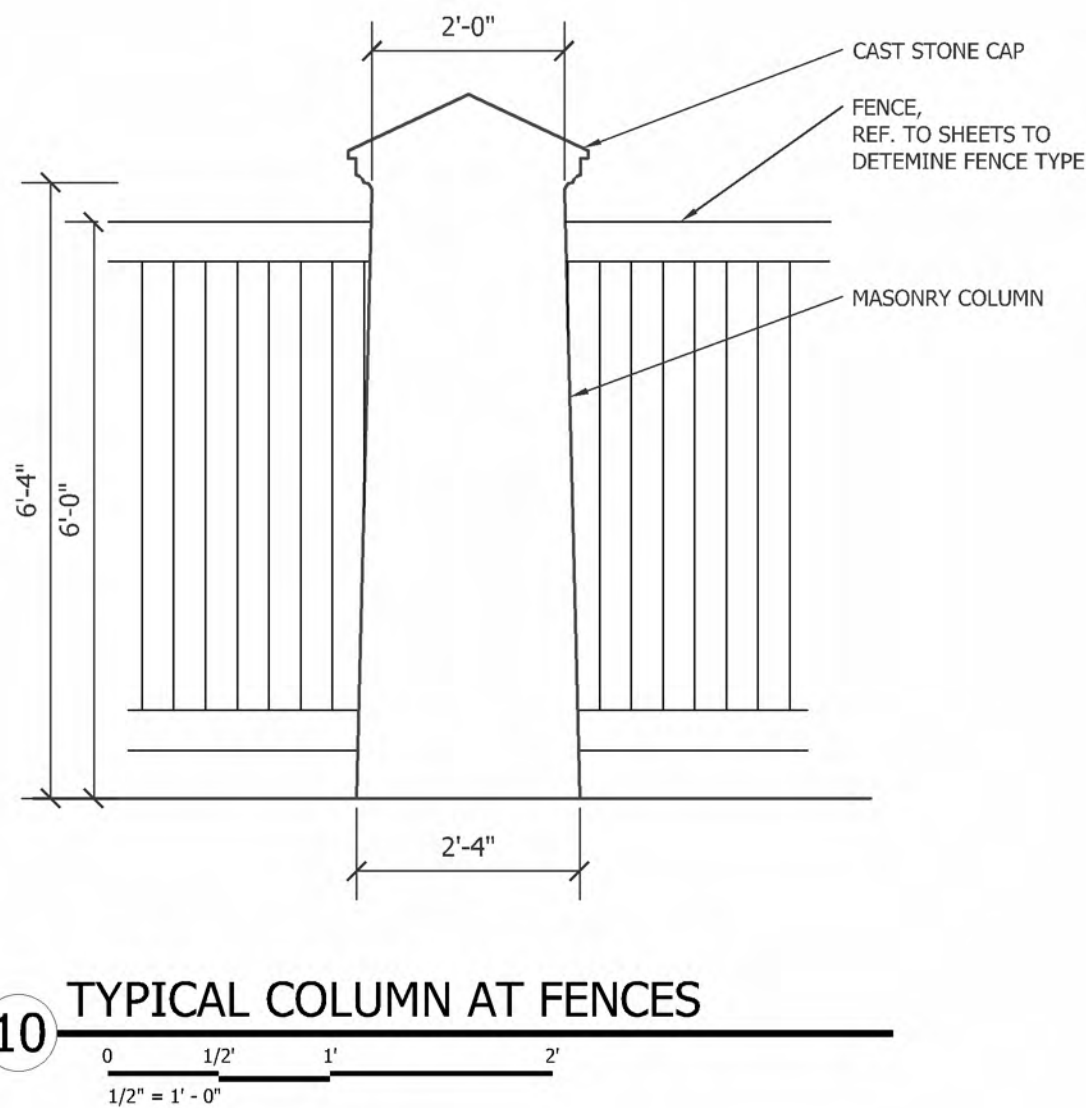
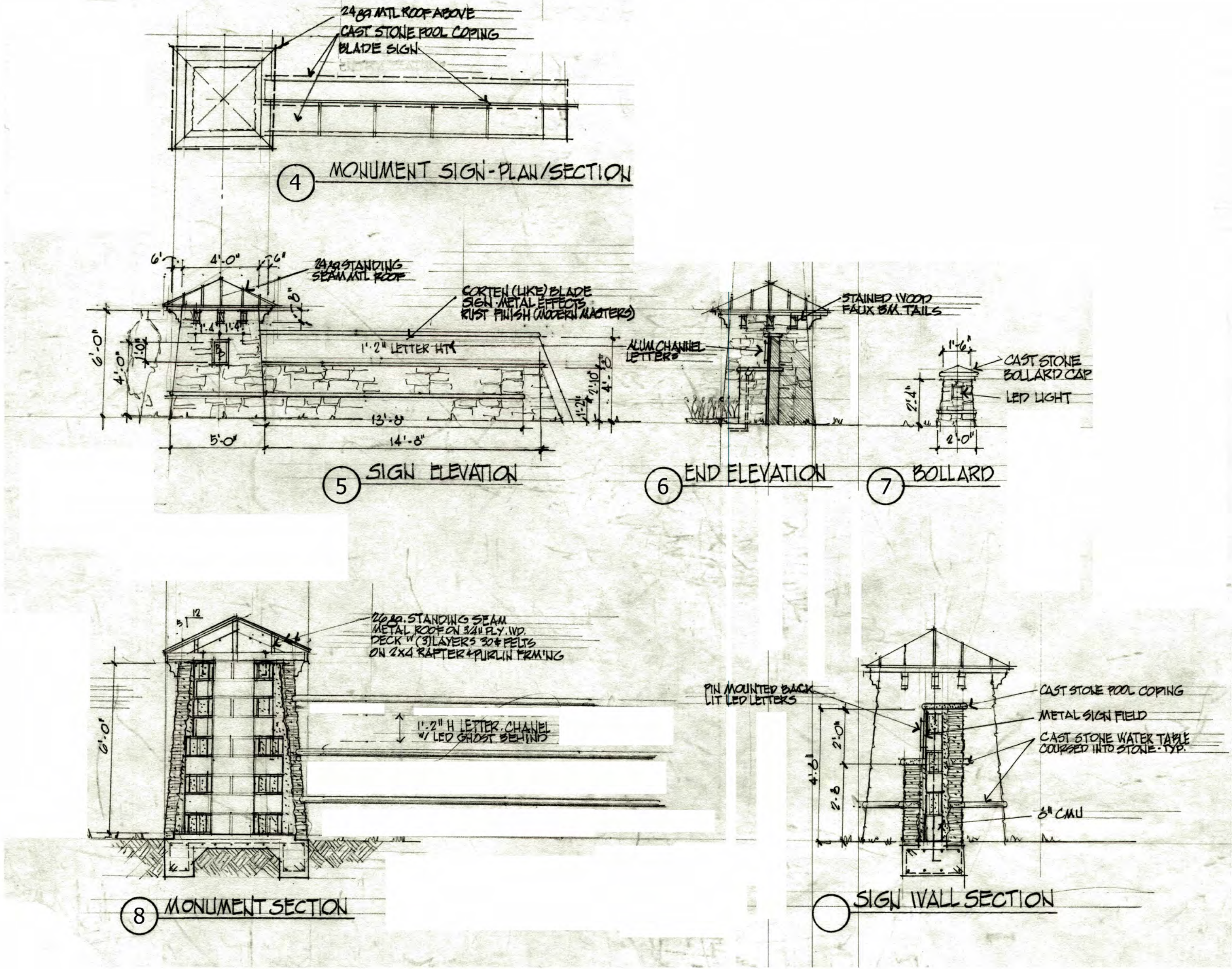
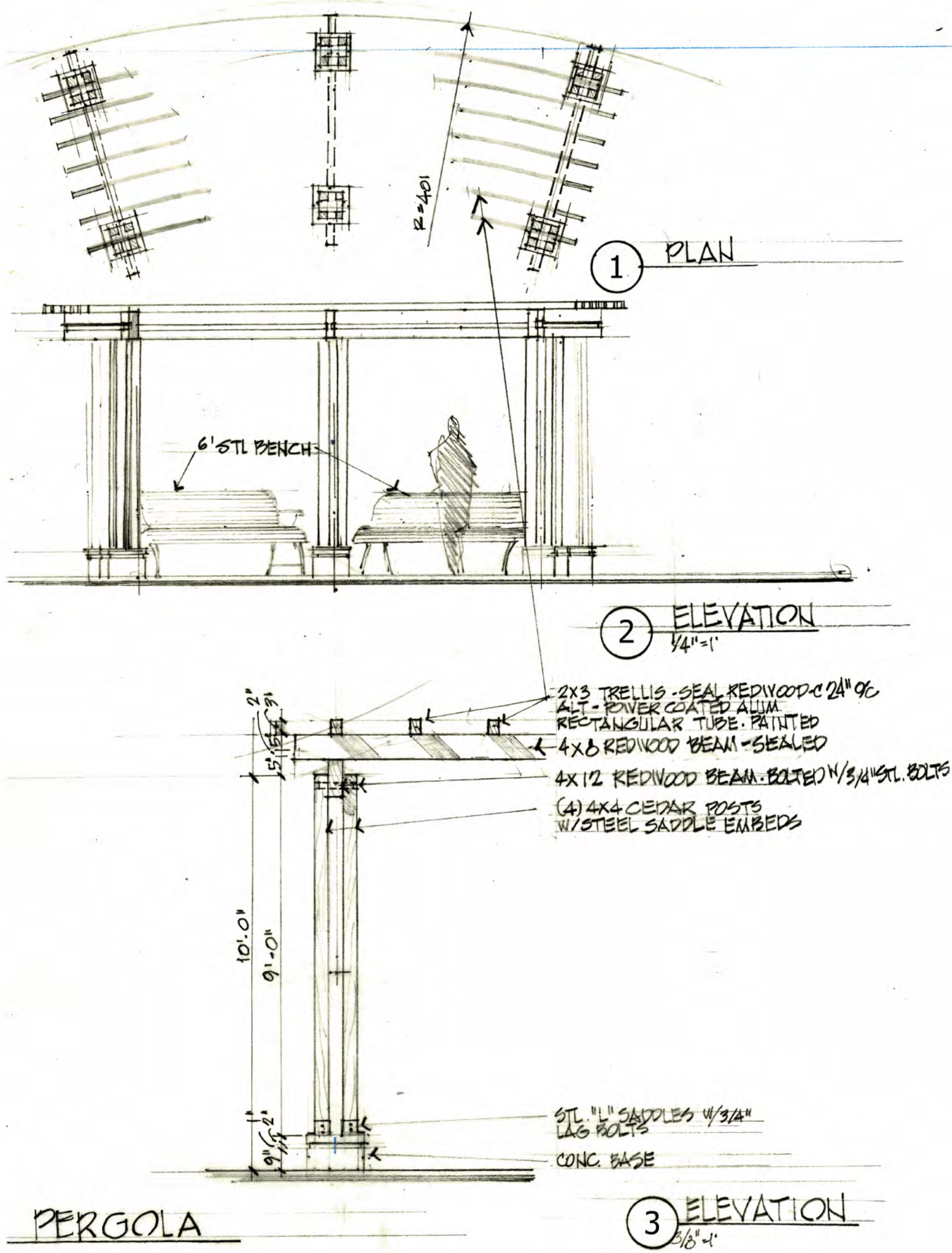
- SITE FURNITURE**
- 6' BENCH, TO BE OWNER SELECTED
 - LITTER RECEPTACLE, TO BE OWNER SELECTED

- Landscape Legend**
- Shumard Red Oak
Quercus shumardii
 - Live Oak
Quercus virginiana
 - Bald Cypress
Taxodium distichum
 - Cedar Elm
Ulmus crassifolia
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Magnolia grandiflora 'Little Gem'
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 - Gulf Muhly
Muhlenbergia capillaris
 - Mexican Feather Grass
Nasella tenuissima
 - Seasonal Color
varies with season
 - Blue Gramma
Bouteloua gracilis
 - Bermudagrass sod
Cynodon dactylon
 - Giant Bermudagrass hydromulch
Cynodon dactylon



0 40' 80' 160'
1" = 40'-0"
Zoning No.

**5 LANDSCAPE AND SCREENING PLAN - NORTHWEST DETENTION
PLAN**



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Frisco, TX 75034
Phone: 972.590.2400
Contact:

BRADFORD PARK

FLOWER MOUND, TEXAS

Issued

OCT.10,2016

Revisions

Town comments 11/2/16
Town comments 11/29/16

HARDSCAPE
DETAILS

SHEET

HS-01

Zoning No.



Legend

- Specimen Tree to Remain
- Specimen Tree to be Removed
- Non Specimen Tree to Remain
- Non Specimen Tree Removed
- Specimen Tree to be Removed with widening of Waketon Road
- Non Specimen Tree to be Removed with widening of Waketon & Rippey Road

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Applicant / Developer

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909 Lake Carolyn Parkway, Suite 1700
Irving, TX 75039
972-590-2400

Bradford Park - Flower Mound, Texas
Development Plan
Tree Survey - Reference Plan

Issued
OCT. 10, 2016

Revisions

DEVELOPMENT
PLAN

SHEET
DP2.0

Legend

Specimen Tree to Remain

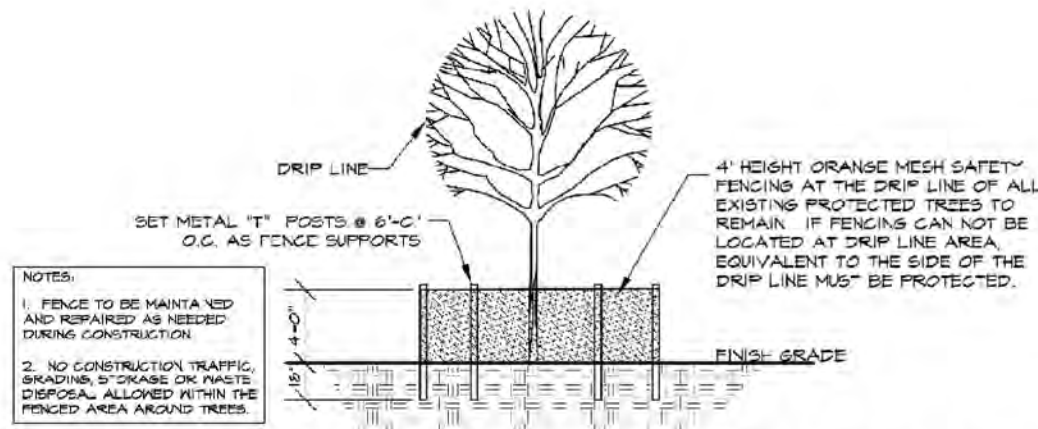
Specimen Tree to be Removed

Non Specimen Tree to Remain

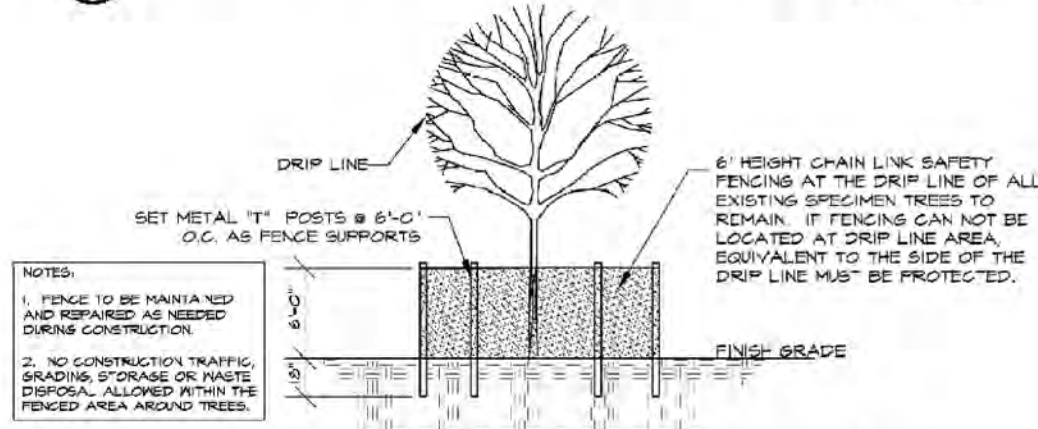
Non Specimen Tree Removed

Specimen Tree to be Removed with widening of Waketon Road

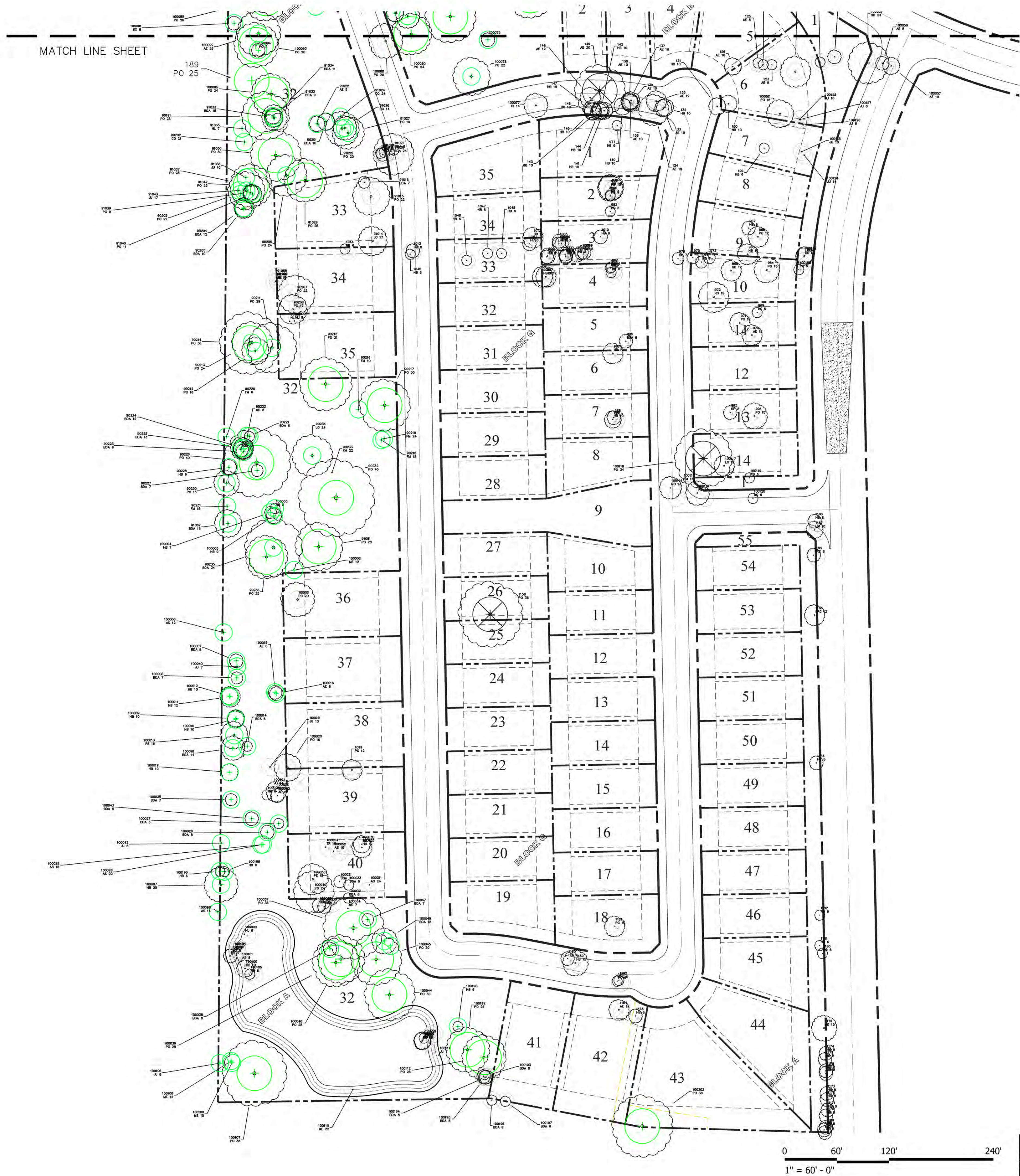
Non Specimen Tree to be Removed with widening of Waketon & Rippy Road



5 PROTECTED TREES - TREE PROTECTION DETAIL
L2 NOT TO SCALE



6 SPECIMEN TREE - TREE PROTECTION DETAIL
L2 NOT TO SCALE



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Revisions

DEVELOPMENT
PLAN

SHEET
DP2.1

[illegible][illegible]

Original Tree No. / New Tree No.	Species	Diameter (in.)	Time of Flower Bud Development (Sec. 3345-52-10-2006)	Location of Removal	Removal of Specimen Trees	Caliper Inches	Replacement Caliper Inches	Inches Retained in Field	Tree Credit	Health Status
100001	Peach	18	Non-Specimen							
100002	Ash	10	Non-Specimen							
100003	Peach	12	Non-Specimen							
100004	Tree	10	Non-Specimen							
100005	Peach	24	Non-Specimen							
100006	Peach	16	Non-Specimen							
100007	American Elm	18	Non-Specimen							
100008	American Elm	8	Non-Specimen							
100009	Hackberry	24	Non-Specimen							
100010	American Elm	8	Non-Specimen							
100011	Past Oak	15	Non-Specimen							
100012	Peach	24	Non-Specimen							
100013	Peach	15	Non-Specimen							
100014	Tree	14	Non-Specimen							
100015	American Elm	8	Non-Specimen							
100016	American Elm	6	Non-Specimen							
100017	American Elm	6	Non-Specimen							
100018	American Elm	10	Non-Specimen							
100019	American Elm	10	Non-Specimen							
100020	American Elm	10	Non-Specimen							
100021	Peach	16	Non-Specimen							
100022	Tree	10	Non-Specimen							
100023	Tree	14	Non-Specimen							
100024	Past Oak	20	Non-Specimen							
100025	Peach	8	Non-Specimen							
100026	Peach	10	Non-Specimen							
100027	Ash	12	Non-Specimen							
100028	Past Oak	8	Non-Specimen							
100029	Past Oak	8	Non-Specimen							
100030	Fraxinus Hackberry	18	Non-Specimen							
100031	American Elm	8	Non-Specimen							
100032	American Elm	20	Non-Specimen							
100033	Past Oak	8	Non-Specimen							
100034	Hackberry	10	Non-Specimen							
100035	Ash	6	Non-Specimen							
100036	Hemlock	12	Non-Specimen							
100037	Hemlock	10	Non-Specimen							
100038	Hemlock	10	Non-Specimen							
100039	Hemlock	10	Non-Specimen							
100040	Hemlock	10	Non-Specimen							
100041	Hemlock	10	Non-Specimen							
100042	Hemlock	10	Non-Specimen							
100043	Hemlock	10	Non-Specimen							
100044	Hemlock	10	Non-Specimen							
100045	Hemlock	10	Non-Specimen							
100046	Hemlock	10	Non-Specimen							
100047	Hemlock	10	Non-Specimen							
100048	Hemlock	10	Non-Specimen							
100049	Hemlock	10	Non-Specimen							
100050	Hemlock	10	Non-Specimen							
100051	Hemlock	10	Non-Specimen							
100052	Hemlock	10	Non-Specimen							
100053	Hemlock	10	Non-Specimen							
100054	Hemlock	10	Non-Specimen							
100055	Hemlock	10	Non-Specimen							
100056	Hemlock	10	Non-Specimen							
100057	Hemlock	10	Non-Specimen							
100058	Hemlock	10	Non-Specimen							
100059	Hemlock	10	Non-Specimen							
100060	Hemlock	10	Non-Specimen							
100061	Hemlock	10	Non-Specimen							
100062	Hemlock	10	Non-Specimen							
100063	Hemlock	10	Non-Specimen							
100064	Hemlock	10	Non-Specimen							
100065	Hemlock	10	Non-Specimen							
100066	Hemlock	10	Non-Specimen							
100067	Hemlock	10	Non-Specimen							
100068	Hemlock	10	Non-Specimen							
100069	Hemlock	10	Non-Specimen							
100070	Past Oak	14	Non-Specimen							
100071	Past Oak	12	Non-Specimen							
100072	Past Oak	14	Non-Specimen							
100073	Past Oak	12	Non-Specimen							
100074	Past Oak	14	Non-Specimen							
100075	Birch & A.C.	6	Non-Specimen							
100076	Past Oak	14	Non-Specimen							
100077	Past Oak	12	Non-Specimen							
100078	Hackberry	10	Non-Specimen							
100079	Hackberry	10	Non-Specimen							
100080	Hackberry	10	Non-Specimen							
100081	Past Oak	10	Non-Specimen							
100082	Past Oak	10	Non-Specimen							
100083	Past Oak	10	Non-Specimen							
100084	Past Oak	10	Non-Specimen							
100085	Past Oak	7	Non-Specimen							
100086	Birch Oak	12	Non-Specimen							
100087	Fraxinus Hackberry	6	Non-Specimen							
100088	Fraxinus Hackberry	6	Non-Specimen							
100089	Live Oaks	6	Non-Specimen							
100090	American Elm	10	Non-Specimen							
100091	Juniper	14	Non-Specimen							
100092	Juniper	10	Non-Specimen							
100093	Tree	8	Non-Specimen							
100094	Tree	10	Non-Specimen							
100095	Past Oak	24	Non-Specimen							
100096	Past Oak	10	Non-Specimen							
100097	Peach	10	Non-Specimen							
100098	Peach	10	Non-Specimen							
100099	American Elm	7	Non-Specimen							
100100	American Elm	10	Non-Specimen							
100101	American Elm	6	Non-Specimen							
100102	American Elm	6	Non-Specimen							
100103	American Elm	6	Non-Specimen							
100104	Peach	10	Non-Specimen							
100105	Juniper	7	Non-Specimen							
100106	Birch Oak	18	Non-Specimen							
100107	Peach	18	Non-Specimen							
100108	Peach	18	Non-Specimen							
100109	Peach	14	Non-Specimen							
100110	Peach	14	Non-Specimen							
100111	Peach	24	Non-Specimen							
100112	Peach	24	Non-Specimen							
100113	Ash	20	Non-Specimen							
100114	Tree	7	Non-Specimen							
100115	Tree	7	Non-Specimen							
100116	Tree	6	Non-Specimen							
100117	Tree	6	Non-Specimen							
100118	Tree	6	Non-Specimen							
100119	H. fraxinosa	10	Non-Specimen							
100120	Tree	14	Non-Specimen							
100121	Past Oak	12	Non-Specimen							
100122	Fraxinus Oak	18	Non-Specimen							
100123	Fraxinus Oak	18	Non-Specimen							
100124	Hemlock	10	Non-Specimen							
100125	Live Oaks	16	Non-Specimen							
100126	Tree	10	Non-Specimen							
100127	Ash	15	Non-Specimen							
100128	Ash	15	Non-Specimen							
100129	American Elm	12	Non-Specimen							
100130	H. fraxinosa	14	Non-Specimen							
100131	Hemlock	18	Non-Specimen							
100132	Hemlock	18	Non-Specimen							
100133	Hemlock	18	Non-Specimen							
100134	Hemlock	18	Non-Specimen							
100135	Hemlock	18	Non-Specimen							
100136	Hemlock	18	Non-Specimen							
100137	Ash	15	Non-Specimen							
100138	Ash	15	Non-Specimen							
100139	American Elm	12	Non-Specimen							
100140	H. fraxinosa	14	Non-Specimen							
100141	Hemlock	18	Non-Specimen							
100142	Hemlock	18	Non-Specimen							
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100146	Hemlock	18	Non-Specimen							
100147	Hemlock	18	Non-Specimen							
100148	Hemlock	18	Non-Specimen							
100149	Hemlock	18	Non-Specimen							
100150	Hemlock	18	Non-Specimen							
100151	Hemlock	18	Non-Specimen							
100152	Hemlock	18	Non-Specimen							
100153	Hemlock	18	Non-Specimen							
100154	Hemlock	18	Non-Specimen							
100155	Hemlock	18	Non-Specimen							
100156	Hemlock	18	Non-Specimen							
100157	Hemlock	18	Non-Specimen							
100158	Hemlock	18	Non-Specimen							
100159	Hemlock	18	Non-Specimen							
100160	Hemlock	18	Non-Specimen							
100161	Hemlock	18	Non-Specimen							
100162	Hemlock	18	Non-Specimen							
100163	Hemlock	18	Non-Specimen							
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100179	Hemlock	18	Non-Specimen							
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100181	Hemlock	18	Non-Specimen							
100182	Hemlock	18	Non-Specimen							
100183	Hemlock	18	Non-Specimen							
100184	Hemlock	18	Non-Specimen							
100185	Hemlock	18	Non-Specimen							
100186	Hemlock	18	Non-Specimen							



Master Planning
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Applicant / Developer

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972-590-2400

Bradford Park - Flower Mound, Texas
Development Plan
Tree Survey - Reference Plan

Issued
OCT. 10, 2016

Revisions

-11/2/16
updated tree list

DEVELOPMENT PLAN

SHEET

DP2.2



TOWN COUNCIL AGENDA ITEM NO. 20 REGULAR ITEM

DATE: December 19, 2016

FROM: Richard Brown, Senior Planner

ITEM: Public Hearing to consider a request for a Specific Use Permit No. 448 (SUP16-0013 - Enterprise Storage) to permit a mini-warehouse facility with an exception to the access management policy and criteria regarding driveway spacing contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances, and to consider adopting an ordinance providing for said amendment. The property is generally located west of Enterprise Drive and north of Long Prairie Road. *(The Planning and Zoning Commission recommended approval by a vote of 6_ to 0_ at its December 12, 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 Specific Use Permit No. 448 (SUP16-0013 – Enterprise Storage) to permit a mini-warehouse facility, with an exception to the access management policy and criteria regarding driveway spacing contained in the Town's Engineering Design Criteria and Construction Standards, adopted through Chapter 32 of the Code of Ordinances, and adopt an ordinance providing for said amendment.



PLANNING AND ZONING COMMISSION AGENDA ITEM NO: 5

DATE: December 12, 2016

FROM: Richard Brown, Senior Planner

ITEM: **Public Hearing to consider a request for a Specific Use Permit No. 448 (SUP16-0013 - Enterprise Storage) to permit a mini-warehouse facility with an exception to the access management policy and criteria regarding driveway spacing contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances. The property is generally located west of Enterprise Drive and north 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.

This application will require final action by the Town Council.

II. APPLICATION ANALYSIS

The purpose of the application is to request approval of a Specific Use Permit (SUP 448) to permit a 94,500-square-foot, mini-warehouse use, encompassing 620 rental units. The platted lot provides for approximately 1.707 acres of site area, with frontage and access from Enterprise Road.

The property is zoned Planned Development District-61 (PD-61) for Commercial District-2 (C-2) uses and master-planned for Campus Industrial uses within the Lakeside Business District Area Plan.

The conceptual site plan meets the PD standards in terms of adherence to required development standards. The conceptual landscape plan provides the required buffers and trees. Additionally, the applicant has worked with staff to ensure the dumpster is screened from view from Enterprise Drive, utilizing a combination of a variable height retaining wall and a hedgerow, providing for a minimum seven-foot-tall design/screening element. Do note this SUP application only provides for the mini-warehouse use. Detailed plans (site plan, landscape plan, elevations) will be considered during the site plan application process.

A. Exception to Access Management Policy and Criteria

The Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances require driveway spacing along Enterprise Drive (Local Commercial) a minimum 200 feet between drive approaches. The applicant is requesting the driveway spacing be reduced from 200 feet to 97 feet in order to address the topography's impact on accessing the site to serve the main entrance and parking area, as well as the unloading/loading area along the southern façade. Refer to the applicant's letter of intent [Attachment A(2)] for a detailed explanation for the requested exception.

IV. CORRESPONDENCE

The Town Code requires both public notice in a newspaper of general circulation (Denton County Chronicle) and notification to property owners within 200 feet of the subject property for all Specific Use Permit requests. At the time this report was written, staff had received three letters of support [see Attachment C(1)].

V. ATTACHMENTS

A. Background Information

1. Vicinity Map
2. Letter of Intent

B. Application Details

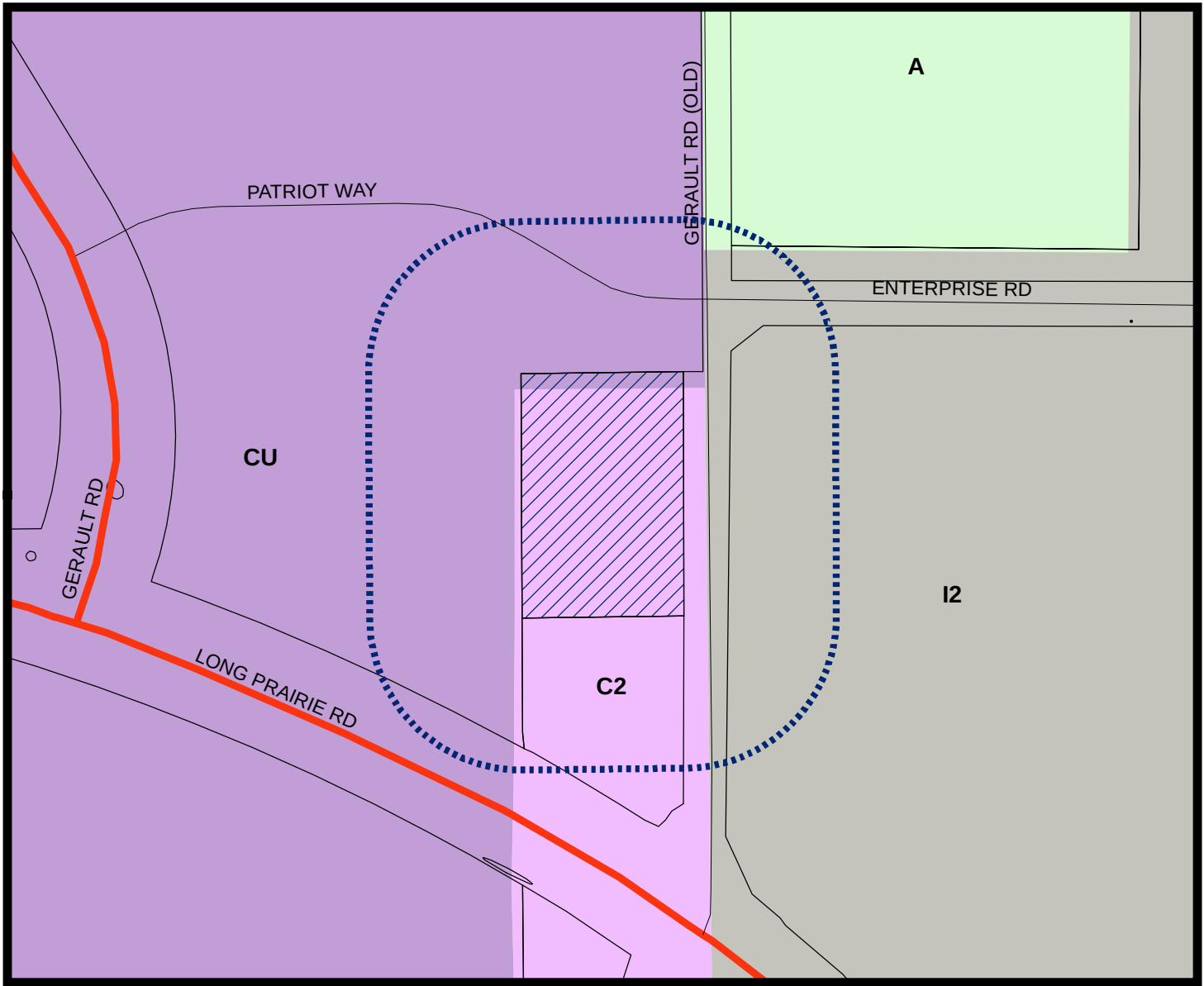
1. Specific Use Permit Package

C. Correspondence

1. Correspondence in support

Vicinity Map

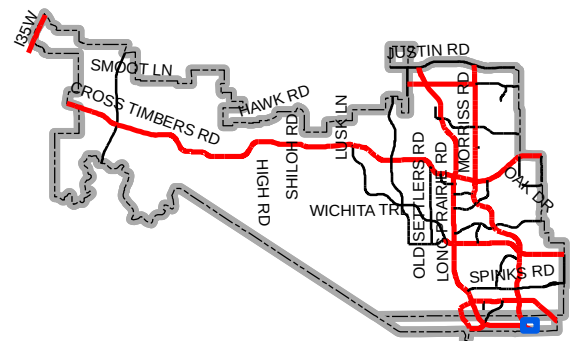
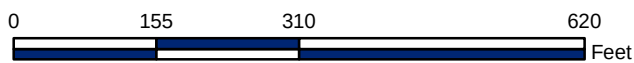
Reference Project: SUP16-0013



LEGEND

- Agriculture
- *Combined Uses-See Ordinance
- Commercial 2
- Industrial 2

- Subject Property
- 200 ft Notification Buffer around Property



Map Location



TEXAS LAND PLANNING & MANAGEMENT SERVICES

316 Indian Creek Drive, Ste. A
Trophy Club, TX 76262
Ph. (817) 903-5495
Fax (682) 237-7459
dee@landplanman.com

November 1, 2016

Richard Brown
Senior Planner
Town of Flower Mound
Planning Services Division
1001 Cross Timbers Road, Ste. 2330
Flower Mound, TX 75028

RE: Letter of Intent for Enterprise Storage - (SUP16-0013)

Dear Richard,

Please let this serve as our Letter of Intent for the Enterprise Storage Project.

Self-Storage Industry Background

In the past 10 years, the self-storage industry has gone through a significant transition from what was once considered a heavy commercial use to more of a retail type industry. The days of chain link fences and cinder block buildings with exposed roll-up doors is long gone and newer facilities are designed to blend in with the upscale communities in which they are located. Market research shows that 9.5% of U.S. households rent self-storage and clients want to store their valuables and business items close to where they live and work.

From our experience in the market place, we feel the proposed Enterprise Storage will be the most attractively designed and highest quality self-storage facility in the DFW area.

Some of the features of our “state of the art” facility are the following:

Docu-Stor	Section of units for the safe storing of important documents for business professionals such as Attorneys, Physicians and Accountants.
Wine-Stor	Section of units with controlled temperature and humidity for wine collections
Retail Sales Center	Management office will feature a full assortment of Packing and Moving Supplies
Video Surveillance	24 hour monitored interior and exterior
Climate Controlled	All of our large assortment of units will be heated and cooled interior units with no exterior doors

Project Background and Site Specifications

We have been interested in this site for approximately 2 years when we first met with the Town Staff. At that time, we determined it was necessary to delay moving forward due to all of the construction that was planned and in progress with the expansion of FM 2499 through this area, as well as, the new sewer main line that was recently completed along Enterprise Drive which is adjacent to our proposed site.

Site Specification	Description
Physical Address	801 Enterprise Drive (across from Stacy Furniture)
Zoning District	Lakeside Business District (Campus Industrial)
Current Zoning	Southpoint Addition – PD61/Commercial 2
Proposed Zoning	No Change. Specific Use Permit for Mini-Warehouse
Specific Operation	All climate-controlled storage building with internal units
Lot Size	1.71 Acres
Proposed Building SF	94,500
Net Rentable SF	75,375
Proposed Units	620
Development Phases	No Phases – 100% Construction in single phase

Highest and Best Use of Site Evaluation

1. Flower Mound - Market Demand for Self-Storage

The average square feet of self-storage per capita for markets in Dallas-Ft. Worth is 8.6 SF according to Self-Storage Almanac and Experian Market Data Services.

Flower Mound Population	2013 U.S. Census Bureau	68,609
DFW - Average Self-Storage SF/Capita	Self-Storage Almanac	8.6
Estimated - Flower Mound Rentable SF Demand		590,037 SF
Current - Flower Mound Existing/Approved Total Rentable SF		163,600 SF
Current - Flower Mound Average SF/Capita		2.4
Proposed Additional - Enterprise Storage Total Rentable SF		75,375 SF
Proposed Additional - Enterprise Storage SF/Capita		1.1
Final Conditions - Flower Mound Total Rentable SF		238,975 SF
Final Conditions – Flower Mound Average SF/Capita		3.5
Flower Mound - Final Rentable SF Below Average DFW Market		(5.1)

Market Demand Summary – with the addition of Enterprise Storage, the Town of Flower Mound will only be at approx. 41% of the average market demand for DFW with an estimated deficiency of (-5.1 SF) below the average.

2. Ad Valorem Taxes - Enterprise Self-Storage vs. Office/Office Warehouse Use

Due to the size limitations of this site and the irregular topography, it would be difficult to develop this site with more than 20,000 SF of office based on the number of parking spaces that would be required. One parking space is required for each 250 SF of office space, which would require 80 parking spaces.

Type of Use	Est. Value/SF	Est. Appraised Value	Est. Ad Valorem Taxes
Proposed Enterprise Storage	100.00	\$9,350,000	\$197,285
20,000 SF Office Building	100.00	\$2,000,000	\$42,200
Proposed Enterprise Storage			+\$155,085

Ad Valorem Tax Summary – Enterprise Self-Storage will contribute an incremental \$155,085 to the Town of Flower Mound vs. an office type use at this location.

3. Suitability of the Site for an Office Type Use

This site has been previously evaluated for the development of an office type use and this project was abandoned. As stated above, this site has a very irregular topography and other restrictions that make the development of office uses for this site not economically feasible. Also, as stated above an office use requires a considerable amount of parking spaces and due to the irregular topography of this site that becomes a significant design issue. It is highly unlikely that this site would be used in the future for office.

4. Impact on Traffic and other Town Services – Harmonious Use

- Self-Storage has a very low impact on Town Sewer and Water Services
- Self-Storage creates no significant traffic during peak traffic times
- Self Storage is a harmonious use within a Campus Industrial District
- Our project is an approved use within PD 61 with a SUP

Misc. Information

Hours of Operation

Management Office – Monday thru Saturday 9am – 6pm Sunday 10am – 3pm

Facility Access – Controlled Access 6am – 9pm

Site Drainage - we have been in discussions with the owner of the Southgate Addition Regional Detention Pond and have conceptually agreed on a plan for our site to participate in this detention plan if our project is approved.

Adjacent CrossFire Development – we have worked closely with David and Sarah Vaught to insure the Enterprise Storage Project is compatible with their development.

Requested Variances/Waivers

It is our intent that the proposed self-storage building conform to all current PD and Town of Flower Mound requirements, with the exception of the following requested waiver.

Driveway Spacing Requirement – The applicant requests a waiver of the 200' driveway spacing requirement on Enterprise Drive. Prior to the recent construction that added the sewer main line and sidewalk adjacent to our proposed site, this platted lot had two curb cuts and drives into the site that were spaced less than 200' apart. Based on the topography of this lot, the slope from the front entrance (east) to the side entrance (south) is too significant for vehicles to transverse. For this reason, it is necessary for us to have two driveway entrances. One driveway for the east entrance and another for the south entrance and the size of the lot and topography does not make it possible for them to be at least 200' apart. Traffic into and out of self-storage facilities is very minimal, with an average of 2-3 vehicles per hour, so this reduced driveway spacing will not create any type of traffic issue or hazard.

Letter of Intent Summary

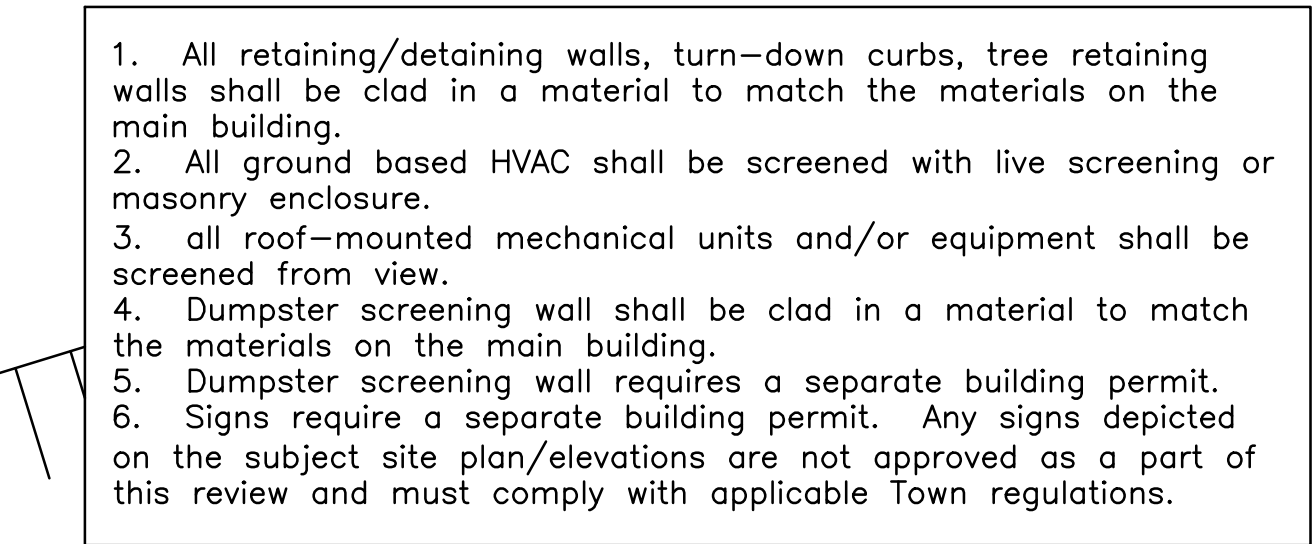
Enterprise Storage has been very attractively designed to exceed the Town of Flower Mounds requirements for the Campus Industrial District. It will be a “state of the art” high quality addition to the Town of Flower Mound for meeting the self-storage needs of the community. We respectfully request your approval of our SUP.

Sincerely,

TEXAS LAND PLANNING & MANAGEMENT SERVICES

Dee

Dwight “Dee” Baron
Managing Partner



MASTER PLAN FEATURES	
LAND USE PLAN	LAKESIDE BUSINESS DISTRICT (CAMPUS INDUSTRIAL)
SPECIFIC PLAN	NOT IN A SPECIFIC PLAN AREA
URBAN DESIGN PLAN	LAKESIDE BUSINESS DISTRICT
PARKS AND TRAIL	NONE PROPOSED
OPEN SPACE PLAN	NOT IN A CONSERVATION DEVELOPMENT
THOROUGHFARE PLAN	ENTERPRISE DRIVE – LOCAL COMMERCIAL 60' R.O.W.
WATER PLAN	LAKESIDE DISTRICT 12" MAIN EAST SIDE OF ENTERPRISE
WASTEWATER PLAN	LAKESIDE DISTRICT 12" MAIN NORTH SIDE OF FM 2499
ECONOMIC IMPACT	\$9,500,000 IN AD VALOREM PROPERTY TAX VALUE

CONCEPTUAL SITE DATA TABLE	
PHYSICAL ADDRESS	801 ENTERPRISE DRIVE
GROSS SITE AREA	1.70 ACRES/74,365 S.F.
CURRENT USE	UNDEVELOPED
PROPOSED USE	MINIWAREHOUSE
PROPOSED ZONING	UNCHANGED
CURRENT ZONING	*PD-61/COMMERCIAL 2
PARKING REQUIRED	1 SPACE PER 75 UNITS
PARKING REQUIRED	9 SPACES
PARKING PROVIDED	8 SPACES
HANDICAP PARKING	2 SPACES
GROSS BUILDING S.F.	94,500 SQUARE FEET
APPROX. RENTABLE	70,875 SQUARE FEET
APPROX. UNITS	620 UNITS

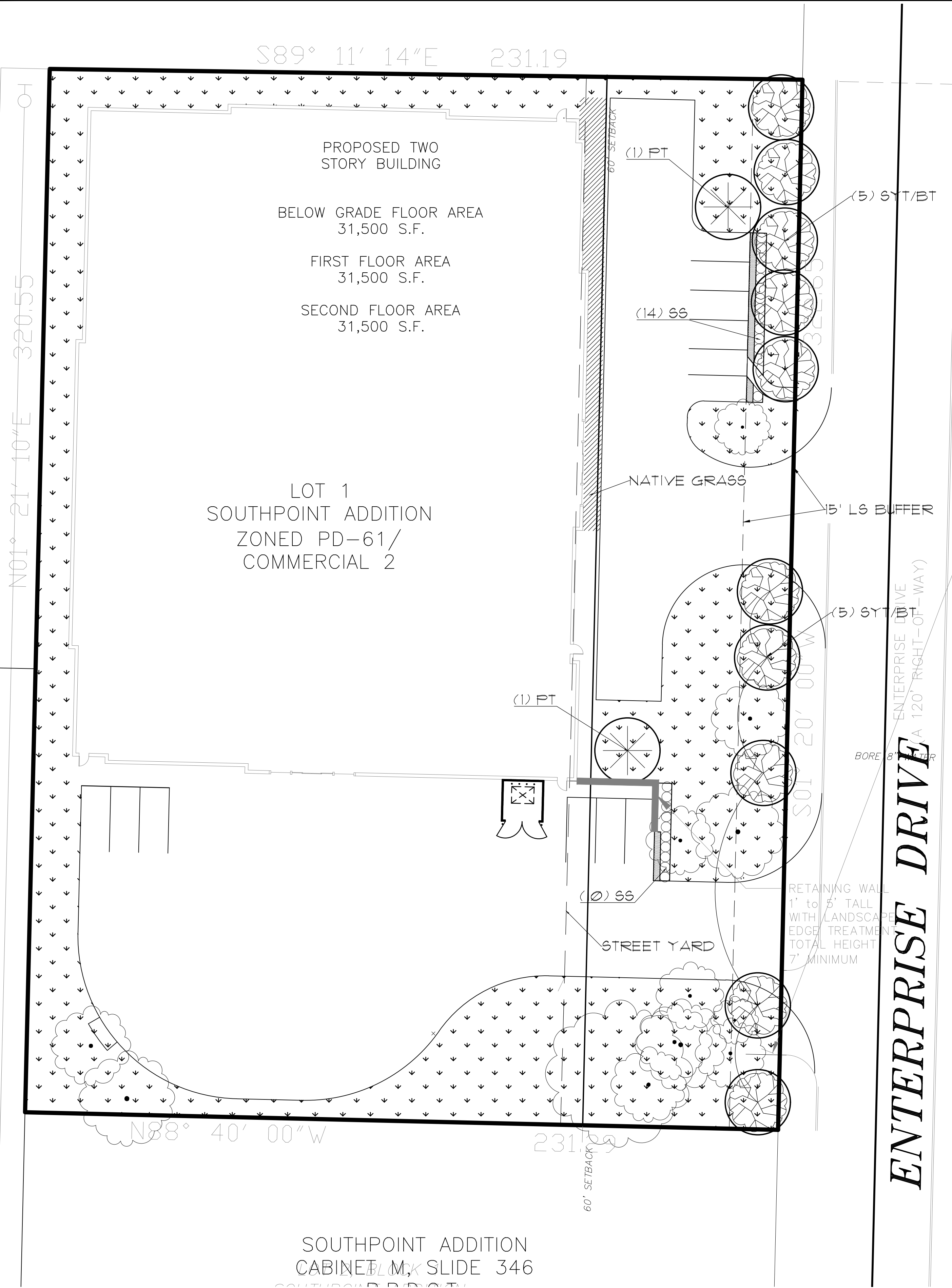
*MINIWAREHOUSE ALLOWED WITH S.U.P.

LOT STATISTICS	REQUIRED	PROVIDED
FRONT YARD SETBACK	60'	64.21'
REAR YARD SETBACK	0	10'
SIDE YARD — SOUTH	0	105.63'
SIDE YARD — NORTH	0	10'
MAXIMUM HEIGHT	3 STORIES	2 STORIES
MAXIMUM HEIGHT	35'	26'**

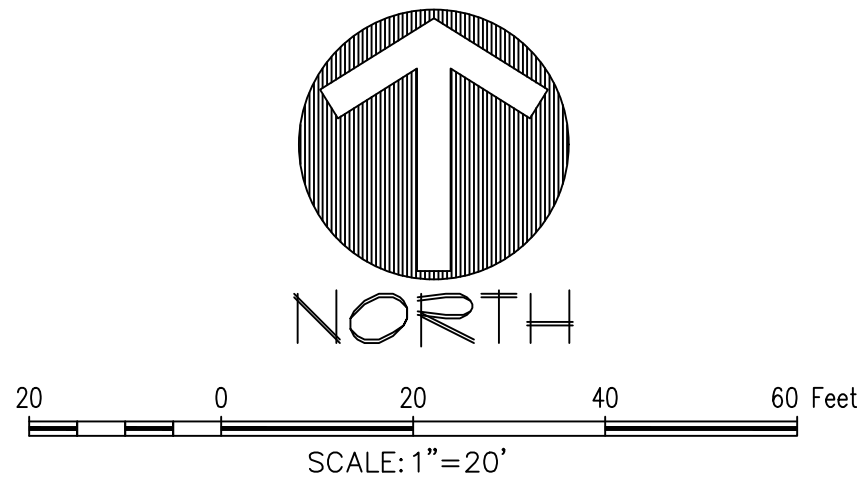
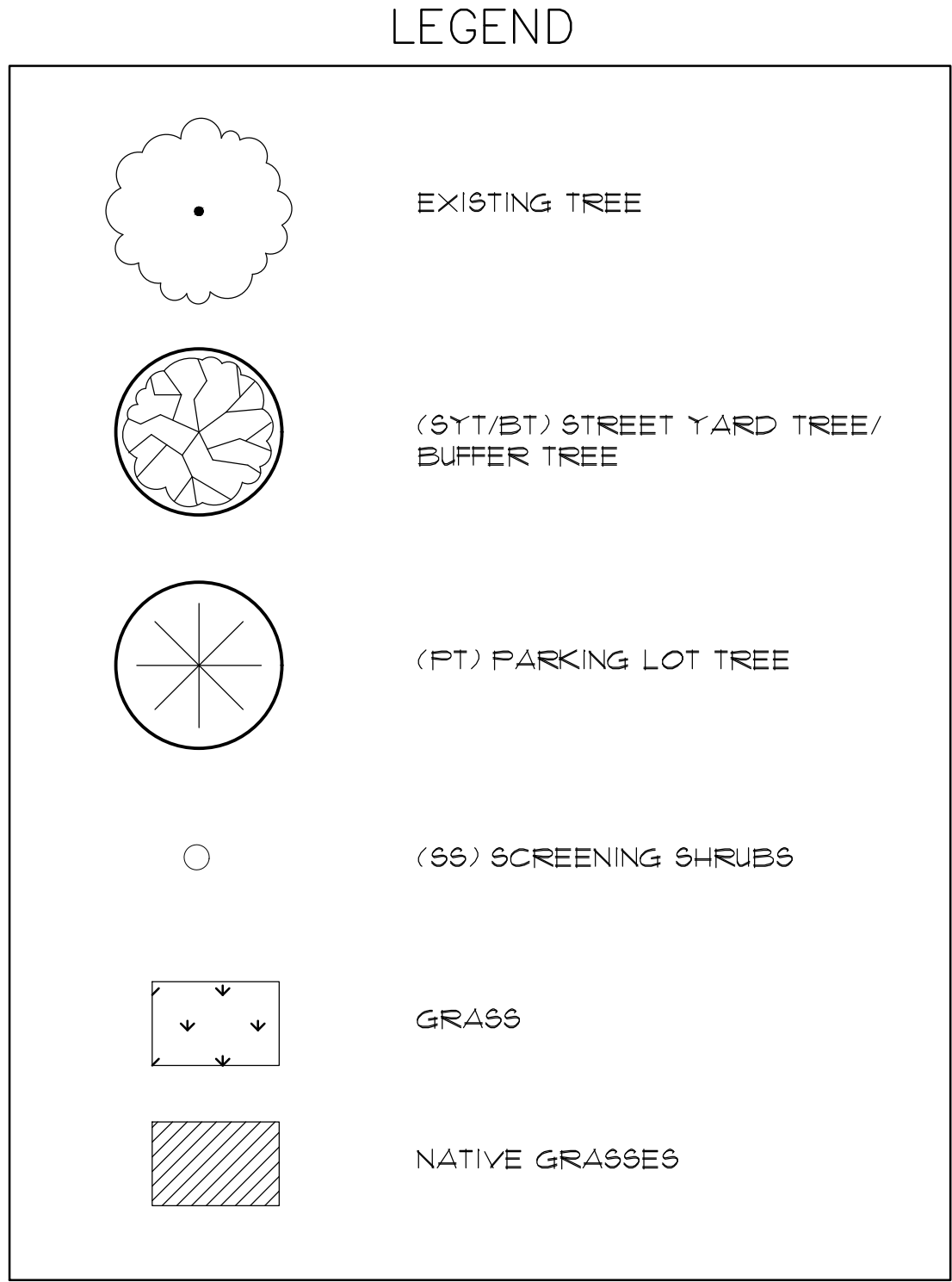
**26' is from mean roof level to top of curb of Enterprise Drive based on preliminary grading

TOTAL LAND AREA = 74,365 SQUARE FEET
BUILDING FOOT PRINT = 31,500 SQUARE FEET
TOTAL LANDSCAPE AREA = 19,898 SQUARE FEET

CONCEPTUAL SITE PLAN
ENTERPRISE STORAGE
LOT 1
SOUTHPOINT ADDITION
1.707 ACRES
J. TURNER SURVEY, ABSTRACT 1251
TOWN OF FLOWER MOUND
TARRANT COUNTY, TEXAS
DECEMBER 2, 2016



LANDSCAPE REQUIREMENT COMPLIANCE TOWN OF FLOWER MOUND			
STREET YARD LANDSCAPING			
STANDARD	TOTAL STREET YARD (SQUARE FEET)	REQUIRED	PROVIDED
Min. 20% of street yard	21,323 s.f. of Street Yard	4,264 s.f. of Street Yard	9,402 s.f. of Street Yard
STREET YARD TREES			
STANDARD	TOTAL STREET YARD (SQUARE FEET)	REQUIRED	PROVIDED
10,000 to 110,000 s.f. = 10 for first 10,000 +1 per add. 2,500 s.f.	21,323 s.f. of Street Yard	15 Trees (3" cal.)	10 (New Trees) + 5 Exist. Tree Credits (#33,39,40,48,51)
STREET BUFFER LANDSCAPING			
STANDARD	REQUIRED BUFFER WIDTH	PROVIDED	
Enterprise Dr.=	15 ft.	15 ft.	
STREET BUFFER TREES			
STANDARD	STREET FRONTAGE (LINEAR FEET)	REQUIRED	PROVIDED
1 per 30 l.f.	Enterprise Dr. = 323 l.f.	11 Trees (3" cal.)	10 Trees (3" cal.) + 5 Tree credits = 15 Trees
PARKING AREA LANDSCAPING			
STANDARD	# OF PARK. SPACES	REQUIRED	PROVIDED
90 s.f. per 12 spaces	10 Spaces	90 s.f.	5,586 s.f.
PARKING AREA TREES			
STANDARD	# OF PARK. SPACES	REQUIRED	PROVIDED
1 per 10 parking spaces	10 Spaces	1 trees (3" cal.)	2 Trees (3" cal.)
**All parking spaces to be located within 50 ft. of shade tree, Except for underground parking.			
PARKING AREA SCREENING			
STANDARD	Landscape berm or screening shrubs	PROVIDED	
All head parking to be screened from street view	3' ht. Screen	3' ht. Shrubs	



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P: 972.317.0276 • F: 972.436.9715

ENTERPRISE STORAGE BUILDING

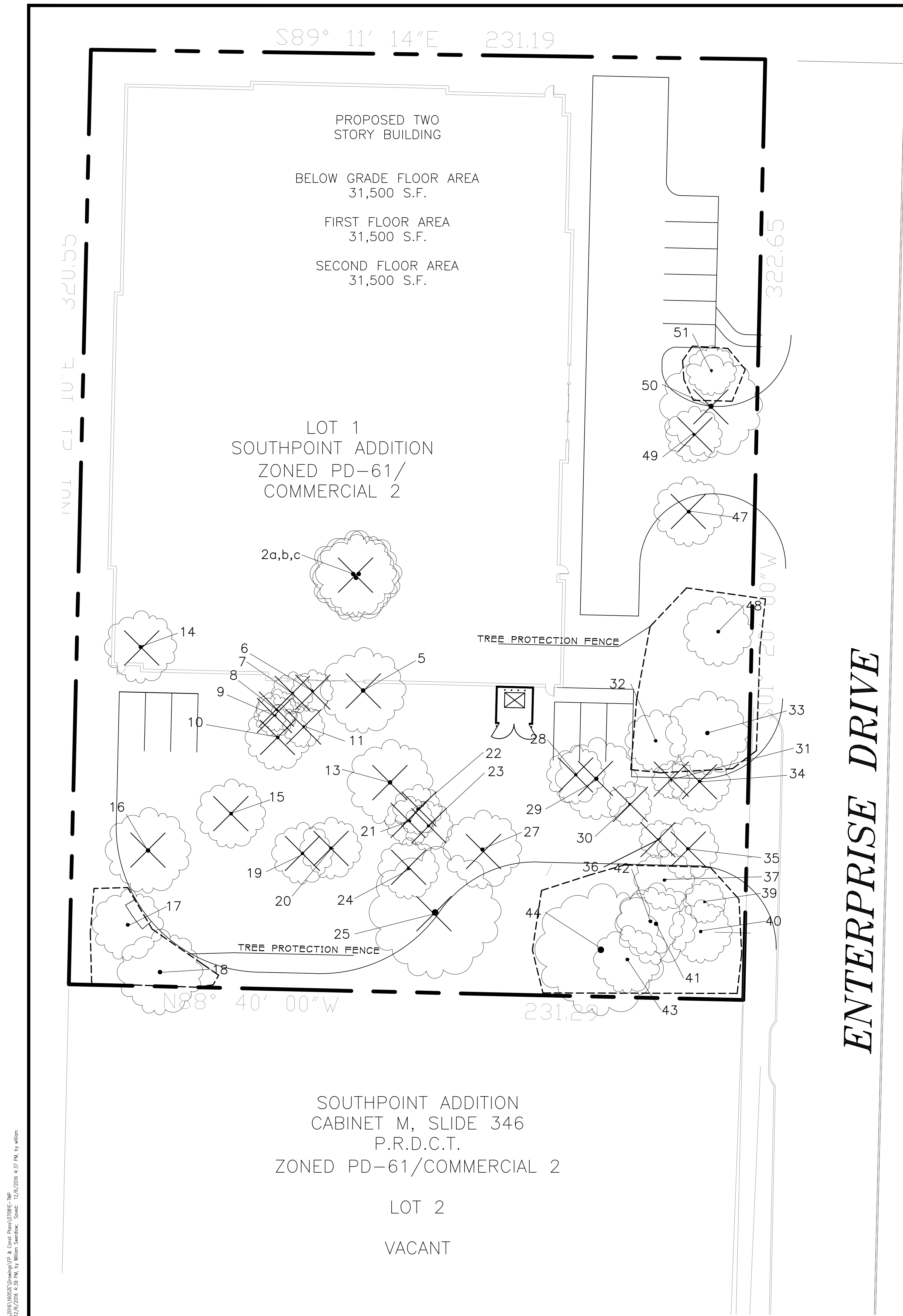
**CONCEPTUAL LANDSCAPE
PLAN**

PRELIMINARY PLANS
THIS DOCUMENT IS FOR INTERIM REVIEW
AND IS NOT INTENDED FOR CONSTRUCTION.
BIDDING OR PERMIT PURPOSES.
RON STEWART LANDSCAPE ARCHITECT
DATED 11/18/2016

Drawn By: WS
Date: 11/18/2016
Scale: 1"=20'
Revisions:

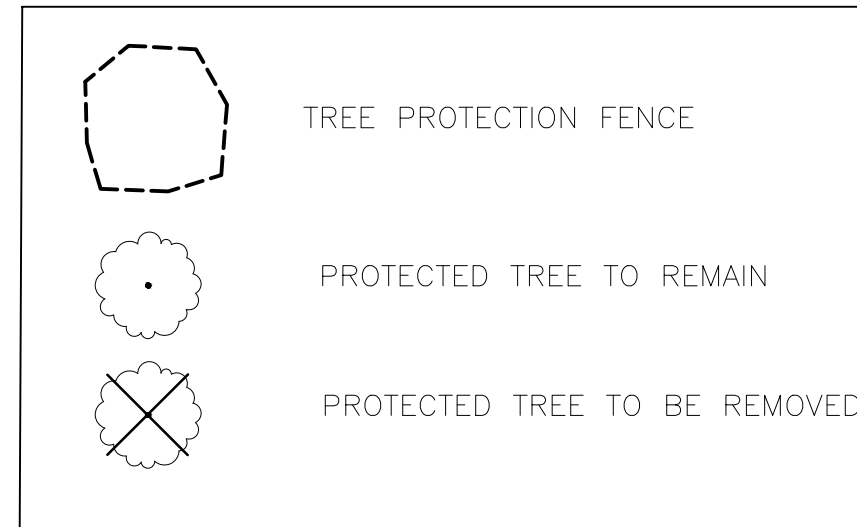
07081E

L1.0



THIS SITE WAS PLATTED NOVEMBER 8, 1996.
TREE SURVEY BASED ON TOWN OF FLOWER
MOUND LANDSCAPE AND TREE PRESERVATION
ORDINANCE PRIOR TO 2008

LEGEND



20 0 20 40 60 Feet
SCALE: 1"=20'

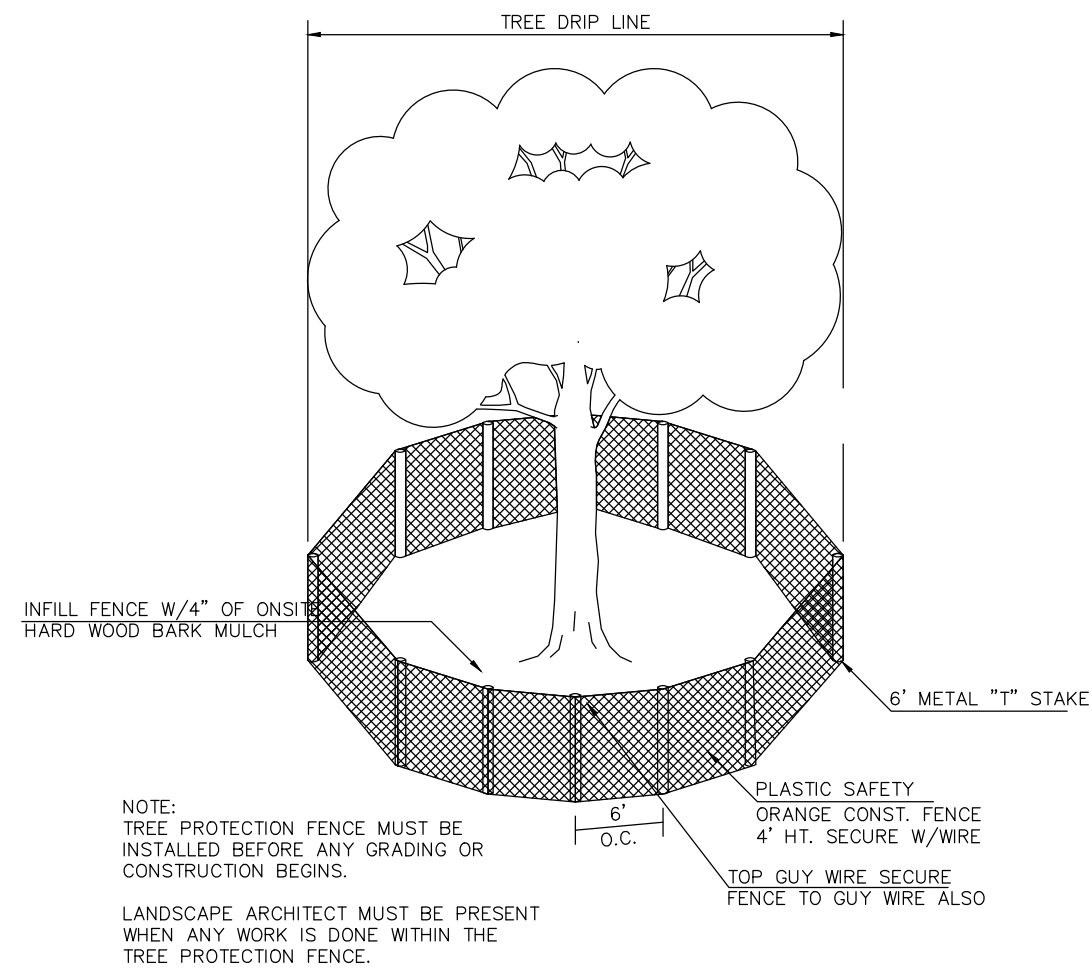
Point Number	Caliper	Tree Type	Botanical	Protected Tree	Tree to Remain	Mitigation	Remarks
2A	16"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
2B	21"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
2C	20"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
5	18.5"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
6	8.5"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
7	8"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
8	8"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
9	9"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
10	15"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
11	10.5"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
13	MT 31"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	MT 15,16,15
14	MT 12"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	MT 7,5,5
15	16.5"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
16	20.5"	POST OAK	Quercus stellata	YES	NO	No - B.A.	
17	15"	POST OAK	Quercus stellata	YES	YES	No	
18	20"	POST OAK	Quercus stellata	YES	YES	No	
19	12"	POST OAK	Quercus stellata	YES	NO	No - B.A.	
20	15"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
21	11"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
22	12"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
23	12"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
24	13.5"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
25	25.5"	POST OAK	Quercus stellata	YES	NO	No - B.A.	
27	18"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
28	13"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
29	18"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
30	10"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
31	9"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
32	12"	CEDAR ELM	Ulmus crassifolia	YES	YES	No	
33	19"	CEDAR ELM	Ulmus crassifolia	YES	YES	No	40% DEAD
34	13.5"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
35	MT 14"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	MT 9, 9.5
36	9"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
37	14"	CEDAR ELM	Ulmus crassifolia	YES	YES	No	
39	10"	CEDAR ELM	Ulmus crassifolia	YES	YES	No	
40	15"	CEDAR ELM	Ulmus crassifolia	YES	YES	No	
41	MT 20"	CEDAR ELM	Ulmus crassifolia	YES	YES	No	MT 10, 14
42	8.5"	CEDAR ELM	Ulmus crassifolia	YES	YES	No	
43	16"	POST OAK	Quercus stellata	YES	YES	No	
44	30"	POST OAK	Quercus stellata	YES	YES	No - B.A.	
47	15.5"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
48	17"	CEDAR ELM	Ulmus crassifolia	YES	YES	No	
49	13"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	40% dead
50	23"	CEDAR ELM	Ulmus crassifolia	YES	NO	No - B.A.	
51	12"	CEDAR ELM	Ulmus crassifolia	YES	YES	No	

B.A. - BUILDABLE AREA

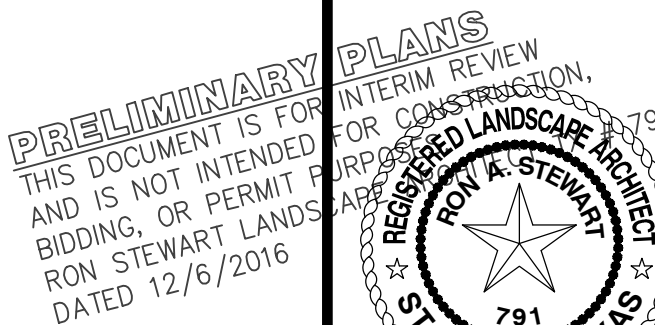
2016 TEXAS BIG TREE REGISTRY
SPECIMEN TREE SIZE : POST OAK - 33.1"
CEDAR ELM - 23.7"

TREE PRUNING, REMOVAL AND PROTECTION MEASURES

- A. QUALITY ASSURANCE
- 1) Comply with applicable Federal, state, county and local regulations governing landscape work.
 - 2) Employ only experienced personnel. Provide adequate supervision by qualified foreman.
- B. JOB CONDITIONS
- 1) Coordination: Coordinate and cooperate with other contractors to enable the work to proceed as rapidly and efficiently as possible.
 - 2) In order to minimize conflict, secure from the Construction Manager copies of layout drawings showing the location of all underground utility lines and other structures.
- C. PRODUCTS
- 1) MULCH: Double shredded hardwood mulch free of sticks, dirt and other debris as derived from the site clearing.
- D. DEFINITIONS
- 1) CRZ: Critical Root Zone: The soil space directly under the canopy of any tree, extending out at least 7 feet from the trunk or 2/3 the distance to the dripline, whichever is greater.
 - 2) TPZ: Tree Protection Zone: The entire soil space located directly under the dripline of any tree (the entire dripline).
 - 3) CRS: Complete Root System: The soil space directly under the dripline of any tree and an additional 7 feet beyond said dripline.
 - 4) TPF: Tree Protection Fence: The orange safety barrier netting that shall extend around the entire circumference of the tree at the TPZ.
- E. PRE - CONSTRUCTION TREE PRUNING
- 1) Personnel Qualifications: All pruning shall be performed under the supervision of an International Society Arboriculture (ISA) Certified Arborist.
 - 2) All trees within the project area shall be pruned to:
 - i) Clear the crown of diseased, crossing, weak and dead wood to a minimum of 1 1/2 inches in diameter.
 - ii) Provide 14 feet of vertical clearance over streets and 8 feet over sidewalks.
 - iii) Remove stubs, cutting outside the woundwood tissue that has formed around the branch.
 - iv) Reduce end weight on heavy, horizontal branches by selectively removing small diameter branches, no greater than 2 to 3 inches, near the ends of the scaffolds.
 - 3) Pruning cuts shall be made in accordance with ANSI Z300 Pruning Standard and work shall be performed in accordance with ANSI Z133.1 Safety Standard. Pruning shall be in accordance with ISA's Best Management Practices: Tree Pruning
 - 4) No more than 20 percent of live foliage shall be removed from any tree.
 - 5) Brush shall be chipped and chips shall be spread underneath trees within the tree protection zone to a maximum depth of 6 inches, leaving the trunk clear of mulch.
- F. TREE REMOVAL
- 1) Trees preservation requires a commitment to preserving and maintaining retained trees, as well as removal of any unsuited trees within the Project Area.
 - 2) All wood debris from all tree removals at the Project Site is to be chipped and stored on site for use on site in the tree preservation efforts at the discretion of the Landscape Architect.
 - 3) The limits of all tree protection zones shall be staked in the field and observed by all contractors.
 - 4) Any brush clearing required within the tree protection zone shall be accomplished with hand operated equipment.
 - 5) Trees to be removed from within the tree protection zone shall be removed under the supervision of a Certified Arborist. The trees shall be cut near ground level and the stump ground out.
- G. TREE PROTECTION
- 1) Before beginning work, the Project Manager, Landscape Architect and/or Owner or their agents are required to meet at the site to review all work procedures, access routes, storage areas, and tree protection measures. Any intended construction activities inside the TPZ shall be clearly outlined.
 - 2) Fences shall be erected to protect trees to be preserved prior to construction equipment arriving on the Project Site. Fences will define the specific protection zone for each tree or group trees. Fences are to be maintained and remain until all site work has been completed and final landscape operations begin. Fences may not be relocated or removed without written permission from the Landscape Architect. Fences may be constructed from 6" "T" stakes and orange web fence material.
 - 4) All trees to be preserved shall have 4 inches of hardwood mulch applied inside the tree protection zone. This hardwood mulch shall be replenished as necessary to maintain a 4 inch depth.
 - 5) Construction trailers, traffic and storage areas must remain outside fenced areas at all times.
 - 6) Tree roots extend out in a straight, radial direction from the tree much like spokes on a wheel (to a depth generally not exceeding 24"). All underground utilities and drain or irrigation lines shall be routed outside the tree protection zone. If lines must traverse the protection area, they shall be tunneled or bored under the tree. Trench as "airdug" with Air Spade (registered trademark) or similar technology are the only exceptions. Irrigation line may be routed in any direction outside the dripline of retained trees. Irrigation lines inside the dripline must be in a straight, radial direction towards the tree trunk and terminate in a dead end sprinkler head no greater than 7 feet from a tree trunk. (Irrigation lines shall not in any way bisect and therefore damage the "spoke-like" root system).
 - 7) No materials, equipment, spoil, or waste or washout water may be deposited, stored, or parked within the tree protection zone.
 - 8) If unintentional injury should occur to any tree during construction, it shall be reported to the Landscape Architect within six hours so that remedial action can be taken. Timeliness is critical to tree health. The cost of any remedial treatments will become the burden of the offending contracting company.
 - 9) Any grading, construction, demolition, or other work that is expected to encounter tree roots must be monitored by the Landscape Architect. Specific locations or tree tag numbers should be identified.



TREE PROTECTION



Drawn By: WS
Date: 12/1/2016
Scale: 1"=20'
Revisions:

16052

T1.0

CRANNELL BUILDING
Southpoint addition
Lot 1 Block 1
Cab. M, Pg 346
CITY OF FLOWER MOUND
DENTON COUNTY, TEXAS

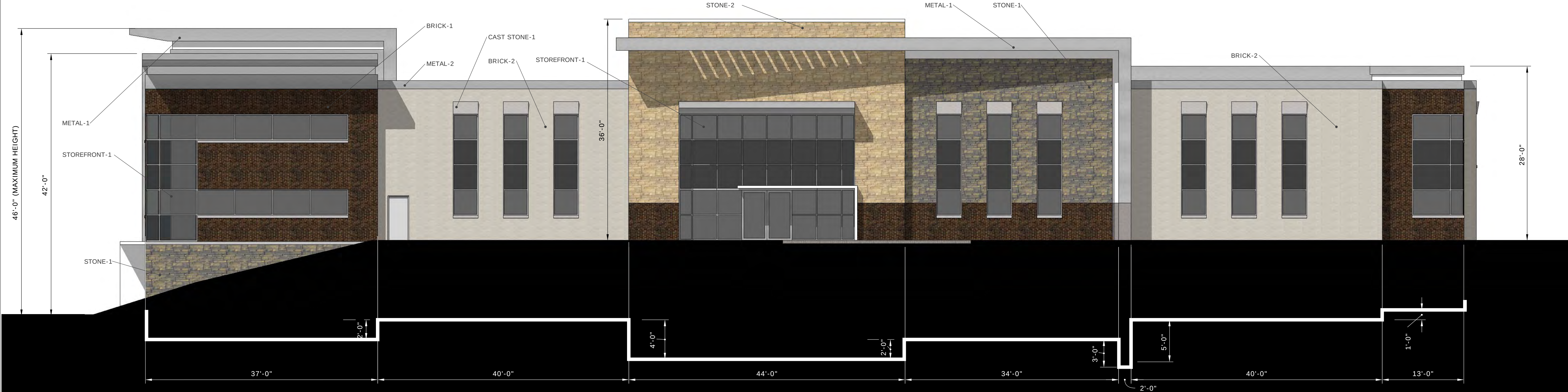
TREE SURVEY

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NOTE: PARAPET WALLS TO SERVE AS MECHANICAL EQUIPMENT SCREENS



WEST ELEVATION



EAST ELEVATION

EXTERIOR FINISH MATERIAL SCHEDULE			
MATERIAL	MANUFACTURER	COLOR	DESCRIPTION
METAL-1	Alucobond	Silver Metallic	Aluminum Composite Metal Panels
METAL-2	Berridge	Silver Metallic	Prefinished Metal Trim
STOREFRONT-1	YKK	Clear Anodized	Aluminum/Glass Storefront
BRICK-1	Acme	Brookshire	Brick
BRICK-2	Acme	Steel Grey	Brick
STONE-1	Cobra	Silvermist	Stone
STONE-2	Cobra	Antique Lueders	Stone
STUCCO-1	Dryvit	Grey	Stucco
CAST STONE	Alliance	Grey Tan	Cast Stone



BRICK-1



BRICK-2



STONE-1



STONE-2



STOREFRONT-1



STUCCO-1



METAL 1 & 2



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ENTERPRISE STORAGE

ELEVATIONS



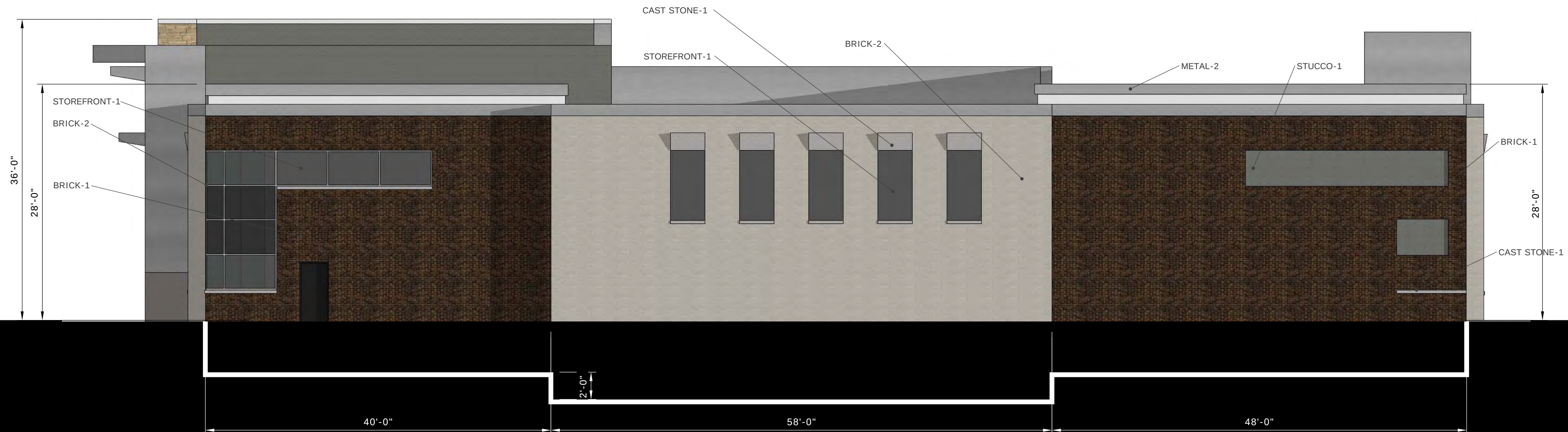
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PARTIAL ARTICULATION FLOOR PLAN

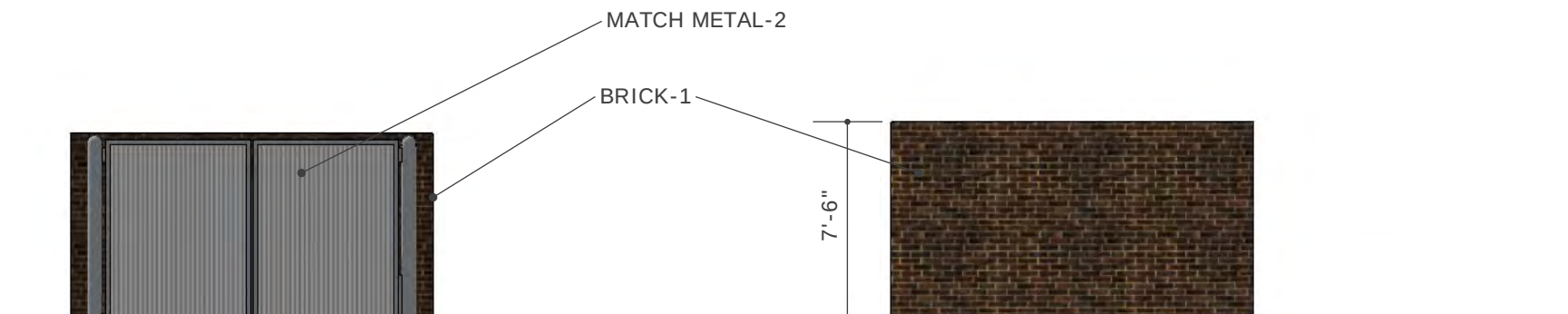
PATRIOT WAY, NORTH ELEVATION



PARTIAL ARTICULATION FLOOR PLAN

FM 2499 VIEW, SOUTH ELEVATION

	North		South		East		West	
1 Total Façade	3,875		6,005		6,275		6,950	
2 Façade s.f. (exclusive of doors and windows)	3,485		4,560		4,625		5,640	
3 Doors and Windows s.f.	390		1445		1,650		1310	
3a Metal Trims	400		825		880		660	
	s.f.	%	s.f.	%	s.f.	%	s.f.	%
4 Primary Masonry Totals (Minimum 80%)	2,960	85%	3,735	82%	3,745	81%	4,630	82%
Brick	2,950	84.6%	2,535	55.6%	2,415	52.2%	4,210	74.6%
Stone	10	0.3%	1200	26.3%	1330	28.8%	420	7.4%
5 Secondary Masonry Totals (Maximum 20%)	125	3.6%	0	0.0%	0	0.0%	350	6.2%
Stucco	125	3.6%	0	0.0%	0	0.0%	350	6.2%



DUMPSTER ELEVATIONS

ENTERPRISE STORAGE

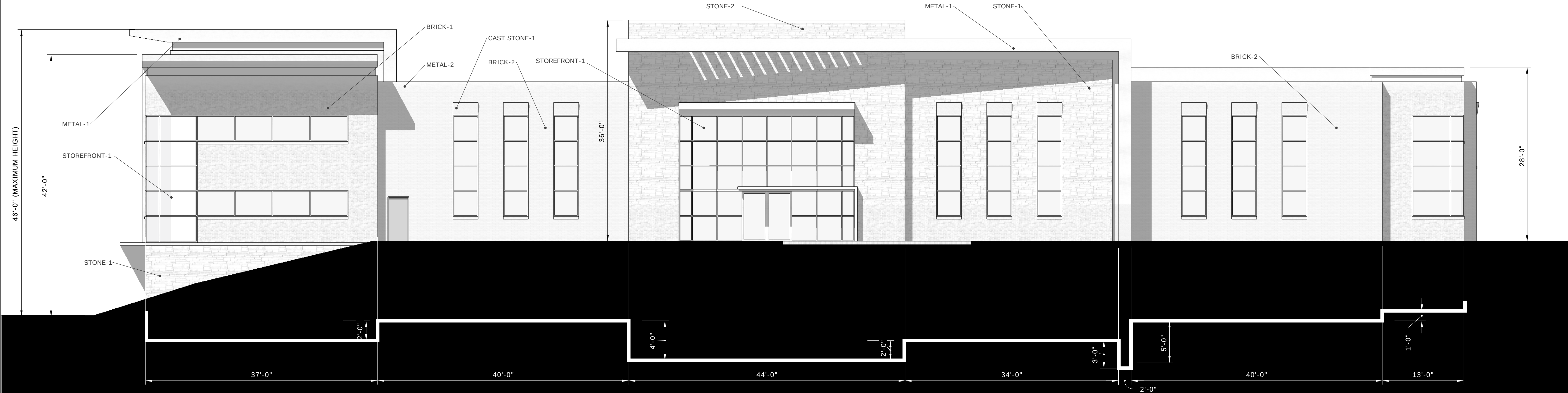
ELEVATIONS

NOTE: PARAPET WALLS TO SERVE AS MECHANICAL EQUIPMENT SCREENS



PARTIAL ARTICULATION FLOOR PLAN

WEST ELEVATION



PARTIAL ARTICULATION FLOOR PLAN

EAST ELEVATION

EXTERIOR FINISH MATERIAL SCHEDULE			
MATERIAL	MANUFACTURER	COLOR	DESCRIPTION
METAL-1	Alucobond	Silver Metallic	Aluminum Composite Metal Panels
METAL-2	Berridge	Silver Metallic	Prefinished Metal Trim
STOREFRONT-1	YKK	Clear Anodized	Aluminum/Glass Storefront
BRICK-1	Acme	Brookshire	Brick
BRICK-2	Acme	Steel Grey	Brick
STONE-1	Cobra	Silvermist	Stone
STONE-2	Cobra	Antique Lueders	Stone
STUCCO-1	Dryvit	Grey	Stucco
CAST STONE	Alliance	Grey Tan	Cast Stone



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ENTERPRISE STORAGE

ELEVATIONS



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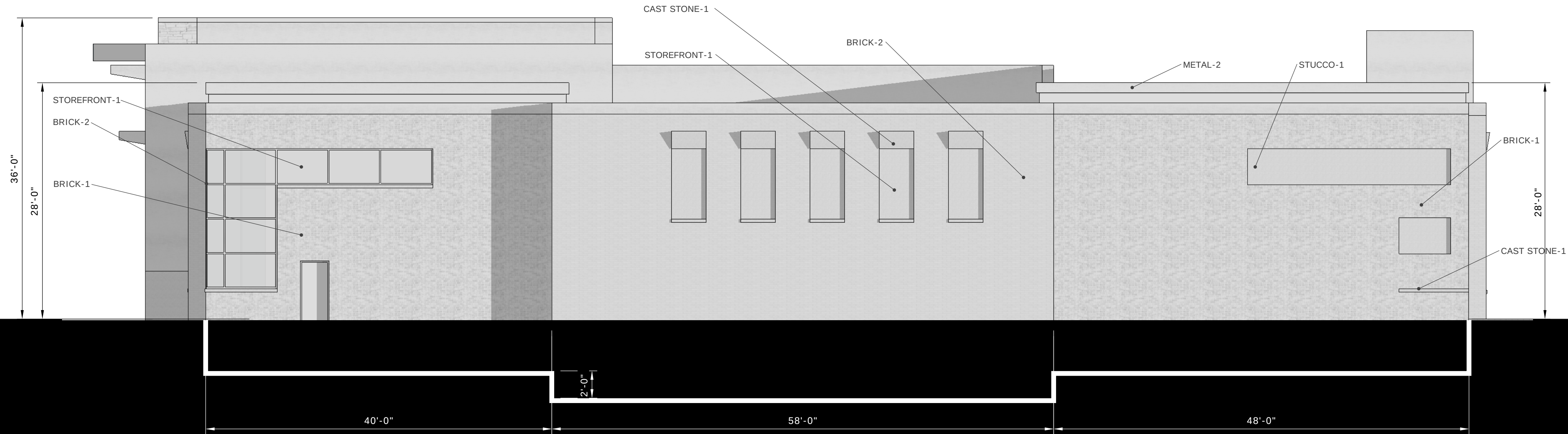
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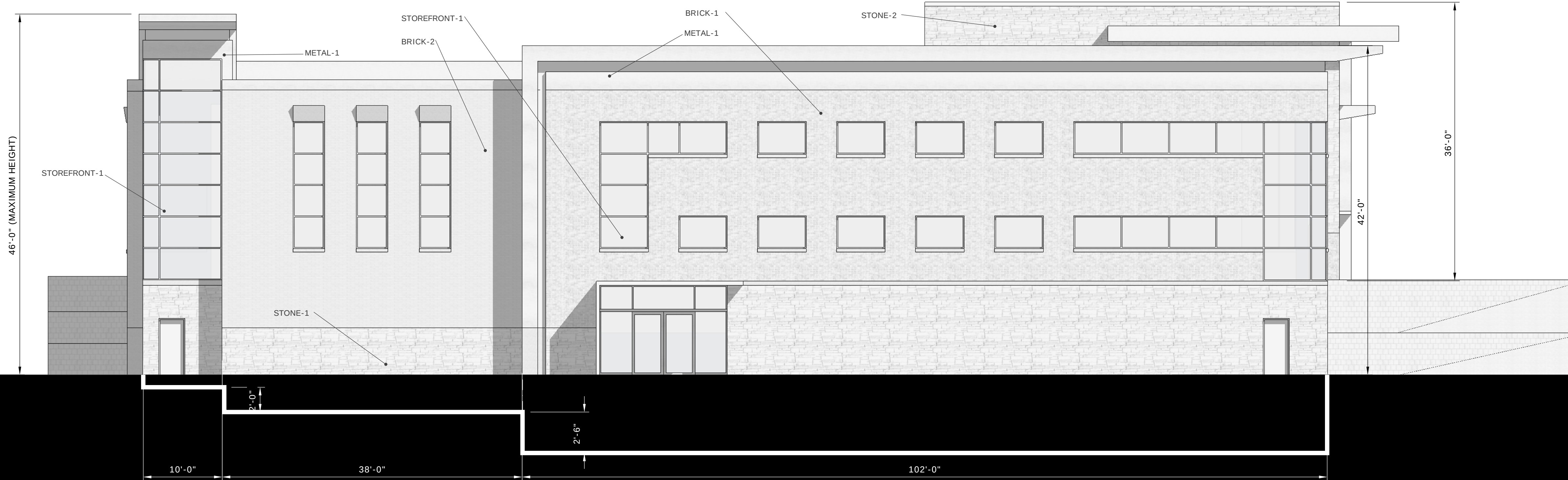
PRELIMINARY
NOT FOR
CONSTRUCTION

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PARTIAL ARTICULATION FLOOR PLAN

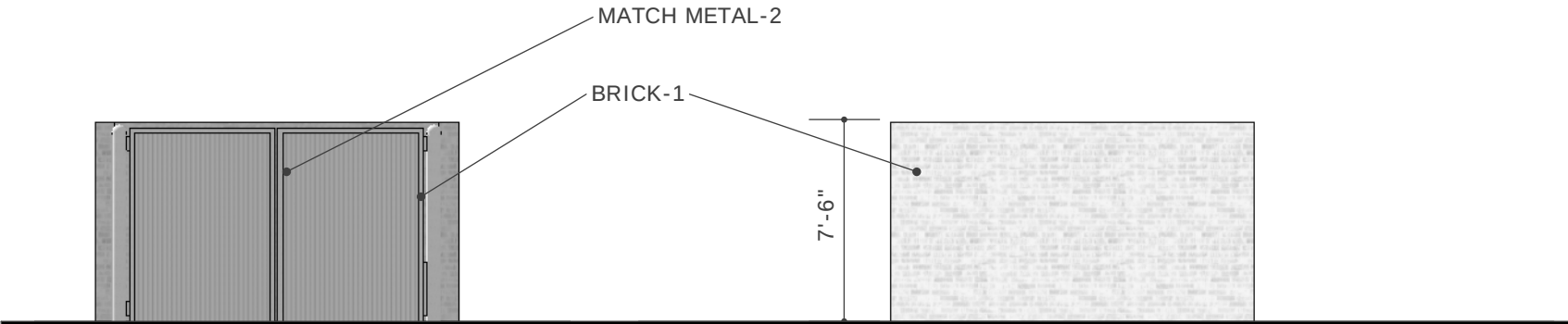
PATRIOT WAY, NORTH ELEVATION



PARTIAL ARTICULATION FLOOR PLAN

FM 2499 VIEW, SOUTH ELEVATION

	North		South		East		West	
1 Total Façade	3,875		6,005		6,275		6,950	
2 Façade s.f. (exclusive of doors and windows)	3,485		4,560		4,625		5,640	
3 Doors and Windows s.f.	390		1445		1,650		1310	
3a Metal Trims	400		825		880		660	
	s.f.	%	s.f.	%	s.f.	%	s.f.	%
4 Primary Masonry Totals (Minimum 80%)	2,960	85%	3,735	82%	3,745	81%	4,630	82%
Brick	2,950	84.6%	2,535	55.6%	2,415	52.2%	4,210	74.6%
Stone	10	0.3%	1200	26.3%	1330	28.8%	420	7.4%
5 Secondary Masonry Totals (Maximum 20%)	125	3.6%	0	0.0%	0	0.0%	350	6.2%
Stucco	125	3.6%	0	0.0%	0	0.0%	350	6.2%



DUMPSTER ELEVATIONS

ENTERPRISE STORAGE

ELEVATIONS

Nov. 16, 2016



A PLUS DESIGN
GROUP
ARCHITECTURE
INTERIORS
CONSTRUCTION
972-724-4440
APDG.US

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GROUP 2015

Trent W. Clark Architect
TX Registration # 17084

PRELIMINARY
NOT FOR
CONSTRUCTION

These Drawings are
incomplete and may not be
used for regulatory approval,
permit, or construction



VIEW FROM NORTHEAST



VIEW OF MAIN ENTRY



VIEW FROM SOUTHWEST



VIEW FROM SOUTHEAST

ENTERPRISE STORAGE

PERSPECTIVES

Stacy Furniture

[REDACTED]
Grapevine, TX 76051

James R. Stacy

To: Chuck Russell
Planning Manager – AICP
Town of Flower Mound
Planning Services Division
2121 Cross Timbers Road
Flower Mound, TX 75028

November 18, 2016

Re: Enterprise Storage Proposed Development (SUP16-0013)

Mr. Russell,

I have thoroughly reviewed the project plans with Mr. Baron in regards to the building next to our Stacy Furniture in Flower Mound. I believe it will be an attractive design and support their project.

Thank you,


Rick Stacy

[REDACTED]

December 2, 2016

Chuck Russell
Planning Manager - AICP
Town of Flower Mound
Planning Services Division
2121 Cross Timbers Road
Flower Mound, TX 75028

RE: Enterprise Storage (SUP16-0013)

Dear Mr. Russell,

We have reviewed the Letter of Intent, Site Plan and Building Elevations for the Enterprise Storage Project sent to us by Mr. Baron. It is our opinion that this project will be an asset to the Town of Flower Mound, as well as, the existing and future developments in this area.

As Mr. Baron stated in his Letter of Intent, this looks to be the most attractively designed self-storage facility in the DFW area and we are in support of this project and approval of the Specific Use Permit.

Sincerely,



Jed Dolson
Head of Land Acquisition and Development

greenbrickpartners

From: Jeff Crannell
Sent: Wednesday, December 07, 2016 8:49 AM
To: Richard Brown
Subject: Emterprise Storage SUP16-0013

Mr. Brown,

I am the land owner at 800 Enterprise and I am in favor of the SUP for the executive storage facility on Enterprise Drive. The architecture of the building compliments and blends with the surrounding buildings. The use is an excellent compliment to the surrounding properties.

Regards,

Jeff Crannell
Double Oak, Texas

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 APPROVING SPECIFIC USE PERMIT NO. 448 (SUP-448) FOR A MINI-WAREHOUSE ON CERTAIN PROPERTY DESCRIBED AS 1.707 ACRES OF LAND AND BEING ALL OF LOT 1 OF THE SOUTHPOINT ADDITION AND ZONED PLANNED DEVELOPMENT DISTRICT NO. 61 (PD-61) WITH COMMERCIAL DISTRICT-2 (C-2) USES; GRANTING AN EXCEPTION TO THE ACCESS MANAGEMENT POLICY AND CRITERIA REGARDING DRIVEWAY SPACING REQUIREMENTS IN ACCORDANCE WITH SPECIFIC REQUIREMENTS STATED HEREIN AND EXHIBITS ATTACHED HERETO; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL 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 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, 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 owner of the property described as 1.707 acres of land and being all of Lot 1 of the Southpoint Addition has filed an application for a Specific Use Permit for a mini-warehouse; and,

WHEREAS, the Planning and Zoning Commission of the Town of Flower Mound, Texas held a public hearing on December 12, 2016, and the Town Council of the Town of Flower Mound, Texas, held a public hearing on December 19, 2016, with respect to the Specific Use Permit 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 Specific Use Permit on the property; and,

WHEREAS, the Town Council finds that the Specific Use Permit should be granted

Ordinance No._____**Page 2**

as outlined herein as it 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 Land Development Regulations of the Town of Flower Mound, Texas, as amended, are hereby amended on the hereinafter described property and area as shown below:

1.707 acres of land and being all of Lot 1 of the Southpoint Addition, Tarrant County, Texas.

Specific Use Permit No. 448 for a mini-warehouse, as more fully described in the exhibits attached hereto and incorporated herein, subject to the following conditions:

- 1) Interior doors viewable from the outside shall meet the development standards for exterior doors, and
- 2) Interior lighting shall be in line with commercial office lighting standards.

SECTION 2

The conceptual site plan, conceptual landscape plan, and conceptual elevations of the proposed mini-warehouse, attached hereto as Exhibits "A", "B", and "C" each incorporated herein for all purposes allowed by law, are hereby approved as the conceptual site plan, conceptual landscape plan, and elevations for this Specific Use Permit.

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 Specific Use Permit, as set forth above.

SECTION 4

The use of the property described above shall be subject to all applicable regulations contained in the Land Development Regulations and all other applicable and pertinent ordinances of the Town of Flower Mound.

SECTION 5

Ordinance No._____**Page 3**

An exception is hereby granted to the access management policy and criteria, regarding driveway spacing requirements for a Local Commercial street, contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances, as it may be amended, specifically to allow the northernmost driveway opening on Enterprise Drive to be located approximately 97 feet from the southernmost driveway opening on Enterprise Drive.

SECTION 6

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 7

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 8

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 9

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 10

Ordinance No. _____

Page 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 11

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.

**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

Exhibit A

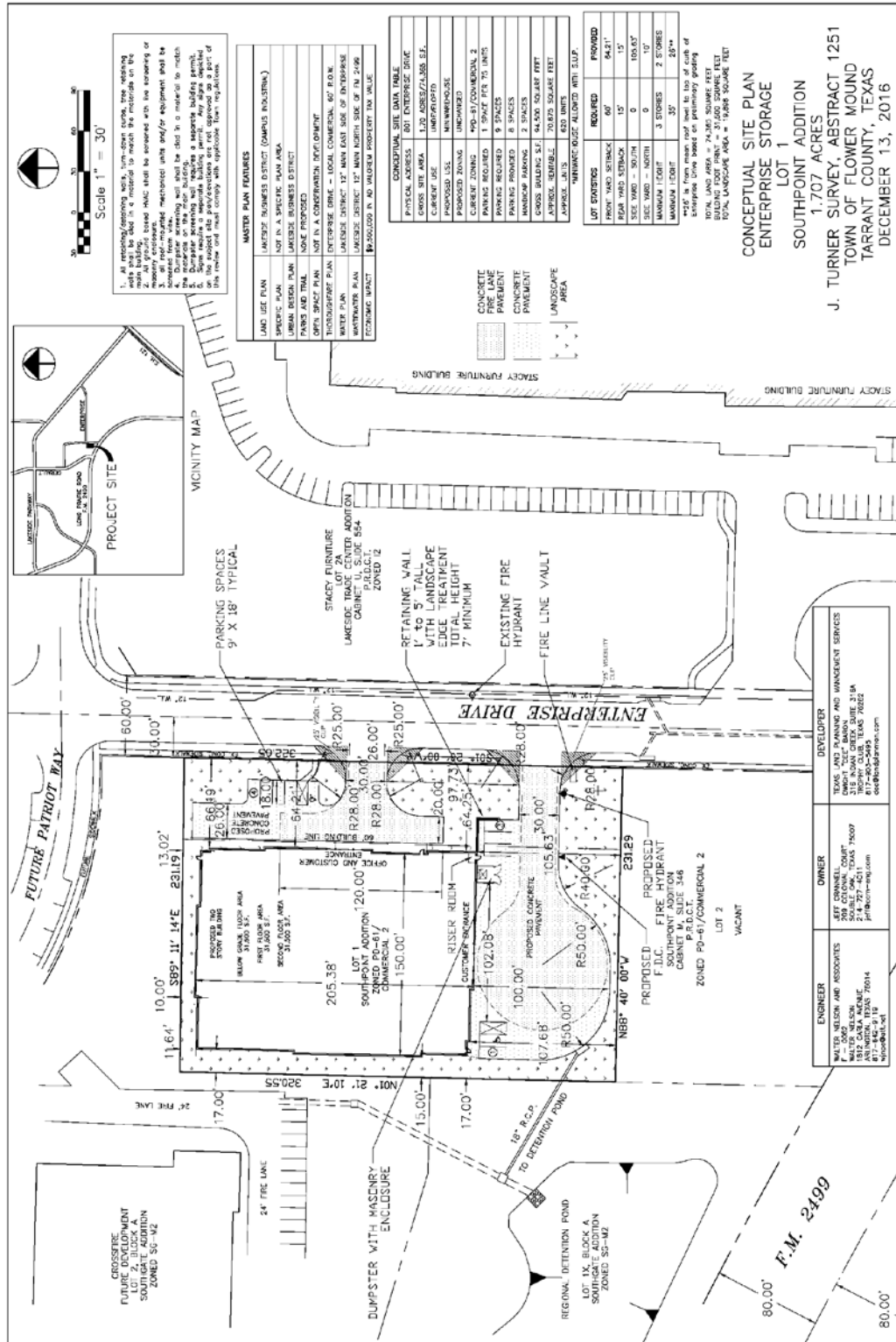
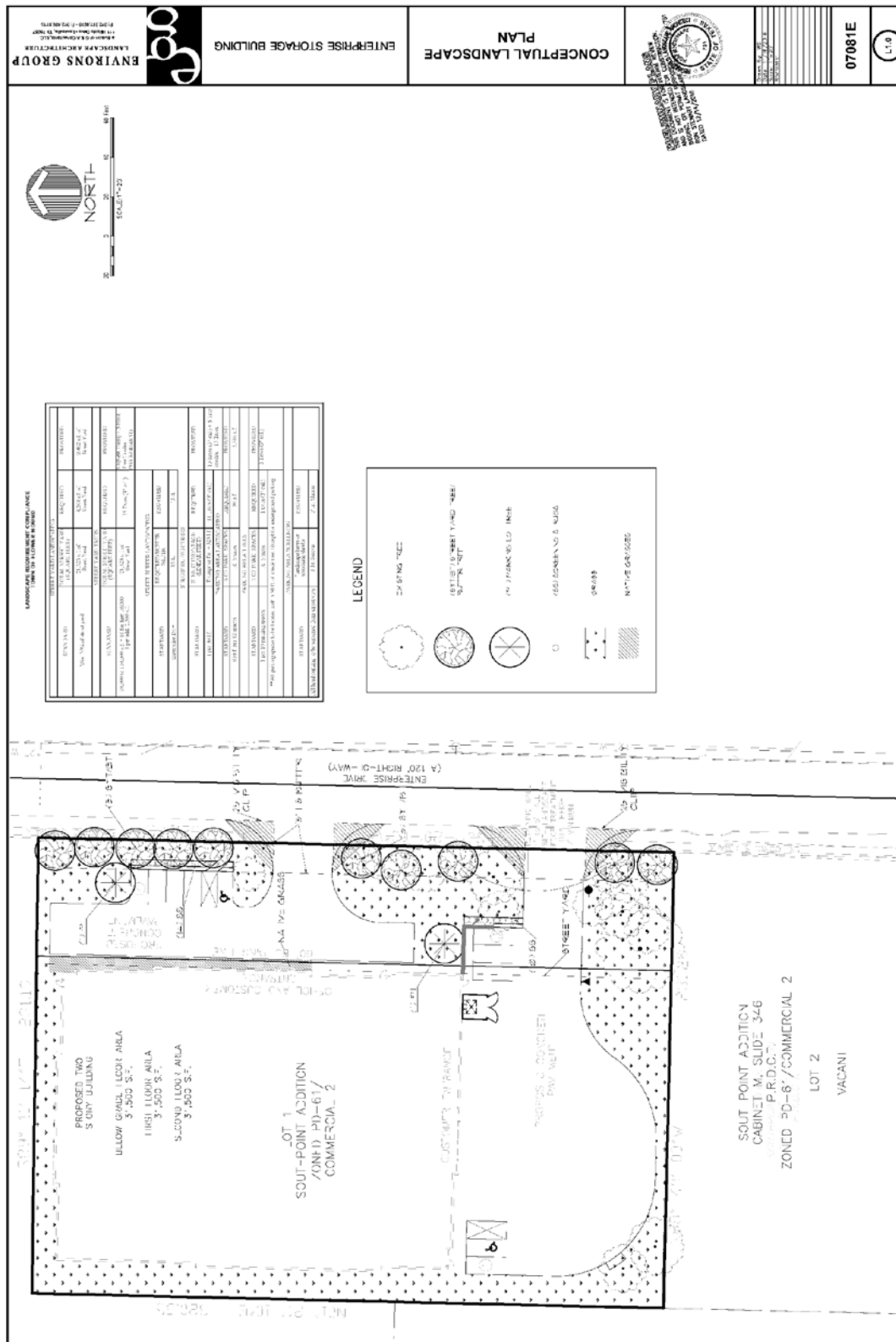
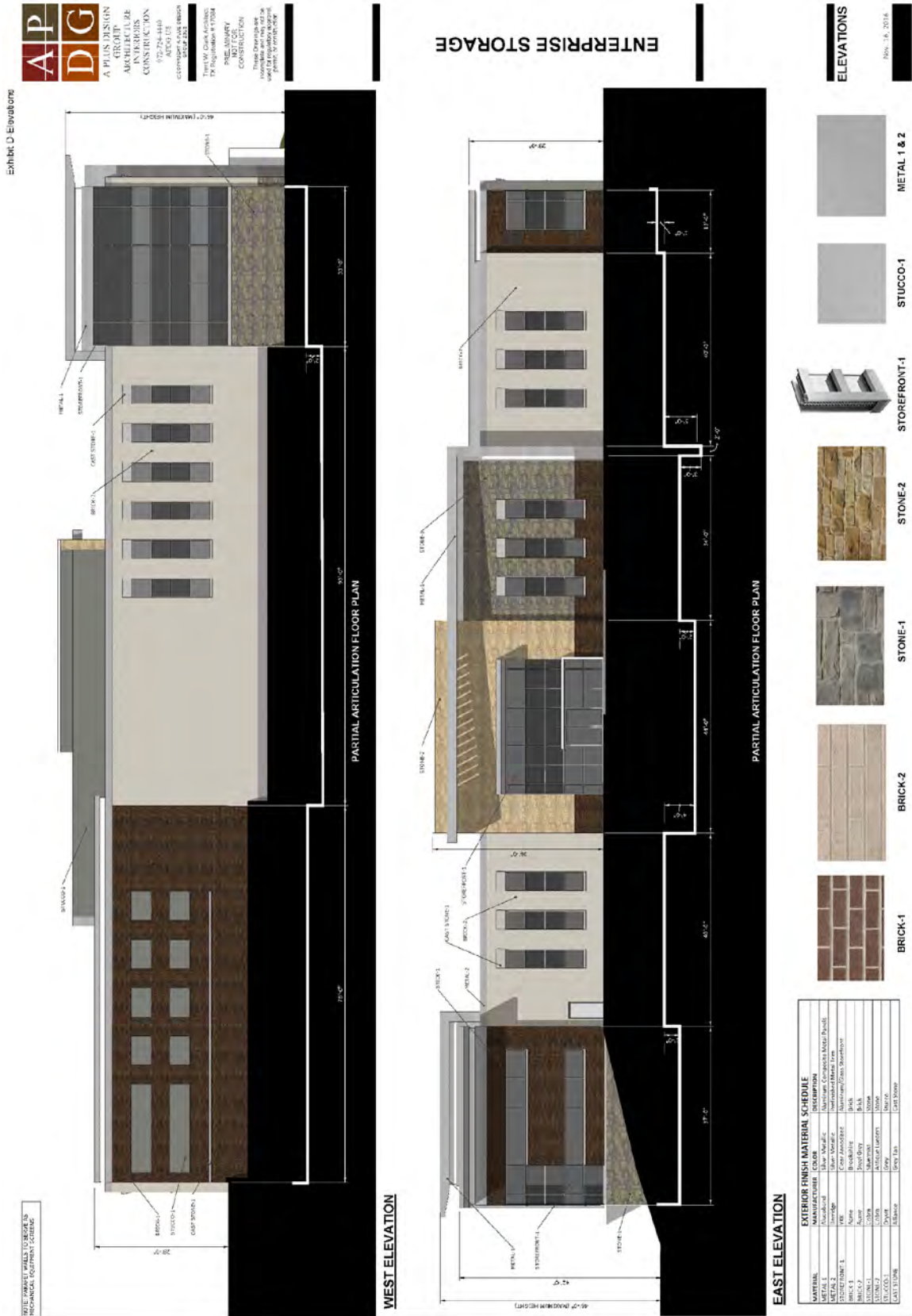


Exhibit B



Ordinance No. _____

Exhibit C



Ordinance No._____

Exhibit D-Elevations



**A PLAIN DESIGN
GROUP**
ARCHITECTURE
INTERIORS
CONSTRUCTION

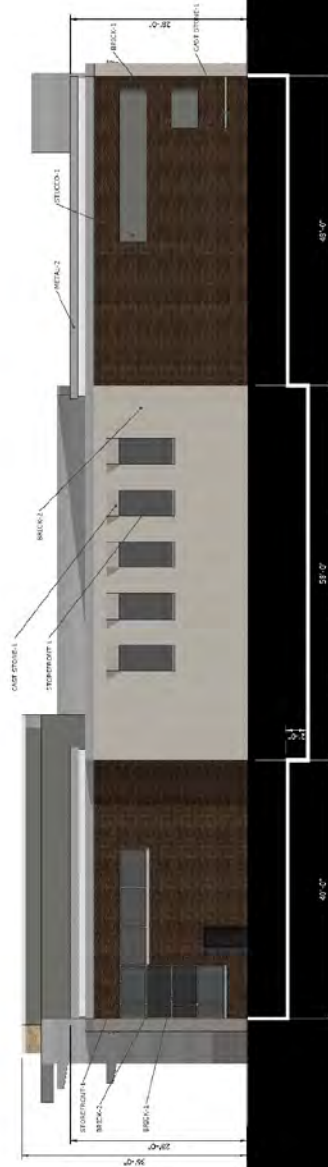
972-724-4460
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Trent W. Clark, Architect
TX Registration # 17084

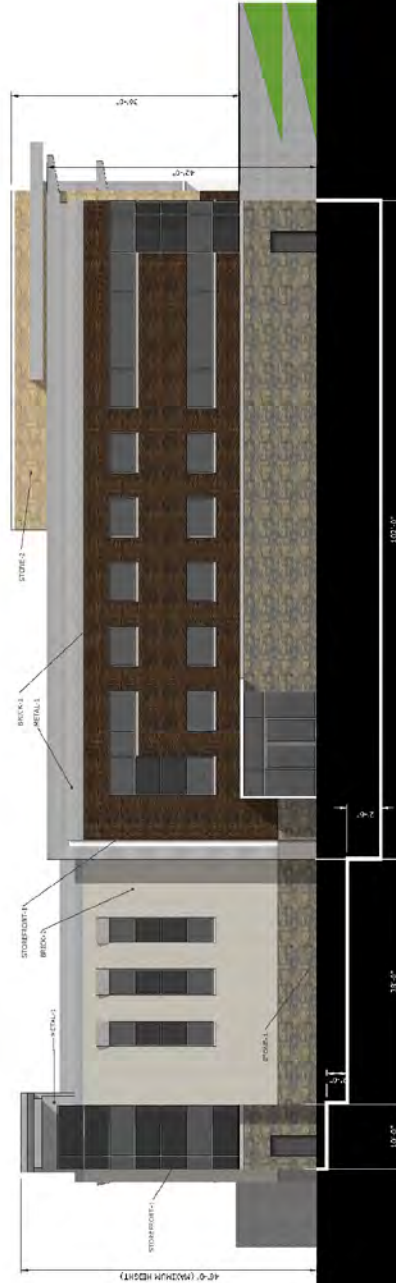
**PRELIMINARY
NOT FOR
CONSTRUCTION**

These Drawings are
incomplete and may not be
used for regulatory approval,
permit, or construction.



PARTIAL ARTICULATION FLOOR PLAN

PATRIOT WAY, NORTH ELEVATION



PARTIAL ARTICULATION FLOOR PLAN

FM 2499 VIEW, SOUTH ELEVATION

	North	South	Last	West
1 Total Expend	3,185	4,505	6,275	6,952
2 Roads (c. 19 percent)	2,875	4,050	4,225	5,662
3 Bridges	100	180	1,620	1,110
4 Docks and Wharves (c. 1 percent)	100	180	880	1,660
5 The Marginal Trains	1.8	1.8	3.2	1.1
6 Private Missionary Total (100 percent)	2,960	4,230	5,845	6,826
7 Roads (c. 100 percent)	2,700	3,870	3,742	5,100
8 Bridges	100	180	1,620	1,110
9 Docks and Wharves (c. 1 percent)	100	180	880	1,660
10 The Marginal Trains	1.8	1.8	3.2	1.1
11 Private Missionary Total (100 percent)	2,900	4,230	6,262	7,481
12 Roads (c. 100 percent)	2,700	3,870	3,742	5,100
13 Bridges	100	180	1,620	1,110
14 Docks and Wharves (c. 1 percent)	100	180	880	1,660
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202 Roads (c. 100 percent)	2,700	3,870	3,742	5,100
203 Bridges	100	180	1,620	1,110
204 Docks and Wharves (c. 1 percent)	100	180	880	1,660
205 The Marginal Trains	1.8	1.8	3.2	1.1
206 Private Missionary Total (100 percent)	2,900	4,230	6,262	7,481
207 Roads (c. 100 percent)	2,700	3,870	3,742	5,100
208 Bridges	100	180	1,620	1,110
209 Docks and Wharves (c. 1 percent)	100	180	880	1,660
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222 Roads (c. 100 percent)	2,700	3,870	3,742	5,100
223 Bridges	100	180	1,620	1,110
224 Docks and Wharves (c. 1 percent)	100	180	880	1,660
2				



DUMPSTER ELEVATIONS

Nov. 16, 2016

ELEVATIONS

ENTERPRISE STORAGE



TOWN COUNCIL AGENDA ITEM NO. 21 REGULAR ITEM

DATE: December 19, 2016

FROM: Poornima Srinarasi, Senior Planner

ITEM: Consider a request for a Site Plan (SP16-0009 – River Walk Amphitheater) to develop an outdoor amusement and recreation building. The property is generally located south of Royal Crescent Drive North and east of River Walk Drive. (*The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its December 12, 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

DRAFT MOTION: Move to approve a Site Plan (SP16-0009 – River Walk Amphitheater) to develop an outdoor amusement and recreation building.



PLANNING AND ZONING COMMISSION AGENDA ITEM NO: 7

DATE: December 12, 2016

FROM: Poornima Srinarasi, Senior Planner

ITEM: Consider a request for a Site Plan (SP16-0009 – River Walk Amphitheater) to develop an outdoor amusement and recreation building. The property is generally located south of Royal Crescent Drive North and east of River Walk Drive.

I. ITEM SUMMARY

This application has been reviewed by DRC and has been found to be in conformance with all applicable Town regulations.

The project has a companion Specific Use Permit application (SUP16-0003- River Walk Amphitheater and Splash Pad) for consideration on the same agenda. Approval of this site plan request is contingent upon approval of the SUP.

This application will require final action by the Town Council.

II. APPLICATION ANALYSIS

The purpose of this request is to obtain site plan approval to develop an amphitheater within the Town Center sub-district (TC) of The River Walk at Central Park. The subject property is 3.672 acres and is located just north of the restaurant row. Per the approved development standards for The River Walk at Central Park, the proposed amphitheater use best fits under amusement and recreation (outdoors) which requires Town Council approval of an SUP.

The amphitheater located at the eastern terminus of Central Park Avenue includes seating area that will accommodate approximately 2,800 people. A two-storied, 16,685-square-foot building wraps around a portion of the seating area along Royal Crescent Drive. This building includes office spaces for the River Walk Property Owner's Association, Flower Mound Police, ticket booths, concession serving area, and restrooms. On either side of this building are tall arched retaining walls with parapets and wrought-iron guardrails along the top. The seating steps down towards the center of the amphitheater which culminates into a 2,625-square-foot stage and a two-storied green room and storage area.

The landscape plan depicts trees planted within tree wells along the inner periphery of the amphitheater. There are 299 fixed seats, six wheel chair accessible spaces and artificial turf that can accommodate 2,500 people. The landscape plan also depicts trees, enhanced landscaping, and a fountain along the external periphery of the amphitheater. The architecture, building materials and color comply with The River Walk development standards.

Vehicular access to backstage is provided by an emergency access lane that extends from Restaurant Row, through the farmer's market and the splash pad area, and connects Royal Crescent Drive N and River Walk Drive. On November 9, 2015, the Planning and Zoning Commission approved a replat for The River Walk at Central Park to create lots necessary for the construction of the Chapel, Reception Hall, Restaurant Row, and podium parking. This replat also consists of a lot for the proposed amphitheater and the future farmer's market and splash-pad.

The parking for the proposed use is incorporated into the overall parking computation for the River Walk at Central Park development. An updated parking analysis was presented at the Town Council and Planning and Zoning Commission Joint Work Session on October 20, 2016.

On August 4, 2008, the Town Council established The River Walk at Central Park Central Business District (CBD), which included unique development standards, zoning sub-districts, design standards, parking requirements, sign regulations, street sections and concept plans. On January 15, 2015, the Town Council approved several amendments to The River Walk at Central Park CBD development standards and concept plans. The location of the amphitheater is consistent with the approved land use plan for The River Walk at Central Park.

III. ATTACHMENTS

A. Background Information

1. Vicinity Map
2. Letter of Intent

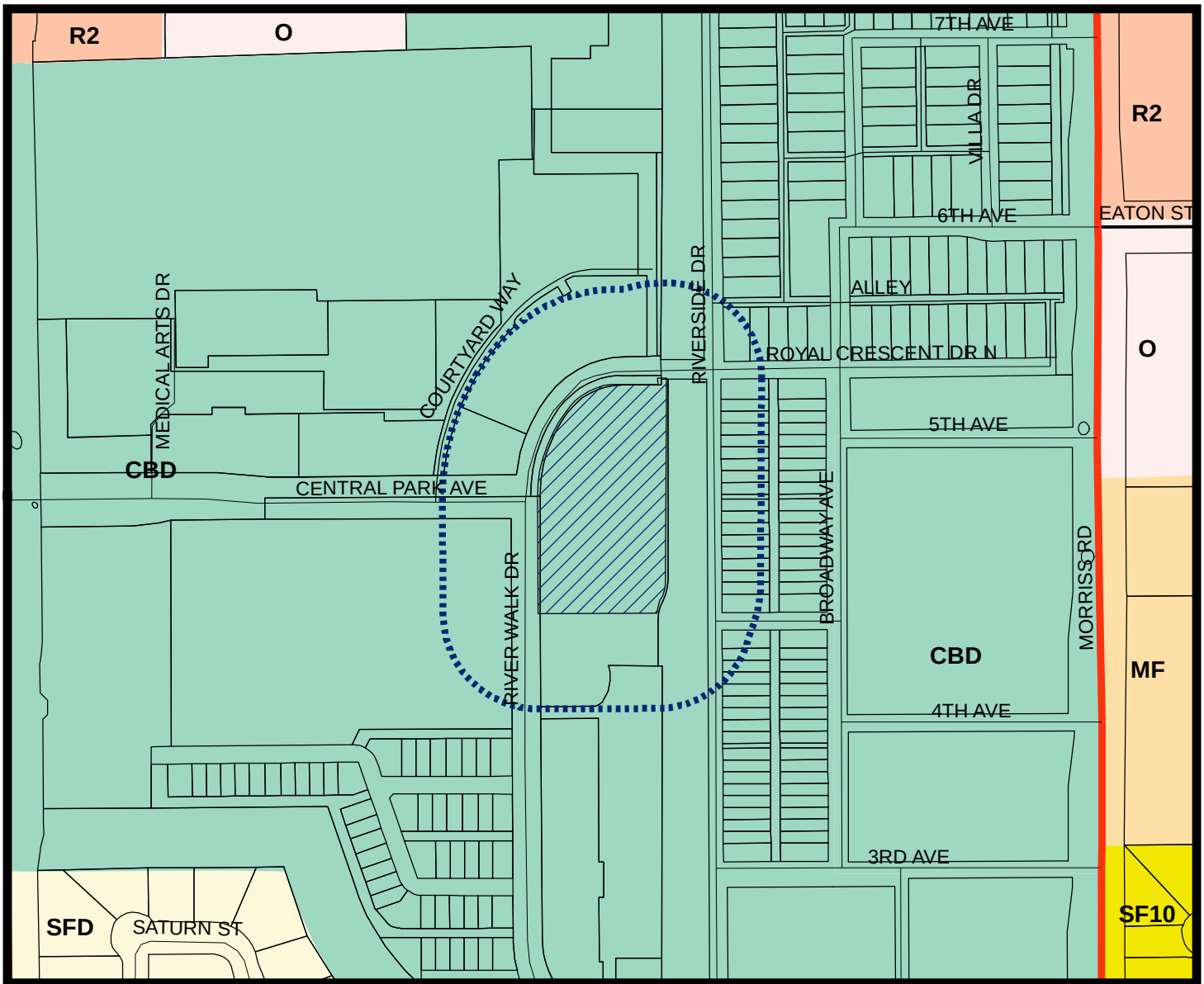
B. Application Details

1. Site Plan Package



Vicinity Map

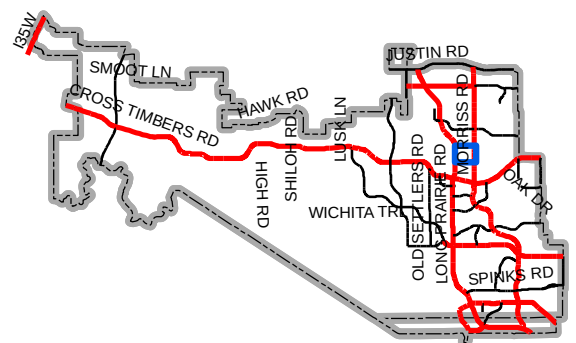
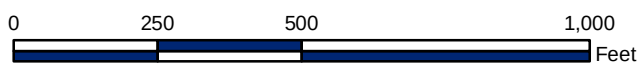
Reference Project: SUP16-0003 & SP16-0009



LEGEND

- Central Business District
- Multi-Family
- Office
- Retail 2
- Single Family 10
- Single Family Density

- Subject Property
- 200 ft Notification Buffer around Property



Map Location



December 6, 2016

Mr. Doug Powell
Executive Director of Development Services
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028

**RE: River Walk Amphitheater – Site Plan Application
G&A Job Number 15221A**

Dear Doug:

Please accept this letter, on behalf of our client, as an explanation of the proposed application. We are submitting, for review and approval, a Site Plan application for the River Walk Amphitheater. The property encompasses a majority portion of an approximately 3.7 acres tract along the River Walk Channel. The remainder of the lot contains the Farmer's Market buildings and Splash Pad area that has previously been submitted for review and approval.

The River Walk Amphitheater will be one of the major focal points of the River Walk property. Located at the eastern terminus of Central Park Avenue just north of the aforementioned Farmer's Market and Splash Pad and within the general area of Waterfront Alley (Restaurant Row). It will serve as a major gathering point for Flower Mound and the River Walk, both during events and when the stage is idle.

The main building along Royal Crescent Drive North is proposed to be two stories and will contain the property owner's association offices, ticket booths and a Police office. In addition there will be restroom facilities and various locations for caterers or Restaurants to bring in food to serve to guests during events. The architecture remains consistent to the descriptions within the developer's agreement and the other elements discussed therein can be found incorporated into the proposed building or around the general site.

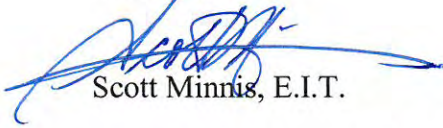
The stage area also remains consistent to the developer's agreement. It remains elevated above the surrounding guest seating areas and contains a back stage area for the performers and their equipment. Areas for lighting and sound equipment are also available on and around the stage as well as within and around the main building.

The Amphitheater will have seating for approximately 2,800 people. There are 299 fixed seats, designated seating areas for ADA, and the lawn seating area contains enough room for approximately 2,500 people, calculated using a generous average of 15 square feet per person.

The emergency access lane will be extended from Restaurant Row, through the Farmer's Market and Splash Pad area, to Royal Crescent Avenue North. This will also act as access to the back of the stage for the performers and their equipment deliveries.

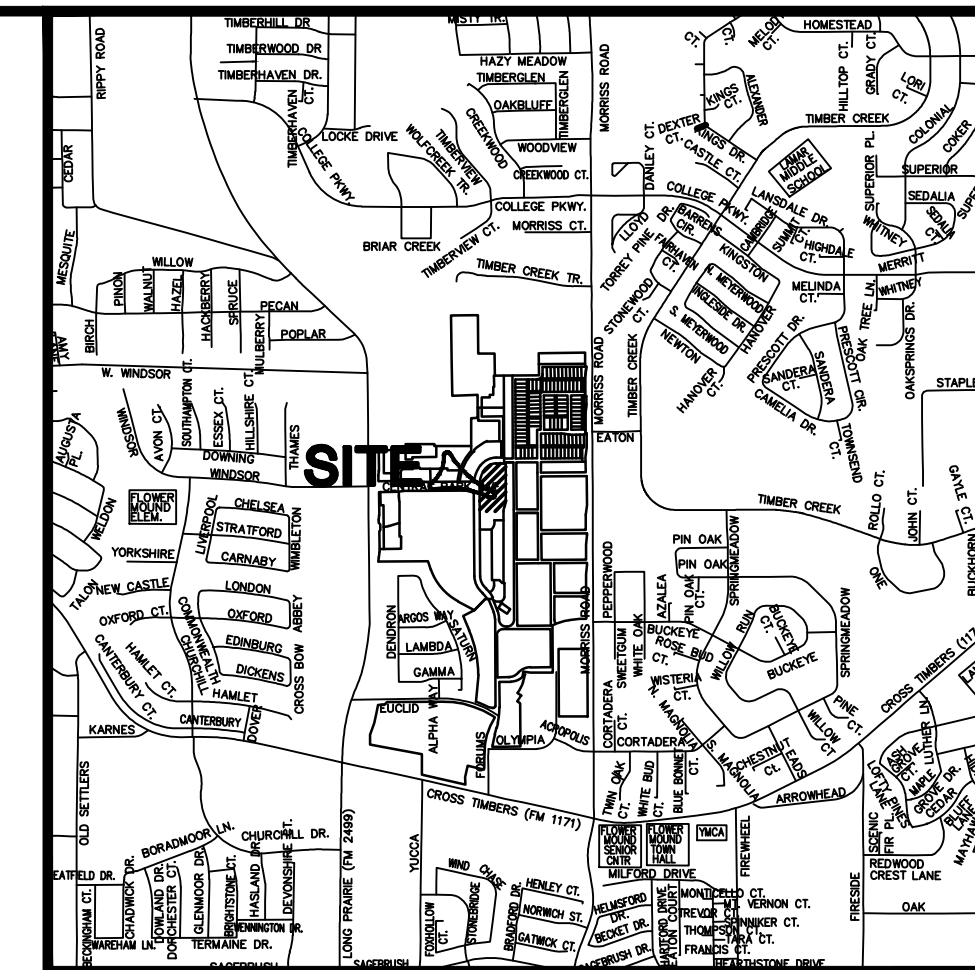
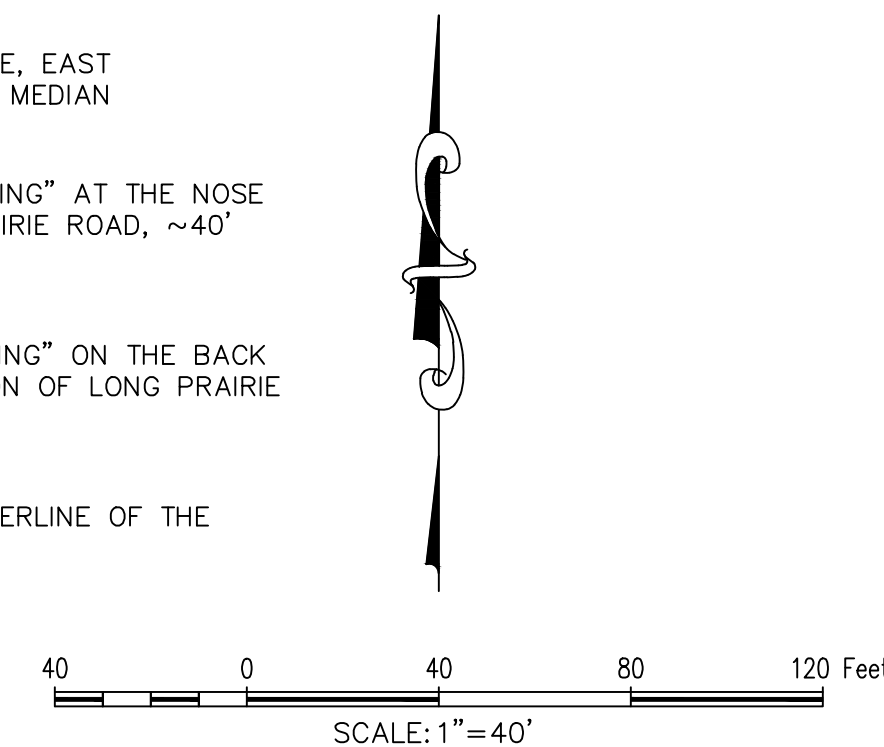
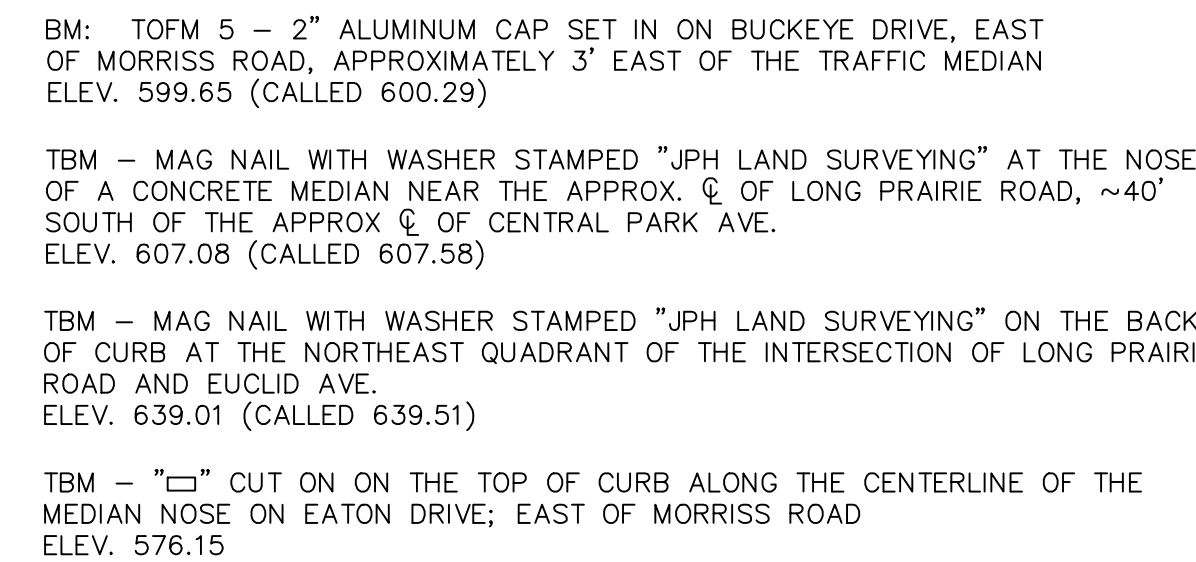
Please feel free to contact me if you have any questions or comments regarding this submittal.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott Minnis", with a long horizontal flourish extending to the right.

Scott Minnis, E.I.T.

cc. Mr. Robert J. Dollak, Jr, P.E.
Mr. Jack Dawson, MRW Investors, Inc.



Vicinity Map 1"=2000'

SITE DATA TABLE – AMPITHEATER		
Physical Address	TBD	
Gross Site Area	3,672 A; 159,952 SF	
Net Site Area	3,672 A; 159,952 SF	
Sub-District	Sub-District "A"	
Current Use	Vacant Property	
Lot Coverage		
Building Coverage		
Building 1	5,300 SF; $\pm 2.3\%$	
Building 2	1,900 SF; $\pm 1.2\%$	
Impervious Coverage	$\pm 60\%$	
Pervious Area	$\pm 40\%$	
Parking Summary – TRWCP or TownD		
	Required	Provided
Surface Parking		
Amphitheater – 1 space per 3 seats		
AMPITHEATER		
Building 1	0	0
Building 2	0	0
Existing On Street Parking	N.A.	0
Proposed On Street Parking	N.A.	0
Parking for Future Building	N.A.	0
Total Parking	0	0
Accessible Parking	0	0
Building 1 Data		
Height Zone	One Story	
Height (story/feet)	1 Story; 30' 0"	
Peak Height	0' 0"	
Mean Height	0' 0"	
Total Square Footage	8,100 SF	
Building 2 Data		
Height Zone	One Story	
Height (story/feet)	1 Story; 30' 0"	
Peak Height	0' 0"	
Mean Height	0' 0"	
Total Square Footage	1,900 SF	

NOTES:

1. CONTRACTOR IS TO CONTACT THE TOWN'S TREE ARBORIST PRIOR TO THE START OF CONSTRUCTION TO OBTAIN TREE PRESERVATION REQUIREMENTS DURING CONSTRUCTION.
2. ALL DIMENSIONS SHOWN ARE TO EDGE OF PAVEMENT OR BACK OF CURB UNLESS OTHERWISE NOTED.
3. ALL RADII ARE 3.0 FEET UNLESS OTHERWISE NOTED.
4. ALL PARKING SPOTS ARE 9.0' WIDE UNLESS OTHERWISE NOTED.
5. THE LOCATION OF THE EXISTING UTILITIES SHOWN IS APPROXIMATE. THE CONTRACTOR IS TO FIELD VERIFY LOCATION AND DEPTH PRIOR TO CONDUCTING ANY WORK.
6. THE SITE PLAN IS IN SUBSTANTIAL CONFORMANCE WITH THE APPROVED CONCEPTUAL PLAN FOR THE CENTRAL BUSINESS DISTRICT.
7. ALL RETAINING WALLS ARE TO BE CLAD IN A MATERIAL THAT MATCHES THE PROPOSED BUILDINGS.
8. THE TOWN OF FLOWER MOUND CONSTRUCTION STANDARDS APPLY WHETHER INDICATED ON THESE PLANS OR NOT.
9. ALL BUILDING MOUNTED UTILITY OR EQUIPMENT BOXES SHALL BE SCREENED FROM A STREET VIEW BY A MINIMUM SIX FOOT HIGH SCREENING DEVICE. WHETHER SHOWN IN THESE PLANS OR NOT. EACH SCREENING DEVICE SHALL CONSIST EITHER OF PLANT MATERIAL OR A SCREENING WALL CONSTRUCTED OF OR FINISHED WITH A MATERIAL TO MATCH THE BUILDING, PROVIDED HOWEVER THAT WOOD FENCING OR SCREENING SHALL BE PROHIBITED. THIS RELATES TO ONLY THE NORTHERN, SOUTHERN AND WESTERN BUILDING FACADES, SINCE THESE ARE THE ONLY FACADES ABUTTING A STREET.
10. SIGNS REQUIRE A SEPARATE BUILDING PERMIT. ANY SIGNS DEPICTED ON THE SITE PLAN OR ELEVATIONS ARE NOT APPROVED AS PART OF THE REVIEW AND MUST COMPLY WITH THE RIVER TOWN SIGNAGE REGULATIONS.
11. THE DUMPSITER SCREENING WALL SHALL BE CLAD IN A MATERIAL TO MATCH THE MATERIALS ON THE MAIN BUILDING.
12. THE ABBREVIATION CL= CENTER LINE.
13. THE ABBREVIATION EP=EDGE OF PAVEMENT.

RIVER WALK AMPHITHEATER
Lot 1XR, Block A
RIVER WALK AT CENTRAL PARK 1/2016

SITE PLAN AND DIMENSIONAL CONTROL PLAN

PRELIMINARY PLANS

THIS DOCUMENT IS FOR
INTERIM REVIEW AND IS
NOT INTENDED FOR
CONSTRUCTION, BIDDING,
OR PERMIT PURPOSES.
G&A CONSULTANTS, F-1798
ROBERT JOHN DOLLAK, JR.,
P.E. #86898
DATE 12/1/2016

Drawn By: SM
Date: 2/15/2016
Scale: 1"=40'
Revisions:
9/6/2016
10/17/2016

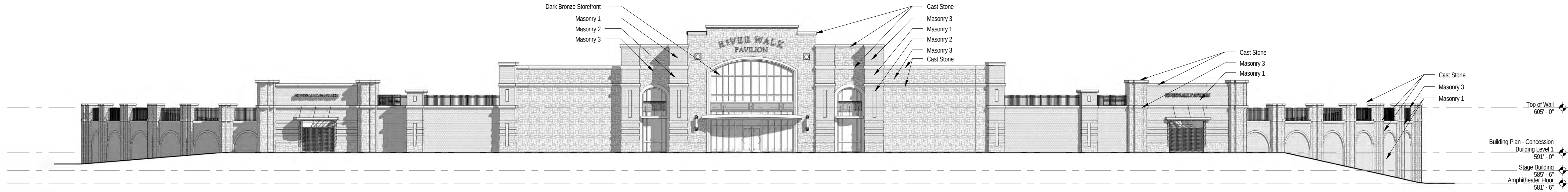
15221A

C4

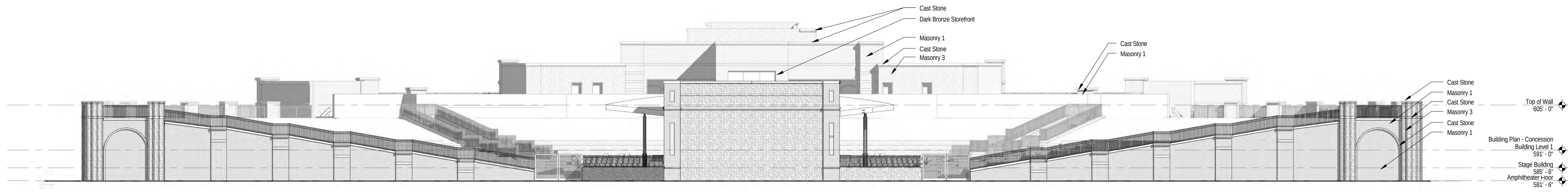
OWNER/DEVELOPER
MRW INVESTORS, INC
1800 VALLEY VIEW LANE, SUITE 300
FARMERS BRANCH, TEXAS 75324
Ph. 469-892-7200
Contact: MR. JACK DAWSON



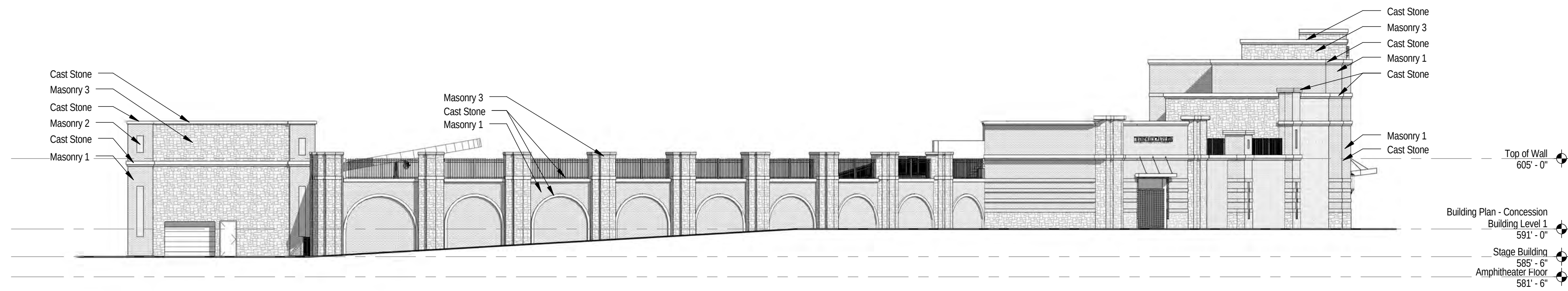
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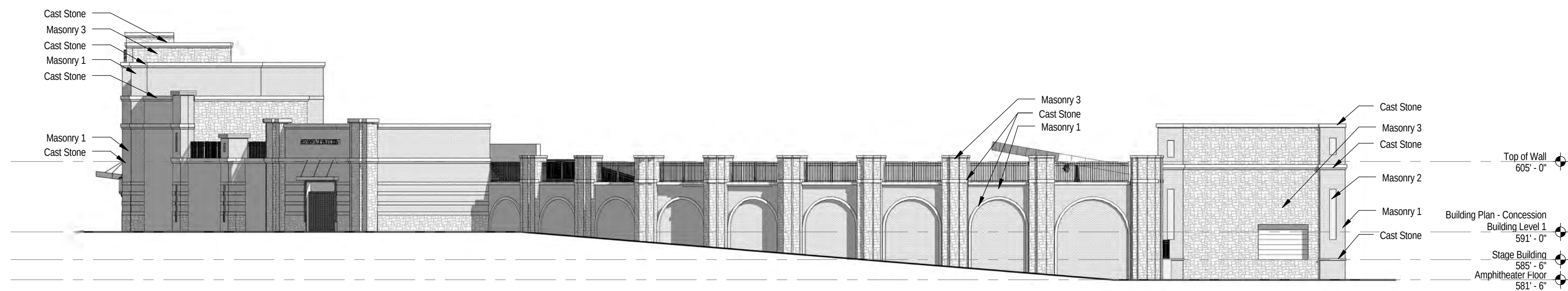
1 WEST ELEVATION
1/16" = 1'-0"



2 EAST ELEVATION
1/16" = 1'-0"



3 NORTH ELEVATION
1/16" = 1'-0"



4 SOUTH ELEVATION
1/16" = 1'-0"

Wall Material Takeoff	
Percentage of Area	Material: Description
EAST	
9%	Brick
91%	Stone
NORTH	
35%	Brick
65%	Stone
WEST	
10%	Brick
90%	Stone

100% MASONRY



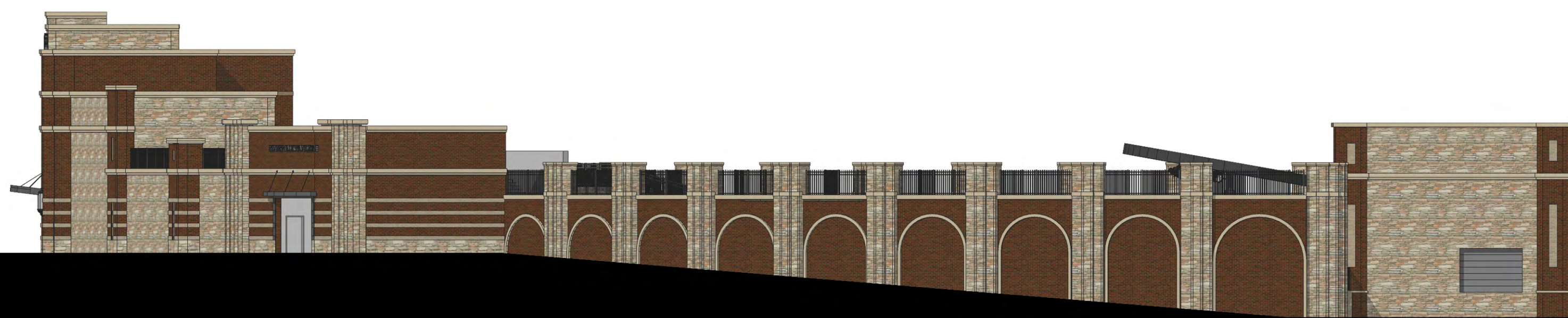
WEST ELEVATION



EAST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION

SCALE : 1/16" = 1'-0"

MATERIALS

- MASONRY 1 - ACME ROXBURY
- MASONRY 2 - ACME WEATHERWOOD GRAY
- MASONRY 3 - CHOPPED MILSAP
- CAST STONE - SAVANNAH
- STOREFRONT - DARK BRONZE

FLOWER MOUND
RIVER WALK

2015188
10.19.2016

CA
CENTURION AMERICAN

maa

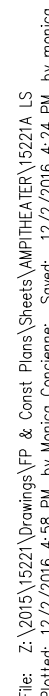












(LE) LACEBARK ELM
Ulmus parvifolia

(SHL) SKYLINE HONEY LOCUST
Gleditsia triacanthos
informal 'Skycole'

(PC) POND CYPRESS
Taxodium ascendens

(RB) RED BUD
Cercis canadensis var. *texensis*

(MAG) LITTLE GEM MAGNOLIA
Magnolia grandiflora 'Little Gem'

(MM) MAVERICK MESQUITE
Prosopis glandulosa 'Maverick'

(BPJ) BLUE POINT JUNIPER
Juniperus chinensis 'Blue Point'

(TJ) TAYLOR JUNIPER
Juniperus virginiana 'Taylor'

(WJ) WINTER JASMINE
Jasminum nudiflorum

(EGA) EDWARD GOUCHER ABELIA
Abelia x 'Edward Goucher'

(PCM) POCONOKE CRAPE MYRTLE
Lagerstroemia indica 'Poconoke'

(AMG) ADAGIO DWARF MAIDEN GRASS
Miscanthus sinensis 'Adagio'

(GM) GULF MUHLY
Muhlenbergia capillaris

(AUS) ANTHONY WATERER SPIREA
Spiraea x *bunaldia* 'Anthony Waterer'

(DL) DWARF LOROPETALUM
Loropetalum chinense var. *Rubrum* 'Daruma'

(BGG) BLUE GRAMA GRASS
Bouteloua gracilis 'Blonde Ambition'

(ISO) INLAND SEA OATS
Chasmanthium latifolium

(MF) MEXICAN FEATHER GRASS
Nassella tenuissima

(BM) BERMUDA 80D

(BJ) BUFFALO JUNIPER
Juniperus sabina 'Buffalo'

(PW) PURPLELEAF WINTERCREEPER
Euonymus fortunei 'Coloratus'

(BES) BLACK-EYED SUSAN
Rudbeckia triloba

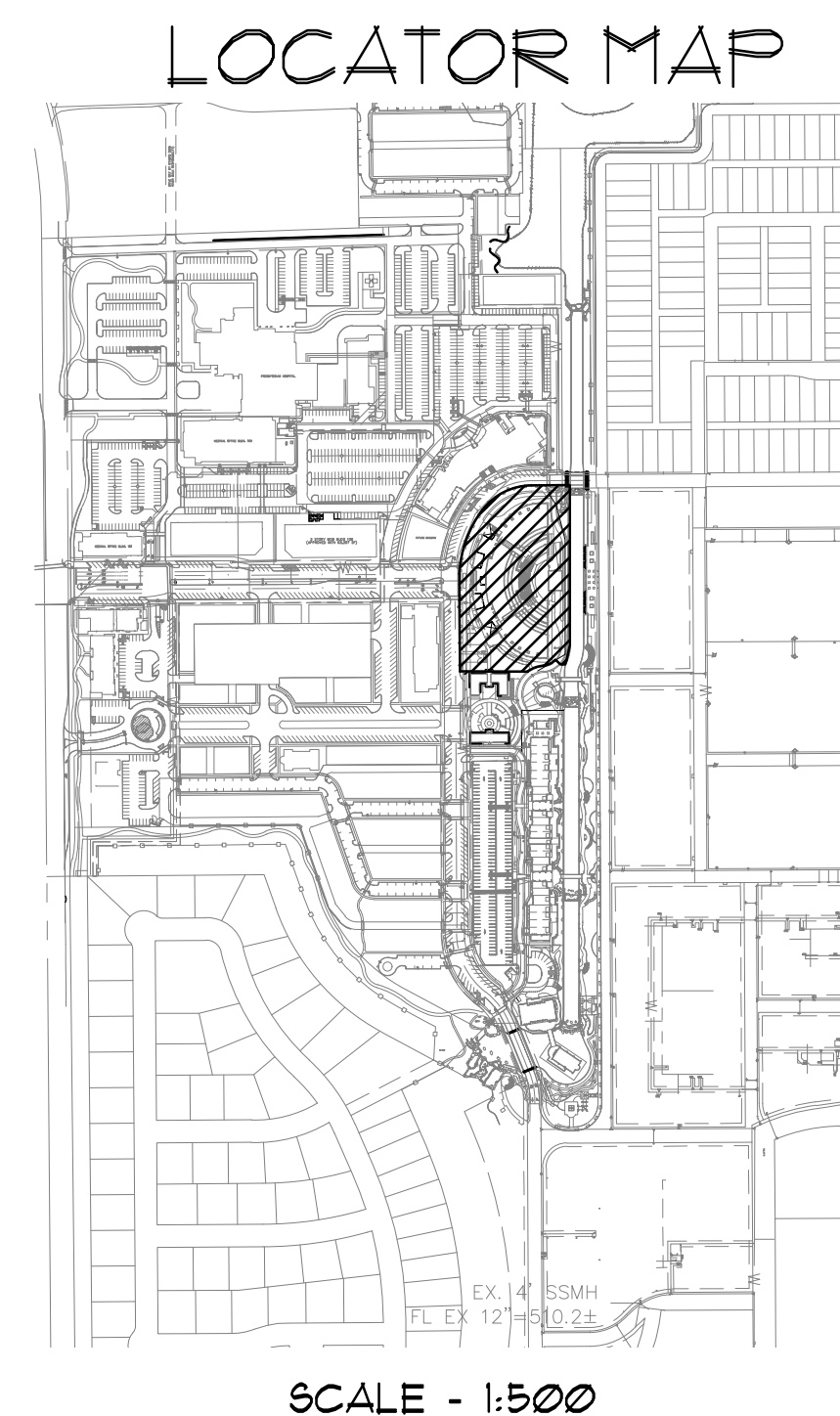
(PCF) PURPLE CONEFLOWER
Echinacea angustifolia

(WL) WEEPING LOVEGRASS
Eragrostis curvula

(LIRIOPE) LIRIOPE
Liriope muscari

SEASONAL COLOR

ARTIFICIAL TURF
TEL. FESCUE PRO
by Texas Elite Landscaping
Contact: Chad Harris
ph: 409-298-1762
email: chad@texaselitelandscaping.com



QUANT.	COMMON NAME	BOTANICAL NAME	SIZE	MIN. HT.	SPACE	REMARKS
27	LACEBARK ELM	Ulmus parvifolia	6"	10'-12'	Per Plan	Single Trunk
3	BALD CYPRESS	Taxodium distichum	3"	10'-12'	Per Plan	Single Trunk
4	SKYLINE HONEY LOCUST	Gleditsia triacanthos inermis 'Skycole'	3"	10'-12'	Per Plan	Single Trunk
3	POND CYPRESS	Taxodium ascendens	3"	1'-8'	Per Plan	Single Trunk
6	RED BUD	Cercis canadensis	30gal.	1'-8'	Per Plan	Multi Trunk
14	LITTLE GEM MAGNOLIA	Magnolia grandiflora	30gal.	1'-8'	Per Plan	Full
6	MAVERICK MESQUITE	Prosopis glandulosa 'Maverick'	30gal.	1'-8'	Per Plan	Full
2	BLUE POINT JUNIPER	Juniperus chinensis 'Blue Point'	30gal.	6'-8'	Per Plan	Single Trunk
22	TAYLOR JUNIPER	Juniperus virginiana 'Taylor'	30gal.	1'-8'	Per Plan	Full
37	EDWARD GOUCHER ABELIA	Abelia x 'Edward Goucher'	5gal.	30"	42"	Full
73	ADAGIO MAIDEN GRASS	Miscanthus sinensis 'Adagio'	5gal.	30"	42"	Full
3	WINTER JASMINE	Jasminum nudiflorum	5gal.	30"	Per Plan	Full
180	ANTHONY WATERER SPIREA	Spiraea x bumalda 'Anthony Waterer'	3gal.	24"	3'-0"	Full
156	POCOMOKE CRAPE MYRTLE	Lagerstroemia indica 'Pocomoke'	5gal.	30"	3'-0"	Full
240	PINK MUHLY	Muhlenbergia capillaris	3gal.	18"	3'-0"	Full
61	PURPLE LOROPETALUM	Loropetalum chinense	5gal.	24"	3'-0"	Full
114	BLUE GRAMA GRASS	Bouteloua gracilis	1gal.	12"	12"	Full
12	INLAND SEA OATS	Chasmanthium latifolium	1gal.	12"	12"	Full
642	WEeping LOVEGRASS	Eragrostis curvula	1gal.	12"	24"	Full
114	PURPLE WINTER CREEPER	Euonymus fortunei 'Coloratus'	1gal.	6"	12"	Full
4	BUFFALO JUNIPER	Juniperus sabinia 'Buffalo'	5gal.	30"	4'-0"	Full
9	PURPLE CONEFLOWER	Echinacea angustifolia	1gal.	9"	12"	Full
71	BLACK-EYED SUSAN	Rudbeckia triloba	1gal.	9"	12"	Full
119	LIRIOPE	Liriope muscari	4"pot.	9"	12"	Full
5	ICE PLANT	Delosperma cooperi	1gal.	6"	12"	Full
80	MEXICAN FEATHER GRASS	Nassella tenuissima	3gal.	18"	3'-0"	Full
501	SEASONAL COLOR		4"pot	4"-6"	12"	Full

Lower
g Services

PRELIMINARY
THIS DOCUMENT IS FOR
AND IS NOT INTENDED
FOR CONSTRUCTION.
BIDDING, OR PERMIT
JAMESON PINSON LAN
DATED 12/2/2016

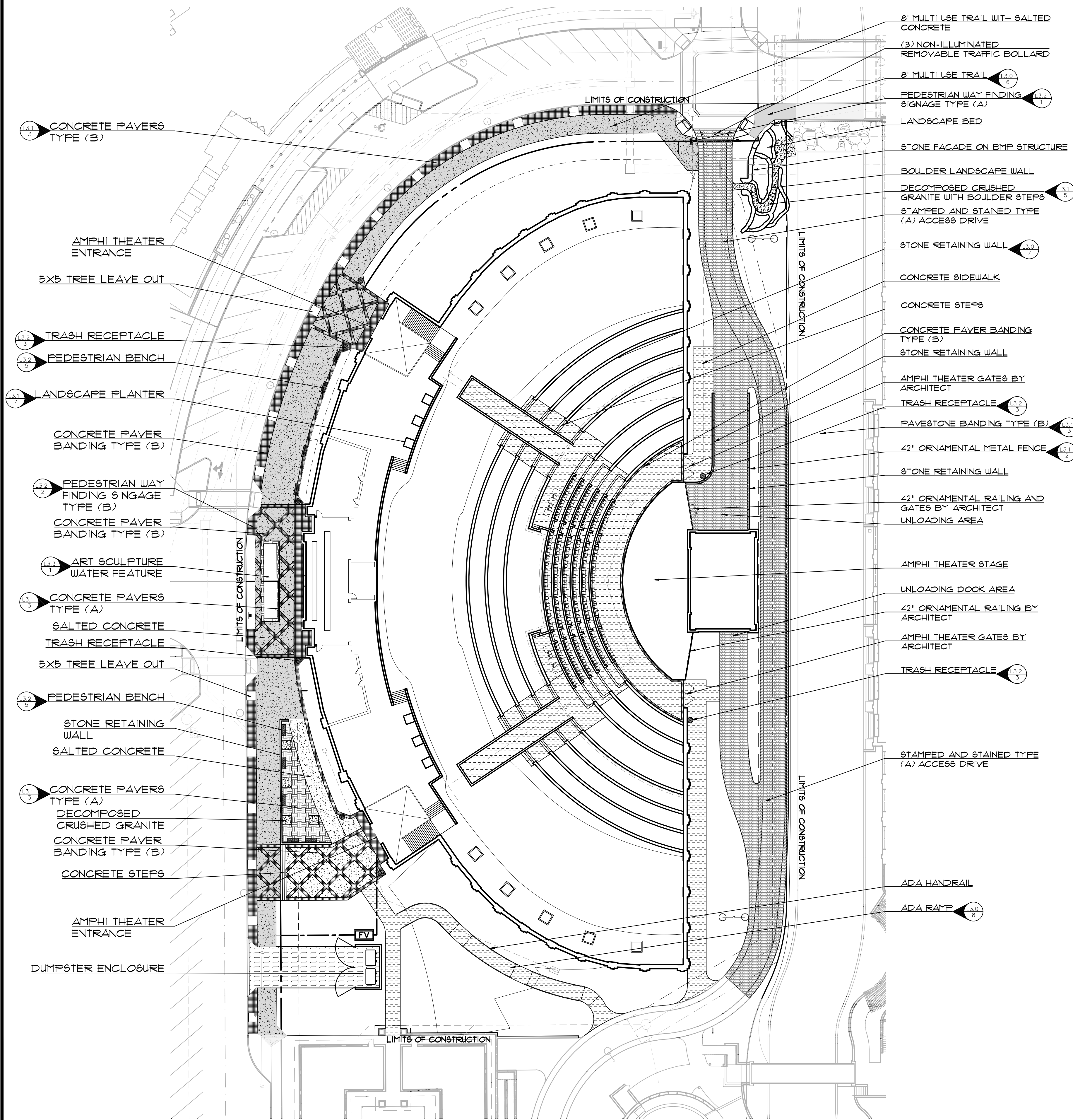
PLANS
FOR CONSTRUCTION.
PROPOSED LANDSCAPE ARCHITECT
JAMESON P. PINSON
2826
STATE OF TEXAS



THE RIVER WALK
AT CENTRAL PARK

LANDSCAPE PLAN

L1.0



LEGEND

(A) STAMPED AND STAINED PATTERN CONCRETE
6" 3600 PSI COLORED CONC. PAVEMENT
W/ #3 BARS AT 18" O.C.E.W. ON SUB-BASE
COMPACTED TO 95% PROCTOR DENSITY.
PATTERN - OLD WORLD BELGIUM BLOCK, COLOR -
SLATE (BASE COLOR); GRAY (RELEASE COLOR)
FINISHED WITH SEALER

MULTI USE TRAIL:
5" 3600 PSI CONC. PAVEMENT W/ #3 BARS @ 18"
O.C.E.W. ON SUB-BASE COMPACTED TO 95% STD.
PROCTOR DENSITY.

SALTED MULTI USE TRAIL:
5" 3600 PSI CONC. PAVEMENT W/ #3 BARS @ 18"
O.C.E.W. ON SUB-BASE COMPACTED TO 95% STD.
PROCTOR DENSITY.

SALTED CONCRETE:
4" 3600 PSI CONC. PAVEMENT W/ #3 BARS
@ 18" O.C.E.W.

DECOMPOSED CRUSHED GRANITE MULCH
REF. L3.1, DETAIL 5

(A) HOLLAND STONE -
PATTERN - BASKET WEAVE
COLOR - MILBAP
REF. L3.1, DETAIL 3 FOR INSTALLATION SPECS.

(B) PAVESTONE, VENETIAN STONE - 6x6, 6x8
PATTERN - STACKED
COLOR - MILBAP
REF. L3.1, DETAIL 3 FOR INSTALLATION SPECS.

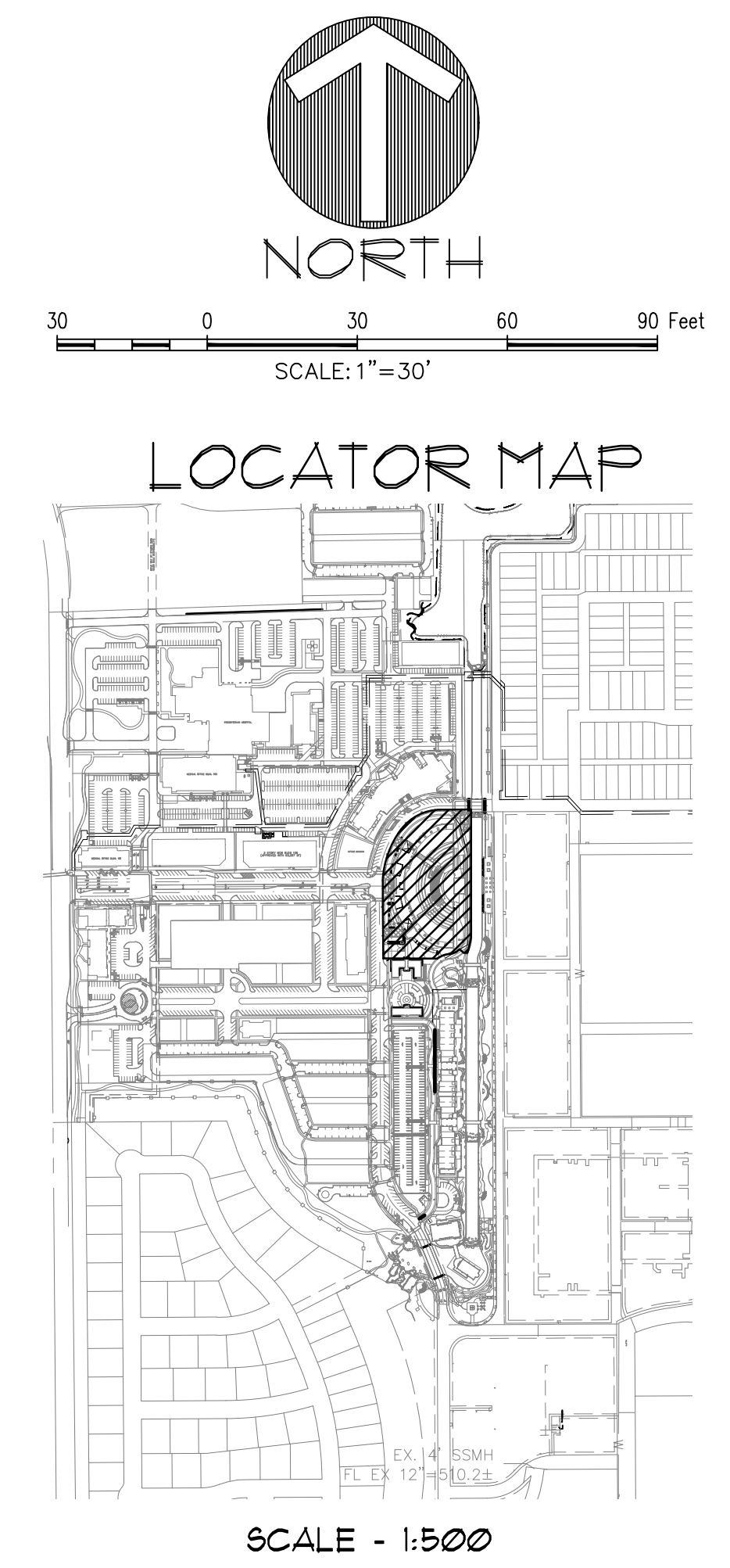
SIDEWALK AREA:
4" 3600 PSI CONC. PAVEMENT W/ #3 BARS
@ 18" O.C.E.W.

LOADING AND DUMPSTER AREAS:
8" 3600 PSI CONC. PAVEMENT W/ #3 BARS AT 18"
O.C.E.W. ON SUB-BASE COMPACTED TO 95% STD.
PROCTOR DENSITY

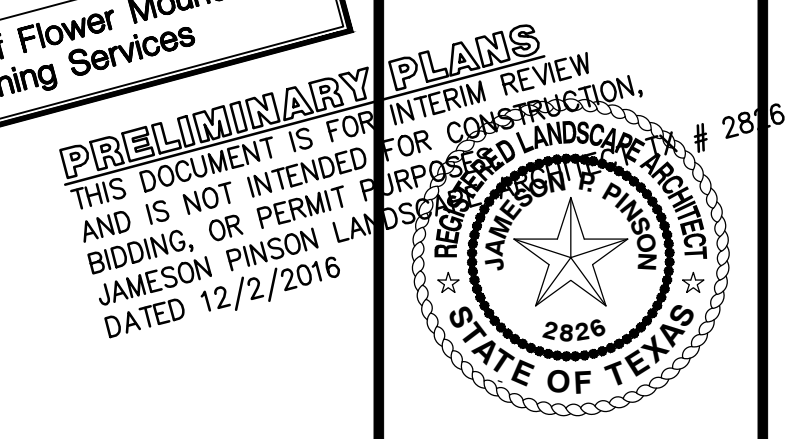
△ PATTERN AND COLOR PER PAVESTONE OF DALLAS
CONTACT: ALAN STARLING
3215 STATE HIGHWAY 360
GRAPEVINE, TX 76051
817-419-5502

○ *PATTERNED CONCRETE OF DALLAS
RICK BIERNACKI
PO BOX 122068 / 321 EAST HIGHWAY 121
LEWISVILLE TEXAS 75057
PHONE: 972.434.2501

NOTE: FOR ALTERNATE PAVEMENT MATERIAL ONLY
SALTED CONCRETE
-For best results, use salt crystals 1/8 to 3/8 inch in size and
press them into the surface to a depth about half of their
diameter. Avoid producing indents larger than 1/4 inch.
-To achieve the most distinct salt imprint, give the concrete a
smooth finish before applying the salt particles.
-Apply at a rate of 8 pounds per 100 s.f. The most important
thing is to distribute the salt evenly across the surface, so make
sure you have access to the entire slab.
-Start working the salt crystals into the concrete when the
concrete is just beginning to set.
-When washing the salt away after 24-36 hours, remove all traces
to prevent surface discoloration.
-Don't apply sealer until the concrete surface and the small
recesses left behind by the salt dry out completely.



REVIEWED
TOWN OF FLOWER MOUND
Released for Construction
Date _____
Town of Flower Mound
Planning Services



OWNER/DEVELOPER
MRW INVESTORS, INC
1800 VALLEY VIEW LANE, SUITE 300
FARMERS BRANCH, TEXAS 75324
Ph. 469-682-7200
Contact: MR. JACK DAWSON

THE RIVER WALK
AT CENTRAL PARK

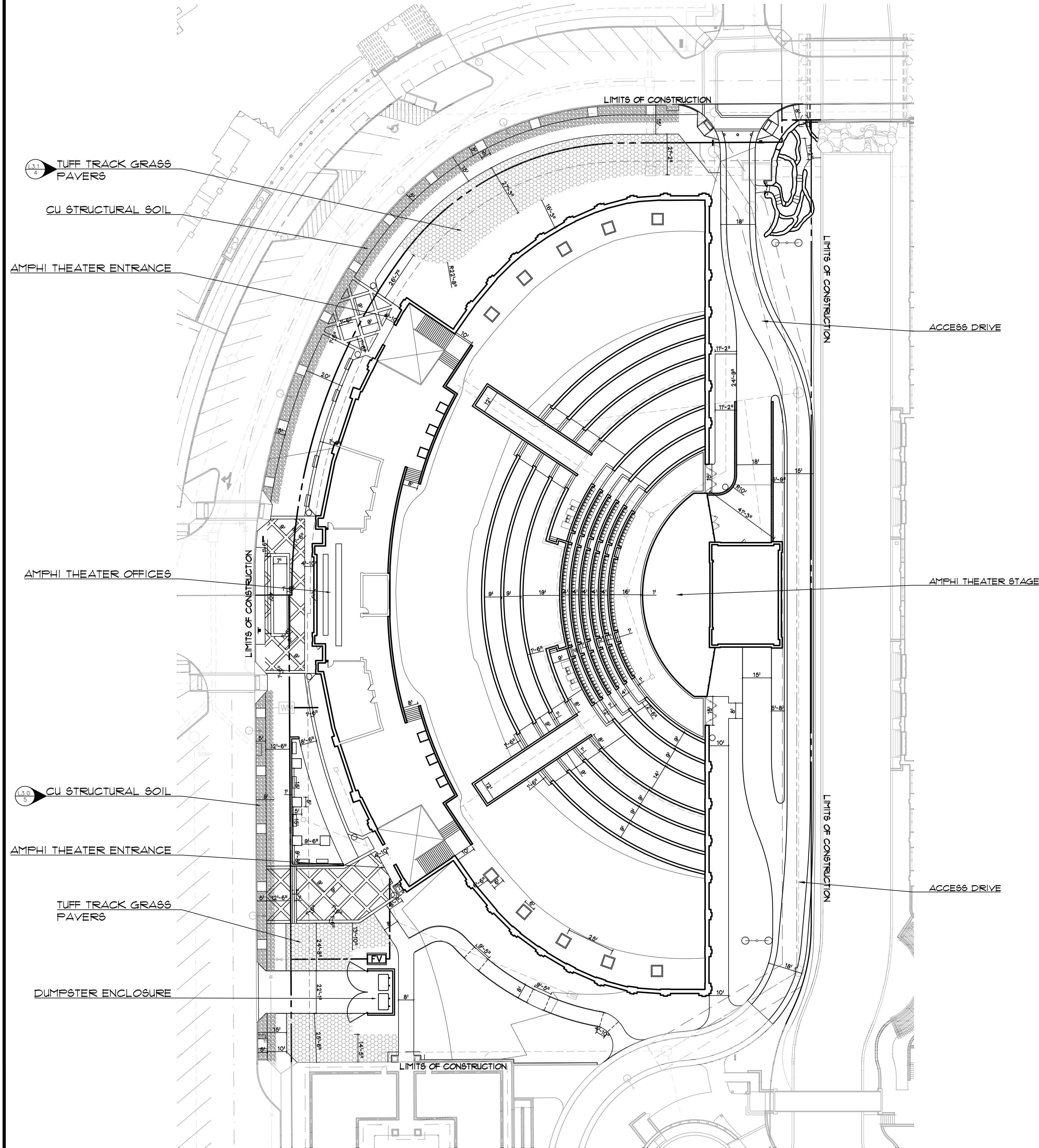
ENVIRONS GROUP
LANDSCAPE ARCHITECTURE
a division of G & A Consultants, LLC
111 Hillside Drive • Lewisville, TX 75057
P: 972.317.0276 • F: 972.538.9715

RIVER WALK AMPHITHEATER
Lot 1X, Block A
RIVER WALK AT CENTRAL PARK 1/2016
3.672 Acres
in the
CHACON SURVEY, ABSTRACT NO. 299
TOWN OF FLOWER MOUND
DENTON COUNTY, TEXAS

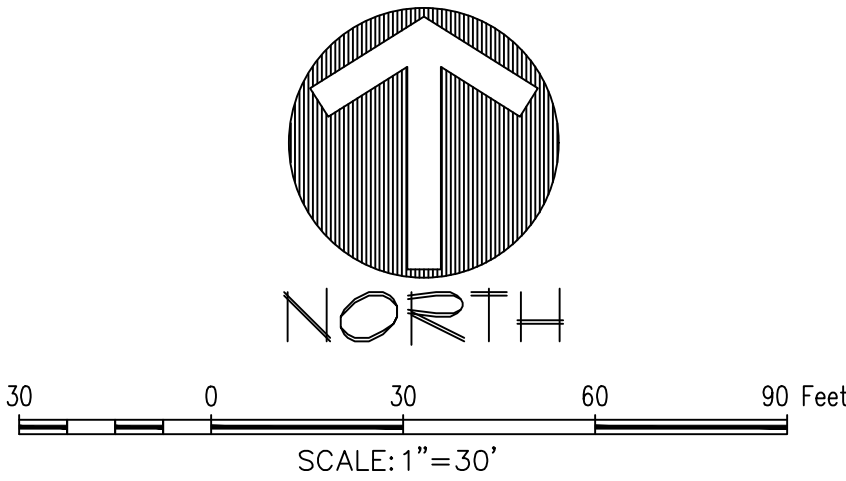
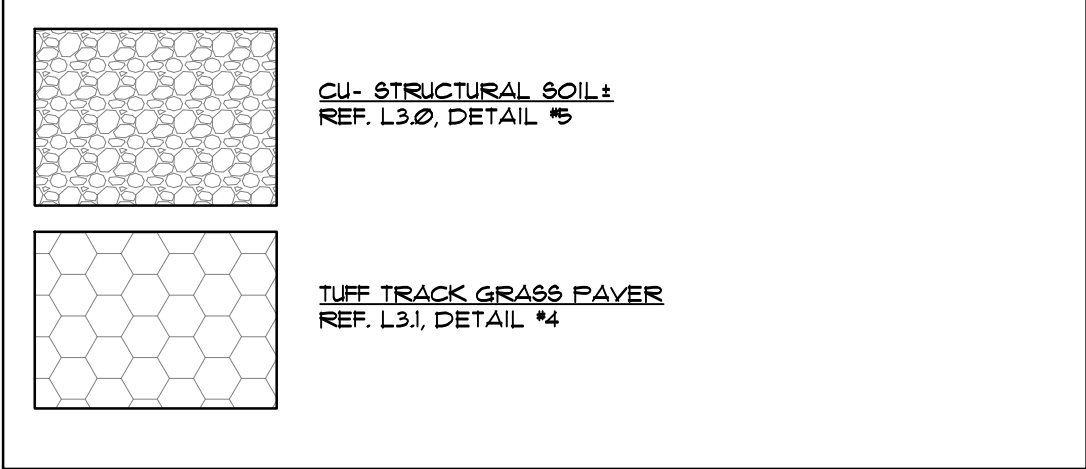
HARDSCAPE PLAN

15221A

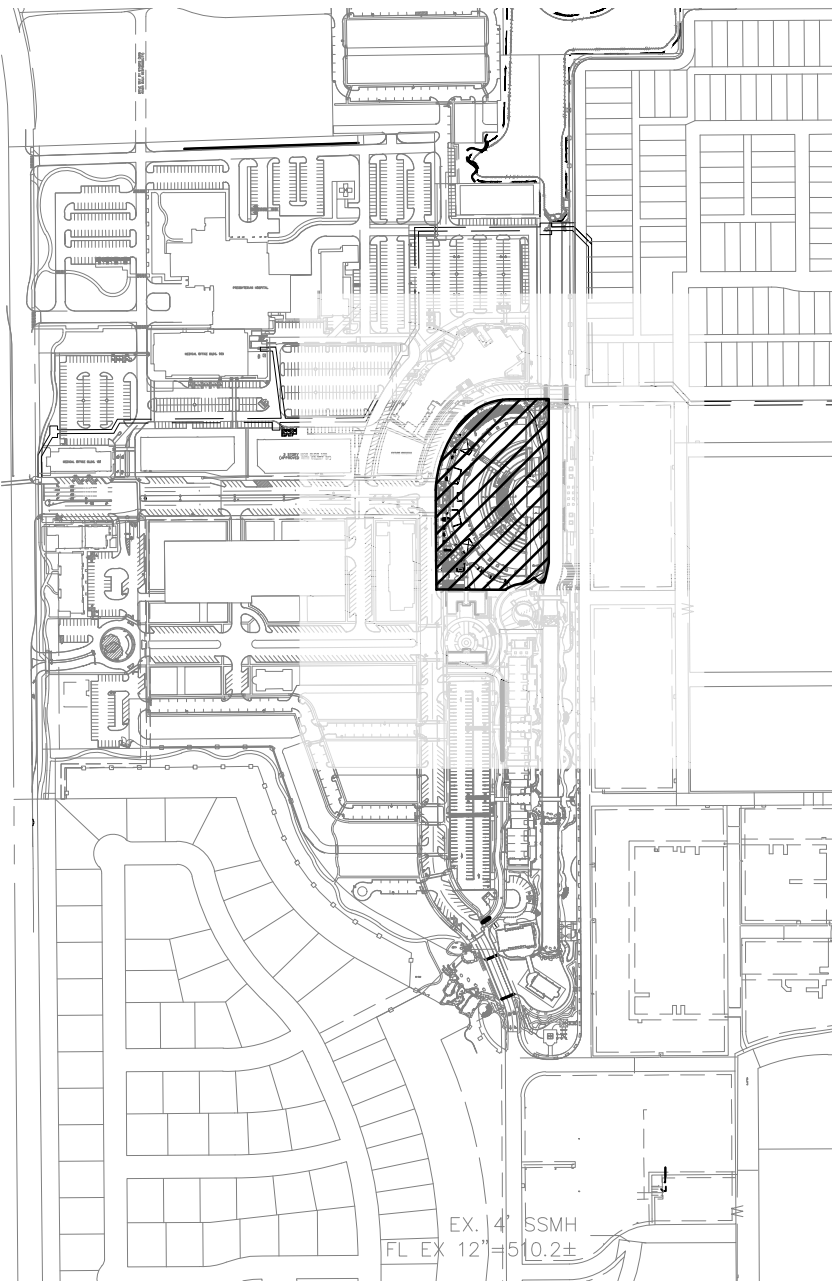
L2.0



LEGEND



LOCATOR MAP



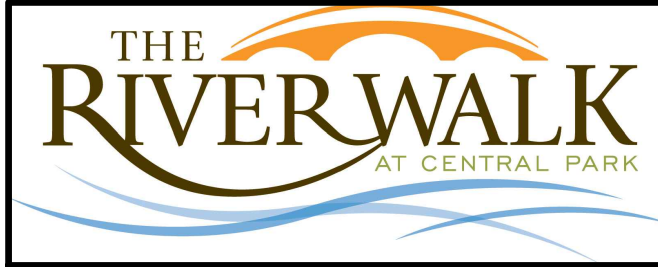
SCALE - 1:500

REVIEWED
TOWN OF FLOWER MOUND
Released for Construction
Date _____
Town of Flower Mound
Planning Services

PRELIMINARY PLANS
THIS DOCUMENT IS FOR INTERIM REVIEW
AND IS NOT INTENDED FOR CONSTRUCTION,
BIDDING, OR PERMIT PURPOSES. LANDSCAPE
JAMESON PINSON LANDSCAPE ARCHITECTS, P.C.
DATED 12/2/2016



OWNER/DEVELOPER
MRW INVESTORS, INC
1800 VALLEY VIEW LANE, SUITE 300
FARMERS BRANCH, TEXAS 75324
Ph. 469-682-7200
Contact: MR JACK DAWSON



RIVER WALK AMPHITHEATER
Lot 1XR, Block A
RIVER WALK AT CENTRAL PARK 1/2016
3.672 Acres
in the
C. CHACON SURVEY, ABSTRACT NO. 299
TOWN OF FLOWER MOUND
DENTON COUNTY, TEXAS

CU STRUCTURAL SOIL PLAN

15221A

L2.1



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1. Plant material shall be measured and sized according to the latest edition of the Texas Nursery and Landscape Association (TNLA) grades and standards.
2. All plant beds shall be top-dressed with a minimum of 3 inches of hardwood or other mulch.
3. Trees shall be planted at least 4 feet from utility line, curb, walk, fire connection, and outside all utility easements.
4. Trees overhanging walks and parking shall have a minimum clear trunk height of 7 ft.
5. A visibility triangle must be provided at all intersections. Shrubs are not to exceed 30 inches in height. Trees shall have a minimum clear trunk height of 9 feet.
6. The owner, tenant, and/or their agents, if any, shall be jointly and severally shall be responsible for the maintenance, establishment, and permanence of plant material. All landscaping shall be maintained in a neat and orderly manner at all times. This shall include but not limited to, mowing, edging, pruning, maintaining, fertilizing, watering, and other activities necessary for the maintenance of landscaped areas.
7. All plant material shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Plant material that is damaged, destroyed, or removed shall be replaced with plant material of similar size and variety within 30 days unless otherwise approved in writing by the Town of Flower Mound.
8. Before construction, landscape contractor and general contractor shall verify and locate all existing utilities in areas of excavation.
9. Please refer to all landscape and irrigation specifications.
10. All landscape beds and turf areas to be separated with edging.
11. All landscape beds to be 6" below finished floor.
12. All hydromulch or sod areas to be brought to +/- 1/4" by site grading contractor. Landscape contractor to bring all areas to final grade and remove all clod, rocks or debris 3" in diameter.
13. All landscape beds to be 100% irrigated. The irrigation system shall be installed with Drip lines of existing trees to be hand dug, and line to be installed in a radial fashion toward the trunk.
14. Please note that the permeable areas under the drip line of specimen and protected trees should be left at natural grade. No cutting or filling are to occur in these areas.
15. All areas of grading disturbance are to have grass reestablished at 75% coverage prior to letter of acceptance from the Town of Flower Mound. Weeds and bare ground grass establishment and application of water for grass establishment are at the discretion of the owner and contractor.



- GENERAL NOTES:

1. GRADE TRAIL WITH PAVEMENT SWALES ON BOTH SIDES AND DIVERT FLOWS UNDER TRAIL SECTIONS WITH PVC WHEN NEEDED. DO NOT GRADE TRAIL OR LOCATE TRAIL IN SITUATIONS THAT IT WILL RECEIVE FLOWS OVER THE TRAIL.
2. THE MATERIALS AND WORKMANSHIP FOR CONCRETE PAVING SHALL BE IN ACCORDANCE WITH N.C.T.C.O.G. SPECIFICATIONS AS APPLICABLE TO THE TOWN OF FLOWER MOUND.
3. THE WIDTH OF THE TRAIL SECTION SHALL BE WIDTH OF THE TRAIL.
4. CONSTRUCTION JOINTS AT LOCATIONS WHERE TRAIL AND WALL ARE MONOLITHIC SHALL HAVE THE JOINT CONTINUOUS ACROSS THE TRAIL, TOP OF WALL, AND FACE OF WALL.
5. DO NOT ASSUME A CUT AND FILL BALANCE. INSTALL TRAIL ALONG EXISTING GRADE WHERE POSSIBLE. CREATE DIVERT SWALES TO CONVEY FLOWS OVER TRAIL WHEN NECESSARY TO AVOID DIVERTING FLOWS UNDER TRAIL. HOLD TO 2% CROSS SLOPE FOR DRAINAGE AND NO MORE THAN 5% SLOPE ALONG TRAIL ALIGNMENT.

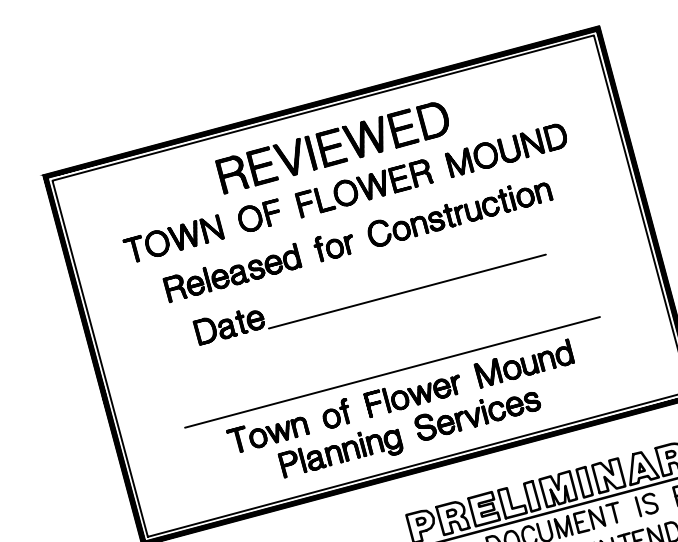
- CONSTRUCTION NOTES:

- A. 5 1/2" THICK 3600 PSI CONCRETE TRAIL
B. HEAVY BROOM FINISH
C. RESEAL ALL DISTURBED AREA WITH APPROPRIATE SEASONAL GRASS
D. FINISH GRADE
E. #3 BARS 1'-6" O.C. (MAX.) BOTH WAYS
F. COMPACT SUBGRADE TO 95% STANDARD PROCTOR DENSITY

- ## DOWELED EXPANSION JOINTS

- GENERAL NOTES:

1. LOCATE DOWELED EXPANSION JOINTS ON 30'-0" CENTERS (MAX.).
2. USE #4 SMOOTH DOWEL 1'-6" LONG & LUBRICATED ON ONE END.
FOUR 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 880 SL OR APPROVED EQUAL. GREY IN COLOR.



lower m...
g Services

PRELIMINARY PLANS
THIS DOCUMENT IS FOR INTERIM REVIEW
AND IS NOT INTENDED FOR CONSTRUCTION.
BIDDING, OR PERMIT PURPOSES.
JAMESON PINSON LANDSCAPE ARCHITECT # 286
DATED 12/2/2016

JAMESON PINSON
REGISTERED LANDSCAPE ARCHITECT
2826
286

Drawn By: MC
Date: 2/15/2016
Scale:
Revisions:
9/6/2016
10/17/2016

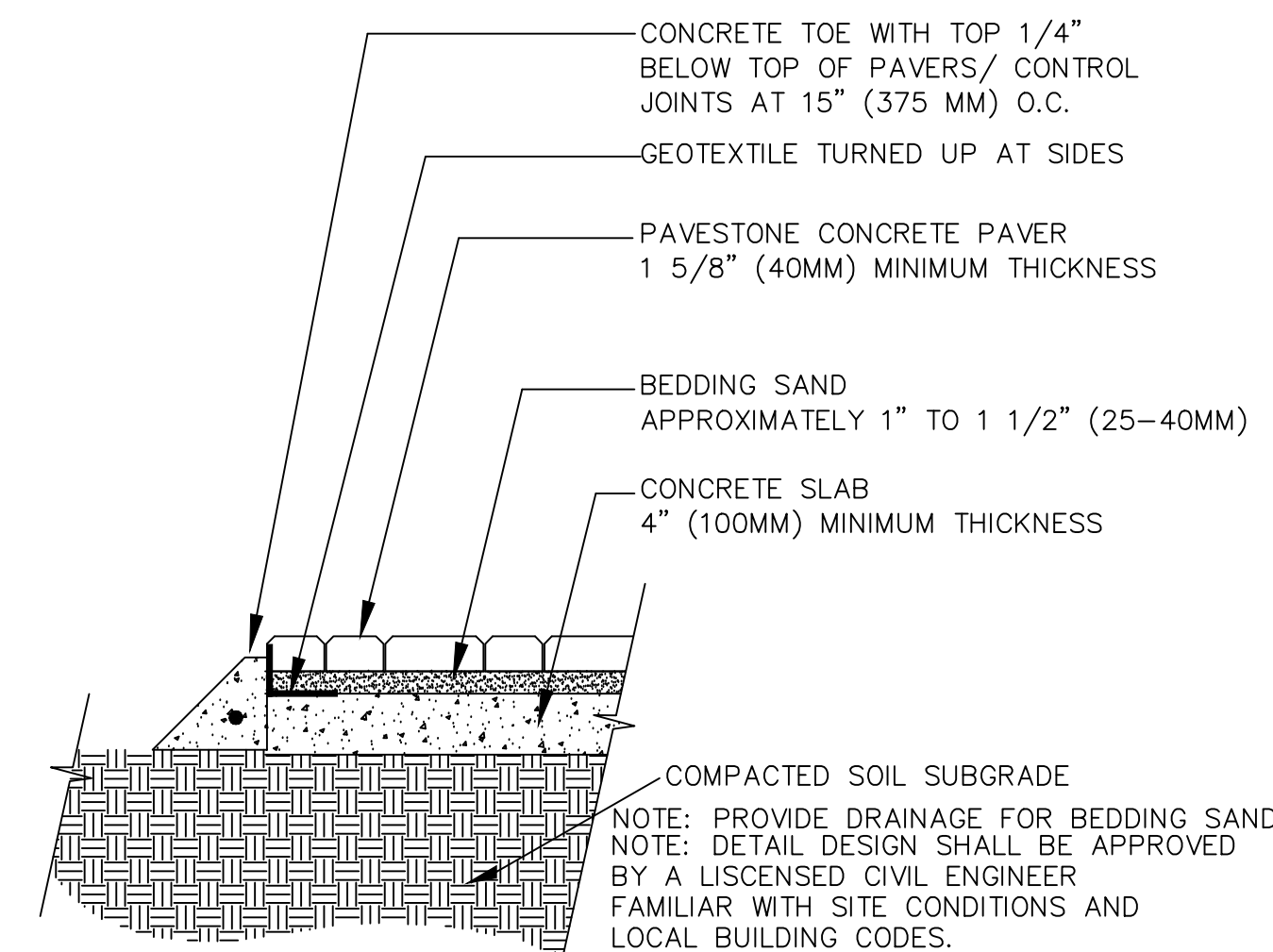
OWNER/DEVELOPER
MRW INVESTORS, INC
1800 VALLEY VIEW LANE, SUITE 300
FARMERS BRANCH, TEXAS 75324
Ph. 469-892-7200
Contact: MR. JACK DAWSON



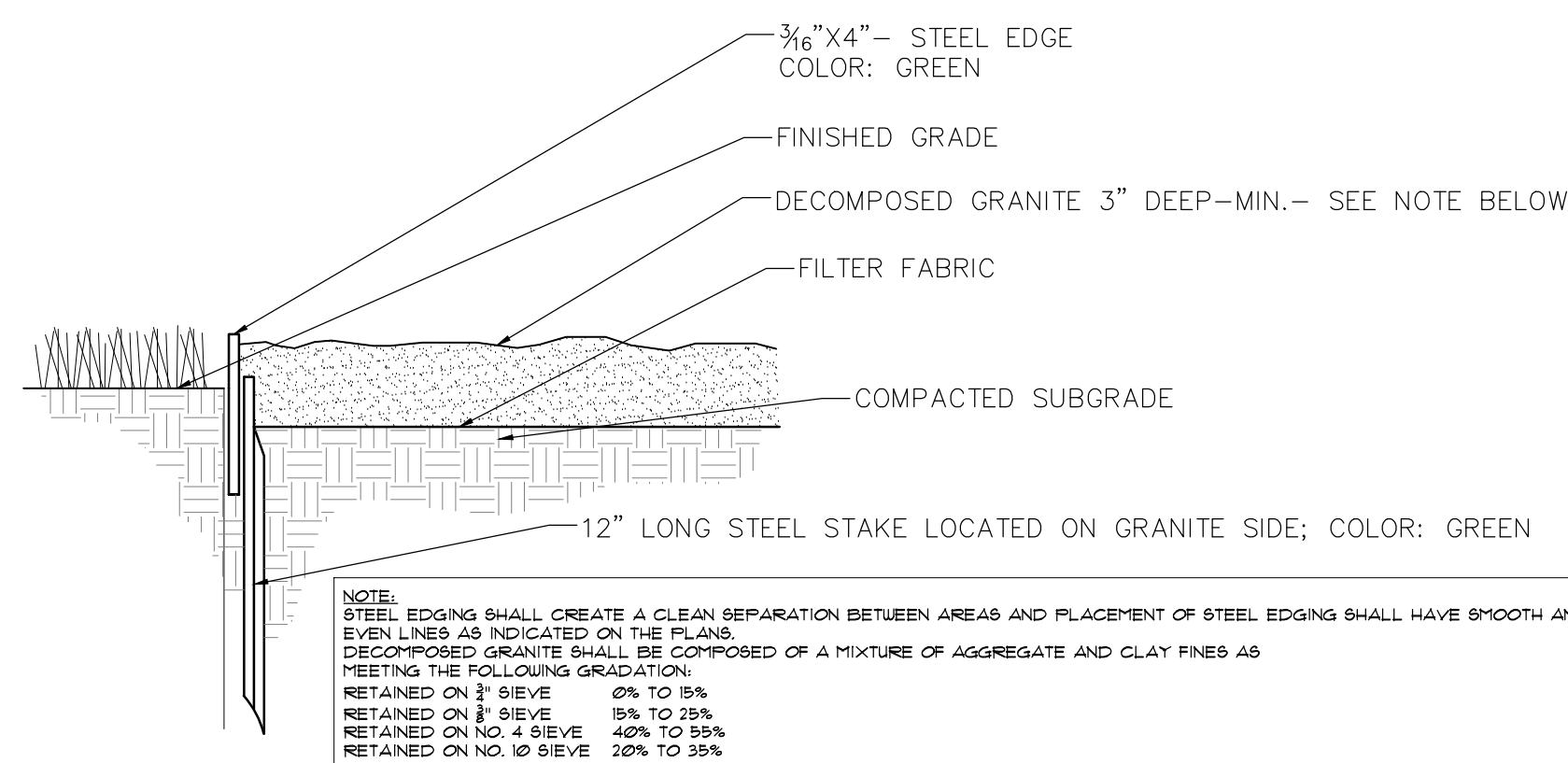
THE
RIVERWALK
AT CENTRAL PARK

15221A

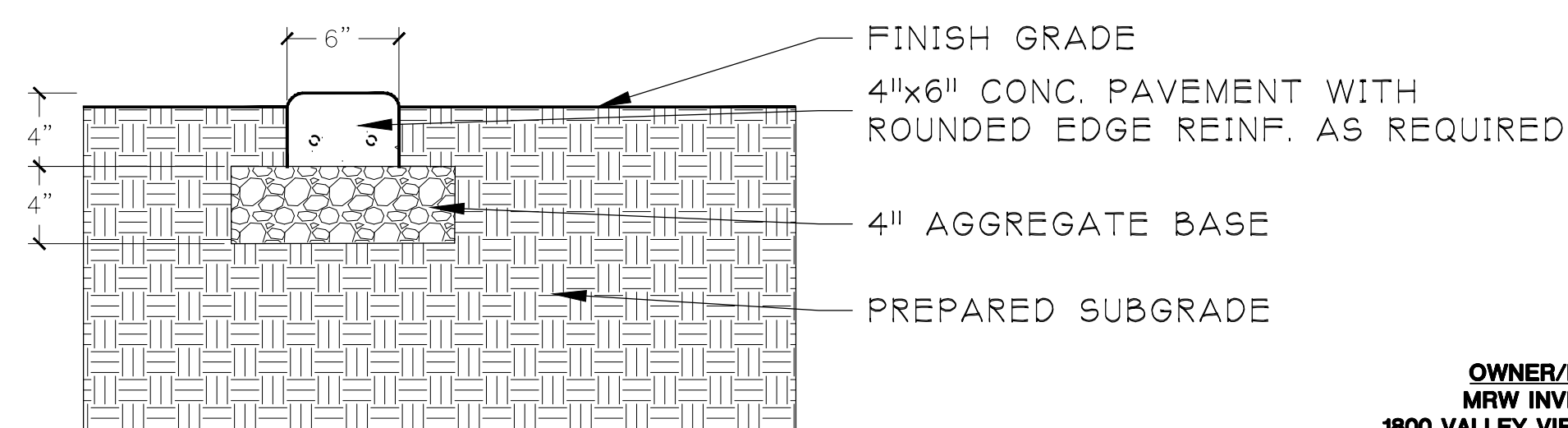
(L3.0



3 PAVER DETAIL WITH CONCRETE BASE



5 DECOMPOSED CRUSHED GRANITE
SCALE: NOT TO SCALE



⑥ CONCRETE MOW STRIP

Lower Middle
g Services

PRELIMINARY PLANS
THIS DOCUMENT IS FOR
AND IS NOT INTENDED
BIDDING, OR PERMIT
JAMESON PINSON LAND
DATED 12/2/2016

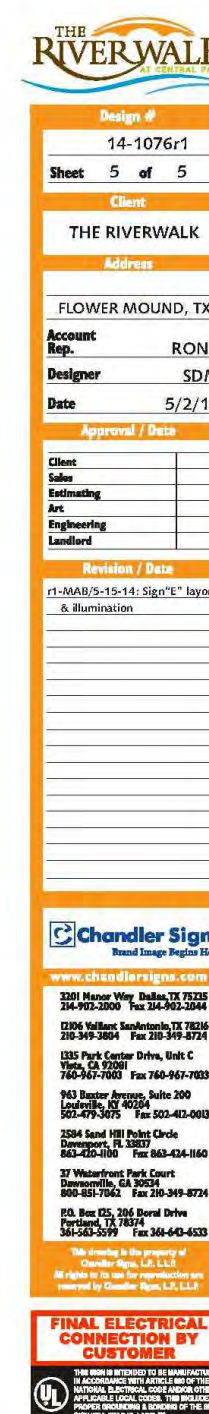
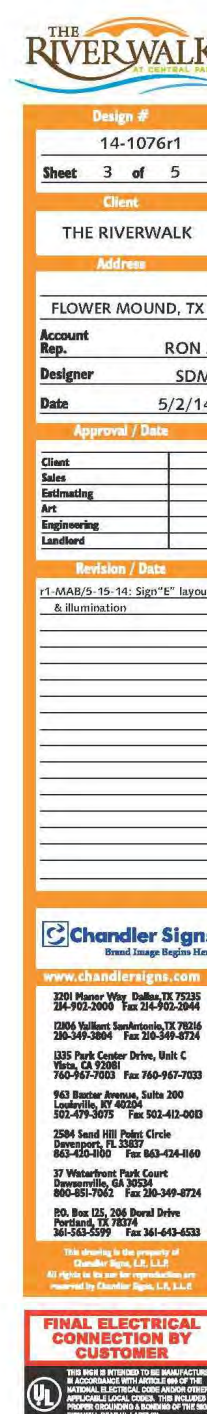
INTERIM REVIEW
FOR CONSTRUCTION,
PURPOSED LANDSCAPE ARCHITECT
JAMESON P. PINSON
2826
STATE OF TEXAS

OWNER/DEVELOPER
MRW INVESTORS, INC
1800 VALLEY VIEW LANE, SUITE 300
FARMERS BRANCH, TEXAS 75324
Ph. 469-892-7200
Contact: MR. JACK DAWSON

L3.1

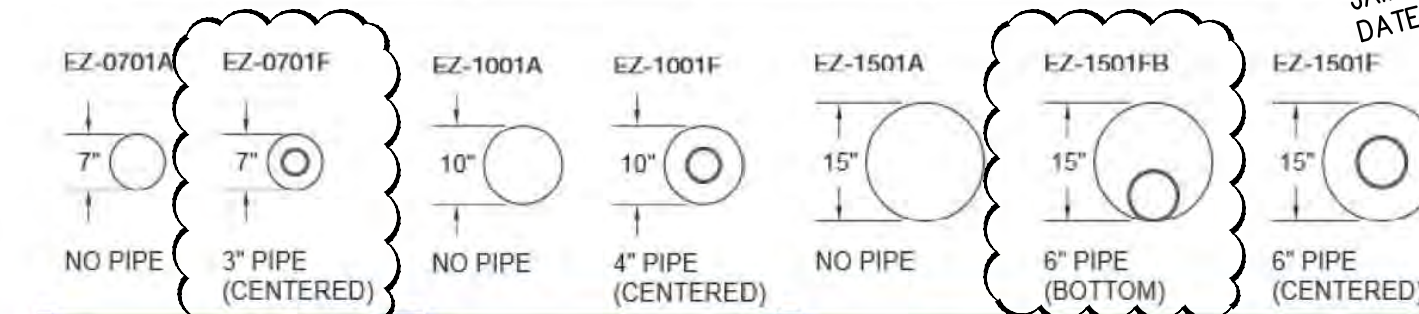
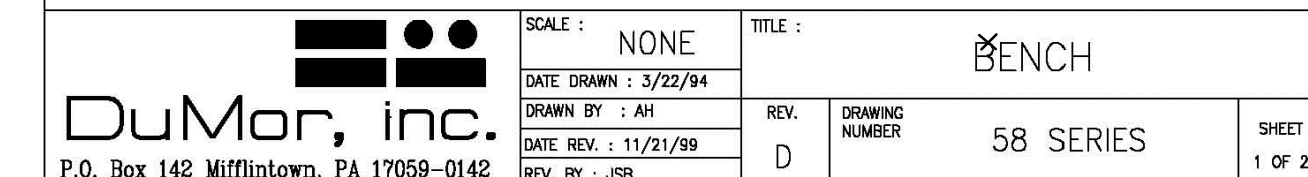
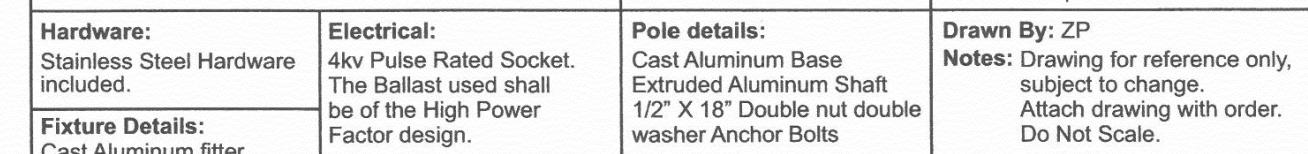
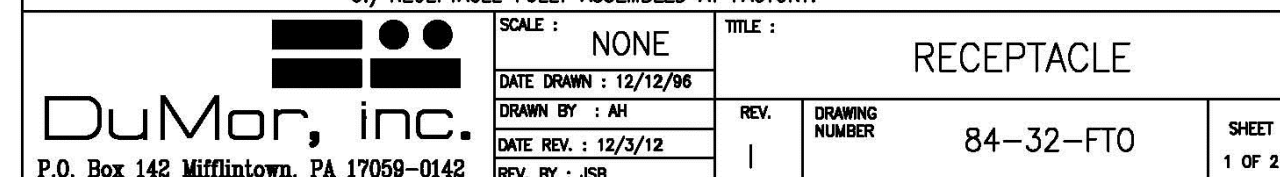
LANDSCAPE DETAILS

RIVER WALK AMPHITHEATER



CONTACT DONNA MCFARLAND AT
CHANDLER 6KIN5 972-733-6625

CONTACT DONNA McFARLAND AT
CHANDLER SIGNS - 972-798-6521



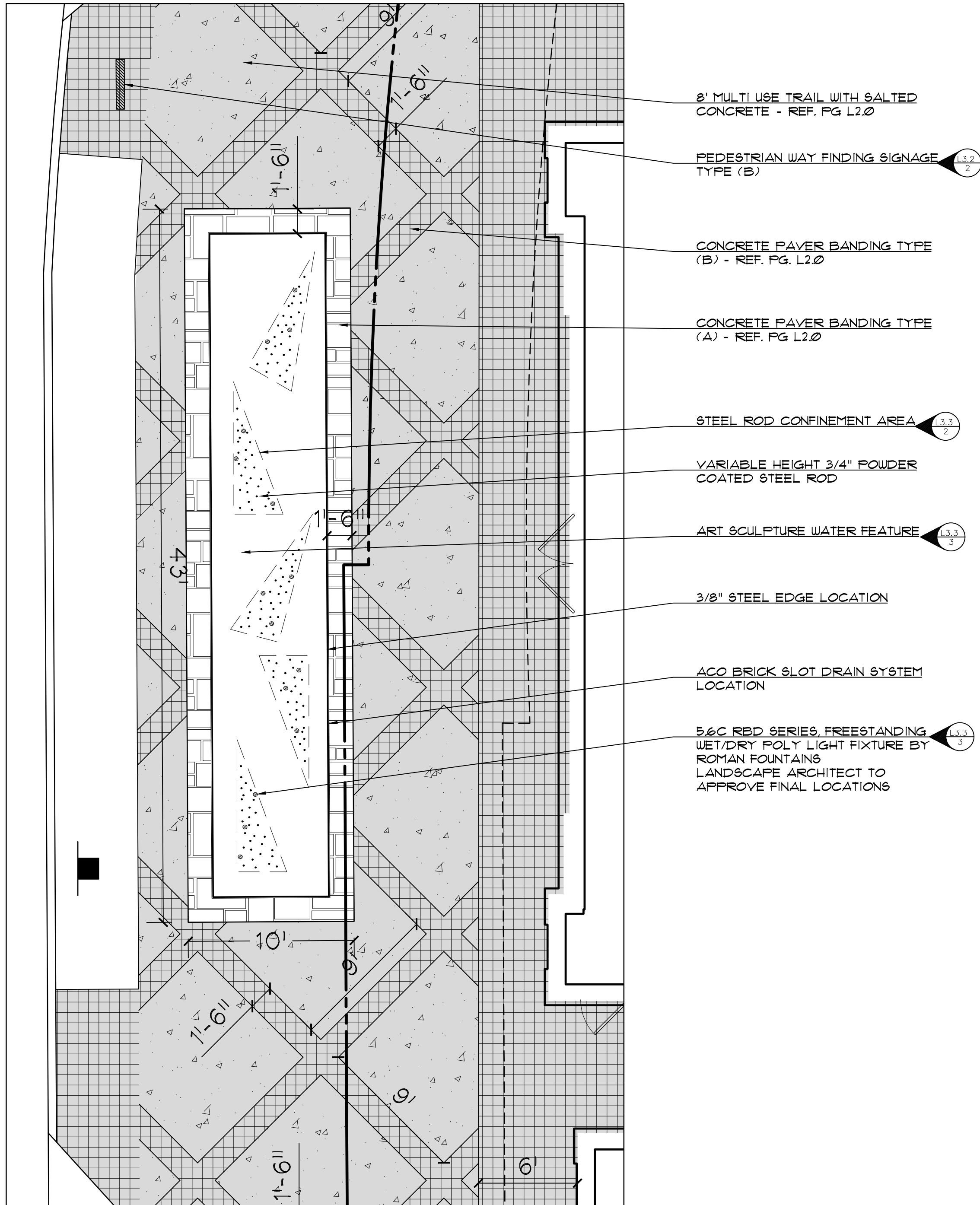
CONTACT DEBRA FINCH AT PA
ALLEN CO. NC. 800-222-7344

SCALE: NOT TO SCALE

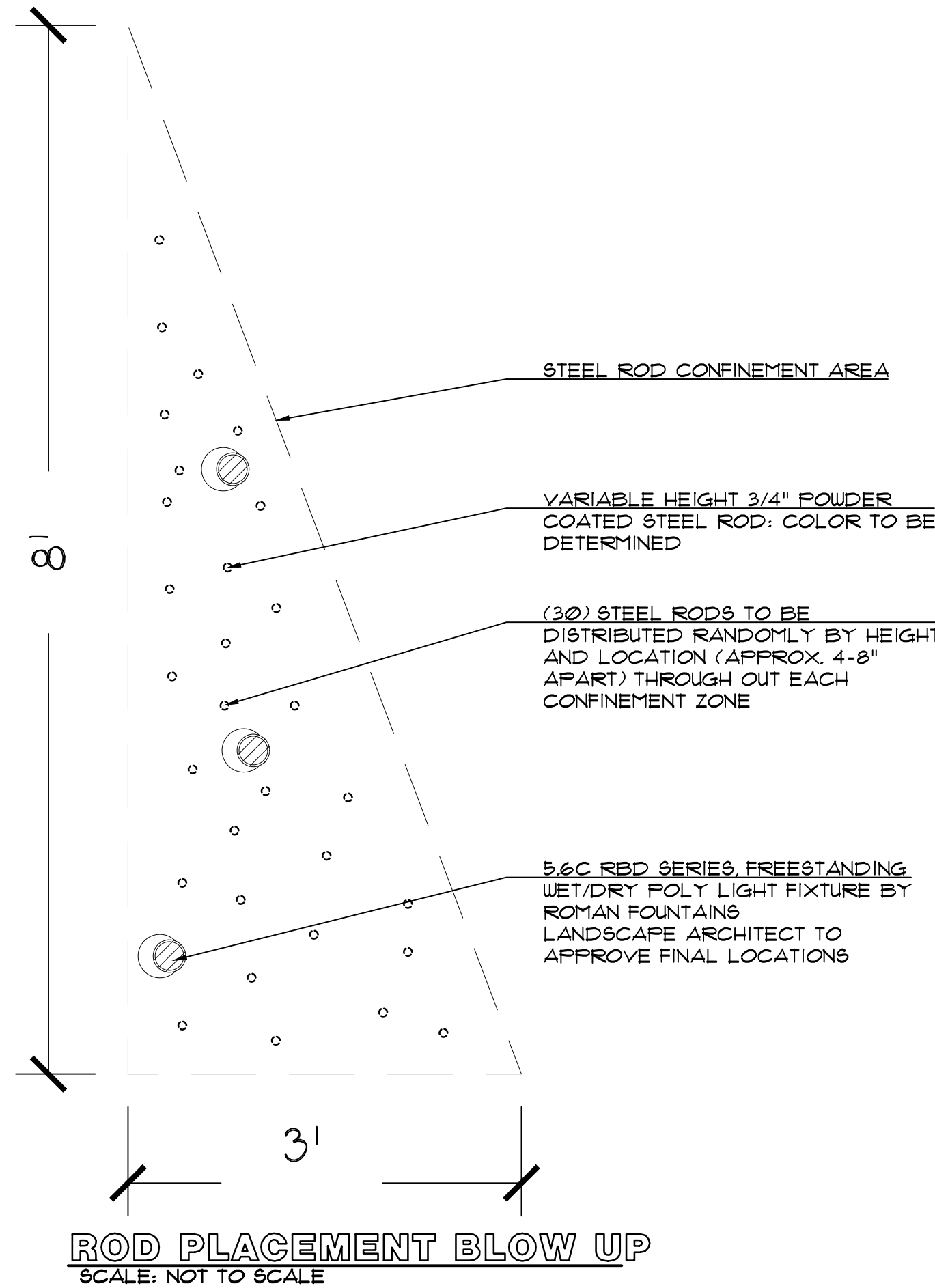
CONTACT DEBRA FINCH AT PAUL
ALLEN CO. INC. 800-259-7244

SCALE: NOT TO SCALE





1 ART WATER FEATURE DESIGN DEVELOPMENT
SCALE: 1"=5'



ROMAN FOUNTAINS

RBD SERIES, FREESTANDING
WET/DRY POLY 12V/120V
LIGHT FIXTURE

(800) 794-1801

DESIGN/APPLICATION DATA: RBD-Series light fixtures provide highlight lighting in pools, fountains and waterfalls where a freestanding, adjustable light fixture is required. The small, compact design allows for discrete placement in or out of water. Must be installed by a qualified electrician and comply with all local codes.

NOTE: LAMP IS FURNISHED WITH THIS FIXTURE.

NOTE: SUBMERSIBLE JUNCTION BOX MAY BE REQUIRED FOR INSTALLATION; CONSULT FACTORY FOR ASSISTANCE.

NOTE: DO NOT USE IN SWIMMING POOL OR SPA APPLICATIONS.

15' CORD LENGTH IS STANDARD.

12VAC + 120V.

TECHNICAL DATA

MODEL NO.	WATTAGE	VOLTAGE	LAMP TYPE
RBD-120-20	20	120	MR-16 HALOGEN
RBD-120-20	20	12	MR-16 HALOGEN
RBD-120-30	35	120	MR-16 HALOGEN
RBD-120-30	35	12	MR-16 HALOGEN
RBD-120-50	50	120	MR-16 HALOGEN
RBD-120-50	50	12	MR-16 HALOGEN

Optional lens colors are available in either Blue, Red, Green or Amber.

SPECIFICATION DATA: constructed of glass reinforced thermoplastic, tempered, heat resistant glass lens, Viton O-ring, stainless steel fasteners, 15 ft. of 16-3 gauge SOOW submersible cable, lamp. Available with either 12 or 120 volt MR-16 GX5.3 halogen lamps. (Transformer required for 12V. operation; consult factory.)

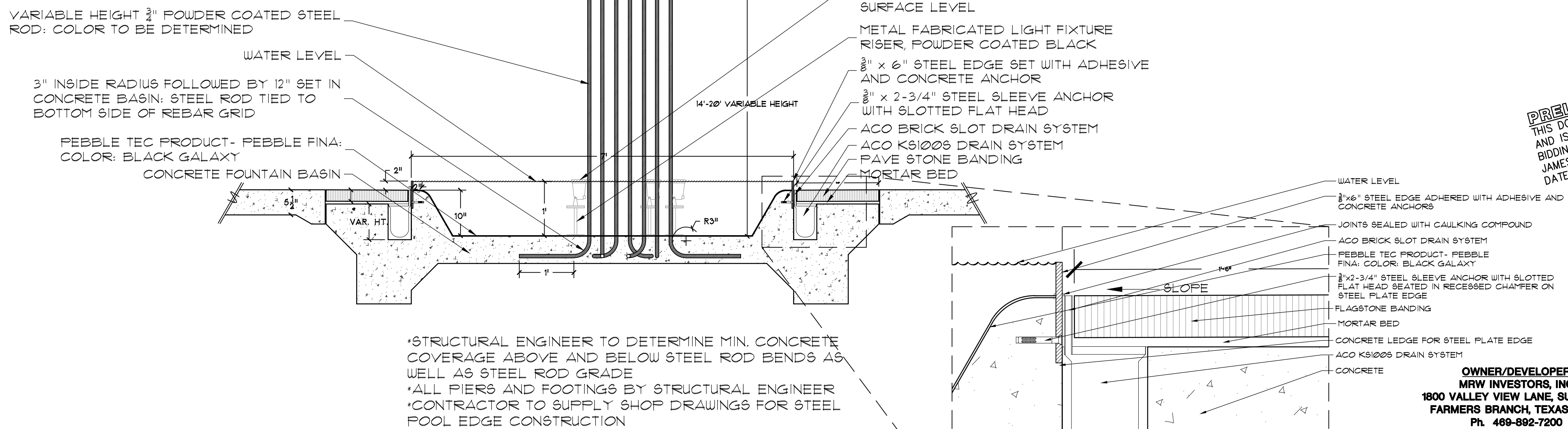
NOTE: Due to our continuing product improvement, Roman Fountains reserves the right to change the specifications without notice.

DRAWING NO. 5.6c

www.romanfountains.com

ITEM# QTY

2 FOUNTAIN ART FEATURE LIGHT FIXTURE
SCALE: NTS



3 ART WATER FEATURE SECTION CUT
SCALE: 3/4"=1'

DRAIN SYSTEM BLOW UP
SCALE: NOT TO SCALE



OWNER/DEVELOPER
MRW INVESTORS, INC
1800 VALLEY VIEW LANE, SUITE 300
FARMERS BRANCH, TEXAS 75324
Ph. 469-682-7200
Contact: MR. JACK DAWSON

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a division of G & A Consultants, L.L.C.
111 Hillside Drive • Lewisville, TX 75067
P: 972.317.0226 • F: 972.538.9715

RIVER WALK AMPHITHEATER
Lot 1Xr, Block A
RIVER WALK AT CENTRAL PARK 1/2016
3.672 Acres
in the
TOWN OF FLOWER MOUND
DENTON COUNTY, TEXAS

LANDSCAPE DETAILS

15221A

L3.3

PRELIMINARY PLANS
THIS DOCUMENT IS FOR INTERIM REVIEW
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JAMESON PINSON LANDSCAPE ARCHITECT
STATE OF TEXAS
DATED 12/2/2016

Drawn By: JPP
Date: 2/15/2016
Scale:
Revisions:
9/6/2016
10/17/2016

Freestanding Planters

Old Town
fiberglass

Standard Squares



Model No.	Length	Width	Height	Rim	Weight
SL6036	60"	60"	36" ^{*a}	5"	193
SL6042	60"	60"	42" ^{*a}	5"	213
SL6043	60"	60"	43" ^{*a}	5"	213
SL6048	60"	60"	48" ^{*a}	5"	233
SL7234	72"	72"	34" ^{*a}	5"	196
SL7230	72"	72"	30" ^{*a}	5"	220
SL7236	72"	72"	36" ^{*a}	5"	244
SL7242	72"	72"	42" ^{*a}	5"	268

*The fabrication method used in the production of these planters enables us to easily reduce the height of the planter. A reduction in height at the time of order may not require an upcharge. Please contact us for details.

Note:

Please contact us if you don't see the shape or size of planter you need—we welcome custom orders. Planter irrigation and custom internal modifications available. A graffiti-resistant coating is available with upcharge. All orders are subject to the Terms and Conditions outlined in this Price List. Specifications are available on our web site.

Old Town Fiberglass, Inc.
767 North Hariton Street
Orange, CA 92868-4015
Tel: 714.633.3732
Fax: 714.633.3917
E-mail: Info@OldTownFiberglass.com
On-line: OldTownFiberglass.com

SR2

1 LANDSCAPE PLANTER

SCALE: NOT TO SCALE

SCALE: NOT TO SCALE

ENVIRONS GROUP
LANDSCAPE ARCHITECTURE



RIVER WALK AMPHITHEATER
Lot 1XR, Block A
RIVER WALK AT CENTRAL PARK 1/2016
3,672 Acres
in the
C. CHACON SURVEY, ABSTRACT NO. 299
TOWN OF FLOWER MOUND
DENTON COUNTY, TEXAS

LANDSCAPE DETAILS

REVIEWED
TOWN OF FLOWER MOUND
Released for Construction
Date _____

Town of Flower Mound
Planning Services

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DOCUMENT IS NOT FOR CONSTRUCTION

Lower Middle
g Services

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BIDDING, OR PERMIT REQUIRED FOR LANDSCAPE ARCHITECT
JAMESON PINSON LANDSCAPE ARCHITECT
DATED 12/2/2016

REGIONAL
JAMESON P. PINSON
2826
STATE OF TEXAS

Drawn By: MC
Date: 2/15/2016
Scale:
Revisions:
9/6/2016
10/17/2016

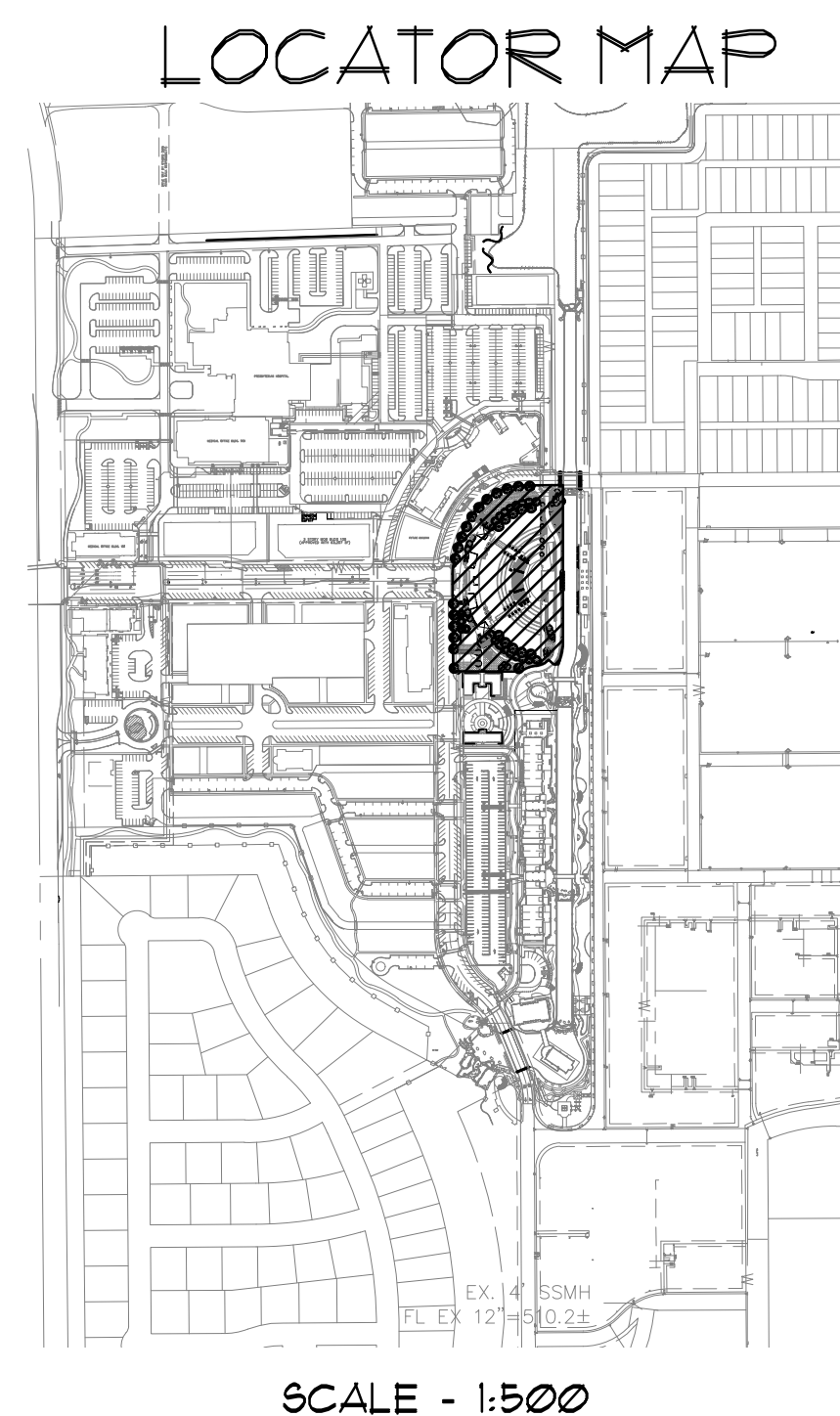
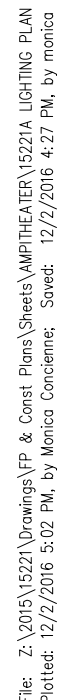
OWNER/DEVELOPER
MRW INVESTORS, INC
1800 VALLEY VIEW LANE, SUITE 300
FARMERS BRANCH, TEXAS 75324
Ph. 469-892-7200
Contact: MR. JACK DAWSON



THE RIVERWALK
AT CENTRAL PARK

15221A

L3.4



CONTACT JEFF HOINSKI @ JHOINSKI@SITELIGHTINGSOLUTIONS-USA.COM FOR PRICING

114	SINGLE	LED STEP LIGHT	WAC LIGHTING FIXTURE: 4011-27BK
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WORK SERVICES
PRELIMINARY PLANS
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 JAMESON PINSON LANDSCAPE ARCHITECT, P.C.
 DATED 12/2/2016
 REGISTERED LANDSCAPE ARCHITECT # 2816
 JAMESON P. PINSON
 2826
 STATE OF TEXAS

OWNER/DEVELOPER
MRW INVESTORS, INC
1800 VALLEY VIEW LANE, SUITE 300
FARMERS BRANCH, TEXAS 75324
Ph. 469-892-7200
Contact: MR. JACK DAWSON



LIGHTING PLAN

PLANS
INTERIM REVIEW
FOR CONSTRUCTION,
PURPOSED LANDSCAPE ARCHITECT
OSCAR
2876



Drawn By: MC
Date: 2/15/2016
Scale: 1"=30'
Revisions:
9/6/2016
10/17/2016

15221A

L4.0

1 TREE UP AND DOWN LIGHTING

2 LED STRIP LIGHTING

3 BOLLARD LIGHTING

4 STEP LIGHT

SCALE: NOT TO SCALE

5 DOUBLE MOUNTING STREET LIGHT
SCALE: NOT TO SCALE

LIGHTING PLAN	
	
Drawn By: MC Date: 2/15/2016 Scale: 1"=30' Revisions: 9/6/2016 10/17/2016	
15221A	
L4.1	



TOWN COUNCIL AGENDA ITEM NO. 22 REGULAR ITEM

DATE: December 19, 2016

FROM: Poornima Srinarasi, Senior Planner

ITEM: Public Hearing to consider a request for a Specific Use Permit No. 445 (SUP16-0003 - River Walk Amphitheater and Splash Pad) to permit an outdoor amusement and recreation use, and to consider adopting an ordinance providing for said amendment. The property is generally located south of Royal Crescent Drive North and east of River Walk Drive. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its December 12, 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 Specific Use Permit No. 445 (SUP16-0003 - River Walk Amphitheater and Splash Pad) to permit an outdoor amusement and recreation use, and adopt an ordinance providing for said amendment.



PLANNING AND ZONING COMMISSION AGENDA ITEM NO: 6

DATE: December 12, 2016

FROM: Poornima Srinarasi, Senior Planner

ITEM: **Public Hearing to consider a request for a Specific Use Permit No. 445 (SUP16-0003 - River Walk Amphitheater and Splash Pad) to permit an outdoor amusement and recreation use. The property is generally located south of Royal Crescent Drive North and east of River Walk Drive.**

I. ITEM SUMMARY

This application has been reviewed by DRC and has been found to be in conformance with all applicable Town regulations.

The project has a companion site plan application (SP16-0009- River Walk Amphitheater) for consideration on the same agenda.

This application will require final action by the Town Council.

II. APPLICATION ANALYSIS

The purpose of this application is to request approval of a Specific Use Permit (SUP-445) to permit an amphitheater and a splash pad within the Town Center sub-district (TC) of The River Walk at Central Park. The subject property is 3.672 acres and is located just north of the restaurant row.

Per the approved development standards for The River Walk at Central Park, the proposed amphitheater and splash pad uses best fit the definition of an amusement and recreation (outdoors) use which requires Town Council approval of an SUP.

The amphitheater located at the eastern terminus of Central Park Avenue includes seating area that will accommodate approximately 2,800 people. A two-storied, 16,685-square-foot building wraps around a portion of the seating area along Royal Crescent Drive. This building includes office spaces for the River Walk Homeowner's Association, Flower Mound Police, concession serving area, and restrooms. On either side of this building are tall arched retaining walls with parapets and wrought-iron guardrails along the top. The seating steps down toward the center of the amphitheater which culminates into a 2,625-square-foot stage and a two-storied green room and storage area.

The splash pad is located between the amphitheater and the restaurant row. The splash pad area has spray fountains and landscaping surrounding this area.

Currently, staff is reviewing a site plan to facilitate the construction of the splash pad and farmer's market. The SUP application is only for the use; detailed plans of the proposed building will be included with the site plan application.

On August 4, 2008, the Town Council established The River Walk at Central Park Central Business District (CBD), which included unique development standards, zoning sub-districts, design standards, parking requirements, sign regulations, street sections and concept plans. On January 15, 2015, the Town Council approved several amendments to The River Walk at Central Park CBD development standards and concept plans. The location of the amphitheater and splash pad is consistent with the approved land use plan for The River Walk at Central Park.

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 Specific Use Permit requests. At the time this report was written, no correspondence was received regarding this project.

IV. ATTACHMENTS

A. Background Information

1. Vicinity Map
2. Letter of Intent

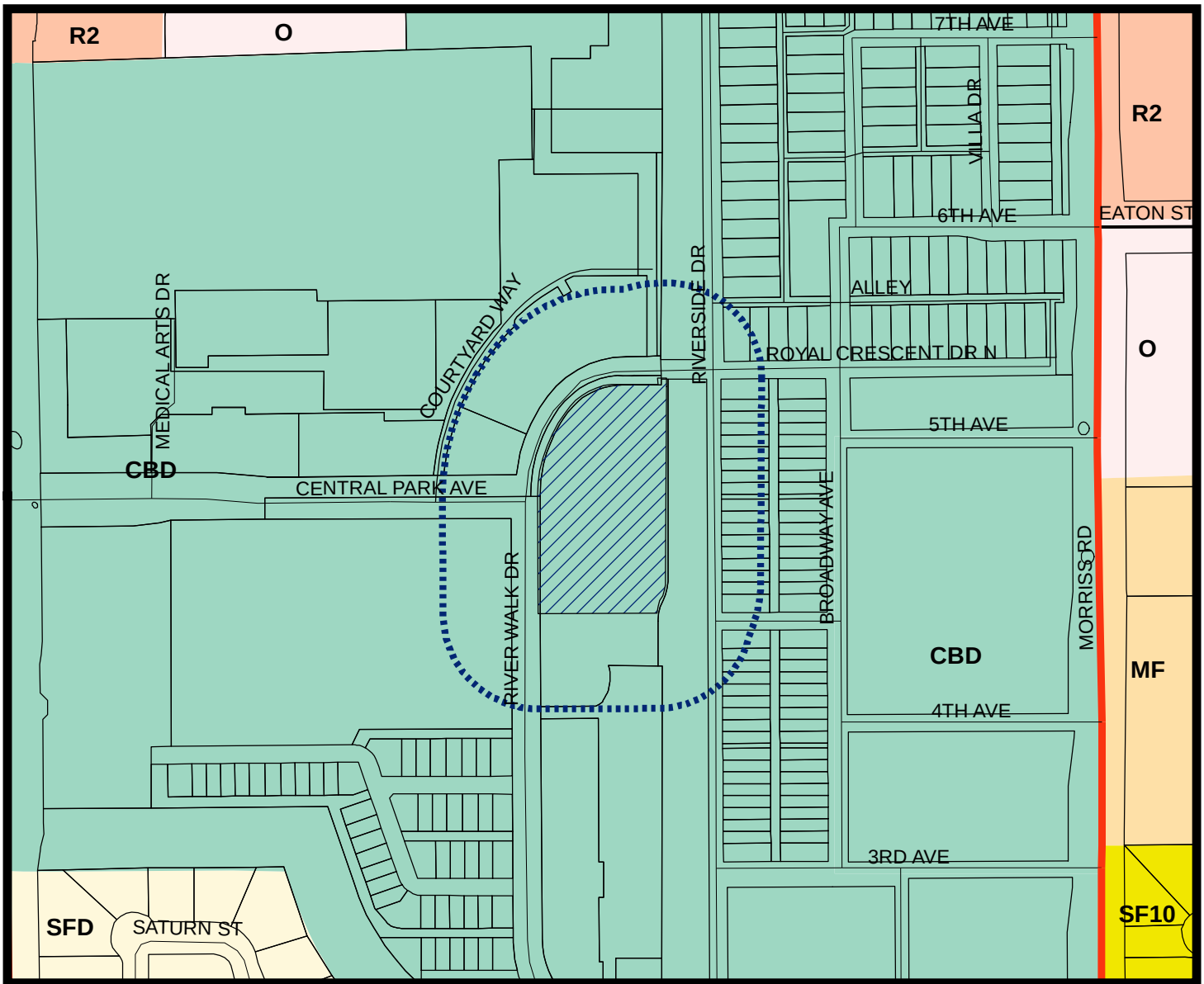
B. Application Details

1. Concept Plan



Vicinity Map

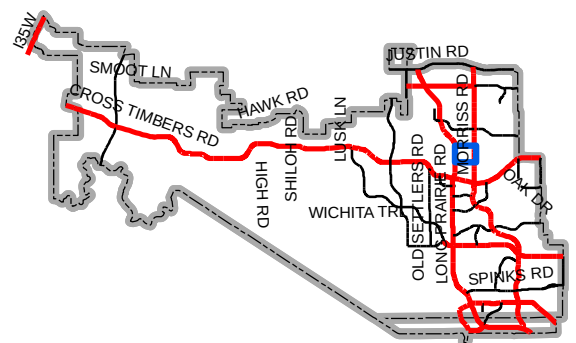
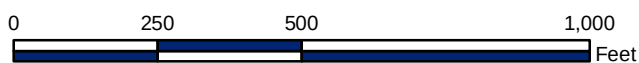
Reference Project: SUP16-0003 & SP16-0009



LEGEND

- Central Business District
- Multi-Family
- Office
- Retail 2
- Single Family 10
- Single Family Density

- Subject Property
- 200 ft Notification Buffer around Property



Map Location



December 5, 2016

Mr. Doug Powell
Executive Director of Development Services
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028

**RE: River Walk Amphitheater and Splash Pad SUP Request
Letter of Intent
G&A Job No. 15221**

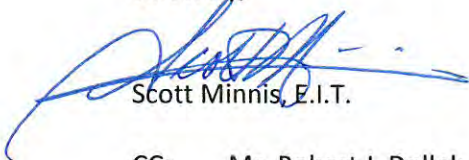
Mr. Powell:

Please accept this letter, on behalf of our client, as an explanation of the proposed application. We are submitting, for review and approval, an SUP Application for the River Walk Amphitheater and the River Walk Splash Pad, on 3.672 acres of land. As you may be aware, the Amphitheater and Splash Pad are required amenities as listed in the approved CBD Zoning Ordinance and in the approved Developer's Agreement for Amenity Enhancements. We submitted a Site Plan Application with Construction Plans on January 18, 2016 for the Farmer's Market and Splash Pad and February 15, 2016 for the proposed improvements to develop the Amphitheater.

The CBD Zoning Ordinance has Amusement and Recreation (Outdoors) listed as a Specific Use within the Town Center District. Therefore, we have submitted the SUP application as a request to allow the Amphitheater and Splash Pad as described in the CBD Zoning Ordinance and as detailed in the approved Developer's Agreement.

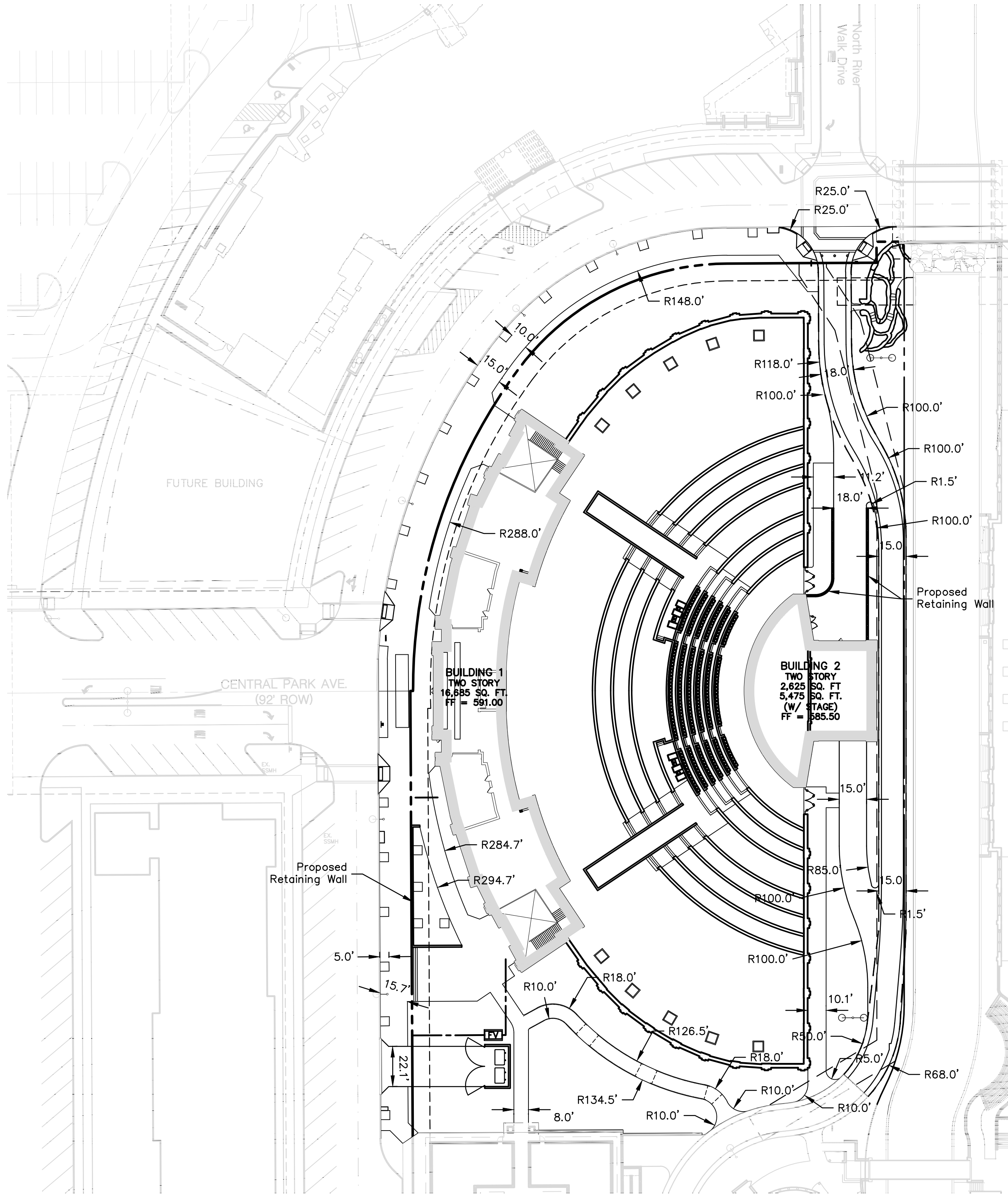
Thank you in advance for your consideration. Please do not hesitate to contact me with any questions or comments regarding this application.

Sincerely,



Scott Minnis, E.I.T.

CC: Mr. Robert J. Dollak, Jr. P.E., G&A Consultants, Inc.
Mr. Jack Dawson, Centurion American Development Group

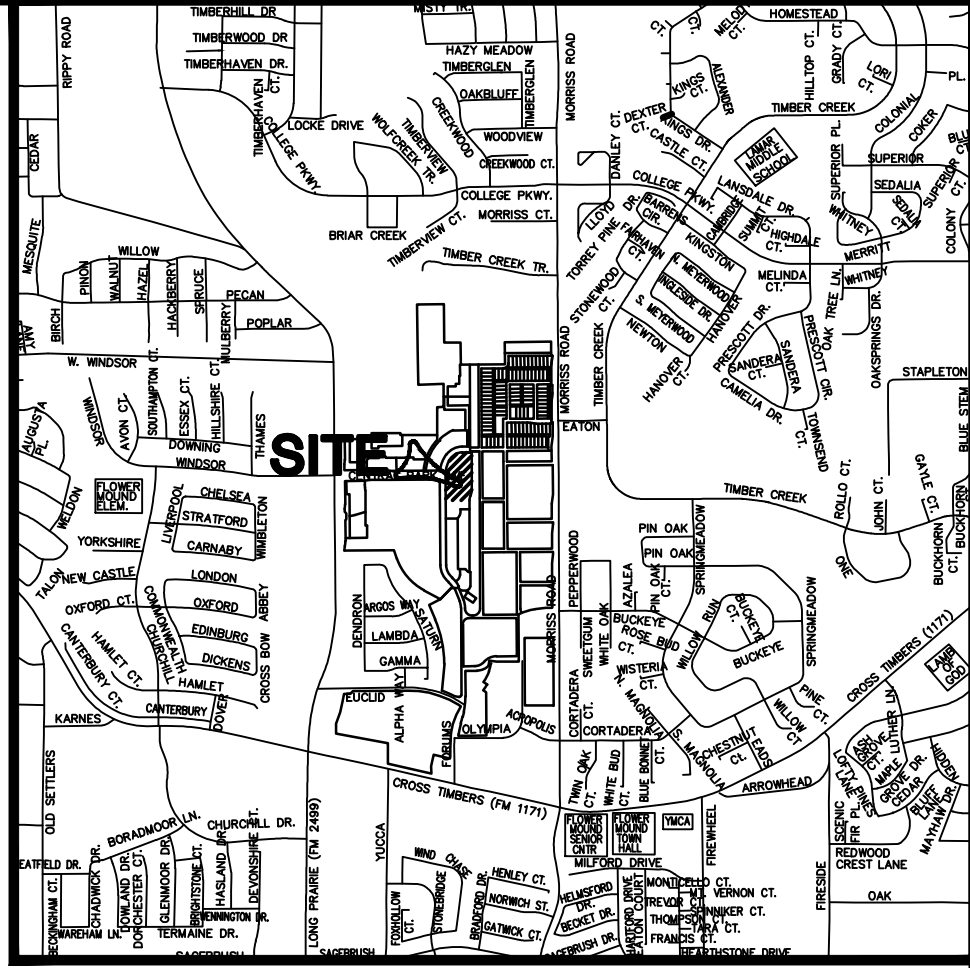
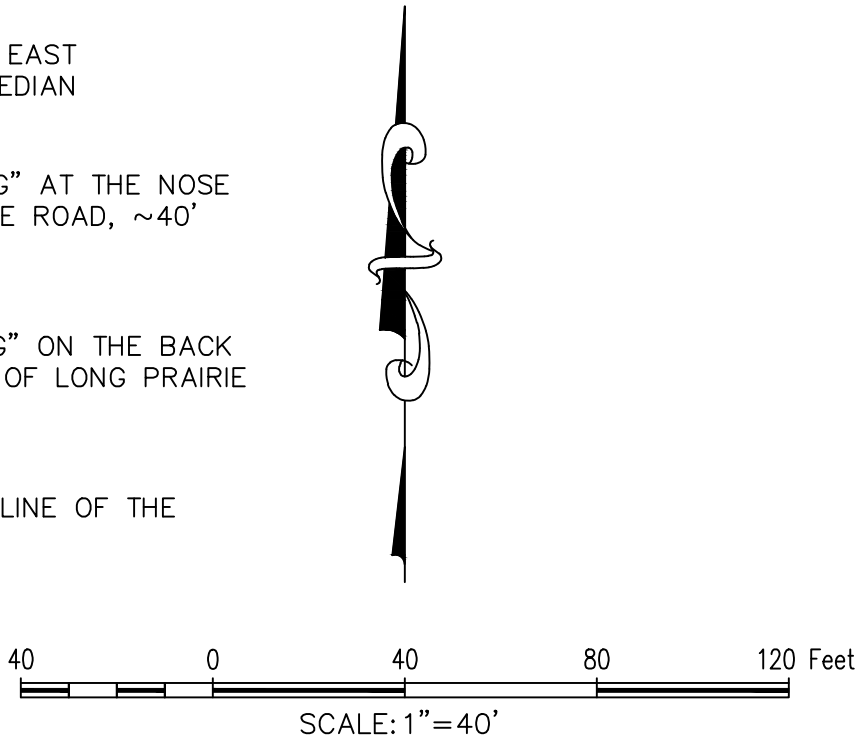


BW - TOFM 5 - 2" ALUMINUM CAP SET IN ON BUCKEYE DRIVE, EAST OF MORRIS ROAD, APPROXIMATELY 3' EAST OF THE TRAFFIC MEDIAN ELEV. 599.65 (CALLED 600.29)

TBM - MAG NAIL WITH WASHER STAMPED "JPH LAND SURVEYING" AT THE NOSE OF A CONCRETE MEDIAN NEAR THE APPROX. C/L OF LONG PRAIRIE ROAD, ~40' SOUTH OF THE APPROX C/L OF CENTRAL PARK AVE. ELEV. 607.08 (CALLED 607.58)

TBM - MAG NAIL WITH WASHER STAMPED "JPH LAND SURVEYING" ON THE BACK OF CURB AT THE NORTHEAST QUADRANT OF THE INTERSECTION OF LONG PRAIRIE ROAD AND EUCLID AVE. ELEV. 639.01 (CALLED 639.51)

TBM - "C" CUT ON ON THE TOP OF CURB ALONG THE CENTERLINE OF THE MEDIAN NOSE ON EATON DRIVE; EAST OF MORRIS ROAD ELEV. 576.15



Vicinity Map 1"=2000'

SITE DATA TABLE - AMPHITHEATER		
Physical Address	TBD	
Gross Site Area	3.672 A; 159,952 SF	
Net Site Area	3.672 A; 159,952 SF	
Sub-District	Sub-District "A"	
Current Use	Vacant Property	
Lot Coverage		
Building Coverage		
Building 1	5,300 SF; ±2.3%	
Building 2	1,900 SF; ±1.2%	
Impervious Coverage	±60%	
Pervious Area	±40%	
Parking Summary - TRWCP 8 or Town Q	Required	Provided
Surface Parking		
Amphitheater - 1 space per 3 seats		
AMPHITHEATER		
Building 1	0	0
Building 2	0	0
Existing On Street Parking	N.A.	0
Proposed On Street Parking	N.A.	0
Parking for Future Building	N.A.	0
Total Parking	0	0
Accessible Parking	0	0
Building 1 Data		
Height Zone	One Story	
Height (story/feet)	1 Story; 30' 0"	
Peak Height	0' 0"	
Mean Height	0' 0"	
Total Square Footage	8,100 SF	
Building 2 Data		
Height Zone	One Story	
Height (story/feet)	1 Story; 30' 0"	
Peak Height	0' 0"	
Mean Height	0' 0"	
Total Square Footage	1,900 SF	

NOTES:

1. CONTRACTOR IS TO CONTACT THE TOWN'S TREE ARBORIST PRIOR TO THE START OF CONSTRUCTION TO OBTAIN TREE PRESERVATION REQUIREMENTS DURING CONSTRUCTION.
2. ALL DIMENSIONS SHOWN ARE TO EDGE OF PAVEMENT OR BACK OF CURB UNLESS OTHERWISE NOTED.
3. ALL RADII ARE 3.0 FEET UNLESS OTHERWISE NOTED.
4. ALL PARKING SPOTS ARE 9.0' WIDE UNLESS OTHERWISE NOTED.
5. THE LOCATION OF THE EXISTING UTILITIES SHOWN IS APPROXIMATE. THE CONTRACTOR IS TO FIELD VERIFY LOCATION AND DEPTH PRIOR TO CONDUCTING ANY WORK.
6. THE SITE PLAN IS IN SUBSTANTIAL CONFORMANCE WITH THE APPROVED CONCEPTUAL PLAN FOR THE CENTRAL BUSINESS DISTRICT.
7. ALL RETAINING WALLS ARE TO BE CLAD IN A MATERIAL THAT MATCHES THE PROPOSED BUILDINGS.
8. THE TOWN OF FLOWER MOUND CONSTRUCTION STANDARDS APPLY WHETHER INDICATED ON THESE PLANS OR NOT.
9. ALL BUILDING MOUNTED UTILITY OR EQUIPMENT BOXES SHALL BE SCREENED FROM A STREET VIEW BY A MINIMUM SIX FOOT HIGH SCREENING DEVISE WHETHER SHOWN IN THESE PLANS OR NOT. SUCH SCREENING DEVISE SHALL CONSIST EITHER OF PLANT MATERIAL OR A SCREENING WALL CONSTRUCTED OF OR FINISHED WITH A MATERIAL TO MATCH THE BUILDING, PROVIDED HOWEVER THAT WOOD FENCING OR SCREENING SHALL BE PROHIBITED. THIS RELATES TO ONLY THE NORTHERN, SOUTHERN AND WESTERN BUILDING FACADES, SINCE THESE ARE THE ONLY FACADES ABUTTING A STREET.
10. SIGNS REQUIRE A SEPARATE BUILDING PERMIT. ANY SIGNS DEPICTED ON THE SITE PLAN OR ELEVATIONS ARE NOT APPROVED AS PART OF THIS REVIEW AND MUST COMPLY WITH THE RIVER WALK SIGNAGE REGULATIONS.
11. THE DUMPSTER SCREENING WALL SHALL BE CLAD IN A MATERIAL TO MATCH THE MATERIALS ON THE MAIN BUILDING.
12. THE ABBREVIATION CL= CENTER LINE.
13. THE ABBREVIATION EP=EDGE OF PAVEMENT.

RIVER WALK AMPHITHEATER

Lot 1XR, Block A

RIVER WALK AT CENTRAL PARK 1/2016

3.672 Acres in the

C. CHACON SURVEY, ABSTRACT NO. 299

JT STEWART SURVEY, ABSTRACT NO. 1161

TOWN OF FLOWER MOUND

DENTON COUNTY, TEXAS

CONCEPTUAL SITE PLAN
AND DIMENSIONAL
CONTROL PLAN

PRELIMINARY PLANS

THIS DOCUMENT IS FOR INTERIM REVIEW AND IS NOT INTENDED FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES. G&A CONSULTANTS, F-1798 ROBERT JOHN DOLLAH, JR., P.E. #86898 DATE 12/5/2016

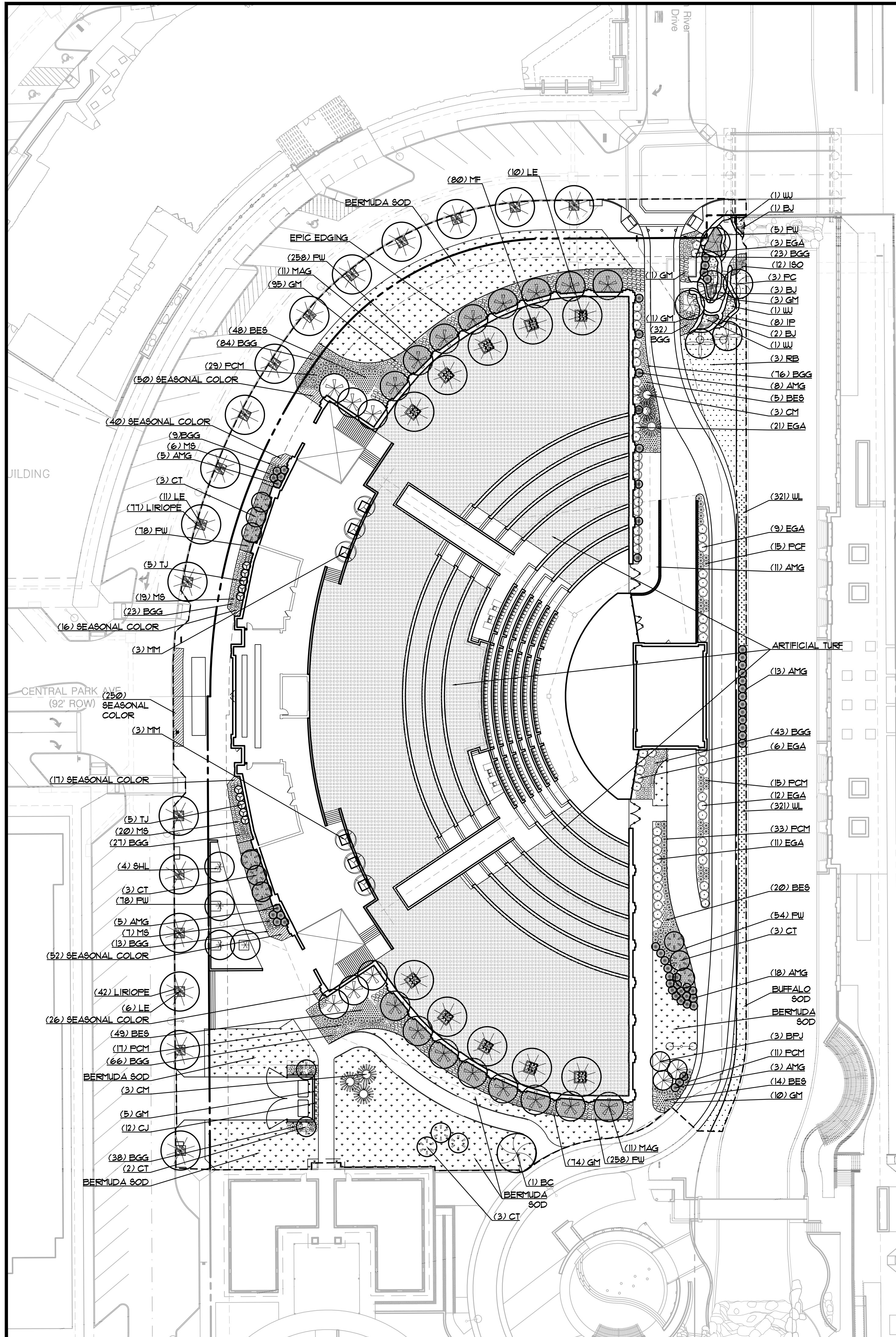
Drawn By: SM
Date: 2/15/2016
Scale: 1"=40'
Revisions:
9/6/2016
10/17/2016

15221A

C4

OWNER/DEVELOPER
MRW INVESTORS, INC
1800 VALLEY VIEW LANE, SUITE 300
FARMERS BRANCH, TEXAS 75324
Ph. 469-892-7200
Contact: MR. JACK DAWSON





LEGEND

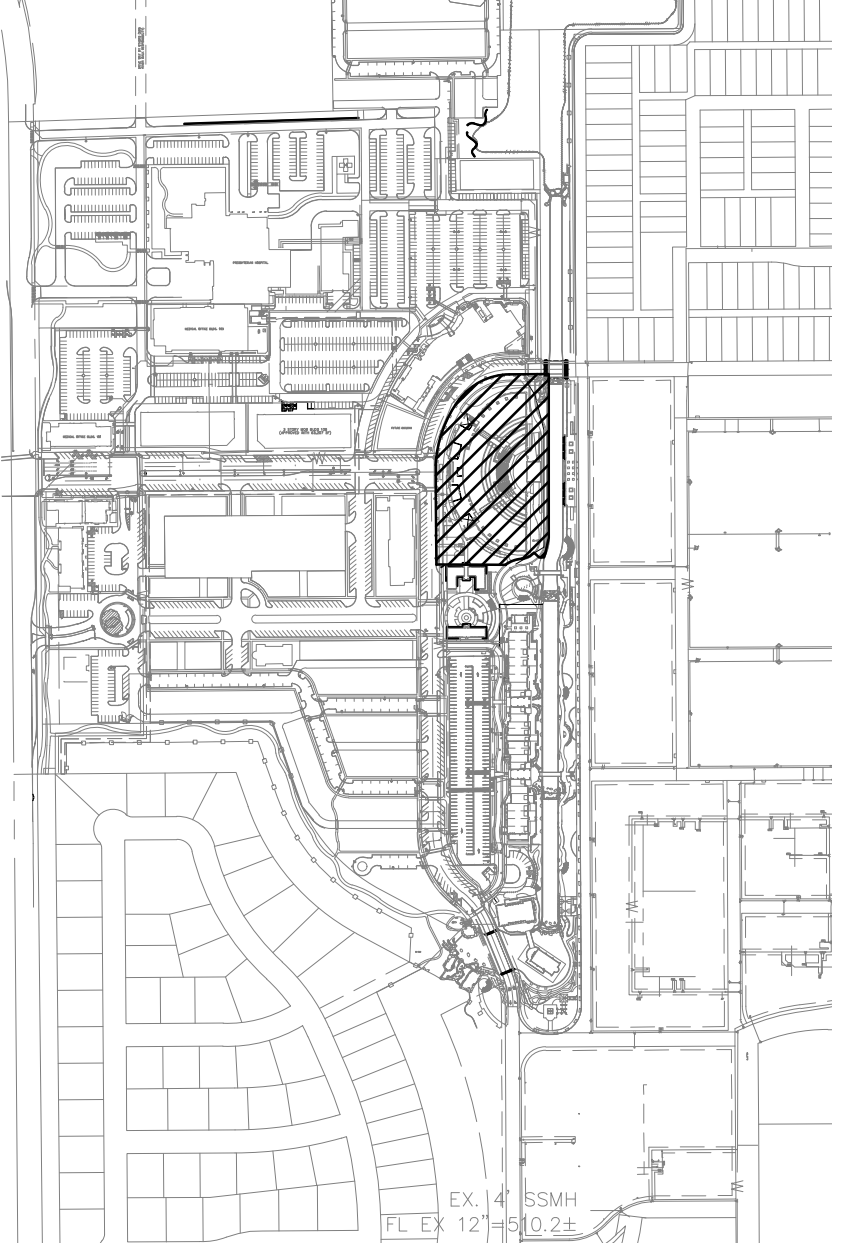
Legend detailing plant symbols and materials:

- (LE) LACEBARK ELM *Ulmus parvifolia*
- (SHL) SKYLINE HONEY LOCUST *Gleditsia triacanthos inermis 'Skycole'*
- (FC) FOND CYPRESS *Taxodium ascendens*
- (RB) RED BUD *Cercis canadensis var. texensis*
- (MAG) LITTLE GEM MAGNOLIA *Magnolia grandiflora 'Little Gem'*
- (Mn) MAVERICK MESQUITE *Prosopis glandulosa 'Maverick'*
- (BPJ) BLUE POINT JUNIPER *Juniperus chinensis 'Blue Point'*
- (TJ) TAYLOR JUNIPER *Juniperus virginiana 'Taylor'*
- (WJ) WINTER JASMINE *Jasminum nudiflorum*
- (EGA) EDWARD GOUCHER ABELIA *Abelia x 'Edward Goucher'*
- (PCM) POCOMOKE CRAPE MYRTLE *Lagerstroemia indica 'Pocomoke'*
- (AMG) ADAGIO DWARF MAIDEN GRASS *Miscanthus sinensis 'Adagio'*
- (GM) GULF MUHLY *Muhlenbergia capillaris*
- (AUS) ANTHONY WATERER SPIREA *Spiraea x bumalda 'Anthony Waterer'*
- (DL) DWARF LOROPETALUM *Loropetalum chinense var. Rubrum 'Daruma'*
- (BGG) BLUE GRAMA GRASS *Bouteloua gracilis 'Blonde Ambition'*
- (ISO) INLAND SEA OATS *Chasmanthium latifolium*
- (MF) MEXICAN FEATHER GRASS *Nassella tenuissima*
- BERMUDA SOD
- (BJ) BUFFALO JUNIPER *Juniperus sabina 'Buffalo'*
- (FW) PURPLELEAF WINTERCREEPER *Euonymus fortunei 'Coloratus'*
- (BES) BLACK-EYED SUSAN *Rudbeckia triloba*
- (PCF) PURPLE CONEFLOWER *Echinacea angustifolia*
- (WL) WEEPING LOVEGRASS *Eragrostis curvula*
- (LIRIOPE) LIRIOPE *Liriope muscari*
- SEASONAL COLOR
- ARTIFICIAL TURF T.E. FESCUE PRO by Texas Elite Landscaping Contact: Chad Harris ph: 214-298-1162 email: chad@texaselitelandscaping.com



30 0 30 60 90 Feet
SCALE: 1" = 30'

LOCATOR MAP



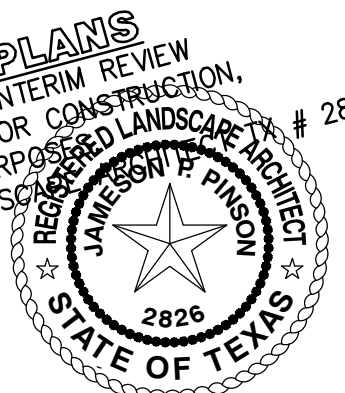
SCALE - 1:500

PLANT LIST

QUANT.	COMMON NAME	BOTANICAL NAME	SIZE	MIN. HT.	SPACE	REMARKS
27	LACEBARK ELM	<i>Ulmus parvifolia</i>	6"	10'-12'	Per Plan	Single Trunk
3	BALD CYPRESS	<i>Taxodium distichum</i>	3"	10'-12'	Per Plan	Single Trunk
4	SKYLINE HONEY LOCUST	<i>Gleditsia triacanthos inermis 'Skycole'</i>	3"	10'-12'	Per Plan	Single Trunk
3	FOND CYPRESS	<i>Taxodium ascendens</i>	3"	7'-8'	Per Plan	Single Trunk
6	RED BUD	<i>Cercis canadensis</i>	30gal.	7'-8'	Per Plan	Multi Trunk
14	LITTLE GEM MAGNOLIA	<i>Magnolia grandiflora</i>	30gal.	7'-8'	Per Plan	Full
6	MAVERICK MESQUITE	<i>Prosopis glandulosa 'Maverick'</i>	30gal.	7'-8'	Per Plan	Full
2	BLUE POINT JUNIPER	<i>Juniperus chinensis 'Blue Point'</i>	30gal.	6'-8'	Per Plan	Single Trunk
22	TAYLOR JUNIPER	<i>Juniperus virginiana 'Taylor'</i>	30gal.	7'-8'	Per Plan	Full
37	EDWARD GOUCHER ABELIA	<i>Abelia x 'Edward Goucher'</i>	5gal.	30"	42"	Full
73	ADAGIO MAIDEN GRASS	<i>Miscanthus sinensis 'Adagio'</i>	5gal.	30"	42"	Full
3	WINTER JASMINE	<i>Jasminum nudiflorum</i>	5gal.	30"	Per Plan	Full
180	ANTHONY WATERER SPIREA	<i>Spiraea x bumalda 'Anthony Waterer'</i>	3gal.	24"	3'-0"	Full
156	POCOMOKE CRAPE MYRTLE	<i>Lagerstroemia indica 'Pocomoke'</i>	5gal.	30"	3'-0"	Full
240	PINK MUHLY	<i>Muhlenbergia capillaris</i>	3gal.	18"	3'-0"	Full
61	PURPLE LOROPETALUM	<i>Loropetalum chinense</i>	5gal.	24"	3'-0"	Full
114	BLUE GRAMA GRASS	<i>Bouteloua gracilis</i>	1gal.	12"	12"	Full
12	INLAND SEA OATS	<i>Chasmanthium latifolium</i>	1gal.	12"	12"	Full
642	WEEPING LOVEGRASS	<i>Eragrostis curvula</i>	1gal.	12"	24"	Full
114	PURPLE WINTER CREEPER	<i>Euonymus fortunei 'Coloratus'</i>	1gal.	6"	12"	Full
4	BUFFALO JUNIPER	<i>Juniperus sabina 'Buffalo'</i>	5gal.	30"	4'-0"	Full
9	PURPLE CONEFLOWER	<i>Echinacea angustifolia</i>	1gal.	9"	12"	Full
71	BLACK-EYED SUSAN	<i>Rudbeckia triloba</i>	1gal.	9"	12"	Full
119	LIRIOPE	<i>Liriope muscari</i>	4"pot.	9"	12"	Full
5	ICE PLANT	<i>Delosperma cooperi</i>	1gal.	6"	12"	Full
80	MEXICAN FEATHER GRASS	<i>Nassella tenuissima</i>	3gal.	18"	3'-0"	Full
501	SEASONAL COLOR		4"pot.	4"-6"	12"	Full

REVIEWED
TOWN OF FLOWER MOUND
Released for Construction
Date _____
Town of Flower Mound
Planning Services

PRELIMINARY PLANS
THIS DOCUMENT IS FOR INTERIM REVIEW
AND IS NOT INTENDED FOR CONSTRUCTION,
BIDDING, OR PERMIT PURPOSES. LANDSCAPE
JAMESON PINSON LANDSCAPE ARCHITECTS, P.C.
DATED 12/5/2016

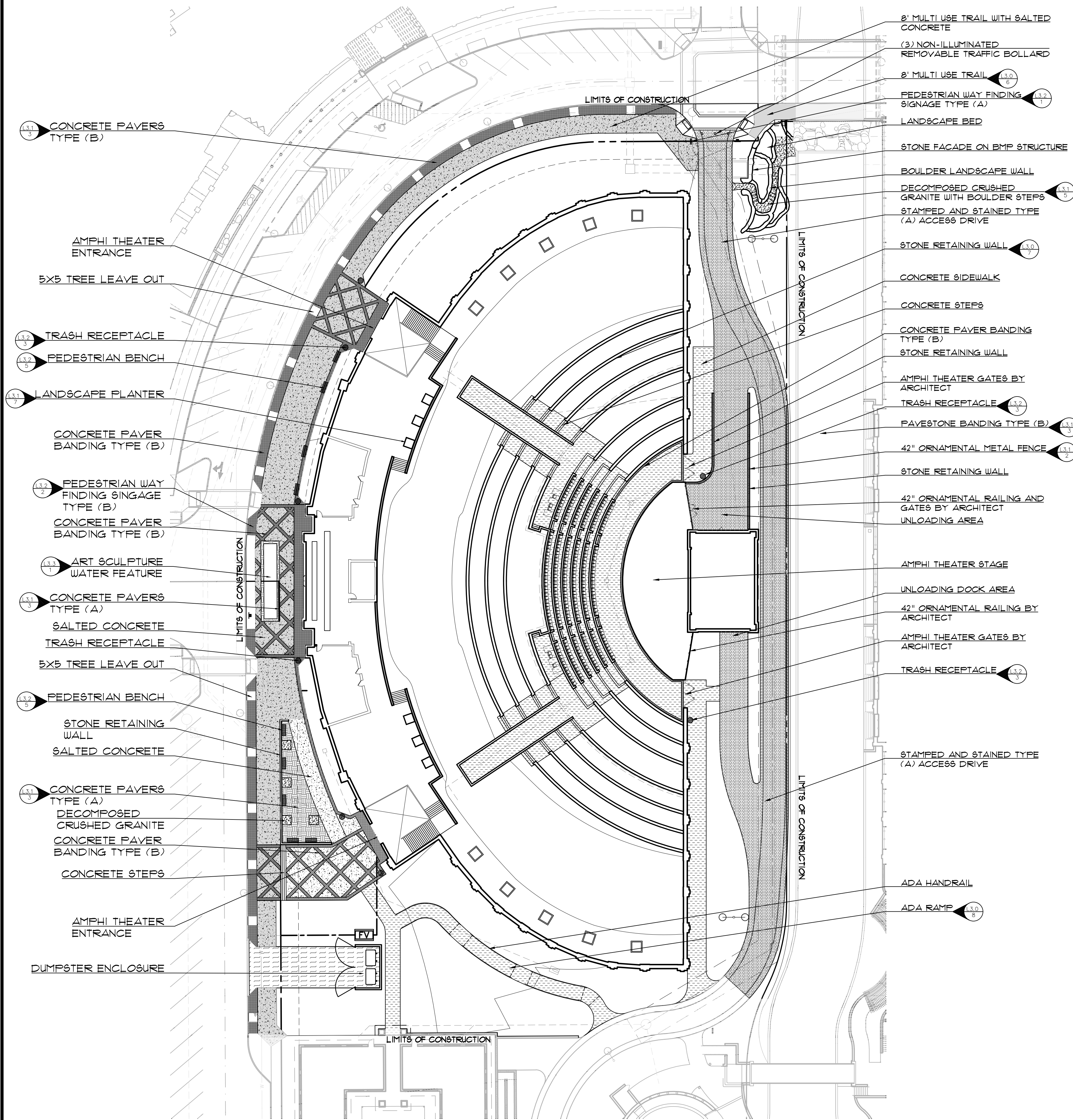


OWNER/DEVELOPER
MRW INVESTORS, INC
1800 VALLEY VIEW LANE, SUITE 300
FARMERS BRANCH, TEXAS 75324
Ph. 469-882-7200
Contact: MR. JACK DAWSON



15221A

L1.0



LEGEND

(A) STAMPED AND STAINED PATTERN CONCRETE
6" 3600 PSI COLORED CONC. PAVEMENT
W/ #3 BARS AT 18" O.C.E.W. ON SUB-BASE
COMPACTED TO 95% PROCTOR DENSITY.
PATTERN - OLD WORLD BELGIUM BLOCK, COLOR -
SLATE (BASE COLOR); GRAY (RELEASE COLOR)
FINISHED WITH SEALER

MULTI USE TRAIL:
5" 3600 PSI CONC. PAVEMENT W/ #3 BARS @ 18"
O.C.E.W. ON SUB-BASE COMPACTED TO 95% STD.
PROCTOR DENSITY.

SALTED MULTI USE TRAIL:
5" 3600 PSI CONC. PAVEMENT W/ #3 BARS @ 18"
O.C.E.W. ON SUB-BASE COMPACTED TO 95% STD.
PROCTOR DENSITY.

SALTED CONCRETE:
4" 3600 PSI CONC. PAVEMENT W/ #3 BARS
@ 18" O.C.E.W.

DECOMPOSED CRUSHED GRANITE MULCH
REF. L3.1, DETAIL 5

(A) HOLLAND STONE -
PATTERN - BASKET WEAVE
COLOR - MILBAP
REF. L3.1, DETAIL 3 FOR INSTALLATION SPECS.

(B) PAVESTONE, VENETIAN STONE - 6x6, 6x8
PATTERN - STACKED
COLOR - MILBAP
REF. L3.1, DETAIL 3 FOR INSTALLATION SPECS.

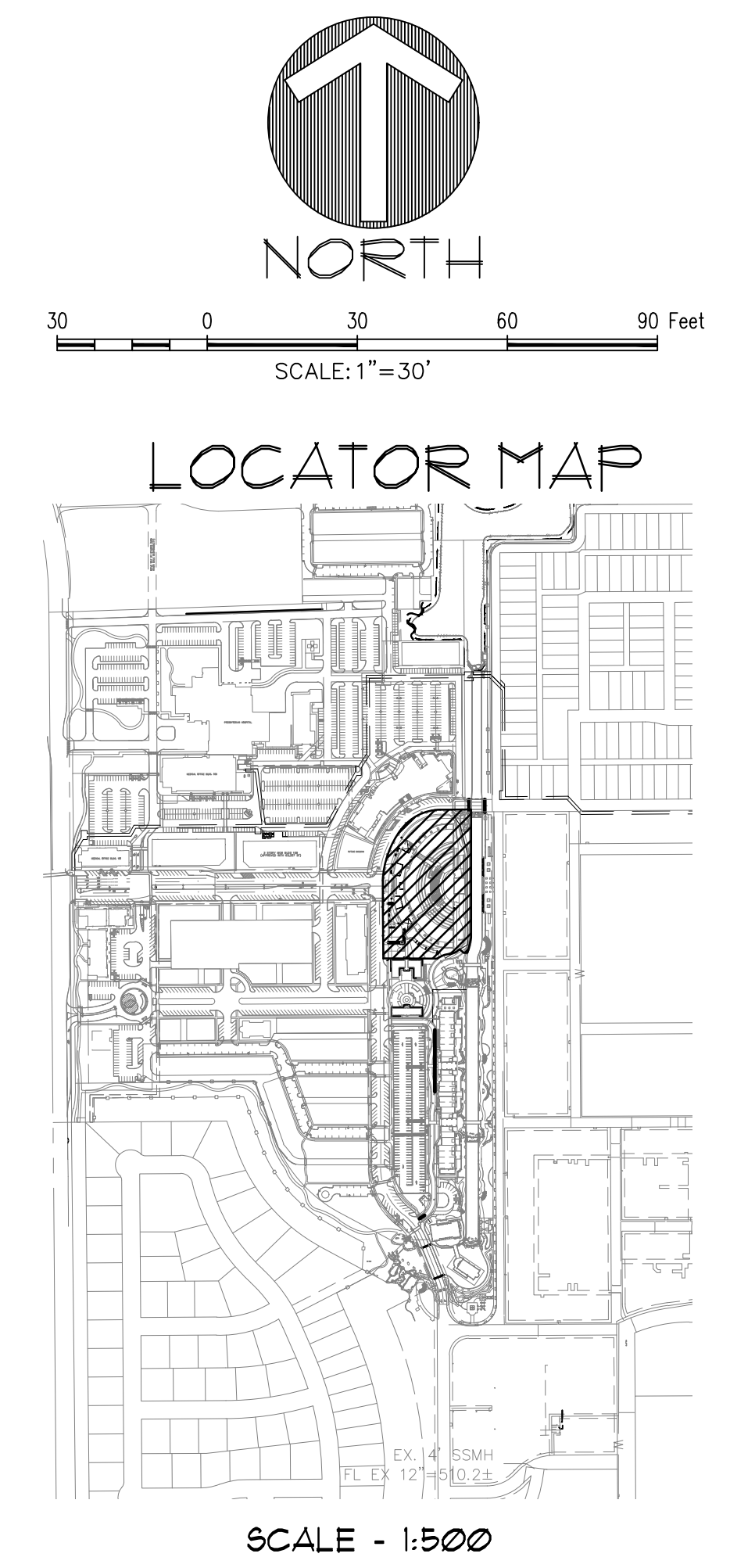
SIDEWALK AREA:
4" 3600 PSI CONC. PAVEMENT W/ #3 BARS
@ 18" O.C.E.W.

LOADING AND DUMPSTER AREAS:
8" 3600 PSI CONC. PAVEMENT W/ #3 BARS AT 18"
O.C.E.W. ON SUB-BASE COMPACTED TO 95% STD.
PROCTOR DENSITY

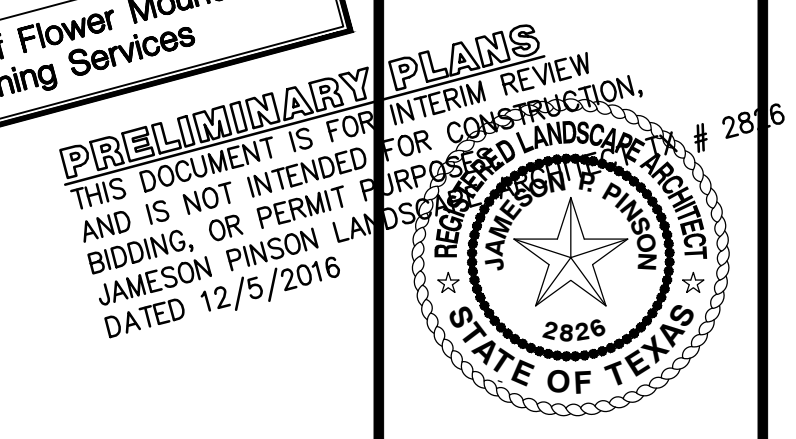
△ PATTERN AND COLOR PER PAVESTONE OF DALLAS
CONTACT: ALAN STARLING
3215 STATE HIGHWAY 360
GRAPEVINE, TX 76051
817-419-5502

○ *PATTERNED CONCRETE OF DALLAS
RICK BIERNACKI
PO BOX 120268 / 321 EAST HIGHWAY 121
LEWISVILLE TEXAS 75051
PHONE: 972.434.2501

NOTE: FOR ALTERNATE PAVEMENT MATERIAL ONLY
SALTED CONCRETE
-For best results, use salt crystals 1/8 to 3/8 inch in size and
press them into the surface to a depth about half of their
diameter. Avoid producing indents larger than 1/4 inch.
-To achieve the most distinct salt imprint, give the concrete a
smooth finish before applying the salt particles.
-Apply at a rate of 8 pounds per 100 s.f. The most important
thing is to distribute the salt evenly across the surface, so make
sure you have access to the entire slab.
-Start working the salt crystals into the concrete when the
concrete is just beginning to set.
-When washing the salt away after 24-36 hours, remove all traces
to prevent surface discoloration.
-Don't apply sealer until the concrete surface and the small
recesses left behind by the salt dry out completely.



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ENVIRONS GROUP
LANDSCAPE ARCHITECTURE
a division of G & A Consultants, LLC
111 Hillside Drive • Lewisville, TX 75057
P: 972.317.0276 • F: 972.538.9715

RIVER WALK AMPHITHEATER
Lot 1X, Block A
RIVER WALK AT CENTRAL PARK 1/2016
3.672 Acres
in the
CHACON SURVEY, ABSTRACT NO. 299
TOWN OF FLOWER MOUND
DENTON COUNTY, TEXAS

CONCEPT HARDSCAPE
PLAN

15221A

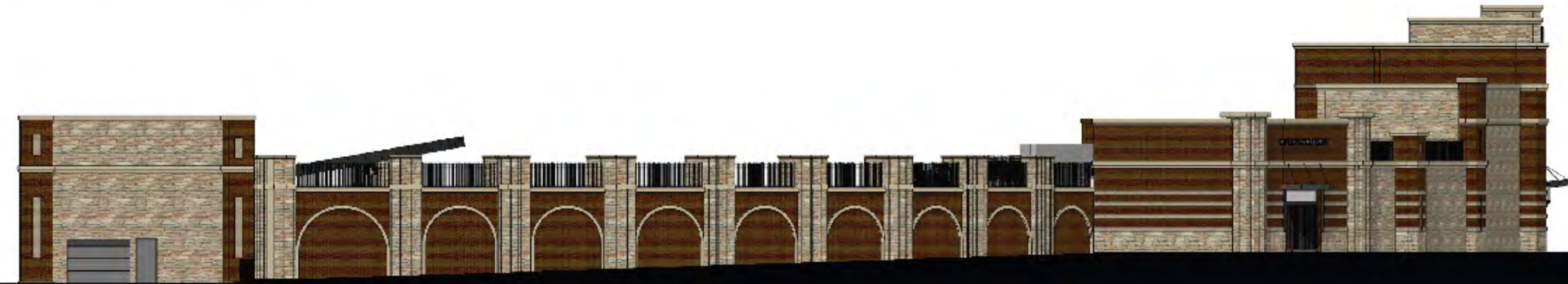
L2.0



CONCEPTUAL WEST ELEVATION



CONCEPTUAL EAST ELEVATION



CONCEPTUAL NORTH ELEVATION



CONCEPTUAL SOUTH ELEVATION

SCALE : 1/16" = 1'-0"

MATERIALS

- MASONRY 1 - ACME ROXBURY
- MASONRY 2 - ACME WEATHERWOOD GRAY
- MASONRY 3 - CHOPPED MILSAP
- CAST STONE - SAVANNAH
- STOREFRONT - DARK BRONZE

FLOWER MOUND
RIVER WALK

2015188
11.29.2016

CA
CENTURY AMERICAN

maa

Project Status

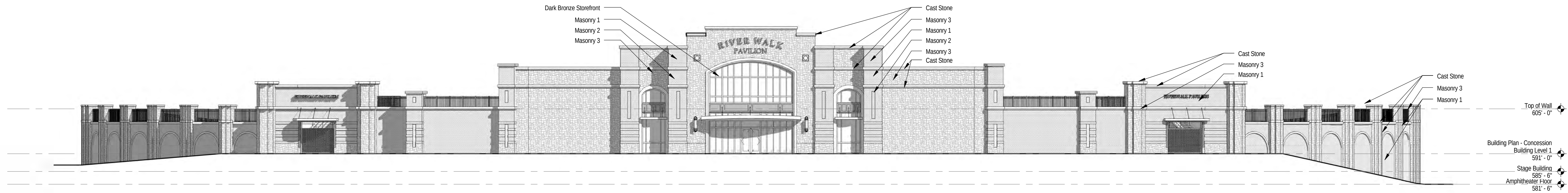
NOT FOR
CONSTRUCTION

Flower Mound
River Walk Amphitheater
Central Park Ave. and River Walk Dr.
Flower Mound, TX 75028

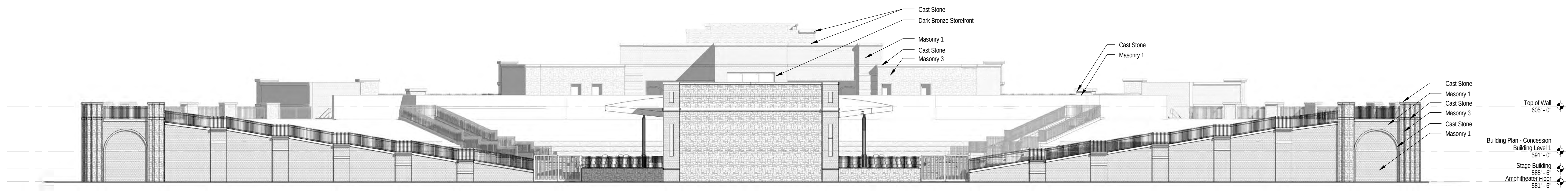
© 2016
MERRIMAN ASSOCIATES/
ARCHITECTS, INC.
REVISIONS:

PROJECT NUMBER:
maa2015188
ISSUE DATE:
11/29 / 2016
SHEET NAME:
CONCEPTUAL BUILDING
ELEVATIONS
SHEET NUMBER:

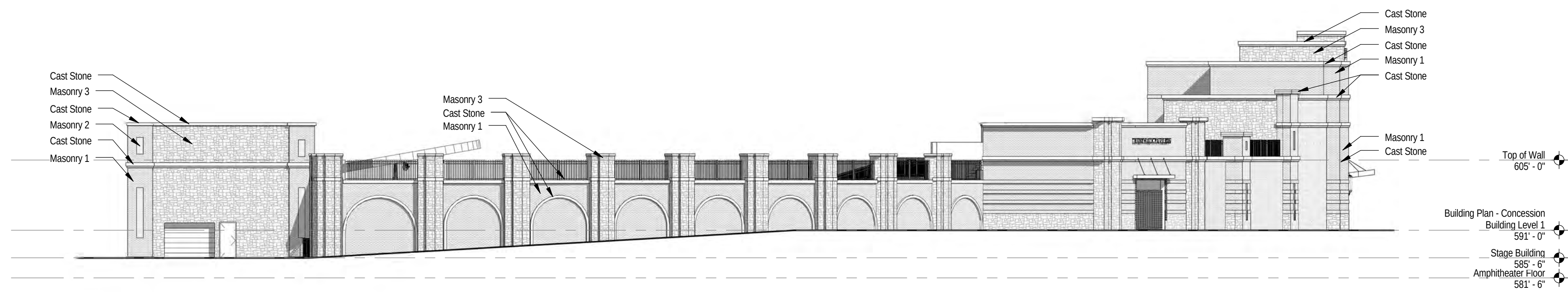
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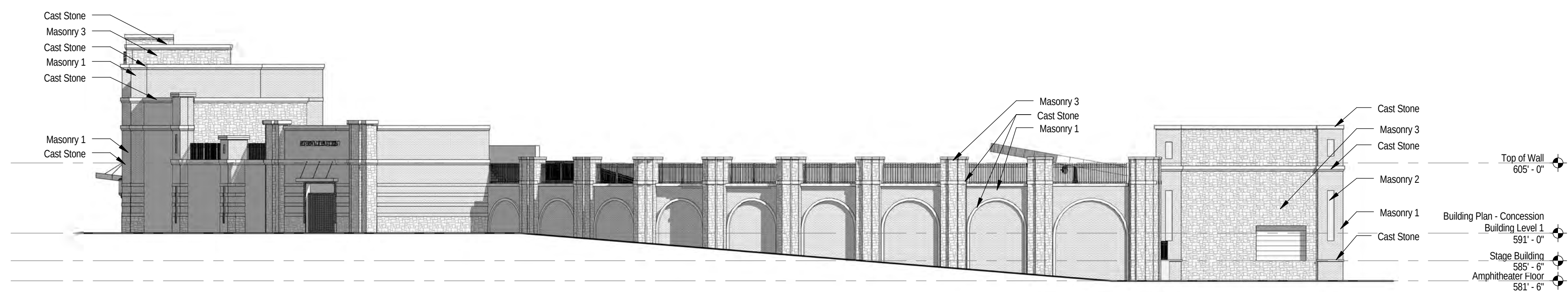
1 CONCEPTUAL WEST ELEVATION
1/16" = 1'-0"



2 CONCEPTUAL EAST ELEVATION
1/16" = 1'-0"



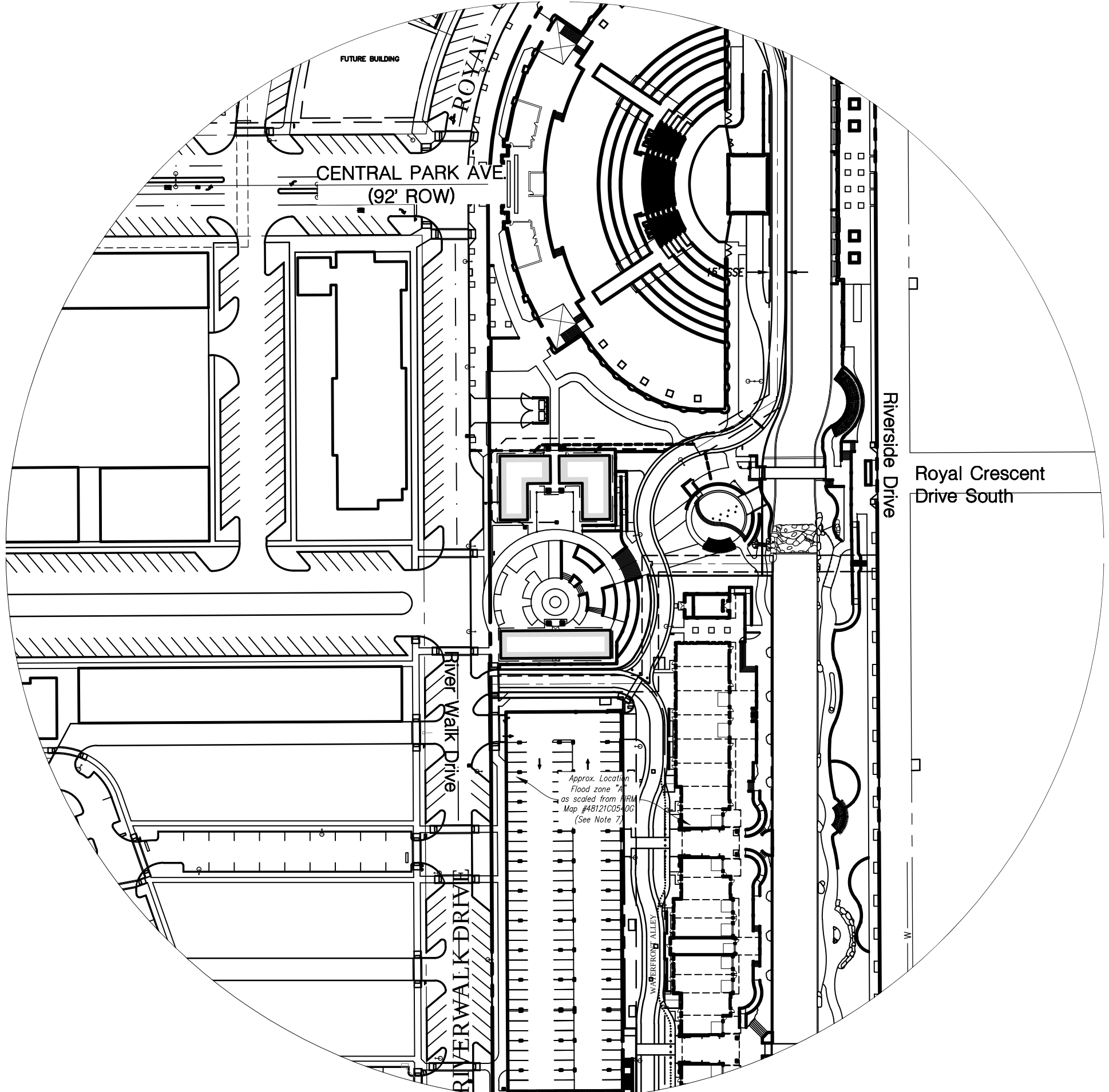
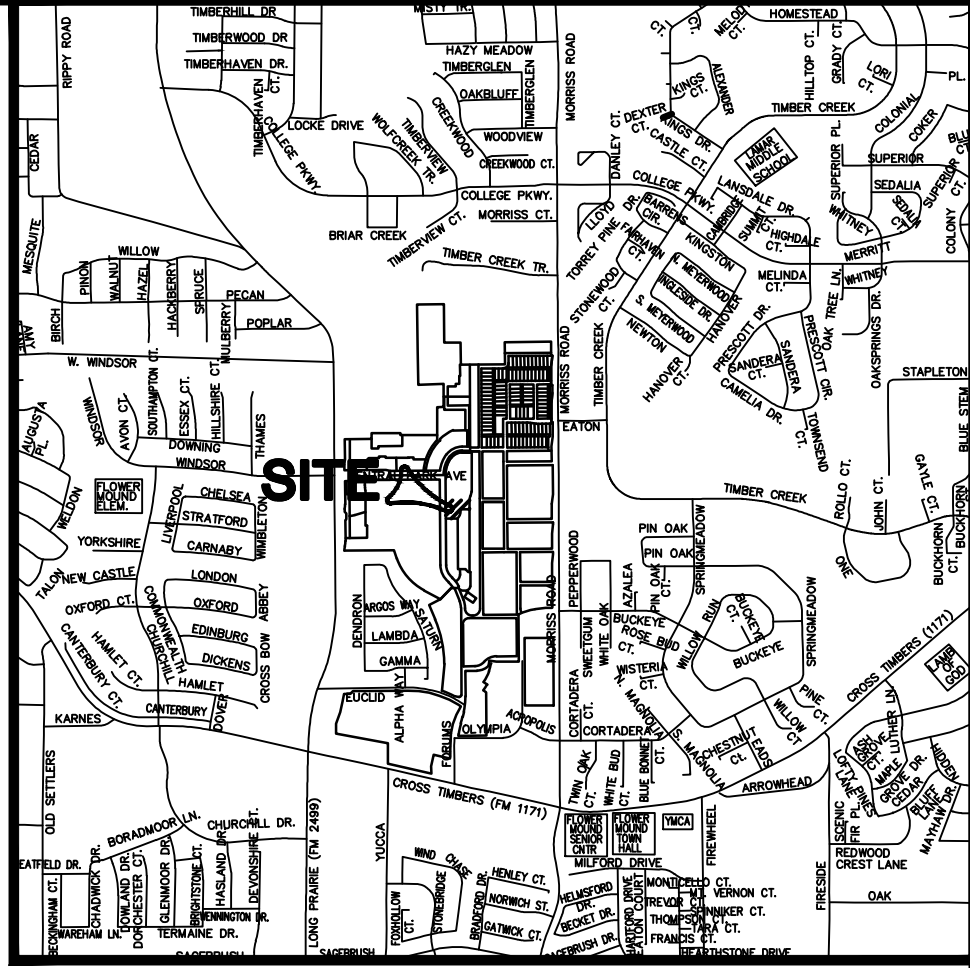
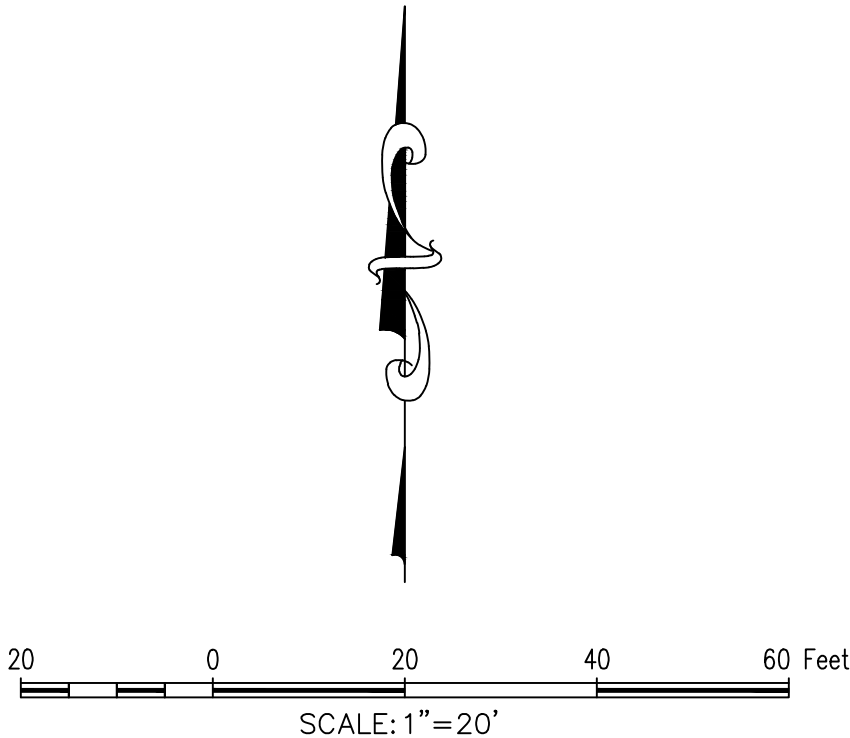
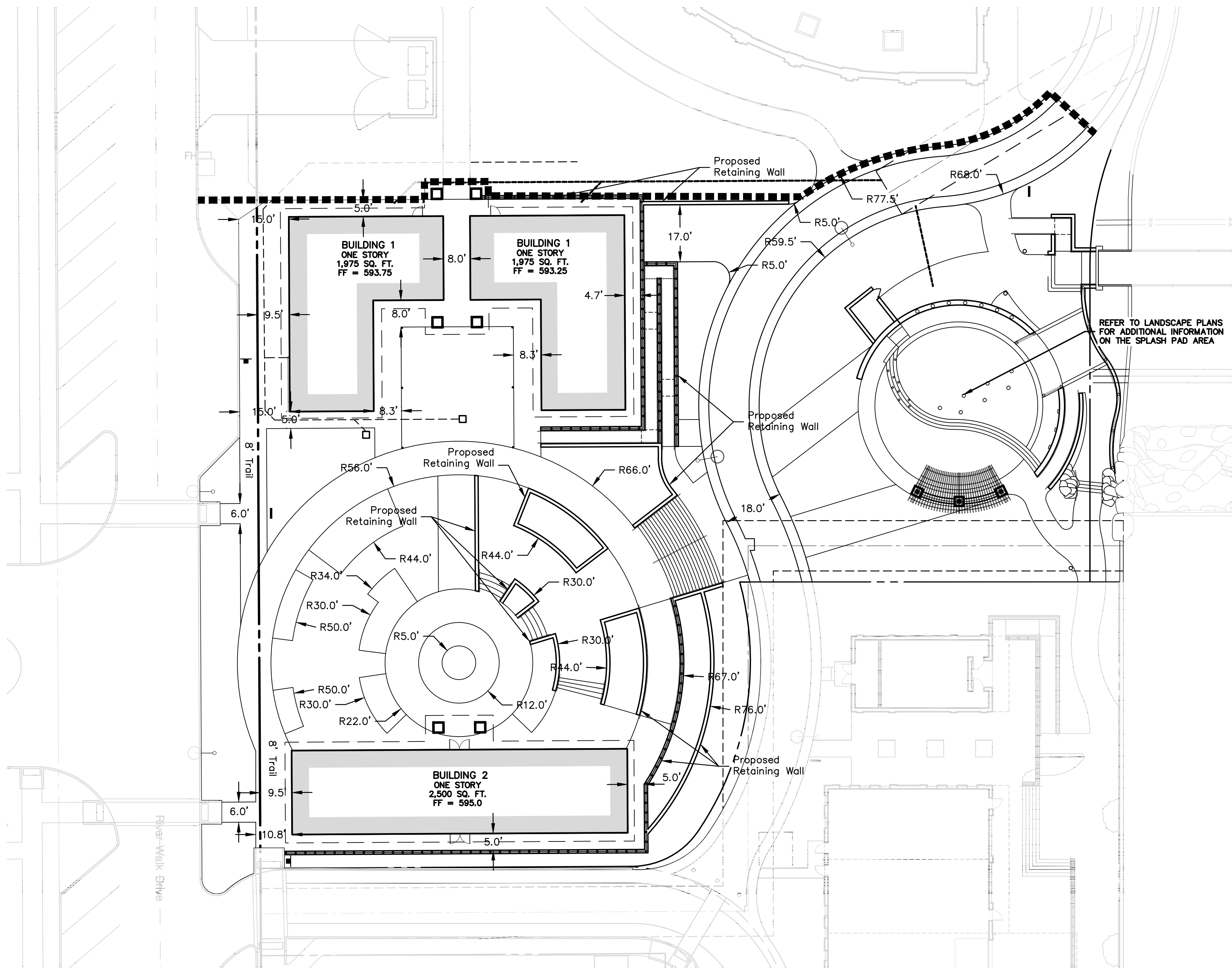
3 CONCEPTUAL NORTH ELEVATION
1/16" = 1'-0"



4 CONCEPTUAL SOUTH ELEVATION
1/16" = 1'-0"

Wall Material Takeoff	
Percentage of Area	Material: Description
EAST	
9%	Brick
91%	Stone
NORTH	
35%	Brick
65%	Stone
WEST	
10%	Brick
90%	Stone

100% MASONRY



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2. ALL DIMENSIONS SHOWN ARE TO FACE OF CURB UNLESS OTHERWISE NOTED.
3. ALL RADII ARE 3.0 FEET UNLESS OTHERWISE NOTED.
4. ALL PARKING SPOTS ARE 9.0' WIDE UNLESS OTHERWISE NOTED.
5. THE LOCATION OF THE EXISTING UTILITIES SHOWN IS APPROXIMATE. THE CONTRACTOR IS TO FIELD VERIFY LOCATION AND DEPTH PRIOR TO CONDUCTING ANY WORK.
6. THE SITE PLAN IS IN SUBSTANTIAL CONFORMANCE WITH THE APPROVED CONCEPTUAL PLAN FOR THE CENTRAL BUSINESS DISTRICT.
7. REFER TO SHEET C5 FOR PAVING HATCH LEGEND. THE HATCHED AREAS ON THIS SHEET REPRESENT THE PROPOSED FIRE LANES.
8. ALL RETAINING WALLS ARE TO BE CLAD IN A MATERIAL THAT MATCHES THE PROPOSED BUILDINGS.
9. THE TOWN OF FLOWER MOUND CONSTRUCTION STANDARDS APPLY WHETHER INDICATED ON THESE PLANS OR NOT.
10. ALL BUILDING MOUNTED UTILITY OR EQUIPMENT BOXES SHALL BE SCREENED FROM A STREET VIEW BY A MINIMUM SIX FOOT HIGH SCREENING DEVICE WHETHER SHOWN IN THESE PLANS OR NOT. SUCH SCREENING DEVICE SHALL CONSIST EITHER OF PLANT MATERIAL OR A SCREENING WALL CONSTRUCTED OF OR FINISHED WITH A MATERIAL TO MATCH THE BUILDING, PROVIDED HOWEVER THAT WOOD FENCING OR SCREENING SHALL BE PROHIBITED. THIS RELATES TO ONLY THE NORTHERN, SOUTHERN AND WESTERN BUILDING FACADES, SINCE THESE ARE THE ONLY FACADES ABUTTING A STREET.
11. SIGNS REQUIRE A SEPARATE BUILDING PERMIT. ANY SIGNS DEPICTED ON THE SITE PLAN OR ELEVATIONS ARE NOT APPROVED AS PART OF THIS REVIEW AND MUST COMPLY WITH THE RIVER WALK SIGNAGE REGULATIONS.

SITE DATA TABLE -- FARMERS MARKET/SPLASH PAD	
Physical Address	TBD
Gross Site Area	3,672 A; 159,943 SF
Net Site Area	3,672 A; 159,943 SF
Sub-District	Sub-District "A"
Current Use	Vacant Property
Lot Coverage	
Building Coverage	
Building 1	3,950 SF; ±2.4%
Building 2	2,500 SF; ±1.6%
Impervious Coverage	±75%
Pervious Area	±25%
Parking Summary -- TRWCP or Town	
Existing Parking within 500 ft = approximately 396 spaces.	
Building 1 Data	
Height Zone	One-Two Story
Height (story/feet)	1 Story; 30' 0"
Peak Height	23' 2"
Mean Height	20' 5"
Total Square Footage	3,950 SF
Building 2 Data	
Height Zone	One-Two Story
Height (story/feet)	1 Story; 30' 0"
Peak Height	23' 2"
Mean Height	21' 5"
Total Square Footage	2,500 SF

BM - TOFM 5 - 2" ALUMINUM CAP SET IN ON BUCKEYE DRIVE, EAST OF MORRIS ROAD, APPROXIMATELY 3' EAST OF THE TRAFFIC MEDIAN ELEV. 599.65 (CALLED 600.29)

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TBM - MAG NAIL WITH WASHER STAMPED "JPH LAND SURVEYING" ON THE BACK OF CURB AT THE NORTHEAST QUADRANT OF THE INTERSECTION OF LONG PRAIRIE ROAD AND EUCLID AVE. ELEV. 639.01 (CALLED 639.51)

TBM - "C" CUT ON ON THE TOP OF CURB ALONG THE CENTERLINE OF THE MEDIAN NOSE ON EATON DRIVE; EAST OF MORRIS ROAD ELEV. 576.15

Parking	
Existing/Approved Parking	291
Future	105
Total	396

REVIEWED
TOWN OF FLOWER MOUND
Released for Construction
Date

Town of Flower Mound
Engineering Services

OWNER/DEVELOPER
MRW INVESTORS, INC
1800 VALLEY VIEW LANE, SUITE 300
FARMERS BRANCH, TEXAS 75234
Ph. 469-892-7200
Contact: MR. JACK DAWSON



RIVER WALK FARMER'S MARKET & SPLASH PAD

THE RIVER WALK AT CENTRAL PARK 1/2016

3.672 Acres
in the
TOWN OF FLOWER MOUND
DENTON COUNTY, TEXAS

J.T. STEWART SURVEY ABSTRACT NO. 1161

11 Hillside Drive • Lewisville, TX 76057 • P: 972-488-9712 • F: 972-488-9715
144 Old Town Road • Lewisville, TX 76057 • P: 972-488-9712 • F: 972-488-9715
TSPS Firm No. 10047700

SITE PLANNING CIVIL ENGINEERING PLATING
CONSULTANTS, LLC
LAND SURVEYING LANDSCAPE ARCHITECTURE

G&A

CONCEPTUAL SITE PLAN
AND DIMENSIONAL
CONTROL PLAN

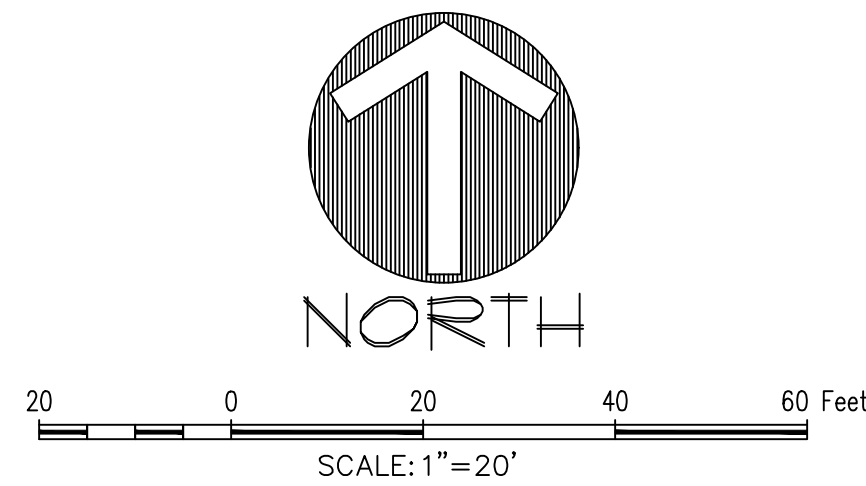
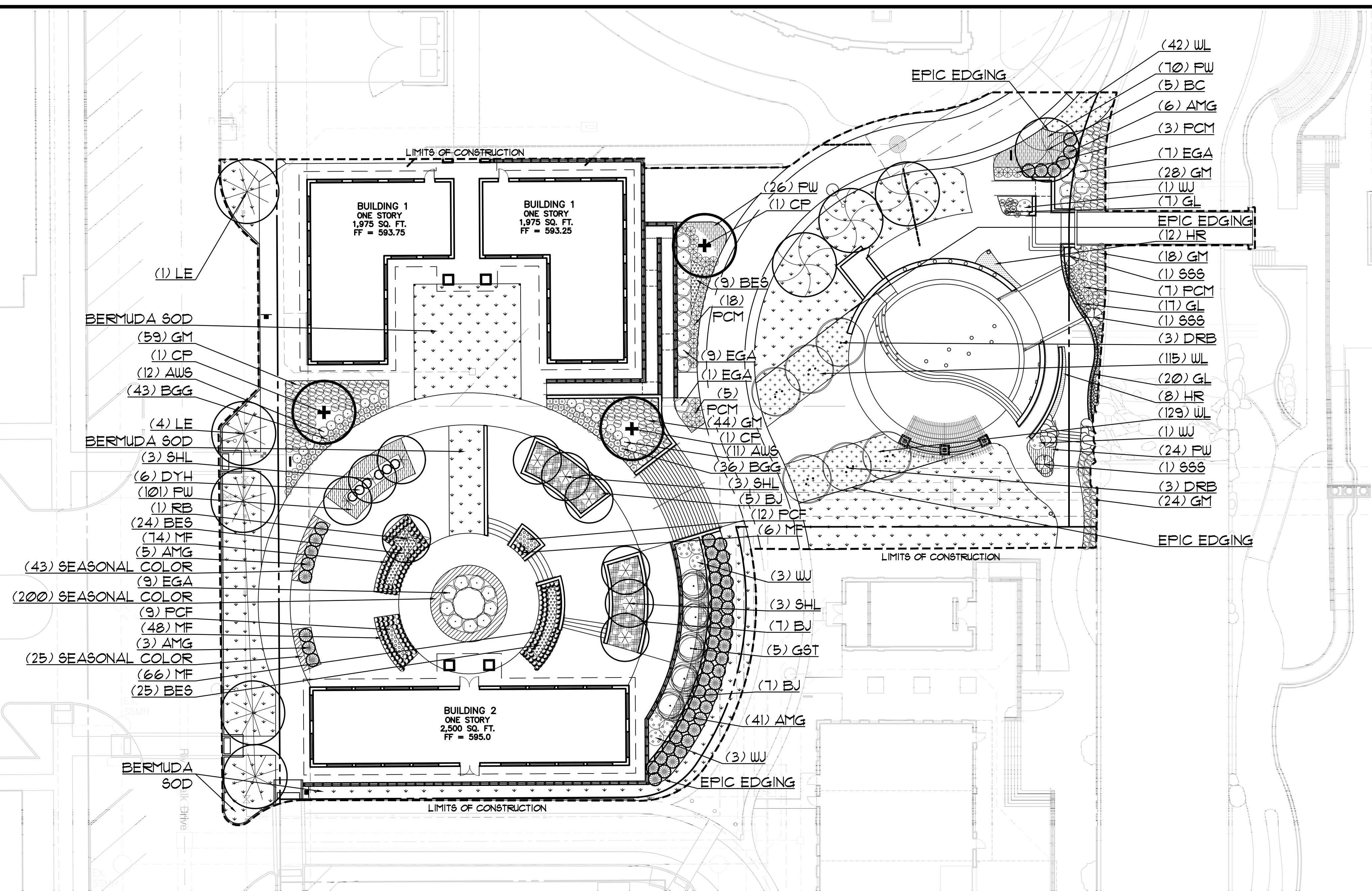
PRELIMINARY PLANS

THIS DOCUMENT IS FOR
INTERIM REVIEW AND IS
NOT INTENDED FOR
CONSTRUCTION, BIDDING,
OR PERMIT PURPOSES.
G&A CONSULTANTS, F-1798
ROBERT JOHN DOLLAH, JR.,
P.E. #86898
DATE 12/5/2016

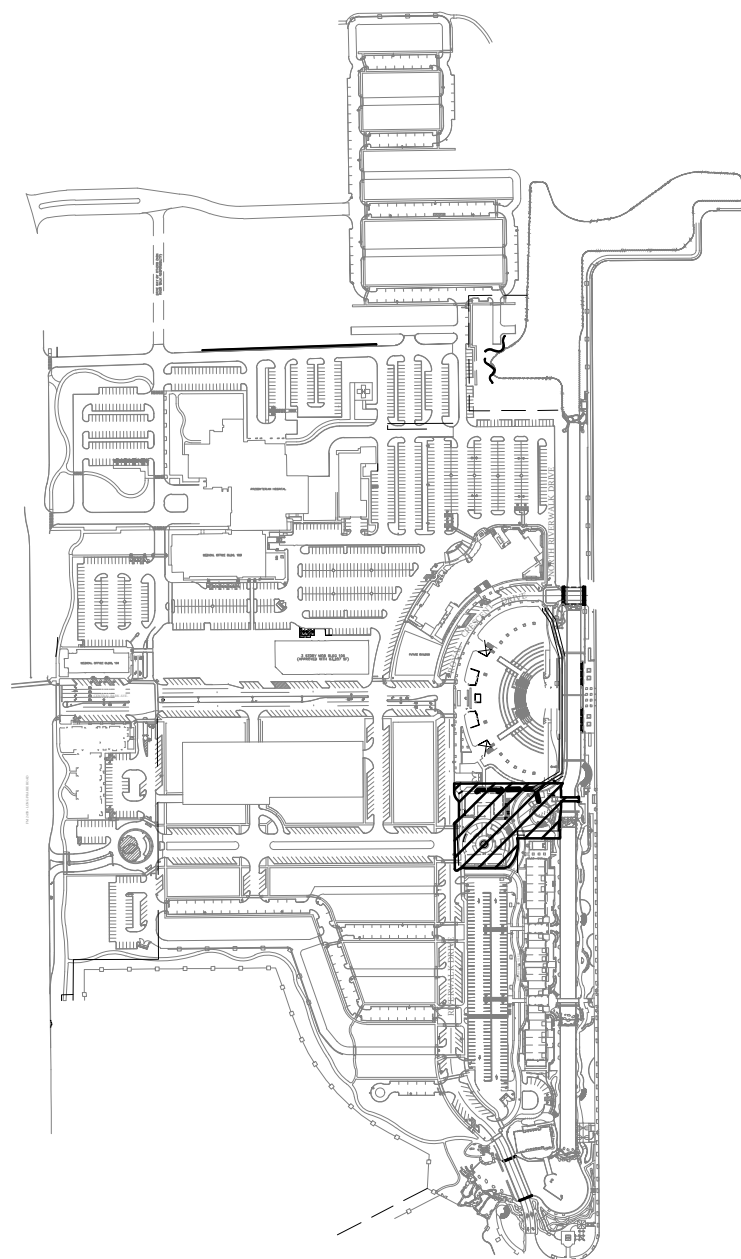
Drawn By: SM
Date: 01/18/2016
Scale: 1"=20'
Revisions:
02/23/2016
11/10/2016

15221

C4



LOCATOR MAP



PLANT LIST

QUANT.	COMMON NAME	BOTANICAL NAME	SIZE	MIN. HT.	SPACE	REMARKS
5	LACEBARK ELM	<i>Ulmus parvifolia</i>	6"	10'-12'	Per Plan	Single Trunk
3	CHINESE PISTACHE	<i>Pistacia chinensis</i>	3"	10'-12'	Per Plan	Single Trunk
5	BALD CYPRESS	<i>Taxodium distichum</i>	3"	10'-12'	Per Plan	Single Trunk
9	SKYLINE HONEY LOCUST	<i>Gleditsia triacanthos inermis 'Skycole'</i>	3"	10'-12'	Per Plan	Single Trunk
6	DURA HEAT RIVER BIRCH	<i>Betula nigra 'BNMTF'</i>	3"	10'-12'	Per Plan	Multi Trunk
1	RED BUD	<i>Cercis canadensis</i>	3" cal.	8'-10'	Per Plan	Multi Trunk
5	SMOKE TREE	<i>Cotinus coccinea 'Royal Purple'</i>	30gal.	7'-8'	Per Plan	Multi Trunk
3	SLENDER SWEETGUM	<i>Taxodium distichum Skyward P.P. #22312</i>	30gal.	6'-8'	Per Plan	Single Trunk
26	EDWARD GOUCHER ABELIA	<i>Abelia x 'Edward Goucher'</i>	5gal.	30"	42"	Full
55	ADAGIO MAIDEN GRASS	<i>Miscanthus sinensis 'Adagio'</i>	5gal.	30"	42"	Full
8	WINTER JASMINE	<i>Jasminum nudiflorum</i>	5gal.	30"	Per Plan	Full
6	DWARF YAUPOH HOLLY	<i>Ilex vomitoria 'Nana'</i>	3gal.	24"	3'-0"	Full
23	ANTHONY WATERER SPIREA	<i>Spiraea x bumalda 'Anthony Waterer'</i>	3gal.	24"	3'-0"	Full
33	POCOMOKE CRAPE MYRTLE	<i>Lagerstroemia indica 'Pocomoke'</i>	5gal.	30"	3'-0"	Full
163	PINK MUHLY	<i>Muhlenbergia capillaris</i>	3gal.	18"	3'-0"	Full
20	HORSETAIL REED	<i>Equisetum hyemale</i>	1gal.	12"	12"	Full
79	BLUE GRAMA GRASS	<i>Bouteloua gracilis</i>	1gal.	12"	12"	Full
286	WEEPING LOVE GRASS	<i>Chasmanthium latifolium</i>	1gal.	12"	24"	Full
44	GIANT LILYTURF	<i>Liriope gigantea</i>	1gal.	12"	2'	Full
69	PURPLE WINTER CREEPER	<i>Euonymus fortunei 'Coloratus'</i>	1gal.	6"	12"	Full
194	MEXICAN FEATHER GRASS	<i>Nassella tenuissima</i>	3gal.	18"	3'-0"	Full
19	BUFFALO JUNIFER	<i>Juniperus sabina 'Buffalo'</i>	5gal.	30"	4'-0"	Full
21	PURPLE CONEFLOWER	<i>Echinacea angustifolia</i>	1gal.	9"	12"	Full
58	BLACK-EYED SUSAN	<i>Rudbeckia triloba</i>	1gal.	9"	12"	Full
68	SEASONAL COLOR		4"pot	4"-6"	12"	Full

PLANT LEGEND

(BC) BALD CYPRESS <i>Taxodium distichum</i>	(WJ) WINTER JASMINE <i>Jasminum nudiflorum</i>	(BES) BLACK-EYED SUSAN <i>Rudbeckia triloba</i>
(CP) CHINESE PISTACHE <i>Pistacia chinensis</i>	(EGA) EDWARD GOUCHER ABELIA <i>Abelia x 'Edward Goucher'</i>	(PCF) PURPLE CONEFLOWER <i>Echinacea angustifolia</i>
(LE) LACEBARK ELM <i>Ulmus parvifolia</i>	(PCM) POCOMOKE CRAPE MYRTLE <i>Lagerstroemia indica 'Pocomoke'</i>	(HR) HORSETAIL REED <i>Equisetum hyemale</i>
(DRB) DURA HEAT RIVER BIRCH <i>Betula nigra 'BNMTF'</i>	(AMG) ADAGIO MAIDEN GRASS <i>Miscanthus sinensis 'Adagio'</i>	SEASONAL COLOR
(SHL) SKYLINE HONEY LOCUST <i>Gleditsia triacanthos inermis 'Skycole'</i>	(GM) GULF MUHLY <i>Muhlenbergia capillaris</i>	BERMUDA SOD
(RB) RED BUD <i>Cercis canadensis</i>	(AWB) ANTHONY WATERER SPIREA <i>Spiraea x bumalda 'Anthony Waterer'</i>	BUFFALO SOD
(G&T) SMOKE TREE <i>Cotinus coccinea 'Royal Purple'</i>	(DYH) DWARF YAUPOH HOLLY <i>Ilex vomitoria 'Nana'</i>	
(SSS) SLINDER SILHOUETTE SWEETGUM <i>Liquidambar styraciflua 'Slender Silhouette'</i>	(BGG) BLUE GRAMA GRASS <i>Bouteloua gracilis 'Blonde Ambition'</i>	
	(GL) GIANT LILYTURF <i>Liriope gigantea</i>	
	(BJ) BUFFALO JUNIFER <i>Juniperus sabina 'Buffalo'</i>	
	(FW) PURPLELEAF WINTERCREEPER <i>Euonymus fortunei 'Coloratus'</i>	
	(WL) WEEPING LOVE GRASS <i>Eragrostis curvula</i>	

OWNER/DEVELOPER
MRW INVESTORS, INC.
1800 VALLEY VIEW LANE, SUITE 300
FARMERS BRANCH, TEXAS 75234
Ph. 469-882-7200
Contact: MR. JACK DAWSON



RIVER WALK FARMER'S MARKET & SPLASH PAD
SPLASH PAD
Lot 1XR, Block A
THE RIVER WALK AT CENTRAL PARK 1/2016
3.672 Acres
in the
TOWN OF FLOWER MOUND
DENTON COUNTY, TEXAS
J.T. STEWART SURVEY, ABSTRACT NO. 161

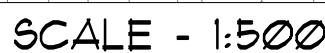
CONCEPT LANDSCAPE PLAN

PRELIMINARY PLANS
THIS DOCUMENT IS FOR INTERIM REVIEW
AND IS NOT INTENDED FOR CONSTRUCTION,
BIDDING, OR PERMIT PURPOSES.
DATE: 12/5/2016
DRAWN BY: J.T. STEWART
STATE OF TEXAS
791

Drawn By: MC
Date: 01/18/2016
Scale: 1"=20'
Revisions:
02/23/2016
11/10/2016

15221

L1.0



**NOTE: FOR ALTERNATE PAVEMENT MATERIAL ONLY
SALTED CONCRETE**

- For best results, use salt crystals 1/8 to 3/8 inch in size and press them into the salt to a depth about half of their diameter. Avoid producing indents larger than 1/4 inch.
- To achieve the most distinct salt imprint, give the concrete a smooth finish before applying the salt particles.
- Apply at a rate of 8 pounds per 100 s.f. The most important thing is to distribute the salt evenly across the surface, so make sure you have access to the entire slab.
- Start working the salt crystals into the concrete when the concrete is just beginning to set.
- When washing the salt away after 24-36 hours, remove all traces to prevent surface discoloration.
- Don't apply sealer until the concrete surface and the small recesses left behind by the salt dry out completely.

L2.0

CONCEPT HARDSCAPE PLAN	RIVER WALK FARMER'S MARKET & SPLASH PAD Lot 1XR, Block A THE RIVER WALK AT CENTRAL PARK 1/2016 3.672 Acres in the J.T. STEWART SURVEY, ABSTRACT NO. 1161 TOWN OF FLOWER MOUND DENTON COUNTY, TEXAS	 ENVIRONS GROUP LANDSCAPE ARCHITECTURE a division of G & A Consultants, L.L.C. 111 Hillside Drive • Lewisville, TX 75067 P: 972.317.0276 • F: 972.438.9715
--	--	--

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 APPROVING SPECIFIC USE PERMIT NO. 445 (SUP-445) FOR AMUSEMENT AND RECREATION (OUTDOORS) USES ON CERTAIN PROPERTY DESCRIBED AS 3.672 ACRES OF LAND AND BEING ALL OF LOT 1X AND A PORTION OF LOT 1, BLOCK A, OF THE RIVER WALK AT CENTRAL PARK, AND ZONED CENTRAL BUSINESS DISTRICT (CBD); PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL 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 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, 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 owner of the property described as 3.672 acres of land and being all of Lot 1X and a portion of Lot 1, Block A, of The River Walk at Central Park, has filed an application for a Specific Use Permit for amusement and recreation (outdoors) uses; and,

WHEREAS, the Planning and Zoning Commission of the Town of Flower Mound, Texas held a public hearing on December 12, 2016, and the Town Council of the Town of Flower Mound, Texas, held a public hearing on December 19, 2016, with respect to the Specific Use Permit 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 Specific Use Permit on the property; and,

WHEREAS, the Town Council finds that the Specific Use Permit should be granted as outlined herein as it 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:

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 as shown below:

3.672 acres of land and being all of Lot 1X and a portion of Lot 1, Block A, of The River Walk at Central Park, Denton County, Texas.

Specific Use Permit No. 445 for amusement and recreation (outdoors) uses, as more fully described in the exhibits attached hereto and incorporated herein.

SECTION 2

The conceptual site plans, conceptual landscape plans, and conceptual elevations of the proposed amphitheater and splash pad, attached hereto as Exhibits "A," "B," and "C," each incorporated herein for all purposes allowed by law, are hereby approved as the conceptual site plans, conceptual landscape plans, and conceptual elevations for this Specific Use Permit.

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 Specific Use Permit, as set forth above.

SECTION 4

The use of the property described above shall be subject to all 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, 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.

Ordinance No. _____

Page 3**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 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.

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:**

Ordinance No._____

Bryn Meredith, TOWN ATTORNEY



CONTRACT DEVELOPER
KPM INVESTMENTS, INC.
1800 W. MAIN STREET, SUITE 300
FARMERS BRANCH, TEXAS 75844
PH: 409-466-2200
WWW.KPMINVESTMENTS.COM
COURTESY: THE RIVER WALK

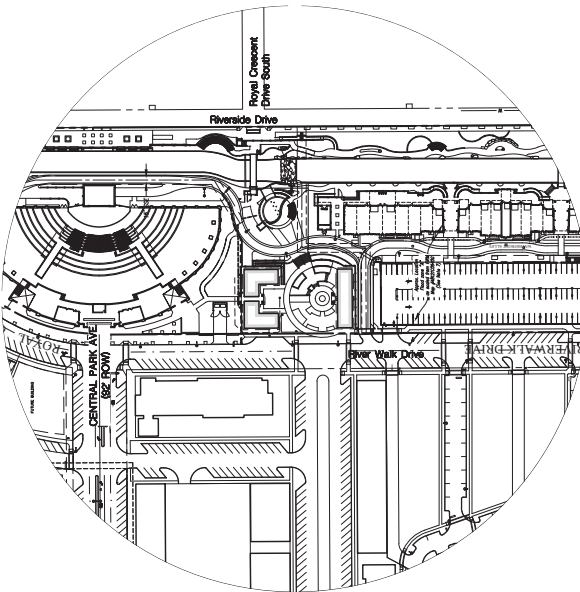
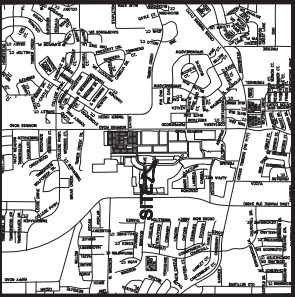
REVIEWED
TOWN OF FLOWER MOUND
Published for Construction
Date
Town of Flower Mound
Engineering

PRELIMINARY PLANS
THIS DOCUMENT IS FOR
INTERIM REVIEW ONLY AND IS
NOT TO BE USED FOR
CONSTRUCTION OR
LEGAL PROCEEDINGS.
GARY CONSULTANTS, INC.
11000 W. 11TH STREET, SUITE 100
P.O. BOX 88388
DALLAS, TEXAS 75221
DATE 12/5/2016

CONCEPTUAL SITE PLAN
AND DIMENSIONAL
CONTROL PLAN

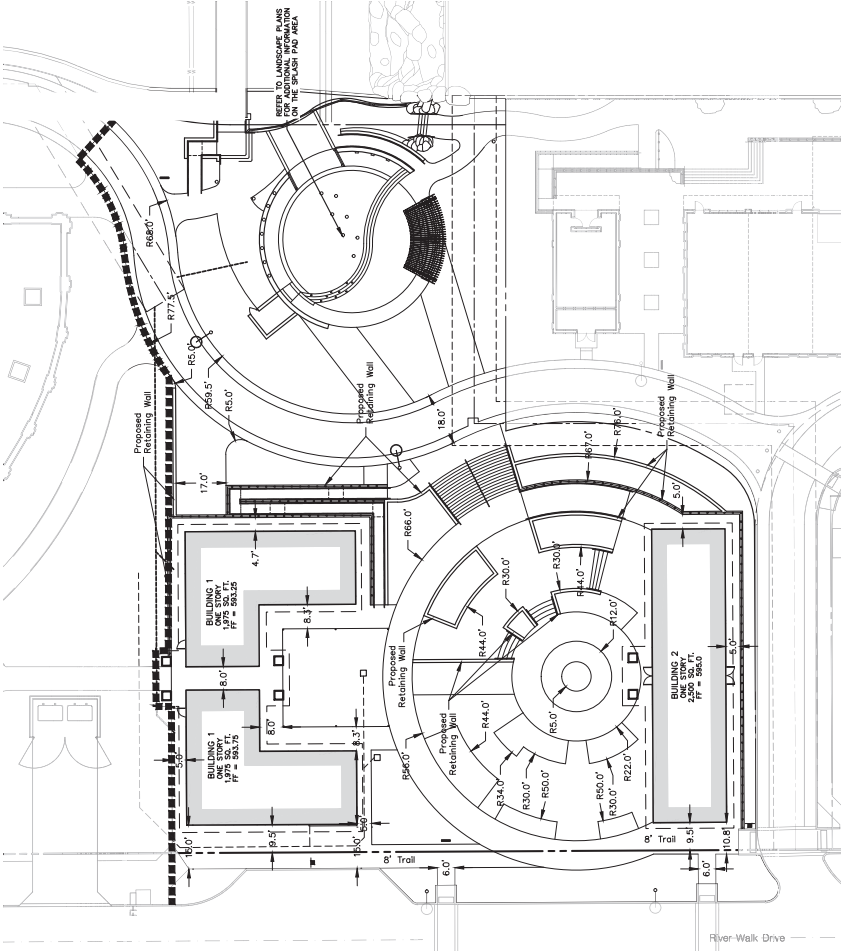
RIVER WALK FARMERS MARKET &
SPLASH PAD
3.672 ACRES
J.T. STEWART SURVEY, ABSTRACT NO. 161
TOWN OF FLOWER MOUND
DENTON COUNTY, TEXAS

STARLAND CIVIL ENGINEERING & ARCHITECTURE
CONSULTANTS, LLC
14101 FARMERS ROAD, SUITE 200
FARMERS BRANCH, TEXAS 75844
TEL: 409-466-2200
FAX: 409-466-2201
WWW.STARLANDCONSULTANTS.COM



OFFSITE PARKING WITHIN 500' (1"=100')

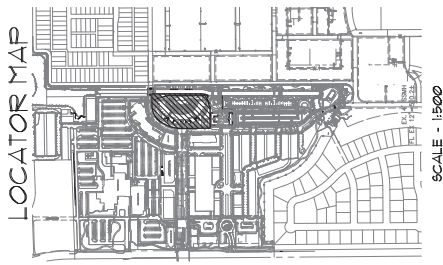
Parking	Existing	Proposed	Total
Surface	100	100	200
Structure	0	0	0
Total	100	100	200



SITE DATA TABLE - FARMERS MARKET/SPLASH PAD	
Proposed Building Area	10,000 SF
Proposed Parking Area	10,000 SF
Net Site Area	3,672 A, 159,843 SF
Sub-Parcel	Sub-Parcel 1, 2A
Current Use	Vacant Property
Lot Coverage	27.5%
Building 1	3,500 SF, 21.4%
Building 2	3,500 SF, 21.4%
Superficial Coverage	4.1%
Paved Area	4,258
Parking Summary	10000 Bldg + 10000 Pkng = 20000
Existing Parking within 500 ft	approximately 200 spaces
Building 1 Data	
Height	One-Two Story
Height (Story/Feet)	2/20'
Area	3,500 SF
Mean Height	20'
Total Square Footage	3,500 SF
Building 2 Data	
Height	One-Two Story
Height (Story/Feet)	2/20'
Area	3,500 SF
Mean Height	20'
Total Square Footage	3,500 SF

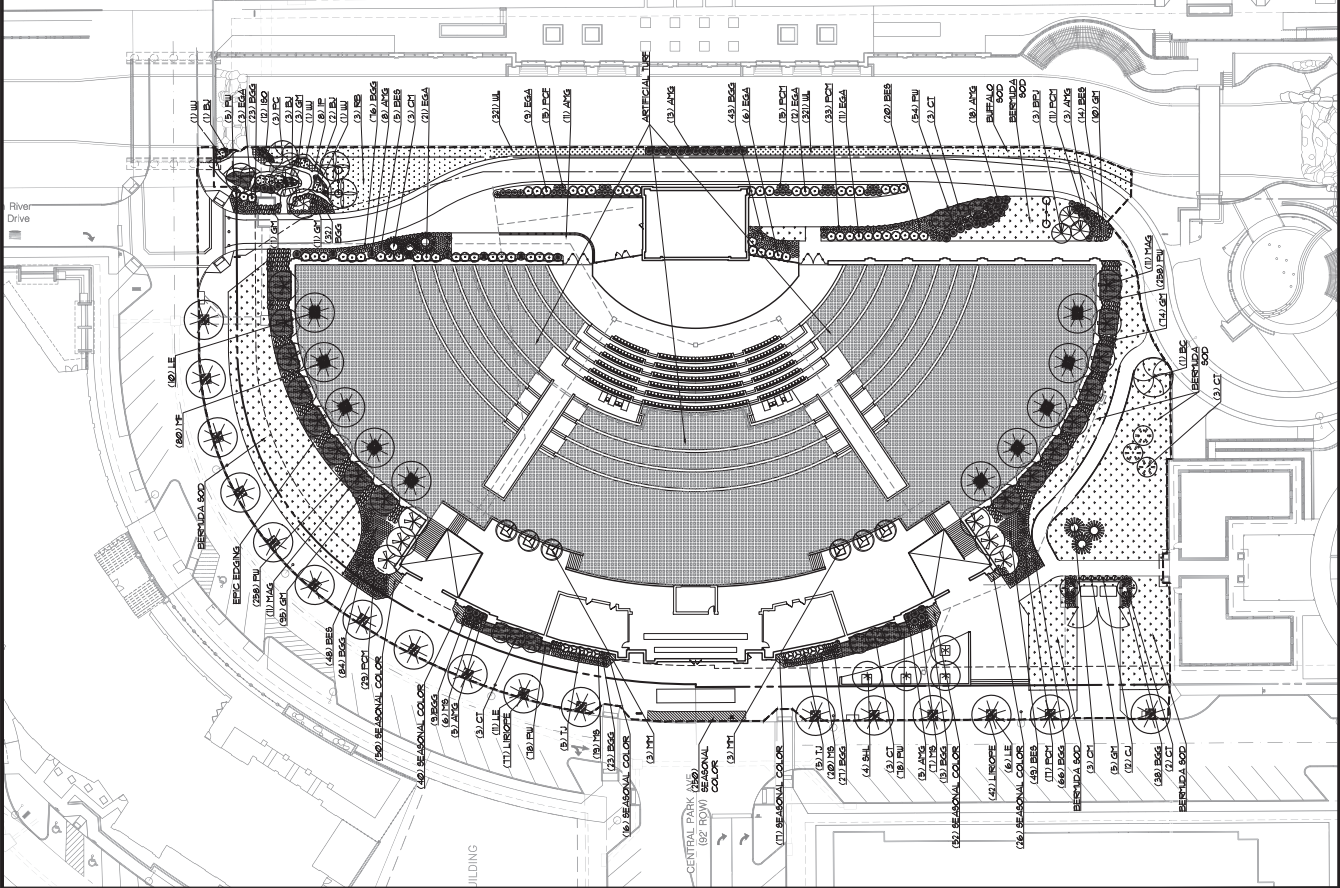
- NOTES:
1. CONTRACTOR IS TO CONTACT THE TOWN'S TREE ARBORIST PRIOR TO ANY REMOVAL OR PRUNING OF TREES TO DETERMINE TREE PRESERVATION REQUIREMENTS DURING CONSTRUCTION.
 2. ALL LOT DIMENSIONS SHOWN ARE TO FACE OF CURB UNLESS OTHERWISE NOTED.
 3. ALL RADI ARE 3.0 FEET UNLESS OTHERWISE NOTED.
 4. THE CONTRACTOR SHALL VERIFY THE EXISTING UTILITIES SHOWN AND NOTED.
 5. THE LOCATION OF THE EXISTING UTILITIES SHOWN IS APPROXIMATE. THE CONTRACTOR IS TO FIELD VERIFY LOCATION AND DEPTH PRIOR TO CONSTRUCTION.
 6. THE SITE PLAN IS IN SUBSTANTIAL CONFORMANCE WITH THE DISTRICT'S CONCEPTUAL PLAN FOR THE CENTRAL BUSINESS DISTRICT.
 7. REFER TO SHEET C5 FOR PAVING HATCH LEGEND. THE HATCHED AREAS INDICATE THE PROPOSED PAVING.
 8. ALL RETAINING WALLS ARE TO BE CLAD IN A MATERIAL THAT COMPLEMENTS THE SURROUNDING ENVIRONMENT.
 9. THE TOWN OF FLOWER MOUND CONSTRUCTION STANDARDS APPLY TO THESE PLANS OR NOT. ROWS SHALL BE SCREENED FROM A STREET VIEW BY A MINIMUM SIX FOOT HIGH SCREENING WALL OR A SCREENING WALL CONSTRUCTED OF OR FINISHED MATERIAL OR A SCREENING WALL CONSTRUCTED OF OR FINISHED MATERIAL. THE SCREENING WALL SHALL BE PROHIBITED. THIS RELATES TO ONLY THE NORTHERN, SOUTHERN, AND WESTERN ABUTTING A STREET.
 10. THE PROPOSED BUILDING HEIGHT, ANY SCREENING WALL, OR SCREENING WALL SHALL BE PROHIBITED. THIS RELATES TO ONLY THE NORTHERN, SOUTHERN, AND WESTERN ABUTTING A STREET.
 11. DEPICED ON THE SITE PLAN OR ELEVATIONS ARE NOT APPROVED AS PART OF THIS REVIEW AND MUST COMPLY WITH THE RIVER WALK SCREENING REGULATIONS.

THE TOWN OF FLOWER MOUND HAS REVIEWED THE CONCEPT PLAN AND HAS APPROVED THE CONCEPT PLAN FOR THE CENTRAL BUSINESS DISTRICT. THE TOWN OF FLOWER MOUND HAS REVIEWED THE CONCEPT PLAN AND HAS APPROVED THE CONCEPT PLAN FOR THE CENTRAL BUSINESS DISTRICT. THE TOWN OF FLOWER MOUND HAS REVIEWED THE CONCEPT PLAN AND HAS APPROVED THE CONCEPT PLAN FOR THE CENTRAL BUSINESS DISTRICT.



PLANT LIST

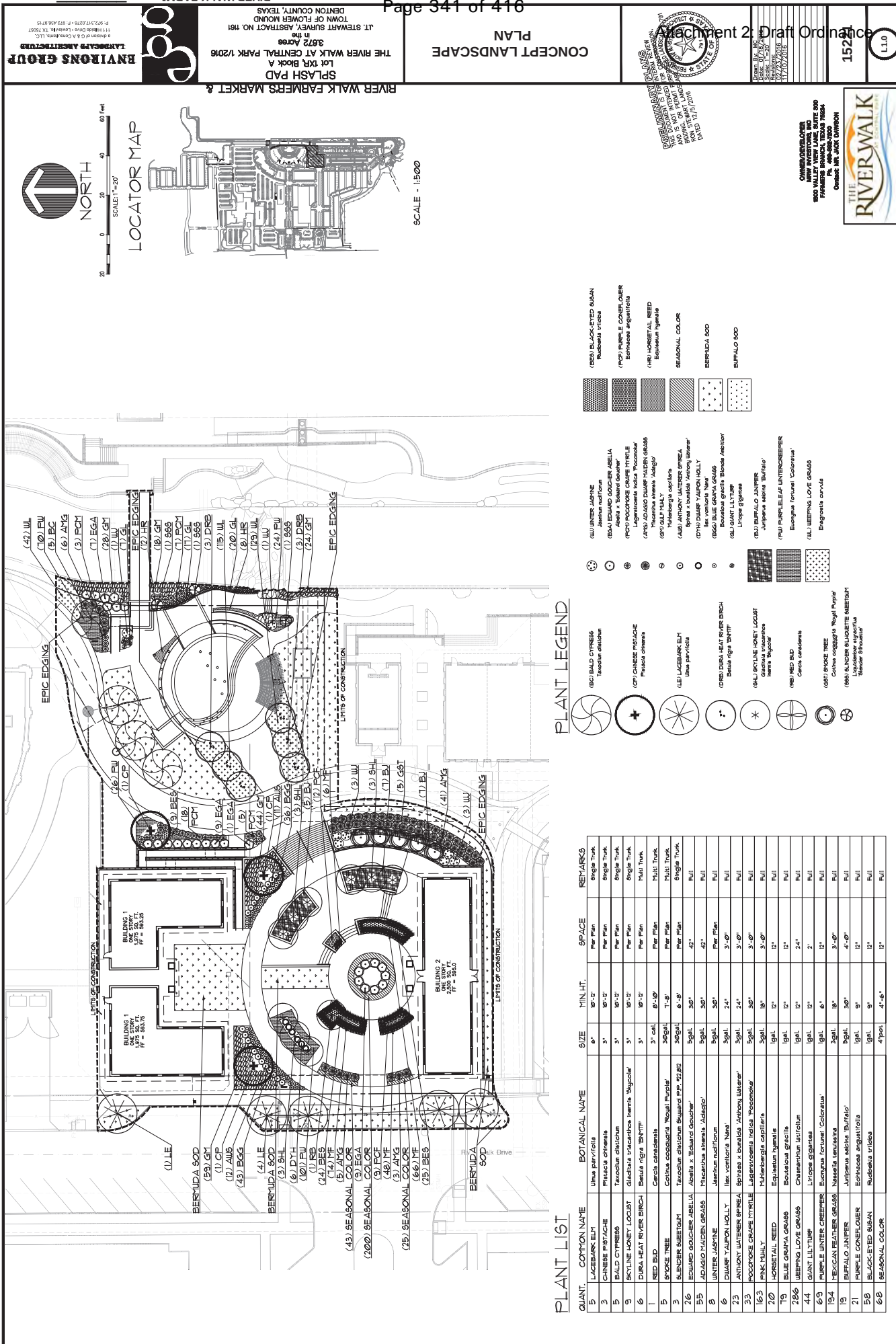
QUANT.	COTTON NAME	BOTANICAL NAME	SIZE	MIN. LT.	SPRACE	REMARKS
21	LACEDARK ELY	Urena pavlovii	4"	10"-12"	Per Plan	Single Trunk
3	BALD CYPRESS	Taxodium distichum	3"	10"-12"	Per Plan	Single Trunk
4	SKYLINE MONEY LOCUST	Gleditsia tricanthosus temis Bayshore	3"	10"-12"	Per Plan	Single Trunk
3	POND CYPRESS	Taxodium ascendens	3"	1"-8"	Per Plan	Single Trunk
6	RED BUD	Cercis canadensis	30gall	1"-8"	Per Plan	Full Trunk
14	LITTLE GEM PALMOLA	Miconia grandifolia	30gall	1"-8"	Per Plan	Full
6	HAZEBERG TREBONITE	Procris glaucochloa "Trevicki"	30gall	1"-8"	Per Plan	Full
2	BLUE PONT JAMPER	Juniperus chinensis Blue Point	30gall	6"-8"	Per Plan	Single Trunk
22	TAYLOR JAMPER	Juniperus virginiana "Taylor"	30gall	1"-8"	Per Plan	Full
31	EDWARD GOUCHER ABELA	Abelia x "Edward Goucher"	30"	30"	40"	Full
113	ADAM HAZEN GRASS	Miscanthus sinensis "Adagio"	30gall	30gall	40"	Full
3	UNTER JASMINE	Jasminum nudiflorum	30gal	30"	Per Plan	Full
180	ANTHONY WATERS SPINEAL	Spirea x boudifolia "Anthony Waters"	30gal	24"	3'-6"	Full
156	POZZOCHIO CRABE MYTLE	Adenocaulis indica "Pozzochoe"	30gal	30"	3'-6"	Full
240	PRINCE PALM	Nyctaglossis capitata	30gal	30"	3'-6"	Full
61	PURPLE LONGFEATH ALUM	Leucophaea chinensis	30gal	24"	3'-6"	Full
14	BLUE GRASS GRASS	Bouteloua gracilis	1gal	12"	12"	Full
12	INLAND SEA OATS	Chenopodium latifolium	1gal	12"	12"	Full
6-42	WEeping LOVERGRASS	Eragrostis curvula	1gal	12"	24"	Full
114	PURPLE UNTER CREEPER	Bignonia fortunei "Colortus"	1gal	6"	12"	Full
4	BUFFALO JAMPER	Juniperus sibirica "Buffalo"	3gal	30"	4'-6"	Full
9	PURPLE CONIFER JAMPER	Echinacea angustifolia	1gal	12"	12"	Full
11	BLACK-ETED SWAN	Rubus odoratus	1gal	3"	12"	Full
119	LIPOPE	Liriodendron tulipifera	4-pool	3"	12"	Full
5	ICE PLANT	Delosperma cooperi	1gal	6"	12"	Full
800	MEXICAN FEATHER GRASS	Nassella tenuissima	3gal	18"	3'-6"	Full
501	SEASONAL COLOR		4-pool	4'-6"	12"	Full



REVIEWED
TOWN OF FLOWER MOUND
Released for Construction
Date _____
Town of Flower Mound
Planning Services

PRELIMINARY
THIS DOCUMENT IS FOR
DOCUMENT INTENDED
AND IS NOT PERMIT
BIDDING, PINSON LA
JAMESON PINSON LA
DATED 12/5/2016

OWNER/DEVELOPER
MRW INVESTORS, INC.
1900 VALLEY VIEW LANE, SUITE 900
FARMERS BRANCH, TEXAS 76824
Ph. 409-523-7200
Contact: MR. JACK DAWSON



Attachment 2: Draft Ordinance

152

11.0

CONTRACTOR/DEVELOPER
1800 VALLEY VIEW LANE, SUITE 200
FARMERS BRANCH, TEXAS 75844
Contact: Mr. JACK SIMMONS

THE RIVERWALK FARM

PLANT LEGEND

PLANT LIST

2015.188
11.29.2016



FLOWER MOUND
RIVER WALK



CONCEPTUAL WEST ELEVATION



CONCEPTUAL EAST ELEVATION



CONCEPTUAL NORTH ELEVATION



CONCEPTUAL SOUTH ELEVATION

SCALE : 1/16" = 1'-0"

MATERIALS

- MASONRY 1 - ACME ROXBURY
- MASONRY 2 - ACME WEATHERWOOD GRAY
- MASONRY 3 - CHOPPED MILSAP
- CAST STONE - SAVANNAH
- STOREFRONT - DARK BRONZE





TOWN COUNCIL AGENDA ITEM NO. 23 REGULAR ITEM

DATE: December 19, 2016

FROM: Doug Powell, Executive Director of Development Services

ITEM: Public Hearing to consider a request for a Master Plan Amendment (MPA16-0014 – Specific Plan Areas) to delete Section 3, Specific Plans, in its entirety and to amend Section 1, Land Use Plan, by removing the summary description of Specific Plan Areas and by adopting a revised Land Use Map which replaces the white SPA boundary overlays with colors of the existing land use designations, and to consider adopting an ordinance providing for said amendment. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its December 12, 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 (MPA16-0014 – Specific Plan Areas) to delete Section 3, Specific Plans, in its entirety and to amend Section 1, Land Use Plan, by removing the summary description of Specific Plan Areas and by adopting a revised Land Use Map which replaces the white SPA boundary overlays with colors of the existing land use designations, and adopt an ordinance providing for said amendment.



PLANNING AND ZONING COMMISSION AGENDA ITEM NO: 8

DATE: December 12, 2016

FROM: Doug Powell, Executive Director of Development Services

ITEM: **Public Hearing to consider a request for a Master Plan Amendment (MPA16-0014 – Specific Plan Areas) to delete Section 3, Specific Plans, in its entirety and to amend Section 1, Land Use Plan, by removing the summary description of Specific Plan Areas and by adopting a revised Land Use Map which replaces the white SPA boundary overlays with colors of the existing land use designations.**

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 discussion regarding the perceived redundancy and dispensability of the standards for Specific Plan Areas (SPAs) contained within the Town's Master Plan. The current effort to address this issue began when the Town Council discussed the issue at its Strategic Planning Session held on July 22, 2016. The Council asked that SPAs be included in the discussion at a joint work session with the Planning and Zoning Commission (Commission) on October 20, 2016. At the joint work session, the Town Council directed staff to further discuss with the Commission the elimination of the SPAs. That discussion took place at a work session following the Commission's November 14, 2016, regular meeting (see Attachment 1 for detailed background).

The resulting proposal is to delete Section 3, Specific Plans, in its entirety, along with corresponding amendments in Section 1, Land Use Plan, and to adopt a revised Land Use Map which replaces the white SPA boundary overlays with colors of the existing land use designations. Any application requesting a change to one of those land use designations would require a Master Plan amendment.

Since the work session, staff has confirmed that the best option to preserve the agreement regarding Bob White Lane is to retain the provision in the Master Plan. Specifically, the statement regarding Bob White Lane currently in SPA 2 will be moved in its entirety to Section 1, Land Use Plan.

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 correspondence regarding the request.

IV. ATTACHMENTS

1. November 14, 2016, P&Z Work Session Item

**DEVELOPMENT SERVICES****Memorandum**

DATE: November 14, 2016

TO: Planning and Zoning Commission

FROM: Doug Powell, Executive Director of Development Services

SUBJECT: "SPA" Work Session

This memo is intended to provide the Planning and Zoning Commission with background information to supplement the Specific Plan Area (SPA) work session discussion. The Town Council discussed the issue at their Strategic Planning Session held on July 22, 2016, and asked that it be part of a joint work session with the Commission. At the joint work session, held on October 20, 2016, the Town Council directed staff to further discuss with the Commission the elimination of the SPAs. The discussion on this topic can be viewed at: <http://flowermoundtx.swagit.com/play/10202016-827>.

A work session has been scheduled for Monday's agenda to allow the Commission to discuss this item in more detail. The intent is to determine the process and timing for bringing this item forward.

The first attachment is a memo from Tommy Dalton, Assistant Town Manager, describing the history of the SPAs and percentage of development for each area (the percentages have been updated to reflect recent approvals). The other attachments represent the full text of the SPAs contained within the Town's Master Plan, with the only difference being that the development controls for each have been inserted into a table format for further analysis. A checkmark under 'Not' indicates items which are not fully addressed by other regulations, such as the Town's Land Development Regulations (LDR) or Master Plan. Comments under 'How' clarify any redundancy or contradiction with other regulations. New colored maps have also been included to illustrate the SPA boundaries, current land uses, developed properties, and adjacency.

Attachments:

1. Memo from Tommy Dalton
2. Section 3 – Intro
3. SPA 1
4. SPA 2
5. SPA 3
6. SPA 4
7. SPA 5
8. SPA 6
9. SPA 8
10. SPA 9
11. SPA 10
12. SPA 11

Note: SPA 7 was eliminated in 2007

MEMORANDUM – JUNE 11, 2015

TO: Town Council

FROM: Tommy Dalton, Director of Strategic Services

COPY: Jimmy Stathatos, Town Manager; Doug Powell, Exe. Dir. Development Services

RE: Councilmember requested information on Specific Plan Areas (SPAs)

During the May 4, 2015, Town Council meeting a Council member requested information on the Town's SPAs including the creation date, purpose, maps, percent built, and the process to retire SPAs. This document provides general background information in addition to the specifics requested above.

Specific Plan Areas are contained in Section 3 of the Town's current [Master Plan](#). Their purpose is to describe land uses (office, retail, low density residential, etc.) and provide location specific development controls for each SPA such as access management, building form and orientation, and enhanced compatibility standards to name a few. SPAs are also addressed under the Town's SMARTGrowth Program ordinance Section 98-164 titled "Area and Specific Plans." Currently, there are 10 SPAs and each will be briefly addressed in the following sections of this memo. The majority of the SPAs (1-9) were initially created in conjunction with a comprehensive review of the Town's master plan. Others (SPA 10 and 11) were created individually by an ordinance. Please note that SPA 7 was eliminated in 2007, so although there is a SPA 11, there are only 10 SPAs.

SPECIFIC PLAN AREAS 1 – 3

The concept of using Specific Plan Areas (SPAs) for long-range land use planning was first considered during the creation of the [1994 Comprehensive Master Plan](#), where the first three SPAs were established. The general purpose of establishing the first three SPAs was to provide greater attention to the central area of Town along FM 2499 and its intersection with FM 1171. The explanation, as provided by the 1994 Comprehensive Master Plan, is provided in the snapshot from the 1994 document below (Figure 1). A snapshot of the [current land use map](#) is also provided (Figure 2) to show the location of SPAs 1-3.

In addition to describing land use, each individual SPA contains two significant components, regulating text (development controls) and non-binding concept plans. The regulating text and concept plans are not provided in this document for brevity purposes but may be accessed using the link to the 1994 plan above.

MEMORANDUM – JUNE 11, 2015

Figure 1: SPA Purpose (1994 Plan)

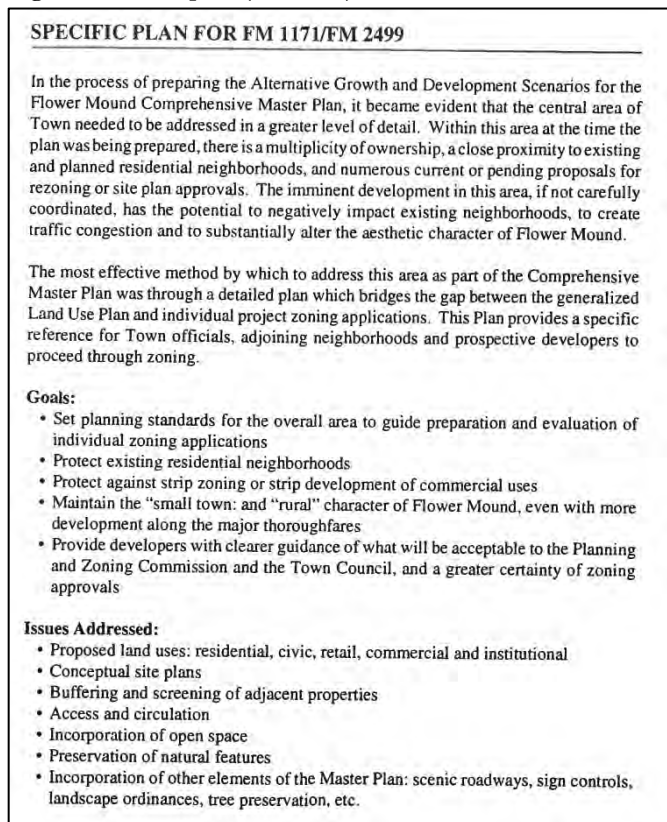
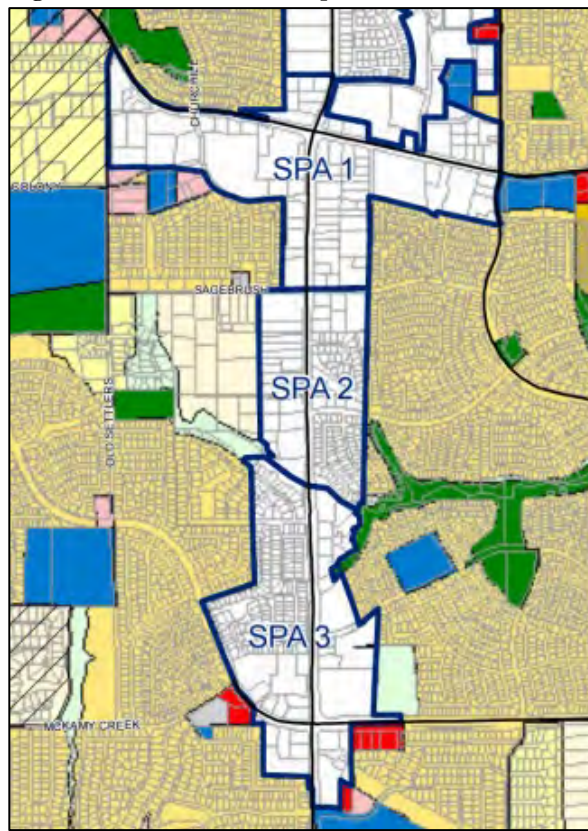


Figure 2: SPA 1-3 Location Map

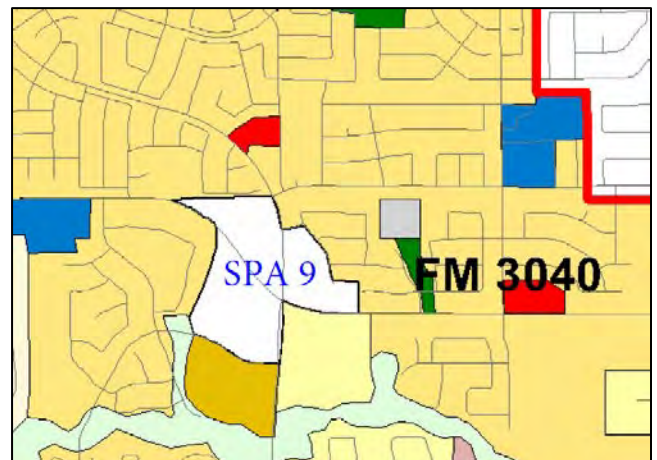
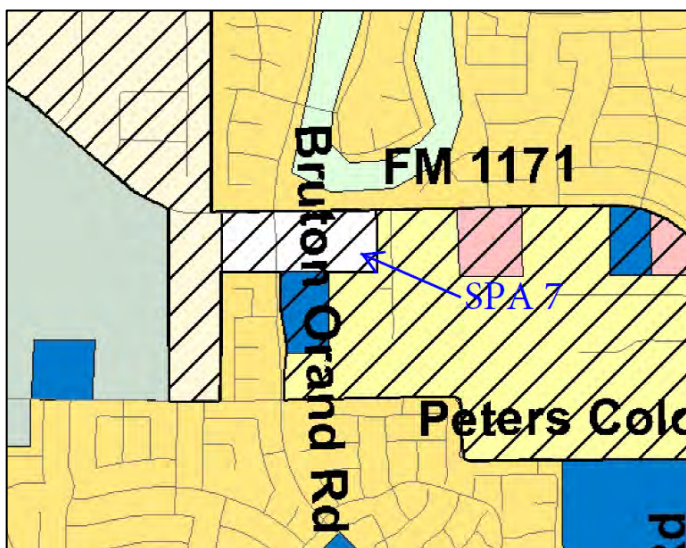
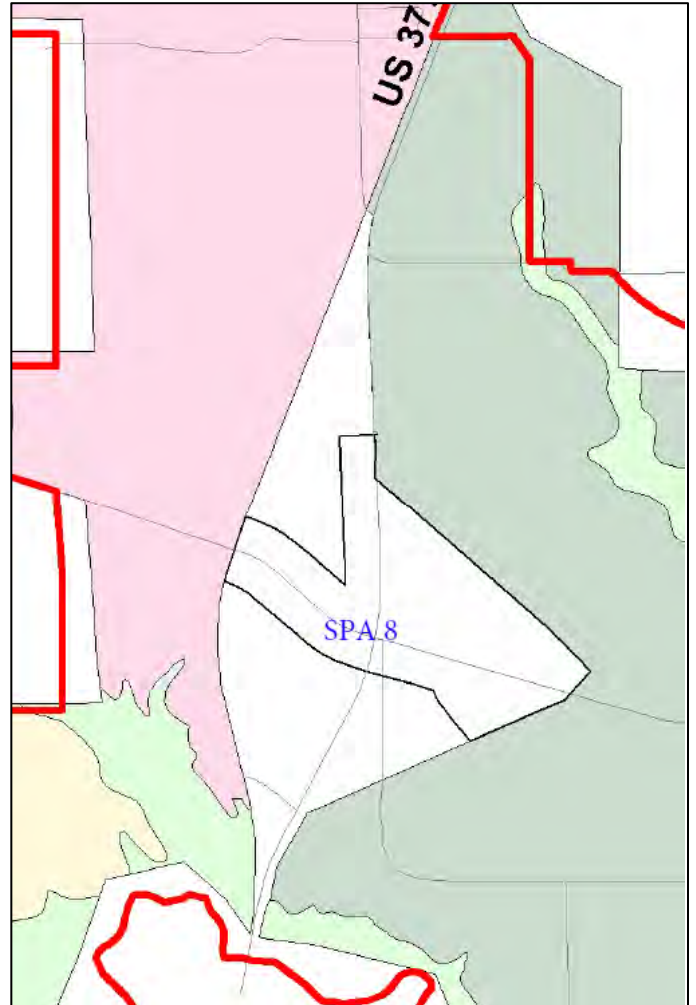
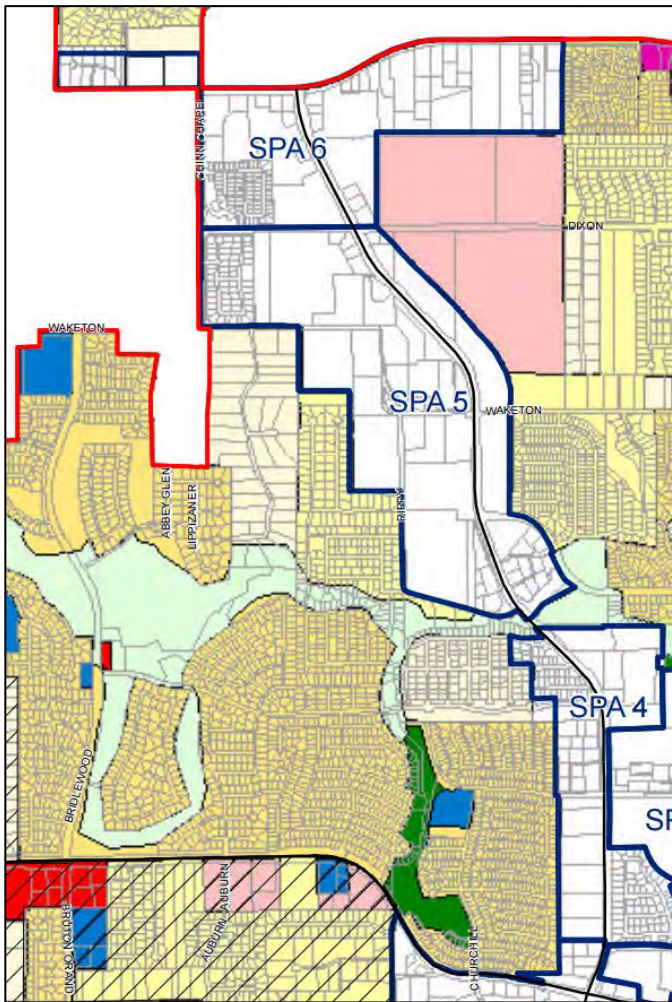


SPECIFIC PLAN AREAS 4 – 9

The use of SPAs was continued and expanded with the adoption of the [1999 Land Use Plan](#) on September 27, 1999. That land use plan noted SPAs on the map, but the regulating text and concept plans were not approved until the adoption of the [Master Plan 2001](#) on March 19, 2001. The purpose of expanding the use of SPAs is very similar to the 1994 Plan.

Again, in addition to describing land use, each individual SPA contains two significant components, regulating text (development controls) and non-binding concept plans. The regulating text and concept plans are not provided in this document for brevity purposes but may be accessed using the link to the 2001 plan above. Snapshot locations of SPAs 4-9 are provided on the following page.

MEMORANDUM – JUNE 11, 2015



MEMORANDUM – JUNE 11, 2015

SPECIFIC PLAN AREA AMENDMENTS AND ADDITIONS

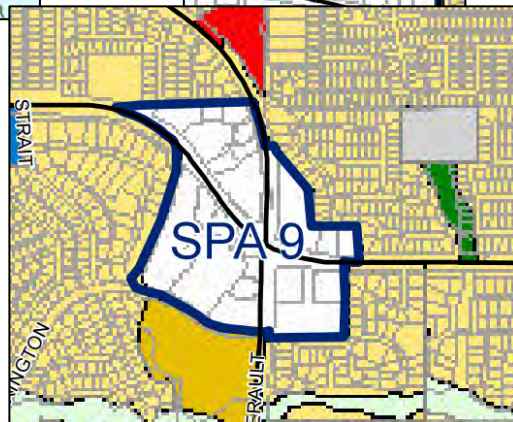
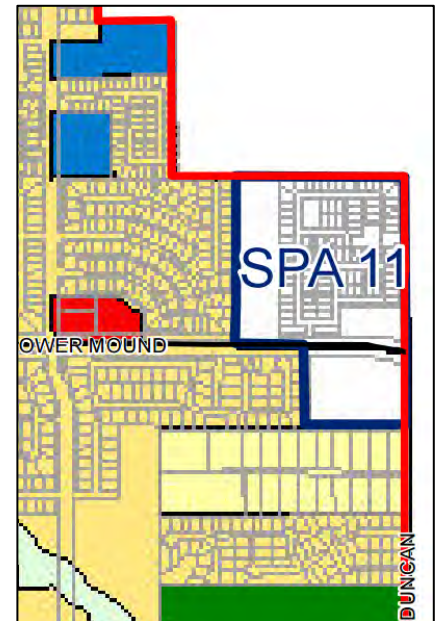
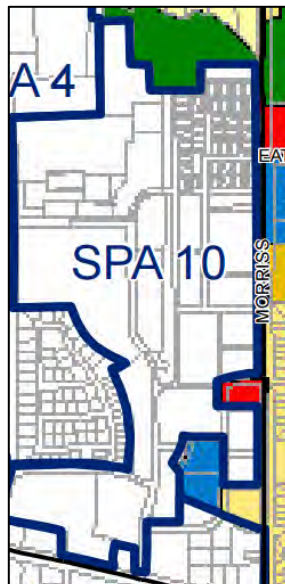
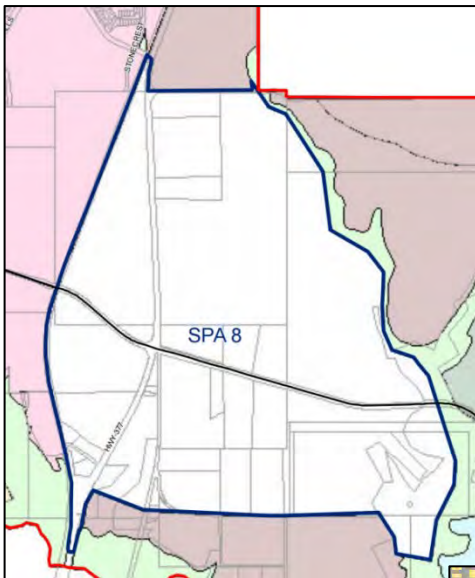
SPECIFIC PLAN AREA 7: SPA 7 was eliminated by Ordinance 26-07 (MPA 10-06) on April 16, 2007, and replaced by PD 34 (Cross Timbers Village). SPA 7 was eliminated because the PD request incorporated additional land outside the original boundary of SPA 7 and incorporated all of the relevant SPA 7 development controls into the PD.

SPECIFIC PLAN AREA 8: SPA 8 was updated and expanded by Ordinance 17-10 (MPA 05-09) on March 25, 2010. The property is still zoned for agricultural uses and planned for Mixed Use.

SPECIFIC PLAN AREA 9: SPA 9 was expanded by Ordinance 13-04 (MPA 08-03) on February 16, 2004. The SPA was expanded to the southeast and PD 78 (Flower Mound Market) was approved.

SPECIFIC PLAN AREA 10: SPA 10 was created by Ordinance 44-08 (MPA 17-07) on August 4, 2008, and incorporated areas of SPA1 and 4. SPA 10 created the Central Business District. The River Walk at Central Park zoning was subsequently approved.

SPECIFIC PLAN AREA 11: SPA 11 was created by Ordinance 20-11 (MPA 02-11) on May 16, 2011, and included the northwest intersection of FM 3040 and Old Orchard Lane. The SPA was expanded by Ordinance 10-12 (MPA 01-12) to include approximately 10 acres on the southwest corner of FM 3040 and Duncan Lane.



MEMORANDUM – JUNE 11, 2015**SPECIFIC PLAN AREAS BUILD-OUT**

SPA	Date Originally Established	Acres	Developed Acres	Undeveloped Acres	Percentage Built/Entitled
1	January 4, 1994 (1994 Comprehensive Master Plan)	180.39	167.35	13.04	93%
2	January 4, 1994 (1994 Comprehensive Master Plan)	88.2	67.74	20.46	77%
3	January 4, 1994 (1994 Comprehensive Master Plan)	154.18	147.34	6.84	96%
4	March 19 2001 (Master Plan 2001)	142.36	124.03	18.33	87%
5	March 19 2001 (Master Plan 2001)	320.6	269.35	51.25	84%
6	March 19 2001 (Master Plan 2001)	229.36	229.36	0	100%
7	March 19 2001 (Master Plan 2001)	-	-	-	-
8	March 19 2001 (Master Plan 2001)	1,333.06	0	1,333.06	0%
9	March 19 2001 (Master Plan 2001)	56.7	56.7	0	100%
10	August 4, 2008 (Ordinance 44-08)	170.16	170.16	0	100%
11	March 19, 2012 (Ordinance 20-11)	50.49	40.19	10.3	80%
Total		2,725.50	1,272.22	1,453.28	

SPA 8 accounts for approximately 49% of all SPA land area. Combined, the SPAs account for approximately 9% of the Town's total land area.

PROCESS FOR RETIRING SPECIFIC PLAN AREAS

The minimum requirements to retire a SPA would follow the same process as any amendment to the Town's Master Plan i.e. a public hearing at both the Planning and Zoning Commission and Town Council. However, to fully retire all of the Town's SPAs would also trigger the need to amend the Town's SMARTGrowth Program ordinance Section 98-164 titled "Area and Specific Plans" to remove all references to "specific plans".

That said, the SPAs were created following an extensive process in the case of the 1994 and 2001 plans specifically, and after stakeholder meetings in all cases. As previously mentioned, the SPAs contain development controls, most of which came about through stakeholder meetings. Some of these development controls such as driveway spacing, and architectural controls, are now addressed by the Town's code of ordinances and Urban Design Plan respectively. Other development controls are only contained within the SPAs. For example, SPA 4 requires a minimum 30' landscape buffer adjacent to existing residential uses. The Town's Land Development Regulations also contain a similar landscape buffer as part of the compatibility standards; however the minimum is only 25'. If SPA 4 is retired, the Town will be unable to require the 30' of landscaping.

On the other hand, transferring the land use designations to the overall Land Use Plan map is less complicated. After completing the minimum requirements described in the first paragraph, it's a simple mapping function to apply the correct land use colors to the appropriate parcels.

Another consideration is the notice for such amendments if the process doesn't mirror the creation of the SPAs. The amendment to the Master Plan and SMARTGrowth would only require a notice in the paper. However, there may be a desire to notice the property owners affected and those within 200' of the change.

3.0 SPECIFIC PLANS

Specific Plan Use and Interpretation

The Specific Plans within the previous Master Plan have been carried over to this Master Plan. The following Specific Plans accommodate the need for quality neighborhood and village retail development, areas appropriate for professional office use, low-density residential land use and safeguards for adjacent developed residential subdivisions. The images of buildings, parking, circulation and open space are a conceptual diagram only. They are intended to provide an understanding of building relationships to each other and to the street, parking relationships, circulation points of entry and exit, and the role of public open space.

The drawings illustrating each Specific Plan are not intended to be taken as literal designs, but as diagrams which illustrate the planning and design intent.

All portions of the Specific Plans fall under the control of Flower Mound's Land Development Regulations and the "SMARTGrowth" Program.

Definitions

Special Land Use and Development Types

Campus Commercial

Large-scale developments such as corporate offices, office parks, hotels, resorts and similar uses, in a planned campus setting. Retail and restaurant uses serving the campus commercial uses could be included, if they are planned as integral elements of the developments. Architecture should be uniform in style and character.

Campus Industrial

Large-scale developments such as corporate offices, office parks, service/repair, light industry, clean-assembly and similar uses, in a planned campus setting. Retail and restaurant uses serving the campus industrial uses could be included, if they are planned as integral elements of the developments. Architecture should be uniform in style and character.

Major Retail

Major Retail is commercial development that provides a regional attraction for customers. Land uses include retail, office and professional office. The buildings should be oriented around an open space amenity and parking should be divided into smaller sized areas. Architectural style should be uniform, minimizing the franchise appearance. Large pad retail is included in this category, but it should have less than typical visual exposure to the street, broken up visually by the open space, existing trees and/or the layout of related structures. Large pad retail is governed by the regulations of the Flower Mound Big Box Ordinance.

Village Retail

Village Retail is a commercial development similar in design intent as neighborhood retail but with a more active and larger scale emphasis. The retail level of service is designed to attract a broader demographic and larger amount of population than just the local neighborhood customers. Land uses include retail, office and professional office and will be organized around an open space amenity. The architecture will be uniform in style and should have double-sided access if appropriate. Building height may be more than one story.

Neighborhood Retail

Neighborhood Retail is a development that provides neighborhood level retail services. The development is to be organized around an open space amenity. Scale of buildings should be responsive to residential scale, roofs should be hipped or gabled and the architectural style should be uniform. Parking should be broken into smaller sized areas and retail buildings should have double-sided access where appropriate.

3.0 SPECIFIC PLANS

Office

Office and services uses ranging from garden office developments for small professional practices to larger, multi-story facilities for large tenants. This category would not typically include retail uses, except for incidental service or convenience retail for the office-building tenants. In larger office districts, restaurants are encouraged within walking distance of the office buildings. Architecture should be uniform in style and character.

Flex Office

Office, distribution, warehouse, light industry, clean-assembly, possibly located within a single structure, with the street facing elevation having a typical office appearance and high-quality level of finish.

Mixed use

A variety of office, retail and residential uses within pedestrian oriented, vertical and horizontal mixed use environments. Components of a mixed use development include specialized street standards, open space and plazas and enhanced architectural standards. Mixed use developments are intended to accommodate a physical pattern of development often found in historic American downtown areas.

Site Plan Elements**Living Screen Buffer**

A strong emphasis is given to the use of 30' wide landscape buffers to screen parking and dissimilar land uses. Living screen buffers to provide separations between retail and/or office uses from residential neighborhoods. These buffers are living screens made up of plant material only. The plant material should be an evergreen screen a minimum of six feet in height after two growing seasons. It should provide a soft, green and natural appearance while providing a secure barrier. If security is an issue, open fencing may be used in the center of the buffer such as wrought iron, steel, aluminum or green vinyl-clad chain link fence. These buffers must comply with the compatibility buffer and setback requirements of the Land Development Regulations.

Corridor Landscape

The corridor landscape concept is a sinuous landscape design inside and outside the right-of-way of US 377, FM 1171 and FM 2499 in the specific plan boundaries of plans 5, 6, and 8. The concept is to create an undulating landscape along these major corridors, establishing a vocabulary that is consistent in pattern for these two major gateways into Flower Mound. A curvilinear sidewalk should meander somewhere between the curb of the street and the limit of the 25' landscape buffer. Turf should occur between the curb of the street and the sidewalk. Plantings should occur between the sidewalk and the buffer limit line. The plantings should be a combination of groves of trees, separated by low shrubs, tall grasses and or wildflowers. Plantings and sidewalk should meander through the right-of-way line. Please refer to the Town's Median and Right-of-Way Design Guidelines for additional requirements.

Gateway

Definition for gateway treatments is defined in the Urban Design Plan element of the Master Plan.

Pedestrian Open Space

A pedestrian open space is an open area that can be composed of either hardscape or planting materials, or a combination of the two, offering visual and physical relief from the necessary parking and building environment. This pedestrian amenity should act as an organizing element around which structures and parking are placed. Open space could also include detention or retention ponds if they are integrated on the site in an aesthetically pleasing manner. Additional direction for Pedestrian Open Space is provided within the Urban Design Plan element of the Master Plan.

3.0 SPECIFIC PLANS

Parking/Loading/Refuse

Future development must comply with the parking/loading/refuse area requirements of the Land Development Regulations.

Design Guidelines

Buildings within a single development should adhere to a common architectural style. Building heights should be in conformity with the Land Development Regulations or specific requirements of a Planned Development. Construction materials should adhere to the requirements of the Land Development Regulations. Additional recommendations are included in the Town of Flower Mound Urban Design Plan.

3.0 SPECIFIC PLANS

Specific Plan Area #1

The general land use concept for Specific Plan Area #1 is one that proposes a high-end mix of retail, village retail, office and professional office development organized around pedestrian open space amenities on the two major roadways in the Town. The locations for these commercial uses are established from an analysis of the proposed transportation system, parking needs and existing development patterns. The primary area for this update of Specific Plan Area #1 is a change of proposed land use and development patterns between FM 2499 and Yucca Road, and modifications of other locations in Specific Plan Area #1 to relate to approved plans and developments.

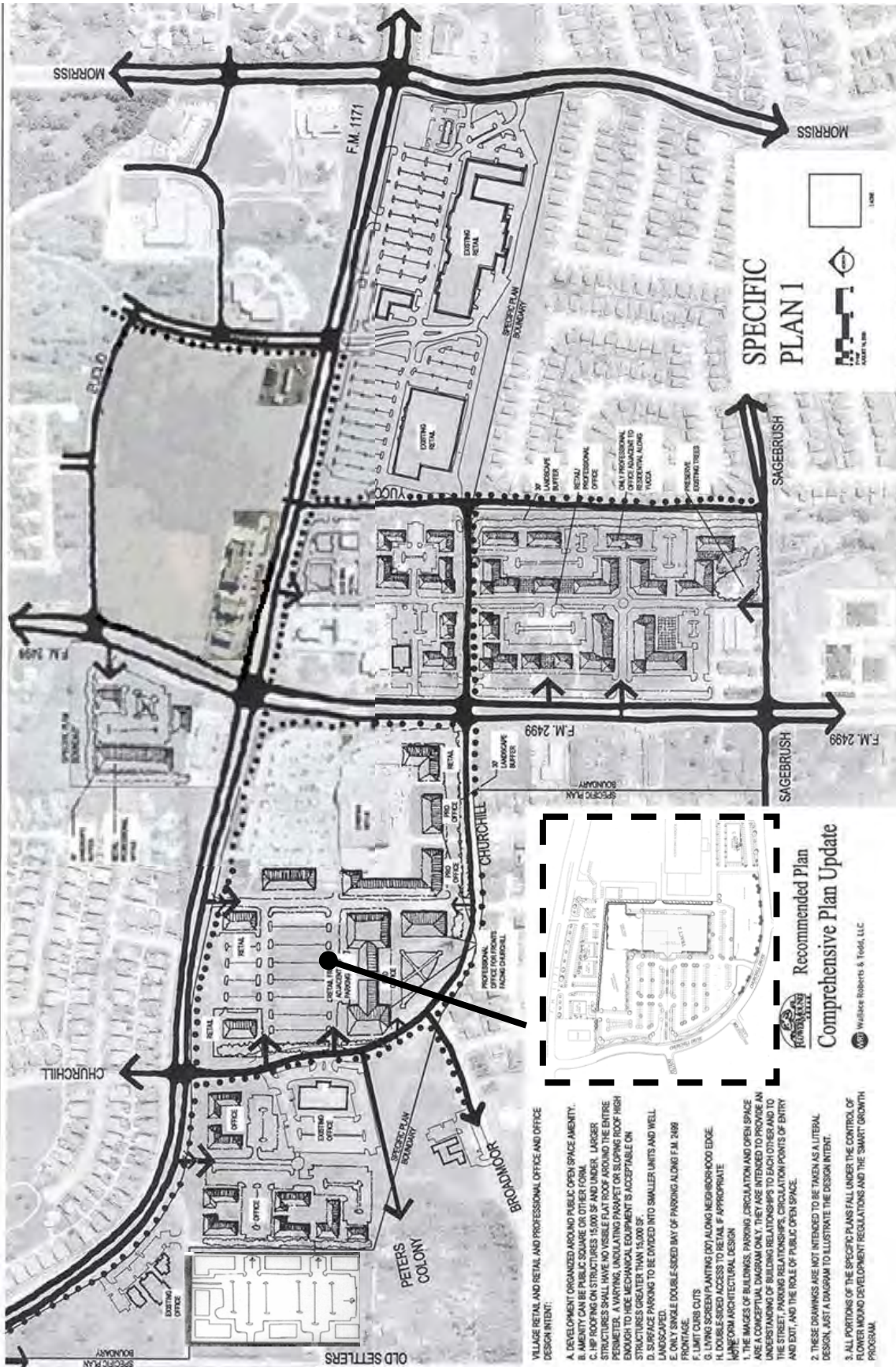
Elements included in Specific Plan #1 are as follows:

ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
a.	In the area bounded by FM 2499, FM 1171, Yucca Drive, and Sagebrush Drive, the following requirements are recommended:		
	Retail and professional office land uses along the east side of FM 2499.		Property mapping
	Along Yucca Drive, only professional office land uses are recommended.		Property mapping
	The existing trees should be preserved as this area redevelops.		Tree ordinance
	A 30' width landscape buffer should be built on the west side of Yucca as redevelopment occurs.	✓	Street buffer required is 15 feet.
	Surface parking to be divided into units of 100 cars or less, and landscaped in accordance with the Town's Land Development Regulations.	✓	LDR requires landscaping, but does not contain the provision of 100 space maximum.
b.	Additional retail land use, planned around a public open space or square, is recommended near the Town Center development.		Property developed, Lifetime Fitness (PD-70).
c.	Additional office land uses are recommended along FM 1171 on the southern side of the road, west of Churchill.		Property mapping
d.	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.	✓	Compatibility buffer requires a minimum of 25 foot landscape buffer.
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.		Access Management Regulations

3.0 SPECIFIC PLANS

f.	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.		Access Management Regulations
g.	Roofs of commercial buildings 15,000 SF and under are to be hip, gable or a combination of the two. The Town Council may approve upon recommendation from the Planning and Zoning Commission, a waiver request to this requirement for buildings within this SPA 1 provided that:		Urban Design Standards
	(1) any such building(s) being considered for a waiver shall be part of a multi-building development and,		Urban Design Standards
	(2) possessing a meritorious Unified Design Theme. 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.		Urban Design Standards
h.	Additional office land uses are recommended along the east side of Old Settlers Road between Karnes and Peters Colony. Buildings fronting on Old Settlers shall be limited to one story in height.	✓	Property mapping, the LDR restricts the height to 3 stories or 35' in height.

3.0 SPECIFIC PLANS

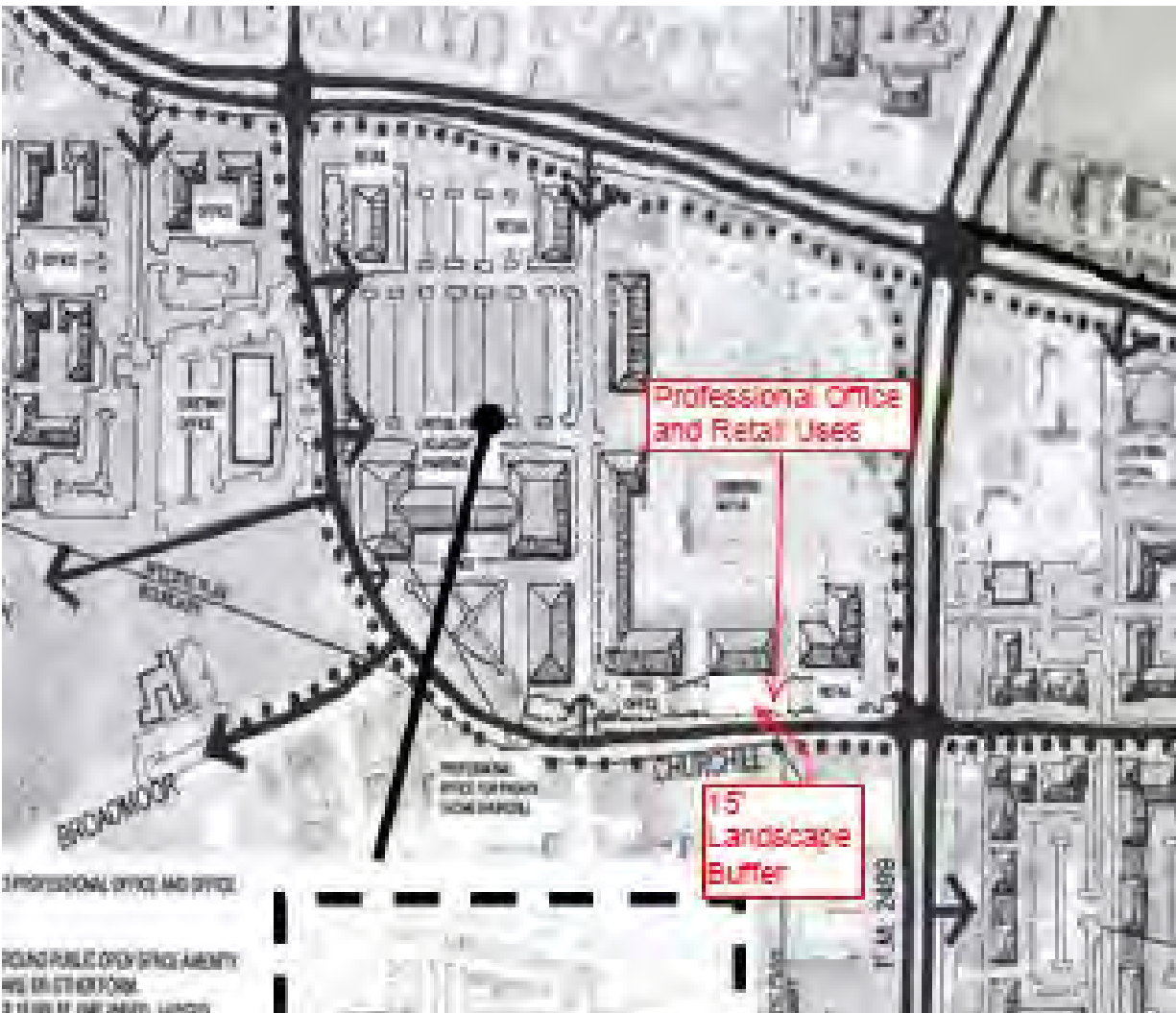


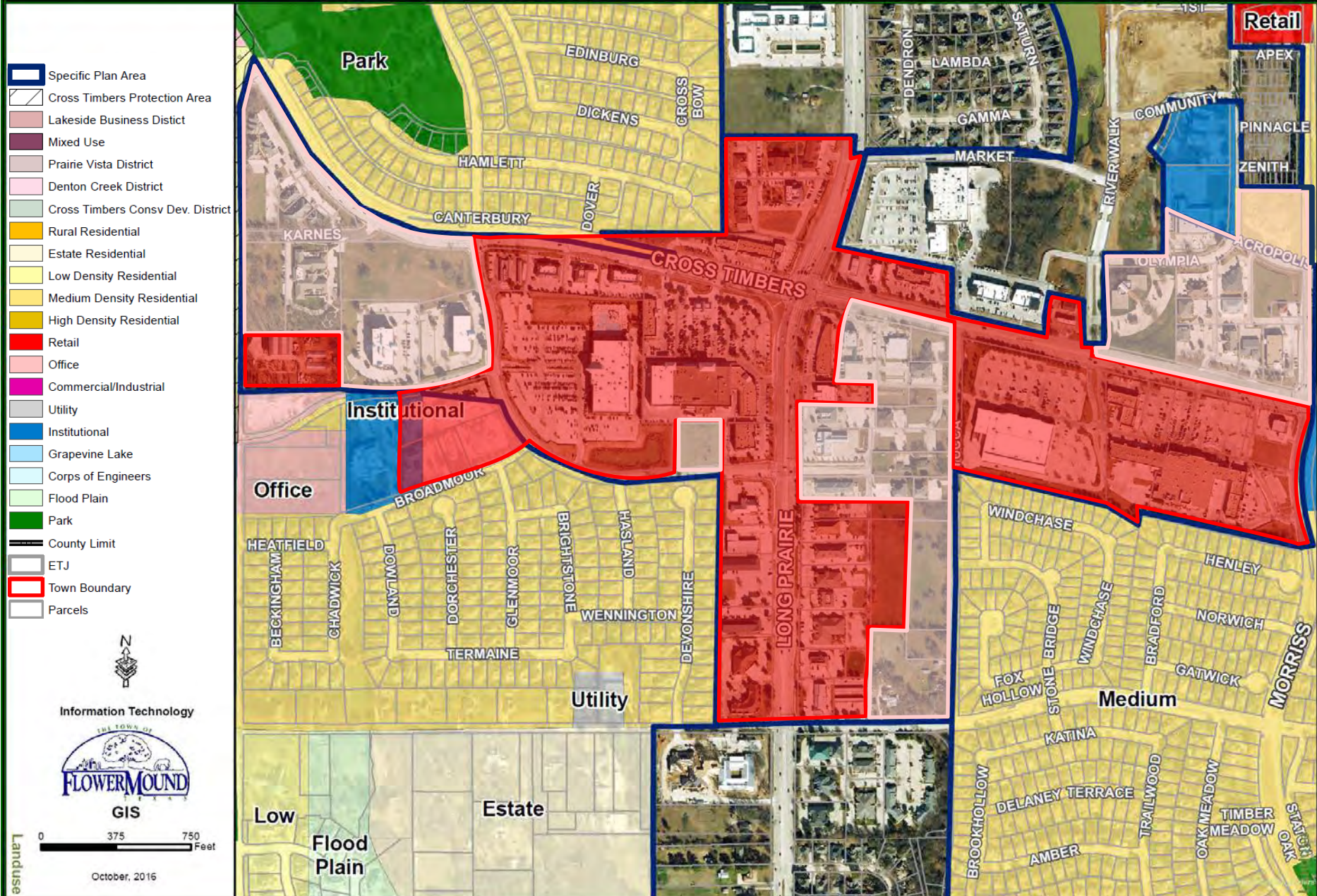
3.0 SPECIFIC PLANS

Amendment to Specific Plan Area #1 as follows:

Ordinance No. 20-15 – Specific to 1.286 Acres Situated in Downtown Flower Mound Addition, Lot 1, Block A
Adopted: April 6, 2015

ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
i.	As depicted below, amended the land use from Professional Office to Professional Office and Retail uses; and amended the landscape buffer reference to a 15-foot-wide landscape buffer adjacent to Churchill Drive.		Property developed, (PD-70).





3.0 SPECIFIC PLANS

Specific Plan Area #2

The Specific Plan Area #2 development controls are recommended to protect existing residential neighborhoods from negative impacts caused by new development, to minimize traffic conflicts on FM 2499 and to prevent strip development along FM 2499 through limiting driveway curb cuts.

In particular, the following specific planning, design and construction restrictions will be required for the recommended Office, Retail, Institutional and/or Residential on the west side of FM 2499 between Sagebrush and the creek to protect the adjacent existing residential areas:

ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
1.	No zoning to be approved for this area until a coordinated Master Plan for the overall area is approved as part of the zoning approval process. This provision is not applicable to Lot 1, Block A of the SC Flower Mound Senior Living Addition as shown on the Specific Plan Area Controls #2 map below.	✓	This provision has not been enforced as it has been deemed to be unenforceable.
2.	Architectural design of structures must be similar to residential designs and must comply with design and material requirements of the Land Development Regulations for residential subdivisions; facades facing FM 2499 and Sagebrush are to be "front" elevations, with no visible service elements. This provision is not applicable to Lot 1, Block A of the SC Flower Mound Senior Living Addition as shown on the Specific Plan Area Controls #2 map below.		Urban Design Standards
3.	All service areas, dumpsters, etc., are to be screened from view from FM 2499, Sagebrush and the abutting estate residential area.		LDR requires screening.
4.	Buildings are to be one-story with maximum 10,000 square foot footprints, and massing of the structures must be articulated into maximum 2,500 square foot footprint elements to attain a residential scale similar to attached townhouses, with 65' setbacks from property lines. This provision is not applicable to Lot 1, Block A of the SC Flower Mound Senior Living Addition as shown on the Specific Plan Area Controls #2 map below.	✓	The development pattern is somewhat established by the existing development, but there is no corresponding provision for this item in the LDR.
5.	Development patterns should follow the existing residential property lines when feasible, to promote the desired residential scale aesthetics for the area. This provision is not applicable to Lot 1, Block A of the SC Flower Mound Senior Living Addition as shown on the Specific Plan Area Controls #2 map below.	✓	The development pattern is somewhat established by the existing development, but there is no corresponding provision for this item in the LDR.
6.	Individual driveway connections to FM 2499 are to be eliminated at the time the use of the property changes from single family residential use; no curb cuts to FM 2499 or Sagebrush are allowed for new land uses except as shown on the Specific Plan Area Controls #2 map below.		Access Management Regulations

3.0 SPECIFIC PLANS

7.	Access from the Seller's remaining property and all those with ingress/egress easements over Bob White Lane will continue over Bob White Lane to FM 2499 in its current location since the spine road within SPA 2 was not designated or dedicated as a public street. • "Seller's remaining property" shall mean: the property described as Tract II in deed to Janvier Gentry Scott, recorded in Document Number 2013-60264 of the Real Property Records of Denton County, Texas, unencumbered by easements held by the Town of Flower Mound on said described property.		Moved to Section 1 of the Master Plan
8.	Internal access for all parking and service is to be provided by an extension of Firewheel Drive to Sagebrush, aligned with the residential street across Sagebrush. This drive should be phased concurrently with development of the property.		Access Management Regulations
9.	No developments or uses may generate a noise level greater than 50dBA, measured at the property line of any adjacent residential property.		LDR contains provisions on noise level.
10.	To protect adjacent residential development from adverse impacts, development between the extension of Firewheel and the adjacent residential property lines south of the Firewheel extension cannot be retail or restaurant development.		Property developed, (PD-101).
11.	Minimum 50' landscape buffer with dense, natural plantings required adjacent to existing SF Residential (Estate) area.	✓	Compatibility buffer requires a minimum of 25 foot landscape buffer.
12.	All existing trees to be preserved as required by the Tree Preservation Ordinance.		Tree ordinance
13.	The existing natural creek environment is to be preserved.		SMARTGrowth, LDR regulations.
14.	Provision of a multi-purpose trail, for eventual connection to the overall Town trail system is required.		Parks Trails plan
15.	No parking or service areas are permitted between buildings and property lines along FM 2499 and Sagebrush; maximum 150-car parking lots, with minimum 25' landscaped buffer between lots. This provision is not applicable to Lot 1, Block A of the SC Flower Mound Senior Living Addition as shown on the Specific Plan Area Controls #2 map below.	✓	LDR restricts service areas to be screened and requires landscaping, but does not contain the provision of 150 space maximum or 25' landscaping between lots.
16.	Special landscape treatment along Sagebrush Drive west of FM 2499 required to reflect the character of the existing residences on Sagebrush.		Property developed, (PD-128).
17.	Entrances to internal drive for new development to have exceptional quality landscape and signage design due to their high visibility. The design should reflect the natural character of Flower Mound, and be compatible with the existing estate residences on Sagebrush.	✓	LDR contains provisions on landscaping and signs.
18.	All signs must comply with the then applicable provisions of the Town Code.		LDR contains provisions on signs.

3.0 SPECIFIC PLANS

Additionally, the following controls apply to all developments within this area:

ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
19.	Minimum 25' landscape setback required along FM 2499 for new development.		LDR requires 25' landscaping.
20.	Consolidated parking and access plan required for existing and new professional offices at Firewheel and FM 2499 to minimize driveway curb cuts onto FM 2499.		Property developed, (PD-101).
21.	Minimum 25' landscape buffer required between development at Sagebrush/FM 2499 and adjacent existing residential neighborhood.		Property developed, (PD-128), Compatibility buffer requires a minimum of 25 foot landscape buffer.

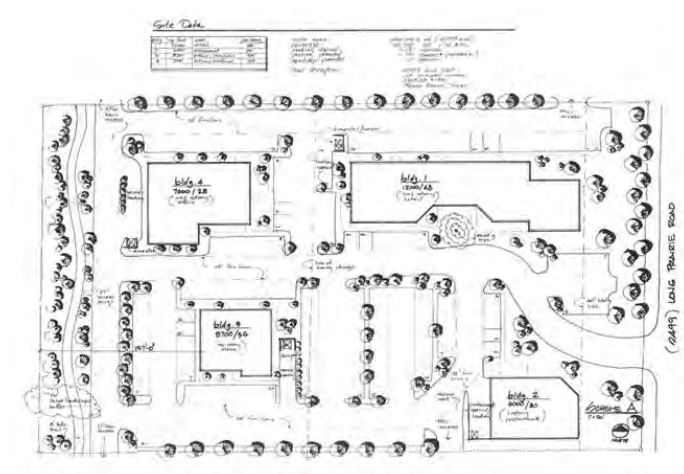
3.0 SPECIFIC PLANS

Amendments to Specific Plan Area #2 are as follows:

Resolution #31-97 – Specific to 4.60 Acres in J. Wizwell Survey, Abstract No. 1346
Adopted: December 1, 1997

ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
1.	No zoning to be approved on tracts within this area unless provisions are shown on a Conceptual Plan indicating that the other requirements of this section, as amended, are complied with.		Property entitled & partially developed, (PD-64 & 100).
2.	Buildings are to be a maximum of two story, with size, design, and material requirements to comply with the Land Development Regulations for commercial development.		PD-64 contains restrictions.
3.	Deletion of the wording: Development patterns should follow the existing residential property lines when feasible, to promote the desired residential scale aesthetics for the area.		Access Management Regulations
4.	Curb cuts along 2499 will be reviewed at the site plan approval process. Individual driveways along FM 2499 may be eliminated at the time each property is developed. Minimum spacing requirements between driveways shall be 500'.		Access Management Regulations
5.	Allowance shall be made for internal access for all parking service to be connected by an extension of Firewheel Drive to Sagebrush Drive. This drive should be phased concurrently with the development of the property. The cross access easement shall be a minimum of 27' in width with no direct access to parking spaces.		PD-64 contains restrictions.
6.	Developer shall make provisions within the 50' buffer zone for an eventual connection to the overall Town trail system.		PD-64 contains restrictions.

Concept plan: “For Informational Purposes Only”



3.0 SPECIFIC PLANS

Amendments to Specific Plan Area #2 are as follows:

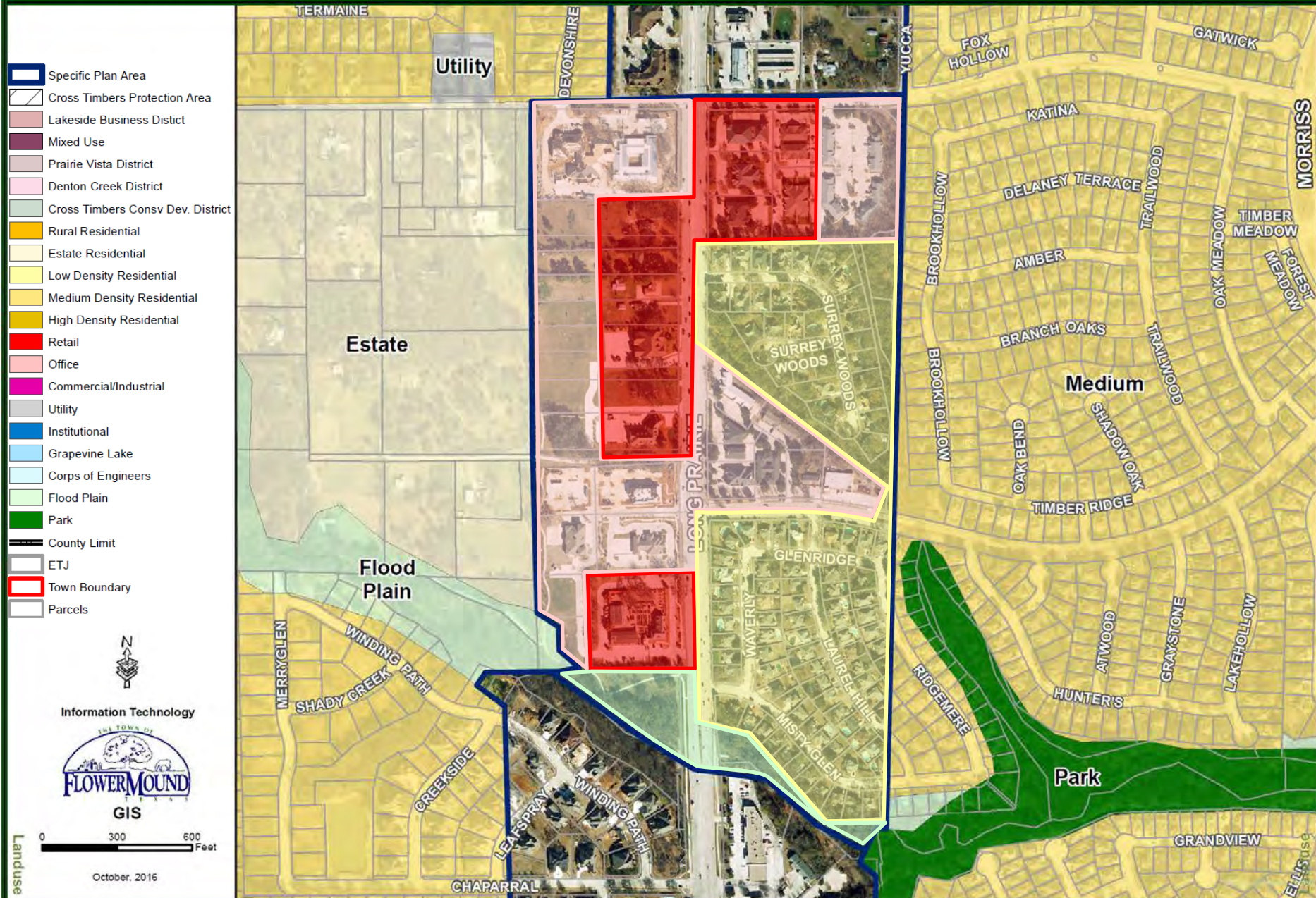
**Ordinance #05-07 – Specific to 3.232 Acres in J. Wizwell Survey, Abstract No. 1346
Adopted: February 5, 2007**

From and after the effective date of this Ordinance, the controls included in Specific Plan Area # 2 (SPA 2) of Section 3.0, the Specific Plans component of Master Plan 2001, shall apply to the subject property as they relate to the subject property and its location within SPA 2 save and except three specific controls described in detail below and which controls are hereby amended as follows:

ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
1.	The first (1st) bulleted paragraph, found on page 3.11, which currently states “No zoning to be approved for this area until a coordinated Master Plan for the overall area is approved as part of the zoning approval process” is hereby deleted in its entirety as it applies to this property.		Property developed, (PD-101).
2.	The ninth (9th) bulleted paragraph, found on page 3.11, which currently states “To protect adjacent residential development from adverse impacts, development between the extension of Firewheel and the adjacent residential property lines south of the Firewheel extension cannot be retail or restaurant development” is hereby amended to read and state “To protect adjacent residential development from adverse impacts, development of the subject property may include premium retail uses, which uses shall not include restaurants”.		Property developed, (PD-101).
3.	The fourteenth (14th) bulleted paragraph, found on page 3.12, which currently states “No parking or service areas are permitted between buildings and property lines along FM 2499 and Sagebrush; maximum 150-car parking lots, with minimum 25’ landscaped buffer between lots” is hereby amended to read and state “No parking or service areas are permitted between buildings and the property line along FM 2499; parking lots are limited to maximum 150-car parking lots.		Property developed, (PD-101).

A copy of the concept plan for the Calloway’s Nursery development in the John Wizwell Survey, Abstract No. 1346, showing the layout of the development as submitted by the developer and reviewed and approved by the Town Council as the concept plan for the subject property shall be included in Specific Plan Area # 2 (SPA 2) as an allowed alternative for the development of the subject property.

**Ordinance #37-13 – Specific to 4.942 Acres in J. Stewart Survey, Abstract No. 1161
Adopted: August 19, 2013**



3.0 SPECIFIC PLANS

Specific Plan Area #3

The intersection of FM 2499 and FM 3040/Flower Mound Road is a significant intersection in Flower Mound. Its commercial attraction is reflected in the fact that three of its corners are already zoned for retail use. The area north of Flower Mound contains a creek and its drainage tributaries, which contributes to its many trees and attractive natural environment. The recommended plan for Specific Plan Area #3 is intended to allow the development of commercial uses at the intersection of FM 2499 and Flower Mound Road, and to encourage residential development north of Forest Vista Drive to preserve the attractive natural amenities and to avoid the emergence of highway strip commercial development.

This area is also the location of The Flower Mound, from which the Town derived its name. This significant landmark needs to be preserved and protected as development occurs around it.

ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
1.	Retail land uses are proposed in the northwest and southwest corner of FM 2499/FM 3040. A 2.5-acre retail land use is also proposed adjacent to Forest Vista Drive. These tracts have existing retail zoning.		Property mapping
2.	Office land use is proposed in the northeast corner of FM 2499/FM 3040. While this tract has existing retail zoning, it is questionable whether there is enough market support for additional retail in this area. Also, retail uses on this corner will encourage through-traffic on Forest Vista in conflict with the residential neighborhood and elementary school. Office development will also be more compatible with the planned churches and adjacent to The Flower Mound.		Property mapping
3.	Proposed institutional land use (churches) are located near the Forest Vista Drive/FM 2499 intersection. These appear to be currently planned and are appropriate adjacent to the existing residential neighborhood.		Property mapping
4.	Residential uses are recommended north of Forest Vista to preserve the natural amenities, provide compatible land uses with existing residential neighborhoods and to avoid the emergence of highway strip commercial development.		Property mapping
5.	Access management techniques are proposed to limit curb-cuts and assist in the movement of traffic on the major arterials and through one of the more significant intersections in the Town.		Access Management Regulations

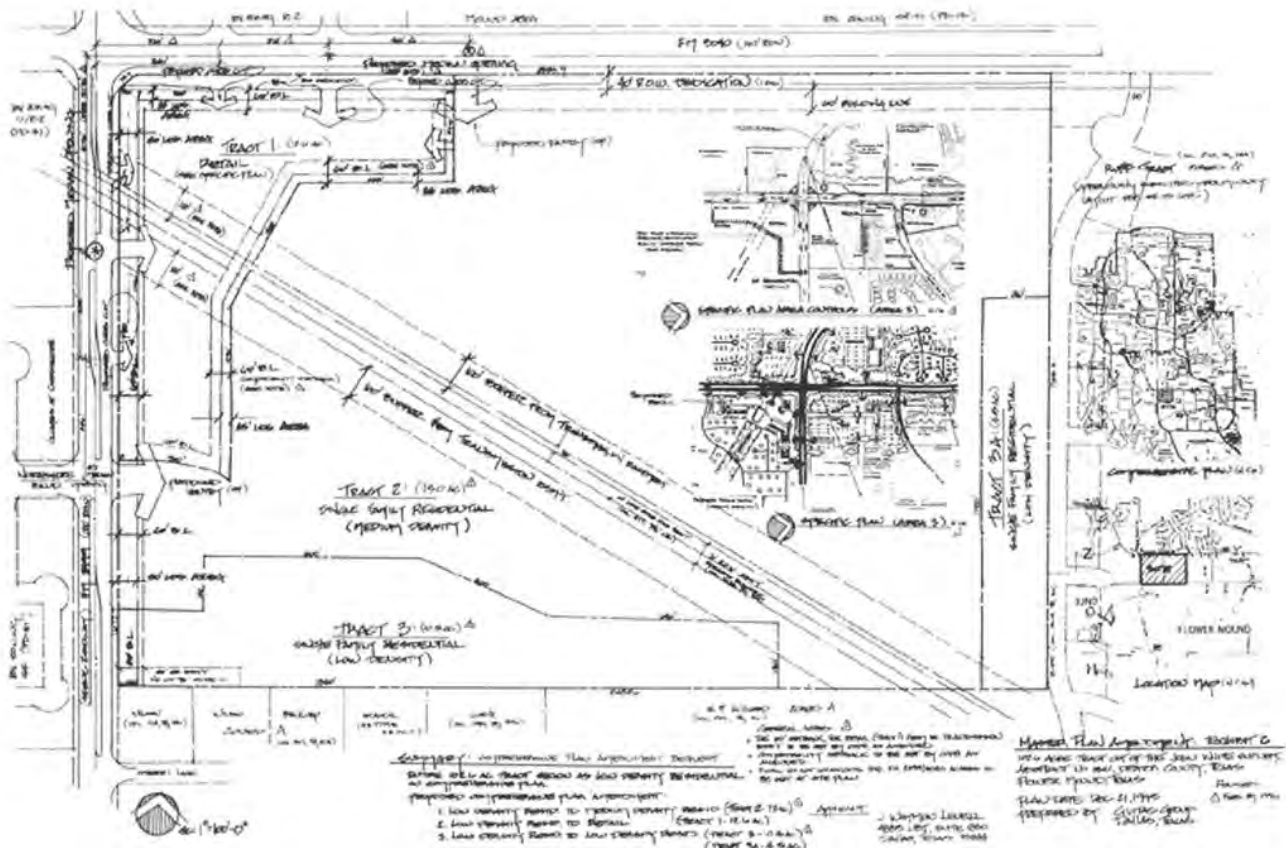
3.0 SPECIFIC PLANS

Amendments to Specific Plan Area #3 are as follows:

Resolution #7-96
Adopted: March 4, 1996

ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
1.	Paragraph #3, Page 45 of the 1994 Comprehensive Master Plan has been amended to read: Retail land uses are proposed in the northwest, southwest and southeast corner of FM 2499/FM 3040. A 2.5 acre retail land use is also proposed adjacent to Forest Vista Drive. With the exception of the southeast corner of FM 2499/Long Prairie Road and FM 3040/Flower Mound Road which is zoned agricultural, these tracts have existing retail zoning.		Property developed, (PD-60).
2.	Paragraph #9, Page 46 of the 1994 Comprehensive Master Plan has been amended to read: Retail land uses are proposed at the immediate southeast corner of FM 2499 and FM 3040. Said retail shall be limited to no more than 15 acres. Medium Density Residential, is to wrap around said retail and there shall be a pedestrian access between the Retail and Medium Density Residential, via the existing electrical easement. Said easement shall extend into the Medium Density Residential, from the Retail and be used for a green belt park corridor for Town dedication. In addition, Low Density Residential shall generally be located to buffer existing "estate type" residential to the south and "planned" Low Density Residential to the east. All buildings on the entire site shall be set back from the existing Brazos Electric easement in accordance with the Chapter 12, Land Development Regulations, of the Code of Ordinances, as amended.		Property developed, (PD-60).
3.	The change in the Comprehensive Master Plan, specifically the Master Land Use Map of the Town of Flower Mound, Texas, established and described in Section 1 herein, shall be hereby subject to the following conditions and requirements:		Property developed, (PD-60).
	A. The maximum amount of office/retail space shall be 125,000 square feet.		Property developed, (PD-60).
	B. Five drive openings shall be allowed to the retail site: Two on FM 3040/Flower Mound Road, one to match the median opening for the retail tract at the northeast corner of FM 2499/Long Prairie Road and FM 3040/Flower Mound Road (Flower Mound Crossing Shopping Center) plus one to match the westernmost access point proposed for the Flower Mound Crossing Shopping Center; and three drive openings on FM 2499/Long		Property developed, (PD-60).

	Prairie Road, one of which is to align with a median opening approximately 615' south of the centerline of FM 3040/Flower Mound Road. The northernmost drive opening to the retail site along FM 2499/Long Prairie Road will be restricted to "in-only" traffic. The final location of the third drive opening will be determined at the time of site plan and must be approved by the Town. All drive approaches and median openings as shown are conceptual in nature. The necessity and/or location of any and all drive approaches and median openings shall be determined in conjunction with final site plan approval for the site.	
	C. The Owner/Developer, at such time as a zoning request is submitted, shall file a zoning amendment application for a planned development district in order to ensure that the components of Specific Plan Area 3 are adhered to.	Property developed, (PD-60).



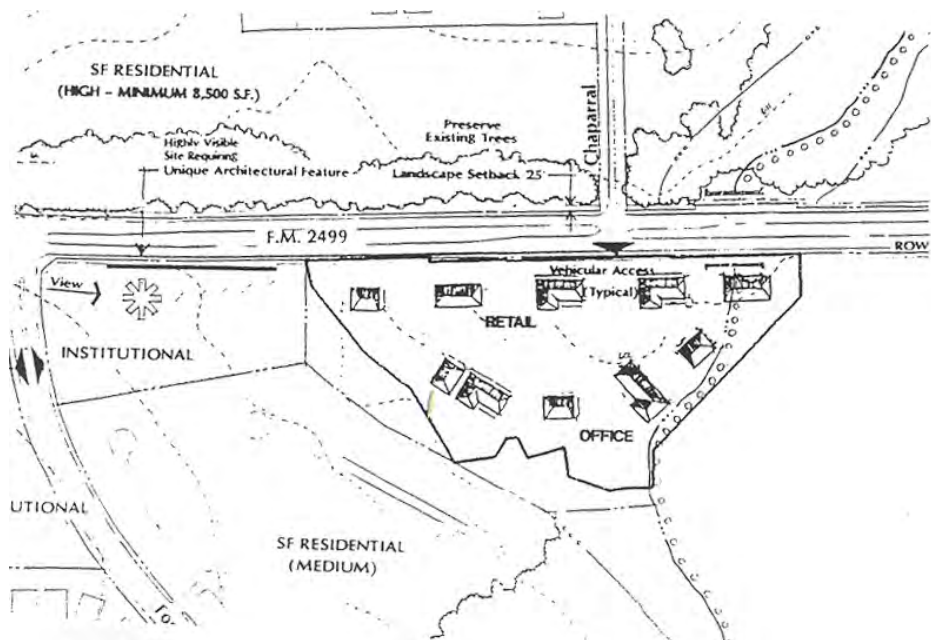
3.0 SPECIFIC PLANS

Amendments to Specific Plan Area #3 are as follows:

Resolution #1-97

Adopted: January 6, 1997

ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
1.	A. Paragraph #6, page 45 of the 1994 Comprehensive Master Plan was amended to read: "Office and retail uses are proposed for the site immediately north of Forest Vista. Natural amenities shall be preserved as a buffer for the residential neighborhoods currently provided by creeks and existing vegetation."		Property developed, Property mapping.
2.	B. Paragraph #6, page 46 of the 1994 Comprehensive Master Plan was amended to read: "The site directly across FM 2499 from Chaparral is proposed to be Retail and Office. Preservation of existing trees shall be maintained to the greatest extent possible."		Property developed, Property mapping.

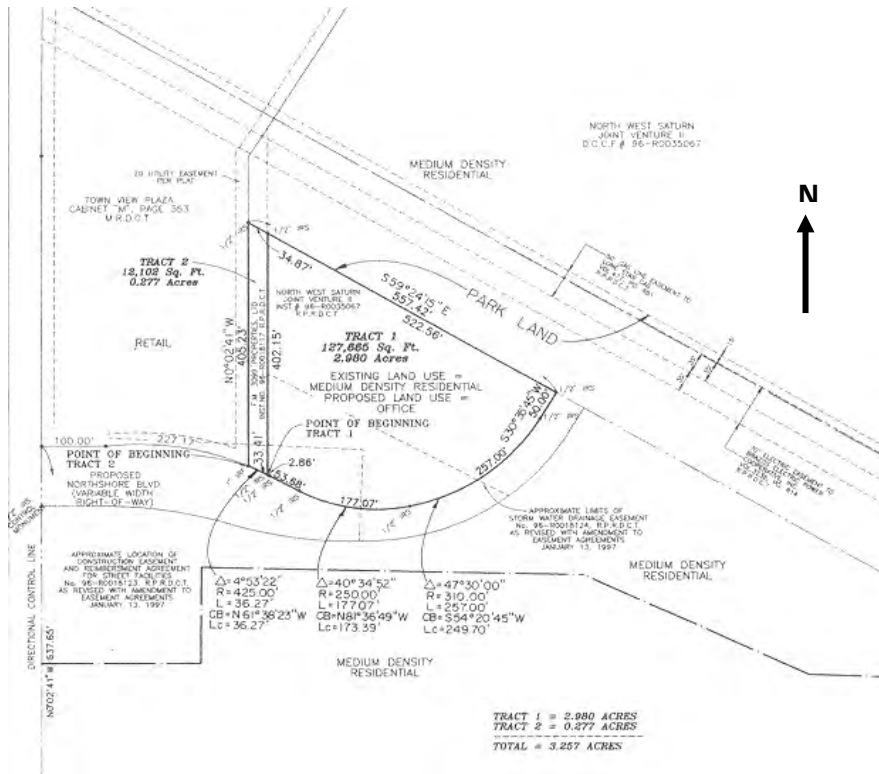


3.0 SPECIFIC PLANS

Resolution #26-97

Adopted: November 3, 1997

Changing the land use designation on a certain tract of land being approximately 3.25 acres in the J. White Survey, Abstract No. 1341, Flower Mound, Denton County, Texas, and presently master planned for medium density residential is changed to office.



3.0 SPECIFIC PLANS

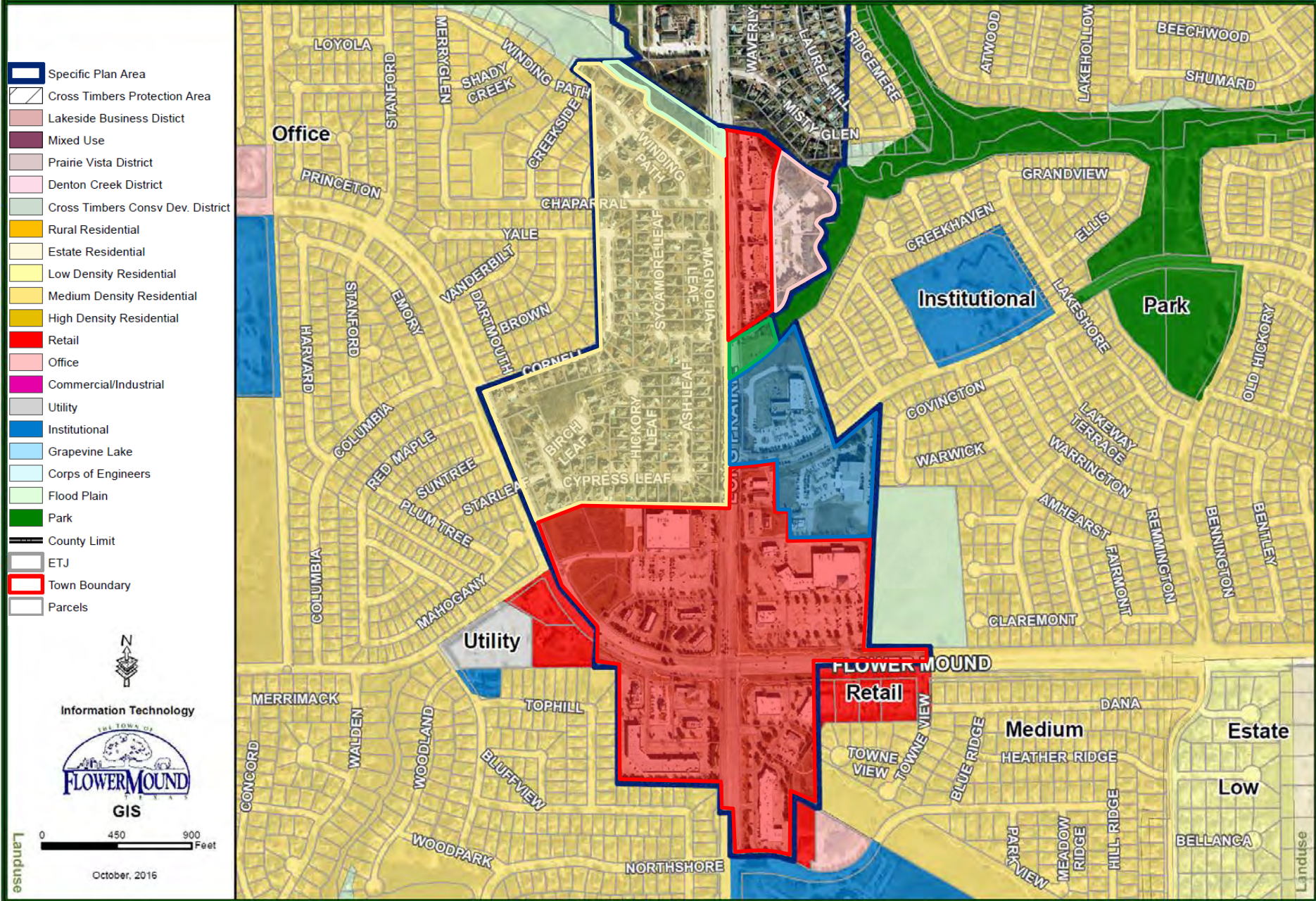
Specific Plan Area #3 Controls

Development controls for Specific Plan Area #3 are recommended to allow the development of commercial development at the intersection without degrading the traffic characteristics of the FM 2499/Flower Mound Road intersection and the two major arterials. An emphasis is placed in this area on protection and preservation of the natural amenities, particularly the enforcement of the Town's Tree Preservation Ordinance. Because of the uncertainties of health risks associated with electromagnetic fields from the electrical transmission lines, 100' setbacks are recommended. A special view corridor to protect views of the Flower Mound is recommended.

ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
1.	Access management techniques are proposed to limit curb-cuts and assist in the movement of traffic.		Access Management Regulations
2.	Retail land uses are proposed for the southwest corner of FM 2499 and FM 3040. Buffers will be required between the adjacent Single Family, Medium Density Residential development and this site. A 100' building setback is required from the edges of the existing electricity and gas easement that runs through this site.		Property developed (PD-37).
3.	Retail land uses are also proposed for the northwest corner of FM 2499 and FM 3040. Buffers will be required between this site and the adjacent Single Family, Medium Density Residential development. Preservation of existing trees will be required. Special landscape and signage treatments will be required at the entrances. Traffic routes through the site should be discontinuous. The southeast corner of the site is considered a "High Visibility Site" and will require an exceptional architectural solution.		Property developed (PD-29).
4.	Single Family, High Density (minimum 8,500 square feet) Residential land use is proposed for the site south of Chaparral. Preservation of existing trees will be required on this site.		Property developed (PD-29).
5.	The site directly across FM 2499 from Chaparral is proposed to be Single Family, Medium Density Residential. Preservation of existing trees will also be required on this site.		Property developed, amended by Resolution 1-97.
6.	An Institutional land use is proposed for the northeast corner of Forest Vista Drive and FM 2499. Buffers should be provided on this site where adjacencies with residential uses exist. Because of existing views along FM 2499 into this site, a unique Architectural Feature should be developed on this site to act as a focal point.		Property developed (PD-13).
7.	Retail land uses are proposed at the northeast corner of FM 2499 and FM 3040. The building zone on this site is of great importance in order to maintain views to The Flower Mound and to planned architectural features. Service areas on this site should be internal, and shared by the retailers. A buffer should be provided between this site and the adjacent Single		Property developed (PD-13).

3.0 SPECIFIC PLANS

	Family Residential land use to the east of this site. Retail, Office, and/or Institutional land uses are proposed on this site adjacent to FM 3040.		
8.	A Single-Family, Low Density Residential land use is proposed for the southeast corner of FM 2499 and FM 3040. A 100' building setback is required from the edges of the existing electricity and gas easement that runs through this site.		Property developed, amended by Resolution 7-96.
9.	A 50' landscape setback is required on FM 2499 south of FM 3040 and a 25' setback is required north of FM 3040.		Property developed.
10.	A 25' landscape setback is required along FM 3040 east and west of FM 2499.		Property developed.
11.	All four corners at the intersection of FM 2499 and FM 3040 require special landscape treatments that should be coordinated on each corner.		Property developed.



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:

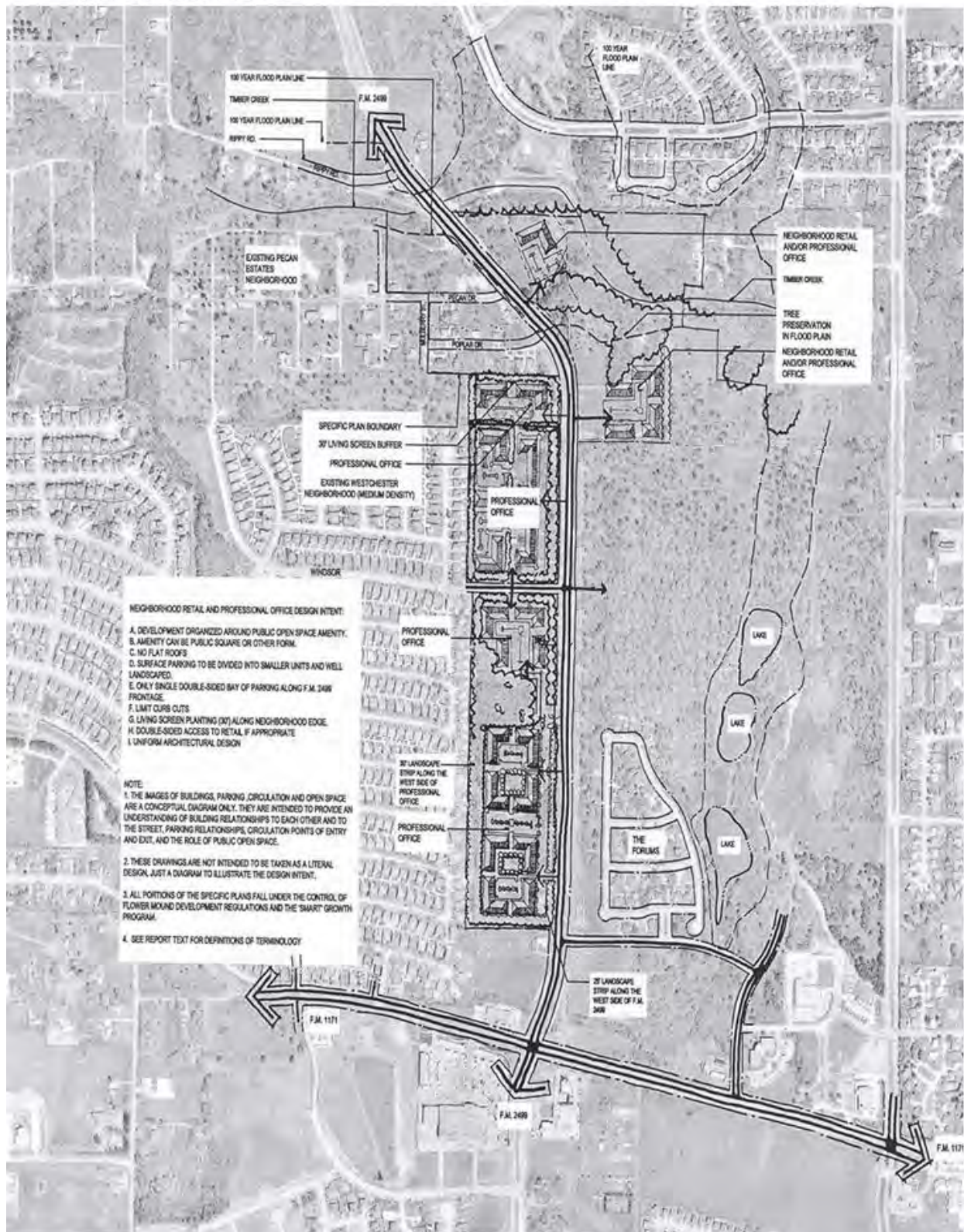
ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
a.	Professional office is recommended along the west side of FM 2499. This land use should be developed in a pattern that creates courtyards and pedestrian-scaled spaces. Surface parking for the development should be screened from FM 2499 and the Westchester neighborhood 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.		Property mapping, property partially developed. LDR requires screening and buffering.
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.		Property entitled & partially developed, (PD-114).
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.	✓	Compatibility buffer requires a minimum of 25 foot landscape buffer.
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		Access Management Regulations
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.		Access Management Regulations

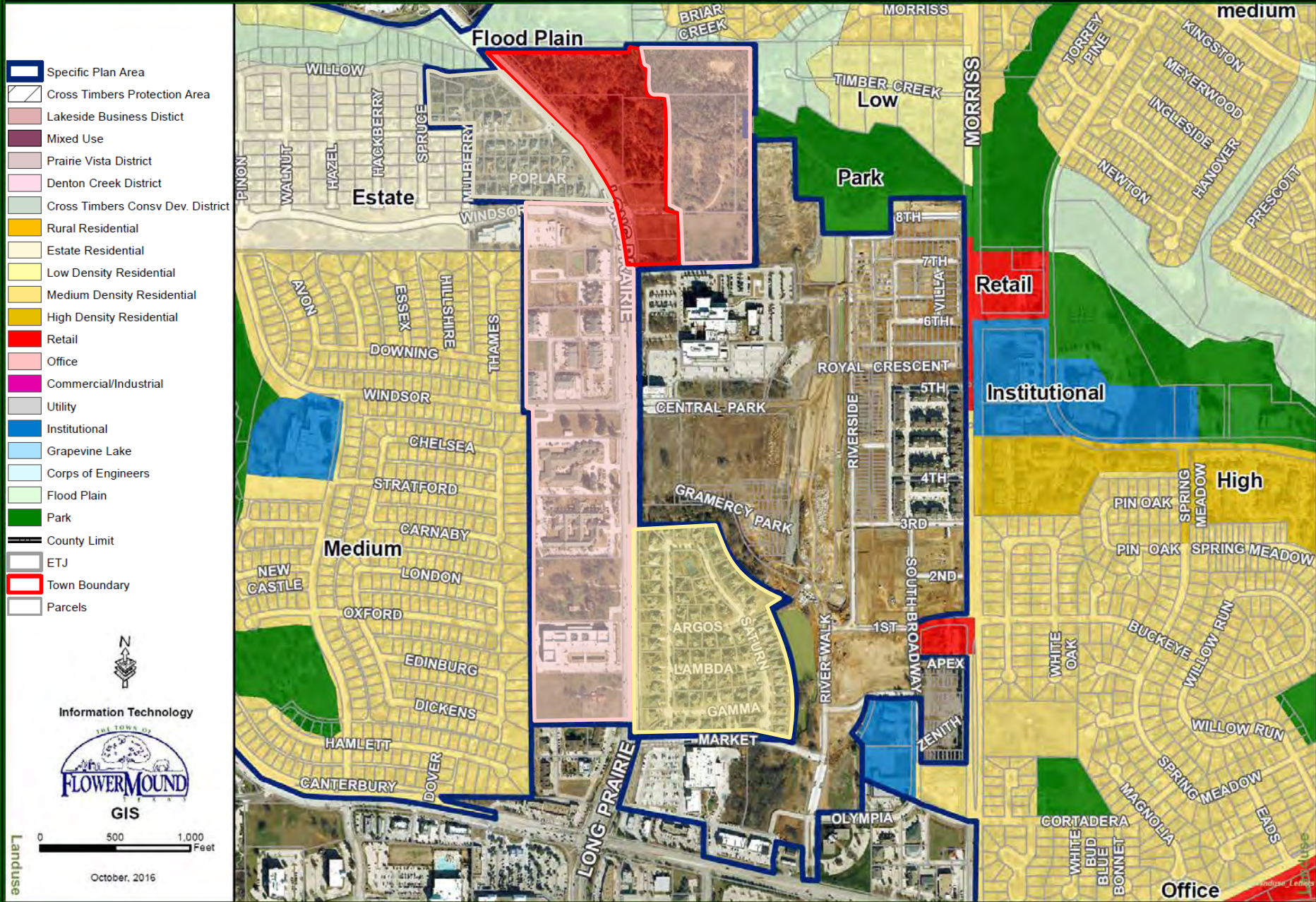
3.0 SPECIFIC PLANS

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.		Urban Design Standards
g.	No development should occur in the Timber Creek 100-year floodplain		SMARTGrowth, LDR regulations.

3.0 SPECIFIC PLANS

Specific Plan Area #4





3.0 SPECIFIC PLANS

Specific Plan Area #5

Specific Plan Area #5 is bounded on its southern limit by Timber Creek and extends north to the intersection of FM 2499 and Dixon Road. Rippy Road, Waketon Road and Chinn Chapel Road form the western boundary of the plan area. The eastern element of the plan is a strip approximately five-hundred feet in depth that extends from Timber Creek to the south connecting to Dixon Road to the north.

The general land use concept for Specific Plan Area #5 is one that mixes low-density residential with neighborhood retail, village retail, and professional office. The locations for commercial were established from an analysis of the proposed transportation system and existing development patterns.

Within Specific Plan Area #5, College Parkway, Waketon Road and Dixon Road intersect with FM 2499. Possible development around these key intersections should serve to accommodate the Town's need for an expanded retail base.

In each of the neighborhood retail development areas emphasis is placed on orientation of buildings, creating public open space, landscape buffers and limited access to aid transportation and traffic flows.

On the west side of FM 2499 beyond the neighborhood retail and village retail land uses are segments of residential low density land use that extend to the limit of the plan area. Points of pedestrian access interconnect the neighborhood retail and residential developments.

A unique design element is the use of landscape screens that vary from 30' to 50' in width along both sides of FM 2499. Along the western and northern boundary abutting the roadways is the Town's pedestrian trail system extending through the plan area and linking with the trail system beyond.

Elements included in Specific Plan #5 are as follows:

ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
a.	Neighborhood and village retail and/or professional office land uses are identified along the corridor with major retail at and about the southwest corner of Dixon Road and Long Prairie Road (FM 2499) (the "Robertson's Creek development"). The key concerns for planning these developments are as follows:		
	Development organized around public open space amenity.		Urban Design Standards
	Amenity can be a public square or other form.		Urban Design Standards
	Surface parking to be divided into units of 100 cars or less, and landscaped in accordance with the Town's Land Development Regulations, except for the Robertson's Creek development.	✓	LDR requires landscaping, but does not contain the provision of 100 space maximum.
	Only single double-sided bay of parking along FM 2499 frontage.	✓	The majority of the property is entitled or developed and meets this requirement.

3.0 SPECIFIC PLANS

	Limit curb cuts from major roads by coordinating curb cuts between adjoining properties.		Access Management Regulations
	Double-sided access to retail that faces public open space amenity element.		Urban Design Standards
	Uniform architectural design within contiguous areas.		Urban Design Standards
b.	Realignment of Waketon Road with large radius curves for vehicular safety in two locations as Waketon Road transitions from a north-south alignment to an east-west alignment west of FM 2499. The intersection of Waketon and FM 2499 should be signalized at the time that it meets MUTCD warrants, as should other major intersections of public streets.		Property entitled & partially developed, (PD-89, 141 & 148).
c.	Except as described below, low density residential is recommended along the east side of Rippy Road south of Waketon Road. The depth of this land use is recommended to be 550' from Rippy Road, measured from the ROW line at Rippy Road and parallel to the Rippy Road ROW line. High density residential and medium density residential uses are recommended for the area north and east of Rippy Road and south of the future extension of College parkway as shown on the SPA 5 map. High density residential and medium density residential uses in this area shall only include single family detached residential uses		Property mapping, property entitled & partially developed, (PD-137).
d.	Medium Density and High Density residential is recommended along the west line of Rippy Road, between Pecan Meadows Drive and the southern east-west alignment of Waketon Road, with a depth of approximately 725 feet from Rippy Road, measured from the ROW line at Rippy Road and parallel to the Rippy Road ROW line, and along the west line of the north-south line of Waketon Road, between the southern section of the east-west alignment of Waketon Road and the south line of the northern section of the east-west alignment of Waketon Road, with a depth ranging from 795 feet to 1,380 feet from the north-south alignment of Waketon Road, measured from the ROW line at the Waketon Road ROW line, as this section of Waketon Road will be realigned as detailed on page 3.22.		Property mapping, property entitled & partially developed, (PD-137).
e.	Village retail is recommended along FM 2499, as indicated on the plan, to increase economic development opportunities and commercial land uses along FM 2499.		Property mapping
f.	Neighborhood retail is recommended along Dixon Road in the northern limits of this Specific Plan. The vehicular access to this retail should be coordinated with the access for the Major Retail north of Dixon Road in Specific Plan Area #6.		Property mapping, property developed.
g.	FM 2499 should have a landscape treatment of long sweeping curves of plantings that vary between 20' and 35' from the maximum ROW line.	✓	Street buffer required is 25 feet.
h.	Pedestrian linkages should be provided between	✓	LDR requires sidewalks, but does not

3.0 SPECIFIC PLANS

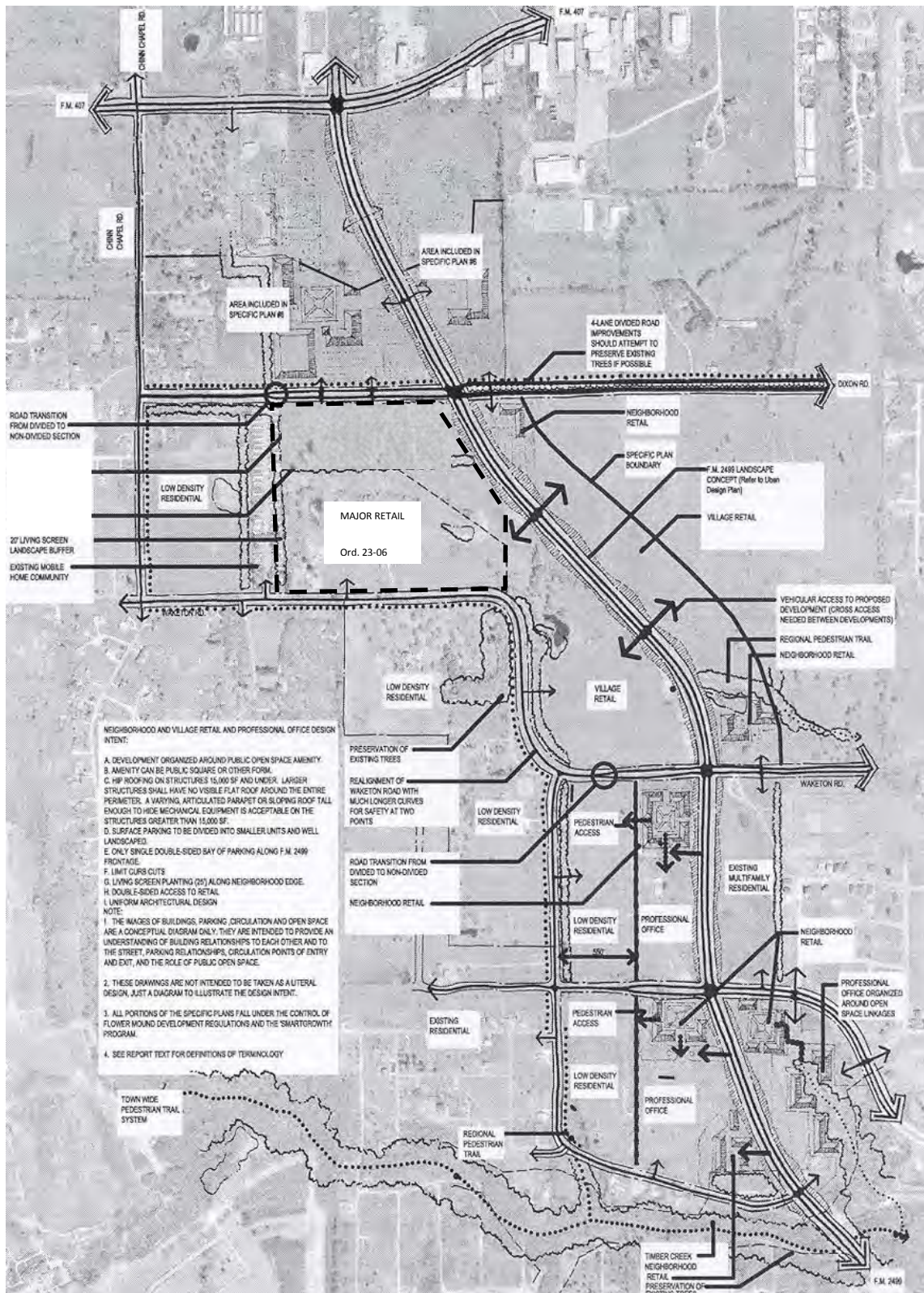
	neighborhood retail/professional office land uses and the adjacent residential uses. These pedestrian linkages are to be integrated into all site planning for development proposals in the identified areas.		contain a provision that requires such connectivity.
i.	Dixon Road and Waketon Road, west of FM 2499 as indicated on the plan, are proposed to transition from a divided road section to an undivided section with a more rural character. This character should include no median and consideration of a swale drainage system instead of concrete curb and gutter. College Road will be designated and aligned west of Long Prairie Road as shown on the attached SPA 5 development controls exhibit.		Access Management Regulations
j.	The existing trees along Dixon Road are to be integrated and preserved as Dixon Road is improved and/or widened, as much as is fiscally possible. If preservation of the trees is to occur, additional ROW will need to be acquired for roadway improvements.		Dixon has been improved to its final section.
k.	A Town-wide pedestrian trail system has been adopted as part of the Town's Parks and Trails Master Plan. Its location in this Specific Plan is indicated by the dots linking neighborhoods together. The system should follow creek alignments and existing tree stands as much as possible.		Parks Trails plan
l.	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.	✓	Compatibility buffer requires a minimum of 25 foot landscape buffer.
m.	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.		Access Management Regulations
n.	Buildings should incorporate human-scale proportions at entries and front facades through the use of arcades, porte-cocheres, and other shade producing elements.		Urban Design Standards
o.	Roofs of commercial buildings 15,000 SF and under are to be hip, gable or a combination of the two. The Town Council may approve, upon recommendation from the Planning and Zoning Commission, a waiver request to this requirement for buildings within this SPA 5 provided that: (1) any such building(s) being considered for a waiver shall be part of a large-scale multi-building development of 25 acres or larger; and, (2) possessing a meritorious Unified Design Theme; or provided that: such building is located at the southwest corner of the intersection of Waketon Road and Long Prairie Road on certain property described as 1.495 acres of land in the Jesse Watkins Survey, Abstract Number 1324, Denton County, Texas. 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.		Urban Design Standards

3.0 SPECIFIC PLANS

p.	The black arrows connecting roadways with development areas identify primary curb cuts for vehicular access. The location of property access will be dependent on adjacent property circulation, final site plan design and projected traffic data as defined by a transportation planner.		Access Management Regulations
q.	No development shall occur in the Timber Creek 100-year floodplain.		SMARTGrowth, LDR regulations.

3.0 SPECIFIC PLANS

Specific Plan Area #5



3.0 SPECIFIC PLANS

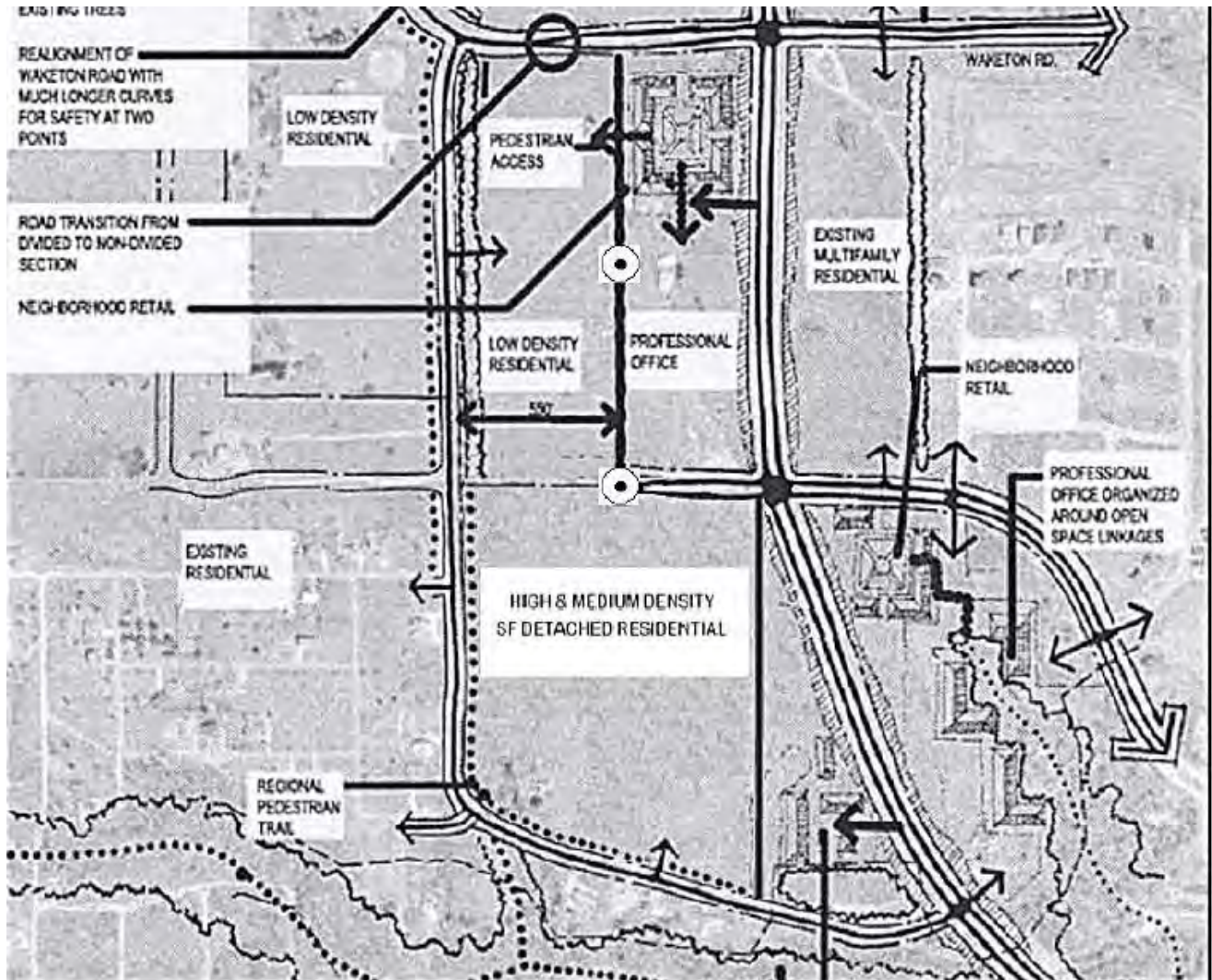
Amendments to Specific Plan Area #5 Development Controls Exhibit:

Ordinance No. 22-15

Adopted: April 20, 2015

Ordinance No. 27-15

Adopted: May 4, 2015



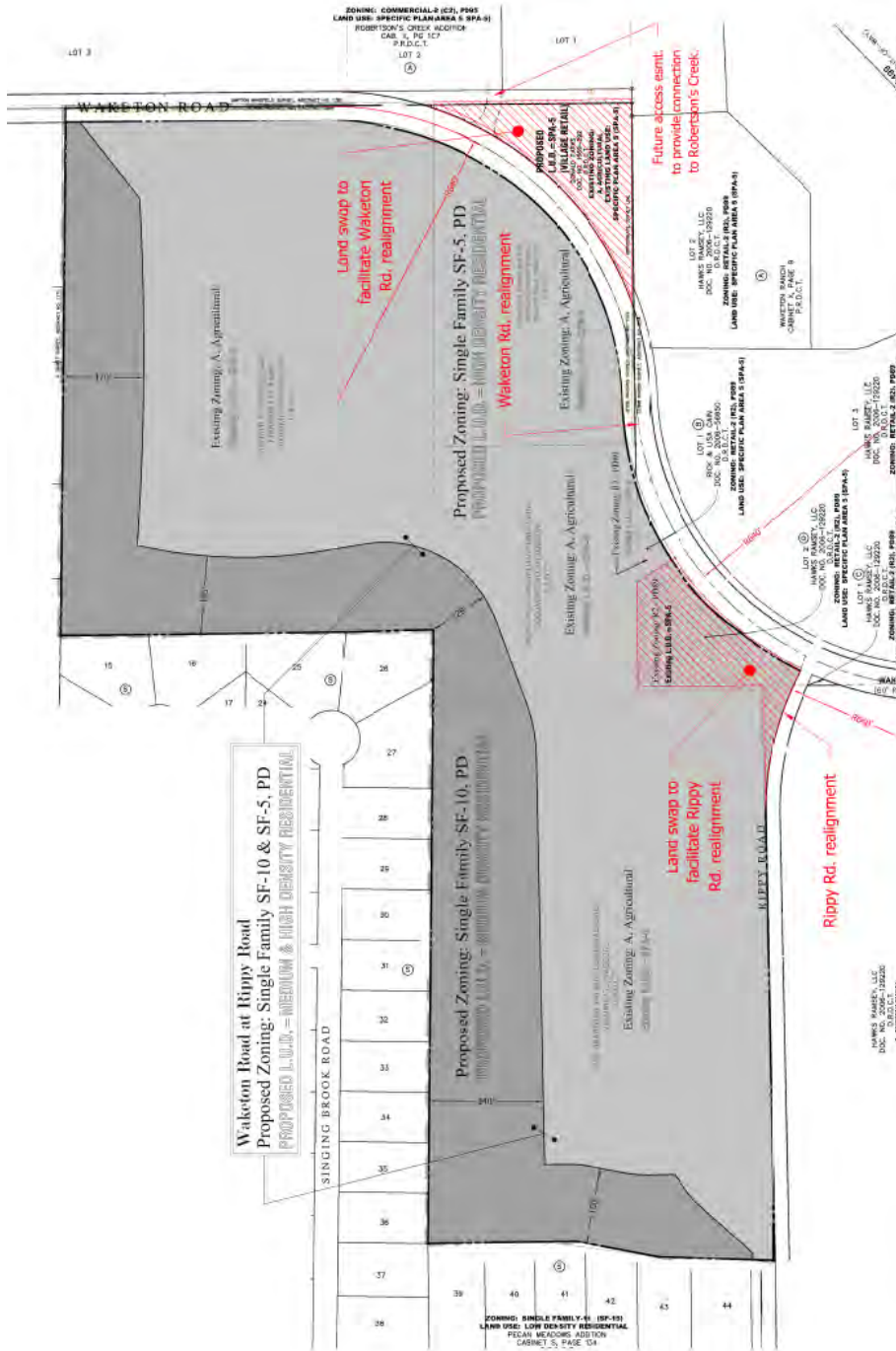
3.0 SPECIFIC PLANS

Amendments to Specific Plan Area #5, as depicted below:

Ordinance No. 50-16

Adopted: September 6, 2016

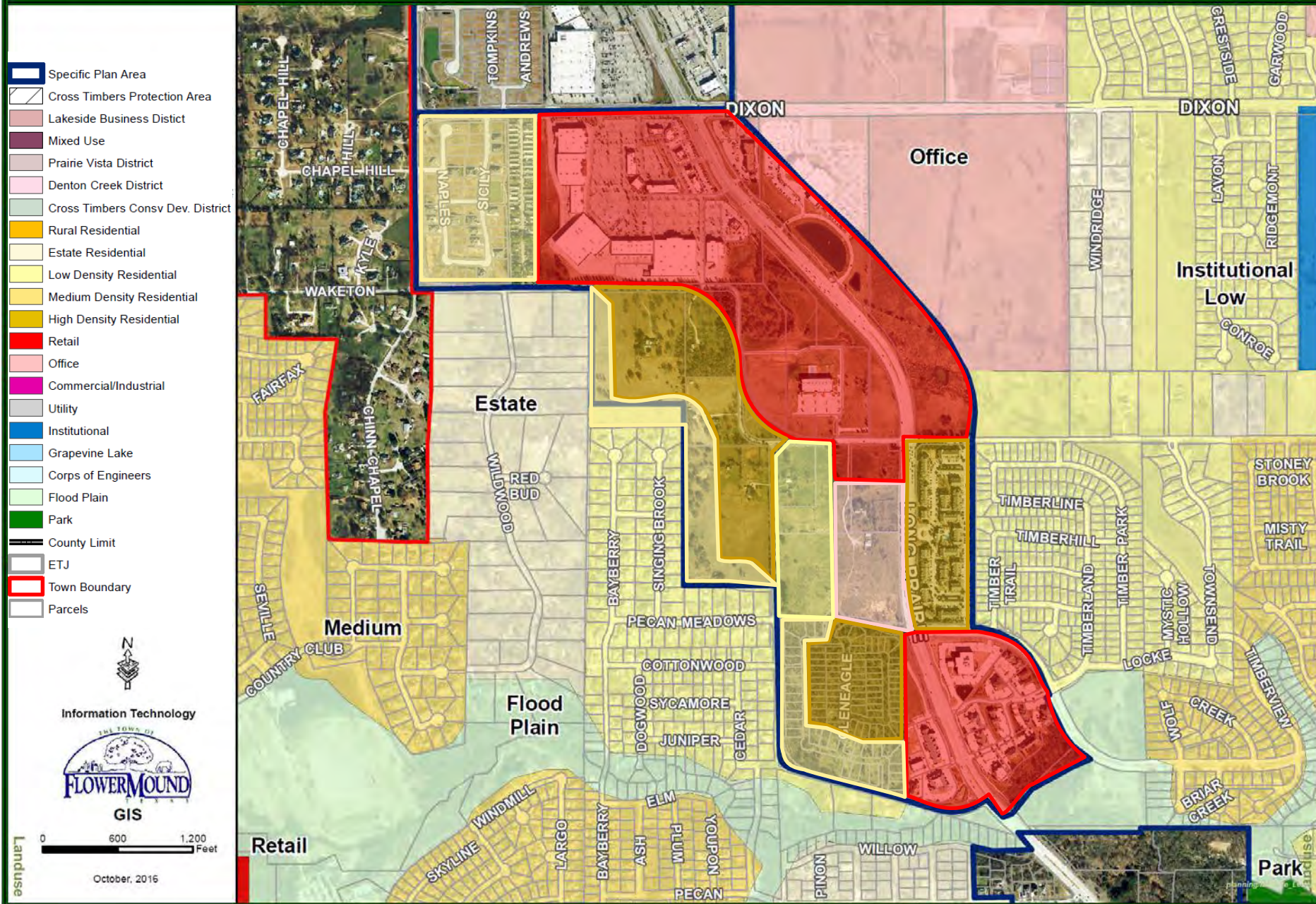
Change in land use designation and realignment of Waketon Road.



Bradford Park

Master Plan Exhibit

Flower Mound, Denton County, Texas



3.0 SPECIFIC PLANS

Specific Plan Area #6

Specific Plan Area #6 is unique in that it has a broad diversity of land uses proposed and is separated into two subparts. The larger of its two segments is located generally north of Dixon Road, south of FM 407 and centered about the southeast and southwest quadrants of the intersection of FM 2499 and FM 407. The smaller segment is located north of FM 407, west of Chinn Chapel and east of Jernigan Road. This smaller segment is approximately 450' in depth along the FM 407 frontage.

The general land use concept for Specific Plan Area #6 is one that proposes a mixture of major retail, village retail, and professional office around existing light industrial developments. The locations for commercial uses are established from an analysis of the proposed transportation system and existing development patterns.

Planned Development 27, PD-27 is fully contained within the plan area. It is strategically placed in a manner to take full commercial advantage of the intersections of FM 2499 with Dixon Road and FM 407. Envisioned in the plan area are larger retail land uses sited with smaller buildings in a manner to screen parking and create open plazas. Gateway features are proposed at the FM 407 - FM 2499 intersection at both of the corners.

East of the retail center and fronting FM 407 there exists a pattern of small commercial and industrial sites interspersed with undeveloped agriculturally zoned tracts. As these areas develop and/or redevelop, the plan envisions transformation to retail, professional office and light industrial uses. Numerous points of access and median openings are indicated along FM 407 to serve the patchwork of small tracts that are expected to remain near their current pattern.

The smaller segment to the north of FM 407 and west of its intersection with Chinn Chapel is further subdivided into two land uses. The eastern half is proposed as a Town park and for institutional uses of approximately ten acres and the western half, a neighborhood retail center. The boulevard that separates the park from the retail development to the west is proposed to be heavily screened with 30' landscape buffers along the right-of-way. Two points of access serve both the park and retail site. The Town's multi-use trail extends along the north side of FM 407, crossing at the intersection with Chinn Chapel and then extending the full length of the plan area to its eastern limit along the south side of FM 407.

Elements included in Specific Plan #6 are as follows:

ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
a.	Major retail centers are recommended at the SE and SW corners of the intersection of FM 2499 and FM 407. These retail centers should be organized around public open space amenities and designed as master planned developments that address architecture, circulation, signage, lighting and landscape. They should include a 30' wide living screen landscape buffer between their built area and neighboring 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. The developments should provide pedestrian and vehicular linkages to adjacent residential neighborhoods as they develop.		Property mapping, property developed (PD-27 & 71).
b.	Neighborhood retail land uses are identified in the		Property mapping, property developed

3.0 SPECIFIC PLANS

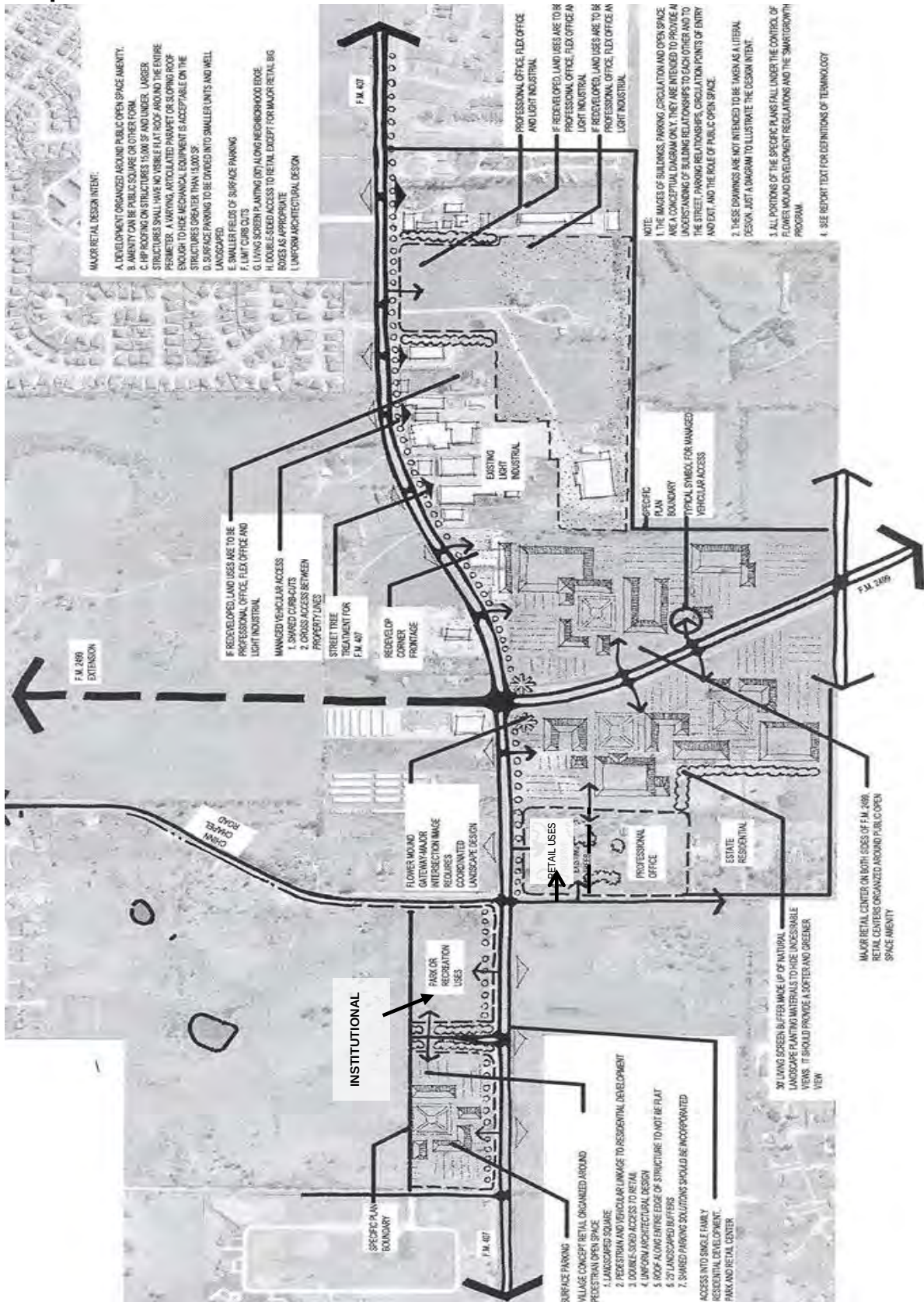
	westernmost area of FM 407. The key concerns for planning in this development are as follows:		(Jernigan Heights & PD-104).
	Development organized around public open space amenity.		The majority of the property is entitled or developed (PD-104) and meets this requirement.
	Amenity can be a public square or other form.		The majority of the property is entitled or developed (PD-104) and meets this requirement.
	Surface parking to be divided into units of 100 cars or less, and landscaped in accordance with the Town's Land Development Regulations.		The majority of the property is entitled or developed (PD-104) and meets this requirement.
	Only single double-sided bay of parking along FM 407 frontage.		The majority of the property is entitled or developed (PD-104) and meets this requirement.
	Limit curb cuts from major roads by coordinating curb cuts between adjoining properties.		Access Management Regulations
	Double-sided access to retail that faces public open space amenity element.		Urban Design Standards
	Uniform architectural design within contiguous areas.		Urban Design Standards
c.	Gateway treatments as described in the Town's Urban Design Plan are proposed for the SE and SW corners of FM 2499 and FM 407.		Median and ROW Master Plan
d.	Institutional, a public park and/or recreational land use is recommended along FM 407, west of FM 2499.		Property developed, Chinn Chapel Soccer Complex.
e.	FM 2499 should have a landscape treatment of long sweeping curves of landscape plantings that vary between the back of the curb of the street to the limit of the 25' landscape buffer.		Street buffer required is 25 feet.
f.	FM 407 should have a landscape treatment of formal tree plantings with shade trees identified in the Town's Land Development Regulations planted at 30' on center along the right of way line.		Median and ROW Master Plan
g.	The SE corner of FM 2499 and FM 407 that fronts on FM 407 and is currently light industrial uses is proposed to eventually redevelop into major retail. This redevelopment, when proposed by the landowner, should be master planned to coordinate with the entire corner of major retail located in the SE quadrant.		Property mapped as Commercial 2 which allows auto repair.
h.	If existing light industrial land uses along FM 407 redevelop, they should change into office and flex office. This redevelopment would happen only when proposed by the landowner.		Property mapped as Light Industrial which allows office and office flex.
i.	A Town-wide pedestrian trail system has been adopted as part of the Town's Parks and Trails Master Plan. Its location in this Specific Plan is indicated by the dots linking		Parks Trails plan

3.0 SPECIFIC PLANS

	neighborhoods together. The system should follow creek alignments and existing tree stands as much as possible.		
j.	Limited curb cuts will be allowed along FM 2499 and FM 407. Access drives should be coordinated so that they allow cross-vehicular movement for more than one property.		Access Management Regulations
k.	The black arrows connecting roadways with development areas identify primary curb cuts for vehicular access. The location of property access will be dependent on adjacent property circulation, final site plan design and projected traffic data as defined by a transportation planner.		Access Management Regulations
l.	Buildings should incorporate human-scale proportions at entries and front facades through the use of arcades, porte-cocheres, and other shade producing elements.		Urban Design Standards
m.	Roofs of commercial buildings 15,000 SF and under are to be hip, gable or a combination of the two, provided that the Town Council may approve, upon recommendation from the Planning and Zoning Commission, a waiver request to this requirement for buildings within this SPA 6. Any such building(s) being considered for a waiver shall be a part of a large-scale multi-building development of 25 acres or larger, possessing a meritorious Unified Design Theme, and not being less than 12,000 square feet. Structures larger than 15,000 SF should have no visible area of a 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.		Urban Design Standards

3.0 SPECIFIC PLANS

Specific Plan Area #6



- Specific Plan Area
- Cross Timbers Protection Area
- Lakeside Business District
- Mixed Use
- Prairie Vista District
- Denton Creek District
- Cross Timbers Consv. Dev. District
- Rural Residential
- Estate Residential
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Retail
- Office
- Commercial/Industrial
- Utility
- Institutional
- Grapevine Lake
- Corps of Engineers
- Flood Plain
- Park
- County Limit
- ETJ
- Town Boundary
- Parcels



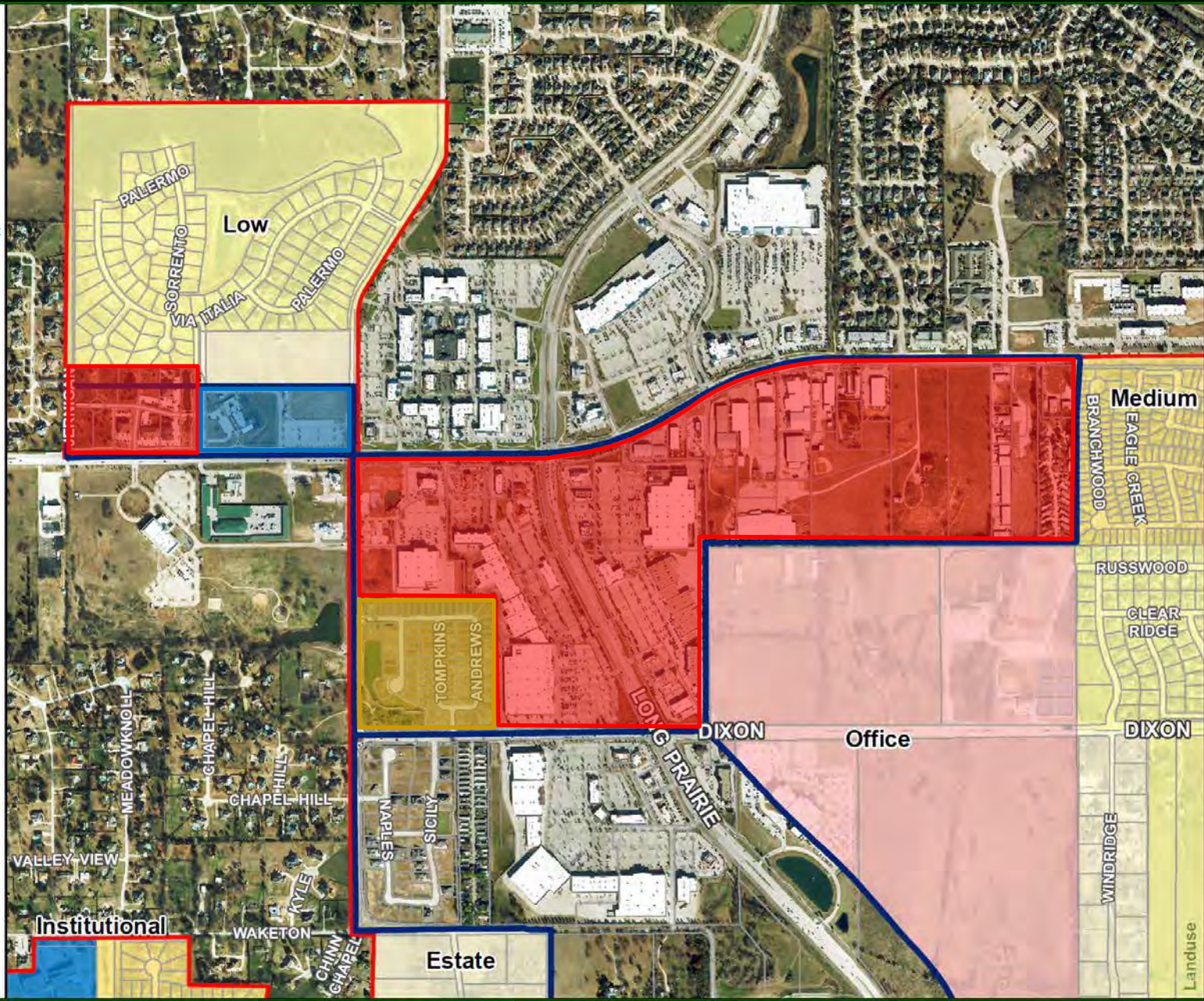
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October, 2016



3.0 SPECIFIC PLANS

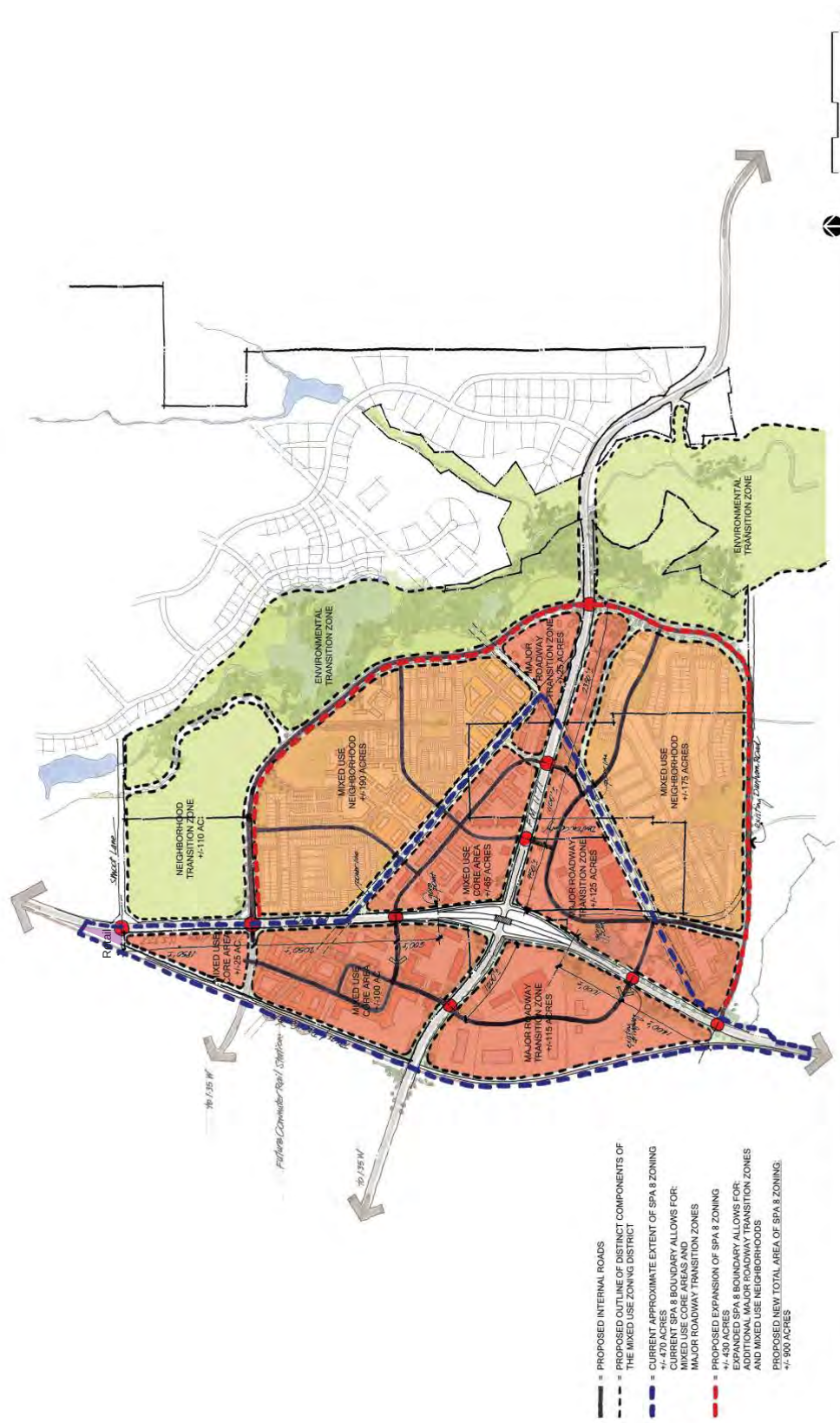
Specific Plan Area #8

The general land use concept for this Specific Plan Area #8 is one that proposes a collection of mixed use developments centered around the intersection of FM 1171 and US 377. SPA 8 provides a transition between the higher intensity uses at the intersection and the Prairie Vista district to the east.

Elements included in Specific Plan Area #8 are as follows:

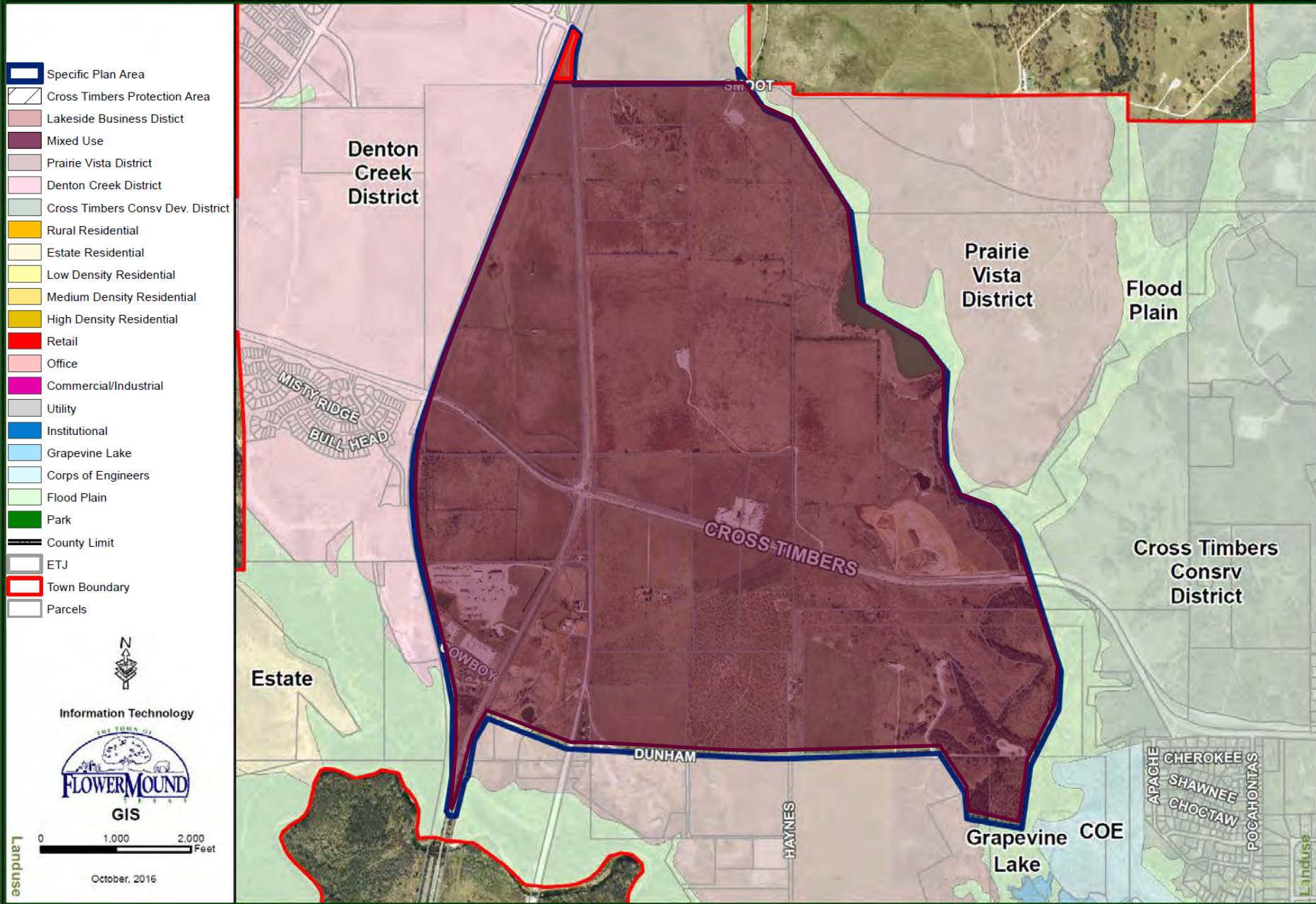
ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
a.	The land use plan shows higher density mixed uses at the intersection of FM 1171 and US 377, extending to the overhead transmission lines to the east.		Property mapping
b.	From the mixed use core and major roadway areas, mixed use neighborhood areas are planned moving to the east. On the north of FM 1171 the mixed use neighborhood area extends to the environmental transition zone which includes the flood plain. On the south side of FM 1171, the mixed use neighborhood area extends to Dunham Road.		Property mapping
c.	East US 377, south of FM 1171 there exists a pattern of industrial sites interspersed with undeveloped agriculturally zoned tracts. As these areas develop and/or redevelop, the plan envisions transformation to mixed use.		Property mapping
d.	Retail land use is proposed in the far northern triangle along US 377. Since this location is a gateway entrance into Flower Mound, any project in this location should have a unified, high quality architectural, landscape and signage design.		Property mapping, Urban Design Standards
e.	A neighborhood transition zone is proposed south of Smoot Lane to provide a buffer between the mixed use area and the Prairie Vista area to the north.		Property mapping
f.	The roadway system shown reflects the Town's Thoroughfare Plan and includes: • A grade separated intersection at FM 1171 and US 377. • A new connector roadway extending from FM 1171 to US 377. • Realignment of Dunham Road. • A new crossing of the railroad tracks west of US 377.		Thoroughfare Plan
g.	The roadways and intersections shown are conceptual and will have to meet the Town's standards when developed.		Access Management Regulations
h.	The SPA 8 area is one of the gateway areas of the Town. All landscaping and entrance monuments should comply with the Town's Median and Rights-of-Way Design Guidelines.		Median and ROW Master Plan

3.0 SPECIFIC PLANS



SPA 8 - Concept Plan

GFF Planning
2808 Fairmount Street
Suite 300
214.353.5500 / 214.353.1277 / 214.353.5500 / 214.353.1277



3.0 SPECIFIC PLANS

Specific Plan Area #9

The general land use concept for Specific Plan Area #9 is one that proposes four high-end neighborhood retail developments organized around pedestrian open space amenities, with the use of significant landscape plantings for both site landscape and as perimeter buffer.

All development in this Specific Plan Area should conform to the following design elements:

ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
a.	The development plan for the four corners shall be organized around public open space amenities; which can be accomplished with a public square or other form.		Property entitled & partially developed, (PD-51, 78, 82 & 84).
b.	Preferred uses include; specialty grocery, drug store, bank, dessert/ice cream shop, coffee house, bagel/shop, sit down restaurant, book store, florist, antique store, dance, drama, or music studio, and professional offices.		Property entitled & partially developed, (PD-51, 78, 82 & 84).
c.	Retail uses less than 5,000 square feet in area shall not be allowed within 400' of the intersection of FM 3040, Morriss Road, and Gerault Road, measured radially from the center point of the intersection.		Property entitled & partially developed, (PD-51, 78, 82 & 84).
d.	All of the buildings within the SPA should have a coordinated design including, architecture, color palate and use of materials.		Property entitled & partially developed, (PD-51, 78, 82 & 84).
e.	No outside speakers, except customer service speakers, should be allowed within the SPA.	✓	LDR limits noise, but does not have a limitation on outdoor speakers.
f.	Outside lighting should minimize spillover to areas outside the boundaries of the SPA.		LDR limits the light spilling over to adjacent properties.
g.	Corner buildings should provide "front door" elevations facing each of the roads toward which they are oriented. Buildings should be designed along the roads so that they screen service areas from view from the public rights of way.		Urban Design Standards
h.	Limited curb cuts and median cuts should be allowed along FM 3040. Curb and median cuts should be coordinated to discourage cut-through traffic between FM 3040 and Gerault/Morriss Road.		Access Management Regulations
i.	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 so that all roof equipment will be hidden from view.		Urban Design Standards
j.	Surface parking areas should be divided into units of 100 cars or less, and landscaped in accordance with the Town's Land Development Regulations.	✓	LDR requires landscaping, but does not contain the provision of 100 space maximum.

3.0 SPECIFIC PLANS

k.	A 25' living screen buffer is proposed along perimeter edges of this plan area where commercial development is proposed close to existing or planned residential development. This 25' landscape buffer should screen the commercial from view from within the residential neighborhoods.		Compatibility buffer requires a minimum of 25 foot landscape buffer.
l.	The black arrows connecting roadways with development areas identify primary curb cuts for vehicular access. The location of property access will be dependent on adjacent property circulation, final site plan design and projected traffic data as approved by the Town Engineer. Hooded left turn lanes will be considered at final site plan design in conjunction with a traffic impact analysis.		Access Management Regulations

The proposed SW quadrant has some unique design issues that will need to be addressed during the development approval process. These include:

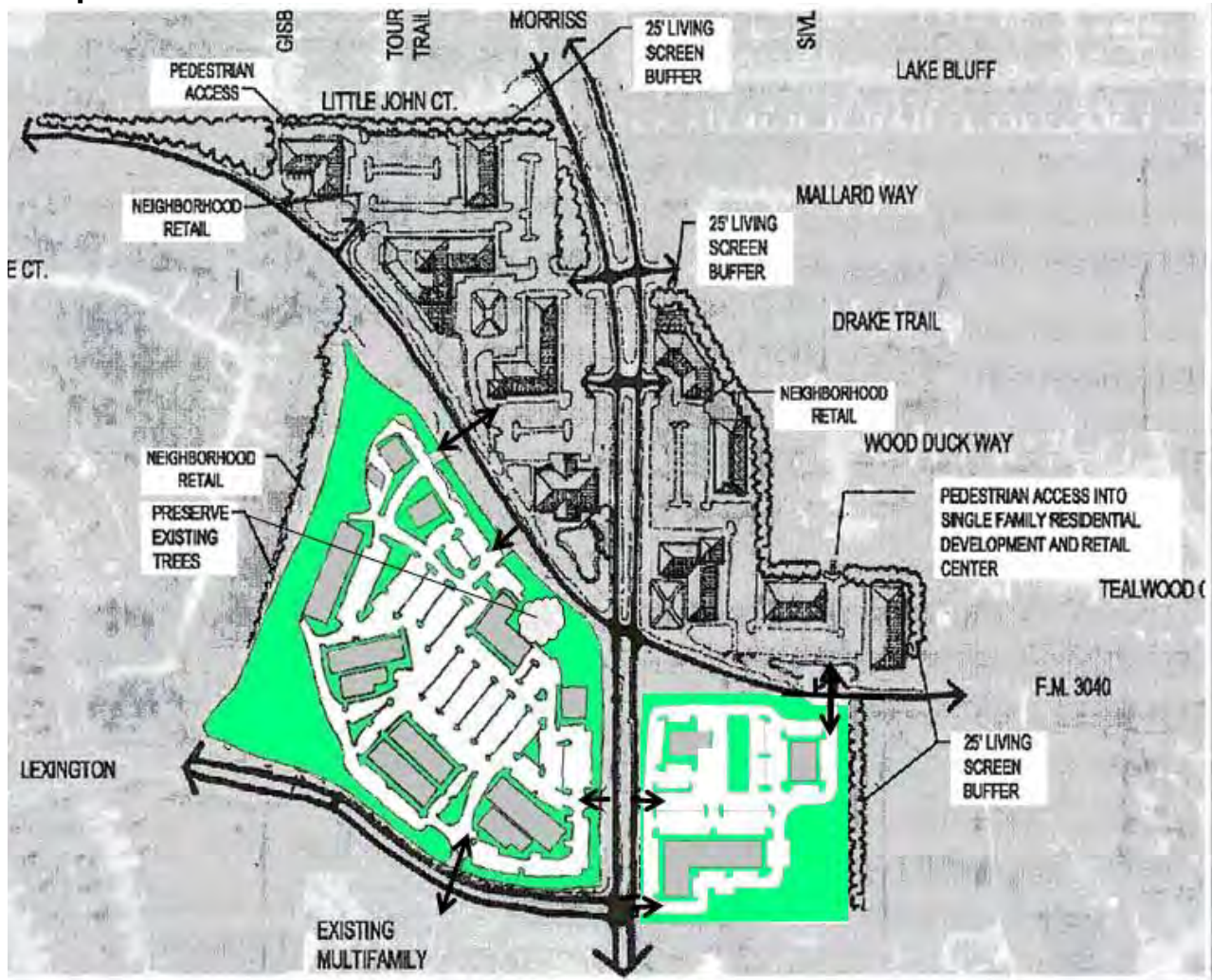
ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
1.	Notwithstanding the design reflected on the concept plan a single tenant use larger than 25,000 SF is allowed only with the approval of a Specific Use Permit (SUP) that would evaluate the impact of such a use and allow for conditions to be placed on a development to insure compatibility with the surrounding neighborhoods.		Property developed, The Pines (PD-82).
2.	The design treatment of the development facing each of the roads on three sides of the quadrant as "front door" facades.		Property developed, The Pines (PD-82).
3.	The development must be sensitive to the creek on the west side.		Property developed, The Pines (PD-82).
4.	Buffering the development from the existing neighborhood directly to the west across the creek.		Property developed, The Pines (PD-82).
5.	Buffering the development from the existing neighborhood directly to the south across Lexington Drive.		Property developed, The Pines (PD-82).
6.	The buffer along the western property line shall be a minimum of 80 feet.		Property developed, The Pines (PD-82).
7.	The height of any building within 300 feet of the western property line shall be one story.		Property developed, The Pines (PD-82).
8.	All buildings within 100 feet of the western property line shall not include rear service areas and have minimal parking along the western boundary of the development.		Property developed, The Pines (PD-82).
9.	A masonry/stone/wrought iron 8' fence shall be installed to separate the development from the creek area.		Property developed, The Pines (PD-82).
10.	Existing trees along the western portion of the site and existing tree groupings on the southwest corner shall be preserved.		Property developed, The Pines (PD-82).

3.0 SPECIFIC PLANS

11.	The existing evergreen trees in excess of five feet in height in the northeast corner shall be preserved. Site planning and design for the quadrant should incorporate these trees into the overall site development in a manner that will ensure their survival.		Property developed, The Pines (PD-82).
12.	Any loading facilities shall be fully screened from a public right of way or adjacent residence using a screen wall which is of adequate length and height to completely enclose the delivery vehicle, additionally berms and landscaping may be added to enhance screening, which may be accomplished by the use of walls, berms, and landscaping.		Property developed, The Pines (PD-82).
13.	It is recommended that the hours of delivery be reviewed as part of any SUP approval.		Property developed, The Pines (PD-82).

3.0 SPECIFIC PLANS

Specific Plan Area #9



-  Specific Plan Area
-  Cross Timbers Protection Area
-  Lakeside Business District
-  Mixed Use
-  Prairie Vista District
-  Denton Creek District
-  Cross Timbers Consv. Dev. District
-  Rural Residential
-  Estate Residential
-  Low Density Residential
-  Medium Density Residential
-  High Density Residential
-  Retail
-  Office
-  Commercial/Industrial
-  Utility
-  Institutional
-  Grapevine Lake
-  Corps of Engineers
-  Flood Plain
-  Park
-  County Limit
-  ETJ
-  Town Boundary
-  Parcels



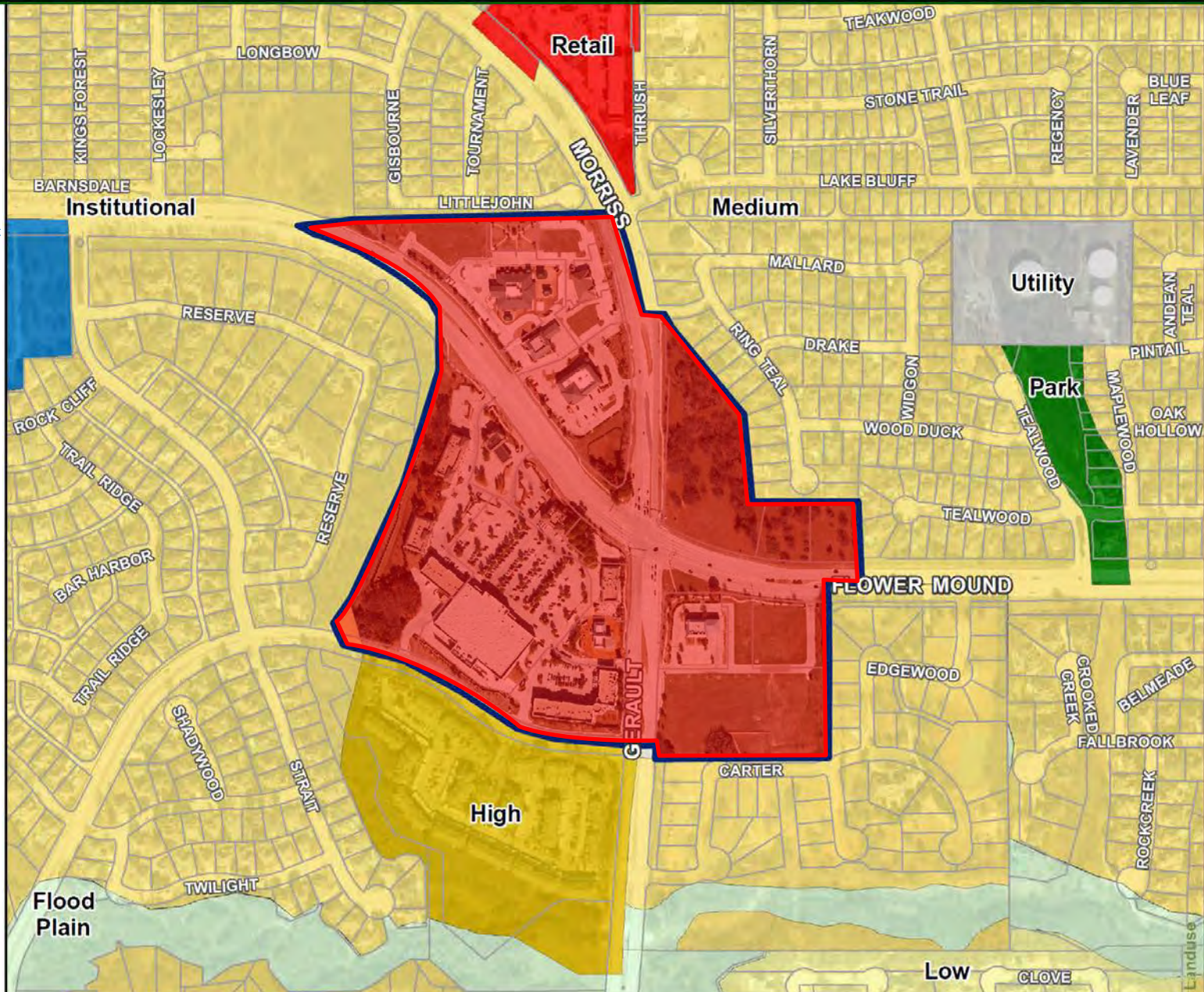
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October, 2016



3.0 SPECIFIC PLANS

Specific Plan Area #10 (CBD)

The general land use concept for Specific Plan Area #10 is one that combines commercial, residential, civic, and institutional uses in a mixed use development organized into a pedestrian-oriented environment comprised of a network of streets, neighborhoods, blocks, buildings, and public open space. Specific Plan Area #10 will include a river walk park that traverses Specific Plan Area #10, and will include a street landscaping and tree program, as well as significant landscape plantings in parks, open space areas and buffers.

Elements included in Specific Plan #10 are as follows:

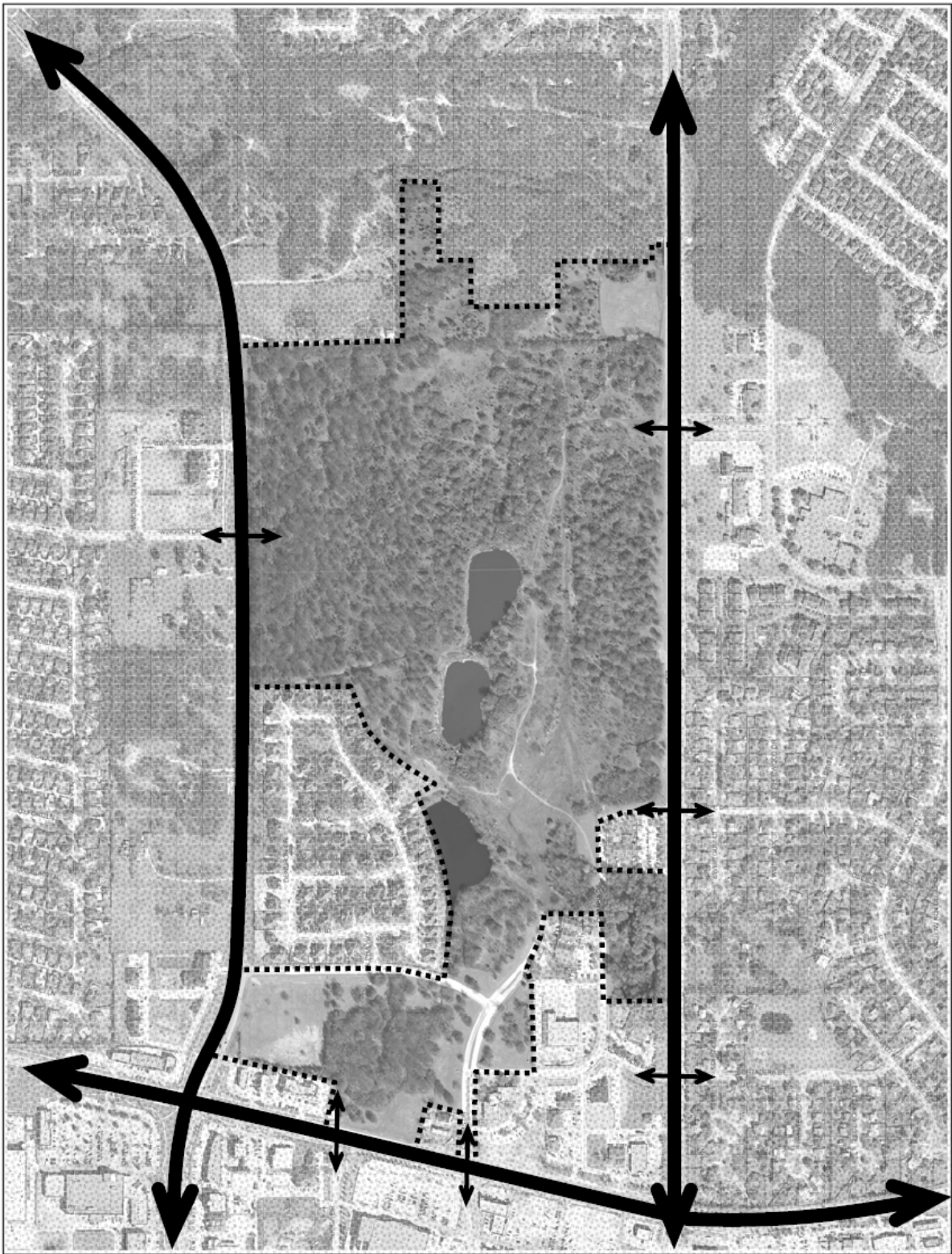
ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
a.	In the area bounded by FM 1171 on the south, FM 2499 on the west, Morriss Road on the east, and Timber Trails Park on the north a variety of office, retail and residential uses within a pedestrian oriented, vertical and horizontal mixed use environments will include: • Retail along FM 1171, at the corner of FM 2499 and FM 1171, along FM 2499, along Central Park Ave., along the River Walk and along Central Park Ave. • Hospital along FM 2499 north of Central Park Ave. • A Central Park linked to other open space areas by a linear river walk water feature. • Residential uses along Morriss Road including Townhomes and Multi-family and loft over units located above retail and offices uses. • Office uses located throughout Specific Plan Area 10.		Property mapping to Mixed Use
b.	Specific Plan Area #10 will be composed of a number of smaller neighborhoods (subdistricts) with distinct characteristics including principal uses, building type, scale, street types and sidewalk sections.		Property entitled & partially developed, (CBD Zoning).
c.	Specific Plan Area #10 will be a focal point for Flower Mound. Its design will allow and encourage people to work and live in close proximity. It shall provide a pedestrian-oriented environment that encourages people to park their cars and walk to their destinations and that is accented by a linear park traversing Specific Plan Area #10 that incorporates a river walk water feature and provides linkages to the various sub-districts and other parts of the community.		Property entitled & partially developed, (CBD Zoning).
d.	Architectural diversity will be encouraged but shall be executed in a consistent and complementary manner.		Property entitled & partially developed, (CBD Zoning).
e.	Buildings shall be designed and built utilizing quality materials and workmanship.		Property entitled & partially developed, (CBD Zoning).
f.	Both vertical and horizontal articulation of the building facades shall be encouraged, so long as the overall effect is an integrated and interesting streetscape.		Property entitled & partially developed, (CBD Zoning).
g.	The design and location of streets, squares, parks, and		Property entitled & partially developed,

3.0 SPECIFIC PLANS

	buildings shall provide a series of linked places, creating variety and interest.		(CBD Zoning).
h.	Closely interrelated to walk-ability is the goal of creating well-designed, interconnected public spaces of varying scales, characters and uses.		Property entitled & partially developed, (CBD Zoning).
i.	Landscape elements will play a critical role in the shaping and character of public, semi-public, and private open space.		Property entitled & partially developed, (CBD Zoning).

3.0 SPECIFIC PLANS

Specific Plan Area #10





3.0 SPECIFIC PLANS

Specific Plan Area #11

Specific Plan #11 encompasses properties located within a Gateway Entrance to the Town on the intersection of Old Orchard Road/Duncan Lane and FM 3040/Flower Mound Road. These properties were identified by the Master Plan Update Steering Committee as being appropriate for a potential infill development site. The Committee recommended that a new Specific Plan be created to address the future development of the properties and institute appropriate development standards. The Committee also recognized the need for age-restricted housing options within the Town. Finally, the Committee expressed a need to define the gateway entrances to the Town.

The north side of SPA 11 was created in 2011 to create the development of high quality, age-restricted, single-family high-density residential uses, and high quality retail development on the vacant parcels. The existing church was given the designation of Institutional to reflect the current use.

The south side of SPA 11 was created in 2012 to create a neighborhood retail area to frame the entrance to the Town and complement the retail development planned on the north corner. The existing residential neighborhood to the south will be protected by the Town's compatibility standards when a development of this area is proposed.

Elements included in Specific Plan #11 are as follows:

ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
a.	An existing Church building (institutional use) is located on a tract of land to the west of the vacant parcels. This property is currently zoned A (Agriculture). The development ability of this tract will remain unaffected under the proposed Specific Plan #11.		Property mapping
b.	High quality retail uses are recommended at the corner of the gateway intersection of FM 3040/Flower Mound Road and Old Orchard Lane/Duncan Lane. The key concerns for retail development in this Specific Plan are as follows:		
	1. Appropriate development to frame the entrance into the Town, including the location of a gateway entrance monument on the northwest corner.		Urban Design Standards
	2. All of the retail buildings within Specific Plan #11 should have a coordinated design including, architecture, color palate and use of materials, and shall comply with the Town's Urban Design Plan.		Urban Design Standards
	3. Development shall be organized around a public open space amenity. This amenity can be a public square or other form.		Urban Design Standards
	4. Roofs of commercial buildings 15,000 SF and under are to be hip and/or gable style.		Urban Design Standards
	5. Roofs of 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		Urban Design Standards

3.0 SPECIFIC PLANS

	roof perimeter.		
	6. Retail uses less than 5,000 square feet in area shall not be allowed within 400' of the right-of-way of Duncan Lane.	✓	Northern property entitled, (PD-120).
	7. No outdoor storage, dumpsters, loading areas or patios will be permitted within the compatibility setback adjacent to the residential homes that are located along Cherokee Path	✓	Compatibility buffer requires a minimum of 25 foot landscape buffer.
c.	Age-restricted, single-family high-density residential uses are allowed on the north side. The minimum lot size for any residential development shall be 5,000 square feet. This pattern is proposed to help transition to the existing surrounding residential developments. The key concerns for residential development in this Specific Plan are as follows:		Property entitled and developed, Orchard Flower (PD-120).
	1. The development of the high quality residential should include open space and amenity areas that are integral to the development and include a plaza, park, linear greens and/or environmental preserves that provide a community gathering space for the residents.		Property entitled and developed, Orchard Flower (PD-120).
	2. In addition to meeting the Town's minimum masonry requirements, individual homes should have sufficient architectural differentiation to create an interesting and lively streetscape.		Property entitled and developed, Orchard Flower (PD-120).
	3. With the first development application for any residential development, the Developer shall provide deed restrictions that restrict the age of the residents within the development.		Property developed, Orchard Flower (PD-120).
d.	Curb cuts shall align with existing median openings along FM 3040/Flower Mound Road where possible, and in accordance with the Town's Access Management Policy. Access drives are to be coordinated so that they allow cross-vehicular movement within the retail portion as well as to the existing institutional use.		Access Management Regulations
e.	Specific Plan #11 sits at a Gateway entrance to the Town as described in the Town's Urban Design Plan. The development of these tracts shall conform to the recommendations of the Medians and Rights-of-Way Design Guidelines in regards to Gateway monuments and landscaping.		Median and ROW Master Plan

3.0 SPECIFIC PLANS

Specific Plan Area #11 Controls

Dimensional Controls for Area 11 include the following:

ITEM	CURRENT TEXT	ADDRESSED	
		NOT	HOW
a.	A 15' landscape setback is required on Old Orchard Lane/Duncan Lane.		Street buffer required is 15 feet.
b.	A 25' landscape setback is required along FM 3040/Flower Mound Road.		Street buffer required is 25 feet.
c.	An appropriate buffer is recommended between retail development and residential land uses. In addition to the buffer, the overall design of the Specific Plan should also provide for pedestrian connection between the uses.		Compatibility buffer requires a minimum of 25 foot landscape buffer.

3.0 SPECIFIC PLANS

Specific Plan Area #11



-  Specific Plan Area
-  Cross Timbers Protection Area
-  Lakeside Business District
-  Mixed Use
-  Prairie Vista District
-  Denton Creek District
-  Cross Timbers Consv. Dev. District
-  Rural Residential
-  Estate Residential
-  Low Density Residential
-  Medium Density Residential
-  High Density Residential
-  Retail
-  Office
-  Commercial/Industrial
-  Utility
-  Institutional
-  Grapevine Lake
-  Corps of Engineers
-  Flood Plain
-  Park
-  County Limit
-  ETJ
-  Town Boundary
-  Parcels



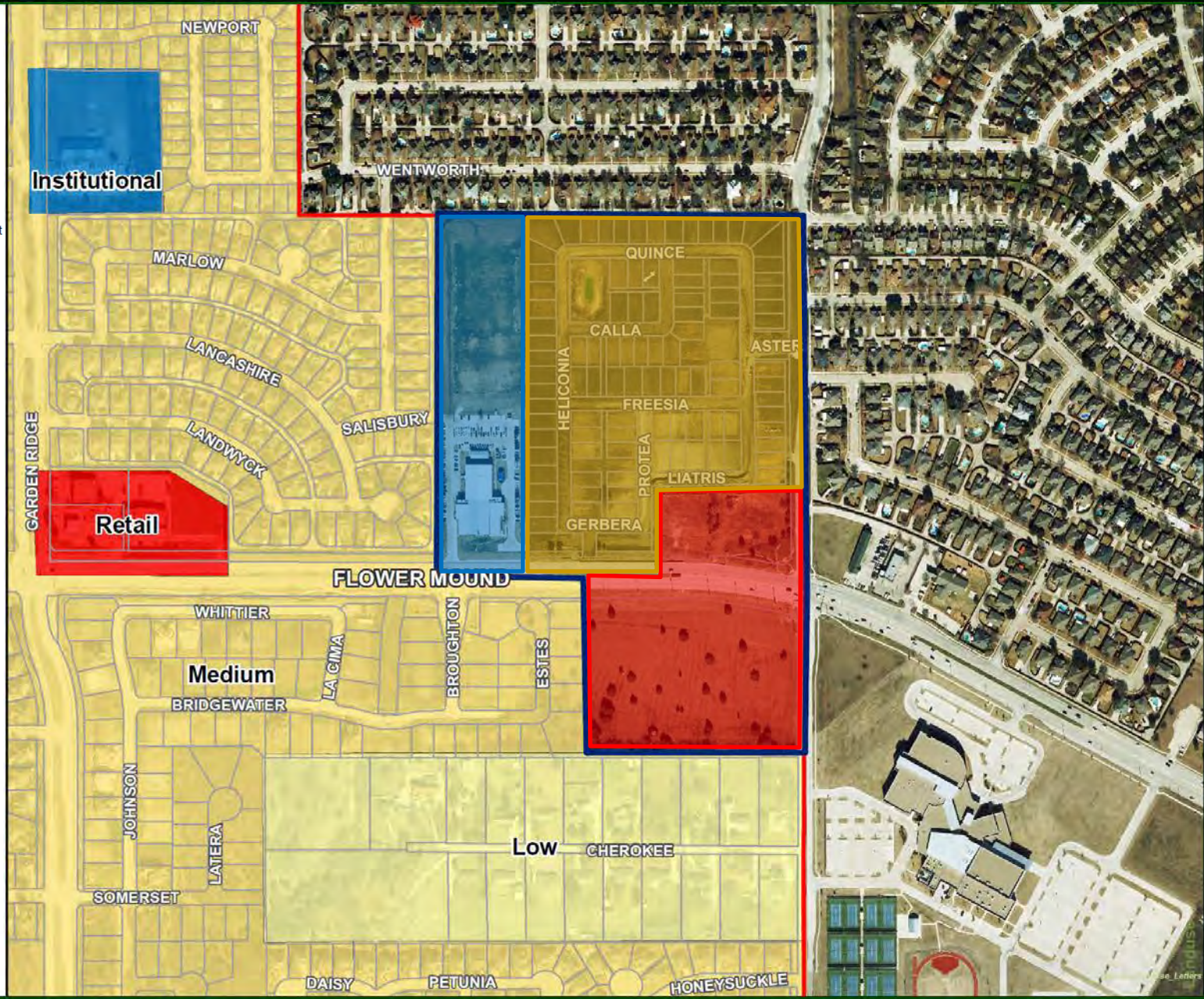
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October, 2016



TOWN OF FLOWER MOUND, TEXAS**ORDINANCE NO. _____**

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING ORDINANCE NO. 24-01, IN PART, WHICH ADOPTED THE MASTER PLAN, BY DELETING SECTION 3, SPECIFIC PLANS, IN ITS ENTIRETY; AND BY AMENDING SECTION 1.0, LAND USE PLAN, TO REMOVE THE SUMMARY DESCRIPTION OF SPECIFIC PLAN AREAS, TO ADD THE PROVISION RELATED TO BOB WHITE LANE PREVIOUSLY CONTAINED IN SECTION 3, AND TO ADOPT A REVISED LAND USE MAP; 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 and Specific Plans, 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 December 12, 2016, and the Town Council of the Town of Flower Mound, Texas, held a public hearing on December 19, 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:

- a) Section 3, Specific Plans, is hereby deleted in its entirety.

b) Section 1, Land Use Plan, is hereby amended, in part, as follows:

- The summary description on page 1.10 entitled "Specific Plan Areas" is hereby deleted in its entirety.
- The provision related to Bob White Lane, as follows, adopted by Ordinance No. 01-16 and previously contained in Section 3, Specific Plans, under Specific Plan Area 2 (SPA 2), is hereby moved in its entirety to Section 1 under the description for the "Long Prairie District:"

"Access from the Seller's remaining property and all those with ingress/egress easements over Bob White Lane will continue over Bob White Lane to FM 2499 in its current location since the spine road within SPA 2 was not designated or dedicated as a public street.

- "Seller's remaining property" shall mean: the property described as Tract II in deed to Janvier Gentry Scott, recorded in Document Number 2013-60264 of the Real Property Records of Denton County, Texas, unencumbered by easements held by the Town of Flower Mound on said described property."
- A revised Land Use Map as depicted in Exhibit "A," attached hereto and incorporated for all purposes, is hereby adopted which replaces the white Specific Plan Area (SPA) boundary overlays previously depicted on the Map with the colors of the current land use designations.

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.

Ordinance No. _____

Page 3**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.

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**

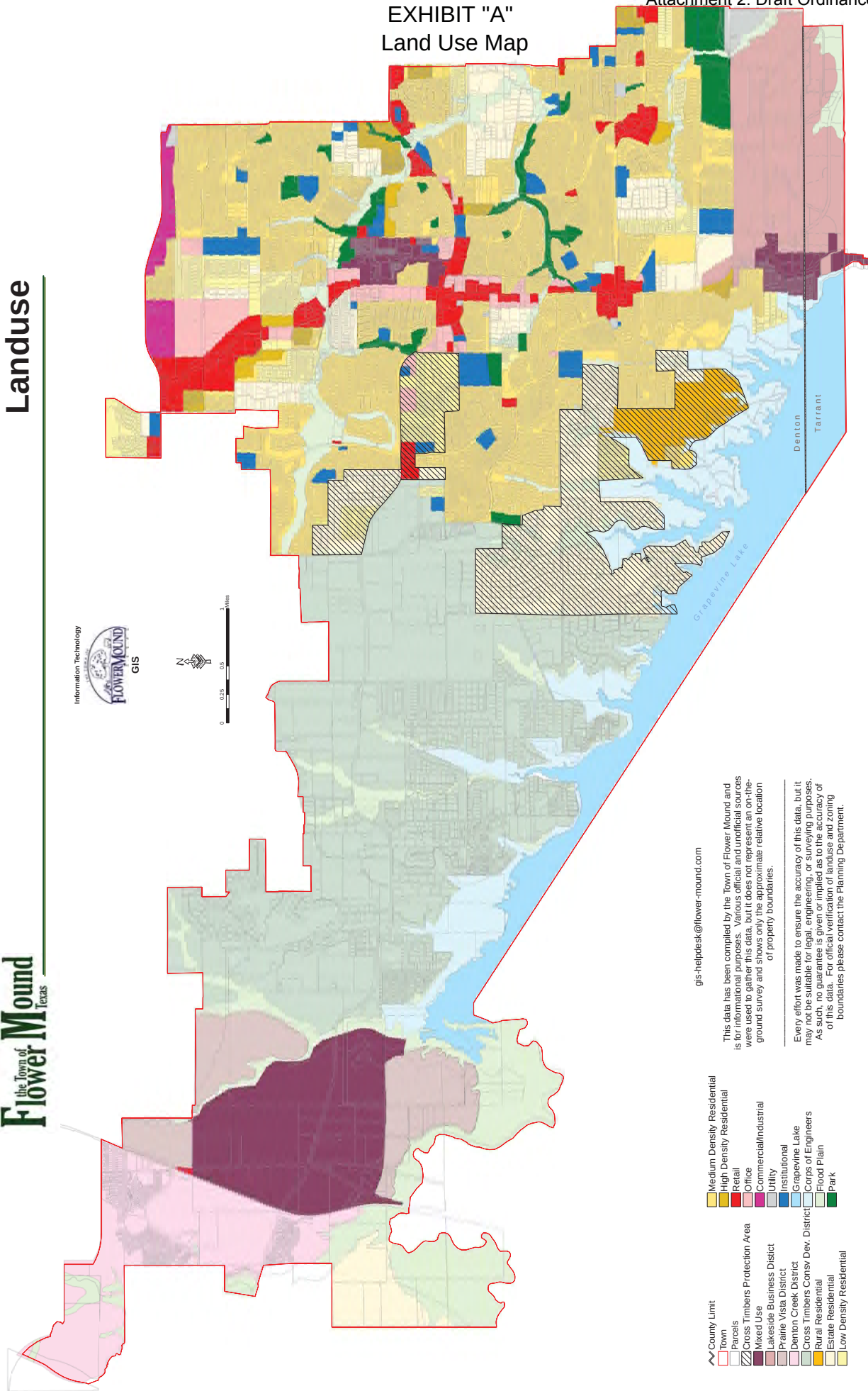
the Town of Flower Mound Texas

Landuse



EXHIBIT "A" Land Use Map

Attachment 2: Draft Ordinance



gis-helpdesk@flower-mound.com

This data has been compiled by the Town of Flower Mound and is for informational purposes. Various official and unofficial sources were used to gather this data, but it does not represent an on-the-ground survey and shows only the approximate relative location of property boundaries.

Every effort was made to ensure the accuracy of this data, but it may not be suitable for legal, engineering, or surveying purposes. As this data is provided for informational purposes only, the accuracy of this data is not guaranteed. For official verification of land use and zoning boundaries please contact the Planning Department.

- County Limit
- Town
- Parcels
- Cross Timbers Protection Area
- Mixed Use
- Lakeside Business District
- Prairie Vista District
- Denton Creek District
- Cross Timbers Conserv. Dev. District
- Rural Residential
- Estate Residential
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Retail
- Office
- Commercial/Industrial
- Utility
- Institutional
- Grapevine Lake
- Corps of Engineers
- Flood Plain
- Park

Town Council Future Agenda Items



SCHEDULED	1/17/2017	Consent	Consider approval of an Interlocal Cooperation Agreement with Denton County for the provision of fire protection services for the benefit of the citizens of Flower Mound and Denton County, and authorization for the Mayor to execute same on behalf of the Town.
		Consent	Consider approval of an Interlocal Cooperation Agreement with Denton County for the provision of ambulance services for the benefit of the citizens of Flower Mound and Denton County, and authorization for the Mayor to execute same on behalf of the Town.
		Consent	Consider approval of Change Order No. 2 and final acceptance of the Timber Creek Road Paving Improvements project, amending the contract with XIT Paving and Construction, Inc., for a decrease to the contract in the amount of \$13,465.50, and authorizing final payment to XIT Paving and Construction, Inc., in the amount of \$29,987.96; and authorization for the Mayor to execute same on behalf of the Town.
		Consent	Consider approval of a resolution of the Town of Flower Mound, Texas calling for a general election to be held on May 6, 2017, for the offices of Town Council Place 1, Town Council Place 3, and Town Council Place 5.
		Consent	Consider approval of Amendment No. 3 to the Fiscal Year 2016-2017 Capital Improvement Program.
		Consent	Consider approval of a Professional Services Agreement for design phase services for the Upper Timber Creek Interceptor Phase IV project, with Kimley-Horn and Associates, Inc., for \$230,000.00; and authorization for the Mayor to execute same on behalf of the Town.
		Consent	Consider approval of a Professional Services Agreement for design phase services for the High Road Water Line Replacement Phase 1 project, with Kimley-Horn and Associates, Inc., for \$296,000; and authorization for the Mayor to execute same on behalf of the Town.
		Consent	Bruton Orand Elevated Storage Tank Rehab Testing Award.
		Regular	Consider approval of an amended Development Agreement for the River Walk Public Improvement District No. 1, and authorization for the Mayor to execute same on behalf of the Town.
	1/19/2017	Work Session	Discuss and receive direction on Community Support funding policy
	2/6/2017	Consent	Lakeside Lift Station and Force Main Change Order 3 and Final Acceptance.
		Consent	FM 2499 / Gerault Drainage and Intersection Construction Award.

SCHEDULED	2/6/2017	Consent	Heritage Park Phase IV Design Award.
		Consent	Western O&M Facility (Temporary Fire Station No. 6) Change Order 5 and Final Acceptance.
		Consent	Oak Street Lift Station and Force Main Change Order No. 3 and Final Acceptance.
		Consent	Oak Drive Water Main Replacement Change Order 3 and Final Acceptance.
		Consent	Heritage Park Phase III Construction Award.
	2/16/2017	Work Session	(Joint WS with ECC) Presentation and discussion regarding the Town's Sustainability Plan
	2/20/2017	Consent	Sagebrush Drive Change Order 5 and Final Acceptance.
		Consent	FM 1171 @ FM 2499 Eastbound Right Turn Lane Construction Award.
	3/23/2017	Work Session	(Joint WS with TRC) Presentation and discussion regarding the Town's Thoroughfare Plan
	4/20/2017	Work Session	Presentation and discussion on the Town's floodplain standards
		Work Session	Presentation and discussion regarding the Town requirements and process for Traffic Impact Analyses
		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).