



AGENDA

TOWN OF FLOWER MOUND ENVIRONMENTAL CONSERVATION COMMISSION REGULAR MEETING

November 7, 2017

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

6:30 P.M.

AN AGENDA INFORMATION PACKET IS AVAILABLE ONLINE AT
[HTTPS://TX-FLOWER MOUND.CIVICPLUS.COM/AGENDACENTER](https://tx-flowermound.civicplus.com/agendacenter)

A. CALL REGULAR MEETING TO ORDER – 6:30 PM

B. INVOCATION AND PLEDGE OF ALLEGIANCE

C. CITIZENS/VISITORS COMMENTS

1. Please fill out an "Appearance Before Environmental Conservation Commission" form in order to address the Environmental Conservation Commission, and turn the form in prior to Citizens and Visitors Comments, or by 6:40 p.m. to the Town staff. Speakers are normally limited to three minutes. Time limits can be adjusted by the Chair as to accommodate more or fewer speakers.

D. STAFF REPORT

1. Update and status report related to environmental issues and events, regulatory activities, and projects.

E. CONSENT AGENDA - CONSENT ITEMS

This agenda consists of non-controversial or "housekeeping" items and may be approved with a single motion. A member of the Environmental Conservation Commission may request an item(s) be withdrawn from the consent agenda and moved to regular agenda for discussion by making such request prior to a motion and vote on the Consent Agenda.

1. Consider approval of minutes from the regular meeting of the Environmental Conservation Commission held on October 3, 2017.

Environmental Conservation Commission Meeting Agenda

November 7, 2017

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F. REGULAR ITEMS

2. Consider a recommendation to the Planning and Zoning Commission and Town Council of a Concept Plan for the proposed Serenity cluster development. The property is generally located south of FM 1171 and west of High Road.
3. Consider application for a tree removal permit for two (2) specimen trees on the Edgewood residential development. The first specimen tree is located at 805 Carter Court. The second specimen tree is located at 1708 Beckwood Court.
4. Consider a request to amend the Land Development Regulations (LDR17-0003 – Tree Ordinance Amendment) by amending Chapter 94, entitled “Trees,” of the Town’s Code of Ordinances.

G. COORDINATION OF FUTURE AGENDAS/MEETINGS

H. ADJOURNMENT – WORK SESSION



Matthew Woods
Director of Environmental Services

I do hereby certify that the Notice of Meeting was posted on the bulletin board in Town Hall of the Town of Flower Mound, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time: November 3, 2017, by 5:00 p.m., at least 72 hours prior to the schedule time of said meeting.



Emily Chapman
Administrative Assistant



ENVIRONMENTAL CONSERVATION COMMISSION AGENDA ITEM NO. 1

CONSENT ITEM

DATE: November 7, 2017

FROM: Emily Chapman, Administrative Assistant

ITEM: Consider approval of minutes from the regular meeting of the Environmental Conservation Commission held on October 3, 2017.

BACKGROUND INFORMATION: This agenda item is to consider approval of the minutes from the October 3, 2017, regular meeting of the Environmental Conservation Commission.

CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. A copy of the draft minutes from the October 3, 2017, regular meeting of the Environmental Conservation Commission.

RECOMMENDATION: Move to approve the minutes from the October 3, 2017, regular meeting of the Environmental Conservation Commission.

FLOWER MOUND ENVIRONMENTAL CONSERVATION COMMISSION MEETING OF OCTOBER 3, 2017

THE FLOWER MOUND ENVIRONMENTAL CONSERVATION COMMISSION MEETING HELD ON THE 3RD DAY OF OCTOBER 2017, IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS, AT 6:30 P.M.

The Environmental Conservation Commission met in regular session, with the following members present constituting a quorum:

Russell McNamer	Chair
Thomas Bailey	Vice Chair
James Naylor	Commission Member, Place 1
Michael Lamminen	Commission Member, Place 2
Marilyn Lawson	Commission Member, Place 4
Alton Bowman	Commission Member, Place 5
Thomas Bailey	Commission Member, Place 6
James Gerber	Commission Member, Place 7
Elaine Takacs	Commission Member, Place 8
Shery Layne	Commission Member, Place 9
James Seastrom	Commission Member, Place 10

Places 8, 9, and 10 of the Commission do not vote on items unless they sit in place of one of the regular members, Places 1-7.)

And the following members of Town staff present:

Matthew Woods	Director of Environmental Services
Emily Chapman	Administrative Assistant
James Hoefert	Environmental Review Analyst
Misty Adams	Environmental Programs Coordinator
Matthew Green	Environmental Review Analyst

A. CALL TO ORDER - REGULAR SESSION: 6:30 P.M.

B. ELECTION OF CHAIR AND VICE CHAIR

Russell McNamer was elected Chair and Thomas Bailey was elected Vice Chair. The vote for both positions was unanimous.

C. INVOCATION AND PLEDGE OF ALLEGIANCE

D. CITIZENS/VISITORS COMMENTS

E. STAFF REPORT

1. Update and status report related to environmental issues and events, regulatory activities, and projects.

F. CONSENT AGENDA

FLOWER MOUND ENVIRONMENTAL CONSERVATION COMMISSION MEETING OF OCTOBER 3, 2017

1. Consider approval of minutes from the regular meeting of the Environmental Conservation Commission held on August 1, 2017.

Commission Deliberation

Vice Chair Bailey made a motion to approve the August 1, 2017, minutes as presented. Commission Member Lamminen seconded the motion.

VOTE ON THE MOTION

AYES: Gerber, Bowman, Lawson, Bailey, Lamminen, Naylor
NAYS: None
ABSTAIN: None

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

G. REGULAR ITEMS

2. Review the trees nominated for the Town's Tree Recognition Program and select the tree(s) for recognition for 2017.

Staff Presenter

James Hoefert, Environmental Review Analyst, gave a presentation with the following trees that were nominated for the 2017 Tree Recognition Program: gave a presentation with the following items included:

- Tree # 1: 27" Blackjack oak
- Tree # 2: 44" American Elm

Commission Deliberation

Vice Chair Bailey made a motion to recognize the 27" Blackjack oak as the Largest Blackjack oak; and the 44" American elm as the 2017 Largest American elm. Commission Member Lamminen seconded the motion.

VOTE ON THE MOTION

AYES: Gerber, Bowman, Lawson, Bailey, Lamminen, Naylor
NAYS: None
ABSTAIN: None

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

H. ADJOURNMENT – REGULAR SESSION 6:58 P.M.

I. CALL WORK SESSION TO ORDER 6:58 P.M.

J. WORK SESSION ITEMS

FLOWER MOUND ENVIRONMENTAL CONSERVATION COMMISSION MEETING OF OCTOBER 3, 2017

3. Discuss the Town's Urban Forestry Program, associated regulations, and program initiatives.
- K. COORDINATION OF FUTURE AGENDAS/MEETINGS
- L. ADJOURNMENT – WORK SESSION 7:52 P.M.

TOWN OF FLOWER MOUND, TEXAS



MATTHEW WOODS
DIRECTOR OF ENVIRONMENTAL SERVICES

ATTEST:



EMILY CHAPMAN
ADMINISTRATIVE ASSISTANT



ENVIRONMENTAL CONSERVATION COMMISSION AGENDA ITEM NO. 2

REGULAR ITEM

DATE: November 7, 2017

FROM: James Hoefert, Environmental Review Analyst

PRESENTER: Reginald Rembert, with Rembert Builders, Inc.

ITEM: Consider a recommendation to the Planning and Zoning Commission and Town Council of a Concept Plan for the proposed Serenity cluster development. The property is generally located south of FM 1171 and west of High Road.

BACKGROUND INFORMATION: The applicant will present the conceptual plan for the proposed Serenity cluster development. The Serenity development is a proposed residential cluster development project consisting of approximately 28.92 acres. The property is generally located south of FM 1171 and west of High Road.

The project site is located in the Cross Timbers Conservation Development District, as designated within the Town's Master Plan. This site is characteristic of the Eastern Cross Timbers Forest that is found in this part of Texas, throughout eastern Oklahoma, and into Kansas. The current zoning for the property is agricultural with a minimum two acre lot size. The developer is proposing to do a cluster development. The Town's cluster development option provides standards for residential development projects in which dwelling units are clustered on smaller lots than would otherwise be allowed for the purpose of preserving open or natural lands.

For projects with agricultural zoning within the Cross Timbers Conservation Development District, the preservation of 50% of the gross land as open space is established within the Town's conservation development standards and is also applied to the cluster development model as the preservation objective. The portion of the site that is left undeveloped may be placed in a conservation easement that is held by a third-party land trust or other qualified entity, or through other approved methods established within the cluster development standards such as a Homeowners' Association. All of the open space areas within the proposed subdivision would be maintained by the Homeowners' Association.

Some of the Environmentally Sensitive Areas (ESAs) defined in the Town's SMARTGrowth Program are located on this property, and the predominant tree species on the property include: post oak, blackjack oak, green ash, american elm, eastern red cedar, and sugarberry trees. ESAs located on the property include: upland habitat, riparian habitat, prairie habitat, Waters of the State, undeveloped floodplain, and topographical slope protection. The applicant has submitted their Environmental Protection Plan (EPP) as part of the required Open Space Management Plan.

The current design and layout of the development proposes to preserve the ESAs on the site, except for 5.77 acres of upland habitat, 0.18 acres of prairie habitat, approximately 279 linear feet of an ephemeral stream, 5.1 acres of topographic slopes greater than or equal 5% and less than 12%, and 1.6 acres of topographic slopes greater than or equal to 12%. Since the applicant is preserving 9.17 acres of upland habitat, the credits for the preservation offset the amount of acres being impacted. The applicant is proposing to work with the Lewisville Lake Environmental Learning Area (LLELA) to transplant the prairie habitat on the site. The applicant is requesting an exception from Town Council to the slope protection requirements as outlined in the Town's SMARTGrowth requirements. The applicant is also required to comply with any U.S. Army Corps of Engineers requirements and permitting relative to the impacts to the ephemeral stream.

CITIZEN FEEDBACK: As of November 3, 2017, Environmental Services staff has received two (2) correspondence in opposition to this project.

ALTERNATIVES/OPTIONS: The Environmental Conservation Commission may recommend revisions to the proposed conceptual plan.

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Letter of Intent
2. Concept Plan
3. Correspondence received
4. Draft Open Space Management Plan

RECOMMENDATION: Move to recommend approval or denial to the Planning and Zoning Commission and Town Council of a Concept Plan for the proposed Serenity cluster development. The property is generally located south of FM 1171 and west of High Road.



Rembert Enterprises, Inc.

3625 Bonanza Lane Flower Mound, TX 75022

August 8, 2016

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

RE: Serenity (Community)
Flower Mound, Texas

Dear Mr. Powell,

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

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

The tracts are currently identified on the Town's Master Land Use Plan as Cross Timbers Conservation Development District (CTCDD). The existing zoning is agricultural. The proposed zoning is for a single-family residential development, which is consistent with the updated 2013 Master Plan. The Serenity community will consist of 18 lots, with four (4) X-lots. The current zoning in the immediate area consists of SF-10, SF-15, and agricultural uses. We are proposing to change the Zoning to accommodate a uniquely developed community that is compatible with the existing land uses and character of the neighborhoods in which the project is located (High Road Ridge and Hickory Springs Addition). Adequate public facilities are already in place to support the proposed development. Although we are asking for a cluster development, we are not using the minimum lot sizes. We are using a base zoning of Single Family-30 (SF-30) which has a minimum lot size of 30,000 sf (not 21,780 sf, which is the minimum for a cluster development in CTCDD. Proposed uses and development standards exceed and are consistent with the purposes of the base zoning district.

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

We are providing approximately 14.85 acres or (51%) of open space along with preserving all large specimen trees and potentially preserving all the Upland Habitat onsite.

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

We have had one meeting with the adjacent homeowners and we are planning a second meeting prior to the scheduling of the Planning and Zoning meeting, per the enhance notification requirement.

We would like to respectfully request an exception to the Upland Habitat mitigation requirement if needed. We are exceeding the tree preservation requirement by saving a large portion of the existing trees. We feel that the amount of large parcels of open space, extensive ecological value as it relate to land adjacent to the Lake Grapevine, as well as the exceptional community design merits an exception from the mitigation requirement.

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

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

Sincerely,

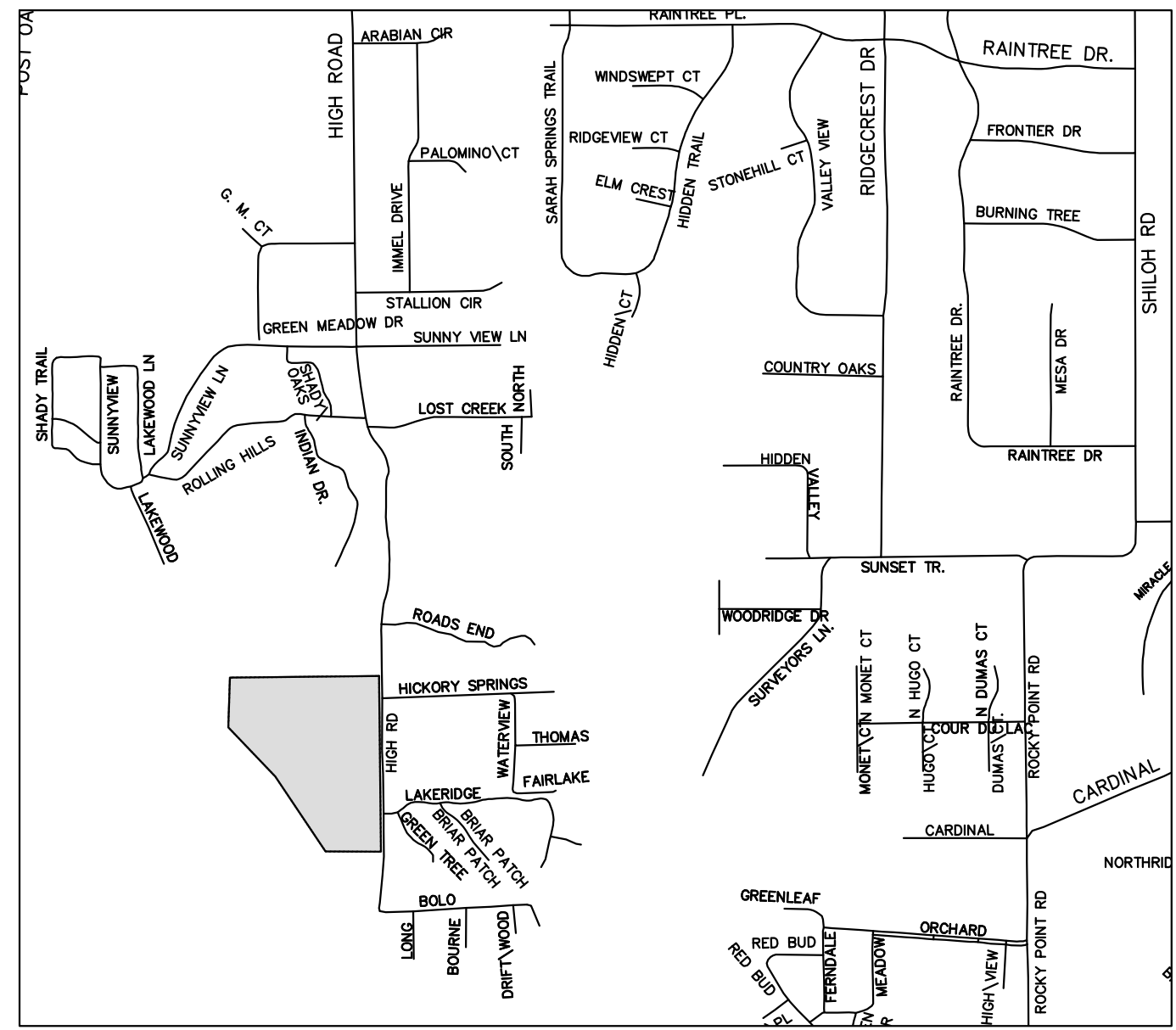
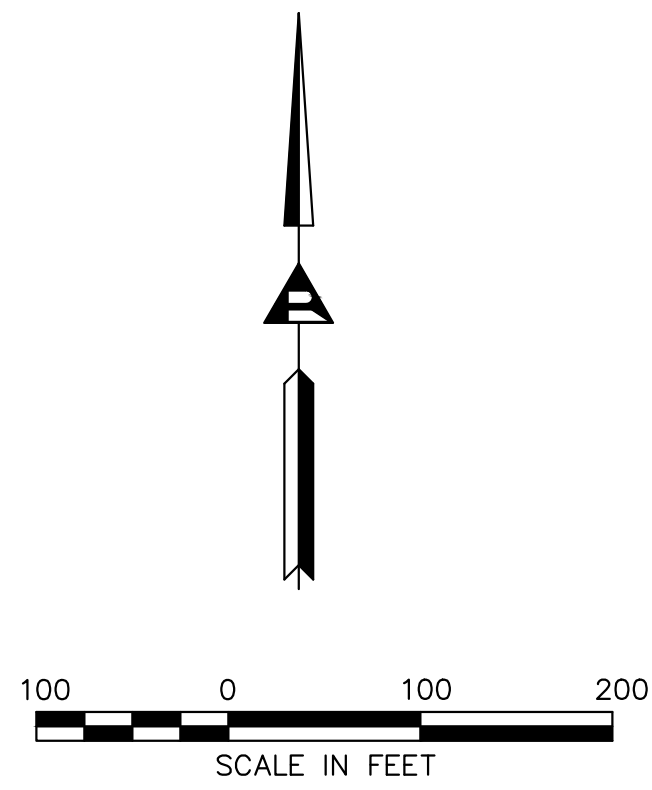
Reginald Rembert

No.	Date	Revisions	App.	

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

HEET

1



LOCATION MAP
NOT TO SCALE

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

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

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

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

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

OWNER:

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

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

From: [REDACTED]
To: [James Hoefert](#)
Cc: [Marc Finley - Advantage Sales](#) ([REDACTED])
Subject: Serenity Development on High Road
Date: Thursday, October 19, 2017 12:38:18 PM

Dear Mr. Hoefert,

My husband and I live close to the new proposed Serenity development on High Road. Many of us are not very happy with the density of this development as well as it being a gated closed community. It is my understanding that this development is tentatively scheduled for consideration by the Parks Board on Nov. 2 and the ECC Board on Nov. 7. What are the types of things both boards discuss and look for when a development such as this appears before you? What are the things that would concern you? Please let me know your thoughts. Thanks so much.

Caroline Finley
2600 Bourne Lane

THE SILVERA FIRM

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

17070 DALLAS PARKWAY
SUITE 100
DALLAS, TEXAS 75248



October 20, 2017

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

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

Re: Serenity (ZPD16-0007)

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

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

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

Developer Disregards Municipal Code and Destroys Protected Habitat

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

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

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

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

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

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

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

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

The Development is Not Cognizant of Adjacent Lot Sizes

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

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

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

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

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

Development Does Not Provide an Appropriate Transition to Existing Land Uses

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

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

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

Development Destroys Scenic Corridor

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

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

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

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

Development Destroys Significant Amounts of Environmentally Sensitive Areas

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

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

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

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

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

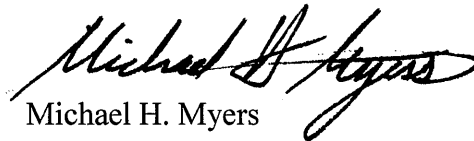
Despite the fact: (a) the Development will impact 5.77 acres of Upland Habitat (in addition to the 1.05 to 1.54 acres of Upland Habitat the Developer destroyed in January 2017); and (b) the Development will impact between 5 to 6.7 acres of land subject to Topographical Slope Protection, apparently neither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

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

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

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

Sincerely yours,



Michael H. Myers

Enclosures

cc: *Via First Class Mail*
Tom Hayden

Via First Class Mail
Bryan Webb

Via First Class Mail
Don McDaniel

Via First Class Mail
Claudio Forest

Via First Class Mail
Brad Ruthrauff

Via First Class Mail
Mike McCall

Via First Class Mail
Laura Dillon

Via First Class Mail
David Johnson

Via First Class Mail
Jimmy Strathos

Via First Class Mail
Jason Webb

Via First Class Mail
Kevin Bryant

Via First Class Mail
Albert Picardi

Via First Class Mail
Perfecto Solis

Via First Class Mail
Laile Neal

Via First Class Mail
Al Linley

Via First Class Mail
Heth Kendrick

Via First Class Mail
Chuck Russell

EXHIBIT 1

Michelle Roberts

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

Importance: High

Bryn,

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

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

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

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

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

MICHAEL H. MYERS
CURTIS | CASTILLO PC
Bank of America Plaza
901 Main Street, Suite 6515
Dallas, TX 75202
Telephone: [REDACTED]
Facsimile: [REDACTED]
Email: [REDACTED]
Website: www.curtislaw.net

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From: Bryn Meredith [REDACTED]
Sent: Monday, January 30, 2017 3:57 PM
To: Michael Myers <[REDACTED]>
Subject: RE: Town of Flower Mound - Zoning case number: ZPD-16-0007

Michael,

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

Sincerely,

Bryn D. Meredith

Attorney at Law

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

6000 Western Place, Suite 200

Fort Worth, Texas 76107

Telephone: [REDACTED]

Facsimile: [REDACTED]

Email: [REDACTED]

www.toase.com

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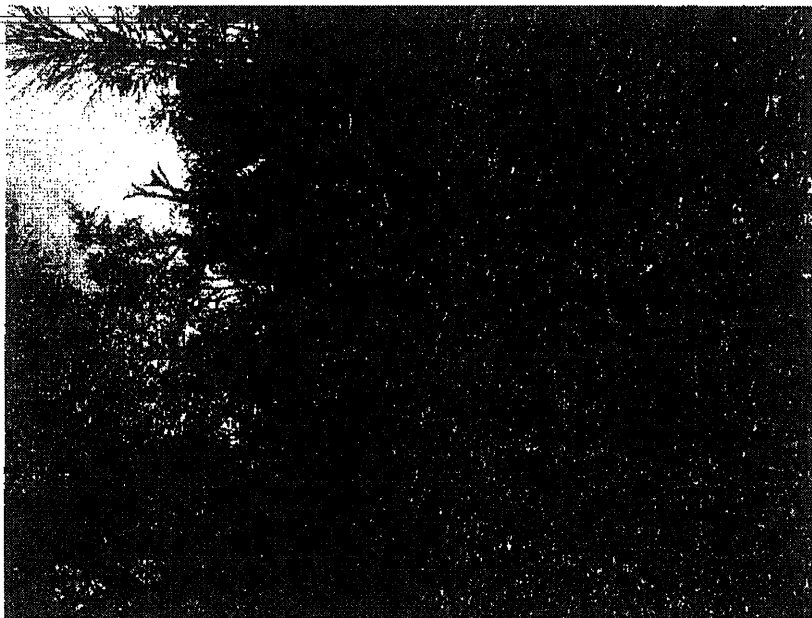
----- Original message -----

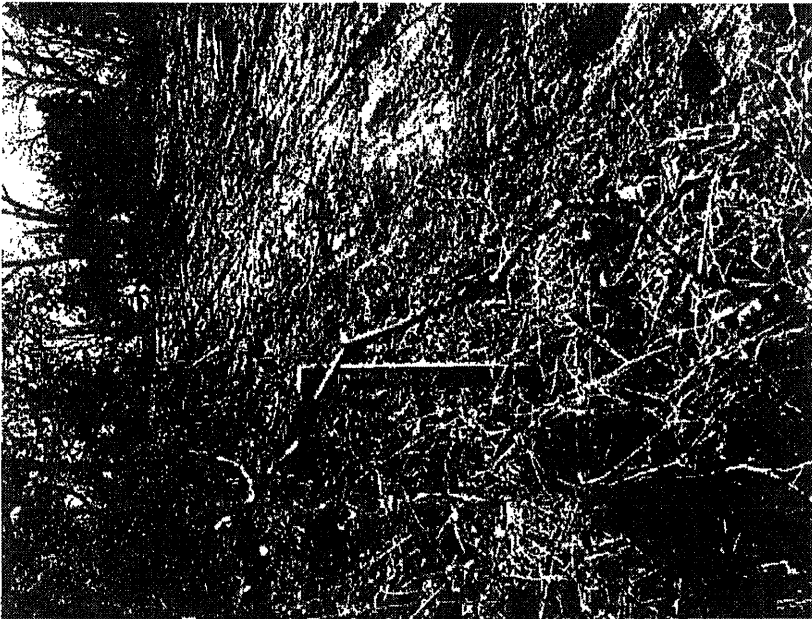
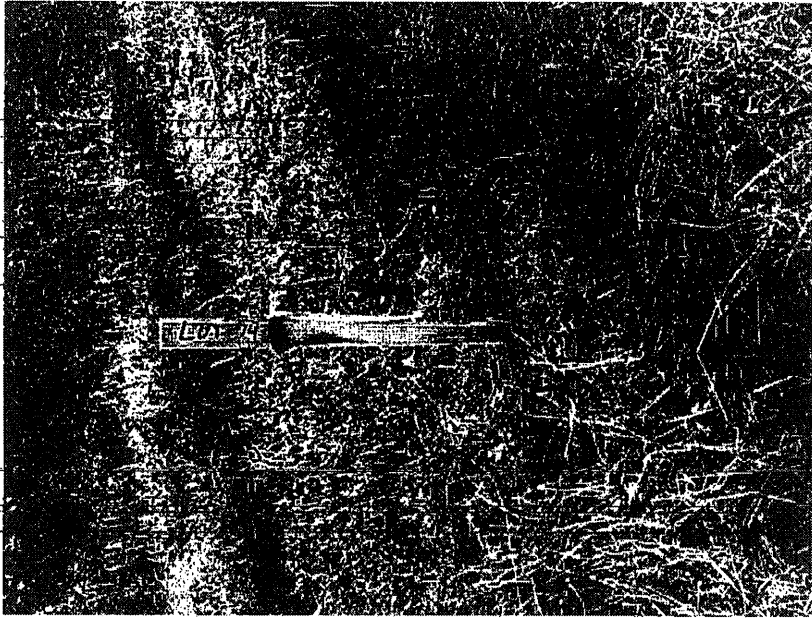
From: Michael Myers <[REDACTED]>
Date: 01/30/2017 2:12 PM (GMT-06:00)
To: Bryn Meredith <[REDACTED]>
Cc:
Subject: Town of Flower Mound - Zoning case number: ZPD 16-0007

Bryn,

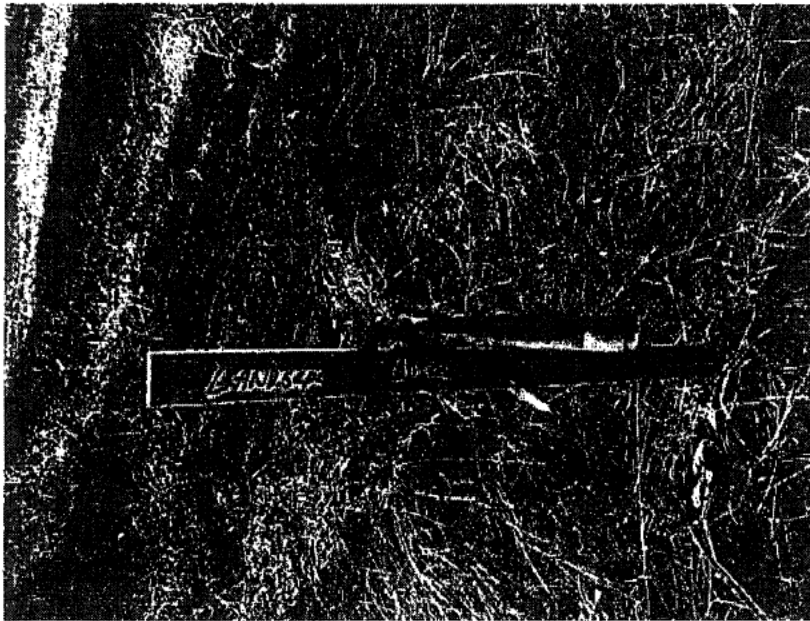
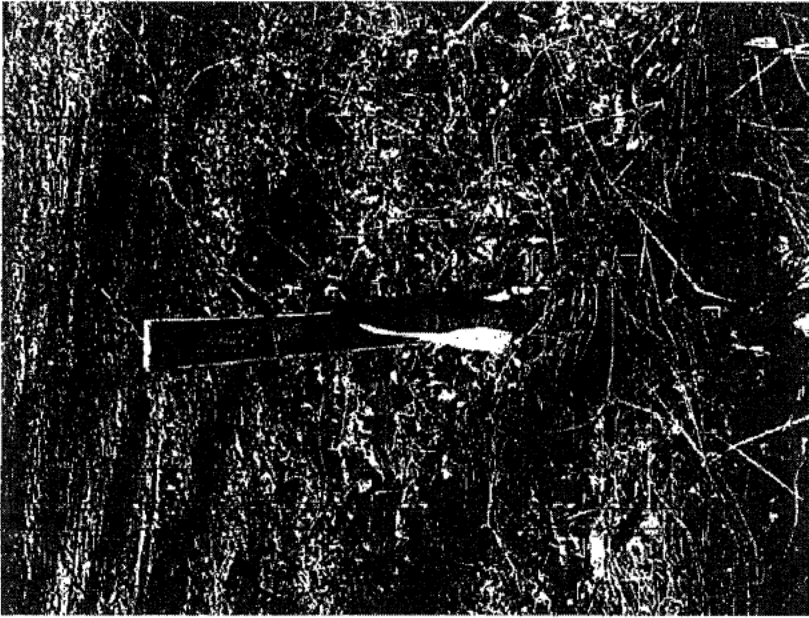
There has been activity on the property that is the subject of the above-referenced zoning case number, and I would like to know what level of construction is going to be allowed by the Town of Flower Mound before (a) the second neighborhood meeting occurs; and/or (b) the application is submitted for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

I've included some pictures for you to reference.









MICHAEL H. MYERS

CURTIS | CASTILLO PC

Bank of America Plaza
901 Main Street, Suite 6515
Dallas, TX 75202

Telephone: [REDACTED]

Facsimile: [REDACTED]

Email: [REDACTED]

Website: www.curtislaw.net

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EXHIBIT 2

Michelle Roberts

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

Reginald,

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

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

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

Please contact me with any questions.

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

EXHIBIT 3

DEVELOPMENT AND ENVIRONMENTAL SERVICES



STATE OF TEXAS
COUNTY OF DENTON
TOWN OF FLOWER MOUND

VS. ☒ STATE VIOLATION
☒ ORDINANCE VIOLATION

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

VIOLATION

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

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

IN VIOLATION OF: STATUTE CN 14 SECTION 32

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

LOCATION 2800 BLOCK HIGH RD
FLOWER MOUND, TX

OFFICER TETENS ID# 0882

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

Signed x 7015 0640 0004 5919 8955

(SIGNING OF THIS CITATION IS NOT AN ADMISSION OF GUILT)

WHITE-COURT

PINK-OFFICER

YELLOW-DEFENDANT

CERTIFIED MAIL

ES 7569

EXHIBIT 4

2.0 AREA PLANS

Cross Timbers Conservation Development District Area Plan

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

There are several development options within the District:

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

2.0 AREA PLANS

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

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

2.0 AREA PLANS

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

Elements needing consideration within the district include:

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

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

2.0 Area Plans

Cross Timbers Conservation Development District

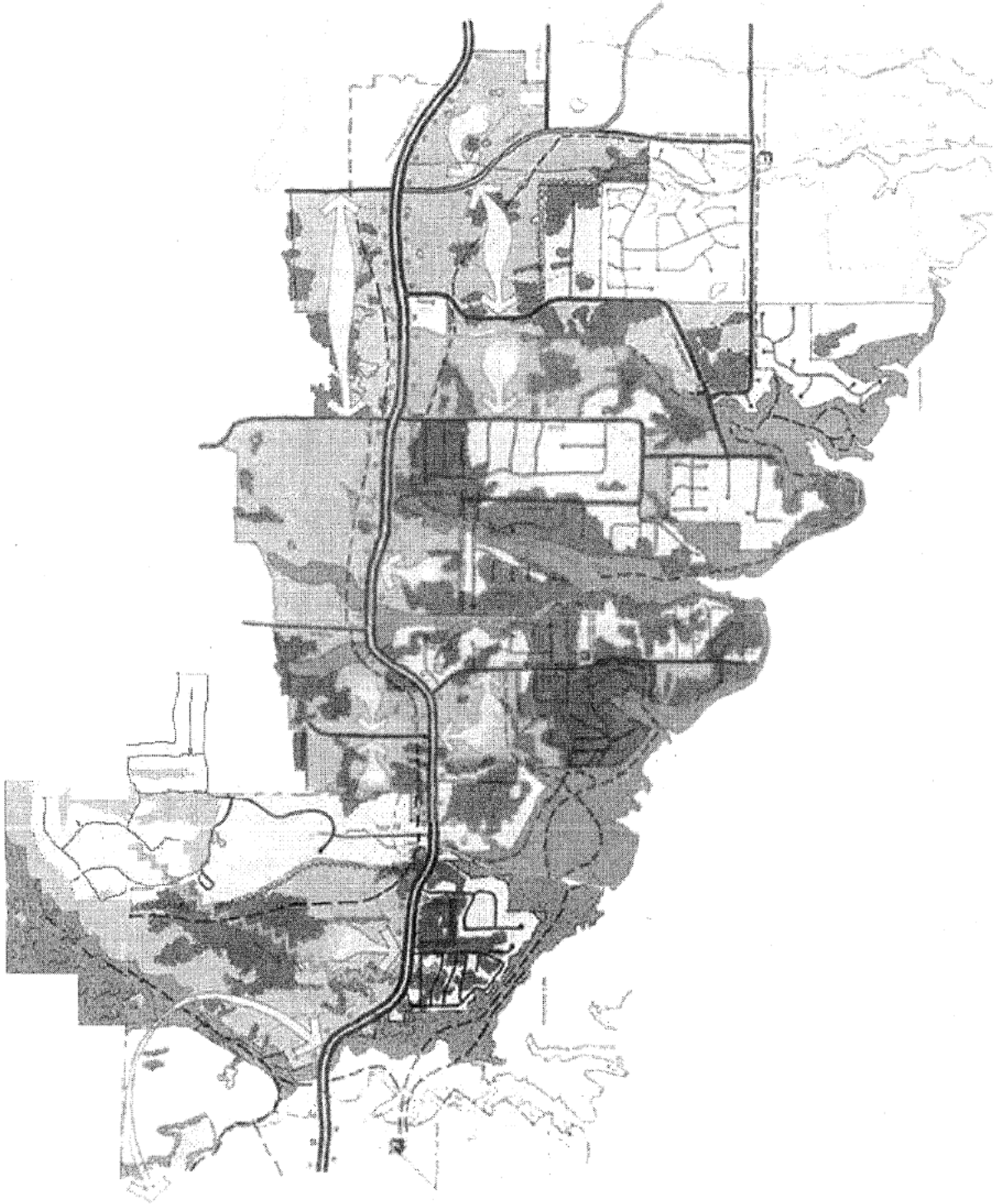


EXHIBIT 5

1:4,514

0 0.0425 0.085 0.17 0.34 mi

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EXHIBIT 6

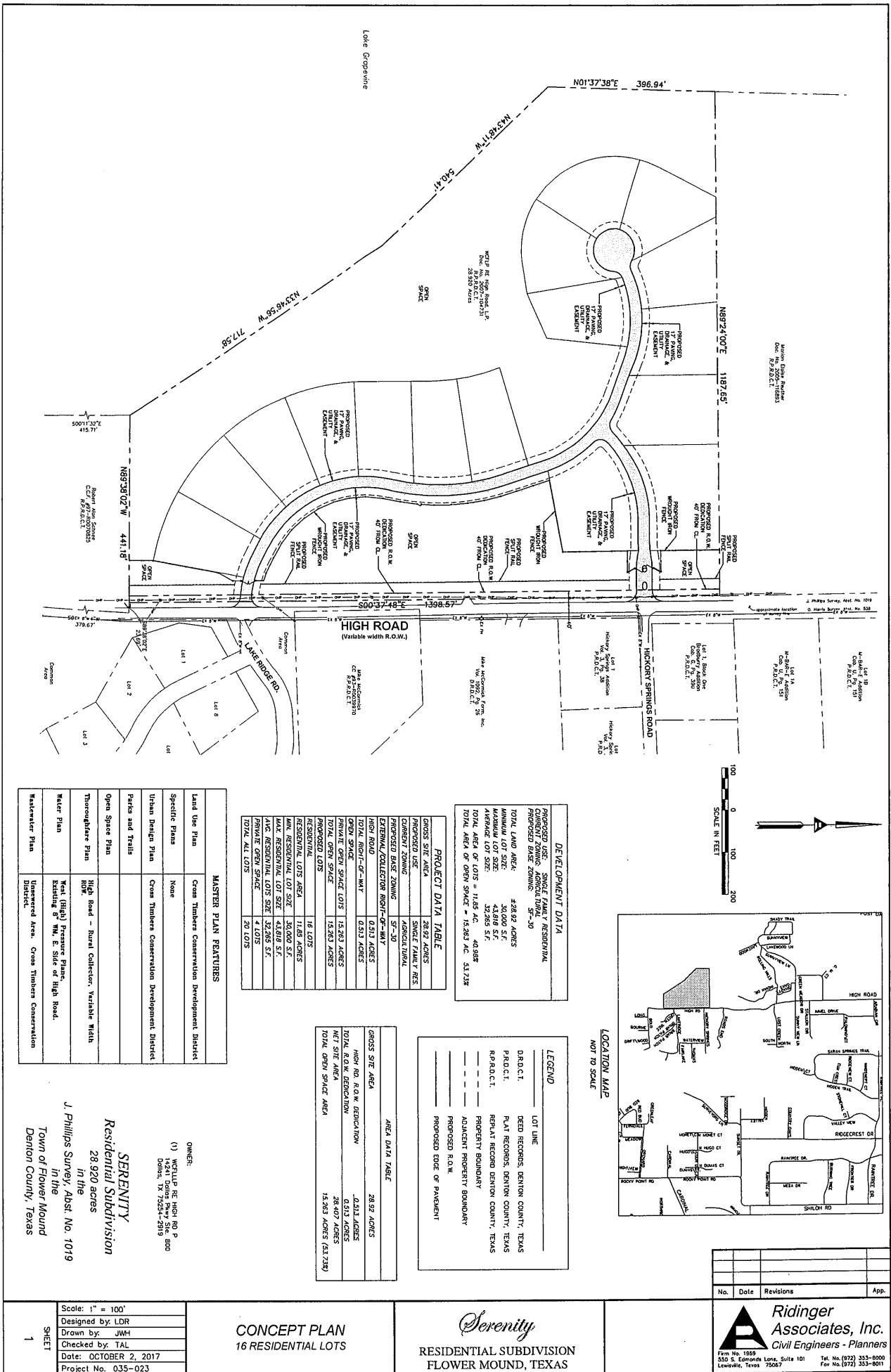
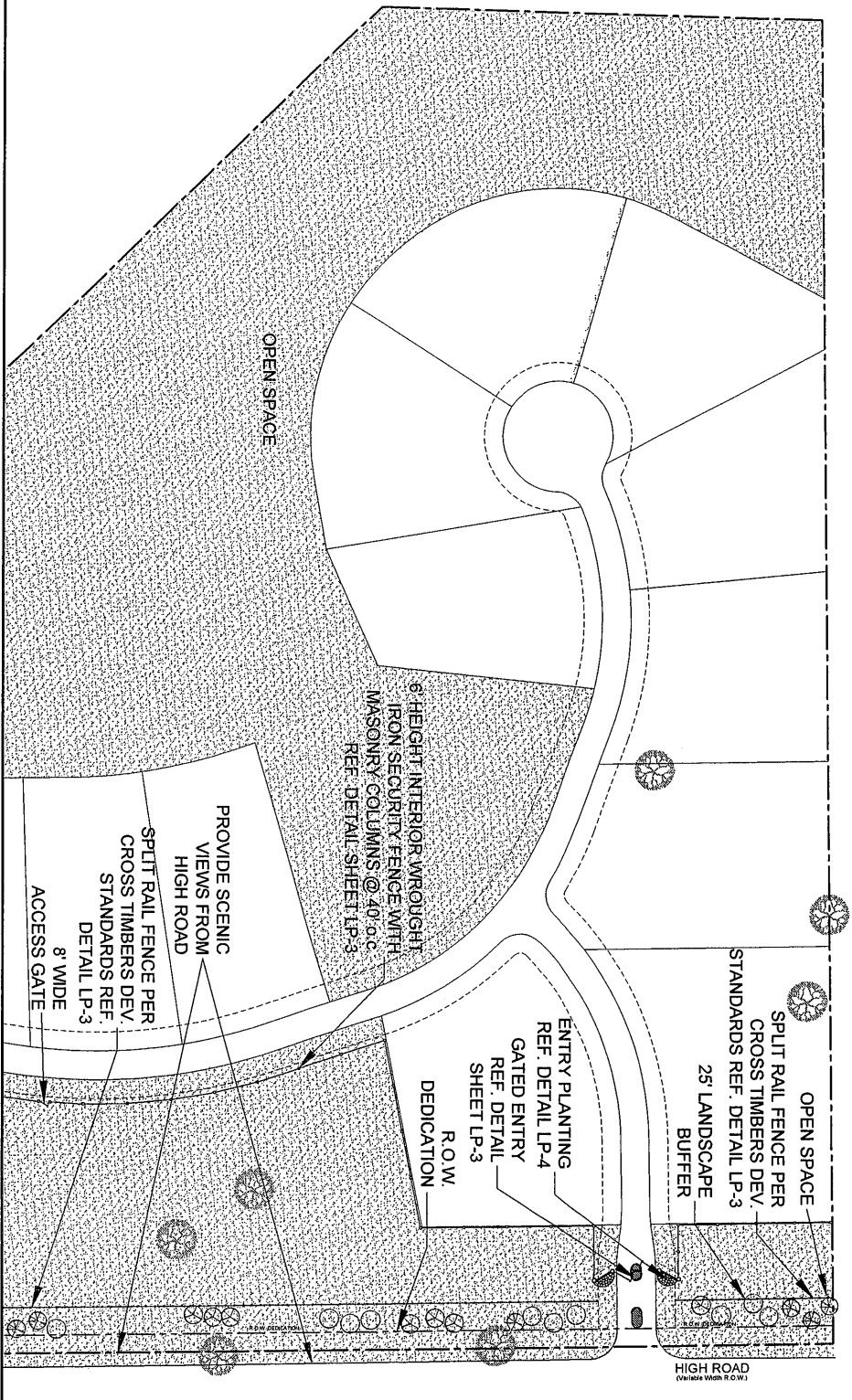


EXHIBIT 7



MATCHLINE SHEET LP-2

STANDARD	STREET LANDSCAPE BUFFER	REQUIRED BUFFER	PROVIDED
HIGH ROAD	25' FT.	25' FT.	
STANDARD	STREET BUFFER TREES (UNDER TREE)	REQUIRED	PROVIDED
1 PER 30' L.F.	1,358.36 L.F.	45 TREES	45 TREES

1" = 50'-0"

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

Ridinger Associates, Inc.
Civil Engineers - Planners

Form No. 1065
520 E. Eastman Lane, Suite 101
Lewisville, Texas 75067

Tel. No. (972) 353-8900
Fax No. (972) 353-8011

LEGEND

- PROPOSED
- OPEN SPACE
- TREE SYMBOLS TO BE PLANTED TO TREE SURVEY
- BUR OAK
- CEDAR ELM
- TEXAS ASH
- LIVE OAK
- RED OAK
- NATCHEZ GRAPE VITIFL
- TEXAS SAGE
- HAMELIN GRASS
- SEASONAL COLOR

DATE SCALED: 7-25-17
DESIGNED BY: JBS
CHECKED BY: JBS
DATE: JULY 20, 2017

ST. CLAIR DESIGN GROUP, INC.

Landscape Architecture

1700 E. Hwy. 1, Suite 205
Dallas, Texas 75246-3441

DATE SCALED: 7-25-17
DESIGNED BY: JBS
CHECKED BY: JBS
DATE: JULY 20, 2017

LANDSCAPE PLAN

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

Scale: 1" = 50'-0"

Designed by: JBS

Drawn by: JBS

Checked by: SCDG

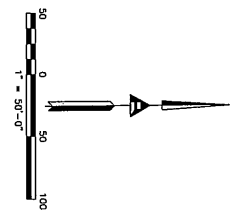
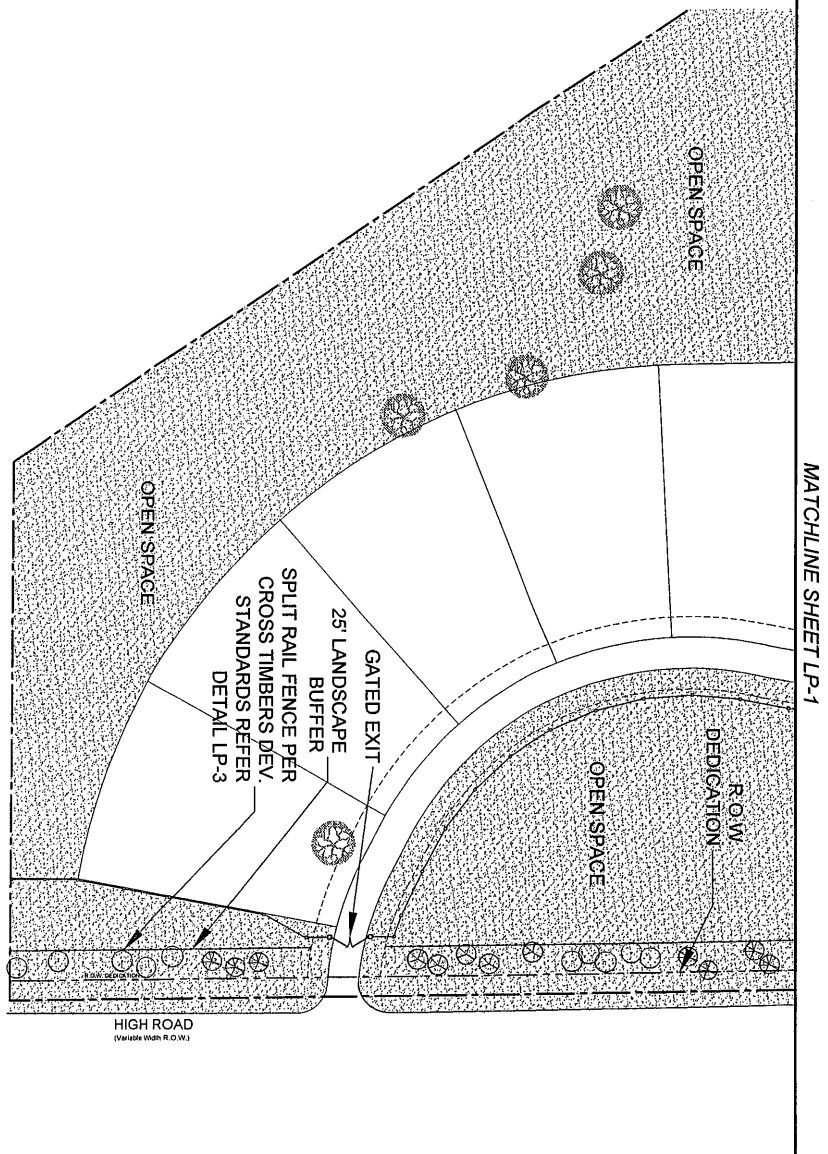
Date: JULY 30, 2017

Project No. 035-023

SHEET
LP-1

LANDSCAPE PLAN

Serenity
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS



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

Ridinger Associates, Inc.
Civil Engineers - Planners

Firm No. 1859
550 S. Edwards Lane, Suite 101
Lewisville, Texas 75067

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

ST. CLAIR DESIGN GROUP, INC.

Landscape Architecture

P. O. Box 12515
Dallas, Texas 75225
1-214-444-0041

DATE: JULY 30, 2017

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

LANDSCAPE PLAN
Serenity
Residential Subdivision
28.920 acres
In the
Town of Flower Mound
Denton County, Texas

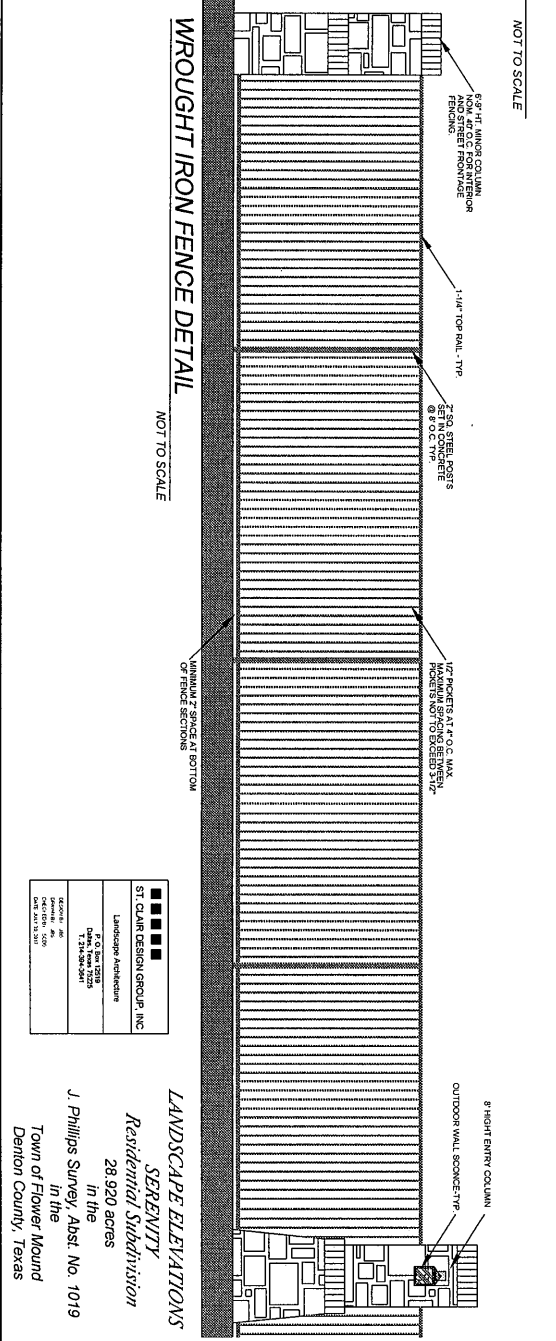
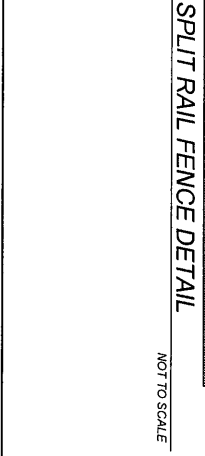
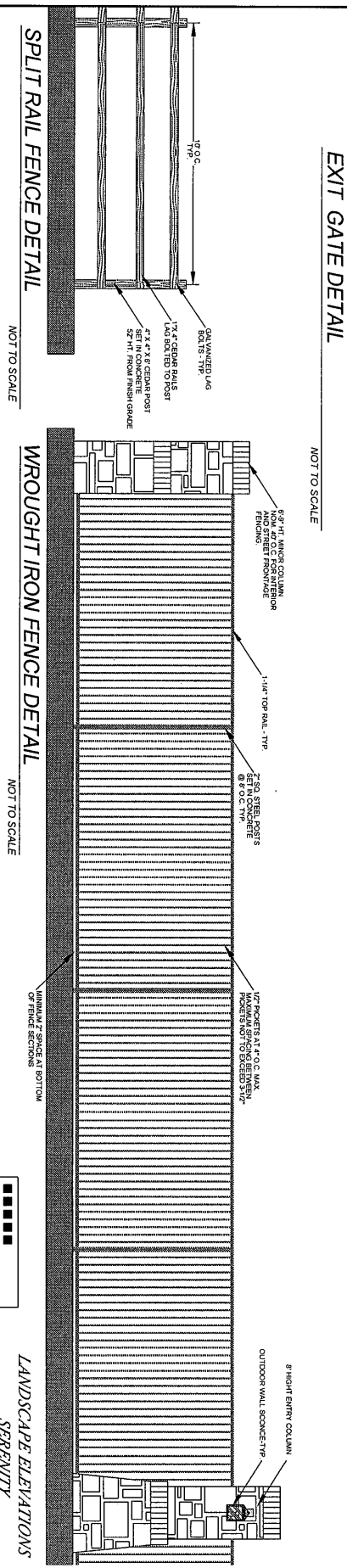
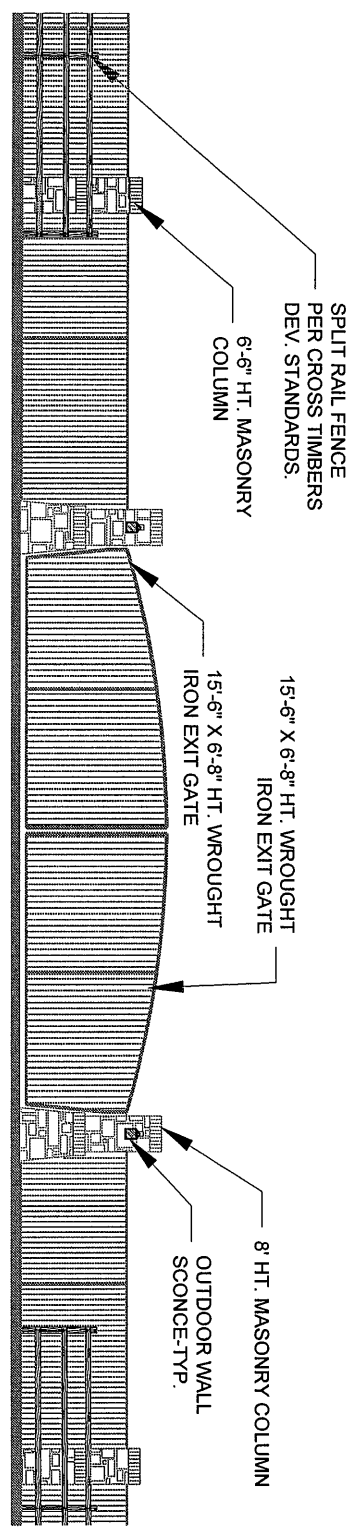
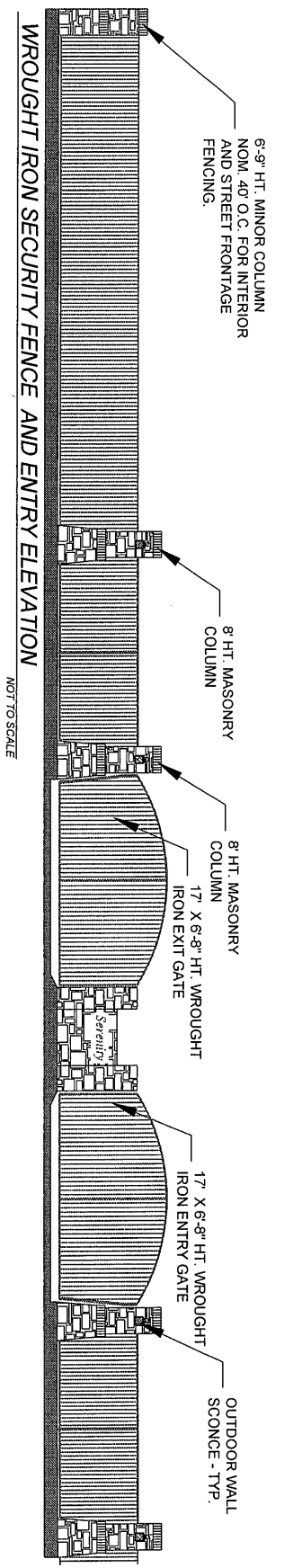
J. Phillips Survey, Abst. No. 1019

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

LANDSCAPE PLAN

Serenity
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

LP-2



ST. CLAIR DESIGN GROUP, INC.	LANDSCAPE ARCHITECTURE
2810 N. 12TH ST.	OKLAHOMA CITY, OK 73107
PHOTOGRAPH BY	OKLAHOMA CITY, OK 73107

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

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

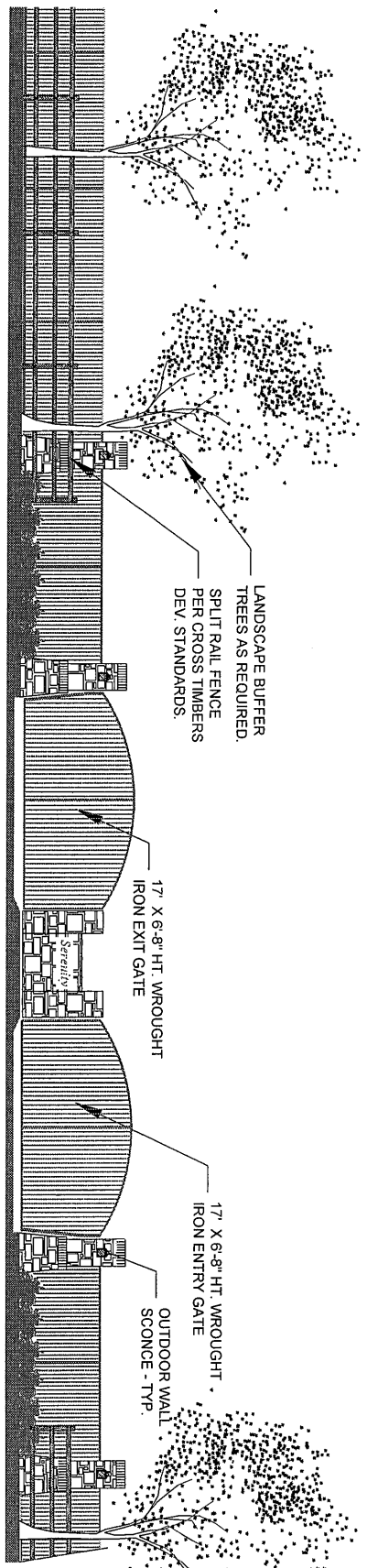
LANDSCAPE ELEVATIONS

Serenity
 RESIDENTIAL SUBDIVISION
 FLOWER MOUND, TEXAS



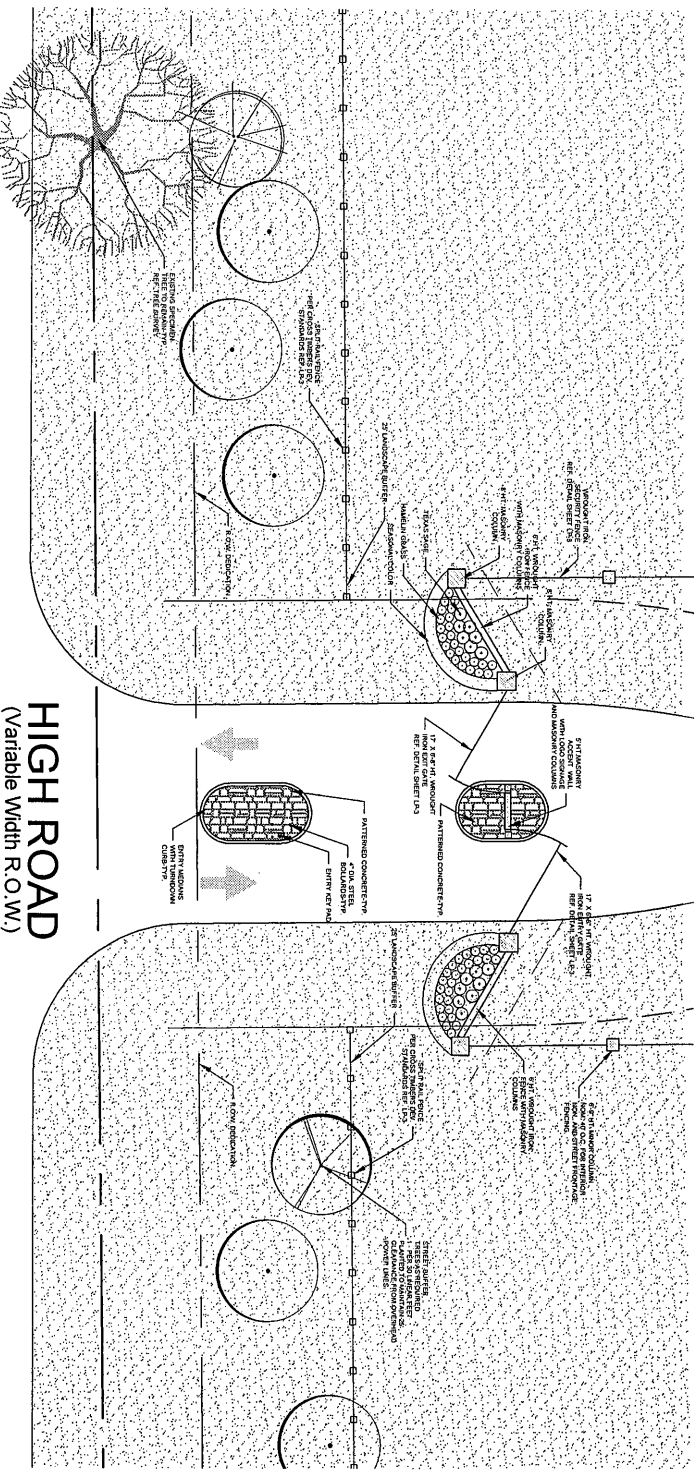
Ridinger Associates, Inc.
 Civil Engineers - Planners
 1900 N. 10th St.
 550 S. Edwards Lane, Suite 101
 Lewisville, Texas 75067
 Tel. No. (972) 353-8000
 Fax No. (972) 353-8001

NO. 1	8-9-16	PER CITY COMMENTS	App.
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ENTRY ELEVATION SHOWING RAIL FENCE AND STREET TREES

NOT TO SCALE



ENTRY PLAN

SCALE 1"=10'-0"

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

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

Ridinger Associates, Inc.
Civil Engineers - Planners
Firm No. 1989
500 E. Edwards Lane, Suite 101
Levelland, Texas 75067
Tel. No. (972) 353-8000
Fax No. (972) 353-8011



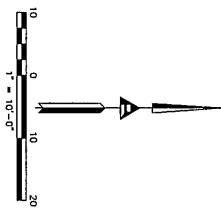
DATE SEALED 5-25-17

Serenity
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

ENTRY PLAN AND DETAIL

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

ST. CLAIR DESIGN GROUP, INC.
Landscape Architecture
P. O. Box 5053
17345 Highway 101
Levelland, TX 75067
DATE: 5-25-17



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

LP-4
SHEET

EXHIBIT 8

4.0 URBAN DESIGN PLAN

Definitions

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

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

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

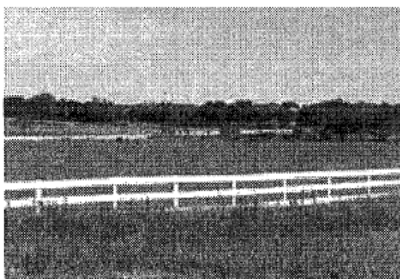
District Arterials: District Arterials mentioned in the Lakeside Business and Denton Creek Districts, refers to the four lane; 90' R.O.W. Urban minor arterials from the Thoroughfare Plan.

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

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

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

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



Standard Rural Fence

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

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

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

4.0 URBAN DESIGN PLAN

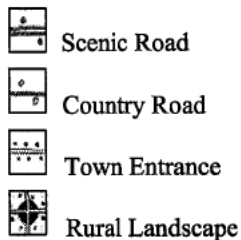
Cross Timbers Conservation Development District

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

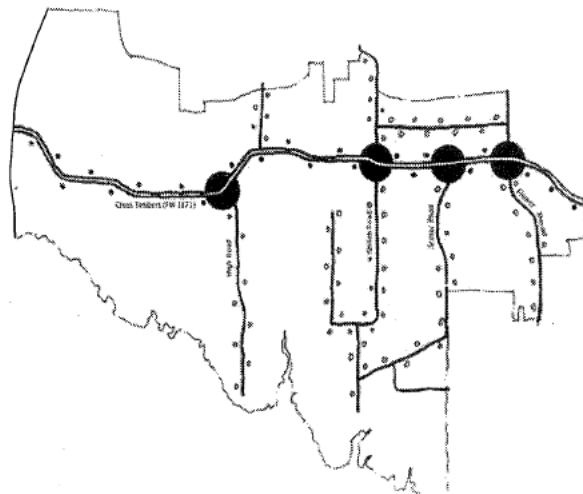
The Urban Design Plan addresses four major elements which affect the overall image of the Cross Timbers Conservation Development District. These elements were developed with community participants as part of development of the Area Plans in the district, and also are derived from the scenic qualities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

The elements are:

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



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



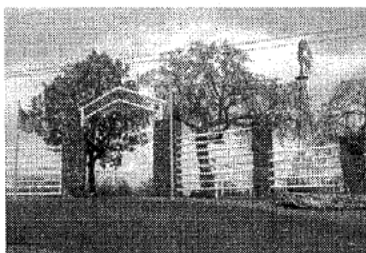
Cross Timbers Conservation Development District Key Map

4.0 URBAN DESIGN PLAN

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



Ranch Entrance example



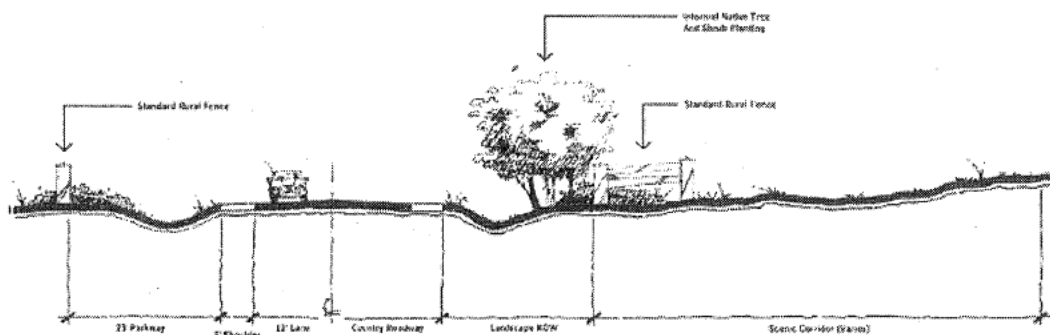
Ranch Entrance Example



Tree Lined Driveway example

Country Roads

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



Country Roadway Typical Section

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

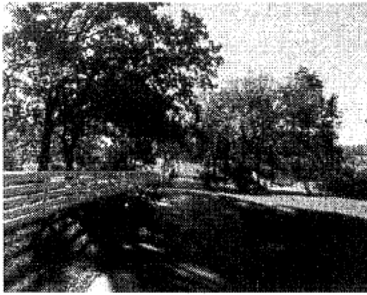
- Limited native tree plantings to preserve scenic views.
- Trees to be planted in odd numbered groves or drifts of no less than three trees.
- Native low habit shrub and/or ground cover plantings in association with intersections.

Country Road Standard Rural Fence

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

4.0 URBAN DESIGN PLAN

Country Road examples



Scenic Corridors and Vistas

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

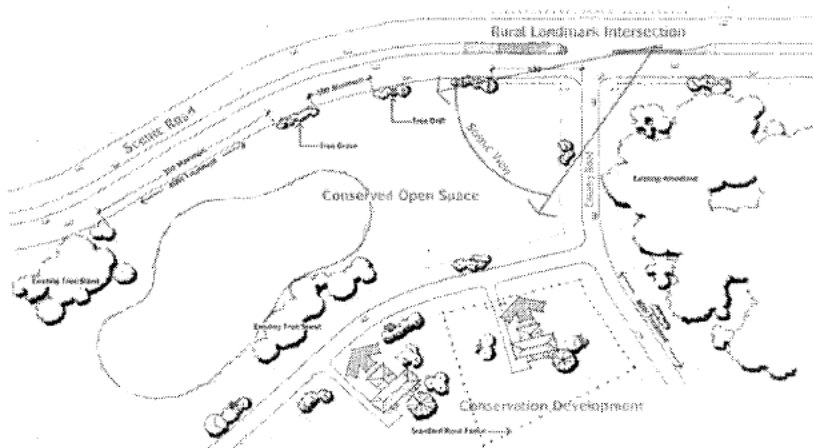
Scenic Corridor Development Patterns

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

Scenic Corridor Perimeter Fencing Elements

- Views of scenic corridors and vistas should be retained by the limited use of foreground plantings.
- No earthen berm or solid masonry walls will be allowed within this district; however, multi-rail or pipe fencing with stone columns in either white, black, dark green, or an earth-tone color is allowable for new development.

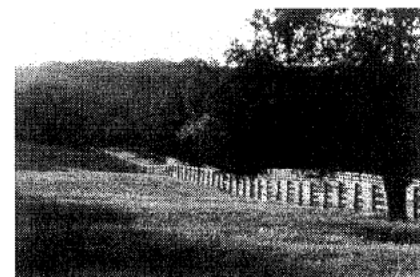
- Plantings should include native species only and arranged in groupings (groves or drifts) verses a continuous massing screen.
- Implementation will be provided at the time of development by the private developer.



Scenic Corridor/ Open Space Typical Plan



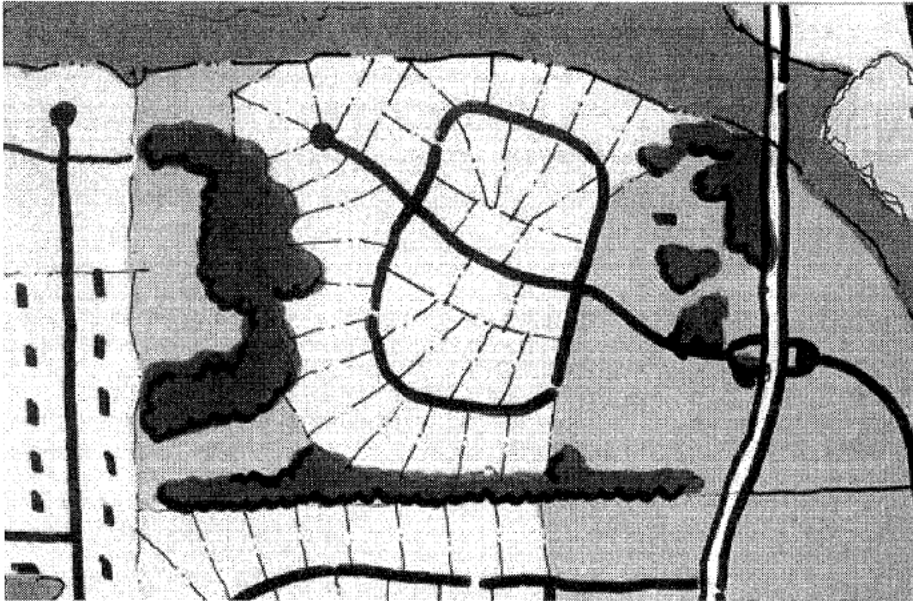
Open Space views examples



4.0 URBAN DESIGN PLAN

Landscape and Setback Buffers

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



Land Planning for Conservation Development Typical Plan

Landscape and Setback Buffer Elements

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

EXHIBIT 9



Environmentally Sensitive Area Survey

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

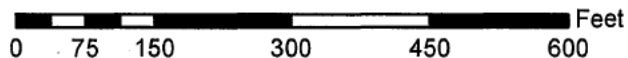
James Hoefert		James Hoefert 8/10/2016	
Forwarded to EPP Consultant: N/A	Filed with Development Services & Environmental Services		Last Modified: 8/10/2016



Environmentally Sensitive Area Survey Serenity

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

1 inch = 199 feet



Streets  Property **Slope Percent**  < 5.0  > 5.0 - 12.0  > 12.0

EXHIBIT 10

January 4, 2016
Revised January 6, 2017

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

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

Dear Mr. Ridinger:

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

Site Description

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

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

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

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

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

Habitat Evaluation

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

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

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

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

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

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

E = Endangered; T = Threatened

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

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

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

Environmentally Sensitive Areas

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

Upland Habitat

The Town defines upland habitat as:

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

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

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

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

Riparian Habitat

The Town defines riparian habit as:

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

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

Prairie Habitat

The Town defines prairie habitat as:

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

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

Waters of the State

The Town defines waters of the State as:

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

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

Developed Floodplain

The Town defines developed floodplain as:

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

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

Topographical Slope Protection

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

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

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

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

Proposed Development Plan

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

Mitigation Measures During Project Planning and Construction

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

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

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

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

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

Conclusions

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

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

Mr. Dale Ridinger
Page 10 of 10

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

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

Sincerely,

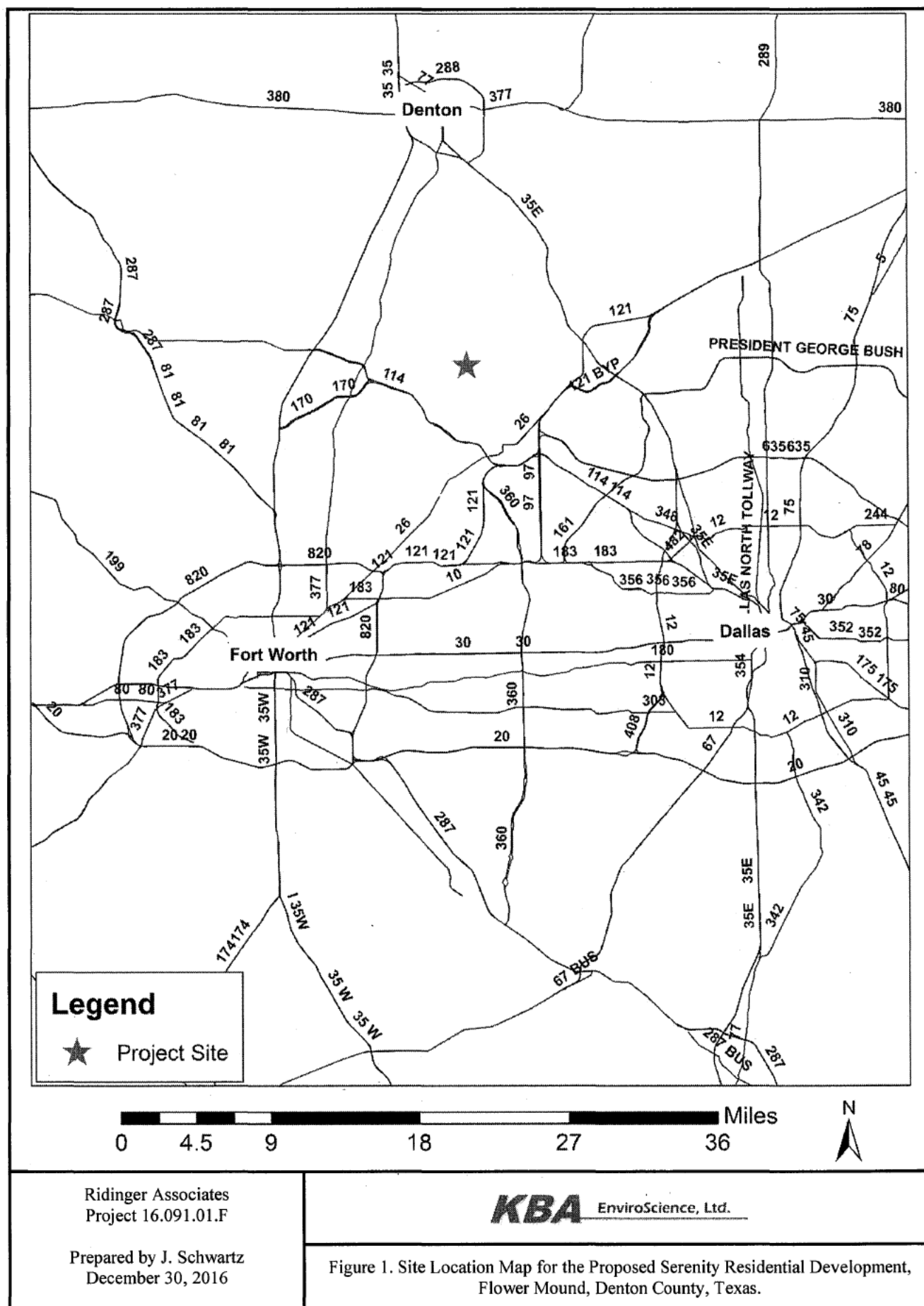
A handwritten signature in dark ink, appearing to read 'Joe Schwartz', with a long horizontal flourish extending to the right.

Joseph Schwartz, Project Manager
KBA EnviroScience, Ltd.

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

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

FIGURES





Legend

 Project Site

0 120 240 480 720 960 Feet



Ridinger Associates
Project 16.091.01.F

Prepared by J. Schwartz
January 6, 2017

KBA EnviroScience, Ltd.

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



Legend

 Project Site

0 120 240 480 720 960 Feet

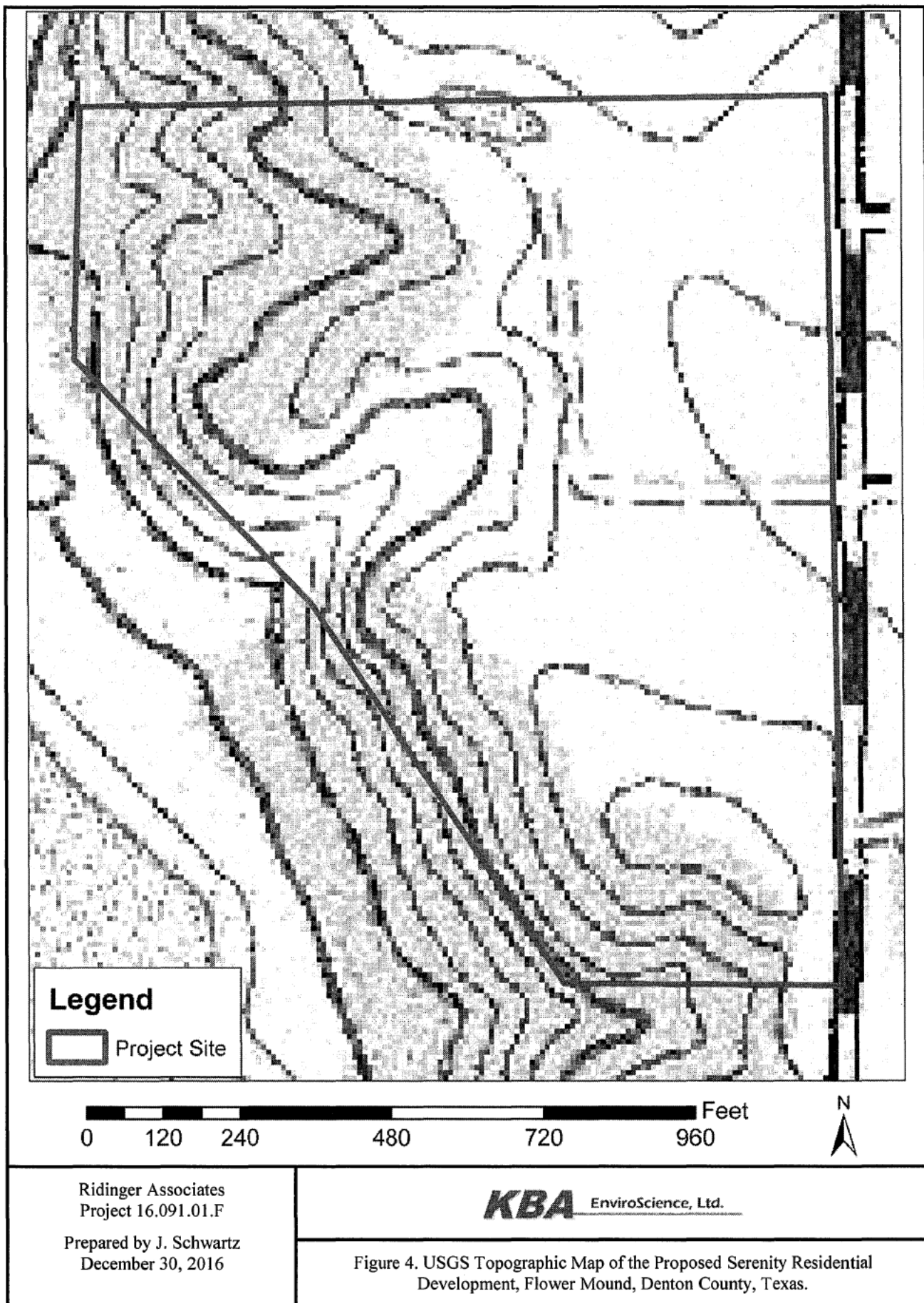


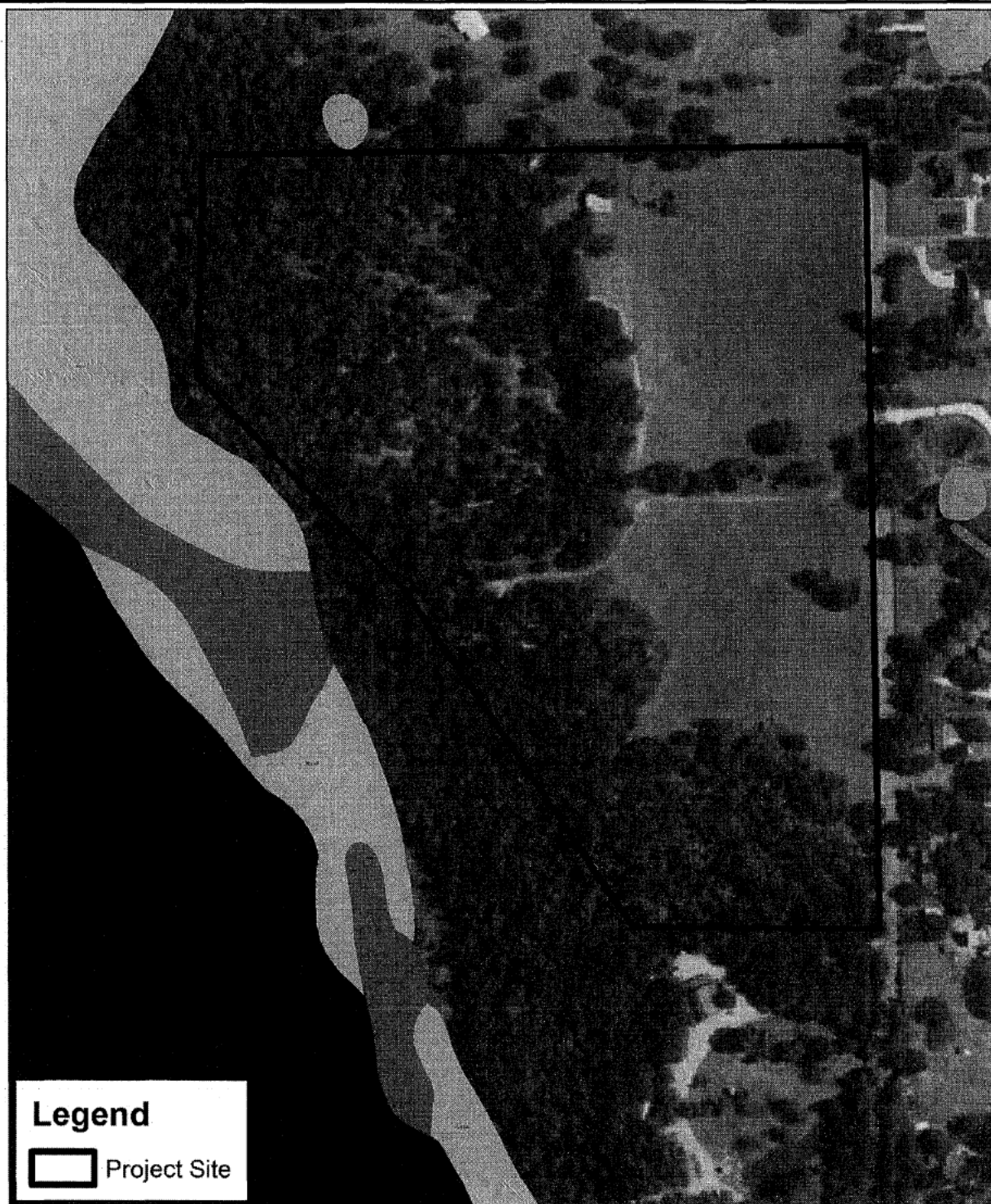
Ridinger Associates
Project 16.091.01.F

Prepared by J. Schwartz
January 6, 2017

KBA EnviroScience, Ltd.

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





Ridinger Associates
Project 16.091.01.F

Prepared by J. Schwartz
January 3, 2017

KBA EnviroScience, Ltd.

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

Legend

-  Project Site
-  Proposed Upland Impacts (lots 5.1 acres)
-  Proposed Upland Impacts (roads 0.30 acres)
-  Upland Habitat (15.43 acres)

0 120 240 480 720 960 Feet

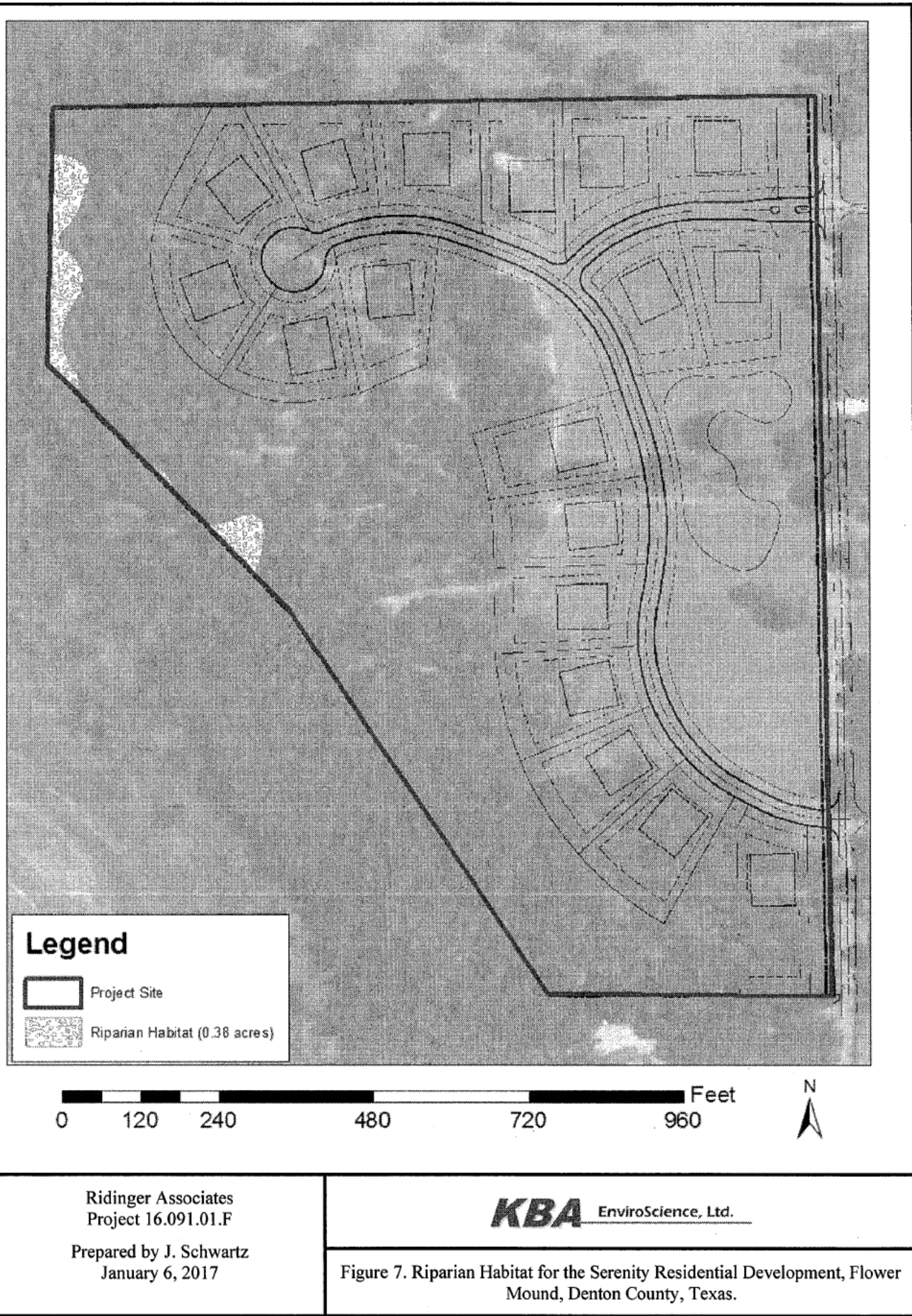


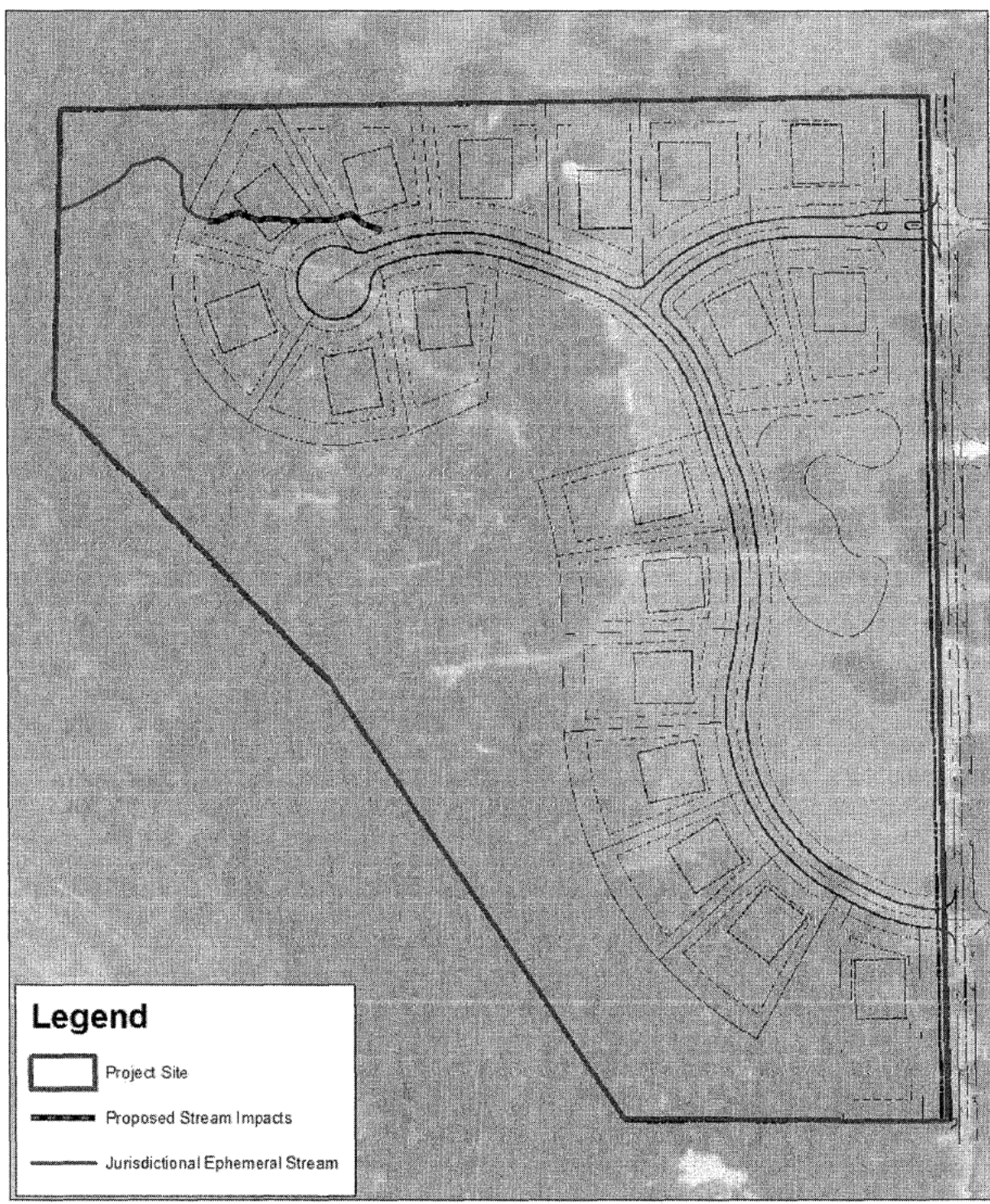
Ridinger Associates
Project 16.091.01.F

Prepared by J. Schwartz
December 30, 2016

KBA EnviroScience, Ltd.

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





Legend

-  Project Site
-  Proposed Stream Impacts
-  Jurisdictional Ephemeral Stream

0 120 240 480 720 960 Feet

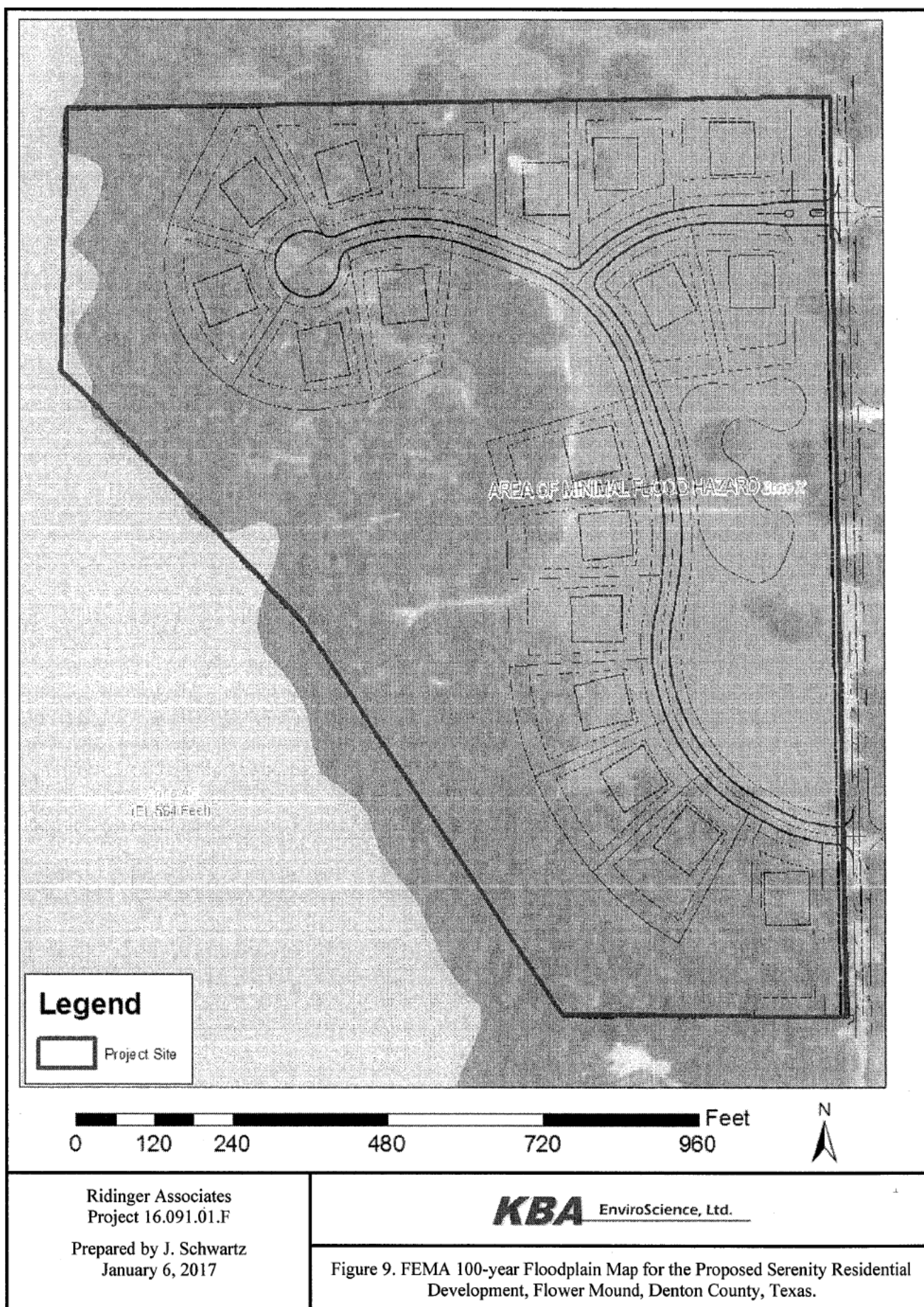


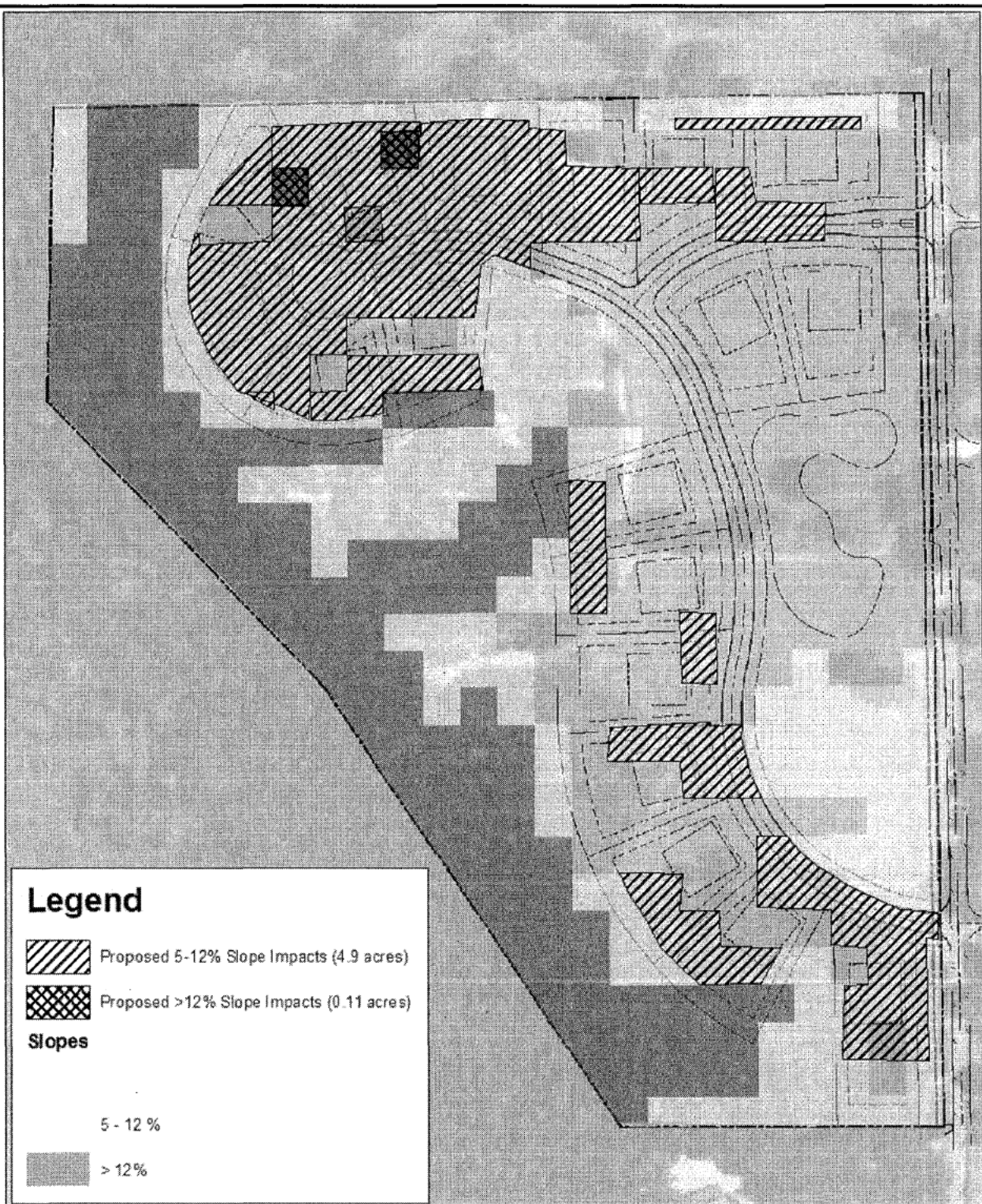
Ridinger Associates
Project 16.091.01.F

Prepared by J. Schwartz
January 6, 2017

KBA EnviroScience, Ltd.

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





0 115 230 460 690 920 Feet



Ridinger Associates
Project 16.091.01.F

Prepared by J. Schwartz
January 6, 2017

KBA EnviroScience, Ltd.

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

EXHIBIT 11



Groundwater & Environmental Services, Inc.

DALLAS OFFICE

February 15, 2017
Revised July 26, 2017

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

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

Dear Mr. Ridinger:

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

Site Description

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

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



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

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

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

Habitat Evaluation

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

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

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

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



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



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

E = Endangered; T = Threatened

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

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



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

Environmentally Sensitive Areas

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

Upland Habitat

The Town defines upland habitat as:

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

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

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

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

Riparian Habitat

The Town defines riparian habit as:

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



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

Prairie Habitat

The Town defines prairie habitat as:

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

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

Waters of the State

The Town defines waters of the State as:

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

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



Developed Floodplain

The Town defines developed floodplain as:

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

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

Topographical Slope Protection

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

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

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

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

Proposed Development Plan

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



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

Mitigation Measures During Project Planning and Construction

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

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

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

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



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

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

Conclusions

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

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



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

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

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

Groundwater & Environmental Services, Inc.

Sincerely,

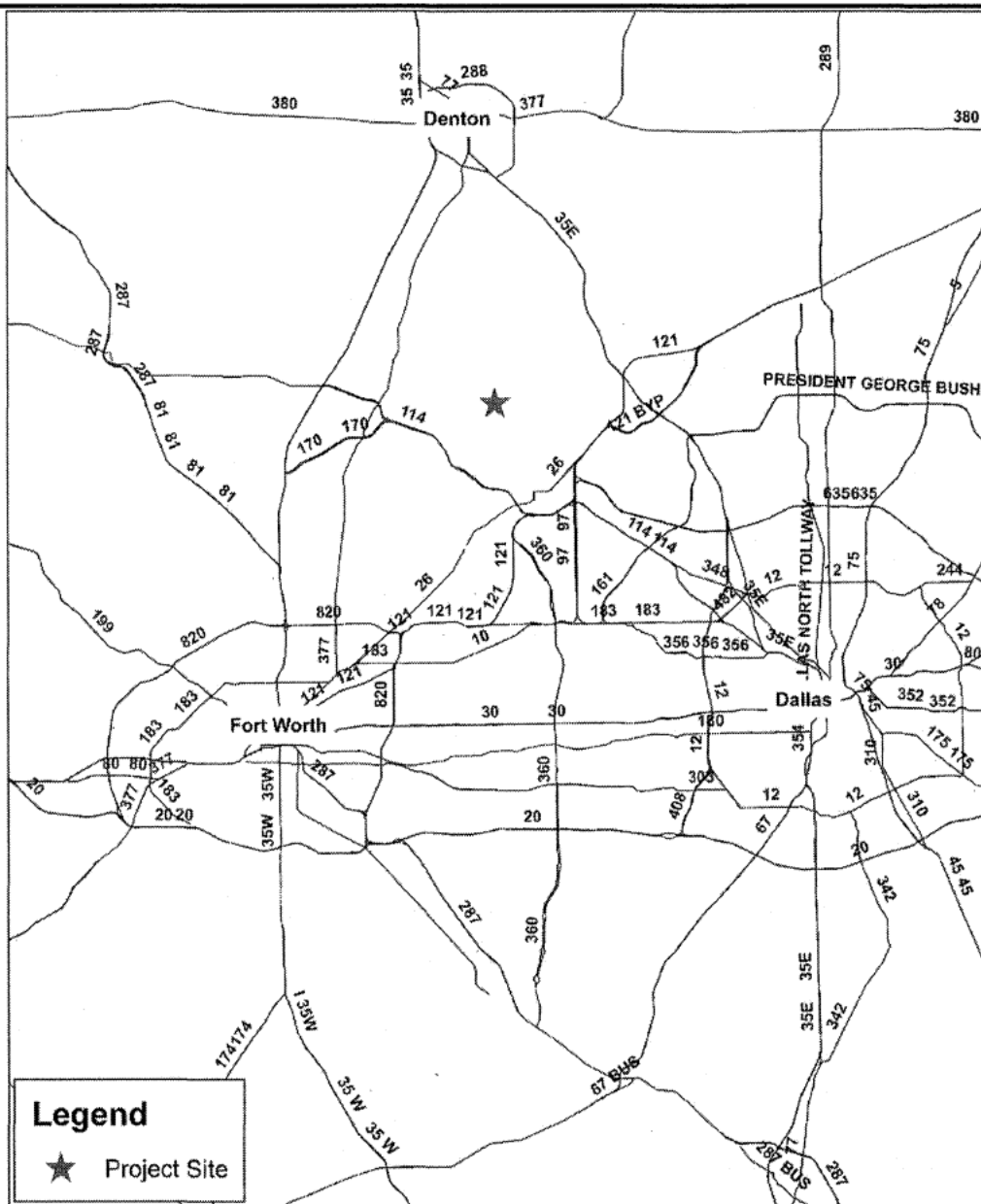
A handwritten signature in dark ink, appearing to read "Joe Schwartz", is written over a light blue horizontal line.

Joseph Schwartz
Principal Environmental Scientist

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

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

FIGURES

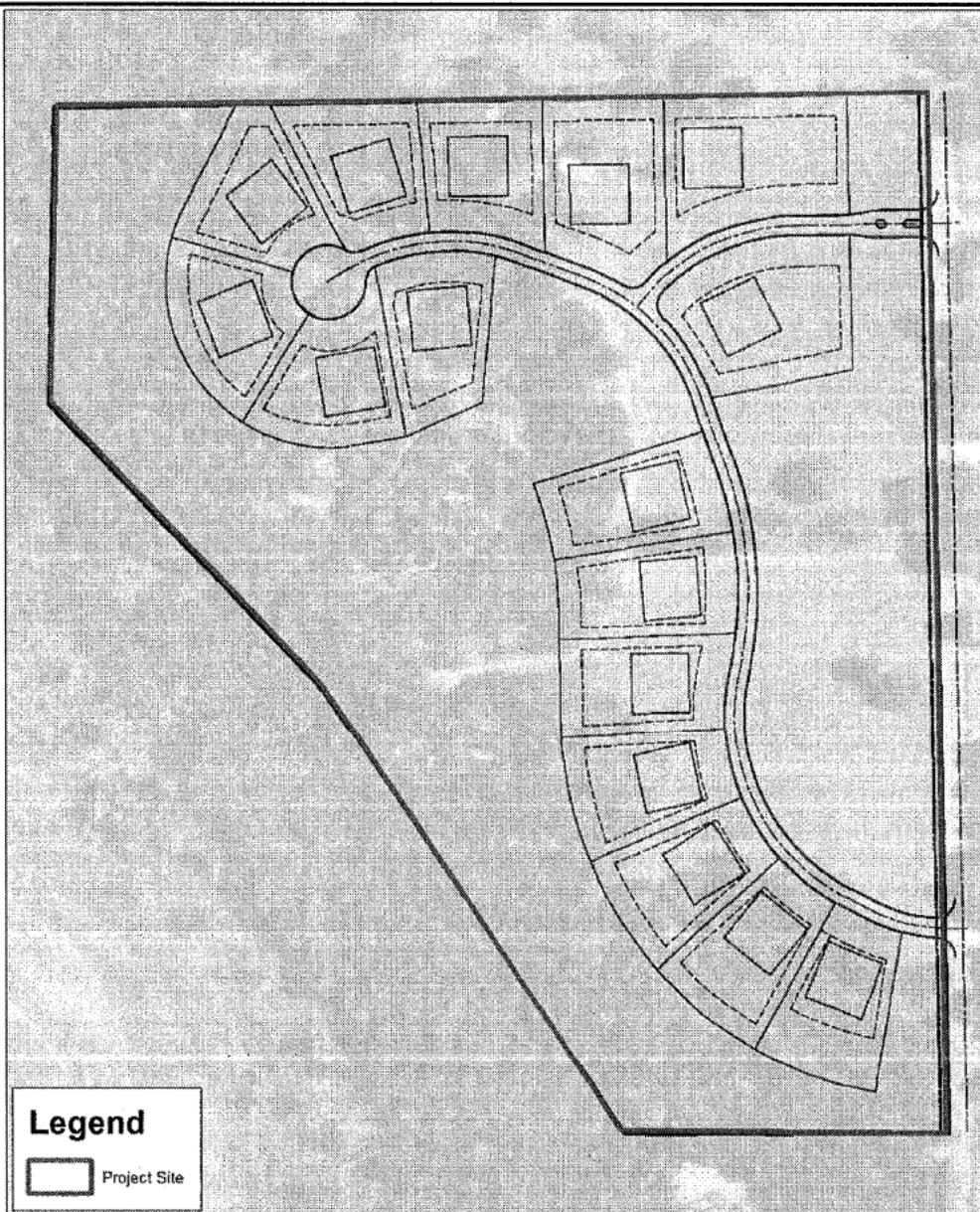


Ridinger Associates
Project # 4300040



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

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

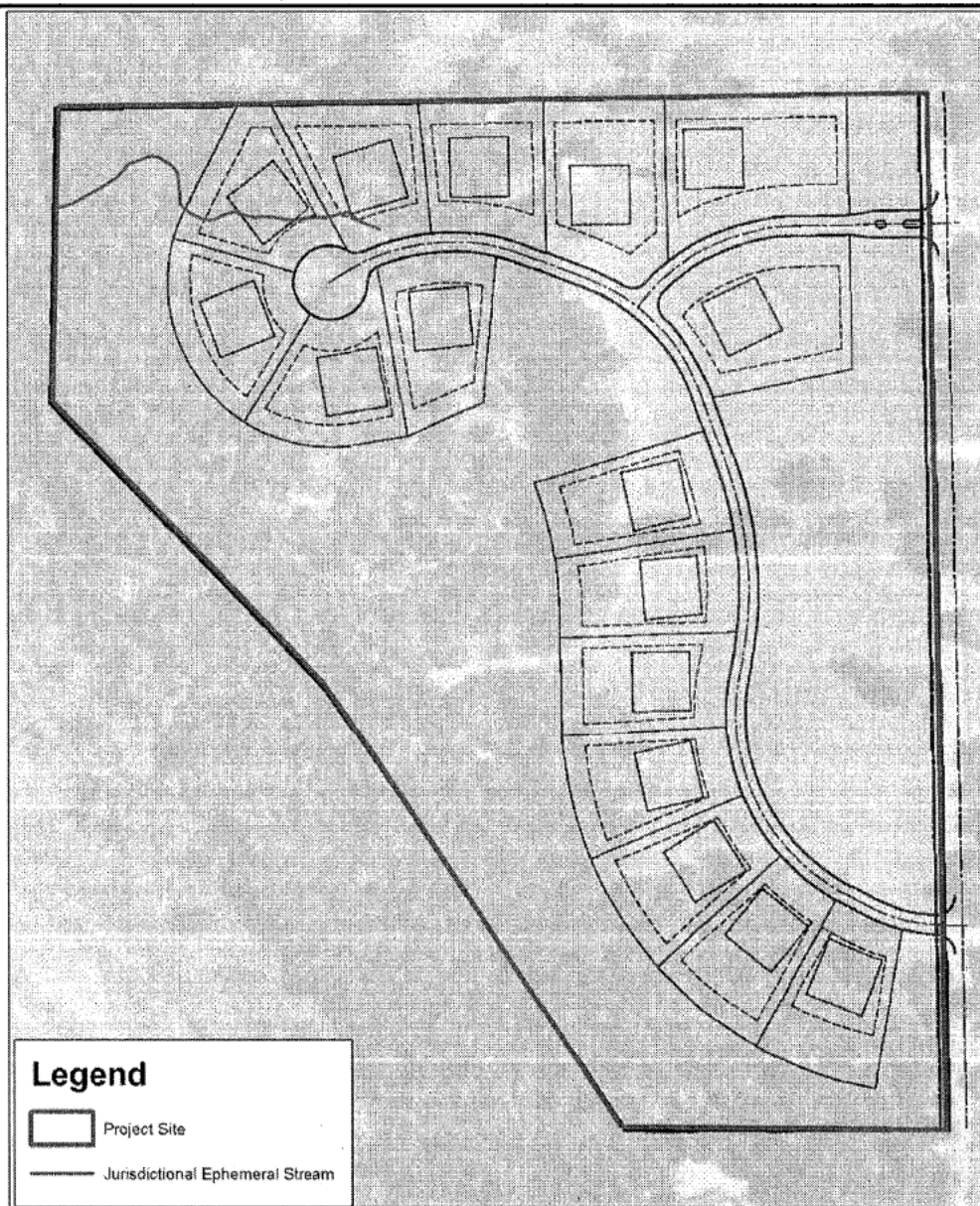


Ridinger Associates
Project # 4300040



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

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



Legend

- Project Site
- Jurisdictional Ephemeral Stream

0 120 240 480 720 960 Feet

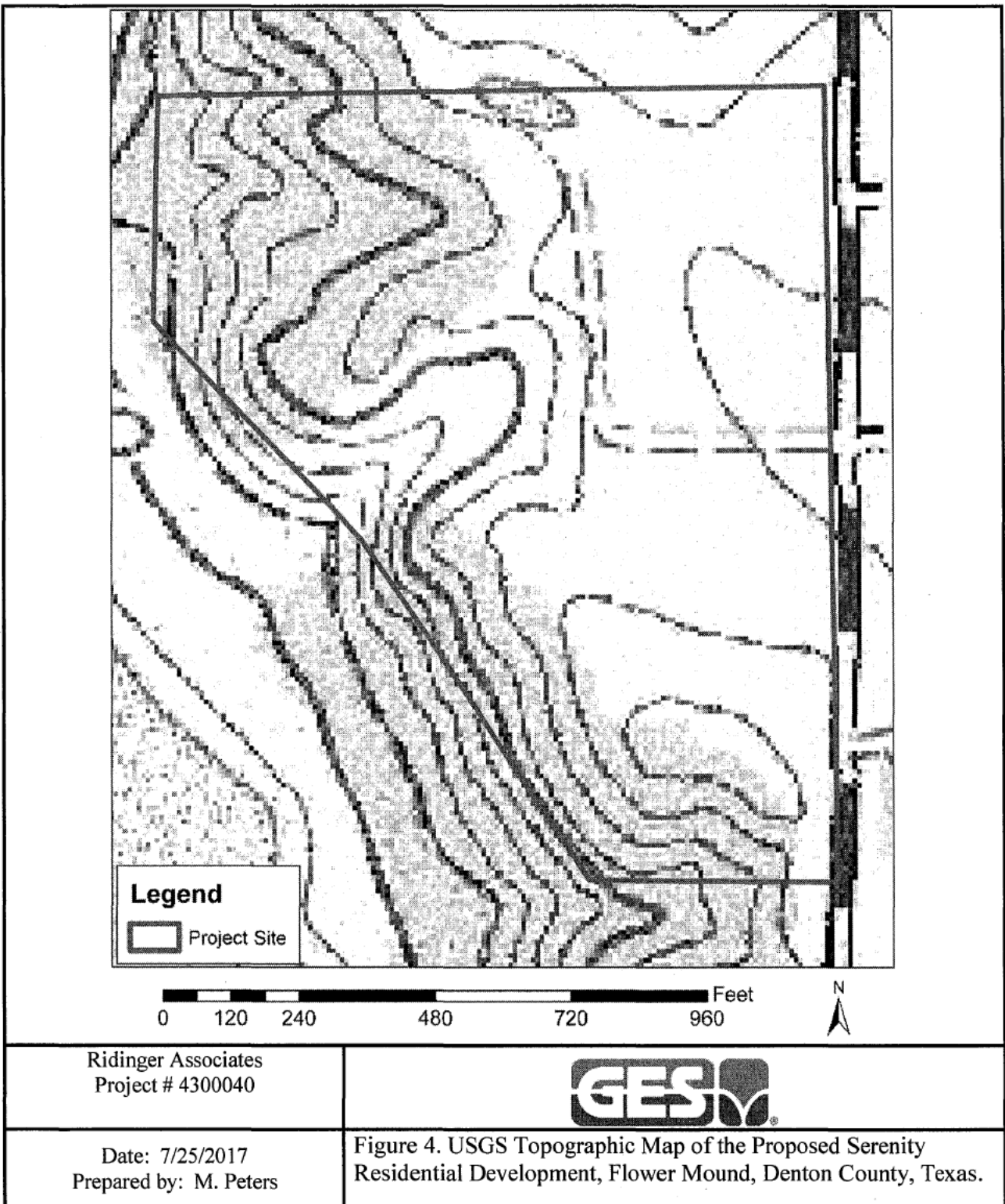


Ridinger Associates
Project # 4300040



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

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



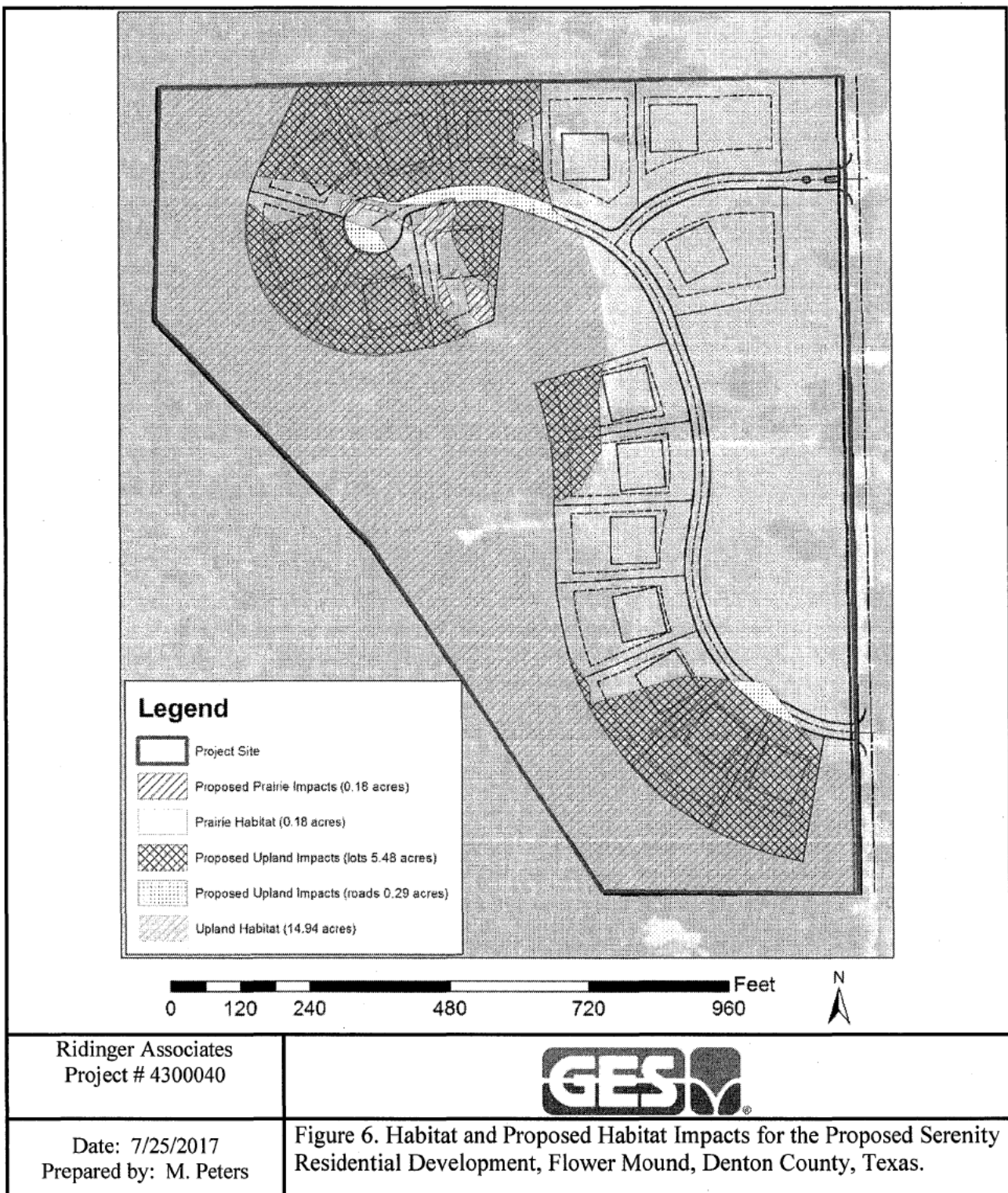


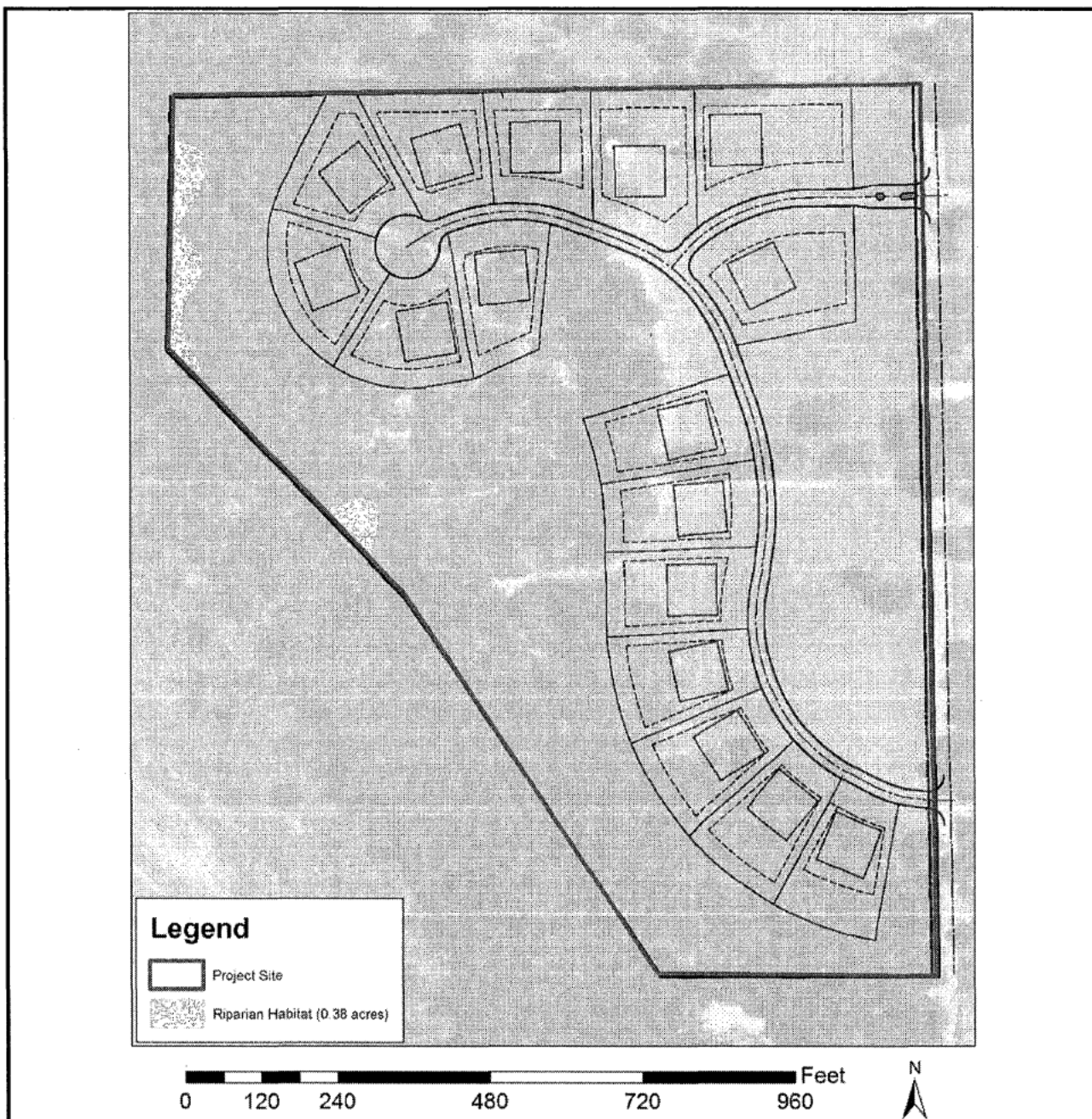
Ridinger Associates
Project # 4300040



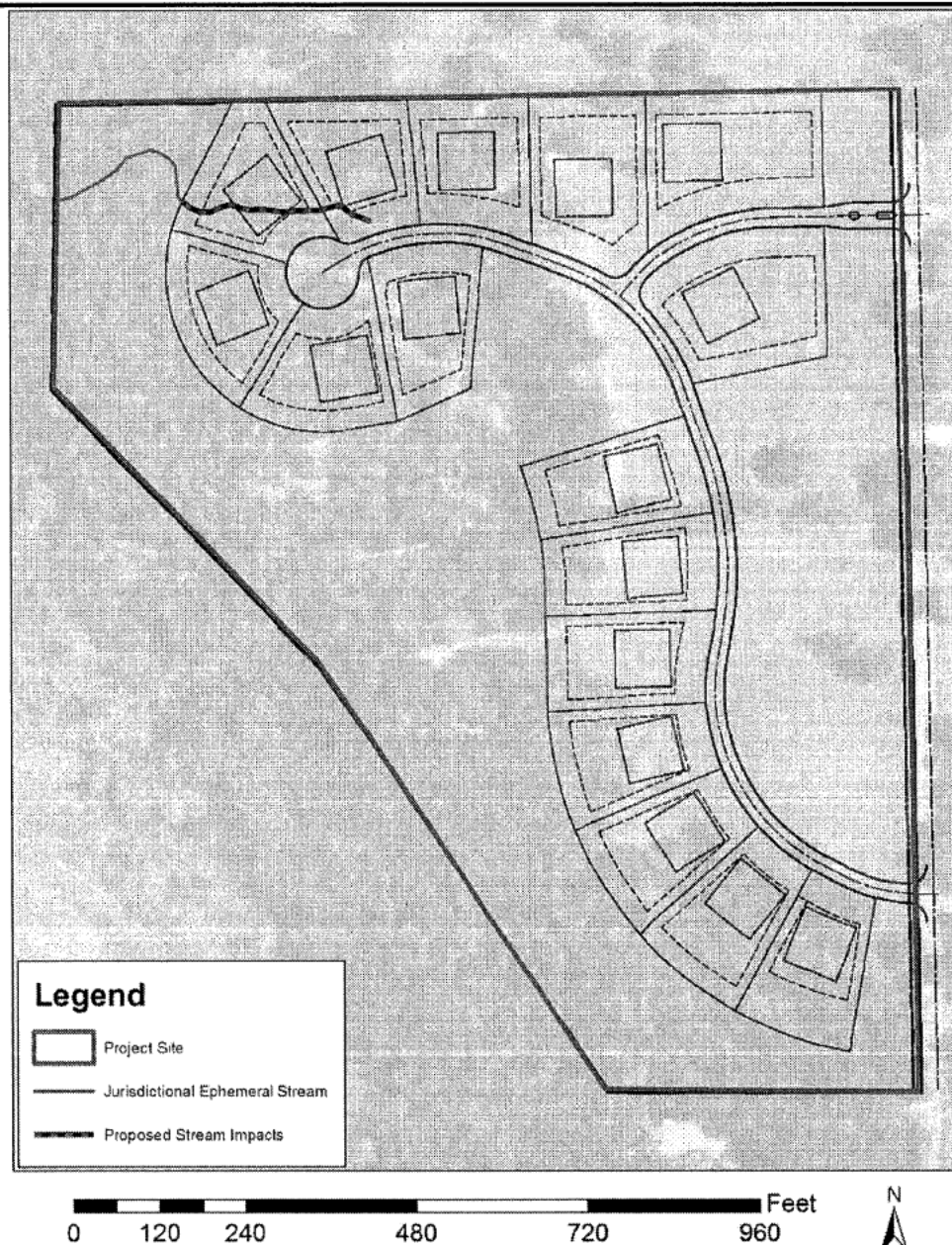
Date: 7/25/2017
Prepared by: M. Peters

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





Ridinger Associates Project # 4300040	GES
Date: 7/25/2017 Prepared by: M. Peters	Figure 7. Riparian Habitat for the Proposed Serenity Residential Development, Flower Mound, Denton County, Texas.

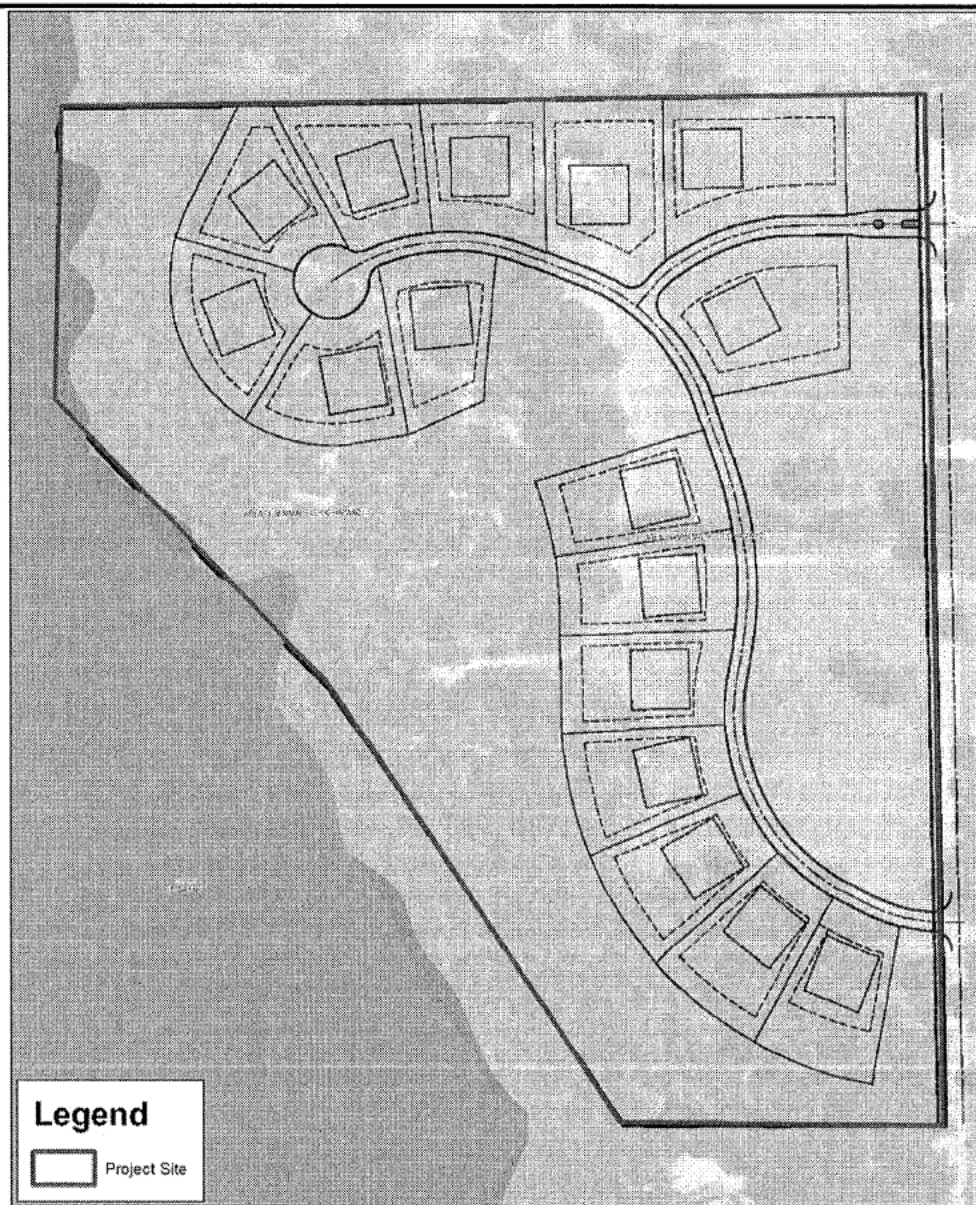


Ridinger Associates
Project # 4300040



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

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



0 120 240 480 720 960 Feet

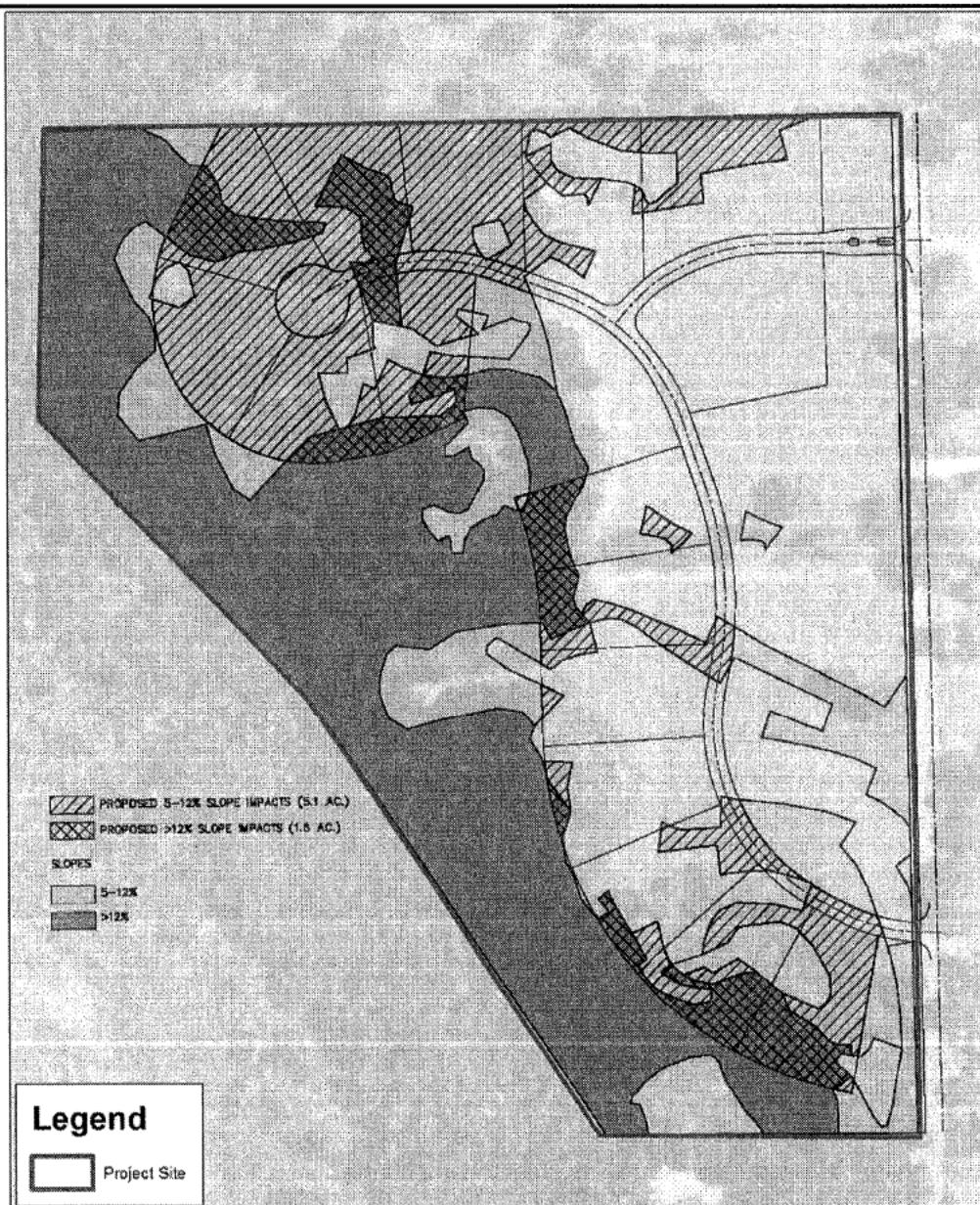


Ridinger Associates
Project # 4300040



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

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



Ridinger Associates
Project # 4300040



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

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

EXHIBIT 12

OPEN SPACE MANAGEMENT PLAN

Planned Development District 149 (PD-149)

Serenity Flower Mound

Property Description

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

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

Present Condition of the Property

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

Introduction

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

Purpose

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

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

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

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

Prohibited Activities

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

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

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

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

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

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

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

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

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

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

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

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

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

Duration

Perpetual.

General Provisions

(l) Amendment.

1. Maintenance of Common Areas:

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

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

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

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

EXHIBIT "A"
Open Space Plan

EXHIBIT "B"
OPEN SPACE LANDSCAPE PLAN

EXHIBIT "C"
EPP

OPEN SPACE MANAGEMENT PLAN

Planned Development District 149 (PD-149)

Serenity Flower Mound

Property Description

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- Preserving the open space characteristic of Property pursuant to The Town of Flower Mound’s Master Plan 2001 (including, but not limited to, the Land Use Plan for the “Cross Timbers Conservation Development District”),

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

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

Prohibited Activities

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

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

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

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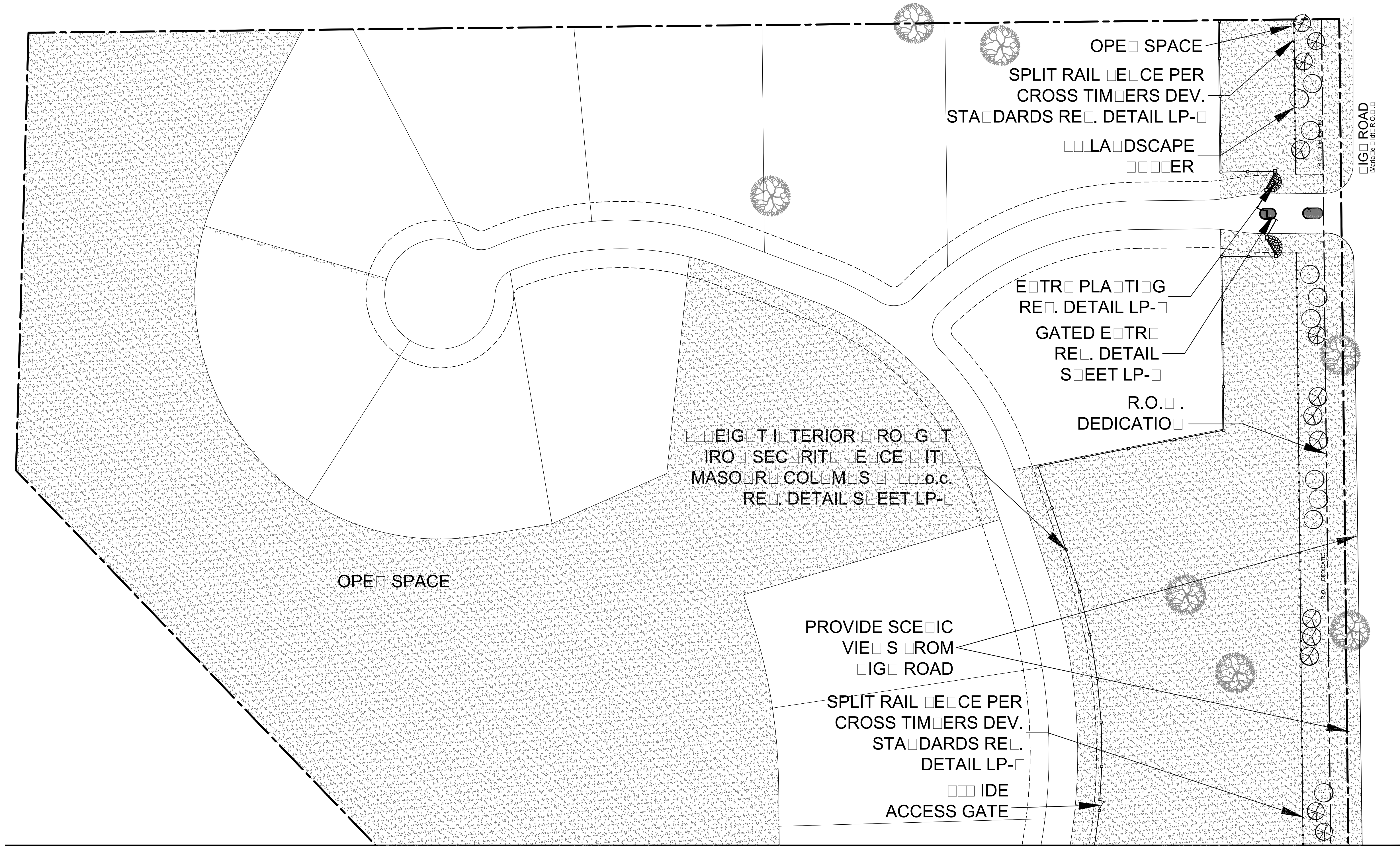
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The HOA will fulfill the conservation covenants as provided in the deed restrictions.

EXHIBIT “A”
Open Space Plan

EXHIBIT “B”
CONCEPTUAL LANDSCAPE PLAN



MATCHLINE SHEET LP-2

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

LEGEND

DEOTES
PROPOSED
OPE SPACE

ALL EXISTING SPECIMEN
TREES TO REMAIN-RE
TO TREE SURVEY

OR OA

CEDAR ELM

TEAS AS

LIVE OA

RED OA

ATC ED CRAPE MORTLE

TEAS SAGE

AMELI GRASS

SEASONAL COLOR

ST. CLAIR DESIGN GROUP, INC.

Landscape Architecture

P. O. Box 1000
Dallas, Texas 75201
T. 214-221-1000

DATE SEALED: 07/30/2017

DESIGN: JBS
DRAWN: JBS
CHECKED: SCDCG
DATE: 07/30/2017

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

**Ridinger
Associates, Inc.**
Civil Engineers - Planners
Firm No. 1368
1330 Commerce
Lawrenceville, Georgia 30046
Tel. No. (678) 353-8000
Fax No. (678) 353-8011

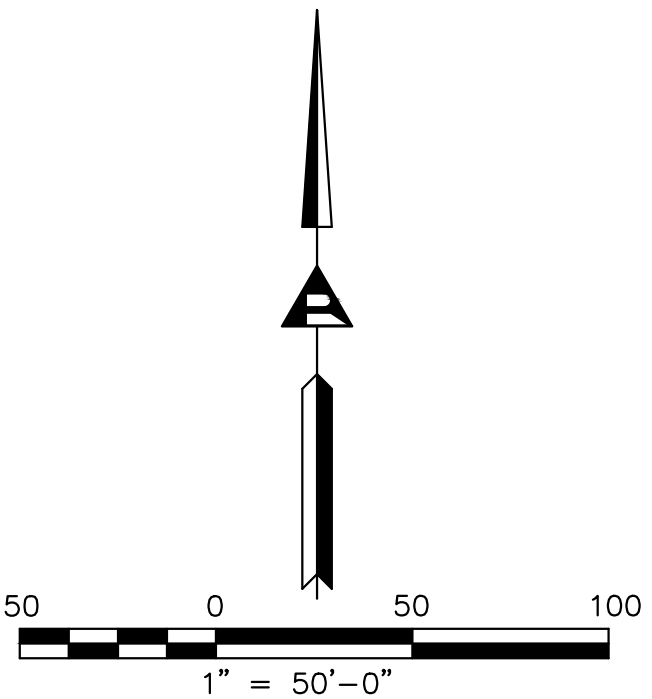
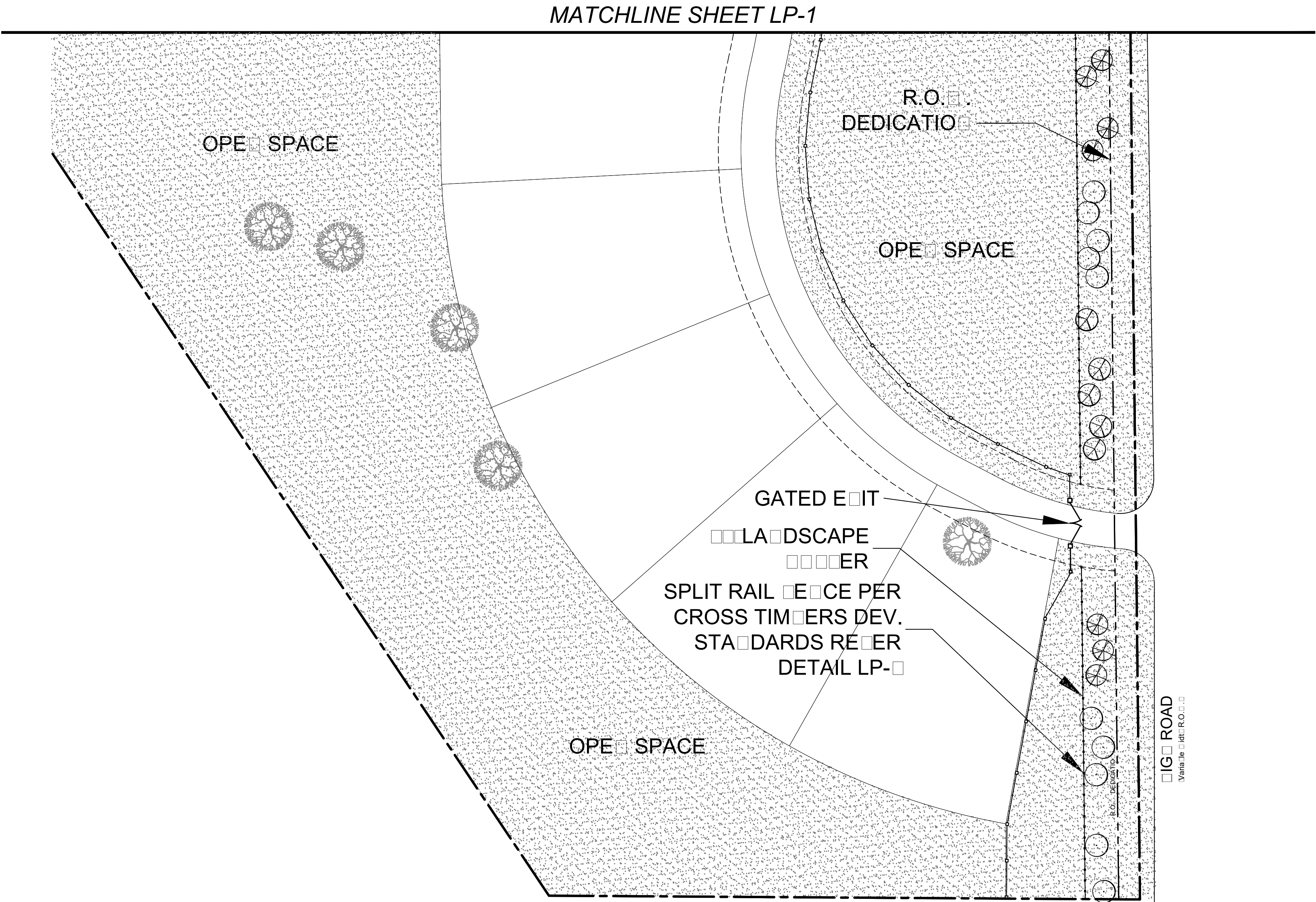
Serenity
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

CONCEPTUAL
LANDSCAPE PLAN

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

SHEET
LP-1

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



ST. CLAIR DESIGN GROUP, INC.

Landscape Architecture

P. O. Box 1010
Dallas, Texas 75201
T. 214-343-1010

DATE SEALED: 07/30/2017

DESIGN: JBS
DRAWN: JBS
CHECKED: SCDCG
DATE: 07/30/2017

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

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

SHEET
LP-2

Serenity
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

CONCEPTUAL
LANDSCAPE PLAN

Ridinger
Associates, Inc.
Civil Engineers - Planners

Firm No. 1368
13300 Ridinger Lane, Suite 101
Covington, Texas 75007
Tel. No. (972) 353-8000
Fax No. (972) 353-8011

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

EXHIBIT “C”
EPP

February 15, 2017
Revised July 26, 2017

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

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

Dear Mr. Ridinger:

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

Site Description

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

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

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

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

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

Habitat Evaluation

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

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

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

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



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



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

E = Endangered; T = Threatened

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

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



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

Environmentally Sensitive Areas

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

Upland Habitat

The Town defines upland habitat as:

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

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

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

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

Riparian Habitat

The Town defines riparian habit as:

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



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

Prairie Habitat

The Town defines prairie habitat as:

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

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

Waters of the State

The Town defines waters of the State as:

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

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

Developed Floodplain

The Town defines developed floodplain as:

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

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

Topographical Slope Protection

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

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

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

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

Proposed Development Plan

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



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

Mitigation Measures During Project Planning and Construction

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

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

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

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

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

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

Conclusions

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

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



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

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

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

Groundwater & Environmental Services, Inc.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Joe Schwartz', written over a light blue circular stamp.

Joseph Schwartz
Principal Environmental Scientist

A handwritten signature in blue ink, appearing to read 'C. Keith Bradley', written over a light blue circular stamp.

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

FIGURES

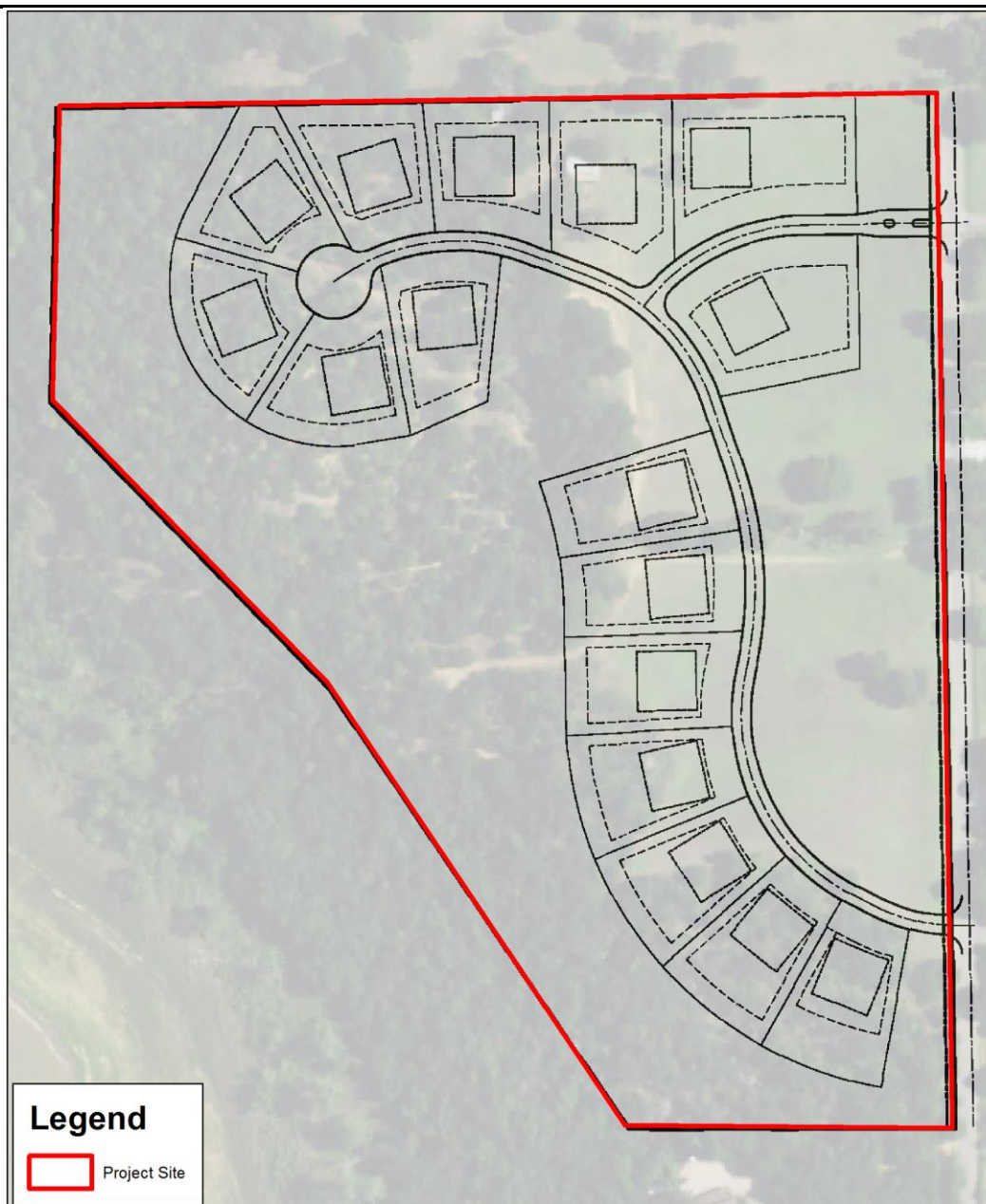


Ridinger Associates
Project # 4300040



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

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

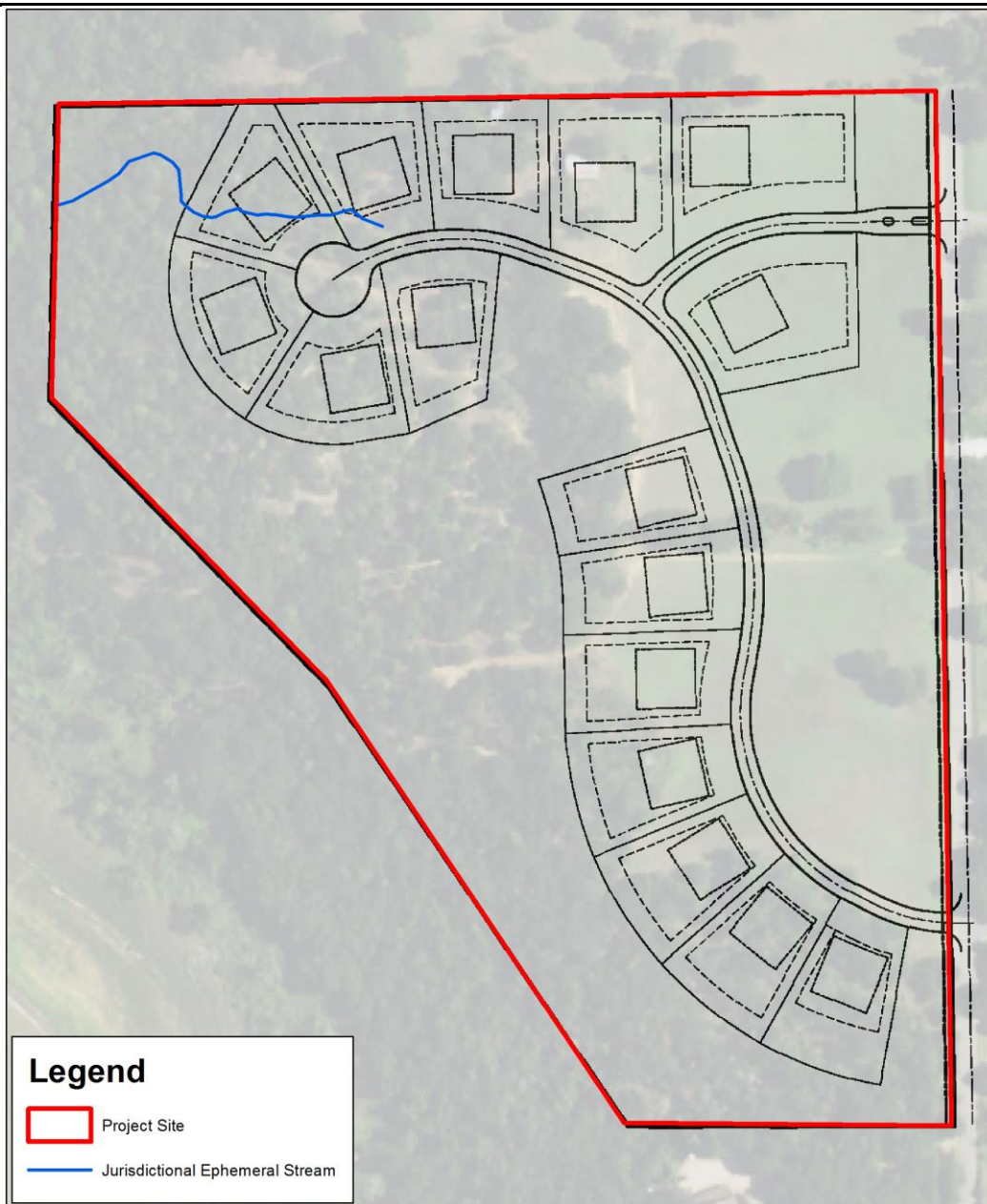


Ridinger Associates
Project # 4300040



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

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



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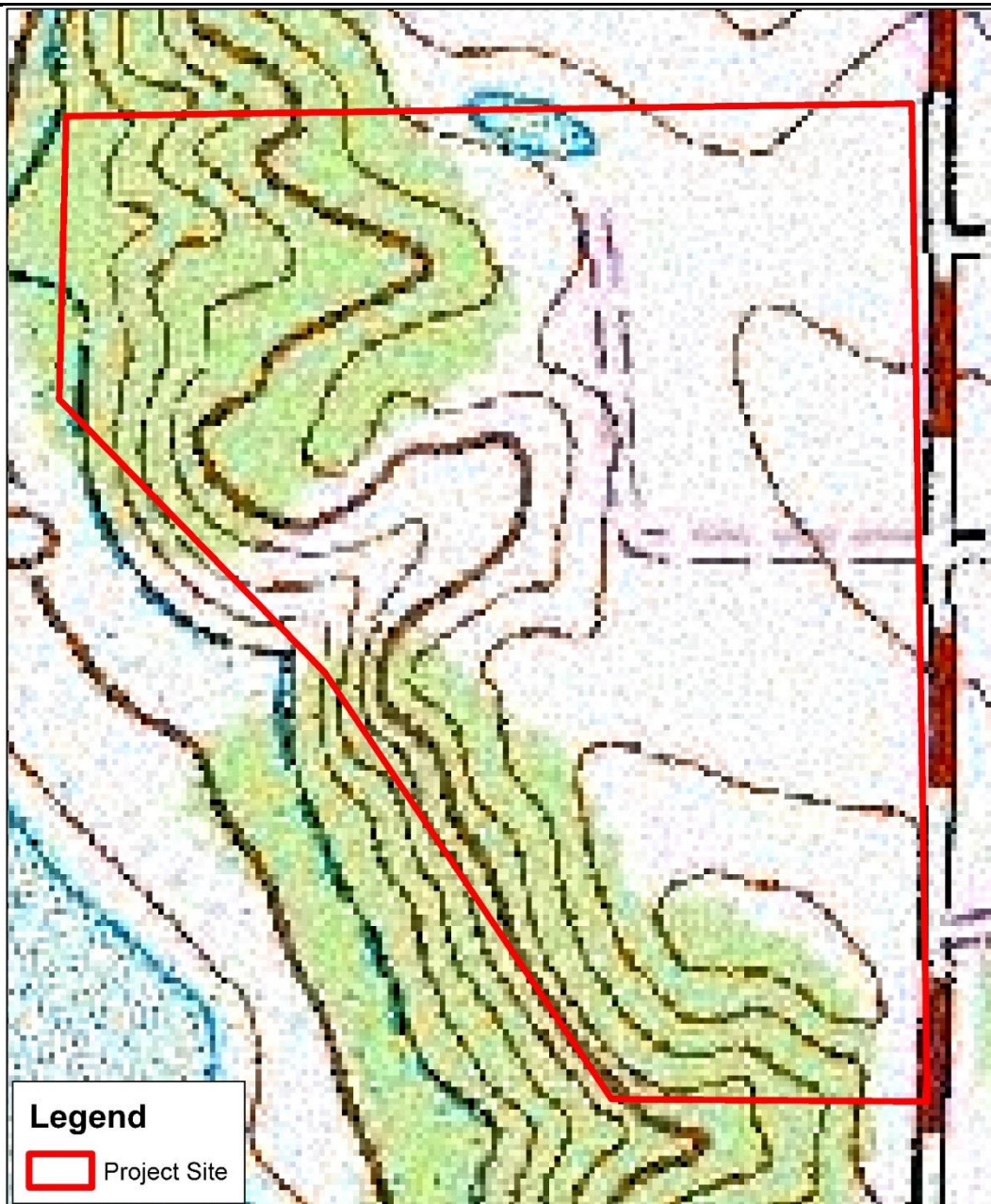


Ridinger Associates
Project # 4300040



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

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

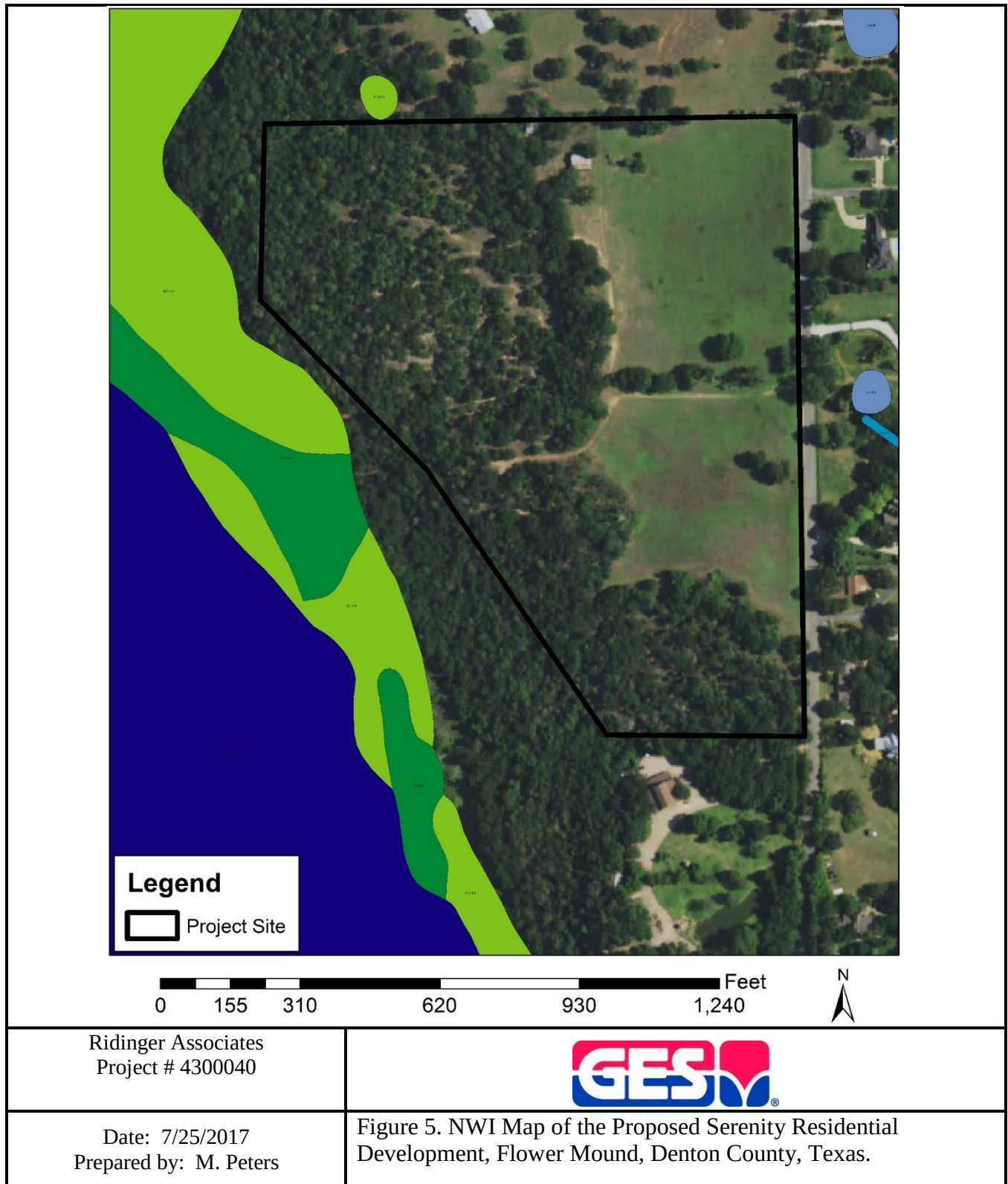


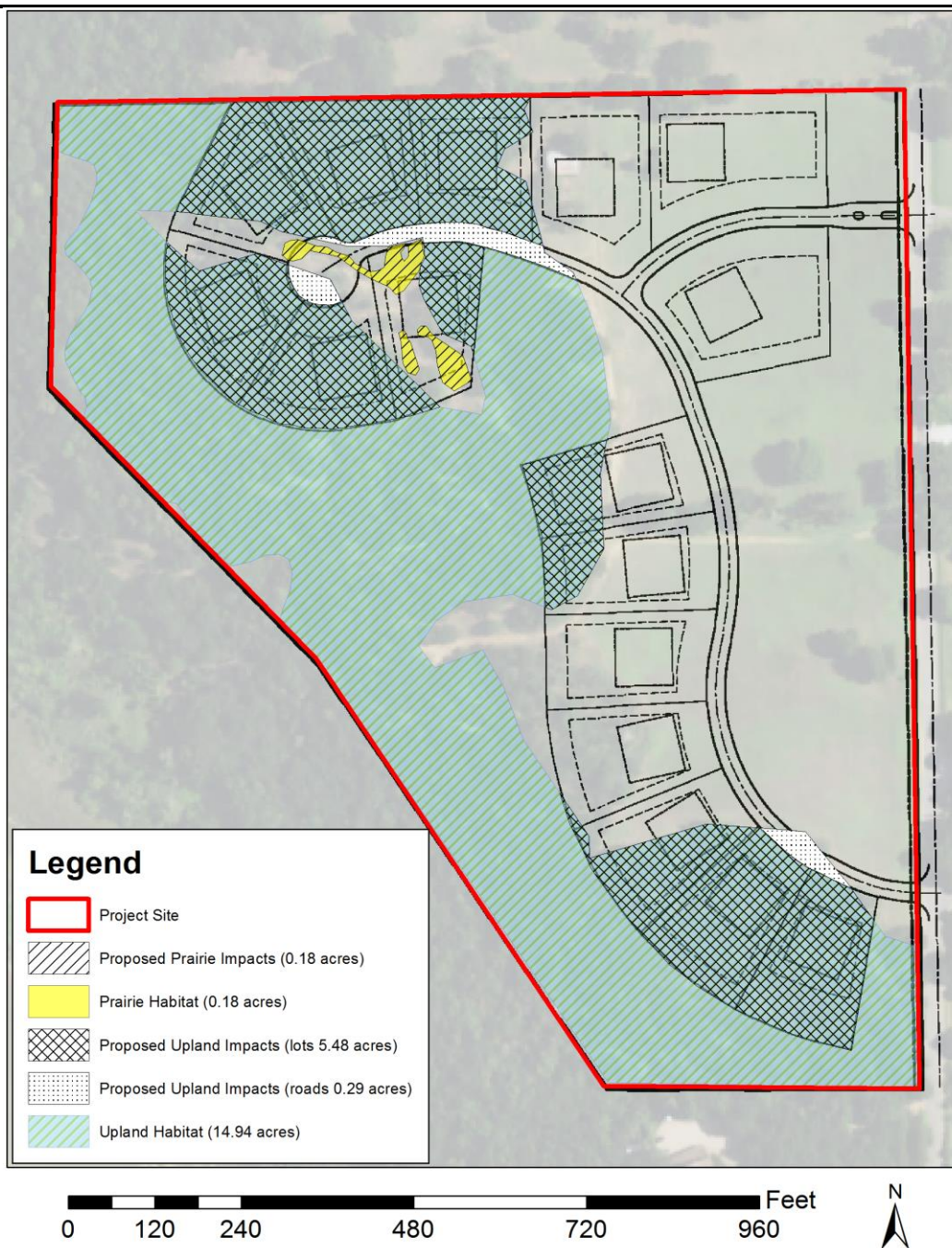
Ridinger Associates
Project # 4300040



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

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



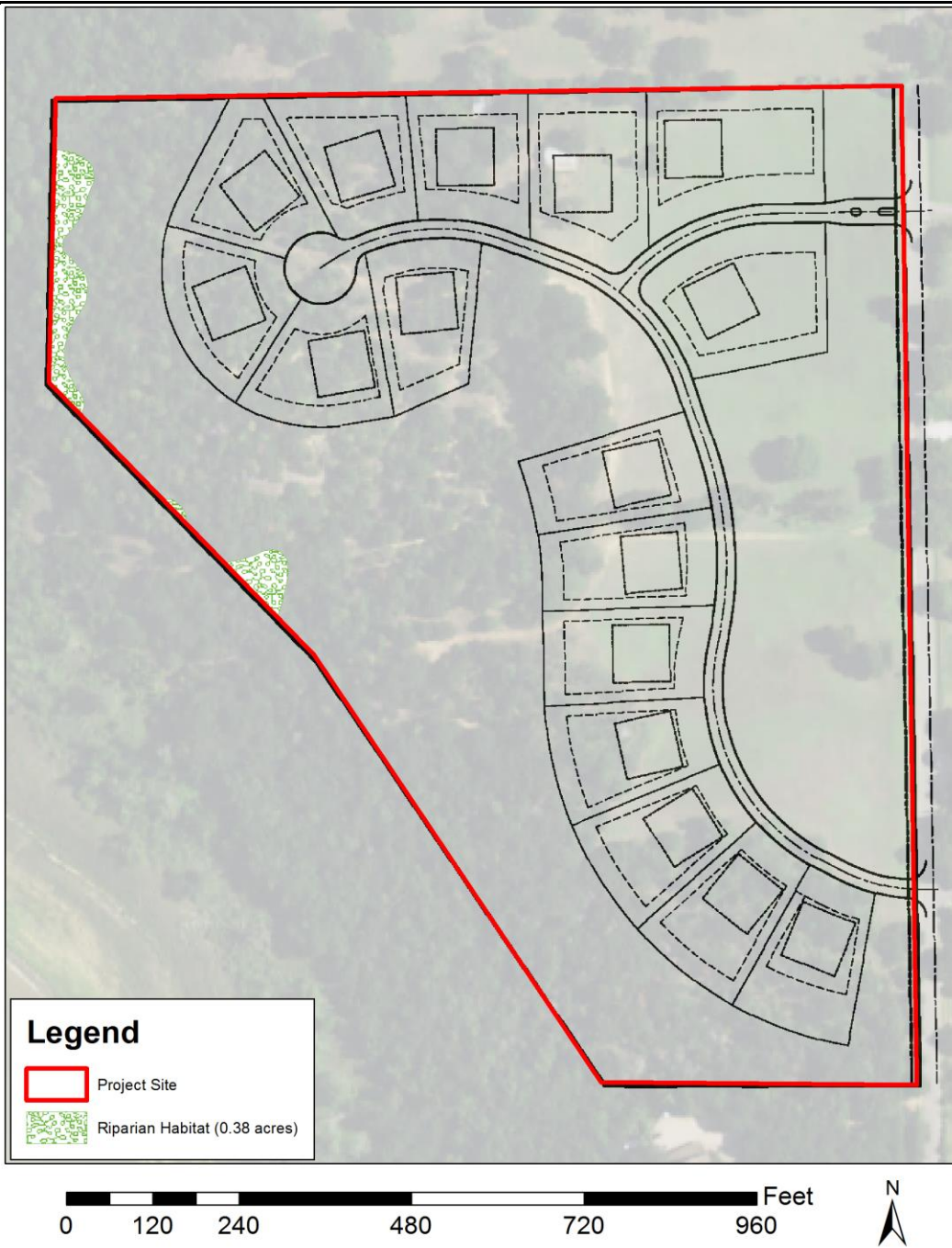


Ridinger Associates
Project # 4300040



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

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

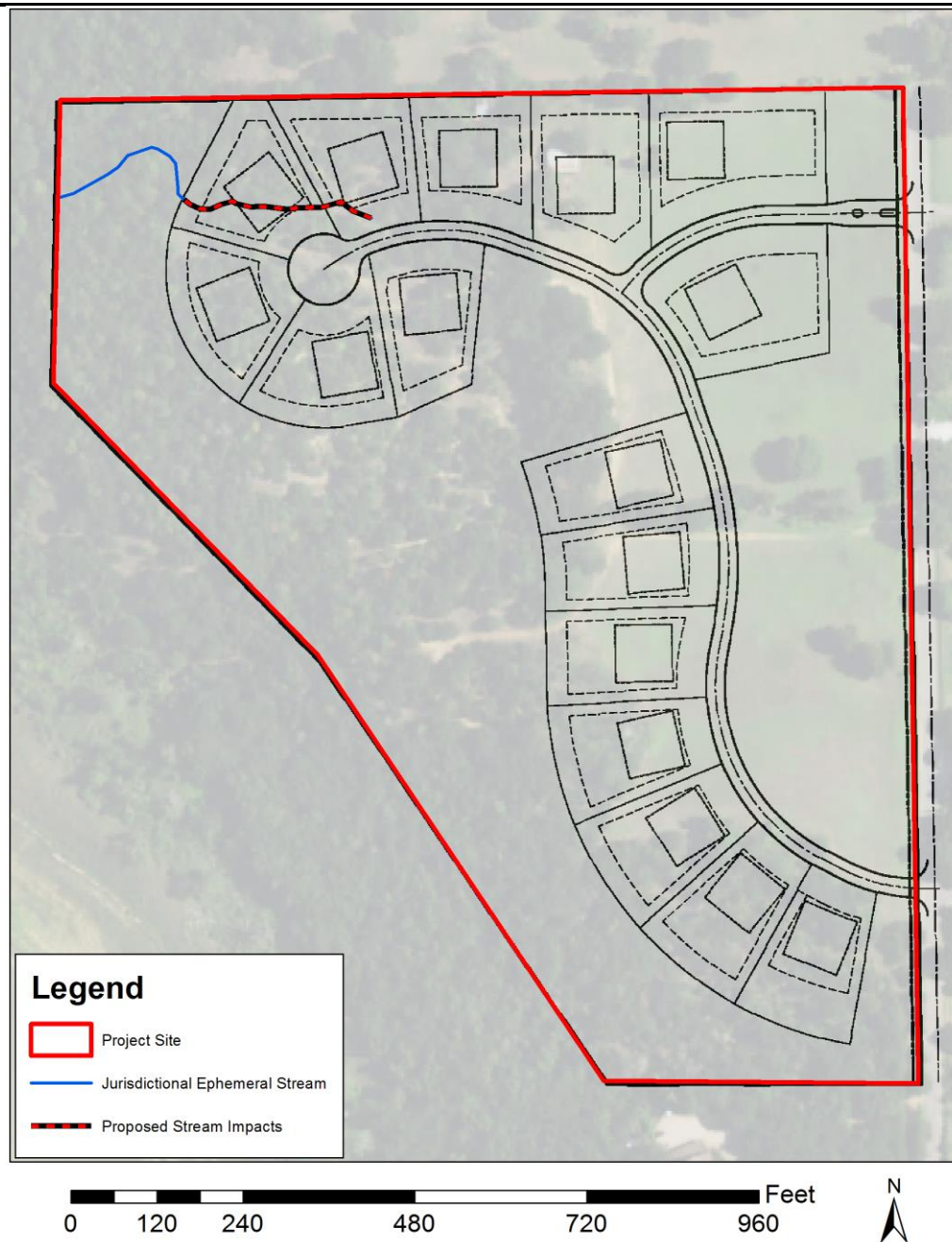


Ridinger Associates
Project # 4300040



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

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



Ridinger Associates
Project # 4300040



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

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

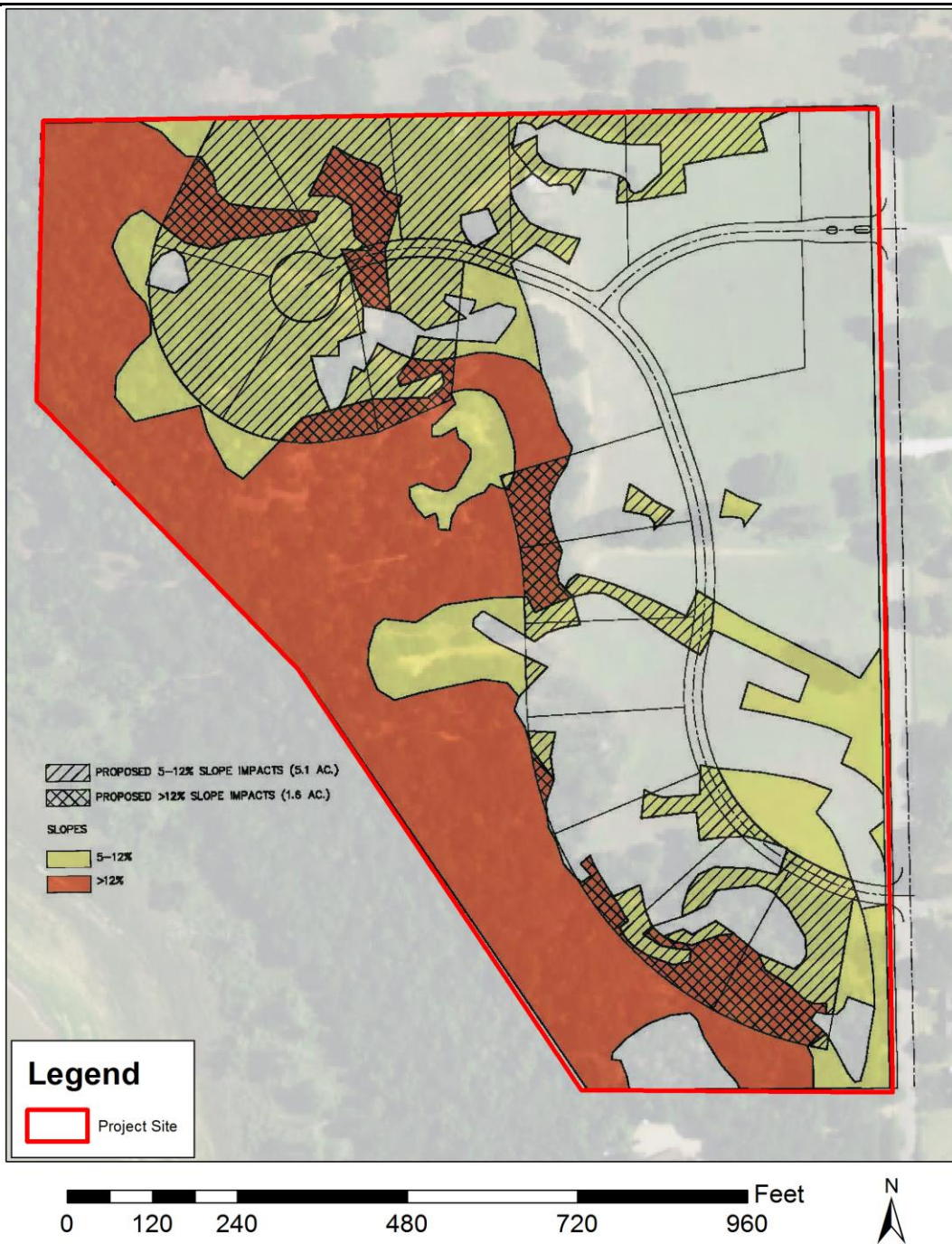


Ridinger Associates
Project # 4300040



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

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



Ridinger Associates
Project # 4300040



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

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



ENVIRONMENTAL CONSERVATION COMMISSION AGENDA ITEM NO. 3

REGULAR ITEM

DATE: November 7, 2017

FROM: James Hoefert, Environmental Review Analyst

PRESENTER Ron Stewart, with G&A Consultants

ITEM: Consider an application for a tree removal permit for two (2) specimen trees on the Edgewood residential development. The first specimen tree is located at 805 Carter Court. The second specimen tree is located at 1708 Beckwood Court.

BACKGROUND INFORMATION:

The Edgewood development is generally located south of FM 3040 (Flower Mound Road) and east of Gerault Road. The site is approximately 28.995 acres in size. The site is zoned for SF-10 Single-Family District-10 uses and is master planned for medium density residential uses. At the November 18, 2013, Town Council meeting, approval was granted to remove eight (8) specimen trees from the site in order to construct the residential development. At the March 17, 2014, Town Council meeting, approval was granted to remove three (3) additional specimen trees. Now that a home builder has purchased the lots from the developer, the applicant is proposing to add two (2) new specimen trees to the eleven (11) specimen trees previously approved for removal. The two (2) additional specimen trees proposed for removal are both in good condition.

The following is a list of the two (2) specimen trees requested for removal:

Tree #4207 – 29" post oak

Tree #3557 – 19.5" blackjack oak

The Town's tree ordinance requires that specimen trees removed from the site be replaced at a rate of two times their caliper inches. For the two (2) specimen trees, 97" of replacement trees, equaling 33 three-inch caliper trees, will be required for the removal of the two (2) specimen trees on this site.

CITIZEN FEEDBACK: As of November 2, 2017, staff has not received feedback related to this item.

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Letter from the applicant indicating the reason(s) for the tree removal permit request.
2. Specimen tree removal permit application.
3. Photographs of the specimen trees proposed for removal.
4. Photographs of approved signage onsite.
5. Tree Survey.

RECOMMENDATION: Move to recommend approval or denial of the requested permit for the removal of two (2) specimen trees on the Edgewood residential development. The first specimen tree is located at 805 Carter Court. The second specimen tree is located at 1708 Beckwood Court.



October 20, 2017

Jimmy Hoefert, Environmental Review Analyst
 Town of Flower Mound
 1001 Cross Timbers Road, Suite 2330
 Flower Mound, TX 75028

Reference: Tree Removal Permit Application
 805 Carter Court, Lot 19R, Block C
 1708 Beckwood Court, Lot 24, Block C
 Edgewood Subdivision
 Town of Flower Mound
 Denton, Texas

Dear Mr. Hoefert;

On behalf of the owner/developer on the aforementioned property, we are requesting that (2) specimen trees (as outlined on the attached tree removal exhibit), as defined in the TOFM Tree Preservation Code, be removed. There is (1) specimen tree being requested to be removed from each of (2) lots. The trees are being requested to be removed due to site and design conditions which thereby mean the subject development cannot reasonably be developed, based on economic and/or practical considerations, without removal of the tree included in the permit application.

TREE TABULATIONS FROM THE SPECIMEN TREE SURVEY

805 Carter Court, Lot 19R, Block C

Total specimen trees to be removed, #4207, 29" Post Oak	1 Tree
Code required trees per lot	(3) 3" trees
Subdivision mitigation trees required per lot	<u>(2) 3" trees</u>
Total trees on lot	(5) trees
Home builder lot specimen tree mitigation	
29" x 2 = 58" x \$125.00/inch =	\$7,250.00

1708 Beckwood Court, Lot 24, Block C

Total specimen trees to be removed, #3557, 19.5" Black Jack Oak	1 Tree
Total protected trees to be saved to be used as credits for required trees	3 Trees
Code required trees per lot	(0) 3" trees
Subdivision mitigation trees required per lot	<u>(2) 3" trees</u>
Total trees on lot	(5) trees
Home builder lot specimen tree mitigation	
19.5" x 2 = 39" x \$125.00/inch =	\$4,875.00

Several home plans were reviewed with various renditions of each based on saving the specimen tree as per the owner. Due to proximity of the specimen tree and tree well to the proposed homes and the required setbacks from the property lines, the specimen tree is not able to be saved. The site plan before you appears to be the most beneficial for taking into account all the site constraints and opportunities.

The following are the specimen trees we are requesting to be removed:

1. #4207, 29" Post Oak
2. #3557, 19.5" Black Jack Oak

These trees are being removed due to existing conditions and site constraints.

Thank you for your consideration.

Based on the above data, I respectfully ask that the aforementioned trees be allowed to be removed from the site.

Respectfully submitted,



Ron Stewart, ASLA
Landscape Architect, TX #791

Town of Flower Mound
Application for:
TREE REMOVAL PERMIT

(Effective for Developments submitted 2/17/00- present)

Check one: ☐ Protected Tree ☒ Specimen Tree ☐ Majestic Tree

1. Applicant- Note: Must be a licensed Landscape Architect or Registered Arborist

Name: RON STEWART, P.L.A.
G&A CONSULTANTS, LLC

Address: 111 HILLSIDE DR.
LEWISVILLE TX 75057

Phone: (972) 317-0276

Applicant's Legal Interest in the Property:
LANDSCAPE ARCHITECT

2. Property Owner(s)

Name(s) ASHTON WOODS HOMES
Address: 1200 VALLEY VIEW LANE, SUITE 100
FARMERS BRANCH, TX 75234

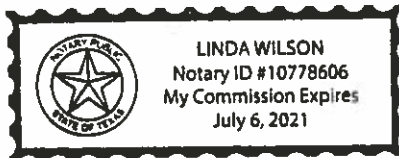
3. Location and Legal Description of Property:

EDGEWOOD
LOT 19R & 24 BLOCK C, EDGEWOOD SUBDIVISION, F.M.
AKA -
205 CARTER COURT & 1708 BECKWOOD COURT

4. Owner's Authorization of Representation

I, Tom Houser, the owner of the above described real property, do hereby authorize RON STEWART to represent my interests and to file an Application for Tree Removal Permit for said real property, pursuant to the terms and provisions of Chapter 94 (Vegetation), of the Land Development Code of the Town of Flower Mound, Texas.

[Signature]
Signature of Owner



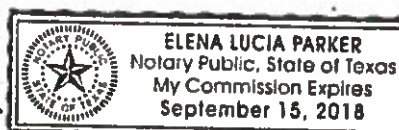
Given Under My Hand and Seal of Office
This the 20th Day of October, 2017
Linda Wilson
Notary Public
In and For Dallas County, Texas.

5. Applicants Affidavit- Note: Applicant must be a licensed Landscape Architect or Registered Arborist.

Subject to criminal penalties contained in Chapter 12, Land Development Code of the Town of Flower Mound, Texas, I RON STEWART, do hereby swear or affirm that all of the Information contained herein and submitted herein is, to the best of my knowledge, true, correct and complete and that no false, misleading or incomplete information has been intentionally provided or submitted with this Application for a Tree Removal Permit.

[Signature]
Signature of Applicant

Landscape Architect License No. 791
State of Licensure TX
Or ISA Certified Arborist No. _____



Given Under My Hand and Seal of Office
This the 20th Day of October, 2017
Elena Lucia Parker
Notary Public
In and For Denton County, Texas

6. Received by Town of Flower Mound on (Date) 10/20/2017 by (initials) JRH.

Edgewood – Specimen trees proposed for removal



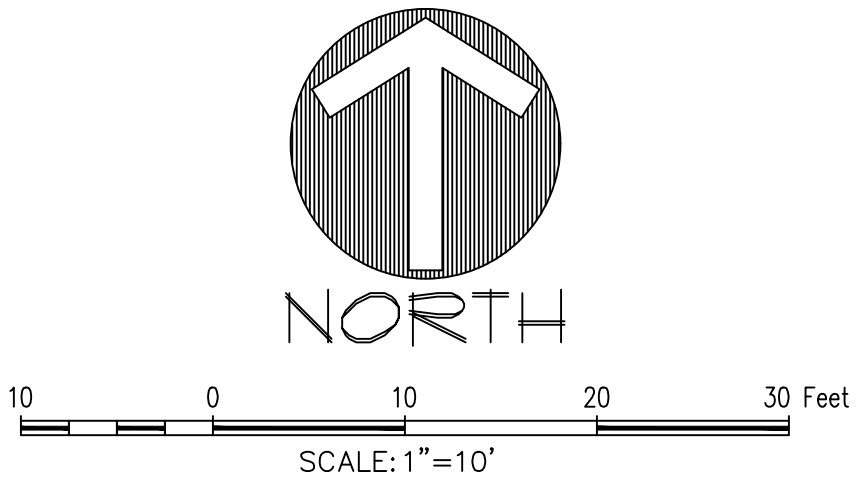
Tree Removal Request Signage

1708 Beckwood Court



805 Carter Court





TREE PRUNING, REMOMAL 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 ½ inches in diameter.
 - ii) Provide 14 feet of vertical clearance over streets and 8 feet over sidewalks.
 - iii) Remove stubs, cutting outside the wounded 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 300 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.
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 - 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 es "airaug" 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 CHART

TREE #	CALIPER (")	COMMON NAME	BOTANICAL NAME	PROTECTED	SPECIMEN	REMOVED
3557	19.5	BLACKJACK OAK	Quercus marilandica	YES	YES	YES

OWNER/DEVELOPER

Ph. ####
Contact: ####

SITE PLANNING CIVIL ENGINEERING PLATING
CONSULTANTS, LLC
LAND SURVEYING LANDSCAPE ARCHITECTURE
111 Hillside Drive • Lewisville, TX 75057
P: 972.436.9712 • F: 972.436.9715
144 Old Town Blvd. North, Suite 200 • Angles, TX 76226
P: 940.240.1012 • F: 940.240.1028
TBPE Firm No. 1798 TBPLS Firm No. 1047700



805 CARTER COURT
EDGEWOOD
Lot 19R, Block C
Acres
in the
TOWN OF FLOWERMOUND
DENTON COUNTY, TEXAS

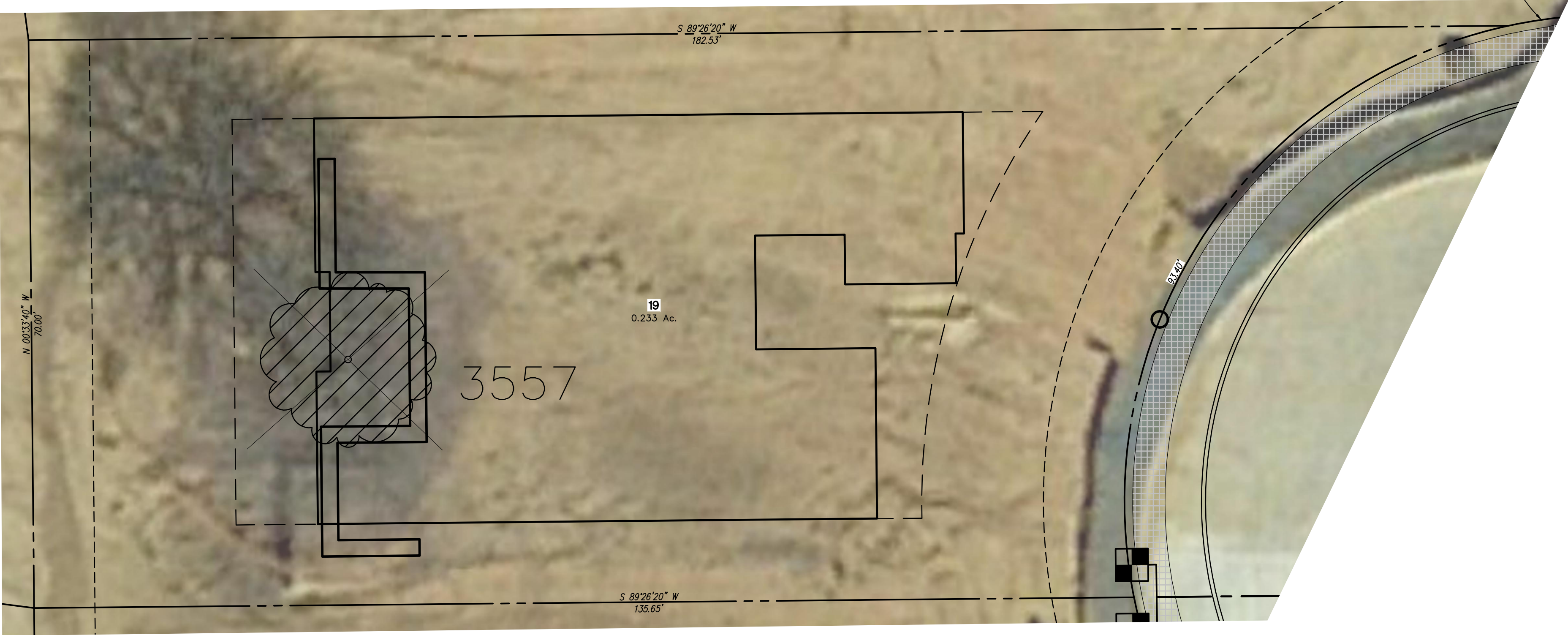
TREE SURVEY

PRELIMINARY PLANS
THIS DOCUMENT IS FOR INTERIM REVIEW
AND IS NOT INTENDED FOR CONSTRUCTION,
BIDDING, OR PERMIT PURPOSES.
EXCLUDED FROM THE PROJECT RECORD SET
DATED 10/20/2017

Drawn By: MH
Date: ###
Scale: 1"=10'
Revisions:
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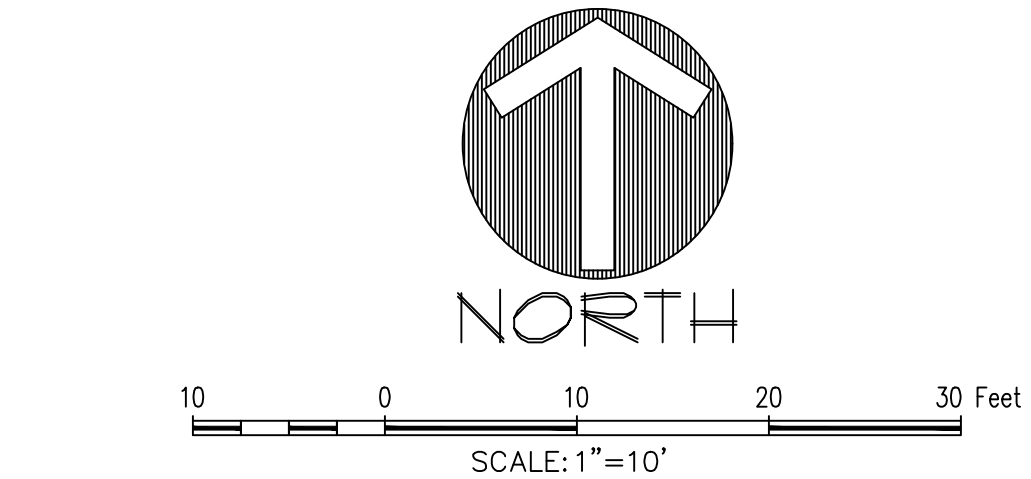
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TREE CHART

TREE #	CALIPER (")	COMMON NAME	BOTANICAL NAME	PROTECTED	SPECIMEN	REMOVED
3557	19.5	BLACKJACK OAK	Quercus marilandica	YES	YES	YES



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OWNER/DEVELOPER

####

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Ph. ####

Contact: ####

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TREE SURVEY

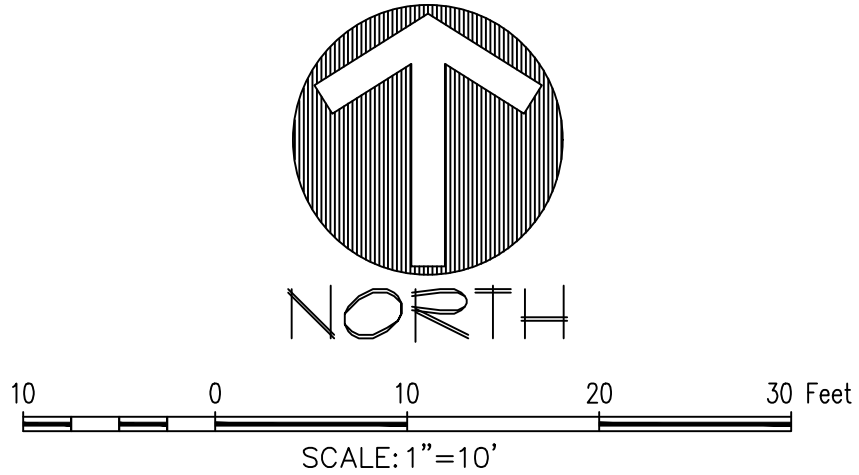
PRELIMINARY PLANS
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NOTED: 10/20/2017
DATED 10/20/2017

Drawn By: MH
Date: ###
Scale: 1"=10'
Revisions:

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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.

D. DEFINITIONS

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- 3) CRS: Complete Root System: The soil space directly under the dripline of any tree and an additional 7 feet beyond said dripline.
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- iii) Remove stubs, cutting out the woodwork 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.

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- 1) The Contractor shall be responsible for protecting and maintaining retained trees, as well as removal of any unsightly trees within the Project Area.
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- 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.
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TREE #	CALIPER (")	COMMON NAME	BOTANICAL NAME	PROTECTED	SPECIMEN	REMOVED
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3554	14.5	BLACKJACK OAK	Quercus stellata	YES	NO	NO
1499	19	LIVE OAK	Quercus virginiana	YES	NO	NO
3555	14	LIVE OAK	Quercus virginiana	YES	NO	NO

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11 12 13 14
 15 16 17 18

Ph ##:

Contact #

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CONSULTANTS, LLC
LAND SURVEYING LANDSCAPE ARCHITECTURE

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TBPE Firm No. 1798
TBPLS Firm No. 1004770



1708 BECKWOOD COURT

EDGEWOOD
ot 24, Block C

Acres
in the
TOWN OF FLOWERMOUND
DENTON COUNTY, TEXAS

TREE SURVEY

PRELIMINARY PLANS
THIS DOCUMENT IS FOR INTERIM REVIEW
AND IS NOT INTENDED FOR CONSTRUCTION,
BIDDING, OR PERMIT PURPOSES.
IRON STEWART LANDSCAPE ARCHITECT TX # 791
DATED 10/20/2017

Drawn By: MH

Date: ###
Scale: 1"=10'

Revisions:

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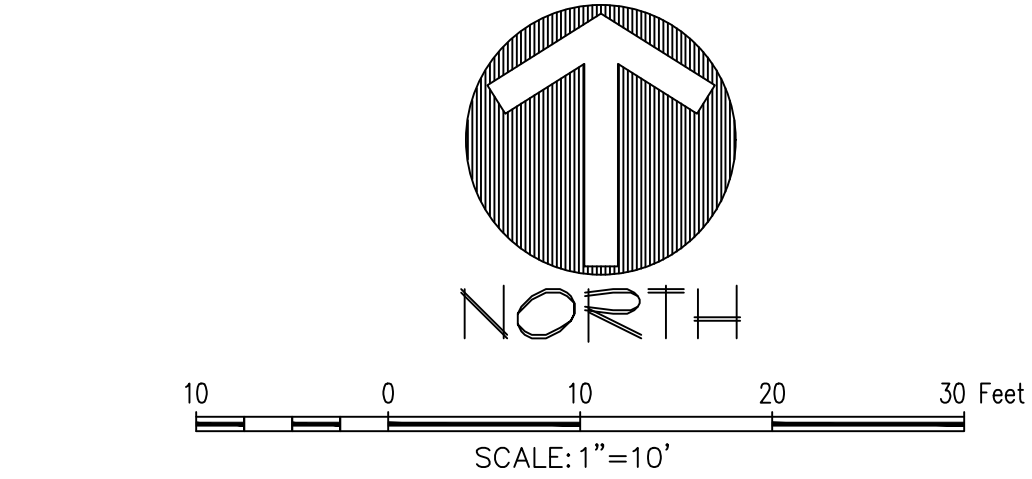
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TREE PRUNING, REMOMAL AND PROTECTION MEASURES

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 - 4) No more than 20 percent of live foliage shall be removed from any tree.
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 - 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' "x" stakes and orange web fence material.
 - 3) All trees to be preserved shall have 6 inches of hardwood mulch applied inside the tree protection zone. This hardwood mulch shall be replenished as necessary to maintain a 6 inch depth.
 - 4) Construction trailers, traffic and storage areas must remain outside fenced areas at all times.
 - 5) 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 es "airaug" 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 without 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 CHART

TREE #	CALIPER (")	COMMON NAME	BOTANICAL NAME	PROTECTED	SPECIMEN	REMOVED
4207	29	POST OAK	Quercus stellata	YES	YES	YES
3554	14.5	BLACKJACK OAK	Quercus stellata	YES	NO	NO
1499	19	LIVE OAK	Quercus virginiana	YES	NO	NO
3555	14	LIVE OAK	Quercus virginiana	YES	NO	NO

SITE PLANNING CIVIL ENGINEERING PLATING
CONSULTANTS, LLC
LAND SURVEYING LANDSCAPE ARCHITECTURE
111 Hillside Drive • Lewisville, TX 75057
P: 972.436.9712 • F: 972.436.9715
144 Old Town Blvd. North, Suite 200 • Angles, TX 76226
P: 940.240.1012 • F: 940.240.1028
TBPES Firm No. 1796 TBPES Firm No. 10047702



1708 BECKWOOD COURT
EDGEWOOD
Lot 24, Block C
Acres
in the
TOWN OF FLOWERSMOUND
DENTON COUNTY, TEXAS

TREE SURVEY

PRELIMINARY PLANS
THIS DOCUMENT IS FOR INTERIM REVIEW
AND IS NOT INTENDED FOR CONSTRUCTION,
BIDDING, OR PERMIT PURPOSES.
EXCLUDED FROM THE PROJECT RECORD SET
DATED 10/20/2017

Drawn By: MH
Date: ###
Scale: 1"=10'
Revisions:
####
####
####
####
####
####
####
####

17361

T1.1

OWNER/DEVELOPER

Ph. ####
Contact: ####



ENVIRONMENTAL CONSERVATION COMMISSION AGENDA ITEM NO. 4

REGULAR ITEM

DATE: November 7, 2017

FROM: Matthew Woods, Director of Environmental Services

ITEM: **Consider a request to amend the Land Development Regulations (LDR17-0003 – Tree Ordinance Amendment) by amending Chapter 94, entitled “Trees,” of the Town’s Code of Ordinances.**

BACKGROUND INFORMATION: During the Special Session of the 85th Texas Legislative Session, House Bill 7 which established requirements related to municipal tree regulations was approved and then signed into law. Municipal tree regulations that include a mitigation fee for tree removals are required to provide a process for tree planting credits. Although the impact to the Town’s Tree Ordinance, Chapter 94 “Trees”, is minimal, the Tree Ordinance will need to be amended to address the changes made to the Texas Local Government Code.

The new Section 212.905 of the Local Government Code requires the Town to amend its ordinance to include the tree planting credit process outlined in House Bill 7 for residential and commercial development applications. The new credit standards will allow a developer to apply for a credit of 40% of the mitigation fee for commercial projects and 50% of the mitigation fee for residential projects if the developer plants additional mitigation trees in compliance with both Chapter 94 “Trees” and the planting standards established in the new legislation. There are additional standards or requirements within the legislation; however, they either do not require an amendment to the Town’s ordinance and/or are already addressed within the Town’s ordinance.

ATTACHMENTS:

1. Draft Ordinance
2. House Bill No. 7
3. Chapter 94 “Trees”

RECOMMENDATION: Move to recommend approval to amend the Land Development Regulations (LDR17-0003 – Tree Ordinance Amendment) by amending Chapter 94, entitled “Trees,” of the Town’s Code of Ordinances.

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 94-38 "PER-CALIPER-INCH CASH VALUE; REPLACEMENT TREES." OF ARTICLE IV, "PERMITS, MITIGATION, PENALTIES, AND INCENTIVES," OF CHAPTER 94 OF THE TOWN'S CODE OF ORDINANCES BY ADDING TREE MITIGATION FEE CREDIT ALLOWANCES PURSUANT TO SECTION 212.905 OF THE TEXAS LOCAL GOVERNMENT CODE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; REPEALING ALL CONFLICTING ORDINANCES; 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 previously adopted Chapter 94 to the Code of Ordinances establishing comprehensive regulations for the removal, preservation, and mitigation of trees in conjunction with the development of real property within in the Town; and

WHEREAS, the Town has imposed tree removal mitigation fees to encourage the planting and preserving of trees whenever real property is developed within the Town; and

WHEREAS, the Texas Legislature has recently passed House Bill No. 7, creating Section 212.905 of the Texas Local Government Code; and

WHEREAS, Section 212.905 of the Texas Local Government Code requires that Texas municipalities provide for a tree removal mitigation fee credit for planted trees if the local government charges a mitigation fee for tree removal; and

WHEREAS, the Town Council desires to continue to charge a tree removal mitigation fee and therefore desires to add an allowance for a mitigation fee credit in conformance with state law.

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

SECTION 1

That Section 94-38 "Per-caliper-inch cash value; replacement trees" of Chapter 94 of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended by to read as follows:

Sec. 94-38. Per-caliper-inch cash value; replacement trees; mitigation fee credit.

- (a) A per-caliper-inch cash value for replacement trees shall be set, and updated as necessary by the town council after review and recommendation by the environmental conservation commission. The per-caliper-inch cash value shall be used to calculate mitigation costs for authorized and unauthorized removals of protected, specimen, and historic trees. The tree preservation and enforcement officer or his authorized designee shall maintain a record of the current per-caliper-inch cash value of replacement trees.
- (b) Whenever a mitigation fee is imposed in accordance with this Chapter, a mitigation fee credit will be given for replacement tree(s), that are at least two inches in diameter at the point on the trunk 4.5 feet above ground, planted on the property for which the tree mitigation fee was assessed or property mutually agreed upon by the Town and the person. The calculation for the credit will be done in the same manner as the tree mitigation fee assessed against the person and be:
 - (1) 50 percent of the amount of the tree mitigation fee assessed against the person if:
 - (A) the property is a residential structure or pertains to the development, construction, or renovation of a residential structure; and
 - (B) the person is developing, constructing, or renovating the property not for use as the person's residence; or
 - (2) 40 percent of the amount of the tree mitigation fee assessed against the person if:
 - (A) the property is not a residential structure; or
 - (B) the person is constructing or intends to construct a structure on the property that is not a residential structure.

(c) An application for a mitigation fee credit under Subsection (b) must be done in conjunction with an application for a tree removal permit as prescribed within this Chapter.

SECTION 2

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 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 3

All rights and remedies of the Town of Flower Mound are expressly saved as to any and all violations of the provisions of the Code of Ordinances as amended or revised herein, or any other ordinances affecting the matters regulated herein which 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 4

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

SECTION 5

The Town Secretary of the Town of Flower Mound is hereby directed to publish the caption of this Ordinance 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 6

This Ordinance shall take effect and be in full force from and after the date of its passage and publication.

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 NOVEMBER, 2017.

APPROVED:

Thomas E. Hayden, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

APPROVED AS TO FORM AND LEGALITY:

Bryn Meredith, TOWN ATTORNEY

relating to municipal regulation of the removal of trees on private property.

SECTION 1. Subchapter Z, Chapter 212, Local Government Code, is amended by adding Section 212.905 to read as follows:

(1) "Residential structure" means:

(B) a detached one-family or two-family
ing the accessory structures of the dwelling;

(C) a multiple single-family dwelling that is not more than three stories in height with a separate means of entry for each dwelling, including the accessory structures of the dwelling;
or

(D) any other multifamily structure.

(2) "Tree mitigation fee" means a fee or charge imposed by a municipality in connection with the removal of a tree from private property.

(b) A municipality may not require a person to pay a tree
mitigation fee for the removed tree if the tree:

(1) is located on a property that is an existing

one-family or two-family dwelling that is the person's residence;
and

(2) is less than 10 inches in diameter at the point on
the trunk 4.5 feet above the ground.

(c) A municipality that imposes a tree mitigation fee for
tree removal on a person's property must allow that person to apply
for a credit for tree planting under this section to offset the
amount of the fee.

(d) An application for a credit under Subsection (c) must be
in the form and manner prescribed by the municipality. To qualify
for a credit under this section, a tree must be:

(1) planted on property:

(A) for which the tree mitigation fee was
assessed; or

(B) mutually agreed upon by the municipality and
the person; and

(2) at least two inches in diameter at the point on the
trunk 4.5 feet above ground.

(e) For purposes of Subsection (d)(1)(B), the municipality
and the person may consult with an academic organization, state
agency, or nonprofit organization to identify an area for which
tree planting will best address the science-based benefits of trees
and other reforestation needs of the municipality.

(f) The amount of a credit provided to a person under this
section must be applied in the same manner as the tree mitigation
fee assessed against the person and:

(1) equal to the amount of the tree mitigation fee

assessed against the person if the property is an existing one-family or two-family dwelling that is the person's residence;

(2) at least 50 percent of the amount of the tree mitigation fee assessed against the person if:

(A) the property is a residential structure or pertains to the development, construction, or renovation of a residential structure; and

(B) the person is developing, constructing, or renovating the property not for use as the person's residence; or

(3) at least 40 percent of the amount of the tree mitigation fee assessed against the person if:

(A) the property is not a residential structure; or

(B) the person is constructing or intends to construct a structure on the property that is not a residential structure.

(g) As long as the municipality meets the requirement to provide a person a credit under Subsection (c), this section does not affect the ability of or require a municipality to determine:

(1) the type of trees that must be planted to receive a credit under this section, except as provided by Subsection (d);

(2) the requirements for tree removal and corresponding tree mitigation fees, if applicable;

(3) the requirements for tree-planting methods and best management practices to ensure that the tree grows to the anticipated height at maturity; or

(4) the amount of a tree mitigation fee.

1 (h) A municipality may not prohibit the removal of or impose
2 a tree mitigation fee for the removal of a tree that:

3 (1) is diseased or dead; or

4 (2) poses an imminent or immediate threat to persons
5 or property.

6 (i) This section does not apply to property within five
7 miles of a federal military base in active use as of December 1,
8 2017.

9 SECTION 2. The changes in law made by this Act apply only to
10 a tree mitigation fee assessed by a municipality on or after the
11 effective date of this Act.

12 SECTION 3. This Act takes effect December 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 7 was passed by the House on July 28, 2017, by the following vote: Yeas 130, Nays 9, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 7 on August 15, 2017, by the following vote: Yeas 119, Nays 23, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 7 was passed by the Senate, with amendments, on August 15, 2017, by the following vote: Yeas 17, Nays 14.

Secretary of the Senate

APPROVED: _____

Date

Governor

Chapter 94 - TREES^[1]

Footnotes:

--- (1) ---

Editor's note— Ord. No. 63-08, § 3, adopted Oct. 6, 2008, repealed the former Ch. 94, Art. I, Art. II, Div. 1, Subdiv. I, Subdiv. II, §§ 94-71—94-73, Subdiv. III, §§ 94-91—94-94, Div. 3, §§ 94-121—94-128, Div. 4, Subdiv. I, §§ 94-151—94-156, Subdiv. II, §§ 94-181—94-183, Subdiv. III, §§ 94-201, 94-202, Subdiv. IV, §§ 94-221, 94-222, Subdiv. V, §§ 94-241, 94-242 and enacted a new Ch. 94 as set out herein. The former Ch. 94 pertained to vegetation and derived from Code 1989, ch. 12, § 5.03(e)(1)—(e)(8), ch. 12, §§ 5.08(a)—(d), ch. 12, §§ 5.08(e)(1)—(e)(3), ch. 12, § 5.08(f)(1), (f)(2), ch. 12, §§ 5.08(g)(1), (g)(2), ch. 12, §§ 5.08(h)—(k), ch. 12, § 6.15(a)(1), (2), ch. 12, §§ 6.15(b)(1)—(b)(3), ch. 12, § 6.15(c); Ord. No. 12-00, §§ 2, 6, 2-17-2000; Ord. No. 101-02, § 1, 12-16-2002.

ARTICLE I. - GENERALLY

Sec. 94-1. - Purpose.

The terms and provisions of this chapter are intended to accomplish the following public purposes:

- (1) Establish rules and regulations for the protection and preservation of native and/or established trees within the town.
- (2) Encourage the preservation and replacement of the town's tree canopy by establishing a 35 percent canopy goal for the town as outlined in guidelines established by "American Forests," the nation's oldest nonprofit citizens' conservation organization.
- (3) Encourage the protection of healthy trees and provide for the replacement and/or replanting of trees that are necessarily removed during construction, development or redevelopment.
- (4) Provide for the preservation and protection of larger native and/or established trees, which provide a valuable amenity to the urban environment and which, once destroyed, can only be replaced after generations, if at all.
- (5) Provide for shade, windbreaks and the cooling of air; thereby, reducing the requirements for air conditioning and heating and the utilization of scarce energy sources.
- (6) Provide for open space and more efficient drainage of land; thereby, reducing the effects of soil erosion and the need for additional drainage facilities.
- (7) Reduce the clear-cutting of land.
- (8) Preserve the country atmosphere and natural environment that define the community character of the town and make it a unique and desirable community.
- (9) Mitigate the ill effects of rapid and intense urbanization.

(Ord. No. 63-08, § 3(94-1), 10-6-2008)

Sec. 94-2. - Applicability of chapter provisions.

The terms and provisions of this chapter shall apply to real property within the town's corporate limits and extraterritorial jurisdiction as follows:

- (1) All real property upon which any protected, specimen, or historic tree is located, excluding property that has already been developed for single-family and two-family residential uses.
- (2) All vacant and undeveloped real property.
- (3) All real property to be subdivided or re-subdivided, including record plats and replats.
- (4) The yard areas of all developed property, excluding property already developed for single-family and two-family residential uses.

(Ord. No. 63-08, § 3(94-2), 10-6-2008)

Secs. 94-3—94-12. - Reserved.

ARTICLE II. - MEASUREMENT

Sec. 94-13. - Landscape, nursery, or replacement trees.

Unless specified otherwise, tree caliper (diameter) or circumference shall be measured at a height of 12 inches above ground level. The caliper of multi-trunk trees shall be measured by determining the diameter or circumference of the largest trunk at full caliper added to one-half of the diameter or circumference of each remaining trunk, measured at a height of 12 inches above ground level.

(Ord. No. 63-08, § 3(94-3), 10-6-2008)

Sec. 94-14. - Existing, established, and/or native trees.

The caliper or circumference of existing, established, and/or native trees shall be measured in accordance with the measuring rules and procedures as developed and updated by the Texas Forest Service. A copy of these procedures shall be made available for review in the office of the tree preservation and enforcement officer. The current procedure is outlined below.

- (1) *Caliper width or circumference.*

General rule: Measure the smallest trunk caliper width or circumference between the diameter at breast height ("DBH") point (4.5 feet) and the ground, but below the lowest fork. Also record the height above the ground, in inches, where the measurement was taken.

- (2) *Determining DBH point.*

Tree on slope: Measure up 4.5 feet along the axis of the trunk on both the high and low sides of the trunk; DBH point is midway between these two planes.

Leaning tree: Measure 4.5 feet along both the top and under sides of the trunk; DBH point is midway between these two planes.

Low branches: When determining where on the trunk to measure circumference, ignore portions of the tree that do not form part of the tree's crown, such as dead branches or forks, and epicormic sprouts.

Obstruction at DBH: If there is a bump, burl, branch, or other obstruction at the DBH point, measure the circumference of the trunk above and below the obstruction and record the smaller value. A buttress that forms between the trunk and root system as a natural feature of the species (e.g.—bald cypress, water tupelo) should not be considered an obstruction.

- (3) *Multiple trees.* In practice, it must be determined whether a tree has a single trunk, or whether it represents two or more stems growing very close to one another. Trunks that have clear separation or included bark at or near the ground line should be considered separate trees; trunks of different species should also be considered separate stems, no matter how closely aligned. When following the measurement rules above, if the point below the lowest fork places the measurement at the ground line, the stems should be considered and measured as separate.

(Ord. No. 63-08, § 3(94-4), 10-6-2008)

Secs. 94-15—94-20. - Reserved.

ARTICLE III. - PRESERVATION

Sec. 94-21. - Tree designations.

Protected, specimen, and historic trees, except as specified in this section, shall possess the following respective characteristics or criteria:

- (1) *Protected trees.* Any tree listed on the small, medium, or large protected tree lists in section 94-22 that measures six inches in caliper width or greater and which is at least ten feet in height and located outside of existing public streets, alleys, rights-of-way, utility easements, drainage easements, fence easements, pedestrian access easements, or other existing public rights-of-way or easements.
- (2) *Specimen tree.* Except as specified in this section, any tree listed on the town's small, medium, or large protected tree lists can be considered a specimen tree if it reaches the designated size for that list. For the small tree list, a specimen tree shall be any tree that measures 13 inches or more in caliper width. For the medium tree list, a specimen tree shall be any tree that measures 19 inches or more in caliper width. For the large tree list, a specimen tree shall be any tree that measures 25 inches or more in caliper width. All measurements shall be taken in accordance with the measuring rules and procedures as outlined and maintained by the Texas Forest Service. These procedures are outlined in section 94-14 of this chapter. In addition to the provisions of this subsection, a specimen tree shall be any other tree that has been designated by the town council, upon recommendation by the environmental conservation commission, after public hearing and due notice to the owner of the tree, to be of high value because of its type, size, age or other relevant criteria. Specimen trees shall not be regulated as protected trees. Specific requirements are set forth in this chapter regarding specimen trees.

Post oak trees shall receive a separate designation and specimen size classification of 22 inches or more in caliper width as listed within section 94-22.

- (3) *Historic tree.* Upon recommendation by the environmental conservation commission, a historic tree shall be any tree that has been designated by the town council, after public hearing and due notice to the owner of the tree, as a tree of notable historical interest and value to the town because of its location or historical association with the community. A listing and map of all designated historic trees shall be maintained and updated by the tree preservation and enforcement officer or authorized designee and made available to the public upon request. Historic trees are not dependant on or determined by diameter or caliper width as are protected and specimen trees. Specific requirements are set forth in this chapter regarding historic trees.

Subject to the review and approval of the tree preservation and enforcement officer or authorized designee, a protected or specimen tree shall not include any living tree that a registered arborist or landscape architect certifies in writing is injured, dying, diseased or infested with harmful insects; that is in danger of falling, interferes with utility service or creates unsafe vision clearance; in any manner creates a hazardous or

dangerous condition so as to endanger the public health, welfare or safety. Further, a protected tree shall not include any living tree that is identified on approved subdivision construction plans as necessary to be removed to comply with EPA storm water permitting requirements or FHA lot grading plans.

Subject to review and approval of the tree preservation and enforcement officer or authorized designee, a protected, specimen, or historic tree shall not include any tree that a registered arborist or landscape architect certifies in writing is dead.

(Ord. No. 63-08, § 3(94-5), 10-6-2008; [Ord. No. 62-16](#), § 2, 11-21-2016)

Sec. 94-22. - Protected tree lists.

- (a) *Generally.* The tree species lists contained in this section have been developed and will be periodically updated by the town's environmental conservation commission and shall be maintained and distributed to the public by the tree preservation and enforcement officer or authorized designee as guides for the identification and selection of tree species that meet the various standards and requirements of this chapter. Trees included on this tree species list were selected on the basis of one or more of the following criteria or factors: hardiness, resistance to disease, suitability relative to local climate and soil conditions, adaptability for transplantation, longevity, adaptability to various landscape conditions, resistance to drought, aesthetic qualities, shade provision, windbreak provision, and screening qualities.
- (b) *Lists of trees that are protected.* Unless otherwise specified in this chapter, only those tree species found on the following lists shall be subject to the preservation, protection and replanting requirements of this section.

Small Tree List

Common Name	Scientific Name
Carolina buckthorn	(Rhamnus caroliniana)
Yaupon holly	(Ilex vomitoria)
Possum haw	(Ilex deciduas)
Redbud	(Cercis species)
Texas buckeye	(Aesculus glabra variety arguta)
Chickasaw plum	(Prunus agustifolia)
Mexican plum	(Prunus mexicana)

Medium Tree List

Common Name	Scientific Name
Slippery elm	(Ulmus rubra)
Cedar elm	(Ulmus crassifolia)
Winged elm	(Ulmus alata)
Blackjack oak	(Quercus marilandica)
Persimmon species	(Diospyros species)
Chittamwood	(Bumelia languinosa)
Western soapberry	(Sapindus drummondii)
Sweetgum	(Luquidambar styraciflua)

Large Tree List

Common Name	Scientific Name
Shumard red oak	(Quercus shumardi)
Texas red oak	(Quercus texana)
Southern live oak	(Quercus virginiana)
Water oak	(Quercus nigra)
Bur oak	(Quercus macrocarpa)
Chinquapin oak	(Quercus muehlenbergii)
American elm	(Ulmus americana)
Pecans and hickories	(Cayra species)

Magnolia	(Magnolia grandiflora)
Bald cypress	(Taxodium distichum)
Pine species	(Pinus species)
Ash species	(Fraxinus species)
Sycamore	(Plantanus occidentalis)
Black walnut	(Juglans nigra)

Post Oak — 22" Specimen Size

Common Name	Scientific Name
Post oak	(Quercus stellata)

(Ord. No. 63-08, § 3(94-6), 10-6-2008; [Ord. No. 62-16](#), § 3, 11-21-2016)

Sec. 94-23. - Tree survey; development projects.

Tree surveys are required to accompany an application for a development plan, site plan, record plat, replat, oil and gas well drilling permit, oil and gas pipeline permit, tree removal permit, or tree transplanting permit. A tree survey may be required to accompany a zoning application or a master plan amendment if it is deemed necessary by the town's tree preservation and enforcement officer. Each tree survey shall contain, but not be limited to, the following information/parts:

- (1) The location of all specimen trees and historic trees on the subject site.
- (2) The location of the trunk and the extent of the canopy spread of each specimen tree and historic tree on the subject site.
- (3) A table containing the following information for each specimen tree and historic tree:
 - a. Tree number;
 - b. Common and scientific name of each tree;
 - c. Diameter (DBH) of each tree measured in accordance with section 94-14 of this chapter;
 - d. General health/condition of each tree;
 - e. Average canopy spread;
 - f. Status (specimen or historic) of each tree;

- g. Whether each identified tree will remain or be removed; and
 - h. Location coordinates (northings and eastings, State Plane - NAD 1983) for each tree.
- (4) Each specimen tree and historic tree shall be affixed with a permanent tag bearing the corresponding number on the tree survey. This tag shall be placed on the trunk of the tree, between five and six feet in height on the south face of the tree's trunk.
 - (5) Each tree survey shall contain a count of all protected trees located on the property.
 - (6) Each tree survey shall contain a count of all protected trees that will be removed from the buildable area on the property. The phrase "buildable area" is defined in section 94-32 of this chapter.
 - (7) Protected trees designated for preservation shall be flagged in a distinguishing manner approved by the town for such purpose. In addition, those trees designated for removal shall be flagged in a different distinguishing manner as approved by the town.
 - (8) The tree survey must be signed, and stamped or sealed, by a certified arborist, certified forester, or a registered landscape architect. Each tree survey submitted shall contain one sheet of the tree survey as described above, one sheet with the tree survey data overlain with the site information, and one sheet with the site information overlain on an aerial photo for the site. The tree survey shall be on drawings measuring 24 inches by 36 inches and shall be drawn to a scale of no less than 100 feet to one inch, unless otherwise approved by the tree preservation and enforcement officer. When necessary the tree survey shall be on several sheets accompanied by an index sheet, showing the entire area of the survey. Necessary site information includes:
 - a. The location and dimensions of all existing or proposed public streets, alleys, rights-of-way, utility easements, drainage easements, fence easements, pedestrian access easements or other public rights-of-way or easements;
 - b. The location and dimensions of the designated parking area and designated stockpile area required in this subdivision and of any site proposed or anticipated to be proposed for a temporary batching plant permit; and,
 - c. The location of all existing or proposed property lines, lot lines, building lines, setback and yard requirements, any proposed building footprint or floor plan, and other special relationships or significant features of the proposed development plan, record plat or site plan of the development.
 - d. The location of designated upland, riparian habitat, and FEMA floodplain, if identified through an environmentally sensitive area survey and subsequent environmental protection plan, as defined in the town's SMARTGrowth Program and Analysis Manual.

(Ord. No. 63-08, § 3(94-7), 10-6-2008; [Ord. No. 62-16](#), § 4, 11-21-2016)

Sec. 94-24. - Tree survey; residential lots.

Tree surveys are required to accompany an application for a building permit for the construction of homes on undeveloped residential lots. For lots that are one acre in size or larger, the tree survey shall be completed as described in section 94-23 of this chapter. For lots that are less than one acre in size, the tree survey shall contain, but not be limited to, the following information/parts:

- (1) A site plan showing: The location and configuration of the proposed house/structure, all required setbacks, sidewalks, driveway locations, porches, etc.
- (2) Further, the site plan shall show the location of all specimen or historic trees located on the site.
- (3) The survey shall depict the location of the trunk and the extent of the canopy spread of each specimen or historic tree.

- (4) A table (spreadsheet) shall be supplied containing the common name, caliper width (DBH), and tree number of each specimen tree and historic tree shown on the site plan/tree survey. All measurements shall be in accordance with section 94-14 of this chapter.
- (5) A count of all protected trees on the site and all protected trees proposed for removal shall be included on the tree survey.

(Ord. No. 63-08, § 3(94-8), 10-6-2008)

Secs. 94-25—94-30. - Reserved.

ARTICLE IV. - PERMITS, MITIGATION, PENALTIES, AND INCENTIVES

Sec. 94-31. - Generally.

No person, directly or indirectly, shall cut down, destroy, remove or effectively destroy through damaging any protected, specimen, or historic tree on any real property within the town without first obtaining a tree removal permit as required in the terms and provisions of this article. Further, the replanting of any protected, specimen, or historic tree requires a tree replanting permit in accordance with the terms and provisions of this article.

(Ord. No. 63-08, § 3(94-9), 10-6-2008)

Sec. 94-32. - Trees located in a buildable area.

The phrase "buildable area" shall mean and include all of a commercial or residential building lot, oil and gas pad site, development site or other site, excluding the fully developed FEMA floodplain as defined in section 90-403 and required street/landscaping buffer areas. Trees located within TXDOT rights-of-way are exempt from the terms and provisions of this chapter.

(Ord. No. 63-08, § 3(94-10), 10-6-2008; [Ord. No. 62-16](#), § 5, 11-21-2016)

Sec. 94-33. - Tree transplanting permit.

An application for a tree transplanting permit for protected trees located on undeveloped property or developed nonresidential property within the town may be submitted at any time and need not be submitted in conjunction with a development plan or record plat or a building permit. Tree transplanting permits shall be obtained by making application to the town's tree preservation and enforcement officer or authorized designee on forms prescribed by the town when a protected tree is proposed to be transplanted within the town. No fee shall be charged to make application for a tree transplanting permit. The application shall also be accompanied by a written document indicating the reasons for transplanting the protected tree and two copies of a legible tree survey. The tree survey should be prepared in accordance with section 94-24 of this chapter.

Upon receipt of a proper application for a tree transplanting permit, the town's tree preservation and enforcement officer or authorized designee shall review the application and may conduct field inspections of the site or development and/or refer the permit application to other departments for review and recommendations as deemed necessary and appropriate by the town manager or authorized designee. The application for a tree transplanting permit shall be approved unless the town's tree preservation and enforcement officer or authorized designee determines that the proposed transplanting will unnecessarily damage or jeopardize the health of the trees proposed to be transplanted. A denial of an application for a tree transplanting permit by the tree preservation and enforcement officer or authorized designee may be

appealed to the environmental conservation commission. The decision of the environmental conservation commission regarding the appeal from the denial of such tree transplanting permit application shall be final.

(Ord. No. 63-08, § 3(94-11), 10-6-2008)

Sec. 94-34. - Tree removal permit.

Tree removal permits are required for the removal of protected trees located outside the buildable area of a lot or site, and for any specimen trees and historic trees that are intended for removal from a lot or site in conjunction with the development, redevelopment, subdivision and/or re-subdivision of real property within the town.

An application for a tree removal permit, when required, shall be submitted at the earliest point in the application process where entitlements and/or buildable area are established. The following outlines the process associated with tree removal permit applications.

- (1) Tree removal permit applications, when required, shall be submitted in conjunction with a zoning planned development (ZPD) or a development plan and shall be considered by the environmental conservation commission prior to the project proceeding to the planning and zoning commission. The application shall be placed on the same town council agenda for action as the ZPD or development plan; or
- (2) Tree removal permit applications, when required, shall be submitted in conjunction with site plans or record plats for the development of subdivisions of four lots or less where the construction of necessary infrastructure necessitates a tree removal permit, and shall be considered by the environmental conservation commission and acted upon by the town council prior to the site plan or record plat proceeding to the planning and zoning commission for approval; or
- (3) Tree removal permit applications, when required, shall be submitted in conjunction with the development of individual residential or nonresidential platted lots and shall be considered by the environmental conservation commission and acted upon by the town council prior to the issuance of a building permit.

No protected trees located outside the buildable area, specimen trees, or historic trees approved for removal in accordance with this chapter shall be removed from any building lot or site until:

- (1) Proper mitigation or replacement requirements have been determined and approved for the lot or site; and
 - (2) A preconstruction meeting has been held with proper town staff authorizing grading and construction activities to begin on the lot or site; and/or
 - (3) A building permit, where needed, has been issued for the lot or site.
- (a) *Tree removal permits for fewer than ten protected trees or four specimen trees.* A tree removal permit shall be obtained by making application to the town's tree preservation and enforcement officer or authorized designee on forms prescribed by the town. The application shall include the following:
- (1) A written document indicating the reasons for removal of the protected, specimen, or historic trees on the lot or site.
 - (2) Photographs of each tree requested for removal.
 - (3) Photographs of required signage on the site as described below.
 - (4) Two copies of a tree survey for the lot or site prepared as described in section 94-23 of this chapter.
- (b) *Tree removal permits for greater than ten protected trees or four specimen trees.* Applicants requesting to remove greater than ten protected trees or greater than four specimen trees, shall have the option

of requesting a comprehensive tree removal permit. The fee for this permit will be \$1,000.00. All other requirements and incentives remain unchanged.

- (c) A sign shall be placed on each separate lot or tract for which a tree removal permit is requested to inform the general public that an application for a tree removal permit has been filed relative to a protected, specimen, or historic tree.

- (1) The size of the signs shall be three feet by four feet.
- (2) The signs shall be made out of aluminum or corrugated plastic material.
- (3) The signs shall be mounted on stakes/poles.
- (4) The signs shall be visible from the street.
- (5) There shall be one sign for each street frontage.
- (6) The signs shall have a white background, with letters and borders being green in color. The signs shall state the following:

TOWN		OF		FLOWER		MOUND,		TX
A		TREE		REMOVAL				REQUEST
IS	BEING	MADE		ON	THIS			PROPERTY
FOR			INFORMATION					CALL

(Ord. No. 63-08, § 3(94-12), 10-6-2008)

Sec. 94-35. - Tree removal permit on property zoned agricultural district (A) uses.

No fee shall be charged to make application for a tree removal permit for the removal of protected trees located on real property having an agricultural zoning district classification. However, if within any 12-month period, tree removal permits for the removal of 20 or more protected trees are issued for the same agricultural property or tract, or any of its portions, the agricultural zoning district classification of such property cannot be changed, nor can an application for approval of a development plan, planned development or zoning amendment relative to such property be made, for a period of 60 months following the most recent 12-month period during which 20 or more protected trees were removed from such agricultural zoned property.

(Ord. No. 63-08, § 3(94-13), 10-6-2008)

Sec. 94-36. - Special provisions for agricultural district (A) uses.

Notwithstanding anything contained in this chapter to the contrary, for tracts zoned agricultural district (A) uses, the tree survey requirements contained in this article shall be limited in their application to proposed rights-of-way, easements and an area equal to 20 feet on any side of such rights-of-way and easements, provided that the applicant executes a development agreement with the town that all trees on the tract and outside of such areas, for the purposes of such agreement, are protected trees (regardless of their species or caliper width) and that the unauthorized removal of such trees shall result in the revocation of any previously approved development plan and record plat for a period of 60 months from the date of the most recent unauthorized removal of one or more trees from the subject property.

(Ord. No. 63-08, § 3(94-14), 10-6-2008)

Sec. 94-37. - Review of application.

- (a) An application for a tree removal permit for a protected tree located outside of the buildable area shall be accompanied by an administrative fee per tree proposed for removal in the amount listed in appendix A of this Code, not to exceed a total per permit application in an amount listed in appendix A of this Code. An application for a tree removal permit for a specimen tree, or historic tree shall be accompanied by an administrative fee per tree proposed for removal in the amount listed in appendix A of this Code. Upon receipt of a properly completed application accompanied by the appropriate fee, the tree preservation and enforcement officer or his authorized designee shall review the application and may conduct field inspections of the development and/or refer the permit application to other departments for review and recommendations as deemed necessary and appropriate by the tree preservation and enforcement officer or his authorized designee.
- (b) The application for a tree removal permit, if required, shall be considered an integral part of the application for development plan or site plan approval, or the application for an oil and gas well permit. No development plan or site plan for any development, or oil and gas well permit, subject to the terms and provisions of this subdivision, shall be approved without approval of such tree removal permit. It is further provided that if a property owner or developer does not submit a tree removal permit application prior to town approval of a development plan covering a particular site, then if a tree removal permit application for the site is submitted later, approval of the development plan may be revoked. In this event, a revised development plan must be submitted for review by the town.
- (c) The tree preservation and enforcement officer may approve, approve with conditions, or deny a request for a tree removal permit for protected trees located outside the buildable area of a lot or site, provided that the requested tree removal permit is for the removal of trees in a development district other than the Cross Timbers Conservation Development District. An appeal of the decision of the tree preservation and enforcement officer may be made to the Environmental Conservation Commission.
- (d) An application for a tree removal permit for specimen, historic, or protected trees located outside the buildable area of a lot or site within the Cross Timbers Conservation Development District or an application for a tree removal permit for specimen, or historic trees within all other districts shall be submitted to the environmental conservation commission for review and recommendation to the town council that the permit application be approved, approved with conditions or denied. The environmental conservation commission shall not recommend an application for a tree removal permit be approved or approved with conditions, unless the commission finds that the subject development, redevelopment, subdivision or re-subdivision cannot reasonably be developed, based on economic and/or practical considerations, without removal of the trees included in the permit application.
- (e) The environmental conservation commission's recommendation concerning an application for tree removal permit shall be reviewed by the town council. The town council may then approve the application, approve it with conditions, or deny the application; however, the town council may overturn the denial of an application for tree removal permit by the environmental conservation commission only upon a finding that the subject development, redevelopment, subdivision or re-subdivision cannot reasonably be developed, based on economic and/or practical considerations, without removal of the trees included in the permit application.
- (f) Approval for removal of a historic tree shall require a three-fourths majority vote of the environmental conservation commission and the town council, respectively.

(Ord. No. 63-08, § 3(94-15), 10-6-2008)

Sec. 94-38. - Per-caliper-inch cash value; replacement trees.

A per-caliper-inch cash value for replacement trees shall be set, and updated as necessary by the town council after review and recommendation by the environmental conservation commission. The per-caliper-inch cash value shall be used to calculate mitigation costs for authorized and unauthorized removals of protected, specimen, and historic trees. the tree preservation and enforcement officer or his authorized designee shall maintain a record of the current per-caliper-inch cash value of replacement trees.

(Ord. No. 63-08, § 3(94-16), 10-6-2008)

Sec. 94-39. - Mitigation requirements for authorized tree removal.

- (a) *Replacement trees required for the removal of protected trees located within the buildable area on a lot or site.* It shall be the responsibility of any person removing a protected tree located within the buildable area of a lot or site to replace each protected tree removed with one, two and one-half to three-inch caliper tree measured in accordance with section 94-13 of this chapter. Replacement trees shall be of a species listed on the town's approved mitigation and replacement tree planting list. Replacement trees shall have a minimum height of at least six feet, and shall be planted in locations approved by the tree preservation and enforcement officer or authorized designee. Acceptable locations shall include reforestation sites designated by the town. At the discretion of the tree preservation and enforcement officer or authorized designee, money in an amount equal to the per-caliper-inch cash value of the removed tree(s) may be paid to the town instead of providing the replacement trees required by this article. Any such payments shall be deposited in a special account or fund and used by the town to provide and/or support supplemental landscape plantings in public areas of the town and/or to support the administration and enforcement of the town's tree preservation regulations. A per-caliper-inch cash value for replacement trees shall be set by the town council in accordance with section 94-38 of this article.
- (b) *Mitigation of loss of habitat .* When any person seeks to develop property, rezone property, or amend the master plan regarding property, so that an application for a development plan, site plan, record plat, re-plat, oil and gas well drilling permit, oil and gas pipeline permit, tree removal permit, or tree transplanting permit is required by this chapter, and such person wishes to remove protected trees from an environmentally sensitive area (ESA), such as upland habitat and/or riparian habitat as defined in the town's SMARTGrowth Program and Analysis Manual, it shall be the responsibility of such person to mitigate the acreage of habitat lost or negatively impacted through either the payment to the town of mitigation fees or the planting of replacement trees included in the required environmental protection plan (EPP) for the development project, or a combination thereof that results in the required mitigation. This required habitat mitigation only applies to impacts to designated upland or riparian habitats. The mitigation for the removal of protected trees located outside of the designated habitats as established in an approved EPP is addressed in section 94-39(a). The monetary value of upland habitat and riparian habitat is set at \$15,000.00 per acre. Preservation incentives for upland and/or riparian habitat preserved within a project are established in section 94-40. At the discretion of the tree preservation and enforcement officer or authorized designee, money in an amount equal to the value of the removed habitat may be paid to the town instead of providing the replacement trees. Any such payments shall be deposited in a special account or fund and used by the town to provide and/or support supplemental landscape plantings in public areas of the town and/or to support the administration and enforcement of the town's tree preservation regulations.
- (c) *Replacement trees required for the removal of protected trees located outside the buildable area on a lot or site.* It shall be the responsibility of any person obtaining a tree removal permit for a protected tree located outside of the buildable area on a lot or site to provide replacement with trees having a total caliper width equivalent to one and one-half times that of the tree(s) to be removed. Total caliper width for replacement trees shall be calculated using measurements taken in accordance with section 94-14 of this chapter. For example, if a ten-inch protected tree is removed, then that tree must be replaced by trees having a total caliper width of 15 inches. This total caliper width could be satisfied by an approved combination of replacement trees to meet the required caliper width replacement. Replacement trees shall be of a species listed on the town's approved mitigation and replacement tree planting list. Such replacement trees shall be container-grown and each replacement tree shall have a minimum caliper width of two and one-half inches to three inches, measured in accordance with section 94-13 of this chapter. Replacement trees shall have a minimum height of at least six feet, and shall be planted in locations approved by the tree preservation and enforcement officer or his authorized designee. Acceptable locations shall include reforestation sites designated by the town. At the discretion of the tree preservation and enforcement officer or authorized designee, money in an amount equal to the per-caliper-inch cash value of the removed tree(s) may be paid to the town instead

of providing the replacement trees required by this article. Any such payments shall be deposited in a special account or fund and used by the town to provide and/or support supplemental landscape plantings in public areas of the town and/or to support the administration and enforcement of the town's tree preservation regulations. A per-caliper-inch cash value for replacement trees shall be set by the town council in accordance to section 94-38 of this chapter.

- (d) *Replacement trees required for the authorized removal of specimen trees.* It shall be the responsibility of any person obtaining a tree removal permit for a specimen tree to provide replacement trees having a total caliper width equivalent to two times that of the tree(s) to be removed. Total caliper width for replacement trees shall be calculated using measurements taken in accordance with section 94-14 of this chapter. Replacement trees shall be of a species listed on the town's approved mitigation and replacement tree planting list. Such replacement trees shall be container-grown and have a minimum caliper width of two and one-half inches to three inches, measured in accordance with section 94-13 of this chapter. Replacement trees shall have a minimum height of at least six feet, and shall be planted in a location approved by the tree preservation and enforcement officer or authorized designee. Acceptable locations shall include reforestation sites designated by the town. At the discretion of the tree preservation and enforcement officer or authorized designee, money in an amount equal to the per-caliper-inch cash value of the removed tree(s) may be paid to the town instead of providing the replacement trees required by this article. Any such payments shall be deposited in a special account or fund and used by the town to provide and/or support supplemental landscape plantings in public areas of the town and/or to support the administration and enforcement of the town's tree preservation regulations. A per-caliper-inch cash value for replacement trees shall be set by the town council in accordance to section 94-38 of this chapter.
- (e) *Replacement trees required for the authorized removal of historic trees.* It shall be the responsibility of any person obtaining a tree removal permit for a historic tree to provide replacement trees having a total caliper width equivalent to two and one-half times that of the tree(s) to be removed. Total caliper width for replacement trees shall be calculated using measurements taken in accordance with section 94-14 of this chapter. Replacement trees shall be of a species listed on the town's approved mitigation and replacement tree planting list. Such replacement trees shall be container-grown and have a minimum caliper width of two and one-half inches to three inches, measured in accordance with section 94-13 of this chapter. Replacement trees shall have a minimum height of at least six feet, and shall be planted in locations as approved by the tree preservation and enforcement officer or authorized designee. Acceptable locations shall include reforestation sites designated by the town. At the discretion of the tree preservation and enforcement officer or authorized designee, money in an amount equal to the per-caliper-inch cash value of the removed tree(s) may be paid to the town instead of providing the replacement trees required by this article. Any such payments shall be deposited in a special account or fund and used by the town to provide and/or support supplemental landscape plantings in public areas of the town and/or to support the administration and enforcement of the town's tree preservation regulations. A per-caliper-inch cash value for replacement trees shall be set by the town council in accordance to section 94-38 of this chapter.

Any fees or payments made to the town to satisfy the mitigation or replacement requirements of this article shall be paid at the time of a preconstruction meeting authorizing grading or construction activities to occur on the lot or site. In cases where a preconstruction meeting is not required, all fees or payments shall be made prior to the issuance of a building permit for the lot or site.

(Ord. No. 63-08, § 3(94-17), 10-6-2008; [Ord. No. 62-16](#), § 6, 11-21-2016)

Sec. 94-40. - Incentives for preservation of protected, specimen, and historic trees.

If any protected, specimen, or historic tree is preserved within an area that would otherwise be considered a buildable area, credit for preservation shall be given that will be counted toward the mitigation requirements for the removal of protected trees within the buildable area on a site or project. Such mitigation credits shall be given only for those trees whose critical root zones are left predominately in their natural state. No cutting, filling, or other construction related activities are allowed within the critical root zones of

trees eligible for mitigation credit unless otherwise approved in writing and in advance by the town. Existing trees that are preserved within required street yard landscaping areas shall be counted for credit toward the requirements of section 82-241 of this Code, street yard landscaping, provided that they are located within the street yard and/or parking area. Following is a list of credits available for the preservation of protected and specimen trees on a site or project, and a separate credit schedule for the preservation of protected and specimen post oak trees on a site or project.

- (1) One mitigation tree credit will be given for each protected tree preserved within a buildable area on a site or project.
- (2) The following schedule outlines tree credits that will be given for each specimen tree preserved within a buildable area on a site or project.

*Buildable Area Mitigation Specimen
Tree Credit Schedule*

Caliper Size (Diameter)	Tree Credits
13—18 inches	3
19—24 inches	4
25—30 inches	5
Greater than 30 inches	6

- (3) The following schedule outlines tree credits that will be given for each protected or specimen post oak tree preserved on a site or project and located outside of an ESA.

Post Oak Tree Credit Schedule

Post Oak Caliper Size (Diameter)	Tree Credits
6—12 inches	2
13—21 inches	4
22 inches and greater	6

- (4) Mitigation credits for preservation of protected trees within designated upland and/or riparian habitat will be given for each acre of habitat protected on a site or project.
- (5) For purposes of this section, one mitigation tree credit shall be the equivalent of the person developing the property providing one container-grown tree as provided in section 94-39 of a variety selected from the replacement tree list having a minimum caliper width of two and one-half inches to three inches, measured in accordance with section 94-13 of this chapter. In the event the tree preservation and enforcement officer or authorized designee approves the payment of money in an amount equal to the per-caliper-inch cash value of the removed tree(s) instead of providing the replacement trees required by this article, one mitigation tree credit shall be the equivalent of the per-caliper-inch cash value for a replacement tree having a minimum caliper width of two and one-half inches to three inches. However, no tree credits shall be allowed or permitted for trees that are dead, dying, diseased or infested with harmful insects (as determined by the tree preservation and enforcement officer or authorized designee), or for trees which have not been adequately protected using required tree protection measures, as defined in article V of this chapter, or which are otherwise likely to die (as determined by the tree preservation and enforcement officer or authorized designee); or trees that are not included on the protected tree list.

(Ord. No. 63-08, § 3(94-18), 10-6-2008; [Ord. No. 62-16](#), § 7, 11-21-2016)

Sec. 94-41. - Penalties for unauthorized removal of protected, specimen, and historic trees.

If any protected, specimen, or historic trees are removed from any real property without a tree removal permit, or if a protected, specimen, or historic tree is injured because of failure to follow required tree protection measures such that the tree dies or may reasonably be expected to die, the town shall have the authority to impose one or more of the following administrative and civil penalties on the developer and/or owner of the property:

- (1) A monetary penalty of \$250.00 per-caliper-inch of width of the protected tree(s) removed or damaged, payable to the town. A monetary penalty of \$500.00 per-caliper-inch of width of the specimen tree(s) removed or damaged, payable to the town. A monetary penalty of \$750.00 per-caliper-inch of width of the historic tree(s) removed or damaged, payable to the town. Funds paid to the town as tree removal penalties shall be deposited in a special account or fund and used by the town to provide and/or support supplemental landscape plantings in public areas of the town, and/or to support the administration and enforcement of the town's tree preservation regulations.
- (2) For each protected tree that is removed or damaged, replacement with new trees having a total tree caliper width equivalent to five times that of the removed or damaged tree(s). For each specimen tree that is removed or damaged, replacement with new trees having a total tree caliper width equivalent to ten times that of the removed or damaged tree(s). For each historic tree that is removed or damaged, replacement with new trees having a total tree caliper width equivalent to 15 times that of the removed or damaged tree(s). Replacement trees shall be of a species listed on the town's approved mitigation and replacement tree planting list. Such replacement trees shall be container-grown and have a minimum caliper width of two and one-half inches to three inches, measured in accordance with section 94-13 of this chapter. Replacement trees shall have a minimum height of at least six feet, and shall be planted in locations as approved by the tree preservation and enforcement officer or authorized designee. Acceptable locations shall include reforestation sites designated by the town. At the discretion of the tree preservation and enforcement officer or authorized designee, money in an amount equal to the per-caliper-inch cash value of the removed or damaged tree(s) may be paid to the town instead of providing replacement trees required by this article. Any such payments shall be deposited in a special account or fund and used by the town to provide and/or support supplemental landscape plantings in public areas of the town and/or to support the administration and enforcement of the town's tree preservation regulations. A per-caliper-inch cash value for replacement trees shall be set by the town council in accordance with section 94-38 of this article.

(Ord. No. 63-08, § 3(94-19), 10-6-2008)

Secs. 94-42—94-50. - Reserved.

ARTICLE V. - TREE PROTECTION

Sec. 94-51. - Enumeration.

The following tree protection measures shall be required:

- (1) Prior to any and all construction or land development activity, the developer or property owner shall install four-foot-high plastic (or equivalent) safety fencing around the drip line of protected trees and six-foot-high chain-link fencing around the drip line of specimen and historic trees.
- (2) Prior to any and all construction or land development activity, the developer or property owner shall establish designated parking areas for the parking and maintenance of all vehicles, trailers, construction equipment and related items, designated stockpile areas for the storage of construction supplies and materials during construction of the subdivision and designated drive areas for vehicles and equipment. The location and dimensions of such designated areas shall be clearly identified on both subdivision construction and site plans and shall be approved by the tree preservation and enforcement officer or authorized designee prior to any construction or land development activity in, on or about the subdivision. Such designated areas shall be completely fenced with chain-link fencing and gates for safety purposes and to separate protected, specimen, or historic trees from the construction area and related construction activity. With the approval of the tree preservation and enforcement officer or authorized designee, the designated parking and stockpile areas may be combined into one fenced area, provided that the preservation of protected trees is not adversely affected or jeopardized. Supplies and pipe and other items that are customarily unloaded where installed shall not be required to be stored within the designated stockpile areas. Sites approved for temporary batching plant permits shall be fenced and gated in the same manner as designated parking and stockpile areas. Temporary batching plant permits shall also be required for the operation of all batching plants, pursuant to the regulations of this chapter.
- (3) During construction, the developer or property owner shall prohibit the cleaning of equipment or materials and/or the disposal of any waste material, including, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., under the canopy or drip line of any protected, specimen, or historic tree or group of such trees.
- (4) No attachments or wires of any kind, other than those of a protective nature, shall be attached to any protected tree(s).
- (5) With major grade changes of six inches or greater, a retaining wall or tree well of rock, brick, landscape timbers or other approved materials shall be constructed around the tree no closer than the drip line of the tree. The top of the retaining wall or tree well shall be constructed at the new grade.
- (6) Unless otherwise approved by the town, no construction or construction-related activity shall occur under the canopy or drip line of any protected, specimen, or historic tree or group of such trees.
- (7) Any tree(s) removed during land development, construction or construction-related activities shall be chipped or hauled off site. Burning of removed trees is prohibited unless prior approval is given by the town's fire marshal.
- (8) The tree preservation and enforcement officer or authorized designee may require additional protection measures or best management practices as needed on a case by case basis to

adequately protect protected, specimen, historic trees, or trees required as part of an approved landscape plan.

(Ord. No. 63-08, § 3(94-20), 10-6-2008; [Ord. No. 62-16](#), § 8, 11-21-2016)

Secs. 94-52—94-60. - Reserved.

ARTICLE VI. - TREE PLANTING REQUIREMENTS AND PLANTING LISTS

Sec. 94-61. - Street yard trees.

Trees shall be planted or existing trees preserved within the street yard of a nonresidential lot or building tract according to the following provisions:

- (1) For street yards less than 10,000 square feet in area, one tree shall be provided for each 1,000 square feet, or fraction of such amount, of street yard.
- (2) For street yards between 10,000 and 110,000 square feet in area, ten trees shall be required for the first 10,000 square feet plus one additional tree shall be required for each 2,500 square feet, or fraction of such amount, of street yard area in excess of 10,000 square feet.
- (3) For street yards over 110,000 square feet in area, 50 trees shall be required for the first 110,000 square feet plus one additional tree shall be required for each 5,000 square feet, or fraction of such amount, of street yard area in excess of 110,000 square feet.
- (4) Street yard trees shall be a minimum of three-inch caliper.
- (5) Trees required to satisfy other provisions of this article and lying within the street yard may be used to satisfy the requirements of this section.

(Ord. No. 63-08, § 3(94-21), 10-6-2008)

Sec. 94-62. - Street buffer trees.

Trees shall be planted or existing trees preserved within the street buffer landscaping area required by section 82-242 of this Code, street buffer landscaping, according to the following provisions:

- (1) Street buffer trees shall be provided in a ratio of one tree for every 30 feet of lineal frontage, except that a ratio of one tree for every 25 feet of lineal frontage shall be provided along scenic roadways.
- (2) Street buffer trees shall be a minimum of three-inch caliper.

(Ord. No. 63-08, § 3(94-22), 10-6-2008)

Sec. 94-63. - Parking area trees.

Trees shall be planted or existing trees preserved within off-street parking areas according to the following provisions:

- (1) One tree shall be provided for each ten parking spaces provided on the site; provided, however, that churches and/or schools shall be required to provide one tree for each 20 parking spaces provided on the site.

- (2) Parking area trees shall be minimum of three-inch caliper, except as provided in subsection (4) of this section.
- (3) All parking spaces shall be located within 50 feet of a tree that is located within the same parking area, measured from the trunk of the tree; provided, however, that for churches and/or schools, all parking spaces shall be located within 100 feet of a tree that is located within the same parking area, measured from the trunk of the tree.
- (4) A maximum of 30 percent of the trees used to satisfy the requirements of this section may come from subsection 94-66(b), approved median and right-of-way planting list.

(Ord. No. 63-08, § 3(94-23), 10-6-2008)

Sec. 94-64. - Median and right-of-way trees.

Trees may be planted in medians and rights-of-way only with the approval of the town, provided that such trees are selected from subsection 94-66(b), approved median and right-of-way planting list.

(Ord. No. 63-08, § 3(94-24), 10-6-2008)

Sec. 94-65. - Residential lots.

The following tree planting requirements shall be satisfied prior to the issuance of a certificate of occupancy for a single-family, duplex or multi-family use:

- (1) A minimum of three trees, with a minimum caliper width of two and one-half inches to three inches, and at least six feet in height, shall be provided on each 10,000 square foot and greater single-family and duplex lot prior to the issuance of a certificate of occupancy. A minimum of two trees, with a minimum caliper width of two and one-half inches to three inches, and at least six feet in height, shall be provided on each single-family and duplex lot between 5,000 and 10,000 square feet prior to the issuance of a certificate of occupancy. At least one of the required trees shall be located within the front yard area of the lot.
- (2) A minimum of one tree, with a minimum caliper width of two and one-half inches to three inches, shall be provided for each 3,000 square feet of gross lot area on each multi-family lot prior to the issuance of a certificate of occupancy. At least 50 percent of the required trees shall be located within either the front or side yard area of the lot.
- (3) From July 1 until September 1 of each year, only container grown trees shall be used to satisfy the requirements of this section; and, the builder/developer shall certify that any such trees are container grown.
- (4) Homeowners desiring to plant trees of a caliper width in excess of two times the requirements of this article may, from July 1 until September 1 of each year, file a town-approved affidavit with the town manager to this effect. Such trees shall be planted by March 1 of the following year in which the affidavit was filed. Failure to comply with the requirements of this article shall be considered a misdemeanor, punishable as such by a fine in accordance with section 1-13 of this Code.
- (5) There shall be no more than 50 percent of any tree species, and no more than 75 percent of any tree genus permitted to satisfy the planting requirements.

(Ord. No. 63-08, § 3(94-25), 10-6-2008; [Ord. No. 62-16](#), § 9, 11-21-2016)

Sec. 94-66. - Approved tree planting lists.

Unless otherwise specified in this chapter, only those tree species included in this section shall satisfy the tree planting requirements of this article.

Generally. The tree species lists contained in this section have been developed and will be periodically updated by the town's environmental conservation commission and shall be maintained and distributed to the public by the tree preservation and enforcement officer or authorized designee as guides for the identification and selection of tree species that meet the various standards and requirements of this article. Trees included on these tree species lists were selected on the basis of one or more of the following criteria or factors: hardiness, resistance to disease, suitability relative to local climate and soil conditions, adaptability for transplantation, longevity, adaptability to various landscape conditions, resistance to drought, aesthetic qualities, shade provision, windbreak provision, and screening qualities. To promote biodiversity, there shall be no more than 20 percent of a tree species, and no more than 50 percent of any tree genus permitted to satisfy the planting requirements on all new developments.

- (1) *Approved tree planting list.* Only those tree species found on the following approved tree planting list shall satisfy the tree planting standards and requirements of this article.

Approved Tree Planting List

Common Name	Scientific Name
Southern live oak	(<i>Quercus virginiana</i>)
Escarpment live oak	(<i>Quercus fusiformis</i>)
Shumard oak	(<i>Quercus shumardi</i>)
Chinkapin oak	(<i>Quercus muehlenbergii</i>)
Monterrey oak	(<i>Quercus polymorpha</i>)
Bur oak	(<i>Quercus macrocarpa</i>)
Texas red oak	(<i>Quercus texana</i>)
Water oak	(<i>Quercus nigra</i>)
American elm	(<i>Ulmus americana</i>)
Cedar elm	(<i>Ulmus crassifolia</i>)
Winged elm	(<i>Ulmus alata</i>)
Lacebark elm	(<i>Ulmus parvifolia</i>)
Bald cypress	(<i>Taxodium distichum</i>)

Pecans and hickories	(Carya species)
Juniper tree	(Juniperus species)
White ash	(Fraxinus americana)
Green ash	(Fraxinus pennsylvanica)
Texas ash	(Fraxinus texensis)
Western soapberry	(Sapindus drummondii)
Sweet gum	(Liquidambar styraciflua)
Eastern red cedar	(Juniperus virginiana)
Pines	(Pinus species)
Leyland cypress	(Cypressocyparis leylandi)
Black walnut	(Juglans nigra)
Magnolia	(Magnolia grandiflora)

- (2) *Approved median and right-of-way tree planting list.* The following tree species shall be allowed to be planted in medians and rights-of-way when approved by the town. Additional tree species with non-aggressive root systems/deep root systems maybe authorized for planting in such areas by the director of recreational services.

*Approved Median and ROW Tree
Planting List*

Common Name	Scientific Name
Sweet gum	(Liquidambar styraciflua)
Crepe myrtle	(Lagerstroemia indica)

Wax myrtle	(Myrica cerifera)
Plum	(Prunus species)
Holly	(Ilex species)
Possum haw	(Ilex decidua)
Native pecan	(Carya species)
Redbuds/whitebuds	(Cercis species)
Fruitless crabapples	(Malus species)
Southern live oak	(Quercus virginiana)
Escarpment live oak	(Quercus fusiformis)
Texas red oak	(Quercus texana)
Shumard oak	(Quercus shumardi)
Chinkapin oak	(Quercus muehlenbergii)
Bur oak	(Quercus macrocarpa)
Water oak	(Quercus nigra)
Winged elm	(Ulmus alata)
Cedar elm	(Ulmus crassifolia)
Lacebark elm	(Ulmus parvifolia)
Slippery elm	(Ulmus rubra)
Bald cypress	(Taxodium distichum)
Hickories	(Carya species)

Pines	(Pinus species)
Chinese pistache	(Pistachia chinensis)
Juniper tree	(Juniperus species)
Texas buckeye	(Aesculus glabra variety arguta)
Common persimmon	(Diospyros virginiana)
Texas ash	(Fraxinus texensis)
White ash	(Fraxinus Americana)
Green ash	(Fraxinus pennsylvanica)
Western soapberry	(Sapindus drummondii)
Black walnut	(Juglans nigra)
Magnolia	(Magnolia grandiflora)
Yaupon holly	(Ilex vomitoria)
Carolina buckthorn	(Rhamnus caroliniana)
Thornless honey locust	(Gleditsia triacanthos variety inermis)

- (3) *Approved mitigation and replacement tree planting list.* The following list of tree species shall be allowed to be planted to satisfy mitigation and replacement standards for trees removed from the buildable area on sites, trees removed with approved tree removal permits, and/or trees removed without authorization.

*Approved Mitigation and Replacement
Tree Planting List*

Common Name	Scientific Name
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Native pecan	(Carya species)
Texas red oak	(Quercus texana)
Shumard oak	(Quercus shumardi)
Bur oak	(Quercus macrocarpa)
Water oak	(Quercus nigra)
Winged elm	(Ulmus alata)
Slippery elm	(Ulmus rubra)
Post oak	(Quercus stellata)
Cedar elm	(Ulmus crassifolia)

- (4) *Approved overhead utility easement tree planting list.* The following list of tree species shall be allowed to be planted in overhead utility easements where required. These species were selected due to their relatively small mature size and growth characteristics. Trees planted in these areas shall be planted at a ratio of three trees for every one tree required.

Common Name	Scientific Name
Yaupon holly	(Ilex vomitoria)
Carolina buckthorn	(Rhamnus caroliniana)
Possum haw	(Ilex decidua)
Plum	(Prunus species)
Redbuds/whitebuds	(Cercis species)
Wax myrtle	(Myrica cerifera)
Crepe myrtle	(Lagerstroemia indica)

(Ord. No. 63-08, § 3(94-26), 10-6-2008; [Ord. No. 62-16](#), § 10, 11-21-2016)

Sec. 94-67. - Limits on credit for preservation of existing or established trees.

Existing protected trees, which are not being applied toward compliance with landscaping requirements, may be applied as a credit against required buildable area mitigation. Similarly, existing specimen trees, which are not being applied toward compliance with landscaping requirements, may be applied as credit toward required buildable area mitigation. In order for trees to qualify for credit, all standards described in article V of this chapter, shall be met completely. Further, all requirements set forth in section 94-40 shall also be met for credit to apply toward required buildable area mitigation for such trees. If the trees are compromised in any way, credit will not be given. Eligibility for credit will be determined by the tree preservation and enforcement officer or authorized designee. In no event shall any tree be counted for credit against both the landscaping requirements and the buildable area mitigation requirements.

(Ord. No. 63-08, § 3(94-28), 10-6-2008; [Ord. No. 62-16](#), § 11, 11-21-2016)

Editor's note— [Ord. No. 62-16](#), § 11, adopted Nov. 21, 2016, repealed § 94-67, and renumbered former § 94-68 as new § 94-67 as set out herein. The former § 94-67 pertained to landscape credit for large trees and derived from Ord. No. 63-08, § 3(94-27), 10-6-2008.

Secs. 94-68—94-80. - Reserved.

ARTICLE VII. - MISCELLANEOUS

Sec. 94-81. - Exceptions.

The following exceptions from the terms and provisions of this chapter are hereby authorized and granted:

- (1) If any protected, specimen, or historic tree shall be determined to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety, and require immediate removal without delay, authorization for removal may be given by the town manager, upon recommendation of the tree preservation and enforcement officer or authorized designee, and such protected, specimen, or historic tree may then be removed without obtaining a written permit as required in this article.
- (2) During the period of an emergency, such as a tornado, storm, flood or other act of God, the requirements of this article may be waived as may be deemed necessary by the town council.
- (3) All licensed plant or tree nurseries shall be exempt from the terms and provisions of this article only in relation to those trees planted and growing on the premises of such licensee that are so planted and growing for the sale or intended sale to the general public in the ordinary course of such licensed business.
- (4) Utility companies, franchised or otherwise, that are authorized to provide utility service within the town may remove protected, specimen, or historic trees that endanger public safety and welfare by interfering with utility service, except that where such trees are on owner-occupied properties developed for single-family or duplex use, removal of such trees shall be at the option of the property owners and require the property owners' consent and approval.

- (5) For recreational property or uses, such as golf courses and baseball, soccer, football or similar athletic facilities, and public works projects such as water or wastewater treatment plants, pump stations, storage tanks, and public streets and drainage improvements, the buildable area of the property shall include that portion of the property necessary for the construction of such recreational and public works improvements, including sufficient adjacent area, to allow the normal operation of construction equipment.
- (6) The terms and provisions of this article shall not apply to any development, subdivision or re-subdivision for which a record plat has been approved by the town council and filed in the plat records of the county prior to October 6, 2008.
- (7) All easements and rights-of-way included on a record plat approved by the town and filed in the plat records of the county.

(Ord. No. 63-08, § 3(94-29), 10-6-2008; [Ord. No. 43-15](#), § 2, 7-20-2015; [Ord. No. 62-16](#), § 12, 11-21-2016)

Sec. 94-82. - Penalty upon failure to comply with chapter provisions.

- (a) Any person violating or failing to comply with any provision or requirement of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall, without exception, be fined the maximum amount provided in section 1-13 of this Code. A separate offense shall be deemed committed upon each day or portion of a day during or on which each separate violation or failure to comply occurs or continues to occur and shall be punishable as such.
- (b) Notwithstanding the foregoing, any violation by any person of any provision of this chapter that constitutes an immediate danger or threat to any protected, specimen, or historic tree shall be subject to the administrative penalties set forth in this chapter.
- (c) Notwithstanding the foregoing, any violation by any person of any provision of this chapter that constitutes an immediate danger or threat to the health, safety and welfare of the public may be enjoined in a suit brought by the town for such purpose.
- (d) In addition to any other remedies or penalties contained in this section, the town may enforce the provisions of this chapter pursuant to the applicable provisions of V.T.C.A., Local Government Code ch. 54, which chapter provides for the enforcement of municipal ordinances.
- (e) Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this chapter.

(Ord. No. 63-08, § 3(94-30), 10-6-2008)

Sec. 94-83. - Informational assistance.

- (a) In furtherance of the purposes and provisions of this article, the town's tree preservation and enforcement officer or authorized designee shall develop and distribute to persons making application for either tree removal permits or tree replanting permits and make available to the general public an informational pamphlet identifying appropriate and useful facts, guidelines and how-to information relative to the preservation, protection and replanting of trees.
- (b) The tree preservation and enforcement officer or authorized designee shall also develop, maintain and make available to applicants for tree removal permits or tree replanting permits and to the general public a tree species reference book to provide more detailed information concerning tree care in general and the characteristics, soil and growth requirements and other traits of specific tree species identified on the town's protected tree list and approved tree planting and replacement list.
- (c) A current edition of the Texas Association of Nurserymen Grades and Standards, as applicable to the tree species on the town's protected tree list and approved tree planting and replacement list, shall be

maintained by the tree preservation and enforcement officer or his authorized designee and made available to applicants for building permits, tree removal permits or tree replanting permits and to the general public, as only those trees meeting and planted or replanted in accordance with the applicable Texas Association of Nurserymen Grades and Standards shall satisfy the tree planting, replanting and/or replacement standards and requirements contained in this chapter.

(Ord. No. 63-08, § 3(94-31), 10-6-2008)