



AGENDA

**TOWN OF FLOWER MOUND
OIL & GAS BOARD OF APPEALS MEETING**

JUNE 20, 2018

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

6:00 P.M.

AN AGENDA INFORMATION PACKET IS AVAILABLE ONLINE AT
WWW.FLOWER-MOUND.COM/AGENDA/AGENDA.PHP

- A. CALL REGULAR MEETING TO ORDER – 6:00 PM**
- B. INVOCATION AND PLEDGE OF ALLEGIANCE**
- C. ELECTION OF CHAIR AND VICE CHAIR**
- D. CITIZEN PARTICIPATION**

Please fill out an “Appearance Before Oil & Gas Board of Appeals” form in order to address the Oil & Gas Board of Appeals, and turn the form in prior to Citizens and Visitors Comments, or by 6:10 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.

- E. CLOSED MEETING**

The Oil and Gas Board of Appeals to convene into closed meeting pursuant to Texas Government Code Chapter 551, specifically, Section 551.071 to discuss matters relating to consultation with attorney, as follows:

1. The role and function of the Oil and Gas Board of Appeals, Texas Open Meetings Act, Public Information Act, Conflicts of Interest, and related legal issues regarding service as a Board Member.

- F. RECONVENE TO REGULAR MEETING**

The Oil and Gas Board of Appeals to reconvene into an open meeting to take any action deemed necessary as a result of the closed meeting.

G. PUBLIC HEARING

2. Public hearing to consider a request from Toll Dallas Tx, LLC., for a variance from Section 34-422(c)(4), as set forth in Ordinance No. 23-07, Section 34-422(c)(4) of the Town's Code of Ordinances. The request is to decrease new construction setback requirements for new roadway construction from the existing Bunn natural gas wells and surface equipment, which pad site was permitted prior to the Town's current regulations. The property involved is generally located south of Cross Timbers Road (FM 1171) and east of Flower Mound Road.

H. ADJOURNMENT



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: June 15, by 5:00 p.m., at least 72 hours prior to the schedule time of said meeting.



Emily Chapman
Administrative Assistant



OIL AND GAS BOARD OF APPEALS AGENDA ITEM NO. 2

REGULAR ITEM

DATE: June 20, 2018

FROM: John Luxton, Oil and Gas Inspector

PRESENTER:

APPLICANT: Traci Shannon Kilmer, Dowdey, Anderson & Associates

STAFF: John Luxton, Oil and Gas Inspector

ITEM: **(OGB18-0002) Public hearing to consider a request from Toll Dallas Tx, LLC., for a variance from Section 34-422(c)(4), as set forth in Ordinance No. 23-07, Section 34-422(c)(4) of the Town's Code of Ordinances. The request is to decrease new construction setback requirements for new roadway construction from the existing Bunn natural gas wells and surface equipment, which pad site was permitted prior to the Town's current regulations. The property involved is generally located south of Cross Timbers Road (FM 1171) and east of Flower Mound Road.**

BACKGROUND INFORMATION:

OWNER: Toll Dallas TX LLC
2557 SW Grapevine Pkwy Ste. 100
Grapevine, Texas 76051

APPLICANT: Toll Dallas TX LLC

CONTACT: Mike Boswell
2557 SW Grapevine Pkwy Ste. 100
Grapevine, Texas 76051

STAFF ANALYSIS:

A request from Toll Dallas Tx, LLC., was submitted for a variance from Section 34-422(c)(4), as set forth in Ordinance No. 23-07 adopted by Town Council. The request is to decrease new construction setback requirements for roadways and applicable right-of-way improvements to the existing Bunn natural gas well pad site for a proposed residential subdivision known as Townlake East. The proposed improvements to the property, which include roadways and the associated infrastructure, require a request for a variance before the Oil and Gas Board of Appeals if any new construction is located closer than 500 feet from the nearest surface equipment on the gas well site.

The Bunn gas well pad site is generally located south of Cross Timbers Road (1171) and east of Flower Mound Road. The pad site and gas well locations for the Bunn lease were approved on September 20, 2004, and an amended site plan for the pad site and associated permit letter were approved and issued in January 2009. The 500 foot setback requirement for new construction on the subject property is measured from both the gas wells and the nearest surface equipment located on the pad site. The applicable Oil & Natural Gas Well Drilling Ordinance allows the applicant to request a variance for new construction to a distance no closer than 300 feet. The applicant is requesting to reduce the setback to the proposed subdivision roadways to approximately 400 feet for a road located west of the pad site and approximately 460 feet for a road located east of the pad site.

Chapter 34 of Ordinance 23-07, Section 34-422(c)(4), "Oil and Gas Well Permit," provides for the following

regulation relative to new construction setbacks:

“(4) All new and/or proposed construction of any buildings, structures, streets, roads, and/or applicable improvements to the property upon which any oil and/or gas well is located shall be located no closer than five hundred feet (500’) from the nearest surface equipment associated with the oil and gas well permit. Prior to the issuance of a building permit by the Town for any of said structure(s), the owner or developer of any lot or tract for which a building permit is sought shall have the following notation placed on any deed, plat or site plan for said lot or tract: “This tract or lot is located less than one thousand feet (1,000’) from an existing oil or gas well and is subject to the Codes and Ordinances of the Town of Flower Mound.” The new construction setback may be reduced pursuant to Section 34-432, “Appeals,” of this Article, but said setback shall never be less than 300 hundred feet (300’) from any associated equipment to oil and gas well production.”

The proposed residential subdivision development project, Townlake East, is generally located south of FM 1171 and east of Flower Mound Road. Townlake East is proposed as the next phase of the Townlake residential development project phases I through III which are located west of Flower Mound Road. The Townlake East project is currently under development review as a proposed Zoning Planned Development/Cluster Development. Townlake East is a 89.924 acre tract within the Cross Timbers Conservation Development District and is zoned Agricultural.

CITIZEN FEEDBACK: Property owner notifications were sent June 8, 2018. To date, staff has not received any response in support or opposition to the proposed new construction setback variance requests.

OIL AND GAS BOARD OF APPEALS:

The Oil and Gas Board of Appeals shall consider the following in deciding an appeal:

- (1) Whether there are special circumstances existing on the property on which the application is made related to size, shape, area, topography, surrounding conditions and location that do not apply generally to other property in the vicinity;
- (2) Whether a variance is necessary to permit the applicant the same rights in the use of his property that are presently enjoyed by other similarly situated properties, but which rights are denied to the property on which the application is made;
- (3) Whether the granting of the variance on the specific property will adversely affect any other feature of the comprehensive master plan of the Town;
- (4) Whether the variance, if granted, will be no material detriment to the public welfare or injury to the use, enjoyment, or value of property in the vicinity;
- (5) Whether the operations proposed are reasonable under the circumstances and conditions prevailing in the vicinity considering the particular location and the character of the improvements located there;
- (6) Whether the drilling of the maximum number of potential wells for the proposed drill site would conflict with the orderly growth and development of the Town;
- (7) Whether there are other alternative well site locations;
- (8) Whether the operations proposed are consistent with the health, safety and welfare of the public when and if conducted in accordance with the oil, gas, or combined well permit conditions to be imposed;

- (9) Whether the operations proposed are consistent with protecting the ecological integrity and environmental quality, including protection of surface and ground water sources, of potentially impacted environmentally sensitive areas;
- (10) Whether there is reasonable access for Town fire personnel and firefighting equipment, including the ability to safely evacuate potentially affected residents; and
- (11) Whether the impact upon the adjacent property and the general public by operations conducted in compliance with the oil, gas, or combined well permit conditions are reasonable and justified, balancing the following factors:
 - a. The reasonable use of the mineral estate by the mineral estate owner(s) to explore, develop, and produce the minerals; and
 - b. The availability of alternative drill sites.

ATTACHMENTS:

1. Letter of Intent and Application
2. Site Plan Exhibit
3. Public hearing notice
4. Property owner notification

RECOMMENDATION: Move to recommend approval or denial of the request from Toll Dallas Tx, LLC., for a variance from Section 34-422(c)(4), as set forth in Ordinance No. 23-07, Section 34-422(c)(4) of the Town's Code of Ordinances. The request is to decrease new construction setback requirements for new roadway construction from the existing Bunn natural gas wells and surface equipment, which pad site was permitted prior to the Town's current regulations. The property involved is generally located south of Cross Timbers Road (FM 1171) and east of Flower Mound Road.



**DOWDEY, ANDERSON
& ASSOCIATES, INC.**
CIVIL ENGINEERS

5225 Village Creek Drive
Suite 200
Plano, Texas 75093
972-931-0694
972-931-9538 Fax

May 15, 2018

Matt Woods
Director of Environmental Services
1001 Cross Timbers Road #2330
Flower Mound, TX 75028

RE: Townlake East (DAA No.12004E)
Flower Mound, Texas

Dear Mr. Woods,

On behalf of our client, Toll Brothers, please accept this letter as our Letter of Intent to describe and explain the attached Oil and Gas Board of Appeals request.

Townlake East is a 89.924 acre tract located within the Cross Timbers Conservation Development District (CTCDD). The tract contains the Bunn Unit A and Bunn Unit B gas wellheads and production site. The tract is subject to the Oil, Gas and Mineral Lease, and all terms, conditions and stipulations therein filed for record on November 17, 2003 and recorded in County Clerk's File No. 2003-188861, Real Property Records, Denton County, Texas and all subsequent amendments and ratification leases. (copy attached)

A five hundred (500) foot setback is required from proposed new construction to the well site. This setback is measured from the existing location of the wellheads and surface equipment per Ord. No. 34-422(c)(4).

With this application, we respectfully request to allow up to 50,000 square feet of proposed pavement and easements to be permitted within the 500-foot setback. Please note no proposed residential property line or vertical structure, excluding any entry monument, shall be constructed or permitted to encroach the 500-foot setback. Please refer to the attached exhibit illustrating the location of the proposed variance.

The nature of this request is to allow the entry road for the development to align with the existing median opening within Flower Mound Road. The median opening serves the entry to the Townlake Phase One development located to the west of Flower Mound Road. Utilizing the existing median opening eliminates future traffic conflicts for drivers entering/existing Flower Mound Road making left-hand turns within close proximity.

Additionally, this request is to permit the proposed road and associated access, utility, and drainage easements to provide circulation to the eastern portion of the Townlake East site. This area of the site is constrained between the 500' setback and the existing Rock Pointe Church property line and detention pond. Connecting the eastern portion of the site affords circulation for residents and emergency vehicles.

As stated above, no proposed residential property line or vertical structure, excluding any entry monument, shall be constructed or permitted to encroach the 500-foot setback.

Please contact Michael Dowdey or myself should you have any questions regarding this request. Thank you.

Sincerely,

Traci Shannon Kilmer, AICP

Cc: Rob Paul, & Mike Boswell – Toll Brothers;
File;

**PROCEDURE - REQUEST FOR VARIANCE OR APPEAL
OIL AND GAS BOARD OF APPEALS
TOWN OF FLOWER MOUND**

1. The Oil and Gas Board of Appeals consists of five (5) members and all cases must be heard by at least four (4) members. The Board is a quasi-judicial board. It is not a legislative body with the authority to amend ordinances or create new laws. The Board conducts hearings on matters dealing with the Flower Mound Oil and Natural Gas Well Drilling and Operations Ordinance and determines if strict compliance with the ordinance will create a hardship. The Board also considers whether the variance will comply with the spirit and intent of the ordinance. In order for a variance to be granted, all twelve (12) items identified on the application must apply. If any of the items do not apply, the Board does not have the ability to grant a variance.
2. The Board also has the authority to hear and decide appeals where it is alleged that there is an error in an order, requirement, decision or determination made by any administrative official of the Town in the enforcement of the Land Development Regulations. Such appeals must be filed within fifteen (15) days of the rendering of the decision by the administrative official.
3. A pre-filing interview may be held if requested by the applicant or if deemed necessary by the Town.
4. The application must be signed by the property owner. If the applicant is not the owner, a notarized document showing authority to request the variance must accompany the application.
5. The following must also accompany the application packet:
 - A. A \$2,000.00 application fee.
 - B. A site plan of the lot showing all property lines as well as a depiction of the requested variance. If a variance from building setback requirements is requested, the site plan must be stamped by a licensed surveyor.
6. Application fee, necessary documents, etc. in completed form must be submitted to the Environmental Services Department. You must supply eighteen (18) copies of any supporting documents larger than 8.5 X 11 inches or any colored rendering.
7. After the above items have been completed, the variance request will begin the following process:
 - A. The applicant and all property owners within 200 feet of the property where the variance is requested will be notified of a Public Hearing to be held by the Oil and Gas Board of Appeals by notice deposited in the U.S. mail. Said notices are to be mailed at least 10 days prior to the Public Hearing.
 - B. The applicant or representative must be present at the Board of Adjustment public hearing. Failure to attend the public hearing will cause the Board to deny the item without prejudice to re-filing. The letter, referenced in 7 A. above, will be your notification of any hearing.
 - C. Persons who are in favor or who oppose the request are allowed to appear before the Board in order to present their views.
8. Any additional information such as renderings, elevations, models or other supporting documents that you wish to submit may be introduced at the meeting.

According to state law, no variance can be granted without the concurring vote of at least four (4) members of the Board.

**APPEALS TO A DECISION RENDERED
BY THE OIL AND GAS BOARD OF APPEALS**

The only appeal to a decision rendered by the Oil and Gas Board of Appeals is to State District Court. The appeal must be filed with the district court within ten (10) days of the Board's decision. State law prohibits the Town Council from hearing an appeal.

**APPLICATION - REQUEST FOR VARIANCE OR APPEAL
OIL AND GAS BOARD OF APPEALS
TOWN OF FLOWER MOUND**

DATE: 2018-05-17

I, the undersigned owner or authorized agent of the following described real property located in the Town of Flower Mound, Texas, hereby make application for a request for a variance from the terms of section Ordinance 23-07 (2007 Oil/Gas Ordinance amendments) of the Town of Flower Mound "Oil and Natural Gas Well Drilling and Operations" Ordinance. Section 34-422(c)(4), pursuant to the Section 34-432 "Appeals"

LOCATION OF PROPERTY

Street Address: 0000000 FLOWER MOUND/FM 1171 RD A0857A J. MALONE, TR 4(PT), 61.754 ACRES,
A0857A J. MALONE, TR 5 & 6, ACRES 34.2547,
Legal Description: Lot/Tract _____, Block _____, of Subdivision/Abstract A0935A MEP & P, TR 9(PT), 4.632 ACRES, OLC
DCAD TR# 8 TOTAL: 89.924 Acres.

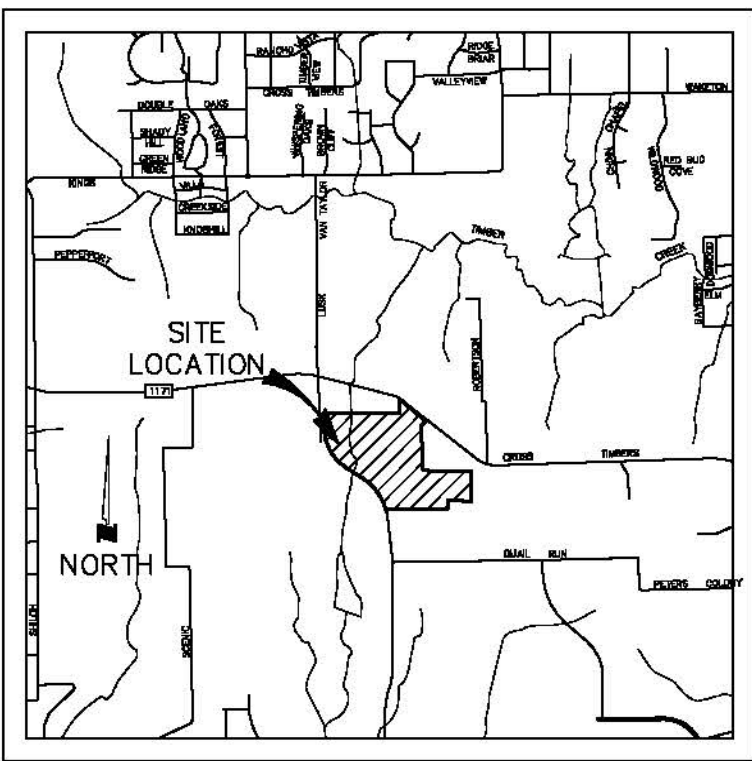
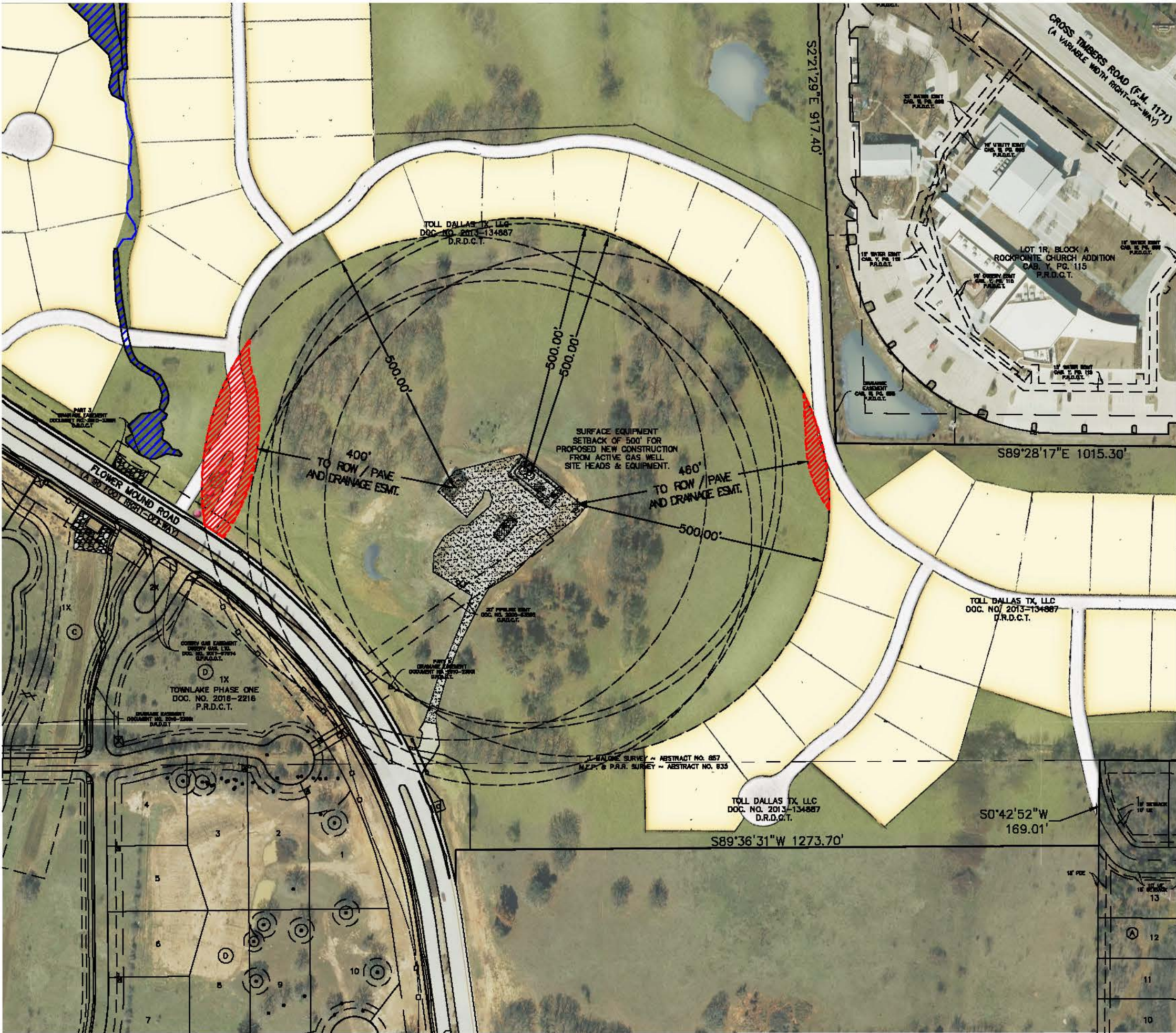
REQUEST: (If there is additional information which you feel would be helpful to the Board in making a decision, be sure to include this information in your request. If additional space is required to explain your request, please attach the explanation to this application.)

Please see attached Letter of Intent

A non-refundable application fee of \$2,000 is required at the time of application.

The Oil and Gas Board of Appeals shall consider the following in deciding an appeal:

- (1) There are special circumstances existing on the property on which the application is made related to size, shape, area, topography, surrounding conditions and location that do not apply generally to other property in the vicinity;
- (2) A variance is necessary to permit the applicant the same rights in the use of this property that are presently enjoyed by other properties in the vicinity and zone, but which rights are denied to the property on which the application is made;
- (3) The granting of the variance on the specific property will not adversely affect any other feature of the comprehensive master plan of the Town;
- (4) The variance, if granted, will be no material detriment to the public welfare or injury to the use, enjoyment, or value of property in the vicinity;
- (5) Whether the operations proposed are reasonable under the circumstances and conditions prevailing in the vicinity considering the particular location and the character of the improvements located there;
- (6) Whether the drilling of such wells would conflict with the orderly growth and development of the Town;
- (7) Whether there are other alternative well site locations;
- (8) Whether the operations proposed are consistent with the health, safety and welfare of the public when and if conducted in accordance with the oil, gas, or combined well permit conditions to be imposed;



LOCATION MAP NOT TO SCALE

- REQUEST TO ALLOW UP TO 50,000 SQUARE FEET OF PROPOSED PAVEMENT AND EASEMENTS TO BE PERMITTED WITHIN THE 500-FOOT SETBACK. NOTE, NO PROPOSED RESIDENTIAL PROPERTY LINE OR VERTICAL STRUCTURE, EXCLUDING ANY ENTRY MONUMENT, SHALL BE CONSTRUCTED OR PERMITTED TO ENCRANCH THE 500-FOOT SETBACK.

TOWNLAKE EAST OIL & GAS BOARD EXHIBIT

SCALE: 1"=200'

OWNERS:

TOLL DALLAS TX LLC.
 2557 SW GRAPEVINE PARKWAY, STE 100
 GRAPEVINE, TX 76051
 PHONE: 817-329-8770

DOWDEY, ANDERSON & ASSOCIATES, INC.

5225 Village Creek Drive, Suite 200 Plano, Texas 75093
 Phone 972-931-0694 Fax 972-931-9538
 STATE REGISTRATION NUMBER: F-399

2018-05-16

P:\Projects\DDA\12004E\12004E-EXH-Oil & Gas.dwg, 12004E-EXH-OGBA, 5/16/2018 10:21:34 AM, Bsklimer, Dowdey, Anderson & Associates, Inc., TSK



Order Confirmation

Customer:	FLOWER MOUND/ENVIRO HEALTH	Customer Account:	100041133
Ad Order #:	0001686372	PO Number:	
Sales Rep:	Kaycee Key	Order Taker:	Kaycee Key

Net Amount:	\$22.70	Tax Amount:	\$0.00	Total Amount:	\$22.70
Payment Method:	Check/Money Order	Payment Amount:	\$0.00	Amount Due:	\$22.70

Ad Order #: 0001686372
Ad Number: 0001686372-01
Color: **Ad Size:** 1 X 31 li

WYSIWYG Content

PUBLIC HEARING

Notice is hereby given that the Oil and Gas Board of Appeals (OGBOA) of the Town of Flower Mound, Texas, will hold a public hearing on Wednesday, June 20, 2018, at 6:00 p.m. in the Flower Mound Town Hall, 2121 Cross Timbers Road (FM 1171).

The purpose of this hearing is to consider a request from Toll Dallas Tx, LLC., for a variance from Section 34-422(c)(4), as set forth in Ordinance No. 23-07 Section 34-422(c)(4) of the Town's Code of Ordinances. The request is to decrease new construction setback requirements for new roadway construction from the existing Bunn natural gas wells and surface equipment, which pad site was permitted prior to the Town's current regulations. The property involved is generally located south of Cross Timbers Road (FM 1171) and east of Flower Mound Road.

drc 6/8/2018

Run Dates	Product	Placement/Classification - Position
Publish Date: 06/08/2018 Stop Date: 06/08/2018	DP Denton Record	Sort Text DP C-Legals - DP LG Legals LGL-NPH
Publish Date: 06/08/2018 Stop Date: 07/08/2018	DP Denton RC.com	DP C-Legals - DP LG Legals LGL-NPH



Environmental Services

June 6, 2018

RE: Oil and Gas Permit OGB18-0002; New Construction Setback

Dear Interested Property Owner,

Notice is hereby given that the Oil and Gas Board of Appeals (OGBOA) of the Town of Flower Mound, Texas, will hold a public hearing on Wednesday, June 20, 2018, at 6:00 p.m. in the Flower Mound Town Hall, 2121 Cross Timbers Road (FM 1171).

The purpose of this hearing is to consider a request from Toll Dallas Tx, LLC., for a variance from Section 34-422(c)(4), as set forth in Ordinance No. 23-07 Section 34-422(c)(4) of the Town's Code of Ordinances. The request is to decrease new construction setback requirements for new roadway construction from the existing Bunn natural gas wells and surface equipment, which pad site was permitted prior to the Town's current regulations.

The property involved is generally located south of Cross Timbers Road (FM 1171) and east of Flower Mound Road.

On the reverse side please find a copy of a vicinity map depicting the general location of the subject property. Further information may be obtained at the Environmental Services Department located at The Atrium, 1001 Cross Timbers Road, Suite 2330, or by calling 972-874-6340.

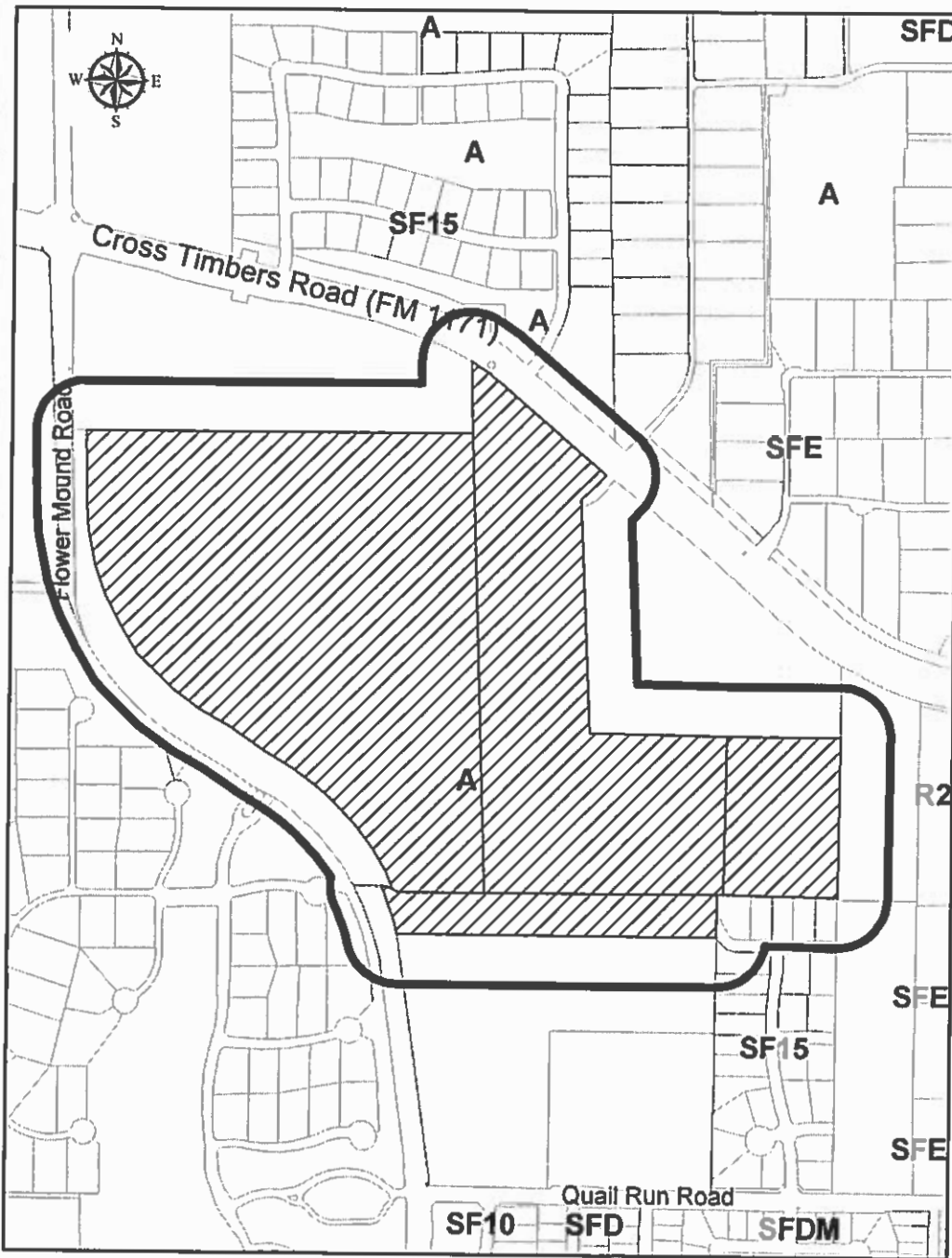
As an interested property owner, you are requested to make your views known by attending this hearing. If you cannot attend the hearing, it is requested that you express your views by mail to the address listed below to my attention.

Sincerely,

John Luxton
Oil and Gas Inspector

Property Owner Notice

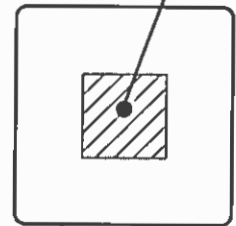
PROPERTY OWNER NOTIFICATION AND VICINITY MAP



Surrounding Zoning Districts:

- A - Agricultural District
- SFE - Single Family Estate
- SF10 - Single Family 10 (obsolete)
- SF15 - Single Family 15 (obsolete)
- SFD - SFD (obsolete)
- SFDM - SFDM (obsolete)
- R2 - Retail 2

Indicates Subject Property



Indicates Limit of 200' Notification

Date: June 20, 2018

Time: 6:00 p.m.

Location: Town Hall,
2121 Cross Timbers Rd/FM 1171

0 250 500 1,000 1,500 2,000
Feet

Comments or questions regarding this notification can be made at 1001 Cross Timbers, Suite 2330, Flower Mound TX 75208, or by calling (972) 874-6340.

