



**AGENDA**

**TOWN OF FLOWER MOUND  
BOARD OF ADJUSTMENT & OIL AND GAS BOARD OF APPEALS  
JOINT REGULAR MEETING**

**OCTOBER 10, 2018**

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

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AN AGENDA INFORMATION PACKET IS AVAILABLE  
ONLINE AT [WWW.FLOWER-MOUND.COM/AGENDACENTER](http://WWW.FLOWER-MOUND.COM/AGENDACENTER)

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**A. CALL REGULAR MEETING TO ORDER – 6:30 P.M.**

**B. INVOCATION AND PLEDGE OF ALLEGIANCE**

**C. ELECTION OF CHAIR AND VICE CHAIR**

**D. PUBLIC COMMENT**

To address the Board of Adjustment & Oil and Gas Board of Appeals, please fill out a comment form.

- Turn in form by 6:40 p.m. to Administrative Assistant
- Speakers are limited to 3 minutes, however this can be adjusted by the Chair
- Please state your name and address when speaking

The purpose of this item is to allow the public an opportunity to address the Board(s) on issues that are not the subject of a "Public Hearing" on this agenda. Any item requiring a Public Hearing will allow the public to speak at the time that item appears on this agenda as indicated as a "Public Hearing."

**E. CLOSED MEETING**

The Board of Adjustment & Oil and Gas Board of Appeals to convene into closed meeting pursuant to Texas Government Code Chapter 551, specifically, Section

**551.071 to consult with its attorney and to receive legal advice regarding any item listed on this agenda.**

**F. RECONVENE TO REGULAR MEETING**

**The Board of Adjustment & 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. CONSENT AGENDA**

**This agenda consists of non-controversial or “housekeeping” items and may be approved with a single motion. A member of the Board of Adjustment & Oil and Gas Board of Appeals may request an item(s) be withdrawn from the Consent Agenda by making such request prior to a motion and vote on the Consent Agenda.**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 Board of Adjustment held on September 12, 2018.
2. Consider approval of minutes from the regular meeting of the Oil and Gas Board of Appeals held on June 20, 2018.

**H. PUBLIC HEARING**

3. **(OGB18-0001)** Public hearing to consider a request from Eagle Ridge Operating, LLC., for a variance to Section 34-422(g), Article VII, of the Town’s Code of Ordinances. The request is for a variance to the Town’s work hours requirement, which limits work hours for gas well permits to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and 9:00 a.m. to 5:00 p.m. on Saturday.
4. **(OGB18-0003)** Public hearing to consider an appeal by Eagle Ridge Operating, LLC., of Town staff’s determination that the work hour limitations for gas well permits set forth in Section 34-422(g), Article VII, of the Town’s Code of Ordinances, apply to gas well pad site produced water collection and hauling operations; or, in the alternative, that sufficient grounds exist to satisfy the work hours exception: "any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production."
5. **(BOA18-0008)** Public hearing to consider a preemption determination appeal from Eagle Ridge Operating, LLC. The applicant is appealing the Town Manager’s denial of a preemption determination request, which contended that Chapter 621 of the Texas Transportation Code preempted the Town’s authority to apply the work hour limitations (pursuant to Section 34-422(g), Article VII, of the Town’s Code of Ordinances,) to gas well pad site produced water collection and hauling operations.
6. **(BOA18-0006)** Hold a public hearing and consider a request from Christy Tull for a special exception in accordance with Section 78-86, “Special Exceptions,” of the Code of Ordinances. The property is generally located South of Cross Timbers Rd

**Board of Adjustment & Oil and Gas Board of Appeals Joint Meeting Agenda**

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and West of Tour 18 Dr. and is locally known as 9104 Shawnee Trail, Lot 2, Block GR, of the Roanoke Hills Subdivision.

**I. ADJOURNMENT**

I do hereby certify that the Notice of Meeting was posted on the bulletin board in Town Hall of the Town of Flower Mound, Texas, a place convenient and readily accessible to the general public at all times, and said Notice was posted by the following date and time: October 5, 2018, by 5:00 p.m., at least 72 hours prior to the scheduled time of said meeting.



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Kathy Allgood  
Administrative Assistant

Pursuant to Section 551.071 of the Texas Government Code, the Board of Adjustment & Oil and Gas Board of Appeals reserves the right to consult in a closed meeting with its attorney and to receive legal advice regarding any item listed on this agenda. The Flower Mound Town Hall and Council Chambers is wheelchair accessible. Requests for accommodations or interpretive services must be made at least 48 hours prior to this meeting by contacting Building Inspections at 972.874.6355.



## ZONING BOARD OF ADJUSTMENT AGENDA ITEM NO. 1

### CONSENT ITEM

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**DATE:** October 10, 2018

**FROM:** Kathy Allgood, Administrative Assistant

**ITEM:** Consider approval of minutes from the regular meeting of the Zoning Board of Adjustment held on September 12, 2018.

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**BACKGROUND INFORMATION:** This agenda item is to consider approval of the minutes from the September 12, 2018, regular meeting of the Zoning Board of Adjustment.

**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 September 12, 2018, regular meeting of the Zoning Board of Adjustment.

**RECOMMENDATION:** Move to approve the minutes from the September 12, 2018, regular meeting of the Zoning Board of Adjustment.

**THE FLOWER MOUND ZONING BOARD OF ADJUSTMENT MEETING HELD ON THE 12TH DAY OF SEPTEMBER, 2018, 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 Zoning Board of Adjustment met in a regular session with the following members present:

Stephen Harris	Chairman	
Greg Schultz	Member	Place 1
Sky Jay Schoggins	Member	Place 4
David Moraine	Member	Place 5
Brad Painter	Alternate	Place 8

Constituting a quorum with the following members absent:

Kent Johnson	Vice-Chair	
Thomas Moore	Member	Place 6

Constituting a quorum with the following members of the Town Staff participating:

James Donovan	Town Attorney
Joelle Hainley	Building Official
Chris Pamplin	Assistant Building Official
Kathy Allgood	Administrative Assistant

**A. CALL TO ORDER – REGULAR SESSION**

Chairman Harris called the meeting to order at 6:30 p.m.

**B. INVOCATION AND PLEDGE OF ALLEGIANCE**

Chairman Harris led the Pledge of Allegiance.

**C. PUBLIC COMMENT**

None

**D. CONSENT AGENDA**

1. Consider approval of the minutes of the June 13, 2018, Board of Adjustment meeting.

The minutes from the June 13, 2018, Board of Adjustment meeting were approved as written.

**E. PUBLIC HEARING**

2. **(BOA18-0004)** Hold a public hearing and consider a request from Jay Chamberlain for a variance from Section 98-1032(a)(1) and Section 98-1032(e), "Accessory Buildings," of the Code of Ordinances. The property is generally located North of Wichita Trail and West of Skillern Road and is locally known as 4905 N. Creek Crossing, Lot 38R, Block F, of the River Oaks Estates Subdivision.

**Staff Presentation**

Chris Pamplin, Assistant Building Official

**Applicant Presentation**

Jay Chamberlain, 4905 N Creek Crossing, Flower Mound, TX.

**Public Comment**

None.

Board Member Moraine made a motion to approve the variance from Section 98-1032(a)(1) and Section 98-1032(e), "Accessory Buildings," of the Code of Ordinances. The property is generally located North of Wichita Trail and West of Skillern Road and is locally known as 4905 N. Creek Crossing, Lot 38R, Block F, of the River Oaks Estates Subdivision.

- A. 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 generally apply to other property in the same area and under the same zoning districts.
- B. A variance is necessary to permit the applicant the same rights in the use of this property that are presently enjoyed under the ordinance by other properties in the vicinity and zone, but which rights are denied to the property on which the application is made.
- C. The granting of the variance on the specific property will not adversely affect the land use pattern as outlined by the Land Use Plan and will not adversely affect any other feature of the Comprehensive master Plan of the Town of Flower Mound.
- D. The variance, if granted, will be no material detriment to the public welfare of injury to the use, enjoyment, or value of property in the vicinity.

Board Member Schultz seconded the motion.

**VOTE ON THE MOTION**

**AYES:** Schultz, Harris, Schoggins, Moraine, Painter  
**NAYS:** None

**Motion Passed with a 5-0 vote.**

3. **(BOA18-0005)** Hold a public hearing and consider a request from The Town of Flower Mound for a variance from Sec. 98-1026, "Minimum front yard setback" and Section 98-1142, "Front Yard Fence Height and Visibility," of the Code of Ordinances. The property is generally located west of Skillern Road and north of Wichita Trail, Lot 40, Block F, and is locally known as 2777 Skillern Road of the River Oaks Estates Subdivision.

**Staff Presentation**

Chris Pamplin, Assistant Building Official

**Applicant Presentation**

Carol Kessler, BRW Architects, 3535 Travis, Suite 205, Dallas, TX.

**Public Comment**

David Bauer, Town of Flower Mound Construction Manager, addressed the Board as to any HOA concerns regarding the fire station design.

Al Sanchez, 4805 Dominion Ct, Flower Mound addressed the Board in opposition of the variance.

Gary Jones, 4817 Dominion Ct, Flower Mound address the Board in opposition of the variance

Jeff Kinney, Town of Flower Mound Assistant Fire Chief, addressed the Board as to the size of the fire station.

Chairman Harris closed the public hearing at 7:17 p.m.

Board Member Schultz made a motion to grant the variance with a request that the Town of Flower Mound perform its due diligence in determining an alternative that would be feasible and also meet the concerns of the residents without affecting the functionality of the fire station. The variance requested is from Sec. 98-1026, "Minimum front yard setback" and Section 98-1142, "Front Yard Fence Height and Visibility," of the Code of Ordinances. The property is generally located west of Skillern Road and north of Wichita Trail, Lot 40, Block F, and is locally known as 2777 Skillern Road of the River Oaks Estates Subdivision.

- A. 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 generally apply to other property in the same area and under the same zoning districts.

- B. A variance is necessary to permit the applicant the same rights in the use of this property that are presently enjoyed under the ordinance by other properties in the vicinity and zone, but which rights are denied to the property on which the application is made.
- C. The granting of the variance on the specific property will not adversely affect the land use pattern as outlined by the Land Use Plan and will not adversely affect any other feature of the Comprehensive master Plan of the Town of Flower Mound.
- D. The variance, if granted, will be no material detriment to the public welfare of injury to the use, enjoyment, or value of property in the vicinity.

Board Member Schoggins seconded the motion.

**VOTE ON THE MOTION**

**AYES: Painter, Moraine, Schoggins, Harris, Schultz**  
**NAYS: None**

**Motion passed with a 5-0 vote.**

**G. ADJOURNMENT OF REGULAR SESSION**

Chairman Harris adjourned the meeting at 7:33 p.m. and all were in favor.

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Stephen Harris, Chairman

ATTEST:

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Kathy Allgood, Administrative Assistant



## OIL AND GAS BOARD OF APPEALS AGENDA ITEM NO. 2

### CONSENT ITEM

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**DATE:** October 10, 2018

**FROM:** Emily Chapman, Administrative Assistant

**ITEM:** Consider approval of minutes from the regular meeting of the Oil and Gas Board of Appeals held on June 20, 2018.

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**BACKGROUND INFORMATION:** This agenda item is to consider approval of the minutes from the June 20, 2018, regular meeting of the Oil and Gas Board of Appeals.

**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 June 20, 2018, regular meeting of the Oil and Gas Board of Appeals.

**RECOMMENDATION:** Move to approve the minutes from the June 20, 2018, regular meeting of the Oil and Gas Board of Appeals.

## FLOWER MOUND OIL AND GAS BOARD OF APPEALS MEETING OF JUNE 20, 2018

**THE FLOWER MOUND OIL AND GAS BOARD OF APPEALS MEETING HELD ON THE 20TH DAY OF JUNE 2018, IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS, AT 6:30 PM.**

The Oil and Gas Board of Appeals met in regular session, with the following members present constituting a quorum:

Stephen Harris	Chair
Kent Johnson	Vice Chair
Sky Jay Schoggins	Board Member, Place 4
David Moraine	Board Member, Place 5
Brad Painter	Board Member, Place 8

Constituting a quorum with the following members absent:

Gregory Schultz	Board Member, Place 1
Thomas Moore	Board Member, Place 6
Vacant	Board Member, Place 7

*Places 6, 7, and 8 of the Board do not vote on items unless they sit in place of one of the regular members, Places 1-5.)*

And the following members of Town staff present:

Ashley Dierker	Town Attorney
Emily Chapman	Administrative Assistant
John Luxton	Oil and Gas Inspector
Brent Anderson	Sr. Project Engineer

**A. CALL TO ORDER - REGULAR SESSION: 6:00 PM**

**B. INVOCATION AND PLEDGE OF ALLEGIANCE**

**C. ELECTION OF CHAIR AND VICE CHAIR**

Stephen Harris was appointed Chair and Kent Johnson was appointed Vice Chair both by a unanimous vote.

**D. CITIZENS/VISITORS COMMENTS**

**E. CLOSED/OPEN MEETING**

The Oil and Gas Board of Appeals convened into a closed meeting at 6:02 p.m. on June 20, 2018, pursuant to Texas Government Code Chapter 551, specifically, Section 551.071 to discuss matters relating to consultation with attorney, and reconvened into an open meeting at 6:20 p.m. on June 20, 2018. Item discussed were as follows:

FLOWER MOUND OIL AND GAS BOARD OF APPEALS MEETING OF JUNE 20, 2018

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. PUBLIC HEARING**

2. Consider 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.

**Board Member Deliberation**

Vice Chair Johnson made a motion to approve 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. Board Member Moraine seconded the motion.

**VOTE ON THE MOTION**

**AYES:** Moraine, Schoggins, Harris, Johnson, Painter  
**NAYS:** None  
**ABSTAIN:** None

The motion passed with a vote of 5-0-0

**G. ADJOURNMENT – REGULAR SESSION 6:54 PM**

**TOWN OF FLOWER MOUND, TEXAS**

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**STEPHEN HARRIS**  
CHAIR

**ATTEST:**

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**EMILY CHAPMAN**  
ADMINISTRATIVE ASSISTANT



## OIL AND GAS BOARD OF APPEALS AGENDA ITEM NO. 3

### REGULAR ITEM

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**DATE:** October 10, 2018

**FROM:** John Luxton, Oil and Gas Inspector

**PRESENTER:**

**APPLICANT:** Mark Grawe, Eagle Ridge Operating, LLC  
Arthur J. Anderson, Winstead, P.C.

**STAFF:** Matthew Woods, Director of Environmental Services  
John Luxton, Oil and Gas Inspector

**ITEM:** (OGB18-0001) Public hearing to consider a request from Eagle Ridge Operating, LLC., for a variance to Section 34-422(g), Article VII, of the Town's Code of Ordinances. The request is for a variance to the Town's work hours requirement, which limits work hours for gas well permits to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and 9:00 a.m. to 5:00 p.m. on Saturday.

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#### BACKGROUND INFORMATION:

**OPERATOR:** Eagle Ridge Operating, LLC  
3300 Oak Lawn Ave. Suite 500  
Dallas, Texas 75219

**APPLICANT:** Mark Grawe

**CONTACT:** Mark Grawe  
3300 Oak Lawn Ave. Suite 500  
Dallas, Texas 75219

#### STAFF ANALYSIS:

A request from Eagle Ridge Operating, LLC., was submitted for a variance to Section 34-422(g), as set forth in Article VII, of the Town's Code of Ordinance adopted by Town Council. Section 34-422(g), included below, of the Town's gas well drilling and operations regulations limits the work hours, other than drilling, for gas well permits to 7:00 a.m. to 7:00 p.m. Monday through Friday and 9:00 a.m. to 5:00 p.m. on Saturday.

Section 34-422 - Oil and Gas Well Permit.

(g) *Work hours for oil and gas well permits.* Site development, other than drilling, shall be conducted only between 7:00 a.m. and 7:00 p.m. Monday through Friday and between 9:00 a.m. and 5:00 p.m. on Saturday. Truck deliveries of equipment and materials associated with drilling and/or production, well servicing, site preparation and other related work conducted on the well site shall be limited to the same work hour restrictions identified above except in cases of fires, blowouts, explosions, and any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production. The operator may request a variance from the oil and gas board of appeals, pursuant to [section 34-432](#) of this article.

The applicant is requesting a variance to allow their tanker trucks to operate at seven of their gas well pad sites without daily or hourly restrictions.

**CITIZEN FEEDBACK:** Property owner notifications were sent September 28, 2018. Staff has not received any response in support or opposition to the requested variance.

**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. Application

2. Supplemental information to the Application
3. Pad Site Exhibit
4. Public hearing notice
5. Property owner notifications

**MOTION:** Move to approve or deny the request from Eagle Ridge Operating LLC, for a variance to Section 34-422(g), Article VII, of the Town's Code of Ordinances. The request is for a variance to the Town's work hours requirement, which limits work hours for gas well permits to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and 9:00 a.m. to 5:00 p.m. on Saturday.

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

DATE: 5/2/18

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 34-423(a) Article VII of the Town of Flower Mound "Oil and Natural Gas Well Drilling and Operations" Ordinance.

LOCATION OF PROPERTY

Street Address: See Attached Exhibit "B"

Legal Description: Lot/Tract \_\_\_\_\_, Block \_\_\_\_\_, of Subdivision/Abstract \_\_\_\_\_

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.)

See attached Exhibit "A" for Eagkrick operating, LLC

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;

- (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 the Town fire personnel and fire fighting equipment; 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.
- (12) The recommendations of the oil and gas inspector.

I have read this application form and understand that filing the application and paying the fee does not guarantee an affirmative action by the Oil and Gas Board of Appeals. I further understand that at least four (4) affirmative votes must be cast in order to receive a variance.

<u><i>[Signature]</i></u> Signature of Applicant	<u>Mark Graine</u> Print Name
<u>3900 Beckham Ave, Suite 500, Dallas, TX 75219</u> Mailing Address	<u>817-946-2873</u> Telephone (Day Number)
<u><i>[Signature]</i></u> Staff Member's Signature	<u>5/2/18</u> Date
	<u>R30510347</u> Receipt Number

OIL AND GAS BOARD OF APPEALS      DECISION:      ( ) DENIED      ( ) GRANTED

TERMS AND/OR CONDITIONS: \_\_\_\_\_  
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OIL AND GAS BOARD OF APPEALS CHAIRMAN: \_\_\_\_\_ DATE: \_\_\_\_\_

Filed with office of the Secretary this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

## **EXHIBIT A**

The applicant requests that the Town of Flower Mound Oil and Gas Board of Appeals grant a variance to the requirement in § 34-422(g) Article VII of the Town's Code of Ordinances that the hours of water production hauling be limited to 7:00 a.m. to 7:00 p.m.

### **BACKGROUND**

On July 1, 2017, EagleRidge Operating, LLC ("EagleRidge") assumed operations of eight (8) production facilities containing 40 gas wells formerly operated by Trinity River Energy Operating, LLC located in the Town of Flower Mound.

In March, EagleRidge requested approval from the Town to haul and remove produced water from all of the pad sites for an extended period after the defined day time hours of 7:00 a.m. to 7:00 p.m. which are producing approximately 105,000 gallons per day. Due to this limited time, operations have become difficult to haul the water due to limited manpower, equipment availability and disposal wells. EagleRidge has been unable to locate any vendor that will haul water unless they are able to haul water 24/7 including the water hauler which has given notice it will haul for only two more weeks. If EagleRidge is unable to haul water, it will be forced to shut in wells that produce \$700,000 of gross revenue which affect the working interest owners and the royalty owners as well. The restriction by the Town of Flower Mound has caused undue harm, expense and commerciality of these wells and will result in a significant diminution in value. EagleRidge hereby requests a variance in Code so that EagleRidge can haul water safely and commercially from the pad sites.

As an alternative to extending the hours of operation, EagleRidge requests a variance to allow the conversion of one of its existing wells to a salt water injection well. EagleRidge would lay additional lateral lines from each pad site to the injection well. This would eliminate the need for the hauling of produced water 24/7.

In 2015, the Texas Legislature adopted HB 40 (codified as section 81.0523, Texas Natural Resources Code ("Section 81.0523")):

#### **Sec. 81.0523. EXCLUSIVE JURISDICTION AND EXPRESS PREEMPTION.**

(a) In this section:

(1) "Commercially reasonable" means a condition that would allow a reasonably prudent operator to fully, effectively, and economically exploit, develop, produce, process, and transport oil and gas, as determined based on the objective standard of a reasonably prudent operator and not on an individualized assessment of an actual operator's capacity to act.

(2) "Oil and gas operation" means an activity associated with the exploration, development, production, processing, and transportation of oil and gas, including drilling, hydraulic fracture stimulation, completion,

maintenance, reworking, recompletion, disposal, plugging and abandonment, secondary and tertiary recovery, and remediation activities.

(b) An oil and gas operation is subject to the exclusive jurisdiction of this state. Except as provided by Subsection (c), a municipality or other political subdivision may not enact or enforce an ordinance or other measure, or an amendment or revision of an ordinance or other measure, that bans, limits, or otherwise regulates an oil and gas operation within the boundaries or extraterritorial jurisdiction of the municipality or political subdivision.

(c) The authority of a municipality or other political subdivision to regulate an oil and gas operation is expressly preempted, except that a municipality may enact, amend, or enforce an ordinance or other measure that:

(1) regulates only aboveground activity related to an oil and gas operation that occurs at or above the surface of the ground, including a regulation governing fire and emergency response, traffic, lights, or noise, or imposing notice or reasonable setback requirements;

(2) is commercially reasonable;

(3) does not effectively prohibit an oil and gas operation conducted by a reasonably prudent operator; and

(4) is not otherwise preempted by state or federal law.

#### APPEALS CRITERIA

The primary criteria involved with this appeal is whether or not the Town's hours of operation ordinance due to the lack of available vendors is authorized under House Bill 40. Strictly enforcing the hours of operation will result in shutting down the wells in violation of § 81.0523(c)(3). Strict compliance will have a devastating financial impact on EagleRidge in violation of § 81.0523(c)(2).

The Oil and Gas Board of Appeals also considers 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. The special circumstance is the lack of vendors who will haul produced water if limited to daytime hours.*

(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. EagleRidge will not be able to operate its wells without extended hours for water hauling.*

- (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.* The wells are allowed under the comprehensive master plan.
- (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.* Extending the hours of operation benefits the public welfare because it allows trucks to utilize Town streets during less busy traffic conditions.
- (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.* Because the variance is necessary to continue drilling at the Town approved well sites, the operations proposed are reasonable.
- (6) *Whether the drilling of such wells would conflict with the orderly growth and development of the Town.* The drilling sites have been approved so there is no conflict with the orderly growth and development of the Town.
- (7) *Whether there are other alternative well site locations.* There are no alternative locations for the purposes of this variance request.
- (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.* The proposed operations will be consistent with the health, safety and welfare of the public because the Town's roads are less busy during non-daytime hours.
- (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.* Approval of the variance will not impact environmental quality.
- (10) *Whether there is reasonable access for the Town fire personnel and firefighting equipment.* The variance does not impact emergency vehicle access to the well sites.
- (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.* Because denial of the variance will shut down production, the impact will be severe to EagleRidge.
- (12) *The recommendations of the oil and gas inspector.* TBA

EXHIBIT 'B'

EagleRidge Operating, LLC

Request for Variance Leases Located Within; Flower Mound, Texas										
Lease Name/Well #	Pad	RRC ID#	Type	API Number	Address	City	County	State	By Padsite Gallons Per Day	By Padsite Truck Loads per day
DR. BOB SMITH A NORTH 10H	R. BOB SMITH A NORTH PAD	257800	Gas	4212133861	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS	50,400	10
DR. BOB SMITH A NORTH 4H	R. BOB SMITH A NORTH PAD	258042	Gas	4212133844	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A NORTH 5H	R. BOB SMITH A NORTH PAD	258185	Gas	4212133845	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A NORTH 6H	R. BOB SMITH A NORTH PAD	258079	Gas	4212133857	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A NORTH 7H	R. BOB SMITH A NORTH PAD	258594	Gas	4212133855	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A NORTH 8H	R. BOB SMITH A NORTH PAD	258585	Gas	4212133858	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A NORTH 9H	R. BOB SMITH A NORTH PAD	264067	Gas	4212133868	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A 1H	DR. BOB SMITH A PAD	255315	Gas	4212133714	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A 2H	DR. BOB SMITH A PAD	255316	Gas	4212133720	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A 3H	DR. BOB SMITH A PAD	260292	Gas	4212133719	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A WEST 12H	DR. BOB SMITH A WEST PAD	255373	Gas	4212134022	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH B EAST 7H	DR. BOB SMITH B EAST PAD	261338	Gas	4212134087	3700 Shiloh Road	FLOWER MOUND	DENTON	TEXAS	12,600	3
DR. BOB SMITH B WEST 1H	DR. BOB SMITH B WEST PAD	260296	Gas	4212133824	3700 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH B WEST 2H	DR. BOB SMITH B WEST PAD	261339	Gas	4212133872	3700 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH B WEST 3H	DR. BOB SMITH B WEST PAD	262400	Gas	4212133883	3700 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH B WEST 4H	DR. BOB SMITH B WEST PAD	260298	Gas	4212133884	3700 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH C EAST 5H	DR. BOB SMITH C EAST PAD	260335	Gas	4212133999	2601 Scenic Road	FLOWER MOUND	DENTON	TEXAS	3,360	1
DR. BOB SMITH C WEST 1H	DR. BOB SMITH C WEST PAD	252787	Gas	4212133994	2601 Scenic Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON A UNIT 02H	Sam Wilson A Pad	236982	Gas	4212132515	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS	12,600	3
SAM WILSON A UNIT 10H	Sam Wilson A Pad	233850	Gas	4212133730	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON A UNIT 12H	Sam Wilson A Pad	235593	Gas	4212133732	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON A UNIT 13H	Sam Wilson A Pad	233651	Gas	4212133590	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON B UNIT 03H	Sam Wilson B Pad	236995	Gas	4212133108	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON B UNIT 08H	Sam Wilson B Pad	231572	Gas	4212133594	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON B UNIT 09H	Sam Wilson B Pad	240190	Gas	4212132875	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON C UNIT 04H	Sam Wilson C Pad	233966	Gas	4212133595	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON C UNIT 05H	Sam Wilson C Pad	236996	Gas	4212132931	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON C UNIT 06H	Sam Wilson C Pad	237015	Gas	4212132930	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON C UNIT 11H	Sam Wilson C Pad	253678	Gas	4212133585	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON D UNIT 07H	Sam Wilson C Pad	253030	Gas	4212133109	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON 1H	Sam Wilson Pad	233009	Gas	4212132514	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
BUNN UNIT A 1H	Bunn Unit Pad	248944	Gas	4212132315	4200 Quail Run	FLOWER MOUND	DENTON	TEXAS	420	1 load per week
BUNN UNIT B 2H	Bunn Unit Pad	223932	Gas	4212132460	4200 Quail Run	FLOWER MOUND	DENTON	TEXAS		
OBENCHAIN D-1H	Obenchain D Pad	225302	Gas	4212132186	6577 Stonecrest Drive	FLOWER MOUND	DENTON	TEXAS	840	1 per week
OBENCHAIN D-2H	Obenchain D Pad	214392	Gas	4212132200	6577 Stonecrest Drive	FLOWER MOUND	DENTON	TEXAS		

**SUPPLEMENT TO EXHIBIT A**

EagleRidge has submitted its variance request with respect to the Town Code's work hours as to truck hauling based on hardship. EagleRidge hereby supplements its pending application to appeal the Town's interpretation of § 34-422(g) Article VII of the Town's Code of Ordinances as applying to water production for the following reasons:

1. The hours of operation in the Code apply to "truck deliveries of equipment and materials associated with drilling and/or production, well servicing, site preparation and other related work conducted on the well site shall be limited to the same work hour restrictions identified above except in cases of fire, blowouts, explosions, and any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production." Truck hauling of produced water from EagleRidge's pad sites is not the delivery of "equipment and materials" to the pad site. Because hauling of produced water from the pad site is not covered by the ordinance, the Town erred in its interpretation to the contrary.

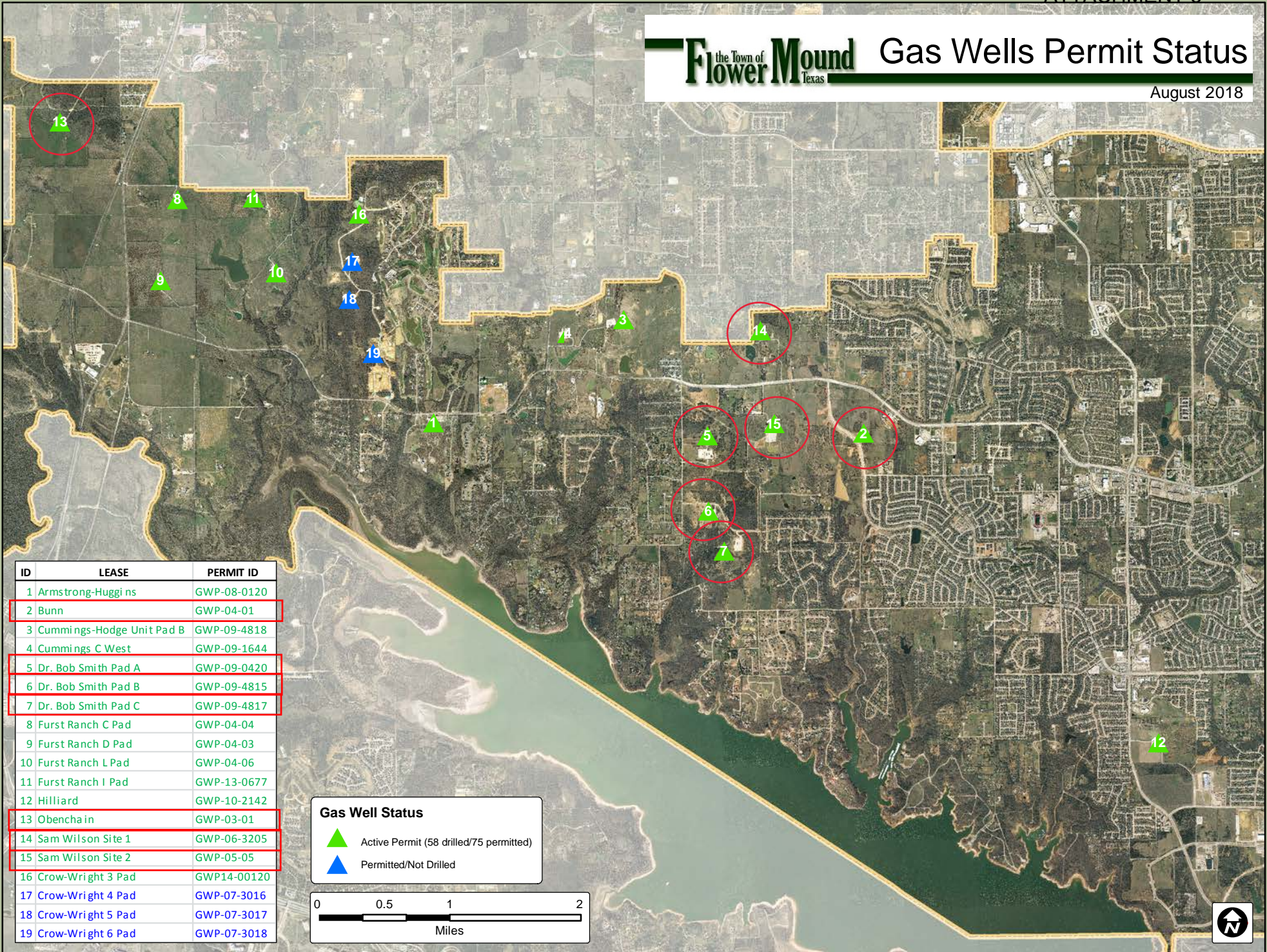
2. In the alternative, Eagle Ridge's situation falls within the exception of "any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production." As stated in Exhibit A, Eagle Ridge's production will be forced to cease if the hours of operation are not expanded due to a lack of vendors willing to limit their operations to 7:00 a.m. – 7:00 p.m. Our reading of the Code is that this provision allows EagleRidge to operate 24/7 as a matter of right. Out of an abundance of caution, this issue is addressed herein for the Board's consideration.

3. The Town's regulation of truck traffic is statutorily limited. For example, it cannot limit truck traffic on state highways such as farm-to-market roads under Chapter 621 of the Texas Transportation Code. The Town is not authorized to discriminate against trucks hauling produced water because they are not "overweight, oversize or overlength" pursuant to § 621.303 of the Texas Transportation Code. As an alternative grounds for appeal, EagleRidge requests that the Board determine that the hours of operation provision in the Code does not apply to trucks hauling produced water from EagleRidge's pad sites.



# Gas Wells Permit Status

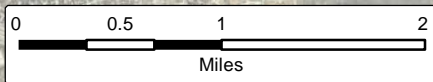
August 2018



ID	LEASE	PERMIT ID
1	Armstrong-Huggi ns	GWP-08-0120
2	Bunn	GWP-04-01
3	Cummings-Hodge Unit Pad B	GWP-09-4818
4	Cummings C West	GWP-09-1644
5	Dr. Bob Smith Pad A	GWP-09-0420
6	Dr. Bob Smith Pad B	GWP-09-4815
7	Dr. Bob Smith Pad C	GWP-09-4817
8	Furst Ranch C Pad	GWP-04-04
9	Furst Ranch D Pad	GWP-04-03
10	Furst Ranch L Pad	GWP-04-06
11	Furst Ranch I Pad	GWP-13-0677
12	Hilliard	GWP-10-2142
13	Obencha in	GWP-03-01
14	Sam Wilson Site 1	GWP-06-3205
15	Sam Wilson Site 2	GWP-05-05
16	Crow-Wright 3 Pad	GWP14-00120
17	Crow-Wright 4 Pad	GWP-07-3016
18	Crow-Wright 5 Pad	GWP-07-3017
19	Crow-Wright 6 Pad	GWP-07-3018

**Gas Well Status**

- Active Permit (58 drilled/75 permitted)
- Permitted/Not Drilled



Gas Well Permit Status

Gas Well Permit Status

## PUBLIC HEARING

Notice is hereby given that the Oil and Gas Board of Appeals (OGBOA) and Board of Adjustment (BOA) of the Town of Flower Mound, Texas, will hold a joint public hearing on Wednesday, October 10, 2018, at 6:30 p.m. in the Flower Mound Town Hall, 2121 Cross Timbers Road (FM 1171).

The purpose of the hearing is to consider a request from EagleRidge Operating, LLC., for a variance to Town Code Section 34-422(g) "Work hours for oil and gas well permits" which will allow operations for gas well pad site produced water collection and hauling to operate with no hourly restrictions. The request also includes an OGBOA Appeal of staff's interpretation that Town Code Section 34-422(g) work hours limitation applies to pad site produced water collection and hauling.

Additionally, EagleRidge Operating, LLC., has requested a BOA Appeal of a preemption determination request (pursuant to Town Code, Article IX. Vested rights/preemption determination, Section. 34-500(d)) regarding statutory limitation (pursuant to Chapter 621 of the Texas Transportation Code) of the Town's authority (pursuant to Town Code Section 34-422(g)) to regulate pad site produced water collection and hauling.

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To Run in Denton Record-Chronicle: Saturday, September 29, 2018

Denton Record-Chronicle:

FAX: 1-940-566-6818

ATTN: Kaycee

Email: [classads@dentodnrc.com](mailto:classads@dentodnrc.com)

Any questions or issues, please contact:

Emily Chapman

p: 972-874-6338

e: [emily.chapman@flower-mound.com](mailto:emily.chapman@flower-mound.com)

Town of Flower Mound Account # 100041133



## Environmental Services

September 27, 2018

**RE: Oil and Gas Permit OGB18-0001; Work hours for oil and gas well permits.**

Dear Interested Property Owner,

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The property involved is generally located south of Cross Timbers Road (FM 1171), east of Shiloh Road, and west of Scenic Drive.

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.

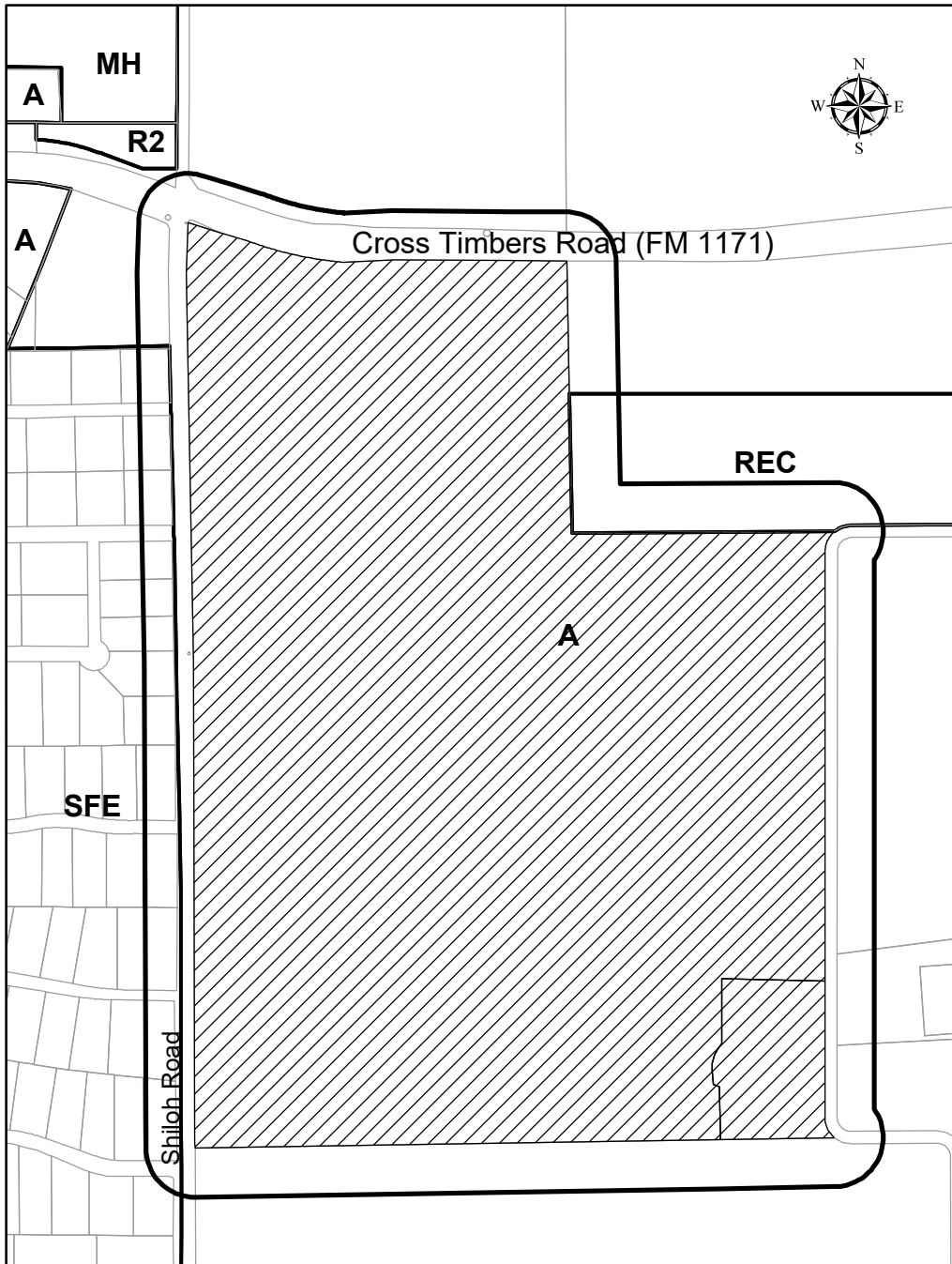
As an interested property owner, you are requested to make your views known by attending this hearing. If you cannot attend the hearing, it is requested that you express your views by mail to the address listed below to my attention.

Sincerely,

John Luxton  
Oil and Gas Inspector

Property Owner Notice

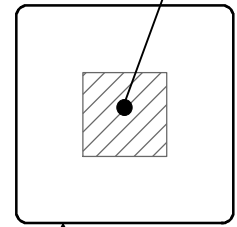
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## Surrounding Zoning Districts:

- A - Agricultural District
- SFE - Single Family Estate
- MH - Mobile Home
- R2 - Retail 2
- REC - Recreation

Indicates Subject Property



Indicates Limit of 200' Notification

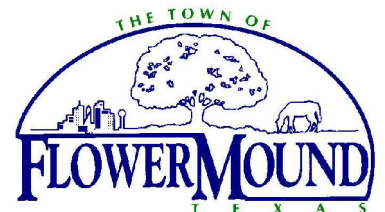
**Date:** October 10, 2018

**Time:** 6:30 p.m.

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

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

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## Environmental Services

September 27, 2018

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The property involved is generally located south of Cross Timbers Road (FM 1171), east of Shiloh Road, and west of Scenic Drive.

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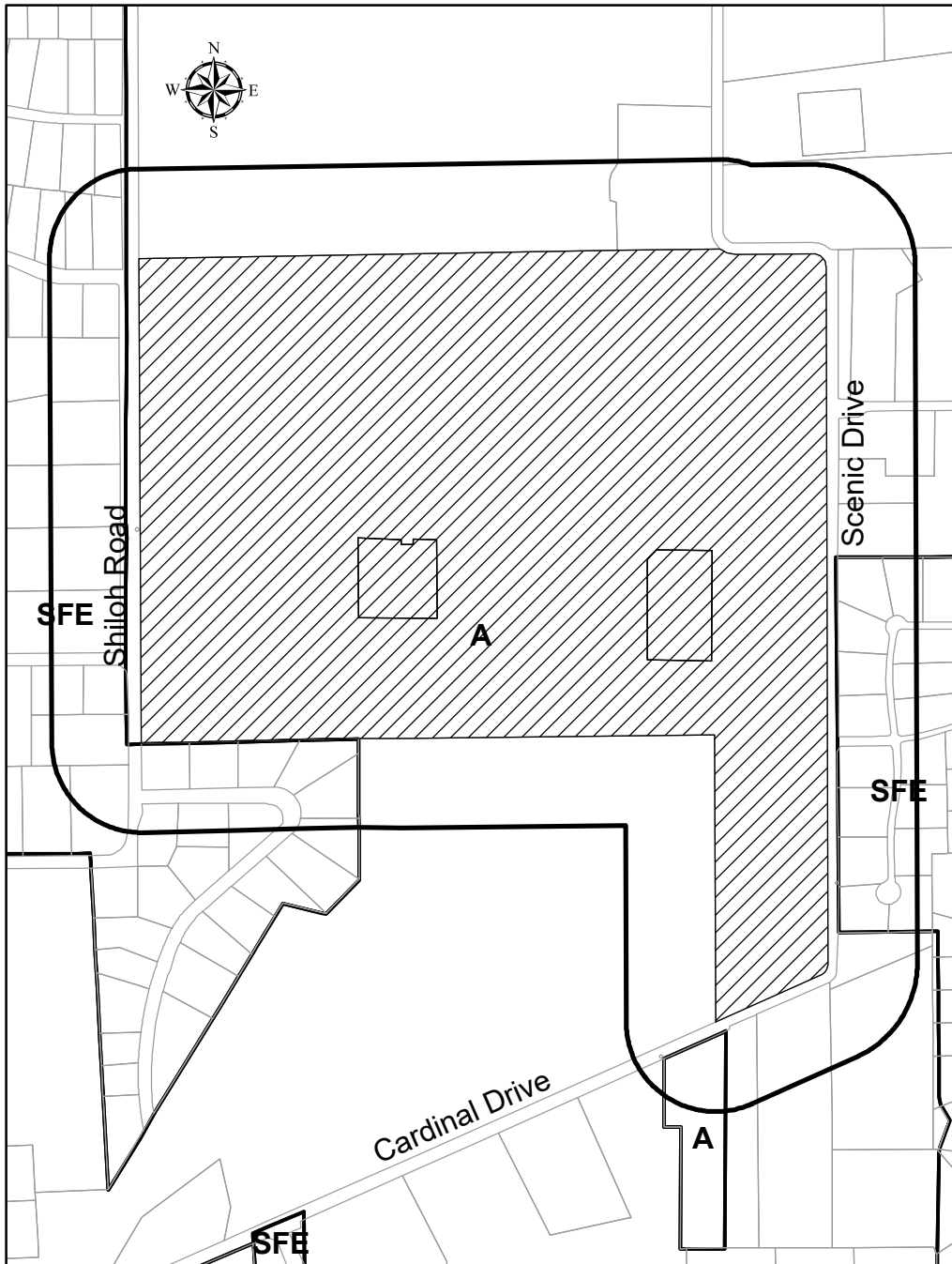
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Property Owner Notice

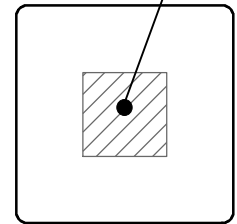
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## Surrounding Zoning Districts:

- A - Agricultural District
- SFE - Single Family Estate

Indicates Subject Property



Indicates Limit of 200' Notification

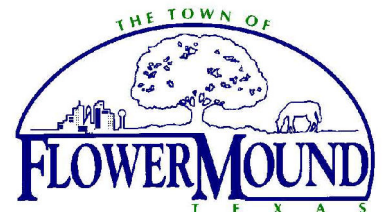
**Date:** October 10, 2018

**Time:** 6:30 p.m.

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

0 275 550 1,100 1,650 2,200 Feet

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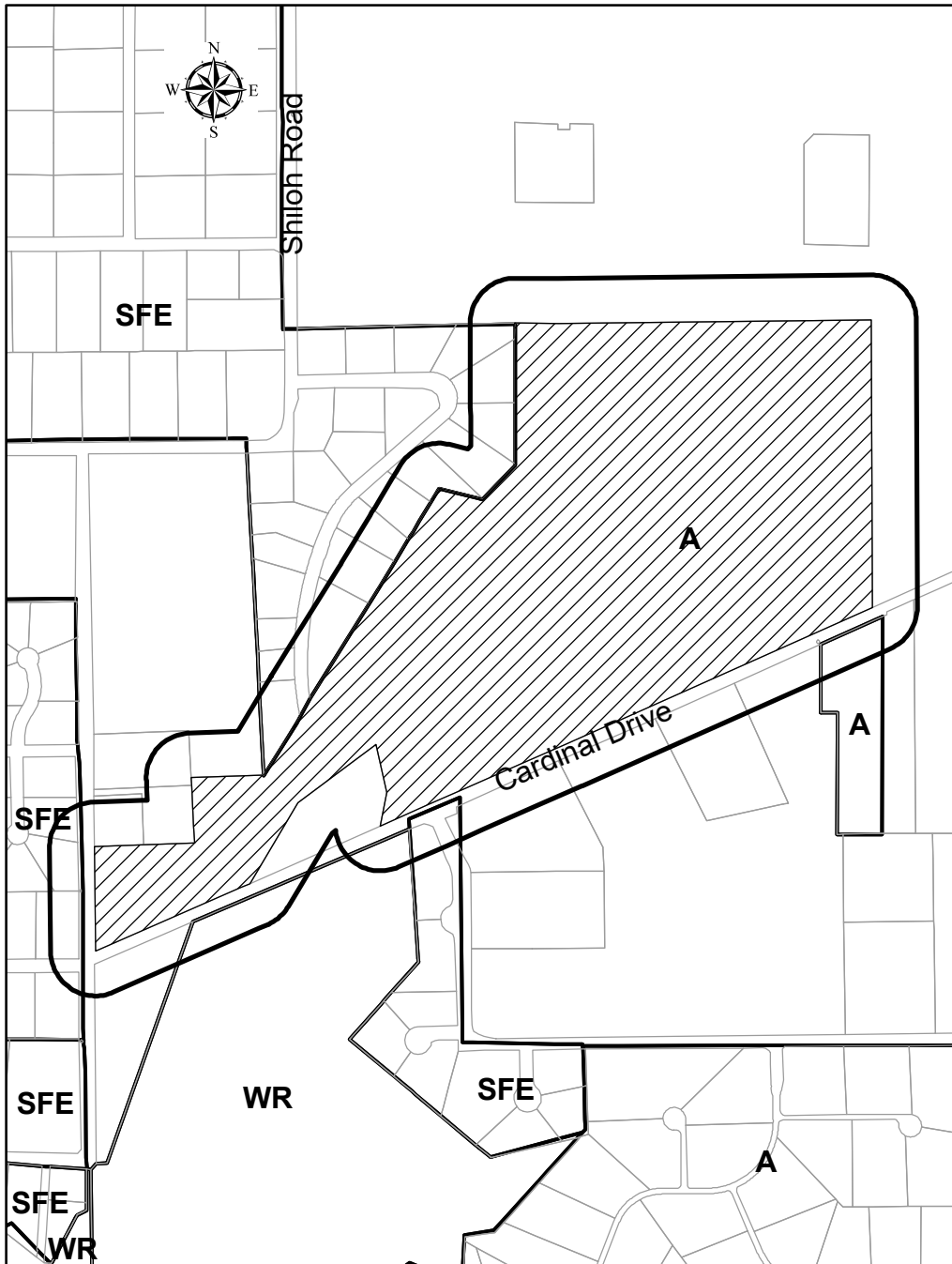
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Sincerely,

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Property Owner Notice

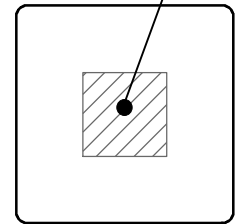
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## Surrounding Zoning Districts:

- A - Agricultural District
- SFE - Single Family Estate
- WR - Water Recreation

Indicates Subject Property



Indicates Limit of 200' Notification

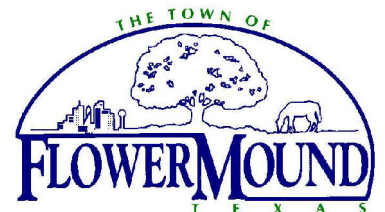
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0 275 550 1,100 1,650 2,200 Feet

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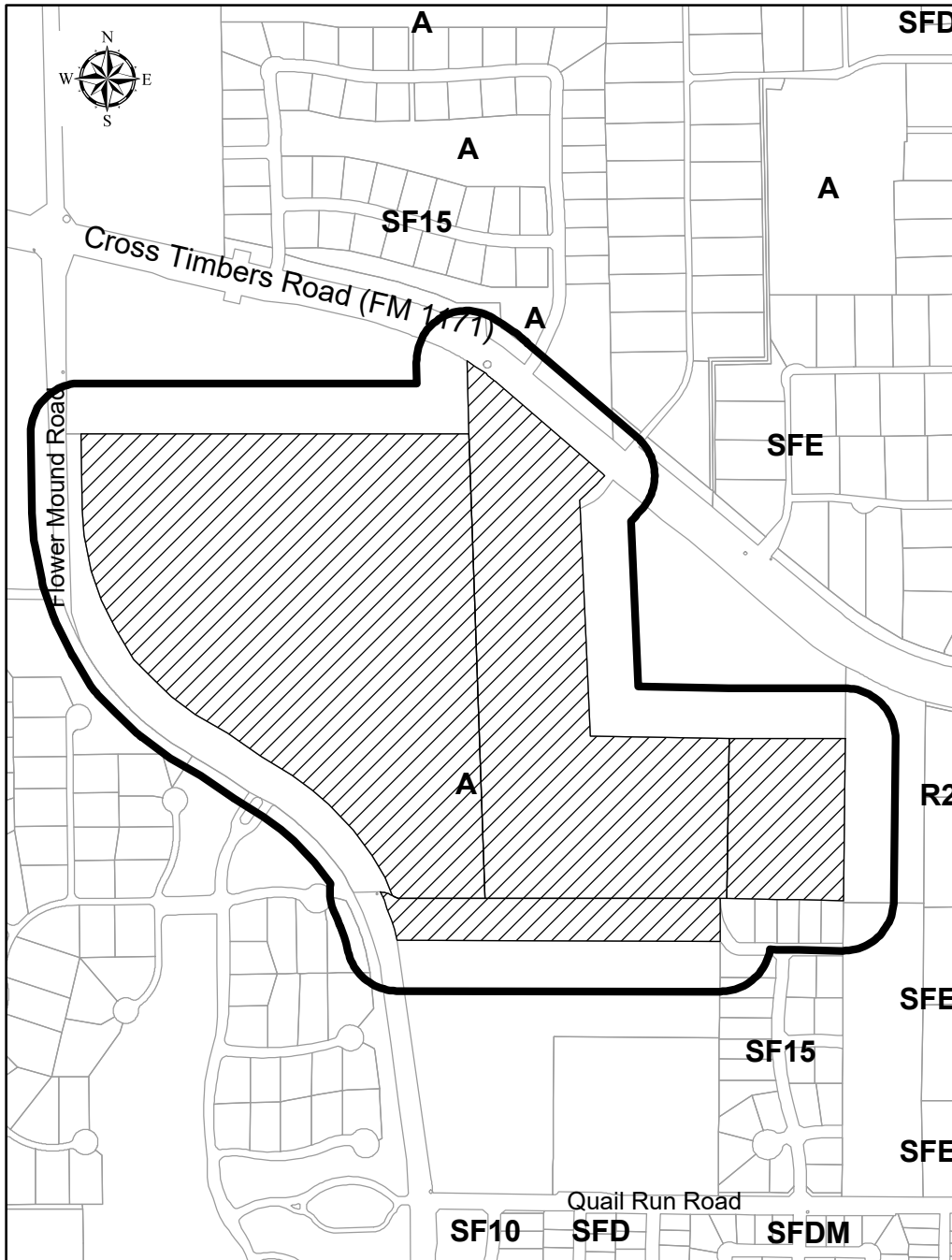
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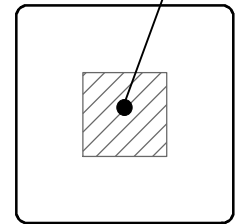
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



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- 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

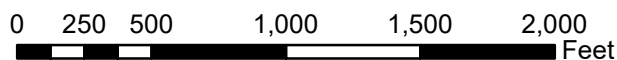


Indicates Limit of 200' Notification

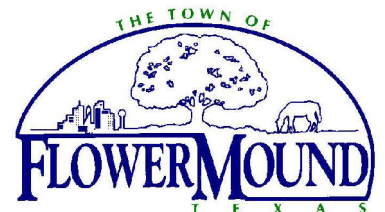
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The property involved is generally located north of Canyon Falls Drive and west of HWY 377.

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.

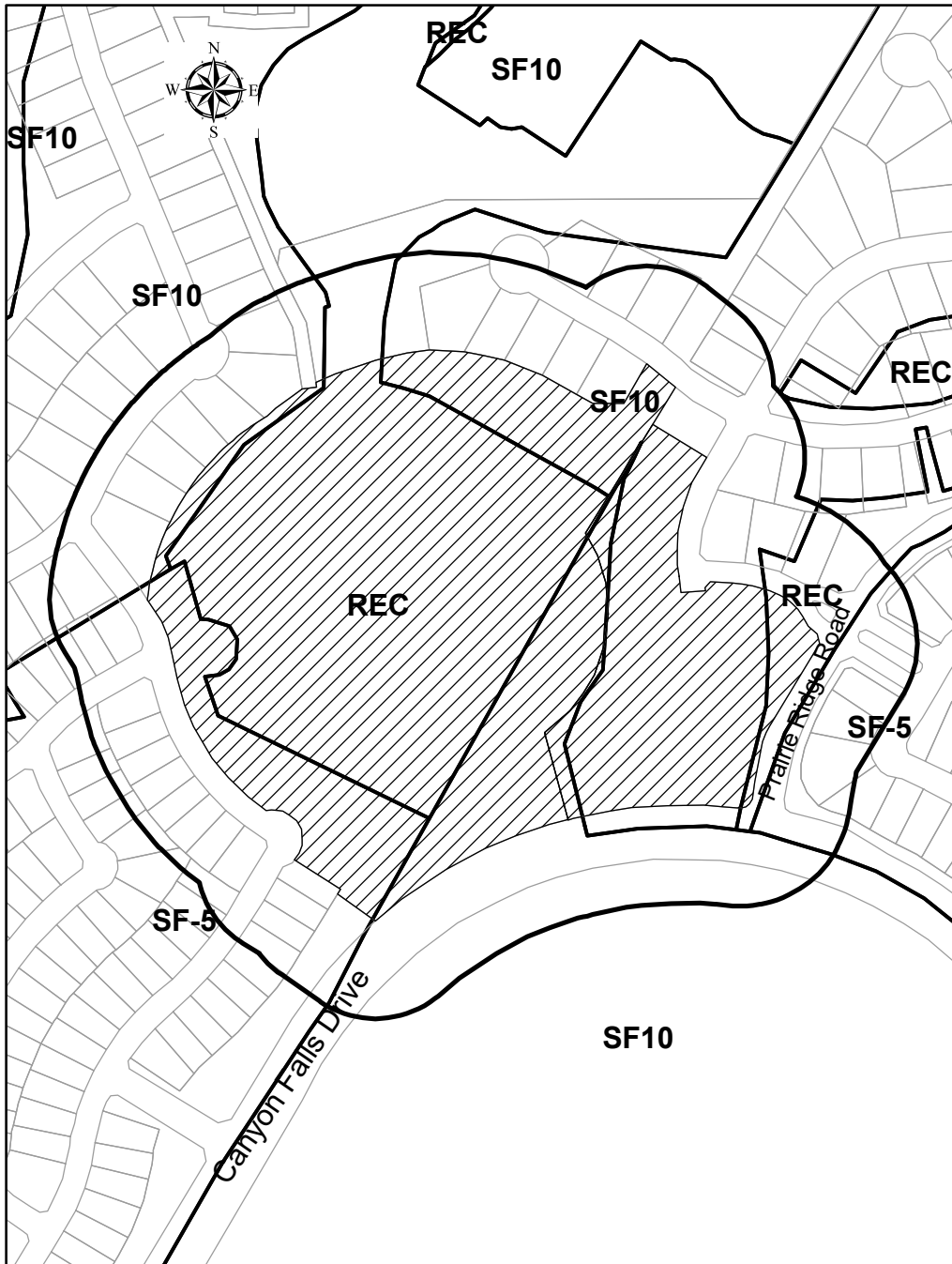
As an interested property owner, you are requested to make your views known by attending this hearing. If you cannot attend the hearing, it is requested that you express your views by mail to the address listed below to my attention.

Sincerely,

John Luxton  
Oil and Gas Inspector

Property Owner Notice

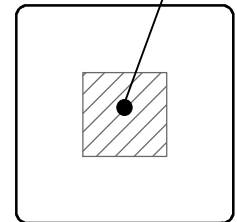
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## Surrounding Zoning Districts:

- SF10 - Single Family 10 (obsolete)
- SF-5 - Single Family District-5
- REC - Recreation

Indicates Subject Property

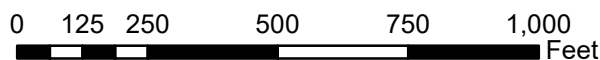


Indicates Limit of 200' Notification

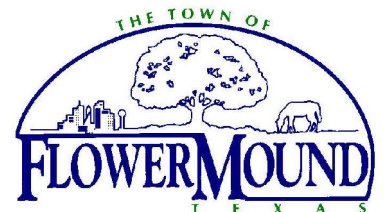
**Date:** October 10, 2018

**Time:** 6:30 p.m.

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



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.





## Environmental Services

September 27, 2018

**RE: Oil and Gas Permit OGB18-0001; Work hours for oil and gas well permits.**

Dear Interested Property Owner,

Notice is hereby given that the Oil and Gas Board of Appeals (**OGBOA**) and Board of Adjustment (**BOA**) of the Town of Flower Mound, Texas, will hold a joint public hearing on Wednesday, October 10, 2018, at 6:30 p.m. in the Flower Mound Town Hall, 2121 Cross Timbers Road (FM 1171).

The purpose of the hearing is to consider a request from EagleRidge Operating, LLC., for a variance to Town Code Section 34-422(g), "Work hours for oil and gas well permits". The variance would allow trucks conducting produced water collection and hauling operations to operate with no daily or hourly restrictions at gas well pad sites. The variance request also includes an appeal of staff's interpretation of the ordinance that the work hours limitation within Town Code Section 34-422(g) applies to produced water collection and hauling operations at gas well pad sites.

Additionally, EagleRidge Operating, LLC., has requested a **BOA** Appeal of a preemption determination request pursuant to Town Code, Article IX. "Vested rights/preemption determination", Section. 34-500(d), regarding statutory limitation pursuant to Chapter 621 of the Texas Transportation Code. The applicant's preemption determination appeal requests the **BOA** to determine that the Town's hours of operations regulations, Code Section 34-422(g), do not apply to produced water collection and hauling operations from their pad sites.

The property involved is generally located north of Cross Timbers Road (FM 1171) and west of Lusk Lane.

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.

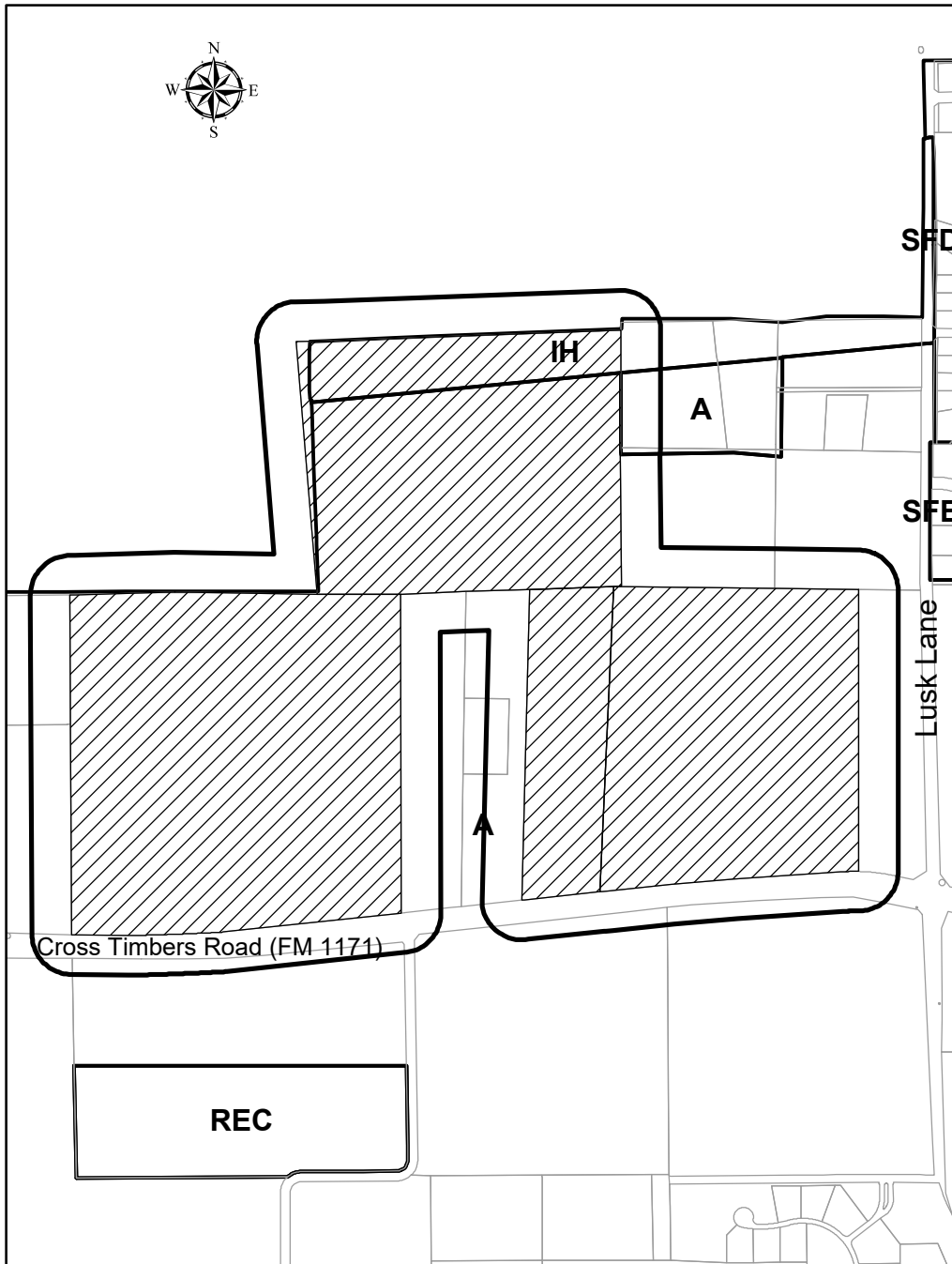
As an interested property owner, you are requested to make your views known by attending this hearing. If you cannot attend the hearing, it is requested that you express your views by mail to the address listed below to my attention.

Sincerely,

John Luxton  
Oil and Gas Inspector

Property Owner Notice

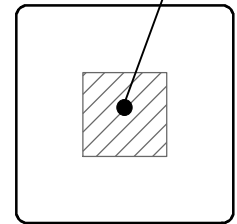
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## Surrounding Zoning Districts:

- IH - Interim Holding
- A - Agricultural District
- SFE - Single Family Estate
- SFD - SFD (obsolete)
- REC - Recreation

Indicates Subject Property



Indicates Limit of 200' Notification

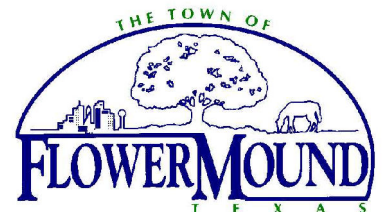
**Date:** October 10, 2018

**Time:** 6:30 p.m.

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

0 312.5 625 1,250 1,875 2,500  
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.





## Environmental Services

September 27, 2018

**RE: Oil and Gas Permit OGB18-0001; Work hours for oil and gas well permits.**

Dear Interested Property Owner,

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The purpose of the hearing is to consider a request from EagleRidge Operating, LLC., for a variance to Town Code Section 34-422(g), "Work hours for oil and gas well permits". The variance would allow trucks conducting produced water collection and hauling operations to operate with no daily or hourly restrictions at gas well pad sites. The variance request also includes an appeal of staff's interpretation of the ordinance that the work hours limitation within Town Code Section 34-422(g) applies to produced water collection and hauling operations at gas well pad sites.

Additionally, EagleRidge Operating, LLC., has requested a **BOA** Appeal of a preemption determination request pursuant to Town Code, Article IX. "Vested rights/preemption determination", Section. 34-500(d), regarding statutory limitation pursuant to Chapter 621 of the Texas Transportation Code. The applicant's preemption determination appeal requests the **BOA** to determine that the Town's hours of operations regulations, Code Section 34-422(g), do not apply to produced water collection and hauling operations from their pad sites.

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

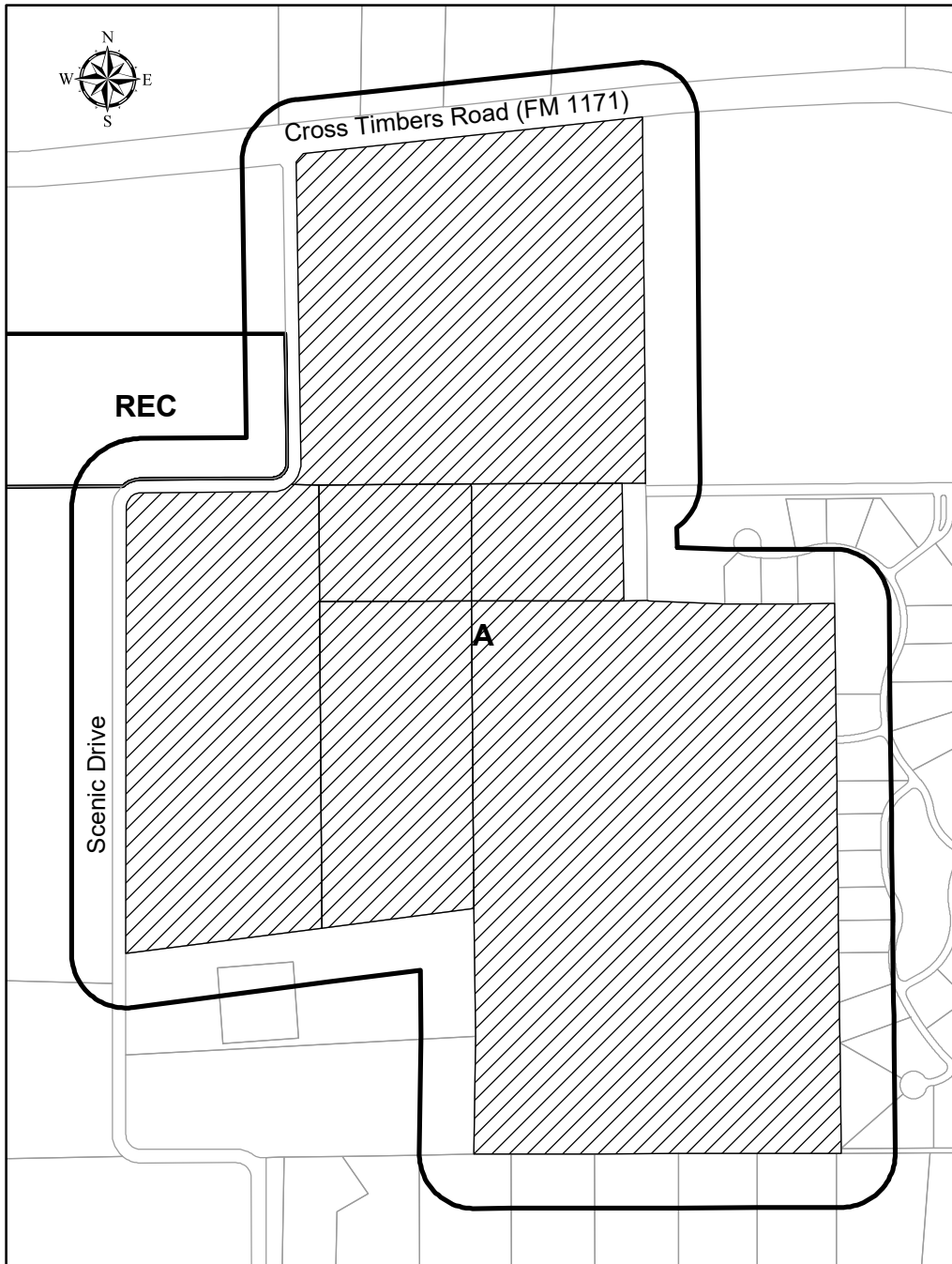
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Sincerely,

John Luxton  
Oil and Gas Inspector

Property Owner Notice

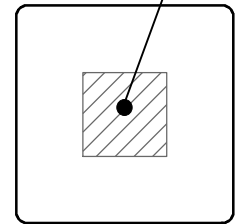
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## Surrounding Zoning Districts:

A - Agricultural District  
REC - Recreation

Indicates Subject Property



Indicates Limit of 200' Notification

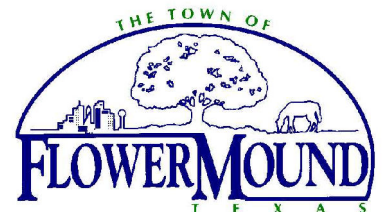
**Date:** October 10, 2018

**Time:** 6:30 p.m.

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

0 225 450 900 1,350 1,800 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.





## OIL AND GAS BOARD OF APPEALS AGENDA ITEM NO. 4

### REGULAR ITEM

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**DATE:** October 10, 2018

**FROM:** John Luxton, Oil and Gas Inspector

**PRESENTER:**

**APPLICANT:** Mark Grawe, Eagle Ridge Operating, LLC.  
Arthur J. Anderson, Winstead, P.C.

**STAFF:** Matthew Woods, Director of Environmental Services  
John Luxton, Oil and Gas Inspector

**ITEM:** (OGB18-0003) Public hearing to consider an appeal by Eagle Ridge Operating, LLC., of Town staff's determination that the work hour limitations for gas well permits set forth in Section 34-422(g), Article VII, of the Town's Code of Ordinances, apply to gas well pad site produced water collection and hauling operations; or, in the alternative, that sufficient grounds exist to satisfy the work hours exception: "any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production."

---

#### BACKGROUND INFORMATION:

**OPERATOR:** Eagle Ridge Operating, LLC  
3300 Oak Lawn Ave. Suite 500  
Dallas, Texas 75219

**APPLICANT:** Mark Grawe

**CONTACT:** Mark Grawe  
3300 Oak Lawn Ave. Suite 500  
Dallas, Texas 75219

#### STAFF ANALYSIS:

The Town's "Oil and Natural Gas Well Drilling and Operations" regulations are established in Chapter 34 of the Town's Code of Ordinances. The Town reviews and issues gas well permits and inspects all gas well pad sites located within the Town's limits. The Town's Oil and Gas Inspector is responsible for administering the gas well regulations which includes plan review, permit issuance or denial, site inspections, and any related enforcement actions. The allowable work hours for gas well pad sites are included within Chapter 34, "Oil and Natural Gas Well Drilling and Operations," of the Town's Code of Ordinances.

Chapter 34, Section 34-422(g), "Work hours for oil and gas well permits," provides for the following regulation relative to allowable work hours at gas well pad sites:

*(g) Work hours for oil and gas well permits.* Site development, other than drilling, shall be conducted only between 7:00 a.m. and 7:00 p.m. Monday through Friday and between 9:00 a.m. and 5:00 p.m. on Saturday. Truck deliveries of equipment and materials associated with drilling and/or production, well servicing, site preparation and other related work conducted on the well site shall be limited to the same

work hour restrictions identified above except in cases of fires, blowouts, explosions, and any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production. The operator may request a variance from the oil and gas board of appeals, pursuant to [section 34-432](#) of this article.

In accordance with Section 34-432 "Appeals" of the Town's Code of Ordinances, the applicant submitted an application for an appeal for consideration by the Oil and Gas Board of Appeals. The appeal of the Oil and Gas Inspector's interpretation and application of the allowable work hours regulation within Section 34-422(g) was submitted to the Town on May 3, 2018. The applicant claims the hauling of produced water from a pad site is not covered by the ordinance, or that sufficient grounds exist to satisfy the work hours exception, which may include "any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production."

**CITIZEN FEEDBACK:** Property owner notifications were sent September 28, 2018. To date, staff has not received any response in support or opposition to the proposed new construction setback variance requests.

**ATTACHMENTS:**

1. Application
2. Supplemental information to the Application
3. Pad Site Exhibit
4. Public hearing notice
5. Property owner notifications

**MOTION:** Move to sustain or reverse Town staff's determination that the work hour limitations for gas well permits set forth in Section 34-422(g), Article VII, of the Town's Code of Ordinances, apply to gas well pad site produced water collection and hauling operations; or, in the alternative, that sufficient grounds exist to satisfy the work hours exception: "any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production."

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

DATE: 5/2/18

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 34-423(a) Article VII of the Town of Flower Mound "Oil and Natural Gas Well Drilling and Operations" Ordinance.

**LOCATION OF PROPERTY**

Street Address: See Attached Exhibit "B"

Legal Description: Lot/Tract \_\_\_\_\_, Block \_\_\_\_\_, of Subdivision/Abstract \_\_\_\_\_

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.)

See attached Exhibit "A" for Eagkrick operating, LLC

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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;

- (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 the Town fire personnel and fire fighting equipment; 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.
- (12) The recommendations of the oil and gas inspector.

I have read this application form and understand that filing the application and paying the fee does not guarantee an affirmative action by the Oil and Gas Board of Appeals. I further understand that at least four (4) affirmative votes must be cast in order to receive a variance.

<u><i>[Signature]</i></u>	<u>Mark Graine</u>
Signature of Applicant	Print Name
<u>3900 Beckham Ave, Suite 500, Dallas, TX 75219</u>	<u>817-946-2873</u>
Mailing Address	Telephone (Day Number)
<u><i>[Signature]</i></u>	<u>5/2/18</u>
Staff Member's Signature	Date
	<u>R30510347</u>
	Receipt Number

OIL AND GAS BOARD OF APPEALS      DECISION:      ( ) DENIED      ( ) GRANTED

TERMS AND/OR CONDITIONS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

OIL AND GAS BOARD OF APPEALS CHAIRMAN: \_\_\_\_\_ DATE: \_\_\_\_\_

Filed with office of the Secretary this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

## **EXHIBIT A**

The applicant requests that the Town of Flower Mound Oil and Gas Board of Appeals grant a variance to the requirement in § 34-422(g) Article VII of the Town's Code of Ordinances that the hours of water production hauling be limited to 7:00 a.m. to 7:00 p.m.

### **BACKGROUND**

On July 1, 2017, EagleRidge Operating, LLC ("EagleRidge") assumed operations of eight (8) production facilities containing 40 gas wells formerly operated by Trinity River Energy Operating, LLC located in the Town of Flower Mound.

In March, EagleRidge requested approval from the Town to haul and remove produced water from all of the pad sites for an extended period after the defined day time hours of 7:00 a.m. to 7:00 p.m. which are producing approximately 105,000 gallons per day. Due to this limited time, operations have become difficult to haul the water due to limited manpower, equipment availability and disposal wells. EagleRidge has been unable to locate any vendor that will haul water unless they are able to haul water 24/7 including the water hauler which has given notice it will haul for only two more weeks. If EagleRidge is unable to haul water, it will be forced to shut in wells that produce \$700,000 of gross revenue which affect the working interest owners and the royalty owners as well. The restriction by the Town of Flower Mound has caused undue harm, expense and commerciality of these wells and will result in a significant diminution in value. EagleRidge hereby requests a variance in Code so that EagleRidge can haul water safely and commercially from the pad sites.

As an alternative to extending the hours of operation, EagleRidge requests a variance to allow the conversion of one of its existing wells to a salt water injection well. EagleRidge would lay additional lateral lines from each pad site to the injection well. This would eliminate the need for the hauling of produced water 24/7.

In 2015, the Texas Legislature adopted HB 40 (codified as section 81.0523, Texas Natural Resources Code ("Section 81.0523")):

#### **Sec. 81.0523. EXCLUSIVE JURISDICTION AND EXPRESS PREEMPTION.**

(a) In this section:

(1) "Commercially reasonable" means a condition that would allow a reasonably prudent operator to fully, effectively, and economically exploit, develop, produce, process, and transport oil and gas, as determined based on the objective standard of a reasonably prudent operator and not on an individualized assessment of an actual operator's capacity to act.

(2) "Oil and gas operation" means an activity associated with the exploration, development, production, processing, and transportation of oil and gas, including drilling, hydraulic fracture stimulation, completion,

maintenance, reworking, recompletion, disposal, plugging and abandonment, secondary and tertiary recovery, and remediation activities.

(b) An oil and gas operation is subject to the exclusive jurisdiction of this state. Except as provided by Subsection (c), a municipality or other political subdivision may not enact or enforce an ordinance or other measure, or an amendment or revision of an ordinance or other measure, that bans, limits, or otherwise regulates an oil and gas operation within the boundaries or extraterritorial jurisdiction of the municipality or political subdivision.

(c) The authority of a municipality or other political subdivision to regulate an oil and gas operation is expressly preempted, except that a municipality may enact, amend, or enforce an ordinance or other measure that:

(1) regulates only aboveground activity related to an oil and gas operation that occurs at or above the surface of the ground, including a regulation governing fire and emergency response, traffic, lights, or noise, or imposing notice or reasonable setback requirements;

(2) is commercially reasonable;

(3) does not effectively prohibit an oil and gas operation conducted by a reasonably prudent operator; and

(4) is not otherwise preempted by state or federal law.

#### APPEALS CRITERIA

The primary criteria involved with this appeal is whether or not the Town's hours of operation ordinance due to the lack of available vendors is authorized under House Bill 40. Strictly enforcing the hours of operation will result in shutting down the wells in violation of § 81.0523(c)(3). Strict compliance will have a devastating financial impact on EagleRidge in violation of § 81.0523(c)(2).

The Oil and Gas Board of Appeals also considers 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. The special circumstance is the lack of vendors who will haul produced water if limited to daytime hours.*

(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. EagleRidge will not be able to operate its wells without extended hours for water hauling.*

- (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.* The wells are allowed under the comprehensive master plan.
- (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.* Extending the hours of operation benefits the public welfare because it allows trucks to utilize Town streets during less busy traffic conditions.
- (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.* Because the variance is necessary to continue drilling at the Town approved well sites, the operations proposed are reasonable.
- (6) *Whether the drilling of such wells would conflict with the orderly growth and development of the Town.* The drilling sites have been approved so there is no conflict with the orderly growth and development of the Town.
- (7) *Whether there are other alternative well site locations.* There are no alternative locations for the purposes of this variance request.
- (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.* The proposed operations will be consistent with the health, safety and welfare of the public because the Town's roads are less busy during non-daytime hours.
- (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.* Approval of the variance will not impact environmental quality.
- (10) *Whether there is reasonable access for the Town fire personnel and firefighting equipment.* The variance does not impact emergency vehicle access to the well sites.
- (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.* Because denial of the variance will shut down production, the impact will be severe to EagleRidge.
- (12) *The recommendations of the oil and gas inspector.* TBA

EXHIBIT 'B'

EagleRidge Operating, LLC

Request for Variance Leases Located Within; Flower Mound, Texas										
Lease Name/Well #	Pad	RRC ID#	Type	API Number	Address	City	County	State	By Padsite Gallons Per Day	By Padsite Truck Loads per day
DR. BOB SMITH A NORTH 10H	R. BOB SMITH A NORTH PAD	257800	Gas	4212133861	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS	50,400	10
DR. BOB SMITH A NORTH 4H	R. BOB SMITH A NORTH PAD	258042	Gas	4212133844	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A NORTH 5H	R. BOB SMITH A NORTH PAD	258185	Gas	4212133845	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A NORTH 6H	R. BOB SMITH A NORTH PAD	258079	Gas	4212133857	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A NORTH 7H	R. BOB SMITH A NORTH PAD	258594	Gas	4212133855	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A NORTH 8H	R. BOB SMITH A NORTH PAD	258585	Gas	4212133858	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A NORTH 9H	R. BOB SMITH A NORTH PAD	264067	Gas	4212133868	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A 1H	DR. BOB SMITH A PAD	255315	Gas	4212133714	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A 2H	DR. BOB SMITH A PAD	255316	Gas	4212133720	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A 3H	DR. BOB SMITH A PAD	260292	Gas	4212133719	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH A WEST 12H	DR. BOB SMITH A WEST PAD	255373	Gas	4212134022	4000 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH B EAST 7H	DR. BOB SMITH B EAST PAD	261338	Gas	4212134087	3700 Shiloh Road	FLOWER MOUND	DENTON	TEXAS	12,600	3
DR. BOB SMITH B WEST 1H	DR. BOB SMITH B WEST PAD	260296	Gas	4212133824	3700 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH B WEST 2H	DR. BOB SMITH B WEST PAD	261339	Gas	4212133872	3700 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH B WEST 3H	DR. BOB SMITH B WEST PAD	262400	Gas	4212133883	3700 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH B WEST 4H	DR. BOB SMITH B WEST PAD	260298	Gas	4212133884	3700 Shiloh Road	FLOWER MOUND	DENTON	TEXAS		
DR. BOB SMITH C EAST 5H	DR. BOB SMITH C EAST PAD	260335	Gas	4212133999	2601 Scenic Road	FLOWER MOUND	DENTON	TEXAS	3,360	1
DR. BOB SMITH C WEST 1H	DR. BOB SMITH C WEST PAD	252787	Gas	4212133994	2601 Scenic Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON A UNIT 02H	Sam Wilson A Pad	236982	Gas	4212132515	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS	12,600	3
SAM WILSON A UNIT 10H	Sam Wilson A Pad	233850	Gas	4212133730	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON A UNIT 12H	Sam Wilson A Pad	235593	Gas	4212133732	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON A UNIT 13H	Sam Wilson A Pad	233651	Gas	4212133590	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON B UNIT 03H	Sam Wilson B Pad	236995	Gas	4212133108	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON B UNIT 08H	Sam Wilson B Pad	231572	Gas	4212133594	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON B UNIT 09H	Sam Wilson B Pad	240190	Gas	4212132875	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON C UNIT 04H	Sam Wilson C Pad	233966	Gas	4212133595	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON C UNIT 05H	Sam Wilson C Pad	236996	Gas	4212132931	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON C UNIT 06H	Sam Wilson C Pad	237015	Gas	4212132930	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON C UNIT 11H	Sam Wilson C Pad	253678	Gas	4212133585	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON D UNIT 07H	Sam Wilson C Pad	253030	Gas	4212133109	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
SAM WILSON 1H	Sam Wilson Pad	233009	Gas	4212132514	5490 Cross Timbers Road	FLOWER MOUND	DENTON	TEXAS		
BUNN UNIT A 1H	Bunn Unit Pad	248944	Gas	4212132315	4200 Quail Run	FLOWER MOUND	DENTON	TEXAS	420	1 load per week
BUNN UNIT B 2H	Bunn Unit Pad	223932	Gas	4212132460	4200 Quail Run	FLOWER MOUND	DENTON	TEXAS		
OBENCHAIN D-1H	Obenchain D Pad	225302	Gas	4212132186	6577 Stonecrest Drive	FLOWER MOUND	DENTON	TEXAS	840	1 per week
OBENCHAIN D-2H	Obenchain D Pad	214392	Gas	4212132200	6577 Stonecrest Drive	FLOWER MOUND	DENTON	TEXAS		

**SUPPLEMENT TO EXHIBIT A**

EagleRidge has submitted its variance request with respect to the Town Code's work hours as to truck hauling based on hardship. EagleRidge hereby supplements its pending application to appeal the Town's interpretation of § 34-422(g) Article VII of the Town's Code of Ordinances as applying to water production for the following reasons:

1. The hours of operation in the Code apply to "truck deliveries of equipment and materials associated with drilling and/or production, well servicing, site preparation and other related work conducted on the well site shall be limited to the same work hour restrictions identified above except in cases of fire, blowouts, explosions, and any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production." Truck hauling of produced water from EagleRidge's pad sites is not the delivery of "equipment and materials" to the pad site. Because hauling of produced water from the pad site is not covered by the ordinance, the Town erred in its interpretation to the contrary.

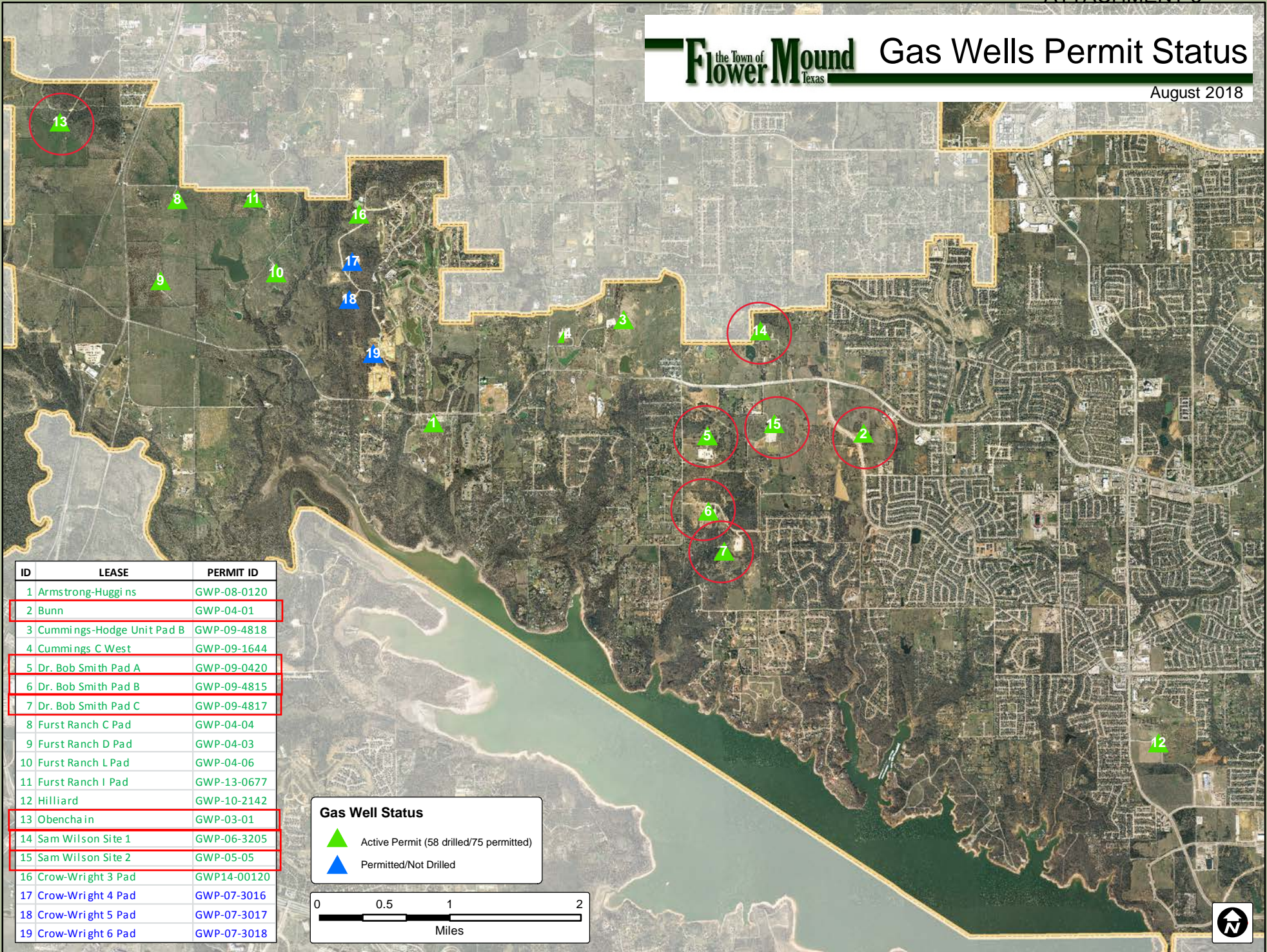
2. In the alternative, Eagle Ridge's situation falls within the exception of "any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production." As stated in Exhibit A, Eagle Ridge's production will be forced to cease if the hours of operation are not expanded due to a lack of vendors willing to limit their operations to 7:00 a.m. – 7:00 p.m. Our reading of the Code is that this provision allows EagleRidge to operate 24/7 as a matter of right. Out of an abundance of caution, this issue is addressed herein for the Board's consideration.

3. The Town's regulation of truck traffic is statutorily limited. For example, it cannot limit truck traffic on state highways such as farm-to-market roads under Chapter 621 of the Texas Transportation Code. The Town is not authorized to discriminate against trucks hauling produced water because they are not "overweight, oversize or overlength" pursuant to § 621.303 of the Texas Transportation Code. As an alternative grounds for appeal, EagleRidge requests that the Board determine that the hours of operation provision in the Code does not apply to trucks hauling produced water from EagleRidge's pad sites.



# Gas Wells Permit Status

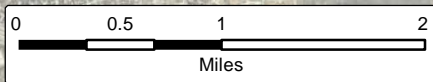
August 2018



ID	LEASE	PERMIT ID
1	Armstrong-Huggi ns	GWP-08-0120
2	Bunn	GWP-04-01
3	Cummings-Hodge Unit Pad B	GWP-09-4818
4	Cummings C West	GWP-09-1644
5	Dr. Bob Smith Pad A	GWP-09-0420
6	Dr. Bob Smith Pad B	GWP-09-4815
7	Dr. Bob Smith Pad C	GWP-09-4817
8	Furst Ranch C Pad	GWP-04-04
9	Furst Ranch D Pad	GWP-04-03
10	Furst Ranch L Pad	GWP-04-06
11	Furst Ranch I Pad	GWP-13-0677
12	Hilliard	GWP-10-2142
13	Obencha in	GWP-03-01
14	Sam Wilson Site 1	GWP-06-3205
15	Sam Wilson Site 2	GWP-05-05
16	Crow-Wright 3 Pad	GWP14-00120
17	Crow-Wright 4 Pad	GWP-07-3016
18	Crow-Wright 5 Pad	GWP-07-3017
19	Crow-Wright 6 Pad	GWP-07-3018

**Gas Well Status**

- Active Permit (58 drilled/75 permitted)
- Permitted/Not Drilled



Gas Well Permit Status

Gas Well Permit Status

## PUBLIC HEARING

Notice is hereby given that the Oil and Gas Board of Appeals (OGBOA) and Board of Adjustment (BOA) of the Town of Flower Mound, Texas, will hold a joint public hearing on Wednesday, October 10, 2018, at 6:30 p.m. in the Flower Mound Town Hall, 2121 Cross Timbers Road (FM 1171).

The purpose of the hearing is to consider a request from EagleRidge Operating, LLC., for a variance to Town Code Section 34-422(g) "Work hours for oil and gas well permits" which will allow operations for gas well pad site produced water collection and hauling to operate with no hourly restrictions. The request also includes an OGBOA Appeal of staff's interpretation that Town Code Section 34-422(g) work hours limitation applies to pad site produced water collection and hauling.

Additionally, EagleRidge Operating, LLC., has requested a BOA Appeal of a preemption determination request (pursuant to Town Code, Article IX. Vested rights/preemption determination, Section. 34-500(d)) regarding statutory limitation (pursuant to Chapter 621 of the Texas Transportation Code) of the Town's authority (pursuant to Town Code Section 34-422(g)) to regulate pad site produced water collection and hauling.

---

To Run in Denton Record-Chronicle: Saturday, September 29, 2018

Denton Record-Chronicle:

FAX: 1-940-566-6818

ATTN: Kaycee

Email: [classads@dentodnrc.com](mailto:classads@dentodnrc.com)

Any questions or issues, please contact:

Emily Chapman

p: 972-874-6338

e: [emily.chapman@flower-mound.com](mailto:emily.chapman@flower-mound.com)

Town of Flower Mound Account # 100041133



## Environmental Services

September 27, 2018

**RE: Oil and Gas Permit OGB18-0001; Work hours for oil and gas well permits.**

Dear Interested Property Owner,

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The property involved is generally located south of Cross Timbers Road (FM 1171), east of Shiloh Road, and west of Scenic Drive.

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.

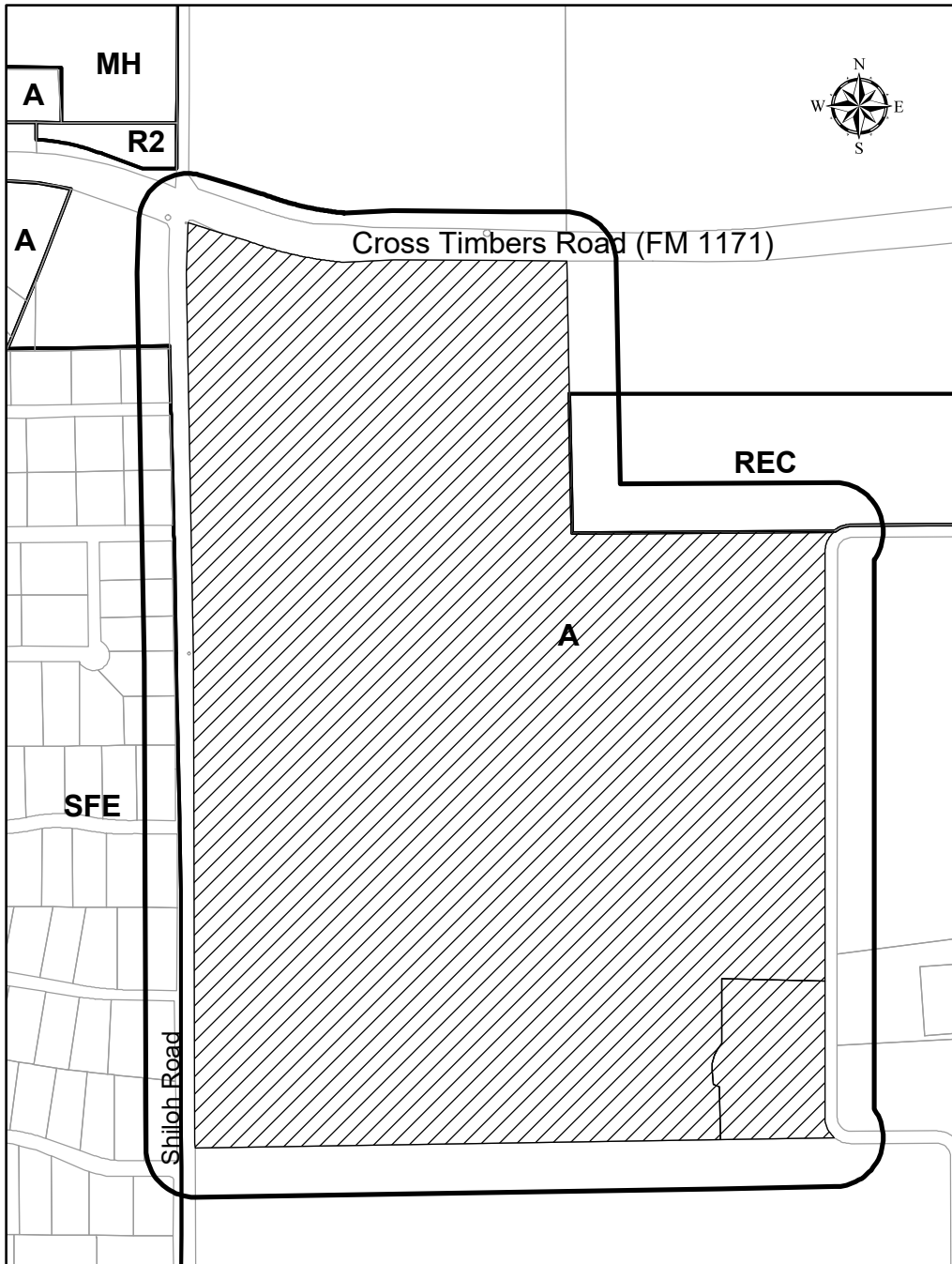
As an interested property owner, you are requested to make your views known by attending this hearing. If you cannot attend the hearing, it is requested that you express your views by mail to the address listed below to my attention.

Sincerely,

John Luxton  
Oil and Gas Inspector

Property Owner Notice

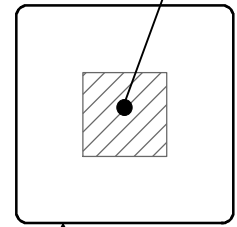
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## Surrounding Zoning Districts:

- A - Agricultural District
- SFE - Single Family Estate
- MH - Mobile Home
- R2 - Retail 2
- REC - Recreation

Indicates Subject Property



Indicates Limit of 200' Notification

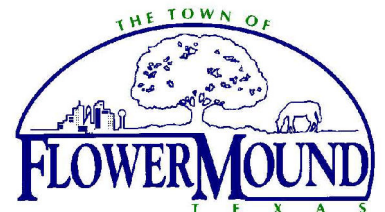
**Date:** October 10, 2018

**Time:** 6:30 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.





## Environmental Services

September 27, 2018

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The property involved is generally located south of Cross Timbers Road (FM 1171), east of Shiloh Road, and west of Scenic Drive.

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.

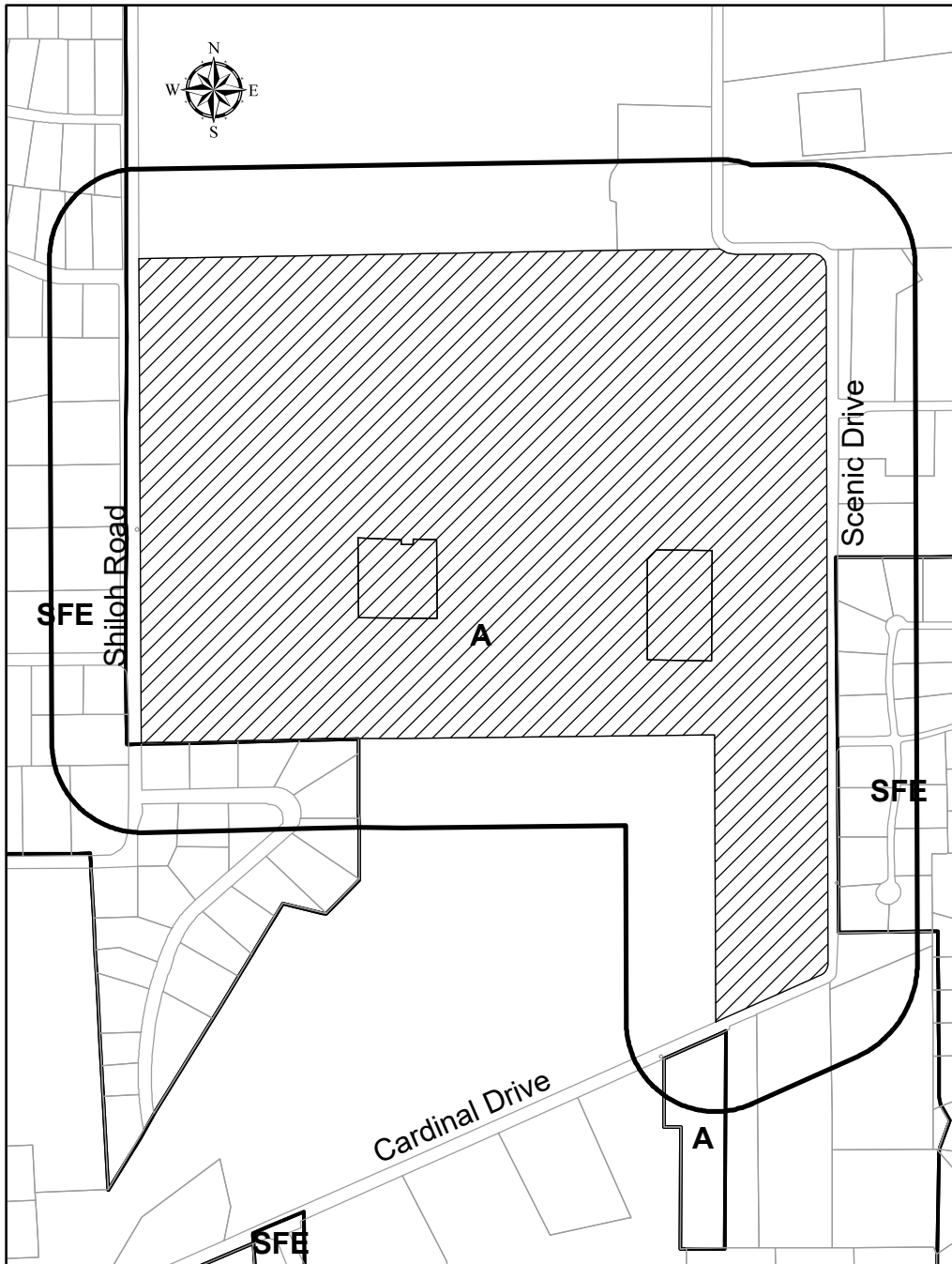
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Sincerely,

John Luxton  
Oil and Gas Inspector

Property Owner Notice

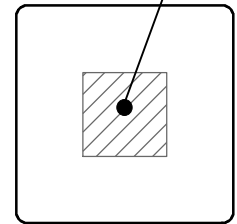
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## Surrounding Zoning Districts:

- A - Agricultural District
- SFE - Single Family Estate

Indicates Subject Property



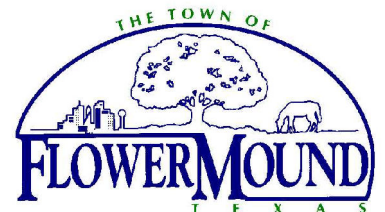
Indicates Limit of 200' Notification

**Date:** October 10, 2018

**Time:** 6:30 p.m.

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

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## Environmental Services

September 27, 2018

**RE: Oil and Gas Permit OGB18-0001; Work hours for oil and gas well permits.**

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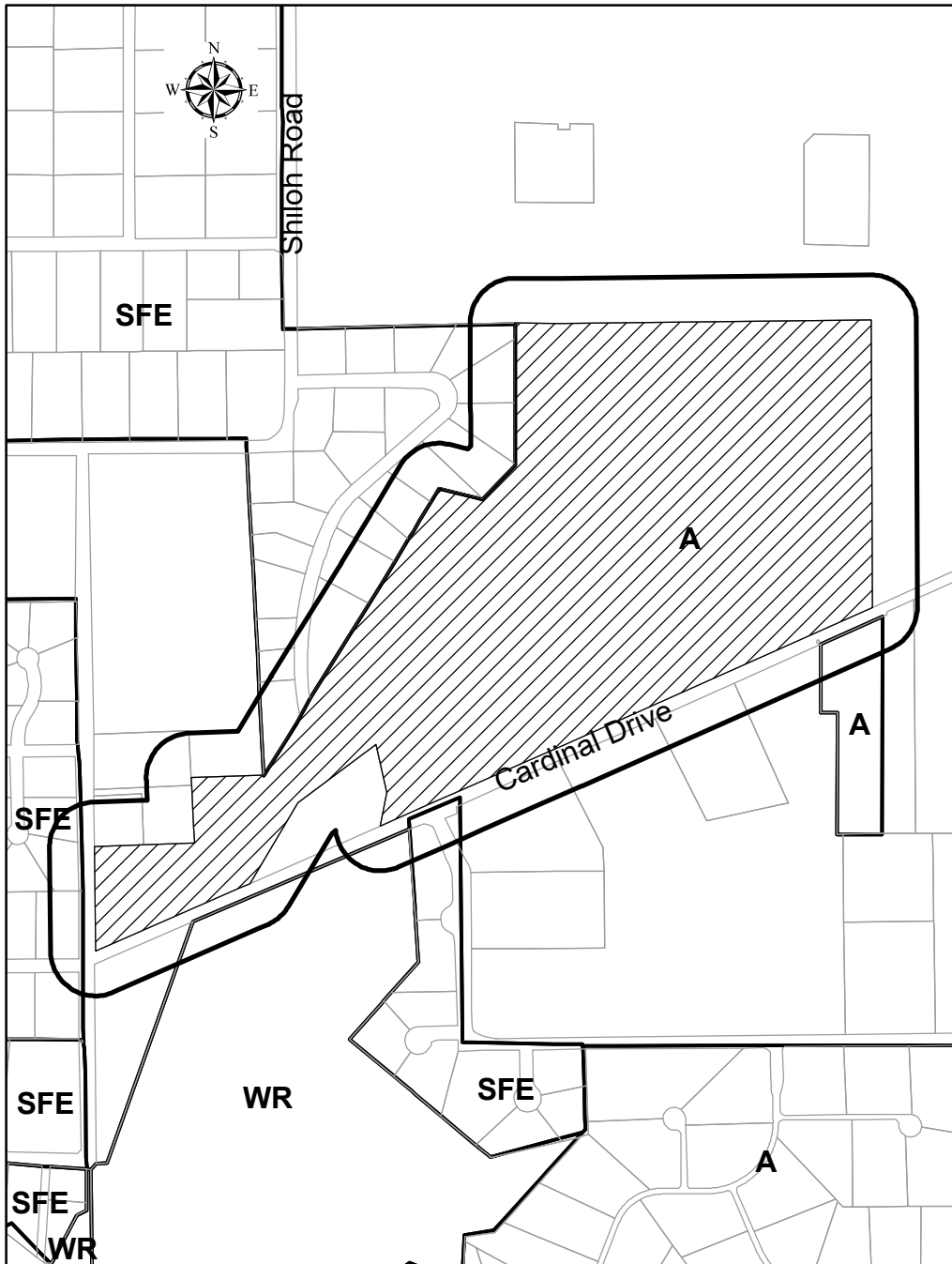
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John Luxton  
Oil and Gas Inspector

Property Owner Notice

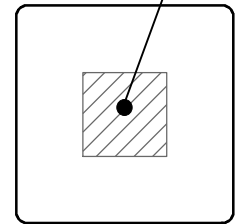
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## Surrounding Zoning Districts:

- A - Agricultural District
- SFE - Single Family Estate
- WR - Water Recreation

Indicates Subject Property



Indicates Limit of 200' Notification

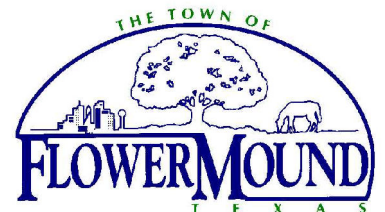
**Date:** October 10, 2018

**Time:** 6:30 p.m.

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

0 275 550 1,100 1,650 2,200 Feet

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## Environmental Services

September 27, 2018

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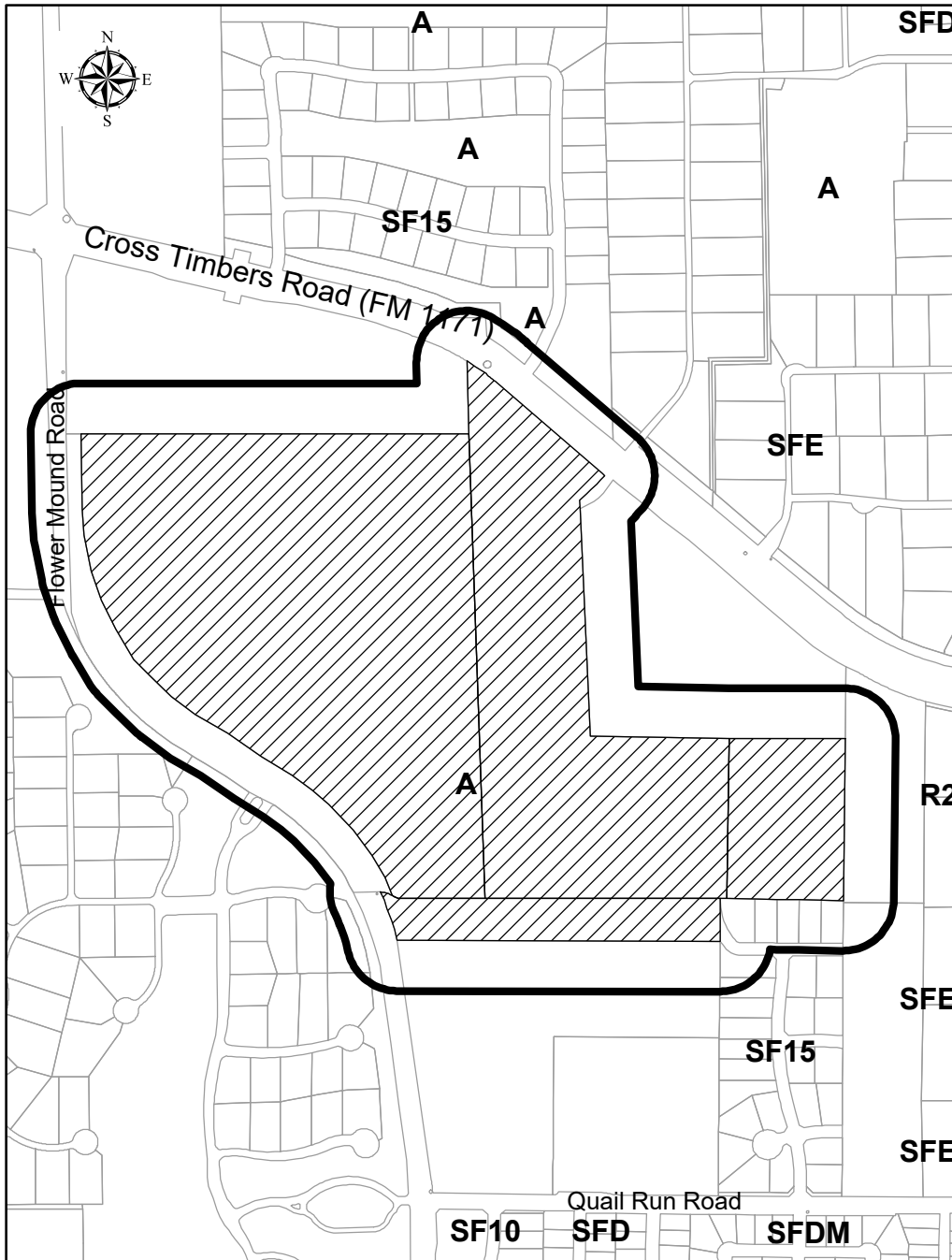
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Property Owner Notice

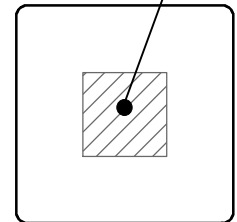
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## 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

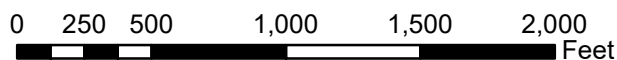


Indicates Limit of 200' Notification

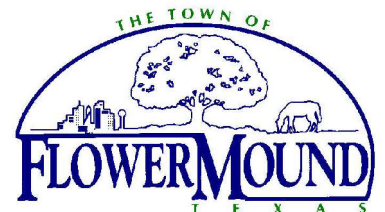
**Date:** October 10, 2018

**Time:** 6:30 p.m.

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



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## Environmental Services

September 27, 2018

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The property involved is generally located north of Canyon Falls Drive and west of HWY 377.

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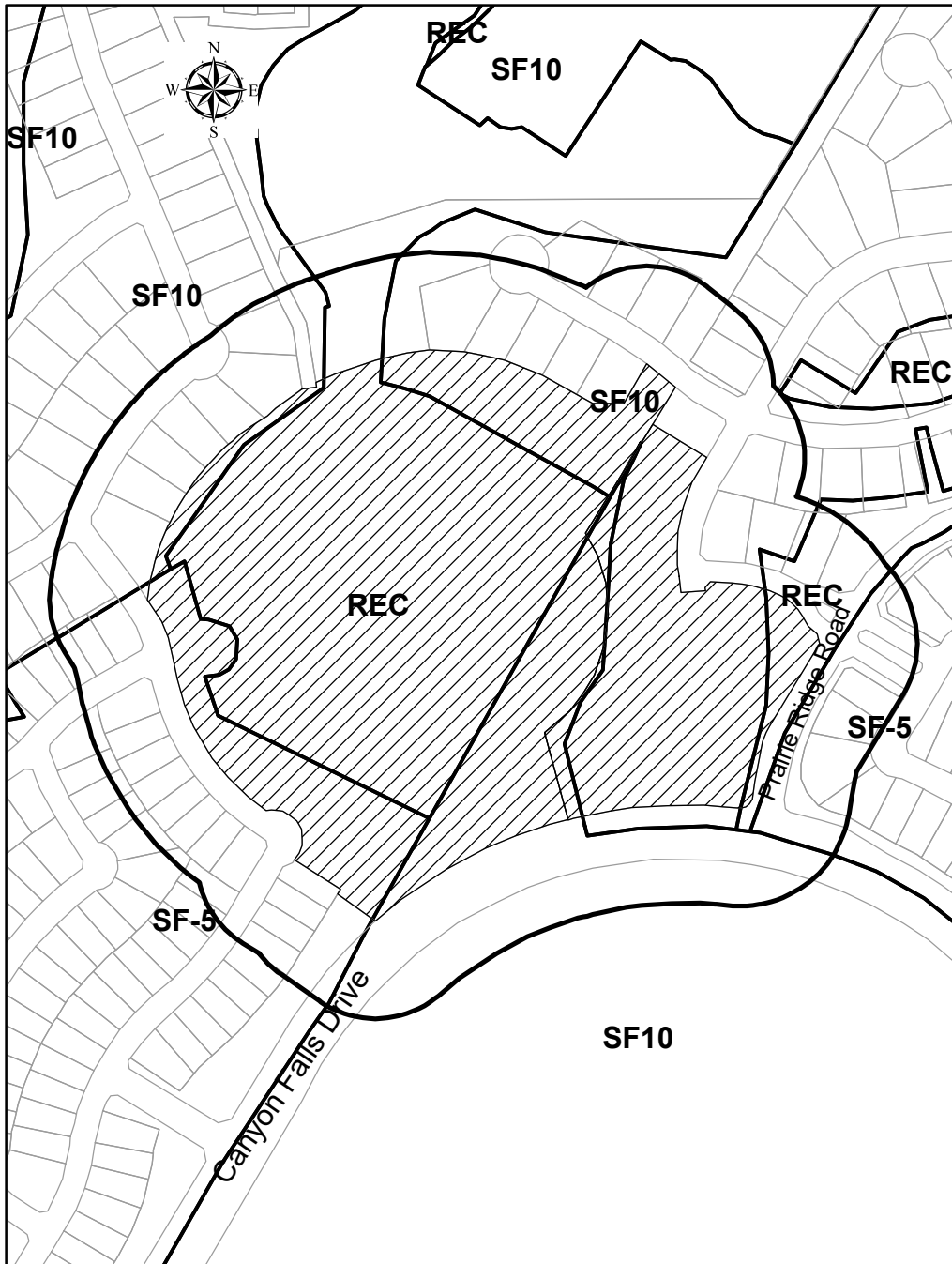
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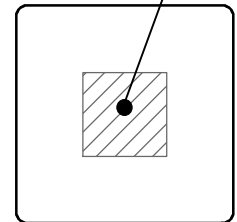
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## Surrounding Zoning Districts:

- SF10 - Single Family 10 (obsolete)
- SF-5 - Single Family District-5
- REC - Recreation

Indicates Subject Property

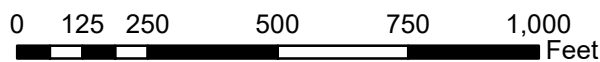


Indicates Limit of 200' Notification

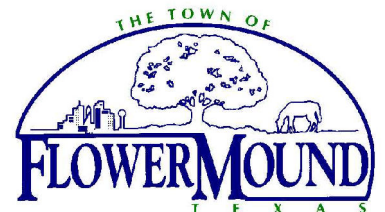
**Date:** October 10, 2018

**Time:** 6:30 p.m.

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



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## Environmental Services

September 27, 2018

**RE: Oil and Gas Permit OGB18-0001; Work hours for oil and gas well permits.**

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The property involved is generally located north of Cross Timbers Road (FM 1171) and west of Lusk Lane.

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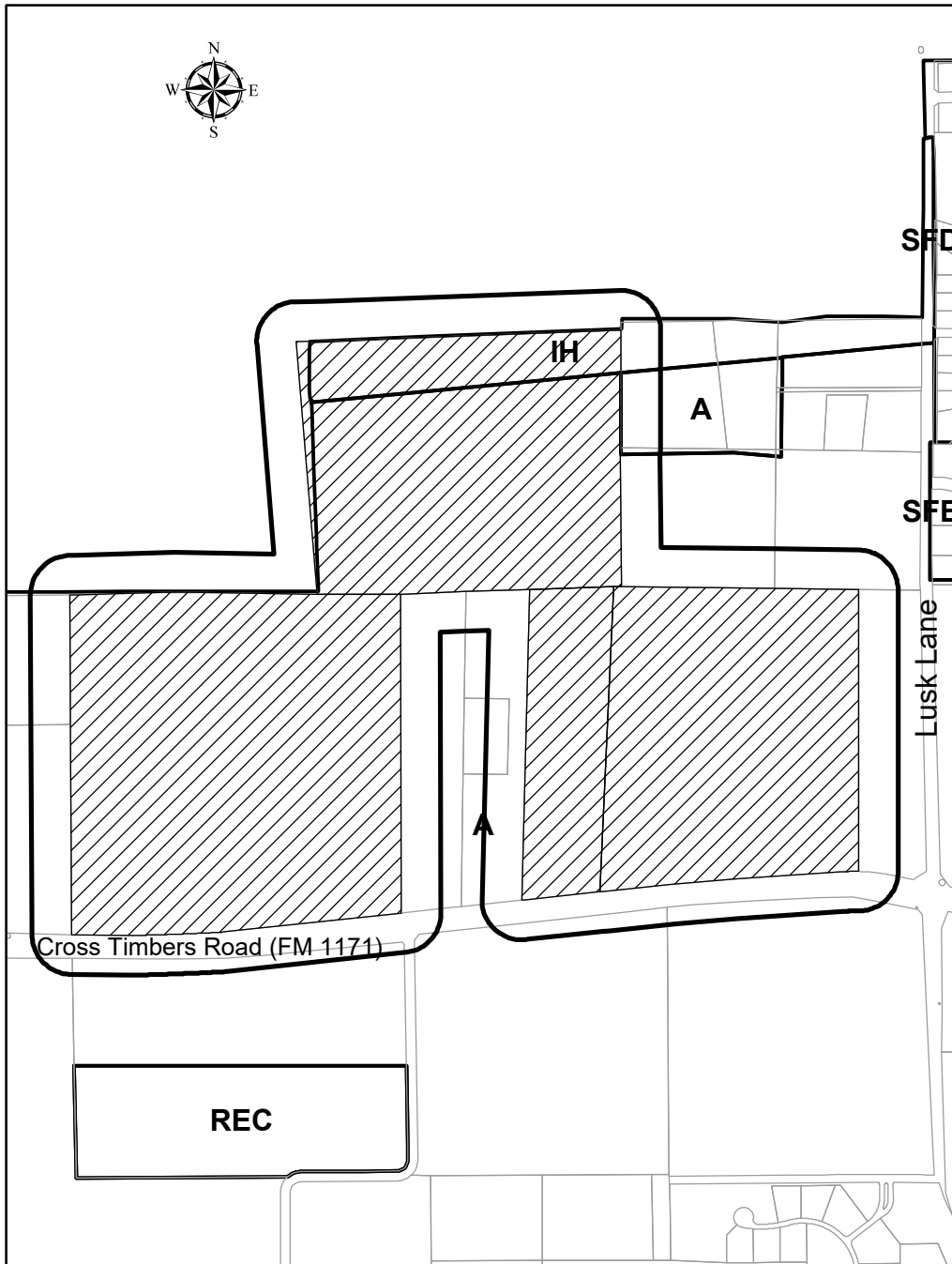
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Sincerely,

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Oil and Gas Inspector

Property Owner Notice

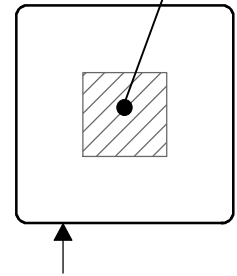
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## Surrounding Zoning Districts:

- IH - Interim Holding
- A - Agricultural District
- SFE - Single Family Estate
- SFD - SFD (obsolete)
- REC - Recreation

Indicates Subject Property



Indicates Limit of 200' Notification

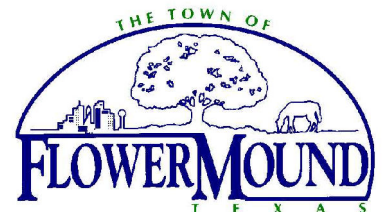
**Date:** October 10, 2018

**Time:** 6:30 p.m.

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

0 312.5 625 1,250 1,875 2,500 Feet

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## Environmental Services

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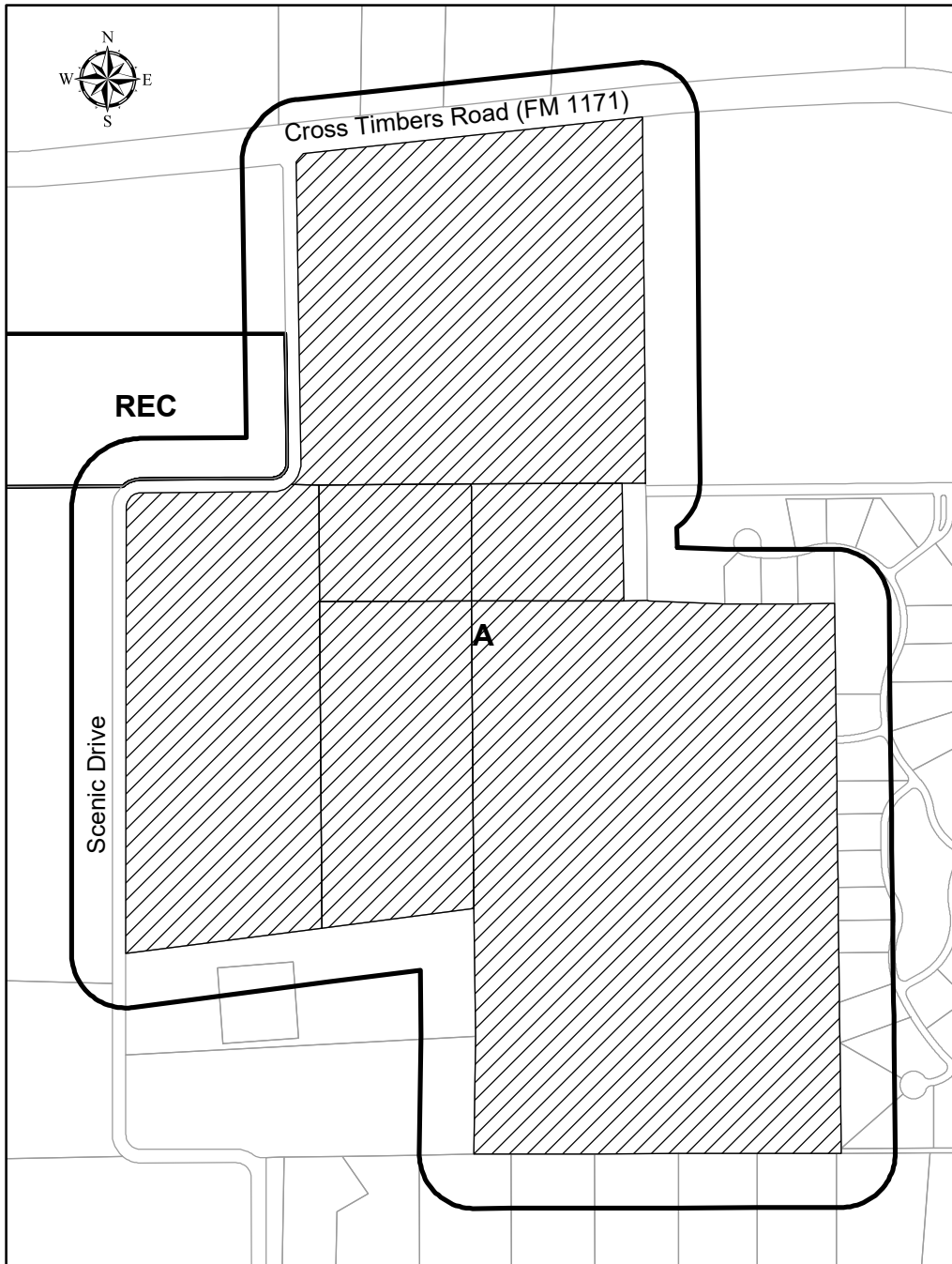
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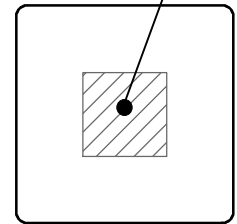
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## Surrounding Zoning Districts:

A - Agricultural District  
REC - Recreation

Indicates Subject Property



Indicates Limit of 200' Notification

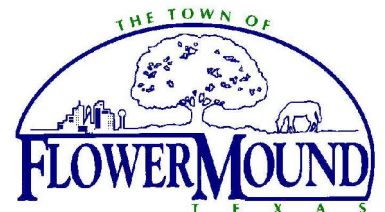
**Date:** October 10, 2018

**Time:** 6:30 p.m.

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

0 225 450 900 1,350 1,800 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.





## BOARD OF ADJUSTMENT AGENDA ITEM NO. 5

### REGULAR ITEM

---

**DATE:** October 10, 2018

**FROM:** John Luxton, Oil and Gas Inspector

**PRESENTER:**

**APPLICANT:** Mark Grawe, Eagle Ridge Operating, LLC  
Arthur J. Anderson, Winstead, P.C.

**STAFF:** Matthew Woods, Director of Environmental Services  
John Luxton, Oil and Gas Inspector

**ITEM:** (BOA18-0008) Public hearing to consider a preemption determination appeal from Eagle Ridge Operating, LLC. The applicant is appealing the Town Manager's denial of a preemption determination request, which contended that Chapter 621 of the Texas Transportation Code preempted the Town's authority to apply the work hour limitations (pursuant to Section 34-422(g), Article VII, of the Town's Code of Ordinances,) to gas well pad site produced water collection and hauling operations.

---

#### BACKGROUND INFORMATION:

**OPERATOR:** Eagle Ridge Operating, LLC  
3300 Oak Lawn Ave. Suite 500  
Dallas, Texas 75219

**APPLICANT:** Mark Grawe

**CONTACT:** Mark Grawe  
3300 Oak Lawn Ave. Suite 500  
Dallas, Texas 75219

#### STAFF ANALYSIS:

The Town adopted ordinance 30-11 on July 18, 2011, which included provisions to address vested rights and preemption claims related specifically to Article VII, "Oil and Natural Gas Well Drilling and Operations," and Article VIII, "Oil and Gas Pipeline Standards." The regulations, Article IX, "Vested Rights/Preemption Determination," were adopted to provide a method of administrative review and a process to determine if vested rights exist or whether the Town's authority is preempted by a state or federal law. A preemption determination request was submitted by Eagle Ridge Operating, LLC., on May 9, 2018.

Chapter 34, Section 34-422(g), "Work hours for oil and gas well permits," provides for the following regulation relative to allowable work hours at gas well pad sites:

*(g) Work hours for oil and gas well permits.* Site development, other than drilling, shall be conducted only between 7:00 a.m. and 7:00 p.m. Monday through Friday and between 9:00 a.m. and 5:00 p.m. on Saturday. Truck deliveries of equipment and materials associated with drilling and/or production, well servicing, site preparation and other related work conducted on the well site shall be limited to the same work hour restrictions identified above except in cases of fires, blowouts, explosions, and any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production. The operator may request a variance from the oil and gas board of appeals, pursuant to [section 34-432](#) of this article.

The Town Manager reviewed the preemption determination request and a denial letter was submitted to the applicant. The applicant requested an appeal of the preemption determination denial to the Board of Adjustment.

**CITIZEN FEEDBACK:** Property owner notifications were sent September 28, 2018. To date, staff has not received any response in support or opposition to the proposed new construction setback variance requests.

**ATTACHMENTS:**

1. Preemption determination appeal
2. Preemption determination denial
3. Section 621.303 of the Texas Transportation Code
4. Public hearing notice
5. Property owner notifications

**MOTION:** Move to sustain or reverse the Town Manager's denial of a preemption determination request, which contended that Chapter 621 of the Texas Transportation Code preempted the Town's authority to apply the work hour limitations (pursuant to Section 34-422(g), Article VII, of the Town's Code of Ordinances,) to gas well pad site produced water collection and hauling operations.

500 Winstead Building 214.745.5400 OFFICE  
2728 N. Harwood Street 214.745.5390 FAX  
Dallas, Texas 75201 winstead.com

Arthur J. Anderson  
direct dial: 214.745.5745  
aanderson@winstead.com

May 9, 2018

**VIA E-MAIL**

Bryn Meredith, Esq. ([bmeredith@toase.com](mailto:bmeredith@toase.com))  
Taylor Olson Adkins, et al.  
6000 Western Place, #200  
Fort Worth, TX 76107

Re: EagleRidge Preemption Appeals Letter

Dear Bryn:

The City has accepted EagleRidge's variance application to extend the hours of operation for water hauling as set forth in §34-422(g) of Article VII of the Town's Code of ordinances. Staff forwarded an e-mail yesterday stating that the Oil and Gas Board of Appeals does not have jurisdiction to allow the installation of a saltwater disposal well in lieu of truck hauling. I forwarded an e-mail to you and Matthew Woods yesterday agreeing to withdraw that item.

Mr. Woods also stated in his e-mail that the preemption arguments stated in EagleRidge's application materials should be submitted in a separate application pursuant to §34-500 of the Town's Code. Please accept this letter as constituting that submittal.

In accordance with the Code, EagleRidge has submitted information to the Town about the property subject to this appeal, as well as EagleRidge's contact information. The preemption agreements are set forth below.

In March, EagleRidge requested approval from the Town to haul and remove produced water from all of its pad sites for an extended period after the defined day time hours of 7:00 a.m. to 7:00 p.m. which are producing approximately 105,000 gallons per day. Due to this limited time, operations have become difficult to haul the water due to limited manpower, equipment availability and disposal wells. EagleRidge has been unable to locate any vendor that will haul water unless they are able to haul water 24/7. If EagleRidge is unable to haul water, it will be forced to shut in wells that produce \$700,000 of gross revenue which affect the working interest owners and the royalty owners as well. The restriction by the Town of Flower Mound has caused undue harm, expense and commerciality of these wells and will result in a significant diminution in value.

In 2015, the Texas Legislature adopted HB 40 (codified as section 81.0523, Texas Natural Resources Code ("Section 81.0523")):

Sec. 81.0523. EXCLUSIVE JURISDICTION AND EXPRESS PREEMPTION.

(a) In this section:

(1) "Commercially reasonable" means a condition that would allow a reasonably prudent operator to fully, effectively, and economically exploit, develop, produce, process, and transport oil and gas, as determined based on the objective standard of a reasonably prudent operator and not on an individualized assessment of an actual operator's capacity to act.

(2) "Oil and gas operation" means an activity associated with the exploration, development, production, processing, and transportation of oil and gas, including drilling, hydraulic fracture stimulation, completion, maintenance, reworking, recompletion, disposal, plugging and abandonment, secondary and tertiary recovery, and remediation activities.

(b) An oil and gas operation is subject to the exclusive jurisdiction of this state. Except as provided by Subsection (c), a municipality or other political subdivision may not enact or enforce an ordinance or other measure, or an amendment or revision of an ordinance or other measure, that bans, limits, or otherwise regulates an oil and gas operation within the boundaries or extraterritorial jurisdiction of the municipality or political subdivision.

(c) The authority of a municipality or other political subdivision to regulate an oil and gas operation is expressly preempted, except that a municipality may enact, amend, or enforce an ordinance or other measure that:

(1) regulates only aboveground activity related to an oil and gas operation that occurs at or above the surface of the ground, including a regulation governing fire and emergency response, traffic, lights, or noise, or imposing notice or reasonable setback requirements;

(2) is commercially reasonable;

(3) does not effectively prohibit an oil and gas operation conducted by a reasonably prudent operator; and

(4) is not otherwise preempted by state or federal law.

A primary criteria involved with this appeal is whether or not the Town's hours of operation ordinance due to the lack of available vendors is authorized under House Bill 40. Strictly enforcing the hours of operation will result in shutting down the wells in violation of § 81.0523(c)(3). Strict compliance will have a devastating financial impact on EagleRidge in violation of § 81.0523(c)(2) and is not commercially reasonable.

Bryn Meredith, Esq.  
May 9, 2018  
Page 3

The Town's regulation of truck traffic is statutorily limited. For example, it cannot limit truck traffic on state highways such as farm-to-market roads under Chapter 621 of the Texas Transportation Code. The Town is not authorized to discriminate against trucks hauling produced water because they are not "overweight, oversize or overlength" pursuant to § 621.303 of the Texas Transportation Code. As an alternative grounds for appeal, EagleRidge requests that the Board determine that the hours of operation provision in the Code does not apply to trucks hauling produced water from EagleRidge's pad sites under preemption.

Please schedule this matter at the same hearing before the Oil and Gas Appeals Board as the variance appeal. It is my understanding that the Town is considering a May 30 hearing date. If that date could be moved to earlier in May it would be appreciated. If you have any questions do not hesitate to contact me.

Very truly yours,

WINSTEAD PC

By:   
Arthur J. Anderson

AJA/vb

cc: Matthew Woods ([matthew.woods@flower-mound.com](mailto:matthew.woods@flower-mound.com))  
Theresa Scott ([townsecretary@flower-mound.com](mailto:townsecretary@flower-mound.com))



Arthur Anderson  
 500 Winstead Building  
 2728 N. Harwood Street  
 Dallas , Texas 75201

RE: Preemption Determination Letter

Dear Art:

Pursuant to Section 34-500(c) of the Town Code, I have reviewed your preemption determination request (dated May 9, 2018). In your appeal letter you argue that the Town's drilling regulations, as applied to your client's salt water collection and hauling operations, are preempted pursuant to: 1) Chapter 621 of the Texas Transportation Code and 2) HB 40 (codified as section 81.0523, Texas Natural Resources Code).

**1) Chapter 621 of the Texas Transportation Code**

You argue that the hours of operations regulations contained within the Town's Oil and Natural Gas Well Drilling Ordinance (Article VII, Chapter 34 of the Town Code) violate Chapter 621 of the Texas Transportation Code, as applied to your client's salt water collection and hauling operations.

Specifically, you argue:

The Town's regulation of truck traffic is statutorily limited. For example, it cannot limit truck traffic on state highways such as farm-to-market roads under Chapter 621 of the Texas Transportation Code. The Town is not authorized to discriminate against trucks hauling produced water because they are not "overweight, oversize or overlength" pursuant to §621.303 of the Texas Transportation Code. As an alternative grounds for appeal, EagleRidge requests that the Board determine that the hours of operation provision in the Code does not apply to trucks hauling produced water from EagleRidge's pad sites under preemption.

Sec. 34-422 (g) of the Town Code requires adherence to the following work hours:

**Work hours for oil and gas well permits.** Site development, other than drilling, shall be conducted only between 7:00 a.m. and 7:00 p.m. Monday through Friday and between 9:00 a.m. and 5:00 p.m. on Saturday. Truck deliveries of equipment and materials associated with drilling and/or production, well servicing, site preparation and other related work conducted on the well site shall be limited to the same work hour restrictions identified above except in cases of fires, blowouts, explosions, and any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production. The operator may request a variance from the oil and gas board of appeals, pursuant to section 34-432 of this article.

The regulations set forth in Sec. 34-422 (g) of the Town Code apply to and specifically regulate "work conducted at the well site" and not "truck traffic on state highways such as farm-to-market roads." **Therefore, I find that the complained-of regulatory authority exercised by the Town has not been preempted under Chapter 621 of the Texas Transportation Code.**

2) **HB 40**

On August 15, 2018, a request for documents was made in order to fully evaluate your claim of preemption under HB 40. To date, no documents have been produced pursuant to this request. Therefore, I am unable to render a preemption determination pursuant to Section 34-500(c) of the Town Code on this matter.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Stathatos", written over the printed name.

Jimmy Stathatos  
Town Manager

TRANSPORTATION CODE  
TITLE 7. VEHICLES AND TRAFFIC  
CHAPTER 621. GENERAL PROVISIONS RELATING TO VEHICLE SIZE  
AND WEIGHT  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 621.303. MUNICIPAL REGULATION OF LOADS AND EQUIPMENT.

(a) The governing body of any municipality may regulate the movement and operation on a public road, other than a state highway in the territory of the municipality, of:

(1) an overweight, oversize, or overlength commodity that cannot reasonably be dismantled; and

(2) superheavy or oversize equipment for the transportation of an overweight, oversize, or overlength commodity that cannot be reasonably dismantled.

(b) The governing body of a municipality may not, because of weight, regulate the movement and operation on a state highway or county or municipal road of a combination of vehicles operating under a permit issued under Section [623.402](#).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 108 (S.B. [1524](#)), Sec. 2, eff. January 1, 2018.

## PUBLIC HEARING

Notice is hereby given that the Oil and Gas Board of Appeals (OGBOA) and Board of Adjustment (BOA) of the Town of Flower Mound, Texas, will hold a joint public hearing on Wednesday, October 10, 2018, at 6:30 p.m. in the Flower Mound Town Hall, 2121 Cross Timbers Road (FM 1171).

The purpose of the hearing is to consider a request from EagleRidge Operating, LLC., for a variance to Town Code Section 34-422(g) "Work hours for oil and gas well permits" which will allow operations for gas well pad site produced water collection and hauling to operate with no hourly restrictions. The request also includes an OGBOA Appeal of staff's interpretation that Town Code Section 34-422(g) work hours limitation applies to pad site produced water collection and hauling.

Additionally, EagleRidge Operating, LLC., has requested a BOA Appeal of a preemption determination request (pursuant to Town Code, Article IX. Vested rights/preemption determination, Section. 34-500(d)) regarding statutory limitation (pursuant to Chapter 621 of the Texas Transportation Code) of the Town's authority (pursuant to Town Code Section 34-422(g)) to regulate pad site produced water collection and hauling.

---

To Run in Denton Record-Chronicle: Saturday, September 29, 2018

Denton Record-Chronicle:

FAX: 1-940-566-6818

ATTN: Kaycee

Email: [classads@dentodnrc.com](mailto:classads@dentodnrc.com)

Any questions or issues, please contact:

Emily Chapman

p: 972-874-6338

e: [emily.chapman@flower-mound.com](mailto:emily.chapman@flower-mound.com)

Town of Flower Mound Account # 100041133



## Environmental Services

September 27, 2018

**RE: Oil and Gas Permit OGB18-0001; Work hours for oil and gas well permits.**

Dear Interested Property Owner,

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The property involved is generally located south of Cross Timbers Road (FM 1171), east of Shiloh Road, and west of Scenic Drive.

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.

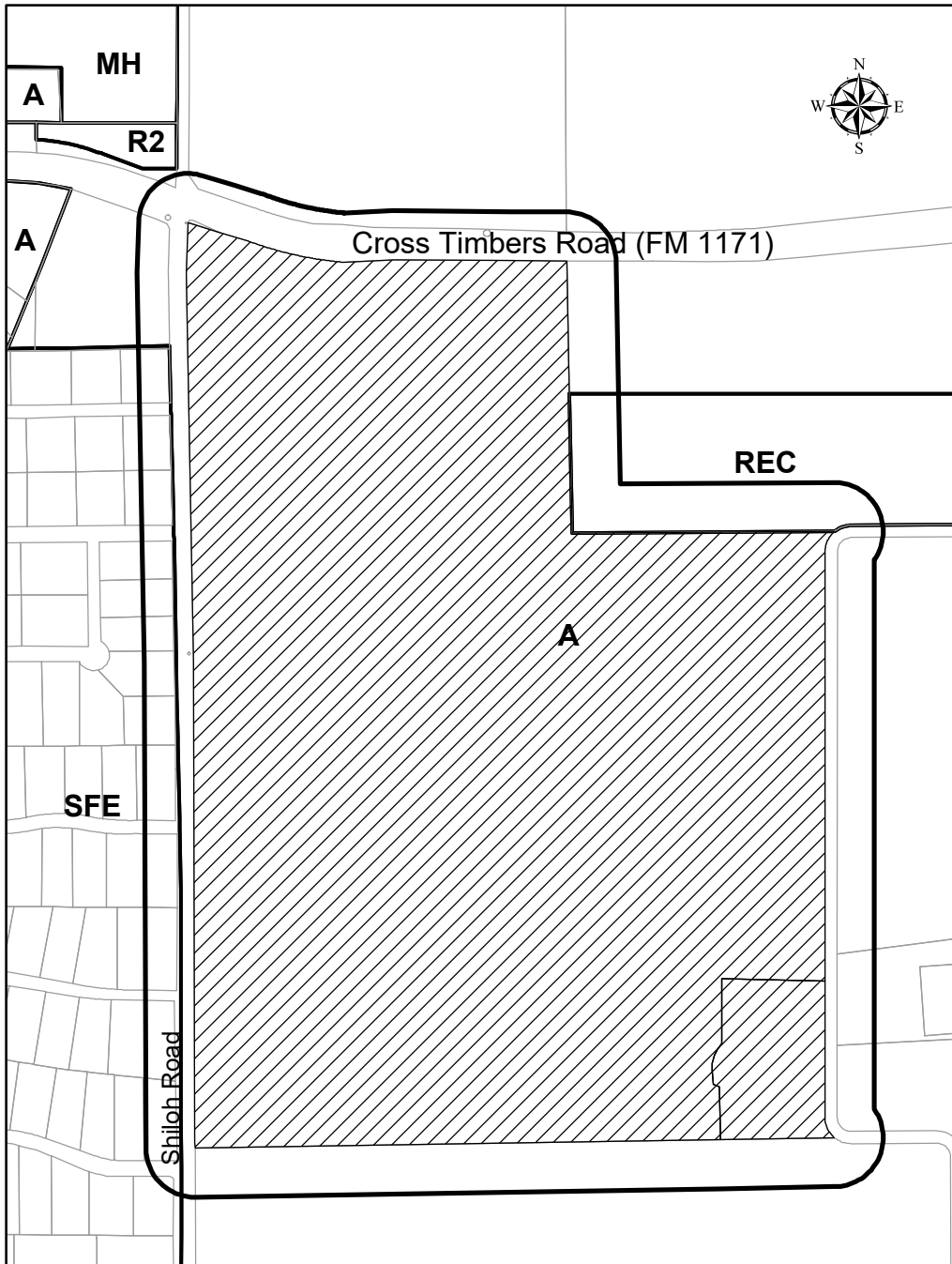
As an interested property owner, you are requested to make your views known by attending this hearing. If you cannot attend the hearing, it is requested that you express your views by mail to the address listed below to my attention.

Sincerely,

John Luxton  
Oil and Gas Inspector

Property Owner Notice

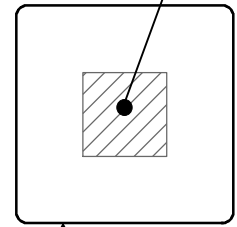
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## Surrounding Zoning Districts:

- A - Agricultural District
- SFE - Single Family Estate
- MH - Mobile Home
- R2 - Retail 2
- REC - Recreation

Indicates Subject Property



Indicates Limit of 200' Notification

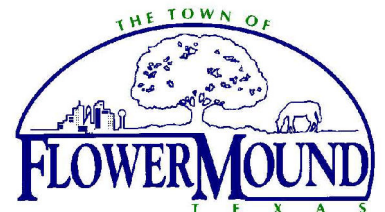
**Date:** October 10, 2018

**Time:** 6:30 p.m.

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

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

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## Environmental Services

September 27, 2018

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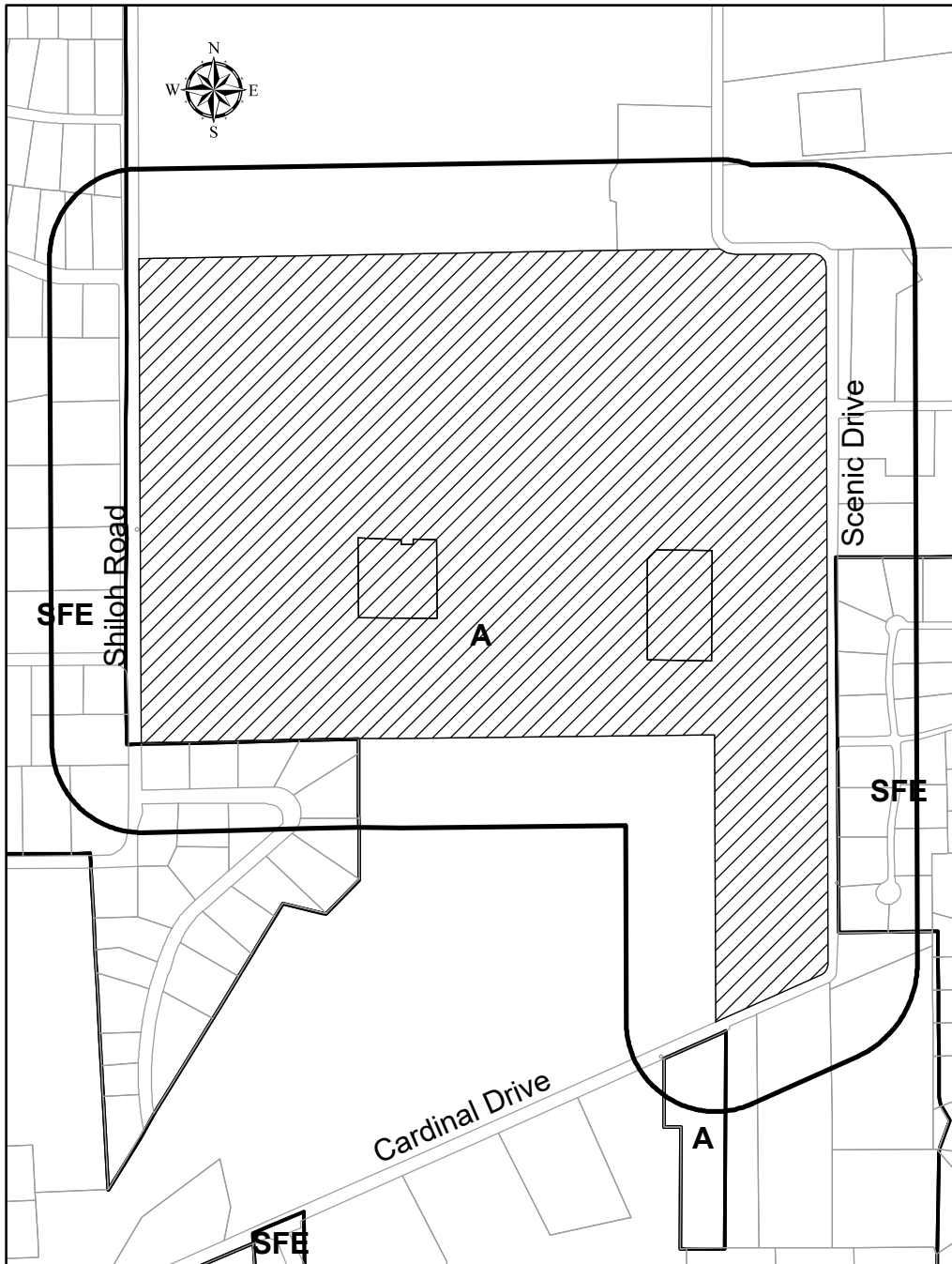
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Sincerely,

John Luxton  
Oil and Gas Inspector

Property Owner Notice

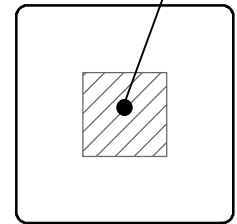
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## Surrounding Zoning Districts:

- A - Agricultural District
- SFE - Single Family Estate

Indicates Subject Property



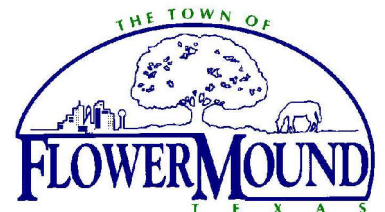
Indicates Limit of 200' Notification

**Date:** October 10, 2018

**Time:** 6:30 p.m.

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

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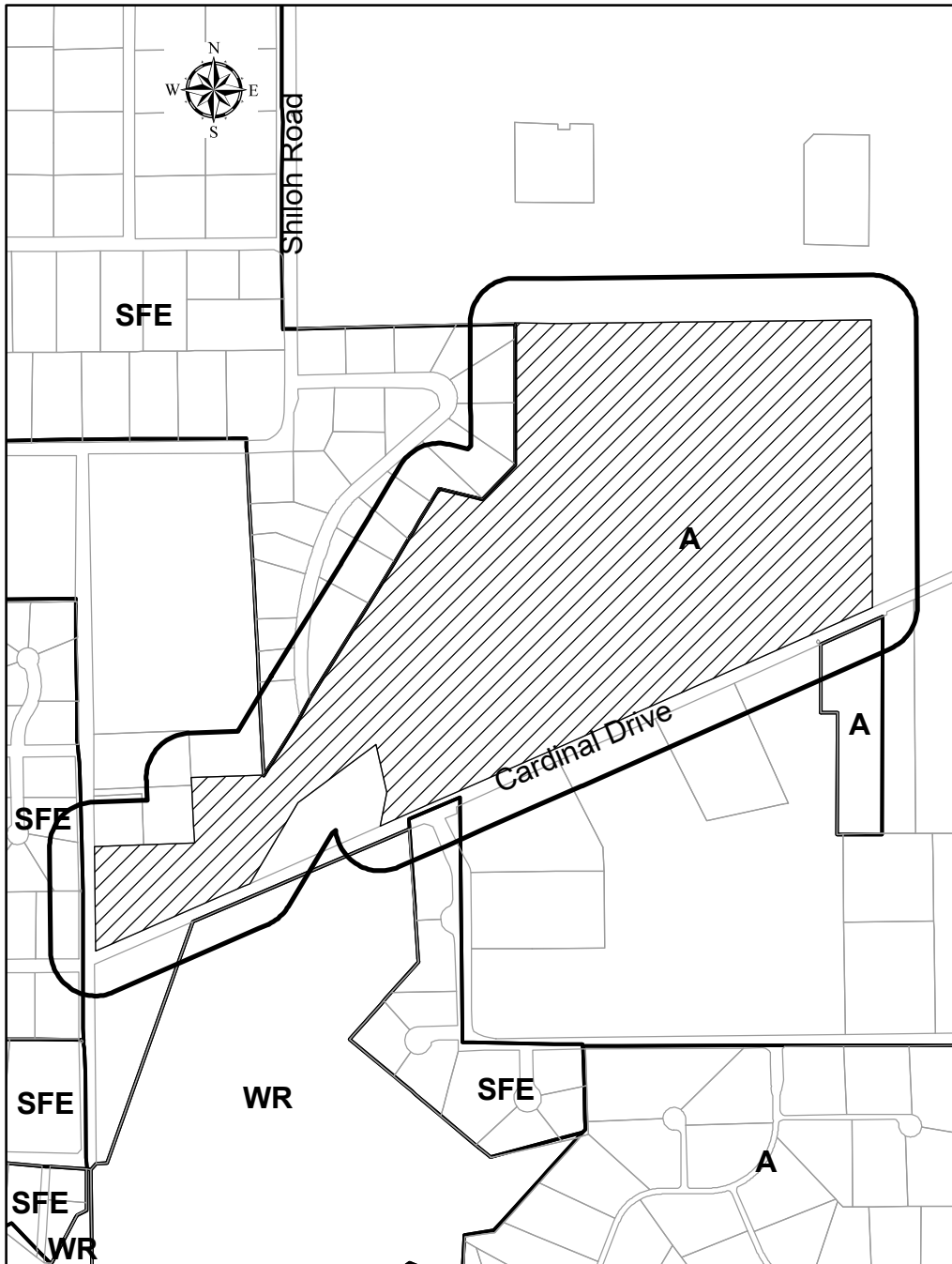
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Property Owner Notice

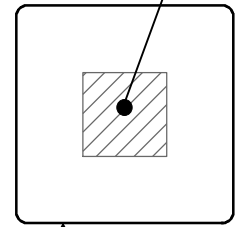
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- A - Agricultural District
- SFE - Single Family Estate
- WR - Water Recreation

Indicates Subject Property



Indicates Limit of 200' Notification

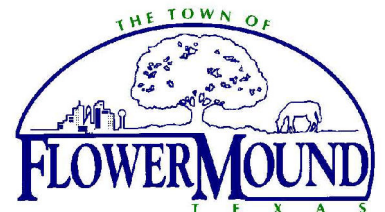
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0 275 550 1,100 1,650 2,200  
Feet

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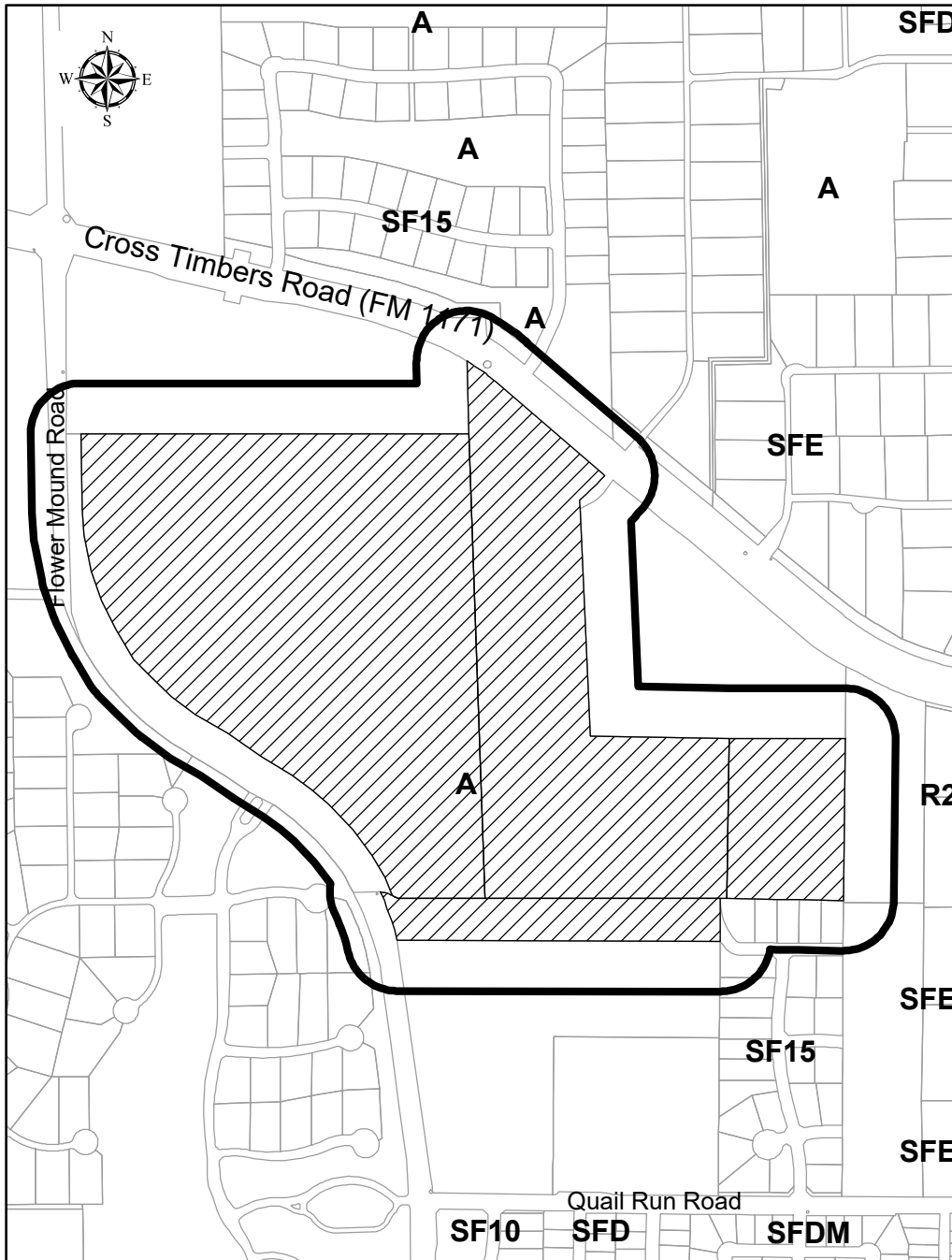
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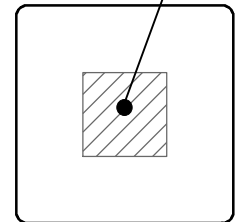
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## 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

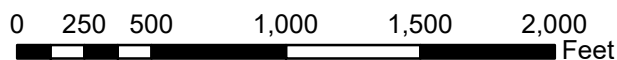


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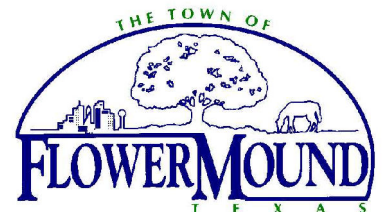
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September 27, 2018

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The purpose of the hearing is to consider a request from EagleRidge Operating, LLC., for a variance to Town Code Section 34-422(g), "Work hours for oil and gas well permits". The variance would allow trucks conducting produced water collection and hauling operations to operate with no daily or hourly restrictions at gas well pad sites. The variance request also includes an appeal of staff's interpretation of the ordinance that the work hours limitation within Town Code Section 34-422(g) applies to produced water collection and hauling operations at gas well pad sites.

Additionally, EagleRidge Operating, LLC., has requested a **BOA** Appeal of a preemption determination request pursuant to Town Code, Article IX. "Vested rights/preemption determination", Section. 34-500(d), regarding statutory limitation pursuant to Chapter 621 of the Texas Transportation Code. The applicant's preemption determination appeal requests the **BOA** to determine that the Town's hours of operations regulations, Code Section 34-422(g), do not apply to produced water collection and hauling operations from their pad sites.

The property involved is generally located north of Canyon Falls Drive and west of HWY 377.

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.

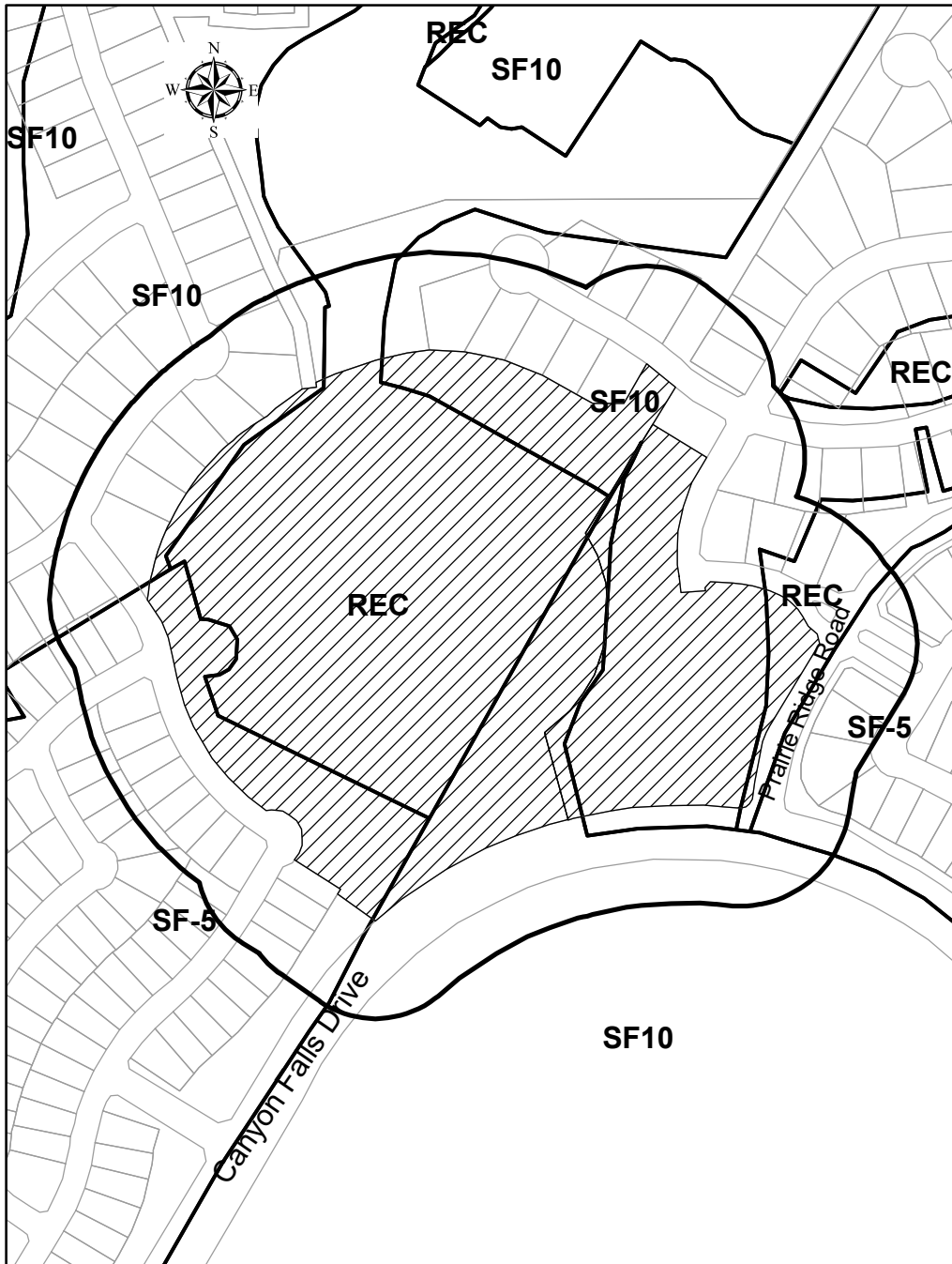
As an interested property owner, you are requested to make your views known by attending this hearing. If you cannot attend the hearing, it is requested that you express your views by mail to the address listed below to my attention.

Sincerely,

John Luxton  
Oil and Gas Inspector

Property Owner Notice

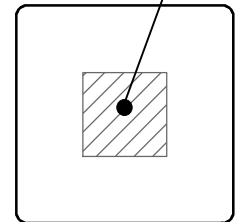
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## Surrounding Zoning Districts:

- SF10 - Single Family 10 (obsolete)
- SF-5 - Single Family District-5
- REC - Recreation

Indicates Subject Property

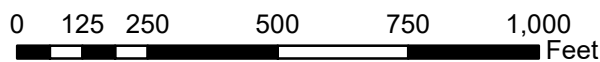


Indicates Limit of 200' Notification

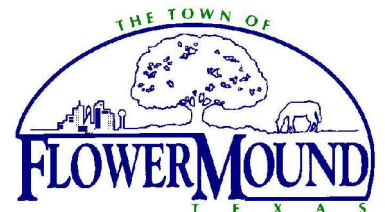
**Date:** October 10, 2018

**Time:** 6:30 p.m.

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



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.





## Environmental Services

September 27, 2018

**RE: Oil and Gas Permit OGB18-0001; Work hours for oil and gas well permits.**

Dear Interested Property Owner,

Notice is hereby given that the Oil and Gas Board of Appeals (**OGBOA**) and Board of Adjustment (**BOA**) of the Town of Flower Mound, Texas, will hold a joint public hearing on Wednesday, October 10, 2018, at 6:30 p.m. in the Flower Mound Town Hall, 2121 Cross Timbers Road (FM 1171).

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The property involved is generally located north of Cross Timbers Road (FM 1171) and west of Lusk Lane.

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.

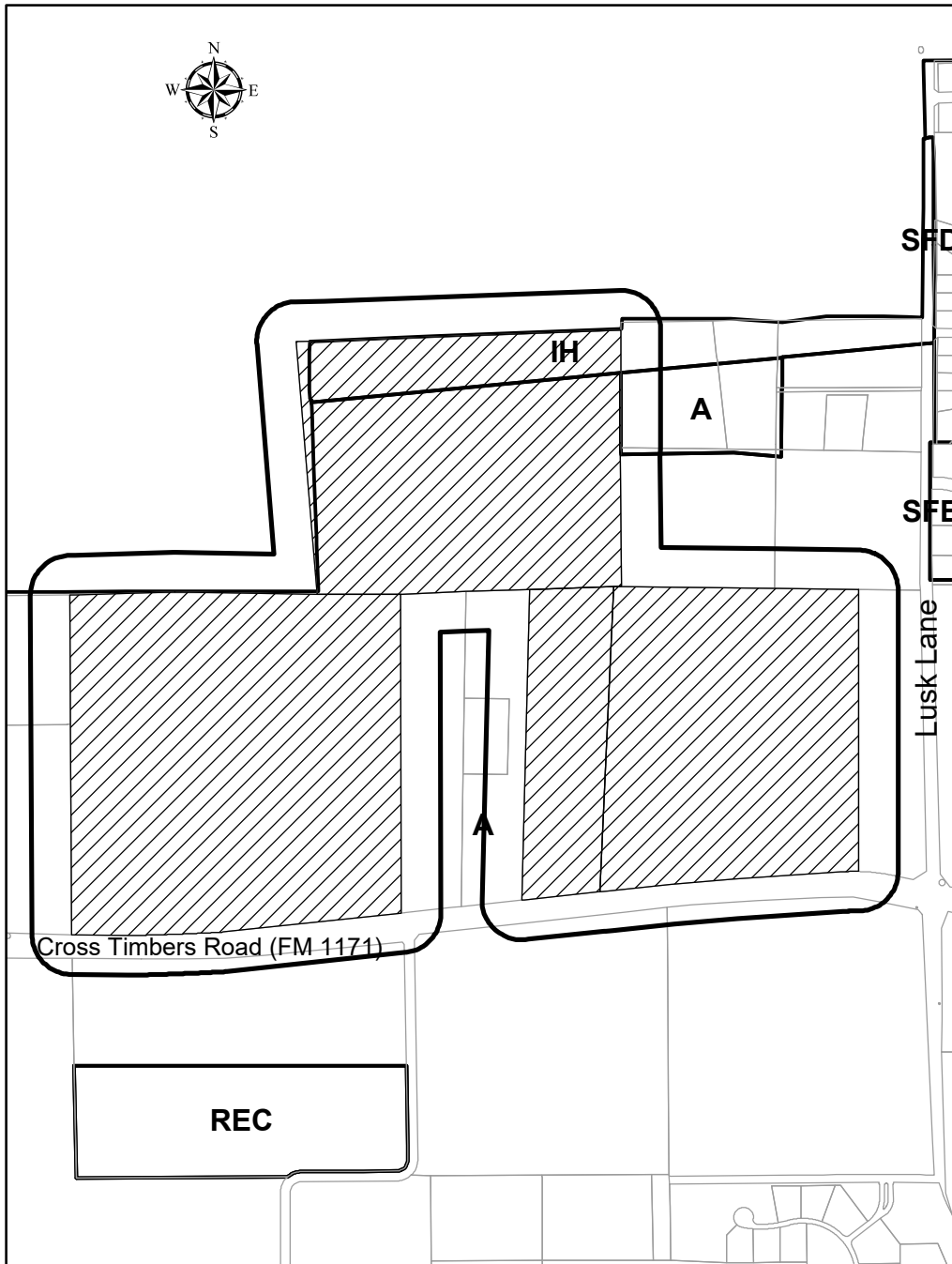
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Sincerely,

John Luxton  
Oil and Gas Inspector

Property Owner Notice

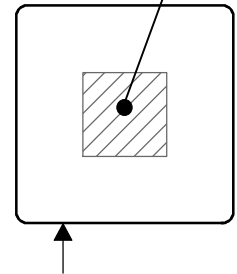
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## Surrounding Zoning Districts:

- IH - Interim Holding
- A - Agricultural District
- SFE - Single Family Estate
- SFD - SFD (obsolete)
- REC - Recreation

Indicates Subject Property



Indicates Limit of 200' Notification

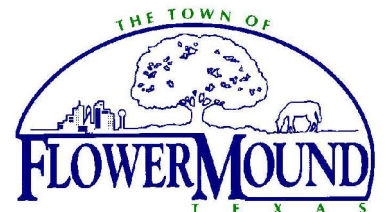
**Date:** October 10, 2018

**Time:** 6:30 p.m.

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

0 312.5 625 1,250 1,875 2,500  
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.





## Environmental Services

September 27, 2018

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

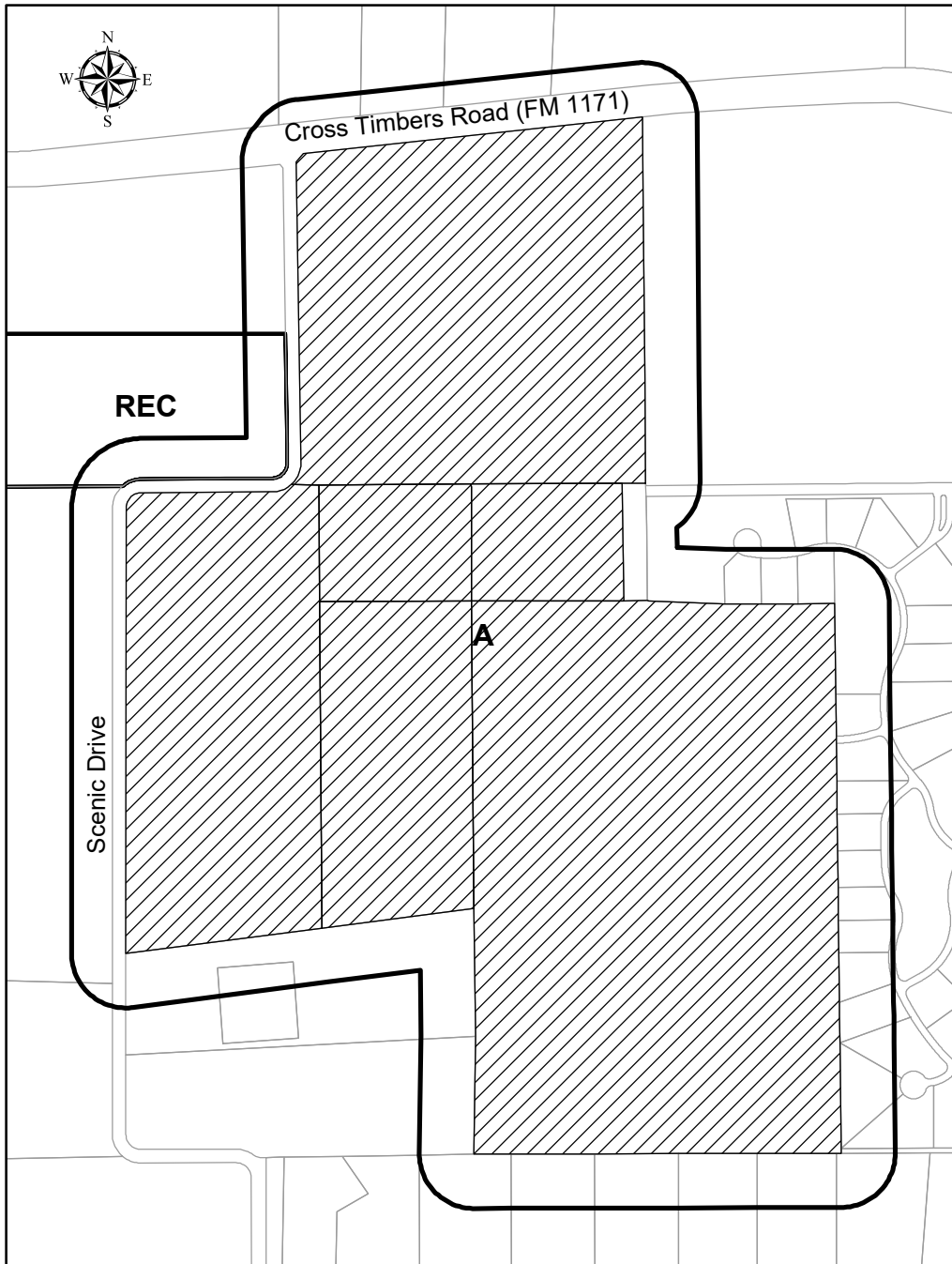
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Sincerely,

John Luxton  
Oil and Gas Inspector

Property Owner Notice

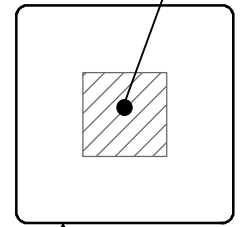
# PROPERTY OWNER NOTIFICATION AND VICINITY MAP



## Surrounding Zoning Districts:

A - Agricultural District  
REC - Recreation

Indicates Subject Property



Indicates Limit of 200' Notification

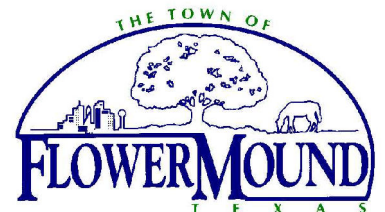
**Date:** October 10, 2018

**Time:** 6:30 p.m.

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

0 225 450 900 1,350 1,800 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.





## BOARD OF ADJUSTMENT MEETING AGENDA ITEM NO. 6

### REGULAR ITEM

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**DATE:** October 10, 2018  
**FROM:** Tasha Tripp, Plans Examiner  
**THROUGH:** Joelle Hainley, Chief Building Official  
**PRESENTER:**  
**APPLICANT:** Christy Tull  
**STAFF:** Chris Pamplin, Assistant Building Official

**ITEM:** (BOA18-0006) Hold a public hearing and consider a request from Christy Tull for a special exception in accordance with Section 78-86, "Special Exceptions," of the Code of Ordinances. The property is generally located South of Cross Timbers Rd and West of Tour 18 Dr and is locally known as 9104 Shawnee Trail, Lot 2, Block GR, of the Roanoke Hills Subdivision.

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#### BACKGROUND INFORMATION:

**APPLICANT:** Christy Tull  
226 N Starnes  
Grapevine, TX 76051

#### LOCATION:

**PROPERTY ADDRESS:** 9104 Shawnee Trail  
Flower Mound, TX 75022  
**SUBDIVISION:** Lot 2, Block GR  
Roanoke Hills  
**ZONING:** SF-3

#### STAFF ANALYSIS:

A request has been received from Christy Tull for a special exception in accordance with Section 78-86, "Special Exceptions", of the Code of Ordinances.

- The following items are non-conforming for this zoning district (SF-3)
  - The house is currently 1.5' from the side property line, which is 6' less than the required side yard setback for SF-3 zoning
  - The house is currently 20' from the front property line, which is 5' less than the required front yard setback for SF-3 zoning
  - The house is currently 1,311 square feet, which is 139 square feet less than the required minimum square footage for SF-3 zoning
  - The house has no garage, which is less than the two (2) 9' x 20' enclosed parking spaces required
  - The house does not have the required 12' x 20' concrete driveway

- The house exterior is wood siding, which does not meet the 75% masonry requirement for the SF-3 zoning

Section 78-321(e) of the Code of Ordinances states, “*Destruction*. If a nonconforming structure is destroyed by fire, the elements or other cause, it may not be rebuilt except to conform to the provisions of subpart B of this Code. In the case of partial destruction, where the cost of repairing or replacing the structure does not exceed 60 percent of its most recent appraised property tax value, reconstruction may be permitted after a hearing and favorable action by the board of adjustment, provided that the repaired or new structure shall not exceed the original structure in lot coverage, gross floor area or height and shall not increase the degree of any nonconformity”.

Section 78-86(1) of the Code of Ordinances states, “Reconstruction of nonconforming building. The board of adjustment shall be authorized to permit the reconstruction of a nonconforming building pursuant to [section 78-321](#)(e), nonconforming uses and structures, destruction”.

The house at 9104 Shawnee Trail has been deconstructed down to the studs, some new framing has been added, new windows and doors have been added, all electrical has been removed, all plumbing was removed, new plumbing was performed, the HVAC system has been removed, the exterior siding was completely removed and replaced, and the front porch has been rebuilt. See Attachment 3 for pictures taken by Code Enforcement, the violation being “work without a permit”. The requested reconstruction will not exceed the original structure in lot coverage, gross floor area or height and will not increase the degree of any of the nonconformities.

Under Texas law, a “Special Exception” may authorize a use or activity that is permitted in the Zoning Ordinance - but only after review by the Board of Adjustment and a determination that the activity or use will not adversely affect the public and neighborhood interests. If the Board is inclined to approve a Special Exception, it may attach reasonable conditions to ensure that the activity meets these standards. However, the Board may not permit a use or activity that goes beyond the scope of the Council approved authority within the underlining Zoning ordinance (in this case §78-321 (e)). For example, in the present case, if the Board concludes, based on testimony and evidence supplied at the hearing, that repair or replacement cost of the structure exceeds “60 percent of its most recent appraised property tax value,” the Board has no authority to approve the Special Exception. A vote to approve a Special Exception requires the concurring vote of 75% of the members of the Board. A Special Exception is not a variance and therefore the Board is not required to find that a land-based hardship exists in order to approve.

#### **ATTACHMENTS:**

1. Application
2. Information from applicant
3. Code Enforcement Photos
4. Site plan of property
5. DCAD appraisal
6. Section 78-86
7. Section 78-231
8. Zoning Map
9. 200' property owner notice map
10. Aerial photograph of property
11. Published public hearing notice
12. Property owner notification
13. List of property owners within 200 feet

APPLICATION - REQUEST FOR VARIANCE OR APPEAL  
ZONING BOARD OF ADJUSTMENT  
TOWN OF FLOWER MOUND

BOA18-0006

DATE: 9/4/18

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 Sec. 78-231 of the Town of Flower Mound Zoning Ordinance.

LOCATION OF PROPERTY

Street Address: 9104 Shawnee Trail

Legal Description: Lot/Tract 2, Block GR, of Subdivision/Abstract Roanoke Hills

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 attachment

A non-refundable application fee of \$250 + \$40 public hearing notice fee are required at the time of application. Fee of \$2.50 per property notice is due upon notification by case manager.

For a variance to be granted by the Board of Adjustment, the Board must determine that all of the following conditions apply:

- (a) 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 same area and the same zoning district.
- (b) That a variance is necessary to permit the applicant the same rights in the use of this property that are presently enjoyed under the ordinance by other properties in the vicinity and zone, but which rights are denied to the property on which the application is made.
- (c) That the granting of the variance on the specific property will not adversely affect the land use pattern as outlined by the Master Land Use Plan and will not adversely affect any other features of the Comprehensive Master Plan of the Town of Flower Mound.
- (d) That the variance, if granted, will be not be materially detrimental to the public welfare or injure the use, enjoyment or value of property in the vicinity.

I have read this application form and understand that filing the application and paying the fee does not guarantee an affirmative action by the Board of Adjustment. I further understand that at least four (4) affirmative votes must be cast in order to receive a variance.

Christy Tall  
Signature of Applicant

Christy Tall  
Print Name

226 N. Starnes Grapevine 76051  
Mailing Address

Telephone (Home)

214-546-9944  
Telephone (Day Number)

Staff Member's Signature

Date

Receipt Number

BOARD OF ADJUSTMENT DECISION: ( ) DENIED ( ) GRANTED

TERMS AND/OR CONDITIONS:

BOARD OF ADJUSTMENT CHAIRMAN: DATE:

Filed with office of the Secretary this day of

The neighborhood of Roanoke Hills is primarily non-conforming (see attached map). An overwhelming majority of homes are non-conforming due a variety of different reasons, they don't have 2 car garages, they aren't 1400 sq or larger, they don't conform to the setbacks, or they don't have exterior masonry products.

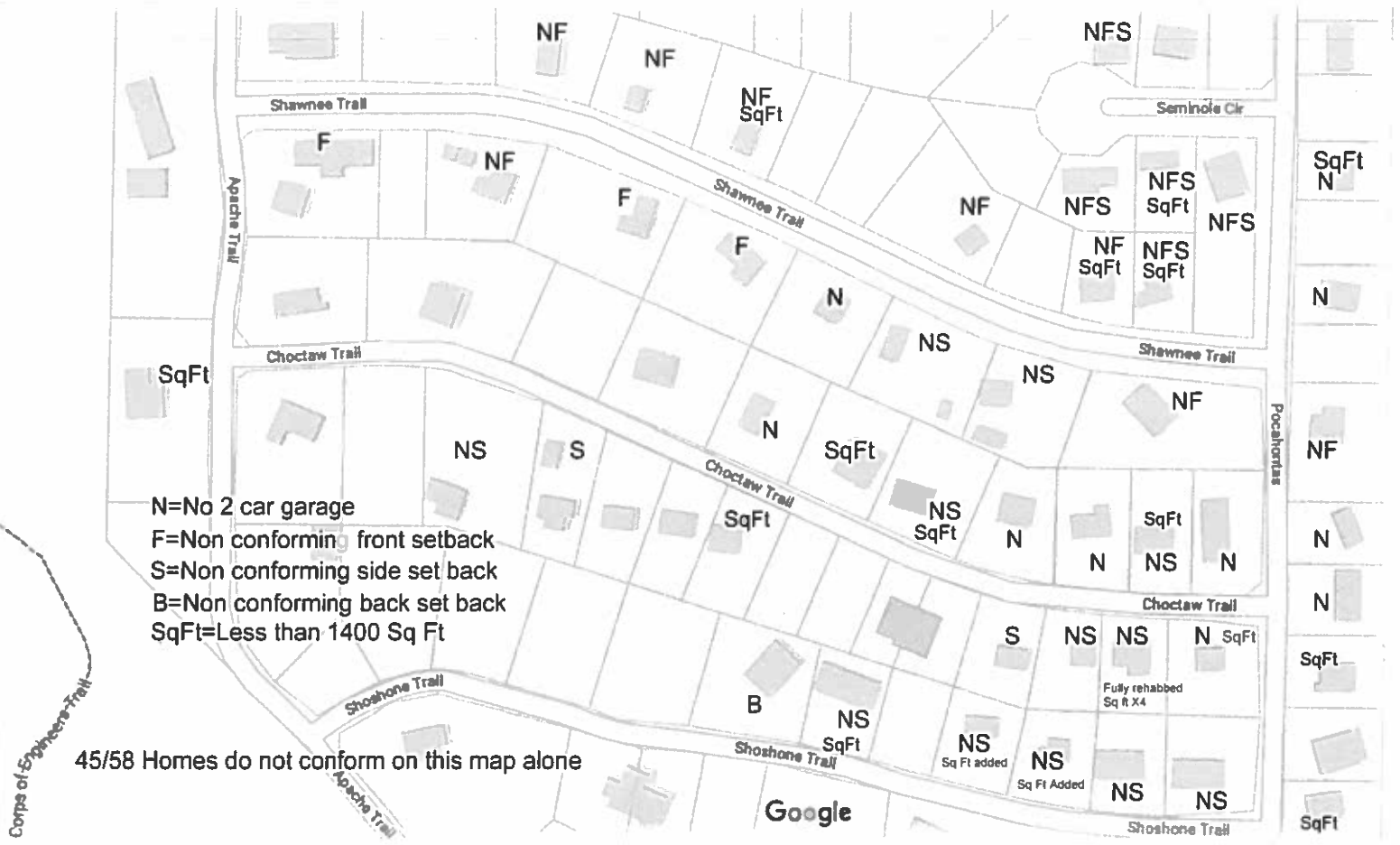
Our home was occupied and homesteaded until the day we bought it. After our purchase we applied and received a reroof & foundation permit. The scope of work for the approved foundation permit stated that every beam, joist, and the entire sub floor had to be replaced. In order to replace the sub floor everything had to be removed including but not limited to plumbing/ cabinets/flooring/ toilets/tubs/water heater/partial sheetrock/trim. After the completion of the foundation we were told via email from Joelle Hainley that sec. 78-231( e ) applies as the home. It is now considered a partial destruction by means of 'deconstruction'; and that we required approval by the variance committee to finish our repairs of what we were permitted to deconstruct.

During the course of the foundation repair it was noted that the home had a rodent infestation and wiring was chewed through, burn marks on the outlets, and wiring was running in the same channels as water lines. It was felt the safest manner was to pull all the wiring to prevent any fire hazard. This was not in the scope of work for the foundation as it was unknown at the time.

9105 Choctaw Trail applied and received a permit in 2017 for a residential rehab. The home was torn down till only 1 wall remained. The home is being rebuilt currently 3-4 times larger. The home was non-conforming and is being rebuilt as a non-conforming home, per the owner it will not have a garage and it exceeds the 25' height limit. See attached pictures. This homeowner was granted a permit without the 'partially destroyed' 78-231(e) ordinance being applied and needing to get an approval from the variance committee (as we are required).

We are seeking approval from the variance committee

1. Finish repairs on the house as described in the attached budget. We have included the repairs as well as a few requested updates to make the home more functional.



9105 Choctaw Trail previous house



9105 Current Residential rehab





## 9104 Shawnee Trail

**Maintenance**

Replace all wiring-shreaded wiring from rats, wiring run in same cavity as plumbing, NUMEROUS safety issues found	Electrical	4200	Licensed eletrician
Replace existing plumbing that was disconnect and damaged during the permitted foundation repair	Plumbing	3500	Licensed plumber
Replace existing HVAC unit (non working) reroute duct work for efficient flow	HVAC	5500	Licensed HVAC
Brace existing walls for better structural integrity and rebuilding porch that was removed during the permitted foundation repair.	Framing	1450	Homeowner
Replace 3 existng windows that were broken during the permitted foundation repair	Windows	350	Homeowner
Replace exisiting insulation that was missing, rats nest inside walls/attic, and/or wet from roof damage, reroof permitted.	Insulation	800	Homeowner
Replace all flooring that was removed during the permitted foundation repair	Flooring	1800	Homeowner
Replace all sheetrock that was removed or damaged during the permitted foundation repair and permitted reroof. Sheetrock would need to be replaced as the existing sheetrock was different material and/orthickness, was wet from roof leak, was removed to repair safety issues on electric, or was removed by foundation company.	sheetrock	1800	Homeowner
Replace all finishes (paint/texture)that were removed due to the permitted foundation repair and reroof.	Finishes	2500	Homeowner
Replace cabinets/counter tops and fixtures removed during permitted foundation repair	Kitchen/bath	3800	Homeowner/License d Plumber
Apply new siding- rewrap house and apply new siding, current siding was damaged creating the water damage inside the house.	Siding	1800	Homeowner

***Updates***

Install new plumbing for a second bath	Plumbing	1800	Licensed Plumber
Install new fixtures for second bath	Fixtures	600	Licensed Plumber
Replace 6 windows to match	windows	700	Homeowner
Replace 2 exterior doors for cosmetic appeal	Exterior doors -2	515	Homeowner
Split existing closet into 2 for better function	Framing	200	Homeowner
	<b>Total</b>	<b>31315</b>	

---

1902 Forest Glen LN  
Weatherford, Texas 76087  
817-948-4004  
[info@nortierllc.com](mailto:info@nortierllc.com)



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### Initial Report for Foundation Assessment

Date: May 30, 2018  
Attention: Foundation and Concrete Services (The Client)  
Subject: Foundation Review  
9104 Shawnee Trl., Flower Mound, Texas

#### Authorization and Scope:

Nortier Engineering Consultants, LLC (NEC) has been retained by the Client to perform a review of the Contractor's plan sent on 5/30/2018 for the pier and beam foundation system of the 1 story residential home with brick veneer located at the subject address referenced above. This report provides guidance as to whether or not the existing foundation system is in need of repair. The report also proposes a recommended plan if repairs are needed.

#### Conclusions/Specific Recommendation:

NEC performed a review of the Contractor's plan for the foundation for the subject property on 5/30/2018. The Contractor also performed a floor survey using a Zip-level Pro-2000 series, collecting relative floor elevations, to aid in surface topography mapping of the floor(s). Elevations shown are adjusted for the type of flooring encountered to reflect a consistent measuring plane. The map of the existing floor elevations can be seen in the figure attached to this report.

Based on review of the Contractor's plan for the foundation, and reasonable professional engineering opinion, we've determined that settlement of the foundation has occurred and should be repaired. Although complete levelness cannot be guaranteed, or may not be attainable, the Contractor's proposed plan should improve the performance of the foundation. It is recommended that **all new joist, new beams, new internal supports and new subfloor** be installed as indicated on the figure(s) attached to this report. In addition, it is recommended that **the floor be relevelled, and any internal supports be shimmed with steel shims**. Any new lumber shall be pressure-preservative treated. Furthermore, the proposed foundation repairs shall meet or exceed the **2015 International Residential Code (IRC)** and any local applicable amendments to the IRC.

This report is solely based on information gathered from reviewing the Contractor's plan, and does not take into consideration any changes in condition of the foundation or soils after the date which the information was gathered.

1902 Forest Glen LN  
 Weatherford, Texas 76087  
 817-948-4004  
[info@nortierllc.com](mailto:info@nortierllc.com)



General Recommendations:

It is recommended that a guttering system be installed if the house does not have gutters. Installing a guttering system will direct water way from the foundation and reduce the potential for ground erosion near the foundation footing.

It is also recommended that the grading around the perimeter of the building be maintained as sloping away from the foundation at a minimum of 6 inches fall within the first 10 feet from the foundation. Such grading configuration should prevent localized water from accumulating around areas of the foundation. Saturated soils decline in bearing capacity and can result in differential settlement of the foundation.

Additionally, It is also recommended that the soil be graded such that the bottom portion of the foundation is below grade, as per the governing code, and a watering system be utilized around the perimeter of the house. Fluctuations in moisture content of the soils near the foundation of the house can cause differential settlement. If the moisture content is kept consistent, the potential for differential movement is mitigated.

It is also recommended that the plumbing systems be checked if any repairs are performed on the foundation system. Vertical movement of the foundation system can impose stresses on the plumbing infrastructure and cause leaks.

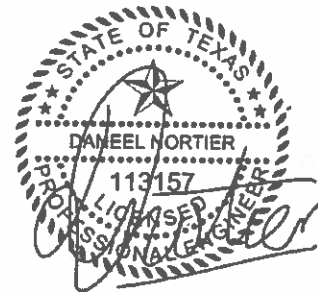
Limitations:

This report is intended for information purposes only, and the sole use of the client and/or homeowner. The scope of this report is limited to the items related to the foundation system only, and it is understood that detection of all existing or potential defects is not feasible for this type of evaluation. The intent of this report does not include judgment on any of the superstructure, detached buildings, retaining or privacy walls, concrete reinforcement, and/or site drainage. In addition, the scope of this report excludes material and soil sampling/testing, procedures and as such were not performed. The report is not to be used by others for any purpose without our written consent. Compliance with any code or specification other than as expressly noted in this report is specifically excluded. It is the responsibility of any Contractor to abide by any other applicable codes or specifications.

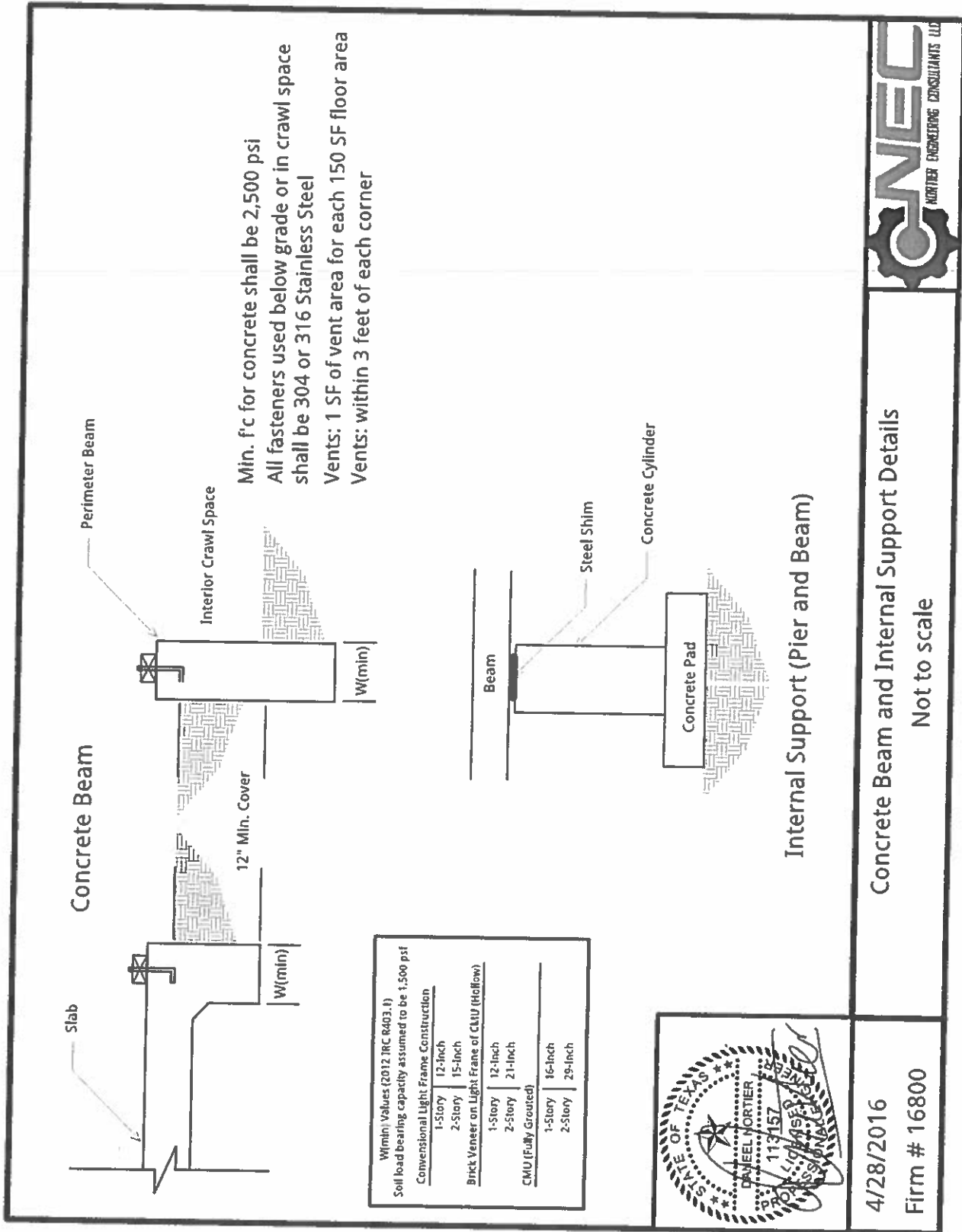
No warranty for any repairs, future foundation performance, structure, vegetation, or soils at the subject property are offered by this report, nor does this report imply any liability to NEC, nor Daneel Nortier, PE for any work to be performed as a result of this report. It is understood that soils in this area experience movement due to moisture fluctuations. Such soil movement could cause the foundation to move after the recommended repairs have been made. Any provided floor elevation data and recommended actions are based on soil conditions as they exist at the time of the evaluation. NEC does not warrant or imply that other problems may not occur in the future. No warranty, expressed or implied, is made or intended and the limit of liability shall be limited to the fee paid for this report at the time of evaluation.

Report Prepared by,  
 Nortier Engineering Consultants LLC  
 Texas Engineering Firm (F-16800)

5/30/2018  
 Daneel Nortier, P.E.  
 Professional Engineer (TX #113157)



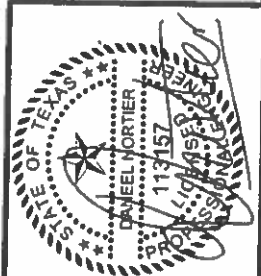




Min. f'c for concrete shall be 2,500 psi  
 All fasteners used below grade or in crawl space shall be 304 or 316 Stainless Steel  
 Vents: 1 SF of vent area for each 150 SF floor area  
 Vents: within 3 feet of each corner

W(min) Values (2012 IRC R403.1)  
 Soil load bearing capacity assumed to be 1,500 psf

Conventional Light Frame Construction	
1-Story	12-inch
2-Story	15-inch
Brick Veneer on Light Frame of CMU (Hollow)	
1-Story	12-inch
2-Story	21-inch
CMU (Fully Grouted)	
1-Story	16-inch
2-Story	29-inch



Internal Support (Pier and Beam)

Concrete Beam and Internal Support Details  
 Not to scale

4/28/2016  
 Firm # 16800





07/30/2018 15:40



07/30/2018 15:40



1-800-protecto 21  
www.protectio  
Meets ASTM 21

Protecto  
1-800-756-6727  
protecto.com

Protecto  
2112

HUSKO

07/30/2018 15:40



07/30/2018 15:40



9104

07/30/2018 15:45

# NOTICE OF VIOLATION

ATTACHMENT 3

ADDRESS: 9104 Sprouse  
DATE: 7/30/18 TIME: 3:43

The following violation(s) was/were observed on this property:

- \*WEEDS/GRASS** which exceeds the 12-inch height limitation (yard/easement) (CH 34)
- \*UNSIGHTLY MATTER:** Trash & Debris (CH 34)  
Stagnant water (CH 34)

Sec. 14-572. Failure to Obtain Permit  
Permit (s) required before construction begins. Meet all code requirements and obtain all necessary permits. Apply online at [www.flower-mound.com](http://www.flower-mound.com) (Departments>Building Inspections).

For permitting or construction standards questions contact Building Inspections at 972-874-6355. If permit cannot be obtained due to not meeting construction requirements, work performed may need to be removed or returned to its original state.

COMMENTS:

Electrical, Framing,  
HVAC, Plumbing,  
Windows.

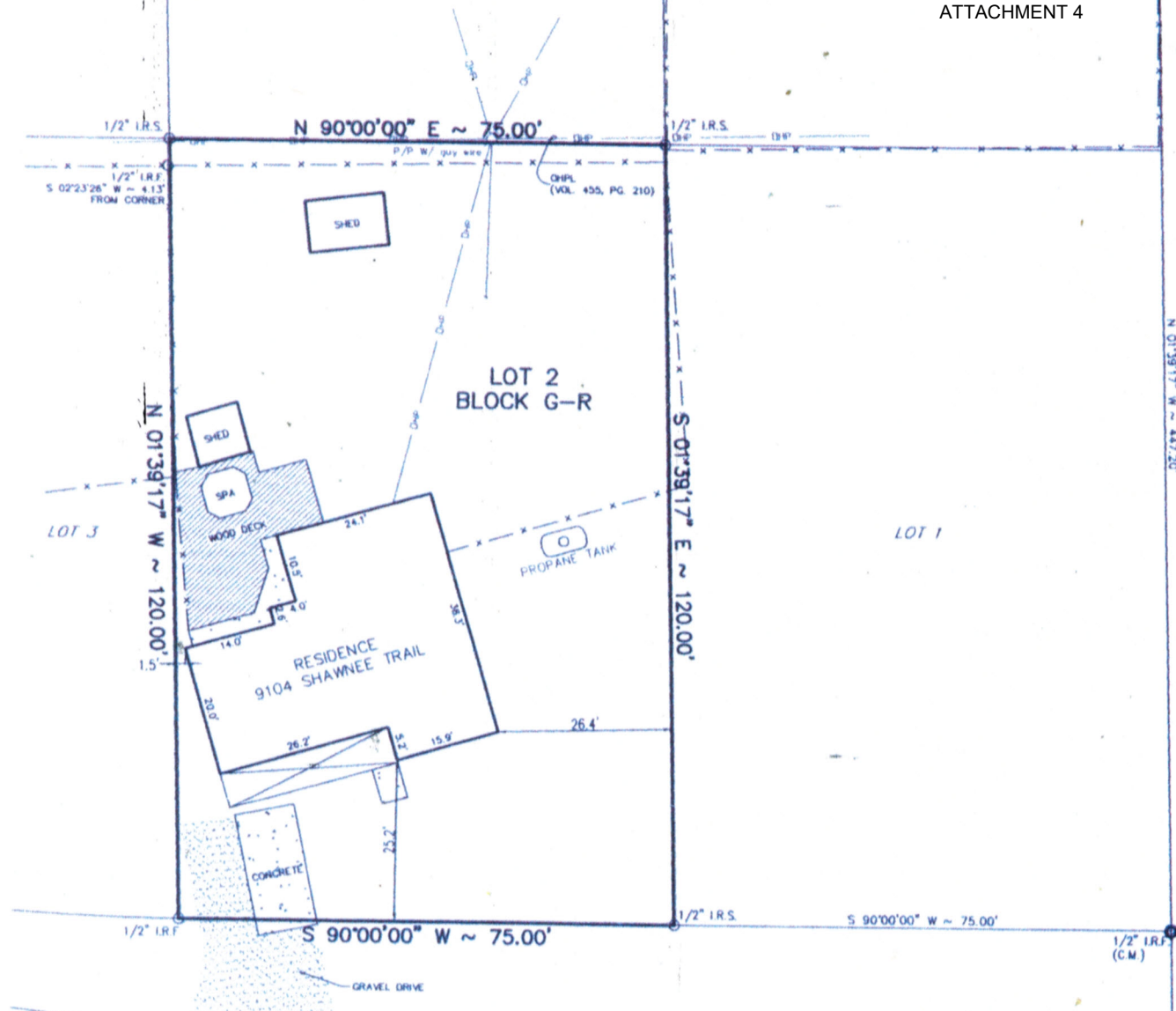
This notice is **NOT** a Citation, but a Citation(s) may be issued without further warning or notice if the above stated violation(s) is/are not corrected by 8/9/18. If more information is needed, please contact:

Garrett Smart  
972-874-6334  
Phone: \_\_\_\_\_ E-mail: garrett.smart@flower-mound.com

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Town of Flower Mound  
Environmental Services/Property Standards Division  
Physical Address: 1001 Cross Timbers Road Suite 2330 Flower Mound, Texas 75028  
Mailing Address: 2121 Cross Timbers Road Flower Mound, Texas 75028  
972-874-6340 - [www.flower-mound.com](http://www.flower-mound.com)



**SHAWNEE TRAIL**  
(60' RIGHT-OF-WAY)

THE FOLLOWING EASEMENTS ARE  
BLANKET STYLE EASEMENTS THAT  
INCLUDE SUBJECT PROPERTY:  
VOL. 403, PG. 604; VOL. 455, PG. 210 .

**SURVEY PLAT**

NO. 9104 SHAWNEE TRAIL IN THE CITY OF FLOWER MOUND, TEXAS, DESCRIBED AS FOLLOWS:  
LOT NO. 2 IN BLOCK NO. G-R OF ROANOKE HILLS, AN ADDITION IN  
DENTON-COUNTY, TEXAS, ACCORDING TO THE REVISED PLAT THEREOF RECORDED IN VOLUME 2, PAGE 181, PLAT RECORDS, DENTON COUNTY, TEXAS.

1/2" I.R.F.  
(C.M.)

NOTE: BEARINGS PER RECORD PLAT; F.I.R. = FOUND IRON ROD; S.I.R. = SET IRON ROD; C.M. = CONTROLLING MONUMENT; F.C.P. = FENCE CORNER POST.

**FIRST AMERICAN TITLE**

TO THE LIEN HOLDERS AND/OR THE OWNERS OF THE PREMISES SURVEYED AND TO GF NO. TX04-326419-FW09, THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS SURVEY WAS THIS DAY MADE ON THE GROUND OF THE PROPERTY LEGALLY DESCRIBED HEREON AND IS CORRECT, AND TO THE BEST OF MY KNOWLEDGE, THAT THERE ARE NO VISIBLE DISCREPANCIES, CONFLICTS, SHORTAGES IN AREA, BOUNDARY LINE CONFLICTS, ENCROACHMENTS, OVERLAPPING OF IMPROVEMENTS, EASEMENTS OR RIGHT OF WAYS THAT I HAVE BEEN ADVISED OF EXCEPT AS SHOWN HEREON, AND THAT SAID PROPERTY HAS ACCESS TO AND FROM A DEDICATED ROADWAY.

FLOOD NOTE: IT IS MY OPINION THAT THE PROPERTY DESCRIBED HEREIN IS NOT WITHIN A SPECIAL FLOOD HAZARD AREA ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 480777 0520 E PRESENT EFFECTIVE DATE OF MAP APRIL 2, 1997 HEREIN PROPERTY SITUATED WITHIN ZONE X (UNSHADED)

DATE 12/04/02 SCALE: 1" = 20' A.S.C. NO.: 2211340 DRAWN BY: T.M. CHECKED BY: C

**ARTHUR SURVEYING COMPANY, INC.**  
Registered Professional Land Surveyors  
P.O.Box 54 - Lewisville, Texas 75067  
Office: (972) 221-9439 Fax: (972) 221-4675

*Crystal Robertson*



**T-47 RESIDENTIAL REAL PROPERTY AFFIDAVIT  
(MAY BE MODIFIED AS APPROPRIATE FOR COMMERCIAL TRANSACTIONS)**

Date: March 30, 2018

GF No. TX04-326419-FW09

Name of Affiant(s): Lisa Castleberry

Address of Affiant: 9104 Shawnee Trail, Flower Mound, TX 75022-7043

Description of Property: Lot 2, Block GR, Roanoke Hills

County Denton, Texas

"Title Company" as used herein is the Title Insurance Company whose policy of title insurance is issued in reliance upon the statements contained herein.

Before me, the undersigned notary for the State of Texas, personally appeared Affiant(s) who after by me being sworn, stated:

1. We are the owners of the Property. (Or state other basis for knowledge by Affiant(s) of the Property, such as lease, management, neighbor, etc. For example, "Affiant is the manager of the Property for the record title owners."):

2. We are familiar with the property and the improvements located on the Property.

3. We are closing a transaction requiring title insurance and the proposed insured owner or lender has requested area and boundary coverage in the title insurance policy(ies) to be issued in this transaction. We understand that the Title Company may make exceptions to the coverage of the title insurance as Title Company may deem appropriate. We understand that the owner of the property, if the current transaction is a sale, may request a similar amendment to the area and boundary coverage in the Owner's Policy of Title Insurance upon payment of the promulgated premium.

4. To the best of our actual knowledge and belief, since 12-04-2002 there have been no:  
a. construction projects such as new structures, additional buildings, rooms, garages, swimming pools or other permanent improvements or fixtures;  
b. changes in the location of boundary fences or boundary walls;  
c. construction projects on immediately adjoining property(ies) which encroach on the Property;  
d. conveyances, replattings, easement grants and/or easement dedications (such as a utility line) by any party affecting the Property.

EXCEPT for the following (If None, Insert "None" Below:) None

5. We understand that Title Company is relying on the truthfulness of the statements made in this affidavit to provide the area and boundary coverage and upon the evidence of the existing real property survey of the Property. This Affidavit is not made for the benefit of any other parties and this Affidavit does not constitute a warranty or guarantee of the location of improvements.

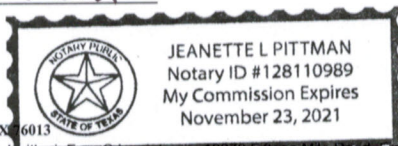
6. We understand that we have no liability to Title Company that will issue the policy(ies) should the information in this Affidavit be incorrect other than information that we personally know to be incorrect and which we do not disclose to the Title Company.

Lisa Castleberry  
Lisa Castleberry

SWORN AND SUBSCRIBED this 4<sup>th</sup> day of April 2018

Jeanette L Pittman  
Notary Public

(TAR-1907) 02-01-2010



# Property Details for Account: 69563

## General

## Values

<b>Market Value</b>	\$103,604.00	<b>Imp. Total</b>	\$55,504.00
<b>Address</b>	9104 SHAWNEE TRL	<b>Land Homesite</b>	\$48,100.00
<b>Owner</b>	TULL, CHRISTY A—100%	<b>Land Non-Homesite</b>	\$0.00
<b>Mailing Address</b>	226 N STARNES ST GRAPEVINE TX 76051-3350	<b>Agricultural Market</b>	\$0.00
<b>Property Type</b>	Real Property	<b>Timber Market</b>	\$0.00
<b>Area</b>	1111ft <sup>2</sup>	<b>Timber Reduction</b>	\$0.00
<b>Class</b>	3	<b>Homestead Cap</b>	\$6,131.00
<b>Legal Description</b>	ROANOKE HILLS BLK GR LOT 2	<b>Appraised Value</b>	\$103,604.00
<b>Geo ID</b>	SJ0034A-0000GR-0000-0002-0000	<b>Assessed Value</b>	\$97,473.00
<b>Subdivision</b>	ROANOKE HILLS—SJ0034A		
<b>Neighborhood</b>	ROANOKE HILLS—DC07263		
<b>Homestead Cap</b>	\$6,131.00		
<b>Taxing Jurisdictions</b>	FLOWER MOUND TOWN OF—C07 NORTHWEST ISD—S11 DENTON COUNTY—G01		

## Subdivision Stats

ROANOKE HILLS

<b>Minimum Market</b>	\$11,354.00
<b>Median Market</b>	\$117,050.00
<b>Maximum Market</b>	\$635,000.00
<b>Median Living Area</b>	1344ft <sup>2</sup>
<b>Difference from Median Market</b>	-12.19%
<b>Difference from Median Living Area</b>	-18.98%

# Property Details for Account: 69563

## Deed History

Date	Type	Seller	Buyer	Deed Number	Sale Price
2018-05-25	WD WITH VENDORS LIEN	CASTLEBERRY, LISA	TULL, CHRISTY A	2018-67601	Unavailable
2015-02-16	CERTIFICATE OF DEATH	CASTLEBERRY, GARY & LISA	CASTLEBERRY, LISA	2015-DEATH CERT	Unavailable
2004-02-05	GENERAL WD	MACDONALD, SHARON S	CASTLEBERRY, GARY & LISA	04-15009	Unavailable
2002-12-05	WARRANTY DEED	SHANE, MICHAEL G	MACDONALD, SHARON S	02-156812	Unavailable
	CONVERSION	AKIN, L.K. SR., SR	SHANE, MICHAEL G		Unavailable

## Improvements

Class	Description	Square Feet	Effective Year Built	Year Built	Value
3	MAIN AREA	905ft <sup>2</sup>	1980	1974	
3	OPEN PORCH	200ft <sup>2</sup>	1980	1974	
3	ATTACHED ADDITION	80ft <sup>2</sup>	1980	1974	
3	ATTACHED ADDITION	126ft <sup>2</sup>	1980	1974	
<b>Improvement Total</b>		<b>1311ft<sup>2</sup></b>			<b>\$55,504.00</b>

## Land Segments

Type	Acres	Area
8 - RESIDENT LOT	0.2066	9000 ft <sup>2</sup>

## Sec. 78-86. - Special exceptions.

The board of adjustment shall have the power to hear and decide the following special exceptions to the terms of subpart B of this Code:

- (1) *Reconstruction of nonconforming building.* The board of adjustment shall be authorized to permit the reconstruction of a nonconforming building pursuant to section 78-231(e), nonconforming uses and structures, destruction.
- (2) *Expansion of nonconforming building.* The board shall be authorized to permit the addition of off-street parking or off-street loading to a nonconforming use pursuant to section 78-231(b), nonconforming uses and structures, expansion.
- (3) *Discontinuance of nonconforming use.* The board shall be authorized to require the discontinuance of nonconforming uses of land or structures under any plan whereby the full value of the structure and facilities can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity of all property to conform to the regulations of subpart B of this Code. All actions to discontinue a nonconforming use of land or structure shall be taken with due regard to the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and the conservation and preservation of the property.
- (4) *Status of nonconforming uses.* The board shall, from time to time, on its own motion or upon cause presented by interested property owners or on request of the town council or planning and zoning commission inquire into the existence, continuation or maintenance of any nonconforming use within the town.

(Code 1989, ch. 12, § 6.13)

## Sec. 78-231. - Nonconforming uses and structures.

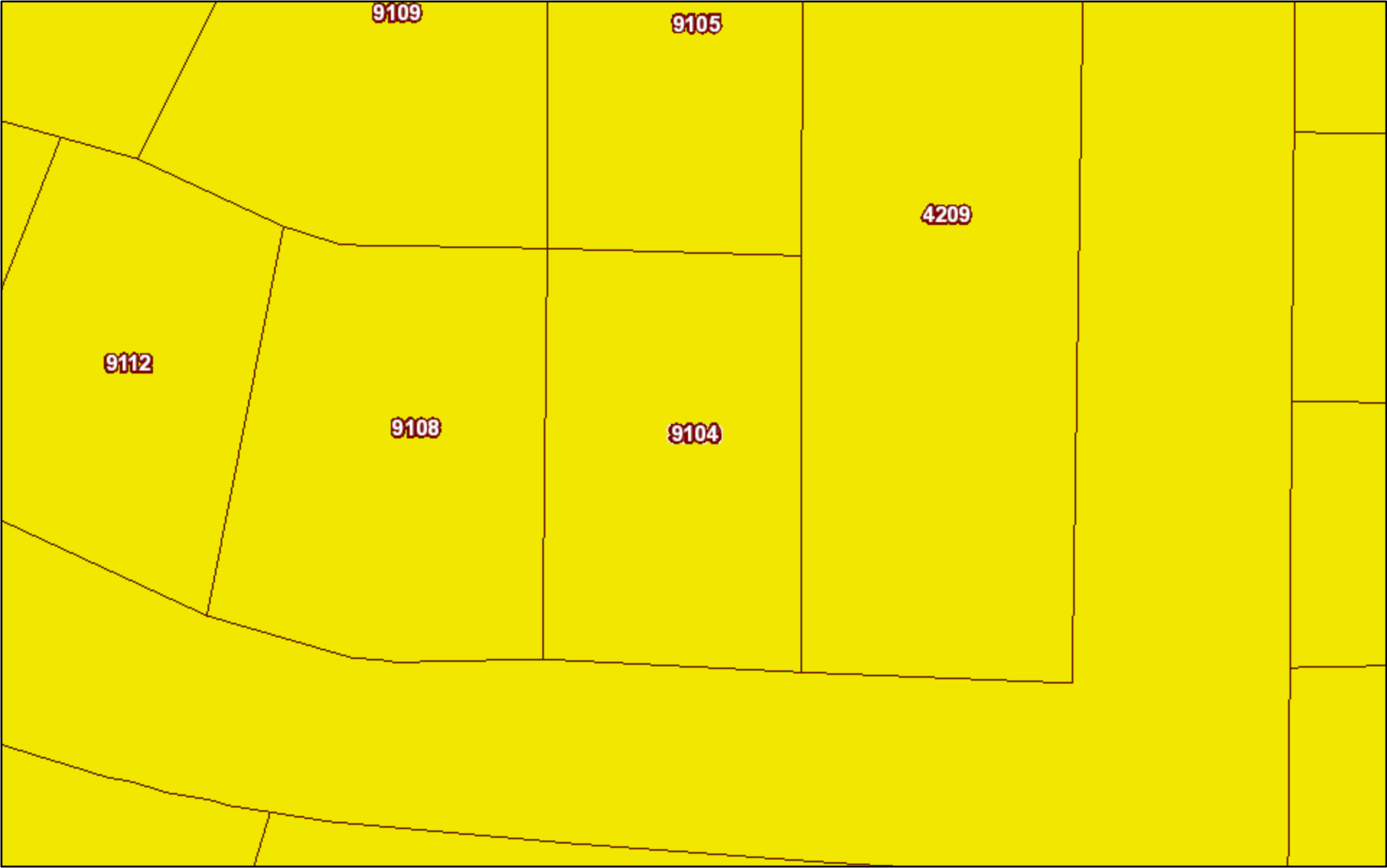
- (a) *Nonconforming status.* The use of land, use of a structure, or a structure itself shall be deemed to have nonconforming status when each of the following conditions exist:
- (1) The use or structure that does not conform to the regulations prescribed in the district in which such use or structure is located was in existence and lawfully constructed, located and operating prior to, and at the time of, the event or action that made such use or structure nonconforming.
  - (2) The event or action that made such use or structure nonconforming was one of the following: annexation into the town, adoption of subpart B of this Code or a previous zoning ordinance, or amendment of subpart B of this Code or a previous zoning ordinance.
  - (3) The nonconforming use has been operating since the time that the use first became nonconforming without abandonment, as abandonment is defined in subsection (d) of this section.
- (b) *Expansion.*
- (1) No nonconforming use may be expanded or increased beyond the lot or tract upon which such nonconforming use is located as of the effective date of subpart B of this Code, except to provide off-street loading or off-street parking space upon approval of the board of adjustment.
  - (2) No structure, occupied by a nonconforming use shall be altered so as to increase the gross floor area.
  - (3) No nonconforming structure shall be altered or expanded so as to increase the degree of nonconformity.
- (c) *Change of use.*
- (1) Any nonconforming use may be changed to a conforming use, and once such change is made, the use shall not thereafter be changed back to a nonconforming use.
  - (2) Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use by securing a certificate of occupancy.
- (d) *Abandonment.* Whenever a nonconforming use is abandoned, all nonconforming rights shall cease, and the use of the premises shall henceforth be in conformance to subpart B of this Code. Abandonment shall involve the intent of the user or

owner to discontinue a nonconforming operation and the actual act of discontinuance. Any nonconforming use that is discontinued, or that remains vacant for a period of six months, shall be considered to have been abandoned. Any nonconforming use that is moved from the premises shall be considered to have been abandoned.

- (e) *Destruction.* If a nonconforming structure is destroyed by fire, the elements or other cause, it may not be rebuilt except to conform to the provisions of subpart B of this Code. In the case of partial destruction, where the cost of repairing or replacing the structure does not exceed 60 percent of its most recent appraised property tax value, reconstruction may be permitted after a hearing and favorable action by the board of adjustment, provided that the repaired or new structure shall not exceed the original structure in lot coverage, gross floor area or height and shall not increase the degree of any nonconformity.

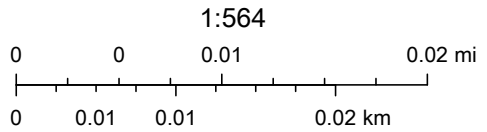
(Code 1989, ch. 12, § 1.05(a))

# Zoning Map



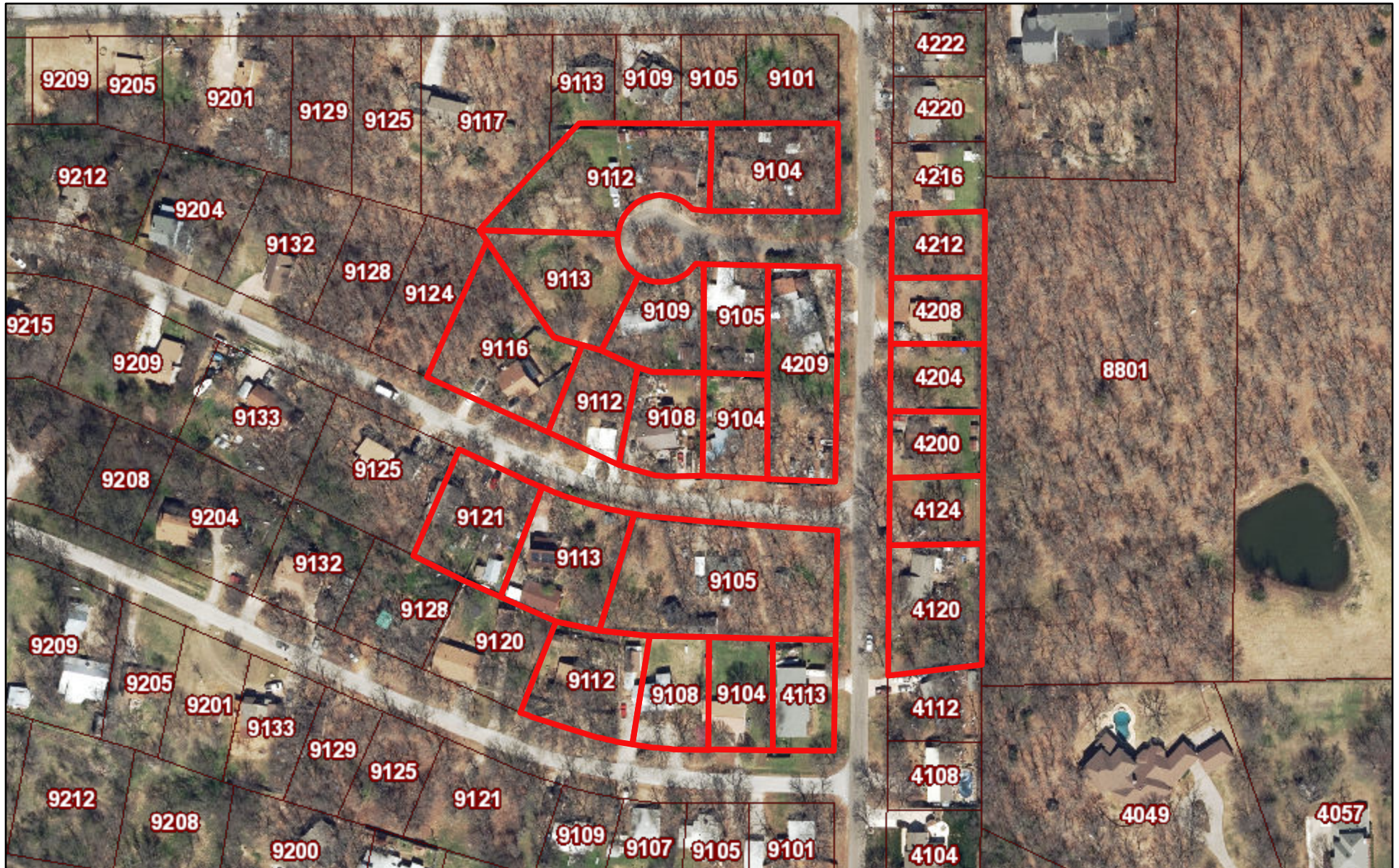
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- Parcel
  Address Points
  Combined Uses-See Ordinance
  Agriculture
- County Line
  Zoning
  Single Family Estate
- Town Limits
  Interim Holding
  Central Business District
  Single Family 30 & 1 (obsolete)



Town of Flower Mound, DCAD, TAD, Sources: Esri, HERE, Garmin, USGS,

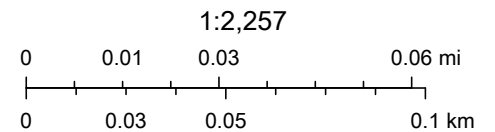
# 200' PROPERTY OWNER NOTICE MAP



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2017 AERIAL PHOTOGRAPHY

- Blue: Band\_3
- Red: Band\_1
- Green: Band\_2
- Buffer (Step 2) \_Query result
- County Line
- Town Limits
- Park Location
- Streams
- Parcel
- Address Points












Town of Flower Mound, DCAD, TAD, Sources: Esri, HERE, Garmin, USGS,

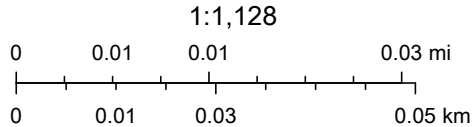
# AERIAL PHOTO



9/20/2018 12:47:06 PM

2015 AERIAL PHOTOGRAPHY

	Blue: Band_3		Town Limits		Streams
	Red: Band_1		Parcel		Address Points
	Green: Band_2		County Line		Park Location



Town of Flower Mound, DCAD, TAD, Sources: Esri, HERE, Garmin, USGS,

**PUBLIC HEARING**

Notice is hereby given that the Board of Adjustment of the Town of Flower Mound, Texas, will hold a public hearing on Wednesday, October 10<sup>th</sup>, at 6:30pm at the Flower Mound Town Hall,, 2121 Cross Timbers Rd (FM1171). The purpose of the hearing is to consider a request from Christy Tull for a special exception in accordance with Section 78-86, "Special Exceptions," of the Code of Ordinances. The property is generally located South of Cross Timbers Rd and West of Tour 18 Dr and is locally known as 9104 Shawnee Trail, Lot 2, Block GR, of the Roanoke Hills Subdivision.

Tasha Coates  
Residential Plans Examiner  
Town of Flower Mound

To Run in Denton Record Chronicle: Friday, September 28, 2018  
To Run in Lewisville/Flower Mound/Highland Village Neighbors: Friday, September 28, 2018

Denton Record Chronicle:  
FAX: 940-381-9667  
Attn: Ann  
e-mail: [classads@dentonrc.com](mailto:classads@dentonrc.com)  
Attn: Legal Notice Rep

ANY QUESTIONS OR PROBLEMS PLEASE CALL Tasha Coates at 972-874-6368.

(Ref: Case No. BOA18-0006)

Town of Flower Mound Account Number: 100041132



September 25, 2018

Board of Adjustment Case No. BOA18-0006

**NOTICE OF APPLICATION  
FOR A SPECIAL EXCEPTION TO THE CODE OF ORDINANCES  
FOR THE TOWN OF FLOWER MOUND**

A request from Christy Tull has been made for a special exception in accordance with Section 78-86, "Special Exceptions," of the Code of Ordinances. The property is generally located South of Cross Timbers Rd and West of Tour 18 Dr and is locally known as 9104 Shawnee Trail, Lot 2, Block GR, of the Roanoke Hills Subdivision.

The Board of Adjustment of the Town of Flower Mound, Texas will hold a public hearing on this request on **Wednesday, October 10, 2018, at 6:30 p.m. at the Flower Mound Town Hall, 2121 Cross Timbers Road (FM 1171)**. 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 or in person to the office of Development Services.

Sincerely,

Tasha Coates  
Plans Examiner

Mailing address:  
Town of Flower Mound  
Building Inspections  
2121 Cross Timbers Road  
Flower Mound, TX 75028

## ATTACHMENT 13

PID	SUBNAME	Owner Name	Owner Address	Owner City	Owner State	Owner Zip	Site Address
R224678	ROANOKE HILLS	DEWOLF, DANIEL JAMES	9112 SEMINOLE CIR	FLOWER MOUND	TX	75022	9112 SEMINOLE CIR
R334953	ROANOKE HILLS	TICHANSKY, PETER	4209 POCAHONTAS	FLOWER MOUND	TX	75022	4209 POCAHONTAS NULL
R69232	ROANOKE HILLS	TRIMMER, TERRY & TAMMY	4120 POCAHONTAS	FLOWER MOUND	TX	75022	4120 POCAHONTAS NULL
R69234	ROANOKE HILLS	RANEY, MELTON M & MARLA R	4200 POCAHONTAS	FLOWER MOUND	TX	75022	0 POCAHONTAS NULL
R69236	ROANOKE HILLS	RANEY, MELTON M & MARLA R	4200 POCAHONTAS	FLOWER MOUND	TX	75022	4200 POCAHONTAS NULL
R69238	ROANOKE HILLS	BRADLEY, JOHN & TONYA	4609 BIRCH ST	FLOWER MOUND	TX	75028	4204 POCAHONTAS NULL
R69241	ROANOKE HILLS	BYARS, SELYNDA	4208 POCAHONTAS	FLOWER MOUND	TX	75022	4208 POCAHONTAS NULL
R69243	ROANOKE HILLS	HANVEY, DON H	PO BOX 1725	ROANOKE	TX	76262	0 POCAHONTAS NULL
R69463	ROANOKE HILLS	REMUS, MICHAEL J	4113 POCAHONTAS	FLOWER MOUND	TX	75022	4113 POCAHONTAS NULL
R69467	ROANOKE HILLS	HANVEY, DON H	PO BOX 1725	ROANOKE	TX	76262	9104 CHOCTAW TRL
R69474	ROANOKE HILLS	HART, FRANK FRANCIS & JUDITH ANN	9108 CHOCTAW TRL	FLOWER MOUND	TX	75022	9108 CHOCTAW TRL
R69479	ROANOKE HILLS	WRIGHT, DAVID C JR	9112 CHOCTAW TRL	FLOWER MOUND	TX	75022	9112 CHOCTAW TRL
R69542	ROANOKE HILLS	STUM, STEPHEN & SHARON CO-TRUSTEES STUM REVOCABLE TRUST	9121 SHAWNEE TRL	FLOWER MOUND	TX	75022	9121 SHAWNEE TRL
R69547	ROANOKE HILLS	DYE, AMELLIA	9113 SHAWNEE TRL	FLOWER MOUND	TX	75022	9113 SHAWNEE TRL
R69551	ROANOKE HILLS	PEASLEY, DAVID	9105 SHAWNEE TRL	FLOWER MOUND	TX	75022	9105 SHAWNEE TRL
R69563	ROANOKE HILLS	CASTLEBERRY, LISA	9104 SHAWNEE TRL	FLOWER MOUND	TX	75022	9104 SHAWNEE TRL
R69567	ROANOKE HILLS	BLANQUICET, LUIS F	9108 SHAWNEE TRL	FLOWER MOUND	TX	75022	9108 SHAWNEE TRL
R69571	ROANOKE HILLS	WRIGHT, DAVID C JR	9112 CHOCTAW TRL	FLOWER MOUND	TX	75022	9112 SHAWNEE TRL
R69574	ROANOKE HILLS	WATSON, STEVE III	831 BEVERLY DR	GRAPEVINE	TX	76051	9116 SHAWNEE TRL
R69640	ROANOKE HILLS	TURNAGE, MARILYN	9104 SEMINOLE CIR	FLOWER MOUND	TX	75022	9104 SEMINOLE CIR
R69674	ROANOKE HILLS	SADEGHIAN, KHOSROW TRTS OF KAMY REAL PROPERTY TRUST	PO BOX 50593	DENTON	TX	76206	9113 SEMINOLE CIR
R69682	ROANOKE HILLS	LINDSLEY, H LOUIS, JR	9109 SEMINOLE CIR	FLOWER MOUND	TX	75022	9109 SEMINOLE CIR
R69694	ROANOKE HILLS	HAYES, MELBA J	9105 SEMINOLE CIR	FLOWER MOUND	TX	75022	9105 SEMINOLE CIR