



City of Colleyville Planning and Zoning Commission Worksession Agenda

City Hall
100 Main Street
Colleyville, Texas 76034
817. 503.1000
www.colleyville.com

Monday, October 22, 2018
6:15 PM

Executive Conference Room
Third Floor – City Hall

1. CALL TO ORDER

2. PRESENTATION AND DISCUSSION

- 2a** Presentation and discussion of a Special Use Permit for a carport on Lot 16, Block 2, of the Quail Crest Estates Addition, located at 316 Quail Crest Drive, Case ZC18-032
- 2b** Presentation and discussion of a zoning change from R-10 Single Family Residential district to R-20 Single Family Residential district on Tracts 6A & 6A2, Abstract 1203, in the Peterson Pate Survey, located at 713 Field Street, Case ZC18-034
- 2c** Consideration of amendments to Chapter 2 – Definitions and Chapter 3 – Land Use in the Land Development Code, specifically to “Short Term Home Rental”, Case GC18-008
- 2d** Presentation and discussion of amendments to the Land Development Code, specifically Chapter 5 – Tree Preservation

3. ADJOURNMENT

I hereby certify this agenda was posted on City Hall bulletin boards October 19, 2018 by 5:00 p.m.

Araceli Botello
Planning Technician

A quorum of the Colleyville City Council may be in attendance at this meeting.

Any matter on this agenda may, at the discretion of the governing body, be opened for public comment and discussion.

If you plan to attend this public meeting and have a disability that requires special accommodations, please advise the City Secretary at least 48 hours in advance at 817.503.1133, and reasonable accommodations will be made to assist you.

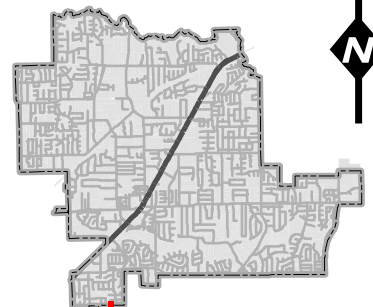
Aerial Map



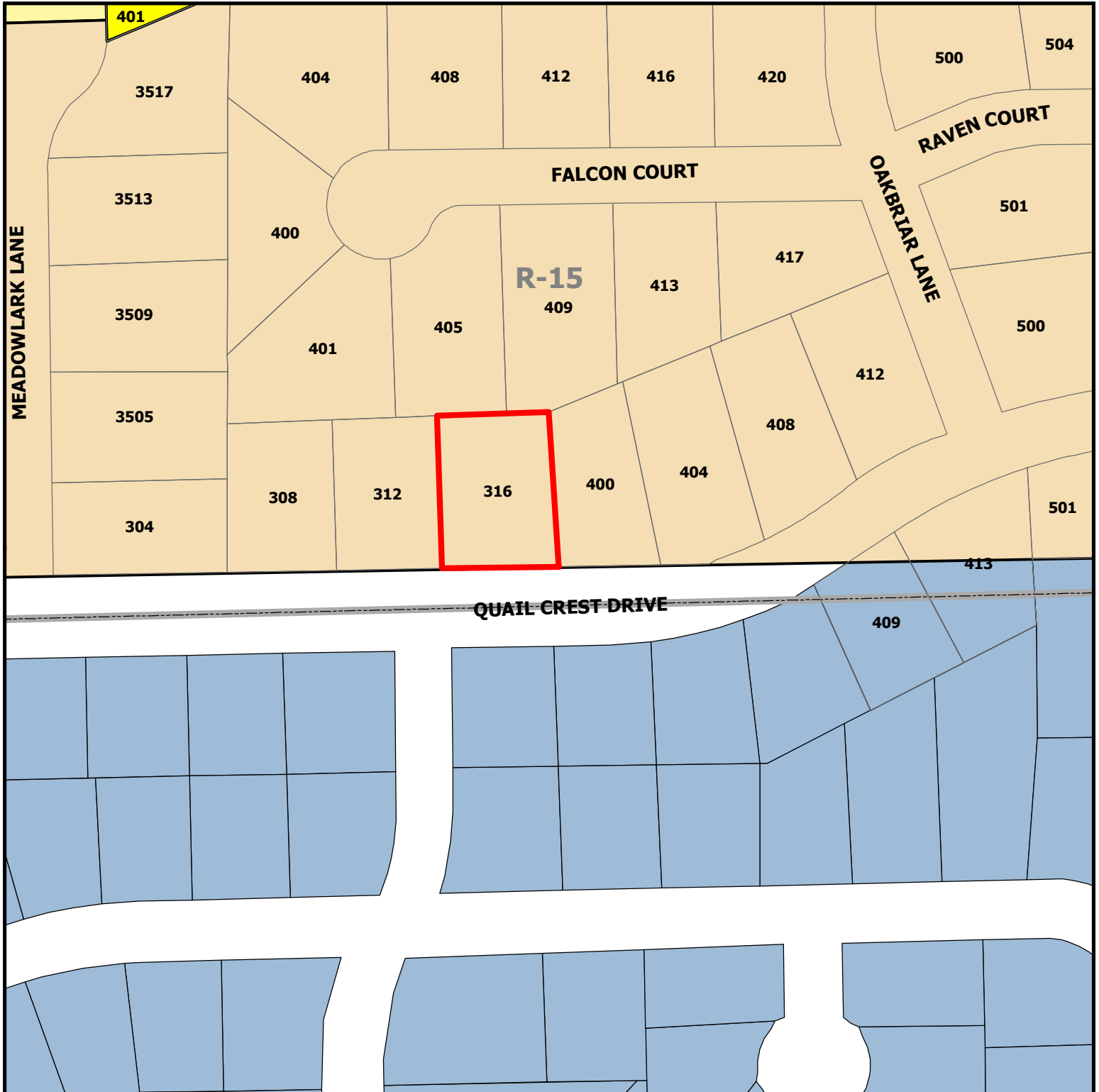
ZC18-032
316 Quail Crest Drive

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 Subject Property



Zoning Map



ZC18-032
316 Quail Crest Drive

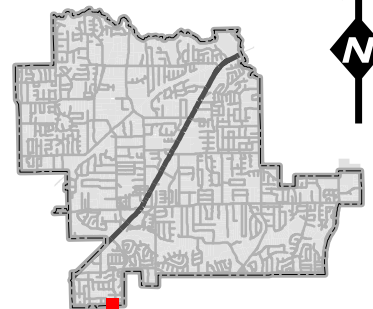
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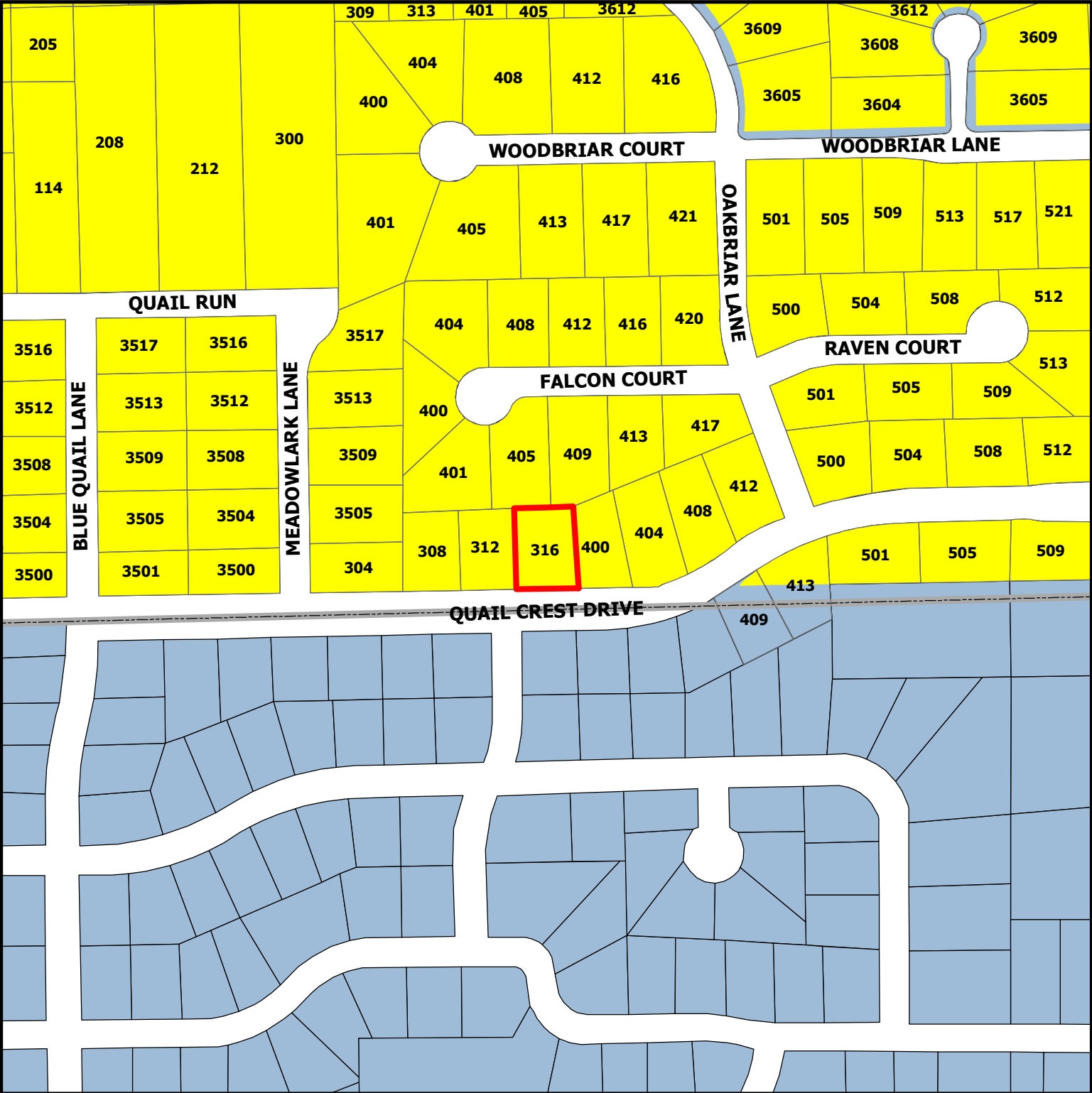
Subject Property



Properties Outside the City Limit



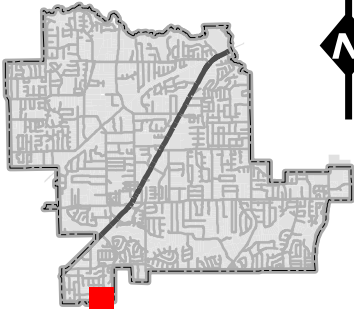
Future Land Use Map



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ZC18-032
316 Quail Crest Drive

-  Subject Property
-  Residential
-  Properties Outside the City Limit



Statement of Planning Objectives

City of Colleyville

Community Development Department

Development Review Committee

Subject: SUP for Carport. - 316 Quail Crest Drive

Response from Applicant on Comments:

1. The character of the proposed development is an “L” shaped covered automobile parking area and proportioned to be confined within a fenced area located in the back yard of the existing structure (house). The proposed development will complement the current board-on-board and picket perimeter fence replacing sections of the 6’ picket fence with 8’ sections. The east elevation with a 6’ board-on-board fence shall not be changed. Additional fence will be erected for the west and south elevations and a portion of the east elevation. The purpose of the proposed development is to protect current, classic and antique automobiles from hail, sun degradation and other inclement Texas weather. The automobiles are the #2 highest investments this family owns. The Home at this location is their #1 investment.

a) The total square footage of the parking area will be approximately 1,750.

b) Currently, on the property is no garage, accessory building or covered parking.

c) As stated above, the purpose of the proposed covered parking area will be to park current, classic and antique automobiles.

d) The exterior of the proposed parking area will include the existing perimeter fence on the north and partial east elevations. The south portion of the east elevation is new 8’ board-on-board fence with three 10’ gates. The north perimeter fence includes a board-on-board to the northwest and picket fence on the northeast. The existing 6’ picket fence shall be replaced with an 8’ picket fence. The west elevation is new 8’ board-on-board fence. The west section of the south elevation abuts the house with an additional 4.5’ of board-on-board fence and gate. The east portion of the south elevation is new 8’ board-on-board fence with three 10’ gates. The parking area shall have a tubular steel frame to support a tarp cover for the area. The tubular steel shall be 1.375’ and 1.625’ diameters and connect to the existing and new 2.375’ fence post. The steel framing shall be attached with bolt on end clamps to allow removal for unencumbered access to the Utility Easement. The steel framing shall include gussets and mid-section post to minimize sagging, add increase uplift resistance and structural integrity.

e) The new board-on-board fence shall consist of 6”X 8’ cedar boards attached to 2’X4” pressure treated supports with stainless ring shank nails. The fence shall have a 2”x6” top board and 1”x4” cover plate at the top of the vertical boards. The steel framing and tarp shall be below the fence line. The tarps shall be a thermal-set reinforced membrane attached to steel framing with grommets and heat welded membrane strips. The tarp shall be attached atop the west perimeter fence with termination bar and screws 6” on center.

Statement of Planning Objectives

f) The maximum height of the proposed parking area will be approximately 8'. See photos showing the fence heights and a location of the proposed parking area indicated on a flyover photo of the lot.

3. Development Schedule: NA

4. Height requirement is met.

5. The proposed parking area will extend to the North and East property lines encroaching on the 6' easements. The resident has obtained signatures from all City of Colleyville Associates for an Encroachment Agreement. (See Attached)

6. Total square footage of property is approximately 15,000. The square footage of existing structure is approximately 3,122. The total square footage of the covered parking area will be approximately 1,750. Thus, the total square footage of all structures is approximately 32.48% of total lot coverage.

7. The proposed covered parking area will be totally behind the rear of the principal building or enclosed within an 8' fence with exception of the 24' of the east elevation with a 6' fence. See exhibit for north and east lot line easements.

Statement of Planning Objectives



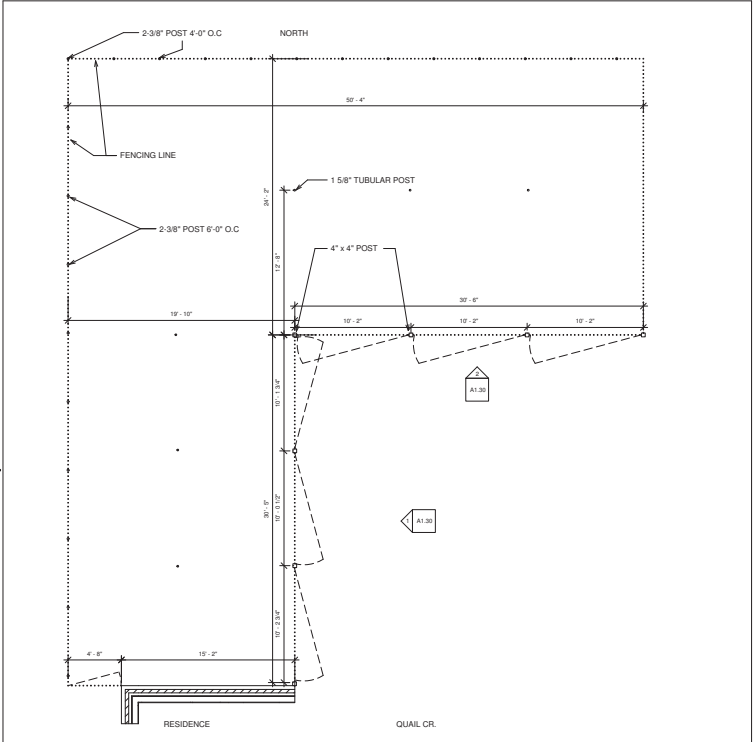
The White lines indicate the fenced area for automobile access/egress and the Covered Parking Area

The narrow black line indicates the Utility Easement and Encroachment Area

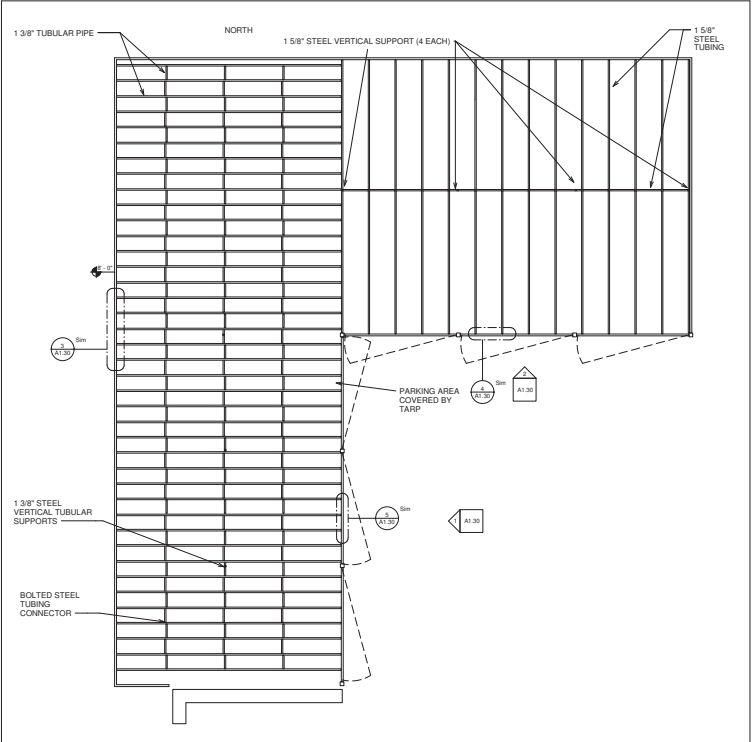
Site Plan



Parking Area & Tubular Steel Support Plan



1 CONSTRUCTION PLAN
1/4" = 1'-0"



2 REFLECTED CEILING PLAN
1/4" = 1'-0"

NEAL MORRIS
316 QUAIL CREST DRIVE
COLLEYVILLE, TX 76034

MORRIS & McCOY
FAMILY PARKING
AREA

PARKING AREA &
TUBULAR STEEL
SUPPORT PLAN

Date 08.26.18

A1.20

Scale 1/4" = 1'-0"

8/28/2018 9:53:53 PM

Carport Elevations and Details

NEAL MORRIS
316 OUAL CREST DRIVE
COLLEYVILLE, TX 76034

MORRIS & McCOY
FAMILY PARKING
AREA

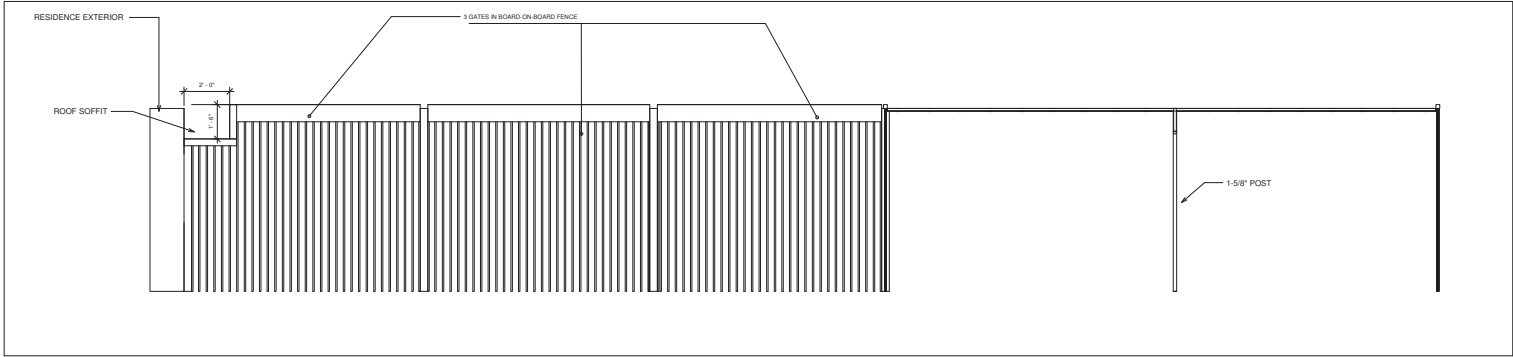
ELEVATIONS AND
DETAILS

Date 08.26.18

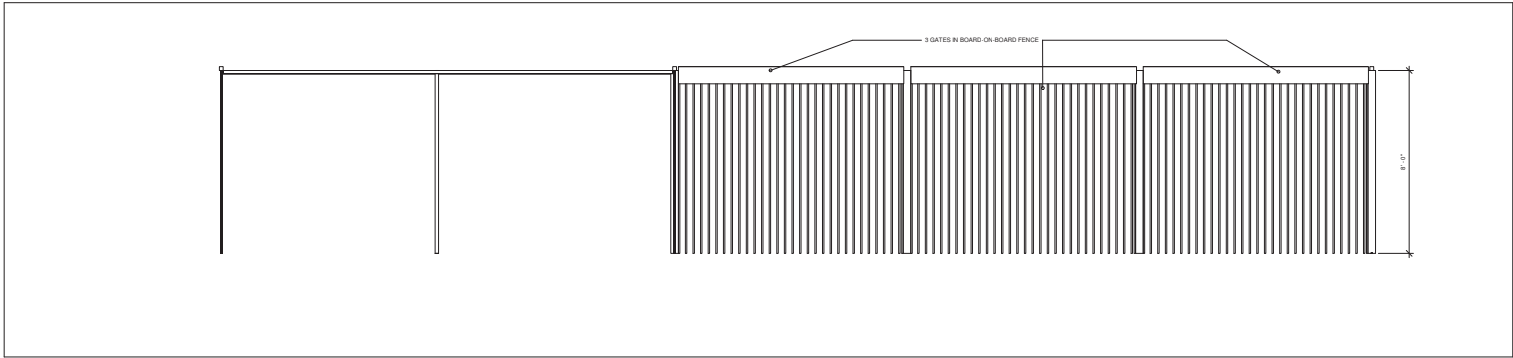
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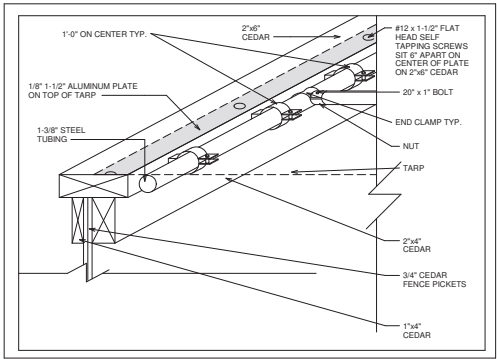
08/26/2018 09:55:40 PM



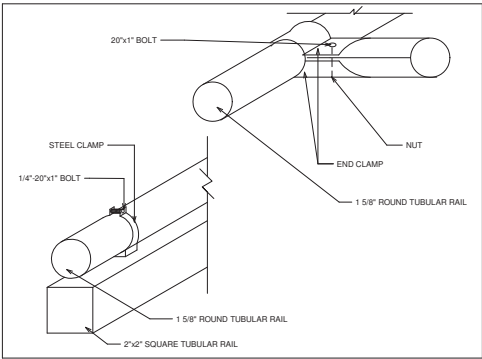
① EAST ELEVATION
1/2" = 1'-0"



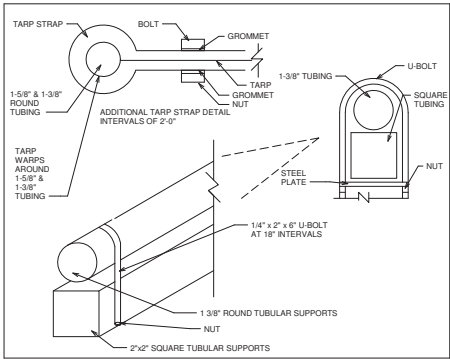
② NORTH ELEVATION
1/2" = 1'-0"



③ TARP AND STEEL TUBULAR CONNECTOR
3/4" = 1'-0"



④ TYPICAL CONNECTORS
3/4" = 1'-0"



⑤ PERIMETER CONNECTION
3/4" = 1'-0"

Photos Provided by Applicant



South Elevation (West Portion)

Photos Provided by Applicant

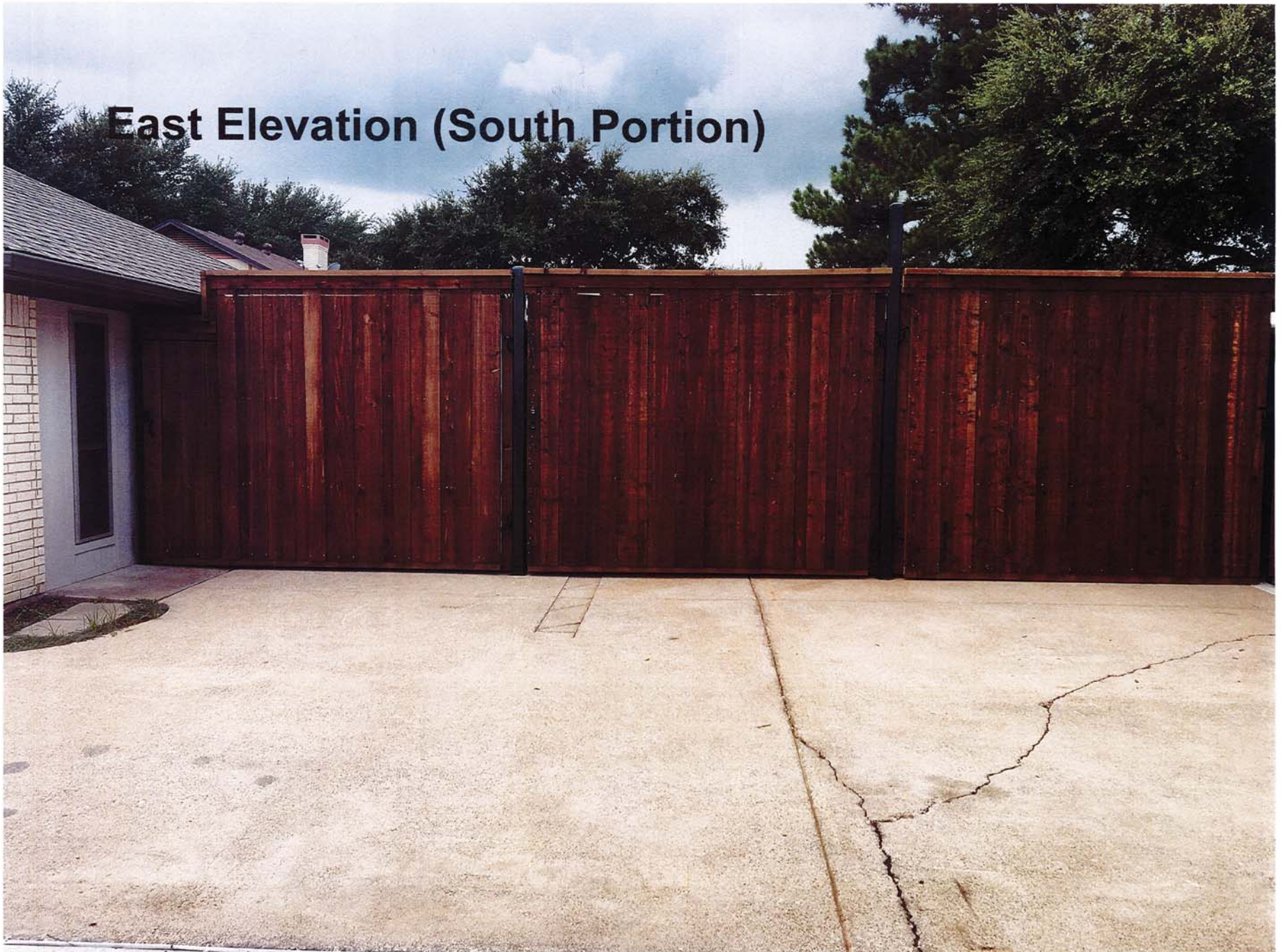


Photos Provided by Applicant



South Elevation (East Portion)

East Elevation (South Portion)



Photos Taken by Staff



Photos Taken by Staff



Photos Taken by Staff



Photos Taken by Staff



Photos Taken by Staff



Letter of Opposition

Araceli Botello

Subject: FW: Case # ZC18-032

From: mark pursley

Sent: Saturday, September 29, 2018 12:21 PM

To: Ben Bryner <BBryner@colleyville.com>; Jackie Reyff <JReyff@colleyville.com>; Caleb Tandy <CTandy@colleyville.com>; Eddie Wilson <EWilson@colleyville.com>; Jerry Ducay <JDucay@colleyville.com>; Mark Wood <MWood@colleyville.com>; Adrienne Lothery <alothery@colleyville.com>; Ray Silva-Reyes <RSilvareyes@colleyville.com>; Robert Mckeown <rmckeown@colleyville.com>; Ray Silva-Reyes <RSilvareyes@colleyville.com>; Robert Saucedo <RSauceda@colleyville.com>; Taylor Schauwecker <TSchauwecker@colleyville.com>

Subject: Case # ZC18-032

To: City of Colleyville Development Review Committee

RE: Case # ZC18-032

In reference to Case # ZC18-032 an application for SUP for a carport built and located at 316 Quail Crest Drive, has been presented to you for your review for compliance. However the application in my view could be misleading in and of the material facts. Please consider my observations in your review.

- Total square foot of the structure is understated
- The property does have a garage, the garage door has been replaced with French doors (they could be removed and replaced with a standard garage door)
- A portion of the "parking area" is described as using existing fences at the perimeter. These fences become the supporting structure for the roof of the carport. I do not think the applicant has exclusive control of the fences, and has not obtained permission from the three neighbors to use the fences as supporting structure for the tarp roof.
- The structure "abuts the house", therefore attached per city code
- Approval for easement encroachment is referenced, however all setback requirements for R15 zoning is omitted
- The steel roof frame is described as having "unencumbered access" is not exactly true
- The "steel framing" is referenced to have gussets. The referenced gussets are either missing or perhaps there is not an understanding of a gusset.
- The lot coverage **exceeds** the R15 coverage by an amount equal to about half of the maximum accessory building size or about seventy five percent of the maximum carport.
- The applicant understates the lot coverage by an amount equal to most homes accessory building size in an R15 zone.
- It is true that the structure is behind the house, however it is misleading that it is enclosed with an eight foot fence. The roof is supported by the fence, and the fence has become the structure. This roof or carport is just metal poles spanning the tops of fences with a tarp stretched across.

Observation in contrast to the Carport requirements per code

- Size – 480sq/ft maximum **exceeded by over 3x the size**
- Size – 24ft maximum length **exceeded by over 2x**
- Setback requirement for R15 – **not observed**, built to property line on the rear and side
- Roof pitch minimum 2:12 – **roof pitch is about ¼ of the minimum 1:24 or 1:19 near flat**
- Post – **none** supported by a fence, **none of the fence post meet any of the requirement**

Letter of Opposition

- o The applicant does not have exclusive control of all of the supporting fences
- Adequacy of Plans and Specifications: per code “Said plans and specifications shall contain sufficient information to allow the City Council to determine that the proposed carport complies with these regulations” – ***it does not***

Thank You
Mark Pursley

Aerial Map



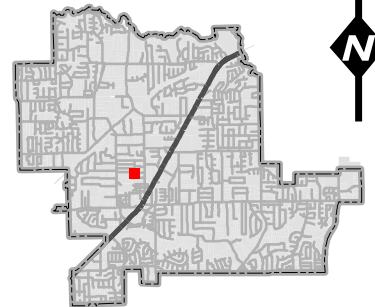
PC18-016
713 Field Street

DISCLAIMER:

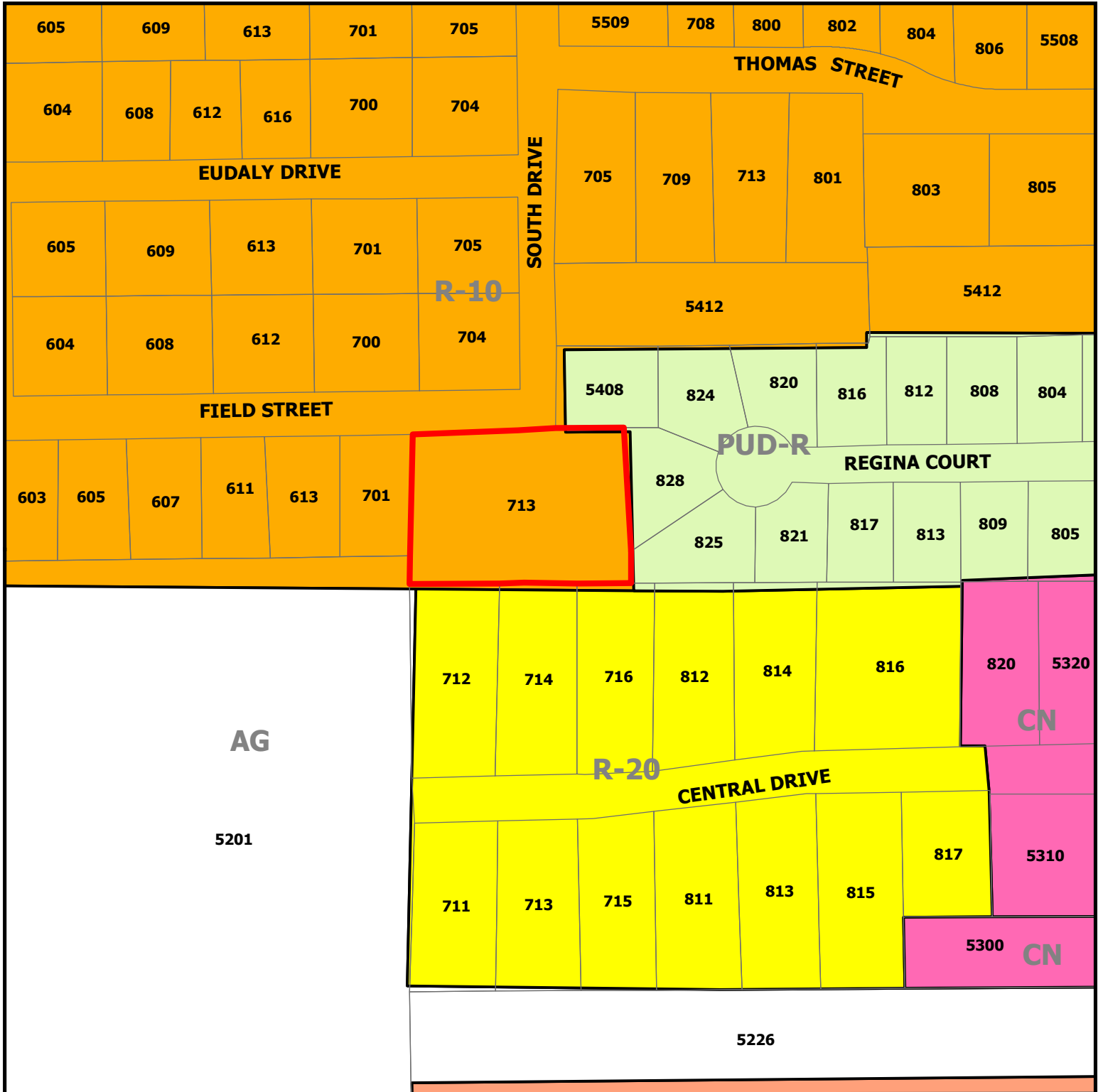
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Subject Property



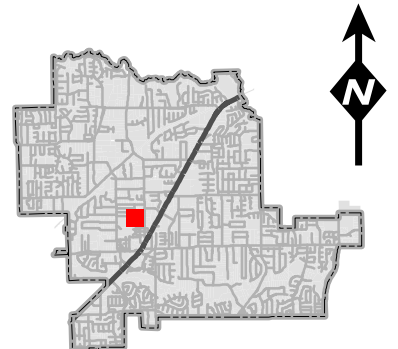
Zoning Map



ZC18-034
713 Field Street

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Subject Property



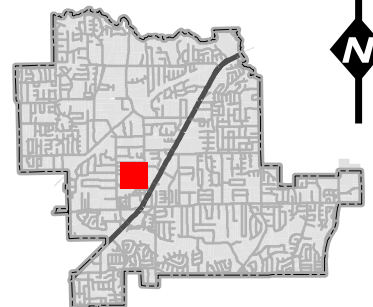
Future Land Use Map



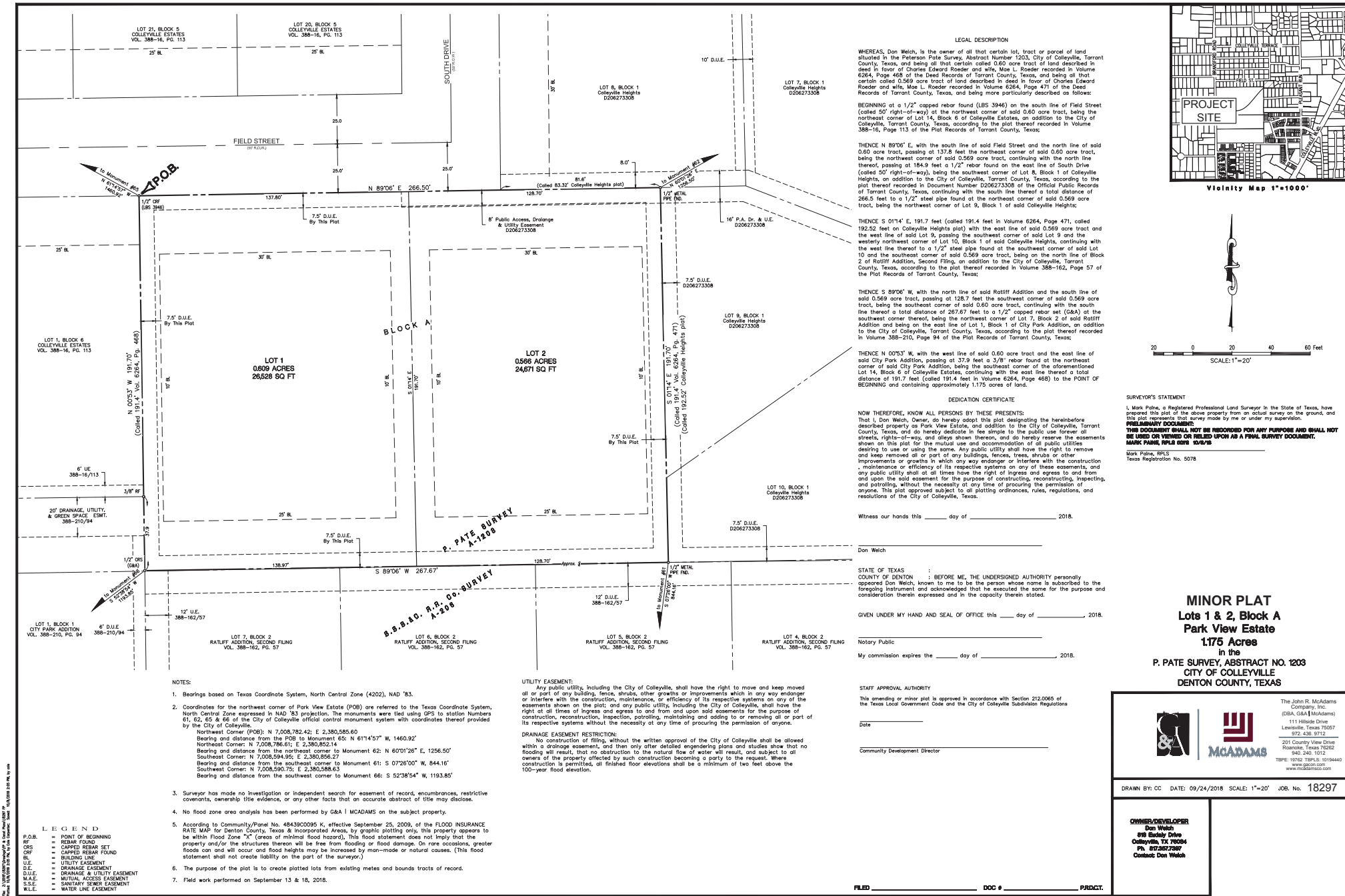
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ZC18-034
713 Field Street

- Subject Property
- Residential
- Colleyville Blvd Corridor
- Open Space; Parks



Zoning Exhibit





City of Colleyville Planning and Zoning Commission Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 2c	Agenda Date 10/22/2018	Number
Type Public Hearing Agenda Items		
Department Community Development		

Title

Consideration of amendments to Chapter 2 – Definitions and Chapter 3 – Land Use in the Land Development Code, specifically to “Short Term Home Rental”, Case GC18-008

Explanation

Staff proposes amendments to Chapter 2 – Definitions, Chapter 3 Land Use, and Table 3.24.B Schedule of Permitted Uses of the Land Development Code, by adding the “Short Term Home Rental” use.

Background. The City Council has expressed a desire to restrict “short term home rentals” in single-family residential areas within the city. These uses tend to operate through entities like Air BnB and VRBO and they generally allow for the rental of a home on a short term basis like a weekend or even just a night. Several complaints have been made regarding noise, an increase in traffic, and an increase in trash. The City Council heard a presentation from Staff during a worksession on July 17, 2018. At the worksession, direction was given to staff to propose amendments to the Land Development Code.

Purpose. The purpose is to review the proposed amendments to the LDC that would restrict short term home rental in residential areas. Staff reviewed cities in Texas with regulations for comparison:

CITY	ADOPTED REGULATION
Austin, Texas*	Comprehensive Short Term Rental Licensing, Limits or Prohibits Units by Location & Hotel Occupancy Taxes
Houston, Texas	Incorporated into the Hotel and Motel Ordinance, Building/Housing Standards Apply & Hotel Occupancy Taxes
Coppell, Texas	Comprehensive Short Term Rental Licensing, Requires Inspections, C.O.'s & Hotel Occupancy Taxes
Ft. Worth, Texas	Prohibits Short Term Rentals Less than 30 Days in All Zoning Districts (underground market continues to grow)
New Braunfels, Texas	Comprehensive Short Term Rental Licensing, Prohibited in Residential Areas Altogether.
Southlake, Texas	Prohibits all Short Term Rentals
Galveston, Texas	Limited to Registration and Hotel Occupancy Taxes
Grapevine, Texas	Prohibits all Short Term Rentals

Proposed Amendments. Based on the City Council's direction, staff reviewed the LDC as well as a review of cities around Colleyville.

It is suggested to include the following definition of short term home rental:

Short Term Home Rental. The rental of all, or any portion of, a dwelling or accessory building for compensation for the purpose of overnight lodging for a period of not less than one night and not more than 30 consecutive days, other than an ongoing month-to-month tenancy granted to the same renter as their primary residence. The term shall not include a hotel or bed and breakfast lawfully operating with a current certificate of occupancy issued for such use.

In addition to the definition, Staff is proposing to restrict "Short Term Home Rentals" from single-family residential districts. The following changes to the Schedule of Permitted Principal Uses to be proposed are:

Require a Specific Use Permit in the following districts: RD Two Family Residential, R-MF Multi-Family Residential, and MH Mobile Home.

Staff Recommendation: Staff recommends approval of the amendments. The proposed amendments would restrict short term home rental in residential areas of the City.

Recommendation

Approve

Attachments

1. Draft Ordinance - Amending LDC re Short Term Rentals (STRs)
2. Property Rental in Colleyville
3. Grapevine Ordinance
4. Southlake Ordinance

ORDINANCE NO. O-18-XXXX

AN ORDINANCE OF THE CITY OF COLLEYVILLE, TEXAS, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 2, SECTION 2.5 "DEFINITIONS OF THE LAND DEVELOPMENT CODE", ADDING A DEFINITION FOR "SHORT TERM HOME RENTAL"; AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 3 "LAND USE", TABLE 3.24.B "SCHEDULE OF PERMITTED USES", BY ADDING "SHORT TERM HOME RENTAL" UNDER RESIDENTIAL ACCOMMODATION USES; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR A VIOLATION OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the short term home rental of a property in the City of Colleyville; with its attendant traffic, parking, noise, litter and the influx of non-residents into residential areas is incompatible with the intent of residential districts in the City and the desires and expectations of the City's residents and is contrary to the long-standing character of the community; and

WHEREAS, the short term home rental in residential areas of the City poses a risk of increased traffic, noise, public nuisances, disruption of neighborhoods, and additional enforcement related issues; and

WHEREAS, the City of Colleyville deems it necessary, for the purpose of promoting the health, safety, morals, or general welfare of the City to add language defining short term home rental within the Land Development Code; and

WHEREAS, the Planning and Zoning Commission and the City Council have found that the characteristics of short term home rentals are such that the public interest, safety and general welfare are best served with the prohibition of such short term home rentals within residential districts.

WHEREAS, the Planning and Zoning Commission of the City of Colleyville and the City of Colleyville City Council, in compliance with the Charter of the City of Colleyville, having given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all the property owners generally, and to the persons interested and situated in the affected area and in the vicinity thereof, the governing body of the City of Colleyville is of the opinion that said change in the

Land Development Code of the City of Colleyville should be made.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEYVILLE, TEXAS:

Sec. 1. THAT all the foregoing premises and findings are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety.

Sec. 2. THAT Chapter 2, Section 2.5 "Definitions of the Land Development Code" of the City of Colleyville is hereby amended to add a definition for "Short Term Home Rental" to read, in relevant part, as follows:

"...

Shrubs. Woody plants which grow vertically in a multi-branched pattern.

Short Term Home Rental. The rental of all, or any portion of, a dwelling or accessory building for compensation for the purpose of overnight lodging for a period of not less than one night and not more than 30 consecutive days, other than an ongoing month-to-month tenancy granted to the same renter as their primary residence. The term shall not include a hotel or bed and breakfast lawfully operating with a current certificate of occupancy issued for such use.

..."

Sec. 3. THAT the Land Development Code of the City of Colleyville, Texas, Chapter 3 "Land Use", Table 3.24.B "Schedule of Permitted Uses" is hereby amended to read, in relevant part, as depicted in the attached Exhibit "A", by adding "Short Term Home Rental" to the list of uses in the category of "Residential Accommodation Uses", with nothing marked within the Residential Cells of AH through R-15 and the Non-Residential Cells CPO through ML to indicate the use is not allowed within those districts, as depicted in the attached Exhibit "A".

Sec. 4. THAT any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same

penalty as provided for in the Comprehensive Zoning Ordinance of the City of Colleyville, and upon conviction shall be punishable by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense.

- Sec. 5. THAT if any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be judged invalid or unconstitutional, the same shall not affect the validity of this ordinance as a whole or any portion thereof other than that portion so decided to be invalid or unconstitutional.
- Sec. 6. THAT in addition to and accumulative of all other penalties, the City shall have the right to seek injunctive relief for any and all violations of this ordinance.
- Sec. 7. THAT this Ordinance shall become effective immediately upon passage.

AND IT IS SO ORDERED.

The first reading and public hearing being conducted on the ____ day of ____ 2018.

The second reading and public hearing being conducted on the ____ day of ____ 2018.

PASSED AND APPROVED BY A VOTE OF ____ AYES, ____ NAYS, AND ____ ABSTENTIONS ON THIS THE ____ DAY OF ____ 2018.

Mayor Richard Newton	____	Mayor Pro Tem Bobby Lindamood	____
Place 1, Tammy Nakamura	____	Place 5, Chuck Kelley	____
Place 3, Kathy Wheat	____	Place 6, Callie Rigney	____
Place 4, George Dodson	____		

ATTEST:

CITY OF COLLEYVILLE

Christine Loven, TRMC
City Secretary

Richard Newton
Mayor

APPROVED AS TO FORM AND LEGALITY:

Whitt L. Wyatt
City Attorney

7.20.18

Draft

TM101189

DRAFT

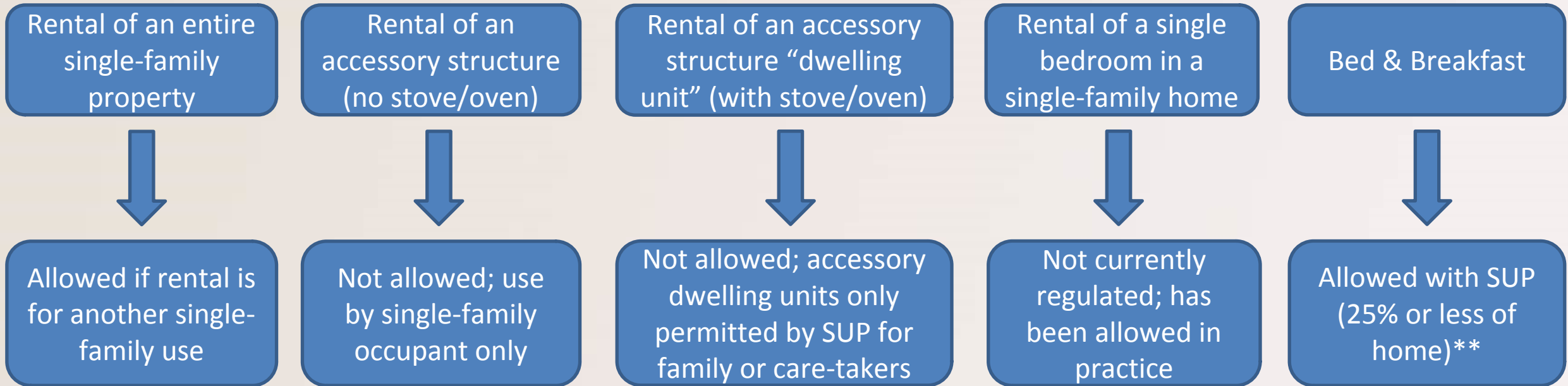
Exhibit "A"- Amendments to Table 3.24.B - Schedule of Permitted Uses

[illegible]

Property Rental in Colleyville

City Council Worksession
TBD 2018

Flow Chart: Current Situation



* No current ordinance on long or short term rental properties as long as the entire property is being leased or rented

** B&B definition could benefit from updating to make regulation easier (not many people identify themselves as a "tourist lodging service")

Local Regulation Overview



- The short term rental (STR) market is growing rapidly. The DFW metro experienced an approximately 40% increase in the number of short term rental (STR) listings over the past year. The Austin and Houston metro areas were even higher.
- In 2017, the Texas Legislature considered a bill to prohibit cities from regulating STRs in the last legislative session. The measure ultimately failed by a narrow margin.
- Several Texas cities have recently discussed and/or passed stand-alone ordinances specifically defining and regulating STRs.

City Regulation Comparison



CITY	ADOPTED REGULATION
Austin, Texas*	Comprehensive Short Term Rental Licensing, Limits or Prohibits Units by Location & Hotel Occupancy Taxes
Houston, Texas	Incorporated into the Hotel and Motel Ordinance, Building/Housing Standards Apply & Hotel Occupancy Taxes
Coppell, Texas	Comprehensive Short Term Rental Licensing, Requires Inspections, C.O.'s & Hotel Occupancy Taxes
Ft. Worth, Texas	Prohibits Short Term Rentals Less than 30 Days in All Zoning Districts (underground market continues to grow)
New Braunfels, Texas	Comprehensive Short Term Rental Licensing, Prohibited in Residential Areas Altogether.
Southlake, Texas	Prohibits all Short Term Rentals
Galveston, Texas	Limited to Registration and Hotel Occupancy Taxes

* City of Austin is involved in a lawsuit brought by homeowners challenging the city's regulations. The Texas Attorney General joined the suit on the side of homeowners.

Local Regulation Categories



Main Regulation Categories

- Licensing Regulations
- C.O. Requirements
- Zoning (Area and Density Restrictions)
- Restrictions on Number of Occupants
- Noise and Parking Regulations
- Fire Safety Requirements
- Rental Unit Inspections

Level of Local Regulation by Category

General	Moderate	Strict
• License + Fees • Noise Regs • Parking Regs • Taxes	• C.O. Required • Limit Occupants	• Limit Density • Limit Location • Inspections

Options



- Maintain current regulations and enforce existing rules for issues such as noise, parking, etc...
- Amend current bed and breakfast/hotel regulations to address STRs
- Adopt a stand-alone ordinance regulating STRs (i.e., general, moderate, or strict ordinance)

ORDINANCE NO. 2018-065

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRAPEVINE, TEXAS ADOPTING A NEW ARTICLE VI TO CHAPTER 14 OF THE CODE OF ORDINANCES REGARDING SINGLE-FAMILY DWELLING TRANSIENT RENTALS; REPEALING CONFLICTING ORDINANCES; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Grapevine is authorized to adopt and enforce ordinances necessary to protect health, life, and property to preserve good government and the security of its inhabitants; and

WHEREAS, the City of Grapevine has adopted a comprehensive Zoning Ordinance to regulate the location and use of buildings and land in full accordance with Chapter 211 of the Local Government Code; and

WHEREAS, single-family dwelling transient rentals have been identified in the City's Zoning Ordinance since at least April 18, 2000, with the adoption of Ordinance No. 2000-47; and

WHEREAS, single-family dwelling transient rentals are not currently listed as a permitted use in any Zoning District within the City; and

WHEREAS, there has been a proliferation of single-family dwelling transient rentals within residential areas of the City; and

WHEREAS, single-family dwelling transient rentals do not fit in or fall under the definition of single-family attached dwelling or single-family detached dwelling under the Zoning Ordinance; and

WHEREAS, single-family dwelling transient rentals are not consistent with the character or nature of single-family residential uses under the Zoning Ordinance; and

WHEREAS, single-family dwelling transient rentals are not suitable in residential neighborhoods, are not compatible with residential uses, and the neighborhood adjacency of single-family dwelling transient rentals in residential neighborhoods is harmful; and

WHEREAS, in the absence of being listed as a permitted use in any Zoning District, single-family dwelling transient rentals are prohibited under the City's Zoning Ordinance; and

WHEREAS, single-family dwelling transient rentals in the City of Grapevine, with their attendant traffic, parking, noise, litter, and the influx of non-residents into residential

areas is incompatible with the intent of residential districts in the City and the desires and expectations of the City's residents and is contrary to the long-standing character of the community; and

WHEREAS, single-family dwelling transient rentals in residential areas of the City pose a risk of increased public nuisances, disruption of neighborhoods, and additional enforcement related issues; and

WHEREAS, the City's Police Department has responded to multiple calls for service at known addresses of single-family dwelling transient rentals in residential areas of the City; and

WHEREAS, the calls for service attributable to single-family dwelling transient rentals in residential areas of the City include noise, parking, and disturbance complaints; and

WHEREAS, the increase in calls for service attributable to single-family dwelling transient rentals in residential areas of the City result in an additional burden on the Police Department; and

WHEREAS, the City of Grapevine City Council has determined that it is a necessity to regulate activities as provided for herein to safeguard the public; and

WHEREAS, the City of Grapevine is authorized by law to adopt the provisions contained herein; and

WHEREAS, the City Council of the City of Grapevine deems the passage of this ordinance as necessary to protect the public, health, safety, and welfare; and

WHEREAS, the City Council is authorized by law to adopt the provisions contained herein, and has complied with all the prerequisites necessary for the passage of this Ordinance, including but not limited to the Open Meetings Act.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAPEVINE, TEXAS:

Section 1. That all matters stated hereinabove are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

Section 2. That a new Article VI to Chapter 14 is hereby adopted and added to the Code of Ordinances as follows:

"ARTICLE VI. SINGLE-FAMILY DWELLING TRANSIENT RENTALS

14-150 - Definitions

Single-family dwelling transient rental – The rental or offer for rental of any dwelling or any portion of a dwelling for a period of less than 30 days.

Rental – The renting, bartering, trading, letting or otherwise allowing the use of a dwelling or room or rooms within a dwelling for compensation. This shall not restrict, limit or interfere with any homeowner from participating in a leaseback upon the sale of a dwelling.

Leaseback – An arrangement where the seller of a home leases the home back from the purchaser. In a leaseback arrangement, the specifics of the arrangements are typically made prior or immediately after the sale of the home.

14-151 - Single-family Dwelling Transient Rentals Prohibited

All single-family dwelling transient rentals are hereby prohibited and unlawful within the City of Grapevine."

Section 3. That City staff is hereby directed to proceed with a notice and enforcement initiative as to single-family dwelling transient rentals.

Section 4. That all ordinances or any parts thereof in conflict with the terms of this ordinance shall be and hereby are deemed repealed and of no force or effect; provided, however, that the ordinance or ordinances under which the cases currently filed and pending in the Municipal Court of the City of Grapevine, Texas shall be deemed repealed only when all such cases filed and pending under such ordinance or ordinances have been disposed of by a final conviction or a finding of not guilty, nolo contendere, or dismissal.

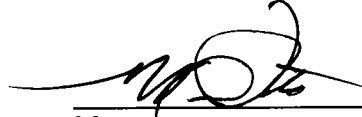
Section 5. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed two thousand dollars (\$2,000.00) and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

Section 6. If any section, article, paragraph, sentence, clause, phrase or word in this ordinance, or application thereto any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of the ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 7. The fact that the present ordinances and regulations of the City of Grapevine, Texas are inadequate to properly safeguard the health, safety, morals, peace and general welfare of the public creates an emergency which requires that this ordinance become effective from and after the date of its passage, and it is accordingly so ordained.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF GRAPEVINE,
TEXAS on this the 4th day of September, 2018.

APPROVED:

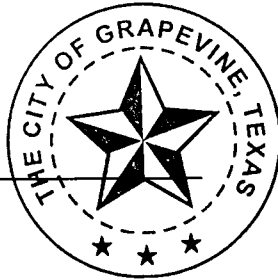


Mayor
William D. Tate

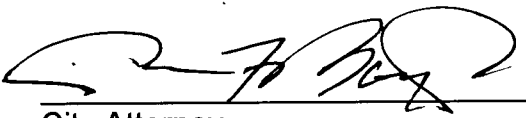
ATTEST



Tara Brooks
City Secretary



APPROVED AS TO FORM:



City Attorney

CITY OF SOUTHLAKE, TEXAS

ORDINANCE NO. 1187

AN ORDINANCE OF THE CITY OF SOUTHLAKE, TEXAS, AMENDING CHAPTER 11 OF THE SOUTHLAKE CODE OF ORDINANCES "OFFENSES AND MISCELLANEOUS PROVISIONS" TO CREATE A NEW ARTICLE VI "SHORT TERM RENTALS"; PROVIDING A PENALTY OF UP TO \$2,000 PER DAY FOR A VIOLATION OF THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE; REPEALING CONFLICTING LAWS; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the short term rental of a property in the City of Southlake, with its attendant traffic, parking, noise, litter, and the influx of non-residents into residential areas is incompatible with the intent of residential districts in the City and the desires and expectations of the City's residents and is contrary to the long-standing character of the community; and

WHEREAS, the short term rental of houses in residential areas of the City poses a risk of increased public nuisances, disruption of neighborhoods, and additional enforcement related issues; and

WHEREAS, the City of Southlake is empowered to enact regulations that promote the public health, safety and welfare of its citizens.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTHLAKE;

SECTION 1. The Southlake Code of Ordinances is hereby amended by adding language to the existing text that is set forth in this ordinance.

SECTION 2. Chapter 11 of the Southlake Code of Ordinances entitled "Offenses and Miscellaneous Provisions" is amended by creating and inserting a new Article VI as follows:

Article VI: Short Term Rental

Sec. 11-93 Definitions

Short term rental – the rental of any residence or residential structure or any portion of a residence or residential structure for a period of less than 30 days.

Rental - The renting, bartering, trading, letting or otherwise allowing the use of a residence or residential structure or room or rooms within a residence or residential structure. This shall not restrict, limit or interfere with any homeowner from participating in a leaseback upon the sale of a residence or residential structure.

Leaseback – is an arrangement where the seller of a home leases the home back from the purchaser. In a leaseback arrangement, the specifics of the arrangements are typically made prior or immediately after the sale of the home.

Sec. 11-94 - Short Term Rentals Prohibited

- (a) All short term rentals are hereby prohibited and unlawful within the City of Southlake

Sec. 11-95 – Enforcement/Penalty

- (a) A person commits an offense under this chapter if that person owns or operates a short term rental in the City
- (b) Violation of the conditions of this article shall be punishable by a maximum fine of \$2,000 per violation, per day.
- (c) Each day of violation of said regulations of this article constitutes a separate offense and is separately punishable, but may be joined in a single prosecution.

Section 3. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

Section 4. Publication. The city secretary is directed to publish this entire ordinance, not including Exhibit A, at least one time within 10 days after its final passage, in the official newspaper of the city in accordance with Section 3.13(b) of the Southlake Home Rule Charter and Section 53.002 of the Local Government Code.

Section 5. Cumulative Clause. This ordinance and the Southlake City Code shall be cumulative of all provisions of ordinances of the City of Southlake except where the provisions of this ordinance or the Southlake City Code are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 6. Severability Clause. It is hereby declared to be the intention of the city council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the city council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 7. Effective date. This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

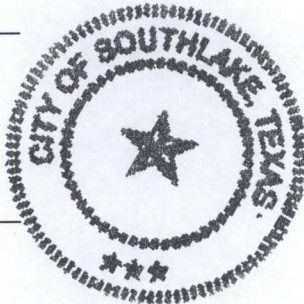
PASSED AND APPROVED on the 1st reading the 16th day of January, 2018.



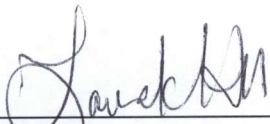
MAYOR
ATTEST:



CITY SECRETARY



PASSED AND APPROVED on the 2nd reading the 6th day of February, 2018.



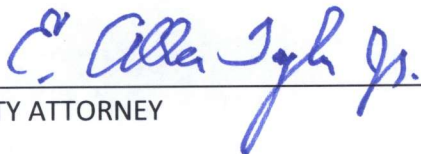
MAYOR
ATTEST:



CITY SECRETARY



APPROVED AS TO FORM AND LEGALITY:



CITY ATTORNEY

DATE: 2/6/2018

ADOPTED: 2/9/2018

EFFECTIVE: 2/9/2018

Chapter 5

Tree Preservation

(10/6/2014)

Section 5.1 Purpose of This Chapter

The intent of this Chapter is to encourage site planning which furthers the preservation of trees and natural areas; to protect trees during construction; to facilitate site design and construction which contribute to the long term viability of existing trees; and to control the removal of trees when necessary. It is the further intent of this Chapter to achieve the following broader objectives:

Protect healthy trees and preserve the natural ecological environmental and aesthetic qualities of the City.

Protect and increase the value of residential and commercial properties within the City.

Prohibit the indiscriminate clear cutting of property.

Section 5.2 Authorization for Adoption of This Chapter

The regulations contained in this Chapter have been adopted under the authority of *Chapter 51 – General Powers of Municipalities of the Texas Local Government Code*, which authorizes a municipality to adopt ordinances, rules, or police regulations that are for the good government, peace, or the trade and commerce of the municipality. This Chapter is also adopted under the authority of *the Home Rule Charter of the City of Colleyville*, which authorizes the City Council to exercise all powers granted to municipalities by the Constitution or the laws of the State of Texas.

Section 5.3 Variances and Appeals

Except where provided in this chapter, any person seeking approval of a development as required by this Land Development Code may request a variance from a requirement contained in this chapter, or appeal a decision of an Administrative Official by submitting a request using the procedures described in *Chapter 1 – General Provisions* of this Land Development Code.

Section 5.4 Definitions

Definitions applicable to this Chapter may be found in *Chapter 2 – Definitions* of this Land Development Code.

Section 5.5 Tree Removal Permit

No person directly or indirectly shall cut down, destroy, remove, move, or effectively destroy through damaging the roots, trunk or canopy, any tree situated on property regulated by this Chapter without first obtaining a tree removal permit, unless otherwise exempted by the provisions of this Chapter.

Section 5.6 Applicability

The terms and provisions of this Chapter shall apply to real properties, persons and trees as follows:

- A. Properties which are regulated by this Chapter:
 - 1. Any real property upon which any protected tree is located.
 - 2. All municipal / public domain property.

Section 5.7 Permit and Fee Requirements

The Administrative Official is responsible for the review and approval or disapproval of all requests for tree removal permits. The request shall be submitted in accordance with the requirements specified herein.

- A. Tree Removal Permit: A request for a tree removal permit must be submitted and approved prior to the removal of any tree. Where any tree is slated for removal, no site grading, dirt disturbance or new construction may occur on the property until a tree removal permit has been issued.
- B. Fees: All tree removal permits shall be accompanied by a check made payable to the City of Colleyville per the following schedule:
 - 1. The resident of a single family home removing all or a portion of a tree which exists on the lot of record on which the single family home is built:.....*no fee required. Exception: For properties larger than two acres in size, if more than five protected trees are removed as part of a tree removal permit, the administrative official may require payment of a fee per sub-section two below only if the Administrative Official determines an intent to "clear cut" the property as described in Section 5.10(A)1b.*
 - 2. All other properties including rights-of-way:.....*\$50.00, plus \$25.00 per protected tree on the property, right-of-way, or development site. For residential subdivisions, the entire subdivision shall be considered the development site. Upon application submittal, the total number of protected trees on the site, including exempted areas, shall be indicated on the application form in order to determine the fee, which shall be paid at the time of submittal. If, upon review of the application and/or tree preservation plan, it is determined that the amount of protected trees tallied is incorrect, the difference in the fee calculation shall be paid, or refunded, prior to the issuance of the tree removal permit.*

Section 5.8 Submittal Requirements for Tree Removal Permits

Any tree removal permit request that requires the removal of a protected tree shall be accompanied by a tree preservation plan. As determined by the Administrative Official, tree removal permit applications that require no fee as listed in Section 5.7(B) above or require the removal of a minimal amount of trees on existing developed properties or within existing rights-of-way may not require a complete tree preservation plan and may only require a description of the trees to be removed showing a limited portion of a site or right of way may be based on an exhibit showing only that portion of the site.

- A. TREE PRESERVATION PLAN – Note: a tree preservation plan shall be submitted with a tree removal permit application form including payment of the required fee. The items required on a tree preservation plan shall, at a minimum, include the following:
 - 1. Title Block: includes street address; legal description (lot and block, subdivision name); date or revised date, north arrow; graphic (and written) scale; name, address, telephone number of owner and of person preparing the exhibit.

2. Location of all existing or proposed structures, improvements and site uses including pavement and landscaping, setback, easements and service connections, all properly dimensioned and referenced to property lines,
3. Existing and proposed site elevations, grades and major contours. Construction details of permanent grade changes around all trees.
4. Location of trunks, canopies and species of all existing protected trees, graphically differentiating between the trees to remain and those to be removed. A plus (+) character shall indicate trunk location and concentric circle shall indicate the size and canopy configuration. All protected trees shall be assigned a unique number classification.
5. Proposed general areas or locations of the replacement trees.
6. Locations of all critical root zones as defined in Chapter 2 – Definitions.

Additionally, tree information required shall be summarized in tabular form on the mitigation table in a format matching the example below and shall include:

7. The detailed list of trees to be removed including the classification number, exempt or non-exempt status, and whether the tree is to be saved or removed.
8. The total diameter of trees to be removed.
9. Replacement trees listed by species name, quantity, size and total diameter required for replacement of trees. (See Section 5.15 for replacement tree list.)
10. The tree preservation plan must be prepared and sealed by a registered landscape architect in the State of Texas.

Example of Tree Survey and Mitigation Table to Be Inserted on Preservation Plan							
Tree Species	Number of Trees on Site	Total Caliper Inches	Number of Exempt Trees Removed	Caliper Inches Exempt to be Removed	Number of Non-Exempt Trees Removed	Caliper Inches Non-Exempt to be Removed	Replacement Trees to be Planted (3" Caliper)
Red Oak	12	108	3	42	1	12	4
Post Oak	35	350	18	168	2	24	8
Cedar	10	89	1	12	0	0	0
Pecan	5	75	0	0	5	75	25
TOTAL	62	622	22	222	8	111	37

- B. Permit Validity: Permits for tree removal issued in connection with a building permit, subdivision plat and site plan shall be valid for the period of that plat's, building permit's or site plan's validity. Permits for tree removal not issued in connection with a building permit, subdivision or a site plan shall become void thirty (30) days after the issue date on the permit.
- C. Timing of Submittal: The tree preservation plan shall be submitted as follows:
 1. New subdivisions that include new streets and/or significant public improvements – submitted on or before the subdivision plat application submittal.

2. New commercial construction – submitted on or before the submittal of the required administrative site plan application.
 3. New home construction on existing platted lots – submitted on or before the building permit application submittal.
 4. All other situations – as required by the Administrative Official.
- D. Construction Plan Notations - The following notes shall be required to be shown on all construction plans:
1. All trees shown on this plan to be preserved shall be protected during construction with temporary fencing. Tree protection fences shall be installed prior to the commencement of any site preparation work (clearing, grubbing or grading).
 2. Fences shall completely surround the tree or clusters of trees. The fence shall be located at the outermost limits of the tree branches or critical root zone. The fence will be maintained throughout the construction project in order to prevent the following.
 - a. Soil compaction in the critical root zone resulting from vehicular traffic or storage of equipment or materials.
 - b. Critical root zone disturbances due to grade changes greater than two inches (2") cut or fill or boring which was not authorized by the City.
 - c. Wounds to the trunk, limbs or exposed roots by mechanical equipment.
 - d. Other activities detrimental to trees such as chemical storage, cement truck cleaning, and fires.
 3. In cases of area constraints where the protective fence is closer to the trunk than four feet (4'), the trunk must be protected with strapped-on planking to a height of eight feet (8') or to the limits of the lower branching.
 4. All grading within critical root zones of protected trees shall be performed by hand or small equipment to minimize damage. Prior to grading, relocate the protective fencing to two feet (2') behind the grade change area.
 5. Trees most heavily impacted by construction activities should be watered deeply once a week during periods of hot and dry weather. Tree crowns should be sprayed with water periodically to reduce dust accumulation on the leaves.
 6. Trenching for landscape irrigation shall be located as far from the existing trunks as possible.
 7. Pruning to provide clearance for structures, vehicular traffic and equipment shall take place before construction begins.

Section 5.9 Minimum Tree Preservation Requirements

- A. Whenever a new residential subdivision plat is submitted for review, the Planning and Zoning Commission may evaluate whether an alternate street layout and grading plan which complies with all City subdivision standards would result in substantially greater compliance with the minimum tree preservation requirements of this section. In the event

such an alternate layout is determined by the Commission to be a reasonable use of the land then the applicant may substitute said alternative plan without being required to submit a new plat application. If, however, the applicant does not substitute said alternate layout or another acceptable plat to the Commission, failure of the applicant to do so shall be a basis for denial of the applicant's plat application.

- B. Minimum Existing Tree Preservation Requirements: When any new construction occurs, there shall be a minimum number of trees protected on the property. For new residential subdivisions, the entire boundary of the subdivision shall be considered as one property for the purpose of this section. The chart below shall be used to determine the minimum protection requirements:

Existing Tree Coverage Preservation Requirements:

<i>Percentage of existing protected canopy tree coverage</i>	<i>Minimum percentage of the existing protected canopy tree coverage to be preserved</i>
0% – 20%	70%
20.1 – 40%	60%
40.1% - 60%	50%
60.1% - 80%	40%
80.1% - 100%	30%

For the purpose of this section, canopy coverage shall be calculated based on the formula for the area of a circle with the individual tree radii equaling the diameter inches of the trunk of each protected tree measured at 4.5 feet above the base of the tree where it meets the ground. This calculation method may apply to developments approved, but not finalized, prior to October 6, 2014. Protected trees located within any of the exempted areas specified in Section 5.10(B) below may be credited toward the minimum existing preservation coverage requirements in the above table such that no more than 50% of the existing protected trees may be credited within an exempt area. NOTE: The minimum preservation coverage requirements listed above shall not be eligible for mitigation as described in Section 5.12.

- C. Exemption Provisions for Preserving Native Tree Stands: Given the requirements of Section B above, as an incentive for preserving groups of native trees in place, a development may be exempted from the mitigation requirements of Section 5.12. The purpose of the exemption would be to reward a more context sensitive approach in preserving native tree clusters such that the root systems of the trees to be preserved are not disturbed and the tree clusters left in their natural condition. In order to meet this exemption, the development must meet the following conditions:

1. The preservation area(s) shall, at a minimum, meet the requirements of Section B above with the following exception: the 50% credit provision shall not apply to the exemption provisions of this section;
2. The proposed preservation area(s) shall be identified on the tree preservation plan;
3. A minimum of 80% of the trees identified within the preservation area on the plan shall be regionally native trees, not classified as exempt, with emphasis given to native oak species;
4. Where possible, preserved trees should be grouped together with as few detached, designated preservation areas on the tree preservation plan as possible;
5. Final approval of the exemption provisions of this section shall be required by the Administrative Official. If approved, notwithstanding the requirements of Section D below, then all trees not located within a preservation area on the tree preservation

plan shall be classified as exempt from the mitigation provisions of Section 5.12 and the protection provisions of this chapter.

6. Approved preservation areas shall contain a perimeter fence, meeting the requirements of this chapter, around the entire preservation area until the development construction receives approval of a final inspection from the City. Said fence shall be placed a minimum of five feet from the outside edge of the drip line of any tree within said area. No earthwork, vehicle and equipment storage, or encroachments of any kind are permitted within the preservation area. No undergrowth shall be removed from a preservation area.
- D. Preservation of Heritage Trees: Heritage Trees, as defined in Chapter 2 - Definitions, may not be classified as exempted trees, regardless of whether or not they are located in any exempted area.

Section 5.10 Exempt and Non-Exempt Provisions

A. Exempted Persons

1. Exempted Persons: The following persons are exempt from the provisions of this Chapter only to the extent of their control over the particular class of properties and trees described below. Persons exempt from these provisions shall not be required to obtain tree removal permits.
 - a. An employee of the City of Colleyville, a public utility or an authorized contractor working in a dedicated public right-of way may in the course of business, may remove or prune that portion of a tree which prohibits the safe construction, repair or maintenance of a service line or facility.
 - b. The resident of a single family home may remove all or a portion of a tree which exists on the lot of record on which the single family home is built. Exception: For properties larger than two acres in size, if more than five protected trees are removed as part of a tree removal permit, the administrative official may require the resident to comply with the mitigation and preservation provisions of this chapter if it is deemed that an attempt to "clear-cut" all or a portion of the property in being made where no new accessory building, pool, building addition or other similar construction, not involving a principal permitted use, is being proposed as part of a submitted active building permit application. Any decision of the Administrative Official may be appealed per the provisions in Section 5.13. As it relates to this sub-section only, any appeal request shall not require payment of an application fee and said request shall be scheduled on the next available meeting.
 - c. A property owner or his authorized contractor, employee or tenant may remove a tree which has become severely diseased or damaged to the extent that it is beyond the point of recovery or is in danger of falling, as determined by the Administrative Official.
 - d. All landscape nurserymen shall be exempt from the terms and provisions of this section only in relation to those trees planted and growing on the nursery premises which are planted and grown for the sale or intended sale to the general public.
 - e. Any person may remove all or a portion of a tree which has disrupted a public utility service due to tornado, storm, flood, or other act of God, but only that portion of the tree which is necessary to safely restore normal utility service.

- f. The following persons shall be exempt from the tree replacement provisions of this Chapter. However, such persons shall provide tree protection and replacements as per this Chapter for all remaining trees in non-exempt areas.
 - (1) A person performing work authorized by a building permit in the residential buildable area (building setback envelope).
 - (2) A person performing work authorized by an approved site plan in the commercial building footprint.
 - (3) A person performing work authorized by the approved grading and drainage plan in the residential setback envelope as part of the construction of a new subdivision only.
 - (4) An employee of the City of Colleyville and a public utility. Persons specifically performing work on a public improvement as part of a new subdivision plat or a separate dedication instrument in a dedicated public right-of-way, drainage or utility easement are hereby exempt. For the purpose of this sub-section, public improvements shall include any drainage facilities, utilities or streets/sidewalks/trails. Fences, gates and open space amenities are not considered public improvements.

B. Exempted Areas

- 1. New Residential Subdivisions that include public or private street dedications: Except where noted above, the following areas shall be exempt from the tree preservation requirements of this chapter:
 - a. Rights-of-way of newly dedicated streets; lots containing private streets.
 - b. Easements, only where new public improvements or facilities are being constructed
 - c. Residential setback envelope
 - d. Residential driveway: Note: this area may only be declared exempt by the City Council in a situation where no reasonable alternative driveway placement exists on the property such that protected trees may be avoided. The City Council determination process shall be through the submittal of an appeal request. As it relates to this sub-section only, any appeal request shall not require payment of an application fee and said request shall be scheduled on the next available meeting.
- 2. Existing Platted Residential Lots and New Residential Subdivisions with no new public or private street Dedications: Except where noted above, the following areas shall be exempt from the tree preservation requirements of this chapter:
 - a. Residential setback envelope
 - b. Residential driveway: Note: this area may only be declared exempt by the City Council in a situation where no reasonable alternative driveway placement exists on the property such that protected trees may be avoided. The City Council determination process shall be through the submittal of an appeal request. As it relates to this sub-section only, any appeal request shall not require payment of

an application fee and said request shall be scheduled on the next available meeting.

3. Platted Commercial/Institutional Lots: Except where noted above, the following areas shall be exempt from the tree preservation requirements of this chapter:

- a. Trees located within the new commercial/institutional building footprint and any tree located within five feet of said building footprint.

C. Exempted Tree Species

1. Exempted Tree Species: The following tree species shall be exempt from the tree preservation requirements of this chapter:

- a. Mesquite
- b. Hackberry
- c. Chinese Tallow
- d. Cottonwood Trees under 18 inches in diameter width
- e. Cedar trees (Cupressaceae family) - Exceptions: Any species of cedar utilized for required landscape screening as required by the Land Development Code or the provisions of any other City ordinance and/or conditional variance shall not be considered as exempt. Additionally, any Eastern Red Cedar planted as a replacement tree per the provisions of this chapter shall not be considered as exempt. Otherwise, any eastern red cedar that does not meet the above exceptions shall be considered exempt only if the tree is less than 13 inches in diameter width.
- f. Other regionally non-native tree species not listed on the tree replacement list in Section 5.14 and as determined by the Administrative Official based on the written recommendation of a certified arborist and/or landscape architect contracted or employed by the City. Said written recommendation shall kept on file in the appropriate development records for the property for which the determination is made.

Section 5.11 Tree Protection

A major purpose of this Chapter is to protect all trees which are not removed and to allow approved construction to occur. The following procedures shall apply to all types of construction projects, public and private, which involve development around trees.

The following procedures are deemed appropriate in the situations noted; however, unique circumstances may allow modifications if deemed necessary by the Administrative Official.

- A. Prohibited Activities: The following activities shall be prohibited within the limits of the critical root zone of any tree which is subject to the requirements of this Chapter.

1. Material Storage: No materials intended for use in construction or waste materials accumulated due to excavation or demolition shall be placed within the limits of the critical root zone of any tree.

2. Equipment Cleaning / liquid disposal: No equipment may be cleaned or other liquids deposited within the limits of the critical root zone of a tree. This would include but not be limited to, paint, oil, solvents, asphalt, concrete, mortar or other materials.
 3. Tree Attachments: No signs, wires or other attachments, other than those of a protective nature shall be attached to any tree.
 4. Vehicular Traffic: No vehicular and construction equipment traffic or parking is allowed within the limits of the critical root zone of trees.
- B. Pre-Construction: The ensuing procedures shall be followed prior to construction.
1. Tree Flagging: All trees to be removed from the construction site shall be flagged with bright red vinyl tape wrapped around the main trunk at a height of four feet (4') or more such that the tape is visible to workers on foot or driving equipment.
 2. Tree Identification: All protected trees shall be tagged with the unique classification number described in Section 5.8. Said number shall correspond to the number listed on the tree protection plan and shall be clearly visible and legible on a metallic surface located between four and five feet above the base of the tree. The classification number shall remain on the tree until all construction is complete and final approval has been obtained by the City.
 3. Protective Fencing: All protected trees shall have protective fencing located at the tree's critical root zone. The protective fencing shall be comprised of orange vinyl construction fencing, with a minimum of four-foot (4') approximate height. The protective fencing may be located within the critical root zone of the specimen tree for approved construction only as determined by the Administrative Official. The fencing shall follow the delineation of the approved construction. In order to protect the trunk, the trunks of all protected trees shall be wrapped with orange vinyl construction fencing such that the trunk will be easily visible during construction activities.
 4. Bark Protection: in situations where a tree remains in the immediate area of intended construction, the tree shall be protected by enclosing the entire circumference of the tree's trunk with lumber encircled with wire or other means that does not damage the tree.
 5. Construction Pruning: In a case where a low hanging limb may be broken during the course of construction, the obtrusive limb may be cut. The limb shall be cut either flush to the trunk on or at the next joint of the limb. The wound shall then be sealed with pruning paint.

In no instance shall pruning involve a portion of the trunk or thirty percent (30%) of the entire canopy without the Administrative Official's prior approval.
 6. Site Signage: Prior to, and during, construction activities, a sign(s), clearly visible from any adjacent roadways, shall be placed by the developer stating the following: "All trees located within an orange fenced area are considered protected. To report any tree protection violations, please contact (phone number designated by the Administrative Official)". The Administrative Official may require the addition of more specific contact information to the sign. Lettering shall be a minimum of 8 inches in height, shall be legible and able to be read from a passing vehicle on any adjacent roadway. The sign dimensions shall, at a minimum, be five feet in width and height. The overall sign height shall be a minimum of eight (8) feet in height measured from the ground to the top of the sign. The sign colors shall be as follows: lettering shall be black, the sign background shall be fluorescent green.

- C. Improvement within the Critical Root Zone of a Tree: Design constraints often dictate that trees slated for preservation have some encroachment on their critical root zone, as defined in Chapter 2 - Definitions. The following is the minimum design criteria, which is allowed within the critical root zone of a tree. Development exceeding the criteria would put the tree at risk and therefore no longer be considered a preserved tree. In such a case replacement trees shall also be required.
1. Grade Changes: In the event that grade changes must be made around a tree or group of trees, the following shall be implemented in order to maintain oxygen and water exchange within the tree's critical root zone.
 - a. A minimum of seventy-five percent (75%) of the critical root zone must be preserved at natural grade with natural ground cover or landscaping for the tree to be considered a preserved tree.
 - b. No cut or fill greater than two inches (2") shall be located closer to the tree trunk than one half (1/2) of the radius of the critical root zone radius distance.
 - c. Increase Grade: Provide an aeration system just outside the tree's critical root zone. A dry well located a minimum of one-half (1/2) of the radius of the critical root zone.
 - d. Decrease Grade: Provide retaining walls outside the critical root zone to mitigate cuts.
 2. Boring of Utilities: May be permitted under protected trees in certain circumstances. The minimum length of the bore shall be the width of the tree's canopy and shall be a minimum depth of forty-eight inches (48").
 3. Trenching: irrigation systems shall be designed to avoid trenching across the critical root zone of any tree.
 4. Paving: A maximum of twenty five percent (25%) of the critical root zone of a tree may be covered with impervious paving. The pavement and the cut and fill for the pavement is to not exceed one-half (1/2) of the critical root zone radius distance.
- D. Special Designated Tree Protection Areas by Other Ordinances and Plats: Any specifically classified tree, landscape or other similar type of classification that prescribes that trees and/or existing landscaping shall be protected within a specifically defined area as a condition of a zoning ordinance such as PUD or SUP, variance and/or plat shall, at a minimum, meet the following provisions:
1. During any construction activities, said area shall be completely contained within a fenced area meeting the tagging and fencing requirements for tree protection in this chapter.
 2. Unless authorized as part of the original approving language for said area, or where another code requirement applies to the maintenance and upkeep of high grass, weeds and other related nuisances, no trees, landscaping, soil or vegetation of any kind may be removed, or otherwise disturbed, within said area and no construction of any kind may occur except
 3. Unless noted as part of the original approving language for said area, the exemption provisions for the resident of a single family home shall apply regarding the provisions of this section.

Section 5.12 Mitigation Requirements

Any protected tree which is six inches (6") or greater that is removed, destroyed or more than 50% damaged and does not meet the exemption provisions of this chapter shall be mitigated per the requirements of this section. In the event that the loss of a protected tree requires mitigation, the party responsible for mitigation shall either replace the protected tree(s) by planting new trees, pay a mitigation fee or a combination of both. For the purpose of this Chapter, trees removed within any City right-of-way or other City owned property by anyone not exempted by the provisions of this chapter shall be mitigated per the requirements of this section and other applicable City ordinances.

The mitigation authorized by this section is not meant to supplant good site planning. Tree replacement will be considered only after all design alternatives which could save more existing trees have been evaluated.

A. Mitigation Through Planting New Replacement Trees: A sufficient number and diameter of replacement trees shall be planted in order to equal the total diameter inches or fraction thereof of trees six inches (6") or greater and slated for removal.

1. All medium and large, and palm replacement trees shall be a minimum of six inches (6") diameter when measured one foot (1') above the soil line and a minimum of 12 feet in height when planted. All screening and ornamental trees shall be a minimum of three inches (3") diameter when measured one foot (1') above the soil line and a minimum of eight (8) feet in height when planted.

Examples-

- a. A total of 18" diameter to be removed shall be replaced with 3 – 6" diameter medium, large or palm trees.
 - b. A total of 18" diameter to be removed shall be replaced with 6 – 3" diameter screening and ornamental trees.
2. All replacement trees shall be a species listed on the replacement tree list and guaranteed for three years from the date of the final inspection and acceptance of the project. In instances where a replacement tree satisfies a landscaping requirement as regulated in Chapter 4-Landscaping and Buffering, then said tree shall be maintained per the provisions of Chapter 4.
 3. The location of replacement trees is restricted from utility easements and rights-of-way. The location shall not be in an area such that the mature canopy of the tree will interfere with overhead utility lines. No trees shall be planted within ten feet (10') of a fire hydrant.
 4. Replacement trees should be planted on the site from which existing trees are to be removed. If this is not feasible, an applicant may initiate a proposal to plant trees off-site. This may be approved if the planting site is no more than one-half mile from the site where the original trees were removed.
 - a. Replacement trees shall be planted prior to the issuance of the Certificate of Occupancy or project release. Optimum planting times do not always correspond to project completion. For that reason, replacement tree plantings may take place after the project is released by the City; provided, that before project release, a fiscal security is posted in the amount equal to the prevailing rate for installed trees with a three (3) year guarantee, plus fifteen percent (15%) to cover administrative cost.

- b. A minimum of 75 percent of all replacement trees planted as part of the required mitigation for a development under the provisions of this section shall be classified as a medium and large tree as listed on the replacement tree list
- B. Mitigation Through Payment of Fee: A monetary fee of \$250.00 per diameter inch of the tree(s) removed or damaged shall be assessed and paid to the City of Colleyville. All mitigation fees shall be deposited into the City's Tree Preservation Fund. All funds shall be paid prior to the final approval and/or issuance of the Certificate of Occupancy.
- C. Mitigation of Heritage Trees: Heritage Trees, as defined in Chapter 2 – Definitions and noted in Section 5.8:
 - 1. A monetary fee of \$500.00 per diameter inch of the Heritage Tree removed or damaged shall be assessed and paid to the City of Colleyville and deposited into the City's Tree Preservation Fund. All funds shall be paid prior to the final approval and/or issuance of the Certificate of Occupancy. or;
 - 2. If replacement trees are to be planted, the total amount of replacement inches to be planted shall be in an amount that is twice the diameter inches of the Heritage Tree(s) removed and shall, otherwise, meet the requirements of Section A above.
- D. Colleyville Tree Preservation Fund: All mitigation fees and non-criminal penalties mentioned below shall be paid into the Colleyville Tree Preservation Fund. The fund shall be administered by the City Manager or his/her designee and shall only be used for the planting of new trees on City owned or leased properties, rights-of-way and other public properties such as public schools, county and State properties located within the City of Colleyville.
- E. If any protected tree dies within three (3) years of the issuance of the certificate of occupancy, final inspection or acceptance of public improvements and is brought to the attention of the city manager or his/her designee, the original permit applicant shall be subject to the replacement/mitigation requirements for protected trees per this section.

Section 5.13 Penalties and Violations

- A. Civil Penalties: If any protected tree is removed from any real property without a tree removal permit, or if a protected tree is injured during construction where an active tree removal permit has been issued because of failure to follow required tree protection measures of this chapter such that the tree dies or may reasonably be expected to die, the City shall have the authority to impose the following penalty:
 - 1. The violator shall plant new trees at a rate that is three times the diameter inches of tree(s) removed. All plantings shall meet the requirements of Section 5.12. For example, if a 20 inch diameter width tree is removed in violation of this Chapter, then a minimum of 60 inches of new trees shall be planted. A planting plan for the new trees shall be provided to the Administrative Official no later than 30 days from the date of the offense. The new trees shall be planted no later than 90 days from the date of the offense or, if the site is under construction, the new trees shall be planted when all other required landscaping and/or mitigation is planted. The City shall have the authority to hold any development related administrative approvals for the property on which the violation occurred and may impose a stop work order until the penalty is addressed through the submittal of an approved planting plan and/or the planting of new trees. In the event that the trees are not planted within the prescribed timeframe, the City may delay any related administrative approvals for the property and may impose a lien on the property until such time the trees are planted.

2. If the violator, due to property constraints or other impediments, cannot plant the required new trees mentioned in Section One, the violator may petition the City Council through the appeal process mentioned in Section 5.14 to allow a monetary penalty in lieu of the above planting requirements. Said monetary penalty shall be a minimum of \$750.00 per caliper inch of diameter width of the protected tree(s) removed or damaged, payable to the tree preservation fund mentioned above. If a tree is removed without authorization and the size of the tree cannot be determined given the lack of a tree survey or other official documentation, then the minimum penalty shall be \$15,000.00 per tree. If approved by the City Council, said penalties shall be paid no later than 30 days from the action of the City Council. The City shall have the authority to hold any development related administrative approvals for the property on which the violation occurred and may impose a stop work order until the penalty is paid. In the event that the penalty is not paid within the prescribed timeframe, the City may impose a lien on the property until such time the penalty is paid.

- B. **Criminal Penalty:** In addition to the civil penalties of this chapter, any person violating or failing to comply with any provision or requirement of this Chapter, including but not limited to the mitigation requirements of this section, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall, without exception, be fined the maximum amount of \$2,000.00. A separate offense shall be deemed committed upon each day during or on which each separate violation or failure to comply occurs or continues to occur and shall be punishable as such.

Section 5.14 Appeals

Any appeal to the provisions of this chapter and/or any appeal to a decision of the Administrative Official relative to the provisions of this chapter shall be heard by the City Council.

Section 5.15 Replacement Tree List

The following is the list of appropriate and approved replacement trees which have been selected on the basis of their suitability in the urban environment of North East Tarrant County.

REPLACEMENT TREE LIST			
<u>SCREENING TREES</u>	<u>ORNAMENTAL TREES</u>	<u>MEDIUM AND LARGE TREES</u>	<u>PALMS</u>
ARBORVITAE	BLUE POINT JUNIPER	AMERICAN ELM	CALIFORNIA FAN PALM
BLUE POINT JUNIPER	CAROLINA BUCKTHORN	ARISTOCRAT PEAR	MEXICAN FAN PALM
CHINESE PHOTINIA	CAROLINA CHERRY LAUREL	ARIZONA CYPRESS	NEEDLE PALM
CAROLINA CHERRY LAUREL	CRAPE MYRTLE	BALD CYPRESS	SABAL PALM
EAST PALATKA HOLLY	DECIDUOUS HOLLY	BOIS D' ARC	WINDMILL PALM
EASTERN RED CEDAR	DESERT WILLOW	BUR OAK	
LITTLE GEM MAGNOLIA	EAST PALATKA HOLLY	CEDAR ELM	
NELLIE R. STEVENS HOLLY	FIG	CHINESE PISTACHE	
SAVANNAH HOLLY	ITALIAN CYPRESS	CHINQUAPIN OAK	
WAX MYRTLE	JAPANESE MAPLE	DEODAR CEDAR	
YAUPON HOLLY	LACEY OAK	EASTERN RED CEDAR	
	MEXICAN BUCKEYE	EVE'S NECKLACE	
	NELLIE R. STEVENS HOLLY	FOREST PANSY REDBUD	
	OKLAHOMA REDBUD	GINKGO BILOBA	

	SAVANNAH HOLLY	LACEBARK ELM	
	SUMAC	LITTLE GEM MAGNOLIA	
	TEXAS MOUNTAIN LAUREL	LIVE OAK	
	VITEX	PECAN	
	WAX MYRTLE	PERSIMMON	
	YAUPON HOLLY	SHANTUNG MAPLE	
		SHUMARD RED OAK	
		SOUTHERN MAGNOLIA	

Section 5.16 Amendments

Reserved for listing of amendments to this Chapter.

Ord. Number	Date	Subject
O-00-1214	4-18-00	Adoption of Tree Preservation in Land Development Code
O-09-1734	11-4-09	Amendments to Chapter 5 based on recommendations of consultant
O-14-1933	10/6/2014	Comprehensive amendments including incentives for preserving native tree stands, addition of fees, changes to penalties and other modifications

Chapter 5 Urban Forestry

Section 5.1 Purpose of This Chapter

The purpose of this chapter is to promote, conserve, and enhance the City's Urban Forest by:

- Recognizing the historical and cultural importance of the Eastern Cross Timbers and its impact on Colleyville;
- Recognizing the environmental, economic, social, and aesthetic benefits of trees;
- Encouraging and facilitating site planning and design which preserves trees and natural areas;
- Protecting trees during construction
- Limiting the removal of trees
- Providing for the establishment of a diversity of native and adapted trees.

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It is the further intent of this chapter to:

- Compliment Destination Colleyville;
- Compliment The City of Colleyville Comprehensive Master Plan
- Compliment and The City of Colleyville Parks Master Plan
- as well as maintaining and enhancing Colleyville's identity as a Tree City USA.

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Section 5.2 Authorization for Adoption of This Chapter

The regulations contained in this chapter have been adopted under the authority of *Chapter 51 – General Powers of Municipalities of the Texas Local Government Code*, which authorizes a municipality to adopt ordinances, rules, or police regulations that are for the good government, peace, or the trade and commerce of the municipality. This chapter is also adopted under the authority of the *Home Rule Charter of the City of Colleyville*, which authorizes the City Council to exercise all powers granted to municipalities by the Constitution or the laws of the State of Texas.

Section 5.3 Variances and Appeals

Except where provided in this chapter, any person seeking approval of a development as required by this Land Development Code may request a variance from a requirement contained in this chapter, or appeal a decision of an Administrative Official by submitting a request using the procedures described in *Chapter 1 – General Provisions* of this Land Development Code.

Section 5.4 Definitions

Definitions applicable to this chapter may be found in *Chapter 2 – Definitions* of this Land Development Code.

Section 5.5 Tree Removal and Damage

No person directly or indirectly shall cut down, destroy, remove, move, damage, or effectively destroy through damaging the roots, trunk or canopy, any tree without first obtaining the required approvals or permits as outlined in this chapter, unless otherwise exempted by the provisions of this chapter.

Section 5.6 Applicability

A. Prior to the following activities, review and approval of that activity's compliance with this chapter (Urban Forestry Review) shall be completed by the Administrative Official unless subject to the exemptions in Paragraph B:

1. Removal, damage, or adverse impact of any Protected Tree.
2. Construction or expansion of structures for which a building permit is required.
3. Demolition of structures.
4. Clearing, grading, excavation, filling, or paving on any site or property that has existing Protected Trees.
5. Subdivision of land into lots by Preliminary Plat, Final Plat, Minor Plat, or Replat.
6. Required Site and landscape plan submittals for commercial or institutional uses as well as any site plans that are part of a PUD, SUP, or other Zoning Case.

Commented [CT1]: This is in fact the correct use of the singular ("a...Zoning Case")

B. Exemptions to Urban Forestry Review:

1. Authorized City employees or contractors and authorized Franchise Utility employees or contractors may, in the course of official business, remove, damage, or adversely impact Protected Trees or portions thereof which exist in a dedicated public street right-of-way or a public utility easement which the City or Franchise Utility has an interest in. The removal, damage, or adverse impact shall be limited to the extent reasonably necessary to install, maintain, or replace utilities or infrastructure. If a Tree Preservation Plan is approved showing to preserve trees in public utility easement or street right-of-way dedicated for new or expanding streets, then those trees shall be preserved and protected per the approved plans. Ordinance O-98-1130 shall govern management and control of all trees within City street right-of-ways, City public parks, and City owned facilities.
2. Any of the above activities may be done without Urban Forestry Review on properties with an active single-family use that are one (1) acre or less in area and where a habitable single-family home exists and is occupied as the primary residence of the landowner. If the landowner owns contiguous individual lots or tracts, the sum of all land shall be used to determine the size restriction of this exemption.
3. All landscape nurserymen shall be exempt from the terms and provisions of this section only in relation to those trees planted and growing on the nursery premises which are planted and grown for the sale or intended sale to the general public.

Section 5.7 Tree Preservation and Canopy Cover

All new development and redevelopment, to include additions, shall provide a minimum site tree canopy coverage per this Section through preservation of existing trees on the same site and establishment of new on trees on the same site.

A. Calculation of Tree Canopy:

1. The canopy area for each existing Protected Tree shall be assumed as a circle having a radius in feet equal to the DBH in inches of that tree. Example: A 10 inch DBH tree would have a canopy diameter of 20 feet and a canopy area of 314 square feet.
2. The canopy area for each new tree shall be credited based on the categories of large, medium, and small canopy trees: Large - 2000 sqft; Medium - 1000 sqft; Small - 100 sqft. The Administrative Official shall develop, update, and maintain on file a list of tree species and their associated size category and canopy credit.

B. Non-single-family residential uses:

1. Preservation of a minimum of 50% of the Protected Tree Canopy outside the Commercial Building Envelope (includes a five (5) foot buffer) shall be required.
2. The total preservation plus tree planting credit shall have a minimum canopy area equal to 50% of the total area of the lot(s) or tract(s).

- C. Development or redevelopment of single-family residential uses on individual lots or tracts:
 - 1. Preservation of a minimum of 50% of the Protected Tree Canopy outside the Residential Building Envelope (includes a ten (10) foot buffer) shall be required.
 - 2. The total preservation plus tree planting credit shall have a minimum canopy area equal to 50% of the total area of the lot(s) or tract(s).
- D. Additions and expansions to existing single-family residential uses on individual lots or tracts:
 - 1. When an addition or expansion to the footprint of a single-family residence equals 50% or more of the existing footprint, the regulations per [Paragraph letter 'C'](#) above shall apply.
- E. Development of new single-family residential subdivisions:
 - 1. Preservation of a minimum of 50% of the Protected Tree Canopy on the entire subdivision shall be required. The calculation shall include Protected trees located in newly dedicated streets (public or private), public water, sanitary sewer, gas, electric, telecommunication, drainage and general utility easements. The calculation shall exclude trees located in existing public utility easements containing existing in-service water, sanitary sewer, gas, electric, or telecommunication installations as well as additional public street right-of-way dedicated adjacent to an existing public or private street. The purpose of not excluding trees in new streets and easements is to promote subdivision design and layout that prioritize preservation of trees.
 - 2. Within the required primary building setback areas (non-buildable areas for primary structure), a minimum of 75% of the Protected Tree Canopy shall be preserved. This is a separate calculation from that in Paragraph E.1.
 - 3. Once the subdivision is constructed, all improvements are accepted by the City, the Administrative Official has inspected and verified compliance with required tree preservation, and Community Development has issued a letter of acceptance allowing submittal of new single-family building permits, then the preservation requirements of Paragraph C shall apply and each lot will be reviewed separately for tree preservation and planting based on that lots remaining trees and proposed location of single-family home.
- F. Artificial Lots:
 - 1. When more than 50% of a lot or tract being developed or redeveloped is to remain untouched by tree removal, grading, excavation, filling, paving, or building, then an artificial lot may be delineated around the portion being developed and serve as the basis for calculation of tree canopy preservation and coverage. The delineation should not leave small strips or gaps adjacent to property lines and should generally only leave out one side of a property. Review and pre-approval of delineation for artificial lots shall be required.
- G. Dead, Declining, and Hazardous Trees:
 - 1. Any tree that the Administrative Official determines to be dead, declining beyond reasonable recovery effort, or that has a high or extreme hazard rating based on the ISA Basic Tree Risk Assessment that cannot be mitigated to a lower risk, shall be exempt from inclusion in the review of tree preservation and canopy cover calculation.

Section 5.8 Heritage Trees

- A. Heritage Trees are those specimens that have attained a significant age and are the heritage of earlier residents of Colleyville or simply pre-date the community. All post oaks and blackjack oaks 15 inches DBH and larger, cottonwood, water oak, green and white ash 35 inches DBH and larger, and all other Protected Tree species 25 inches DBH and larger are hereby considered Heritage Trees.

- B. Removal of any Heritage Tree in any location shall require mitigation by one of the following options:
1. Plant trees with a total canopy credit of five (5) times the canopy area of the removed tree. [Trees shall be planted on the same property that the Heritage Trees are removed unless an alternative location within the City is approved by the Administrative Official. The tree planting standards of Section 5.10 shall apply.](#)
 2. Pay into the City of Colleyville Tree Fund at a rate of \$100 per DBH inch.

Section 5.9 Tree Protection Standards

The following procedures shall be followed for all construction projects which involve activity that requires Urban Forestry Review, unless an alternative is deemed appropriate by the Administrative Official.

- A. Pre-Construction: The ensuing procedures shall be followed prior to construction.
1. All Preserved Trees shall have protective fencing located at the tree's critical root zone. The protective fencing shall be comprised of orange vinyl construction fencing, with a minimum of four-foot (4') approximate height.
 2. Lumber shall be wrapped vertically around the tree trunk and held in place with wire or any other non-damaging method if a tree is within ten (10) feet of the construction of a building or any other situation determined by the Administrative Official that would pose a physical risk to the tree trunk.
 3. In order to prevent damage to low hanging limbs, anything that may be impacted by equipment shall be pruned according to ANSI A300 standards.
 4. Each area of tree protection shall require temporary signage that indicates the area is a "Tree Protection Area" and to "Keep Out". A wording standard will be developed, updated, and maintained by the Administrative Official. The wording shall be in English and Spanish and include the appropriate contact phone number with the City to report violations.
- B. During Construction: The following procedures shall be followed within the limits of the Critical Root Zone (CRZ) of any Preserved Tree for any activity that is subject to the requirements of this chapter.
1. No placement of materials intended for use in construction or waste materials accumulated due to excavation or demolition.
 2. No equipment may be cleaned or other liquids deposited. This would include but not be limited to, paint, oil, solvents, asphalt, concrete, mortar or other materials.
 3. No signs, wires or other attachments, other than those of a protective nature shall be attached to the trees.
 4. No vehicular and construction equipment traffic or parking.
 5. Underground utilities shall be bored underneath trees' CRZ unless pre-approved by the Administrative Official.
 6. Irrigation systems shall be designed to NOT require trenching across the critical root zone of any tree unless otherwise approved by the Administrative Official.
 7. No digging, building, paving, or elevation changes.

Section 5.10 Tree Planting Standards

All new trees required to be planted under this chapter shall meet the following standards.

- A. Minimum size shall be three (3) inch caliper for large and medium canopy trees and one and one-half (1.5) inches for small canopy trees, measured at six (6) inches above the ground level.
- B. Minimum spacing between trees is ~~twenty~~ thirty (30) feet for large, fifteen (15) feet for medium, and eight (8) feet for small trees. Adjacent trees of different sizes shall meet the spacing requirement of the smaller tree.
- C. Trees shall be free from severe bark, cambium, or limb damage due to handling and planting.
- D. Trees shall be healthy and have minimal branch dieback.
- E. Trees shall have a single trunk or stem unless they are a small canopy tree whose ornamental value is attributed to having multiple stems.
- F. Trees shall not have co-dominant terminal leaders.
- G. Trees shall not be planted with the root collar below the soil and mulch shall not be piled up against the trunk.
- H. Trees shall be selected from the City of Colleyville Preferred Tree Planting List, to be developed, updated, and maintained on file. Trees outside of the list require pre-approval by the Administrative Official.
- ~~H.I.~~ Trees shall not be planted in public utility easements or public street right-of-way without approval of the Administrative Official.

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Section 5.11 Permits

- A. Tree Removal Permit
 - 1. An application for tree removal permit must be submitted, reviewed for compliance with this chapter, and approved prior to the removal of any tree.
- B. For trees that have become an immediate high hazard to persons or property, the hazard can be mitigated to a safe condition prior to permitting, but the tree parts and evidence of the damage should not be removed from the site unless sufficient photo evidence is taken in advance. An after-the-fact tree removal permit will be required within 30 days of the event and no fees or mitigation will be required as long as sufficient evidence of the hazard can be provided. If trees are removed prior to review or approval of a tree removal permit and no evidence can corroborate the hazard then the City may enforce the penalties of this chapter.
- C. Fees: All tree removal permits shall be accompanied by a check made payable to the City of Colleyville per the following schedule:
 - 1. A person that owns and has primary residence of a single-family home on a lot or combination of contiguous adjacent lots or tracts that total more than one (1) acre will not be charged a permit fee.
 - 2. All others will require a \$50 base fee plus an additional \$25 per Protected Tree that is to be removed.
 - 3. Any tree that the Administrative Official determines to be dead, declining beyond reasonable recovery effort, or that has a high or extreme hazard rating based on the

ISA Basic Tree Risk Assessment that cannot be mitigated to a lower risk, shall be exempt from fees under this Section 5.11(C).

Section 5.12 Plan Submittals

All activity that requires Urban Forestry Review shall have the following plans submitted for review. The Administrative Official shall maintain and keep on file an outline for all specific items required on the following plans as well as any permit applications or additional documents required for review of each activity.

- A. Tree Survey: shall include, but is no limited to, an inventory of all Protected Trees on the property, property boundaries, property easements, existing structures and paving, tree trunk location, a unique tree identification number, common name or species, trunk Diameter at Breast Height (DBH), and an outline of the Critical Root Zone (CRZ). If there are no Protected Trees on the property the Administrative Official may waive this submittal.
- B. Urban Forestry Plan shall include, but is not limited to: property boundaries and easements; building setbacks; all Protected Trees; identify trees to be removed or preserved; outline the preserved trees' CRZ; show grade changes; show all new improvements such as structures, paving, major utilities; show locations, types, and sizes of new trees.

Section 5.13 Penalties and Violations

- A. Civil Penalty: The Administrative Official shall have the authority to impose a civil tree mitigation penalty on any person, firm, or corporation who causes If any Protected Tree is to be cut down, destroyed, removed, moved, damaged, or effectively destroyed through damaging the roots, trunk or canopy without first obtaining the required approvals or permits as outlined in this chapter. The violator shall, the Administrative Official shall have the authority to impose a civil tree mitigation penalty requiring the applicant to choose one, or a combination of, the violation remedy options contained in this section. The City shall have the authority to hold any development related administrative approvals for the property on which the violation occurred and may impose a stop work order until the penalty is addressed. Where the dbh size of any tree cannot be measured due to that part of the tree being removed from the site or destroyed, the City shall have the authority to estimate the tree's dbh size based on any remaining physical evidence, photos, and documents.
- 1. Option 1. Tree Planting: The violator shall plant new trees with a canopy credit equal to five (5) times the canopy area of the removed trees. If the tree is a Heritage Tree, then the violator shall plant new trees with a canopy credit equal to ten (10) times the canopy area of the removed tree. All tree plantings shall meet the standards of Section 5.10. Trees shall be planted on the same property that the violation occurred unless an alternative location within the City is approved by the Administrative Official. —A tree planting plan and timeline for installation of the new trees shall be provided to the Administrative Official no later than 30 days from the date of the offense. The new trees shall be planted no later than 90 days from the date of the offense or, if the site is under construction, the new trees shall be planted prior to final inspections. In the event that the trees are not planted within the prescribed timeframe, the City may delay any related administrative approvals for the property and may impose a lien on the property until such time the trees are planted.
- 2. Option 2. Tree Fund: The violator shall pay into the City of Colleyville Tree Fund at a rate of \$250 per DBH inch of tree removed. If the tree is a Heritage Tree, then the violator shall pay \$500 per DBH inch of tree removed. Payment must be provided no later than 30 days of-after the Offense. In the event that the trees-fees are not planted

paid within the prescribed timeframe, the City may delay any related administrative approvals for the property and may impose a lien on the property until such time the ~~trees-fess~~ are ~~planted~~paid.

- B. Criminal Penalty: In addition to the civil penalties of this chapter, where any person, firm, or corporation ~~violating-violates~~ or ~~failing-fails~~ to comply with any provision or requirement of this chapter, the Administrative Official shall have the authority to issue a citation for a misdemeanor to any and all such persons, firms, or corporations, who upon conviction shall be fined not more than two thousand dollars (\$2,000.00) per violation, including but not limited to the mitigation requirements of this section, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall, without exception, be fined the maximum amount of \$2,000.00. When the violation involves the cutting down, destruction, removal, or damage to a Protected Tree, each tree shall be considered a separate offense. Additionally, a separate offense shall be deemed committed upon each day during or on which each separate violation or failure to comply occurs or continues to occur and shall be punishable as such.

Section 5.14 Appeals

Any appeal to the provisions of this chapter and/or any appeal to a decision of the Administrative Official relative to the provisions of this chapter shall be heard by the City Council.

Section 5.16 Amendments

Reserved for listing of amendments to this chapter.

Ord. Number	Date	Subject
O-00-1214	4-18-00	Adoption of Tree Preservation in Land Development Code
O-09-1734	11-4-09	Amendments to Chapter 5 based on recommendations of consultant
O-14-1933	10/6/2014	Comprehensive amendments including incentives for preserving native tree stands, addition of fees, changes to penalties and other modifications