

ORDINANCE NO. 587

AN ORDINANCE AMENDING ORDINANCE NO. 40, AS AMENDED THE ZONING ORDINANCE OF THE CITY OF KENNEDALE, TEXAS BY REZONING CERTAIN PROPERTY WITHIN THE CITY LIMITS FROM "AG" AGRICULTURAL ZONING DISTRICT TO "PD" PLANNED DEVELOPMENT DISTRICT; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP TO REFLECT SUCH CHANGES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Kennedale Texas is a Home Rule municipality acting under its charter adopted by the electorate pursuant to Article XI, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, pursuant to Chapter 211 of the Local Government Code, the City has adopted a comprehensive zoning ordinance and map regulating the location and use of buildings, other structures and land for business, industrial, residential, or other purposes, for the purpose of promoting the public health, safety, morals and general welfare, all in accordance with a comprehensive plan; and

WHEREAS, the City of Kennedale desires to promote the redevelopment of certain property located near the Village Creek floodplain that would be appropriate for and complementary to its location adjacent to a future park system, when such development is consistent with the comprehensive land use plan; and

WHEREAS, Kennedale Economic Development Corporation, which has a proprietary interest in said property being an approximately 8-acre portion outside the floodplain of an approximately 15.6 acre tract, belonging to Ethel Swiney and located in the David Strickland Survey A-1376, Tarrant County, Texas, such property being mostly located west of the former Williamson Drive as shown on the plat abandonment recorded in Tarrant County Clerk's instrument number D214210746, wishes to encourage development of this property in keeping with the goals and vision of the City of Kennedale in order to promote economic growth of the city; and

WHEREAS, CHC Development wishes to pursue redevelopment of said property in keeping with the Kennedale Economic Development Corporation's vision and goals; and

WHEREAS, the City of Kennedale believes the ordinance as proposed would help achieve the vision set forth in the comprehensive land use plan; and

WHEREAS, the City Council has determined that a planned development zoning district is the most appropriate zoning district to facilitate the development of the property; and

WHEREAS, a public hearing was duly held by the Planning and Zoning Commission of the City of Kennedale on the 17th day of December 2015 and by the City Council of the City of Kennedale on the 18th day of January 2016 with respect to the zoning changes described herein; and

WHEREAS, all requirements of law dealing with notice to other property owners, publication and all procedural requirements have been complied with in accordance with Chapter 211 of the Local Government Code; and

WHEREAS, the City Council does hereby deem it advisable and in the public interest to amend the City's Zoning Ordinance as described herein.

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

SECTION 1:

The Comprehensive Zoning Ordinance is hereby amended so that the zoning classification and the uses in the hereinafter described area shall be changed and or restricted as shown and described below:

An approximately 8-acre portion outside the floodplain of an approximately 15.6 acre tract, belonging to Ethel Swiney and located in the David Strickland Survey A-1376, Tarrant County, Texas, such property being mostly located west of the former Williamson Drive as shown on the plat abandonment recorded in Tarrant County Clerk's instrument number D214210746 ("the property"), as more particularly described on Exhibit "A" attached hereto and incorporated herein, from "AG" Agricultural to "PD" Planned Development District ("Swiney Estates PD") for single family residential use with modified restrictions, as more fully described on the Concept Plan, attached hereto as Exhibit "B" and incorporated herein.

SECTION 2.

The use of the Property shall be subject to the restrictions, terms and conditions set forth in the Concept Plan, attached hereto as Exhibit "B", and the Concept Plan is hereby approved. The use of the Property shall further conform to the standards and regulations of the "R2" Single Family Residential zoning district and to Chapter 17, Division 10 Subdivision Design Criteria of the City of Kennedale City Code, to the extent not modified in this Ordinance and the document attached as Exhibit "B", and shall be subject to all other applicable regulations contained in the Zoning Ordinance and all other applicable and pertinent ordinances of the City of Kennedale, where not otherwise controlled by the regulations set forth below. The Property shall conform to the following supplemental standards and regulations, which shall supersede any other requirements to the extent of a conflict:

1) *Property location and size.*

Kennedale Residential is established on property located west of Bowman Springs Rd. and approximately 0.31 miles south of Interstate 20 with access off of Bowman Springs Rd. This Planned Development is comprised of five (5) tracts of land consisting of approximately 8.2 gross acres, more particularly described on Exhibit 'A' and shown on the Exhibit 'C' Development Plan, which is attached hereto for all purposes.

2) *Purpose*

To create a Planned Development for thirty-five (35) single family residential lots. The minimum gross density and a net density are as shown on the Development Plan. An enhanced entry will be provided at the connection point to Bowman Springs Rd.

3) *Development plan.*

The proposed Development Plan as shown on Exhibit 'B' will be in complete accordance with the provisions of the approved Planned Development and shall be binding upon the applicant thereof, his successors and assigns, and shall limit and control all building permits.

4) *Community Architectural Controls.*

A) An Architectural Control Committee will govern the architectural attributes within this Planned Development.

B) Architectural attributes for this residential development will consist of the following:

- 1) The front entry to a house will be well -defined and kept proportional to the house. The front entry will be designed so as not to distract from the rest of the house.
- 2) Only specialty windows such as box windows or circular windows may be flush mounted to the exterior face of the house, all other windows are to be inset to create relief on the elevations.
- 3) Facades will avoid large expanses of uninterrupted single exterior materials and must be broken up by changes in plane through architectural attenuation, accented with the effects of window placement, window trim, or material type and color changes.
- 4) Shutters, if provided, will be sized and shaped to match the associated openings.
- 5) Gutters, if provided, will be exposed or painted copper, galvanized steel, or aluminum if exposed to the street.
- 6) All asphalt roof shingles will be laminated architectural shingles with a three dimensional appearance and warranted for at least thirty (30) years.

a) *Roof Materials.*

- i. All roofs must be constructed with 3 tab/3 dimensional shingles and must have ACC approval.
 - ii. Roof Colors must be submitted for ACC approval.
- 7) A minimum roof pitch of 6:12 (inches of rise per inches of run) from side to side will apply to the predominant roof with the exception of a tile or slate roof that may have a minimum roof pitch of 5: 12 from side to side. A variety of roof pitches may be incorporated into the roof design provided that the predominant roof has at least a 6:12 pitch. Porch roofs shall have a minimum 4: 12 pitch. See variation below.
 - 8) In order to encourage variety on a continuous block, the exterior facades for houses will vary within every 6 houses. Once a house is constructed the same combination of brick, stone, masonry-like materials, and paint will not be used within four (4) houses on either side of that house.

- 9) Exterior facades will be 100% masonry on the front, a minimum of 80% masonry on the sides and rear. Masonry materials shall be as required by Kennedale City Code Section 17-405. The exception to this are walls over the roof, such as bay or dormer windows, chimneys, or fireplaces, which are not required to be masonry.
- 10) *Chimneys.*
 - a) All chimneys must meet industry safety guidelines.
 - b) Chimneys on an exterior wall shall be constructed completely to the ground so as not to appear cantilevered from the building.
 - c) Chimneys located on exterior wall must be 100% masonry.
 - d) Chimney color to match base or accent material of the house or compliment color of roof.
 - e) No wood trim shall be allowed on the chimney.
 - f) Any other materials shall be masonry or cementitious materials. Non-cementitious materials shall not be used without written approval from the ACC.
- 11) All garages will be decorative wood, carriage style, or decorative color metal doors. Design between garage and home shall use same or complementary colors and materials.
- 12) All exposed wood accents and wooden garage doors will be double stained and sealed or painted with two (2) coats for protection and regularly maintained as enforced by the HOA.
- 13) Decorative street lighting will be utilized and will conform to Oncor and City of Kennedale standards and include the following if approved by and available from Oncor: low profiling lighting; or induction lights (LED), scotopic lumens allowing street lights with lower wattages and lower photopic lumens. Lighting shall be consistent with the design of the neighborhood and shall be distinguished from lights on adjacent or nearby arterial streets.
- 14) Any home with a covered front porch shall have a minimum depth of five (5) feet and shall be at least fifty (50) square feet in total size to allow this space to be usable. A covered porch may encroach into area designated as front yard or side yard not greater than five (5) feet to help improve the architecture of the home and the character of the street. For wrap-around porches or any other porch style whose full width is not located on the front façade, a minimum of fifty (50) percent of the front porch shall be located on the front façade.
- 15) The landscape design along Bowman Springs Road will utilize enhanced brick or masonry screen walls, wrought iron, and architectural features at the entrance to the subdivision.
- 16) All common open space, landscaping in open space areas, private roads, and masonry screen walls will have a mandatory Home Owners' Association (HOA) to maintain those improvements. Any final plats or replats for this development district shall contain a note stating which retaining walls are to be maintained privately, either by individual owners or the HOA.
- 17) All lots with rear yards or side yards facing Bowman Springs Rd. shall use

wrought iron fencing or masonry walls that conform to the City of Kennedale standards and will be installed by the developer and maintained by Homeowners' Association (HOA)

- 18) All lots with rear yards or side yards facing the Village Creek open space shall have six-foot (6') high wrought iron fencing that conforms to the City of Kennedale standards and be installed by the builder as their primary option. The homeowner may be given a choice of wrought iron or cedar fencing that conforms to this PD, and the City of Kennedale standards. The fence is to be installed by the builder, and if a cedar privacy fence is chosen as the fencing option, the builder will contribute \$500 to the Village Creek Parks fund at the time the building permit is issued.
- 19) The side yards and rear yards of all residential lots that are not facing public right-of-way or Village Creek open space shall have a minimum six-foot (6') high cedar fence to be installed by the builder and maintained by homeowner.
- 20) *Utility, Service and Mechanical Equipment*
 - a) All equipment related to utilities intended to serve one Lot shall be installed by the Owner of the Lot and shall be located underground if possible.
 - b) All services to the Lot, including pre-wiring for cable television, must be installed underground if available.
 - c) Ground-mounted mechanical equipment, such as HVAC units, shall be screened from view and grouped together away from street and public view. Private, surface-mounted mechanical equipment, air conditioners, condensers, compressors, pool equipment, switches, etc. should be placed behind the side yard fence of a Lot.
- 21) All cedar fencing will comply with the following requirements:
 - a) Use all cedar wood, 1" x 6" cedar planks, minimum 2" x 4" cedar horizontal stringers, and 2" x 4" baseboards.
 - b) Treated on both sides with cedar tinted preservative or equal quality stain, double stained.
 - c) Fence planks or panels must be at least five-eighths of one inch (5/8") in thickness. Fence planks or panels must have a gap between the ground and the wood to prevent rotting and decay.
 - d) All vertical posts, stringer brackets, all other hardware to construct wooden fencing and gates will be galvanized steel.
 - e) All vertical post shall be set at a maximum distance of eight feet (8') apart. All posts shall be set at a minimum depth of twenty-four inches (24") deep incased in concrete and caped.
 - f) All materials will be securely fastened (i.e. vertical boards to horizontal stringers, stringers to vertical posts) and be free from rot, rust, vandalism, and other sources of decay.
 - g) Cedar fencing shall include a baseboard that is located within 6" from the bottom of the fence.
- 22) The ACC shall require builder(s) to provide at least two (2) single-story options for homebuyer consideration.

5) *General conditions.*

A) *Landscaping and Open Space.*

- 1) The City's Landscaping ordinance will supersede where this ordinance is silent. This ordinance will supersede to resolve any conflicts.
- 2) There will be a minimum of two 3" caliper trees per residential lot located in the front yard and installed by the homebuilder. All tree locations and types will conform to the City of Kennedale ordinances.
- 3) There will be a minimum of 6 three-gallon (3 gal) shrubs per residential lot located in the front yard. All shrub locations and types will conform to the City of Kennedale ordinances.
- 4) There will be a minimum of one three-inch (3") caliper trees or two five-gallon (5 gal) shrubs in backyards for lots with the rear of the property adjacent to a thoroughfare, park, park land or open space.
- 5) All lawns and landscaping will be irrigated.
- 6) Landscaping will be installed by the developer at the entry to the subdivision and in common areas, including within the right-of-way for Bowman Springs Road and along the subdivision screening wall and along the right-of-way on Bowman Springs Road adjacent to the planned development district.
 - a) Landscaping shall be irrigated
 - b) Plants shall be conducive to the Southwest Nature Preserve and Village Creek green belt, as to blend the entry and the community into the natural surroundings.
 - c) The following plant types shall be included in the landscaping along the Bowman Springs Rd right-of-way:
 - i. Irrigated climbing vines;
 - ii. 4- Five-gallon (5 gal) shrubs;
 - iii. 7- three-inch (3") caliper trees.
- 7) Landscaping installed by the developer shall be maintained by the Homeowners' Association (HOA).
- 8) *Right-Of-Way.* Street right-of-way will be equal to 50' in width.
- 9) *Lot Area and Setbacks.* Lot areas and setbacks will be as shown on the Exhibit 'C' Development Plan.
- 10) *Minimum Floor Area per dwelling unit.* All lots will have a minimum of 1,800 square feet of dwelling space.
- 11) *Perimeter Walls/Screening.* The perimeter walls adjacent to Bowman Springs Road will be a minimum of 6' in height and constructed of 100% masonry or wrought iron.

B) *Sidewalk Requirements.*

- 1) A. Sidewalks will be required throughout the development. If not installed by the developer, sidewalks along residential lots are to be constructed by the home builder at the time of home construction for each residential lot.
- 2) Sidewalks shall be a minimum of five (5) feet in width.

C) *Access to the public park will be provided within the development.*

- 1) Access shall comply with accessibility standards and fire code.
- 2) A gate with lock will be provided at the access point to the subdivision.

6) *Homeowners' Association.*

- A) A mandatory homeowners association (HOA) will be responsible for the maintenance of the common landscape areas and exterior retaining walls within the development that are built by the Developer (any landscaping and retaining walls built by the homebuilder will be maintained by that property owner).
- B) The homeowners association will have rules and regulations to ensure the proper maintenance of home exteriors and common areas.
- C) The homeowners association will include an architectural control committee (the "ACC") to review and approve all proposed home plans prior to construction.
- D) Developer will maintain control of the HOA and the ACC until 100% of the lots have been sold and at least 70% of the building permits have been issued.

SECTION 3.

The zoning districts and boundaries as herein established have been made in accordance with the comprehensive plan for the purpose of promoting the health, safety, morals and general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic, flood and other dangers, to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewerage, parks and other public requirements. They have been made after a full and complete hearing with reasonable consideration among other things of the character of the district and its peculiar suitability for the particular uses and with a view of conserving the value of the buildings and encouraging the most appropriate use of land throughout the community.

SECTION 4.

The City Secretary is hereby directed to amend the official zoning map to reflect the changes in classifications approved herein.

SECTION 5.

The use of the properties hereinabove described shall be subject to all the applicable regulations contained in the Comprehensive Zoning Ordinance and all other applicable and pertinent ordinances of the City of Kennedale, Texas.

SECTION 6.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Kennedale, Texas (1991), as amended, including but not limited to all Ordinances of the City of Kennedale affecting zoning and land use, and shall not repeal any of the provisions of such ordinances except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 7.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists 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 8.

All rights or remedies of the City of Kennedale Texas are expressly saved as to any and all violations of any ordinances governing zoning or of any amendments thereto that have accrued at the time of the effective date of this Ordinance and as to such accrued violations and all pending litigation both civil and criminal same shall not be affected by this Ordinance but may be prosecuted until final disposition by the Courts.

SECTION 9.

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 10.

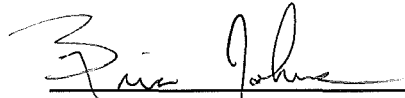
The City Secretary of the City of Kennedale is hereby directed to publish the caption, Section 1, the penalty clause, the publication clause, and the effective date clause of this ordinance in every issue of the official newspaper of the City of Kennedale for two days or one issue of the newspaper if the official newspaper is a weekly newspaper as authorized by Section 3.10 of the City of Kennedale Charter.

SECTION 11.

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.

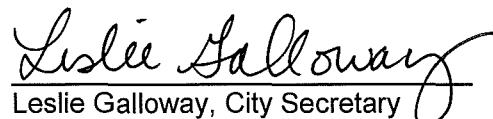
PASSED AND APPROVED ON THIS 18th DAY OF JANUARY 2016.

APPROVED:



Brian Johnson, Mayor


ATTEST:



Leslie Galloway, City Secretary

EFFECTIVE: January 23, 2016

APPROVED AS TO FORM AND LEGALITY:



Wayne K. Olson, City Attorney



Exhibit A

METES & BOUNDS DESCRIPTION (EAST PART – OUTSIDE FLOODPLAIN)

Being a tract of land situated in the D. Strickland Survey, Abstract No. 1376 in the City of Kennedale, Tarrant County, Texas, said tract of land being a portion of that certain "Tract 2" as described to Leon Swiney and wife, Ethel M. Swiney as recorded in Volume 11497, Page 1305 and 1309, Deed Records of Tarrant County, Texas (DRTCT), said tract of land also being a portion of Block 1, Swiney Estates Addition, an addition to the City of Kennedale as recorded in Volume 388-10, Page 93, Plat Records of Tarrant County, Texas (PRTCT), said tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8-inch iron rod found for the southwest corner of Lot 4-R, Block 1, Swiney Estates, an addition to the City of Kennedale as recorded in Cabinet B, Slide 2572, PRTCT;

THENCE North 88 degrees 13 minutes 57 seconds East, a distance of 230.61 feet to an angle point in the south line of said Lot 4-R;

THENCE South 08 degrees 14 minutes 03 seconds East, a distance of 0.60 feet to an angle point in the south line of said Lot 4-R;

THENCE North 88 degrees 19 minutes 51 seconds East, at a distance of 245.95 feet passing a 1/2-inch iron rod found for the southeast corner of said Lot 4-R and continuing a total distance of 265.96 feet to a 5/8-inch iron rod set with plastic cap stamped "Shield Engineering" on the westerly right-of-way line of Bowman Springs Road (a variable width right-of-way), said iron rod also being the northeast corner of Lot 6 in the aforementioned Block 1;

THENCE South 00 degrees 33 minutes 12 seconds East, with the common easterly line of said Block 1 and said westerly right-of-way line, a distance of 307.31 feet to a 5/8-inch iron rod set with plastic cap stamped "Shield Engineering" at the northeast corner of "Parcel No. 2" as described to the City of Kennedale by instrument recorded in Instrument Number D211140987 DRTCT;

THENCE South 89 degrees 26 minutes 53 seconds West, with the northerly line of said Parcel No. 2, a distance of 15.41 feet to a 5/8-inch iron rod found for the northwest corner of said Parcel No. 2;

THENCE South 00 degrees 33 minutes 07 seconds East, with the westerly line of said Parcel No. 2, a distance of 18.19 feet to a 5/8-inch iron rod found for the point of curvature of a curve to the right in the westerly line of said Parcel No. 2;

THENCE with the arc of said curve to the right, at a distance of 75.59 feet passing a 5/8-inch iron rod being the common southwest corner of "Parcel No. 2" and the northwest corner of "Parcel No. 3 Pt 1" as described to the City of Kennedale by instrument recorded in Instrument Number D211140987 DRTCT, and continuing in all a total arc distance of 517.74 feet, said curve to the right having a central angle of 31°33'27", a radius of 940.00 feet, and a chord bearing and distance of South 15°13'37" West, 511.22 feet to a 5/8-inch iron rod found stamped "Gorronдона & Assoc" for the southwest corner

of "Parcel No. 3 Pt 1" at the intersection of westerly right-of-way line of Bowman Springs Road (a variable width right-of-way) and the northerly right-of-way line of Williamson Drive (a 50-foot right-of-way);

THENCE South 56 degrees 16 minutes 14 seconds West, crossing the right-of-way of Williamson Drive, a distance of 76.43 feet to the intersection of said westerly right-of-way line of Bowman Springs Road (a variable width right-of-way) and the southerly right-of-way line of said Williamson Drive (a 50-foot right-of-way), said point being the point of curvature of a non-tangent curve to the right and also being the northernmost northwest corner of "Parcel No. 3 Pt 2" as described to the City of Kennedale by instrument recorded in Instrument Number D211140987 DRTCT;

THENCE with the arc of said non-tangent curve to the right and said westerly right-of-way line and the northwesterly line of said "Parcel No. 3 Pt 2", a distance of 132.89 feet, said curve to the right having a central angle of 8°22'01", a radius of 910.00 feet, and a chord bearing and distance of South 39°32'44" West, 132.77 feet to a 5/8-inch iron rod set with plastic cap stamped "Shield Engineering";

THENCE North 30 degrees 02 minutes 09 seconds West, departing said right-of-way line and along the general vicinity of contour elevation 570, a distance of 297.12 feet to a 5/8-inch iron rod set with plastic cap stamped "Shield Engineering" for an angle point in the westerly line of the tract described herein;

THENCE North 02 degrees 22 minutes 03 seconds West, continuing along the general vicinity of contour elevation 570, a distance of 494.52 feet to a 5/8-inch iron rod set with plastic cap stamped "Shield Engineering" for an angle point in the westerly line of the tract described herein;

THENCE North 09 degrees 21 minutes 19 seconds West, continuing along the general vicinity of contour elevation 570, a distance of 200.79 feet to the POINT OF BEGINNING and CONTAINING 357,724 square feet or 8.212 acres of land area, more or less.

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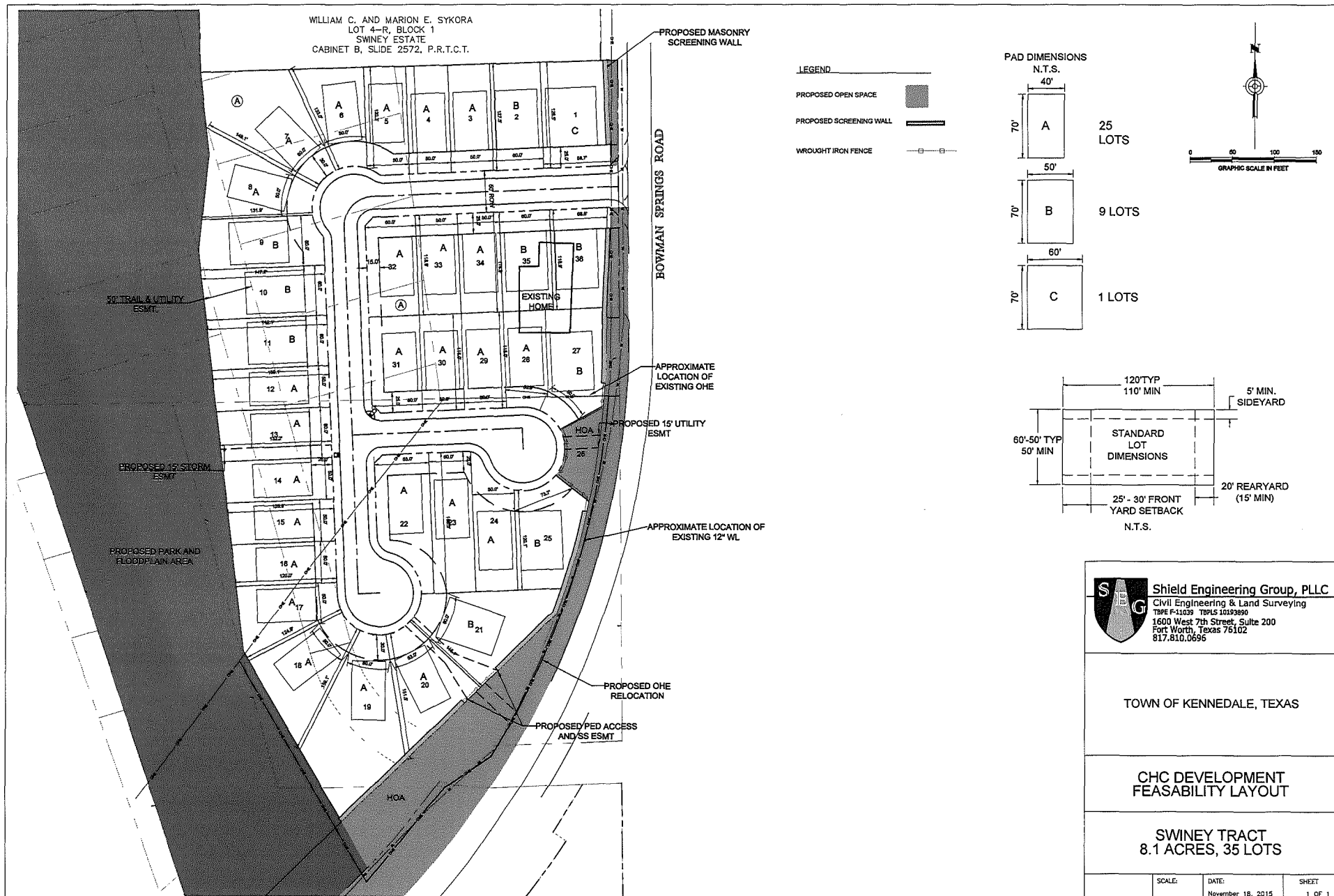


Exhibit B Concept Plan