



**TOWN OF SHADY SHORES
PLANNING AND ZONING COMMISSION
REGULAR SESSION
OCTOBER 8, 2020; 7:00 PM
VIRTUAL MEETING/PHYSICAL MEETING
SHADY SHORES COMMUNITY CENTER
101 S. SHADY SHORES ROAD
SHADY SHORES, TX 76208**

AGENDA

In response to the coronavirus pandemic, effective March 16, 2020, Texas Governor Abbott suspended certain Open Meeting rules to allow meetings of government bodies that are accessible to the public to decrease large groups of people from assembling. The suspension temporarily removes the requirement that government officials and members of the public be physically present at a meeting location.

THE COMMUNITY CENTER WILL BE OPEN FOR PERSONS WISHING TO ADDRESS THE COMMISSION. PERSONS ENTERING THE BUILDING WILL BE REQUIRED TO WEAR A MASK AND HAVE THEIR TEMPERATURE TAKEN AT THE DOOR. COMMISSION MEMBERS MAY BE PHYSICALLY PRESENT OR PARTICIPATING VIA A ZOOM CALL

TO VIEW THE MEETING LIVE: <https://shadyshorestx.civicclerk.com/>

1. ZOOM MEETING DETAILS

1. Register in advance for this webinar:

https://us02web.zoom.us/webinar/register/WN_VxXmvzr6RwKHdOkSwa-AEg

After registering, you will receive a confirmation email containing information about joining the webinar.

2. CALL TO ORDER

3. ROLL CALL

Establish a quorum

4. REGULAR BUSINESS

1. Oath of Office- Deliver the Oath of Office the newly reappointed members of the Planning and Zoning Meeting.
2. Election of Chairman and Vice Chairman- Consider and act on the Election of a Chairman and Vice-Chairman to serve for FY 2021.
3. Minutes- Consider and act on the minutes from the Planning and Zoning Commission Meeting.

4. Development Agreement- Consider and discuss and make a recommendation regarding a Development Agreement with Lingenfelter Custom Homes LLC for the property more legally described as 13.54 acres in the R.B. Brown Survey, Abstract Number 110. Located within the Town of Shady Shores ETJ (Extraterritorial Jurisdiction)

5. FUTURE AGENDA ITEMS

6. ADJOURN

I, _____, _____ of the Town of Shady Shores do hereby certify that the above notice of the Planning and Zoning Commission was posted on the bulletin board at the Community Center, 101 S. Shady Shores Road, Shady Shores, Texas on _____ Day of _____, _____, at _____ .M.

IN ADDITION, A QUORUM OF CITY COUNCIL MEMBERS MAY CHOOSE TO ATTEND THE PLANNING AND ZONING MEETING POSTED ABOVE. THEREFORE, THIS IS NOTICE OF A CITY COUNCIL MEETING AT THE SAME TIME AND PLACE, WITH THE SAME AGENDA AS THE P&Z MEETING. IN THE EVENT A QUORUM OF COUNCIL IS PRESENT AT THE MEETING, NO ACTION OF THE COUNCIL WILL BE TAKEN. THIS NOTICE IS POSTED AT THE TIME STATED ABOVE.

Wendy Withers, Town Secretary

**Form 2204 - Oath of Office
(General Information)**

The attached form is designed to meet minimal constitutional filing requirements pursuant to the relevant provisions. *This form and the information provided are not substitutes for the advice and services of an attorney.*

Execution and Delivery Instructions

The Oath is considered filed once it has been received by this office.

Mail: P.O. Box 12887, Austin, Texas 78711-2887.

Overnight mail or hand deliveries: James Earl Rudder Officer Building, 1019 Brazos, Austin, Texas 78701.

Fax: (512) 463-5569. If faxed, the original Oath should also be mailed to the appropriate address above.

Email: Scanned copies of the executed Oath may be sent to register@sos.state.tx.us. If emailed, the original Oath should also be mailed to the appropriate address above.

NOTE: Do not have the Oath of Office administered to you before executing and filing the Statement of Officer (Form 2201 – commonly referred to as the “Anti-Bribery Statement”) with the Office of the Secretary of State.

Commentary

All state or county officers, other than the governor, lieutenant governor, and members of the legislature, who qualify for office, are commissioned by the governor. Tex. Gov’t Code, Section 601.005. The Secretary of State performs ministerial duties to administer the commissions issued by the governor, including confirming that officers are qualified prior to being commissioned. Submission of this oath of office to the Office of the Secretary of State confirms an officer’s qualification so that the commission may be issued.

Pursuant to art. XVI, Section 1 of the Texas Constitution, the Oath of Office *may not* be taken until a Statement of Officer (see Form 2201) has been subscribed to and, as required, filed with the Office of the Secretary of State. Additionally, gubernatorial appointees who are appointed during a legislative session *may not* execute their Oath until after confirmation by the Senate. Tex. Const. art. IV, Section 12. A Statement of Officer form required to be filed with the Office of the Secretary of State is filed upon receipt by the Secretary of State. The Oath of Office may be administered by anyone authorized under the provisions of Chapter 602 of the Texas Government Code. Commonly used officials include notaries public and judges.

Officers Required to File Oath of Office with the Secretary of State:

- Gubernatorial appointees, appellate and district court judges, and district attorneys
- Directors of districts operating pursuant to chapter 36 or 49 of the Texas Water Code file a duplicate original of their Oath of Office within 10 days of its execution. Tex. Water Code Ann. Sections 36.055(d); 49.055(d)

Officers Not Required to File Oath of Office with the Secretary of State:

- Members of the Legislature elected to a *regular* term of office will have their Oath of Office administered in chambers on the opening day of the session and recorded in the appropriate Journal. Members elected to an *unexpired* term of office should file their Oath of Office with either the Chief Clerk of the House or the Secretary of the Senate, as appropriate.
- All other persons should file their Oaths locally. Please check with the county clerk, city secretary or board/commission secretary for the proper filing location.

Questions about this form should be directed to the Government Filings Section at (512) 463-6334 or register@sos.state.tx.us.

Revised 10/2011

This space reserved for office
use

Submit to:
SECRETARY OF STATE
Government Filings Section
P O Box 12887
Austin, TX 78711-2887
512-463-6334



OATH OF OFFICE

Filing Fee: None

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS,
I, _____, do solemnly swear (or affirm), that I will faithfully
execute the duties of the office of _____ of
the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws
of the United States and of this State, so help me God.

Signature of Officer

.....

State of Texas)
County of Denton)

Sworn to and subscribed before me
this _____ day of _____, 20 ____.

(seal)

Signature of Notary Public or Other Officer
Administering Oath

Printed or Typed Name



**SHADY SHORES PLANNING AND ZONING COMMISSION
AUGUST 6, 2020; 7:00 PM
SHADY SHORES COMMUNITY CENTER
101 S. SHADY SHORES ROAD
SHADY SHORES, TX 76208**

MINUTES

In response to the coronavirus pandemic, effective March 16, 2020, Texas Governor Abbott suspended certain Open Meeting rules to allow meetings of government bodies that are accessible to the public to decrease large groups of people from assembling. The suspension temporarily removes the requirement that government officials and members of the public be physically present at a meeting location. The meeting was held via Zoom Teleconference Meeting ID **848 2881 6319.**

MEMBERS PRESENT

Allen Lea	Chairman	Absent
Rebecca Morgan	Vice-Chairman	Present
Paul Brown	Commissioner	Present
Linda Winter	Commissioner	Present
Kenneth Wells	Commissioner	Absent
Lynn Grimes	Commissioner-Alternate	Present

STAFF PRESENT: Wendy Withers, Town Administrator; Jim Shepherd, Town Attorney; David Francis; Binkley Barfield.

1. CALL TO ORDER

Vice-Chairman Rebecca Morgan called the meeting to order at 7:00 pm

2. ROLL CALL

Establish a quorum

Vice-Chairman Rebecca Morgan called the roll and a quorum was established for the record.

3. REGULAR BUSINESS

1. Minutes- Consider and act on the minutes of the June 11, 2020 Planning and Zoning Commission Meeting.

Linda Winter made a motion to approve the minutes of the June 11, 2020 Planning and Zoning Commission Meeting. Paul Brown seconded the motion.

Discussion: None

Ayes: Winters, Brown, Grimes, Morgan

Nays: None

The motion passed unanimously.

2. Public Hearing- Conduct a public hearing relative to a request for a zoning change and replat made by

Tom Spencer.

A) Open Public Hearing: Rebecca Morgan opened the public hearing at 7:32 pm.

B) Applicant: Tom Spencer stated that this would be the first request for the historic district zoning. The new owners planned to build houses on those lots.

C) Those in favor: No one spoke or signed up to speak in favor.

D) Those opposed-Suzanne McDonald 402 Shady Lane; was pleased to know that the people who had bought the property were people she knew and felt they would be good neighbors. Mrs. McDonald also expressed concern regarding the roads and drainage issues. (Exhibit A). Mrs. McDonald stated that she would like to request only two houses be built there.

Fred Reiser 410 Shady Lane believes for many reasons that the highest and best use would be one larger lot and one home. Mr. Reiser expressed concerns about drainage and flooding issues and losing privacy for their homes.

E) Rebuttal- Tom Spencer stated that he had never seen flooding on the property that he was requesting a replat for. He had submitted all the information from FEMA and the COE of Engineers. He was on the Planning and Zoning Commission when the Historic District requirements were approved felt he had submitted a plat that was complying. Town Engineer Richard Arvizu had approved the project.

F) Close Public Hearing- Rebecca Morgan closed the public hearing at 7:45 pm.

A) Open the Public Hearing: Rebecca Morgan opened the Public Hearing on the replat at 8:15 pm.

B) Applicant: Tom Spencer spoke and stated that the plat had been reviewed and approved by the Town Engineer.

C) Those in Favor of the Request: No one spoke in favor of the request.

D) Those Opposed to the Request: Fred Reiser stated he was opposed that this request was not the highest and best use of the property.

Suzanne McDonald spoke in opposition.

E) Close the public hearing: Rebecca Morgan closed the public hearing at 8:18 pm.

3. Spencer Replat/Zoning Change Request- Consider and act on an application for a zoning change and replat made by Tom Spencer for the property legally known as B. Eaves Survey, Abstract 388, Block 12, Lots 1-14.

David Francis with Binkley Barfield stated although he had not reviewed the plat (Richard Arvizu had reviewed and approved) but it did not appear that there would be a substantial impact on the existing drainage conditions.

Lynn Grimes asked questions regarding the parking and drainage; and stated it was her understanding that the zoning was redone for the historic district to allow more flexibility and that residents had numerous opportunities for public input on changes.

Lynn Grimes made a motion to approve the zoning change request. Paul Brown seconded the motion.

Discussion: None

Ayes: Grimes, Brown, Winter, Grimes

Nays: None

The motion passed unanimously.

Lynn Grimes made a motion to recommend approval of the replat conditional upon the number of property owners that are in protest. Linda Winter seconded the motion.

Discussion: None

Ayes: Grimes, Winter, Brown Morgan

Nays: None

The motion passed unanimously.

4. Public Hearing- Conduct a public hearing relative to approval of a final plat for Hidden Valley Airpark Phase VI.

A) Open Public Hearing: Rebecca Morgan opened the public hearing.

B) Applicant: Mary McDowell spoke on behalf of Hidden Valley Airpark Association. The plat has been submitted for approval of approximately. The plat is available on the Town's website. There are four variances that are being requested from the town. The first variance is request for a reduced size on the road width and right of way from the required 60' to 50'. These are hidden valley roads and are maintained by Hidden Valley.

1. ROW road clearing widths (HVAA wing and PDEs and UEs)-previously accepted

2. Pavement widths (match HVAA standards)-previously accepted

3. Lot 84 west side grass slopes to inlet (withdrawn)

4. 36" pipe bend- manhole unnecessary

5. lot 34 permanent easement width for storm pipe at 10' wide (lot owner restriction).

C) Those in favor:

Tillman Strahan 54 Hidden Valley spoke in favor of the request.

Chuck Webb 15 Hidden Valley Airpark fully supports the project.

Bill Emsoff 37 Hidden Valley Airpark in favor of Phase VI and it will add quality homes to Hidden Valley.

Daniel Beacon 25 Hidden Valley Airpark; new owners and support the addition of Phase VI of the development.

James Carne 35 Hidden Valley Airpark spoke in favor of the request.

Joe Migas 33 Hidden Valley Airpark; they live adjacent to Lot 34 overall they are in support of the development of Phase VI. He does have some concerns that the Association has not addressed.

Kevin Dixon 34 Hidden Valley Airpark submitted an email in favor of the request.

D) Those Opposed- No one

E) Rebuttal, if desired

F) Close Public Hearing: Rebecca Morgan closed the public hearing at 7:26 pm.

5. Hidden Valley Phase VI- Consider and act on approval of a final plat for Hidden Valley Airpark Phase VI

Paul Brown made a motion to approve the final plat for Hidden Valley Airpark Phase VI. Lynn Grimes seconded the motion.

Discussion: None

Ayes: Brown, Grimes, Winter, Morgan

Nays: None

The motion passed unanimously.

4. FUTURE AGENDA ITEMS

5. ADJOURN

Linda Winter Motion to adjourn. Paul Brown seconded the motion. The meeting was adjourned at 8:25 pm.

PASSED AND APPROVED THIS THE _____ DAY OF _____, 2020

APPROVED:

Allen Lea, Chairman

ATTEST:

Wendy Withers, Town Administrator/Secretary



AGENDA MEMORANDUM

DATE: October 8, 2020

TO: Planning and Zoning Commission

FROM: Wendy Withers, Town Administrator

SUBJECT: **Development Agreement- Consider and discuss and make a recommendation regarding a Development Agreement with Lingenfelter Custom Homes LLC for the property more legally described as 13.54 acres in the R.B. Brown Survey, Abstract Number 110. Located within the Town of Shady Shores ETJ (Extraterritorial Jurisdiction)**

BACKGROUND/INFORMATION:

Lingerflt Custom Homes is proposed a 29 home addition to the 13.584 acre tract of land located adjacent to the Cielo Ranch Subdivision. This property is not currently located within the Town Limits of Shady Shores. The laws governing development in the Extra Territorial Jurisdiction (ETJ) would require a developer to comply with our Subdiviion regulations but not our Zoning Requirements. This agreement would allow the Town and the Developer to come to an agreement regarding the proposed development and calls for eventual annexation of the property.

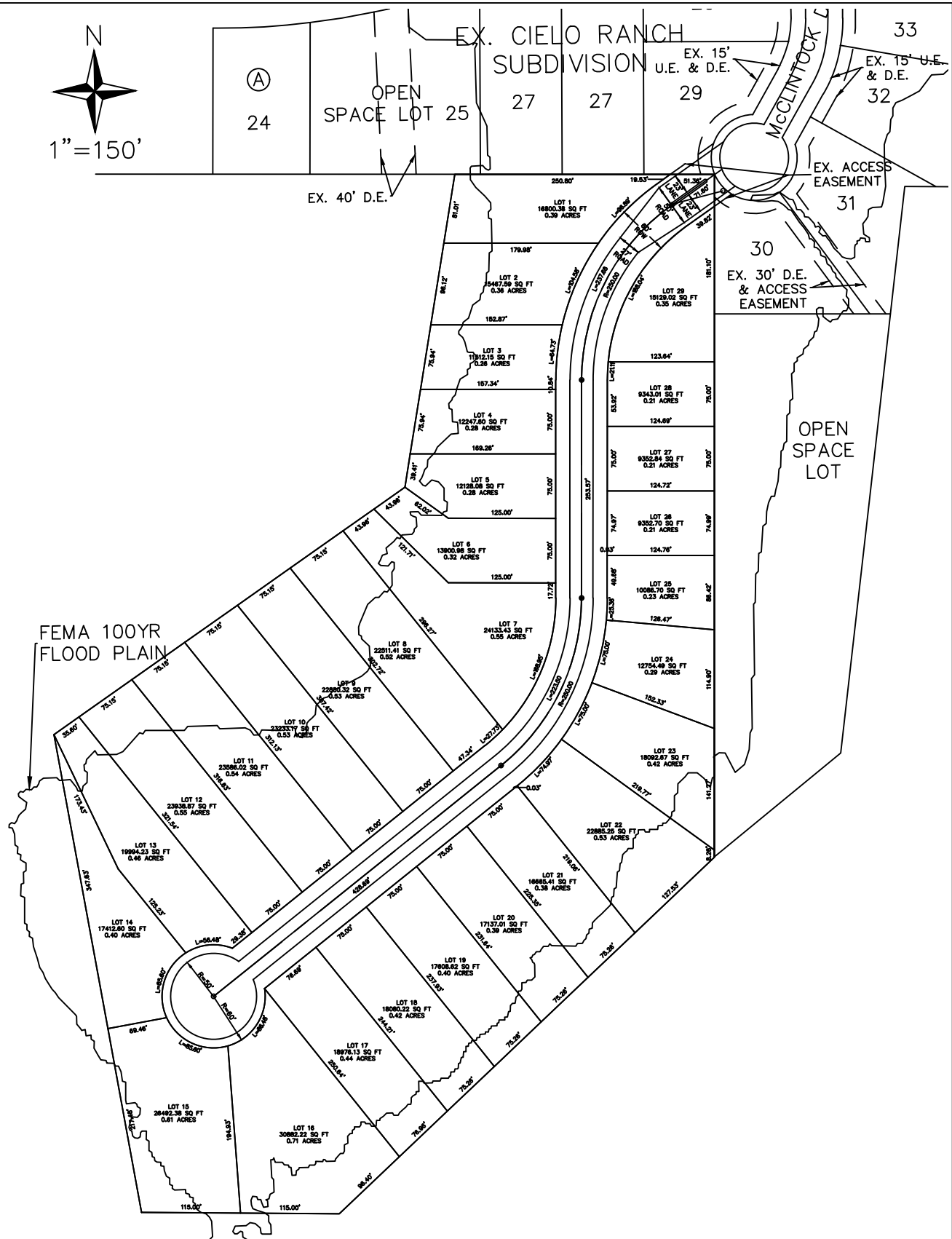
FINANCIAL IMPLICATIONS:

RECOMMENDATION/ACTION DESIRED:

ATTACHMENTS/SUPPORTING DOCUMENTATION:

None

REVIEWED BY:



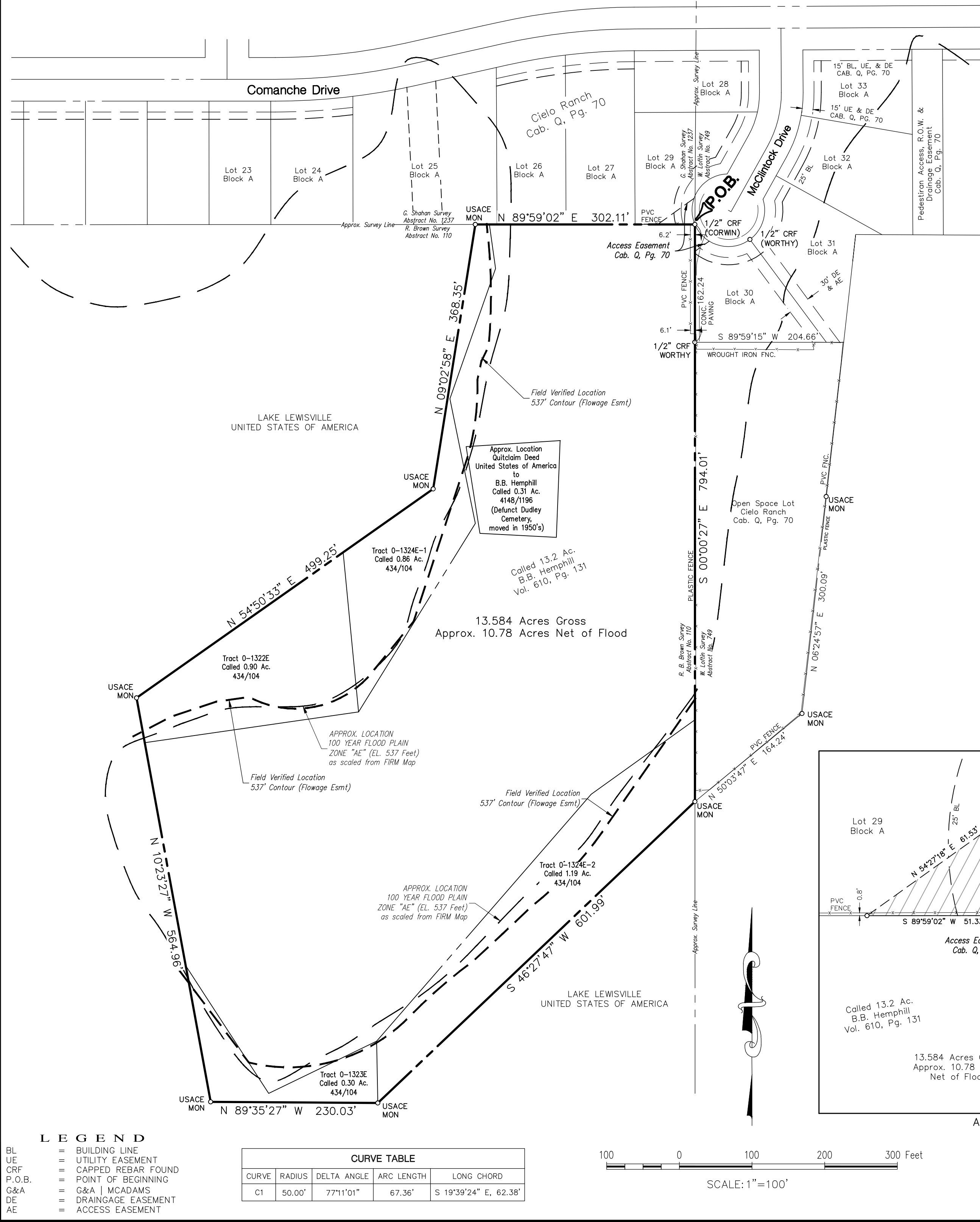
CCM Engineering
2570 FM 407, Suite 209
Highland Village, Texas
75077
Ph: 972. 691.6633
Fax: 972.691.6628
TBPE FIRM #605

EXHIBIT CONCEPT PLAN 29 LOTS

ADDENDUM

A

File: Z:\2018\18262\Drawings\Survey\18262 SP
Plotted: 2/6/2020 9:59 AM, by Stowell, James. Saved: 2/6/2020 9:54 AM, by jstowell



NOTES:

- Bearings based on Texas Coordinate System, North Central Zone (4202), NAD '83.
- This survey was prepared in connection with the Real Estate transaction related to Title Resources Guaranty Company, GF# 169762PC. Commitment effective October 9th, 2019. G&A | MCADAMS shall not be held liable for any unauthorized use hereof.
- Declaration is made to original purchaser of the survey. It is not transferable to additional institutions or subsequent owners. G&A | MCADAMS, and the Surveyor shall not be liable for any unauthorized use hereof.
- Surveyor has made no investigation or independent search for easements of record, restrictive covenants, ownership title evidence, or any other facts that and accurate abstract of title may disclose.
- No flood zone area analysis has been performed by G&A | MCADAMS, on the subject property.
- All original copies of survey maps and descriptions by the surveyor and firm whose name appear hereon will contain an embossed surveyor's seal. Any map or description copy without that embossed seal is likely copy not prepared in the office of the surveyor and may contain alterations or deletions made without the knowledge or oversight of the surveyor.
- 537' Contour (Flowage Easement) verified on the date of 8/16/2018. All fieldwork completed on 11/26/2019.

LEGAL DESCRIPTION
13.584 Acres

BEING all that certain lot, tract, or parcel of land, situated in the R.B. Brown Survey, Abstract Number 110, Shady Shores ETJ, Denton County, Texas, and being all of that certain called 13.2 acre tract of land, described in deed to B.B. Hemphill, recorded in Volume 610, Page 131, Deed Records, Denton County, Texas, and being all those certain tracts of land, described as Tract 0-1322E, Tract 0-1323E, Tract 0-1324E-1, and Tract 0-1324E-2, recorded in Volume 434, Page 104, Deed Records, Denton County, Texas;

BEGINNING at a 1/2" capped rebar found stamped "Corwin" at the northeast corner of said R. B. Brown survey, and being the northeast corner of said Hemphill tract, and being the northwest corner of Lot 30, block A, and the Southeast corner of Lot 29, Block A, Cielo Ranch, an addition to the Town of Shady Shores, according to the plat thereof, recorded in Cabinet Q, Page 70, Plat Records, Denton County, Texas;

THENCE S 00°00'27" E, with the east line of said Brown Survey, and said Hemphill tract, and with the west line of said Lot 30, passing at a distance of 162.24 feet, the southwest corner thereof, and being the northwest corner of Open Space Lot, of said Cielo Ranch, continuing with the west line thereof, a total distance of 794.01 feet to a United States Corps of Engineers Monument found at the southwest corner thereof, being the southwest corner of said Hemphill tract, and said Tract 0-1324E-2;

THENCE S 46°27'47" W, with the south line of said Hemphill tract, and said Tract 0-1324E-2, a distance of 601.99 feet to a United States Corps of Engineers Monument found at the southwest corner thereof, and being the southeast corner of said Tract 0-1323E;

THENCE N 89°35'27" W, continuing with the south line of said Hemphill tract, and said Tract 0-1323E, a distance of 230.03 feet to a United States Corps of Engineers Monument found at the southwest corner thereof;

THENCE N 10°23'27" W, with the west line of said Hemphill tract, and the west line of said Tract 0-1323E, passing the northwest corner thereof, continuing with the west line of said Hemphill tract, passing the southwest corner of said Tract 0-1322E, continuing with the west line thereof, a total distance of 564.96 feet to a United States Corps of Engineers Monument found at the northwest corner thereof;

THENCE N 54°50'33" E, with the west line of said Hemphill tract, and said Tract 0-1322E, passing the northeast corner thereof, and being the westerly northwest corner of said Tract 0-1324E-1, continuing with the west line thereof, a total distance of 499.25 feet to a United States Corps of Engineers Monument found;

THENCE N 09°02'58" E, continuing with the west line of said Hemphill tract, and said Tract 0-1324E-1, a distance of 368.35 feet to a United States Corps of Engineers Monument found at the northwest corner of said Hemphill tract and said Tract 0-1324E-1, and being on the south line of Lot 25, Block A, of said Cielo Ranch;

THENCE N 89°59'02" E, with the north line of said Hemphill tract and the south line of Lots 25, 26, 27, and 29, Block A, of said Cielo Ranch, a total distance of 302.11 feet to the POINT OF BEGINNING and containing approximately 13.584 acres of land.

Access Easement Tract
0.026 Acres

BEING all that certain lot, tract, or parcel of land, situated in the R.B. Brown Survey, Abstract Number 110, Shady Shores ETJ, Denton County, Texas, and being part of Lots 29 and 30, Block A, Cielo Ranch, according to the plat thereof, recorded in Cabinet Q, Page 70, Plat Records, Denton County, Texas, and being more particularly described as follows;

BEGINNING at a 1/2" capped rebar found stamped "Corwin" at the northeast corner of said R. B. Brown survey, and being the northeast corner of that certain called 13.2 acre tract of land, described in deed to B.B. Hemphill, recorded in Volume 610, Page 131, Deed Records, Denton County, Texas, and being the northwest corner of said Lot 30, and the Southeast corner of said Lot 29;

THENCE S 89°59'02" W, with the north line of said Hemphill tract and the south line of said Lot 29, a distance of 51.33 feet, from which a United States Corps of Engineers Monument found at the northwest corner of said Hemphill tract and the northwest corner of a certain tract of land, described as Tract 0-1324E-1, recorded in Volume 434, Page 104, Deed Records, Denton County, Texas, bears S 89°59'02" W, 250.78 feet;

THENCE N 54°27'18" E, a distance of 61.53 feet, to the east line of said Lot 29, and being in the west line of McClintock Drive;

THENCE Southeastly, with the arc of a curve to the left, with the west line of said McClintock Drive, and the east line of said Lot 29, and the north line of said Lot 30, having a radius of 50.00 feet, a central angle of 77°11'01", an arc length of 67.36 feet, whose chord bears S 19°39'24" E, a distance of 62.38 feet to a point in the north line of said Lot 30, and the west line of said McClintock Drive;

THENCE S 54°27'18" W, a distance of 24.23 feet, to the east line of said Brown Survey, and said Hemphill tract, and the west line of said Lot 30;

THENCE N 00°00'27" W, with the east line of said Brown Survey, and said Hemphill tract, and with the west line of said Lot 30, a distance of 37.08 feet to the POINT OF BEGINNING, and containing approximately 0.026 Acres of land.

I hereby certify to Title Resources Guaranty Company, Slough Property, LLC, Craig H. Smitham, Successor Independent Executor of the Estate of Bernard B. Hemphill, Jr., that the Survey Map and description hereon depict and describe the results of surveys made on the ground, under my supervision, and that visible improvements found on the property are depicted, that any visible evidence of easements and those made known to us are depicted or noted hereon, and that any visible intrusions and protrusions across boundary lines are depicted hereon.

PRELIMINARY DOCUMENT:
THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT.
JAMES STOWELL, RPLS 6513 12/17/19
James Stowell, RPLS
Texas Registration No. 6513

SURVEY PLAT
13.584 Acres
in the
R. B. BROWN SURVEY, ABSTRACT NO. 110
TOWN OF SHADY SHORES ETJ
DENTON COUNTY, TEXAS

Revised: 11/25/19
Revised: 12/10/19
Revised: 12/17/19



The John R. McAdams
Company, Inc.
(DBA, G&A | McAdams)
111 Hillside Drive
Lewisville, Texas 75057
972.436.9712
201 Country View Drive
Roanoke, Texas 76262
940.240.1012
TBPE: 19762 TBPLS: 10194440
www.gaon.com
www.mcadamsco.com

DRAWN BY: JS DATE: 2/18/2019 SCALE: 1"=100' JOB. No. **18262**

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the “**Agreement**”) is made and executed this ____ day of _____, 20__ (the “**Effective Date**”), by and among the TOWN OF SHADY SHORES, TEXAS, a Type A general law city existing under the laws of the State of Texas (the “**Town**”), Craig H. Smitham, Independent Executor of the Estate of Bernard B. Hemphill, Jr., Deceased, (“**Property Owner**”), and Lingenfelter Custom Homes, LLC., a Texas limited liability company (“**Developer**”). The Town, the Property Owner and the Developer are sometimes hereinafter referred to individually as a “**Party**” and collectively as the “**Parties**.” Successors in title to the Property Owner are anticipated to purchase the Property in November of 2020, and are expected to be Mr. Moe Nimri and Mr. Ayman El-Nimri. They in turn may transfer ownership to a legal entity to be formed, and which shall also be bound by the terms of this Agreement as the Owner of the Property, as would any additional successor in interest to the prior owners.

RECITALS

WHEREAS, Property Owner is the owner of that certain approximate 13.584 acre tract of land located in the extraterritorial jurisdiction (“**ETJ**”) of the Town and being more particularly described on Exhibit A attached to this Agreement and made a part hereof (the “**Property**”), and

WHEREAS, the Parties intend that the Property be developed in accordance with the mutually agreeable regulations provided in this Agreement, and

WHEREAS, the Developer anticipates the purchase and closing of the Property on or before November____, 2020, at which time the Owner will transfer all its right title and interest to Developer. The Owner will not retain a lien on the property and is not a participant or partner in the development described in this Agreement.

WHEREAS, the Property Owner represents and warrants that the property is not subject to an agricultural tax exemption, or any similar open space exemption: and in conjunction with Developer, does exercise their right to voluntarily annexation of the Property, all as set forth in this Agreement, and

WHEREAS, the Parties desire that the Property be developed into a quality development and agree that the securing of financing for the development of the Property requires an agreement providing long term certainty in regulatory requirements and development standards regarding the Property, and

WHEREAS, the Parties desire to obtain the benefits of certainty and predictability regarding future development of the Property that can be provided by a development agreement for property that is currently located in the ETJ of the Town, and which is to be annexed into the Town as set forth in this Agreement, and

WHEREAS, the Parties have the power and authority to enter into this Agreement, including, but not limited to, the authority granted by Section 212.172 of the Texas Local Government Code,

NOW, THEREFORE, in consideration of the covenants and conditions contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. DEFINITIONS.

“Town Council” means the Town Council of the Town.

“Developer” means the Owner of the Property who is developing the Property pursuant to this Agreement with the Town.

“Development Plan” means the Development Plan attached hereto as Exhibit B which Development Plan and includes the Development Standards attached hereto as Exhibit C.

“Lender” means a person or entity that receives a collateral assignment, pledge, security interest, lien or other encumbrance of or in all or any part of the Property or in Developer’s right, title and interest in and to this Agreement to secure repayment of a debt or performance of an obligation by Developer.

“Lot Owner” means any “end-buyer of a fully developed and improved lot” within any platted single-family residential subdivision as such phrase is used in Section 212.172(f) of the Local Government Code. Without limiting the foregoing, for purposes of this Agreement: (A) the term “end-buyer” means any owner, developer, tenant, user or occupant and (B) the term “fully developed and improved lot” means any lot, regardless of the use, for which a final plat has been approved by the Town and recorded in the Official Real Property Records of Denton County, Texas.

“Owner” means the Owner of the Property being developed. The Owner is responsible for all obligations in this Agreement as Owner, and those obligations designated by this Agreement for the Owner, acting as the “Developer” to carry out.

“Property” means the tract of land described in Exhibit A by metes and bounds, and survey.

II. ANNEXATION AND DEVELOPMENT.

1. Agreement to Annex. The Town and the Developer agree that upon Developer’s purchase of the property, and the execution of this Agreement, whichever shall last occur, the Developer agrees and requests the process of annexation to proceed.

2. Development Plan. Development of the property shall be in accordance with the conceptual plan of development, which is incorporated herein by reference and attached hereto as Exhibit B (as the same may be modified from time to time by written agreement of the developer and the Town, the “Development Plan”). All development applications shall substantially comply with the Development Plan. The total number of lots shall not exceed twenty-nine (29) lots. All ordinance provisions of the Town not specifically modified by specific provisions of the Development Plan and Development Standards shall be in effect and enforceable within the property as they are in the remainder of the Town. All lots are for single family residential use only.

3. Regulations Applicable. The following regulations apply to development of the Property (“Governing Regulations”):

- a. All regulations pertaining to the development of the Property set forth in this Agreement and all exhibits hereto (including the Development Plan);
- b. The Town's current subdivision ordinance (as of the Effective Date of this Agreement); and
- c. The special regulations set forth on Exhibit C (“Development Standards”).
- d. All uniform building, fire, plumbing, electrical, mechanical, energy, and property maintenance codes adopted by the Town from time to time, including generally applicable local amendments thereto; and
- e. Development of the Property shall be governed by and occur in accordance with the development regulations set forth in the Town’s Zoning Classification of Chapter 14 of the Code of Ordinances, (R-2000-1/2) as specifically modified by the Development Standards attached hereto as Exhibit C.

4. Inconsistent Development. Developer agrees that any development application that is submitted to the Town for any portion of the Property during the term of this Agreement that is inconsistent with the Governing Regulations may be denied by the Town.

5. Annexation and Zoning. The Parties agree that the Property shall be annexed by the Town. Developer expressly agrees and consents that the Property may be annexed by the Town on the last to occur of the following:

- a. All parties have executed this Agreement.
- b. The Owner does not own the Property and has sold it to Developer.
- c. Upon annexation, the Town shall have all of the same enforcement rights to enforce compliance with the Governing Regulations with respect to the Property that it otherwise enjoys under the law to enforce development regulations within the Town limits. Following annexation, the Parties contemplate, and the Developer expressly agrees that the Town will zone the Property to a zoning district (“District”) that is consistent, with variances as needed, with the Governing Regulations. The Town agrees, to the extent permitted by Section 212.172 of the Texas

Local Government Code,, to zone the Property to a district (R-2000-1/2) that is consistent with the Governing Regulations. Regardless of the zoning of the Property after annexation, nothing herein shall be construed to prevent the Property from being developed in accordance with this Agreement. If the Property is zoned as contemplated by the Parties, the zoning shall be consistent with the Governing Regulations. Following annexation and zoning of the Property, any development of the annexed land may begin and shall thereafter be in accordance with this Agreement, unless the zoning of the Property is inconsistent with this Agreement, in which case Owner may, at its option, choose to develop in accordance with such zoning.

e. Town inspection services for public improvements on the property, begin on the approval by the Town of the preliminary plat. Town public safety services (Law enforcement and Fire Department) would commence when the property is annexed into the Town.

III. WATER & SANITARY SEWER SYSTEM.

Water and Sanitary Service - The Lake Cities Municipal Utility Authority (LCMUA) is the provider of water and sanitary sewer services in the area that includes the Property.

LCMUA has indicated that there is sufficient capacity to provide water and sanitary sewer service to serve the proposed development of the property. Owner agrees and acknowledges the water and sanitary sewer service to the Property is subject to the terms and conditions set by LCMUA.

IV. ROADWAY SYSTEM.

Interior Roadway Construction –, The Developer will dedicate 60-foot wide rights of way on all interior roads in the subdivision.

V. TERM OF AGREEMENT.

This Agreement is a development agreement authorized by Section 212.172 of the Local Government Code. This Agreement shall continue in effect for a term of fifteen (15) years after the Effective Date and may be renewed by written agreement of the Town and the Developer for two (2) successive periods of fifteen (15) years each, up to a maximum of forty-five (45) years after the Effective Date.

VI. COLLATERAL ASSIGNMENT BY DEVELOPER TO LENDER.

Developer shall have the right, from time to time, to collaterally assign, pledge, grant a lien or security interest in, or otherwise encumber its right, title and interest in and to this Agreement for the benefit of its Lender without the consent of, but with prompt written notice to, the Town. The collateral assignment, pledge, grant of lien or security interest, or other encumbrance shall not, however, obligate any Lender to perform any obligations or incur any liability under this Agreement unless the Lender agrees in writing to perform such obligations or incur such liability, or, unless the Lender becomes the Property Owner of all or some portion of the Property.

Notwithstanding the foregoing, however, this Agreement shall continue to bind the Property and shall survive any transfer, conveyance, or assignment occasioned by the exercise of foreclosure or other rights by a Lender, whether judicial or non-judicial.

VII. TERMINATION.

In the event this Agreement is terminated as provided in this Agreement or is terminated pursuant to other provisions, or is terminated by mutual agreement of the parties, the parties must promptly execute and file of record, in the Official Public Records of Real Property of Denton County, Texas, a document confirming the termination of this Agreement, and such other documents as may be appropriate to reflect the basis upon which such termination occurred. This Agreement may be terminated by the mutual written agreement of the Parties.

VIII. DEFAULTS.

1. If a party is in default under this Agreement, the non-defaulting party must notify all parties in writing of an alleged failure by the non-defaulting party to comply with a provision of this Agreement, which notice must specify the alleged failure with reasonable particularity. The alleged defaulting party must, within thirty (30) days after receipt of such notice or such longer period of time as may be specified in such notice, either cure such alleged failure or, in a written response, either present facts and arguments in refutation or excuse of such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.

2. The non-defaulting party must determine (i) whether a failure to comply with a provision has occurred; (ii) whether such failure is excusable; and (iii) whether such failure has been cured or will be cured by the alleged defaulting party. The alleged defaulting party must make available, if requested, any records, documents or other information necessary to make the determination.

3. If the non-defaulting party determines that such failure has not occurred, or that such failure either has been or will be cured in a manner and in accordance with a schedule reasonably satisfactory to the non-defaulting party, or that such failure is excusable, such determination must conclude the investigation.

4. If the non-defaulting party determines that a failure to comply with a provision has occurred and that such failure is not excusable and has not been or will not be cured in a manner and in accordance with a scheduling reasonably satisfactory to the non-defaulting party, then the non-defaulting party may proceed to mediation.

5. In the event the parties to this Agreement cannot, within a reasonable time, resolve their dispute pursuant to the procedures described hereinabove, the parties agree to submit the disputed issue to non-binding mediation. All parties to this Agreement shall participate in this mediation. The parties must participate in good faith, but in no event must they be obligated to pursue mediation that does not resolve the issue within two (2) days after the mediation is initiated

or thirty (30) days after mediation is requested. The parties participating in the mediation must share the costs of the mediation equally.

6. In the event of a determination that the defaulting party has committed a material breach of this Agreement that is not resolved in mediation, the non-defaulting party may file suit in a court of competent jurisdiction in Denton County, Texas, and seek any relief available at law or in equity.

IX. MISCELLANEOUS

1. Notice. Any notice to be given or to be served upon a Party hereto in connection with this Agreement must be in writing and may be given (i) by certified or registered mail and shall be deemed to have been given and received seven (7) days after a certified or registered letter containing such notice, properly addressed with postage prepaid, is deposited in the United States mail, or (ii) by personal delivery and/or by recognized overnight delivery service and shall be deemed to have been given and received upon such delivery. Such notice shall be given to the parties hereto at the address set forth in Exhibit D attached hereto. Any party hereto may, at any time by giving two (2) days written notice to the other parties, designate any other address in substitution of the foregoing address to which such notice shall be given.

2. Venue. This Agreement shall be construed under and in accordance with the laws of the State of Texas and is specifically performable in Denton County, Texas. Exclusive venue shall be in state district court in Denton County, Texas.

3. Savings/Severability. In case anyone or more provisions contained in this Agreement shall be for any reason held invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

4. Authority. Each of the Parties represents and warrants to the other that they have the full power and authority to enter into and fulfill the obligations of this Agreement.

5. Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the matters contained herein and may not be modified or terminated except upon the provisions hereof or by the mutual written agreement of the parties to the Agreement.

6. Counterparts. This Agreement may be executed in a number of identical counterparts, each of which will be deemed an original for all purposes.

7. Representations. Each signatory represents this Agreement has been read by the Party for which this Agreement is executed and that such Party has had an opportunity to confer with its counsel.

8. Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by all Parties hereto. The language of all parts of this Agreement shall be construed as a

whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the Parties and are not intended to be used in construing this document.

9. Time is of the Essence. Time is of the essence in this Agreement.

10. This Agreement constitutes a “permit” (as defined in Chapter 245, Texas Local Government Code) that is deemed filed with the Town on the Effective Date.

11. Recordation, Releases and Estoppel

a. Recordation. Pursuant to the requirements of Section 212.72(c) (4) of the Texas Local Government Code, this Agreement, and all amendments to this Agreement, shall be recorded in the deed records of Denton County, Texas. This Agreement shall be binding upon: (1) the Property and, except as provided in this subsection, future owners of all or any portion of the Property (“Successors”); (2) the parties; (3) assignees; and (4) lenders. Notwithstanding the foregoing, however, this Agreement is not binding upon, and shall not constitute any encumbrance to title as to any end-buyer of a fully developed and improved lot within the Property except for land use and development regulations that apply to specific lots. For purposes of this Agreement: (A) the term “end-buyer” means any owner, developer, tenant, user, or occupant; (B) the term “fully developed and improved lot” means any lot, regardless of the use, for which a final plat has been approved by the Town; and (C) the term “land use and development regulation that apply to specific lots” mean the Development Standards applied in accordance with this Agreement. The agreement between the governing body of the municipality and the landowner is binding on the municipality and the landowner and on their respective successors and assigns for the term of the agreement. The agreement is not binding on, and does not create any encumbrance to title as to, any end-buyer of a fully developed and improved lot within the development, except for land use and development regulations that may apply to a specific lot.

a. Releases. From time to time upon written request of Developer, any assignee, any lender, or any successor, the Town staff may execute, in recordable form, a release of this Agreement if the requirements of subsection (a) above have been satisfied (subject to the continued applicability of the applicable regulations in accordance with this Agreement). In addition, the Town Administrator shall have the authority (but not the obligation) from time to time, to execute further releases of this Agreement with respect to specific tracts of land within the Property, if, in the sole discretion of the Town Administrator, such releases are in the best interest of the Town. Notwithstanding any other provision of this Agreement, any portion of the Property released from this agreement may be immediately annexed by the Town, as may any portion of the Property conveyed to an “end user”.

b. Estoppel. From time to time upon written request of Developer, any assignee, any lender, or any successor, the Town staff shall execute a written estoppel certificate to the person or entity making the request: (1) describing, in detail, the status (e.g., unperformed, partially performed, or fully performed) of any material obligation that is identified in the request; (2) identifying any material obligations that are in default or which, with the giving of notice or passage of time, would be in default; and (3) stating that, except as otherwise identified, and to the

extent true, that to the best knowledge and belief of the Town, the parties are in substantial compliance with their material obligations under this Agreement.

12. Assignment of Agreement. Any assignment of this Agreement to an unaffiliated or unrelated entity of Developer requires approval of the Town, which approval shall not unreasonably be withheld. A related or unrelated assignee under this subsection shall be subject to all of Developer's obligations as set forth in this Agreement.

13. Authority. Each of the parties represents and warrants to the other that they have the full power and authority to enter into and fulfill the obligations of this Agreement.

14. Consideration. This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed; and pursuant to Section 212.172 of the TEX.LOC.GOV'T CODE as to the Town.

15. Binding Effect. This Agreement runs with the land and will be binding upon and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors and authorized assigns. This Agreement only inures to the benefit of, and may be enforced by, the parties, assignees, lenders, successors, and the Town. No other person or entity is a third-party beneficiary of this Agreement.

16. Authority. The Town represents and warrants that this Agreement has been approved by the Town Council of the Town in accordance with all applicable public meeting and public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act) and that the individual executing this Agreement on behalf of the Town has been authorized to do so. Developer represents and warrants that this Agreement has been approved by appropriate action of Developer and that the individual executing this Agreement on behalf of the Developer has been authorized to do so. Each assignee, lender or successor who becomes a party to this Agreement represents and warrants that this Agreement has been approved by appropriate action of such assignee, lender, or successor and that the individual executing this Agreement on behalf of such assignee, lender, or successor has been authorized to do so.

17. Governmental Powers; Waivers of Immunity. By its execution of this Agreement, the Town does not waive or surrender any of its governmental powers, immunities, or rights.

Nothing in this Agreement is intended to delegate or impair the performance by the Town of its governmental functions.

18. Effective Date. The Effective Date of this Development Agreement shall be the date on which this Agreement is approved by the Town Council of the Town. The Agreement must be approved and executed by Owner and Developer prior to the Town approval.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of _____, 20____.

PROPERTY OWNER: (Prior to planned sale of Nov 2020)

Estate of Bernard B. Hemphill, Jr., Deceased

By: Craig H. Smitham, Independent Executor

STATE OF TEXAS §

COUNTY OF _____ §

This instrument was acknowledged on the _____ day of _____, 2020,
by Craig H. Smitham, Independent Executor of the Estate of Bernard B. Hemphill, Jr., Deceased .

Notary Public in and for the State of Texas

My Commission Expires: _____

PROPERTY OWNERS: (After sale of Nov 2020), as the Developer

Ayman El-Nimri

Moe Nimri

STATE OF TEXAS §

§

COUNTY OF _____ §

This instrument was acknowledged on the _____ day of _____, 2020,
by _____.

Notary Public in and for the State of Texas

My Commission Expires: _____

Builder:

Lingenfelter Custom Homes, LLC

By: _____

Adam Lingenfelter

STATE OF TEXAS §

§

COUNTY OF _____ §

This instrument was acknowledged on the _____ day of _____, 20____, by Adam Lingenfelter, _____ of Lingenfelter Custom Homes, LLC, a Texas limited liability company.

Notary Public in and for the State of Texas

My Commission Expires: _____

TOWN:

TOWN OF SHADY SHORES, TEXAS

By: _____

Name: Cindy Aughinbaugh

Title: Mayor

ATTEST:

Wendy Withers, Town Secretary

APPROVED AS TO FORM:

By: _____

Name: James E. Shepherd

Title: Town Attorney

SCHEDULE OF EXHIBITS:

Exhibit A – Description of Property—metes and bounds, and survey

Exhibit B – Development Plan

Exhibit C – Development Standards

Exhibit D – Lake Cities Municipal Utility Authority Water & Sewer Service Letter (optional)

Exhibit E – Address for Notices

EXHIBIT A

Description of Property

WHEREAS B.B. Hemphill, Jr. is the owner of a 13.584 acre tract of land situated in the R.B. Brown Survey, Abstract Number 110, same being a tract of land described to B.B. Hemphill, Jr. by deed recorded in Volume 610, Page 131, Deed Records, Denton County, Texas and being more particularly described by metes and bounds as follows: (Bearings and Distances are based on the Texas State Plane Coordinate System, Texas North Central Zone (4202) North American Datum of 1983 (NAD83) (US Foot) with a combined scale factor of 1.000150630);

BEGINNING at a 1/2 inch rebar found for the southeast corner of Lot 29, Block A of Cielo Ranch, an addition to the Town of Shady Shores, as recorded in Cabinet Q, Page 69, Plat Records, Denton County, Texas, same being the northwest corner of Lot 30, Block A of said Cielo Ranch and lying at the end of the culda-sac of McClintock Drive (60 foot right-of-way);

THENCE South 00 degrees 00 minutes 41 seconds East, departing said McClintock Drive, with the west line of said Lot 30, passing at a distance of 162.23 feet a 1/2 inch rebar found for the southwest corner of said Lot 30, same being the northwest corner of an Open Space Lot in Block A of said Cielo Ranch, and continuing with the west line of said Open Space, a total distance of 794.00 feet to a Corps of Engineers Monument found for the southwest corner of said Open Space lot, same being a point on the north line of Lake Lewisville;

THENCE South 46 degrees 27 minutes 33 seconds West, with the southeast line of said Hemphill tract, and with a northwest line of said Lake Lewisville, a distance of 601.99 feet to a Core of Engineers Monument found for corner;

THENCE North 89 degrees 35 minutes 41 seconds West, with the south line of said Hemphill tract and a north line of said Lake Lewisville, a distance of 230.03 feet to a point for the southwest corner thereof, from which a Corps of Engineers Monument found bears South 18 degrees 08 minutes, 0.38 feet;

THENCE North 10 degrees 23 minutes 41 seconds West, with a southwest line of said Hemphill tract, and a northeast line of said Lake Lewisville, a distance of 654.96 feet to a Corps of Engineers Monument found for corner;

THENCE North 54 degrees 50 minutes 19 seconds East, with a northwest line of said Hemphill tract and a southeast line of said Lake Lewisville, a distance of 499.25 feet to a Corps of Engineers Monument found for corner;

THENCE North 09 degrees 02 minutes 44 seconds East, with a west line of said Hemphill tract and an east line of said Lake Lewisville, a distance of 368.35 feet to a Corps of Engineers Monument found on the south lien of Lot 25, Block A of said Cielo Ranch, same being a northeast corner of said Lake Lewisville;

THENCE North 89 degrees 58 minutes 48 seconds East, with the south line of said Lot 25, passing at a distance of 29.92 feet a 1/2 inch rebar found for the southeast corner of said Lot 25, same being the southwest corner of Lot 26 of said Cielo Ranch, and continuing with the south line of said Lot 26, passing at a distance of 124.92 feet a 1/2 inch rebar found for the southeast corner of said Lot 26, same being the southwest corner of Lot 27 of said Cielo Ranch, and continuing with the south line of said Lot 27, passing at a distance of 219.92 feet a 1/2 inch rebar capped "Gorwin" found for the southeast corner of said Lot 27, same being the southwest corner of said Lot 29, and continuing with the south line of said Lot 29, a total distance of 302.11 feet to THE POINT OF BEGINNING and containing 591,718 square feet or 13.584 acres of land, more or less.

EXHIBIT B

Development Plan

EXHIBIT C

Development Standards

The following uses and standards shall be applied to the Property:

1 . Uses:

a. Single Family Residential and accessory uses per R-2000-1/2 zoning district requirements in the Town Comprehensive Zoning Ordinance, as modified by this Agreement This development will be a gated community with a Home Owners Association. There will be no more than 29 lots, as shown in the Development Plan attached hereto as Ex. B.

2. Building Regulations for Property:

a. Minimum Lot Size: .21 acres

b. Average Lot Size: .468 acres / 0.406 acres net average

c. Minimum Width on lots to be 75' at front of lot.

c. Setbacks for all Lots: Front Setback 20', Side Setback 7.5, Rear Setback =20', Corner Setback = 20'

e. Cul-de-sac may be up to 1,500 linear feet in length.

3. Building Materials

a. Total Exterior Elevation --- 90% brick, stucco, stone, cement siding or masonry, exclusive of windows, doors, gables and trim.

b. Any Single Elevation --- not less than 75% brick, stucco, stone or cement siding on any one elevation, exclusive of windows, doors, gables and trim.

4. Minimum Living Area -- Minimum 3000 square feet (air conditioned) on all lots, except up to four lots which may have a minimum of 2200 square feet.

5. Accessory Buildings-- Must comply with the Town ordinances on Accessory Buildings. Must comply with "Building Materials" requirement(s). Must be located

behind the primary residence on the lot. Accessory dwellings, attached or detached, are not permitted.

6. Viewing Terrace/Patio: Homes will have the option of building a viewing terrace/patio ("Terrace") at a maximum height of 35 feet. Terrace will be part of the home structure and not be detached. No Terraces are permitted on lots adjacent to existing Cielo Ranch residents, including proposed lots 1,2,28, and 29.

7. Fencing – wrought iron, wooden or split rail fencing. All fencing in or below the 529' elevation line of Lake Lewisville shall allow the free flow of storm water, and lake water through or underneath the fence, in compliance with Town drainage requirements.

8. Utilities – All utilities shall be installed underground.

9. Mailboxes - to be constructed of brick or stone material and located at the edge of street or as required by USPS.

10. Entry – There will be only point of entry into the development. The entry will include a monument sign (not to exceed 3x4 feet and shall be located on the Property.

11. Floodplain—All finished floor elevations shall be two feet higher than the floodplain elevation of 537 feet.

11. Other Standards – Unless addressed hereinabove, the development must comply with the requirements of the Town's R-2000-1/2 zoning district and Subdivision Ordinance in effect on the Effective Date of the Development Agreement, including its requirements for drainage of the Property. All fees for permits, inspections of construction, plat review and other required Town fees and permits are to be paid as required in the Town ordinances.

EXHIBIT E

Address for Notices

If Notice to Town of Shady Shores:

Office of the Mayor
101 S. Shady Shores
Shady Shores, TX

with a copy to:

James E. Shepherd
Shepherd Law Firm
1901 N. Central Expressway, Suite 200
Richardson, Texas 75080

If Notice to Property Owner:

Estate of Bernard B. Hemphill, Jr., Deceased
9646 Covemeadow Drive Dallas, TX 75238
Attn: Craig H. Smitham, Independent Executor

If Notice to Developer:

Lingenfelter Custom Homes, LLC
3505 Yucca Drive
Flower Mound, Texas 75028
Attn: Adam Lingenfelter

with a copy to:

CCM Engineering
2570 Justin Road, Suite 209
Highland Village, Texas 75077
Attn: Cody Crannell
