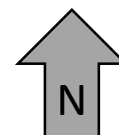
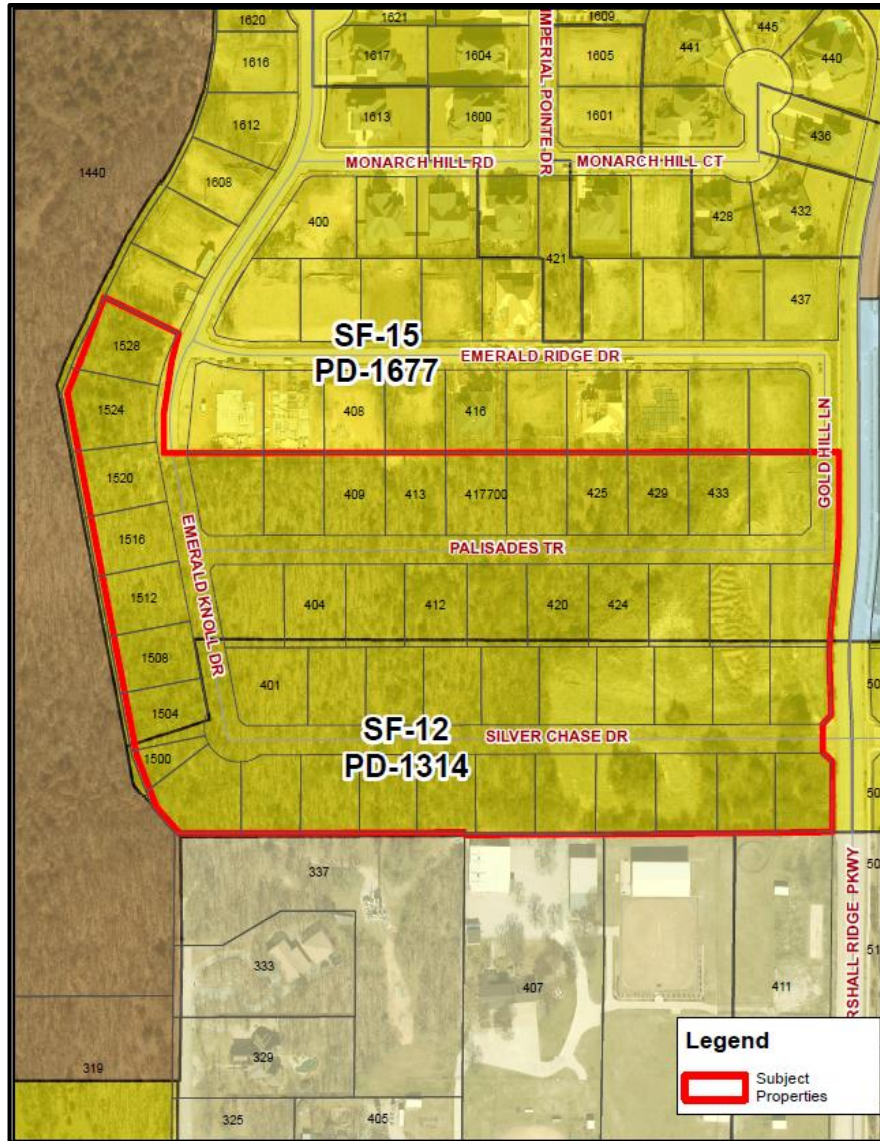


Item H-5

Consider a resolution approving an appeal to the City of Keller Unified Development Code, Article 8, Zoning Districts, Development Standards, and Tree Preservation, Section 8.18, Tree and Natural Feature Preservation and Amend Resolution No. 3769 to allow advanced tree removal and lot grading for residential, Lots 1-4 and Lots 8-18, Block D, Lots 1-3 and Lots 20-18, Block E, and Lots 11-13 and Lots 18-20, Block F, Marshall Ridge Phase 3D, a portion of residential development consisting of forty-eight (48) residential lots, and one (1) open space lot, located on approximately 19.636-acres of land, located on the west side of Marshall Ridge Parkway and, approximately 1,000 feet north of Mount Gilead Road, and zoned as PD-SF-12 (Planned Development-Single Family Residential-12,000 square foot minimum) and PD-SF-15 (Planned Development-Single Family Residential-15,000 square foot minimum). Meritage Homes of Texas, LLC, owner/applicant. (TB-17-0002)

Item H-5 Zoning Map



Item H-5 Aerial View



Item H-5 Background

An appeal to the Tree and Natural Preservation requirements was approved by Resolution No. 3769 on June 21, 2016 with the following conditions (**GREEN TEXT** are conditions which have been satisfied):

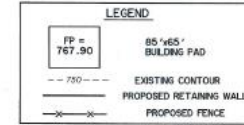
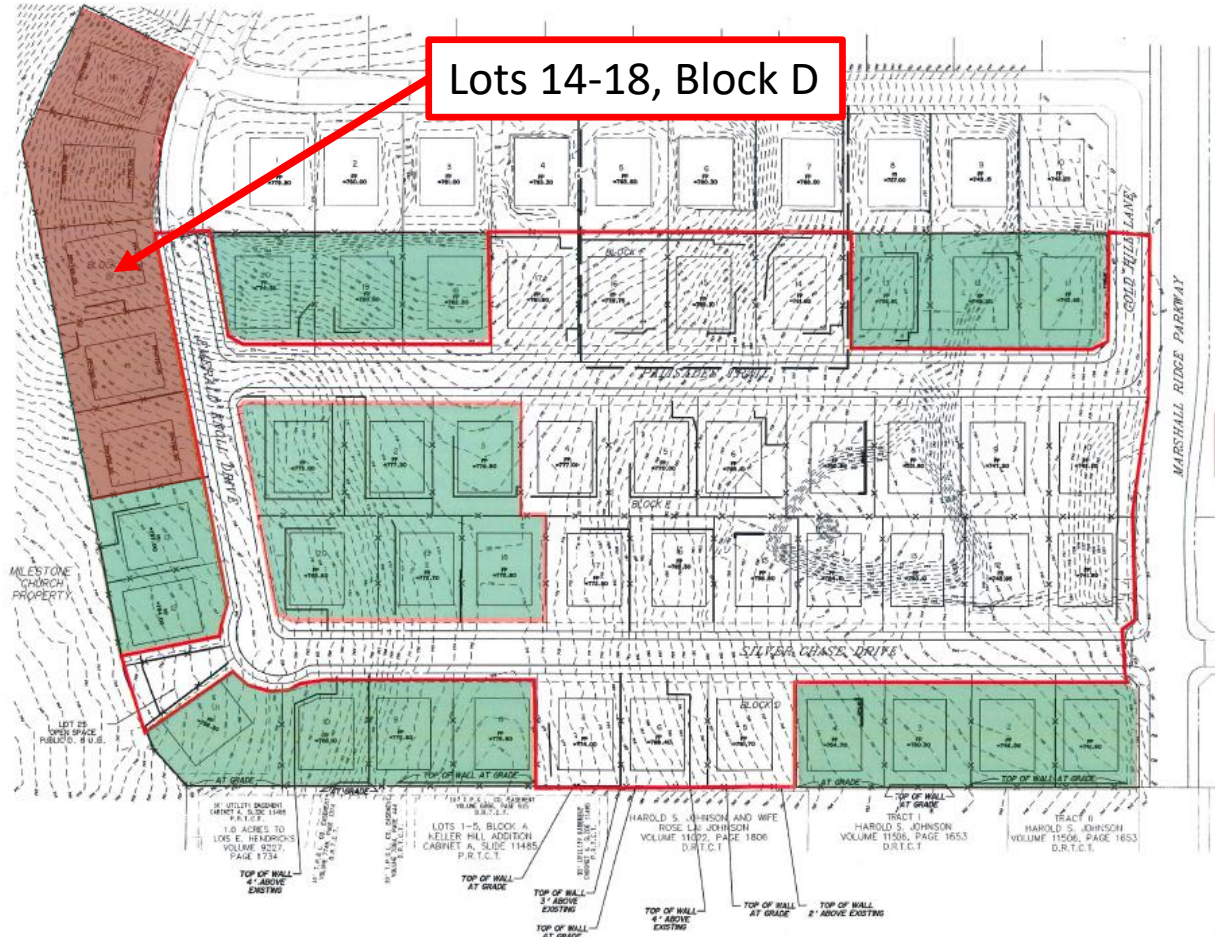
1. **Approve the tree preservation plan as presented with additional planting, upsizing of required trees in the residential lots, escrowing \$56,800 with the City** to be refunded at the final approval of the 45th lot/ home or when the final caliper inches are planted. **Beginning at two (2) years from the effective date of final acceptance of public improvements, five (5) building permits must be pulled within the previous six (6) months** and five (5) building permits must be pulled every subsequent six (6) months, or the obligation of the developer will be considered unmet, the escrowed funds would be forfeited to the City's Tree Reforestation Fund, less the mitigated amount (installation of the additional trees) to date in Marshall Ridge Phase 3D. The CC&Rs for Marshall Ridge Phase 3D shall include this recommendation for tree mitigation as approved by the City. **(Escrow paid) (4 permits issued, 4 under review as of October 30, 2017)**
2. **The developer shall have a ninety (90) day period from date of approval by City Council to determine how many caliper inches may be planted within the Marshall Ridge subdivision open spaces. An escrow of \$196, 750 shall be made to the City, a portion of which may be refunded to the applicant in the amount of mitigation trees planted in the open space areas. The remaining amount after completion of installation of mitigation trees in the Marshall Ridge open space areas shall be forfeited to the City's Tree Reforestation Fund. (Completed April 3, 2017, - 63 trees (252 Caliper inches)planted, \$25,200 refunded)**
3. **Grading shall be permitted to develop streets, utilities and easement areas, but limited to residential lot prep (including tree removal, earthwork, and retaining walls) up to twenty—one (21) of the forty-eight (48) lots in Sub—Phase 1 as shown on the attached Exhibit "A". (Completed August 19, 2017)**

Item H-5 Background

4. Additional erosion control measures as shown in the attached Exhibit "A" shall be installed for those lots prepped in Sub—Phase 1 . Staff shall establish a recurring on—site meeting with the developer on a monthly basis to evaluate the effectiveness of the additional erosion control measures installed. (Completed and monitored with weekly inspections)
5. Lots 14—18, Block D shall be excluded from Sub—Phase 2 grading and shall only be graded at time of release of building permits for these lots.
6. Sub—Phase 2 (remaining twenty-two (22) lots) , will commence development upon the completion of a final inspection on fifty percent (50%) of those lots developed in Sub—Phase 1 (11 residential lots) and the effectiveness of the additional erosion control measures has met the requirements of City staff. City staff shall submit a final report on the effectiveness of the erosion control measures to City Council prior to Sub-Phase 2 grading. If City staff does not approve of the effectiveness of the additional erosion control measures for Sub—Phase 1, then City Council shall consider the release of Sub—phase 2 grading.

Item H-5

Lots 14-18, Block D



AREAS IN GREEN WILL NOT BE DISTURBED WITH THE INITIAL MARSHALL RIDGE PHASE 3D GRADING OPERATIONS.

RECEIVED
SEP 08 2017

BY:



REVIEWED CITY OF KELLER Engineer for Construction Date City Engineer	4/8/16 - REVISED PER COMMENTS						
MARSHALL RIDGE PHASE 3D CITY OF KELLER, TEXAS							
ADJACENT BUILDING HEIGHT DISPLAY							
GOODWIN MARSHALL CIVIL ENGINEER - PLANNING/SURVEYOR	<table border="1"> <tr> <th>DATE</th> <th>BY</th> <th>REVISION</th> </tr> <tr> <td>NOVEMBER 2005</td> <td>AD</td> <td>1</td> </tr> </table>	DATE	BY	REVISION	NOVEMBER 2005	AD	1
DATE	BY	REVISION					
NOVEMBER 2005	AD	1					
SHEET 12a of 39							

NOTES:
PRIVACY FENCE WILL BE CONSTRUCTED ALONG THE COMMON SOUTH PROPERTY LINE AT EXISTING GRADE WHERE NO WALL IS PROPOSED. WHERE A WALL IS PLANNED, THE FENCE WILL BE CONSTRUCTED ABOVE THE RETAINING WALL.
SIDE YARD FENCES WILL BE CONSTRUCTED ON TOP OF RETAINING WALLS THAT ARE IMMEDIATELY ADJACENT TO THE SIDE LOT LINE.

BENCHMARK ELEVATION: 726.38
City of Keller 1990-2015 area with water approximately 20 feet west of the centerline of US Hwy 377 and 20 feet east of the centerline of US Hwy 377 and 20 feet south of the intersection of US Hwy 377 & W. Coldwell Lane.

Amending Resolution No. 3769:
Conditions 5.

Amended Condition:

5: Remove the requirement for Lots 14-18, Block D, which restrict grading to be done at the time of the single-family home permit approval.

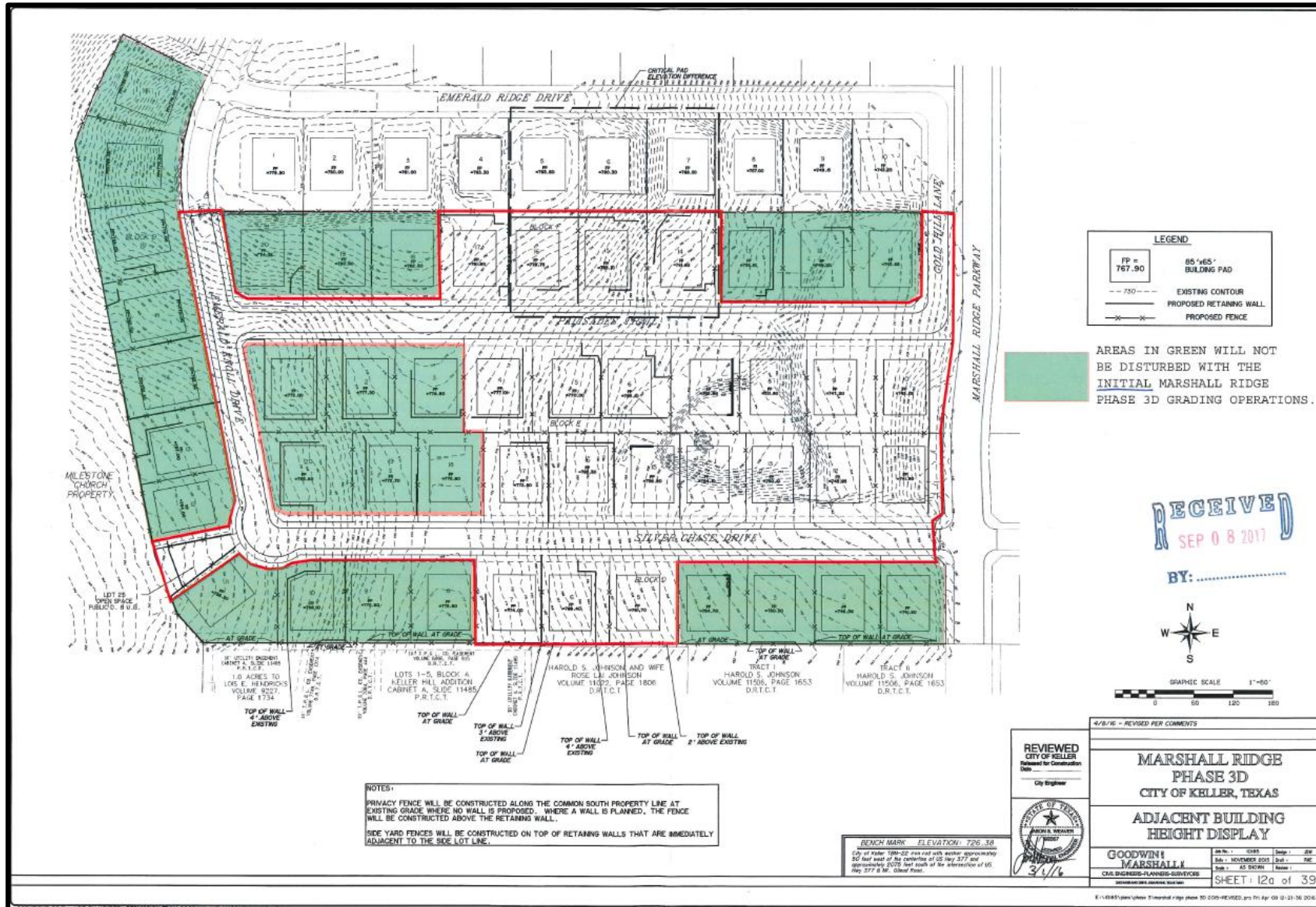
Item H-5

Amending Resolution No. 3769:
Condition 6.

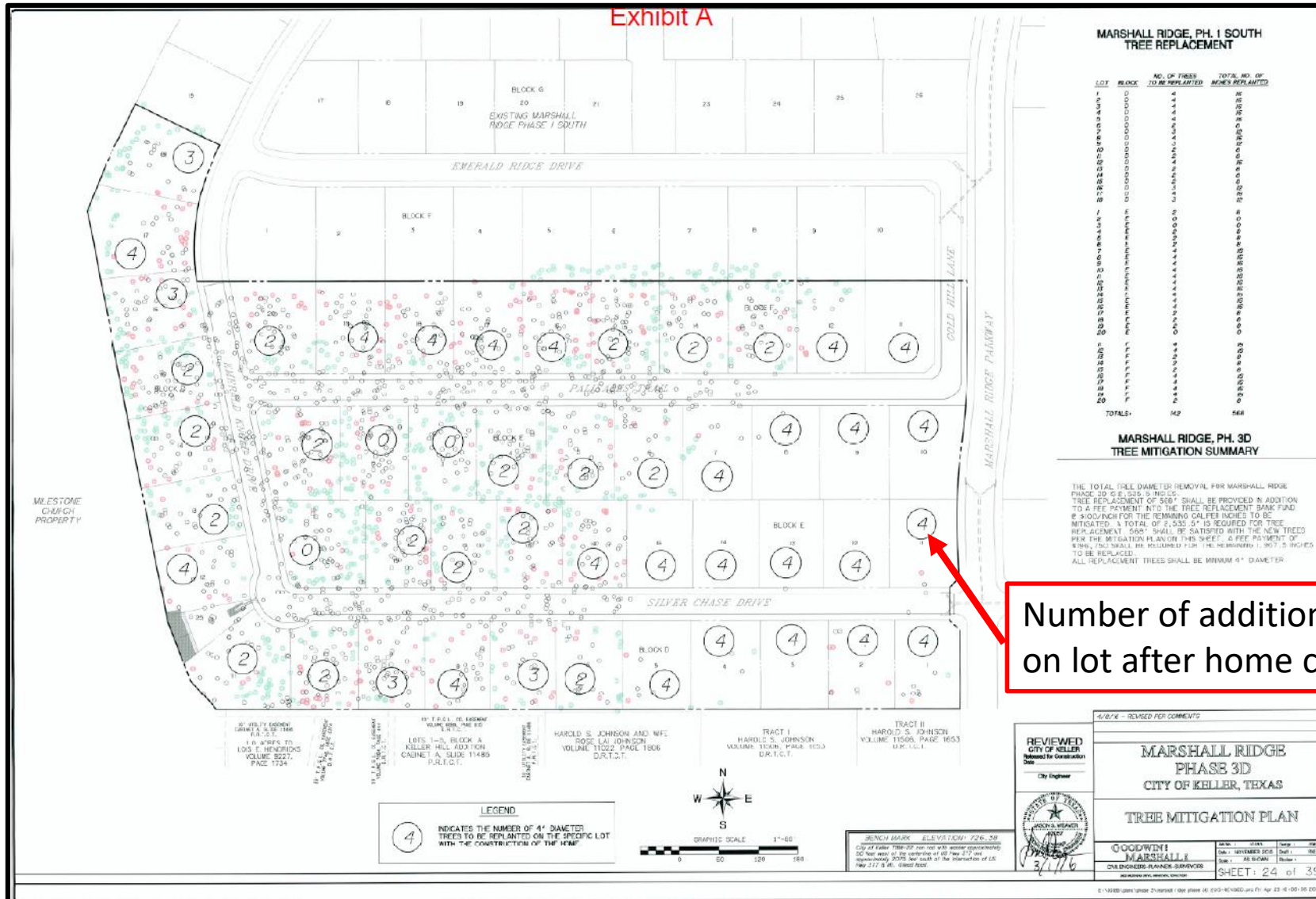
Amended Condition:

6: Allow Sub-Phase II to begin advanced tree removal and lot grading per the approved mitigation and tree protection plans once the additional erosion control measures for Sub-Phase I met City staff requirements.

Note: the City has accepted Marshall Ridge Phase 3D and erosion control for Sub-Phase I has been installed per Resolution No. 3769.



Item H-5



Marshall Ridge Phase 3D
Mitigation Plan.

No changes proposed.

Number of additional trees planted
on lot after home construction

Item H-5 Analysis

The applicant is requesting to perform advanced lot grading and tree removal for Sub-Phase II in Marshall Ridge Phase 3D. The following amendments to Resolution No. 3769 are being proposed:

1. Eliminate the following condition: 5. Lots 14—18, Block D shall be excluded from Sub—Phase 2 grading and shall only be graded at time of release of building permits for these lots.
2. Amend the following condition: 6. Sub—Phase II (remaining twenty-two (22) lots), will commence development upon final acceptance of Sub-Phase 1 by City staff and the effectiveness of the additional erosion control measures has meet the requirements of City staff.

Item H-5 Professional Opinion

Staff is in **support** of the intent to release Sub-Phase II for advanced grading. The development is inspected weekly for the integrity of the tree protection fencing. The weekly inspection will also allow staff to monitor the erosion control. Staff **does not support** accepting the responsibility of ensuring the effectiveness of the erosion control measures.

Staff would support the amendment to read as:

6. Sub—Phase II (remaining twenty-two (22) lots), will commence development upon final acceptance of Sub-Phase 1 by City staff and the effectiveness of the additional erosion control measures has meet the requirements approved by Resolution No 3769.

Item H-5 Professional Opinion

The Planning and Zoning Commission considered this item on October 9, 2017 and recommended approve by a unanimous vote (7-0) with the following conditions:

1. Approve the tree preservation plan as presented with additional planting, upsizing of required trees in the residential lots, escrowing \$56,800 with the City to be refunded at the final approval of the 45th lot/ home or when the final caliper inches are planted. Beginning at two (2) years from the effective date of final acceptance of public improvements, five (5) building permits must be pulled within the previous six (6) months and five (5) building permits must be pulled every subsequent six (6) months, or the obligation of the developer will be considered unmet, the escrowed funds would be forfeited to the City's Tree Reforestation Fund, less the mitigated amount (installation of the additional trees) to date in Marshall Ridge Phase 3D. The CC&Rs for Marshall Ridge Phase 3D shall include this recommendation for tree mitigation as approved by the City.
2. The developer shall have a ninety (90) day period from date of approval by City Council to determine how many caliper inches may be planted within the Marshall Ridge subdivision open spaces. An escrow of \$196,750 shall be made to the City, a portion of which may be refunded to the applicant in the amount of mitigation trees planted in the open space areas. The remaining amount after completion of installation of mitigation trees in the Marshall Ridge open space areas shall be forfeited to the City's Tree Reforestation Fund.
3. Grading shall be permitted to develop streets, utilities and easement areas, but limited to residential lot prep (including tree removal, earthwork, and retaining walls) up to twenty-one (21) of the forty-eight (48) lots in Sub-Phase 1 as shown on the attached Exhibit "A".
4. Additional erosion control measures as shown in the attached Exhibit "A" shall be installed for those lots prepped in Sub-Phase 1. Staff shall establish a recurring on-site meeting with the developer on a monthly basis to evaluate the effectiveness of the additional erosion control measures installed.

Item H-5 Professional Opinion

The Planning and Zoning Commission considered this item on October 9, 2017 and recommended approve by a unanimous vote (7-0) with the following conditions:

5. **Eliminate this condition in its entirety: Lots 14-18, Block D shall be excluded from Sub-Phase 2 grading and shall only be graded at time of release of building permits for these lots.**
6. **Sub-Phase II (remaining twenty-two (22) lots), will commence development upon final acceptance of Sub-Phase 1 by City staff and the effectiveness of the additional erosion control measures has meet the requirements approved by Resolution No 3769.**

Item H-5 City Council Action

The City Council has the following options when considering this appeal to the UDC Tree Preservation requirements:

- Approve of the tree preservation plan amendment as presented (with the requested amendments to Resolution No. 3769 conditions 5 and 6).
- Approve with modified or additional conditions. (including staff and Planning and Zoning Commission recommended changes to condition 6)
- Tabling the agenda item to a specific date with clarification of intent and purpose.
- Deny (Current Approved Tree Preservation Appeal under Resolution No. 3769 remains in effect).



Questions?
Michele Berry
817-743-4125

**Marshall Ridge Phase 3D
Tree Appeal Amendment**

P&Z – October 9, 2017

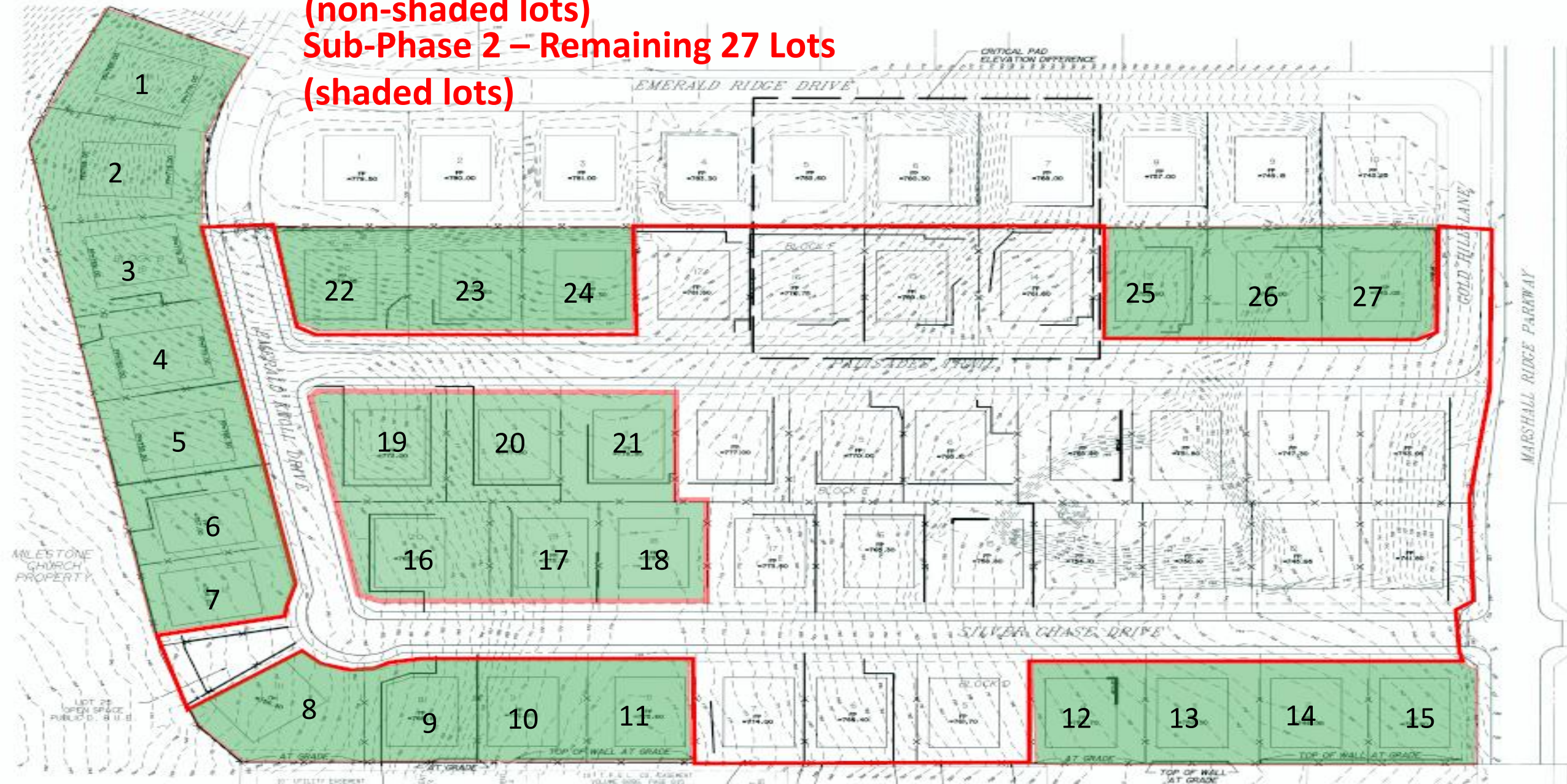


Request to Amend Resolution No. 3769

- ***Resolution No. 3769, Item No. 5:*** Eliminate this requirement. Lots 14-18, Block D will be included as part of amended Item No. 6 as stated below.
- ***Resolution No. 3769, Item No. 6:*** Revise to state, “Sub-Phase 2 (remaining twenty-seven (27) lots) may commence development upon the final acceptance of Sub-Phase 1 by City staff and the effectiveness of the additional erosion control measures has met the requirements of City Council Resolution No. 3769.”

LIFE. BUILT. BETTER.

Sub-Phase 1 – Complete
(non-shaded lots)
Sub-Phase 2 – Remaining 27 Lots
(shaded lots)



Sub-Phase 1 – Complete Aerial View



Sub-Phase 1 – Complete Aerial View

 **SOLD LOTS**



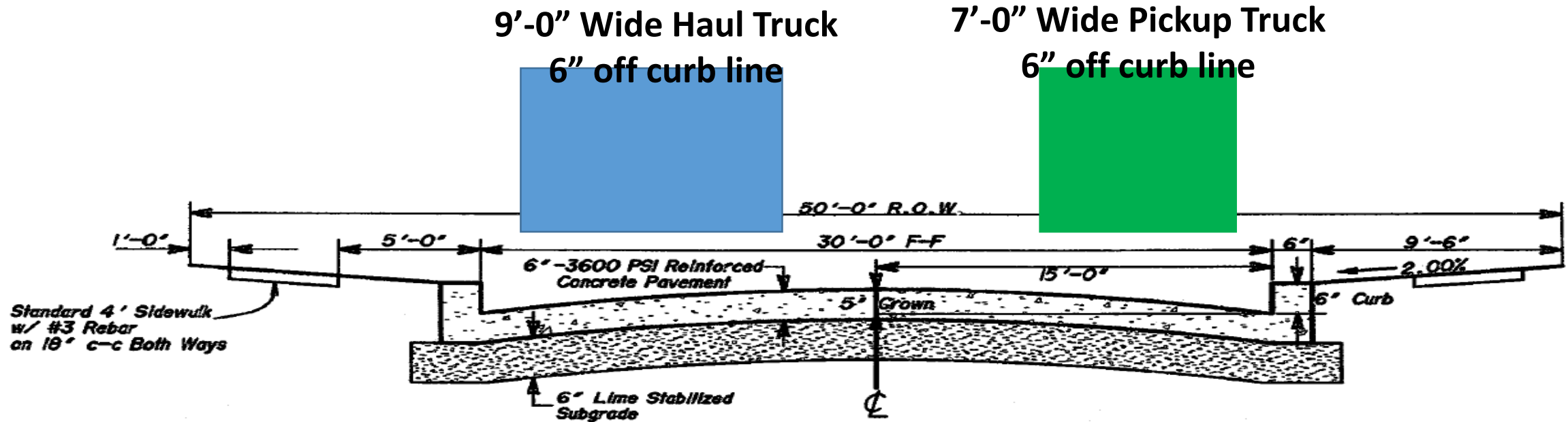
Justification to Amend Resolution No. 3769

- Since releasing the Sub-Phase 1 lots for sale in July 2017 and receiving final acceptance from City of Keller on August 14, 2017, Meritage Homes has sold **eight (8)** of the Sub-Phase 1 lots. (*Please note at time of submittal request to City staff for review, six (6) sales were recorded)
- As of 9/29/2017, **four (4) (of the eight (8) sold homes)** have received building permit for construction.
- The buyer(s) for each new home has noticed the remaining lots to development within Phase 3D (i.e. Sub-Phase 2 lots) and has expressed concerns regarding City Council's mandate to delay the development of Sub-Phase 2 lots until after they occupy their new home.
- By delaying the development of Sub-Phase 2 lots, this will create additional construction traffic by land development contractors on streets where homes will be occupied by residents of Keller. This will be an additional burden to these residents on top of the homebuilding construction traffic within this community.

• City performs weekly inspection of erosion control measures on public right-of-way.

LIFE. BUILT. BETTER.

Traffic/Street Impact



City of Keller
Standard Residential Street Section

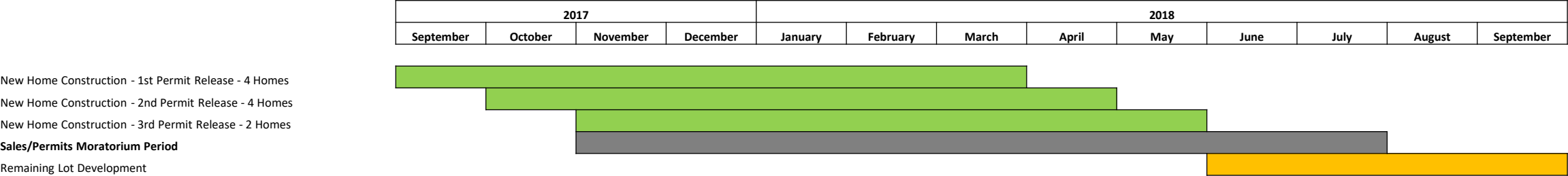
LIFE. BUILT. BETTER.

MeritageHomes®

Setting the standard for energy-efficient homes™

New Homeowner Impact

TIMELINE IMPACT PER CURRENT RESOLUTION NO. 3769



ELIMINATED TIMELINE & NEW HOMEOWNER IMPACT WITH AMENDED RESOLUTION NO. 3769



LIFE. BUILT. BETTER.



Letters of Support

- Steve & Cazandra Farrar – Future Owner of 417 Palisades
- Lain & Amber Cloy – Future Owners of 421 Palisades
- Charles Tirumalareddy – Future Owner of 424 Palisades
- Marshall Ridge HOA Board Members

LIFE. BUILT. BETTER.

September 19, 2017

Mr. David Hawkins, AICP
Planning Manager
City of Keller, Texas
1100 Bear Creek Pkwy
Keller, TX 76244

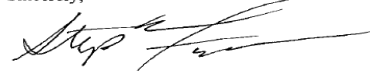
Re: Marshall Ridge Phase 3D
Letter of Support
Meritage Homes Request to Amend Tree Appeal Resolution No. 3769

Mr. Hawkins:

Please accept this letter of support in favor of Meritage Homes request to amend Tree Appeal Resolution No. 3769 for Marshall Ridge Phase 3D. As a recent purchaser of a new home that will be constructed within the community, we feel the additional nuisance and construction traffic that will be generated as part of the remaining lot development could be avoided if Meritage were allowed to move forward immediately with the development of remaining lots given the initial phase of lots, streets & utilities have been accepted by the City of Keller.

We'd appreciate both City staff and City Council's consideration of approval on this item.

Sincerely,



Steve and Cassandra Farrar
417 Palisades
Keller, Tx 76248

September 9th, 2017

Mr. David Hawkins, AICP
Planning Manager
City of Keller, Texas
1100 Bear Creek Pkwy
Keller, TX 76244

Re: Marshall Ridge Phase 3D
Letter of Support
Meritage Homes Request to Amend Tree Appeal Resolution No. 3769

Mr. Hawkins:

Please accept this letter of support in favor of Meritage Homes request to amend Tree Appeal Resolution No. 3769 for Marshall Ridge Phase 3D. As a recent purchaser of a new home that will be constructed within the community, we feel the additional nuisance and construction traffic that will be generated as part of the remaining lot development could be avoided if Meritage were allowed to move forward immediately with the development of remaining lots given the initial phase of lots, streets & utilities have been accepted by the City of Keller.

We'd appreciate both City staff and City Council's consideration of approval on this item.

Sincerely,



Charles Tirumalareddy
424 Palisades Trail
Keller, TX 76248

September 9, 2017

Mr. David Hawkins, AICP
Planning Manager
City of Keller, Texas
1100 Bear Creek Pkwy
Keller, TX 76244

Re: Marshall Ridge Phase 3D
Letter of Support
Meritage Homes Request to Amend Tree Appeal Resolution No. 3769

Mr. Hawkins:

Please accept this letter of support in favor of Meritage Homes request to amend Tree Appeal Resolution No. 3769 for Marshall Ridge Phase 3D. As a recent purchaser of a new home that will be constructed within the community, we feel the additional nuisance and construction traffic that will be generated as part of the remaining lot development could be avoided if Meritage were allowed to move forward immediately with the development of remaining lots given the initial phase of lots, streets & utilities have been accepted by the City of Keller.

We'd appreciate both City staff and City Council's consideration of approval on this item.

Sincerely,



Lain and Amber Cloy
421 Palisades
Keller, Tx 76248

September 21, 2017
Mr. David Hawkins, AICP
Planning Manager
City of Keller, TX
1100 Bear Creek Pkwy
Keller, TX 76244

Re: Marshall Ridge Phase 3D
Letter of Support
Meritage Homes Request to Amend Tree Appeal Resolution No. 3769

Mr. Hawkins,

Please accept this letter of support in favor of Meritage Home request to amend Tree Appeal Resolution No. 3769 for Marshall Ridge Phase 3D. As the HOA Board for the community, we feel the additional nuisance and construction traffic that will be generated as part of the remaining lot development could be avoided if Meritage were allowed to move forward immediately with the development of remaining lots given the initial phase of lots, streets and utilities have been accepted by the City of Keller.

We'd appreciate both City staff and City Council's consideration of approval of this item.

Sincerely,

Marshall Ridge HOA Board of Directors

Angela Walby
Lori Mira
Matt Gilpin
Mike Morgan

LIFE. BUILT. BETTER.


Setting the standard for energy-efficient homes™

End

LIFE. BUILT. BETTER.