



**CITY OF FAIR OAKS RANCH**

**PLANNING AND ZONING COMMISSION MEETING**

Thursday, September 14, 2023 at 6:30 PM

Public Safety Training Room, Police Station, 7286 Dietz Elkhorn, Fair Oaks Ranch

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**AGENDA**

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**OPEN MEETING**

1. Roll Call - Declaration of a Quorum
2. Pledge of Allegiance

**CITIZENS and GUEST FORUM**

*To address the Commission, please sign the Attendance Roster located on the table in the foyer of the Public Safety Training Room. In accordance with the Open Meetings Act, the P&Z Commission may not discuss or take action on any item which has not been posted on the agenda. Speakers shall limit their comments to five (5) minutes each.*

3. Citizens to be heard.

**CONSIDERATION / DISCUSSION ITEMS**

4. Consideration and possible action recommending approval of a Heritage Tree Plan for the Fox Falls Off-site Gravity Sewer Project.

Kelsey Delgado, Environmental Program Manager

**WORKSHOP**

5. Review of the Unified Development Code amendment process.

Gregory C. Maxton, Mayor

**ADJOURNMENT**

*Request for P&Z commission topic needing information/research*

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**Signature of Agenda Approval:** s/Scott Huizenga

Scott Huizenga, Interim City Manager

I, Christina Picioccio, TRMC, City Secretary, certify that the above Notice of Meeting was posted on the outside bulletin board at the Fair Oaks Ranch City Hall, 7286 Dietz Elkhorn, Fair Oaks Ranch, Texas, and on the City's website [www.fairoaksranchtx.org](http://www.fairoaksranchtx.org), both places being convenient and readily accessible to the general public at all times.

As per Texas Government Code 551.045, said Notice was posted by 6:30 PM, September 11, 2023 and remained so posted continuously for at least 72 hours before said meeting was convened.

The Fair Oaks Ranch Police Station is wheelchair accessible at the front main entrance of the building from the parking lot. Requests for special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary's office at (210) 698-0900. Braille is not available.



**PLANNING & ZONING CONSIDERATION ITEM**  
**CITY OF FAIR OAKS RANCH, TEXAS**  
**September 14, 2023**

AGENDA TOPIC: Consideration and possible action recommending approval of a Heritage Tree Plan for the Fox Falls Off-site Gravity Sewer Project.  
DATE: September 14, 2023  
DEPARTMENT: Public Works  
PRESENTED BY: Kelsey Delgado, Environmental Program Manager

**INTRODUCTION/BACKGROUND:**

The Fox Falls Off-site Gravity Sewer project is a San Antonio Water System (SAWS) utility project consisting of over two miles of sewer line upgrades between Fair Oaks Village (IH-10 Frontage Road and Fair Oaks Parkway) and Old Fredericksburg Road. The upgrades will cross through Fair Oaks Parkway, Frost Bank, Leslie Pfeiffer Dr and The Woods at Fair Oaks neighborhood and they require tree removal to accommodate the larger sewer line. This project is being completed within existing SAWS utility easements, originally dedicated in 2008 within The Woods at Fair Oaks.

On May 5, 2023, a Tree Preservation Plan and Heritage Plan for the Fox Falls Off-site Gravity Sewer was submitted to the Public Works Department by M.W. Cude Engineers, LLC (**Attachment A**) on behalf of the applicant Meritage Homes of Texas, L.P.

As outlined in UDC Section 8.8, tree mitigation shall be at a 1:1 ratio for Tree Circumference (TC) inches to be removed. In cases where soil, slope, lot size, or other natural constraints make replacing the same number of Tree Circumference (TC) inches unfeasible, the City Manager (or designee), may allow some or all of the mitigation to take place on a separate, public site within the City, or on lands owned by an association that operates and maintains trails, open space, or parkland within the City. In addition, the City Manager (or designee) may allow mitigation by payment of fee for some or all of the trees to be removed, if the City’s fee schedule includes a provision for Fee In Lieu of Replacement Trees.

The applicant has voiced concerns regarding the replanting of mitigation trees within the utility easements since they may interfere with future maintenance requirements or cause damage to the underground sewer line. Additionally, the applicant stated they attempted to find an alternate location for replanting but no resolution with The Woods HOA or FORHA was reached.

On August 17, 2023, Cude Engineers requested to move forward with the plans with the intention that mitigation shall be met through the City Council adoption of a Fee-In-Lieu of Replacement Trees. The first reading of an Ordinance amending the City of Fair Oaks Ranch Code of Ordinances Appendix A “Fee Schedule,” Article A8.000 “Subdivision/Land Development Regulation Fees” to include a Fee-in- of Lieu was approved at the September 7, 2023 Regular City Council meeting. A second reading will be held at the September 21, 2023 City Council meeting.

This plan submission is subject to the City’s UDC adopted in 2019. Section 8.8 contains an exemption for preservation requirements for trees in utility easements but states the following

requirements: "A Heritage Plan is required to be reviewed and approved by the Planning and Zoning Commission and City Council prior to any construction activity that is likely to endanger a Heritage Tree, TC 75 inches or larger. The tree trunk circumference is measured at diameter of breast height (DBH), or four and a half (4 1/2) feet, as detailed by the Texas Forest Service...A Heritage Plan must be submitted to the City, reviewed by City Staff, and voted on by the Planning and Zoning Commission before a Preliminary Plat or Site Development Permit is forwarded to City Council. It must be approved by City Council before a Preliminary Plat is approved." The submitted Heritage Plan shows the following Heritage Trees:

<u>Tag #</u>	<u>Size/Type</u>	<u>Saved/Removed</u>
Tree #6067	42" Oak	To Be Removed
Tree #6093	38" Oak	To Be Removed
Tree #32337	26" Oak	To Be Removed
Tree #32344	25" Oak	To Be Removed

To mitigate, the applicant has requested to pay a fee-in-lieu once adopted by City Council. The proposed Fee-In-Lieu schedule is as follows:

<b>PROPOSED FEE-IN-LIEU SCHEDULE</b>	
<b>Tree Type</b>	<b>Fee per Circumference Inch</b>
Heritage (24-48" diameter)	\$200
Protected (12-24" diameter)	\$100
Standard (8-12" diameter)	\$50

Based on the proposed fee-in-lieu, the payment for removing heritage trees is estimated to be \$82,400.

**Applicable UDC sections**

Section 8.8 (6)(b) states:

"b. A Heritage Plan must be submitted to the City, reviewed by City Staff, and voted on by the Planning and Zoning Commission before a Preliminary Plat or Site Development Permit is forwarded to City Council. It must be approved by City Council before a Final Plat is approved."

Section 8.8(2)(b) states:

*“Preservation Exemptions.* The following areas are exempt from the preservation requirements of this section:

- i. Right-of-way. Trees located within a right-of-way to be dedicated to and maintained by the City; and
- ii. Easements. **Trees located within any utility easement”**

Section 8.8 (7) states:

*“a. Removal by Right.* Protected Trees, including Heritage Trees, located within 10 feet of the perimeter of the proposed building footprint, the area over an OSSF, areas necessary for site access, **or within areas designated for the construction or installation of public facilities such as streets or utilities may be removed at the discretion of the applicant, provided that the terms of Sections 8.8(7)b-c. (below) are satisfied;**

*b. Removal and Mitigation of Protected Trees.* Developers of land are encouraged to preserve protected trees whenever possible. An applicant may remove Protected Trees if approved mitigation is provided. Generally speaking, mitigation shall be at a 1:1 ratio for TC inches to be removed. The applicant may plant smaller trees to replace Protected Trees, provided that no tree smaller than TC 8 inches is generally allowed, and that the total tree coverage on the lot (as measured in TC inches) is approximately the same as pre-development conditions. In cases where soil, slope, lot size, or other natural constraints make replacing the same number of TC inches unfeasible, the City Manager (or his designee), may, at their sole discretion, allow some or all of the mitigation to take place on a separate, public site within the City, or on lands owned by an association that operates and maintains trails, open space, or parkland within the City and that are usable by residents of the general area where the applicant’s land is located. In addition, **the City Manager (or designee) may allow mitigation by payment of fee for some or all of the Protected Trees to be moved, if the City’s fee schedule includes a provision for Fee In Lieu of Replacement Trees.**

*c. Removal and Mitigation of Heritage Trees.*

i. Heritage Trees may not be removed during construction, except under certain specific circumstances:

1. If the tree is sick or diseased and meets the criteria laid out in Section 8.8(4); or
2. **If the tree is within the footprint as described in Section 8.8(7)a; or**
3. If the removal is approved by the City Council after consideration by the P&Z, with a formal recommendation from the P&Z to the Council on whether to approve the removal.

ii. If any Heritage Trees are planned for removal, they must be identified and clearly marked on the Heritage Plan. The Heritage Plan must also identify any Heritage Trees that are likely to be endangered by construction activity which might sever or compress the root zone, or otherwise threaten the health and life of the tree, as determined by a reasonable person. The City Council may grant removals under Section 8.8(7)c.i-3 (above) at its sole discretion. In considering whether to allow the removal of Heritage Trees, the City Council shall consider whether removal is absolutely necessary to allow the applicant to meet reasonable, investment-backed expectations for use of the property, and whether such use can be accomplished while preserving Heritage Trees.

**iii. If any Heritage Tree removals are granted, the applicant shall meet all the mitigation and replacement conditions outlined in 8.8(7)b. (above), except that any decisions delegated to the City Manager in that paragraph shall be made by the City Council.”**

Staff has reviewed the Fox Falls Off-site Gravity Sewer Heritage Plan and recommends approval of the Heritage Tree Plan with the condition that mitigation shall be met by payment of the fee-in-lieu once adopted by City Council.

**POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:**

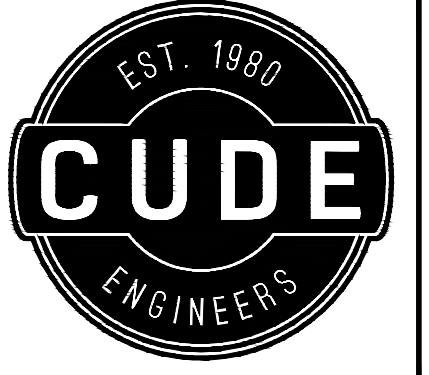
The applicant has met the requirements of the Heritage Plan as stated in section 8.8. As a utility, the applicant is exempt from Preservation requirement. However, the applicant is still subject to mitigation requirements. Replacing trees is not practical because the parcel is in a utility (sewer) easement and public land is not available for replanting. Therefore, a Fee in Lieu of Replacement Trees is the most viable option. The City Council must still approve the proposed fee schedule.

**LONGTERM FINANCIAL & BUDGETARY IMPACT:**

An estimated \$82,400 would be available for the City Council to initiate a tree preservation program for such activities including, but not limited to, right-of-way tree maintenance, oak wilt remediation, and citywide tree planting.

**RECOMMENDATION/PROPOSED MOTION:**

I move to recommend approval for the Fox Falls Off-site Gravity Sewer Heritage Tree Plan with the condition that mitigation shall be met by payment of the fee-in-lieu once adopted by City Council.



4122 Pond Hill Road, Suite 101  
San Antonio, Texas 78231  
P: (210) 681-2951 F: (210) 523-7112

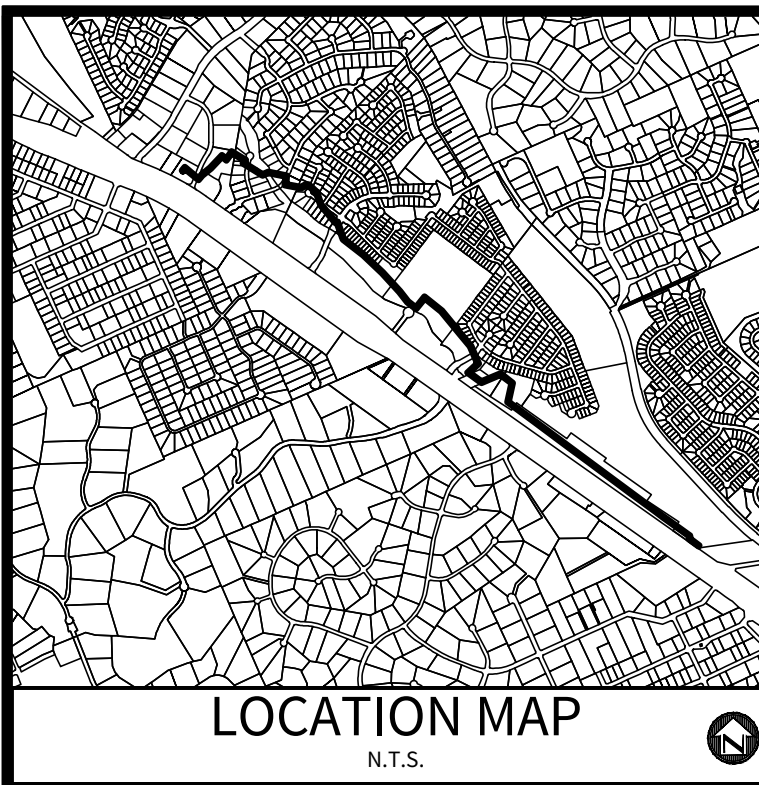
FOX FALLS OFFSITE GRAVITY SEWER  
HERITAGE TREE PRESERVATION PLAN

DATE  
05/05/2023  
PROJECT NO.  
03274.012  
DRAWN BY  
ED/AG  
CHECKED BY  
HS/DDC

REVISIONS  
1.  
2.  
3.  
4.  
5.  
6.  
7.  
8.  
9.

CUDE ENGINEERS  
TBPE No. 455  
TBPLS No. 10048500

**T1.00**

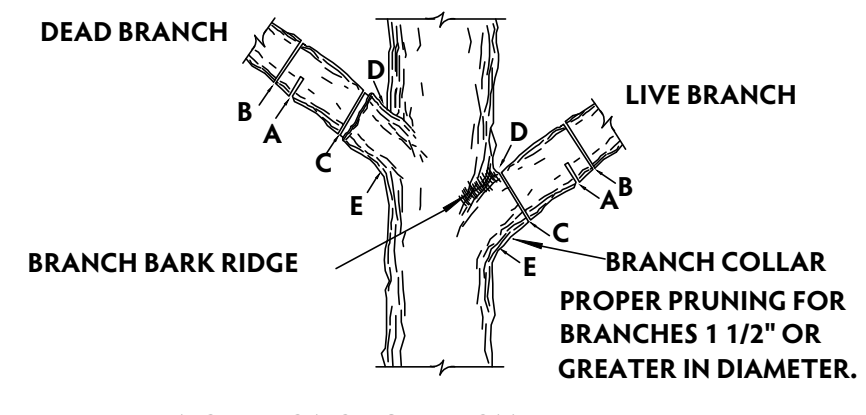
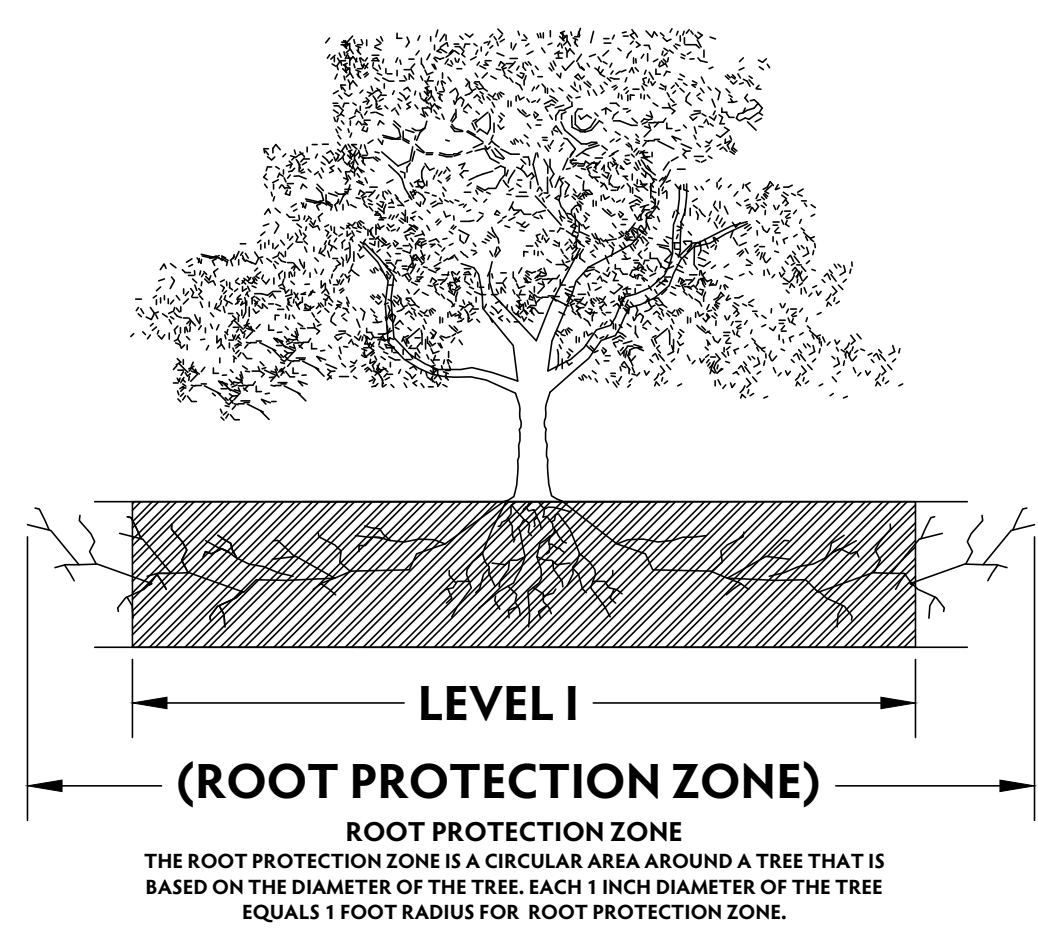


**OWNER/DEVELOPER:**  
HERITAGE HOMES OF TEXAS, L.P.  
CONTACT PERSON: TONDA ALEXANDER  
2722 W. BITTERS RD, SUITE 200  
SAN ANTONIO, TX 78231  
TEL: (210) 402-6045  
FAX: (210) 402-7397

**CIVIL ENGINEER:**  
M.W. CUDE ENGINEERS, L.L.C.  
CONTACT PERSON: DAVID CUPIT, P.E.  
4122 POND HILL ROAD, SUITE 101  
SAN ANTONIO, TX 78231  
TEL: (210) 681-2951  
FAX: (210) 523-7112

- NOTES:**
- FOX FALLS OFF-SITE GRAVITY SEWER IS SUBJECT TO THE CITY OF FAIR OAKS RANCH UNIFIED DEVELOPMENT CODE SECTION 8.8 - TREE AND HABITAT PROTECTION.
  - ALL TREES SHOWN ON THIS HERITAGE TREE PRESERVATION PLAN HAVE A TREE CIRCUMFERENCE OF 75 INCHES OR GREATER AS DESCRIBED IN THE CITY OF FAIR OAKS RANCH UNIFIED DEVELOPMENT CODE SECTION 8.8 (6).
  - ALL TREES SHOWN ON THIS TREE PRESERVATION PLAN ARE EXEMPT FROM THE TREE PRESERVATION REQUIREMENT PER THE CITY OF FAIR OAKS UNIFIED DEVELOPMENT CODE SECTION 8.8 (2) c.
  - ANY SUBSEQUENT NOTES DEALING WITH ROOT PROTECTION DO NOT APPLY TO RESIDENTIAL DEVELOPMENTS.
  - ALL EXISTING TREES DENOTED ON THIS PLAN TO BE PRESERVED AS SHOWN AND PROTECTED AT THE ROOT PROTECTION ZONE (RPZ). THE RPZ SHALL BE A MINIMUM OF 1 FOOT PER TREE FOR EACH 3.1" OF THE TREE.
  - A (CHAINLINK OR ORANGE MESH FENCE) BARRIER AROUND THE RPZ SHALL BE ERECTED AND MAINTAINED UNTIL CONSTRUCTION IS COMPLETED.
  - RPZ SHALL BE SUSTAINED IN A NATURAL STATE AND SHALL BE FREE FROM VEHICULAR OR MECHANICAL TRAFFIC; NO FILL, EQUIPMENT, LIQUIDS, OR CONSTRUCTION DEBRIS SHALL BE PLACED INSIDE THE PROTECTIVE BARRIER.
  - THE RPZ SHALL BE COVERED WITH 6" OF COARSE MULCH TO REDUCE MOISTURE STRESS.
  - ANY DAMAGE DONE TO EXISTING TREE CROWNS OR ROOT SYSTEMS SHALL BE REPAIRED IMMEDIATELY. ALL WOUNDS TO OAKS WILL BE PAINTED WITH PRUNING PAINT WITHIN 30 MINUTES AFTER DAMAGE. ROOTS EXPOSED DURING CONSTRUCTION OPERATIONS WILL BE CUT CLEANLY.
  - THE PROPOSED FINISH GRADE AND ELEVATION OF LAND WITHIN THE ROOT PROTECTION ZONE OF ANY TREE TO BE PRESERVED SHALL NOT BE RAISED OR LOWERED MORE THAN 3". WELLING AND RETAINING METHODS ARE ALLOWED OUTSIDE THE RPZ.
  - THE RPZ SHALL REMAIN PERVIOUS, I.E. GROUND COVER OR TURF AT COMPLETION OF LANDSCAPE DESIGN.
  - PROTECTION OF TREES DURING CONSTRUCTION SHALL FOLLOW SECTION 8.8 (8) OF THE CITY OF FAIR OAKS RANCH UNIFIED DEVELOPMENT CODE.
  - CONTRACTOR TO UPDATE TREE PRESERVATION PLAN FOR CHANGES DURING CONSTRUCTION AND NOTIFY ENGINEER ACCORDINGLY. THE REVISED TREE PRESERVATION PLAN WILL BE RESUBMITTED AND APPROVED BY THE CITY OF FAIR OAKS RANCH.
  - THERE ARE NO PROTECTED OR HERITAGE TREES LOCATED WITHIN THE 100 YEAR FLOODPLAIN.
  - PLANTED TREES SHALL BE NO SMALLER THAN 2.5" IN DIAMETER OR 8" IN TRUNK CIRCUMFERENCE.
  - PER SECTION 8.8 (5) e OF THE CITY OF FAIR OAKS RANCH, A TREE WARRANTY WILL BE PROVIDED TO THE CITY OF FAIR OAKS RANCH REGARDING ALL TREES MARKED TO BE SAVED.
  - A PRE-CONSTRUCTION WALK MUST BE COMPLETED WITH THE CITY OF FAIR OAKS RANCH STAFF PRIOR TO ANY TREE REMOVAL ON-SITE.

TREE CATEGORY	TREE #	SPECIES	DIAMETER (IN.)	TRUNK CIRCUMFERENCE (IN.)	TREE STATUS	REMOVED OR PRESERVED
HERITAGE TREE	6067	OAK	42	132	EXEMPT	REMOVED
HERITAGE TREE	6093	OAK	38	119	EXEMPT	REMOVED
HERITAGE TREE	32337	OAK	26	82	EXEMPT	REMOVED
HERITAGE TREE	32344	OAK	25	79	EXEMPT	REMOVED
<b>PRESERVATION MITIGATION REQUIRED</b>			<b>131</b>	<b>412</b>		
<b>TREE MITIGATION THROUGH PLANTING = 44 ~ 3" TREES</b>			<b>132</b>	<b>415</b>		



- NOTE: DO NOT CUT FROM D to E.**
- FIRST CUT - TO PREVENT THE BARK FROM BEING PEELED WHEN THE BRANCH FALLS.
  - SECOND CUT - TO REDUCE THE WEIGHT OF BRANCH.
  - FINAL CUT - ALLOW FOR HEALING COLLAR BUT NO STUBS
  - BRANCH RIDGES - INDENT PROPERLY BRANCH RIDGES WHICH ARE SITE FOR DECAY.
- FOR OAKS ONLY: PAINT ALL WOUNDS OR CUTS WITH PRUNING PAINT WITHIN 20 MIN TO PREVENT THE SPREAD OF OAK WILT.**

**LEGEND**

