



**US Army Corps
of Engineers**
Fort Worth District

Public Notice

Applicant: D. R. Horton Homes

Permit Application No.: 200300646

Date: October 6, 2004

The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

Regulatory Program

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

Section 10

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

Contact

Name: Mr. Jim Kelly

Phone Number: (817) 886-1739

JOINT PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT

AND

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SUBJECT: Application for a Department of the Army Permit under Section 404 of the Clean Water Act (CWA) and for water quality certification under Section 401 of the CWA to discharge dredged and fill material into waters of the United States associated with the construction of a commercial, retail, and residential development known as the Cedar Park Town Center located in Cedar Park, Williamson County, Texas.

APPLICANT: D. R. Horton Homes
Mr. Richard Maier
12554 Riata Vista Circle, Suite 200
Austin, Texas 78727

APPLICATION NUMBER: 200300646

DATE ISSUED: October 6, 2004

LOCATION: The proposed commercial, retail, and residential development would be located on Spanish Oak Creek and associated wetlands approximately 0.25 mile east of United States Highway 183 on Farm-to-Market (FM) 1431 in Cedar Park, Williamson County, Texas. The proposed project would be located approximately at UTM coordinates 613379.663 East and 3377420.667 North (Zone 14) on the Leander 7.5-minute USGS quadrangle map in the USGS Hydrologic Unit 12070205.

OTHER AGENCY AUTHORIZATIONS: State Water Quality Certification

PROJECT DESCRIPTION: The proposed project is phase II of a two phase development along Spanish Oak Creek (Sheets 1-8 of 8). Phase I was previously authorized under the name of Discovery Boulevard Crossing as U. S. Army Corps of Engineers (USACE) project number 200300301 by nationwide permit 39 for Residential, Commercial, and Institutional Developments. The proposed phase II development would be a commercial, retail, and residential development including one road crossing (Main Street) of Spanish Oak Creek, one retention pond, and channel modifications (Sheets 3-8 of 8). The Main Street crossing would be located downstream of the retention pond (Sheet 3 of 8) and would serve as a secondary crossing of Spanish Oak Creek for traffic from FM 1431 to development north of Spanish Oak Creek. The crossing would involve the placement of six 8- by 6-foot concrete box culverts and associated fill (Sheet 5 of 8). The retention pond would be excavated to a maximum depth of 3

feet with planting shelves around the margins (Sheet 4 of 8). Channel modifications would involve the construction of a meandering creek channel with a sinuous low-flow channel (Sheets 3 and 6-8 of 8). The creek channel would have a bottom width that would vary from 50 to 90 feet with 3 to 1 (horizontal to vertical) side slopes.

The proposed site consists of upland agricultural land with Spanish Oak Creek running from northwest to southeast across the lower section of the property (Sheet 1 of 8). Spanish Oak Creek is an ephemeral stream upstream of the project area, but the stream exhibits a braided channel configuration with wetland characteristics below Discovery Boulevard (Sheet 2 of 8). The majority of the site is dominated by various grasses and wildflowers with a few trees and shrubs. Vegetation in the upland agricultural land consists of Texas wintergrass (*Stipa leucotrichia*), broomweed (*Xanthocephalum dracunculoides*), greenbrier (*Smilax bona-nox*), prickly pear (*Opuntia lindheimeri*), cedar elm (*Ulmus crassifolia*), and Ashe juniper (*Juniperus ashei*). The braided wetland is dominated by herbaceous hydric vegetation including spikerush (*Eleocharis montevidensis*) and water primrose (*Ludwigia peploides*).

The proposed project would adversely impact a total of 1.83 acres of herbaceous wetlands of which 0.49 acre would be filled for construction of the retention pond and 1.34 acres would be excavated for channel modifications. The proposed project would result in the discharge of 1,205 cubic yards of dredged and fill material in waters of the United States.

To compensate for unavoidable adverse impacts to waters of the United States, the applicant proposes to enhance the reconstructed length of Spanish Oak Creek and to construct a wetland fringe around the proposed retention pond (Sheets 7-8 of 8). The reconstructed creek channel and adjacent riparian buffer on the south side would be planted with native grasses, wildflowers, shrubs, and trees. The riparian buffer would vary from 130 to 200 feet wide and would extend along 700 linear feet of the reconstructed creek channel (2.37 acres). The proposed retention pond would be constructed with a 6-inch to 1-foot deep planting shelf around most of the perimeter that would be 10 feet wide (0.25 acre) and would be planted with herbaceous, emergent native vegetation. The retention pond would be constructed with a maximum depth of 3 feet (Sheet 4 of 8) under normal water levels and would be planted with waterlilies.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concerns for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including its cumulative effects. Among the factors addressed are conservation, economics, aesthetics, general environmental concerns, wetlands, historic

properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The USACE is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the USACE in determining whether to issue, issue with modifications, or conditions, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

STATE WATER QUALITY CERTIFICATION: This project incorporates the requirements necessary to comply with the Texas Commission on Environmental Quality's (TCEQ) Tier I project criteria. Tier I projects are those which result in a direct impact of three acres or less of waters of the state or 1,500 linear feet of streams (or a combination of the two is below the threshold) for which the applicant has incorporated best management practices (BMPs) and other provisions designed to safeguard water quality. The USACE has received a completed checklist and signed statement fulfilling Tier I criteria for the project. Accordingly, a request for 401 certification is not necessary and there will be no additional TCEQ review.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the U.S. Fish and Wildlife Service's latest published version of endangered and threatened species to determine if any may occur in the project area. The proposed project would be located in Williamson County where the whooping crane (*Grus americana*), least tern (*Sterna antillarum*), bald eagle (*Haliaeetus leucocephalus*), piping plover (*Charadrius melodus*), black-capped vireo (*Vireo atricapillus*), golden-cheeked warbler (*Dendroica chrysoparia*), Bone Cave harvestmen (*Texella reyesi*), Coffin Cave mold beetle (*Batrisodes texanus*), and Tooth Cave ground beetle (*Rhadine persephone*) are known to occur or may occur as migrants. The whooping crane, least tern, black-capped vireo, golden-cheeked warbler, Bone Cave harvestmen, Coffin Cave mold beetle, and Tooth Cave ground beetle are endangered species, and the bald eagle and piping plover are threatened species. Our initial review indicates that the proposed work would have no effect on federally-listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES: The Cedar Park Development was surveyed for the presence of historic and prehistoric cultural resources. Two prehistoric sites were identified by the survey: 41WM650 and 41WM651. In consultation with the State Historic Preservation Office, Horizon Environmental Services, Inc. developed a research design to test the sites for eligibility to the National Register of Historic Places (NRHP). Testing of the sites

indicated that neither site retained the context or quality of preservation necessary to qualify for inclusion in the NRHP. No additional survey or testing work is currently planned for the property.

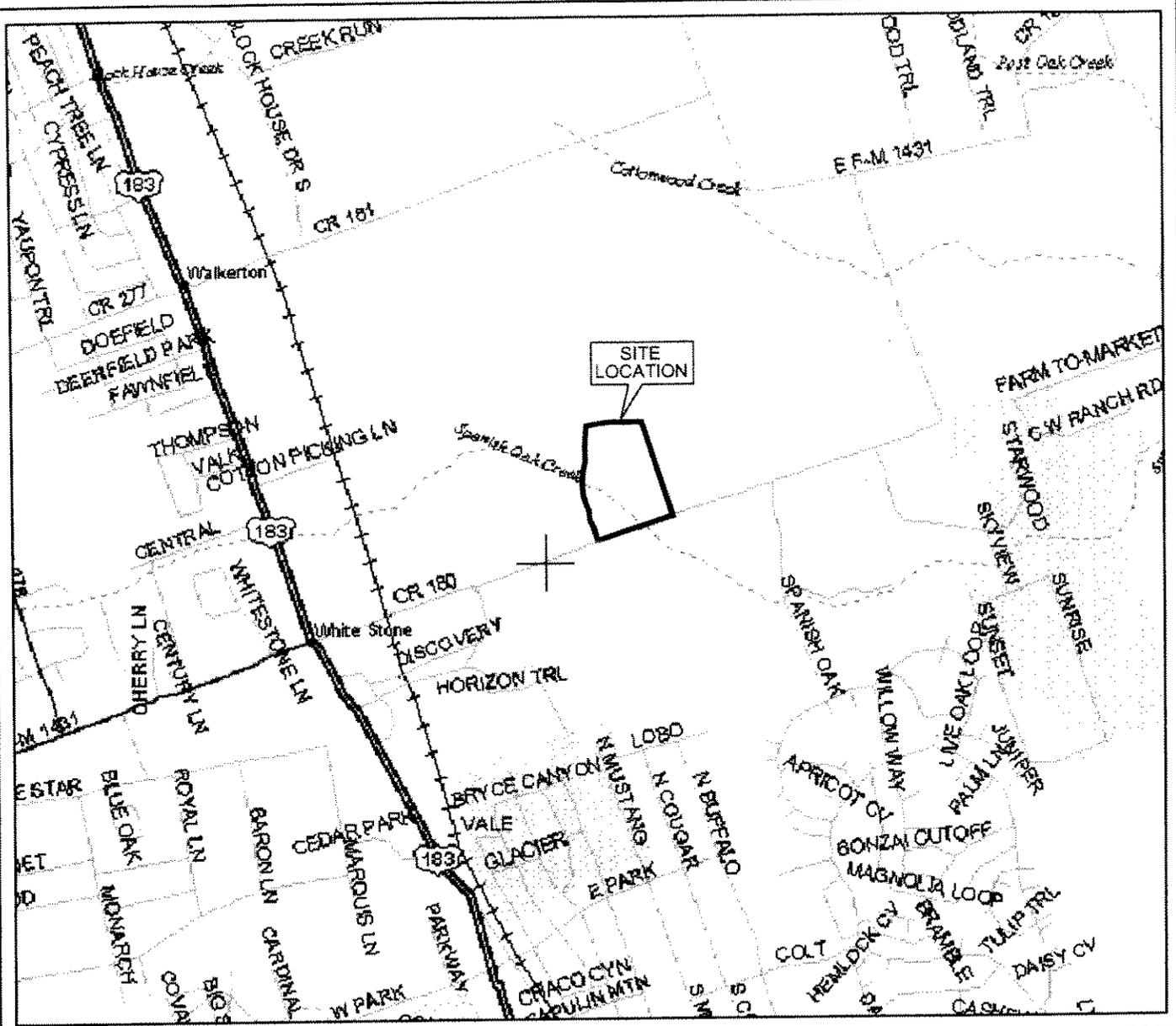
FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

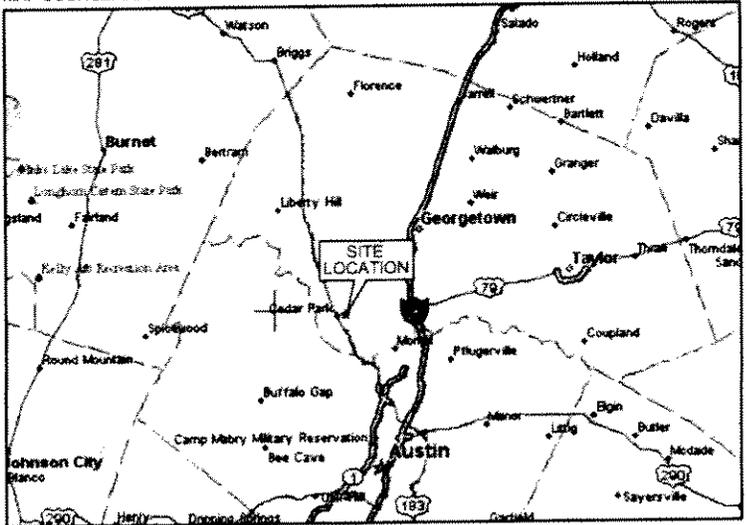
PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues raised are substantial and should be considered in his permit decision. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before November 6, 2004, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to Mr. Jim Kelly; Regulatory Branch, CESWF-PER-R; U. S. Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Branch in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Telephone inquiries should be directed to (817) 886-1731. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available.

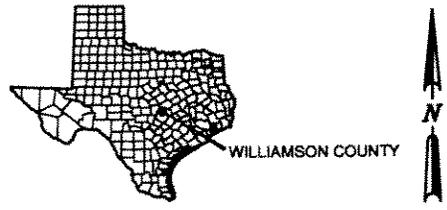
DISTRICT ENGINEER
FORT WORTH DISTRICT
CORPS OF ENGINEERS



MAP SOURCE: DELORME STREET ATLAS VERSION 8.0 2002



MAP SOURCE: DELORME STRET ATLAS VERSION 8.0 2002



SHEET 1 OF 8
VICINITY MAP
CEDAR PARK TOWN CENTER
CHANNEL MODIFICATION
CEDAR PARK, WILLIAMSON COUNTY, TEXAS

USACE PROJECT # 200300646
16 SEPTEMBER 2004

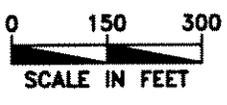


MAP SOURCE: GRAY & JANSING & ASSOCIATES INC. CONSULTING ENGINEERS

- LEGEND**
- PROPOSED DEVELOPMENT BOUNDARY
 - █ EXISTING FACILITIES FROM PHASE I
 - █ "WATERS OF THE U.S." BRAIDED EMERGENT WETLAND



WILLIAMSON COUNTY

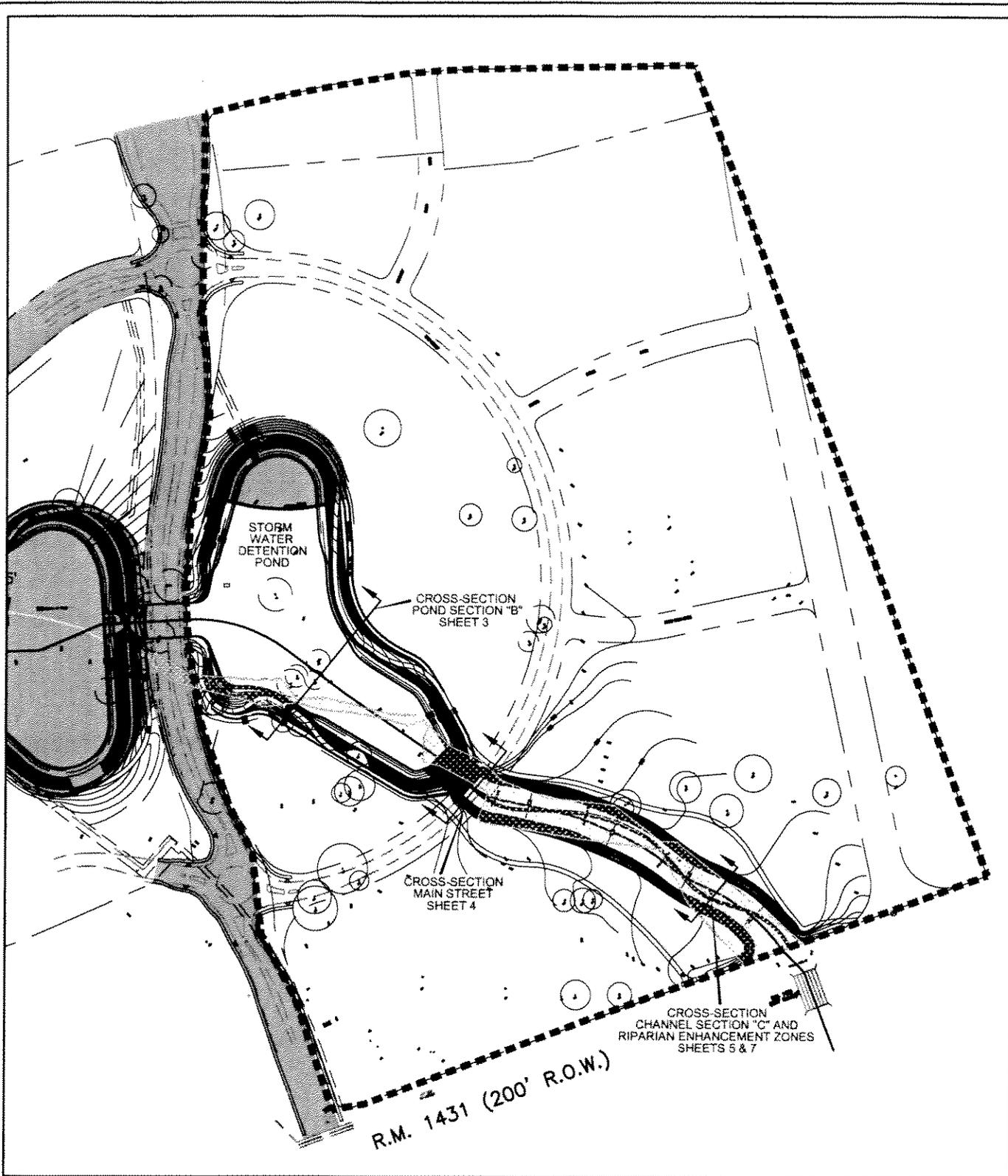


SHEET 2 OF 8

EXISTING CONDITIONS
 CEDAR PARK TOWN CENTER
 CHANNEL MODIFICATION
 CEDAR PARK, WILLIAMSON COUNTY, TEXAS

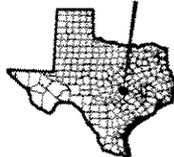
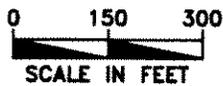
USACE PROJECT # 200300646
 16 SEPTEMBER 2004

030083A04PA Site.dwg | CRB | 08-26-03 | REVISED: JEA 9/20/04



MAP SOURCE: GRAY & JANSING & ASSOCIATES INC. CONSULTING ENGINEERS

----- PROPOSED DEVELOPMENT BOUNDARY



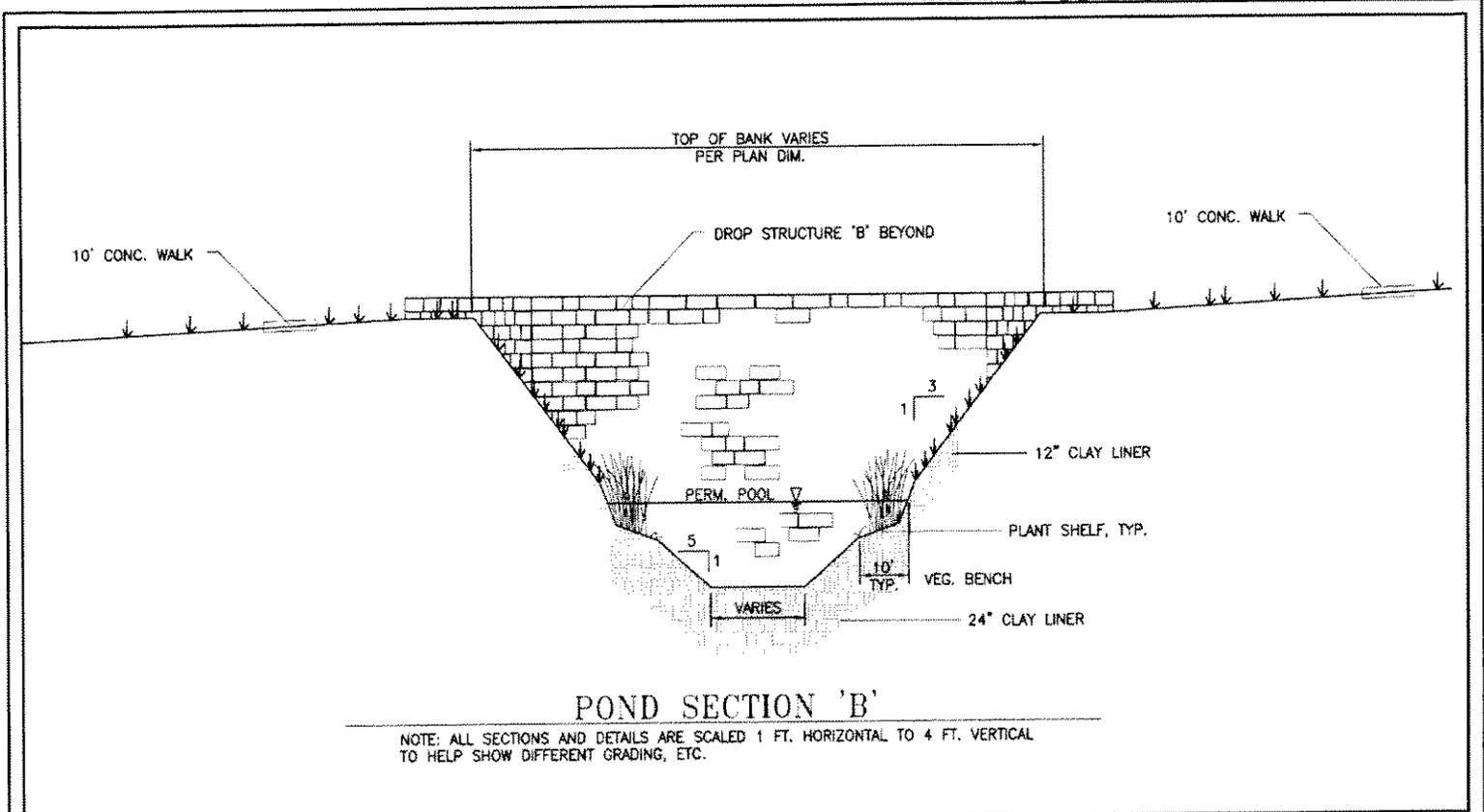
WILLIAMSON COUNTY

SHEET 3 OF 8

SITE DEVELOPMENT PLAN
CEDAR PARK TOWN CENTER
CHANNEL MODIFICATION
CEDAR PARK, WILLIAMSON COUNTY, TEXAS

USACE PROJECT # 200300646
16 SEPTEMBER 2004

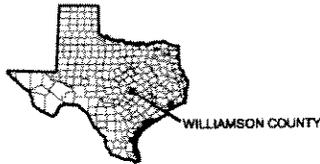
Horizon
Environmental Services, Inc.



POND SECTION 'B'

NOTE: ALL SECTIONS AND DETAILS ARE SCALED 1 FT. HORIZONTAL TO 4 FT. VERTICAL TO HELP SHOW DIFFERENT GRADING, ETC.

MAP SOURCE: GRAY & JANSING & ASSOCIATES IN. CONSULTING ENGINEERS
DRAWING NOT TO SCALE:

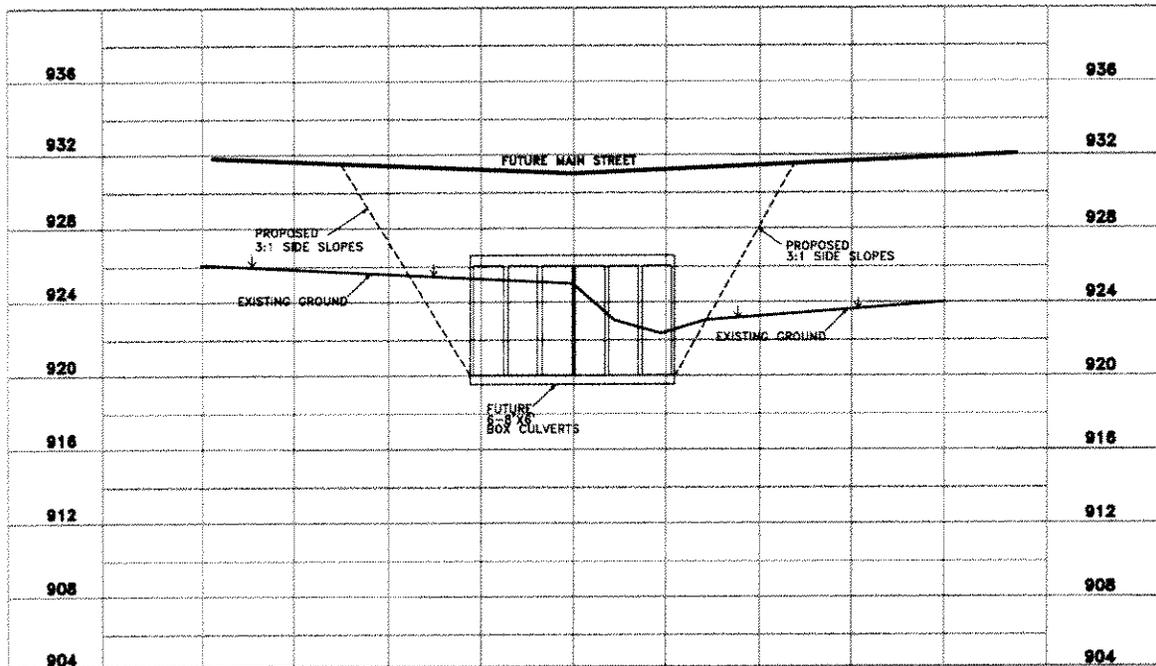


SHEET 4 OF 8

POND SECTION 'B'
CEDAR PARK TOWN CENTER
CHANNEL MODIFICATION
CEDAR PARK, WILLIAMSON COUNTY, TEXAS

USACE PROJECT # 200300646
16 SEPTEMBER 2004

Cross Section Main Street Culverted Crossing of Spanish Oak Creek



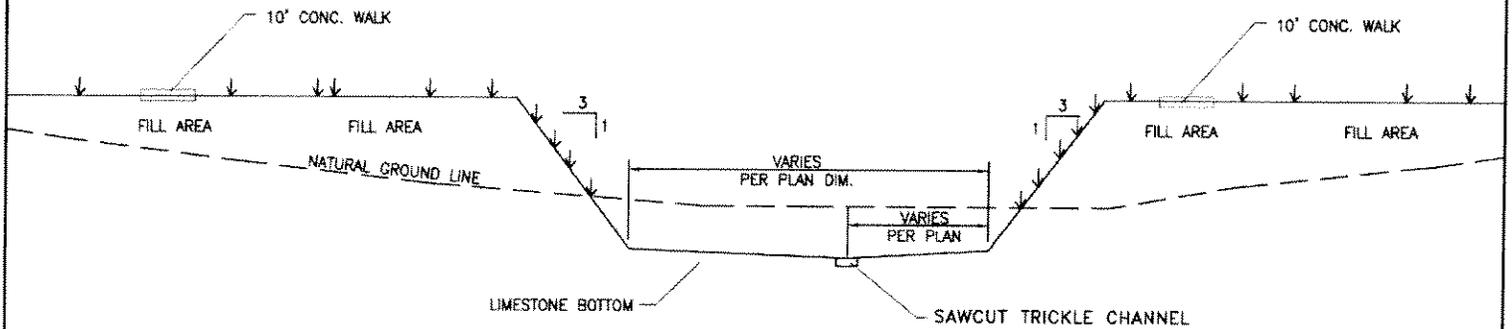
- EXPLANATION**
- PROPOSED CONTOUR
 - EXISTING CONTOUR



SHEET 5 OF 8
 MAIN STREET CROSS-SECTION
 OF SPANISH OAK CREEK
 CEDAR PARK TOWN CENTER
 CHANNEL MODIFICATION
 CEDAR PARK, WILLIAMSON COUNTY, TEXAS

USACE PROJECT # 200300646
 16 SEPTEMBER 2004

TOP OF BANK VARIES
PER PLAN DIM.



CHANNEL SECTION 'C' - TYPICAL AT LOWER CHANEL

NOTE: ALL SECTIONS AND DETAILS ARE SCALED 1 FT. HORIZONTAL TO 4 FT. VERTICAL
TO HELP SHOW DIFFERENT GRADING, ETC.

MAP SOURCE: GRAY & JANSING & ASSOCIATES IN. CONSULTING ENGINEERS
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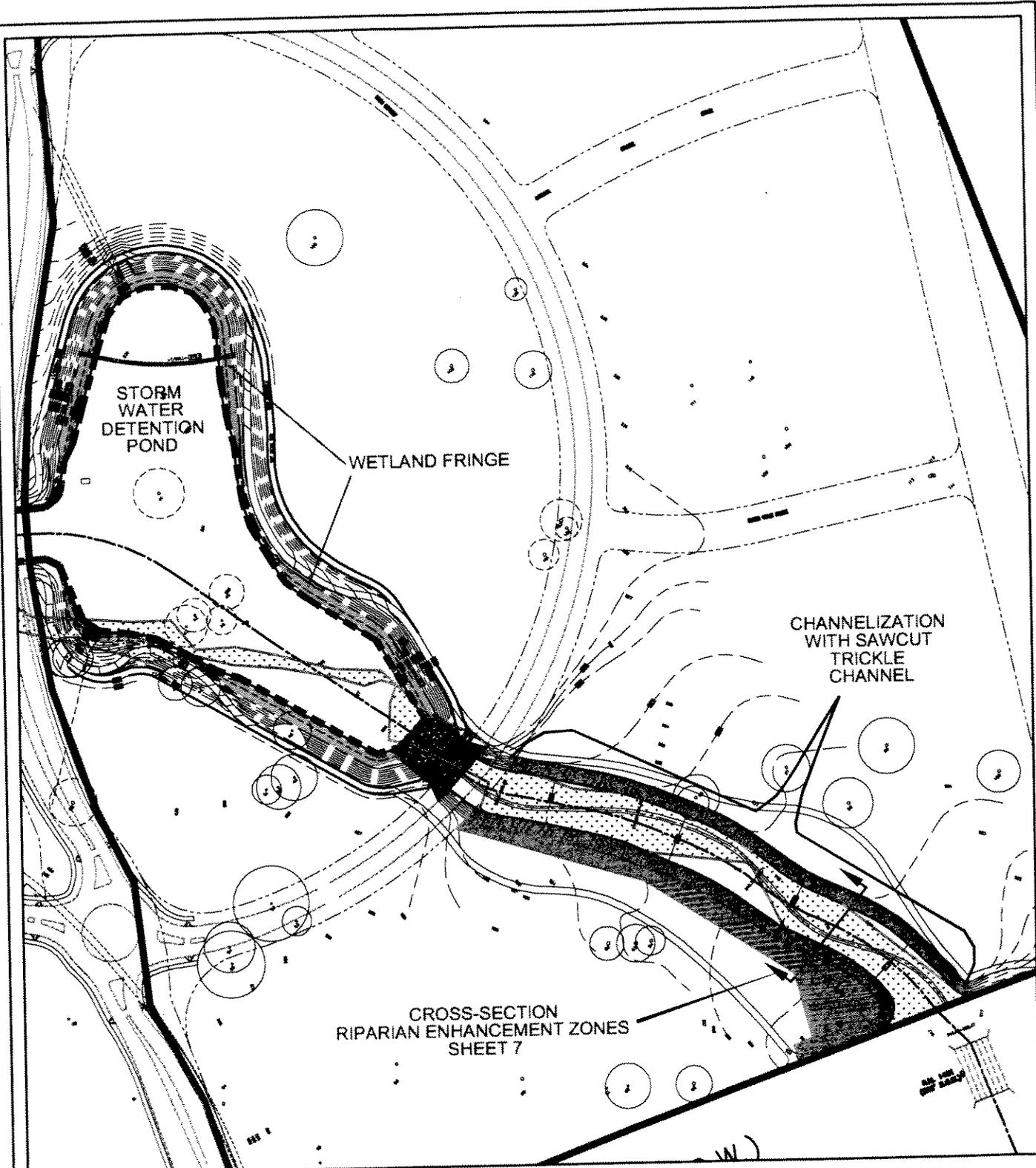
SHEET 6 OF 8

CHANNEL SECTION "C"
TYPICAL AT LOWER CHANNEL
CEDAR PARK TOWN CENTER
CHANNEL MODIFICATION
CEDAR PARK, WILLIAMSON COUNTY, TEXAS

USACE PROJECT # 200300646
16 SEPTEMBER 2004

Horizon
Environmental Services, Inc.

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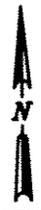
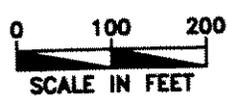


MAP SOURCE: GRAY & JANSING & ASSOCIATES INC. CONSULTING ENGINEERS

SHEET 7 OF 8

EXPLANATION

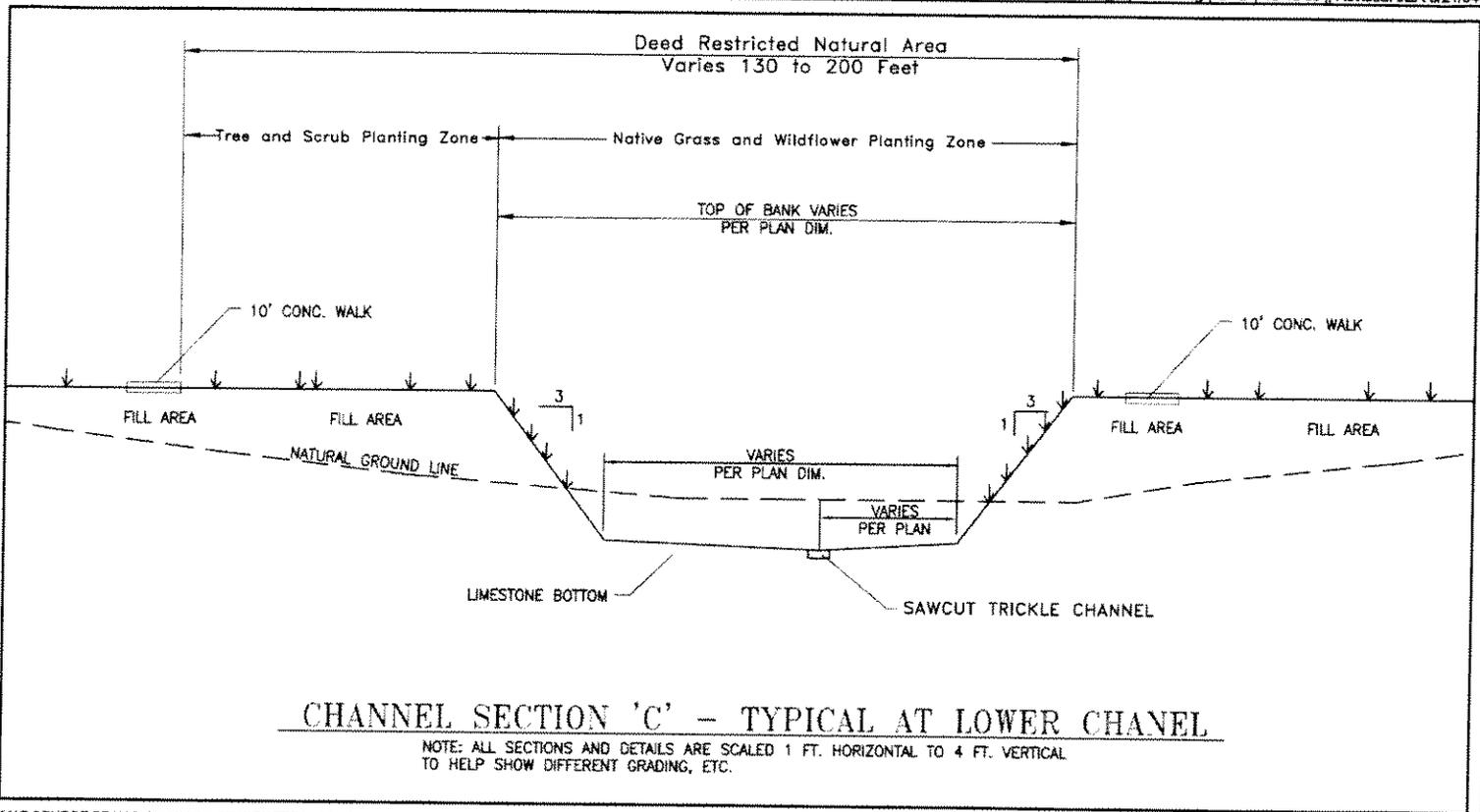
 RIPARIAN ENHANCEMENT ZONE



MITIGATION PLAN
 CEDAR PARK TOWN CENTER
 CHANNEL MODIFICATION
 CEDAR PARK, WILLIAMSON COUNTY, TEXAS

USACE PROJECT # 200300646
 16 SEPTEMBER 2004

Horizon
 Environmental Services, Inc.



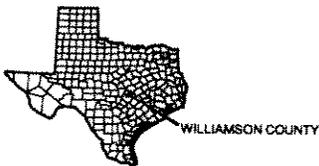
MAP SOURCE: GRAY & JANSING & ASSOCIATES IN CONSULTING ENGINEERS
DRAWING NOT TO SCALE:

SHEET 8 OF 8

**RIPARIAN ENHANCEMENT ZONE
TYPICAL X-SECTION
CEDAR PARK TOWN CENTER
CHANNEL MODIFICATION
CEDAR PARK, WILLIAMSON COUNTY, TEXAS**

USACE PROJECT # 200300646
16 SEPTEMBER 2004

Horizon
Environmental Services, Inc.



WILLIAMSON COUNTY

DEPARTMENT OF THE ARMY
US ARMY ENGINEER DISTRICT, FORT WORTH
CORPS OF ENGINEERS
PO BOX 17300
FORT WORTH, TEXAS 76102-0300

OFFICIAL BUSINESS
CESWF-PER-R

PUBLIC NOTICE