



Memorandum

April 5, 2016

TO: Town Council
Julie Couch, Town Manager

FROM: Israel Roberts, AICP
Planning Manager

SUBJECT: ZONING CHANGE FOR THE FORMER HARPER AND STARFISH INVESTMENTS PROPERTIES (ZA2015-14)

CASE STATUS: This case was originally presented to the Town Council on January 5, 2016 at which time a public hearing was held and closed. The Council did not act and tabled action to the March 1, 2016 Town Council Meeting. At the March 1, 2016 meeting, the Council tabled the request to the April 5, 2016 Town Council meeting, in order to conduct a site visit.

BACKGROUND: The applicant for this zoning change application is the current property owner, M. Christopher Custom Homes. The current zoning for the subject property is Open Space and Flood Hazard (FH) zone. The subject area is an approximate 32.104 ± acre section of the overall 44.069 acre property. The smaller remaining portion south of the 100 year floodplain line is zoned Two-Acre Ranch Estate District (RE-2). The applicant has submitted a flood plain study and reclamation plan to the Town Engineer who has reviewed the plan and is concurrence with the findings. However, the Town is currently in the process of having a comprehensive flood study prepared and that data is not completed. The draft study should be completed within 60 days according to the Town's consultant. Approximately half of this flood plain area can be reclaimed and utilized for the proposed residential development.

Proposed Use

The proposed use for this application is low-density single-family dwellings that conform to the Residential Estate Country land use category. The proposed concept plan indicates 13 lots that would be a continuation (Phase Two) of the Harper's Landing Addition adjacent to and south of the subject property and 2 additional lots already zoned RE-2. An additional residential street is shown on the concept plan that would connect to Country Club (FM 1378) and Phase One of the

Harper’s Landing Addition. The applicant’s letter of intent also states that the “flood plain reclamation” will provide well documented relief to many residents in the Montecito neighborhood as well the future new property owners in Phase One on the development.

Land Use, Zoning, and Entitlements

The subject property is undeveloped and was primarily used for residential (the former Harper Property) and recreational purposes (the former Starfish Investments Property). The subject property is zoned Open Space/Flood Plain (FH) (the former Starfish Investments Property), and is categorized as Floodplain on the Future Land Use Plan in addition to being adjacent to Residential Estate Country as depicted on the Future Land Use Plan. The Residential Estate Country land use allows for maximum residential densities of one dwelling unit/2.0 gross acres and it also can require an open space provision that ranges from no open space to an open space provision that may amount to 10% of the gross area of the property. The Floodplain land use identifies areas that fall within the FEMA 100-year flood zone. If the Floodplain is adjusted by revisions approved by FEMA then the adjacent land use becomes the associated land use for the new reclaimed area. In this case the land use would become Residential Estate Country which supports the proposed RE-2 zoning district.

The land use and zoning of the surrounding properties are as follows:

	Current Zoning	Current Land Use	Future Land Use Plan
North	Planned Center (PC) (Montecito Estates)	Single-Family Estate (0.55 DU/gross acre)	Residential Estate
East	PC (Bluegrass Farms)	Single-Family Estate (0.34 DU/gross acre)	Residential Estate Country
South	AG (Molodow Tract)	Agriculture	Residential Estate Country
West	RE-2 (Countryside)	Single-Family Estate (0.42 DU/gross acre)	Residential Estate Country

If the town were to approve this application, it would require an amendment to the Zoning Map (FH zone to the RE-2 zone). The applicant is requesting the conventional RE-2 zoning classification for the remaining 32.104 acre plan. The concept plan indicates the ability to create 13 lots in this portion of the property yielding a density of 2.46 acres per dwelling unit.

Vehicle Access and Right-of-Way Requirements

Access to this proposed 32.104± acre portion of the development would be provided for at the western boundary of the former Starfish Investments tract, off of FM 1378, with immediate emergency and pedestrian access through Farmstead Road, (Phase One) which currently provides for platted ROW to the western boundary of the former Harper property. The applicant would provide easements to accommodate a future pedestrian connection and emergency access drive to the Molodow property to the south (Phase One). The applicant would also provide for a

pedestrian connection to the common boundary with the Blue Grass Farms neighborhood in order to provide a future pedestrian connection to Kentucky Lane. The applicant would also continue that connection west along Sloan Creek in order to accommodate a nature trail on the site. While FM 1378 is not projected to expand, any additional ROW that would be required for this roadway would be dedicated during the platting process.

Utilities, Drainage, and Environmental Concerns

An existing 16" waterline on FM 1378 and 6" and 8" waterlines in Countryside and Bluegrass Farms would provide sufficient water to the proposed development. Like most other Fairview neighborhoods, the proposed development would be served by septic systems.

The applicant prepared a flood study that models the impact of the requested floodplain development. This model indicates that the applicant's proposal will not cause the water surface elevation of the FEMA 100-year floodplain to increase, and in some cases, it would actually result in a small decrease of the water surface elevation of the FEMA 100-year floodplain.

This proposed floodplain recovery would be facilitated by filling in a portion of the Sloan Creek floodplain at the southern limit of the floodplain boundary, and creating a drainage swale that parallels Sloan Creek in order to provide for additional valley storage for floodwaters during flood events. At the western boundary of the drainage swale, the top of swale elevation would be lower than the western bank of Sloan Creek, creating a scenario where flood waters would surge into this swale before flooding the north side of the creek, where there are several existing homes in Montecito Estates that lie within the FEMA 100-year floodplain. During major Sloan Creek flood events, this development would not prevent these properties in Montecito Estates from being inundated with water, however, they would also not make the issue worse as the applicant's flood study demonstrates that the applicant has fully mitigated the impact of their proposed floodplain recovery.

In addition to flooding issues associated with Sloan Creek, the properties to the north and south of Sloan Creek are also impacted by the backwater effects of Wilson Creek. Due to increased development in the Wilson Creek corridor over the last several decades, Wilson Creek has begun to more significantly impact Sloan Creek during flood events. This causes backwaters from Wilson Creek to surge into Sloan Creek and potentially impact land owners adjacent to the creek. Once again, development of this land is not making this issue worse for property owners in Montecito Estates, as the drainage impacts from this development are fully mitigated. The drainage issues in Montecito Estates are a direct result of those properties being located within the FEMA 100-year floodplain.

With the proposed zoning scenario, the one-hundred year floodplain would not be impacted by future development. However, the Town is currently conducting a comprehensive flood study for the entire community which has not been completed in final form. The study is scheduled to be finalized in early December. The study may yield data that differs from previous years given

that a substantial amount of development has occurred in this watershed. The Staff will update the Planning Commission at the meeting on the status of the study and report any preliminary findings that may be considered in moving forward with a recommendation to the City Council.

Landscaping/Tree Preservation/Tree Removal

There is little existing vegetation throughout much of the property, with the exception of the large clustering of trees adjacent to the creek and at the property boundaries. Much of the tree canopy coverage within the site is being preserved with the exception of some removal to accommodate the proposed swale.

Open Space and Trail Requirements

Consistent with past feedback received from citizens and the town council, the applicant has prioritized lot size in lieu of providing for open space or common area that was provided for in previous plans. This has allowed the applicant to provide for much larger lots, however, it has essentially placed a flood control feature that needs to be communally maintained, on the property of private landowners. If this plan is approved, a common maintenance instrument will need to be created during the platting process.

In order to support neighborhood pedestrian connectivity, the applicant will accommodate immediate or future pedestrian connectivity to the Molodow property, Bluegrass Farms, Countryside, and along the bank of Sloan Creek.

Trail and secondary access planning for this portion of the development will be facilitated during the platting process for that site.

Public Input

Staff notified 56 adjacent property owners (and Lovejoy ISD) within 500' of the subject properties associated with the 44.069-acre scenario, in accordance with local and state requirements and, thus far, has received six (6) letters/emails of opposition and no letters of support.

Staff Analysis

The Planning and Zoning Commission has had the opportunity to act on several plans that included this portion of the overall property. Recently, the southern portion of the proposed development (Harper's Landing Addition) was approved with RE-2 zoning and 13 single family

residential lots. While the applicant has presented similar plans that were denied in the recent past, there has been attempt with this application to meet the spirit of the Town's Future Land Use Plan by bringing forward zoning that is in keeping with the surrounding densities and lot sizes. With the adjustment of the 100 year flood plain, the applicant has also made an effort to improve the drainage for the proposed development as well as other surrounding properties.

STAFF RECOMMENDATION: Staff considers this a judgement decision of the Planning Commission & City Council for a request by M. Christopher Custom Homes for a zoning change to the Two-Acre Ranch Estate (RE-2) zone for a 32.104± acres tract of land that is generally located east of Country Club Road (FM 1378) and north of Farmstead Road.

P&Z ACTION: At their December 10, 2015 meeting, Planning & Zoning Commission was unable to forward a recommendation to the Council (a motion to approve failed by a 2-2 vote and no further motion was made).

BUDGET: N/A

ATTACHMENTS:

- Staff Presentation
- RE-2 Zoning Exhibit
- Legal Description
- Letter of Intent
- Letters of Opposition

Planning & Zoning Case # ZA2015-14

Zoning Change Request

Former Starfish Investments and Harper Tracts, 32.104± acres (ZA2015-14)

Applicant: M. Christopher Custom Homes

November 12, 2015

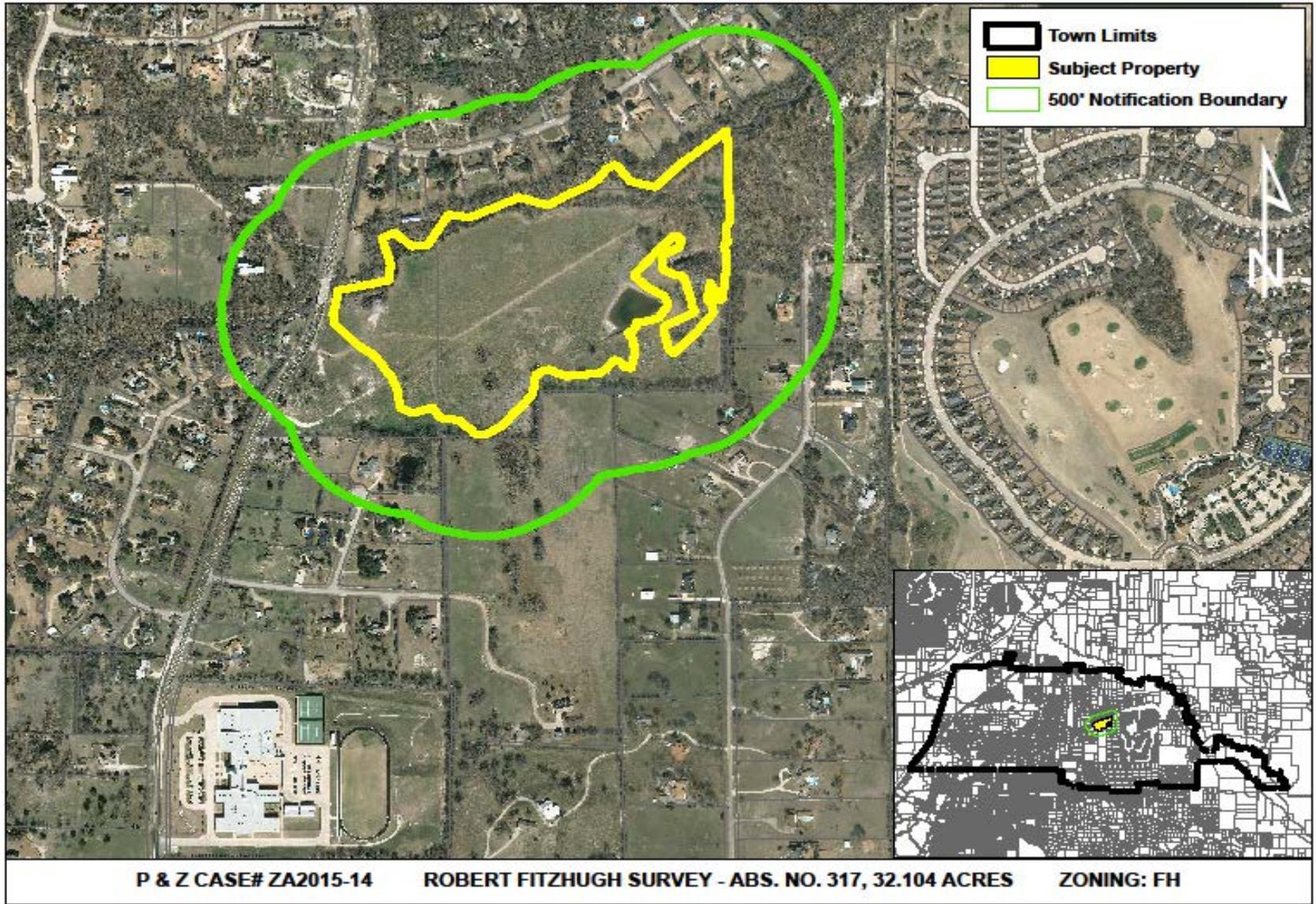




Development Application Summary

- ZA2015-14: Conduct a public hearing, consider, and take any necessary action on a request by Mr. Byron Reid, representing M. Christopher, Custom Home Builder, to rezone a 32.104± acre tract of land being a portion of a 44.069 acre tract of land situated in the Robert Fitzhugh Survey, Abstract No. 317 and the Samuel Sloan Survey, Abstract No. 791 in the Town of Fairview, Collin County, Texas and being Tract 1-13.692 acres, Tract 2-3.06 acres, Tract 3-10.00 acres and Tract 4-17.50 acres described by deed to Starfish Investments, LP according to the deed recorded in cc#20100629000665030 of the Real Property Records of Collin County, Texas, and being generally located adjacent to and east of Country Club Road (FM 1378) and north of Farmstead Street.

Location Map

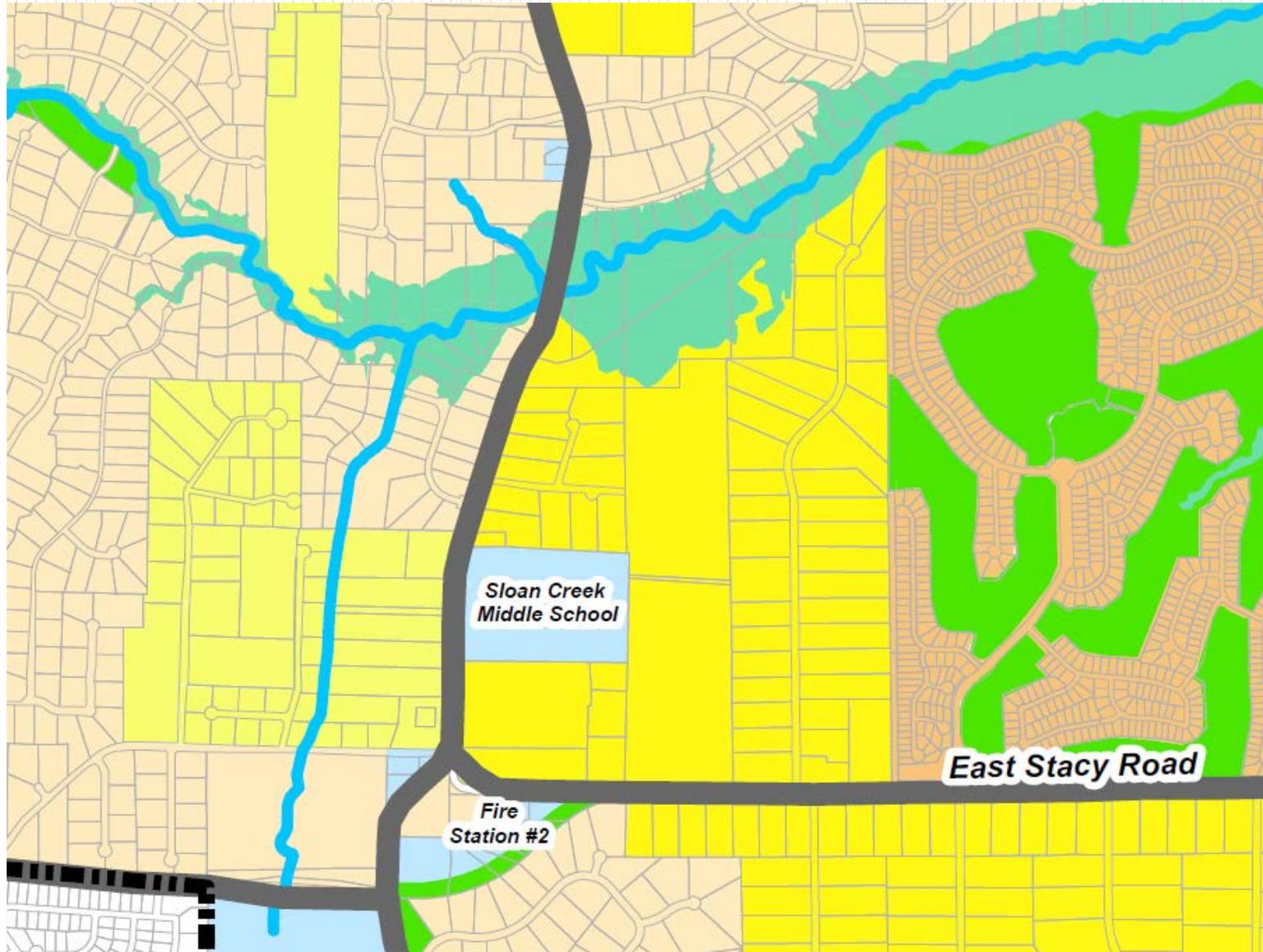




Land Use

- The existing uses on the subject properties are open space, and floodplain
- The projected land use, as provided for in the Future Land Use Plan is Floodplain and is adjacent to Residential Estate Country
 - Development consistent with the Residential Estate Country land use provides for a gross density of one or fewer dwelling units per two acres, while providing for a minimum lot size of one acre, and \pm 10% open space
- The applicant's request conforms to the Residential Estate Country Land Use and the proposed floodplain reclamation would result in a revision to the floodplain boundary delineation on the site

Future Land Use Plan

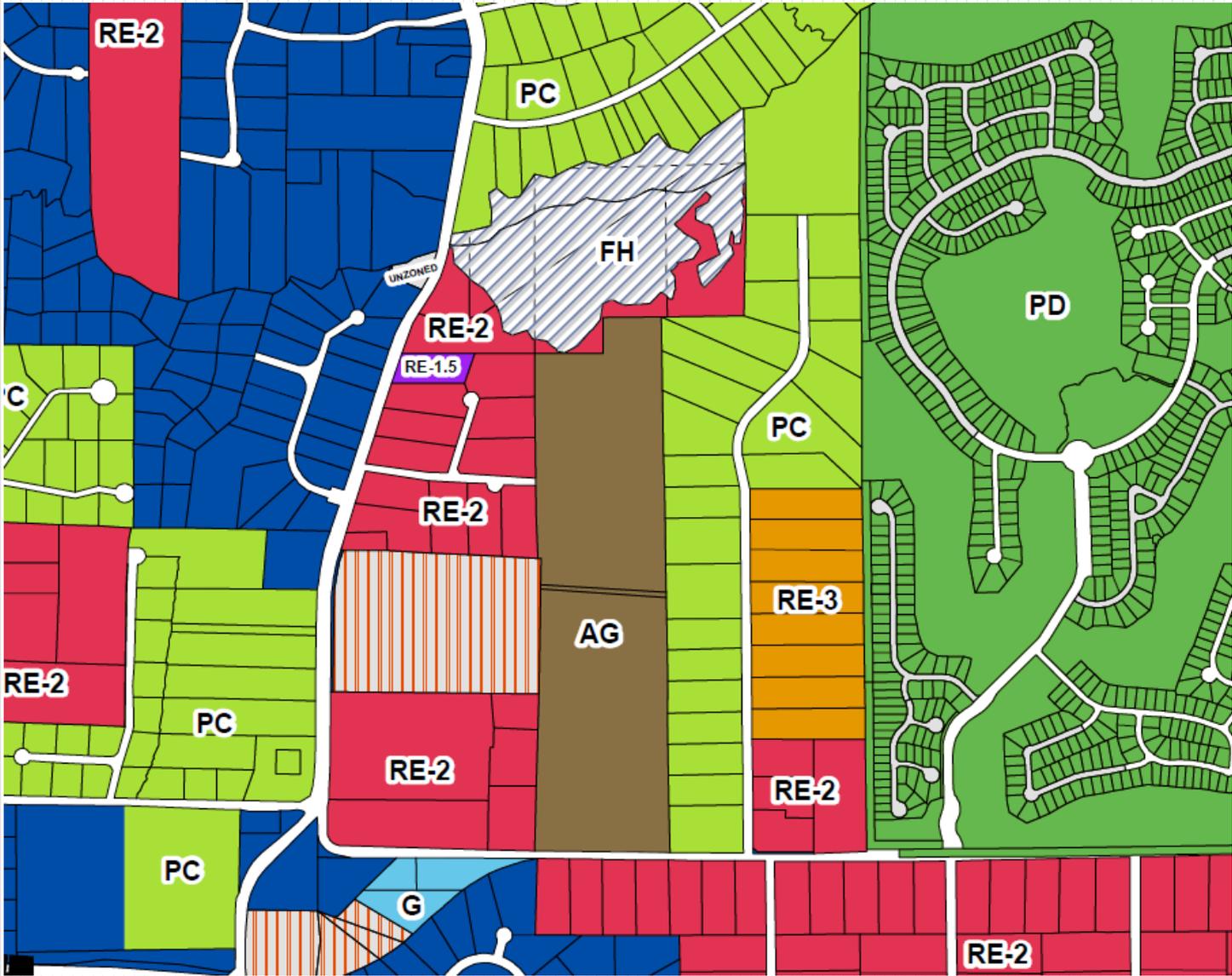




Zoning

- The existing zoning for the subject properties is FH.
 - FH allows for agricultural and open space uses that are not in conflict with flood protection requirements
- Applying RE-2 zoning to the subject property would likely yield 13 lots, depending upon the configuration of the site, 2 proposed lots are already zoned RE-2.

Zoning



Density – Adjacent Development



Subdivision Name	Total Residential Lots	Gross Area	Gross Density	Open Space
Fox Glen	50 lots	63.1 acres	0.79 DU/acre	None provided
Montecito Estates - I	56 lots	101.06 acres	0.55 DU/acre	None provided
Summerhill Farms	58 lots	107.76 acres	0.54 DU/acre	6.0 acres
Subject Properties	15 lots	44.069 acres	0.34 DU/acre	None provided
Countryside	9 lots	21.235 acres	0.42 DU/acre	None provided
Bluegrass Farms	27 lots	80.398 acres	0.34 DU/acre	None provided
Ranger Estates	8 lots	24.51 acres	0.33 DU/acre	None provided

ZA2015-14 - Landscape Character / FM 1378

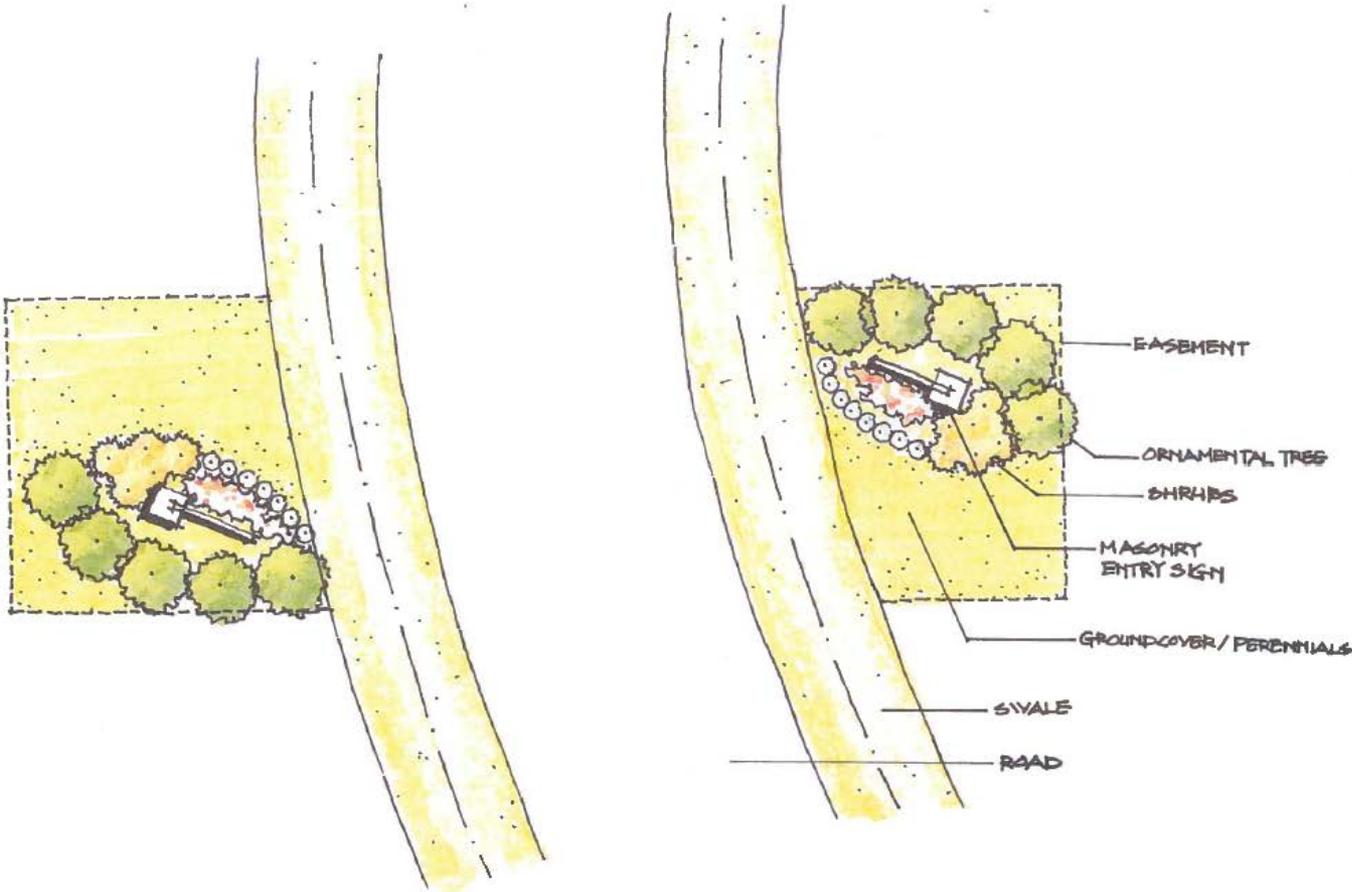


ZA2015-14 - Landscape Character / Farmstead

DALLAS

FORT WORTH

HOUSTON



INTERIM REVIEW
APR 15 2015

Public Notification – ZA2015-14

- Staff notified 56 adjacent property owners and Lovejoy ISD in accordance with town and state requirements, and received the following responses:
 - 6 letters/emails of opposition
 - 0 letters of support





Staff Recommendation

- **Recommend action** on a request by M. Christopher, Custom Home Builder, to rezone a 32.104± acre tract of land being a portion of a 44.069 acre tract of land situated in the Robert Fitzhugh Survey, Abstract No. 317 and the Samuel Sloan Survey, Abstract No. 791 in the Town of Fairview, Collin County, Texas and being Tract 1-13.692 acres, Tract 2-3.06 acres, Tract 3-10.00 acres and Tract 4-17.50 acres described by deed to Starfish Investments, LP according to the deed recorded in cc#20100629000665030 of the Real Property Records of Collin County, Texas, and being generally located adjacent to and east of Country Club Road (FM 1378) and north of Farmstead Street.
- **Staff recommends approval for the Planning Commission & City Council** for a request by M. Christopher Custom Homes for a zoning change for a tract of land comprised of 32± acres and that is generally located east of Country Club Road (FM 1378) and north of Farmstead Street. The subject property is currently zoned Flood Hazard (FH), and the requested zoning change is for the Two-Acre Ranch Estate (RE-2) Zoning District.
- **Action:** At the December 10, 2015 the Planning Commission was unable to forward a recommendation to the Council (a motion to approve failed by a 2-2 vote and no further motion was made).
- **Current Status:** This case was originally presented to the Town Council on January 5, 2016 at which time a public hearing was held and closed. The Council did not act and tabled action to the March 1, 2016, where the Council tabled action again, in order to conduct a site visit.

PERIMETER FIELD NOTE DESCRIPTION

BEING a 44.069 acre tract of land situated in the Robert Fitzhugh Survey, Abstract No. 317 and the Samuel Sloan Survey, Abstract No. 791 in the Town of Fairview, Collin County, Texas and being Tract 1-13.692 acres, Tract 2-3.06 acres, Tract 3-10.00 acres and Tract 4-17.50 acres described by deed to Starfish Investments, LP according to the deed recorded in cc#20100629000665030 of the Real Property Records of Collin County, Texas and being perimeter description around said as follows:

BEGINNING at the southwest corner of said Tract 4 and being located in the east line of Farm Market Road 1378 (Country Club Road) and being in a non-tangent curve to the right having a radius of 1,138.81 feet and a chord bearing of North 23°44'20" East;

THENCE along the east line of said Farm Market Road 1378 with said non-tangent curve to the right through a central angle of 11°46'13" for an arc length of 233.95 feet to a point for corner;

THENCE continuing with said east line, NORTH 29°30'20" EAST a distance of 204.58 feet to the beginning of a curve to the left having a radius of 802.59 feet and a chord bearing of North 18°28'50" East;

THENCE continuing with said east line with said curve to the left through a central angle of 22°03'00" for an arc length 308.88 feet to 5/8 Inch Iron rod set for the northwest corner of said Tract 1-13.692 acres and being located in the south bank Sloan Creek (by description);

THENCE departing the east line of said Farm Market Road 1378 (Country Club Road) and following the meanders of Sloan Creek (by deed description) and the north line of said Tract 1 as follows:

- NORTH 71°53'04" EAST a distance of 241.86 feet to a point for corner;
- NORTH 02°04'13" WEST a distance of 83.39 feet to a point for corner;
- NORTH 13°16'13" WEST a distance of 114.50 feet to a point for corner;
- NORTH 58°01'47" EAST a distance of 56.80 feet to a point for corner;
- SOUTH 54°34'13" EAST a distance of 95.00 feet to a point for corner;
- NORTH 81°45'47" EAST a distance of 67.00 feet to a point for corner;
- NORTH 29°10'47" EAST a distance of 167.00 feet to a point for corner;
- SOUTH 80°14'13" EAST a distance of 106.50 feet to a point for corner;
- NORTH 58°40'47" EAST a distance of 123.00 feet to a point for corner;
- NORTH 62°30'47" EAST a distance of 116.00 feet to a point for corner;
- SOUTH 88°19'29" EAST a distance of 164.33 feet to the southwest corner of said Tract 2;

THENCE with the meanders of said Sloan Creek (by deed description) and following the north line of said Tract 2 as follows:

- NORTH 53°06'15" EAST a distance of 139.94 feet to a point for corner;
- NORTH 64°39'41" EAST a distance of 84.20 feet to a point for corner;
- NORTH 35°51'41" EAST a distance of 100.76 feet to a point for corner;
- NORTH 76°29'41" EAST a distance of 56.14 feet to a point for corner;
- SOUTH 33°10'19" EAST a distance of 103.40 feet to a point for corner;
- SOUTH 75°19'19" EAST a distance of 104.50 feet to a point for corner;
- NORTH 44°07'41" EAST a distance of 181.50 feet to a point for corner;
- NORTH 52°58'48" EAST a distance of 248.00 feet to the northeast corner of said Tract 2

THENCE departing the meanders of said Sloan Creek, SOUTH 05°08'19" EAST a distance of 359.50 feet to a 1/2 Inch Iron rod found for the southeast corner of said Tract 2 and being the northeast corner of said Tract 3;

THENCE along the east line of said Tract 3, SOUTH 01°38'24" EAST a distance of 327.45 feet to a point for corner from which a 1/2 Inch Iron rod is located North 28.3°;

THENCE continuing with said east line, SOUTH 00°54'12" WEST a distance of 276.80 feet to a point for corner;

THENCE SOUTH 01°27'48" EAST a distance of 320.90 feet to a 1/2 Inch Iron rod found for the southeast corner of said Tract 3;

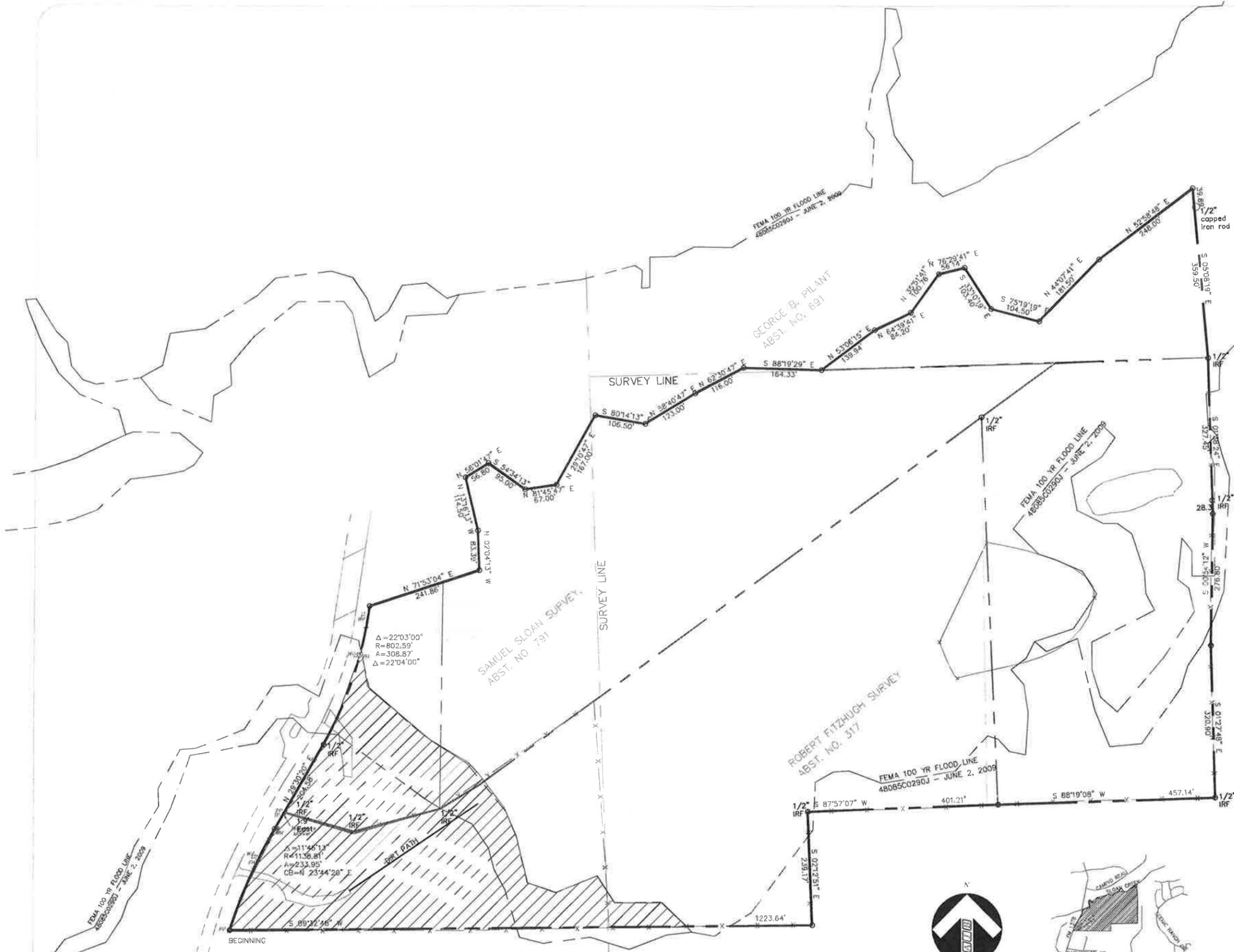
THENCE along an established fence, SOUTH 88°19'08" WEST a distance of 457.14 feet to a point for corner for the southeast corner of said Tract 4 (by location) and being located 23.3' east of the southwest corner of said Tract 3 (23.3' overlap between tracts),

THENCE along the south line of said Tract 4, with said fence line, SOUTH 87°57'07" WEST a distance of 401.21 feet to a 1/2 inch Iron rod found for an L? corner in said south line of Tract 4;

THENCE SOUTH 02°12'51" EAST a distance of 239.17 feet to a 1/2 inch Iron rod found for the southerly southeast corner of said Tract 4;

THENCE along the south line of said Tract 4, SOUTH 89°32'48" WEST a distance of 1,223.64 feet to the POINT OF BEGINNING.

CURRENT TITLE REPORT WAS NOT AVAILABLE AT THE TIME OF THIS SURVEY. THEREFORE, IT IS POSSIBLE THAT ALL EASEMENTS OF RECORD MAY NOT BE SHOWN



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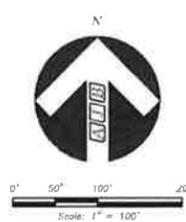
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FLOOD STATEMENT: According to Community Panel No. 48085C0290J, dated June 2, 2009 of the Federal Emergency Management Agency, National Flood Insurance Program Map, Since this property is within Flood Zone ?AE? which is the area of 100-year flood with base flood elevations and flood hazard factors determined. This is for informational purposes only and shall not create liability on the part of the Surveyor.



Client: _____
 Scale: 1" = 100'
 Date: 06-01-2011
 Technician: Larry
 Drawn By: bedford
 Checked By: _____
 P.C.: dals
 File: txcas 44-06-03-2011
 Job. No. 534-01-2011
 GF No. N/A

301 N. Alamo Road Rockwall, Texas 75087
 (972) 722-0225, www.bedfordgroup.com

Sheet: _____
 Of: _____

Bedford Group,
 Registered Professional Land Surveyors



September 1, 2015

Town of Fairview Planning Department
372 Town Place, Fairview, TX, 75069

M. Christopher Custom Homes requests a zoning change for the property (44.069 acres) located at Runway and Country Club in Fairview to be viewed as Phase 2 of Harper Landing. We are combining it with Phase 1 to provide a beautiful R-2 two acre community which will blend with neighboring properties. The flood plain reclamation will provide well documented relief to many residents in Montecito, and by allowing this Phase 2 rezoning, the project will be designed to be of benefit to the new residents of the subdivision as well as all of the residents surrounding our community and will remain true to the overall Residential Estate Land Use Plan.

Sincerely,

Bryon Reid

President

M. Christopher and Company

Robert LaCroix

From: Ken Hardison [REDACTED]
Sent: Monday, November 02, 2015 10:06 AM
To: Robert LaCroix
Subject: Re zoning

I just received a notice of the re zoning meeting concerning the property located adjacent to and east of country club Rd and north of farmstead at owned by developer m Christopher. This piece of property was discussed just a few months ago and city council unanimously said no to building in this flood plane. Many citizens attended the meeting and voiced much opposition to any development of this flood control area and noted the severe flooding just experienced, yet here we are again. How many times do we have to say no!! I am very much opposed to this re zoning. It was zoned flood hazard for a reason.

Sent from my iPhone



October 28, 2015

TO WHOM IT MAY CONCERN:

Notice is hereby given that the Planning and Zoning Commission for the Town of Fairview, Texas, will convene for a public hearing on Thursday, November 12, 2015 at 7:00 PM at Town Hall, 372 Town Place, Fairview, Texas. At such time and place the Commission will hold a public hearing and take appropriate action regarding the following:

- Conduct a public hearing, consider, and take any necessary action on a request by Mr. Byron Reid, representing M. Christopher, Custom Home Builder, to rezone a 32.104± acre tract of land being a portion of a 44.069 acre tract of land situated in the Robert Fitzhugh Survey, Abstract No. 317 and the Samuel Sloan Survey, Abstract No. 791 in the Town of Fairview, Collin County, Texas and being Tract 1-13.692 acres, Tract 2-3.06 acres, Tract 3-10.00 acres and Tract 4-17.50 acres described by deed to Starfish Investments, LP according to the deed recorded in cc#20100629000665030 of the Real Property Records of Collin County, Texas, and being generally located adjacent to and east of Country Club Road (FM 1378) and north of Farmstead Street from Open Space and Flood Hazard (FH) Zone to Two-Acre Ranch Estate (RE-2) Zone. (ZA2015-14).

All interested citizens and property owners are invited to attend and participate in this meeting. For questions and/or comments please contact Robert LaCroix, Planning Manager, at 972-562-0522, extension 5094; or via email: rlacroix@fairviewtexas.org. Citizens may also visit Town Hall, Monday-Friday from 8:30-4:30 PM to obtain more information on this matter prior to the public hearing.

If you wish to communicate your support or opposition for this proposed CUP to the Planning and Zoning Commission and town staff, please respond to the queries below and return it to Mr. LaCroix via mail, email, fax, or hand delivery.

Name: Brian Mauer

Address: 1210 Camino Real

Support

Signature:

Oppose

Date: 11/4/2015

Comments:



October 28, 2015

TO WHOM IT MAY CONCERN:

Notice is hereby given that the Planning and Zoning Commission for the Town of Fairview, Texas, will convene for a public hearing on Thursday, November 12, 2015 at 7:00 PM at Town Hall, 372 Town Place, Fairview, Texas. At such time and place the Commission will hold a public hearing and take appropriate action regarding the following:

- Conduct a public hearing, consider, and take any necessary action on a request by Mr. Byron Reid, representing M. Christopher, Custom Home Builder, to rezone a 32.104± acre tract of land being a portion of a 44.069 acre tract of land situated in the Robert Fitzhugh Survey, Abstract No. 317 and the Samuel Sloan Survey, Abstract No. 791 in the Town of Fairview, Collin County, Texas and being Tract 1-13.692 acres, Tract 2-3.06 acres, Tract 3-10.00 acres and Tract 4-17.50 acres described by deed to Starfish Investments, LP according to the deed recorded in cc#20100629000665030 of the Real Property Records of Collin County, Texas, and being generally located adjacent to and east of Country Club Road (FM 1378) and north of Farmstead Street from Open Space and Flood Hazard (FH) Zone to Two-Acre Ranch Estate (RE-2) Zone. (ZA2015-14).

All interested citizens and property owners are invited to attend and participate in this meeting. For questions and/or comments please contact Robert LaCroix, Planning Manager, at 972-562-0522, extension 5094; or via email: rlacroix@fairviewtexas.org. Citizens may also visit Town Hall, Monday-Friday from 8:30-4:30 PM to obtain more information on this matter prior to the public hearing.

If you wish to communicate your support or opposition for this proposed CUP to the Planning and Zoning Commission and town staff, please respond to the queries below and return it to Mr. LaCroix via mail, email, fax, or hand delivery.

Name: GREG & LISA TAYLOR Address: 1180 CAMINO REAL

Support

Signature: 

Oppose

Date: 10/31/2015

Comments:



October 28, 2015

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Name: Jerome & Terri Eck Address: 1190 Camino Real

Support

Oppose

Signature: Jerome Eck

Date: 11-4-15

Comments:

Robert LaCroix

From: Uli Gienger <ugienger@gmail.com>
Sent: Thursday, November 12, 2015 10:54 AM
To: Robert LaCroix
Subject: Opposed to rezoning ZA2015-14

Dear mr. Lacroix: I live at 7146 Wildbriar. I'm opposed to rezoning the land east of Country Club Road and north of farmstead Street to 2 acre ranch estates. Building in this area will only make flooding on the opposite side of the creek worse. We already had the creek coming out of its banks and close to our house earlier this year, and it happens more frequently now than before.



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Name: Page + Caryetta Thomas Address: 1231 Camino Real
Fairview, Tx 75069-9795

Support Signature: Caryetta Thomas

Oppose Date: 10/30/15

Comments:

TOWN OF FAIRVIEW, TEXAS

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CHAPTER 14 (ZONING), AND THE ZONING MAP OF THE TOWN OF FAIRVIEW, TEXAS FOR THE REZONING OF 32.104± ACRES OF LAND BEING A PORTION OF A 44.069 ACRE TRACT OF LAND SITUATED IN THE ROBERT FITZHUGH SURVEY, ABSTRACT NO. 317 AND THE SAMUEL SLOAN SURVEY, ABSTRACT NO. 791 IN THE TOWN OF FAIRVIEW, COLLIN COUNTY, TEXAS AND BEING TRACT 1- 13.692 ACRES, TRACT 2 – 3.06 ACRES, TRACT 3 – 10.00 ACRES AND TRACT 4 – 17.50 ACRES DESCRIBED BY DEED TO STARFISH INVESTMENTS, LP ACCORDING TO THE DEED RECORDED IN CC#20100629000665030 OF THE REAL PROPERTY RECORDS OF COLLIN COUNTY, TEXAS AND BEING GENERALLY LOCATED ADJACENT TO AND EAST OF COUNTRY CLUB ROAD (FM 1378) AND NORTH OF FARMSTEAD STREET FROM OPEN SPACE AND FLOOD HAZARD (FH) ZONE, TO TWO-ACRE RANCH ESTATE (RE-2) ZONE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, notice of a public hearing before the Town of Fairview Planning and Zoning Commission was sent to real property owners within 500 feet of the property herein described at least ten (10) days before such hearing; and

WHEREAS, notice of a public hearing before the Town of Fairview Town Council (“Town Council”) was published in a newspaper of general circulation in the Town of Fairview at least sixteen (16) days before such hearing; and

WHEREAS, public hearings to adopt zoning on the property herein described were held before both the Planning and Zoning Commission and the Town Council, and the Planning and Zoning Commission has heretofore made a recommendation concerning the zoning; and

WHEREAS, the Town Council finds that the zoning herein effectuated furthers the purpose of zoning in the town and that it is in the public interest to approve said zoning described herein; now, therefore,

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW, TEXAS:

Section 1. That the Code of Ordinances, Chapter 14 (Zoning), and the Zoning Map of the Town of Fairview, Texas is hereby amended for the rezoning of 32.104± acres, more fully described on Exhibits “A” and “B” attached hereto and incorporated herein, and generally located adjacent to and east of Country Club Road (FM 1378) and north of Farmstead Street, from Open Space and Flood Hazard (FH) zone to Two-Acre Ranch Estate (RE-2) zone, in accordance with the provisions of Chapter 14 (Zoning), Article 14.02, Division 1 (Generally), Section 14.02.002 and Division 6 (Two-Acre Ranch Estate Zone), Section 14.02.251 et seq., of the Code of Ordinances, Town of Fairview, Texas (“Fairview Code”).

Section 3. That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a class C misdemeanor and upon conviction be subject to a fine in accordance with the general provisions of the Fairview Code.

Section 4. That the sections, paragraphs, sentences, phrases, clauses and words of this ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this ordinance or application thereof to any person, firm or corporation, or to any circumstance is held invalid or unconstitutional by a Court

of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the Town Council hereby declares that it would have adopted such remaining portions of this ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 5. That this ordinance shall take effect upon passage and publication, and it is accordingly so ordained.

PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW, TEXAS, THIS 1st DAY OF DECEMBER, 2015.

Darion Culbertson, Mayor
Town of Fairview

ATTEST:

Elizabeth Cappon, Town Secretary

APPROVED AS TO FORM:

Clark McCoy, Town Attorney

EXHIBIT "A"

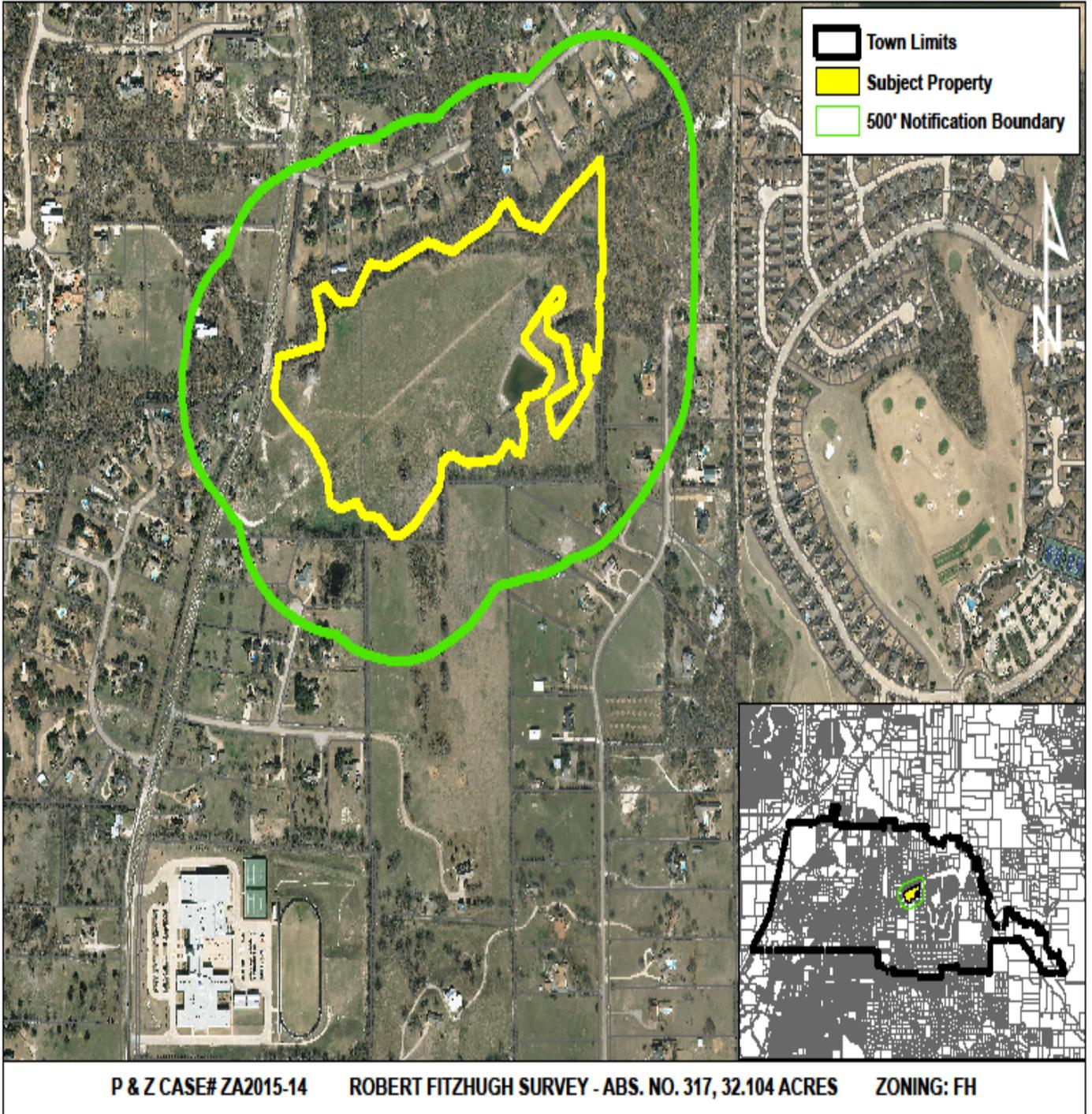


EXHIBIT "B"

PERIMETER FIELD NOTE DESCRIPTION

BEING a 44.058 acre tract of land situated in the Robert Fitzhugh Survey, Abstract No. 317 and the Samuel Sloan Survey, Abstract No. 791 in the Town of Fairview, Collin County, Texas and being Tract 1-13.882 acres, Tract 2-3.06 acres, Tract 3-10.00 acres and Tract 4-17.20 acres described by deed to Standard Investments, LP according to the deed recorded in 0620100820000895030 of the Real Property Records of Collin County, Texas and being perimeter described ground sold as follows:

BEGINNING at the southwest corner of said Tract 4 and being located in the east line of Farm Market Road 1376 (Country Club Road) and being in a non-tangent curve to the right having a radius of 1,138.81 feet and a chord bearing of North 29°44'20" East;

THENCE along the east line of said Farm Market Road 1376 with said non-tangent curve to the right through a central angle of 11°46'13" for an arc length of 231.85 feet to a point for corner;

THENCE continuing with said east line, NORTH 29°30'20" EAST a distance of 204.56 feet to the beginning of a curve to the left having a radius of 802.59 feet and a chord bearing of North 18°28'50" East;

THENCE continuing with said east line with said curve to the left through a central angle of 22°3'00" for an arc length 306.88 feet to a 5/8 inch iron rod set for the northwest corner of said tract 1-13.882 acres and being located in the south bank Sloan Creek (by description);

THENCE departing the east line of said Farm Market Road 1376 (Country Club Road) and following the meanders of Sloan Creek (by deed description) and the north line of said Tract 1 as follows:

NORTH 71°33'04" EAST a distance of 241.68 feet to a point for corner;
NORTH 02°34'13" WEST a distance of 83.38 feet to a point for corner;
NORTH 13°16'13" WEST a distance of 114.50 feet to a point for corner;
NORTH 56°01'47" EAST a distance of 58.80 feet to a point for corner;
SOUTH 54°34'13" EAST a distance of 85.60 feet to a point for corner;
NORTH 81°45'47" EAST a distance of 87.00 feet to a point for corner;
NORTH 28°10'47" EAST a distance of 162.00 feet to a point for corner;
SOUTH 80°14'13" EAST a distance of 108.50 feet to a point for corner;
NORTH 58°43'47" EAST a distance of 193.60 feet to a point for corner;
NORTH 82°32'47" EAST a distance of 116.00 feet to a point for corner;
SOUTH 88°18'28" EAST a distance of 184.33 feet to the southwest corner of said Tract 2;

THENCE with the meanders of said Sloan Creek (by deed description) and following the north line of said Tract 2 as follows:

NORTH 53°06'18" EAST a distance of 139.94 feet to a point for corner;
NORTH 84°38'41" EAST a distance of 84.20 feet to a point for corner;
NORTH 33°31'41" EAST a distance of 100.78 feet to a point for corner;
NORTH 78°28'41" EAST a distance of 86.14 feet to a point for corner;
SOUTH 33°10'18" EAST a distance of 102.40 feet to a point for corner;
SOUTH 75°18'18" EAST a distance of 104.50 feet to a point for corner;
NORTH 44°02'41" EAST a distance of 181.50 feet to a point for corner;
NORTH 52°38'48" EAST a distance of 246.00 feet to the northeast corner of said Tract 2;

THENCE departing the meanders of said Sloan Creek, SOUTH 03°08'18" EAST a distance of 308.50 feet to a 1/2 inch iron rod found for the southeast corner of said Tract 2 and being the northeast corner of said Tract 3;

THENCE along the east line of said Tract 3, SOUTH 01°38'24" EAST a distance of 327.43 feet to a point for corner from which a 1/2 inch iron rod is located North 28.3°;

THENCE continuing with said east line, SOUTH 00°54'12" WEST a distance of 276.80 feet to a point for corner;

THENCE SOUTH 01°27'48" EAST a distance of 320.80 feet to a 1/2 inch iron rod found for the southeast corner of said Tract 3;

THENCE along an established fence, SOUTH 88°19'08" WEST a distance of 457.14 feet to a point for corner for the southeast corner of said Tract 4 (by location) and being located 23.3' east of the southwest corner of said Tract 5 (23.3' overlap between tracts);

THENCE along the south line of said Tract 4, with said fence line, SOUTH 87°57'07" WEST a distance of 401.21 feet to a 1/2 inch iron rod found for an 119' corner in said south line of Tract 4;

THENCE SOUTH 02°12'01" EAST a distance of 239.17 feet to a 1/2 inch iron rod found for the westerly southeast corner of said Tract 4;

THENCE along the south line of said Tract 4, SOUTH 89°32'48" WEST a distance of 1,223.84 feet to the POINT OF BEGINNING;

CURRENT TITLE REPORT WAS NOT AVAILABLE AT THE TIME OF THIS SURVEY. THEREFORE, IT IS POSSIBLE THAT ANY EASEMENTS OR RECORD MAY NOT BE SHOWN CONTAINING 44.058 acres or 1.018 acres of land more or less.