

CITY OF FORNEY, TEXAS

ORDINANCE NO. 15-01

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, ORDINANCE NO. 1085, AND MAP, AS AMENDED, BY CHANGING THE ZONING ON APPROXIMATELY 546.012 ACRES OF LAND IN THE A. HYER SURVEY, ABSTRACT NO. 203, IN THE CITY OF FORNEY, KAUFMAN COUNTY, TEXAS, FROM AG - AGRICULTURAL DISTRICT USES TO PD - PLANNED DEVELOPMENT OVERLAY DISTRICT, WITH A BASE ZONING DISTRICT DESIGNATED AS SFA - SINGLE FAMILY ATTACHED RESIDENTIAL DISTRICT FOR RESIDENTIAL USES AND GR - GENERAL RETAIL DISTRICT FOR COMMERCIAL USES, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" HERETO, WHICH LAND IS IDENTIFIED AS GATEWAY PARKS, IN ACCORDANCE WITH THE CITY'S COMPREHENSIVE MASTER PLAN AND SPECIFIC REQUIREMENTS STATED HEREIN AND EXHIBITS ATTACHED HERETO; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Forney, Texas ("City") is a home-rule city possessing the full power of local self-government pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of the Texas Local Government Code, and the Home Rule Charter for the City of Forney, Texas; and

WHEREAS, the City Council of the City of Forney ("City Council"), pursuant to Section 217.042 of the Texas Local Government Code, as amended, possesses the power to regulate zoning and development in the City; and

WHEREAS, after public notice was had and a public hearing was conducted in accordance with the Comprehensive Zoning Ordinance of the City of Forney, Texas, Ordinance No. 1085, as amended ("Zoning Ordinance"), the Planning and Zoning Commission of the City of Forney, Texas ("Planning and Zoning Commission"), has recommended a change in zoning classification of the property described herein and has recommended amending the official zoning map of the City of Forney, Texas, regarding the rezoning of the property herein described; and

WHEREAS, all legal requirements, conditions, and prerequisites have been complied with prior to this case coming before the City Council; and

WHEREAS, the City Council, after public notice was had and a public hearing was conducted in accordance with the Zoning Ordinance, and upon due deliberation and consideration of the recommendation of the Planning and Zoning Commission and of all testimony and information submitted during said public hearing, has determined that, in the public's best interest and in support of the health, safety, morals, and general welfare of the citizens of the City, the zoning of the property described herein shall be changed, and that the official zoning map of the City of Forney, Texas, shall be amended to reflect the rezoning of the property described.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORNEY, TEXAS, THAT:

Section 1. FINDINGS INCORPORATED

All of the above premises are found to be true and correct legislative and factual determinations of the City of Forney and are hereby approved and incorporated into the body of this Ordinance for all purposes as if fully set forth herein.

Section 2. ZONING AMENDED

From and after the effective date of this Ordinance, the property described herein shall be rezoned as set forth in this section, and the official zoning map of the City of Forney, Texas, is hereby amended and changed in the following particulars to reflect the action taken herein, and all other existing sections, subsections, paragraphs, sentences, definitions, phrases, and words of said Zoning Ordinance are not amended, but shall remain intact and are hereby ratified, verified, and affirmed to create a change in the zoning classification of the property described herein, as follows:

That certain tract of land being 546.012 acres of land in the A. Hyer Survey, Abstract No. 203, and more fully described in Exhibit "A" attached hereto and incorporated herein for all purposes (the "Property"), presently zoned AG – Agricultural District, is hereby rezoned PD - Planned Development Overlay District with a base zoning district of SFA - Single-Family Attached Residential District for residential uses and GR - General Retail District for commercial uses, as more particularly described in Exhibit "A" hereto, which land is identified as Gateway Parks, in accordance with specific requirements in the City's Comprehensive Plan, and in accordance with Exhibit "B" (Development Standards and Permitted Uses), and Exhibit "C" (Concept Plan), attached hereto and incorporated herein by reference as if repeated verbatim. More particularly, the base zoning districts shall be applied as reflected on Exhibit "C" (Concept Plan) with the SFA - Single-Family Attached Residential District regulations applied to that area of the Property identified for residential uses and the GR - General Retail District regulations applied to that area of the Property identified for commercial uses. Any revision to Exhibit "C" (Concept Plan) shall require that this Planned Development Overlay District be re-opened and a change in zoning requested and obtained as a condition precedent to any proposed of Exhibit "C" (Concept Plan).

Section 3. SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the words, phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any word, phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of any such unconstitutional word, phrase, clause, sentence, paragraph or section.

Section 4. SAVINGS CLAUSE

The Comprehensive Zoning Ordinance of the City of Forney, Texas, Ordinance No. 1085, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 5. REPEALER CLAUSE

Any provision of any prior ordinance of the City, whether codified or uncoded, which is in conflict with any provision of this Ordinance, is hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City, whether codified or uncoded, which are not in conflict with the provisions of this Ordinance shall remain in full force and effect.

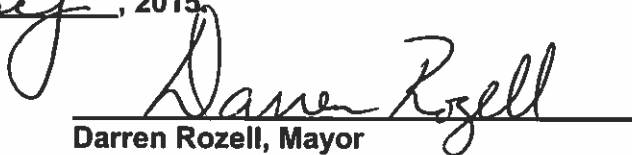
Section 6. PENALTY CLAUSE

Any person, firm, or corporation violating any of the provisions or terms of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined a sum not to exceed \$2,000.00 for each offense, and each and every violation or day such violation shall continue or exist shall be deemed a separate offense.

Section 7. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and Charter in such cases provide.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FORNEY, TEXAS, this 20th day of January, 2015.


Darren Rozell, Mayor

ATTEST:


Dorothy Brooks, TRMC, CMC, City Secretary

APPROVED AS TO FORM:

Kent S. Hofmeister, City Attorney



EXHIBIT A

DESCRIPTION OF PROPERTY

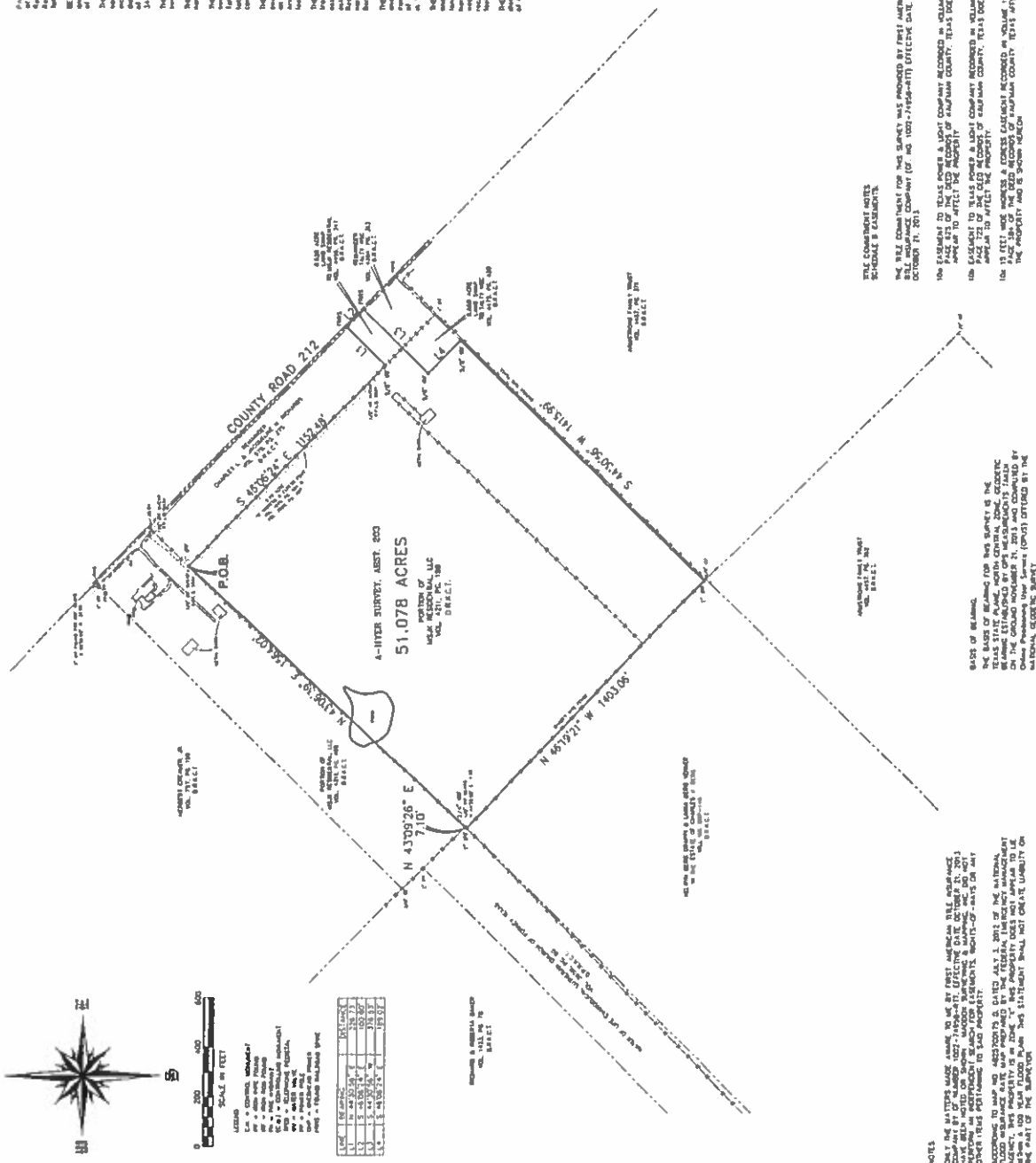
Exhibit A
Legal Descriptions

Legal descriptions of the Property in the Planned Development for the Gateway Parks Development District are included in the 5 attached surveys:

Survey 1	51.078 acres
Survey 2	96.554 acres
Survey 3	190.92 acres
Survey 4	102.30 acres
Survey 5	<u>105.160 acres</u>
	546.012 total acres

FIELD NOTES

PART of the A. P. P. Survey, except the 101.1 acre tract in Section 36, Township 24N, Range 10E, County of Garza, State of Texas, which is a part of said survey in the name of M&A Professional, L.L.C., recorder in Volume 171, Page 166 of the Garza County Public Record. ...



LEGEND
--- 1/4 section boundary
--- 1/2 section boundary
--- 3/4 section boundary
--- 1/2 mile boundary
--- 1/4 mile boundary
--- 1/8 mile boundary
--- 1/16 mile boundary
--- 1/32 mile boundary

LINE	BEARING	DISTANCE
1	N 43°09'26\"	7.10
2	S 85°26'24\"	1192.89
3	N 43°09'26\"	7.10
4	S 85°26'24\"	1192.89

51.078 ACRES
4-HYPER SURVEY, ABST. 200
M&A PROFESSIONAL, L.L.C.
VOL. 171, PG. 166
GARBZA COUNTY, TEXAS

51.078 ACRES
M&A PROFESSIONAL, L.L.C.
GARZA COUNTY, TEXAS

Surveyor's Certificate

The South Plains L.L.C., Prof. Anthonis The Surveyor, Registered Professional Surveyor, State of Texas, License No. 14129, and M&A Professional, L.L.C., Registered Professional Surveyor, State of Texas, License No. 14129, are hereby certifying that the above described plat is a true and correct copy of the original plat as shown to the Surveyor by the owner of the land and the plat is in accordance with the SURVEYING ACT AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING, STATE OF TEXAS.

THE STATE OF TEXAS, COUNTY OF GARZA, TEXAS
I, MARY ANN HANCOCK, REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, DO HEREBY CERTIFY THAT I HAVE PERSONALLY REVIEWED THE ABOVE DESCRIBED PLAT AND THAT IT IS A TRUE AND CORRECT COPY OF THE ORIGINAL PLAT AS SHOWN TO ME BY THE SURVEYOR AND THAT I AM NOT PROVIDING ANY PROFESSIONAL OPINION OR GUARANTEE AS TO THE ACCURACY OF THE SURVEYING DATA OR THE RESULTS THEREOF.

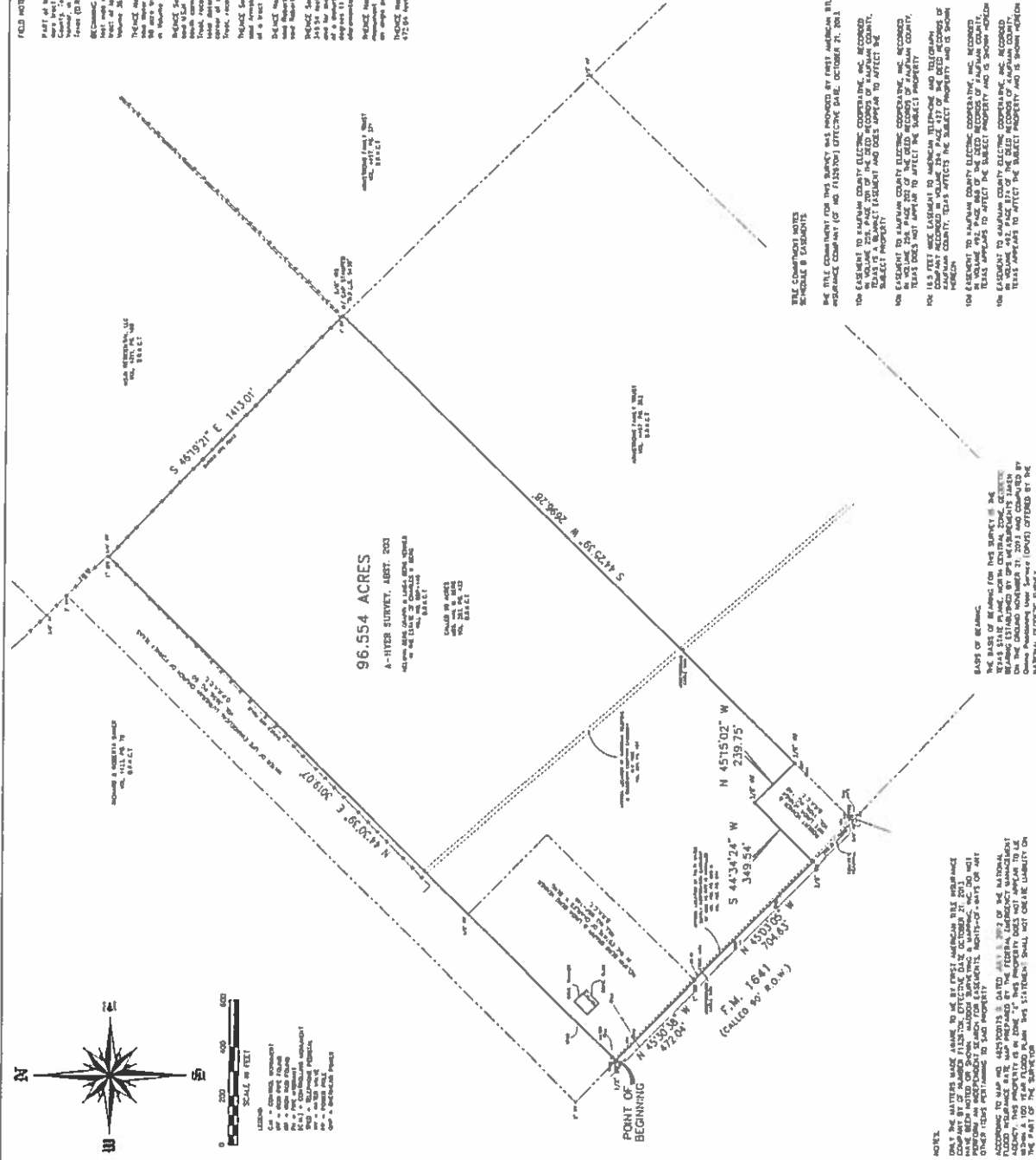
THE STATE OF TEXAS, COUNTY OF GARZA, TEXAS
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THE STATE OF TEXAS, COUNTY OF GARZA, TEXAS
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NOTES
ONLY THE PLAT MAPS HAVE BEEN REVIEWED BY ME AS A REGISTERED PROFESSIONAL LAND SURVEYOR. I HAVE NOT REVIEWED THE ORIGINAL PLAT OR ANY OTHER INSTRUMENTS PERTAINING TO THIS PROPERTY.
ACCORDING TO MAP NO. 462370079 D, DATED JULY 1, 2015, OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA), THE PROPERTY IS LOCATED IN AN AREA THAT HAS BEEN DESIGNATED AS A HIGH RISK AREA FOR FLOODING.
THE SURVEYOR HAS CONDUCTED VISUAL INSPECTIONS OF THE PROPERTY AND HAS OBSERVED NO SIGNIFICANT CHANGES TO THE PROPERTY SINCE THE SURVEY.

FIELD NOTES

PART of the A. J. ... Survey, subject to the 2011 ... in ... County, Texas, being all of a certain ...



96.554 ACRES
A-HYPER SURVEY, ABST. 203
AS PER DEED, COUNTY OF TARRANT, TEXAS
DATE OF DEED: 08/14/09

THE COMMENTARY HEREIN IS A SUMMARY OF THE RECORDS OF THE PUBLIC RECORDS OF TARRANT COUNTY, TEXAS, REFLECTING THE DEED RECORDS OF TARRANT COUNTY, TEXAS, TO VOLUME 224, PAGE 137 OF THE DEED RECORDS OF TARRANT COUNTY, TEXAS, AND TO VOLUME 224, PAGE 137 OF THE DEED RECORDS OF TARRANT COUNTY, TEXAS. THIS AFFECTS THE SUBJECT PROPERTY AND IS SHOWN FOR INFORMATION OF THE INTERESTED PARTIES.

NOTES:
ONLY THE MATTER MADE AWARE TO ME BY FIRST AMERICAN TITLE INSURANCE COMPANY, INC. HAS BEEN REVIEWED BY ME. I HAVE NOT CONDUCTED A FIELD SURVEY OF THE PROPERTY AND THEREFORE CANNOT GUARANTEE THE ACCURACY OF THE INFORMATION PROVIDED HEREIN. I AM NOT PROVIDING ANY PROFESSIONAL OPINION ON THE MATTER MADE AWARE TO ME BY FIRST AMERICAN TITLE INSURANCE COMPANY, INC. THIS DOCUMENT SHALL NOT OBTAIN LIABILITY ON THE PART OF THE SURVEYOR.

Robert Perry and Company, Inc. Surveyors, Inc. 12-30-13

96.554 ACRES SOUTH FERRY, LLC. TARRANT COUNTY, TEXAS
Surveyor's Certificate
To South Ferry, LLC, First American Title Insurance Company, Robert Perry and Company, Inc. and Robert Perry and Company, Inc. as Successors
12-30-13

EXHIBIT B

GATEWAY PARKS PLANNED DEVELOPMENT CONDITIONS

GENERAL REGULATIONS

All regulations of the Comprehensive Zoning Ordinance Single Family Residential District, SF-6 and General Retail District, GR, are included by reference and shall apply, except as otherwise specified by this ordinance. The base zoning district, providing the lot size requirements, is SFA – Single-Family Attached Residential District. Only the following uses are permitted: (1) the uses listed under SF-6; (2) open space greenbelt areas, neighborhood community center, trails, entry monumentation, real estate sales offices/model homes/construction trailers during the development and marketing of the residential areas along with temporary flagpoles on model home lots, accessory dwellings, private park or playground, and on-site directional signs pertaining to the development; and, (3) the uses listed under GR for the area designated as nonresidential on the Concept Plan for this District which is attached as Exhibit “C”.

DEFINITIONS

1. Association. The Gateway Parks homeowners’ association to be formed for the purpose of enforcing the covenants, conditions, and restrictions within the District, and to collect dues and fees for the ownership and maintenance of common areas and to be used for the best interests of the community subject to the governing documents of the Association and applicable law.
2. Comprehensive Zoning Ordinance. Ordinance number 1085, as amended. Subdivision Ordinance number 1012, as amended.
3. Developer. South Forney, LLC, its successors and assigns.
4. District. The planned development district created in this Ordinance.
5. Open Space Lot(s). Any lot identified on a Preliminary or Final Plat as a lot to be used as common area by the homeowners or to be dedicated to the City of Forney will be identified as such on the final recorded plat after the City Council has accepted that dedication. If land is accepted by the City after that plat is recorded, the dedication may be made by separate instrument.
6. Property. The Legal Description of the Property is attached as Exhibit “A”.

DEVELOPMENT STANDARDS

1. Concept Plan. Development of this District shall be in general conformance with the Concept Plan unless approved otherwise by the City Council or their designee during the preliminary plat process. Modifications to the street layout, Open Space Lot locations, lot locations and lot mix shown on the Concept Plan shall be allowed during the preliminary and/or final plat process for each phase, and through the City of Forney’s review and approval process.

In the event of conflict between the Concept Plan and the written conditions of this Ordinance, the written conditions shall apply.

2. Lot Development Standards per Section 43 of the Comprehensive Zoning Ordinance, 1085 as amended unless otherwise indicated below.

A. Lot Mix (Community at build-out):

Minimum 7,000 square feet: 50% minimum (TYPE A Lots).

Minimum 5,800 square feet: 50% maximum (TYPE B Lots).

B. Housing Mix:

Minimum 2,200 square feet: (TYPE A Lots).

Minimum 1,800 square feet: (TYPE B Lots).

C. Development Standards (TYPE A Lots):

- i. Minimum Lot Width: 60’.
- ii. Minimum Lot Depth: 110’
- iii. Front Yard Setback: 20’. However, if the garage door faces the street, the garage shall have a front yard setback of 25’
- iv. Rear Yard Setback: 10’
- v. Side Yard Setback-Internal Lot: 5’
- vi. Side Yard Setback-Corner Lot-Side Adjacent to a Street: 10’
- vii. Side Yard Setback-Corner Lot-Side Adjacent to a SF lot: 5’
- viii. Maximum Lot Coverage: 45%.
- ix. Maximum Height: 36’/2.5 Stories

D. Development Standards (TYPE B Lots)

- i. Minimum Lot Width: 50’.
- ii. Minimum Lot Depth: 110’
- iii. Front Yard Setback: 20’. However, if the garage door faces the street, the garage shall have a front yard setback of 25’
- iv. Rear Yard Setback: 10’
- v. Side Yard Setback-Internal Lot: 5’
- vi. Side Yard Setback-Corner Lot-Side Adjacent to a Street: 10’
- vii. Side Yard Setback-Corner Lot-Side Adjacent to a SF lot: 5’
- viii. Maximum Lot Coverage: 50%.
- ix. Maximum Height: 36’/2.5 Stories

3. Garage, Parking and Driveway Requirements.

A. Off-Street parking requirements shall conform to Section XXVI of the Ordinance: “Off-Street Paved Parking and Loading Regulations”, except that, if built, a neighborhood community/amenity center shall have off-street parking of 10 spaces plus 1 space for each 500 square feet over 5,000 square feet of enclosed and heated building area.

B. Each home shall provide a minimum two (2) car garage integral to the home. Garages shall be allowed to face on any side of the home, provided that all other applicable regulations are met.

The minimum setback for the garage door frame shall match the applicable setback depth for the respective lot type.

- C. No parking space, garage or other automobile storage structure shall be used for storage of any heavy load vehicle including boats and RV's.
- D. Carports shall be prohibited.

4. Building Criteria.

- A. Architectural Repetition: Homes with the same floor plan and/or elevation shall be prohibited from being located next to each other. Homes with the same elevation shall be prohibited from being located across the street from each other.
- B. A hip roof which faces the street and which comprises greater than 35% of the total width of a home's façade shall be broken up with dormers or other architecturally compatible appurtenances.
- C. Exterior facades of homes shall be constructed with 90% masonry, exclusive of doors, windows, porches, window and/or door trim, soffits, dormers, and gables on the first floor, and 65% on all other floors. The masonry shall be distributed relatively even on all sides of the home. Masonry shall include brick or stone. Prohibited materials shall include stucco, EIFS, and masonite. Cementitious fiber board (Hardi-plank or similar) shall be allowed as a non-masonry building material.
- D. All homes shall use a 30 year minimum, dimensional composition shingle, flat pan standing seam metal roofing, or terra cotta or slate tile roof.
- E. The minimum roof pitch shall be 6:12.
- F. All mailboxes shall be constructed of brick or stone and shall be complimentary in design to the home.

5. Landscaping and Screening.

- A. A minimum fifteen (15) foot wide landscape buffer lot shall be provided along all perimeter roads (FM 1641, FM 212, and Helms Trail) and Gateway Boulevard. The buffer shall be owned and maintained by the Association. The buffer shall be irrigated with an underground irrigation system.
- B. A minimum twenty (20) foot wide landscape buffer lot shall be provided along Streets "A" and "B" where those streets are adjacent to the Grandview Estates neighborhood. Shrubs shall be planted in a hedge-row within the buffer to provide screening of the Grandview Estates neighborhood. The shrubs shall be a minimum of two feet (2') in height when measured

immediately after planting. The shrubs shall provide a continuous, unbroken, solid visual screen which will be six feet (6') high within three (3) years after time of planting. Additionally, trees having a minimum two inch (2") caliper diameter, as measured four feet (4') above the base of the tree, for every fifty feet (50') of adjacent street frontage shall be planted. The buffer shall be irrigated with an underground irrigation system. The buffer shall be owned and maintained by the Association. The buffer shall not be required to be landscaped until such time as the adjacent phase of the Gateway Parks community is being constructed.

- C. The developer shall plant trees having a minimum two (2) inch caliper diameter, as measured four (4) feet above the base of the tree, for every fifty (50) feet of adjacent roadway frontage along Gateway Boulevard and FM 1641. Trees shall be located in the 15' buffer and/or adjacent right-of-way no closer than 5' from the back of curb. Trees may be placed in natural groupings.
- D. The Developer may construct entry features at a maximum height of thirty (30) feet above grade.
- E. The Developer shall be allowed to construct divided entries into the Property. If the Developer elects to do so, this entry shall contain a median, which shall contain landscaping, and entry monument and lighting, and two 25' wide (back of curb-to-back of curb) pavement sections at the approval of the City Engineer.
- F. The front yard of each completed home shall be grassed with a minimum landscape requirement of eight (8) shrubs and one (1) tree having a minimum four (4) inch caliper diameter, as measured four (4) feet above the base of the tree.
- G. Unless otherwise approved by the City Council or their designee, all plantings should be native to the natural landscape and drought and disease resistant. Individual homeowners may landscape at will.

6. Fencing.

- A. Fences constructed for individual single family lots shall have a minimum height of six (6) feet and a maximum height of eight (8) feet, and shall be constructed of wood with metal reinforcing posts. Ornamental metal (aka "wrought iron") a minimum of six (6) feet and a maximum of eight (8) feet in height is permitted along the rear or side lot lines of residential lots abutting Open Space Lots or public streets.
- B. Any wood fence facing a public street shall have the board side of the fence facing the street side of the fence support structure.

7. Open Space/Common Areas.

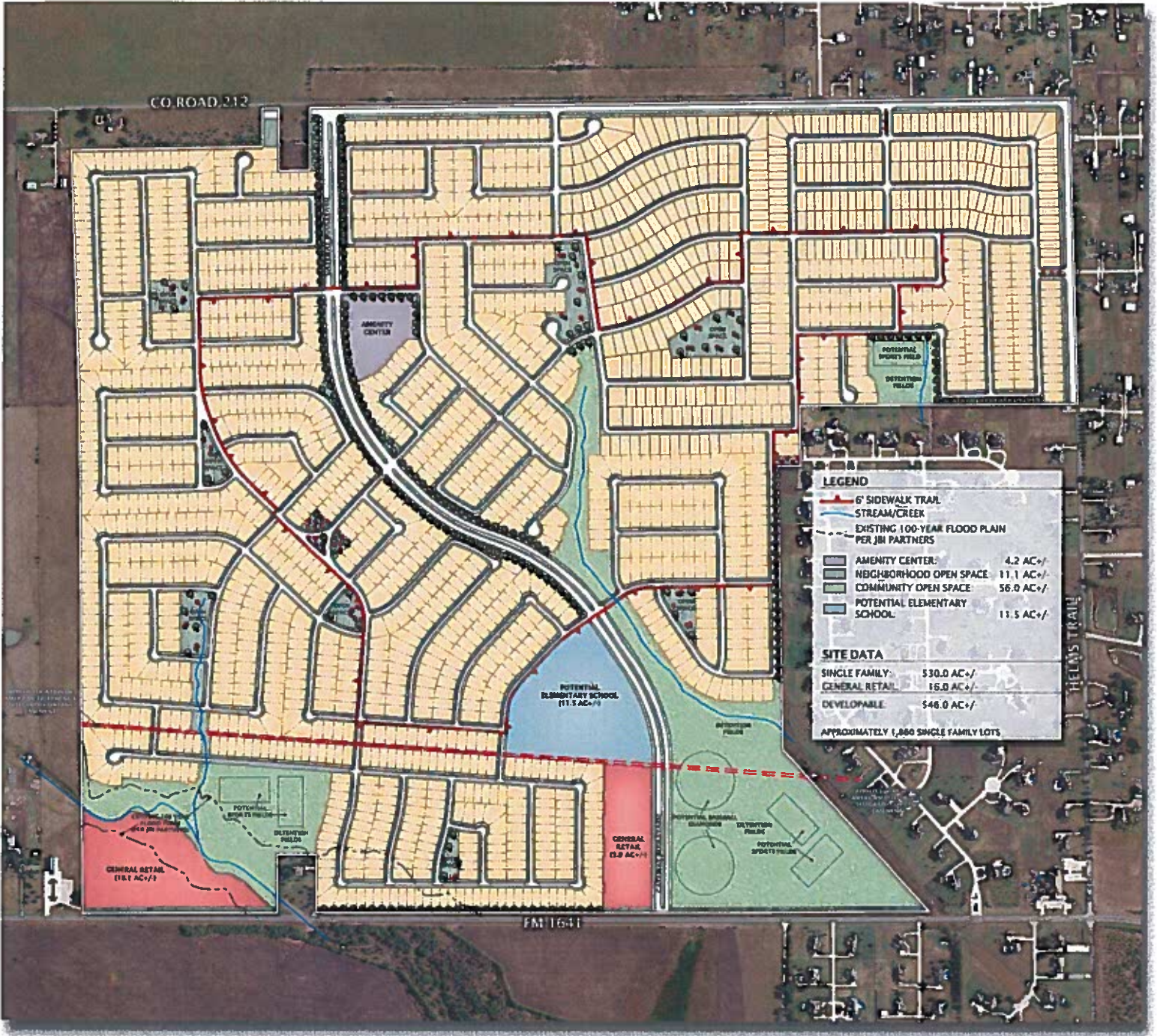
- A. The developer shall designate the land identified on the Concept Plan as Community Open Space and may choose not to develop as common area/open space and either convey it to the Association or the City (with City Council approval) for ownership and maintenance and in such

conveyance limit the Community Open Space to low impact uses such as non-impervious trails, picnic areas and nature study areas. The developer shall provide public access to this common area/open space through a series of trails, sidewalks, and street crossings in a similar manner as depicted on the Concept Plan.

- B. The Developer shall convey the land designated on the Concept Plan as Neighborhood Open Space to the Association.
 - C. The acreages for the Open Space Lot parcels in the Concept Plan may be more or less than the actual acreages at the time of conveyance/dedication, but any change greater than 10% shall have City approval before conveyance/dedication.
8. Sidewalks. A sidewalk shall be built, six (6) feet in width on one side of the street within the public right-of-way in roughly the same continuous location as depicted in the Concept Plan as "Sidewalk Trail" as the street sections are (platted and) constructed. All other sidewalks within the community shall be built in accordance with City's standards. Sidewalks are required for both sides of a street.
9. General Requirements.
- A. The Concept Plan sets forth the street pattern design.
 - B. Gateway Boulevard shall be extended to US Highway 80 in conjunction with construction of Phase 1 of the Gateway Parks community.
 - C. An amenity center shall be constructed in conjunction with the construction of Phase 1 of the Gateway Parks community. Components of the amenity center shall include, at a minimum, a community building with restrooms, swimming pool, bbq grills, picnic tables, shade structures, playground equipment, and an off-street parking lot.
 - D. At a minimum, an approximate 12 acre, public elementary school (Grades K-6) site shall be provided within the Gateway Parks community. The site may vary from the one shown on the Concept Plan. The specific site shall be determined at the time of preliminary platting. If it is determined a second public elementary school (Grades K-6) site is necessary to serve the Gateway Parks community, the developer will work with the Forney ISD to identify the site. This second site may or may not be located within the Gateway Parks community.
 - E. Alleys shall be prohibited.
 - F. Driveways shall be constructed of concrete or brick-like pavers. Any portion of the driveway constructed in the public right-of-way shall be constructed of concrete.
 - G. The average lot size shall be at least 6,500 square feet for the District as a whole. The development, at no time, shall have completed TYPE B lots make up more than 75% of the total completed lots in the development.

10. Homeowner's Association. A Homeowner's Association will be incorporated in the State of Texas by the Developer, recorded with Kaufman County and delivered to the City of Forney prior to the recording of the Final Plat for Phase One. Deed restrictions shall be recorded by the Developer simultaneous with the recording of the Final Plat for Phase 1.

EXHIBIT C
CONCEPT PLAN



CONCEPT PLAN

GATEWAY PARKS FORNEY, TEXAS



14070-0300 - PRELIMINARY. THIS CONCEPT PLAN IS NOT TO BE USED FOR PERMITS OR DEVELOPMENT.