

AGENDA
CITY OF THE COLONY, TEXAS
BOARD OF ADJUSTMENT
Wednesday, August 17, 2016

After determining that a quorum is present, the Board of Adjustment of the City of The Colony, Texas will convene into Regular Session which will be held on Wednesday, August 17, 2016, at 6:30 PM in the City Council Chambers located in City Hall, 6800 Main Street, The Colony, Texas, at which time the following items will be addressed:

1.0	CALL REGULAR SESSION TO ORDER
2.0	ITEM FOR CONSIDERATION
2.1	Election of Chair and Vice-Chair for the Board
2.2	Consider approval of the minutes of the regular session of the May 18, 2016 Board of Adjustment meeting.
3.0	PUBLIC HEARING ITEMS
3.1	<i>BOA16-0003 – Swimming Pool at 8 Holden Circle</i> Conduct a public hearing, discuss and consider a variance request from Zoning Ordinance Section 10.300 Definitions and explanations applicable to use schedule, that defines “Swimming Pool, (private)” and states “nor shall it be constructed in the required front yard” to build a swimming pool in the front yard at 8 Holden Circle property.

“Pursuant to the Texas Open Meetings Act, Government Code Chapter 551, one or more of the above items may be considered in executive session closed to the public. Any decision held on such matter will be taken or conducted in open session following the conclusion of the executive session.”

Persons with disabilities who plan to attend this meeting who may need auxiliary aids such as interpreters for persons who are deaf or hearing impaired, readers or, large print are requested to contact Tina Stewart, Interim City Secretary, at 972-624-3105 at least two (2) working days prior to the meeting so that appropriate arrangements can be made.

CERTIFICATION

I hereby certify that above notice of meeting was posted outside the front door of City Hall by 5:00 PM on the 12th day of August 2016.



A handwritten signature in cursive script that reads "Tina Stewart".

Tina Stewart, City Secretary

**MINUTES
CITY OF THE COLONY
BOARD OF ADJUSTMENT
Wednesday, May 18, 2016**

After determining that a quorum was present, the Board of Adjustment of the City of The Colony, Texas convened into Regular Session which was held on Wednesday, May 18, 2016 at 6:31 p.m. in the City Council Chambers located in City Hall, 6800 Main Street, The Colony, Texas, at which time the following items were addressed:

Board Members Present: Charles Tredo, Constance Yahwak, Joel Ortega, Gerald Odum and Casey Truskunas

Board Members Absent: None

Present from Staff: Gordon Scruggs, P.E, Director of Engineering and Development Services; Surupa Sen, AICP, Senior Planner, Brian McNulty, Technical Assistant, and Ed Voss, City Attorney

1.0	CALL REGULAR SESSION TO ORDER
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Chairman Tredo called the meeting to order at 6:31 p.m.

2.0	ITEM FOR CONSIDERATION
2.1	Consider approval of the minutes of the regular session of the February 17, 2016 Board of Adjustment meeting.

Board Member Ortega moved to approve the minutes, seconded by Board Member Yahwak. The motion carried (5-0).

3.0	PUBLIC HEARING ITEM
3.1	<i>BOA16-0001 – Detached Garage at 4534 N Shore Drive</i> Conduct a public hearing, discuss, and consider a variance request from Zoning Ordinance Section 13.101 requiring “an enclosed, attached garage” “shall be provided upon initial construction to each and every single-family dwelling unit”, requesting permission to build a detached garage at a later time for a proposed new single family home at 4534 N Shore Drive.

Chairman Tredo read public hearing item 3.1 into record.

Ms. Sen presented the staff report.

Board member Ortega asked why in staff opinion approval of the variance will affect the neighboring land uses.

Ms. Sen responded stating that all new residences within The Colony have attached garages and this variance will deter from that requirement.

Board member Truskunas asked what the square footage of the house will be and whether as per the drawings there is enough room between the detached garage and the deck to build the pool in the backyard.

Ms. Sen answered that the house will be around 2000 square feet and there is room for the pool to be built behind the house.

Board member Truskunas asked why attached garage is a requirement per Zoning Ordinance.

Ms. Sen mentioned that usually the typical lot size in a subdivision does not have room for detached garage, the lots being small is side. That is why originally the attached garage requirement was put in place.

Mr. Scruggs mentioned that even if the Board approves the variance for detached garage staff would like to require the applicant to build the garage during the house construction and not later as requested by the applicant.

Chairman Tredo opened the public hearing at 6:40 pm.

Applicant Mrs. Radulesku spoke during the public hearing regarding her request to build a detached garage. She confirmed that she is willing to build the garage at the same time when the house is build.

Chairman Tredo closed the public hearing at 6:55 p.m.

Board member Ortega moved to go into Executive Session to receive legal counsel seconded by Board member Odum. Board moved to Executing Session at 6:59 p.m.

Board resumed regular session at 7:13 p.m.

Board Member Ortega moved to approve item 3.1 with stipulation that the detached garage be built at the same time when the house is being built, seconded by Board Member Truskunas, and opposed by Board Member Odum. The motion carried (4-1).

3.2	<i>BOA16-0002 – Pappy’s Pet Lodge at 4000 Paige Road</i> Conduct a public hearing, discuss, and consider a variance from Zoning Ordinance “Section 13-1385: Kennels that include any outdoor area shall be located a minimum of 2,000 feet from any single family property or zoning district” for a proposed Pappy’s Pet Lodge at 4000 Paige Road.
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Chairman Tredo read public hearing item 3.2 into record.

Ms. Sen presented the staff report.

Board Member Ortega asked where the outdoor play area will be.

Ms. Sen answered that a portion of the parking lot will be converted into outdoor play area as shown on the site plan.

Board member Truskunas stated that the buffer requirement from residential property is the main issue for this variance discussion.

Ms. Sen explained that the reason behind requiring any kennel with outdoor play area to be at least 2000 feet away from residential area is mostly to address noise issues. This location is facing SH 121 and nestled within commercial area. The nearest residential is far away to be affected by noise generated by this use. Also noise is mitigated by the freeway noise, Paige Road traffic and even the Hawaiian Falls water park is right across street from the residences. Thus noise is greatly mitigated to affect residential area.

Chairman Tredo opened the public hearing at 7:35 pm.

Applicant Mr. Bill Kinder with Pappy's Pet Lodge spoke during the public hearing regarding their award winning brand and how this area is a prime location for such a facility. He also stated that for security reasons the fence around the play area will be 8 feet tall.

Board member Truskunas asked what their next step will be if this variance is approved.

Mr. Voss responded that they have to go through a SUP approval process through Planning and Zoning Commission and City Council.

Chairman Tredo closed the public hearing at 7:50 p.m.

Board Member Ortega moved to approve item 3.2, seconded by Board Member Yahwak, Board Member Truskunas abstained. The motion carried (4-0).

Being no further discussion, Chairman Tredo adjourned the meeting at 7:50 p.m.

, Chairman

Surupa Sen, AICP, Senior Planner

BOARD OF ADJUSTMENT STAFF REPORT

AGENDA DATE: August 17, 2016

DEPARTMENT: Engineering/Development Services Department

PLANNER: Surupa Sen, AICP, Senior Planner, 972-624-3164

SUBJECT: *BOA16-0003 – Swimming Pool at 8 Holden Circle*

Conduct a public hearing, discuss and consider a variance request from Zoning Ordinance Section 10.300 Definitions and explanations applicable to use schedule, that defines “Swimming Pool, (private)” and states “nor shall it be constructed in the required front yard” to build a swimming pool in the front yard at 8 Holden Circle property.

APPLICANT/OWNER:

Craig Sloan

The Colony, Texas

BACKGROUND:

Applicant Mr. Sloan owns the property located at 8 Holden Circle, described as Colony No 28, Lot 4, Block 245. The property is zoned SF-4. The property has a single family residence with a patio at the back and an outdoor deck. This lot is on a cul-de-sac and the eastern boundary is adjacent to City owned land majority of which is under floodplain. The trail along the Lewisville Lake is also within close proximity of this lot. Sewer mains run along the southeastern and southwestern property lines of this lot.

The applicant would like to install a swimming pool on his property. The applicant’s position is that due to the unusual shape of the lot and the way the house is laid out, there isn’t enough room to install the size swimming pool the owner desires in the back yard. As a result he would like to install the swimming pool within the available land in the front yard outside the front yard setback.

The Colony Zoning Ordinance Section 10-300 - Definitions and explanations applicable to use schedule states

(12) Swimming pool (private): A swimming pool constructed for the exclusive use of the residents at a single-family, duplex, townhouse or apartment dwelling located and fenced in accordance with the standards and regulations of the City of The Colony. Such private swimming pool shall not be operated as a business nor maintained in such a manner as to be hazardous or obnoxious to adjacent property owners nor shall it be constructed in the required front yard. Swimming pools may be located within the required side or rear yards; however, they shall not be located closer than three (3) feet to any property line.

If a variance is approved to construct the pool in the front yard and outside the front yard setback, the applicant will be required to install a 4’ tall fence around the swimming pool for safety. A 4’ tall fence is allowed in the front yard.

FINDINGS:

According to Section 21-103 of the Code of Ordinances, The Board of Adjustment may grant a Variance if all of the following exist.

- 1. The variance is necessary to permit development of a specific parcel of land which differs from other parcels of land because of special circumstances concerning the size, shape, area, topography, conditions and location of the parcel that is the subject of the variance request.**

The 8 Holden Circle property is an unusually shaped lot. The house is also positioned in a manner where majority of the open land falls under front yard. There is little room in the side yard and the lot width is much reduced towards the back resulting in a backyard that is only large enough for a small pool.

- 2. The granting of the variance will not adversely affect the land use pattern as outlined by the land use plan and will not adversely affect any other feature of the Comprehensive Zoning Plan of the City.**

The pool will be for a single family home with the required safety fencing.

- 3. The granting of the variance will not be materially detrimental to the public welfare or to the use, enjoyment or values of the surrounding properties.**

It affects privacy and aesthetics of the neighborhood. However the lot is adjacent to City owned land, there is a drainage structure and bushes along the eastern property line of the lot. So there is no neighboring house on the eastern side of the lot where this swimming pool is being planned.

NOTIFICATION

Board of Adjustment public hearings require newspaper notification a minimum of ten (10) days prior to the meeting date. A legal notice was published in the *Dallas Morning News* on August 6, 2016. No comments either for or against this request were received as of the printing of this packet.

OPTIONS

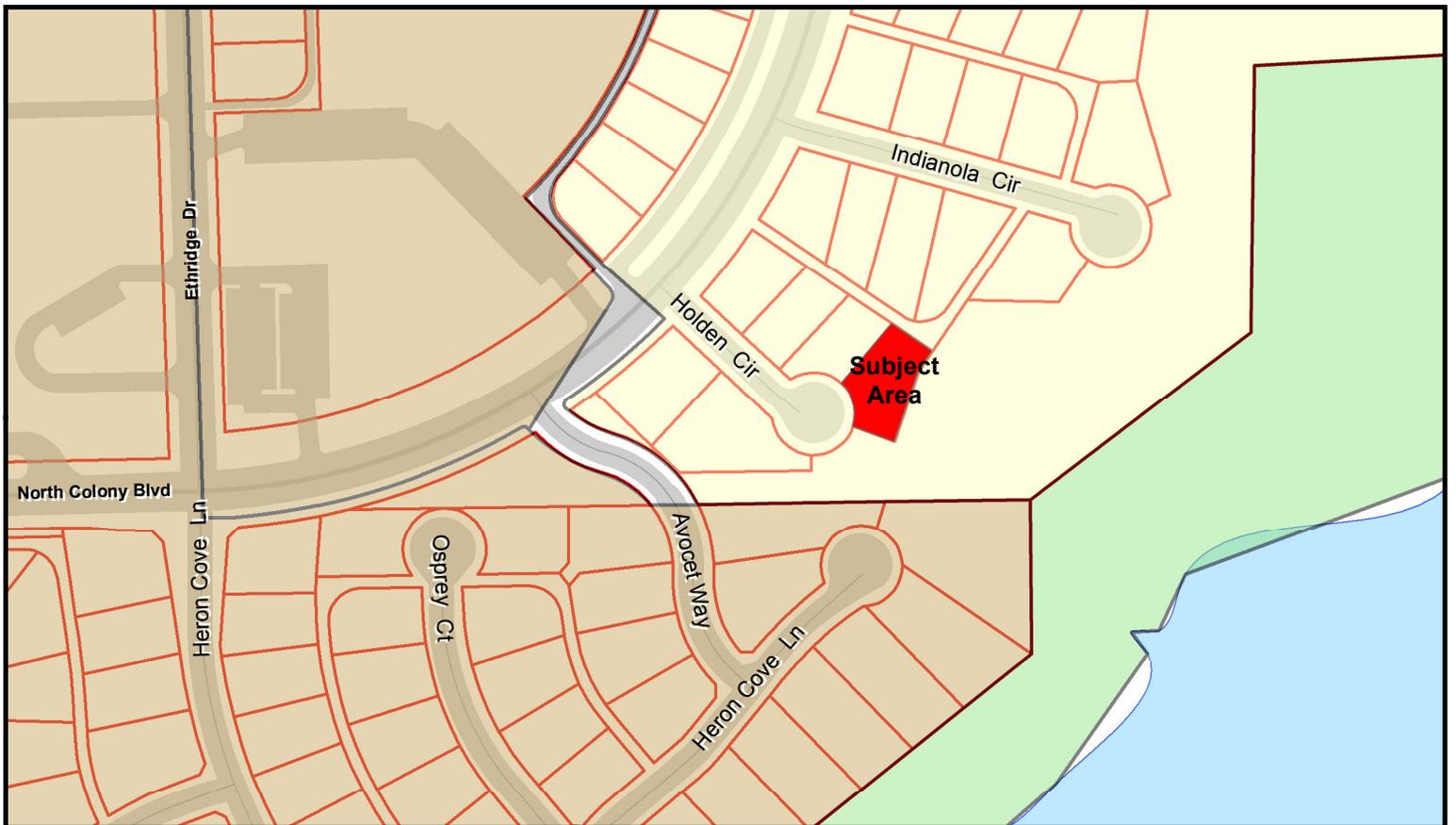
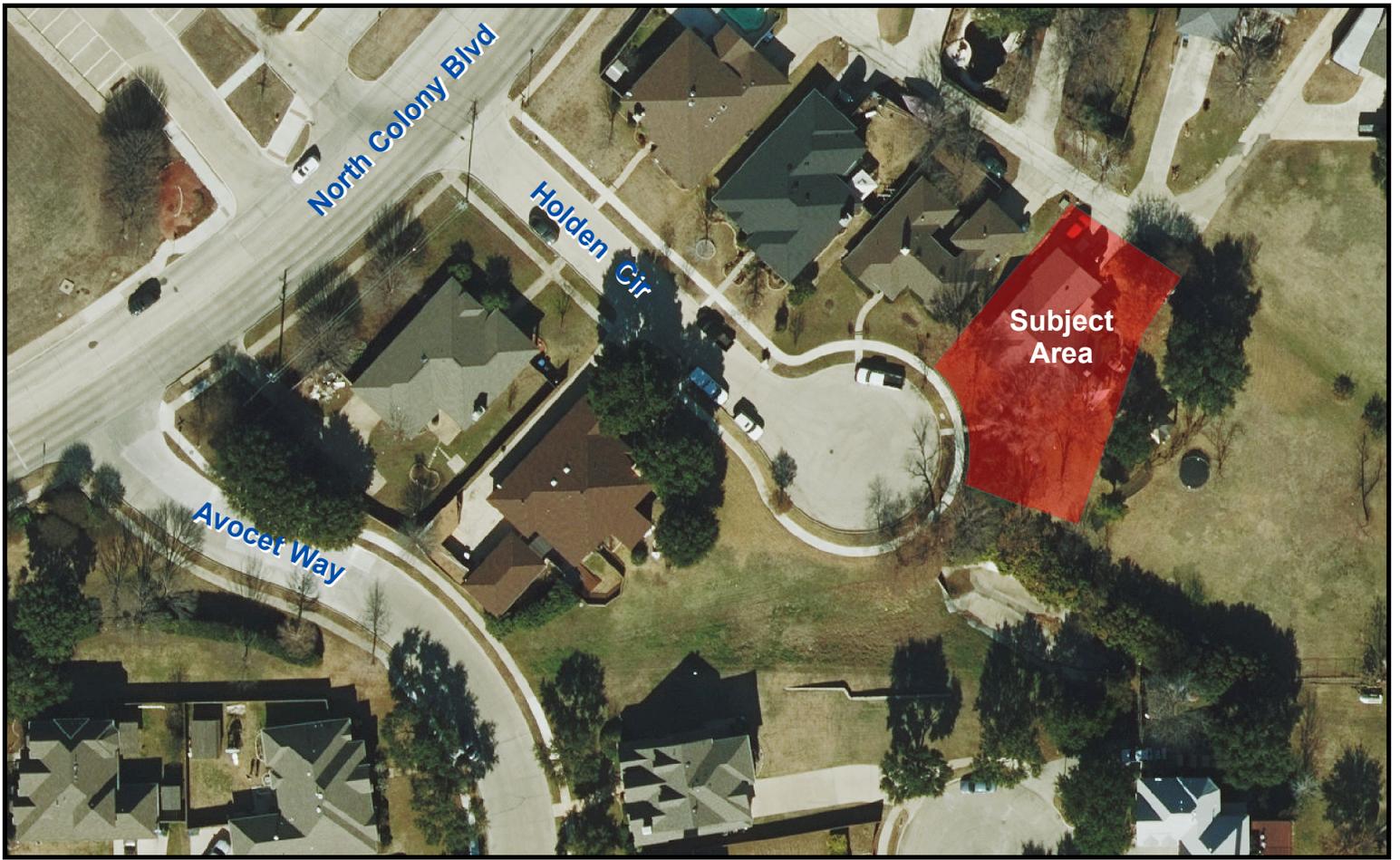
1. Approve as requested
2. Deny
3. Postpone consideration
4. Table item

RECOMMENDATION

Staff has no recommendation for the requested Variance.

ATTACHMENTS

1. Location Map
2. Survey showing swimming pool
3. Pool graphics
4. Site photos



Project No. BOA16-0003 - Project Name: Swimming Pool at 8 Holden Circle

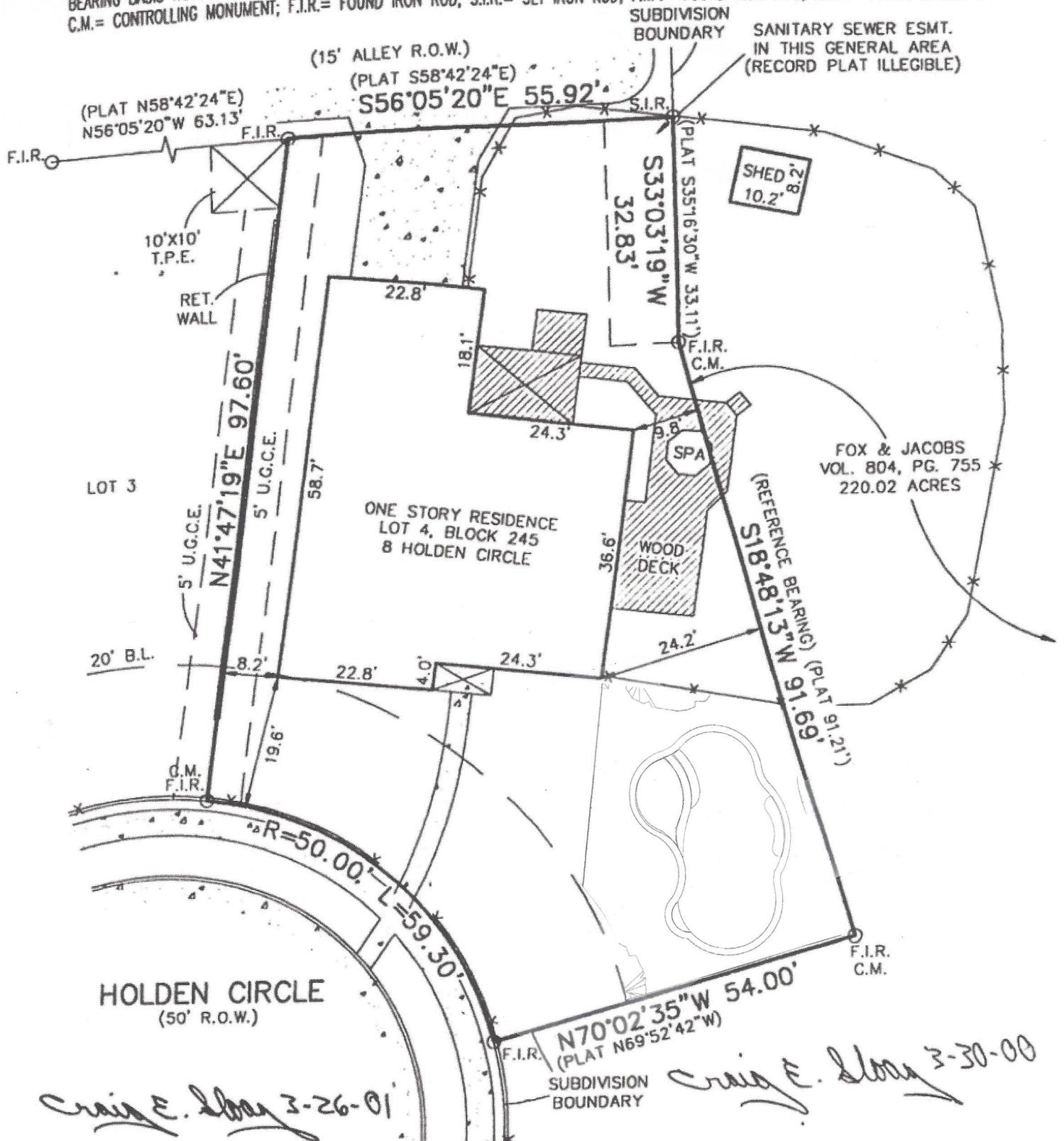


8 Holden Circle	Business Park/Industrial	Heavy Commercial	Mobile Home	Planned Development
Agricultural	Duplex Dwelling	Industrial	Neighborhood Service	Shopping Center
Business Park	General Retail	Light Commercial	Office District 1	Single Family Dwelling

This map was generated by GIS data provided by The Colony GIS Department. The City of The Colony does not guarantee the correctness or accuracy of any features on this map. These digital products are for illustration purposes only and are not suitable for site-specific decision making.



BEARING BASIS NOTE: THE BEARINGS SHOWN HEREON ARE BASED ON THE ABOVE-REFERENCED, RECORDED MAP OR PLAT.
 C.M. = CONTROLLING MONUMENT; F.I.R. = FOUND IRON ROD; S.I.R. = SET IRON ROD; F.I.P. = FOUND IRON PIPE; F.C.P. = FENCE CORNER POST.

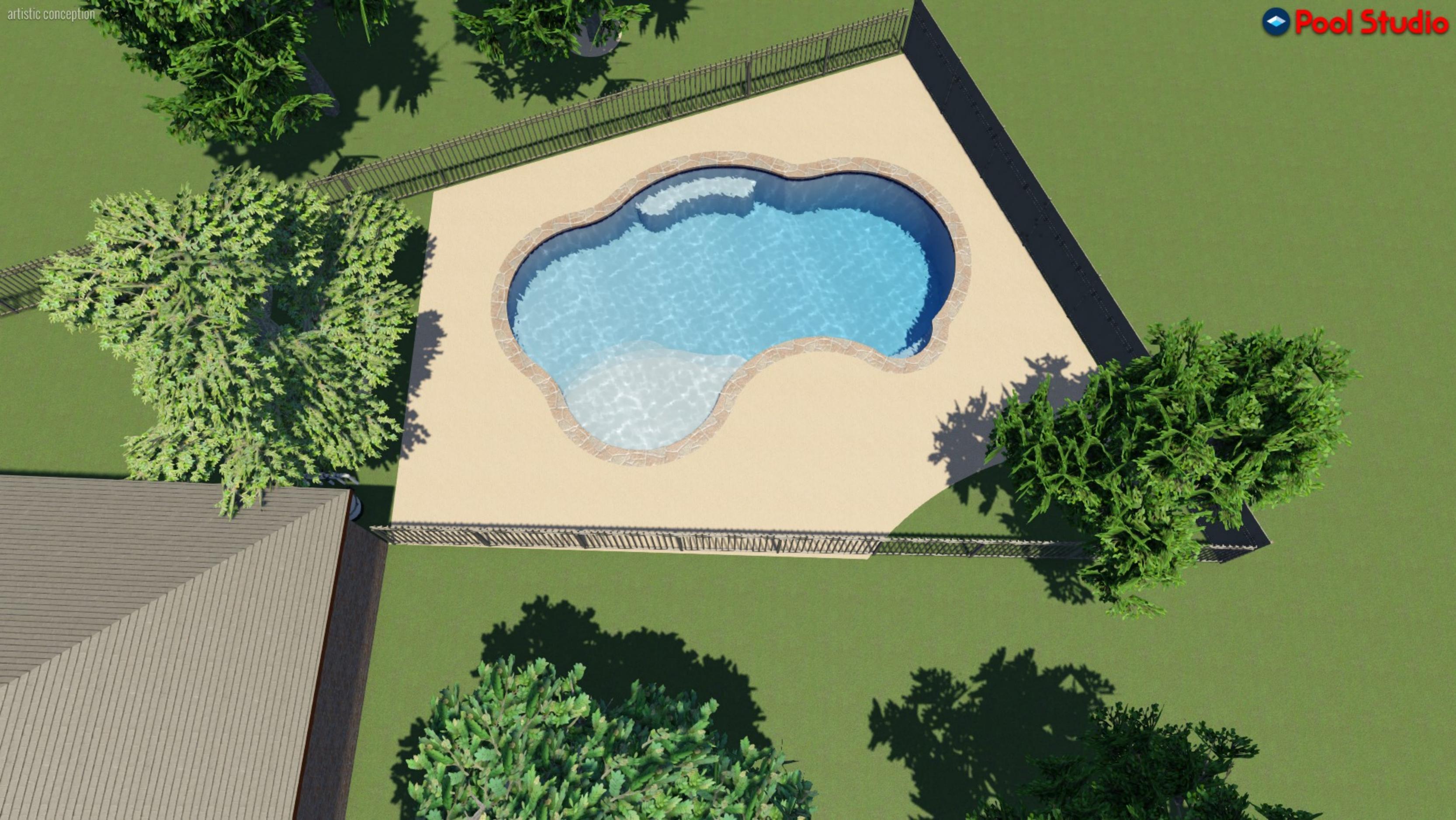


NOTE: THE FOLLOWING EASEMENT INCLUDES THIS LOT (BLANKET STYLE):
 VOL. 720, PG. 601

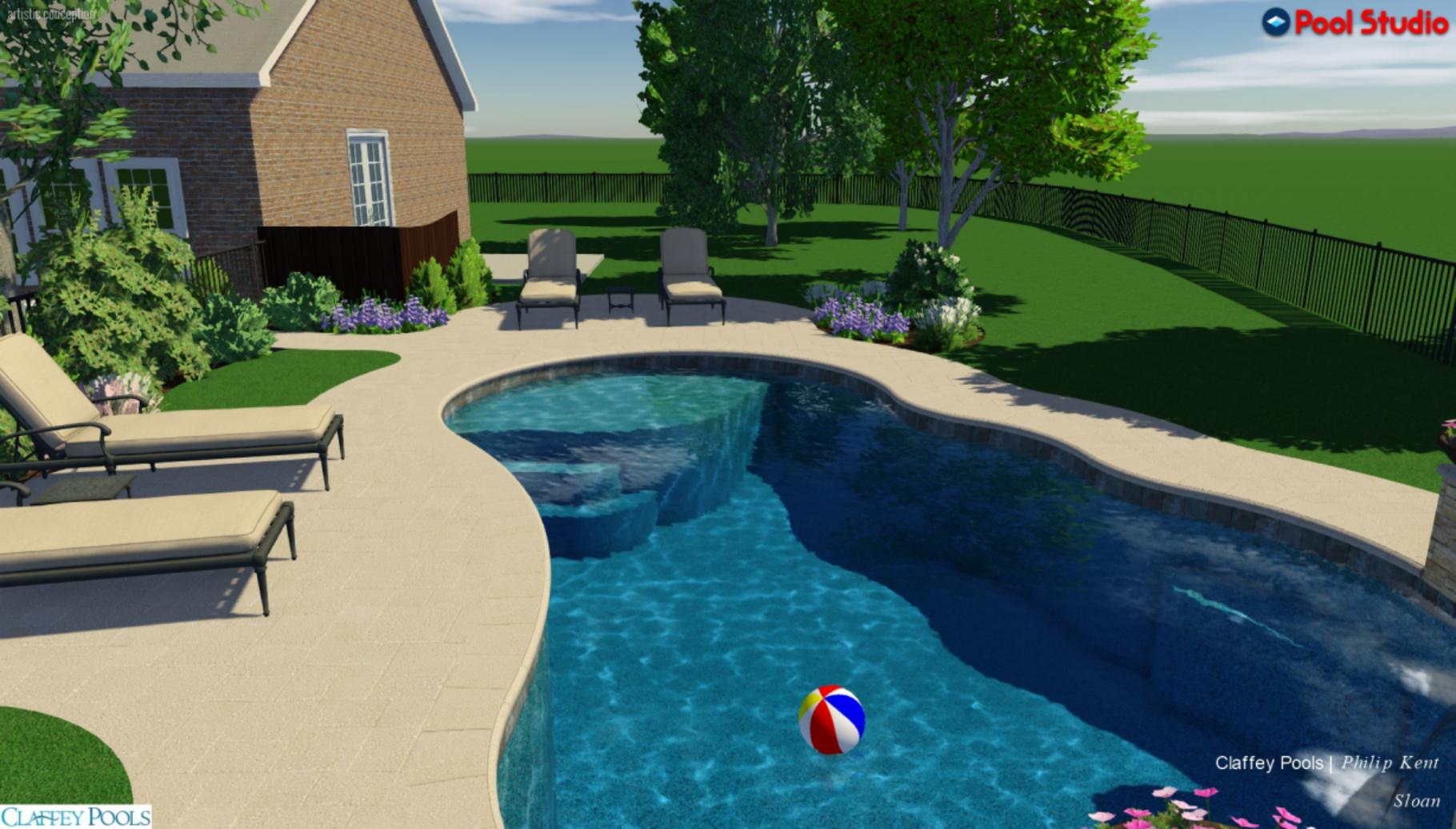
TO THE LIEN HOLDERS AND/OR THE OWNERS OF THE PREMISES SURVEYED AND TO THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS SURVEY WAS THIS DAY MADE ON THE GROUND OF THE PROPERTY LEGALLY DESCRIBED HEREON AND IS CORRECT, AND TO THE BEST OF MY KNOWLEDGE, THAT THERE ARE NO VISIBLE DISCREPANCIES, CONFLICTS, SHORTAGES IN AREA, BOUNDARY LINE CONFLICTS, ENCROACHMENTS, OVERLAPPING OF IMPROVEMENTS, EASEMENTS OR RIGHT OF WAY THAT I HAVE BEEN ADVISED OF EXCEPT AS SHOWN HEREON, AND THAT SAID PROPERTY HAS ACCESS TO AND FROM A DEDICATED ROADWAY.

FLOOD NOTE: IT IS MY OPINION THAT THE RESIDENCE DESCRIBED HEREIN LIES WITHIN THE 100-YEAR FLOOD ZONE AREA ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NO. 481581 0558 E.

FIRST AMERICAN TITLE COMPANY
 G.F. NO. 00002895-013-CRS











**NO
TRESPASSING**
Property Monitored



PRIVATE
PROPERTY
NO TRESPASSING

NO
TRESPASSING





PRIVATE
PROPERTY