



*Prosper is a place where everyone matters.*

**AGENDA**  
**Meeting of the Prosper Town Council**  
Prosper Municipal Chambers  
108 W. Broadway, Prosper, Texas  
Tuesday, February 11, 2014  
6:00 p.m.

1. Call to Order/Roll Call.
2. Invocation, Pledge of Allegiance and Pledge to the Texas Flag.
3. Announcements of upcoming events.
4. Presentation.
  - GFOA Achievement of Excellence in Financial Reporting—for fiscal year ended September 30, 2012. **(KA)**

5. **CONSENT AGENDA:**

(Items placed on the Consent Agenda are considered routine in nature and non-controversial. The Consent Agenda can be acted upon in one motion. Items may be removed from the Consent Agenda by the request of Council Members or staff.)

- 5a. Consider and act upon minutes from the following Town Council meeting. **(RB)**
- Regular Meeting – January 28, 2014
  - Special Meeting – January 29, 2014

6. **CITIZEN COMMENTS:**

(The public is invited to address the Council on any topic. However, the Council is unable to discuss or take action on any topic not listed on this agenda. Please complete a “Public Meeting Appearance Card” and present it to the Town Secretary prior to the meeting.)

Other Comments by the Public -

**REGULAR AGENDA:**

(If you wish to address the Council during the regular agenda portion of the meeting, please fill out a “Public Meeting Appearance Card” and present it to the Town Secretary prior to the meeting. Citizens wishing to address the Council for items listed as public hearings will be recognized by the Mayor. Those wishing to speak on a non-public hearing related item will be recognized on a case-by-case basis, at the discretion of the Mayor and Town Council.)

**PUBLIC HEARINGS:**

7. Conduct a Public Hearing, and consider and act upon a request to rezone 6.5± acres, located on the west side of Custer Road, 500± feet north of Prosper Trail, from Agricultural (A) to Planned Development-Office (PD-O). (Z13-0009). **(CC)**
8. Conduct a Public Hearing, and consider and act upon a request to amend 6.6± acres of Planned Development-57-Office (PD-57-O), located on the north side of Prosper Trail, 500± feet west of Custer Road. (Z13-0019). **(CC)**

**DEPARTMENT ITEMS:**

9. Consider and act upon adopting an ordinance amending Article 4.02 of Chapter 4 of the Code of Ordinances related to the 2006 mixed beverage election and alcohol permit fees to be collected by the Town. **(RB)**
10. Consider and act upon all matters incident and related to the issuance and sale of the Town of Prosper, Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Series 2014, including the adoption of an ordinance authorizing the issuance of such Certificates, approving an Official Statement, a Bond Purchase Agreement, a Paying Agent/Registrar Agreement, and an engagement letter of Bond Counsel. **(KA)**
11. Consider and act upon the proposed park land dedication within the limits of the preliminary plat of Brookhollow, on 158.5± acres, located on the north side of First Street, 1,600± feet east of Coit Road. (D12-0013). **(PN)**
12. Discuss and provide update on status of proposed alignment of DNT Backer Road. **(HW)**
13. Discuss and provide direction to Town staff regarding the naming of future thoroughfares. **(CC)**

14. **EXECUTIVE SESSION:**

Recess into Closed Session in compliance with Section 551.001 et seq. Texas Government Code, as authorized by the Texas Open Meetings Act, to deliberate regarding:

- 14a. Section 551.087. To discuss and consider economic development incentives.*
  - 14b. Section 551.072. To discuss and consider purchase, exchange, lease or value of real property for municipal purposes and all matters incident and related thereto.*
  - 14c. Section 551.071. Consultation with Town Attorney regarding legal issues associated with proposed extraterritorial jurisdiction release, and all matters incident and related thereto.*
15. Reconvene in Regular Session and take any action necessary as a result of the Closed Session.

16. Possibly direct Town staff to schedule topic(s) for discussion at a future meeting.

- Possibly cancel March 11, 2014, Town Council meeting. **(RB)**
- Update on 100-Year Celebration **(RB)**

17. Adjourn.

#### **CERTIFICATION**

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted at the Town Hall of Prosper, Texas, 121 W. Broadway Street, Prosper, Texas, a place convenient and readily accessible to the general public at all times, and said Notice was posted on the following date and time:

On February 7, at 5:00 p.m. and remained so posted at least 72 hours before said meeting was convened.

\_\_\_\_\_  
Robyn Battle, Town Secretary

\_\_\_\_\_  
Date Noticed Removed

If during the course of the meeting covered by this Notice, the Town Council should determine that a closed or executive meeting or session of the Town Council or a consultation with the attorney/special counsel for the Town should be held or is required, then such closed or executive meeting or session or consultation with the attorney/special counsel as authorized by the Texas Open Meetings Act, Texas Government Code, §551.001, *et seq.*, will be held by the Town Council at the date, hour and place given in this Notice or as soon after the commencement of the meeting covered by this Notice as the Town Council may conveniently meet in such closed or executive meeting or session or consult with the attorney/special counsel for the Town concerning any and all subjects and for any and all purposes permitted by the Act, including, but not limited to, the following sections and purposes:

Texas Government Code:

§551.071 - Consultation with the attorney/special counsel for the Town.

§551.072 - Discussion regarding the purchase, exchange, lease or value of real property.

§551.074 - Discussion regarding personnel matters.

#### **NOTICE**

Pursuant to Town of Prosper Ordinance No. 13-63, all speakers other than Town of Prosper Staff are limited to three (3) minutes per person, per item, which may be extended for an additional two (2) minutes with approval of a majority vote of the Town Council.

**NOTICE OF ASSISTANCE AT PUBLIC MEETINGS:** The Prosper Town Council Meetings are wheelchair accessible. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as Interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the Town Secretary's Office at (972) 569-1011. BRAILLE IS NOT AVAILABLE.



*Prosper is a place where everyone matters.*

**MINUTES**  
**Regular Meeting of the**  
**Prosper Town Council**  
Prosper Municipal Chambers  
108 W. Broadway, Prosper, Texas  
Tuesday, January 28, 2014

**1. Call to Order/Roll Call.**

The meeting was called to order at 6:00 p.m.

**Council Members Present:**

Mayor Ray Smith  
Mayor Pro-Tem Meigs Miller  
Deputy Mayor Pro-Tem Kenneth Dugger  
Councilmember Michael Korbuly  
Councilmember Curry Vogelsang, Jr.  
Councilmember Danny Wilson  
Councilmember Jason Dixon

**Staff Members Present:**

Harlan Jefferson, Town Manager  
Robyn Battle, Town Secretary  
Terrence Welch, Town Attorney  
Hulon T. Webb, Jr., Executive Director of Development and Community Services  
Chris Copple, Director of Development Services  
Kent Austin, Finance Director  
Doug Kowalski, Interim Police Chief  
Gary McHone, Assistant Police Chief  
Wayne Snell, Building Official  
Trish Eller, Code Compliance Officer

**2. Invocation, Pledge of Allegiance and Pledge to the Texas Flag.**

Pastor Jason McConnell of Prosper United Methodist Church led the invocation.

The Pledge of Allegiance and the Pledge to the Texas Flag were led by Cub Scout Den #4 from Pack 289.

**3. Announcements of upcoming events.**

Councilmember Vogelsang made the following announcements:

The Town Council welcomes Cub Scout Den #4, from Pack 289, to tonight's meeting to lead the pledge of allegiance and the Texas pledge. The scouts are working on their "Law is a Big Job" badge.

Prosper's Parks & Recreation Trout Derby will be held on Saturday, February 22, from 9:00 – 11:00 a.m. at Frontier Park. This free activity encourages youth to learn about fishing, and provides a fun way for families to spend time together. Prizes for various

age groups will be awarded, and raffle items and door prizes will be provided by local sponsors. Contact Julie Shivers with the Parks & Recreation Department for more information.

The North Texas Municipal Water District will conduct free chlorine maintenance of its distribution system from February 17 through March 17. During this time, the Town's water may have an altered taste, but this will not affect the water's quality or purity. The Texas Commission on Environmental Quality allows water suppliers to perform this maintenance, which reduces the need to flush systems during the warm weather periods, thus conserving water. While a few water customers might detect a change in the taste and odor of the water during the maintenance period, the water will continue to be safe.

For the second time in three years, the Town of Prosper has been granted the Gold Level award from the Texas Comptroller Leadership Circle. This is the highest award for online financial transparency from the Texas Comptroller of Public Accounts. Prosper attained a perfect 20 out of 20 score. The Town was judged on criteria including the officially adopted budget, annual financial report, check register, and web page. Congratulations to Town Manager Harlan Jefferson, Finance Director Kent Austin, and the Finance Department staff for their commitment to openness and transparency in keeping residents informed of the Town's financial picture.

**4. Proclamation.**

- **Presentation of a Proclamation declaring February 7-14, 2014, as Congenital Heart Defect Awareness Week.**

Mayor Smith presented a Proclamation to Melissa Hansen and another member of Mended Little Hearts of Dallas, a support group for families of children affected by congenital heart defects.

**5. CONSENT AGENDA:**

(Items placed on the Consent Agenda are considered routine in nature and non-controversial. The Consent Agenda can be acted upon in one motion. Items may be removed from the Consent Agenda by the request of Council Members or staff.)

- 5a. Consider and act upon minutes from the following Town Council meeting. (RB)**
  - **Regular Meeting – January 14, 2014**
- 5b. Receive the November 2013 financial report. (KA)**
- 5c. Receive the December 2013 financial report. (KA)**
- 5d. Consider and act upon whether to direct staff to submit a written notice of appeal on behalf of the Town Council to the Development Services Department, pursuant to Chapter 4, Section 1.5(C)(7) and 1.6(B)(7) of the Town's Zoning Ordinance, regarding action taken by the Planning & Zoning Commission on any site plan or preliminary site plan. (CC)**

Mayor Pro-Tem Miller made a motion and Deputy Mayor Pro-Tem Dugger seconded the motion to approve all items on the Consent Agenda. The motion was approved by a vote of 7-0.

**6. CITIZEN COMMENTS:**

(The public is invited to address the Council on any topic. However, the Council is unable to discuss or take action on any topic not listed on this agenda. Please complete a "Public Meeting Appearance Card" and present it to the Town Secretary prior to the meeting.)

Mayor Smith recognized the following individuals who requested to speak:

Dr. Phyllis Hoffschwelle, 2640 Glen Haven Court, Prosper, spoke regarding the Prosper Ladies Association, which was formed in 2013. She presented information on the Association's membership, activities and fundraisers, including their Boots & Bling event to be held on Saturday, March 29.

There were no other Citizen Comments.

**REGULAR AGENDA:**

(If you wish to address the Council during the regular agenda portion of the meeting, please fill out a "Public Meeting Appearance Card" and present it to the Town Secretary prior to the meeting. Citizens wishing to address the Council for items listed as public hearings will be recognized by the Mayor. Those wishing to speak on a non-public hearing related item will be recognized on a case-by-case basis, at the discretion of the Mayor and Town Council.)

**DEPARTMENT ITEMS:**

- 7. Consider and act upon awarding Bid No. 2014-29-B to Quality Excavation LTD., related to the construction services for the 2<sup>nd</sup> Upper Plane 30/24-Inch Treated Water Pipeline; and authorizing the Town Manager to execute same. (HW)**

Hulon Webb, Executive Director of Development and Community Services, presented this item before the Town Council. This project will create a second water transmission line out of the newly expanded Custer Road Pump Station, to the corner of First Street and Coit Road. The existing water line at first and Coit will be extended north to connect to the line feeding the Quail Lake subdivision.

After discussion, Deputy Mayor Pro-Tem Dugger made a motion and Councilmember Korbuly seconded the motion to award Bid No. 2014-29-B to Quality Excavation LTD., in the amount of \$3,599,581.00; and authorize the Town Manager to execute a Construction Services Contract Agreement between Quality Excavation LTD., and the Town of Prosper related to construction services for the 2<sup>nd</sup> Upper Plane 30/24-Inch Treated Water Pipeline. The motion was approved by a vote of 7-0.

- 8. Consider and act upon an ordinance repealing and replacing Chapter 2 of the Code of Ordinances regarding Animal Control. (TE)**

Code Compliance Officer Trish Eller presented this item before the Town Council. The proposed ordinance would update the Town's animal control standards to include several regulations typically found in animal control ordinances from surrounding cities. During the 2013 Strategic Planning Session, updating the Town's animal control ordinance was identified as a major initiative related to maintaining safety and security within the Town. Ms. Eller reviewed some of the proposed amendments to the ordinance, and answered questions from the Town Council related to the number of animals allowed on a piece of property and regulations regarding the keeping of livestock. Terry Welch confirmed that all residents would be required to be in compliance with the ordinance once it has been adopted and published. Misty Brown from Collin County Animal Services was present and answered questions about animal control services provided by the county, and reported that the county receives approximately 20-40 animal complaint calls per month from Prosper residents. The county works with the Town's Code Compliance Officer to respond to animal complaints and issues.

Mayor Smith recognized the following individual who requested to speak:

Janet Tharp, 1227 Chandler Circle, Prosper, spoke in favor of this item. She explained her concerns regarding livestock being kept on her neighbor's property.

After discussion, Mayor Pro-Tem Miller made a motion and Deputy Mayor Pro-Tem Dugger seconded the motion to approve Ordinance No. 14-05 repealing and replacing Chapter 2 of the Code of Ordinances regarding Animal Control. The motion was approved by a vote of 7-0.

**9. Update on threat analysis for Prosper ISD campuses. (DK)**

Interim Police Chief Doug Kowalski presented this item before the Town Council. A threat assessment will be conducted at each Prosper ISD campus and facility located within the Town. This is the first joint effort between the Town of Prosper Police Department and Prosper ISD personnel to conduct this type of assessment, which will be conducted on a regular basis going forward.

This was an informational item only, and no action was taken.

**10. Discussion on Collin County Discretionary Funding Call for Projects. (HW)**

Hulon Webb, Executive Director of Development and Community Services, presented this item before the Town Council. Collin County has identified \$15 million of discretionary funding from the 2007 transportation bond program that is available to municipalities for transportation improvements. The Town is required to provide matching funds for any projects that receive funding. Town staff recommended two projects: the reconstruction of Coleman Street from Prosper Trail to Prosper High School, and the widening of Coleman Street across the south edge of Prosper High School resulting in a four-lane divided roadway. Mr. Webb presented an additional option to request funding for the design of improvements to the southbound service road of the Dallas North Tollway. Council also discussed other options, including extending Coleman Street to Preston Road.

Mayor Smith recognized the following individual who requested to speak:

Chris Blair, 841 Sibyl Lane, Prosper, asked about other options that Town staff considered, and recommended that the Council pursue projects other than the Dallas North Tollway that would have more of a local impact.

Ann Lieber, 1190 Crooked Stick Drive, Prosper, questioned whether funding from SH 121 could be used to fund improvements to the Dallas North Tollway service road, rather than County funding.

Matt Richardson, Senior Engineer addressed the question by stating that there has not been a call for projects to use SH 121 toll money, and explained the benefits of requesting funding for the design of the Dallas North Tollway service road.

Jack Dixon, 810 Long Valley Court, Prosper, inquired about future plans for Talon Lane, and Mr. Webb responded.

Town staff was directed to submit the following projects to Collin County in response to the Collin County Discretionary Funding Call for Projects:

- **Coleman Street (Prosper Trail to Prosper High School & Prosper High School to Preston Road):** Reconstruct an existing two-lane 20' wide asphalt roadway as a two-lane 24' wide undivided (one-half of ultimate four-lane divided) concrete roadway from Prosper Trail to the southern boundary of Prosper High School. Construct a new two-lane 24' wide undivided (one-half of ultimate four-lane divided) concrete roadway on a new alignment from the east boundary of Prosper High School to Preston Road.
- **Coleman Street (at Prosper High School):** Widen an existing two-lane 24' wide undivided (one-half of ultimate four-lane divided) concrete roadway to a four-lane divided roadway across the frontage of Prosper High School.
- **Dallas North Tollway Southbound Frontage Road (US 380 – Frontier Parkway), Engineering Only:** Conduct engineering design for two southbound lanes of the Dallas North Tollway Frontage Roads from Frontier Parkway to US 380, including intersection improvements at Frontier Parkway, Prosper Trail, and First Street.

**11. Discussion on street light standards for the Town's thoroughfares and the Downtown Enhancements Project. (HW)**

Hulon Webb, Executive Director of Development and Community Services, presented this item before the Town Council. Town staff has researched options for decorative street light options to be placed in the medians of the Town's thoroughfares, as well as lighting options for the downtown area through the Downtown Enhancements Project. The Town Council selected the "Omega" design for thoroughfare lighting. Bill Hays from the Prosper Historical Society was present, and recommended the "Heritage" style for the downtown area. The Town Council directed staff to move forward with the "Omega" style for thoroughfare lighting and the "Heritage" style for the downtown area.

**12. Discussion on Alcohol Permit Fees. (RB)**

Town Secretary Robyn Battle presented this item before the Town Council. The Town's local option elections allow for the sale of alcohol in permitted areas within the Town.

The current Town ordinance authorizing a local permit fee was adopted in 2006. Ms. Battle reviewed the fees that a typical establishment in the Town of Prosper would pay to TABC and to the Town for alcohol permits under the current TABC fee schedule, and presented the results of a survey to determine which municipalities in the area also charge local permit fees. The benefits of charging a fee versus not charging a fee were discussed. Town staff was directed to bring the item and proposed ordinances to either amend the fee ordinance or discontinue the fees back to the Town Council at the February 11 Town Council meeting.

Mayor Smith recognized the following individuals who requested to speak:

Chris Blair, 841 Sibyl Lane, Prosper, encouraged the Town Council to consider the effect the ordinance may have on small business owners.

Ann Lieber, 1190 Crooked Stick, Prosper, spoke in opposition to continuing the permit fee.

**13. EXECUTIVE SESSION:**

**Recess into Closed Session in compliance with Section 551.001 et seq. Texas Government Code, as authorized by the Texas Open Meetings Act, to deliberate regarding:**

**13a.** *Section 551.087. To discuss and consider economic development incentives.*

**13b.** *Section 551.072. To discuss and consider purchase, exchange, lease or value of real property for municipal purposes and all matters incident and related thereto.*

**13c.** *Section 551.071. Consultation with Town Attorney regarding legal issues associated with proposed extraterritorial jurisdiction release, and all matters incident and related thereto.*

The Town Council recessed into Executive Session at 7:48 p.m.

Mayor Smith left the Executive Session at 8:15 p.m.

**14. Reconvene in Regular Session and take any action necessary as a result of the Closed Session.**

The Regular Session was reconvened at 8:30 p.m.

No action was taken as a result of Executive Session.

**15. Possibly direct Town staff to schedule topic(s) for discussion at a future meeting.**

**• Update to Building Codes. (WS)**

Wayne Snell, Building Official, presented information on increasing the wind load requirement for new residential construction with the adoption of the 2012 Building Codes. Staff was directed to increase the wind load requirement in the proposed update to the Building Codes.

- **Cement Truck Ordinance Discussion. (DK)**  
Interim Police Chief Doug Kowalski updated the Town Council on a proposed ordinance related to the spillage of concrete from concrete truck on Town roadways. Chief Kowalski reviewed the details of the ordinance. Two representatives from local concrete companies were present to answer questions related to their current procedures. Both representatives support the ordinance, with the exception of the requirement for a reflective surface on the chute of the truck. The Town Council directed staff to change the ordinance to reflect this suggestion, and to bring the ordinance back to the Town Council for adoption at a future meeting.

**16. Adjourn.**

The meeting was adjourned at 8:45 p.m., on Tuesday, January 28, 2014.

These minutes approved on the 11th day of February, 2014.

**APPROVED:**

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**Ray Smith, Mayor**

**ATTEST:**

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**Robyn Battle, Town Secretary**



*Prosper is a place where everyone matters.*

**MINUTES**  
**Special Meeting of the**  
**Prosper Town Council**  
Prosper Municipal Chambers  
108 W. Broadway, Prosper, Texas  
Wednesday, January 29, 2014

**1. Call to Order/Roll Call.**

The meeting was called to order at 9:00 a.m.

**Council Members Present:**

Mayor Ray Smith  
Mayor Pro-Tem Meigs Miller  
Deputy Mayor Pro-Tem Kenneth Dugger  
Councilmember Michael Korbuly  
Councilmember Curry Vogelsang, Jr.  
Councilmember Danny Wilson  
Councilmember Jason Dixon

**Staff Members Present:**

Harlan Jefferson, Town Manager  
Robyn Battle, Town Secretary  
Carol Myers, Executive Assistant/Deputy Town Secretary  
Hulon T. Webb, Jr., Executive Director of Development and Community Services  
Chris Copple, Director of Development Services  
Frank Jaromin, Public Works Director  
Baby Raley, Human Resources Director  
Kent Austin, Finance Director  
Robert Winningham, Executive Director, Prosper Economic Development Corporation  
Ronnie Tucker, Fire Chief  
Doug Kowalski, Interim Police Chief  
Gary McHone, Assistant Police Chief

**Facilitator:**

Randy Pennington, Pennington Performance Group

**2. The Town Council will hold a strategic planning workshop to discuss successes and accomplishments since the last planning workshop and to prioritize future strategic goals.**

Mr. Pennington reviewed the discussion topics for the day, and the list of accomplishments from the previous year that Town staff had submitted. He asked the Town Council to state some of the accomplishments from the previous year that they were most proud of. Some of the accomplishments included the quality of the staff that Town Manager Harlan Jefferson has put in place, and the overall quality of Town staff, improvements to roadways and infrastructure, the formation of the Executive Development team, and the 380 Forum.

Areas for continued improvement include bringing additional jobs to the Town, recruiting a grocery store, managing growth as population increases, and executing the plans that the Town Council and Town staff have already put in place.

Mr. Pennington reviewed the Town's Vision and Values, and the Town Council discussed potential long-term changes for future services and programs based on the current vision for the Town. Other discussion items included a SWOT Analysis (Strengths, Weaknesses, Opportunities, and Threats) that were identified by Town staff.

Mr. Pennington reviewed the Town's Strategic Goals:

- **Recruit Targeted and Maintainable Economic Development:** Promote diversity in economic growth and community development for Prosper's current and future residents.
- **Ensure Quality Residential Development:** Ensure quality residential development and re-development that supports the Town's vision and enhances the quality of life of Prosper's current and future residents.
- **Maintain Safety and Security:** Ensure the safety and security of individuals and property for those who live, work, and play in Prosper.
- **Provide First Rate Utilities:** Provide high quality water and sewer services to meet the Town's current and future needs.
- **Provide Efficient and Effective Roads and Infrastructure:** Provide high transportation corridors that promote mobility to meet the Town's current and future needs.
- **Maximize Recreation and Leisure Opportunities:** Provide citizens and visitors with opportunities to participate in experiences that meet their recreation and leisure needs. Promote diversity in leisure services, and experiences for Prosper's current and future residents.
- **Maintain Community Character:** Maintain Prosper's unique feel and distinctive look through extensive use of trees and open space as well as high development standards that provide vibrant neighborhoods and development.
- **Ensure Fiscal Stewardship:** Ensure Prosper's long-term financial viability and integrity of the Town's financial controls and processes.
- **Maintain A Quality Workforce:** Ensure Prosper's long-term success by attracting, retaining, equipping, and empowering a workforce that delivers excellent service for an excellent value.
- **Improve Town Facilities:** Maintain quality public facilities that represent the brand image of Prosper; meet the needs of the citizens and staff; and promote effective and efficient Town services.

The Town Council discussed action items associated with each of the above goals and provided direction to Town staff, as necessary.

The Town Council heard presentations by staff on the following items:

- Facility Update on Fire Station #2 and Town Hall
- Discussion Topics for a possible Joint meeting with Prosper ISD
- Dispatch Equipment & Options
- Evaluation of Police Staffing Levels

- Deed Restriction on Lights of Frontier Park
- Revenue Enhancements to Address Fire Station #2 O&M Cost
- Prosper's 100-Year Anniversary Celebration

In closing, Mr. Pennington explained that the discussion items and suggestions would be compiled into a report for the Town Council that would be finalized in approximately two weeks.

3. **EXECUTIVE SESSION:**

**Recess into Closed Session in compliance with Section 551.001 et seq. Texas Government Code, as authorized by the Texas Open Meetings Act, to deliberate regarding:**

***3a. Section 551.072. To discuss and consider purchase, exchange, lease or value of real property for municipal purposes and all matters incident and related thereto.***

The Executive Session was not held.

4. **Reconvene in Regular Session and take any action necessary as a result of the Closed Session.**

5. **Adjourn.**

Deputy Mayor Pro-Tem Dugger made a motion and Mayor Pro-Tem Miller seconded the motion to adjourn the meeting at 4:16 p.m., on Wednesday, January 29, 2014. The motion was approved by a vote of 7-0.

These minutes approved on the 11th day of February, 2014.

**APPROVED:**

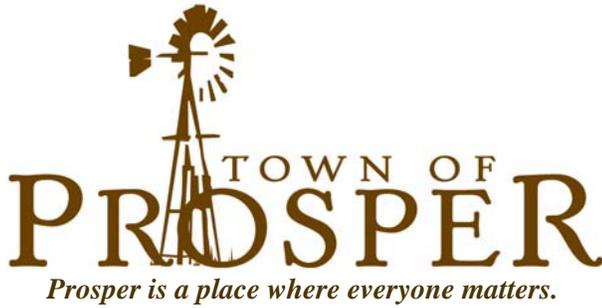
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**Ray Smith, Mayor**

**ATTEST:**

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**Robyn Battle, Town Secretary**



## PLANNING

**To:** Mayor and Town Council  
**From:** Chris Copple, AICP, Director of Development Services  
**Through:** Harlan Jefferson, Town Manager  
**Re:** Town Council Meeting – February 11, 2014

**Agenda Item:**

Conduct a Public Hearing, and consider and act upon a request to rezone 6.5± acres, located on the west side of Custer Road, 500± feet north of Prosper Trail, from Agricultural (A) to Planned Development-Office (PD-O). (Z13-0009).

**Description of Agenda Item:**

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

|                         | <b>Zoning</b>                                    | <b>Current Land Use</b>   | <b>Future Land Use Plan</b> |
|-------------------------|--|---|-----------------------------|
| <b>Subject Property</b> | Agricultural                                     | Landscape Business  | Low Density Residential     |
| <b>North</b>            | Single Family-15                                 | Single Family Residential (Rhea Mills Estates)                                  | Low Density Residential     |
| <b>East</b>             | City of McKinney                                 | Undeveloped   | City of McKinney            |
| <b>South</b>            | Planned Development-57-Office                    | House of Worship (Lighthouse Christian Fellowship)                              | Low Density Residential     |
| <b>West</b>             | Planned Development-57-Office / Single Family-15 | Private School (Grace Academy) / Single Family Residential (Rhea Mills Estates) | Low Density Residential     |

**Requested Zoning** – Z13-0009 is a request to rezone 6.5± acres, located on the west side of Custer Road, 500± feet north of Prosper Trail, from Agricultural (A) to Planned Development-Office (PD-O). The Planned Development regulations are attached. The property consists of an existing building and landscape business, which was constructed in 1997 and 2004, prior to the property being annexed into the Town in 2009.

The proposed PD-O District's purpose is to rezone the property to allow for non-residential development and to reduce the list of permitted uses from those allowed under straight Office

zoning. Rezoning the property to PD-O, instead of straight Office zoning, eliminates the following uses from being permitted on the property:

- Antenna and/or Antenna Support Structure, Non-Commercial **C**
- Athletic Stadium or Field, Private **S**
- Athletic Stadium or Field, Public
- Automobile Paid Parking Lot/Garage **S**
- Automobile Parking Lot/Garage
- Cemetery or Mausoleum **S**
- Commercial Amusement, Indoor
- Golf Course and/or Country Club
- Helistop **S**
- Hospital
- Private Club **S**
- Recycling Collection Point
- School District Bus Yard **C**
- Sewage Treatment Plant/Pumping Station **S**
- Temporary Building **C**
- Utility Distribution/Transmission Facility **S**
- Water Treatment Plant **S**

Future Land Use Plan – The Future Land Use Plan (FLUP) recommends Low Density Residential uses for the property. The zoning request for Planned Development-Office (PD-O) deviates from the FLUP. The Comprehensive Plan provides questions that should be considered when a zoning request deviates from the FLUP. These questions, as well as staff's responses to each, are below:

1. *Will the proposed change enhance the site and the surrounding area?*

The existing structures and uses have been in place since 1997 and 2004, prior to the Town annexing the property in 2009. The rezoning will allow the property to redevelop. Any new development will be required to meet the Town's development and landscape standards, which will enhance the site and improve the view from the surrounding area.

2. *Is the proposed change a better use than that originally envisioned and originally depicted on the Future Land Use Plan map?*

The property has direct access to Custer Road, a future six-lane divided thoroughfare and cross access from the adjacent single family development (Rhea Mills Estates) is not provided for. The existing landscape business is a non-residential use and any future development will be separated from the Rhea Mills Estates subdivision by a 170-foot-wide overhead electric easement. Office District uses are appropriate for the property.

3. *Will the proposed use impact adjacent residential areas in a negative manner?*

The Office District is the most restrictive non-residential district in the Town's Zoning Ordinance. The property has direct access to Custer Road, a future six-lane divided thoroughfare, so traffic will not impact adjacent residential areas. Any new development on the property would be required to comply with the Town's screening and landscape standards.

4. *Will the proposed use be compatible with and/or enhance adjacent residential uses?*

The Office District is the most restrictive non-residential district in the Town's Zoning Ordinance. The proposed PD-O District reduces the list of uses from those permitted in straight Office zoning. The property has direct access to Custer Road, a future six-lane

divided thoroughfare. Any new development on the property would be required to comply with the Town's screening and landscape standards. Office District uses are appropriate adjacent to single family use.

5. *Are uses adjacent to the proposed use similar in nature in terms of appearance, hours of operation, and other general aspects of compatibility?*

The property adjacent to the western and southern boundary is non-residential in nature. The property is zoned Planned Development-Office and the existing uses are Private School and House of Worship.

6. *Does the proposed use present a significant benefit to the public health, safety, welfare, and/or social well-being of the community?*

The existing structures and uses have been in place since 1997 and 2004. The rezoning will allow the property to redevelop. Future office development would provide additional services and employment opportunities to residents in the Town.

7. *Would the proposed use contribute to the Town's long-term economic stability?*

The existing structures and uses have been in place since 1997 and 2004. The rezoning will allow the property to redevelop. Any new development will be required to meet the Town's development and landscape standards, which will enhance the site and improve the view from the surrounding area. Future office development would provide additional services and employment opportunities to residents in the Town.

The FLUP is a guide. Zoning requests that deviate from the FLUP should be evaluated on their own merit.

Thoroughfare Plan – The property is adjacent to Custer Road, a future six-lane divided thoroughfare. The zoning exhibit complies with the Thoroughfare Plan.

Water and Sanitary Sewer Services – Water and sanitary sewer service have been extended to the property.

Access – Access to the property is provided from Custer Road. Adequate access is provided to the property.

Schools – This property is located within the Prosper Independent School District (PISD).

Parks – It is not anticipated that this property will be needed for the development of a park.

Environmental Considerations – There is no 100-year floodplain located on the property.

**Legal Obligations and Review:**

Zoning is discretionary. Therefore, the Town Council is not obligated to approve the request. Notification was provided to neighboring property owners as required by state law. Town staff has received four public hearing notice reply forms; three in opposition to the request. The property owners in opposition to the request represent an area greater than twenty percent (20%) of the land area within two hundred feet (200') of the subject property. Therefore, an affirmative vote of three-fourths (3/4) of all members of the Town Council is required to approve the zoning request.

**Attached Documents:**

1. Zoning Exhibits A, B, C, D, and E.

2. Zoning map of the surrounding area.
3. The Future Land Use Plan.
4. Public hearing notice reply forms.

**Planning & Zoning Commission Recommendation:**

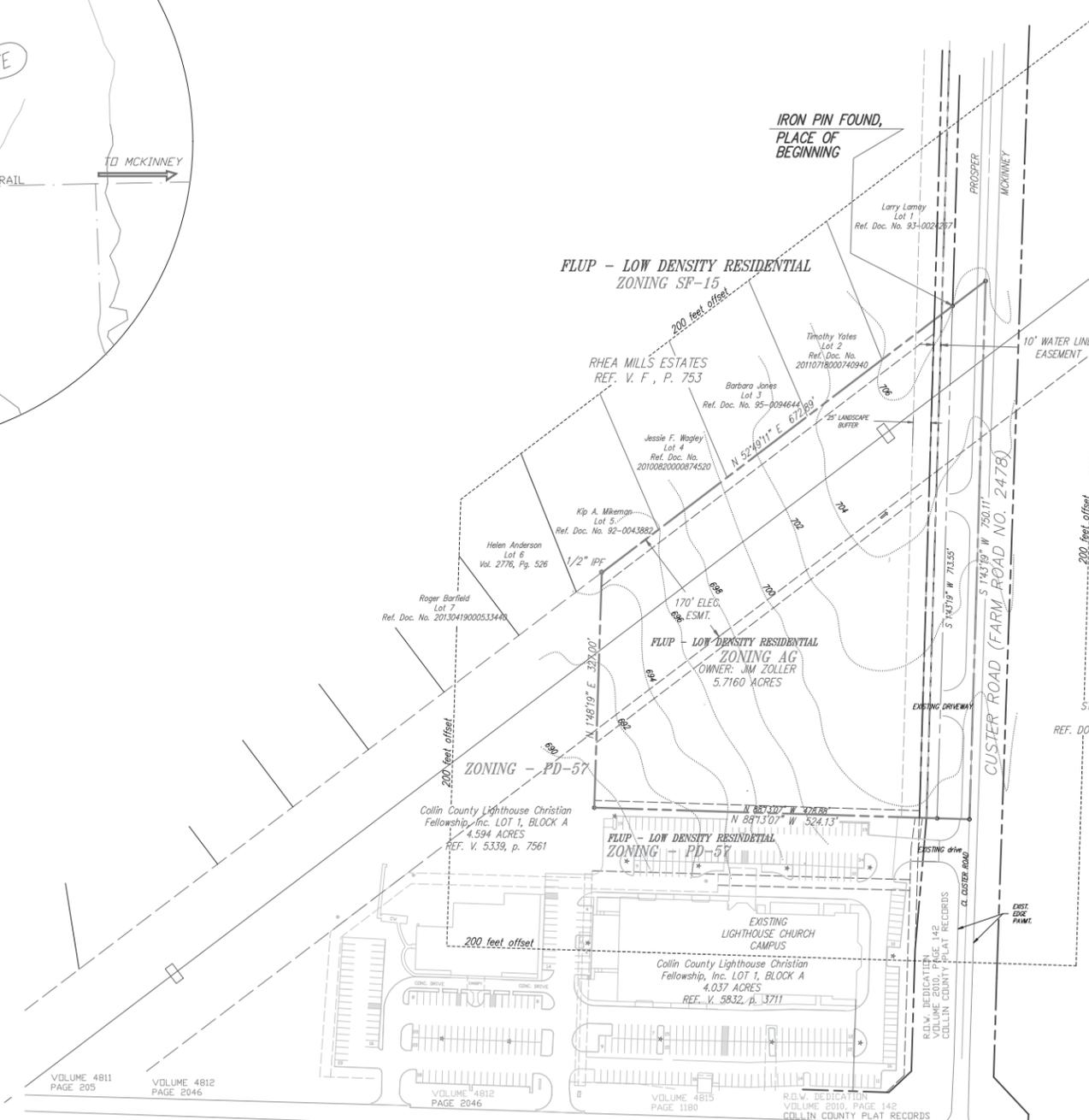
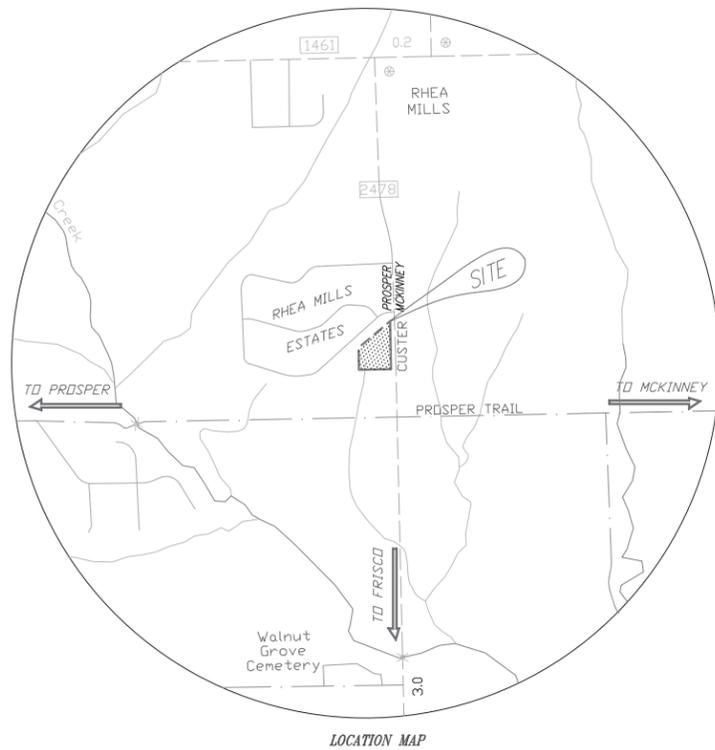
At their January 7, 2014, meeting, the Planning & Zoning Commission recommended the Town Council approve a request to rezone 6.5± acres, located on the west side of Custer Road, 500± feet north of Prosper Trail, from Agricultural (A) to Planned Development-Office (PD-O), by a vote of 5-0.

**Town Staff Recommendation:**

Town staff recommends the Town Council approve the request to rezone 6.5± acres, located on the west side of Custer Road, 500± feet north of Prosper Trail, from Agricultural (A) to Planned Development-Office (PD-O).

**Proposed Motion:**

I move to approve the request to rezone 6.5± acres, located on the west side of Custer Road, 500± feet north of Prosper Trail, from Agricultural (A) to Planned Development-Office (PD-O).



ZONING TRACT  
EXHIBIT A  
DESCRIPTION 6.476 ACRES

Situated in the George Horn Survey, Abstract No. 412 in Collin County, Texas and being part of a 10.463 Acre tract of land that was conveyed to Alex M. Orr Jr. et ux in Deed recorded in Volume 1918, Page 319 of the Land Records of Collin County, Texas, being more particularly described by metes and bounds to-wit.

BEGINNING at an Iron Pin being the Southeast corner of the Rhea Mills Estates same being in the West right of way line of FM Hwy. No. 2478;  
THENCE North 52 deg. 49 min. 11 sec. East, 58.15 feet to a point in the center of said FM Hwy. No. 2478 for a corner;  
THENCE South 1 deg. 43 min. 19 sec. West with the center of said farm road 750.11 feet to a point in the center of said farm road for a corner;  
THENCE South 88 deg. 13 min. 07 sec. West, 524.13 feet to an Iron Pin Found.  
THENCE North 1 deg. 48 min. 19 sec. East with the West line of said tract 327 feet to an Iron Pin Found in the south line of said Rhea Mills Estates;  
THENCE North 52 deg. 49 min. 11 sec. East with the South line of the Rhea Mills Estates, 614.3 feet to the place of beginning, containing 6.476 Acres of Land.

I, Billy M. Lair, Registered Public Surveyor, do hereby certify that the plat shown herein accurately represents the property as determined by on the ground survey made under my direction and supervision and that all corners are as shown.  
November 17, 1987  
Billy M. Lair R.P.S. No. 1685

NOTE: DESCRIPTION OF 5.716 ACRES ON 11-17-1987 BY BILLY M. LAIR, RPLS 1685-UPDATED TO REFLECT INCLUSION TO CENTER OF N. CUSTER ROAD FOR ZONING PURPOSES

ST. ANDREWS INTEREST  
27.752 ACRES  
REF. DOC. NO. 20070907001252710

FLUP - McKinney - office use  
ZONING - PD 06-06-073  
PLANNED CENTER - MCKINNEY, TX.

|                                       |                         |
|---------------------------------------|-------------------------|
| 4855 N. CUSTER, MCKINNEY, TEXAS 75071 |                         |
| CURRENT ZONING:                       | AGRICULTURAL            |
| REQUESTED ZONING:                     | PD - OFFICE             |
| CURRENT LAND USE:                     | Landscaping Business    |
| FLUP:                                 | Low Density Residential |

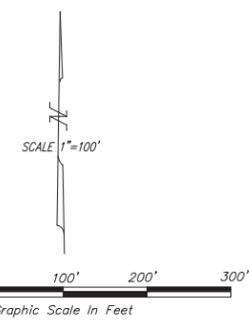
THOROUGHFARE PLAN SHOWS CUSTER TO BE SIX LANE DIVIDED.

GROSS 6.4760 ACRES  
NET 5.7160 ACRES  
ONE TRACT  
4855 N. CUSTER ROAD, MCKINNEY, TEXAS 75071

The thoroughfare alignment shown on this exhibit are for illustration purposes and does not set the alignment. The alignment is determined at time of final plat.

**LEGEND**

|   |                                   |
|---|-----------------------------------|
| ○ IPS                                       | 1/2" IRON PIN SET                 |
| ○ IPF                                       | IRON PIN FOUND                    |
| FLUP - LOW DENSITY RESIDENTIAL ZONING SF-15 | Future Land Use Plan              |
| ---   | Existing Zoning                   |
| ---   | EASEMENT                          |
| ---   | 200 feet offset line              |
| ---   | BOUNDARY LINE                     |
| ---   | RIGHT OF WAY LINE                 |
| ---   | FIRE LANE EASEMENT                |
| ---   | CANOPY TREE                       |
| ---   | EXISTING CONTOURS                 |
| ---   | CANOPY TREE RESIDENTIAL SCREENING |
| □   | ELEC. PWR. LINE TWR.              |



**Case # Z13-0009 ZONING EXHIBIT A**  
**4855 N. CUSTER ROAD,**  
**MCKINNEY, TEXAS 75071**  
6.4760 (5.7160) Acres in the George Horn Survey, Abstract No. 412, City of McKinney, Collin County, Texas

**SURVEYOR**  
G. M. GEEP

**OWNER**  
JAMES ZOLLER AND GAIL LEBOVIC  
4855 N. Custer Road  
McKinney, Texas 75071  
Phone: 214-544-8801

1514 North McDonald Street  
MCKINNEY, TEXAS 75071  
872-562-3958  
www.geep-surveyingandengineering.com

**DATE: JULY 10, 2013**

**EXHIBIT "B"**  
**Statement of Intent & Purpose**

**4855 North Custer Road**  
**James Zoller and Gail Lebovic**  
**4-8-2013**  
**Prosper, Texas**

The tract shall develop and operate under the regulations of the Office (O) District as outlined in the Town's Zoning Ordinance No. 05-20, as it exists or may be amended, with the following conditions listed in Exhibit "C".

We propose to change the Zoning from Agriculture to PD – O to make our property more useable and sellable.

Sincerely,

James Zoller and Gail Lebovic

**EXHIBIT “C”  
PLANNED DEVELOPMENT STANDARD**

**4855 North Custer Road  
James Zoller and Gail Lebovic  
4-8-2013  
Prosper, Texas**

The tract shall develop and operate under the regulations of the Office (O) District as outlined in the Town’s Zoning Ordinance No. 05-20, as it exists or may amended, with the following conditions:

**1.0 Permitted Uses**

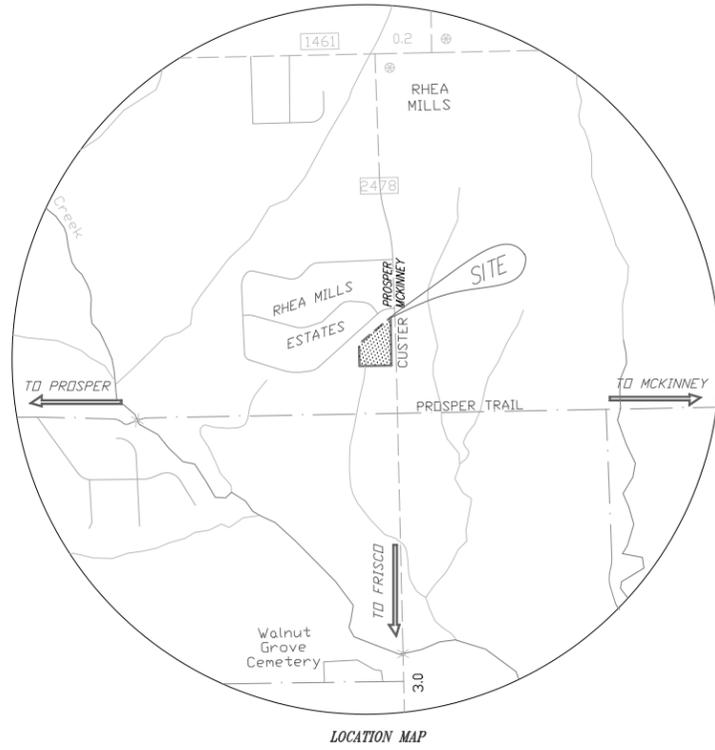
The land uses following with an “**S**” are only permitted with a Specific Use Permit and uses followed by a “**C**” are only permitted subject to the conditional development standards set forth in the Town’s Zoning Ordinance. The permitted land uses within this Planned Development-Office District are:

- Accessory Building
- Administrative, Medical, or Professional Office
- Assisted care or Living Facility **S**
- Bank, Savings and Loan, or Credit Union
- Bed and Breakfast Inn **S**
- Business Service
- Caretaker’s/Guard’s Residence
- Civic/Convention Center
- College, University, trade, or Private Boarding School **S**
- Community Center
- Day Care Center, Adult **S**
- Day Care Center, Child **C**
- Day Care Center, Incidental **S**
- Dry Cleaning, Minor
- Farm, Ranch, Stable, Garden, or Orchard
- Fraternal Organization, Lodge, Civic Club. Fraternity, or Sorority
- Governmental Office
- Health/Fitness Center
- Homebuilder Marketing Center
- House of Worship
- Insurance Office
- Municipal Uses Operated by the Town of Prosper
- Museum/Art Gallery
- Park or Playground
- Print Shop, Minor
- Private Recreation Center
- Private Utility, Other Than Listed
- Rehabilitation Center Institution **S**
- Restaurant or Cafeteria **C**

- Retail/Service Incidental Use
- School, Private or Parochial
- School, Public
- Stealth Antenna, Commercial **C**
- Telephone Exchange

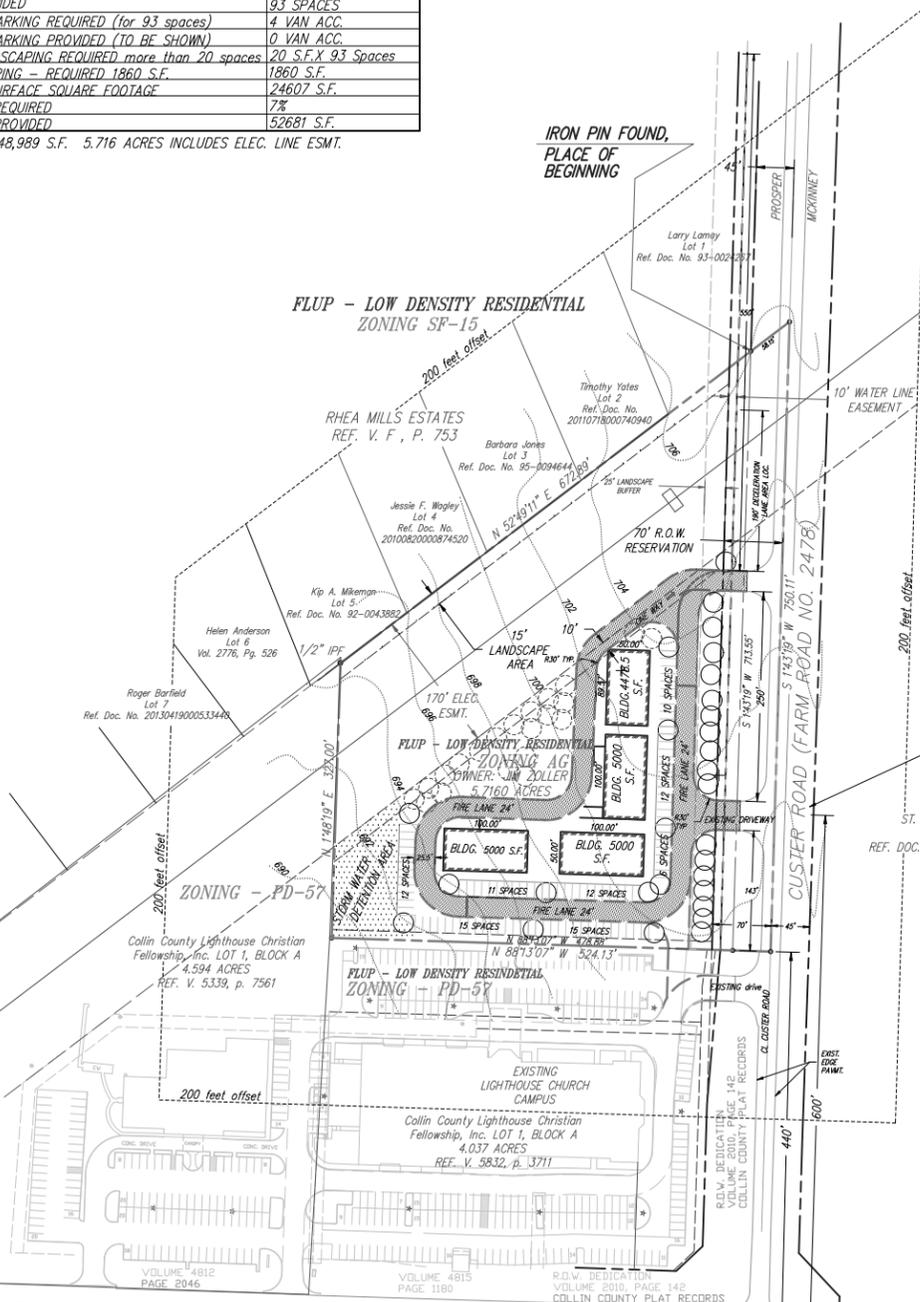
## **2.0 Perimeter Landscaping**

**2.01** Due to the 170' wide overhead electric transmission line easement, the required perimeter plantings shall be permitted to be located interior to the property, generally located between Rhea Mills Estates and any new development.



| SITE DATA SUMMARY TABLE                                       |                    |
|---|--------------------|
| ZONING  | PD-OFFICE (PD-0)   |
| PROPOSED USE  | ALLOWED PER PD     |
| LOT AREA GROSS  | 5.71601 ACRES      |
| LOT AREA NET OF ELEC. ESMT.                                   | 3.8533 ACRES       |
| ZONING AREA GROSS   | 6.7160 ACRES       |
| INTERIOR BUILDING AREA (4 BLDG.'S)                            | 19,478 S.F. TOTAL  |
| BUILDING HEIGHT   | 19' ONE STORY      |
| LOT COVERAGE  | 0.0782             |
| FLOOR AREA RATIO  | 0.0206             |
| PARKING REQUIRED 1-250 HEALTH                                 | 78 SPACES          |
| PARKING REQUIRED 1-350 OFFICE                                 | 56 SPACES          |
| PARKING PROVIDED  | 93 SPACES          |
| ACCESSIBLE PARKING REQUIRED (for 93 spaces)                   | 4 VAN ACC.         |
| ACCESSIBLE PARKING PROVIDED (TO BE SHOWN)                     | 0 VAN ACC.         |
| INTERIOR LANDSCAPING REQUIRED more than 20 spaces             | 20 S.F.X 93 Spaces |
| INT. LANDSCAPING - REQUIRED 1860 S.F.                         | 1860 S.F.          |
| IMPERVIOUS SURFACE SQUARE FOOTAGE                             | 24607 S.F.         |
| OPEN SPACE REQUIRED   | 7%                 |
| OPEN SPACE PROVIDED   | 52681 S.F.         |
| SITE AREA: 248,989 S.F. 5.716 ACRES INCLUDES ELEC. LINE ESMT. |                    |

- \*PARKING SPACES MEDICAL OFFICE 1/250 S.F.=78 SPACES, OFFICE 1/350 S.F. TOTAL S.F. 19,479 FOR FOUR BUILDINGS = 56 SPACES REQ'D.
- \*FIRE LANE EASEMENT 24' WITH 30' TURNING RADIUS.
- \*8' BOARD ON BOARD FENCING ALONG RESIDENTIAL PROPERTY LINE AS APPROVED BY RESIDENTS OR 6' HIGH MASONRY WALL.
- \*NOT TO BE USED FOR CONSTRUCTION-NOT APPROVED FOR CONSTRUCTION.
- \*NOTES:
- 1. PARKING SPACES (93-9x20') ARE TO SHOW THAT THERE IS ENOUGH PARKING FOR THE BUILDINGS SHOWN.
- 2. NO ACCESSIBLE SPACES ARE SHOWN BUT WILL BE PROVIDED AS REQUIRED.
- 3. DETENTION POND NOT CALCULATED BUT WILL BE REQUIRED.
- 4. CROSS ACCESS TO SOUTH PROPERTY NOT APPROVED BY THE LIGHTHOUSE ENTITY YET.
- 5. RESIDENTIAL SCREENING TREES ARE TO BE LOCATED ON THE SOUTH SIDE OF THE ELECTRICAL LINE EASEMENT.
- 6. TxDOT DRIVEWAY RESEARCH: AFTER MEETING WITH TxDOT IN THE MCKINNEY OFFICE, AND RESEARCHING THE UNFUNDED, PRELIMINARY PLANS FOR CUSTER ROAD FOR AT LEAST 10 OR MORE YEARS IN THE FUTURE AT THIS LOCATION, THE EXISTING DRIVE IS THE ONLY ONE THAT IS ALLOWED TO HAVE A MEDIAN OPENING. THE NORTH DRIVE MAY HAVE TO MOVE NORTH SOME. THE DECAL LANE WILL BE WITHIN THE RIGHT-OF-WAY ON BOTH DRIVES.



ZONING TRACT  
EXHIBIT A  
DESCRIPTION 6.476 ACRES

Situated in the George Horn Survey, Abstract No. 412 in Collin County, Texas and being part of a 10.463 Acre tract of land that was conveyed to Alex M. Orr Jr. et ux in Deed recorded in Volume 1918, Page 319 of the Land Records of Collin County, Texas, being more particularly described by metes and bounds to-wit:

BEGINNING at an Iron Pin being the Southeast corner of the Rhea Mills Estates same being in the West right of way line of FM Hwy. No. 2478;  
THENCE North 52 deg. 49 min. 11 sec. East, 58.15 feet to a point in the center of said FM Hwy. No. 2478 for a corner;  
THENCE South 1 deg. 43 min. 19 sec. West with the center of said farm road 750.11 feet to a point in the center of said farm road for a corner;  
THENCE South 88 deg. 13 min. 07 sec. West, 524.13 feet to an Iron Pin Found.  
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I, Billy M. Lair, Registered Public Surveyor, do hereby certify that the plot shown herein accurately represents the property as determined by on the ground survey made under my direction and supervision and that all corners are as survey November 17, 1987  
Billy M. Lair R.P.S. No. 1685

NOTE: DESCRIPTION OF 5.716 ACRES ON 11-17-1987 BY BILLY M. LAIR, RPLS 1685-UPDATED TO REFLECT INCLUSION TO CENTER OF N. CUSTER ROAD FOR ZONING PURPOSES

FLUP - McKinney - office use  
ZONING - PD 06-06-073  
PLANNED CENTER - MCKINNEY, TX.

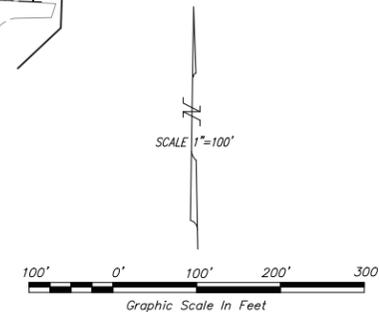
|                                       |                         |
|---------------------------------------|-------------------------|
| 4855 N. CUSTER, MCKINNEY, TEXAS 75071 |                         |
| CURRENT ZONING:                       | AGRICULTURAL            |
| REQUESTED ZONING:                     | PD - OFFICE             |
| CURRENT LAND USE:                     | Landscaping Business    |
| FLUP:                                 | Low Density Residential |

THOROUGHFARE PLAN SHOWS CUSTER TO BE SIX LANE DIVIDED.

GROSS 6.4760 ACRES  
NET 5.7160 ACRES  
ONE TRACT  
4855 N. CUSTER ROAD, MCKINNEY, TEXAS 75071

The thoroughfare alignment shown on this exhibit are for illustration purposes and does not set the alignment. The alignment is determined at time of final plat.

- LEGEND**
- o IPS 1/2" IRON PIN SET
  - IPF IRON PIN FOUND
  - FLUP - LOW DENSITY RESIDENTIAL ZONING SP-15 Future Land Use Plan
  - Existing Zoning
  - EASEMENT
  - 200 feet offset line
  - BOUNDARY LINE
  - RIGHT OF WAY LINE
  - FIRE LANE EASEMENT
  - CANOPY TREE
  - EXISTING CONTOURS
  - CANOPY TREE RESIDENTIAL SCREENING
  - ELEC. PWR. LINE TWR.

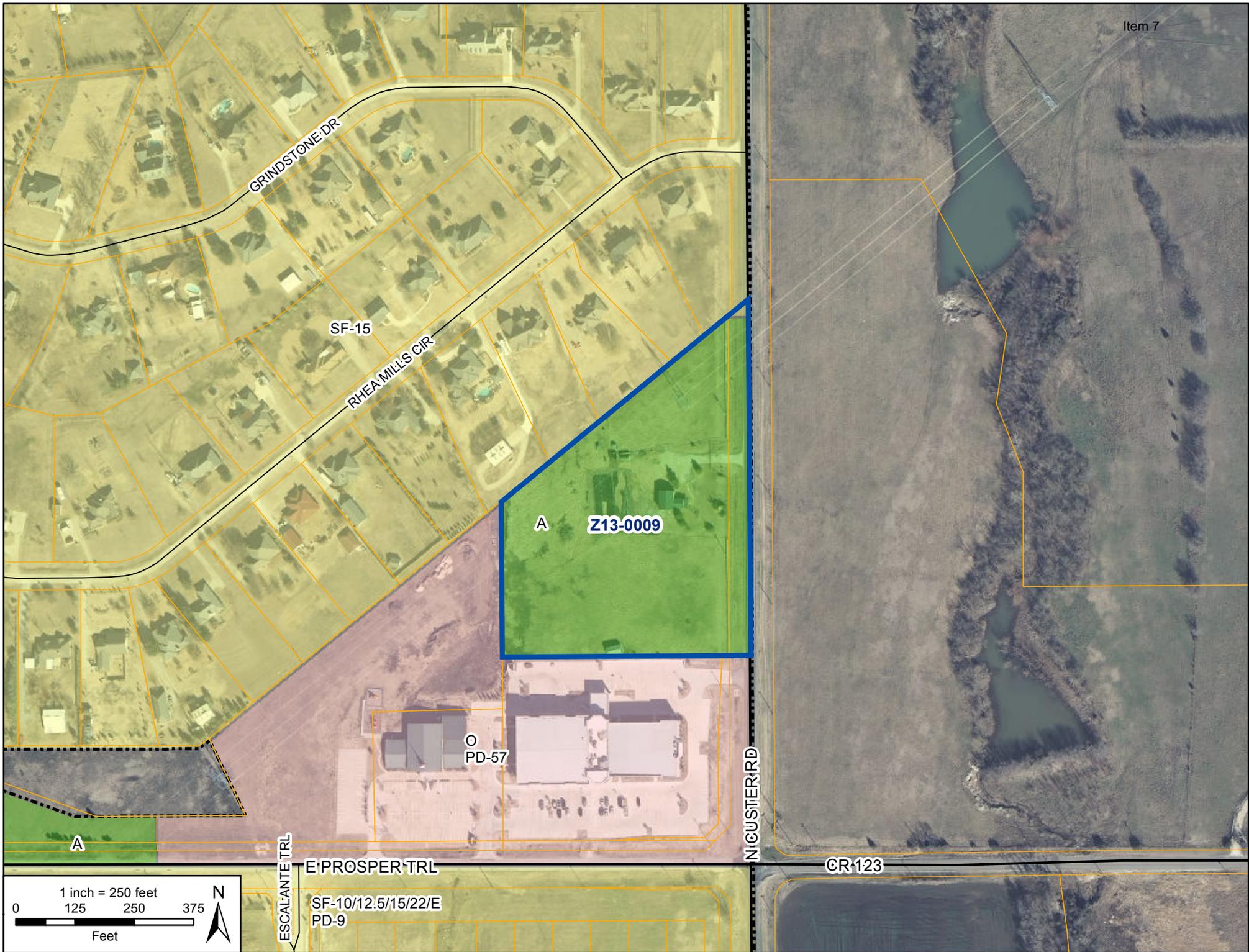


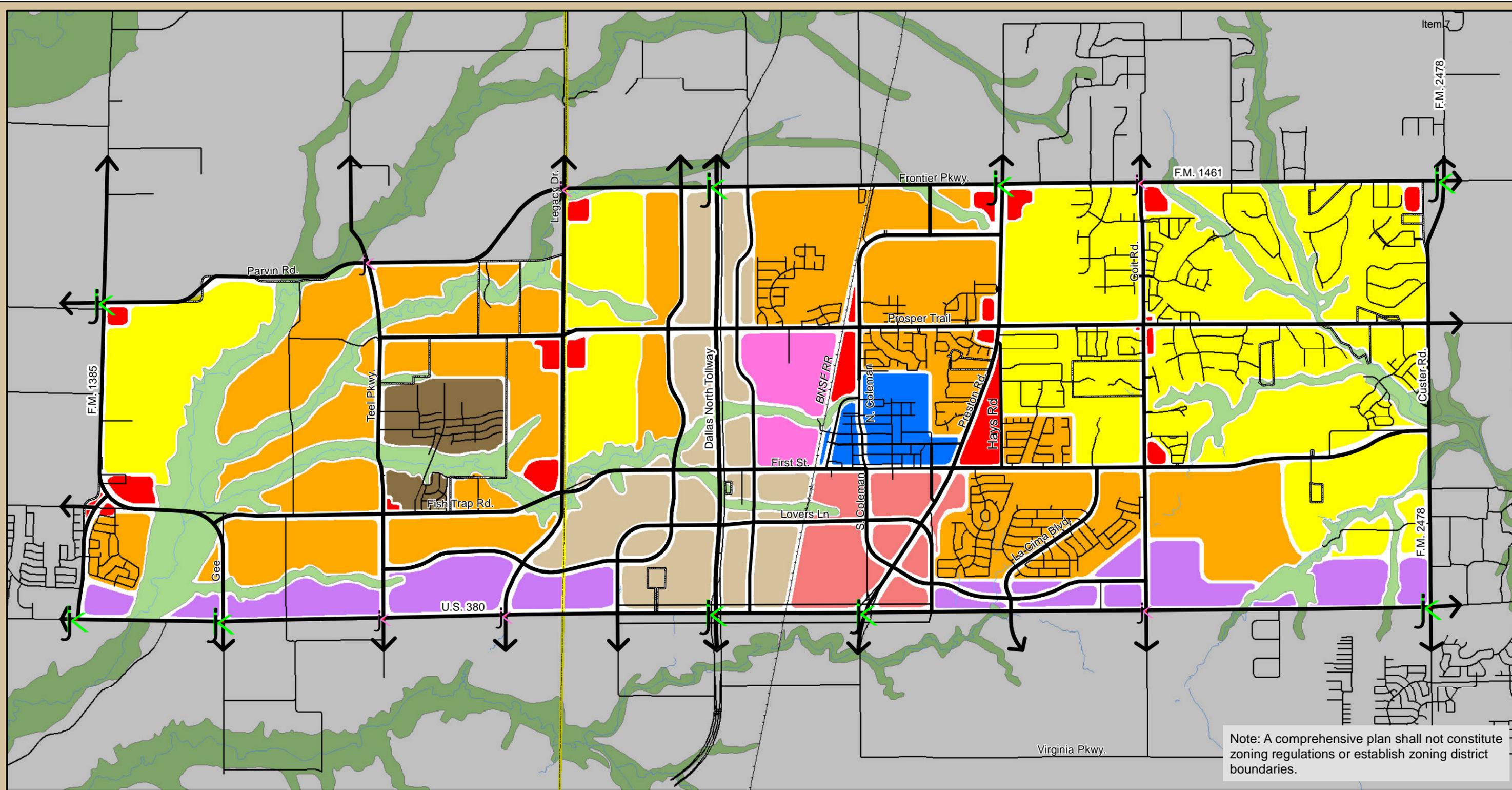
**Case # Z13-0009 ZONING EXHIBIT D**  
**4855 N. CUSTER ROAD, MCKINNEY, TEXAS 75071**  
6.4760 (5.7160) Acres in the George Horn Survey, Abstract No. 412, City of McKinney, Collin County, Texas  
SURVEYOR: G. M. GEEP  
OWNER: JAMES ZOLLER AND DAIL LEBOWIC  
4855 N. Custer Road, McKinney, Texas 75071  
Phone: 214-548-8801  
1101 West University Drive, McKinney, Texas 75069  
972-562-3959  
www.geep-surveyingandengineering.com  
DATE: DECEMBER 26, 2013

**EXHIBIT E**

There is no construction schedule at this time for this proposed Concept Plan. No construction is planned or may ever be planned.

Jim Zoller





July 2012



**Legend**

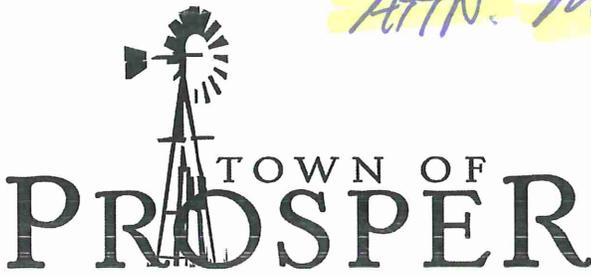
- |                                |                     |                 |
|--------------------------------|---------------------|-----------------|
| Low Density Residential        | Old Town District   | Major Gateway   |
| Medium Density Residential     | Town Center         | Minor Gateway   |
| High Density Residential       | Tollway District    | Town of Prosper |
| Retail & Neighborhood Services | US 380 District     | ETJ             |
| Business Park                  | 100 Year Floodplain |                 |

**Future  
Land Use  
Plan**



**Plate 2**

ATTN: MELANIE



Prosper is a place where everyone matters.

DEVELOPMENT SERVICES

DEPARTMENT

P.O. Box 307  
Prosper, TX 75078  
Phone: 972-346-3502  
Fax: 972-347-2842

409 E 1<sup>ST</sup> STREET  
UNDER OLD WATER  
TOWER

REPLY FORM

SUBJECT:

Zoning Case Z13-0009: The Town of Prosper has received a request to rezone 5.7± acres from Agricultural (A) to Planned Development-Office (PD-O).

LOCATION OF SUBJECT PROPERTY:

The property is located on the west side of Custer Road, 500± feet north of Prosper Trail.

DESCRIPTION OF THE REQUEST:

The Planned Development Office District allows for a variety of office developments providing for professional, financial, medical, and similar services for local residents, as well as service uses necessary to support such office uses. Such uses do require accessibility to major thoroughfares.

- I OPPOSE the request as described in the notice of public hearing.
- I DO NOT OPPOSE the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY):

\* DUE TO EXCESSIVE NOISE ISSUES

\* LIGHTS

\* WASTE MANAGEMENT

\* CONGESTION (TRAFFIC)

\* GOES AGAINST "FUTURE LAND USE PLAN"

\* OBSTRUCT VIEW

\* SIGNIFICANT REDUCTION IN PROPERTY VALUE!

Name (please print)

LARRY LEMAY

Signature

[Handwritten Signature]

Address

14 RHEA WELLS CIRCLE

Date

7/16/13

City, State, and Zip Code

PROSPER, TX 75078

E-mail Address

LEMAY-LARRY@MSN.COM



**DEVELOPMENT SERVICES**  
**DEPARTMENT**  
P.O. Box 307  
Prosper, TX 75078  
Phone: 972-346-3502  
Fax: 972-347-2842

**REPLY FORM**

**SUBJECT:**

Zoning Case Z13-0009: The Town of Prosper has received a request to rezone 5.7± acres from Agricultural (A) to Planned Development-Office (PD-O).

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I **OPPOSE** the request as described in the notice of public hearing.  
 I **DO NOT OPPOSE** the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

COLLIN COUNTY LIGHTHOUSE CHRISTIAN FELLOWSHIP  
 KERRY CAROTHERS  
 \_\_\_\_\_  
 Name (please print)

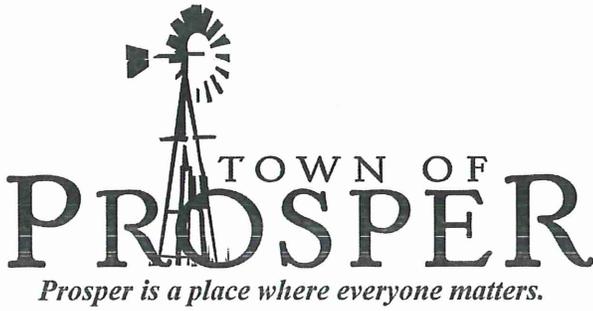
*Kerry Carothers*  
 \_\_\_\_\_  
 Signature

4331 E. PROSPER TRAIL  
 \_\_\_\_\_  
 Address

7/16/13  
 \_\_\_\_\_  
 Date

PROSPER, TX 75078  
 \_\_\_\_\_  
 City, State, and Zip Code

kcarothers@L-C-F.com  
 \_\_\_\_\_  
 E-mail Address



**DEVELOPMENT SERVICES**  
**DEPARTMENT**  
P.O. Box 307  
Prosper, TX 75078  
Phone: 972-346-3502  
Fax: 972-347-2842

REPLY FORM

**SUBJECT:**

Zoning Case Z13-0009: The Town of Prosper has received a request to rezone 5.7± acres from Agricultural (A) to Planned Development-Office (PD-O).

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**DESCRIPTION OF THE REQUEST:**

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- I **OPPOSE** the request as described in the notice of public hearing.
- I **DO NOT OPPOSE** the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): Prosper was known for its home town feeling and country atmosphere. With all the subdivision developments and commercial establishments on Preston Road and around 380/Custer and 380/Preston it no longer does. Shame. That is what attracted me to Prosper 11 1/2 years ago. Now it's just another town trying to become big.

Barbara Holman (Jones)  
Name (please print)

Barbara Holman  
Signature

3A Rhea Mills Cir  
Address

7/8/13  
Date

Prosper TX 75078  
City, State, and Zip Code

\_\_\_\_\_  
E-mail Address

**To: Chris Copple**

**Re: 4855 N. Custer Road  
Prosper, Texas**

**I have discussed the proposed re-zoning at 4855 N. Custer Road with the property owners (Gail & Jim Zoller). They understand my concerns and are willing to adjust any proposed development plans to include the following items.**

- 1) No large chain fast food restaurants**
- 2) Parking to be located towards the front of the property**
- 3) Minimal to no lighting at the back of the property**
- 4) Landscape buffer at the back of the property**

**In light of our discussion, I rescind my opposition to the re-zoning previously submitted on July 12, 2013.**



**Helen Anderson**  
**6A Rhea Mills Circle**  
**Prosper, Texas 74078**



Prosper is a place where everyone matters.

**DEVELOPMENT SERVICES**

**DEPARTMENT**

P.O. Box 307  
Prosper, TX 75078  
Phone: 972-346-3502  
Fax: 972-347-2842

**REPLY FORM**

**SUBJECT:**

Zoning Case Z13-0009: The Town of Prosper has received a request to rezone 5.7± acres from Agricultural (A) to Planned Development-Office (PD-O).

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**DESCRIPTION OF THE REQUEST:**

The Planned Development Office District allows for a variety of office developments providing for professional, financial, medical, and similar services for local residents, as well as service uses necessary to support such office uses. Such uses do require accessibility to major thoroughfares.

- I **OPPOSE** the request as described in the notice of public hearing.  
 I **DO NOT OPPOSE** the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): I oppose because no sight plan is stated in this request. Only possible uses are stated. My main opposition is to a restaurant or fast food which is covered under this zoning. I am also opposed to extensive parking to the rear of the property. I am also opposed to lights in connection to rear area. All parking should be on Custer Road.

Helen R. Anderson  
Name (please print)

Helen R. Anderson  
Signature

6 R Rhea Mills Cr.  
Address

July 12, 2013  
Date

Prosper, TX 75078  
City, State, and Zip Code

Home phone 972-542-9295  
E-mail Address h/a



## PLANNING

**To:** Mayor and Town Council

**From:** Chris Copple, AICP, Director of Development Services

**Through:** Harlan Jefferson, Town Manager

**Re:** Town Council Meeting – February 11, 2014

**Agenda Item:**

Conduct a Public Hearing, and consider and act upon a request to amend 6.6± acres of Planned Development-57-Office (PD-57-O), located on the north side of Prosper Trail, 500± feet west of Custer Road. (Z13-0019).

**Description of Agenda Item:**

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

|                         | <b>Zoning</b>                                 | <b>Current Land Use</b>   | <b>Future Land Use Plan</b> |
|-------------------------|---|---|-----------------------------|
| <b>Subject Property</b> | Planned Development-57-Office                 | Private School (Grace Academy)  | Low Density Residential     |
| <b>North</b>            | Single Family-15                              | Single Family Residential (Rhea Mills Estates)                                  | Low Density Residential     |
| <b>East</b>             | Planned Development-57-Office / Agricultural  | House of Worship (Lighthouse) / Landscape Business                              | Low Density Residential     |
| <b>South</b>            | Planned Development-9-Single Family           | Public School (Cockrell Elementary) / Single Family Residential (Whitley Place) | Low Density Residential     |
| <b>West</b>             | Single Family-15 / Agricultural / Prosper ETJ | Single Family Residential (Rhea Mills Estates)                                  | Low Density Residential     |

**Requested Zoning** – Z13-0019 is a request to amend 6.6± acres of Planned Development-57-Office (PD-57-O), located on the north side of Prosper Trail, 500± feet west of Custer Road. The property consists of an existing private school building. The proposed amendment would retain the existing PD standards and allow for the addition of two temporary buildings to be located north of the existing building.

The use of temporary buildings is proposed to be in conformance to the Zoning Ordinance, with the exception that a letter in lieu of a preliminary site plan describing the applicant's plan for providing for a permanent solution to the immediate need for new temporary buildings would be required. The proposed PD standards and a letter describing the applicant's plan are attached.

Future Land Use Plan – While the Future Land Use Plan (FLUP) recommends Low Density Residential uses for the property, on August 28, 2012 the property was rezoned Planned Development-57-Office (PD-O) after consideration of the criteria outlined in the Comprehensive Plan regarding zoning requests that deviate from the FLUP.

Thoroughfare Plan – The property has direct access to Prosper Trail, a future four-lane divided thoroughfare, and cross-access to Custer Road, a future six-lane divided thoroughfare. The zoning exhibit complies with the Thoroughfare Plan.

Water and Sanitary Sewer Services – Water and sewer service have been extended to the property. The Engineering Department has confirmed that the existing utilities are adequate to serve the proposed development.

Access – Access to the property is provided from Prosper Trail and through cross-access to Custer Road. Adequate access is provided to the property.

Schools – This property is located within the Prosper Independent School District (PISD).

Parks – It is not anticipated that this property will be needed for the development of a park at this time.

Environmental Considerations – There is no 100-year floodplain located on the property.

Summary – The existing structure has been in place since 2004, prior to the Town annexing the property in 2009. The structure was originally used as a church and converted into a private school in 2011. The proposed temporary buildings will be located behind the existing structure, and will be separated from the adjacent single family development by a 170-foot-wide overhead electric easement. The rezoning is not proposing to add additional permanent uses to the property.

**Legal Obligations and Review:**

Zoning is discretionary. Therefore, the Town Council is not obligated to approve the request. Notification was provided to neighboring property owners as required by state law. Town staff has received three public hearing notice reply forms; one in opposition to the request.

**Attached Documents:**

1. Zoning Exhibits A, B, C, and D.
2. Planned Development-57 (Ord.12-24).
3. Zoning map of the surrounding area.
4. Letter from the applicant describing current need and permanent solution.
5. Public hearing notice reply forms.

**Planning & Zoning Commission Recommendation:**

At their January 21, 2014, meeting, the Planning & Zoning Commission recommended the Town Council approve a request to amend 6.6± acres of Planned Development-57-Office (PD-57-O), located on the north side of Prosper Trail, 500± feet west of Custer Road, by a vote of 6-0, subject to landscaping being planted between the temporary buildings and the Rhea Mills

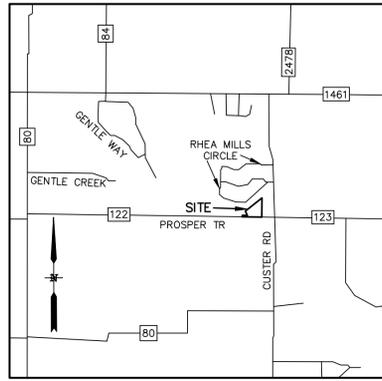
subdivision. The applicant has revised Exhibit C and D to reflect the Planning & Zoning Commission's recommendation.

**Town Staff Recommendation:**

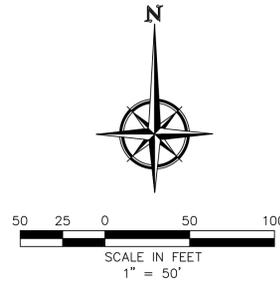
Town staff recommends the Town Council approve the request to amend 6.6± acres of Planned Development-57-Office (PD-57-O), located on the north side of Prosper Trail, 500± feet west of Custer Road.

**Proposed Motion:**

I move to approve the request to amend 6.6± acres of Planned Development-57-Office (PD-57-O), located on the north side of Prosper Trail, 500± feet west of Custer Road.



VICINITY MAP  
N.T.S.



| LEGEND      |                                      |
|-------------|--------------------------------------|
| 1/2" I.R.S. | 1/2" IRON ROD SET WITH CAP           |
| W/CAP       | STAMPED "GRIFFITH 4846"              |
| I.R.F.      | IRON ROD FOUND                       |
| D.R.C.C.T.  | DEED RECORDS COLLIN COUNTY, TEXAS    |
| P.R.C.C.T.  | PLAT RECORDS COLLIN COUNTY, TEXAS    |
| F.U.A.E.    | FIRE LANE, UTILITY & ACCESS EASEMENT |
| W.L.E.      | WATERLINE EASEMENT                   |
| S.S.E.      | SANITARY SEWER EASEMENT              |

**ZONED: SF-15**

BLOCK A  
RHEA MILLS ESTATES  
(CAB. D, PG. 95)  
P.R.C.C.T.

**ZONED: A**

CALLED 5.716 AC  
JAMES M. ZOLLER &  
JULIE C. ZOLLER  
(VOL. 5628, PG. 4922)  
D.R.C.C.T.

**EXISTING ZONING: PD-57**  
**PROPOSED ZONING: PD**

287,514 SQ. FT.  
6.600 ACRES

**GEORGE HORN SURVEY**  
**A-412**

**ZONED: PD-57**

LOT 1, BLOCK A  
LIGHTHOUSE CHURCH ADDITION  
(CAB. 2010, PG. 142)  
P.R.C.C.T.

**FLOODPLAIN NOTE:**

By graphical plotting, the parcel described hereon does not lie within a Special Flood Hazard Area (SFHA) as delineated on the Collin County Texas and Incorporated Areas, Flood Insurance Rate Map, Panel Number 48085C0255J, dated June 2, 2009, as published by the Federal Emergency Management Agency. The Surveyor utilized the above referenced flood plain information for this determination and the Surveyor does not certify that revised flood plain information has or has not been published by the Federal Emergency Management Agency or some other source.

OWNER  
**COLLIN COUNTY LIGHTHOUSE  
CHRISTIAN FELLOWSHIP INC.**  
4331 PROSPER TRAIL  
PROSPER, TX 75078  
(972) 562-2500  
FAX (214) 544-6989

APPLICANT  
**GRACE ACADEMY OF NORTH TEXAS**  
4255 PROSPER TRAIL  
PROSPER, TX 75078  
(469) 287-7111  
FAX (972) 632-1728

LAND SURVEYOR  
**GRIFFITH SURVEYING CO., LLC**  
605 AVENUE B, SUITE 115  
LONGVIEW, TX 75773  
(903) 295-1560  
FAX (903) 295-1570

**EXHIBIT "A"**  
OF  
**6.60 ACRES**  
SITUATED IN THE  
**GEORGE HORN SURVEY, ABST. NO. 412**  
**CITY OF PROSPER, COLLIN COUNTY, TEXAS**

**ENGINEERING CONCEPTS & DESIGN, L.P.**  
ENGINEERING/PROJECT MANAGEMENT/CONSTRUCTION SERVICES  
TEXAS FIRM REG. NO. 001145  
201 WINDCO CIRCLE, SUITE 200, NYLUIE, TX 75098  
(972) 941-8400 FAX (972) 941-8401

DATE: DECEMBER 9, 2013

**EXHIBIT 'B'**  
**PLANNED DEVELOPMENT**  
**STATEMENT OF INTENT**  
**6.6 Acres, 4255 Prosper Trail**  
**TOWN OF PROSPER, TX**

The intent of this Revision to the existing Planned Development Zoning (PD 57) currently in place for this property is to allow for temporary buildings on a portion of the property, owned by Collin County Lighthouse Christian Fellowship.

The change affects the 6.6 acre tract described in the Exhibit 'A' of this PD Zoning Request and allows for Temporary Buildings in the approximate location shown on Exhibit 'D' of this PD Zoning Request. The Permitted Use of Temporary Buildings would be allowed for a term of three (3) years from the date of Certificate of Occupancy of the first building, and would allow for an extension of One (1) year, one time prior to expiration of the permitted use.

**EXHIBIT 'C'****PLANNED DEVELOPMENT STANDARDS****6.6 Acres, 4255 Prosper Trail  
Town of Prosper, Texas  
Planned Development-57 Amendment**

Except as otherwise set forth in the development standards below, the property, as described in Exhibit A, shall develop under Ordinance No. 12-24 (PD-57).

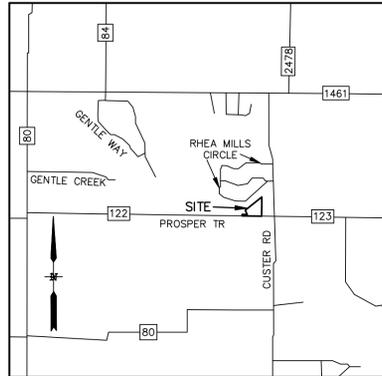
**1.0 Permitted Uses**

- Permitted uses listed in Ordinance Number 12-24 (PD-57)
- Temporary Buildings, subject to the conditions below:
  - A. The temporary buildings shall be located north of the main buildings, as conceptually shown on Exhibit D.
  - B. A permit to erect a temporary building may be issued for an initial period of three (3) years provided the applicant submits:
    - 1) an application with documented evidence of an immediate need for space to the Building Official, who shall evaluate each application for a temporary building based on the following criteria:
      - a) capacity of the existing permanent building(s), which is located or planned to be located on the same property for which the temporary building permit is being sought, compared to the enrollment, employment, and/or number of people attending the existing permanent building(s) at one time;
      - b) total enrollment, employment, and/or membership size;
      - c) documentation of growth records depicting the number of people in the congregation, school and/or office;
      - d) whether the facility is a start-up or new facility;
      - e) indication of alternative options that were explored before a temporary building application was considered;
      - f) acts of nature; and/or
      - g) any other evidence which is reasonably related to the immediate need for additional space;
    - 2) A letter describing the applicant's plan for providing for a permanent solution to the immediate need for a new temporary building(s) showing the permanent building(s); and

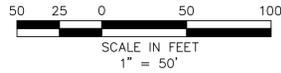
- 3) a site plan for the temporary building(s) to the Planning Department, which is subject to the review and approval of the Planning & Zoning Commission
- C. The temporary building(s) shall be removed within thirty (30) days of the date:
- 1) a Certificate of Occupancy is issued for the permanent building; or
  - 2) the permit for the temporary building expires, whichever occurs first.
- D. A request for a one (1) year extension of the temporary building permit may be granted by the Planning & Zoning Commission provided the applicant:
- 1) has an approved and valid preliminary site plan for the permanent building(s) and an approved and valid site plan for the temporary building(s);
  - 2) has a specific plan of how an additional year would allow the applicant to construct the permanent building(s) by providing:
    - a) evidence of numeric growth, beyond that which was specifically anticipated by the applicant;
    - b) membership, enrollment, and/or employment growth records;
    - c) evidence that alternative options were explored before an extension of the temporary building permit was requested; and
    - d) any other criteria reasonably deemed appropriate by the Planning & Zoning Commission.
- E. The applicant may challenge a decision of the Building Official or Planning & Zoning Commission, by appealing, in writing, to the Town Council within fourteen (14) days of a decision of the Building Official or the Planning & Zoning Commission. The Town Council's decision is final.

## 2.0 Landscaping

- A. Landscaping shall be located between the temporary buildings and the Rhea Mills subdivision, as conceptually shown on Exhibit D, and shall consist of one (1) small evergreen tree and one (1) five (5) gallon evergreen shrub planted every fifteen (15) linear feet.



VICINITY MAP  
N.T.S.



| LEGEND            |  |
|-------------------|--|
| 1/2" I.R.S. W/CAP | 1/2" IRON ROD SET WITH CAP STAMPED "GRIFFITH 4846" |
| I.R.F.            | IRON ROD FOUND                                     |
| D.R.C.C.T.        | DEED RECORDS COLLIN COUNTY, TEXAS                  |
| P.R.C.C.T.        | PLAT RECORDS COLLIN COUNTY, TEXAS                  |
| F.U.A.E.          | FIRE LANE, UTILITY & ACCESS EASEMENT               |
| W.L.E.            | WATERLINE EASEMENT                                 |
| S.S.E.            | SANITARY SEWER EASEMENT                            |

**ZONED: SF-15**  
BLOCK A  
RHEA MILLS ESTATES  
(CAB. D, PG. 95)  
P.R.C.C.T.

**ZONED: A**  
CALLED 5.716 AC  
JAMES M. ZOLLER &  
JULIE C. ZOLLER  
(VOL. 5628, PG. 4922)  
D.R.C.C.T.

**EXISTING ZONING: PD-57**  
**PROPOSED ZONING: PD**

**ZONED: A**  
CALLED 10.0002 AC  
PAUL D. GENTRY & LINDA KAY GENTRY  
(VOL. 3042, PG. 628)  
D.R.C.C.T.

**ZONED: A**  
CALLED 1.781 AC  
CHARLES BRYANT  
(VOL. 5991, PG. 4400)  
D.R.C.C.T.

**ZONED: PD-49**  
LOT 1, BLOCK A  
COCKRELL ELEMENTARY  
(CAB. 2012, PG. 277)  
P.R.C.C.T.

**ZONED: PD-49**  
WHITLEY PLACE, PHASE 4  
(CAB. 2012, PG. 69)  
P.R.C.C.T.

APPLICANT  
**GRACE ACADEMY OF NORTH TEXAS**  
4255 PROSPER TRAIL  
PROSPER, TX 75078  
(469) 287-7111  
FAX (972) 632-1728  
  
LAND SURVEYOR  
**GRIFFITH SURVEYING CO., LLC**  
605 AVENUE B, SUITE 115  
LONGVIEW, TX 75773  
(903) 295-1560  
FAX (903) 295-1570

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By graphical plotting, the parcel described hereon does not lie within a Special Flood Hazard Area (SFHA) as delineated on the Collin County Texas and Incorporated Areas, Flood Insurance Rate Map, Panel Number 48085C0255J, dated June 2, 2009, as published by the Federal Emergency Management Agency. The Surveyor utilized the above referenced flood plain information for this determination and the Surveyor does not certify that revised flood plain information has or has not been published by the Federal Emergency Management Agency or some other source.

**EXHIBIT "D"**  
OF  
**6.60 ACRES**  
SITUATED IN THE

GEORGE HORN SURVEY, ABST. NO. 412  
CITY OF PROSPER, COLLIN COUNTY, TEXAS

**ENGINEERING CONCEPTS & DESIGN, L.P.**  
ENGINEERING/PROJECT MANAGEMENT/CONSTRUCTION SERVICES  
TEXAS FIRM REG. NO. 001145  
201 WINDCO CIRCLE, SUITE 200, WYLLIE, TX 75098  
(972) 941-8400 FAX (972) 941-8401

DATE: JANUARY 29, 2014

PD-57

## TOWN OF PROSPER, TEXAS

## ORDINANCE NO. 12-24

**AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 10.636 ACRES, MORE OR LESS, SITUATED IN THE GEORGE HORN SURVEY, ABSTRACT NO. 412, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, HERETOFORE ZONED AGRICULTURAL (A) IS HEREBY REZONED AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-OFFICE (PD-O); DESCRIBING THE TRACT TO BE REZONED; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVING AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

WHEREAS, the Town Council of the Town of Prosper, Texas (the "Town Council") has investigated and determined that Zoning Ordinance No. 05-20 should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request from Collin County Lighthouse Christian Fellowship ("Applicant") to rezone 10.636 acres of land, more or less, situated in the George Horn Survey, Abstract No. 412, in the Town of Prosper, Collin County, Texas; and

WHEREAS, the Town Council has investigated into and determined that the facts contained in the request are true and correct; and

WHEREAS, all legal notices required for rezoning have been given in the manner and form set forth by law, and public hearings have been held on the proposed rezoning and all other requirements of notice and completion of such zoning procedures have been fulfilled; and

WHEREAS, the Town Council has further investigated into and determined that it will be advantageous and beneficial to Prosper and its inhabitants to rezone this property as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS:

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendments to Zoning Ordinance No. 05-20. Zoning Ordinance No. 05-20 is amended as follows: The zoning designation of the below-described property containing 10.636 acres of land, more or less, situated in the George Horn Survey, Abstract No. 412, in the Town of Prosper, Collin County, Texas, (the "Property") and all streets, roads and alleyways contiguous and/or adjacent thereto is hereby rezoned as Planned Development-Office (PD-O). The property as a whole and the boundaries for

each zoning classification are more particularly described in Exhibit “A” attached hereto and incorporated herein for all purposes as if set forth verbatim.

The development plans, standards, and uses for the Property in this Planned Development District shall conform to, and comply with the planned development standards, attached hereto as Exhibit “B”, which are incorporated herein for all purposes as if set forth verbatim. Except as amended by this Ordinance, the development of the Property within this Planned Development District must comply with the requirements of all ordinances, rules, and regulations of Prosper, as they currently exist or may be amended.

Three original, official and identical copies of the zoning exhibit map are hereby adopted and shall be filed and maintained as follows:

- a. Two (2) copies shall be filed with the Town Secretary and retained as original records and shall not be changed in any matter.
- b. One (1) copy shall be filed with the Building Official and shall be maintained up-to-date by posting thereon all changes and subsequent amendments for observation, issuing building permits, certificates of compliance and occupancy and enforcing the Zoning Ordinance. Reproduction for information purposes may from time-to-time be made of the official zoning district map.

Written notice of any amendment to this Planned Development District shall be sent to all property owners within two hundred feet (200’) of the specific area to be amended.

SECTION 3: No Vested Interest/Repeal. No developer or property owner shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein. Any portion of this Ordinance may be repealed by the Town Council in the manner provided for by law.

SECTION 4: Unlawful Use of Premises. It shall be unlawful for any person, firm or corporation to make use of said premises in some manner other than as authorized by this Ordinance, and shall be unlawful for any person, firm or corporation to construct on said premises any building that is not in conformity with the permissible uses under this Zoning Ordinance.

SECTION 5: Penalty. Any person, firm, corporation or business entity violating this Ordinance or any provision of Prosper’s Zoning Ordinance No. 05-20, or as amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day’s violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Prosper from filing suit to enjoin

the violation. Prosper retains all legal rights and remedies available to it pursuant to local, state and federal law.

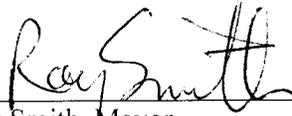
SECTION 6: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

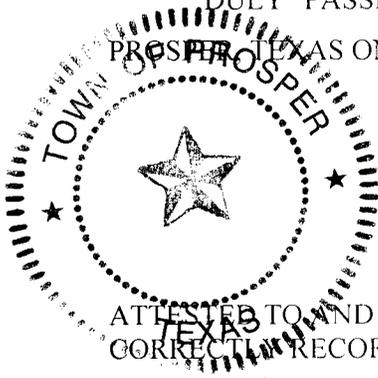
SECTION 7: Savings/Repealing Clause. Prosper's Zoning Ordinance No. 05-20 shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the appeal prevent a prosecution from being commenced for any violation if occurring prior to the repealing of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 8: Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

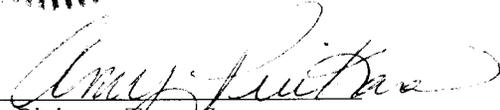
DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 28<sup>th</sup> DAY OF AUGUST, 2012.

APPROVED AS TO FORM:

  
Ray Smith, Mayor



ATTESTED TO AND CORRECTLY RECORDED BY:

  
Amy Piukana, Town Secretary

DATE OF PUBLICATION: 9-5-12, Prosper Press

## DESCRIPTION 10.636 ACRES

SITUATED in Collin County, Texas, in the George Horn survey, abstract no. 412, being survey of the 4.594 acre tract described in a deed from Jerry R. Long to Collin County Lighthouse Christian Fellowship, dated January 15, 2003 and recorded in volume 5339, page 7561, a survey of the 2.000 acre tract described in a deed from Jerry R. Long to Collin County Lighthouse Christian Fellowship, dated December 31, 2002 and recorded in volume 5339, page 7558, both deeds of the Collin County deed records and a survey of Lot 1, Block A of the Lighthouse Church Addition recorded in volume 2010, page 142 of the Collin County plat records, being described by metes and bounds as follows:

BEGINNING at a 3/8" iron pin found at the north corner of said 4.594 acre tract;

THENCE South 01°50'57" West, with the east line of said 4.594 acre tract, 327.39 feet to a 1/2-inch iron pin set at the northwest corner of said Lot 1;

THENCE South 88°13'07" East, with the north line of said Lot 1, 463.84 feet to a 1/2-inch iron pin set at the northeast corner of said Lot 1; same being in the west right-of-way line of Farm Road No. 2478(Custer Road)(north-south asphalt highway);

THENCE southerly with the east line of said Lot 1 and the west right-of-way line of said Farm Road No. 2478 as follows:

South 01°45'29" West, 4.05 feet to a 1/2-inch iron pin set;

South 04°56'44" West, 179.88 feet to a 1/2-inch iron pin set;

South 01°45'29" West, 169.40 feet to a 1/2-inch iron pin set at the east-southeast corner of said Lot 1;

THENCE South 46°52'10" West, with the southeast line of said Lot 1, 43.26 feet to a 1/2-inch Iron pin set at the south-southeast corner of said Lot 1; same being in the north right-of-way line of Prosper Trail(County Road No. 122)(east-west asphalt road);

THENCE westerly with the north right-of-way line of said Prosper Trail as follows:

North 88°05'39" West, with the south line of said Lot 1, 120.35 feet to a 1/2-inch Iron pin set;

South 88°05'12" West, with the south line of said Lot 1, 75.00 feet to a 1/2-inch iron pin set;

North 88°05'39" West, with the south line of said Lot 1, passing the southwest corner of said Lot 1 and the southeast corner of said 2.000 acre tract at 228.61 feet and continuing with the south line of said 2.000 acre tract, passing the southwest corner of said 2.000 acre tract and the south-southwest corner of said 4.594 acre tract at 523.77 feet and continuing with the south line of said 4.594 acre tract, in all, 844.65 feet to a 1/2-inch iron pin set;

THENCE North 87°48'07" West, with the south line of said 4.594 acre tract, 113.87 feet to a 1/2-inch iron pin set at the southwest corner of said 4.594 acre tract;

THENCE North 01°56'05" East, with the west line of said 4.594 acre tract, 55.46 feet to a 1/2-inch iron pin found at the west-northwest corner of said 4.594 acre tract;

THENCE South  $88^{\circ}13'55''$  East, with a north line of said 4.594 acre tract, 186.89 feet to a 1/2-inch iron pin set at an inside corner of said 4.594 acre tract;

THENCE North  $23^{\circ}29'05''$  West, with a west line of said 4.594 acre tract, 175.02 feet to a 3/8" iron pin found at the north-northwest corner of said 4.594 acre tract;

THENCE North  $52^{\circ}52'26''$  East, with the northwest line of said 4.594 acre tract, 794.69 feet to the PLACE OF BEGINNING and containing 10.636 acres.

*Bruce Geer*

Bruce Geer, Registered Professional Land Surveyor, No. 4117

1514 N. McDonald Street

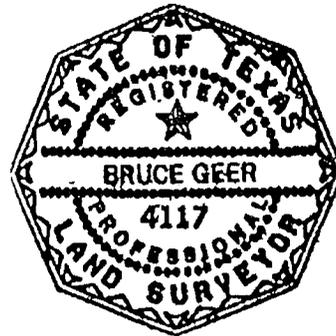
McKinney, Texas 75071

972-562-3959

972-542-5751-fax

*5-13-2011*

*Revised 5-18-2011*





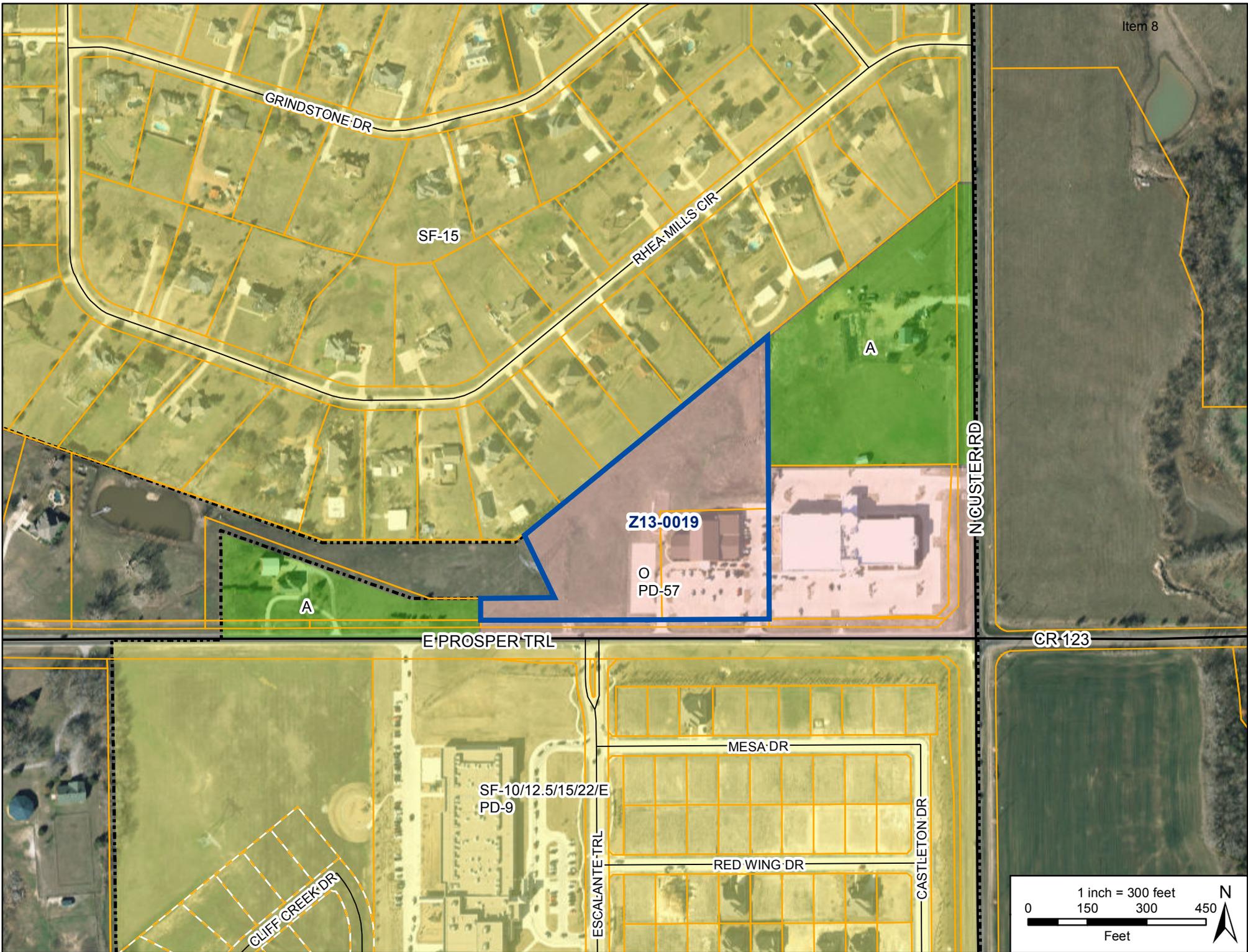
**EXHIBIT "B"****PLANNED DEVELOPMENT STANDARDS****Lighthouse Christian Fellowship****Prosper, Texas**

The tract shall develop and operate under the regulations of the Office (O) District as outlined in the Town's Zoning Ordinance No. 05-20, as it exists or may be amended, with the following conditions:

**1.0 Permitted Uses**

The land uses followed with an "**S**" are only permitted with a Specific Use Permit and uses followed by a "**C**" are only permitted subject to the conditional development standards set forth in the Town's Zoning Ordinance. The permitted land uses within this Planned Development-Office District are:

- Administrative, Medical, or Professional Office (use is only permitted within the existing buildings on the property at the time of ordinance adoption)
- Athletic Field **S**
- Business Service (use is only permitted within the existing buildings on the property at the time of ordinance adoption)
- Community Center (use is only permitted within the existing buildings on the property at the time of ordinance adoption)
- Day Care Center, Child **C**
- Day Care Center, Incidental **S**
- Health/Fitness Center (use is only permitted within the existing building on the property at the time of ordinance adoption)
- House of Worship
- Park or Playground
- School, Private or Parochial



Item 8

GRINDSTONE DR

SF-15

RHEA MILLS CIR

A

N COUSTER RD

Z13-0019

O  
PD-57

E PROSPER TRL

CR-123

SF-10/12.5/15/22/E  
PD-9

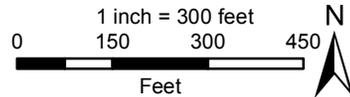
MESA DR

RED WING DR

ESCALANTE TRL

CASTLETON DR

CLIFF CREEK DR





Grace Academy of North Texas  
Case for Expansion- Modular Buildings

1/16/2014

Dear P&Z Committee Members:

Thank you for your consideration for the placement of 2 modular buildings on the designated property. I've elucidated the case for this below in accordance to Ordinance No. 12-24 (PD-57)

Current State:

- The capacity of our current building is at maximum. We have already reconfigured and reclaimed classroom space (4) each of the last two summers and there is no more space to be had.
- The school enrollment history
  - o 2011: 52
  - o 2012: 94
  - o 2013: 142
  - o 2014 Projection: 188 if we can add the space.
- The school started as K-7 and we are adding a grade each year. Currently the school is K-9 and in 2014 will be K-10 so in order to accommodate this we will need to add space regardless of any organic growth in the other grades.
- Fire Marshall Max Occupancy is 216. With current 142 enrollment plus 25 teachers and staff we are pushing that limit. Any more students and staff would start being a barrier to parental visitation and programs. (Which we already have to rely on the generosity of Lighthouse Christian Fellowship to use their big sanctuary for large productions.)

Alternatives Explored:

- Explored working with LCF to finish the second floor of their building but not financially feasible.
- Explored placing permanent structure on current property but without ownership would not want to invest that amount of money.
- Have explored purchase of other properties/buildings –
  - o Submitted offers on two different pieces of raw land to build on:
    - One we could not agree on price.
    - One we are waiting for response from current owner
  - o Submitted offer on another property with appropriate structures already in place. Owners pulled off the market.

#### Current Plan

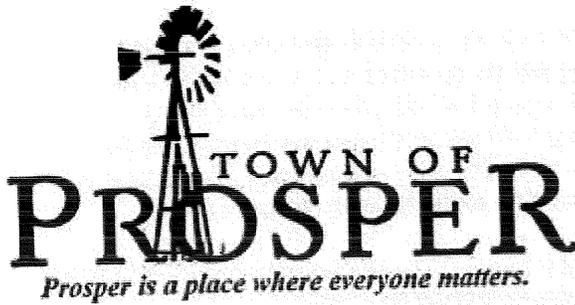
- The purpose of putting modular buildings on this property is to provide a bridge from our current state to our future campus.
- We are still diligently searching for a piece of property that would allow the construction of our future campus complete with athletic facilities and educational buildings.
- We expect purchasing that property and constructing the first educational building will take 3-4 years.
- Once we accomplish this, we can continue to use the current permanent structure for the Lower School (K-5<sup>th</sup>) but will have shifted the Upper School (grades 6-12) to the new property and won't need the extra capacity of the modular buildings and will remove those from the property.
- We will continue to use the permanent structure we currently use until the entire school has been relocated to the new campus and we expect would take a total of 6-7 years from now.

Thank you again for your consideration of this matter.

In His Service

*Mitch*

Mitchell S. Moses DVM, MBA  
Chairman; Board of Trustees  
Grace Academy of North Texas  
[Mitchell.Moses@GraceAcademy-NT.org](mailto:Mitchell.Moses@GraceAcademy-NT.org)  
469-766-2552

**DEVELOPMENT SERVICES**

**DEPARTMENT**  
P.O. Box 307  
Prosper, TX 75078  
Phone: 972-346-3502  
Fax: 972-347-2842

**REPLY FORM****SUBJECT:**

Zoning Case Z13-0019: The Town of Prosper has received a request to amend Planned Development-57 (PD-57).

**LOCATION OF SUBJECT PROPERTY:**

The property is located on the north side of Prosper Trail, 500± feet west of Custer Road.

**DESCRIPTION OF THE REQUEST:**

The proposed amendment would allow for the use of temporary buildings.

- I OPPOSE the request as described in the notice of public hearing.  
 I DO NOT OPPOSE the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): *Please see attach sheet. I do not oppose, if listed conditions are included*

Roxana Underwood  
Name (please print)

814 West 11<sup>th</sup>  
Address

Prosper, TX 75078  
City, State, and Zip Code

R. Underwood  
Signature

01-02-2014  
Date

brannon74@att.net  
E-mail Address

January 2, 2014

Town of Prosper  
Development Services Dept

SUBJECT: Zoning Case Z13-0019: Request to amend Planned Development-(PD-57)

After discussions with the tenant of the applicant requesting this amendment, I do not oppose the request if the following stipulations are included:

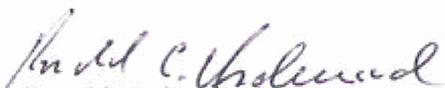
1. Applicant be required to install appropriate landscaping on subject property to become compliant with PD-O requirements.

In August 2012, the Town of Prosper approved a request to change the zoning of this property from Agricultural to Planned Development-Office (PD-O). For unknown reasons, the applicant, at that time was not required to comply with the PD-O landscaping requirements.

2. Applicant is required to remove temporary buildings after a 3 year period from date of installation, or reapply for extension of the amendment.

Temporary buildings tend to grow roots, and become permanent. (reference concrete batch plants on West side of town).

If the above conditions of approval are not included in the amendment, I am OPPOSED to the request.



Ronald Underwood  
8A Rhea Mills Circle  
Prosper, TX 75078

PH: 972-542-4962

Email: bronron70@att.net

**Melanie Videan**

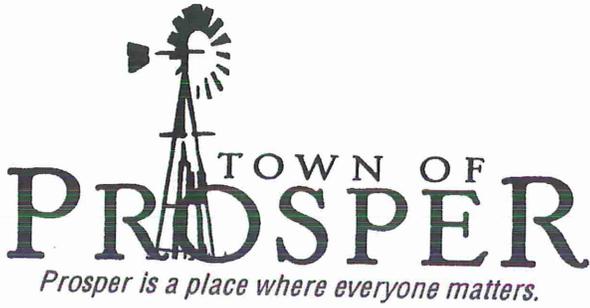
---

**From:** Ron [bronron70@att.net]  
**Sent:** Thursday, January 02, 2014 2:38 PM  
**To:** Melanie Videan  
**Cc:** Mitchell Moses  
**Subject:** Zoning Case Z13-0019 (PD-57) reply clarification

Ms. Videan,

I would like to clarify my reply to the subject zoning amendment request, concerning landscaping requirements. It is my request that the landscaping requirement apply only to the property line bordering the Rhea Mills Estates properties affected by this amendment request.

Ron Underwood



**DEVELOPMENT SERVICES  
DEPARTMENT**  
P.O. Box 307  
Prosper, TX 75078  
Phone: 972-346-3502  
Fax: 972-347-2842

**REPLY FORM**

**SUBJECT:**

Zoning Case Z13-0019: The Town of Prosper has received a request to amend Planned Development-57 (PD-57).

**LOCATION OF SUBJECT PROPERTY:**

The property is located on the north side of Prosper Trail, 500± feet west of Custer Road.

**DESCRIPTION OF THE REQUEST:**

The proposed amendment would allow for the use of temporary buildings.

- I OPPOSE the request as described in the notice of public hearing.
- I DO NOT OPPOSE the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): \_\_\_\_\_

PLEASE SEE ATTACHED

JIM ZOLLER

Name (please print)

4855 N. CUSTER

Address

Prosper

City, State, and Zip Code

*Jim A. Zoller*

Signature

1/15/14

Date

Z4ZOLLER@GMAIL.COM

E-mail Address

**Town of Prosper**

**Reply to Zoning Case Z13-0019**

**Request: Use of temporary buildings**

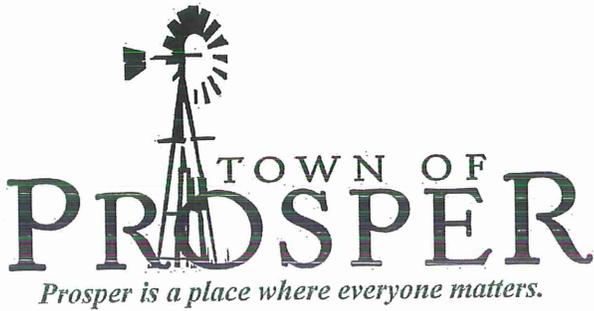
**January 8, 2014**

I have been a long-time resident of Prosper and own the adjoining property North of the Lifetime Church on Custer Road. We have always been supportive of the Church's growth but we are cautiously considering this most recent request for adding additional temporary buildings for several reasons described below. Unfortunately, we are unable to attend the planning & zoning meeting in order to discuss these details - thus, we are submitting them in writing to the committee.

- 1) What is the proposed use of the additional 3,000 sq ft temporary building?
- 2) How long does the church plan to house these activities in the temporary buildings? What is planned after the temporary buildings are replaced with permanent structures?
- 3) What will the buildings be constructed of, and will they be subject to current building code standards?
- 4) Will the existing septic system for the church be used for these additional buildings and will the system be able to handle the additional waste or will the city sewer line be connected?
- 5) Have the engineering specifications been prepared for the retention pond? If so, what is being proposed and will this adequately handle the drainage in that area?
- 6) In regards to #5 above, the concern is regarding safety - particularly if there will be children in this area. If the drainage is not properly done, or if there is a large retention pond, the proposal should include safety mechanisms to avoid risk of drowning, etc.

Thank you,

Jim Zoller



**DEVELOPMENT SERVICES  
DEPARTMENT**  
P.O. Box 307  
Prosper, TX 75078  
Phone: 972-346-3502  
Fax: 972-347-2842

REPLY FORM

**SUBJECT:**

Zoning Case Z13-0019: The Town of Prosper has received a request to amend Planned Development-57 (PD-57).

**LOCATION OF SUBJECT PROPERTY:**

The property is located on the north side of Prosper Trail, 500± feet west of Custer Road.

**DESCRIPTION OF THE REQUEST:**

The proposed amendment would allow for the use of temporary buildings.

- I OPPOSE the request as described in the notice of public hearing.
- I DO NOT OPPOSE the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): STRESS ON INTER-STRUCTURES,  
ELEC - WATER - SEWAGE - UTILITIES & etc.  
GRACE ACADEMY PLANS ON MOVING WITHIN THE YEAR.  
ONCE ZONING IS PASSED - ITS ON THE BOOKS FOREVER!  
THINK ABOUT WHAT YOU ARE DOING

Donald L Wilcox  
Name (please print)

Donald E Wilcox  
Signature

11A RHEA MILLS CIR  
Address

1-2-14  
Date

Prosper Tx 75078  
City, State, and Zip Code

\_\_\_\_\_  
E-mail Address



## ADMINISTRATION

**To: Mayor and Town Council**

**From: Robyn Battle, Town Secretary**

**Through: Harlan Jefferson, Town Manager**

**Re: Town Council Meeting – January 28, 2014**

**Agenda Item:**

Consider and act upon adopting an ordinance amending Article 4.02 of Chapter 4 of the Code of Ordinances related to the 2006 mixed beverage election and alcohol permit fees to be collected by the Town.

**Description of Agenda Item:**

At the January 28, 2014, Town Council meeting, the Town Council was provided with an update on the TABC fees for alcohol permits. The Town's ordinance currently allows for the collection of local permit fees.

The chart below outlines the fees a typical establishment in the Town of Prosper would pay for alcohol permits under the current TABC fee schedule:

| Permit Applicant                   | Type of Permit   | Operating Year   | Fees Due to TABC | Fees Due to Town of Prosper     |
|------------------------------------|--|--|------------------|---------------------------------|
| Convenience Store, Grocery Store   | BQ – Wine and Beer Retailer's Off-Premise Permit                               | Original and Renewals (every two years)                | \$120            | \$60                            |
| Restaurant serving Mixed Beverages | RM – Mixed Beverage Restaurant Permit with FB (Food and Beverage Certificate)  | Original (first 2 years)                               | \$6,000          | \$0                             |
|                                    |  | 1 <sup>st</sup> Renewal (2 years)                      | \$4,500          | \$1,125 (half of first renewal) |
|                                    |  | 2 <sup>nd</sup> Renewal (2 years)                      | \$3,000          | \$1,500                         |
|                                    |  | 3 <sup>rd</sup> and Subsequent Renewals (2 years each) | \$1,500          | \$750                           |
| Restaurant serving Beer & Wine     | BG – Wine and Beer Retailer's Permit (must have Food and Beverage Certificate) | Original and Renewals (every two years)                | \$350            | \$175                           |

Town staff has compiled information on the staff time required to process an alcohol permit. The breakdown of staff time for certifying and processing permit payments is as follows:

|  |                                       |
|--|---------------------------------------|
| <b><u>Initial Application</u></b>                      |                                       |
| <b>Town Secretary</b>                                  |                                       |
| Review and certify application                         |                                       |
| Verify location on wet/dry map                         | 15 minutes                            |
| <b>Development Services</b>                            |                                       |
| Verify zoning and distance requirements                | 1 hour, 30 minutes                    |
| <b>Total: 1 hour, 45 minutes</b>                       |                                       |
| <b><u>Additional Time for Permit Processing</u></b>    |                                       |
| <b>Town Secretary</b>                                  |                                       |
| Collect and record payment                             |                                       |
| Create and issue permit                                |                                       |
| Send reminder notice when renewal permit is due        | 15 minutes                            |
| <b>Finance Staff</b>                                   |                                       |
| Record and process payment for deposit                 | 10 minutes                            |
| <b>Total: 25 minutes</b>                               |                                       |
| <b>Total staff time to process alcohol permit fee:</b> | <b>2 hours, 10 minutes per permit</b> |

Total staff time to certify an initial application is approximately 1 hour, 45 minutes. The additional time required by staff to issue a local permit is 25 minutes. This brings the total staff time to about 2 hours, 10 minutes per permit.

**Legal Obligations and Review:**

Terry Welch with Brown & Hofmeister, L.L.P., has reviewed the attached ordinances as to form and legality.

**Attached Documents:**

1. Ordinance to amend
2. Ordinance to repeal

**Town Staff Recommendation:**

Town staff recommends the Town Council adopt an ordinance amending Article 4.02 of Chapter 4 of the Code of Ordinances related to the 2006 mixed beverage election and alcohol permit fees to be collected by the Town.

**Proposed Motion to Amend the Current Ordinance:**

I move to adopt an ordinance amending Article 4.02 of Chapter 4 of the Code of Ordinances related to the 2006 mixed beverage election and alcohol permit fees to be collected by the Town.

or

**Proposed Motion to Repeal the Current Ordinance:**

I move to adopt an ordinance amending Article 4.02 of Chapter 4 of the Code of Ordinances related to the 2006 mixed beverage election and to repeal Ordinance No. 06-102, and to repeal Division 2 of Article 4.02 of Chapter 4 of the Code of Ordinances related to alcohol permit fees to be collected by the Town.

## TOWN OF PROSPER, TEXAS

## ORDINANCE NO. 14-\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING DIVISION 1, "GENERALLY," OF ARTICLE 4.02, "ALCOHOLIC BEVERAGES," OF CHAPTER 4, "BUSINESS REGULATIONS," BY ADDING A NEW SECTION 4.02.002, ENTITLED "SALE OF MIXED BEVERAGES;" REPEALING ORDINANCE NO. 06-102 IN ITS ENTIRETY; REPEALING EXISTING DIVISION 2, "PERMITS AND LICENSES," OF ARTICLE 4.02, "ALCOHOLIC BEVERAGES," OF CHAPTER 4, "BUSINESS REGULATIONS," OF THE CODE OF ORDINANCES OF THE TOWN OF PROSPER, TEXAS, AND REPLACING SAME BY ADDING A NEW DIVISION 2, "PERMITS AND LICENSES," OF ARTICLE 4.02, "ALCOHOLIC BEVERAGES," OF CHAPTER 4, "BUSINESS REGULATIONS;" MAKING FINDINGS RELATED THERETO; PROVIDING A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**WHEREAS**, on or about May 13, 2006, voters in the Town of Prosper, Texas, approved a proposition to permit the sale of mixed beverages in restaurants by food and beverage certificate holders only; and

**WHEREAS**, thereafter, the Town Council of the Town of Prosper, Texas ("Town Council"), adopted Ordinance No. 06-102 on or about September 12, 2006, which Ordinance provided, in part, for fees for licenses and permits related to alcoholic beverages and further, repealed Ordinance No. 04-57 in its entirety; and

**WHEREAS**, it has been found that the Town's Code of Ordinances, as currently codified, does not reflect any amendments contemplated by Ordinance No. 06-102, and in fact, the codified version of Division 2, "Permits and Licenses," of Article 4.02, "Alcoholic Beverages," of Chapter 4, "Business Regulations," of the Code of Ordinances reflects language contained in repealed Ordinance No. 04-57; and

**WHEREAS**, in an effort to clarify Division 2, "Permits and Licenses," of Article 4.02, "Alcoholic Beverages," of Chapter 4, "Business Regulations," of the Code of Ordinances, said Division as well as Ordinance No. 06-102 should be repealed so that it is clear and unambiguous about what provisions and fees currently apply.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:**

**SECTION 1**

The findings set forth above are hereby found to be true and correct and are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2**

From and after the effective date of this Ordinance, Division 1, "Generally," of Article 4.02, "Alcoholic Beverages," of Chapter 4, "Business Regulations," of the Code of Ordinances is hereby amended by adding a new Section 4.02.002, to read as follows:

**“Sec. 4.02.002 Sale of mixed beverages**

At the local option election of the town held on May 13, 2006, the voters approved proposition no. 1 for the legal sale of mixed beverages in restaurants by food and beverage certificate holders only.

**Secs. 4.02.003—Sec. 4.02.030 Reserved.”**

**SECTION 3**

Ordinance No. 06-102 is repealed in its entirety, and the effective date of the repeal shall not occur until the effective date of this Ordinance at which time Ordinance No. 06-102 shall be repealed.

**SECTION 4**

From and after the effective date of this Ordinance, existing Division 2, “Permits and Licenses,” of Article 4.02, “Alcoholic Beverages,” of Chapter 4, “Business Regulations,” of the Code of Ordinances is hereby repealed in its entirety, and shall be replaced with a new Division 2, “Permits and Licenses,” of Article 4.02, “Alcoholic Beverages,” of Chapter 4, “Business Regulations,” of the Code of Ordinances to read as follows:

**“Division 2. Permits and Licenses**

**Sec. 4.02.031 Permit required, fee**

It shall be unlawful for any person to manufacture, distill, brew, import, transport, store for purposes of sale, distribute or sell any beer, wine or other alcoholic beverage within the town without having first paid a town permit fee equal to one-half of the state fee required by the Alcoholic Beverage Code, as may be amended from time to time, of every person who may be issued any permit or license or renew such permit or license by the state for the manufacture, distilling, brewing, importing, transporting, storing, distributing or sale of any beer, wine or other alcoholic beverage. Such permit fee shall be paid to the town secretary every two years. The town secretary shall issue a receipt for the permit fee and keep a record of the same in the town secretary’s office. All receipts issued for the payment of permit fees under the terms of this section shall terminate at midnight on the day before the anniversary date of their issuance, and no receipt shall be issued covering a longer term than two years.

**Sec. 4.02.032 Processing procedures**

Before the town secretary shall sign any application for a permit or license under the Alcoholic Beverage Code, or any renewal, such application shall be submitted to the appropriate town departments, as determined by the town manager, to ensure that the application complies with all town ordinances and regulations and are for establishments located in a wet area.”

**SECTION 5**

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

**SECTION 6**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

**SECTION 7**

Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not to exceed the sum of Five Hundred Dollars (\$500.00), and each and every day such violation shall continue shall constitute a separate offense.

**SECTION 8**

This Ordinance shall become effective from and after its adoption and publication as required by law.

**DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 11TH DAY OF FEBRUARY, 2014.**

\_\_\_\_\_  
**Ray Smith, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Robyn Battle, Town Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Terrence S. Welch, Town Attorney**

## TOWN OF PROSPER, TEXAS

## ORDINANCE NO. 14-\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING DIVISION 1, "GENERALLY," OF ARTICLE 4.02, "ALCOHOLIC BEVERAGES," OF CHAPTER 4, "BUSINESS REGULATIONS," BY ADDING A NEW SECTION 4.02.002, ENTITLED "SALE OF MIXED BEVERAGES;" REPEALING IN ITS ENTIRETY EXISTING DIVISION 2, "PERMITS AND LICENSES," OF ARTICLE 4.02, "ALCOHOLIC BEVERAGES," OF CHAPTER 4, "BUSINESS REGULATIONS," OF THE CODE OF ORDINANCES OF THE TOWN OF PROSPER, TEXAS; MAKING FINDINGS RELATED THERETO; PROVIDING REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on or about May 13, 2006, voters in the Town of Prosper, Texas, approved a proposition to permit the sale of mixed beverages in restaurants by food and beverage certificate holders only; and

**WHEREAS**, thereafter, the Town Council of the Town of Prosper, Texas ("Town Council"), adopted Ordinance No. 06-102 on or about September 12, 2006, which Ordinance provided, in part, for fees for licenses and permits related to alcoholic beverages and further, repealed Ordinance No. 04-57 in its entirety; and

**WHEREAS**, it has been found that the Town's Code of Ordinances, as currently codified, does not reflect any amendments contemplated by Ordinance No. 06-102, and in fact, the codified version of Division 2, "Permits and Licenses," of Article 4.02, "Alcoholic Beverages," of Chapter 4, "Business Regulations," of the Code of Ordinances reflects language contained in repealed Ordinance No. 04-57; and

**WHEREAS**, it is the desire of the Town Council of the Town of Prosper, Texas, to repeal any and all permit fees currently referenced in Division 2, "Permits and Licenses," of Article 4.02, "Alcoholic Beverages," of Chapter 4, "Business Regulations," of the Code of Ordinances, said Division as well as Ordinance No. 06-102 so that it is clear and unambiguous that no fees shall be collected by the Town relative to permits issued by the Texas Alcoholic Beverage Commission for locations in the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:**

**SECTION 1**

The findings set forth above are hereby found to be true and correct and are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2**

From and after the effective date of this Ordinance, Division 1, "Generally," of Article 4.02, "Alcoholic Beverages," of Chapter 4, "Business Regulations," of the Code of Ordinances is hereby amended by adding a new Section 4.02.002, to read as follows:

**“Sec. 4.02.002            Sale of mixed beverages**

At the local option election of the town held on May 13, 2006, the voters approved proposition no. 1 for the legal sale of mixed beverages in restaurants by food and beverage certificate holders only.

**Secs. 4.02.003—Sec. 4.02.030            Reserved.”**

**SECTION 3**

Ordinance No. 06-102 is repealed in its entirety, and the effective date of the repeal shall not occur until the effective date of this Ordinance at which time Ordinance No. 06-102 shall be repealed.

**SECTION 4**

From and after the effective date of this Ordinance, existing Division 2, “Permits and Licenses,” of Article 4.02, “Alcoholic Beverages,” of Chapter 4, “Business Regulations,” of the Code of Ordinances is hereby repealed in its entirety.

**SECTION 5**

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

**SECTION 6**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

**SECTION 7**

This Ordinance shall become effective from and after its adoption.

**DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 11TH DAY OF FEBRUARY, 2014.**

---

**Ray Smith, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Robyn Battle, Town Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Terrence S. Welch, Town Attorney**



## FINANCE

**To: Mayor and Town Council**

**From: Kent R. Austin, Finance Director**

**Through: Harlan Jefferson, Town Manager**

**Re: Town Council Meeting – February 11, 2014**

**Agenda Item:**

Consider and act upon all matters incident and related to the issuance and sale of the Town of Prosper, Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Series 2014, including the adoption of an ordinance authorizing the issuance of such Certificates, approving an Official Statement, a Bond Purchase Agreement, a Paying Agent/Registrar Agreement, and an engagement letter of Bond Counsel.

**Description of Agenda Item:**

On December 16, 2013, the Town Council approved a resolution directing staff to publish notice of the Town's intent to issue Town of Prosper Combination Tax and Surplus Revenue Certificates of Obligation to fund the Town's share of the Doe Branch wastewater treatment plant, in an amount not to exceed \$16 million. The plant is being built by the Upper Trinity Regional Water District for the benefit of Prosper, the City of Celina, Mustang Special Utility District, and Denton County Fresh Water Supply District #10. UTRWD is issuing its own bonds to fund the remainder of the project.

Prosper staff proposes funding \$13 million of its \$16 million share by debt, with the remaining \$3 million funded by cash in the Water/Sewer Fund.

At a meeting of the participants on January 17, it became apparent that the original overall timetable required modification. Consequently, Prosper agreed to postpone its bond issuance from February 11 to February 25.

**Budget Impact:**

If the Certificates of Obligation are approved, debt service payments would begin, totaling \$251,334 in FY 2014 and \$982,669 in FY 2015. These amounts would be integrated into the Town's water and sewer rates. The annual amount of debt service for the Certificates would be approximately \$982,000 from FY 2016 through FY 2034.

**Legal Obligations and Review:**

Dan Culver, with McCall, Parkhurst & Horton L.L.P., serves as the Town's Bond Counsel and has written the authorizing ordinance.

**Attached Documents:**

1. Ordinance authorizing the issuance and sale of Town of Prosper, Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Series 2014.

**Town Staff Recommendation:**

Staff recommends rescheduling the adoption of an ordinance authorizing the issuance of the Town's Combination Tax and Surplus Revenues Certificates of Obligation to the February 25 Town Council meeting.

**Proposed Motion:**

I move to reschedule adoption of an ordinance authorizing the issuance of the Town's Combination Tax and Surplus Revenue Certificates of Obligation, Series 2014, to the Town Council meeting scheduled to begin at 6:00 p.m. on February 25, 2014, at the Prosper Municipal Chambers, 108 W. Broadway, Prosper, Texas.

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**ORDINANCE NO. 14-\_\_  
OF THE TOWN OF PROSPER, TEXAS**

**AUTHORIZING THE ISSUANCE OF**

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**TOWN OF PROSPER, TEXAS  
COMBINATION TAX AND SURPLUS REVENUE  
CERTIFICATES OF OBLIGATION, SERIES 2014**

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Section 25. Effective Date ..... 27

Exhibit A: Continuing Disclosure Information ..... A-1

**ORDINANCE NO. 14-\_\_****AUTHORIZING THE ISSUANCE AND SALE OF TOWN OF PROSPER, TEXAS COMBINATION TAX AND SURPLUS REVENUE CERTIFICATES OF OBLIGATION, SERIES 2014; LEVYING AN ANNUAL AD VALOREM TAX FOR THE PAYMENT OF SAID CERTIFICATES AND PROVIDING OTHER SECURITY; APPROVING AN OFFICIAL STATEMENT AND A PAYING AGENT/REGISTRAR AGREEMENT; ENGAGING BOND COUNSEL; AND ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT**

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|                                   |   |
|-----------------------------------|---|
| <b>THE STATE OF TEXAS</b>         | § |
| <b>COLLIN AND DENTON COUNTIES</b> | § |
| <b>TOWN OF PROSPER</b>            | § |

WHEREAS, the Town Council of the Town of Prosper, Texas (the "Issuer") deems it advisable to issue Certificates of Obligation in the principal amount of \$13,090,000 for paying all or a portion of the Town's contractual obligations incurred in connection with extending, constructing and improving the Town's sewer system, including acquiring sewage treatment capacity in the Doe Branch Water Reclamation Plant of the Upper Trinity Regional Water District ("Upper Trinity"), which is to be owned and operated by Upper Trinity as part of its Northeast Regional Water Reclamation System, and for paying legal, fiscal, engineering and architectural fees in connection with these projects; and

WHEREAS, the Certificates of Obligation hereinafter authorized and designated are to be issued and delivered for cash pursuant to Subchapter C of Chapter 271, Local Government Code, as amended, and particularly Section 271.045(c) thereof, and Chapter 1502, Government Code, as amended; and

WHEREAS, the Town Council has heretofore passed a resolution authorizing and directing the Town Secretary to give notice of intention to issue Certificates of Obligation; and

WHEREAS, said notice has been duly published in a newspaper of general circulation in the Issuer, said newspaper being a "newspaper" as defined in §2051.044, Texas Government Code; and

WHEREAS, said notice indicated that this Ordinance would be considered for adoption by the Town Council at a meeting of the Council to be held on February 11, 2014; and

WHEREAS, the Town Council considered it necessary and appropriate to defer the date of adoption of the Ordinance to a meeting held on February 25, 2014, and therefore, in open meeting on February 11, 2014 it was announced that this matter would be deferred to February 25, 2014; and

WHEREAS, to the time of adoption of this Ordinance, the Issuer received no petition from the qualified electors of the Issuer protesting the issuance of such Certificates of Obligation; and

WHEREAS, it is considered to be to the best interest of the Issuer that said interest bearing Certificates of Obligation be issued.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER:

Section 1. RECITALS, AMOUNT AND PURPOSE OF THE CERTIFICATES. The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section. The certificates of the Issuer are hereby authorized to be issued and delivered in the aggregate principal amount of \$13,090,000 for the purpose of paying all or a portion of the Town's contractual obligations incurred in connection with extending, constructing and improving the Town's sewer system, including acquiring sewage treatment capacity in the Doe Branch Water Reclamation Plant of the Upper Trinity Regional Water District ("Upper Trinity"), which is to be owned and operated by Upper Trinity as part of its Northeast Regional Water Reclamation System, and for paying legal, fiscal, engineering and architectural fees in connection with these projects (collectively, the "Project").

Section 2. DESIGNATION, DATE, DENOMINATIONS, NUMBERS, MATURITIES OF CERTIFICATES AND INTEREST RATES. Each certificate issued pursuant to this Ordinance shall be designated: "TOWN OF PROSPER, TEXAS, COMBINATION TAX AND SURPLUS REVENUE CERTIFICATE OF OBLIGATION, SERIES 2014", and initially there shall be issued, sold, and delivered hereunder one fully registered certificate, without interest coupons, dated February 15, 2014, in the principal amount stated above and in the denominations hereinafter stated, numbered T-1, with certificates issued in replacement thereof being in the denominations and principal amounts hereinafter stated and numbered consecutively from R-1 upward, payable to the respective Registered Owners thereof (with the initial certificate being made payable to the initial purchaser as described in Section 11 hereof), or to the registered assignee or assignees of said certificates or any portion or portions thereof (in each case, the "Registered Owner"). The Certificates shall mature on August 15 in the years and in the principal amounts and interest rates set forth below, interest on each Certificate accruing on the basis of a 360-day year of twelve 30-day months from the date of initial delivery of the Certificates to the purchaser thereof or the most recent interest payment date to which interest has been paid or provided for at the per annum rates of interest, payable semiannually on February 15 and August 15 of each year until the principal amount shall have been paid or provision for such payment shall have been made, commencing February 15, 2014, as follows:

| <u>Year</u> | <u>Principal Amount</u> | <u>Interest Rate</u> | <u>Year</u> | <u>Principal Amount</u> | <u>Interest Rate</u> |
|-------------|-------------------------|----------------------|-------------|-------------------------|----------------------|
| 2015        |                         |                      | 2025        |                         |                      |
| 2016        |                         |                      | 2026        |                         |                      |
| 2017        |                         |                      | 2027        |                         |                      |
| 2018        |                         |                      | 2028        |                         |                      |
| 2019        |                         |                      | 2029        |                         |                      |
| 2020        |                         |                      | 2030        |                         |                      |
| 2021        |                         |                      | 2031        |                         |                      |
| 2022        |                         |                      | 2032        |                         |                      |
| 2023        |                         |                      | 2033        |                         |                      |
| 2024        |                         |                      | 2034        |                         |                      |
|             |                         |                      | 2035        |                         |                      |

Section 3. CHARACTERISTICS OF THE CERTIFICATES. (a) Registration, Transfer, Conversion and Exchange; Authentication. The Issuer shall keep or cause to be kept at the corporate trust office of U.S. Bank National Association, Dallas, Texas, the "Paying Agent/Registrar"), books or records for the registration of the transfer, conversion and exchange of the Certificates (the "Registration Books"), and the Issuer hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, conversions and exchanges under such reasonable regulations as the Issuer and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions and exchanges as herein provided. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the registered owner of each Certificate to which payments with respect to the Certificates shall be mailed, as herein provided; but it shall be the duty of each registered owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The Issuer shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Issuer shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange and delivery of a substitute Certificate or Certificates. Registration of assignments, transfers, conversions and exchanges of Certificates shall be made in the manner provided and with the effect stated in the FORM OF CERTIFICATE set forth in this Ordinance. Each substitute Certificate shall bear a letter and/or number to distinguish it from each other Certificate.

Except as provided in Section 3(c) of this Ordinance, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Certificate, date and manually sign said Certificate, and no such Certificate shall be deemed to be issued or outstanding unless such Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Certificates and Certificates surrendered for conversion and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the Issuer or any other body or person so as to accomplish the foregoing conversion and exchange of any Certificate or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Certificates in the manner prescribed herein, and said Certificates shall be printed or typed on paper of customary weight and strength. Pursuant to Chapter 1201, Government Code, and particularly Subchapter D thereof, the duty of conversion and exchange of Certificates as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Certificate, the converted and exchanged Certificate shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Certificates that initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General and registered by the Comptroller of Public Accounts.

(b) Payment of Certificates and Interest. The Issuer hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Certificates, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all

payments made by the Issuer and the Paying Agent/Registrar with respect to the Certificates, and of all conversions and exchanges of Certificates, and all replacements of Certificates, as provided in this Ordinance. However, in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Issuer. Notice of the past due interest shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each registered owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(c) In General. The Certificates (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Certificates to be payable only to the registered owners thereof, (ii) may be redeemed prior to their scheduled maturities (notice of which shall be given to the Paying Agent/Registrar by the Issuer at least 35 days prior to any such redemption date), (iii) may be converted and exchanged for other Certificates, (iv) may be transferred and assigned, (v) shall have the characteristics, (vi) shall be signed, sealed, executed and authenticated, (vii) the principal of and interest on the Certificates shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the Issuer shall have certain duties and responsibilities with respect to the Certificates, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF CERTIFICATE set forth in this Ordinance. The Certificate initially issued and delivered pursuant to this Ordinance is not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Certificate issued in conversion of and exchange for any Certificate or Certificates issued under this Ordinance the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF CERTIFICATE.

(d) Book-Entry Only System. The Certificates issued in exchange for the Certificate initially issued to the initial purchaser specified herein shall be initially issued in the form of a separate single fully registered Certificate for each of the maturities thereof. Upon initial issuance, the ownership of each such Certificate shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), and except as provided in subsection (f) hereof, all of the outstanding Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the Issuer and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created ("DTC Participant") to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants or to any person on behalf of whom such a DTC Participant holds an interest in the Certificates. Without limiting the immediately preceding sentence, the Issuer and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any DTC Participant or any other person, other than a Registered Owner of Certificates, as shown on the

Registration Books, of any notice with respect to the Certificates, or (iii) the payment to any DTC Participant or any other person, other than a Registered Owner of Certificates, as shown in the Registration Books of any amount with respect to principal of or interest on the Certificates. Notwithstanding any other provision of this Ordinance to the contrary, the Issuer and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Certificate is registered in the Registration Books as the absolute owner of such Certificate for the purpose of payment of principal and interest with respect to such Certificate, for the purpose of registering transfers with respect to such Certificate, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Certificates only to or upon the order of the Registered Owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to payment of principal of and interest on the Certificates to the extent of the sum or sums so paid. No person other than a Registered Owner, as shown in the Registration Books, shall receive a Certificate evidencing the obligation of the Issuer to make payments of principal and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the Registered Owner at the close of business on the Record date, the words "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(e) Successor Securities Depository; Transfers Outside Book-Entry Only System. In the event that the Issuer determines that DTC is incapable of discharging its responsibilities described herein and in the representations letter of the Issuer to DTC or that it is in the best interest of the beneficial owners of the Certificates that they be able to obtain certificated Certificates, the Issuer shall (i) appoint a successor securities depository, qualified to act as such under Section 17A of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Certificates to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Certificates and transfer one or more separate certificated Certificates to DTC Participants having Certificates credited to their DTC accounts. In such event, the Certificates shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Registered Owners transferring or exchanging Certificates shall designate, in accordance with the provisions of this Ordinance.

(f) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Certificate is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Certificate and all notices with respect to such Certificate shall be made and given, respectively, in the manner provided in the representations letter of the Issuer to DTC.

(g) Cancellation of Initial Certificate. On the closing date, one initial Certificate representing the entire principal amount of the Certificates, payable in stated installments to the

purchaser designated in Section 11 or its designee, executed by manual or facsimile signature of the Mayor (or in the absence thereof, by the Mayor Pro-tem) and Town Secretary of the Issuer, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to such purchaser or its designee. Upon payment for the initial Certificate, the Paying Agent/Registrar shall cancel the initial Certificate and deliver to the Depository Trust Company on behalf of such purchaser one registered definitive Certificate for each year of maturity of the Certificates, in the aggregate principal amount of all of the Certificates for such maturity.

(h) Conditional Notice of Redemption. With respect to any optional redemption of the Certificates, unless certain prerequisites to such redemption required by this Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the Issuer, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the Issuer shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

Section 4. FORM OF CERTIFICATES. The form of the Certificates, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Certificates initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance.

(a) [Form of Certificate]

|               |   |                                 |           |
|---------------|---|---------------------------------|-----------|
| NO. R-        | UNITED STATES OF AMERICA<br>STATE OF TEXAS<br>TOWN OF PROSPER, TEXAS<br>COMBINATION TAX AND SURPLUS REVENUE<br>CERTIFICATE OF OBLIGATION, SERIES 2014 | PRINCIPAL<br>AMOUNT<br>\$ _____ |           |
| Interest Rate | Date of Initial Delivery  | Maturity Date                   | CUSIP No. |
|               | March __, 2014  | August 15, ____                 |           |

REGISTERED OWNER:

PRINCIPAL AMOUNT:     DOLLARS

ON THE MATURITY DATE specified above, the Town of Prosper, in Collin and Denton Counties, Texas (the "Issuer"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above. The Issuer promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from the Date of Initial Delivery set forth above at the Interest Rate per annum specified above. Interest is payable on August 15, 2014 and semiannually on each February 15 and August 15 thereafter to the Maturity Date specified above, or the date of redemption prior to maturity; except, if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full.

THE PRINCIPAL OF AND INTEREST ON this Certificate are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Certificate shall be paid to the registered owner hereof upon presentation and surrender of this Certificate at maturity, or upon the date fixed for its redemption prior to maturity, at the corporate trust office of U.S. Bank National Association in Dallas, Texas, which is the "Paying Agent/Registrar" for this Certificate. The payment of interest on this Certificate shall be made by the Paying Agent/Registrar to the registered owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the Issuer required by the ordinance authorizing the issuance of this Certificate (the "Certificate Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the registered owner hereof, at its address as it appeared on the last day of the month preceding each such date (the "Record Date") on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Issuer. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Certificate appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

ANY ACCRUED INTEREST due at maturity or upon the redemption of this Certificate prior to maturity as provided herein shall be paid to the registered owner upon presentation and surrender of this Certificate for redemption and payment at the corporate trust office of the Paying Agent/Registrar. The Issuer covenants with the registered owner of this Certificate that on or before each principal payment date, interest payment date, and accrued interest payment date for this Certificate it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Certificate Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Certificates, when due.

IF THE DATE for the payment of the principal of or interest on this Certificate shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day that is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS CERTIFICATE is one of a series of Certificates dated February 15, 2014, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$13,090,000 for the purpose of paying all or a portion of the Town's contractual obligations incurred in connection with extending, constructing and improving the Town's sewer system, including acquiring sewage treatment capacity in the Doe Branch Water Reclamation Plant of the Upper Trinity Regional Water District ("Upper Trinity"), which is to be owned and operated by Upper Trinity as part of its Northeast Regional Water Reclamation System, and for paying legal, fiscal, engineering and architectural fees in connection with these projects.

THE CERTIFICATES OF THIS SERIES having stated maturities on and after August 15, 2025 may be redeemed prior to their scheduled maturities, at the option of the Issuer, on August 15, 2024 or on any date thereafter, with funds derived from any available and lawful source, as a whole, or in part, and, if in part, the particular Certificates, or portions thereof, to be redeemed shall be selected and designated by the Issuer (provided that a portion of a Certificate may be redeemed only in an integral multiple of \$5,000), at a redemption price equal to the principal amount to be redeemed plus accrued interest to the date fixed for redemption.

THE CERTIFICATES scheduled to mature on August 15, 20\_\_ (the "Term Certificates") are subject to scheduled mandatory redemption by the Paying Agent/Registrar by lot, or by any other customary method that results in a random selection, at a price equal to the principal amount thereof, plus accrued interest to the redemption date, out of moneys available for such purpose in the interest and sinking fund for the Certificates, on the dates and in the respective principal amounts, set forth in the following schedule:

Term Certificate  
Maturity: August 15, 20

| Mandatory Redemption Date | Principal Amount |
|---------------------------|------------------|
| August 15, 20__           |                  |
| August 15, 20__           |                  |
| August 15, 20__           |                  |
| August 15, 20__(maturity) |                  |

The principal amount of Term Certificates of a stated maturity required to be redeemed on any mandatory redemption date pursuant to the operation of the mandatory sinking fund redemption provisions shall be reduced, at the option of the Issuer, by the principal amount of any Term Certificates of the same maturity which, at least 45 days prior to a mandatory redemption date (1) shall have been acquired by the Issuer at a price not exceeding the principal amount of such Term Certificates plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the Issuer at a price not exceeding the principal amount of such Term Certificates plus accrued interest to the date of purchase, or (3) shall have been redeemed pursuant to the optional redemption provisions and not theretofore credited against a mandatory redemption requirement.

AT LEAST 30 DAYS prior to the date fixed for any redemption of Certificates or portions thereof prior to maturity a written notice of such redemption shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, at least 30 days prior to the date fixed for any such redemption, to the registered owner of each Certificate to be redeemed at its address as it appeared on the 45th day prior to such redemption date; provided, however, that the failure of the registered owner to receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Certificate. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Certificates or portions thereof that are to be so redeemed. If such written notice of redemption is sent and if due provision for such payment is made, all as provided above, the Certificates or portions thereof that are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the registered owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Certificate shall be redeemed, a substitute Certificate or Certificates having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the registered owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the registered owner upon the surrender thereof for cancellation, at the expense of the Issuer, all as provided in the Certificate Ordinance.

ALL CERTIFICATES OF THIS SERIES are issuable solely as fully registered certificates, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Certificate Ordinance, this Certificate may, at the request of the registered owner or the assignee

or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered certificates, without interest coupons, payable to the appropriate registered owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate registered owner, assignee or assignees, as the case may be, upon surrender of this Certificate to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Certificate Ordinance. Among other requirements for such assignment and transfer, this Certificate must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Certificate or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Certificate or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Certificate may be executed by the registered owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Certificate or any portion or portions hereof from time to time by the registered owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Certificate or portion thereof will be paid by the Issuer. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, conversion, or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) with respect to any Certificate or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date.

IN THE EVENT any Paying Agent/Registrar for the Certificates is changed by the Issuer, resigns, or otherwise ceases to act as such, the Issuer has covenanted in the Certificate Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the registered owners of the Certificates.

IT IS HEREBY certified, recited and covenanted that this Certificate has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Certificate have been performed, existed and been done in accordance with law; that this Certificate is a general obligation of said Issuer, issued on the full faith and credit thereof; and that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said Issuer, and have been pledged for such payment, within the limit prescribed by law, and that this Certificate is additionally secured by and payable from a pledge of the revenues of the Issuer's combined Waterworks and Sewer Systems remaining after payment of all operation and maintenance expenses thereof, and all debt service, reserve and other requirements in connection with all of the Issuer's revenue obligations (now or hereafter outstanding) that are payable from all or part of said revenues, all as provided in the Certificate Ordinance.

BY BECOMING the registered owner of this Certificate, the registered owner thereby acknowledges all of the terms and provisions of the Certificate Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Certificate Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the Issuer, and agrees that the terms and provisions of this Certificate and the Certificate Ordinance constitute a contract between each registered owner hereof and the Issuer.

IN WITNESS WHEREOF, the Issuer has caused this Certificate to be signed with the manual or facsimile signature of the Mayor (or in the absence thereof, by the Mayor Pro-tem) of the Issuer and countersigned with the manual or facsimile signature of the Town Secretary of said Issuer, and has caused the official seal of the Issuer to be duly impressed, or placed in facsimile, on this Certificate.

\_\_\_\_\_  
(signature)  
Town Secretary

\_\_\_\_\_  
(signature)  
Mayor

(SEAL)

(b) [Form of Paying Agent/Registrar's Authentication Certificate]

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE  
(To be executed if this Certificate is not accompanied by an  
executed Registration Certificate of the Comptroller  
of Public Accounts of the State of Texas)

It is hereby certified that this Certificate has been issued under the provisions of the Certificate Ordinance described in the text of this Certificate; and that this Certificate has been issued in conversion or replacement of, or in exchange for, a certificate, certificates, or a portion of a certificate or certificates of a series that originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated: \_\_\_\_\_

\_\_\_\_\_  
U.S. Bank National Association  
Dallas, Texas  
Paying Agent/Registrar

By: \_\_\_\_\_  
Authorized Representative

(c) [Form of Assignment]

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_.

Please insert Social Security or Taxpayer Identification Number of Transferee \_\_\_\_\_

(Please print or typewrite name and address, including zip code, of Transferee.) \_\_\_\_\_

the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney, to register the transfer of the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a securities transfer association recognized signature guarantee program.

NOTICE: The signature above must correspond with the name of the registered owner as it appears upon the front of this Certificate in every particular, without alteration or enlargement or any change whatsoever.

(d) [Form of Registration Certificate of the Comptroller of Public Accounts]

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

I hereby certify that this Certificate has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and that this Certificate has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this

\_\_\_\_\_  
Comptroller of Public Accounts of the State of Texas

(COMPTROLLER'S SEAL)

(e) [Initial Certificate Insertions]

(i) The initial Certificate shall be in the form set forth in paragraph (a) of this Section, except that:

A. immediately under the name of the Certificate, the headings "Interest Rate" and "Maturity Date" shall both be completed with the words "As shown below" and "CUSIP No. \_\_\_\_\_" shall be deleted.

B. the first paragraph shall be deleted and the following will be inserted:

"THE TOWN OF PROSPER, TEXAS (the "Issuer"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on August 15 in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

| <u>Years</u> | <u>Principal Installments</u> | <u>Interest Rates</u> | <u>Years</u> | <u>Principal Installments</u> | <u>Interest Rates</u> |
|--------------|-------------------------------|-----------------------|--------------|-------------------------------|-----------------------|
| 2015         |                               |                       | 2025         |                               |                       |
| 2016         |                               |                       | 2026         |                               |                       |
| 2017         |                               |                       | 2027         |                               |                       |
| 2018         |                               |                       | 2028         |                               |                       |
| 2019         |                               |                       | 2029         |                               |                       |
| 2020         |                               |                       | 2030         |                               |                       |
| 2021         |                               |                       | 2031         |                               |                       |
| 2022         |                               |                       | 2032         |                               |                       |
| 2023         |                               |                       | 2033         |                               |                       |
| 2024         |                               |                       | 2034         |                               |                       |
|              |                               |                       | 2035         |                               |                       |

The Issuer promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from the Date of Initial Delivery set forth above at the respective Interest Rate per annum specified above. Interest is payable on August 15, 2014 and semiannually on each February 15 and August 15 thereafter to the date of payment of the principal installment specified above, or the date of redemption prior to maturity; except, that if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full."

C. The Initial Certificate shall be numbered "T-1."

Section 5. INTEREST AND SINKING FUND. A special "Interest and Sinking Fund" is hereby created and shall be established and maintained by the Issuer at an official depository bank of the Issuer. Said Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of the Issuer, and shall be used only for paying the interest on and principal of the Certificates. All amounts received from the sale of the Certificates as accrued interest and ad valorem taxes levied and collected for and on account of the Certificates shall be deposited, as collected, to the credit of said Interest and Sinking Fund. During each year while any of the Certificates are outstanding and unpaid, the governing body of the Issuer shall compute and ascertain a rate and amount of ad valorem tax that will be sufficient to raise and produce the money required to pay the interest on the Certificates as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of the Certificates as such principal matures (but never less than 2% of the original amount of the Certificates as a sinking fund each year); and said tax shall be based on the latest approved tax rolls of the Issuer, with full allowances being made for tax delinquencies and the cost of tax collection. Said rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in the Issuer, for each year while any of the Certificates are outstanding and unpaid, and said tax shall be assessed and collected each such year and deposited to the credit of the aforesaid Interest and Sinking Fund. Said ad valorem taxes sufficient to provide for the payment of the interest on and principal of the Certificates, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law.

Section 6. SURPLUS REVENUES. The Certificates are additionally secured by and payable from a pledge of the revenues of the Issuer's combined Waterworks and Sewer Systems remaining after payment of all operation and maintenance expenses thereof, and all debt service, reserve and other requirements in connection with all of the Issuer's revenue obligations (now or hereafter outstanding) that are payable from all or part of the Net Revenues of the Issuer's Waterworks and Sewer Systems, constituting "Surplus Revenues." The Issuer shall deposit such Surplus Revenues to the credit of the Interest and Sinking Fund created pursuant to Section 5, to the extent necessary to pay the principal and interest on the Certificates. Notwithstanding the requirements of Section 5, if Surplus Revenues are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes that otherwise would have been required to be levied pursuant to Section 5 may be reduced to the extent and by the amount of the Surplus Revenues then on deposit in the Interest and Sinking Fund. The Issuer reserves the right, without condition or limitation, to issue other obligations secured in whole or in part by a parity lien on and pledge of the Surplus Revenues, for any purpose permitted by law.

Section 7. DEFEASANCE OF CERTIFICATES. (a) Any Certificate and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Certificate") within the meaning of this Ordinance, except to the extent provided in subsection (d) of this Section 7, when payment of the principal of such Certificate, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be

made in accordance with the terms thereof, or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (the "Future Escrow Agreement") for such payment (1) lawful money of the United States of America sufficient to make such payment or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the Issuer with the Paying Agent/Registrar for the payment of its services until all Defeased Certificates shall have become due and payable. At such time as a Certificate shall be deemed to be a Defeased Certificate hereunder, as aforesaid, such Certificate and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes or revenues herein levied and pledged as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities, and thereafter the Issuer will have no further responsibility with respect to amounts available to the Paying Agent/Registrar (or other financial institution permitted by applicable law) for the payment of such Defeased Bonds, including any insufficiency therein caused by the failure of the Paying Agent/Registrar (or other financial institution permitted by applicable law) to receive payment when due on the Defeasance Securities. Notwithstanding any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem Defeased Certificates that is made in conjunction with the payment arrangements specified in subsection 7(a)(i) or (ii) shall not be irrevocable, provided that: (1) in the proceedings providing for such payment arrangements, the Issuer expressly reserves the right to call the Defeased Certificates for redemption; (2) gives notice of the reservation of that right to the owners of the Defeased Certificates immediately following the making of the payment arrangements; and (3) directs that notice of the reservation be included in any redemption notices that it authorizes.

(b) Any moneys so deposited with the Paying Agent/Registrar may at the written direction of the Issuer be invested in Defeasance Securities, maturing in the amounts and times as hereinbefore set forth, and all income from such Defeasance Securities received by the Paying Agent/Registrar that is not required for the payment of the Certificates and interest thereon, with respect to which such money has been so deposited, shall be turned over to the Issuer, or deposited as directed in writing by the Issuer. Any Future Escrow Agreement pursuant to which the money and/or Defeasance Securities are held for the payment of Defeased Certificates may contain provisions permitting the investment or reinvestment of such moneys in Defeasance Securities or the substitution of other Defeasance Securities upon the satisfaction of the requirements specified in subsection 7(a)(i) or (ii). All income from such Defeasance Securities received by the Paying Agent/Registrar that is not required for the payment of the Defeased Certificates, with respect to which such money has been so deposited, shall be remitted to the Issuer or deposited as directed in writing by the Issuer.

(c) The term "Defeasance Securities" means any securities and obligations now or hereafter authorized by Texas law that are eligible to refund, defease or otherwise discharge obligations such as the Certificates.

(d) Until all Defeased Certificates shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Certificates the same as if they had not been defeased, and the Issuer shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(e) In the event that the Issuer elects to defease less than all of the principal amount of Certificates of a maturity, the Paying Agent/Registrar shall select, or cause to be selected, such amount of Certificates by such random method as it deems fair and appropriate.

#### Section 8. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED CERTIFICATES.

(a) Replacement Certificates. In the event any outstanding Certificate is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new certificate of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Certificate, in replacement for such Certificate in the manner hereinafter provided.

(b) Application for Replacement Certificates. Application for replacement of damaged, mutilated, lost, stolen or destroyed Certificates shall be made by the registered owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Certificate, the registered owner applying for a replacement certificate shall furnish to the Issuer and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Certificate, the registered owner shall furnish to the Issuer and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Certificate, as the case may be. In every case of damage or mutilation of a Certificate, the registered owner shall surrender to the Paying Agent/Registrar for cancellation the Certificate so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Certificate shall have matured, and no default has occurred that is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Certificate, the Issuer may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Certificate) instead of issuing a replacement Certificate, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Certificates. Prior to the issuance of any replacement certificate, the Paying Agent/Registrar shall charge the registered owner of such Certificate with all legal, printing, and other expenses in connection therewith. Every replacement certificate issued pursuant to the provisions of this Section by virtue of the fact that any Certificate is lost, stolen or destroyed shall constitute a contractual obligation of the Issuer whether or not the lost, stolen or destroyed Certificate shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Certificates duly issued under this Ordinance.

(e) Authority for Issuing Replacement Certificates. In accordance with Subchapter D of Chapter 1201, Government Code, this Section 8 of this Ordinance shall constitute authority for the issuance of any such replacement certificate without necessity of further action by the governing body of the Issuer or any other body or person, and the duty of the replacement of such certificates is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Certificates in the form and manner and with the effect, as provided in Section 3(a) of this Ordinance for Certificates issued in conversion and exchange for other Certificates.

Section 9. CUSTODY, APPROVAL, AND REGISTRATION OF CERTIFICATES; BOND COUNSEL'S OPINION AND ENGAGEMENT; ATTORNEY GENERAL FILING FEE; CUSIP NUMBERS; OTHER PROCEDURES. (a) The Mayor of the Issuer is hereby authorized to have control of the Certificates initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Certificates pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Certificates said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Certificates, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the Issuer's Bond Counsel and the assigned CUSIP numbers may, at the option of the Issuer, be printed on the Certificates issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the registered owners of the Certificates.

(b) The Mayor, Town Manager, Finance Director and Town Secretary and all other officers, employees and agents of the Issuer, and each of them, shall be and they are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the Issuer a Paying Agent/Registrar Agreement with the Paying Agent/Registrar and all other instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Certificates, the sale of the Certificates and the Official Statement relating to the Certificates. In case any officer whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

(c) The obligation of the initial purchaser to accept delivery of the Certificates is subject to the initial purchaser being furnished with the final, approving opinion of McCall, Parkhurst & Horton L.L.P., bond counsel to the Issuer, which opinion shall be dated as of and delivered on the date of initial delivery of the Certificates to the initial purchaser. The engagement of such firm as bond counsel to the Issuer in connection with issuance, sale and delivery of the Certificates is hereby approved and confirmed. The execution and delivery of an engagement letter between the Issuer and such firm, with respect to such services as bond counsel, is hereby authorized in such form as

may be approved by the Mayor of the Issuer and the Mayor is hereby authorized to execute such engagement letter.

(d) In accordance with the provisions of Section 1202.004, Tex. Gov't Code Ann., in connection with the submission of the Certificates by the Attorney General of Texas for review and approval, a statutory fee (an amount equal to 0.1% principal amount of the Certificates, subject to a minimum of \$750 and a maximum of \$9,500) is required to be paid to the Attorney General upon the submission of the transcript of proceedings for the Certificates. The Issuer hereby authorizes and directs that a check in the amount of the Attorney General filing fee for the Certificates, made payable to the "Texas Attorney General," be promptly furnished to the Issuer's Bond Counsel, for payment to the Attorney General in connection with his review of the Certificates.

Section 10. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE CERTIFICATES. The Issuer covenants to take any action necessary to assure, or refrain from any action that would adversely affect, the treatment of the Certificates as Obligation described in section 103 of the Code, the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the Issuer covenants as follows:

(a) to take any action to assure that no more than 10 percent of the proceeds of the Certificates (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds or the projects financed therewith are so used, such amounts, whether or not received by the Issuer, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Certificates, in contravention of section 141(b)(2) of the Code;

(b) to take any action to assure that in the event that the "private business use" described in subsection (a) hereof exceeds 5 percent of the proceeds of the Certificates or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" that is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(c) to take any action to assure that no amount that is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Certificates (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(d) to refrain from taking any action that would otherwise result in the Certificates being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(e) to refrain from taking any action that would result in the Certificates being "federally guaranteed" within the meaning of section 149(b) of the Code;

(f) to refrain from using any portion of the proceeds of the Certificates, directly or indirectly, to acquire or to replace funds that were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) that produces a materially higher yield over the term of the Certificates, other than investment property acquired with

(1) proceeds of the Certificates invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 30 days or less until such proceeds are needed for the purpose for which the bonds are issued,

(2) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(3) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Certificates;

(g) to otherwise restrict the use of the proceeds of the Certificates or amounts treated as proceeds of the Certificates, as may be necessary, so that the Certificates do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage) and, to the extent applicable, section 149(d) of the Code (relating to advance refundings); and

(h) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Certificates) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Certificates have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code.

In order to facilitate compliance with the above covenant (h), a "Rebate Fund" is hereby established by the Issuer for the sole benefit of the United States of America, and such Fund shall not be subject to the claim of any other person, including without limitation the certificateholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

For purposes of the foregoing (a) and (b), the Issuer understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Certificates. It is the understanding of the Issuer that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated that modify or expand provisions of the Code, as applicable to the Certificates, the Issuer will not be required to comply with any covenant contained herein to the

extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated that impose additional requirements applicable to the Certificates, the Issuer agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In furtherance of such intention, the Issuer hereby authorizes and directs the Mayor to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the Issuer, that may be permitted by the Code as are consistent with the purpose for the issuance of the Certificates.

Section 11. SALE OF CERTIFICATES; APPROVAL OF OFFICIAL STATEMENT; APPLICATION OF PREMIUM. (a) The Certificates are hereby initially sold and shall be delivered to \_\_\_\_\_ (the "Underwriters") for cash at a price set forth below, pursuant to the terms and provisions of a Bond Purchase Agreement that the Mayor of the Issuer is hereby authorized to execute and deliver. The Certificates shall initially be registered in the name of "\_\_\_\_\_". The Certificates are sold to the Underwriters at a price of \$\_\_\_\_\_ (representing the par amount of the Certificates, plus an aggregate original issue premium of \$\_\_\_\_\_, less Underwriter's discount on the Certificates of \$\_\_\_\_\_). A portion of the net original issue premium shall be applied to pay the Underwriter's discount. It is hereby officially found, determined, and declared that the terms of this sale are the most advantageous reasonably obtainable.

(b) Excess proceeds from the sale of the Certificates in the amount of \$\_\_\_\_\_ shall be deposited to the Interest and Sinking Fund. Proceeds of the sale of the Certificates (i) in the amount of \$\_\_\_\_\_ shall be deposited to the construction fund of the Issuer to be used for the construction of the Project financed with the Certificates and (ii) in the amount of \$\_\_\_\_\_ shall be applied to pay the costs of issuance of the Certificates.

(c) The Issuer hereby approves the form and content of the Official Statement relating to the Certificates and any addenda, supplement or amendment thereto, and approves the distribution of such Official Statement in the reoffering of the Certificates by the Underwriter in final form, with such changes therein or additions thereto as the officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof. The distribution and use of the Preliminary Official Statement dated February \_\_, 2014 prior to the date hereof is hereby ratified and confirmed.

Section 12. ALLOCATION OF CERTIFICATE PROCEEDS. The Issuer covenants to account for the expenditure of sale proceeds and investment earnings to be used for the construction and acquisition of the Project on its books and records by allocating proceeds to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed. The foregoing notwithstanding, the Issuer shall not expend proceeds of the sale of the Certificates or investment earnings thereon more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Certificates, or (2) the date the Certificates are retired, unless the Issuer obtains an

opinion of nationally-recognized bond counsel that such expenditure will not adversely affect the status, for federal income tax purposes, of the Certificates or the interest thereon. For purposes hereof, the Issuer shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

Section 13. **DISPOSITION OF PROJECT.** The Issuer covenants that the Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the Issuer of cash or other compensation, unless the Issuer obtains an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Certificates. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the Issuer shall not be obligated to comply with this covenant if it obtains a legal opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

Section 14. **INTEREST EARNINGS ON CERTIFICATE PROCEEDS.** Interest earnings derived from the investment of proceeds from the sale of the Certificates shall be used along with other certificate proceeds for the Project; provided that after completion of such purpose, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on certificate proceeds that are required to be rebated to the United States of America pursuant to Section 10 hereof in order to prevent the Certificates from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

Section 15. **CONSTRUCTION FUND.** The Issuer hereby creates and establishes and shall maintain on the books of the Issuer a separate fund to be entitled the "Series 2014 Combination Tax and Surplus Revenue Certificate of Obligation Construction Fund" for use by the Issuer for payment of all lawful costs associated with the acquisition and construction of the Project as hereinbefore provided. Upon payment of all such costs, any moneys remaining on deposit in said Fund shall be transferred to the Interest and Sinking Fund. Amounts so deposited to the Interest and Sinking Fund shall be used in the manner described in Section 5 of this Ordinance.

Section 16. **COMPLIANCE WITH RULE 15c2-12.**

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

"MSRB" means the Municipal Securities Rulemaking Board.

"Rule" means SEC Rule 15c2-12, as amended from time to time.

"SEC" means the United States Securities and Exchange Commission.

(b) Annual Reports. (i) The Issuer shall provide annually to the MSRB, in the electronic format prescribed by the MSRB, within six months after the end of each fiscal year commencing in 2014, financial information and operating data with respect to the Issuer of the general type included in the final Official Statement authorized by this Ordinance, being the information described in Exhibit A attached hereto. Any financial statements so to be provided shall be (1) prepared in accordance with the accounting principles described in the financial statements of the Issuer appended to the Official Statement, or such other accounting principles as the Issuer may be required to employ from time to time pursuant to state law or regulation, and (2) audited, if the Issuer commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not completed within such period, then the Issuer shall provide unaudited financial information within such period, and audited financial statements for the applicable fiscal year to the MSRB, when and if the audit report on such statements become available.

(ii) If the Issuer changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Issuer otherwise would be required to provide financial information and operating data pursuant to this Section. The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any documents available to the public on the MSRB's internet website or filed with the SEC.

(c) Event Notices. The Issuer shall notify the MSRB, in a timely manner not in excess of ten Business Days after the occurrence of the event, of any of the following events with respect to the Certificates:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Certificates, or other material events affecting the tax status of the Certificates;
7. Modifications to rights of holders of the Certificates, if material;
8. Certificate calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Certificates, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership or similar event of the Issuer;
13. The consummation of a merger, consolidation, or acquisition involving the Issuer or the sale of all or substantially all of the assets of the Issuer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action

or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

14. Appointment of a successor Paying Agent/Registrar or change in the name of the Paying Agent/Registrar, if material.

The Issuer shall notify the MSRB, in a timely manner, of any failure by the Issuer to provide financial information or operating data in accordance with subsection (c) of this Section by the time required by subsection (c). As used in clause (c)12 above, the phrase "bankruptcy, insolvency, receivership or similar event" means the appointment of a receiver, fiscal agent or similar officer for the Issuer in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court of governmental authority has assumed jurisdiction over substantially all of the assets or business of the Issuer, or if jurisdiction has been assumed by leaving the Board and officials or officers of the Issuer in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Issuer.

(d) Limitations, Disclaimers, and Amendments. (i) The Issuer shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the Issuer remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the Issuer in any event will give notice of any deposit made in accordance with this Ordinance or applicable law that causes the Certificates no longer to be outstanding.

(ii) The provisions of this Section are for the sole benefit of the registered owners and beneficial owners of the Certificates, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Issuer undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Issuer's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The Issuer does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

(iii) UNDER NO CIRCUMSTANCES SHALL THE ISSUER BE LIABLE TO THE REGISTERED OWNER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE ISSUER, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(iv) No default by the Issuer in observing or performing its obligations under this Section shall comprise a breach of or default under the Ordinance for purposes of any other provision of this Ordinance. Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Issuer under federal and state securities laws.

(v) The provisions of this Section may be amended by the Issuer from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Issuer, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the registered owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the outstanding Certificates consent to such amendment or (b) a person that is unaffiliated with the Issuer (such as nationally recognized bond counsel) determined that such amendment will not materially impair the interest of the registered owners and beneficial owners of the Certificates. If the Issuer so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with subsection (b) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The Issuer may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Certificates in the primary offering of the Certificates.

Section 17. METHOD OF AMENDMENT. The Issuer hereby reserves the right to amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The Issuer may from time to time, without the consent of any holder, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance in order to (i) cure any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the holders, (ii) grant additional rights or security for the benefit of the holders, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and which shall not materially adversely affect the interests of the holders, (v) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, or (iv) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be inconsistent with the provisions of this Ordinance and which shall not in the opinion of the Issuer's Bond Counsel materially adversely affect the interests of the holders.

(b) Except as provided in paragraph (a) above, the holders of Certificates aggregating in principal amount 51% of the aggregate principal amount of then outstanding Certificates which are the subject of a proposed amendment shall have the right from time to time to approve any amendment hereto which may be deemed necessary or desirable by the Issuer; provided, however,

that without the consent of 100% of the holders in aggregate principal amount of the then outstanding Certificates, nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in any of the Certificates so as to:

- (1) Make any change in the maturity of any of the outstanding Certificates;
- (2) Reduce the rate of interest borne by any of the outstanding Certificates;
- (3) Reduce the amount of the principal of, or redemption premium, if any, payable on any outstanding Certificates;
- (4) Modify the terms of payment of principal or of interest or redemption premium on outstanding Certificates or any of them or impose any condition with respect to such payment; or
- (5) Change the minimum percentage of the principal amount of any series of Certificates necessary for consent to such amendment.

(c) If at any time the Issuer shall desire to amend this Ordinance under this Section, the Issuer shall send by U.S. mail to each registered owner of the affected Certificates a copy of the proposed amendment and cause notice of the proposed amendment to be published at least once in a financial publication published in The City of New York, New York or in the State of Texas. Such published notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the office of the Issuer for inspection by all holders of such Certificates.

(d) Whenever at any time within one year from the date of publication of such notice the Issuer shall receive an instrument or instruments executed by the holders of at least 51% in aggregate principal amount of all of the Certificates then outstanding which are required for the amendment, which instrument or instruments shall refer to the proposed amendment and which shall specifically consent to and approve such amendment, the Issuer may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the Issuer and all holders of such affected Certificates shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the holder of a Certificate pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the publication of the notice provided for in this Section, and shall be conclusive and binding upon all future holders of the same Certificate during such period. Such consent may be revoked at any time after six months from the date of the publication of said notice by the holder who gave such consent, or by a successor in title, by filing notice with the Issuer, but such revocation shall not be effective if the holders of 51% in

aggregate principal amount of the affected Certificates then outstanding, have, prior to the attempted revocation, consented to and approved the amendment.

For the purposes of establishing ownership of the Certificates, the Issuer shall rely solely upon the registration of the ownership of such Certificates on the registration books kept by the Paying Agent/Registrar.

Section 18. CONTINUED PERFECTION OF SECURITY INTEREST. Chapter 1208, Government Code, applies to the issuance of the Certificates and the pledge of the ad valorem taxes granted by the Issuer under Section 5 of this Ordinance and the pledge of the Surplus Revenues under Section 6 of this Ordinance, and such pledge is therefore valid, effective, and perfected. If Texas law is amended at any time while the Certificates are outstanding and unpaid such that the pledge of the taxes granted by the Issuer under Section 5 of this Ordinance or the pledge of the Surplus Revenues under Section 6 of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the registered owners of the Certificates the perfection of the security interest in said pledges, the Issuer agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledges to occur.

Section 19. INCONSISTENT PROVISIONS. All indentures, ordinances or resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

Section 20. GOVERNING LAW. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 21. SEVERABILITY. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 22. EVENTS OF DEFAULT. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an event of default (an "Event of Default"):

(i) the failure to make payment of the principal of or interest on any of the Certificates when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the Issuer, the failure to perform which materially, adversely affects the rights of the Registered Owners, including, but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the Issuer.

Section 23. REMEDIES FOR DEFAULT. (a) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but

not limited to, a trustee or trustees therefor, may proceed against the may proceed against the Issuer or the Town Council of the Issuer, as appropriate for the purpose of protecting and enforcing the rights of the Registered Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies.

(b) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Certificates then outstanding.

Section 24. REMEDIES NOT EXCLUSIVE. (a) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Certificates or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Certificates shall not be available as a remedy under this Ordinance.

(b) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(c) By accepting the delivery of a Certificate authorized under this Ordinance, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the Issuer or the Town Council of the Issuer.

Section 25. EFFECTIVE DATE. In accordance with the provisions of V.T.C.A., Government Code, Section 1201.028, this Ordinance shall be effective immediately upon its adoption by the Town Council.

## **Exhibit A**

### **Continuing Disclosure Information**

The following information is referred to in Section 16(a) of this Ordinance:

#### **Annual Financial Statements and Operating Data**

The financial information and operating data with respect to the Issuer to be provided annually in accordance with such Section are as specified (and included in the Appendices of the Official Statement referred to) below:

The quantitative financial information and operating data pertaining to the Issuer of the general type included in Tables numbered 1 through 5 and 7 through 14 and in Appendix B to the Official Statement.

The financial statements of the Issuer that will be provided will be unaudited, unless an audit is performed, in which event the audited financial statements will be made available.

#### **Accounting Principles**

The accounting principles referred to in such Section are the accounting principles described in the notes to the financial statements that are attached to the Official Statement as Appendix C, or such other accounting principles as the Issuer may be required to employ from time to time pursuant to state law or regulation.



## PARKS & RECREATION

**To: Mayor and Town Council**

**From: Paul Naughton, RLA, Landscape Architect**

**Through: Harlan Jefferson, Town Manager**

**Re: Town Council Meeting – February 11, 2014**

---

**Agenda Item:**

Consider and act upon the proposed park land dedication within the limits of the preliminary plat of Brookhollow, on 158.5± acres, located on the north side of First Street, 1,600± feet east of Coit Road. (D12-0013).

**Description of Agenda Item:**

Planned Development 39 (PD-39) requires a dedication of a minimum of 8.71 acres or 5% of the net platted acreage, whichever is less, to the Town for park purposes. The intent of this requirement was to complete the acquisition of land around Town Lake.

The proposed preliminary plat shows 277 single family residential lots. Using the calculation stated above, the park land required by the development is 7.9 acres. At this time the developer is proposing to dedicate 8.15 acres of park land to meet the required 7.9 acres of park land dedication.

**Attached Documents:**

1. Preliminary Plat
2. Park Land Dedication Exhibit for Brookhollow

**Parks and Recreation Board Recommendation:**

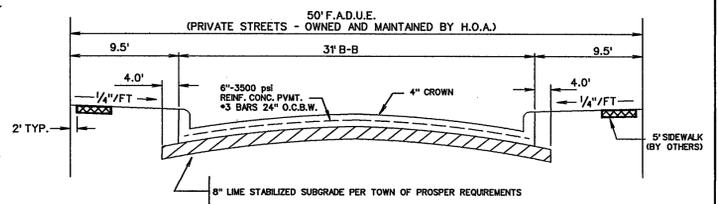
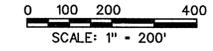
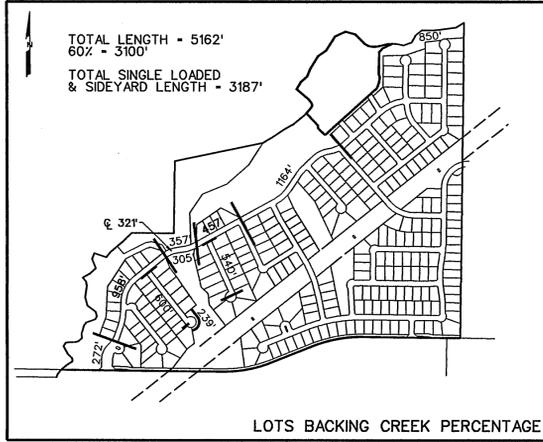
At the January 9, 2014, Parks and Recreation Board meeting, the Parks and Recreation Board recommended the Town Council approve the proposed dedication of 8.15 acres of park land to complete the acquisition of the land around Town Lake, as shown on the preliminary plat of Brookhollow, by a vote of 4-0.

**Town Staff Recommendation:**

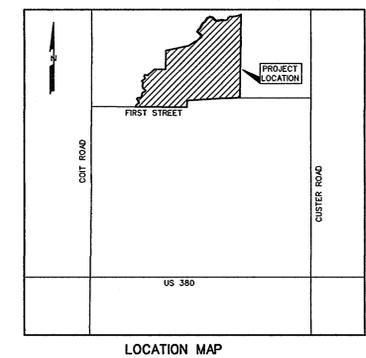
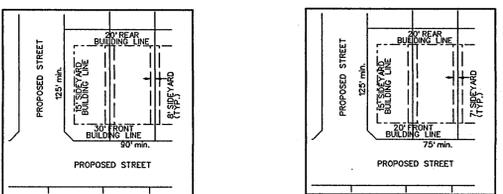
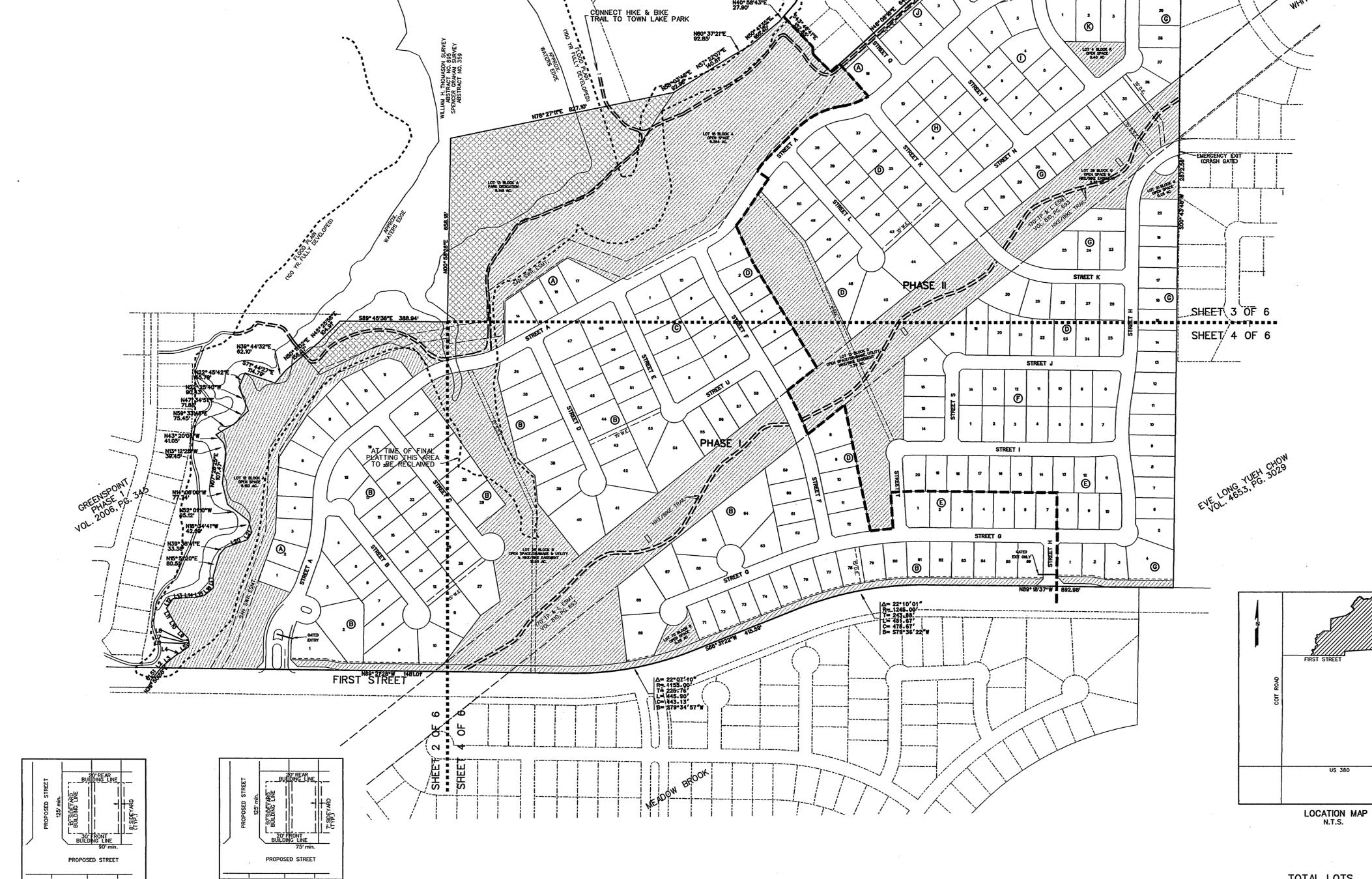
Town staff recommends the Town Council approve the proposed park land dedication of 8.15 acres of park land, as shown on the preliminary plat of Brookhollow.

**Proposed Motion:**

I move to approve the dedication of 8.15 acres of park land, as shown on the preliminary plat of Brookhollow.

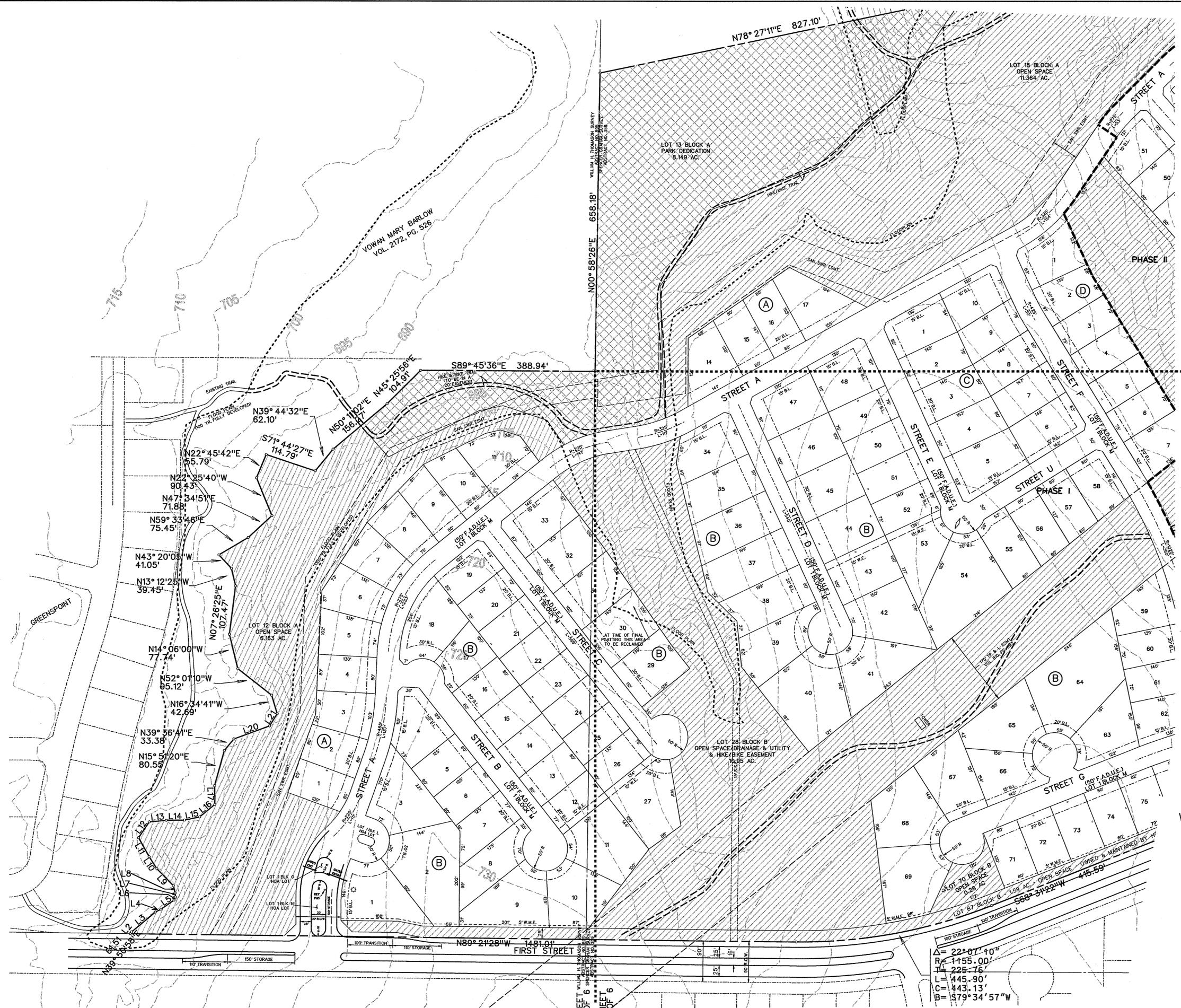


- NOTES:**
- Bearings are referenced to a 117.3307 acre tract, as described in Deed 2004-132951, in the Deed Records of Denton County, Texas.
  - LEGEND**  
D.E. - Drainage Easements  
B.L. - Building Line  
C.M. - Controlling Monuments  
W.M.E. - Wall Maintenance Easement  
U.E. - Utility Easements  
W.E. - Water Easement  
S.S.E. - Sanitary Sewer Easement  
H.O.A. - Homeowners Association  
- Street Name Change  
△ - Indicates Front Yard  
⊙ - Indicates No driveway access  
--- - Match line  
--- - Phase line  
--- - 8' Hike & Bike Trail  
--- - Open Spaces dedicated to and maintained by H.O.A. (Per Development Agreement)  
--- - Park Dedication to City of Prosper  
--- - Existing Tree Line
  - "Notice: Selling a portion of this addition by metes and bounds is a violation of city ordinance and state law and is subject to fines and withholding of utility and building permits".
  - No lot to lot drainage
  - The thoroughfare alignments shown on this exhibit are for illustration purposes and does not set the alignment.
  - Front yard setbacks shall be staggered per requirements of the Zoning Ordinance Section 9.3.F. at the time of final platting.
  - Trail locations are conceptual and will be set at the time of Final Platting.
  - Fences siding or backing open space lots shall be ornamental metal.
  - All development will comply with PD-39 requirements.
  - Floodplain reclamation subject to engineering approval of flood study.
  - A no-build, preservation, flooding and access easement shall be provided as required by ordinance at time of final plat.
  - All trails to be encompassed by a 20' Hike & Bike Easement.
  - Floodplain to be kept in a natural state.
  - All floodplain to have a floodway access easement at the time of final platting.



FOR LOTS SIDING OR BACKING  
THE CREEK A 25' REAR/SIDE YARD WILL BE APPLIED

TOTAL LOTS 277  
TOTAL ACRES 158.517



SHEET 3 OF 6  
 SHEET 4 OF 6

TOTAL LOTS 277  
 TOTAL ACRES 158.517

PRELIMINARY PLAT  
 OF  
**BROOKHOLLOW**  
 OUT OF THE

WILLIAM H. THOMASON SURVEY, ABSTRACT NO. 895  
 SPENCER GRAHAM SURVEY, ABSTRACT NO. 359  
 LARKIN McCARTY SURVEY, ABSTRACT NO. 600

IN THE  
 TOWN OF PROSPER  
 COLLIN COUNTY, TEXAS

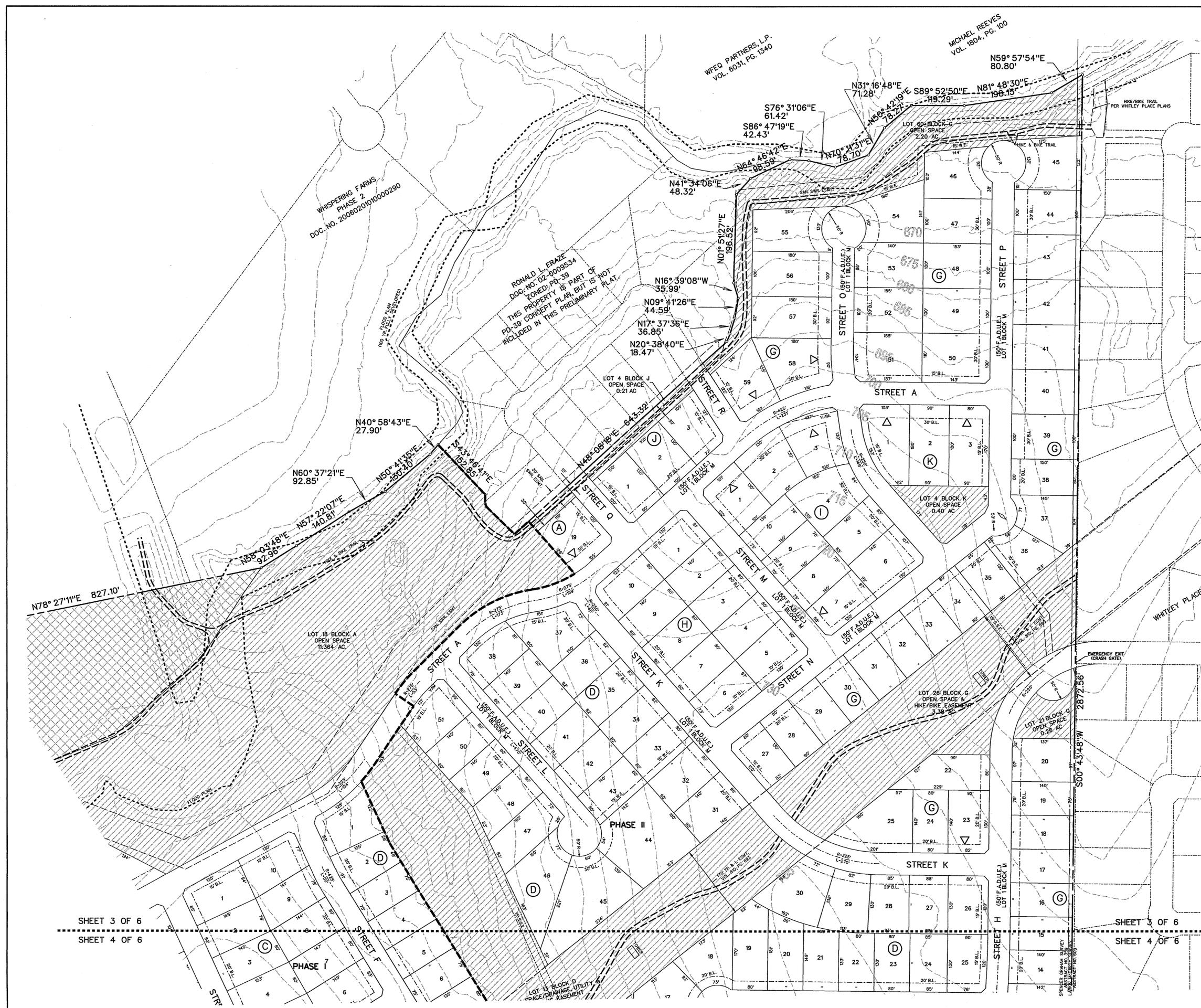
OWNER  
**55 PROSPER, LP.**  
 5400 DALLAS PARKWAY  
 FRISCO, TEXAS 75034  
 972-618-3800  
 BRUCE SMITH

PREPARED BY  
**CORVIN ENGINEERING, INC.**  
 200 W. BELMONT, SUITE E  
 ALLEN, TEXAS 75013  
 972-396-1200  
 WARREN CORVIN

SCALE 1" = 100' JANUARY 2014

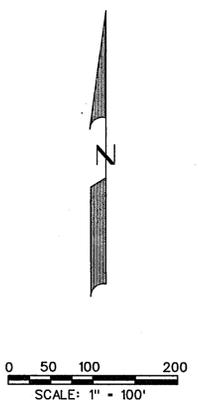
SHEET 2 OF 6

$\Delta = 22^\circ 07' 10''$   
 $R = 1155.00'$   
 $TA = 225.76'$   
 $L = 445.90'$   
 $C = 443.13'$   
 $B = 179^\circ 34' 57'' W$



NOTES:

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- LEGEND
  - D.E. - Drainage Easements
  - B.L. - Building Line
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  - U.E. - Utility Easements
  - W.E. - Water Easement
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  - △ - Indicates Front Yard
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PRELIMINARY PLAT  
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LARKIN McCARTY SURVEY, ABSTRACT NO. 600  
IN THE  
TOWN OF PROSPER  
COLLIN COUNTY, TEXAS

OWNER  
**55 PROSPER, L.P.**  
5400 DALLAS PARKWAY  
FRISCO, TEXAS 75034  
972-618-3800  
BRUCE SMITH

PREPARED BY  
**CORVIN ENGINEERING, INC.**  
200 W. BELMONT, SUITE E  
ALLEN, TEXAS 75013  
972-396-1200  
WARREN CORVIN

SHEET 3 OF 6  
SHEET 4 OF 6

SHEET 3 OF 6  
SHEET 4 OF 6

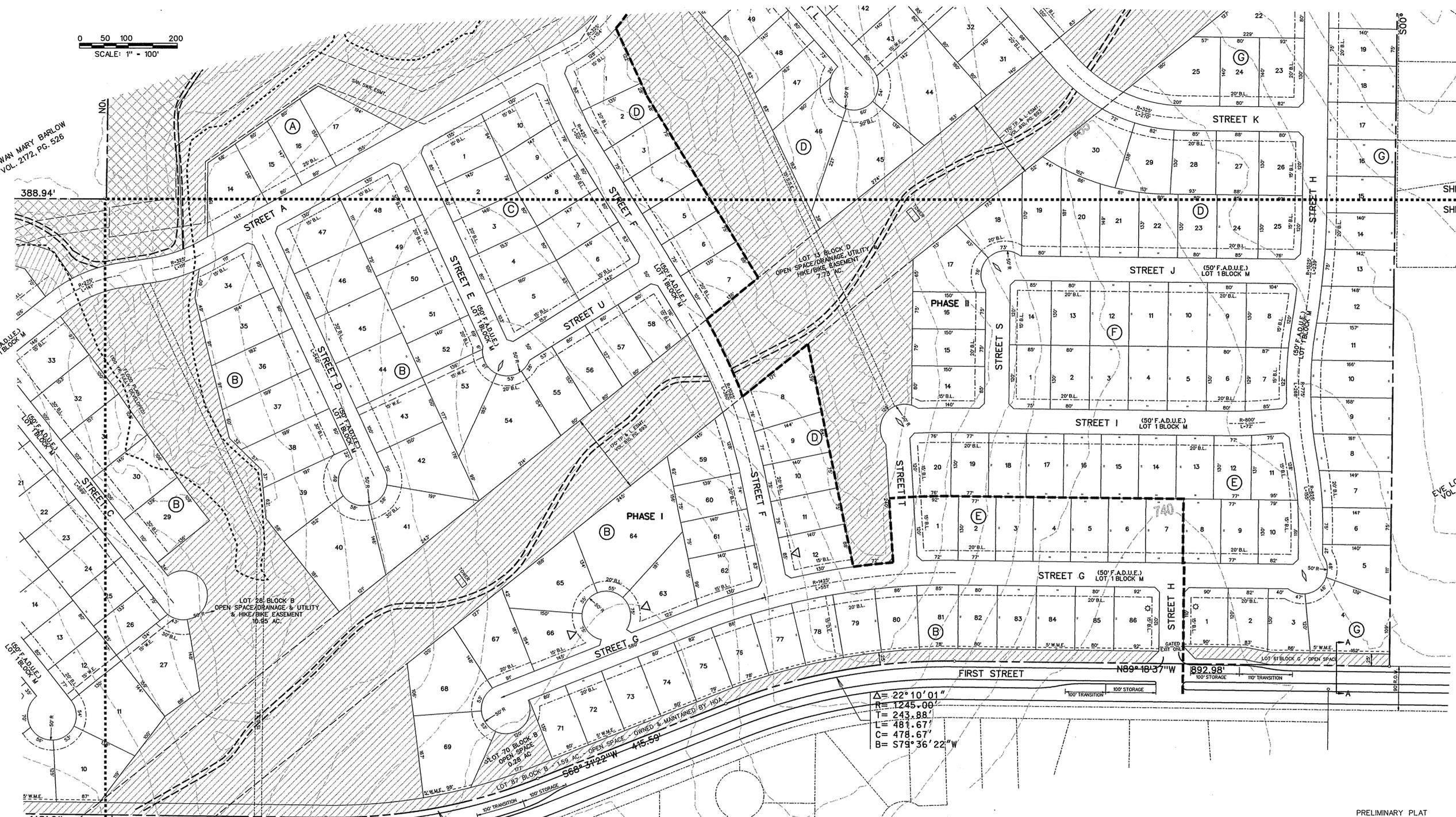


0 50 100 200  
SCALE: 1" = 100'

VOWAN MARY BARLOW  
VOL. 2172, PG. 526

SHEET 3 OF 6  
SHEET 4 OF 6

EVE LONG YUEH CHOW  
VOL. 4853, PG. 3029



$\Delta = 22^\circ 10' 01''$   
 $R = 1245.00'$   
 $T = 243.88'$   
 $L = 481.67'$   
 $C = 478.67'$   
 $B = S79^\circ 36' 22'' W$

$\Delta = 22^\circ 07' 10''$   
 $R = 1155.00'$   
 $T = 225.76'$   
 $L = 445.90'$   
 $C = 443.13'$   
 $B = S79^\circ 34' 57'' W$

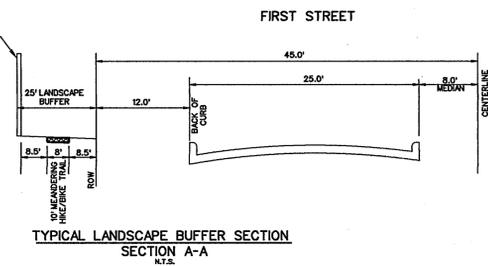
PRELIMINARY PLAT  
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WILLIAM H. THOMASON SURVEY, ABSTRACT NO. 895  
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IN THE

TOWN OF PROSPER  
COLLIN COUNTY, TEXAS

OWNER  
55 PROSPER, LP.  
5400 DALLAS PARKWAY  
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972-618-3800  
BRUCE SMITH

PREPARED BY  
CORWIN ENGINEERING, INC.  
200 W. BELMONT, SUITE E  
ALLEN, TEXAS 75013  
972-396-1200  
WARREN CORWIN

JANUARY 2014 SCALE 1" = 100'



TYPICAL LANDSCAPE BUFFER SECTION  
SECTION A-A  
N.T.S.

6" ORNAMENTAL W/  
STONE COLUMNS EVERY 75'-100'  
SCREENING WALL

SHEET 2 OF 6  
SHEET 4 OF 6

| BROOKHOLLOW |        |            |     |         |            |             |
|-------------|--------|------------|-----|---------|------------|-------------|
| Block A     |        | Block B    |     | Block B |            |             |
| Lot         | SF     | Lot Type   | Lot | SF      | Lot Type   | Lot Type    |
| 1           | 10286  | 1B         | 1   | 18106   | 1A         | 44 15000 1A |
| 2           | 11053  | 1B         | 2   | 27732   | 1A         | 45 15000 1A |
| 3           | 11520  | 1B         | 3   | 19072   | 1A         | 46 15000 1A |
| 4           | 10400  | 1B         | 4   | 15171   | 1B         | 47 15975 1A |
| 5           | 11766  | 1B         | 5   | 10000   | 1B         | 48 16265 1A |
| 6           | 12900  | 1B         | 6   | 10000   | 1B         | 49 10511 1B |
| 7           | 12189  | 1B         | 7   | 11209   | 1B         | 50 10517 1B |
| 8           | 12294  | 1B         | 8   | 14403   | 1B         | 51 10523 1B |
| 9           | 12097  | 1B         | 9   | 19964   | 1B         | 52 15000 1B |
| 10          | 11814  | 1B         | 10  | 17323   | 1B         | 53 15000 1B |
| 11          | 16863  | 1A         | 11  | 20889   | 1B         | 54 15000 1B |
| 12          | 324577 | open space | 12  | 10037   | 1B         | 55 12604 1B |
| 13          | 519759 | open space | 13  | 10400   | 1B         | 56 12043 1B |
| 14          | 14034  | 1B         | 14  | 10400   | 1B         | 57 11318 1B |
| 15          | 11444  | 1B         | 15  | 10400   | 1B         | 58 11809 1B |
| 16          | 12107  | 1B         | 16  | 10400   | 1B         | 59 13151 1B |
| 17          | 15980  | 1B         | 17  | 10917   | 1B         | 60 10499 1B |
| 18          | 274503 | open space | 18  | 17443   | 1A         | 61 10500 1B |
| 19          | 15029  | 1A         | 19  | 11113   | 1B         | 62 12565 1B |
|             |        |            | 20  | 10001   | 1B         | 63 16635 1B |
|             |        |            | 21  | 10001   | 1B         | 64 33994 1B |
|             |        |            | 22  | 10001   | 1B         | 65 19020 1B |
|             |        |            | 23  | 10001   | 1B         | 66 14505 1B |
|             |        |            | 24  | 10001   | 1B         | 67 17779 1B |
|             |        |            | 25  | 10001   | 1B         | 68 20704 1B |
|             |        |            | 26  | 10005   | 1B         | 69 21513 1B |
|             |        |            | 27  | 19947   | 1B         | 70 12072 1B |
|             |        |            | 28  | 478962  | open space | 71 10394 1B |
|             |        |            | 29  | 15093   | 1A         | 72 10400 1B |
|             |        |            | 30  | 15080   | 1A         | 73 10400 1B |
|             |        |            | 31  | 15130   | 1A         | 74 10400 1B |
|             |        |            | 32  | 15193   | 1A         | 75 10517 1B |
|             |        |            | 33  | 15066   | 1A         | 76 10762 1B |
|             |        |            | 34  | 15082   | 1A         | 77 10762 1B |
|             |        |            | 35  | 15615   | 1A         | 78 10762 1B |
|             |        |            | 36  | 17185   | 1A         | 79 10762 1B |
|             |        |            | 37  | 18484   | 1A         | 80 10762 1B |
|             |        |            | 38  | 16891   | 1A         | 81 10762 1B |
|             |        |            | 39  | 17135   | 1A         | 82 10400 1B |
|             |        |            | 40  | 27855   | 1A         | 83 10400 1B |
|             |        |            | 41  | 20268   | 1A         | 84 10400 1B |
|             |        |            | 42  | 18858   | 1A         | 85 10400 1B |
|             |        |            | 43  | 15000   | 1A         | 86 12015 1B |

| BROOKHOLLOW |       |          |     |         |            |                 |
|-------------|-------|----------|-----|---------|------------|-----------------|
| Block C     |       | Block D  |     | Block D |            |                 |
| Lot         | SF    | Lot Type | Lot | SF      | Lot Type   | Lot Type        |
| 1           | 13031 | 1B       | 1   | 13919   | 1B         | 43 11216 1B     |
| 2           | 11652 | 1B       | 2   | 11508   | 1B         | 44 29688 1A     |
| 3           | 11984 | 1B       | 3   | 10125   | 1B         | 45 27713 1A     |
| 4           | 12550 | 1B       | 4   | 10125   | 1B         | 46 19026 1B     |
| 5           | 16912 | 1B       | 5   | 10125   | 1B         | 47 13834 1B     |
| 6           | 14030 | 1B       | 6   | 10125   | 1B         | 48 12117 1B     |
| 7           | 11932 | 1B       | 7   | 12751   | 1B         | 49 11200 1B     |
| 8           | 11728 | 1B       | 8   | 16176   | 1B         | 50 11200 1B     |
| 9           | 11305 | 1B       | 9   | 11031   | 1B         | 51 13694 1B     |
| 10          | 12670 | 1B       | 10  | 10501   | 1B         | Block E         |
|             |       |          | 11  | 10500   | 1B         | Lot SF Lot Type |
|             |       |          | 12  | 11962   | 1B         | 1 11432 1B      |
|             |       |          | 13  | 336886  | open space | 2 10010 1B      |
|             |       |          | 14  | 12773   | 1B         | 3 10010 1B      |
|             |       |          | 15  | 11250   | 1B         | 4 10010 1B      |
|             |       |          | 16  | 11250   | 1B         | 5 10010 1B      |
|             |       |          | 17  | 14996   | 1B         | 6 10010 1B      |
|             |       |          | 18  | 13312   | 1B         | 7 10010 1B      |
|             |       |          | 19  | 15138   | 1B         | 8 10010 1B      |
|             |       |          | 20  | 13127   | 1B         | 9 10010 1B      |
|             |       |          | 21  | 11221   | 1B         | 10 10593 1B     |
|             |       |          | 22  | 10460   | 1B         | 11 11621 1B     |
|             |       |          | 23  | 10400   | 1B         | 12 10029 1B     |
|             |       |          | 24  | 11050   | 1B         | 13 10010 1B     |
|             |       |          | 25  | 11522   | 1B         | 14 10010 1B     |
|             |       |          | 26  | 11667   | 1B         | 15 10010 1B     |
|             |       |          | 27  | 11443   | 1B         | 16 10010 1B     |
|             |       |          | 28  | 11712   | 1B         | 17 10010 1B     |
|             |       |          | 29  | 13153   | 1B         | 18 10010 1B     |
|             |       |          | 30  | 16702   | 1B         | 19 10010 1B     |
|             |       |          | 31  | 13191   | 1B         | 20 10561 1B     |
|             |       |          | 32  | 12600   | 1B         |                 |
|             |       |          | 33  | 11900   | 1B         |                 |
|             |       |          | 34  | 11480   | 1B         |                 |
|             |       |          | 35  | 11480   | 1B         |                 |
|             |       |          | 36  | 11480   | 1B         |                 |
|             |       |          | 37  | 16591   | 1A         |                 |
|             |       |          | 38  | 12476   | 1B         |                 |
|             |       |          | 39  | 11200   | 1B         |                 |
|             |       |          | 40  | 11200   | 1B         |                 |
|             |       |          | 41  | 11200   | 1B         |                 |
|             |       |          | 42  | 11200   | 1B         |                 |

| BROOKHOLLOW |       |          |     |         |            |                     |
|-------------|-------|----------|-----|---------|------------|---------------------|
| Block F     |       | Block G  |     | Block G |            |                     |
| Lot         | SF    | Lot Type | Lot | SF      | Lot Type   | Lot Type            |
| 1           | 11000 | 1B       | 1   | 10819   | 1B         | 41 15000 1A         |
| 2           | 10400 | 1B       | 2   | 10094   | 1B         | 42 15000 1A         |
| 3           | 10400 | 1B       | 3   | 10282   | 1B         | 43 15000 1A         |
| 4           | 10400 | 1B       | 4   | 22236   | 1B         | 44 15000 1A         |
| 5           | 10400 | 1B       | 5   | 11992   | 1B         | 45 16052 1A         |
| 6           | 10392 | 1B       | 6   | 10525   | 1B         | 46 15485 1A         |
| 7           | 10680 | 1B       | 7   | 10863   | 1B         | 47 15346 1A         |
| 8           | 12436 | 1B       | 8   | 11674   | 1B         | 48 15346 1A         |
| 9           | 10400 | 1B       | 9   | 12413   | 1B         | 49 15346 1A         |
| 10          | 10400 | 1B       | 10  | 12599   | 1B         | 50 16831 1A         |
| 11          | 10400 | 1B       | 11  | 12219   | 1B         | 51 16856 1A         |
| 12          | 10400 | 1B       | 12  | 11459   | 1B         | 52 15500 1A         |
| 13          | 10400 | 1B       | 13  | 10875   | 1B         | 53 15387 1A         |
| 14          | 11000 | 1B       | 14  | 10566   | 1B         | 54 16591 1A         |
|             |       |          | 15  | 10500   | 1B         | 55 15988 1A         |
|             |       |          | 16  | 10500   | 1B         | 56 18093 1A         |
|             |       |          | 17  | 10500   | 1B         | 57 16723 1A         |
|             |       |          | 18  | 10500   | 1B         | 58 18297 1A         |
|             |       |          | 19  | 10500   | 1B         | 59 15729 1A         |
|             |       |          | 20  | 13553   | 1B         | 60 96229 open space |
|             |       |          | 21  | 11409   | open space |                     |
|             |       |          | 22  | 14385   | 1B         |                     |
|             |       |          | 23  | 12888   | 1B         |                     |
|             |       |          | 24  | 11200   | 1B         |                     |
|             |       |          | 25  | 18636   | 1B         |                     |
|             |       |          | 26  | 14247   | open space |                     |
|             |       |          | 27  | 11284   | 1B         |                     |
|             |       |          | 28  | 10400   | 1B         |                     |
|             |       |          | 29  | 10400   | 1B         |                     |
|             |       |          | 30  | 10400   | 1B         |                     |
|             |       |          | 31  | 10400   | 1B         |                     |
|             |       |          | 32  | 10400   | 1B         |                     |
|             |       |          | 33  | 10400   | 1B         |                     |
|             |       |          | 34  | 10400   | 1B         |                     |
|             |       |          | 35  | 11050   | 1B         |                     |
|             |       |          | 36  | 12114   | 1B         |                     |
|             |       |          | 37  | 14361   | 1B         |                     |
|             |       |          | 38  | 11999   | 1B         |                     |
|             |       |          | 39  | 15000   | 1A         |                     |
|             |       |          | 40  | 15000   | 1A         |                     |

| BROOKHOLLOW |       |          |     |         |            |                    |
|-------------|-------|----------|-----|---------|------------|--------------------|
| Block H     |       | Block J  |     | Block K |            |                    |
| Lot         | SF    | Lot Type | Lot | SF      | Lot Type   | Lot Type           |
| 1           | 12672 | 1B       | 1   | 12950   | 1B         | 1 16375 1A         |
| 2           | 11200 | 1B       | 2   | 13000   | 1B         | 2 16200 1A         |
| 3           | 11200 | 1B       | 3   | 12523   | 1B         | 3 16150 1A         |
| 4           | 11200 | 1B       | 4   | 9257    | open space | 4 17496 open space |
| 5           | 13388 | 1B       |     |         |            |                    |
| 6           | 12231 | 1B       |     |         |            |                    |
| 7           | 11200 | 1B       |     |         |            |                    |
| 8           | 11200 | 1B       |     |         |            |                    |
| 9           | 11200 | 1B       |     |         |            |                    |
| 10          | 12512 | 1B       |     |         |            |                    |

| Block I |       |          |
|---------|-------|----------|
| Lot     | SF    | Lot Type |
| 1       | 13080 | 1B       |
| 2       | 15027 | 1A       |
| 3       | 15033 | 1A       |
| 4       | 16841 | 1A       |
| 5       | 11900 | 1B       |
| 6       | 14423 | 1B       |
| 7       | 11563 | 1B       |
| 8       | 10500 | 1B       |
| 9       | 10500 | 1B       |
| 10      | 10628 | 1B       |

TOTAL 1A LOTS      56  
 TOTAL 1B LOTS    221  
 TOTAL LOTS        277

PRELIMINARY PLAT  
 OF  
**BROOKHOLLOW**  
 OUT OF THE  
 WILLIAM H. THOMASON SURVEY, ABSTRACT NO. 895  
 SPENCER GRAHAM SURVEY, ABSTRACT NO. 359  
 LARKIN McCARTY SURVEY, ABSTRACT NO. 600  
 IN THE  
 TOWN OF PROSPER  
 COLLIN COUNTY, TEXAS  
 OWNER  
 55 PROSPER, LP.  
 5400 DALLAS PARKWAY  
 FRISCO, TEXAS 75034  
 972-618-3800  
 BRUCE SMITH  
 PREPARED BY  
 CORWIN ENGINEERING, INC.  
 200 W. BELMONT, SUITE E  
 ALLEN, TEXAS 75013  
 972-396-1200  
 WARREN CORWIN  
 JANUARY 2014

LEGAL DESCRIPTION

WHEREAS, 55 PROSPER LP., is the owner of a tract of land situated in the James Stone Survey, Abstract No. 847, William H. Thomson Survey, Abstract No. 895, I.C. Williamson Survey, Abstract No. 948 and Spencer Graham Survey, Abstract No. 359 in the Town of Prosper, Collin County, Texas, being part of a Tract of land to Prosper 55, L.P., as recorded in Document No. 2012011000050 in the Deed Records of Collin County, Texas, and being more particularly described as follows:

BEGINNING, at a point at the most southerly southeast corner of Lot 1A, Block A out of Greenspoint Phase 1, an addition to Town of Prosper, as described in Document No. 2006-345, in said Plat Records some being in the approximate north right-of-way of First Street (Variable R.O.W.):

THENCE, departing said south line and along the east line of said Greenspoint and with the approximate centerline of a creek for the following thirty-four (34) calls: North 39° 50' 57" East a distance of 4.99 feet; North 59° 12' 20" East a distance of 68.56 feet; North 64° 08' 51" East a distance of 14.03 feet; North 55° 24' 41" East a distance of 35.56 feet; North 21° 49' 39" East a distance of 7.72 feet; North 03° 57' 19" West a distance of 9.02 feet; North 15° 07' 23" West a distance of 16.71 feet; North 44° 40' 35" West a distance of 52.59 feet; North 32° 48' 09" West a distance of 31.52 feet; North 29° 12' 27" West a distance of 48.00 feet; North 34° 48' 28" East a distance of 42.00 feet; North 84° 32' 23" East a distance of 37.90 feet; North 89° 27' 26" East a distance of 40.60 feet; North 78° 13' 06" East a distance of 34.52 feet; North 50° 50' 56" East a distance of 43.39 feet; North 01° 00' 57" West a distance of 41.20 feet; North 15° 51' 20" East a distance of 80.55 feet; North 39° 36' 21" East a distance of 33.38 feet; North 70° 05' 39" East a distance of 84.25 feet; North 31° 55' 24" East a distance of 31.79 feet; North 16° 24' 41" West a distance of 42.69 feet; North 52° 01' 00" West a distance of 95.12 feet; North 14° 06' 00" West a distance of 77.74 feet; North 07° 26' 25" East a distance of 107.47 feet; North 15° 12' 53" West a distance of 39.45 feet; North 43° 20' 05" West a distance of 41.05 feet; North 59° 33' 46" East a distance of 75.45 feet; North 47° 38' 51" East a distance of 71.88 feet; North 22° 25' 42" West a distance of 90.43 feet; North 22° 54' 42" East a distance of 55.19 feet; South 71° 44' 27" East a distance of 114.79 feet; North 39° 44' 32" East a distance of 62.10 feet; North 59° 11' 02" East a distance of 156.27 feet; North 45° 25' 56" East a distance of 104.91 feet, departing said creek and said Greenspoint Phase 1, being in a north line of a 23.74 acre tract, as described in Document No. 20060629000895610 in said Deed Records:

THENCE, South 89° 45' 36" East, along the north line of said 23.74 acre tract, for a distance of 388.94 feet, a calculated point for corner, being the northeast corner of said 23.74 acre tract same being in the west line of a 148.78 acre tract, as described in Document No. 2002-0009531 in said Deed Records:

THENCE, North 00° 58' 26" East, along the west line of said 148.74 acre tract, for a distance of 660.19 feet, to a calculated point for corner being the northwest corner of said 148.74 acre tract same being the most southerly corner of Whispering Farms Phase 1, an addition to the Town of Prosper, as described in Volume Q, Page 176, in said Plat Records:

THENCE, North 78° 27' 11" East, along the north line of said 148.74 acre tract and with the south line of said Whispering Farms Phase 1, at 666.85 feet, being the southwest corner of Lot 1 Block C of said Whisper Farms Phase 1, passing the most southerly corner of Whispering Farms Phase 2, being a replat of Lot 1 Block G, an addition to the Town of Prosper, as described in Document No. 20060201010000290, in said Plat Records, and along the south line of said Phase 2 for a total distance of 817.58 feet, to 1/2 inch iron rod set

THENCE, North 66° 38' 43" East, along the south line of said Whisper Farms Phase 2, for a distance of 79.59 feet, to a 1/2 inch iron rod set;

THENCE, North 49° 22' 57" East, continuing along the north line of said 148.74 acre tract and with said south line, for a distance of 55.61 feet, to a 1/2 inch iron rod set;

THENCE, North 55° 43' 23" East, continuing along lines, for a distance of 115.82 feet, to a 1/2 inch iron rod set;

THENCE, North 56° 22' 25" East, continuing along said lines, for a distance of 183.39 feet, to a 1/2 inch iron rod set;

THENCE, North 49° 10' 59" East, continuing along said lines, for a distance of 56.70 feet, to a 1/2 inch iron rod set, and along the north line of a 10.014 acre tract, as described in Document No. 2002-0009534, in said Deed Records:

THENCE, South 43° 46' 41" East, departing the lines and along the west line of said 10.014 acre tract, for a distance of 154.34 feet, to a 1/2 inch iron rod set;

THENCE, South 00° 12' 48" West, continuing along said west line, for a distance of 19.59 feet, to a 1/2 inch iron rod set;

THENCE, South 17° 49' 56" East, continuing along said west line, for a distance of 28.57 feet, to a 1/2 inch iron rod set;

THENCE, South 45° 57' 46" East, continuing along said west line, for a distance of 76.01 feet, to a 1/2 inch iron rod set at the most southerly southwest corner of said 10.014 acre tract;

THENCE, North 48° 22' 36" East, along the east line of said 10.014 acre tract, for a distance of 634.18 feet, to a 1/2 inch iron rod set;

THENCE, North 20° 38' 40" East, continuing along said east line, for a distance of 39.54 feet, to a 1/2 inch iron rod set;

THENCE, North 17° 37' 36" East, continuing along said east line, for a distance of 36.85 feet, to a 1/2 inch rod set;

THENCE, North 09° 41' 26" East, continuing along said east line, for a distance of 44.59 feet, to a 1/2 inch iron rod set;

THENCE, North 16° 39' 08" West, continuing along said east line, for a distance of 35.99 feet, to a 1/2 inch iron rod set;

THENCE, North 01° 51' 27" East, continuing along said east line, for a distance of 196.52 feet, to a 1/2 inch iron rod set;

THENCE, North 41° 34' 06" East, continuing along said east line, for a distance of 48.32 feet, to a 1/2 inch iron rod set;

THENCE, North 64° 46' 42" East, continuing along said east line, at 85.57 feet, passing the most easterly corner of said 10.014 acre tract, for a total distance of 98.59 feet, to a point in the approximate centerline of a creek, same being in the north line of said 148.74 acre tract:

THENCE, South 86° 47' 19" East, continuing along said creek and said north line, for a distance of 42.43 feet, to a calculated point;

THENCE, South 76° 31' 09" East, continuing along said creek and said north line, for a distance of 61.42 feet, to a calculated point;

THENCE, North 70° 11' 31" East, continuing along said creek and said north line, for a distance of 78.70 feet, to a calculated point;

THENCE, North 31° 16' 48" East, continuing along said creek and said north line, for a distance of 71.28 feet, to a calculated point;

THENCE, North 50° 42' 19" East, continuing along said creek and said north line, for a distance of 78.27 feet, to a calculated point;

THENCE, South 89° 52' 50" East, continuing along said creek and said north line, for a distance of 119.29 feet, to a calculated point;

THENCE, North 81° 48' 30" East, continuing along said creek and said north line, for a distance of 198.15 feet, to a calculated point;

THENCE, North 59° 57' 54" East, continuing along said creek and said north line, for a distance of 80.97 feet, to a calculated point being the northwest corner of said 148.78 acre tract;

THENCE, South 00° 43' 48" West, departing said creek centerline and along the east line of said 148.74 acre tract, for a distance of 2872.56 feet, to a 1/2 inch iron rod set in the approximate north Right-of-way of said First Street;

THENCE, North 89° 18' 37" West, departing the east line of said 148.78 acre tract, for a distance of 89.08 feet, to a 1/2 inch iron rod set at the point of curvature of a curve to the left, having a radius of 1245.00 feet, a central angle of 22° 10' 01" and a tangent of 243.88 feet;

THENCE, continuing along said north line and with said curve to the left for an arc distance of 481.67 feet (Chord Bearing South 79° 36' 22" West - 478.67 feet), to a 1/2 inch rod set at the point of tangency;

THENCE, South 68° 31' 22" West, continuing along said north line, for a distance of 415.59 feet, to a 1/2 inch iron rod set at the point of curvature of a curve to the right, having a radius of 1155.00 feet, a central angle of 22° 07' 10", and a tangent of 225.76 feet;

THENCE, continuing along said north line and with said curve to the right for an arc distance of 445.90 feet (Chord Bearing South 79° 34' 57" West - 443.13 feet), to a 1/2 inch iron rod set at the point of tangency;

THENCE, North 89° 21' 28" West, continuing along said north line, for a distance of 1481.01 feet, to the POINT OF BEGINNING and containing 158.173 acres of land.

STATE OF TEXAS §  
COUNTY OF COLLIN §

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT, 55 PROSPER LP. acting herein by and through its duly authorized officers, does hereby certify and adopt this plat designating the herein above described property as BROOKHOLLOW an addition to the Town of Prosper. The streets and alleys shown on this plat as access easements are for the use and benefit of the owners of the property in this subdivision, their leasees, invitees, and licensees. By acceptance of a deed conveying title to any lot in this subdivision, the owner thereof shall be deemed to have agreed and acknowledged and does certify the following:

1. The streets and alleys are private streets and alleys and are dedicated to the Town of Prosper as Access, Utility, and Drainage Easements. The Town has no responsibility or liability to make any repairs to such streets and alleys as long as they are private streets and alleys, except repairs made necessary by reason of installation, repair, or replacement of municipal utilities located therein or in the utility easements adjacent thereto.

2. So long as such streets and alleys are private, the sole responsibility for maintenance and replacement thereof shall be borne by the owners of the lots in this subdivision and/or any homeowners' association hereafter established for the owners of lots in this subdivision (the "Association"). Such maintenance and replacement shall be in conformance with the requirements, standards, and specifications of the Town of Prosper, as presently in effect or as same may be hereafter amended. This provision may be enforced by specific performance or by any other remedy allowed by law.

3. Neither the property owners within this subdivision, nor the Association, nor any other association or other organization or entity representing them shall have the right to request dedication (whether by voluntary or involuntary act or omission) of such private streets and alleys to the Town unless and until the Town has inspected such streets and alleys and determined that, at the time in question, they meet the Town's standards. If the Town desires to accept a dedication of said streets and alleys, the Association, its successors or assigns, or the owners of the lots in the subdivision will make, at the owners' or the Association's expense, all repairs required by the Town to comply with then Town standards. The Town shall have sole discretion to accept or reject a proposed dedication of the private streets and alleys to the Town. Before dedication, all public improvements and dedications shall be free and clear of all debt, liens, and/or encumbrances.

4. The easements and public use areas, as shown, are dedicated for the benefit of the owners of the property in this subdivision, their leasees, invitees, and licensees use forever, for the purposes indicated on this plat.

5. The provisions hereof shall be binding upon and enforceable against all property owners in this subdivision, their successors and assigns and the Association and its successors and assigns. The provisions hereof may be enforced by the Town, any property owner in the subdivision, and/or the Association.

6. These covenants and restrictions shall run with the land and be binding on the owners of the property in this subdivision, their successors and assigns, the Association, its successors and assigns and all parties claiming by, through and under them. In the event a replat is requested on all or part of this property, the Town may require any similar or additional restrictions and covenants in it's sole discretion. These covenants and restrictions shall terminate when all the access easements shown on this plat are included within a replat of all or part of this property and are dedicated to the Town as public streets and alleys. In addition, all modifications to this document shall be by means of plat and approved by the Town of Prosper.

7. If the owners of the property in this subdivision should open the private streets to the public, such use shall be considered a temporary license only. The owners of property in this subdivision through the Association reserve the right to close the street to the public at any time prior to formal dedication of the street to the public, and acceptance of the same by the Town.

8. The owners of property in this subdivision and the Association shall allow access to the subdivision and the streets in the subdivision to all Town employees and contractors acting on behalf of the Town and all governmental service vehicles, including, without limitation, law enforcement, fire, ambulance, sanitation, inspection, and health vehicles. In addition, Utility Easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use to particular utilities, said use by public utilities being subordinate to the Town's use thereof. The Town of Prosper and public utilities shall, at all times, have the full right of ingress and egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, reading meters, and adding to or removing all or parts of their respective systems without the necessity of procuring permission from anyone.

9. The owners of property within this subdivision hereby agree and recognize that the entire subdivision is benefited by the Town allowing the owners to maintain and control access to the private streets shown hereon, and that the Town is benefited by having the value of the property enhanced for ad valorem tax purposes and not being under any maintenance obligations with respect to the private streets and alleys. For purposes of enforcement of these covenants, the benefits shall constitute sufficient and valid consideration.

10. The owner of each lot affected by a drainage easement across the rear portion of such lot may not construct any improvements within such lot except those improvements which (a) do not impeded the natural flow of water across the property affected by such drainage easement (such as swimming pools and open fences) and (b) are built in accordance with and pursuant to a building permit issued by the Town. In no event shall 55 Prosper, L.P., the Town, the Association or any of their successors or assigns have any liability for any improvements built in any drainage or utility easement. Each lot owner shall build in such area at his or her own risk and shall indemnify 55 Prosper, L.P., the Town, the Association and their successors and assigns against any and all losses, damages and liability arising out of or associated with the construction of improvements on such owner's lot in any drainage or utility easement.

11. No buildings, fences, trees, shrubs, or other improvements or growths shall be constructed or placed upon, over or across the easements as shown, except that landscape improvements may be placed in Landscape Easements, if approved by the Town. Landscaping may be placed in or near other easements with Town approval. The Town and public utility entities shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs, or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of their respective systems in said easements. The Town of Prosper is not responsible for replacing any improvements in, under, or over any easements caused by maintenance or repair.

12. Invalidation of any word, phrase, sentence, paragraph, covenant, or restriction by court judgement or otherwise, shall not affect the validity of the other covenants or restrictions contained herein.

This plat approved subject to all platting ordinances, rules, regulations and resolutions of the Town of Prosper, Texas.

WITNESS, my hand, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

BY:

218 Prosper LP.

Jim Williams

STATE OF TEXAS  
COUNTY OF COLLIN

BEFORE ME, the undersigned, a Notary Public in and for The State of Texas, on this day personally appeared JIM WILLIAMS known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.  
GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Notary Public, State of Texas

DRAINAGE AND FLOODWAY EASEMENT (only for plots where adjacent lot owners have maintenance responsibility)  
This plat is hereby adopted by the Owners and approved by the Town of Prosper (Called "Town") subject to the following conditions which shall be binding upon the Owners, their heirs, grantees, successors and assigns: The Portion of Block A, B & G as shown on the plat is called "Drainage and Floodway Easement" and is the natural drainage channel crossing each lot. The existing creek or creeks traversing along the Drainage and Floodway Easement within the limits of this addition, will remain as an open channel at all times and will be maintained by the owners of the lot or lots that are traversed by or adjacent to the drainage courses in the Drainage and Floodway Easement. The Town will not be responsible for the maintenance and operation of said creek or creeks or for any damage to private property or person that results from the flow of water along said creek, or for the control of erosion. No obstruction to the natural flow of storm water run-off shall be permitted by construction of any type of building, fence, or any other structure within the Drainage and Floodway Easement or the natural drainage channels, as herein above defined. Provided it is understood that in the event it becomes necessary for the Town of erect or consider erecting any type of drainage structure in order to improve the storm drainage that may be occasioned by streets and alleys in or adjacent to the subdivision, then in such event, the Town shall have the right to enter upon the Drainage and Floodway Easement at any point, or points, to investigate, survey or to erect, construct, and maintain any drainage facility deemed necessary for drainage purposes. Each property owner shall keep the natural drainage channels traversing or adjacent to his property clean and free of debris, silt, and any substance which would result in unsanitary conditions or obstruct the flow of water, and the Town shall have the right of ingress and egress for the purpose of inspection and supervision of maintenance work by the property owner to alleviate any undesirable conditions which may occur. The natural drainage through the Drainage and Floodway Easement, as in the case of all natural channels, are subject to storm water overflow and natural bank erosion to an extent which cannot be definitely defined. The Town shall not be held liable for any damages of any nature resulting from the occurrence of these natural phenomena, or resulting from the failure of any structure or structures, within the natural drainage channels. Building areas outside the Drainage and Floodway Easement line shall be filled to a minimum elevation as shown on the plat. The minimum floor elevation for each lot shall be shown on the plat.

VISIBILITY AND MAINTENANCE EASEMENT (VAM)  
The area or areas shown on the plat as "VAM" (Visibility and Maintenance) Easement(s) are hereby given and granted to the Town of Prosper (Called "Town"), its successors and assigns, as an easement to provide visibility, right of access, and maintenance upon and across said VAM Easement. The Town shall have the right, but not the obligation, to maintain all landscaping within the VAM Easement. Should the Town exercise this maintenance right it shall be permitted to remove and dispose of any and all landscaping improvements, including without limitation, any trees, shrubs, flowers, ground cover, structure, and/or fixtures. The Town in its sole discretion may withdraw maintenance of the VAM Easement at any time. The ultimate maintenance responsibility for the VAM Easement shall rest with the property owner(s). No building, fence, shrub, tree, or other improvements or growths, which in any way endanger or interfere with the visibility, shall be constructed in, on, over, or across the VAM Easement. The Town shall also have the right, but not the obligation, to add any landscape improvements to the VAM Easement, to erect any traffic control devices or signs on the VAM Easement and to remove any obstruction thereon. The Town, its successors, assigns, or agents shall have the right and privilege at all times to enter upon the VAM Easement or any part thereof for the purposes and with all rights and privileges set forth herein.

ACCESS EASEMENT  
The undersigned covenants and agrees that the access easement(s) may be utilized by any person or the general public for ingress and egress to other real property, and for the purpose of general public vehicular and pedestrian use and access, and for the Fire Department, Police, and emergency use in along, upon, and across said premises, with the right and privilege at all times of the Town of Prosper, its agents, employees, workmen, and representatives having ingress, egress, and regress in, along, upon, and across said premises.

SURVEYOR'S CERTIFICATE  
KNOW ALL MEN BY THESE PRESENTS that I, WARREN L. CORWIN, do hereby certify that I prepared this Plat and the field notes made a part thereof from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the Subdivision regulations of the Town of Prosper, Texas.

WARREN L. CORWIN  
R.P.L.S. No. 4621

THE STATE OF TEXAS §  
COUNTY OF COLLIN §  
Before me, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared WARREN L. CORWIN, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for the purpose and consideration therein expressed and in the capacity therein stated.  
Given under my hand and seal of office, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

NOTARY PUBLIC, STATE OF TEXAS

PRELIMINARY PLAT  
OF

**BROOKHOLLOW**

OUT OF THE

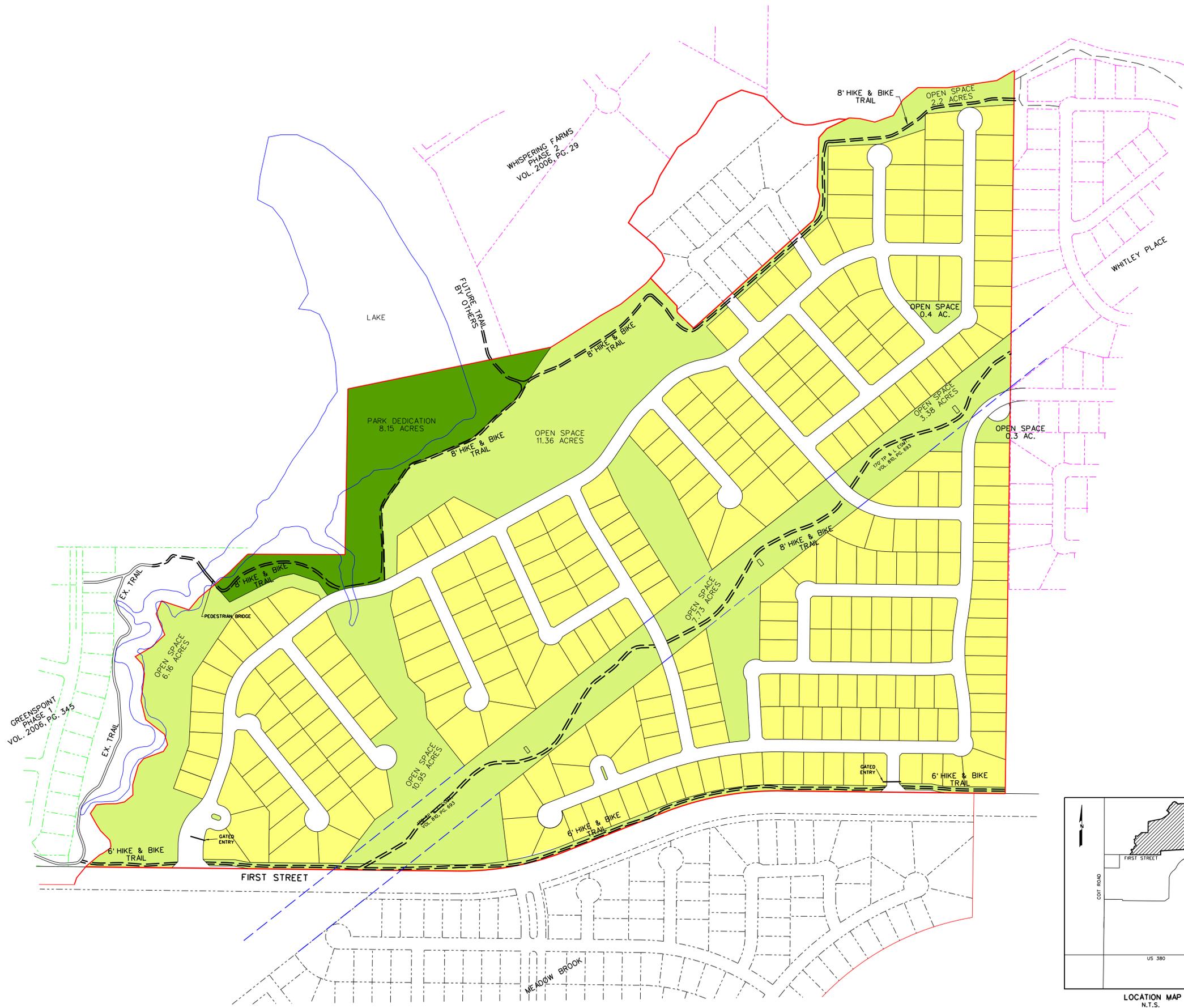
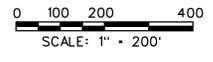
WILLIAM H. THOMASON SURVEY, ABSTRACT NO. 895  
SPENCER GRAHAM SURVEY, ABSTRACT NO. 359  
LARKIN McCARTY SURVEY, ABSTRACT NO. 600

IN THE  
TOWN OF PROSPER  
COLLIN COUNTY, TEXAS

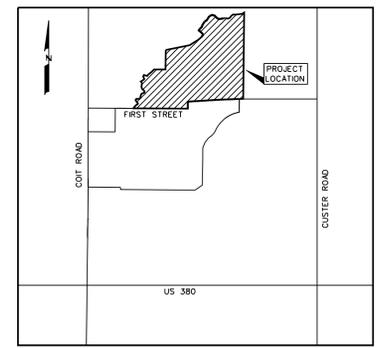
OWNER  
55 PROSPER, LP.  
5400 DALLAS PARKWAY  
FRISCO, TEXAS 75034  
972-618-3800  
BRUCE SMITH

PREPARED BY  
CORWIN ENGINEERING, INC.  
200 W. BELMONT, SUITE E  
ALLEN, TEXAS 75013  
972-396-1200  
WARREN CORWIN

JANUARY 2014



NOTE:  
TRAIL LOCATIONS ARE CONCEPTUAL AND  
WILL BE SET AT THE TIME OF FINAL PLATTING.



LOCATION MAP  
N.T.S.

PARK LAND  
DEDICATION EXHIBIT  
OF  
BROOKHOLLOW  
IN THE  
TOWN OF PROSPER  
COLLIN COUNTY, TEXAS  
OWNER  
218 PROSPER LP.  
5400 DALLAS PARKWAY  
FRISCO, TEXAS 75034  
972-618-3800

PREPARED BY  
CORWIN ENGINEERING, INC.  
200 W. BELMONT, SUITE E  
ALLEN, TEXAS 75013  
972-396-1200  
WARREN CORWIN

|             |         |
|-------------|---------|
| TOTAL LOTS  | 277     |
| TOTAL ACRES | 158.517 |



## ENGINEERING

**To:** Mayor and Town Council

**From:** Hulon T. Webb, Jr., P.E., Executive Director of Development and Community Services

**Through:** Harlan Jefferson, Town Manager

**Re:** Town Council Meeting – February 11, 2014

---

**Agenda Item:**

Discuss and provide update on status of proposed alignment of DNT Backer Road.

**Description of Agenda Item:**

At the January 29, 2014, Strategic Planning Session, a status on the resolution of the proposed alignment of the DNT Backer Road east of the Dallas North Tollway was requested. In order to continue the discussion on this topic, Town staff is providing the following information on the history and status of the proposed alignment of the DNT Backer Road.

Since October 14, 2003, the Town's Thoroughfare Plan's have depicted future roadways paralleling the Dallas North Tollway on either side from First Street to Frontier Parkway. As part of the October 10, 2006, public hearing for the zoning request for Prestonwood Baptist Church, the Town Council discussed the Town's Thoroughfare Plan and the impact the future roadway paralleling the Dallas North Tollway would have on the proposed development of Prestonwood Baptist Church. The location of the proposed roadway, as depicted on the Town's Thoroughfare Plan, was in direct conflict with the church's sanctuary so alternative alignments for the roadway were discussed. Based on the feedback at that meeting, the Town Council approved the zoning request for Prestonwood Baptist Church and recommended the future roadway paralleling the Dallas North Tollway from First Street to Prosper Trail be realigned to connect with Cook Lane south of Prosper Trail.

Prior to and during the review of the preliminary site plan for Prestonwood Baptist Church, Town staff met with representatives from Prestonwood Baptist Church, Blue Star Land, and Tomlin Investments in an effort to reach consensus on the proposed realignment of the roadway paralleling the Dallas North Tollway from First Street to Prosper Trail. As depicted on the preliminary site plan, a realignment of the future roadway paralleling the Dallas North Tollway, as well as a new east-west divided thoroughfare, recommended by a traffic impact analysis performed by Prestonwood Baptist Church's engineer, had significant impact to the affected properties. Needless to say, consensus could not be reached and since Prestonwood Baptist Church was requiring timely approval of the preliminary site plan, they depicted the future roadways within the property boundaries of Prestonwood Baptist Church with a note that the alignment of the roadways would be determined in the future.

As part of the Town's update to the Comprehensive Plan in 2012, the Town's consultant evaluated the Town's Thoroughfare Plan and also the alternative to realign the future roadway paralleling the Dallas North Tollway from First Street to Prosper Trail to connect with Cook Lane south of Prosper Trail. The recommendation was that a continuous DNT Backer Road east of the Dallas North Tollway, from US 380 to Frontier Parkway, would help to support development connectivity and accessibility. As depicted on the DNT Backer Road exhibit from the Comprehensive Plan, a realignment of the DNT Backer Road at Prosper Trail was identified to avoid existing development and retain continuity for development opportunity to the north and south. This realigned commercial collector would still allow for 400' - 600' lot depth for properties along the Dallas North Tollway. With the adoption of the Comprehensive Plan, the Town's Thoroughfare Plan was updated to illustrate the recommended alignment of the DNT Backer Road east of the Dallas North Tollway.

Since the adoption of the Town's Comprehensive Plan in 2012, Town staff has met again with representatives of Prestonwood Baptist Church and Blue Star Land to discuss the recommended location of the DNT Backer Road east of the Dallas North Tollway. As depicted on the preliminary site plan for Prestonwood Baptist Church, a proposed fire lane on the western edge of the Prestonwood Baptist Church property was discussed as a potential alignment for the DNT Backer Road. This location would achieve the desired connectivity to the north and south, save Prestonwood Baptist Church the construction costs associated with a fire lane since the DNT Backer Road would be constructed in its place, and provide a potential land sale of property to Blue Star west of the DNT Backer Road to deepen the property along the Dallas North Tollway. The consensus from the last meeting in early 2013, was that Prestonwood Baptist Church and Blue Star Land would continue discussions on an alignment of the DNT Backer Road that would be amicable to their proposed developments.

On January 31, 2014, the engineer for Prestonwood Baptist Church informed Town staff that Prestonwood Baptist Church and Blue Star are still discussing the proposed alignment of the DNT Backer Road east of the Dallas North Tollway between their respective properties. Town staff will continue to assist Prestonwood Baptist Church and Blue Star Land on an alignment of the DNT Backer Road east of the Dallas North Tollway that will avoid proposed development while retaining continuity for development opportunity to the north and south as recommended in the Town's 2012 Comprehensive Plan.

**Attached Documents:**

1. Thoroughfare Plan – October 2003
2. Thoroughfare Plan – June 2006
3. Thoroughfare Plan – March 2012
4. DNT Backer Road Exhibit from Comprehensive Plan
5. Preliminary Site Plan – Prestonwood Baptist Church

**Town Staff Recommendation:**

Town staff recommends that the Town Council direct Town staff to continue working with Prestonwood Baptist Church and Blue Star Land on an alignment of the DNT Backer Road east of the Dallas North Tollway that will avoid proposed development while retaining continuity for development opportunity to the north and south as recommended in the Town's 2012 Comprehensive Plan.

**LEGEND:**

- 6LD - 6 Lane Divided
- 4LRD - 4 Lane Rural Divided
- 4LR - 4 Lane Rural Undivided
- 4LD - 4 Lane Divided
- 3L - 3 Lane Undivided Couplet
- TTKR - Dallas N. Tollway, Dedicated Truck Route
- Future Connections
- \* Roadways to be constructed in a minimum 120 ft. Right of Way to accommodate street widening or other improvements necessary to serve potential regional growth patterns

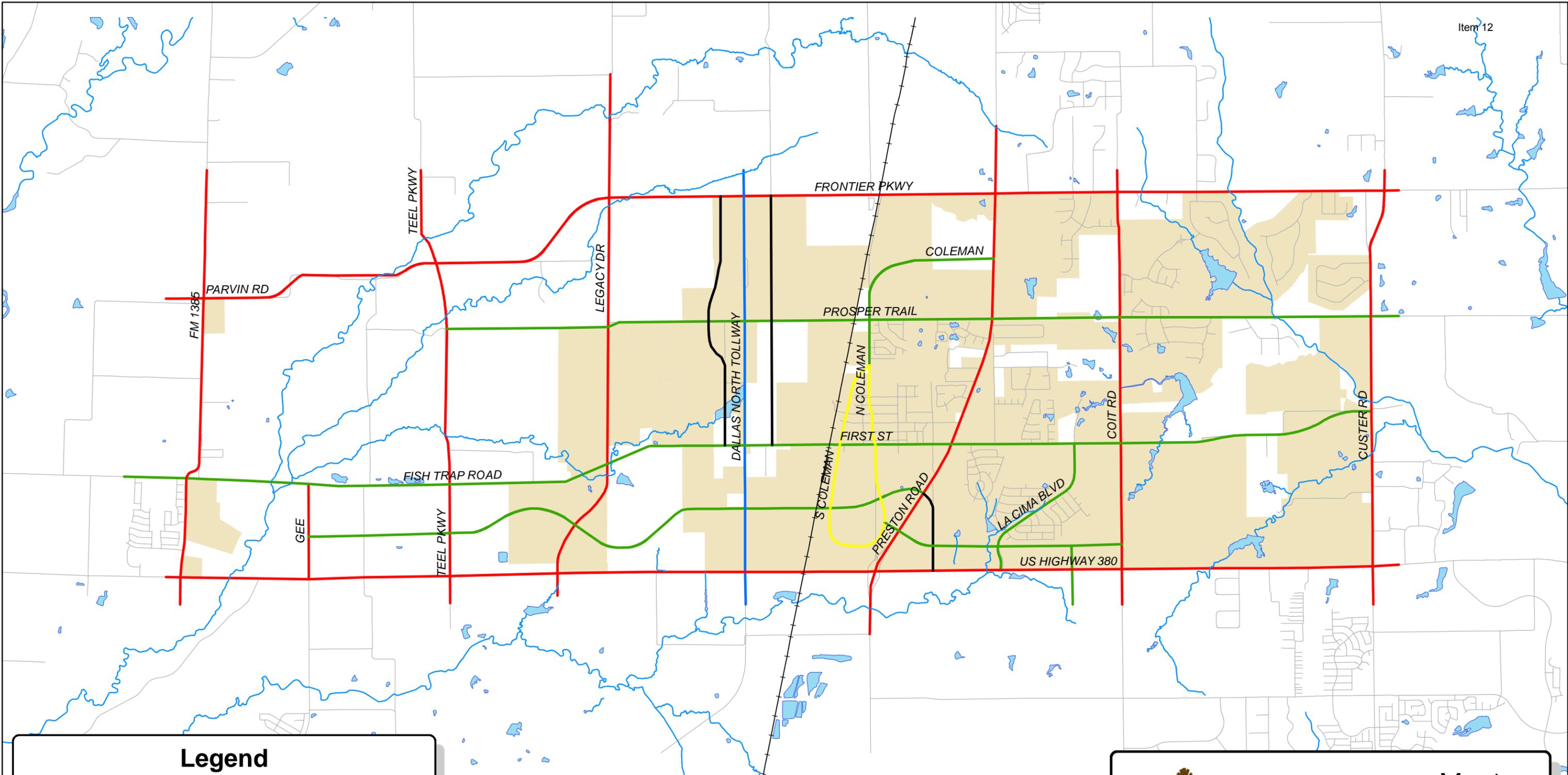


**NOTES:**  
 FOR GRAPHIC PURPOSES ONLY. ACTUAL ALIGNMENT TO BE APPROVED DURING PLATTING.  
 ROADS SHOWN ARE THE PROPOSED IMPROVEMENT ROADS ONLY, ALL EXISTING ROADS TO REMAIN

# TOWN OF PROSPER

## FUTURE THOROUGHFARE PLAN

AS APPROVED BY CITY COUNCIL OCTOBER 14, 2003

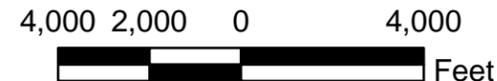


### Legend

- Rail
  - Streams
  - Local Roads
  - Lakes
  - Town Limits
- Thoroughfare Plan**
- Commercial Collector
  - 3 Lane
  - 4 Lane Divided
  - 6 Lane Divided
  - Dallas North Tollway

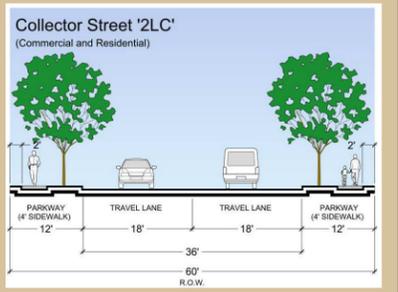
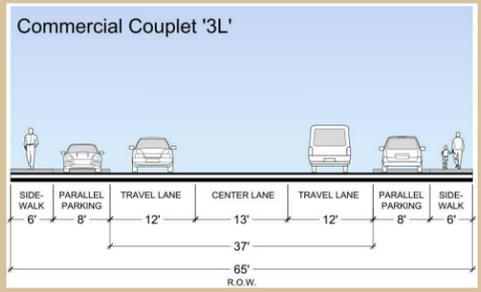
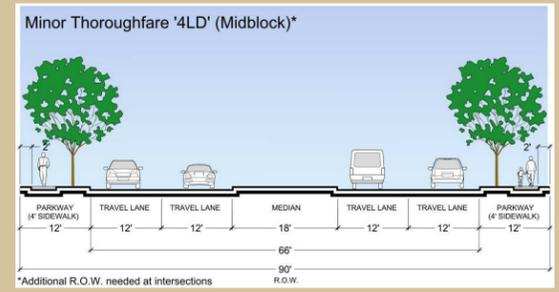
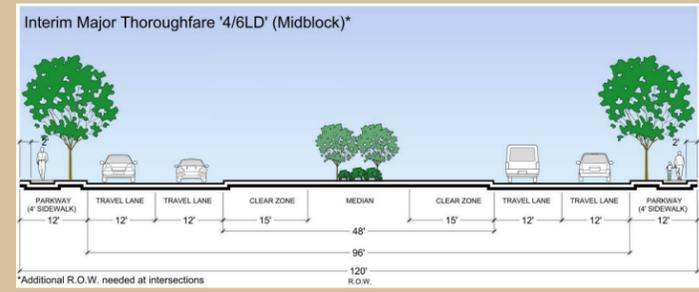
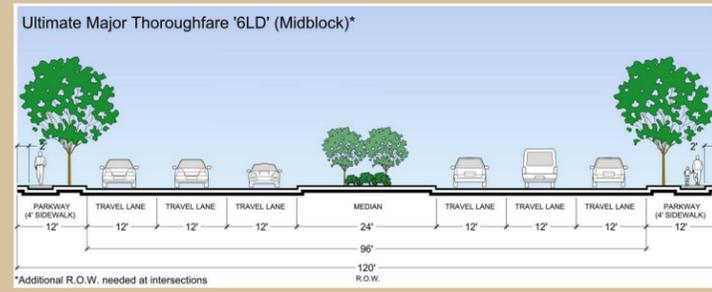
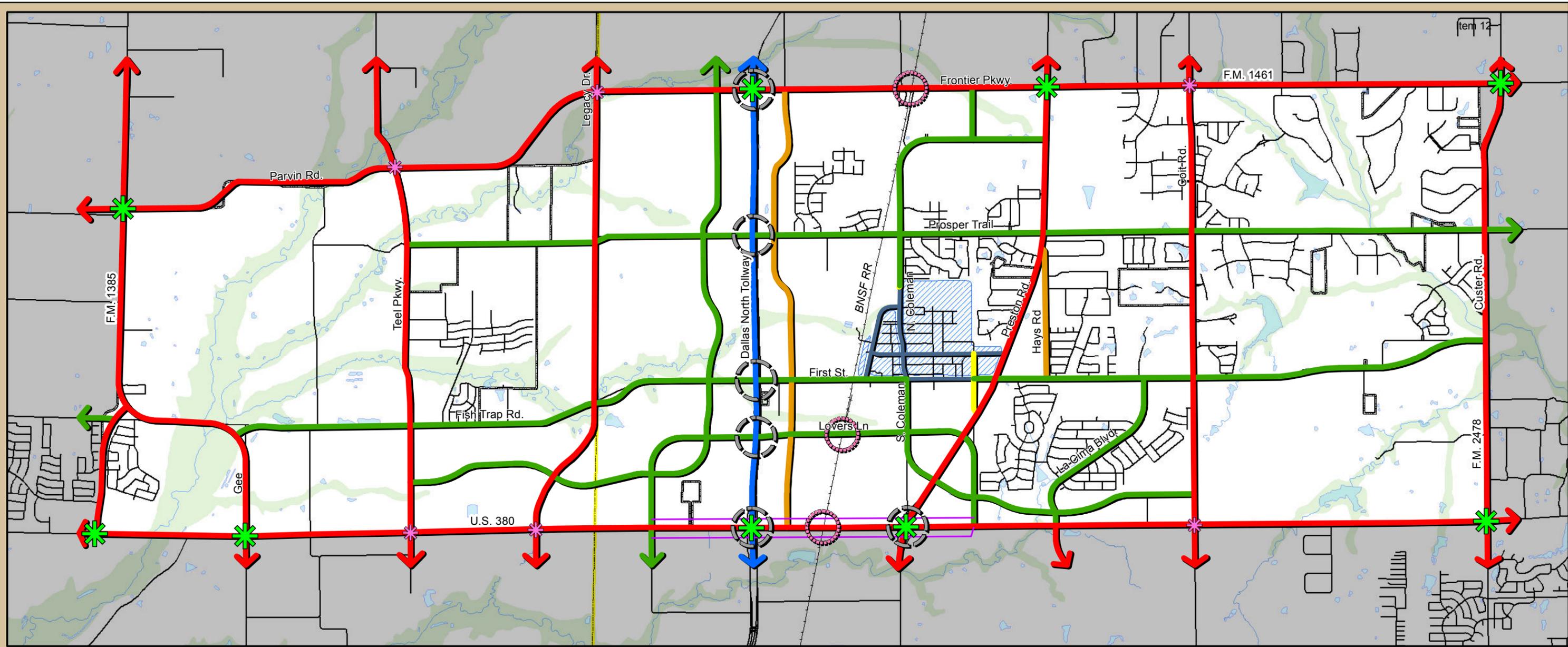


## Master Thoroughfare Plan



Kimley-Horn and Associates, Inc.

June 2006



**Thoroughfare Description**

- Dallas North Tollway
- Major Thoroughfare (6 lane; 120' ROW)
- Minor Thoroughfare (4 lane; 90' ROW)
- Commercial Couplet (3 lane; 65' ROW)
- Commercial Collector (2 lane; 60' ROW)
- Old Town District (Section varies)
- Access Roads

Major Gateway  
 Minor Gateway  
 Grade Separation  
 RR Grade Separation

Town of Prosper  
 ETJ  
 100 Year Floodplain

Miles  
 0 0.25 0.5 1 1.5

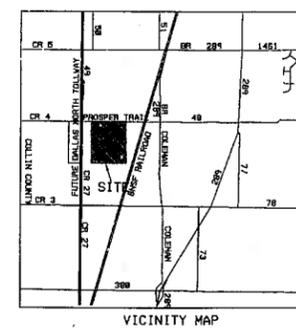
**Plate 3**  
March 2012

**Thoroughfare Plan**

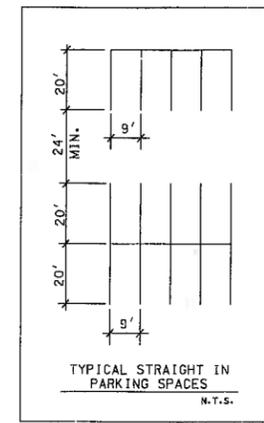
### DNT Backer Road – East of Dallas North Tollway 2012 Comprehensive Plan



| SITE DATA - SUMMARY TABLE PHASE 1        |                          |
|--|--------------------------|
| ITEM                                     | TOTAL                    |
| GENERAL SITE DATA                        |                          |
| ZONING                                   | PD-33-OFFICE CHURCH      |
| LAND USE (FROM ZONING ORDINANCE)         |                          |
| LOT AREA (SQUARE FEET)                   | 5,569,309 SF/127.854 AC. |
| TOTAL BUILDING AREA (SQUARE FEET)        | 76,795 SF                |
| FOOTPRINT                                | 54,641 SF                |
| BUILDING HEIGHT (# STORIES)              | 1 & 2 STORIES            |
| BUILDING HEIGHT (FEET)                   |                          |
| EDUCATION ADMINISTRATION                 | 32'                      |
| MULTI-PURPOSE BUILDING                   | 41'                      |
| LOT COVERAGE                             | 0.98%                    |
| FLOOR AREA RATIO                         | 0.01:1                   |
| PARKING FOR 1,500 SEATS                  |                          |
| PARKING RATIO (FROM ZONING ORDINANCE)    | 1:3                      |
| REQUIRED PARKING (# SPACES)              | 500                      |
| PROVIDED PARKING (# SPACES)              | 815                      |
| ACCESSIBLE PARKING REQUIRED (# SPACES)   | 17                       |
| ACCESSIBLE PARKING PROVIDED (# SPACES)   | 17                       |
| LANDSCAPING                              |                          |
| INTERIOR LANDSCAPE AREA REQUIRED (SQ FT) | 12,225 SF                |
| INTERIOR LANDSCAPE AREA PROVIDED (SQ FT) | 74,283 SF                |
| IMPERVIOUS SURFACE                       | 12.25 AC.                |

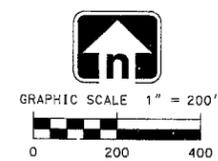
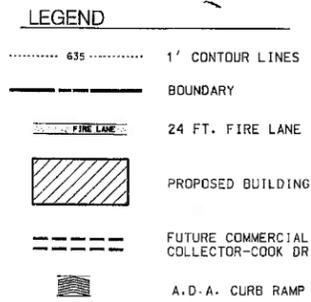


| SITE DATA - SUMMARY TABLE PHASE 2        |                          |
|--|--------------------------|
| ITEM                                     | TOTAL                    |
| GENERAL SITE DATA                        |                          |
| ZONING                                   | PD-33-OFFICE CHURCH      |
| LAND USE (FROM ZONING ORDINANCE)         |                          |
| LOT AREA (SQUARE FEET)                   | 5,569,309 SF/127.854 AC. |
| TOTAL BUILDING AREA (SQUARE FEET)        | 361,653                  |
| FOOTPRINT                                | 268,706                  |
| BUILDING HEIGHT (# STORIES)              | 1, 2 & 3 STORIES         |
| BUILDING HEIGHT (FEET)                   |                          |
| EDUCATION ADMINISTRATION                 | 35'                      |
| ATRILUM COMMONS                          | 30'                      |
| PERMANENT WORSHIP                        | 75'                      |
| EDUCATION                                | 45'                      |
| SPORTS AND FITNESS                       | 30'                      |
| TOWER                                    | 100'                     |
| LOT COVERAGE                             | 4.82%                    |
| FLOOR AREA RATIO                         | 0.06:1                   |
| LANDSCAPING                              |                          |
| INTERIOR LANDSCAPE AREA REQUIRED (SQ FT) | 21,420 SF                |
| INTERIOR LANDSCAPE AREA PROVIDED (SQ FT) | 74,283 SF                |
| REQUIRED PARKING (# SPACES)              | 109                      |
| PROVIDED PARKING (# SPACES)              | 1428                     |
| IMPERVIOUS SURFACE                       | 27.84 AC.                |



**SITE PLAN NOTES:**

- DUMPSTERS AND TRASH COMPACTORS SHALL BE SCREENED IN ACCORDANCE WITH THE COMPREHENSIVE ZONING ORDINANCE.
- OPEN STORAGE, WHERE PERMITTED, SHALL BE SCREENED IN ACCORDANCE WITH THE COMPREHENSIVE ZONING ORDINANCE.
- OUTDOOR LIGHTING SHALL COMPLY WITH THE LIGHTING AND GLARE STANDARDS CONTAINED WITHIN THE COMPREHENSIVE ZONING ORDINANCE AND SUBDIVISION REGULATION ORDINANCE.
- LANDSCAPING SHALL CONFORM TO LANDSCAPE PLANS APPROVED BY THE TOWN.
- ALL ELEVATIONS SHALL COMPLY WITH THE TOWN'S CORRIDOR DISTRICT REQUIREMENTS.
- BUILDINGS OF 5,000 SQUARE FEET OR GREATER SHALL BE 100% FIRE SPRINKLED. ALTERNATIVE FIRE PROTECTION MEASURES MAY BE APPROVED BY THE FIRE DEPARTMENT.
- FIRE LANES SHALL BE DESIGNED AND CONSTRUCTED PER TOWN STANDARDS OR AS DIRECTED BY THE FIRE DEPARTMENT.
- TWO POINTS OF ACCESS SHALL BE MAINTAINED FOR THE PROPERTY AT ALL TIMES.
- SPEED BUMPS/HUMPS ARE NOT PERMITTED WITHIN A FIRE LANE.
- HANDICAPPED PARKING AREAS AND BUILDING ACCESSIBILITY SHALL CONFORM TO THE AMERICANS WITH DISABILITIES ACT (ADA) AND WITH THE REQUIREMENTS OF THE CURRENT, ADOPTED UNIFORM BUILDING CODE.
- ALL SIGNAGE IS SUBJECT TO BUILDING OFFICIAL APPROVAL.
- ALL FENCES AND RETAINING WALLS SHALL BE SHOWN ON THE SITE PLAN AND ARE SUBJECT TO BUILDING OFFICIAL APPROVAL.
- ALL EXTERIOR BUILDING MATERIALS ARE SUBJECT TO BUILDING OFFICIAL APPROVAL.
- SIDEWALKS OF NOT LESS THAN FOUR (4') FEET IN WIDTH AND BARRIER FREE RAMPS AT ALL CURB CROSSINGS SHALL BE PROVIDED PER TOWN STANDARDS.
- APPROVAL OF THE SITE PLAN IS NOT FINAL UNTIL ALL ENGINEERING PLANS ARE APPROVED.
- SITE PLAN APPROVAL IS REQUIRED PRIOR TO GRADING RELEASE.
- ALL NEW ELECTRICAL LINES SHALL BE INSTALLED AND/OR RELOCATED UNDERGROUND.



**APPROVED** by P+Z  
 on 4/13/07 cc  
 Revised on 3/24/08 cc



ENGINEER/SURVEYOR:  
 GRAHAM ASSOCIATES, INC.  
 CENTERPOINT THREE  
 600 SIX FLAGS DRIVE, SUITE 500  
 ARLINGTON, TEXAS 76011  
 METRO (817) 640-8535  
 FAX (817) 633-5240

APPLICANT/OWNER:  
 PROSPER CHURCH LAND, L.P.  
 5400 DALLAS PKWY  
 FRISCO, TEXAS 75034  
 (214) 618-3800  
 FAX # (214) 618-3830  
 E-MAIL: JIM@LANDPLAN.NET

| NO.      | DATE | REVISION        |
|----------|------|-----------------|
| 03/04/08 |      | REVISED PARKING |

REVISED PRELIMINARY SITE PLAN

PRESTONWOOD ADDITION  
 127.854 ACRES

TOWN OF PROSPER,  
 COLLIN COUNTY, TEXAS

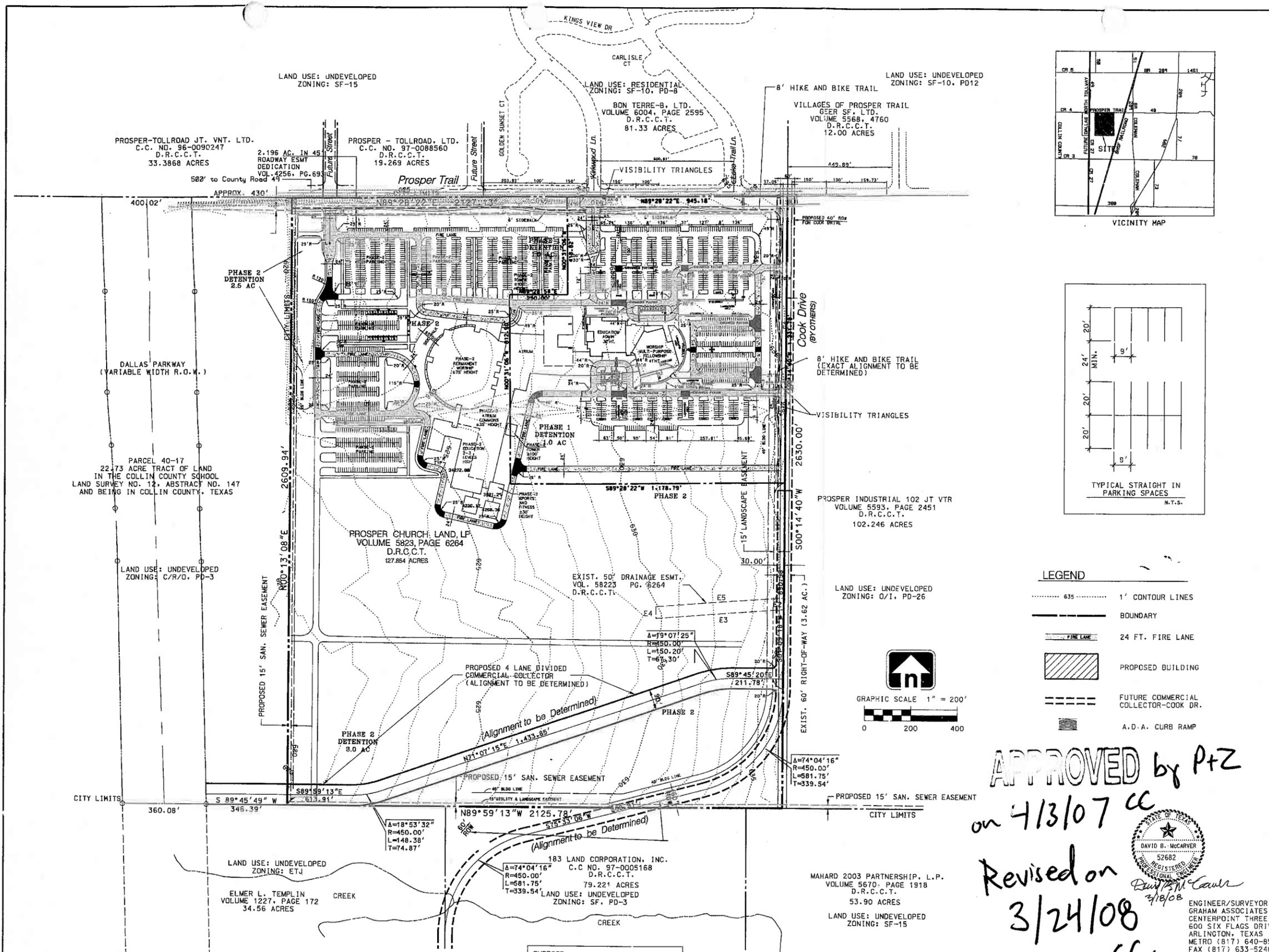
**Graham Associates, Inc.**  
 CONSULTING ENGINEERS & PLANNERS  
 600 SIX FLAGS DRIVE, SUITE 500  
 ARLINGTON, TEXAS 76011 (817) 640-8535

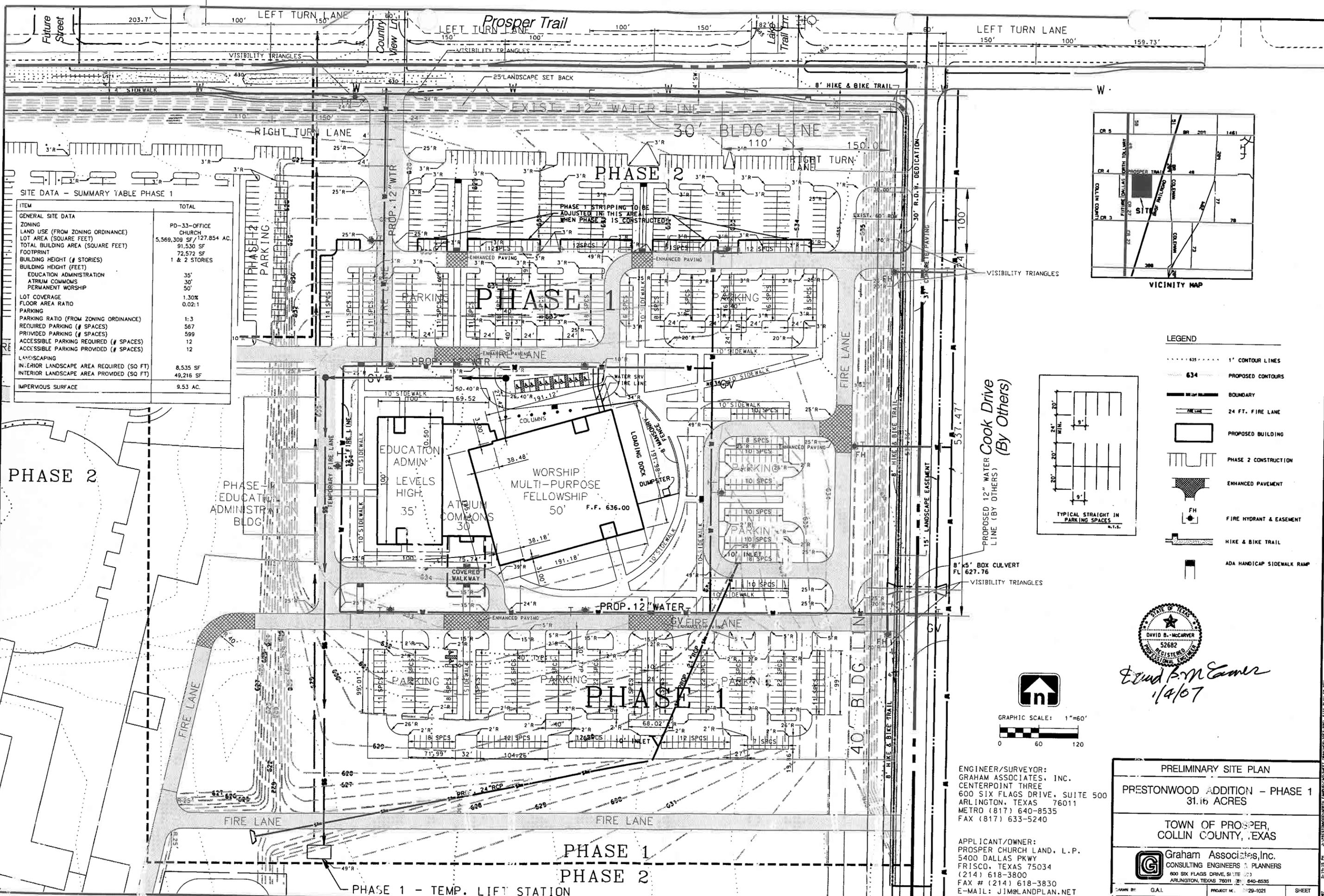
DRAWN BY: G.A. PROJECT NO. 9929-1021 SHEET 1 of 2  
 DATE: MARCH, 2008 ENGR/MGR: DBMc

PURPOSE:  
 THE PURPOSE FOR THIS PLAN IS TO SHOW TWO BUILDING ADDITIONS, AND PARKING AREAS, COOK DRIVE AND THE COMMERCIAL COLLECTOR ALONG THE SOUTH BOUNDARY - COOK DRIVE.

PROJECT SUMMARY  
 PHASE 1 - PROPOSED WORSHIP BUILDING AND EDUCATION ADMINISTRATION BUILDING

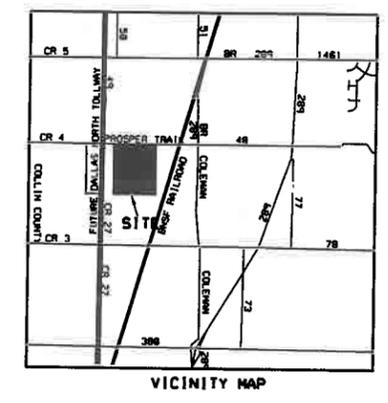
| LINE DATA FOR 50' DRAINAGE EASEMENT |             |          |
|-------------------------------------|-------------|----------|
| NO.                                 | BEARING     | LENGTH   |
| E-1                                 | S00°14'40"W | 1727.20' |
| E-2                                 | S00°46'26"W | 50.14'   |
| E-3                                 | S86°29'20"W | 550.00'  |
| E-4                                 | N00°46'26"E | 50.14'   |
| E-5                                 | N86°29'20"E | 550.00'  |



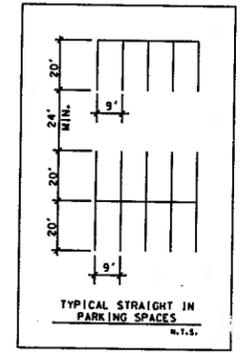


**SITE DATA - SUMMARY TABLE PHASE 1**

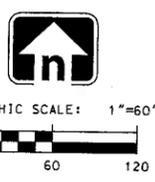
| ITEM   | TOTAL                      |
|--|----------------------------|
| <b>GENERAL SITE DATA</b>                     |                            |
| ZONING                                       | PD-33-OFFICE CHURCH        |
| LAND USE (FROM ZONING ORDINANCE)             | CHURCH                     |
| LOT AREA (SQUARE FEET)                       | 5,569,309 SF / 127.854 AC. |
| TOTAL BUILDING AREA (SQUARE FEET)            | 91,530 SF                  |
| FOOTPRINT                                    | 72,572 SF                  |
| BUILDING HEIGHT (# STORIES)                  | 1 & 2 STORIES              |
| BUILDING HEIGHT (FEET)                       |                            |
| EDUCATION ADMINISTRATION                     | 35'                        |
| ATRIUM COMMONS                               | 30'                        |
| PERMANENT WORSHIP                            | 50'                        |
| <b>LOT COVERAGE</b>                          |                            |
| FLOOR AREA RATIO                             | 1.30%                      |
| PARKING                                      | 0.02:1                     |
| <b>PARKING RATIO (FROM ZONING ORDINANCE)</b> |                            |
| REQUIRED PARKING (# SPACES)                  | 567                        |
| PROVIDED PARKING (# SPACES)                  | 599                        |
| ACCESSIBLE PARKING REQUIRED (# SPACES)       | 12                         |
| ACCESSIBLE PARKING PROVIDED (# SPACES)       | 12                         |
| <b>LANDSCAPING</b>                           |                            |
| INTERIOR LANDSCAPE AREA REQUIRED (SQ FT)     | 8,535 SF                   |
| INTERIOR LANDSCAPE AREA PROVIDED (SQ FT)     | 49,216 SF                  |
| IMPERVIOUS SURFACE                           | 9.53 AC.                   |



- LEGEND**
- ..... 635 ..... 1' CONTOUR LINES
  - ..... 634 ..... PROPOSED CONTOURS
  - BOUNDARY
  - 24 FT. FIRE LANE
  - ▭ PROPOSED BUILDING
  - ▨ PHASE 2 CONSTRUCTION
  - ▨ ENHANCED PAVEMENT
  - FH FIRE HYDRANT & EASEMENT
  - ▬ HIKE & BIKE TRAIL
  - ▬ ADA HANDICAP SIDEWALK RAMP



PROPOSED 12" WATER LINE (BY OTHERS) (By Others)



*David B. McCarver*  
1/4/07

ENGINEER/SURVEYOR:  
GRAHAM ASSOCIATES, INC.  
CENTERPOINT THREE  
600 SIX FLAGS DRIVE, SUITE 500  
ARLINGTON, TEXAS 76011  
METRO (817) 640-8535  
FAX (817) 633-5240

APPLICANT/OWNER:  
PROSPER CHURCH LAND, L.P.  
5400 DALLAS PKWY  
FRISCO, TEXAS 75034  
FAX # (214) 618-3800  
E-MAIL: JIM@LANDPLAN.NET

|  |                       |               |
|--|-----------------------|---------------|
| PRELIMINARY SITE PLAN  |                       |               |
| PRESTONWOOD ADDITION - PHASE 1<br>31.16 ACRES  |                       |               |
| TOWN OF PROSPER,<br>COLLIN COUNTY, TEXAS   |                       |               |
|  <b>Graham Associates, Inc.</b><br>CONSULTING ENGINEERS & PLANNERS<br>600 SIX FLAGS DRIVE, SUITE 500<br>ARLINGTON, TEXAS 76011 (817) 640-8535 |                       |               |
| DESIGNED BY: G.A.L.  | PROJECT NO.: 029-1021 | SHEET: 2 of 2 |
| DATE: DECEMBER, 2007   | ENG./MGR.: M          |               |



## PLANNING

**To: Mayor and Town Council**

**From: Chris Copple, AICP, Director of Development Services**

**Through: Harlan Jefferson, Town Manager**

**Re: Town Council Meeting – February 11, 2014**

---

**Agenda Item:**

Discuss and provide direction for the naming of future thoroughfares as shown on the Thoroughfare Plan.

**Description of Agenda Item:**

At the January 14, 2014, Town Council meeting, the Council directed Town staff to provide options for the naming of future thoroughfares as shown on the Thoroughfare Plan. Currently, there are four roadway segments in need of naming, as shown on the attached exhibit.

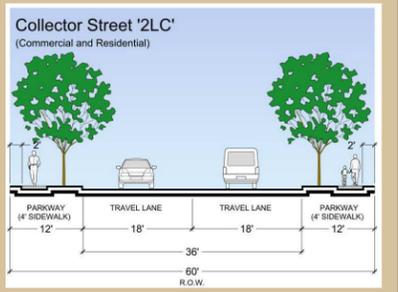
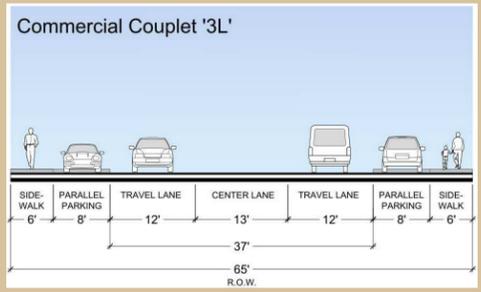
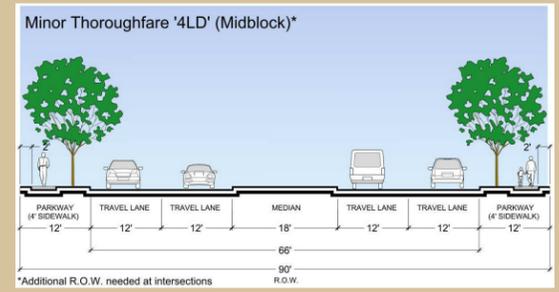
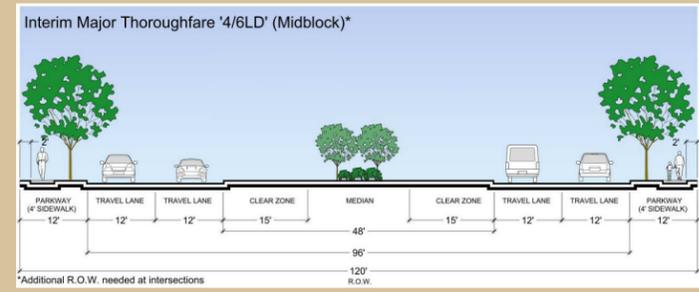
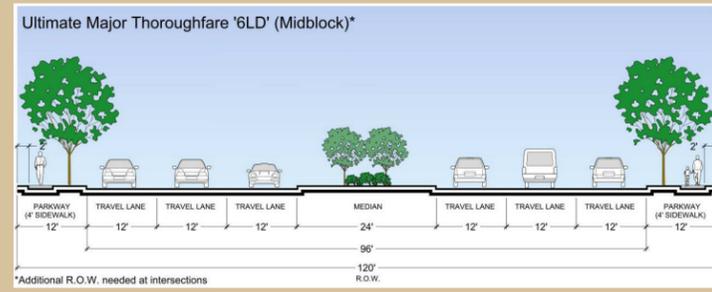
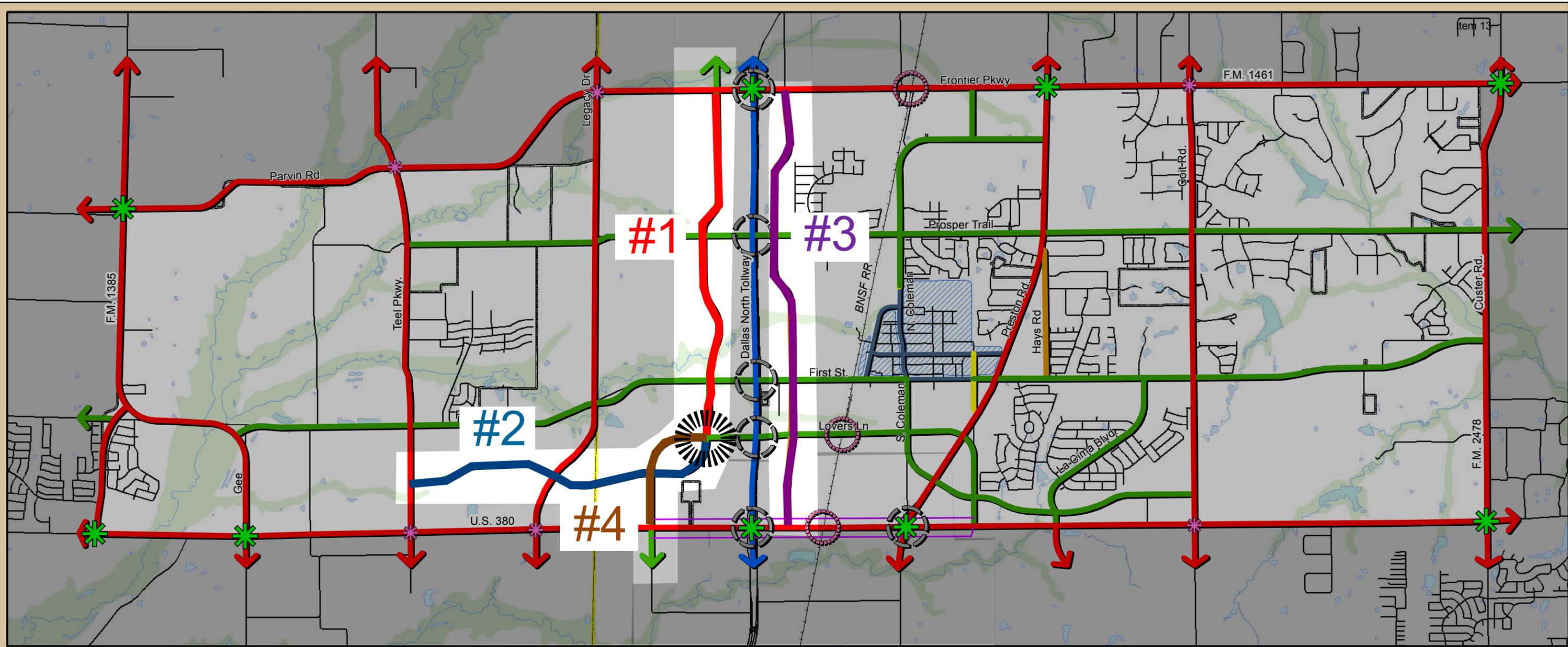
1. Thoroughfare #1 is a 4-lane divided north/south minor thoroughfare located west of Dallas Parkway. Staff recommends **Shawnee Trail** as a naming option for this future thoroughfare. The Shawnee Trail is a historical trade route dating back to the 1840s running north/south from Texas to Missouri by way of Prosper.
2. Thoroughfare #2 is a 4-lane divided east/west minor thoroughfare located north of U.S. Highway 380. Staff recommends **Blackland Prairie Drive** as a naming option for this future thoroughfare. The Blackland Prairie is an approximately 20,000-square-mile ecological area distinct by its fertile black soil and the tall grasses of its flatlands. The Blackland Prairie comprises much of the western Prosper landscape.
3. Thoroughfare #3 is a 2-lane undivided north/south commercial collector located east of Dallas Parkway, which intersects with CR 50 in Celina at Frontier Parkway. Celina does not have plans for an alternate name for CR 50 at this time. Staff recommends **Business Park Drive** as a naming option for this future thoroughfare. There is currently an existing roadway segment along this thoroughfare alignment, south of First Street, already named Business Park Drive, and it is located in the Future Land Use Plan's Business Park District.
4. Thoroughfare #4 is a 4-lane divided north/south minor thoroughfare located west of Dallas Parkway, which intersects with CR 26 in Frisco at U.S. Highway 380. Frisco is in the process of renaming CR 26 to Mahard Parkway where intersecting with this future thoroughfare. Staff recommends **Mahard Parkway** as a naming option for this future thoroughfare. The Mahard family has a history in Prosper dating back to the late 19<sup>th</sup> Century, descendants of which established the Mahard Egg Farm in 1926.

**Attached Documents:**

1. Naming of future thoroughfares exhibit.
2. Alternative thoroughfare names.

**Town Staff Recommendation:**

Town staff recommends the Town Council provide direction for the naming of future thoroughfares as shown on the Thoroughfare Plan. The thoroughfares will be named through the Town's platting process as adjacent property develops.



**Thoroughfare Description**

- Dallas North Tollway
- Major Thoroughfare (6 lane; 120' ROW)
- Minor Thoroughfare (4 lane; 90' ROW)
- Commercial Couplet (3 lane; 65' ROW)
- Commercial Collector (2 lane; 60' ROW)
- Old Town District (Section varies)
- Access Roads

Major Gateway  
 Minor Gateway  
 Grade Separation  
 RR Grade Separation

Town of Prosper  
 ETJ  
 100 Year Floodplain

Miles  
 0 0.25 0.5 1 1.5

**TOWN OF PROSPER**

**Thoroughfare Plan**

**Plate 3**  
March 2012



## PLANNING

### **Alternative Thoroughfare Names**

The following is a list of future thoroughfare naming options that are available for consideration:

#### **Prosper Mayors**

1. Boyer
2. Clary
3. Cockrell
4. Coffman
5. Dunmire
6. Mullendore
7. Niswanger
8. Skelton
9. Smith
10. Smothermon

#### **Early Prosper Families**

11. Barlow
12. Beanland
13. Crockett
14. Horn
15. McElhannon
16. Maxey
17. Naugle
18. Settle
19. Talkington