

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 05-51

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 80.57 ACRES, MORE OR LESS, SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 147, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, HERETOFORE ZONED SINGLE FAMILY-15 (SF-15) IS HEREBY REZONED AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-SINGLE FAMILY-10/12.5 (PD-SF-10/12.5); 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 Axxium Land Development, L.L.C. ("Applicant") to rezone 80.57 acres of land, more or less, situated in the Collin County School Land Survey, Abstract No. 147, 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 80.57 acres of land, more or less, situated in the Collin County School Land Survey, Abstract No. 147, 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-Single Family-10/12.5 (PD-SF-10/12.5). 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 1) the statement of intent and purpose, attached hereto as Exhibit "B"; 2) the planned development standards, attached hereto as Exhibit "C"; 3) the conceptual development plan, attached hereto as Exhibit "D"; and 4) the Development Schedule, attached hereto as Exhibit "E"; 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 inspector 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

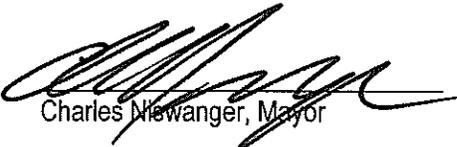
remaining portions of this Ordinance shall remain in full force and effect. Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared 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.

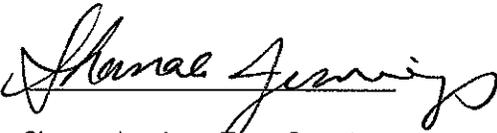
DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 28th DAY OF JUNE, 2005.

APPROVED AS TO FORM:



Charles Newanger, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:



Shanae Jennings, Town Secretary

DATE OF PUBLICATION: 7/4/05 & 7/5/05, Dallas Morning News – Collin County Addition

EXHIBIT A
DESCRIPTION OF AN 80.57 ACRE TRACT OF LAND

SITUATED in Collin County, Texas, in the Collin County School Land Survey, Abstract No. 147 being a portion of a called 80.737 acres of land described in a deed from Sara K. Johnson, et al to Donald E. Godwin and wife, Carmen Q. Godwin dated July 15, 1999, recorded in Volume 4459, Page 2228, being described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found corner, said point being the northeast corner of said 80.737 acre tract, and being in the west line of a called 119.4658 acre tract of land conveyed to James W. Shanahan, as recorded in deed recorded in Volume 5060, Page 2434, of the Deed Records of Collin County, Texas, and being the southeast corner of a called 80 acre tract of land conveyed to James W. Shanahan, by Deed Recorded in Volume 5060, Page 2434 of the Deed records of Collin County, Texas;

THENCE South 01 deg. 01 min. 11 sec. East, along the east line of said called 80.737 acre tract, same being the west line of said called 119.4658 acre tract and with a fence, a distance of 1320.54 feet to a iron pin found in the center of C.R. 48, being the southeast corner of said 80.737 acre tract, and in the Collin County 2.8697 acres R.O.W., recorded in Volume 4967, Page 951, of the Deed Records of Collin County, Texas, and being the northwest corner of the said called 119.4658 acre tract;

THENCE South 88 deg. 54 min. 02 sec. West, westerly with the center line of County Road No. 48 and with the south line of said 2.8697 acre tract, a distance of 1058.62 feet to a iron pin found for corner;

THENCE South 89 deg. 06 min. 23 sec. West, continuing westerly with the north right-of-way line of County Road No. 48 and with the north line of said 2.8697 acre tract, a distance of 1086.05 feet to a PK nail found in the center of State Highway 289 Business, at the south corner of said 2.8697 acre tract, and said 80.737 acre tract, and in the east line of a 0.8638 acre tract of land conveyed to Peggy Heist by deed recorded in Volume 4847, Page 3389, of the Deed Records of Collin County, Texas;

THENCE North 01 deg. 08 min. 44 sec. West, along the center line of said Hwy 289 Business more or less, with the west line of said called 80.737 acre tract and the east line of said called 0.8638 acre, and the east line of a called 1.49 acre tract of land conveyed to W.H. Perry, by deed Recorded in Document No. 94-00314272, of the Deed Records of Collin County, Texas, and the east line of two tracts of land called 1.174 acre tract of land conveyed to Peggy Heist, by Deeds Recorded in Volume 5140, Page 3118, and Volume 1520, Page 789, of the Deed records of Collin County, Texas, and the east line of a called 2.80 acre tract of land conveyed to Thomas Bull, by Deed Recorded in Volume 4489, Page 1938, of the Deed Records of Collin County, Texas, and the east line of a called 0.727 acre tract of land conveyed to the John H. Hill, by Deed Recorded in Volume 4581, Page 1888, of the Deed records of Collin County, Texas, and the east line of tract of called 0.891 acre tract of land conveyed to Gary James, by Deed Recorded in Document No. 92-0042544 and the east line of a called 0.172 acre, as recorded in Volume 3252, Page 651, and the east line of a called 1.00 acre tract of land conveyed to Kent W. Elliott, by Deed Recorded in Document No. 97-0094229, a distance of 1328.15 feet a 1/2 inch iron rod found at the northwest corner of said called 80.737 acre tract, and being the northeast corner of said called 1.00 acre tract, and being the southeast corner of a called 101.953 acre tract of land conveyed to Prosper West Partnership, by Deed Recorded in Volume 4977, Page 2284 and at the southwest corner of said James W. Shanahan called 80 acres tract;

THENCE North 88 deg. 51 min. 29 sec. East, easterly with the north line of said called 80.737 acre tract, and the south line of said Shanahan called 80 acre tract, a distance of 463.74 feet to a 1/2 inch iron rod set for corner;

THENCE North 89 deg. 35 min. 50 sec. East, continuing easterly with the north line of said called 80.737 acre tract, and the south line of said Shanahan called 80 acre tract, a distance of 608.01 feet to a 1/2 inch iron rod set for corner;

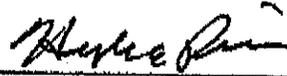
THENCE North 88 deg. 52 min. 26 sec. East, continuing easterly with the north line of said called 80.737 acre tract, and the south line of said Shanahan called 80 acre tract, a distance of 409.81 feet to a 1/2 inch iron rod set for corner;

THENCE North 88 deg. 55 min. 27 sec. East, continuing easterly with the north line of said called 80.737 acre tract, and the south line of said Shanahan called 80 acre tract, a distance of 432.32 feet to a 1/2 inch iron rod set for corner;

THENCE North 89 deg. 34 min. 05 sec. East, continuing easterly with the north line of said called 80.737 acre tract, and the south line of said Shanahan called 80 acre tract, a distance of 325.90 feet to a 1/2 inch iron rod set for corner;

THENCE North 89 deg. 04 min. 18 sec. East, continuing easterly with the north line of said called 80.737 acre tract, and the south line of said Shanahan called 80 acre tract, a distance of 215.60 feet to a 1/2 inch iron rod set for corner;

THENCE North 89 deg. 26 min. 50 sec. East, continuing easterly with the north line of said called 80.737 acre tract, and the south line of said Shanahan called 80 acre tract, a distance of 192.27 feet to the POINT OF BEGINNING and containing 80.57 acres of computed land.



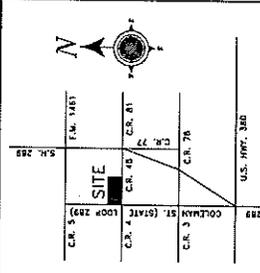
Hugh E. Peiser
R.P.L.S. No. 3688



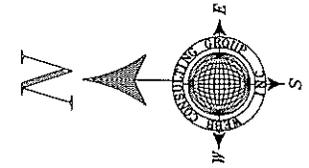
OWNER:
ANEXIM LAND DEVELOPMENT, LLC
 16950 Dallas Parkway, Suite 101
 Dallas, Texas 75248
 972-931-3450

APPLICANT:
WEBB CONSULTING GROUP, INC.
 6324 Bandera Ave., Suite D
 Dallas, Texas 75225
 214-696-2828

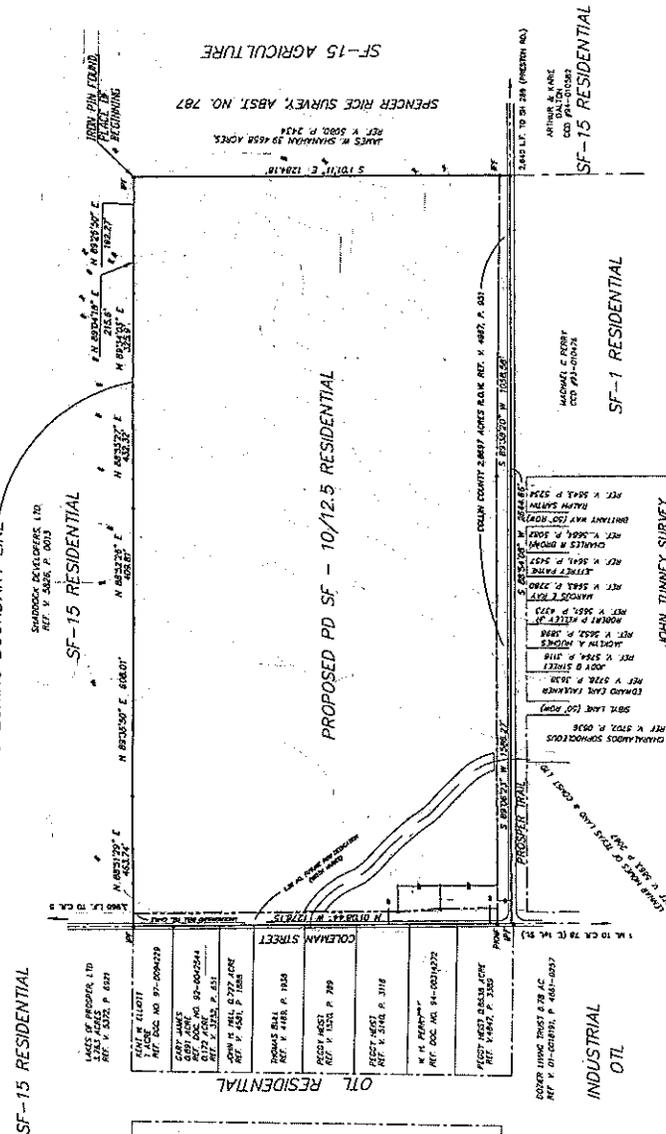
SURVEYOR:
PEGER SURVEYING CO.
 801 ENTERPRISE DRIVE
 FLOWER MOUND, TEXAS 75028
 972-724-5776



TOTAL EXISTING ZONING IS 80.57 ACRES GROSS
 TOTAL EXISTING ZONING IS 77.7 ACRES NET
 TOTAL PROPOSED ZONING IS 80.57 ACRES GROSS
 TOTAL PROPOSED ZONING IS 77.7 ACRES NET
 EXISTING ZONING - SF - 15
 PROPOSED ZONING - PD - SINGLE FAMILY - 10 & 12.5
 POTENTIAL RESIDENTIAL DENSITY = 2.7 UNITS PER ACRE



EXISTING & PROPOSED ZONING BOUNDARY LINE



NOTE: THE LAND DESCRIBED AND SHOWN HEREON DOES NOT LIE IN THE 100 YEAR FLOOD PLAIN PER FEMA MAPS NO. 48085C0125 AND 48085C0260-G DATED JAN. 19, 1996

EXHIBIT "A"
ZONING CASE Z05-9

THE THOROUGHFARE ALIGNMENTS SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DOES NOT SET THE ALIGNMENT. THE ALIGNMENT IS DETERMINED AT TIME OF FINAL PLAN. THE FUTURE REQUIRED ROW FOR PROSPER TRAIL HAS PREVIOUSLY BEEN DEDICATED, REF. V. 4967, P. 951

DESIGNED BY:	WCA
DRAWN BY:	WCA
CHECKED BY:	WCA
DATE:	09/25/05
SCALE:	1" = 200'

WEBB CONSULTING GROUP, INC.
 PLANNING & DEVELOPMENT
 6324 BANDERA AVENUE, SUITE D
 DALLAS, TEXAS 75225
 214 696-2828 214 696-3282
 EMAIL: MCW5@SBCGLOBAL.NET

PROSPER VILLAS
EXHIBIT "A" FOR ZONING CASE Z05-2
 COLLIN CO. SCHOOL LAND SURVEY, ABS. 147
 TOWN OF PROSPER, COLLIN COUNTY, TEXAS
 80.57 GROSS ACRES

NO. DATE	REVISIONS
1	ISSUED FOR PERMITS
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100	ISSUED FOR PERMITS

EXHIBIT "B"
Statement of Intent and Purpose

Our intent for this tract is to develop it into a Master Planned Single Family Development with a recreational center and a series of lakes. We propose to provide single family lots starting with a minimum of 10,000 S.F. and increasing in size to 15,000 S.F. +.

The developer is also a custom home builder and plans to construct most if not all of the homes, insuring the highest level of architectural control and home construction quality control. The project will be developed in two (2) or three (3) phases depending on market demand, with two (2) to three (3) different product types and sizes. We propose an overall maximum density of 2.7 lots per acre.

Our purpose is to provide single family homes with on-site recreational amenities, lakes and additional landscaped parkways within one community ranging in price from \$250,000 to \$1,000,000 plus.

Exhibit C
Planned Development Standards

- A. The overall density of this project shall not exceed 2.72 units per acre or a total of 211 single family lots.
- B. Tract 1 of this property (the area bounded by Coleman Street, Prosper Trail, proposed Superior Avenue, and proposed Michigan Avenue) shall be developed with a maximum of 77 lots under the regulations of the Single Family-10 (SF-10) District as outlined in the Town of Prosper Zoning Ordinance 05-20 as it exists or may be amended.
- C. Tract 2 of this property (the remainder of the property) shall be developed with a maximum of 134 lots under the regulations of the Single Family-12.5 (SF-12.5) District as outlined in the Town of Prosper Zoning Ordinance 05-20 as it exists or may be amended, subject to the following amendments:
 - 1. Minimum lot area: 12,000 square feet.
 - 2. Minimum lot width: 80 feet.
 - 3. Minimum lot depth: 125 feet.
 - 4. Front building line: 25 feet.
 - 5. Side building line: 8 feet, 15 feet adjacent to a side street.
 - 6. Rear building line: 25 feet.
- D. Block C, Lot 38, as shown on the attached Exhibit D, shall be developed as a recreational area with a lake, clubhouse, pool, and other amenities. The recreational area shall be developed in conjunction with Phase 1 of the development.
- E. All multiple car garages shall be oriented to a left or right entry with no front entry orientation. Should there be a single car garage that must face the street, it shall be set back an additional 10 feet from the front setback line and the garage door façade shall blend with the exterior masonry.
- F. Lots backing or siding to Prosper Trail and/or Coleman Street shall include a wrought iron or decorative metal fence along the property line adjacent to the thoroughfare. A solid living screen of evergreen shrubs and canopy trees on thirty (30) foot centers shall be provided within a ten (10) foot landscape buffer located between the lots and the adjacent thoroughfare. The trees shall be located along the property line adjacent to the thoroughfare. A sidewalk shall be constructed within the landscape buffer so that the trees are located between

the sidewalk and the adjacent thoroughfare. This landscape area shall incorporate mechanical irrigation and shall be owned and maintained by the Ariana Estates Home Owners Association.

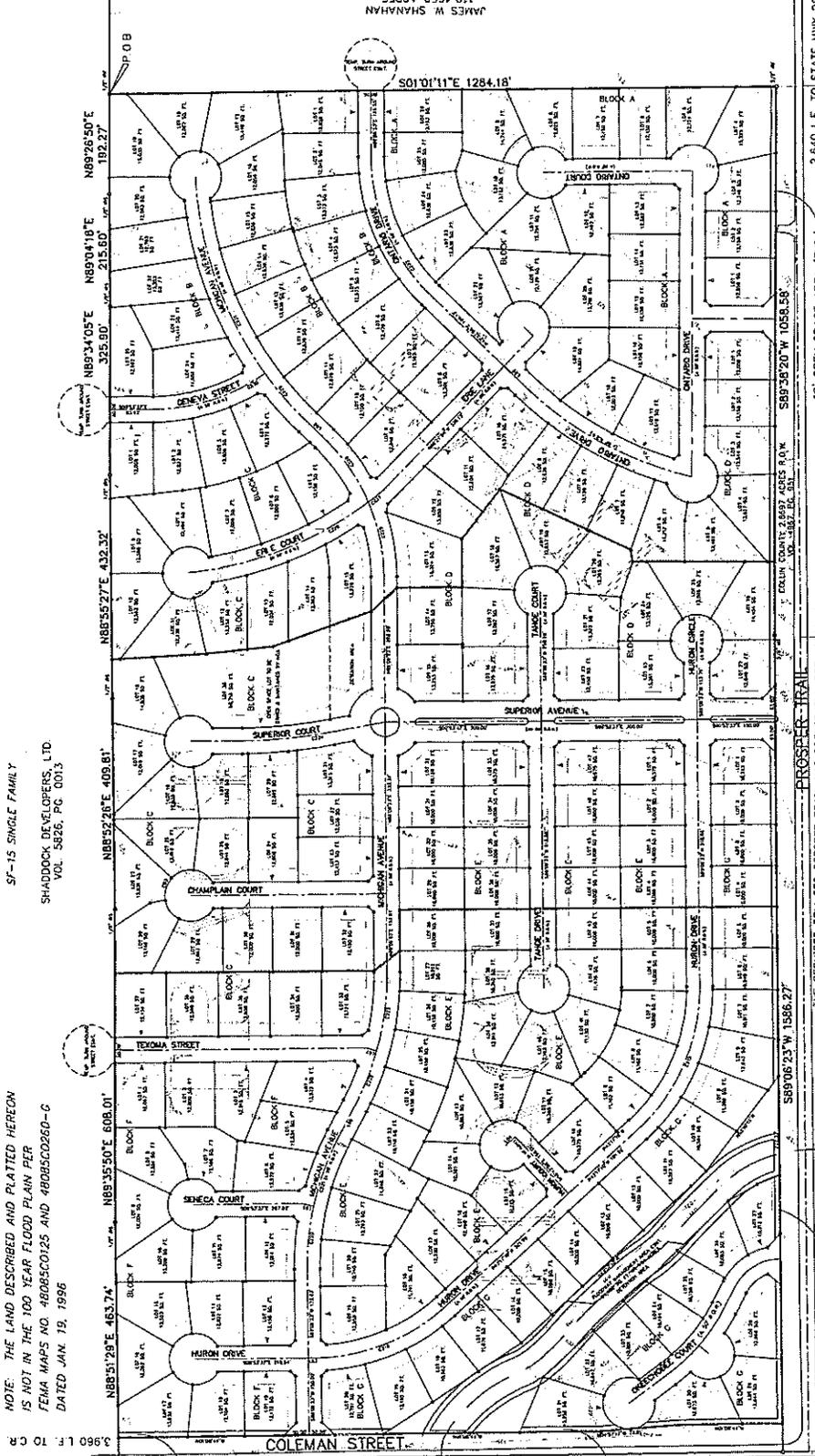
- G. All site plans, home designs and building, accent and landscaping materials shall be of the highest quality and will be subject to review by the "Architectural Control Committee" set forth by the Ariana Estates Home Owners Association prior to commencement of construction.

SF-15 SINGLE FAMILY
 LAKES OF PROSPER, LTD
 3.763 ACRES
 REF. V. 3572, P. 6921

NOTE: THE LAND DESCRIBED AND PLATTED HEREON
 IS NOT IN THE 100 YEAR FLOOD PLAN PER
 FEMA MAPS NO. 49085C0125 AND 49085C0260-G
 DATED JAN. 19, 1996

SF-15 SINGLE FAMILY
 SHADDOCK DEVELOPERS, LTD
 VOL. 5826, PG. 0013

JAMES W SHANAHAN
 VOL. 5060, PG. 2434
 SF-15 SINGLE FAMILY



07L RESIDENTIAL

KENT W. ELLIOTT
 DOC. NO. 97-0094229
 1 ACRE
 10' OPEN SPACE AREA (TYP.)

CARY JAMES
 DOC. NO. 92-0042544
 0.891 ACRES
 VOL. 3252, PG. 651

JOHN H. HILL
 0.779 ACRES
 VOL. 4561, PG. 1888

THOMAS BULL
 2.8 ACRES
 VOL. 4489, PG. 1938

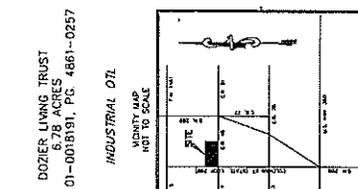
PEGGY HEIST
 1.174 ACRES
 VOL. 1520, PG. 789

PEGGY HEIST
 1.174 ACRES
 VOL. 5140, PG. 3118

10' OPEN SPACE AREA (TYP.)

W. H. PERRY
 VOL. 4847, PG. 3189

PEGGY HEIST
 0.8638 ACRES
 VOL. 4847, PG. 3189



INDUSTRIAL OZ
 WORTHY MAP
 NOT TO SCALE

DOOPER LIVING TRUST
 5.78 ACRES
 VOL. 01-0018191, PG. 4661-0257

TRAILS OF PROSPER, II
 LEASING PORTION OF TEXAS
 LAND & COAST, L.P.

CHARALAMBOS SOPHOCLEOUS
 VOL. 5702, PG. 0838

EDWARD EARL FAULKNER
 VOL. 5729, PG. 3638

JODY B. STREET
 VOL. 5764, PG. 3116

JACKLYN A. HUGHES
 VOL. 5652, PG. 3888

ROBERT D. KELLEY JR.
 VOL. 5661, PG. 4373

MARCUS E. RAY
 VOL. 5683, PG. 2280

JEFFREY PAYNE
 VOL. 5641, PG. 5457

CHARLES R. BROWN
 VOL. 5684, PG. 5082

RAPH SARLIN
 VOL. 5643, PG. 5234

50' ROW

50' ROW

50' ROW

10' OPEN SPACE AREA (TYP.)

PROSPER TRAIL

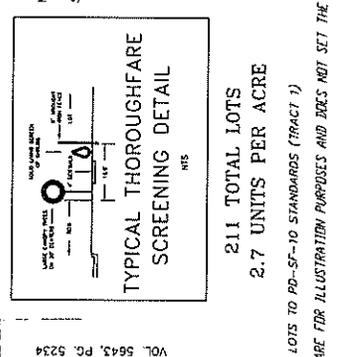
THE REQUIRED ROW FOR PROSPER TRAIL HAS PREVIOUSLY BEEN DESIGNATED, REF. V. 4967, P. 951

589'00" 23' W 1586.27'

10' OPEN SPACE AREA (TYP.)

589'50" 20' W 1058.85'

2.6-40 LF TO STATE HWY 289 (PRESTON RD.)



TYPICAL THOROUGHFARE
 SCREENING DETAIL

211 TOTAL LOTS
 2.7 UNITS PER ACRE

EXHIBIT "D"
 ZONING CASE Z05-9
 LOTS 1 - 26, BLOCK A
 LOTS 1 - 25, BLOCK B, LOTS 1 - 37, BLOCK C
 LOTS 1 - 27, BLOCK D, LOTS 1 - 47, BLOCK E
 LOTS 1 - 19, BLOCK F, LOTS 1 - 30, BLOCK G
 BEING A 77.70 ACRE TRACT
 SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY,
 ABSTRACT NO. 147
 IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS

ARTHUR & KARRIE DALTON
 CCD #94-010582
 SF-15 SINGLE FAMILY

MICHAEL C. PERRY
 CCD #63-010478
 SF-15 SINGLE FAMILY

WEBB CONSULTING GROUP, INC.
 PLANNING, ENGINEERING & DEVELOPMENT
 8334 W. DALLAS, TEXAS 75225
 214.696.2828 214.696.3282 FAX
 EMAIL: NEW@WEBBCONSULTING.COM

ARIANA ESTATES
Exhibit E
Planned Development Schedule

- A. Phase 1 is scheduled to begin construction August 1, 2005 with home construction beginning December 1, 2005.
- B. Phase 2 is scheduled to begin construction July 1, 2006 with home construction beginning November 1, 2006.
- C. Phase 3 is scheduled to begin construction June 1, 2007 with home construction beginning October 1, 2005.
- D. All lot sales are expected to be closed by years end 2010.