

PD-37

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 07-041

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 8.207 ACRES, MORE OR LESS, SITUATED IN THE COLLIN COUNTY SCHOOL 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-DOWNTOWN RESIDENTIAL (PD-DTR); 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 Head Construction Inc. ("Applicant") to rezone 8.207 acres of land, more or less, situated in the Collin County School 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 8.207 acres of land, more or less, situated in the Collin County School 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-Downtown Residential (PD-DTR). 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"; 4) the development schedule, attached hereto as Exhibit "E"; 5) and the conceptual examples of the architectural design of the houses, attached hereto as Exhibit "F"; 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.

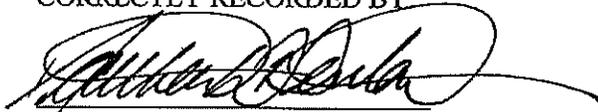
SECTION 8: Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 8th DAY OF MAY, 2007.

APPROVED AS TO FORM:

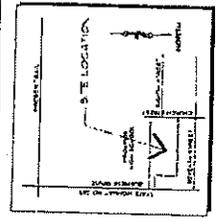

Charles Niswanger, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:

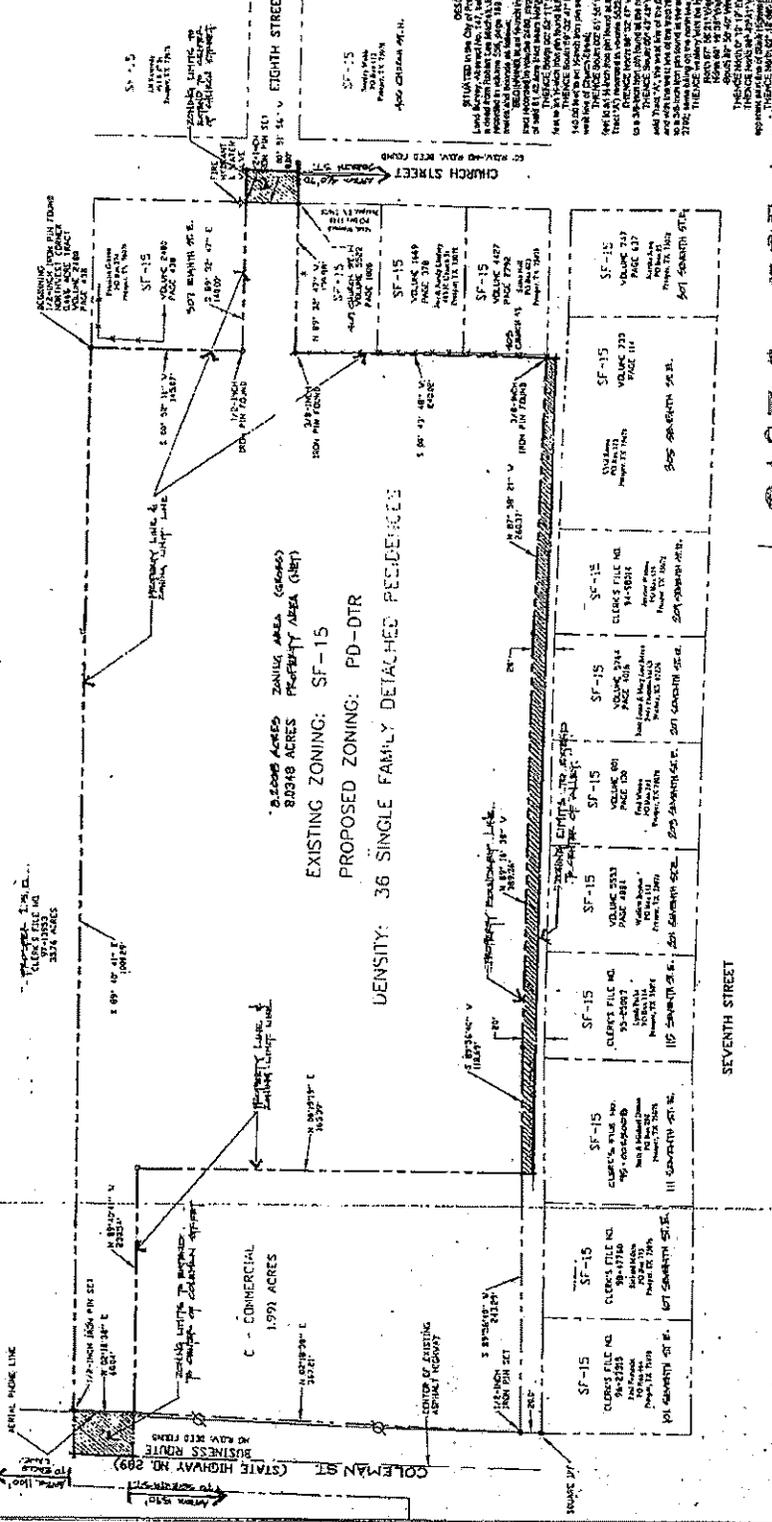

Matthew Denton, TRMC
Town Secretary

DATE OF PUBLICATION: MAY 17, 2007, Dallas ~~North~~ ^{North} TEXAS - Collin County
Addition

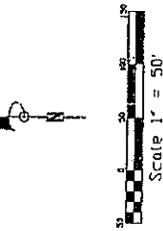




VICINITY MAP



CASE # : 2017-010
EXHIBIT "A"



APPLICANT: HEAD CONSTRUCTION, INC.
3500 DELL DRIVE, SUITE 700
FRODOPELA, TEXAS 75078
214-732-7232, 7324

OWNERS: DAN TOLSON, JR.
& MELBA DAN CHUDR
FRODOPELA, TEXAS 75078
472-2374-0077
214-533-8933

SURVEYOR: GERR SURVING & ENGINEERING
501 PARCH STREET
FRODOPELA, TEXAS 75069
472-2374-0077

ALL RIGHTS RESERVED BY THE APPLICANT. THIS PLAN IS THE PROPERTY OF THE APPLICANT AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE APPLICANT.

THE LAND PLATTED HEREON IS NOT IN THE 100 YEAR FLOOD PLAIN.

RESERVED TO THE CITY OF PROSPER, TEXAS. THE CITY OF PROSPER HAS REVIEWED THIS PLAN AND HAS DETERMINED THAT IT IS IN ACCORDANCE WITH THE CITY OF PROSPER ORDINANCES AND THE CITY OF PROSPER ZONING ORDINANCES. THE CITY OF PROSPER DOES NOT WARRANT THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE CITY OF PROSPER IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS PLAN. THE CITY OF PROSPER IS NOT RESPONSIBLE FOR ANY DAMAGES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING OUT OF OR FROM THE USE OF THIS PLAN. THE CITY OF PROSPER IS NOT RESPONSIBLE FOR ANY DAMAGES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING OUT OF OR FROM THE USE OF THIS PLAN.

CERTIFICATION
I, the undersigned, being a duly qualified and licensed Professional Engineer in the State of Texas, do hereby certify that this plan and the information contained hereon were prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer in the State of Texas. I am duly licensed in the State of Texas under No. 4117.

PROSPER, TEXAS
DATE: 08/14/2017



PROSPER, TEXAS
DATE: 08/14/2017
DAN TOLSON, JR.
PROFESSIONAL ENGINEER
NO. 4117

60' R.O.W. - NO RI

DESCRIPTION 8.0348 ACRES

SITUATED in the City of Prosper, Collin County, Texas, in the Collin County School Land Survey, Abstract No. 147, being a survey of part of the 81.42 acre tract described in a deed from Robert Lee Mitchell, Jr., et al to Roy Skelton, dated August 27, 1959, recorded in volume 556, page 189 of the Collin County deed records, being described by metes and bounds as follows:

BEGINNING at an 1/2-inch iron pin found at the northwest corner of the 0.466 acre tract recorded in volume 2480, page 438; an 1/2-inch iron pin found at the northwest corner of said 81.42 acre tract bears North 89° 40' 41" West, 1699.81 feet:

THENCE South 00° 52' 11" West, with the west line of said 0.466 acre tract, 145.07 feet to an 1/2-inch iron pin found at the southwest corner of said 0.466 acre tract;

THENCE South 89° 32' 47" East, with the south line of said 0.466 acre tract, 140.00 feet to an 1/2-inch iron pin set at the southeast corner of said 0.466 acre tract, in the west line of Church Street;

THENCE South 00° 51' 56" West, with the west line of said Church Street, 50.00 feet to an 1/2-inch iron pin found at the northeast corner of a tract(here after referred to as Tract "A") recorded in volume 5522, page 1006;

THENCE North 89° 32' 47" West, with the north line of said Tract "A", 139.98 feet to a 3/8-inch iron pin found at the northwest corner of said Tract "A";

THENCE South 00° 43' 48" West, along and near a fence and with the west line of said Tract "A", the west line of the 0.257 acre tract recorded in volume 1669, page 378 and with the west line of the tract recorded in volume 4427, page 2792, in all, 240.02 feet to a 3/8-inch iron pin found at the southwest corner of said tract in volume 4427, page 2792; same being on the north line of an unrecorded alley;

THENCE westerly with the north line of said alley as follows:

North 87° 58' 21" West, 260.37 feet to an 1/2-inch iron pin set;

North 89° 16' 38" West, 389.36 feet to an 1/2-inch iron pin set;

South 89° 56' 40" West, 118.69 feet to an 1/2-inch iron pin set;

THENCE North 0° 19' 19" East, 365.39 feet to an 1/2-inch iron pin set;

THENCE North 89° 40' 41" West, 230.54 feet to an 1/2-inch iron pin set in the apparent east line of State Highway No. 289(Business Route);

THENCE North 02° 18' 38" East, with the apparent east line of said State Highway No. 289(Business Route), 60.04 feet to an 1/2-inch iron pin set;

THENCE South 89° 40' 41" East, 1000.29 feet to the PLACE OF BEGINNING and containing 8.0348 acres.

Easement to Denton County Electric Cooperative, Inc. in volume 468, page 90 mentions one power pole and service line, but there is no overhead power line located on the 8.0348 acre tract shown hereon. The 8.0348 acre tract shown hereon is a part of the parent tract mentioned in said easement to Denton County Electric Cooperative, Inc.

Easement to Lone Star Gas Company in volume 627, page 530 is blanket and applies to the 8.0348 acre tract shown hereon.

Easement to Southwestern Bell Telephone Company in volume 743, page 14 does not apply to the 8.0348 acre tract shown hereon.

CERTIFICATION:

I, hereby certify that I made the survey on the ground on August 5, 2005, on the herein described tract shown hereon and set corner stakes as reflected on the plat and that only visible or apparent improvements on the ground are as shown on the survey; to my knowledge, there are no visible or apparent encroachments, overlapping of improvements or conflicts except as shown on the survey plat. Note: At the time of this survey, the land platted hereon was planted with corn. There could be items or improvements on this property that are not shown on this survey plat because of the existing corn crop.

Surveyed September 2, 2005

Bruce Geer, Registered Professional Land Surveyor No. 4117
1512 W. University, Suite 300
McKinney, Texas 75069
(972) 562-3959
(972) 542-5751 fax



EXHIBIT "B"

STATEMENT OF INTENT & PURPOSE

**EAGLE'S RIDGE
Prosper, Texas**

Intent:

It is our intent to develop this property into a residential subdivision with a total of 32 single family detached residences. It is our request that the current SF-15 Zoning be allowed to change to "PLANNED DEVELOPMENT (PD-DTR)" Zoning. However, given the exact shape and size of this property, a variance in lot depth, but not lot size, is needed to accommodate the full vision of the development of this property.

Purpose:

The purpose of this development is to add to and enhance the current character of the Town of Prosper. To accomplish this we are proposing a small and intimate neighborhood of only 32 single family detached homes. Further, these homes will all have the distinct architectural characteristics of the "Craftsman" style homes that are so prevalent within the Town of Prosper.

This new development within the "Old Town Core District" will also add to and maintain Downtown support and activity of current and future Downtown Businesses and provide for the beginning of the Town of Prosper's planned economic growth.

EXHIBIT "C"

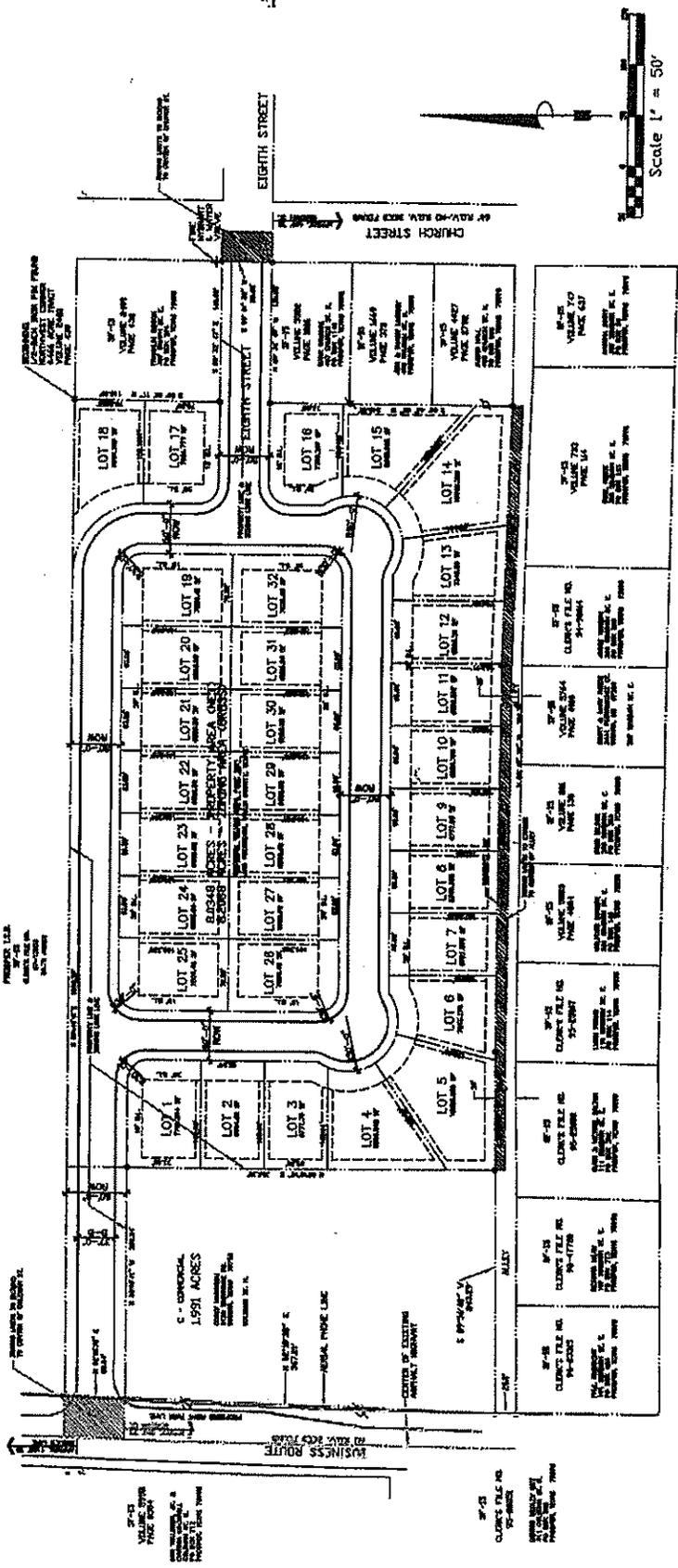
PLANNED DEVELOPMENT STANDARDS

**EAGLE'S RIDGE
Prosper, Texas**

This tract may be developed under the regulations of "Downtown Residential" as outlined in the Town of Prosper's Comprehensive Zoning Ordinance No.05-20 as it currently exists and may be amended with the following conditions:

- A) Minimum Front Yard shall be 20'.
- B) A non-enclosed porch may have a Front Yard setback of 15'.
- C) All Garage Doors shall be setback 25' from the front property line.
- D) Minimum Lot Depth: 100.00'.
- E) Minimum Lot Area: 6,000 square feet.
- F) Landscaping along north property line will include one 3" caliper tree every 30'. This area is part of the "Right of Way" and will be maintained by the "Eagle's Ridge Addition Home Owner's Association".
- G) All "Right of Way" and "Un-sold" properties will be maintained by the Developer or Builder until such a time that 50% of the properties are sold. At that time, the "Eagle's Ridge Addition Home Owner's Association" will be initiated and installed.
- H) Each lot will be provided with the caliper total per lot as required per the Landscaping requirements of Zoning Ordinance 05-20 as it exists or may be amended, with a minimum of one 4" caliper tree in the front yard of each lot in lieu of the standard minimum of one 3" caliper tree per lot.

Less than 6,999 sq ft = 4 caliper inches
7,000 – 8,999 sq ft = 6 caliper inches
9,000 – 19,999 sq ft = 9 caliper inches
- I) Minimum dwelling area: 1750 square feet.
- J) The maximum number of residential lots is 32.



Z07-1 EXHIBIT "D"

SCALE: 1" = 50'-0"

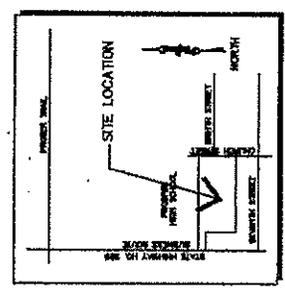
LAYOUT INDICATES 32 LOTS PER
PLANNING & ZONING CONDITION APRIL 17, 2007

EAGLES RIDGE ADDITION
8.0348 ACRES - PROPERTY AREA (NET)
8.2068 ACRES - ZONING AREA (GROSS)

EXISTING ZONING: SF-15 PROPOSED ZONING: PD-DTR

NOTE: THE THROUGHFARE ALIGNMENTS SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DOES NOT SET THE ALIGNMENT. THE ALIGNMENT IS DETERMINED AT TIME OF FINAL PLAT.

ACCORDING TO FEMA MAP NO. 48055C0280 G, DATED 1-19-1996 THE LAND PLATTED HEREON IS NOT IN THE 100 YEAR FLOOD PLAIN.



VICINITY MAP
SCALE: 1" = 50'

APPLICANT: **SCAD CONSTRUCTION, INC.**
5000 WESTPORT, SUITE 700
DALLAS, TEXAS 75224
214-722-7535

OWNERS: **DAN TOLSON, JR.**
5000 WESTPORT, SUITE 700
DALLAS, TEXAS 75224
214-533-8853

SURVEYOR: **GEER SURVEYING & ENGINEERING**
601 FINCH STREET
PROSPER, TEXAS 75078
972-538-0071

EXHIBIT "D"

EXHIBIT "E"

DEVELOPMENT SCHEDULE

**EAGLE'S RIDGE
Prosper, Texas**

Following City Approval and receipt of Building Permit, it is estimated that the development of Eagle's Ridge Addition would be complete within twelve months or less.

Further, it is estimated that the subdivision will be completely built out within 2 years following City Approvals.

EXHIBIT "F"

The attached pictures of houses are to act as conceptual examples of the architectural design of the houses in the Eagle's Ridge development.

