

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 10-112

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 12.693 ACRES, MORE OR LESS, SITUATED IN THE LARKIN MCCARTY SURVEY, ABSTRACT NO. 600, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, HERETOFORE ZONED AGRICULTURAL (A) IS HEREBY REZONED AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-SINGLE FAMILY (PD-SF); 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 Dan Tolleson ("Applicant") to rezone 12.693 acres of land, more or less, situated in the Larkin McCarty Survey, Abstract No. 600, 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 12.693 acres of land, more or less, situated in the Larkin McCarty Survey, Abstract No. 600, 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 (PD-SF). 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 concept plan, attached hereto as Exhibit "D"; and 4) the phasing plan, 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 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.

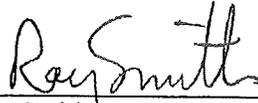
SECTION 6: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper 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 14th DAY OF DECEMBER, 2010.

APPROVED AS TO FORM:



Ray Smith, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:



Matthew D. Denton, TRMC
Town Secretary



DATE OF PUBLICATION: DECEMBER 28 2010, Dallas Morning News

LEGAL DESCRIPTION

BEING all that parcel of land in the Town of Prosper, Collin County, Texas and being a part of the Larkin McCarty Survey, Abstract Number 600, and being all the tracts of land described in a Special Warranty Deed to Dan Tolleson, Jr. as recorded in County Clerk's Document Number 20060804001108630, Deed Records Collin County, Texas, being all of that called 1.000 acre tract of land described in a General Warranty Deed to Dan Tolleson, Jr. as recorded in County Clerk's Document Number 20080304000253710, Deed Records Collin County, and being further described as follows:

BEGINNING at a one-half inch iron rod set for the southwest corner of a called 1.4665 acre tract of land described in a Special Warranty Deed to Dan Tolleson, Jr. and wife Debbie Tolleson as recorded in Volume 5428, Page 115, Deed Records Collin County, said point being at the southeast corner of a called 10.1223 acre tract of land described in a Special Warranty Deed to Eve Long Yueh Chow as recorded in Volume 4653, Page 3029, Deed Records Collin County, and said point being in the center of First Street (County Road 79, a prescriptive use right-of-way), to which a one-half inch iron rod set for witness bears North 00 degrees 26 minutes 26 seconds West, 20.00 feet;

THENCE North 00 degrees 26 minutes 26 seconds West, at 269.99 feet passing a one-half inch iron rod found for the northwest corner of said 1.4665 acre tract of land, said point being the southwest corner of a called 5.1989 acre tract of land described in a Special Warranty Deed to Dan Tolleson, Jr. and wife Debbie Tolleson as recorded in Volume 5438, Page 5938, Deed Records Collin County, and said point being in the east line of said 10.1223 acre tract of land, in all a total of 864.01 feet to a three-eighths inch iron rod found for the northwest corner of said 5.1989 acre tract of land, said point being at the northeast corner of said 10.1223 acre tract of land and said point being in the southerly line of a called 198.86 acre tract of land described in a Special Warranty Deed to HRC Ranch, Ltd. as recorded in Volume 4911, Page 2695, Deed Records Collin County;

THENCE North 89 degrees 01 minutes 13 seconds East, 362.16 feet along the south line of said 198.86 acre tract of land to a wooden fence post found for the northeast corner of said 5.1989 acre tract of land and said point being in the west line of Ware's Cemetery;

THENCE South 00 degrees 37 minutes 22 seconds East, 161.37 feet along the east line of said 5.1989 acre tract of land to a one-half inch iron rod found for the northwest corner of a called 0.363 acre tract of land described in a Special Warranty Deed to Dan Tolleson, Jr. and wife, Debbie Tolleson as recorded in Volume 4906, Page 2079, Deed Records Collin County, and said point being at the southwest corner of Ware's Cemetery;

THENCE North 85 degrees 33 minutes 35 seconds East, at 59.39 feet passing a one-half inch iron rod found for the northeast corner of said 0.363 acre tract of land and said point being the northwest corner of a called 0.388 acre tract of land described in a Special Warranty Deed to Dan Tolleson, Jr. and wife, Debbie Tolleson, as recorded in Volume

4906, Page 2075, Deed Records Collin County, continuing 56.95 feet passing a 60d nail found in the east side of a tree for the northeast corner of said 0.388 acre tract of land and said point being the northwest corner of a called 4.00 acre tract of land described in a Special Warranty Deed with Vendor's Lien to Dan Tolleson, Jr. and wife, Debbie Tolleson as recorded in Volume 4723, Page 4030, Deed Records Collin County, in all a total distance of 717.44 feet along the south line of Ware's Cemetery to a one-half inch iron rod set for the northeast corner of said 4.00 acre tract of land and said point being in the center of First Street, to which a one-half inch iron rod set for witness bears South 85 degrees 33 minutes 35 seconds West, 30.08 feet;

THENCE South 00 degrees 21 minutes 11 second East, 314.73 feet along the center of First Street to a one-half inch iron rod found for the southeast corner of said 4.00 acre tract of land and said point being at the northeast corner of a called 2.28 acre tract of land described in a Warranty Deed with Vendor's Lien to Harry Glen Gammons and wife, Wanda M. Gammons as recorded in Volume 4723, Page 4020, Deed Records Collin County, to which a one-half inch iron rod set for witness bears South 89 degrees 30 minutes 13 seconds West, 30.00 feet;

THENCE South 89 degrees 30 minutes 13 seconds West, 588.16 feet to a one-half inch iron rod found for the southwest corner of said 4.00 acre tract of land, said point being the southeast corner of said 0.388 acre tract of land, said point being the northeast corner of a called 0.2766 acre tract of land described in a Special Warranty Deed to Dan Tolleson, Jr. and wife, Debbie Tolleson as recorded in Volume 5432, Page 5521, Deed Records Collin County, and said point being the northwest corner of said 2.28 acre tract of land;

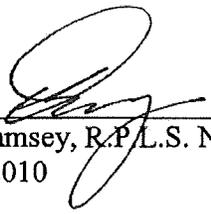
THENCE South 02 degrees 38 minutes 00 seconds East, 170.07 feet to a one-half inch iron rod found for the southeast corner of said 0.2766 acre tract of land and said point being the southwest corner of said 2.28 acre tract of land;

THENCE South 89 degrees 07 minutes 10 seconds West, at 74.25 feet passing a one-half inch iron rod found for the southwest corner of said 0.2766 acre tract of land, said point being the southeast corner of said 5.1989 acre tract of land, said point begin in the east line of a called 9.123 acre tract of land described in a General Warranty Deed to Michael Lynn Nelson as recorded in Volume 1470, Page 171, and said point being in the west line of a called 9.122 acre tract of land described in deed to Michael Lynn Nelson as recorded in Volume 1470, Page 177, Deed Records Collin County, in all a total distance of 101.58 feet to a one-half inch iron rod found for the northeast corner of said 1.000 acre tract of land and said point being in the south line of said 5.1989 acre tract of land;

THENCE South 00 degrees 58 minutes 17 seconds East, 271.47 feet to a one-half inch iron rod set for the southeast corner of said 1.000 acre tract of land, said point being in the south line of said 9.123 acre tract of land, and said point being in the center of First Street, to which a one-half inch iron rod set for witness bears North 00 degrees 58 minutes 17 seconds West, 20.00 feet;

THENCE South 89 degrees 45 minutes 40 seconds West, 397.16 feet along the south line of said 1.000 acre tract of land and along the south line of said 1.4665 acre tract of land to the POINT OF BEGINNING and containing 552,886 square feet or 12.693 acres of land.

“This document was prepared under 22 TAC 663.23, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.”



Dan B. Ramsey, R.P./L.S. No. 4172
June 25, 2010



EXHIBIT B FOR Z10-0010
STATEMENT OF INTENT AND PURPOSE

The purpose of this planned development is to continue to positive environment created by the Whitley Place community. The proposed development standards mirror those previously adopted by the Town for Whitley Place. Additionally, the entrance, common areas, and buffer treatments established for Whitley Place, will be carried through this planned development.

This planned development will also allow the opportunity for a second entrance to Whitley Place which will further the positive atmosphere created by that community.

EXHIBIT C FOR Z10-0010
12.69 ACRES (GROSS)
PLANNED DEVELOPMENT STANDARDS

1.0 Planned Development District – Single Family Residential

- 1.01 The property shall be developed in accordance with the Single Family-10 District as outlined in the Town of Prosper Zoning Ordinance 05-20, as it exists or may be amended, unless identified below.
- 1.02 Development Pattern: The property shall generally develop in accordance with Exhibit D, Zoning Exhibit.
- 1.03 Number of Lots: The maximum number of single-family residential lots within the proposed development shall not exceed 25.
- 1.04 Setbacks
 - 1.041 Minimum Front Yard: 25’.
 - 1.042 Minimum Side Yard: 8’, 15’ on corner adjacent to a side street.
 - 1.043 Minimum Rear Yard: 25’.
- 1.05 Minimum Lot Area: 10,000 square feet.
- 1.06 Minimum Lot Width at Front Building Line: 80’.
- 1.07 Minimum Lot Depth: 120’. A minimum lot depth of 110’ may be allowed for not more than 10% of the lots.
- 1.08 Minimum Dwelling Area: 2,100 square feet.
- 1.09 Maximum Height: Buildings shall be a maximum of 2 ½ stories, not to exceed 40’ in height.
- 1.10 Maximum Lot Coverage: 45%.
- 1.11 Required Parking: A minimum of 4 off-street, concrete parking spaces shall be provided for each residential unit. As part of the parking requirement, at least 2 of the off-street parking spaces shall be in an enclosed garage. Garage doors shall be located on or behind the applicable setback line for the residential unit. Detached, stand-alone carports shall be prohibited. The parking of motor homes, boats, and/or trailers on a lot facing a street or on a street, is prohibited.

- 1.12 Mechanical Equipment: All mechanical equipment (pool, air conditioning, etc.) shall be completely screened from public view. A combination of hedges or walls should be used to screen equipment or mechanical areas.
- 1.13 Mailboxes: The property will be deed restricted to require a standard mailbox design that will be constructed with each home or structure and maintained by the property owner or HOA for a consistent look throughout the development. Each mailbox will be iron, wrought-iron, or cast alloy posts or stand and all mailboxes will match in color and style with those built in the Whitley Place community. Brick mailboxes shall be prohibited.
- 1.14 Fencing: All lots adjacent to designated open spaces shall be restricted to ornamental metal fencing. All wood fencing shall be a minimum of stained/sealed board to board with metal poles.

2.0 General Conditions

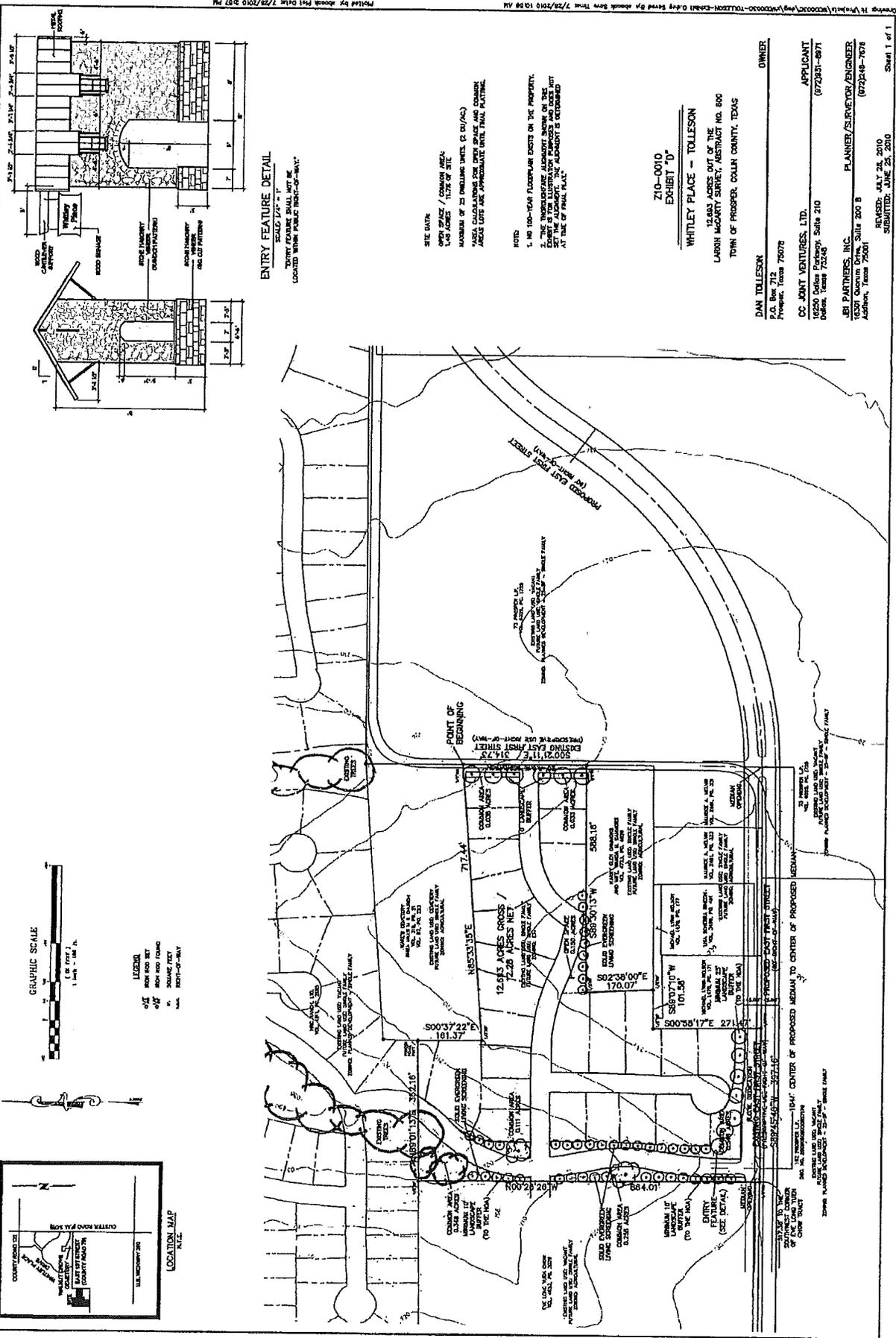
2.01 Entry Features, Community Enhancements and Buffering:

An entry feature and community enhancements shall be provided in the general location as shown on Exhibit D. The entry feature shall be of a similar design and use similar materials to those used for the entry features for the Whitley Place community. The entry feature design shall be generally consistent with the Entry Feature Detail shown on Exhibit D. The entry feature shall not be located on public right-of-way.

In order to create a cohesive theme for the outward appearance of the community, community enhancements and buffering shall be of a similar design and use similar building and plant materials as those approved for Whitley Place Phase 1 on September 20, 2007. A minimum 25' wide landscape buffer/HOA lot shall be provided adjacent to that portion of First Street which is shown on the Town of Prosper's Thoroughfare Plan. A minimum 10' wide landscape buffer/HOA lot shall be provided adjacent to the north-south portion of First Street adjacent to the east boundary of the planned development.

The entry drive to the Whitley Place community, as shown on Exhibit D, shall be built in conjunction with that portion of the Whitley Place community which is accessed by this drive. The drive shall consist of a minimum of 50' of right-of-way and a minimum of 31' of paving back-to-back. A minimum 10' wide landscape buffer shall be provided on both sides of the entry drive. Where residential lots abut or are planned to abut either the east or west side of the drive corridor, a screening hedge, meeting the Town of Prosper's requirements, shall be provided in the corridor.

2.02 Homeowner's Association: Each lot shall be a member of the Whitley Place Homeowner's Association.



ENTRY FEATURE DETAIL
 SEE SHEET 710-010
 20' WIDE FRONT PORCH SHALL BE LOCATED WITHIN PUBLIC RIGHT-OF-WAY

SITE DATA:
 OPEN SPACE / COMMON AREA: 1.45 ACRES 11.7% OF SITE
 NUMBER OF 20' INCLUDING UNITS OF 20' (N/A)
 AREA CALCULATIONS FOR OPEN SPACE AND COMMON AREA LOTS ARE APPROXIMATE UNTIL FINAL PLANNING

NOTES:
 1. NO 10'-YEAR FLOODPLAIN EXISTS ON THE PROPERTY.
 2. THE UNDERLYING ALTIMETER SURFACE ON THIS SITE IS 100.00 FEET. THE ALTIMETER SURFACE IS NOT AT THE ALTIMETER. THE ALTIMETER IS RETURNED AT THE TOP OF FINAL PAVEMENT.

710-010
EXHIBIT 'D'

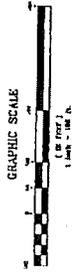
WHITLEY PLACE - TOLLESON
 12.683 ACRES, OUT OF THE
 LARSON McCARTY SURVEY, ABSTRACT NO. 600
 TOWN OF PROSPER, COLLIN COUNTY, TEXAS

DAN TOLLESON
 P.O. Box 712
 Prosper, Texas 75078
OWNER

CC JOINT VENTURES, LTD.
 19250 Dallas Parkway, Suite 210
 Dallas, Texas 75246
APPLICANT
 (972) 931-8971

LEI PARTNERS, INC.
 15301 Quorum Drive, Suite 200 B
 Addison, Texas 75001
PLANNER/SURVEYOR/ENGINEER
 (972) 248-7078

REMOVED: JULY 28, 2010
 SUBMITTED: JUNE 25, 2010



LEGEND
 - - - - - EXISTING DRIVEWAY
 - - - - - EXISTING DRIVEWAY

