

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 18-24

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; GRANTING A SPECIFIC USE PERMIT (SUP) FOR A UTILITY DISTRIBUTION/TRANSMISSION FACILITY, LOCATED ON A TRACT OF LAND CONSISTING OF 8.947 ACRES, MORE OR LESS, SITUATED IN THE J. MORTON LAND SURVEY, ABSTRACT NO. 793, IN THE TOWN OF PROSPER, DENTON COUNTY, TEXAS; 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 Brazos Electric Power Cooperative, Inc. ("Applicant") for a Specific Use Permit (SUP) to allow for a Utility Distribution/Transmission Facility on a tract of land zoned Agricultural (A), consisting of 8.947 acre of land, more or less, situated in the J. Morton Land Survey, Abstract No. 793, in the Town of Prosper, Denton County, Texas, and being particularly being described in Exhibit "A," attached hereto and incorporated herein for all purposes; 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 to grant a Specific Use Permit (SUP) have been given in the manner and form set forth by law, public hearings have been held, and all other requirements of notice and completion of such procedures have been fulfilled; and

WHEREAS, the Town Council has further investigated into and determined that it will be advantageous and beneficial to the Town of 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

Specific Use Permit Granted. Zoning Ordinance No. 05-20 is amended as follows: Applicant is granted a Specific Use Permit (SUP) to allow the operation of a Utility Distribution/Transmission Facility, on a tract of land zoned Agricultural (A), consisting of 8.947 acre of land, more or less, situated in the J. Morton Land Survey, Abstract No. 793, in the Town of Prosper, Denton County, Texas, and being particularly being described in Exhibit "A," attached hereto and incorporated herein for all purposes as if set forth verbatim.

The property shall continue to be used in a manner consistent with the conditions expressly stated in the concept site plan, attached hereto as Exhibit "B," the concept landscape plans, attached hereto as Exhibit "C"; and the conceptual elevations, attached hereto as Exhibit "D," which are incorporated herein for all purposes as if set forth verbatim, subject to the following conditions of approval by the Town Council:

1. Removal of the perimeter fencing in conjunction with adjacent development; and
2. Connection to Town water once available, if temporary irrigation is provided.

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.

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.

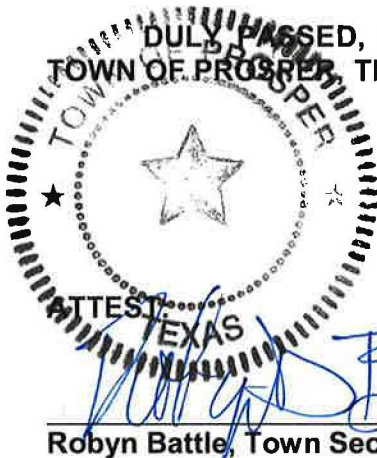
SECTION 7

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, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE
TOWN OF PROSPER, TEXAS, ON THIS 27TH DAY OF MARCH, 2018.**





Ray Smith, Mayor



Robyn Battle, Town Secretary

APPROVED AS TO FORM AND LEGALITY:



Terrence S. Welch, Town Attorney

T:\WORK\Brazos\Brazos - XREF.dwg - XREF.dwg - XREF.dwg - XREF.dwg
GEACHT, SHAY 11/02/18 11:27 AM
LAST SAVED 12/15/17 8:58 AM
THIS DOCUMENT, TOGETHER WITH THE CONCEPTS AND DESIGNS PRESENTED HEREIN, AS AN INSTRUMENT OF SERVICE, IS INTENDED ONLY FOR THE SPECIFIC PURPOSE AND CLIENT FOR WHICH IT WAS PREPARED. REUSE OF AND IMPROPER RELIANCE ON THIS DOCUMENT WITHOUT WRITTEN AUTHORIZATION AND ADAPTATION BY KIMLEY-HORN AND ASSOCIATES, INC. SHALL BE WITHOUT LIABILITY TO KIMLEY-HORN AND ASSOCIATES, INC.



Parvin Substation

Property Description

BRAZOS ELECTRIC POWER COOPERATIVE, INC.
P.O. Box 2385, Waco, Texas 76702-2385
7616 Bagby Ave., Waco, Texas 76712
(254) 750-6500

The John Morton Survey, Abstract No. 793,
Denton County, Texas
Brazos Electric Power Cooperative, Inc.

BEING an 8.947 acre tract of land located in the John Morton Survey, Abstract No. 793, Denton County, Texas, and being a portion of the called 129.978 acre tract described in Exhibit "A" of the Special Warranty Deed to Swisher Partners, L.P., a Texas Limited Partnership, dated January 20, 2004, as recorded January 21, 2004, in Denton County Clerk's Instrument No. 2004-7927, Official Records, Denton County, Texas, said 8.947 acre portion being further described by metes and bounds as follows;

BEGINNING at a three-quarter (3/4) inch diameter iron rod set with a two (2) inch diameter aluminum cap stamped "Brazos Electric - Boundary" for the southwest corner the herein described tract, same being the southwest corner of said Swisher Partners Tract, said point also being located in the east right-of-way line of Farm Market Road No. 1385, a public right-of-way of eighty (80) feet in width according to the Right-Of-Way Deed dated November 22, 1949, as recorded March 23, 1950, in Volume 348, Page 209, Deed Records, said County, from said beginning point a six (6) inch diameter wooden TXDOT right-of-way post found (CM) in said east right-of-way line bears South 01 degrees 33 minutes 18 seconds West at 357.83 feet, and again from said beginning point an eight (8) inch diameter wooden fence corner post (sawed-off utility pole) found at the northwest corner of the called 23.818 acre tract described in the Warranty Deed to Tommy Wilson Noles dated December 21, 1987, and recorded December 28, 1987, Deed Records, said County, bears North 89 degrees 30 minutes 27 seconds East at 1.4 feet;

THENCE North 01 degrees 33 minutes 18 seconds East (said Swisher Partners deed bearing is North 02 degrees 38 minutes 39 seconds East) with the unfenced east right-of-way line of said Farm Market Road No. 1385, same being the west boundary line of said Swisher Partners Tract, 650.00 feet to a three-quarter (3/4) inch diameter iron rod set with a two (2) inch diameter aluminum cap stamped "Brazos Electric - Boundary" for the northwest corner the herein described tract;

THENCE North 89 degrees 30 minutes 27 seconds East departing said east right-of-way line and said Swisher Partners west boundary line, with an unfenced line, 600.00 feet to a three-quarter (3/4) inch diameter iron rod set with a two (2) inch diameter aluminum cap stamped "Brazos Electric - Boundary" for the northeast corner the herein described tract, from said point a three-eighths (3/8) inch diameter iron rod found beneath the paved surface

Page 1 of 2

Parvin Substation

of Parvin road, a public right-of-way of undetermined width, and located at the northeast corner of said Swisher Partners Tract bears North 35 degrees 22 minutes 23 seconds East at 2,562.45 feet;

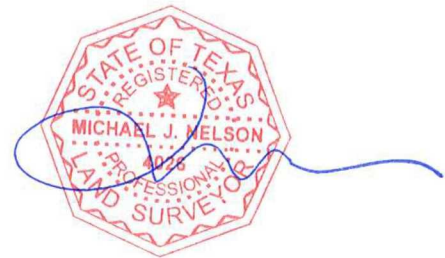
THENCE South 01 degrees 33 minutes 18 seconds West with an unfenced line, 650.00 feet to three-quarter (3/4) inch diameter iron rod set with a two (2) inch diameter aluminum cap stamped "Brazos Electric - Boundary" located in the south boundary line of said Swisher Partners Tract, for the southeast corner of the herein described tract, from said point a one-half (1/2) inch diameter iron rod found (CM) at the southeast corner of said Swisher Partners Tract bears North 89 degrees 30 minutes 27 seconds East at 1,526.93 feet;

THENCE South 89 degrees 30 minutes 27 seconds West generally along an existing barbed-wire fence, and with the south boundary line of said Swisher Partners Tract, 600.00 feet to the *place of beginning*, and containing 8.947 acres of land as surveyed on the ground by Brazos Electric Power Cooperative, Inc., in the month of June, 2016.

The **bearings noted herein** are grid, State Plane Coordinate System (NAD 1983), Texas North Central Zone 4202, as referenced to the Texas RTK Network, Dallas Island, Base Point Denton DCMN_g1013, on April 11, 2016. Distances shown are surface values in U.S. Survey Feet.

Legend:
(CM) Controlling monument.

See attached Land Title Survey Map dated November 15, 2016.



Page 2 of 2

CAUTION!!

EXISTING UNDERGROUND UTILITIES IN THE AREA CONTRACTOR IS RESPONSIBLE FOR DETERMINING THE HORIZONTAL AND VERTICAL LOCATION OF ALL UTILITIES PRIOR TO CONSTRUCTION. CONTRACTOR SHALL BE RESPONSIBLE FOR ANY REPAIRS TO EXISTING UTILITIES DUE TO DAMAGE INCURRED DURING CONSTRUCTION. CONTRACTOR SHALL NOTIFY THE ENGINEER OF ANY DISCREPANCIES ON THE PLANS.



Know what's below.
Call before you dig.

94.804 ACRES
DEVELOPMENT SOLUTIONS CR, LLC
REAL PROPERTY RECORDS,
DENTON COUNTY TEXAS
LAND USE: VACANT
FLUP: RESIDENTIAL

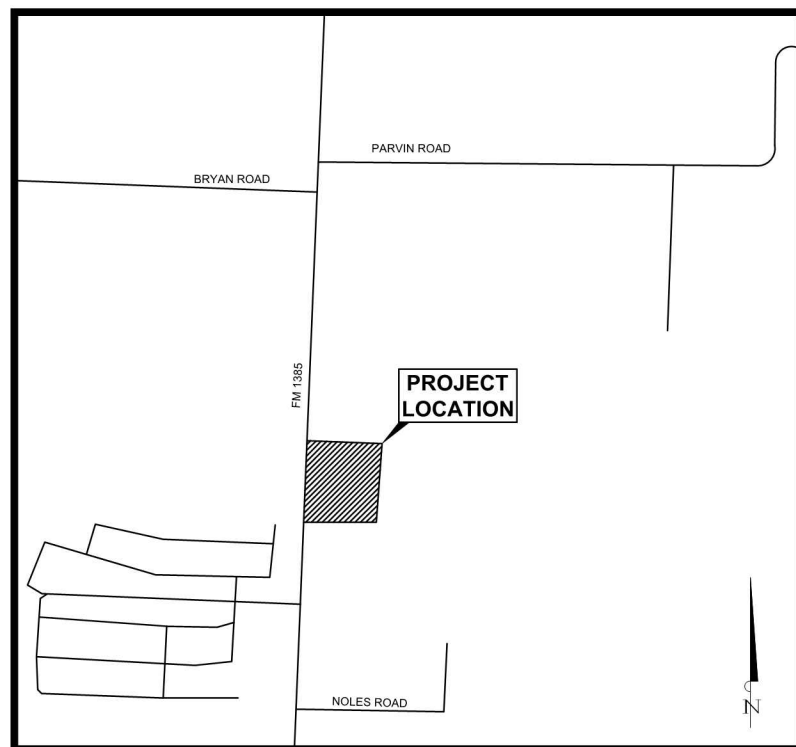
F.M. HIGHWAY #1385
(80' R.O.W.)

POINT OF BEGINNING

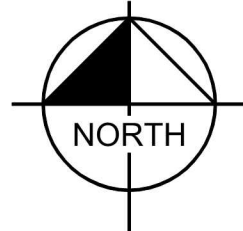
23.818 ACRES
TOMMY NOLES
VOL. 2298, PG 82
REAL PROPERTY RECORDS,
DENTON COUNTY TEXAS
ZONING: AGRICULTURE
LAND USE: VACANT
FLUP: RESIDENTIAL

BLOCK A, LOT 1
8.649 ACRES

REMAINDER
129.978 ACRES
SWISHER PARTNERS, L.P.
DOC. NO. 2004-7927
REAL PROPERTY RECORDS,
DENTON COUNTY TEXAS
ZONING: AGRICULTURE
LAND USE: VACANT
FLUP: RESIDENTIAL



VICINITY MAP
NOT TO SCALE



GRAPHIC SCALE IN FEET
0 20 40 80

LEGEND

PROPERTY LINE
SETBACK LINE
EASEMENT LINE

OVERALL AREA: 8.95 ACRES (389,875 SF)

S89°30'27"W 600.00'

SUP EXHIBIT A: S17-0004

BRAZOS ELECTRIC
PARVIN SUBSTATION

Being 8.947 Acres Out Of The
J. MORTON LAND SURVEY
Abstract No. 793, CALLED 8.947 ACRES
Town of Prosper, Denton County, Texas

Owner/Applicant:

Brazos Electric Power Cooperative, Inc.
7616 Bagby Avenue
Waco, TX 76712
Contact: Johnny York
Phone: (254)750-6500

Engineer:

Kimley-Horn and Associates, Inc.
13455 Noel Road
Two Galleria Office Tower, Ste. 700
Dallas, Texas 75240
Contact: Jeffrey Dolan, P.E.
Phone: (972)770-1300

Surveyor:

Brazos Electric Power Cooperative, Inc.
7616 Bagby Avenue
Waco, TX 76712
Contact: Mike Nelson
Phone: (254)750-6500

BRAZOS ELECTRIC
PARVIN SUBSTATION
TOWN OF PROSPER, TEXAS

EXHIBIT A

SHEET NUMBER

EX A

Kimley»Horn

13455 NOEL ROAD, TWO GALLERIA OFFICE TOWER,
SUITE 700 DALLAS, TEXAS
PHONE: 972-770-1300 FAX: 972-239-3820
TEXAS REGISTERED ENGINEERING FIRM F-928

PRELIMINARY
FOR REVIEW ONLY
Not for construction or permit purposes.
Kimley»Horn
Engineer: JEFFREY DOLAN
P.E. No. 114928 Date: 1/10/18

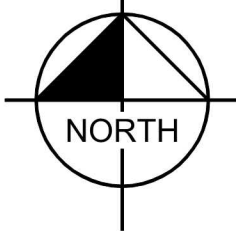
PROJECT No: 064425907
DATE: 1/10/18
SCALE: AS SHOWN
DESIGNED BY: SEG
DRAWN BY: PJH
CHECKED BY: JWD



100

EXISTING UNDERGROUND UTILITIES IN THE AREA CONTRACTOR IS RESPONSIBLE FOR DETERMINING THE HORIZONTAL AND VERTICAL LOCATION OF ALL UTILITIES PRIOR TO CONSTRUCTION. CONTRACTOR SHALL BE RESPONSIBLE FOR ANY REPAIRS TO EXISTING UTILITIES DUE TO DAMAGE INCURRED DURING CONSTRUCTION. CONTRACTOR SHALL NOTIFY THE ENGINEER OF ANY DISCREPANCIES ON THE PLANS.

Electric Easement and
Right of Way Easement
Electric Power Cooperat
Document No. 70962
Real Property Records,
Denton County Texas



Owner/Applicant:	Engineer:	Surveyor:
Brazos Electric Power Cooperative, Inc	Kinley-Horn and Associates, Inc.	Brazos Electric Power Cooperative, Inc.
7616 Bagby Avenue	13455 Noel Road	7616 Bagby Avenue
Waco, TX 76712	Two Galleria Office Tower, Ste. 700	Waco, TX 76712
Contact: Johnny York	Dallas, Texas 75240	Contact: Mike Nelson
Phone: (254)750-6500	Contact: Jeffrey Dolian, P.E.	Phone: (254)750-6500
	Phone: (972)770-1300	

Kimley»Horn

PRELIMINARY
FOR REVIEW ONLY
Not for construction or permit purposes.

Kimley»Horn

Engineer JEFFREY DOLIAN
P.E. No. 114926 Date 2/13/18

PROJECT No. 064425907
DATE: 2/13/18
SCALE: AS SHOWN
DESIGNED BY: SEG
DRAWN BY: PJH
CHECKED BY: JWD

**BRAZOS ELECTRIC
PARVIN SUBSTATION**
TOWN OF PROSPER, TEXAS

EXHIBIT B

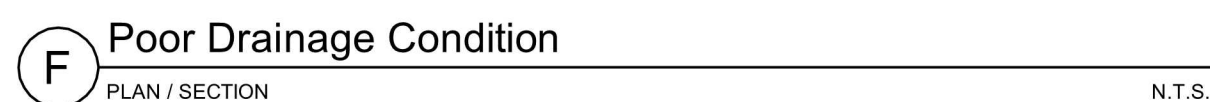
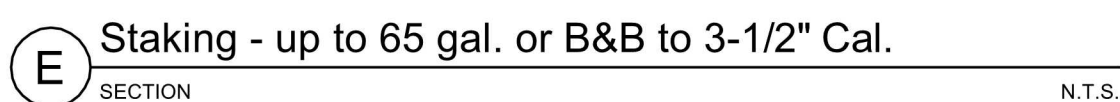
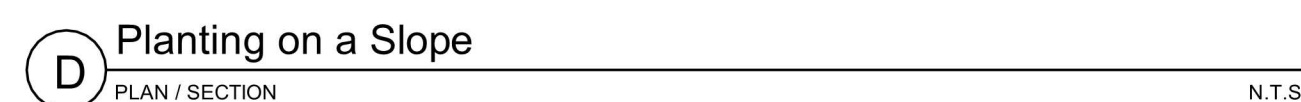
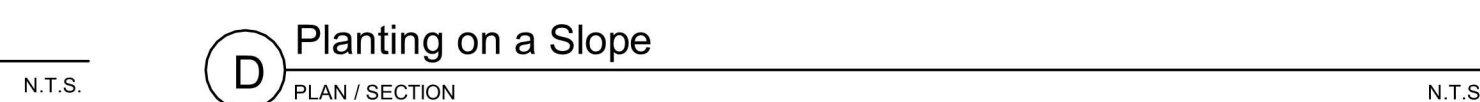
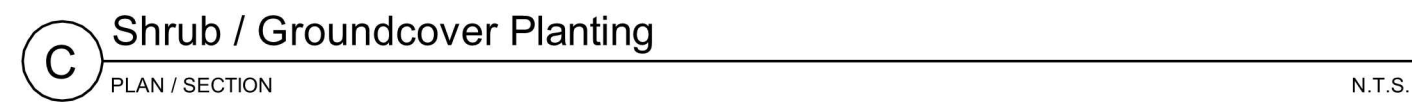
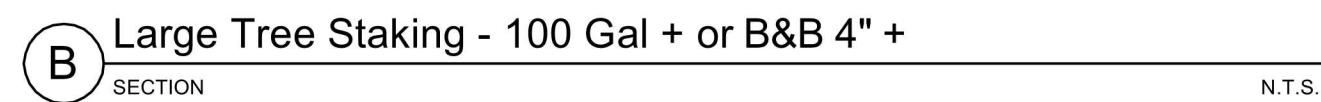
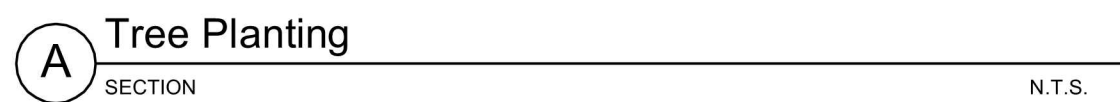
SHEET NUMBER
EX B





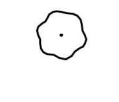
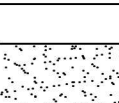


VICINITY MAP
NOT TO SCALE

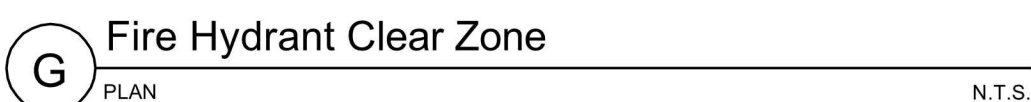
62 T

Owner/Applicant:	Engineer:	Surveyor:
Brazos Electric Power Cooperative, Inc	Kimley-Horn and Associates, Inc.	Brazos Electric Power Cooperative, Inc
7616 Bagby Avenue	13455 Noel Road	7616 Bagby Avenue
Waco, TX 76712	Two Galleria Office Tower, STE 700	Waco, TX 76712
Contact: Johnny York	Dallas, Texas 75240	Contact: Mike Nelson
Phone: (254)750-6500	Contact: Jeffrey Dorian, P.E.	Phone: (254)750-6500
	Phone: (972)770-1300	

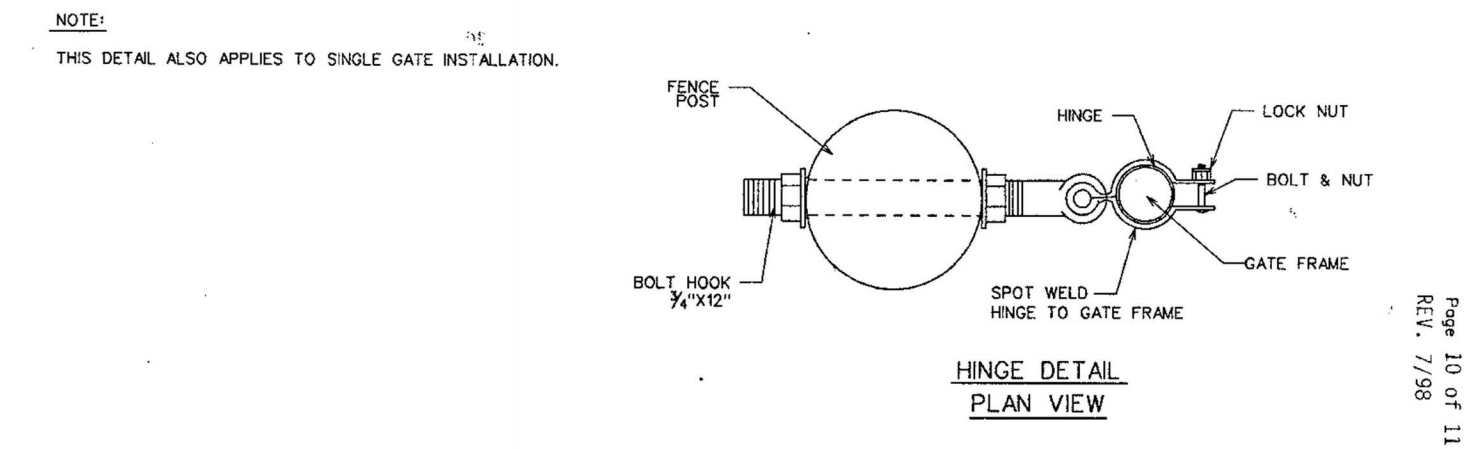


TREES	CODE	QTY	BOTANICAL NAME	COMMON NAME	CONT	CALIPER	SIZE	REMARKS
	QT	20	QUERCUS TEXANA	TEXAS RED OAK	B & B	3" CAL	10'-12" H X 3'-4" W	SINGLE STRAIGHT TRUNK, FULL AND MATCHING
	TD	24	TAXODIUM DISTICHUM	BALD CYPRESS	B & B	3" CAL	10'-12" H X 3'-4" W	SINGLE STRAIGHT TRUNK, FULL AND MATCHING
	UC	23	ULMUS CRASSIFOLIA	CEDAR ELM	B & B	3" CAL	10'-12" H X 3'-4" W	SINGLE STRAIGHT TRUNK, FULL AND MATCHING
	US	15	ULMUS PARVIFOLIA 'SEMPERVIRENS'	LACEBARK ELM	B & B	3" CAL	8'-10" H X 3'-4" W	SINGLE STRAIGHT TRUNK, FULL AND MATCHING
SHRUBS	CODE	QTY	BOTANICAL NAME	COMMON NAME	CONT	SPACING	SIZE	REMARKS
	IN	300	ILEX VOMITORIA 'NANA'	DWARF YAUPON	5 GAL	24" O.C.	18" H X 18" W	FULL AND MATCHING
SOD/SEED	CODE	QTY	BOTANICAL NAME	COMMON NAME	CONT	SIZE	SPACING	REMARKS
	SOD	161,358 SF	BUCHLOE DACTYLOIDES	BUFFALO GRASS	SOD			SOLID SOD ROLLED TIGHT WITH SAND-FILLED JOINTS, 100% WEED, DISEASE, AND PEST FREE

- 21) All plant material shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Plant material that is damaged, destroyed, or removed shall be replaced with plant material of similar size and variety within 30 days unless otherwise approved in writing by the Town of Prosper.
- 22) Landscape and open areas shall be kept free of trash, litter, and weeds.
- 23) An automatic irrigation system shall be provided to irrigate all landscape areas. Overspray on streets and walks is prohibited. A permit from the building inspection department is required for each irrigation system.
- 24) No plant material shall be allowed to encroach on right-of-way, sidewalks, or easements to the extent that the vision or route of travel for vehicular, pedestrian, or bicycle traffic is impeded.
- 25) No planting areas shall exceed 3:1 slope, 3' horizontal to 1' vertical.
- 26) Earthen berms shall not include construction debris. Contractor must correct slippage or damage to the smooth finish grade of the berm prior to acceptance.
- 27) All walkways shall meet A.D.A. and T.A.S. requirements.
- 28) Contact Town of Prosper Parks and Recreation Division at (972) 346-3502 for landscape inspection. Note that landscape installation must comply with approved landscape plans prior to final acceptance by the Town and/or obtaining a Certificate of Occupancy.
- 29) Final inspection and approval of screening walls, irrigation, and landscape is subject to all public utilities, including but not limited to manholes, valves, water meters, cleanouts, and other appurtenances, to be accessible, adjusted to grade, and to the Town of Prosper's Public Works Department standards.
- 30) Prior to calling for a landscape inspection, contractor is responsible for marking all manholes, valves, water meters, cleanouts, and other utility appurtenances with flagging for field verification by the Town.



Owner/Applicant: Brazos Electric Power Cooperative, Inc 7616 Bagby Avenue Waco, TX 76712 Contact: Johnny York Phone: (254)750-6500	Engineer: Kimley-Horn and Associates, Inc. 13455 Noel Road Two Galleria Office Tower, STE 700 Dallas, Texas 75240 Contact: Jeffrey Dolian, P.E. Phone: (972)770-1300	Surveyor: Brazos Electric Power Cooperative, Inc 7616 Bagby Avenue Waco, TX 76712 Contact: Mike Nelson Phone: (254)750-6500
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A photograph of a rural landscape. In the foreground, a wooden fence with a horizontal rail and vertical posts runs across the frame. The fence is made of light-colored wood. Behind the fence is a grassy field. In the background, there are several trees with autumn foliage in shades of orange, yellow, and brown. A small red building is visible in the distance on the right side. The sky is overcast and grey.

BARBLESS WIRE FENCING IMAGE

SUP EXHIBIT D: S17-0004
BRAZOS ELECTRIC
PARVIN SUBSTATION
Being 8.947 Acres Out Of The
J. MORTON LAND SURVEY
Abstract No. 793, CALLED 8.947 ACRES
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Owner/Applicant: Brazos Electric Power Cooperative, Inc 7616 Bagby Avenue Waco, TX 76712 Contact: Johnny York Phone: (254)750-6500	Engineer: Kimley-Horn and Associates, Inc. 13455 Noel Road Two Galleria Office Tower, Ste. 700 Dallas, Texas 75240 Contact: Jeffrey Dolian, P.E. Phone: (972)770-1300	Surveyor: Brazos Electric Power Cooperative, Inc 7616 Bagby Avenue Waco, TX 76712 Contact: Mike Nelson Phone: (254)750-6500
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[illegible]

Kimley»»Horn
13455 NOEL ROAD, TWO GALLERIA OFFICE TOWER,
SUITE 700 DALLAS, TEXAS
PHONE: 972-770-1300 FAX: 972-239-3820
TEXAS REGISTERED ENGINEERING FIRM F-928

PROJECT No. 064425907
DATE: 2/13/18
SCALE: AS SHOWN
DESIGNED BY: SEG
DRAWN BY: PJH
CHECKED BY: JWD

**BRAZOS ELECTRIC
PARVIN SUBSTATION**
TOWN OF PROSPER, TEXAS

EXHIBIT D

SHEET NUMBER
EX D