

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2024-74

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING THE ZONING ORDINANCE BY REZONING A TRACT OF LAND CONSISTING OF 40.9 ACRES, MORE OR LESS, SITUATED IN THE TWIN CREEKS RANCH, PHASES 1-2, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, FROM PLANNED DEVELOPMENT-59 (PD-59) TO PLANNED DEVELOPMENT-59 (PD-59), 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 the Zoning Ordinance should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request (Case ZONE-24-0011) from Steve Basden ("Applicant"), to rezone 40.9 acres of land, more or less, Twin Creeks Ranch, Phases 1-2, in the Town of Prosper, Collin County, Texas, and being more particularly 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 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, THAT:

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

Amendment to the Town's Zoning Ordinance. The Town's Zoning Ordinance is amended as follows: The zoning designation of the below described property containing 40.9 acres of land, more or less, in the Twin Creeks Ranch, Phases 1-2, Town of Prosper, Collin County, Texas, and all streets, roads, and alleyways contiguous and/or adjacent thereto are hereby zoned as Planned Development-59 and being 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 Development Standards, attached

hereto as Exhibit C; (2) the Conceptual Plan, attached hereto as Exhibit D; (3) the Elevations, attached hereto as Exhibit F; (4) the Landscape Plan, attached hereto as Exhibit G, all of which are incorporated herein for all purposes as if set forth verbatim.

Two (2) original, official, and identical copies of the zoning exhibit map are hereby adopted and shall be filed and maintained as follows:

- a. One (1) copy shall be filed with the Town Secretary and retained as an original record and shall not be changed in any manner.
- 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, 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 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, as amended, 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 THE 26TH DAY OF NOVEMBER 2024.


David F. Bristol, Mayor

ATTEST:


Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:


Terrence S. Welch, Town Attorney



Exhibit A-1 – Metes and Bounds

LEGAL DESCRIPTION

WHEREAS, TWIN CREEKS PROSPER, LLC., CHRISTOPHER & SARAH HEASLIP & DILLON LIVING TRUST are the owners of a tract of land situated in the W.T. Horn Survey, Abstract No. 376 and the W.T. Horn Survey, Abstract No. 419, being all of a 37.069 acre tract, as described in Doc. No. 20200427000603670, in the Deed Records of Collin County, Texas, being more particularly described as follows:

COMMENCING, at a 5/8 inch iron rod found at the northeast corner of said 37.069 acre tract and being in the south line of F.M. 1461 (Variable R.O.W.);

THENCE, South 00°13'55" East, along the east line of said 37.069 acre tract, for a distance of 690.26 feet, to a 1#2 inch iron rod set with a yellow cap stamped "Corwin Eng. Inc." at the POINT OF BEGINNING;

THENCE, South 00°13'55" East, continuing along said east line, for a distance of 536.96 feet, to a point in a creek;

THENCE, along said creek for the following fifteen (15) calls:

South 53°14'00" West, for a distance of 44.60 feet;

South 79°46'30" West, for a distance of 50.68 feet;

South 76°03'52" West, for a distance of 48.43 feet;

South 66°43'35" West, for a distance of 65.94 feet;

South 52°56'05" West, for a distance of 56.06 feet;

South 59°44'12" West, for a distance of 16.26 feet;

South 83°48'03" West, for a distance of 48.69 feet;

North 72°39'13" West, for a distance of 15.86 feet;

South 85°35'54" West, for a distance of 25.86 feet;

South 59°49'09" West, for a distance of 132.04 feet;

South 72°43'45" West, for a distance of 26.54 feet;

South 66°51'25" West, for a distance of 123.30 feet;

South 39°13'28" West, for a distance of 51.61 feet;

South 55°10'20" West, for a distance of 126.64 feet;

South 43°49'50" West, for a distance of 179.49 feet, being the most westerly corner of Lot 25R, Block A out of Amberwood Farms Phase Two, an addition to the Town of Prosper, as described in Doc. No. 2012-267 in said Plat Records and being in the north line of Lot 24R, Block A out of Amberwood Farms Phase Two, an addition to the Town of Prosper, as described in Vol. M, Pg. 3 in said Plat Records, and being in the south line of said 37.069 acre tract;

North 77°38'52" West, along the north line of said Lot 24R, Block A and the south line of said 37.069

acre tract, for a distance of 44.37 feet at the southwest corner of said 37.069 acre tract and the most westerly northwest corner of said Lot 24R, Block A same being in the east line of Gentle Creek Estates Phase I, an addition to the Town of Prosper, as described in Vol. M, Pg. 24 in the Plat Records of Collin County, Texas also being the intersection of another creek;

THENCE, North 26°37'34" West, along the east line of said Gentle Creek Estates Phase I and with said creek same being the west line of said 37.069 acre tract, for a distance of 230.46 feet;

THENCE, continuing along said east and west lines and with said creek for the following five (5) calls:

North 23°03'52" West, for a distance of 342.00 feet;

North 16°23'43" East, for a distance of 353.50 feet;

North 27°22'48" West, for a distance of 153.30 feet;

North 78°54'50" West, for a distance of 114.55 feet;

North 41°12'49" West, for a distance of 94.08 feet;

THENCE, North 64°23'48" East, departing said creek and said lines, for a distance of 496.02 feet, to a 1/2 inch iron rod set with a yellow cap stamped "Corwin Eng. Inc.";

THENCE, North 36°49'03" West, for a distance of 65.32 feet, to a 1/2 inch iron rod set with a yellow cap stamped "Corwin Eng. Inc.", at the point of curvature of a curve to the right, having a radius of 350.00 feet, a central angle of 36°05'08";

THENCE, along said curve to the right for an arc distance of 220.43 feet (Chord Bearing North 18°46'29" West - 216.81 feet), to a 1/2 inch iron rod set with a yellow cap stamped "Corwin Eng. Inc.", at the point of tangency;

THENCE, North 00°43'55" West, for a distance of 54.47 feet, to a 1/2 inch iron rod set with a yellow cap stamped "Corwin Eng. Inc.";

THENCE, North 47°58'44" West, for a distance of 34.05 feet, to a 1/2 inch iron rod set with a yellow cap stamped "Corwin Eng. Inc.";

THENCE, North 00°43'55" West, for a distance of 49.91 feet, to a 1/2 inch iron rod set with a yellow cap stamped "Corwin Eng. Inc.", in the north line of said 37.069 acre tract and the south line of said F.M. 1461;

THENCE, North 89°16'05" East, along the north line of said 37.069 acre tract and the south line of said F.M. 1461, for a distance of 150.00 feet, to a 1/2 inch iron rod set with a yellow cap stamped "Corwin Eng. Inc.";

THENCE, South 00°43'55" East, departing said north and south lines, for a distance of 40.23 feet, to a 1/2 inch iron rod set with a yellow cap stamped "Corwin Eng. Inc.";

THENCE, South 44°16'05" West, for a distance of 35.36 feet, to a 1/2 inch iron rod set with a yellow

cap stamped "Corwin Eng. Inc.";

THENCE, South 00°43'55" East, for a distance of 87.74 feet, to a 1/2 inch iron rod set with a yellow cap stamped "Corwin Eng. Inc.", at the point of curvature of a curve to the left, having a radius of 250.00 feet, a central angle of 35°05'08";

THENCE, along said curve to the left for an arc distance of 157.45 feet (Chord Bearing South 18°46'29" East - 154.86 feet), to a 1/2 inch iron rod set with a yellow cap stamped "Corwin Eng. Inc." at the point of tangency;

THENCE, South 36°49'03" East, for a distance of 91.35 feet, to a 1/2 inch iron rod set with a yellow cap stamped "Corwin Eng. Inc.", at the point of curvature of a curve to the right, having a radius of 535.00 feet, a central angle of 23°50'44";

THENCE, along said curve to the right for an arc distance of 222.66 feet (Chord Bearing South 24°53'41" East - 221.05 feet), to a 1/2 inch iron rod set with a yellow cap stamped "Corwin Eng. Inc.", at the point of tangency;

THENCE, South 12°58'19" East, for a distance of 231.00 feet, to a 1/2 inch iron rod set with a yellow cap stamped "Corwin Eng. Inc.";

THENCE, North 68°12'02" East, for a distance of 309.46 feet, to a 1/2 inch iron rod set with a yellow cap stamped "Corwin Eng. Inc.";

THENCE, North 89°16'06" East, for a distance of 303.10 feet, to the POINT OF BEGINNING and containing 22.345 acres of land.

Exhibit B – Statement of Intent and Purpose

Purpose

Twin Creeks Prosper, LLC is submitting an application for a PD Amendment regarding the location of the screen wall at its location at 1120 E. Frontier Parkway, Prosper, TX 75078.

Justification

The screen wall was located on the TXDOT ROW instead of on private property on the southern edge of the Landscape Buffer. The screen wall is ~1,500' long and is ~85% complete. In meetings with the Town of Prosper it was indicated that it may be possible to get a PD Amendment that would allow the screen wall to remain in place.

The Town of Prosper, in its ordinance, desires to create landscape buffers in front of screen walls to enhance visual appeal and reduce road noise for residents. Twin Creeks Prosper, LLC, believes that despite the incorrect location of the screen wall, that the goals for both visual appeal and noise reduction can be achieved by placing landscaping to cover the masonry portion of the wall and provide a berm with additional landscaping behind the wall within the landscape buffer.

The table below lists distances from currently existing screen walls or private fences to the existing road edge along FM 1461 between Preston Rd and N. Custer Rd (column a). In front of Twin Creeks, the expanded road edge will extend 50' beyond the current road edge (column b) according to existing TXDOT plans (see Exhibit D). The distance from the expanded road edge to the screen wall in front of Twin Creeks will be 20'-30' (column c). The distances shown for other developments are indicative and assume the same 50' expansion from the existing road edge to the new road edge.

Subdivisions Between Preston and Custer on FM 1461	Distance from Existing Roadway Edge To				Distance from New Road Edge to Wall/Fence
	Existing Wall/Fence a		New Road Edge* b		
Frontier Estates	91'	-	50'	=	41'
Highland Meadows	60'	-	50'	=	10'
Gentle Creek Estates	93'	-	50'	=	43'
Amberwood Farms	58'	-	50'	=	08'
Twin Creeks Ranch East	70'	-	50'	=	20'
Twin Creeks Ranch West	80'	-	50'	=	30'

*From Corwin Engineering using TXDOT information (see Exhibit D)

Twin Creeks Prosper, LLC believes concerns regarding visual uniformity between Preston Road and N. Custer Road on FM 1461 post expansion are mitigated by the following:

- After the TXDOT expansion it seems there will be significant variability in setbacks to screen walls and private fences along FM 1461 between Preston Road and N. Custer Road.

- Twin Creeks Ranch is not contiguous on the road frontage of FM 1461 with any existing developments.
- Leaving Twin Creeks Prosper's screen wall in its existing location, with the proposed landscaping plan, will not create unpleasing visual or functional differences.

Site Plan Request

- The acreage of the subject property is 39.593 acres.
- The location of the property is: tract of land situated in the W.T. Horn Survey, Abstract No. 379, and the W.T. Horn Survey, Abstract No. 419, being all of a 39.593-acre tract, as described in Doc. No. 20200427000603670, in the Deed Records of Collin County, Texas. The plat in Exhibit A-1 and Metes and Bounds in Exhibit A-2.

ZONE-24-0011

Exhibit "C"

Development Standards

This tract shall develop under the regulations of Ordinance No. 12-35 (Planned Development-59) as it exists or may be amended with the following amendments:

1.0 Landscaping

1.1 The landscaping requirements within this Planned Development District are represented in Exhibit D and as follows:

- The required landscape buffer is permitted to be behind the screening wall adjacent to Frontier Parkway.
- Landscaping will be provided along the masonry portion of the screening wall facing Frontier Parkway.
- A berm with additional landscaping will be provided behind the screening wall.

2.0 Maintenance

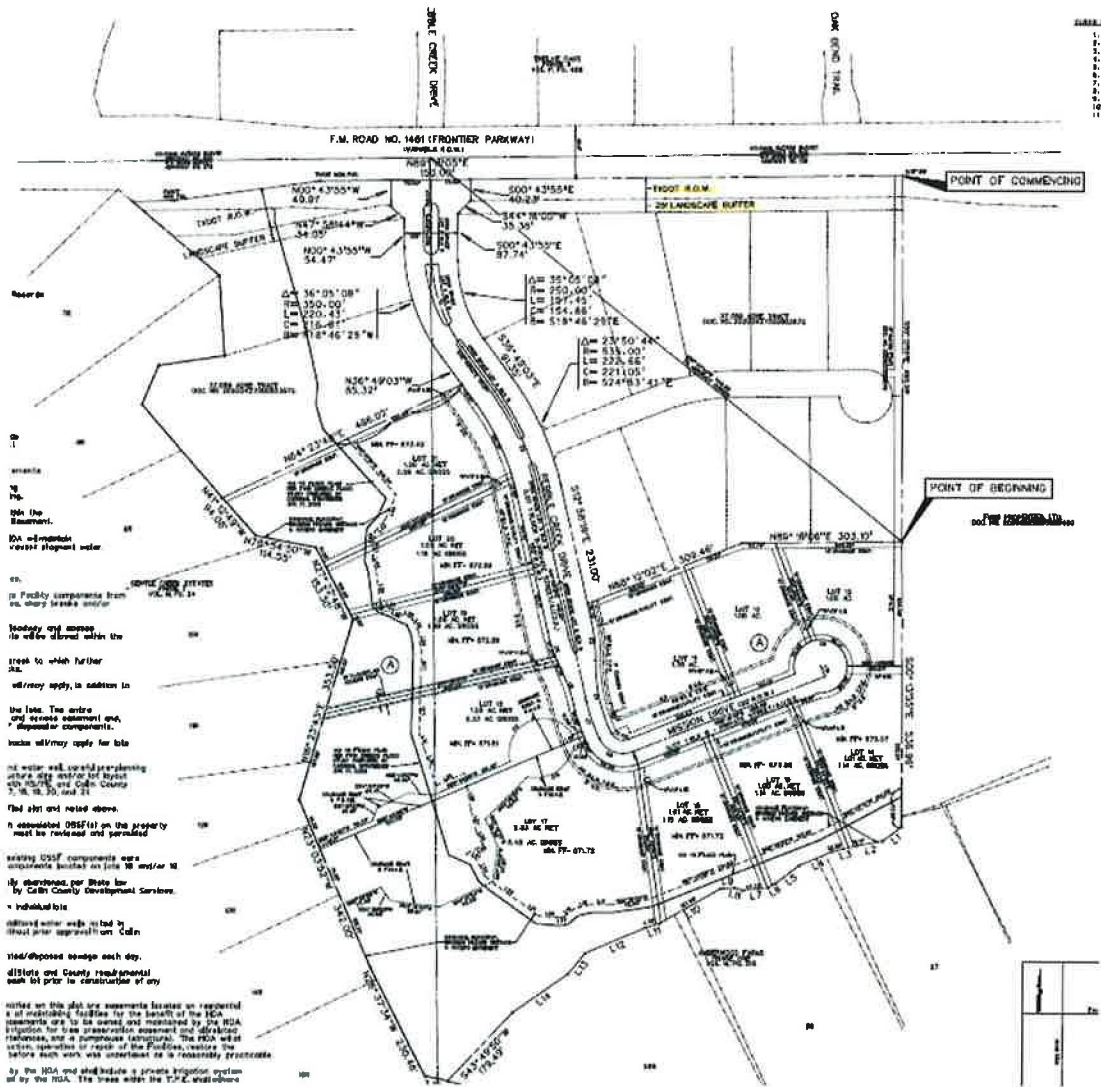
2.1 The maintenance standards within this Planned Development District are as follows:

- The Homeowner's Association for the subdivision will be responsible for the maintenance of the landscaping and screening wall.

Exhibit D – Conceptual Plan

Twin Creeks Prosper, LLC submits the following conceptual plan in support of its PD Amendment Application.

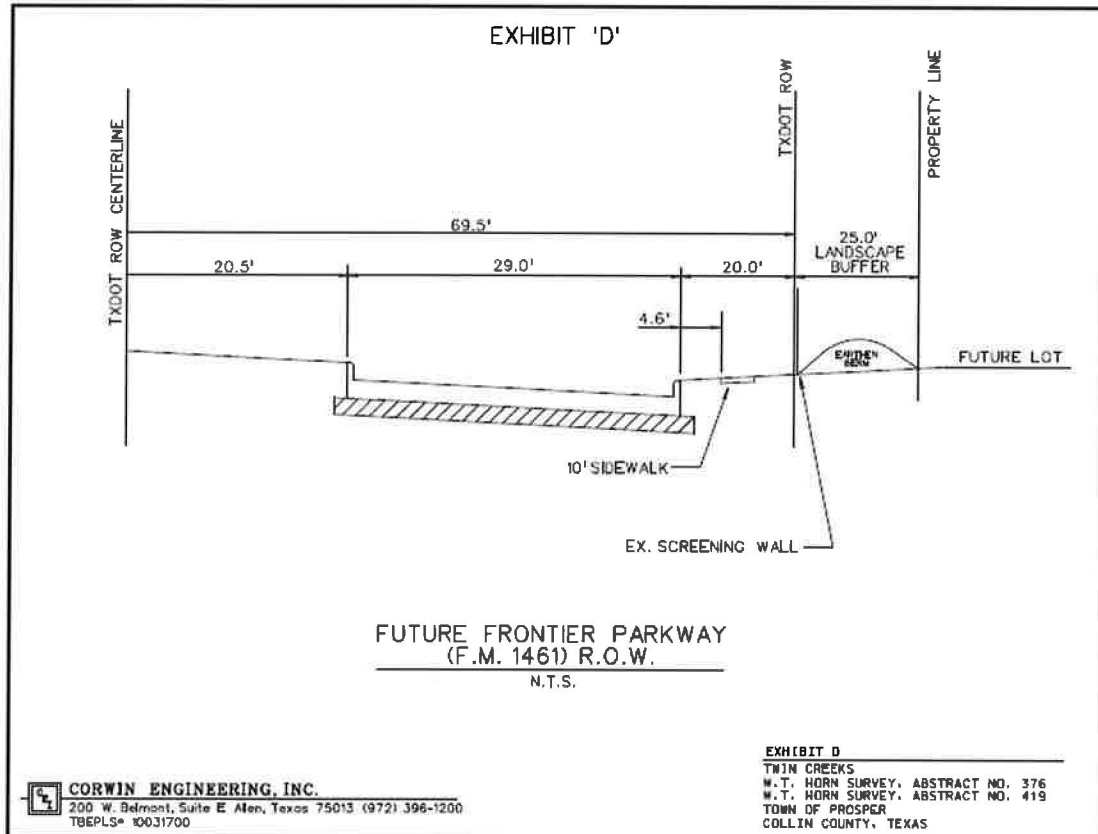
The screen wall is currently placed just outside the TXDOT ROW. Twin Creeks Prosper, LLC proposes leaving the screen wall in its current location with a landscaped hedge within the TXDOT ROW which will be installed and maintained by Twin Creeks Ranch Residential Community, Inc (HOA). A section of the plat with the TXDOT ROW and the Landscape Buffer highlighted as well as a proposed cross section of the current road, TXDOT ROW, location of the screen wall, and landscape buffer is shown below.



TXDOT has indicated a willingness to work with the Town of Prosper to allow for landscaping immediately in front of the screen wall withing the ROW. Twin Creeks Prosper will provide funds in escrow to underwrite the cost of placing the landscaping and will be responsible for upkeep.

The area between the screen wall and the berm in the Landscape Buffer will drain via weep holes already existing in the screen wall.

The berm will be maintained by the HOA and the HOA will have access.



Above is the cross section from the TXDOT plans for the section of the expanded roadway in front of Twin Creeks.

[illegible]

EX. TxDOT PVM

100' R.O.W.

50.0'

FUTURE TxDOT PVM

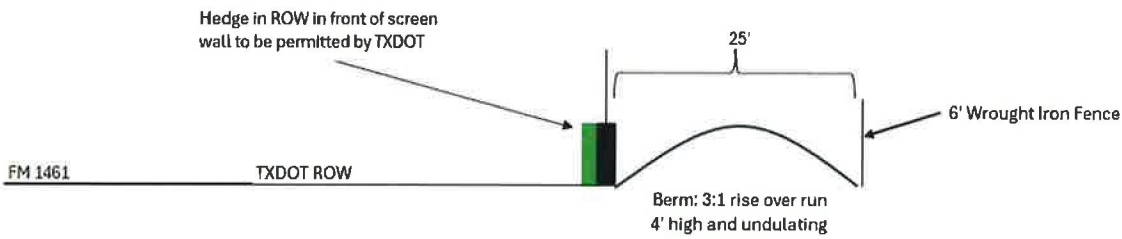


Exhibit E – Development Schedule

Assuming the PD Amendment is approved, and the screen wall remains in its current location, the following Development Schedule is contemplated.

3 Months Post Approval

Twin Creeks Prosper, LLC will complete the screen wall (construction of the screen wall was halted due to concern over the location).

Widening of FM 1461 Complete – Apply for and Secure TXDOT Landscaping Permit

When the widening of FM 1461 is complete, Twin Creeks Ranch Residential Community, Inc (HOA), will work with the Town of Prosper to apply for and secure a permit from TXDOT to enable the placement of the landscape hedge in front of the screen wall within the TXDOT ROW. The timing of the permit application will be dependent on the completion of FM 1461.

Widening of FM 1461 Complete – Installation of Permitted Landscaping

Permits issued by TXDOT require that work begin within 6 months of the permit issue date, with no requirement date for completion. Once the widening of FM 1461 is complete, and a permit secured, Twin Creeks Ranch Residential Community, Inc. (HOA), will install the landscaping within two months of the permit issue date.

Exhibit F – Elevations

Below are two renderings of what the finished result will be. One is an elevation, and the other is a bird's eye view showing the landscape buffer behind the wall with berm and landscaping to help with noise reduction.





Exhibit G – Landscape Plan

Below are two renderings of what the finished result will be. One is an elevation, and the other is a bird's eye view showing the landscape buffer behind the wall with berm and landscaping to help with noise reduction.



