



Agenda
Prosper Town Council Meeting
Prosper Town Hall, Council Chambers
250 W. First Street, Prosper, Texas
Tuesday, August 22, 2023
6:15 PM

Welcome to the Prosper Town Council Meeting.

Citizens may watch the meeting live by using the following link: www.prospertx.gov/livemeetings

Addressing the Town Council:

Those wishing to address the Town Council must complete the Public Comment Request Form located on the Town's website or in the Council Chambers.

If you are attending in person, please submit this form to the Town Secretary or the person recording the minutes for the Board/Commission prior to the meeting. When called upon, please come to the podium, and state your name and address for the record.

If you are watching online, please submit this form to the Town Secretary prior to 4:00 p.m. on the day of the meeting in order for your comments to be read into the record. The Town assumes no responsibility for technical issues beyond our control.

In compliance with the Texas Open Meetings Act, the Town Council/Board/Commission may not deliberate or vote on any matter that does not appear on the agenda. The Council/Board/Commission, however, may provide statements of fact regarding the topic, request the topic be included as part of a future meeting, and/or refer the topic to Town staff for further assistance.

Citizens and other visitors attending Town Council meetings shall observe the same rules of propriety, decorum, and good conduct applicable to members of the Town Council. Any person making personal, impertinent, profane or slanderous remarks or who becomes boisterous while addressing the Town Council or while attending the meeting shall be removed from the room, if so directed by the Mayor or presiding officer, and the person shall be barred from further audience before the Town Council during that session. Disruption of a public meeting could constitute a violation of Section 42.05 of the Texas Penal Code.

Call to Order/ Roll Call.

Invocation, Pledge of Allegiance and Pledge to the Texas Flag.

Announcements of recent and upcoming events.

Presentations.

1. Presentation of THRIVES coins to members of the Prosper Police Department for outstanding performance. (DFB)

CONSENT AGENDA:

Items placed on the Consent Agenda are considered routine in nature and non-controversial. The Consent Agenda can be acted upon in one motion. Items may be removed from the Consent Agenda by the request of Council Members or staff.

2. Consider and act upon the minutes from the August 8, 2023, Town Council Work Session meeting. (MLS)

- [3.](#) Consider and act upon the minutes from the August 8, 2023, Town Council Regular meeting. (MLS)
- [4.](#) Receive the Quarterly Investment Report for June 30, 2023. (CL)
- [5.](#) Consider and act upon an ordinance approving a Negotiated Settlement between the Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division regarding the Company's 2023 Rate Review Mechanism Filing; declaring the existing rates to be unreasonable; finding the rates to be set by the attached Settlement Tariffs to be reasonable and in the public interest; and approving an attachment establishing a benchmark for pensions and retiree medical benefits. (TW)
- [6.](#) Consider and act upon a resolution suspending the September 1, 2023, effective date of a rate request from CoServ Gas Ltd. for the maximum period allowed by law. (TW)
- [7.](#) Consider and act upon authorizing the Town Manager to execute an Agreement between Vector Solutions and the Town of Prosper for online training management and scheduling applications. (SB)
- [8.](#) Consider and act upon authorizing the Town Manager to execute a contract between Astound Business Solutions and the Town of Prosper, Texas, related to establishing fiber network connectivity from Town Hall to Fire Stations 2 & 3, pump station, and establishing fiber radio system connectivity from Prosper to the City of Frisco. (LJ)
- [9.](#) Consider and act upon a resolution designating The Frisco Enterprise as the official newspaper of the Town of Prosper and The Dallas Morning News as an alternative advertising source for FY 2023-2024. (MLS)
- [10.](#) Consider and act upon an ordinance adopting new personnel policies regarding mental health leave for certain personnel as required by recent legislation and injury and illness leave for certain personnel as required by recent legislation. (JE)

CITIZEN COMMENTS

The public is invited to address the Council on any topic. However, the Council is unable to discuss or take action on any topic not listed on this agenda. Please complete a "Public Comment Request Form" and present it to the Town Secretary prior to the meeting. Please limit your comments to three minutes. If multiple individuals wish to speak on a topic, they may yield their three minutes to one individual appointed to speak on their behalf. All individuals yielding their time must be present at the meeting, and the appointed individual will be limited to a total of 15 minutes.

REGULAR AGENDA:

Pursuant to Section 551.007 of the Texas Government Code, individuals wishing to address the Council for items listed as public hearings will be recognized when the public hearing is opened. [If you wish to address the Council, please fill out a "Public Comment Request Form" and present it to the Town Secretary, preferably before the meeting begins.]

Items for Individual Consideration:

- [11.](#) Consider all matters incident and related to the issuance and sale of "Town of Prosper, Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Series 2023", including the adoption of an ordinance authorizing the issuance of such obligations and establishing procedures and delegating authority for the sale and delivery of such obligations. (CL)

- [12.](#) Receive an update on the 2023 Texas Legislative Session. (RB)
- [13.](#) Consider and act upon a request to rezone 34.7± acres from Commercial District (C) to a new Planned Development for Mixed Use, located northside of Prosper Trail and west of Dallas Parkway. (Z22-0019) (DH)
- [14.](#) Consider and act upon a Development Agreement for the proposed Pradera Development, located north of Prosper Trail and west of the Dallas Parkway. (DH)
- [15.](#) Conduct a public hearing and consider and act upon a request to update the Town of Prosper's Comprehensive Plan. (DH)
- [16.](#) Discuss CIP and Finance Subcommittee recommendations and receive Council direction regarding the FY 2023-2024 Proposed Budget. (RBS/CL)
17. Discuss and consider Town Council Subcommittee reports. (DFB)

Possibly direct Town staff to schedule topic(s) for discussion at a future meeting.

EXECUTIVE SESSION:

Recess into Closed Session in compliance with Section 551.001 et seq. Texas Government Code, as authorized by the Texas Open Meetings Act, to deliberate regarding:

Section 551.087 – To discuss and consider economic development incentives and all matters incident and related thereto.

Section 551.072 – To discuss and consider purchase, exchange, lease or value of real property for municipal purposes and all matters incident and related thereto.

Section 551.074 – To discuss and consider personnel matters and all matters incident and related thereto.

Section 551.089 - Deliberation of security information collected, assembled or maintained by or for a governmental entity to prevent, detect, or investigate criminal activity, pursuant to Section 2059.055 of the Texas Government Code, and all matters incident and related thereto.

Section 551.074 - To discuss appointments to the Board of Adjustment/Construction Board of Appeals, Parks & Recreation Board, Library Board, Prosper Economic Development Corporation Board, Planning & Zoning Commission, and the Community Engagement Committee, and all matters incident and related thereto.

Reconvene in Regular Session and take any action necessary as a result of the Closed Session.

Adjourn.

CERTIFICATION

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted at Prosper Town Hall, located at 250 W. First Street, Prosper, Texas 75078, a place convenient and readily accessible to the general public at all times, and said Notice was posted by 5:00 p.m., on Friday, August 18, 2023, and remained so posted at least 72 hours before said meeting was convened.

Michelle Lewis Sirianni, Town Secretary

Date Notice Removed

Pursuant to Section 551.071 of the Texas Government Code, the Town Council reserves the right to consult in closed session with its attorney and to receive legal advice regarding any item listed on this agenda.

NOTICE

Pursuant to Town of Prosper Ordinance No. 13-63, all speakers other than Town of Prosper staff are limited to three (3) minutes per person, per item, which may be extended for an additional two (2) minutes with approval of a majority vote of the Town Council.

NOTICE OF ASSISTANCE AT PUBLIC MEETINGS: The Prosper Town Council meetings are wheelchair accessible. For special services or assistance, please contact the Town Secretary's Office at (972) 569-1011 at least 48 hours prior to the meeting time.



MINUTES

Item 2.

Prosper Town Council Work Session
Prosper Town Hall – Council Chambers
250 W. First Street, Prosper, Texas
Tuesday, July 25, 2023

Call to Order/ Roll Call.

The meeting was called to order at 5:02 p.m.

Council Members Present:

Mayor David F. Bristol
Mayor Pro-Tem Craig Andres
Deputy Mayor Pro-Tem Marcus E. Ray
Councilmember Amy Bartley
Councilmember Chris Kern
Councilmember Jeff Hodges
Councilmember Charles Cotten

Staff Members Present:

Mario Canizares, Town Manager
Michelle Lewis Sirianni, Town Secretary
Terry Welch, Town Attorney
Bob Scott, Deputy Town Manager
Chuck Ewings, Assistant Town Manager
Robyn Battle, Executive Director
Mary Ann Moon, EDC Executive Director
Hulon Webb, Engineering Director
Chris Landrum, Finance Director
David Hoover, Development Services Director
Stuart Blasingame, Fire Chief
Scott Brewer, Assistant Police Chief

Items for Individual Consideration

- 1. Discuss a new Planned Development for Mixed Use, located on the northside of Prosper Trail and west of Dallas Parkway (Pradera Development).**

Mr. Hoover presented an overview of the development project including when the application was first received up to present day, the proposed layout, responses received by the applicant on previously raised questions by the Planning and Zoning Commission and the Town Council.

The Town Council discussed setbacks within the development, building height requirements, ground floor ceiling heights within the residential and commercial areas, numbers of units available on two and three bedroom apartments, and review provisions.

Adjourn.

The meeting was adjourned at 6:03 p.m.

These minutes were approved on the 22nd day of August 2023.

APPROVED:

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

DRAFT



MINUTES
Prosper Town Council Meeting
Prosper Town Hall, Council Chambers
250 W. First Street, Prosper, Texas
Tuesday, August 8, 2023

Call to Order/ Roll Call.

The meeting was called to order at 6:20 p.m.

Council Members Present:

- Mayor David F. Bristol
- Mayor Pro-Tem Craig Andres
- Deputy Mayor Pro-Tem Marcus E. Ray
- Councilmember Amy Bartley
- Councilmember Chris Kern
- Councilmember Jeff Hodges
- Councilmember Charles Cotten

Staff Members Present:

- Mario Canizares, Town Manager
- Michelle Lewis Sirianni, Town Secretary
- Terry Welch, Town Attorney
- Bob Scott, Deputy Town Manager
- Chuck Ewings, Assistant Town Manager
- Robyn Battle, Executive Director
- Mary Ann Moon, Economic Development Director
- David Hoover, Development Services Director
- Hulon Webb, Director of Engineering
- Dan Baker, Parks & Recreation Director
- Chris Landrum, Finance Director
- Whitney Rehm, Grants Administrator
- Todd Rice, Communications Manager
- Kellen Land, Help Desk Technician
- Scot Brewer, Assistant Police Chief
- Stuart Blasingame, Fire Chief

Invocation, Pledge of Allegiance and Pledge to the Texas Flag.

Mike Martin with Hope Fellowship led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

Announcements of recent and upcoming events.

Councilmember Kern made the following announcements:

Join us in Downtown Prosper this Friday, August 11 from 7:00 p.m. to 10:00 p.m. for a Moonlight Movie as part of the Discover Downtown event series in partnership with the Prosper EDC. Enjoy in the pre-movie fun with lawn games, face painters, and balloon artists. The movie “Sonic the Hedgehog 2” will begin at dusk on the south lawn of Town Hall. Remember to bring your blanket and chairs for the show.

Fall registration is now open for youth and adult classes, as well as leagues for softball and kickball. Residents can register by visiting the Parks and Recreation Department page of the Town’s website.

Don't miss out on an unforgettable evening at Freedom Fest 2023, featuring a live performance by Coffey Anderson. This highly anticipated concert is set to take place on the south lawn of Town Hall in downtown Prosper on Saturday, September 2 beginning at 5:30 p.m. General Admission tickets are now available or reserve your VIP tickets at prospertx.gov/freedomfesttickets.

Join us on Saturday, September 9 for Paws on Broadway as part of the Downtown Discover event series in partnership with the Prosper EDC from 11:00 a.m. to 2:00 p.m. Bring your pup downtown to enjoy a fun afternoon featuring treats and contests, along with pet-related exhibits and vendors.

Join us for "Celebrate Prosper" on Saturday, October 7 at Frontier Park. Come relax in the outdoors and enjoy entertainment, food and fun with neighbors and friends. This is a free event presented by the Parks and Recreation Department with the support of Sponsors and community partners. For more information, visit the Special Events page under the Parks and Recreation Department.

CONSENT AGENDA:

Items placed on the Consent Agenda are considered routine in nature and non-controversial. The Consent Agenda can be acted upon in one motion. Items may be removed from the Consent Agenda at the request of Council Members or staff.

1. **Consider and act upon the minutes from the July 25, 2023, Town Council Work Session meeting. (MLS)**
2. **Consider and act upon the minutes from the July 25, 2023, Town Council Work Regular meeting. (MLS)**
3. **Consider acceptance of the January, February, and March 2023 monthly financial reports. (CL)**
4. **Consider and act upon authorizing the Town Manager to execute a contract between DAC Inc. and the Town of Prosper, Texas, for security improvements to entryways at Town Hall. (CE)**
5. **Consider and act upon a Façade Plan for a Drive-Through Restaurant, on 1.1± acres, located south of East First Street and west of South Preston Road. (The property is zoned Planned Development-67 (PD-67) Gates of Prosper.) (DEVAPP-23-0011) (DH)**
6. **Consider and act upon a Façade Plan for a Hotel, Limited Service, on 2.7± acres, located on the southeast corner of Lovers Lane and South Coleman Street. (The property is zoned Planned Development-67 (PD-67) Gates of Prosper.) (DEVAPP-23-0105) (DH)**
7. **Consider and act upon Ordinance 2023-51 to rezone for a Specific Use Permit (SUP) for Temporary Buildings on 8.2± acres, located north of US-380, west of South Teel Parkway. (ZONE-23-0009) (DH)**
8. **Consider and act upon whether to direct staff to submit a written notice of appeals on behalf of the Town Council to the Development Services Department, pursuant to Chapter 4, Section 1.5(C)(7) and 1.6(B)(7) of the Town's Zoning Ordinance, regarding action taken by the Planning & Zoning Commission on any Site Plans including Prosper Town Center, Hall Elementary Temporary Buildings, Dutch Bros, PISD MS #6, Cracker Barrel,**

Home 2 Suites, One Community Church, St. Martin De Porres Temporary Building, St. Paul Episcopal Church, and 205 W. Broadway. (DH)

Councilmember Bartley request to pull item 7.

Councilmember Hodges made a motion to approve consent agenda items 1 through 6 and 8. Deputy Mayor Pro-Tem Ray seconded that motion. Motion carried unanimously.

Councilmember Bartley asked for a point of clarity regarding item 7. She asked what the process on the SUP would be if the entity asked for the one-year renewal after the initial two years. Mr. Hoover noted the Town can initiate the one-year renewal application process, which would then go to the Planning and Zoning Commission and the Town Council for consideration.

Austin Carr and Tom Ross, applicants, were in attendance and noted that they were in favor of the item.

Councilmember Bartley made a motion to approve an ordinance to rezone for a Specific Use Permit (SUP) for Temporary Buildings on 8.2± acres, located north of US-380, west of South Teel Parkway. Councilmember Cotten seconded that motion. Motion carried unanimously.

CITIZEN COMMENTS

No comments were made.

Items for Individual Consideration:

9. **Conduct a public hearing and consider and act upon a request to rezone 34.7± acres from Commercial District (C) to a new Planned Development for Mixed Use, located northside of Prosper Trail and west of Dallas Parkway. (Z22-0019) (DH)**

Mr. Hoover introduced the item presenting an overview of the subject property including the development standards, zoning designations, building heights and setbacks.

Nolan Bradshaw representing the development reviewed the proposed layout of the development including details for the streetscape, parking, building materials, and highlighted the walkable urban district they would like to bring to the Town.

Mayor Bristol opened the public hearing.

Brian Meier, 1410 Binkley Ave., stated his opposition to the item due to the height of the buildings and increase in traffic it would bring.

Barbara Nugent, 961 Grassy Shore Lane, stated her concerns of the height of the buildings and the density it would bring to the schools.

Randal Ziegler, 3961 Marigold Lane, stated concerns regarding the height of the buildings, public safety access, and how the development would affect the overall look and feel to the Town.

Jeff Bostrom, 1910 Wynne Ave, requested the Town Council to consider the density and traffic the development would bring. He is opposed to the item.

Evan Haynes, 1931 Wynne Ave, stated his concerns about the increasing traffic. He is opposed to the item.

Eric Seiss, 3830 Porter Lane, stated his opposition to the apartment building portion of the development.

Swaroop Gaddameedhi, 1300 Euclid Drive. Mayor Bristol read written comments expressing concerns regarding increased population density, congestion caused by multi-family units, increased office building capacity, crowded schools, traffic, potential increase in crime, and drop in property values.

Oscar Perez, 4141 Silver Spur Drive, is opposed to the proposed apartment and office building plans.

Matthew Faulk, 4220 Mill Branch Drive. Mayor Bristol read his written comments opposing the item due to high density and extra stress on schools and roads.

Michael Hanschen, 1430 Beverly Drive. Mayor Bristol read his written comments expressing concerns that the amenities required for such large mixed-use development with apartments, etc. will not be sufficient and Legacy Gardens will have outside people coming into its pool, parks, and playgrounds. Mr. Hanschen also requested additional landscaping and to require the developer to build an eight-foot masonry wall the entire length of Shanee Trail.

Sana Rafique, 1930 Shenandoah Street. Mayor Bristol read her written comments expressing concerns regarding high population density that the apartments will bring to our Town and schools, as well as requesting to revise the 12-story building to the original 8-story building to better the traffic in the area.

Mayor Bristol closed the public hearing.

The Town Council discussed multi-family and the current developments that are included in the overall numbers including Ladera and the developments that have townhomes, triggers, height of the office buildings, traffic flow, percentages/units of apartments, parking, landscaping and maintenance of, permitted uses in the highway subdistrict, open space requirements, amenities, ceiling height minimum requirements on first floors of commercial and residential buildings, tapering of the buildings by height, including the "family-friendly" clause, setbacks, pedestrian trail connections, the POA, and including a review provision.

Councilmember Cotten left the dais at 8:33 p.m.

Mayor Pro-Tem Andres made a motion to table to August 22 a request to rezone 34.7± acres from Commercial District (C) to a new Planned Development for Mixed Use, located northside of Prosper Trail and west of Dallas Parkway. Deputy Mayor Pro-Tem Ray seconded that motion. Motion carried with a 6-0 vote.

Mayor Bristol recessed the regular meeting at 8:35 p.m.

Mayor Bristol reconvened back into the regular meeting at 8:48 p.m.

- 10. **Consider and act upon Resolution 2023-52 of the Town Council of the Town of Prosper, Texas, declaring the public necessity to acquire certain properties for right-of-way, drainage easements, and temporary construction easements for the construction of the First Street (DNT – Coleman) project; determining the public use and necessity for such acquisition; authorizing the acquisition of property rights necessary for said Project; appointing an appraiser and negotiator as necessary; authorizing the Town Manager to establish just compensation for the property rights to be acquired; authorizing the Town Manager to take all steps necessary to acquire the needed property rights in compliance with all applicable laws and resolutions; and authorizing the Town Attorney to institute condemnation proceedings to acquire the property if purchase negotiations are not successful. (HW)**

Mr. Webb stated this item is for the potential round-about at Coleman and for the acquisition of right-of-way for the easements. This item requires a roll call vote.

Deputy Mayor Pro-Tem Ray asked if staff has been in communications with the property owners. Mr. Webb indicated if approved, staff will begin notifications as they proceed on the project.

Deputy Mayor Pro-Tem Ray made a motion to approve Resolution 2023-52 of the Town Council of the Town of Prosper, Texas, declaring the public necessity to acquire certain properties for right-of-way, drainage easements, and temporary construction easements for the construction of the First Street (DNT – Coleman) project; determining the public use and necessity for such acquisition; authorizing the acquisition of property rights necessary for said Project; appointing an appraiser and negotiator as necessary; authorizing the Town Manager to establish just compensation for the property rights to be acquired; authorizing the Town Manager to take all steps necessary to acquire the needed property rights in compliance with all applicable laws and resolutions; and authorizing the Town Attorney to institute condemnation proceedings to acquire the property if purchase negotiations are not successful. Councilmember Hodges seconded that motion.

- Councilmember Hodges – In Favor
- Deputy Mayor Pro-Tem Ray – In Favor
- Mayor Bristol – In Favor
- Mayor Pro-Tem Andres – In Favor
- Councilmember Kern – In Favor
- Councilmember Bartley – In Favor

Motion carried with a 6-0 vote.

- 11. **Discuss and consider submission of the Preliminary FY 2023-2024 Budget. (CL)**

Mr. Scott presented an overview of the proposed Budget including the key revenue drivers, General Fund additions, personnel and compensation changes, and the multi-year capital program and bond program. Staff will be seeking guidance from the Council regarding capital dedicated funds through the CIP Subcommittee and Finance Subcommittee.

No further discussion by the Town Council.

- 12. Consider and act upon accepting submission of the tax year 2023, fiscal year 2023-2024, no-new-revenue tax rate of \$0.448160 per \$100 taxable value and the voter-approval tax rate of \$0.51 per \$100 taxable value. (CL)**

Mr. Landrum stated the no-new-revenue rate will produce the same amount of tax revenue if applied to the same properties in both years and the voter-approval rate is the highest tax rate the Town can set without holding an election to seek voter approval of the rate. Staff recommends accepting as submitted.

Mayor Pro-Tem Andres made a motion to accept the submission of the tax year 2023 no-new-revenue tax rate of \$0.448160 per \$100 taxable value and the voter-approval tax rate of \$0.51 per \$100 taxable value. Councilmember Hodges seconded that motion. Motion carries with a 6-0 vote.

- 13. Consider and act upon Ordinance 2023-53 establishing the tax year 2023 certified appraisal roll. (CL)**

Mr. Landrum stated the certified appraisal roll lists all taxable property and values within the Town limits for tax year 2023 (fiscal year 2023-2024). The Town will also be required to approve the tax roll after the property tax rate is set.

Councilmember Hodges made a motion to approve Ordinance 2023-53 establishing the tax year 2023 certified appraisal roll. Councilmember Kern seconded that motion. Motion carried with a 6-0 vote.

- 14. Consider and act upon a proposed FY 2023-2024 property tax rate. (CL)**

Mr. Landrum stated the Town is required to hold one public hearing and publish a newspaper ad if proposing to consider a tax rate that exceeds the no-new-revenue rate or voter-approval rate, whichever is lower. The rate the Town finally adopts can be lower than the proposed and published rate, but it cannot exceed it without undergoing the required posting requirements and timeframes. This item requires a roll call vote.

Mayor Pro-Tem Andres made a motion to place a proposal to adopt a FY 2023-2024 tax rate of fifty-one cents (\$0.51) per one hundred dollars (\$100) of valuation on the September 12, 2023, Town Council Agenda. Deputy Mayor Pro-Tem Ray seconded that motion.

Councilmember Hodges – In Favor
Deputy Mayor Pro-Tem Ray – In Favor
Mayor Bristol – In Favor
Mayor Pro-Tem Andres – In Favor
Councilmember Kern – In Favor
Councilmember Bartley – In Favor

Motion carried with a 6-0 vote.

- 15. Consider and act upon scheduling a public hearing on the FY 2023-2024 proposed Budget. (CL)**

Mr. Landrum stated that September 12 is a regular meeting date of the Town Council. This date meets the public hearing requirements of the Local Government Code. Given the timelines for publishing, staff will be submitting the notice of the

public hearings on the proposed budget to print in the August 27 Frisco Enterprise edition.

Deputy Mayor Pro-Tem Ray made a motion to schedule a public hearing on the FY 2023-2024 proposed Budget for September 12, 2023, at 6:15 p.m. with the meeting taking place in the Council Chambers of Prosper Town Hall, located at 250 W First St, Prosper, TX. Councilmember Bartley seconded that motion. Motion carried with a 6-0 vote.

16. Consider and act upon scheduling a public hearing on the proposed FY 2023-2024 tax rate. (CL)

Mr. Landrum stated the Texas Property Tax Code states that a meeting to vote on the tax increase may not be held later than the seventh day after the date of the public hearing. Due to this limitation, we are requesting to hold the public hearing and vote on the tax rate on September 12 which is a regular meeting date of the Town Council. A hearing on this date satisfies tax code requirements.

Councilmember Hodges made a motion to set the public hearing on the proposed tax rate for September 12, 2023, at 6:15 p.m., with the meeting taking place in the Council Chambers of Prosper Town Hall, located at 250 W. First St, Prosper, TX. Councilmember Bartley seconded that motion. Motion carried with a 6-0 vote.

17. Discuss and consider Town Council Subcommittee reports. (DFB)

Mayor Bristol provided an update from the CEC meeting indicating the committee had reviewed the Comprehensive Plan, working on a Mayors Youth Council, and an initiative/pledge presented by a Prosper high school student called Prosper Act.

Mayor Bristol stated the Legislative Subcommittee also met and had a review of legislative bills passed. An update will be coming to the Town Council at the next regularly scheduled meeting.

Possibly direct Town staff to schedule topic(s) for discussion at a future meeting.

Deputy Mayor Pro-Tem Ray requested a review of the maintenance of trash containers.

Councilmember Bartley requested a deadline in regard to replacing dead plants to prepare for fall landscape maintenance.

EXECUTIVE SESSION:

Recess into Closed Session in compliance with Section 551.001 et seq. Texas Government Code, as authorized by the Texas Open Meetings Act, to deliberate regarding:

Section 551.087 – To discuss and consider economic development incentives and all matters incident and related thereto.

Section 551.072 – To discuss and consider purchase, exchange, lease or value of real property for municipal purposes and all matters incident and related thereto.

Section 551.074 – To discuss and consider personnel matters and all matters incident and related thereto.

The Town Council recessed into Executive Session at 9:43 p.m.

Reconvene in Regular Session and take any action necessary as a result of the Closed Session.

The Town Council reconvened into Regular Session at 10:11 p.m.

Mayor Pro-Tem Andres made a motion to amend the Town Manager Agreement as discussed in Executive Session. Deputy Mayor-Pro Tem Ray seconded that motion. Motion carried with a 6-0 vote.

Adjourn.

The meeting was adjourned at 10:12 p.m.

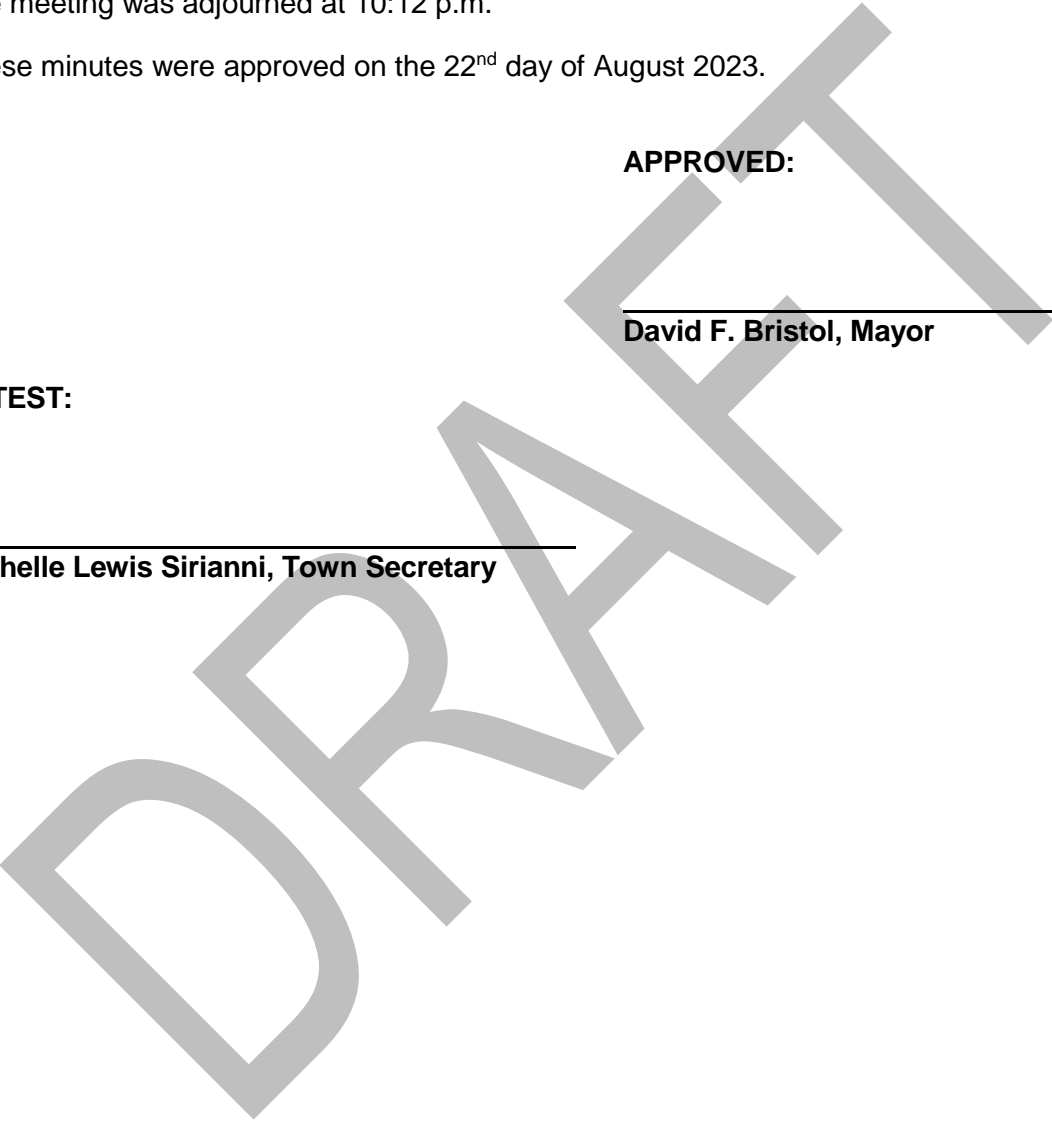
These minutes were approved on the 22nd day of August 2023.

APPROVED:

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary





FINANCE

To: Mayor and Town Council

From: Chris Landrum, Finance Director

Through: Mario Canizares, Town Manager
Robert B. Scott, Deputy Town Manager

Re: Quarterly Investment Report for June 30, 2023
Town Council Meeting – August 22, 2023

Agenda Item:

Receive the Quarterly Investment Report for June 30, 2023.

Description of Agenda Item:

As required by the Public Funds Investment Act, staff is required to report activities of its cash and investment holdings on a quarterly basis. Information as required by the act includes investment results for the quarter, economic summary and investment strategy, investment holdings and book vs. market comparisons.

Budget Impact:

There is no budgetary impact affiliated with this item.

Attached Documents:

1. Quarterly Investment Report – June 30, 2023

Staff Recommendation:

Receive the Quarterly Investment Report for June 30, 2023, as submitted.

Proposed Motion:

I move to receive the Quarterly Investment Report for June 30, 2023, as submitted



INVESTMENT PORTFOLIO SUMMARY

For the Quarter Ended

June 30, 2023

Prepared by
Valley View Consulting, L.L.C.

The investment portfolio of the Town of Prosper is in compliance with the Public Funds Investment Act and the Town of Prosper Investment Policy and Strategies.

Bob Scott, Deputy Town Manager

Chris Landrum, Finance Director

Disclaimer: These reports were compiled using information provided by the Town of Prosper. No procedures were performed to test the accuracy or completeness of this information. The market values included in these reports were obtained by Valley View Consulting, L.L.C. from sources believed to be accurate and represent proprietary valuation. Due to market fluctuations these levels are not necessarily reflective of current liquidation values. Yield calculations are not determined using standard performance formulas, are not representative of total return yields and do not account for investment advisor fees.

Summary

Quarter End Results by Investment Category:

Asset Type	March 31, 2023			June 30, 2023		
	Ave. Yield	Book Value	Market Value	Ave. Yield	Book Value	Market Value
MMA/NOW	4.57%	\$ 36,891,989	\$ 36,891,989	4.93%	\$ 22,177,649	\$ 22,177,649
MMF/Pools	4.61%	65,285,585	65,285,585	5.04%	77,488,064	77,488,064
Securities	2.94%	43,086,822	42,371,745	2.94%	43,060,614	42,227,990
Certificates of Deposit	1.32%	35,312,658	35,312,658	1.77%	25,362,107	25,362,107
Total	3.63%	\$ 180,577,054	\$ 179,861,977	3.99%	\$ 168,088,435	\$ 167,255,811

Average Yield - Current Quarter (1)

Total Portfolio	3.99%
Rolling Three Month Treasury	5.28%
Rolling Six Month Treasury	5.08%
TexPool	5.05%

Fiscal Year-to-Date Average Yield (2)

Total Portfolio	3.55%
Rolling Three Month Treasury	4.75%
Rolling Six Month Treasury	4.57%
TexPool	4.55%

Interest Earnings (Approximate)

Quarter	\$ 1,752,952
Fiscal Year-to-date	\$ 4,399,709

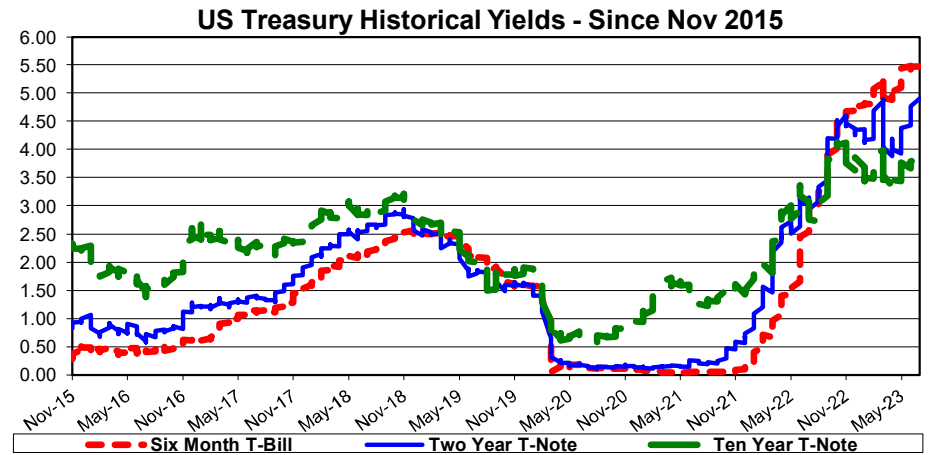
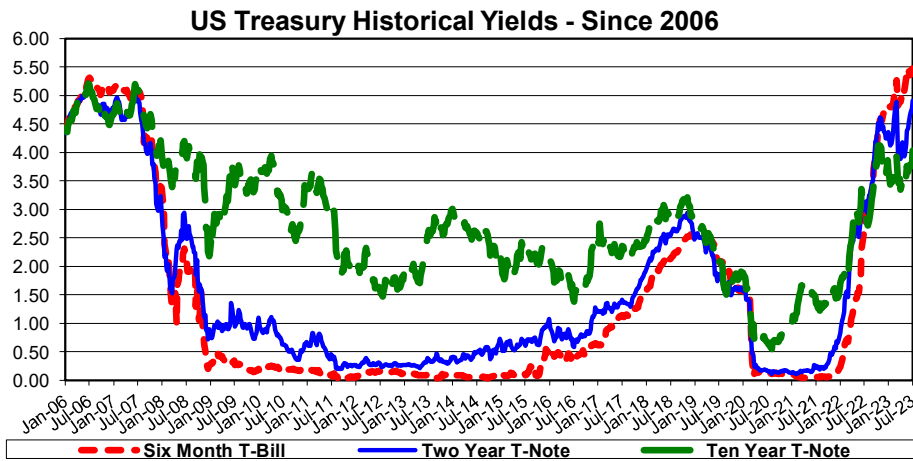
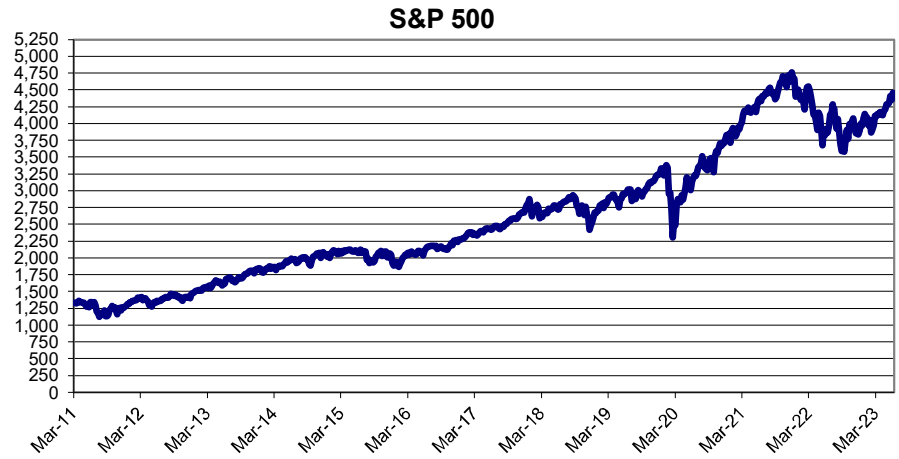
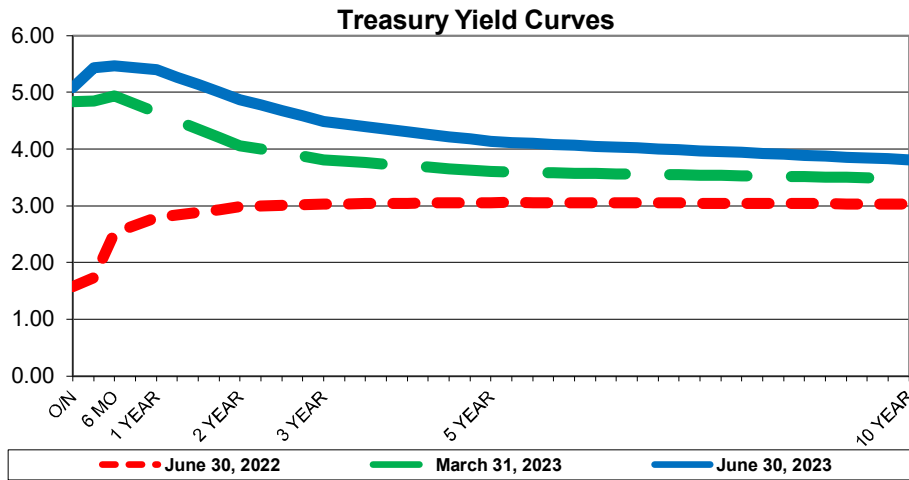
(1) **Quarter End Average Yield** - based on adjusted book value, realized and unrealized gains/losses and investment advisory fees are not considered. The yield for the reporting month is used for bank, pool, and money market balances.

(2) **Fiscal Year-to-Date Average Yield** - calculated using quarter end report yields and adjusted book values and does not reflect a total return analysis or account for advisory fees.

Economic Overview

6/30/2023

The Federal Open Market Committee (FOMC) paused and kept the Fed Funds target range 5.00% - 5.25% June 14th (Effective Fed Funds are trading +/-5.08%). Another increase is projected after the July 25-26 meeting. First quarter 2023 GDP (Final) recorded 2.0%. June Non-Farm Payroll added 209k new jobs, below the 230k projection. The three month average declined to 244k. The S&P Stock Index continues moderate increases, trading +/-4,400. The yield curve rose from last month but remains steeply inverted with the expectation of future FOMC rate decreases. Crude Oil trades over +/--\$70 per barrel. Inflation declined slightly but is still over the FOMC 2% target (Core PCE +/-4.6% and CPI +/-5.3%). The Ukrainian/Russian war and Middle East conflicts increase market anxiety.



Investment Holdings
June 30, 2023

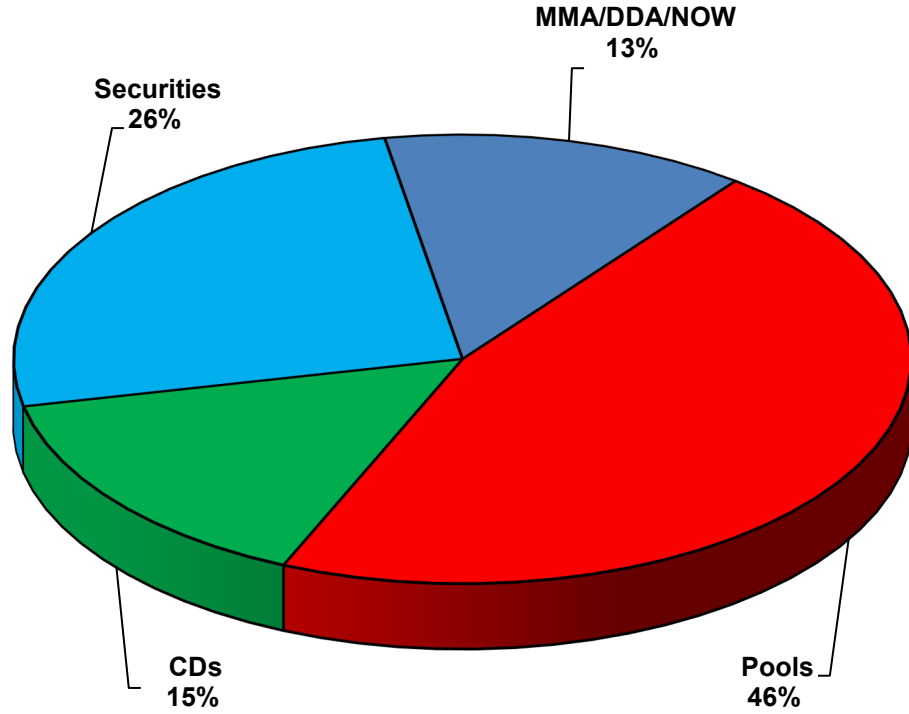
Description	Ratings	Coupon/ Discount	Maturity Date	Settlement Date	Par Value	Book Value	Market Price	Market Value	Life (Days)	Yield
Independent Financial DDA		2.53%	07/01/23	06/30/23	\$ 2,910,906	\$ 2,910,906	1.00	\$ 2,910,906	1	2.53%
Independent Financial DDA #2		5.38%	07/01/23	06/30/23	7,685,319	7,685,319	1.00	7,685,319	1	5.38%
Independent Financial DDA #3		5.38%	07/01/23	06/30/23	6,097,571	6,097,571	1.00	6,097,571	1	5.38%
NexBank MMA		5.30%	07/01/23	06/30/23	5,233,852	5,233,852	1.00	5,233,852	1	5.30%
PlainsCapital Bank MMA		0.00%	07/01/23	06/30/23	250,000	250,000	1.00	250,000	1	0.00%
PlainsCapital Bank ICS SWEEP MMF		1.85%	07/01/23	06/30/23	494,594	494,594	1.00	494,594	1	1.85%
TexSTAR	AAAm	5.08%	07/01/23	06/30/23	9,863,148	9,863,148	1.00	9,863,148	1	5.08%
TexPool	AAAm	5.05%	07/01/23	06/30/23	67,130,323	67,130,323	1.00	67,130,323	1	5.05%
T-Note	Aaa/AA+	0.13%	07/31/23	10/20/21	1,500,000	1,499,703	99.62	1,494,225	31	0.36%
Veritex Community Bank CD		0.25%	08/23/23	08/23/21	10,043,781	10,043,781	100.00	10,043,781	54	0.25%
Independent Financial CD		4.00%	09/04/23	10/11/22	10,296,436	10,296,436	100.00	10,296,436	66	4.00%
Veritex Community Bank CD		0.25%	09/15/23	09/17/21	5,021,890	5,021,890	100.00	5,021,890	77	0.25%
T-Note	Aaa/AA+	2.88%	10/31/23	10/20/21	1,500,000	1,512,313	99.19	1,487,865	123	0.43%
T-Note	Aaa/AA+	4.75%	02/29/24	02/09/22	5,000,000	5,033,734	98.02	4,900,800	244	1.35%
FHLB	Aaa/AA+	4.75%	03/08/24	12/21/22	10,000,000	9,997,096	99.51	9,951,100	252	4.79%
T-Note	Aaa/AA+	2.25%	04/30/24	03/16/22	10,000,000	10,031,013	97.41	9,740,600	305	1.87%
T-Note	Aaa/AA+	1.25%	08/31/24	02/09/22	5,000,000	4,986,754	95.36	4,767,800	428	1.48%
FHLB	Aaa/AA+	4.48%	10/03/24	12/22/22	10,000,000	10,000,000	98.86	9,885,600	461	4.48%
Total Portfolio					\$ 168,027,821	\$ 168,088,435		\$ 167,255,811	92	3.99%

(1) (2)

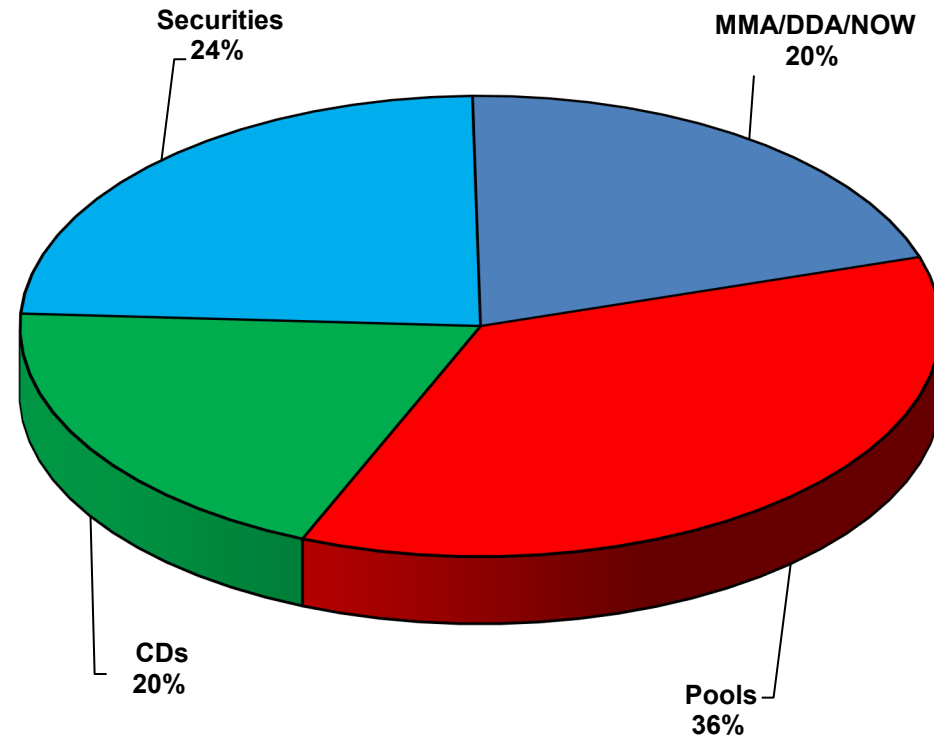
(1) **Weighted average life** - For purposes of calculating weighted average life, overnight bank and pool balances are assumed to have a one day maturity.

(2) **Weighted average yield to maturity** - The weighted average yield to maturity is based on Book Value, realized and unrealized gains/losses and investment advisory fees are not included. The yield for the reporting month is used for overnight bank and pool balances.

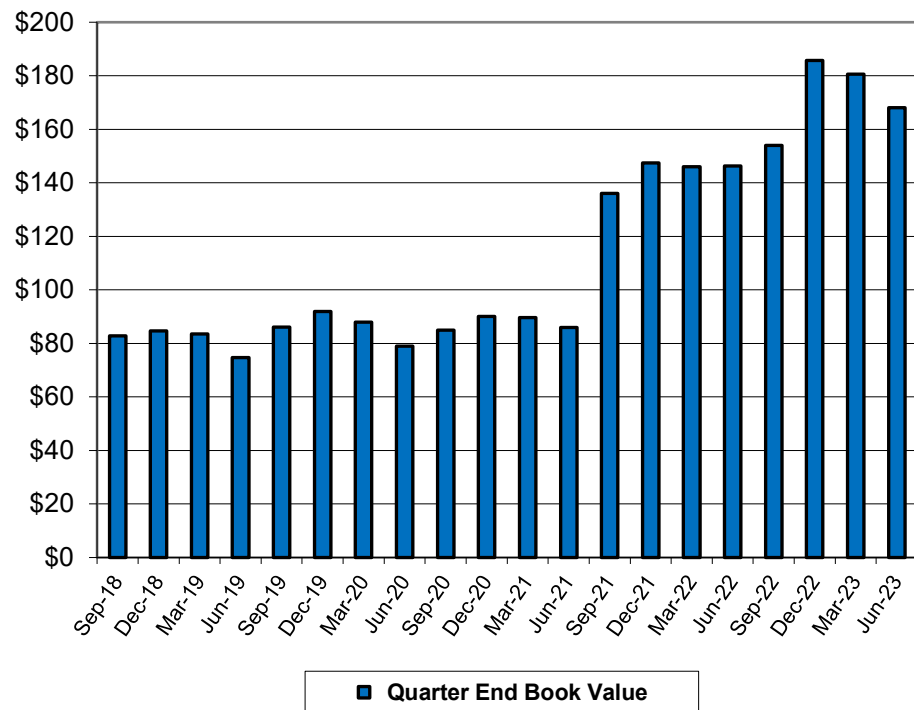
Composition - Current Quarter



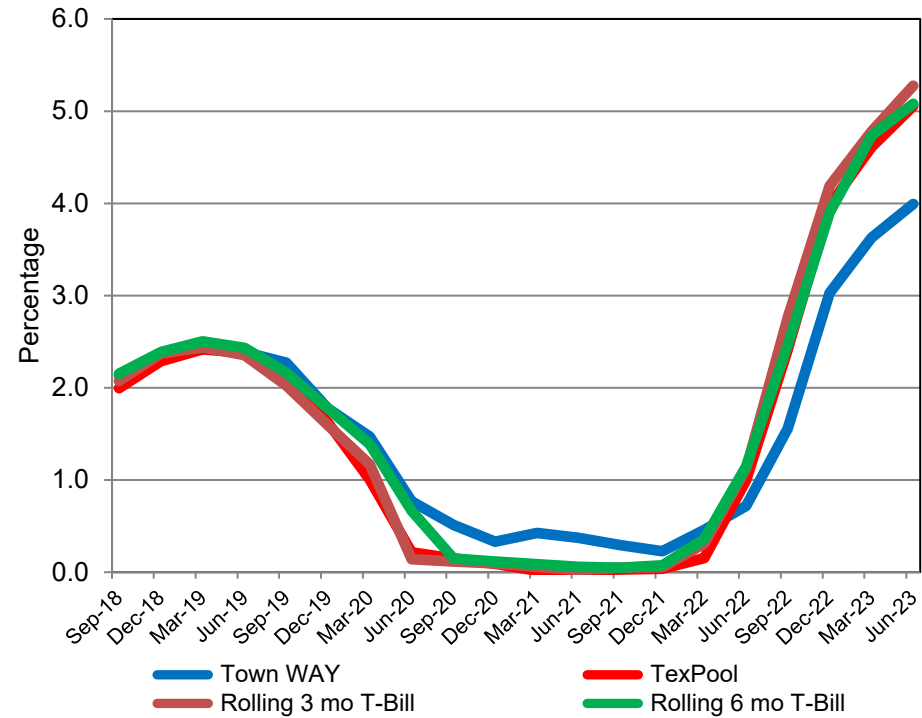
Composition - Prior Quarter



Total Portfolio (Millions)



Town Portfolio Performance



Book and Market Value Comparison

Issuer/Description	Yield	Maturity Date	Book Value 03/31/23	Increases	Decreases	Book Value 06/30/23	Market Value 03/31/23	Change in Market Value	Market Value 06/30/23
Independent Financial DDA	2.53%	07/01/23	\$ 3,739,820	\$ -	\$ (828,914)	\$ 2,910,906	\$ 3,739,820	\$ (828,914)	\$ 2,910,906
Independent Financial DDA #2	5.38%	07/01/23	7,587,305	98,014	-	7,685,319	7,587,305	98,014	7,685,319
Independent Financial DDA #3	5.38%	07/01/23	19,914,535	-	(13,816,964)	6,097,571	19,914,535	(13,816,964)	6,097,571
NexBank MMA	5.30%	07/01/23	5,167,065	66,788	-	5,233,852	5,167,065	66,788	5,233,852
PlainsCapital Bank MMA	0.00%	07/01/23	250,000	-	-	250,000	250,000	-	250,000
PlainsCapital Bank ICS SWEEP MMF	1.85%	07/01/23	233,264	261,330	-	494,594	233,264	261,330	494,594
TexSTAR	5.08%	07/01/23	9,741,586	121,562	-	9,863,148	9,741,586	121,562	9,863,148
TexPool	5.05%	07/01/23	55,543,999	11,586,324	-	67,130,323	55,543,999	11,586,324	67,130,323
The American Nat'l Bank CD <i>(Redeemed 04/10/23 without penalty)</i>	2.30%	04/10/23	5,056,416	-	(5,056,416)	-	5,056,416	(5,056,416)	-
The American Nat'l Bank CD	0.43%	06/01/23	5,037,716	-	(5,037,716)	-	5,037,716	(5,037,716)	-
T-Note	0.36%	07/31/23	1,498,832	871	-	1,499,703	1,477,380	16,845	1,494,225
Veritex Community Bank CD	0.25%	08/23/23	10,037,662	6,119	-	10,043,781	10,037,662	6,119	10,043,781
Independent Financial CD	4.00%	09/04/23	10,162,137	134,300	-	10,296,436	10,162,137	134,300	10,296,436
Veritex Community Bank CD	0.25%	09/15/23	5,018,728	3,162	-	5,021,890	5,018,728	3,162	5,021,890
T-Note	0.43%	10/31/23	1,521,423	-	(9,110)	1,512,313	1,484,415	3,450	1,487,865
T-Note	1.35%	02/29/24	5,046,315	-	(12,581)	5,033,734	4,895,900	4,900	4,900,800
FHLB	4.79%	03/08/24	9,996,048	1,049	-	9,997,096	9,987,900	(36,800)	9,951,100
T-Note	1.87%	04/30/24	10,040,267	-	(9,253)	10,031,013	9,750,400	(9,800)	9,740,600
T-Note	1.48%	08/31/24	4,983,938	2,816	-	4,986,754	4,785,950	(18,150)	4,767,800
FHLB	4.48%	10/03/24	10,000,000	-	-	10,000,000	9,989,800	(104,200)	9,885,600
TOTAL / AVERAGE	3.99%		\$ 180,577,054	\$ 12,282,335	\$(24,770,954)	\$ 168,088,435	\$ 179,861,977	\$ (12,606,166)	\$ 167,255,811

Allocation

June 30, 2023

	Book Value	Yield	Maturity Date	Total	Pooled Funds	Debt Service Fund
Independent Financial DDA		2.53%		\$ 2,910,906	\$ 2,910,906	
Independent Financial DDA #2		5.38%		\$ 7,685,319	7,685,319	
Independent Financial DDA #3		5.38%		\$ 6,097,571	6,097,571	
NexBank MMA		5.30%		\$ 5,233,852	5,233,852	
PlainsCapital Bank MMA		0.00%		\$ 250,000	250,000	
PlainsCapital Bank ICS SWEEP MMF		1.85%		\$ 494,594	494,594	
TexSTAR		5.08%		\$ 9,863,148	9,863,148	
TexPool		5.05%		\$ 67,130,323	62,898,861	4,231,462
T-Note		0.36%	07/31/23	\$ 1,499,703	1,499,703	
Veritex Community Bank CD		0.25%	08/23/23	\$ 10,043,781	10,043,781	
Independent Financial CD		4.00%	09/04/23	\$ 10,296,436	10,296,436	
Veritex Community Bank CD		0.25%	09/15/23	\$ 5,021,890	5,021,890	
T-Note		0.43%	10/31/23	\$ 1,512,313	1,512,313	
T-Note		1.35%	02/29/24	\$ 5,033,734	5,033,734	
FHLB		4.79%	03/08/24	\$ 9,997,096	9,997,096	
T-Note		1.87%	04/30/24	\$ 10,031,013	10,031,013	
T-Note		1.48%	08/31/24	\$ 4,986,754	4,986,754	
FHLB		4.48%	10/03/24	\$ 10,000,000	10,000,000	
	Totals			\$ 168,088,435	\$ 163,856,973	\$ 4,231,462

Allocation

March 31, 2023

Book Value	Yield	Maturity Date	Total	Pooled Funds	Debt Service Fund
Independent Financial DDA	2.04%		\$ 3,739,820	\$ 3,739,820	
Independent Financial DDA #2	4.94%		7,587,305	7,587,305	
Independent Financial DDA #3	4.94%		19,914,535	19,914,535	
NexBank MMA	4.87%		5,167,065	5,167,065	
PlainsCapital Bank MMA	0.00%		250,000	250,000	
PlainsCapital Bank ICS SWEEP MMF	0.00%		233,264	233,264	
TexSTAR	4.61%		9,741,586	9,741,586	
TexPool	4.61%		55,543,999	51,494,288	4,049,710
The American Nat'l Bank CD	0.43%	06/01/23	5,037,716	5,037,716	
T-Note	0.36%	07/31/23	1,498,832	1,498,832	
Veritex Community Bank CD	0.25%	08/23/23	10,037,662	10,037,662	
Independent Financial CD	4.00%	09/04/23	10,162,137	10,162,137	
Veritex Community Bank CD	0.25%	09/15/23	5,018,728	5,018,728	
T-Note	0.43%	10/31/23	1,521,423	1,521,423	
T-Note	1.35%	02/29/24	5,046,315	5,046,315	
FHLB	4.79%	03/08/24	9,996,048	9,996,048	
T-Note	1.87%	04/30/24	10,040,267	10,040,267	
The American Nat'l Bank CD	2.30%	06/01/24	5,056,416	5,056,416	
T-Note	1.48%	08/31/24	4,983,938	4,983,938	
FHLB	4.48%	10/03/24	10,000,000	10,000,000	
Totals			\$ 180,577,054	\$ 176,527,344	\$ 4,049,710

Town of Prosper, Texas
June 30, 2023 Quarterly Investment Report Investment Strategy Addendum

As noted in the Economic Overview, the FOMC has tightened 500 basis points in the since early 2022 and as anticipated, tightened an additional 25 basis points on May 3, 2023 resulting in a Fed Funds target of 5.00%-5.25%. These increases reflect The Federal Reserve's efforts to slow the economy and reduce inflationary pressures.

In the low interest environment of 2021 and prior, Certificates of Deposit (CD) often provided a yield advantage over Treasury and Agency securities. This yield advantage is still selectively prevalent, but combined with the greater administrative requirements and lack of liquidity associated with CD's the Town will continue shifting more available funds into fixed income securities. In addition, the Town's premier money market account with its Depository Bank pays the Fed Funds rate. The Town also maintains balances in two local government investment pools to ensure liquidity and for diversification purposes.



TOWN ATTORNEY

To: Mayor and Town Council

From: Terrence S. Welch, Town Attorney

Through: Mario Canizares, Town Manager

Re: Atmos Rate Review

Town Council Meeting – August 22, 2023

Strategic Visioning Priority: 4. Provide Excellent Municipal Services

Agenda Item:

Consider and act upon an ordinance approving a Negotiated Settlement between the Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division regarding the Company's 2023 Rate Review Mechanism Filing; declaring the existing rates to be unreasonable; finding the rates to be set by the attached Settlement Tariffs to be reasonable and in the public interest; and approving an attachment establishing a benchmark for pensions and retiree medical benefits.

Description of Agenda Item:

The Town, along with 181 other Mid-Texas cities served by Atmos Energy Corporation, Mid-Tex Division ("Atmos Mid-Tex" or "Company"), is a member of the Atmos Cities Steering Committee ("ACSC"). In 2007, ACSC and Atmos Mid-Tex settled a rate application filed by the Company pursuant to Section 104.301 of the Texas Utilities Code for an interim rate adjustment commonly referred to as a GRIP filing (arising out of the Gas Reliability Infrastructure Program legislation). That settlement created a substitute rate review process, referred to as Rate Review Mechanism ("RRM"), as a substitute for future filings under the GRIP statute.

Since 2007, there have been several modifications to the original RRM Tariff. The most recent iteration of an RRM Tariff was reflected in an ordinance adopted by ACSC members in 2018. On or about March 31, 2023, the Company filed a rate request pursuant to the RRM Tariff adopted by ACSC members. The Company claimed that its cost-of-service in a test year ending December 31, 2022, entitled it to additional system-wide revenues of \$165.9 million.

Application of the standards set forth in ACSC's RRM Tariff reduces the Company's request to \$156.1 million, \$113.8 million of which would be applicable to ACSC members. After reviewing the filing and conducting discovery, ACSC's consultants concluded that the system-wide deficiency under the RRM regime should be \$130.9 million instead of the claimed \$156.1 million.

After several settlement meetings, the parties have agreed to settle the case for \$142 million. This is a reduction of \$23.9 million to the Company's initial request. This includes payment of ACSC's expenses. The settlement also includes an additional \$19.5 million for the securitization regulatory asset expenses related to Winter Storm Uri. This was previously approved by the Texas Legislature and Railroad Commission. The Effective Date for new rates is October 1, 2023.

Atmos generated rate tariffs attached to the Ordinance will generate \$142 million in additional revenues. Atmos also prepared a Proof of Revenues supporting the settlement figures. ACSC consultants have agreed that Atmos' Proof of Revenues is accurate.

The impact of the settlement on average residential rates is an increase of \$6.47 on a monthly basis, or 7.31%. The increase for average commercial usage will be \$24.72 or 5.19%. Atmos provided bill impact comparisons containing these figures.

The Legislature's GRIP process allowed gas utilities to receive annual rate increases associated with capital investments. The RRM process has proven to result in a more efficient and less costly (both from a consumer rate impact perspective and from a ratemaking perspective) than the GRIP process. Given Atmos Mid-Tex's claim that its historic cost of service should entitle it to recover \$165.9 million in additional system-wide revenues, the RRM settlement at \$142 million for ACSC members reflects substantial savings to ACSC cities. Settlement at \$142 million is fair and reasonable. The ACSC Executive Committee consisting of city employees of 18 ACSC members urges all ACSC members to pass either a resolution or ordinance before September 30, 2023. New rates become effective October 1, 2023.

Budget Impact:

There is no budgetary impact affiliated with this item.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

Attached Documents:

1. Ordinance & Attachments

Town Staff Recommendation:

Town Attorney recommends approval of an ordinance approving a Negotiated Settlement between the Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division regarding the Company's 2023 Rate Review Mechanism Filing; declaring the existing rates to be unreasonable; finding the rates to be set by the attached Settlement Tariffs to be reasonable and in the public interest; and approving an attachment establishing a benchmark for pensions and retiree medical benefits.

Proposed Motion:

I move to approve an ordinance approving a Negotiated Settlement between the Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division regarding the Company's 2023 Rate Review Mechanism Filing; declaring the existing rates to be unreasonable; finding the rates to be set by the attached Settlement Tariffs to be reasonable and in the public interest; and approving an attachment establishing a benchmark for pensions and retiree medical benefits.

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2023-__

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE (“ACSC”) AND ATMOS ENERGY CORP., MID-TEX DIVISION (“COMPANY”) REGARDING THE COMPANY’S 2023 RATE REVIEW MECHANISM FILING; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; APPROVING AN ATTACHMENT ESTABLISHING A BENCHMARK FOR PENSIONS AND RETIREE MEDICAL BENEFITS; REQUIRING THE COMPANY TO REIMBURSE ACSC’S REASONABLE RATEMAKING EXPENSES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE ACSC’S LEGAL COUNSEL.

WHEREAS, the Town of Prosper, Texas (“Town”), is a gas utility customer of Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”), and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex; and

WHEREAS, the Town is a member of the Atmos Cities Steering Committee (“ACSC”), a coalition of similarly-situated cities served by Atmos Mid-Tex (“ACSC Cities”) that have joined together to facilitate the review of, and response to, natural gas issues affecting rates charged in the Atmos Mid-Tex service area; and

WHEREAS, ACSC and the Company worked collaboratively to develop a new Rate Review Mechanism (“RRM”) tariff that allows for an expedited rate review process by ACSC Cities as a substitute to the Gas Reliability Infrastructure Program (“GRIP”) process instituted by the Legislature, and that will establish rates for the ACSC Cities based on the system-wide cost of serving the Atmos Mid-Tex Division; and

WHEREAS, the current RRM tariff was adopted by the Town in a rate ordinance in 2018; and

WHEREAS, on about March 31, 2023, Atmos Mid-Tex filed its 2023 RRM rate request with ACSC Cities based on a test year ending December 31, 2022; and

WHEREAS, ACSC coordinated its review of the Atmos Mid-Tex 2023 RRM filing through its Executive Committee, assisted by ACSC’s attorneys and consultants, to resolve issues identified in the Company’s RRM filing; and

WHEREAS, the Executive Committee, as well as ACSC’s counsel and consultants, recommend that ACSC Cities approve an increase in base rates for Atmos Mid-Tex of \$142 million applicable on a system-wide basis with an effective date of October 1, 2023; and

WHEREAS, ACSC agrees that Atmos’ plant-in-service is reasonable; and

WHEREAS, with the exception of approved plant-in-service, ACSC is not foreclosed from future reasonableness evaluation of costs associated with incidents related to gas leaks; and

WHEREAS, the attached tariffs (Attachment 1) implementing new rates are consistent with the recommendation of the ACSC Executive Committee, are agreed to by the Company, and are just, reasonable, and in the public interest; and

WHEREAS, the settlement agreement sets a new benchmark for pensions and retiree medical benefits (Attachment 2); and

WHEREAS, the RRM Tariff contemplates reimbursement of ACSC's reasonable expenses associated with RRM applications; and

WHEREAS, the RRM Tariff includes Securitization Interest Regulatory Asset amount of \$19.5 million.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:

SECTION 1

All of the above premises are hereby found to be true and correct legislative and factual findings of the Town of Prosper and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

Without prejudice to future litigation of any issue identified by ACSC, the Town Council finds that the settled amount of an increase in revenues of \$142 million on a system-wide basis represents a comprehensive settlement of gas utility rate issues affecting the rates, operations and services offered by Atmos Mid-Tex within the municipal limits arising from Atmos Mid-Tex's 2023 RRM filing, is in the public interest, and is consistent with the Town's authority under Section 103.001 of the Texas Utilities Code.

SECTION 3

Despite finding Atmos Mid-Tex's plant-in-service to be reasonable, ASCS is not foreclosed in future cases from evaluating the reasonableness of costs associated with incidents involving leaks of natural gas.

SECTION 4

The existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable. The new tariffs, attached hereto and incorporated herein as Attachment 1, are just and reasonable, and are designed to allow Atmos Mid-Tex to recover annually an additional \$142 million on a system-wide basis, over the amount allowed under currently approved rates. Such tariffs are hereby adopted.

SECTION 5

The ratemaking treatment for pensions and retiree medical benefits in Atmos Mid-Tex's next RRM filing shall be as set forth on Attachment 2, attached hereto and incorporated herein.

SECTION 6

Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC in processing the Company's 2023 RRM filing.

SECTION 7

To the extent any resolution or ordinance previously adopted by the Town is inconsistent with this Ordinance, it is hereby repealed.

SECTION 8

The meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

SECTION 9

If any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, and the remaining provisions of this Ordinance shall be interpreted as if the offending section or clause never existed.

SECTION 10

Consistent with the Town ordinance that established the RRM process, this Ordinance shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after October 1, 2023.

SECTION 11

A copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs, Atmos Energy Corporation, Mid-Tex Division, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Thomas Brocato, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

PASSED AND APPROVED by the Town Council of the Town of Prosper, Texas, on this the 22nd day of August, 2023.

APPROVED:

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM:

Terrence S. Welch, Town Attorney

ATTACHMENT 1

ATTACHMENT 2

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	R – RESIDENTIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2023	

Application

Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 22.25 per month
Rider CEE Surcharge	\$ 0.05 per month ¹
Total Customer Charge	\$ 22.30 per month
Commodity Charge – All <u>Ccf</u>	\$0.48567 per Ccf ²

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹Reference Rider CEE - Conservation and Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2023.

²The commodity charge includes the base rate amount of \$0.46724 per Ccf and Securitization Regulatory Asset amounts related to financing costs in the amount of \$0.01843 per Ccf until recovered.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	C – COMMERCIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2023	

Application

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 30,000 Ccf.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 72.00 per month
Rider CEE Surcharge	(\$ 0.02) per month ¹
Total Customer Charge	\$ 71.98 per month
Commodity Charge – All Ccf	\$ 0.18280 per Ccf ²

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Presumption of Plant Protection Level

For service under this Rate Schedule, plant protection volumes are presumed to be 10% of normal, regular, historical usage as reasonably calculated by the Company in its sole discretion. If a customer believes it needs to be modeled at an alternative plant protection volume, it should contact the company at mdtx.plantprotection@atmosenergy.com.

¹ Reference Rider CEE - Conservation and Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2023.

²The commodity charge includes the base rate amount of \$0.16437 per Ccf and Securitization Regulatory Asset amounts related to financing costs in the amount of \$0.01843 per Ccf until recovered.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2023	

Application

Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 200 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 200 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and MMBtu charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 1,382.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.7484 per MMBtu ¹
Next 3,500 MMBtu	\$ 0.5963 per MMBtu ¹
All MMBtu over 5,000 MMBtu	\$ 0.2693 per MMBtu ¹

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees

¹ The tiered commodity charges include the base rate amounts of \$0.5684, \$0.4163, and \$0.0893 per MMBtu, respectively, plus Securitization Regulatory Asset amounts related to financing costs in the amount of \$0.1800 per MMBtu until recovered.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2023	

utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

Presumption of Plant Protection Level

For service under this Rate Schedule, plant protection volumes are presumed to be 10% of normal, regular, historical usage as reasonably calculated by the Company in its sole discretion. If a customer believes it needs to be modeled at an alternative plant protection volume, it should contact the company at mdtx.plantprotection@atmosenergy.com.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2023	

Application

Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp., Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer's agent at one Point of Delivery for use in Customer's facility.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's bill will be calculated by adding the following Customer and MMBtu charges to the amounts and quantities due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 1,382.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.5684 per MMBtu
Next 3,500 MMBtu	\$ 0.4163 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0893 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Imbalance Fees

All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

Monthly Imbalance Fees

Customer shall pay Company the greater of (i) \$0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest "midpoint" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" during such month, for the MMBtu of Customer's monthly Cumulative Imbalance, as defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer's receipt quantities for the month.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2023	

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement

A transportation agreement is required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2023	

Provisions for Adjustment

The Commodity Charge per Ccf (100 cubic feet) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential and commercial bills based on meters read during the revenue months of November through April. The five regional weather stations are Abilene, Austin, Dallas, Waco, and Wichita Falls.

Computation of Weather Normalization Adjustment

The Weather Normalization Adjustment Factor shall be computed to the nearest one-hundredth cent per Ccf by the following formula:

$$WNAF_i = R_i \frac{(HSF_i \times (NDD-ADD))}{(BL_i + (HSF_i \times ADD))}$$

Where

- i = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification
- $WNAF_i$ = Weather Normalization Adjustment Factor for the i^{th} rate schedule or classification expressed in cents per Ccf
- R_i = Commodity Charge rate of temperature sensitive sales for the i^{th} schedule or classification.
- HSF_i = heat sensitive factor for the i^{th} schedule or classification divided by the average bill count in that class
- NDD = billing cycle normal heating degree days calculated as the simple ten-year average of actual heating degree days.
- ADD = billing cycle actual heating degree days.
- BL_i = base load sales for the i^{th} schedule or classification divided by the average bill count in that class

The Weather Normalization Adjustment for the j th customer in i th rate schedule is computed as:

$$WNA_j = WNAF_i \times q_{ij}$$

Where q_{ij} is the relevant sales quantity for the j th customer in i th rate schedule.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2023	

Base Use/Heat Use Factors

Weather Station	<u>Residential</u>		<u>Commercial</u>	
	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>
Abilene	9.51	0.1415	88.91	0.7010
Austin	8.87	0.1213	213.30	0.7986
Dallas	12.54	0.2007	185.00	0.9984
Waco	8.81	0.1325	125.26	0.7313
Wichita Falls	10.36	0.1379	122.10	0.6083

Weather Normalization Adjustment (WNA) Report

On or before June 1 of each year, the company posts on its website at atmosenergy.com/mtx-wna, in Excel format, a *Weather Normalization Adjustment (WNA) Report* to show how the company calculated its WNA's factor during the preceding winter season. Additionally, on or before June 1 of each year, the company files one hard copy and an Excel version of the *WNA Report* with the Railroad Commission of Texas' Gas Services Division, addressed to the Director of that Division.

**ATMOS ENERGY CORP., MID-TEX DIVISION
 MID-TEX RATE REVIEW MECHANISM
 PENSIONS AND RETIREE MEDICAL BENEFITS FOR CITIES APPROVAL
 TEST YEAR ENDING DECEMBER 31, 2022**

Line No.	Description (a)	Shared Services (b)		Post-Employment Benefit Plan (c)		Pension Account Plan (d)		Mid-Tex Direct Post-Employment Benefit Plan (e)		Supplemental Executive Benefit Plan (f)		Adjustment Total (g)
		Pension Account Plan	Post-Employment Benefit Plan	Pension Account Plan	Post-Employment Benefit Plan	Pension Account Plan	Post-Employment Benefit Plan	Pension Account Plan	Post-Employment Benefit Plan	Pension Account Plan	Post-Employment Benefit Plan	
1	Proposed Benefits Benchmark -											
2	Fiscal Year 2023 Willis Towers Watson Report as adjusted (1) (2) (3)	\$ 1,434,339	\$ (518,336)	\$ 2,336,419	\$ (2,678,818)	\$ 267,917						
	Allocation Factor	44.92%	44.92%	78.74%	78.74%	100.00%						
3	Proposed Benefits Benchmark Costs Allocated to Mid-Tex (Ln 1 x Ln 2)	\$ 644,336	\$ (232,848)	\$ 1,839,667	\$ (2,109,267)	\$ 267,917						
4	O&M and Capital Allocation Factor	100.00%	100.00%	100.00%	100.00%	100.00%						
5	Proposed Benefits Benchmark Costs to Approve (Ln 3 x Ln 4)	\$ 644,336	\$ (232,848)	\$ 1,839,667	\$ (2,109,267)	\$ 267,917						
6												
7	O&M Expense Factor (WP_F-2.3, Ln 2)	78.60%	78.60%	39.63%	39.63%	11.00%						
8												
9	Summary of Costs to Approve (1):											
10	Total Pension Account Plan	\$ 506,464	\$ (183,024)	\$ 729,006	\$ (835,840)	\$ 1,235,469						
11	Total Post-Employment Benefit Plan					(1,018,864)						
12	Total Supplemental Executive Benefit Plan					29,471						
13	Total (Ln 10 + Ln 11 + Ln 12)	\$ 506,464	\$ (183,024)	\$ 729,006	\$ (835,840)	\$ 29,471						



TOWN ATTORNEY

To: Mayor and Town Council

From: Terrence S. Welch, Town Attorney

Through: Mario Canizares, Town Manager

Re: CoServ Gas Rate Suspension

Town Council Meeting – August 22, 2023

Strategic Visioning Priority: 4. Provide Excellent Municipal Services

Agenda Item:

Consider and act upon a resolution suspending the September 1, 2023, effective date of a rate request from CoServ Gas Ltd. for the maximum period allowed by law.

Description of Agenda Item:

On July 28, 2023, CoServ Gas, Ltd. (“CoServ”), pursuant to Subchapter C of Chapter 104 of the Gas Utility Regulatory Act, filed its Statement of Intent to change gas rates at the Railroad Commission of Texas (“RRC”) and in all municipalities exercising original jurisdiction within its service area, effective September 1, 2023.

CoServ is seeking to increase its annual revenues in incorporated areas by \$10,314,726, which is an increase of 7.5% including gas costs, or 27.3% excluding gas costs. CoServ is also requesting: (1) new depreciation rates for distribution and general plant; (2) a prudence determination for capital investment; (3) specification of the factors to be used in any Interim Rate Adjustment Filing the Company makes pursuant to Texas Utilities Code § 104.302; and (4) a surcharge on customer bills to recover the reasonable rate case expenses associated with the filing of this statement of intent.

The resolution suspends the September 1, 2023, effective date of the Company’s rate increase for the maximum period permitted by law to allow the Town, working in conjunction with other similarly situated cities with original jurisdiction served by CoServ, to evaluate the filing, to determine whether the filing complies with the law, and if lawful, to determine what further strategy, including settlement, to pursue.

State law provides that a rate request cannot become effective until at least 35 days following the filing of the application to change rates. The law permits the Town to suspend the rate change for 90 days after the date the rate change would otherwise be effective. **If the Town fails to take some action regarding the filing before the effective date, CoServ’s rate request is deemed approved.**

Budget Impact:

There is no budgetary impact affiliated with this item.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached resolution as to form and legality.

Attached Documents:

1. Resolution

Town Staff Recommendation:

The Town Attorney recommends that the Town Council approve a resolution suspending the September 1, 2023, effective date of a rate request from CoServ Gas Ltd. for the maximum period allowed by law.

Proposed Motion:

I move to approve a resolution suspending the September 1, 2023, effective date of a rate request from CoServ Gas Ltd. for the maximum period allowed by law and to cooperate with other similarly situated municipalities in reviewing the CoServ rate request.

TOWN OF PROSPER, TEXAS

RESOLUTION NO. 2023-xx

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, SUSPENDING THE SEPTEMBER 1, 2023, EFFECTIVE DATE OF COSERV GAS, LTD.'S REQUESTED RATE CHANGE TO PERMIT THE TOWN TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH OTHER MUNICIPALITIES IN THE COSERV SERVICE AREA, TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; REQUIRING REIMBURSEMENT OF THE STEERING COMMITTEE OF MUNICIPALITIES SERVED BY COSERV GAS' RATE CASE EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or about July 28, 2023, CoServ Gas, Ltd ("CoServ" or "Company"), pursuant to Gas Utility Regulatory Act § 104.102 filed with the Town of Prosper ("Town") a Statement of Intent to change gas rates in all municipalities exercising original jurisdiction within its service area, effective September 1, 2023; and

WHEREAS, the Town is a gas utility customer and a regulatory authority under the Gas Utility Regulatory Act ("GURA") and under Chapter 104, § 104.001 *et seq.* of GURA has exclusive original jurisdiction over CoServ's rates, operations, and services within the Town; and

WHEREAS, in order to maximize the efficient use of resources and expertise, it is reasonable for the Town to cooperate with other municipalities in conducting a review of the Company's application and to hire and direct legal counsel and consultants and to prepare a common response and to negotiate with the Company and direct any necessary litigation; and

WHEREAS, it is not possible for the Town to complete its review of CoServ's filing by the September 1, 2023, effective date proposed in CoServ's Statement of Intent; and

WHEREAS, the Town will need an adequate amount of time to review and evaluate CoServ's rate application to enable the Town to adopt a final decision as a local regulatory authority with regard to CoServ's requested rate increase; and

WHEREAS, GURA § 104.107 grants local regulatory authorities the right to suspend the effective date of proposed rate changes for ninety (90) days; and

WHEREAS, GURA § 103.022 provides that costs incurred by municipalities in ratemaking activities are to be reimbursed by the regulated utility.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:

SECTION 1

All of the above premises are found to be true and correct legislative determinations of the Town of Prosper, Texas, and are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

SECTION 2

The September 1, 2023, effective date of the rate request submitted by CoServ on July 28, 2023, shall be suspended for the maximum period allowed by law to permit adequate time to review the proposed changes and to establish reasonable rates.

SECTION 3

The Town is authorized to cooperate with other municipalities in the CoServ service area, CoServ Gas Cities, and subject to the right to terminate employment at any time, hereby authorizes the hiring of Thomas L. Brocato of the law firm of Lloyd Gosselink Rochelle and Townsend, P.C. and consultants, to review CoServ's filing, negotiate with the Company, make recommendations to the Town regarding reasonable rates, and to direct any necessary administrative proceedings or court litigation associated with an appeal of a rate ordinance and the rate case filed with the Town or Texas Railroad Commission.

SECTION 4

The Town's reasonable rate case expenses shall be reimbursed by CoServ.

SECTION 5

It is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

SECTION 6

A copy of this Resolution shall be sent to CoServ, care of Charles D. Harrell, CoServ Gas Ltd., 7701 South Stemmons, Corinth, Texas 76210-1842, and to Thomas L. Brocato, General Counsel to OCSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, TX 78701.

SECTION 7

This Resolution shall be effective from and after its passage by the Town Council.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 22ND DAY OF AUGUST, 2023.

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney



FIRE DEPARTMENT

To: Mayor and Town Council

From: Stuart Blasingame, Fire Chief

Through: Mario Canizares, Town Manager

Re: Vector Solutions Training Management and Scheduling Agreement

Town Council Meeting – August 22, 2023

Strategic Visioning Priority: 4. Provide Excellent Municipal Services

Agenda Item:

Consider and act upon authorizing the Town Manager to execute an Agreement between Vector Solutions and the Town of Prosper for online training management and scheduling applications.

Description of Agenda Item:

Vector Solutions, formerly Target Solutions, is the incumbent vendor providing online training and record management services for the fire department. The previous selection of Vector Solutions was based on their level of service and their strong track record. Our current agreement will expire on September 30, 2023. Prosper Fire Rescue needs to renew our service agreement with Vector Solutions. This agreement will add the personnel scheduling component to manage our work schedules, staffing, and payroll reports as well as to consolidate services. The department will not be renewing the agreement with our current scheduling component vendor, Aladtec.

Budget Impact:

Year one is quoted at \$18,533.00 to include annual and one-time costs and is based off our current number of personnel. Years 2 and 3 is quoted at \$17,650.68 to include our current personnel numbers. If additional personnel are approved, the rates would be adjusted to the prices quoted per the agreement. This agreement will be funded from account 100-5480-30-01.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

Attached Documents:

1. Vector Solutions Service Agreement

Town Staff Recommendation:

Town Staff recommends the Town Council approve authorizing the Town Manager to execute an Agreement between Vector Solutions and the Town of Prosper for online training management and scheduling applications.

Proposed Motion:

Item 7.

I move to approve authorizing the Town Manager to execute an Agreement between Vector Solutions and the Town of Prosper for online training management and scheduling applications.



Quote ID
Q-275
Item 7.

Valid Until
Thursday, August 31, 2023

Contact Name
Heather Keith

TargetSolutions Learning, LLC Agreement Schedule A

Date: Tuesday, August 1, 2023

Client Information

Client Name: Prosper Fire Rescue (TX)	
Address: 911 Safety Way Prosper, TX 75078	
Primary Contact Name: Shaw Eft	Primary Contact Phone: 972.347.2424

Agreement Term

Effective Date: 10/01/2023	Initial Term: 36 months
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Invoicing Contact Information (Please fill in missing information)

Billing Contact Name: Prosper Fire Rescue Accounts Payable		
Billing Address: 911 Safety Way Prosper, Texas 75078		Billing Phone: Billing Email: ap@prospertx.gov
PO#:	Billing Frequency: Annual	Payment Terms: Net 30

Annual Fee(s)

Product Code	Product	Description	Minimum Annual Commitment	Price	Sub Total
TSPREMIER	Vector LMS, TargetSolutions Edition Premier Membership	Training management for public entities and professionals	79	\$95.85	\$7,572.15
TSMINTFEES	Vector LMS, TargetSolutions Edition - Maintenance Fee	Annual maintenance of Vector LMS, TargetSolutions Edition	1	\$350.00	\$350.00
TSEVAL	Vector Evaluations+	Vector Evaluations+ for web and mobile	72	\$28.24	\$2,033.28
TSSCH	Vector Scheduling	Vector Scheduling for web and mobile	79	\$92.83	\$7,333.57
TSSCHMF	Vector Scheduling - Maintenance Fee	Annual maintenance of Vector Scheduling	1	\$164.00	\$164.00

Annual Total: \$17,650.

Item 7.

One-Time Fee(s)

Product Code	Product	Description	Qty	Price	Sub Total
SCHIMP	Vector Scheduling Implementation Investment	Implementation investment for Vector Solutions Scheduling Platform	1	\$1,080.00	\$1,080.00

One-Time Total: \$1,080.00

Grand Total (including Annual and One-Time): \$18,533.00

Please note this is not an invoice. An invoice will be sent within fourteen (14) business days.

Additional Terms and Conditions.

The following are in addition to the Client Agreement General Terms and Conditions.

- Additional Named Users added after the Effective Date will be invoiced at the full per Named User fee. Such additional Named Users shall become part of the Minimum Annual Commitment for subsequent years, on the anniversary date of each contract year or upon renewals under the Agreement.
- You agree to pay for the number of Named Users using or licensed to access the Services in a given contract year. Subject to the Minimum Annual Commitment, Changes in Named User counts will be reflected in the annual contract amount from that period forward for all Users.
- Subject to the above Minimum Annual Commitment, annual fees for your use of the Services will be based upon the number of Named Users in a given contract year.
- Named Users deactivated in a given contract year will not count towards the total number of Named Users in the year following such deactivation, unless reactivated.
- Fees, both during the Initial Term, as well as any Renewal Terms, shall be increased by 5% per contract year. Changes in Named User counts will be reflected in the annual contract amount from that period forward for all Users.
- All undisputed invoices are due and payable Net 30 days after invoice date (“Due Date”). Any fees unpaid for more than 10 days past the Due Date shall bear interest at 1.5% per month or the highest applicable rate permitted by law.
- AUTOMATIC RENEWAL. UNLESS OTHERWISE AGREED OR WHERE PROHIBITED BY APPLICABLE LAW OR REGULATION, UPON EXPIRATION OF THE ABOVE INITIAL TERM, THIS AGREEMENT WILL RENEW FOR A RENEWAL TERM EQUAL TO THE INITIAL TERM AT VECTOR SOLUTIONS’ THEN CURRENT FEES, UNLESS NOTICE IS GIVEN BY EITHER PARTY OF ITS INTENT TO TERMINATE THE AGREEMENT AT LEAST SIXTY (60) DAYS PRIOR TO THE SCHEDULED TERMINATION DATE.**

Address for Notices:

4890 W. Kennedy Blvd., Suite 300
Tampa, FL 33609

911 Safety Way
Prosper, TX 75078

This Vector Solutions Software as a Service Agreement (the "Agreement"), effective as of the date noted in the attached Schedule A (the "Effective Date"), is by and between **TargetSolutions Learning, LLC, d/b/a Vector Solutions**, ("We/Us") a Delaware limited liability company, and the undersigned customer ("You/Your"), (each a "Party" or "Parties") and governs the purchase and ongoing use of the Services described in this Agreement.

GENERAL TERMS AND CONDITIONS

1. SERVICES. We shall provide the following Software as a Service ("Services"):

1.1. Access and Use. We grant You a non-exclusive, non-transferable revocable authorization to remotely access and use the software as a service offering identified in Schedule A (the "Services") and, unless prohibited by law, We will provide access to any persons You designate for use as described in these terms and conditions. For clarification, We authorize access and use on a "one user per one authorization basis" and once granted, You are not allowed to transfer authorizations to other users. Your ability to use the Services may be affected by minimum system requirements or other factors, such as Your Internet connection.

1.2. Availability. We will use commercially reasonable efforts to provide access to and use of the Services twenty-four (24) hours a day, seven (7) days a week, subject to scheduled downtime for routine maintenance, emergency maintenance, system outages, and other outages beyond our control.

1.3. Help Desk. We will assist You as needed on issues relating to usage via e-mail, and a toll-free Help Desk five (5) days per week, at scheduled hours, currently 8:00am to 6:00 pm Eastern Time, Monday-Friday or <https://support.vectorsolutions.com/s/contactsupport>

1.4. Upgrades and Updates. We reserve the right, in our discretion, to make updates or upgrades to the Services that are necessary or useful to: (a) maintain or enhance: (i) the quality or delivery of the Services; (ii) the competitive strength of or market for the Services; or (iii) the Services' cost efficiency or performance; or (b) to comply with applicable law. For no additional charge, You will receive access to any general upgrades and updates to the Services which We make generally available to our other customers. All updates and upgrades to the Services are subject to these terms and conditions.

1.5. Additional Services. From time to time, the Parties may decide in their discretion to add additional Services, subject to the Parties' execution of one or more change forms which shall be substantially in the form of the Schedule A and shall incorporate these terms and conditions by reference. Each individual Schedule A shall have its own service term.

2. YOUR RESPONSIBILITIES AND USE RESTRICTIONS.

2.1. Compliance. You shall be responsible for all Users' compliance with this Agreement and shall use commercially reasonable efforts to prevent unauthorized access to or use of the Services. You shall comply with all applicable laws, standards, and regulations and will not use the Services in a manner not specified or permitted by Us.

2.2. Identify Named Users. A "Named User" is defined as Your employees, consultants, contractors, and agents You authorize to access and use the Services You are purchasing during each contract year ("Term") of the Agreement.

2.2.1. You will be responsible for the following: (a) cause each of Your Named Users to complete a unique profile if not created by Vector Solutions on their behalf; and (b) timely maintain a user database by adding a unique profile for each new Named User. Due to licensing and data retention requirements, Named Users may not be removed from our system unless required by law. You will be responsible for identifying Named Users from time to time during the Term of this Agreement through available system capabilities.

2.3. Future Functionality. You agree that Your purchases are not contingent on Our delivery of any future functionality or features. You are not relying on any comments regarding future functionality or features.

3. FEES AND PAYMENTS.

3.1. Fees and Payment. You will pay for the Services in accordance with the payment terms, frequency, and fee schedule in Schedule A attached to this Agreement. All fees collected by Us under this Agreement are fully earned when due and nonrefundable when paid, except if You terminate this Agreement for cause as described in Section 5.2.

3.2. Due Date. All fees due under this Agreement must be paid in United States Dollars or Canadian Dollars or as specified in Schedule A as applicable to Your location. We will invoice You in advance and all undisputed invoices are due and payable on the due date specified in Schedule A.

3.3. Suspension of Service. If You do not make an undisputed payment on time, We may suspend Your or Your Named Users' access to the Services without further notice until all overdue payments are paid in full. Our suspension of Your use of the Services or termination of the Agreement for Your violation of the terms of this Agreement will not change Your obligation to pay any and all payments due for the applicable Term.

3.3.1. We may also suspend, terminate, or otherwise deny Your access or any Named User's access to or use of all or any part of the Services, without incurring any liability to You, if: (a) We receive a judicial or other governmental demand or order, subpoena, or law enforcement request that expressly or by reasonable implication requires Us to do so; or (b) We believe, in good faith and reasonable discretion, that: (i) You or any Named User, have failed to comply with any term of this Agreement, or accessed or used the Services beyond the scope of the rights granted, or for a purpose not authorized under this Agreement; or (ii) Your use of the Services causes a direct or indirect threat to our network function or integrity, or to Our other customers' ability to access and use the Services; or (iii) You or any Named User, are or have been involved in any fraudulent, misleading, or unlawful activities relating to or in connection with any of the Services; or (iv) this Agreement expires or is terminated. This Section 3.3 does not limit any of Our other rights or remedies under this Agreement.

3.4. **Taxes.** All fees under this Agreement exclude all sales, use, value-added taxes, and other taxes and government charges, whether Federal, State, or foreign, and You will be responsible for payment of all such taxes (other than taxes based on our income), fees, duties, and charges, and any related penalties and interest, arising from the payment of any and all fees under this Agreement including the access to or performance of the Services hereunder. If We have a legal obligation to pay or collect taxes for which You are responsible under the Agreement, then We will invoice, and You will pay the appropriate amount unless You claim tax exempt status for amounts due under this Agreement and provide Us with a valid tax exemption certificate (authorized by the applicable governmental authority) promptly upon execution of this Agreement. If any taxes shall be required by law to be deducted or withheld from any fee payable hereunder by You to Us, You shall, after making the required deduction or withholding, increase such fee payable as may be necessary to ensure that We shall receive an amount equal to the fee We would have received had no such deduction or withholding been made.

4. INTELLECTUAL PROPERTY RIGHTS.

4.1. We alone (and our licensors, where applicable) shall own all rights, title, and interest in and to our software, website and technology, the course content (if any), and the Services We provide, including all documentation associated with the Services. If You provide any suggestions, ideas, enhancement requests, feedback, recommendations, or other information provided by You (collectively "**Feedback**"), We may use such Feedback to improve the Services without charge, royalties, or other obligation to You, and Our use of Your Feedback does not give You any property rights to the Services.

The Vector Solutions name and logo are trademarks of Vector Solutions, and no right or license is granted to You to use them. You shall own all rights, title, and interest in and to Your added software, Your content, and information collected from Your content pages ("**Your Data**"). You shall have no rights in or to any other data collected that is not affiliated with You. Your content, email addresses, and personal information of Your Named Users or Your EHS Active Employees You entered into the database, or any of Your customers or users is Your sole property. We will not, at any time, redistribute, share, or sell any of Your email addresses, email server domain names, customer names, or personal information. Course content that You purchase from third-party course providers and access through our LMS will require the sharing of certain user information with Us in order for Us to properly track and report usage.

4.2. You recognize that We regard the software We have developed to deliver the Services as our proprietary information and as confidential trade secrets of great value. You agree not to provide or to otherwise make available in any form the software or Services, or any portion thereof, to any person other than Your Named Users without our prior written consent. You further agree to treat the Services with at least the same degree of care with which You treat Your own confidential information and in no event with less care than is reasonably required to protect the confidentiality of the Services.

4.2.1 Except as otherwise agreed in writing or to the extent necessary for You to use the Services in accordance with this Agreement, You are not allowed to: (a) copy the course content in whole or in part; (b) display, reproduce, create derivative works from, transmit, sell, distribute, rent, lease, sublicense, transfer or in any way exploit the course content in whole or in part; (c) embed the course content into other products; (d) use any of our trademarks, service marks, domain names, logos, or other identifiers or any of our third party suppliers; (e) reverse engineer, decompile, disassemble, or access the source code of any of our Services or software, (f) use the software or Services for any purpose that is unlawful; (g) alter or tamper with the Services and/or associated documentation in any way; (h) attempt to defeat any security measures that We may take to protect the confidentiality and proprietary nature of the Services; (i) remove, obscure, conceal, or alter any marking or notice of proprietary rights that may appear on or in the Services and/or associated documentation; or (j) except as permitted by this Agreement, knowingly allow any individual or entity under Your control to access Services without authorization under this Agreement for such access.

4.3. We acknowledge that You alone shall own all rights, title, and interest in and to Your name, trademarks, or logos, and this Agreement does not give Us any rights of ownership to the same. You hereby authorize Us to use Your name, trademarks, or logos in promotional materials, press releases, advertising, or in other publications or websites, whether oral or written. If You do not consent to Our use of Your name or logo, You may withdraw Your consent at any time by notifying Us at logousage@vectorsolutions.com.

5. TERM, TERMINATION, AND NOTICE.

5.1 **Term.** The term of this Agreement will start on the Effective Date, and will remain in full force and effect for the initial term (the "**Initial Term**") indicated in Schedule A. Upon expiration or early termination of this Agreement by either Party as described below in Section 5.2 (Termination for Cause) or for any reason, You shall immediately discontinue all use of the Services and documentation, and You acknowledge that We will terminate Your ability to access the Services. Notwithstanding, access to the

Services may remain active for thirty (30) days solely for purpose of our record keeping (the “**Expiration Period**”). If You continue to access or use the Services following the Expiration Period, then Your continued use will renew the Agreement under the same terms and conditions, subject to any annual price adjustments.

5.2 **Termination for Cause.** Either Party may terminate this Agreement, effective upon written notice to the other Party (the “**Defaulting Party**”), if the Defaulting Party materially breaches this Agreement, and that breach is incapable of cure, or with respect to a material breach capable of cure, and the Defaulting Party does not cure the breach within thirty (30) days after receipt of written notice of the breach. If You terminate this Agreement due to Our material breach, then We will return an amount equal to the pro-rated fees already paid for the balance of the term as of the date of termination as Your only remedy.

5.3. **Notice.** All required notices by either Party shall be given by email, personal delivery (including reputable courier service), fees prepaid, or by sending the notice by registered or certified mail return receipt requested, postage prepaid, and addressed as set forth in Schedule A. Such notices shall be deemed to have been given and delivered upon receipt or attempted delivery (if receipt is refused), as the case may be, and the date of receipt identified by the applicable postal service on any return receipt card shall be conclusive evidence of receipt. Notices and other communications sent by e-mail shall be deemed received upon the sender's receipt of an acknowledgment from the recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment). Either Party, by written notice to the other as described above, may alter its address for written notices.

6. MUTUAL WARRANTIES AND DISCLAIMER.

6.1. **Mutual Representations and Warranties.** Each Party represents and warrants to the other Party that: (a) it is duly organized, validly existing, and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization; (b) it has the full right, power, and authority to enter into and perform its obligations and grant the rights, licenses, consents, and authorizations it grants or is required to grant under this Agreement; (c) the acceptance of this Agreement has been duly authorized by all necessary corporate or organizational action; and (d) when executed and delivered by both Parties, this Agreement will constitute the legal, valid, and binding obligation of each Party, enforceable against each Party in accordance with its terms.

6.2. **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. WE DO NOT WARRANT THAT THE USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. THE SERVICES AND ASSOCIATED DOCUMENTATION ARE PROVIDED “AS IS,” AND WE PROVIDE NO OTHER EXPRESS, IMPLIED, STATUTORY, OR OTHER WARRANTIES REGARDING THE SERVICES OR ASSOCIATED DOCUMENTATION.

6.3. **Disclaimer of Third-Party Content.** If You upload third-party content to our platform or Services, the third-party content providers are responsible for ensuring their content is accurate and compliant with national and international laws. We are not and shall not be held responsible or liable for any third-party content You provide or Your use of that third-party content. THERE IS NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY, REGARDING THIRD PARTY CONTENT ACCESSIBLE THROUGH THE SERVICES.

6.4 None of our employees, marketing partners, resellers, or agents are authorized to make any warranty other than the Warranties stated in this Agreement. The provisions in any specification, brochure, or chart are descriptive only and are not warranties.

7. LIMITATION OF LIABILITY. EXCEPT FOR CLAIMS RELATED TO VIOLATION OF INTELLECTUAL PROPERTY RIGHTS, GROSS NEGLIGENCE, FRAUD, OR WILFULL MISCONDUCT, (A) IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY, ANY AFFILIATE, THIRD-PARTY, OR YOUR USERS, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS), ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, AND (B) IF YOU HAVE ANY BASIS FOR RECOVERING DAMAGES (INCLUDING FOR BREACH OF THIS AGREEMENT), YOU AGREE THAT YOUR EXCLUSIVE REMEDY WILL BE TO RECOVER DIRECT DAMAGES FROM US, UP TO AN AMOUNT EQUAL TO THE TOTAL FEES ALREADY PAID TO US FOR THE PRECEDING TWELVE (12) MONTHS.

7.1.1. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WHATEVER THE LEGAL BASIS FOR THE CLAIM, UNDER NO CIRCUMSTANCES SHALL WE BE LIABLE TO YOU, ANY AFFILIATE, ANY THIRD PARTY OR YOUR USERS FOR ANY CLAIM, CAUSE OF ACTION, DEMAND, LIABILITY, DAMAGES, AWARDS, FINES, OR OTHERWISE, ARISING OUT OF OR RELATING TO PERSONAL INJURY, DEATH, OR OTHER HARM CAUSED FROM USE OF OR RELIANCE ON THE CONTENT OF THE COURSES OR SERVICES. YOU, YOUR AFFILIATES, EMPLOYEES, CONTRACTORS, AGENTS, USERS, AND REPRESENTATIVES RELY ON THE CONTENT OF THE COURSES AND SERVICES AT YOUR OWN RISK.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN TYPES OF DAMAGES SO, SOLELY TO THE EXTENT SUCH LAW APPLIES TO YOU, THE ABOVE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO YOU.

8. OBLIGATIONS OF BOTH PARTIES.

8.1. Our Obligation to You. We shall indemnify and hold You harmless from any and all claims, damages, losses, and expenses, including but not limited to reasonable attorney fees, arising out of or resulting from any third-party claim that any document, course, or intellectual property We provide or upload to our platform infringes or violates any intellectual property right of any person.

8.2. Your Obligation to Us. To the extent not prohibited by applicable law, You shall indemnify and hold Us harmless from any and all claims, damages, losses, and expenses, including but not limited to reasonable attorney fees, arising out of or resulting from any third-party claim that any document, courses, or intellectual property You provide or upload to our platform infringes or violates any intellectual property right of any person.

9. CONFIDENTIALITY.

9.1. Each Party may from time to time disclose to the other Party "Confidential Information" which shall mean and include the Services (including without limitation all courses accessed through the Services), all documentation associated with the Services, software code (include source and object code), marketing plans, technical information, product development plans, research, trade secrets, know-how, ideas, designs, drawings, specifications, techniques, programs, systems, and processes.

9.2. Confidential Information does not include: (a) information generally available to or known to the public through no fault of the receiving Party; (b) information known to the recipient prior to the Effective Date of the Agreement; (c) information independently developed by the recipient outside the scope of this Agreement and without the use of or reliance on the disclosing Party's Confidential Information; or (d) information lawfully disclosed by a third party. The obligations set forth in this Section shall survive termination of this Agreement.

9.3. Each Party agrees that it shall not disclose the Confidential Information of the other to any third party without the express written consent of the other Party, that it shall take reasonable measures to prevent any unauthorized disclosure by its employees, agents, contractors or consultants, that it shall not make use of any such Confidential Information other than for performance of this Agreement, and that it shall use at least the same degree of care to avoid disclosure of Confidential Information as it uses with respect to its own Confidential Information.

9.4. The confidentiality obligations imposed by this Agreement shall not apply to information required to be disclosed by compulsory judicial or administrative process or by law or regulation, provided that the receiving Party shall (if permitted) notify the disclosing Party of the required disclosure, shall use reasonable measures to protect the confidentiality of the Confidential Information disclosed, and shall only disclose as much Confidential Information as is required to be disclosed by the judicial or administrative process, law, or regulation.

10. MISCELLANEOUS.

10.1. Assignment. Neither Party may freely assign or transfer any or all of its rights without the other Party's consent, except to an affiliate, or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets, provided however You shall not assign this Agreement to our direct competitors.

10.2. Governing Law. This Agreement shall be governed by, and enforced in accordance with, the laws of the state of Florida, except where Customer is a public entity or institution in which case the applicable state, provincial, or tribal law where You are located shall govern, in either case without regard to the state's or local laws conflicts of laws provisions. If You are purchasing goods under this Agreement, the Parties agree that the United Nations Convention on Contracts for the International Sale of Goods and the United Nations Convention on the Limitation Period in the International Sale of Goods shall not apply to this Agreement. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY ACTION ARISING HEREUNDER.

10.3. Export Regulations. All Content and Services and technical data delivered under this Agreement are subject to applicable US and Canadian laws and may be subject to export and import regulations in other countries. Both Parties agree to comply strictly with all such laws and regulations and You acknowledge that You are responsible for obtaining such licenses to export, re-export, or import as may be required after delivery.

10.4. Force Majeure. In no event will either Party be liable or responsible to the other Party or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, (except for any obligations to make payments) when and to the extent such failure or delay in performing is due to, or arising out of, any circumstances beyond such Party's control (a "**Force Majeure Event**"), including, without limitation, acts of God, strikes, lockouts, war, riots, lightning, fire, storm, flood, explosion, interruption or delay in power supply, computer virus, governmental laws, regulations, or shutdown, national or regional shortage of adequate power or telecommunications, or other restraints.

10.5. No Waiver. No waiver, amendment or modification of this Agreement shall be effective unless in writing and signed by the Parties.

10.6. Severability. If any provision of this Agreement is found to be contrary to law by a court of competent jurisdiction, such provision shall be of no force or effect, but the remainder of this Agreement shall continue in full force and effect.

10.7. Survival. All provisions of this Agreement (including without limitation those pertaining to confidential information, intellectual property ownership, and limitations of liability) that would reasonably be expected to survive expiration or early termination of this Agreement will do so.

10.8. No Third-Party Beneficiaries. The Parties do not intend to confer any right or remedy on any third party under this Agreement.

10.9. Purchase Orders. You may issue a purchase order if required by Your company or entity and failure to do so does not cancel any obligation You have to Us. If You do issue a purchase order, it will be for Your convenience only. You agree that the terms and conditions of this Agreement shall control. Any terms or conditions included in a purchase order or similar document You issue that conflict with the terms and conditions of this Agreement will not apply to or govern the transaction resulting from Your purchase order.

10.10. Data Processing Agreement. If applicable, the parties shall negotiate in good faith and enter into any further data processing or transfer agreement, including any standard contractual clauses for transfers of data outside of the country where the personal data originates, as may be required to comply with applicable laws, rules and regulations regarding the collection, storage, transfer, use, retention and other processing of personal data.

10.11. Entire Agreement. This Agreement and Schedule A represent the entire understanding and agreement between the Parties, and supersedes all other negotiations, proposals, understandings, and representations (written or oral) made by and between You and Us. You acknowledge and agree that the terms of this Agreement are incorporated in, and are a part of, each purchase order, change order, or Schedule related to our provision of Services. This Agreement prevails over any additional or conflicting terms or conditions in any Customer purchase orders, online procurement terms, or other non-negotiated forms relating to the Services or this Agreement hereto even if dated later than the effective date of this Agreement.

SPECIAL TERMS AND CONDITIONS

CALIFORNIA CONSUMER PRIVACY ACT

If We will be processing personal information subject to the California Consumer Privacy Act, sections 1798.100 to 1798.199, Cal. Civ. Code (2018) as may be amended as well as all regulations promulgated thereunder from time to time ("**CCPA**"), on Your behalf in the course of the performance of the Services, then the terms "California consumer," "business purpose," "service provider," "sell" and "personal information" shall carry the meanings set forth in the CCPA.

CCPA Disclosures: To the extent the CCPA applies to our processing of any personal information pursuant to Your instructions in relation to this Agreement, the following also apply: (a) The Parties have read and understand the provisions and requirements of the CCPA and shall comply with them; (b) It is the intent of the Parties that the sharing or transferring of personal information of California consumers from You to Us, during the course of our performance of this Agreement, does not constitute selling of personal information as that term is defined in the CCPA, because You are not sharing or transferring such data to Us for valuable consideration; (c) We will only use personal information for the specific purpose(s) of performing the Services, including any Schedules within the direct business relationship with You.

SERVICE SPECIFIC TERMS AND CONDITIONS

A. Vector EHS Management Services

A. This Section A contains service specific terms and conditions that will apply only if You are purchasing **Vector EHS Management Services ("EHS Services")** in Schedule A. Otherwise, the following terms will not apply to You.

1. An "**EHS Active Employee**" is defined as Your employees, consultants, contractors, and agents who are contained in the Vector EHS employee and contractor table with an active status. An employee may or may not be a Named User. For EHS Services, You are allowed a Named User for each EHS Active Employee.
2. You will be able to activate or disable employees without incurring additional EHS Active Employee fees as long as the total number of EHS Active Employees does not exceed the number of employees included in Scheduled A.
3. EHS Active Employees added after the Effective Date in Schedule A shall be billed at the full per employee fee. Such additional EHS Active Employees shall become part of the Minimum Annual Commitment for subsequent years, on the anniversary date of each contract year or upon renewals under the Agreement.
4. You agree to pay for the number of EHS Active Employees in the EHS Services in a given contract year.
5. Subject to the Minimum Annual Commitment, if any, set forth in Schedule A, annual fees for Your use of the Services will be based upon the actual number of EHS Active Employees in a given contract year. Employees inactivated in a given contract year will not count towards the total number of employees in the year following such inactivation, unless reactivated.
6. You acknowledge that certain transmissions You receive as part of the EHS Services may contain sensitive personal information that You have provided. You understand that We do not control or own the data contained in such transmissions. As such, You will be responsible for ensuring that the information is secured and preventing the transmission and/or disclosure of such information to unauthorized recipient(s). In the event such information is disclosed to an unauthorized recipient(s), You shall be responsible for notifying Your EHS Active Employee(s) whose information may have been disclosed

to the extent required by law. Both Parties further agree to handle such data in compliance with any applicable Federal, State, or local laws or regulations. You shall also be responsible for any threatening, defamatory, obscene, offensive, or illegal content or conduct of any of Your EHS Active Employees when using the Services. To the extent not prohibited by applicable law, You shall indemnify, defend, and hold Us harmless against any claims that may arise as a result of these matters. With respect to Your use of the EHS Services, You acknowledge that We are not a covered entity or business associate under HIPAA.

B. Vector WorkSafe Services and Vector LiveSafe Services

This Section B. contains service specific terms and conditions that will apply only if You are purchasing **Vector WorkSafe Services or Vector LiveSafe Services (collectively “LiveSafe Services”)** in Schedule A. Otherwise, the following terms will not apply to You.

1. **Authorized Users.** **Authorized Users** (interchangeably may be referred to as “Named Users” means the employees, contractors and/or consultants under Your control who You authorized to operate the LiveSafe Services .
2. **Your Responsibilities.** You shall: (i) not permit any person or entity, other than designated Authorized Users, to access the LiveSafe Services; (ii) use commercially reasonable efforts to prevent unauthorized access to or use of the LiveSafe Services, (iii) provide prompt written notice of any unauthorized access or use; and (iv) instruct Authorized Users to comply with all applicable terms of this Agreement.
3. **Your Data.** You agree that We may only use data collected, extracted or received through Your use of the Services (“Your Data”) in an anonymized and aggregated manner (without specifically identifying You, Your users or Your location(s)) for the sole purpose of reporting LiveSafe Services metrics, training and education about the LiveSafe Services, and improving the LiveSafe Services (except as may be required by law, court order, or as needed to provide the Services to You). Your Data shall not include any information collected, extracted, or received in response to the WorkSafe Integrated Health Survey. Within thirty (30) business days following Your written request, and not more than four (4) times per year or upon termination of this Agreement, We will provide to You a backup copy of Your Data in Our possession.

C. Vector Evaluations+ Services.

This Section C. contains service specific terms and conditions that will apply only if You are purchasing **Vector Evaluations+ Software as a Service** in Schedule A. Otherwise, the following terms will not apply to You.

1. **Access and Use.** We will provide You a nonexclusive, non-transferable, revocable authorization to remotely access and use the Vector Evaluations+ Software as a Service: (i) on Our application server over the Internet, (ii) transmit data related to Your use of the Service over the Internet, and (iii) download and use the Evals + mobile device application software (referred to collectively as “Evals+ Services”). We will provide accounts for Your users on the application server for storage of data and use of the Service. The number of Named Users, start of service, and duration, are as stated in Schedule A.
2. If Your active user accounts exceed the number of Named Users during the term of this Agreement, You agree to pay for the additional Users, based on the per User fees in Schedule A. Adjusted fees will apply beginning on the month the number of Named Users are exceeded and will be prorated for the remainder of the current 12-month period. You agree to pay for the number of Users using or authorized to access the Services in a given contract year.
3. **Your Content.** You will be the owner of all content created and posted by You. You will also be the owner of all content created and posted by Us on Your behalf, including but not limited to evaluation forms added to the system as part of support services We provide.
4. **Third-Party Content.** You are responsible for proper licensing of, and assuming liability for, copyrighted material which You post on Our system, or is posted on the system by Us on Your behalf. This includes but is not limited to copyright protected evaluation forms and other materials from third parties. If You upload third-party content to Our platform, such third-party content providers are responsible for ensuring their content is accurate and compliant with national and international laws.
5. **Effect of Termination.** You will have thirty (30) days after the effective date of termination or expiration of this Agreement to export Your data using the software tools provided, or to request Your data from Us. Form data will be available as exported comma separated variable (CSV) files and as PDF files. Uploaded data files will be available in their original format. After the thirty (30) day period, We have no obligation to maintain or provide data and may thereafter delete or destroy all copies of the Your data, unless legally prohibited.

D. Vector CheckIT™.

Customer Obligations. When purchasing Vector CheckIT™, You will identify stations, vehicles, drug safes, and other service specific details, as may be applicable.

E. Vector LMS and Services which include access to the Shared Resource Feature.

If You choose to participate by uploading Your information to the shared resource sections of our website, You hereby authorizes Us to share any intellectual property you own (“**User Generated Content**”) that Your Users upload to the shared resources section of our website with our third-party customers and users that are unrelated to you (“**Our Other Customers**”); provided that We must provide notice to Your users during the upload process that such User Generated Content will be shared with Our Other Customers.

F. Casino Services.

When purchasing Casino Services, in addition to the Responsibilities and Restrictions in Section 2 of the General Terms and Conditions above, the following shall apply to You:

You must request Our written approval for third party access to the Services or content. Your request for third-party access shall include the third party’s names, company, and contact information. Upon Our request, You shall execute a written agreement with the third party, securing for Us the rights provided in this Section, Section 4 (Intellectual Property Rights), and Special Section 1 (Confidentiality) prior to providing access to Our Software, Services or Content under this Agreement.

Use Restrictions. You shall not: (a) transmit or share the course content, with any persons other than authorized users (b) provide or otherwise make available the course content in whole or in part, in any form to any person without Our prior written consent; (c) transmit or share identification or password codes to persons other than authorized users (d) permit the identification or password codes to be cached in proxy servers, (e) permit access by individuals who are not authorized under this Agreement, or (f) permit access to the software through a single identification or password code being made available to multiple users on a network.

G. Guardian Tracking.

Size Restrictions. You are expected to make reasonable efforts to reduce the file size of attachments before uploading them to Guardian (For example, converting .tiff file to .jpeg or using reduced size .pdf files). In the unlikely event that the average size of attachments, across all incidents, exceeds 1MB We may contact You to assist in implementing a strategy to reduce file sizes. Any single attachment will be limited to 50MB in size.

Training. Your Guardian Tracking subscription includes up to 2 hours of administrator training and 2 hours of user training (without regard to the number of users) every 12 months during the term of this Agreement at no additional fee. Training services are available only upon Your request and must be scheduled at mutually agreed upon times by both parties. We may provide additional training upon Your request and for a fee to be mutually agreed upon in writing by both parties.

The Parties have executed this Agreement by their authorized representatives as of the last date set forth below.

TargetSolutions, LLC d/b/a Vector Solutions
3-84 Castlebury Crescent
Toronto, ON

Prosper Fire Rescue (TX)
911 Safety Way
Prosper, TX 75078

By: Brandi Howe

By: _____

Printed Name: Brandi Howe

Printed Name:

Title: Senior Director of Renewal Management

Title:

Date: 8/2/2023

Date: _____



INFORMATION TECHNOLOGY

To: Mayor and Town Council

From: Leigh Johnson, Director of Information Technology

Through: Mario Canizares, Town Manager
Robert B. Scott, Assistant Town Manager

Re: Fiber Network Connectivity

Town Council Meeting – August 22, 2023

Strategic Visioning Priority: 1. Acceleration of Infrastructure

Agenda Item:

Consider and act upon authorizing the Town Manager to execute a contract between Astound Business Solutions and the Town of Prosper, Texas, related to establishing fiber network connectivity from Town Hall to Fire Stations 2 & 3, pump station, and establishing fiber radio system connectivity from Prosper to the City of Frisco.

Description of Agenda Item:

The contract associated with this item is for the construction and implementation of a fiber-backed connectivity infrastructure enabling reliable, high-speed connectivity between Town Hall and Fire Stations 2 & 3, pump station and from Prosper's network infrastructure to the City of Frisco, for the public safety radio system's connectivity. An existing Town owned fiber connection currently exists for Town Hall, EDC, Service Center, Police Station, and Central Fire Station. The contract term is 96 months, with the ability for the Town to negotiate a lower monthly rate at the 60-month anniversary. An upgrade to the Town Hall firewall will be required to support the additional bandwidth Astound will provide. A cost breakdown is attached to this report.

Budget Impact:

The monthly recurring cost for the connections is \$6,295.00 (\$75,540.00 annually, \$377,700.00 cost over 60 months, estimated cost of \$516,300.00 over 96 months with the lower monthly rate after 60 months taken into consideration) and will be charged to 100-5526-10-05 (Data Network). The one-time firewall upgrade cost is \$26,249.00 and will be charged to 100-6125-10-05 (Capital Expense – Technology).

Local governments are authorized by the Interlocal Cooperation Act, V.T.C.A. Government Code, Chapter 791, to enter into joint contracts and agreements for the performance of governmental functions and services, including administrative functions normally associated with the operation of government (such as purchasing necessary materials and equipment).

The Town of Prosper entered into interlocal participation agreements with the Texas Local Government Purchasing Cooperative. Participation in the cooperative purchasing programs allow

our local government to purchase goods and services through the cooperative programs, while satisfying all competitive bidding requirements. The Town will utilize TIPS Contract #230105 for Technology Solutions Products and Services.

The Town of Prosper entered into interlocal agreements with the Texas Comptroller of Public Accounts Cooperative Purchasing Program (formerly, Texas Building and Procurement Commission). Participation in the program allows our local government to purchase goods and services through the cooperative contract, DIR contracts included, while satisfying all competitive bidding requirements. The Town will utilize DIR Contract # DIR-CPO-4458 for Data Communication and Networking Equipment.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

Attached Documents:

- 1. Cost Breakdown
- 2. Astound Service Order
- 3. Astound Master Services Agreement

Town Staff Recommendation:

Town Staff recommends authorizing the Town Manager to execute a contract between Astound Business Solutions and the Town of Prosper, Texas, related to establishing fiber network connectivity from Town Hall to Fire Stations 2 & 3, pump station, and establishing fiber radio system connectivity from Prosper to the City of Frisco.

Proposed Motion:

I move to authorize the Town Manager to execute a contract between Astound Business Solutions and the Town of Prosper, Texas, related to establishing fiber network connectivity from Town Hall to various Town facilities and establishing fiber radio system connectivity from Prosper to the City of Frisco.

Astound Fiber Estimated Cost Breakdown								
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
One time (firewall)	\$ 26,249.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Estimated Monthly Cost	\$ 6,295.00	\$ 6,295.00	\$ 6,295.00	\$ 6,295.00	\$ 6,295.00	\$ 3,850.00	\$ 3,850.00	\$ 3,850.00
Estimated Annual Total	\$ 101,789.00	\$ 75,540.00	\$ 75,540.00	\$ 75,540.00	\$ 75,540.00	\$ 46,200.00	\$ 46,200.00	\$ 46,200.00

This Service Order (this “Service Order”) is entered into as of the date of last signature below (the “Effective Date”), by and between ASTOUND BUSINESS SOLUTIONS, LLC, a Delaware limited liability company, acting on behalf of itself and as agent for its Affiliates (collectively, “Provider”), and the customer specified below (“Customer”). This Service Order is made pursuant to and will be governed by that certain Master Services Agreement for Enterprise Services (the “MSA”) executed separately between Provider and Customer. All capitalized terms used but not defined in this Service Order shall have the meanings given to them in the MSA. Affiliates of Astound Business Solutions, LLC include, but are not limited to (i) RCN Telecom Services, LLC, (ii) Grande Communications Networks, LLC, and (iii) Wave Business Solutions, LLC.

CUSTOMER	DBA	CUSTOMER CONTACT NAME	CUSTOMER CONTACT INFO
Town of Prosper		Leigh Johnson	Office: 972-569-1150 Mobile: Email: ljohnson@prospertx.gov
CUSTOMER BILLING ADDRESS		ALTERNATIVE CUSTOMER CONTACT	ALTERNATIVE CUSTOMER CONTACT INFO
			Office: Mobile: Email:
CUSTOMER ACCOUNT NUMBER	SERVICE ORDER REFERENCE NUMBER		ACCOUNT SALES REP
0 -	OP357144		Chris Cox - 772618

INITIAL SERVICE TERM	SEGMENT
96 months	Enterprise

Provider shall provide to Customer the services set forth below (each, a “Service”), at the location(s) set forth below (each, a “Service Site”), in exchange for the one-time, non-recurring installation charge (“NRC”), and the monthly recurring service charges (“MRC”) set forth below:

PRODUCT LINE ITEM	Z-LOC ADDRESS (PRIMARY)	Z-LOC DEMARC	A-LOC ADDRESS	A-LOC DEMARC	UNITS	MRC / UNIT	TOTAL MRC	NRC / UNIT	TOTAL NRC
E-LAN 1 Gb	, , ,	Cust Prem	N/A		1	\$1,035.00	\$1,035.00	\$0.00	\$0.00
E-LAN 1 Gb	1140 S Teel Pkwy , Prosper, TX 75078, USA	Cust Prem	N/A	Cust Prem	1	\$695.00	\$695.00	\$0.00	\$0.00
E-LAN 1 Gb	1500 E 1st St , Prosper, TX 75078, USA	Cust Prem	N/A	Cust Prem	1	\$695.00	\$695.00	\$0.00	\$0.00
/29 Static IP Block (5 Usable)	250 W 1st St , Prosper, TX 75078, USA	Cust Prem	N/A		1	\$30.00	\$30.00	\$0.00	\$0.00

DIA 5 Gb	250 W 1st St , Prosper, TX 75078, USA	Cust Prem	N/A		1	\$2,295.00	\$2,295.00	\$0.00	\$0.00	Item 8.
E-LAN 1 Gb	250 W 1st St , Prosper, TX 75078, USA	Cust Prem	N/A		1	\$695.00	\$695.00	\$0.00	\$0.00	
<i>NOTE: If the Demarcation Point listed above for a Service Site is the MPOE, then Customer is responsible for providing any necessary demarc extension / additional inside wiring to reach the Customer's premises/suite.</i>						TOTALS	\$5,445.00		\$0.00	

Note: The charges listed above do not include applicable taxes, fees and surcharges.

NOTES										
Grande Communications Networks LLC - Vendor Contract 230105 (Technology Solutions Products and Services)										
The Town of Prosper may renegotiate this agreement for a lower monthly cost to \$3000 monthly after 60 months of this agreement.										

Important Notice Regarding E911 Service. The telephone Services provided hereunder are provided by Provider's Internet Protocol voice network (aka "VoIP"). Federal Communications Commission rules require that providers of VoIP phone services remind customers of these important E911 facts: (i) Provider needs a correct service site address in order to deliver accurate location information to E911; (ii) If you move your VoIP phone equipment to a different physical address, you must call Provider immediately to update the location information, otherwise E911 will not have your correct location information on file; (iii) VoIP services operate using the standard electrical power provided to the service site, so unless you have arranged for a back-up power supply, the Services will be unavailable during a power outage; (iv) You may not be able to make E911 calls if there is a power outage, network outage or other technical problems, or if your phone service is terminated or suspended. **By signing below Customer indicates that Customer has read and understands this notice regarding E911 service.**

The submission of this Service Order to Customer by Provider does not constitute an offer. Instead, this Service Order will become effective only when both parties have signed it. The date this Service Order is signed by the last party to sign it (as indicated by the date associated with that party's signature) will be deemed the Effective Date of this Service Order.

Authorized Customer Signature

Printed Name

Title

Date Signed

Delina Anderson

Authorized Provider Signature

Delina Anderson

Printed Name

Director

Title

08/17/2023

Date Signed

MASTER SERVICES AGREEMENT FOR ENTERPRISE SERVICES – GOVERNMENTAL CUSTOMER

This Master Services Agreement for Enterprise Services (this “**MSA**”) is entered into as of this _____ day of _____, 2023 (the “**Effective Date**”), by and between ASTOUND BUSINESS SOLUTIONS, LLC, a Delaware limited liability company, acting on behalf of itself and as agent for its Affiliates (collectively, “**Provider**”), and _____, a _____ (“**Customer**”). For purposes of this MSA, the term “**Affiliate**” shall mean any other person which directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the first person or any of its subsidiaries. Affiliates of Astound Business Solutions, LLC include, but are not limited to (i) RCN Telecom Services, LLC, (ii) Grande Communications Networks, LLC, and (iii) Wave Business Solutions, LLC. Each of Provider and Customer may be referred to in this MSA as a “**Party**” and together as the “**Parties**.”

ARTICLE 1 – STRUCTURE OF AGREEMENT

1.1 Purpose of MSA. Provider and its Affiliates provide various facilities-based telecommunications services, including Ethernet transport, dedicated internet access, phone over fiber, dark fiber, and related services (as applicable, the “**Services**”). This MSA is neither an agreement to purchase nor a commitment to provide Services. The purpose of this MSA is to provide the general terms, conditions and framework within which Customer and its Affiliates may from time to time purchase Services from Provider and its Affiliates, pursuant to one or more “**Service Orders**,” as described in Section 1.2 below.

1.2 Service Orders. The purchase of Services shall be accomplished only through the negotiation and mutual execution and delivery of a Service Order memorializing the terms and conditions pursuant to which Provider shall provide the desired Services to Customer. Service Orders shall clearly specify the following: (i) the type of Service at issue (e.g., Internet access, data transport, VoIP, dark fiber, etc.); (ii) the location(s) at which the Service is to be provided (each, a “**Service Site**”); (iii) the initial term of the Service Order (the “**Initial Service Term**”); (iv) the pricing for the Service, including (a) the monthly recurring charges (“**MRC**”) for the Service, and (b) any non-recurring charges (“**NRC**”) associated with installation of the Service; and (v) any other terms or conditions specific to the particular Service Order. Each fully-executed Service Order shall be governed by and become part of this MSA, and this MSA together with all fully-executed Service Orders shall be collectively referred to as the “**Agreement**.” Depending on the location of the Service Site, in some instances Services may be provided by an Affiliate of Provider.

1.3 Additional Documents Comprising Agreement; Order of Precedence. If one or more Service Level Agreements are attached to this MSA as Exhibits (the “**SLA**”), the SLA constitutes a part of this MSA. Customer’s use of any Services purchased pursuant to the Agreement will also be governed by Provider’s Acceptable Use Policy for Commercial Services (the “**AUP**”) which is posted on Provider’s website at <http://www.astound.com/business/aup>. Additional provisions that are applicable only to specific types of Services are contained in Provider’s Service-Specific Terms and Conditions (the “**Service-Specific T&Cs**”) which is posted on Provider’s website at <http://www.astound.com/business/service-terms>. In the event of a conflict between the provisions of any of the foregoing documents, the documents shall have the following order of precedence unless expressly stated otherwise in a particular Service Order: (i) this MSA (including the SLA); (ii) the applicable Service Order; (iii) the AUP; and (iv) the Service-Specific T&Cs.

ARTICLE 2 – TERM AND RENEWAL

2.1 Term of MSA. The term of this MSA (the “**MSA Term**”) shall be for five (5) years, commencing on the Effective Date and expiring on the date that is one day prior to the fifth (5th) anniversary of the Effective Date. Notwithstanding the foregoing, so long as any one or more Service Orders entered into pursuant to this MSA remain in effect, this MSA shall not terminate with respect to said Service Orders but shall continue to govern same until the expiration or termination of said Service Orders.

2.2 Term of Service Orders. The Initial Service Term of each Service Order shall be as specified in the Service Order. Upon expiration of the Initial Service Term, unless either Party terminates the Service Order by giving written notice of termination to the other Party not less than thirty (30) days prior to the end of the Initial Service Term, this Service Order will begin to automatically renew on a month-to-month basis (the “**Renewal Term**”). During the Renewal Term, either Party may terminate this Service Order by giving no less than thirty (30) days’ advance written notice of termination to the other Party. Written notice of termination by Customer must be given to Provider by completing and submitting the online “Change of Service” form on the

Astound Business Solutions website located at <http://www.astound.com/business/support/macd>. The total period of time a Service Order is in effect is referred to as the “**Service Term**” for the Service Order at issue.

ARTICLE 3 – INSTALLATION, TESTING, ACCEPTANCE AND USE

3.1 Service Site; Demarcation Points; Equipment. Unless a Service Site is within Provider’s control, Customer shall provide Provider with access to the Service Site as and to the extent reasonably necessary for Provider to install, test, inspect and maintain the Service(s) ordered during the Service Term. Unless otherwise stated in a Service Order: (i) Provider shall be solely responsible for the provision, operation and maintenance of all equipment and facilities (the “**Provider Equipment**”) necessary to connect Provider’s network facilities to the Customer demarcation point(s) at the Service Site (the “**Demarcation Point(s)**”); and (ii) Customer shall be solely responsible for the provision, operation and maintenance of all equipment and facilities (the “**Customer Equipment**”) from the Demarcation Point(s) to Customer’s internal network. Unless a Service Site is within Provider’s control, Customer shall be responsible for maintaining appropriate conditions at the Service Site, including HVAC, electrical power, and security. Title to the Provider Equipment shall at all times remain vested in Provider. Customer shall not re-arrange, disconnect, tamper with, attempt to repair, or otherwise interfere with the Provider Equipment, nor shall Customer permit any third party to do so.

3.2 Testing, Acceptance and Service Commencement Date. Provider shall use commercially reasonable efforts to install the Services consistent with Provider’s usual and customary installation timeline, and shall endeavor to keep Customer regularly informed regarding installation progress. Provider shall notify Customer when a Service has been installed and is ready for testing and use. Customer may, at Customer’s option, participate in Provider’s final testing of the Service. For Services having a committed bandwidth, the committed information rate shall be measured at the Ethernet layer and includes the Ethernet frame itself. The Initial Service Term for the Service at issue shall commence on the date on which the Service has been installed, tested and is active and available for use by Customer (the “**Service Commencement Date**”). Customer shall have a period of five (5) business days after the Service Commencement Date in which Customer may notify Provider that the Service at issue is not functioning properly. If Customer notifies Provider of problems with a Service pursuant to this Section 3.2, Provider shall investigate and correct same and the Service Commencement Date shall be revised to be the first calendar day after the date on which Provider has corrected the problems. Unless Customer delivers notification of problems to Provider within the time period set forth above, Customer shall be deemed to have accepted the Service at issue and to have confirmed that the Service has been installed and is functioning properly as of the Service Commencement Date.

3.3 No Sub-Licensing; Non-Compete. Any Services provided to Customer pursuant to the Agreement are for the sole benefit of Customer. Customer shall not grant to any third party the right to use any of the Services, regardless of whether such grant were to take the form of a license, sublicense, lease, sublease, or any other form. Nor shall Customer use the Services for commercial purposes that are competitive with Provider’s business (e.g., use the Services to sell Internet access services, point-to-point data transport services, VoIP services, etc., to third parties within Provider’s service area).

ARTICLE 4 – PAYMENT AND BILLING

4.1 Invoicing. All amounts owed by Customer to Provider under the Agreement shall be collectively referred to as “**Fees**.” Provider shall begin billing Customer for the MRC applicable to a Service as of the Service Commencement Date. Invoices shall be delivered monthly, and shall be paid by Customer within sixty (60) days of receipt. Fixed Fees shall be billed in advance and usage-based Fees shall be billed in arrears. Fixed fees for any partial month shall be pro-rated. For Services having an NRC, unless otherwise stated in the Service Order, Provider shall invoice Customer for the NRC upon full-execution of the Service Order. Except for amounts disputed in good faith by Customer pursuant to Section 4.2 below, past due amounts shall bear interest in the amount of 1.0% per month, or the highest amount allowed by law, whichever is lower.

4.2 Disputed Invoices. If Customer in good faith disputes any portion of a Provider invoice, Customer shall pay the undisputed portion of the invoice and submit written notice to Provider regarding the disputed amount, which notice shall include documentation supporting the alleged billing error (each such notice, a “**Fee Dispute Notice**”). A Fee Dispute Notice must be submitted to Provider within ninety (90) days from the date the invoice at issue is received by Customer. Customer waives the right to dispute any Fees not disputed within such ninety (90) day period. The Parties shall negotiate in good faith to attempt to resolve any such disputes within sixty (60) days after Customer’s delivery of the applicable Fee Dispute Notice.

4.3 Applicable Taxes. All charges for Services set forth in Service Orders are exclusive of Applicable Taxes (as defined below). Except for taxes based on Provider's net income or taxes for which Customer possesses a valid exemption certificate, Customer shall be responsible for payment of all applicable taxes and regulatory fees, however designated, that arise in any jurisdiction, including, without limitation, value added, consumption, sales, use, gross receipts, excise, access, bypass, or other taxes, fees, assessments, duties, charges or surcharges, that are imposed on, incident to, or based upon the provision, sale, or use of the Service(s) (collectively "**Applicable Taxes**"). The Applicable Taxes will be individually identified on invoices. If Customer is entitled to an exemption from any Applicable Taxes, Customer is responsible for presenting Provider with a valid exemption certificate (in a form reasonably acceptable to Provider). Provider will give prospective effect to any valid exemption certificate provided in accordance with the preceding sentence.

ARTICLE 5 – DEFAULT AND REMEDIES

5.1 Customer Default. Each of the following shall constitute a default by Customer under the Agreement (each a separate event of "**Default**"): (i) if Customer fails to pay any undisputed Fees when due, the failure of Customer to cure same within fifteen (15) days after receiving written notice from Provider regarding such failure to pay; (ii) if Customer fails to comply with any other material provision of the Agreement, the failure of Customer to cure same within thirty (30) days of receiving written notice from Provider regarding such non-compliance; or (iii) if Customer files or initiates proceedings, or has proceedings initiated against it, seeking liquidation, reorganization or other relief (such as the appointment of a trustee, receiver, liquidator, custodian or other such official) under any bankruptcy, insolvency or other similar law, and the same is not dismissed within sixty (60) days.

5.2 Remedies for Customer Default. In the event of a Default by Customer under the Agreement, Provider may, at its option: (i) suspend any applicable Services until such time as the Customer Default has been corrected (provided, however, that any suspension shall not relieve Customer's on-going obligation to pay Provider all Fees and other amounts due under the Agreement as if such suspension of Services had not taken place); (ii) terminate the applicable Service(s) and/or the applicable Service Order(s); (iii) after the occurrence of any two Customer Defaults in any twelve (12) month period, terminate all Service Orders entered into with Customer; and/or (iv) pursue any other remedy available to Provider under the Agreement or applicable law. In the event of early termination for Customer Default pursuant to this Section 5.2, to the extent not prohibited by applicable law, Customer shall pay to Provider the Termination Charge described in Section 6.4 below.

5.3 Provider Default. Each of the following shall constitute a Default by Provider under the Agreement: (i) if Provider fails to comply with any material provision of the Agreement other than provisions of the SLA, the failure by Provider to cure same within thirty (30) days of receiving written notice from Customer regarding such non-compliance; or (ii) Provider files or initiates proceedings, or has proceedings initiated against it, seeking liquidation, reorganization or other relief (such as the appointment of a trustee, receiver, liquidator, custodian or other such official) under any bankruptcy, insolvency or other similar law, and the same is not dismissed within sixty (60) days.

5.4 Remedies for Provider Default. In the event of a Default by Provider under the Agreement Customer may, at its option: (i) terminate the applicable Service(s) and/or the applicable Service Order(s); and/or (ii) pursue any other remedy available to Customer under the Agreement or applicable law. Early termination by Customer shall be accomplished by providing termination notice to Customer's account manager and to the notice address specified in Article 11 below. In the event of early termination for Provider Default pursuant to this Section 5.4, Provider shall reimburse Customer for any pre-paid, unused monthly service Fees attributable to the terminated Service(s) and/or Service Order(s), and Customer shall have no further liability to Provider for the terminated Service(s) and/or Service Order(s). Early termination by Customer pursuant to this Section 5.4 shall not relieve Customer of its obligations to pay all Fees incurred prior to the early termination date.

ARTICLE 6 – EARLY TERMINATION & PORTABILITY

6.1 Early Termination for Non-Appropriation. Customer is a Texas governmental entity subject to legislative appropriation requirements and provisions of the Texas Constitution that may limit Customer's ability to incur contractual debts. Accordingly, notwithstanding anything to the contrary contained elsewhere in this MSA or in any Service Order, in the event that, for any future fiscal period, sufficient funds are not appropriated or allocated for payment of any one or more Service Orders, Customer may terminate the Service Order at issue as a matter of public convenience without incurring a Termination Charge or any other early

termination fee. If and when Customer becomes aware that non-allocation of funds for the coming fiscal period appears likely, Customer shall use reasonable efforts to notify Provider of that possibility prior to the end of the then-current fiscal period. Once the non-appropriation decision has been made, Customer shall, as soon as reasonably practicable, deliver written notice of termination for non-appropriation to Provider specifying which Service or Services and/or which Service Order or Service Orders are being terminated for non-appropriation and the date on which such early termination shall occur. Customer shall remain obligated to pay for all Services delivered through the date of termination.

6.2 Early Termination for Customer Convenience. Customer may, at any time after executing a Service Order, discontinue one or more of the Services ordered and/or terminate the Service Order by giving at least thirty (30) days' advance written notice to Provider by completing and submitting the online "Change of Service" form on the Astound Business Solutions website located at <http://www.astound.com/business/support/maccd>. Any early termination of a Service pursuant to this Section 6.2 shall be referred to as "**Termination for Customer Convenience.**" In the event of Termination for Customer Convenience, to the extent not prohibited by applicable law, Customer shall pay to Provider the Termination Charge described in Section 6.4 below.

6.3 Early Termination for Default. In accordance with Article 5 above, either Party may elect to terminate one or more Service Orders prior to the scheduled expiration date in the event of an uncured Default by the other Party.

6.4 Termination Charge.

(a) Local Governmental Entities Under Texas Local Gov't Code § 271.151. The provisions of this Subsection 6.4(a) shall apply only if the Customer is a "local governmental entity" as that term is defined in Texas Local Gov't Code § 271.151. In the event of Termination for Customer Convenience pursuant to Section 6.2 above, or termination for Customer Default pursuant to Section 5.2 above, Customer shall, consistent with Texas Local Gov't Code § 271.153(a), pay Provider a "**Termination Charge**" to compensate Provider for the direct damages Provider suffered as a result of Customer's Termination for Customer Convenience or as a result of Customer's Default, as applicable. To the extent permitted by law, the Termination Charge shall equal the sum of the following: (a) all unpaid amounts for Services actually provided prior to the termination date; (b) any portion of the NRC for the terminated Service(s) that has not yet been paid to Provider; (c) with respect to off-net Services only, any documented cancellation or termination charges or fees imposed on Provider by any third party in connection with the early termination of the Services (provided, that Provider shall use good faith, commercially reasonable efforts to mitigate such third party cancellation charges); (d) one hundred percent (100%) of all remaining MRC Customer was to pay Provider for the Service during the first (1st) year of the Service Term; (e) seventy-five percent (75%) of all remaining MRC Customer was to pay Provider for the Service during the second (2nd) year of the Service Term; (f) fifty percent (50%) of all remaining MRC Customer was to pay Provider for the Service during the third (3rd) year of the Service Term; (g) twenty-five percent (25%) of all remaining MRC Customer was to pay provider for the Service during the fourth (4th) and later years of the Service Term (if applicable); and (h) if and to the extent not already recovered by Provider pursuant to items (a) through (g) above, any additional amounts necessary in order for Provider to recoup its actual, documented out-of-pocket costs incurred in extending its communications network to reach the Service Sites at issue and install the Services at issue, calculated on a time and materials basis plus a 15% administrative mark-up. Notwithstanding anything to the contrary provided in the immediately preceding sentence, in no event shall the amount of the Termination Charge, when added to the total amount of Fees already paid by Customer to Provider for the Services at issue prior to the early termination, exceed the total amount Customer would have paid for the Services pursuant to the Service Order had the Services not been terminated early. If incurred, the Termination Charge will be due and payable by Customer within forty-five (45) days after the termination date of the Service(s) at issue. Customer acknowledges and agrees that the calculation of the Termination Charge represents a genuine estimate of Provider's actual direct damages, is not a penalty or windfall and does not consist of consequential or exemplary damages prohibited by Texas Local Gov't Code § 271.153(b). If this Subsection 6.4(a) is found to be unlawful, invalid and/or unenforceable, then Provider shall be entitled to such damages as are authorized by law.

(b) State Agencies and Institutions of Higher Education Under Texas Gov't Code § 2260.001. The provisions of this Subsection 6.4(b) shall apply only if the Customer is a "unit of state government" or an "institution of higher education" as those terms are defined in Texas Gov't Code § 2260.001. In the event of Termination for Customer Convenience pursuant to Section 6.2 above, or termination for Customer Default pursuant to Section 5.2 above, Customer shall, consistent with Texas Gov't Code § 2260.003, pay Provider a "**Termination Charge**" to compensate Provider for the direct damages Provider suffered as a result of

Customer's Termination for Customer Convenience or as a result of Customer's Default, as applicable. To the extent permitted by law, the Termination Charge shall equal the sum of the following: (a) all unpaid amounts for Services actually provided prior to the termination date; (b) any portion of the NRC for the terminated Service(s) that has not yet been paid to Provider; (c) with respect to off-net Services only, any documented cancellation or termination charges or fees imposed on Provider by any third party in connection with the early termination of the Services (provided, that Provider shall use good faith, commercially reasonable efforts to mitigate such third party cancellation charges); (d) one hundred percent (100%) of all remaining MRC Customer was to pay Provider for the Service during the first (1st) year of the Service Term; (e) seventy-five percent (75%) of all remaining MRC Customer was to pay Provider for the Service during the second (2nd) year of the Service Term; (f) fifty percent (50%) of all remaining MRC Customer was to pay Provider for the Service during the third (3rd) year of the Service Term; (g) twenty-five percent (25%) of all remaining MRC Customer was to pay provider for the Service during the fourth (4th) and later years of the Service Term (if applicable); and (h) if and to the extent not already recovered by Provider pursuant to items (a) through (g) above, any additional amounts necessary in order for Provider to recoup its actual, documented out-of-pocket costs incurred in extending its communications network to reach the Service Sites at issue and install the Services at issue, calculated on a time and materials basis plus a 15% administrative mark-up. Notwithstanding anything to the contrary provided in the immediately preceding sentence, in no event shall the amount of the Termination Charge, when added to the total amount of Fees already paid by Customer to Provider for the Services at issue prior to the early termination, exceed the total amount Customer would have paid for the Services pursuant to the Service Order had the Services not been terminated early. If incurred, the Termination Charge will be due and payable by Customer within forty-five (45) days after the termination date of the Service(s) at issue. Customer acknowledges and agrees that the calculation of the Termination Charge represents a genuine estimate of Provider's actual direct damages, is not a penalty or windfall and does not consist of consequential or exemplary damages prohibited by Texas Gov't Code § 2260.003(c). If this Subsection 6.4(b) is found to be unlawful, invalid and/or unenforceable, then Provider shall be entitled to such damages as are authorized by law.

(c) Counties Under Texas Local Gov't Code § 262.001 et seq. The provisions of this Section 6.4(c) shall apply only if the Customer is a county generally governed by Texas Local Gov't Code § 262.001 et seq. In the event of Termination for Customer Convenience pursuant to Section 6.2 above, or termination for Customer Default pursuant to Section 5.2 above, Customer shall, consistent with applicable law, pay Provider a "**Termination Charge**" to compensate Provider for the direct damages Provider suffered as a result of Customer's Termination for Customer Convenience or as a result of Customer's Default, as applicable. To the extent permitted by law, the Termination Charge shall equal the sum of the following: (a) all unpaid amounts for Services actually provided prior to the termination date; (b) any portion of the NRC for the terminated Service(s) that has not yet been paid to Provider; (c) with respect to off-net Services only, any documented cancellation or termination charges or fees imposed on Provider by any third party in connection with the early termination of the Services (provided, that Provider shall use good faith, commercially reasonable efforts to mitigate such third party cancellation charges); (d) one hundred percent (100%) of all remaining MRC Customer was to pay Provider for the Service during the first (1st) year of the Service Term; (e) seventy-five percent (75%) of all remaining MRC Customer was to pay Provider for the Service during the second (2nd) year of the Service Term; (f) fifty percent (50%) of all remaining MRC Customer was to pay Provider for the Service during the third (3rd) year of the Service Term; (g) twenty-five percent (25%) of all remaining MRC Customer was to pay provider for the Service during the fourth (4th) and later years of the Service Term (if applicable); and (h) if and to the extent not already recovered by Provider pursuant to items (a) through (g) above, any additional amounts necessary in order for Provider to recoup its actual, documented out-of-pocket costs incurred in extending its communications network to reach the Service Sites at issue and install the Services at issue, calculated on a time and materials basis plus a 15% administrative mark-up. Notwithstanding anything to the contrary provided in the immediately preceding sentence, in no event shall the amount of the Termination Charge, when added to the total amount of Fees already paid by Customer to Provider for the Services at issue prior to the early termination, exceed the total amount Customer would have paid for the Services pursuant to the Service Order had the Services not been terminated early. If incurred, the Termination Charge will be due and payable by Customer within forty-five (45) days after the termination date of the Service(s) at issue. Customer acknowledges and agrees that the calculation of the Termination Charge represents a genuine estimate of Provider's actual direct damages, is not a penalty or windfall and does not consist of consequential or exemplary damages prohibited by Texas Local Gov't Code § 262.007(c). If this Subsection 6.4(c) is found to be unlawful, invalid and/or unenforceable, then Provider shall be entitled to such damages as are authorized by law.

6.5 Portability; Substitution of Services. At any time during the Service Term of a Service Order, Customer may elect to

substitute new Services for then-existing Services. In such event, Provider will waive the Termination Charge associated with the termination of the then-existing Services as long as: (i) the Fees payable to Provider in connection with the substitute Services are equal to or greater than the Fees of the discontinued Services; (ii) Customer commits to retain the substitute Services for a period equal to or greater than the remainder of the Service Term for the discontinued Services; (iii) Customer pays all applicable installation and other NRCs, if any, for provision of the substitute Services; and (iv) Customer reimburses Provider for all reasonable and documented engineering, installation and construction costs associated with the discontinued Services, calculated on a time and materials basis, that have not already been recovered by Provider by the time of the substitution.

ARTICLE 7 – LIMITATION OF LIABILITY

7.1 General Limitations. Neither Party shall be liable to the other Party for any loss or damage occasioned by a Force Majeure Event. Except for Customer’s obligation to pay Fees, each Party’s aggregate liability to the other Party for any and all causes and claims arising under the Agreement, whether based in contract, tort, warranty or otherwise shall be limited to the lesser of: (i) the actual direct damages sustained by the injured Party; or (ii) an amount equivalent to the total MRC received by Provider from Customer for the Service(s) at issue during the twelve (12) month period immediately preceding the event giving rise to the claim.

7.2 Service Level Agreement. Should Provider fail, on any one or more occasions, to deliver any one or more Services to Customer in accordance with all of the terms and conditions contained in the applicable SLA, Customer’s sole and exclusive remedy for such failure shall be as set forth in the SLA. No such failure shall be considered a Default by Provider under the Agreement.

7.3 No Special Damages. EXCEPT FOR CLAIMS ARISING FROM A PARTY’S INTENTIONAL MISCONDUCT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES WHATSOEVER, ARISING OUT OF OR INCURRED IN CONNECTION WITH A PARTY’S PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, INCLUDING, BY WAY OF EXAMPLE AND NOT BY WAY OF LIMITATION, LOST PROFITS, LOST REVENUE, LOSS OF GOODWILL, LOSS OF ANTICIPATED SAVINGS, LOSS OF BUSINESS OPPORTUNITY, LOSS OF DATA OR COST OF PURCHASING REPLACEMENT SERVICES, EVEN IF THE OTHER PARTY HAD BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH SPECIAL DAMAGES.

7.4 Disclaimer of Warranties. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, PROVIDER MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, EITHER IN FACT OR BY OPERATION OF LAW, AS TO THE DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, FITNESS FOR A PARTICULAR PURPOSE OR USE OF ANY SERVICES PROVIDED PURSUANT TO THIS AGREEMENT.

7.5 Assumption of Risk. PROVIDER HAS NO CONTROL OVER AND EXPRESSLY DISCLAIMS ANY LIABILITY OR RESPONSIBILITY WHATSOEVER FOR THE CONTENT OF ANY INFORMATION TRANSMITTED OR RECEIVED BY CUSTOMER THROUGH THE SERVICES, SERVICE INTERRUPTIONS ATTRIBUTABLE TO CUSTOMER’S NETWORK, ANY CUSTOMER EQUIPMENT FAILURES, OR ANY OTHER SUCH CAUSES, AND CUSTOMER USES THE SERVICES AT CUSTOMER’S OWN RISK. CUSTOMER SHALL BE RESPONSIBLE FOR THE SECURITY, CONFIDENTIALITY AND INTEGRITY OF INFORMATION CUSTOMER TRANSMITS OR RECEIVES USING ANY SERVICES.

ARTICLE 8 – FORCE MAJEURE EVENTS

Neither Party shall be liable for any delay in or failure of performance hereunder due to causes beyond such Party’s reasonable control including, but not limited to, acts of God, fire, flood, earthquake, ice storms, wind storms, or other severe weather events, explosion, vandalism, cable cut, terrorist acts, insurrection, riots or other civil unrest, national or regional emergency, unavailability of rights-of-way, a governmental authority’s failure to timely act, inability to obtain equipment, material or other supplies due to strike, lockout or work stoppage, or any law, order, regulation, direction, action or request of any civil or military governmental authority (each, a “**Force Majeure Event**”). If any Force Majeure Event causes an increase in the time required for performance of any of its duties or obligations, the affected Party shall be entitled to an equitable extension of time for completion. If the delay in performance caused by the Force Majeure Event exceeds thirty (30) days, either Party may terminate the Agreement or the applicable Service Order(s) immediately on written notice to the other Party, without incurring any liability in connection with such termination.

ARTICLE 9 – DISPUTE RESOLUTION

9.1 Good Faith Negotiations. To the extent not prohibited by applicable law, except for actions seeking a temporary restraining order or injunction, in the event any controversy, disagreement or dispute (each, a “**Dispute**”) arises between the Parties in connection with this Agreement, the Parties shall first use good faith efforts to resolve the Dispute through negotiation. In the event of a Dispute, either Party may give the other Party written notice of the Dispute (each, a “**Dispute Notice**”). The parties will meet and attempt to resolve the Dispute within sixty (60) days of the date on which the Dispute Notice is delivered. All discussions occurring and documents exchanged during negotiations under this Section are confidential and inadmissible for any purpose in any legal proceeding involving the Parties; provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation process. If the Parties do not resolve the Dispute within the sixty (60) day period, either of the Parties may pursue any remedy available to it under this Agreement, at law or in equity.

9.2 Units of State Government Subject to Texas Gov’t Code § 2260.004. The provisions of this Section 9.2 shall apply only if the Customer is an entity subject to Texas Gov’t Code § 2260.004. Notwithstanding anything to the contrary contained elsewhere in this Agreement, in the event any Dispute arises between the Parties in connection with this Agreement, the Parties shall resolve the Dispute using the dispute resolution process required by Texas Gov’t Code § 2260.004.

9.3 Governing Law and Venue. The Agreement and all matters arising out of the Agreement shall be governed by the laws of the State of Texas. Any judicial action arising in connection with the Agreement shall be in the District Court of the State of Texas in and for the county in which the Services at issue are provided, or in the Federal District Court for the District in which the Services at issue are provided, as applicable.

ARTICLE 10 – ASSIGNMENT AND ASSUMPTION

Except as otherwise provided in this Article 10, neither Party shall assign, delegate or otherwise transfer the Agreement or its obligations under the Agreement, in whole or in part, without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may, without the necessity of obtaining the other Party’s consent, assign its interest in and to the Agreement to: (i) any entity acquiring such Party, whether by merger or through purchase of substantially all the assets of such Party; (ii) a lender as an asset securing indebtedness; or (iii) an Affiliate of such party; provided, that in the event of a transfer to an Affiliate, the transferring Party shall continue to remain liable for the obligations under the Agreement.

ARTICLE 11 – NOTICES

Unless otherwise provided elsewhere in the Agreement, any notice to be given to either Party under the Agreement will be in writing and directed to the addresses set forth below. Notices will be deemed received (i) the next business day, when sent by reliable, commercial overnight courier; (ii) three (3) business days after being sent by certified mail, postage prepaid and return receipt requested; (iii) when actually received, if sent by email during the business hours of 9:00 a.m. to 5:00 p.m. (recipient’s time). Notices received after 5:00 p.m. (recipient’s time) will be effective the next business day.

If to Provider:

Astound Business Solutions, LLC
650 College Road East, Suite 3100
Princeton, NJ 08540
ATTN: Business Solutions

If to Customer:

With a Copy to:

Astound Business Solutions, LLC
650 College Road East, Suite 3100
Princeton, NJ 08540
ATTN: Legal Department

With a Copy to:

Either Party may change its notice address by giving notice to the other Party in accordance with this Article.

ARTICLE 12 – REPRESENTATIONS AND COVENANTS

Each Party represents and covenants to the other as follows: (i) the execution and delivery of the Agreement and the performance of its obligations hereunder have been duly authorized; (ii) the Agreement is a valid and legal agreement binding on such parties and enforceable in accordance with its terms; (iii) to the best of its knowledge and belief, it is in material compliance with all laws, rules and regulations and court and governmental orders related to the operation of its business; and (iv) it shall comply with all applicable laws and regulations when exercising its rights and performing its obligations under the Agreement.

ARTICLE 13 – MISCELLANEOUS

13.1 Entire Agreement; Interpretation. The Agreement constitutes the entire agreement between the Parties regarding the subject matter hereof, and supersedes any and all prior oral or written agreements between the Parties regarding the subject matter contained herein. The Agreement may only be modified or supplemented by an instrument executed by an authorized representative of each Party. The Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the Parties, and the language in all parts of the Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the Parties. If any provision of the Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be found invalid or unenforceable, the remainder of the Agreement and the application of that provision to other persons or circumstances shall not be affected thereby, but shall instead continue in full force and effect.

13.2 No Waiver. No failure by either Party to enforce any rights hereunder will constitute a waiver of such rights. Nor shall a waiver by either Party of any particular breach or default constitute a waiver of any other breach or default or any similar future breach or default. Provider's acceptance of any payment under the Agreement will not constitute an accord or any other form of acknowledgement or satisfaction that the amount paid is in fact the correct amount, and acceptance of a payment will not release any claim by Provider for additional amounts due from Customer.

13.3 Relationship; No Third Party Beneficiaries. The Agreement is a commercial contract between Provider and Customer and the relationship between the Parties is that of independent contractors. Nothing in the Agreement creates any partnership, principal- agent, employer-employee or joint venture relationship between the Parties or any of their Affiliates, agents or employees for any purpose. The Agreement is for the sole benefit of Provider and Customer and is not intended to confer any rights on any other person; there are no third party beneficiaries of the Agreement.

13.4 Exhibits. The following Exhibits, which are attached to this MSA, are incorporated herein and by this reference made a part of this MSA:

- EXHIBIT A - Service Level Agreement for Lit Fiber Services
- EXHIBIT B - Service Level Agreement for Dark Fiber & Wavelength Services

13.5 Computation of Time. Except where expressly provided to the contrary, as used in the Agreement, the word "day" shall mean "calendar day," and the computation of time shall include all Saturdays, Sundays and holidays for purposes of determining time periods specified in the Agreement. If the final date of any period of time set out in any provision of the Agreement falls upon a Saturday or a Sunday or a legal holiday, then in such event, the time of such period shall be extended to the next day that is not a Saturday, Sunday or legal holiday. As used in the Agreement, the term "business day" shall mean a day that is not a Saturday, Sunday or a legal holiday.

13.6 Counterparts; Electronic Signatures. This MSA and any Service Order entered into by the Parties pursuant to this MSA may be executed in multiple counterparts, each of which shall constitute an original, and all of which shall constitute one and the same instrument. Any executed documents sent to the other Party in portable document format (pdf) images via email will be considered the same as an original document. The Parties consent to the use of electronic signatures.

The Parties are signing this MSA as of the Effective Date set forth in the preamble above.

CUSTOMER:

PROVIDER:

Astound Business Solutions, LLC, a Delaware limited liability company

By _____

By Delina Anderson

Name: _____

Name: Delina Anderson

Title: _____

Title: Director

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EXHIBIT A
to
Master Services Agreement for Enterprise Services

Service Level Agreement for Lit Fiber Services

This Service Level Agreement for Lit Fiber Services (this “SLA”) is a part of the Master Services Agreement for Enterprise Services – Governmental Customer (“MSA”) between Astound Business Solutions, LLC (“Astound”) and Customer. Unless otherwise provided in the applicable Service Order, this SLA applies to the following types of lit fiber Services provided by Astound pursuant to the MSA: (a) dedicated Internet access services, (b) Ethernet transport services, and (c) voice services, including hosted voice.

1. AVAILABILITY SLA

Astound’s Network is designed to provide a target **Availability of at least 99.99%** per month. If the Availability target is not achieved in a given calendar month, Customer shall be entitled to the remedies set forth in the table below, which must be claimed as described in this SLA.

Target Availability	Duration of Service Outage	Customer Credit as % of MRC for the applicable Circuit*
99.99% Availability	Less than 4 minutes 20 seconds	Target Met
	4 min. 20 sec. up to 2 hours	5%
	> 2 hour up to 6 hours	10%
	> 6 hours up to 12 hours	20%
	> 12 hours up to 24 hours	35%
	> 24 hours	50%

*Customer credits for Unavailability are calculated on an individual circuit basis, and the amount of any credit is based on the portion of MRC allocable to the affected circuit.

2. MEAN TIME TO RESTORE (“MTTR”) SLA

In the event of Outages in Services due to failure or malfunction of the Astound Network or Astound Equipment, Astound’s CNOG is designed to provide a **MTTR of 6 hours or less**. If the target MTTR is not met for a particular circuit in a given calendar month, and Customer receives a Service from Astound on the circuit at issue, then Customer shall be entitled to remedies set forth in the table below, which must be claimed as described in this SLA.

Target MTTR	Actual MTTR	Customer Credit as % of MRC for the applicable Circuit
6 hr MTTR	≤ 6 Hrs.	Target Met
	> 6 Hrs. to 10 Hrs.	5%
	> 10 Hrs. to 18 Hrs.	10%
	> 18 Hrs.	20%

3. PACKET DELIVERY/PACKET LOSS SLA

The Astound Network is designed to provide **no greater than 0.1% Packet Loss**. If the Packet Loss target is not achieved in a given calendar month, Customer shall be entitled to the remedies set forth in the table below, which must be claimed as described in this SLA. Customer credits for average monthly Packet Loss are calculated on an individual circuit basis, and the amount of any credit is based on the portion of MRC allocable to the affected circuit.

Target Maximum Packet Loss	Actual Packet Loss (lower end – upper end)	Customer Credit as % of MRC for the applicable Circuit
≤ 0.1% Packet Loss	0% - 0.1%	Target Met
	> 0.1% - 0.4%	5%
	> 0.4% - 0.7%	10%
	> 0.7% - 1.0%	25%
	> 1.0%	50%

4. LATENCY SLA

The Astound Network is designed to provide a monthly average one-way Latency not to exceed the following:

- For “Local Market” distances of ≤ 75 miles = 10 ms
- For “Inter-Market” distances of between 76 – 750 miles = 20 ms
- For “Long-Haul” distances of > 750 miles = 50 ms

If the applicable Latency target is not achieved in a given month and Astound does not remedy the problem within fifteen (15) calendar days from the date on which Customer opens a Trouble Ticket with the Astound CNOC regarding excessive Latency, Customer shall be entitled to the remedies set forth in the table below, which must be claimed as described in this SLA.

Target Local Market Latency	Target Inter-Market Latency	Target Long-Haul Latency	Actual One-Way Latency (lower end - upper end)	Customer Credit as % of MRC for the applicable Circuit
10 ms or less	20 ms or less	50 ms or less	≤ Target Latency	Target Met
			> Target up to 8 ms over Target	5%
			> 8 ms up to 15 ms over Target	10%
			> 15 ms up to 20 ms over Target	25%
			> 20 ms over Target	50%

5. NETWORK JITTER SLA

The Astound Backbone Network is designed to have a monthly average one-way Network Jitter not to exceed the following:

- For Local Market distances of ≤ 75 miles = 2 ms
- For Inter-Market distances of between 76 – 750 miles = 5 ms
- For Long-Haul distances of > 750 miles = 15 ms

If the applicable Network Jitter target is exceeded in a given calendar month, Customer will be entitled to a credit of 1/30th of the MRC of the affected circuit for that month for each full 1ms of Network Jitter above the Network Jitter target set forth above. Any such credit must be claimed as described in this SLA.

6. CHRONIC OUTAGE

If Customer experiences a Chronic Outage with respect to a Service, Customer shall have the right to elect either of the following remedies, which must be claimed as described in this SLA: (i) substitute a different Service or a different circuit/path for the Service and circuit/path that experienced the Chronic Outage without incurring any Termination Charge or installation fees; or (ii) terminate the affected Service for the circuit/path that experienced the Chronic Outage without incurring any Termination Charge.

7. DEFINITIONS

For purposes of this SLA the following terms shall have the meanings set forth below.

“Astound Backbone Network” means Astound’s core fiber backbone that connects Astound’s POPs and regional hubs.

“Astound’s Commercial Network Operations Center” or “Astound’s CNOC” means Astound’s commercial network operations center, which is staffed 24x7x365.

“Astound Network” means all equipment, facilities and infrastructure that Astound uses to provide Services to Customer, and includes Customer’s access port. The “Astound Network” does not include Customer owned or leased equipment (unless leased from Astound), or any portion of Customer’s local area network after the demarcation point for the Services provided by Astound.

“Availability” means the ability of Customer to exchange Ethernet packets with the Astound Network via Customer’s router port. Availability is measured in minutes of uptime over the calendar month during which the Services are Available:

$$\begin{array}{l} \% \text{ Availability} \\ \text{(per calendar month)} \end{array} = \frac{\text{(Total Minutes in Month – Total Minutes of Unavailability in Month)}}{\text{Total Minutes in Month}}$$

For Ethernet Transport Services and VoIP Services, Availability is calculated at the individual circuit level, between Astound’s Backbone Network and the Customer’s router port. For Dedicated Internet Access Services, Availability is calculated from the Customer’s router port through the Astound Network to the handoff point for the Internet. Dedicated Internet Access Service Availability does not include the availability of the Internet itself or any particular Internet resource. Periods of Excused Outage are not included in Availability metrics.

“Chronic Outage” means a series of three (3) or more Service Outages affecting the same Service on the same circuit during a given calendar month, each of which has an actual time to restore “TTR” in excess of Astound’s targeted MTTR.

“Emergency Maintenance” means Astound’s efforts to correct conditions on the Astound Network that are likely to cause a material disruption to or outage in services provided by Astound and which require immediate action. Emergency Maintenance may degrade the quality of the Services provided to Customer, including possible outages. Any such outages are Excused Outages that will not entitle Customer to credits under this SLA. Astound may undertake Emergency Maintenance at any time Astound deems necessary and will provide Customer with notice of such Emergency Maintenance as soon as commercially practicable under the circumstances.

“Excused Outage” means any disruption to or unavailability of Services caused by or due to (i) Scheduled Maintenance, (ii) Emergency Maintenance, or (iii) circumstances beyond Astound’s reasonable control, such as, by way of example only, Force Majeure Events, acts or omissions of Customer or Customer’s agents, licensees or end users, electrical outages not caused by Astound, or any failure, unavailability, interruption or delay of third-party telecommunications network components the use of which are reasonably necessary for Astound’s delivery of the Services to Customer.

“Jitter” or “Network Jitter” refers to a variation in the interval at which packets are received, also described as the variability in Latency as measured in the variability over time of the packet Latency across a network. Jitter is calculated as an aggregate average monthly metric measured by Astound across the Astound Backbone Network between a sample of Astound POPs. Local access loops are not included. Periods of Excused Outage are not included in Jitter metrics.

“Latency” means how much time it takes, measured in milliseconds, for a packet of data to get from one designated point on Astound’s Network to another designated point on Astound’s Network. Latency is calculated as an aggregate average monthly metric measured by Astound across the Astound Backbone Network between a sample of Astound POPs. Local access loops are not included. Periods of Excused Outage are not included in Latency metrics.

“Mean Time to Restore” or “MTTR” means the average time required to restore the Astound Network to a normally operating state in the event of an Outage. MTTR is calculated on a circuit basis, as a monthly average of the time it takes Astound to repair all Service Outages on the specific circuit. MTTR is measured from the time an Outage related Trouble Ticket is generated by the Astound CNOC until the time the Service is again Available. The cumulative length of Service Outages per circuit is divided by the

number of Trouble Tickets in the billing month to derive the monthly MTTR per circuit:

$$\text{MTTR in Hrs (per calendar month)} = \frac{\text{Cumulative Length of Service Outages Per Month Per Circuit}}{\text{Total Number of Trouble Tickets for Service Outages Per Month Per Circuit}}$$

Periods of Excused Outage are not included in MTTR metrics.

“Outage” means a disruption in the Service making the Service completely unavailable to Customer that is not an Excused Outage. For purposes of SLA-related credits and remedies, the period of unavailability begins when an Outage-related Trouble Ticket is opened by the Customer and ends when the connection is restored, as measured by Astound. Unavailability does not include periods of Service degradation, such as slow data transmission.

“Packet Loss” means the unintentional discarding of data packets in a network when a device (e.g., switch, router, etc.) is overloaded and cannot accept any incoming data. Packet Loss is calculated as aggregate average monthly metric measured by Astound across the Astound Backbone Network between a sample of Astound POPs. Local access loops are not included. Periods of Excused Outage are not included in Packet Loss metrics.

“Scheduled Maintenance” means any maintenance of the portion of the Astound Network to which Customer’s router is connected that is performed during a standard maintenance window (1:00AM – 6:00AM Local Time). Customer will be notified via email at least forty-eight (48) hours in advance of any scheduled maintenance that is likely to affect Customer’s Service.

“Trouble Ticket” means a trouble ticket generated through the Astound CNOc upon notification of a Service-related problem. Trouble Tickets may be generated by Astound pursuant to its internal network monitoring process, or by Customer’s reporting of a problem to the Astound CNOc. In order for Customer to be eligible for credits or remedies under this SLA, Customer must contact the Astound CNOc and open a Trouble Ticket regarding the problem; Trouble Tickets generated internally by Astound will not provide a basis for Customer credits or Chronic Outage remedies.

8. CLAIMING CREDITS AND REMEDIES

8.1 Requesting SLA Related Credits and Chronic Outage Remedies. To be eligible for any SLA-related Service credit or Chronic Outage remedy, Customer must be current in its financial obligations to Astound. Credits are exclusive of any applicable taxes charged to Customer or collected by Astound.

- (i) To claim SLA-related Service credits, Customer must do the following:
 - (a) Open a Trouble Ticket with the Astound CNOc within twenty-four (24) hours of the occurrence giving rise to the claimed credit(s);
 - (b) Submit a written request for the credit(s) to Customer’s account manager within fifteen (15) days after the end of the calendar month in which the incident giving rise to the credit(s) occurred; and
 - (c) Provide the following documentation when requesting the credit(s):
 - Customer name and contact information;
 - Trouble Ticket number(s);
 - Date and beginning/end time of the claimed Outage or failed SLA metric;
 - Circuit IDs for each pertinent circuit/path; and
 - Brief description of the characteristics of the claimed Outage or failed SLA metric.
- (ii) To claim remedies for a Chronic Outage under this SLA, Customer must do the following:
 - (a) Open a Trouble Ticket regarding the Chronic Outage with the Astound CNOc within seventy-two (72) hours of the last Outage giving rise to the claimed remedy;
 - (b) Submit a written request for a remedy regarding the Chronic Outage to Customer’s account

manager within thirty (30) days of the end of the calendar month in which the Chronic Outage occurred; and

- (c) Provide the following documentation when requesting the remedy:
- Customer name and contact information;
 - Type of remedy requested (e.g., substitution or termination);
 - Trouble Ticket numbers for each individual Outage event;
 - Date and beginning/end time of each of the claimed Outages;
 - Trouble Ticket number for the Chronic Outage at issue;
 - Circuit IDs for each pertinent circuit/path; and
 - Brief description of the characteristics of the claimed Chronic Outage.

If Customer fails to timely submit, pursuant to the procedure described in this Section, a request for any SLA-related credit or Service Outage remedy for which Customer might otherwise be eligible under this SLA, Customer shall be deemed to have waived its right to receive such credit or remedy. The credits and remedies provided by this SLA are Customer's sole and exclusive remedies for any and all claims or complaints regarding the quality and/or availability of any of the Services to which this SLA applies.

8.2 Astound's Evaluation of Claims. All claims for SLA-related credits and remedies for Chronic Outages are subject to evaluation and verification by Astound. Upon receiving a claim for SLA-related credit and/or remedies for Chronic Outage, Astound will evaluate the claim and respond to Customer within thirty (30) days. If Astound requires additional information in order to evaluate Customer's claim, Astound will notify Customer by email specifying what additional information is required. Customer will have fifteen (15) days from the date on which it receives Astound's request for additional information in which to provide the requested information to Astound. If Customer fails to provide the additional information within that time period, Customer will be deemed to have abandoned its claim. Astound will promptly notify Customer of Astound's resolution of each Customer claim. If Customer's claim for an SLA-related credit or Chronic Outage remedy is rejected, the notification will specify the basis for the rejection. If Customer's claim for a credit is approved, Astound will issue the credit to Customer's account, to appear on the next monthly invoice. If Customer's claim for a Chronic Outage remedy is approved, Astound will notify Customer of the date on which the requested substitution or termination will occur. Astound's determination regarding whether or not an SLA has been violated shall be final.

8.3 Limitations and Exclusions. Total credits for any given calendar month shall not exceed 100% of the MRC for the affected Service. Credits shall not be cumulative with respect to any given incident; instead, if multiple SLAs are violated during a single incident, Customer shall be entitled only to the largest applicable credit amount. This SLA will not apply and Customer will not be entitled to any credit under this SLA for any impairment of Services that is caused by or due to any of the following: (i) the acts or omissions of Customer, its agents, employees, contractors, or Customer's end users, or other persons authorized by Customer to access, use or modify the Services or the equipment used to provide the Services, including Customer's use of the Service in an unauthorized or unlawful manner; (ii) the failure of or refusal by Customer to reasonably cooperate with Astound in diagnosing and troubleshooting problems with the Services; (iii) scheduled Service alteration, maintenance or implementation; (iv) the failure or malfunction of network equipment or facilities not owned or controlled by Astound or Astound's Affiliates; (v) Force Majeure Events; (vi) Astound's inability (due to no fault of Astound) to access facilities or equipment as reasonably required to troubleshoot, repair, restore or prevent degradation of the Service; (vii) Astound's termination of the Service for cause, or as otherwise authorized by the Agreement; or (viii) Astound's inability to deliver Service by Customer's desired due date.

EXHIBIT B
to
Master Services Agreement for Enterprise Services

Service Level Agreement for Dark Fiber & Wavelength Services

This Service Level Agreement for Dark Fiber & Wavelength Services (this “SLA”) is a part of the Master Services Agreement for Enterprise Services – Governmental Customer (“MSA”) between Astound Business Solutions, LLC (“Astound”) and Customer. Unless otherwise provided in the applicable Service Order, this SLA applies to the following types of Services provided by Astound pursuant to the MSA: (i) dark fiber services, and (ii) wavelength services.

1. AVAILABILITY SLA

Astound’s dark fiber paths and wavelengths are designed to provide a target Availability of **at least 99.9%** per calendar month. If the Availability target is not met with respect to a given dark fiber path or wavelength in a given calendar month, Customer will be entitled to a credit in the amount set forth below, which must be claimed as described in this SLA. Customer credits for Outages of dark fiber or wavelength Services are calculated on an individual path basis, and the amount of any credit is based on the portion of MRC allocable to the affected Service.

Duration of Unavailability	Customer Credit as % of MRC for the applicable Service
Less than 45 minutes	Target Met
45 Min. up to 8 hours	5%
> 8 hours up to 16 hours	10%
> 16 hours up to 24 hours	20%
> 24 hours	35%

2. MEAN TIME TO RESTORE (“MTTR”) SLA

In the event of Outages in the Services, Astound’s CNOC is designed to provide a MTTR of **no greater than 6 hours**. If the target MTTR is not met for a particular dark fiber path or wavelength in a given calendar month, and Customer receives a Service from Astound on the path at issue, then Customer shall be entitled to remedies set forth in the table below, which must be claimed as described in this SLA.

Target MTTR	Actual MTTR	Customer Credit as % of MRC for the applicable Service
6 hr MTTR	≤ 6 Hrs.	Target Met
	> 6 Hrs. to 10 Hrs.	5%
	> 10 Hrs. to 18 Hrs.	10%
	> 18 Hrs.	20%

3. CHRONIC OUTAGE

If Customer experiences a Chronic Outage with respect to a Service, Customer shall have the right to elect either of the following remedies, which must be claimed as described in this SLA: (i) substitute a different Service or a different path for the Service that experienced the Chronic Outage without incurring any Termination Charge or installation fees; or (ii) terminate the affected Service for the path that experienced the Chronic Outage without incurring any Termination Charge.

4. DEFINITIONS

For purposes of this SLA the following terms shall have the meanings set forth below.

“Astound’s Commercial Network Operations Center” or “Astound’s CNOC” means Astound’s commercial network operations center, which is staffed 24x7x365.

“Astound Network” means all equipment, facilities and infrastructure that Astound uses to provide Services to Customer, and includes Customer’s access port. The “Astound Network” does not include Customer owned or leased equipment (unless leased from Astound), or any portion of Customer’s local area network after the demarcation point for the Services provided by Astound.

“Availability” means the dark fibers or the wavelength at issue is available to and accessible by Customer at the specified locations, is capable of transmitting signals and can otherwise be used by Customer. Availability does not involve the quality of data transmission. Periods of Excused Outage are not included in the Availability metric. Astound does not monitor the use or availability of dark fiber or wavelength Services, thus any Outage must be reported to Astound by Customer.

“Chronic Outage” means a series of three (3) or more Service Outages affecting the same Service on the path during a given calendar month, each of which has an actual time to restore “TTR” in excess of Astound’s targeted MTTR.

“Emergency Maintenance” means Astound’s efforts to correct conditions on the Astound Network that are likely to cause a material disruption to or outage in Services provided by Astound and which require immediate action. Emergency Maintenance may degrade the quality of the Services provided to Customer, including possible outages. Any such outages are Excused Outages that will not entitle Customer to credits under this SLA. Astound may undertake Emergency Maintenance at any time Astound deems necessary and will provide Customer with notice of such Emergency Maintenance as soon as commercially practicable under the circumstances.

“Excused Outage” means any disruption to or unavailability of Services caused by or due to (i) Scheduled Maintenance, (ii) Emergency Maintenance, or (iii) circumstances beyond Astound’s reasonable control, such as, by way of example only, Force Majeure Events, acts or omissions of Customer or Customer’s agents, licensees or end users, electrical outages not caused by Astound, or any failure, unavailability, interruption or delay of third-party telecommunications network components the use of which are reasonably necessary for Astound’s delivery of the Services to Customer.

“Mean Time to Restore” or “MTTR” means the average time required to restore the Service(s) to a normally operating state in the event of an Outage. MTTR is calculated on a path/route basis, as a monthly average of the time it takes Astound to repair all Service Outages on the specific path/route. MTTR is measured from the time Customer opens an Outage related Trouble Ticket is with the Astound CNOC until the time the Service is again Available. The cumulative length of Service Outages per circuit is divided by the number of Trouble Tickets in the billing month to derive the monthly MTTR per circuit:

$$\text{MTTR in Hrs (per calendar month)} = \frac{\text{Cumulative Length of Service Outages Per Month Per Circuit}}{\text{Total Number of Trouble Tickets for Service Outages Per Month Per Circuit}}$$

Periods of Excused Outage are not included in MTTR metrics.

“Outage” means a disruption in the Service making the Service completely unavailable to Customer that is not an Excused Outage. For purposes of SLA-related credits and remedies, the period of unavailability begins when an Outage-related Trouble Ticket is opened by the Customer and ends when the connection is restored, as measured by Astound. Unavailability does not include periods of Service degradation, such as slow data transmission.

“Scheduled Maintenance” means any maintenance of the portion of the Astound Network to which Customer’s demarc is connected that is performed during a standard maintenance window (1:00AM – 6:00AM Local Time). Customer will be notified via email at least forty-eight (48) hours in advance of any scheduled maintenance that is likely to affect Customer’s Service.

“Trouble Ticket” means a trouble ticket generated through the Astound CNOC upon notification of a Service-related problem. In order for Customer to be eligible for credits or remedies under this SLA, Customer must contact the Astound CNOC and open a Trouble Ticket regarding the problem.

5. CLAIMING CREDITS AND REMEDIES

5.1 Requesting SLA Related Credits and Chronic Outage Remedies. To be eligible for any SLA-related Service credit or Chronic Outage remedy, Customer must be current in its financial obligations to Astound. Credits are exclusive of any applicable taxes charged to Customer or collected by Astound.

- (i) To claim SLA-related Service credits, Customer must do the following:
 - (a) Open a Trouble Ticket with the Astound CNOC within twenty-four (24) hours of the occurrence giving rise to the claimed credit(s);
 - (b) Submit a written request for the credit(s) to Customer’s account manager within fifteen (15) days after the end of the calendar month in which the incident giving rise to the credit(s) occurred; and
 - (c) Provide the following documentation when requesting the credit(s):
 - Customer name and contact information;
 - Trouble Ticket number(s);
 - Date and beginning/end time of the claimed Outage or failed SLA metric;
 - Circuit IDs for each pertinent circuit/path; and
 - Brief description of the characteristics of the claimed Outage or failed SLA metric.
- (ii) To claim remedies for a Chronic Outage under this SLA, Customer must do the following:
 - (a) Open a Trouble Ticket regarding the Chronic Outage with the Astound CNOC within seventy-two (72) hours of the last Outage giving rise to the claimed remedy;
 - (b) Submit a written request for a remedy regarding the Chronic Outage to Customer’s account manager within thirty (30) days of the end of the calendar month in which the Chronic Outage occurred; and
 - (c) Provide the following documentation when requesting the remedy:
 - Customer name and contact information;
 - Type of remedy requested (e.g., substitution or termination);
 - Trouble Ticket numbers for each individual Outage event;
 - Date and beginning/end time of each of the claimed Outages;
 - Trouble Ticket number for the Chronic Outage at issue;
 - Circuit IDs for each pertinent circuit/path; and
 - Brief description of the characteristics of the claimed Chronic Outage.

If Customer fails to timely submit, pursuant to the procedure described in this Section, a request for any SLA-related credit or Service Outage remedy for which Customer might otherwise be eligible under this SLA, Customer shall be deemed to have waived its right to receive such credit or remedy. The credits and remedies provided by this SLA are Customer’s sole and exclusive remedies for any and all claims or complaints regarding the quality and/or availability of any of the Services to which this SLA applies.

5.2 Astound’s Evaluation of Claims. All claims for SLA-related credits and remedies for Chronic Outages are subject to evaluation and verification by Astound. Upon receiving a claim for SLA-related credit and/or remedies for Chronic Outage, Astound will evaluate the claim and respond to Customer within thirty (30) days. If Astound requires additional information in order to evaluate Customer’s claim, Astound will notify Customer by email specifying what additional information is required. Customer will have fifteen (15) days from the date on which it receives Astound’s request for additional information in which to provide the requested information to Astound. If Customer fails to provide the additional information within that time period,

Customer will be deemed to have abandoned its claim. Astound will promptly notify Customer of Astound’s resolution of each Customer claim. If Customer’s claim for an SLA-related credit or Chronic Outage remedy is rejected, the notification will specify the basis for the rejection. If Customer’s claim for a credit is approved, Astound will issue the credit to Customer’s account, to appear on the next monthly invoice. If Customer’s claim for a Chronic Outage remedy is approved, Astound will notify Customer of the date on which the requested substitution or termination will occur. Astound’s determination regarding whether or not an SLA has been violated shall be final.

5.3 Limitations and Exclusions. Total credits for any given calendar month shall not exceed 100% of the MRC for the affected Service. Credits shall not be cumulative with respect to any given incident; instead, if multiple SLAs are violated during a single incident, Customer shall be entitled only to the largest applicable credit amount. This SLA will not apply and Customer will not be entitled to any credit under this SLA for any impairment of Services that is caused by or due to any of the following: (i) the acts or omissions of Customer, its agents, employees, contractors, or Customer’s end users, or other persons authorized by Customer to access, use or modify the Services or the equipment used to provide the Services, including Customer’s use of the Service in an unauthorized or unlawful manner; (ii) the failure of or refusal by Customer to reasonably cooperate with Astound in diagnosing and troubleshooting problems with the Services; (iii) scheduled Service alteration, maintenance or implementation; (iv) the failure or malfunction of network equipment or facilities not owned or controlled by Astound or Astound’s Affiliates; (v) Force Majeure Events; (vi) Astound’s inability (due to no fault of Astound) to access facilities or equipment as reasonably required to troubleshoot, repair, restore or prevent degradation of the Service; (vii) Astound’s termination of the Service for cause, or as otherwise authorized by the Agreement; or (viii) Astound’s inability to deliver Service by Customer’s desired due date.

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TOWN SECRETARY

To: Mayor and Town Council

From: Michelle Lewis Sirianni, Town Secretary

**Through: Mario Canizares, Town Manager
Robyn Battle, Executive Director**

Re: Designating Official Town Newspaper

Town Council Meeting – August 22, 2023

Strategic Visioning Priority: 4. Provide Excellent Municipal Services

Agenda Item:

Consider and act upon a resolution designating The Frisco Enterprise as the official newspaper of the Town of Prosper and The Dallas Morning News as an alternative advertising source for FY 2023-2024.

Description of Agenda Item:

Section 2051.049 of the Texas Government Code provides that the Town Council shall select one or more newspapers to publish notices, and Section 11.02 of the Town Charter states that the Town Council shall annually declare an official newspaper of general circulation in the Town. The Frisco Enterprise meets these requirements for the purpose of publishing ordinances, election notices, public hearing notices, and other notices required by ordinance, the Town Charter, and state law. Town staff recommends the continued use of The Dallas Morning News as an alternate advertising source in the event the Town encounters a situation where an advertising or public notice deadline could not be timely met by The Frisco Enterprise.

Budget Impact:

There is no budgetary impact affiliated with this item.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached resolution as to form and legality.

Attached Documents:

1. Resolution

Town Staff Recommendation:

Town staff recommends the Town Council adopt a resolution designating The Frisco Enterprise as the official newspaper of the Town of Prosper and The Dallas Morning News as an alternative advertising source for FY 2023-2024.

Proposed Motion:

Item 9.

I move to approve a resolution designating The Frisco Enterprise as the official newspaper of the Town of Prosper and The Dallas Morning News as an alternative advertising source for FY 2023-2024.

TOWN OF PROSPER, TEXAS

RESOLUTION NO. 2023-XX

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, DESIGNATING *THE FRISCO ENTERPRISE* AS THE OFFICIAL NEWSPAPER OF THE TOWN OF PROSPER, AND *THE DALLAS MORNING NEWS* AS ALTERNATE ADVERTISING SOURCES, FOR FISCAL YEAR 2023-2024.

WHEREAS, Section 11.02 of the Prosper Town Charter provides that the Town Council shall declare annually an official newspaper of general circulation in the Town. All ordinances, notices and other matters required by the Charter, Town ordinance, or the Constitution and laws of the State of Texas shall be published in the official newspaper; and

WHEREAS, Section 2051.049 of the Texas Government Code provides that the Town Council shall select one or more newspapers to publish notices; and

WHEREAS, Resolution No. 15-31, approved by the Prosper Town Council on May 26, 2015, provides that *The Dallas Morning News* is authorized as an alternate advertising source in the event that the Town encounters a situation where an advertising or public notice deadline could not be timely met by *The Frisco Enterprise*; and

WHEREAS, the Town Council of the Town of Prosper desires to designate *The Dallas Morning News* as a secondary alternate newspaper of the Town; and,

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:

SECTION 1

The Town Council of the Town of Prosper hereby designates *The Frisco Enterprise* as the official newspaper of said Town, the same to continue as such until another is selected, and shall cause to be published therein all ordinances, notices and other matters required by law or by ordinance to be published. The *Dallas Morning News* is hereby designated as authorized advertising sources in the event that the Town encounters a situation where an advertising or public notice deadline cannot be timely met by *The Frisco Enterprise*.

SECTION 2

This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS THE 22nd DAY OF AUGUST 2023.

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney



HUMAN RESOURCES

To: Mayor and Town Council

From: James Edwards, Human Resources Director

Through: Mario Canizares, Town Manager
Bob Scott, Deputy Town Manager

Re: Town Council Meeting – August 22, 2023

Strategic Visioning Priority: 4. Provide Excellent Municipal Services

Agenda Item:

Consider and act upon an ordinance adopting new personnel policies regarding mental health leave for certain personnel as required by recent legislation and injury and illness leave for certain personnel as required by recent legislation.

Description of Agenda Item:

The State Legislature passed House Bill 471 and House Bill 1486 during the 88th Texas Legislative Session. House Bill 471 requires the Town to provide police officers and fire fighters leave of absence for an illness or injury related to the person's line of duty with full pay for up to one year. House Bill 1486 requires that each city that employs a full-time telecommunicator, shall adopt a policy allowing the use of mental health leave by a full-time telecommunicator employed by the agency who experienced a traumatic event in the scope of that employment. The Town currently has mental health leave for police officers only. The adoption of the proposed ordinance would then include fire fighters and telecommunicators as part of the policy update.

Budget Impact:

Budget may be impacted by department need to backfill vacant position due to injury or illness leave. In the event this would occur, cost would be unpredictable but prospectively covered through department salary savings.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

Attached Documents:

1. Ordinance
2. Exhibit A
3. Exhibit B

Town Staff Recommendation:

Town Staff recommends that the Town Council approve an ordinance adopting new personnel policies regarding mental health leave and injury leave for certain personnel as required by recent legislation.

Proposed Motion:

I move to approve an ordinance adopting new personnel policies regarding mental health leave and injury leave for certain personnel as required by recent legislation.

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2023-___

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ADOPTING NEW PERSONNEL POLICIES REGARDING INJURY AND ILLNESS LEAVE AND MENTAL HEALTH LEAVE FOR CERTAIN PERSONNEL, AS REQUIRED BY RECENT LEGISLATION; MAKING FINDINGS; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Regular Session of the 88th Texas Legislature adopted two (2) bills that impact certain existing Town personnel policies, as more fully described herein; and

WHEREAS, House Bill 471` provides, in part, that municipalities must provide paid illness and injury leave for first responders for any injury or illness related to a first responder’s line of duty for up to one year; and

WHEREAS, House Bill 1486 provides, in part, that law enforcement agencies must develop and adopt a policy allowing the use of mental health leave by a full-time telecommunicator who experienced a traumatic event in the scope of that employment, similar to mental health leave previously provided to peace officers and which the Town has extended to fire personnel, as more fully described in the policy; and

WHEREAS, the Governor has signed both House Bill 471 and House Bill 1486; and

WHEREAS, the newly revised policies, attached hereto as Exhibit A and Exhibit B, respectively, are in full compliance with the foregoing legislation; and

WHEREAS, the Town Council hereby adopts the attached illness and injury leave and mental health leave policies for inclusion in the Town’s Personnel Policies.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:

SECTION 1

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

The Town Council hereby adopts the attached injury and illness leave and mental health leave policies for inclusion in the Town’s Personnel Policies.

SECTION 3

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict. Any remaining portion of conflicting ordinances shall remain in full force and effect.

SECTION 4

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason, held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town of 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.

SECTION 5

This Ordinance shall become effective after its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS THE 22ND DAY OF AUGUST, 2023.

APPROVED:

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

EXHIBIT A
(Injury/Illness Leave Policy)

EXHIBIT B
(Mental Health Leave Policy)

TOWN OF PROSPER PERSONNEL POLICY

Section 4.04: WORKERS' COMPENSATION

A. Coverage of Employees

The Town of Prosper complies with the Texas Labor Code in the provision of workers' compensation insurance coverage for its employees. This program covers an injury or illness sustained in the course of employment that requires medical treatment, subject to applicable legal requirements and workers' compensation guidelines. Workers' compensation insurance coverage begins immediately upon employment with the Town.

A. Salary Continuation while on Workers' Compensation Leave

Employees may be paid temporary income benefits (TIBs) if their work-related injury or illness causes them to lose all or some of their wages for more than seven (7) days. Temporary Income Benefits are equal to 70% of the difference between an employee's average weekly wage and the wages they are able to earn after their work-related injury (i.e., if an employee was unable to earn any wages, he/she would receive 70% of his/her average weekly wage).

The Town will offer salary continuation to eligible employees, who have approved work-related injury or illness covered by worker's compensation insurance, after they have missed more than 7 days of work. Eligible employees may receive salary continuation which will supplement the employee's income up to their current rate of pay, excluding overtime. Employees who are eligible for salary continuation will be required to endorse their workers' compensation checks payable to the Town of Prosper for deposit by the Town. Salary continuation may be provided up to a maximum of 180 calendar days from the date of eligibility. Town of Prosper certified Police Officers and Fire Fighters are provided up to one year of leave with full pay for work related injury or illness.

Salary continuation will be suspended or initially denied if an employee fails to comply with Town policies and procedures. Specific grounds for suspension or denial are:

1. If the employee fails to report an injury in compliance with the Town's policy (Administrative Regulations, Section 6.03 (B) (1)).
2. If the employee submits a workers' compensation claim that is denied by the Town's workers' compensation carrier.
3. If the employee fails to comply with the directions of his/her treating physician.
4. If the employee engages in any kind of part-time, volunteer, or other outside work while receiving salary continuation (Administrative Regulations, Section 2.07).
5. If the employee refuses to accept any modified or light duty work that is deemed within the employee's capability in the opinion of the treating physician (Personnel Policies, Section 4.05).
6. If the employee refuses to return to active duty after being released by his/her treating physician.
7. If the employee refuses to provide the necessary information and communication regarding the status of his/her workers' compensation injury.

Adopted August 24, 2021

8. If the employee suffers an injury due to his/her work violation of safety standards, or the employee caused or exacerbated hazardous or dangerous situations (Administrative Regulations, Section 6.03 (B) (2)).
9. If the employee reaches maximum medical improvement (the point that the employee's work related injury or illness has improved as much as it is going to improve).
10. If the employee refuses a post-accident drug or alcohol test (Administrative Regulations, Section 6.01 (a) (2)).
11. If the employee's workers' compensation payments are stopped.
12. If the employee is terminated.
13. If the employee is within his/her new hire probation period.
14. If the employee refuses to submit to any independent medical examination or treatment required by the Town in accordance with workers' compensation laws (Personnel Policies, section 2.07 (B) (2)).
15. If the employee chooses to go to a doctor that is not recommended by the Town.

Exceptions to these conditions may be considered by the Town Manager on a case-by-case basis.

If the employee is denied, refused, or exhausts salary continuation while receiving workers' compensation benefits, the employee is eligible to use sick leave, compensatory time, and vacation leave in the amount necessary to make up the difference between workers' compensation benefits and the employee's normal rate of pay.

TOWN OF PROSPER PERSONNEL POLICY

Section 5.11: MENTAL HEALTH LEAVE FOR PEACE OFFICERS, FIRE FIGHTERS, AND TELECOMMUNICATORS

The Town of Prosper will provide paid Mental Health Leave to Peace Officers, Fire Fighters and Telecommunicators. If a Peace Officer, Fire Fighter or Telecommunicator experiences a traumatic event directly related to their job duties, Mental Health Leave may be allowed so that the Peace Officer, Fire Fighter, or Telecommunicator can recover or begin the process of recovery and accessing needed resources for treatment. This policy is effective September 1, 2021 updated September 1, 2023.

A. Definitions

Peace Officer: A Police Officer, or may include other sworn personnel, licensed by the Texas Commission on Law Enforcement and actively employed by the Town.

Fire Fighter: A Fire Fighter licensed by the Texas Commission on Fire Protection and actively employed by the Town.

Telecommunicator: A Telecommunicator licensed as a Texas Law Enforcement Dispatcher and actively employed by the Town.

Traumatic Event: An event which occurs in the Peace Officer's, Fire Fighter's or Telecommunicator's scope of employment when the employee is involved in the response to, or investigation of, an event that causes the employee to experience unusually strong emotional reactions or feelings which have the potential to interfere with their ability to function during or after the incident.

The Police Officer, Fire Fighter, or Telecommunicator may directly experience the traumatic event or witness, in person, the traumatic event as it occurred to others. Other circumstances that may qualify would include learning that the traumatic event(s) occurred to a close family member or a close friend or experiencing repeated or extreme exposure to the details of the event. In the case of actual or threatened death of a family member or friend, the event(s) must have been violent or accidental.

Traumatic events may include, but are not limited to, the following:

1. Major disasters which may include response to weather related events involving multiple casualties; or explosions with multiple casualties; or search and recovery missions involving multiple casualties;
2. Incidents involving multiple casualties which may include shootings or traffic accidents;
3. Line of duty death or suicide of a department member;
4. Death or serious injury of a child resulting from violence, sexual abuse, or neglect;
5. Officer(s) involved in the shooting of a person.

Mental Health Leave: Administrative leave with pay granted in response to a traumatic event that occurred in the scope of the Peace Officer's, Fire Fighter's or Telecommunicator's employment.

Adopted August 24, 2021

Mental Health Professional: A licensed social or mental health worker, counselor, psychotherapist, psychologist or psychiatrist as approved by the Town of Prosper.

B. Requesting Mental Health Leave

A Police Officer, Fire Fighter, or Telecommunicator directly involved in a traumatic event may request the use of mental health leave. The request shall be made in writing through the chain of command and in consultation with the Human Resources Director. The request shall be treated as a priority matter and a decision on the granting of the leave shall be made no later than 24 hours following the submission of the request. The request shall be granted unless the chain of command can articulate specific compelling reasons to deny granting the leave.

A supervisor or coworker who becomes aware of behavioral changes in an officer directly involved in a traumatic event should suggest to the officer that he or she seek mental health leave and the assistance of a mental health professional.

C. Duration of Mental Health Leave

A Police Officer, Fire Fighter, or Telecommunicator directly involved in a traumatic event may request up to 40 hours of paid mental health leave per event. Any hours utilized as mental health leave shall be calculated as regular hours worked. There shall be no deduction in salary or other compensation for mental health leave.

Extensions of leave may be available under certain circumstances. Any request for an extension shall be accompanied by documentation from a mental health professional who is counseling the officer. The Chief shall grant the extension upon the receipt of sufficient documentation and in consultation with Human Resources.

D. Confidentiality

Any request for mental health leave shall be treated as strictly confidential by all parties involved and shall not be discussed or disclosed outside the officer's immediate chain of command and Human Resources and only as necessary to facilitate the use of the leave. Any Police Officer, Fire Fighter, or Telecommunicator or supervisor who becomes aware of behavioral changes and suggests the employee seek mental health leave shall not discuss that matter with any third party. Any breach of this confidentiality shall be grounds for discipline.

Confidentiality may be waived by the employee seeking mental health leave. In addition, confidentiality may be waived under circumstances which indicate the officer is a danger to himself/herself or others and department personnel must confer with mental health professionals.

Adopted August 24, 2021



FINANCE

To: Mayor and Town Council

From: Chris Landrum, Finance Director

**Through: Mario Canizares, Town Manager
Robert B. Scott, Deputy Town Manager**

Re: Parameters Ordinance – Certificates of Obligation, Series 2023

Town Council Meeting – August 22, 2023

Strategic Visioning Priority: 5. Work Towards a Growing & Diversified Tax Base

Agenda Item:

Consider all matters incident and related to the issuance and sale of “Town of Prosper, Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Series 2023”, including the adoption of an ordinance authorizing the issuance of such obligations and establishing procedures and delegating authority for the sale and delivery of such obligations. (CL)

Description of Agenda Item:

Town Council at the June 27, 2023, meeting approved beginning the required process for issuance of certificates of obligations through a Notice of Intent, required advertising and setting a timetable for issuance. The attached ordinance establishes the parameters for issuance of certificates of obligation for the projects:

Water Distribution	\$4,500,000
Wastewater	\$4,025,000

The Town has historically sold debt through a competitive sale on the Tuesday morning of a Town Council meeting and then completed the sale with Town Council approval that evening. It is recommended that Town Council pass an Ordinance on August 22, 2023, authorizing issuance of the certificates of obligation with delegated authority to the Town Manager or Deputy Town Manager, to complete final pricing of the debt. This method is commonly used in refunding debt issues or during uncertain market conditions. The ordinance would allow for delegation to the Town Manager that meets the following conditions:

- Issue the certificates through a competitive or negotiated sale;
- for an amount not to exceed \$8,700,000;
- with a final maturity of August 15, 2043;

Approval of this ordinance has the following advantages to obtain the lowest interest rate for the Town’s Bond sale:

- Flexibility to sell on a day based on the best market conditions instead of only a Town Council Tuesday

- Allows for immediate award to the lowest bidder

Budget Impact:

The debt service payments for the Bonds will be funded from surplus revenue from the water and sewer fund.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P. and Chris Settle of McCall, Parkhurst and Horton, the Town's bond counsel, have reviewed the ordinance as to form and legality.

Attached Documents:

1. Ordinance
2. Timeline (Exhibit A)
3. Use of Proceeds (Exhibit B)

Town Staff Recommendation:

Town staff recommends adoption of an ordinance authorizing the issuance and sale of "Town of Prosper, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Series 2023", and approving all other matters related thereto.

Proposed Motion:

I move to adopt an ordinance authorizing the issuance and sale of "Town of Prosper, Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Series 2023" and approving all other matters related thereto.

TOWN OF PROSPER, TEXAS

ORDINANCE 2023-XX

AN ORDINANCE AUTHORIZING THE ISSUANCE OF TOWN OF PROSPER, TEXAS, COMBINATION TAX AND SURPLUS REVENUE CERTIFICATES OF OBLIGATION, SERIES 2023; ESTABLISHING SALE PARAMETERS; PROVIDING FOR THE SECURITY FOR AND PAYMENT OF SAID CERTIFICATES; AND ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT

**THE STATE OF TEXAS §
COLLIN AND DENTON COUNTIES §
TOWN OF PROSPER §**

WHEREAS, the Town Council (the "Council") of the Town of Prosper, Texas (the "Town"), deems it advisable to issue Certificates of Obligation in the amount of up to \$8,700,000 for the purposes hereinafter set forth; and

WHEREAS, the Certificates of Obligation hereinafter authorized and designated are to be issued and delivered for cash pursuant to Subchapter C of Chapter 271, Texas Local Government Code, Subchapter B, Chapter 1502, Texas Government Code and Chapter 1371, Texas Government Code; and

WHEREAS, the Council has heretofore passed a resolution authorizing and directing the Town Secretary to give notice of intention to issue Certificates of Obligation, and said notice has been duly published in a newspaper of general circulation in said Town, said newspaper being a "newspaper" as defined in Section 2051.044, Texas Government Code, and posted to the Town's Internet website, all in timing and manner provided in Section 271.049, Texas Local Government Code ; and

WHEREAS, the Town received no petition from the qualified electors of the Town protesting the issuance of such Certificates of Obligation; and

WHEREAS, no bond proposition to authorize the issuance of bonds for the same purpose as any of the projects being financed with the proceeds of the Certificates was submitted to the voters of the Town during the preceding three years and failed to be approved; and

WHEREAS, the Town is an "issuer" within the meaning of Section 1371.001(4)(P), Texas Government Code, having (i) a principal amount of at least \$100 million in outstanding long term indebtedness, in long term indebtedness proposed to be issued, or in a combination of outstanding or proposed long term indebtedness and (ii) some amount of long term indebtedness outstanding or proposed to be issued that is rated in one of the four highest rating categories for long term debt instruments by a nationally recognized rating agency for municipal securities, without regard to the effect of any credit agreement or other form of credit enhancement entered into in connection with the obligation; and

WHEREAS, it is officially found, determined, and declared that the meeting at which this Ordinance has been adopted was open to the public and public notice of the time, place and subject matter of the public business to be considered and acted upon at said meeting, including this

Ordinance, was given, all as required by the applicable provisions of Texas Government Code, Chapter 551;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS:

Section 1. RECITALS, AMOUNT, PURPOSE AND DESIGNATION OF THE CERTIFICATES. (a) The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section.

(b) The Certificates are hereby authorized to be issued and delivered in the maximum aggregate principal amount hereinafter set forth for the Projects (defined below) and to pay legal, fiscal and engineering fees in connection with the Projects.

(c) Each Certificate issued pursuant to this Ordinance shall be designated (unless otherwise provided in the Pricing Certificate): "TOWN OF PROSPER, TEXAS, COMBINATION TAX AND SURPLUS REVENUE CERTIFICATE OF OBLIGATION, SERIES 2023," and initially there shall be issued, sold and delivered hereunder fully registered Certificates, without interest coupons, payable to the respective registered owners thereof (with the initial Certificate being made payable to the Underwriter as described herein), or to the registered assignee or assignees of said Certificates or any portion or portions thereof (in each case, the "Registered Owner"). The Certificates shall be in the respective denominations and principal amounts, shall be numbered, shall mature and be payable on the date or dates in each of the years and in the principal amounts or amounts due at maturity, as applicable, and shall bear interest to their respective dates of maturity or redemption, if applicable, prior to maturity at the rates per annum, as set forth in the Pricing Certificate.

Section 2. DEFINITIONS. Unless otherwise expressly provided or unless the context clearly requires otherwise in this Ordinance, the following terms shall have the meanings specified below:

"Attorney General" shall mean the Attorney General of the State.

"Certificates" means and includes the Certificates initially issued and delivered pursuant to this Ordinance and all substitute Certificates exchanged therefor, as well as all other substitute Certificates and replacement Certificates issued pursuant hereto, and the term "Certificate" shall mean any of the Certificates.

"Code" means the Internal Revenue Code of 1986, as amended.

"Comptroller" shall mean the Comptroller of Public Accounts of the State.

"Delivery Date" shall mean the date or dates of delivery of the Certificates to the Underwriter against payment therefor, as determined by the Pricing Officer in the Pricing Certificate.

"Projects" shall mean acquiring, constructing, installing and equipping additions, improvements, extensions and equipment for the Town's waterworks and sewer system and the acquisition of land and rights-of-way therefor.

"State" shall mean the State of Texas.

"Underwriter" shall mean the initial purchaser(s) of the Certificates designated by the Pricing Officer in the Pricing Certificate.

Section 3. DELEGATION TO PRICING OFFICER. (a) As authorized by Section 1371.053, Texas Government Code, as amended, the Deputy Town Manager and the Town Manager of the Town are each individually authorized to act on behalf of the Town in selling and delivering the Certificates (of which officers, the officer executing the Pricing Certificate shall be hereinafter referred to as, and shall for all purposes be, the "Pricing Officer"), carrying out the procedures specified in this Ordinance, including determining the principal amount of Certificates to be issued, the amount to be applied against each proposition, the date or dates of the Certificates, any additional or different designation or title by which the Certificates shall be known, the price at which the Certificates will be sold, the years in which the Certificates will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the interest payment and record dates, the price and terms, if any, upon and at which the Certificates shall be subject to redemption prior to maturity at the option of the Town, as well as any mandatory sinking fund redemption provisions, whether the Certificates shall be designated as "qualified tax-exempt obligations" as defined in section 265(b)(3) of the Code, approving modifications or additions to the Rule 15c2-12 continuing disclosure undertaking, and all other matters relating to the issuance, sale and delivery of the Certificates, including, without limitation, procuring municipal bond insurance and approving modifications to this Ordinance and executing such instruments, documents and agreements as may be necessary with respect thereto, if it is determined that such insurance would be financially desirable and advantageous, all of which shall be specified in the Pricing Certificate, provided that:

- (i) the aggregate original principal amount of the Certificates shall not exceed \$8,700,000;
- (ii) no Certificate shall mature after August 15, 2043; and
- (iii) the true interest cost of the Certificates shall not exceed 4.75%.

(b) In establishing the aggregate principal amount of the Certificates, the Pricing Officer shall establish an amount not exceeding the amount authorized in subsection (a) above, which shall be sufficient in amount to provide for the purposes for which the Certificates are authorized and to pay costs of issuing the Certificates. The delegations made hereby shall expire if not exercised by the Pricing Officer on or prior to the ninetieth (90th) day following the adoption of this Ordinance. The Certificates shall be sold at such price, with and subject to such terms as set forth in the Pricing Certificate.

(c) The Certificates may be sold by public offering (either through a negotiated or competitive offering) or by private placement. If the Certificates are sold by private placement, the Pricing Certificate shall so state, and the Pricing Certificate may make changes to this

Ordinance to effect such private placement, including the provisions hereof that pertain to the book-entry-only procedures (including eliminating the book-entry-only system of registrations, payment and transfers) and to the provisions herein relating to the Rule 15c2-12 undertaking (including eliminating or replacing such undertaking with an agreement to provide alternative disclosure information).

(d) In satisfaction of Section 1201.022(a)(3)(B), Texas Government Code, the Council hereby determines that the delegation of the authority to the Pricing Officer to approve the final terms of the Certificates set forth in this Ordinance is, and the decisions made by the Pricing Officer pursuant to such delegated authority and incorporated into the Pricing Certificate will be, in the Town's best interests, and the Pricing Officer is hereby authorized to make and include in the Pricing Certificate a finding to that effect.

Section 4. CHARACTERISTICS OF THE CERTIFICATES. (a) Registration, Transfer, Conversion and Exchange. The Town shall keep or cause to be kept at the designated office of the bank named in the Pricing Certificate as the paying agent/registrar for the Certificates (the "Paying Agent/Registrar"), books or records for the registration of the transfer, conversion and exchange of the Certificates (the "Registration Books"), and the Town hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, conversions and exchanges under such reasonable regulations as the Town and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions and exchanges as herein provided within three days of presentation in due and proper form. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the registered owner of each Certificate to which payments with respect to the Certificates shall be mailed, as herein provided; but it shall be the duty of each registered owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The Town shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Town shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange and delivery of a substitute Certificate or Certificates. Registration of assignments, transfers, conversions and exchanges of Certificates shall be made in the manner provided and with the effect stated in the FORM OF CERTIFICATE set forth as **Exhibit A** of this Ordinance. Each substitute Certificate shall bear a letter and/or number to distinguish it from each other Certificate.

(b) Authentication. Except as provided in subsection (e) of this Section, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Certificate, date and manually sign said Certificate, and no such Certificate shall be deemed to be issued or outstanding unless such Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Certificates and Certificates surrendered for conversion and exchange. No additional ordinances, orders or resolutions need be passed or adopted by the governing body of the Town or any other body or person so as to accomplish the foregoing conversion and exchange of any Certificate or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution and delivery of the substitute Certificates in the manner prescribed herein. Pursuant to Subchapter D, Chapter 1201, Texas Government Code, the duty of conversion and exchange of Certificates as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the

execution of said Certificate, the converted and exchanged Certificate shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Certificates which initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General and registered by the Comptroller.

(c) Payment of Certificates and Interest. The Town hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Certificates, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the Town and the Paying Agent/Registrar with respect to the Certificates, and of all conversions and exchanges of Certificates, and all replacements of Certificates, as provided in this Ordinance. However, in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Town. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each registered owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(d) Substitute Paying Agent/Registrar. The Town covenants with the registered owners of the Certificates that at all times while the Certificates are outstanding the Town will provide a competent and legally qualified bank, trust company, financial institution or other agency to act as and perform the services of Paying Agent/Registrar for the Certificates under this Ordinance, and that the Paying Agent/Registrar will be one entity. The Town reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 50 days written notice to the Paying Agent/Registrar, to be effective not later than 45 days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the Town covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Certificates, to the new Paying Agent/Registrar designated and appointed by the Town. Upon any change in the Paying Agent/Registrar, the Town promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each registered owner of the Certificates, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(e) General Characteristics of the Certificates. The Certificates (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Certificates to be payable only to the Registered Owners thereof, (ii) may be redeemed prior to their scheduled maturities (notice of which shall be given to the Paying Agent/Registrar by the Town at least 35 days prior to any such redemption date), (iii) may be transferred and assigned, (iv) may be converted and exchanged for other Certificates, (v) shall have the characteristics,

(vi) shall be signed, sealed, executed and authenticated, (vii) the principal of and interest on the Certificates shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the Town shall have certain duties and responsibilities with respect to the Certificates, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF CERTIFICATE set forth as **Exhibit A** of this Ordinance. The Certificates initially issued and delivered pursuant to this Ordinance are not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Certificate issued in conversion of and exchange for any Certificate or Certificates issued under this Ordinance the Paying Agent/Registrar shall execute the Paying Agent/registrar's Authentication Certificate, in the FORM OF CERTIFICATE set forth as **Exhibit A** of this Ordinance.

(f) Book-Entry-Only System. Unless the Certificates are sold by private placement, the Certificates issued in exchange for the Certificates initially issued to the Underwriter shall be initially issued in the form of a separate single fully registered Certificate for each of the maturities thereof. Upon initial issuance, the ownership of each such Certificate shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company of New York ("DTC"), and except as provided in subsection (g) of this Section, all of the outstanding Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the Town and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created ("DTC Participant") to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants or to any person on behalf of whom such a DTC Participant holds an interest in the Certificates. Without limiting the immediately preceding sentence, the Town and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any DTC Participant or any other person, other than a registered owner of Certificates, as shown on the Registration Books, of any notice with respect to the Certificates, or (iii) the payment to any DTC Participant or any other person, other than a registered owner of Certificates, as shown in the Registration Books of any amount with respect to principal of or interest on the Certificates. Notwithstanding any other provision of this Ordinance to the contrary, the Town and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Certificate is registered in the Registration Books as the absolute owner of such Certificate for the purpose of payment of principal and interest with respect to such Certificate, for the purpose of registering transfers with respect to such Certificate, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Certificates only to or upon the order of the registered owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Town's obligations with respect to payment of principal of and interest on the Certificates to the extent of the sum or sums so paid. No person other than a registered owner, as shown in the Registration Books, shall receive a physical Certificate evidencing the obligation of the Town to make payments of principal and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner

at the close of business on the Record Date, the words "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(g) Successor Securities Depository; Transfers Outside Book-Entry-Only System. If the Certificates are subject to the DTC book-entry system, and in the event that the Town determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the Town to DTC or that it is in the best interest of the beneficial owners of the Certificates that they be able to obtain certificated Certificates, the Town shall (i) appoint a successor securities depository, qualified to act as such under Section 17A of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Certificates to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Certificates and transfer one or more separate Certificates to DTC Participants having Certificates credited to their DTC accounts. In such event, the Certificates shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names registered owners transferring or exchanging Certificates shall designate, in accordance with the provisions of this Ordinance.

(h) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Certificate is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Certificate and all notices with respect to such Certificate shall be made and given, respectively, in the manner provided in the representation letter of the Town to DTC.

(i) Cancellation of Initial Certificate. On the Delivery Date, one initial Certificate representing the entire principal amount of the Certificates, payable in stated installments to the order of the Underwriter or its designee, executed by manual or facsimile signature of the Mayor and the Town Secretary, approved by the Attorney General and registered and manually signed by the Comptroller, will be delivered to the Underwriter or its designee. If the Certificates are sold subject to the book-entry system of DTC, then upon payment for the initial Certificate, the Paying Agent/Registrar shall insert the Delivery Date on Certificate No. T-1, cancel the initial Certificate and deliver to DTC on behalf of the Underwriter one registered definitive Certificate for each year of maturity of the Certificates, in the aggregate principal amount of all of the Certificates for such maturity, registered in the name of Cede & Co., as nominee of DTC. To the extent that the Paying Agent/Registrar is eligible to participate in DTC's FAST System, pursuant to an agreement between the Paying Agent/Registrar and DTC, the Paying Agent/Registrar shall hold the definitive Certificates in safekeeping for DTC.

(j) Conditional Notice of Redemption. With respect to any optional redemption of the Certificates, unless certain prerequisites to such redemption required by this Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption may, at the option of the Town, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall

be of no force and effect, the Town shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

Section 5. FORM OF CERTIFICATES. The form of the Certificate, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State to be attached only to the Certificates initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially in the form provided in **Exhibit A**, with such appropriate variations, omissions, or insertions as are permitted or required by this Ordinance. The Form of Certificate as it appears in **Exhibit A** shall be completed, amended and modified by Bond Counsel to incorporate the information set forth in the Pricing Certificate, but it is not required for the Form of Certificate to be reproduced as an exhibit to the Pricing Certificate.

Section 6. INTEREST AND SINKING FUND; SURPLUS REVENUES.

(a) A special "Interest and Sinking Fund" is hereby created and shall be established and maintained by the Town at an official depository bank of said Town. Said Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of said Town, and shall be used only for paying the interest on and principal of said Certificates. All amounts received from the sale of the Certificates as accrued interest shall be deposited upon receipt to the Interest and Sinking Fund, and all ad valorem taxes levied and collected for and on account of said Certificates shall be deposited, as collected, to the credit of said Interest and Sinking Fund. During each year while any of said Certificates are outstanding and unpaid, the governing body of said Town shall compute and ascertain a rate and amount of ad valorem tax that will be sufficient to raise and produce the money required to pay the interest on said Certificates as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of said Certificates as such principal matures (but never less than 2% of the original amount of said Certificates as a sinking fund each year); and said tax shall be based on the latest approved tax rolls of said Town, with full allowances being made for tax delinquencies and the cost of tax collection. Said rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in said Town, for each year while any of said Certificates are outstanding and unpaid, and said tax shall be assessed and collected each such year and deposited to the credit of the aforesaid Interest and Sinking Fund. Said ad valorem taxes sufficient to provide for the payment of the interest on and principal of said Certificates, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limits prescribed by law.

(b) The Certificates are additionally secured by and payable from a pledge of the revenues of the Town's combined Waterworks and Sewer Systems remaining after payment of all operation and maintenance expenses thereof (the "Net Revenues"), and all debt service, reserve and other requirements in connection with all of the Town's revenue obligations (now or hereafter outstanding) that are payable from all or part of the Net Revenues of the Town's Waterworks and Sewer Systems, constituting "Surplus Revenues." The Town shall deposit such Surplus Revenues to the credit of the Interest and Sinking Fund created pursuant to Section 6, to the extent necessary to pay the principal and interest on the Certificates. Notwithstanding the requirements of Section 6, if Surplus Revenues are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes that otherwise would have been required to be levied pursuant to Section 6 may be reduced to the extent

and by the amount of the Surplus Revenues then on deposit in the Interest and Sinking Fund. The Town reserves the right, without condition or limitation, to issue other obligations secured in whole or in part by a parity lien on and pledge of the Surplus Revenues, for any purpose permitted by law.

(c) Chapter 1208, Government Code, applies to the issuance of the Certificates and the pledge of the taxes and Surplus Revenues granted by the Town hereunder, and is therefore valid, effective and perfected. Should State law be amended at any time while the Certificates are outstanding and unpaid, the result of such amendment being that the pledge of the taxes and Surplus Revenues granted by the Town hereunder is to be subject to the filing requirements of Chapter 9, Business and Commerce Code, in order to preserve to the registered owners of the Certificates a security interest in said pledge, the Town agrees to take such measures as it determines are reasonable and necessary under State law to comply with the applicable provisions of Chapter 9, Business and Commerce Code and enable a filing of a security interest in said pledge to occur.

Section 7. DEFEASANCE OF CERTIFICATES.

(a) Any Certificate and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Certificate") within the meaning of this Ordinance, except to the extent provided in subsection (d) of this Section, when payment of the principal of such Certificate, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (the "Future Escrow Agreement") for such payment (1) lawful money of the United States of America sufficient to make such payment or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the Town with the Paying Agent/Registrar for the payment of its services until all Defeased Certificates shall have become due and payable. At such time as a Certificate shall be deemed to be a Defeased Certificate hereunder, as aforesaid, such Certificate and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied and pledged or the pledge of Surplus Revenues as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities. Notwithstanding any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem Defeased Certificates that is made in conjunction with the payment arrangements specified in subsection 6(a)(i) or (ii) shall not be irrevocable, provided that: (1) in the proceedings providing for such payment arrangements, the Town expressly reserves the right to call the Defeased Certificates for redemption; (2) gives notice of the reservation of that right to the owners of the Defeased Certificates immediately following the making of the payment arrangements; and (3) directs that notice of the reservation be included in any redemption notices that it authorizes.

(b) Any moneys so deposited with the Paying Agent/Registrar may at the written direction of the Town be invested in Defeasance Securities, maturing in the amounts and times as hereinbefore set forth, and all income from such Defeasance Securities received by the Paying Agent/Registrar that is not required for the payment of the Certificates and interest thereon, with

respect to which such money has been so deposited, shall be turned over to the Town, or deposited as directed in writing by the Town. Any Future Escrow Agreement pursuant to which the money and/or Defeasance Securities are held for the payment of Defeased Certificates may contain provisions permitting the investment or reinvestment of such moneys in Defeasance Securities or the substitution of other Defeasance Securities upon the satisfaction of the requirements specified in subsection 6(a)(i) or (ii). All income from such Defeasance Securities received by the Paying Agent/Registrar which is not required for the payment of the Defeased Certificates, with respect to which such money has been so deposited, shall be remitted to the Town or deposited as directed in writing by the Town.

(c) Subject to any statement to the contrary that may be included in the Pricing Certificate, the term "Defeasance Securities" means any securities and obligations now or hereafter authorized by State law that are eligible to refund, retire or otherwise discharge obligations such as the Certificates.

(d) Until all Defeased Certificates shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Certificates the same as if they had not been defeased, and the Town shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(e) In the event that the Town elects to defease less than all of the principal amount of Certificates of a maturity, the Paying Agent/Registrar shall select, or cause to be selected, such amount of Certificates by such random method as it deems fair and appropriate.

Section 8. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED CERTIFICATES.

(a) Replacement Certificates. In the event any outstanding Certificate is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new certificate of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Certificate, in replacement for such Certificate in the manner hereinafter provided.

(b) Application for Replacement Certificates. Application for replacement of damaged, mutilated, lost, stolen or destroyed Certificates shall be made by the registered owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Certificate, the registered owner applying for a replacement certificate shall furnish to the Town and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Certificate, the registered owner shall furnish to the Town and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Certificate, as the case may be. In every case of damage or mutilation of a Certificate, the registered owner shall surrender to the Paying Agent/Registrar for cancellation the Certificate so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Ordinance, in the event any such Certificate shall have matured, and no default has occurred that is then continuing in the payment of the principal of, redemption premium, if any, or interest on the

Certificate, the Town may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Certificate) instead of issuing a replacement Certificate, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Certificates. Prior to the issuance of any replacement certificate, the Paying Agent/Registrar shall charge the registered owner of such Certificate with all legal, printing, and other expenses in connection therewith. Every replacement certificate issued pursuant to the provisions of this Section by virtue of the fact that any Certificate is lost, stolen or destroyed shall constitute a contractual obligation of the Town whether or not the lost, stolen or destroyed Certificate shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Certificates duly issued under this Ordinance.

(e) Authority for Issuing Replacement Certificates. In accordance with Section 1206.022, Government Code, this Section shall constitute authority for the issuance of any such replacement certificate without necessity of further action by the governing body of the Town or any other body or person, and the duty of the replacement of such certificates is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Certificates in the form and manner and with the effect, as provided in Section 3(a) of this Ordinance for Certificates issued in conversion and exchange for other Certificates.

Section 9. CUSTODY, APPROVAL, AND REGISTRATION OF CERTIFICATES; BOND COUNSEL'S OPINION; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED; ENGAGEMENT OF BOND COUNSEL.

(a) The Mayor of the Town is hereby authorized to have control of the Certificates initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Certificates pending their delivery and their investigation, examination and approval by the Attorney General and their registration by the Comptroller. Upon registration of the Certificates, the Comptroller (or a deputy designated in writing to act for the Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Certificates, and the seal of the Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the Town's Bond Counsel and the assigned CUSIP numbers may, at the option of the Town, be printed on the Certificates issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the registered owners of the Certificates. In addition, if bond insurance is obtained, the payment of the insurance premium is hereby approved and the Certificates may bear an appropriate legend as provided by the insurer.

(b) The obligation of the Underwriter to accept delivery of the Certificates is subject to the Underwriter being furnished with the final, approving opinion of McCall, Parkhurst & Horton L.L.P., bond counsel to the Town, which opinion shall be dated as of and delivered on the date of initial delivery of the Certificates to the Underwriter. The engagement of such firm as bond counsel to the Town in connection with issuance, sale and delivery of the Certificates is hereby approved and confirmed.

Section 10. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE CERTIFICATES.

(a) Covenants. The Town covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Certificates as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the Town covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Certificates or the projects financed therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds or the projects financed therewith are so used, such amounts, whether or not received by the Town, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Certificates, in contravention of section 141(b)(2) of the Code;

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Certificates or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(3) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Certificates (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(4) to refrain from taking any action which would otherwise result in the Certificates being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(5) to refrain from taking any action that would result in the Certificates being "federally guaranteed" within the meaning of section 149(b) of the Code;

(6) to refrain from using any portion of the proceeds of the Certificates, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Certificates, other than investment property acquired with B

(A) proceeds of the Certificates invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 90 days or less until such proceeds are needed for the purpose for which the bonds are issued,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148 1(b) of the Treasury Regulations, and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Certificates;

(7) to otherwise restrict the use of the proceeds of the Certificates or amounts treated as proceeds of the Certificates, as may be necessary, so that the Certificates do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage);

(8) to refrain from using the proceeds of the Certificates or proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Certificates in contravention of the requirements of section 149(d) of the Code (relating to advance refundings); and

(9) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Certificates) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Certificates have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code.

(b) Rebate Fund. In order to facilitate compliance with the above covenant (8), a "Rebate Fund" is hereby established by the Town for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Use of Proceeds. The Town understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Certificates. It is the understanding of the Town that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Certificates, the Town will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Certificates, the Town agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In furtherance of such intention, the Town hereby authorizes and directs the Mayor, the Mayor Pro Tem, the Finance Director, the Town Secretary and each Pricing Officer to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the Town, which may be permitted by the Code as are consistent with the purpose for the issuance of the Certificates.

(d) Allocation of, and Limitation on, Expenditures for the Projects. The Town covenants to account for the expenditure of sale proceeds and investment earnings to be used for the Projects on its books and records in accordance with the requirements of the Code. The Town recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Projects are completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the Town recognizes that in order for proceeds to be expended under the Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Certificates, or (2) the date the Certificates are retired. The Town agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Certificates. For purposes hereof, the Town shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) Disposition of the Projects. The Town covenants that the property constituting the Projects will not be sold or otherwise disposed in a transaction resulting in the receipt by the Town of cash or other compensation, unless any action taken in connection with such disposition will not adversely affect the tax-exempt status of the Certificates. For purpose of the foregoing, the Town may rely on an opinion of nationally-recognized bond counsel that the action taken in connection with such sale or other disposition will not adversely affect the tax-exempt status of the Certificates. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the Town shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

Section 11. SALE OF CERTIFICATES; OFFICIAL STATEMENT. (a) The Certificates shall be sold and delivered subject to the provisions hereof and pursuant to the terms and provisions of a bond purchase agreement, notice of sale and bidding instructions or private placement agreement (collectively and individually, the "Purchase Agreement"), each of which the Pricing Officer is hereby authorized to execute and deliver and in which the Underwriter shall be designated. The Certificates shall initially be registered in the name of the Underwriter, unless otherwise set forth in the Pricing Certificate.

(b) The Pricing Officer is hereby authorized, in the name and on behalf of the Town, to approve the distribution and delivery of a preliminary official statement and a final official statement relating to the Certificates to be used by the Underwriter in the marketing of the Certificates, if applicable.

Section 12. FURTHER PROCEDURES; ENGAGEMENT OF BOND COUNSEL; ATTORNEY GENERAL FILING FEE; APPROPRIATION. (a) The Mayor, the Mayor Pro Tem, the Finance Director, the Town Secretary and each Pricing Officer, individually or jointly, shall be and they are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the Town such documents, certificates and

instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Letter of Representations, the Certificates and the sale of the Certificates. In addition, prior to the delivery of the Certificates, the Mayor, the Mayor Pro Tem, the Finance Director, the Town Secretary and each Pricing Officer are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance: (i) in order to cure any ambiguity, formal defect, or omission in this Ordinance or such other document, or (ii) as requested by the Attorney General or his representative to obtain the approval of the Certificates by the Attorney General. In case any officer whose signature shall appear on any Certificate shall cease to be such officer before the delivery of such Certificate, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

(b) The obligation of the Underwriter to accept delivery of the Certificates is subject to the Underwriter being furnished with the final, approving opinion of McCall, Parkhurst & Horton L.L.P., bond counsel to the Town, which opinion shall be dated as of and delivered on the Delivery Date. The engagement of such firm as bond counsel to the Town in connection with issuance, sale and delivery of the Certificates is hereby approved and confirmed.

(c) To pay the debt service coming due on the Certificates, if any (as determined by the Pricing Certificate) prior to receipt of the taxes levied to pay such debt service, there is hereby appropriated from current funds on hand, which are hereby certified to be on hand and available for such purpose, an amount sufficient to pay such debt service, and such amount shall be used for no other purpose.

(d) In accordance with the provisions of Section 1202.004, Texas Government Code, in connection with the submission of the Certificates to the Attorney General for review and approval, a statutory fee (an amount equal to 0.1% principal amount of the Certificates, subject to a minimum of \$750 and a maximum of \$9,500) is required to be paid to the Attorney General upon the submission of the transcript of proceedings for the Certificates. The Town hereby authorizes and directs that a check in the amount of the Attorney General filing fee for the Certificates, made payable to the "Texas Attorney General," be promptly furnished to the Town's Bond Counsel, for payment to the Attorney General in connection with his review of the Certificates.

Section 13. COMPLIANCE WITH RULE 15c2-12. (a) If the Certificates are sold by public offering, and are subject to the Rule (as defined below), the following provisions shall apply, unless modified by the Pricing Officer in the Pricing Certificate:

(i) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

"Financial Obligation" means a: (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) a guarantee of the foregoing (a) and (b). The term Financial Obligation does not include any municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

"MSRB" means the Municipal Securities Rulemaking Board or any successor to its functions under the Rule.

"Rule" means SEC Rule 15c2 12, as amended from time to time.

"SEC" means the United States Securities and Exchange Commission.

(ii) Annual Reports. (A) The Town shall provide annually to the MSRB, within the timeframe set forth in the Pricing Certificate, in the electronic format prescribed by the MSRB, certain updated financial information and operating data pertaining to the Town, being the information described in the Pricing Certificate.

(B) Any financial information described in the Pricing Certificate to be provided shall be (i) prepared in accordance with the accounting principles described in the financial statements of the Town appended to the Official Statement, or such other accounting principles as the Town may be required to employ from time to time pursuant to state law or regulation, and (ii) audited, if the Town commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not completed within the period set forth in the Pricing Certificate, then the Town shall provide unaudited financial information of the type described in the Pricing Certificate within such period, and audited financial statements for the applicable fiscal year to the MSRB, when and if the audit report on such statements becomes available.

(C) If the Town changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Town otherwise would be required to provide financial information and operating data pursuant to this Section.

(D) All financial information, operating data, financial statements and notices required by this Section to be provided to the MSRB shall be provided in an electronic format and be accompanied by identifying information prescribed by the MSRB. Financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document) available to the public on the MSRB's Internet Web site or filed with the SEC.

(iii) Event Notices. The Town shall notify the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, of any of the following events with respect to the Certificates:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with

- respect to the tax status of the Certificates, or other material events affecting the tax status of the Certificates;
- (7) Modifications to rights of holders of the Certificates, if material;
 - (8) Certificate calls, if material, and tender offers;
 - (9) Defeasances;
 - (10) Release, substitution, or sale of property securing repayment of the Certificates, if material;
 - (11) Rating changes;
 - (12) Bankruptcy, insolvency, receivership, or similar event of the Town;
 - (13) The consummation of a merger, consolidation, or acquisition involving the Town or the sale of all or substantially all of the assets of the Town, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
 - (14) Appointment of a successor or additional paying agent/registrar or the change of name of a paying agent/registrar, if material;
 - (15) Incurrence of a Financial Obligation of the Town, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Town, any of which affect security holders, if material; and
 - (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Town, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Town in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Town, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers of the Town in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Town, and (b) the Town intends the words used in the immediately preceding paragraphs (15) and (16) and the definition of Financial Obligation in this Section to have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

The Town shall notify the MSRB, in a timely manner, of any failure by the Town to provide financial information or operating data in accordance with subsection (a)(ii) of this Section by the time required by subsection (a)(ii).

(iv) Limitations, Disclaimers and Amendments. (A) The Town shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the Town remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the Town in any event will give notice of any deposit made in accordance with this Ordinance or applicable law that causes the Certificates no longer to be outstanding.

(B) The provisions of this Section are for the sole benefit of the registered owners and beneficial owners of the Certificates, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Town undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Town's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The Town does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

(C) UNDER NO CIRCUMSTANCES SHALL THE TOWN BE LIABLE TO THE REGISTERED OWNER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE TOWN, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(D) No default by the Town in observing or performing its obligations under this Section shall comprise a breach of or default under the Ordinance for purposes of any other provision of this Ordinance. Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Town under federal and state securities laws.

(E) The provisions of this Section may be amended by the Town from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Town, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the registered owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the outstanding Certificates consent to such amendment or (b) a person that is unaffiliated with the Town (such as nationally recognized bond counsel) determined that such amendment will not materially impair the interest of the registered owners and beneficial owners of the Certificates. If the Town so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with subsection (b) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The Town may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such

provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Certificates in the primary offering of the Certificates.

(b) If the Certificates are sold by private placement, the Pricing Officer may agree to provide for an undertaking in accordance with the Rule or may agree to provide other public information to the Underwriter as may be necessary for the sale of the Certificates on the most favorable terms to the Town.

Section 14. METHOD OF AMENDMENT. The Town hereby reserves the right to amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The Town may from time to time, without the consent of any holder, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance in order to (i) cure any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the holders, (ii) grant additional rights or security for the benefit of the holders, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the holders, (iv) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, or (v) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be inconsistent with the provisions of this Ordinance and that shall not in the opinion of the Town's Bond Counsel materially adversely affect the interests of the holders.

(b) Except as provided in paragraph (a) above, the holders of Certificates aggregating a majority of the aggregate principal amount of then outstanding Certificates that are the subject of a proposed amendment shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the Town; provided, however, that without the consent of 100% of the holders in aggregate principal amount of the then outstanding Certificates, nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in any of the Certificates so as to:

- (1) Make any change in the maturity of any of the outstanding Certificates;
- (2) Reduce the rate of interest borne by any of the outstanding Certificates;
- (3) Reduce the amount of the principal of, or redemption premium, if any, payable on any outstanding Certificates;
- (4) Modify the terms of payment of principal or of interest or redemption premium on outstanding Certificates or any of them or impose any condition with respect to such payment; or
- (5) Change the minimum percentage of the principal amount of any series of Certificates necessary for consent to such amendment.

(c) If at any time the Town shall desire to amend this Ordinance under subsection (b) of this Section, the Town shall send by U.S. mail to each registered owner of the affected Certificates a copy of the proposed amendment.

(d) Whenever at any time within one year from the date of mailing of such notice the Town shall receive an instrument or instruments executed by the holders of at least a majority in aggregate principal amount of all of the Certificates then outstanding that are required for the amendment, which instrument or instruments shall refer to the proposed amendment and that shall specifically consent to and approve such amendment, the Town may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the Town and all holders of such affected Certificates shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the holder of a Certificate pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the mailing of the notice provided for in this Section, and shall be conclusive and binding upon all future holders of the same Certificate during such period. Such consent may be revoked at any time after six months from the date of the mailing of said notice by the holder who gave such consent, or by a successor in title, by filing notice with the Town, but such revocation shall not be effective if the holders of a majority in aggregate principal amount of the affected Certificates then outstanding, have, prior to the attempted revocation, consented to and approved the amendment.

(g) For the purposes of establishing ownership of the Certificates, the Town shall rely solely upon the registration of the ownership of such Certificates on the registration books kept by the Paying Agent/Registrar.

Section 15. DEFAULT AND REMEDIES

(a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Certificates when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the Town, the failure to perform which materially, adversely affects the rights of the registered owners of the Certificates, including, but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the Town.

(b) Remedies for Default.

(i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the Town for the purpose of protecting and enforcing the rights of the Registered Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies.

(ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Certificates then outstanding.

(c) Remedies Not Exclusive.

(i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Certificates or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Certificates shall not be available as a remedy under this Ordinance.

(ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(iii) By accepting the delivery of a Certificate authorized under this Ordinance, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the Town or the Council.

Section 16. INTEREST EARNINGS ON CERTIFICATE PROCEEDS; USE OF PREMIUM RECEIVED FROM SALE OF CERTIFICATES. (a) Interest Earnings. Interest earnings derived from the proceeds that are deposited to the Capital Projects Fund (defined below) shall be retained therein and used for the purposes for which the Certificates were issued, provided that after the completion of such purposes, any amounts remaining therein shall be deposited to the Interest and Sinking Fund for the Certificates. It is further provided, however, that any interest earnings on Certificate proceeds that are required to be rebated to the United States of America pursuant to this Ordinance in order to prevent the Certificates from being arbitrage bonds shall be so rebated and not considered as interest earnings for purposes of this Section.

(b) Use of Certificate Premium. The net premium received from the sale of the Certificates shall be applied as determined by the Pricing Officer in the Pricing Certificate.

(c) Establishment of Construction Fund.

(i) The Town has heretofore created and established, and hereby covenants to continue to maintain on the books of the Town, a separate fund entitled the "Capital Projects Fund" (the "Capital Projects Fund") for use by the Town for payment of all lawful costs associated with the Projects. Proceeds of the Certificates in the amount determined by the Pricing Officer in the Pricing Certificate shall be deposited into the Capital Projects Fund. Upon payment of all Project costs, any Certificate proceeds remaining on deposit in the Capital Projects Fund shall be transferred to the Interest and Sinking Fund. Amounts so deposited to the Interest and Sinking Fund shall be used in the manner described in this Ordinance.

(ii) The Town may place proceeds of the Certificates (including investment earnings thereon) and amounts deposited into the Interest and Sinking Fund in investments authorized by the Public Funds Investment Act, Chapter 2256, Texas Government Code,

as amended; provided, however, that the Town hereby covenants that the proceeds of the sale of the Certificates will be used as soon as practicable for the Projects.

(iii) All deposits authorized or required by this Ordinance shall be secured to the fullest extent required by law for the security of public funds.

Section 17. EFFECTIVE DATE. In accordance with the provisions of Texas Government Code, Section 1201.028, this Ordinance shall be effective immediately upon its adoption by the Council.

Section 18. SEVERABILITY. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any persons or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this Ordinance, despite such invalidity, which remaining portions shall remain in full force and effect.

Section 19. APPROPRIATION. To pay the debt service coming due on the Certificates, if any (as determined by the Pricing Certificate) prior to receipt of the taxes levied to pay such debt service, there is hereby appropriated from current funds on hand, which are hereby certified to be on hand and available for such purpose, an amount sufficient to pay such debt service, and such amount shall be used for no other purpose.

[Execution page follows]

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 22ND DAY OF AUGUST, 2023.

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

Exhibit A

FORM OF CERTIFICATES

(a) The form of the Certificate, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached only to the Certificates initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions, or insertions as are permitted or required by this Ordinance and with the Certificates to be completed with information set forth in the Pricing Certificate. The Form of Certificate as it appears in this **Exhibit A** shall be completed, amended and modified by Bond Counsel to incorporate the information set forth in the Pricing Certificate, but it is not required for the Form of Certificate to be reproduced as an exhibit to the Pricing Certificate.

NO. R-__	UNITED STATES OF AMERICA STATE OF TEXAS TOWN OF PROSPER, TEXAS, COMBINATION TAX AND SURPLUS REVENUE CERTIFICATE OF OBLIGATION, SERIES 2023	PRINCIPAL AMOUNT \$ _____
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Interest Rate	Delivery Date	Maturity Date	CUSIP No.
_____%	[September 26], 2023	August 15, 20__	

REGISTERED OWNER:

PRINCIPAL AMOUNT:

ON THE MATURITY DATE specified above, the Town of Prosper, located in Collin and Denton Counties, Texas (the "Town"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), the Principal Amount specified above. The Town promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from the Delivery Date above at the Interest Rate per annum specified above. Interest is payable on [February 15, 2024 and semiannually on each August 15 and February 15] thereafter to the Maturity Date specified above, or the date of redemption prior to maturity; except, if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged is due but

has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full.

THE PRINCIPAL OF AND INTEREST ON this Certificate are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Certificate shall be paid to the registered owner hereof upon presentation and surrender of this Certificate at maturity, or upon the date fixed for its redemption prior to maturity, at the principal corporate trust office of [U.S. Bank Trust Company, National Association, Dallas], Texas, which is the "Paying Agent/Registrar" for this Certificate. The payment of interest on this Certificate shall be made by the Paying Agent/Registrar to the registered owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the Town required by the ordinance authorizing the issuance of this Certificate (the "Certificate Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the registered owner hereof, at its address as it appeared on the [last business day] of the month preceding each such date (the "Record Date") on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Town. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Certificate appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

ANY ACCRUED INTEREST due at maturity or upon the redemption of this Certificate prior to maturity as provided herein shall be paid to the registered owner upon presentation and surrender of this Certificate for redemption and payment at the principal corporate trust office of the Paying Agent/Registrar. The Town covenants with the registered owner of this Certificate that on or before each principal payment date, interest payment date, and accrued interest payment date for this Certificate it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Certificate Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Certificates, when due.

IF THE DATE for the payment of the principal of or interest on this Certificate shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day that is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS CERTIFICATE is dated [August 15], 2023, and is authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$_____ for paying all or a portion of the Town's contractual obligations incurred in connection with (i) acquiring, constructing, installing and equipping additions, improvements, extensions and equipment for the Town's waterworks and sewer system and the acquisition of land and rights-of-way therefor and (ii) paying legal, fiscal and engineering fees in connection with such projects.

ON [AUGUST 15, 2033], or any date thereafter, the Certificates of this series may be redeemed prior to their scheduled maturities, at the option of the Town, with funds derived from any available and lawful source, as a whole, or in part, and, if in part, the particular Certificates, or portions thereof, to be redeemed shall be selected and designated by the Town (provided that a portion of a Certificate may be redeemed only in an integral multiple of \$5,000), at a redemption price equal to the principal amount to be redeemed plus accrued interest to the date fixed for redemption.

AT LEAST THIRTY days prior to the date fixed for any redemption of Certificates or portions thereof prior to maturity a written notice of such redemption shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid to the registered owner of each Certificate to be redeemed at its address as it appeared on the 45th day prior to such redemption date; provided, however, that the failure of the registered owner to receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Certificate. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Certificates or portions thereof that are to be so redeemed. If such written notice of redemption is sent and if due provision for such payment is made, all as provided above, the Certificates or portions thereof that are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the registered owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Certificate shall be redeemed, a substitute Certificate or Certificates having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the registered owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the registered owner upon the surrender thereof for cancellation, at the expense of the Town, all as provided in the Certificate Ordinance.

WITH RESPECT TO ANY OPTIONAL REDEMPTION OF THE CERTIFICATES, unless certain prerequisites to such redemption required by the Certificate Ordinance have been met and money sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed will have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption may, at the option of the Town, be conditional upon the satisfaction of such prerequisites and receipt of such money by the Paying Agent/Registrar on or prior to the date fixed for such redemption or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption are not fulfilled, such notice will be of no force and effect, the Town will not redeem such Certificates, and the Paying Agent/Registrar will give notice in the manner in which the notice of redemption was given, to the effect that such Certificates have not been redeemed.

ALL CERTIFICATES OF THIS SERIES are issuable solely as fully registered certificates, without interest coupons, in the principal denomination of any integral multiple of \$5,000. As provided in the Certificate Ordinance, this Certificate may, at the request of the registered owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered certificates, without interest coupons, payable to the appropriate registered owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate registered owner, assignee or assignees, as the case may be, upon surrender of this Certificate to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Certificate Ordinance. Among other requirements for such assignment and transfer, this Certificate must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Certificate or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Certificate or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Certificate may be executed by the registered owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Certificate or any portion or portions hereof from time to time by the registered owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Certificate or portion thereof will be paid by the Town. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, conversion or exchange of any Certificates during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date or, with respect to any Certificate or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date; provided, however, such limitation on transfer shall not be applicable to an exchange by the registered owner of the uncalled balance of a Certificate called for redemption in part.

IN THE EVENT any Paying Agent/Registrar for the Certificates is changed by the Town, resigns, or otherwise ceases to act as such, the Town has covenanted in the Certificate Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the registered owners of the Certificates.

IT IS HEREBY certified, recited and covenanted that this Certificate has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Certificate have been performed, existed and been done in accordance with law; that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said Town, and have been pledged for such payment, within the limits prescribed by law, and that this Certificate is additionally secured by and payable from a pledge of the Surplus Revenues of the System remaining after payment of all operation and maintenance expenses thereof, and all debt service, reserve, and other requirements in connection with all of the Town's revenue bonds or other obligations (now or hereafter outstanding) which are

payable from all or any part of the net revenues of the System, all as provided in the Certificate Ordinance.

THE TOWN HAS RESERVED THE RIGHT to amend the Certificate Ordinance as provided therein, and under some (but not all) circumstances amendments thereto must be approved by the registered owners of a majority in aggregate principal amount of the outstanding Certificates.

BY BECOMING the registered owner of this Certificate, the registered owner thereby acknowledges all of the terms and provisions of the Certificate Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Certificate Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the Town, and agrees that the terms and provisions of this Certificate and the Certificate Ordinance constitute a contract between each registered owner hereof and the Town.

IN WITNESS WHEREOF, the Town has caused this Certificate to be signed with the manual or facsimile signature of the Mayor of the Town and countersigned with the manual or facsimile signature of the Town Secretary of said Town, and has caused the official seal of the Town to be duly impressed, or placed in facsimile, on this Certificate.

Town Secretary
Town of Prosper, Texas

Mayor
Town of Prosper, Texas

(Town Seal)

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE
(To be executed if this Certificate is not accompanied by an executed Registration Certificate of the Comptroller of Public Accounts of the State of Texas)

It is hereby certified that this Certificate has been issued under the provisions of the Certificate Ordinance described in the text of this Certificate; and that this Certificate has been issued in conversion or replacement of, or in exchange for, a certificate, certificates, or a portion of a certificate or certificates of a series that originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated: _____.

[U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, Dallas, Texas]
Paying Agent/Registrar

By: _____
Authorized Representative

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto:

Please insert Social Security or Taxpayer Identification Number of Transferee

Please print or type name and address, including zip code of Transferee

the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints: _____, attorney, to register the transfer of the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____.

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a securities transfer association recognized signature guarantee program.

NOTICE: The signature above must correspond with the name of the registered owner as it appears upon the front of this Certificate in every particular, without alteration or enlargement or any change whatsoever.

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. _____

I hereby certify that this Certificate has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and that this Certificate has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this _____.

Comptroller of Public Accounts
of the State of Texas

(COMPTROLLER'S SEAL)

(b) Initial Certificate Insertions.

(i) The initial Certificate shall be in the form set forth in paragraph (a) of this Section, except that:

- A. immediately under the name of the Certificate, the headings "Interest Rate" and "Maturity Date" shall both be completed with the words "As shown below" and "CUSIP No. _____" shall be deleted.
- B. the first paragraph shall be deleted and the following will be inserted:

"THE TOWN OF PROSPER, TEXAS, in Collin and Denton Counties, Texas (the "Town"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on [August 15] in each of the years, in the principal amounts and bearing interest at the per annum rates set forth in the following schedule

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2023		
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
2037		
2038		
2039		
2040		
2041		
2042		
2043		

The Town promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from the Delivery Date above, at the respective Interest Rate per annum specified above. Interest is payable on [February 15, 2024 and semiannually on each August 15 and February 15] thereafter to the date of payment of the principal installment specified above, or the date of redemption prior to maturity; except, that if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such

principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full."

C. The initial Certificate shall be numbered "T-1."

Town of Prosper, TX

Certificates of Obligation, Series 2023 Issuance

Preliminary Schedule of Events (as of June 22, 2023)

Jun-23						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

Jul-23						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Aug-23						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Sep-23						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

Complete By	Day	Event
27-Jun-23	Tuesday	Town Council approves publication of Notice of Intent for the Certificates. Publication will occur in the Town's paper of record.
10-Jul-23	Monday	Draft CO Official Statement distributed to the Town and Bond Counsel
12-Jul-23	Wednesday	1st publication of Notice of Intent for Certificates
17-Jul-23	Monday	HilltopSecurities receives comments on CO Official Statement
19-Jul-23	Wednesday	2nd publication of Notice of Intent for Certificates
22-Aug-23	Tuesday	Town Council consideration of Certificates of Obligation Parameter Ordinance*
23-Aug-23	Wednesday	Electronically mail CO Official Statement to potential purchasers**
28-Aug-23 or after	Monday	Earliest day for pricing of COs; Pricing Officer adopts final pricing**
26-Sep-23 or after	Tuesday	Earliest date for CO closing and delivery of funds to the Town**

* Pricing must occur within 90 days of Council approval of the CO parameter ordinance.

** Date is preliminary, subject to change.

EXHIBIT B

Project Name	CO Issuance
Water Projects	
DNT (PT - Frontier), Frontier (DNT - PISD Stadium): 12" WL (Easements) 2151-WA	\$2,000,000
DNT (PT - Frontier), Frontier (DNT - PISD Stadium): 12" WL (Construction) 2151-WA	\$2,500,000
Wastewater Projects	
Upper Doe Branch WW Line (Teel-PISD Stadium): (Construction) 2152-WW	\$4,025,000
TOTAL CO ISSUANCE	\$8,525,000



COMMUNICATIONS & COMMUNITY ENGAGEMENT

To: Mayor and Town Council

From: Robyn Battle, Executive Director

Through: Mario Canizares, Town Manager

Re: Legislative Update

Town Council Meeting – August 22, 2023

Strategic Visioning Priority: 4. Provide Excellent Municipal Services

Agenda Item:

Receive an update on the 2023 Texas Legislative Session.

Description of Agenda Item:

In January 2023, the Town Council adopted a Legislative Agenda that defines issues that have been identified as top priorities for the Town:

- Transportation and Infrastructure
- Land Development
- Economic Development
- Public Safety
- Fiscal Management
- Broadband Access
- Water Resources
- Recreational and Cultural Resources
- Open Government
- Elections
- Preemption of Local Authority

Using the Legislative Agenda as a communication tool, the Council Legislative Subcommittee, our Legislative Consultants, and designated staff worked throughout the legislative session to convey the Town's position on key issues to our legislators in Austin.

The Texas Legislature adjourned the 88th Legislative Session in May of 2023, followed by two Special Sessions, the latest of which concluded in July. Over 8,300 bills were filed during the 2023 session, and of the 1,258 bills that passed, 230 specifically impact cities and towns. Some of the bills will require further study and may require a determination by the courts before their impacts can be fully understood. Others are relatively straightforward and may require either a policy, ordinance, or operational change to comply with the new statute. Several bills are dependent on an associated ballot proposition which will be determined by voters as part of the November 7, 2023 Constitutional Amendment Election.

Town staff are already working with the Town Attorney to make necessary adjustments to the Town's ordinances and policies to ensure the Town complies with the new statutes. The Council will be asked to consider proposed changes to various Town ordinances and fees at future Council meetings.

The Town's Legislative Consultants will provide an overview of the 2023 Legislative Session, including a summary of key legislation affecting the Town. Strategies to continue the Town's legislative efforts throughout the year will also be discussed.

Attached Documents:

- 1. 2023 Legislative Agenda

Town Staff Recommendation:

Town staff requests Council's feedback and comments on the Town's legislative efforts. No action is required on this item.

2023

TOWN OF PROSPER

LEGISLATIVE AGENDA

January 10, 2023
Resolution No. 2023-01



88TH LEGISLATIVE SESSION

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Prosper Town Council

The Town of Prosper is a Home Rule Charter Town consisting of a mayor and six council members who are elected at-large for three-year terms.



David F. Bristol

Mayor
dbristol@prospertx.gov



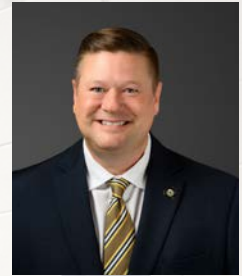
Jeff Hodges

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Mayor Pro-Tem
jhodges@prospertx.gov



Craig Andres

Council Member, Place 2
Deputy Mayor Pro-Tem
candres@prospertx.gov



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Chris Kern

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Charles Cotten

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Council Legislative Subcommittee

David F. Bristol

Mayor
dbristol@prospertx.gov

Craig Andres

Deputy Mayor Pro-Tem
candres@prospertx.gov



LEGISLATIVE PHILOSOPHY

The following Legislative Agenda represents the Town of Prosper’s legislative initiatives and priorities for the 88th Texas Legislative Session and establishes the Town’s position on key legislative issues. The Town of Prosper is committed to providing efficient and effective municipal government services to its residents, businesses, visitors, and community stakeholders.

Municipalities represent the level of government that is closest to the people, and local officials are best equipped to determine the unique needs of their communities. The Town of Prosper bears the primary responsibility for providing capital infrastructure, public safety, recreational and cultural activities, and other municipal services in response to the needs and preferences of Town residents. Therefore, the Town will support legislation that protects home rule authority, advances the principles of local decision-making, and enhances the health, safety and welfare of its residents in the spirit of self-governance. Conversely, the Town will oppose legislation that preempts or erodes municipal authority on local matters or impedes the Town’s ability to allocate resources to locally-determined projects and services.

Town of Prosper residents desire and expect exceptional municipal services. They want a high quality of life that is delivered through a beautiful and functional parks system, a variety of cultural amenities, exceptional public safety services, well-maintained roads, and outstanding Town facilities. The elected and appointed officials who represent the Town of Prosper are committed to preserving the Town’s ability to provide the public goods and services our residents desire through revenue sources that are approved at the local level and free from state-mandated limitations.

The Town of Prosper’s highest priority is to preserve the ability of locally-elected officials to govern and respond effectively and efficiently to the individual and market-driven needs of its residents, businesses, and stakeholders, according to the unique needs of the community.

Throughout this document, it is understood that a position statement supporting a legislative action also establishes opposition to legislative measures that would have the opposite effect.

TRANSPORTATION AND INFRASTRUCTURE

- Support legislation that seeks to fund local transportation and infrastructure projects.
- Support legislation that provides funding to maintain and rehabilitate existing and aging infrastructure.
- Support legislation that promotes innovative financing tools and greater flexibility in the funding of the construction, rehabilitation, and maintenance of local transportation and infrastructure projects.
- Support legislation that promotes pay-as-you-go financing for capital projects by authorizing a dedicated property tax rate that is classified similarly to the debt service tax rate in property tax rate calculations.



LAND DEVELOPMENT

- Support legislation that seeks to repeal, or makes beneficial amendments to, H.B. 2439 from the 86th legislative session (the building materials bill), which excessively prohibits the Town from regulating building products, materials, or methods used in the construction of residential and commercial structures.
- Support legislation that seeks to limit state intrusion in the land development process by making beneficial amendments to H.B. 3167 from the 86th legislative session regarding subdivision platting procedures (the 30-day shot clock bill).
- Oppose legislation that preempts or would otherwise erode municipal authority related to land use and zoning, local amendments to building codes, local building permit fees, tree preservation, short-term rentals, and eminent domain.



ECONOMIC DEVELOPMENT

- Support legislation that preserves all economic development programs and tools currently available under state law.
- Support legislation and programs that help municipalities attract and retain new and existing businesses.
- Support legislation that promotes new and innovative financing tools that would leverage state funds to create jobs.
- Support legislation that would maintain funding for grants and programs that improve workforce training.





PUBLIC SAFETY

- Support legislation and measures that strengthen the integrity, effectiveness, and transparency of local law enforcement, and oppose any measures that weaken the same.
- Support legislation that preserves qualified immunity for public safety personnel acting within the bounds of departmental policies and procedures in the performance of their official duties.
- Support legislation that clarifies the roles of state, county and municipal governments in emergency management, and their respective authority, powers, and duties during a local state of disaster.



FISCAL MANAGEMENT

- Support legislation that would preserve the Town's use of certificates of obligation (COs) to fund necessary capital projects, and for the debt from COs to continue to be funded from the Town's interest and sinking (I&S) tax rate.
- Oppose legislation that would erode the Town's ability to control, manage, and collect reasonable compensation for the use of municipal rights-of-way.
- Oppose legislation that imposes additional revenue caps or tax caps of any kind that restrict the Town's capacity to generate the revenue needed to provide the high level of municipal services expected by Town of Prosper residents.
- Oppose legislation that would erode local taxing authority, including measures that would restrict the use of existing revenue streams.
- Oppose legislation that reduces the ability of municipalities to provide economic and efficient methods of financing local purchases and projects, including limiting the Town of Prosper's ability to control and manage its debt.



BROADBAND ACCESS

- Support legislation that treats broadband service as any other critical utility infrastructure to ensure consistent and sustainable availability and affordability for residents and businesses.
- Support legislation to incentivize and recognize the importance of broadband service and the application of technology solutions through grants, awards, and other means.
- Support legislation that develops plans and revenue sources needed for greater broadband connectivity to enhance public access to education, healthcare, employment, information services.

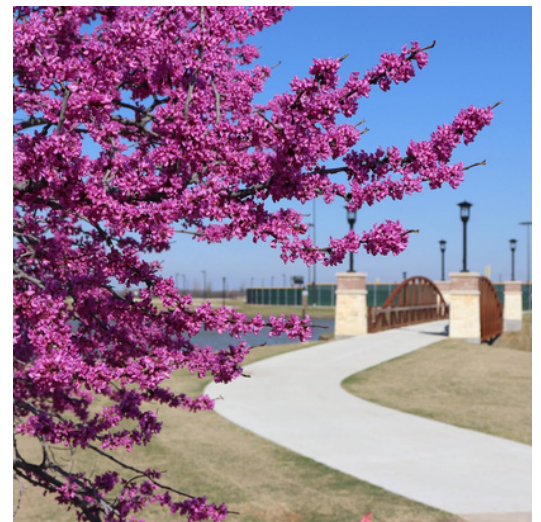
WATER RESOURCES

- Support legislation that provides ample funding for developing affordable and reliable water resources across North Texas.
- Support legislation that provides funding for the construction, maintenance, and rehabilitation of new and aging water utility infrastructure.
- Support legislation that accelerates the permitting process for development of new water resources in North Texas, preserves water storage options, and advances viable projects in the statewide water plan.



RECREATIONAL AND CULTURAL RESOURCES

- Support amendments to the hotel occupancy tax statute that allows the use of hotel occupancy tax revenue for the construction of improvements in municipal parks and trails that connect parks, lodging establishments, and related public facilities.
- Support legislation that directly benefits public library services that support workforce, cultural, and educational programs.



OPEN GOVERNMENT

- Support legislation that simplifies the budget and tax rate notification and adoption process with the goal of improving transparency.
- Support legislation that would allow required legal notices to be published on a municipality's website rather than requiring publication in an official newspaper.
- Support legislation that promotes increased flexibility to the Texas Open Meetings Act to allow for the expanded use of teleconference and videoconference technology in public meetings.





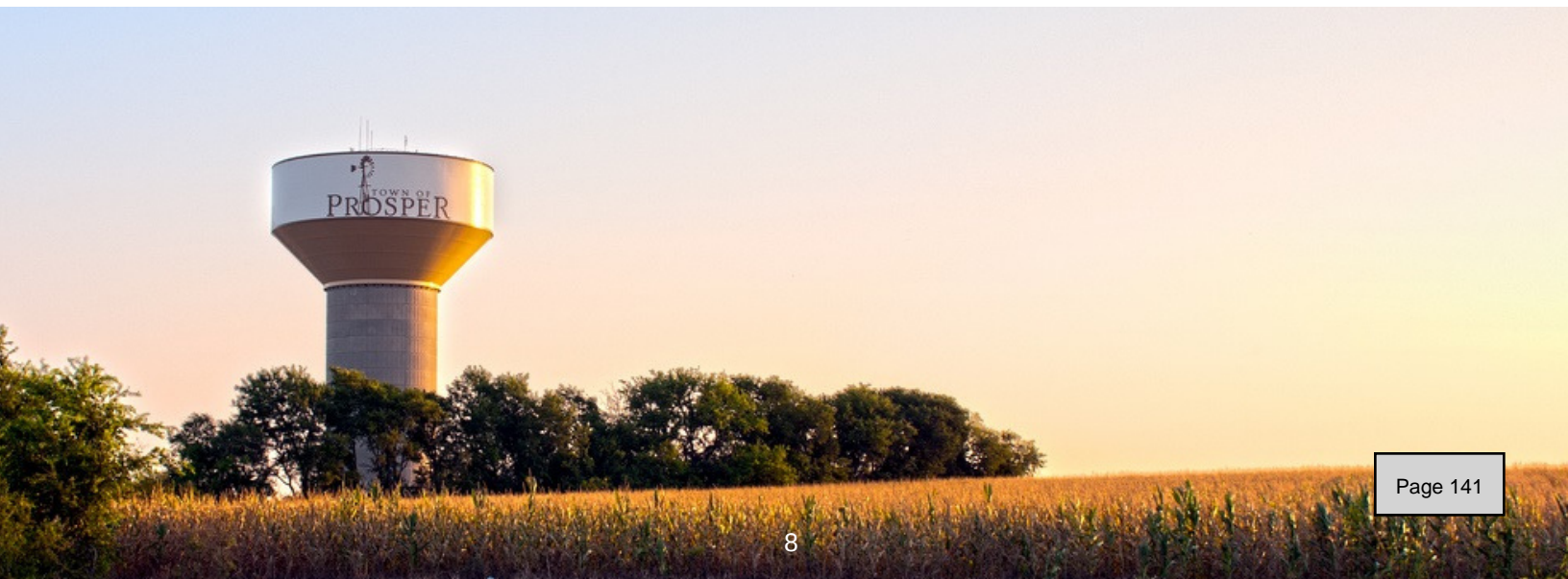
ELECTIONS

- Oppose legislation that eliminates the May or November uniform election dates.
- Oppose legislation that requires candidates for a Town office to declare party affiliation in order to run for office.



PREEMPTION OF LOCAL AUTHORITY

- Support legislation that preserves local control and the right of Prosper residents to govern themselves and to work with their municipal government to adopt and enforce ordinances that address the health, safety, and welfare of the community.
- Support legislation that preserves local authority for property taxation, budgeting, permitting, and zoning decisions.
- Oppose legislation that limits or prohibits the Town's current authority to use municipal funds to communicate with legislators or effectively participate in the legislative process on matters of public interest or pay dues to organizations or entities that advocate on the Town's behalf.
- Oppose legislation that provides for state preemption of municipal authority and/or creates unfunded mandates at the local level.



COMMUNITY

The Town of Prosper is a fast-growing community offering a high quality of life, where neighbors know each other and kids can play in a safe, friendly community. The Town's annual growth rate was over 13% over the last year with currently 35,430 residents calling Prosper home.

LOCATION

North of Dallas, Prosper's land area is 27 square miles and is located less than 30 minutes from two major airports: Dallas Love Field and Dallas/Fort Worth International. The Town is just 35 miles from Downtown Dallas and 55 miles from Fort Worth.

EDUCATION

Prosper ISD continues to be one of the fastest-growing school districts in Texas. In 2021-2022, the district had more than 22,000 students and more than 2,600 staff members serving 15 elementary schools, 4 middle schools, and 3 high schools. By buildout, the district is expected to have 28-30 elementary campuses, 9-10 middle schools, and 4-5 high school campuses.

HISTORY

The Town of Prosper began as a farming community in Collin County in the early 1900s. In its early years, the Town was also a central stop for the railroad between Dallas and Sherman. Prosper was incorporated in 1914 with a population of 500.

PARKS AND RECREATION

Prosper prides itself on having parks and recreation facilities that promote healthy lifestyles for all ages and enhance property values. The Town is home to more than 350 acres of parkland, including open spaces, recreational venues, athletic facilities, and tennis courts. More than 30 miles of hike and bike trails weave throughout Prosper with plans for additional trails but the need for more acreage and facilities continues to increase.





For more information contact:
Robyn Battle, Executive Director of Community Services
972-569-1011
rbattle@prospertx.gov
250 W. First Street, Prosper, Texas 75078
prospertx.gov



PLANNING

To: Mayor and Town Council

From: David Hoover, Director of Development Services

**Through: Mario Canizares, Town Manager
Chuck Ewings, Assistant Town Manager**

Re: New Planned Development

Town Council Meeting – August 22, 2023

Strategic Visioning Priority: 3. Commercial Corridors are ready for Development

Agenda Item:

Consider and act upon a request to rezone 34.7± acres from Commercial District (C) to a new Planned Development for Mixed Use, located northside of Prosper Trail and west of Dallas Parkway. (Z22-0019)

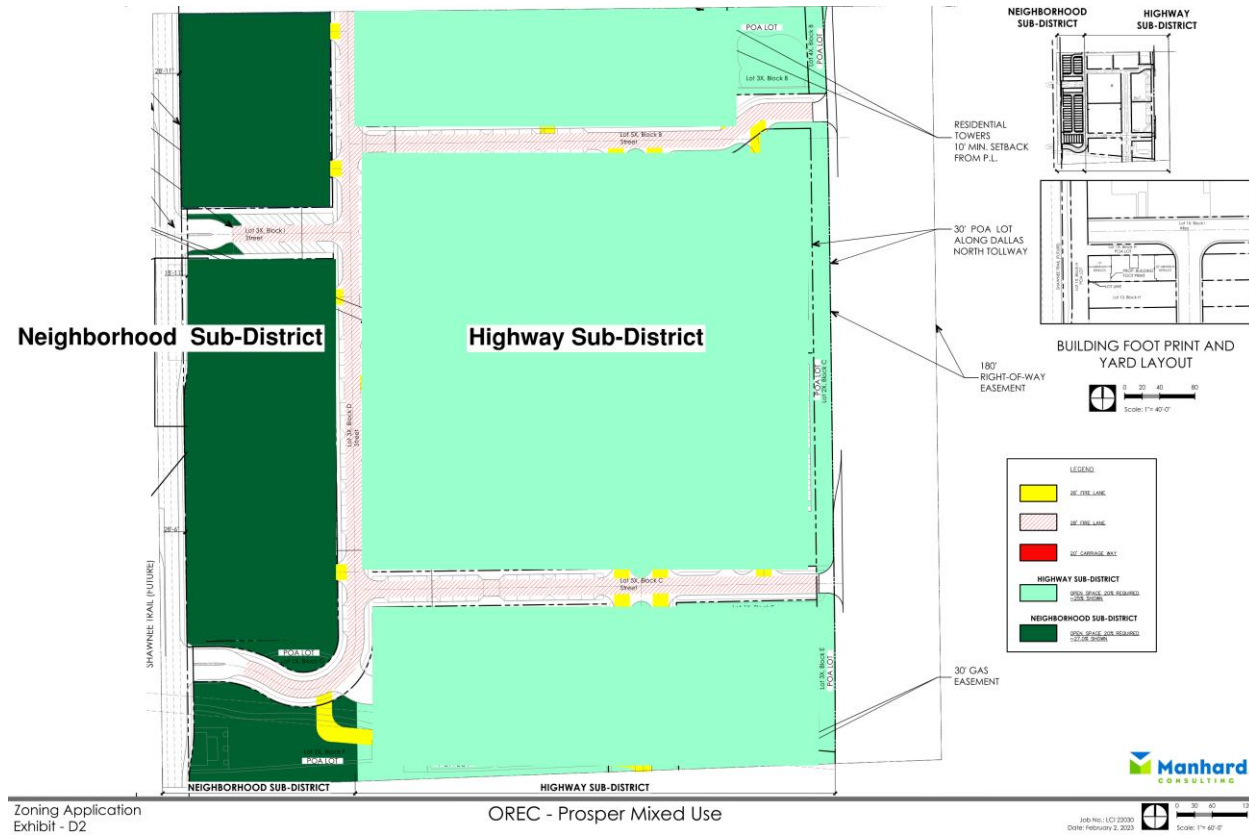
Description of Agenda Item:

The zoning and land use of the surrounding properties are as follows:

	Zoning	Current Land Use	Future Land Use Plan
Subject Property	Commercial District (C)	Undeveloped	Dallas North Tollway District
North	Commercial Corridor District (CC)	Undeveloped	Dallas North Tollway District
East	Commercial Corridor District (CC)	Undeveloped	Dallas North Tollway District
South	Commercial Corridor District (CC)	Undeveloped	Dallas North Tollway District
West	Planned Development-36 (PD36)	Single Family Residential (Legacy Garden)	Medium Density Residential

Requested Zoning

The purpose of this request is to rezone Commercial District (C) to a new Planned Development for Mixed Use. The applicant is proposing a mixed used development with 2 sub-districts as shown below. The proposed sub-districts are neighborhood and highway sub-districts.



The neighborhood sub-district (9± acres) is to provide for a variety of developments in a suburban type setting which will provide residential units and supporting retail space. The subdistrict is adjacent to Shawnee Trail is acting as a buffer and transition toward the residential across Shawnee with less intense uses, additional setbacks and reduced height.

The highway sub-district (25± acres) is to encourage the creation of a pedestrian-oriented, vertically integrated, mixed-use, urban environment, providing shopping, employment, housing, business, and personal services. This sub-district promotes an efficient, compact land use pattern; encouraging pedestrian activity; reducing the reliance on private automobiles within the district; promoting a functional and attractive community using urban design principles; and allowing developers flexibility in land use and site design.

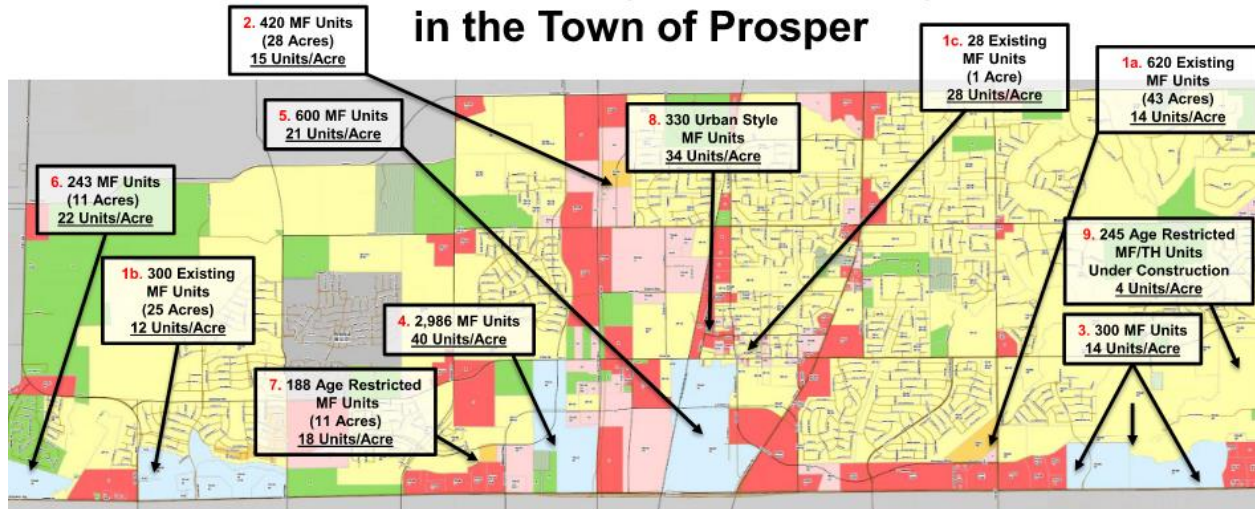
Many of the development standards, located in Exhibit C, conform to the Town's Zoning Ordinance. Due to the proposed development's unique design and the property being located along the Dallas North Tollway, the applicant is proposing detailed development and design standards, some of which deviate from the Zoning Ordinance. The applicant has made some recent modifications that include triggers, multifamily units/ condominiums specifications, mixed use details, a list of prohibited uses, and other minor modifications.

The proposed standards that are unique to the property are summarized below and does not contain all standards:

High Density Residential Development – The highway sub-district is proposing to have a maximum allowance of 730 units through the highway sub-district. Seventy-five percent (75%) (No more than 500 units) of allowed residential units shall be developed as apartments and the other twenty-five percent (25%) (No more than 230 units) of allowed residential units shall be developed as condominiums (for sale products). The first-floor square footage of the Highway Subdistrict shall be used for non-residential uses. A minimum of 50% of the first-floor square footage of all buildings containing residential units (Apartments) shall be used for retail uses. A minimum of 25% of the first floor of an office and hotel use building shall be used for retail uses.

Town-wide Multi-family Units - In addition, there are currently 6,260 multifamily units entitled through zoning approvals in the Town (please see map below). With this development, the total multifamily units would increase to 6,990 multifamily units. See map of entitled units below.

Current Zoning for Multifamily in the Town of Prosper



1. 948 existing garden-style multifamily units on 63.8 acres and 312 Townhome units on 65 acres
 - 1a. 620 units in the Orion Prosper and Orion Prosper Lakes complexes on Coit Road
 - 1b. 300 units in Cortland Windsong Ranch, west of Windsong Pkwy, north US 380
 - 1c. 28 units in the Downtown area
2. PD-35 permits a maximum of 15 units per acre on 28 acres, this density would allow for 420 multi-family units on the east side of DNT, north of Prosper Trail.
3. Brookhollow - permits a maximum of 300 multi-family at 14 units per acre within PD-86.
4. Planned Development-41 (Prosper West) permits a maximum of 2,986 urban-style units on the west side of DNT, north of US 380. Refer to PD-41 for special conditions.
5. Planned Development-67 (Gates of Prosper) permits a maximum of 600 urban-style units within 115 acres on the west side of Preston Road, north of US 380. The multifamily density is 21 units per acre.
6. Planned Development-94 (WestSide) permits a maximum of 480 urban-style units within 23 acres on the east side of FM 1385, north of US 380. The construction of multifamily units is dependent on the development of non-residential uses in this PD – refer to PD-94.
7. Planned Development-98 (Alders at Prosper) permits a maximum of 188 age-restricted units within 11 acres west of Mahard Parkway, north of US 380 and allows for 18 units per acre.
8. Planned Development-106 (Downtown Loft Apartments) permits a maximum of 330 urban-style units within 9 acres east of BNSF Railroad, north of Fifth Street this allows for 34 units per acre.
9. Planned Development -107 (Ladera) – Age restricted detached single-family dwellings on a single lot. The development is classified as multi-family.

Triggers – The applicant has proposed the following triggers:

- The development of the entire townhomes (at least 42 townhome units) in the Neighborhood Sub-District will have certificates of occupancy prior to commencing work within the Highway Sub-District.
- The development of one minimum retail building as identified on Exhibit D.2 as either Lot 4 or Lot 2, Block 1 shall have completed slab construction prior to commencing any other work in Highway Subdistrict.
- Street Section D, as shown on Exhibit D.3, shall be built with Block D, Lots 1 and 2.

Building Height – The maximum building height allowed by the Zoning Ordinance is two (2) stories in the Commercial District. However, the Dallas North Tollway Design Guidelines allows up to twelve (12) stories along the tollway. The applicant is proposing eight (8) stories for the highway sub-district and the maximum height for the neighborhood subdistrict is three stories or thirty-five feet (35') for townhomes and three stories or forty-five feet (45') for commercial development. The applicant has proposed minimum building height by use type:

- a. Office: four (4) story.
- b. Multifamily
 - i. Apartments: four (4) story.
 - ii. Condominiums: four (4) story.
- c. Hotel: four (4) story
- d. Retail: one (1) story.

Public Safety – The Fire Department currently has a 100' platform aerial ladder truck for high rise, high angle rescue, and elevated master stream operations. They are anticipating having two aerial trucks equipped and staffed to respond 24/7/365. Additionally, they currently have 6 Rope Operations Level trained personnel and 24 Rope Technicians. They have 12 personnel trained at the Operations Level and 24 trained at the Technician Level. After September 14th, they will have 6 trained at the Operations Level and 30 trained at the Technicians Level. These numbers will continue to increase as Chief Kennedy works with staff at Collin College as they continue ropes classes. All their apparatus is designed to respond to virtually every kind of emergency including all high-rise incidents. Frisco Fire Department may be called for support; however, that is common practice. Prosper's Fire Department is prepared for multi-story buildings.

Building Materials – The approved primary exterior building materials for multifamily and non-residential development in the Zoning Ordinance are clay fired brick, natural and manufactured stone, granite, marble, and stucco. The use of stucco and EIFS are only permitted as secondary or accent materials.

The applicant is proposing materials such as brick, natural and manufactured stone, curtain wall and window wall glazing, and cementitious panel system shall be considered primary materials. Primary materials shall comprise of at least seventy-five percent (75%) of each elevation, exclusive of doors and windows. Where cementitious panel is applied, it shall be limited to no more than 50% of a building's material. Non-primary, or secondary materials, may include stucco and metal panel systems.

Where Multifamily is concerned, primary materials shall be limited to brick, natural and manufactured stone, and cementitious panel system.

Below are conceptual renderings of the development. The applicant will enter into a development agreement.



Building Setbacks – Many of the building setbacks in the highway and neighborhood sub-districts have been reduced or removed in order to allow the proposed mixed-use development to conform to Exhibit D. The 25-foot and 30-foot landscape setbacks from the adjacent minor and major thoroughfares remain the same and conform to the Zoning Ordinance/Dallas North Tollway Design Guidelines. The building setbacks in the neighborhood sub-district reflect the typical “suburban” setting of the townhomes and commercial development. Any development with on- street parking, a build to line shall be required. All apartment buildings shall have a setback of 250’ from the

Dallas North Tollway. The purpose of this provision is to screen the apartment buildings with office buildings from the Dallas North Tollway.

Design Guidelines – The applicant is proposing specific design guidelines to address the pedestrian-oriented mixed-use development in the highway and neighborhood sub-districts. The design guidelines add to the development standards and address design principles, site design, building design, public realm design, and streetscapes.

Parking Standards – Due to the urban/walkable setting, the applicant is proposing a mixed-use reduction of 20% shall be applied to the overall development except for townhomes. Staff understands that the applicant is proposing a live/work/play environment so has no issues with the parking reduction. The applicant has also requested a shared parking within the entire Planned Development excluding the townhomes.

Landscaping - The applicant is proposing specific design guidelines to address the pedestrian-oriented mixed-use development in the sub-districts. The applicant has also incorporated Dallas North Tollway Guidelines within the development standards. These standards include the following, but not limited to:

- One (1) large tree, four (4) inch caliper minimum (at the time of planting) per twenty-five (25) feet of linear roadway frontage shall be planted within the required landscaped area.
- The trees may be planted in groups with appropriate spacing for species.
- Shrub plantings shall be provided at a minimum rate of 22 shrub plantings per thirty (30) linear feet which shall be a minimum of five (5) gallon shrubs (at the time of planting).
- Parking abutting the landscaped area will be screened from the adjacent roadway. The required screening may be with shrubs or earthen berms.
- All landscaped areas shall be protected by a raised six (6) inch concrete curb. Pavement shall not be placed closer than four (4) feet from the trunk of a tree unless a Town approved root barrier is utilized.
- Landscaped islands shall be located at the terminus of all parking rows, except for on-street parking, and shall contain at least one (1) large tree, three (3) inch caliper minimum, with no more than fifteen (15) parking spaces permitted in a continuous row without being interrupted by a landscape island.
- Landscaped islands shall be a minimum of one hundred sixty (160) square feet, not less than nine (9) feet wide, measured from the inside face of curb, and a length equal to the abutting space.
- All above grade utilities and trash enclosures in landscape areas shall be screened with evergreen plant material.

Open Space - Per our zoning ordinance, 20% open space is required for Townhomes, 7% for non-residential, and 30% for multifamily use. Due to the unique design of the development, the applicant is proposing minimum 20% which includes landscape easements, setbacks, public plazas, and detention ponds.

Comparison Table regarding Major development standards.

Below is a comparison table outlining the proposed development standards that deviate from the minimum standard per the zoning ordinance.

	Town of Prosper	NEW PD
Maximum Permitted Density for Multi-Family:	MF District: 370 MF units allowed based on a standard MF zoning. (15 units per acre.)	Density shall not exceed 730 MF. (29 units per acre)

Maximum Permitted Density for Townhomes:	TH District: 90 TH units allowed based on a standard TH zoning. (10 units per acre.)	Maximum density shall not exceed 60 TH units. (6.6 units per acre)
Maximum Height:	Commercial District: Two stories, no greater than 40 feet. Dallas North Tollway Design Guidelines and Comprehensive Plan: Up to 12 Stories	Highway Subdistrict <ul style="list-style-type: none"> • 8 stories Neighborhood Subdistrict <ul style="list-style-type: none"> • Townhomes <ul style="list-style-type: none"> ○ Thirty-Five (35) feet, three (3) stories. • Commercial <ul style="list-style-type: none"> ○ Forty-five (45) Feet or three (3) stories
Building Material	100 percent masonry as defined in Chapter 3, Section 2. The use of stucco and EIFS are only permitted as secondary or accent materials.	<ul style="list-style-type: none"> • Materials such as brick, natural and manufactured stone, curtain wall and window wall glazing, and cementitious panel system shall be considered primary materials. Primary materials shall comprise of at least seventy-five percent (75%) of each elevation, exclusive of doors and windows. Where cementitious panel is applied, it shall be limited to no more than 50% of a building's material. Non-primary, or secondary materials, may include stucco and metal panel systems.
Parking requirements	3,861 minimum parking spaces required based on the use.	A mixed-use reduction of 20% shall applied to the overall development, except for townhomes. 3,204 are being proposed.

Future Land Use Plan – The Future Land Use Plan recommends Dallas North Tollway District.

Dallas North Tollway District

The Dallas North Tollway district will consist of the most intense land uses within Prosper. A diverse mixture of office, retail and residential will likely develop along the corridor. Mid-rise office (up to 12 stories) may be permitted throughout the corridor. Office buildings should be designed for a “campus feel”—they should be oriented towards common public space with significant landscaping and should be linked by a pedestrian network. A common architectural theme should also be established for a consistent visual appearance. Mixed-use development should be encouraged and should contain a mixture of office, retail and residential uses. Mixed-use lofts/apartments would be the most appropriate residential use within this district. Structured parking should be encouraged in more intense areas to limit the presence and visibility of large parking lots. Structured parking should be oriented in a way that minimizes visibility from the Tollway.



2022 Dallas North Tollway Design Guidelines –

- The Dallas North Tollway is a primary thoroughfare within the Town of Prosper and one of the most heavily traveled roadways in North Texas. It is recognized that the Dallas North Tollway will serve as a significant opportunity for economic development and a sustainable tax base for the Town. The Comprehensive Plan identified the Dallas North Tollway as a future location for the Town’s most intense land uses. The purpose of these design guidelines is to provide direction on land use and design for future development that the Town of Prosper envisions on the Dallas North Tollway. Design guidelines define the qualities of building and site design that make successful projects and are tools for guiding projects to positive development outcomes.
- Per the guideline, “Multi-family Developments - The Town Council may permit a multi-family housing as part of a wholistic development that includes a combination of businesses designed to create a live, work and play environment. These businesses can be, but are not limited, retail, office, recreational, family-friend entertainment and/or restaurant establishments. If multi-family housing is part of a development proposal that includes businesses and/or amenities described in Section F. “Business Establishments Pursuant to the Town’s Vision” increased density may be permitted. It is highly recommended that multi-family units be designed with structure parking as opposed to surface parking.”
- The applicant has proposed development standards that are consistent with the Dallas North Tollway Design Guidelines.

Thoroughfare Plan – The property is bounded to the east by the Tollway and west by Shawnee Trail.

Parks Master Plan – The Parks Master Plan does not identify a park on the subject property, at this time.

Budget Impact:

The development is intended to assist in the Town's vision to develop its commercial corridors.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

Attached Documents:

1. Aerial and Zoning Maps
2. Proposed Exhibits
3. Reply Form
4. MF Exhibits
5. Comprehensive Plan MF Design Guidelines
6. Comprehensive Plan Future Land Use Types
7. Dallas North Tollway Design Guidelines
8. Dallas North Tollway Design Guidelines Comparison Chart
9. Redlined Development Guidelines (8.8.23)

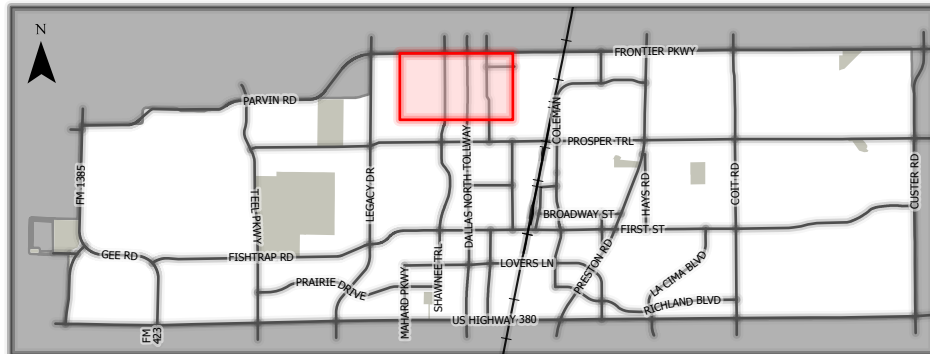
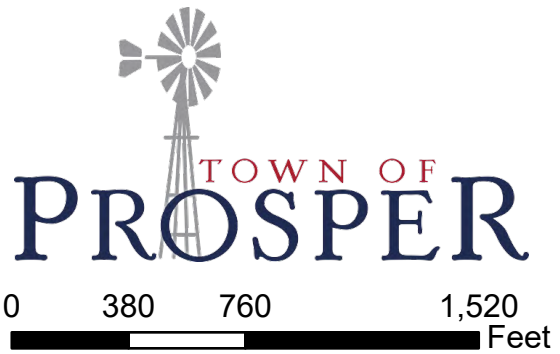
Town Staff Recommendation:

Town Staff recommends approval because this request follows the design guidelines and will provide innovative opportunities that the Town envisions along the Dallas North Tollway. The request to rezone 34.7 ± acres is located north of Prosper Trail and west of the Dallas North Tollway, a major corridor into the Town of Prosper, and aims to create a unique mixed-use development that includes detailed design and development standards. The zoning request allows for the development of a mixed-use development that includes vertical integration of office, retail, and/or high-density residential uses in the same building, an office park, and a neighborhood retail center. There are concerns with the additional multifamily units as per the comprehensive plan. The Dallas North Tollway Design Guidelines expected additional multifamily units along the Dallas North Tollway.

At their June 20, 2023, meeting, the Planning & Zoning Commission recommended the Town Council approved the request, with a vote 7-0. Commissioners question amount of parking spaces per condominium, parking pertaining to the office, parking for each area of the plan, amount of greenspace available, lighting, ratio of multifamily units, amenities, triggers for the townhouses and the public comments available. Commissioners overall like the changes from last time and appreciate the work that was put in, would have wanted to have more support from the community, more greenspace, and pedestrian amenities.

Proposed Motion:

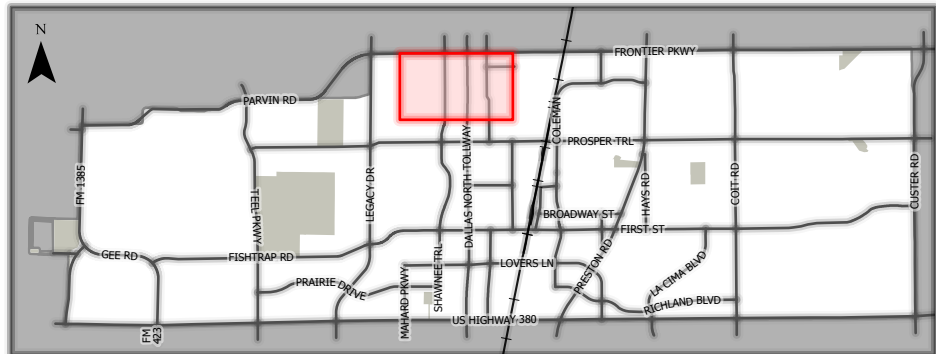
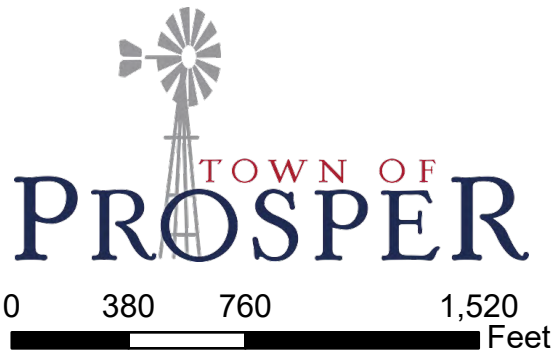
I move to approve/deny a request to rezone 34.7± acres from Commercial District (C) to a new Planned Development for Mixed Use, located northside of Prosper Trail and west of Dallas Parkway. (Z22-0019)



Z22-0019

Pradera PD

This map for illustration purposes only



This map for illustration purposes only

Z22-0019

Pradera PD

FLOOD HAZARD NOTE:

THE FEDERAL EMERGENCY MANAGEMENT AGENCY FIRM COMMUNITY PANEL NUMBER 4808500151 WITH AN EFFECTIVE DATE OF JUNE 02, 2009 INDICATES THAT THE ABOVE DESCRIBED PROPERTY LIES WITHIN AREAS DESIGNATED AS ZONE "X". ZONE "X" IS DEFINED AS AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN PER THE FLOOD INSURANCE RATE MAPS. THIS MAP DOES NOT NECESSARILY SHOW ALL AREAS SUBJECT TO FLOODING IN THE COMMUNITY OR ALL PLANIMETRIC FEATURES OUTSIDE SPECIAL FLOOD HAZARD AREAS. THIS DOES NOT GUARANTEE THAT THE SURVEYED PROPERTY WILL OR WILL NOT FLOOD. APPROXIMATE LOCATIONS OF FLOOD ZONES HAVE BEEN SHOWN HEREON BASED ON THE CURRENT FLOOD INSURANCE RATE MAPS.

ZONING EXHIBIT A

BASIS OF BEARINGS

COORDINATES AND BEARINGS ARE BASED UPON THE TEXAS STATE PLANE COORDINATE SYSTEM, NORTH AMERICAN DATUM OF 1983 (2011), TEXAS NORTH CENTRAL ZONE (4202).

LEGAL DESCRIPTION

BEING A 40.065 ACRE TRACT OF LAND SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NUMBER 147, COLLIN COUNTY, TEXAS AND BEING ALL OF THAT CALLED 34.709 ACRE TRACT OF LAND DESCRIBED BY DEED TO AABVC-DNT-WEST-FRT, LP, RECORDED IN COUNTY CLERK'S FILE NUMBER 2021082001693210, DEED RECORDS, COLLIN COUNTY, TEXAS AND ALL OF THAT CALLED 5.386 ACRE TRACT OF LAND DESCRIBED BY DEED TO COLLIN COUNTY, RECORDED IN VOLUME 5949, PAGE 2222, DEED RECORDS, COLLIN COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON ROD WITH CAP STAMPED "PRESTON TRAIL" FOUND AT THE SOUTHWEST CORNER SAID CALLED 34.709 ACRE TRACT, SAID IRON ROD ALSO BEING THE SOUTHWEST CORNER OF SAID CALLED 5.386 ACRE TRACT AND BEING IN THE NORTH LINE OF THAT CALLED 40.066 ACRE TRACT OF LAND DESCRIBED BY DEED TO COTHRAIN MALIBU, LP, RECORDED IN COUNTY CLERK'S FILE NUMBER 2015010500009000, DEED RECORDS, COLLIN COUNTY, TEXAS;

THENCE SOUTH 87 DEGREES 52 MINUTES 23 SECONDS WEST, 1108.44 FEET ALONG THE SOUTH LINE OF SAID CALLED 34.709 ACRE TRACT AND SAID NORTH LINE OF THE CALLED 40.066 ACRE TRACT TO A 5/8 INCH IRON ROD WITH CAP STAMPED "MANHARD" SET AT THE NORTHWEST CORNER OF SAID CALLED 40.066 ACRE TRACT;

THENCE NORTH 89 DEGREES 57 MINUTES 32 SECONDS WEST, 43.17 FEET, CONTINUING ALONG SAID SOUTH LINE OF THE CALLED 34.709 ACRE TRACT TO A 5/8 INCH IRON ROD WITH CAP STAMPED "MANHARD" SET AT THE SOUTHWEST CORNER OF SAID CALLED 34.709 ACRE TRACT;

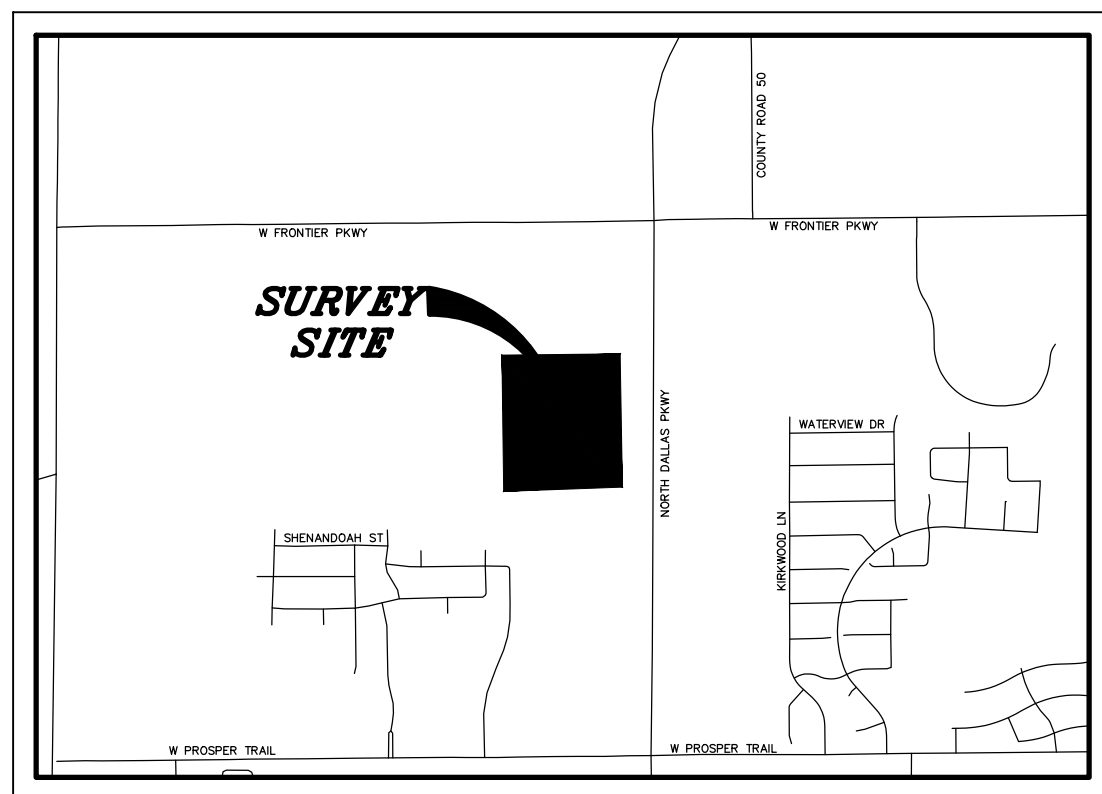
THENCE NORTH 00 DEGREES 45 MINUTES 11 SECONDS WEST, 1324.66 FEET ALONG THE WEST LINE OF SAID CALLED 34.709 ACRE TRACT TO A 1/2 INCH IRON ROD WITH CAP STAMPED "PRESTON TRAIL" FOUND AT THE NORTHWEST CORNER OF SAID CALLED 34.709 ACRE TRACT, SAID IRON ROD ALSO BEING THE SOUTHWEST CORNER OF THAT CALLED 34.557 ACRE TRACT OF LAND DESCRIBED BY DEED TO URBAN HEIGHTS AT FRONTIER LLC, RECORDED IN COUNTY CLERK'S FILE NUMBER 2022000131196, DEED RECORDS, COLLIN COUNTY, TEXAS;

THENCE NORTH 89 DEGREES 22 MINUTES 58 SECONDS EAST, 1146.49 FEET ALONG THE NORTH LINE OF SAID CALLED 34.709 ACRE TRACT AND THE SOUTH LINE OF SAID CALLED 34.557 ACRE TRACT TO A 1/2 INCH IRON ROD WITH CAP STAMPED "PRESTON TRAIL" FOUND AT THE NORTHEAST CORNER OF SAID CALLED 34.709 ACRE TRACT, SAID IRON ROD ALSO BEING THE SOUTHWEST CORNER OF SAID CALLED 5.386 ACRE TRACT AND THE NORTHWEST CORNER OF THE AFOREMENTIONED CALLED 5.386 ACRE TRACT;

THENCE NORTH 89 DEGREES 26 MINUTES 22 SECONDS EAST, 187.36 FEET ALONG THE NORTH LINE OF SAID CALLED 5.386 ACRE TRACT TO A 1/2 INCH IRON ROD FOUND AT THE NORTHEAST CORNER OF SAID CALLED 5.386 ACRE TRACT;

THENCE SOUTH 00 DEGREES 43 MINUTES 44 SECONDS EAST, 1290.88 FEET ALONG THE EAST LINE OF SAID CALLED 5.386 ACRE TRACT TO A 1/2 INCH IRON ROD FOUND AT THE SOUTHWEST CORNER OF SAID CALLED 5.386 ACRE TRACT, SAID IRON ROD ALSO BEING IN THE NORTH LINE OF THE AFOREMENTIONED CALLED 40.066 ACRE TRACT;

THENCE SOUTH 87 DEGREES 50 MINUTES 46 SECONDS WEST, 182.07 FEET ALONG THE SOUTH LINE OF SAID CALLED 5.386 ACRE TRACT AND SAID NORTH LINE OF THE CALLED 40.066 ACRE TRACT TO THE POINT OF BEGINNING AND CONTAINING 1,745,218 SQUARE FEET OR 40.065 ACRES OF LAND, MORE OR LESS.



LOCATION MAP
NOT TO SCALE

BULK REGULATIONS

THE SURVEYED PROPERTY IS LOCATED IN PLANNED DEVELOPMENT NO. XX "PD-XX" ZONING DISTRICT. THIS PLANNED DEVELOPMENT IS INTENDED TO PROVIDE FOR AND ENCOURAGE DEVELOPMENT THAT CONTAINS A COMPATIBLE MIX OF RESIDENTIAL, OFFICE, AND COMMERCIAL USES WITHIN CLOSE PROXIMITY TO EACH OTHER, RATHER THAN SEPARATING USES WITH THE FOLLOWING DEFINED RESTRICTIONS PROVIDED TO THE SURVEYOR.

- A. SIZE OF YARDS:
 - 1. MINIMUM FRONT YARD
 - A. ON DALLAS NORTH TOLLWAY: 30 FEET.
 - B. ON ALL OTHER STREETS: 10 FEET.
 - 2. MINIMUM SIDE YARD: 0 FEET.
 - 3. MINIMUM REAR YARD: 0 FEET.
- B. BUILD-TO-LINE
 - 1. BUILDINGS WITH NON-RESIDENTIAL USES ON THE FIRST FLOOR: A BUILD-TO-LINE SHALL BE ESTABLISHED AT THE MINIMUM FRONT YARD SETBACK.
 - 2. BUILDINGS WITH RESIDENTIAL USES ON THE FIRST FLOOR: THE PRIMARY FACADE OF A RESIDENTIAL DWELLING SHALL BE BUILT 10-15 FEET FROM THE PROPERTY LINE.
- C. SIZE OF LOTS:
 - 1. MINIMUM SIZE OF LOT AREA: 3,000 SQUARE FEET.
 - 2. MINIMUM LOT WIDTH: 30 FEET.
 - 3. MINIMUM LOT DEPTH: 60 FEET.
- D. MAXIMUM LOT COVERAGE: 100 PERCENT.
- E. FLOOR AREA RATIO: MAXIMUM 10.0:1.
- F. HOUSING: MAXIMUM NUMBER OF DWELLINGS ALLOWED.
 - 1. MAXIMUM DENSITY: 20 UNITS/ACRE
 - 2. A MINIMUM OF 15% OF THE FIRST-FLOOR SQUARE FOOTAGE OF ALL BUILDINGS CONTAINING RESIDENTIAL UNITS SHALL BE USED FOR NON-RESIDENTIAL PURPOSES.

BOY PROSPER 221 LLC
CALLED 22.817 ACRES (IRVING)
C/F 2015010500009000
D.R.C.C.T.

OWNER

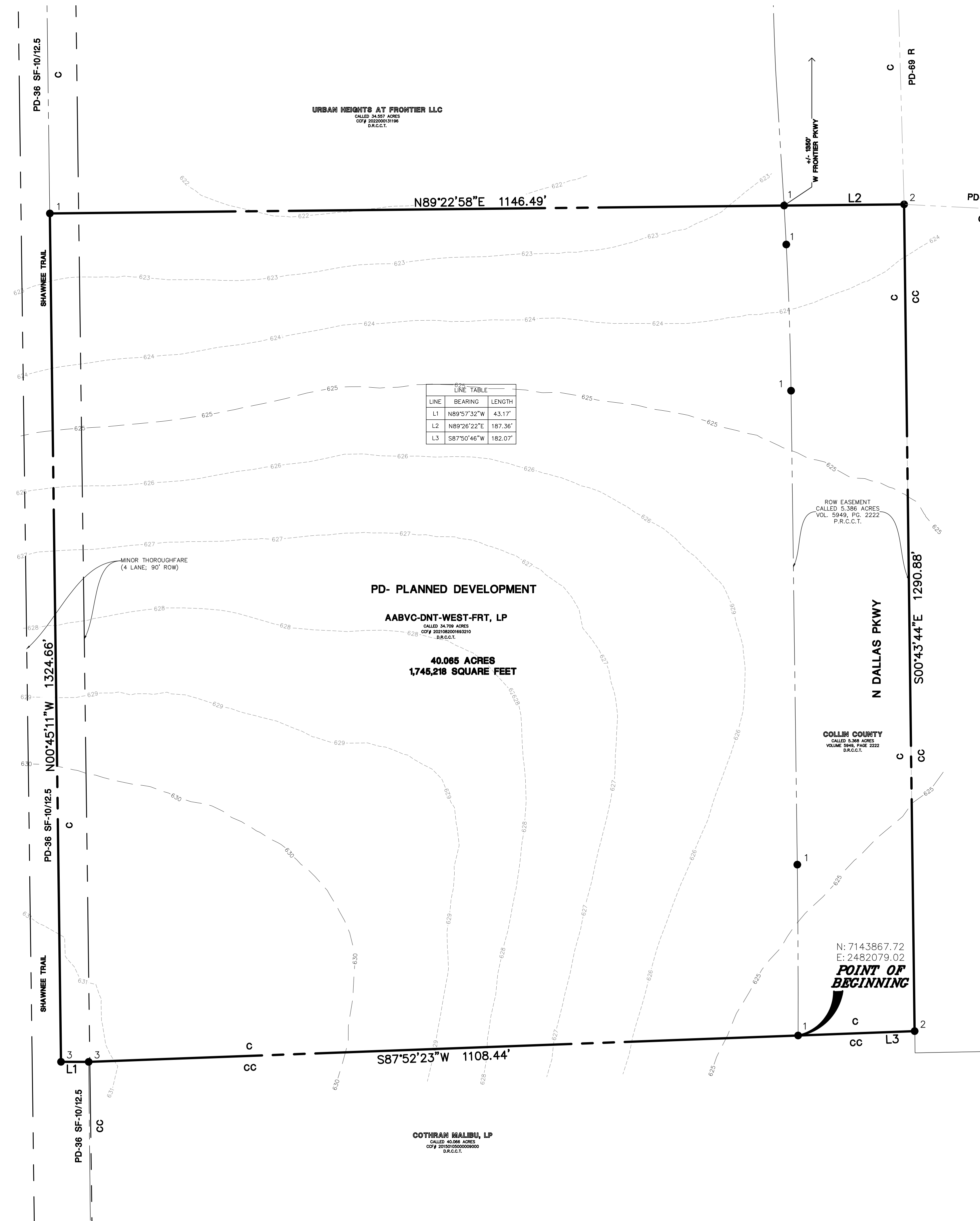
AABVC-DNT-WEST-FRT, LP
6673 JAMESTOWN ROAD
FRISCO, TEXAS 75035

LEGEND

- = EX. PROPERTY LINE
 - = EX. EASEMENT LINE
 - - - = EX. 1 FOOT CONTOURS
 - - - = EX. ZONING LINE
 - 1 = FOUND CAPPED 1/2" IRON ROD STAMPED "PRESTON TRAIL"
 - 2 = FOUND 1/2" IRON ROD
 - 3 = SET YELLOW CAPPED 5/8" IRON ROD STAMPED "MAHARD CONSULTING"
- D.R.C.C.T. = DEED RECORDS OF COLLIN COUNTY, TEXAS

SURVEYOR'S NOTES

1. THIS SURVEY IS SUBJECT TO MATTERS OF TITLE, WHICH MAY BE REVEALED BY A CURRENT TITLE REPORT, EASEMENTS, SETBACKS AND OTHER RESTRICTIONS WHICH MAY BE FOUND IN A CURRENT TITLE REPORT, LOCAL ORDINANCES, DEEDS OR OTHER INSTRUMENTS OF RECORD **HAVE NOT BEEN** SHOWN.
2. THIS DOCUMENT WAS PREPARED UNDER 22 TEXAS ADMINISTRATIVE CODE §138.05. 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.
3. THE THOROUGHFARE ALIGNMENT(S) SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DOES NOT SET THE ALIGNMENT. THE ALIGNMENT IS DETERMINED AT TIME OF FINAL PLAN.
4. THIS EXHIBIT IS NO TO BE CONSTRUED AS A BOUNDARY SURVEY AND IS NOT FOR THE CONVEYANCE OF REAL PROPERTY.



LINE	BEARING	LENGTH
L1	N89°57'32\"W	43.17'
L2	N89°26'22\"E	187.36'
L3	S87°50'46\"W	182.07'

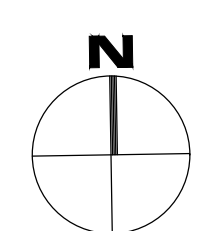
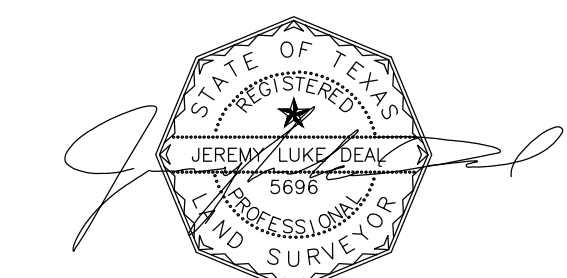


EXHIBIT A

40.065 ACRES OF LAND IN THE COLLIN C.S.L. SURVEY,
ABSTRACT NUMBER 147, COLLIN COUNTY, TEXAS
NOVEMBER 01, 2022

TOWN OF PROSPER PROJECT NO: _____

Prosper Mixed-Use Master Plan 11/7/2022

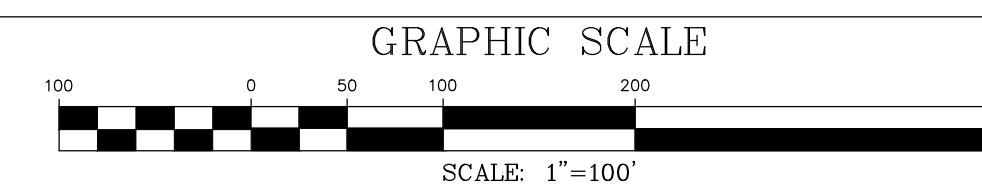


Exhibit "A"

BEING a 40.065 acre tract of land situated in the Collin County School Land Survey, Abstract number 147, Collin County, Texas and being all of that called 34.709 acre tract of land described by deed to AABVC-DNT-West-FRT, LP, recorded in County Clerk's File Number 2021082001693210, Deed Records, Collin County, Texas and all of that called 5.368 acre tract of land described by deed to Collin County, recorded in Volume 5949, Page 2222, Deed Records, Collin County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod with cap stamped "PRESTON TRAIL" found at the southeast corner said called 34.709 acre tract, said iron rod also being the southwest corner of said called 5.386 acre tract and being in the north line of that called 40.066 acre tract of land described by deed to Cothran Malibu, LP, recorded in County Clerk's File Number 20150105000009000, Deed Records, Collin County, Texas;

THENCE South 87 degrees 52 minutes 23 seconds West, 1108.44 feet along the south line of said called 34.709 acre tract and said north line of the called 40.066 acre tract to a 5/8 inch iron rod with cap stamped "MANHARD" set at the northwest corner of said called 40.066 acre tract;

THENCE North 89 degrees 57 minutes 32 seconds West, 43.17 feet, continuing along said south line of the called 34.709 acre tract to a 5/8 inch iron rod with cap stamped "MANHARD" set at the southwest corner of said called 34.709 acre tract;

THENCE North 00 degrees 45 minutes 11 seconds West, 1324.66 feet along the west line of said called 34.709 acre tract to a 1/2 inch iron rod with cap stamped "PRESTON TRAIL" found at the northwest corner of said called 34.709 acre tract, said iron rod also being the southwest corner of that called 34.557 acre tract of land described by deed to Urban Heights at Frontier LLC, recorded in County Clerk's File Number 2022000131196, Deed Records, Collin County, Texas;

THENCE North 89 degrees 22 minutes 58 seconds East, 1146.49 feet along the north line of said called 34.709 acre tract and the south line of said called 34.557 acre tract to a 1/2 inch iron rod with cap stamped "PRESTON TRAIL" found at the northeast corner of said called 34.709 acre tract, said iron rod also being the southeast corner of said called 34.557 acre tract and the northwest corner of the aforementioned called 5.386 acre tract;

THENCE North 89 degrees 26 minutes 22 seconds East, 187.36 feet along the north line of said called 5.386 acre tract to a 1/2 inch iron rod found at the northeast corner of said called 5.386 acre tract;

THENCE South 00 degrees 43 minutes 44 seconds East, 1290.88 feet along the east line of said called 5.386 acre tract to a 1/2 inch iron rod found at the southeast corner of said called 5.386 acre tract, said iron rod also being in the north line of the aforementioned called 40.066 acre tract;

THENCE South 87 degrees 50 minutes 46 seconds West, 182.07 feet along the south line of said called 5.386 acre tract and said north line oof the called 40.066 acre tract to the POINT OF BEGINNING and containing 1,745,218 square feet or 40.065 acres of land, more or less.



Jeremy Luke Deal
Registered Professional Land Surveyor
Texas Registration Number 5696



PLANNED DEVELOPMENT NO. 119**EXHIBIT B—Planned Development Purpose and Intent:**

This planned development is intended to provide for and encourage development that contains a compatible mix of residential, office, and commercial uses within close proximity to each other, rather than separating uses.

The use provisions define land uses and the siting and character of the improvements and structures allowed on the land in a manner that encourages a balanced and sustainable mix of uses. These uses may be combined either vertically in the same building, or horizontally in multiple buildings, or through a combination of the two.

Additionally, the standards are intended to promote an efficient pedestrian-access network that connects the nonresidential and residential uses. The planned development generally addresses the physical relationship between development and adjacent properties, public streets, neighborhoods, and the natural environment. This is accomplished by the following;

- Ensuring buildings relate appropriately to surrounding developments and streets which create cohesive visual identity and attractive street scenes.
- Ensuring site design promotes efficient pedestrian and vehicle circulation patterns.
- Ensuring the creation of high-quality street and sidewalk environments that are supportive of pedestrian mobility and that are appropriate to the roadway context.
- Ensuring large sites are developed in a manner that supports and encourages connectivity and creates a cohesive visual identity and attractive street scene.

In order to implement this vision, the standards affecting development are intended to be consistent with the overall goal. To accomplish this goal, the area has been subdivided into a series of sub-districts with development restrictions that will be necessary to achieve their collective individuality.

The purpose of sub-district requirements is to define the character of new development within each sub-district. They have been carefully designed to allow enough flexibility for creative building solutions, while being prescriptive in areas necessary to preserve consistency throughout the development.

EXHIBIT C—Sub-District Regulations:**Development Plans****Concept Plan:**

- A. The tract shall be developed in general accordance with the attached concept plan, set forth in Exhibits D2, D3, and D4.
- B. Triggers
 - a. Neighborhood Sub-District:
 - i. Development shall be phased such that all of the townhomes will have certificates of occupancy prior to commencing work within the Highway Sub-District.
 - ii. Development shall be phased such that at minimum one (1) retail building, as identified on Exhibit D.2 as either Lot 4 or Lot 2 Block 1, shall have obtained a Certificate of Occupancy prior to construction.
 - b. Highway Sub-District:
 - i. Street Section D, as shown on Exhibit D.3, shall be built with Block D, Lots 1 and 2.
- C. Where conflicts may arise between Exhibit C and Exhibit D, Exhibit C shall govern.

Elevations:

- A. The tract shall be developed in general accordance with the attached elevations, set forth in Exhibits F.

Administrative:

- A. The property owner's association (POA) shall be approved by town staff.

HIGHWAY SUB-DISTRICT

HIGHWAY SUB-DISTRICT

Purpose & Intent

The purpose of the Highway Sub-District is to encourage the creation of a pedestrian-oriented, vertically integrated, mixed-use, urban environment, providing shopping, employment, housing, business, and personal services. This sub-district promotes an efficient, compact land use pattern; encouraging pedestrian activity; reducing the reliance on private automobiles within the district; promoting a functional and attractive community using urban design principles; and allowing developers flexibility in land use and site design.

The Highway Sub-District is to be an area with a mixture of intense uses. Buildings are close to and oriented toward the street. There is a connected street pattern, shared parking, and pedestrian amenities.

Site Criteria

A. Size of Yards:

1. Minimum Front Yard
 - a. On Dallas North Tollway: Fifty (50) feet.
 - b. On all other streets: Ten (10) feet.
2. Minimum Side Yard: Zero (0) feet.
3. Minimum Rear Yard: Zero (0) feet.

B. Build-to-Line: On streets with on-street parking, a build-to-line shall be required. A -build-to-line- is a line parallel to a public or private street where the primary facade of the building must be built to.

1. Buildings with non-residential uses on the first floor: A build- to-line shall be established at the minimum front yard setback. The primary facade shall be continuous along a block face and at least 70% shall be located within 5' of the build-to-line.
2. Buildings with residential uses on the first floor: The primary facade of a residential dwelling shall be built 10' to 15' from the property line. Stairs, stoops, and elevated patios shall be allowed within the front setback. Any land remaining in the setback shall be landscaped with plant materials other than grass and shall be irrigated per the requirements established.

C. Size of Lots:

1. Minimum Size of Lot Area: Twenty Thousand (20,000) square feet
2. Minimum Lot Width: Fifty (50) feet.
3. Minimum Lot Depth: Sixty (60) feet.

D. Maximum Lot Coverage: One hundred (100) percent, subject to Detention and Open Space.

E. Floor Area Ratio: Maximum 10.0:1.

F. Housing: The following performance standards shall apply to residential development.

1. For the purposes of this Sub-District, Apartment and Condominiums are considered Multifamily and shall be defined as follows:

- a. Apartments- a predominantly residential building in which each unit is leased by the owner to an individual entity.
- b. Condominiums- a predominantly residential building in which each unit is owned by an individual entity.

2. The maximum density allowed shall be no more than seven hundred and thirty (730) units within the Highway Sub-District. Studio, One, Two, and Three Bedroom units shall be a minimum of 650 square feet.

- a. Apartments shall be no more than five hundred (500) units.
 - i. There shall be no more than 325 Studios and One-Bedroom units.
 - ii. There shall be no more than 165 two-bedroom units.
 - iii. There shall be no more than 10 three-bedroom units.
- b. Condominiums shall be no more than two hundred thirty (230) units.
 - i. There shall be at least 60% Studios and One-Bedroom units.
 - ii. There shall be no more than 40% Two and Three-Bedroom units.

3. Where first-floor square footage of the Highway Subdistrict shall be used for non-residential uses, the following provisions for retail use shall apply.

Retail, for the sake of this subsection shall include beauty salon/barber shop, commercial amusement (indoor), furniture/ home furnishings store, gymnastics/dance studio, health/fitness center, museum/art gallery, restaurant (without drive-thru/drive-in service), retail store and shops, retail service/incidental use, and theatre.

- a. Office: minimum 25% retail use.
- b. Residential
 - i. Apartments: minimum 50% retail use.
 - ii. Condominiums: minimum 0% retail use.
- c. Hotel: minimum 25% retail use.

4. Apartment buildings shall have a setback of Two Hundred Fifty (250) feet from the Dallas North Tollway (DNT).

G. Parking:

- 1. The number of parking spaces provided for uses shall be in accordance with the breakdown established in the GENERAL REQUIREMENTS section of these standards.
- 2. Required parking shall be located and maintained anywhere within the PD No. 119, including all sub-districts.

- a. Where Townhome uses are concerned, parking may not be shared.
- 3. On-street parking and shared parking anywhere within the PD No. 119, including all sub-districts, except for Townhome uses, may be counted towards meeting the off-street parking requirement for any use within the sub-district.
- 4. Where on-street parking is provided, angled, as well as parallel parking shall be permitted as depicted in exhibit D street sections.
- 5. Where on-street parking is provided, vehicle maneuvering shall be allowed within the Public & Emergency Access Easement.
- 6. When structured garages are provided, adequate access from public rights-of-way via private drives and/or access easements shall be made readily available.
- 7. Parking spaces that face and are adjacent to a building shall utilize curbs, wheel stops, and/or bollards.
- 8. Speed bumps/humps are not permitted within a fire lane nor public roads.
- 11. Dead-end parking aisles are not permitted in surface parking lots.
- 12. In the case of mixed uses, parking spaces may be shared.
- 13. For all residential uses, a minimum of eighty percent (80%) of parking shall be contained in a structured parking garage.

H. Service Equipment and Areas:

- 1. Loading docks, truck parking, trash collection, trash compaction, and other service functions shall be incorporated into the overall design of the building or placed behind or on the side of a building. On corner lots, these areas should be located behind the buildings. All solid waste trash collection structures shall be designed to accommodate the Town's current trash service provider. This includes, but not limited to, minimum dumpster enclosure requirements, approach geometry and other features for operational needs.
- 2. Transformers, HVAC equipment (if located at the ground level), private utility meters, and other machinery, where practical, should be located at the rear of the property.
 - a. Public water meters shall be located within easements, outside of pavement, and adjacent (within 2-5 feet) to Public & Emergency Access Easement or dedicated fire lanes that include utility easements.

I. Screening:

- 1. Service equipment and areas shall be screened so the visual impacts of these functions are fully contained and out of view from adjacent properties and public streets to the extent that screening is allowed by utility providers.
- 2. Solid waste collection and loading areas shall be located to minimize visibility. These areas shall be screened, at minimum, by a eight (8) foot high wall built with the same materials as used for the principal building, or an otherwise approved solid masonry material. Trash dumpsters shall have a metal gate or door equal in height or the height of the wall, which shall

generally always remain closed. Waste collection and loading area walls shall include shrubbery as to screen walls from the public realm.

3. Where rooftop-mounted mechanical equipment is not screened from view at a point twenty feet above ground level at the property line, alternative forms of screening are required, and may be constructed of metal, acrylic, or a similar material, subject to approval by the Director of Development Services.

J. Fencing: Fencing is allowed between the primary facade of the building and the property line. In the above instances the fence shall be no greater than forty-two (42) inches in height. Fencing is restricted to wrought iron, tubular steel or similar material, or masonry. The masonry portion of any fence in front of a building shall be no higher than three (3) feet. The masonry portion of the fence must be at least 30% open in construction for each residential unit or retail/restaurant/office/service lease space. Each residential unit or retail/restaurant/office/service lease space must have an operable gate that opens to the street.

K. Streets and Sight Triangles:

1. For plantings within ten (10) feet of any public street intersection, shrubs and groundcover shall not exceed two (2) feet in height and tree branching shall provide seven (7) feet of clearance measured from the top of the ground surface to the first branch along the tree trunk.
2. Root barriers shall be installed where street trees are planted within 5 feet of pavement within Public & Emergency Access Easement.

Nothing contained herein shall vary or supersede public safety requirements of the Town of Prosper as set forth in the Uniform Fire Code and other applicable laws, rules, and regulations of the Town of Prosper.

L. Landscaping: The standards and criteria contained in this Section are the minimum standards for all new development. Where the regulations of this Section conflict with the Town of Prosper Zoning Ordinance or the Dallas North Tollway (DNT) Guidelines, the regulations of this Section shall apply. Unless specifically identified in this Section, new developments shall comply with the landscape standards established in the Town of Prosper Zoning Ordinance and the Dallas North Tollway (DNT) Guidelines as of the date of adoption of this ordinance or as amended.

1. Any non-structured, off-street, surface parking that contains twenty (20) or more spaces shall provide interior landscaping as follows:
 - a. All landscaped areas shall be protected by a raised six (6) inch concrete curb. Pavement shall not be placed closer than four (4) feet from the trunk of a tree unless a Town approved root barrier is utilized.
 - b. Landscaped islands shall be located at the terminus of all parking rows, except for on-street parking, and shall contain at least one (1) large tree, three (3) inch caliper minimum, with no more than fifteen (15) parking spaces permitted in a continuous row without being interrupted by a landscape island.
 - c. Landscaped islands shall be a minimum of one hundred sixty (160) square feet, not less than nine (9) feet wide, measured from the inside face of curb, and a length equal to the abutting space.

- d. All above grade utilities and trash enclosures in landscape areas shall be screened with evergreen plant material.
- e. For streets with on-street parking, trees shall be installed against the curb, within the sidewalk, in four (4) foot by four (4) foot areas with metal grates consistent with the development. 2. Permanent irrigation shall be provided for all required landscaping as follows:
 - a. Irrigation lines for perimeter landscaping shall be placed a minimum of two and one-half (2'-6") feet from a town sidewalk or alley. Reduction of this requirement is subject to review and approval by the Assistant Town manager or their designee.
 - b. Trees shall be irrigated with bubbler irrigation. Shrubs and groundcover shall be irrigated with in ground drip irrigation. Turf lawn shall be irrigated with spray irrigation.
 - c. Rain/Freeze sensors shall be installed on all irrigation systems.
- 3. Drought tolerant and/or native plants from the Town's approved plant list are required for compliance. Other species may be utilized with approval from the Town as part of the Final Site Plan process.
 - a. Trees in sidewalks adjacent to on-street parking will be specifically selected with approval from the Town.
- 4. All Landscape areas to be kept free of weeds, invasive plant species, and trash.
- 5. Synthetic turf may be permitted so long as it is not visible from the public rights-of-way.

Building Criteria

The standards and criteria contained in this Section are the minimum standards for all new development. The regulations of this Section shall govern where the regulations of this Section conflict with the Town of Prosper Zoning Ordinance.

A. Tri-partite Architecture: All multi-story, mixed use buildings shall be designed and constructed in tri-partite architecture (having a distinct base, middle, and top) or an alternative, scale appropriate architectural treatment.

B. Building Height

- 1. Maximum Building Height: Eight (8) stories.
 - a. Architectural embellishments not intended for human occupancy that are integral to the architectural style of the buildings, including spires, belfries, towers, cupolas, domes, and roof forms whose area in plan is no greater than 23% of the first-floor footprint may exceed the height limits by up to twenty (20) feet.
 - b. Mechanical equipment, including mechanical/elevator equipment penthouse enclosures, ventilation equipment, antennas, chimneys, exhaust stacks and flues, fire sprinkler tanks, and other similar constructions may extend up to twenty (20) feet above the actual building height, provided that: 1) they are setback from all exterior walls a

distance at least equal to the vertical dimension that such item(s) extend(s) above the actual building height, or 2) the exterior wall and roof surfaces of such items that are set back less than the vertical dimension above the actual building are to be constructed as architecturally integral parts of the building facade(s) or as architectural embellishments as described above. Mechanical equipment shall not be visible from the public right-of-way, measured at six (6) feet above finish grade at the Public & Emergency Access Easement line.

2. Minimum Building Height by use type:

- a. Office: four (4) story.
- b. Multifamily
 - i. Apartments: four (4) story.
 - ii. Condominiums: four (4) story.
- c. Hotel: four (4) story
- d. Retail: one (1) story.

3. Maximum Building Height shall be governed by the Building Height Setbacks outlined below.

- a. Building Height Setback One shall extend from the eastern property line at Dallas North Tollway to a line three hundred fifty (350) feet to the west. Building Height Setback One shall have a maximum height of eight (8) stories or one hundred sixty (160) feet.
- b. Building Height Setback Two shall extend from the western boundary of Building Setback One to the Neighborhood Sub-District boundary. Building Height Setback Two shall have a maximum height of five (5) stories or one hundred (100) feet.

C. Building Materials:

- 1. brick, natural and manufactured stone, curtain wall and window wall glazing, and cementitious panel system shall be considered primary materials. Primary materials shall comprise of at least seventy-five percent (75%) of each elevation, exclusive of doors and windows. Where cementitious panel is applied, it shall be limited to no more than 50% of a building's material. Non-primary, or secondary materials, may include stucco and metal panel systems.
 - a. Where Multifamily is concerned, primary materials shall be limited to brick, natural and manufactured stone, and cementitious panel system.
- 2. Only primary building materials are allowed on the first floor with the exception of cementitious panels. For purposes of this section, the first floor shall be at least fourteen (14) feet high and, at minimum, 90% shall be constructed of masonry cladding.
- 3. All buildings shall be architecturally finished on all sides with articulation, detailing, and features. Architectural articulation, detailing, and features are not required for facades adjacent to a building or parking garage.

D. Window Areas:

1. For buildings which front on streets with on-street parking and contain non-residential uses on the ground floor, a minimum of thirty (30) percent of the ground floor facade shall be windows.
 - a. Clear glass is required in all non-residential storefronts. Smoked, reflective, or black glass that blocks two-way visibility is only permitted above the first story.
 - b. pink or gold glass shall be prohibited.

E. Building Entries:

1. Main building entries shall be highlighted using such techniques as building articulation and/or entry canopies so they are obvious to pedestrians and motorists.
2. Each building and separate lease space at grade along the street edge shall have a functioning Primary Entry from the sidewalk. Corner entries may count as a Primary Entry for both intersecting street fronts.

F. Awnings, canopies, Arcades, & Overhangs:

1. Structural awnings are encouraged at the ground level to enhance articulation of the building volumes.
2. The material of awnings and canopies shall be architectural materials that complement the building.
3. Awnings shall not be internally illuminated.
4. Canopies should not exceed one hundred (100) linear feet without a break of at least five (5) feet.
5. Canopies and awnings shall respect the placement of street trees and lighting.

G. Building Articulation:

1. That portion of the building where retail or service uses take place on the first floor shall be accentuated by including awnings or canopies, different building materials, or architectural building features.
2. Building facades fronting both streets and driveways should have massing changes and architectural articulation to provide visual interest and texture and reduce large areas of undifferentiated building facade. Design articulation should employ changes in volume and plane. Architectural elements including projecting volumes, windows, balconies, loggias, canopies, pediments, and moldings that break up the mass of the building are encouraged.

H. Above Grade Structured Parking:

1. Where parking garages are within views of public streets, openings in parking garages shall not exceed 55% of the facade area. The portion of the parking garage that is visible from the street shall have an architecturally finished facade compatible with the surrounding buildings.

2. It is the intent of this provision that the facades of surrounding buildings and the facades of any parking structures within view of public streets shall be visually similar, with construction materials being compatible.

3. Entries and exits to and from parking structures shall be clearly marked for both vehicles and pedestrians by materials, lighting, signage, etc., to ensure pedestrian safety on sidewalks.

I. Projections into Setbacks and/or Rights-of-Way:

The following projections shall be permitted into a building setback or Public & Emergency Access Easement as allowed below, provided that 1) no projection shall be permitted into a building setback or right-of-way of Dallas North Tollway; 2) such projections do not extend over the traveled portion of a roadway; 3) the property owner has assumed liability related to such projections; 4) the property owner shall maintain such projection in a safe and non-injurious manner; 5) no projections allowed over franchise utility corridors unless the projection is thirteen and one half (13.5) feet above finish grade; and 6) no projections allowed over public utility where located within a fire lane or public utility easement.

1. Ordinary building projections, including, but not limited to water tables, sills, belt courses, pilasters, and cornices may project up to twenty-four (24) inches beyond a building face or architectural projection into the setback, but not the Public & Emergency Access Easement.

2. Business signs and roof eaves may project up to ten (10) feet beyond the building face or architectural projection into the setback, but not the Public & Emergency Access Easement.

3. Architectural projections, including balconies, bays, towers, and oriels; show windows (1st floor only); below grade vaults and areaways; and elements of a nature similar to those listed; may project up to ten (10) feet beyond the building face into the setback, but not the Public & Emergency Access Easement.

4. Canopies and/or awnings may project from the building face over the entire setback. Additionally, they may be extended into the Public & Emergency Access Easement to be within eight (8) inches of the back of curb if used to provide a covered walkway to a building entrance and as long as any canopy/awning support is no closer than twenty-four (24) inches from the back of curb and does not extend over any fire lane or public utility easement.

5. Below-grade footings approved in conjunction with building permits.

Permitted Uses

Schedule of Permitted Business Establishments for the Dallas North Tollway District: Uses followed by an -S- are permitted by Specific Use Permit. Uses followed by a -C- are permitted subject to conditional development standards located in the Town's Zoning Ordinance as it exists or may be amended.

Administrative, Medical, Insurance or Professional Office

Antique Shop

Automobile Paid Parking Lot/Garage

Automobile Parking Lot/Garage

Bank, Savings and Loan, or Credit Union (Drive-Thru not permitted)

Beauty Salon/Barber Shop as an Incidental Use

Big Box (S)

Building Material and Hardware Sales, Major (S)

Business Service

Catering Business

Child Care Center, Incidental (Care of Children of Employees in the Building)

Civic/Convention Center

College, University, Trade, or Private Boarding School

Commercial Amusement, Indoor (S)

Food Truck Park (C)

Furniture, Home Furnishings and Appliance Store

Governmental Office

Gymnastics/Dance Studio (S)

Health/Fitness Center (S)

Helistop (S)

Hospital

Hotel, Full Service (C)

House of Worship

Massage Therapy, Licensed as an Incidental Use

Meeting/Banquet/Reception Facility (S)

Mobile Food Vendor (S)

Multifamily

Municipal Uses Operated by the Town of Prosper

Museum/Art Gallery

Park or Playground

Print Shop, Minor

Private Club (C)

Private Utility, Other Than Listed (S)

Research and Development Center (S)

Restaurant without Drive-thru or Drive-in Service (C)

Retail Stores and Shops

Retail/Service Incidental Use

School, Private or Parochial (S)

School, Public

Temporary Buildings for Churches, Public Schools and Governmental Agencies (S)

Theater, Neighborhood

Theater, Regional

Winery (enclosed operations)

Wireless Communications and Support Structures (Cell Tower) (S)

NEIGHBORHOOD SUB-DISTRICT

NEIGHBORHOOD SUB-DISTRICT

Purpose & Intent

The purpose of the Neighborhood Sub-District is to provide for a variety of developments in a suburban type setting which will provide residential units and supporting retail space.

Site Criteria

A. Size of Yards:

1. Townhomes (lots shall be fee-simple)

- i. Minimum Front Yard: Ten (10) feet.
- ii. Minimum Side Yard: Zero (0) feet.
- iii. Minimum Rear Yard: Twenty (20) feet.
- iv. Maximum Building Height: Thirty-Five (35) feet (as measured from the finish floor to the top plate), or three (3) stories.
- v. Minimum Dwelling Area: One Thousand (1,000) square feet.
- vi. Minimum Building Separation: Twenty (20) feet.
- vii. Maximum Units Per Building: six (6) units

2. Commercial

- i. Minimum Front Yard: Ten (10) feet.
- ii. Minimum Side Yard: Five (5) feet.
- iii. Minimum Rear Yard: Five (5) feet.
- iv. Maximum Building Height: Forty-five (45) Feet (as measured from the finish floor to the top plate), or three (3) stories

B. Build-to-Line: On streets with on-street parking, a build-to-line shall be required. A -build-to-line- is a line parallel to a public or private street where the primary facade of the building must be built to.

- 1. Buildings with non-residential uses on the first floor: A build- to-line shall be established at the minimum front yard setback. The primary facade shall be continuous along a block face and at least 70% shall be located within 5' of the build-to-line.
- 2. Buildings with residential uses on the first floor: The primary facade of a residential dwelling shall be built 10' to 15' from the property line. Stairs, stoops, and elevated patios shall be allowed within the front setback. Any land remaining in the setback shall be landscaped with plant materials other than grass and shall be irrigated per the requirements established.
- 3. Residential lots may front on public or private open space or a property owner's association lot.

C. Size of Lots:

- 1. Minimum Size of Lot Area: Three thousand (3,000) square feet
- 2. Minimum Lot Width: Twenty (20) feet.

3. Minimum Lot Depth: Sixty (60) feet.

D. Maximum Lot Coverage: One Hundred (100) percent. Parking structures and surface parking facilities shall be excluded from lot coverage computations.

E. Floor Area Ratio: Maximum 5.0:1.

F. Housing: The following performance standards shall apply to residential development.

1. The maximum density allowed shall be sixty (60) units within the Neighborhood Sub-District.

2. The minimum number of townhome units shall be forty-two (42) units.

G. Maximum Floor Area Per Building: Twenty thousand (20,000) square feet.

H. Parking:

1. The number of parking spaces provided for uses shall be in accordance with the breakdown established in the GENERAL REQUIREMENTS section of these standards.

2. Required parking shall be located and maintained anywhere within the PD No. 119, including all sub-districts.

a. Where Townhome uses are concerned, parking may not be shared.

3. On-street parking anywhere within the PD No. 119, including all sub-districts, except for Townhome uses, may be counted towards meeting the off-street parking requirement for any use within the sub-district.

4. Where on-street parking is provided, angled, as well as parallel parking shall be permitted.

5. Where on-street parking is provided, vehicle maneuvering shall be allowed within the Public & Emergency Access Easement.

6. When structured garages are provided, adequate access from public rights-of-way via private drives and/or access easements shall be made readily available.

7. Parking spaces that face and are adjacent to a building shall utilize curbs, wheel stops, and/or bollards.

8. Speed bumps/humps are not permitted within a fire lane.

9. Dead-end parking aisles are not permitted in surface parking lots.

10. In the case of mixed uses, uses may share parking spaces.

I. Service Equipment and Areas:

1. Loading docks, truck parking, trash collection, trash compaction, and other service functions shall be incorporated into the overall design of the building or placed behind or on the side of a building. On corner lots, these areas should be located behind the buildings. All solid waste trash collection structures shall be designed to accommodate the Town's current trash service provider. This includes, but not limited to, minimum dumpster enclosure requirements, approach geometry and other features for operational needs.

2. Transformers, HVAC equipment (if located at the ground level), private utility meters, and other machinery, where practical, should be located at the rear of the property.

- a. Public water meters shall be located within easements, outside of pavement, and adjacent (within 2-5 feet) to Public & Emergency Access Easement or dedicated fire lanes that include utility easements.

J. Screening:

1. Service equipment and areas shall be screened so the visual impacts of these functions are fully contained and out of view from adjacent properties and public streets, provided public utility providers allow for screening.
2. Solid waste collection and loading areas shall be located to minimize visibility. These areas shall be screened by a eight (8) foot high wall built with the same materials as used for the principal building, or an otherwise approved solid masonry material. Trash dumpsters shall have a metal gate or door equal in height or the height of the wall, which shall generally remain closed at all times. Waste collection and loading area walls shall include shrubbery as to screen walls from the public realm.
3. Where rooftop-mounted mechanical equipment is not screened from view at a point twenty feet above ground level at the property line, alternative forms of screening are required, and may be constructed of metal, acrylic, or a similar material, subject to approval by the Director of Development Services.

K. Fencing: Fencing is allowed between the primary facade of the building and the property line. In the above instances the fence shall be no greater than forty-two (42) inches in height. Fencing is restricted to wrought iron, tubular steel or similar material, or masonry. The masonry portion of any fence in front of a building shall be no higher than three (3) feet. The masonry portion of the fence must be at least 30% open in construction for each residential unit or retail/restaurant/office/service lease space. Each residential unit or retail/restaurant/office/service lease space must have an operable gate that opens to the street.

L. Streets and Sight Triangles: Within the Neighborhood Sub-District the following street design standards shall apply. Except as provided herein, no sight triangle shall be required. Adequate sight distance will be provided at all intersections through the use of appropriate traffic control devices. Sight triangles, per the Town of Prosper's requirements, for vehicles exiting the development for both public streets and private driveways shall be provided at intersections with Shawnee Trail.

1. For plantings within ten (10) feet of any public street intersection, shrubs and groundcover shall not exceed two (2) feet in height and tree branching shall provide seven (7) feet of clearance measured from the top of the ground surface to the first branch along the tree trunk.

Nothing contained herein shall vary or supersede the public safety requirements of the Town of Prosper as set forth in the Uniform Fire Code and other applicable laws, rules, and regulations of the Town of Prosper.

M. Landscaping: The standards and criteria contained in this Section are the minimum standards for all new development. Where the regulations of this Section conflict with the Town of Prosper Zoning Ordinance or the Dallas North Tollway (DNT) Guidelines, the regulations of this Section shall apply. Unless specifically identified in this Section, new developments shall comply with the landscape

standards established in the Town of Prosper Zoning Ordinance and the Dallas North Tollway (DNT Guidelines as of the date of adoption of this ordinance or as amended.

1. Any non-structured, off-street, surface parking that contains twenty (20) or more spaces shall provide interior landscaping as follows:
 - a. All landscaped areas shall be protected by a raised six (6) inch concrete curb. Pavement shall not be placed closer than four (4) feet from the trunk of a tree unless a Town approved root barrier is utilized.
 - b. Landscaped islands shall be located at the terminus of all parking rows, except for on-street parking, and shall contain at least one (1) large tree, three (3) inch caliper minimum, with no more than fifteen (15) parking spaces permitted in a continuous row without being interrupted by a landscape island.
 - c. Landscaped islands shall be a minimum of one hundred sixty (160) square feet, not less than nine (9) feet wide, measured from the inside face of curb, and a length equal to the abutting space.
 - d. All above grade utilities and trash enclosures in landscape areas shall be screened with evergreen plant material.
 - e. For streets with on-street parking, trees shall be installed against the curb, within the sidewalk, in four (4) foot by four (4) foot areas with metal grates consistent with the development.
2. Except for the landscape easement adjacent to the deceleration lane on Shawnee Trail, the landscape easement within the POA Lot adjacent to Shawnee Trail will be a minimum of twenty-five (25) feet.
3. Permanent irrigation shall be provided for all required landscaping as follows:
 - a. Irrigation lines for perimeter landscaping identified in (1) above, shall be placed a minimum of two and one-half (2'-6") feet from a town sidewalk or alley. Reduction of this requirement is subject to review and approval by Executive Director of Development and Community Services.
 - b. Trees shall be irrigated with bubbler irrigation. Shrubs and groundcover shall be irrigated with in ground drip irrigation. Turf lawn shall be irrigated with spray irrigation.
 - c. Rain/Freeze sensors shall be installed on all irrigation systems.
4. Drought tolerant and/or native plants from the Town's approved plant list are required for compliance. Other species may be utilized with approval from the Town as part of the Final Site Plan process.
 - a. Trees in sidewalks adjacent to on-street parking will be specifically selected with approval from the Town.
4. All Landscape areas to be kept free of weeds, invasive plant species, and trash.
5. Synthetic turf may be permitted so long as it is not visible from the public rights-of-way.

N. Amenities: Public amenities shall be constructed after Certificates of Occupancy are issued for townhomes and before other buildings.

Building Criteria

The standards and criteria contained in this Section are the minimum standards for all new development. The regulations of this Section shall govern where the regulations of this Section conflict with the Town of Prosper Zoning Ordinance.

A. Maximum Building Height:

1. Three (3) stories.
2. Architectural embellishments not intended for human occupancy that are integral to the architectural style of the buildings, including spires, belfries, towers, cupolas, domes, and roof forms whose area in plan is no greater than 25% of the first-floor footprint may exceed the height limits by up to ten (10) feet.
3. Mechanical equipment, including mechanical/elevator equipment penthouse enclosures, ventilation equipment, antennas, chimneys, exhaust stacks and flues, fire sprinkler tanks, and other similar constructions may extend up to ten (10) feet above the actual building height, provided that: 1) they are setback from all exterior walls a distance at least equal to the vertical dimension that such item(s) extend(s) above the actual building height, or 2) the exterior wall and roof surfaces of such items that are set back less than the vertical dimension above the actual building are to be constructed as architecturally integral parts of the building facade(s) or as architectural embellishments as described above. Mechanical equipment shall not be visible from the Public & Emergency Access Easement, measured at six (6) feet above finished grade at the Public & Emergency Access Easement line.

B. Building Materials:

1. brick, natural and manufactured stone, curtain wall and window wall glazing, and cementitious panel system shall be considered primary materials. Primary materials shall comprise at least seventy-five (75) percent of each elevation, exclusive of doors and windows.
 - a. Townhomes shall be constructed of no less than 75% brick masonry, calculated from the aggregate of the front, rear and side elevations.
2. Only primary building materials are allowed on the first floor excluding cementitious panel systems, exclusive of doors, windows, and their accompanying frames. For purposes of this section, the first floor shall be at least nine (9) feet high.
3. All buildings shall be architecturally finished on all sides with articulation, detailing, and features. Architectural articulation, detailing, and features are not required for facades adjacent to a building or parking garage.

C. Windows:

1. For buildings which front on streets with on-street parking and contain non-residential uses on the ground floor, a minimum of thirty (30) percent of the ground floor facade shall be windows.

a. Clear glass is required in all non-residential storefronts. Smoked, reflective, or black glass that blocks two-way visibility is only permitted above the first story.

b. pink or gold glass shall be prohibited.

2. For buildings which front on streets, and contain residential uses, a minimum of thirty (30) percent of the facade shall be windows.

D. Horizontal articulation: No building wall shall extend for a distance equal to four (4) times the wall's height without having an off-set equal to 25% of the wall's height. The new plane shall then extend for a distance equal to at least 25% of the maximum length of the first plane.

E. Building Entries: Main building entries shall be highlighted using such techniques as building articulation and/or entry canopies so they are obvious to pedestrians and motorists.

F. Above Grade Structured Parking:

1. Where parking garages are within views of streets, openings in parking garages shall not exceed 53% of the facade area. The portion of the parking garage that is visible from the street shall have an architecturally finished facade compatible with the surrounding buildings.

2. Entries and exits to and from parking structures shall be clearly marked for both vehicles and pedestrians by materials, lighting, signage, etc., to ensure pedestrian safety on sidewalks.

G. Projections into Setbacks and/or Rights-of-Way:

The following projections shall be permitted into a building setback or Public & Emergency Access Easement as allowed below, provided that 1) no projection shall be permitted into a building setback or right-of-way of Shawnee Trail; 2) such projections do not extend over the traveled portion of a roadway; 3) the property owner has assumed liability related to such projections; and 4) the property owner shall maintain such projection in a safe and non-injurious manner; and 5) no projections allowed over franchise utility corridors unless the projection is thirteen and one half (13.5) feet above finish grade; and 6) no projections allowed over public utility where located within a fire lane or public utility easement..

1. Ordinary building projections, including, but not limited to water tables, sills, belt courses, pilasters, and cornices may project up to twelve (12) inches beyond a building face or architectural projection into the setback, but not the Public & Emergency Access Easement.

2. Business signs and roof eaves may project up to ten (10) feet beyond the building face or architectural projection into the setback, but not the Public & Emergency Access Easement.

3. Architectural projections, including balconies, bays, towers, and oriels; show windows (1st floor only); below grade vaults and areaways; and elements of a nature similar to those listed;

may project up to ten (10) feet beyond the building face into the setback, but not the Public & Emergency Access Easement.

4. Canopies and/or awnings may project from the building face over the entire setback. Additionally, they may be extended into the Public & Emergency Access Easement to be within eight (8) inches of the back of curb if used to provide a covered walkway to a building entrance and as long as any canopy/awning support is no closer than twenty-four (24) inches from the back of curb and does not extend over any fire lane or public utility easement.

5. Below-grade footings approved in conjunction with building permits.

Permitted Uses

Schedule of Permitted Business Establishments for the Dallas North Tollway District: Uses followed by an -S- are permitted by Specific Use Permit. Uses followed by a -C- are permitted subject to conditional development standards located in the Town's Zoning Ordinance as it exists or may be amended.

Administrative, Medical, Insurance or Professional Office

Antique Shop

Automobile Parking Lot/Garage

Bank, Savings and Loan, or Credit Union (No Drive-Thru permitted)

Beauty Salon/Barber Shop as an Incidental Use

Big Box (S)

Building Material and Hardware Sales, Major (S)

Business Service

Catering Business

Child Care Center, Incidental (Care of Children of Employees in the Building)

Civic/Convention Center

College, University, Trade, or Private Boarding School

Commercial Amusement, Indoor (S)

Food Truck Park (C)

Furniture, Home Furnishings and Appliance Store

Governmental Office

Gymnastics/Dance Studio (S)

Health/Fitness Center (S)
Helistop (S)
Hospital
House of Worship
Massage Therapy, Licensed as an Incidental Use
Meeting/Banquet/Reception Facility (S)
Mobile Food Vendor (S)
Municipal Uses Operated by the Town of Prosper
Museum/Art Gallery

Park or Playground
Print Shop, Minor
Private Club (C)
Private Utility, Other Than Listed (S)
Research and Development Center (S)
Restaurant without Drive-thru or Drive-in Service (C)
Retail Stores and Shops
Retail/Service Incidental Use
School, Private or Parochial (S)
School, Public

Temporary Buildings for Churches, Public Schools and Governmental Agencies (S)
Theater, Neighborhood
Theater, Regional
Townhome
Veterinarian Clinic and/or Kennel, Indoor (S)
Winery (enclosed operations)
Wireless Communications and Support Structures (Cell Tower) (S)

GENERAL REQUIREMENTS

GENERAL REQUIREMENTS

A. Development shall generally take place in accordance with the attached Concept Plan (Exhibit D).

Plats and/or site plans submitted for the development shall conform to the data presented and approved on the conceptual development plan. Changes of detail on these final development plan(s) that differ from the conceptual development plan may be authorized by the Town staff, with their approval of the final development plan(s) and without public hearing, if the proposed changes do not:

1. alter the basic relationship of the proposed development to adjacent property,
2. alter the uses permitted,
3. increase the density,
4. increase the building height,
5. increase the coverage of the site,
6. reduce the off-street parking ratio,
7. reduce the building lines provided at the boundary of the site, or
8. significantly alter any open space plans.

If the Town staff determines that the proposed change(s) violates one (1) or more of the above eight (8) criteria, then a public hearing must be held by the Planning and Zoning Commission and the Town Council to adequately amend the granting ordinance prior to the Planning & Zoning Commission's approval of the final development plan(s).

B. A minimum twenty (20) percent of the total area in this planned development shall be provided as open space.

Open spaces may include areas used for facilities such as plazas, courts, recreational amenities, water features and other similar uses not specifically used for vehicular access and parking.

Additionally, detention areas shall contain a constant water level and are landscaped or otherwise treated as an amenity for the development, they may be used to meet the open space requirement.

The open space may not consist of any of the following elements:

1. Vehicular parking.
2. Required parking lot tree islands.
3. Building footprints.
4. Utility yards.

The open space may consist of any of the following elements:

5. Landscape easements, setbacks, or any other landscaping as listed in Chapter 2, Section 4 of the zoning ordinance.
6. Public plazas.
7. Detention/ Retention ponds, when activated with pedestrian access.

C. Design Guidelines: Design Guidelines will be created, and approved by Staff, to govern the following details.

1. Street sections, including sidewalks
2. Public realm standards, including sidewalks, benches, signage, planters, outdoor seating areas, landscape, parking, and lighting.
3. Multifamily characteristics are generally set forth below, and may be applied to other uses as appropriate.

a. Special Provisions: typical floor height fourteen (14) feet for first floor ceiling height (retail) and twelve (12) feet for first floor ceiling height (residential), air condition corridors, Hospitality-style amenity centers, Resort-style pool, State-of-the-art fitness centers, hidden trash collection, and its own structured parking.

b. Architectural Provisions

Facade Composition

For multi-story buildings, the overall composition of the façade should incorporate a three-part hierarchy of base, body, and cap to emphasize verticality and to maintain a balanced façade composition. In addition, the cap of the building should be architecturally distinguished to provide a visual termination to the facade and interest at the skyline.

All buildings must be composed of:

Building Base: The “base” of the building clearly defines the realm of the public space and provides the necessary spatial enclosure. The base of the building is also the device that effectively engages the pedestrian, defining the character and quality of a street or public space. It also houses the uses with the most intensity. The height of the base varies depending on the overall building height. The “base” shall consist of the area of wall immediately along the ground floor level to the “body” of the building. The transition from “base” to “body” may be expressed either horizontally, through a shift in the vertical plane or, vertically through a change in building materials along a level line. The base shall be between 16’ minimum and, in buildings of at least four stories, may include up to the floor line of the third floor.

Building Body: The “body” of the building comprises the majority of the building, mainly defined by its structural composition. It houses the main use and engages all fronts. The “body” shall consist of the area of wall from the “base” to the “cap.” The transition from “body” to “cap” may be expressed either horizontally, through a shift in the vertical plane or vertically through a change in building materials along a level line.

Building Cap: The “cap” of the building could either encompass the last floor of a building and roof, or be the area above the eave or before the parapet line depending upon the height or number of stories of the building. The “cap” clearly terminates the

“body” of the building. The building top is determined by the height of the building and is not subject to elements of style. The “cap” shall consist of the area of wall from the top floor level to the parapet or the area of wall from the roof line to the top of the parapet wall. Optional Body Setback: The optional body setback is a change in the depth of the vertical plane of the primary facade along the full width of the building at the transition point between the “base” and the “body” of the building. This setback clearly divides the base from the rest of the building and provides the opportunity for an interim cornice line at the top of the base. The depth of the setback varies, but should be noticeable, in order to perceive the change between the two parts.

Building Composition

By subdividing the building mass into a series of well-scaled volumes, and then articulating those volumes with window systems, different materials, and special elements, a rich architectural form can be created. True to its classical roots, this approach to design provides a rational method of creating a wide variety of buildings with individual character, that still create a unified ensemble. The concept of “bay spacing” is critical in helping to maintain an appropriate human scale by breaking up the massing of large buildings as well as in creating a lively and interesting streetscape rhythm.

Traditional downtown streetscapes were often comprised of individual buildings divided into 25 ft. wide parcels facing the primary street. Many buildings were one-lot wide (25'), although later buildings spanned more than one lot. Wider building facades were typically divided into repeated sections, or “bays”, ranging from 15 ft. to 30 ft. in width on the ground floor. This pattern of bay spacing echoed, rather than over-whelmed, adjacent buildings that might only be one lot wide. Upper stories often were consistent across two, three or five bays, unifying the building as a whole. Buildings in the Mixed-Use area should reflect these traditional building facades, and should express a façade composition ranging from one bay width to no more than 5 bay widths in length.

Special Conditions

All elevations of buildings that can be seen from either the street or public spaces shall be considered “primary facades” and shall be designed as “fronts.” Buildings occupying lots with two frontages, such as on corner lots, shall treat both building walls as “primary facades” with each being equally considered as “fronts.” Additional detailing and attention can be applied to these two-fronted scenarios in order to better landmark the corner to enhance the architectural character as well as to improve pedestrian and vehicular way finding.

Scale & Massing

The overall scale and mass of the buildings that make up a neighborhood play a key role in attracting patrons, pedestrians, and activities to a particular area. Buildings provide the perimeter walls for streets and public spaces and should be designed in a manner that is consistent with the nature of the spaces that they define. Buildings should share

with their neighbors a sense of harmony that reveals focus on defining high quality, vibrant public spaces. In the mixed-use area, the focus of building design should concentrate on the creation of collective expression - on clearly defined public and outdoor spaces and streetscapes as a cohesive and legible whole - rather than on individual buildings with a strong individual expression.

New construction should give consideration to appropriate form and proportion as reflected in the tradition of vernacular, mixed-use buildings. Buildings should be rectangular, facing the street with the facade aligned with the front property line. Angled or non-rectilinear buildings, unless relating to the street alignment, are inappropriate. The bulky form of the overall mass should be articulated into a series of forms which provide a variety of scale and proportion. The “Base” of a building should maintain a consistent building plane along the building frontage except to provide recessed storefront entrances, a special corner feature, usable open space for out-door dining, or to form a mid-block pedestrian passageway.

Commercial construction on a primarily residential block should be designed to reflect a residential character. A front yard setback for commercial uses at some interface locations is desirable. Creating a height transition by locating taller building portions toward areas with larger scaled buildings and lower portions toward residential areas is preferable. Long, rectangular buildings should be articulated into two or three distinct facade elements, separated either by recesses, changes in materials, structural elements, or sub-divided into individual facades separated by panels. Special architectural treatment and detailing should be located at the corners of the building and at the mid-point of the main building mass.

Doors, Windows, & Openings

The different elements defined by the massing, are further articulated by different door, window and wall systems. These systems will vary by use, but may include the following: a curtainwall, generally used in the recessed elements; a storefront system for commercial applications; a primary wall with square punched openings; a secondary wall system with rectangular punched openings; and a system of columns and lintels placed in front of curtain walls or storefronts for special portions of the buildings. The combination of this articulated massing and the reinforcement of forms with different materials and window patterns result in a lively composition with the capacity to define dynamic urban space.

Doorways are celebrated and made monumental by a series of special elements added to the frame around the wall. All window and door openings shall be square or vertical in proportion, and any other divisions of openings shall happen as a system of squares or vertically proportioned rectangles. Grouped or “ganged” windows shall be treated as a single opening, unless they are separated by a minimum 4 inch divider. Windows and doors may meet at building corners, or shall be a minimum of twenty-four inches from the building corner. Shading devices over doors and windows are permitted to be cantilevered and made of any architectural grade material, but shall be fully functional

rather than simply decorative. All arcade openings (or “voids”) shall be vertical in proportion.

Transparency

Design distinction between upper and lower floors shall be maintained by developing the ground level facade as primarily transparent and inviting to the public. For commercial uses, the use of storefront windows, typically consisting of glass set in wood, clad wood, or metal frames creates a highly inviting and transparent street level facade. Retail ground floors shall have between 60% and 80% glazing, as measured from grade to the underside of the slab above. Colored or mirrored glazing and glass block are inappropriate.

Upper floors generally employ a different ratio of solid area versus opening area and are differentiated from the more transparent ground floor by having more solid area than void area and through the use of smaller, vertically oriented windows in a regular pattern. Ground levels use can also be differentiated through a change in transparency. Commercial uses, such as retail, shall be more transparent than smaller office or residential uses. This change in the pattern of doors, windows, and openings helps to clarify the various uses for the pedestrian by highlighting the nature of public, semi-public, and private tenants.

Rhythm

Building facades are comprised of a series of patterns, from the number and spacing of bays, the number and spacing of floor levels, the disposition of openings and architectural details, and the arrangement and palette of materials, which create an inherent rhythm. Symmetry, repeated bays with expressed structural elements, and the repetition of windows and doors create the essential rhythm of the facade. This rhythm can be further reinforced by changing materials, patterns, reveals, building setbacks, façade portions or by using design elements such as column or pilasters, which establish a legible vertical and horizontal arrangement of the various building elements comprising the facade.

Vertical Alignment

In vernacular buildings, the expression of the structural system follows traditional construction patterns. As a result, openings are generally stacked above other openings and solid areas in the facade are stacked above structural elements. This vertical alignment, determined primarily by structural requirements, reinforces the “bay” system and helps to clarify the overall building composition. Setbacks, reveals, and projections in the vertical plane of the building facade can also serve to enhance the legibility of this composition.

Horizontal Alignment

As well as following a clear vertical alignment, traditional facades were equally organized horizontally. As previously described, buildings should be divided into three

distinct components: the Base, the Body, and the Cap. The height of these various elements should be carefully designed so that there is a general consistency along the entire streetscape. Dramatic changes in building heights will not be allowed. Within each building composition, care should be made to align horizontal elements, including building cornices, sill heights, floor levels, decorative moldings and windows.

Walls

All elevations of buildings that can be seen from public spaces shall be designed as “fronts.” Street facades should include elements to maintain pedestrian scale and interest. Architectural details and facade articulation including recesses for outdoor dining areas, display cases, public art integrated with the building design, and additional architectural elements and details help create visual interest. Avoid large featureless facade surfaces by incorporating traditionally sized building components, standard window sizes, standard brick and siding sizes, trim and details. Blank walls and blind facades visible from public streets are prohibited.

Columns & Lintels

The columns and lintels derive from the vocabulary of traditional architecture, but can be abstracted and reinterpreted to incorporate contemporary building techniques. Although they may be purely ornamental, columns and lintels should be designed and detailed in character with the traditional construction patterns of the load bearing buildings of the vernacular architectural styles of central Texas.

Awnings & Canopies

Canopies and awnings shall not be used above the “base” and they shall coordinate with a horizontal element of the storefront. They shall project at least six feet, so as to provide shade and shelter to pedestrians. Canopies and awnings of commercial establishments shall be permitted to encroach over the setback. Canopies and awnings shall extend horizon-tally from the building and shall be supported by rods, cables or brackets. The bottom of the canopy and the awning shall be a minimum of eight feet above the sidewalk.

Canopies of commercial establishments shall be made of wood, metal or glass. Lettering may be applied to the edges of canopies.

Awnings of commercial establishments shall be made of canvas or synthetic material having the appearance of canvas. Awnings shall be triangular in section. Awnings may have side panels, but shall not have a panel enclosing the underside of the awning. Internal structure of awnings shall be galvanized pipe or extruded aluminum framework. Awnings shall not be translucent or internally illuminated. Awnings may have lettering on the valance only.

4. Hotel characteristics are generally set forth below.

Hotel, Full Service. Full Service Hotel developments shall be subject to the following development standards:

- a. External balconies and walkways shall be set back 200 feet from any residential zoning district.
- b. Shall provide management staff on-site 24 hours a day.
- c. Shall provide an indoor/outdoor pool and at least three amenities from the list below:
 -
 - Spa/Sauna
 - Weight Room/Fitness Center
 - Playground
 - Sports Court
 - Game Room
 - Jogging Trail
- d. Shall provide a full-service restaurant offering three meals a day and room service.
- e. Shall provide a minimum total of 20,000 square feet of meeting/event space.
- f. No more than five percent of the total number of guest rooms shall have cooking facilities.
- g. All room units must be accessed through an internal hallway, lobby, or courtyard.
- h. All rooms shall be a minimum of two hundred (200) square feet.
- i. Shall provide integrated, structured parking garage.

D. All utility lines shall be underground from the building to the property line. Utility lines within the Public & Emergency Access Easement shall be placed underground and relocated to the rear of the site to the maximum extent practicable.

E. Conditional Development Standards, shall be in accordance with the Zoning Ordinance, as it exists, or may be amended, except as follows:

1. Mobile Food Vendors - Mobile food vendors are permitted in this planned development, in accordance with the Conditional Development Standards of the Zoning Ordinance, as is exists or may be amended, except as follows:
 - a. Mobile food vendors are not required to be located on property where an existing, permanent business operates in a building with a Certificate of Occupancy.
 - b. Mobile food vendors are not required to be located within fifty feet (50') of an entrance of a primary building that holds the Certificate of Occupancy, however, they shall have access to a public restroom.

c. Mobile food vendors may be located on public property other than public street travel lanes. Order windows shall face outward towards public sidewalk. At no time shall any part of food truck operations use main lanes without a special use permit issued by the Town;

d. Mobile food vendors may be located on private property with the written consent of the owner;

e. Mobile food vendors shall not operate in driveways or fire lanes;

f. Mobile Food vendors cannot remain more than 24 hours and shall return to the approved commissary.

g. Prior to issuance of a permit, an application shall be submitted to the Development Services Department and containing any information required by staff to evaluate the impacts including but limited to location, parking and accessibility.

F. Parking Requirements Based on Use.

In all Sub- Districts, at the time any building or structure is erected or structurally altered, parking spaces shall be provided in accordance with the following requirements. A mixed-use discount of 20% shall be applied to the overall development, except for Townhomes, where shared parking is concerned.

Bank, Savings and Loan, or similar Establishments: One (1) space per three hundred fifty (350) square feet of gross floor area.

Bed and breakfast facility: One (1) space per guest room in addition to the requirements for normal residential use.

Business or professional office (general): One (1) space per three hundred fifty (350) square feet of gross floor area.

College or University: One (1) space per each day student.

Community Center, Library, Museum, or Art Gallery: Ten (10) parking spaces plus one additional space for each three hundred (300) square feet of floor area in excess of two thousand (2,000) square feet. If an auditorium is included as a part of the building, its floor area shall be deducted from the total and additional parking provided on the basis of one (1) space for each four (4) seats that it contains.

Commercial Amusement: One (1) space per three (3) guests at maximum designed capacity.

Dance Hall, Assembly or Exhibition Hall Without Fixed Seats: One (1) parking space for each two hundred (200) square feet of floor area thereof.

Dwellings, Multifamily: One (1) space for each bedroom in one (1) and two (2) bedroom units, plus one half (1/2) additional space for each additional bedroom.

Farmer's Market, Flea Market: One (1) space for each five hundred (500) square feet of site area.

Fraternity, Sorority, or Dormitory: One (1) parking space for each two (2) beds on campus, and one and one-half (1 1/2) spaces for each two beds in off campus projects.

Furniture or Appliance Store, Wholesale Establishments, Machinery or Equipment

Sales and Service, Clothing or Shoe Repair or Service: Two (2) parking spaces plus one (1) additional parking space for each four hundred (400) square feet of floor area over one thousand (1,000).

Health Studio or Club: One (1) parking space per two hundred (200) square feet of exercise area.

Hospital: One (1) space per employee on the largest shift, plus one and one-half (1.5) spaces per each bed or examination room, whichever is applicable.

Hotel: One (1) parking space for each sleeping room or suite plus one (1) space for each two hundred (200) square feet of commercial floor area contained therein.

Kindergartens, day schools, and similar child training and care establishments: shall provide one (1) paved off-street loading and unloading space for an automobile on a through -circular-drive for each ten (10) students, or one (1) space per ten (10) students, plus one (1) space per teacher.

Library or Museum: Ten (10) spaces plus one (1) space for every three hundred (300) square feet, over one thousand (1,000) square feet.

Lodge or Fraternal Organization: One (1) space per two hundred (200) square feet.

Medical or Dental Office: One (1) space per three hundred fifty (350) square feet of floor area.

Nursing Home: One (1) space per five (5) beds and one (1) parking space for each one thousand (1,000) square feet of lot area for outdoor uses.

Private Club: One (1) parking space for each seventy-five (75) square feet of gross floor area.

Retail Store or Personal Service Establishment, Except as Otherwise Specified Herein: One (1) space per two hundred and fifty (250) square feet of gross floor area.

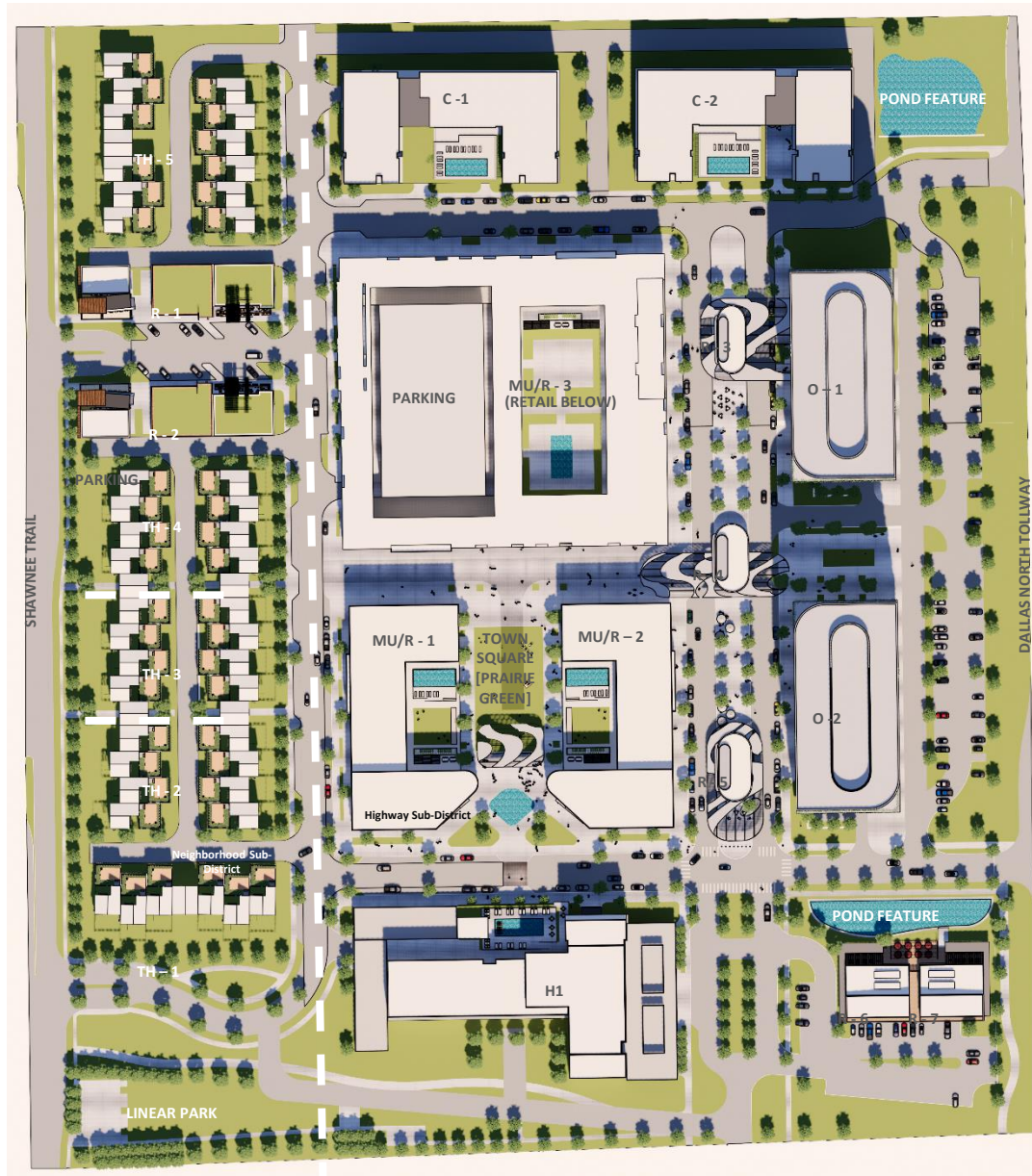
Restaurant, Restaurant with a Private Club, Cafe or Similar Dining Establishment: One (1) parking space for each one seventy-five (75) square feet of gross floor area for stand-alone buildings without a drive-through, and one (1) parking space for each one hundred (100) square feet of gross floor area for restaurants located within a multi-tenant buildings, and one (1) parking space for each one hundred (100) square feet for stand-alone buildings with a drive-through.

School, Elementary, Secondary, or Middle: One and one half (1 1/2) parking spaces per classroom, or the requirements for public assembly areas contained herein, whichever is greater.

School, High School: One and one half (1 1/2) parking spaces per classroom plus one (1) space per five (5) students the school is designed to accommodate, or the requirements for public assembly areas contained herein, whichever is greater.

Theater, Sports Arena, Stadium, Gymnasium or Auditorium (except school): One (1) parking space for each four (4) seats or bench seating spaces.

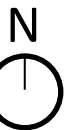
Townhomes: Minimum of two (2) parking spaces located behind the front building line and two (2) parking spaces enclosed in the main or an accessory building.



01 - PRELIMINARY SITE PLAN



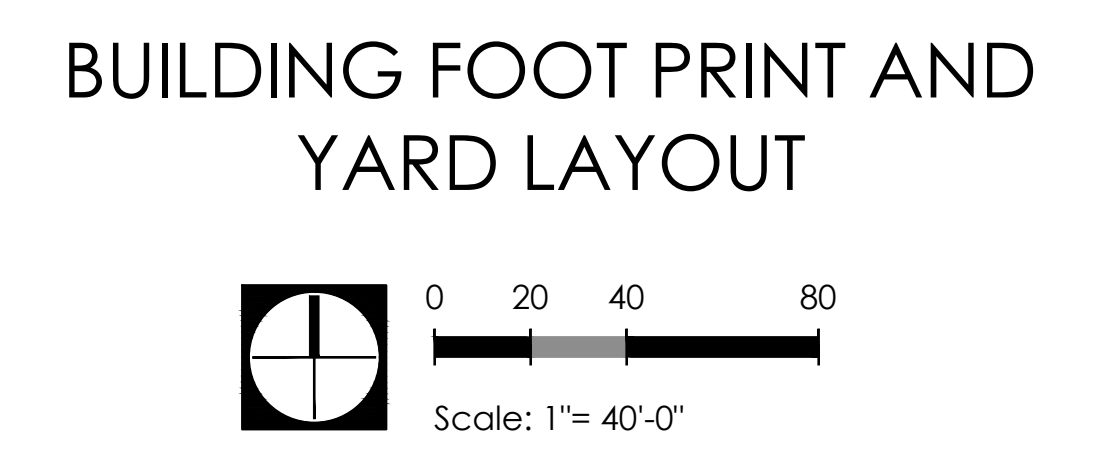
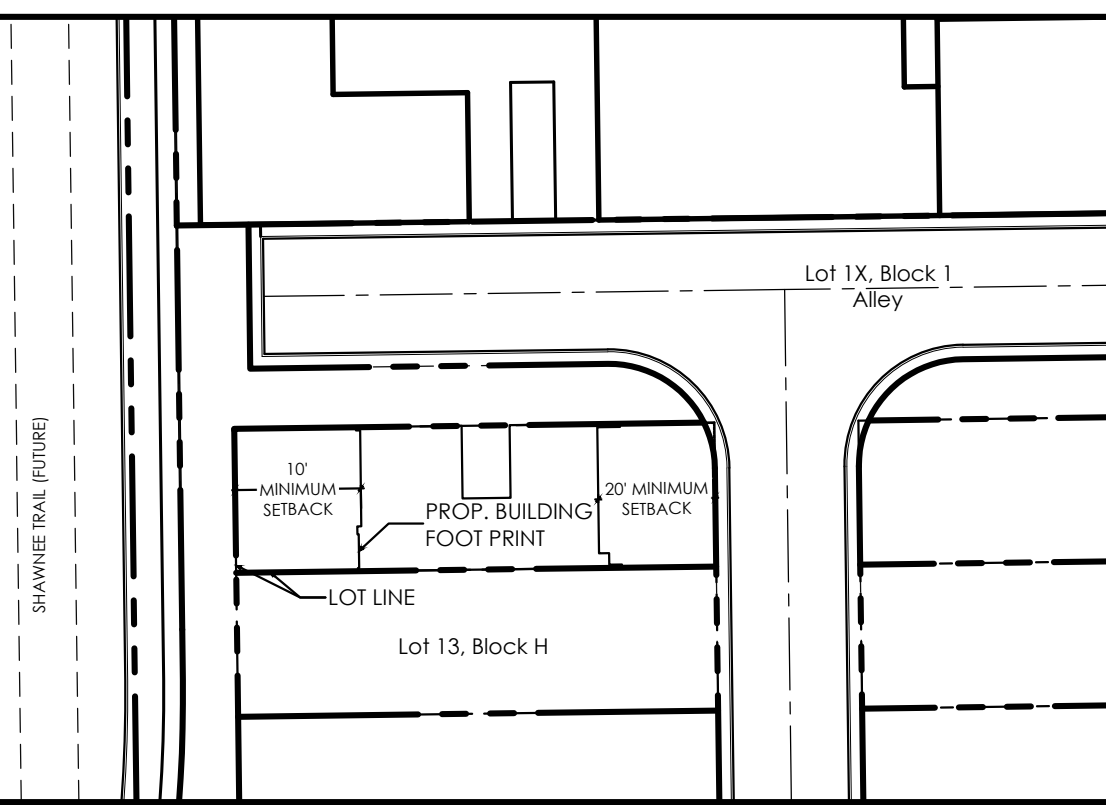
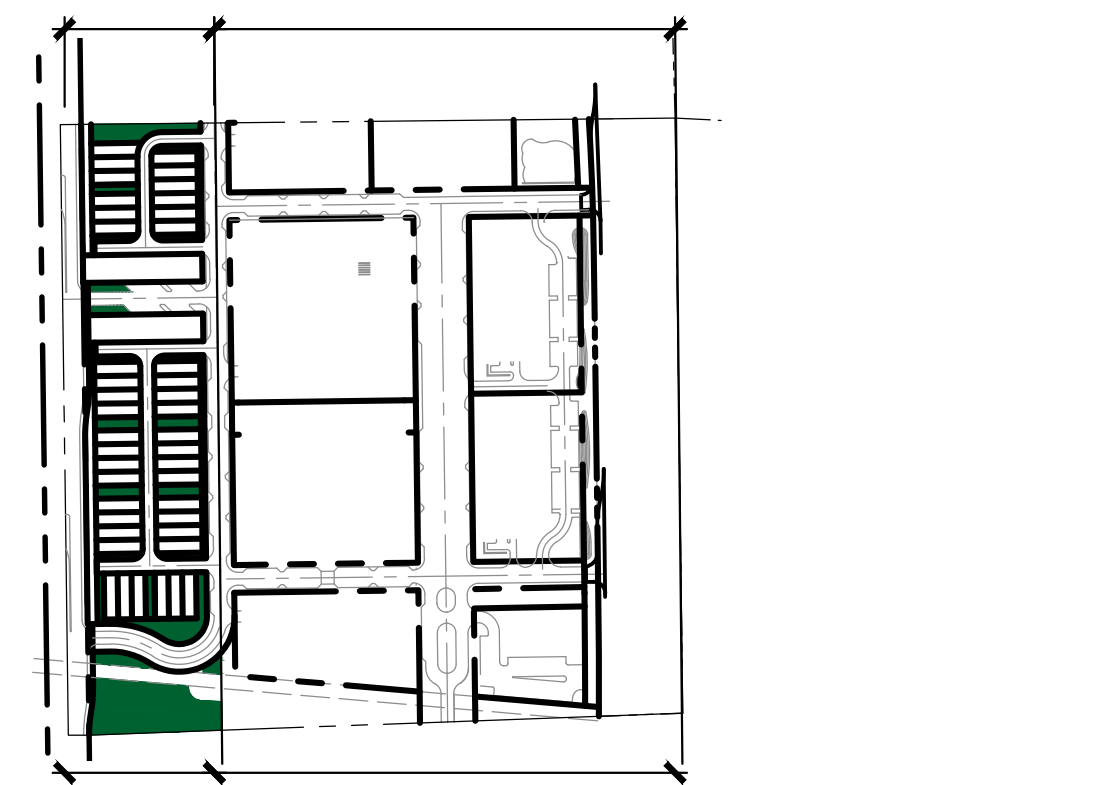
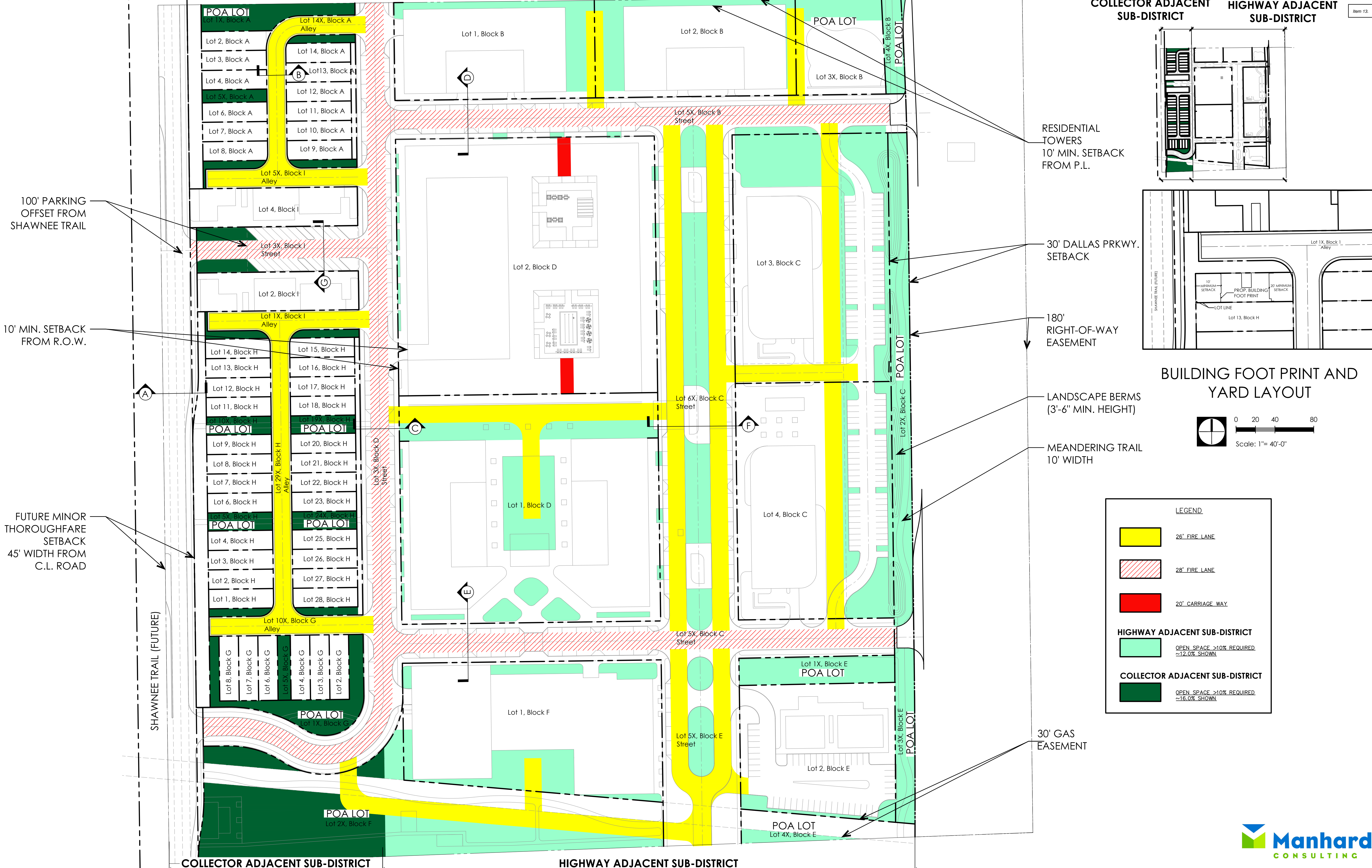
02 - PRELIMINARY GROUND PLANE



1" = 100'

EXHIBIT D

Town of Prosper Project No: Z22-0019



LEGEND

	26' FIRE LANE
	28' FIRE LANE
	20' CARRIAGE WAY
HIGHWAY ADJACENT SUB-DISTRICT	
	OPEN SPACE >10% REQUIRED ~12.0% SHOWN
COLLECTOR ADJACENT SUB-DISTRICT	
	OPEN SPACE >10% REQUIRED ~16.0% SHOWN

100' PARKING OFFSET FROM SHAWNEE TRAIL

10' MIN. SETBACK FROM R.O.W.

FUTURE MINOR THOROUGHFARE SETBACK 45' WIDTH FROM C.L. ROAD

RESIDENTIAL TOWERS 10' MIN. SETBACK FROM P.L.

30' DALLAS PRKWAY. SETBACK

180' RIGHT-OF-WAY EASEMENT

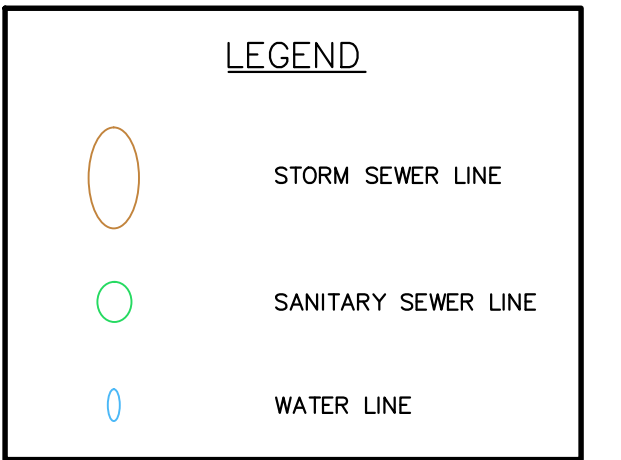
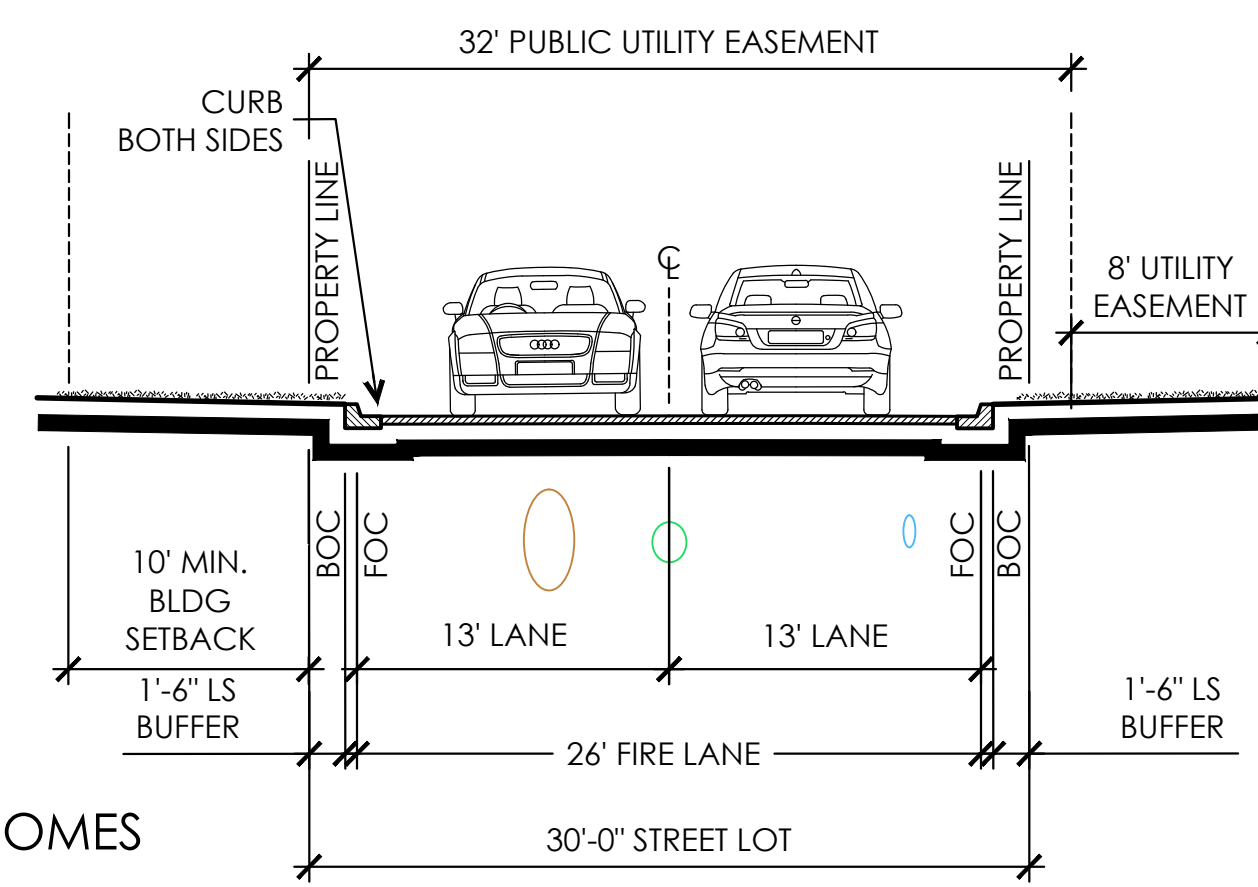
LANDSCAPE BERMS (3'-6" MIN. HEIGHT)

MEANDERING TRAIL 10' WIDTH

30' GAS EASEMENT

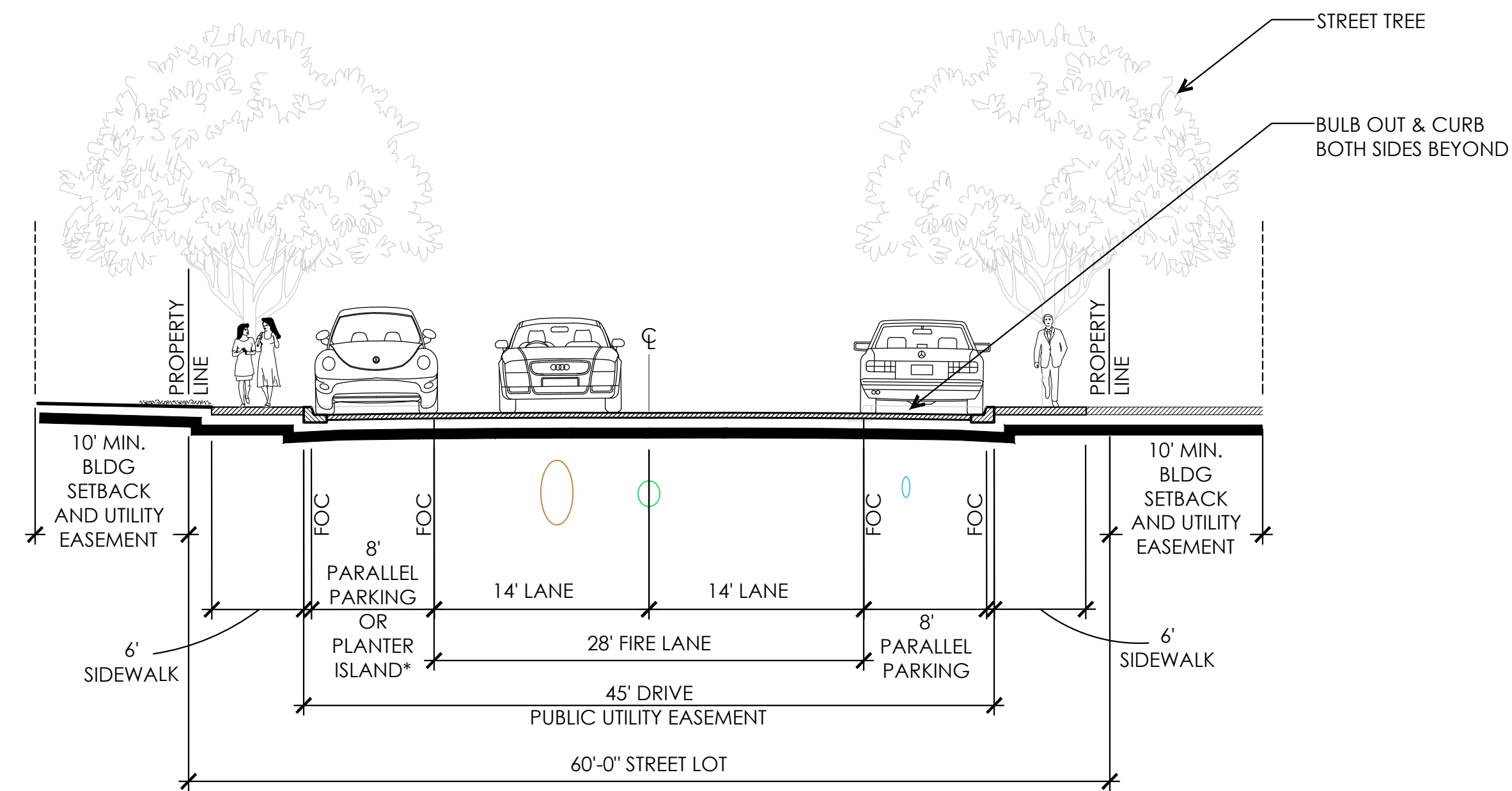
B

STREET LOT ALLEY SECTION AT TOWNHOMES



C

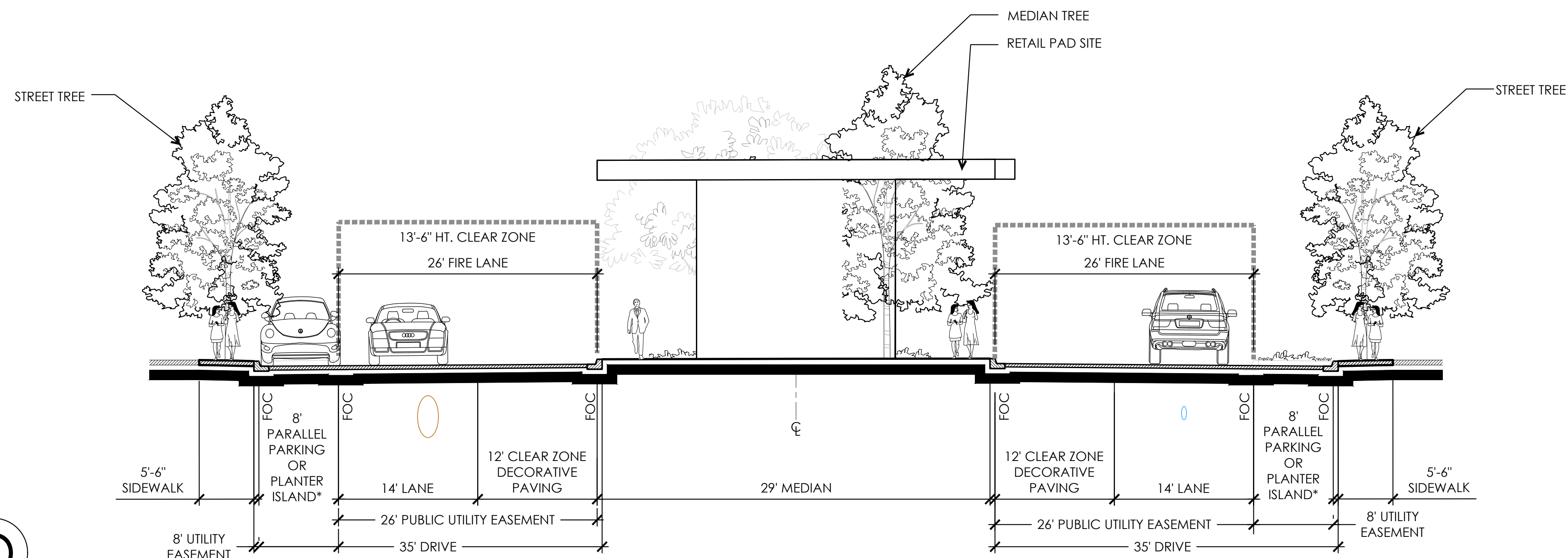
60' STREET LOT SECTION w/ PARALLEL PRKG BOTH SIDES



*NO TREES IN ISLAND; TREES WITHIN SIDEWALK SUBJECT TO TOWN OF PROSPER APPROVAL

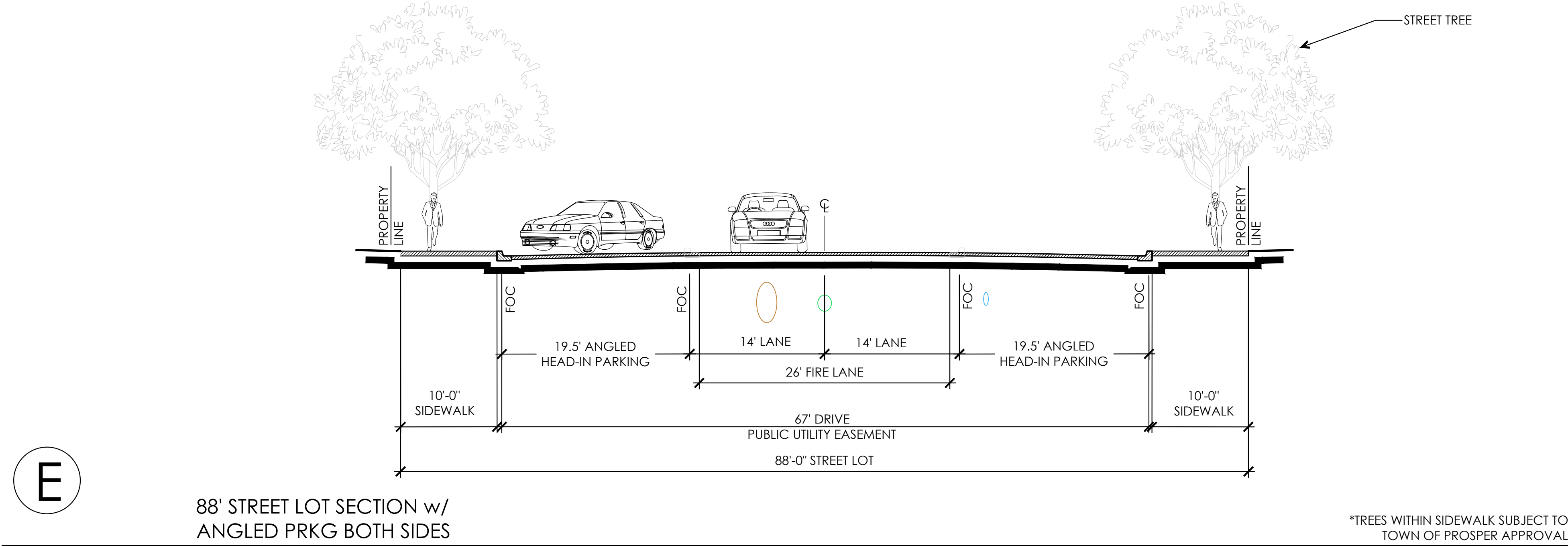
D

BOULEVARD SECTION 120' STREET LOT



*NO TREES IN ISLAND; TREES WITHIN SIDEWALK SUBJECT TO TOWN OF PROSPER APPROVAL





E



Exhibit E – Development Schedule

Below is the anticipated project schedule for the proposed Pradera development in accordance with the submittal checklist. This schedule is conceptual and subject to change based on permitting, entitlements, and market conditions.

Zoning Award- July 2023

Civil design (on and off site) – 2024

Civil construction – 2025-2026

Building design – 2024-2026

Building construction – 2026-2030



01 AERIAL – LOOKING SOUTHEAST



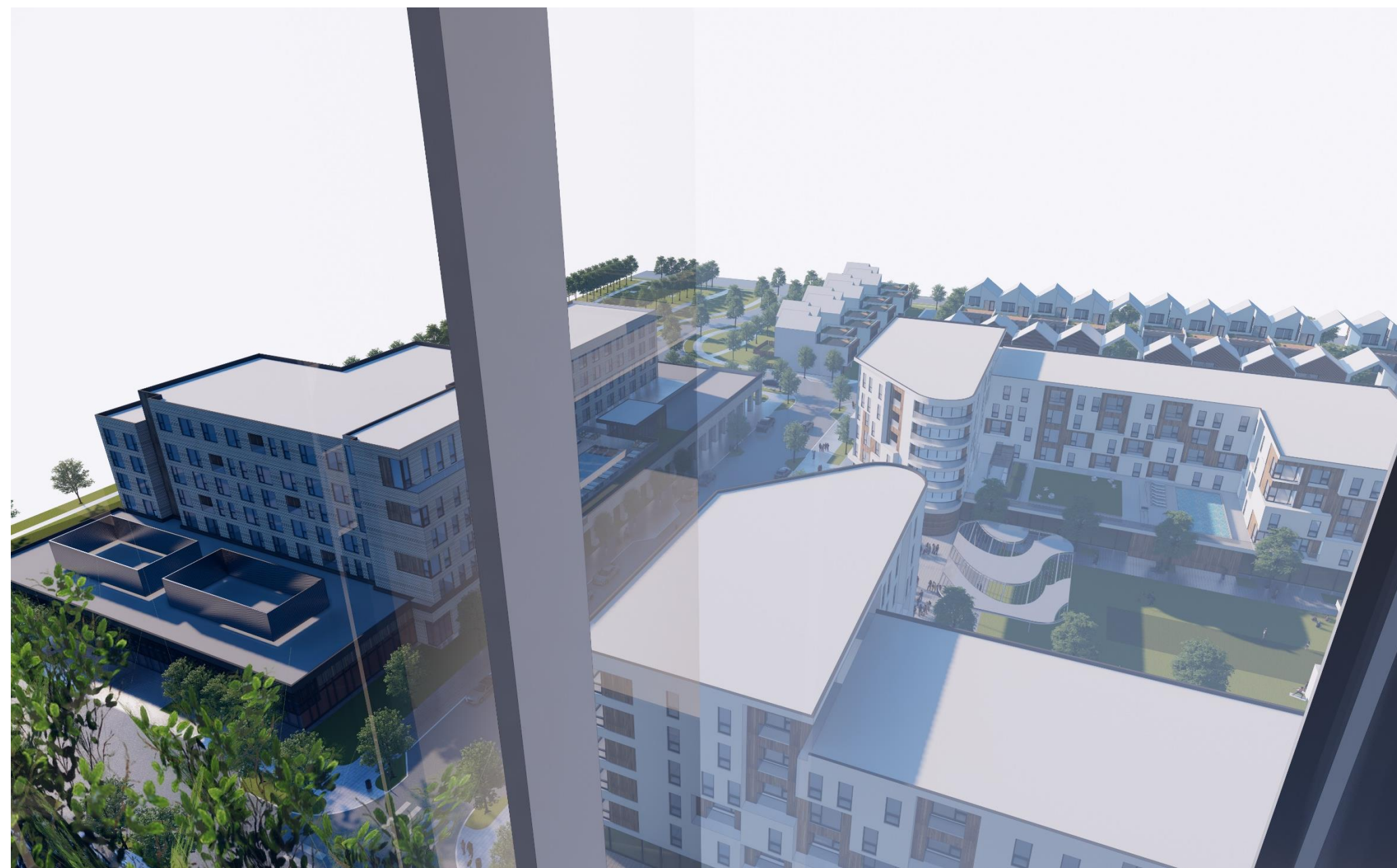
02 AERIAL – LOOKING NORTHWEST



03 PERSPECTIVE – TOWN SQUARE



04 PERSPECTIVE – OVERALL



05 PERSPECTIVE – VIEW FROM OFFICE



06 PERSPECTIVE – MAIN INTERSECTION

EXHIBIT F



01 – TOWNHOMES



02 – HOTEL



03 – RETAIL SPACE



04 – MIXED – USE RESIDENTIAL



05 – MIXED – USE RESIDENTIAL / TOWN SQUARE



06 – TOWN SQUARE LOOKING SOUTH

EXHIBIT F



01 – CONDOS



02 – NW RETAIL LOOKING SOUTH



03 – OFFICE



04 – NW RETAIL SPACE



05 – SE RESTAURANTS



06 – OFFICE TOLLWAY VIEW

EXHIBIT F



PUBLIC MEETING APPEARANCE CARD

Date: 2/5/23

Name: Mary A White

Address: 1810 Milton Dr.

City: Prosper ZIP: 75078 Phone: 832-326-6925

 Citizens' Comments: The public is invited to address the Town Council on any topic; however, the Council is unable to take action on any topic not listed on the agenda. When addressing the Town Council, please step up to the podium and state your name and address before beginning your presentation. Please limit your comments to three minutes.

Agenda Item #: 5

 I wish to speak IN FAVOR of this item.

I wish to speak IN OPPOSITION to this item.

I do not wish to speak. Please record my SUPPORT OPPOSITION

Comments: see attached comments. I am unable to attend the meeting and wish for my comments to be read and recorded.

Email form to: mkt27@prosperTX.gov

Fax to: 972-346-2009

I stand opposed to agenda item #5 for reasons mentioned by the P&Z staff in the packet provided.

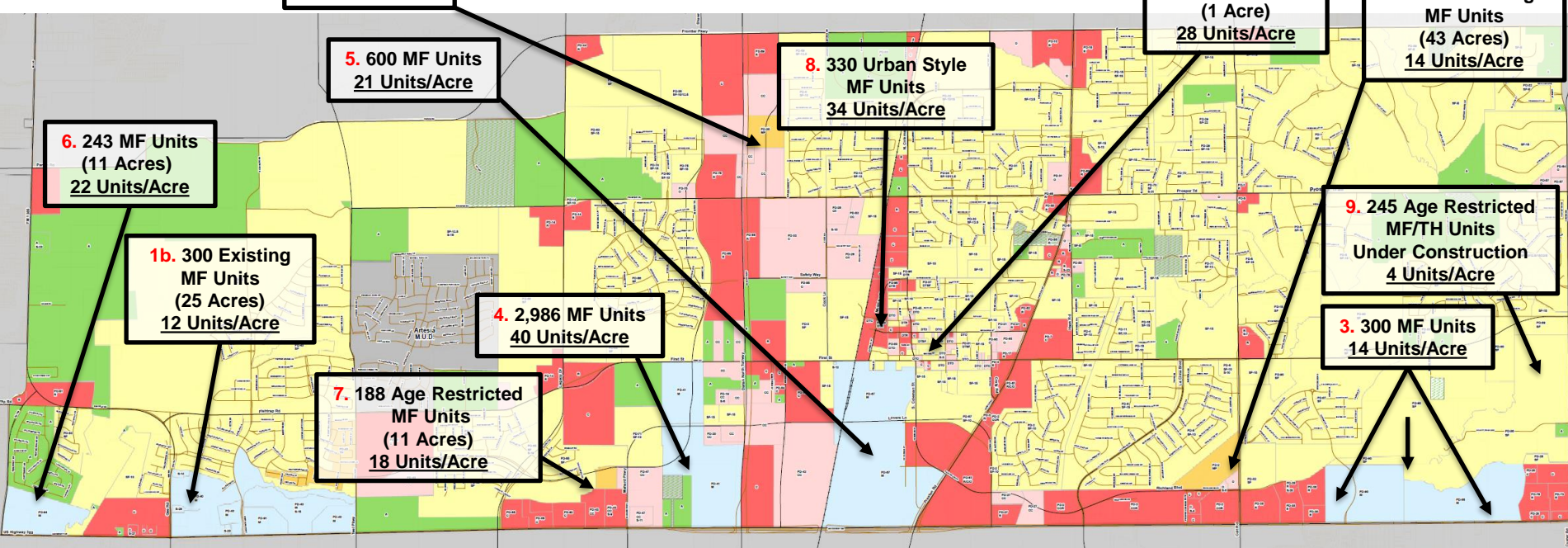
At some point, the town of Prosper will have to decide how many multi-family units is too many, and I feel the current 6,000+ is at a level that is unsustainable, especially at this time. How many more schools will Prosper be able to build and maintain, and at what cost? The proposed 36 units per acre is more than double the current requirement.

I feel there is a need for hotels in Prosper, but the proposed 12-story building is a 50% increase over what is currently allowed by ordinance.

As a community, Prosper must ask what cost/benefit there will be to the town when considering zoning changes like these. If we continue to deviate from the current development and design standards, without considering our vision of a small town feeling, we do so at our own peril.

Current Zoning for Multifamily in the Town of Prosper

Item 13.



1. 948 existing garden-style multifamily units on 63.8 acres and 312 Townhome units on 65 acres
 - 1a. 620 units in the Orion Prosper and Orion Prosper Lakes complexes on Coit Road
 - 1b. 300 units in Cortland Windsong Ranch, west of Windsong Pkwy, north US 380
 - 1c. 28 units in the Downtown area
2. PD-35 permits a maximum of 15 units per acre on 28 acres, this density would allow for 420 multi-family units on the east side of DNT, north of Prosper Trail.
3. Brookhollow - permits a maximum of 300 multi-family at 14 units per acre within PD-86.
4. Planned Development-41 (Prosper West) permits a maximum of 2,986 urban-style units on the west side of DNT, north of US 380. Refer to PD-41 for special conditions.
5. Planned Development-67 (Gates of Prosper) permits a maximum of 600 urban-style units within 115 acres on the west side of Preston Road, north of US 380. The multifamily density is 21 units per acre.
6. Planned Development-94 (WestSide) permits a maximum of 480 urban-style units within 23 acres on the east side of FM 1385, north of US 380. The construction of multifamily units is dependent on the development of non-residential uses in this PD – refer to PD-94.
7. Planned Development-98 (Alders at Prosper) permits a maximum of 188 age-restricted units within 11 acres west of Mahard Parkway, north of US 380 and allows for 18 units per acre.
8. Planned Development-106 (Downtown Loft Apartments) permits a maximum of 330 urban-style units within 9 acres east of BNSF Railroad, north of Fifth Street this allows for 34 units per acre.
9. Planned Development -107 (Ladera) – Age restricted detached single-family dwellings on a single lot. The development is classified as multi-family.

Project Number	Status	Number of Units
1. Orion, WSR, Downtown	Existing	948 Units
2. (PD-35)	Entitled	420 Units
3. (Brookhollow)	Under Construction	300 Units
4. (Prosper West)	Entitled	2,986 Units
5. (Gates of Prosper)	Under Construction	600 Units
6. (Westside)	Entitled	243 Units
7. (Alders at Prosper)	Under Construction (Senior Living)	188 Units
8. (Downtown Lofts Apt)	Under Construction	330 Units
9. (Ladera)	Under Construction (Senior Living)	245 Units

Item 13.

	Total Number of Units	Senior Living Under Construction	Existing MF	Entitled MF	Under Construction MF
Number of Units	6,260 Units	433 Units	948 Units	3,649 Units	1,230 Units

	Tollway District	Downtown	US 380 District	Other Districts
Number of Units	3,406 Units	358 Units	2,251 Units	245 Units

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COMMUNITY CHARACTER

Land Use Concepts

Mixed-Use

Mixed-use refers to a development style that combines a mix of land uses within one defined zoning district. For example, residential, retail, restaurants, office and public uses may be allowed in the same building, same lot, same tract, block or zoning district. Benefits of mixed-use development include:

- Flexibility of building spaces over time;
- Long term viability of commercial districts;
- Providing higher quality high density residences;
- Inclusion of public facilities;
- Reduction in the frequency of vehicular trips; and
- Minimizing land consumption.

Mixed-use developments are defined by their design—building orientation, roadway configuration and amenities such as shade trees, benches and lighting create a safe environment that is conducive for walking. Intentional integration of diverse land uses within one localized area creates a lifestyle option where a person can perform many of their daily needs and recreational desires within a short distance of home. Such environments are particularly attractive to young professionals, young couples and empty nesters.

Mixed-uses are typically either horizontal or vertical in nature. Horizontal mixed-uses involve retail, office and residential all located within one defined area, but within separate buildings. Vertical mixed-use developments would include any combination of retail, office and residential within the same building. A common example of vertical mixed-use is residential lofts and apartments above street-level retail and office space.



General Guidelines

- **Reduced Setbacks:** bring building facades closer to the street.
- **Central Gathering Space or Focal Point:** Create an identity through public space.
- **Pedestrian Orientation:** Facilitate the pedestrian experience through quality urban design. Ensure access and connectivity to adjacent neighborhoods.
- **Architecture:** moldings, spires, canopies, balconies and building locations all create a sense of identity and contribute to the experience.
- **Strategic Parking:** utilize shared parking, on-street parking, parking behind buildings and structured parking.
- **Connectivity:** mixed use areas should be tied in to adjacent residential development.

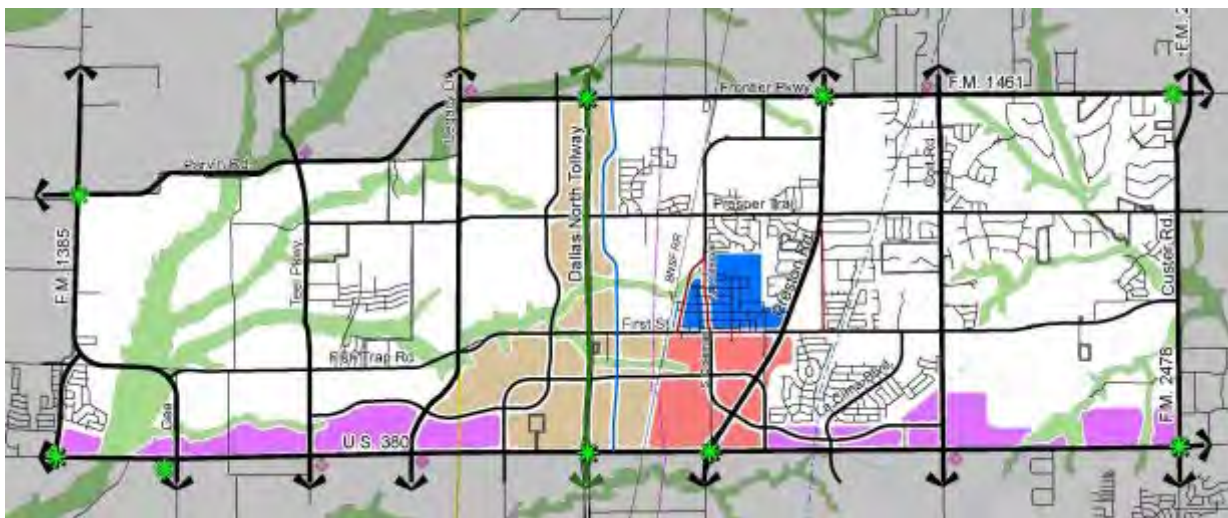
COMMUNITY CHARACTER

What does mixed-use development look like in Prosper? We asked the community in a public Visual Character Survey. The highest rated mixed-use pictures are shown below.



Past planning efforts, including the Town’s previous comprehensive plan, have indicated that the most opportunistic location for a Town Center, a large mixed-use district, would be the area roughly bounded by First Street to the north, Highway 380 to the south, BNSF Railroad to the west and Preston Road to the east. This area is currently identified as a planned development by the Town’s zoning ordinance.

Within Prosper, mixed-use areas may be appropriate along the Dallas North Tollway, Highway 380, Town Center and Old Town districts, as shown below.



COMMUNITY CHARACTER

Horizontal and Vertical Mixed-Use Development

Mixed-use developments that include a range of land uses incorporated within the same building, but typically at different levels, are referred to as vertical mixed-use developments. Common examples of vertical integration include apartments and lofts over ground level retail and office uses. Examples of vertical mixed-use developments are Shops at Legacy in Plano, Watters Creek in Allen and the West Village/State-Thomas areas of Dallas. Vertical mixed-use development was preferred by Prosper residents.

Horizontal mixed-use development is representative of a mixture of uses within close proximity to each other, but not necessarily within the same building. Horizontal mixed-use developments typically include residential uses along the periphery of the larger development area, separate from a more intense retail and office core. An example of horizontal mixed-use development is Southlake Town Center. The central area of the Town Center includes retail and office uses with residential townhomes located on the periphery of the development, primarily on the east side.

Two factors considered when determining whether vertical or horizontal integration should be utilized are land availability and land value. In more intense areas of development, land values are typically higher and land availability may be significantly less. In such locations, vertical integration, and higher densities (up to 5 stories), would be most appropriate. In Prosper, vertical integration of mixed uses will likely occur within the Dallas North Tollway and Town Center districts. Horizontal mixed-use integration typically occurs where land availability and value can accommodate an overall lower density. Here, 1-3 story retail and office may be surrounded by townhomes, patio homes, multi-unit homes and other less intense uses. In Prosper, horizontal mixed uses will likely occur within the Highway 380 and Town Center districts.

Vertical Mixed-Use

- **Characteristics**
 - Multiple uses within the same building
 - Live-above lofts and apartments
 - More urban in nature
 - 4-5 story height for buildings with residential uses located above the first floor
 - Structured Parking
- **Considerations**
 - Consume less land
 - Land value (density to maximize value)
 - Higher density (typically more urban)

Vertical Mixed-Use

Horizontal Mixed-Use

- **Characteristics**
 - Multiple uses within a planned areas, but not necessarily within the same building
 - 1-3 story heights/lower density nature
 - Areas of apartments, townhomes, brown stones, patio homes and multi-unit homes around the periphery, buffering low-density neighborhoods.
 - Structured parking or rear parking/rear entry garages
- **Considerations**
 - Consume more land
 - With buffering, may be located near residential areas along HWY 380

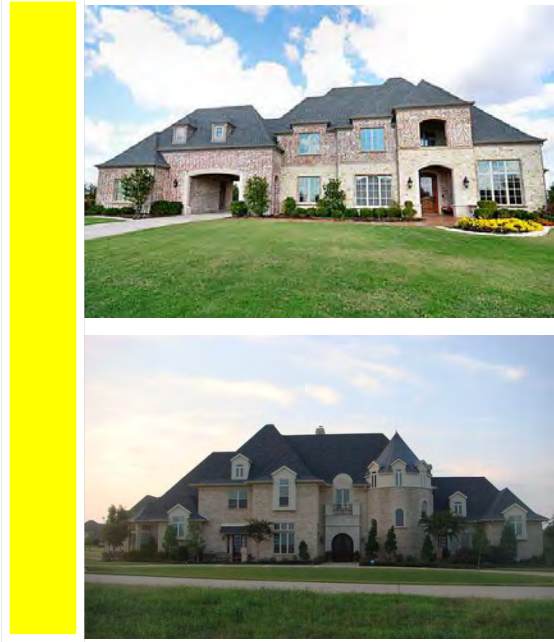
Horizontal Mixed-Use

COMMUNITY CHARACTER

Land Use Types

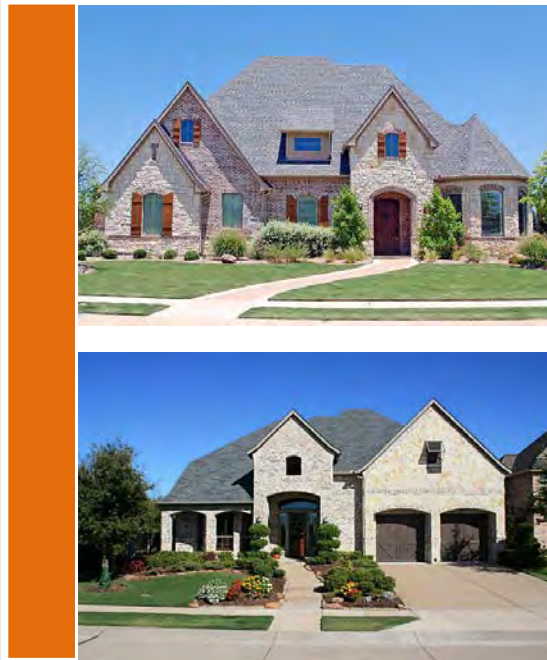
Residential Low Density

This land use is indicative of large-lot single-family homes. Typically speaking, lot sizes within any low density development will range between 15,000 square feet and 1+ acre in size. While a variety of lot sizes may be used, the total gross density of low density residential neighborhoods should not exceed 1.6 dwelling units per acre. Large-lot homes will provide a continuation of the rural atmosphere and feel that was intensely expressed by Prosper’s residents. Most low density residential areas will be located in Northwest and Northeast Prosper.



Residential Medium Density

Medium density residential is also representative of single family detached dwelling units. Lot sizes in medium density residential neighborhoods could range between 12,500 and 20,000 square feet in size. A variation in lot sizes may be permitted to achieve a goal range in density. While a variety of lot sizes may be used within medium density residential neighborhoods, the gross density of such developments will typically not be less than 1.6 dwelling units per acre or greater than 2.5 dwelling units per acre.



COMMUNITY CHARACTER

Residential High Density

High density residential represents the most intense residential land uses permitted in Prosper. High density single family uses will consist of developments greater than 2.5 dwelling units per acre and lot sizes smaller than 10,000 square feet. Within Prosper, the high-density residential district is reflective of the Artesia development, where single family residential lot sizes and dwelling units per acre will be substantially higher than the rest of the community. High density residential may be located within the Dallas North Tollway, Highway 380, Town Center and Old Town Districts. In such areas, high density residential may take the form of multifamily or single family attached dwelling units and may include mixed-use lofts/apartments, patio homes, snout houses, brownstones and townhomes.



Retail and Neighborhood Services

Neighborhood services typically include retail establishments that provide merchandise for retail sale, banks, neighborhood office and small medical offices. Retail uses are particularly important because they contribute to Prosper's tax base through both property and sales taxes, making their inclusion attractive and often times competitive. Within Prosper, neighborhood service uses will likely occur at major intersections along the Dallas North Tollway, Highway 380 and Preston Road corridors. Neighborhood service uses should also be strategically placed along the Town's perimeter in order to attract patrons from neighboring communities, enhancing sales tax revenue opportunities. The majority of neighborhood service activity within Prosper will likely be included within the Dallas North Tollway, Highway 380, Town Center and Old Town districts.



COMMUNITY CHARACTER

Dallas North Tollway District

The Dallas North Tollway district will consist of the most intense land uses within Prosper. A diverse mixture of office, retail and residential will likely develop along the corridor. Mid-rise office (up to 12 stories) may be permitted throughout the corridor. Office buildings should be designed for a “campus feel”—they should be oriented towards common public space with significant landscaping and should be linked by a pedestrian network. A common architectural theme should also be established for a consistent visual appearance. Mixed-use development should be encouraged and should contain a mixture of office, retail and residential uses. Mixed-use lofts/apartments would be the most appropriate residential use within this district. Structured parking should be encouraged in more intense areas to limit the presence and visibility of large parking lots. Structured parking should be oriented in a way that minimizes visibility from the Tollway.



Highway 380 District

Much like the Dallas North Tollway district, the Highway 380 district will contain a variety of different uses. The major contrast between Highway 380 and other districts will be the inclusion of a big box development and commercial service uses. Types of appropriate commercial include hotels, banks, vehicle refilling stations with a convenience store, home service centers with outside storage, garden center with outside storage and other similar uses which serve the community but are not necessarily desired on Preston Road or within the Dallas North Tollway corridor. Residential land uses may be appropriate within certain areas, particularly away from major intersections where retail and commercial will be the highest and best land use. Residential land uses may include patio homes, snout houses, townhomes and brownstones. These residential areas may serve as a buffer between more intense activity along Highway 380 and low density residential areas to the north.



COMMUNITY CHARACTER

Town Center District

The Town Center district is a continuation of the area defined by previous planning efforts as a future location for a large scale mixed-use development. The Town Center would include a mixture of land uses but development will be less intense than that located along Highway 380 and the Dallas North Tollway. Retail, small scale office, and residential uses would be included within this district, but the primary intent should be focused on dining and shopping. Public space should be a major component of this area, creating space for families and residents of Prosper to meet and socialize. Open space located within the Town Center could be used for community events, festivals and school events. Urban design should accommodate the pedestrian while providing automobile access and discreet parking. Residential uses may include mixed-use lofts/apartments, patio homes, townhomes and brownstones. Areas of single family residential may also be permitted, particularly on the northern side where the development abuts the Old Town district.



Old Town District

The Old Town district is the heart of Prosper. This historic area of the community is intended to include a variety of boutique type land uses, ranging from unique and local retail establishments, restaurants and offices. Many of the historic homes within the Old Town district, particularly areas along First Street and Broadway, may gradually convert to boutique office and retail establishments. The most opportunistic possibility for a transit stop, if desired by future residents, would be within the Old Town district, which could facilitate redevelopment of the downtown area. If this occurs, high density residential options, such as live-above lofts/apartments, may be considered. The historic past of the community should be preserved. The community's beginnings as a farm community in rural Collin County are part of what defines Prosper, and these attributes should be preserved as new infill development occurs.



COMMUNITY CHARACTER

Business Park

A Business Park district, located to the west of the BNSF Railroad between Prosper Trail and First Street, will include a variety of potential land uses including light industrial, commercial warehousing, office storage and commercial uses with outside storage. While outside storage will likely occur and be necessary within this district, significant effort should be placed on the visual integrity of the district, particularly when located in higher visibility areas. When such uses abut roadways, larger landscape setbacks, such as 40 feet setbacks, that include berms and evergreen shrubs/trees should be used to protect the visual integrity of roadways and the public view. All outside storage should also be screened from public view and from adjacent properties. The location of the BNSF railroad and close proximity to the Dallas North Tollway provide the Business Park with significant accessibility. Uses located along First Street, Prosper Trail and other perimeter areas should incorporate a higher degree of landscaping and architectural design in order to protect the visual integrity of Prosper's roadways.



Dallas North Tollway Design Guidelines.		New Planned Development
Dallas North Tollway Design Guidelines		
Subdistrict Location		
	Frontier Parkway Gateway, Neighborhood Services and Retail, U.S 380 Gateway	Frontier Parkway Gateway
Business Establishments		
Permitted Business Establishments		
	All the uses being proposed conform to the DNTDG recommendations. 51 total uses	The Planned Development allows all of the permitted business establishments with the exception of Hotel Limited Service, Hotel Extended Stay, Restaurant with Drive Through, and Vet Clinic.
Business Establishments Pursuant to the Town's Vision		
	Does the rezoning include the business establishments as envision by Town Council? 7 total uses <ul style="list-style-type: none"> • Museum/Art gallery • Theatre • Commercial amusement-Indoor • Civic/Convention Center • Hotel-Full Service • Restaurants -Dine In with or without outdoor patio • Developments are also strongly encouraged to include public open space, public gathering places and public art, where feasible. 	The Planned Development allows majority of the uses.
Discouraged Business Establishments		
	Does the rezoning include the discourage business establishments that are not consistent with the Town Vision? 71 total uses	The Planned Development prohibits all discourage business establishments
Grocery Stores with Gas Pumps		Not Applicable
	There shall be a minimum of a 15 ft landscape buffer to screen the pumps from the street edge	Not Applicable
	The site design for projects located at street corners should provide special landscape treatment at street intersection to emphasize the corner.	Not Applicable
	The use of mature trees is encouraged to provide an immediate impact especially when used in buffering adjacent uses.	Not Applicable
	All display items for sale should occur within the main building or within designated areas that are screened from public streets.	Not Applicable
	The design of pump islands and canopy should be architecturally integrated with other structures on-site using similar colors, materials and architectural detailing. All signage should be architecturally integrated with their surroundings in terms of size, shape and lighting so that they do not visually compete with architecture of the building and design of the sight.	Not Applicable
Restaurant, Drive-Thru Service		Not Applicable
	Where site conditions permit, drive-thru queuing lanes shall be designed so that the queuing wraps behind the building instead of in front of the building. If the queue lane wraps in the front of the building, the site shall provide for an ample amount of landscaping that will provide a buffer from the public rights-of-way. There shall be a maximum of two drive-thru restaurants permitted for every 5 acres on a Planned Development development plan. If a development plan is under 5 acres, one drive-thru shall be permitted.	Not Applicable
Multi-family Developments		
	The Town Council may permit a multi-family housing as part of a holistic development that includes These businesses can be, but are not limited, retail, office, recreational, family-friendly entertainment and/or restaurant establishments. If multi-family housing is part of a development proposal that includes businesses and/or amenities described in Section F. "Business Establishments Pursuant to the Town's Vision" increased density may be permitted. It is highly recommended that multi-family units be designed with structure parking as opposed to surface parking.	The Planned Development is creating an enviroment with a combination of businesses designed to create a live, work and play environment.
Tollway Subdistrict Requirements		
US. 380 Gateway		Not Applicable
	On the Dallas North Tollway and U.S. 380, the minimum front yard is fifty (50) feet and shall include a thirty (30) foot landscape buffer.	Not Applicable
	No parking or drive aisles may occur in the landscape buffer.	Not Applicable
	A maximum of two rows of parking in the front of the building.	Not Applicable
	Minimum building height shall be two (2) stories or forty (40) feet. If the building contains a use(s) as described in Section E, Permitted Uses, the building height can be a one (1) story building with a minimum of twenty (20) feet in height.	Not Applicable
Recommendations		Not Applicable
	Does the recommendations conform the DNTDG for Gateway?	Not Applicable
	The gateways should be clearly identifiable to vehicular and pedestrian travelers.	Not Applicable
	Include Public Art in Gateway Areas to promote vitality and provide a unique sense of identity	Not Applicable
Frontier Parkway Gateway		
	On the Dallas North Tollway and Frontier Parkway, the minimum front yard is fifty (50) feet and shall include a thirty (30) foot landscape buffer.	The Planned Development conformswith DNTDG
	No parking or drive aisles may occur in the landscape buffer.	The Planned Development conformswith DNTDG

	A maximum of two rows of parking in the front of the building.	The Planned Development conforms with DNTDG
	Minimum building height shall be two (2) stories or forty (40) feet. If the building contains a use(s) as described in Section E, Permitted Uses, the building height can be a one (1) story building with a minimum of twenty (20) ft in height.	The Planned Development requires a minimum of four stories for office, multifamily, and hotel uses. The Planned Development allows retail use to be one story, however the height is allowed due to it being a use described in Section E, Permitted Use.
Neighborhood Services and Retail		Not Applicable
	On the Dallas North Tollway, the minimum front yard setback shall be thirty (30) feet. Landscape buffer requirements shall be in accordance with Section M-Landscaping of these guidelines.	Not Applicable
	No parking or drive aisles may occur in the landscape buffer.	Not Applicable
	A maximum of one row of parking in the front of the building	Not Applicable
	Minimum building height shall be one (1) story.	Not Applicable
	On the east side of the sub-district (east side of the Tollway), the maximum building height shall be two (2) stories from the southerly boundary of Planned Development 69 in the north down to Prosper Trail in the south. From Prosper Trail to W. First Street, the maximum building height shall be three (3) stories with a maximum of eight (8) stories permitted within the first five-hundred (500) feet of the Tollway for Business Establishments as identified in Section F, "Business Establishments Pursuant to the Town's Vision."	Not Applicable
	On the west side of the sub-district (west side of the Tollway from Prosper Trail to W. First Street), the maximum building height shall be two (2) stories with a maximum of eight (8) stories permitted within the first five-hundred (500) feet of the Tollway for Business Establishments as identified in Section F, "Business Establishments Pursuant to the Town's Vision."	Not Applicable
Site Design and Building Placement		
	Does the zoning conform to the DNTDG site design and building placement for Gateway?	Planned Development conforms to Site Design and Building Placement.
Parking Design Standards		
	Does the zoning conform to the the parking design standards within the DNTDG for the Gateway?	Planned Development conforms to Parking Design Standards.
Residential Neighborhoods		
	Does the zoning consider compatibility standards from the DNTDG?	The Planned Development is providing a less intense Sub-district to act as a buffer adjacent to Shawnee Trail. The Planned Development does conform with majority of the Residential Neighborhood standards, except the Planned Development has requested the maximum height of 45' feet compared to the suggested 40' feet. The Planned Development does provide additional setback to mitigate the height difference.
Building Design		
	Does the zoning encourage building design from the DNTDG?	Planned Development conforms to majority of the building design standards with the exception that the Planned Development shall have windows of a minimum of 30% of the facade compared to the suggested 60%.
Service Equipment Areas		
	Does the zoning incorporate standards regarding service equipment areas from the DNTDG?	Planned Development conforms to the Service Equipment Areas.
Pedestrian Connectivity and Amenities		
	Does the zoning incorporate standards regarding pedestrian connectivity and amenities from the DNTDG?	Planned Development conforms to the Pedestrian Connectivity and Amenities
Public Parks and Open Spaces		
	Does the zoning incorporate standards regarding public parks and open space from the DNTDG?	Planned Development conforms to Public Parks and Open Spaces
Signage		
	Does the zoning conform to the signage requirements?	Signage will be a separate process and will incorporate sign requirements.
Landscaping Standards		
Properties along Dallas North Tollway, F.M. 1461, and US Hwy 380.		

	A landscaped area consisting of living trees, turf, or other living ground cover and being at least thirty (30) feet in width measured from the property line interior to the property shall be provided adjacent to and outside of the right-of-way on all properties	Planned Development conforms
	One (1) large tree, four (4) inch caliper minimum (at the time of planting) per twenty-five (25) feet of linear roadway frontage shall be planted within the required landscaped area.	Planned Development conforms
	The trees may be planted in groups with appropriate spacing for species.	Planned Development conforms
	Shrub plantings shall be provided at a minimum rate of 22 shrub plantings per thirty (30) linear feet which shall be a minimum of five (5) gallon shrubs (at the time of planting).	Planned Development conforms
	Parking abutting the landscaped area will be screened from the adjacent roadway. The required screening may be with shrubs or earthen berms.	Planned Development conforms
Properties adjacent to a minor thoroughfare as defined by the Town of Prosper Thoroughfare and Circulation Design Standard		
	A landscaped area consisting of living trees, turf, or other living ground cover and being at least twenty-five (25) feet in width measured from the property line interior to the property shall be provided adjacent to and outside of the right-of-way on all properties	Planned Development conforms along Shawnee
	One (1) large tree, four (4) inch caliper minimum (at the time of planting) per thirty (30) feet of linear roadway frontage shall be planted within the required landscaped area.	Planned Development conforms
	The trees may be planted in groups with appropriate spacing for species.	Planned Development conforms
	Shrub plantings shall be provided at a minimum rate of 20 ten (10) gallon shrubs per thirty (30) linear feet.	Planned Development conforms
	Parking abutting the landscaped area will be screened from the adjacent roadway. The required screening may be with shrubs or earthen berms.	Planned Development conforms
Additional Requirements:		
	For big box retail and grocery stores, one (1) additional tree planted for each one-hundred (100) linear feet of lot frontage. The trees shall be a minimum of 4" caliper and may be placed in planters.	Not Applicable

Dallas North Tollway Design Guidelines.		New Planned Development
Dallas North Tollway Design Guidelines		
Subdistrict Location	Frontier Parkway Gateway, Neighborhood Services and Retail, U.S 380 Gateway	Frontier Parkway Gateway
Business Establishments		
Permitted Business Establishments	All the uses being proposed conform to the DNTDG recommendations. 51 total uses	The Planned Development allows all of the permitted business establishments with the exception of Hotel Limited Service, Hotel Extended Stay, Restaurant with Drive Through, and Vet Clinic.
Business Establishments Pursuant to the Town's Vision	Does the rezoning include the business establishments as envision by Town Council? 7 total uses <ul style="list-style-type: none"> • Museum/Art gallery • Theatre • Commercial amusement-Indoor • Civic/Convention Center • Hotel-Full Service • Restaurants -Dine In with or without outdoor patio • Developments are also strongly encouraged to include public open space, public gathering places and public art, where feasible. 	The Planned Development allows majority of the uses.
Discouraged Business Establishments	Does the rezoning include the discourage business establishments that are not consistent with the Town Vision? 71 total uses	The Planned Development prohibits all discourage business establishments
Grocery Stores with Gas Pumps		Not Applicable
	There shall be a minimum of a 15 ft landscape buffer to screen the pumps from the street edge	Not Applicable
	The site design for projects located at street corners should provide special landscape treatment at street intersection to emphasize the corner.	Not Applicable
	The use of mature trees is encouraged to provide an immediate impact especially when used in buffering adjacent uses.	Not Applicable
	All display items for sale should occur within the main building or within designated areas that are screened from public streets.	Not Applicable
	The design of pump islands and canopy should be architecturally integrated with other structures on-site using similar colors, materials and architectural detailing. All signage should be architecturally integrated with their surroundings in terms of size, shape and lighting so that they do not visually compete with architecture of the building and design of the sight.	Not Applicable
Restaurant, Drive-Thru Service		Not Applicable
	Where site conditions permit, drive-thru queuing lanes shall be designed so that the queuing wraps behind the building instead of in front of the building. If the queue lane wraps in the front of the building, the site shall provide for an ample amount of landscaping that will provide a buffer from the public rights-of-way. There shall be a maximum of two drive-thru restaurants permitted for every 5 acres on a Planned Development development plan. If a development plan is under 5 acres, one drive-thru shall be permitted.	Not Applicable
Multi-family Developments		
	The Town Council may permit a multi-family housing as part of a holistic development that includes These businesses can be, but are not limited, retail, office, recreational, family-friendly entertainment and/or restaurant establishments. If multi-family housing is part of a development proposal that includes businesses and/or amenities described in Section F. "Business Establishments Pursuant to the Town's Vision" increased density may be permitted. It is highly recommended that multi-family units be designed with structure parking as opposed to surface parking.	The Planned Development is creating an enviroment with a combination of businesses designed to create a live, work and play environment.
Tollway Subdistrict Requirements		
US. 380 Gateway		Not Applicable
	On the Dallas North Tollway and U.S. 380, the minimum front yard is fifty (50) feet and shall include a thirty (30) foot landscape buffer.	Not Applicable
	No parking or drive aisles may occur in the landscape buffer.	Not Applicable
	A maximum of two rows of parking in the front of the building.	Not Applicable
	Minimum building height shall be two (2) stories or forty (40) feet. If the building contains a use(s) as described in Section E, Permitted Uses, the building height can be a one (1) story building with a minimum of twenty (20) feet in height.	Not Applicable
Recommendations		Not Applicable
	Does the recommendations conform the DNTDG for Gateway?	Not Applicable
	The gateways should be clearly identifiable to vehicular and pedestrian travelers.	Not Applicable
	Include Public Art in Gateway Areas to promote vitality and provide a unique sense of identity	Not Applicable
Frontier Parkway Gateway		
	On the Dallas North Tollway and Frontier Parkway, the minimum front yard is fifty (50) feet and shall include a thirty (30) foot landscape buffer.	The Planned Development conformswith DNTDG
	No parking or drive aisles may occur in the landscape buffer.	The Planned Development conformswith DNTDG

	A maximum of two rows of parking in the front of the building.	The Planned Development conforms with DNTDG
	Minimum building height shall be two (2) stories or forty (40) feet. If the building contains a use(s) as described in Section E, Permitted Uses, the building height can be a one (1) story building with a minimum of twenty (20) ft in height.	The Planned Development requires a minimum of four stories for office, multifamily, and hotel uses. The Planned Development allows retail use to be one story, however the height is allowed due to it being a use described in Section E, Permitted Use.
Neighborhood Services and Retail		Not Applicable
	On the Dallas North Tollway, the minimum front yard setback shall be thirty (30) feet. Landscape buffer requirements shall be in accordance with Section M-Landscaping of these guidelines.	Not Applicable
	No parking or drive aisles may occur in the landscape buffer.	Not Applicable
	A maximum of one row of parking in the front of the building	Not Applicable
	Minimum building height shall be one (1) story.	Not Applicable
	On the east side of the sub-district (east side of the Tollway), the maximum building height shall be two (2) stories from the southerly boundary of Planned Development 69 in the north down to Prosper Trail in the south. From Prosper Trail to W. First Street, the maximum building height shall be three (3) stories with a maximum of eight (8) stories permitted within the first five-hundred (500) feet of the Tollway for Business Establishments as identified in Section F, "Business Establishments Pursuant to the Town's Vision."	Not Applicable
	On the west side of the sub-district (west side of the Tollway from Prosper Trail to W. First Street), the maximum building height shall be two (2) stories with a maximum of eight (8) stories permitted within the first five-hundred (500) feet of the Tollway for Business Establishments as identified in Section F, "Business Establishments Pursuant to the Town's Vision."	Not Applicable
Site Design and Building Placement		
	Does the zoning conform to the DNTDG site design and building placement for Gateway?	Planned Development conforms to Site Design and Building Placement.
Parking Design Standards		
	Does the zoning conform to the the parking design standards within the DNTDG for the Gateway?	Planned Development conforms to Parking Design Standards.
Residential Neighborhoods		
	Does the zoning consider compatibility standards from the DNTDG?	The Planned Development is providing a less intense Sub-district to act as a buffer adjacent to Shawnee Trail. The Planned Development does conform with majority of the Residential Neighborhood standards, except the Planned Development has requested the maximum height of 45' feet compared to the suggested 40' feet. The Planned Development does provide additional setback to mitigate the height difference.
Building Design		
	Does the zoning encourage building design from the DNTDG?	Planned Development conforms to majority of the building design standards with the exception that the Planned Development shall have windows of a minimum of 30% of the facade compared to the suggested 60%.
Service Equipment Areas		
	Does the zoning incorporate standards regarding service equipment areas from the DNTDG?	Planned Development conforms to the Service Equipment Areas.
Pedestrian Connectivity and Amenities		
	Does the zoning incorporate standards regarding pedestrian connectivity and amenities from the DNTDG?	Planned Development conforms to the Pedestrian Connectivity and Amenities
Public Parks and Open Spaces		
	Does the zoning incorporate standards regarding public parks and open space from the DNTDG?	Planned Development conforms to Public Parks and Open Spaces
Signage		
	Does the zoning conform to the signage requirements?	Signage will be a separate process and will incorporate sign requirements.
Landscaping Standards		
Properties along Dallas North Tollway, F.M. 1461, and US Hwy 380.		

	A landscaped area consisting of living trees, turf, or other living ground cover and being at least thirty (30) feet in width measured from the property line interior to the property shall be provided adjacent to and outside of the right-of-way on all properties	Planned Development conforms
	One (1) large tree, four (4) inch caliper minimum (at the time of planting) per twenty-five (25) feet of linear roadway frontage shall be planted within the required landscaped area.	Planned Development conforms
	The trees may be planted in groups with appropriate spacing for species.	Planned Development conforms
	Shrub plantings shall be provided at a minimum rate of 22 shrub plantings per thirty (30) linear feet which shall be a minimum of five (5) gallon shrubs (at the time of planting).	Planned Development conforms
	Parking abutting the landscaped area will be screened from the adjacent roadway. The required screening may be with shrubs or earthen berms.	Planned Development conforms
Properties adjacent to a minor thoroughfare as defined by the Town of Prosper Thoroughfare and Circulation Design Standard		
	A landscaped area consisting of living trees, turf, or other living ground cover and being at least twenty-five (25) feet in width measured from the property line interior to the property shall be provided adjacent to and outside of the right-of-way on all properties	Planned Development conforms along Shawnee
	One (1) large tree, four (4) inch caliper minimum (at the time of planting) per thirty (30) feet of linear roadway frontage shall be planted within the required landscaped area.	Planned Development conforms
	The trees may be planted in groups with appropriate spacing for species.	Planned Development conforms
	Shrub plantings shall be provided at a minimum rate of 20 ten (10) gallon shrubs per thirty (30) linear feet.	Planned Development conforms
	Parking abutting the landscaped area will be screened from the adjacent roadway. The required screening may be with shrubs or earthen berms.	Planned Development conforms
Additional Requirements:		
	For big box retail and grocery stores, one (1) additional tree planted for each one-hundred (100) linear feet of lot frontage. The trees shall be a minimum of 4" caliper and may be placed in planters.	Not Applicable

PLANNED DEVELOPMENT NO. 119**EXHIBIT B—Planned Development Purpose and Intent:**

This planned development is intended to provide for and encourage development that contains a compatible mix of residential, office, and commercial uses within close proximity to each other, rather than separating uses.

The use provisions define land uses and the siting and character of the improvements and structures allowed on the land in a manner that encourages a balanced and sustainable mix of uses. These uses may be combined either vertically in the same building, or horizontally in multiple buildings, or through a combination of the two.

Additionally, the standards are intended to promote an efficient pedestrian-access network that connects the nonresidential and residential uses. The planned development generally addresses the physical relationship between development and adjacent properties, public streets, neighborhoods, and the natural environment. This is accomplished by the following;

- Ensuring buildings relate appropriately to surrounding developments and streets which create cohesive visual identity and attractive street scenes.
- Ensuring site design promotes efficient pedestrian and vehicle circulation patterns.
- Ensuring the creation of high-quality street and sidewalk environments that are supportive of pedestrian mobility and that are appropriate to the roadway context.
- Ensuring large sites are developed in a manner that supports and encourages connectivity and creates a cohesive visual identity and attractive street scene.

In order to implement this vision, the standards affecting development are intended to be consistent with the overall goal. To accomplish this goal, the area has been subdivided into a series of sub-districts with development restrictions that will be necessary to achieve their collective individuality.

The purpose of sub-district requirements is to define the character of new development within each sub-district. They have been carefully designed to allow enough flexibility for creative building solutions, while being prescriptive in areas necessary to preserve consistency throughout the development.

EXHIBIT C—Sub-District Regulations:

Development Plans

Concept Plan:

- A. The tract shall be developed in general accordance with the attached concept plan, set forth in Exhibits D2, D3, and D4.
- B. Triggers
 - a. Neighborhood Sub-District:
 - i. Development shall be phased such that all of the townhomes will have certificates of occupancy prior to commencing work within the Highway Sub-District.
 - ii. Development shall be phased such that at minimum one (1) retail building, as identified on Exhibit D.2 as either Lot 4 or Lot 2 Block 1, shall have ~~completed~~ obtained a Certificate of Occupancy prior to construction. ~~slab construction prior to commencing work within the Highway Sub-District.~~
 - b. Highway Sub-District:
 - i. Street Section D, as shown on Exhibit D.3, shall be built with Block D, Lots 1 and 2.
- C. Where conflicts may arise between Exhibit C and Exhibit D, Exhibit C shall govern.

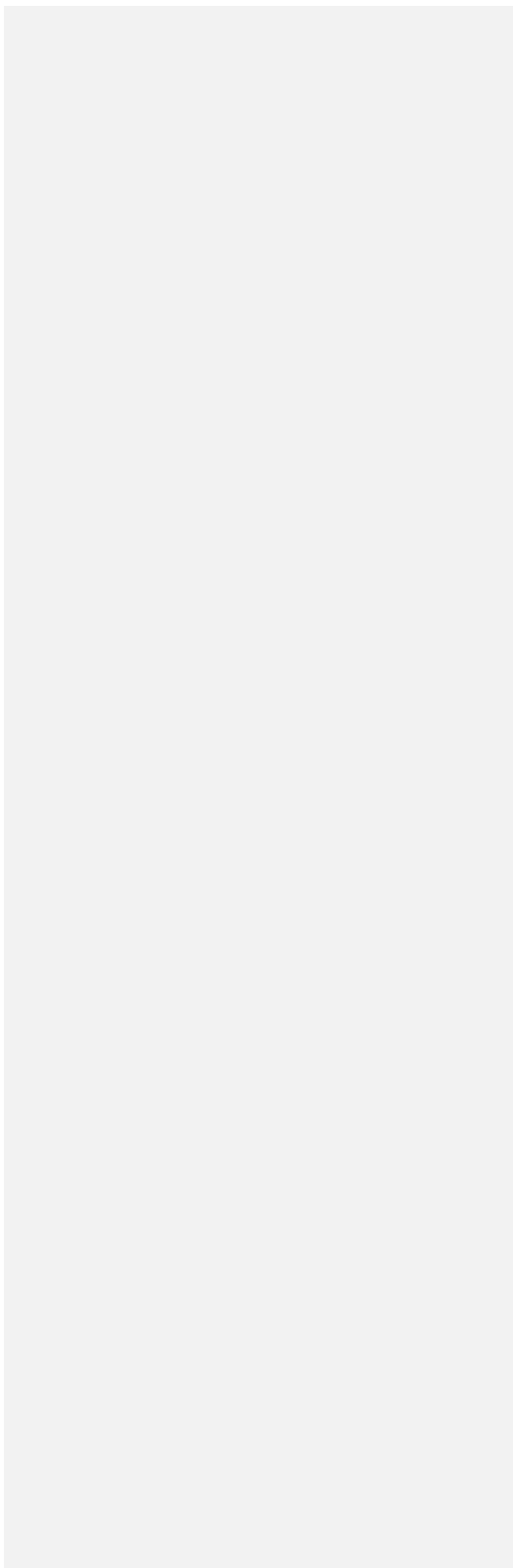
Elevations:

- A. The tract shall be developed in general accordance with the attached elevations, set forth in Exhibits F.

Administrative:

- A. The property owner's association (POA) shall be approved by town staff.

HIGHWAY SUB-DISTRICT



HIGHWAY SUB-DISTRICT

Purpose & Intent

The purpose of the Highway Sub-District is to encourage the creation of a pedestrian-oriented, vertically integrated, mixed-use, urban environment, providing shopping, employment, housing, business, and personal services. This sub-district promotes an efficient, compact land use pattern; encouraging pedestrian activity; reducing the reliance on private automobiles within the district; promoting a functional and attractive community using urban design principles; and allowing developers flexibility in land use and site design.

The Highway Sub-District is to be an area with a mixture of intense uses. Buildings are close to and oriented toward the street. There is a connected street pattern, shared parking, and pedestrian amenities.

Site Criteria

A. Size of Yards:

1. Minimum Front Yard
 - a. On Dallas North Tollway: Fifty (50) feet.
 - b. On all other streets: Ten (10) feet.
2. Minimum Side Yard: Zero (0) feet.
3. Minimum Rear Yard: Zero (0) feet.

B. Build-to-Line: On streets with on-street parking, a build-to-line shall be required. A -build-to-line- is a line parallel to a public or private street where the primary facade of the building must be built to.

1. Buildings with non-residential uses on the first floor: A build- to-line shall be established at the minimum front yard setback. The primary facade shall be continuous along a block face and at least 70% shall be located within 5' of the build-to-line.
2. Buildings with residential uses on the first floor: The primary facade of a residential dwelling shall be built 10' to 15' from the property line. Stairs, stoops, and elevated patios shall be allowed within the front setback. Any land remaining in the setback shall be landscaped with plant materials other than grass and shall be irrigated per the requirements established.

C. Size of Lots:

1. Minimum Size of Lot Area: Twenty Thousand (20,000) square feet
2. Minimum Lot Width: Fifty (50) feet.
3. Minimum Lot Depth: Sixty (60) feet.

D. Maximum Lot Coverage: One hundred (100) percent, subject to Detention and Open Space.

E. Floor Area Ratio: Maximum 10.0:1.

F. Housing: The following performance standards shall apply to residential development.

1. For the purposes of this Sub-District, Apartment and Condominiums are considered Multifamily and shall be defined as follows:

- a. Apartments- a predominantly residential building in which each unit is leased by the owner to an individual entity.
- b. Condominiums- a predominantly residential building in which each unit is owned by an individual entity.

2. The maximum density allowed shall be no more than seven hundred and thirty (730) units within the Highway Sub-District. Studio, One, Two, and Three Bedroom units shall be a minimum of 650 square feet.

- a. Apartments shall be no more than five hundred (500) units.
 - i. There shall be ~~at least 65%~~ no more than 325 Studios and One-Bedroom units.
 - ii. There shall be ~~no more than 35% Two and Three Bedroom units~~ no more than 165 two-bedroom units.
 - iii. There shall be no more than 10 three-bedroom units.
- b. Condominiums shall be no more than two hundred thirty (230) units.
 - i. There shall be at least 60% Studios and One-Bedroom units.
 - ii. There shall be no more than 40% Two and Three-Bedroom units.

3. Where first-floor square footage of the Highway Subdistrict shall be used for non-residential uses, the following provisions for retail use shall apply.

Retail, for the sake of this subsection shall include beauty salon/barber shop, commercial amusement (indoor), furniture/ home furnishings store, gymnastics/dance studio, health/fitness center, museum/art gallery, restaurant (without drive-thru/drive-in service), retail store and shops, retail service/incidental use, and theatre.

- a. Office: minimum 25% retail use.
- b. Residential
 - i. Apartments: minimum 50% retail use.
 - ii. Condominiums: minimum 0% retail use.
- c. Hotel: minimum 25% retail use.

4. Apartment buildings shall have a setback of Two Hundred Fifty (250) feet from the Dallas North Tollway (DNT).

G. Parking:

1. The number of parking spaces provided for uses shall be in accordance with the breakdown established in the GENERAL REQUIREMENTS section of these standards.

2. Required parking shall be located and maintained anywhere within the PD No. 119, including all sub-districts.

a. Where Townhome uses are concerned, parking may not be shared.

3. On-street parking and shared parking anywhere within the PD No. 119, including all sub-districts, except for Townhome uses, may be counted towards meeting the off-street parking requirement for any use within the sub-district.

4. Where on-street parking is provided, angled, as well as parallel parking shall be permitted as depicted in exhibit D street sections.

5. Where on-street parking is provided, vehicle maneuvering shall be allowed within the Public & Emergency Access Easement.

6. When structured garages are provided, adequate access from public rights-of-way via private drives and/or access easements shall be made readily available.

7. Parking spaces that face and are adjacent to a building shall utilize curbs, wheel stops, and/or bollards.

8. Speed bumps/humps are not permitted within a fire lane nor public roads.

11. Dead-end parking aisles are not permitted in surface parking lots.

12. In the case of mixed uses, parking spaces may be shared.

13. For all residential uses, a minimum of eighty percent (80%) of parking shall be contained in a structured parking garage.

H. Service Equipment and Areas:

1. Loading docks, truck parking, trash collection, trash compaction, and other service functions shall be incorporated into the overall design of the building or placed behind or on the side of a building. On corner lots, these areas should be located behind the buildings. All solid waste trash collection structures shall be designed to accommodate the Town's current trash service provider. This includes, but not limited to, minimum dumpster enclosure requirements, approach geometry and other features for operational needs.

2. Transformers, HVAC equipment (if located at the ground level), private utility meters, and other machinery, where practical, should be located at the rear of the property.

a. Public water meters shall be located within easements, outside of pavement, and adjacent (within 2-5 feet) to Public & Emergency Access Easement or dedicated fire lanes that include utility easements.

I. Screening:

1. Service equipment and areas shall be screened so the visual impacts of these functions are fully contained and out of view from adjacent properties and public streets to the extent that screening is allowed by utility providers.

2. Solid waste collection and loading areas shall be located to minimize visibility. These areas shall be screened, at minimum, by a eight (8) foot high wall built with the same materials as used for the principal building, or an otherwise approved solid masonry material. Trash

dumpsters shall have a metal gate or door equal in height or the height of the wall, which shall generally always remain closed. Waste collection and loading area walls shall include shrubbery as to screen walls from the public realm.

3. Where rooftop-mounted mechanical equipment is not screened from view at a point twenty feet above ground level at the property line, alternative forms of screening are required, and may be constructed of metal, acrylic, or a similar material, subject to approval by the Director of Development Services.

J. Fencing: Fencing is allowed between the primary facade of the building and the property line. In the above instances the fence shall be no greater than forty-two (42) inches in height. Fencing is restricted to wrought iron, tubular steel or similar material, or masonry. The masonry portion of any fence in front of a building shall be no higher than three (3) feet. The masonry portion of the fence must be at least 30% open in construction for each residential unit or retail/restaurant/office/service lease space. Each residential unit or retail/restaurant/office/service lease space must have an operable gate that opens to the street.

K. Streets and Sight Triangles:

1. For plantings within ten (10) feet of any public street intersection, shrubs and groundcover shall not exceed two (2) feet in height and tree branching shall provide seven (7) feet of clearance measured from the top of the ground surface to the first branch along the tree trunk.
2. Root barriers shall be installed where street trees are planted within 5 feet of pavement within Public & Emergency Access Easement.

Nothing contained herein shall vary or supersede public safety requirements of the Town of Prosper as set forth in the Uniform Fire Code and other applicable laws, rules, and regulations of the Town of Prosper.

L. Landscaping: The standards and criteria contained in this Section are the minimum standards for all new development. Where the regulations of this Section conflict with the Town of Prosper Zoning Ordinance or the Dallas North Tollway (DNT) Guidelines, the regulations of this Section shall apply. Unless specifically identified in this Section, new developments shall comply with the landscape standards established in the Town of Prosper Zoning Ordinance and the Dallas North Tollway (DNT) Guidelines as of the date of adoption of this ordinance or as amended.

1. Any non-structured, off-street, surface parking that contains twenty (20) or more spaces shall provide interior landscaping as follows:
 - a. All landscaped areas shall be protected by a raised six (6) inch concrete curb. Pavement shall not be placed closer than four (4) feet from the trunk of a tree unless a Town approved root barrier is utilized.
 - b. Landscaped islands shall be located at the terminus of all parking rows, except for on-street parking, and shall contain at least one (1) large tree, three (3) inch caliper minimum, with no more than fifteen (15) parking spaces permitted in a continuous row without being interrupted by a landscape island.
 - c. Landscaped islands shall be a minimum of one hundred sixty (160) square feet, not less than nine (9) feet wide, measured from the inside face of curb, and a length equal to the abutting space.

d. All above grade utilities and trash enclosures in landscape areas shall be screened with evergreen plant material.

e. For streets with on-street parking, trees shall be installed against the curb, within the sidewalk, in four (4) foot by four (4) foot areas with metal grates consistent with the development.

2. Permanent irrigation shall be provided for all required landscaping as follows:

a. Irrigation lines for perimeter landscaping shall be placed a minimum of two and one-half (2'-6") feet from a town sidewalk or alley. Reduction of this requirement is subject to review and approval by the Assistant Town manager or their designee.

b. Trees shall be irrigated with bubbler irrigation. Shrubs and groundcover shall be irrigated with in ground drip irrigation. Turf lawn shall be irrigated with spray irrigation.

c. Rain/Freeze sensors shall be installed on all irrigation systems.

3. Drought tolerant and/or native plants from the Town's approved plant list are required for compliance. Other species may be utilized with approval from the Town as part of the Final Site Plan process.

a. Trees in sidewalks adjacent to on-street parking will be specifically selected with approval from the Town.

4. All Landscape areas to be kept free of weeds, invasive plant species, and trash.

5. Synthetic turf may be permitted so long as it is not visible from the public rights-of-way.

Building Criteria

The standards and criteria contained in this Section are the minimum standards for all new development. The regulations of this Section shall govern where the regulations of this Section conflict with the Town of Prosper Zoning Ordinance.

A. Tri-partite Architecture: All multi-story, mixed use buildings shall be designed and constructed in tri-partite architecture (having a distinct base, middle, and top) or an alternative, scale appropriate architectural treatment.

B. Building Height

1. Maximum Building Height: ~~Twelve (12)~~ Eight (8) stories.

~~a.~~ a. Architectural embellishments not intended for human occupancy that are integral to the architectural style of the buildings, including spires, belfries, towers, cupolas, domes, and roof forms whose area in plan is no greater than 23% of the first-floor footprint may exceed the height limits by up to twenty (20) feet.

~~b.~~ b. Mechanical equipment, including mechanical/elevator equipment penthouse enclosures, ventilation equipment, antennas, chimneys, exhaust stacks and flues, fire

sprinkler tanks, and other similar constructions may extend up to twenty (20) feet above the actual building height, provided that: 1) they are setback from all exterior walls a distance at least equal to the vertical dimension that such item(s) extend(s) above the actual building height, or 2) the exterior wall and roof surfaces of such items that are set back less than the vertical dimension above the actual building are to be constructed as architecturally integral parts of the building facade(s) or as architectural embellishments as described above. Mechanical equipment shall not be visible from the public right-of-way, measured at six (6) feet above finish grade at the Public & Emergency Access Easement line.

2. Minimum Building Height by use type:

- a. Office: four (4) story.
- b. Multifamily
 - i. Apartments: four (4) story.
 - ii. Condominiums: four (4) story.
- c. Hotel: four (4) story
- d. Retail: one (1) story.

3. Maximum Building Height shall be governed by the Building Height Setbacks outlined below.

a. Building Height Setback One shall extend from the eastern property line at Dallas North Tollway to a line three hundred fifty (350) feet to the west. Building Height Setback One shall have a maximum height of eight (8) stories or one hundred sixty (160) feet.

b. Building Height Setback Two shall extend from the western boundary of Building Setback One to the Neighborhood Sub-District boundary. Building Height Setback Two shall have a maximum height of five (5) stories or one hundred (100) feet.

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C. Building Materials:

1. ~~Materials such as~~ brick, natural and manufactured stone, curtain wall and window wall glazing, and cementitious panel system shall be considered primary materials. Primary materials shall comprise of at least seventy-five percent (75%) of each elevation, exclusive of doors and windows. Where cementitious panel is applied, it shall be limited to no more than 50% of a building's material. Non-primary, or secondary materials, may include stucco and metal panel systems.

a. Where Multifamily is concerned, primary materials shall be limited to brick, natural and manufactured stone, and cementitious panel system.

2. Only primary building materials are allowed on the first floor with the exception of cementitious panels. For purposes of this section, the first floor shall be at least ~~nine (9)~~ fourteen (14) feet high and, at minimum, 90% shall be constructed of masonry cladding.

3. All buildings shall be architecturally finished on all sides with articulation, detailing, and features. Architectural articulation, detailing, and features are not required for facades adjacent to a building or parking garage.

D. Window Areas:

1. For buildings which front on streets with on-street parking and contain non-residential uses on the ground floor, a minimum of thirty (30) percent of the ground floor facade shall be windows.

- a. Clear glass is required in all non-residential storefronts. Smoked, reflective, or black glass that blocks two-way visibility is only permitted above the first story.
- b. pink or gold glass shall be prohibited.

E. Building Entries:

1. Main building entries shall be highlighted using such techniques as building articulation and/or entry canopies so they are obvious to pedestrians and motorists.
2. Each building and separate lease space at grade along the street edge shall have a functioning Primary Entry from the sidewalk. Corner entries may count as a Primary Entry for both intersecting street fronts.

F. Awnings, canopies, Arcades, & Overhangs:

1. Structural awnings are encouraged at the ground level to enhance articulation of the building volumes.
2. The material of awnings and canopies shall be architectural materials that complement the building.
3. Awnings shall not be internally illuminated.
4. Canopies should not exceed one hundred (100) linear feet without a break of at least five (5) feet.
5. Canopies and awnings shall respect the placement of street trees and lighting.

G. Building Articulation:

1. That portion of the building where retail or service uses take place on the first floor shall be accentuated by including awnings or canopies, different building materials, or architectural building features.
2. Building facades fronting both streets and driveways should have massing changes and architectural articulation to provide visual interest and texture and reduce large areas of undifferentiated building facade. Design articulation should employ changes in volume and plane. Architectural elements including projecting volumes, windows, balconies, loggias, canopies, pediments, and moldings that break up the mass of the building are encouraged.

H. Above Grade Structured Parking:

1. Where parking garages are within views of public streets, openings in parking garages shall not exceed 55% of the facade area. The portion of the parking garage that is visible from the street shall have an architecturally finished facade compatible with the surrounding buildings.

2. It is the intent of this provision that the facades of surrounding buildings and the facades of any parking structures within view of public streets shall be visually similar, with construction materials being compatible.

3. Entries and exits to and from parking structures shall be clearly marked for both vehicles and pedestrians by materials, lighting, signage, etc., to ensure pedestrian safety on sidewalks.

I. Projections into Setbacks and/or Rights-of-Way:

The following projections shall be permitted into a building setback or Public & Emergency Access Easement as allowed below, provided that 1) no projection shall be permitted into a building setback or right-of-way of Dallas North Tollway; 2) such projections do not extend over the traveled portion of a roadway; 3) the property owner has assumed liability related to such projections; 4) the property owner shall maintain such projection in a safe and non-injurious manner; 5) no projections allowed over franchise utility corridors unless the projection is thirteen and one half (13.5) feet above finish grade; and 6) no projections allowed over public utility where located within a fire lane or public utility easement.

1. Ordinary building projections, including, but not limited to water tables, sills, belt courses, pilasters, and cornices may project up to twenty-four (24) inches beyond a building face or architectural projection into the setback, but not the Public & Emergency Access Easement.

2. Business signs and roof eaves may project up to ten (10) feet beyond the building face or architectural projection into the setback, but not the Public & Emergency Access Easement.

3. Architectural projections, including balconies, bays, towers, and oriels; show windows (1st floor only); below grade vaults and areaways; and elements of a nature similar to those listed; may project up to ten (10) feet beyond the building face into the setback, but not the Public & Emergency Access Easement.

4. Canopies and/or awnings may project from the building face over the entire setback. Additionally, they may be extended into the Public & Emergency Access Easement to be within eight (8) inches of the back of curb if used to provide a covered walkway to a building entrance and as long as any canopy/awning support is no closer than twenty-four (24) inches from the back of curb and does not extend over any fire lane or public utility easement.

5. Below-grade footings approved in conjunction with building permits.

Permitted Uses

Schedule of Permitted Business Establishments for the Dallas North Tollway District: Uses followed by an -S- are permitted by Specific Use Permit. Uses followed by a -C- are permitted subject to conditional development standards located in the Town's Zoning Ordinance as it exists or may be amended.

Administrative, Medical, Insurance or Professional Office
Antique Shop
Automobile Paid Parking Lot/Garage
Automobile Parking Lot/Garage
Bank, Savings and Loan, or Credit Union (Drive-Thru not permitted)
Beauty Salon/Barber Shop as an Incidental Use
Big Box (S)
Building Material and Hardware Sales, Major (S)
Business Service
Catering Business
Child Care Center, Incidental (Care of Children of Employees in the Building)
Civic/Convention Center
College, University, Trade, or Private Boarding School
Commercial Amusement, Indoor (S)
~~Farm, Ranch, Stable, Garden, or Orchard~~
Food Truck Park (C)
Furniture, Home Furnishings and Appliance Store
Governmental Office
Gymnastics/Dance Studio (S)
Health/Fitness Center (S)
Helistop (S)
Hospital
Hotel, Full Service (C)
House of Worship
Massage Therapy, Licensed as an Incidental Use
Meeting/Banquet/Reception Facility (S)
Mobile Food Vendor (S)
Multifamily
Municipal Uses Operated by the Town of Prosper

Museum/Art Gallery

~~Outdoor Merchandise Display, Temporary~~

Park or Playground

Print Shop, Minor

Private Club (C)

Private Utility, Other Than Listed (S)

Research and Development Center (S)

Restaurant without Drive-thru or Drive-in Service (C)

Retail Stores and Shops

Retail/Service Incidental Use

School, Private or Parochial (S)

School, Public

~~Telephone Exchange~~

Temporary Buildings for Churches, Public Schools and Governmental Agencies (S)

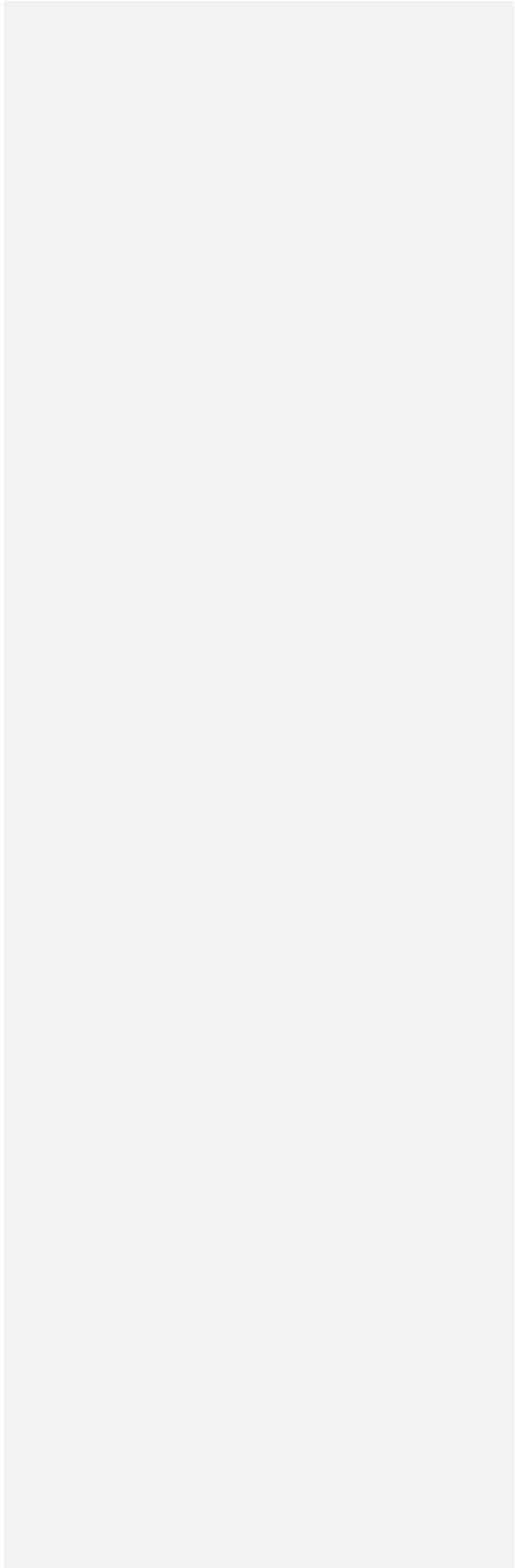
Theater, Neighborhood

Theater, Regional

Winery (enclosed operations)

Wireless Communications and Support Structures (Cell Tower) (S)

NEIGHBORHOOD SUB-DISTRICT



NEIGHBORHOOD SUB-DISTRICT

Purpose & Intent

The purpose of the Neighborhood Sub-District is to provide for a variety of developments in a suburban type setting which will provide residential units and supporting retail space.

Site Criteria

A. Size of Yards:

1. Townhomes (lots shall be fee-simple)
 - i. Minimum Front Yard: Ten (10) feet.
 - ii. Minimum Side Yard: Zero (0) feet.
 - iii. Minimum Rear Yard: Twenty (20) feet.
 - iv. Maximum Building Height: Thirty-Five (35) feet (as measured from the finish floor to the top plate), or three (3) stories.
 - v. Minimum Dwelling Area: One Thousand (1,000) square feet.
 - vi. Minimum Building Separation: Twenty (20) feet.
 - vii. Maximum Units Per Building: six (6) units

2. Commercial

- i. Minimum Front Yard: Ten (10) feet.
- ii. Minimum Side Yard: Five (5) feet.
- iii. Minimum Rear Yard: Five (5) feet.
- iv. Maximum Building Height: Forty-five (45) Feet (as measured from the finish floor to the top plate), or three (3) stories

B. Build-to-Line: On streets with on-street parking, a build-to-line shall be required. A -build-to-line- is a line parallel to a public or private street where the primary facade of the building must be built to.

1. Buildings with non-residential uses on the first floor: A build- to-line shall be established at the minimum front yard setback. The primary facade shall be continuous along a block face and at least 70% shall be located within 5' of the build-to-line.
2. Buildings with residential uses on the first floor: The primary facade of a residential dwelling shall be built 10' to 15' from the property line. Stairs, stoops, and elevated patios shall be allowed within the front setback. Any land remaining in the setback shall be landscaped with plant materials other than grass and shall be irrigated per the requirements established.
3. Residential lots may front on public or private open space or a property owner's association lot.

C. Size of Lots:

1. Minimum Size of Lot Area: Three thousand (3,000) square feet
2. Minimum Lot Width: Twenty (20) feet.

3. Minimum Lot Depth: Sixty (60) feet.

D. Maximum Lot Coverage: One Hundred (100) percent. Parking structures and surface parking facilities shall be excluded from lot coverage computations.

E. Floor Area Ratio: Maximum 5.0:1.

F. Housing: The following performance standards shall apply to residential development.

1. The maximum density allowed shall be sixty (60) units within the Neighborhood Sub-District.
2. The minimum number of townhome units shall be forty-two (42) units.

G. Maximum Floor Area Per Building: Twenty thousand (20,000) square feet.

H. Parking:

1. The number of parking spaces provided for uses shall be in accordance with the breakdown established in the GENERAL REQUIREMENTS section of these standards.
2. Required parking shall be located and maintained anywhere within the PD No. 119, including all sub-districts.
 - a. Where Townhome uses are concerned, parking may not be shared.
3. On-street parking ~~and shared parking~~ anywhere within the PD No. 119, including all sub-districts, except for Townhome uses, may be counted towards meeting the off-street parking requirement for any use within the sub-district.
4. Where on-street parking is provided, angled, as well as parallel parking shall be permitted.
5. Where on-street parking is provided, vehicle maneuvering shall be allowed within the Public & Emergency Access Easement.
6. When structured garages are provided, adequate access from public rights-of-way via private drives and/or access easements shall be made readily available.
7. Parking spaces that face and are adjacent to a building shall utilize curbs, wheel stops, and/or bollards.
8. Speed bumps/humps are not permitted within a fire lane.
9. Dead-end parking aisles are not permitted in surface parking lots.
10. In the case of mixed uses, uses may share parking spaces.

I. Service Equipment and Areas:

1. Loading docks, truck parking, trash collection, trash compaction, and other service functions shall be incorporated into the overall design of the building or placed behind or on the side of a building. On corner lots, these areas should be located behind the buildings. All solid waste trash collection structures shall be designed to accommodate the Town's current trash service provider. This includes, but not limited to, minimum dumpster enclosure requirements, approach geometry and other features for operational needs.

2. Transformers, HVAC equipment (if located at the ground level), private utility meters, and other machinery, where practical, should be located at the rear of the property.

- a. Public water meters shall be located within easements, outside of pavement, and adjacent (within 2-5 feet) to Public & Emergency Access Easement or dedicated fire lanes that include utility easements.

J. Screening:

1. Service equipment and areas shall be screened so the visual impacts of these functions are fully contained and out of view from adjacent properties and public streets, provided public utility providers allow for screening.

2. Solid waste collection and loading areas shall be located to minimize visibility. These areas shall be screened by a eight (8) foot high wall built with the same materials as used for the principal building, or an otherwise approved solid masonry material. Trash dumpsters shall have a metal gate or door equal in height or the height of the wall, which shall generally remain closed at all times. Waste collection and loading area walls shall include shrubbery as to screen walls from the public realm.

3. Where rooftop-mounted mechanical equipment is not screened from view at a point twenty feet above ground level at the property line, alternative forms of screening are required, and may be constructed of metal, acrylic, or a similar material, subject to approval by the Director of Development Services.

K. Fencing: Fencing is allowed between the primary facade of the building and the property line. In the above instances the fence shall be no greater than forty-two (42) inches in height. Fencing is restricted to wrought iron, tubular steel or similar material, or masonry. The masonry portion of any fence in front of a building shall be no higher than three (3) feet. The masonry portion of the fence must be at least 30% open in construction for each residential unit or retail/restaurant/office/service lease space. Each residential unit or retail/restaurant/office/service lease space must have an operable gate that opens to the street.

L. Streets and Sight Triangles: Within the Neighborhood Sub-District the following street design standards shall apply. Except as provided herein, no sight triangle shall be required. Adequate sight distance will be provided at all intersections through the use of appropriate traffic control devices. Sight triangles, per the Town of Prosper's requirements, for vehicles exiting the development for both public streets and private driveways shall be provided at intersections with Shawnee Trail.

1. For plantings within ten (10) feet of any public street intersection, shrubs and groundcover shall not exceed two (2) feet in height and tree branching shall provide seven (7) feet of clearance measured from the top of the ground surface to the first branch along the tree trunk.

Nothing contained herein shall vary or supersede the public safety requirements of the Town of Prosper as set forth in the Uniform Fire Code and other applicable laws, rules, and regulations of the Town of Prosper.

M. Landscaping: The standards and criteria contained in this Section are the minimum standards for all new development. Where the regulations of this Section conflict with the Town of Prosper Zoning Ordinance or the Dallas North Tollway (DNT) Guidelines, the regulations of this Section shall apply. Unless specifically identified in this Section, new developments shall comply with the landscape

standards established in the Town of Prosper Zoning Ordinance and the Dallas North Tollway (DNT Guidelines as of the date of adoption of this ordinance or as amended.

1. Any non-structured, off-street, surface parking that contains twenty (20) or more spaces shall provide interior landscaping as follows:
 - a. All landscaped areas shall be protected by a raised six (6) inch concrete curb. Pavement shall not be placed closer than four (4) feet from the trunk of a tree unless a Town approved root barrier is utilized.
 - b. Landscaped islands shall be located at the terminus of all parking rows, except for on-street parking, and shall contain at least one (1) large tree, three (3) inch caliper minimum, with no more than fifteen (15) parking spaces permitted in a continuous row without being interrupted by a landscape island.
 - c. Landscaped islands shall be a minimum of one hundred sixty (160) square feet, not less than nine (9) feet wide, measured from the inside face of curb, and a length equal to the abutting space.
 - d. All above grade utilities and trash enclosures in landscape areas shall be screened with evergreen plant material.
 - e. For streets with on-street parking, trees shall be installed against the curb, within the sidewalk, in four (4) foot by four (4) foot areas with metal grates consistent with the development.
2. Except for the landscape easement adjacent to the deceleration lane on Shawnee Trail, the landscape easement within the POA Lot adjacent to Shawnee Trail will be a minimum of twenty-five (25) feet.
3. Permanent irrigation shall be provided for all required landscaping as follows:
 - a. Irrigation lines for perimeter landscaping identified in (1) above, shall be placed a minimum of two and one-half (2'-6") feet from a town sidewalk or alley. Reduction of this requirement is subject to review and approval by Executive Director of Development and Community Services.
 - b. Trees shall be irrigated with bubbler irrigation. Shrubs and groundcover shall be irrigated with in ground drip irrigation. Turf lawn shall be irrigated with spray irrigation.
 - c. Rain/Freeze sensors shall be installed on all irrigation systems.
4. Drought tolerant and/or native plants from the Town's approved plant list are required for compliance. Other species may be utilized with approval from the Town as part of the Final Site Plan process.
 - a. Trees in sidewalks adjacent to on-street parking will be specifically selected with approval from the Town.
4. All Landscape areas to be kept free of weeds, invasive plant species, and trash.
5. Synthetic turf may be permitted so long as it is not visible from the public rights-of-way.

N. Amenities: Public amenities shall be constructed after Certificates of Occupancy are issued for townhomes and before other buildings.

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Building Criteria

The standards and criteria contained in this Section are the minimum standards for all new development. The regulations of this Section shall govern where the regulations of this Section conflict with the Town of Prosper Zoning Ordinance.

A. Maximum Building Height:

1. Three (3) stories.
2. Architectural embellishments not intended for human occupancy that are integral to the architectural style of the buildings, including spires, belfries, towers, cupolas, domes, and roof forms whose area in plan is no greater than 25% of the first-floor footprint may exceed the height limits by up to ten (10) feet.
3. Mechanical equipment, including mechanical/elevator equipment penthouse enclosures, ventilation equipment, antennas, chimneys, exhaust stacks and flues, fire sprinkler tanks, and other similar constructions may extend up to ten (10) feet above the actual building height, provided that: 1) they are setback from all exterior walls a distance at least equal to the vertical dimension that such item(s) extend(s) above the actual building height, or 2) the exterior wall and roof surfaces of such items that are set back less than the vertical dimension above the actual building are to be constructed as architecturally integral parts of the building facade(s) or as architectural embellishments as described above. Mechanical equipment shall not be visible from the Public & Emergency Access Easement, measured at six (6) feet above finished grade at the Public & Emergency Access Easement line.

B. Building Materials:

1. ~~Materials such as~~ brick, natural and manufactured stone, curtain wall and window wall glazing, and cementitious panel system shall be considered primary materials. Primary materials shall comprise at least seventy-five (75) percent of each elevation, exclusive of doors and windows.
 - a. Townhomes shall be constructed of no less than 75% brick masonry, calculated from the aggregate of the front, rear and side elevations.
2. Only primary building materials are allowed on the first floor excluding cementitious panel systems, exclusive of doors, windows, and their accompanying frames. For purposes of this section, the first floor shall be at least nine (9) feet high.

3. All buildings shall be architecturally finished on all sides with articulation, detailing, and features. Architectural articulation, detailing, and features are not required for facades adjacent to a building or parking garage.

C. Windows:

1. For buildings which front on streets with on-street parking and contain non-residential uses on the ground floor, a minimum of thirty (30) percent of the ground floor facade shall be windows.

a. Clear glass is required in all non-residential storefronts. Smoked, reflective, or black glass that blocks two-way visibility is only permitted above the first story.

b. pink or gold glass shall be prohibited.

2. For buildings which front on streets, and contain residential uses, a minimum of thirty (30) percent of the facade shall be windows.

D. Horizontal articulation: No building wall shall extend for a distance equal to four (4) times the wall's height without having an off-set equal to 25% of the wall's height. The new plane shall then extend for a distance equal to at least 25% of the maximum length of the first plane.

E. Building Entries: Main building entries shall be highlighted using such techniques as building articulation and/or entry canopies so they are obvious to pedestrians and motorists.

F. Above Grade Structured Parking:

1. Where parking garages are within views of streets, openings in parking garages shall not exceed 53% of the facade area. The portion of the parking garage that is visible from the street shall have an architecturally finished facade compatible with the surrounding buildings.

2. Entries and exits to and from parking structures shall be clearly marked for both vehicles and pedestrians by materials, lighting, signage, etc., to ensure pedestrian safety on sidewalks.

G. Projections into Setbacks and/or Rights-of-Way:

The following projections shall be permitted into a building setback or Public & Emergency Access Easement as allowed below, provided that 1) no projection shall be permitted into a building setback or right-of-way of Shawnee Trail; 2) such projections do not extend over the traveled portion of a roadway; 3) the property owner has assumed liability related to such projections; and 4) the property owner shall maintain such projection in a safe and non-injurious manner; and 5) no projections allowed over franchise utility corridors unless the projection is thirteen and one half (13.5) feet above finish grade; and 6) no projections allowed over public utility where located within a fire lane or public utility easement..

1. Ordinary building projections, including, but not limited to water tables, sills, belt courses, pilasters, and cornices may project up to twelve (12) inches beyond a building face or architectural projection into the setback, but not the Public & Emergency Access Easement.

2. Business signs and roof eaves I may project up to ten (10) feet beyond the building face or architectural projection into the setback, but not the Public & Emergency Access Easement.
3. Architectural projections, including balconies, bays, towers, and oriels; show windows (1st floor only); below grade vaults and areaways; and elements of a nature similar to those listed; may project up to ten (10) feet beyond the building face into the setback, but not the Public & Emergency Access Easement.
4. Canopies and/or awnings may project from the building face over the entire setback. Additionally, they may be extended into the Public & Emergency Access Easement to be within eight (8) inches of the back of curb if used to provide a covered walkway to a building entrance and as long as any canopy/awning support is no closer than twenty-four (24) inches from the back of curb and does not extend over any fire lane or public utility easement.
5. Below-grade footings approved in conjunction with building permits.

Permitted Uses

Schedule of Permitted Business Establishments for the Dallas North Tollway District: Uses followed by an -S- are permitted by Specific Use Permit. Uses followed by a -C- are permitted subject to conditional development standards located in the Town's Zoning Ordinance as it exists or may be amended.

Administrative, Medical, Insurance or Professional Office

Antique Shop

~~Automobile Paid Parking Lot/Garage~~

Automobile Parking Lot/Garage

Bank, Savings and Loan, or Credit Union (No Drive-Thru permitted)

Beauty Salon/Barber Shop as an Incidental Use

Big Box (S)

Building Material and Hardware Sales, Major (S)

Business Service

Catering Business

Child Care Center, Incidental (Care of Children of Employees in the Building)

Civic/Convention Center

College, University, Trade, or Private Boarding School

Commercial Amusement, Indoor (S)

~~Farm, Ranch, Stable, Garden, or Orchard~~

Food Truck Park (C)

Furniture, Home Furnishings and Appliance Store
 Governmental Office
 Gymnastics/Dance Studio (S)
 Health/Fitness Center (S)
 Helistop (S)
 Hospital
 House of Worship
 Massage Therapy, Licensed as an Incidental Use
 Meeting/Banquet/Reception Facility (S)
 Mobile Food Vendor (S)
 Municipal Uses Operated by the Town of Prosper
 Museum/Art Gallery
~~Outdoor Merchandise Display, Temporary~~
 Park or Playground
 Print Shop, Minor
 Private Club (C)
 Private Utility, Other Than Listed (S)
 Research and Development Center (S)
 Restaurant without Drive-thru or Drive-in Service (C)
 Retail Stores and Shops
 Retail/Service Incidental Use
 School, Private or Parochial (S)
 School, Public
~~Telephone Exchange~~
 Temporary Buildings for Churches, Public Schools and Governmental Agencies (S)
 Theater, Neighborhood
 Theater, Regional
 Townhome
 Veterinarian Clinic and/or Kennel, Indoor (S)
 Winery (enclosed operations)

Wireless Communications and Support Structures (Cell Tower) (S)

GENERAL REQUIREMENTS

GENERAL REQUIREMENTS

A. Development shall generally take place in accordance with the attached Concept Plan (Exhibit D).

Plats and/or site plans submitted for the development shall conform to the data presented and approved on the conceptual development plan. Changes of detail on these final development plan(s) that differ from the conceptual development plan may be authorized by the Town staff, with their approval of the final development plan(s) and without public hearing, if the proposed changes do not:

1. alter the basic relationship of the proposed development to adjacent property,
2. alter the uses permitted,
3. increase the density,
4. increase the building height,
5. increase the coverage of the site,
6. reduce the off-street parking ratio,
7. reduce the building lines provided at the boundary of the site, or
8. significantly alter any open space plans.

If the Town staff determines that the proposed change(s) violates one (1) or more of the above eight (8) criteria, then a public hearing must be held by the Planning and Zoning Commission and the Town Council to adequately amend the granting ordinance prior to the Planning & Zoning Commission's approval of the final development plan(s).

B. A minimum twenty (20) percent of the total area in this planned development shall be provided as open space.

Open spaces may include areas used for facilities such as plazas, courts, recreational amenities, water features and other similar uses not specifically used for vehicular access and parking.

Additionally, detention areas shall contain a constant water level and are landscaped or otherwise treated as an amenity for the development, they may be used to meet the open space requirement.

The open space may not consist of any of the following elements:

1. Vehicular parking.
2. Required parking lot tree islands.
3. Building footprints.
4. Utility yards.

The open space may consist of any of the following elements:

5. Landscape easements, setbacks, or any other landscaping as listed in Chapter 2, Section 4 of the zoning ordinance.
6. Public plazas.
7. Detention/ Retention ponds, when activated with pedestrian access.

C. Design Guidelines: Design Guidelines will be created, and approved by Staff, to govern the following details.

1. Street sections, including sidewalks
2. Public realm standards, including sidewalks, benches, signage, planters, outdoor seating areas, landscape, parking, and lighting.
3. Multifamily characteristics are generally set forth below, and may be applied to other uses as appropriate.

a. Special Provisions: typical floor height ~~ten-twelve feet~~ fourteen (14) feet for first floor ceiling height (retail) and twelve (12) feet for first floor ceiling height (residential), air condition corridors, Hospitality-style amenity centers, Resort-style pool, State-of-the-art fitness centers, ~~and hidden trash collection,~~ and its own structured parking.

b. Architectural Provisions

Facade Composition

For multi-story buildings, the overall composition of the façade should incorporate a three-part hierarchy of base, body, and cap to emphasize verticality and to maintain a balanced façade composition. In addition, the cap of the building should be architecturally distinguished to provide a visual termination to the facade and interest at the skyline.

All buildings must be composed of:

Building Base: The “base” of the building clearly defines the realm of the public space and provides the necessary spatial enclosure. The base of the building is also the device that effectively engages the pedestrian, defining the character and quality of a street or public space. It also houses the uses with the most intensity. The height of the base varies depending on the overall building height. The “base” shall consist of the area of wall immediately along the ground floor level to the “body” of the building. The transition from “base” to “body” may be expressed either horizontally, through a shift in the vertical plane or, vertically through a change in building materials along a level line. The base shall be between 16’ minimum and, in buildings of at least four stories, may include up to the floor line of the third floor.

Building Body: The “body” of the building comprises the majority of the building, mainly defined by its structural composition. It houses the main use and engages all fronts. The “body” shall consist of the area of wall from the “base” to the “cap.” The transition from “body” to “cap” may be expressed either horizontally, through a shift in the vertical plane or vertically through a change in building materials along a level line.

Building Cap: The “cap” of the building could either encompass the last floor of a building and roof, or be the area above the eave or before the parapet line depending upon the height or number of stories of the building. The “cap” clearly terminates the

“body” of the building. The building top is determined by the height of the building and is not subject to elements of style. The “cap” shall consist of the area of wall from the top floor level to the parapet or the area of wall from the roof line to the top of the parapet wall. **Optional Body Setback:** The optional body setback is a change in the depth of the vertical plane of the primary facade along the full width of the building at the transition point between the “base” and the “body” of the building. This setback clearly divides the base from the rest of the building and provides the opportunity for an interim cornice line at the top of the base. The depth of the setback varies, but should be noticeable, in order to perceive the change between the two parts.

Building Composition

By subdividing the building mass into a series of well-scaled volumes, and then articulating those volumes with window systems, different materials, and special elements, a rich architectural form can be created. True to its classical roots, this approach to design provides a rational method of creating a wide variety of buildings with individual character, that still create a unified ensemble. The concept of “bay spacing” is critical in helping to maintain an appropriate human scale by breaking up the massing of large buildings as well as in creating a lively and interesting streetscape rhythm.

Traditional downtown streetscapes were often comprised of individual buildings divided into 25 ft. wide parcels facing the primary street. Many buildings were one-lot wide (25'), although later buildings spanned more than one lot. Wider building facades were typically divided into repeated sections, or “bays”, ranging from 15 ft. to 30 ft. in width on the ground floor. This pattern of bay spacing echoed, rather than over-whelmed, adjacent buildings that might only be one lot wide. Upper stories often were consistent across two, three or five bays, unifying the building as a whole. Buildings in the Mixed-Use area should reflect these traditional building facades, and should express a façade composition ranging from one bay width to no more than 5 bay widths in length.

Special Conditions

All elevations of buildings that can be seen from either the street or public spaces shall be considered “primary facades” and shall be designed as “fronts.” Buildings occupying lots with two frontages, such as on corner lots, shall treat both building walls as “primary facades” with each being equally considered as “fronts.” Additional detailing and attention can be applied to these two-fronted scenarios in order to better landmark the corner to enhance the architectural character as well as to improve pedestrian and vehicular way finding.

Scale & Massing

The overall scale and mass of the buildings that make up a neighborhood play a key role in attracting patrons, pedestrians, and activities to a particular area. Buildings provide the perimeter walls for streets and public spaces and should be designed in a manner that is consistent with the nature of the spaces that they define. Buildings should share

with their neighbors a sense of harmony that reveals focus on defining high quality, vibrant public spaces. In the mixed-use area, the focus of building design should concentrate on the creation of collective expression - on clearly defined public and outdoor spaces and streetscapes as a cohesive and legible whole - rather than on individual buildings with a strong individual expression.

New construction should give consideration to appropriate form and proportion as reflected in the tradition of vernacular, mixed-use buildings. Buildings should be rectangular, facing the street with the facade aligned with the front property line. Angled or non-rectilinear buildings, unless relating to the street alignment, are inappropriate. The bulky form of the overall mass should be articulated into a series of forms which provide a variety of scale and proportion. The "Base" of a building should maintain a consistent building plane along the building frontage except to provide recessed storefront entrances, a special corner feature, usable open space for out-door dining, or to form a mid-block pedestrian passageway.

Commercial construction on a primarily residential block should be designed to reflect a residential character. A front yard setback for commercial uses at some interface locations is desirable. Creating a height transition by locating taller building portions toward areas with larger scaled buildings and lower portions toward residential areas is preferable. Long, rectangular buildings should be articulated into two or three distinct facade elements, separated either by recesses, changes in materials, structural elements, or sub-divided into individual facades separated by panels. Special architectural treatment and detailing should be located at the corners of the building and at the mid-point of the main building mass.

Doors, Windows, & Openings

The different elements defined by the massing, are further articulated by different door, window and wall systems. These systems will vary by use, but may include the following: a curtainwall, generally used in the recessed elements; a storefront system for commercial applications; a primary wall with square punched openings; a secondary wall system with rectangular punched openings; and a system of columns and lintels placed in front of curtain walls or storefronts for special portions of the buildings. The combination of this articulated massing and the reinforcement of forms with different materials and window patterns result in a lively composition with the capacity to define dynamic urban space.

Doorways are celebrated and made monumental by a series of special elements added to the frame around the wall. All window and door openings shall be square or vertical in proportion, and any other divisions of openings shall happen as a system of squares or vertically proportioned rectangles. Grouped or "ganged" windows shall be treated as a single opening, unless they are separated by a minimum 4 inch divider. Windows and doors may meet at building corners, or shall be a minimum of twenty-four inches from the building corner. Shading devices over doors and windows are permitted to be cantilevered and made of any architectural grade material, but shall be fully functional

rather than simply decorative. All arcade openings (or “voids”) shall be vertical in proportion.

Transparency

Design distinction between upper and lower floors shall be maintained by developing the ground level facade as primarily transparent and inviting to the public. For commercial uses, the use of storefront windows, typically consisting of glass set in wood, clad wood, or metal frames creates a highly inviting and transparent street level facade. Retail ground floors shall have between 60% and 80% glazing, as measured from grade to the underside of the slab above. Colored or mirrored glazing and glass block are inappropriate.

Upper floors generally employ a different ratio of solid area versus opening area and are differentiated from the more transparent ground floor by having more solid area than void area and through the use of smaller, vertically oriented windows in a regular pattern. Ground levels use can also be differentiated through a change in transparency. Commercial uses, such as retail, shall be more transparent than smaller office or residential uses. This change in the pattern of doors, windows, and openings helps to clarify the various uses for the pedestrian by highlighting the nature of public, semi-public, and private tenants.

Rhythm

Building facades are comprised of a series of patterns, from the number and spacing of bays, the number and spacing of floor levels, the disposition of openings and architectural details, and the arrangement and palette of materials, which create an inherent rhythm. Symmetry, repeated bays with expressed structural elements, and the repetition of windows and doors create the essential rhythm of the facade. This rhythm can be further reinforced by changing materials, patterns, reveals, building setbacks, façade portions or by using design elements such as column or pilasters, which establish a legible vertical and horizontal arrangement of the various building elements comprising the facade.

Vertical Alignment

In vernacular buildings, the expression of the structural system follows traditional construction patterns. As a result, openings are generally stacked above other openings and solid areas in the facade are stacked above structural elements. This vertical alignment, determined primarily by structural requirements, reinforces the “bay” system and helps to clarify the overall building composition. Setbacks, reveals, and projections in the vertical plane of the building facade can also serve to enhance the legibility of this composition.

Horizontal Alignment

As well as following a clear vertical alignment, traditional facades were equally organized horizontally. As previously described, buildings should be divided into three

distinct components: the Base, the Body, and the Cap. The height of these various elements should be carefully designed so that there is a general consistency along the entire streetscape. Dramatic changes in building heights will not be allowed. Within each building composition, care should be made to align horizontal elements, including building cornices, sill heights, floor levels, decorative moldings and windows.

Walls

All elevations of buildings that can be seen from public spaces shall be designed as “fronts.” Street facades should include elements to maintain pedestrian scale and interest. Architectural details and facade articulation including recesses for outdoor dining areas, display cases, public art integrated with the building design, and additional architectural elements and details help create visual interest. Avoid large featureless facade surfaces by incorporating traditionally sized building components, standard window sizes, standard brick and siding sizes, trim and details. Blank walls and blind facades visible from public streets are prohibited.

Columns & Lintels

The columns and lintels ~~in Clearfork~~ derive from the vocabulary of traditional architecture, but can be abstracted and reinterpreted to incorporate contemporary building techniques. Although they may be purely ornamental, columns and lintels should be designed and detailed in character with the traditional construction patterns of the load bearing buildings of the vernacular architectural styles of central Texas.

Awnings & Canopies

Canopies and awnings shall not be used above the “base” and they shall coordinate with a horizontal element of the storefront. They shall project at least six feet, so as to provide shade and shelter to pedestrians. Canopies and awnings of commercial establishments shall be permitted to encroach over the setback. Canopies and awnings shall extend horizontally from the building and shall be supported by rods, cables or brackets. The bottom of the canopy and the awning shall be a minimum of eight feet above the sidewalk.

Canopies of commercial establishments shall be made of wood, metal or glass. Lettering may be applied to the edges of canopies.

Awnings of commercial establishments shall be made of canvas or synthetic material having the appearance of canvas. Awnings shall be triangular in section. Awnings may have side panels, but shall not have a panel enclosing the underside of the awning. Internal structure of awnings shall be galvanized pipe or extruded aluminum framework. Awnings shall not be translucent or internally illuminated. Awnings may have lettering on the valance only.

4. Hotel characteristics are generally set forth below.

Hotel, Full Service. Full Service Hotel developments shall be subject to the following development standards:

- a. External balconies and walkways shall be set back 200 feet from any residential zoning district.
- b. Shall provide management staff on-site 24 hours a day.
- c. Shall provide an indoor/outdoor pool and at least ~~four~~ three amenities from the list below:
 - ~~indoor/Outdoor-Pool~~
 - Spa/Sauna
 - Weight Room/Fitness Center
 - Playground
 - Sports Court
 - Game Room
 - Jogging Trail
- d. Shall provide a full-service restaurant offering three meals a day and room service.
- e. Shall provide a minimum total of 20,000 square feet of meeting/event space.
- f. No more than five percent of the total number of guest rooms shall have cooking facilities.
- g. All room units must be accessed through an internal hallway, lobby, or courtyard.
- h. All rooms shall be a minimum of two hundred (200) square feet.
- i. Shall provide integrated, structured parking garage.

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D. All utility lines shall be underground from the building to the property line. Utility lines within the Public & Emergency Access Easement shall be placed underground and relocated to the rear of the site to the maximum extent practicable.

E. Conditional Development Standards, shall be in accordance with the Zoning Ordinance, as it exists, or may be amended, except as follows:

- 1. Mobile Food Vendors - Mobile food vendors are permitted in this planned development, in accordance with the Conditional Development Standards of the Zoning Ordinance, as is exists or may be amended, except as follows:
 - a. Mobile food vendors are not required to be located on property where an existing, permanent business operates in a building with a Certificate of Occupancy.
 - b. Mobile food vendors are not required to be located within fifty feet (50') of an entrance of a primary building that holds the Certificate of Occupancy, however, they shall have access to a public restroom.

- c. Mobile food vendors may be located on public property other than public street travel lanes. Order windows shall face outward towards public sidewalk. At no time shall any part of food truck operations use main lanes without a special use permit issued by the Town;
- d. Mobile food vendors may be located on private property with the written consent of the owner;
- e. Mobile food vendors shall not operate in driveways or fire lanes;
- f. Mobile Food vendors cannot remain more than 24 hours and shall return to the approved commissary.
- g. Prior to issuance of a permit, an application shall be submitted to the Development Services Department and containing any information required by staff to evaluate the impacts including but limited to location, parking and accessibility.

F. Parking Requirements Based on Use.

In all Sub- Districts, at the time any building or structure is erected or structurally altered, parking spaces shall be provided in accordance with the following requirements. A mixed-use discount of 20% shall be applied to the overall development, except for Townhomes, where shared parking is concerned.

Bank, Savings and Loan, or similar Establishments: One (1) space per three hundred fifty (350) square feet of gross floor area.

Bed and breakfast facility: One (1) space per guest room in addition to the requirements for normal residential use.

Business or professional office (general): One (1) space per three hundred fifty (350) square feet of gross floor area.

College or University: One (1) space per each day student.

Community Center, Library, Museum, or Art Gallery: Ten (10) parking spaces plus one additional space for each three hundred (300) square feet of floor area in excess of two thousand (2,000) square feet. If an auditorium is included as a part of the building, its floor area shall be deducted from the total and additional parking provided on the basis of one (1) space for each four (4) seats that it contains.

Commercial Amusement: One (1) space per three (3) guests at maximum designed capacity.

Dance Hall, Assembly or Exhibition Hall Without Fixed Seats: One (1) parking space for each two hundred (200) square feet of floor area thereof.

Dwellings, Multifamily: One (1) space for each bedroom in one (1) and two (2) bedroom units, plus one half (1/2) additional space for each additional bedroom.

Farmer's Market, Flea Market: One (1) space for each five hundred (500) square feet of site area.

Fraternity, Sorority, or Dormitory: One (1) parking space for each two (2) beds on campus, and one and one-half (1 1/2) spaces for each two beds in off campus projects.

Furniture or Appliance Store, Wholesale Establishments, Machinery or Equipment

Sales and Service, Clothing or Shoe Repair or Service: Two (2) parking spaces plus one (1) additional parking space for each four hundred (400) square feet of floor area over one thousand (1,000).

Health Studio or Club: One (1) parking space per two hundred (200) square feet of exercise area.

Hospital: One (1) space per employee on the largest shift, plus one and one-half (1.5) spaces per each bed or examination room, whichever is applicable.

Hotel: One (1) parking space for each sleeping room or suite plus one (1) space for each two hundred (200) square feet of commercial floor area contained therein.

Kindergartens, day schools, and similar child training and care establishments: shall provide one (1) paved off-street loading and unloading space for an automobile on a through-circular-drive for each ten (10) students, or one (1) space per ten (10) students, plus one (1) space per teacher.

Library or Museum: Ten (10) spaces plus one (1) space for every three hundred (300) square feet, over one thousand (1,000) square feet.

Lodge or Fraternal Organization: One (1) space per two hundred (200) square feet.

Medical or Dental Office: One (1) space per three hundred fifty (350) square feet of floor area.

Nursing Home: One (1) space per five (5) beds and one (1) parking space for each one thousand (1,000) square feet of lot area for outdoor uses.

Private Club: One (1) parking space for each seventy-five (75) square feet of gross floor area.

Retail Store or Personal Service Establishment, Except as Otherwise Specified Herein: One (1) space per two hundred and fifty (250) square feet of gross floor area.

Restaurant, Restaurant with a Private Club, Cafe or Similar Dining Establishment: One (1) parking space for each one seventy-five (75) square feet of gross floor area for stand-alone buildings without a drive-through, and one (1) parking space for each one hundred (100) square feet of gross floor area for restaurants located within a multi-tenant buildings, and one (1) parking space for each one hundred (100) square feet for stand-alone buildings with a drive-through.

School, Elementary, Secondary, or Middle: One and one half (1 1/2) parking spaces per classroom, or the requirements for public assembly areas contained herein, whichever is greater.

School, High School: One and one half (1 1/2) parking spaces per classroom plus one (1) space per five (5) students the school is designed to accommodate, or the requirements for public assembly areas contained herein, whichever is greater.

Theater, Sports Arena, Stadium, Gymnasium or Auditorium (except school): One (1) parking space for each four (4) seats or bench seating spaces.

Townhomes: Minimum of two (2) parking spaces located behind the front building line and two (2) parking spaces enclosed in the main or an accessory building.



PLANNING

To: Mayor and Town Council

From: David Hoover, Director of Development Services

**Through: Mario Canizares, Town Manager
Chuck Ewings, Assistant Town Manager**

Re: Pradera Development Agreement

Town Council Meeting – August 22, 2023

Strategic Visioning Priority: 3. Commercial Corridors are ready for Development

Agenda Item:

Consider and act upon a Development Agreement for the proposed Pradera Development, located north of Prosper Trail and west of the Dallas Parkway.

Description of Agenda Item:

The attached Pradera Development Agreement includes the Town's standard development agreement language regarding building materials and "family friendly" business establishments, including the exclusion of package liquor store, but also includes the following: (1) more robust landscape maintenance requirements and (2) periodic review of the property's zoning by the Town Council.

The landscape maintenance requirements provide that Landscape Areas, and their plantings and vegetation must be appropriately maintained, which includes mulching, prompt replacement of dead and dying vegetation with new vegetation, mowing and other routine and regular maintenance of plants and other vegetation. In the event that does not occur, the Town will promptly notify the developer (or subsequent owner) of any failures to maintain, and the developer/owner will be given time to correct any deficiencies. If no action is undertaken, the Town has the right to enter onto the property, replace, replant, or take other appropriate actions regarding the lack of maintenance, and thereafter invoice the developer/owner for the costs the Town incurs, plus an administrative fee. If payment to the Town is not made within 30 days, a lien for the costs incurred may be placed on the property. At no time does the Town waive any other rights it may have, such as enforcement of the Town's high weeds and grasses ordinance.

The Development Agreement grants the Town the right to periodically review the progress and/or scope of development on the property and the Town retains the right to consider any amendments or rezoning of the property, in accordance with all notice requirements under state law and the Town's Zoning Ordinance.

Budget Impact:

There is no budgetary impact affiliated with this item.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

Attached Documents:

1. Pradera Development Agreement

Town Staff Recommendation:

Town Staff recommends approval of the Pradera Development agreement as it has been prepared to address theTown Council requests for certain requirements that the developer has agreed to abide by.

Proposed Motion:

I move to approve/deny a development agreement for the proposed Pradera Development located north of Prosper Trail and west of Dallas Parkway.

PRADERA DEVELOPMENT AGREEMENT

THIS PRADERA DEVELOPMENT AGREEMENT (“Agreement”) is entered into by and between the Town of Prosper, Texas (“Town”), and Cornerstone Projects Group (“Developer”), individually, a “Party” and collectively, the “Parties,” to be effective (the “Effective Date”) on the latest date executed by a Party.

WHEREAS, the Town is a home-rule municipal corporation, located in Collin County and Denton County, Texas, organized and existing under the laws of the State of Texas; and

WHEREAS, Developer is developing a project in the Town known as Pradera (“Property”), a legal description of which Property is attached hereto as Exhibit A and incorporated by reference; and

WHEREAS, the Property was rezoned by the Town Council on or about August 8, 2023, and this Agreement seeks to incorporate, in part, the negotiated and agreed upon development standards contained in the underlying zoning ordinance, as may be amended, and/or this Development Agreement, to recognize Developer’s reasonable investment-backed expectations in sai development, as may be amended, and as more fully described herein.

NOW, THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Parties to this Agreement agree as follows:

1. Development Standards. For any structure built on the Property following the Effective Date, it shall comply with the requirements contained in Exhibit B, “Building Materials,” attached hereto and incorporated herein. The Parties agree and acknowledge that the provisions of this Paragraph shall apply to any structure constructed subsequent to the execution of this Agreement. Nothing in this Agreement shall be deemed to modify or otherwise amend any zoning regulation duly adopted by the Town, previously or in the future.

2. Maintenance of Landscape Areas.

A. Developer agrees to maintain all Landscape Areas (including all vegetation) on the Property, as referenced and/or depicted in the applicable zoning ordinance, as amended, free of weeds, tall grass, rubbish, brush and other objectionable, unsightly or unsanitary matter, as defined in Article 6.03 of Chapter 6 of the Town’s Code of Ordinances, as amended. Further, Developer agrees that landscape maintenance obligations referenced herein include mulching of Landscape Areas, prompt replacement of dead or dying vegetation with new vegetation, mowing of Landscape Areas, where required, and other routine and regular maintenance of plants and other vegetation.

B. In the event that any Landscape Area or plants or vegetation is/are not properly maintained in accordance with this Agreement, the Town may give written notice to Developer of such failure to maintain and Developer shall promptly address such failure, taking into account the type(s) and species of such plants and vegetation and applicable planting cycles of same. After such notice, and Developer's failure to address same, Developer agrees and acknowledges that the Town shall have the right to go onto Developer's property and replace, replant or otherwise address such failure to maintain any Landscape Area or plants or vegetation, with an invoice of costs incurred by the Town being promptly provided by the Town to Developer. In the event Developer does not pay such invoice within thirty (30) days of receipt by Developer, the Town may file a lien on the Property for the costs it incurred for the work done, including a reasonable administrative fee. Any failure to maintain any Landscape Area, plants or vegetation shall not be considered a default in accordance with Paragraph 7 of this Agreement, and any obligations referenced in said Paragraph shall not be applicable to this Paragraph 2.

C. Notwithstanding any provision in this Paragraph to the contrary, the Town specifically reserves the right to take enforcement action and/or file a complaint against Developer in the Town's municipal court (or other appropriate forum) relative to weeds, tall grass, rubbish, brush and other objectionable, unsightly or unsanitary matter on the Property, in accordance with Article 6.03 of Chapter 6 of the Town's Code of Ordinances, as amended.

3. Periodic Review of the Property's Zoning by the Town Council. The Town Council reserves the right to periodically review the progress and/or scope of development of the Property pursuant to the terms of any zoning regulations applicable to the Property, and in the event any amendment(s) or revision(s) to said zoning regulations are deemed appropriate, the Town may provide appropriate notices for Town consideration of same, pursuant to the provisions of Chapter 211 of the Texas Local Government Code, as amended, and the Town's Zoning Ordinance, as amended.

4. Certain Business Establishments Prohibited. Developer agrees and acknowledges that it will not lease, sell or otherwise permit or authorize on the Property any of the following business establishments: (1) credit access businesses, as defined in Texas Finance Code § 393.601, as amended, including but not limited to payday lending businesses, "cash for title" lenders, and credit services businesses, as defined in Texas Finance Code § 393.001, as amended); (2) body art facilities; (3) smoke or vape shops; (4) any business entity that sells drug paraphernalia; (5) any business establishment offering gaming or slot machines; (6) sex shops, including but not limited to business entities whose primary purpose is the sale of lewd merchandise; (7) pawn shops; and (8) business entities which primarily utilize outdoor storage or displays. Additionally, Developer agrees and acknowledges that it will not lease, sell or otherwise permit or authorize on the Property a package liquor store, which for purposes of this Agreement is defined as any business entity that is required to obtain a Package Store Permit (P) from the Texas Alcoholic Beverage Commission for the off-premises consumption of alcohol.

5. **Covenant Running with the Land.** The terms, conditions, rights, obligations, benefits, covenants and restrictions of the provisions of this Agreement shall be deemed covenants running with the land, and shall be binding upon and inure to the benefit of the Developer and its heirs, representatives, successors and assigns. This Agreement shall be deemed to be incorporated into each deed and conveyance of the Property or any portion thereof hereafter made by any other Developers of the Property, regardless of whether this Agreement is expressly referenced therein.

6. **Applicability of Town Ordinances.** Developer shall develop the Property, and construct all structures on the Property, in accordance with all applicable Town ordinances and building/construction codes.

7. **Default.** No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time determined based on the nature of the alleged failure, but in no event less than thirty (30) days after written notice of the alleged failure has been given). In addition, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured. If either Party is in default under this Agreement, the other Party shall have the right to enforce the Agreement in accordance with applicable law, provided, however, in no event shall any Party be liable for consequential or punitive damages.

8. **Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Collin County, Texas. Exclusive venue for any action arising under this Agreement shall lie in Collin County, Texas.

9. **Notice.** Any notices required or permitted to be given hereunder (each, a "Notice") shall be given by certified or registered mail, return receipt requested, to the addresses set forth below or to such other single address as either party hereto shall notify the other:

If to the Town: The Town of Prosper
 250 W. First Street
 Prosper, Texas 75078
 Attention: Town Manager

If to Developer: Cornerstone Projects Group
 4770 Bryant Irvin Court, Suite 200
 Fort Worth, Texas 76107
 Attention: Nolan Bradshaw

10. Prevailing Party. In the event any person initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable costs and attorney's fees (including its reasonable costs and attorney's fees on any appeal).

11. Entire Agreement. This Agreement contains the entire agreement between the Parties hereto with respect to development of the Property and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party.

12. Savings/Severability. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

13. Binding Agreement. A telecopied facsimile of a duly executed counterpart of this Agreement shall be sufficient to evidence the binding agreement of each party to the terms herein, including without limitation a scanned copy sent via electronic mail by either Party.

14. Authority to Execute. This Agreement shall become a binding obligation on the Parties upon execution by all Parties hereto. The Town warrants and represents that the individual executing this Agreement on behalf of the Town has full authority to execute this Agreement and bind the Town to the same. Developer warrants and represents that the individual executing this Agreement on behalf of Developer has full authority to execute this Agreement and bind Developer to the same. The Town Council hereby authorizes the Town Manager of the Town to execute this Agreement on behalf of the Town.

15. Filing in Deed Records. This Agreement, and any and all subsequent amendments to this Agreement, shall be filed in the deed records of Collin County, Texas.

16. Mediation. In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to nonbinding mediation.

17. Notification of Sale or Transfer; Assignment of Agreement. Developer shall notify the Town in writing of any sale or transfer of all or any portion of the Property,

within ten (10) business days of such sale or transfer. Developer has the right (from time to time without the consent of the Town, but upon written notice to the Town) to assign this Agreement, in whole or in part, and including any obligation, right, title, or interest of Developer under this Agreement, to any person or entity (an "Assignee") that is or will become an Developer of any portion of the Property or that is an entity that is controlled by or under common control with Developer. Each assignment shall be in writing executed by Developer and the Assignee and shall obligate the Assignee to be bound by this Agreement. A copy of each assignment shall be provided to the Town within ten (10) business days after execution. Provided that the successor Developer assumes the liabilities, responsibilities, and obligations of the assignor under this Agreement, the assigning party will be released from any rights and obligations under this Agreement as to the Property that is the subject of such assignment, effective upon receipt of the assignment by the Town. No assignment by Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment. Developer shall maintain true and correct copies of all assignments made by Developer to Assignees, including a copy of each executed assignment and the Assignee's Notice information.

18. Sovereign Immunity. The Parties agree that the Town has not waived its sovereign immunity from suit by entering into and performing its obligations under this Agreement.

19. Effect of Recitals. The recitals contained in this Agreement: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; (c) are legislative findings of the Town Council; and (d) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

20. Consideration. This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

21. Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original.

22. Amendment. This Agreement shall not be modified or amended except in writing signed by the Parties. A copy of each amendment to this Agreement, when fully executed and recorded, shall be provided to each Party, Assignee and successor Developer of all or any part of the Property; however, the failure to provide such copies shall not affect the validity of any amendment.

23. Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by all Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any Party shall not apply.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the date referenced herein.

TOWN:

THE TOWN OF PROSPER, TEXAS

By: _____
Name: Mario Canizaares
Title: Town Manager, Town of Prosper

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the ____ day of _____, 2023, by Mario Canizaares, Town Manager of the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

Notary Public, State of Texas
My Commission Expires: _____

DEVELOPER:

CORNERSTONE PROJECTS GROUP

By: _____
Name: Nolan Bradshaw
Title: President

STATE OF TEXAS)
)
COUNTY OF TARRANT)

This instrument was acknowledged before me on the ____ day of _____, 2023, by Nolan Bradshaw on behalf of Cornerstone Projects Group, known to be the person whose name is subscribed to the foregoing instrument, and that he executed the same on behalf of and as the act of Developer.

Notary Public, State of Texas
My Commission Expires: _____

EXHIBIT A
(Property Depiction)

EXHIBIT B
(Building Materials)

Highway Subdistrict:

1. Brick, natural and manufactured stone, curtain wall and window wall glazing, and cementitious panel system shall be considered primary materials. Primary materials shall comprise of at least seventy-five percent (75%) of each elevation, exclusive of doors and windows. Where cementitious panel is applied, it shall be limited to no more than 50% of a building's material. Non-primary, or secondary materials, may include stucco and metal panel systems. Where Multifamily is concerned, primary materials shall be limited to brick, natural and manufactured stone, and cementitious panel system.

2. Only primary building materials are allowed on the first floor with the exception of cementitious panels. For purposes of this section, the first floor shall be at least fourteen (14) feet high and, at minimum, 90% shall be constructed of masonry cladding.

Neighborhood Subdistrict:

1. Brick, natural and manufactured stone, curtain wall and window wall glazing, and cementitious panel system shall be considered primary materials. Primary materials shall comprise at least seventy-five percent (75%) of each elevation, exclusive of doors and windows. Townhomes shall be constructed of no less than 75% brick masonry, calculated from the aggregate of the front, rear and side elevations.

2. Only primary building materials are allowed on the first floor excluding cementitious panel systems, exclusive of doors, windows, and their accompanying frames. For purposes of this section, the first floor shall be at least nine (9) feet high.



PLANNING

To: Mayor and Town Council

From: David Hoover, Director of Development Services

**Through: Mario Canizares, Town Manager
Chuck Ewings, Assistant Town Manager**

Re: Comprehensive Plan Update

Town Council Meeting – August 22, 2023

Strategic Visioning Priority: 5. Work Towards a Growing & Diversified Tax Base

Agenda Item:

Conduct a public hearing and consider and act upon a request to update the Town of Prosper's Comprehensive Plan.

Description of Agenda Item:

An updated Comprehensive Plan for the Town is being presented by Freese and Nichols. Their recommendations are based on research regarding the Town's history, expected future growth, and overall vision. The firm has met with Town Staff as well as the Comprehensive Plan Advisory Committee multiple times to discuss the updates.

At the August 1, 2023, Planning & Zoning Commission meeting, the Commission recommended the Town Council approve the request, with a vote of 6-0. Commissioners recommended that low density residential remain on the southeast corner of FM-1385 and Parvin Road instead of the proposed medium density residential. Additionally, they recommended that low density residential remain on the southwest corner of Frontier and Shawnee instead of the proposed medium density residential.

Budget Impact:

There is no budgetary impact affiliated with this item.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

Attached Documents:

1. Draft Comprehensive Plan

Town Staff Recommendation:

Town Staff recommends approval of a request to update the Town's Comprehensive Plan.

Proposed Motion:

I move to approve/deny a request to update the Comprehensive Plan based on the recommendations from the Town's consultant.

PLAN PROSPER 2023 COMPREHENSIVE PLAN

August 1, 2023 | P&Z PUBLIC HEARING DRAFT



TOWN OF
PROSPER

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ACKNOWLEDGEMENTS

Town Council

- David F. Bristol, Mayor
- Marcus E. Ray, Deputy Mayor Pro-Tem, Place 1
- Craig Andres, Mayor Pro-Tem, Place 2
- Amy Bartley, Place 3
- Chris Kern, Place 4
- Jeff Hodges, Place 5
- Charles Cotten, Place 6

Planning and Zoning Commission

- Sekou Harris, Place 1
- Mike Pettis, Secretary, Place 2
- Cameron Reeves, Place 3
- Josh Carson, Place 4
- Glen Blanscet, Place 5
- Damon Jackson, Vice-Chair, Place 6
- Brandon Daniel, Chair, Place 7

Comprehensive Plan Advisory Committee (CPAC)

- Amy Bartley
- Chris Kern
- Greg Bradley
- Glen Blanscet
- Tommy Van Wolfe

Town Staff

- Mario Canizares, Town Manager
- Charles Ewings, Assistant Town Manager
- David A. Hoover, AICP, Director of Development Services
- David Soto, Planning Manager
- Dakari Hill, Senior Planner?
- Doug Braches, Planner

Consultants

Freese and Nichols, Inc.

- Daniel Harrison, AICP, Project Manager
- Rhys Wilson, Assistant Project Manager
- Jacob Rojo, Project Planner

TXP, Inc.

- Travis James, Vice President, Economic and Market Consultant

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CHAPTER 1

COMMUNITY SNAPSHOT

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INTRODUCTION

What is a Comprehensive Plan?

The comprehensive plan for the Town of Prosper is intended solely as a guide to direct future development decisions made by Town staff, elected officials, and all other decision-makers. The comprehensive plan tells the story of who the community is and what it aspires to become. This document is intended to serve as a flexible long-range planning tool that guides the growth and physical development of Prosper for the next ten years.

The Comprehensive Plan is a long-range statement of public policy. According to Chapter 213 of the Texas Local Government Code, a comprehensive plan may:

- Include but is not limited to provisions on land use, transportation, and public facilities;
- Consist of a single plan or a coordinated set of plans organized by subject and geographic area;
- Be used to coordinate and guide the establishment of development regulations.

Legal Authority

The right for a community to plan is rooted in the Texas Local Government Code. The following are the specific chapters that directly relate to the Town’s ability to plan.

- Chapter 211: Allows the governing body of a community to regulate zoning.
- Chapter 212: Allows the governing body of a community to regulate subdivision development within the municipal and Extraterritorial Jurisdiction (ETJ).
- Chapter 213: Allows the governing body of a community to create a comprehensive plan for the long-range development of the

community and to address a wide range of issues, including land use and transportation.

Planning to Plan

The Town of Prosper sits at an exciting and critical point in its history. Decisions made now will have a lasting physical, fiscal, and social impact on the Town for generations to come. The Town has a significant amount of vacant land, and while many pre-arranged development agreements currently exist, the ultimate objective of this Plan is to set policies and a vision to ultimately guide those developments, ensuring that all development that occurs within Prosper is compatible and fits into the community’s long term vision.

This 2023 Comprehensive Plan (Plan) will serve as the compass, or guide, for the long-term growth of the Town. The following Plan will include an examination of the following issues:

- Future Land Use;
- Livability;
- Transportation;
- Economic Analysis; and
- Infrastructure.

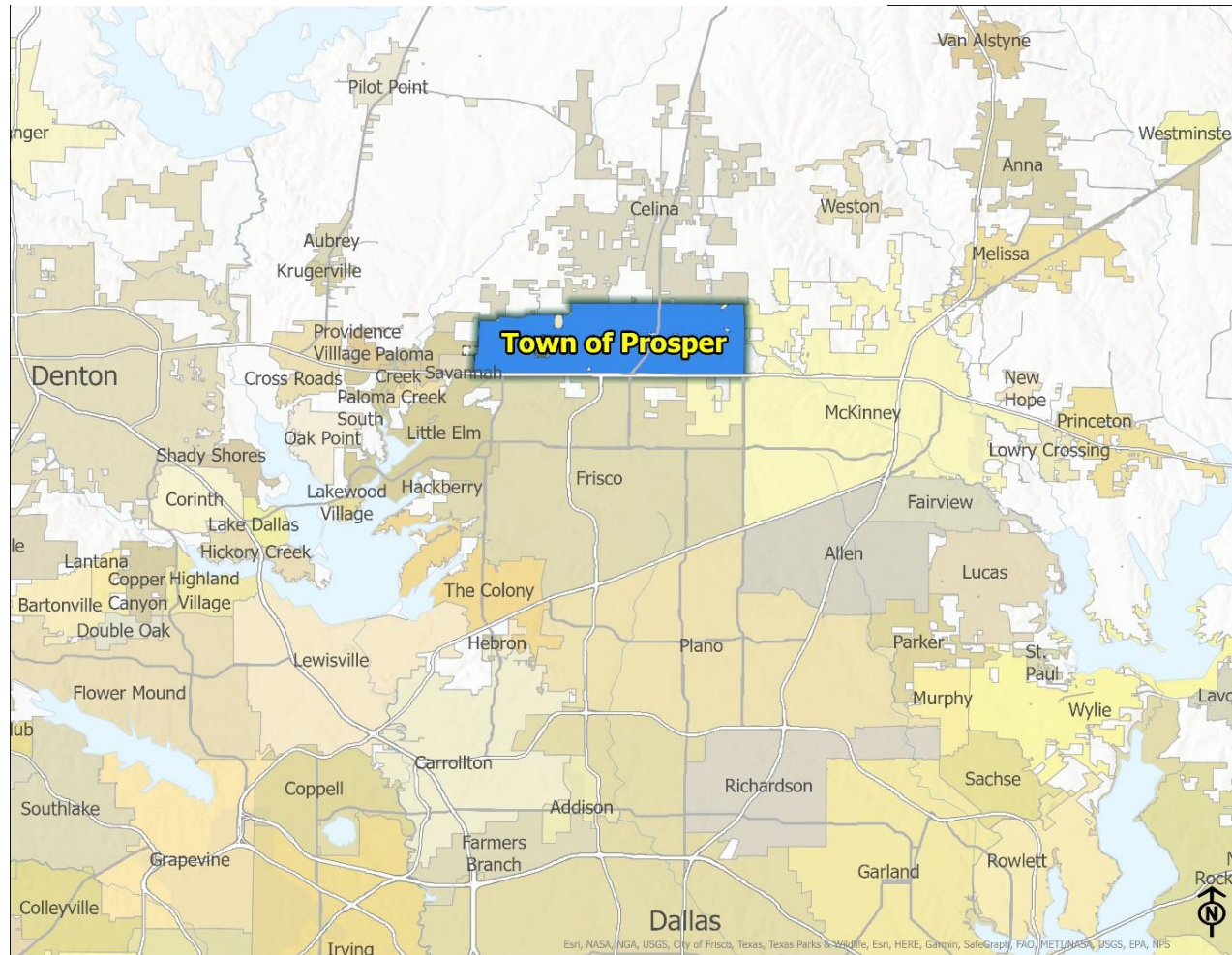
A comprehensive plan, however visionary, must also be rooted in the present. Therefore, before examining the above elements, it will be important and helpful to understand where Prosper is today and what planning efforts have been conducted prior to this Plan. This starting point, or baseline analysis, will allow coordination with previous planning efforts. This examination will help establish an understanding of Prosper’s population growth, housing characteristics, existing land use, physical constraints, and past planning efforts.

Planning for Rapid Growth

Over the past several decades, rapid development has defined the northern side of the Dallas/Fort Worth Metropolitan Area. The DFW Metro Area is now ranked as the 4th largest metropolitan area in the nation and is expected to double in size by the year 2050 nearly.

Growth is not a question but is inevitable. Community planning, a vision accompanied by guiding policies, will help ensure that Prosper develops in an orderly fashion, considering and respecting, among other things, data relating to income, education levels, ethnicity as well as the physical values of the community. Community planning will protect the quality of life that makes Prosper one of DFW's most livable communities.

Figure 1. Prosper Regional Relationship



PLANNING BACKGROUND

Regional Relationship

The Town of Prosper is located at the northern edge of the Dallas/Fort Worth Metropolitan area, in western Collin County and eastern Denton County. The Town’s immediate neighbors include Frisco, McKinney, Celina, and Little Elm. The Town of Prosper is currently situated at the northern terminus of the Dallas North Tollway’s toll lanes, and future expansions will take the Tollway through the Town. The Tollway provides direct access to Downtown Dallas as well as to other major regional highways, such as Highway 121/Sam Rayburn Tollway, President George Bush Turnpike, and IH 635/LBJ. Highway 380, traversing the Town's southern border, provides access to the cities of McKinney and Denton and to Interstate 35 and US 75/Central Expressway.

Figure 2. Proximity to Regional Locations

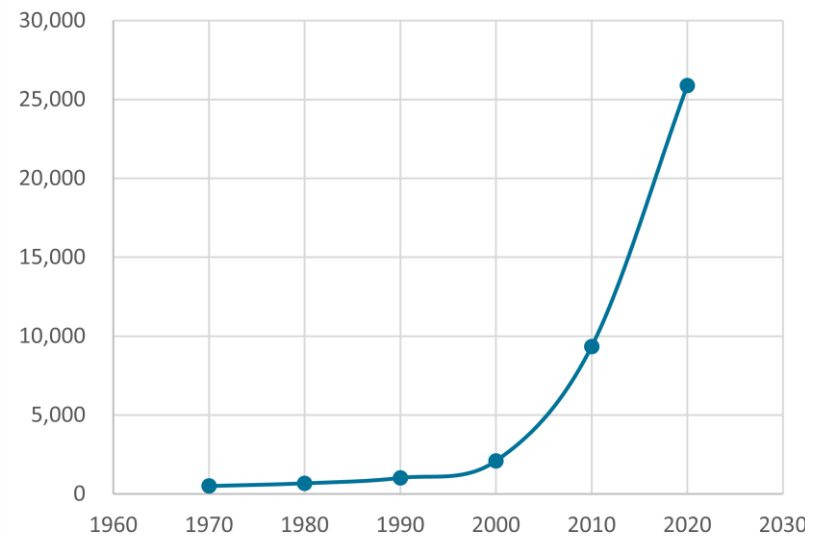
Location	Mileage
Downtown Dallas	34
Love Field	31
DFW Airport	33
Stonebriar Centre (Frisco)	11
The Star (Frisco)	11
Legacy West/Shops at Legacy (Plano)	13
Grandscape (The Colony)	15
Dallas Galleria	23
Addison	22
Downtown McKinney	13
Denton	20
US 75 Central Expressway	11
Interstate 35	23
SH 121	12
President George Bush Turnpike	18

Population Analysis

Examining historical population growth trends helps to tell the story of how Prosper has grown in the past and may give some insight into how Prosper may grow in the future. Several different variables must be considered when examining population growth trends, but one of the primary factors is location. Communities in rural areas not adjacent to a major metropolitan area typically experience very gradual yet steady growth over time. Many rural communities experience very little growth or even decline.

Communities near metropolitan areas, however, are characterized differently. Typically, communities on the fringe of metropolitan areas began as rural, somewhat isolated communities characterized by slow but steady growth.

Figure 3. Historic Population Growth



Source: 2020 5-Year ACS

Eventually, an urbanized area encroaches on these rural communities, causing rapid and robust growth until the community reaches its carrying capacity or build-out. At this point, the growth rapidly slows once again. This pattern has characterized growth within the North Dallas region. Garland, Richardson, Plano, Frisco, and McKinney are all examples of this type of growth.

Population Synopsis

When examining the Town’s historical growth patterns, it becomes apparent that Prosper fits into a rapid growth pattern. In 1970, the community contained only 500 residents. Between 1970 and 2000, the community added approximately 1600 residents. Since 2000, however, the Town has added over 33,000 new residents, indicating that Prosper has likely reached the beginning of a period of rapid and robust growth. Although impossible to predict the future housing market, reasonable assumptions seem to indicate that this period of rapid growth over the past 20 years was not an accident but is indicative of the rapid northern expansion of the DFW Metropolitan Area. Based on this assumption, it is likely that rapid and robust growth will continue to characterize Prosper for the decades to come.

Figure 4. Prosper Growth Statistics

Year	Population	Change	Growth	CAGR*	
1970	501	-	-	3.61%	8.53%
1980	675	174	34.7%		
1990	1,018	343	50.8%		
2000	2,097	1,079	106.0%	18.12%	
2010	9,423	7326	349.4%		
2020	30,147	20,724	219.9%		
2022	35,410	5,263	17.5%	8.2%	
2023	38,312	2,902	8.2%		

*Compound Annual Growth Rate Source: United States Census & NCTCOG

Compound Annual Growth Rate

From 1970 to 2000, the Town of Prosper experienced relatively fast but steady population growth. Since 2000, the Town has experienced very rapid and robust growth and reached a population of 35,410 residents, according to the North Central Texas Council of Government (NCTCOG).

The Compound Annual Growth Rate (CAGR) is a method of analyzing annual average rates of growth. As shown in Figure 4, between 1970 and 2023, Prosper experienced a CAGR of 8.53 percent. This is a high rate of growth for a community. Additionally, from 2010 to 2020, the CAGR for the community was 12.3 percent (see Figure 7).

Regional Growth

2020 U.S. Census numbers provided insight into just how rapidly the State of Texas, and its metropolitan areas, are growing. The Dallas/Fort Worth Metropolitan area added nearly 2,300,000 people during the 2000-2020 period. Collin County has experienced some of the most robust growth over the past several decades. Collin County alone added nearly 514,000 new residents between 2000 and 2020 and exceeded the 1,000,000 resident mark, a significant milestone considering that only 67,000 residents called Collin County home in 1970.

Between 1970 and 2020, Frisco and Little Elm experienced the fastest compound annual growth rates. Since 2010, however, Prosper and Celina have experienced the highest compound annual growth rates at 12.3% and 8.5%, respectively. Although Frisco experienced the fourth-highest compound annual growth rate between 2010 and 2020, the Town experienced the greatest numerical increase, adding over 71,000 new residents during the past decade. It is also important to note that Prosper and its neighbors experienced higher growth rates over the past decade than in previous years. This indicates that growth within Prosper and its neighboring cities is increasing.

Forecasted Regional Growth

The Dallas/Fort Worth metropolitan area is currently the fourth largest metropolitan area in the United States, behind New York City, Los Angeles, and Chicago. According to the North Central Texas Council of Governments (NCTCOG), the population of the Dallas/Fort Worth metropolitan region is expected to reach 11.4 million by 2045. This would result in the addition of over 3 million new residents over the next 20 years.

Figure 7. Regional Growth Statistics

Jurisdiction	Year						CAGR	
	1970	1980	1990	2000	2010	2020	1970-2020	2010-2020
Collin County	66,920	144,576	264,036	491,675	782,341	1,006,038	5.6%	2.6%
Celina	1,272	1,520	1,737	1,861	6,028	13,608	4.9%	8.5%
Frisco	1,845	3,499	6,138	33,714	116,989	188,387	9.7%	4.9%
Little Elm	363	926	1,255	3,646	25,898	49,792	8.3%	6.8%
McKinney	15,193	16,256	21,283	54,369	131,117	191,197	5.2%	3.8%
Prosper	501	675	1,018	2,097	9,423	30,147	8.5%	12.3%

Source: 2020 5-Year ACS

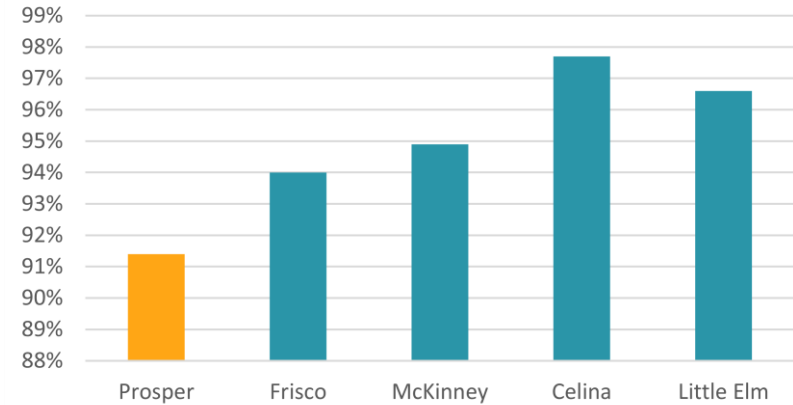
Housing Characteristics

Household type refers to how the people who live within a household are related if they do not live alone. Generally, Prosper contains a large number of married-couple households and households with children under the age of 18.

Within Prosper, the average household size is 3.45 persons per household (PPH) for all residential units. The average household size is significantly higher than the State average of 2.83 PPH, Frisco at 2.93 PPH, McKinney at 2.92 PPH, and Celina at 2.89 PPH. Little Elm has the second-highest average household size at 3.12 PPH. This data indicates many families call Prosper home.

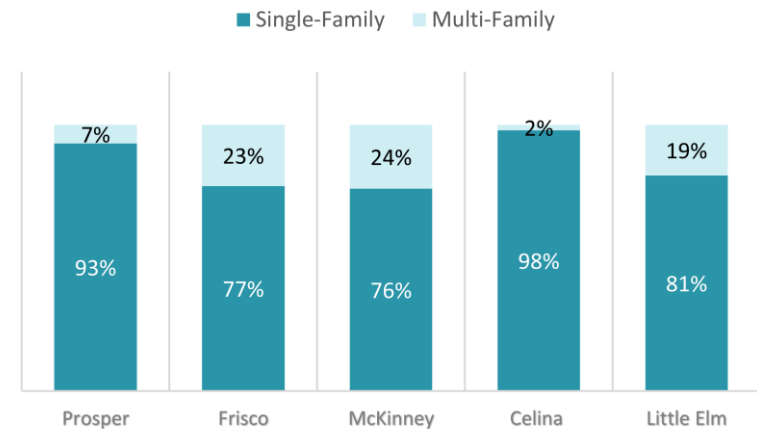
Of the total Households, 59.7% have children under the age of 18, 84% are married couple households, 3.2% are cohabitating households, 3.8% are single male parent households, and 9% are single female parent households. 6.6% of the total households in Prosper are householders living alone.

Figure 5. Occupancy Rates



Source: 2020 5-Year ACS

Figure 6. Residential Unit Stock



Source: 2020 5-Year ACS

The occupancy rate is an important indicator of the local housing market and housing saturation. A high occupancy rate may indicate an immediate need for additional housing stock to accommodate new population growth. A low occupancy rate may indicate an oversaturation of homes in the housing market. Typically, healthy cities have at least a 90% occupancy rate, something common in the rapidly growing DFW area.

Currently, Prosper has a 91.4% occupancy rate for all housing units. The Town’s housing stock is predominantly for single-family purposes with 93% comprising all the Town’s housing. Only 7% of the Town’s housing is for multi-family purposes. When compared to other neighboring cities, Prosper has the second lowest multi-family housing stock. Only Celina has a lower percentage of multi-family housing units within their housing inventory. Although Prosper’s housing numbers heavily favor single-family development, this strongly indicates that the Town has a healthy housing saturation.

Notably, the growth of the multi-housing stock is increasing. According to the Town’s [February 2023 Development Services Monthly Report](#), there are 1,235 multi-family units under construction or shovel ready in Prosper.

The following figures detail the information provided in the Town’s [February 2023 Development Services Monthly Report](#)



Figure 8. Single Family Residential Permits Issued by Quarter

	2021	2022	2023
February	94	104	101
1 st Quarter	369	289	Not Available
2 nd Quarter	241	226	Not Available
3 rd Quarter	255	249	Not Available
4 th Quarter	391	165	Not Available
Total	1,222	969	101

Source: Town of Prosper February 2023 Monthly Report

Figure 9. Shovel Ready–Non-Residential Project Status

Subdivision	Locations	Acres	Number of Lots
Brookhollow West	NWC Richland Boulevard / Lakewood Drive	43.2±	149
Cambridge Park Estates, Phase 2	SWQ Preston Road / Coleman Street	42.5±	110
Lakewood, Phase 5	SEQ First Street / Coit Road	40.8±	98
Lakewood, Phase 6	SEQ First Street / Coit Road	13.8±	41
Legacy Gardens, Phase 2	NWQ Prosper Trail/Dallas Parkway	45.6±	106
Malabar Hill	SWQ First Street / Custer Road	45.0±	96
Star Trail, Phase 10	SWQ Prosper Road / Legacy Drive	41.5±	80
Star Trail, Phase 11	SWQ Legacy Drive / Prosper Trail	36.2±	122
Star Trail, Phase 12	NWQ Fishtrap Road / Legacy Road	29.0±	64
Star Trail, Phase 13	NWQ Legacy Drive./ Fishtrap Road	40.0±	127
Windsong Ranch, Phase 6E	SWQ Teel Parkway / Parvin Road	29.2±	73
Windsong Ranch, Phase 7G	NWQ Windsong Road / Fishtrap Road	145.4±	54
Windsong Ranch, Phase 9	NEQ Prosper Trail / Teel Parkway	49.5±	92
Total Number of Lots Under Construction / Shovel Ready			1,212 Lots

Source: Town of Prosper February 2023 Monthly Report

Figure 10. Under Construction & Shovel Ready–Residential Project Status

Subdivision	Location	Acres	Number of Units
LIV Multi-family	400 West Fifth Street	8.9±	300
LIVTownhome-style Multi-family	400 West Fifth Street	5.3±	30
Gates of Prosper Multi-family, Phase 1	961 Gateway Drive	16.9±	344
Alders at Prosper (Age Restricted)	2151 Prairie Drive	10.3±	188
Ladera, Phase 1 (Age Restricted)	4320 Valencia Drive	32.6±	73
Brookhollow	4001 East University Drive	25.2±	300
Total Number of Lots Under Construction / Shovel Ready			1,235 Units

Source: Town of Prosper February 2023 Monthly Report

Existing Land Use

Prosper’s existing land use is predominantly characterized by vacant land. Ten years ago, 80% of the Town’s land was vacant, but now 44% of all land is vacant. This is a significant indicator that Prosper is in a rapid growth stage. Although land availability is decreasing, the remaining vacant land tracts will drastically impact the overall community form as the Town continues to develop. While most of the undeveloped property in Prosper has already been zoned, there may be opportunities to work with developers to incorporate the identified community vision. Those opportunities should be pursued, particularly as circumstances arise that necessitate zoning adjustments or changes.

When excluding vacant land and only examining developed land, the predominant land use in Prosper is single-family residential. Parks & Open Space constitutes the second highest land use followed by public/semi-public and commercial. As discussed previously, very few residential variations currently exist. Additionally, only 7% of the developed land use is currently occupied by commercial.

Figure 11. Existing Land Use

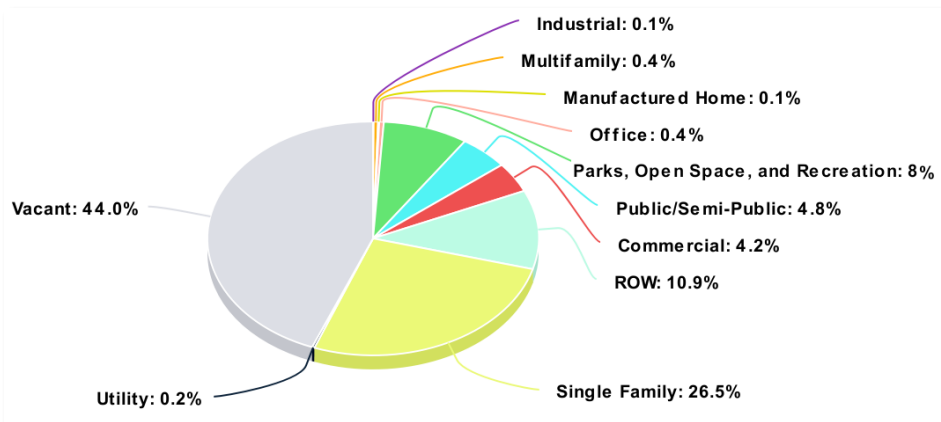
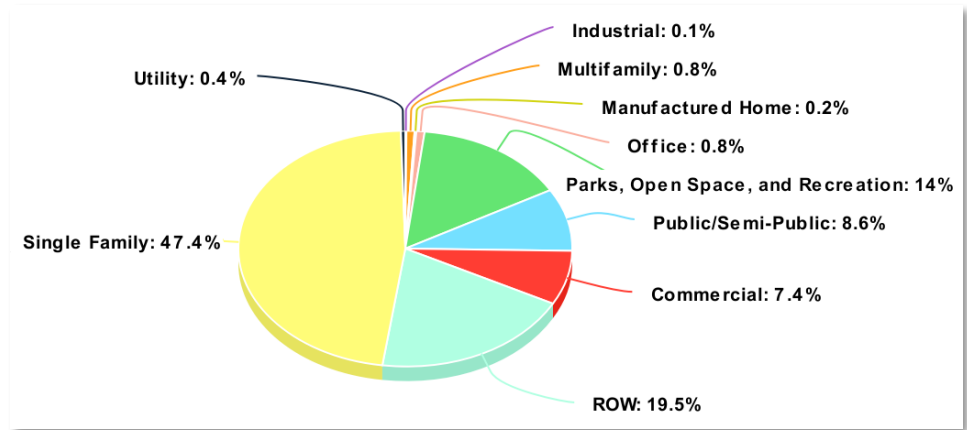


Figure 12. Existing Land Use (excluding vacant land)



Development Patterns

Most of Prosper’s development has occurred over the past two decades, in response to the Town’s rapid population increase. Development has mostly been single family residential, although some commercial uses have been added along Preston Road and Highway 380.

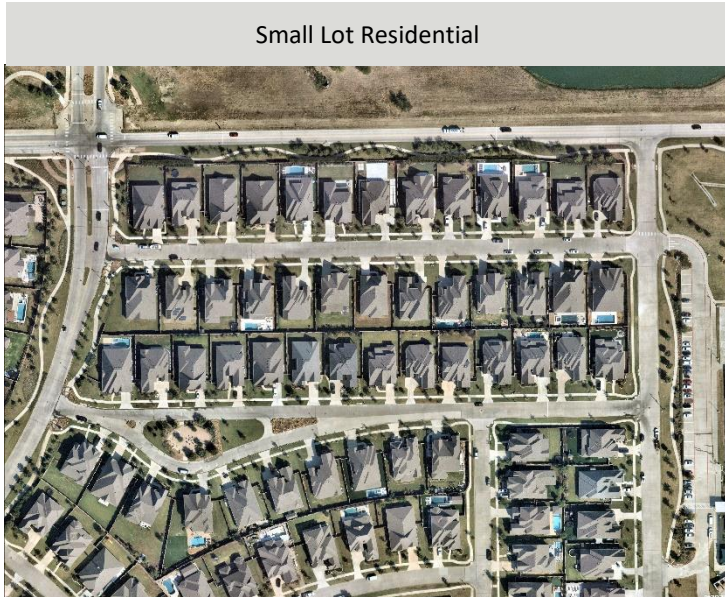
Residential construction is widespread and occurring to the west of Coleman Road and the original town center, with more expected soon. A significant number of large-lot homes were constructed in Prosper prior to 2005, coinciding with septic tank requirements that mandate a minimum lot size of 1 acre. As sewer service has been expanded and has become more readily available, lot sizes within new residential areas have become significantly smaller. In 2011, over 80 percent of approved housing permits were on lots under 15,000 square feet in size. In 2011, only 6 building permits were issued to lots at or above one acre in size while 51 permits, approximately 14 percent, were issued on lot sizes under 10,000 square feet.

The amount of vacant land within the community is advantageous, because it allows for new development opportunities on undeveloped land, rather than more expensive redevelopment. It will be important to ensure that the thoroughfare plan is coordinated with land use, to ensure that appropriate right-of-way is acquired during the subdivision of land. Additionally, it will be

important to ensure connectivity is provided within and between new residential subdivisions, so that upon buildout, a connected street system serves the community.

Finally, a significant amount of infill land is available within the community. This land is located between subdivisions and along major roadways. It will be important to ensure that development in these areas is compatible with adjacent residential subdivisions.

Small Lot Residential



Large Lot Residential



Vacant Land



PHYSICAL DEVELOPMENT PATTERNS

Local development patterns refer to the factors that have influenced the shape and growth of the Town. Understanding such features creates knowledge of how the Town can grow in the future. These patterns are divided into two primary categories: “Natural Constraints” which examine the geographical aspects of Prosper and “Human-Made Constraints,” which examine features that have been constructed or added to the Town.

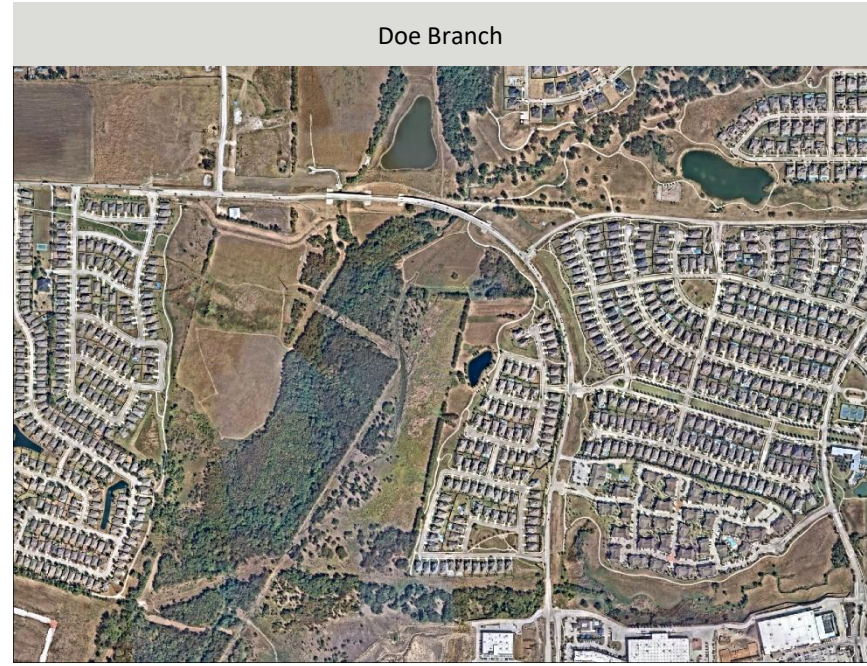
Natural Constraints

Natural features influence the type of development and where such development can occur. Topography, soils, vegetation, and wildlife are all factors that can directly affect development within the Town and are all important factors that should be considered during the planning process.

The Town of Prosper is located along a major ridge line that runs to the east of Preston Road. Areas to the west of the ridge line drain into Lake Lewisville. Areas to the east of the ridge line drain toward Lake Lavon.

Most topographical variations within Prosper are located along the major ridge line, near Preston Road. While a certain degree of topography exists within Prosper, the relative flatness of Prosper and the surrounding area is advantageous for accommodating future development.

The two largest floodplain areas are located in the community's extreme eastern and western portions; Doe Branch Creek in the west and Wilson Creek and Rutherford Branch Creek in the east. The floodplain areas along Doe Branch Creek, Wilson Creek, and Rutherford Branch Creek contain the most natural tree cover within the planning area.

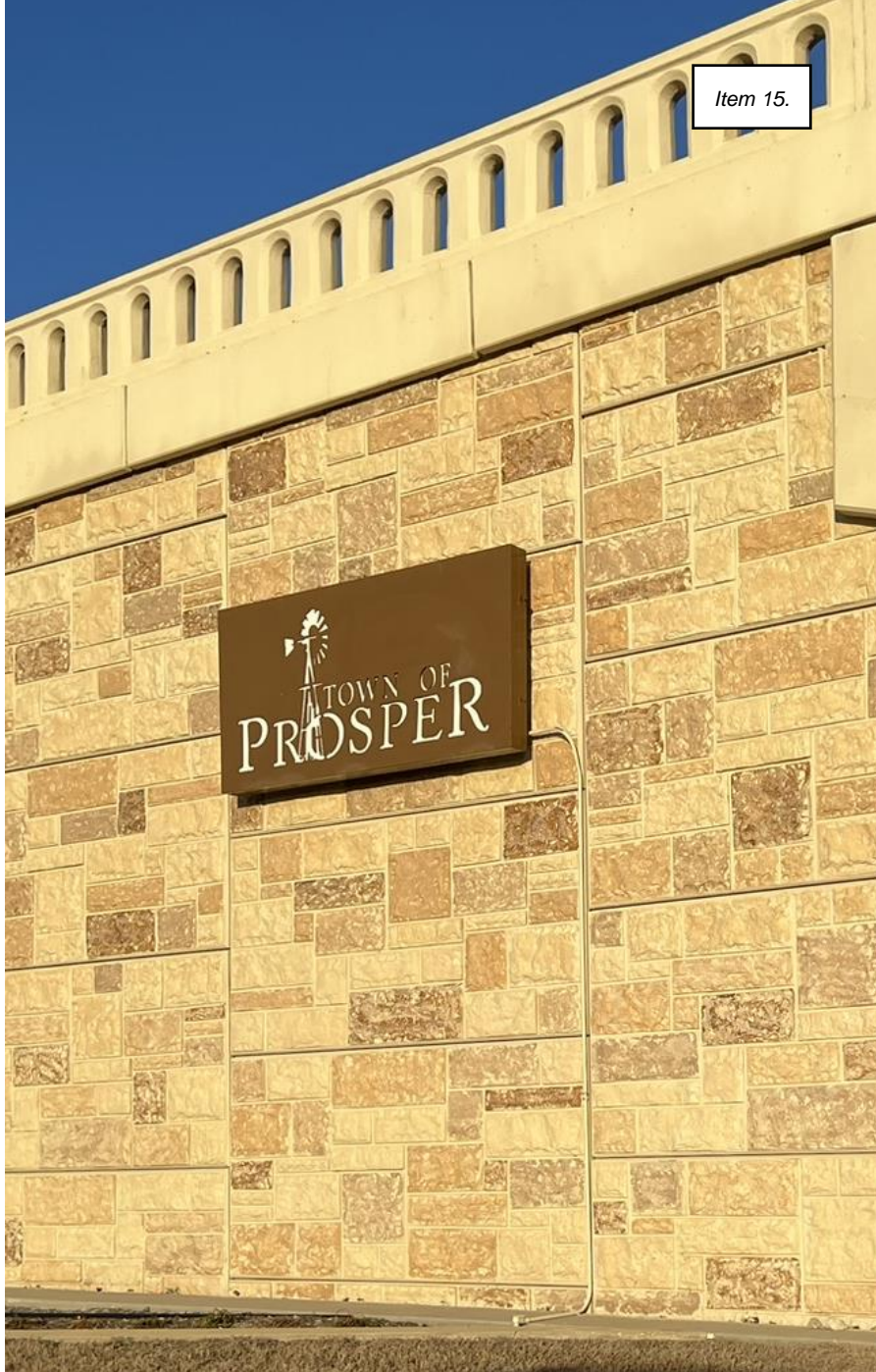


Human Made Features

The importance of human-made features, such as transportation facilities, Town boundaries, and infrastructure, are significant factors that greatly influence development patterns. The following discussion relates to the significant human-made features within Prosper.

Preston Road, Highway 380, and the future Dallas North Tollway are the major arterial roadways within the community. As development occurs, Teel Parkway, Legacy Drive, Coit Road, FM 1385/Gee Road, and Custer Road will grow in importance and will provide additional north-to-south corridors within the community. Frontier Parkway, Prosper Trail, and First Street will serve as major east-to-west corridors within the community. In addition to these roadways, the Dallas North Tollway will serve as a major transportation addition within the community and will increase accessibility within the community, will provide quick access to the regional highway network, and will serve as a catalyst in attracting new development.

In Texas, extraterritorial jurisdiction (ETJ) refers to the land an incorporated community may legally annex to plan and accommodate future development. The Town has entered into boundary agreements with Frisco, McKinney, Celina, and Little Elm and has no plans to expand west of FM 1385. For this reason, the general planning area for the Town is established and well-defined, allowing the Town to concentrate on the annexation of internal properties. The advantage of a defined Town boundary is knowing exactly where Prosper can grow. This enables Town staff to plan for growth more effectively, particularly the necessary infrastructure that will be needed to accommodate future growth within the Town boundaries.



PLANNING CONTEXT

For this Comprehensive Plan to truly be comprehensive, it will be important to consider the context in which the Plan is being created. The planning context includes several different factors, including current and past planning efforts, regional initiatives, and external issues that, although they may be beyond the direct control of the community, can directly impact growth decisions, primarily the Dallas North Tollway extension. Building upon past planning efforts and considering external factors that impact Prosper’s growth will allow for realistic growth assumptions and will help to ensure a cohesive, inclusive, and truly comprehensive plan.

Planning Efforts

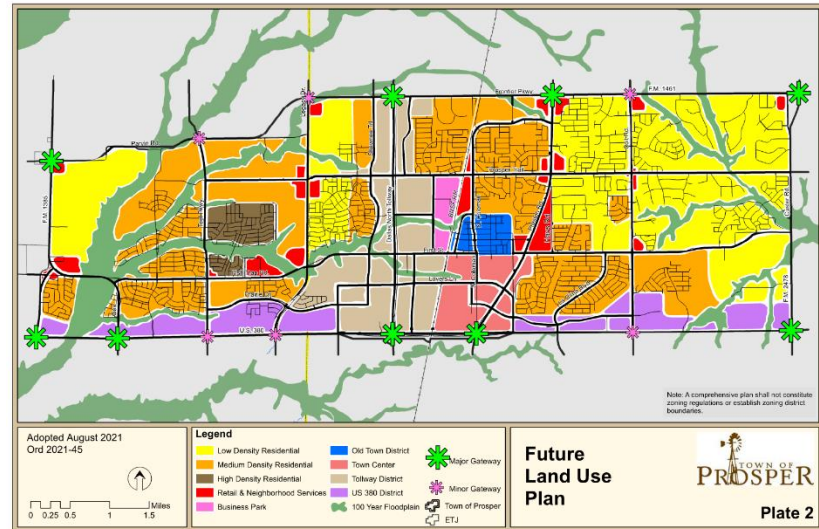
2012 Comprehensive Plan

In 2012, The Town adopted a Comprehensive Plan to guide land use decisions within the community for the next 10 years. This Plan included the development of a future land use and community framework scenario and examined the thoroughfare system and infrastructure of the community.

It is typically recommended that a Comprehensive Plan be updated every 10 to 20 years, depending on how rapidly the community is growing. Since 2012, Prosper has continued to grow rapidly, necessitating the review and update of the Comprehensive Plan.

Land Use decisions made during the 2012 Comprehensive Plan will be examined and evaluated to determine if changes are necessary. Various development plans and agreements have been submitted to or approved by the Town. Updating the Future Land Use Plan will re-examine the community’s vision and values. An updated Future Land Use Plan will provide the framework for discussions and negotiations with developers as changes to zoning occur.

Figure 13. August 2021 (Current) Version of the FLUP



2015 Parks, Recreation, and Open Space Master Plan

In 2015, the Town completed a Parks, Recreation, and Open Space Master Plan (Parks Plan) to direct the growth of the Town’s parks and trails as the community grows over the next several decades. The importance of the Parks Plan cannot be understated. Parks provide recreational opportunities for community residents and help increase the community's overall quality of life. In the same manner, trails provide recreational opportunities for residents to walk, run or bike throughout the community. Trails provide access to open space, parks, schools, and community facilities and help link various community areas to one another.

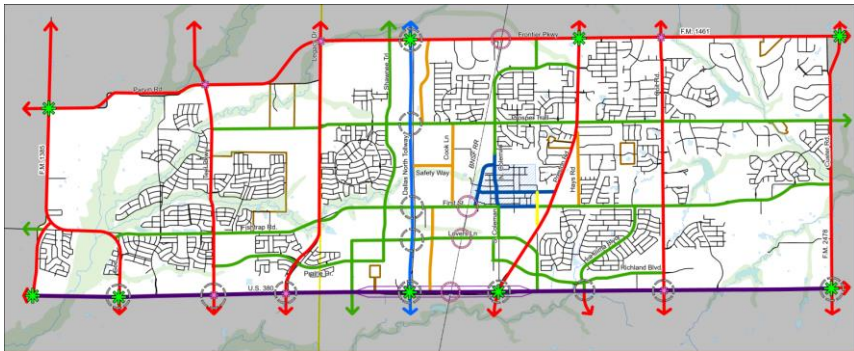
As development occurs, incremental implementation of the Parks Plan will occur. Ensuring that it is updated as changes occur, will help the Town leverage and negotiate with developers as vacant land is developed, ultimately enabling the Town to impose a proportional cost of park development on developers.

It will be important that Town decision-makers consult the Parks Plan as development proposals are received. While slight deviations may be permitted to accommodate site layouts, the location of parks and trails have been chosen for intentional reasons and therefore, the general locations of trails and parks should be adhered to as closely as possible.



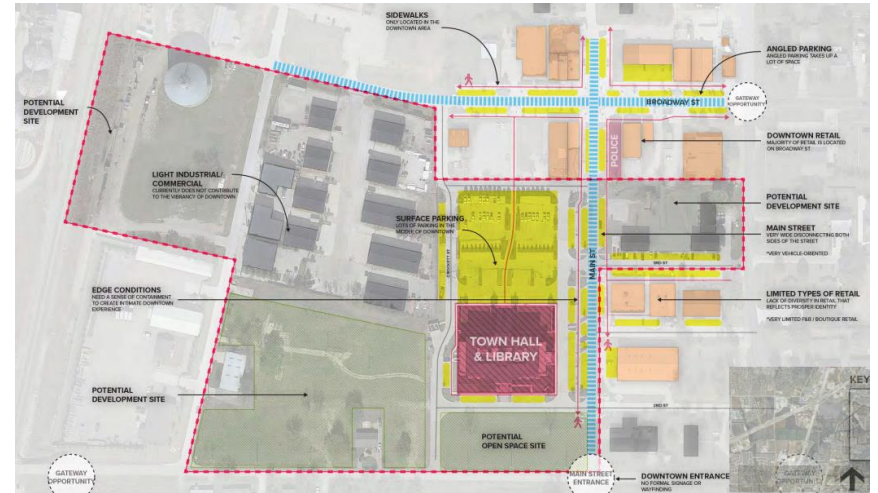
2021 Thoroughfare Plan

The Town completed an update to its Thoroughfare Plan in 2021, re-examining issues and redefining the Town’s roadway network. This Plan builds upon previous work efforts and seeks to coordinate land use decisions with previous transportation efforts. Any changes that result from land use decisions will be included as recommendations within this Plan and should be considered as the future Thoroughfare Plan update is made.



2022 Downtown Master Plan

The Town has continued its approach to strengthen the Downtown area. In 2022, the Town adopted the Downtown Master Plan, which serves as a foundational piece to attract new development while retaining the area’s rich history. This plan guides downtown development in aspirational and practical ways that are reflective of the community’s best interests. During the comprehensive planning process, any future land use decisions that the community prefers in the downtown area should align with the policies established in the 2022 Downtown Master Plan.



Prosper Independent School District

Throughout the planning process, schools have been identified as one of the single most important features of the Town. As the Town continues to grow, it is of prime importance that Prosper's schools' exemplary status and reputation be maintained.

While the Town and Prosper Independent School District (PISD) operate as two separate entities, they are inherently related to each other. Growth in the Town increases the overall tax base and provides revenue for the School District. Additionally, excellent schools enable the Town to continue attracting new residents and development.

The Town and PISD should be in direct communication, clearly identifying growth areas and assessing future educational needs. Communication between the Town and PISD will inevitably allow for coordinated infrastructure decisions, such as when new roads allowing access to new schools should be constructed.

The Town and PISD should also coordinate on population growth rates and potential future school locations. Establishing a working relationship between the two entities will benefit the Town, PISD, and the residents of Prosper themselves.

North Central Texas Council of Governments (NCTCOG)

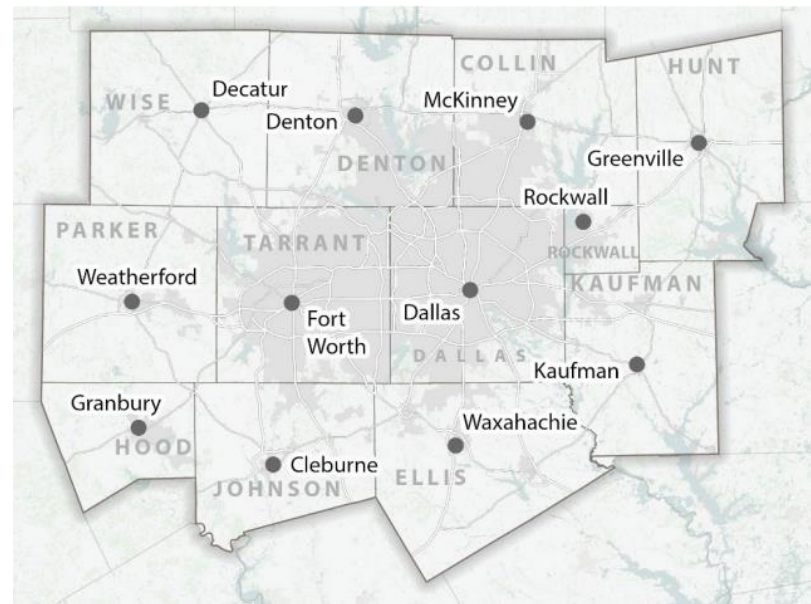
NCTCOG is the metropolitan planning organization that encompasses the 16-county North Texas region. NCTCOG works to promote orderly and balanced growth within the North Texas region. The metropolitan transportation plan created by NCTCOG, known as *Mobility 2045 Update*, contains various components, including arterial roadway networks, freeways, rail transit, and a Veloweb Network (regional trail system).

Coordination with NCTCOG will help to streamline projects within Prosper, particularly if outside funding is desired or necessary. Typically, funding is awarded to projects which show planning and coordination at multiple levels. Ensuring that future roadway and transportation plans by the Town are coordinated with NCTCOG will help Prosper attract investment from both the public and private sectors and will ensure that roadways are better coordinated between adjacent communities.

In addition to transportation, various grants are awarded to communities in North Texas by NCTCOG. These grants are used to incentivize regional cooperation without requiring compliance. NCTCOG has established the Center of Development Excellence, which provides 12 guiding principles that it recommends communities consider. Communities in North Texas are encouraged to incorporate these principles and are awarded grants and additional funding to help communities with some of the initial costs, studies, and plans associated with quality planning.

Dallas North Tollway District Design Guideline (2022)

The Dallas North Tollway is one of the most frequently trafficked roadways in the region, providing significant development opportunities to Prosper. As a result, the Town adopted the Dallas North Tollway District Design Guidelines in January 2022 to guide better future development outcomes in the district. These guidelines present a series of design and land use statements that explain the desired elements and qualities to shape development in the district. Particularly, these guidelines are calibrated to three specific areas within the Dallas North Tollway District, called sub-districts (U.S. 380 Gateway, Frontier Parkway Gateway, and Neighborhood Services and Retail sub-districts). Each sub-district has its own preferred development patterns. Generally, the U.S. 380 Gateway sub-district is anticipated to have the most intensive commercial activity, with the Frontier Parkway Gateway sub-district serving as a transition between the U.S. 380 Gateway sub-district and the lower intensity Neighborhood Services and Retail sub-district. These three sub-districts aim to create a welcoming, attractive, and vibrant community along the Tollway that encourages people to live, work, play, and visit seamlessly.



Source: NCTCOG Mobility 2045 Update

Figure 14. Dallas North Tollway District from DNT Guidelines



Tollway District

0 1 2 Miles

This map is for illustration purposes only.

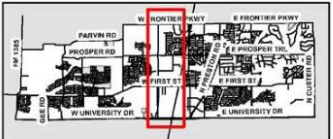
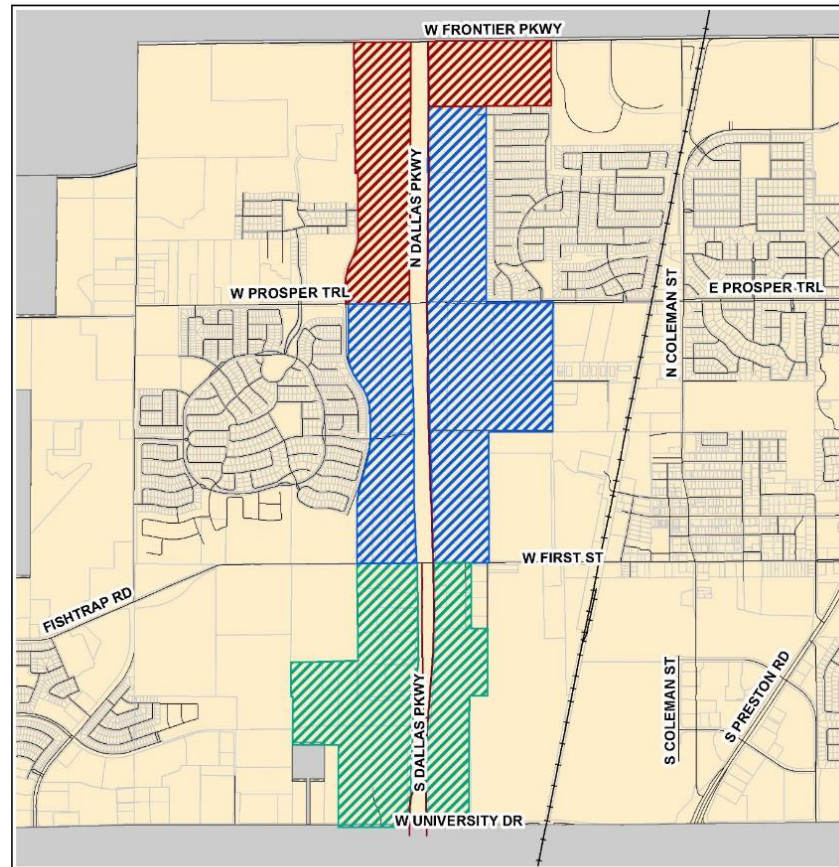


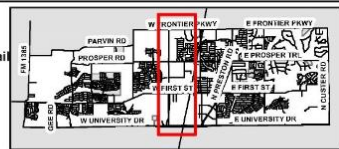
Figure 15. Subdistrict Designation from the DNT Guidelines



- Frontier Parkway Gateway
- Neighborhood Services and Retail
- U.S. 380 Gateway

0 1 2 Miles

This map is for illustration purposes only.



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CHAPTER 2

VISION AND GOALS

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INTRODUCTION

A fundamental component of the comprehensive planning process evolves around the vision of the community. The importance of the vision cannot be overstated—the vision guides land use decisions and allows Town staff and decision-makers to determine whether decisions are ultimately in conformance with the long-term vision for Prosper, as defined by its residents. In other words, the vision is the roadmap that guides decisions within the community and serves as the basis for the comprehensive plan and policy recommendations.

For this Plan, the visioning process was guided by a Comprehensive Plan Advisory Committee (CPAC) and included several deliberate exercises. The visioning process included:

- Three CPAC Meetings
- CPAC SWOT Analysis
- CPAC Five Key Questions Discussion
- Vision Statement and Goals Revisitation Discussion

The following pages contain the visioning process, highlighting the various groups involved, the exercises used, and preliminary results derived from the visioning process.

COMPREHENSIVE PLAN ADVISORY COMMITTEE (CPAC)

A committee of community residents and leaders was compiled to assist in developing the Plan. Committee members were selected based on various criteria, including the area of the community where they reside, past or current council experience, economic development knowledge, and business ownership. The CPAC’s role in the process was to guide the formation of the Plan document and ensure that the Plan created ultimately reflects the vision desired by Prosper residents.

Three meetings were conducted with the CPAC:

- Kickoff and Visioning Meeting on January 5, 2023
- Review and Consensus on Goals and Future Land Use Plan Meeting on April 24, 2023
- Review and Consensus on Complete Plan Meeting on June 26, 2023

All CPAC meetings were conducted at 6:00 p.m. and were open to the public. Energized and productive discussions were had at CPAC meetings, representative of the diverse opinions and backgrounds present on the committee. The exchange of ideas with various points of view ensured a thorough process where the realities of external factors affecting Prosper were weighted with the ultimate vision of the Town.

Meeting 1

Date: January 5, 2023

Location: Prosper Town Hall Chambers

Attendance: Six Prosper CPAC members and four Town staff members.

Purpose: To kick off the project, explain the purpose of the Comprehensive Plan Update, discuss the Plan's goals and objectives, review the CPAC members' pre-meeting homework assignment, address the Town's most pressing development issues, and assess the Town's strengths, weaknesses, opportunities, and threats.

Summary: The consultant team started the meeting with a presentation stating the purpose of the Comprehensive Plan, the project timeline, the role of the CPAC in the project, and the next steps to begin the comprehensive planning process. The presentation concluded with a review of the members pre-meeting homework tasks, a discussion of the CPAC's opinion on current issues, their vision for the Town's development, and an interactive SWOT analysis exercise.

Exercise 1: Five Key Questions

This CPAC exercise asked members to answer and discuss the following questions with each other:

1. Are there specific issues that routinely arise – at Planning and Zoning Commission meetings, Board meetings, amongst staff – that can be addressed during the comprehensive planning process?
2. What specific thoughts or concerns do you have about how the Town might develop in the future?
3. What would you like addressed in the Comprehensive Plan?
4. What types of development projects do you think the Town needs the most?
5. What types of development projects or growth patterns are not suitable for Prosper?

This CPAC exercise revealed the following takeaways:

- Multi-family uses need careful placement within the Town and must have strict standards that reflect the Town's preferences while balancing realistic market trends
- Perceived decision-making inconsistencies between Town staff, Planning and Zoning Commission, and Town Council deter developers from investing in Prosper
- Drive-thrus need to be addressed with a clear objective and policy to reduce traffic and improve development aesthetics
- New and modern uses are hard to address for decision-makers since there is no distinct direction regarding these uses
- Context-sensitive development regulations are lacking and should be incorporated moving forward to accommodate future development in the Town
- Land uses and mixed-use development should reflect what the community wants and needs
- Walkable neighborhoods with schools within walking distance should be encouraged
- Lot sizes have to be carefully balanced to protect the Town's character and preserve open space
- Clear guiding principles need to be created to facilitate consistent development decisions for Planning and Zoning Commission and Town Council members
- There needs to be an emphasis on growing the commercial tax base by focusing on retail, entertainment, and destination tourism
- Dallas North Tollway (DNT) needs to be a catalyst for mixed-use development
- More open space and parks should be required for future development
- Infrastructure improvements are in demand, especially if growth keeps occurring at its current rate
- Increased desire to reduce strip center development
- Restrict uses like auto dealerships where little tax value is generated

Exercise 2: SWOT Analysis

This CPAC exercise encouraged members to actively assess the Town’s strengths, weaknesses, opportunities, and threats (SWOT Analysis).

Strengths

- Responsive residents and Town leadership
- Small town feel
- Beautiful town
- Open space
- Reputation
- Good amenities/parks
- Faith-based community
- Incredible school district
- Excellent public services and public safety
- Identity
- Local business support

Weaknesses

- HWY 380 produces significant traffic and creates vehicular chaos
- Main thoroughfares creating unsightly development patterns
- Traffic
- Commercial tax base is low due to an abundance of residential development
- Balancing the tax base that is reflective of the community’s preferences
- Ineffectively communicated town needs
- Railroad limits development potential and also increases congestion

Opportunities

- Undeveloped land along DNT provides the Town with a competitive development advantage
- Capturing community uniqueness
- Using community pride to determine development quality

- Utilizing the Town’s charming character to energize downtown development
- Leveraging the Town’s great parks and functional open space for new residential development
- Significant infill development potential near Downtown
- Location to PGA positions Prosper for spillover economic benefits

Threats

- Drive-thru abundance
- Constant multi-family development requests
- 380 Bypass disrupting existing properties and adversely affecting current and projected development patterns
- Neighboring jurisdictions compete for commercial activity, entertainment attractions, and revenue sources
- Adequately handling phased development requests
- Aged development not aligning with newer development standards
- Retaining small town feel can limit development potential
- Separation of goods and services connecting east and west Prosper
- Lack of infrastructure resources to meet development pressures
- Outdated regulations that do not produce what the Town desires
- Oddly located ETJs within the Town’s corporate boundaries

Exercise 3: Review and Discussion of Existing Vision Statement and Goals

This CPAC exercise allowed members to revisit and provide input on the Plan’s vision statement and goals. Members concluded that some of the Plan’s existing goals and objectives have lost relevance, revised goals and objectives need to best capture the Town’s anticipated rapid growth and that the vision statement needs to be clear, concise, and impactful.

Meeting 2

Date: April 24, 2023

Location: Prosper Town Hall Chambers

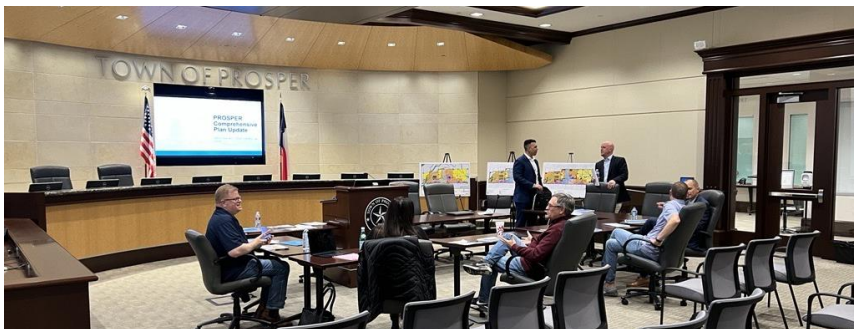
Attendance: Six Prosper CPAC members and two Town staff members.

Purpose: To present a project overview, reach a consensus on revisions to the vision statement, guiding principles, and community goals (Chapter 2), review the market analysis (Chapter 3), and discuss the Future Land Use Plan (Chapter 4) and potential updates.

Summary: At the previous CPAC meeting, members discussed the existing vision statement, guiding principles, and goals and objectives. Prior to the meeting, CPAC members provided written comments on these elements. At this meeting, the CPAC was presented the results of their previous efforts, encompassed in Chapter 2, and reached an agreement on this draft chapter.

The Market Analysis (Chapter 3) was the next agenda item for the meeting. TXP (Economic Consultants) presented the item and led the discussion with the CPAC members. Notably, the Market Analysis provided forecasts for future market employment and housing needs within the Town.

The final element of the meeting focused on nine areas on the Future Land Use Plan map that could support updates. The CPAC reviewed each area and discussed possible revisions. The CPAC’s discussion centered on existing land uses, compatibility with surrounding areas, and evaluation of the remaining vacant land opportunities.



Meeting 3

Date: June 26, 2023

Location: Prosper Town Hall Chambers

Attendance: Five Prosper CPAC members and four Town staff members.

Purpose: To present an overview of the complete draft plan, review the revisions recommended by the CPAC from the previous meeting on April 24, 2023, reach a consensus on revisions to the Future Land Use Plan (Chapter 4), and discuss the Neighborhood and Community Livability Chapter (Chapter 5) and the Implementation Chapter (Chapter 6).

Summary: This meeting served as the CPAC’s opportunity to review and discuss the complete draft of the Comprehensive Plan. The Plan was sent to CPAC members in advance of the meeting, which included the addition of the final two chapters: the Neighborhood and Community Livability Chapter (Chapter 5) and the Implementation Chapter (Chapter 6). The meeting also allowed CPAC members to review the completed revisions from the previously reviewed chapters.

Notably, the CPAC had an in-depth and detailed discussion regarding the proposed Future Land Use Plan map updates. The CPAC members reviewed and discussed the merits of each potential map change. The density (dwelling units per acre [DUA]) for each residential land use category was also discussed. A key CPAC discussion point was to clarify that DUA calculations should be clarified that undevelopable land, such as floodplains, should be excluded from the density calculations.

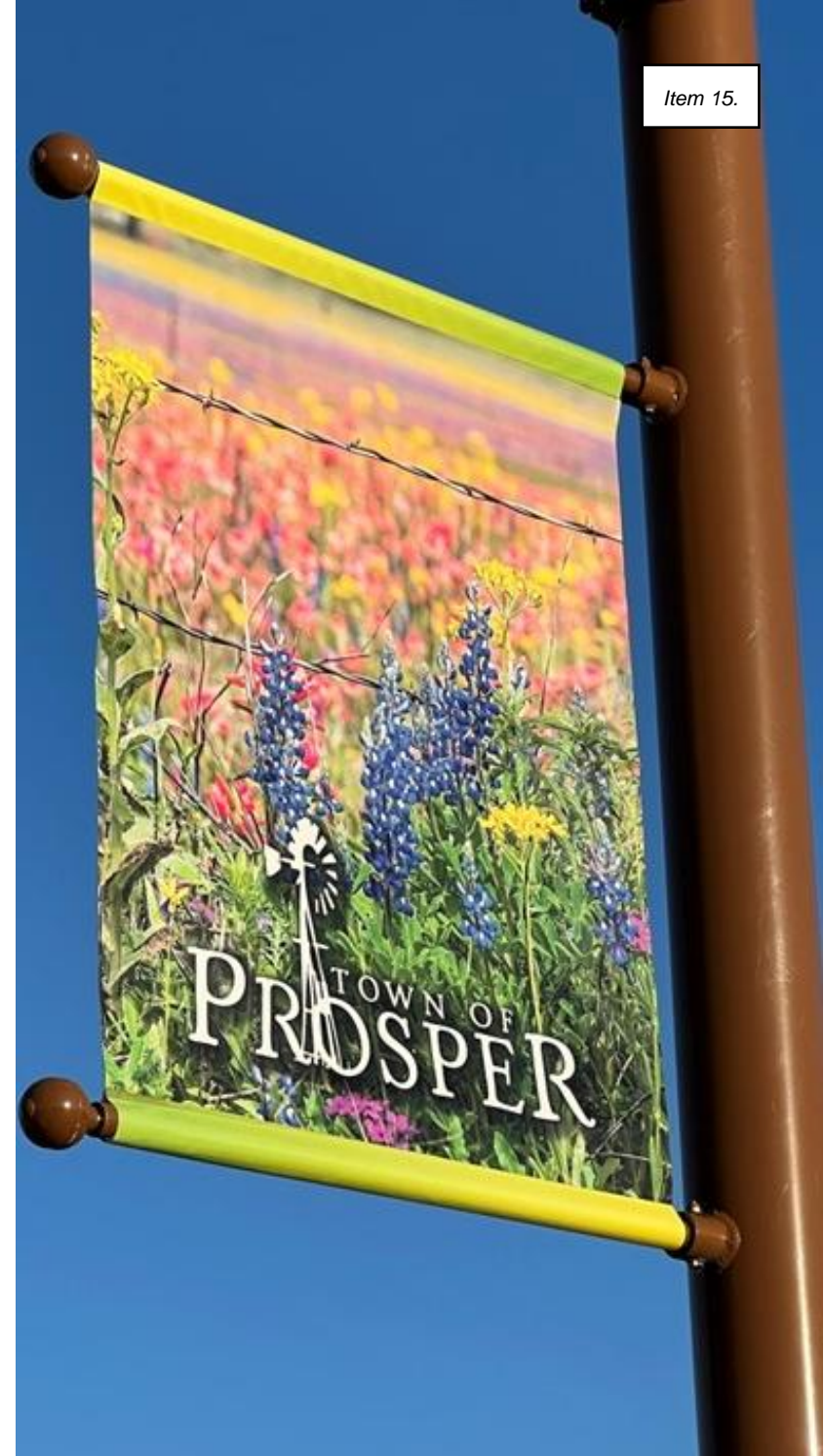


VISION STATEMENT

A vision communicates the reason for existence, the purpose behind planning, and the overall goals of a community from a long-range planning and development perspective. The primary benefit of visioning is that it clarifies how a community will approach its critical planning, development, and growth issues. With the clarified approach that visioning provides, the resulting Plan will better address the future of the Town in a manner that is reflective of the community’s interests.

The vision statement for a community should describe the community as it will ideally exist in the future. A vision statement spells out goals or values at a high level and promotes what the Town should become. The vision statement for this Plan is as follows:

Prosper protects small-town character and family values by encouraging community participation, academic achievement, open space, and housing excellence.



GUIDING PRINCIPLES AND COMMUNITY GOALS

Guiding Principles

The guiding principles are an extension of the vision statement because they represent the Town’s priorities. Below are five elements that emerged from the CPAC’s input.

- 1. **Quality of Life** - Focus on quality-of-life amenities for existing and future Prosper families to foster a desirable and unique community.
- 2. **Quality Development** - Maintain the community’s small-town feel by ensuring quality development occurs in a cohesive manner, compatible with neighboring developments.
- 3. **Fiscal Responsibility** - Ensure Prosper develops with a strong understanding of the fiscal implications of a development proposal.
- 4. **Infrastructure** - Ensure new development provides adequate public facilities and roadway improvements that accommodate the Town’s development capacity.
- 5. **Economic Development** - Promote local economic development efforts to support local businesses, tourism, and commercial opportunities that grow the Town’s tax base.

Community Goals

Community goals are created to direct the formation of the Plan. They are practical yet general points under which more specific objectives may be located. The goals for the Plan are purposely designed to cover a wide array of individual objectives, but were specifically crafted to address many of the comments, issues, ideas, and concerns defined during the visioning portion of the Plan’s creation.

The following goals, combined with the Town’s guiding principles, are intended to provide a framework for the creation of applicable and economically feasible land use decisions and special districts. The goals are also intended to establish guidelines for preserving Prosper’s neighborhoods and creating quality new residential areas, maintaining and enhancing Prosper’s quality of life and physical characteristics, providing a safe and attractive transportation network, and ultimately ensuring that the Town’s infrastructure systems will be adequate to accommodate 20-year growth. Plan objectives are located within the Implementation chapter of this Plan.

- Goal 1:** Provide a variety of desirable land uses that diversify the tax base and enable all types of people to live, work, shop, eat, and relax in Prosper.
- Goal 2:** Maintain and enhance the high quality of life and small-town feel currently available and expected by Prosper residents.
- Goal 3:** Protect the quality and integrity of Prosper’s neighborhoods.
- Goal 4:** Require high-quality and visually attractive characteristics in both residential and nonresidential developments.
- Goal 5:** Develop quality, open roadways that enhance compatibility with adjacent development and provide safe and convenient traffic movements.
- Goal 6:** Ensure that water, wastewater, and stormwater infrastructure systems are able to meet future growth demands.

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CHAPTER 3

MARKET ANALYSIS

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INTRODUCTION

The Market Assessment provides insight into Prosper’s current and projected market demands. When community leaders better understand future market conditions, they can better evaluate land use and other important Town decisions. The type and number of homes and jobs being developed in the Town can substantially impact the community’s quality-of-life.

PAST HOUSING GROWTH

Historical Population Growth

Prosper has experienced tremendous growth over the past decade. Since 2010, the population has increased by nearly 25,000 residents. Prosper’s 2021 population is 34,136 residents. The average household size is 3.33 people. There are approximately 10,715 households in Prosper. The town’s population growth has been similar to peer communities.

Figure 16. Annual Population Estimates

Year	Prosper	Celina	Anna	Melissa
2010	9,423	6,028	8,249	4,695
2020	30,225	16,771	16,935	13,941
2021	34,136	23,811	20,243	16,983
% Change 2010 to 2021	262.3%	295.0%	145.4%	261.7%

Source: U.S. Census Bureau

Prosper has permitted over 8,300 single-family residential units to support this growth since 2010. This translates into about 700 building permits per year. Over this same period, the Town permitted 300 multi-family units (5+ units per building). Multi-family units were less than 4 percent of all units permitted. For Collin County, multi-family units were 29 percent of all residential building permits issued since 2010. In Denton County, multi-family units were 21 percent of all residential building permits over this same period.

Figure 17. Prosper Building Permit Activity by Year

Year	Single-Family	5+ Units	Total
2010	280	0	280
2011	369	0	369
2012	465	0	465
2013	487	0	487
2014	557	0	557
2015	659	300	959
2016	673	39	712
2017	774	0	774
2018	924	0	924
2019	847	0	847
2020	1,115	0	1,115
2021	1,220	0	1,220
Total	8,370	339	8,709

Source: US Census Bureau Building Permits Survey

According to the North Central Texas Council of Governments’ development dataset, 5,644 single-family units and 943 multi-family units are under construction in Prosper. Multi-family units account for 14 percent of total units under construction. This indicates that Prosper is increasing the share of multi-family units in the community relative to past trends.

PAST EMPLOYMENT GROWTH

Prosper-based businesses have also been increasing and adding employees. In 2010, Prosper-based businesses had 1,200 employees. By 2022, employment at local businesses increased to 8,000 workers. The largest employment sectors are Retail Trade, Accommodation and Food Services, and Education. Over the long term, Prosper should attract more professional service industries requiring commercial office space or campus developments. The future land use plan identifies areas where commercial office buildings are appropriate and helps to guide decisions on where Prosper has space to foster this type of development.

DEMOGRAPHIC FORECASTS

Overall Forecast

The North Central Texas Council of Governments Demographic forecast can be used to estimate residential and commercial real estate needs over the next 20 years.

Figure 18. Prosper Demographic Forecast

Year	Population	Households	Employment
2015	17,877	5,448	3,225
2022	35,629	10,715	8,374
2030	42,868	13,095	21,345
2045	58,610	18,645	41,488
Change 2022 to 2045	22,981	7,930	33,114

Source: North Central Texas Council of Governments, ESRI, TXP, Inc.

Residential Forecast Analysis

According to the American Community Survey (2021 5-Year Average), 91 percent of Prosper's existing occupied housing units are single-family detached. This statistic represents the "Prosper Baseline" of the housing mix. More recent data from the North Central Texas Council of Governments indicate about 86 percent of houses are single-family. This figure highlights the direction of the current residential real estate market. This figure is referred to as the "Current Trend." If Prosper trended toward the "Collin County Average," then 75 percent of homes would be single-family. It is common for communities such as Prosper to initially capture a high level of single-family home development activity as families move to the area in search of lower housing costs, larger residential lots, and quality-of-life amenities. As the community builds out and becomes more incorporated into the larger metropolitan area, a greater number of multi-family units are built to accommodate a wider variety of residents. The following table depicts the range of new housing types built over the next 20 years.

Figure 19. Prosper Housing Type Allocation Forecast

Housing Type	Prosper Baseline	Current Trend	Collin County Average
Percent			
Single-Family	91%	86%	75%
Multi-Family	9%	14%	25%
Total	100%	100%	100%
Units Built			
Single-Family	7,216	6,794	5,947
Multi-Family	714	1,135	1,982
Total	7,930	7,930	7,930

Source: TXP, Inc.

Employment Forecast Analysis

The U.S. Energy Information Administration Commercial Buildings Energy Consumption Survey (CBECS) is a national sample survey that collects information on the stock of U.S. commercial buildings. Commercial buildings include all buildings in which at least half of the floor space is used for a purpose that is not residential, industrial, or agricultural. By this definition, CBECS includes building types not traditionally considered commercial, such as schools, hospitals, correctional institutions, and buildings used for religious worship, in addition to traditional commercial buildings, such as stores, restaurants, warehouses, and office buildings. As part of this survey, CBECS produces estimates for mean square feet per worker by building activity.

The following table combines the North Central Texas Council of Governments Demographic forecast data with estimates of square footage per worker by industry, providing a high-level or order-of-magnitude estimate based on historical trends. The post-pandemic hybrid work model is changing real estate needs in all industries; therefore, it is likely this data represents the upper bound of what would be required to support this employment growth.

Figure 20. Prosper Employment Growth and Future Square Footage Needed

	Basic	Retail	Service	Total
Number of Jobs				
2022	899	811	6,664	8,374
2030	2,291	1,827	17,693	21,811
2045	3,547	3,552	34,389	41,488
Change 2022 to 2045	2,649	2,740	27,725	33,114
Square Footage Analysis				
Square Feet Per Worker	1,000	750	500	N/A
Total Square Feet	2,648,716	2,055,260	13,862,640	18,566,616

Source: North Central Texas Council of Governments, ESRI, U.S. Energy Information Administration, TXP, Inc.

Figure 21. Employment Descriptions for Basic, Retail, and Service Employment Types

Employment Type	NAICS Code	Employment Description
Basic	11	Agriculture, Forestry, Fishing and Hunting
	21	Mining, Quarrying, and Oil and Gas Extraction
	22	Utilities
	23	Construction
	31-33	Manufacturing
	42	Wholesale Trade
	48-49	Transportation and Warehousing (Except 491 – Post Offices)
	5111	Newspaper, Periodical, Book, and Directory Publishers
	5112	Software Publishers
	512	Motion Picture and Sound Recording Industries (Except 51213 - Motion Picture Theatres)
	515	Broadcasting (except Internet)
517	Telecommunications	
5175	Cable and Other Program Distribution	
Retail	44-45	Retail Trade
	71	Arts, Entertainment, and Recreation
	722	Food Services and Drinking Establishments
	491	Post Offices
Service	51213	Motion Picture and Video Exhibition (i.e. Theatres)
	5172	Internet Publishing and Telecommunications
	5179	Other Telecommunications
	518-519	Internet Service Providers and News Syndicates
	52	Finance and Insurance
	53	Real Estate and Rental and Leasing
	54	Professional, Scientific and Technical Services
	55	Management of Companies and Enterprises
	56	Administrative and Support and Waste Management and Remediation Services
	62	Health Care and Social Assistance
	721	Accommodation
	81	Other Services (except Public Administration)
	92	Public Administration
	6117	Educational Support Services
	9999	Unknown

Source: TXP, Inc.

Land Use Forecast Analysis

The information from Figure 20 can be used to estimate the acreage needed to support the growth from 2022 to 2045 of the basic, retail, and service employment categories. The total square footage from Figure 20 indicates the amount of building space needed to house the projected employment growth. Using this data, estimates for the land required for such buildings can be projected, which are shown in Figure 22.

Figure 22. Acres Needed to Accommodate Projected Employment Types

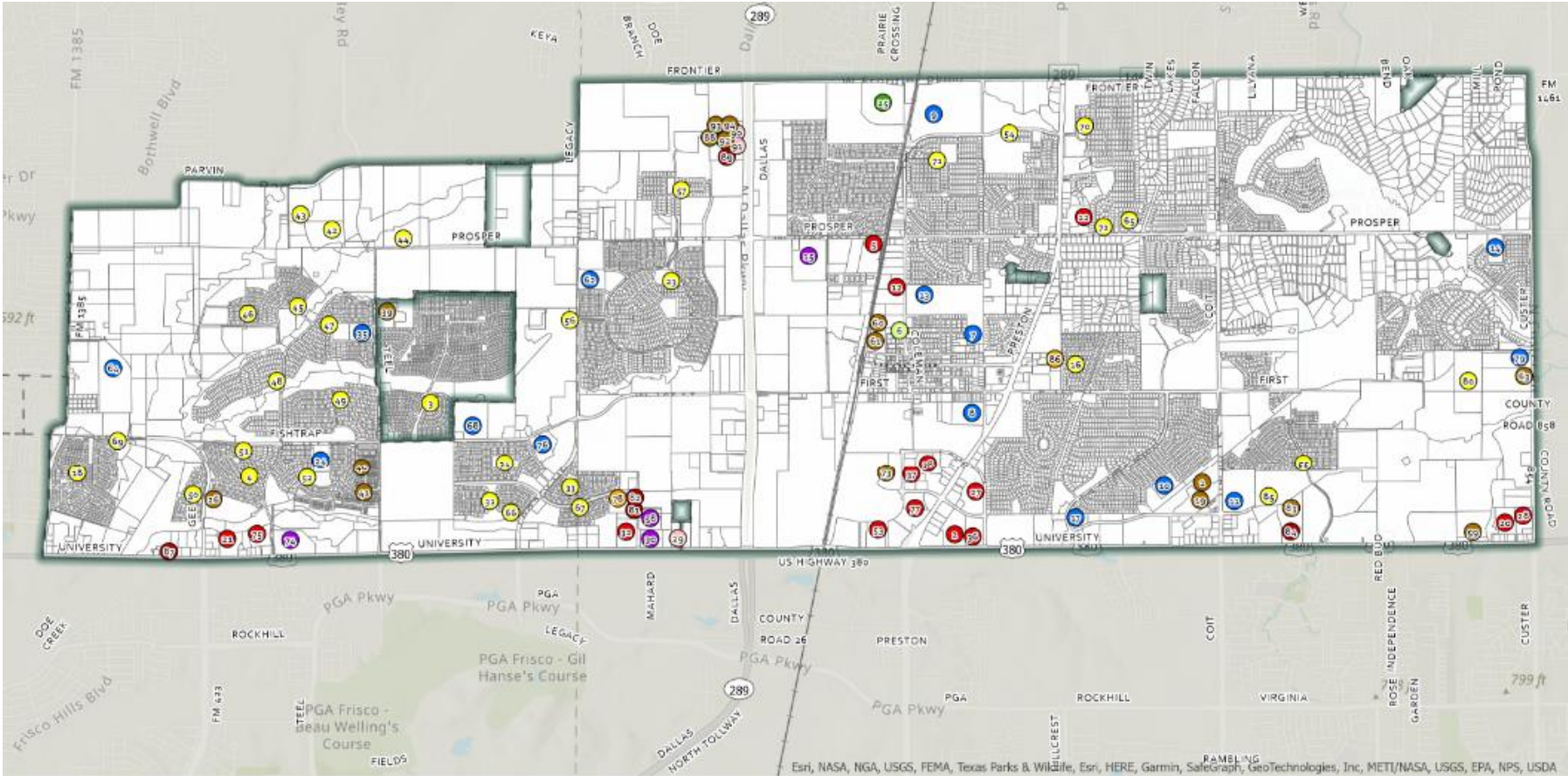
	Basic	Retail	Service
Square Feet Per Worker	1,000	750	500
Total Square Footage of New Building Space: 2022-2045	2,648,716	2,055,260	13,862,640
Floor Area Ratio	0.1	0.25	0.25
Total Square Footage of Land Area	26,487,160	8,221,040	55,450,560
Total Acres Per Type	608	189	1,273

Note: One Acre equals 43,560 square feet.



SUPPLEMENTAL DATA

Figure 23. Prosper Developments Map



Developments

- Single Family
- Retail
- Group Quarters/Senior Living
- Multi-Family
- Lodge/Hotel
- Other/Manufactured Home
- Education
- Institutional
- Recreation/Stadium
- Office
- Institutional
- Town Limits

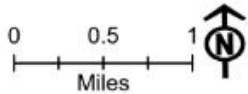


Figure 24. Prosper Development List

#	Name	Type	SubClass	Class	Address
1	Orion Prosper Lakes	Apartment	Multi-Family	Residential	880 S Coit Rd
2	Walmart Supercenter	Supercenter	Retail	Commercial	500 Richland Blvd
3	Artesia	Subdivision	Single Family	Residential	1550 Artesia Blvd
4	Windsong Ranch	Subdivision	Single Family	Residential	1001 Windsong Pkwy S
5	Builders FirstSource	Specialized Retail	Retail	Commercial	365 W Prosper Trl
6	Prosper Mobile Home Park	Mobile Home	Other	Residential	401 N Coleman St
7	Prosper ISD Administration Building	Education Administration	Education	Special Use	605 E 7th St
8	Judy Rucker El	Primary Education	Education	Special Use	402 S Craig Rd
9	Prosper H S	Secondary Education	Education	Special Use	301 Eagle Dr
10	R Steve Folsom El	Primary Education	Education	Special Use	800 Somerville Dr
11	Lorene Rogers M S	Secondary Education	Education	Special Use	1001 S Coit Rd
12	Eagles Crossing II	Shops	Retail	Commercial	821 North Coleman
13	Reynolds M S	Secondary Education	Education	Special Use	700 N Coleman St
14	Cynthia A Cockrell El	Primary Education	Education	Special Use	1075 Escalante Trl
15	Prestonwood Baptist Church North Campus	Worship	Institutional	Special Use	1001 W Prosper Trl
16	Cedar Ridge Estates	Subdivision	Single Family	Residential	E 1st St & N Hays St
17	Primrose School of Prosper	Private Education	Education	Special Use	1185 La Cima Blvd
18	Glenbrooke Estates Ph I & II	Subdivision	Single Family	Residential	FM 1385 & Glenbrooke Dr
19	Orion Prosper	Apartment	Multi-Family	Residential	980 S Coit Rd
20	Kroger	Grocery Store	Retail	Commercial	4201 E University Dr
21	Kroger	Grocery Store	Retail	Commercial	4650 W University Dr
22	Kroger	Grocery Store	Retail	Commercial	1250 N Preston Rd
23	Star Trails Phase 1-9	Subdivision	Single Family	Residential	W Prosper Trl & Stargazer Way
24	Windsong Ranch El	Primary Education	Education	Special Use	800 Copper Canyon Dr

#	Name	Type	SubClass	Class	Address
25	Prosper ISD Football Stadium	Arena/Stadium	Recreation	Special Use	2000 Stadium Dr
26	Cortland Windsong Ranch	Apartment	Multi-Family	Residential	4500 Bluestem Dr
27	Gates of Prosper	Stripcenter	Retail	Commercial	S Preston Rd & Lovers Ln
28	Lowe's Home Improvement	Home Improvement Store	Retail	Commercial	4301 E University Dr
29	U-Haul Self Storage	Single Tenant	Office	Commercial	1566 US Hwy 380
30	Texas Health Neighborhood Care & Wellness Prosper	Hospital	Institutional	Special Use	1970 W University Dr
31	Lakes at Legacy	Subdivision	Single Family	Residential	US 380 & Legacy Dr
32	Longo Toyota of Prosper	Specialized Retail	Retail	Commercial	2100 W University Dr
33	Hills at Legacy	Subdivision	Single Family	Residential	Legacy Dr & Scarlett Dr
34	The Parks at Legacy	Subdivision	Single Family	Residential	Winding Oak Dr & Cannon Dr
35	Mrs Jerry Bryant El	Primary Education	Education	Special Use	3080 Freeman Way
36	Dicks Sporting Goods	Specialized Retail	Retail	Commercial	700 Richland Blvd
37	Gates of Prosper Phase II Bldg A	Stripcenter	Retail	Commercial	1050 S Preston Rd
38	Gates of Prosper Phase II Bldg B	Stripcenter	Retail	Commercial	920 S Preston Rd
39	Prosper Elms I	Apartment	Multi-Family	Residential	634 N Teel Pkwy
40	Townhomes at Windsong Ranch	Townhome	Multi-Family	Residential	860 Bandera Ct
41	Villas at Windsong Ranch	Townhome	Multi-Family	Residential	1000 Foxglove Ln
42	Windsong Ranch Phase 8	Subdivision	Single Family	Residential	Raftel Rd
43	Windsong Ranch Phase 10	Subdivision	Single Family	Residential	Kestrel St
44	Windsong Ranch Phase 9	Subdivision	Single Family	Residential	Whimbrel Ct
45	Windsong Ranch Phase 6	Subdivision	Single Family	Residential	Bridges Dr & Old Rosebud Ln
46	Windsong Ranch Phase 7	Subdivision	Single Family	Residential	Neale St

#	Name	Type	SubClass	Class	Address
47	Windsong Ranch Phase 5	Subdivision	Single Family	Residential	Ironwood Dr
48	Windsong Ranch Phase 3B-3D	Subdivision	Single Family	Residential	4340 Liberty Dr
49	Windsong Ranch Phase 4	Subdivision	Single Family	Residential	3931 Blue Sage Dr
50	Windsong Ranch Phase 3A	Subdivision	Single Family	Residential	4881 Rockcross Ct
51	Windsong Ranch Phase 1	Subdivision	Single Family	Residential	Fishtrap Rd & Rockrose Dr
52	Windsong Ranch Phase 2	Subdivision	Single Family	Residential	910 Redstem Dr
53	Gates of Prosper Phase 3	Shops	Retail	Commercial	NWC E University Dr & Preston Rd
54	Cambridge Park Estates	Subdivision	Single Family	Residential	SWC N Coleman St & Preston Rd
55	Lakewood	Subdivision	Single Family	Residential	Lakewood Dr
56	Star Trail Phase 10-18	Subdivision	Single Family	Residential	SWC Prosper Rd & Legacy Dr
57	Legacy Gardens	Subdivision	Single Family	Residential	1410 Beverly Dr
58	Encompass Health	Hospital	Institutional	Special Use	Mahard Pkwy
59	Brookhollow Apartments	Apartment	Multi-Family	Residential	4001 E University Dr
60	Prosper Lofts	Loft	Multi-Family	Residential	491 W 5th St
61	Livano Prosper	Apartment	Multi-Family	Residential	408 W 5th St
62	Joyce Hall El	Primary Education	Education	Special Use	1001 Star Meadow Dr
63	Ladera Prosper	Condominium	Multi-Family	Residential	Custer Rd
64	Denton ISD Middle School #9	Secondary Education	Education	Special Use	Denton Way
65	Falls of Prosper	Subdivision	Single Family	Residential	1811 Newpark Way
66	Lakes at Legacy	Subdivision	Single Family	Residential	2811 Firefly Pl
67	Greens at Legacy	Subdivision	Single Family	Residential	Amanda Ln & Prairie Dr
68	William Rushing M S	Secondary Education	Education	Special Use	3080 Fishtrap Rd
69	Preserve at Doe Creek	Subdivision	Single Family	Residential	Fishtrap Rd & Grey Wolf Dr
70	Frontier Estates	Subdivision	Single Family	Residential	1511 Winchester Dr
71	Tanner's Mill	Subdivision	Single Family	Residential	341 Godstone Ln
72	Prosper Lake on Preston	Subdivision	Single Family	Residential	1141 Vista Run Dr

#	Name	Type	SubClass	Class	Address
73	Gates of Prosper Apartments	Apartment	Multi-Family	Residential	NWC S Coleman St & Richland Blvd
74	Cook Childrens North Campus	Hospital	Institutional	Special Use	4300 W University Dr
75	Home Depot	Home Improvement Store	Retail	Commercial	4450 W University Dr
76	Chuck and Cindy Stuber E S	Primary Education	Education	Special Use	721 Village Park Ln
77	Target	Specialized Retail	Retail	Commercial	S Preston Rd & University Dr
78	Alders at Prosper	Senior Living Facilities	Group Quarters	Residential	SWC Prairie Dr & Mahard Pkwy
79	Founders Classical Academy of Prosper	Charter	Education	Special Use	4300 E First St
80	Malabar Hill	Subdivision	Single Family	Residential	First St
81	Holiday Inn Express & Suites Prosper	Hotel	Lodge	Commercial	Mahard Pkwy
82	Prosper Marriott Town Place Suites	Hotel	Lodge	Commercial	Mahard Pkwy & Prairie Dr
83	Prosper Flats	Apartment	Multi-Family	Residential	W US Hwy 380
84	Prestonwick Mixed Use Hotel	Hotel	Lodge	Commercial	W US Hwy 380
85	Brookhollow West	Subdivision	Single Family	Residential	Richland Dr
86	Tribute Senior Living	Senior Living Facilities	Group Quarters	Residential	190 N Preston Rd
87	Residence Inn	Hotel	Lodge	Commercial	5050 W University Dr
88	Pradera Townhomes	Townhome	Multi-Family	Residential	Dallas Pkwy
89	Pradera Hotel	Hotel	Lodge	Commercial	Dallas Pkwy
90	Pradera Office Bldg 1	Multi-Tenant	Office	Commercial	Dallas Pkwy
91	Pradera Office Bldg 2	Multi-Tenant	Office	Commercial	Dallas Pkwy
92	Pradera Apartments	Apartment	Multi-Family	Residential	Dallas Pkwy
93	Pradera Condos Bldg 1	Condominium	Multi-Family	Residential	Dallas Pkwy
94	Pradera Condos Bldg 2	Condominium	Multi-Family	Residential	Dallas Pkwy

Population Summaries

Understanding Prosper’s demographics will assist in planning for economic growth initiatives and needed services within the community. The Town has experienced significant population growth within the last decade, which is anticipated to continue moving into the next five years (see Figure 25). Prosper’s daytime population (see Figure 26) illustrates that almost half (48.1%) of Prosper’s 35,629 residents do not remain in the Town during traditional working hours. This trend often indicates that residents seek jobs and daytime opportunities elsewhere, resulting in increased vehicle trips and exported revenue related to spending and employment.

Race and ethnicity are demographic factors that help shape a community’s cultural identity. Understanding the Town’s racial and ethnic makeup will help ensure that all members of the community are represented in economic development efforts. Lastly, the level of educational attainment may be used to market employment opportunities in the Town. Prosper’s residents are well-educated, with 68.7% having a post-secondary degree (see Figure 28).

Figure 25. Population Summary

Year	Population	Growth
2010	9,523	N/A
2020	30,174	20,651 (+)
2022	35,629	5,455 (+)
2027*	42,081	6,452 (+)

*Projected

Source: Esri

Figure 26. Daytime Population Summary

Daytime Population Type	2022 Daytime Population	
	Total Daytime Pop.	% of Daytime Pop.
Workers	10,431	36.1%
Residents	18,485	63.9%
Total	28,916	100%

Source: Esri

Figure 27. Race and Ethnicity

Race & Ethnicity	% of Population	
	2022	2027*
Race		
White	69.2%	67.0%
Black	8.5%	8.7%
Native American	0.6%	0.6%
Asian	7.9%	8.4%
Pacific Islander	0.1%	0.1%
Other Race	3.1%	3.7%
Two or More Races	10.7%	11.6%
Ethnicity		
Hispanic Origin	10.7%	11.3%
Non-Hispanic Origin	89.3%	88.7%

*Projected

Source: Esri

Figure 28. Educational Attainment

Highest Level of Education	2022 Population (25+ Years)	
	Population	% of Population
Less than 9 th Grade	221	1.0%
High School, No Diploma	311	1.4%
High School Graduate	2,418	10.9%
GED/Alternative Credential	355	1.6%
Some College, No Degree	3,638	16.4%
Associate Degree	1,730	7.8%
Bachelor’s Degree	9,360	42.2%
Graduate/Professional Degree	4,147	18.7%
Total Population (25+ Years)	22,180	100%

Source: Esri

Market Profile

Prosper’s market potential is largely shaped by its housing and residents’ available income. The Town’s persons per household has remained relatively constant in the last decade (see Figure 29), Prosper’s current housing vacancy rate of 8.9% is lower than the 2010 level of 13.7% (see Figure 30) —this results in population growth and increased market potential. Likewise, Prosper’s share of owner-occupied units has seen a significant shift since 2010, indicating that residents are increasingly owning property rather than renting.

Household income is one of the top driving factors for economic growth and development opportunities. Commercial opportunities are more likely to be established when there are residential rooftops, particularly where those rooftops house individuals with a high household income. The average household income in Prosper is anticipated to increase by approximately 7.1% (see Figure 31) within the next five years.

Figure 29. Total Households and Size

Year	Total Households	Persons Per Household
2010	3,030	3.14
2020	9,095	3.32
2022	10,715	3.33
2027*	12,705	3.31

*Projected

Source: Esri

Figure 30. Housing Unit Occupancy

Year	% of Housing Units		
	Owner Occupied	Renter Occupied	Vacant
2000	78.5%	14.8%	6.8%
2010	68.6%	17.7%	13.7%
2022	80.9%	10.9%	8.2%
2027*	80.6%	10.5%	8.9%

*Projected

Source: Esri

Figure 31. Household Income

Income Base	% of Households	
	2022	2027*
Less than \$15,000	1.3%	0.9% (-)
\$15,000 to \$24,999	0.8%	0.6% (-)
\$25,000 to \$34,999	1.7%	1.2% (-)
\$35,000 to \$49,999	3.1%	2.2% (-)
\$50,000 to \$74,999	8.4%	5.9% (-)
\$75,000 to \$99,999	9.0%	8.1% (-)
\$100,000 to \$149,999	23.2%	28.1% (+)
\$150,000 to \$199,999	18.6%	22.0% (+)
\$200,000 or greater	30.8%	31.1% (+)
Average Household Income	\$187,794	\$201,090 (+)

*Projected

Source: Esri

Retail Demand and Spending Outlook

The Town’s consumer habits reveal the most frequent categories and services that households within Prosper spend their money on. Figure 32 illustrates the spending breakdown by household based on select categories related to land use and planning. It should be noted that households report these totals and are not mutually exclusive; therefore, totals may overlap in areas where categories are similar. As the table below shows, all spending categories are anticipated to increase by 2027.

Figure 32. Consumer Spending

Select Spending Categories	Consumer Spending		
	2022	2027*	Growth
Apparel & Services	\$45,742,573	\$58,158,634	\$12,416,061
Men’s	\$8,867,484	\$11,269,452	\$2,401,968
Women’s	\$15,589,929	\$19,796,595	\$4,206,666
Children’s	\$7,608,973	\$9,709,410	\$2,100,437
Footwear	\$10,357,443	\$13,180,054	\$2,822,611
Watches & Jewelry	\$2,707,496	\$3,429,848	\$722,352
Apparel Products & Services	\$1,008,390	\$1,275,070	\$266,680
Entertainment & Recreation	\$68,709,927	\$87,302,192	\$18,592,265
Fees and Admissions	\$17,381,153	\$22,020,564	\$4,639,411
TV, Video, & Audio	\$23,992,288	\$30,559,572	\$6,567,284
Pets	\$14,385,341	\$18,259,851	\$3,874,510
Toys, Games, Crafts, & Hobbies	\$2,686,105	\$3,430,504	\$744,399
Recreational Vehicles & Fees	\$2,400,903	\$3,026,236	\$625,333
Sports, Recreation, & Exercise Equipment	\$4,230,128	\$5,392,150	\$1,162,022
Photo Equipment & Supplies	\$1,076,470	\$1,370,667	\$294,197
Other	\$2,561,563	\$3,247,757	\$686,194
Food	\$194,424,961	\$247,416,460	\$52,991,499
Food at Home	\$112,390,528	\$143,039,672	\$30,649,144
Food Away from Home	\$82,034,433	\$104,376,788	\$22,342,355

Select Spending Categories	Consumer Spending		
	2022	2027*	Growth
Home	\$440,686,979	\$559,073,189	\$118,386,210
Mortgage Payment & Basics	\$256,982,551	\$325,602,534	\$68,619,983
Maintenance & Remodeling Services	\$66,196,689	\$83,763,635	\$17,566,946
Maintenance & Remodeling Materials	\$14,298,198	\$18,171,183	\$3,872,985
Utilities, Fuel, & Public Services	\$103,209,541	\$131,535,837	\$28,326,296
Home Furnishings & Equipment	\$31,611,721	\$40,205,611	\$8,593,890
Household Textiles	\$2,191,239	\$2,787,479	\$596,240
Furniture	\$14,363,575	\$18,282,797	\$3,919,222
Rugs	\$705,205	\$892,835	\$187,630
Major Appliances	\$8,838,676	\$11,240,439	\$2,401,763
Housewares	\$1,922,527	\$2,445,561	\$523,034
Small Appliances	\$1,103,531	\$1,406,801	\$303,270
Luggage	\$388,355	\$494,959	\$106,604
Telephones & Accessories	\$2,098,613	\$2,654,740	\$556,127
Insurance	\$153,064,464	\$194,797,462	\$41,732,998
Owner’s & Renter’s Insurance	\$13,944,270	\$17,729,408	\$3,785,138
Vehicle Insurance	\$40,545,170	\$51,768,301	\$11,223,131
Live & Other Insurance	\$13,167,306	\$16,666,888	\$3,499,582
Health Insurance	\$85,407,718	\$108,632,865	\$23,225,147
Transportation	\$136,492,987	\$174,141,720	\$37,648,733
Payments on Vehicles (non-leased)	\$61,045,519	\$77,902,550	\$16,857,031
Gasoline and Motor Oil	\$51,408,260	\$65,591,905	\$14,183,645
Vehicle Maintenance & Repairs	\$24,039,208	\$30,647,265	\$6,608,057
Travel	\$44,586,273	\$56,517,777	\$11,931,504
Airline Fees	\$14,208,651	\$18,013,785	\$3,805,134
Lodging on Trips	\$15,894,951	\$20,126,859	\$4,231,908
Auto & Truck Rental on Trips	\$1,266,787	\$1,607,701	\$340,914
Food & Drink on Trips	\$13,215,884	\$16,769,432	\$3,553,548

*Projected

Source: Esri

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CHAPTER 4

FUTURE LAND USE PLAN

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INTRODUCTION

Overview

The right of a municipality to coordinate growth is rooted in its need to protect the health, safety, and welfare of local citizens. An important part of establishing the guidelines for such responsibility is the Future Land Use Plan, which establishes an overall framework for the preferred pattern of development within Prosper. The Future Land Use Plan is generally intended solely to be a comprehensive blueprint of Prosper’s vision for its future land use pattern. Specifically, the Future Land Use Plan designates various areas within the Town for particular land uses, based principally on the specific land use policies outlined in this plan.

The Future Land Use Plan is graphically depicted for use during the development plan review process with the Future Land Use Plan map. The Future Land Use Plan should ultimately be reflected through the Town’s policy and development decisions. The Future Land Use Plan map is not a zoning map, which deals with specific development requirements on individual parcels. The zoning map and changes in zoning should, however, be based on the Future Land Use Plan and related Future Land Use Plan map.





Legal Authority

The authority of a community to create a comprehensive plan is rooted in Chapters 211, 212, and 213 of the Texas Local Government Code.

Chapter 211

Chapter 211 of the Texas Local Government Code allows the government body of a community to regulate zoning.

Chapter 212

Chapter 212 of the Texas Local Government Code allows the governing body of a community to regulate subdivision development within community limits and also within the Extraterritorial Jurisdiction (ETJ).

Chapter 213

Chapter 213 of the Texas Local Government Code allows the governing body of a community to create a comprehensive plan for the “long-range development of the municipality.” Basic recommendations for comprehensive planning are to address land use, transportation, and public facilities but may also include a wide variety of other issues determined by the community.

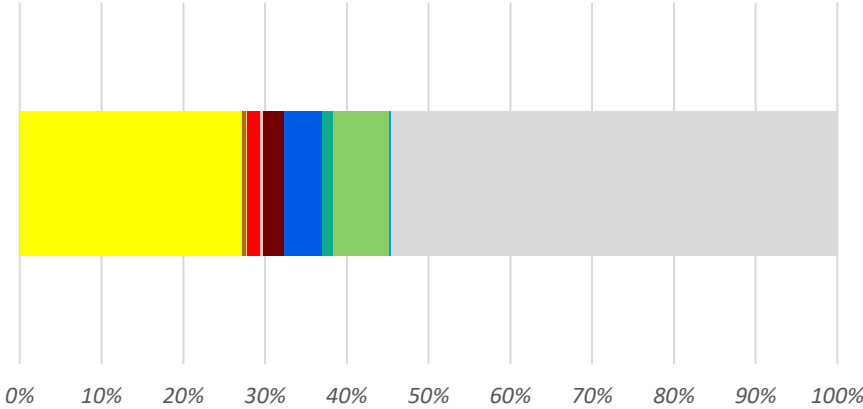
It is important to note that a comprehensive plan is NOT a zoning ordinance, but rather a tool to guide development, infrastructure, and land use decisions in the future. The comprehensive plan does, however, serve as a basis on which zoning decisions are made, as specified by Chapter 211 of the Texas Local Government Code.

LAND USE ANALYSIS

Existing Land Use

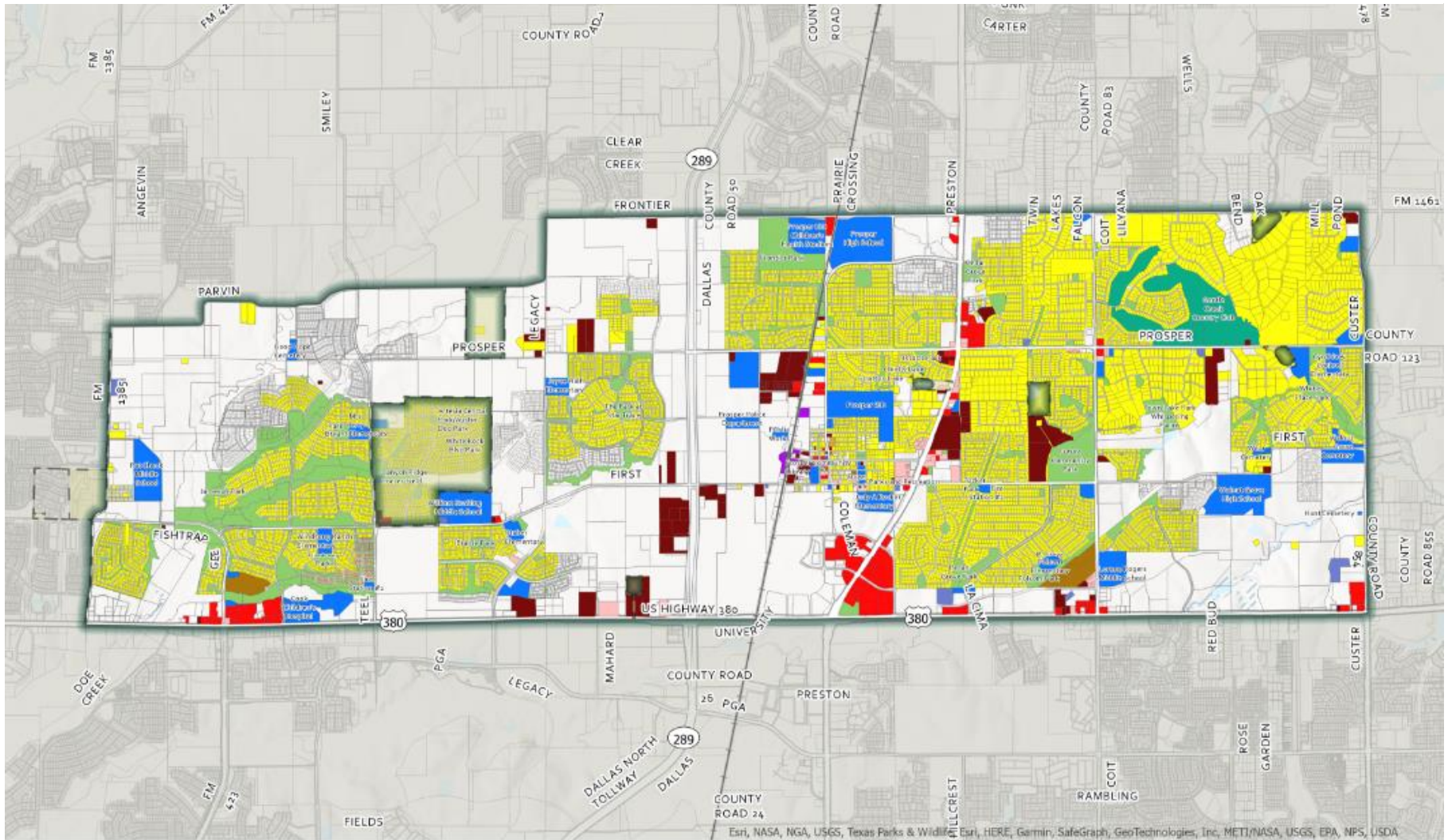
The breakdown of existing land uses within Prosper’s incorporated limits and extraterritorial jurisdiction (ETJ), collectively referred to as the Planning Area, is reflected in Figure 33. Understanding the current built environment and land use relationships will inform the Town of areas of development opportunities and constraints as growth continues. Excluding vacant land and dedicated rights-of-way, Single-Family development occupies the majority of existing land uses at approximately 27.1%. The next largest land use is Parks and Open Space at 6.8%. Almost half (44%) of Prosper’s incorporated limits remain vacant, offering significant infill and greenfield development opportunities.

Figure 33. Existing Land Use Distribution (Planning Area)



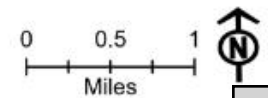
Existing Land Use Category	Town Limits		ETJ		Planning Area	
	Acres	%	Acres	%	Acres	%
Single-Family	4,285.6	26.4%	320.7	43.4%	4,606.3	27.1%
Two-Family (Duplex)	1.9	0.0%	0.0	0.0%	1.9	0.0%
Townhome	26.4	0.2%	0.0	0.0%	26.4	0.2%
Multifamily	68.7	0.4%	0.0	0.0%	68.7	0.4%
Manufactured Home	16.7	0.1%	0.0	0.0%	16.7	0.1%
Retail	272.0	1.7%	3.3	0.4%	275.3	1.6%
Office	72.2	0.4%	1.8	0.2%	74.0	0.4%
Commercial	404.8	2.5%	14.2	1.9%	419.0	2.5%
Industrial	9.8	0.1%	0.0	0.0%	9.8	0.1%
Public/Semi-Public	779.0	4.8%	4.7	0.6%	783.7	4.6%
Private Recreation	229.2	1.4%	0.0	0.0%	229.2	1.3%
Parks and Open Space	1,125.9	6.9%	36.3	4.9%	1,162.2	6.8%
Utility	38.7	0.2%	2.3	0.3%	41.0	0.2%
Vacant	7,149.7	44.0%	252.1	34.1%	7,401.8	43.6%
Right-of-Way	1,772.4	10.9%	103.6	14.0%	1,876.0	11.0%
Total	16,253.0	100.0%	739.0	100.0%	16,992.0	100.0%

Figure 34. Existing Land Use Map (2023)



Existing Land Use

- | | | | |
|---------------------|-------------------|----------------------|-------------|
| Single Family | Manufactured Home | Industrial | Utility |
| Two-Family (Duplex) | Office | Public/Semi-Public | Vacant |
| Townhome | Retail | Parks and Open Space | Town Limits |
| Multifamily | Commercial | Private Recreation | ETJ |



Zoning Distribution (inside the Town Limits)

Prosper’s incorporated Town limits is broken down into six zoning districts:

- Agriculture
- Single-Family
- Multi-Family
- Mixed-Use
- Office/Service
- Retail/Commercial

Figure 35 illustrates the distribution of these six zoning districts across the Town. The predominant zoning district is Single-Family, which occupies 62.5% of the total incorporated area in Prosper. The next largest zoning distributions are Retail/Commercial, followed by Agriculture, occupying 16% and 11.9% of the Town, respectively. The Town’s zoning distribution is an indication of the land uses Prosper will see as land develops.

Figure 36 illustrates the share of the vacant property in the Town limits (7,149.7 acres) within each zoning district. The largest share of the vacant properties within the Town (46.8%) are zoned Single-Family, and the smallest share (1.7%) is zoned Multi-Family. Understanding the zoning of Prosper’s vacant land area will inform if the Town should seek zoning changes in order to promote different land uses.

Figure 35. Zoning Distribution

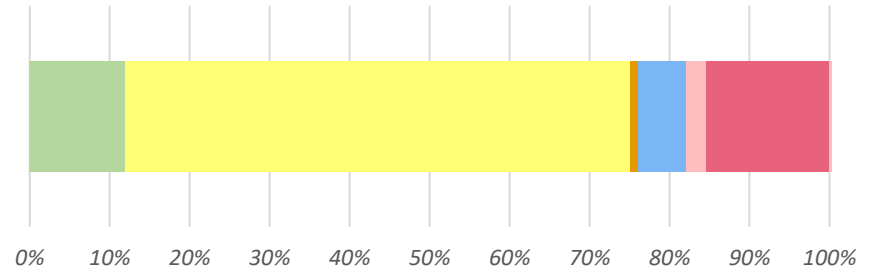
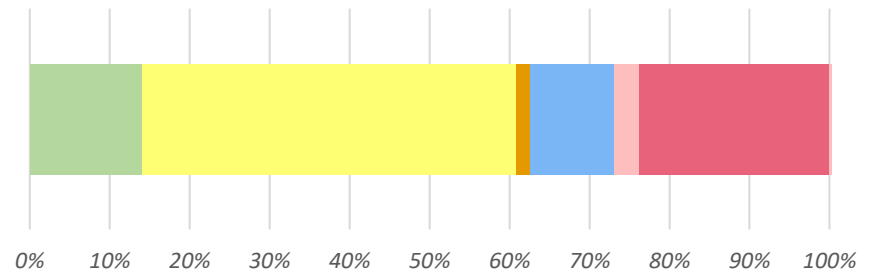
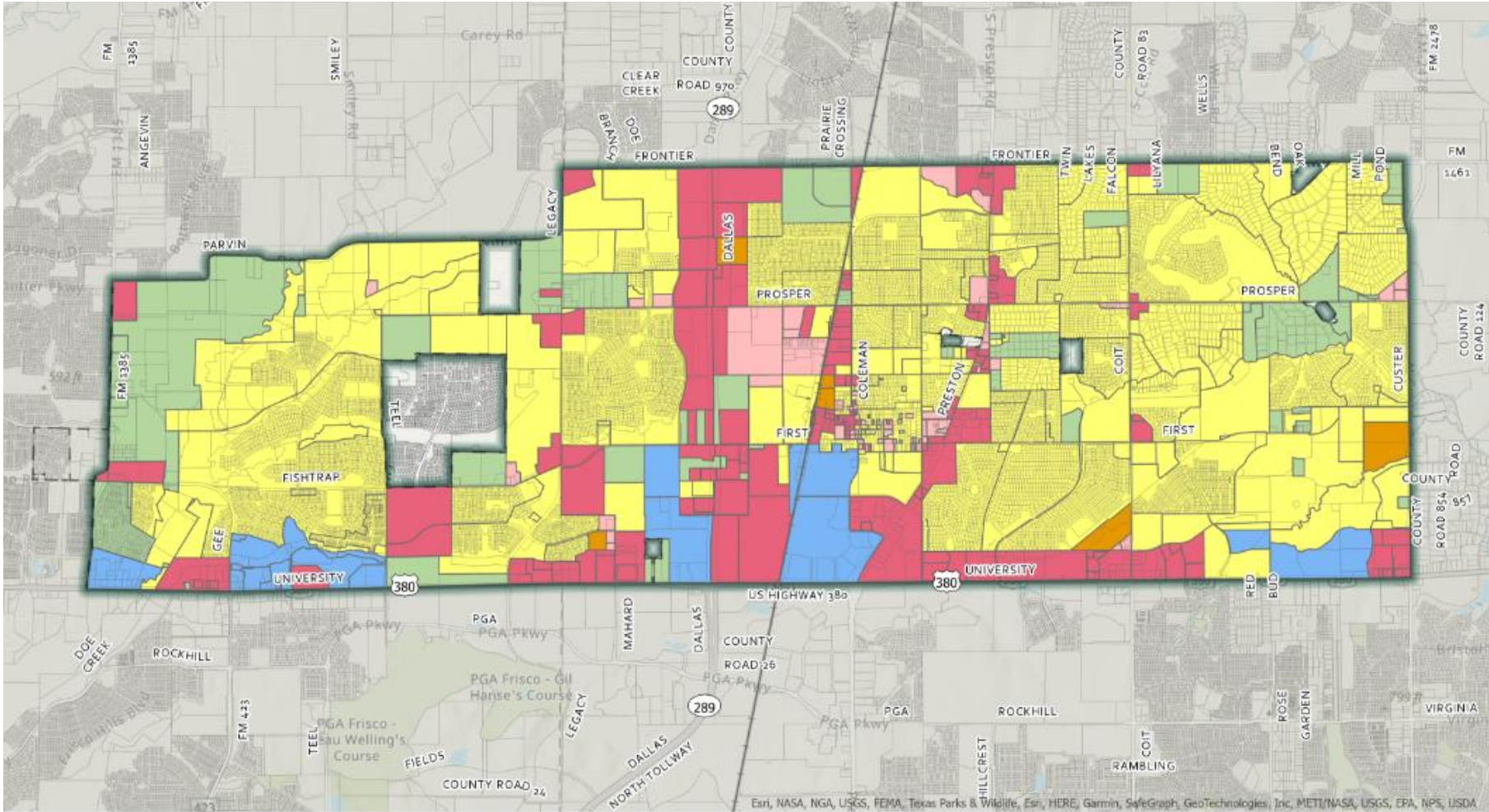


Figure 36. Vacant Land Distribution by Zoning District



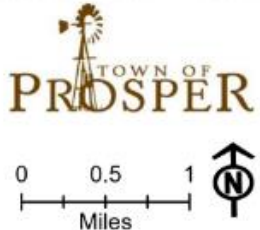
Zoning District	Town Limits		Vacant		Developed	
	Acres	%	Acres	%	Acres	%
Agriculture	1,936.0	11.9%	1,006.4	14.1%	929.7	10.2%
Single-Family	10,263.9	63.1%	3,348.2	46.8%	6,817.5	74.9%
Multi-Family	167.2	1.0%	118.3	1.7%	48.9	0.5%
Mixed-Use	975.6	6.0%	753.7	10.5%	222.0	2.4%
Office/Service	408.8	2.5%	222.1	3.1%	186.7	2.1%
Retail/Commercial	2,501.7	15.4%	1,701.0	23.8%	898.9	9.9%
Totals	16,253.3	100.0%	7,149.7	100.0%	9,103.6	100.0%

Figure 37. Existing Zoning Map (2023)



Zoning Map

- Agriculture
- Office / Service
- Town Limits
- Single Family
- Retail / Commercial
- ETJ
- Multi-Family
- Mixed Use
- Non-residential areas



Existing Single-Family Lot Size Analysis

A review of lot sizes of single family homes in the Town can be insightful in understanding the extent of housing variety, ratio mix of lot sizes, amount of land for each lot size category, and near-term (next two to three years) population capacity for single family homes.

The table includes all lots in the land development process, such as lots or subdivision being approved and platted, but not built. If the total number of lots is used to project a population projection, then a better understanding can be had regarding how many people may be living within the Town in the next two to three years. However, this number will have ambiguity since multiple-family is not factored into the calculation.

Figure 38. Existing Single-Family Residential Lot Size Analysis

Lots Size Category	Existing Single-Family Residential Lot Size Analysis						
	Density	Number of Lots		Acres by Category		Population by Category*	
		#	%	#	%	#	%
1 acre or larger	Low	703	4.5%	1,408	26.8%	2,140	4.5%
20,001 to 1 acre	Low	762	4.9%	494	9.4%	2,319	4.9%
12,501 to 20,000	Low or Medium	3,388	21.6%	1,141	21.7%	10,312	21.6%
7,501 to 12,500	Medium or High	7,784	49.6%	1,784	33.9%	23,692	49.6%
7,500 or smaller	High	3,041	19.4%	430	8.2%	9,256	19.4%
Total		15,678	100.0%	5,257	100.0%	47,718	100.0%

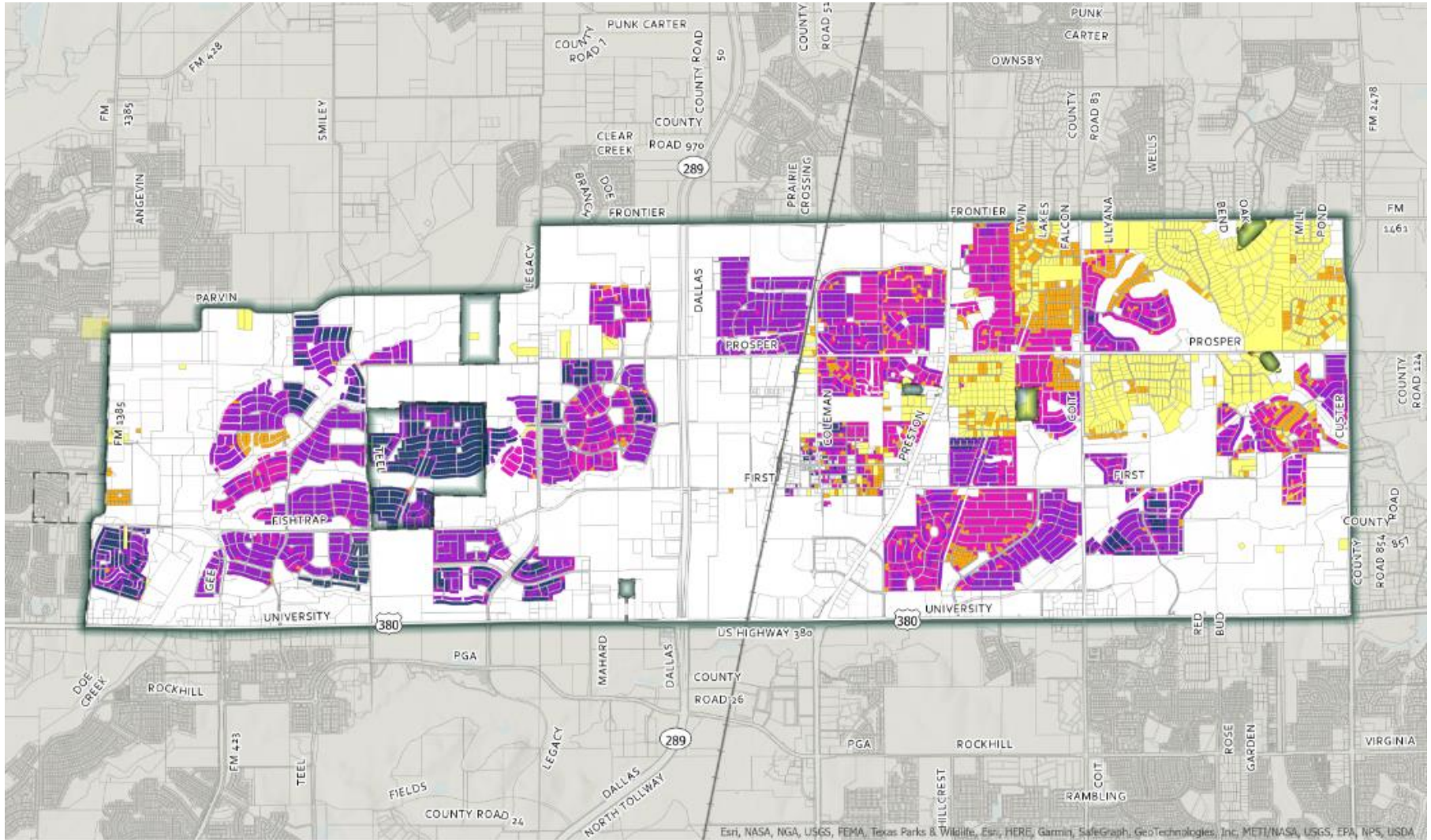
* Population is calculated as one lot equals one single-family home, with a family size of 3.33 persons and an occupancy rate of 91.4%.

The Town’s single family lots, which includes all lots in pre-construction (i.e., lot in the process of developing developed), have been divided in five categories that correspond to low density, medium density, and high density from the Future Land Use Plan categories descriptions. The above table shows the percentages of each lot size category, with lots ranging from 7,501 to 12,500 being the largest category with 49.5 percent of all total lots.

If all the platted lots within the Town had a single family home built, then there would be approximately 47,700 living within those homes. This projection is calculated as one lot equals one single-family home, with a family size of 3.33 persons and an occupancy rate of 91.4%.

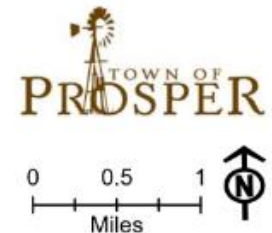
The highest density lots, single family lots that are 7,500 square feet are smaller, comprised 19.4 percent of the total lots and 8.2 percent of the land used for single family purposes. The lowest density lots, single family lots that are one acre or great, comprised of 4.5 percent of the total lots and 26.8 percent of the land used for single family purposes.

Figure 39. Single-Family Lots Sizes (2023)



Residential Lot Sizes

- 1 acre or larger
- 20,001 to 1 acre
- 12,501 to 20,000 sf
- 7,501 to 12,500 sf
- 7,500 sf or smaller
- ETJ
- Non-residential areas
- Town Limits



Supplemental Maps

Figure 40. Existing Undeveloped Parcels (2023)

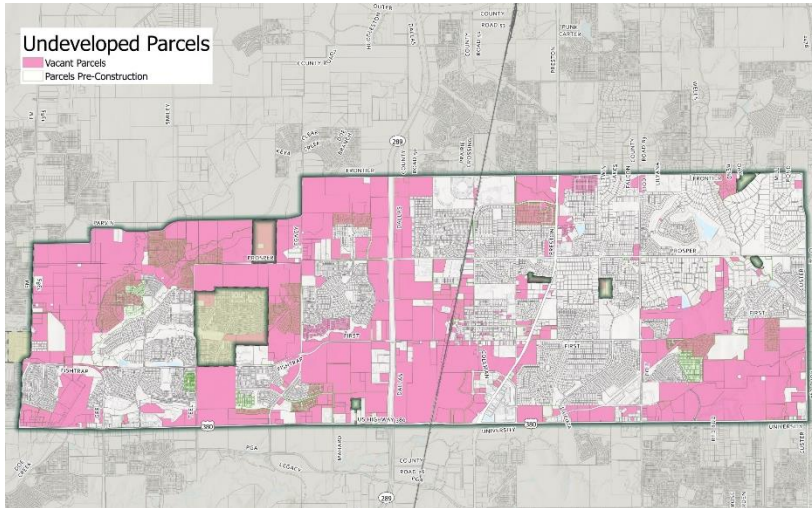


Figure 41. Parks, Recreation, & Open Space Master Plan (2015)

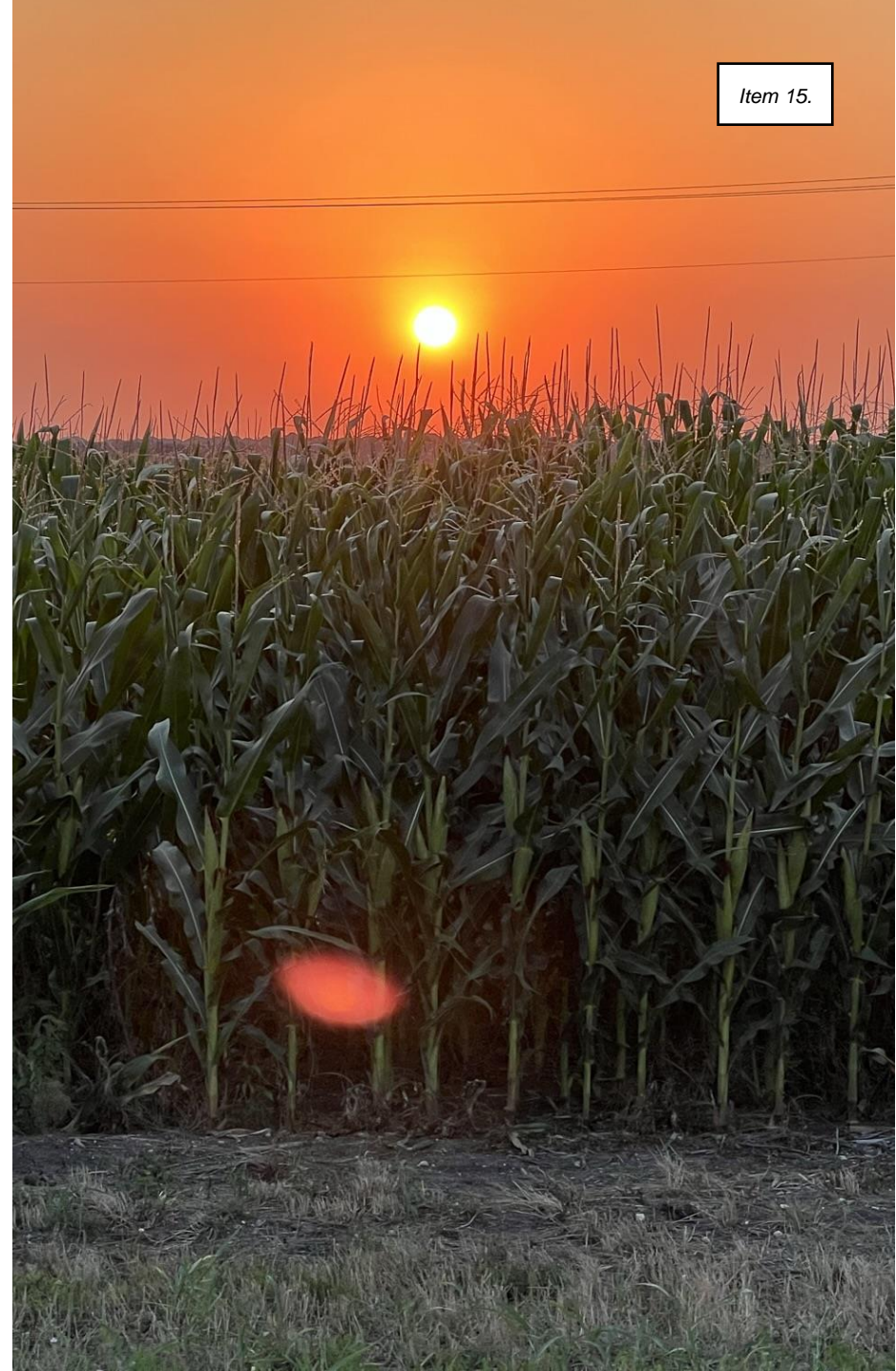
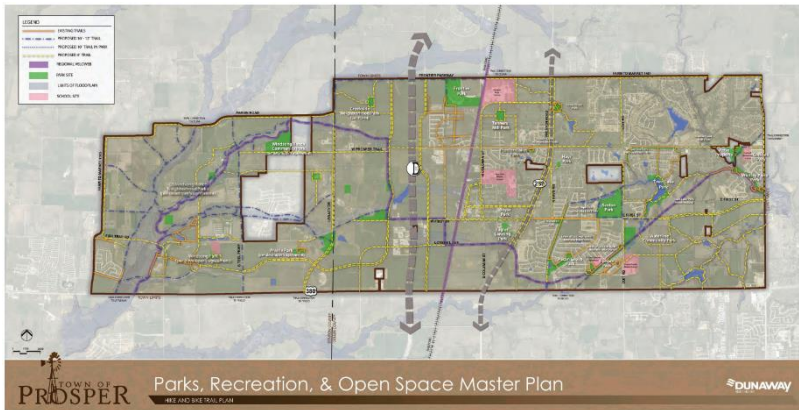


Figure 42. Water System Map

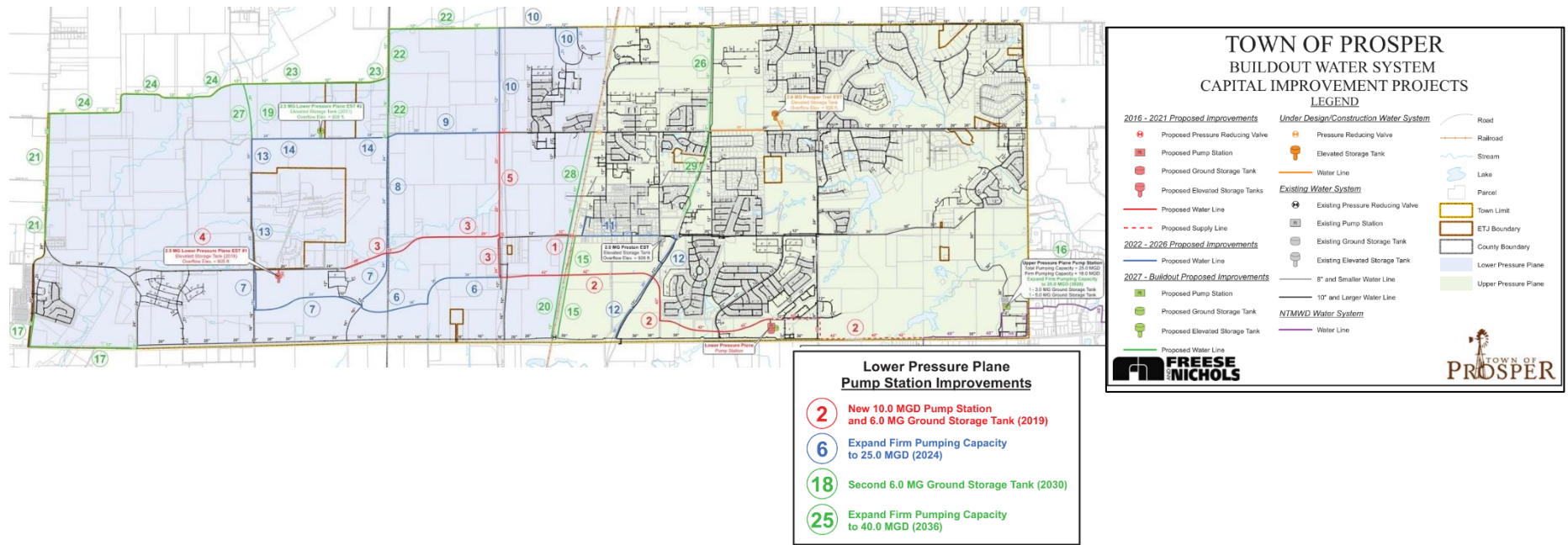
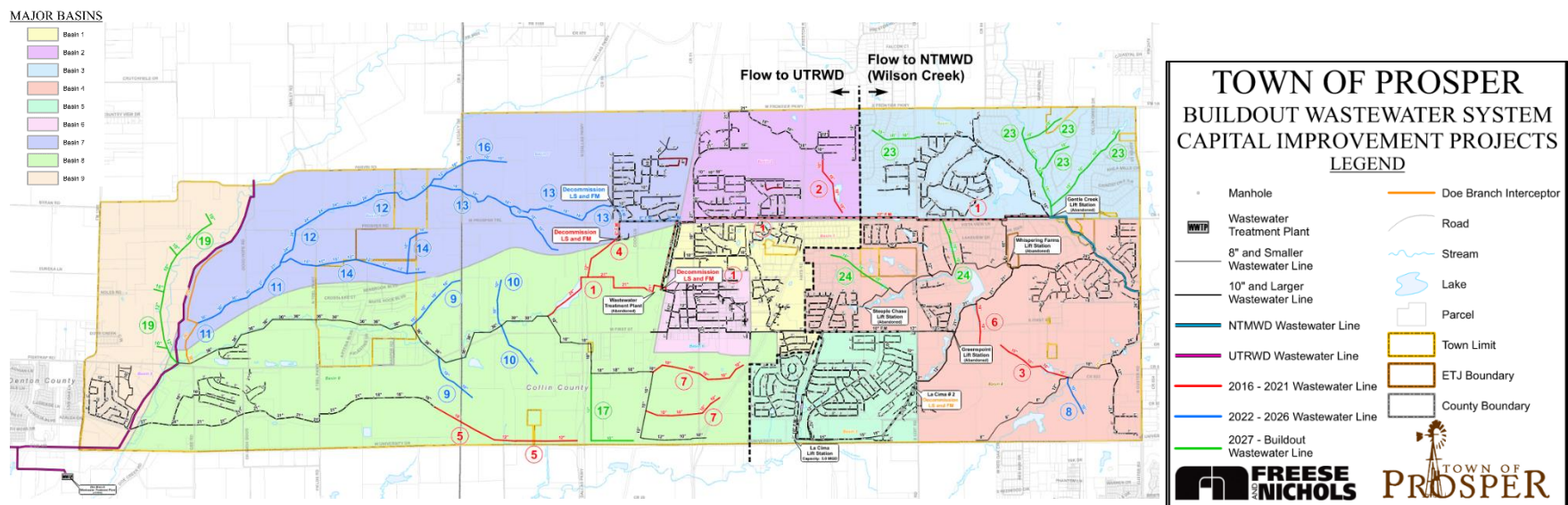


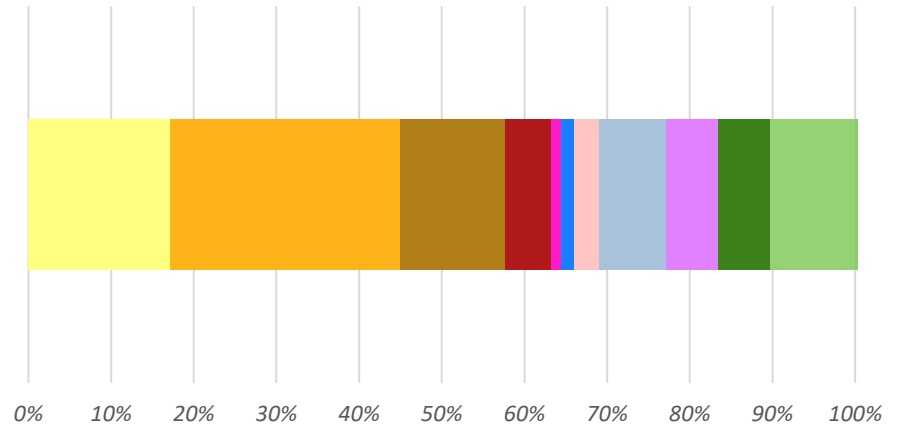
Figure 43. Wastewater System Map



2023 FLUP MAP

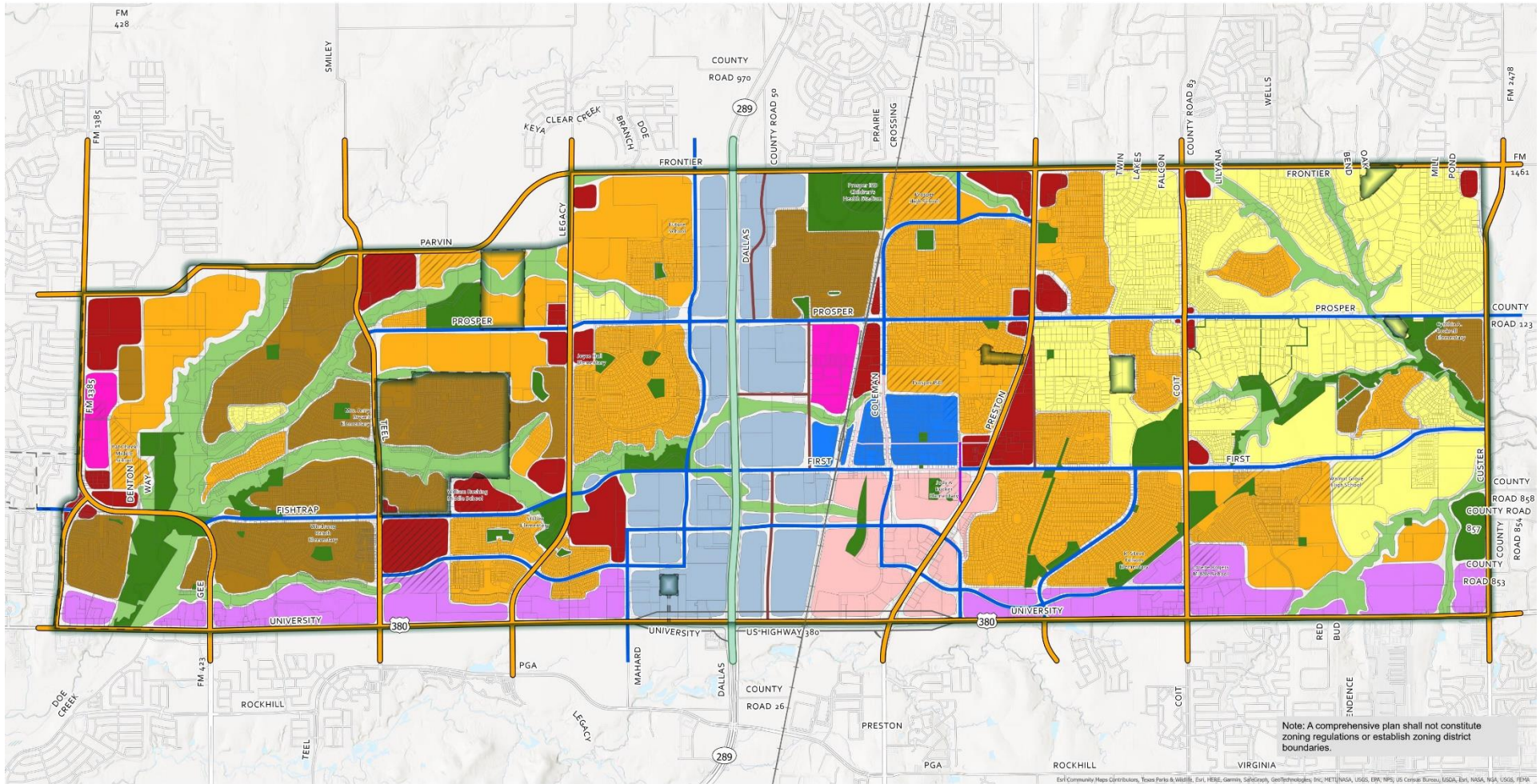
The proposed FLUP map accounts for the ten areas of reconsideration. While some of these FLUP changes are more substantive than others, these changes are to guide development outcomes that provide a land use scenario that brings balance to the Town’s tax base, reflects market projections, and presents an array of goods, services, and amenities to residents. The overall direction of the FLUP map will continue to provide a development buildout that predominantly generates single-family residential products.

Figure 44. 2023 FLUP Map Distribution (Planning Area)



Future Land Use Category	Town Limits		ETJ		Planning Area	
	Acres	%	Acres	%	Acres	%
Low Density Residential	2,856.3	17.6%	62.5	8.4%	2,918.8	17.2%
Medium Density Residential	4,630.9	28.5%	94.2	12.7%	4,725.2	27.8%
High Density Residential	1,734.0	10.7%	409.6	55.5%	2,143.6	12.6%
Retail & Neighborhood Services	958.0	5.9%	6.6	0.9%	964.6	5.7%
Business Park	202.7	1.2%	0.0	0.0%	202.7	1.2%
Old Town District	248.9	1.5%	0.0	0.0%	248.9	1.5%
Town Center	530.6	3.3%	0.0	0.0%	530.6	3.1%
Dallas North Tollway District	1,363.8	8.4%	15.0	2.0%	1,378.8	8.1%
US Highway 380 District	1,061.5	6.5%	0.0	0.0%	1,061.5	6.2%
Parks	1,078.2	6.6%	0.2	0.0%	1,078.3	6.3%
Floodplain	1,588.1	9.8%	151.0	20.4%	1,739.1	10.2%
Totals	16,253.3	100.0%	739.0	100.0%	16,992.0	100.0%

Figure 45. 2023 Future Land Use Plan Map



Future Land Use

- Low Density Residential
- Dallas North Tollway District
- Dallas North Tollway, Dedicated Truck Route
- Medium Density Residential
- US Highway 380 District
- High Density Residential
- Parks
- 6 Lane Divided
- Retail & Neighborhood Services
- Floodplain
- 4 Lane Divided
- Business Park
- School District Properties
- Commercial Collector
- Old Town District
- Town Limits
- 3 Lane Undivided Couplet
- Town Center
- ETJ
- Access Roads
- Old Town Roads

FUTURE LAND USE CATEGORIES

The Future Land Use Plan map is composed of 11 land use categories. Each was created by analyzing existing conditions to determine the type of land use and development that could improve and reshape the current development pattern. With Prosper’s rapid growth, development efforts will be focused on strategic locations in the Town’s core surrounding the Dallas North Tollway. As such, some land use categories were designed to allow for a mix or combination of land uses that would complement or enhance the general character of the area.

Each category identifies a primary use that is accompanied by secondary uses. This strategy allows the Town to be flexible with market demands that may change over time. Although primary uses should remain consistent throughout the life of the Plan, secondary uses have the flexibility to change so long as they complement the primary use.



How to Read the Land Use Categories

Each future land use category sheet includes several components to help readers understand the intent and concepts in each category.

Category Descriptions

This section provides a general description of the broad vision, form, and desired characteristics for each future land use category. These descriptions are aspirational in nature, intended to describe the typical qualities of each category, and may not reflect the full variety of uses and existing conditions of individual locations. (For example, the High Density Residential future land use category, while primarily multi-family residential in nature, will cover neighborhoods in Prosper ranging from single-family homes to apartments.)

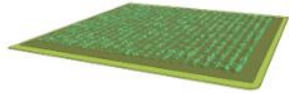



Appropriateness of New Uses

This chart illustrates the compatibility of land uses for new growth and redevelopment in each category. Some areas may have existing uses noted as “not a compatible use” that are expected to remain in active and productive use.

Development Types

The charts with compatibility of new uses also show a list of residential and nonresidential development types. Those development types are shown in Figure 46. Residential Development Types and Figure 47: Nonresidential Development Types.

Figure 46. Residential Development Types

Residential Development Types		
Development Type	Description	Illustration
Agricultural	<ul style="list-style-type: none"> Land used for farming, ranching, or other similar purposes, including structures that are supportive of the agrarian lifestyle Typical structures include houses, barns, and storage buildings 	
Cluster Subdivision	<ul style="list-style-type: none"> Land development with a focus on the protection of natural resources and open space Clustering of detached residential uses to preserve certain environmentally or agriculturally valuable lands Typically applicable to rural or large-lot suburban areas where there's a critical need to conserve natural areas and/or prime farmlands 	
Single-Family, Large Lot	<ul style="list-style-type: none"> One dwelling unit on a lot in a single stand-alone building Generally, the largest lots of all residential development types with low density, scale, and intensity 	
Single-Family, Medium Lot	<ul style="list-style-type: none"> One dwelling unit on a lot in a single stand-alone building Generally located on medium-sized lots of all residential development types with low density, scale, and intensity 	













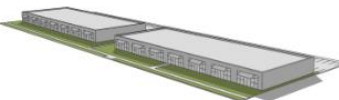

<p>Single-Family, Small Lot</p>	<ul style="list-style-type: none"> • One dwelling unit on a lot in a single stand-alone building • Generally, the smallest lots of all single-family residential development types • Dwellings are typically smaller in scale compared to the other single-family development options 	
<p>Townhome</p>	<ul style="list-style-type: none"> • Typically three to eight dwelling units on a lot, usually sharing a wall • Similar in character and style to single-family detached housing • Units are usually tall narrow houses (often 2 or more stories) built close to front property lines 	
<p>Duplex</p>	<ul style="list-style-type: none"> • Two dwelling units on a lot, usually sharing a wall • Similar in character and style to single-family detached housing 	
<p>Senior Housing</p>	<ul style="list-style-type: none"> • Multiple housing units contained within a single building • Units are usually stacked on top of each other • Usually, the individual units are age-restricted and for rent or sale • Additional facilities may be provided, including cafeterias, home health care services, and exercise facilities 	
<p>Apartment</p>	<ul style="list-style-type: none"> • Multiple housing units contained within a single building • Units are usually stacked on top of each other • Typically, more than 12 units per lot, creating a complex 	

Figure 47: Nonresidential Development Types

Nonresidential Development Types		
Development Type	Description	Illustration
Mixed-Use, Neighborhood Scale	<ul style="list-style-type: none"> Both residential, office, retail and/or other uses contained within a single building or development These uses may be horizontal mixed-use (next to each other) or vertical mixed-use (stacked on top of each other) In vertical mixed-use, the ground floor is encouraged to be food and beverage or pedestrian-oriented retail and services, to encourage foot traffic and activity. “Neighborhood scale” denotes density, intensity and scale are lower and more compatible with residential neighborhood land uses, with 4-12 units per lot and low- to low-/mid-rise building heights. 	
Mixed-Use, Community Scale	<ul style="list-style-type: none"> Similar to mixed-use, Neighborhood Scale above but with an elevated intensity and scale with 12+ units per lot and low/mid- to mid-rise building heights 	
Mixed-Use, Regional Scale	<ul style="list-style-type: none"> Similar to the mixed-use development types above but with the highest intensity and scale Buildings range from low to high-rise heights Typically more than 30 units per lot 	
Neighborhood Office and Commercial	<ul style="list-style-type: none"> Small developments purposed for professional, medical, and administrative services Typically this development type provides spaces for doctors, lawyers, dentists, real estate agents, architects, and accountants Usually located near residential uses with minimal development impacts 	

<p>Regional Office and Commercial</p>	<ul style="list-style-type: none"> • Large developments purposed for professional, medical, and administrative services • Typically this development type provides spaces for doctors, lawyers, dentists, real estate agents, architects, and accountants 	
<p>Neighborhood Shopping Center</p>	<ul style="list-style-type: none"> • Provides multiple retail and service establishments on one site, usually with some food and beverage uses • “Neighborhood scale” denotes intensity and scale are lower and more compatible with residential neighborhood land uses, with primarily low-rise building heights 	
<p>Regional Shopping Center</p>	<ul style="list-style-type: none"> • Similar to Neighborhood Shopping Center scale but with increased intensity • Building heights are primarily low-mid to mid rise • Large retail tenants typically anchor this development type 	
<p>Light Industrial/Flex Space</p>	<ul style="list-style-type: none"> • Light Industrial is manufacturing, processing, assembly, warehouse, and similar uses that do not generate nuisances (noise, odor, dust, etc.) • Uses are able to house the entire operation inside the building • Outdoor storage of materials/products may occur but at small capacities • Less truck traffic occurs • Flex Space is a building that can adapt to and house a variety of tenants and/or uses, such as offices, warehouse, and production or research space 	
<p>Civic/Recreation/Open Space</p>	<ul style="list-style-type: none"> • Parks, recreational facilities, and open spaces that support other development types • This development type is considered appropriate or compatible within all land use categories • Park design should be contextually sensitive and provide the types of amenities appropriate for the surrounding land uses 	

Low Density Residential

This land use is indicative of large-lot single-family homes with large front yard setbacks from roadways and large side yard setbacks separating homes to reinforce openness. Typically speaking, **lot sizes within any low density development will range between 15,000 square feet and 1+ acre (43,560+ square feet) in size.** While various lot sizes may be used, the **gross density of low density residential neighborhoods should not exceed 1.6 dwelling units per acre.** Gross density calculations should exclude undevelopable land, such as floodplains, detention ponds, and conservation easements, due to its inability to accommodate housing.

Large-lot homes will provide a continuation of the rural atmosphere and feel that was intensely expressed by Prosper’s residents. Homes are generally farther apart than homes in the other residential land use types and should be buffered from major commercial areas by medium or high density residential development. Most low density residential areas will be located in Northeast Prosper.



Use Appropriateness			
<ul style="list-style-type: none"> ● ● ● = Appropriate primary uses ● ● ○ = Conditional as primary uses ● ○ ○ = Conditional as secondary uses ○ ○ ○ = Inappropriate use 			
Residential		Nonresidential	
Agricultural	● ● ●	Mixed-Use, Neighborhood Scale	○ ○ ○
Cluster Subdivision	● ● ●	Mixed-Use, Community Scale	○ ○ ○
Single-Family, Large Lot	● ● ●	Mixed-Use, Regional Scale	○ ○ ○
Single-Family, Medium Lot	● ● ○	Neighborhood Office and Commercial	○ ○ ○
Single-Family, Small Lot	○ ○ ○	Regional Office and Commercial	○ ○ ○
Townhome	○ ○ ○	Neighborhood Shopping Center	○ ○ ○
Duplex	○ ○ ○	Regional Shopping Center	○ ○ ○
Senior Housing	○ ○ ○	Light Industrial/Flex Space	○ ○ ○
Apartment	○ ○ ○	Civic/Recreation/Open Space	● ● ●



Medium Density Residential

Medium density residential is also representative of single-family detached dwelling units. **Lot sizes in medium density residential neighborhoods could range between 12,500 and 20,000 square feet in size.** A variation in lot sizes may be permitted to achieve a goal range in density. While a variety of lot sizes may be used within medium density residential neighborhoods, **the gross density of those developments will typically not be less than 1.6 dwelling units per acre or greater than 2.5 dwelling units per acre.** Gross density calculations should exclude undevelopable land, such as floodplains, detention ponds, and conservation easements, due to its inability to accommodate housing.

Additionally, residential development should focus on creating a suburban atmosphere. Clustering should be encouraged to preserve open space and environmentally sensitive areas. Development standards should ensure adequate open space and efficient roadway and pedestrian connectivity to schools, neighborhood amenities, and parks. Any supporting nonresidential uses should be similar in scale to the residential properties, including appropriate landscaping and buffering, and be located on major thoroughfares.



Use Appropriateness			
<ul style="list-style-type: none"> ● ● ● = Appropriate primary uses ● ● ○ = Conditional as primary uses ● ○ ○ = Conditional as secondary uses ○ ○ ○ = Inappropriate use 			
Residential		Nonresidential	
Agricultural	○ ○ ○	Mixed-Use, Neighborhood Scale	○ ○ ○
Cluster Subdivision	● ● ○	Mixed-Use, Community Scale	○ ○ ○
Single-Family, Large Lot	● ● ●	Mixed-Use, Regional Scale	○ ○ ○
Single-Family, Medium Lot	● ● ●	Neighborhood Office and Commercial	○ ○ ○
Single-Family, Small Lot	● ● ○	Regional Office and Commercial	○ ○ ○
Townhome	○ ○ ○	Neighborhood Shopping Center	○ ○ ○
Duplex	○ ○ ○	Regional Shopping Center	○ ○ ○
Senior Housing	○ ○ ○	Light Industrial/Flex Space	○ ○ ○
Apartment	○ ○ ○	Civic/Recreation/Open Space	● ● ●



High Density Residential

The high density residential category represents the most intense residential land uses permitted in Prosper. High density single-family uses will consist of developments **greater than a gross density of 2.5 dwelling units per acre** and **lot sizes smaller than 10,000 square feet**.

Within Prosper, the High Density Residential land use category reflects the Artesia development, where single-family residential lot sizes and the dwelling units per acre will be substantially higher than the rest of the community. High density residential may be located within the Dallas North Tollway, Highway 380, Town Center, and Old Town Districts. In such areas, high density residential may take the form of multi-family or single-family attached dwelling units and may include mixed-use lofts/apartments, patio homes, snout houses, brownstones, and townhomes. Housing options should be complementary, emphasizing connectivity and access to neighborhood amenities, including schools and parks. Development standards for housing and any nonresidential uses should be in place to ensure compatibility through increased setbacks for taller buildings, site designs that are consistent with the neighborhood, and enhanced landscaping.

Additionally, any nonresidential uses should be located primarily at larger intersections and should include appropriate buffering and pedestrian orientation to support the surrounding residents. Certain residential uses like townhomes and patio homes can be used as a transitional use between low density areas, and higher intensity uses, such as commercial and retail activity.

Use Appropriateness			
<ul style="list-style-type: none"> ● ● ● = Appropriate primary uses ● ● ○ = Conditional as primary uses ● ○ ○ = Conditional as secondary uses ○ ○ ○ = Inappropriate use 			
Residential		Nonresidential	
Agricultural	○ ○ ○	Mixed-Use, Neighborhood Scale	○ ○ ○
Cluster Subdivision	○ ○ ○	Mixed-Use, Community Scale	○ ○ ○
Single-Family, Large Lot	○ ○ ○	Mixed-Use, Regional Scale	○ ○ ○
Single-Family, Medium Lot	○ ○ ○	Neighborhood Office and Commercial	○ ○ ○
Single-Family, Small Lot	● ● ○	Regional Office and Commercial	○ ○ ○
Townhome	● ● ●	Neighborhood Shopping Center	○ ○ ○
Duplex	● ● ●	Regional Shopping Center	○ ○ ○
Senior Housing	● ● ●	Light Industrial/Flex Space	○ ○ ○
Apartment	● ● ○	Civic/Recreation/Open Space	● ● ●



Retail & Neighborhood Services

Neighborhood services typically include retail establishments that provide merchandise for retail sale, banks, neighborhood office, and small medical offices. Typically, development includes small-or medium- scale development ranging from 1,500 square feet to 45,000 square feet and one to two stories in height. Retail uses are particularly important because they contribute to Prosper’s tax base through both property and sales taxes, making their inclusion attractive and often times competitive. Within Prosper, neighborhood service uses will likely occur at major intersections along the Dallas North Tollway, US Highway 380 and Preston Road corridors. Neighborhood service uses should also be strategically placed along the Town’s perimeter in order to attract patrons from neighboring communities, enhancing sales tax revenue opportunities. The majority of neighborhood service activity within Prosper will likely be included within the Dallas North Tollway, Highway 380, Town Center, and Old Town Districts.



Use Appropriateness			
<ul style="list-style-type: none"> ● ● ● = Appropriate primary uses ● ● ○ = Conditional as primary uses ● ○ ○ = Conditional as secondary uses ○ ○ ○ = Inappropriate use 			
Residential		Nonresidential	
Agricultural	○ ○ ○	Mixed-Use, Neighborhood Scale	● ● ●
Cluster Subdivision	○ ○ ○	Mixed-Use, Community Scale	● ● ●
Single-Family, Large Lot	○ ○ ○	Mixed-Use, Regional Scale	● ● ○
Single-Family, Medium Lot	○ ○ ○	Neighborhood Office and Commercial	● ● ●
Single-Family, Small Lot	○ ○ ○	Regional Office and Commercial	● ● ○
Townhome	○ ○ ○	Neighborhood Shopping Center	● ● ●
Duplex	○ ○ ○	Regional Shopping Center	● ● ○
Senior Housing	○ ○ ○	Light Industrial/Flex Space	○ ○ ○
Apartment	○ ○ ○	Civic/Recreation/Open Space	● ● ●

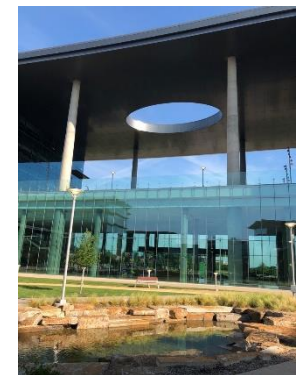
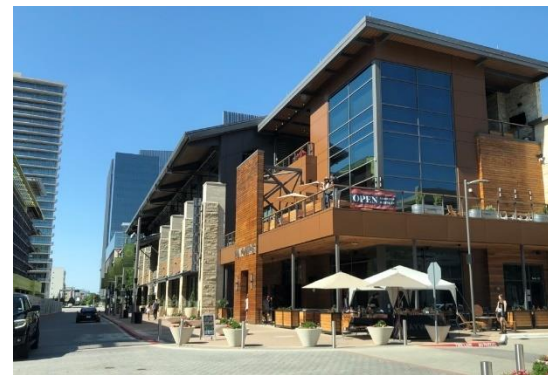


Dallas North Tollway District

The Dallas North Tollway District will consist of the most intense land uses within Prosper. A diverse mixture of office, retail, and residential will likely develop along the corridor. Mid-rise office (up to 12 stories) may be permitted throughout the corridor. Office buildings should be designed for a “campus feel”—they should be oriented towards common public space with significant landscaping and should be linked by a pedestrian network. A common architectural theme should also be established for a consistent visual appearance. Mixed-use development should be encouraged and should contain a mixture of office, retail and residential uses. Mixed-use lofts/apartments would be the most appropriate residential use within this District. Structured parking should be encouraged in more intense areas to limit the presence and visibility of large parking lots. Structured parking should be oriented to minimize visibility from the Tollway.



Use Appropriateness			
<ul style="list-style-type: none"> ● ● ● = Appropriate primary uses ● ● ○ = Conditional as primary uses ● ○ ○ = Conditional as secondary uses ○ ○ ○ = Inappropriate use 			
Residential		Nonresidential	
Agricultural	○ ○ ○	Mixed-Use, Neighborhood Scale	○ ○ ○
Cluster Subdivision	○ ○ ○	Mixed-Use, Community Scale	● ● ●
Single-Family, Large Lot	○ ○ ○	Mixed-Use, Regional Scale	● ● ●
Single-Family, Medium Lot	○ ○ ○	Neighborhood Office and Commercial	● ● ○
Single-Family, Small Lot	○ ○ ○	Regional Office and Commercial	● ● ●
Townhome	○ ○ ○	Neighborhood Shopping Center	● ● ○
Duplex	○ ○ ○	Regional Shopping Center	● ● ●
Senior Housing	● ○ ○	Light Industrial/Flex Space	○ ○ ○
Apartment	● ● ○	Civic/Recreation/Open Space	● ● ○



US Highway 380 District

Much like the Dallas North Tollway District, the US Highway 380 District will contain a variety of different uses. The major contrast between US Highway 380 and other Districts will be the inclusion of a big box development and commercial service uses. Types of appropriate commercial include hotels, banks, vehicle refilling stations with convenience stores, home service centers with outside storage, garden center with outside storage and other similar uses which serve the community but are not necessarily desired on Preston Road or within the Dallas North Tollway corridor. Residential land uses may be appropriate within certain areas, particularly away from major intersections where retail and commercial will be the highest and best land use. Residential land uses may include medium to high density uses. These residential areas may serve as a buffer between more intense activity along US Highway 380 and low density residential areas to the north.



Use Appropriateness			
<ul style="list-style-type: none"> ● ● ● = Appropriate primary uses ● ● ○ = Conditional as primary uses ● ○ ○ = Conditional as secondary uses ○ ○ ○ = Inappropriate use 			
Residential		Nonresidential	
Agricultural	○ ○ ○	Mixed-Use, Neighborhood Scale	○ ○ ○
Cluster Subdivision	○ ○ ○	Mixed-Use, Community Scale	● ● ●
Single-Family, Large Lot	○ ○ ○	Mixed-Use, Regional Scale	● ● ●
Single-Family, Medium Lot	○ ○ ○	Neighborhood Office and Commercial	○ ○ ○
Single-Family, Small Lot	○ ○ ○	Regional Office and Commercial	● ● ●
Townhome	● ● ○	Neighborhood Shopping Center	○ ○ ○
Duplex	● ● ○	Regional Shopping Center	● ● ●
Senior Housing	● ● ○	Light Industrial/Flex Space	● ● ○
Apartment	○ ○ ○	Civic/Recreation/Open Space	● ○ ○



Town Center District

The Town Center District is a continuation of the area defined by previous planning efforts as a future location for a large-scale mixed-use development. The Town Center would include a mixture of land uses but development will be less intense than that located along US Highway 380 and the Dallas North Tollway. Retail, small-scale office, and residential uses would be included within this District, but the primary intent should be focused on dining and shopping. Public space should be a major component of this area, creating space for families and residents of Prosper to meet and socialize. Open space located within the Town Center could be used for community events, festivals, and school events. Urban design should accommodate pedestrians while providing automobile access and discreet parking. Residential uses may include mixed-use lofts/apartments, patio homes, townhomes, and brownstones. Areas of single family residential may also be permitted, particularly on the northern side where the development abuts the Old Town district.

Use Appropriateness			
<ul style="list-style-type: none"> ● ● ● = Appropriate primary uses ● ● ○ = Conditional as primary uses ● ○ ○ = Conditional as secondary uses ○ ○ ○ = Inappropriate use 			
Residential		Nonresidential	
Agricultural	○ ○ ○	Mixed-Use, Neighborhood Scale	● ● ○
Cluster Subdivision	○ ○ ○	Mixed-Use, Community Scale	● ● ○
Single-Family, Large Lot	○ ○ ○	Mixed-Use, Regional Scale	● ● ●
Single-Family, Medium Lot	○ ○ ○	Neighborhood Office and Commercial	● ● ○
Single-Family, Small Lot	● ● ○	Regional Office and Commercial	● ● ●
Townhome	● ● ○	Neighborhood Shopping Center	● ● ○
Duplex	● ● ○	Regional Shopping Center	● ● ●
Senior Housing	● ● ●	Light Industrial/Flex Space	○ ○ ○
Apartment	● ○ ○	Civic/Recreation/Open Space	● ● ○

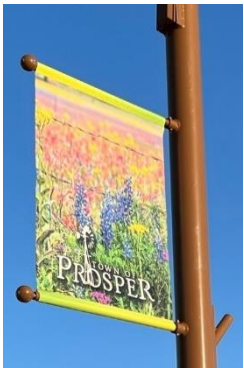


Old Town District

The Old Town District is the heart of Prosper. This historic area of the community is intended to include a variety of boutique type land uses, ranging from unique and local retail establishments, restaurants, and offices. Many of the historic homes within the Old Town District, particularly areas along First Street and Broadway, may gradually convert to boutique office and retail establishments. The most opportunistic possibility for a transit stop, if desired by future residents, would be within the Old Town District, which could facilitate redevelopment of the downtown area. If this occurs, high density residential options, such as live-above lofts/apartments, may be considered. The historic past of the community should be preserved. The community’s beginnings as a farm community in rural Collin County are part of what defines Prosper, and these attributes should be preserved as new infill development occurs.



Use Appropriateness			
<ul style="list-style-type: none"> ● ● ● = Appropriate primary uses ● ● ○ = Conditional as primary uses ● ○ ○ = Conditional as secondary uses ○ ○ ○ = Inappropriate use 			
Residential		Nonresidential	
Agricultural	○ ○ ○	Mixed-Use, Neighborhood Scale	● ● ●
Cluster Subdivision	○ ○ ○	Mixed-Use, Community Scale	● ● ●
Single-Family, Large Lot	○ ○ ○	Mixed-Use, Regional Scale	● ● ○
Single-Family, Medium Lot	● ● ○	Neighborhood Office and Commercial	● ● ●
Single-Family, Small Lot	● ● ●	Regional Office and Commercial	● ● ○
Townhome	● ● ●	Neighborhood Shopping Center	● ● ●
Duplex	● ● ●	Regional Shopping Center	○ ○ ○
Senior Housing	● ● ●	Light Industrial/Flex Space	○ ○ ○
Apartment	● ● ○	Civic/Recreation/Open Space	● ● ●



Business Park

A Business Park District, located to the west of the BNSF Railroad between Prosper Trail and First Street, will include a variety of potential land uses, including light industrial, commercial warehousing, and commercial uses with outside storage. While outside storage will likely occur and be necessary within this District, significant effort should be placed on the visual integrity of the District, particularly when located in higher visibility areas. When such uses abut roadways, larger landscape setbacks, such as 40 feet setbacks, that include berms and evergreen shrubs/trees should be used to protect the visual integrity of roadways and the public view. All outside storage should also be screened from public view and from adjacent properties. The location of the BNSF railroad and close proximity to the Dallas North Tollway provide the Business Park with significant accessibility. Uses located along First Street, Prosper Trail, and other perimeter areas should incorporate a higher degree of landscaping and architectural design in order to protect the visual integrity of Prosper’s roadways. Residential uses are not appropriate within these areas in order to ensure the Town’s ability to attract and maintain employment-generating uses.



Use Appropriateness			
<ul style="list-style-type: none"> ● ● ● = Appropriate primary uses ● ● ○ = Conditional as primary uses ● ○ ○ = Conditional as secondary uses ○ ○ ○ = Inappropriate use 			
Residential		Nonresidential	
Agricultural	○ ○ ○	Mixed-Use, Neighborhood Scale	○ ○ ○
Cluster Subdivision	○ ○ ○	Mixed-Use, Community Scale	○ ○ ○
Single-Family, Large Lot	○ ○ ○	Mixed-Use, Regional Scale	○ ○ ○
Single-Family, Medium Lot	○ ○ ○	Neighborhood Office and Commercial	○ ○ ○
Single-Family, Small Lot	○ ○ ○	Regional Office and Commercial	● ○ ○
Townhome	○ ○ ○	Neighborhood Shopping Center	○ ○ ○
Duplex	○ ○ ○	Regional Shopping Center	○ ○ ○
Senior Housing	○ ○ ○	Light Industrial/Flex Space	● ● ●
Apartment	○ ○ ○	Civic/Recreation/Open Space	● ● ○

Parks, Recreation, and Open Space

This land use category is intended to preserve open spaces for the protection and enjoyment of natural areas. Areas within this designation are primarily located along the floodway running throughout the Town. Parks, trails, and other recreational amenities should be integrated into and easily accessible from residential neighborhoods and developments. These uses are typically allowed in any zoning district. Future park locations that are not identified on the Future Land Use Plan map may be identified in the 2015 Parks Plan.



Use Appropriateness			
<ul style="list-style-type: none"> ● ● ● = Appropriate primary uses ● ● ○ = Conditional as primary uses ● ○ ○ = Conditional as secondary uses ○ ○ ○ = Inappropriate use 			
Residential		Nonresidential	
Agricultural	○ ○ ○	Mixed-Use, Neighborhood Scale	○ ○ ○
Cluster Subdivision	○ ○ ○	Mixed-Use, Community Scale	○ ○ ○
Single-Family, Large Lot	○ ○ ○	Mixed-Use, Regional Scale	○ ○ ○
Single-Family, Medium Lot	○ ○ ○	Neighborhood Office and Commercial	○ ○ ○
Single-Family, Small Lot	○ ○ ○	Regional Office and Commercial	○ ○ ○
Townhome	○ ○ ○	Neighborhood Shopping Center	○ ○ ○
Duplex	○ ○ ○	Regional Shopping Center	○ ○ ○
Senior Housing	○ ○ ○	Light Industrial/Flex Space	○ ○ ○
Apartment	○ ○ ○	Civic/Recreation/Open Space	● ● ●



Floodplain

This land use category is intended to show where the floodplains are located within the Town. This category is a general depiction of the floodplain locations; to determine if a property is within a floodplain (such as a 100-year floodplain), a floodplain survey and study typically is performed. Floodplains are areas where flooding typically occurs and most buildings and structures are not placed within the floodplain due to regulatory and safety concerns. Parks, trails, and other recreational amenities can be integrated into and easily accessible from residential neighborhoods and developments. These uses are typically allowed in any zoning district.



Use Appropriateness			
<ul style="list-style-type: none"> ● ● ● = Appropriate primary uses ● ● ○ = Conditional as primary uses ● ○ ○ = Conditional as secondary uses ○ ○ ○ = Inappropriate use 			
Residential		Nonresidential	
Agricultural	● ● ○	Mixed-Use, Neighborhood Scale	○ ○ ○
Cluster Subdivision	○ ○ ○	Mixed-Use, Community Scale	○ ○ ○
Single-Family, Large Lot	○ ○ ○	Mixed-Use, Regional Scale	○ ○ ○
Single-Family, Medium Lot	○ ○ ○	Neighborhood Office and Commercial	○ ○ ○
Single-Family, Small Lot	○ ○ ○	Regional Office and Commercial	○ ○ ○
Townhome	○ ○ ○	Neighborhood Shopping Center	○ ○ ○
Duplex	○ ○ ○	Regional Shopping Center	○ ○ ○
Senior Housing	○ ○ ○	Light Industrial/Flex Space	○ ○ ○
Apartment	○ ○ ○	Civic/Recreation/Open Space	● ● ○



LAND USE CONCEPTS

Mixed-Use

Mixed-use refers to a development style that combines a mix of land uses within one defined zoning district. For example, residential, retail, restaurants, office, and public uses may be allowed in the same building, same lot, same tract, block, or zoning district. Benefits of mixed-use development include:

- Flexibility of building spaces over time;
- Long term viability of commercial districts;
- Providing higher quality high density residences;
- Inclusion of public facilities;
- Reduction in the frequency of vehicular trips; and
- Minimizing land consumption.

Mixed-use developments are defined by their design—building orientation, roadway configuration, and amenities such as shade trees, benches, and lighting create a safe environment that is conducive to walking. Intentional integration of diverse land uses within one localized area creates a lifestyle option where a person can perform many of their daily needs and recreational desires within a short distance of home. Such environments are particularly attractive to young professionals, young couples, and empty nesters.

Mixed uses are typically either horizontal or vertical in nature. Horizontal mixed-uses involve retail, office, and residential all located within one defined area, but within separate buildings. Vertical mixed-use developments would include any combination of retail, office, and residential within the same building. A common example of vertical mixed-use is residential lofts and apartments above street-level retail and office space.

Practical Regulatory Example

[Madison, Wisconsin](#)



What does Mixed-Use Look Like?

Past planning efforts, including the Town’s previous comprehensive plan, have indicated that the most opportunistic location for a Town Center, a large mixed-use district, would be the area roughly bounded by First Street to the north, US Highway 380 to the south, BNSF Railroad to the west and Preston Road to the east. This area is currently identified as a planned development by the Town’s zoning ordinance.

Within Prosper, mixed-use areas may be appropriate along the Dallas North Tollway, Highway 380, Town Center, and Old Town Districts, as shown below.

Horizontal and Vertical Mixed-Use Development

Mixed-use developments that include a range of land uses incorporated within the same building, but typically on different levels, are referred to as vertical mixed-use developments. Common examples of vertical integration include apartments and lofts over ground-level retail and office uses. Examples of vertical mixed-use developments are Shops at Legacy in Plano, Watters Creek in Allen, and the West Village/State-Thomas areas of Dallas. Vertical mixed-use development was preferred by Prosper residents.

Horizontal mixed-use development is representative of a mixture of uses within close proximity to each other, but not necessarily within the same building. Horizontal mixed-use developments typically include residential uses along the periphery of the larger development area, separate from a more intense retail and office core. An example of horizontal mixed-use development is Southlake Town Center. The central area of the Town Center includes retail and office uses, with residential townhomes located on the periphery of the development, primarily on the east side.

Two factors considered when determining whether vertical or horizontal integration should be utilized are land availability and land value. In more intense areas of development, land values are typically higher and land availability may be significantly less. In such locations, vertical integration and higher densities (up to five stories) would be most appropriate. In Prosper, vertical integration of mixed uses will likely occur within the Dallas North Tollway and Town Center Districts. Horizontal mixed-use integration typically

occurs where land availability and value can accommodate an overall lower density. Here, one- to three-story retail and office may be surrounded by townhomes, patio homes, multi-unit homes, and other less intense uses. In Prosper, horizontal mixed uses will likely occur within the US Highway 380 and Town Center Districts.



Context-Sensitive Solutions

Context-sensitive solutions (CSS) is the practice of developing transportation projects that serve all users and meet the needs of the neighborhoods through which they pass. It is a collaborative process that involves Town staff, property owners, developers, and business owners in the development of street designs that fit into the character of surrounding neighborhoods while maintaining safety and mobility. The key is that elements of the street should complement the context of surrounding or adjacent development in order to generate a “roadway experience” and therefore the roadway may take on certain characteristics to support and be compatible with adjacent development. The process of designing CSS roadways is similar to the process of designing traditional thoroughfares in that automobile traffic is considered with traffic counts, traffic demand, and level of service information-gathering efforts. The difference is that in addition to automobile traffic, other elements, such as pedestrian traffic, building form, and land use, are also carefully considered.

The CSS approach recommends designing thoroughfares based upon:

- Community objectives
- Functional classes
- Thoroughfare types
- Adjacent land use
- Environmental considerations

In order to design accordingly, decision makers must understand the key relationship between transportation and land use, particularly the flexibility that may be needed in roadway design in order to accommodate a thoroughfare to changing urban form within the community. Understanding key community objectives for land use within the community is also important to ensure that public infrastructure investments are in line with ultimate land use objectives.

Coleman Road is a prime example of an application of context-sensitive solutions in Prosper. The southern portion of Coleman Road will traverse the Town Center. In this area, it must consider the more intense development that

will likely be located within the Town Center and its focus will be primarily placed on moving traffic and safely accommodating the pedestrian. As the roadway moves into the Old Town District, it must respect the character of Old Town. The roadway will likely narrow and head-in and parallel parking will likely be utilized. Other pedestrian amenities, such as bulb-outs, street trees and enhanced sidewalks may be considered. As Coleman Road continues to the north of Old Town, it will transition into a residential thoroughfare with more lanes added and on-street parking removed.

Building Orientation

Building orientation can significantly affect the appearance of the community. Over the past several decades, strip shopping centers have been defined by large setbacks and parking areas located between the building and the roadway. With this type of design, much of the visual identity of the corridor is placed on the parking lots and vehicles, rather than on the architecture and identity of the community and the buildings themselves.

High quality nonresidential development should be a priority in Prosper and that the “cookie-cutter” strip centers that define many suburban neighborhoods should be discouraged within Prosper. Building orientation is a way to ensure that high-quality retail and commercial centers are developed within Prosper.

Retail centers should be clustered together, when possible, creating nodes of activity rather than strips of activity. Neighborhood retail centers will most likely be located at major intersections within Prosper. Clustering of buildings into nodes of activity can often help to define outdoor spaces such as plazas and courtyards and the strategic orientation of buildings can also minimize circulation conflicts.

An additional design that may be considered is the placement of parking areas behind buildings rather than along the roadway frontage. The visual experience is then focused on the landscaping and architectural design of the building, rather than on a large parking lot located in the front.

Multi-Family Development

Multi-family development must be well-planned and accounted for within Town limits. With more multi-family development requests, locations and standards for such development must be carefully considered to meet the Town’s expectations. While North Texas multi-family development has historically been associated with sprawling, garden-style apartments from the 20th century, multi-family developments have greatly improved since the start of the 21st century. For instance, many multi-family developers are not constructing garden-style apartment complexes, but modern, higher density, multi-family developments that are attractive to young professionals and empty nesters. These developments are typically of a high-quality appearance and provide luxury amenities like dog parks and pet cleaning stations, saltwater pools, structured or covered parking, saunas, and innovative clubhouses. Additionally, some multi-family developments incorporate other uses on the ground floor like office spaces, retail shops, and restaurants to create a vibrant, inclusive, and cohesive development.

In Prosper’s instance, multi-family development should occur at strategic locations and have strict development standards and offer a high level of amenities to residents. This will create attractive multi-family developments that serve a critical housing need for a rapidly growing community like Prosper.

Any new multi-family development product should:

- 1) Meet the Town’s vision of providing housing excellence (see the Vision Statement on page 22),
- 2) Provide quality-of-life amenities to foster the development and the Town as a desirable and unique community (see the Guiding Principles and Community Goals on page 23),
- 3) Be compatible with neighboring developments,
- 4) Be at a high density (more than 40 dwelling units per acre), and
- 5) Be located in the DNT District.





Development Standards

Most communities regulate multi-family developments through development standards. These standards typically control the size, density, design, amenity features, parking, landscaping, and location of multi-family developments. For example, some communities require multi-family developments to provide an amenity feature for every 50 units provided. Others require multi-family projects to provide structured parking located behind the building to eliminate parking seas that are synonymous with garden-style apartments. Additionally, some communities prevent apartments from being less than three stories tall and require site design features like building articulations and massing to reduce outdated apartment style possibilities.

However, most communities rely on density requirements to incentivize a particular multi-family style. For example, low density requirements, like 16 dwelling units per acre, can produce antiquated, sprawling garden style apartment complexes. While these types of apartments generate needed housing, it is not the type of new housing the community aspires to see. Instead, the community prefers to see modern apartments with some retail services located in the DNT District. The Town should consider increasing density requirements to at least a minimum of 40 dwelling units per acre to achieve such an apartment style.

Amenities, structured parking, range of unit densities, types, and size, integration into the street and trails network, public art and industry leading building designs and materials should guide the Town’s preferences for multi-family development.

Location

All development should not be allowed everywhere. Residential development is no different in that multi-family developments should be located in strategic areas where there is infrastructure capacity, housing shortages, and retail services nearby. For instance, some communities have identified areas where housing needs are most needed, and in those locations, multi-family development is preferred. Particularly some of these developments are preferred along arterial roads and highways or where master planned mixed-



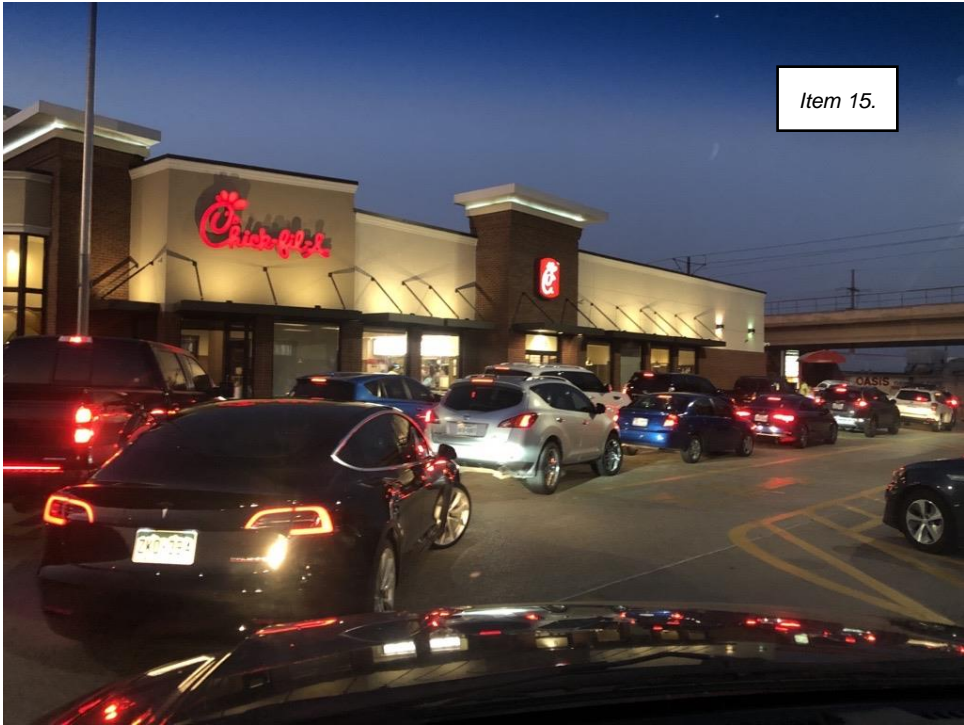
use developments are anticipated. In Prosper’s instance, multi-family may be preferable near intersections in the Dallas North Tollway District. Additionally, multi-family development may be suitable in other locations behind commercial nodes where a transition from commercial to single-family residential development may be necessary.

Drive-Thrus

Commercial development and traffic go hand in hand, and developments that provide drive-thru access exacerbate traffic concerns. Drive-thru proliferation in commercial areas can cause unsightly development, excessive ingress and egress points, queuing complications, noise, and clunky internal circulation. Although this plan can suggest where drive-thru locations may be most desirable, the Town’s development regulations control development design. In Prosper’s instance, it may be beneficial for the Town to revisit its development regulations pertaining to drive-thrus and revise standards that create traffic issues. For example, the Town could:

- Eliminate drive-thrus entirely,
- Require increased standards that specify queuing and drive-thru lane requirements,
- Restrict drive-thru allowances for buildings that front higher classified roadways,
- Apply a distance requirement from residential uses and zoning districts,
- Require uses that incorporate drive-thrus to have an increased minimum setback to ensure vehicle queuing does not occur at the front of the property,
- Require drive-thru approval through the specific use permit process, or
- Restrict drive-thrus by lot size.

Regulations like the ones above can ensure large, multi-use developments will not create adverse development impacts throughout the Town.



Practical Regulatory Examples

[Arlington, TX](#) | [Tyler, TX](#) | [Palm Beach County, FL](#) | [Frisco, TX](#) | [Centennial, CO](#)



ULTIMATE CAPACITY AND POPULATION PROJECTIONS

Ultimate Capacity

Figure 48 projects the ultimate capacity, or “build-out” of the Town. Assuming the currently vacant areas develop as shown in the Future Land Use Plan map (see Figure 45), the Town could accommodate about 77,308 residents. If Artesia (which is a development located outside of the Town limits, but completely enclosed within the Town’s limits) is added to the projection, then the buildout population would be approximately 85,337.

Figure 48. 2023 Estimated Buildout Capacity

Land Use	Vacant Acreage	DUA	Dwelling Units	PPH	Occupancy Rate	Total Pop
Low Density	540	1.2	648	3.4	91.4%	2,014
Medium Density	1,833	2.3	4,217	3.4	91.4%	13,103
High Density	21	4.0	84	3.4	91.4%	260
Dallas North Tollway District*	150	40.0	6,017	2.4	91.4%	13,200
US Highway 380 District*	94	4.0	375	2.4	91.4%	822
Town Center District	47	12.0	558	2.4	91.4%	1,224
Old Town District**	-	-	242	2.4	91.4%	531
High Density Single-Family (Artesia)	450	4.8	2,160	3.4	91.4%	6,712
High Density Multi-Family (Artesia)	30	20	600	2.4	91.4%	1,316
High Density Multi-Family (Entitled)	-	-	4,200	2	91.4%	7,678
High Density Senior Multi-Family	-	-	180	1	91.4%	165
Additional Population						47,025
Existing 2023 Population						38,312
Total Build-Out Capacity (Combined)						85,337
Total Build-Out Capacity Excluding Artesia						77,308
* For planning purposes, 15% of the total vacant land within this district is estimated to be used for residential purposes.						
** Downtown Master Plan estimated 242 apartments or townhomes in this district.						
Terms: Dwelling Units Per Acres (DUA); Persons Per Household (PPH)						



Population Projections

Prosper’s anticipated growth rate will follow an S-curve. As the population increase and approaches its build-out capacity, the population will begin to slow down due to limited resources, such as developable land. In order to calculate the population projections, existing growth rates have been considered. A 15% logistic growth rate (S-curve) is recommended for planning purposes, and growth projections have been provided for within the Town’s limits only and for the inclusion of the Artesia development.

Figure 49. Prosper Projected Logistic Growth

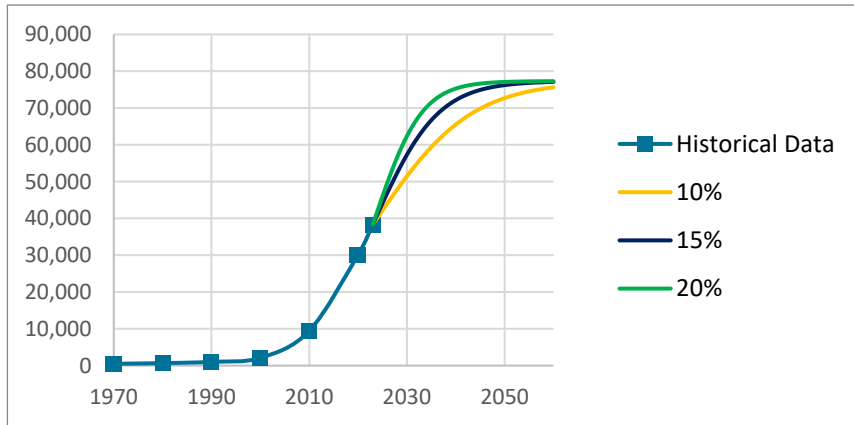


Figure 50. Prosper Projected Logistic Growth with Artesia

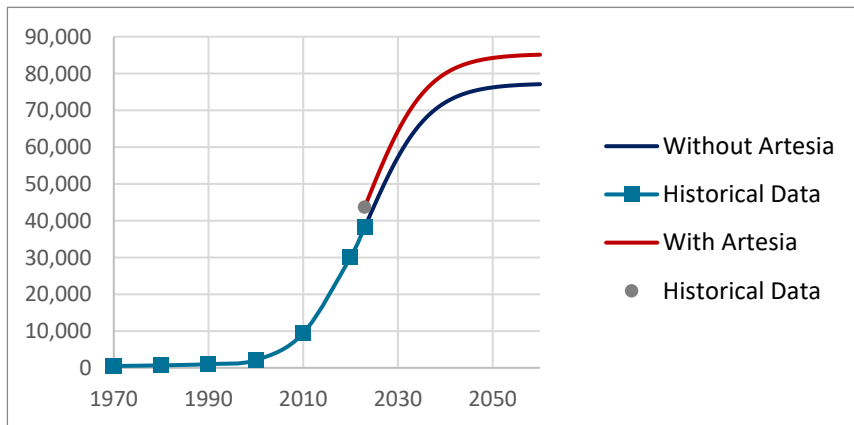


Figure 51. Population Projection (Logistic Growth)

Year	10%	15%*	15%**	20%
2023	38,312	38,312	43,758	38,312
2024	40,245	41,211	46,956	42,177
2025	42,174	44,097	50,124	46,010
2026	44,091	46,939	53,226	49,736
2027	45,985	49,705	56,231	53,283
2028	47,848	52,367	59,107	56,595
2029	49,672	54,901	61,832	59,628
2030	51,447	57,288	64,387	62,355
2031	53,168	59,513	66,758	64,767
2032	54,829	61,568	68,938	66,869
2033	56,423	63,448	70,925	68,675
2034	57,947	65,155	72,722	70,208
2035	59,398	66,691	74,335	71,498
2036	60,774	68,065	75,772	72,573
2037	62,074	69,286	77,046	73,462
2038	63,297	70,364	78,169	74,193
2039	64,444	71,312	79,154	74,791
2040	65,517	72,142	80,014	75,278
2041	66,516	72,865	80,763	75,673
2042	67,445	73,493	81,412	75,993
2043	68,305	74,037	81,974	76,252
2044	69,101	74,507	82,458	76,460
2045	69,834	74,912	82,876	76,628
2046	70,509	75,260	83,234	76,763
2047	71,129	75,559	83,542	76,871
2048	71,698	75,816	83,805	76,958
2049	72,218	76,035	84,031	77,028
2050	72,694	76,223	84,224	77,083
2051	73,128	76,383	84,389	77,128
2052	73,523	76,520	84,529	77,164
2053	73,883	76,637	84,649	77,193
2054	74,210	76,737	84,752	77,216
2055	74,508	76,822	84,839	77,234
2056	74,778	76,895	84,913	77,249
2057	75,022	76,956	84,976	77,261
2058	75,244	77,009	85,030	77,270
2059	75,445	77,053	85,076	77,278
2060	75,627	77,092	85,115	77,284

Source: FNI

* Recommended Growth Rate

** Recommended Growth Rate with Artesia

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CHAPTER 5

NEIGHBORHOOD AND

COMMUNITY LIVABILITY

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INTRODUCTION

What does the term *livability* mean regarding urban planning? Generally, livability reflects the characteristics, aesthetics, design, and social aspects of Prosper that make the Town unique and help establish a sense of community. Many intangibles make a place livable, such as a sense of community, a strong sense of place in particular areas, civic pride, and the friendliness of neighbors. There are also tangible aspects that can promote livability as well.

Prosper is a unique community with its own values and vision. The following section describes some of those tangible aspects that, when tailored to fit the needs and vision of Prosper, can help the Town to grow in a manner that enhances the quality of its neighborhoods and helps to create vibrant office retail areas. This section is intended to describe livability characteristics that should be used to guide decision-makers about what residents believe the character of Prosper should be as it grows. This section includes a discussion of various livability concepts and how they apply to Prosper.



Livability Guidelines

- Preserve small-town, rural feel
- Maintain open spaces that create a quiet, open feel
- Provide a range of housing in Prosper, taking into consideration, among other things, data relating to income, education levels and ethnicities
- “Raise the bar” on development/attract quality development
- Attract neighborhood services, such as a grocery store?
- Build a system of connected parks and trails for outdoor recreation
- Clearly brand and identify Prosper through gateways and other identifying features
- Provide entertainment venues for families
- Create high quality mixed use centers where residents may shop, dine, socialize and live
- Enhance Old Town Prosper

LIVABLE NEIGHBORHOODS

Livable neighborhoods, regardless of the type of environment, have some common characteristics. The following is a discussion of some of these common characteristics and strategies to ensure that neighborhoods are protected, preserved, and enhanced as development continues within the Town.

Life-Cycle Housing

Encourage a variety of housing types and sizes to accommodate different stages of life within Prosper. Ensure a range of housing that takes into consideration, among other things, data relating to income, education levels, and ethnicity

Connectivity

Encourage connected neighborhoods which emphasize both internal and external connectivity. Neighborhoods should be linked to each other as well as to the community as a whole.

Quality Development

Continue to encourage the creation of custom homes, a definitive feature of Prosper, through anti-monotony standards.

Neighborhood Conveniences

Incorporate neighborhood retail centers in strategic locations, which optimizes convenience for adjacent neighborhoods. Offer walkable connections to adjacent neighborhood as well as automobile connections and discreet parking.

Identity

Encourage neighborhood events, such as National Night Out, block parties and other neighborhood events to promote social interaction among neighbors and to foster a sense of community.

Recreational Access

Incorporate the Parks Master Plan to create outdoor recreational opportunities for both neighborhoods and the community, enhancing the quality of life of Prosper.

Open Space

In addition to parks and trails, neighborhoods should include open space to preserve the rural nature of Prosper.

Neighborhood Signage

Delineate different neighborhoods through entrance features and signage toppers.





Long-Term Neighborhood Viability

Neighborhoods are often defined in more abstract terms by the sense of community and the quality of life enjoyed by the people who live and play there. Well-designed neighborhoods provide a setting for residents to develop a strong sense of belonging, which is promoted by their interactions. The quality and livability of the Town's neighborhoods are integral components of the overall character.

The key to a successful neighborhood is creating a livable and affordable environment where the ongoing investment in property is supported by public investment in parks and greenbelt areas; opportunities for social interaction; accessibility for pedestrians, bicyclists, and vehicles; and distinctive characteristics that give an area a unique identity.

The following are elements fostering long-term neighborhood viability:

- Opportunities for neighborhood interaction;
- Careful and strategic placement of retail uses and other appropriate nonresidential uses within access of the neighborhood area;
- Continued investment in public and private property to stabilize property values;
- Condition of public facilities and infrastructure serving the area;
- A sense of “community” and belonging among residents through distinctive neighborhood identities;
- Access to amenities such as parks, open spaces, public facilities, and trails; and
- Incorporating open spaces within neighborhoods as a definitive feature of Prosper.

The majority of Prosper's housing stock is relatively new and in good physical condition. Ensuring that the preceding principles are used to guide new development will protect the long-term viability and continued investment in Prosper's neighborhoods in the future.

Housing Mix

It is important for communities to provide a variety of housing for its residents and to meet the needs of different segments of the population. The “full-life cycle” is intended to describe all stages of life. Generally speaking, most of Prosper's housing options are, and will continue to be, single family homes. Prosper residents have indicated that other housing types are appropriate within the community but that such units should primarily be confined within the Dallas North Tollway, Highway 380, Town Center, and Old Town Districts. Many housing options in these districts take place on smaller lots, such as in the case of townhomes, brownstones, patio homes, and zero lot line homes. Rear entry garages help to achieve two desirable objectives: promoting aesthetics and accommodating drainage.

Rear-entry garages in developments with lot sizes less than 50 feet in width help to protect the visual integrity of the streetscape by reducing the visibility of closely situated garages and driveways. This is particularly important when looking at townhomes, brownstones, zero-lot line homes, and patio homes, which are either attached or closely situated to one another. Rear-entry garages allow more landscaping opportunities and create a more walkable environment by reducing the frequency of individual driveways. In addition to aesthetics, rear-entry garages may also aid with drainage. Determining where water that collects in a backyard should drain is often a contested issue. Having rear-entry garages or a small rear yard/rear patio feature can be a design advantage to this effect.

While rear-entry garages should be considered for the densest forms of residential housing options, it is likely that front-entry garages will continue in the majority of Prosper's lower density neighborhoods.

Screening and Buffering

The Future Land Use Plan seeks to minimize conflict between residential and nonresidential areas. In addition to those efforts, screening and buffering efforts can help to mitigate any remaining incompatibility between land uses. The Town has taken proactive measures within its zoning ordinance (Chapter 4, Section 5) by having screening and buffer requirements between residential and nonresidential developments. The Town should maintain these standards as they have produced quality developments.

The following are existing zoning standards.

- Requiring screening wall when a boundary of a multifamily, institutional, or non-residential use sides or backs to a property that is zoned or designated on the future land use plan for residential (non-multifamily) uses.
- All required screening walls are equally finished on both sides of the wall.
- All loading and service areas are screened from view from adjacent public streets and adjacent property that is zoned or designated on the future land use plan for residential uses.
- All uses providing open storage provide site plan and landscape plans depicting the area.
- Trash and recycling collection areas are located to minimize visibility and screened with a six foot clay fired brick or stone wall.
- Screening is required between residential lots and adjacent rights-of-way as required by Subdivision Ordinance.
- Rooftop and ground-mounted mechanical equipment are required to be screened with a parapet wall and/or masonry wall a minimum of 12 inches in height taller than the mechanical equipment being screened.
- A six foot irrigated living screen is required when parking is located adjacent to residential in the DTC or DTR District.

- Air conditioning units, trash/recycling containers, and pool equipment are required to be entirely screened from view from adjacent public right-of-way by a living screen

Additional designed could be considered for incorporation into the zoning ordinance such as larger setbacks to protect the public view and create a more rural feel. Within such setbacks, extensive landscaping, such as landscaped berms, double rows of large trees or solid living evergreen screens, may be used. When landscaped berms are used, consideration for maintenance should be a priority. Typically speaking a 1:3 slope should be used for landscape berms to ensure proper maintenance.



OPEN SPACE PRESERVATION

A common theme expressed by CPAC members was the need to preserve open space within Prosper. Many residents have chosen to live in Prosper due to its quiet, rural feel and abundant open spaces. Prosper is located along a prime development corridor and therefore significant pressure will be placed on landowners to sell property and existing open spaces for development in the future. Therefore, in order to preserve open space within the community, Prosper may consider the following options.

Purchase of Development Rights (PDR)

PDR is a program that enables the community, or a land trust, to purchase the development rights from a landowner. Essentially, the municipality or trust would purchase the difference between the appraised and market value (i.e., what a developer would pay for the purchase of the property) in exchange for the landowner not developing the land. The landowner can continue to use the land as farmland or open space. Once an agreement is reached, the land may not be subdivided or developed. In the future, the property owner may sell the land at the appraised value, but the restrictions on development remain. One advantage to PDR is the preservation of open space and the continued ownership of land by the property owner. The disadvantage is such land remains under the control of the landowner, even after development rights have been purchased, and therefore is not public space. Only the development rights have been purchased, not the land itself.

Transfer of Development Rights (TDR)

While not commonly used in Texas, TDR is a way of transferring development rights from a transfer area, or open space, to a receiving area (i.e., area approved for development). If, for example, the DNT District was identified as a receiving zone, a developer that was seeking development greater than the approved density for that district could purchase the development rights from an area containing open space and transfer that right to develop to their property along the tollway. The developer is therefore able to build at a higher density and open space is able to be preserved elsewhere. This increased density option would only be allowed in areas identified as receiving zones, not within individual neighborhoods.

Conservation Easements

Conservation easements are another method of preserving open space. Conservation easements are initiated by the landowner in an attempt to protect their property from future development. In its publication, *Conservation Easements: A Guide for Texas Landowners*, The Texas Parks and Wildlife Department outlines many of the advantages of conservation easements, including tax benefits. Typically, a property owner voluntarily creates an agreement with a municipality or county that limits development on the landowner's property. In a conservation easement, the landowner will limit their right to one or more of the following: the right to manage resources, change use, subdivide, or develop. Conservation easements ensure that a farm, ranch, estate, or open space area is preserved from development pressures in the future. The advantage of conservation easements is that land is preserved indefinitely, and such easements may be sold or donated to land trusts for significant tax credits. The disadvantage is that the landowner receives no monetary reimbursement for not developing the land, such as in the purchase of development rights scenario, other than tax credits.

SOCIAL INTERACTION

The term *community* naturally implies the congregation and interaction of people. Residents identified that one of the defining features of Prosper was its residents and the sense of community that exists within the Town.

As the Town continues to grow, a sense of community will continue to be an important characteristic of the Town. With a larger population, the built environment will need to provide spaces and opportunities for residents to meet, congregate, interact, and enjoy life. Creating such venues will help foster a sense of community among residents and will create family environments where interaction begets new friendships.

An amphitheater was seen as a potential opportunity to host Town events. This amphitheater, when combined with a larger open space/park area, could serve as a central location for Town festivals and events.

In addition to a community garden, many communities in North Texas have begun to offer farmers markets, encouraging local growers to bring in fresh produce for residents to purchase. Farmers markets and community gardens can also be beneficial in supporting the local economy and encouraging social interaction.

The Town Center and other mixed uses will also help to create additional places for Prosper residents to interact and socialize with other families by creating opportunities for retail shopping and dining.



IMAGE ENHANCEMENT

Prosper is a unique community. Many who have moved to the Town express their diverse reasons for relocating to Prosper. Reasons include its excellent school system, its wide-open spaces, its large lot homes, its friendly neighbors, and rural setting with access to the Town, among others. This section seeks to define some of those attributes and strategies for using these attributes to establish a recognizable image for the community’s built environment.

Branding

Community branding is the concept of establishing an identity and then working to ensure that the desired identity is reflected and portrayed in the built environment. In Prosper, residents have clearly identified that the rural, open spaces of the community are a defining feature of Prosper, particularly defining when compared with other North Dallas suburbs such as Frisco, Plano, McKinney, and Little Elm.



Residents identified that a common perception and image of Prosper to outsiders is an upscale, rural community with open spaces and large-lot homes. Despite the current availability of open spaces and agricultural land, the Town will continue to grow and develop. As the community grows, however, development standards may reflect certain architectural characteristics that may be unique to Prosper, helping to visually distinguish the Town from adjacent communities, particularly its retail centers. Additionally, setbacks and landscaping may be used along major corridors to create a more rural atmosphere, even as the Town develops.



Large setbacks and medians may be heavily landscaped with trees, shrubs, and other natural elements. As trees grow and mature, the presence of a dense tree canopy will help to create a more natural feel within the community. Additionally, the Town may reduce the amount of internal lighting to mitigate light pollution and enhance dark skies, further enhancing the rural feel.

The Town’s extensive Parks Plan, as it is implemented, will also significantly help to create and preserve open spaces and will contribute significantly to the Town’s quality of life by providing outdoor recreational opportunities.

Gateways

The visual monotony that is often inherent to communities within a particular geographic area can make it appear that each one is just like its neighbors. For example, the visual appearance of a community to a traveler along the Dallas North Tollway may be very similar to the appearance of any other nearby community. This lack of design variety, especially along major corridors, tends to create anonymity, and it becomes difficult for people to know when they have left one community and entered another. Gateways can provide a strong sense of arrival to, as well as a sense of departure from, the community. These features are the first thing visitors see when they arrive and the last impression visitors have when they leave.

The design of gateways into the Town of Prosper should be guided by several factors. One of the most obvious factors is the number of people using a particular entry point. The most heavily traveled roadway entering the community will be the Dallas North Tollway. Although it may be difficult to create an aesthetically pleasing gateway visible from the roadway, the bridges and the frontage roads are alternate options. Improved overpasses with decorative rails, landscaping, lighting, and possibly signage are possibilities. In addition, two entry features for the Town placed directly along the Dallas North Tollway frontage roads, both leading into and out of the community (i.e., at the northern and southern corporate limits) would be a positive step in creating a visual identity once the Tollway is constructed. Gateways could include the use of signage, landscaping, and other design elements such as lighting, fencing, paving patterns, art/sculptural elements, a variety of earth forms, or other identifiers that signify arrival into the Town.

Another important factor in the design of gateways is to develop an entryway that provides a sense of identity for the community while projecting a desirable image for the Town.

For example, the windmill is a component of the Prosper logo and may be used as a component of Town gateways. It identifies the Town's



humble beginnings as a small agrarian town and also highlights and reflects many of the Town's values such as large lots, open spaces and rural, small town feel. Consideration should be given to establishing a uniform design concept for all gateway areas. A hierarchical distinction between major and minor gateways can be achieved through design modification for each type of entry feature. Minor gateways could be specific to the individual neighborhood, reflecting the distinct character of each area.

Design of entry features should take into consideration the setting in which each feature will be placed. Although an entry feature might ideally be placed at the corner of a roadway intersection that is at, or near, the true Town limits, the design of the feature might conflict either visually or aesthetically with an adjacent retail use at the intersection. In such a situation, it may be prudent to move the entry feature further into the community to provide a better setting and better visibility, such as placing it upon the thoroughfare median, if there is one. The traffic speed at which an entry feature is viewed must also be taken into account, and the size, boldness, and scale of the feature should be designed accordingly.

It is important for the Town of Prosper to assert its differing qualities to distinguish itself from the surrounding communities. Gateway features are a simple step in this direction. Priority for funding entry features, both in terms of total dollars spent per entry and in terms of the timing of expenditures, should be directly related to the number of people using a particular entry point. Often, donations can be solicited from civic groups to assist in the funding of specific gateways and/or their maintenance (e.g., an "adopt a gateway" program).



CHAPTER 6 IMPLEMENTATION

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INTRODUCTION

Implementation Plan

The importance of planning can never be overstated—planning provides for the protection of private property and ensures future development occurs in a coordinated and organized fashion, consistent with the Comprehensive Plan. The future of Prosper will be shaped by the policies and recommendations developed in this 2023 Comprehensive Plan. Based on this Plan, decisions will be made that will influence many aspects of the Town’s built and social environments. Prosper has taken an important leadership role in defining its future with the adoption of this Plan. The Plan will provide a very important tool for Town Staff and civic leaders to use in making sound planning decisions regarding the long-term growth and development of Prosper. The future quality of life in Prosper will be substantially influenced by the manner in which the Plan recommendations are administered and maintained.

Planning for the Town's future should be a continuous process, and this Plan is designed to be a dynamic tool that can be modified and periodically updated to keep it in tune with changing conditions and trends. Changes in Prosper’s socioeconomic climate and in development trends that were not anticipated during the preparation of the Plan will occur from time to time, and therefore, subsequent adjustments will be required. Elements of the Town that were treated in terms of a general relationship to the overall area may, in the future, require more specific and detailed attention.

Plan policies and recommendations may be put into effect through adopted development regulations, such as zoning and subdivision, and through capital improvement programs. Many recommendations within the Plan can be implemented through simple refinement of existing Town regulations or processes, while others may require the establishment of new regulations, programs, or processes. This final

section of the 2023 Comprehensive Plan describes specific ways in which Prosper can take the recommendations within this plan from vision to reality.

Proactive and Reactive Implementation

There are two primary methods of Plan implementation: proactive and reactive methods. To successfully implement the Plan and fully realize its benefits, both methods must be used in an effective manner. Both proactive and reactive actions that could be used by Prosper are described within this Implementation chapter.

Examples of proactive methods include:

- Establishing or updating subdivision regulations;
- Establishing or updating zoning regulations; and
- Developing a capital improvements program (CIP), by which the Town expends funds to finance public improvements to meet objectives cited within the Plan.

Examples of reactive methods include:

- Approving a rezoning application submitted by a property owner consistent with the Comprehensive Plan;
- Site plan review; and
- Subdivision review.

ROLES OF THE COMPREHENSIVE PLAN

Guide for Daily Decision-Making

The current physical layout of the Town is a product of previous efforts put forth by many diverse individuals and groups. In the future, each new development that takes place, whether a subdivision that is platted, a home that is built, or a new school, church, or shopping center that is constructed, represents an addition to Prosper’s physical form. The composite of all such efforts and facilities creates the Town as it is seen and experienced by its residents and visitors. If planning is to be effective, it must guide each and every individual development decision. The Town, in its daily decisions about whether to surface a street, approve a residential plat, amend a zoning ordinance provision, enforce the building codes, or construct a new utility line, should always refer to the basic proposals outlined within the Comprehensive Plan. The private builder or investor, likewise, should recognize the broad concepts and policies of the Plan so that their efforts become part of a meaningful whole in planning the Town.

Flexible and Alterable Guide

This 2023 Comprehensive Plan is intended to be a dynamic planning document for Prosper – one that responds to changing needs and conditions. Plan amendments should not be made without a thorough analysis of immediate needs, as well as consideration for the long-term effects of proposed amendments. The Town Council and other Prosper officials should consider each proposed amendment carefully to determine whether it is consistent with the Plan's goals and policies, and whether it will be beneficial for the long-term health and vitality of Prosper.

Annual Review

At one-year intervals, a periodic review of the Plan with respect to current conditions and trends should be performed. Such on-going, scheduled evaluations will provide a basis for adjusting capital expenditures and priorities, and will reveal changes and additions that should be made to the Plan in order to keep it current and applicable long-term. It would be appropriate to devote one annual meeting of the Planning and Zoning Commission to reviewing the status and continued applicability of the plan in light of current conditions, and to prepare a report on these findings for the Town Council. Those items that appear to need specific attention should be examined in more detail, and changes and/or additions should be made accordingly. By such periodic evaluations, the Plan will remain functional, and will continue to give civic leaders effective guidance in decision-making. Periodic reviews of the plan should include consideration of the following:

- The Town's progress in implementing the plan;
- Changes in conditions that form the basis of the plan;
- Community support for the plan's goals, objectives & policies; and
- Changes in State laws.

The full benefits of the Plan for Prosper can only be realized by maintaining it as a vital, up-to-date document. As changes occur and new issues within the Town become apparent, the Plan should be revised rather than ignored. By such action, the Plan will remain current and effective in meeting the Town's decision-making needs.

Complete Review and Update with Public Participation

In addition to periodic annual reviews, the Comprehensive Plan should undergo a complete, more thorough review and update every 5 or 10 years. The review and updating process should begin with the establishment of an advisory committee, similar to the one that was appointed to assist in the preparation of this Plan. If possible, this committee or the Planning and Zoning Commission should be in charge

of periodic reviews of the plan. Specific input on major changes should be sought from various groups, including property owners, neighborhood groups, civic leaders, developers, and business owners.

Regulatory Mechanisms

The usual processes for reviewing and processing zoning amendments, development plans, and subdivision plans provide significant opportunities for implementing the Plan. Each zoning, development and subdivision decision should be evaluated and weighed against applicable proposals contained within the Plan. If decisions are made that are inconsistent with Plan recommendations, then they should include actions to modify or amend the Plan accordingly in order to ensure consistency and fairness in future decision-making. Amending the Subdivision Ordinance and Zoning Ordinance represent two major proactive measures that the Town can take to implement 2023 Comprehensive Plan recommendations.

Zoning Ordinance

Zoning is perhaps the single most powerful tool for implementing Plan recommendations. The Town’s Zoning Ordinance should be updated with the recommendations contained within the chapters of this 2023 Comprehensive Plan. All zoning and land use changes should be made within the context of existing land uses, future land uses, and planned infrastructure, including roadways, water, and wastewater.

Zoning Text Amendments

Consideration should be given to updating areas of the zoning ordinance that may allow ideas, principles, or design standards identified within this Comprehensive Plan to be more easily achieved. Their implementation will not only improve future development and interaction between land uses, but will also improve Prosper’s overall image and livability. Such changes may involve landscaping setbacks, non-residential building design, and additional tree requirements, to name a few. These recommendations should be itemized and



Zoning Map Amendments

State law gives power to cities to regulate the use of land, but regulations should be based on a plan. Therefore, Prosper’s Zoning Map should be as consistent as possible with the Comprehensive Plan, specifically the Future Land Use Plan. It is not reasonable, however, to recommend that the Town make large-scale changes in its zoning map changes immediately. It is therefore recommended that the Town prioritize areas where a change in current zoning is needed in the short-term and that efforts be concentrated on making such changes. In the long-term, consistent zoning policy in conformance with the Future Land Use Plan will achieve the Town’s preferred land use pattern over time.

Subdivision Ordinance

The act of subdividing land to create building sites has a major effect on the overall design and image of Prosper. Much of the basic physical form of the Town is currently created by the layout of streets, easements, and lots. In the future, the basic physical form of Prosper will be further affected by such action. Requirements for adequate public facilities are essential to ensure the Town’s orderly and efficient growth. Plan recommendations, such as cross-access easements, should be incorporated within the Subdivision Ordinance.

MAINTAINING COMPATIBILITY BETWEEN THE ZONING MAP AND FUTURE LAND USE PLAN MAP

Chapter 211 of the Texas Local Government Code states that “zoning regulations must be adopted in accordance with a comprehensive plan.” Consequently, a zoning map and zoning decisions should reflect the Future Land Use Plan to the fullest extent possible. Therefore, approval of development proposals that are inconsistent with the Future Land Use Plan will often result in an inconsistency between the Future Land Use Plan and the zoning regulations.

At times, the Town will likely encounter development proposals that do not directly reflect the purpose and intent of the land use pattern as shown on the Future Land Use Plan map. Review of such development proposals should include the following considerations:

- Will the proposed change enhance the site and the surrounding area?
- Is the proposed change a better use than that originally envisioned and depicted on the Future Land Use Plan map?
- Will the proposed use impact adjacent residential areas in a negative manner?

- Will the proposed use be compatible with and/or enhance adjacent residential uses?
- Are uses adjacent to the proposed use similar in nature in terms of appearance, hours of operation, and other general aspects of compatibility?
- Does the proposed use present a significant benefit to the public health, safety, welfare and/or social well-being of the community?
- Would it contribute to the Town’s long-term economic stability?

Development proposals that are inconsistent with the Future Land Use Plan map (or that do not meet its general intent) should be reviewed based on the above questions and should be evaluated on their own merit. It should be incumbent upon the applicant making such a proposal to provide evidence that the proposal meets the aforementioned considerations, supports community goals and objectives as set forth within this Plan, and represents long-term economic and/or social benefits for the community as a whole, not just a short-term financial gain for whoever is developing the project.

It is important to recognize that proposals not directly consistent with the Plan could reflect higher and better long-term uses than those originally envisioned and shown on the Future Land Use Plan map for a particular area. This may be due to changing markets, demographics and/or economic trends that occur at some point in the future after the Plan is adopted. If such changes occur, and especially if there are demonstrated significant social and/or economic benefits to the Town of Prosper, then these proposals should be approved, and the Future Land Use Plan map should be amended accordingly.

IMPLEMENTATION GOALS AND OBJECTIVES

Implementation is one of the most important, yet most difficult, aspects of the comprehensive planning process. Without viable, realistic strategies for implementation, the recommendations contained within this 2023 Comprehensive Plan will be difficult to realize. The following section contains the original six community goals established within the Community Vision chapter of this comprehensive plan. Under each of the six community goals, more specific objectives are included to guide plan implementation. The objectives listed are derived from recommendations contained within the comprehensive plan document as well as ideas heard from the CPAC and general public.

Goal 1. Provide a variety of desirable land uses that diversify the tax base and enable all types of people to live, work, shop, eat, and relax in Prosper.

- Objective 1.1: Maximize development along the Dallas North Tollway by providing opportunities for Class A office space (office space defined by high-quality furnishings, state-of-the-art facilities, and excellent accessibility), corporate campus development, and mixed-use retail/residential development.
- Objective 1.2: Promote larger-scale master planned developments over small-scale individual developments along the Dallas North Tollway by discouraging individual developments under five acres in size.
- Objective 1.3: Utilize the Town Center for a regional draw, bringing in patrons from outside of Prosper.

- Objective 1.4: Ensure that the core of the Town Center contains a higher degree of urban design with buildings situated up to the building line, wide sidewalks, street trees, and pedestrian amenities. Preferred examples include the Shops at Legacy and the Shops at Watters Creek.
- Objective 1.5: Include public space within Old Town that support Town Hall as a focal point to provide space for community events and festivals.
- Objective 1.6: Encourage structured parking within the Town Center District and Dallas North Tollway District to minimize the negative impact of large-scale parking lots. Require structured parking to be strategically located to minimize visibility from the public view.
- Objective 1.7: Provide a network of connections, both vehicular and pedestrian, that allow movement and access to various portions of the Town Center, Old Town, and adjacent neighborhoods and districts.
- Objective 1.8: Preserve the integrity of Old Town and encourage complementary and compatible redevelopment and infill development, including new single-family residences containing a farm/ranch theme, residential to office conversions and “main street” retail with studio apartments along the western end of Broadway.
- Objective 1.9: Plant trees within the parkway along roads in Old Town to establish a mature tree canopy, thereby contributing to the historical theme of the area.
- Objective 1.10: Utilize the BNSF railroad to create a high-tech, clean industry Business Park.
- Objective 1.11: Utilize the Dallas North Tollway (DNT) District to accommodate all new multi-family developments in a mixed-use setting with structured garage parking.

Goal 2. Maintain and enhance the high quality of life and small-town feel currently available and expected by Prosper residents.

- Objective 2.1: Encourage the implementation of the Parks Master Plan as development occurs to facilitate the creation of an interconnected park and trails system in Prosper at buildout.
- Objective 2.2: Work with Prosper Independent School District to coordinate future school facilities planning with land use projections in the Future Land Use Plan.
- Objective 2.3: Continue to require developers to dedicate parkland.
- Objective 2.4: Encourage developers to preserve riparian zones and mature tree stands on development sites and utilize such areas for residential park and open space areas.
- Objective 2.5: Preserve existing tree cover, when possible, by creating a tree preservation ordinance and by conducting a natural assets inventory plan.
- Objective 2.6: Encourage the use of rural design characteristics on new roadway construction projects, including the use of open fencing, traditional lighting features, wide setbacks, native plant materials, wildflowers, and increased tree coverage.
- Objective 2.7: Identify roadways that may be intentionally designed to be more rural in character, potentially containing bioswales and other natural drainage features.
- Objective 2.8: Encourage developers to use native planting materials and rural planting designs within the private setback zone/landscape easement.
- Objective 2.9: Consistently use rural architectural/design guidelines within neighborhood service retail centers.
- Objective 2.10: Work with the Prosper Historical Society to encourage the preservation of key historical landmarks within Old Town and ensure that new development within Old

Town is designed to reflect an early 20th-century historical theme.

- Objective 2.11: Update the Zoning Ordinance to address the design, look, and separation of drive-thru businesses.
- Objective 2.11: Preserve the Downtown silos by applying for the National Register of Historic Places designation or similar program.

Goal 3. Protect the quality and integrity of Prosper’s neighborhoods.

- Objective 3.1: Encourage the development of quality housing throughout Prosper that meets the needs of a diversity of housing needs, taking into consideration, among other things, data relating to age and income, for the full life-cycle of citizens to include, but not limited to:
 - Promote housing types and affordability for families with children, single parents with children, young adults just leaving home, young professionals, empty-nesters, retirees, and the elderly.
 - Promote an adequate supply of workforce housing throughout Prosper for those who work in the service industry in Prosper.
 - Promote neighborhood desirability, value, and reinvestment.
- Objective 3.2: Require the formation of homeowners’ associations (HOAs) with all new developments to maintain common property, provide a sense of identity, and encourage long-term private property maintenance.
- Objective 3.3: Encourage developers to include neighborhood amenities such as parks, open spaces, neighborhood

pools, and other features that enhance the overall desirability of individual neighborhoods.

- Objective 3.4: Encourage developers to arrange lots in a manner that maximizes residential access to open space when natural areas are present.
- Objective 3.5: Work with developers to ensure that the majority of lot sizes within a given development are over 12,500 square feet in size.
- Objective 3.6: Low-density residential areas should not exceed a gross density of 1.6 dwelling units per acre.
- Objective 3.7: Medium-density residential areas should not exceed a gross density of 2.5 dwelling units per acre.
- Objective 3.8: Ensure that single-family residential neighborhoods are protected from more intensive areas of development, such as development located within the Dallas North Tollway, Town Center, Business Park, and Highway 380 Districts, by using screening and buffering techniques. Screening may include enhanced landscaping, brick or masonry screening walls, and landscaping berms, among others.
- Objective 3.9: Encourage the use of floodways as a natural buffer between low- and high-intensity areas.
- Objective 3.10: Utilize the trail network identified within the Park Plan to provide access to the network of community parks and to enhance connectivity between individual neighborhoods.
- Objective 3.11: Ensure that neighborhoods have at least two roadway access points and encourage roadway connections between neighborhoods to provide more direct and interconnected forms of vehicular and pedestrian travel.

Goal 4. Require high-quality and visually attractive architectural characteristics in both residential and non-residential developments.

- Objective 4.1: Zone key roadway intersections for retail while utilizing remaining land adjacent to major roadways for residential to avoid stripped-out arterial roadways
- Objective 4.2: Avoid four-corner retail zoning to avoid an oversupply of retail zoning.
- Objective 4.3: Limit driveways within 150 feet of major intersections to encourage larger scale, master-planned retail centers over individual retail establishments.
- Objective 4.4: Encourage the creation of nodal, master-planned retail centers over strip center developments to encourage long-term viability and investment in retail centers. No additional unanchored strip retail is recommended.
- Objective 4.5: Mandate the use of high-quality building materials, such as brick and stone, to protect the long-term durability of non-residential construction. Require all non-residential developments to be 100% masonry and prohibit metal building construction.
- Objective 4.6: Create a menu-choice matrix for non-residential developments, requiring new developments to choose from a palate of predetermined colors and styles.
- Objective 4.7: Require architectural enhancements, such as pitched roofs, awnings, enhanced canopies, and building articulation to create visually attractive developments.
- Objective 4.8: Require all parking rows to contain ending landscape islands.

- Objective 4.9: Encourage the planting of trees within parking lots so that 25% of the parking lot is covered by a shade canopy at tree maturity.
- Objective 4.10: Encourage large parking lots to contain a shaded pedestrian way.
- Objective 4.11: Incentivize dispersed landscaped stormwater areas within parking lots rather than large detention ponds. Allow stormwater best management practices (BMPs) to count towards a portion of landscaping requirements.
- Objective 4.12: Encourage the use of thematic, decorative, and enhanced lighting features within the public right-of-way, residential areas (when necessary), and retail/commercial areas.

Goal 5. Develop quality, open roadways that enhance compatibility with adjacent development and provide safe and convenient traffic movements.

- Objective 5.1: Utilize the Thoroughfare Plan Map as future roadway improvements are designed and constructed.
- Objective 5.2: Ensure that Prosper’s thoroughfare network is coordinated with neighboring communities and work to negotiate and resolve any conflicting issues.
- Objective 5.3: Utilize the functional street classification system, a hierarchical network of roadway classifications, to create a network of major and minor thoroughfares, collectors, and local streets.
- Objective 5.4: Utilize shared access and cross-access easements to provide connectivity between adjacent non-residential uses, limiting the number of driveways along major corridors and allowing for more continuous landscaping.

- Objective 5.5: Connect various portions of the community, including neighborhoods, the Town Center, Old Town, public facilities, and parks, with a system of pedestrian and bicyclist trails to provide interconnectivity and create a system of non-motorized linkages within the community.
- Objective 5.6: Ensure that sufficient right-of-way is acquired and dedicated during platting or roadway design to accommodate ultimate roadway configurations and designated trails.
- Objective 5.7: Utilize Context Sensitive Solutions to design roadways within the context of their adjacent development.
- Objective 5.8: Utilize the Old Town District Roadway Plan as a guide during roadway design within the Old Town area.
- Objective 5.9: Create backage roads along the Dallas North Tollway to support development connectivity and accessibility.
- Objective 5.10: Create a streetscape design program that intentionally characterizes individual roadways based on anticipated forms of development.
- Objective 5.11: Investigate amending the Town ordinances to allow for ornamental walls and fences and other types of materials, such as split iron/wood. Identify key corridors where standards would be applicable in order to create greater corridor consistency.
- Objective 5.12: Consider wider setbacks along Preston Road with enhanced landscaping to maintain a more rural feel and to create a larger barrier between Preston Road and adjacent neighborhoods.

Goal 6. Ensure that water, wastewater, and stormwater infrastructure systems are able to meet future growth demands.

- Objective 6.1: Investigate any deficiencies in the infrastructure systems.

- Objective 6.2: Develop concepts that will address deficiencies in the infrastructure systems.
- Objective 6.3: Strive for an infrastructure system that will effectively and economically serve the existing and projected needs of the community safely and efficiently.
- Objective 6.4: Ensure that infrastructure is comparable or expanded to support future development, specifically in key development areas.



FINANCE

To: Mayor and Town Council

From: Chris Landrum, Finance Director

**Through: Mario Canizares, Town Manager
Robert B. Scott, Deputy Town Manager**

Re: CIP and Finance Subcommittee - FY 2023-2024 Proposed Budget.

Town Council Meeting – August 22, 2023

Strategic Visioning Priority: 4. Provide Excellent Municipal Services

Agenda Item:

Discuss CIP and Finance Subcommittee recommendations and receive Council direction regarding the FY 2023-2024 Proposed Budget.

Description of Agenda Item:

Town Council received the Fiscal Year 2023-2024 Preliminary Budget on August 8, 2023. This budget outlines the staff's proposed financial plan to align with Council's Visioning Priorities, utilizing expected resources, maintaining the appropriate balance between capital and operations. Council referred the budget to two subcommittees for more in depth deliberations. The CIP Subcommittee convened on August 15, 2023, to discuss their suggestions for Council's consideration. Similarly, the Finance Subcommittee met on August 17, 2023, to deliberate on their own set of recommendations for the Council's attention.

Budget Impact:

Updates to the original Preliminary Budget will be incorporated into the Proposed Budget that will be presented at the August 31, 2023, Town Hall meeting and the September 12, 2023, Public Hearing.

Attachments:

1. Recommendations

Staff Recommendation:

Staff is seeking direction regarding the composition of the proposed budget. No formal action is required.

<u>FY 2023</u>			
<u>PROJECTS</u>	<u>GO Bond Funds</u>	<u>Capital Dedicated</u>	<u>Budget Savings</u>
	\$36,958,033	\$7,780,485	\$1,000,000
STREETS AND TRANSPORTATION:			
First Street (DNT - Coleman): (Land/Esmt)	(\$1,775,000)		
Legacy (Prairie - First Street) - 4 lanes: (Construction) - ** from FY 2026	(\$10,000,000)		
Fishtrap (Teel - Gee Road): (Construction)	(\$6,025,000)		
Fishtrap, Segment 2 (PISD Reimbursement): GO Bonds (NEW)	(\$1,063,033)		
Coit Road (First - Frontier) - 4 lanes: (Land/Esmt)	(\$800,000)		
Coleman Street (Gorgeous - Prosper Trail) - 4 lanes: (Land/Esmt)	(\$350,000)		
Coleman Street (Prosper Trail - Talon) - 2 SB lanes: (Land/Esmt)	(\$345,000)		
Parvin (FM -1385 - Legacy) - interim asphalt improvements	(\$500,000)		
Frontier (Legacy - DNT): (Design)	(\$300,000)		
First Street (Elem - DNT): (Construction): \$300k vs \$6.3M West Impact Fees Available	(\$6,000,000)		
PARKS: Westside Waterline Trail Connection	(\$800,000)		
PARKS: Raymond Community Park, Phase 1: (Construction): \$9M of \$18M (\$9M in FY 2024)	(\$9,000,000)		
CAPITAL DEDICATED FUND ALLOCATIONS:			
Fishtrap (Elementary - DNT) Construction		(\$750,000)	
Fishtrap and Gee Road Construction		(\$1,000,000)	
Safety Way (MOU approved July 19, 2022)		(\$800,000)	
Gorgeous/McKinley (LIV Development Agreement)		(\$700,000)	
Teel/US 380 Intersection (estimated additional)		(\$200,000)	
First Street (DNT - Coleman) (Traffic Circle & additional)		(\$1,000,000)	
Legacy (Prairie - Fishtrap) - 4 lanes: (ROW)		(\$575,000)	
Left Turn Lane Coit at First Street		(\$375,000)	
First Street (Coleman - Craig): (Design)		(\$500,000)	
FACILITIES: Parks and Public Works Parking Lot: NEW ITEM			(\$1,000,000)
<u>REMAINING UNALLOCATED</u>	\$0	\$1,880,485	\$0
	GO Bond Funds	Cap Ded Funds	Budget Savings

<u>FY 2024</u>		
<u>PROJECTS</u>	<u>GO Bond Funds</u>	<u>Capital Dedicated</u>
	\$31,950,000	\$8,600,000
STREETS AND TRANSPORTATION:		
First Street (DNT - Coleman): (Construction)	(\$9,000,000)	
Traffic Signal - DNT & Frontier Parkway: (Design & Construction)		(\$265,000)
Teel Parkway (US 380 - First) (Town's Portion of \$4.3M) - **from FY 2028-Beyond	(\$1,400,000)	(\$900,000)
> Traffic Signal - First & Artesia: (Design) ½ cost Artesia		(\$32,500)
> Traffic Signal - Teel & Prairie: (Design)		(\$65,000)
Legacy (First Street - Star Trail) - 2 North Lanes: (CO to First Street) - ** from FY 2028-Beyond	(\$650,000)	
Coit Road (First - Frontier) - 4 lanes: (ROW) - ** from FY 2027	(\$1,700,000)	
Intersection Improvements Coit Road: Collin County Grant		(\$1,200,000)
US 380 Deceleration Lanes – Denton County: NEW ITEM		(\$500,000)
PARKS: Windsong Parkland Final Payment: \$1,913,800 (Park Fees \$913,800): Capital Dedicated		(\$1,000,000)
PARKS: Raymond Community Park, Phase 1: (Construction): \$9.6M of \$18.6M (\$9M in FY 2023)	(\$9,000,000)	(\$600,000)
FACILITIES: Fire Station No. 4: (Construction) - rest of \$12.3M all in budget	(\$10,200,000)	
FOR CONSIDERATION (Decision Packages):		
Prosper Trail Screening (Minimum Cost provided for live screening)		(\$750,000)
Star Trail, Phase 5 Street Repairs		(\$1,450,000)
Finish Out Interior Spaces Town Hall: First and Second Floor		(\$650,000)
Frontier Park Pond Repairs		(\$473,000)
FY 2023 Unallocated		\$1,880,485
<u>REMAINING UNALLOCATED</u>	\$0	\$2,594,985
	GO Bond Funds	Cap Ded Funds

