



Prosper is a place where everyone matters.

Agenda
Prosper Town Council Meeting
Council Chambers
Prosper Town Hall
250 W. First Street, Prosper, Texas
Tuesday, May 25, 2021
5:45 PM

Notice Regarding Public Participation

Governor Greg Abbott has granted a temporary suspension of certain rules to allow for telephone or videoconference public meetings in an effort to reduce in-person meetings that assemble large groups of people, due to the COVID-19 public health emergency.

Individuals may attend the Prosper Town Council meeting in person, or access the meeting via videoconference, or telephone conference call.

Join the Zoom Meeting by clicking on the following link:

<https://us02web.zoom.us/j/87047432329>

Enter Meeting ID: 87047432329

To request to speak, click on “Participants” at the bottom of the screen, and click “Raise Hand.” The meeting moderator will acknowledge your request and allow you to speak.

To join the meeting by phone, dial (346) 248-7799

Enter Meeting ID: 87047432329

To request to speak, enter *9, and *6 to mute/unmute yourself. The meeting moderator will acknowledge your request and allow you to speak.

If you encounter any problems joining or participating in the meeting, please call our help line at 972-569-1191 for assistance.

Call to Order/ Roll Call.

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

Announcements of recent and upcoming events.

Presentations.

1. Mayor's Fitness Challenge Recognition. **(DR)**
2. Bike Week Proclamation. **(DR)**

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.

3. Consider and act upon the minutes from the May 11, 2021, Town Council Canvass Election Meeting. **(ML)**

4. Consider and act upon the minutes from the May 11, 2021, Town Council Meeting. **(ML)**
5. Consider and act upon a resolution to deny the rate change application proposed by CoServ. **(BP)**
6. Conduct a Public Hearing, and consider and act upon a request to amend the Future Land Use Plan from Medium Density Residential to Retail & Neighborhood Services, generally located on the northwest corner of Legacy Drive and Prosper Road. This is a companion case to Z20-0013. (CA20-0003). **(AG)**
7. Conduct a Public Hearing, and consider and act upon a request to rezone 5.5± acres, from Agriculture (A) to Planned Development-Retail (PD-R), for Legacy Storage, located on the west side of Legacy Drive, north of Prosper Road. This is a companion case to CA20-0003. (Z20-0013). **(AG)**
8. Consider and act upon an ordinance amending the Future Land Use Plan from Medium Density Residential to Tollway District, generally located on the south side of Frontier Parkway, east of Dallas Parkway. This is a companion case to Z20-0026. (CA20-0004). **(AG)**
9. Consider and act upon an ordinance amending Planned Development-69 (PD-69), on 74.3± acres, generally to amend the residential tract to allow for non-residential uses, located on the southeast corner of Dallas Parkway and Frontier Parkway. This is a companion case to CA20-0004. (Z20-0026). **(AG)**
10. Consider and act upon authorizing the Town Manager to execute a Development Agreement between Metten Real Estate, L.P., and the Town of Prosper, Texas, related to development at the southeast corner of Dallas Parkway and Frontier Parkway. **(AG)**
11. Consider and act upon whether to direct staff to submit a written notice of appeal 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 Plan or Preliminary Site Plan, including Brookhollow Multifamily and Fishtrap EST Non-Commercial Antennas. **(AG)**

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 Meeting Appearance Card" and present it to the Town Secretary prior to the meeting, or request to address the Council via videoconference or telephone.

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. For individuals wishing to speak on a non-public hearing item, they may either address the Council during the Citizen Comments portion of the meeting or when the item is considered by the Town Council.

Items for Individual Consideration:

12. Consider and act upon authorizing the Town Manager to execute an Escrow Agreement between BG-GBT Broadway & Preston LP, and the Town of Prosper, Texas, related to the future construction of improvements on Broadway (FM 1193) to serve the Windmill Hill development. **(DH)**

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.

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 551.071 - Consultation with the Town Attorney regarding legal issues associated with the payment of impact fees, pursuant to Section 395.018 of the Texas Local Government Code, and all matters incident and related thereto.

Section 551.071 - Consultation with Town Attorney regarding legal issues related to Article 1.02 of the Town's Code of Ordinances, and all matters incident and related thereto.

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

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

13. Brookhollow Multifamily Development Agreement Discussion **(RZ)**
14. Proposal for use of Town Hall balconies. **(RB)**

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, May 21, 2021, and remained so posted at least 72 hours before said meeting was convened.

Melissa Lee, 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.



Prosper is a place where everyone matters.

Minutes
Prosper Town Council Meeting
To Canvass the Election
Council Chambers
Prosper Town Hall
250 W. First Street, Prosper, Texas
Tuesday, May 11, 2021

Call to Order/ Roll Call.

The meeting was called to order at 7:30 a.m.

Council Members Present:

Mayor Ray Smith
Mayor Pro-Tem Jason Dixon
Deputy Mayor Pro-Tem Craig Andres
Councilmember Marcus E. Ray
Councilmember Amy Bartley
Councilmember Meigs Miller

Council Members Absent:

Councilmember Jeff Hodges

Staff Members Present:

Harlan Jefferson, Town Manager
Melissa Lee, Town Secretary
Robyn Battle, Executive Director of Community Services

Items for Individual Consideration:

- 1. Consider and act upon Ordinance No. 2021-24 canvassing the returns and declaring the results of the May 1, 2021, General Election. (ML)**

Mayor Pro-Tem Dixon made a motion and Councilmember Miller seconded the motion to approve Ordinance No. 2021-24 canvassing the returns and declaring the results of the May 1, 2021, General Election.

The motion was approved by a vote of 6 – 0.

Adjourn.

The meeting was adjourned at 7:32 a.m. on Tuesday, May 11, 2021.

These minutes approved on the 25th day of May 2021.

APPROVED:

Ray Smith, Mayor

ATTEST:

Melissa Lee, Town Secretary

DRAFT



Prosper is a place where everyone matters.

Minutes
Prosper Town Council Meeting
 Council Chambers
 Prosper Town Hall
 250 W. First Street, Prosper, Texas
 Tuesday, May 11, 2021

Call to Order/ Roll Call.

The meeting was called to order at 6:25 p.m.

Council Members Present:

Mayor Ray Smith
 Deputy Mayor Pro-Tem Craig Andres
 Councilmember Meigs Miller
 Councilmember Jeff Hodges
 Councilmember Marcus E. Ray
 Councilmember Amy Bartley
 Councilmember Charles Cotten (Elect)

Council Members Absent:

Mayor Pro-Tem Jason Dixon

Staff Members Present:

Harlan Jefferson, Town Manager
 Terry Welch, Town Attorney
 Melissa Lee, Town Secretary
 Robyn Battle, Executive Director of Community Services
 Chuck Springer, Executive Director of Administrative Services
 Betty Pamplin, Finance Director
 January Cook, Purchasing Manager
 Rebecca Zook, Executive Director of Development & Infrastructure Services
 Khara Dodds, Development Services Director
 Hulon Webb, Engineering Services Director
 Dan Heischman, Assistant Director of Engineering Services - Development
 Alex Glushko, Planning Manager
 Leslie Scott, Director of Library Services
 Leigh Johnson, Director of Information Technology
 Dudley Raymond, Director of Parks and Recreation
 Doug Kowalski, Police Chief
 Stuart Blasingame, Fire Chief

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

Pastor John Fowler, First Presbyterian Church of Prosper, led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

Presentations.

1. **Present Oaths of Office and Certificates of Election to Craig Andres and Charles Cotten. (ML)**

Melissa Lee, Town Secretary, conducted the Oaths of Office and Mayor Smith presented the Certificates of Election to Craig Andres elected to Town Council, Place 2, and Charles Cotten elected to Town Council, Place 6 in the May 1, 2021, General Election.

Announcements of recent and upcoming events.

Councilmember Cotten read the announcements.

Thank you to everyone who attended the Town Council Reception prior to tonight's meeting. The Town Council, residents, friends, and family acknowledged outgoing Councilmember Jason Dixon for over his many years of service to the Town. Craig Andres was acknowledged for his re-election, and Charles Cotten was welcomed as a newly elected member of the Town Council.

Prosper residents are encouraged to contribute their ideas to the Downtown Master Plan, a joint project between the Town and the Prosper Economic Development Corporation. Visit the Prosper EDC Facebook page to learn more about the project, complete a survey, and share your ideas for downtown.

The Prosper Community Library will kick off this year's Summer Reading Program on June 1. This year's theme is "Destination: 7-Continent Exploration." Summer reading participants will learn all about the continents, their cultures, foods, and natural beauty. Library staff will lead an exploration of a different continent each week. Teens can participate in the Town's own Amazing Race, and family-friendly movies will tie into each week's destination continent. Visit the Library's website or Facebook page for more information.

In addition to the hotspots available for checkout at Prosper Community Library, the parking lot is now a 24-hour Wi-Fi access point for high-speed internet access. Motorists or pedestrians may position themselves in the near vicinity of the parking lot and log on. Users must provide their own laptop or other device to use the free service.

The Prosper Tree Tour will take place on Thursday, May 27, at 5:30 p.m. at Whitley Place Park. Join Town staff for a walk in the park to learn about trees and foliage and the role trees play in the life of our community. Bring the family and your sneakers for this relaxed, informal, and fun evening! Visit the Parks & Recreation website or Facebook page for more information.

Mayor Smith presented a Proclamation to Chief Kowalski recognizing the week of May 9-15, 2021, as Police Week and May 15, 2021, as Peace Officers' Memorial Day in honor of law enforcement officers who have made the ultimate sacrifice, or who have become disabled in service to their community.

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 April 27, 2021, Town Council meeting. (ML)**
3. **Receive the Quarterly Investment Report. (BP)**
4. **Receive the March Financial Report. (BP)**

5. **Consider and Act upon authorizing the Town Manager to execute an Intergovernmental Joint Use Agreement between the Town of Prosper and the Prosper Independent School District with regard to the Town's use of tennis courts at Rogers Middle School and Rushing Middle School in consideration of waiving tree preservation fees for High School Site Number Three. (DR)**
6. **Consider and act upon authorizing the Town Manager to execute a Professional Services Agreement between Teague Nall and Perkins, Inc. (TNP), and the Town of Prosper, Texas, related to the Tanners Mill Park Phase 2 (2108-PK). (DR)**
7. **Consider and act upon authorizing the Town Manager to execute an Escrow Agreement between Blue Star Allen Land, L.P., and the Town of Prosper, Texas, related to the future construction of improvements on Legacy Drive to serve Star Trail Phase 7. (HW)**
8. **Consider and act upon whether to direct staff to submit a written notice of appeal 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 Plan or Preliminary Site Plan, including North Dallas Cemetery, North Preston Village, and Prosper Business Park. (AG)**

Councilmember Ray made a motion and Councilmember Hodges seconded the motion to approve all items on the Consent Agenda.

The motion passed by a vote of 7 – 0.

CITIZEN COMMENTS:

There were no citizen comments.

REGULAR AGENDA:

Items for Individual Consideration:

9. **Conduct a Public Hearing, and consider and act upon a request to rezone Planned Development-86 (PD-86) to Planned Development (PD), on 63.3± acres, to allow for an age-restricted single family detached, condominium development, located on the west side of Custer Road, south of First Street. (Z20-0027). (AG)**

Alex Glushko, Planning Manager, provided an overview of the request for a Planned Development (PD) District to facilitate an age-restricted (55 and older), private gated community, which consist of a maximum of 248 single family detached condominium units located on one lot. The condominium style development will allow for individual purchase of the interior dwelling space of each unit, with the dwelling exterior, yard, street, etc., to be owned and maintained by a community association. The proposed development does not fall under the standard Zoning Ordinance classification of a single family detached or multifamily district. To facilitate this project the applicant is proposing a series of plans and standards to define the regulations for the development.

Mayor Smith opened the public hearing.

John Delin with the Integrity Group discussed the Ladera Prosper Project, an active adult condominium development featuring smaller, low maintenance homes with active lifestyle amenities.

The Town Council discussed the proposed molded or pre-cast composite fence material Simtek and the proposed berms, landscaping, fencing, and trails along Custer Road. Councilmember Bartley suggested granting the requested waiver of the tree mitigation requirements for trees located within the floodplain to offset the cost of the required berms along Custer Road. Mr. Delin answered questions on development sidewalks and building “setbacks” with this proposal.

Brent Kirby, 3410 Beachwood Drive, Whitley Place HOA Board Member, spoke in support of Item 9.

George Dupont, 1400 Harvest Ridge Lane, spoke in opposition to item 9 due to the requested deviations and variances from the Town’s ordinances and standards by the applicant.

With no one else speaking, Mayor Smith closed the public hearing.

After discussion, Councilmember Miller made a motion and Deputy Mayor Pro-Tem Andres seconded the motion to approve the request to rezone Planned Development-86 (PD-86) to Planned Development (PD), on 63.3± acres, to allow for an age-restricted single family detached, condominium development, located on the west side of Custer Road, south of First Street subject to:

1. The requirement of berms is along Custer Road south of Street A;
2. Any areas proposed for Simtek fencing shall be required to be board-on-board with caps wood fencing consistent with Town ordinances;
3. Full compliance with tree mitigation standards and requirements.

Building materials and enhanced landscaping along Custer Road north of Street A shall be included in a development agreement.

The motion passed by a vote of 7 – 0.

10. Conduct a Public Hearing, and consider and act upon Ordinance No. 2021-25 amending the Thoroughfare Plan to realign segments of Mahard Parkway, Lovers Lane, Prairie Drive, and Shawnee Trail. (CA21-0003). (AG)

Dan Heischman, Assistant Director of Engineering Services – Development, reviewed the Thoroughfare Plan as it currently depicts segments of Mahard Parkway, Lovers Lane, Prairie Drive, and Shawnee Trail in the configuration of a “football”. In 2019, the property owners of land in the “football” contacted Town staff expressing interest in instigating a study to evaluate the impacts of a realignment of the subject roadway segments. In 2020, the property owners contracted with the Deshazo Group to perform an analysis. A study was completed in 2021, which demonstrates the realignment does not have a detrimental impact on circulation and traffic flow in the area. The Engineering Department has reviewed the study and is supportive of the proposed realignment.

Mayor Smith opened the public hearing.

With no one speaking, Mayor Smith closed the public hearing.

Mr. Heischman continued by confirming for the Town Council that there would be no intersection treatment or roundabout at the intersection of Shawnee Trail and Prairie Drive.

After discussion Councilmember Hodges made a motion and Councilmember Ray seconded the motion to approve Ordinance No. 2021-25 amending the Thoroughfare Plan to realign segments of Mahard Parkway, Lovers Lane, Prairie Drive, and Shawnee Trail.

The motion passed by a vote of 7 – 0.

11. **Consider and act upon Ordinance No. 2021-26 amending Ordinance No. 2020-71 (FY 2020-2021 Budget). (BP)**
12. **Consider and act upon authorizing the Town Manager to accept a grant award from FHWA Congestion Mitigation and Air Quality (QMAQ) Improvement Program Funds through the North Central Texas Council of Governments (NCTCOG) for Traffic Incident Management Grant (TIM). (SB)**
13. **Consider and act upon approving the purchase of Thermal Image Cameras and related equipment from NAFECO, Inc., through the Texas Local Government Purchasing Cooperative. (SB)**

Mayor Smith opened Items 11, 12, & 13 concurrently.

Betty Pamplin, Finance Director, began with providing the Town Council information on the budget amendment that will increase Grant revenue by \$71,705 to account for acceptance of the grant award from the Texas Department of Transportation (TxDOT) through North Central Texas Council of Governments (NCTCOG), and increase expenditures by \$71,705 to allocate funding for the purchase of 8 thermal imaging cameras and 64 traffic safety vests. Stuart Blasingame, Fire Chief, continued with clarifying the provided totals regarding the NAFECO safety vests and answered general equipment questions from the Town Council.

After discussion Councilmember Meigs made a motion and Deputy Mayor Pro-Tem Andres seconded the motion to approve Ordinance No. 2021-26 amending Ordinance No. 2020-71 (FY 2020-2021 Budget).

The motion passed by a vote of 7 – 0.

Councilmember Ray made a motion and Councilmember Hodges seconded the motion to authorize the Town Manager to accept a grant award from FHWA Congestion Mitigation and Air Quality (QMAQ) Improvement Program Funds through the North Central Texas Council of Governments (NCTCOG) for Traffic Incident Management Grant (TIM).

The motion passed by a vote of 7 – 0.

Deputy Mayor Pro-Tem Andres made a motion and Councilmember Hodges seconded the motion to approve the purchase of Thermal Image Cameras and related equipment from NAFECO, Inc., through the Texas Local Government Purchasing Cooperative.

The motion passed by a vote of 7 – 0.

14. Discussion on Downtown Silos. (HJ)

Harlan Jefferson, Town Manager, discussed the Town's response regarding the Downtown Silo properties and provided a timeline of property events and communication points to the public. Mr. Jefferson noted ongoing concerns by the property owner regarding liability and maintenance of the silos and discussed continued efforts by the Town to preserve specific silos. The Town Council had questions on various lease or purchase options for the Downtown Silos and site properties by the Town, and the associated liabilities of each.

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.

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 551.074 - To discuss and consider election of Mayor Pro-Tem and Deputy Mayor Pro-Tem.

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, and Planning & Zoning Commission.

The Town Council recessed into Executive Session at 8:54 p.m.

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

The Town Council reconvened the Regular Session at 9:42 p.m.

Councilmember Hodges made a motion and Councilmember Bartley seconded the motion to appoint Meigs Miller as Mayor Pro-Tem and Craig Andres as Deputy Mayor Pro-Tem.

The motion passed by a vote of 7 – 0.

Councilmember Hodges made a motion and Deputy Mayor Pro-Tem Andres seconded the motion to appoint Sekou Harris to the Planning and Zoning Commission, Place 1, to fill the unexpired term of Charles Cotten who was elected to Town Council, Place 6.

The motion passed by a vote of 7 – 0.

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

15. Town Council Subcommittee Discussion. (RB)

The Town Council appointed Councilmember Cotten as Council Representative to the Town of Prosper Finance and Benefits Subcommittees.

Councilmember Ray requested a future meeting discussion item on the use of the Town Hall balconies. The Town Council directed staff to use the MRAP vehicle on a case-by-case basis.

Adjourn.

The meeting was adjourned at 9:50 p.m. on Tuesday, May 11, 2021.

These minutes approved on the 25th day of May 2021.

APPROVED:

Ray Smith, Mayor

ATTEST:

Melissa Lee, Town Secretary

FINANCE DEPARTMENT



To: Mayor and Town Council

From: Betty Pamplin, Finance Director

Through: Harlan Jefferson, Town Manager
Chuck Springer, Executive Director of Administrative Services

Re: Town Council Meeting – May 25, 2021

Agenda Item:

Consider and act upon a resolution to deny the rate change application proposed by CoServ. **(BP)**

Description of Agenda Item:

On November 13, 2020, CoServ Gas, Ltd. ("CoServ" or "Company"), 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 March 14, 2021.

On December 8, 2020, Town Council approved a resolution suspending CoServ's rate request from taking effect for 90 days, the fullest extent permissible under the law. This time period has permitted the Town, through its participation in the Steering Committee of Cities Served by CoServ, Ltd. ("CoServ Gas Cities"), to determine that the proposed rate increase and consolidation are unreasonable. Consistent with the recommendations of experts engaged by CoServ Gas Cities, CoServ's request for a rate increase and consolidation of service areas should be denied.

Accordingly, the purpose of this Resolution is to deny the rate change application proposed by CoServ.

Budget Impact:

A settlement has been reached, but not yet finalized and filed. The key terms of the settlement include: a rate increase of \$6.25 million, down from the Company's updated request of \$11.5 million; \$10.3 million of excess deferred income tax refunded to customers over 38 years; 9.5% Return on Equity, compared to the Company's requested 11.5% Return on Equity; residential customer charge of \$15, compared to the Company's original \$18.50 request; commercial and public authority customer charge of \$35.00, compared to the Company's original \$43.50 request; and 100% recovery of Town's rate case expenses.

Legal Obligations and Review:

Terrance Welch of Brown & Hofmeister, L.L.P., has reviewed the resolution as to form and legality.

Attached Documents:

- 1. Resolution

Town Staff Recommendation:

Town staff recommends adoption of a resolution to deny the rate change application proposed by CoServ.

Proposed Motion:

I move to adopt a resolution to deny the rate change application proposed by CoServ.

TOWN OF PROSPER, TEXAS

RESOLUTION NO. 2021-xx

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS DENYING COSERV GAS, LTD'S REQUESTED RATE INCREASE; REQUIRING THE COMPANY TO REIMBURSE THE TOWN'S REASONABLE RATEMAKING EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; MAKING FINDINGS; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND THE TOWN'S LEGAL COUNSEL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Prosper, Texas ("Town"), is a gas utility customer of CoServ Gas Ltd. ("CoServ" or "Company"), and is 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, the Town cooperated with a coalition of similarly situated cities served by the Company that have joined together to facilitate the review and response to natural gas issues affecting rates charged in CoServ's service area ("CoServ Gas Cities" or "Steering Committee of Cities Served by CoServ Gas, Ltd."); and

WHEREAS, on or about November 13, 2020, the Company filed a Statement of Intent to increase rates on a system-wide basis by \$9.6 million per year, and by \$8,113,409 in all municipalities exercising original jurisdiction within its service area; and

WHEREAS, CoServ proposed March 14, 2021, as the effective date for its requested increase in rates; and

WHEREAS, the Town passed Resolution No. 2020-92 to suspend the effective date of CoServ's requested rate increase for ninety (90) days, the maximum period allowed by law; and

WHEREAS, the CoServ Gas Cities hired and directed legal counsel and consultants to prepare a common response to the Company's requested system-wide rate increase and proposed consolidation of service areas, which resulted in a conclusion that CoServ's rates are not reasonable, the proposed consolidation of services areas is not reasonable, and a recommendation that the rate request and consolidation be denied; and

WHEREAS, GURA § 103.022 provides that costs incurred by CoServ Gas Cities 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

The rates proposed by CoServ to be recovered through its gas rates charged to customers located within the Town limits are hereby found to be unreasonable and shall be denied.

SECTION 2

CoServ shall continue to charge its existing rates to customers within the Town and that said existing rates are reasonable.

SECTION 3

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

SECTION 4

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 5

A copy of this Ordinance shall be sent to CoServ, care of Charles Harrell, CoServ Gas, Ltd., 7701 South Stemmons Freeway, Corinth, Texas 76210 (CHarrell@coserv.com), and to Thomas Brocato at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701 (tbrocato@lglawfirm.com).

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 25TH DAY OF MAY, 2021.

Ray Smith, Mayor

ATTEST:

Melissa Lee, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

PLANNING



To: Mayor and Town Council

From: Alex Glushko, AICP, Planning Manager

Through: Harlan Jefferson, Town Manager
Rebecca Zook, P.E., Executive Director of Development & Infrastructure Services
Khara Dodds, AICP, Director of Development Services

Re: Town Council Meeting – May 25, 2021

Agenda Item:

Conduct a Public Hearing, and consider and act upon a request to amend the Future Land Use Plan from Medium Density Residential to Retail & Neighborhood Services, generally located on the northwest corner of Legacy Drive and Prosper Road. This is a companion case to Z20-0013. (CA20-0003).

Description of Agenda Item:

This item was tabled at the April 13, 2021, Town Council meeting, per a request by the applicant, to allow additional time to address concerns raised by the northern adjacent property owner. The applicant has requested this item be tabled and the Public Hearing continued to the June 8, 2021, Town Council meeting, for the same purpose.

Attached Documents:

1. Tabling Request Letter

Staff Recommendation:

Staff recommends the Town Council table this request and continue the Public Hearing to the June 8, 2021, meeting.

Planning & Zoning Commission Recommendation:

At their March 2, 2021 meeting, the Planning & Zoning Commission recommended the Town Council approve the request, by a vote of 7-0.

Proposed Motion:

I move to table this and continue the Public Hearing to the June 8, 2021, Town Council meeting.



May 10, 2021

Mr. Alex Glushko
Town of Prosper
200 S. Main Street
Prosper, TX 75078

Re: Z20-0013 & CA 20-0003 – Table Request

Dear Alex,

As the owner, applicant and/or representative of the *Zoning Case Z20-0013 and Future Land Use Plan Amendment CA 20-0003*, I hereby request that the case be tabled until the June 8, 2021 City Council meeting.

Should you have any questions, please feel free to contact me.

Sincerely,

Claymoore Engineering, Inc.

A handwritten signature in blue ink, appearing to read "Matt Moore", is written over a light blue horizontal line.

Matt Moore

PLANNING



To: Mayor and Town Council

From: Alex Glushko, AICP, Planning Manager

Through: Harlan Jefferson, Town Manager
Rebecca Zook, P.E., Executive Director of Development & Infrastructure Services
Khara Dodds, AICP, Director of Development Services

Re: Town Council Meeting – May 25, 2021

Agenda Item:

Conduct a Public Hearing, and consider and act upon a request to rezone 5.5± acres, from Agriculture (A) to Planned Development-Retail (PD-R), for Legacy Storage, located on the west side of Legacy Drive, north of Prosper Road. This is a companion case to CA20-0003. (Z20-0013).

Description of Agenda Item:

This item was tabled at the April 13, 2021, Town Council meeting, per a request by the applicant, to allow additional time to address concerns raised by the northern adjacent property owner. The applicant has requested this item be tabled and the Public Hearing continued to the June 8, 2021, Town Council meeting, for the same purpose.

Attached Documents:

1. Tabling Request Letter

Staff Recommendation:

Staff recommends the Town Council table this request and continue the Public Hearing to the June 8, 2021, meeting.

Planning & Zoning Commission Recommendation:

At their March 2, 2021 meeting, the Planning & Zoning Commission recommended the Town Council approve the request, by a vote of 7-0.

Proposed Motion:

I move to table this and continue the Public Hearing to the June 8, 2021, Town Council meeting.



May 10, 2021

Mr. Alex Glushko
Town of Prosper
200 S. Main Street
Prosper, TX 75078

Re: Z20-0013 & CA 20-0003 – Table Request

Dear Alex,

As the owner, applicant and/or representative of the *Zoning Case Z20-0013 and Future Land Use Plan Amendment CA 20-0003*, I hereby request that the case be tabled until the June 8, 2021 City Council meeting.

Should you have any questions, please feel free to contact me.

Sincerely,

Claymoore Engineering, Inc.

A handwritten signature in blue ink that reads "Matt Moore".

Matt Moore

PLANNING



To: Mayor and Town Council

From: Alex Glushko, AICP, Planning Manager

Through: Harlan Jefferson, Town Manager
Rebecca Zook, P.E., Executive Director of Development & Infrastructure Services
Khara Dodds, AICP, Director of Development Services

Re: Town Council Meeting – May 25, 2021

Agenda Item:

Consider and act upon an ordinance amending the Future Land Use Plan from Medium Density Residential to Tollway District, generally located on the south side of Frontier Parkway, east of Dallas Parkway. This is a companion case to Z20-0026. (CA20-0004).

Description of Agenda Item:

On April 27, 2021, the Town Council approved the proposed request, by a vote of 7-0. An ordinance has been prepared accordingly.

Legal Obligations and Review:

Town Attorney, Terrence Welch of Brown & Hofmeister, L.L.P., has approved the standard ordinance as to form and legality.

Attached Documents:

1. Ordinance
2. Exhibit A - Future Land Use Plan

Staff Recommendation:

Staff recommends the Town Council approve an ordinance amending the Future Land Use Plan from Medium Density Residential to Tollway District, generally located on the south side of Frontier Parkway, east of Dallas Parkway.

Proposed Motion:

I move to approve an ordinance amending the Future Land Use Plan from Medium Density Residential to Tollway District, generally located on the south side of Frontier Parkway, east of Dallas Parkway.

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2021-___

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING THE FUTURE LAND USE PLAN MAP OF THE TOWN OF PROSPER'S COMPREHENSIVE PLAN; PROVIDING FOR REPEALING, SAVING AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the Town Council of the Town of Prosper, Texas ("Town Council"), has investigated and determined that the Future Land Use Plan of the Town of Prosper ("Prosper") Comprehensive Plan, adopted by Ordinance No. 12-21, as amended, should be amended; and

WHEREAS, Prosper received a request to amend the Future Land Use Plan from Medium Density Residential to Tollway District, generally located on the south side of Frontier Parkway, east of Dallas Parkway (CA20-0004);

WHEREAS, Prosper has complied with all notices and public hearings as required by law; and

WHEREAS, the Town Council finds that it will be advantageous, beneficial, and in the best interests of the citizens of Prosper to amend a portion of the Comprehensive Plan as set forth below.

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

SECTION 1

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

SECTION 2

Amendment to Prosper's Comprehensive Plan, Ordinance No. 12-21. The Future Land Use Plan Map of the Town of Prosper's Comprehensive Plan, adopted by Ordinance No. 12-21, as amended, is hereby amended to reflect Tollway District on the south side of Frontier Parkway, east of Dallas Parkway, as depicted in Exhibit A, attached hereto and incorporated by reference.

SECTION 3

Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 4

Savings/Repealing Clause. Prosper's Comprehensive Plan, adopted by Ordinance 12-21, shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the appeal prevent a prosecution from being commenced for any violation if occurring prior to the repealing of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 5

Effective Date. This Ordinance shall become effective from and after its adoption.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 25TH DAY OF MAY, 2021.

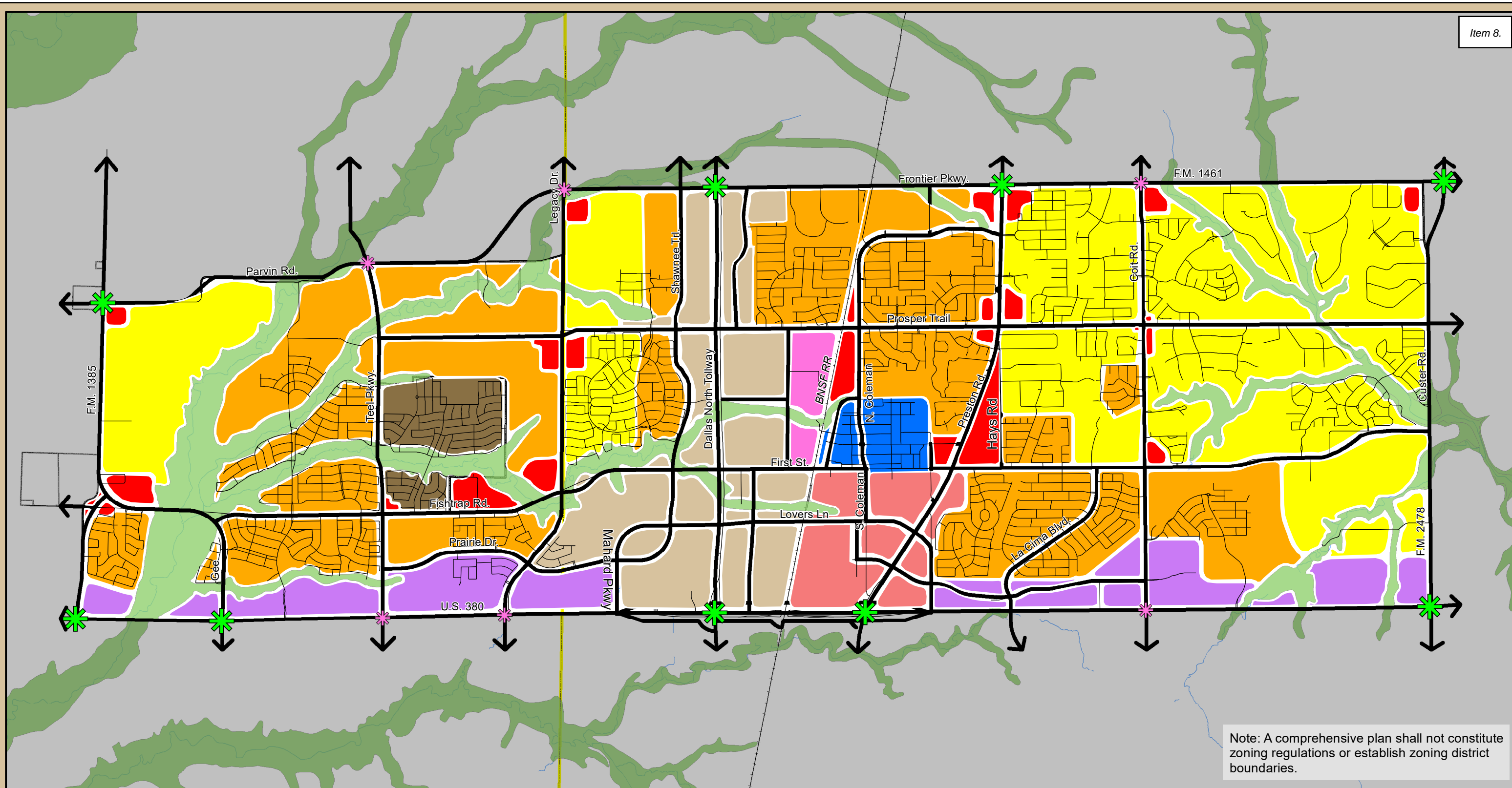
Ray Smith, Mayor

ATTEST:

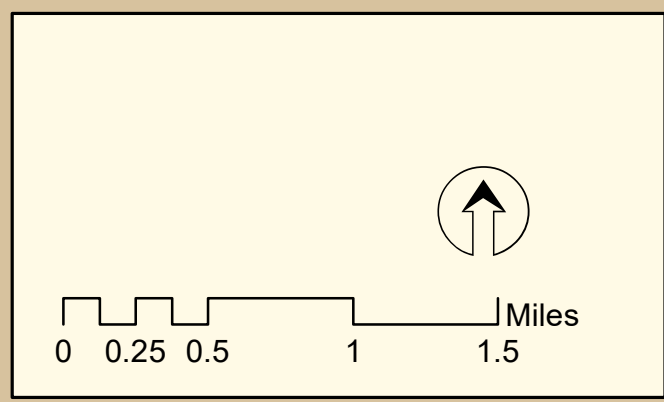
Melissa Lee, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney




Note: A comprehensive plan shall not constitute zoning regulations or establish zoning district boundaries.



Legend	
	Low Density Residential
	Medium Density Residential
	High Density Residential
	Retail & Neighborhood Services
	Business Park
	Old Town District
	Town Center
	Tollway District
	US 380 District
	100 Year Floodplain
	Major Gateway
	Minor Gateway
	Town of Prosper
	ETJ

Future Land Use Plan



TOWN OF PROSPER

Pla Page 25

PLANNING



To: Mayor and Town Council

From: Alex Glushko, AICP, Planning Manager

Through: Harlan Jefferson, Town Manager
Rebecca Zook, P.E., Executive Director of Development & Infrastructure Services
Khara Dodds, AICP, Director of Development Services

Re: Town Council Meeting – May 25, 2021

Agenda Item:

Consider and act upon an ordinance amending Planned Development-69 (PD-69), on 74.3± acres, generally to amend the residential tract to allow for non-residential uses, located on the southeast corner of Dallas Parkway and Frontier Parkway. This is a companion case to CA20-0004. (Z20-0026).

Description of Agenda Item:

On April 27, 2021, the Town Council approved the proposed rezoning request, by a vote of 7-0, subject to the following:

1. No cross access between the Lakes of Prosper North and the subject tract, and Developer, in a development agreement, agrees to pay for the costs of right-of-way abandonment for that right-of-way currently reflecting cross access between the Lakes of Prosper North and the subject tract;
2. Building materials and the prohibition of non-family friendly business establishments shall be included in a development agreement;
3. Developer shall endeavor to maintain an 8 foot fence, board-on-board with a cap, on the north side of the Lakes of Prosper North subdivision; and
4. Only one story structures are allowed within 84 feet of the south property line of Tract 2.

An ordinance has been prepared accordingly, and a Development Agreement is on the May 25, 2021, Town Council agenda for consideration.

Legal Obligations and Review:

Town Attorney, Terrence Welch of Brown & Hofmeister, L.L.P., has approved the standard ordinance as to form and legality.

Attached Documents:

1. Ordinance
2. Ordinance Exhibits

Town Staff Recommendation:

Staff recommends the Town Council approve an ordinance amending Planned Development-69 (PD-69), on 74.3± acres, generally to amend the residential tract to allow for non-residential uses, located on the southeast corner of Dallas Parkway and Frontier Parkway.

Proposed Motion:

I move to approve an ordinance amending Planned Development-69 (PD-69), on 74.3± acres, generally to amend the residential tract to allow for non-residential uses, located on the southeast corner of Dallas Parkway and Frontier Parkway.

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2021-__

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 80.72 ACRES, MORE OR LESS, SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY NO. 12, ABSTRACT NO. 147, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, HERETOFORE ZONED PLANNED DEVELOPMENT-69 (PD-69) IS HEREBY REZONED AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-69 (PD-69); DESCRIBING THE TRACT TO BE REZONED; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVING AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the Town Council of the Town of Prosper, Texas (the "Town Council") has investigated and determined that Zoning Ordinance No. 05-20 should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request from Metten Real Estate, L.P. ("Applicant") to rezone 80.72 acres of land, more or less, situated in the Collin County School Land Survey No. 12, Abstract No. 147, in the Town of Prosper, Collin County, Texas; and

WHEREAS, the Town Council has investigated into and determined that the facts contained in the request are true and correct; and

WHEREAS, all legal notices required for rezoning have been given in the manner and form set forth by law, and public hearings have been held on the proposed rezoning and all other requirements of notice and completion of such zoning procedures have been fulfilled; and

WHEREAS, the Town Council has further investigated into and determined that it will be advantageous and beneficial to Prosper and its inhabitants to rezone this property as set forth below.

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

SECTION 1

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

SECTION 2

Amendments to Zoning Ordinance No. 05-20. Zoning Ordinance No. 05-20 is amended as follows: The zoning designation of the below-described property containing 80.72 acres of land, more or less, situated in the Collin County School Land Survey No. 12, Abstract No. 147, in the Town of Prosper, Collin County, Texas, (the "Property") and all streets, roads and alleyways contiguous and/or adjacent thereto is hereby rezoned as Planned Development-69 (PD-69). The property as a whole and the boundaries for each zoning classification are more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes as if set forth verbatim, subject to the following:

1. No cross access between the Lakes of Prosper North and the subject tract, and Developer, in a development agreement, agrees to pay for the costs of right-of-way abandonment for that right-of-way currently reflecting cross access between the Lakes of Prosper North and the subject tract;
2. Building materials and the prohibition of non-family friendly business establishments shall be included in a development agreement;
3. Developer shall endeavor to maintain an 8 foot fence, board-on-board with a cap, on the north side of the Lakes of Prosper North subdivision; and
4. Only one story structures are allowed within 84 feet of the south property line of Tract 2.

The development plans, standards, and uses for the Property in this Planned Development District shall conform to, and comply with 1) the statement of intent and purpose, attached hereto as Exhibit "B"; 2) the planned development standards, attached hereto as Exhibit "C"; 3) the conceptual development plan requirements, attached hereto as Exhibit "D"; and 4) the development schedule, attached hereto as Exhibit "E", which are incorporated herein for all purposes as if set forth verbatim. Except as amended by this Ordinance, the development of the Property within this Planned Development District must comply with the requirements of all ordinances, rules, and regulations of Prosper, as they currently exist or may be amended.

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

- a. One (1) copy shall be filed with the Town Secretary and retained as an original record and shall not be changed in any manner.
- b. One (1) copy shall be filed with the Building Official and shall be maintained up to date by posting thereon all changes and subsequent amendments for observation, issuing building permits, certificates of compliance and occupancy, and enforcing the zoning ordinance. Reproduction for information purposes may from time-to-time be made of the official zoning district map.

Written notice of any amendment to this District shall be sent to all owners of properties within the District as well as all properties within two hundred feet (200') of the District to be amended.

SECTION 3

No Vested Interest/Repeal. No developer or property owner shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein. Any portion of this Ordinance may be repealed by the Town Council in the manner provided for by law.

SECTION 4

Unlawful Use of Premises. It shall be unlawful for any person, firm or corporation to make use of said premises in some manner other than as authorized by this Ordinance, and shall be unlawful for any person, firm or corporation to construct on said premises any building that is not in conformity with the permissible uses under this Zoning Ordinance.

SECTION 5

Penalty. Any person, firm, corporation or business entity violating this Ordinance or any provision of Prosper’s Zoning Ordinance No. 05-20, or as amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day’s violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Prosper from filing suit to enjoin the violation. Prosper retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 6

Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 7

Savings/Repealing Clause. Prosper’s Zoning Ordinance No. 05-20 shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the appeal prevent a prosecution from being commenced for any violation if occurring prior to the repealing of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 8

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

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 25TH DAY OF MAY, 2021.

Ray Smith, Mayor

ATTEST:

Melissa Lee, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

PRELIMINARY
 FOR REVIEW ONLY
 Not for construction purposes.
CLAYMOORE ENGINEERING
 ENGINEERING AND PLANNING
 CONSULTANTS
 Engineer: **DREW DONOSKY**
 P.E. No. 125651, Date 2/11/2021

METTEN PROSPER
PROSPER, TEXAS 75078

No.	DATE	REVISION	BY

EXHIBIT A

DESIGN: MAM
 DRAWN: MAM
 CHECKED: MAM
 DATE: 01/10/2020
 SHEET
EX-A
 File No. Page 31

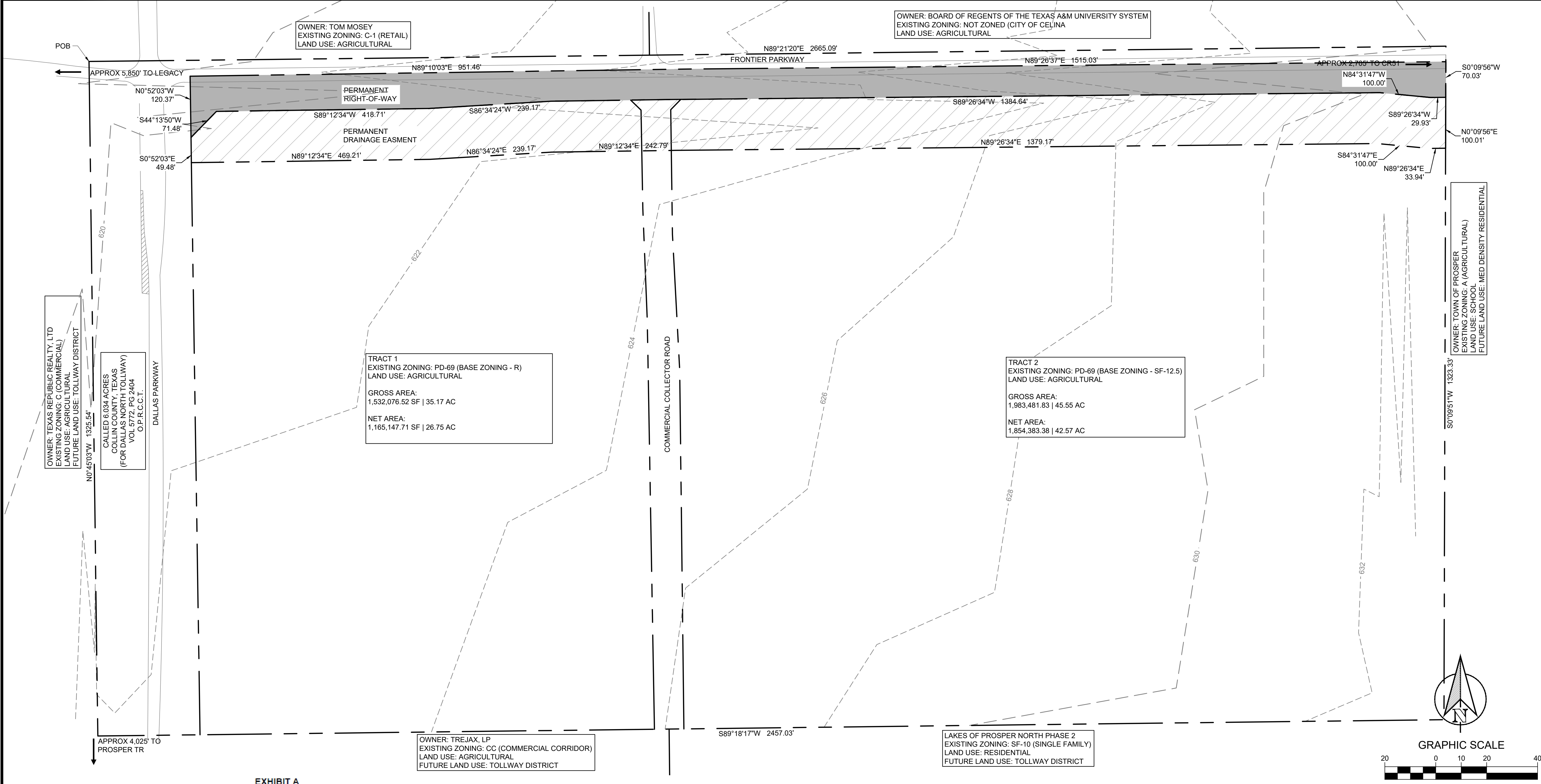


EXHIBIT A

BEING a tract of land situated in the Collin County School Land Survey No. 12, Abstract No. 147, Town of Prosper, Collin County, Texas, and being all of a called 80.37 acre tract, conveyed to Metten Real Estate, L.P., as evidenced in a Warranty Deed recorded in Volume 4234, Page 1348 of the Land Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at the northwest corner of said 80.37 acre tract and the northwest corner of a called 6.034 acre tract of land, conveyed to Collin County, Texas, as evidenced in a Special Warranty Deed recorded in Volume 5772, Page 2404 of the Official Public Records of Collin County, Texas, same also being the intersection of the centerline of future Dallas North Tollway, with the approximate centerline of Frontier Parkway;

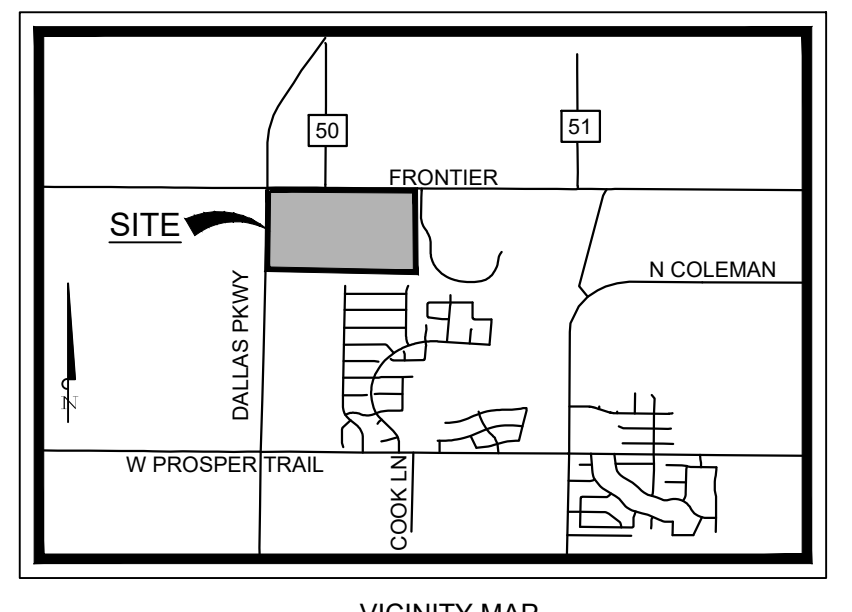
THENCE North 89°21'20" East, along the north line of said 80.37 acre tract and generally along the centerline of said Frontier Parkway, a distance of 2,665.09 feet to the northeast corner of said 80.37 acre tract;

THENCE South 00°09'51" West, departing said Frontier Parkway, along the east line of said 80.37 acre tract and the west line of Lot 2, Block A of Block A, Lots 1 & 2, Prosper Sports Complex, an Addition to the Town of Prosper, Texas, according to the Final Plat, thereof recorded in Volume 2012, Page 343 of the Plat Records of Collin County, Texas, a distance of 1,323.33 feet to the southeast corner of said 80.37 acre tract, same being the northeast corner of a called 44.338 acre tract, conveyed to CADG Prosper Lakes North, LLC, as evidenced in a Special Warranty Deed with Vendor's Lien recorded in Instrument No. 20120627000772030 of the Official Public Records of Collin County, Texas;

THENCE South 89°18'17" West, along the south line of said 80.37 acre tract, the north line of said 44.338 acre tract and the north line of a called 29.6736 acre tract, conveyed to Trejax, LP, as evidenced in Special Warranty Deed recorded in Instrument No. 20121206001558000 of the Official Public Records of Collin County, Texas, passing at a distance of 2,457.03 feet to a 1/2-inch capped iron rod found for the southeast corner of aforesaid 6.034 acre tract, same being on the east right of way line of aforesaid Dallas Parkway, future Dallas North Tollway, continuing for a total distance of 2,643.95 feet to a 1/2-inch iron rod found for the southwest corner of said 80.37 acre tract;

THENCE North 00°45'03" West, along the west line of said 80.37 acre tract, the west line of said 6.034 acre tract and along the centerline of future Dallas North Tollway, a distance of 1,325.54 feet to the POINT OF BEGINNING and containing 80.706 acres of land, more or less.

Bearings based upon Texas State Plane Coordinate System, NAD 1983, North Central Zone 4202.



THOROUGHFARE NOTE
 THOROUGHFARE ALIGNMENT(S) SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES ONLY AND DO NOT SET THE ALIGNMENT. THE ALIGNMENT WILL BE DETERMINED AT THE TIME OF FINAL PLAT

TRACT 1:
 EXISTING ZONING: PD-69 (BASE -R) (35.17 AC)
 PROPOSED ZONING: PD-69

TRACT 2:
 EXISTING ZONING: PD-69 (BASE SF-12.5) (45.55 AC)
 PROPOSED ZONING: PD-69

FLOODPLAIN NOTE
 ACCORDING TO MAP NO. 460850120J, DATED JUNE 2, 2009 OF THE NATIONAL FLOOD INSURANCE PROGRAM MAP, FLOOD INSURANCE RATE MAP OF COLLIN COUNTY, TEXAS, FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, THIS PROPERTY IS WITHIN ZONE "X", (AREAS DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN). IF THIS SITE IS NOT WITHIN AN IDENTIFIED SPECIAL FLOOD HAZARD AREA, THIS FLOOD STATEMENT DOES NOT IMPLY THAT THE PROPERTY AND/OR THE STRUCTURES THEREON WILL BE FREE FROM FLOODING OR FLOOD DAMAGE. ON RARE OCCASIONS, GREATER FLOODS CAN AND WILL OCCUR AND FLOOD HEIGHTS MAY BE INCREASED BY MAN-MADE OR NATURAL CAUSES. THIS FLOOD STATEMENT SHALL NOT CREATE LIABILITY ON THE PART OF THE SURVEYOR.

PROSPER, TX 75078	
CASE # : Z20-0026	
OWNER: METTEN REAL ESTATE, LP 4872 NASHWOOD LANE DALLAS, TX 75244 CONTACT NAME: CHRISTIAN METTEN	
APPLICANT/REPRESENTATIVE: CLAYMOORE ENGINEERING, INC. 301 S. COLEMAN, SUITE #40 PROSPER, TX 75078 PH: 817.201.6982 CONTACT NAME: MATT MOORE	
SURVEYOR: KIMLEY HORNE & ASSOCIATES 5750 GENESIS COURT, STE 200 FRISCO, TX 75034 PH: 972.335.3580 CONTACT NAME: FRANK ABBOT	
LEGAL DESCRIPTION: ABS A0147 COLLIN COUNTY SCHOOL LAND #12 SURVEY, SHEET 1, TRACT 35, 74.336 ACRES	
CITY: PROSPER	STATE: TEXAS
COUNTY: COLLIN	ABSTRACT NO.: A0147

PLOTTED BY: LYNNE ROWLAND
 PLOT DATE: 2/11/2021 10:53 AM
 LOCATION: Z:\PROJECTS\2020-129 METTEN PROSPER ZONING\CADD\EXHIBIT ZONING EXHIBIT A.DWG
 LAST SAVED: 2/11/2021 8:40 AM

Z20-0026

EXHIBIT B

STATEMENT OF INTENT AND PURPOSE

The subject Tract 1 is currently zoned PD-69-Retail and tract 2 is currently zoned PD-69-SF 12.5. The purpose of the planned development is to create retail and office uses which are consistent with the Town's Comprehensive Plan for the overall tract. It is intended to utilize the Town's base standards and incorporate some additional uses and criteria which will better position the proposed development due to proximity to the future Tollway.

Z20-0026
EXHIBIT C
DEVELOPMENT STANDARDS

Conformance with the Town's Zoning and Subdivision Ordinances: Except as otherwise set forth in these Development Standards, the regulations of the Town's Zoning Ordinance, as it exists or may be amended, and the Subdivision Ordinance, as it exists or may be amended, shall apply.

Tract 1 & Tract 2 Retail

- A. **General Description:** The areas identified as Retail will provide the ability to encourage and to accommodate the development of office and retail service centers within growth corridors located along the North Dallas Tollway extension. The property within these areas shall develop under the standards for the Retail District as contained within the Town of Prosper Zoning Ordinance, as it exists or may be amended, subject to the specific provisions contained herein below.
- B. **Permitted Uses:** In addition to those permitted uses as allowed per the Retail District of the Town of Prosper Zoning Ordinance, the following use shall be permitted in the retail areas indicated on Exhibit "D". Uses followed by an **S** are only permitted by Specific Use Permit. Uses followed by a **C** are permitted subject to the conditional standards in the Town's Zoning Ordinance:
- a. Hotels - **C**
 - b. Theater, Regional
 - c. Research & Development Center – **S**
 - d. Automobile Repair, Minor – In addition to conditional standards, shall not be located within 230 feet of residentially zoned property
 - e. Automobile Parts Sales – Shall not be located within 230 feet of residentially zoned property
 - f. Restaurant – In addition to conditional standards, shall not be located within 230 feet of residentially zoned property.
 - g. Retail Shops and Stores – In addition to conditional standards, shall not be located within 230 feet of residentially zoned property.
 - h. Convenience Store with Gas Pumps – Shall be prohibited within Tract 2. Tract 1 shall be governed by the Conditional Standards of the Zoning Ordinance as they exist or may be amended.
- C. **Max. FAR:** Max. FAR for buildings taller than two (2) stories shall be 1.5:1. Max. FAR for all other buildings shall be 0.4:1.
- D. **Building Heights:** The permitted height of all buildings within the retail areas of the Planned Development District shall be as follows:
- a. The allowed height for Hotels, Office buildings, and Hospitals located within the retail tract shall be eight (8) stories, not greater than one hundred (100) feet. All other uses shall be limited to two (2) stories, not greater than forty (40) feet.
 - b. Non-residential buildings located within one hundred fifty feet (150') of a single-family zoned area shall be limited to a maximum height of two (2) stories.
 - c. Non-residential buildings, which exceed two (2) stories in height, shall be

required to have additional setbacks from single-family zoned areas. These additional setbacks will require one foot (1') of setback, beyond the aforementioned one hundred fifty feet (150'), for each additional foot of building height above two (2) stories.

- d. Only one-story structures are allowed within 84 feet of the south property line of Tract 2.

- E. **Lot Area:** The minimum area of any lot shall be ten thousand (10,000) square feet.

- F. **Lot Width:** The minimum width of any lot shall be one hundred feet (100').

- G. **Lot Depth:** The minimum depth of any lot shall be one hundred (100').

- H. **Lot Coverage:** In no case shall more than sixty percent (60%) of the total lot area be covered by the combined area of the main buildings exceeding 2-stories. Parking structures and surface parking facilities shall be excluded from the coverage computations. Lot coverage is limited to forty percent (40%) excluding parking and parking structures for all structures 2-stories and less.

- I. All required detention areas shall be developed as an amenity with upgrades such as landscaping, trees, trails, benches, etc., and constructed as a wet detention pond (constant water level) with a fountain and/ or bubblers. The wet pond requirement may be waived if in conflict with TCEQ regulations, other applicable City/Town downstream water rights and/ or other applicable regulatory requirements. Underground detention may be utilized within nonresidential components of the Planned Development.

- J. **Landscaping:**
 - a. A 30-foot landscape buffer shall be provided adjacent to residentially zoned property.
 - b. Perimeter landscaping adjacent to residentially zoned property shall consist of a double row of Nellie R Stevens Holly or Eastern Red Cedar trees, or similar as approved by the Parks Department, planted on 15-foot-centers, minimum of eight feet (8') in height at the time of planting, in addition to canopy trees as required by the Zoning Ordinance.
 - i. The landscape buffer and associated planting shall be provided in conjunction with the first development that occurs within Tract 2.

- K. **Screening:**
 - a. Dumpster enclosures shall not be permitted within 100 feet of a residentially zoned property for retail/restaurant uses.
 - b. An eight-foot (8') ornamental metal fence shall be required along the east property line for a minimum distance of 200 feet and commencing at the southeast corner of the subject property.
 - i. The ornamental metal fence shall be provided in conjunction with the first development that occurs within Tract 2.

- L. **Access:**
 - a. Cross-access from Tract 2 shall not be required to the southern adjacent property.

Z20-0026

Exhibit D

Conceptual Development Plan

Conceptual Development Plan: Prior to application for a Preliminary Site Plan or a Preliminary Plat, a Conceptual Development Plan shall be submitted, receive a recommendation from the Planning & Zoning Commission and be approved by the Town Council. This Conceptual Development Plan shall only be required for the general area within which development is to occur. This general area shall be bounded by thoroughfares, ownership lines, creek ways or other physical barriers that define a geographic boundary that separates the area of interest from other parcels.

Site Plans and and/or Plats submitted for the development within the PD District 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 Planning & Zoning Commission, 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 Planning & Zoning Commission determines that the proposed change(s) violates one (1) or more of the above eight (8) criteria, then a public hearing must be held to adequately amend the PD District's granting ordinance prior to the Planning & Zoning Commission's approval of the final development plan(s).

Z20-0026

EXHIBIT E

DEVELOPMENT SCHEDULE

With the impending improvements to Frontier Parkway and the Dallas North Tollway, it is anticipated that the development schedule will accelerate in the next couple of years. It is believed the development will occur in the next 2-5 years.

PLANNING



To: Mayor and Town Council

From: Alex Glushko, AICP, Planning Manager

**Through: Harlan Jefferson, Town Manager
Rebecca Zook, P.E., Executive Director of Development & Infrastructure Services
Khara Dodds, AICP, Director of Development Services**

Re: Town Council Meeting – May 25, 2021

Agenda Item:

Consider and act upon authorizing the Town Manager to execute a Development Agreement between Metten Real Estate, L.P., and the Town of Prosper, Texas, related to development at the southeast corner of Dallas Parkway and Frontier Parkway.

Description of Agenda Item:

On April 27, 2021, the Town Council approved a zoning request Z20-0026 by a vote of 7-0, subject to the following:

1. No cross access between the Lakes of Prosper North and the subject tract, and Developer, in a development agreement, agrees to pay for the costs of right-of-way abandonment for that right-of-way currently reflecting cross access between the Lakes of Prosper North and the subject tract;
2. Building materials and the prohibition of non-family friendly business establishments shall be included in a development agreement;
3. Developer shall endeavor to maintain an 8 foot fence, board-on-board with a cap, on the north side of the Lakes of Prosper North subdivision; and
4. Only one story structures are allowed within 84 feet of the south property line of Tract 2.

A Development Agreement has been prepared accordingly.

Legal Obligations and Review:

Town Attorney, Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed the agreement as to form and legality.

Attached Documents:

1. Development Agreement
2. Exhibit A-Property Description

Staff Recommendation:

Staff recommends the Town Council authorizing the Town Manager to execute a Development Agreement between Metten Real Estate, L.P., and the Town of Prosper, Texas, related to development at the southeast corner of Dallas Parkway and Frontier Parkway.

Proposed Motion:

I move to authorizing the Town Manager to execute a Development Agreement between Metten Real Estate, L.P., and the Town of Prosper, Texas, related to development at the southeast corner of Dallas Parkway and Frontier Parkway.

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“Agreement”) is entered into by and between the Town of Prosper, Texas (“Town”), and Metten Real Estate, L.P., a Texas Limited Partnership (“Owner”) (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, Owner is developing an approximate 74.3-acre tract in the Town (the “Property”), a legal description of which is attached hereto as Exhibit A and incorporated by reference; and

WHEREAS, a portion of the foregoing Property (identified as Tract 2) was rezoned by the Town Council on or about April 27, 2021, 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 Owner’s reasonable investment-backed expectations in the Development, as may be amended, and as more fully described herein; and

WHEREAS, subject to the terms of this Agreement, Owner agrees and acknowledges that it will construct on the Property structures in accordance with the provisions and standards reflected in this Agreement; and

WHEREAS, subject to the terms of this Agreement, Owner further agrees and acknowledges that it will not lease, sell or otherwise permit or authorize on the Property any business enterprises engaging in those businesses referenced in Section 2 below.

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 applicable requirements contained in Exhibit B, “Architectural Standards and 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. Certain Business Establishments Prohibited. Owner 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, as to Tract 2 of the Property (legally described on Exhibit A attached hereto), Owner 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. 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.

3. Cross Access Right-of-Way in Lakes of Prosper North; Fences. The Parties agree and acknowledge that there exists public right-of-way extending from Waterview Drive in the Lakes of Prosper North to Tract 2 of the Property and since no cross access will be allowed from the Lakes of Prosper North to the Property, Owner has agreed to assist the Lakes of Prosper North Homeowners Association, or other responsible/affected parties, make application with the Town for the abandonment of said right-of-way, and pay the costs associated with such abandonment. Further, Owner shall endeavor to maintain an eight foot (8’) fence, board-on-board, with a cap, on the north side of the Lakes of Prosper North subdivision.

4. 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 Owner 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 owners of the Property, regardless of whether this Agreement is expressly referenced therein.

5. Applicability of Town Ordinances. Owner shall develop the Property, and construct all structures on the Property, in accordance with all applicable Town ordinances and building/construction codes.

6. 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.

7. 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.

8. 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
P.O. Box 307
Prosper, Texas 75078
Attention: Town Manager

If to Owner: Metten Real Estate, L.P.
4872 Nashwood Lane
Dallas, Texas 75244
Attention: Christian Metten

9. 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).

10. 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.

11. Waiver of Texas Government Code § 3000.001 et seq. With respect to any and all Structures to be constructed on the Property pursuant to this Agreement, Owner hereby waives any right, requirement or enforcement of Texas Government Code §§ 3000.001-3000.005, as amended.

12. Time. Time is of the essence in the performance by the Parties of their respective obligations under this Agreement.

13. **Third-Party Beneficiaries.** Nothing in this Agreement shall be construed to create any right in any Third-Party not a signatory to this Agreement, and the Parties do not intend to create any third-party beneficiaries by entering into this Agreement.

14. **Rough Proportionality.** Owner hereby agrees that any land or property donated and/or dedicated pursuant to this Agreement, whether in fee simple or otherwise, to the Town relative to any development on the Property is roughly proportional to the need for such land and Owner hereby waives any claim therefor that it may have. Owner further acknowledges and agrees that all prerequisites to such a determination of rough proportionality have been met, and that any costs incurred relative to said donation are related both in nature and extent to the impact of the development referenced herein. Both Owner and the Town further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the provision of roadway services to the Property.

15. **Exactions/Infrastructure Costs.** Owner has been represented by legal counsel in the negotiation of this Agreement and been advised or has had the opportunity to have legal counsel review this Agreement and advise Owner, regarding Owner's rights under Texas and federal law. Owner hereby waives any requirement that the Town retain a professional engineer, licensed pursuant to Chapter 1001 of the Texas Occupations Code, to review and determine that the exactions required by the Town are roughly proportional or roughly proportionate to the proposed development's anticipated impact. Owner specifically reserves its right to appeal the apportionment of municipal infrastructure costs in accordance with § 212.904 of the Texas Local Government Code; however, notwithstanding the foregoing, Owner hereby releases the Town from any and all liability under § 212.904 of the Texas Local Government Code, as amended, regarding or related to the cost of those municipal infrastructure requirements imposed by this Agreement.

16. **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.

17. **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.

18. **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. Owner warrants and represents

that the individual executing this Agreement on behalf of Owner has full authority to execute this Agreement and bind Owner to the same. The Town Council hereby authorizes the Town Manager of the Town to execute this Agreement on behalf of the Town.

19. 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.

20. 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.

21. Notification of Sale or Transfer; Assignment of Agreement. Owner 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 Owner under this Agreement, to any person or entity (an "Assignee") that is or will become an owner of any portion of the Property or that is an entity that is controlled by or under common control with Owner. Each assignment shall be in writing executed by Owner 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 owner 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 Owner shall release Owner from any liability that resulted from an act or omission by Owner that occurred prior to the effective date of the assignment. Owner shall maintain true and correct copies of all assignments made by Owner to Assignees, including a copy of each executed assignment and the Assignee's Notice information.

22. 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.

23. 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.

24. Consideration. This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

25. 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.

26. 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 owner of all or any part of the Property; however, the failure to provide such copies shall not affect the validity of any amendment.

27. 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: Harlan Jefferson
Title: Town Manager, Town of Prosper

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the ___ day of _____, 2021, by Harlan Jefferson, Town Manager of the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

Notary Public, State of Texas
My Commission Expires: _____

OWNER:

METTEN REAL ESTATE, L.P.

By: Metten Properties, Inc., a Texas Corporation, General Partner

By: _____

Name: _____

Title: _____

STATE OF TEXAS)

)

COUNTY OF COLLIN)

)

This instrument was acknowledged before me on the ____ day of _____, 2021, by _____ in his capacity as _____ of _____, 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 Owner.

Notary Public, State of Texas

My Commission Expires: _____

EXHIBIT A
(Property Description)

EXHIBIT B

ARCHITECTURAL STANDARDS AND BUILDING MATERIALS

- A. All exterior facades for a main building or structure, excluding glass windows and doors, shall be constructed of one hundred (100%) percent masonry. Masonry Construction constitutes clay fired brick, natural and manufactured stone, granite, and marble as exterior construction materials for all structures. Other permitted exterior construction materials for big box, institutional, and industrial structures are architectural concrete block, tilt wall concrete panels, sealed and painted split faced concrete block, and high impact exterior insulation and finish systems (EIFS). Stucco and High impact EIFS is only permitted when installed a minimum of nine feet (9') above grade at the base of the wall on which it is installed.
- B. Secondary materials used on the façade of a building are those that comprise a total of ten percent (10%) or less of an elevation area. Permitted secondary materials are all primary materials, aluminum or other metal, cedar or similar quality decorative wood, stucco and high impact exterior insulation and finish systems (EIFS).
- C. No single material shall exceed eighty percent (80%) of an elevation area. A minimum of twenty percent (20%) of the front façade and all facades facing public right-of-way shall be natural or manufactured stone. A minimum of ten percent (10%) of all other facades shall be natural or manufactured stone.
- D. All buildings with a footprint of less than ten thousand (10,000) square feet and located 100 feet or less from a residential zoning district shall incorporate a pitched, gabled, mansard, hipped, or otherwise sloped roof. All sloped roofs shall have a six (6) in twelve (12) inch minimum slope. All buildings with a footprint of less than ten thousand (10,000) square feet and located 100 feet or greater from a residential zoning district shall incorporate a pitched, gabled, mansard, hipped, or otherwise sloped roof, or a flat roof with an articulated parapet wall or cornice. Wood shingles are prohibited. Composition shingles are allowed provided they have architectural detail and a minimum 30-year life.
- E. All buildings with a footprint of ten thousand (10,000) square feet and greater shall incorporate sloped roof elements including, but not limited to pitched roofs on towers or arcades, sloped awnings, sloped parapets. Flat roofs are permitted with an articulated parapet wall or cornice in place of the required sloped roof elements. The sloped elements shall be provided along a minimum of sixty percent (60%) of each wall's length. All sloped roof elements shall have a six (6) in twelve (12) inch minimum slope. Wood shingles are prohibited. Composition shingles are allowed provided they have architectural detail and a minimum 30-year life.
- F. All buildings shall be designed to incorporate a form of architectural articulation every thirty feet (30'), both horizontally along each wall's length and vertically along each wall's height. Acceptable articulation may include the following:
- Canopies, awnings, or porticos;
 - Recesses/projections;
 - Arcades;
 - Arches;

- Display windows, including a minimum sill height of thirty inches (30”);
 - Architectural details (such as tile work and moldings) integrated into the building facade;
 - Articulated ground floor levels or base;
 - Articulated cornice line;
 - Integrated planters or wing walls that incorporate landscape and sitting areas;
 - Offsets, reveals or projecting rib used to express architectural or structural bays; or
 - Varied roof heights.
- G. All buildings shall be designed to incorporate a form of window articulation. Acceptable articulation may include the following:
- Detailed/patterned mullions
 - Glass depth from wall min. 8”
 - Projected awnings/sunshades
 - Water table in lieu of floor to ceiling glass
 - Articulated lintel (i.e. soldier course in brick or material change EIFS or cast stone with min. ½” projection)
 - Articulated sill (i.e. soldier course in brick or material change EIFS or cast stone with min. ½” projection)
 - Cast stone surrounds on entire window
- H. All buildings constructed primarily of brick shall incorporate a form of brick patterning. Acceptable patterning may include those represented below, or similar subject to approval by the Director of Development Services:
- I. All buildings shall be architecturally finished on all four (4) sides with same materials, detailing, and features except the rear if two (2) rows of trees are planted on the perimeter behind the building. In this case, the architectural finish must match the remainder of the building in color only. A double row of trees on offset fifty-foot (50’) centers in a fifteen-foot (15’) landscape edge, where fifty percent (50%) of the trees are canopy evergreen trees. This is for facades that are not visible from public streets and apply to anchor buildings and attached in line spaces only. This provision does not apply to “out” buildings or pad sites.
- J. Windows shall have a maximum exterior visible reflectivity of ten percent (10%). The intent of this provision is to prevent the safety hazard of light reflecting from the windows on to adjacent roadways.
- K. All retail/commercial buildings with facades greater than two hundred feet (200’) in length shall incorporate wall plane projections or recesses that are at least six feet (6’) deep. Projections/recesses must be at least twenty-five percent (25%) of the length of the facade. No uninterrupted length of facade may exceed one hundred feet (100’) in length. This requirement does not apply to building developed and occupied entirely for office uses.
- L. All buildings within a common development shall have similar architectural styles, materials, and colors.
- M. All primary and secondary exterior building materials (exclusive of glass) shall be of natural texture and shall be neutrals, creams, or other similar, non-reflective earth tone

colors. Bright, reflective, pure tone primary or secondary colors, such as red, orange, yellow, blue, violet, or green are not permitted.

- N. Corporate identities that conflict with the building design criteria shall be reviewed on a case-by-case basis and approved by the Director of Development Services or his/her designee.
- O. Exposed conduit, ladders, utility boxes, and drain spouts shall be painted to match the color of the building or an accent color. Natural metal finishes (patina) are an acceptable alternative to paint.

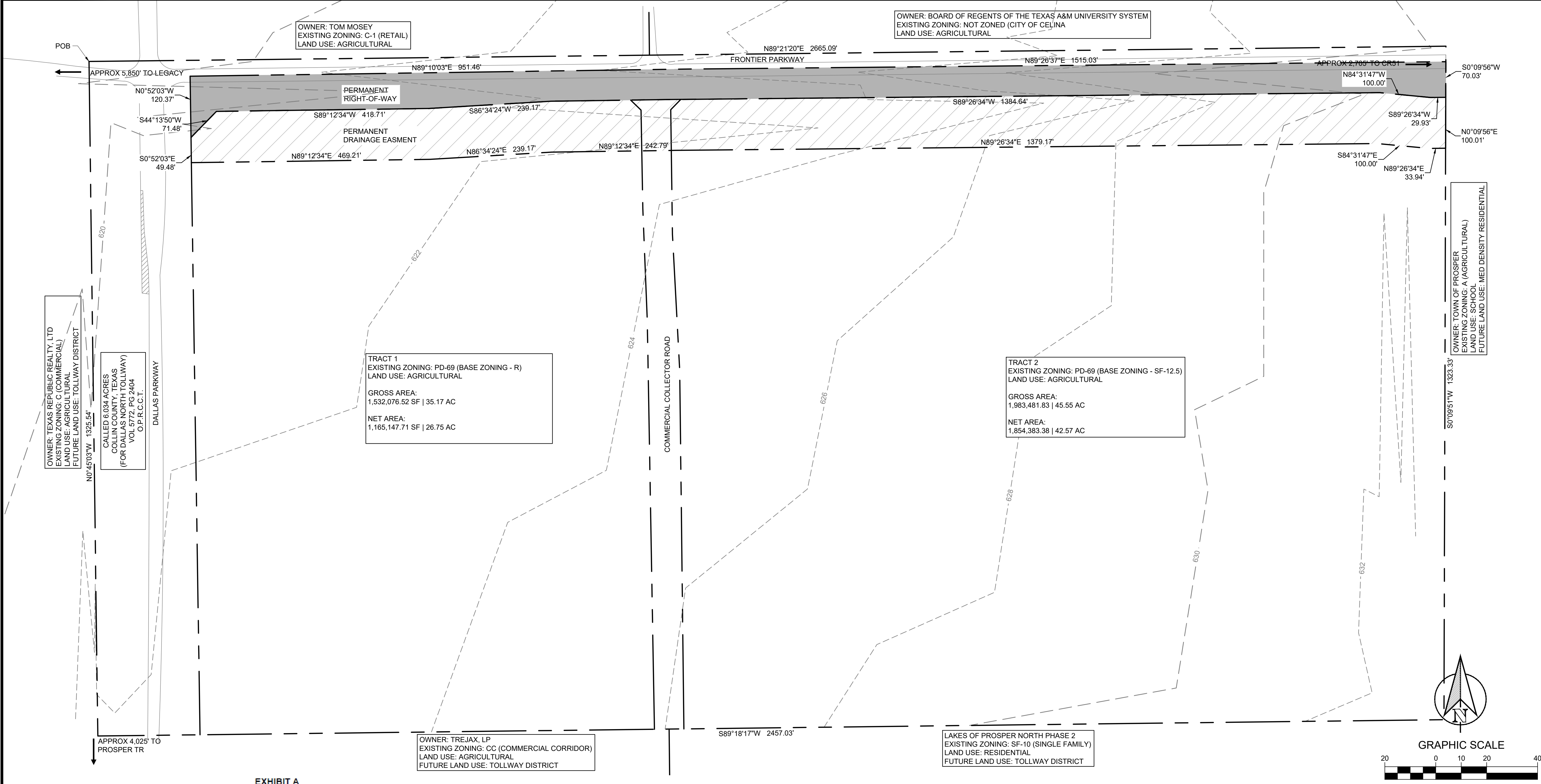
PRELIMINARY
 FOR REVIEW ONLY
 Not for construction purposes.
CLAYMOORE ENGINEERING
 ENGINEERING AND PLANNING
 CONSULTANTS
 Engineer: **DREW DONOSKY**
 P.E. No. 125651, Date 2/11/2021

METTEN PROSPER
 PROSPER, TEXAS 75078

No.	DATE	REVISION	BY

EXHIBIT A

DESIGN: MAM
 DRAWN: MAM
 CHECKED: MAM
 DATE: 01/10/2020
 SHEET
EX-A
 File No. Page 50



TRACT 1
 EXISTING ZONING: PD-69 (BASE ZONING - R)
 LAND USE: AGRICULTURAL
 GROSS AREA:
 1,532,076.52 SF | 35.17 AC
 NET AREA:
 1,165,147.71 SF | 26.75 AC

TRACT 2
 EXISTING ZONING: PD-69 (BASE ZONING - SF-12.5)
 LAND USE: AGRICULTURAL
 GROSS AREA:
 1,983,481.83 | 45.55 AC
 NET AREA:
 1,854,383.38 | 42.57 AC

OWNER: TREJAX, LP
 EXISTING ZONING: CC (COMMERCIAL CORRIDOR)
 LAND USE: AGRICULTURAL
 FUTURE LAND USE: TOLLWAY DISTRICT

LAKES OF PROSPER NORTH PHASE 2
 EXISTING ZONING: SF-10 (SINGLE FAMILY)
 LAND USE: RESIDENTIAL
 FUTURE LAND USE: TOLLWAY DISTRICT

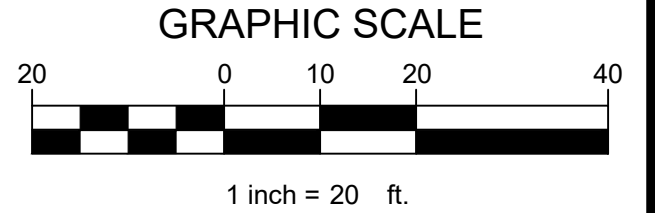
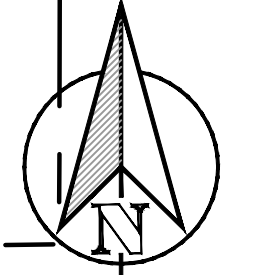
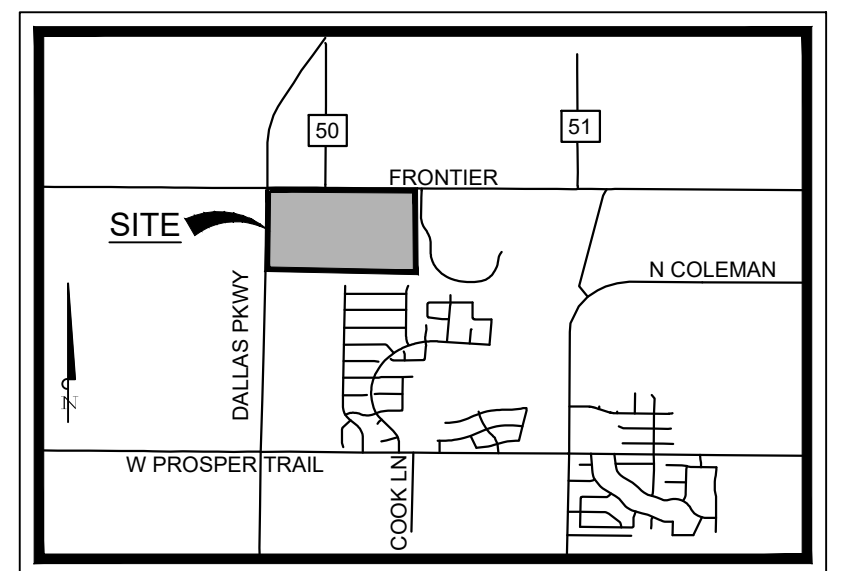


EXHIBIT A



VICINITY MAP
 N.T.S.

THOROUGHFARE NOTE

THOROUGHFARE ALIGNMENT(S) SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES ONLY AND DO NOT SET THE ALIGNMENT. THE ALIGNMENT WILL BE DETERMINED AT THE TIME OF FINAL PLAT

TRACT 1:
 EXISTING ZONING: PD-69 (BASE -R) (35.17 AC)
 PROPOSED ZONING: PD-69

TRACT 2:
 EXISTING ZONING: PD-69 (BASE SF-12.5) (45.55 AC)
 PROPOSED ZONING: PD-69

FLOODPLAIN NOTE

ACCORDING TO MAP NO. 460850120J, DATED JUNE 2, 2009 OF THE NATIONAL FLOOD INSURANCE PROGRAM MAP, FLOOD INSURANCE RATE MAP OF COLLIN COUNTY, TEXAS, FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, THIS PROPERTY IS WITHIN ZONE "X", (AREAS DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN). IF THIS SITE IS NOT WITHIN AN IDENTIFIED SPECIAL FLOOD HAZARD AREA, THIS FLOOD STATEMENT DOES NOT IMPLY THAT THE PROPERTY AND/OR THE STRUCTURES THEREON WILL BE FREE FROM FLOODING OR FLOOD DAMAGE. ON RARE OCCASIONS, GREATER FLOODS CAN AND WILL OCCUR AND FLOOD HEIGHTS MAY BE INCREASED BY MAN-MADE OR NATURAL CAUSES. THIS FLOOD STATEMENT SHALL NOT CREATE LIABILITY ON THE PART OF THE SURVEYOR.

BEING a tract of land situated in the Collin County School Land Survey No. 12, Abstract No. 147, Town of Prosper, Collin County, Texas, and being all of a called 80.37 acre tract, conveyed to Metten Real Estate, L.P., as evidenced in a Warranty Deed recorded in Volume 4234, Page 1348 of the Land Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at the northwest corner of said 80.37 acre tract and the northwest corner of a called 6.034 acre tract of land, conveyed to Collin County, Texas, as evidenced in a Special Warranty Deed recorded in Volume 5772, Page 2404 of the Official Public Records of Collin County, Texas, same also being the intersection of the centerline of future Dallas North Tollway, with the approximate centerline of Frontier Parkway;

THENCE North 89°21'20" East, along the north line of said 80.37 acre tract and generally along the centerline of said Frontier Parkway, a distance of 2,665.09 feet to the northeast corner of said 80.37 acre tract;

THENCE South 00°09'51" West, departing said Frontier Parkway, along the east line of said 80.37 acre tract and the west line of Lot 2, Block A of Block A, Lots 1 & 2, Prosper Sports Complex, an Addition to the Town of Prosper, Texas, according to the Final Plat, thereof recorded in Volume 2012, Page 343 of the Plat Records of Collin County, Texas, a distance of 1,323.33 feet to the southeast corner of said 80.37 acre tract, same being the northeast corner of a called 44.338 acre tract, conveyed to CADG Prosper Lakes North, LLC, as evidenced in a Special Warranty Deed with Vendor's Lien recorded in Instrument No. 20120627000772030 of the Official Public Records of Collin County, Texas;

THENCE South 89°18'17" West, along the south line of said 80.37 acre tract, the north line of said 44.338 acre tract and the north line of a called 29.6736 acre tract, conveyed to Trejax, LP, as evidenced in Special Warranty Deed recorded in Instrument No. 20121206001558000 of the Official Public Records of Collin County, Texas, passing at a distance of 2,457.03 feet to a 1/2-inch capped iron rod found for the southeast corner of aforesaid 6.034 acre tract, same being on the east right of way line of aforesaid Dallas Parkway, future Dallas North Tollway, continuing for a total distance of 2,643.95 feet to a 1/2-inch iron rod found for the southwest corner of said 80.37 acre tract;

THENCE North 00°45'03" West, along the west line of said 80.37 acre tract, the west line of said 6.034 acre tract and along the centerline of future Dallas North Tollway, a distance of 1,325.54 feet to the POINT OF BEGINNING and containing 80.706 acres of land, more or less.

Bearings based upon Texas State Plane Coordinate System, NAD 1983, North Central Zone 4202.

PLOTTED BY: LYNN ROWLAND
 PLOT DATE: 2/11/2021 10:53 AM
 LOCATION: Z:\PROJECTS\2020-129 METTEN PROSPER ZONING\CADD\EXHIBIT ZONING EXHIBIT A.DWG
 LAST SAVED: 2/11/2021 8:40 AM

PLANNING



To: Mayor and Town Council

From: Alex Glushko, AICP, Planning Manager

**Through: Harlan Jefferson, Town Manager
Rebecca Zook, P.E., Executive Director of Development & Infrastructure Services
Khara Dodds, AICP, Director of Development Services**

Re: Town Council Meeting – May 25, 2021

Agenda Item:

Consider and act upon whether to direct staff to submit a written notice of appeal 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 Plan or Preliminary Site Plan, including Brookhollow Multifamily and Fishtrap EST Non-Commercial Antennas.

Description of Agenda Item:

Attached are the Preliminary Site Plan and Site Plan that were acted on by the Planning & Zoning Commission at their May 18, 2021, meeting. Per the Zoning Ordinance, the Town Council has the ability to direct staff to submit a written notice of appeal on behalf of the Town Council to the Development Services Department for any Preliminary Site Plan or Site Plan acted on by the Planning & Zoning Commission.

Attached Documents:

1. Preliminary Site Plan for Brookhollow Multifamily
2. Site Plan for Fishtrap EST Non-Commercial Antennas

Town Staff Recommendation:

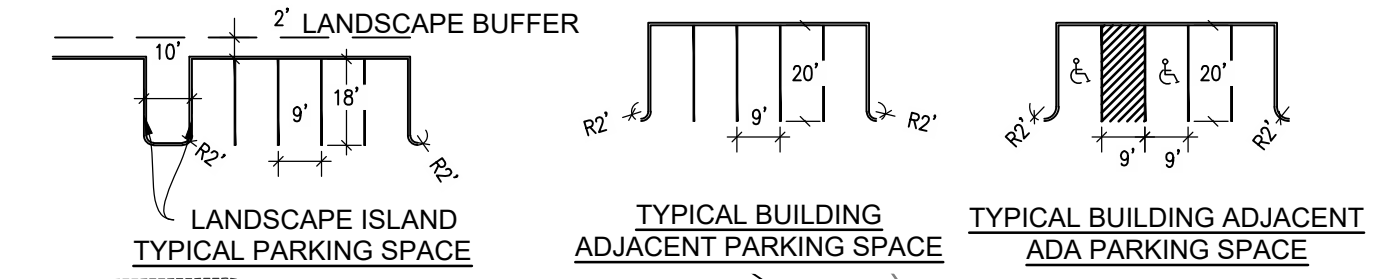
Town staff recommends the Town Council take no action on this item.

P:\PR5210\Cadd\Modis\SP0001.dwg 5/10/2021 11:22:55 AM Kyle Mulvey

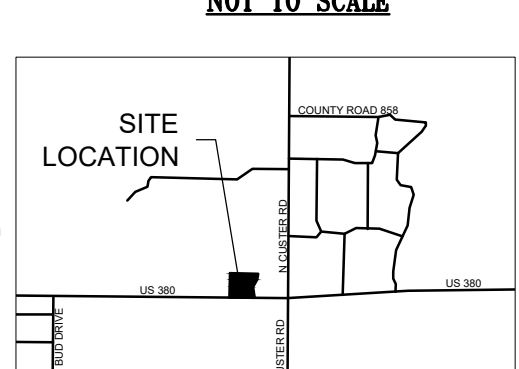
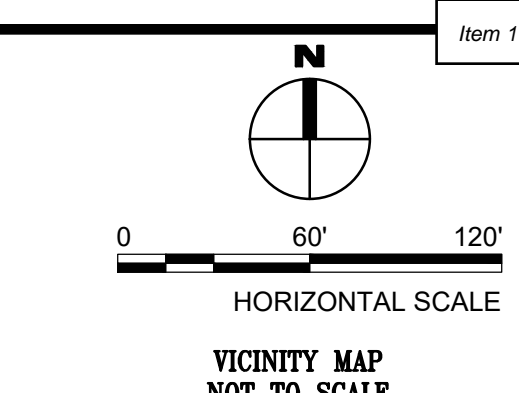
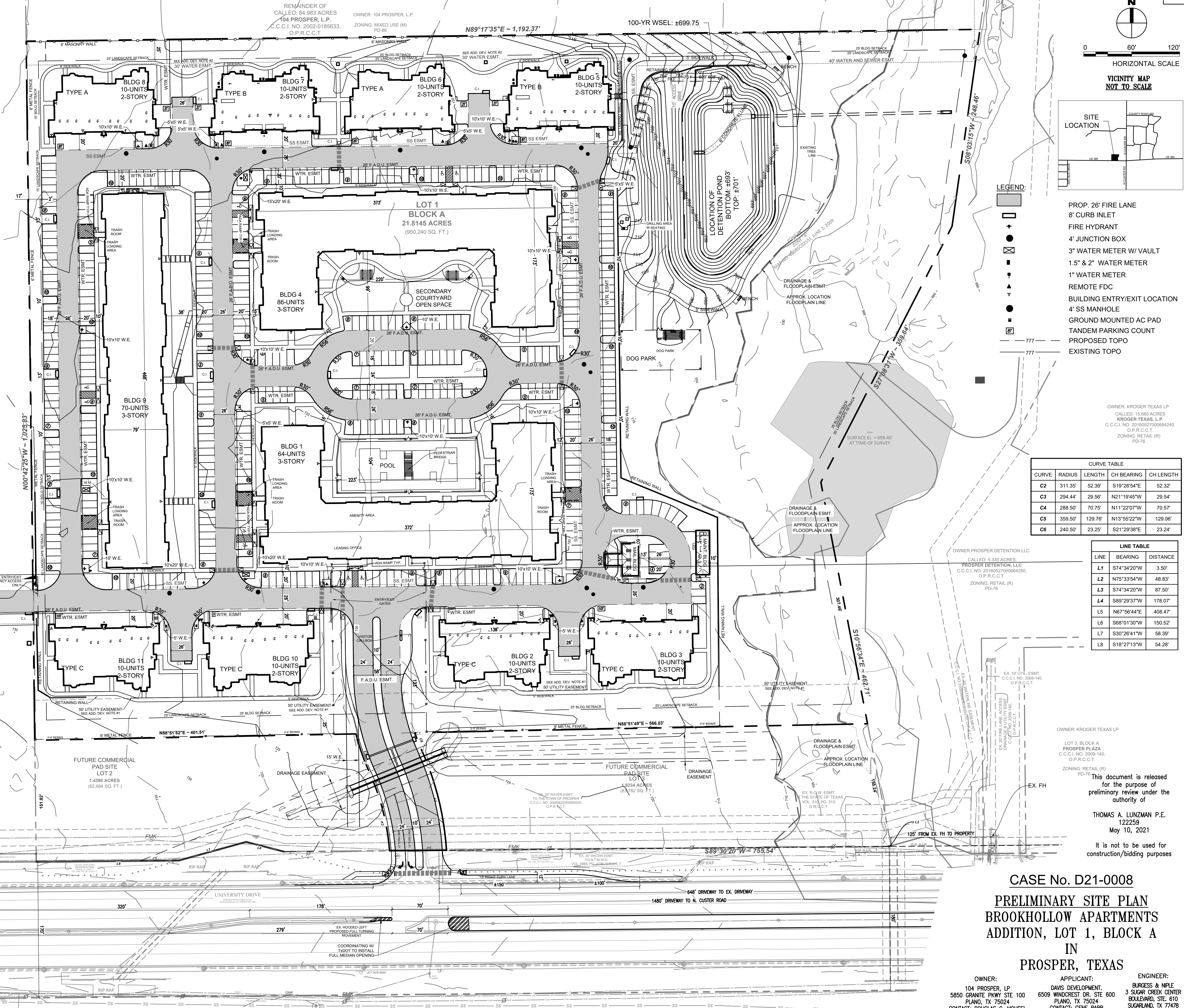
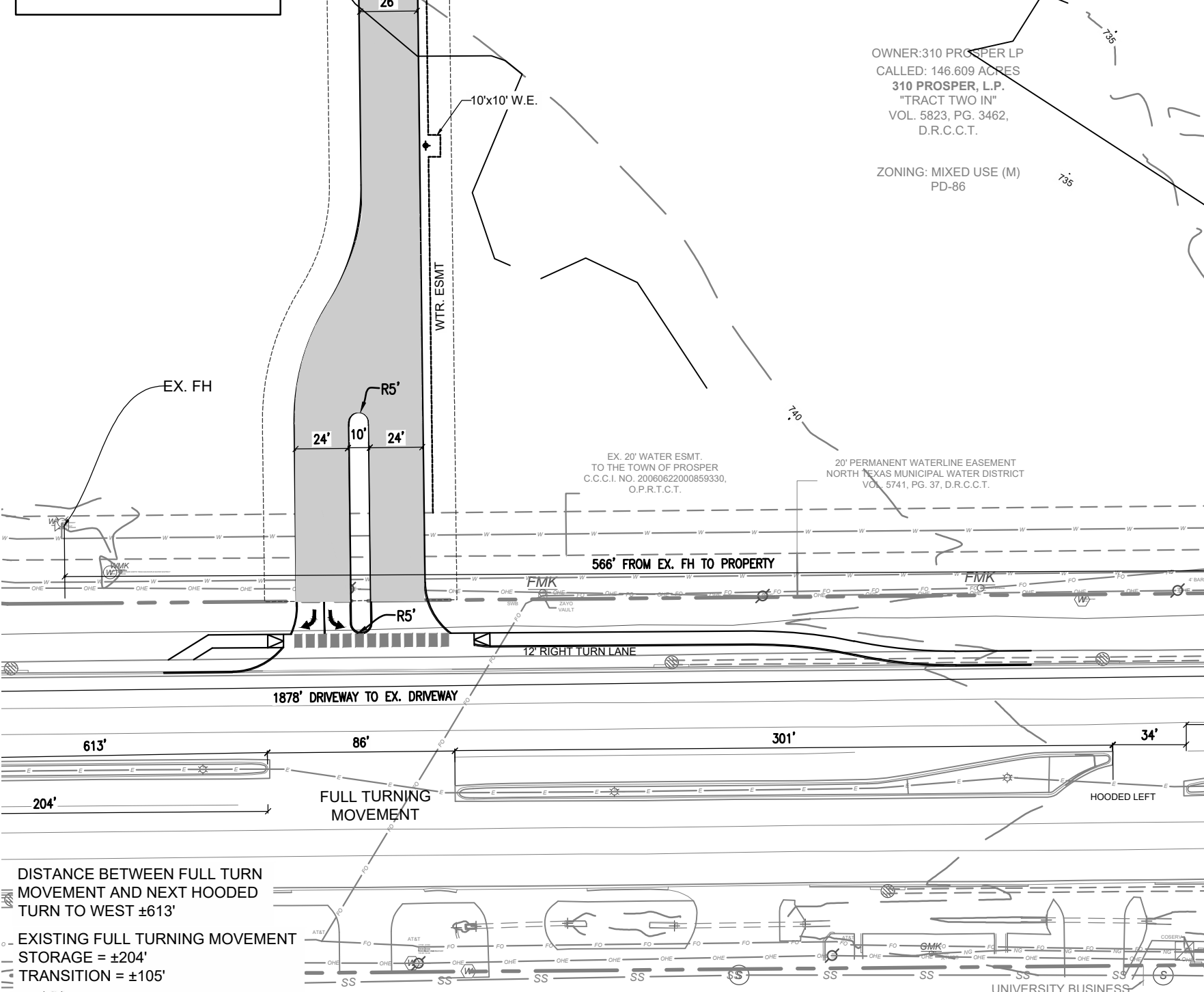
- TOWN GENERAL NOTES:**
- DUMPSTERS & TRASH COMPACTORS SHALL BE SCREENED IN ACCORDANCE WITH THE ZONING ORDINANCE.
 - OPEN STORAGE, WHERE PERMITTED, SHALL BE SCREENED IN ACCORDANCE WITH THE ZONING ORDINANCE.
 - OUTDOOR LIGHT SHALL COMPLY WITH THE LIGHTING AND GLARE STANDARDS CONTAINED WITHIN THE ZONING ORDINANCE & SUBDIVISION ORDINANCE.
 - LANDSCAPING SHALL CONFORM TO LANDSCAPE PLANS APPROVED BY THE TOWN.
 - ALL ELEVATIONS SHALL COMPLY WITH THE STANDARDS CONTAINED WITHIN THE ZONING ORDINANCE.
 - BUILDINGS OF 5,000 S.F. OR GREATER SHALL BE 100% FIRE SPRINKLED. ALTERNATIVE FIRE PROTECTION MEASURES MAY BE APPROVED BY THE FIRE DEPARTMENT.
 - FIRE LANES SHALL BE DESIGNED & CONSTRUCTED PER TOWN STANDARDS OR AS DIRECTED BY THE FIRE DEPARTMENT.
 - TWO POINTS OF ACCESS SHALL BE MAINTAINED FOR THE PROPERTY AT ALL TIMES.
 - SPEED BUMPS/ISLANDS ARE NOT PERMITTED WITHIN A FIRE LANE.
 - HANDICAPPED PARKING AREAS & BUILDING ACCESSIBILITY SHALL CONFORM TO THE AMERICANS WITH DISABILITIES ACT (ADA) & WITH THE REQUIREMENTS OF THE CURRENT, ADOPTED BUILDING CODE.
 - ALL SIGNAGE IS SUBJECT TO BUILDING OFFICIAL APPROVAL.
 - ALL FENCES & RETAINING WALLS SHALL BE SHOWN ON THE SITE PLAN & ARE SUBJECT TO BUILDING OFFICIAL APPROVAL.
 - ALL EXTERIOR BUILDING MATERIALS ARE SUBJECT TO BUILDING OFFICIAL APPROVAL & SHALL CONFORM TO THE APPROVED FACADE PLAN.
 - SIDEWALKS OF NOT LESS THAN SIX (6) FEET IN WIDTH ALONG THOROUGHFARES & COLLECTORS & FIVE (5) FEET IN WIDTH ALONG RESIDENTIAL STREETS, & BARRIER FREE RAMPS AT ALL CURB CROSSINGS SHALL BE PROVIDED PER TOWN STANDARDS.
 - APPROVAL OF THE SITE PLAN IS NOT FINAL UNTIL ALL ENGINEERING PLANS ARE APPROVED BY THE ENGINEERING SERVICES DEPARTMENT.
 - SITE PLAN APPROVAL IS REQUIRED PRIOR TO GRADING RELEASE.
 - ALL NEW ELECTRICAL LINES SHALL BE INSTALLED AND/OR RELOCATED UNDERGROUND.
 - ALL MECHANICAL EQUIPMENT SHALL BE SCREENED FROM PUBLIC VIEW IN ACCORDANCE WITH THE ZONING ORDINANCE.
 - ALL LANDSCAPE EASEMENTS MUST BE EXCLUSIVE OF ANY OTHER TYPE OF EASEMENT.
 - IMPACT FEES WILL BE ASSESSED IN ACCORDANCE WITH THE LAND USE CLASSIFICATION(S) IDENTIFIED ON THE SITE DATA SUMMARY TABLE; HOWEVER, CHANGES TO THE PROPOSED LAND USE AT THE TIME OF CO AND/OR FINISH-OUT PERMIT MAY RESULT IN ADDITIONAL IMPACT FEES AND/OR PARKING REQUIREMENTS.
 - THE APPROVAL OF A PRELIMINARY SITE PLAN SHALL BE EFFECTIVE FOR A PERIOD OF TWO (2) YEARS FROM THE DATE THAT THE PRELIMINARY SITE PLAN IS APPROVED BY THE PLANNING & ZONING COMMISSION, AT THE END OF WHICH TIME THE APPLICANT MUST HAVE SUBMITTED AND RECEIVED THE APPROVAL OF A SITE PLAN BY THE PLANNING & ZONING COMMISSION. IF A SITE PLAN IS NOT APPROVED WITHIN SUCH TWO (2) YEAR PERIOD, THE PRELIMINARY SITE PLAN APPROVAL IS NULL AND VOID. IF SITE PLAN APPROVAL IS ONLY FOR A PORTION OF THE PROPERTY, THE APPROVAL OF THE PRELIMINARY SITE PLAN FOR THE REMAINING PROPERTY SHALL BE NULL AND VOID.

- PLAN GENERAL NOTES:**
- ALL FIRE LANES SHALL BE 26' FACE-TO-FACE UNLESS OTHERWISE NOTED. NON-FIRE LANE DRIVE AISLES SHALL BE 25' BACK-TO-BACK UNLESS OTHERWISE NOTED.
 - ALL FIRE LANE INSIDE RADI SHALL BE 30' TO FACE OF CURB UNLESS OTHERWISE NOTED. NON-FIRE LANE DRIVE AISLE INSIDE RADI SHALL BE 10' TO FACE OF CURB, UNLESS OTHERWISE NOTED.
 - ALL SITE SIGNAGE, TRANSFORMERS, AC CONDENSER AND SITE LIGHTING (E.G. LAMP MODEL, LOCATION, SIZE, HEIGHT, FOOT CANDLE LEVEL, & ORIENTATION) SHALL CONFORM TO TOWN OF PROSPER STANDARDS.
 - ALL LANDSCAPING SHALL CONFORM TO THE TOWN OF PROSPER STANDARDS.
 - ALL SCREENING WALLS SHALL CONFORM TO THE TOWN OF PROSPER STANDARDS AND SPECIFICATIONS.
 - ALL MECHANICAL EQUIPMENT SHALL BE SCREENED FROM PUBLIC VIEW IN ACCORDANCE WITH THE TOWN OF PROSPER CODE OF ORDINANCES.
 - ANY REVISIONS TO THIS PLAN WILL REQUIRE TOWN APPROVAL AND WILL REQUIRE REVISIONS TO ANY CORRESPONDING PLANS TO AVOID CONFLICTS BETWEEN PLANS.
 - ALL DIMENSIONS SHALL BE TO THE FACE OF CURB.

- ADDITIONAL DEVELOPMENT NOTES:**
- DEVELOPMENT WILL RESERVE 50 FT FOR EASEMENTS AND RELOCATION OF EXISTING TOWN AND NTMWD FACILITIES (AND UP TO 10 FT OF ADDITIONAL RIGHT-OF-WAY NEEDS AS PART OF 50 FT NOT IN ADDITION TO) ON THE SOUTH SIDE OF THE MULTI-FAMILY DEVELOPMENT.
 - AREA WILL INCLUDE FENCE, SLOPES UP TO 25%, FENCING (WITH COLUMNS), DIVIDED FIRELANE, PUBLIC WATERLINE, IRRIGATION, SIGNAGE/SITE LIGHTING, ELECTRIC UTILITIES, GAS, AND MEANDERING (PRIVATE) SIDEWALK.
 - THOROUGHFARE LANDSCAPING SHALL BE REMOVED FOR PORTIONS THAT FOLLOW WITHIN PUBLIC EASEMENTS. (LANDSCAPING TO BE CLUSTERED AND PLACED IN AREAS OUTSIDE OF EASEMENT AND WHERE NOT CONFLICTING WITH BUILDINGS. WHERE MINIMIZES NEED FOR REMOVAL DURING UTILITY RELOCATION.)
 - DEVELOPMENT WILL DEDICATE A 30 FT WATER LINE EASEMENT ON NORTH SIDE OF PROPERTY FOR FORTHCOMING 42" WATER LINE.
 - PERIMETER LANDSCAPING SHALL BE WAIVED IN THIS AREA BUT SOME LANDSCAPING BE CLUSTERED IN AREAS OUTSIDE OF EASEMENT AND WHERE NOT CONFLICTING WITH BUILDINGS.
 - PERIMETER SCREENING WALL (NORTH) AND 6" METAL FENCE (WEST) TO BE DEFERRED UNTIL AFTER CONSTRUCTION OF 42" WATER LINE.
 - AREA WILL INCLUDE SLOPES UP TO 25%, PUBLIC WATERLINE, IRRIGATION, AND PRIVATE SIDEWALK.
 - IN EXCHANGE FOR 30 FT EASEMENT ON NORTH SIDE TOWN WILL WAIVE WATER, IRRIGATION, AND WASTEWATER IMPACT FEES. DEVELOPMENT WILL BE PROVIDED A WAIVER FROM WET POND REQUIREMENTS AND ALLOWED TO INSTALL A DRY DETENTION POND.



NOTE: APPROXIMATE RET. WALL LIMITS ACTUAL LIMITS OF RET. WALLS TO BE DETERMINED



- LEGEND:**
- Prop. 26" Fire Lane
 - 8" Curb Inlet
 - Fire Hydrant
 - 4" Junction Box
 - 3" Water Meter w/ Vault
 - 1.5" & 2" Water Meter
 - 1" Water Meter
 - Remote FDC
 - Building Entry/Exit Location
 - 4" SS Manhole
 - Ground Mounted AC Pad
 - Tandem Parking Count
 - Proposed Topo
 - Existing Topo

CURVE TABLE

CURVE	RADIUS	LENGTH	CH BEARING	CH LENGTH
C2	311.35'	52.39'	S19°26'54"E	52.32'
C3	294.44'	29.56'	N21°19'45"W	29.54'
C4	288.50'	70.75'	N11°22'07"W	70.57'
C5	359.50'	129.78'	N13°55'22"W	129.06'
C6	240.50'	23.25'	S21°29'38"E	23.24'

LINE TABLE

LINE	BEARING	DISTANCE
L1	S74°34'20"W	3.50'
L2	N75°33'54"W	48.83'
L3	S74°34'20"W	87.50'
L4	S89°29'37"W	178.07'
L5	N67°56'44"E	408.47'
L6	S68°01'30"W	150.52'
L7	S30°26'41"W	58.39'
L8	S18°27'13"W	54.28'

This document is released for the purpose of preliminary review under the authority of THOMAS A. LUTZMAN P.E. 122259 May 10, 2021. It is not to be used for construction/bidding purposes.

CASE No. D21-0008
PRELIMINARY SITE PLAN
BROOKHOLLOW APARTMENTS
ADDITION, LOT 1, BLOCK A
IN
PROSPER, TEXAS

OWNER: 104 PROSPER, LP
 5850 GRANITE PKWY STE 100
 PLANO, TX 75024
 CONTACT: DOUGLAS C. MOUSEL
 PHONE: (214) 618-3811

APPLICANT: DAVIS DEVELOPMENT
 6509 WINDCREST DR. STE 600
 PLANO, TX 75024
 CONTACT: GENE BABB
 PHONE: (214) 466-6220

ENGINEER: BURGESS & NIPLE
 3 SUGAR CREEK CENTER
 BOULEVARD, STE. 610
 SUGARLAND, TX 77478
 CONTACT: JOSEPH T. REJE
 PHONE: (281) 980-7005

SITE DATA SUMMARY TABLE

LOT	ZONING	PROPOSED USE	LOT AREA	FIRST FLOOR BUILDING AREA	TOTAL BUILDING AREA	UNIT COUNT	BUILDING HEIGHT					LOT COVERAGE	FLOOR AREA RATIO	REQD. PARKING RATIO	PARKING REQD.	PARKING PROVD.			REQD. PROV. HANDICAP PARKING	INTERIOR LANDSCAPE REQD.	INTERIOR LANDSCAPE PROVD.	IMPERVIOUS AREA	OPEN SPACE REQD.	OPEN SPACE PROVD.								
							#1 (FT/ST)	#4 (FT/ST)	#9 (FT/ST)	#2,3,11,12 (FT/ST)	#5,6,7,8 (FT/ST)					%	SPACES/UNIT	1B(1.5)							2B(2.0)	3B(2.5)	TOTAL	SURFACE	TANDEM	GARAGES	TOTAL	SPACES
N/A	N/A	N/A	SF	AC	SF	TOTAL	1B	2B	3B	#1 (FT/ST)	#4 (FT/ST)	#9 (FT/ST)	#2,3,11,12 (FT/ST)	#5,6,7,8 (FT/ST)	%	N/A	SPACES/UNIT	1B(1.5)	2B(2.0)	3B(2.5)	TOTAL	SURFACE	TANDEM	GARAGES	TOTAL	SPACES	SF	SF	SF	SF	SF	
-	PD-86	MULTI-FAMILY	950,240	21.81	182,240	388,353	300	123	149	28	44/3	44/3	44/3	29/2	29/2	19	1.5	1.5, 2.0 & 2.5	185	298	70	553	427 (73%)	80 (14%)	80 (14%)	587	12	8,680	14,400	413,500	284,182	489,909

ARCHITECT: HUMPHREYS & PARTNERS ARCHITECTS LP
 5339 ALPHA ROAD STE. 300 DALLAS, TEXAS 75240
 CONTACT: DON DAVIS
 PHONE: (214) 269-5136

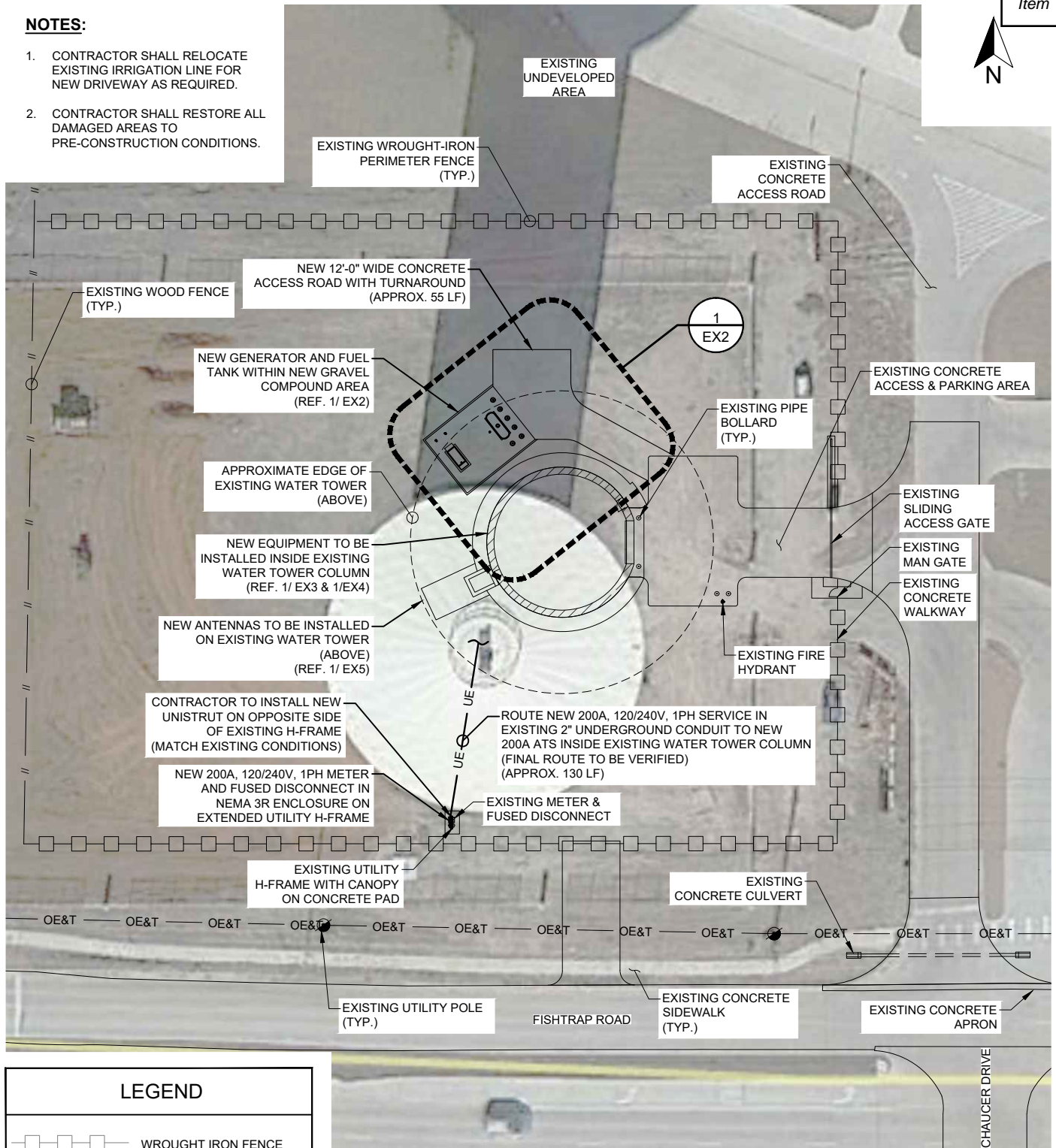
ARCHITECT: GEBBER LEWIS ASSOCIATES
 649 17TH ST. ATLANTA, GA 30318
 CONTACT: BRAN TOMLIN
 PHONE: (470) 355-4378

SURVEYOR: SPOONER & ASSOCIATES
 309 BYERS STREET, SUITE 100
 EULESS, TX 76039
 CONTACT: ERIC SPOONER, RFS
 PHONE: (817) 312-4405

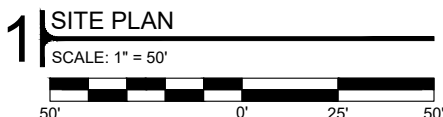


NOTES:

1. CONTRACTOR SHALL RELOCATE EXISTING IRRIGATION LINE FOR NEW DRIVEWAY AS REQUIRED.
2. CONTRACTOR SHALL RESTORE ALL DAMAGED AREAS TO PRE-CONSTRUCTION CONDITIONS.



LEGEND	
	WROUGHT IRON FENCE
	WOODEN FENCE
	OVERHEAD ELECTRIC & TELCO UTILITIES
	UNDERGROUND ELECTRIC UTILITY



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Building 1, Suite 102
Austin, Texas 78749
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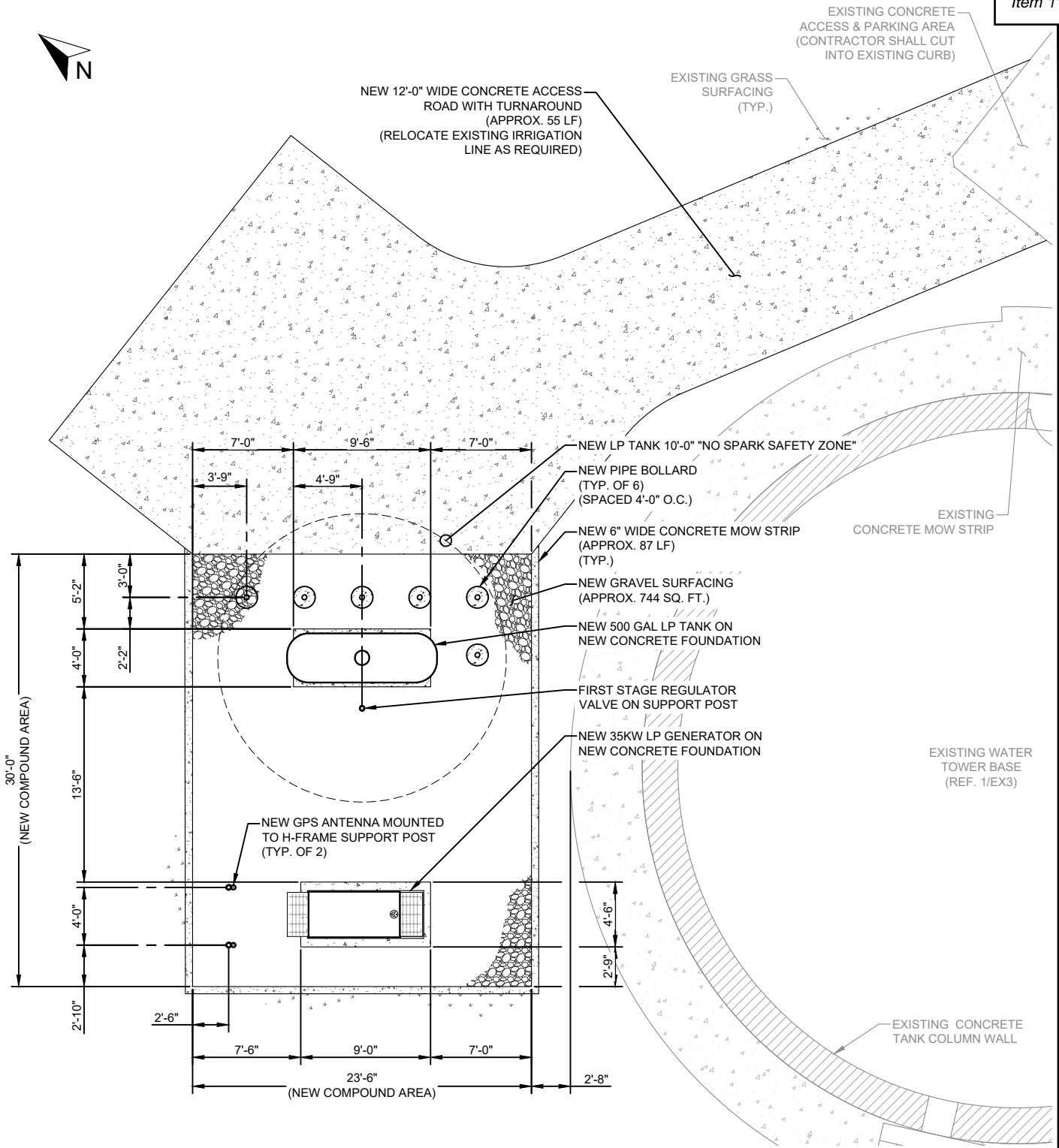
MOTOROLA
FRISCO, TX

FISHTRAP WT

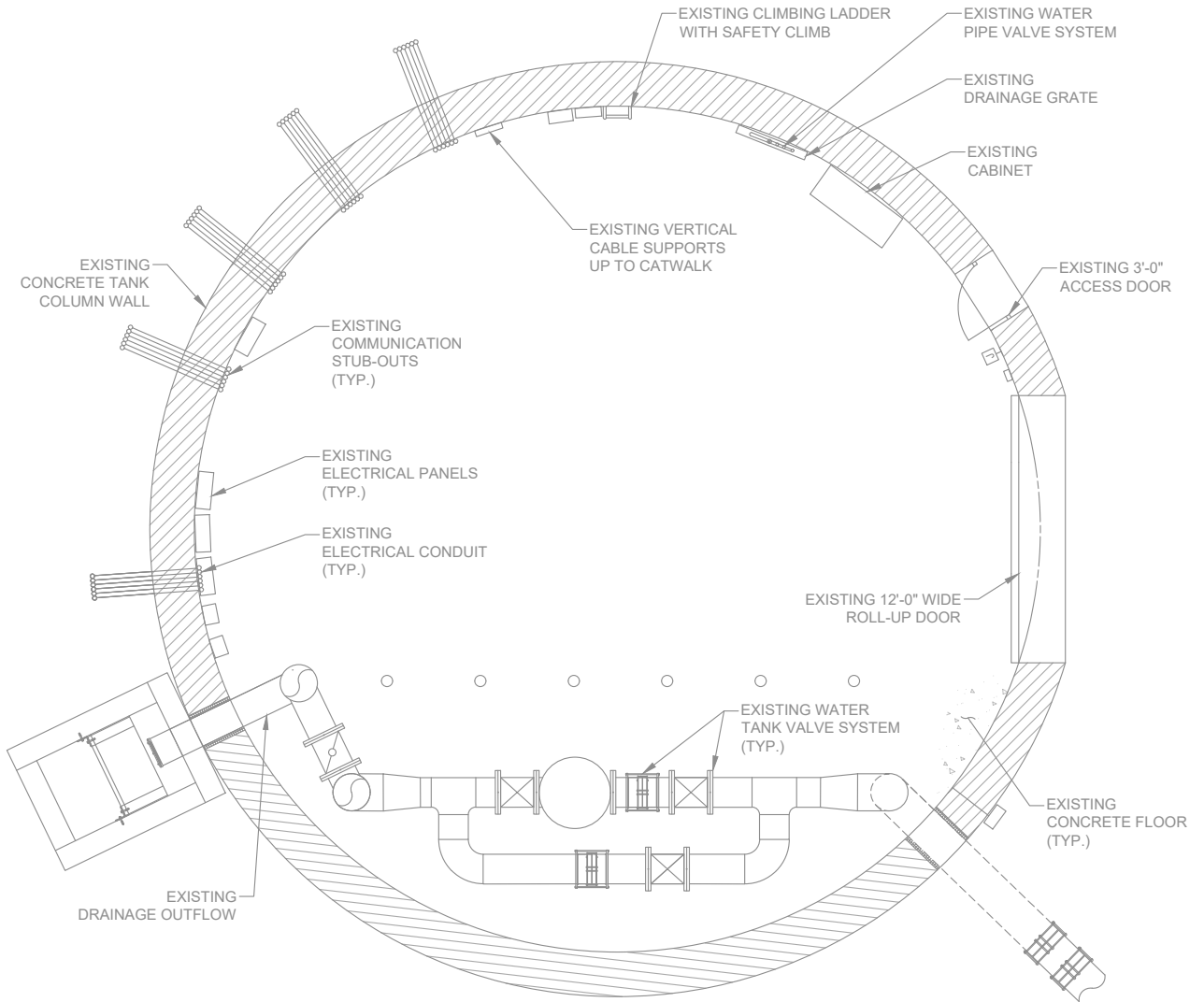
DATE PRINTED
4/20/21

EX1

Page 53



1 NEW DETAILED SITE PLAN
SCALE: 1" = 10'
10' 0' 5' 10'



1 EXISTING INTERIOR PLAN
 SCALE: 1" = 10'



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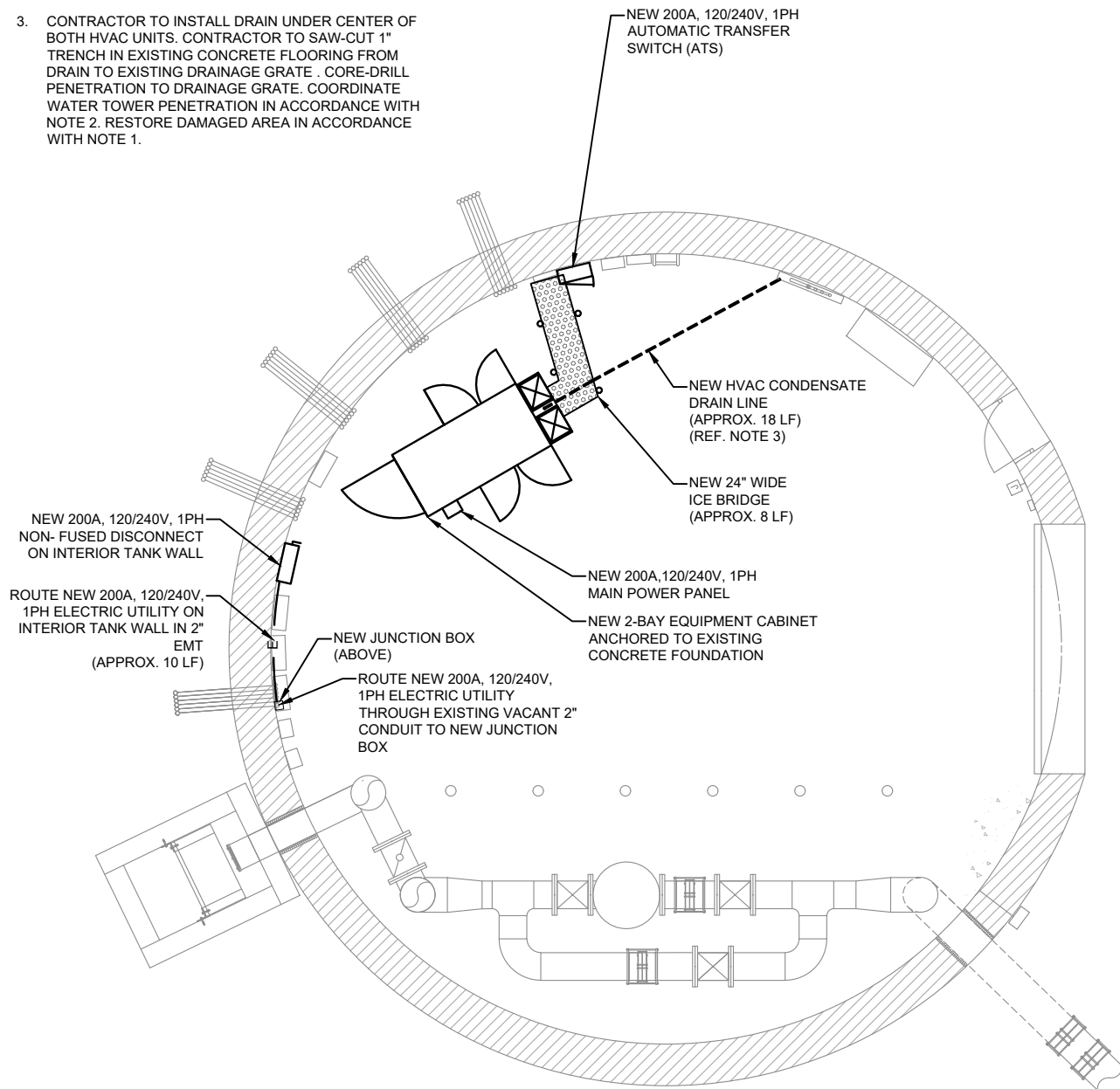
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DATE
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EX3

NOTES:

1. CONTRACTOR SHALL RESTORE ALL DAMAGED AREAS TO PRE-CONSTRUCTION CONDITIONS.
2. COORDINATE ALL WATER TOWER PENETRATIONS WITH FACILITY MANAGER PRIOR TO CONSTRUCTION START. CONTRACTOR SHALL X-RAY THE AREA TO ENSURE ALL STRUCTURAL REINFORCEMENT FOR THE WATER TOWER WILL NOT BE DAMAGED. ALL PENETRATIONS TO BE SEALED WITH SILICONE AND WEATHER-TIGHT AFTER INSTALLATION.
3. CONTRACTOR TO INSTALL DRAIN UNDER CENTER OF BOTH HVAC UNITS. CONTRACTOR TO SAW-CUT 1" TRENCH IN EXISTING CONCRETE FLOORING FROM DRAIN TO EXISTING DRAINAGE GRATE. CORE-DRILL PENETRATION TO DRAINAGE GRATE. COORDINATE WATER TOWER PENETRATION IN ACCORDANCE WITH NOTE 2. RESTORE DAMAGED AREA IN ACCORDANCE WITH NOTE 1.



1 NEW INTERIOR PLAN
SCALE: 1" = 10'
10' 0' 5' 10'



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EX4

Site Plan

D21-0045

Item 11.

- TOP OF NEW ANTENNAS
ELEV: ±239'-0" (TO BE VERIFIED)
- EXISTING GPS ANTENNA ON
MOUNT PIPE
ELEV: 221'-2" (ANTENNA BASE)
- NEW HP6-11 MICROWAVE DISH ON
NEW PIPE MOUNT (REF. NOTE 3)
ELEV: 219'-0" (RAD CENTER)
- NEW DS8M15PDDU-D TX OMNI
ANTENNA ON NEW PIPE MOUNT
ELEV: 217'-0" (ANTENNA BASE)
(REF. NOTE 2)
- NEW DS7C12P36U-D RX OMNI
ANTENNA ON NEW PIPE MOUNT
ELEV: 217'-0" (ANTENNA BASE)
(REF. NOTE 2)
- TOP OF EXISTING HAND RAIL
ELEV: 218'-7" AGL
- TOP OF EXISTING TANK
ELEV: 215'-0" AGL

12'-0"
(MIN.)

EXISTING
OBSTRUCTION LIGHTING
(REF. NOTE 1)

NEW COAX CABLES MOUNTED TO
EXISTING HANDRAIL WITH
UNISTRUT AND SNAP-IN CLIPS AS
REQUIRED
(TYP.)

NEW COAX CABLES TO
NEW EXIT PORT IN DRY
RISER
(REF. NOTE 5)

EXISTING LADDER INSIDE
ACCESS HATCH
(REF. NOTE 1)

NEW COAX CABLES TO BE
ROUTED VERTICALLY ON
EXISTING CABLE SUPPORTS
ON EXISTING DRY RISER WALL

NEW COAX CABLES TO BE ROUTED
HORIZONTALLY ALONG CATWALK
TO EXISTING DRY RISER

EXISTING CATWALK
ELEV. 148'-0" AGL

EXISTING 6TH PLATFORM
ELEV. 126'-0" AGL

EXISTING 5TH PLATFORM
ELEV. 104'-0" AGL

EXISTING 4TH PLATFORM
ELEV. 83'-0" AGL

EXISTING 3RD PLATFORM
ELEV. 62'-0" AGL

EXISTING 2ND PLATFORM
ELEV. 41'-0" AGL

EXISTING 1ST PLATFORM
ELEV. 21'-0" AGL

EXISTING GROUND ELEVATION
REF. 0'-0"

NEW
EQUIPMENT
CABINET

NEW
ICE BRIDGE

NEW MAIN PANEL

NEW ATS
NEW HVAC
CONDENSATE DRAIN

NEW COAX CABLES TO BE
ROUTED VERTICALLY ON
EXISTING CABLE
SUPPORTS
(SPACED EVERY 5'-0" O.C.)
(TYP.)

EXISTING CLIMBING LADDER
WITH SAFETY CLIMB

EXISTING 215'-0" WATER
TOWER
(REF. NOTE 1)

NOTES:

1. THE ANTENNA STRUCTURE IS SHOWN FOR GENERAL CONFIGURATION PURPOSES ONLY. REFERENCE STRUCTURAL ANALYSIS REPORT BY ENERTECH RESOURCES, LLC, DATED 04/14/2021 FOR MORE INFORMATION.
2. ANTENNA CONFIGURATION IS SUBJECT TO CHANGE. VERIFY ANTENNA HEIGHT, DOWN TILT, AND AZIMUTH WITH MOTOROLA RF ENGINEER PRIOR TO INSTALLATION.
3. MICROWAVE DISHES AND MOUNTING HARDWARE TO BE PROVIDED AND INSTALLED BY MICROWAVE PROVIDER. INSTALLATION AND MOUNTING DETAILS FOR MICROWAVE DISHES TO BE PROVIDED BY MICROWAVE PROVIDER.
4. UNDER NO CIRCUMSTANCES SHALL THE PROPOSED INSTALLATION CAUSE DAMAGE TO OR INTERFERE WITH THE STRUCTURE, CLIMBING FACILITY, SAFETY CLIMB (IF PRESENT) AND ANY OTHER LINES OR EQUIPMENT ATTACHED TO THE STRUCTURE.
5. EXISTING LOADING AT TOP OF STRUCTURE OMITTED FOR CLARITY.
6. COORDINATE ALL WATER TOWER PENETRATIONS WITH FACILITY MANAGER PRIOR TO CONSTRUCTION START. CONTRACTOR SHALL X-RAY THE AREA TO ENSURE ALL STRUCTURAL REINFORCEMENT FOR THE WATER TOWER WILL NOT BE DAMAGED. ALL PENETRATIONS TO BE SEALED WITH SILICONE AND WEATHER-TIGHT AFTER INSTALLATION.

1 TOWER ELEVATION
SCALE: N.T.S.



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EX5



ENGINEERING SERVICES

To: Mayor and Town Council

From: Dan Heischman, P.E., Assistant Director of Engineering Services – Development

Through: Harlan Jefferson, Town Manager
Rebecca Zook, P.E., Executive Director of Development & Infrastructure Services

Re: Town Council Meeting – May 25, 2021

Agenda Item:

Consider and act upon authorizing the Town Manager to execute an Escrow Agreement between BG-GBT Broadway & Preston LP, and the Town of Prosper, Texas, related to the future construction of improvements on Broadway (FM 1193) to serve the Windmill Hill development.

Description of Agenda Item:

As part of the obligations and construction of the Windmill Hill, Phase 1 development, BG-GBT Broadway & Preston LP, two (2) deceleration lanes, one median opening, one left turn lane, and perimeter sidewalk along Broadway (FM 1193) were required. The estimated costs for the design and construction of the improvements is \$141,137.12.

While the Town's Thoroughfare and Circulation Design Requirements allows for the escrow of the future improvements prior to final acceptance of the development, it does not allow the escrow of these improvements to be delayed until after final acceptance. The developer has recently completed Phase 1 of Windmill Hill and has submitted development plans for Phase 2 to the Town for review. Due to the ongoing development of the Windmill Hill development, the developer has requested to defer payment of the Phase 1 escrow until final acceptance of Windmill Hill, Phase 2.

The attached agreement obligates the developer to escrow the Phase 1 escrow (\$141,137.12), prior to the final acceptance of Windmill Hill, Phase 2. In the event there are cost overruns, the Town will work with the developer on approval and receipt of the additional payment for the cost overruns. Any remaining escrow funds left after the Town has accepted the improvements shall be returned to the developer, along with any interest that may have accrued.

The proposed agreement to delay the receipt of escrow funds until the improvements are to be constructed is similar to other Escrow Agreements the Town has entered into with PISD, Custer Self Storage and Lighthouse Church.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed the agreement as to form and legality.

Attached Documents:

Windmill Hill Escrow Agreement

Town Staff Recommendation:

Town staff recommends that the Town Council authorize the Town Manager to execute an Escrow Agreement between BG-GBT Broadway & Preston LP, and the Town of Prosper, Texas, related to the future construction of improvements on Broadway (FM 1193) to serve the Windmill Hill development.

Proposed Motion:

I move to authorize the Town Manager to execute an Escrow Agreement between BG-GBT Broadway & Preston LP, and the Town of Prosper, Texas, related to the future construction of improvements on Broadway (FM 1193) to serve the Windmill Hill development.

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("Agreement") is made and entered into this ___ day of May 17, 2021, by and between the Town of Prosper, Texas (the "Town"), and BG-GBT Preston & Broadway LP ("Developer"), collectively referred to herein as the "Parties."

WITNESSETH:

WHEREAS, Developer has a commercial development project known as Windmill Hill, which necessitates the future construction of certain Town public improvements, as more fully detailed herein; and

WHEREAS, for Windmill Hill, Phase 1, Developer is required to pay to the Town funds for the construction of See Exhibit along Broadway adjacent to the Windmill Hill development, hereinafter collectively referred to as the "Projects", in the total amount of approximately \$ 90,541.62; and

WHEREAS, the Developer is progressing towards development of Windmill Hill, Phase 2; and

WHEREAS, the Developer has requested that they be permitted to forego the escrow of the funds referenced above ("Escrow Funds") for the construction of the Projects until Town acceptance of Windmill Hill, Phase 2; and

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 Town and Developer agree as follows:

1. **Escrow Funds.** The Parties agree that prior to Town acceptance of Windmill Hill, Phase 2, Developer shall deposit the Escrow Funds in the amount of _____, and ___/100 Dollars (\$ 141,137.12) into an escrow account at the location specified by the Town ("Escrow Account"). The amount of the Escrow Funds is based on estimates of the construction and related costs of the Projects provided by the Developer's Engineer, as specified in Exhibit A, attached hereto and incorporated by reference.

3. **Use of Escrow Funds.** The Escrow Funds shall be available to the Town to pay for the construction, design and related costs of the Projects, and the Town, in its sole discretion, is entitled to use, at any time, all or a portion of the Escrow Funds in connection with the construction of the Projects. The Town shall be entitled to any and all interest that may accrue on the Escrow Funds, and Developer hereby waives and relinquishes any and all rights or claims to the interest earned, if any, on the Escrow Funds.

4. **Remaining Escrow Funds.** If any amount of the Escrow Funds remains in the Escrow Account after the Town has accepted the Projects referenced herein and paid all of the costs associated with the Projects, as solely determined by the Town (“Remaining Escrow Funds”), Developer shall be entitled to reimbursement of any Remaining Escrow Funds. Further, Developer shall be entitled to any and all interest that may accrue on the Remaining Escrow Funds.

5. **Construction Cost Overruns.** The Parties agree and acknowledge that on occasion the construction projects referenced herein may have construction cost overruns. For purpose of this Agreement, the term “construction cost overruns” shall mean those costs which may be incurred by the Town in the design and construction of the Projects and which are over and above the amount of the Escrow Funds. In such event, the Town shall give Developer prompt written notice of such construction cost overruns and seek the approval of Developer in writing for the payment of such construction cost overruns. In the event of any disagreement between the Town and Developer about such construction cost overruns, the Town and Developer shall jointly review such cost overruns and endeavor to mutually resolve such disagreement promptly.

6. **Amendment of this Agreement.** It is specifically agreed by the Parties that any amendments to this Agreement shall be in writing.

7. **Captions and Headings.** The captions and headings of the Sections of this Agreement are for convenience and reference only and shall not affect, modify or amplify the provisions of this Agreement nor shall they be employed to interpret or aid in the construction of this Agreement.

8. **Application of Texas Laws and 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. Venue for any action arising under this Agreement shall lie in Collin County, Texas.

9. **Notices.** Any notices required or permitted to be given hereunder shall be given by certified or registered mail, return receipt requested, to the addresses set forth below or to such other address as either party hereto shall notify the other:

If to the Town: Town of Prosper, Texas
 250 W. First Street
 Prosper, Texas 75078
 Att'n: Town Manager's Office

If to Developer: BG-GBT Preston & Broadway,LP
 9550 John W Elliot Dr. STE 106
 Frisco TX 75033
 Att'n: Teague Griffin

10. **Prevailing Party in Event of Legal Action.** 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 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. **Invalidation.** Invalidation of any one of the provisions of this Agreement by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

13. **Telecopied Facsimile.** 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.

14. **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.

15. **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.

16. **Binding Obligation.** The Agreement shall become a binding obligation on the signatories upon execution by all signatories 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.

17. **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 mediation.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the date first above written.

THE TOWN OF PROSPER, TEXAS

By: _____

Name: Harlan Jefferson

Title: Town Manager

STATE OF TEXAS)

)

COUNTY OF COLLIN)

)

This instrument was acknowledged before me on the ____ day of _____, 2021, by Harlan Jefferson, Town Manager of the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

Notary Public, State of Texas

Developer

By: [Signature]
Name: Teague Griffin
Title: Partner

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the 17 day of May, 2021, by Teague Griffin, Partner of BB-GBT Broadway + Preston



[Signature]
Notary Public, State of Texas

EXHIBIT A
(Escrow Funds)

