



Prosper is a place where everyone matters.

Agenda
Prosper Town Council Meeting
Tuesday, May 12, 2020
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 access the Prosper Town Council meeting videoconference, or telephone conference call.

Join the Zoom Meeting by clicking on the following link:
<https://us02web.zoom.us/j/87189889684>

Enter Meeting ID: 87189889684

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: 87189889684

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.

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.

Call to Order/ Roll Call.

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

Announcements of recent and upcoming events.

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. Zoning-related Public Hearing items on the Consent Agenda have received a unanimous recommendation for approval by the Planning & Zoning Commission, and no written opposition was received prior to the posting of this agenda.

Those wishing to speak on a Public Hearing item on the Consent Agenda should 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.

1. Consider and act upon the minutes from the April 28, 2020, Town Council meeting. **(ML)**
2. Consider and act upon authorizing the Town Manager to execute an Interlocal Cooperation Agreement between Collin County and the Town of Prosper related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act. **(HJ)**
3. Consider and act upon a resolution of the Town of Prosper, Texas, authorizing the Town Attorney to bring a condemnation action for the purpose of obtaining approximately 0.0155 acres of real property for right-of-way, situated generally in the Spencer Graham Survey, Abstract No. 359, in the Town of Prosper, Collin County, Texas and being part of a called 15.75-acre tract of land as recorded in Volume 1804, Page 100 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Town of Prosper, Collin County, Texas, necessary for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project and for other public purposes permitted by law. **(PA)**
4. Consider and act upon a resolution of the Town of Prosper, Texas, authorizing the Town Attorney to bring a condemnation action for the purpose of obtaining approximately 0.0938 acres of real property for right-of-way and 0.0416 acres of real property for grading easement, situated generally in the Larkin McCarty Survey, Abstract No. 600, in the Town of Prosper, Collin County, Texas and being part of Lot 1 of Preston Country Estates as recorded in Volume F, Page 595 of the Plat Records of Collin County, Texas (P.R.C.C.T.) and as recorded in Instrument Number 92-0054135 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Town of Prosper, Collin County, Texas, necessary for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project and for other public purposes permitted by law. **(PA)**
5. Consider and act upon a resolution of the Town of Prosper, Texas, authorizing the Town Attorney to bring a condemnation action for the purpose of obtaining approximately 0.0767 acres of real property for grading easement, situated generally in the Larkin McCarty Survey, Abstract No. 600, in the Town of Prosper, Collin County, Texas and being part of Lot 6 of Preston Country Estates as recorded in Volume F, Page 595 of the Plat Records of Collin County, Texas (P.R.C.C.T.) and as recoded in Instrument Number 20130611000803820 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Town of Prosper, Collin County, Texas, necessary for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project and for other public purposes permitted by law. **(PA)**
6. Consider and act upon a resolution of the Town of Prosper, Texas, authorizing the Town Attorney to bring a condemnation action for the purpose of obtaining approximately 0.1299 acres of real property for grading easement, situated generally in the Larkin McCarty Survey, Abstract No. 600, in the Town of Prosper, Collin County, Texas and being part of a larger tract as recorded in Volume 3992, Page 1165 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Town of Prosper, Collin County, Texas, necessary for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project and for other public purposes permitted by law. **(PA)**

7. Consider and act upon an ordinance amending Subsection (6), "Fences or Low Walls in the Required Front Yard of a Residential District," and Subsection (13) of Section 3.19.001, "General Regulations," of Article 3.19, "Fence Regulations," of Chapter 3, "Building Regulations," of the Town's Code of Ordinances, by authorizing the Town Manager to approve alternate materials for fences and low walls. (MD20-0007) **(JW)**
8. Consider and act upon an ordinance amending Subsections 7.01(b), "Definitions," and 7.01(c), "Decision-Maker," of Subsection 7.01, "Petition for Subdivision Waiver," of Section 7, "Subdivision Relief Procedures," of the Town's Subdivision Ordinance, an exhibit to Article 10.03, "Subdivision Ordinance," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances, by authorizing the Town Manager to approve minor waivers of subdivision design standards. (MD20-0008) **(JW)**
9. Conduct a Public Hearing, and consider and act upon an ordinance amending Chapter 4 (Development Requirements), Section 1 (Site Plan Process), of the Zoning Ordinance, generally allowing for waiver of certain development regulations by the Town Manager. (Z20-0008) **(JW)**
10. 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. **(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 submit it to the Town Secretary prior to the meeting, or request to address the Council via videoconference or telephone.

REGULAR AGENDA:

Items for Individual Consideration:

11. Conduct a Public Hearing, and consider and act upon an amendment to the Thoroughfare Plan to designate anticipated roadway overpasses on US 380 at Gee Road, Teel Parkway, and Legacy Drive and an overpass at First Street and the BNSF railroad. (CA20-0001). **(AG)**
12. Conduct a Public Hearing, and consider and act upon an ordinance rezoning 5.4± acres from Planned Development-40 (PD-40) to Planned Development-Office (PD-O), located east of Good Hope Road, south of Parvin Road. (Z20-0006). **(AG)**
13. Consider and act upon a request to waive the Town's Drainage System Design Requirements for a wet or underground detention pond for the detention pond on the proposed Prosper Retail Addition Tract located within Town's ETJ. **(DH)**
14. Consider and act upon a resolution directing publication of notice of intention to issue Combination Tax and Surplus Revenue Certificates of Obligation for the purpose of funding costs associated with the construction of street improvements and park improvements in the Town **(CS)**.

EXECUTIVE SESSION:

Recess into Closed Session in compliance with Section 551.001 et seq. Texas Government Code, as authorized by the Texas Open Meeting

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 review the Town Manager's performance evaluation.

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.

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 8, 2020, 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.

Item No. 1.

Minutes
Prosper Town Council Meeting
Tuesday, April 28, 2020

Call to Order/ Roll Call.

The meeting was called to order at 5:54 p.m.

Council Members Present:

Mayor Ray Smith
Mayor Pro-Tem Curry Vogelsang, Jr.
Deputy Mayor Pro-Tem Jason Dixon
Councilmember Marcus E. Ray
Councilmember Craig Andres
Councilmember Meigs Miller
Councilmember Jeff Hodges

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
Leigh Johnson, Director of Information Technology
Betty Pamplin, Finance Director
Hulon Webb, Engineering Services Director
January Cook, Purchasing Manager
Pete Anaya, Assistant Director of Engineering Services – Capital Projects
John Webb, Development Services Director
Alex Glushko, Planning Manager
Stuart Blasingame, Fire Chief
Dudley Raymond, Director of Parks and Recreation
Dan Heischman, Assistant Director of Engineering Services

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

Mayor Ray Smith led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

Announcements of recent and upcoming events.

The Prosper Community Library and the Prosper Parks and Recreation Department invite the public to participate in virtual storytimes, online exercise classes, photo challenges, and other activities while social distancing. A variety of classes and activities are available for residents who want to stay active and engaged. Visit the Library and Parks and Recreation Facebook pages for more details.

Active Adults are encouraged to sign up for Senior Bingo, Virtual Trivia Time, and other online activities. Subscribe to the Active Adult email group on the Parks & Recreation page of the Town website.

The Town would like to thank several local businesses who have come forward with donations for first responders and Town staff over the past few weeks. Legends Popcorn, Rhea's Mill Baptist Church, Domino's Pizza, Triple G Group, and Embroidery House have donated meals and supplies during the COVID-19 public health emergency. The Town is grateful for these community partners for helping to keep our staff and residents safe.

The Prosper Town Council reminds everyone to stay safe and healthy during the COVID-19 public health emergency by following guidelines for social distancing and doing their part to slow the spread of the virus. Daily updates and information are available on the Town website and social media channels.

Residents are encouraged to participate in the National Day of Prayer on May 7. The annual observance is held on the first Thursday in May, inviting people of all faiths to pray for the nation. Council asked to keep our Town, our state, our nation, and the world in everyone's prayers as we continue to fight the COVID-19 pandemic.

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.

- 1. Consider and act upon the minutes from the April 14, 2020, Town Council Meeting. (ML)**
- 3. Consider and act upon Resolution No. 2020-30 authorizing the placement of orders for the purchase of replacement vehicles in FY 2020-2021 to realize current incentives related to said purchase with payment to be made from the Town's Vehicle Equipment and Replacement Fund (VERF) in FY 2020-2021. (BP)**
- 4. Consider and act upon Resolution No. 2020-31 to deny the application of Oncor Electric Delivery Company LLC for approval to amend its distribution cost recovery factor to increase distribution rates within the Town. (BP)**
- 5. Consider and act on Resolution No. 2020-32 repealing Resolution No. 14-04 in regard to Neighborhood Empowerment Zone Number 2. (JW)**
- 6. Consider and act on Ordinance No. 2020-33 amending Article 3.14, "Signs," of Chapter 3, "Building Regulations," of the Code of Ordinances regarding the allowance of changeable electronic message board signs and other illuminated signs for real estate signs in residential areas including definitions, regulations, and restrictions. (JW)**
- 7. 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. (AG)**

Mayor Smith removed Item #2 from the Consent Agenda.

Councilmember Andres had questions on Item #4 regarding the Oncor Electric Delivery Company, LLC denial process, specifically any negative aspects of not agreeing to the rate increase. Finance Director Betty Pamplin responded there were no negative aspects of denying the application and that this was a standard annual process. Town Manager Harlan Jefferson added as part of the coalition, the denial of application is the beginning of the rate negotiation process.

Councilmember Miller had questions on Item #7 regarding the preliminary site plan for Prosper West/Children's Health MOB and the previous site plan presented to Council for this location. Alex Glushko, Planning Manager, discussed the Planning and Zoning Commission approval of the initial preliminary site plan for Prosper West. Adding, as Children's has since acquired a percentage of property, the purpose of this item was to retrofit the proposed medical office building into the preliminary site plan and allow for future TxDOT right-of-way reservation.

After Discussion, Councilmember Ray made a motion and Councilmember Miller seconded the motion to approve Items 1, and 3-7 on the Consent Agenda.

The motion was approved by a vote of 7-0.

2. Consider and act upon Ordinance No. 2020-29 extending a local state of disaster due to a public health emergency. (RB)

Robyn Battle, Executive Director of Community Services, presented information on the extension intended to align the Town with the provisions contained in any current or future Executive Orders issued by the Governor regarding the COVID-19 public health emergency. The extension would allow for the Town to remain eligible for any state or federal aid if needed and ability to enforce the Executive Orders issued.

Mayor Smith allowed for citizen comments on this item.

Patrick D. Cochrane, 741 Salt Lake Court, Prosper, spoke in opposition to Item #2, specifically section 7, 8 & 9 of the ordinance. He stated there were several pieces of the Governor's Executive Order GA-18 that lacked local applicability and legal standing.

Nicolle Pala, 961 Whistler Ln., Prosper, spoke in opposition to Item #2. She stated the language in the proposed ordinance was too broad and seemed unconstitutional.

Council discussed the constitutionality of the ordinance, with Town Attorney Terry Welch elaborating on sections 7, 8 & 9.

After discussion, Councilmember Ray made a motion and Councilmember Miller seconded the motion to approve Ordinance No. 2020-29 extending a local state of disaster due to a public health emergency.

The motion was approved by a vote of 7-0.

CITIZEN COMMENTS

Patrick D. Cochrane, 741 Salt Lake Court, Prosper, spoke once again on COVID-19 and the Government's response. He discussed a citizen's right to travel and stay-at-home mandates that are creating job losses. He stated local governments should not have the power to shutter non-essential business in the interest of public health.

Kristi Thompson, 2620 Winding Creek Rd., Prosper, spoke on the state of the government and devastation the virus is having. She yielded her remaining time to Patrick Cochrane.

Patrick D Cochrane, 741 Salt Lake Court, Prosper, spoke on testing efforts, reliable data, and an infectious mortality rate in line with seasonal flu. He concluded, it is not the government's job to make health decisions for the broader population, that the decisions are not based on reliable data.

REGULAR AGENDA:

Items for Individual Consideration:

8. **Consider and act upon Ordinance No. 2020-34 of the Town of Prosper, Texas amending Chapter 13, "Utilities," of the Town's code of ordinances, by adding thereto a new Section 13.07.009, "No Penalties or Disconnections During Coronavirus Public Health Emergency; and Creation of Coronavirus Disaster Economic Relief Fund" and authorizing the Town Manager to enter into a Memorandum of Understanding with Cornerstone Assistance Network of North Central Texas. (CS)**

Chuck Springer, Executive Director of Administrative Services, provided an overview of the ordinance that provides a waiver of utility charges for up to two months in a 12-month period, expiring May 1, 2021, with a maximum total waiver of \$25,000. He discussed the Memorandum of Understanding with Cornerstone Assistance Network of North Central Texas and, under this agreement, would screen applications for assistance and recommend which residential utility customers should receive the waiver of charges.

Mayor Smith had questions on the language used within the ordinance and the MOU with Cornerstone Assistance Network. Town Attorney Welch discussed specifics of the ordinance, noting it provides authority for both programs, and Cornerstone Network Assistance activity under the MOU.

After discussion, Deputy Mayor Pro-Tem Dixon made a motion, and Councilmember Ray seconded the motion to approve Ordinance No. 2020-34 amending Chapter 13, "Utilities," of the Town's code of ordinances, by adding thereto a new Section 13.07.009, "No Penalties or Disconnections During Coronavirus Public Health Emergency; and Creation of Coronavirus Disaster Economic Relief Fund" and authorizing the Town Manager to enter into a Memorandum of Understanding with Cornerstone Assistance Network of North Central Texas.

The motion was approved by a vote of 7-0.

9. **Conduct a Public Hearing, and consider and act upon Ordinance No. 2020-35 amending Special Purpose Sign District-5 (SPSD-5), regarding Unified Development and Monument Sign regulations, in Windsong Ranch Marketplace, located on the northeast corner of US 380 and Gee Road. (AG)**

Alex Glushko, Planning Manager, discussed the sign relocation in Windsong Ranch Marketplace due to TxDOT right-of-way acquisition. Council had questions on similar situations in the future and impact on businesses, and staff discussed the applicant process and issue of potential right-of-way-needs for TxDOT regarding new applicants.

Mayor Smith Opened the Public Hearing.

Tommy Reynolds, the applicant with Comet Signs, 2703 W. Mockingbird Lane, Dallas, spoke in favor of the item.

With no one else speaking, Mayor Smith closed the Public Hearing.

Councilmember Miller made a motion and Councilmember Hodges seconded the motion to approve Ordinance 2020-35 amending Special Purpose Sign District-5 (SPSD-5), regarding Unified Development and Monument Sign regulations, in Windsong Ranch Marketplace, located on the northeast corner of US 380 and Gee Road.

The motion was approved by a vote of 7-0.

10. **Consider and act upon awarding CSP No. 2020-54-B to Durable Specialties, Inc., related to construction services for the Fishtrap Road and Teel Parkway Traffic Signal project; and authorizing the Town Manager to execute a construction agreement for same. (PA)**

Pete Anaya, Assistant Director of Engineering Services – Capital Projects, provided an overview of CSP No. 2020-54-B, including proposal rankings and cost evaluation. Staff recommended Durable Specialties, Inc. due to the proposal timeline of 90 calendar days, and previously performed work for the Town; in the amount of \$286,225.00 without IT fiber conduit.

Councilmember Ray had questions on the type of conduit used and associated costs. Staff provided information on engineering standards regarding conduits and new moisture conditioning guidelines for conduit placement in areas with poor soil.

After discussion, Councilmember Ray made a motion, to include extraction of the conduit component, and Councilmember Andres seconded the motion to approve awarding CSP No. 2020-54-B to Durable Specialties, Inc., related to construction services for the Fishtrap Road and Teel Parkway Traffic Signal project; and authorizing the Town Manager to execute a construction agreement for same.

The motion was approved by a vote of 7-0.

11. **Consider and act upon awarding Bid No. 2020-41-B to McMahon Contracting LP, related to construction services for the Victory Way project; and authorizing the Town Manager to execute a construction agreement for same. (PA)**

Pete Anaya, Assistant Director of Engineering Services – Capital Projects, provided an overview of Bid No. 2020-41-B including location and bid submission. Staff recommended McMahon Contracting LP for the best value of \$1,991,404.25 with an alternate bid consisting of five (5) 9' x 8' drainage culverts and no IT fiber conduit installation; with 130 days for final completion.

After discussion, Councilmember Miller made a motion and Councilmember Hodges seconded the motion to approve awarding Bid No. 2020-41-B to McMahon Contracting LP, related to construction services for the Victory Way project; and authorizing the Town Manager to execute a construction agreement for same.

The motion was approved by a vote of 7-0.

12. Consider and act upon awarding Section 1 of Bid No. 2020-40-B to Reliable Paving, Inc., related to construction services for the Coit Road and US 380 SB Right Turn Lane project; and authorizing the Town Manager to execute a construction agreement for same. (PA)

Pete Anaya, Assistant Director of Engineering Services – Capital Projects, provided an overview of Bid No. 2020-40-B including location and bid submission. Staff recommended awarding Section 1 to Reliable Paving, Inc. for \$114,450.46.

After discussion, Councilmember Hodges made a motion, and Councilmember Andres seconded the motion to approve awarding Section 1 of Bid No. 2020-40-B to Reliable Paving, Inc., related to construction services for the Coit Road and US 380 SB Right Turn Lane project; and authorizing the Town Manager to execute a construction agreement for same.

The motion was approved by a vote of 7-0.

13. Consider and act upon Ordinance No. 2020-36 amending Ordinance No. 19-65 (FY 2019-2020 Budget) and Capital Improvement Plan. (BP)

Betty Pamplin, Finance Director, provided information on the Budget and CIP amendment for two traffic signals. The first, located at Fistrap and Teel Parkway, with an adopted budget of \$250,000 and requesting to increase the budget to \$400,000. The second, located at Coit and Richland, with an adopted budget of \$250,000 and requesting to increase the budget to \$410,000. She added both traffic signals were funded from impact fees from thoroughfares.

After discussion, Councilmember Miller made a motion, and Mayor Pro-Tem Vogelsang seconded the motion to approve Ordinance No. 2020-36 amending Ordinance No. 19-65 (FY 2019-2020 Budget) and Capital Improvement Plan.

The motion was approved by a vote of 7-0.

14. Consider and act upon a request to waive the Town's Drainage System Design Requirements for a wet or underground detention pond for the detention pond on the Rhea Mill's Baptist Church Tract with new expansion. (DH)

Dan Heischman, Assistant Director of Engineering Services, provided an overview of the property, and spoke on the Rhea Mill's Baptist Church building plans for expansion

to the south to include additional fire lanes and a parking lot. He noted the drainage requirements are for new improvements only.

Councilmember Ray had questions on wet detention systems in comparison to dry detention systems, and was concerned with the aesthetics of each.

The applicant, Kelly Morgan with Nelson + Morgan Architects, Inc., spoke on the location of pond, toward back of property, and there being no need for wet detention.

Jared Myer, Executive Pastor for Rhea Mill's Church, commented on the number of existing lakes in the area, and their intention to use the property for church events.

After discussion, Councilmember Ray made a motion, and Deputy Mayor Pro-Tem Dixon seconded the motion, to approve the request to waive the Town's Drainage System Design Requirements for a wet or underground detention pond for the detention pond on the Rhea Mill's Baptist Church Tract with new expansion.

The motion was approved by a vote of 7-0.

15. Consider and Act upon on approving the Preferred Downtown Scenario and the Town Hall Open Space Master Plan. (DR)

Dudley Raymond, Director of Parks and Recreation, provided an overview of the Council Briefing held on September 24, 2019, the Community Meeting held on January 8, 2020, and on the Preferred Downtown Open Space Scenario 1 and 2. Additionally, he discussed the phasing plan, noting more work would need to be done before going under construction.

Mark Bowers, with Kimley-Horn and Associates, Inc., provided information on feedback received from the Council briefing held on September 24, 2019 and Community Meeting held on January 8, 2020. Detail on greenspace use, walkability, and the phasing plan was provided.

After discussion, Deputy Mayor Pro-Tem Dixon made a motion, and Mayor Pro-Tem Vogelsang seconded the motion, to table the Preferred Downtown Scenario and the Town Hall Open Space Master Plan indefinitely, with the motion to reflect the will of council as preferred option.

The motion was approved by a vote of 7-0.

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 551.071 - Consultation with the Town Attorney regarding legal issues associated with the Town's sign ordinance, 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 review the Town Manager's performance evaluation.

The Town Council recessed into Executive Session at 8:47 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 9:09 p.m.

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

There were no topics discussed.

Adjourn.

The meeting was adjourned at 9:10 p.m. on Tuesday, April 28, 2020.

These minutes approved on the 12th day of May 2020.

APPROVED:

Ray Smith, Mayor

ATTEST:

Melissa Lee, Town Secretary



TOWN MANAGER'S OFFICE

Item No. 2.

To: Mayor and Town Council

From: Harlan Jefferson, Town Manager

Re: Town Council Meeting – May 12, 2020

Agenda Item:

Consider and act upon authorizing the Town Manager to execute an Interlocal Cooperation Agreement between Collin County and the Town of Prosper related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Description of Agenda Item:

Collin County has received a direct distribution of \$171 million pursuant to the CARES Act. The Commissioners Court is considering allocating the funds in three primary areas; housing assistance, direct distribution to cities and towns, and economic development. The proposed ILA provides for a direct distribution of funds from Collin County to the Town of Prosper for COVID-19-related expenses under the CARES Act. There are three primary criteria for the use of the funds:

- the expense must be COVID-19-related
- the expense must be cost that was not previously budgeted
- the expense must be incurred and paid between March 1, 2020, and December 30, 2020

The direct funding to cities and towns within Collin County will be based on population. The Town of Prosper is expected to receive 2% of the total amount allocated for this portion of the CARES Act funding. Town staff estimates the Town of Prosper portion of the funding to be approximately \$400,000 - \$800,000, depending on the total amount allocated by the County. The Commissioners Court is expected to make a decision on the allocation of funds at their May 11, 2020 meeting. An amended staff report will be provided to the Council after the Commissioners Court meeting.

CARES Act funds may be used to reimburse the Town for expenses already paid and incurred, and for ongoing or future expenses related to the Town's response to COVID-19. Eligible expenses under the CARES Act may include, but are not limited to, workers compensation costs for quarantined employees, testing of employees, insurance and benefits costs related to COVID-19, personal protective equipment (PPE), expenses to improve telecommuting/teleworking capabilities for Town employees, recovery planning, emergency financial assistance to residents, and payroll expenses for certain employees whose services are substantially dedicated to responding to COVID-19. Funds may not be used to replace revenue that was lost as a result of the pandemic.

The Town will be responsible for administering the funds in compliance with the CARES Act, providing justification and appropriate documentation for each expenditure. Any funds not expended by December 30, 2020, must be returned to Collin County.

Legal Obligations and Review:

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

Attached Documents:

1. Interlocal Cooperation Agreement
2. Commissioners Court Order
3. Coronavirus Relief Fund Guidance

Town Staff Recommendation:

Town staff recommends the Town Council authorize the Town Manager to execute an Interlocal Cooperation Agreement between Collin County and the Town of Prosper related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Proposed Motion:

I move to authorize the Town Manager to execute an Interlocal Cooperation Agreement between Collin County and the Town of Prosper related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

INTERLOCAL COOPERATION AGREEMENT
[MUNICIPAL DIRECT EXPENSE FUNDING]

As provided for by Chapter 791 of the Texas Government Code, this Interlocal Cooperation Agreement (“Agreement”) is entered into by and between Collin County, Texas (hereinafter “County”) and the Town of Prosper, Texas (hereinafter “Town”) under the County’s Emergency Program for Direct Costs Expended by Municipalities located in Collin County to address and respond to COVID-19.

1. Program Description. The County has received federal funding under the Coronavirus Aid, Relief, and Economic Security Act (hereinafter “CARES ACT”) to address and respond to the effects of the COVID-19 emergency. Assisting municipalities within the County in recovering their costs directly incurred in responding to the COVID-19 emergency is a legitimate and lawful use of the CARES ACT funding.
2. Incorporation of Program. The Order of the Collin County, Texas Commissioners Court establishing a COVID-19 Emergency Program for Direct Costs Expended by Municipalities located in Collin County to Address and Respond to COVID-19 (hereinafter “Direct Costs Program”) is attached hereto and incorporated by reference herein.
3. Grant and Funding to Town. Subject to the terms and conditions of this Agreement, the County agrees to grant and transfer to the Town the sum of \$_____ of its CARES ACT funding (“Municipal Funds”). The Town agrees to deposit these Municipal Funds into a separate, segregated account created solely for holding and dispersing these Municipal Funds. The account must be an interest-bearing account and similarly insured and protected as the Town’s other funds.
4. Use of Municipal Funds. The Town may use its Municipal Funds for reimbursing itself for COVID-19 expenditures already paid and incurred, and for expenditures to assist it with its ongoing responses to COVID-19 as detailed in the CARES ACT, the Direct Costs Program and this Agreement. Municipal funds may be used for all expenditures that municipalities are eligible to recover under the CARES ACT as described under said Act and the U.S. Department of the Treasury’s Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments as applies to municipalities. Payments for the performance of governmental functions or services shall be made from current revenues available to the paying party.
5. Town’s Obligations relating to its Use of the Municipal Funds. The Town agrees to:
 - a) only use the Municipal Funds in compliance with this Agreement and for eligible expenditures related to the COVID-19 emergency;
 - b) reimburse and return to the Municipal Funds account within thirty (30) days any portion of the Municipal Funds that the County, the U.S. Department of Treasury, or their designee, deems were not used for COVID-19 purposes, or not used pursuant to the terms of this Agreement, or if the Town’s Municipal Funds account is already closed out, the reimbursement and return of the ineligible expenditure shall be made to the County;
 - c) document and justify that each expenditure from its Municipal Funds was an eligible expenditure under this Agreement and the CARES ACT. All documentation shall be delivered to the County no later than January 15, 2021, and shall be kept by the Town for a minimum of four years from the close of the Direct Costs Program;

- d) allow inspection of all documentation and records related to its expenditure of its Municipal Funds by the County or the U.S. Department of Treasury upon reasonable request;
 - e) use the Municipal Funds only for eligible expenditures made between March 1, 2020 and 11:59 p.m., December 30, 2020;
 - f) return and re-pay within thirty (30) days to the County any Municipal Funds not expended by 11:59 p.m., December 30, 2020;
 - g) acknowledge and recognize that the source of these Municipal Funds is Collin County and its CARES ACT allocation for any public programs or initiatives using these Municipal Funds;
 - h) coordinate with the County any public programs or initiatives so that no duplication of services, initiatives or programs occurs; and
 - i) impose similar terms and conditions upon any sub-recipient of its Municipal Funds.
6. Reports. The Town shall provide periodic reports relating to the use of the Municipal Funds as requested or required by the County.
7. Eligibility Issues. If the Town is not sure that an expenditure will qualify, it should seek an opinion from its Town Attorney prior to making the expenditure.
8. Nature of Funding. The CARES ACT funding is being received from the County to the Town as a sub-recipient. As a sub-recipient of CARES ACT funding the Town acknowledges that its use of the funds is subject to the same terms and conditions as the County's use of such funds. The Town hereby agrees to comply with all terms and conditions of the CARES ACT funding, and to hold the County harmless against any repayments, penalties, or interest incurred as a result of the Town's failure to comply with all terms and conditions of the CARES ACT funding. Funds spent in non-compliance with the CARES ACT are subject to recapture by the County for return to the Direct Costs Program or for return to the U.S. Treasury Department.
9. Attorney's Fees and Costs. In accordance with the Program, the County shall be entitled to recover its reasonable and necessary attorney's fees and costs against the Town if it is required to undertake litigation to enforce the terms of this Agreement to the extent allowed by law.
10. Law and Venue. The laws of the State of Texas shall govern this Agreement, except where clearly superseded by federal law. Venue of any dispute shall be in a court of competent jurisdiction in Collin County, Texas.
11. No Assignment. The Town may not assign this Agreement.
12. Entire Agreement. This Agreement supersedes and constitutes a merger of all prior oral and/or written agreements and understandings of the parties on the subject matter of this Agreement and is binding on the parties and their legal representatives, receivers, executors, successors, agents and assigns.
13. Amendment. Any Amendment of this Agreement must be by written instrument dated and signed by both parties.

14. Severability. No partial invalidity of this Agreement shall affect the remainder unless the public purpose to be served hereby is so greatly diminished thereby as to frustrate the object of this Agreement.

15. Waiver. No waiver by either party of any provision of this Agreement shall be effective unless in writing, and such waiver shall not be construed as or implied to be a subsequent waiver of that provision or any other provision.

16. Signature Authority. The signatories hereto have the authority and have been given any approvals necessary to bind by this Agreement the respective parties for which they sign.

COLLIN COUNTY, TEXAS

By: _____
Chris Hill, County Judge

Date

Attest:

County Clerk

TOWN OF PROSPER, TEXAS

By: _____
Harlan Jefferson, Town Manager

Date

Attest:

Town Secretary

ORDER OF THE COMMISSIONERS COURT OF COLLIN COUNTY, TEXAS
ADOPTING A PROGRAM FOR DIRECT COSTS EXPENDED BY MUNICIPALITIES
TO ADDRESS AND RESPOND TO COVID-19 PUBLIC HEALTH EMERGENCY

1. Purpose. Collin County (hereinafter “County”) has received federal funding under the Coronavirus Aid, Relief, and Economic Security Act (hereinafter “CARES ACT”). Citizens of municipalities located within the County are also citizens of the County. Except for Dallas, no municipalities located in whole or in part in Collin County received CARES ACT funding. The purpose of the program (“Direct Costs Program”) is to assist eligible municipalities within the County with their direct COVID-19 expenditures so that they can continue to be financially ready to address new challenges that may lie ahead as part of the COVID-19 emergency. The financial health of our municipalities is vital to the overall County health and welfare. The creation of this Program is an authorized use of CARES ACT funding. The City of Dallas is not eligible to participate in this program because it has received its own CARES ACT funding.

Eligible Municipalities under this Program are limited to:

Allen	Frisco	Murphy	Richardson
Anna	Lavon	Parker	Wylie
Celina	Lucas	Plano	
Fairview	McKinney	Princeton	
Farmersville	Melissa	Prosper	

2. Sole Source of Funding. The sole source of funding for each eligible municipalities’ allocated share of the Direct Costs Program is the CARES ACT funding received by the County.

3. Eligible Expenditures. This Direct Costs Program only covers expenditures made by municipalities between March 1, 2020 and 11:59 PM December 30, 2020. Committing to an expenditure does not qualify. Payment of the expenditure actually has to have been made by 11:59 PM on December 30, 2020; the expenditure must have been or must be for the purpose of addressing or responding to the COVID-19 emergency; and the expenditure must not have already been budgeted for as of March 27, 2020 from municipal funds.

4. Total Funding. The County will make a total of \$_____ of CARES ACT funding available for this Direct Costs Program.

5. Individual Municipal Funding. The total funding available for the Direct Costs Program will be allocated between each eligible municipality based on its population within the County. Each municipality receiving a share of these funds (“Municipal Funds”) shall deposit them into a special segregated account created by each municipality solely for holding and dispersing the Municipal Funds. This account must be interest-bearing and similarly insured as the municipality’s other funds.

6. Use of Funds. Each eligible municipality receiving an allocation under the Direct Costs Program may use their Municipal Funds for reimbursing the municipality for COVID-19 expenditures already paid and incurred, and for expenditures to assist it with the ongoing responses to COVID-19 as detailed in an ILA with the municipality. Examples of eligible COVID-19 post 3/1/2020 expenditures include, but are not limited to, past and ongoing sanitation, COVID-19 testing, past or ongoing acquisitions of personal protective equipment for employees, overtime related to COVID-19, employee time dedicated to fielding and answering COVID-19

calls rather than handling their normal work, self-quarantine expenses for homeless, preparing for the future re-emergence of COVID-19 by purchasing and stocking PPE and sanitation supplies, and other expenditures recoverable by municipalities as described in the U.S. Department of the Treasury's Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments.

7. Documentation for all Expenditures. Each municipality receiving Municipal Funds shall be required to document and justify that each disbursement of Municipal Funds was an eligible expenditure under its ILA with the County and the CARES ACT. All documentation shall be due no later than January 15, 2021.

8. Reimbursement and Recapture of Ineligible Expenditures. If the County, or its designee, reasonably determines that a municipality's expenditure of Municipal Funds is not an eligible expenditure, then the municipality shall immediately reimburse its Municipal Funds with an amount equal to the amount of the ineligible expenditure from other of its funds. The municipality shall have thirty (30) days of receipt of the County's, or its designee's, determination of an ineligible expenditure to reimburse the ineligible expenditure to its Municipal Funds. If the County has to enforce its ILA it shall be entitled to recover its reasonable attorney's fees and costs incurred in doing so. If the municipality's Municipal Funds account is already closed out, the reimbursement of the ineligible expenditure shall be made directly to the County.

9. Repayment of Unused Municipal Funds to the County. If any of a municipality's Municipal Funds are not expended as provided in its ILA with the County by 11:59 PM December 30, 2020, the municipality shall return the unspent Municipal Funds to the County within thirty (30) days.

10. Interlocal Agreement. Prior to receiving, and as a condition to receiving, any Municipal Funds, each municipality must enter into an interlocal cooperation agreement with the County which incorporates the terms of this Direct Costs Program and provides for other matters ("ILA"). If the County, in its sole discretion, determines that a municipality has breached its ILA with the County, then the County may declare the ILA to be in default, and it may require the return and repayment to the County of the remaining balance of the Municipal Funds, including any reimbursements for ineligible expenditures.

11. Administration Cost. Because this funding is for the benefit of the municipalities, the municipalities are not entitled to recovery of administrative costs or fees from their Municipal Funds.

PASSED THIS _____ DAY OF _____, 2020.

COLLIN COUNTY, TEXAS

By: _____
County Judge

ATTEST:

County Clerk or Designated Deputy Clerk

Coronavirus Relief Fund
Guidance for State, Territorial, Local, and Tribal Governments
April 22, 2020

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). The CARES Act established the Coronavirus Relief Fund (the “Fund”) and appropriated \$150 billion to the Fund. Under the CARES Act, the Fund is to be used to make payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.¹

The guidance that follows sets forth the Department of the Treasury’s interpretation of these limitations on the permissible use of Fund payments.

Necessary expenditures incurred due to the public health emergency

The requirement that expenditures be incurred “due to” the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The statute also specifies that expenditures using Fund payments must be “necessary.” The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

Costs not accounted for in the budget most recently approved as of March 27, 2020

The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget *or* (b) the cost

¹ See Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.

is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The “most recently approved” budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020

A cost is “incurred” when the responsible unit of government has expended funds to cover the cost.

Nonexclusive examples of eligible expenditures

Eligible expenditures include, but are not limited to, payment for:

1. Medical expenses such as:
 - COVID-19-related expenses of public hospitals, clinics, and similar facilities.
 - Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
 - Costs of providing COVID-19 testing, including serological testing.
 - Emergency medical response expenses, including emergency medical transportation, related to COVID-19.
 - Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment.
2. Public health expenses such as:
 - Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
 - Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
 - Expenses for disinfection of public areas and other facilities, *e.g.*, nursing homes, in response to the COVID-19 public health emergency.
 - Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
 - Expenses for public safety measures undertaken in response to COVID-19.
 - Expenses for quarantining individuals.
3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
 - Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
 - Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
 - Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.
 - Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
 - COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
 - Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.
5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:
 - Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
 - Expenditures related to a State, territorial, local, or Tribal government payroll support program.
 - Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

Nonexclusive examples of ineligible expenditures²

The following is a list of examples of costs that would *not* be eligible expenditures of payments from the Fund.

1. Expenses for the State share of Medicaid.³
2. Damages covered by insurance.
3. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

² In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death. The prohibition on payment for abortions does not apply to an abortion if the pregnancy is the result of an act of rape or incest; or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions.

³ See 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.

4. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
5. Reimbursement to donors for donated items or services.
6. Workforce bonuses other than hazard pay or overtime.
7. Severance pay.
8. Legal settlements.



ENGINEERING SERVICES

To: Mayor and Town Council

From: Pete Anaya, P.E., Assistant Director of Engineering Services – Capital Projects

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – May 12, 2020

Agenda Item:

Consider and act upon a resolution of the Town of Prosper, Texas, authorizing the Town Attorney to bring a condemnation action for the purpose of obtaining approximately 0.0155 acres of real property for right-of-way, situated generally in the Spencer Graham Survey, Abstract No. 359, in the Town of Prosper, Collin County, Texas and being part of a called 15.75-acre tract of land as recorded in Volume 1804, Page 100 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Town of Prosper, Collin County, Texas, necessary for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project and for other public purposes permitted by law.

Description of Agenda Item:

The Town is in the process of developing engineering plans for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project. The Right of Way is required for the construction of the roadway. While negotiations are going well, staff is requesting advance authorization to pursue acquisition by eminent domain if needed.

Attached Documents:

1. Resolution
2. Location Map

Legal Obligations and Review:

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

Town Staff Recommendation:

Town staff recommends that the Town Council authorize the Town Attorney to bring a condemnation action for the purpose of obtaining approximately 0.0155 acres of real property for right-of-way, situated generally in the Spencer Graham Survey, Abstract No. 359, in the Town of Prosper, Collin County, Texas and being part of a called 15.75-acre tract of land as recorded in Volume 1804, Page 100 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Collin County, Texas, necessary for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project and for other public purposes permitted by law.

Proposed Motion:

I move that the Town Council authorize the Town Attorney to bring a condemnation action for the purpose of obtaining approximately 0.0155 acres of real property for right-of-way, situated generally in the Spencer Graham Survey, Abstract No. 359, in the Town of Prosper, Collin County, Texas and being part of a called 15.75-acre tract of land as recorded in Volume 1804, Page 100 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Collin County, Texas, necessary for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project and for other public purposes permitted by law.

This item requires a roll call vote.

TOWN OF PROSPER, TEXAS

RESOLUTION NO. 20-__

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, DECLARING THE NECESSITY TO ACQUIRE APPROXIMATELY 0.0155 ACRES OF LAND FOR RIGHT OF WAY FOR THE CONSTRUCTION OF THE PROSPER TRAIL IMPROVEMENTS, COIT ROAD TO CUSTER ROAD PROJECT SAID PROPERTY LOCATED IN THE SPENCER GRAHAM SURVEY, ABSTRACT NO. 359, TOWN OF PROSPER, COLLIN COUNTY, TEXAS; DETERMINING THE PUBLIC USE AND NECESSITY FOR SUCH ACQUISITION; AUTHORIZING THE ACQUISITION OF PROPERTY RIGHTS NECESSARY FOR SAID PROJECT; APPOINTING AN APPRAISER AND NEGOTIATOR AS NECESSARY; AUTHORIZING THE TOWN MANAGER OF THE TOWN OF PROSPER, TEXAS, TO ESTABLISH JUST COMPENSATION FOR THE PROPERTY RIGHTS TO BE ACQUIRED; AUTHORIZING THE TOWN MANAGER TO TAKE ALL STEPS NECESSARY TO ACQUIRE THE NEEDED PROPERTY RIGHTS IN COMPLIANCE WITH ALL APPLICABLE LAWS AND RESOLUTIONS; AND AUTHORIZING THE TOWN ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS TO ACQUIRE THE PROPERTY IF PURCHASE NEGOTIATIONS ARE NOT SUCCESSFUL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Prosper, Texas (the "Town Council"), has determined that approximately 0.0155 acres of real property for right-of-way, situated generally in the Spencer Graham Survey, Abstract No. 359, in the Town of Prosper, Collin County, Texas and being part of a called 15.75-acre tract of land as recorded in Volume 1804, Page 100 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Town of Prosper, Collin County, Texas; (the "Property") and more particularly described and depicted in Exhibits A and B, which is attached hereto and incorporated herein for all purposes, is appropriate for use as the location of the Prosper Trail Improvements, Coit Road to Custer Road Project ("Project") and that there exists a public necessity to acquire the Property for the construction of the Project, which is a public use; and

WHEREAS, the Town Council desires to acquire the Property for this governmental and public use in conjunction with the Town of Prosper's construction of the Prosper Trail Improvements, Coit Road to Custer Road Project; and

WHEREAS, the Town Council desires that the Town Manager, or his designee, take all necessary steps to acquire the Property for the Project including, but not limited to, the retention of appraisers, engineers, and other consultants and experts, and that the Town Attorney, or his designee, negotiate the purchase of the Property for the Project, and if unsuccessful in purchasing the Property for the Project, to institute condemnation proceedings to acquire these required property interests.

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

SECTION 1

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

SECTION 2

The Town Council hereby finds and determines that a public use and necessity exists for the Town of Prosper, Texas, to acquire the Property for the Project.

SECTION 3

The Town Manager, or his designee, is authorized and directed to negotiate for and to acquire the Property for the Project, for the Town of Prosper, Texas, and to acquire said rights in compliance with State and Federal law. The Town Manager is specifically authorized and directed to do each and every act necessary to acquire the Property for the Project including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts, to retain and designate a qualified appraiser of the property interests to be acquired, as well as any other experts or consultants that he deems necessary for the acquisition process and, if necessary, to institute proceedings in eminent domain.

SECTION 4

The Town Manager, or any individual he may so designate, is appointed as negotiator for the acquisition of the Property for the Project, and, as such, the Town Manager is authorized and directed to do each and every act and deed hereinabove specified or authorized by reference, subject to the availability of funds appropriated by the Town Council for such purpose. The Town Manager is specifically authorized to establish the just compensation for the acquisition of the Property. If the Town Manager or his designee determines that an agreement as to damages or compensation cannot be reached, then the Town Attorney or his designee is hereby authorized and directed to file or cause to be filed, against the owners and interested parties of the needed property interests, proceedings in eminent domain to acquire the Property for the Project.

SECTION 5

This Resolution is effective immediately upon its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, BY A VOTE OF ____ TO ____ ON THIS THE 12TH DAY OF MAY, 2020.

Ray Smith, Mayor

ATTEST:

Melissa Lee, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

EXHIBIT A

**FIELD NOTES DESCRIBING A 676 SQUARE FOOT (0.0155 ACRE) TRACT
PART OF THE MICHAEL W. REEVES TRACT
SITUATED IN THE
SPENCER GRAHAM SURVEY, ABSTRACT NO. 359
THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS**

BEING 676 square feet of land situated in the Spencer Graham Survey, Abstract Number 359 in the Town of Prosper, Collin County, Texas, and being part of a called 15.75 acre tract of land described in Warranty Deed with Vendor's Lien to Michael W. Reeves and wife, Jane G. Reeves, as recorded in Volume 1804, Page 100 of the Deed Records of Collin County, Texas (D.R.C.C.T.), and being more particularly described by metes and bounds as follows:

COMMENCING at a "PK" nail found on the west line of said 15.75 acre tract, same being the southwest corner of a 0.265 acre tract described in deed to the County of Collin, as recorded in Volume 4847, Page 1757 (D.R.C.C.T.), being on the existing south right-of-way line of Prosper Trail (a variable width right-of-way), and also being on the east line of a 26.508 acre tract of land described in deed to WFEC Holding Company, LP, as recorded in Document Number 20181026001336580 (D.R.C.C.T.);

THENCE South 89 degrees 50 minutes 51 seconds East, departing said west line and with the south right-of-way line of said Prosper Trail, being the south line of said 0.265 acre tract, a distance of 118.14 feet to a point (to be set) for the **POINT OF BEGINNING**;

THENCE South 89 degrees 50 minutes 51 seconds East, continuing with said south right-of-way line and the south line of said 0.265 acre tract, a distance of 55.12 feet to a point for corner;

THENCE North 89 degrees 08 minutes 02 seconds East, continuing with said south lines, a distance of 61.80 feet to a PK nail with a washer stamped "Halff" set for the southeast corner of said 0.265 acre tract, said point being on the east line of said 15.75 acre tract, and the west line of Preston Country Lane, (a 25-foot right-of-way dedicated by Plat recorded in Volume F, Page 595, Plat Records, Collin County, Texas);

THENCE South 34 degrees 50 minutes 15 seconds East, with the common west right-of-way line of Preston Country Lane and east line of said 15.75 acre tract, a distance of 8.03 feet to a PK nail with a washer stamped "Halff" (to be set) for corner;

THENCE departing said common line, and over and across said 15.75 acre tract the following bearings and distances:

South 89 degrees 07 minutes 40 seconds West, a distance of 83.37 feet to a point (to be set) for corner;

Page 1 of 3
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EXHIBIT A (Continued)

North 79 degrees 29 minutes 50 seconds West, a distance of 38.79 feet to the POINT OF BEGINNING AND CONTAINING 676 square feet or 0.0155 acres of land, more or less.

All corners noted as (to be set) in these field notes will be set as 1/2-inch iron rods with yellow plastic caps stamped "Half" (or other reasonable monumentation) within 30 days of the notification of the recording of the deed of the property described herein.

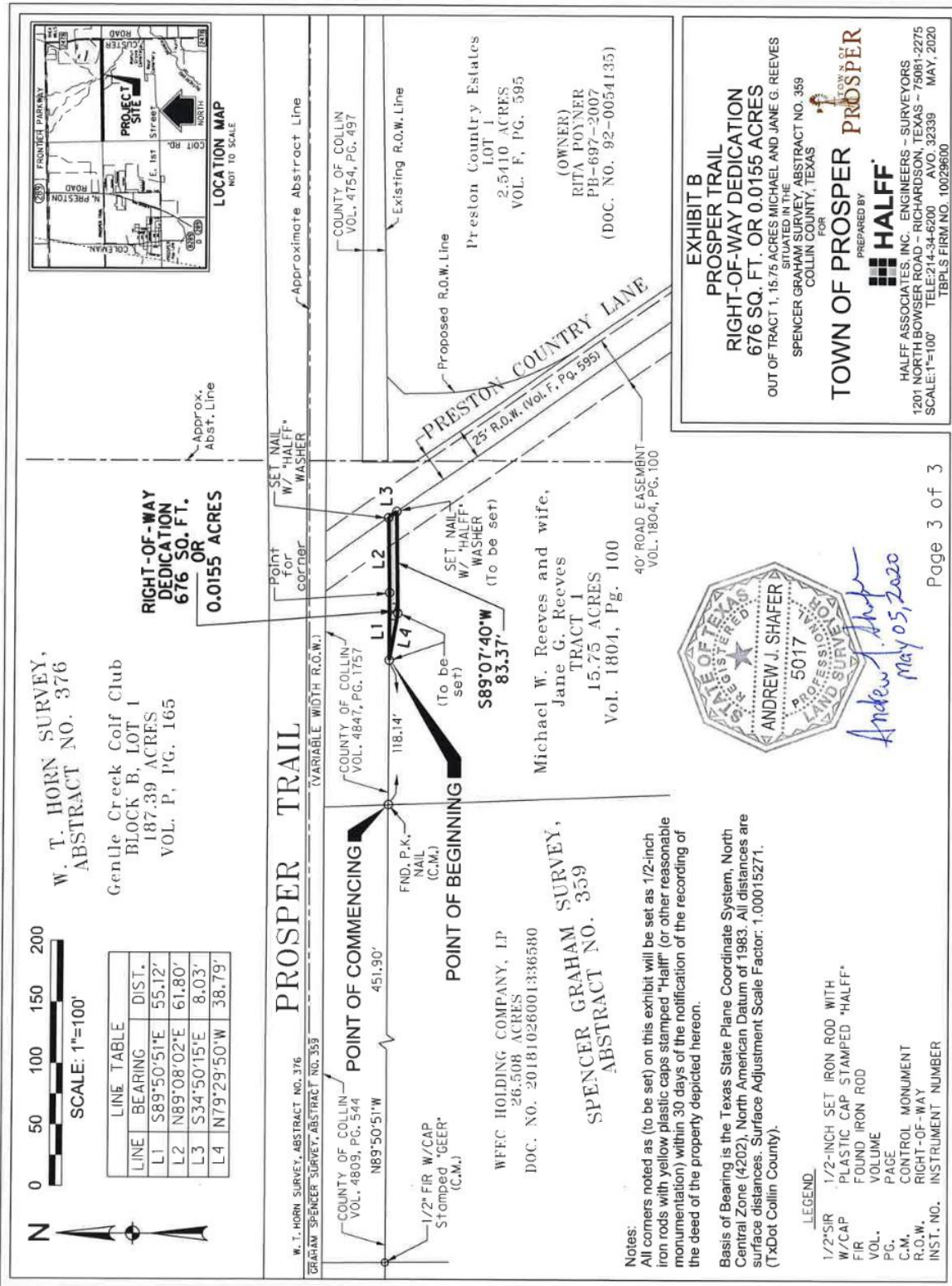
Basis of Bearing is the Texas State Plane Coordinate System, North Central Zone (4202), North American Datum of 1983. All distances are surface distances. Surface Adjustment Scale Factor: 1.00015271. (TxDot Collin County).

This Legal Description and corresponding Exhibit were prepared without the benefit of a title commitment.

Andrew J. Shafer May 05, 2020
ANDREW J. SHAFER
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS NO. 5017
TBPELS Firm No. 10029600



EXHIBIT B

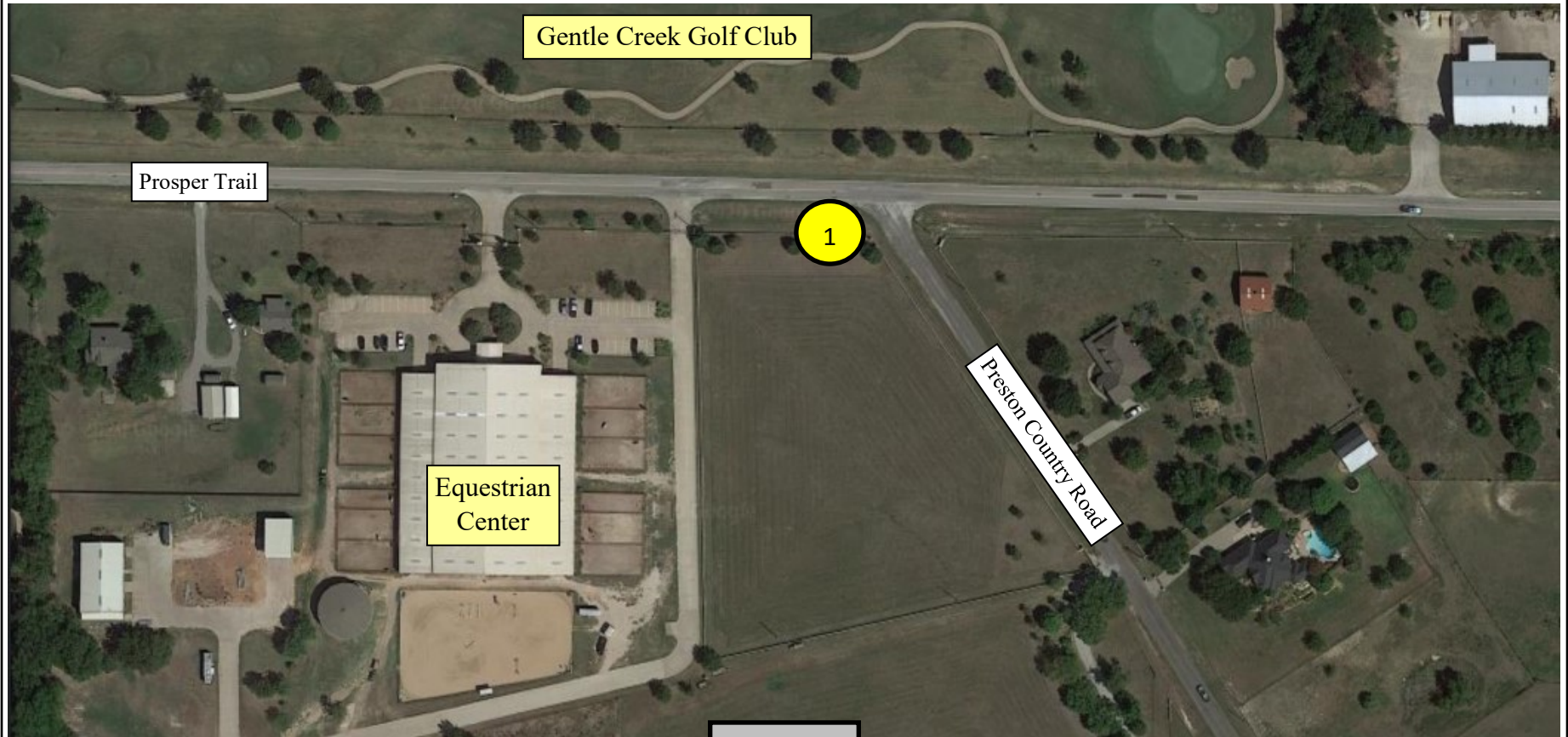


LOCATION MAP



Prosper Trail Improvements, Coit Road to Custer Road

Tract 1—Reeves



**ENGINEERING
SERVICES**

To: Mayor and Town Council

From: Pete Anaya, P.E., Assistant Director of Engineering Services - Capital Projects

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – May 12, 2020

Agenda Item:

Consider and act upon a resolution of the Town of Prosper, Texas, authorizing the Town Attorney to bring a condemnation action for the purpose of obtaining approximately 0.0938 acres of real property for right-of-way and 0.0416 acres of real property for grading easement, situated generally in the Larkin McCarty Survey, Abstract No. 600, in the Town of Prosper, Collin County, Texas and being part of Lot 1 of Preston Country Estates as recorded in Volume F, Page 595 of the Plat Records of Collin County, Texas (P.R.C.C.T.) and as recorded in Instrument Number 92-0054135 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Town of Prosper, Collin County, Texas, necessary for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project and for other public purposes permitted by law.

Description of Agenda Item:

The Town is in the process of developing engineering plans for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project. The Right of Way and Grading Easement are required for the construction of the roadway. While negotiations are going well, staff is requesting advance authorization to pursue acquisition by eminent domain if needed.

Legal Obligations and Review:

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

Attached Documents:

1. Resolution
2. Location Map

Town Staff Recommendation:

Town staff recommends that the Town Council authorize the Town Attorney to bring a condemnation action for the purpose of obtaining approximately 0.0938 acres of real property for right-of-way and 0.0416 acres of real property for grading easement, situated generally in the Larkin McCarty Survey, Abstract No. 600, in the Town of Prosper, Collin County, Texas and being

part of Lot 1 of Preston Country Estates as recorded in Volume F, Page 595 of the Plat Records of Collin County, Texas (P.R.C.C.T.) and as recorded in Instrument Number 92-0054135 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Collin County, Texas, necessary for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project and for other public purposes permitted by law.

Proposed Motion:

I move that the Town Council authorize the Town Attorney to bring a condemnation action for the purpose of obtaining approximately 0.0938 acres of real property for right-of-way and 0.0416 acres of real property for grading easement, situated generally in the Larkin McCarty Survey, Abstract No. 600, in the Town of Prosper, Collin County, Texas and being part of Lot 1 of Preston Country Estates as recorded in Volume F, Page 595 of the Plat Records of Collin County, Texas (P.R.C.C.T.) and as recorded in Instrument Number 92-0054135 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Collin County, Texas, necessary for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project and for other public purposes permitted by law.

This item requires a roll call vote.

TOWN OF PROSPER, TEXAS

RESOLUTION NO. 2020-__

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, DECLARING THE NECESSITY TO ACQUIRE APPROXIMATELY 0.0938 ACRES OF REAL PROPERTY FOR RIGHT-OF-WAY AND 0.0416 ACRES OF REAL PROPERTY FOR GRADING EASEMENT FOR THE CONSTRUCTION OF THE PROSPER TRAIL IMPROVEMENTS, COIT ROAD TO CUSTER ROAD PROJECT SAID PROPERTY LOCATED IN THE LARKIN MCCARTY SURVEY, ABSTRACT NO. 600, TOWN OF PROSPER, COLLIN COUNTY, TEXAS; DETERMINING THE PUBLIC USE AND NECESSITY FOR SUCH ACQUISITION; AUTHORIZING THE ACQUISITION OF PROPERTY RIGHTS NECESSARY FOR SAID PROJECT; APPOINTING AN APPRAISER AND NEGOTIATOR AS NECESSARY; AUTHORIZING THE TOWN MANAGER OF THE TOWN OF PROSPER, TEXAS, TO ESTABLISH JUST COMPENSATION FOR THE PROPERTY RIGHTS TO BE ACQUIRED; AUTHORIZING THE TOWN MANAGER TO TAKE ALL STEPS NECESSARY TO ACQUIRE THE NEEDED PROPERTY RIGHTS IN COMPLIANCE WITH ALL APPLICABLE LAWS AND RESOLUTIONS; AND AUTHORIZING THE TOWN ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS TO ACQUIRE THE PROPERTY IF PURCHASE NEGOTIATIONS ARE NOT SUCCESSFUL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Prosper, Texas (the "Town Council"), has determined that approximately 0.0938 acres of real property for right-of-way and 0.0416 acres of real property for grading easement, situated generally in the Larkin McCarty Survey, Abstract No. 600, in the Town of Prosper, Collin County, Texas and being part of Lot 1 of Preston Country Estates as recorded in Volume F, Page 595 of the Plat Records of Collin County, Texas (P.R.C.C.T.) and as recorded in Instrument Number 92-0054135 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Town of Prosper, Collin County, Texas; (the "Property") and more particularly described and depicted in Exhibits A thru D, which are attached hereto and incorporated herein for all purposes, is appropriate for use as the location of the Prosper Trail Improvements, Coit Road to Custer Road Project ("Project") and that there exists a public necessity to acquire the Property for the construction of the Project, which is a public use; and

WHEREAS, the Town Council desires to acquire the Property for this governmental and public use in conjunction with the Town of Prosper's construction of the Prosper Trail Improvements, Coit Road to Custer Road Project; and

WHEREAS, the Town Council desires that the Town Manager, or his designee, take all necessary steps to acquire the Property for the Project including, but not limited to, the retention of appraisers, engineers, and other consultants and experts, and that the Town Attorney, or his designee, negotiate the purchase of the Property for the Project, and if unsuccessful in purchasing the Property for the Project, to institute condemnation proceedings to acquire these required property interests.

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

SECTION 1

All of the above premises are hereby found to be true and correct legislative and factual

findings of the Town of Prosper, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

SECTION 2

The Town Council hereby finds and determines that a public use and necessity exists for the Town of Prosper, Texas, to acquire the Property for the Project.

SECTION 3

The Town Manager, or his designee, is authorized and directed to negotiate for and to acquire the Property for the Project, for the Town of Prosper, Texas, and to acquire said rights in compliance with State and Federal law. The Town Manager is specifically authorized and directed to do each and every act necessary to acquire the Property for the Project including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts, to retain and designate a qualified appraiser of the property interests to be acquired, as well as any other experts or consultants that he deems necessary for the acquisition process and, if necessary, to institute proceedings in eminent domain.

SECTION 4

The Town Manager, or any individual he may so designate, is appointed as negotiator for the acquisition of the Property for the Project, and, as such, the Town Manager is authorized and directed to do each and every act and deed hereinabove specified or authorized by reference, subject to the availability of funds appropriated by the Town Council for such purpose. The Town Manager is specifically authorized to establish the just compensation for the acquisition of the Property. If the Town Manager or his designee determines that an agreement as to damages or compensation cannot be reached, then the Town Attorney or his designee is hereby authorized and directed to file or cause to be filed, against the owners and interested parties of the needed property interests, proceedings in eminent domain to acquire the Property for the Project.

SECTION 5

This Resolution is effective immediately upon its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, BY A VOTE OF ____ TO ____ ON THIS THE 12TH DAY OF MAY, 2020.

Ray Smith, Mayor

ATTEST:

Melissa Lee, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

EXHIBIT A

**FIELD NOTES DESCRIBING A 4,087 SQUARE FOOT (0.0938 ACRE) TRACT
PART OF THE KENNETH WAYNE POYNER TRACT
SITUATED IN THE
LARKIN MCCARTY SURVEY, ABSTRACT NO. 600
THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS**

BEING 4,087 square feet of land situated in the Larkin McCarty Survey, Abstract Number 600 in the Town of Prosper, Collin County, Texas, and being part of Lot 1 of Preston Country Estates, an addition to the Town of Prosper, Collin County, Texas as recorded in Volume F, Page 595 of the Plat Records of Collin County, Texas (P.R.C.C.T.), and being part of tract of land described in Warranty Deed with Vendor's Lien to Kenneth Wayne Poyner and wife, Rita Dawn Poyner, as recorded in Instrument Number 92-0054135 of the Deed Records of Collin County, Texas (D.R.C.C.T), and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2-inch iron rod with a plastic cap stamped "GEER" found on the west line of said Poyner tract, same being the southwest corner of a 0.173 acre tract of land described in deed to the County of Collin, as recorded in Volume 4754, Page 497 (D.R.C.C.T), being in the west line of said Lot 1, and being the northerly point of a corner clip located at the intersection of the existing south right-of-way line of Prosper Trail (a variable width right-of-way, established by Volume 4754, Page 497) with the existing east right-of-way line of Preston Country Lane (a 25 foot-wide right-of-way dedicated by said plat recorded in Volume F, Page 595);

THENCE North 89 degrees 08 minutes 53 seconds East, departing said west lot line and said east right-of-way line and with the south right-of-way line of said Prosper Trail, being the south line of said 0.173 acre tract, a distance of 69.57 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "HALFF" set for corner;

THENCE departing said south line, and over and across said Lot 1 the following bearings and distances:

South 44 degrees 07 minutes 40 seconds West, a distance of 19.50 feet to a point (to be set) for corner;

South 00 degrees 52 minutes 20 seconds East, a distance of 23.03 feet to a point (to be set) for the beginning of a tangent circular curve to the left, having a radius of 225.00 feet and a chord that bears South 16 degrees 24 minutes 38 seconds East, a distance of 120.55 feet;

Southerly with said curve, through a central angle of 31 degrees 04 minutes 35 seconds, an arc distance of 122.04 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "HALFF" on the common west line of said Lot 1 and east line of said Preston Country Lane;

EXHIBIT A (Continued)

THENCE North 34 degrees 50 minutes 16 seconds West, with said common line, a distance of 158.34 feet to a 1/2-inch iron rod found for corner, same being the most southerly point of the aforementioned corner clip at the intersection of the said east right-of-way line of Preston Country Lane with said south right-of-way line of Prosper Trail;

THENCE North 00 degrees 09 minutes 55 seconds East, continuing along said common line, and with said corner clip, a distance of 21.67 feet to the POINT OF BEGINNING AND CONTAINING 4,087 square feet or 0.0938 acres of land, more or less.

All corners noted as (to be set) in these field notes will be set as 1/2-inch iron rods with yellow plastic caps stamped "Halff" (or other reasonable monumentation) within 30 days of the notification of the recording of the deed of the property described herein.

Basis of Bearing is the Texas State Plane Coordinate System, North Central Zone (4202), North American Datum of 1983. All distances are surface distances. Surface Adjustment Scale Factor: 1.00015271. (TxDot Collin County).

This Legal Description and corresponding Exhibit were prepared without the benefit of a title commitment.

Andrew J. Shafer MAY 4, 2020
ANDREW J. SHAFER
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS NO. 5017
TBPELS Firm No. 10029600



EXHIBIT B

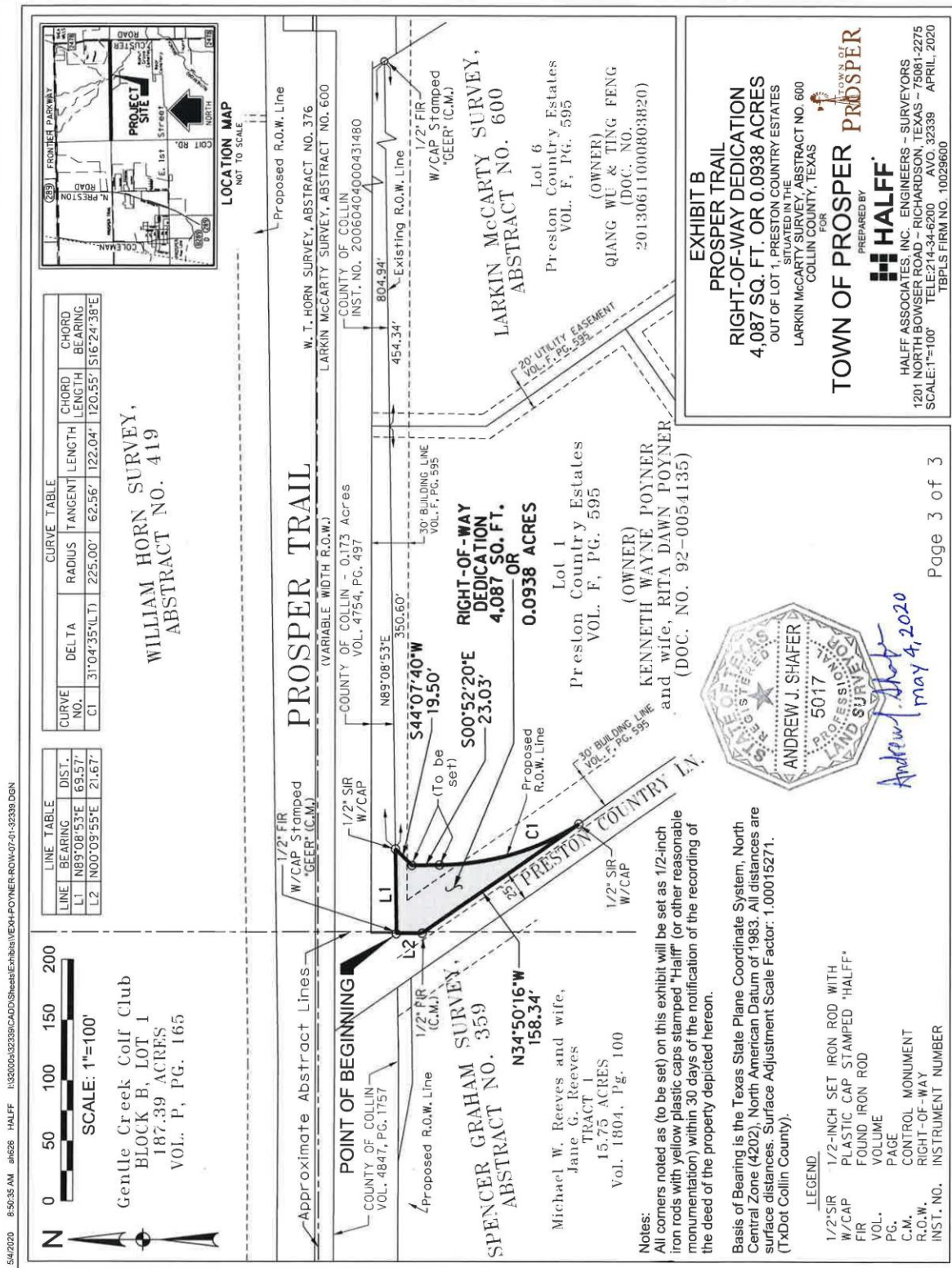


EXHIBIT C

**GRADING EASEMENT
FIELD NOTES DESCRIBING A 1,811 SQUARE FOOT (0.0416 ACRE) TRACT
PART OF THE KENNETH WAYNE POYNER TRACT
SITUATED IN THE
LARKIN MCCARTY SURVEY, ABSTRACT NO. 600
THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS**

BEING 1,811 square feet of land situated in the Larkin McCarty Survey, Abstract Number 600 in the Town of Prosper, Collin County, Texas, and being part of Lot 1 of Preston Country Estates, an addition to the Town of Prosper, Collin County, Texas as recorded in Volume F, Page 595 of the Plat Records of Collin County, Texas (P.R.C.C.T.), and being part of that tract of land described in Warranty Deed with Vendor's Lien to Kenneth Wayne Poyner and wife, Rita Dawn Poyner, as recorded in Instrument Number 92-0054135 of the Deed Records of Collin County, Texas (D.R.C.C.T.), and being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2-inch iron rod with a plastic cap stamped "GEER" found on the west line of said Poyner tract, same being the southwest corner of a 0.173 acre tract of land described in deed to the County of Collin, as recorded in Volume 4754, Page 497 (D.R.C.C.T.), being in the west line of said Lot 1, and being the northerly point of a corner clip located at the intersection of the existing south right-of-way line of Prosper Trail (a variable width right-of-way, established by Volume 4754, Page 497) with the existing east right-of-way line of Preston Country Lane (a 25 foot-wide right-of-way dedicated by said plat recorded in Volume F, Page 595);

THENCE North 89 degrees 08 minutes 53 seconds East, departing said west lot line and said east right-of-way line and with the south right-of-way line of said Prosper Trail, being the south line of said 0.173 acre tract, a distance of 173.59 feet to a 1/2-inch iron rod with a blue plastic cap stamped "HALFF ESMT" set for the POINT OF BEGINNING;

THENCE North 89 degrees 08 minutes 53 seconds East, continuing with said south line, a distance of 246.58 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "HALFF" set at the southeast corner of said 0.173 acre tract, and being on the common east line of said Lot 1, and west line of Lot 6 of said Preston Country Estates;

THENCE South 00 degrees 13 minutes 27 seconds West, departing said south line, with the common east line of said Lot 1 and west line of said Lot 6, a distance of 13.26 feet to a point for corner;

THENCE departing said common line, and over and across said Lot 1 the following bearings and distances:

North 88 degrees 06 minutes 36 seconds West, a distance of 33.63 feet to a point for corner;

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EXHIBIT C (Continued)

North 85 degrees 43 minutes 11 seconds West, a distance of 50.20 feet to a point for corner;

South 87 degrees 45 minutes 11 seconds West, a distance of 50.01 feet to a point for corner;

North 87 degrees 42 minutes 03 seconds West, a distance of 50.08 feet to a point for corner;

North 85 degrees 55 minutes 58 seconds West, a distance of 50.19 feet to a point for corner;

North 84 degrees 55 minutes 37 seconds West, a distance of 12.80 feet to the POINT OF BEGINNING AND CONTAINING 1,811 square feet or 0.0416 acres of land, more or less.

Basis of Bearing is the Texas State Plane Coordinate System, North Central Zone (4202), North American Datum of 1983. All distances are surface distances. Surface Adjustment Scale Factor: 1.00015271. (TxDot Collin County).

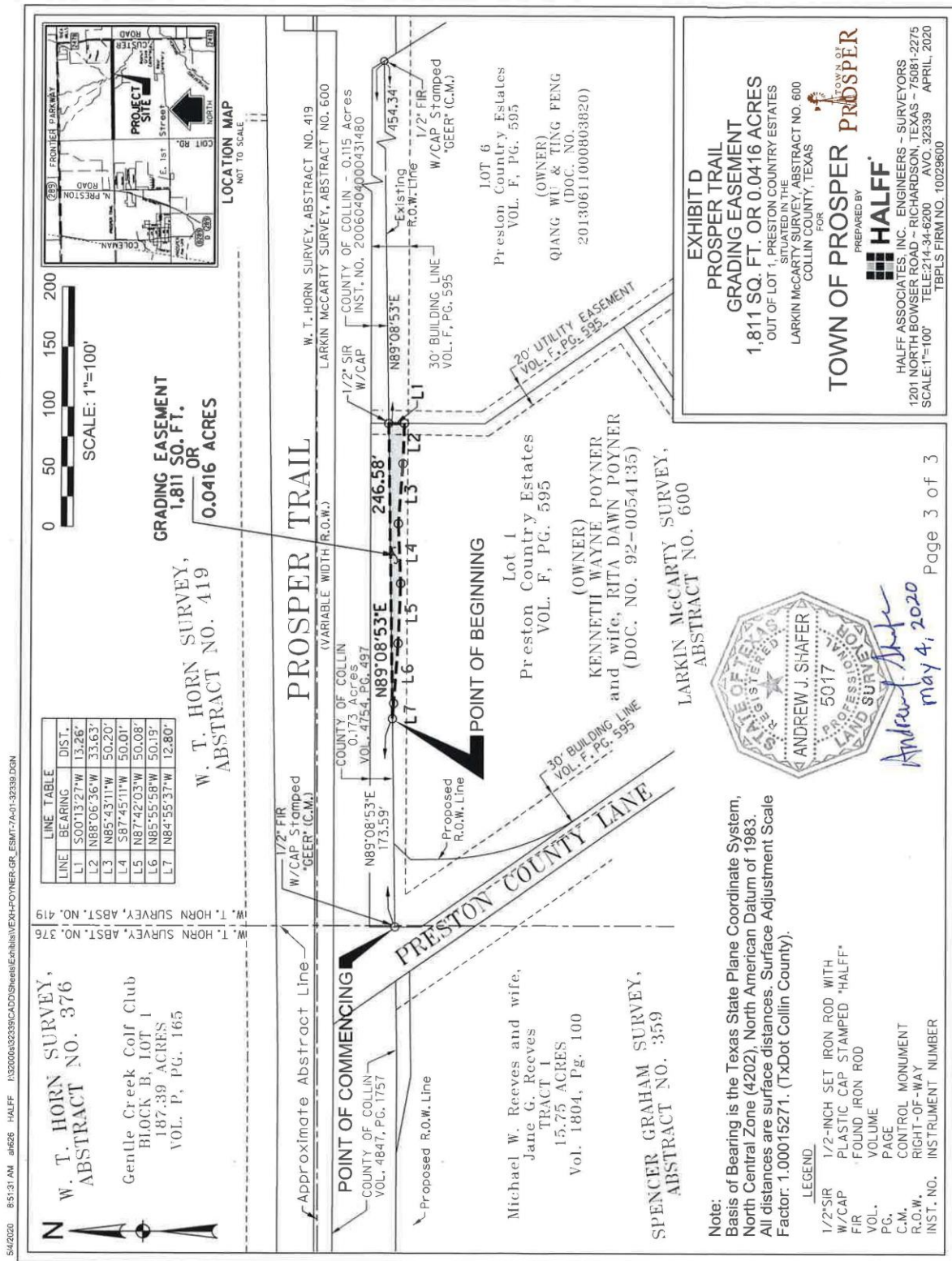
This Legal Description and corresponding Exhibit were prepared without the benefit of a title commitment.

Andrew J. Shafer MAY 4, 2020
ANDREW J. SHAFER
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS NO. 5017
TBPELS Firm No. 10029600



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EXHIBIT D



LOCATION MAP



Prosper Trail Improvements, Coit Road to Custer Road
Tract 2—Poyner





ENGINEERING SERVICES

To: Mayor and Town Council

From: Pete Anaya, P.E., Assistant Director of Engineering Services – Capital Projects

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – May 12, 2020

Agenda Item:

Consider and act upon a resolution of the Town of Prosper, Texas, authorizing the Town Attorney to bring a condemnation action for the purpose of obtaining approximately 0.0767 acres of real property for grading easement, situated generally in the Larkin McCarty Survey, Abstract No. 600, in the Town of Prosper, Collin County, Texas and being part of Lot 6 of Preston Country Estates as recorded in Volume F, Page 595 of the Plat Records of Collin County, Texas (P.R.C.C.T.) and as recoded in Instrument Number 20130611000803820 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Town of Prosper, Collin County, Texas, necessary for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project and for other public purposes permitted by law.

Description of Agenda Item:

The Town is in the process of developing engineering plans for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project. The Grading Easement is required for the construction of the roadway. While negotiations are going well, staff is requesting advance authorization to pursue acquisition by eminent domain if needed.

Attached Documents:

1. Resolution
2. Location Map

Legal Obligations and Review:

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

Town Staff Recommendation:

Town staff recommends that the Town Council authorize the Town Attorney to bring a condemnation action for the purpose of obtaining approximately 0.0767 acres of real property for grading easement, situated generally in the Larkin McCarty Survey, Abstract No. 600, in the Town of Prosper, Collin County, Texas and being part of Lot 6 of Preston Country Estates as recorded in Volume F, Page 595 of the Plat Records of Collin County, Texas (P.R.C.C.T.) and as recoded in Instrument Number 20130611000803820 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Collin County, Texas, necessary for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project and for other public purposes permitted by law.

Proposed Motion:

I move that the Town Council authorize the Town Attorney to bring a condemnation action for the purpose of obtaining approximately 0.0767 acres of real property for grading easement, situated generally in the Larkin McCarty Survey, Abstract No. 600, in the Town of Prosper, Collin County, Texas and being part of Lot 6 of Preston Country Estates as recorded in Volume F, Page 595 of the Plat Records of Collin County, Texas (P.R.C.C.T.) and as recoded in Instrument Number 20130611000803820 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Collin County, Texas, necessary for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project and for other public purposes permitted by law.

This item requires a roll call vote.

TOWN OF PROSPER, TEXAS

RESOLUTION NO. 2020-__

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, DECLARING THE NECESSITY TO ACQUIRE APPROXIMATELY 0.0767 ACRES OF REAL PROPERTY FOR GRADING EASEMENT FOR THE CONSTRUCTION OF THE PROSPER TRAIL IMPROVEMENTS, COIT ROAD TO CUSTER ROAD PROJECT SAID PROPERTY LOCATED IN THE LARKIN MCCARTY SURVEY, ABSTRACT NO. 600, TOWN OF PROSPER, COLLIN COUNTY, TEXAS; DETERMINING THE PUBLIC USE AND NECESSITY FOR SUCH ACQUISITION; AUTHORIZING THE ACQUISITION OF PROPERTY RIGHTS NECESSARY FOR SAID PROJECT; APPOINTING AN APPRAISER AND NEGOTIATOR AS NECESSARY; AUTHORIZING THE TOWN MANAGER OF THE TOWN OF PROSPER, TEXAS, TO ESTABLISH JUST COMPENSATION FOR THE PROPERTY RIGHTS TO BE ACQUIRED; AUTHORIZING THE TOWN MANAGER TO TAKE ALL STEPS NECESSARY TO ACQUIRE THE NEEDED PROPERTY RIGHTS IN COMPLIANCE WITH ALL APPLICABLE LAWS AND RESOLUTIONS; AND AUTHORIZING THE TOWN ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS TO ACQUIRE THE PROPERTY IF PURCHASE NEGOTIATIONS ARE NOT SUCCESSFUL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Prosper, Texas (the "Town Council"), has determined that approximately 0.0767 acres of real property for grading easement, situated generally in the Larkin McCarty Survey, Abstract No. 600, in the Town of Prosper, Collin County, Texas and being part of Lot 6 of Preston Country Estates as recorded in Volume F, Page 595 of the Plat Records of Collin County, Texas (P.R.C.C.T.) and as recoded in Instrument Number 20130611000803820 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Town of Prosper, Collin County, Texas; (the "Property") and more particularly described and depicted in Exhibits A and B, which is attached hereto and incorporated herein for all purposes, is appropriate for use as the location of the Prosper Trail Improvements, Coit Road to Custer Road Project ("Project") and that there exists a public necessity to acquire the Property for the construction of the Project, which is a public use; and

WHEREAS, the Town Council desires to acquire the Property for this governmental and public use in conjunction with the Town of Prosper's construction of the Prosper Trail Improvements, Coit Road to Custer Road Project; and

WHEREAS, the Town Council desires that the Town Manager, or his designee, take all necessary steps to acquire the Property for the Project including, but not limited to, the retention of appraisers, engineers, and other consultants and experts, and that the Town Attorney, or his designee, negotiate the purchase of the Property for the Project, and if unsuccessful in purchasing the Property for the Project, to institute condemnation proceedings to acquire these required property interests.

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

SECTION 1

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

SECTION 2

The Town Council hereby finds and determines that a public use and necessity exists for the Town of Prosper, Texas, to acquire the Property for the Project.

SECTION 3

The Town Manager, or his designee, is authorized and directed to negotiate for and to acquire the Property for the Project, for the Town of Prosper, Texas, and to acquire said rights in compliance with State and Federal law. The Town Manager is specifically authorized and directed to do each and every act necessary to acquire the Property for the Project including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts, to retain and designate a qualified appraiser of the property interests to be acquired, as well as any other experts or consultants that he deems necessary for the acquisition process and, if necessary, to institute proceedings in eminent domain.

SECTION 4

The Town Manager, or any individual he may so designate, is appointed as negotiator for the acquisition of the Property for the Project, and, as such, the Town Manager is authorized and directed to do each and every act and deed hereinabove specified or authorized by reference, subject to the availability of funds appropriated by the Town Council for such purpose. The Town Manager is specifically authorized to establish the just compensation for the acquisition of the Property. If the Town Manager or his designee determines that an agreement as to damages or compensation cannot be reached, then the Town Attorney or his designee is hereby authorized and directed to file or cause to be filed, against the owners and interested parties of the needed property interests, proceedings in eminent domain to acquire the Property for the Project.

SECTION 5

This Resolution is effective immediately upon its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, BY A VOTE OF ____ TO ____ ON THIS THE 12TH DAY OF MAY, 2020.

Ray Smith, Mayor

ATTEST:

Melissa Lee, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

EXHIBIT A

**GRADING EASEMENT
FIELD NOTES DESCRIBING A 3,339 SQUARE FOOT (0.0767 ACRE) TRACT
PART OF THE QIANG WU TRACT
SITUATED IN THE
LARKIN MCCARTY SURVEY, ABSTRACT NO. 600
THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS**

BEING 3,339 square feet of land situated in the Larkin McCarty Survey, Abstract Number 600 in the Town of Prosper, Collin County, Texas, and being part of Lot 6 of Preston Country Estates, an addition to the Town of Prosper, Collin County, Texas as recorded in Volume F, Page 595 of the Plat Records of Collin County, Texas (P.R.C.C.T.), and being part of that tract of land described in General Warranty Deed to Qiang Wu and Ting Feng, husband and wife, and to Angela Yun Wu, as recorded in Instrument Number 20130611000803820 of the Deed Records of Collin County, Texas (D.R.C.C.T), and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2-inch iron rod with yellow plastic cap stamped "HALFF" set for the southeast corner of a called 0.173 acre tract of land described in deed to the County of Collin, as recorded in Volume 4754, Page 497 (D.R.C.C.T), same being the southwest corner of a called 0.115 acre tract of land described in deed to Collin County, Texas, as recorded in Instrument Number 20060404000431480 (D.R.C.C.T), being on the south right-of-way line of Prosper Trail (a variable width right-of-way), and being on the common west line of said Lot 6 and east line of Lot 1 of said Preston Country Estates;

THENCE North 89 degrees 08 minutes 53 seconds East, with the existing south right-of-way line of said Prosper Trail and with the south line of said 0.115 acre tract, a distance of 454.34 feet to a found 1/2-inch iron rod with a plastic cap stamped "GEER" for the southeast corner of said 0.115 acre tract, and being on the common east line of said Lot 6, and west line of Lot 7 of said Preston Country Estates;

THENCE South 32 degrees 29 minutes 15 seconds East, departing the existing south right-of-way line of said Prosper Trail and with said common line, a distance of 5.67 feet to a point for corner;

THENCE departing said common line, and over and across said Lot 6, the following bearings and distances:

South 89 degrees 12 minutes 58 seconds West, a distance of 241.16 feet to a point for corner;

South 85 degrees 39 minutes 07 seconds West, a distance of 100.18 feet to a point for corner;

South 87 degrees 12 minutes 14 seconds West, a distance of 100.06 feet to a point for corner;

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EXHIBIT A (Continued)

North 88 degrees 06 minutes 36 seconds West, a distance of 16.43 feet to a point on the common west line of said Lot 6 and east line of said Lot 1;

THENCE North 00 degrees 13 minutes 27 seconds East, with said common line, a distance of 13.26 feet to the POINT OF BEGINNING AND CONTAINING 3,339 square feet or 0.0767 acres of land, more or less.

Basis of Bearing is the Texas State Plane Coordinate System, North Central Zone (4202), North American Datum of 1983. All distances are surface distances. Surface Adjustment Scale Factor: 1.00015271. (TxDot Collin County).

This Legal Description and corresponding Exhibit were prepared without the benefit of a title commitment.

 MAY 4, 2020
ANDREW J. SHAFER
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS NO. 5017
TBPELS Firm No. 10029600



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LOCATION MAP



Prosper Trail Improvements, Coit Road to Custer Road
Tract 3—Wu, Feng, and Wu





ENGINEERING SERVICES

To: Mayor and Town Council

From: Pete Anaya, P.E., Assistant Director of Engineering Services – Capital Projects

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – May 12, 2020

Agenda Item:

Consider and act upon a resolution of the Town of Prosper, Texas, authorizing the Town Attorney to bring a condemnation action for the purpose of obtaining approximately 0.1299 acres of real property for grading easement, situated generally in the Larkin McCarty Survey, Abstract No. 600, in the Town of Prosper, Collin County, Texas and being part of a larger tract as recorded in Volume 3992, Page 1165 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Town of Prosper, Collin County, Texas, necessary for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project and for other public purposes permitted by law.

Description of Agenda Item:

The Town is in the process of developing engineering plans for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project. The Grading Easement is required for the construction of the roadway. While negotiations are going well, staff is requesting advance authorization to pursue acquisition by eminent domain if needed.

Legal Obligations and Review:

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

Attached Documents:

1. Resolution
2. Location Map

Town Staff Recommendation:

Town staff recommends that the Town Council authorize the Town Attorney to bring a condemnation action for the purpose of obtaining approximately 0.1299 acres of real property for grading easement, situated generally in the Larkin McCarty Survey, Abstract No. 600, in the Town of Prosper, Collin County, Texas and being part of a larger tract as recorded in Volume 3992, Page 1165 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Collin County, Texas,

necessary for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project and for other public purposes permitted by law.

Proposed Motion:

I move that the Town Council authorize the Town Attorney to bring a condemnation action for the purpose of obtaining approximately 0.1299 acres of real property for grading easement, situated generally in the Larkin McCarty Survey, Abstract No. 600, in the Town of Prosper, Collin County, Texas and being part of a larger tract as recorded in Volume 3992, Page 1165 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Collin County, Texas, necessary for the construction of the Prosper Trail Improvements, Coit Road to Custer Road Project and for other public purposes permitted by law.

This item requires a roll call vote.

TOWN OF PROSPER, TEXAS

RESOLUTION NO. 2020-__

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, DECLARING THE NECESSITY TO ACQUIRE APPROXIMATELY 0.1299 ACRES OF REAL PROPERTY FOR GRADING EASEMENT FOR THE CONSTRUCTION OF THE PROSPER TRAIL IMPROVEMENTS, COIT ROAD TO CUSTER ROAD PROJECT SAID PROPERTY LOCATED IN THE LARKIN MCCARTY SURVEY, ABSTRACT NO. 600, TOWN OF PROSPER, COLLIN COUNTY, TEXAS; DETERMINING THE PUBLIC USE AND NECESSITY FOR SUCH ACQUISITION; AUTHORIZING THE ACQUISITION OF PROPERTY RIGHTS NECESSARY FOR SAID PROJECT; APPOINTING AN APPRAISER AND NEGOTIATOR AS NECESSARY; AUTHORIZING THE TOWN MANAGER OF THE TOWN OF PROSPER, TEXAS, TO ESTABLISH JUST COMPENSATION FOR THE PROPERTY RIGHTS TO BE ACQUIRED; AUTHORIZING THE TOWN MANAGER TO TAKE ALL STEPS NECESSARY TO ACQUIRE THE NEEDED PROPERTY RIGHTS IN COMPLIANCE WITH ALL APPLICABLE LAWS AND RESOLUTIONS; AND AUTHORIZING THE TOWN ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS TO ACQUIRE THE PROPERTY IF PURCHASE NEGOTIATIONS ARE NOT SUCCESSFUL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Prosper, Texas (the "Town Council"), has determined that approximately 0.1299 acres of real property for grading easement, situated generally in the Larkin McCarty Survey, Abstract No. 600, in the Town of Prosper, Collin County, Texas and being part of a larger tract as recorded in Volume 3992, Page 1165 of the Deed Records of Collin County, Texas (D.R.C.C.T.), Town of Prosper, Collin County, Texas; (the "Property") and more particularly described and depicted in Exhibits A and B, which is attached hereto and incorporated herein for all purposes, is appropriate for use as the location of the Prosper Trail Improvements, Coit Road to Custer Road Project ("Project") and that there exists a public necessity to acquire the Property for the construction of the Project, which is a public use; and

WHEREAS, the Town Council desires to acquire the Property for this governmental and public use in conjunction with the Town of Prosper's construction of the Prosper Trail Improvements, Coit Road to Custer Road Project; and

WHEREAS, the Town Council desires that the Town Manager, or his designee, take all necessary steps to acquire the Property for the Project including, but not limited to, the retention of appraisers, engineers, and other consultants and experts, and that the Town Attorney, or his designee, negotiate the purchase of the Property for the Project, and if unsuccessful in purchasing the Property for the Project, to institute condemnation proceedings to acquire these required property interests.

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

SECTION 1

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

SECTION 2

The Town Council hereby finds and determines that a public use and necessity exists for the Town of Prosper, Texas, to acquire the Property for the Project.

SECTION 3

The Town Manager, or his designee, is authorized and directed to negotiate for and to acquire the Property for the Project, for the Town of Prosper, Texas, and to acquire said rights in compliance with State and Federal law. The Town Manager is specifically authorized and directed to do each and every act necessary to acquire the Property for the Project including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts, to retain and designate a qualified appraiser of the property interests to be acquired, as well as any other experts or consultants that he deems necessary for the acquisition process and, if necessary, to institute proceedings in eminent domain.

SECTION 4

The Town Manager, or any individual he may so designate, is appointed as negotiator for the acquisition of the Property for the Project, and, as such, the Town Manager is authorized and directed to do each and every act and deed hereinabove specified or authorized by reference, subject to the availability of funds appropriated by the Town Council for such purpose. The Town Manager is specifically authorized to establish the just compensation for the acquisition of the Property. If the Town Manager or his designee determines that an agreement as to damages or compensation cannot be reached, then the Town Attorney or his designee is hereby authorized and directed to file or cause to be filed, against the owners and interested parties of the needed property interests, proceedings in eminent domain to acquire the Property for the Project.

SECTION 5

This Resolution is effective immediately upon its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, BY A VOTE OF ___ TO ___ ON THIS THE 12TH DAY OF MAY, 2020.

Ray Smith, Mayor

ATTEST:

Melissa Lee, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

EXHIBIT A

**GRADING EASEMENT
FIELD NOTES DESCRIBING A 5,656 SQUARE FOOT (0.1299 ACRE) TRACT
PART OF THE HAROLD PATIN TRACT
SITUATED IN THE
LARKIN MCCARTY SURVEY, ABSTRACT NO. 600
THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS**

BEING 5,656 square feet of land situated in the Larkin McCarty Survey, Abstract Number 600 in the Town of Prosper, Collin County, Texas, and being part of that tract of land described as Tract A in Warranty Deed with Vendor's Lien to Harold Patin and Spouse, Maureen Patin, as recorded in Volume 3992, Page 1165 of the Deed Records of Collin County, Texas (D.R.C.C.T), and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2-inch iron rod with plastic cap stamped "BW2" found on the south line of Prosper Trail (a variable width right-of-way), being on the south line of a 1.510 acre tract of land described in deed to the County of Collin, as recorded in Volume 4826, Page 2290 (D.R.C.C.T), said point being the northwest corner of a called 17.132 acre tract of land described as Tract 1 in General Warranty Deed to the Town of Prosper, Texas, as recorded in Instrument Number 20150115000048760, Official Public Records, Collin County, Texas;

THENCE South 44 degrees 19 minutes 21 seconds East, departing said south right-of-way line of said Prosper Trail and with the west line of said 17.132 acre tract, a distance of 18.14 feet to a point for corner;

THENCE departing said west line, and over and across said Patin tract the following bearings and distances:

North 88 degrees 50 minutes 57 seconds West, a distance of 115.87 feet to a point for corner;

North 89 degrees 55 minutes 03 seconds West, a distance of 40.26 feet to a point for corner;

South 89 degrees 41 minutes 39 seconds West, a distance of 249.35 feet to a point for corner;

South 88 degrees 41 minutes 04 seconds West, a distance of 57.16 feet to a point for corner;

North 88 degrees 07 minutes 27 seconds West, a distance of 50.06 feet to a point for corner;

South 88 degrees 09 minutes 55 seconds West, a distance of 50.01 feet to a point for corner;

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EXHIBIT A (Continued)

South 68 degrees 54 minutes 50 seconds West, a distance of 53.28 feet to a point for corner;

South 85 degrees 28 minutes 38 seconds West, a distance of 70.18 feet to a point for corner on the said south line of Prosper Trail and south line of the 1.510 acre County of Collin tract;

THENCE North 72 degrees 24 minutes 33 seconds East along said south lines, a distance of 97.91 to a point for corner;

THENCE North 89 degrees 07 minutes 26 seconds East, continuing with said south lines, a distance of 544.36 feet to a point for corner;

THENCE South 89 degrees 58 minutes 36 seconds East, continuing with said south lines, a distance of 31.99 feet to the POINT OF BEGINNING AND CONTAINING 5,656 square feet or 0.1299 acres of land, more or less.

Basis of Bearing is the Texas State Plane Coordinate System, North Central Zone (4202), North American Datum of 1983. All distances are surface distances. Surface Adjustment Scale Factor: 1.00015271. (TxDot Collin County).

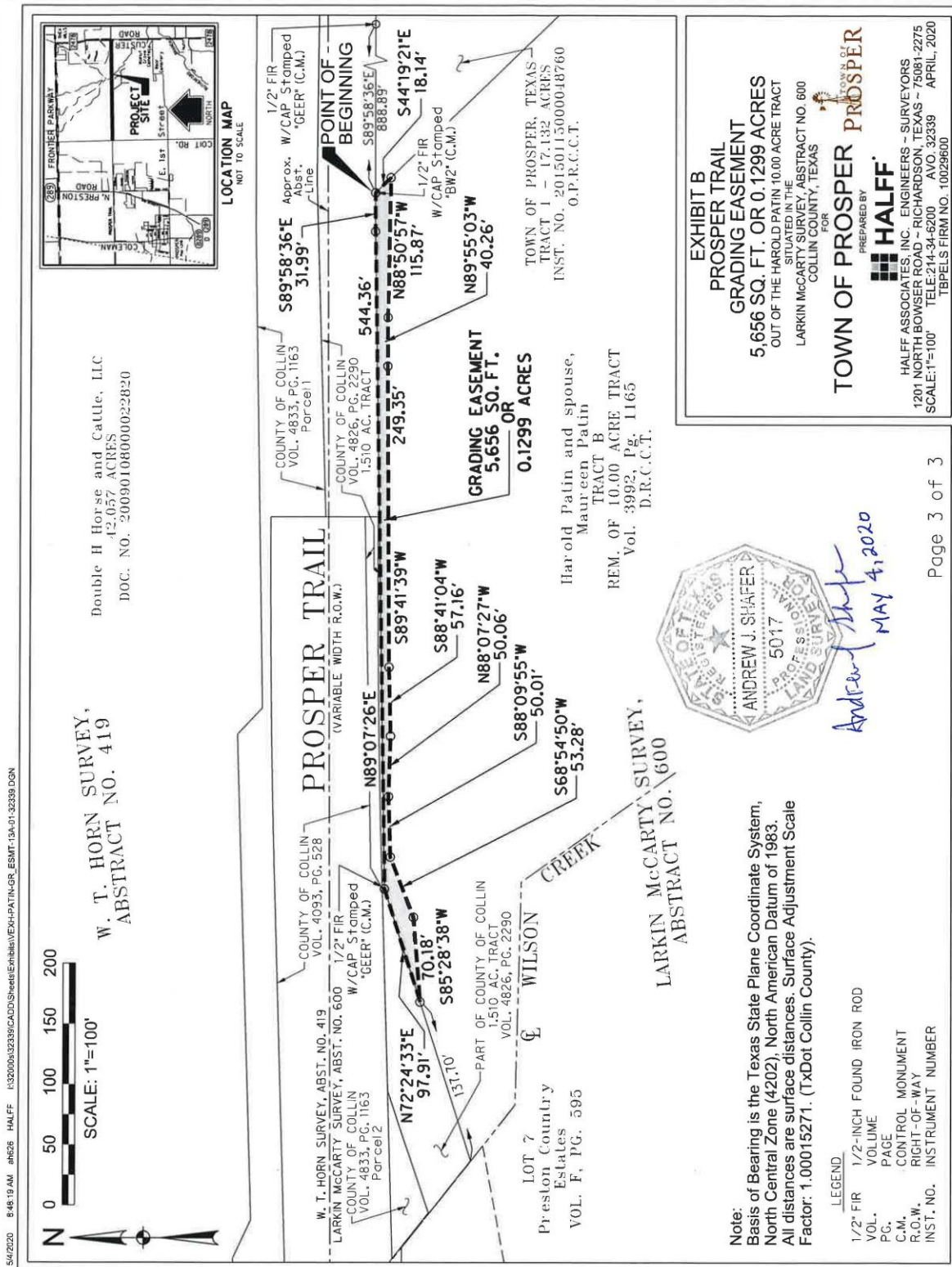
This Legal Description and corresponding Exhibit were prepared without the benefit of a title commitment.

Andrew J. Shafer MAY 4, 2020
ANDREW J. SHAFER
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS NO. 5017
TBPELS Firm No. 10029600



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EXHIBIT B



LOCATION MAP



Prosper Trail Improvements, Coit Road to Custer Road

Tract 4—Patin



PLANNING



To: Mayor and Town Council

From: John Webb, AICP, Director of Development Services

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – May 12, 2020

Agenda Item:

Consider and act upon an ordinance amending Subsection (6), “Fences or Low Walls in the Required Front Yard of a Residential District,” and Subsection (13) of Section 3.19.001, “General Regulations,” of Article 3.19, “Fence Regulations,” of Chapter 3, “Building Regulations,” of the Town’s Code of Ordinances, by authorizing the Town Manager to approve alternate materials for fences and low walls. (MD20-0007)

Description of Agenda Item:

This is a relatively narrow waiver that allows the Town Manager to approve waivers of alternate materials for fences and low walls. Currently the Town Council possesses the authority to approve waivers; however, this ordinance would allow the Town Manager to approve waivers, and if the Town Manager opts not to approve a waiver, the applicant may appeal that denial to the Town Council.

“ARTICLE 3.19 FENCE REGULATIONS**Sec. 3.19.001 General Regulations**

* * *

- (6) Fences or Low Walls in the Required Front Yard of a Residential District. Fences or low walls located in the required front yard of any residential district or any residential lot shall be subject to the following approval process and meet the following standards:
- (A) The Town Manager may approve a request for a fence or low wall in the required front yard. An application for Town Manager consideration of a fence or wall in the required front yard shall be submitted on a form supplied by the Department of Development Services.
 - (B) The denial of an application by the Town Manager may be appealed to the Town Council for consideration. The decision of the Town Council shall be final.

- (C) Fences shall have a minimum of fifty percent (50%) through vision and shall not exceed eight feet (8') in height.
- (D) Low, solid walls shall be subject to the following criteria:
 - (i) Shall not exceed three feet (3') in height;
 - (ii) Shall be constructed of clay-fired brick, natural stone or manufactured stone;
 - (iii) Shall not be constructed of concrete block, split faced concrete block or stucco; and
 - (iv) Shall not be painted.

* * *

- (13) Alternate Materials. The Town Manager may approve alternate materials for fences and low walls. An application for Town Manager consideration of an alternate fence or low wall material shall be submitted on a form supplied by the Department of Development Services. The decision of the Town Manager to not approve alternate materials for fences or low walls may be appealed to the Town Council."

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

Town Staff Recommendation:

Staff recommends the Town Council approve an ordinance amending Subsection (6), "Fences or Low Walls in the Required Front Yard of a Residential District," and Subsection (13) of Section 3.19.001, "General Regulations," of Article 3.19, "Fence Regulations," of Chapter 3, "Building Regulations," of the Town's Code of Ordinances, by authorizing the Town Manager to approve alternate materials for fences and low walls.

Proposed Motion:

I move to approve an ordinance amending Subsection (6), "Fences or Low Walls in the Required Front Yard of a Residential District," and Subsection (13) of Section 3.19.001, "General Regulations," of Article 3.19, "Fence Regulations," of Chapter 3, "Building Regulations," of the Town's Code of Ordinances, by authorizing the Town Manager to approve alternate materials for fences and low walls.

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2020-__

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING SUBSECTION (6), "FENCES OR LOW WALLS LOCATED IN THE REQUIRED FRONT YARD OF A RESIDENTIAL DISTRICT," AND SUBSECTION (13), "ALTERNATE MATERIALS," OF SECTION 3.19.001, "GENERAL REGULATIONS," OF ARTICLE 3.19, "FENCE REGULATIONS," OF CHAPTER 3, "BUILDING REGULATIONS," OF THE TOWN'S CODE OF ORDINANCES, BY AUTHORIZING THE TOWN MANAGER TO APPROVE ALTERNATE MATERIALS FOR FENCES AND LOW WALLS; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION OF THE CAPTION HEREOF; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council desires to amend its current fence regulations to allow the Town Manager to approve front yard fences in residential districts and alternate materials for fences and low walls, as referenced in Article 3.19, "Fence Regulations," of Chapter 3, "Building Regulations," of the Town's Code of Ordinances.

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

SECTION 1

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

SECTION 2

From and after the effective date of this Ordinance, Subsection (6), "Fences or Low Walls in the Required Front Yard of a Residential District," and Subsection (13) of Section 3.19.001, "General Regulations," of Article 3.19, "Fence Regulations," of Chapter 3, "Building Regulations," of the Town's Code of Ordinances is hereby amended to read as follows:

"ARTICLE 3.19 FENCE REGULATIONS"

Sec. 3.19.001 General Regulations

* * *

- (6) Fences or Low Walls in the Required Front Yard of a Residential District. Fences or low walls located in the required front yard of any residential district or any residential lot shall be subject to the following approval process and meet the following standards:
- (A) The Town Manager may approve a request for a fence or low wall in the required front yard. An application for Town Manager consideration of a fence or wall in the required front yard shall be submitted on a form supplied by the Department of Development Services.
 - (B) The denial of an application by the Town Manager may be appealed to the Town Council for consideration. The decision of the Town Council shall be final.

- (C) Fences shall have a minimum of fifty percent (50%) through vision and shall not exceed eight feet (8') in height.
- (D) Low, solid walls shall be subject to the following criteria:
 - (i) Shall not exceed three feet (3') in height;
 - (ii) Shall be constructed of clay-fired brick, natural stone or manufactured stone;
 - (iii) Shall not be constructed of concrete block, split faced concrete block or stucco; and
 - (iv) Shall not be painted.

* * *

- (13) Alternate Materials. The Town Manager may approve alternate materials for fences and low walls. An application for Town Manager consideration of an alternate fence or low wall material shall be submitted on a form supplied by the Department of Development Services. The decision of the Town Manager to not approve alternate materials for fences or low walls may be appealed to the Town Council."

SECTION 3

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. The Town 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

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

SECTION 5

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, and each and every day such violation shall continue shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the Town from filing suit to enjoin the violation, and the Town retains all legal rights and remedies available to it.

SECTION 6

This Ordinance shall become effective from and after its adoption and publication as required by law.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE
TOWN OF PROSPER, TEXAS, ON THIS 12th DAY OF MAY, 2020.

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: John Webb, AICP, Director of Development Services

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – May 12, 2020

Agenda Item:

Consider and act upon an ordinance amending Subsections 7.01(b), “Definitions,” and 7.01(c), “Decision-Maker,” of Subsection 7.01, “Petition for Subdivision Waiver,” of Section 7, “Subdivision Relief Procedures,” of the Town’s Subdivision Ordinance, an exhibit to Article 10.03, “Subdivision Ordinance,” of Chapter 10, “Subdivision Regulation,” of the Code of Ordinances, by authorizing the Town Manager to approve minor waivers of subdivision design standards. (MD20-0008)

Description of Agenda Item:

To provide flexibility, the proposed ordinance permits the Town Manager to approve minor waivers of subdivision design standards. Currently, the Director of Development Services is allowed to approve waivers of right angles for side lot lines, minimum lot size for lots created prior to the adoption of the Subdivision Ordinance, minimum block size, street right-of-way dedication (in very limited circumstances less than five feet) and street openings to adjoining properties.

The Town Manager would be authorized to waive any other design standard in Section 6 of the Subdivision Ordinance; however, he is not authorized to approve any waiver for Homeowners’ Property Owners’ Associations, Park Land Designs, Dedications, and Fees, and Franchise Utilities. Further, the Town Manager is not authorized to waive any fee or charge imposed by the Town. The decision of the Town Manager not to waive a subdivision design standard could be considered by the Town Council as a Council Waiver.

“7.01 Petition for Subdivision Waiver**B. Definitions**

Subdivision Waivers shall be classified as an Administrative Waiver, Town Manager Waiver or Council Waiver. Administrative Waivers are defined as a minor change to the standards, but not the intent, of these Subdivision Regulations and are listed in Table 7. A Town Manager Waiver is a waiver of a subdivision design standard contained in Section 6 of the Subdivision Ordinance, as amended, subject

to the limitations in Subpart (C). A Council Waiver is a significant change to both the standards and intent of the Subdivision Regulations, which involves Planning & Zoning Commission and Town Council approval and is not listed in Table 7.

C. Decision-Maker

2. Town Manager Waiver

Other than those sections listed above in Table 7 for Administrative Waiver by the Development Services Director, the Town Manager may waive any subdivision design standard listed in Section 6 of the Subdivision Ordinance, as amended; however, in no event shall the Town Manager waive any provision of Section 6.19, "Homeowners' Property Owners' Associations," Section 6.20, "Park Land Designs, Dedications, and Fees," and Section 6.21, "Franchise Utilities," all as amended. Further, the Town Manager is not authorized to waive any fee or charge imposed by the Town. The decision of the Town Manager not to waive a subdivision design standard referenced herein may be considered by the Town Council as a Council Waiver.

3. Council Waiver

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

Town Staff Recommendation:

Staff recommends the Town Council approve an ordinance amending Subsections 7.01(b), "Definitions," and 7.01(c), "Decision-Maker," of Subsection 7.01, "Petition for Subdivision Waiver," of Section 7, "Subdivision Relief Procedures," of the Town's Subdivision Ordinance, an exhibit to Article 10.03, "Subdivision Ordinance," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances, by authorizing the Town Manager to approve minor waivers of subdivision design standards.

Proposed Motion:

I move to approve an ordinance amending Subsections 7.01(b), "Definitions," and 7.01(c), "Decision-Maker," of Subsection 7.01, "Petition for Subdivision Waiver," of Section 7, "Subdivision Relief Procedures," of the Town's Subdivision Ordinance, an exhibit to Article 10.03, "Subdivision Ordinance," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances, by authorizing the Town Manager to approve minor waivers of subdivision design standards.

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2020-__

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING SUBSECTIONS 7.01(B), "DEFINITIONS," AND 7.01(C), "DECISION-MAKER," OF SUBSECTION 7.01, "PETITION FOR SUBDIVISION WAIVER," OF SECTION 7, "SUBDIVISION RELIEF PROCEDURES," OF THE TOWN'S SUBDIVISION ORDINANCE, AN EXHIBIT TO ARTICLE 10.03, "SUBDIVISION ORDINANCE," OF CHAPTER 10, "SUBDIVISION REGULATIONS," OF THE CODE OF ORDINANCES OF THE TOWN OF PROSPER, TEXAS; PROVIDING FOR SEVERABILITY, SAVINGS AND REPEALING CLAUSES; PROVIDING FOR PENALTIES; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the Town of Prosper, Texas ("Town"), is a home-rule municipality under the laws of the State of Texas and is duly incorporated; and

WHEREAS, the Town possesses the full power of self-government, as authorized by the Texas Constitution and the Town's duly adopted Charter; and

WHEREAS, while certainly acknowledging that it is desirable to strictly enforce the Town's subdivision regulations, on occasion a project may present such challenges where some minor flexibility may be required and is desirable, while nonetheless upholding the policy purposes underpinning the Town's subdivision regulations; and

WHEREAS, the Town previously has acknowledged the need for flexibility in the land development process; and

WHEREAS, it is the desire of the Town Council to allow the Town Manager to possess similar limited authority to approve waivers of certain subdivision design standards, subject to those limitations enunciated in this Ordinance; and

WHEREAS, the Town Council, on behalf of Prosper and its citizens, further has determined that the following amendments will promote the orderly, safe and efficient growth of the Town and the Town's extraterritorial jurisdiction.

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

SECTION 1

All of the above findings are hereby found to be true and correct and are hereby incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

From and after the effective date of this Ordinance, Subsections 7.01(b), "Definitions," and 7.01(c), "Decision-Maker," of Subsection 7.01, "Petition for Subdivision Waiver," of Section 7, "Subdivision Relief Procedures," of the Town's Subdivision Ordinance, an exhibit to Article

10.03, "Subdivision Ordinance," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances of the Town of Prosper, Texas, is hereby amended to read as follows:

"7.01 Petition for Subdivision Waiver

* * *

B. Definitions

Subdivision Waivers shall be classified as an Administrative Waiver, Town Manager Waiver or Council Waiver. Administrative Waivers are defined as a minor change to the standards, but not the intent, of these Subdivision Regulations and are listed in Table 7. A Town Manager Waiver is a waiver of a subdivision design standard contained in Section 6 of the Subdivision Ordinance, as amended, subject to the limitations in Subpart (C). A Council Waiver is a significant change to both the standards and intent of the Subdivision Regulations, which involves Planning & Zoning Commission and Town Council approval and is not listed in Table 7.

C. Decision-Maker

* * *

2. Town Manager Waiver

Other than those sections listed above in Table 7 for Administrative Waiver by the Development Services Director, the Town Manager may waive any subdivision design standard listed in Section 6 of the Subdivision Ordinance, as amended; however, in no event shall the Town Manager waive any provision of Section 6.19, "Homeowners' Property Owners' Associations," Section 6.20, "Park Land Designs, Dedications, and Fees," and Section 6.21, "Franchise Utilities," all as amended. Further, the Town Manager is not authorized to waive any fee or charge imposed by the Town. The decision of the Town Manager not to waive a subdivision design standard referenced herein may be considered by the Town Council as a Council Waiver.

3. Council Waiver

* * *

SECTION 3

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. The Town Council 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

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 repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 5

Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not to exceed the sum of Five Hundred Dollars (\$500.00), and each and every day such violation shall continue shall constitute a separate offense.

SECTION 6

This Ordinance shall become effective from and after its passage and publication.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 12th DAY OF MAY, 2020.

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: John Webb, AICP, Director of Development Services

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – May 12, 2020

Agenda Item:

Conduct a Public Hearing, and consider and act upon an ordinance amending Chapter 4 (Development Requirements), Section 1 (Site Plan Process), of the Zoning Ordinance, generally allowing for waiver of certain development regulations by the Town Manager. (Z20-0008)

Description of Agenda Item:

This is a Town-initiated request to amend the Zoning Ordinance regarding the incorporation of new language to permit the Town Manager to grant minor waivers to various development standards. Currently, the Zoning Ordinance (Ordinance) permits Town staff to approve minor amendments to approved Preliminary Site Plans and Site Plans which do not substantially change the plans. In addition, the Ordinance currently permits the Planning & Zoning Commission to approve certain changes to the conceptual development plans contained with a Planned Development.

It has become apparent that additional flexibility is needed to accommodate unique development characteristics. Any other deviations, which do not fit the above-reference criteria, require a formal amendment to a Planned Development District or the rezoning of a tract to a Planned Development noting the requested deviation(s) to the base standards. Even though the requested deviation may be minor in nature and makes sense, the applicant is forced to spend a significant amount of money and time to go through the zoning process.

The proposed amendment to the Ordinance adds a new subsection within the Site Plan process as follows:

**“SECTION 1
SITE PLAN PROCESS**

* * *

1.11 WAIVER OF CERTAIN DEVELOPMENT REGULATIONS BY THE TOWN MANAGER

Notwithstanding the authority granted to the Director of Development Services or his/her designee to approve or disapprove minor amendments, pursuant to Subsection 1. 7 of this Section, as amended, the Town Manager is hereby authorized to approve minor waivers or exceptions to any of the following development regulations contained in this Chapter: site plan requirements (Section 1), landscaping (Section 2), tree mitigation (Section 3), parking and loading requirements (Section 4), screening fences and walls (Section 5), outdoor lighting (Section 6), accessory buildings (Section 7), and non-residential design and development (Section 8), all as amended.

In no event shall the Town Manager approve any waiver or exception to a requirement that would (1) alter the permitted uses on the property; (2) increase the permitted density; (3) increase any permitted building height; (4) reduce any required setbacks; or (5) alter any façade requirements. Moreover, the Town Manager is not authorized and shall not approve any waiver or exception for any development requirement contained in a duly-authorized development agreement, including any requirements relative to building products or materials, or aesthetic method in the construction, renovation, maintenance or other alteration of a building.”

Legal Obligations and Review:

Notice of the Town Council Public Hearing was provided in the newspaper as required by the Zoning Ordinance and state law. To date, no correspondence has been received. Town Attorney, Terrence Welch of Brown & Hofmeister, L.L.P., has approved the standard ordinance as to form and legality.

Attached Documents:

1. Ordinance

Town Staff Recommendation:

Staff recommends the Town Council approve an ordinance amending Chapter 4 (Development Requirements), Section 1 (Site Plan Process), of the Zoning Ordinance, generally allowing for waiver of certain development regulations by the Town Manager.

Proposed Motion:

I move to approve an ordinance amending Chapter 4 (Development Requirements), Section 1 (Site Plan Process), of the Zoning Ordinance, generally allowing for waiver of certain development regulations by the Town Manager.

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2020-__

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING THE TOWN'S ZONING ORDINANCE BY ADDING THERETO A NEW SUBSECTION 1.11, "WAIVER OF CERTAIN DEVELOPMENT REGULATIONS BY THE TOWN MANAGER," CONTAINED IN SECTION 1, "SITE PLAN PROCESS," OF CHAPTER 4, "DEVELOPMENT REQUIREMENTS"; PROVIDING FOR A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, one of the problems inherent in traditional Euclidian zoning regulations, like those of the Town of Prosper ("Town"), is that on occasion there may be a lack of flexibility in applying such zoning regulations to specific projects, and scholarly commentaries have noted such concerns, for example in § 20:62, "Standards and the flexibility issue," in Rathkopf's *The Law of Zoning and Planning*; and

WHEREAS, while certainly acknowledging that it is desirable to strictly enforce Town land use regulations, on occasion a project may present such challenges where some minor flexibility may be required and is desirable, while nonetheless upholding the policy purposes underpinning the Town's zoning and land use regulations; and

WHEREAS, the Town previously has acknowledged the need for flexibility in the land development process, for example, in Section 1.7, "Amendments," of Chapter 4, "Development Requirements," in which the Director of Planning and/or his designee may approve minor site plan amendments, subject to certain limitations contained therein; and

WHEREAS, it is the desire of the Town Council to allow the Town Manager to possess similar limited authority to approve waivers of certain site development regulations, subject to those limitations enunciated in this Ordinance; and

WHEREAS, after public notice and public hearing as required by law, and upon due deliberation and consideration of the recommendation of said Planning & Zoning Commission and of all testimony and information submitted during said public hearing, the Town Council of the Town of Prosper, Texas, has determined that it is in the public's best interest and in furtherance of the health, safety, morals, and general welfare of the citizens of the Town to amend the Town's Zoning Ordinance as set forth herein.

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

SECTION 1

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

SECTION 2

From and after the effective date of this Ordinance, Section 1, "Site Plan Process," contained in Chapter 4, "Development Requirements," of the Town's Zoning Ordinance is hereby

amended by adding thereto a new Subsection 1.11, "Waiver of Certain Development Regulations by the Town Manager," to read as follows:

"SECTION 1 SITE PLAN PROCESS

* * *

1.11 WAIVER OF CERTAIN DEVELOPMENT REGULATIONS BY THE TOWN MANAGER

Notwithstanding the authority granted to the Director of Development Services or his/her designee to approve or disapprove minor amendments, pursuant to Subsection 1. 7 of this Section, as amended, the Town Manager is hereby authorized to approve minor waivers or exceptions to any of the following development regulations contained in this Chapter: site plan requirements (Section 1), landscaping (Section 2), tree mitigation (Section 3), parking and loading requirements (Section 4), screening fences and walls (Section 5), outdoor lighting (Section 6), accessory buildings (Section 7), and non-residential design and development (Section 8), all as amended.

In no event shall the Town Manager approve any waiver or exception to a requirement that would (1) alter the permitted uses on the property; (2) increase the permitted density; (3) increase any permitted building height; (4) reduce any required setbacks; or (5) alter any façade requirements. Moreover, the Town Manager is not authorized and shall not approve any waiver or exception for any development requirement contained in a duly-authorized development agreement, including any requirements relative to building products or materials, or aesthetic method in the construction, renovation, maintenance or other alteration of a building."

SECTION 3

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. The Town 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

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

SECTION 5

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense.

SECTION 6

This Ordinance shall become effective from and after its adoption and publication as required by law; however, the provisions of this Ordinance shall not be applicable to any residential development or tract of land for which one or more final plats has been approved by the Town as of the effective date of this Ordinance.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 12th DAY OF MAY, 2020.

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

Re: Town Council Meeting – May 12, 2020

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.

Description of Agenda Item:

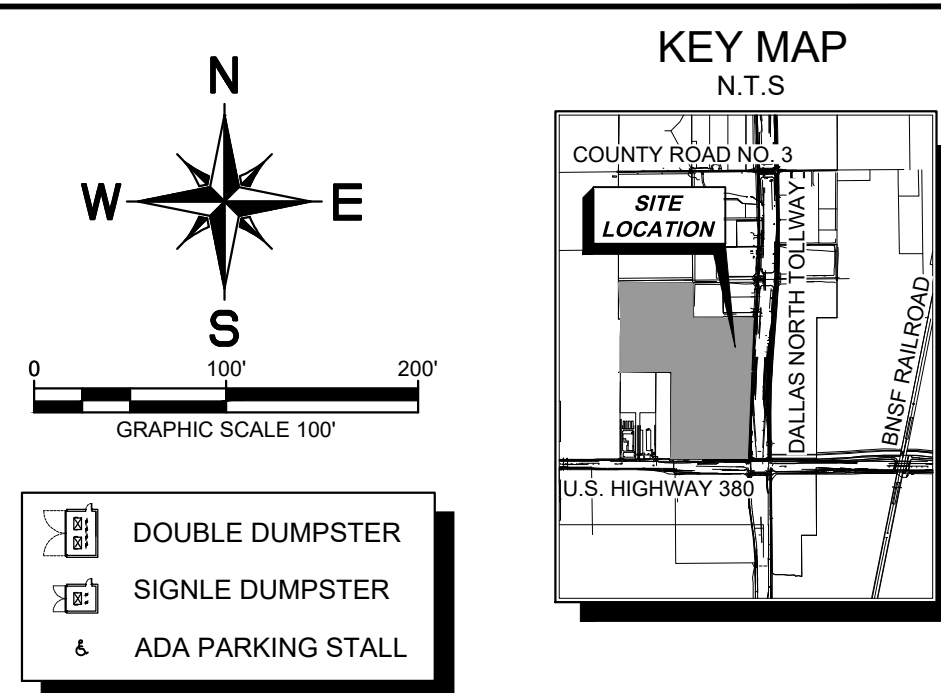
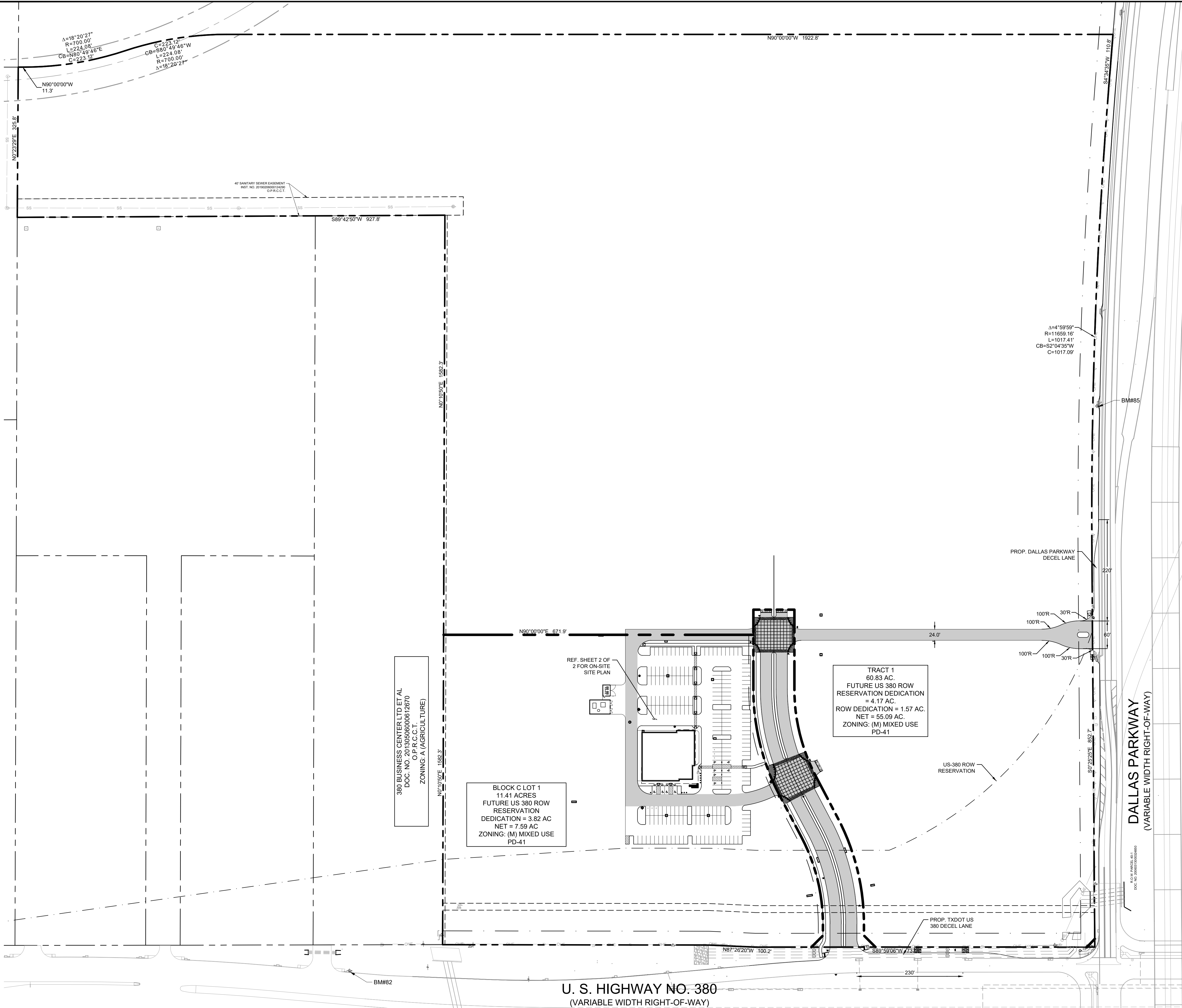
Attached are the Site Plans that were acted on by the Planning & Zoning Commission at their May 5, 2020, meeting. Per the Zoning Ordinance, the Town Council has the ability to direct staff to submit a written notice of appeal on behalf of the Town Council to the Development Services Department for any Preliminary Site Plan or Site Plan acted on by the Planning & Zoning Commission.

Attached Documents:

1. Site Plan for Children's Health MOB
2. Site Plan for Prosper Business Park
3. Site Plan for Rhea's Mill Baptist Church

Town Staff Recommendation:

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



TOWN OF PROSPER SITE PLAN NOTES

ANY REVISION TO THIS PLAN WILL REQUIRE TOWN APPROVAL AND WILL REQUIRE REVISIONS TO ANY CORRESPONDING PLANS TO AVOID CONFLICTS BETWEEN PLANS.

1. DUMPSTERS AND TRASH COMPACTORS SHALL BE SCREENED IN ACCORDANCE WITH THE ZONING ORDINANCE.
2. OPEN STORAGE, WHERE PERMITTED, SHALL BE SCREENED IN ACCORDANCE WITH THE ZONING ORDINANCE.
3. OUTDOOR LIGHTING SHALL COMPLY WITH THE LIGHTING AND GLARE STANDARDS CONTAINED WITHIN THE ZONING ORDINANCE AND SUBDIVISION ORDINANCE.
4. LANDSCAPING SHALL CONFORM TO LANDSCAPE PLANS APPROVED BY THE TOWN.
5. ALL ELEVATIONS SHALL COMPLY WITH THE STANDARDS CONTAINED WITHIN THE ZONING ORDINANCE.
6. BUILDINGS OF 5,000 SQUARE FEET OR GREATER SHALL BE 100% FIRE SPRINKLED. ALTERNATIVE FIRE PROTECTION MAY BE APPROVED BY THE FIRE DEPARTMENT.
7. FIRE LANES SHALL BE DESIGNED AND CONSTRUCTED PER TOWN STANDARDS OR AS DIRECTED BY THE FIRE DEPARTMENT.
8. TWO POINTS OF ACCESS SHALL BE MAINTAINED FOR THE PROPERTY AT ALL TIMES.
9. SPEED BUMPS/HUMPS ARE NOT PERMITTED WITHIN A FIRE LANE.
10. HANDICAPPED PARKING AREAS AND BUILDING ACCESSIBILITY SHALL CONFORM TO THE AMERICANS WITH DISABILITIES ACT (ADA) AND WITH THE REQUIREMENTS OF THE CURRENT, ADOPTED BUILDING CODE.
11. ALL SIGNAGE IS SUBJECT TO BUILDING OFFICIAL APPROVAL.
12. ALL FENCES AND RETAINING WALLS SHALL BE SHOWN ON THE PRELIMINARY SITE PLAN AND ARE SUBJECT TO BUILDING OFFICIAL APPROVAL.
13. ALL EXTERIOR BUILDING MATERIALS ARE SUBJECT TO BUILDING OFFICIAL APPROVAL AND SHALL CONFORM TO THE APPROVED FACADE PLAN.
14. SIDEWALKS OF NOT LESS THAN SIX (6) FEET IN WIDTH ALONG THOROUGHFARES AND COLLECTORS AND FIVE (5) FEET IN WIDTH ALONG RESIDENTIAL STREETS, AND BARRIER FREE RAMPS AT ALL CURB CROSSINGS SHALL BE PROVIDED PER TOWN STANDARDS.
15. APPROVAL OF THE SITE PLAN IS NOT FINAL UNTIL ALL ENGINEERING PLANS ARE APPROVED BY THE ENGINEERING SERVICES DEPARTMENT.
16. SITE PLAN APPROVAL IS REQUIRED PRIOR TO GRADING RELEASE.
17. ALL NEW ELECTRICAL LINES SHALL BE INSTALLED AND/OR RELOCATED UNDERGROUND.
18. ALL MECHANICAL EQUIPMENT SHALL BE SCREENED FROM PUBLIC VIEW IN ACCORDANCE WITH THE ZONING ORDINANCE.
19. ALL LANDSCAPE EASEMENTS MUST BE EXCLUSIVE OF ANY OTHER TYPE OF EASEMENT.
20. 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 CO AND/OR FINISH-OUT PERMIT MAY RESULT IN ADDITIONAL IMPACT FEES AND/OR PARKING REQUIREMENTS.
21. THE APPROVAL OF A SITE PLAN SHALL BE EFFECTIVE FOR A PERIOD OF EIGHTEEN (18) MONTHS FROM THE DATE OF APPROVAL BY THE PLANNING & ZONING COMMISSION, AT THE END OF WHICH TIME THE APPLICANT MUST HAVE SUBMITTED FOR REVIEW AND APPROVAL ALL ENGINEERING PLANS AND BUILDING PERMITS. IF THE ENGINEERING PLANS AND BUILDING PERMITS ARE NOT APPROVED, THE SITE PLAN APPROVAL, TOGETHER WITH ANY PRELIMINARY SITE PLAN FOR THE PROPERTY, IS NULL AND VOID.

NOTES

1. NO 100-YEAR FLOODPLAIN EXISTS ON THE SITE.
2. ALL DIMENSIONS ARE TO FACE OF CURB.
3. ALL RADII ARE 2' OR 8' UNLESS OTHERWISE SPECIFIED.
4. REF. SHEET 2 OF 2 FOR WATER METER SCHEDULE

SITE PLAN CHILDREN'S PROSPER

Being Site Plan for Block C, Lot 1, 11.41 Acres
Out Of The
COLLIN COUNTY SCHOOL LAND NO. 12 SURVEY
Abstract No. 147
Town of Prosper, Collin County, Texas
Case Number: SP20-0036

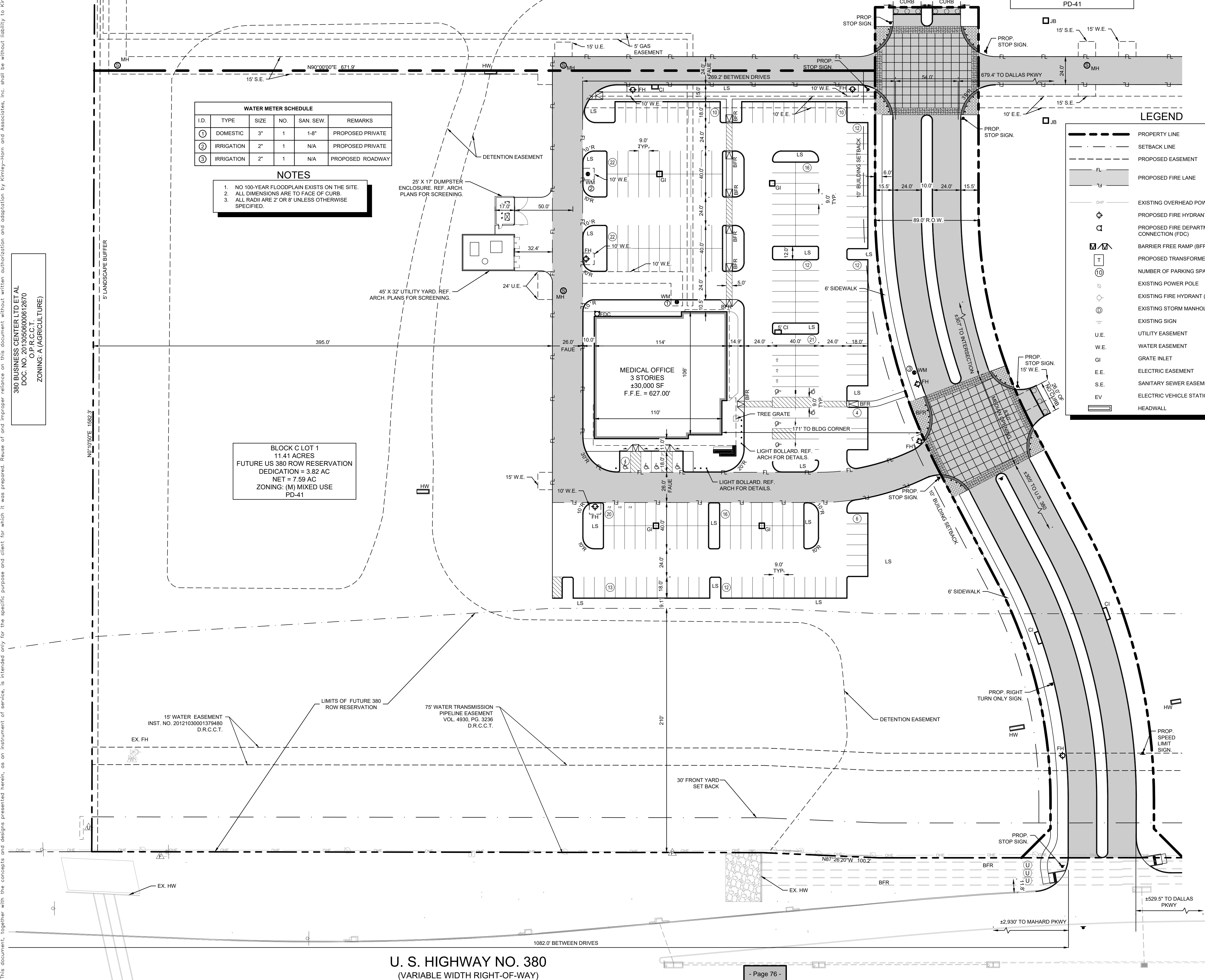
Owner: Children's Health System of Texas 1935 Medical District Drive Dallas, TX 75235 Contact: Nathan Beckey Phone: (214) 456-7070	Owner: MSW Prosper 380 LP 320 W Main Street Suite 100 Lewisville, TX 75057	Engineer/Surveyor: Kimley-Horn and Associates, Inc. 6160 Warren Parkway, Suite 210 Frisco, TX 75034 Contact: C.J. Ponton, P.E. Phone: (972) 731-3802
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DATE PREPARED: 04/27/2020

Plotted By: Hole, J.T. Date: April 29, 2020 05:32:23pm File Path: K:\FRU_Civil\064422219-CHST Prosper\CAD\PlanSheets\Phase 1\C-City_Site Plan.dwg This document, together with the concepts and designs presented herein, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

	SITE DATA SUMMARY TABLE																								
	Lot Size (AC)	Lot Size (SF)	Zoning	Proposed Use	BLDG AREA (SF)	Building Height		Lot Coverage		Floor Area Ratio				Parking		Accessible Parking		Interior Landscaping		IMPERVIOUS PARKING AREA (SF)	TOTAL IMPERVIOUSNESS		OPEN SPACE (SF)		
						Req (Max)	Prov	Req (Max)	Prov	Req (Max)	Prov	Req Ratio	Req	Prov	Req	Prov	Req (SF)	Prov (SF)	AREA (SF)		(%)	REQ 7% (SF)	PROV. (SF)	PROV. (%)	
BLOCK C LOT 1	11.41	497,020	C-1	MEDICAL OFFICE	30,000	160' 16 STORIES	30' 3 STORIES	100%	6.0%	5.0:1	0.06:1	1:300 (MEDICAL OFFICE)	100	212	7	10	20,222	20,222	89,792	112,259	22.6%	34,791	384,761	77.4%	

*Accessible parking is provided in accordance with ADA standards



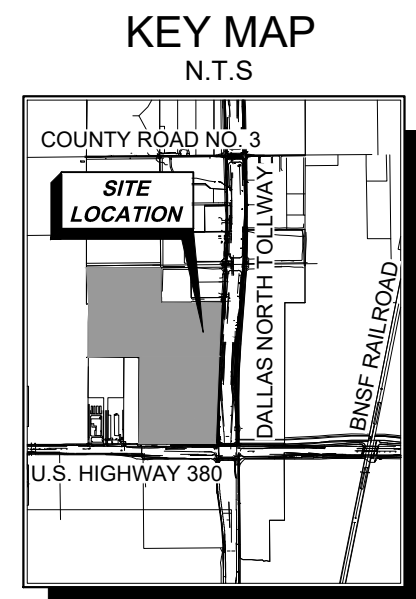
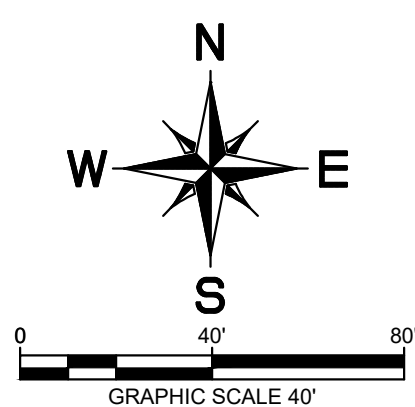
WATER METER SCHEDULE					
I.D.	TYPE	SIZE	NO.	SAN. SEW.	REMARKS
①	DOMESTIC	3"	1	1-8"	PROPOSED PRIVATE
②	IRRIGATION	2"	1	N/A	PROPOSED PRIVATE
③	IRRIGATION	2"	1	N/A	PROPOSED ROADWAY

NOTES

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BLOCK C LOT 1
11.41 ACRES
FUTURE US 380 ROW RESERVATION
DEDICATION = 3.82 AC
NET = 7.59 AC
ZONING: (M) MIXED USE
PD-41

TRACT 1
60.83 AC.
FUTURE US 380 ROW RESERVATION
DEDICATION = 4.17 AC.
ROW DEDICATION = 1.57 AC.
NET = 55.09 AC.
ZONING: (M) MIXED USE
PD-41



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BENCHMARKS

- BM #52
SQUARE CUT WITH "X" CUT ON SOUTHEAST CORNER OF CURB INLET ON NORTH SIDE OF WEST BOUND SERVICE ROAD OF U.S. HIGHWAY 380, ±1,600 FEET WEST OF THE INTERSECTION OF U.S. HIGHWAY 380 WEST BOUND SERVICE ROAD AND DALLAS PARKWAY SOUTH BOUND SERVICE ROAD.
ELEV. = 626.21
- BM #65
SQUARE CUT WITH "X" CUT ON SOUTHWEST CORNER OF CONCRETE INLET ON THE WEST SIDE OF SOUTH BOUND SERVICE ROAD OF DALLAS PARKWAY, ±1,200 FEET NORTH OF THE INTERSECTION OF U.S. HIGHWAY 380 WEST BOUND SERVICE ROAD AND DALLAS PARKWAY SOUTH BOUND SERVICE ROAD.
ELEV. = 626.73

SITE PLAN
CHILDREN'S PROSPER
SP20-0036
Being Site Plan for Block C, Lot 1, 11.41 Acres
Out Of The
COLLIN COUNTY SCHOOL LAND NO. 12 SURVEY
Abstract No. 147
Town of Prosper, Collin County, Texas
Case Number: SP20-0036

Owner:
Children's Health System of Texas
1935 Medical District Drive
Dallas, TX 75235
Contact: Nathan Beckey
Phone: (214) 456-7079

Owner:
MSW Prosper 380 LP
320 W Main Street
Suite 100
Lewisville, TX 75057

Engineer/Surveyor:
Kimley-Horn and Associates, Inc.
6160 Warren Parkway, Suite 210
Frisco, TX 75034
Contact: C.J. Ponton, P.E.
Phone: (972) 731-3802

DATE PREPARED: 04/27/2020

Item No. 10.

DATE

REVISIONS

No.

Kimley»Horn

© 2020 KIMLEY-HORN AND ASSOCIATES, INC.
6160 WARREN PARKWAY, SUITE 210, FRISCO, TX 75034
PHONE: 972-355-3580
WWW.KIMLEY-HORN.COM
TEXAS REGISTERED ENGINEERING FIRM F-528

FOR REVIEW ONLY
Not for construction or permit purposes.

Kimley»Horn

Engineer: C.J. PONTON
P.E. No. 127229 Date: 04/28/2020

SCALE

AS SHOWN

DESIGNED BY

CJP

DRAWN BY

JTC

CHECKED BY

RCS

SITE PLAN

CHILDREN'S PROSPER

PHASE 1

TOWN OF PROSPER, TEXAS

DATE

04/28/2020

PROJECT NO.

064422219

SHEET NUMBER

2 OF 2

- Page 76 -

- Page 77 -



SITE VICINITY MAP

PROJECT SITE:
5733 N CUSTER RD
MCKINNEY, TX 75071

SITE NOTES

- Any revision to this plan will require Town approval and will require revisions to any corresponding plans to avoid conflicts between plans.
- 1) Dumpsters and trash compactors shall be screened in accordance with the Zoning Ordinance.
- 2) Open storage, where permitted, shall be screened in accordance with the Zoning Ordinance.
- 3) Outdoor lighting shall comply with the lighting and glare standards contained within the Zoning Ordinance and Subdivision Ordinance.
- 4) Landscaping shall conform to landscape plans approved by the Town.
- 5) All elevations shall comply with the standards contained within the Zoning Ordinance.
- 6) Fire lines of 5,000 square feet or greater shall be 100% fire sprinkled. Alternative fire protection measures may be permitted by the Fire Department.
- 7) Fire lanes shall be designed and constructed per Town Standards or as directed by the Fire Department.
- 8) Two points of access shall be maintained for the property at all times.
- 9) Speed bumps/pumps are not permitted within the fire department.
- 10) Handicapped parking areas and building accessibility shall conform to the Americans with Disabilities Act (ADA) and with the requirements of the current, adopted Building Code.
- 11) All signage is subject to Building Official approval.
- 12) All fences and retaining walls shall be shown on the Site Plan and are subject to Building Official approval.
- 13) All exterior building facade plans are subject to Building Official approval and shall conform to the approved facade plan.
- 14) Sidewalks of less than six (6) feet in width along thoroughfares and collectors and five (5) feet in width along secondary streets, and barrier free ramps at all curb crossings shall be provided per Town Standards.
- 15) Approval of the Site Plan is not final until all engineering plans are approved by the Engineering Department.
- 16) Site Plan approval is required prior to grading release.
- 17) All new electrical lines shall be installed and/or relocated underground.
- 18) All mechanical equipment shall be screened from public view in accordance with the Zoning Ordinance.
- 19) Landscape easements must be exclusive of any other type of easement.
- 20) 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 C of A and/or finish-out may result in additional impact fees and/or parking requirements.
- 21) The applicant must submit a site plan for the proposed project within the period of eighteen (18) months of the date of approval by the Planning & Zoning Commission, at the end of which time the applicant must have submitted and received approval of engineering plans and building permits. If the engineering plans and building permits are not approved, the site plan shall remain together with the building permit for the property, is null and void.
- 22) Refer Specifications for Soils Report

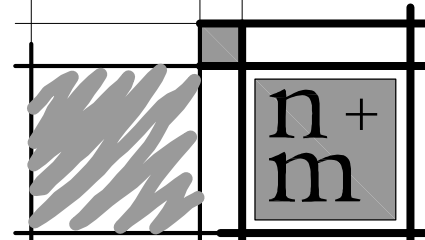
PARKING CALCULATIONS			
Existing Worship Center	320 seats @ 1 space per 3 seats in the main auditorium		107
Total spaces required			107
Total spaces provided (Existing)			114
Handicap spaces required			5
Handicap spaces provided			5

LINE DATA TABLE		
NUMBER	DIRECTION	DISTANCE
L1	N 89° 19'31" E	15.65'
L2	N 37° 52'25" E	44.57'
L3	N 08° 51'25" E	45.84'
L4	N 72° 41'25" E	39.44'
L5	N 75° 44'35" E	62.40'
L6	N 29° 58'25" E	84.78'
L7	N 65° 31'25" E	28.58'
L8	N 08° 34'25" E	68.30'
L9	N 25° 25'25" E	47.11'

SITE DATA SUMMARY TABLE	
ITEM	TOTAL
ZONING	AGRICULTURAL
LOT AREA	405,449 SF
BUILDING AREA	29,268 SF
BUILDING HEIGHT	30'-4"
LOT COVERAGE	111,867 SF
FLOOR AREA RATIO	0.07
TOTAL PARKING REQUIRED	107 SPACES
TOTAL PARKING PROVIDED	114 SPACES
HANDICAP PARKING REQUIRED	5 SPACES
HANDICAP PARKING PROVIDED	5 SPACES
INTERIOR LANDSCAPE REQUIRED	2,280 SF
INTERIOR LANDSCAPE PROVIDED	459 SF
SQUARE FOOTAGE OF IMPERVIOUS SURFACE	82,599 SF
OPEN SPACE REQUIRED (7%)	28,381 SF
OPEN SPACE PROVIDED	293,582 SF

OWNER:
RHEAS MILL BAPTIST CHURCH
5733 N. CUSTER ROAD
MCKINNEY TX 75071
972-562-2947

Item No. 10.



NELSON + MORGAN
ARCHITECTS, INC.

- Architects
- Planners
- Interior Design

2717 Wind River Lane, Suite 230
Denton, Texas 76210
Telephone 940.566.0266
Fax 940.566.0223
info@nelsonmorgan.com

TEXAS

PHASE I CHILDREN'S WING ADDITION
FOR
RHEA'S MILL BAPTIST CHURCH

PROSPER

JOB: NMA19001

COPYRIGHT 2020 BY
NELSON + MORGAN, ARCHITECTS, INC.

Date: 02/19/2021
Revision:

Issued for:	Date:
Review -	
Pricing -	
Bidding -	
Construction -	

OVERALL SITE
PLAN- PHASE ONE

SHEET

A1.0

PRELIMINARY NOT FOR CONSTRUCTION

PLANNING

To: Mayor and Town Council

From: Alex Glushko, AICP, Planning Manager

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – May 12, 2020

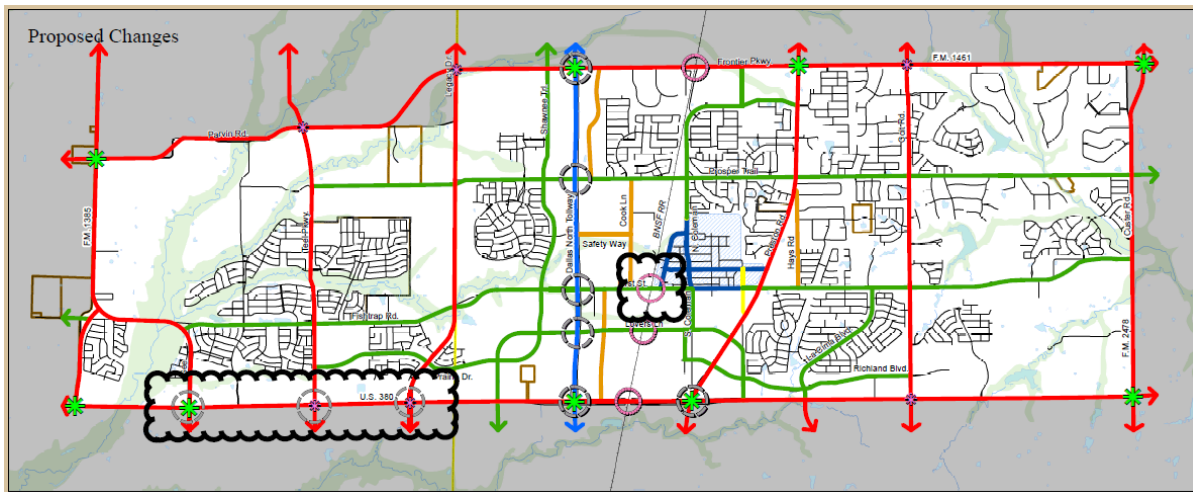
Agenda Item:

Conduct a Public Hearing, and consider and act upon an amendment to the Thoroughfare Plan to designate anticipated roadway overpasses on US 380 at Gee Road, Teel Parkway, and Legacy Drive and an overpass at First Street and the BNSF railroad. (CA20-0001).

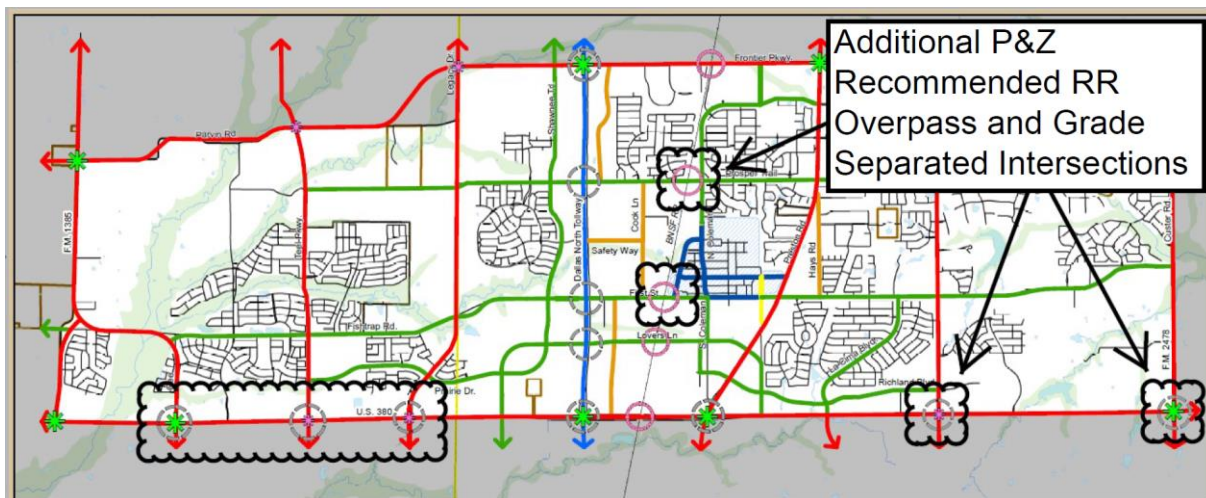
Description of Agenda Item:

The Comprehensive Plan states, "Planning for the Town's future should be a continuous process, and this Plan is designed to be a dynamic tool that can be modified and periodically updated to keep it in tune with changing conditions and trends." Recent discussions regarding the Thoroughfare Plan took place at the November 5, 2019, Planning & Zoning Commission and November 26, 2019, Town Council, meetings. At that time, an update to the Thoroughfare Plan was presented which reflected existing roadway conditions, right-of-way dedication, and/or easement acquisitions. This request is to amend the Thoroughfare Plan to reflect anticipated overpasses.

The Thoroughfare Plan currently depicts two (2) grade separations on US 380, at Preston Road and Dallas Parkway, and three (3) railroad grade separations at Frontier Parkway, Lovers Lane, and US 380. The Town is proposing the inclusion of three (3) additional grade separations on US 380 at Legacy Drive, Teel Parkway and Gee Road. The proposed grade separations are consistent with TxDOT's design plans for the expansion of US 380 in Denton County. This amendment is intended to ensure the Thoroughfare Plan is consistent with TxDOT's plans. The Town is also proposing one (1) additional railroad grade separation at First Street, shown below.



At their April 21, 2020, meeting the Planning & Zoning Commission recommended approval of the proposed amendment. In addition, the Commission recommended the inclusion of three (3) additional grade separated intersections located at, 1) Prosper Trail and the railroad, 2) Coit Road and US 380, and 3) Custer Road and US 380, shown below.



In addition, a disclaimer has been added to the map in order to clarify the intent and use of the Thoroughfare Plan.

Attached Documents:

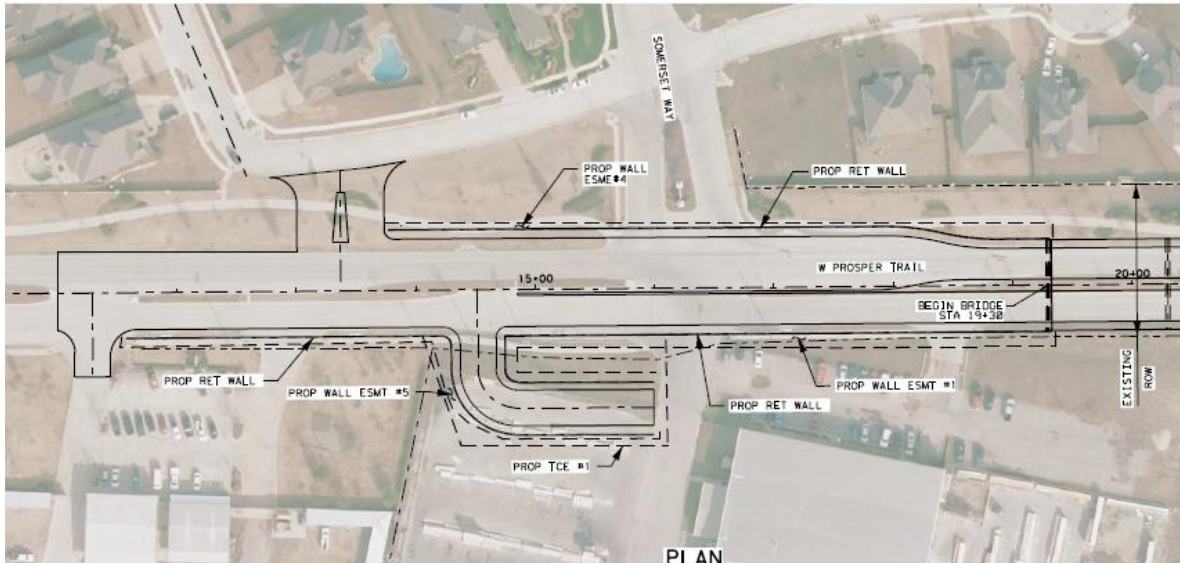
1. Existing Thoroughfare Plan
2. Proposed Thoroughfare Plan
3. Planning & Zoning Commission Recommended Thoroughfare Plan

Planning & Zoning Commission Recommendation:

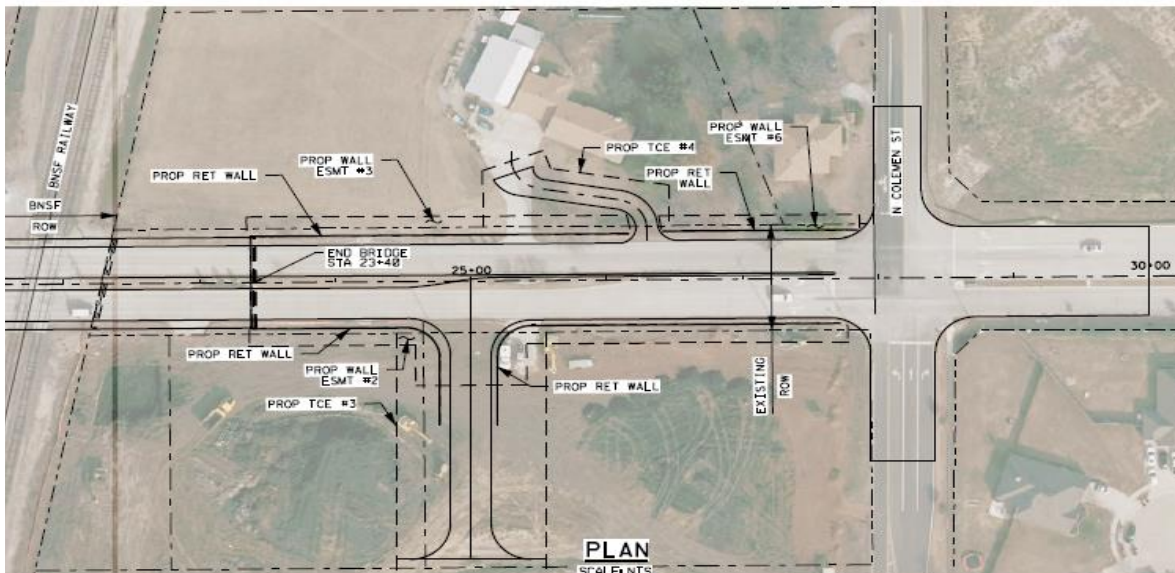
At their April 21, 2020 meeting, the Planning & Zoning Commission recommended the Town Council approve the request, subject to the inclusion of additional grade separated intersections located at Prosper Trail and the railroad, Coit Road and US 380, and Custer Road and US 380, by a vote of 6-0.

Town Staff Follow-Up Comments:

At the January 31, 2020, Strategic Planning Session Work Session, the schematic design for a railroad grade separation at Prosper Trail was presented and discussed. The portion of the schematic design west of the railroad is shown below.



The existing residential and non-residential development west of the railroad did not anticipate a grade separated crossing at the railroad, so there would have to be significant reconfiguration of access to those properties. East of the railroad, the existing elevation of Prosper Trail is lower than the railroad tracks, so the length of a grade separation would extend east of Coleman and retaining walls constructed along the north and south side of Prosper Trail from Coleman to the railroad. The retaining walls would limit those properties access to Prosper Trail as depicted on the portion of the schematic design east of the railroad shown below.



As for including grade separated intersections on Coit Road and US 380, and Custer Road and US 380 with this amendment, the Texas Department of Transportation (TxDOT) is in the process of environmental and schematic design of US 380 being a Limited Access Roadway. The public hearing on the schematic design is anticipated in March 2021. After the completion of the US 380 Feasibility Study Public Hearings last year, the Town Council delayed amending the Town's Thoroughfare Plan to depict US 380 as being a Limited Access Roadway due to concerns that there could still be a possibility of a bypass bisecting the eastern edge of the Town. At that time, the Thoroughfare Plan could have included the planned overpasses at La Cima Boulevard, Coit Road, and Custer Road. Until TxDOT approves a final alignment and design of US 380 being a Limited Access Roadway that is acceptable to the Town, the inclusion of anticipated overpasses at Coit Road and Custer Road on the Town's Thoroughfare is premature and is incomplete without the inclusion of all planned overpasses, and depiction of US 380 as a Limited Access Roadway.

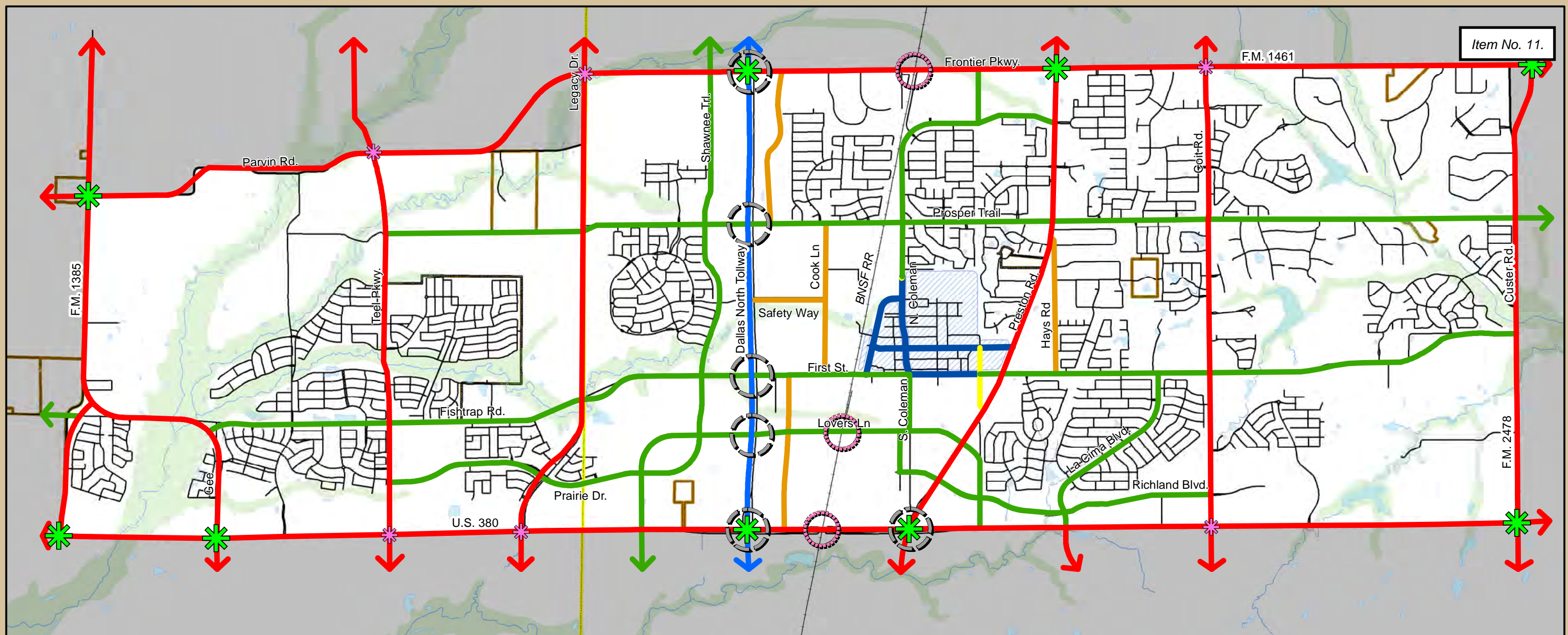
Once a final alignment and design of US 380 being a Limited Access Roadway is complete, the Town should consider an amendment to the Thoroughfare Plan to depict US 380 as a Limited Access Roadway, and include roadway overpasses on US 380 at all the agreed to locations. This process would be the same as the current request to add roadway overpasses on US 380 at Gee Road, Teel Parkway, and Legacy Drive now that TxDOT has approved plans for the widening of US 380 in Denton County and the approved plans include overpasses at those intersections.

Town Staff Recommendation:

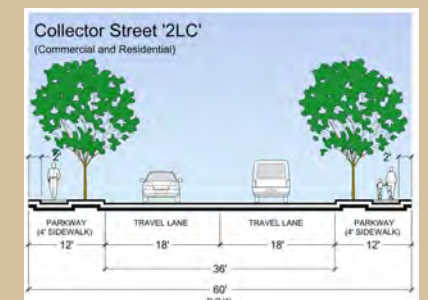
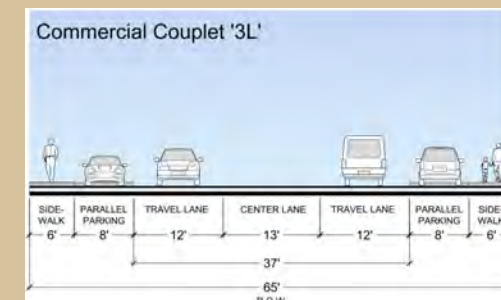
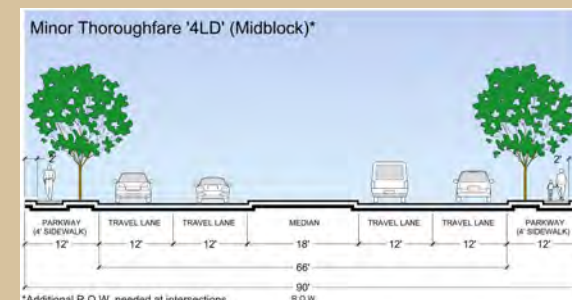
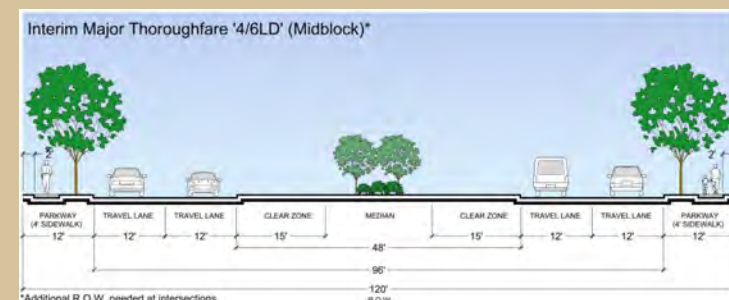
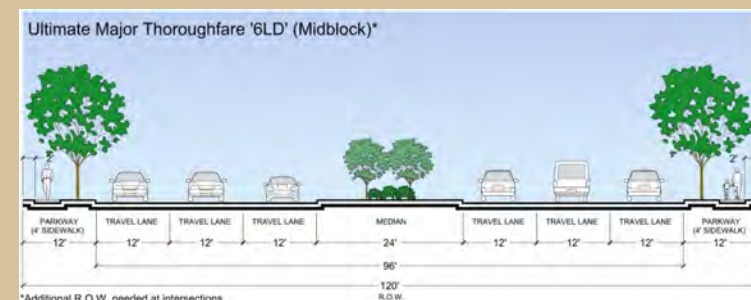
Town staff recommends the Town Council approve the request to amend the Thoroughfare Plan to designate anticipated roadway overpasses on US 380 at Gee Road, Teel Parkway, and Legacy Drive and an overpass at First Street and the BNSF railroad.

Proposed Motion:

I move to approve a request to amend the Thoroughfare Plan, to designate anticipated roadway overpasses on US 380 at Gee Road, Teel Parkway, and Legacy Drive and an overpass at First Street and the BNSF railroad.



Item No. 11.

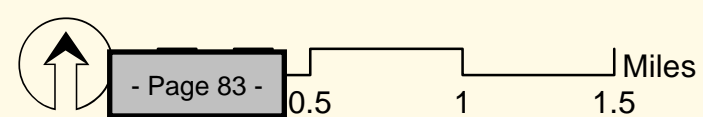


* Refer to Comprehensive Plan for Interim Development of Coit Road between Frontier Parkway and Prosper Trail.

Thoroughfare Description

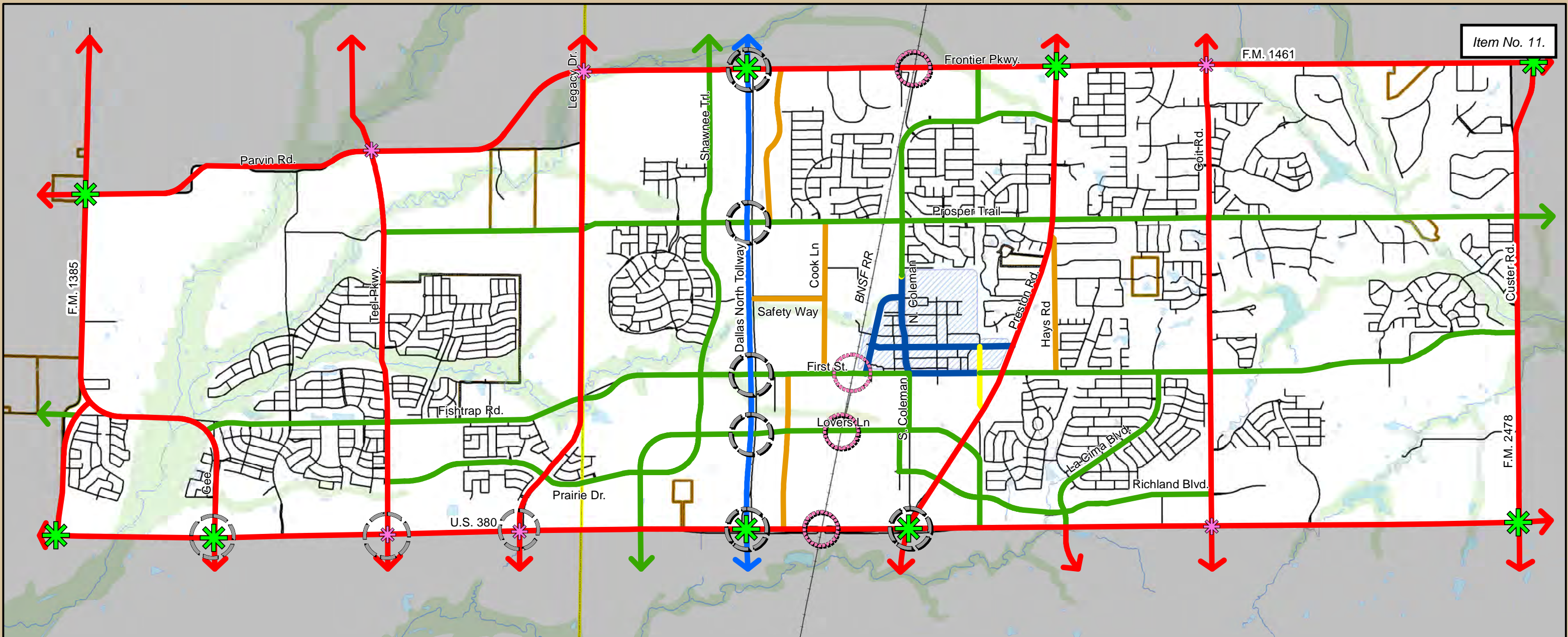
- Dallas North Tollway
- Major Thoroughfare (6 lane; 120' ROW)
- Minor Thoroughfare (4 lane; 90' ROW)
- Commercial Couplet (3 lane; 65' ROW)
- Commercial Collector (2 lane; 60' ROW)
- Old Town District (Section Varies)

- Major Gateway
- Minor Gateway
- Grade Separation
- RR Grade Separation
- Town of Prosper
- ETJ
- 100 Year Floodplain

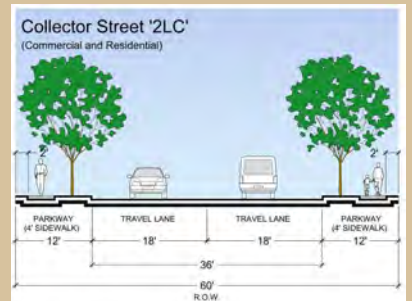
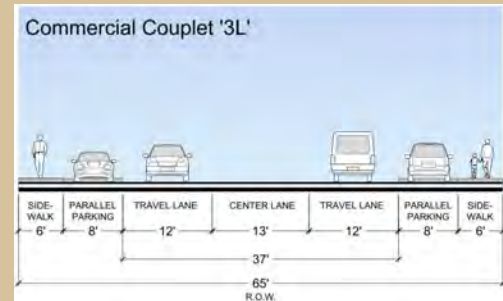
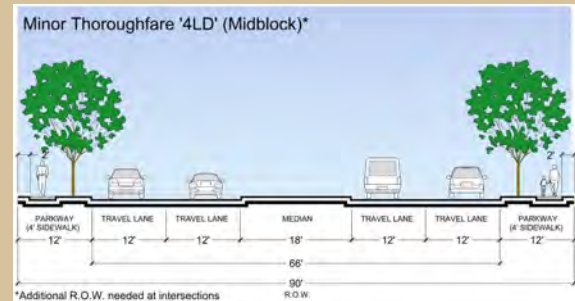
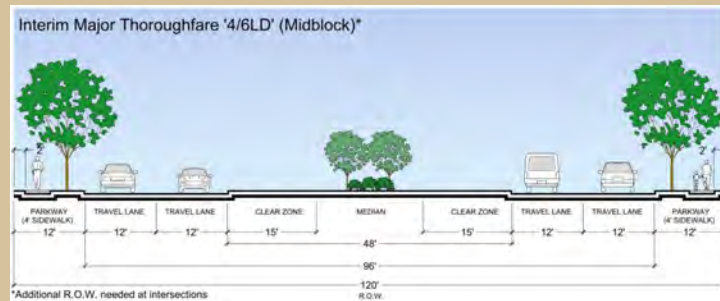
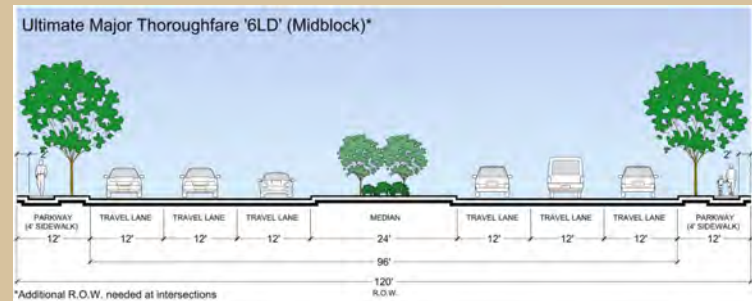


Thoroughfare Plan

Plate 3
November 2019



Item No. 11.



Thoroughfare Description

- Dallas North Tollway
- Major Thoroughfare (6 lane; 120' ROW)
- Minor Thoroughfare (4 lane; 90' ROW)
- Commercial Couplet (3 lane; 65' ROW)
- Commercial Collector (2 lane; 60' ROW)
- Old Town District (Section Varies)

- ✱ Major Gateway
- ✱ Minor Gateway
- Grade Separation
- X RR Grade Separation
- Town of Prosper
- ETJ
- + 100 Year Floodplain

The Thoroughfare Plan is for informational purposes and has not been prepared for and is not intended for legal, real estate, engineering, or surveying purposes. It is provided as a conceptual guide for transportation decisions within the Town of Prosper. The Town of Prosper does not assume any responsibility or liability for omissions or misinterpretations of the Thoroughfare Plan.

- Page 84 -

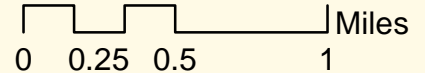
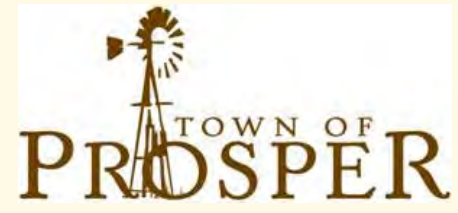
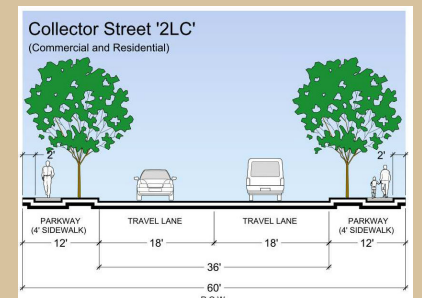
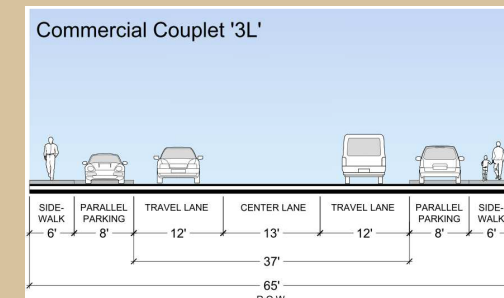
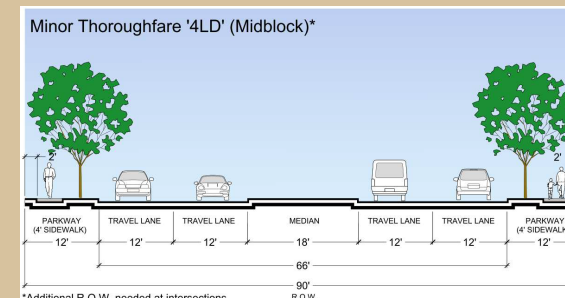
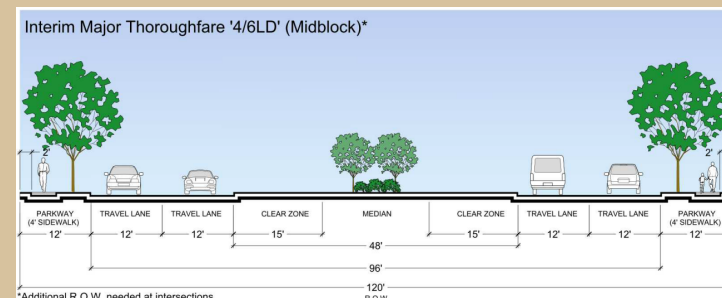
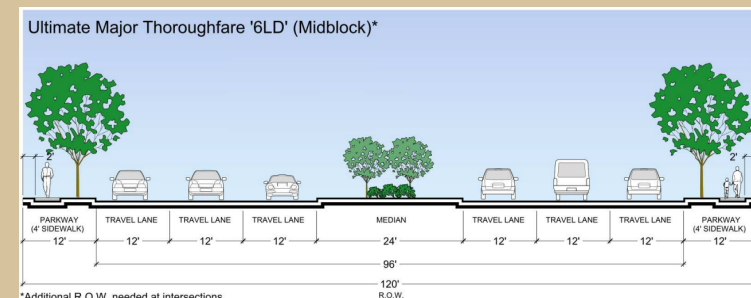
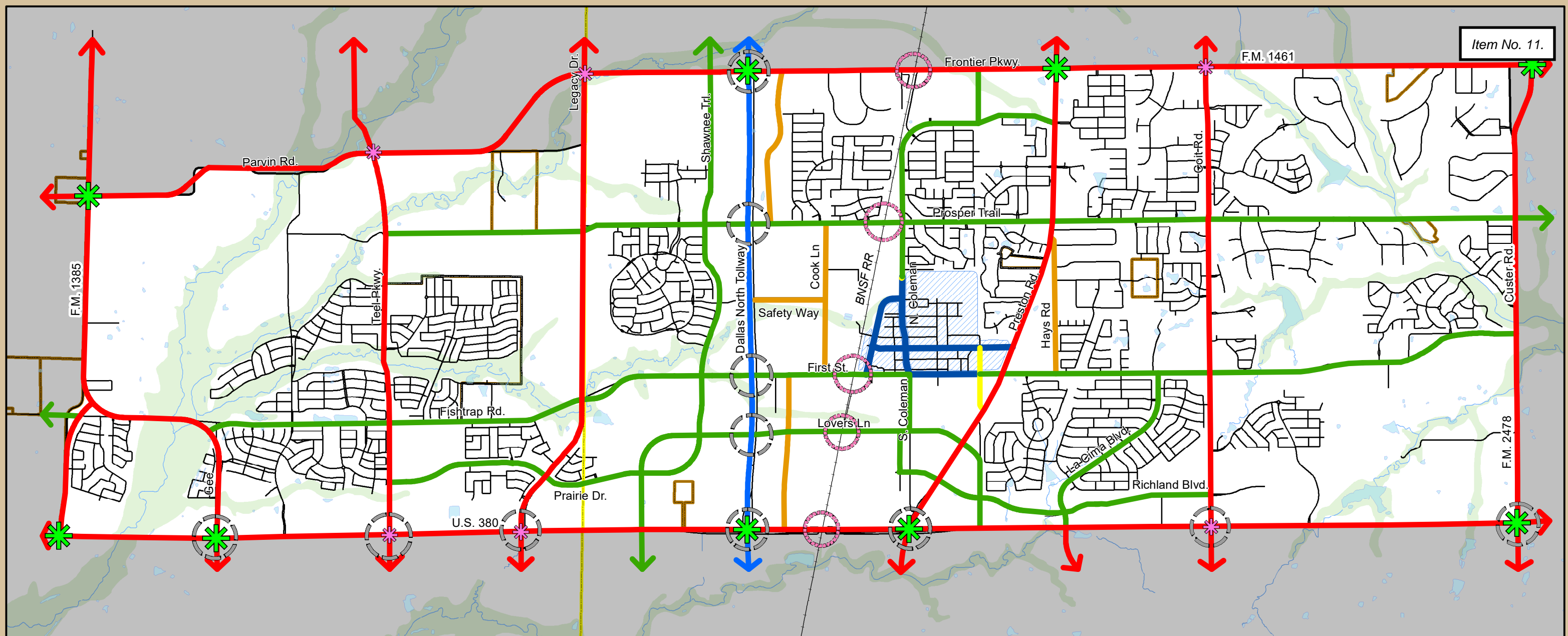


Plate 3
May 2020

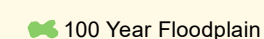
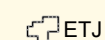
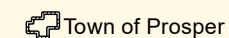
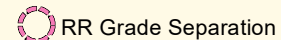
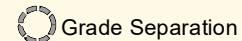
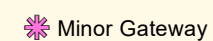
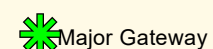
Thoroughfare Plan

* Refer to Comprehensive Plan for Interim Development of Coit Road between Frontier Parkway and Prosper Trail.



Thoroughfare Description

- Dallas North Tollway
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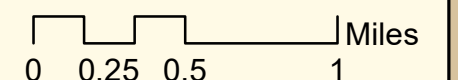


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- Page 85 -



Plate 3
May 2020



Thoroughfare Plan



* Refer to Comprehensive Plan for Interim Development of Coit Road between Frontier Parkway and Prosper Trail.

PLANNING

To: Mayor and Town Council

From: Alex Glushko, AICP, Planning Manager

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – May 12, 2020

Agenda Item:

Conduct a Public Hearing, and consider and act upon an ordinance rezoning 5.4± acres from Planned Development-40 (PD-40) to Planned Development-Office (PD-O), located east of Good Hope Road, south of Parvin Road. (Z20-0006).

Description of Agenda Item:

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

	Zoning	Current Land Use	Future Land Use Plan
Subject Property	Planned Development-40-Single Family	Undeveloped	Medium Density Residential
North	Planned Development-40-Single Family	Undeveloped	Medium Density Residential
East	Planned Development-40-Single Family	Undeveloped	Medium Density Residential
South	Planned Development-40-Single Family	Undeveloped	Medium Density Residential
West	Planned Development-40-Single Family	Undeveloped	Medium Density Residential

Requested Zoning – The purpose of this request is to rezone the 5.4± acre tract of land from its current single family residential designation in PD-40 to Planned Development (PD) District with a base designation of Office to allow for development in the future. In conjunction with the PD, the Office District has been modified as outlined in attached Exhibit B of the ordinance exhibits. Of note, modifications include the allowance of a sit-down restaurant by right, as well as a drive-

through restaurant, retail, dry cleaner, and gym/dance studio, subject to approval of a Specific Use Permit (SUP) by the Planning & Zoning Commission and Town Council.

The subject tract is located in an area surrounded by a future PISD High School to the north and east, floodplain to the south, and future Teel Parkway to the west, as shown on the masterplan below. As a result, development as single family is unlikely.



Future Land Use Plan – The Future Land Use Plan recommends Medium Density Residential.

Thoroughfare Plan – The property will have direct access to the future extension of Teel Parkway, a 90-foot, 4-lane divided minor thoroughfare.

Parks Master Plan – The Parks Master Plan does not indicate a park is needed on the subject property; however, a hike and bike trail may be needed at the time of development.

Legal Obligations and Review:

Notification was provided to neighboring property owners as required by State Law. To date, Town staff has not received any Public Hearing Notice Reply Forms. Town Attorney, Terrence Welch of Brown & Hofmeister, L.L.P., has approved the standard ordinance as to form and legality.

Attached Documents:

1. Aerial and Zoning Maps
2. Ordinance
3. Ordinance Exhibits

Town Staff Recommendation:

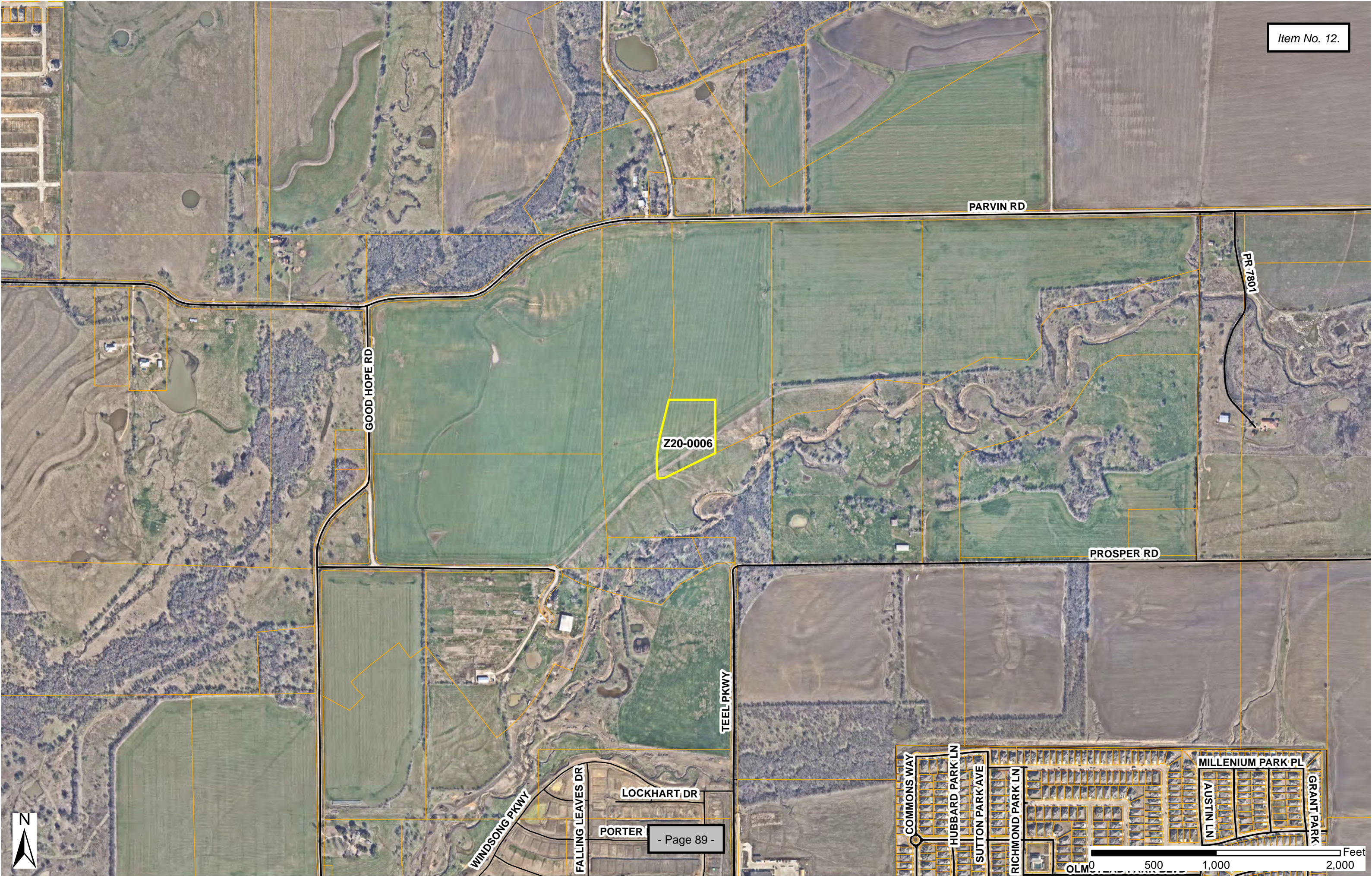
Staff recommends approval of an ordinance rezoning 5.4± acres from Planned Development-40 (PD-40) to Planned Development-Office (PD-O), located east of Good Hope Road, south of Parvin Road.

Planning & Zoning Commission Recommendation:

At their April 21, 2020 meeting, the Planning and Zoning Commission recommended the Town Council approve the request, by a vote of 7-0.

Proposed Motion:

I move to approve an ordinance rezoning 5.4± acres from Planned Development-40 (PD-40) to Planned Development-Office (PD-O), located east of Good Hope Road, south of Parvin Road.



Z20-0006

PARVIN RD

GOOD HOPE RD

PR 7801

PROSPER RD

TEEL PKWY

WINDSONG PKWY

FALLING LEAVES DR

LOCKHART DR

PORTER

COMMONS WAY

HUBBARD PARK LN

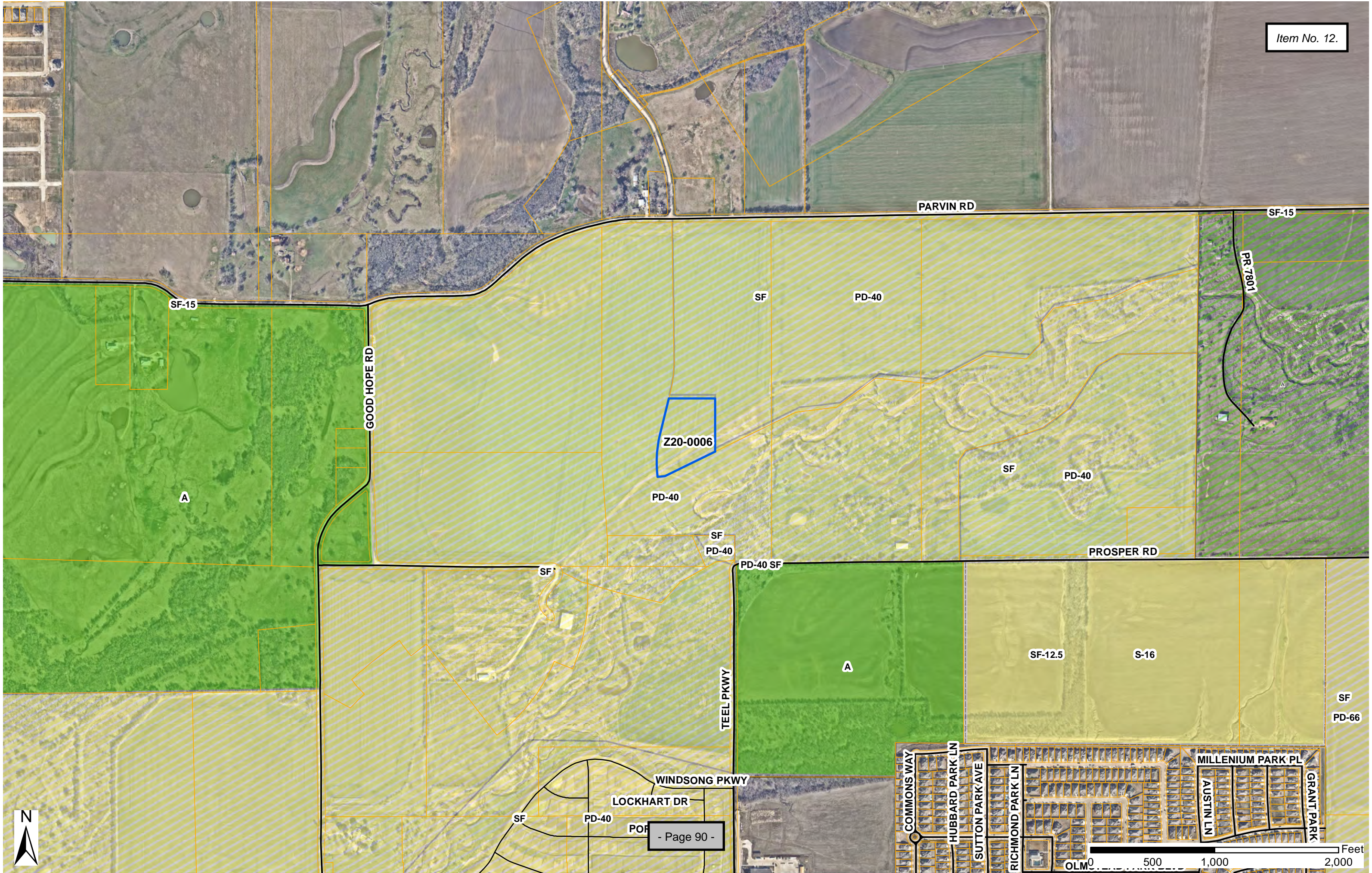
SUTTON PARK AVE

RICHMOND PARK LN

MILLENIUM PARK PL

AUSTIN LN

GRANT PARK



Z20-0006

PARVIN RD

SF-15

PR 7801

SF-15

GOOD HOPE RD

SF

PD-40

SF

PD-40

PROSPER RD

PD-40

SF
PD-40

PD-40 SF

SF

SF-12.5

S-16

SF
PD-66

A

TEEL PKWY

WINDSONG PKWY

LOCKHART DR

PD-40

SF

PO

- Page 90 -

COMMONS WAY

HUBBARD PARK LN

SUTTON PARK AVE

RICHMOND PARK LN

MILLENIUM PARK PL

AUSTIN LN

GRANT PARK

0 500 1,000 2,000 Feet

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2020- ____

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING THE TOWN'S ZONING ORDINANCE NO. 05-20 AND ORDINANCE NO. 2020-02, BY REZONING A TRACT OF LAND CONSISTING OF 5.409 ACRES, SITUATED IN THE A. ROBERTS SURVEY, ABSTRACT NO. 1115, IN THE TOWN OF PROSPER, DENTON COUNTY, TEXAS FROM PLANNED DEVELOPMENT-40 PD-40) IS HEREBY AMENDED IN ITS ENTIRETY AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-OFFICE (PD-O); DESCRIBING THE TRACT TO BE REZONED; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVING AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the Town Council of the Town of Prosper, Texas (the "Town Council"), has investigated and determined that the Town's Zoning Ordinance should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper"), has received a request (Case Z20-0006) from VP Windsong Investments, LLC ("Applicant"), to rezone 5.409 acres of land, more or less, in the A. Roberts Survey, Abstract No. 1115, in the Town of Prosper, Denton County, Texas, and being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes; and

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

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

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

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

SECTION 1

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

SECTION 2

Amendments to Zoning Ordinance No. 05-20 and Ordinance No. 2020-02. The Town's Zoning Ordinance, adopted by Ordinance No. 05-20 and Ordinance No. 2020-02 are amended as follows: The zoning designation of the below-described property containing 5.409 acres of land, more or less, in the A. Roberts Survey, Abstract No. 1115 in the Town of Prosper, Denton County, Texas; (the "Property") and all streets, roads and alleyways contiguous and/or adjacent thereto is hereby amended in its entirety and rezoned as Planned Development-Office

(PD-O). The property as a whole is more particularly described in Exhibit A and attached hereto and incorporated herein for all purposes as if set forth verbatim.

The development plans, standards, and uses for the Property in this Planned Development District shall conform to, and comply with the Development Standards, attached hereto as Exhibit B, which are incorporated herein for all purposes as if set forth verbatim.

Except as amended by this Ordinance, the development of the Property within this Planned Development District must comply with the requirements of all ordinances, rules, and regulations of Prosper, as they currently exist or may be amended.

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

- a. Two (2) copies shall be filed with the Town Secretary and retained as original records and shall not be changed in any matter.
- b. One (1) copy shall be filed with the Building Official and shall be maintained up-to-date by posting thereon all changes and subsequent amendments for observation, issuing building permits, certificates of compliance and occupancy and enforcing the zoning ordinance. Reproduction for information purposes may from time-to-time be made of the official zoning district map.

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 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 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 12TH DAY OF MAY, 2020.

Ray Smith, Mayor

ATTEST:

Melissa Lee, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

ZONING EXHIBIT

TOWN OF PROSPER
DENTON COUNTY, TEXAS

VP WINDSONG INVESTMENTS, LLC

Issue Dates:

3/6/2020

Revisions	Date

Scale: 1" = 100'

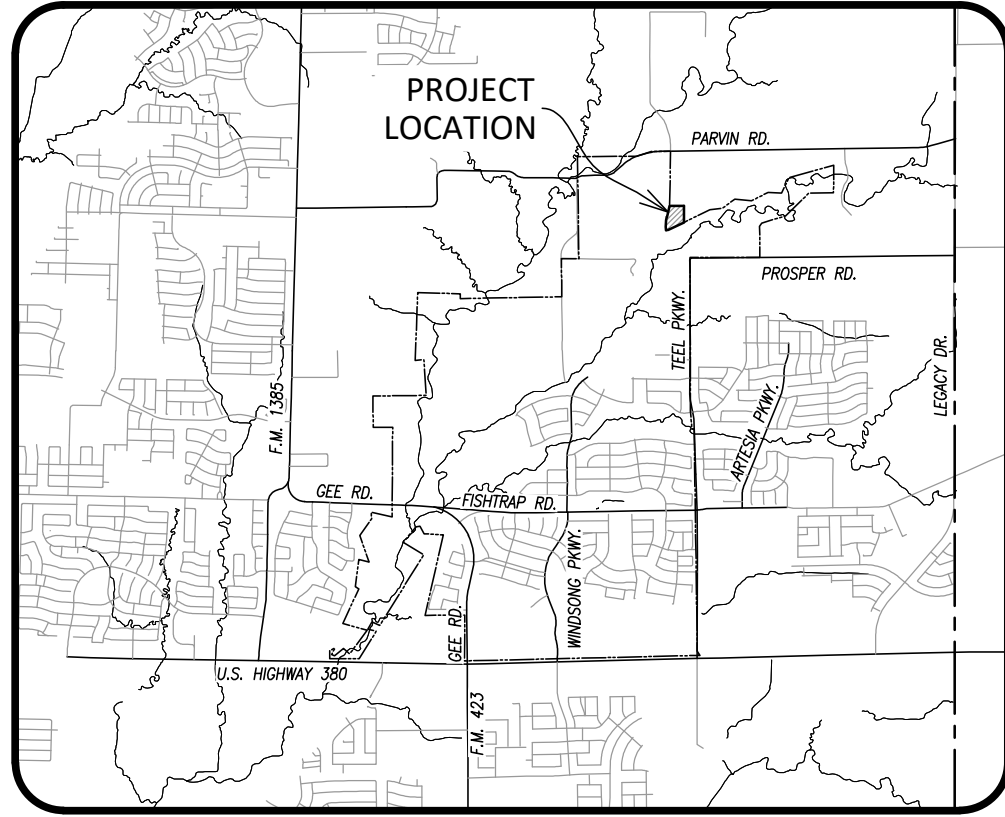
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Checked By: MD

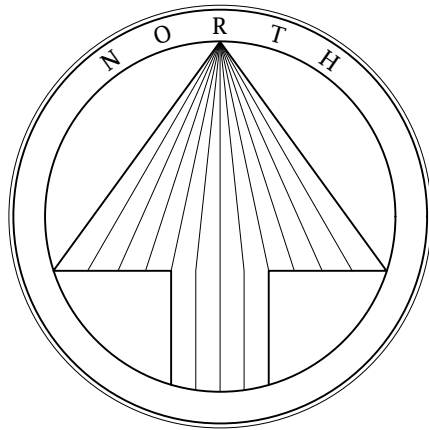
Sheet 1

of 1

JOB #19-164



LOCATION MAP
1" = 5000'



100 0 50 100 200
1 inch = 100 ft.

Basis of bearing derived from the State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983, (2011).

BEING a tract of land situated in the A. Roberts Survey, Abstract No. 1115, being a portion of a tract conveyed to VP Windsong Investments, LLC, according to the deed recorded in Document No. 2018-142926 of the Official Public Records, Denton County, Texas (OPRDCT), with the subject tract being more particularly described as follows:

BEGINNING at a 1/2" iron rod with a plastic cap stamped "SPIARSENG" found for the southerly southwest corner of a tract conveyed to Prosper I.S.D., recorded in Document No. 2017-34540 OPRDCT;

THENCE S 64°00'25" W, 449.32 feet to a point;

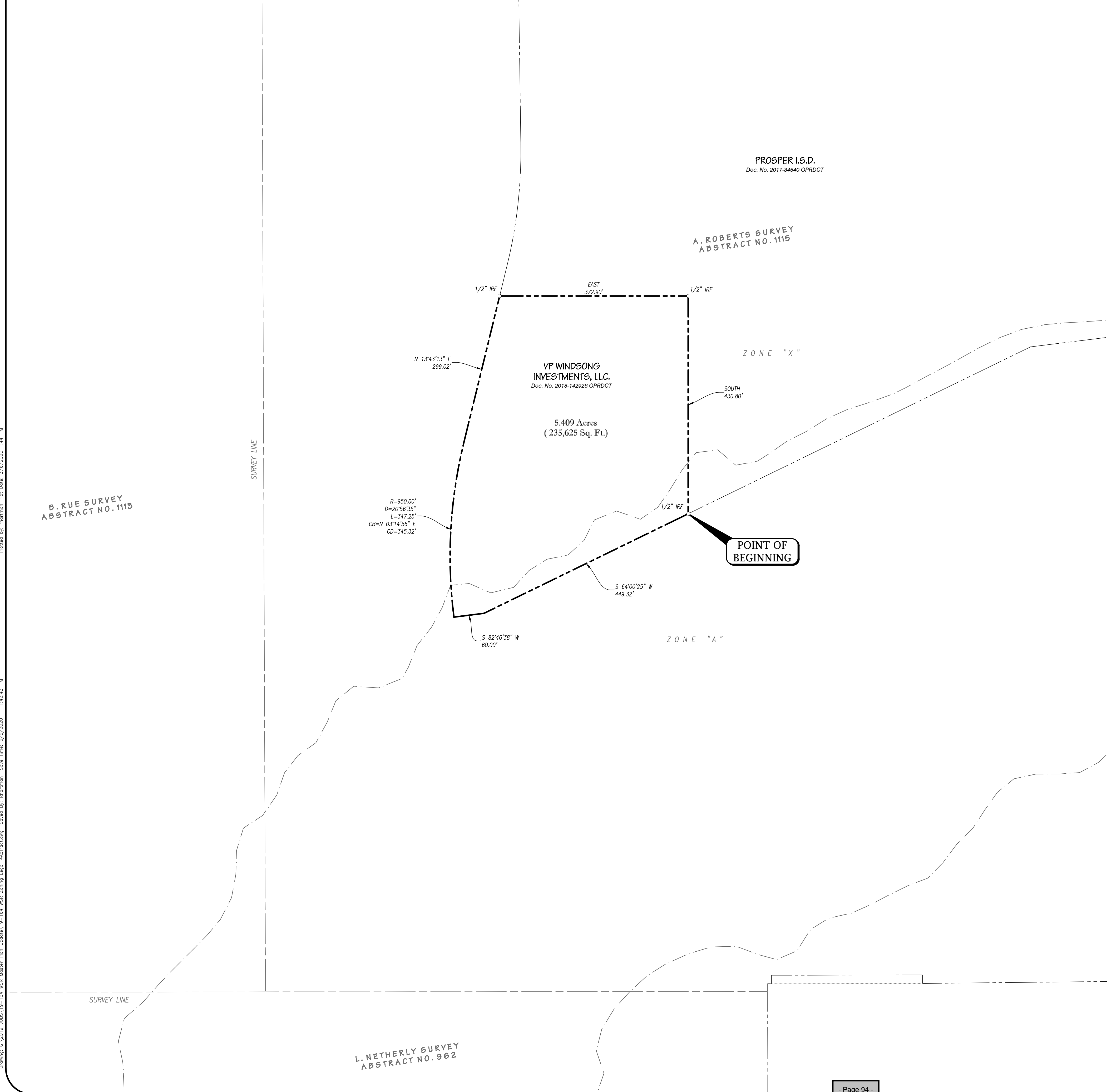
THENCE S 82°46'38" W, 60.00 feet to a point;

THENCE around a non-tangent curve to the right having a central angle of 20°56'35", a radius of 950.00 feet, a chord of N 03°14'56" E - 345.32 feet, an arc length of 347.25 feet;

THENCE N 13°43'13" E, 299.02 feet, to a 1/2" iron rod with a plastic cap stamped "SPIARSENG" found for the northerly southwest corner of said Prosper I.S.D. tract;

THENCE East, along the south line thereof, 372.90 feet, to a 1/2" iron rod with a plastic cap stamped "SPIARSENG" found for the inset southwest corner of said Prosper I.S.D. tract;

THENCE South, along the west line thereof, 430.80 feet, to the POINT OF BEGINNING with the subject tract containing 235,625 square feet or 5.409 acres of land.



PROSPER I.S.D.
Doc. No. 2017-34540 OPRDCT

A. ROBERTS SURVEY
ABSTRACT NO. 1115

VP WINDSONG
INVESTMENTS, LLC.
Doc. No. 2018-142926 OPRDCT

5.409 Acres
(235,625 Sq. Ft.)

POINT OF
BEGINNING

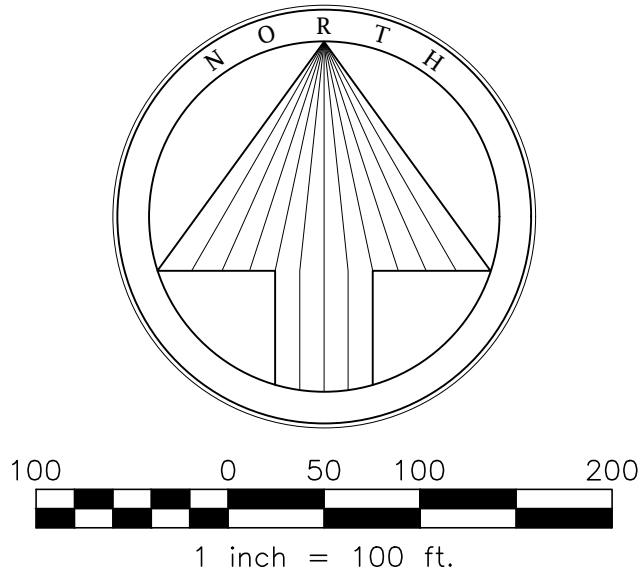
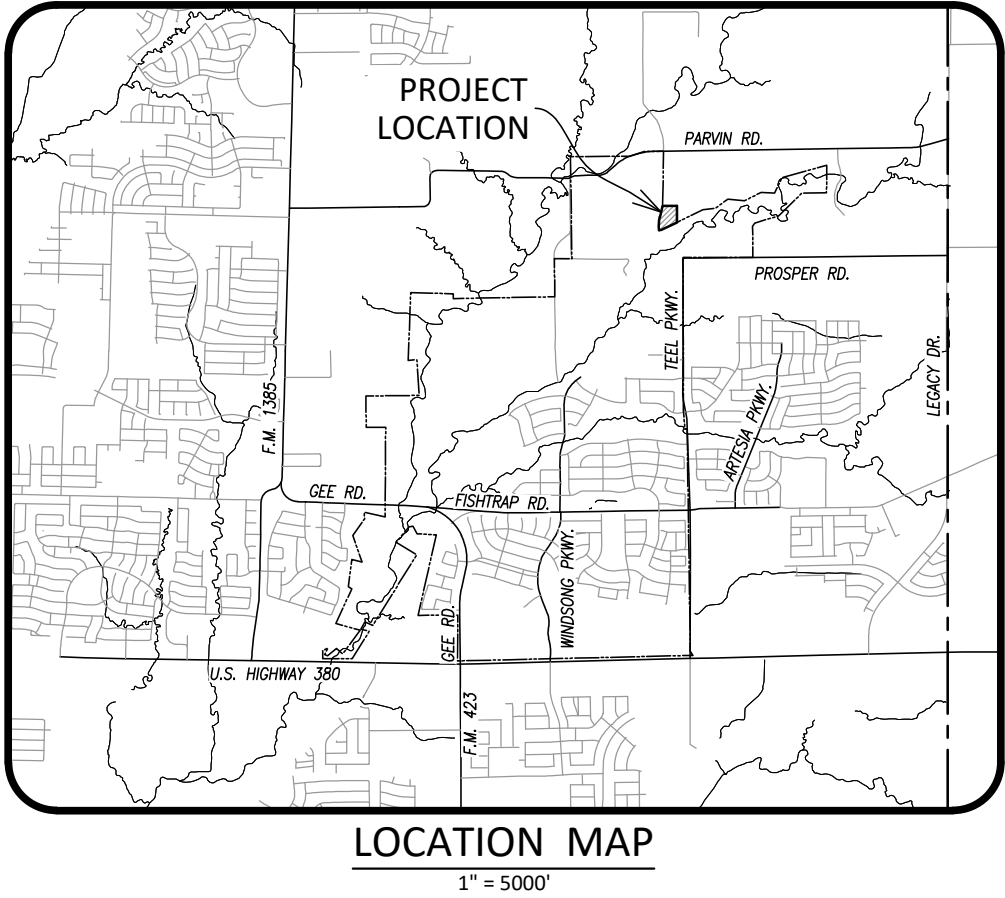
B. RUE SURVEY
ABSTRACT NO. 1113

L. NETHERLY SURVEY
ABSTRACT NO. 962

Plotted by: mrdmrm Plot Date: 3/6/2020 1:45 PM

1:42:43 PM

Drawn: C:\2019_JOB\19-164_KSR Master Plan Update\19-164_KSR Zoning Legal Attachment Saved By: Rhdarmon Save Time: 3/6/2020



Basis of bearing derived from the State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983, (2011).

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THENCE South, along the west line thereof, 430.80 feet, to the POINT OF BEGINNING with the subject tract containing 235,625 square feet or 5.409 acres of land.

Item No. 12.

SPIARS

ENGINEERING & SURVEYING

765 Custer Road, Suite 100 • Plano, TX 75075 • 972.422.0077

TBPE No F-2121 • TBLPS No. F-10043100 • www.spiarseng.com

ZONING EXHIBIT

TOWN OF PROSPER

DENTON COUNTY, TEXAS

VP WINDSONG INVESTMENTS, LLC

Issue Dates:

3/6/2020

Revisions	Date

Scale: 1" = 100'

Drawn By: RWH

Checked By: MD

Sheet 1

of 1

JOB #19-164

Z20-0007

EXHIBIT “B”

DEVELOPMENT STANDARDS

Conformance with the Town’s Zoning Ordinance and Subdivision Ordinance: Except as otherwise set forth in these Development Standards, the regulations of the Town’s Zoning Ordinance (Ordinance No. 05-20), as it exists or may be amended, and the Subdivision Ordinance, as it exists or may be amended, shall apply.

1. Except as noted below, the Tract shall develop in accordance with the Office (O) District, as it exists or may be amended.
2. Uses. All of the permitted uses in the Office (O) District shall be allowed with the same provisions and restrictions, including uses permitted by a Specific Use Permit (SUP) and Conditional Uses (C), except as noted below:
 - a) Uses permitted by right:
 - Assisted Living Facility
 - Restaurant
 - Veterinarian Clinic and/or Kennel, Indoor
 - b) Uses permitted upon approval of a Specific Use Permit:
 - Commercial Amusement, Indoor
 - Convenience Store without Gas Pumps
 - Dry Cleaning, Minor
 - Gymnastics/Dance Studio
 - Retail Stores and Shops
 - Restaurant with drive-through
 - c) Prohibited uses:
 - Recycling Collection Point

**ENGINEERING
SERVICES**

To: Mayor and Town Council

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

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – May 12, 2020

Agenda Item:

Consider and act upon a request to waive the Town's Drainage System Design Requirements for a wet or underground detention pond for the detention pond on the proposed Prosper Retail Addition Tract located within Town's ETJ.

Description of Agenda Item:

The Drainage System Design Requirements adopted in 2017 requires wet or underground detention to satisfy detention requirements where applicable. Section 6.09.F. allows a process to request a waiver from the Town Council to allow a dry detention pond.

The Town has received infrastructure plans and a final plat for the tract at the northwest corner of FM 1385 and Parvin Rd within the Town's ETJ. This tract falls within the Doe Branch basin where detention has been waived. However, drainage flows through an Aubrey storm sewer system that was not designed for fully developed flow thus requiring detention.

The applicant has requested a waiver from the wet pond requirement citing that the pond is being proposed in the back northwest corner of the development and shall not be visible from the public right-of-way. Pond shall be located 500–700 ft from public right-of-way, but staff has not received development plans to verify if views from said right-of-way will be screened by buildings or other features. As currently proposed, the pond will be five feet to ten feet lower than the adjacent residential homes. No additional landscaping has been proposed at this time.

Attached Documents:

1. Prosper Retail Addition Wet Detention Waiver Request Letter
2. Detention Pond Exhibit

Town Staff Recommendation:

Town staff does not believe there are any physical constraints or hydraulic limitations, but pond is being proposed in the back corner of the development. Town staff has not received any other development plans and/or landscaping to confirm views from public right-of-way will be blocked.

Proposed Motion:

I move to (approve / deny) the request to allow a dry detention pond to serve the Prosper Retail Addition development located in Town's TEJ at northwest corner of FM 1385 and Parvin Rd..



April 23, 2020

Mr. Dan Heischman
Engineer
Town of Prosper
250 W. First Street
Prosper, Texas 75078

RE: Waiver Request from Wet or Underground Detention Pond Requirements

As the applicant and representative of the Prosper Retail Addition tract located at the NWC of FM 1385 and Byran Road (Development Case D20-0011), we respectfully request a waiver from the wet or underground detention requirement per section 6.09 of the Town of Prosper's Drainage System Design Requirements and request to install a dry detention pond. The Prosper Retail Addition tract is located in the Town ETJ. We have designed for the majority of the subject tract to drain to the northwest corner of the overall tract away from Byran Road and FM 1385. This detention pond will tie into a system maintained by the City of Aubrey. The location of this detention pond is not visible from any public right-of-way. This pond is located immediately adjacent to Aubrey residential homesites with existing screening fences separating the pond from their backyards. It is our request that due to the location of this facility on this subject tract that a wet pond will not be visible and is better suited to be a dry facility adjacent to the single family adjacent to this pond location.

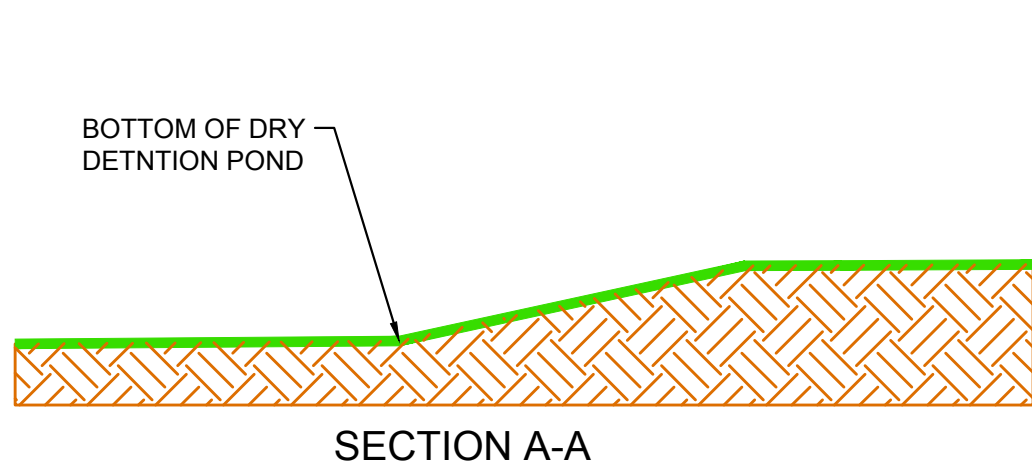
Sincerely,

Claymoore Engineering, Inc.

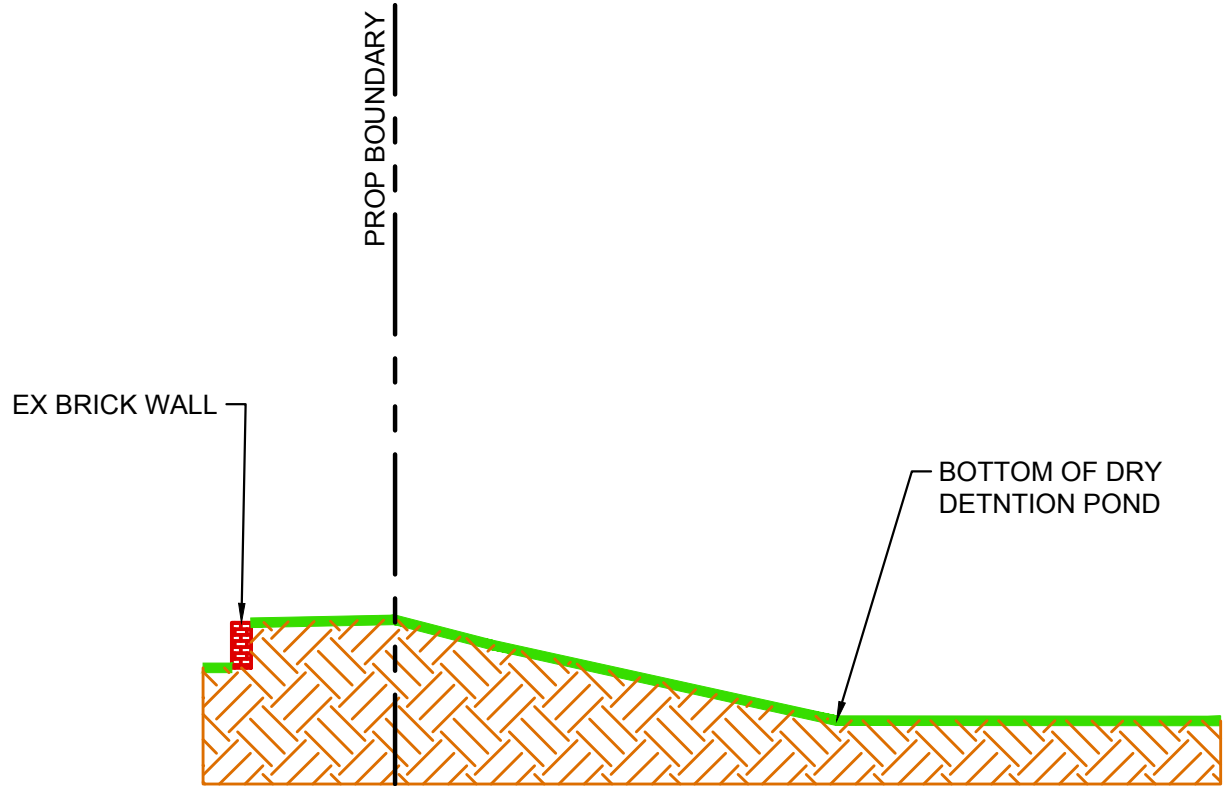
A handwritten signature in blue ink, appearing to read "Matt Moore".

Matt Moore, P.E.

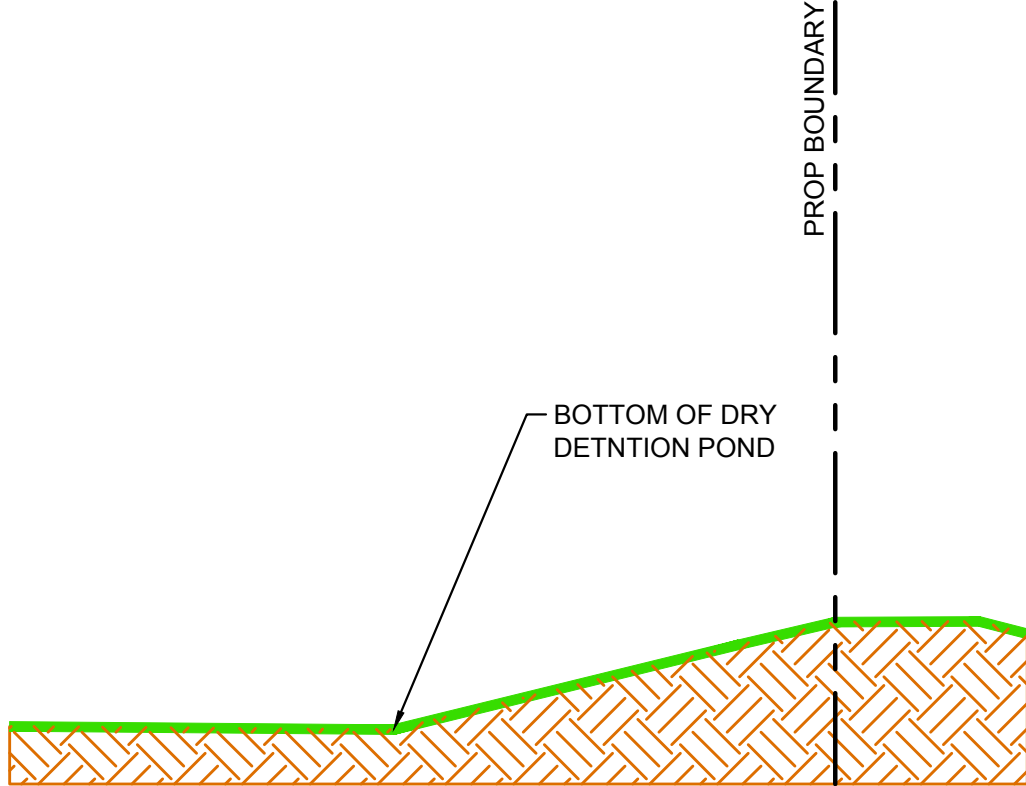
PLOTTED BY: REGGIE SMITH
 PLOT DATE: 4/17/2020 3:12 PM
 LOCATION: Z:\PROJECTS\2019-089 BERLIN JACKSON TRACT\CADD\EXHIBIT\DETENTION POND EXHIBIT.DWG
 LAST SAVED: 4/17/2020 3:09 PM



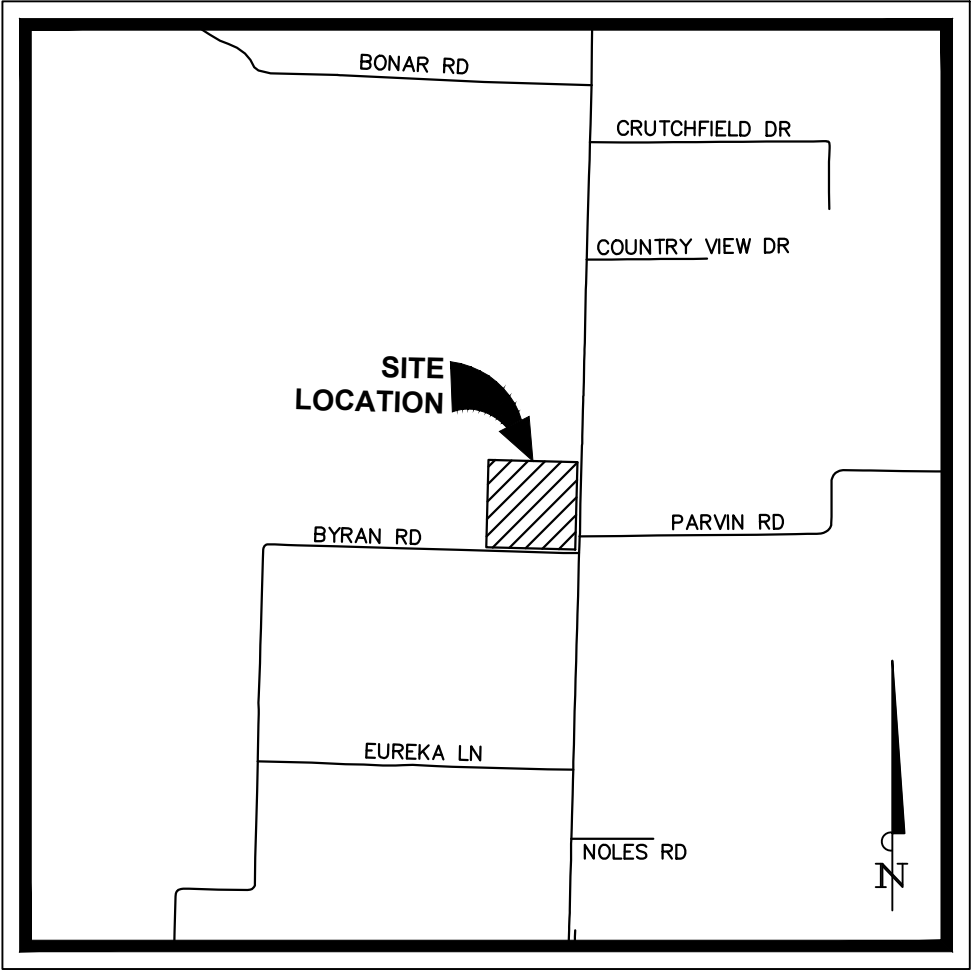
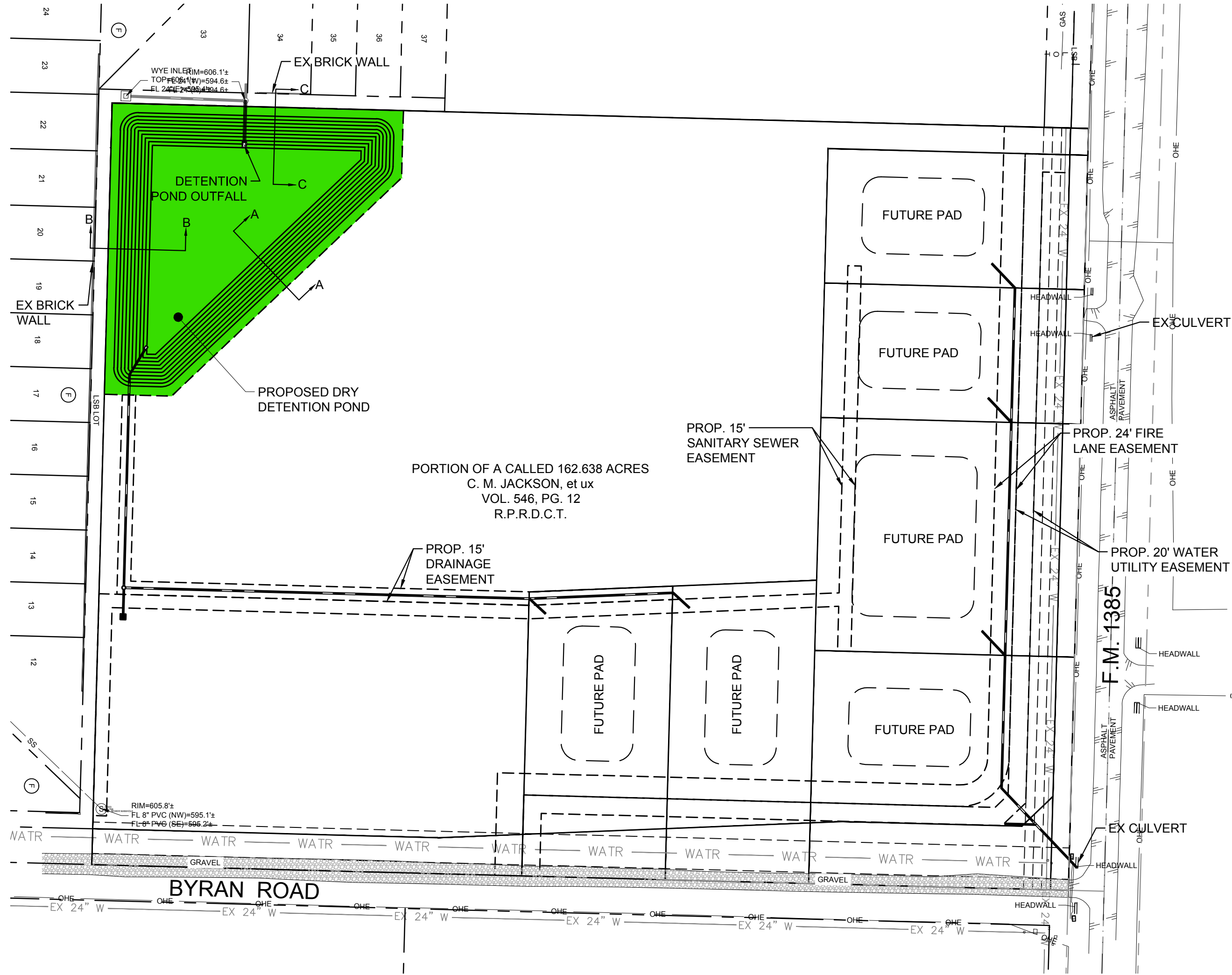
SECTION A-A



SECTION B-B



SECTION C-C



VICINITY MAP
N.T.S.

PROSPER TOWN CENTER		
DETENTION POND EXHIBIT		
OWNER: BRYAN ROAD RETAIL PARTNERS, LP 1201 RIVERFRONT BOULEVARD DALLAS, TX 75207		
APPLICANT/REPRESENTATIVE: CLAYMOORE ENGINEERING, INC. 301 S. COLEMAN, SUITE #40 PROSPER, TX 75078 PH: 817.201.6982		
SURVEYOR: WINDROSE LAND SURVEYING 220 ELM STREET, SUITE #200, P.O. BOX 54 LEWISVILLE, TX 75067 PH: 972.221.9439		
LEGAL DESCRIPTION: A0730A WM LUMPKINS, TR 14, 21.038 AC		
CITY: PROSPER STATE: TEXAS		
COUNTY:	SURVEY:	ABSTRACT NO.
DENTON	WILLIAM LUMPKINS SURVEY	730

DESIGN:	ASD
DRAWN:	RDS
CHECKED:	MAM
DATE:	3/24/2020
SHEET	
1	
File No. X	

DETENTION POND EXHIBIT

NO.	DATE	REVISION	BY

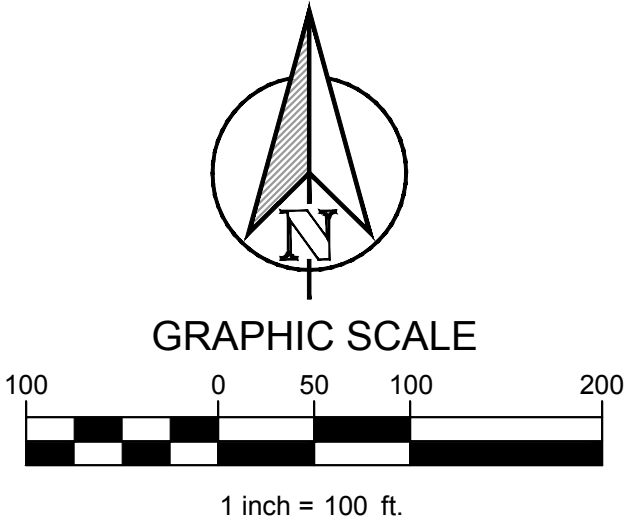
PROSPER RETAIL
 ADDITION
 NWC OF BRYAN RD. & FM 1385
 PROSPER, TX

PRELIMINARY
 FOR REVIEW ONLY
 Not for construction purposes.
 CLAYMOORE ENGINEERING
 ENGINEERING AND PLANNING
 CONSULTANTS
 Engineer: DREW DONOSKY
 P.E. No. 125651, Date 04/16/2020

TEXAS REGISTRATION #14199

 ENGINEERING

1900 CENTRAL DR. SUITE #406
 BEDFORD, TX 76021
 PHONE: 817.281.0272
 WWW.CLAYMOOREENG.COM



FINANCE

To: Mayor and Town Council

From: Chuck Springer, Executive Director of Administrative Services

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – May 12, 2020

Agenda Item:

Consider and act upon a resolution directing publication of notice of intention to issue Combination Tax and Surplus Revenue Certificates of Obligation for the purpose of funding costs associated with the construction of street improvements and park improvements in the Town **(CS)**.

Description of Agenda Item:

The attached resolution initiates the process of issuing certificates of obligation for the projects specified in Exhibit B. There has been one change to the planned project sale since the adoption of the CIP. The amount to be sold for Cook Lane has increased by \$800,000 due to estimated increase in drainage costs for this project. The Coit Road (First to Frontier) right-of-way purchases planned for \$800,000 have been moved out one year to the following fiscal year. This project did not receive matching funds from County bond funding in this year's application. The total amount of the planned certificate of obligation sale remains the same at \$12,387,000. The timeline, included as attachment Exhibit A, outlines the bond issue process. The attached notice of intent is for a total sale of up to \$12,500,000 in order to cover issuance costs.

The Town has historically sold debt through a competitive sale on the Tuesday morning of a Town Council meeting and then completed the sale with Town Council approval that evening. Due to the challenging circumstances in the current year (uncertain market conditions and the anticipated delay in final certified values), it is recommended that a new sale procedure be implemented. The recommended method is for the Town Council to pass an Ordinance on July 14, 2020 authorizing issuance of the certificates of obligation with delegated authority to the Town Manager to complete final pricing of the debt. This method is commonly used in refunding debt issues or during uncertain market conditions. The ordinance would allow for delegation to the Town Manager that meets the following conditions:

- Issue the certificates through a competitive or negotiated sale;
- for an amount not to exceed \$12,500,000;
- at a maximum interest rate of 4.5%;
- with a final maturity of August 15, 2040.

This would allow for the timing of the sale to match with favorable market conditions and to structure the debt based on certified values as they become available.

Budget Impact:

The principal amount of the certificates of obligation issued are not to exceed \$12,500,000 as stated in the attached resolution and notice of intent.

Legal Obligations and Review:

Dan Culver of McCall, Parkhurst and Horton, the Town's bond counsel, prepared the attached Resolution.

Attached Documents:

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

Town Staff Recommendation:

Town staff recommends approval of the resolution providing for publication of notice of intent to issue certificates of obligation to finance the obligations associated with the aforementioned projects.

Proposed Motion:

I move to approve the resolution providing for publication of notice of intent to issue certificates of obligation to finance the obligations associated with the aforementioned projects.

CERTIFICATE REGARDING ADOPTION OF RESOLUTION

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

§
 §
 §

We, the undersigned officers of the Town, hereby certify as follows:

1. The Town Council of the Town convened in REGULAR MEETING ON THE 12TH DAY OF MAY, 2020, and the roll was called of the duly constituted officers and members of the Town Council, to-wit:

Ray Smith, Mayor
 Curry Vogelsang, Jr., Mayor Pro-Tem
 Jason Dixon, Deputy Mayor Pro-Tem
 Craig Andres
 Jeff Hodges
 Meigs Miller
 Marcus E. Ray

Melissa Lee, Town Secretary

and all of said persons were present, except the following absentees: _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at said Meeting: a written

**RESOLUTION DIRECTING PUBLICATION OF NOTICE OF INTENTION TO ISSUE
 CERTIFICATES OF OBLIGATION; AND RESOLVING OTHER MATTERS RELATING TO
 THE SUBJECT**

was duly introduced for the consideration of the Town Council. It was then duly moved and seconded that said Resolution be adopted and, after due discussion, said motion, carrying with it the adoption of said Resolution, prevailed and carried by the following vote:

AYES: All members of the Town Council shown present above voted "Aye," except as shown below:

NOES: _____

ABSTAIN: _____

2. That a true, full and correct copy of the aforesaid Resolution adopted at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that said Resolution has been duly recorded in said Town Council's minutes of said Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from the Town Council's minutes of said Meeting pertaining to the adoption of said Resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the Town Council as indicated therein; that each of the officers and members of the Town Council was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that said Resolution would be introduced and considered for adoption at said Meeting, and each of said officers and members consented, in advance, to the holding of said Meeting for such purpose, and that said Meeting was open to the public and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code, as currently in effect.

3. That the Mayor of the Town has approved and hereby approves the aforesaid Resolution; that the Mayor and the Town Secretary of the Town have duly signed said Resolution; and that the Mayor and the Town Secretary of the Town hereby declare that their signing of this Certificate shall constitute the signing of the attached and following copy of said Resolution for all purposes.

SIGNED this, the 12th day of May, 2020.

Town Secretary

Mayor

RESOLUTION NO. _____

**DIRECTING PUBLICATION OF NOTICE OF INTENTION TO ISSUE
CERTIFICATES OF OBLIGATION; AND RESOLVING OTHER MATTERS
RELATED TO THE SUBJECT**

WHEREAS, this Town Council deems it advisable to give notice of intention to issue certificates of obligation of the Town of Prosper, Texas, as hereinafter provided; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution was passed, was open to the public and public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code; Now, Therefore

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

Section 1. Attached hereto is a form of the Notice of Intention to issue Certificates of Obligation (the "Notice"), the form and substance of which is hereby adopted and approved.

Section 2. The Town Secretary shall cause said notice to be published in substantially the form attached hereto, in a newspaper, as defined by Subchapter C, Chapter 2051, Texas Government Code, of general circulation in the area of the Town, once a week for two (2) consecutive weeks, the date of the first publication thereof to be before the forty-fifth (45th) day before the date tentatively set for the adoption of the ordinance authorizing the issuance of the Certificates of Obligation as shown in the Notice.

Section 3. The Town Secretary shall cause said notice to be posted in substantially the form attached hereto, on the Town's internet website for at least forty-five (45) days before the date tentatively set for the adoption of the ordinance authorizing the issuance of the Certificates of Obligation as shown in the Notice.

Section 4. Attached hereto as Schedule I is a list of outstanding debt obligations of the Town which the Town hereby designates as self-supporting debt for purposes of Texas Local Government Code, Subchapter C of Chapter 271, as amended.

Section 5. This Resolution shall become effective immediately upon adoption.

SCHEDULE I

**TOWN OF PROSPER, TEXAS
Self-Supporting Debt**

The Town designates all or a portion of the following outstanding debt obligations of the Town as self-supporting debt for purposes of Texas Local Government Code, Subchapter C of Chapter 271, as amended.

1. Town of Prosper, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2012; and
2. Town of Prosper, Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Series 2013; and
3. Town of Prosper, Texas General Obligation Refunding and Improvement Bonds, Series 2014; and
4. Town of Prosper, Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Series 2014; and
5. Town of Prosper, Texas General Obligation Refunding and Improvement Bonds, Series 2015; and
6. Town of Prosper, Texas General Obligation Refunding and Improvement Bonds, Series 2016; and
7. Town of Prosper, Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Series 2016; and
8. Town of Prosper, Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Series 2017; and
9. Town of Prosper, Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Series 2018; and
10. Town of Prosper, Texas, Combination Tax and Surplus Revenue Certificates of Obligation, Series 2019.

EXHIBIT A**TOWN OF PROSPER, TEXAS
NOTICE OF INTENTION TO ISSUE
CERTIFICATES OF OBLIGATION**

NOTICE IS HEREBY GIVEN that the Town Council of the Town of Prosper, Texas, at its meeting to commence at 5:45 P.M. on July 14, 2020, at the Town Council Chambers of Prosper Town Hall, 250 W. First Street, Prosper, Texas, tentatively proposes to authorize the issuance of interest bearing certificates of obligation, in one or more series, in an amount not to exceed \$12,500,000, for paying all or a portion of the Town's contractual obligations incurred in connection with: (i) constructing, improving, extending, expanding, upgrading and developing streets and roads and intersections, including utility relocation, landscaping, sidewalks, traffic safety and operational improvements and the purchase of any necessary right-of-way and other related costs; (ii) constructing, improving, extending, expanding, upgrading and developing parks and recreation facilities, including fields, trails, utility relocation, landscaping, sidewalks and operational improvements, installation of lighting, the purchase of any necessary rights-of-way, drainage and other related costs; and (iii) paying legal, fiscal, engineering and architectural fees in connection with such projects. The Town proposes to provide for the payment of such certificates of obligation from the levy and collection of ad valorem taxes in the Town as provided by law and from a pledge of the surplus revenues of the Town's waterworks and sewer system (the "System"); that remain after payment of all operation and maintenance expenses thereof, and after all debt service, reserve and other requirements in connection with all revenue bonds or other obligations (now or hereafter outstanding) of the Town have been met, to the extent that such obligations are payable from all or any part of the net revenues of the System.

In accordance with the provisions of Texas Local Government Code, Subchapter C of Chapter 271, as amended, the following information has been provided by the Town: (i) the principal amount of all outstanding debt obligations of the Town is \$78,371,428; (ii) the current combined principal and interest required to pay all outstanding debt obligations of the Town on time and in full is \$106,901,484 (clauses (i) and (ii) exclude debt service for \$38,593,581 in principal amount of outstanding debt obligations the Town has designated as self-supporting and which the Town reasonably expects to pay from revenue sources other than ad valorem taxes; provided, however, that in the event such self-supporting revenue sources are insufficient to pay debt service, the Town is obligated to levy ad valorem taxes to pay such debt obligations); (iii) the maximum principal amount of the certificates of obligation to be authorized is \$12,500,000; (iv) the estimated combined principal and interest required to pay the certificates of obligation to be authorized on time and in full is \$19,025,000; (v) the maximum interest rate for the certificates may not exceed the maximum legal interest rate; and (vi) the maximum maturity date of the certificates of obligation to be authorized is August 15, 2040.

TOWN OF PROSPER, TEXAS

EXHIBIT A
Town of Prosper, TX
 Series 2020 Issuance

Item No. 14.

Preliminary Schedule of Events

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

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

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

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

Complete By	Day	Event
8-May-20	Friday	Last day to deliver Notice of Intent for publication to paper of record
12-May-20	Tuesday	Town Council approves publication of Notice of Intent for the Certificates. Publication will occur in the Town's paper of record.
13-May-20	Wednesday	1st publication of Notice of Intent for Certificates
18-May-20	Monday	HilltopSecurities requests information for preparation of the Official Statement
20-May-20	Wednesday	2nd publication of Notice of Intent for Certificates
25-May-20	Monday	HilltopSecurities receives requested information. HilltopSecurities begins preparation of the Official Statement
1-Jun-20	Monday	Draft Official Statement distributed to the Town and Bond Counsel
8-Jun-20	Monday	HilltopSecurities receives comments on Official Statement
15-Jun-20	Monday	Distribute POS to Rating Agency
Week of June 22nd - 26th		Rating Agency Conference Calls/Meetings
7-Jul-20	Tuesday	Receive Ratings
8-Jul-20	Wednesday	Electronically mail Official Statement to Potential Purchasers**
14-Jul-20	Tuesday	Town Council approval of parameter ordinance*
15-Jul-20 or after	Wednesday	Pricing**
15-Jul-20 or after	Wednesday	Pricing Officer adopts final pricing**
13-Aug-20 or after	Thursday	Closing and Delivery of Funds to the Town**

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

** Preliminary, subject to change.

EXHIBIT B

Project Name	CO Issuance
Prosper Trail (Coit - Custer) - 2 lanes: (Design & Construction)	4,750,000
Fishtrap, Segment 1 (Teel - Middle School): (Construction)	1,190,000
Prosper Trail/DNT Intersection Improvements: (Construction)	1,600,000
Cook Lane (First - End): (Construction)	2,900,000
First Street (Coit - Custer) - 4 lanes: (Design)	1,000,000
Fishtrap (Elem - DNT) - 4 lanes: (Design)	600,000
Street Projects Total	\$12,040,000
Pecan Grove Phase 2 (21.5 Acres / No Lights) (basketball, pavilion, parking, security lighting): (Design)	67,000
Whitley Place H&B Trail (OH Easement): (Design)	10,000
Whitley Place H&B Trail (OH Easement): (Construction)	270,000
Park Projects Total	\$347,000
TOTAL CO ISSUANCE	\$12,387,000