



AGENDA
Meeting of the
Prosper Board of Adjustment/
Construction Board of Appeals
Prosper Town Hall
Council Chambers
250 W. First Street, Prosper, Texas
Monday, February 20, 2023,
6:00p.m.

Notice Regarding Public Participation

Welcome to the Prosper Board of Adjustment/Construction Board of Appeals meeting.

Citizens may watch the meeting live by using the following link:
<https://prosper.tx.new.swagit.com/views/378/>

Addressing the Board of Adjustment/Construction Board of Appeals:

Those wishing to address the Board of Adjustment/Construction Board of Appeals must complete the Public Comment Request Form located on the Town's website or in the Council Chambers.

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

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

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

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

Pursuant to Section 551.007 of the Texas Government Code, individuals wishing to address the Commission 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 address the Commission when the item is considered by the Board of Adjustment/Construction Board of Appeals.

1. Call to Order / Roll Call
2. Consider and act upon minutes from the March 14, 2022, Regular Board of Adjustment/Construction Board of Appeals meeting.

3. Conduct a Public Hearing, and consider and act upon a request for a Variance to the Zoning Ordinance, to allow a pool to encroach upon the required 3' minimum backyard setback, located in the Star Trail subdivision at 1710 White Tail Drive. (V22-0004)
4. Adjourn.

Note: The order in which items are heard on the agenda is subject to change.

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, February 17, 2023, and remained so posted at least 72 hours before said meeting was convened.

Michelle Lewis Sirianni, Town Secretary

Date Notice Removed

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

NOTICE

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

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



MINUTES
Regular Meeting of the
Board of Adjustment/
Construction Board of Appeals

Prosper Town Hall
Executive Conference Room
250 W. First Street, Prosper, Texas
Monday, March 14, 2022, 6:00 p.m.

Regular Meeting of the Board of
Adjustment/Construction Board of Appeals

1. Call to Order / Roll Call.

The meeting was called to order at 6:00 p.m.

Board members present: Chair George Dupont, Vice-Chair CJ Alexander, Grant Mendeljian, Joe Tremblay, and Brad Black.

Board members absent: Kenneth Dugger (Alternate) and Cliff Freeman (Alternate).

Staff present: Brady Cudd, Building Official; Alex Glushko, Planning Manager; and Evelyn Mendez, Planning Technician.

REGULAR AGENDA

2. Consider and act upon minutes from the January 10, 2022, Regular Board of Adjustment/Construction Board of Appeals meeting.

Motion by Alexander, second by Mendeljian, to approve the minutes from the January 10, 2022, Regular Board of Adjustment/Construction Board of Appeals meeting. Motion approved 5-0.

3. Conduct a Public Hearing, and consider and act upon a request for a Variance to the Zoning Ordinance, to allow a structure to encroach a rear yard setback, located in the Falls of Prosper subdivision, at 2211 Whetstone Way. (V22-0001).

Glushko: Summarized the request and presented exhibits.

Justin Jago (Applicant): Provided information regarding the proposed variance to the Zoning Ordinance.

Motion by Alexander, second by Black. Motion approved 5-0.

4. Adjourn.

Motion by Alexander, second by Black, to adjourn, at 6:10 p.m. Motion approved 5-0.

Doug Braches, Planning Technician

Chairman/Vice-Chairman



DEVELOPMENT SERVICES

To: Board of Adjustment

From: Brady Cudd, Building Official

Re: Board of Adjustment Meeting – January 24, 2023

Agenda Item:

Conduct a Public Hearing, and consider and act upon a request for a Variance to the Zoning Ordinance, to allow a pool to encroach upon the required 3' minimum backyard setback, located in the Star Trail subdivision at 1710 White Tail Drive. (V22-0004)

Description of Agenda Item:

The Town has received a request of the Board of Adjustment (BOA) to consider a request for a Variance to allow a pool to encroach upon the required 3' minimum backyard setback, located in the Star Trail subdivision at 1710 White Tail Drive. Article 3.16.002 of the Town of Prosper Code of Ordinance requires that *Pools and spas shall have a required minimum backyard setback of three feet*. Due to the unique characteristics of the lot, the applicant feels this results in an undue hardship and is requesting a variance in order to construct a pool within the backyard setback, but still 3' from the existing retaining wall located at the rear of the property. In particular, the applicant has stated they developed an initial vision for their proposed backyard modifications based on the assumption that the retaining wall was located on the property line. Given that the attached survey dated 12/12/18, which was supplied to the Town as a Final Grade Certificate at time of Final Inspection, does show the property line to be at the retaining wall, this assumption seems entirely reasonable. The adjacent property owner, the Villages of Star Trail Homeowners Association, supports this request as they do not intend on relocating the retaining wall that runs adjacent to, but several feet to the North of, the property line.

According to the Zoning Ordinance, the Board of Adjustment may consider, in specific cases, a variance of height, yard, area, exterior structure, lot coverage, off-street parking and loading requirements from the terms of the Zoning Ordinance, if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the Ordinance would result in unnecessary hardship, and so that the spirit of the Ordinance is observed and substantial justice is done. A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by Ordinance to other parcels of land in the Town or the district. No variance may be granted if it results in an unnecessary hardship, as herein defined, on another parcel of land.

In order to make a finding of hardship and to grant a variance, the Board of Adjustment must determine that the following four (4) criteria have been met:

1. The requested variance does not violate the intent of the Zoning Ordinance or its amendments; and
2. Special conditions of restricted area, shape, topography, or physical features exist that are peculiar to the subject parcel of land and are not applicable to other parcels of land in the same zoning district; and
3. The hardship is in no way the result of the applicant's own actions; and
4. The interpretation of the provisions in the Zoning Ordinance or its amendments would deprive the applicant of rights commonly enjoyed by other properties, in the same zoning district, that comply with the same provisions.

The applicant has provided a letter with responses to each of these criteria which has been included with this packet of information. The concurring vote of four (4) members of the Board of Adjustment is necessary to authorize a variation from the terms of the Zoning Ordinance.

Legal Obligations and Review:

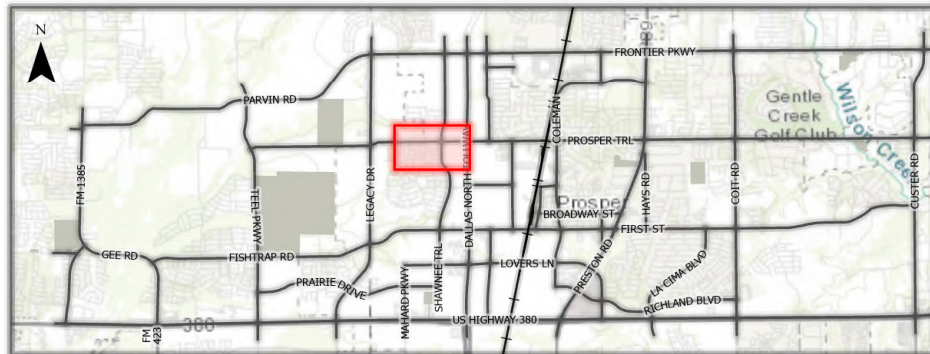
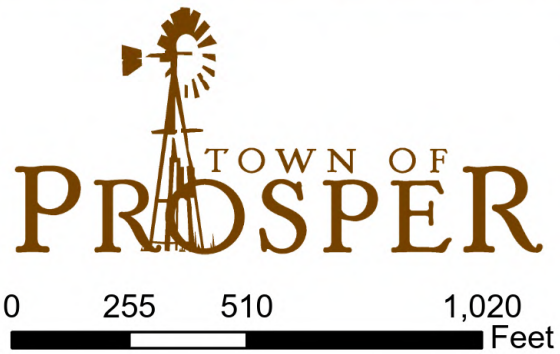
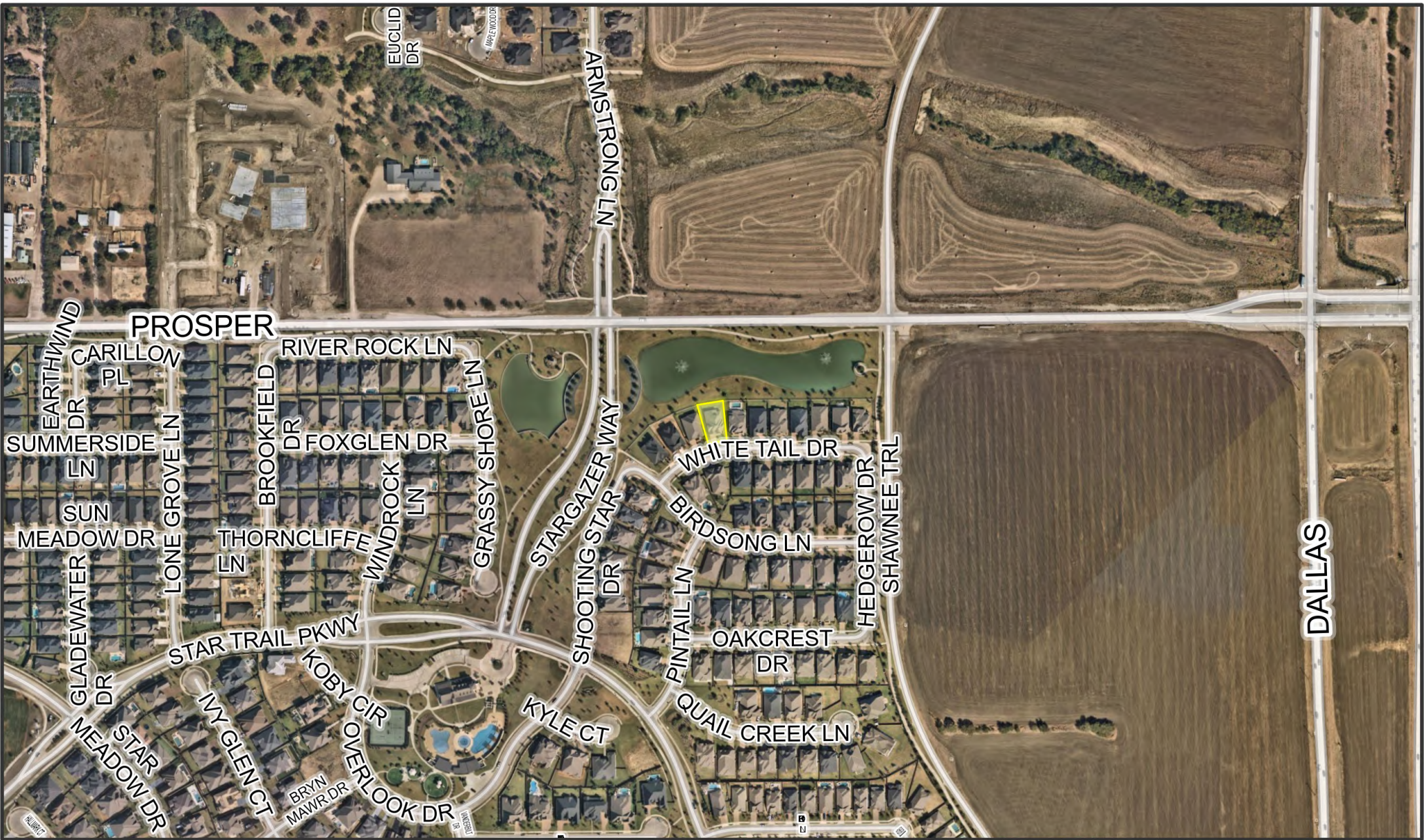
Notification of the Variance was provided in accordance with the Zoning Ordinance. To date, staff has not received any responses to the request.

Attached Documents:

1. Location Map
2. Survey and Pool Layout
3. Letter of Intent
4. HOA Letter
5. Recorded Plat

Staff Recommendation:

Staff recommends the Board of Adjustment approve the request for a Variance to the Zoning Ordinance, to allow a pool to encroach upon the required 3' minimum backyard setback, located in the Star Trail subdivision at 1710 White Tail Drive.



This map for illustration purposes only

V22-0004
1310 White Tail Drive

Variance

LOT 8X
BLOCK G

New

***BEING ABLE TO USE THE RETAINING WALL OR THE
ACTUAL FENCE WOULD ALLOW US TO PUSHE THE POOL
BACK 2' AND MEET THE 1:1 REQUIREMENT FROM
FOUNDATION

1/2" ORF
"DAA"
(CM)

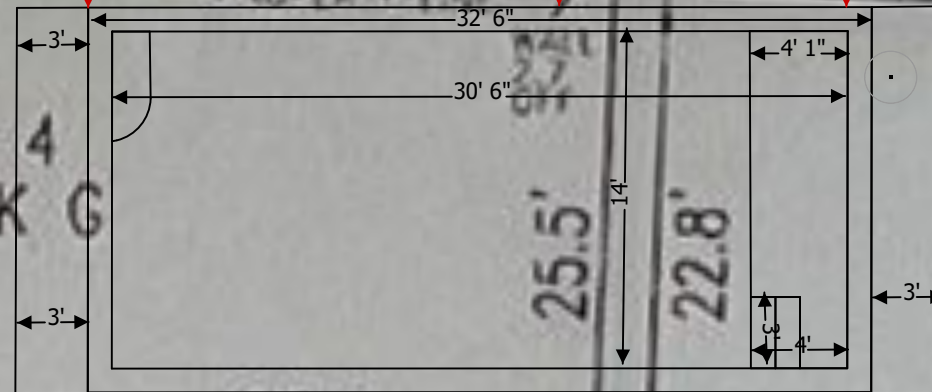
N80°38'15"E

82.71'

1/2" ORF
"DAA"
(CM)

CURRENT PROPERTY LINE

LOT 4
BLOCK G



13.4'

20' BL

14.4'

HEREON ARE BASED
CORDED IN VOL. 2017,
T.

CATION

located in Zone X
ng to the Flood
Community Panel

0 J

09

LOT 3

(CONTROL BEARING)

03°26'W 127.16'

7' BL

71.5'

TWO STORY
ERICK HOUSE

COVD
CONC. PATIO

47.5'

7' BL
5' POE

128°E

126.71'

Town of Prosper,

We are requesting a variance on our property located at 1710 White Tail Dr., Prosper, Texas 75078. (Lot 4, Block G of Star Trail Phase One A, Collin County)

The variance we request is in the rear of the lot. The plat that was submitted shows the property line in a straight line from corner to corner of the rear of the lot. The actual stone wall with an iron fence on top is bowed outward away from our house.

When buying the property we assumed the fence was the property line and took measurements based on that. The original plat showed the property line and wall to be on the same line so we did not think twice about our property actually not going all the way to the wall.

Skip ahead to the present as we have had pool companies give us bids on a pool and we find out the property line is different than expected.

I write this to ask the Town to grant us the variance to build the pool inside the property line but 3 feet away from the wall as shown in the pool layout/plat that was submitted. This would allow us to have the pool desired and allow the developer to move the wall in the future on their property without damaging the pool if needed. (See HOA letter of approval).

By granting the variance we would be able to utilize the entire space inside the fence or what we consider "our yard" without adversely affecting the land use around us. Actually all lots with the exception of ours and the neighbor to the West have the wall/fence as the property line.

One additional note: By granting the variance it will allow us to build a pool and it also keeps us at the 1:1 ratio on grade that would not require engineering. This is both beneficial for the town and for us.

Respectfully,

Matthew & Cristina Owens
RAIDERSDAD1@gmail.com
972-802-4535

Villages of Star Trail Homeowners Association

November 11, 2022

Matt Owens
1710 White Tail Drive
Prosper, TX 75078


RE: Pool Construction

Mr. Owens,

It is our understanding that a recent survey of your property indicates that the developer-constructed stone fence at the rear of your property does not follow the platted property line. This results in approximately three feet of additional property on your side of the fence. Furthermore, we understand that it is your desire to construct a pool in your back yard at this time. The plans that you have provided indicate that the proposed pool would be located entirely within your platted property and would be no closer than three feet from the existing stone fence at the rear of your property.

The board of directors of the Villages of Star Trail Homeowners Association have reviewed this situation and have concluded that we are not opposed to the construction of the pool as proposed above. Should the existing fence require any future repair or replacement, it is our position that it would be replaced in its existing location and the three feet of clearance from the pool would be adequate for such work.

Sincerely,



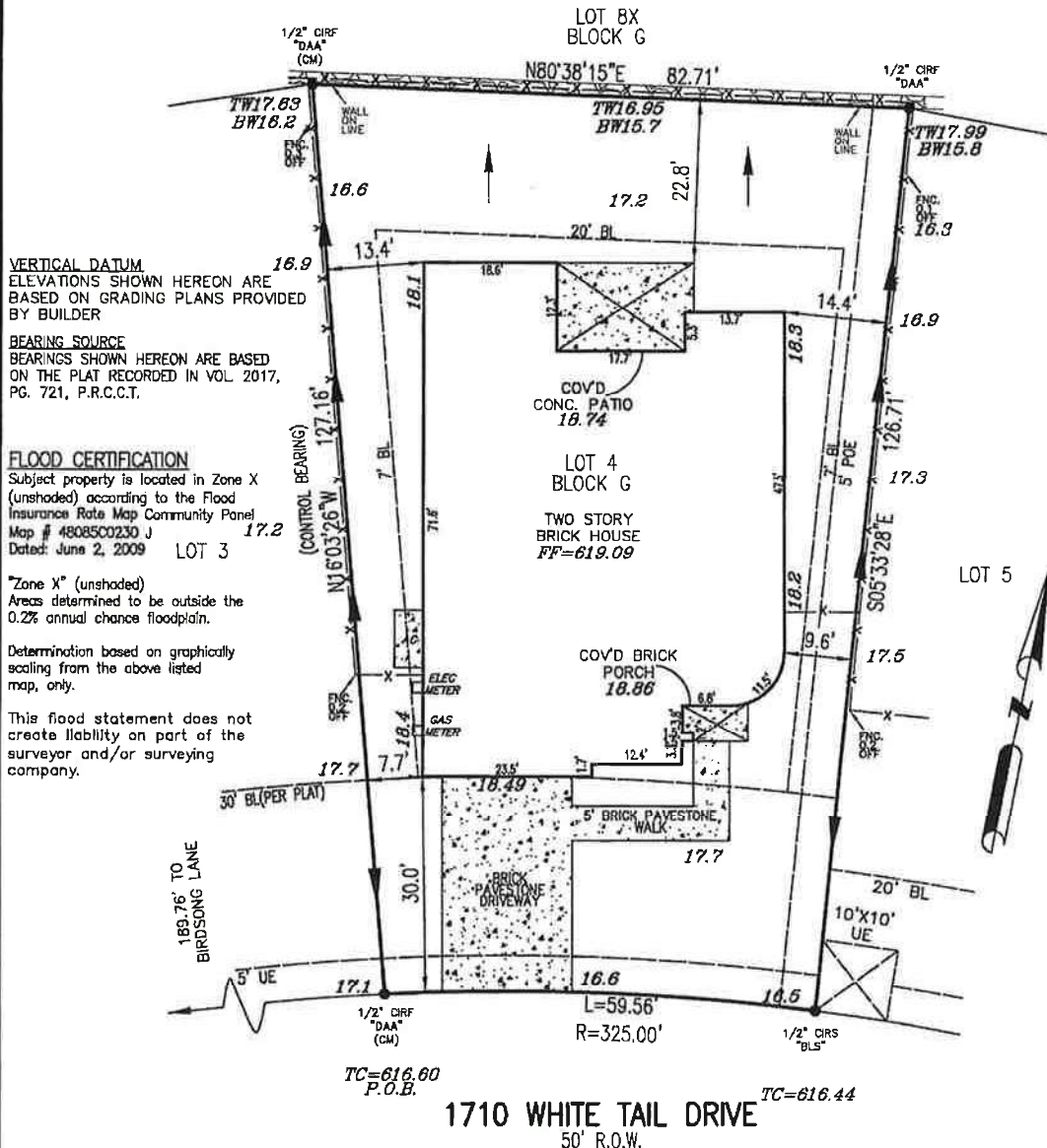
Wm. Scott Shipp
Vice President

Villages of Star Trail Homeowners Association

PLAT SHOWING

Being Lot 4, in Block G, of STAR TRAIL PHASE ONE A, an Addition to the Town of Prosper, Collin County, Texas, according to the Amended Plat thereof recorded in Volume 2017, Page 810, Plat Records, Collin County, Texas.

1710 WHITE TAIL DRIVE GRADE CERTIFICATE

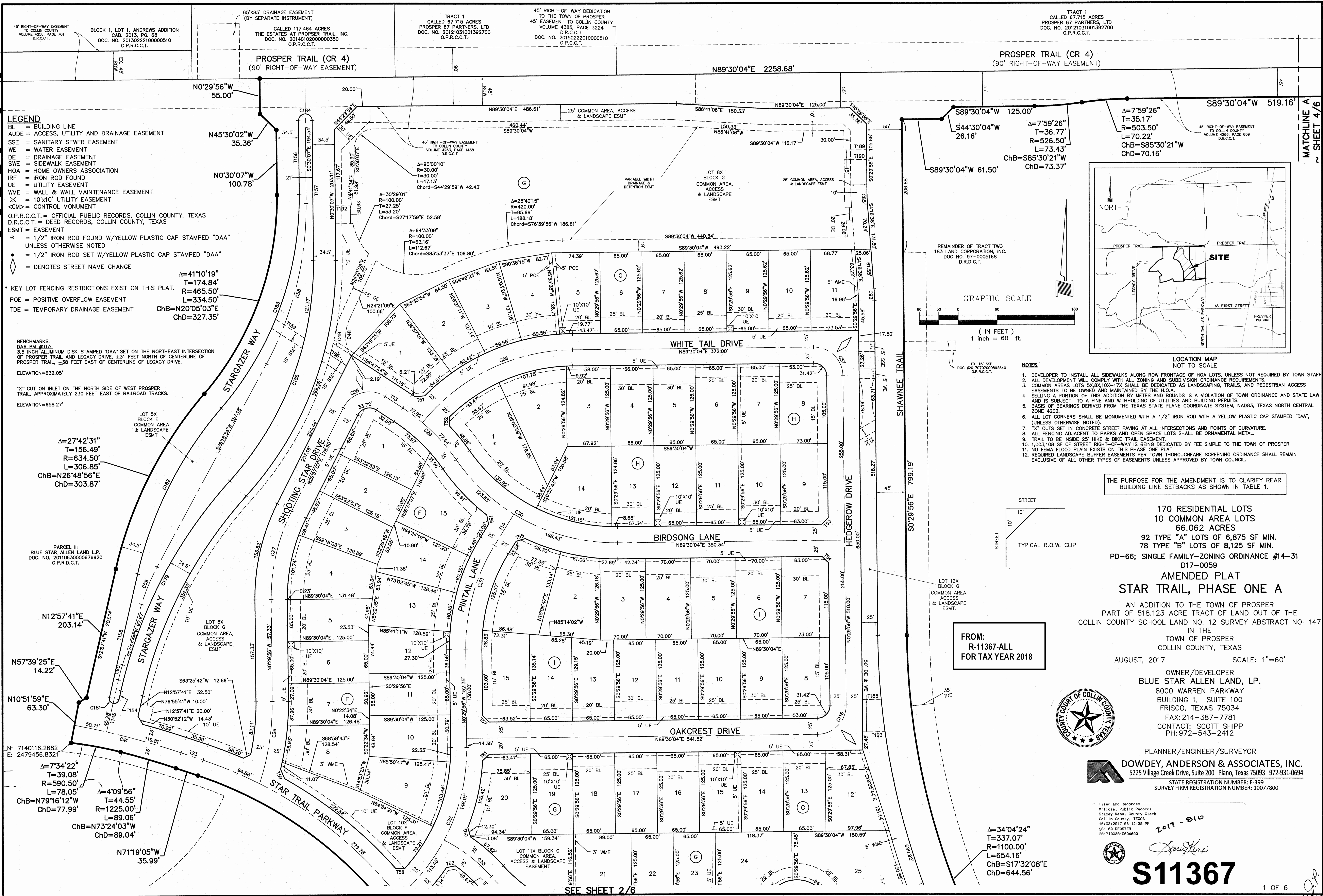


NOTES:
To the best of my knowledge and belief:

- 1) This survey was prepared in conjunction with a Title Commitment prepared by First American Title Guaranty Company and Republic Title of Texas, Inc; Title Commitment CF No. 1005-284136-RTT, Effective Date: 10/12/2018.
- 2) Subject to building lines and easements referenced and/or depicted in Vol. 2017, Pg. 810 P.R.C.T. and the aforementioned Title Commitment.
- 3) Easement recorded in Vol. 487, Pg. 345, R.P.R.C.T., does not appear to affect the subject property, by visible surface evidence, at the time of this survey. However, it appears to be a blanket type easement and no document(s) have been located to extinguish it. Thus it may still be in effect.
- 4) Easement recorded in Vol. 1149, Pg. 18, R.P.R.C.T., does not appear to affect the subject property, by visible surface evidence, at the time of this survey. The location of this easement at this time is insufficient by the wording of the document, at this time. No document(s) have been located to extinguish it. Thus it may still be in effect.
- 5) Easement recorded in cdf 93-0111912, R.P.R.C.T., does not appear to affect the subject property, by visible evidence, at the time of this survey.
- 6) Easements recorded in cdf 20170914001231220 & cdf 20170914001231280, R.P.R.C.T., do not appear to affect the subject property, by visible surface evidence, at the time of this survey.
- 7) Subsurface structure(s), utilities, and easements are beyond the scope of this survey.
- 8) Terms, provisions, stipulations, conditions, restrictions, drainage, minerals, covenants, ordinances, assessments, agreements, obligations, rights, privileges, immunities, and/or liens are beyond the scope of this survey.

	I, Ricky L. Gentry, hereby certify that the elevations and drainage pattern shown hereon, were developed from a survey of the above described property, performed on the ground, and accurately depict the elevations as they existed on the date of the survey. The relative elevations as depicted hereon, are accurate to the nearest 1/10 foot. The elevations as depicted hereon may change subsequent to the date hereof, due to the subsidence or upheaval of the soil, addition or removal of soil by acts of man, erosion by wind or water or other factors. Therefore, this survey may not accurately depict the elevations and drainage pattern of the above property after the date of survey.		
	SURVEY DATE: 12/12/2018		
	SCALE: 1" = 20'		
	DRAWN BY: JLH		
LEGEND BL = BUILDING LINE UE = UTILITY EASEMENT DE = DRAINAGE EASEMENT PUE = PUBLIC UTILITY EASEMENT CM = CONTROLLING MONUMENT IRF = IRON ROD FOUND IRS = IRON ROD SET IR = IRON ROD -X- = FENCE -> = DIRECTION OF FLOW	ALH JOB # 063-041 BLS JOB # 1802228-04	Platting / Planning / Residential / Commercial 3970 Sandshell Drive FortWorth, Texas 76137 PHONE (817) 961-0082 FAX (817) 961-0086 FIRM REGISTRATION NO. 10183700	

11367-1-1



LEGEND
BL = BUILDING LINE
AUDE = ACCESS, UTILITY AND DRAINAGE EASEMENT
SSE = SANITARY SEWER EASEMENT
WE = WATER EASEMENT
DE = DRAINAGE EASEMENT
SWE = SIDEWALK EASEMENT
HOA = HOME OWNERS ASSOCIATION
IRF = IRON ROD FOUND
UE = UTILITY EASEMENT
WME = WALL & WALL MAINTENANCE EASEMENT
10'x10' UTILITY EASEMENT
<CM> = CONTROL MONUMENT
O.P.R.C.C.T. = OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS
D.R.C.C.T. = DEED RECORDS, COLLIN COUNTY, TEXAS
ESMT = EASEMENT
1/2" IRON ROD FOUND W/YELLOW PLASTIC CAP STAMPED "DAA" UNLESS OTHERWISE NOTED
1/2" IRON ROD SET W/YELLOW PLASTIC CAP STAMPED "DAA"
◇ = DENOTES STREET NAME CHANGE

*** KEY LOT FENCING RESTRICTIONS EXIST ON THIS PLAT.**
POE = POSITIVE OVERFLOW EASEMENT
TDE = TEMPORARY DRAINAGE EASEMENT

BENCHMARKS:
DAA BM #107:
3.5 INCH ALUMINUM DISK STAMPED "DAA" SET ON THE NORTHEAST INTERSECTION OF PROSPER TRAIL AND LEGACY DRIVE, ±31 FEET NORTH OF CENTERLINE OF PROSPER TRAIL, ±38 FEET EAST OF CENTERLINE OF LEGACY DRIVE.
ELEVATION=632.05'
"X" CUT ON INLET ON THE NORTH SIDE OF WEST PROSPER TRAIL, APPROXIMATELY 230 FEET EAST OF RAILROAD TRACKS.
ELEVATION=658.27'

PARCEL III
BLUE STAR ALLEN LAND L.P.
DOC. NO. 2011063000676920
O.P.R.C.C.T.

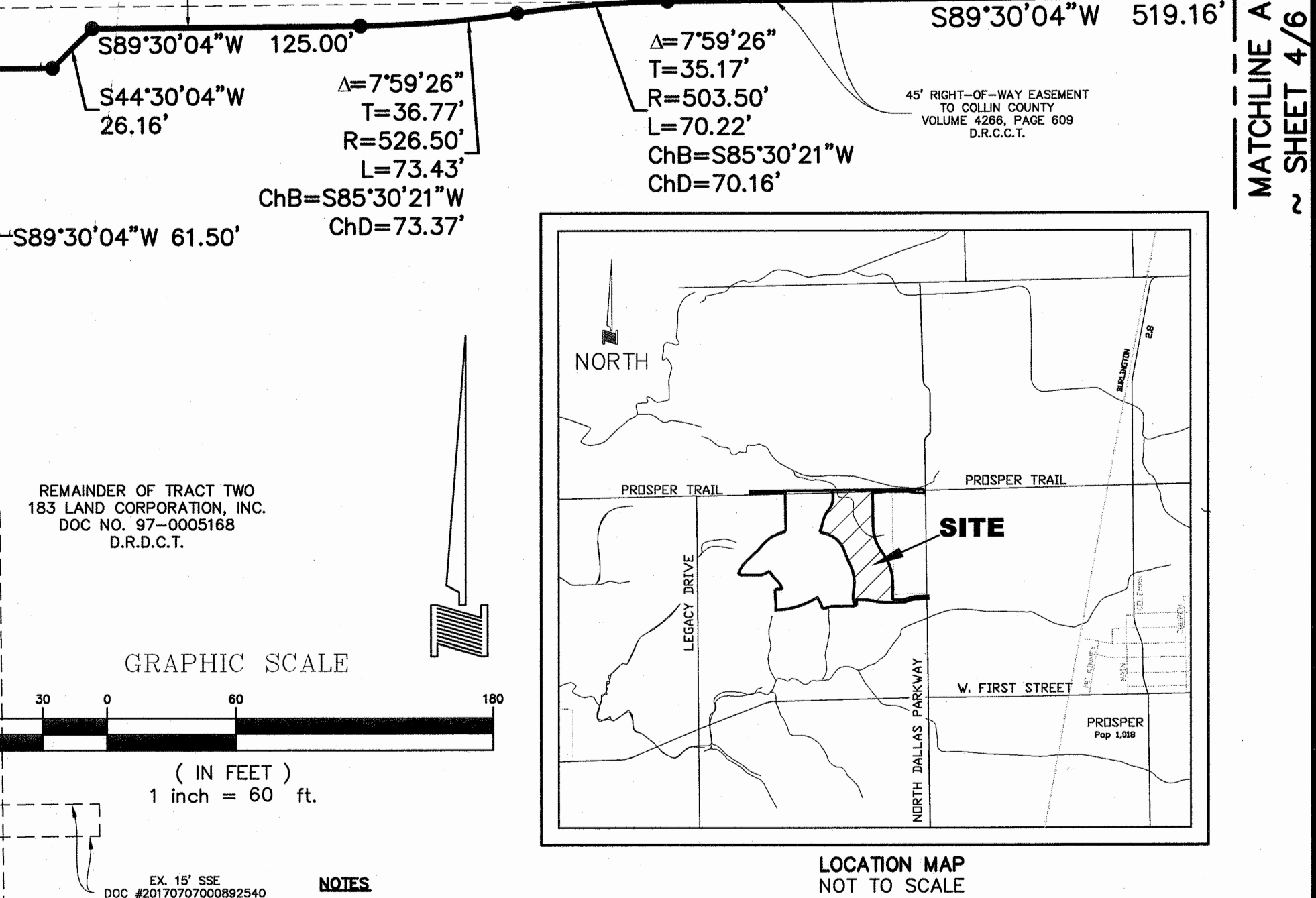
LOT 5X BLOCK E
COMMON AREA & LANDSCAPE ESMT

LOT 8X BLOCK G
COMMON AREA, ACCESS & LANDSCAPE ESMT

LOT 10X BLOCK F
COMMON AREA, ACCESS & LANDSCAPE ESMT

LOT 11X BLOCK G
COMMON AREA, ACCESS & LANDSCAPE ESMT

LOT 12X BLOCK G
COMMON AREA, ACCESS & LANDSCAPE ESMT



- NOTES**
1. DEVELOPER TO INSTALL ALL SIDEWALKS ALONG ROW FRONTAGE OF HOA LOTS, UNLESS NOT REQUIRED BY TOWN STAFF
 2. ALL DEVELOPMENT WILL COMPLY WITH ALL ZONING AND SUBDIVISION ORDINANCE REQUIREMENTS
 3. COMMON AREAS LOTS 5X, 8X, 10X-17X SHALL BE DEDICATED AS LANDSCAPING, TRAILS, AND PEDESTRIAN ACCESS EASEMENTS TO BE OWNED AND MAINTAINED BY THE H.O.A.
 4. SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS IS A VIOLATION OF TOWN ORDINANCE AND STATE LAW AND IS SUBJECT TO A FINE AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.
 5. BASIS OF BEARINGS DERIVED FROM THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD83, TEXAS NORTH CENTRAL ZONE 4202.
 6. ALL LOT CORNERS SHALL BE MONUMENTED WITH A 1/2" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "DAA", (UNLESS OTHERWISE NOTED).
 7. "X" CUTS SET IN CONCRETE STREET PAVING AT ALL INTERSECTIONS AND POINTS OF CURVATURE.
 8. ALL FENCING ADJACENT TO PARKS AND OPEN SPACE LOTS SHALL BE ORNAMENTAL METAL.
 9. TRAIL TO BE INSIDE 25' HIKES & BIKE TRAIL EASEMENT.
 10. 1,003.108 SF OF STREET RIGHT-OF-WAY IS BEING DEDICATED BY FEE SIMPLE TO THE TOWN OF PROSPER
 11. NO FEMA FLOOD PLAIN EXISTS ON THIS PHASE ONE PLAT
 12. REQUIRED LANDSCAPE BUFFER EASEMENTS PER TOWN THOROUGHFARE SCREENING ORDINANCE SHALL REMAIN EXCLUSIVE OF ALL OTHER TYPES OF EASEMENTS UNLESS APPROVED BY TOWN COUNCIL.

THE PURPOSE FOR THE AMENDMENT IS TO CLARIFY REAR BUILDING LINE SETBACKS AS SHOWN IN TABLE 1.

170 RESIDENTIAL LOTS
10 COMMON AREA LOTS
66.062 ACRES
92 TYPE "A" LOTS OF 6,875 SF MIN.
78 TYPE "B" LOTS OF 8,125 SF MIN.
PD-66; SINGLE FAMILY-ZONING ORDINANCE #14-31
D17-0059

**AMENDED PLAT
STAR TRAIL, PHASE ONE A**

AN ADDITION TO THE TOWN OF PROSPER
PART OF 518.123 ACRE TRACT OF LAND OUT OF THE
COLLIN COUNTY SCHOOL LAND NO. 12 SURVEY ABSTRACT NO. 147
IN THE
TOWN OF PROSPER
COLLIN COUNTY, TEXAS

AUGUST, 2017 SCALE: 1"=60'

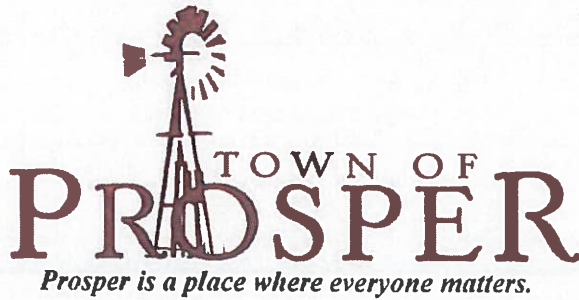
OWNER/DEVELOPER
BLUE STAR ALLEN LAND, LP.
8000 WARREN PARKWAY
BUILDING 1, SUITE 100
FRISCO, TEXAS 75034
FAX: 214-387-7781
CONTACT: SCOTT SHIPP
PH: 972-543-2412

PLANNER/ENGINEER/SURVEYOR

DOWDEY, ANDERSON & ASSOCIATES, INC.
5225 Village Creek Drive, Suite 200 Plano, Texas 75093 972-931-0694
STATE REGISTRATION NUMBER: F-399
SURVEY FIRM REGISTRATION NUMBER: 10077800

FILED AND RECORDED
Official Public Records
Stacey Kemp, County Clerk
Collin County, TEXAS
10/03/2017 08:14:38 PM
\$81.00 DF05TER
20171003010004690

S11367



**DEVELOPMENT SERVICES
DEPARTMENT**
250 W. First Street
Prosper, TX 75078
Phone: 972-346-3502

REPLY FORM

SUBJECT:

Variance Request V22-0004: Conduct a Public Hearing, and consider and act upon a request for a Variance to the Zoning Ordinance, to allow a pool to encroach upon the required 3' minimum backyard setback, located in the Star Trail subdivision at 1710 White Tail Drive. (V22-0004)

LOCATION OF SUBJECT PROPERTY:

The property is located approximately on the southwest corner of Prosper Trail and Shawnee Trail.

- ☐ I **OPPOSE** the request as described in the notice of Public Hearing. If in opposition, please provide a reason for opposition.
- ☒ I **DO NOT OPPOSE** the request as described in the notice of Public Hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY):

SCOTT SHIPP (VILLAGES OF STAR TRAIL HOA)
Name (please print)

[Signature]
Signature

1851 STAR TRAIL PARKWAY
Address

1/24/2023
Date

PROSPER, TX 75078
City, State, and Zip Code

sshipp@dallascountys.net
E-mail Address

214-728-9274
Phone Number