

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS AMENDING THE TOWN’S ZONING ORDINANCE, AS AMENDED; BY REZONING A TRACT OF LAND CONSISTING OF 66.717 ACRES, MORE OR LESS, SITUATED IN THE JOHN MORTON SURVEY, ABSTRACT NO. 793 AND IN PART OF L. RUE SURVEY, ABSTRACT NO. 1110, IN THE TOWN OF PROSPER, DENTON COUNTY, TEXAS, FROM AGRICULTURE TO PLANNED DEVELOPMENT-SINGLE FAMILY (PD-SF); DESCRIBING THE TRACT OF LAND TO BE REZONED; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVING AND SERERABILITY 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 XXX-XXXX) from 1385 Land, LLC and MNCS Developers, LLC (“Applicant”) to rezone 66.717 acres of land, more or less, situated in the John Morton Survey, Abstract No. 793 and in part of L. Rue Survey, Abstract No. 1110, 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:

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 the Town’s Zoning Ordinance: The Town’s Zoning Ordinance is amended

as follows: The zoning designation of the property contains 66.717 acres of land, more or less, situated in the John Morton Survey, Abstract No. 793 and in part of L. Rue Survey, Abstract No. 1110, in the Town of Prosper, Denton County, Texas (“the Property”) and all streets, roads, and alleyways contiguous and/or adjacent thereto is hereby rezoned as Planned Development-Single Family (PD-SF), being more particularly described in Exhibit “A”, attached hereto and incorporated herein for all purposes as if set forth verbatim.

The development plans, standards, and uses for the Property in this Planned Development District shall conform to, and comply with 1) the Statement of Intent and Purpose, attached hereto as Exhibit B; 2) the Development Standards, attached hereto as Exhibit C; 3) the Site Plan, attached hereto as Exhibit D; 4) the Development Schedule, attached hereto as Exhibit E, which are incorporated herein for all purposes as if set forth verbatim. Except as amended by this ordinance, the development of the Property within this Planned Development District must comply with the requirements of all ordinances, rules, and regulations of the Town of Prosper, as they currently exist or may be amended.

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

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

SECTION 3

No Vested Interest/Repeal: No developer or property owner shall acquire any vested interest in this ordinance or in any 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 construct on said premises any building that is not in conformity with the permissible uses under this Zoning Ordinance.

SECTION 5

Penalty: Any person, firm, corporation or business entity violating this Ordinance or any provision of Prosper’s Zoning Ordinance, as amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Two Thousand Dollars

(\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Prosper from filing suit to enjoin the violation. Prosper retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 6

Severability: Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that 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, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 7

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

SECTION 8

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

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS ____ DAY OF _____, 2023.

ATTEST:

Ray Smith, Mayor

Robyn Battle, Director of Community Services

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

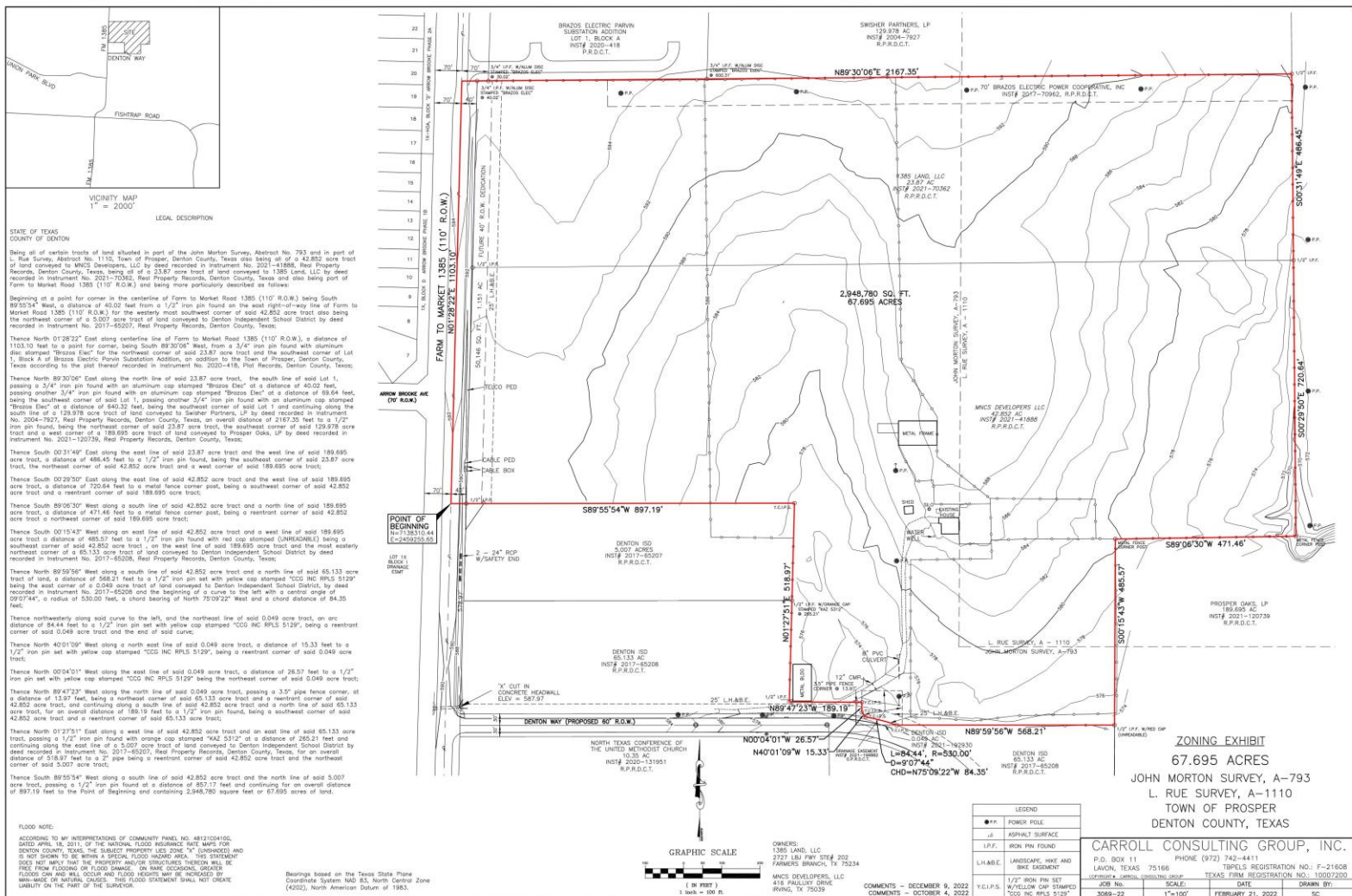


EXHIBIT B

STATEMENT OF INTENT AND PURPOSE PROSPER OAKS – PLANNED DEVELOPMENT SINGLE-FAMILY

The purpose of this Planned Development District is to provide a lower density, high-end home option to people in the FM-1385 area. Currently, the average lot size is 6,000 square feet; so a 7,500 square foot and 8,750 square foot lot size would give homebuyers a more premium option while not being so large of a lot as to be made unaffordable.

The subdivision will feature an amenity center complete with playground and pool, green spaces, as well as a hike and bike trail that will tie-in to the Town's overall trail system. This will allow for residents to enjoy nature, exercise, and feel connected to the Town.

A new middle school is currently under construction directly south of the development, and elementary school is only 1-mile away, making this a perfect location for families. This development is designed for those who would like a more active lifestyle while maintaining close proximity to their children's schools.

The development is located on the East side of FM-1385 approximately 1.6 miles North of US-380. This proximity to US-380 ensures a quick path for residents to reach retail and commercial spaces. While the buffer distance from US-380 ensures that noise pollution is kept to a minimum, which appeals to the target demographic of nature enjoying families.

The development district standards fit in with developments in the proximity with comparable lot sizes and amenities. This development will also act as a transition area in terms of lot sizes as the Town grows from a school site to the south to larger residential lots to the north. Development Standards are provided to ensure the provision of a quality planned development over time.

EXHIBIT C

DEVELOPMENT STANDARDS PROSPER OAKS

Conformance with the Town's Zoning Ordinance and Subdivision Ordinance, except as otherwise set forth in these Development Standards shall apply as they currently exist or may be amended.

1. SINGLE FAMILY RESIDENTIAL USES, DENSITIES AND LOT REGULATIONS

1.1 Definition: The Single-Family area shall mean the use of a lot with one building designed for and containing not more than one unit with facilities for living, sleeping, cooking, and eating therein.

1.2 General Description: This Planned Development Ordinance permits single-family residential units to develop using standards for such housing as outlined below or, if not specifically addressed herein, as set forth in the SF-10 Zoning Classifications of Zoning Ordinance No. 05-20 and Subdivision Ordinance 15-55 as they exist or may be amended.

1.3 Density: The maximum number of single-family detached units for the Property is 202 Lots. The maximum density for the Property is 3.10 dwelling units per acre.

1.4 Lot Types: The single family detached lots developed within the Property shall be in accordance with the following Lot Types:

1. Type A Lots: Minimum 70' x 125' (8,750 square feet)
2. Type B Lots: Minimum 60' x 120' (7,200 square feet)
3. Minimum of 54% Type A Lots

1.5 Allowed Uses: Land uses allowed within this PD are as follows:

- Single-family detached houses
- Accessory buildings
- Park or Playground
- Neighborhood recreational facilities
- In-home Business
- Model Home
- Private Utilities
- Electrical Transmission Lines and Telephone Lines
- Off-street parking
- Private Swimming Pool
- Agricultural accessory building
- Temporary concrete batch plant for use in constructing paving facilities which shall be removed no later than 30 days following final acceptance of public

facilities by the Town of Prosper

- Temporary real estate sales offices for each builder during the development and marketing of the Planned Development which shall be removed no later than 30 days following the final issuance of the last Certificate of Occupancy (CO) on the last lot owned by that builder
- Temporary buildings of the builders and uses incidental to construction work on the premises, which shall be removed upon completion of such work

1.6 Conceptual Development Site Plan: A Conceptual Development Site Plan is hereby attached as Exhibit D and made a part of this ordinance. It establishes the most general guidelines for the district by identifying the project boundaries, land use types, approximate thoroughfare locations, approximate roadway locations and right-of-way dedications.

1.7 Maintenance of Facilities: The Developer shall establish a Homeowner's Association (HOA) in which membership is mandatory for each residential lot, and that will be responsible for operation and maintenance of all common areas and/or common facilities contained within the area of the Planned Development District. As the Property develops, each new phase shall be annexed into the HOA. Prior to transfer of ownership to the HOA, all specific facilities shall be constructed by the Developer and approved by the Town.

1.8 Mechanical Equipment: All mechanical equipment (pool, air conditioning, solar collectors, etc.) must be completely screened from public view. A combination of screens or hedges shall be used to screen mechanical equipment.

1.9 Fencing: Consistent ornamental metal open fencing shall be required on all lots adjacent to FM-1385, Denton Way and all open space lots in accordance with the Town's subdivision ordinance No. 17-41 as it exists or may be amended. Standard six (6) foot wooden privacy fence shall be provided for other lots. All open space fencing shall follow Town of Prosper standards.

1.10 Brazos Electric Power Cooperative Easement: At no point in the development of this property, shall there be any buildings, fences, or structures of any kind placed within the Brazos Electric Easement. Unless formal written approval by Brazos Electric Power Cooperative is given to the requesting party.

2. MINIMUM STANDARDS FOR ALL RESIDENTIAL LOTS

The single-family residential tract shall develop under the standards for Single Family-10 (SF-10) as contained in the Zoning Ordinance as it exists or may be amended, except as otherwise set forth in the development standards below.

2.1 Front Yard: The minimum front yard setback shall be twenty (20) feet with that no garage doors are no closer than 25 feet.

2.2 Side Yard: The minimum side yard setback shall be five (5) feet. The side yard setback adjacent to a street shall be fifteen (15) feet.

- 2.3 Rear Yard: The minimum rear yard setback shall be twenty (20) feet.
- 2.4 Maximum Heights: The maximum building height shall be two and a half (2.5) stories, no greater than forty (40) feet.
- 2.5 Maximum Lot Coverage: The maximum lot coverage shall be sixty (60) percent.
- 2.6 Minimum Lot Dimensions by Lot Type: The minimum lot dimensions are provided by lot type as listed in the table below.

	Type A	Type B
Minimum Lot Width ⁽¹⁾	70-feet	60-feet
Minimum Lot Depth ⁽²⁾	125-feet	120-feet
Minimum Lot Area	8,750 sq. ft.	7,200 sq. ft.
Minimum Floor Space	1,800 sq. ft.	1,800 sq. ft.

⁽¹⁾ Minimum lot width for lots at the terminus of a cul-de-sac or along street elbows/eyebrows may reduce the minimum width by ten (10) feet as measured along the arc at the front building line.

⁽²⁾ Minimum lot depth for lots at the terminus of a cul-de-sac or along street elbows/eyebrows may be reduced provided all other requirements of this section are fulfilled.

2.7 Required Parking: A minimum of four (4) off-street parking spaces shall be provided for each residential unit. As part of the parking requirement, at least two (2) of the off-street parking spaces shall be in an enclosed garage. The parking of recreational vehicles, sports vehicles, boats and/or trailers on a lot facing a street is prohibited.

2.8 Minimum Enclosed Parking (Garage) Area: The minimum enclosed parking area shall be Four Hundred (400) square feet.

2.9 Maximum Impervious Coverage of Front Yards: The maximum impervious area as measured from the front property line to the building setback line shall be 50%.

3. LANDSCAPING, SIDEWALK AND AMENITIES

The Prosper Oaks community will have a system of amenities throughout the development. These amenities combine to create a family-oriented neighborhood. The neighborhood amenities that are addressed within these Standards are pocket park, amenity center, playground, hike & bike trail, and landscaping

3.1 Thoroughfare Screening and Landscaping: A minimum twenty-five (25) foot landscape easement shall be provided for the FM-1385 corridor & Denton Way. The landscape buffer shall be located in a private “non-buildable” lot that is owned and maintained by the HOA as detailed in Exhibit F. Screening shall be accomplished by a combination of earthen berms, turf grass, trees and shrubs and meandering sidewalk within the twenty-five (25) foot landscape buffer. All plantings, screening walls, and design elements shall comply with the Town’s subdivision ordinance.

3.2 Residential Landscaping:

3.2.1 Front Yard: A minimum of two (2) trees totaling – six (6) caliper inches as

measured twelve (12) inches above the root ball shall be located in the front yard of all single-family residential lots. The trees may be two large trees or one large tree and one ornamental tree. All trees shall be planted by the builder at the time of house construction and must be installed prior to issuance of the certificate of occupancy for that lot and house. All trees shall be selected from the Town's approved plant list.

3.2.2 Side Yard Facing A Street: A minimum of two (2) canopy trees measuring three (3) caliper inches each as measured twelve (12) inches above ground level. Trees planted in each side yard space that abuts a street. These required trees shall be in addition to the required front yard trees and shall be planted generally parallel to the street at the edge of the street right-of-way. The required canopy trees shall be planted by the builder at the time of house construction and must be installed prior to issuance of the certificate of occupancy for that lot and house. All trees shall be selected from the Town's approved plant list.

3.3 Hike and Bike Trails: A ten (10) foot wide hike and bike trail shall be provided within the subdivision in two locations. Hike and Bike trail shall meander according to Town Ordinance Sec. 10.01.136(d) and (e), with a radius between one hundred (100) feet to five hundred (500) feet, located at the following:

1. Along the FM-1385 corridor, running North and South, in and out of the Right-of-Way and 25' Landscape & Access Easement.
2. Along the northern property boundary, within a fifty (50) foot Hike and Bike Trail Easement, overlapping the seventy (70) foot Brazos Electric Power Cooperative easement where necessary, the entire length of the property from east to west.
 - a. Connecting to the trail along FM-1385, the trail shall extend across the entire length of the northern property line, terminating at the east perimeter line.
 - b. Clearly demarcate and label the east property line of the Brazos Electric Parvin Substation Addition (BEP SA), then add a trail connection from the Prosper Oaks east/west trail, described in "2.a" above, at a point just east of the east property line of the BEP SA, running north to the north Prosper Oaks property line.

3.4 Sidewalks: Six-foot (6') sidewalks shall be provided on each side of collector streets, unless one side of a collector street has been designated for a Hike and Bike Trail. The residential streets shall have a five foot (5') wide sidewalk located on each side of the street and shall be located no less than one foot (1') from the right-of-way line. Corner lots shall also provide the aforementioned requirement. All public street sidewalks and crossings shall be ADA compliant. In locations where open space, common, or HOA areas exist, sidewalks shall be extended to connect with adjacent sidewalks and/or trails.

3.5 Amenity Center: The intent of this Planned Development District is to provide for an active recreational area including a neighborhood playground and gated pool area. The Amenity Center shall be maintained by the HOA.

3.6 Large Open Spaces: The integration of the hike and bike trails in conjunction with detention ponds provides for unobstructed natural open spaces. Additional landscaping

around the detention ponds including native grasses and plants will create a more natural environment for the residents to enjoy.

3.7 Parkland Dedication: Park improvement fees, parkland dedication, tree mitigation, and planting requirements will follow Town of Prosper ordinances (Zoning Ordinance and Sub-Division Ordinance).

3.8 Landscape Plan: The PD Exhibits are conceptual in nature. A landscape plan including all requirements conforming Town ordinances and standards needs to be provided along with the Site Plan, Final Plat, and Civil Plans.

4. PUBLIC INFRASTRUCTURE STANDARDS:

4.1 Streets: The residential streets shall consist of a fifty (50) foot wide right-of-way with a thirty-one (31) foot back-to-back paving section and accompanying drainage systems. The street shall be constructed using concrete paving with mountable curbs. The right-of-way to be dedicated for all residential, collector, and thoroughfare streets with landscape and setback areas shall be shown on the plat. Right-of-way area shall be dedicated and provided to adjacent street or road sections in conformance with the approved Town of Prosper Transportation Plan. FM-1385 is identified as the only roadway on the Town's Master Thoroughfare Plan.

4.2 Detention: Ponds used for conveying drainage shall be retention.

5. BUILDING STANDARDS:

5.1 Architectural Standards:

- Elevation Repetition: Each unique house elevation and brick color shall not be repeated on the lot most directly across the street or diagonal, nor shall it be repeated on three (3) lots in either direction on the same side of the street.
- Minimum Masonry Requirement. All exterior facades will be 100% masonry (brick and stone). Cementitious fiberboard, cedar trim or engineered wood may also be used for architectural features, including window box-outs, bay windows, roof dormers, columns, chimneys not part of an exterior wall or other architectural features approved by the Director.
- 25% of home construction will have a front porch that is a minimum of 10' in width and 6' in depth. Porches may encroach a maximum of five feet over the front yard setback in order to provide elevation articulation along the streetscape.
- Front entry doors to the home shall be 8' in height.
- All front yard landscape beds and side yard landscape beds shall be enclosed by masonry edging comprised of brick and/or stone.
- The architectural exhibits provided in this PD, "Exhibit G" are incorporated herein by reference and demonstrate potential elevations and floor plans. The ultimate design must generally conform to Exhibit G and will be provided at time of building permit by the designated home builder.

5.2 Roofing: Roofing shall be an architectural composition shingle with the option to add metal roof accents.

- 5.3 Walls/Fences/Screening: All homes will have a minimum of a 6' fence constructed with metal posts and include a decorative cap. The perimeter of the neighborhood shall consist of a minimum of a 6' masonry wall consisting of brick with optional stone accents.
- 5.4 Garages/Driveways/Walkways:
- 5.4.1 Driveways fronting on a street and lead walkways from a public sidewalk shall be constructed using the following materials: concrete, brick pavers, stone, interlocking pavers, stamped concrete, or concrete with stone or brick border.
 - 5.4.2 Decorative driveway paving (e.g. salt finish, exposed aggregate, or other treatments approved by the Town's building official) is required for all homes.
 - 5.4.3 Garage doors shall be painted or stained cedar wood doors.
 - 5.4.4 No carports shall be permitted.
 - 5.4.5 No more than two (2) single garage doors or one (1) double garage door shall face the primary street on a front elevation.
- 5.5 Exterior Lighting:
- 5.5.1 All homes shall provide an exterior lighting package to illuminate front entrances and garages.
 - 5.5.2 Provide a minimum of two (2) up or down lights per street elevation to accent building architectural or landscape features.
- 5.6 Mailboxes: All mailboxes shall be cluster-mailboxes and should be consistently constructed of masonry or ornamental metal, unless otherwise required by the United States Postal Service.
- 5.7 Permitted Encroachments: Architectural features, overhangs, and porches may encroach into required front and rear yard setbacks up to five (5) feet.
- 5.8 Plan Elevations: Plan elevations shall alternate at a minimum of every four (4) homes on the same side of a street and every three (3) homes on opposite sides of the street.
- 5.9 Accessory Structures: Accessory structures shall be separate from the main dwelling by a minimum of five (5) feet, have a minimum rear yard setback of five (5) feet, and a minimum side yard setback of five (5) feet.
- 5.10 Conceptual Elevations: Conceptual elevations are provided to indicate the direction and intent of the design standards. Final designs may vary depending on the selected builders designs, but shall substantially conform with the intent of the designs shown in Exhibit G.

EXHIBIT D

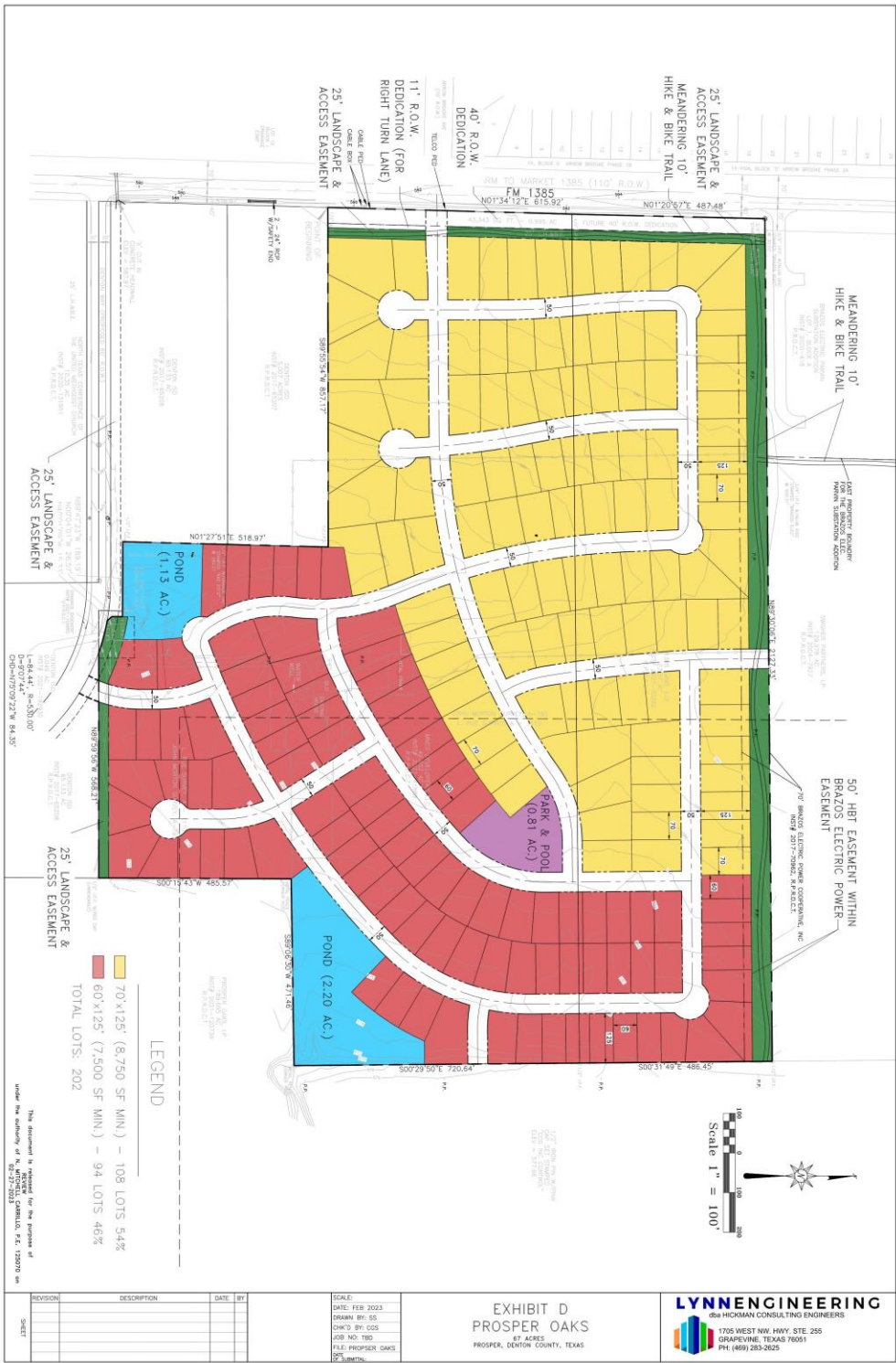


EXHIBIT E

DEVELOPMENT SCHEDULE PROSPER OAKS

It is expected that the development of Prosper Oaks will begin upon approval of this Planned Development Ordinance. Once approved, the entire project will advance to the development phase followed by the construction phase of new single-family homes. The project may be split into no more than two phases and developed over the next five years as the market dictates.

Dates are approximate and are subject to change due to external forces, such as market conditions and timing of the FM-1385 expansion project.

EXHIBIT F

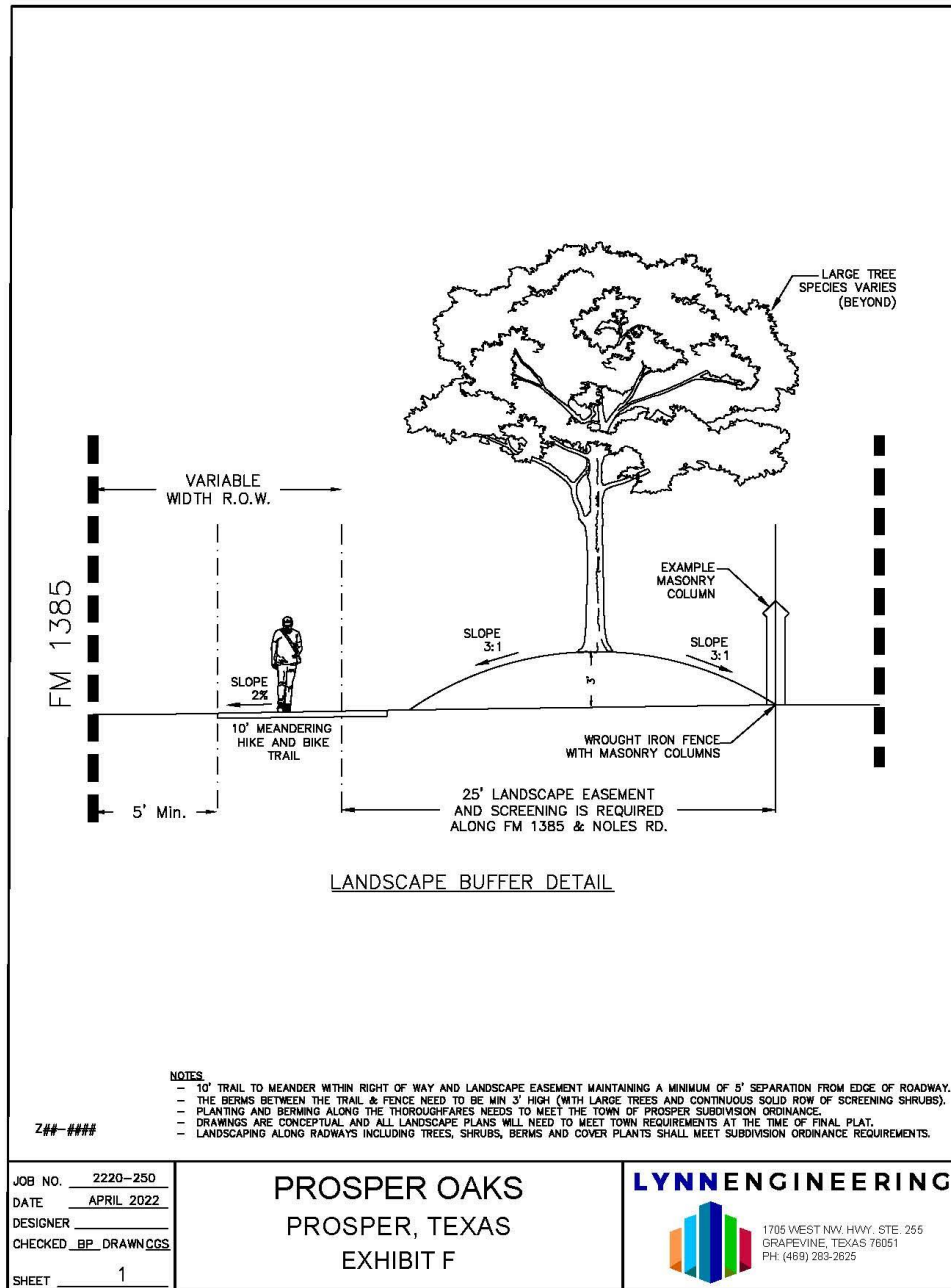
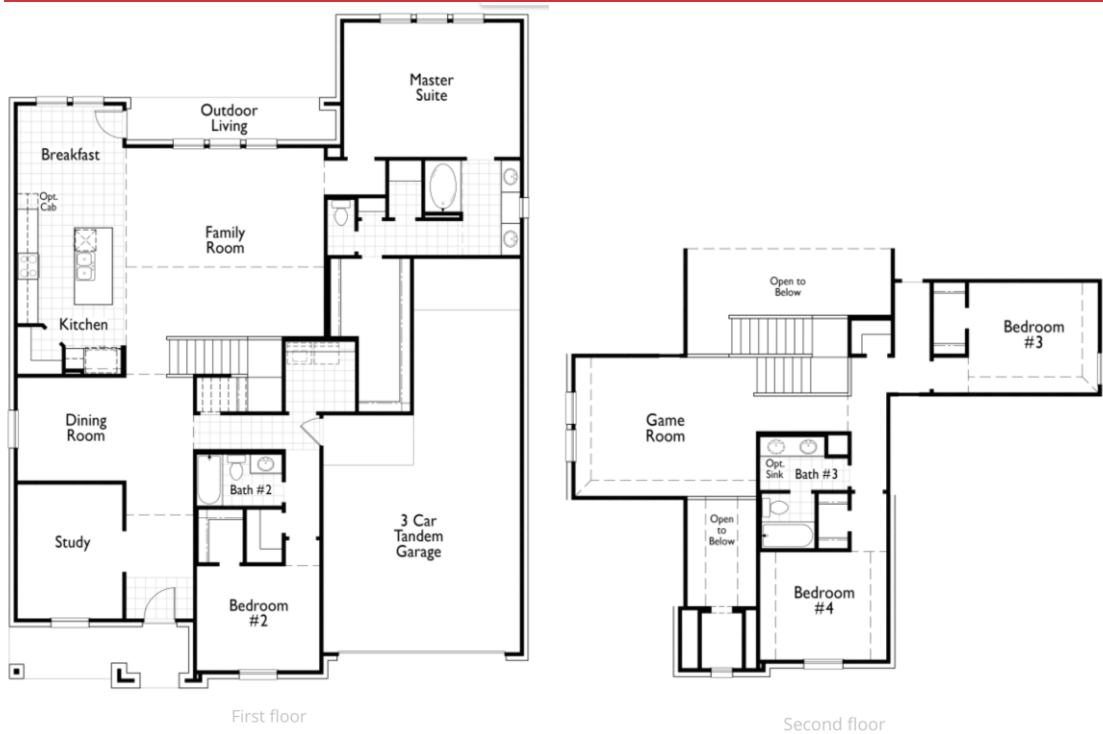


EXHIBIT G

CONCEPTUAL ELEVATIONS PROSPER OAKS

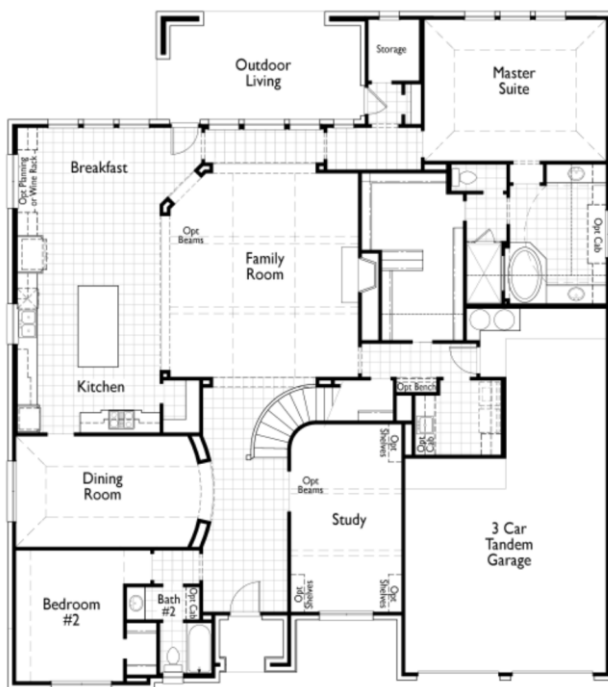




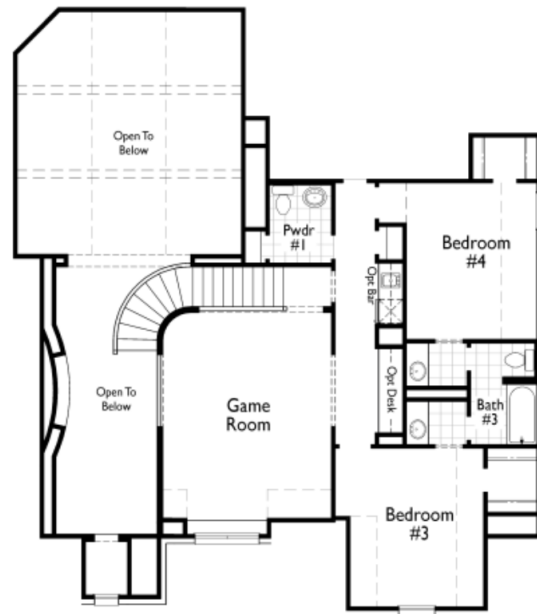
First floor



Second floor



First floor



Second floor

