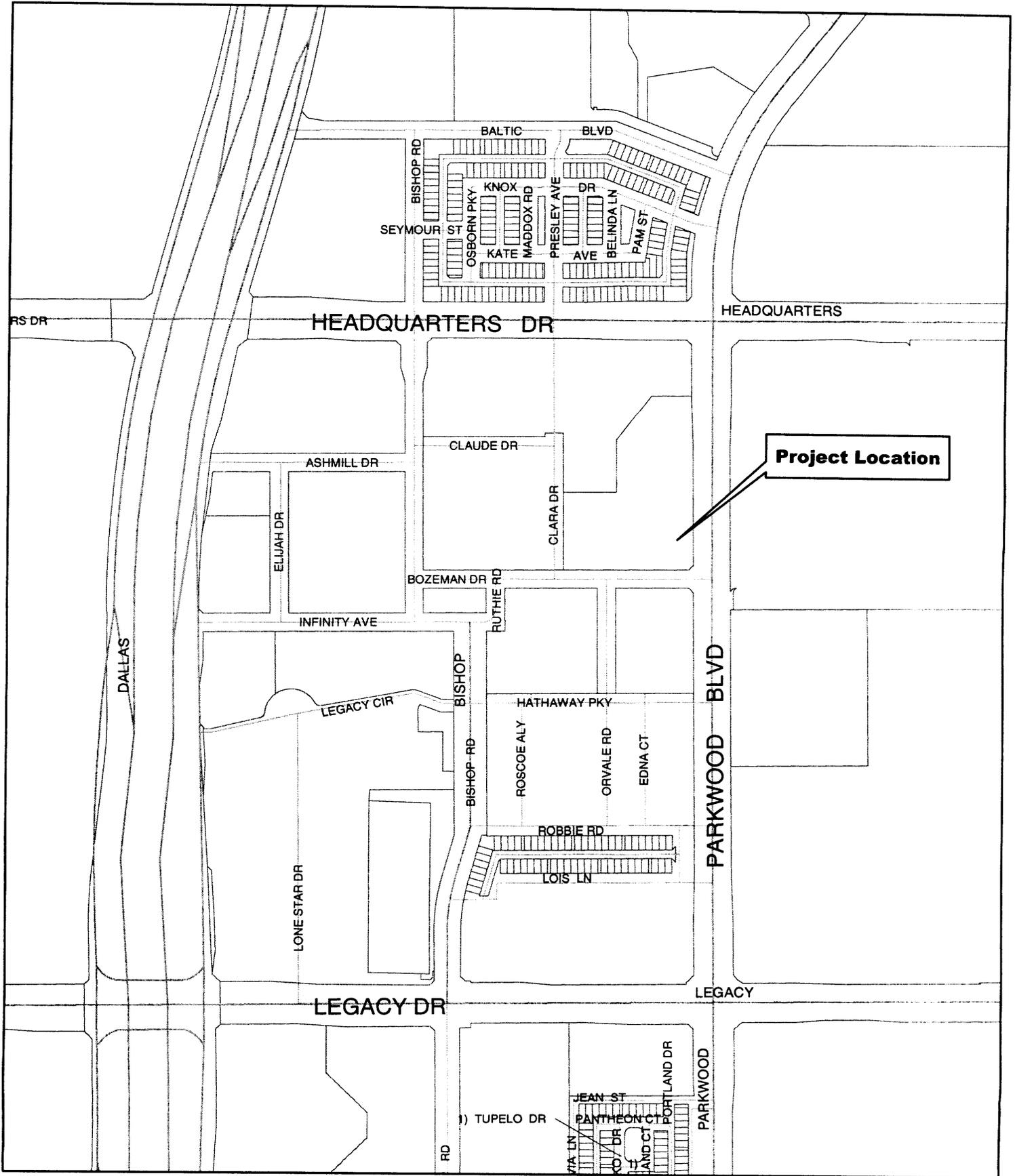




**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		4/09/12			
Department:	Public Works				
Department Head	Gerald Cosgrove				
Agenda Coordinator (include phone #):		Linda Sweeney (X-7157)		Proj. #5537-12	
CAPTION					
<p>An Ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to that certain 15' Temporary Drainage Easement recorded in Volume 4590, Page 950, of the Land Records of Collin County, Texas and being situated in the Samuel Brown Survey, Abstract No. 108, which is located within the city limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement to the abutting property owner, Legacy North PT MFA V, L.P., to the extent of its interest; authorizing the City Manager or his authorized designee, to execute any documents deemed necessary; and providing an effective date.</p>					
FINANCIAL SUMMARY					
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2011-12	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	0	0	0
Encumbered/Expended Amount		0	0	0	0
This Item		0	0	0	0
BALANCE		0	0	0	0
FUND(S): N/A					
COMMENTS: This item has no fiscal impact.					
STRATEGIC PLAN GOAL: Abandoning all right, title and interest of the City to the easement relates to the City's Goal of Financially Strong City with Service Excellence.					
SUMMARY OF ITEM					
<p>The property that the Temporary Easement served is now under development. The existing storm inlet in the Easement has been removed. A roof drain system and subsurface drainage system has been provided with the development to capture the storm water that used to surface drain to this inlet. This system drains into the existing storm sewer in Parkwood Boulevard. The existing Easement is no longer needed.</p>					
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies			
Location Map		N/A			

Easement Abandonment Project # 5537-12



Location Map

An Ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to that certain 15' Temporary Drainage Easement recorded in Volume 4590, Page 950, of the Land Records of Collin County, Texas and being situated in the Samuel Brown Survey, Abstract No. 108, which is located within the city limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement to the abutting property owner, Legacy North PT MFA V, L.P., to the extent of its interest; authorizing the City Manager or his authorized designee, to execute any documents deemed necessary; and providing an effective date.

WHEREAS, the City Council of the City of Plano has been requested to abandon all right, title and interest of the City in that certain 15' Temporary Drainage Easement recorded in Volume 4590, Page 950, of the Land Records of Collin County, Texas and being situated in the Samuel Brown Survey, Abstract No. 108, which is located within the city limits of Plano, Collin County, Texas, and which is more particularly described in Exhibit "A-1" attached hereto and incorporated herein by reference; and

WHEREAS, the Property Owner has filed with the City a Petition for Abandonment, a copy of which is attached hereto as Exhibit "B" and made a part hereof by reference; and

WHEREAS, the Public Works Department has determined that there will be no detrimental effect on the City if the Easement is abandoned and quitclaimed to the abutting Property Owner; and has advised that the Easement should be abandoned.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. All the right, title and interest of the City of Plano, Texas, in and to the Easement is hereby abandoned, and all right, title and interest of the City in and to the Easement is hereby quitclaimed to the abutting Property Owner in accordance with its respective interest. A certified copy of this Ordinance may be recorded in the Collin County Land Records to reflect this abandonment and quitclaim. The City Manager or his authorized designee, is hereby authorized to execute on behalf of the City of Plano, Texas, any instruments necessary to complete the abandonment and quitclaim of the Easement by the City of Plano.

Section II. The abandonment and quitclaim is without prejudice to any and all improvements, facilities, equipment or lines of any public utility, municipal or otherwise, if any, which are presently located within any portion of the Easement. Any such utility shall have the continued right to locate, maintain, repair, reconstruct, preserve or relocate improvements, facilities, equipment or lines in such portion of the Easement.

Section III. The City Council hereby finds and determines that the abandonment of the Easement is in the public interest of the City of Plano, Texas, and its citizens, and will inure to the benefit of the public generally.

Section IV. This Ordinance shall become effective immediately upon its passage as set forth below.

DULY PASSED AND APPROVED this the 9th day of April, 2012.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "B"

PETITION FOR ABANDONMENT

[For Easement Abandonment]

We, the undersigned, (hereinafter "Owners"), being all of the owners of real property abutting **15' Temp. Drainage Easement, Vol. 4590, Pg. 950 L.R.C.C.T.**, (hereinafter called "Easement"), more particularly described by metes and bounds in the field note description attached hereto and incorporated herein as **Exhibit "A-1"** do hereby request that the City of Plano, Texas (called "City") abandon the Easement.

1. The Owners are requesting the abandonment of the Easement for the following reasons:
The property that the Easement was serving is being developed. The existing Easement is no longer needed.
2. The following public interest will be served as a result of the abandonment:
The property that the Easement served is now under development. The existing storm inlet in the Easement has been removed. A roof drain system and subsurface drainage system has been provided with the development to capture the storm water that used to surface drain to this inlet. This system drains into the existing storm sewer in Parkwood Boulevard.
3. Unless the City determines that this abandonment is exempt from payment of fair market value, the Owners agree to pay to the City the fair market value of the Easement as determined by an appraisal obtained by the City (called "Price"). The appraisal shall be conclusive as to the fair market value. The Owners shall reimburse the City for the cost of the appraisal and other costs incident to the abandonment (called "Costs"). The Price and Costs shall be paid to the City prior to the abandonment. Should the Plano City Council decide not to abandon the Easement, the Price shall be returned to the Owners, but the Costs shall be retained by the City. Each Owner's share of the Price and Costs shall be in the same proportion as their abutting ownership as hereinafter defined.
4. If the Owners are providing a replacement easement for the Easement requested to be abandoned herein, Owners will attach a metes and bounds description or plat identifying the replacement easement and attach same to this Petition as **Exhibit "B-1"**.
5. The Owners hereby represent and affirm to the City that no other property owner, lessee, tenant or easement or license holder uses the Easement to access or to serve their property.
6. **The Owners further agree to release, defend, indemnify and hold the City, its officers, agents and employees harmless from and against any and all**

claims, losses, demands, suits, judgments and costs, including reasonable and necessary attorney's fees and expenses, arising out of, related to or resulting from the abandonment of the Easement by City.

7. The Owners understand and agree that the abandonment is in the sole discretion of the Plano City Council. The Owners also understand and agree that the Easement will be abandoned to them in proportion to their abutting ownership. The abutting ownership will be determined by the number of linear feet of frontage adjacent to the Easement owned by each property owner. Based on the foregoing, the Owners hereby represent and affirm that they have searched the public land records and determined that the abutting ownership is in the following proportions:

8. Owners shall also prepare a map or drawing showing the Easement to be abandoned along with a designation of all abutting property owners. This map or drawing shall be attached hereto and incorporated herein as **Exhibit "C-1"**.
9. Owners shall also prepare a separate field note description for each portion of the Easement to be released to each abutting property owner. This description shall be attached hereto and incorporated herein as **Exhibit "D-1"**.

[Remainder of page blank]

10. The undersigned officers and/or agents of the Owners hereby represent and affirm that they have the necessary authority to execute this Petition for Abandonment on behalf of the Owners.

Legacy North PT MFA V, L.P.
Typed Name of Owner

8343 Douglas Avenue, Suite 360
Address

Dallas, TX 75225
City, State and Zip

Dated: 03.26.12

[Signature]
Signature of Owner

Contact Person for Property Owners:

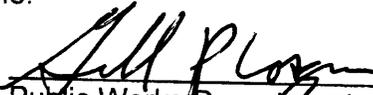
Name: David Meyers, P.E.

Phone No: 972.770.1300

FOR DEPARTMENTAL USE ONLY

The Easement to be abandoned is to one or more abutting property owners and is exempt from the requirement that fair market value be paid for the following reason(s):

- The Easement consists of narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development code ordinances;
- The Easement consists of streets or alleys, owned in fee or used by easement;
- The Easement consists of land or a real property interest originally acquired for streets, rights-of-way, or easements that the City of Plano has decided to exchange with Owner for other land to be dedicated and used for streets, rights of way, easements, or other public purposes, including transactions partly for cash;
- The Easement contains land that the City wants to have developed by an independent foundation;
- The Easement is located within a reinvestment zone designated by law that the City desires to have developed under a project plan adopted by the municipality for the zone.



Public Works Department
City of Plano, Texas

**LEGAL DESCRIPTION
DRAINAGE EASEMENT ABANDONMENT
0.007 ACRE**

BEING a tract of land out of the Samuel Brown Survey, Abstract No. 108, in the City of Plano, Collin County, Texas, being part of Lot 6R, Block A of Legacy Town Center (North), Lots 6R and 8R, Block A, an addition to the City of Plano according to the plat thereof recorded in Cabinet 2010, Page 134 of the Map Records of Collin County, Texas, being all of the 15' Temporary Drainage Easement dedicated to the City of Plano recorded in Volume 4590, Page 950 of the Land Records of Collin County, Texas, and being more particularly described as follows:

BEGINNING at a point in the west right-of-way line of Parkwood Boulevard (121' ROW at this point) from which an aluminum monument set in concrete for the north end of a corner clip the intersection of the north right-of-way line of Bozeman Drive and the west right-of-way line of said Parkwood Boulevard bears South 00°37'12" East, a distance of 310.54 feet;

THENCE leaving said west right-of-way line, the following courses and distances to wit:

South 59°26'48" West, a distance of 16.72 feet to a point for corner;

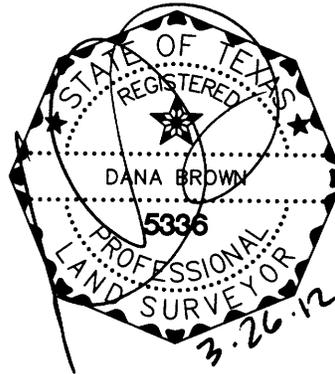
North 30°33'12" West, a distance of 15.00 feet to a point for corner;

North 59°26'48" East, a distance of 25.36 feet to a point in the west line of said Parkwood Boulevard;

THENCE with said west right-of-way line, South 00°37'12" East, a distance of 17.31 feet to the **POINT OF BEGINNING** and containing 316 square feet or 0.007 acre of land.

Bearing system based on the plat of Legacy Town Center (North), Lots 4R, 5, 6, and 7, Block A, an addition to the City of Plano according to the plat thereof recorded in Cabinet 2008, Page 607 of the Map Records of Collin County, Texas;

Dana Brown R.P.L.S. #5336
KIMLEY-HORN AND ASSOCIATES, INC.
12700 Park Central Drive, Suite 1800
Dallas, Texas 75251
Phone: (972) 770-1300
Fax: (972) 239-3820



**DRAINAGE EASEMENT ABANDONMENT
SAMUEL H. BROWN SURVEY ABSTRACT 108
CITY OF PLANO, COLLIN COUNTY, TEXAS**

		Kimley-Horn and Associates, Inc.			
5750 Genesis Court, Suite 200 Frisco, Texas 75034		Tel. No. (972) 335-3580 Fax No. (972) 335-3779			
<u>Scale</u>	<u>Drawn by</u>	<u>Checked by</u>	<u>Date</u>	<u>Project No.</u>	<u>Sheet No.</u>
N/A	DAB	KHA	MARCH 2012	064316007	1 OF 2

EXHIBIT A-1

15' TEMP.
DRAINAGE ESMT.
VOL. 4590 PG. 950
L.R.C.C.T.

25.36'
N59°26'48"E

17.31'
S00°37'12"E

15.00'
N30°33'12"W

16.72'
S59°26'48"W

POB

CITIZENS
CAB. L PG. 655
M.R.C.C.T.

LOT 6R, BLOCK A
LEGACY TOWN CENTER (NORTH)
LOTS 6R AND 8R
BLOCK A
CABINET 2010, PAGE 134
M.R.C.C.T.

S00°37'12"E 310.54'

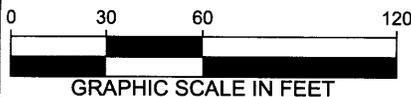
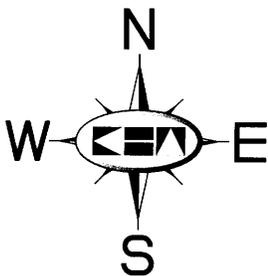
PARKWOOD BOULEVARD
VARIABLE WIDTH ROW

ALUM. MONUMENT
SET IN CONCRETE

5/8"IRF

BOZEMAN DRIVE

60' ROW
CAB. 2009, PAGE 121
M.R.C.C.T.



**DRAINAGE EASEMENT ABANDONMENT
SAMUEL H. BROWN SURVEY ABSTRACT 108
CITY OF PLANO, COLLIN COUNTY, TEXAS**



**Kimley-Horn
and Associates, Inc.**

5750 Genesis Court, Suite 200
Frisco, Texas 75034

Tel. No. (972) 335-3580
Fax No. (972) 335-3779

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 60'	DAB	KHA	MARCH 2012	064316007	2 OF 2