CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY
☐ Consent ☐ Regular ☐ Statutory

Council Meeting Date:	12/14/2015
Department:	Engineering
Department Head	Caleb Thornhill
Project	Avignon Windhaven, Phase 1 - #5597

Agenda Coordinator (include phone #): **Kathleen Schonne X-7198**

CAPTION

An Ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to a portion of that certain 50' Street Easement, situated in the C. Luttrell Survey, Abstract No. 522, 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 owners of the property underlying the easement, Haggard Enterprises, Limited, Windhaven Development, Ltd., and Acres of Sunshine, Ltd., 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.

FINANCIAL SUMMARY

☒ NOT APPLICABLE ☐ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR: **2015-16**	**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 financial impact.

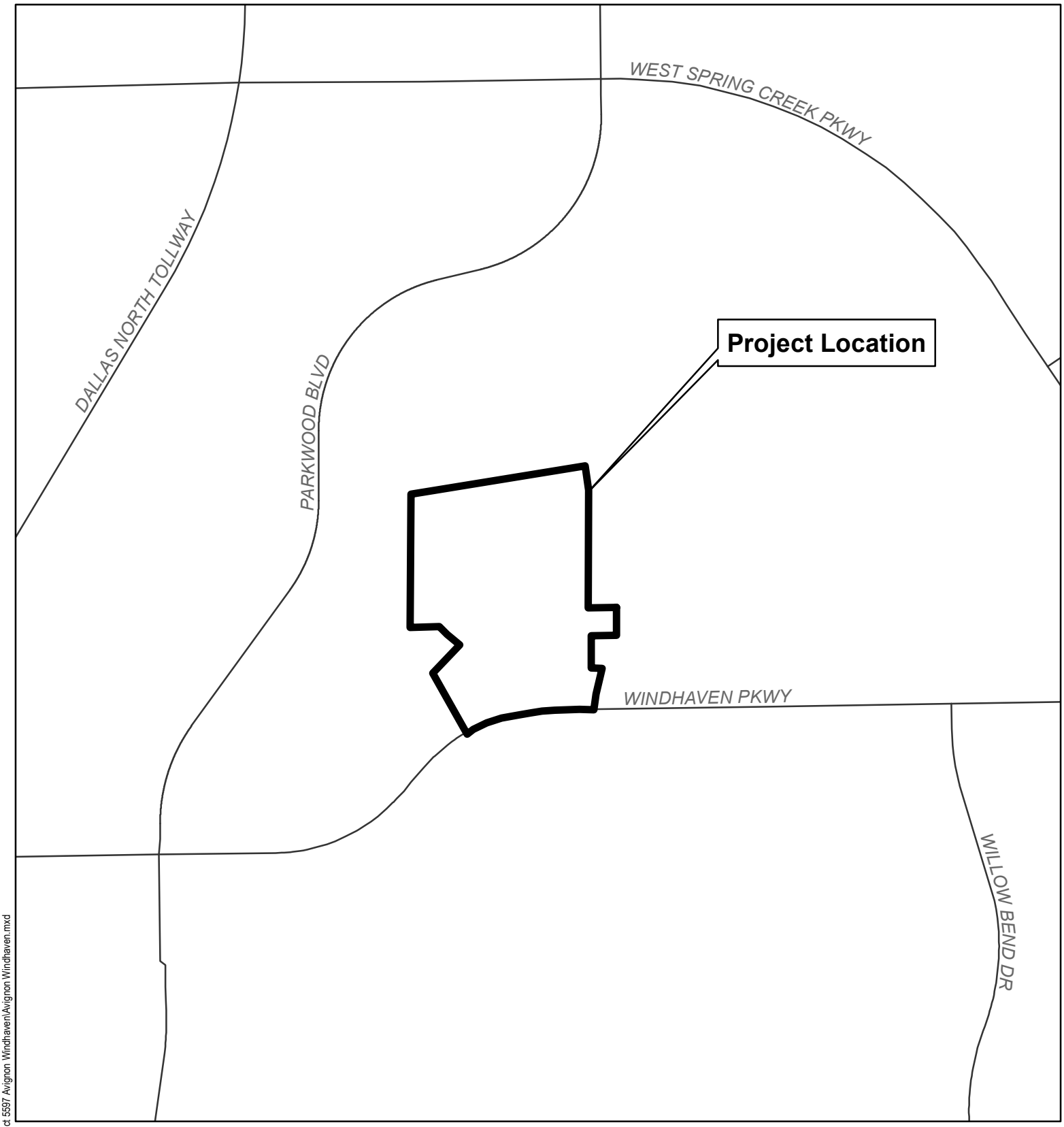
STRATEGIC PLAN GOAL: Abandoning all right, title and interest of the City to this Easement relates to the City's Goals of Financially Strong City with Service Excellence and Strong Local Economy.

SUMMARY OF ITEM

The easement is no longer needed, and the abandonment will allow for future development in that area.

https://www.google.com/maps/place/Avignon+Windhaven+Hoa/@33.0578957,-96.8193335,17.64z/data=!4m2!3m1!1s0x864c23442b45773b:0x1b3b93b360533bc3

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Location Map Ordinance Petition for Abandonment	N/A



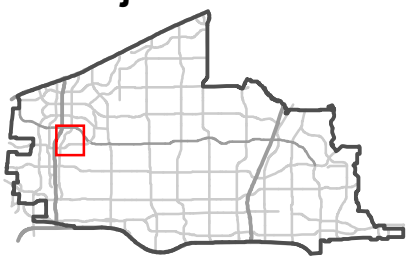
0 400 800
Feet

Plano

City of Plano GIS Division
November, 2015

Avignon Windhaven
Project No. 5597

Project Location



georgetau C:\Projects\Engineering\Locator\Maps\11-25-2015_Project 5597 Avignon Windhaven\Avignon Windhaven.mxd

An Ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to a portion of that certain 50' Street Easement, situated in the C. Luttrell Survey, Abstract No. 522, 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 owners of the property underlying the easement, Haggard Enterprises, Limited, Windhaven Development, Ltd., and Acres of Sunshine, Ltd., 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 and to a portion of that certain 50' Street Easement, located in the Avignon Windhaven Phase I Addition (hereinafter called "Easement") being situated in the C. Luttrell Survey, Abstract No. 522, 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 "A" and made a part hereof by reference; and

WHEREAS, the Engineering Department has determined that there will be no detrimental effect on the City if the Easement is abandoned and quitclaimed to the owner of the property underlying the Easement; 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 owner of the property underlying the easement, 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.

DULY PASSED AND APPROVED this the 14th day of December, 2015.

_____
Harry LaRosiliere, MAYOR

ATTEST:

_____
Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

_____
Paige Mims, CITY ATTORNEY

EXHIBIT "A"

PETITION FOR ABANDONMENT

[For Easement Abandonment]

We, the undersigned, (hereinafter "Owners"), being all of the owners of real property abutting **50' Street Easement** (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 easement is no longer needed, and it will allow for future development in that area.

2. The following public interest will be served as a result of the abandonment:

   The easement is no longer needed, and it will allow for future development in that area.

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".~~

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:

HAGGARD ENTERPRISES, LIMITED – 0.095 ACRES (4,156 SQUARE FEET)
ACRES OF SUNSHINE, LTD. - 0.243 ACRES (10,606 SQUARE FEET)
WINDHAVEN DEVELOPMENT, LTD. – 0.175 ACRES (7,607 SQUARE FEET)

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".~~

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".~~

[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.

Windhaven Development Ltd.
Typed Name of Owner

800 Central Parkway East, Suite 100
Address

Plano, TX 75074
City, State and Zip

Dated: 11/3/2015 Manager of G.P.
Signature of Owner

Contact Person for Property Owners:

Name: Rutledge Haggard

Phone No: 972-422-4515

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.

Haggard Enterprises, Limited
Typed Name of Owner

800 Central Parkway East, Suite 100
Address

Plano, TX 75074
City, State and Zip

Dated: 11-3-15

Signature of Owner

Contact Person for Property Owners:

Name: Rutledge Haggard

Phone No: 972-422-4515

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.

Acres of Sunshine Ltd.
Typed Name of Owner

800 Central Parkway East, Suite 100
Address

Plano, TX 75074
City, State and Zip

Dated: 11/3/2015

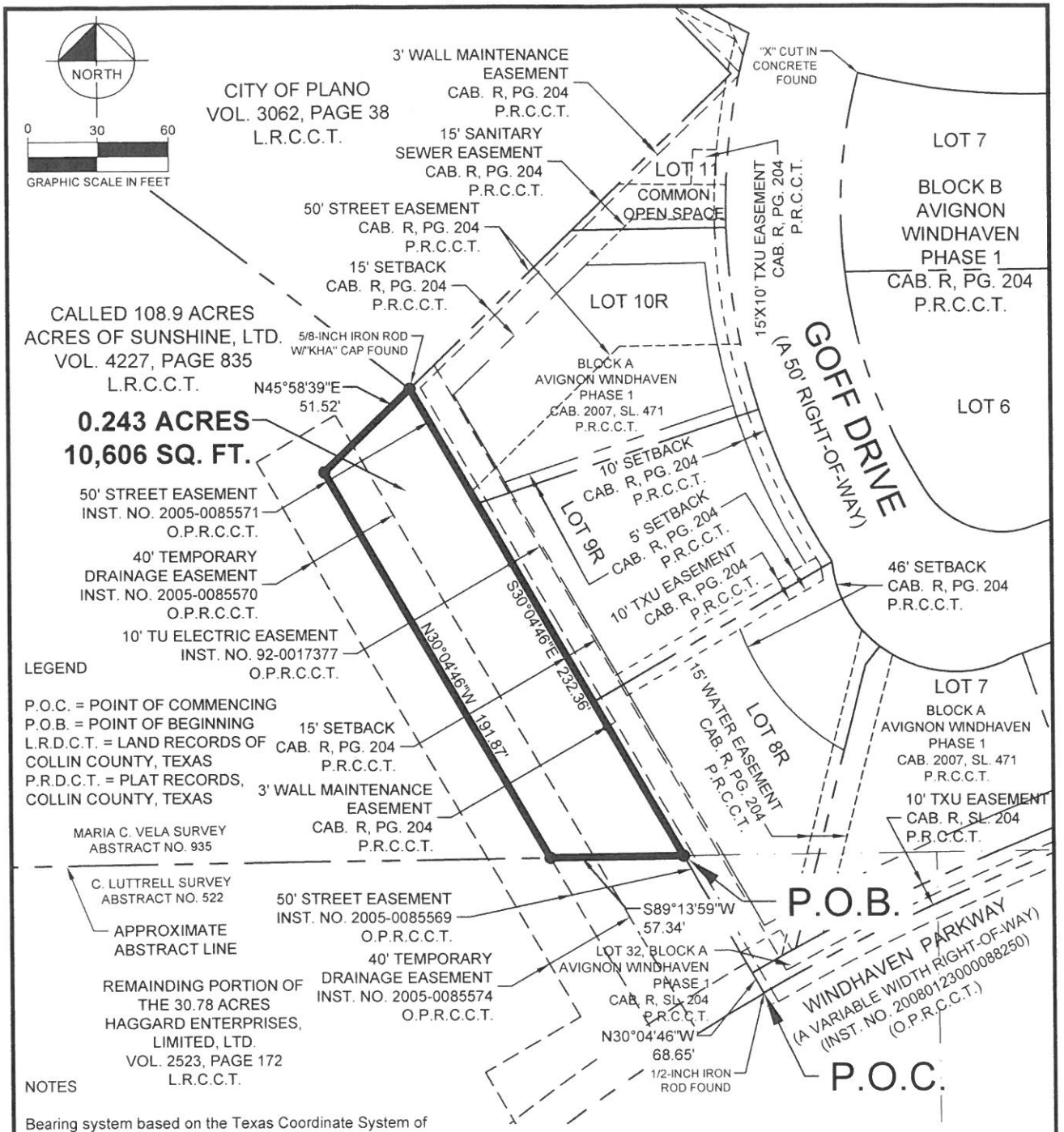
Signature of Owner

Contact Person for Property Owners:

Name: Rutledge Haggard

Phone No: 972-422-4515

Exhibit "A-1"



NOTES

Bearing system based on the Texas Coordinate System of 1983, North Central Zone (4202), North American Datum of 1983.

STREET EASEMENT ABANDONMENT
MARIA C. VELA SURVEY, ABSTRACT NO. 935
CITY OF PLANO, COLLIN COUNTY, TEXAS

Kimley»Horn
12750 Merit Drive, Suite 1000
Dallas, Texas 75251
FIRM # 10115500
Tel. No. (972) 770-1300
Fax No. (972) 239-3820

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 60'	CJG	JAD	NOV. 2014	064041011	2 OF 2

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Exhibit "A-1"

LEGAL DESCRIPTION
0.243 ACRES (10,606 square feet)

BEING a tract of land situated in the Maria C. Vela Survey, Abstract No. 935, City of Plano, Collin County, Texas; and being part of a tract of land described in Special Warranty Deed, Bill of Sale and Assignment to Acres of Sunshine, Ltd. recorded in Volume 4227, Page 835 of the Land Records of Collin County, Texas; and being all of a 50' Street Easement to the City of Plano recorded in Instrument No. 2005-0085571 of the Official Public Records of Collin County, Texas; and being more particularly described as follows:

COMMENCING at a 1/2" iron rod found in the north right-of-way line of Windhaven Parkway (a variable width right-of-way) and at the west corner of Block A, Avignon Windhaven, Phase 1, an addition to the City of Plano recorded in Cabinet R, Page 204 of the Plat Records of Collin County, Texas;

THENCE with the west line of said Block A, Avignon Windhaven, Phase 1, North 30°04'46" West, a distance of 68.65 feet to the southeast corner of said 50' Street Easement;

THENCE departing said west line of Block A, Avignon Windhaven, Phase 1 and with the south line of said 50' Street Easement, South 89°13'59" West, a distance of 57.34 feet to the southwest corner of said 50' Street Easement;

THENCE with the west line of said 50' Street Easement, North 30°04'46" West, a distance of 191.87 feet to the northwest corner of said 50' Street Easement;

THENCE with the north line of said 50' Street Easement, North 45°58'39" East, a distance of 51.52 feet to a 5/8-inch iron rod with plastic cap stamped "KHA" found for corner in said west line of Block A, Avignon Windhaven, Phase 1 and being the northeast corner of said 50' Street Easement;

THENCE with said west line of Block A, Avignon Windhaven, Phase 1 and the east line of said 50' Street Easement, South 30°04'46" East, a distance of 232.36 feet to the **POINT OF BEGINNING** and containing 10,606 square feet or 0.243 acres of land.

Bearing system based on the Texas Coordinate System of 1983, North Central Zone (4202), North American Datum of 1983.

J. ANDY DOBBS
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6196
12750 MERIT DRIVE, SUITE 1000
DALLAS, TEXAS 75251
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STATE OF TEXAS
REGISTERED
J. ANDY DOBBS
6196
PROFESSIONAL
LAND SURVEYOR
11/2/15

STREET EASEMENT ABANDONMENT
MARIA C. VELA SURVEY, ABSTRACT NO. 935
CITY OF PLANO, COLLIN COUNTY, TEXAS

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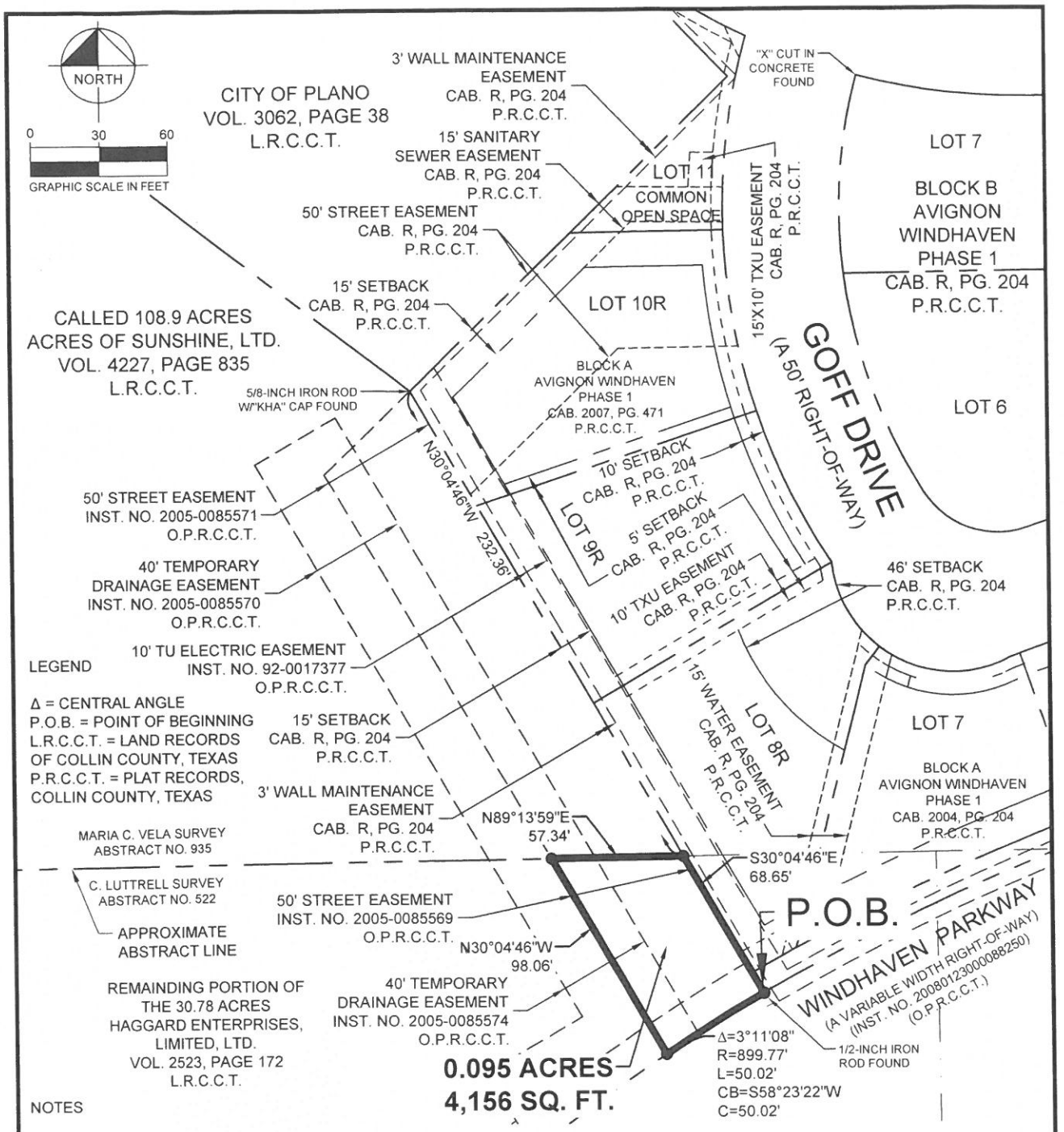
Exhibit "A-1"



NOTES

Bearing system based on the Texas Coordinate System of 1983, North Central Zone (4202), North American Datum of 1983.

STREET EASEMENT ABANDONMENT
C. LUTTRELL SURVEY, ABSTRACT NO. 522
CITY OF PLANO, COLLIN COUNTY, TEXAS

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Exhibit "A-1"

LEGAL DESCRIPTION
0.095 ACRES (4,156 square feet)

BEING a tract of land situated in the C. Luttrell Survey, Abstract No. 522, City of Plano, Collin County, Texas; and being part of a tract of land described in Special Warranty Deed to Haggard Enterprises Limited, Ltd. recorded in Volume 2523, Page 172 of the Land Records of Collin County, Texas; and being part of a 50' Street Easement to the City of Plano recorded in Instrument No. 2005-0085569 of the Official Public Records of Collin County, Texas and being more particularly described as follows:

BEGINNING at a 1/2" iron rod found in the north right-of-way line of Windhaven Parkway (a variable width right-of-way) and at the southwest corner of Block A, Avignon Windhaven, Phase 1, an addition to the City of Plano according to the plat recorded in Cabinet R, Page 204 of the Plat Records of Collin County, Texas and the beginning of a curve to the left having a central angle of 3°11'08", a radius of 899.77 feet, a chord bearing and distance of South 58°23'22" West, 50.02 feet;

THENCE in a southwesterly direction, with said north right-of-way line of Windhaven Parkway and said curve to the left, an arc distance of 50.02 feet to a point for corner in the west line of said 50' Street Easement;

THENCE departing said north right-of-way line of Windhaven Road and with said west line of the 50' Street Easement, North 30°04'46" West, a distance of 98.06 feet to the northwest corner of said 50' Street Easement;

THENCE with the north line of said 50' Street Easement, North 89°13'59" East, a distance of 57.34 feet to the northeast corner of said 50' Street Easement and in said west line of Block A, Avignon Windhaven, Phase 1 Addition; from said point a 5/8" iron rod with "KHA" cap found bears North 30°04'46" West, 232.36 feet;

THENCE with said west line of Block A, Avignon Windhaven, Phase 1 Addition and the east line of said 50' Street Easement, South 30°04'46" East, a distance of 68.65 feet to the **POINT OF BEGINNING** and containing 4,156 square feet or 0.095 acres of land.

Bearing system based on the Texas Coordinate System of 1983, North Central Zone (4202), North American Datum of 1983.

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STREET EASEMENT ABANDONMENT
C. LUTTRELL SURVEY, ABSTRACT NO. 522
CITY OF PLANO, COLLIN COUNTY, TEXAS

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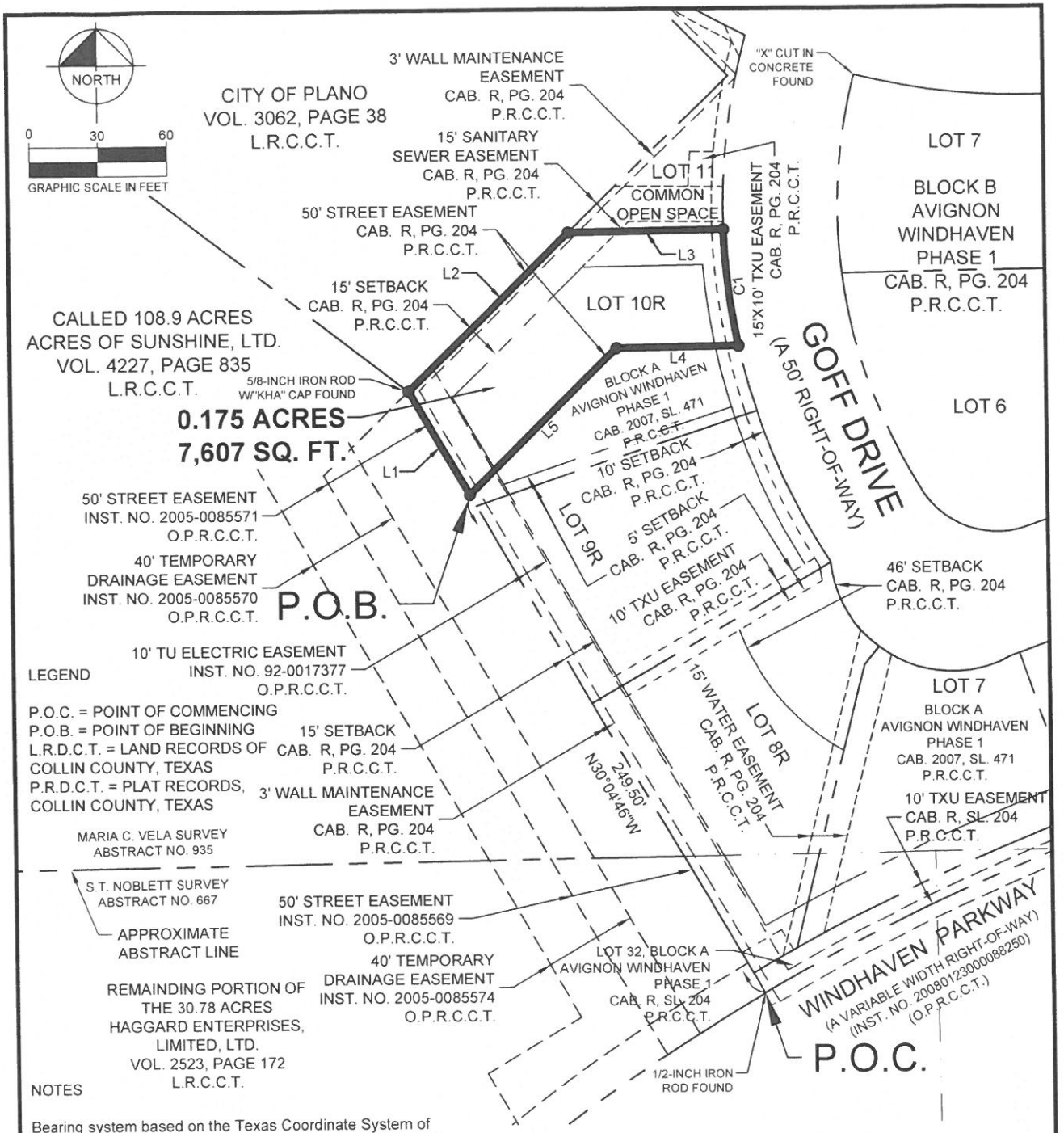
Exhibit "A-1"



LEGEND

P.O.C. = POINT OF COMMENCING
P.O.B. = POINT OF BEGINNING
L.R.D.C.T. = LAND RECORDS OF COLLIN COUNTY, TEXAS
P.R.D.C.T. = PLAT RECORDS, COLLIN COUNTY, TEXAS

NOTES

Bearing system based on the Texas Coordinate System of 1983, North Central Zone (4202), North American Datum of 1983.

See Page 3 for line and curve table.

STREET EASEMENT ABANDONMENT
MARIA C. VELA SURVEY, ABSTRACT NO. 935
CITY OF PLANO, COLLIN COUNTY, TEXAS

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Exhibit "A-1"

LEGAL DESCRIPTION
0.175 ACRES (7,607 square feet)

BEING a tract of land situated in the Maria C. Vela Survey, Abstract No. 935, City of Plano, Collin County, Texas; and being part of Lot 10R, Block A, Avignon Windhaven, Phase 1, an addition to the City of Plano according to the plat recorded in Cabinet 2007, Page 471 of the Plat Records of Collin County, Texas; and being all of a 50' Street Easement dedicated per plat recorded in Cabinet R, Page 204 of the said Plat Records; and being more particularly described as follows:

COMMENCING at a 1/2" iron rod found in the north right-of-way line of Windhaven Parkway (a variable width right-of-way) and being the southwest corner of said Block A, Avignon Windhaven, Phase 1;

THENCE with the west line of said Block A, Avignon Windhaven, Phase 1, North 30°04'46" West, a distance of 249.50 feet to the **POINT OF BEGINNING**;

THENCE continuing with said west line of Block A, Avignon Windhaven, Phase 1, North 30°04'46" West, a distance of 51.52 feet to a 5/8" iron rod with plastic cap stamped "KHA" found for the northwest corner of said Lot 10R;

THENCE with the north line of said Lot 10R, the following courses and distances, to wit:

North 45°58'39" East, a distance of 97.22 feet to a point for corner;
North 89°14'12" East, a distance of 66.61 feet to a point for corner in the west right-of-way line of Goff Drive (a 50' right-of-way) and being at the beginning of a non-tangent curve to the left having a central angle of 10°29'34", a radius of 275.00 feet, a chord bearing and distance of South 6°55'51" East, 50.29 feet;

THENCE with said west right-of-way line of Goff Drive, in a southeasterly direction, with said curve to the left, an arc distance of 50.36 feet to the southeast corner of said 50' Street Easement;

THENCE departing said west right-of-way line of Goff Drive and with the south line of said Street Easement, the following courses and distances, to wit:

South 89°14'12" West, a distance of 52.19 feet to a point for corner;
South 45°58'39" West, a distance of 89.81 feet to the **POINT OF BEGINNING** and containing 7,607 square feet or 0.175 acres of land.

Bearing system based on the Texas Coordinate System of 1983, North Central Zone (4202), North American Datum of 1983.

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