



Prosper is a place where everyone matters.

Agenda
Prosper Town Council Meeting
Council Chambers
Prosper Town Hall
250 W. First Street, Prosper, Texas
Tuesday, August 09, 2022
5:45 PM

Notice Regarding Public Participation

Welcome to the Prosper Town Council. Individuals may attend the meeting in person, or access the meeting via videoconference, or telephone conference call.

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

To join the meeting by phone, dial (346) 248-7799

Enter Meeting ID: 871 8988 9684

Addressing the Town Council:

Those wishing to address the Town Council must complete the [Public Comment Request Form](#) located on the Town website or in Council Chambers.

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

If you are attending online/virtually, please submit this form to the Town Secretary prior to 5:00 p.m. on the day of the meeting. Please ensure your full name appears on the screen and you are unmuted so the meeting moderator can recognize you and allow you to speak. The Chat feature is not monitored during the meeting. The Town assumes no responsibility for technical issues that are beyond our control.

If you encounter any problems joining or participating in the meeting, please call our help line at 972-569-1191 for assistance.

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.

- 1.** Consider and act upon the minutes of the July 26, 2022, Town Council meeting. (MLS)

2. Consider and act upon the minutes of the July 26, 2022, Town Council Work Session meeting. (MLS)
3. Consider and act upon a resolution approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the company's 2022 rate review mechanism filing. (BP)
4. Consider and act upon a resolution authorizing the Mayor to execute a Joint Administrative Agreement with Denton County for the Community Development Block Grant (CDBG) three year program for fiscal year 2023, 2024, and 2025. (MLS)
5. Consider and act upon authorizing the Mayor to execute a Professional Engineering Services Agreement between Freese and Nichols, Inc., and the Town of Prosper, Texas, related to the Public Works and Parks and Recreation Facility Master Plan project. (FJ)
6. Consider and act upon awarding CSP No. 2022-44-B to American Landscape Systems, related to construction services for the Coleman Street Median Landscaping (Victory-Preston) and the Prosper Trail Median Landscaping (DNT-700' East) project; and authorizing the Mayor to execute a construction agreement for same. (HW)
7. Consider and act upon an ordinance to rezone Planned Development-86 (PD-86) to Planned Development-114 (PD-114), on 277.6± acres, to amend the single-family residential regulations, located on the north side of US 380, west of Custer Road. (Z22-0005). (DS)
8. Consider and act upon authorizing the Mayor execute a Development Agreement between 104 Prosper, 310 Prosper, Prosper Hollow LP & Paramount Soft LP, DD Brookhollow LLC, 55 Prosper and the Town of Prosper, Texas, related to Rutherford Creek development, located on the north side of US 380, west of Custer Road. (DS)
9. Consider and act upon an ordinance for a Specific Use Permit (SUP) for a Day Care Center (Grace Chapel), on 5.4± acres, located on the southeast corner of FM 1385 and Denton Way. (S22-0005). (DS)
10. Consider and act upon authorizing the Mayor to execute a Development Agreement between North Texas Conference of the United Methodist Church, and the Town of Prosper, Texas, related to the Grace Chapel Prosper development, located on the southeast corner of FM 1385 and Denton Way. (DS)
11. Consider and act upon an ordinance to amend Planned Development-93 (PD-93), on 0.8± acres, located on the southwest corner of Broadway Street and Preston Road, in order to allow for a restaurant with drive-through services. (Z22-0006). (DS)
12. Consider and act upon authorizing the Mayor to execute a Development Agreement between SCSD-FINNELL, LTD, and the Town of Prosper, Texas, related to the Black Rifle Coffee development, located on the southwest corner of Broadway Street and Preston Road. (DS)
13. Consider and act upon an ordinance for a Specific Use Permit (SUP) for a Restaurant with Drive-Through Service, on 1.2± acres, in the Victory at Frontier development. (S22-0006). (DS)

- [14.](#) 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 Plans and Preliminary Site Plans, including Mav Addition, Grace Chapel (Site Plan) & Grace Chapel (Preliminary Site Plan). (DS)

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 Comment Request Form" and present it to the Town Secretary prior to the meeting.

REGULAR AGENDA:

If you wish to address the Council, please fill out a "Public Comment Request Form" and present it to the Town Secretary, preferably before the meeting begins. 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.

Items for Individual Consideration:

- [15.](#) Submission of the FY 2022-2023 Proposed Budget and Budget Message. (BP)
- [16.](#) Consider and act upon scheduling a public hearing on the FY 2022-2023 proposed Budget. (BP)
- [17.](#) Consider and act upon scheduling a public hearing for the FY 2022-2023 proposed tax rate. (BP)
- [18.](#) Consider accepting submission of the 2022 no-new-revenue tax rate of \$0.438227 per \$100 taxable value and the voter-approval tax rate of \$0.527336 per \$100 taxable value. (BP)
- [19.](#) Consider and act upon a proposed FY 2022-2023 property tax rate. (BP)

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

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 and all matters incident and related thereto.

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.

Reconvene in Regular Session and take any action necessary as a result of the Closed Session.

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, August 5, 2022, 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 Town Council.

<p>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.</p>



Prosper is a place where everyone matters.

MINUTES

Prosper Town Council Work Session
Prosper Town Hall – Executive Conference Room
250 W. First Street, Prosper, Texas
Tuesday, July 26, 2022

Call to Order/ Roll Call.

The meeting was called to order at 5:00 p.m.

Council Members Present:

Mayor David F. Bristol
Mayor Pro-Tem Jeff Hodges
Deputy Mayor Pro-Tem Craig Andres
Councilmember Marcus E. Ray
Councilmember Amy Bartley
Councilmember Chris Kern

Council Members Absent:

Councilmember Charles Cotten

Staff Members Present:

Harlan Jefferson, Town Manager
Terry Welch, Town Attorney
Michelle Lewis Sirianni, Town Secretary
Robyn Battle, Executive Director of Community Services
Hulon Webb, Interim Executive Director of Development and Infrastructure Services
Bob Scott, Executive Director of Administrative Services
Dan Heischman, Assistant Director of Engineering Services
David Soto, Planning Manager
Pamela Clark, Business System Analyst
Doug Kowalski, Police Chief

Items for Individual Consideration

1. Discuss First Street name change. (HJ)

Mr. Jefferson introduced this item by presenting estimated costs associated with the name change along with those that would be impacted. If the Council desires to pursue, the Town will work with Denton County in communicating the change with an ordinance to be brought before the Town Council in the fall.

The consensus of the Town Council was to move forward with this item.

2. Discuss drive-through restaurants. (DS)

Mr. Soto presented an overview of the Town's current Conditional Development Standards associated with restaurants along with locations of where a drive-thru is permitted through the approval of a Specific Use Permit (SUP). Mr. Soto noted that some Planned Developments have policies limiting the maximum number by right on certain streets and not allowing a drive-thru to be located on the same lot next to each other. In addition, the

Tollway Design Guidelines references the queuing lanes and maximum number of drive-thru restaurants permitted for every five acres on a PD development plan.

The Town Council discussed several items relating to a drive-thru including location of placement, proximity to others or if they are contiguous, impacts on traffic flow and/or congestion, and stacking within the queuing lanes.

The consensus of the Town Council was to pursue expanding the conditions with a SUP to include banks, carwashes, and dry cleaners, updating the Town's standards within the Zoning Ordinance, as well as the Tollway Design guidelines.

3. Discuss bike lanes and routes. (DB/HW)

Mr. Baker presented on this topic as it relates to the Parks and Recreation Department and how the Hike and Bike Master Plan guides their future trail development.

Mr. Webb presented on-street bikeway options the Town can use to address cyclists who use the roads versus trails.

The Town Council requested staff to designate bike routes/roads and places to post signs indicating bikes may use full lane as well as reaching out to local affiliates and/or cycling clubs to assist in providing direction.

4. Discuss the Community Engagement Committee (CEC) as a standing Committee. (RB)

Ms. Battle presented the current structure of the CEC and a proposed structure, which would mirror the current eligibility, application, and appointment process followed by the Town's Board and Commission policy, as well as the Open Meetings Act.

The Town Council consensus was to move forward on making the CEC a standing committee.

Adjourn.

The meeting was adjourned at 5:58 p.m.

These minutes approved on the 9th day of August 2022.

APPROVED:

Jeff Hodges, Mayor Pro-Tem

ATTEST:

Michelle Lewis Sirianni, Town Secretary



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MINUTES

Prosper Town Council Meeting
Council Chambers
Prosper Town Hall
250 W. First Street, Prosper, Texas
Tuesday, July 26, 2022

Call to Order/ Roll Call.

The meeting was called to order at 6:15 p.m.

Council Members Present:

Mayor David F. Bristol
Mayor Pro-Tem Jeff Hodges
Deputy Mayor Pro-Tem Craig Andres
Councilmember Marcus E. Ray
Councilmember Amy Bartley
Councilmember Chris Kern

Council Members Absent:

Councilmember Charles Cotten

Staff Members Present:

Harlan Jefferson, Town Manager
Terry Welch, Town Attorney
Michelle Lewis Sirianni, Town Secretary
Robyn Battle, Executive Director of Community Services
Hulon Webb, Engineering Services Director
David Soto, Planning Manager
Betty Pamplin, Finance Director
Leigh Johnson, IT Director
Todd Rice, Communications Manager
Frank Jaromin, Public Works Director
Dan Baker, Parks and Recreation Director
Doug Kowalski, Police Chief
Scott Brewer, Assistant Police Chief

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

Jim Lugar with Life Journey Church led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

Announcements of recent and upcoming events.

Councilmember Kern made the following announcements:

Join us for the next Discover Downtown event series on Saturday, September 24 for a Moonlight Movie featuring the family film "Encanto", which was previously rescheduled from August 13 due to the extreme heat conditions. The event kicks off with strolling movie characters, lawn games, balloon artists, shaved ice, and popcorn. Games will open at 7:00 p.m. with movie beginning at 8:30 p.m. For more information, visit the events page from the homepage of the Town's website.

Join us for “Celebrate Prosper” on Saturday, October 8 at Frontier Park. This fun community celebration will feature live music and BBQ. The event is presented by the Parks and Recreation Department with support of Sponsors and community partners. For more information, visit the events page from the homepage of the Town’s website.

Applications are now being accepted through Tuesday, August 2 to serve on a Town’s Board and/or Commission. More information about the Board and Commission application process, including an online application form, is available on the Town website.

The Town of Prosper will host an informational Town Hall Meeting on Thursday, August 18, from 6:00-8:00 p.m. at Rock Creek Church, located at 2860 Fishtrap Road in Prosper. Residents will hear presentations from Town staff and representatives from NTTA and TxDOT on road projects that impact the west side of Prosper. Also on the agenda is an update from Parks & Recreation on the Town’s recent purchase of 163 acres of parkland along Doe Branch Creek. More details are available on the Town website and Facebook page.

Councilmember Ray thanked Linebarger for supporting the Lovepacs fundraiser benefiting children in Prosper.

Mayor Bristol thanked all those who came out for the Discover Downtown Fun in the Sun event.

Presentations.

1. Recognize the Town Secretary’s Office with the Texas Municipal Clerks Achievement of Excellence Award. (MLS)

Tina Stewart, City Secretary of the City of The Colony and Irma Parker, City Secretary of the Town of Addison presented the award to Ms. Lewis Sirianni.

2. Receive an update from the Town Secretary’s Office. (MLS)

Ms. Lewis Sirianni presented an update which included the organizational structure of the department, achievements and accomplishments over the past year, current challenges, and trends the office is seeing, and upcoming projects and tasks for the 2022-2023 fiscal year.

3. Receive an update from the Police Department on the recent Active Shooter Training. (DK)

Chief Kowalski provided an overview of the recent training that was done at Prosper High School including the exercises that were and were not done, the operational elements of the training, and an overview of all those involved that made the training possible.

CONSENT AGENDA:

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4. Consider and act upon the minutes of the June 28, 2022, Town Council meeting. (MLS)

5. Consider and act upon the minutes of the June 28, 2022, Town Council Work Session meeting. (MLS)

6. Consider and act upon the minutes of the July 11, 2022, Town Council Work Session meeting. (MLS)
7. Consider and act upon the minutes of the July 12, 2022, Town Council Budget Work Session meeting. (MLS)
8. Receive the May financial report. (BP)
9. Consider and act upon approving amendments to the Town's Financial Policies. (RBS)
10. Consider and act upon authorizing the Town Manager to execute a Professional Engineering Services Agreement between Freese and Nichols, Inc., and the Town of Prosper, Texas, related to the design of the FM 1461 12-inch Water Line Relocation project. (HW)
11. Consider and act upon authorizing the Town Manager to execute Contract Amendment No. 2 to the Professional Engineering Services Agreement between Garver, LLC., and the Town of Prosper, Texas, related to the design of the First Street (DNT – Coleman) project. (HW)
12. Consider and act upon authorizing the Town Manager to execute a Professional Services Agreement between Lowry Property Advisors, LLC (LPA), and the Town of Prosper, Texas, related to appraisal services for the First Street (DNT – Coleman) project. (HW)
13. Consider and act upon authorizing the Town Manager to execute a Personal Services Contract between McCarthy Right of Way Partners, LLC., and the Town of Prosper, Texas, related to property acquisition services for the First Street (DNT – Coleman) project. (HW)
14. Consider and act upon approving the purchase of pavement and asset data collection services from Infrastructure Management Services (IMS), through the Texas Local Government Purchasing Cooperative; and authorize the Town Manager to execute documents for the same. (FJ)
15. Consider and act upon awarding CSP No. 2022-01-A to CivicPlus, LLC, for website design and development services, and authorizing the Town Manager to execute same. (RB)
16. Consider and act upon Resolution No. 2022-34 authorizing the Town Manager to execute an Advance Funding Agreement for the TXDOT Green Ribbon Program Project Landscape Improvements On-System between the Texas Department of Transportation and the Town of Prosper, Texas, related to the Green Ribbon Project along US 380 from Lovers Lane to Mahard Parkway. (PN)
17. Consider and act upon approving the purchase of one (1) Winsted Custom Conference and Emergency Operations Center Table from Ford AV, through the Texas Local Government Purchasing Cooperative. (SB)
18. Consider and act upon the purchase of Fire Hose Nozzles and Fittings for two new fire apparatus (Pumper Engine & Quint) from Metro Fire Apparatus Specialist, Inc. through the Texas Local Government Purchasing Cooperative. (SB)

19. Consider and act upon Ordinance No. 2022-35 establishing a no parking zone on Prince William Lane from Coleman Street to Highbridge Lane. (HW)
20. Consider and act upon Ordinance No. 2022-36 establishing a no parking zone on Meadowbrook Boulevard from Coit Road to Foxfield Court. (HW)
21. Consider and act upon Ordinance No. 2022-37 amending Section 12.09.004 "School Traffic Zones" of Chapter 12 "Traffic and Vehicles" of the Town's Code of Ordinances by modifying the limits and hours of operation of such zones. (HW)
22. Consider and act upon Ordinance No. 2022-38 amending the Zoning Ordinance, Chapter 3, Section 1.3 Schedule of Uses, Chapter 3, Section 1.4 Conditional Development Standards, and Chapter 3, Section 2.2 Definitions, to include "Food Pantry", in the Agricultural, "A," zoning district. (MD22-0005). (DS)
23. Consider and act upon a Site Plan and Façade Plan for a Limited Service Hotel, on 1.8± acres, located on the west side of Mahard Parkway, south of Prairie Drive. The property is zoned Planned Development-101 (PD-101). (D22-0031). (DS)
24. Consider and act upon Ordinance No. 2022-39 to rezone a portion of Planned Development-36, and a portion of Planned Development-63, to Planned Development (PD) for Legacy Gardens, on 121.4± acres, in order to modify the residential development standards, including but not limited to reducing permitted lot sizes, located on the south side of Frontier Parkway, west of Dallas Parkway. (Z20-0019). (DS)
25. Consider and act upon authorizing the Town Manager to execute a Development Agreement between Risland Prosper 221 LLC and the Town of Prosper, Texas, related to the Legacy Gardens development, located on the south side of Frontier Parkway, west of Dallas Parkway. (DS)
26. 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 Plans and Preliminary Site Plans, including Ladera Amenity Center, DISD Middle School, Windsong Vet Clinic, 102 E. Broadway, Gates of Prosper Phase 3, Prosper Counseling, and Star Trail Amenity Center. (DS)

Councilmember Bartley requested to pull item #15.

Councilmember Ray made a motion to approve consent agenda items 4 thru 14 and items 16-26. Deputy Mayor Pro-Tem Andres seconded that motion, and the motion was unanimously approved.

Councilmember Bartley asked in regard to item #15, what the timeline for completion would be and if the staff planned on engaging with the citizens for feedback. Ms. Battle replied it would take approximately seven months to complete, and currently the consultants will be training staff, which is built into the agreement, but would explore the citizen engagement.

Councilmember Bartley made a motion to approve consent agenda item #15. Councilmember Ray seconded that motion, and the motion was unanimously approved.

CITIZEN COMMENTS

Dustin Staiger, 620 Evening Sun Drive, expressed concerns regarding access between Frontier Park and Lakes of Prosper. He also requested that security bollards be put into place that could be removed for emergency access vehicles to deter other vehicles from using as a cut through.

Kenneth Holloway, 811 Long Valley, encouraged the Town Council to not use the access between Frontier Park and Lakes of Prosper as a public access. He also requested the Town Council to consider a reciprocity lending agreement for the Public Library.

Jack Dixon, 810 Long Valley Court, expressed his concerns regarding the access between Frontier Park and Lakes of Prosper noting the safety for the neighborhood.

Cory Bray, 1540 Kingsbridge Lane, asked the Town Council to consider amending the Town Ordinance to reflect the use of a green boxwood hedge used to screen along the iron wood fence. He expressed his concerns of privacy and being allowed to use a natural screening.

Items for Individual Consideration:

- 27. Conduct a public hearing and consider and act upon a request to rezone 5.7± acres from Office (O) to Planned Development-Office (PD-O), located on the west side of Mahard Parkway, south of Prairie Drive, specifically to allow for a limited-service hotel. (Z22-0002) (DS)**

Mr. Soto stated the purpose of this request is to rezone from Office (O) to Planned Development-Office (PD-O). The applicant is proposing two modifications to include the addition of a limited-service hotel as a permitted use and allowing the utility easement to overlap required landscape setbacks, buffers, and easements. In addition, the applicant has agreed to enter into a development agreement regarding Exhibit F, which reflects the exterior elevations. Mr. Soto also noted the proposed landscaping meets the requirements of the Zoning Ordinance. Staff is recommending approval.

Matt Moore of ClayMoore Engineering, representing the applicant, stated they are requesting approval for this project.

The Town Council discussed and requested the applicant to add a little more stone or brick to the building, as well as additional landscaping around the pool.

Mayor Bristol opened the public hearing.

No comments were made.

Mayor Bristol closed the public hearing.

Mayor Pro-Tem Hodges made a motion to approve a request to rezone 5.7± acres from Office (O) to Planned Development-Office (PD-O), located on the west side of Mahard Parkway, south of Prairie Drive, specifically to allow for a limited-service hotel. Deputy Mayor Pro-Tem Andres seconded that motion, and the motion was unanimously approved.

- 28. Conduct a public hearing and consider and act upon a request to amend Planned Development-93 (PD-93), on 0.8± acres, located on the southwest**

corner of Broadway Street and Preston Road, in order to allow for a restaurant with drive-through services. (Z22-0006) (DS)

Mr. Soto stated the purpose of this request is to amend Planned Development-93 (PD-93) to allow for a restaurant with drive-through services. The applicant is requesting a change in the layout changing the initial proposed retail building on Lot 3 to a 2,600 sq. ft. restaurant with drive-through services. Mr. Soto also noted the proposed landscaping meets the minimum standards as well as provides additional landscaping based on the Town's Zoning Ordinance. Staff recommends approval.

The Town Council asked what the primarily building material is, how many vehicles can stack, and if the use will have dining inside of the building.

Matt Moore of ClayMoore Engineering, representing the applicant responded the building material is primarily brick, and five vehicles can stack, and there will be dining space similar to other like businesses.

Mayor Bristol opened the public hearing.

No comments were made.

Mayor Bristol closed the public hearing.

Mayor Pro-Tem Hodges made a motion to approve a request to amend Planned Development-93 (PD-93), on 0.8± acres, located on the southwest corner of Broadway Street and Preston Road, in order to allow for a restaurant with drive-through services. Councilmember Ray seconded that motion, and the motion was unanimously approved.

29. Conduct a public hearing and consider and act upon a request for a Specific Use Permit (SUP) for a Restaurant with Drive-Through Service, on 1.2± acres, in the Victory at Frontier development. The property is zoned Planned Development-10 & Specific Use Permit 38 (PD-10 & S-38). (S22-0006). (DS)

Mr. Soto stated the purpose of this request is to amend the SUP to expand the square-footage of the building to 6,050 sq. ft. for a retail and restaurant with drive-through services. Mr. Soto noted per the Town's Zoning Ordinance, any increase in building square footage from its size on the approved SUP should be more than ten percent (10%). Any other enlargements shall require the re-approval of the SUP. The landscaping meets the minimum standards of the Town's Zoning Ordinance. Staff recommends approval.

The Town Council questioned why the amendment is being done so soon after the approval in November 2022 as well as addressing the concerns of pass through near the drive-through location.

Mayor Bristol opened the public hearing.

No comments were made.

Mayor Bristol closed the public hearing.

The Town Council discussed the development and their desire to see the development as a whole in order to have a bigger picture. They also expressed concerns about the

congestion at the intersection but noted the liking to the enhancements being done and the more natural flow and location of the building.

Scott Norris, the applicant, stated they added more landscaping, dine-in capabilities, and parking to the rear of the building. They are designing spaces specifically for users. He noted the continual working with staff regarding the development and believes the Town Council will have a better overall picture with their next submittal.

Councilmember Ray made a motion to approve a request for a Specific Use Permit (SUP) for a Restaurant with Drive-Through Service, on 1.2± acres, in the Victory at Frontier development. The property is zoned Planned Development-10 & Specific Use Permit 38 (PD-10 & S-38). Councilmember Bartley seconded that motion. Motion ties with a 3 to 3 vote. Mayor Pro-Tem Hodges, Deputy Mayor Pro-Tem Andres, and Councilmember Kern voting in opposition.

Councilmember Bartley made a motion to table a request for a Specific Use Permit (SUP) for a Restaurant with Drive-Through Service, on 1.2± acres, in the Victory at Frontier development. The property is zoned Planned Development-10 & Specific Use Permit 38 (PD-10 & S-38) to the August 23, 2002, Town Council meeting.

Mr. Norris commented that this piece of the development is a better concept and understands the desire of the Town Council to have a better overall concept before moving forward. However, he believes this piece is as good as it gets.

Deputy Mayor Pro-Tem asked when they will see a more organized plan. Mr. Norris replied he does not have a direct date but assured they will see the complete plan at the next submittal.

Motion dies due to no second on the floor.

Councilmember Ray made a motion to approve a request for a Specific Use Permit (SUP) for a Restaurant with Drive-Through Service, on 1.2± acres, in the Victory at Frontier development. The property is zoned Planned Development-10 & Specific Use Permit 38 (PD-10 & S-38). Councilmember Bartley seconded that motion. Motion passes was a 4 to 2 vote. Mayor Pro-Tem Hodges and Councilmember Kern voting in opposition.

30. Conduct a public hearing and consider and act upon a request to rezone 42.3± acres from Planned Development-38 (PD-38) to Planned Development-Mixed Use, located on the north side of 380, west of Lakewood Drive, in order to allow for a mixed-use development, including multifamily, hotel, office, retail and related uses. (Z22-0004) (DS)

Mr. Soto stated the purpose of this request is to rezone 42 acres of PD-38 to create a planned mixed-use development which will include commercial, retail, professional, and medical office uses on Lots 1, 2, and 3, and multi-family residential on Lots 4 and 5x. Concerns by staff include density due to the additional units being requested, the decrease in parking spaces, and the building not being consistent with the Town's design and development standards. Staff does not recommend approval.

Mr. Kattner and Ms. Savera, representing the applicant presented an overview of the project outlining components and design elements of the office, retail, hotel, and residential, as well as the multi-family amenities, and improvements made based on feedback received from the Planning and Zoning Commission.

Mayor Bristol opened the public hearing.

Dhumil Zaveri, Managing Partner of the Solana Capital Group, stated he is in favor of the proposed request and believes it is a great location.

Lance VanZant, representing the NRP Group, stated he is in favor of the request and believes it will reflect the quality that is being presented.

Mayor Bristol closed the public hearing.

The Town Council discussed their concerns about the location, multi-family being used on this tract, lack of parking and open space component(s).

Councilmember Bartley made a motion to deny a request to rezone 42.3± acres from Planned Development-38 (PD-38) to Planned Development-Mixed Use, located on the north side of 380, west of Lakewood Drive, in order to allow for a mixed-use development, including multifamily, hotel, office, retail and related uses. Councilmember Kern seconded that motion, and the motion was unanimously approved.

- 31. Consider and act upon Resolution No. 2022-40 of the Town Council of the Town of Prosper, Texas, declaring the necessity to acquire certain properties for right-of-way, street easements, water easements, and drainage easements for the construction of the First Street (DNT – Coleman) project; 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 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. (HW)**

Mr. Webb stated the Town is in the process of developing engineering plans for the construction of the First Street (DNT-Coleman) project. Staff has identified 22 of the 29 properties to be affected. Staff is requesting authorization to pursue acquisition by eminent domain if standard negotiations are unsuccessful.

Councilmember Ray asked the what the timeframe of execution would be. Mr. Webb replied that it would be approximately three to four months and the Town would conduct a study on the roundabout.

Deputy Mayor Pro-Tem Andres made a motion to approve a Resolution No. 2022-40 of the Town Council of the Town of Prosper, Texas, declaring the necessity to acquire certain properties for right-of-way, street easements, water easements, and drainage easements for the construction of the First Street (DNT – Coleman) project; 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 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. Mayor Pro-Tem Hodges seconded that motion.

Councilmember Ray – Aye
 Councilmember Bartley – Aye
 Mayor Pro-Tem Hodges – Aye
 Mayor Bristol – Aye
 Deputy Mayor Pro-Tem Andres – Aye
 Councilmember Kern – Aye

Motion passes unanimously.

- 32. Consider all matters incident and related to the issuance and sale of “Town of Prosper, Texas General Obligation Bonds, Series 2022”, including the adoption of Ordinance No. 2022-41 authorizing the issuance of such bonds and establishing procedures and delegating authority for the sale and delivery of such bonds. (BP)**

Jason Hughes, First Southwest Securities, stated the following parameters ordinance will delegate authority to the Executive Director of Administrative Services and the Finance Director to complete the final pricing of the debt for an amount not to exceed \$34,000,000 at a maximum interest rate of 5.00%, and with a final maturity of August 15, 2042. The anticipated sale will occur the week of August 15, 2022.

Mayor Pro-Tem Hodges made a motion to adopt Ordinance No. 2022-41 authorizing the issuance and sale of “Town of Prosper, Texas General Obligation Bonds, Series 2022”, and approving all other matters related thereto. Councilmember Bartley seconded that motion, and the motion was unanimously approved.

- 33. Consider adoption of Resolution No. 2022-42 directing publication of notice of intention to issue certificates of obligation for the purpose of funding costs associated with the construction of water and wastewater improvements in the Town. (BP)**

Jason Hughes, First Southwest Securities, stated this is the first step related to the requirements of state law directing publication of notice of intention to issue certificates of obligation through a competitive or negotiated sale for an amount not to exceed \$13,7000,000 at a maximum interest rate of 4.34% with a final maturity of August 15, 2042.

Mayor Pro-Tem Hodges made a motion to approve Resolution No. 2022-42 directing publication of notice of intention to issue certificates of obligation for the purpose of funding costs associated with the construction of water and wastewater improvements in the Town. Councilmember Ray seconded that motion, and the motion was unanimously approved.

- 34. Consider and act upon adopting the Downtown Master Plan. (MM)**

The Town Council discussed the importance of the plan as a guideline and a commitment to making the plan a “living and breathing” document. The Town Council also requested a future Downtown Committee with defined scope of duties.

Councilmember Bartley made a motion to approve adopting the Downtown Master Plan. Councilmember Kern seconded that motion, and the motion was unanimously approved.

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

The Town Council requested the following items for future discussion: mesh screening, a Downtown Committee, non-profit grants, and street cleaning.

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 and all matters incident and related thereto.

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 551.076 – To deliberate the deployment of specific occasions for implementation of security personnel or devices at Town Hall.

The Town Council recessed into Executive Session at 9:14 p.m.

Reconvene in Regular Session and take any action necessary as a result of the Closed Session.

The Town Council reconvened into Regular Session at 9:53 p.m.

No action was taken.

Adjourn.

The meeting was adjourned at 9:54 p.m.

These minutes approved on the 9th day of August 2022.

APPROVED:

Jeff Hodges, Mayor Pro-Tem

ATTEST:

Michelle Lewis Sirianni, Town Secretary



FINANCE

To: Mayor and Town Council

From: Betty Pamplin, Finance Director

Through: Robert B. Scott, Executive Director of Administrative Services

Re: Town Council Meeting – August 9, 2022

Agenda Item:

Consider and act upon a resolution approving a negotiated settlement between the Atmos Cities Steering Committee (“ACSC”) and Atmos Energy Corp., Mid-Tex Division regarding the company’s 2022 rate review mechanism filing.

Description of Agenda Item:

The Town of Prosper, along with 181 other Mid-Texas cities served by Atmos Energy Corporation, Mid-Tex Division (“Atmos Mid-Tex” or “Company”), is a member of the Atmos Cities Steering Committee (“ACSC”). In 2007, ACSC and Atmos Mid-Tex settled a rate application filed by the Company pursuant to Section 104.301 of the Texas Utilities Code for an interim rate adjustment commonly referred to as a GRIP filing (arising out of the Gas Reliability Infrastructure Program legislation). That settlement created a substitute rate review process, referred to as Rate Review Mechanism (“RRM”), as a substitute for future filings under the GRIP statute.

Since 2007, there have been several modifications to the original RRM Tariff. The most recent iteration of an RRM Tariff was reflected in an ordinance adopted by ACSC members in 2018. On or about April 1, 2022, the Company filed a rate request pursuant to the RRM Tariff adopted by ACSC members. The Company claimed that its cost-of-service in a test year ending December 31, 2021, entitled it to additional system-wide revenues of \$141.3 million. Application of the standards set forth in ACSC’s RRM Tariff reduces the Company’s request to \$115 million, \$83.26 million of which would be applicable to ACSC members. ACSC’s consultants concluded that the system-wide deficiency under the RRM regime should be \$95.8 million instead of the claimed \$141.3 million.

The Executive Committee recommends a settlement at \$115 million. The Effective Date for new rates is October 1, 2022. ACSC members should take action approving the Resolution before September 30, 2022.

Atmos generated proof that the rate tariffs attached to the resolution will generate \$115 million in additional revenues. Atmos also prepared a Proof of Revenues supporting the settlement figures. ACSC consultants have agreed that Atmos’ Proof of Revenues is accurate.

The impact of the settlement on average residential rates is an increase of \$4.60 on a monthly basis, or 6.7 percent. The increase for average commercial usage will be \$14.34 or 4.34 percent. Atmos provided bill impact comparisons containing these figures.

ACSC strongly opposed the GRIP process because it constitutes piecemeal ratemaking by ignoring declining expenses and increasing revenues while rewarding the Company for increasing capital investment on an annual basis. The GRIP process does not allow any review of the reasonableness of capital investment and does not allow cities to participate in the Railroad Commission's review of annual GRIP filings or allow recovery of Cities' rate case expenses. The Railroad Commission undertakes a mere administrative review of GRIP filings (instead of a full hearing) and rate increases go into effect without any material adjustments. In ACSC's view, the GRIP process unfairly raises customers' rates without any regulatory oversight. In contrast, the RRM process has allowed for a more comprehensive rate review and annual evaluation of expenses and revenues, as well as capital investment.

While residents outside municipal limits must pay rates governed by GRIP, there are some cities served by Atmos Mid-Tex that chose to remain under GRIP rather than adopt RRM. Additionally, the City of Dallas adopted a variation of RRM which is referred to as DARR. When new rates become effective on October 1, 2022, ACSC residents will maintain a slight economic monthly advantage over GRIP and DARR rates.

The Legislature's GRIP process allowed gas utilities to receive annual rate increases associated with capital investments. The RRM process has proven to result in a more efficient and less costly (both from a consumer rate impact perspective and from a ratemaking perspective) than the GRIP process. Given Atmos Mid-Tex's claim that its historic cost of service should entitle it to recover \$141.3 million in additional system-wide revenues, the RRM settlement at \$115 million for ACSC Cities reflects substantial savings to ACSC Cities. Settlement at \$115 million is fair and reasonable. The ACSC Executive Committee consisting of city employees of 18 ACSC members urges all ACSC members to pass the Resolution before September 30, 2022. New rates become effective October 1, 2022.

Legal Obligations and Review:

Thomas Brocato, ACSC's general counsel prepared the attached resolution. Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed the resolution as to form and legality.

Attached Documents:

1. Resolution
2. Resolution Attachment 1 Rate Tariffs
3. Resolution Attachment 2 Pension and Retiree Medical Benefits Benchmarks

Town Staff Recommendation:

Town staff recommends approval of the resolution approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the company's 2022 rate review mechanism filing.

Proposed Motion:

I move to approve the resolution approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the company's 2022 rate review mechanism filing.

TOWN OF PROSPER, TEXAS

RESOLUTION NO. 2022-XX

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE ("ACSC") AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY'S 2022 RATE REVIEW MECHANISM FILING; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; APPROVING AN ATTACHED EXHIBIT ESTABLISHING A BENCHMARK FOR PENSIONS AND RETIREE MEDICAL BENEFITS; REQUIRING THE COMPANY TO REIMBURSE ACSC'S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS RESOLUTION WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND THE ACSC'S LEGAL COUNSEL.

WHEREAS, the Town of Prosper, Texas ("Town") is a gas utility customer of Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company"), and a regulatory authority with an interest in the rates, charges, and services of Atmos Mid-Tex; and

WHEREAS, the Town is a member of the Atmos Cities Steering Committee ("ACSC"), a coalition of similarly-situated cities served by Atmos Mid-Tex ("ACSC Cities") that have joined together to facilitate the review of, and response to, natural gas issues affecting rates charged in the Atmos Mid-Tex service area; and

WHEREAS, ACSC and the Company worked collaboratively to develop a Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process by ACSC Cities as a substitute to the Gas Reliability Infrastructure Program ("GRIP") process instituted by the Legislature, and that will establish rates for the ACSC Cities based on the system-wide cost of serving the Atmos Mid-Tex Division; and

WHEREAS, the current RRM tariff was adopted by the Town in a rate ordinance in 2018; and

WHEREAS, on or about April 1, 2022, Atmos Mid-Tex filed its 2022 RRM rate request with ACSC Cities based on a test year ending December 31, 2021; and

WHEREAS, ACSC coordinated its review of the Atmos Mid-Tex 2022 RRM filing through its Executive Committee, assisted by ACSC's attorneys and consultants, to resolve issues identified in the Company's RRM filing; and

WHEREAS, the Executive Committee, as well as ACSC's counsel and consultants, recommend that ACSC Cities approve an increase in base rates for Atmos Mid-Tex of \$115 million applicable to ACSC Cities with an Effective Date of October 1, 2022; and

WHEREAS, ACSC agrees that Atmos plant-in-service is reasonable; and

WHEREAS, with the exception of approved plant-in-service, ACSC is not foreclosed from future reasonableness evaluation of costs associated with incidents related to gas leaks; and

WHEREAS, the attached tariffs (Attachment 1) implementing new rates are consistent with the recommendation of the ACSC Executive Committee, are agreed to by the Company, and are just, reasonable, and in the public interest; and

WHEREAS, the settlement agreement sets a new benchmark for pensions and retiree medical benefits (Attachment 2); and

WHEREAS, the RRM Tariff contemplates reimbursement of ACSC's reasonable expenses associated with RRM applications.

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

SECTION 1

That the findings set forth in this Resolution are hereby in all things approved.

SECTION 2

That, without prejudice to future litigation of any issue identified by ACSC, the Town Council finds that the settled amount of an increase in revenues of \$115 million on a system-wide basis represents a comprehensive settlement of gas utility rate issues affecting the rates, operations, and services offered by Atmos Mid-Tex within the municipal limits arising from Atmos Mid-Tex's 2022 RRM filing, is in the public interest, and is consistent with the Town's authority under Section 103.001 of the Texas Utilities Code.

SECTION 3

That despite finding Atmos Mid-Tex's plant-in-service to be reasonable, ACSC is not foreclosed in future cases from evaluating the reasonableness of costs associated with incidents involving leaks of natural gas.

SECTION 4

That the existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable. The new tariffs attached hereto and incorporated herein as Attachment 1, are just and reasonable, and are designed to allow Atmos Mid-Tex to recover annually an additional \$115 million on a system-wide bases, over the amount allowed under currently approved rates. Such tariffs are hereby adopted.

SECTION 5

That the ratemaking treatment for pensions and retiree medical benefits in Atmos Mid-Tex's next RRM filing shall be as set forth on Attachment 2, attached hereto and incorporated herein.

SECTION 6

That Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC in processing the Company's 2022 RRM filing.

SECTION 7

That to the extent any resolution or ordinance previously adopted by the Town Council is inconsistent with this Resolution, it is hereby repealed.

SECTION 8

That the meeting at which this Resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

SECTION 9

That if any one or more sections or clauses of this Resolution is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Resolution, and the remaining provisions of the Resolution shall be interpreted as if the offending section or clause never existed.

SECTION 10

That consistent with the Town Ordinance that established the RRM process, this Resolution shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after October 1, 2022.

SECTION 11

That a copy of this Resolution shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs Mid-Tex Division, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Thomas Brocato, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 9TH DAY OF AUGUST, 2022.

Jeff Hodges, Mayor Pro-Tem

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

ATTACHMENT 1

ATTACHMENT 2

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

Item 3.

RATE SCHEDULE:	R – RESIDENTIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2022	

Application

Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 21.55 per month
Rider CEE Surcharge	\$ 0.05 per month ¹
Total Customer Charge	\$ 21.60 per month
Commodity Charge – All <u>Ccf</u>	\$0.36223 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹Reference Rider CEE - Conservation and Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2022.

RATE SCHEDULE:	C – COMMERCIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2022	

Application

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 30,000 Ccf.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 63.50 per month
Rider CEE Surcharge	(\$ 0.01) per month ¹
Total Customer Charge	\$ 63.49 per month
Commodity Charge – All Ccf	\$ 0.14137 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹ Reference Rider CEE - Conservation and Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2022.

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2022	

Application

Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 3,500 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 3,500 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and MMBtu charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 1,204.50 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.4939 per MMBtu
Next 3,500 MMBtu	\$ 0.3617 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0776 per MMBtu

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2022	

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2022	

Application

Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp., Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer's agent at one Point of Delivery for use in Customer's facility.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's bill will be calculated by adding the following Customer and MMBtu charges to the amounts and quantities due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 1,204.50 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.4939 per MMBtu
Next 3,500 MMBtu	\$ 0.3617 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0776 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Imbalance Fees

All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

Monthly Imbalance Fees

Customer shall pay Company the greater of (i) \$0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest "midpoint" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" during such month, for the MMBtu of Customer's monthly Cumulative Imbalance, as defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer's receipt quantities for the month.

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2022	

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement

A transportation agreement is required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2022	

Provisions for Adjustment

The Commodity Charge per Ccf (100 cubic feet) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential and commercial bills based on meters read during the revenue months of November through April. The five regional weather stations are Abilene, Austin, Dallas, Waco, and Wichita Falls.

Computation of Weather Normalization Adjustment

The Weather Normalization Adjustment Factor shall be computed to the nearest one-hundredth cent per Ccf by the following formula:

$$WNAF_i = R_i \frac{(HSF_i \times (NDD-ADD))}{(BL_i + (HSF_i \times ADD))}$$

Where

- i = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification
- $WNAF_i$ = Weather Normalization Adjustment Factor for the i^{th} rate schedule or classification expressed in cents per Ccf
- R_i = Commodity Charge rate of temperature sensitive sales for the i^{th} schedule or classification.
- HSF_i = heat sensitive factor for the i^{th} schedule or classification divided by the average bill count in that class
- NDD = billing cycle normal heating degree days calculated as the simple ten-year average of actual heating degree days.
- ADD = billing cycle actual heating degree days.
- BL_i = base load sales for the i^{th} schedule or classification divided by the average bill count in that class

The Weather Normalization Adjustment for the j th customer in i th rate schedule is computed as:

$$WNA_i = WNAF_i \times q_{ij}$$

Where q_{ij} is the relevant sales quantity for the j th customer in i th rate schedule.

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2022	

Base Use/Heat Use Factors

Weather Station	<u>Residential</u>		<u>Commercial</u>	
	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>
Abilene	10.58	0.1422	88.85	0.6666
Austin	9.90	0.1372	233.56	0.7819
Dallas	14.17	0.1938	186.38	0.9394
Waco	10.07	0.1308	140.10	0.7170
Wichita Falls	11.43	0.1398	131.57	0.5610

Weather Normalization Adjustment (WNA) Report

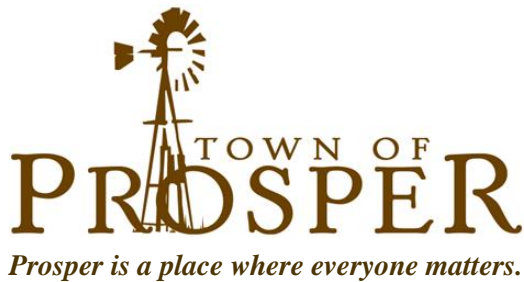
On or before June 1 of each year, the company posts on its website at atmosenergy.com/mtx-wna, in Excel format, a *Weather Normalization Adjustment (WNA) Report* to show how the company calculated its WNAs factor during the preceding winter season. Additionally, on or before June 1 of each year, the company files one hard copy and an Excel version of the *WNA Report* with the Railroad Commission of Texas' Gas Services Division, addressed to the Director of that Division.

ATMOS ENERGY CORP., MID-TEX DIVISION
PENSIONS AND RETIREE MEDICAL BENEFITS FOR CITIES APPROVAL
TEST YEAR ENDING DECEMBER 31, 2021

Line No.	Description	Shared Services		Mid-Tex Direct			Adjustment Total
		Pension Account Plan	Post-Employment Benefit Plan	Pension Account Plan	Supplemental Executive Benefit Plan	Post-Employment Benefit Plan	
	(a)	(b)	(c)	(d)	(e)	(f)	(g)
1	Proposed Benefits Benchmark - Fiscal Year 2022 Willis Towers Watson Report as adjusted (1) (2) (3)	\$ 1,715,323	\$ 982,708	\$ 3,137,022	\$ 313,319	\$ (341,412)	
2	Allocation to Mid-Tex	44.72%	44.72%	76.88%	100.00%	76.88%	
3	Proposed Benefits Benchmark Costs Allocated to Mid-Tex (Ln 1 x Ln 2)	\$ 767,038	\$ 439,436	\$ 2,411,882	\$ 313,319	\$ (262,493)	
4	O&M and Capital Allocation Factor	100.00%	100.00%	100.00%	100.00%	100.00%	
5	Proposed Benefits Benchmark Costs to Approve (Ln 3 x Ln 4) (3)	\$ 767,038	\$ 439,436	\$ 2,411,882	\$ 313,319	\$ (262,493)	\$ 3,669,182
6							
7							
8	Summary of Costs to Approve (1):						
9							
10	O&M Expense Factor (WP_F-2.3, Ln 2)	79.88%	79.88%	38.60%	11.00%	38.60%	
11							
12							
13	Total Pension Account Plan	\$ 612,700		\$ 931,100			\$ 1,543,800
14	Total Post-Employment Benefit Plan		\$ 351,016			\$ (101,335)	249,681
15	Total Supplemental Executive Benefit Plan				\$ 34,465		34,465
16	Total (Ln 13 + Ln 14 + Ln 15)	\$ 612,700	\$ 351,016	\$ 931,100	\$ 34,465	\$ (101,335)	\$ 1,827,946

Notes:

1. Studies not applicable to Mid-Tex or Shared Services are omitted.
2. Mid-Tex is proposing that the Fiscal Year 2022 Willis Towers Watson actuarial amounts shown on WP_F-2.3 and WP_F-2.3.1, be approved by the RRM Cities as the benchmark amounts to be used to calculate the regulatory asset or liability for future periods. The benchmark amount approved by the RRM Cities for future periods includes only the expense amount.
3. The amount attributable to capital is recorded to utility plant through the overhead process as described in the CAM.
3. SSU amounts exclude cost centers which do not allocate to Mid-Tex for rate making purposes.



TOWN SECRETARY

To: Mayor and Town Council

From: Michelle Lewis Sirianni, Town Secretary

**Through: Bob Scott, Executive Director of Administrative Services
Robyn Battle, Executive Director of Community Services**

Re: Community Development Block Grant Program
Town Council Meeting – August 9, 2022

Agenda Item:

Consider and act upon a resolution authorizing the Mayor to execute a Joint Administrative Agreement with Denton County for the Community Development Block Grant (CDBG) three year program for fiscal years 2023, 2024, and 2025.

Description of Agenda Item:

The Community Development Block Grant (CDBG) program is a federally funded community infrastructure program that is managed locally by Denton County. Denton County provides the funding and project oversight for local CDBG projects.

This would be the first time the Town has partnered with Denton County to participate in the CDBG program. Funds from this program must be used to meet one of the CDBG national objectives: benefit low-to-moderate income persons, eliminate slums/blight, or address urgent community development needs. The Town may utilize these funds to upgrade water and wastewater utilities and reconstruct pavement in qualifying areas.

This is a three-year cooperation agreement with Denton County for participation in the CDBG program, HOME Investment Partnership Program, and Emergency Solutions Grants Program. Funding will automatically renew for each new three fiscal year Urban County qualification period unless the Town provides written notice of its intention to end its participation.

Budget Impact:

Approval of this three-year cooperation agreement will allow the Town to receive federal funding as provided by Denton County.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

Attachments:

1. Resolution
2. Agreement
3. Denton County Letter

Town Staff Recommendation:

Town Staff recommends approving a resolution authorizing the Mayor to execute a Joint Administrative Agreement with Denton County for the Community Development Block Grant (CDBG) three year program for fiscal year 2023, 2024, and 2025.

Proposed Motion:

I move to approve approving a resolution authorizing the Mayor to execute a Joint Administrative Agreement with Denton County for the Community Development Block Grant (CDBG) three year program for fiscal year 2023, 2024, and 2025.

RESOLUTION REGARDING TOWN OF PROSPER PARTICIPATION IN DENTON COUNTY'S COMMUNITY DEVELOPMENT BLOCK GRANT FOR THE THREE PROGRAM YEAR PERIOD, FISCAL YEAR 2023 THROUGH FISCAL YEAR 2025.

WHEREAS, Title I of the Housing and Community Act of 1974, as amended through the Housing and Community Act of 1992, establishes a program of community development block grants for the specific purpose of developing viable communities by providing decent housing and suitable living environment and expanding economic opportunities principally for persons of low and moderate income, and

WHEREAS, Denton County has been designated an "Urban County" by the Department of Housing and Urban Development entitled to a formula share of Community Development Block Grant (CDBG) program funds provided said County has a combined population of 200,000 persons in its unincorporated areas and units of general local government with which it has entered into cooperative agreements, and

WHEREAS, Article III, Section 64 of the Texas Constitution authorizes Texas counties to enter into cooperative agreements with local governments for essential Community Development and Housing Assistance activities, and

WHEREAS, the TOWN OF PROSPER may not apply for grants under the State CDBG Program from appropriations for fiscal years during the period in which it is participating in Denton County's CDBG program, and

WHEREAS, through cooperative agreements Denton County has authority to carry out activities funded from annual Community Development Block Grant (CDBG) Allocation from Federal Fiscal Years 2023, 2024, and 2025, from any program income generated from the expenditure of such funds and any successive qualification periods under automatic renewal, and

WHEREAS, this cooperative agreement covers Federal Fiscal Years 2023, 2024, and 2025, it will automatically be renewed for participation in successive three-year qualification periods, unless the County or the TOWN OF PROSPER informs HUD with written notice to elect to not participate in a new qualification period, and

WHEREAS, the cooperative agreement will be automatically renewed by the date specified in HUD's urban county qualification notice for the next qualification period, Denton County will notify TOWN OF PROSPER in writing of its right not to participate, and

WHEREAS, with automatic renewal, Denton County and the TOWN OF PROSPER will be required to adopt and submit to HUD any amendment to the agreement incorporating changes necessary to meet the requirements set forth in an Urban County Qualification Notice, and

WHEREAS, Denton County and the TOWN OF PROSPER agree to cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities, and

WHEREAS, Denton County and TOWN OF PROSPER will take all actions necessary to assure compliance under section 104(b) of Title I of the Housing and Community Development

Act of 1974, Title VI of the Civil Rights Act of 1964 and the Fair Housing Act, and

WHEREAS, Denton County will not fund activities in, or in support of the TOWN OF PROSPER that does not affirmatively further fair housing within its own jurisdiction or that impedes the county's actions to comply with the county's fair housing certification, and

WHEREAS, Denton County and the TOWN OF PROSPER will comply with section 109 of Title I of the Housing and Community Development Act of 1974, which incorporates Section 504 of the Rehabilitation Act of 1973, of Title II of the Americans with Disabilities Act, Age Discrimination Act of 1975, Section 3 of the Housing and Urban Development Act of 1968, and other applicable laws, and

WHEREAS, the TOWN OF PROSPER has adopted and is enforcing a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations and

WHEREAS, the TOWN OF PROSPER has adopted and is enforcing a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within jurisdictions, and

WHEREAS, in accordance with 24 CFR 570.501(b), Denton County is responsible for ensuring that CDBG funds are used in accordance with all program requirements, including monitoring and reporting to U.S. Department of Housing and Urban Development, on the use of program income, and

WHEREAS, pursuant to 24 CFR 570.501(b), the TOWN OF PROSPER is subject to the same requirements applicable to sub recipients, including the requirement of a written agreement as described in 24 CFR 570.503, and

WHEREAS, Denton County and TOWN OF PROSPER may not sell, trade, or otherwise transfer all or any portion of such funds to another such metropolitan town, urban county, unit of general local government, or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the Act in the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2014, Pub. L. 113-76.

NOW, THEREFORE, BE IT RESOLVED, by the TOWN OF PROSPER that the TOWN Council of PROSPER, Texas supports the application of Denton County for funding from Housing and Community Development Act of 1974, as amended, and Cranston-Gonzalez National Affordable Housing Act, as amended, and asks that its population be included for three successive years with that of Denton County, Texas to carry out Community Development Program Activities Eligible for Assistance under Public Law 93-383, and Affordable Housing activities under Public Law 101-625, and authorizes the Mayor of PROSPER, Texas to sign such additional forms as requested by the Department of Housing and Urban Development pursuant to the purposes of the Resolution, and further that the TOWN OF PROSPER projects and filing annual grant requests.

BE IT FURTHER RESOLVED, this cooperative agreement will automatically be renewed for participation in successive three-year qualification periods, unless Denton County or the TOWN OF PROSPER provides written notice it elects not to participate in a new qualification period. Denton County will notify the TOWN OF PROSPER in writing of its right to make to such election on the date specified by the U.S. Department of Housing and Urban Development in HUD's urban county qualification notice for the next qualification period. Any amendments or

changes contained within the Urban County Qualification Notice applicable for a subsequent three-year urban county qualification period must be adopted by Denton County and the TOWN OF PROSPER and submitted to HUD. Failure by either party to adopt such an amendment to the agreement will void the automatic renewal of this agreement.

This agreement remains in effect until CDBG funds and income received during the fiscal 2023, 2024, 2025 programs, and to any successive qualification periods provided through the automatic renewal of this agreement, are expended and the funded activities completed, neither Denton County nor the TOWN OF PROSPER may terminate or withdraw from the agreement while the agreement remains in effect.

Official notice of amendments or changes applicable for a subsequent three-year urban county agreement shall be in writing and be mailed by certified mail to the Town Secretary of the TOWN OF PROSPER. Any notice of changes or amendments to this agreement by the TOWN OF PROSPER to Denton County shall be in writing to the Denton County Judge's Office.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THIS THE 9th DAY OF AUGUST, 2022.

Jeff Hodges, Mayor Pro-Tem

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

PASSED AND APPROVED THIS _____ day of _____, 2022.

Commissioners Court Clerk

Judge Andy Eads, County Judge



STATE OF TEXAS

§
§
§

COMMUNITY DEVELOPMENT

COUNTY OF DENTON

BLOCK GRANT PROGRAM

JOINT ADMINISTRATIVE AGREEMENT FOR ADMINISTRATION

Pursuant to Texas Local Government Code Chapter 373 and Section 381.003, Texas cities and counties are authorized to conduct essential housing and community development activities; and pursuant to Texas Government Code Chapter 791, Texas cities and counties are authorized to enter into cooperative agreements.

This agreement is entered into by and between **DENTON COUNTY** (“COUNTY”), a political subdivision of the State of Texas, and the **TOWN OF PROSPER**, (“TOWN”) a municipal corporation under the laws of the State of Texas (also known individually as a “Party” or, collectively, the “Parties”).

The **TOWN OF PROSPER**, has chosen to have its population included as a portion of COUNTY’s population in COUNTY’s “Urban County” applications to the U.S. Department of Housing and Urban Development (“HUD”) for the Community Development Block Grant (“CDBG”) Program, the HOME Investment Partnership (“HOME”) Program, and Emergency Solutions Grants (“ESG”) Program (collectively, the “Grant Applications”), and COUNTY is willing to include TOWN’s population in the Grant Applications

This Agreement is effective for the three fiscal years qualification period of Fiscal Years 2023- 2025. This Agreement remains in effect until the CDBG Program funds and income received with respect to the three fiscal years qualification period and any successive qualification periods are expended and the funded activities are completed, and the Parties may not terminate or withdraw from this Agreement while it remains in effect. This Agreement will automatically renew for each new three fiscal year Urban County qualification period unless TOWN or COUNTY provides written notice of its intention to end its participation in this Agreement to the other Party before the end of a three fiscal years qualification period. The termination notice must also be sent to the HUD Field Office.

This **JOINT ADMINISTRATIVE AGREEMENT** is made and entered into by and between the TOWN Council of the **TOWN OF PROSPER** and **DENTON COUNTY** and the parties hereby AGREE as follows:

1. The Parties will cooperate to undertake, or assist in undertaking, community renewal and lower-income-housing-assistance activities.
2. The Parties will take all actions necessary to assure compliance with the Urban

County's certification required by section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, including Title VI of the Civil Rights Act of 1964, and implementing regulations at 24 CFR part 1, and the Fair

Housing Act, and the implementing Attachment B - Exhibit A regulations at 24 CFR part 100, will affirmatively further fair housing. The Parties will take all actions necessary to assure compliance with the Urban County's certification required by section 109 of Title I of the Housing and Community Development Act of 1974, and the implementing regulations at 24 CFR part 6, which incorporates Section 504 of the Rehabilitation Act of 1973, and the implementing regulations at 24 CFR part 8, Title II of the Americans with Disabilities Act, and the implementing regulations at 28 CFR part 35, the Age Discrimination Act of 1975, and the implementing regulation at 24 CFR part 146, and Section 3 of the Housing and Urban Development Act of 1968. The Parties will also comply with any other applicable laws.

3. The Parties will take all required actions to comply with the provisions of the National Environment Policy Act of 1969, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 104 (b) and Section 109 of Title I of the Housing and Community Development Act of 1974, as amended, and other applicable laws.
4. The Parties will affirmatively further fair housing within the jurisdiction of the TOWN and the COUNTY.
5. The COUNTY and the TOWN have adopted and are enforcing a policy prohibiting the use of excessive force by law enforcement agencies with its jurisdiction against any individuals engaged in non-violent civil rights demonstrations and a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location that is in the subject of such non-violent civil rights demonstrations within the jurisdiction.
6. Neither Party to this Agreement may veto or in any other way obstruct the implementation of the approved Consolidated Plan (the "Plan") during the period for which COUNTY is seeking to qualify as an Urban County, nor may either Party be required to undertake any activities not specifically in the Plan. In addition, nothing contained in this Agreement will deprive any municipality or other unit of local government of any powers of zoning, development control or other lawful authority which it presently possesses.
7. Pursuant to 24 CFR 570.501 (b), TOWN is subject to the same requirements applicable to subrecipients, including the requirements for a written Attachment B - Exhibit A agreement set forth in 24 CFR 570.503.
8. TOWN may not sell, trade, or otherwise transfer all or any portion of such funds to another such metropolitan TOWN, urban county, unit of general local government or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits, or non-Federal considerations, but must use such funds for activities eligible under title I of the Act.
9. COUNTY will adhere to HUD requirements regarding public hearings and will have final responsibility for selection of projects, the filing of annual grant request, and the

preparation of annual performance reports.

10. COUNTY has the final responsibility for submitting the consolidate Plan to HUD

11. TOWN may not apply for grants from appropriations under the State CDBG Program for fiscal years during the period in which it participates in COUNTY's CDBG program.

This Joint Administrative Agreement is executed on behalf of the **TOWN OF PROSPER** and **DENTON COUNTY** by its duly authorized officials.

TOWN OF PROSPER

David Bristol, Mayor of Prosper

This the _____ day of _____, 2022

DENTON COUNTY, TEXAS

Andy Eads, County Judge

This the _____ day of _____, 2022



Andy Eads
Denton County Judge

June 27, 2022

Honorable David F. Bristol, Mayor of Prosper

RE: Urban County Qualification for CDBG 2023 - 2025

Dear Mayor Bristol,

Denton County is honored to announce that we are seeking qualification as an Urban County under the Community Development Block Grant ("CDBG") program in order to assist in providing our eligible cities with funding for projects related to low-moderate income individuals in their communities.

CDBG aims to ensure the development of viable communities through the use of infrastructure development and anti-poverty programs. This mission is accomplished through the funding of activities which meet one of the CDBG national objectives: benefiting low and moderate income persons, eliminating slums/blight, or addressing urgent community development needs.

The CDBG program is federally funded, locally administered, and successful through collaboration. Denton County extends this invitation to you, as an eligible municipality, for participation in the Denton County CDBG Consortium. Under the Consortium we shall work together to provide valuable services to our citizens and further the high quality of living that all cities and towns in Denton County offer.

Should you elect to join to Consortium, the attached Cooperative Agreement must be signed and returned to the Denton County Grant Manager, Rina Maloney on or before August 1, 2022. Those cities/towns which opt out of joining are asked to notify the County of such by email, rina.maloney@dentoncounty.gov.

If you have any questions or concerns regarding the CDBG program, please contact Rina Maloney at, (940) 349-3012, rina.maloney@dentoncounty.gov.

Sincerely,

Andy Eads
County Judge
Denton County, Texas

Denton County Administrative Courthouse • 1 Courthouse Dr. • Denton, TX 76208
(940) 349-2820 • www.dentoncounty.gov



PUBLIC WORKS

To: Mayor and Town Council

From: Frank E. Jaromin, P.E., Director of Public Works

Through: Bob Scott, Executive Director of Administrative Services
Hulon T. Webb, Jr., Interim Executive Director of Development and Infrastructure Services

Re: Town Council Meeting – August 9, 2022

Agenda Item:

Consider and act upon authorizing the Mayor to execute a Professional Engineering Services Agreement between Freese and Nichols, Inc., and the Town of Prosper, Texas, related to the Public Works and Parks and Recreation Facility Master Plan project.

Description of Agenda Item:

The services associated with this agreement are to create a Facility Master Plan and fueling station to consolidate the Public Works and Parks and Recreation Departments to a single site, east of Cook Lane. Freese and Nichols, Inc., will project the potential growth of the two departments at buildout, including the number of staff and their roles, space needs, and operational storage such as the number and types of vehicles, equipment, and storage needs. The Master Plan project site will be an expansion of the current Public Works Facility.

At the April 9, 2019, Town Council meeting, the Town Council approved a list of qualified engineering firms. Freese and Nichols, Inc., is included on the approved list.

Budget Impact:

The total cost of the project is \$104,800. \$64,800 will be funded from Account No. 200-5410-50-02 (Professional Services), and \$40,000 from Account No. 100-5410-50-01 (Capital Expenditure).

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the standard Professional Engineering Services Agreement as to form and legality.

Attached Documents:

1. Professional Engineering Services Agreement

Town Staff Recommendation:

Town staff recommends that the Town Council authorize the Mayor to execute a Professional Engineering Services Agreement between Freese and Nichols, Inc., and the Town of Prosper, Texas, related to the Public Works and Parks and Recreation Facility Master Plan project.

Proposed Motion:

I move to authorize the Mayor to execute a Professional Engineering Services Agreement between Freese and Nichols, Inc., and the Town of Prosper, Texas, related to the Public Works and Parks and Recreation Facility Master Plan project.

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND FREESE AND NICHOLS, INC.
FOR THE PUBLIC WORKS AND PARKS AND RECREATION FACILITY MASTER PLAN PROJECT**

This Agreement for Professional Engineering Services, hereinafter called "Agreement," is entered into by the **Town of Prosper, Texas**, a municipal corporation, duly authorized to act by the Town Council of said Town, hereinafter called "Town," and Freese and Nichols, Inc., a company authorized to do business in Texas, acting through a duly authorized officer, hereinafter called "Consultant," relative to Consultant providing professional engineering services to Town. Town and Consultant when mentioned collectively shall be referred to as the "Parties."

W I T N E S S E T H:

WHEREAS, Town desires to obtain professional engineering services in connection with the **Public Works And Parks And Recreation Facility Master Plan Project**, hereinafter called "Project";

For the mutual promises and benefits herein described, Town and Consultant agree as follows:

1. **Term of Agreement.** This Agreement shall become effective on the date of its execution by both Parties, and shall continue in effect thereafter until terminated as provided herein.

2. **Services to be Performed by Consultant.** The Parties agree that Consultant shall perform such services as are set forth and described in **Exhibit A - Scope of Services** and incorporated herein as if written word for word. All services provided by Consultant hereunder shall be performed in accordance with the degree of care and skill ordinarily exercised under similar circumstances by competent members of their profession. In case of conflict in the language of Exhibit A and this Agreement, this Agreement shall govern and control. Deviations from the Scope of Services or other provisions of this Agreement may only be made by written agreement signed by all Parties to this Agreement.

3. **Prompt Performance by Consultant.** Consultant shall perform all duties and services and make all decisions called for hereunder promptly and without unreasonable delay as is necessary to cause Consultant's services hereunder to be timely and properly performed. Notwithstanding the foregoing, Consultant agrees to use diligent efforts to perform the services described herein and further defined in any specific task orders, in a manner consistent with these task orders; however, the Town understands and agrees that Consultant is retained to perform a professional service and such services must be bound, first and foremost, by the principles of sound professional judgment and reasonable diligence.

4. **Compensation of Consultant.** Town agrees to pay to Consultant for satisfactory completion of all services included in this Agreement a total fee of One Hundred-Four Thousand Eight Hundred (\$104,800) for the Project as set forth and described in **Exhibit B - Compensation Schedule** and incorporated herein as if written word for word. Lump sum fees shall be billed monthly based on the percentage of completion. Hourly not to exceed fees shall be billed monthly based on hours of work that have been completed. Direct Costs for expenses such as mileage, copies, scans, sub-consultants, and similar costs are included in fees and shall be billed as completed.

Consultant agrees to submit statements to Town for professional services no more than once per month. These statements will be based upon Consultant's actual services performed and reimbursable expenses incurred, if any, and Town shall endeavor to make prompt payments. Each statement submitted by Consultant to Town shall be reasonably itemized to show the amount of work performed during that period. If Town fails to pay Consultant within sixty (60) calendar days of the receipt of Consultant's invoice, Consultant may, after giving ten (10) days written

notice to Town, suspend professional services until paid.

Nothing contained in this Agreement shall require Town to pay for any work that is unsatisfactory as reasonably determined by Town or which is not submitted in compliance with the terms of this Agreement.

The Scope of Services shall be strictly limited. Town shall not be required to pay any amount in excess of the original proposed amount unless Town shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

5. **Town's Obligations.** Town agrees that it will (i) designate a specific person as Town's representative, (ii) provide Consultant with any previous studies, reports, data, budget constraints, special Town requirements, or other pertinent information known to Town, when necessitated by a project, (iii) when needed, assist Consultant in obtaining access to properties necessary for performance of Consultant's work for Town, (iv) make prompt payments in response to Consultant's statements and (v) respond in a timely fashion to requests from Consultant. Consultant is entitled to rely upon and use, without independent verification and without liability, all information and services provided by Town or Town's representatives.

6. **Ownership and Reuse of Documents.** Upon completion of Consultant's services and receipt of payment in full therefore, Consultant agrees to provide Town with copies of all materials and documents prepared or assembled by Consultant under this Agreement and that Town may use them without Consultant's permission for any purpose relating to the Project. Any reuse of the documents not relating to the Project shall be at Town's risk. Consultant may retain in its files copies of all reports, drawings, specifications and all other pertinent information for the work it performs for Town.

7. **Town Objection to Personnel.** If at any time after entering into this Agreement, Town has any reasonable objection to any of Engineer's personnel, or any personnel, professionals and/or consultants retained by Engineer, Engineer shall promptly propose substitutes to whom Town has no reasonable objection, and Engineer's compensation shall be equitably adjusted to reflect any difference in Engineer's costs occasioned by such substitution.

8. **Insurance.** Consultant shall, at its own expense, purchase, maintain and keep in force throughout the duration of this Agreement applicable insurance policies as described in **Exhibit C - Insurance Requirements** and incorporated herein as if written word for word. Consultant shall submit to Town proof of such insurance prior to commencing any work for Town.

9. **Indemnification.** **CONSULTANT DOES HEREBY COVENANT AND AGREE TO RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ITS OFFICIALS, OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES AND INVITEES FROM AND AGAINST LIABILITY, CLAIMS, SUITS, DEMANDS AND/OR CAUSES OF ACTION, (INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEY'S FEES AND COSTS OF LITIGATION), WHICH MAY ARISE BY REASON OF DEATH OR INJURY TO PROPERTY OR PERSONS BUT ONLY TO THE EXTENT OCCASIONED BY THE NEGLIGENT ACT, ERROR OR OMISSION OF CONSULTANT, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES, INVITEES OR OTHER PERSONS FOR WHOM CONSULTANT IS LEGALLY LIABLE WITH REGARD TO THE PERFORMANCE OF THIS AGREEMENT.**

IN THE EVENT THAT TOWN AND CONSULTANT ARE CONCURRENTLY NEGLIGENT, THE PARTIES AGREE THAT ALL LIABILITY SHALL BE CALCULATED ON A COMPARATIVE BASIS OF FAULT AND RESPONSIBILITY AND THAT NEITHER PARTY SHALL BE REQUIRED TO DEFEND OR INDEMNIFY THE OTHER PARTY FOR THAT PARTY'S NEGLIGENT OR INTENTIONAL ACTS, ERRORS OR OMISSIONS.

10. **Notices.** Any notices to be given hereunder by either Party to the other may be affected either by personal delivery, in writing, or by registered or certified mail to the following addresses:

Freese and Nichols, Inc.
Vimal Nair, PE Vice President
801 Cherry Street, Suite 2800
Fort Worth, TX 76102
vrn@freese.com

Town of Prosper
Town Secretary
PO Box 307
Prosper, TX 75078
mlsirianni@prospertx.gov

11. **Termination.** The obligation to provide further services under this Agreement may be terminated by either Party in writing upon thirty (30) calendar days notice. In the event of termination by Town, Consultant shall be entitled to payment for services rendered through receipt of the termination notice.

12. **Sole Parties and Entire Agreement.** This Agreement shall not create any rights or benefits to anyone except Town and Consultant, and contains the entire agreement between the Parties. Oral modifications to this Agreement shall have no force or effect.

13. **Assignment and Delegation.** Neither Town nor Consultant may assign its rights or delegate its duties without the written consent of the other Party. This Agreement is binding on Town and Consultant to the extent permitted by law. Nothing herein is to be construed as creating any personal liability on the part of any Town officer, employee or agent.

14. **Texas Law to Apply; Successors; Construction.** This Agreement shall be construed under and in accordance with the laws of the State of Texas. It shall be binding upon, and inure to the benefit of, the Parties hereto and their representatives, successors and assigns. Should any provisions in this Agreement later be held invalid, illegal or unenforceable, they shall be deemed void, and this Agreement shall be construed as if such provision had never been contained herein.

15. **Conflict of Interest.** Consultant agrees that it is aware of the prohibited interest requirement of the Town Charter, which is repeated in **Exhibit D - Conflict of Interest Affidavit** and incorporated herein as if written word for word, and will abide by the same. Further, a lawful representative of Consultant shall execute the Affidavit included in the exhibit. Consultant understands and agrees that the existence of a prohibited interest during the term of this Agreement will render the Agreement voidable.

Consultant agrees that it is further aware of the vendor disclosure requirements set forth in Chapter 176, Local Government Code, as amended, and will abide by the same. In this connection, a lawful representative of Consultant shall execute the Conflict of Interest Questionnaire, Form CIQ, attached hereto as **Exhibit E - Conflict of Interest Questionnaire** and incorporated herein as if written word for word.

16. **Venue.** The Parties herein agree that this Agreement shall be enforceable in Prosper, Texas, and if legal action is necessary to enforce it, exclusive venue shall lie in Collin County, Texas.

17. **Mediation.** In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to non-binding mediation.

18. **Prevailing Party.** In the event a Party initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable costs and attorney's fees (including its reasonable costs and attorney's fees on any appeal).

19. **"Anti-Israel Boycott" Provision.** In accordance with Chapter 2270, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Chapter 2270 does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the company is not subject to Chapter 2270 for the reasons stated herein, the signatory executing this Agreement on behalf of the company verifies by its signature to this Agreement that the company does not boycott Israel and will not boycott Israel during the term of this Agreement.

20. **Signatories.** Town warrants and represents that the individual executing this Agreement on behalf of Town has full authority to execute this Agreement and bind Town to the same. Consultant warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind Consultant to same.

IN WITNESS WHEREOF, the Parties, having read and understood this Agreement, have executed such in duplicate copies, each of which shall have full dignity and force as an original, on the _____ day of _____, 20____.

FREESE AND NICHOLS, INC.

TOWN OF PROSPER, TEXAS

By:



Signature

Vimal Nair, PE

Printed Name

Vice President

Title

7/21/2022

Date

By:

Signature

David F. Bristol

Printed Name

Mayor

Title

Date

EXHIBIT A SCOPE OF SERVICES

PROFESSIONAL ENGINEERING SERVICES AGREEMENT BETWEEN THE TOWN OF PROSPER, TEXAS, AND FREESE AND NICHOLS, INC. FOR THE PUBLIC WORKS AND PARKS AND RECREATION FACILITY MASTER PLAN PROJECT

I. PROJECT DESCRIPTION

The Town of Prosper (ToP), Texas, desires a Facility Master Plan to consolidate the Town's Departments of Public Works and Parks and Recreation at a single site as the Town's population grows. Currently, with a population of 35,000, the Town is expected to grow to 70,000 to 100,000 in the next decade. Working with the Town's administration and the Departments' leadership, Freese and Nichols, Inc. (FNI), will project the potential growth of the two Departments in terms of number of staff and their roles, space needs, and operational requirements such as number and types of vehicles, storage needs, etc. The goal will be to determine the size and type of facility required leading to a conceptual master plan for the Departments. The master plan's project site will be an expansion of the current Public Works facility east of Cook Lane. Phasing and potential future expansion of the facility will be considered. A fueling station will be included in the master plan.

II. TASK SUMMARY

General Requirements

Project administration: FNI will provide overall project administration including contracting, monthly One Page Reports, monthly invoicing, and coordination with sub-consultants.

Project meetings: FNI will participate in up to three (3) project meetings with the Town in addition to the meetings specifically identified here-in. The meetings shall be virtual conference calls, not in person in Town.

QC/QA: FNI will conduct internal Quality Control/ Quality Assurance of documents prior to each milestone submittal.

Task 1 - Discovery.

1.1 Data collection and review: ToP will provide to FNI relevant project data including, but not limited to, existing current Departments' floor and site plans; previous master plans, reports and studies; and the Town's and Departments' organizational charts and staffing. FNI will review materials received from ToP.

1.2 Project kick-off meeting in Prosper: FNI will conduct a comprehensive project kick-off meeting in Prosper to introduce the FNI team and ToP personnel. Meeting agenda will include review of master plan scope, communications, project schedule, and future meetings.

1.3 Interviews: Following the kick-off meeting, FNI will conduct up to three interview meetings with selected ToP officials and heads of the two Departments. Prior to the interviews, FNI will distribute survey forms to assist in the interviews. Issues to be addressed will include future growth, functional, organizational, and operational requirements for the Departments.

1.4 Site visits: With Departments' staff and utilizing ToP documents such as buildings' and site plans, FNI will tour existing Public Works and Parks and Recreation facilities. (Tasks 1.2, 1.3, and 1.4 will take place over one full day in Prosper).

Task 2 - Programming.

2.1 Preliminary needs analysis: Based upon the interviews in Task 1.3 above, FNI will provide a summary of significant needs, rooms, sizes, functions, departmental organization and staffing, and intradepartmental relationships and adjacencies, parking requirements, storage requirements, and lay down areas.

2.2 Analysis review: In a virtual follow-up meeting, FNI will review the findings and recommendations of the needs

analysis with ToP. Based upon any comments received from ToP, FNI will make any necessary adjustments.

2.3 Draft space program: FNI will develop a draft detailed space program which will include the following:

Type and amount of space required for administrative offices, customer service areas, open areas, conference/training areas, and support areas.

Recommendations on departments' internal organizations.

Recommendations on the new facility.

Recommendations on current inventory, warehousing, and lay-down needs.

Recommendations on number and type (visitor, staff, Town vehicle) of parking spaces, loading zones, and their locations.

2.4 Draft space program review: FNI will distribute the draft space program to ToP and will conduct a virtual follow-up review meeting of the draft space program with ToP.

2.5 Final space program: Based upon any comments received in Task 2.4, FNI will prepare a final space program and will distribute it to ToP.

Task 3 – Concept Master Plan.

3.1 Alternative concept master plans: Based upon the final program in Task 2.5 above, FNI will prepare two (2) alternative concept master plans for the Departments' facility at the site along Cook Lane. These alternative concept master plans will be in sketch form and will be distributed to ToP for review.

3.2 Alternative concept master plans review: In an in-person meeting with ToP, FNI will present each of the alternative concept master plans in Task 3.1. A preferred conceptual master plan will be selected for further refinement by FNI.

3.3 Preferred master plan: The preferred conceptual master plan under Task 3.2 will be used for further development of the facility master plan. FNI will distribute the facility master plan to ToP for review.

3.4 Preferred master plan review: In a virtual meeting with the ToP, FNI will present the proposed facility master plan. Following the meeting, FNI will make any minor revisions to the facility master plan.

Task 4 – Final Master Plan and Report.

4.1 Draft final facility master plan and report: FNI will prepare the draft final master plan and report to include findings and recommendations from previous tasks above. The report may include options for phasing of the facility. The report will consist of narrative and floor and site plans of the recommended improvements. FNI will distribute the draft to ToP for review and comments.

4.2 Opinion of probable construction cost (OPCC): For the master plan, FNI will prepare an order of magnitude cost estimate (AACE Level 5 estimate based upon square foot costs) for the facility master plan. This will be distributed to ToP for review and comments along with the draft in Task 4.1 above.

4.3 Draft final facility master plan and report review: Through a virtual meeting with ToP, FNI will present the draft final facility master plan and report along with the associated OPCC.

4.4 Final facility master plan and report: FNI will incorporate any comments received from ToP on the draft master plan and report into the final facility master plan and report. FNI will distribute the final facility master plan and report to ToP.

Task 5 – Special Services

5.1 Plat: Through FNI's sub-consultant Brittain & Crawford, LLC, FNI will provide a plat of the site based upon the final facility master plan.

III. DELIVERABLES

All interim submittals for review will be electronic. The final facility master plan and report will be 8 copies, 11" x 17", bound and an electronic copy, pdf format.

IV. EXCLUSIONS

1. Programming, planning, and assessments for other Town facilities are excluded.
2. Existing facilities' condition assessments are excluded.
3. Architectural renderings or models of facilities are excluded.
4. Extensive field verification of existing facilities is excluded.
5. Interior design of the facilities is excluded.
6. LEED certification is excluded.
7. Site topographic survey and geotechnical engineering are excluded.
8. Hazardous materials testing and environmental services are excluded.
9. Final design and construction documentation are excluded.
10. Public meetings are excluded.
11. Improvements to adjacent off-site infrastructure including utilities and roadways are excluded.
12. Traffic impact assessments are excluded.

V. ASSUMPTIONS

1. Providing assessments and/or programming of additional facilities will be an addition service.
2. Additional meetings in Prosper other than those noted above will be an additional service.
3. Providing cost estimates other than those noted above will be an additional service.
4. Making revisions to previously approved documents will be an additional service.

VI. SCHEDULE

See attached Project Schedule.

**EXHIBIT B
COMPENSATION SCHEDULE**

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND FREESE AND NICHOLS, INC.
FOR THE PUBLIC WORKS AND PARKS AND RECREATION FACILITY MASTER PLAN PROJECT**

I. COMPENSATION SCHEDULE

Task	Completion Schedule	Compensation Schedule
Notice-to-Proceed	Month Year	
Task 1 - Discovery	September 2022	\$16,200
Task 2 - Programming	November 2022	\$19,650
Task 3 – Concept Master Plan	January 2023	\$26,000
Task 4 – Final Master Plan	March 2023	\$25,700
Task 5 – Special Services - Plat	April 2023	\$17,250
Total Compensation		\$104,800

II. COMPENSATION SUMMARY

Basic Services (Lump Sum)	Amount
Task 1 - Discovery	\$16,200
Task 2 - Programming	\$19,650
Task 3 – Concept Master Plan	\$26,000
Task 4 – Final Master Plan	\$25,700
Total Basic Services:	\$87,550

Special Services (Hourly Not-to-Exceed)	Amount
Task 5 – Special Services - Plat	\$17,250
Total Special Services:	\$17,250

Direct Expenses	Amount
None	\$0
Total Direct Expenses:	\$0

EXHIBIT C INSURANCE REQUIREMENTS

Service provider shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the vendor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be borne by the service provider. A certificate of insurance meeting all requirements and provisions outlined herein shall be provided to the Town prior to any services being performed or rendered. Renewal certificates shall also be supplied upon expiration.

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. ISO Form Number GL 00 01 (or similar form) covering Commercial General Liability. "Occurrence" form only, "claims made" forms are unacceptable, except for professional liability.
2. Workers Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance.
3. Automobile Liability as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under this contract.
4. Professional Liability, also known as Errors and Omissions coverage.

B. MINIMUM LIMITS OF INSURANCE

Service Provider shall maintain throughout contract limits not less than:

1. Commercial General Liability: \$500,000 per occurrence /\$1,000,000 in the aggregate for third party bodily injury, personal injury and property damage. Policy will include coverage for:
 - a. Premises / Operations
 - b. Broad Form Contractual Liability
 - c. Products and Completed Operations
 - d. Personal Injury
 - e. Broad Form Property Damage
2. Workers Compensation and Employer's Liability: Workers Compensation limits as required by the Labor Code of the State of Texas and Statutory Employer's Liability minimum limits of \$100,000 each accident, \$300,000 Disease- Policy Limit, and \$100,000 Disease- Each Employee.
3. Automobile Liability: \$500,000 Combined Single Limit. Limits can only be reduced if approved by the Town. Automobile liability shall apply to all owned, hired, and non-owned autos.
4. Professional Liability aka Errors and Omissions: \$500,000 per occurrence and in the aggregate.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductible or self-insured retentions in excess of \$10,000 must be declared to and approved by the Town.

D. OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain the following provisions:

1. General Liability and Automobile Liability Coverages

- a. The Town, its officers, officials, employees, boards and commissions and volunteers are to be added as "Additional Insured's" relative to liability arising out of activities performed by or on behalf of the provider, products and completed operations of the provider, premises owned, occupied or used by the provider. The coverage shall contain no special limitations on the scope of protection afforded to the Town, its officers, officials, employees or volunteers.
- b. The provider's insurance coverage shall be primary insurance in respects to the Town, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Town, its officers, officials, employees or volunteers shall be in excess of the provider's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Town, its officers, officials, employees, boards and commissions or volunteers.
- d. The provider's insurance shall apply separately to each insured against whom the claim is made or suit is brought, except to the insured's limits of liability.

2. Workers Compensation and Employer's Liability Coverage:

The insurer shall agree to waive all rights of subrogation against the Town, its officers, officials, employees and volunteers for losses arising from work performed by the provider for the Town.

3. All Coverages:

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after 30 days written notice to the Town for all occurrences, except 10 days written notice to the Town for non-payment.

4. Professional Liability and / or Errors and Omissions:

"Claims made" policy is acceptable coverage, which must be maintained during the course of the project, and up to two (2) years after completion and acceptance of the project by the Town.

E. ACCEPTABILITY OF INSURERS

The Town prefers that Insurance be placed with insurers with an A.M. Best's rating of no less than **A- VI**, or better.

F. VERIFICATION OF COVERAGE

Service Provider shall provide the Town with certificates of insurance indicating the coverages required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of insurance similar to the ACORD Form are acceptable. Town will not accept Memorandums of Insurance or Binders as proof of insurance. The Town reserves the right to require complete, certified copies of all required insurance policies at any time.

Certificate holder to be listed as follows:

Town of Prosper
P.O. Box 307
Prosper, TX 75078

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND FREESE AND NICHOLS, INC.
FOR THE PUBLIC WORKS AND PARKS AND RECREATION FACILITY MASTER PLAN PROJECT**

THE STATE OF TEXAS §
COUNTY OF _____ §

I, _____, a member of the Consultant team, make this affidavit and hereby on oath state the following:

I, and/or a person or persons related to me, have the following interest in a business entity that would be affected by the work or decision on the Project (Check all that apply):

_____ Ownership of 10% or more of the voting shares of the business entity.

_____ Ownership of \$25,000.00 or more of the fair market value of the business entity.

_____ Funds received from the business entity exceed 10% of my income for the previous year.

_____ Real property is involved, and I have an equitable or legal ownership with a fair market value of at least \$25,000.00.

_____ A relative of mine has substantial interest in the business entity or property that would be affected by my decision of the public body of which I am a member.

Other: _____

_____ None of the Above.

Upon filing this affidavit with the Town of Prosper, Texas, I further affirm that no relative of mine, in the first degree by consanguinity or affinity, as defined in Chapter 573 of the Texas Government Code, is a member of the public body which took action on the agreement.

Signed this _____ day of _____, 20____.

Signature of Official / Title

BEFORE ME, the undersigned authority, this day personally appeared _____ and on oath stated that the facts hereinabove stated are true to the best of his / her knowledge or belief.

Sworn to and subscribed before me on this _____ day of _____, 20_____.

Notary Public in and for the State of Texas

My Commission expires: _____

EXHIBIT E

CONFLICT OF INTEREST QUESTIONNAIRE

CONFLICT OF INTEREST QUESTIONNAIRE For vendor doing business with local governmental entity		FORM CIQ
<p>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	OFFICE USE ONLY	
<p>1 Name of vendor who has a business relationship with local governmental entity.</p>	<p>Date Received</p>	
<p>2 <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>		
<p>3 Name of local government officer about whom the information is being disclosed.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Name of Officer</p>		
<p>4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.</p> <p style="margin-top: 20px;">A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <p style="margin-left: 100px;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p> <p style="margin-top: 10px;">B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?</p> <p style="margin-left: 100px;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p>		
<p>5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.</p>		
<p>6 <input type="checkbox"/> Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).</p>		
<p>7</p> <p style="text-align: center;"> _____ Signature of vendor doing business with the governmental entity </p> <p style="text-align: right;"> _____ Date </p>		

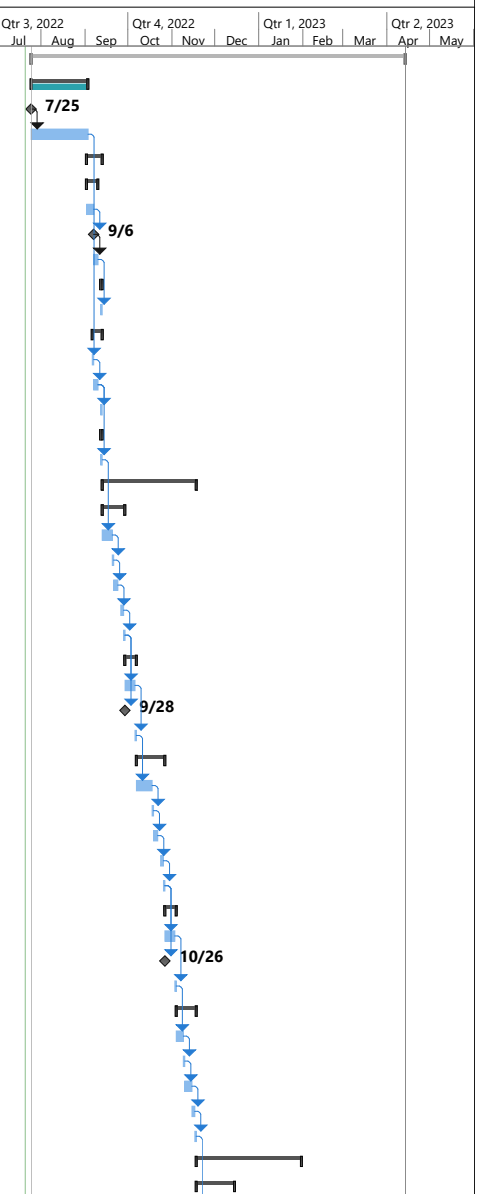
Form provided by Texas Ethics Commission

www.ethics.state.tx.us

Revised 11/30/2015

Town of Prosper Needs Assessment and Programming

ID	Task Mode	Task Name	Duration	% Complete	Start	Finish	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May
0		Town of Prosper Facilities Needs Assessment and Programming Schedule	185 days	0%	Mon 7/25/22	Thu 4/13/23												
1		Proposal	30 days	0%	Mon 7/25/22	Fri 9/2/22												
2		Submit proposal to City of Prosper	0 days	0%	Mon 7/25/22	Mon 7/25/22												
3		Town of Prosper to review	30 days	0%	Mon 7/25/22	Fri 9/2/22												
4		Phase I- Discovery	6 days	0%	Fri 9/2/22	Mon 9/12/22												
5		1.1 Data collection and review:	5 days	0%	Fri 9/2/22	Fri 9/9/22												
6		Town of Prosper to collect existing building data	2 days	0%	Fri 9/2/22	Tue 9/6/22												
7		Town of Prosper to send existing building data to FNI	0 days	0%	Tue 9/6/22	Tue 9/6/22												
8		FNI to review existing building data	3 days	0%	Wed 9/7/22	Fri 9/9/22												
9		1.2 Project Kick Off meeting in Prosper:	1 day	0%	Mon 9/12/22	Mon 9/12/22												
10		Kick Off meeting	1 day	0%	Mon 9/12/22	Mon 9/12/22												
11		1.3 Interviews	5 days	0%	Tue 9/6/22	Mon 9/12/22												
12		FNI will develop survey form for interviews	1 day	0%	Tue 9/6/22	Tue 9/6/22												
13		Town of Prosper officials to fill out the survey forms one week prior to interviews	3 days	0%	Wed 9/7/22	Fri 9/9/22												
14		FNI to perform Interviews	1 day	0%	Mon 9/12/22	Mon 9/12/22												
15		1.4 Site Visit	1 day	0%	Mon 9/12/22	Mon 9/12/22												
16		Site Visit to Public Works and Parks and Recreation Facilities	1 day	0%	Mon 9/12/22	Mon 9/12/22												
17		Phase II- Programming Report	48 days	0%	Tue 9/13/22	Thu 11/17/22												
18		2.1 Preliminary Needs Analysis	12 days	0%	Tue 9/13/22	Wed 9/28/22												
19		FNI to prepare Preliminary needs analysis section for the Draft Programming Report	5 days	0%	Tue 9/13/22	Mon 9/19/22												
20		Submit preliminary needs analysis for FNI IQC	1 day	0%	Tue 9/20/22	Tue 9/20/22												
21		FNI IQC period	3 days	0%	Wed 9/21/22	Fri 9/23/22												
22		Address IQC comments	2 days	0%	Mon 9/26/22	Tue 9/27/22												
23		Submit written narrative to the City	1 day	0%	Wed 9/28/22	Wed 9/28/22												
24		2.2 Analysis Review	6 days	0%	Wed 9/28/22	Thu 10/6/22												
25		City to Review Written Narrative	5 days	0%	Thu 9/29/22	Wed 10/5/22												
26		FNI to schedule virtual conference call	0 days	0%	Wed 9/28/22	Wed 9/28/22												
27		Review meeting (Virtual Teleconference)	1 day	0%	Thu 10/6/22	Thu 10/6/22												
28		2.3 Draft space program: FNI will develop a draft detailed space program	14 days	0%	Fri 10/7/22	Wed 10/26/22												
29		Prepare Draft Space Program	7 days	0%	Fri 10/7/22	Mon 10/17/22												
30		Submit draft space program for FNI IQC	1 day	0%	Tue 10/18/22	Tue 10/18/22												
31		FNI IQC period	3 days	0%	Wed 10/19/22	Fri 10/21/22												
32		Address IQC comments	2 days	0%	Mon 10/24/22	Tue 10/25/22												
33		Submit Draft Space Program to the City for review	1 day	0%	Wed 10/26/22	Wed 10/26/22												
34		2.4 Draft Space Program Review	6 days	0%	Wed 10/26/22	Thu 11/3/22												
35		Town of Prosper to review Draft Space Program	5 days	0%	Thu 10/27/22	Wed 11/2/22												
36		FNI to schedule virtual conference call	0 days	0%	Wed 10/26/22	Wed 10/26/22												
37		Review meeting (Virtual Teleconference)	1 day	0%	Thu 11/3/22	Thu 11/3/22												
38		2.5 Prepare Final Space Program Report	10 days	0%	Fri 11/4/22	Thu 11/17/22												
39		FNI to incorporate Town of Prosper comments	3 days	0%	Fri 11/4/22	Tue 11/8/22												
40		Submit draft space program for FNI IQC	1 day	0%	Wed 11/9/22	Wed 11/9/22												
41		FNI IQC period	3 days	0%	Thu 11/10/22	Mon 11/14/22												
42		Address IQC comments	2 days	0%	Tue 11/15/22	Wed 11/16/22												
43		Submit Final Space Program Report	1 day	0%	Thu 11/17/22	Thu 11/17/22												
44		Phase III- Concept Master Plan	49 days	0%	Fri 11/18/22	Mon 1/30/23												
45		3.1 Prepare Alternative Master Conceptual Plans	17 days	0%	Fri 11/18/22	Wed 12/14/22												



Date: Thu 7/21/22

Task
Split
Milestone
Summary

Project Summary
Inactive Task
Inactive Milestone
Inactive Summary

Manual Task
Duration-only
Manual Summary Rollup
Manual Summary




















Start-only
Finish-only
External Tasks
External Milestone

Deadline
Progress
Manual Progress

Town of Prosper Needs Assessment and Programming

ID	Task Mode	Task Name	Duration	% Complete	Start	Finish	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May
46		Alternative master conceptual plans: FNI will prepare up to two (2) alternative conceptual plans	10 days	0%	Fri 11/18/22	Mon 12/5/22												
47		Submit Alternative Master Conceptual Plans for FNI IQC	1 day	0%	Tue 12/6/22	Tue 12/6/22												
48		FNI IQC period	3 days	0%	Wed 12/7/22	Fri 12/9/22												
49		Address IQC comments	2 days	0%	Mon 12/12/22	Tue 12/13/22												
50		Submit Alternative Master Conceptual Plans to the City	1 day	0%	Wed 12/14/22	Wed 12/14/22												
51		3.2 Alternative Master Conceptual Plan Review	6 days	0%	Wed 12/14/22	Thu 12/22/22												
52		Town of Prosper to review Master Conceptual Design	5 days	0%	Thu 12/15/22	Wed 12/21/22												
53		FNI to schedule virtual conference call	0 days	0%	Wed 12/14/22	Wed 12/14/22												
54		Review meeting (Virtual Teleconference)	1 day	0%	Thu 12/22/22	Thu 12/22/22												
55		3.3 Preferred Master Plan Development	13 days	0%	Fri 12/23/22	Wed 1/11/23												
56		Prepare preferred master conceptual plan	6 days	0%	Fri 12/23/22	Mon 1/2/23												
57		Submit preferred Facility Conceptual Plans for FNI IQC	1 day	0%	Tue 1/3/23	Tue 1/3/23												
58		FNI IQC period	3 days	0%	Wed 1/4/23	Fri 1/6/23												
59		Address IQC comments	2 days	0%	Mon 1/9/23	Tue 1/10/23												
60		Submit preferred Master Conceptual Plan to the City	1 day	0%	Wed 1/11/23	Wed 1/11/23												
61		3.4 Preferred Master Conceptual Plan Review	13 days	0%	Wed 1/11/23	Mon 1/30/23												
62		Town of Prosper to review Master Conceptual Design	5 days	0%	Thu 1/12/23	Wed 1/18/23												
63		FNI to schedule virtual conference call	0 days	0%	Wed 1/11/23	Wed 1/11/23												
64		Review meeting (Virtual Teleconference)	1 day	0%	Thu 1/19/23	Thu 1/19/23												
65		Address review comments and revised preferred master conceptual plan	3 days	0%	Fri 1/20/23	Tue 1/24/23												
66		FNI IQC period	2 days	0%	Wed 1/25/23	Thu 1/26/23												
67		Address IQC comments	1 day	0%	Fri 1/27/23	Fri 1/27/23												
68		Submit Preferred Facilities Conceptual Plans to the City	1 day	0%	Mon 1/30/23	Mon 1/30/23												
69		Phase IV- Final Report	53 days	0%	Tue 1/31/23	Thu 4/13/23												
70		4.1 Prepare Draft Final Report	8 days	0%	Tue 1/31/23	Thu 2/9/23												
71		FNI to prepare the draft final report	8 days	0%	Tue 1/31/23	Thu 2/9/23												
72		Submit Final Report to FNI Cost Estimation Team	0 days	0%	Thu 2/9/23	Thu 2/9/23												
73		4.2 FNI to prepare Opinion of Probable Construction Cost (OPCC)	8 days	0%	Fri 2/10/23	Tue 2/21/23												
74		FNI to prepare the OPCC	8 days	0%	Fri 2/10/23	Tue 2/21/23												
75		4.3 Draft Facility Report and OPCC Review	13 days	0%	Wed 2/22/23	Fri 3/10/23												
76		Submit Draft Final Report and OPCC for FNI IQC	1 day	0%	Wed 2/22/23	Wed 2/22/23												
77		FNI IQC Review period	3 days	0%	Thu 2/23/23	Mon 2/27/23												
78		Address IQC review comments	2 days	0%	Tue 2/28/23	Wed 3/1/23												
79		Submit draft final report to the City for Review	1 day	0%	Thu 3/2/23	Thu 3/2/23												
80		Draft Final Report Review period for the City	5 days	0%	Fri 3/3/23	Thu 3/9/23												
81		FNI to schedule virtual conference call	1 day	0%	Fri 3/3/23	Fri 3/3/23												
82		Review meeting (Virtual Teleconference)	1 day	0%	Fri 3/10/23	Fri 3/10/23												
83		4.4 Final Facility Report	24 days	0%	Mon 3/13/23	Thu 4/13/23												
84		Address review comments from the City	3 days	0%	Mon 3/13/23	Wed 3/15/23												
85		Submit Final Report for FNI IQC	1 day	0%	Thu 3/16/23	Thu 3/16/23												
86		FNI IQC Review period	3 days	0%	Fri 3/17/23	Tue 3/21/23												
87		Address IQC review comments	2 days	0%	Wed 3/22/23	Thu 3/23/23												
88		Submit Final Report to the City	1 day	0%	Fri 3/24/23	Fri 3/24/23												
89		Phase V- Special Services - Plat	14 days	0%	Mon 3/27/23	Thu 4/13/23												

Date: Thu 7/21/22

Task		Project Summary		Manual Task		Start-only		Deadline	
Split		Inactive Task		Duration-only		Finish-only		Progress	
Milestone		Inactive Milestone		Manual Summary Rollup		External Tasks		Manual Progress	
Summary		Inactive Summary		Manual Summary		External Milestone			



ENGINEERING SERVICES

To: Mayor and Town Council

From: Hulon T. Webb, Jr., P.E., Interim Executive Director of Development and Infrastructure Services

Through: Bob Scott, Executive Director of Administrative Services

Re: Town Council Meeting – August 9, 2022

Agenda Item:

Consider and act upon awarding CSP No. 2022-44-B to American Landscape Systems, related to construction services for the Coleman Street Median Landscaping (Victory-Preston) and the Prosper Trail Median Landscaping (DNT-700' East) project; and authorizing the Mayor to execute a construction agreement for same.

Description of Agenda Item:

On July 15, 2022, at 3:00 PM, four (4) Competitive Sealed Proposals were received for the Coleman Street Median Landscaping (Victory-Preston) and the Prosper Trail Median Landscaping (DNT-700' East) project. The projects include the installation of the Town of Prosper standard median landscaping and irrigation from Victory Way to Preston Road on Coleman Street, and on Prosper Trail from the Dallas North Tollway to 700 feet east of the Dallas North Tollway. The project was advertised using the Competitive Sealed Proposal alternative procurement method to allow the Town to award the project to the contractor that offers the best value proposal based on the following criteria:

- Qualifications and Experience (30%)
 - Outline contractor and subcontractor experience with similar projects.
 - Outline qualifications of key personnel assigned to this project.
 - Provide references.
- Project Timeline (20%)
- Cost Proposal (50%)

The verified proposal totals ranged between \$563,059.86 and \$628,256.73. The Engineer's Estimate was \$539,590.00. The proposal final completion times ranged from 90 calendar days to 210 calendar days. American Landscape Systems was the firm that ranked the highest after consideration of Costs, Time, and Qualifications with a cost of \$564,938.75, and a project timeline of 180 calendar days. American Landscape Systems successfully completed the West Prosper

Roads, Segment A Gee Road Landscaping Architecture project. Staff also checked the references provided and received positive feedback.

Budget Impact:

The cost for the improvements is \$564,938.75. The FY 2021-2022 Capital Improvement Program includes \$625,000 for the Coleman Street Median Landscaping (Victory-Preston) project in Account No. 750-6610-10-00-2148-PK, and \$250,000 in Account No. 750-6610-10-00-2149-PK for the Prosper Trail Median Landscaping (DNT-700' East) project.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the standard construction agreement as to form and legality.

Attached Documents:

1. Location Map
2. Bid Tabulation Summary
3. Construction Agreement

Town Staff Recommendation:

Town staff recommends that the Town Council Award CSP No. 2022-44-B to American Landscape Systems, related to construction services for the Coleman Street Median Landscaping (Victory-Preston) and the Prosper Trail Median Landscaping (DNT-700' East) project; and authorizing the Mayor to execute a construction agreement for same.

Proposed Motion:

I move to award CSP No. 2022-44-B to American Landscape Systems, related to construction services for the Coleman Street Median Landscaping (Victory-Preston) and the Prosper Trail Median Landscaping (DNT-700' East) project; and authorizing the Mayor to execute a construction agreement for same.

LOCATION MAP



Coleman Street & Prosper Trail Landscape Improvements





**TOWN OF PROSPER
BID TABULATION SUMMARY**

Item 6.

Solicitation Number		Proposal No. 2022-44-B
Solicitation Title		Coleman Street Median Landscaping and Prosper Trail Median Landscaping
Close Date		7/15/2022 @ 2:00PM

Responding Supplier	City	State	Response Submitted	Response Total
Joesta Construction, LLC.	Grand Prairie	TX	7/15/2022 11:47:40 AM (CT)	\$563,059.86
American Landscape Systems	Lewisville	TX	7/15/2022 10:18:38 AM (CT)	\$564,938.75
SRH Landscapes LLC	Dallas	TX	7/15/2022 08:04:26 AM (CT)	\$597,712.03
Central North Construction, LLC	Allen	TX	7/15/2022 11:38:05 AM (CT)	\$628,256.73

****** All bids/proposals submitted for the designated project are reflected on this tabulation sheet. However, the listing of the bid/proposal on this tabulation sheet shall not be construed as a comment on the responsiveness of such bid/proposal or as any indication that the agency accepts such bid/proposal as being responsive. The agency will make a determination as to the responsiveness of the vendor responses submitted based upon compliance with all applicable laws, purchasing guidelines and project documents, including but not limited to the project specifications and contract documents. The agency will notify the successful vendor upon award of the contract and, as according to the law, all bid/proposal responses received will be available for inspection at that time.

Certified By: Jay Carter, NIGP-CPP, CPPB, C.P.M.
Purchasing Manager
Town of Prosper, Texas

Date: 7/15/2022

CONSTRUCTION AGREEMENT

THE STATE OF TEXAS)
)
 COUNTY OF COLLIN) KNOW ALL MEN BY THESE PRESENTS:

This Construction Agreement (the "Agreement") is made by and between **American Landscape Systems**, a company authorized to do business in Texas, (the "Contractor") and the **Town of Prosper, Texas**, a municipal corporation (the "Owner"). For and in consideration of the payment, agreements and conditions hereinafter mentioned, and under the conditions expressed in the bonds herein, Contractor hereby agrees to complete the construction of improvements described as follows:

CSP NO. 2022-44-B

Coleman Street Median Landscaping (Victory to Preston) and Prosper Trail Median Landscaping

in the Town of Prosper, Texas, and all extra work in connection therewith, under the terms as stated in the terms of this Contract, including all Contract Documents incorporated herein; and at his, her or their own proper cost and expense to furnish all superintendence, labor, insurance, equipment, tools and other accessories and services necessary to complete the said construction in accordance with all the Contract Documents, incorporated herein as if written word for word, and in accordance with the Plans, which include all maps, plats, blueprints, and other drawings and printed or written explanatory manner therefore, and the Specifications as prepared by Town of Prosper or its consultant hereinafter called Engineer, who has been identified by the endorsement of the Contractor's written proposal, the General Conditions of this Contract, the Special Conditions of this Contract, the payment, performance, and maintenance bonds hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire Contract.

A. Contract Documents and Order of Precedence

The Contract Documents shall consist of the following documents:

1. this Construction Agreement;
2. properly authorized change orders;
3. the Special Conditions of this Contract;
4. the General Conditions of this Contract;
5. the Technical Specifications & Construction Drawings of this Contract;
6. the OWNER's Standard Construction Details;
7. the OWNER's Standard Construction Specifications;
8. the OWNER's written notice to proceed to the CONTRACTOR;
9. the Contractor's Cost Proposal;
10. any listed and numbered addenda;
11. the Performance, Payment, and Maintenance Bonds; and,
12. any other proposal materials distributed by the Owner that relate to the Project.

These Contract Documents are incorporated by reference into this Construction Agreement as if set out here in their entirety. The Contract Documents are intended to be complementary; what is called for by one document shall be as binding as if called for by all Contract Documents. It is specifically provided, however, that in the event of any inconsistency in the Contract Documents, the inconsistency shall be

resolved by giving precedence to the Contract Documents in the order in which they are listed herein above. If, however, there exists a conflict or inconsistency between the Technical Specifications and the Construction Drawings it shall be the Contractor's obligation to seek clarification as to which requirements or provisions control before undertaking any work on that component of the project. Should the Contractor fail or refuse to seek a clarification of such conflicting or inconsistent requirements or provisions prior to any work on that component of the project, the Contractor shall be solely responsible for the costs and expenses - including additional time - necessary to cure, repair and/or correct that component of the project.

B. Total of Payments Due Contractor

For performance of the Work in accordance with the Contract Documents, the Owner shall pay the Contractor in current funds an amount not to exceed **five hundred sixty-four nine hundred thirty-eight dollars and 75 cents (\$564,938.75)**. This amount is subject to adjustment by change order in accordance with the Contract Documents.

C. Dates to Start and Complete Work

Contractor shall begin work within ten (10) calendar days after receiving a written Notice to Proceed or written Work Order from the Owner. All Work required under the Contract Documents shall be substantially completed within ___ calendar days after the date of the Notice to Proceed for the base proposal. Within ___ additional calendar days after Substantial Completion, all outstanding issues shall be addressed and ready for final payment.

Under this Construction Agreement, all references to "day" are to be considered "calendar days" unless noted otherwise.

D. CONTRACTOR'S INDEMNITY TO THE OWNER AND OTHERS

CONTRACTOR DOES HEREBY AGREE TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE TOWN OF PROSPER (OWNER) TOGETHER WITH ITS MAYOR AND TOWN COUNCIL AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ANY AND ALL CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LIABILITY, LOSSES, PENALTIES, SUITS OR CAUSES OF ACTION OF EVERY KIND INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, COURT COSTS AND ATTORNEY FEES WHICH MAY ARISE BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR FOR LOSS OF, DAMAGE TO, OR LOSS OF USE OF ANY PROPERTY OCCASIONED BY ERROR, OMISSION, OR NEGLIGENT ACT OF CONTRACTOR, ITS SUBCONTRACTORS, ANY OFFICERS, AGENTS OR EMPLOYEES OF CONTRACTOR OR ANY SUBCONTRACTORS, INVITEES, AND ANY OTHER THIRD PARTIES OR PERSONS FOR WHOM OR WHICH CONTRACTOR IS LEGALLY RESPONSIBLE, IN ANY WAY ARISING OUT OF, RELATING TO, RESULTING FROM, OR IN CONNECTION WITH THE PERFORMANCE OF THIS CONTRACT, AND CONTRACTOR WILL AT HIS OR HER OWN COST AND EXPENSE DEFEND AND PROTECT TOWN OF PROSPER (OWNER) FROM ANY AND ALL SUCH CLAIMS AND DEMANDS.

CONTRACTOR DOES HEREBY AGREE TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS TOWN OF PROSPER (OWNER) TOGETHER WITH ITS MAYOR AND TOWN COUNCIL AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES, FROM AND

AGAINST ANY AND ALL CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LIABILITY, LOSSES, PENALTIES, SUITS OR CAUSES OF ACTION OF EVERY KIND INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, COURT COSTS AND ATTORNEYS FEES FOR INJURY OR DEATH OF ANY PERSON OR FOR LOSS OF, DAMAGES TO, OR LOSS OF USE OF ANY PROPERTY, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS CONTRACT. SUCH INDEMNITY SHALL APPLY WHETHER THE CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LIABILITY, LOSSES, PENALTIES, SUITS OR CAUSES OF ACTION ARISE IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE TOWN OF PROSPER (OWNER), ITS MAYOR AND TOWN COUNCIL, OFFICERS, OFFICIALS, AGENTS OR EMPLOYEES. IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS INDEMNITY BY CONTRACTOR TO INDEMNIFY AND PROTECT TOWN OF PROSPER (OWNER) FROM THE CONSEQUENCES OF TOWN OF PROSPER'S (OWNER'S) OWN NEGLIGENCE, WHETHER THAT NEGLIGENCE IS A SOLE OR CONCURRING CAUSE OF THE INJURY, DEATH OR DAMAGE.

IN ANY AND ALL CLAIMS AGAINST ANY PARTY INDEMNIFIED HEREUNDER BY ANY EMPLOYEE OF THE CONTRACTOR, ANY SUB-CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION HEREIN PROVIDED SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR THE CONTRACTOR OR ANY SUB-CONTRACTOR UNDER WORKMEN'S COMPENSATION OR OTHER EMPLOYEE BENEFIT ACTS.

INDEMNIFIED ITEMS SHALL INCLUDE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS. INDEMNIFIED ITEMS SHALL ALSO INCLUDE ANY EXPENSES, INCLUDING ATTORNEYS' FEES AND EXPENSES, INCURRED BY AN INDEMNIFIED INDIVIDUAL OR ENTITY IN ATTEMPTING TO ENFORCE THIS INDEMNITY.

In its sole discretion, the Owner shall have the right to approve counsel to be retained by Contractor in fulfilling its obligation to defend and indemnify the Owner. Contractor shall retain approved counsel for the Owner within seven (7) business days after receiving written notice from the Owner that it is invoking its right to indemnification under this Construction Agreement. If Contractor does not retain counsel for the Owner within the required time, then the Owner shall have the right to retain counsel and the Contractor shall pay these attorneys' fees and expenses.

The Owner retains the right to provide and pay for any or all costs of defending indemnified items, but it shall not be required to do so. To the extent that Owner elects to provide and pay for any such costs, Contractor shall indemnify and reimburse Owner for such costs.

(Please note that this "broad-form" indemnification clause is not prohibited by Chapter 151 of the Texas Insurance Code as it falls within one of the exclusions contained in Section 151.105 of the Texas Insurance Code.)

E. Insurance Requirements

Contractor shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the vendor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the contractor's proposal. A certificate of insurance meeting all requirements and provisions outlined herein shall be provided to the Town prior to any services being performed or rendered. Renewal certificates shall also be supplied upon expiration. Certificates holder shall be listed as follows, with the project/contract number referenced:

Town of Prosper
Attn: Purchasing Manager
P.O. Box 307
Prosper, Texas 75078

re: **CSP NO. 2022-44-B Coleman Street Median Landscaping
(Victory to Preston) and Prosper Trail Median
Landscaping.**

1. Minimum Scope of Insurance

Coverage shall be at least as broad as:

- a. ISO Form Number GL 00 01 (or similar form) covering Comprehensive General Liability. "Occurrence" form only, "claims made" forms are unacceptable.
- b. Workers' Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance.
- c. Automobile Liability as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under this contract.

2. Minimum Limits of Insurance

Contractor shall maintain throughout contract limits not less than:

- a. Commercial General Liability: \$1,000,000 per occurrence / \$2,000,000 in the aggregate for third party bodily injury, personal injury and property damage. Policy will include coverage for:
 - 1) Premises / Operations
 - 2) Broad Form Contractual Liability
 - 3) Products and Completed Operations

- 4) Personal Injury
- 5) Broad Form Property Damage
- 6) Explosion Collapse and Underground (XCU) Coverage.
- b. Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the Labor Code of the State of Texas and Statutory Employer's Liability minimum limits of \$100,000 per injury, \$300,000 per occurrence, and \$100,000 per occupational disease.
- c. Automobile Liability: \$1,000,000 Combined Single Limit. Limits can only be reduced if approved by the Town. Automobile liability shall apply to all owned, hired and non-owned autos.
- d. Builders' Risk Insurance: Completed value form, insurance carried must be equal to the completed value of the structure. Town shall be listed as Loss Payee.
- e. \$1,000,000 Umbrella Liability Limit that follows form over underlying Automobile Liability, General Liability, and Employers Liability coverages.

3. Deductible and Self-Insured Retentions

Any deductible or self-insured retentions in excess of \$10,000 must be declared to and approved by the Town.

4. Other Insurance Provisions

The policies are to contain, or be endorsed to contain the following provisions:

a. General Liability and Automobile Liability Coverage

- 1) The Town, its officers, officials, employees, boards and commissions and volunteers are to be added as "Additional Insured's" relative to liability arising out of activities performed by or on behalf of the contractor, products and completed operations of the contractor, premises owned, occupied or used by the contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Town, its officers, officials, employees or volunteers.
- 2) The contractor's insurance coverage shall be primary insurance in respects to the Town, its officers, officials, employees and volunteers. Any insurance or self- insurance maintained by the Town, its officers, officials, employees or volunteers shall be in excess of the contractor's insurance and shall not contribute with it.

- 3) Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Town, its officers, officials, employees, boards and commissions or volunteers.
- 4) The contractor's insurance shall apply separately to each insured against whom the claim is made or suit is brought, except to the limits of the insured's limits of liability.

b. Workers' Compensation and Employer's Liability Coverage

The insurer shall agree to waive all rights of subrogation against the Town, its officers, officials, employees and volunteers for losses arising from work performed by the contractor for the Town.

c. All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after 30 days written notice to the Town for all occurrences, except 10 days written notice to the Town for non-payment.

5. Acceptability of Insurers

The Town prefers that Insurance be placed with insurers with an A.M. Best's rating of no less than A- VI, or better.

6. Verification of Coverage

Contractor shall provide the Town with certificates of insurance indicating coverage's required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of Insurance similar to the ACORD Form are acceptable. Town will not accept Memorandums of Insurance or Binders as proof of insurance. The Town reserves the right to require complete, certified copies of all required insurance policies at any time.

F. Performance, Payment and Maintenance Bonds

The Contractor shall procure and pay for a Performance Bond applicable to the work in the amount of one hundred fifteen percent (115%) of the total proposed price, and a Payment Bond applicable to the work in the amount of one hundred percent (100%) of the total proposed price. The Contractor shall also procure and pay for a Maintenance Bond applicable to the work in the amount of one hundred percent (100%) of the total proposed price. The period of the Maintenance Bond shall be two years from the date of acceptance of all work done under the contract, to cover the guarantee as set forth in this Construction Agreement. The performance, payment and maintenance bonds shall be issued in the form attached to this Construction Agreement as Exhibits A, B and C. Other performance, payment and

maintenance bond forms shall not be accepted. Among other things, these bonds shall apply to any work performed during the two-year warranty period after acceptance as described in this Construction Agreement.

The performance, payment and maintenance bonds shall be issued by a corporate surety, acceptable to and approved by the Town, authorized to do business in the State of Texas, pursuant to Chapter 2253 of the Texas Government Code. Further, the Contractor shall supply capital and surplus information concerning the surety and reinsurance information concerning the performance, payment and maintenance bonds upon Town request. In addition to the foregoing requirements, if the amount of the bond exceeds One Hundred Thousand Dollars (\$100,000) the bond must be issued by a surety that is qualified as a surety on obligations permitted or required under federal law as indicated by publication of the surety's name in the current U.S. Treasury Department Circular 570. In the alternative, an otherwise acceptable surety company (not qualified on federal obligations) that is authorized and admitted to write surety bonds in Texas must obtain reinsurance on any amounts in excess of One Hundred Thousand Dollars (\$100,000) from a reinsurer that is authorized and admitted as a reinsurer in Texas who also qualifies as a surety or reinsurer on federal obligations as indicated by publication of the surety's or reinsurer's name in the current U.S. Treasury Department Circular 570.

G. Progress Payments and Retainage

As it completes portions of the Work, the Contractor may request progress payments from the Owner. Progress payments shall be made by the Owner based on the Owner's estimate of the value of the Work properly completed by the Contractor since the time the last progress payment was made. The "estimate of the value of the work properly completed" shall include the net invoice value of acceptable, non-perishable materials actually delivered to and currently at the job site only if the Contractor provides to the Owner satisfactory evidence that material suppliers have been paid for these materials.

No progress payment shall be due to the Contractor until the Contractor furnishes to the Owner:

1. copies of documents reasonably necessary to aid the Owner in preparing an estimate of the value of Work properly completed;
2. full or partial releases of liens, including releases from subcontractors providing materials or delivery services relating to the Work, in a form acceptable to the Owner releasing all liens or claims relating to goods and services provided up to the date of the most recent previous progress payment;
3. an updated and current schedule clearly detailing the project's critical path elements; and
4. any other documents required under the Contract Documents.

Progress payments shall not be made more frequently than once every thirty (30) calendar days unless the Owner determines that more frequent payments are appropriate. Further, progress payments are to be based on estimates and these estimates are subject to correction through the adjustment of subsequent progress payments and the final payment to Contractor. If the Owner determines after final payment that it has overpaid the Contractor, then Contractor agrees to pay to the Owner the overpayment amount specified by the Owner within thirty (30) calendar days after it receives written demand from the Owner.

The fact that the Owner makes a progress payment shall not be deemed to be an admission by the Owner concerning the quantity, quality or sufficiency of the Contractor's work. Progress payments shall not be deemed to be acceptance of the Work nor shall a progress payment release the Contractor from any of its responsibilities under the Contract Documents.

After determining the amount of a progress payment to be made to the Contractor, the Owner shall withhold a percentage of the progress payment as retainage. The amount of retainage withheld from each progress payment shall be set at five percent (5%). Retainage shall be withheld and may be paid to:

1. ensure proper completion of the Work. The Owner may use retained funds to pay replacement or substitute contractors to complete unfinished or defective work;
2. ensure timely completion of the Work. The Owner may use retained funds to pay liquidated damages; and
3. provide an additional source of funds to pay claims for which the Owner is entitled to indemnification from Contractor under the Contract Documents.

Retained funds shall be held by the Owner in accounts that shall not bear interest. Retainage not otherwise withheld in accordance with the Contract Documents shall be returned to the Contractor as part of the final payment.

H. Withholding Payments to Contractor

The Owner may withhold payment of some or all of any progress or final payment that would otherwise be due if the Owner determines, in its discretion, that the Work has not been performed in accordance with the Contract Documents. The Owner may use these funds to pay replacement or substitute contractors to complete unfinished or defective Work.

The Owner may withhold payment of some or all of any progress or final payment that would otherwise be due if the Owner determines, in its discretion, that it is necessary and proper to provide an additional source of funds to pay claims for which the Owner is entitled to indemnification from Contractor under the Contract Documents.

Amounts withheld under this section shall be in addition to any retainage.

I. Acceptance of the Work

When the Work is completed, the Contractor shall request that the Owner perform a final inspection. The Owner shall inspect the Work. If the Owner determines that the Work has been completed in accordance with the Contract Documents, it shall issue a written notice of acceptance of the Work. If the Owner determines that the Work has not been completed in accordance with the Contract Documents, then it shall provide the Contractor with a verbal or written list of items to be completed before another final inspection shall be scheduled.

It is specifically provided that Work shall be deemed accepted on the date specified in the Owner's written notice of acceptance of the Work. The Work shall not be deemed to be accepted based on

"substantial completion" of the Work, use or occupancy of the Work, or for any reason other than the Owner's written Notice of Acceptance. Further, the issuance of a certificate of occupancy for all or any part of the Work shall not constitute a Notice of Acceptance for that Work.

In its discretion, the Owner may issue a Notice of Acceptance covering only a portion of the Work. In this event, the notice shall state specifically what portion of the Work is accepted.

J. Acceptance of Erosion Control Measures

When the erosion control measures have been completed, the Contractor shall request that the Owner perform a final inspection. The Owner shall inspect the Work. If the Owner determines that the Work has been completed in accordance with the Contract Documents and per TPDES General Construction Permit, it shall issue a written Notice of Acceptance of the Work. If the Owner determines that the Work has not been completed in accordance with the Contract Documents or TPDES General Construction Permit, then it shall provide the Contractor with a verbal or written list of items to be completed before another final inspection shall be scheduled.

K. Final Payment

After all Work required under the Contract Documents has been completed, inspected, and accepted, the Town shall calculate the final payment amount promptly after necessary measurements and computations are made. The final payment amount shall be calculated to:

1. include the estimate of the value of Work properly completed since the date of the most recent previous progress payment;
2. correct prior progress payments; and
3. include retainage or other amounts previously withheld that are to be returned to Contractor, if any.

Final payment to the Contractor shall not be due until the Contractor provides original full releases of liens from the Contractor and its subcontractors, or other evidence satisfactory to the Owner to show that all sums due for labor, services, and materials furnished for or used in connection with the Work have been paid or shall be paid with the final payment. To ensure this result, Contractor consents to the issuance of the final payment in the form of joint checks made payable to Contractor and others. The Owner may, but is not obligated to issue final payment using joint checks.

Final payment to the Contractor shall not be due until the Contractor has supplied to the Owner original copies of all documents that the Owner determines are reasonably necessary to ensure both that the final payment amount is properly calculated and that the Owner has satisfied its obligation to administer the Construction Agreement in accordance with applicable law. The following documents shall, at a minimum, be required to be submitted prior to final payment being due: redline as-built construction plans; consent of surety to final payment; public infrastructure inventory; affidavit of value for public infrastructure; and, final change order(s). "Redline as-built construction plans" shall include, but are not limited to markups for change orders, field revisions, and quantity overruns as applicable. The list of documents contained in this provision is not an exhaustive and exclusive list for every project performed pursuant to these Contract Documents

and Contractor shall provide such other and further documents as may be requested and required by the Owner to close out a particular project.

Subject to the requirements of the Contract Documents, the Owner shall pay the Final Payment within thirty (30) calendar days after the date specified in the Notice of Acceptance. This provision shall apply only after all Work called for by the Contract Documents has been accepted.

L. Contractor's Warranty

For a two-year period after the date specified in a written notice of acceptance of Work, Contractor shall provide and pay for all labor and materials that the Owner determines are necessary to correct all defects in the Work arising because of defective materials or workmanship supplied or provided by Contractor or any subcontractor. This shall also include areas of vegetation that did meet TPDES General Construction Permit during final close out but have since become noncompliant.

Forty-five (45) to sixty (60) calendar days before the end of the two-year warranty period, the Owner may make a warranty inspection of the Work. The Owner shall notify the Contractor of the date and time of this inspection so that a Contractor representative may be present. After the warranty inspection, and before the end of the two-year warranty period, the Owner shall mail to the Contractor a written notice that specifies the defects in the Work that are to be corrected.

The Contractor shall begin the remedial work within ten (10) calendar days after receiving the written notice from the Town. If the Contractor does not begin the remedial work timely or prosecute it diligently, then the Owner may pay for necessary labor and materials to effect repairs and these expenses shall be paid by the Contractor, the performance bond surety, or both.

If the Owner determines that a hazard exists because of defective materials and workmanship, then the Owner may take steps to alleviate the hazard, including making repairs. These steps may be taken without prior notice either to the Contractor or its surety. Expenses incurred by the Owner to alleviate the hazard shall be paid by the Contractor, the performance bond surety, or both.

Any Work performed by or for the Contractor to fulfill its warranty obligations shall be performed in accordance with the Contract Documents. By way of example only, this is to ensure that Work performed during the warranty period is performed with required insurance and the performance and payment bonds still in effect.

Work performed during the two-year warranty period shall itself be subject to a one-year warranty. This warranty shall be the same as described in this section.

The Owner may make as many warranty inspections as it deems appropriate.

M. Compliance with Laws

The Contractor shall be responsible for ensuring that it and any subcontractors performing any portion of the Work required under the Contract Documents comply with all applicable federal, state, county, and municipal laws, regulations, and rules that relate in any way to the performance and completion of the

Work. This provision applies whether or not a legal requirement is described or referred to in the Contract Documents.

Ancillary/Integral Professional Services: In selecting an architect, engineer, land surveyor, or other professional to provide professional services, if any, that are required by the Contract Documents, Contractor shall not do so on the basis of competitive bids but shall make such selection on the basis of demonstrated competence and qualifications to perform the services in the manner provided by Section 2254.004 of the Texas Government Code and shall so certify to the Town the Contractor's agreement to comply with this provision with Contractor's bid.

N. "Anti-Israel Boycott" Provision

In accordance with Chapter 2270, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Chapter 2270 does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the company is not subject to Chapter 2270 for the reasons stated herein, the signatory executing this Agreement on behalf of the company verifies by its signature to this Contract that the company does not boycott Israel and will not boycott Israel during the term of this Contract.

O. Other Items

The Contractor shall sign the Construction Agreement, and deliver signed performance, payment and maintenance bonds and proper insurance policy endorsements (and/or other evidence of coverage) within ten (10) calendar days after the Owner makes available to the Contractor copies of the Contract Documents for signature. Six (6) copies of the Contract Documents shall be signed by an authorized representative of the Contractor and returned to the Town.

The Construction Agreement "effective date" shall be the date on which the Town Council acts to approve the award of the Contract for the Work to Contractor. It is expressly provided, however, that the Town Council delegates the authority to the Town Manager or his designee to rescind the Contract award to Contractor at any time before the Owner delivers to the Contractor a copy of this Construction Agreement that bears the signature of the Town Manager and Town Secretary or their authorized designees. The purpose of this provision is to ensure:

1. that Contractor timely delivers to the Owner all bonds and insurance documents; and
2. that the Owner retains the discretion not to proceed if the Town Manager or his designee determines that information indicates that the Contractor was not the lowest responsible bidder or that the Contractor cannot perform all of its obligations under the Contract Documents.

THE CONTRACTOR AGREES THAT IT SHALL HAVE NO CLAIM OR CAUSE OF ACTION OF ANY KIND AGAINST OWNER, INCLUDING A CLAIM FOR BREACH OF CONTRACT, NOR SHALL THE OWNER BE REQUIRED TO PERFORM UNDER THE CONTRACT DOCUMENTS, UNTIL THE DATE THE

OWNER DELIVERS TO THE CONTRACTOR A COPY OF THE CONSTRUCTION AGREEMENT BEARING THE SIGNATURES JUST SPECIFIED.

The Contract Documents shall be construed and interpreted by applying Texas law. Exclusive venue for any litigation concerning the Contract Documents shall be Collin County, Texas.

In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to non-binding mediation.

Although the Construction Agreement has been drafted by the Owner, should any portion of the Construction Agreement be disputed, the Owner and Contractor agree that it shall not be construed more favorably for either party.

The Contract Documents are binding upon the Owner and Contractor and shall insure to their benefit and as well as that of their respective successors and assigns.

If Town Council approval is not required for the Construction Agreement under applicable law, then the Construction Agreement "effective date" shall be the date on which the Town Manager and Town Secretary or their designees have signed the Construction Agreement. If the Town Manager and Town Secretary sign on different dates, then the later date shall be the effective date.

[Signatures continued on following page.]

CONTRACTOR

TOWN OF PROSPER, TEXAS

By: _____

By: **David F. Bristol**

Title: _____

Title: Mayor

Date: _____

Date: _____

Address: 1780 Midway Road
Lewisville, TX 75056

Address: 250 W. First St.
P.O. Box 307
Prosper, Texas 75078

Phone: 469-521-2200

Phone: (972) 346-2640

Email: jta@americanlandscapesystems.com

Email: mlsirianni@prospertx.gov

ATTEST:

MICHELLE LEWIS SIRIANNI
Town Secretary

PERFORMANCE BOND

STATE OF TEXAS)
)
COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS: That _____ whose address is _____, hereinafter called Principal, and _____, a corporation organized and existing under the laws of the State of _____, and fully licensed to transact business in the State of Texas, as Surety, are held and firmly bound unto the **TOWN OF PROSPER**, a home-rule municipal corporation organized and existing under the laws of the State of Texas, hereinafter called "Beneficiary", in the penal sum of _____ Dollars (\$_____) plus fifteen percent (15%) of the stated penal sum as an additional sum of money representing additional court expenses, attorneys' fees, and liquidated damages arising out of or connected with the below identified Contract in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents. The penal sum of this Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract with the Town of Prosper, the Beneficiary, dated on or about the **9th day of August, A.D. 2022**, a copy of which is attached hereto and made a part hereof, to furnish all materials, equipment, labor, supervision, and other accessories necessary for the construction of:

CSP NO. 2022-44-B

Coleman Street Median Landscaping (Victory to Preston) and Prosper Trail Median Landscaping

in the Town of Prosper, Texas, as more particularly described and designated in the above-referenced contract such contract being incorporated herein and made a part hereof as fully and to the same extent as if written herein word for word.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform and fulfill all of the undertakings, covenants, terms, conditions and agreements of said Contract in accordance with the Plans, Specifications and Contract Documents during the original term thereof and any extension thereof which may be granted by the Beneficiary, with or without notice to the Surety, and during the life of any guaranty or warranty required under this Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; and, if the Principal shall repair and/or replace all defects due to faulty materials and workmanship that appear within a period of one (1) year from the date of final completion and final acceptance of the Work by Owner; and, if the Principal shall fully indemnify and save harmless the Beneficiary from and against all costs and damages which Beneficiary may suffer by reason of failure to so perform herein and shall fully reimburse and repay Beneficiary all outlay and expense which the Beneficiary may incur in making good any default or deficiency, then this obligation shall be void; otherwise, it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action were filed on this Bond, exclusive Venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the Plans, Specifications and Drawings, etc., accompanying the same shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work or to the Specifications.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in two copies, each one of which shall be deemed an original, this, the _____ day of _____, 2022.

ATTEST:

PRINCIPAL:

By: _____
Signature

Typed/Printed Name

Title

Address

City State Zip

Phone Fax

Company Name

By: _____
Signature

Typed/Printed Name

Title

Address

City State Zip

Phone Fax

[Signatures continued on following page.]

ATTEST:

SURETY:

By: _____
Signature_____
Printed Name_____
Title_____
Address_____
City State Zip_____
Phone FaxBy: _____
Signature_____
Printed Name_____
Title_____
Address_____
City State Zip_____
Phone Fax

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: _____

STREET ADDRESS: _____

CITY, STATE, ZIP: _____

NOTE: Date on **Page 1** of Performance Bond must be **same date as Contract**. Date on **Page 2** of Performance Bond must be **after date of Contract**. If Resident Agent is not a corporation, give a person's name.

PAYMENT BOND

STATE OF TEXAS)
)
COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS: That _____ whose address is _____, hereinafter called Principal, and _____, a corporation organized and existing under the laws of the State of _____, and fully licensed to transact business in the State of Texas, as Surety, are held and firmly bound unto the **TOWN OF PROSPER**, a home-rule municipal corporation organized and existing under the laws of the State of Texas, hereinafter called "Owner", and unto all persons, firms, and corporations who may furnish materials for, or perform labor upon the building or improvements hereinafter referred to in the penal sum of _____ DOLLARS (\$_____) (one hundred percent (100%) of the total bid price) in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents. The penal sum of this Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract with the Town of Prosper, the Owner, dated on or about the **9th day of August A.D. 2022**, a copy of which is attached hereto and made a part hereof, to furnish all materials, equipment, labor, supervision, and other accessories necessary for the construction of:

CSP NO. 2022-44-B

Coleman Street Median Landscaping (Victory to Preston) and Prosper Trail Median Landscaping

NOW THEREFORE, if the Principal shall well, truly and faithfully perform its duties and make prompt payment to all persons, firms, subcontractors, corporations and claimants supplying labor and/or material in the prosecution of the Work provided for in the above-referenced Contract and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modification to the Surety is hereby expressly waived, then this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action were filed on this Bond, exclusive venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the Work performed thereunder, or the Plans, Specifications, Drawings, etc., accompanying the same, shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may

be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in two copies, each one of which shall be deemed an original, this, the _____ day of _____, 2022.

ATTEST:

PRINCIPAL:

By: _____
Signature

Typed/Printed Name

Title

Address

City State Zip

Phone Fax

Company Name

By: _____
Signature

Typed/Printed Name

Title

Address

City State Zip

Phone Fax

[Signatures continued on following page.]

ATTEST:

SURETY:

By: _____
Signature_____
Printed Name_____
Title_____
Address_____
City State Zip_____
Phone FaxBy: _____
Signature_____
Printed Name_____
Title_____
Address_____
City State Zip_____
Phone Fax

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: _____

STREET ADDRESS: _____

CITY, STATE, ZIP: _____

NOTE: Date on **Page 1** of Performance Bond must be **same date as Contract**. Date on **Page 2** of Performance Bond must be **after date of Contract**. If Resident Agent is not a corporation, give a person's name.

MAINTENANCE BOND

STATE OF TEXAS)
)
 COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS: That _____ whose address is _____, hereinafter referred to as "Principal," and _____, a corporate surety/sureties organized under the laws of the State of _____ and fully licensed to transact business in the State of Texas, as Surety, hereinafter referred to as "Surety" (whether one or more), are held and firmly bound unto the **TOWN OF PROSPER**, a Texas municipal corporation, hereinafter referred to as "Owner," in the penal sum of five hundred sixty-four thousand nine hundred thirty-eight and 75/100 DOLLARS (\$564,938.75) (one hundred percent (100%) of the total bid price), in lawful money of the United States to be paid to Owner, its successors and assigns, for the payment of which sum well and truly to be made, we bind ourselves, our successors, heirs, executors, administrators and successors and assigns, jointly and severally; and firmly by these presents, the condition of this obligation is such that:

WHEREAS, Principal entered into a certain written Contract with the Town of Prosper, dated on or about the **9th day of August, 2022**, to furnish all permits, licenses, bonds, insurance, products, materials, equipment, labor, supervision, and other accessories necessary for the construction of:

CSP NO. 2022-44-B

Coleman Street Median Landscaping (Victory to Preston) and Prosper Trail Median Landscaping.

in the Town of Prosper, Texas, as more particularly described and designated in the above-referenced contract, such contract being incorporated herein and made a part hereof as fully and to the same extent as if written herein word for word:

WHEREAS, in said Contract, the Principal binds itself to use first class materials and workmanship and of such kind and quality that for a period of two (2) years from the completion and final acceptance of the improvements by Owner the said improvements shall require no repairs, the necessity for which shall be occasioned by defects in workmanship or materials and during the period of two (2) years following the date of final acceptance of the Work by Owner, Principal binds itself to repair or reconstruct said improvements in whole or in part at any time within said period of time from the date of such notice as the Town Manager or his designee shall determine to be necessary for the preservation of the public health, safety or welfare. If Principal does not repair or reconstruct the improvements within the time period designated, Owner shall be entitled to have said repairs made and charge Principal and/or Surety the cost of same under the terms of this Maintenance Bond.

NOW, THEREFORE, if Principal will maintain and keep in good repair the Work herein contracted to be done and performed for a period of two (2) years from the date of final acceptance and do and perform all necessary work and repair any defective condition (it being understood that the purpose of this section is to cover all defective conditions arising by reason of defective materials, work or labor performed by Principal) then this obligation shall be void; otherwise it shall remain in full force and effect and Owner shall have and recover from Principal and its Surety damages in the premises as provided in the Plans and Specifications and Contract.

PROVIDED, however, that Principal hereby holds harmless and indemnifies Owner from and against any claim or liability for personal injury or property damage caused by and occurring during the performance of said maintenance and repair operation.

PROVIDED, further, that if any legal action be filed on this Bond, exclusive venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work performed thereunder, or the Plans, Specifications, Drawings, etc. accompanying same shall in any way affect its obligation on this Bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder.

The undersigned and designated agent is hereby designated by Surety as the resident agent in either Collin or Dallas Counties to whom all requisite notice may be delivered and on whom service of process may be had in matters arising out of this suretyship.

IN WITNESS WHEREOF, this instrument is executed in two copies, each one of which shall be deemed an original, on this the _____ day of _____, 2022.

ATTEST:

PRINCIPAL:

By: _____
Signature

Typed/Printed Name

Title

Address

City State Zip

Phone Fax

Company Name

By: _____
Signature

Typed/Printed Name

Title

Address

City State Zip

Phone Fax

[Signatures continued on following page.]

ATTEST:

By: _____
Signature

Printed Name

Title

Address

City State Zip

Phone Fax

SURETY:

By: _____
Signature

Printed Name

Title

Address

City State Zip

Phone Fax

PLANNING



To: Mayor and Town Council

From: David Soto, Planning Manager

Through: Bob Scott, Executive Director of Administrative Services
Hulon T. Webb, Jr., Interim Executive Director of Development and Infrastructure Services

Re: Town Council Meeting – August 9, 2022

Agenda Item:

Consider and act upon an ordinance to rezone Planned Development-86 (PD-86) to Planned Development-114 (PD-114), on 277.6± acres, to amend the single-family residential regulations, located on the north side of US 380, west of Custer Road. (Z22-0005).

Description of Agenda Item:

On May 10, 2022, the Town Council approved the proposed request, by a vote of 7-0.

A Planned Development ordinance has been prepared accordingly.

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
2. Ordinance Exhibits

Town Staff Recommendation:

Town staff recommends approval of an ordinance to rezone Planned Development-86 (PD-86) to Planned Development-114 (PD-114), on 277.6± acres, to amend the single-family residential regulations, located on the north side of US 380, west of Custer Road. (Z22-0005).

Proposed Motion:

I move to approve an ordinance to rezone Planned Development-86 (PD-86) to Planned Development-114 (PD-114), on 277.6± acres, to amend the single-family residential regulations, located on the north side of US 380, west of Custer Road. (Z22-0005).

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2022-____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING THE ZONING ORDINANCE BY REZONING A TRACT OF LAND CONSISTING OF 277.6 ACRES, SITUATED IN THE J. HORN SURVEY, ABSTRACT NO. 411, COLLIN COUNTY, TEXAS, FROM PLANNED DEVELOPMENT-86 (PD-86) TO PLANNED DEVELOPMENT-114 (PD-114); 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; 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 Zoning Ordinance should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request (Case Z22-0005) from 104 Prosper and 310 Prosper, Prosper Hollow LP, Paramount Soft LP, DD Brookhollow LLC, and 55 Prosper ("Applicants"), to rezone 277.6 Acres, situated in the J. Horn Survey, Abstract No.411, Collin County, Texas, From Planned Development-86 (PD-86) to Planned Development-114 (PD-114), and being more particularly described in Exhibit A, attached hereto and incorporated herein for all purposes; and

WHEREAS, the Town Council has investigated 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, Public Hearings have been held, and all other requirements of notice and completion of such 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

Amendment to the Town's Zoning Ordinance. The Town's Zoning Ordinance, as amended, is hereby amended as follows: The zoning designation of the hereafter described property containing 277.6 Acres, situated in the J. Horn Survey, Abstract No.411, Collin County, Texas, and all streets, roads, and alleyways contiguous and/or adjacent thereto, are hereby zoned as Planned Development-114 (PD-114) and 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 Concept Plan, attached hereto as Exhibit D; and (4) the Development Schedule, attached hereto as Exhibit E, all of which are incorporated herein for all purposes as if set forth verbatim.

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 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 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, 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 9TH DAY OF AUGUST, 2022.

Jeff Hodges, Mayor Pro-Tem

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

Rutherford Creek

Planned Development-114

TOWN OF PROSPER, TEXAS

JUNE 2022

Basis of Bearing is the Texas Coordinate System, North Central Zone 4202, NAD 83

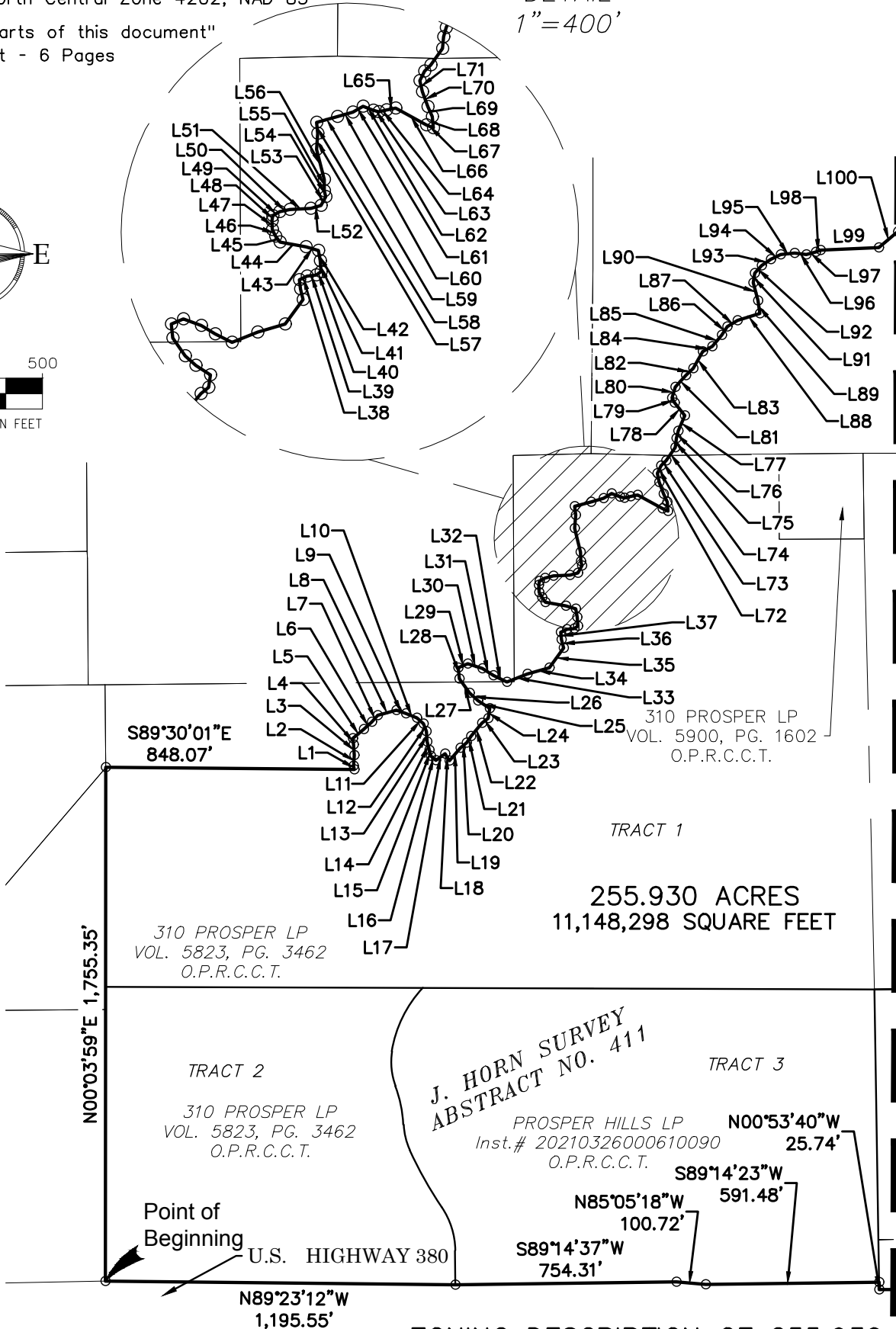
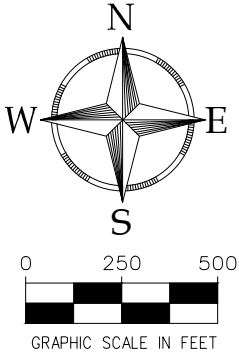
EXHIBIT A

DETAIL
1"=400'

Item 7.

"Integral parts of this document"

1. Exhibit - 6 Pages



MATCH SHEET 2

ZONING DESCRIPTION OF 255.930 ACRES

J. HORN SURVEY, ABSTRACT NO. 411
CITY OF PROSPER
COLLIN COUNTY, TEXAS

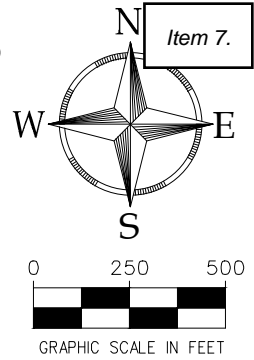


Basis of Bearing is the Texas Coordinate System, North Central Zone 4202, NAD 83

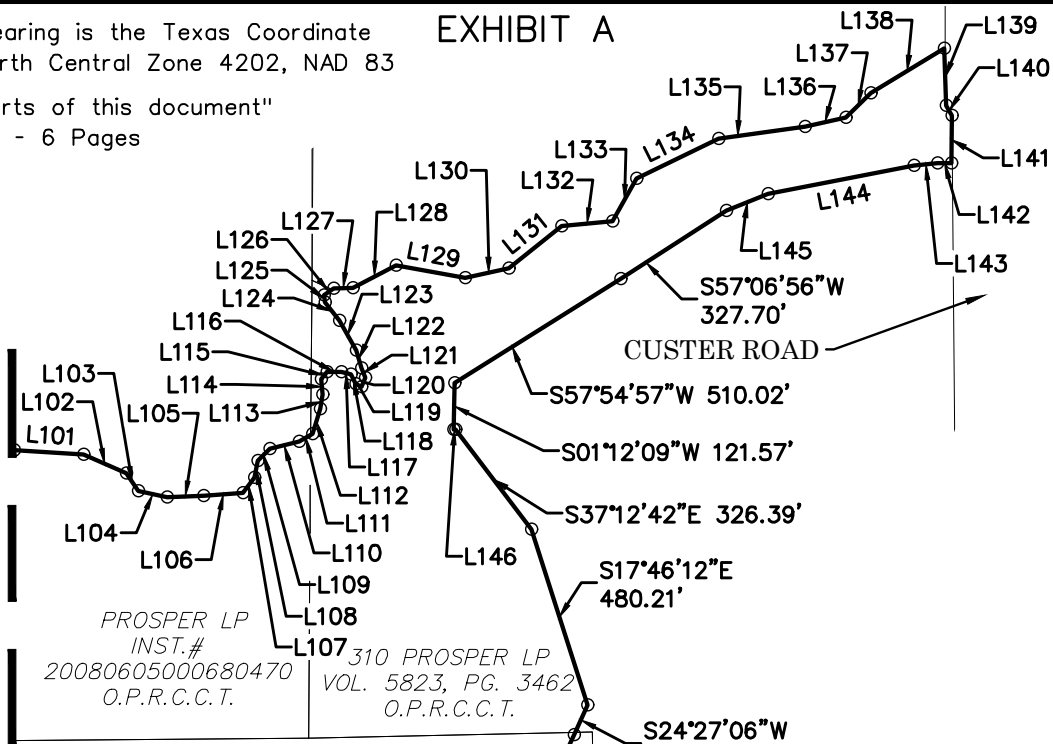
EXHIBIT A

"Integral parts of this document"

1. Exhibit - 6 Pages



MATCH SHEET 1



255.930 ACRES
11,148,298 SQUARE FEET

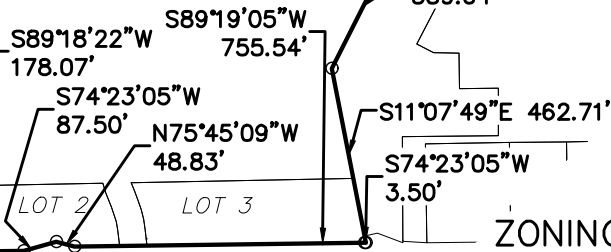
104 PROSPER LP
INST.# 20120111000035080
O.P.R.C.C.T.

J. HORN SURVEY
ABSTRACT NO. 411

TRACT 1

LOTS 1, 2, & 3, BLOCK A
BROOKHOLLOW APARTMENTS
Inst.# 20210727010002730
O.P.R.C.C.T.

LOT 1 TRACT 4



ZONING DESCRIPTION OF 255.930 ACRES

J. HORN SURVEY, ABSTRACT NO. 411
CITY OF PROSPER
COLLIN COUNTY, TEXAS

Basis of Bearing is the Texas Coordinate System, North Central Zone 4202, NAD 83

EXHIBIT A

Item 7.

"Integral parts of this document"

1. Exhibit - 6 Pages

LINE TABLE		
NO.	BEARING	LENGTH
L1	N14°11'08"W	12.02'
L2	N04°31'39"E	36.55'
L3	N03°38'49"W	36.55'
L4	N06°41'14"W	20.99'
L5	N48°41'25"E	48.88'
L6	N48°18'46"E	36.88'
L7	N43°42'54"E	30.40'
L8	N74°11'08"E	65.12'
L9	S71°49'16"E	34.18'
L10	S67°05'15"E	40.87'
L11	S49°45'51"E	30.51'
L12	S21°22'05"E	28.05'
L13	S03°47'52"E	35.25'
L14	S14°49'12"E	29.69'
L15	S14°29'47"E	20.21'
L16	S46°51'38"E	23.04'
L17	N53°34'49"E	39.07'
L18	S33°15'33"E	28.17'
L19	N39°55'22"E	57.35'
L20	N51°21'23"E	26.85'
L21	N34°08'23"E	28.17'
L22	N39°55'22"E	57.35'
L23	N51°21'23"E	26.85'
L24	N09°11'23"E	34.25'
L25	N56°44'26"W	48.04'
L26	N47°17'46"W	38.72'
L27	N35°41'20"W	59.64'
L28	N05°28'05"W	37.96'
L29	N66°41'54"E	35.57'
L30	S70°40'48"E	52.30'

LINE TABLE		
NO.	BEARING	LENGTH
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L33	N67°54'16"E	74.73'
L34	N74°06'35"E	78.71'
L35	N35°53'00"E	83.10'
L36	N14°49'13"W	29.69'
L37	N05°34'14"W	24.87'
L38	N63°53'00"E	23.30'
L39	N84°26'00"E	24.88'
L40	N55°27'29"E	15.90'
L41	N04°31'53"W	30.06'
L42	N09°52'05"W	29.11'
L43	N74°29'47"W	35.07'
L44	N79°27'13"W	71.89'
L45	N36°08'34"W	19.68'
L46	N28°03'50"W	20.30'
L47	N03°08'14"W	24.52'
L48	N10°56'07"E	14.00'
L49	N60°11'34"E	21.25'
L50	N76°24'32"E	29.43'
L51	N87°20'50"E	56.69'
L52	N75°11'25"E	29.07'
L53	N27°28'46"E	28.04'
L54	N14°02'05"W	16.32'
L55	N00°29'58"W	31.10'
L56	N14°20'34"W	83.59'
L57	N04°20'32"E	44.96'
L58	N06°26'38"W	29.78'
L59	N74°21'51"E	58.91'
L60	N73°29'27"E	43.71'

LINE TABLE		
NO.	BEARING	LENGTH
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L62	S66°52'24"E	30.40'
L63	S76°41'21"E	15.83'
L64	N76°44'17"E	21.52'
L65	N77°32'14"E	25.11'
L66	S61°17'45"E	95.88'
L67	S66°10'55"E	20.60'
L68	N05°16'20"W	30.81'
L69	N23°01'35"W	29.52'
L70	N20°44'53"W	43.84'
L71	N12°11'51"W	30.37'
L72	N25°13'23"E	29.26'
L73	N45°27'02"E	24.57'
L74	N35°10'44"E	54.72'
L75	N05°58'11"E	31.83'
L76	N14°12'21"E	25.78'
L77	N24°11'46"E	56.83'
L78	N38°06'00"W	56.57'
L79	N31°50'41"W	18.42'
L80	N17°22'25"E	39.40'
L81	N41°43'09"E	53.43'
L82	N47°21'35"E	34.79'
L83	N29°13'43"E	66.38'
L84	N62°08'53"E	36.31'
L85	N39°40'34"E	51.84'
L86	N33°21'18"E	33.19'
L87	N58°19'29"E	41.62'
L88	N72°34'03"E	80.10'
L89	N08°08'47"W	43.92'
L90	N15°24'29"W	63.03'

ZONING DESCRIPTION OF 255.930 ACRES

J. HORN SURVEY, ABSTRACT NO. 411
CITY OF PROSPER
COLLIN COUNTY, TEXAS



JOB #: LPD22001

DRAWN BY: MYOST

CHECKED BY: SRAMSEY

DATE: 4/13/2022

PAC

Page 92

Basis of Bearing is the Texas Coordinate
System, North Central Zone 4202, NAD 83

EXHIBIT A

Item 7.

"Integral parts of this document"

1. Exhibit - 6 Pages

LINE TABLE		
NO.	BEARING	LENGTH
L91	N08°58'27"E	33.14'
L92	N40°45'52"E	35.47'
L93	N56°45'35"E	38.42'
L94	N64°26'42"E	37.39'
L95	N84°32'10"E	47.80'
L96	S82°34'52"E	40.47'
L97	N74°41'40"E	33.22'
L98	N65°06'07"E	17.23'
L99	N87°26'35"E	199.76'
L100	N50°27'49"E	84.89'
L101	S86°14'01"E	180.77'
L102	S66°06'30"E	121.23'
L103	S33°51'22"E	55.86'
L104	S78°33'36"E	76.96'
L105	N87°53'47"E	94.52'
L106	N85°46'30"E	103.17'
L107	N36°50'04"E	49.51'
L108	N11°13'42"E	44.84'
L109	N45°27'02"E	44.51'
L110	N76°24'32"E	77.87'
L111	N59°59'01"E	41.38'
L112	N16°38'06"E	67.72'
L113	N09°54'22"E	38.28'
L114	N05°34'15"W	40.08'
L115	N38°19'31"E	23.92'
L116	S89°33'35"E	37.77'
L117	S75°31'42"E	25.96'
L118	S26°07'59"E	28.15'
L119	S66°22'07"E	15.98'
L120	N24°53'31"E	25.35'

LINE TABLE		
NO.	BEARING	LENGTH
L121	N22°11'13"W	27.27'
L122	N17°12'57"W	48.43'
L123	N29°08'47"W	89.25'
L124	N38°51'33"W	59.64'
L125	N05°54'08"W	19.00'
L126	N52°28'24"E	30.26'
L127	N88°47'41"E	50.09'
L128	N62°23'29"E	127.31'
L129	S79°34'54"E	183.33'
L130	N77°42'52"E	116.34'
L131	N51°13'24"E	176.18'
L132	N84°21'34"E	133.19'
L133	N29°25'35"E	126.77'
L134	N64°02'03"E	237.53'
L135	N82°05'51"E	226.80'
L136	N77°07'09"E	109.07'
L137	N45°32'03"E	91.02'
L138	N58°52'55"E	224.11'
L139	S01°33'27"E	149.18'
L140	S30°40'25"E	30.00'
L141	S00°22'57"W	124.21'
L142	S89°57'33"W	36.30'
L143	S84°54'09"W	61.31'
L144	S78°56'45"W	386.85'
L145	S68°20'48"W	117.72'
L146	S88°43'37"E	4.85'

ZONING DESCRIPTION OF 255.930 ACRES

J. HORN SURVEY, ABSTRACT NO. 411
CITY OF PROSPER
COLLIN COUNTY, TEXAS



JOB #: LPD22001

DRAWN BY: MYOST

CHECKED BY: SRAMSEY

DATE: 4/13/2022

PAC

Page 93

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1. Exhibit - 6 Pages

BEING THAT CERTAIN TRACT OF LAND SITUATED IN THE J. HORN SURVEY, ABSTRACT NO. 411, COLLIN COUNTY, TEXAS, AND BEING PART OF THOSE TRACTS OF LAND TO 104 PROSPER LP RECORDED IN INSTRUMENT NUMBER 20120111000035080, 310 PROSPER LP RECORDED IN VOLUME 5823, PAGE 3462 HEREIN AFTER REFERRED TO AS TRACT 1 AND VOLUME 5900, PAGE 1602 HEREIN AFTER REFERRED TO AS TRACT 2, PROSPER LP RECORDED IN INSTRUMENT NUMBER 20080605000680470 HEREIN AFTER REFERRED TO AS TRACT 3, PROSPER HILLS LP RECORDED IN INSTRUMENT NUMBER 20210326000610090 HEREIN AFTER REFERRED TO AS TRACT 4, 104 PROSPER LP RECORDED IN INSTRUMENT NUMBER 20120111000035080 HEREIN AFTER REFERRED TO AS TRACT 5, AND BROOKHOLLOW APARTMENTS RECORDED IN INSTRUMENT NUMBER 20210727010002730, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT 1 AND BEING IN THE NORTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY 380 (A VARIABLE WIDTH RIGHT-OF-WAY):

THENCE N 00° 03' 59" E, 1755.35 FEET;

THENCE S 89° 30' 01" E, 848.07 FEET;

THENCE FOLLOWING ALONG THE CENTER OF RUTHERFORD BRANCH CREEK THE FOLLOWING BEARINGS AND DISTANCES:

N 14° 11' 08" W, 12.02 FEET;
 N 04° 31' 39" E, 36.55 FEET;
 N 03° 38' 49" W, 36.55 FEET;
 N 06° 41' 14" W, 20.99 FEET;
 N 48° 41' 25" E, 48.88 FEET;
 N 48° 18' 46" E, 36.88 FEET;
 N 43° 42' 54" E, 30.40 FEET;
 N 74° 11' 08" E, 65.12 FEET;
 S 71° 49' 16" E, 34.18 FEET;
 S 67° 05' 15" E, 40.87 FEET;
 S 49° 45' 51" E, 30.51 FEET;
 S 21° 22' 05" E, 28.05 FEET;
 S 03° 47' 52" E, 35.25 FEET;
 S 14° 49' 12" E, 29.69 FEET;
 S 14° 29' 47" E, 20.21 FEET;
 S 46° 51' 38" E, 23.04 FEET;
 N 53° 34' 49" E, 39.07 FEET;
 S 33° 15' 33" E, 28.17 FEET;
 N 39° 55' 22" E, 57.35 FEET;
 N 51° 21' 23" E, 26.85 FEET;
 N 34° 08' 23" E, 28.17 FEET;
 N 39° 55' 22" E, 57.35 FEET;
 N 51° 21' 23" E, 26.85 FEET;
 N 09° 11' 23" E, 34.25 FEET;
 N 56° 44' 26" W, 48.04 FEET;
 N 47° 17' 46" W, 38.72 FEET;
 N 35° 41' 20" W, 59.64 FEET;
 N 05° 28' 05" W, 37.96 FEET;
 N 66° 41' 54" E, 35.57 FEET;
 S 70° 40' 48" E, 52.30 FEET;
 S 57° 44' 29" E, 44.45 FEET;
 S 64° 17' 24" E, 51.85 FEET;
 N 67° 54' 16" E, 74.73 FEET;
 N 74° 06' 35" E, 78.71 FEET;
 N 35° 53' 00" E, 83.10 FEET;
 N 14° 49' 13" W, 29.69 FEET;
 N 05° 34' 14" W, 24.87 FEET;
 N 63° 53' 00" E, 23.30 FEET;

CONTINUING (1)

CONTINUED (1)

N 84° 26' 00" E, 24.88 FEET;
 N 55° 27' 29" E, 15.90 FEET;
 N 04° 31' 53" W, 30.06 FEET;
 N 09° 52' 05" W, 29.11 FEET;
 N 74° 29' 47" W, 35.07 FEET;
 N 79° 27' 13" W, 71.89 FEET;
 N 36° 08' 34" W, 19.68 FEET;
 N 28° 03' 50" W, 20.30 FEET;
 N 03° 08' 14" W, 24.52 FEET;
 N 10° 56' 07" E, 14.00 FEET;
 N 60° 11' 34" E, 21.25 FEET;
 N 76° 24' 32" E, 29.43 FEET;
 N 87° 20' 50" E, 56.69 FEET;
 N 75° 11' 25" E, 29.07 FEET;
 N 27° 28' 46" E, 28.04 FEET;
 N 14° 02' 05" W, 16.32 FEET;
 N 00° 29' 58" W, 31.10 FEET;
 N 14° 20' 34" W, 83.59 FEET;
 N 04° 20' 32" E, 44.96 FEET;
 N 06° 26' 38" W, 29.78 FEET;
 N 74° 21' 51" E, 58.91 FEET;
 N 73° 29' 27" E, 43.71 FEET;
 N 60° 15' 27" E, 32.45 FEET;
 S 66° 52' 24" E, 30.40 FEET;
 S 76° 41' 21" E, 15.83 FEET;
 N 76° 44' 17" E, 21.52 FEET;
 N 77° 32' 14" E, 25.11 FEET;
 S 61° 17' 45" E, 95.88 FEET;
 S 66° 10' 55" E, 20.60 FEET;
 N 05° 16' 20" W, 30.81 FEET;
 N 23° 01' 35" W, 29.52 FEET;
 N 20° 44' 53" W, 43.84 FEET;
 N 12° 11' 51" W, 30.37 FEET;
 N 25° 13' 23" E, 29.26 FEET;
 N 45° 27' 02" E, 24.57 FEET;
 N 35° 10' 44" E, 54.72 FEET;
 N 05° 58' 11" E, 31.83 FEET;
 N 14° 12' 21" E, 25.78 FEET;
 N 24° 11' 46" E, 56.83 FEET;
 N 38° 06' 00" W, 56.57 FEET;
 N 31° 50' 41" W, 18.42 FEET;
 N 17° 22' 25" E, 39.40 FEET;
 N 41° 43' 09" E, 53.43 FEET;
 N 47° 21' 35" E, 34.79 FEET;
 N 29° 13' 43" E, 66.38 FEET;
 N 62° 08' 53" E, 36.31 FEET;
 N 39° 40' 34" E, 51.84 FEET;
 N 33° 21' 18" E, 33.19 FEET;
 N 58° 19' 29" E, 41.62 FEET;
 N 72° 34' 03" E, 80.10 FEET;

CONTINUING (2)

ZONING DESCRIPTION OF 255.930 ACRES

J. HORN SURVEY, ABSTRACT NO. 411
 CITY OF PROSPER
 COLLIN COUNTY, TEXAS



JOB #: LPD22001

DRAWN BY: MYOST

CHECKED BY: SRAMSEY

DATE: 4/13/2022

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Page 94

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EXHIBIT A

Item 7.

"Integral parts of this document"

1. Exhibit - 6 Pages

CONTINUED (2)

N 08° 08' 47" W, 43.92 FEET;
 N 15° 24' 29" W, 63.03 FEET;
 N 08° 58' 27" E, 33.14 FEET;
 N 40° 45' 52" E, 35.47 FEET;
 N 56° 45' 35" E, 38.42 FEET;
 N 64° 26' 42" E, 37.39 FEET;
 N 84° 32' 10" E, 47.80 FEET;
 S 82° 34' 52" E, 40.47 FEET;
 N 74° 41' 40" E, 33.22 FEET;
 N 65° 06' 07" E, 17.23 FEET;
 N 87° 26' 35" E, 199.76 FEET;
 N 50° 27' 49" E, 84.89 FEET;
 S 86° 14' 01" E, 180.77 FEET;
 S 66° 06' 30" E, 121.23 FEET;
 S 33° 51' 22" E, 55.86 FEET;
 S 78° 33' 36" E, 76.96 FEET;
 N 87° 53' 47" E, 94.52 FEET;
 N 85° 46' 30" E, 103.17 FEET;
 N 36° 50' 04" E, 49.51 FEET;
 N 11° 13' 42" E, 44.84 FEET;
 N 45° 27' 02" E, 44.51 FEET;
 N 76° 24' 32" E, 77.87 FEET;
 N 59° 59' 01" E, 41.38 FEET;
 N 16° 38' 06" E, 67.72 FEET;
 N 09° 54' 22" E, 38.28 FEET;
 N 05° 34' 15" W, 40.08 FEET;
 N 38° 19' 31" E, 23.92 FEET;
 S 89° 33' 35" E, 37.77 FEET;
 S 75° 31' 42" E, 25.96 FEET;
 S 26° 07' 59" E, 28.15 FEET;
 S 66° 22' 07" E, 15.98 FEET;
 N 24° 53' 31" E, 25.35 FEET;
 N 22° 11' 13" W, 27.27 FEET;
 N 17° 12' 57" W, 48.43 FEET;
 N 29° 08' 47" W, 89.25 FEET;
 N 38° 51' 33" W, 59.64 FEET;
 N 05° 54' 08" W, 19.00 FEET;
 N 52° 28' 24" E, 30.26 FEET;
 N 88° 47' 41" E, 50.09 FEET;
 N 62° 23' 29" E, 127.31 FEET;
 S 79° 34' 54" E, 183.33 FEET;
 N 77° 42' 52" E, 116.34 FEET;
 N 51° 13' 24" E, 176.18 FEET;
 N 84° 21' 34" E, 133.19 FEET;
 N 29° 25' 35" E, 126.77 FEET;
 N 64° 02' 03" E, 237.53 FEET;
 N 82° 05' 51" E, 226.80 FEET;
 N 77° 07' 09" E, 109.07 FEET;
 N 45° 32' 03" E, 91.02 FEET;
 N 58° 52' 55" E, 224.11 FEET TO THE WEST
 RIGHT-OF-WAY LINE OF CUSTER ROAD (A VARIABLE WIDTH
 RIGHT-OF-WAY);

THENCE S 01° 33' 27" E, 149.18 FEET DEPARTING SAID
 WEST RIGHT-OF-WAY LINE;
 THENCE S 30° 40' 25" E, 30.00 FEET;
 THENCE S 00° 22' 57" W, 124.21 FEET;
 THENCE S 89° 57' 33" W, 36.30 FEET;
 THENCE S 84° 54' 09" W, 61.31 FEET;
 THENCE S 78° 56' 45" W, 386.85 FEET;
 THENCE S 68° 20' 48" W, 117.72 FEET;
 THENCE S 57° 06' 56" W, 327.70 FEET;
 THENCE S 57° 54' 57" W, 510.02 FEET;
 THENCE S 01° 12' 09" W, 121.57 FEET;
 THENCE S 88° 43' 37" E, 4.85 FEET;
 THENCE S 37° 12' 42" E, 326.39 FEET;
 THENCE S 17° 46' 12" E, 480.21 FEET;
 THENCE S 24° 27' 06" W, 85.13 FEET;
 THENCE S 24° 43' 38" W, 418.79 FEET;
 THENCE S 02° 14' 15" E, 293.83 FEET;
 THENCE S 12° 39' 33" W, 87.80 FEET;
 THENCE S 89° 20' 24" W, 110.24 FEET;
 THENCE S 19° 06' 04" W, 236.78 FEET;
 THENCE S 05° 48' 40" W, 165.13 FEET;
 THENCE S 16° 25' 36" E, 275.59 FEET;
 THENCE S 01° 43' 37" W, 192.92 FEET;
 THENCE S 07° 47' 37" W, 96.29 FEET;
 THENCE S 07° 39' 08" W, 128.25 FEET;
 THENCE S 07° 52' 00" W, 248.46 FEET;
 THENCE S 26° 57' 16" W, 359.64 FEET;
 THENCE S 11° 07' 49" E, 462.71 FEET;
 THENCE S 74° 23' 05" W, 3.50 FEET TO SAID NORTH
 RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY 380;
 THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE OF SAID U.S.
 HIGHWAY 380 THE FOLLOWING BEARINGS AND DISTANCES:
 S 89° 19' 05" W, 755.54 FEET;
 N 75° 45' 09" W, 48.83 FEET;
 S 74° 23' 05" W, 87.50 FEET;
 S 89° 18' 42" W, 178.07 FEET;
 N 00° 53' 40" W, 25.74 FEET;
 S 89° 14' 23" W, 591.48 FEET;
 N 85° 05' 18" W, 100.72 FEET;
 S 89° 14' 37" W, 754.31 FEET;
 N 89° 23' 12" W, 1,195.55 FEET;
 THENCE N 89° 59' 03" W, 3709.42 FEET TO THE POINT OF
 BEGINNING AND CONTAINING 11,148,298 SQUARE FEET OR
 255.930 ACRES MORE OR LESS.

"This document was prepared under 22 Texas Administrative Code 138.95, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

ZONING DESCRIPTION OF 255.930 ACRES

J. HORN SURVEY, ABSTRACT NO. 411
 CITY OF PROSPER
 COLLIN COUNTY, TEXAS



JOB #: LPD22001

DRAWN BY: MYOST

CHECKED BY: SRAMSEY

DATE: 4/13/2022

PAC

Page 95

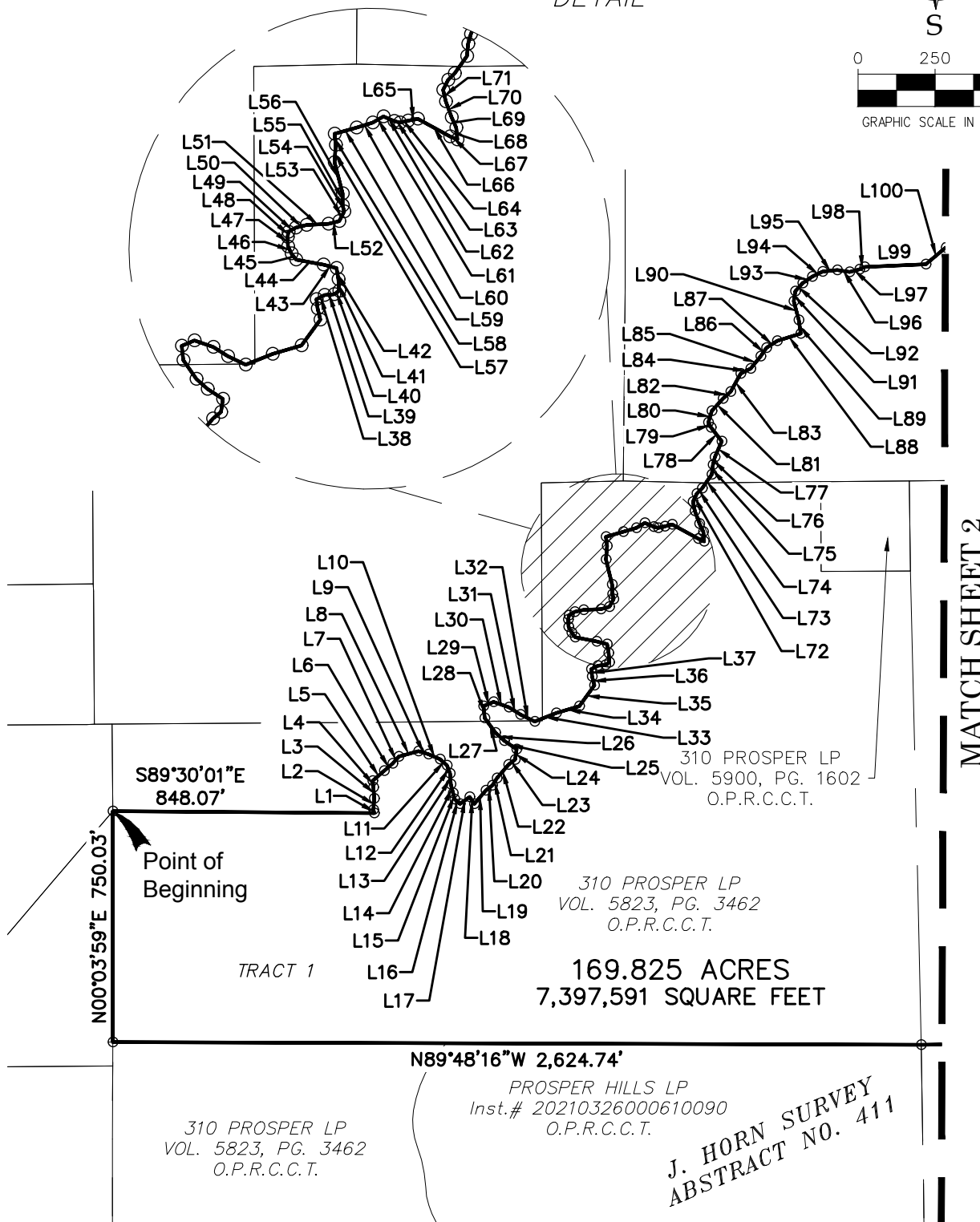
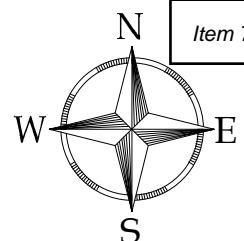
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1"=400'
DETAIL



MATCH SHEET 2

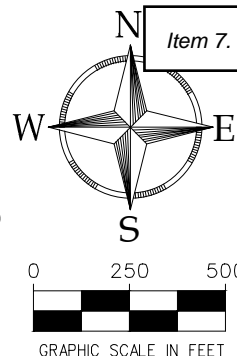
TRACT 1
ZONING DESCRIPTION OF 169.825 ACRES
J. HORN SURVEY, ABSTRACT NO. 411
CITY OF PROSPER
COLLIN COUNTY, TEXAS

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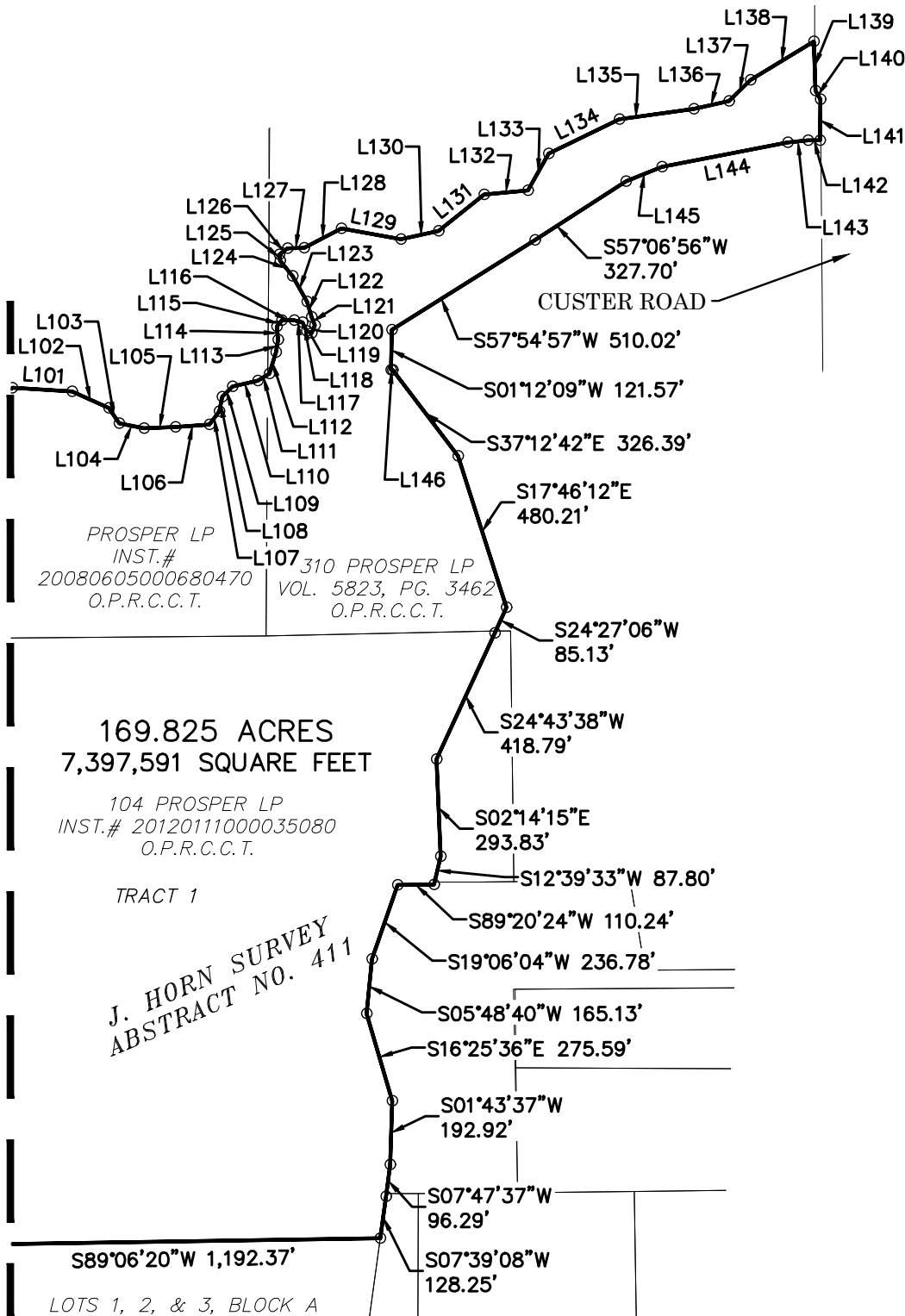
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MATCH SHEET 1



TRACT 1
ZONING DESCRIPTION OF 169.825 ACRES
J. HORN SURVEY, ABSTRACT NO. 411
CITY OF PROSPER
COLLIN COUNTY, TEXAS

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LINE TABLE		
NO.	BEARING	LENGTH
L1	N14°11'08"W	12.02'
L2	N04°31'39"E	36.55'
L3	N03°38'49"W	36.55'
L4	N06°41'14"W	20.99'
L5	N48°41'25"E	48.88'
L6	N48°18'46"E	36.88'
L7	N43°42'54"E	30.40'
L8	N74°11'08"E	65.12'
L9	S71°49'16"E	34.18'
L10	S67°05'15"E	40.87'
L11	S49°45'51"E	30.51'
L12	S21°22'05"E	28.05'
L13	S03°47'52"E	35.25'
L14	S14°49'12"E	29.69'
L15	S14°29'47"E	20.21'
L16	S46°51'38"E	23.04'
L17	N53°34'49"E	39.07'
L18	S33°15'33"E	28.17'
L19	N39°55'22"E	57.35'
L20	N51°21'23"E	26.85'
L21	N34°08'23"E	28.17'
L22	N39°55'22"E	57.35'
L23	N51°21'23"E	26.85'
L24	N09°11'23"E	34.25'
L25	N56°44'26"W	48.04'
L26	N47°17'46"W	38.72'
L27	N35°41'20"W	59.64'
L28	N05°28'05"W	37.96'
L29	N66°41'54"E	35.57'
L30	S70°40'48"E	52.30'

LINE TABLE		
NO.	BEARING	LENGTH
L31	S57°44'29"E	44.45'
L32	S64°17'24"E	51.85'
L33	N67°54'16"E	74.73'
L34	N74°06'35"E	78.71'
L35	N35°53'00"E	83.10'
L36	N14°49'13"W	29.69'
L37	N05°34'14"W	24.87'
L38	N63°53'00"E	23.30'
L39	N84°26'00"E	24.88'
L40	N55°27'29"E	15.90'
L41	N04°31'53"W	30.06'
L42	N09°52'05"W	29.11'
L43	N74°29'47"W	35.07'
L44	N79°27'13"W	71.89'
L45	N36°08'34"W	19.68'
L46	N28°03'50"W	20.30'
L47	N03°08'14"W	24.52'
L48	N10°56'07"E	14.00'
L49	N60°11'34"E	21.25'
L50	N76°24'32"E	29.43'
L51	N87°20'50"E	56.69'
L52	N75°11'25"E	29.07'
L53	N27°28'46"E	28.04'
L54	N14°02'05"W	16.32'
L55	N00°29'58"W	31.10'
L56	N14°20'34"W	83.59'
L57	N04°20'32"E	44.96'
L58	N06°26'38"W	29.78'
L59	N74°21'51"E	58.91'
L60	N73°29'27"E	43.71'

LINE TABLE		
NO.	BEARING	LENGTH
L61	N60°15'27"E	32.45'
L62	S66°52'24"E	30.40'
L63	S76°41'21"E	15.83'
L64	N76°44'17"E	21.52'
L65	N77°32'14"E	25.11'
L66	S61°17'45"E	95.88'
L67	S66°10'55"E	20.60'
L68	N05°16'20"W	30.81'
L69	N23°01'35"W	29.52'
L70	N20°44'53"W	43.84'
L71	N12°11'51"W	30.37'
L72	N25°13'23"E	29.26'
L73	N45°27'02"E	24.57'
L74	N35°10'44"E	54.72'
L75	N05°58'11"E	31.83'
L76	N14°12'21"E	25.78'
L77	N24°11'46"E	56.83'
L78	N38°06'00"W	56.57'
L79	N31°50'41"W	18.42'
L80	N17°22'25"E	39.40'
L81	N41°43'09"E	53.43'
L82	N47°21'35"E	34.79'
L83	N29°13'43"E	66.38'
L84	N62°08'53"E	36.31'
L85	N39°40'34"E	51.84'
L86	N33°21'18"E	33.19'
L87	N58°19'29"E	41.62'
L88	N72°34'03"E	80.10'
L89	N08°08'47"W	43.92'
L90	N15°24'29"W	63.03'

TRACT 1

ZONING DESCRIPTION OF 169.825 ACRES

J. HORN SURVEY, ABSTRACT NO. 411
CITY OF PROSPER
COLLIN COUNTY, TEXAS



JOB #: LPD22001

DRAWN BY: MYOST

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PAC

Page 98

Basis of Bearing is the Texas Coordinate
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1. Exhibit - 6 Pages

LINE TABLE		
NO.	BEARING	LENGTH
L91	N08°58'27"E	33.14'
L92	N40°45'52"E	35.47'
L93	N56°45'35"E	38.42'
L94	N64°26'42"E	37.39'
L95	N84°32'10"E	47.80'
L96	S82°34'52"E	40.47'
L97	N74°41'40"E	33.22'
L98	N65°06'07"E	17.23'
L99	N87°26'35"E	199.76'
L100	N50°27'49"E	84.89'
L101	S86°14'01"E	180.77'
L102	S66°06'30"E	121.23'
L103	S33°51'22"E	55.86'
L104	S78°33'36"E	76.96'
L105	N87°53'47"E	94.52'
L106	N85°46'30"E	103.17'
L107	N36°50'04"E	49.51'
L108	N11°13'42"E	44.84'
L109	N45°27'02"E	44.51'
L110	N76°24'32"E	77.87'
L111	N59°59'01"E	41.38'
L112	N16°38'06"E	67.72'
L113	N09°54'22"E	38.28'
L114	N05°34'15"W	40.08'
L115	N38°19'31"E	23.92'
L116	S89°33'35"E	37.77'
L117	S75°31'42"E	25.96'
L118	S26°07'59"E	28.15'
L119	S66°22'07"E	15.98'
L120	N24°53'31"E	25.35'

LINE TABLE		
NO.	BEARING	LENGTH
L121	N22°11'13"W	27.27'
L122	N17°12'57"W	48.43'
L123	N29°08'47"W	89.25'
L124	N38°51'33"W	59.64'
L125	N05°54'08"W	19.00'
L126	N52°28'24"E	30.26'
L127	N88°47'41"E	50.09'
L128	N62°23'29"E	127.31'
L129	S79°34'54"E	183.33'
L130	N77°42'52"E	116.34'
L131	N51°13'24"E	176.18'
L132	N84°21'34"E	133.19'
L133	N29°25'35"E	126.77'
L134	N64°02'03"E	237.53'
L135	N82°05'51"E	226.80'
L136	N77°07'09"E	109.07'
L137	N45°32'03"E	91.02'
L138	N58°52'55"E	224.11'
L139	S01°33'27"E	149.18'
L140	S30°40'25"E	30.00'
L141	S00°22'57"W	124.21'
L142	S89°57'33"W	36.30'
L143	S84°54'09"W	61.31'
L144	S78°56'45"W	386.85'
L145	S68°20'48"W	117.72'
L146	S88°43'37"E	4.85'

TRACT 1

ZONING DESCRIPTION OF 169.825 ACRES

J. HORN SURVEY, ABSTRACT NO. 411
CITY OF PROSPER
COLLIN COUNTY, TEXAS



JOB #: LPD22001

DRAWN BY: MYOST

CHECKED BY: SRAMSEY

DATE: 4/13/2022

PAC

Page 99

Basis of Bearing is the Texas Coordinate System, North Central Zone 4202, NAD 83

EXHIBIT A

Item 7.

"Integral parts of this document"

1. Exhibit - 6 Pages

BEING THAT CERTAIN TRACT OF LAND SITUATED IN THE J. HORN SURVEY, ABSTRACT NO. 411, COLLIN COUNTY, TEXAS, AND BEING PART OF THOSE TRACTS OF LAND TO 104 PROSPER LP RECORDED IN INSTRUMENT NUMBER 20120111000035080, 310 PROSPER LP RECORDED IN VOLUME 5823, PAGE 3462 HEREIN AFTER REFERRED TO AS TRACT 1 AND VOLUME 5900, PAGE 1602 HEREIN AFTER REFERRED TO AS TRACT 2, PROSPER LP RECORDED IN INSTRUMENT NUMBER 20080605000680470 REFERRED TO AS TRACT 3 AND 104 PROSPER LP RECORDED IN INSTRUMENT NUMBER 20120111000035080 HEREIN AFTER REFERRED TO AS TRACT 4, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT 1 AND BEING IN EAST LINE OF A TRACT OF LAND TO PROSPER ISD RECORDED IN INSTRUMENT NUMBER 20200306000329040 OF SAID COUNTY RECORDS:

THENCE S 89° 30' 01" E, 848.07 FEET;

THENCE FOLLOWING ALONG THE CENTER OF RUTHERFORD BRANCH CREEK THE FOLLOWING BEARINGS AND DISTANCES:

N 14° 11' 08" W, 12.02 FEET;
 N 04° 31' 39" E, 36.55 FEET;
 N 03° 38' 49" W, 36.55 FEET;
 N 06° 41' 14" W, 20.99 FEET;
 N 48° 41' 25" E, 48.88 FEET;
 N 48° 18' 46" E, 36.88 FEET;
 N 43° 42' 54" E, 30.40 FEET;
 N 74° 11' 08" E, 65.12 FEET;
 S 71° 49' 16" E, 34.18 FEET;
 S 67° 05' 15" E, 40.87 FEET;
 S 49° 45' 51" E, 30.51 FEET;
 S 21° 22' 05" E, 28.05 FEET;
 S 03° 47' 52" E, 35.25 FEET;
 S 14° 49' 12" E, 29.69 FEET;
 S 14° 29' 47" E, 20.21 FEET;
 S 46° 51' 38" E, 23.04 FEET;
 N 53° 34' 49" E, 39.07 FEET;
 S 33° 15' 33" E, 28.17 FEET;
 N 39° 55' 22" E, 57.35 FEET;
 N 51° 21' 23" E, 26.85 FEET;
 N 34° 08' 23" E, 28.17 FEET;
 N 39° 55' 22" E, 57.35 FEET;
 N 51° 21' 23" E, 26.85 FEET;
 N 09° 11' 23" E, 34.25 FEET;
 N 56° 44' 26" W, 48.04 FEET;
 N 47° 17' 46" W, 38.72 FEET;
 N 35° 41' 20" W, 59.64 FEET;
 N 05° 28' 05" W, 37.96 FEET;
 N 66° 41' 54" E, 35.57 FEET;
 S 70° 40' 48" E, 52.30 FEET;
 S 57° 44' 29" E, 44.45 FEET;
 S 64° 17' 24" E, 51.85 FEET;
 N 67° 54' 16" E, 74.73 FEET;
 N 74° 06' 35" E, 78.71 FEET;
 N 35° 53' 00" E, 83.10 FEET;
 N 14° 49' 13" W, 29.69 FEET;
 N 05° 34' 14" W, 24.87 FEET;
 N 63° 53' 00" E, 23.30 FEET;
 N 84° 26' 00" E, 24.88 FEET;
 N 55° 27' 29" E, 15.90 FEET;
 N 04° 31' 53" W, 30.06 FEET;

CONTINUING (1)

CONTINUED (1)

N 09° 52' 05" W, 29.11 FEET;
 N 74° 29' 47" W, 35.07 FEET;
 N 79° 27' 13" W, 71.89 FEET;
 N 36° 08' 34" W, 19.68 FEET;
 N 28° 03' 50" W, 20.30 FEET;
 N 03° 08' 14" W, 24.52 FEET;
 N 10° 56' 07" E, 14.00 FEET;
 N 60° 11' 34" E, 21.25 FEET;
 N 76° 24' 32" E, 29.43 FEET;
 N 87° 20' 50" E, 56.69 FEET;
 N 75° 11' 25" E, 29.07 FEET;
 N 27° 28' 46" E, 28.04 FEET;
 N 14° 02' 05" W, 16.32 FEET;
 N 00° 29' 58" W, 31.10 FEET;
 N 14° 20' 34" W, 83.59 FEET;
 N 04° 20' 32" E, 44.96 FEET;
 N 06° 26' 38" W, 29.78 FEET;
 N 74° 21' 51" E, 58.91 FEET;
 N 73° 29' 27" E, 43.71 FEET;
 N 60° 15' 27" E, 32.45 FEET;
 S 66° 52' 24" E, 30.40 FEET;
 S 76° 41' 21" E, 15.83 FEET;
 N 76° 44' 17" E, 21.52 FEET;
 N 77° 32' 14" E, 25.11 FEET;
 S 61° 17' 45" E, 95.88 FEET;
 S 66° 10' 55" E, 20.60 FEET;
 N 05° 16' 20" W, 30.81 FEET;
 N 23° 01' 35" W, 29.52 FEET;
 N 20° 44' 53" W, 43.84 FEET;
 N 12° 11' 51" W, 30.37 FEET;
 N 25° 13' 23" E, 29.26 FEET;
 N 45° 27' 02" E, 24.57 FEET;
 N 35° 10' 44" E, 54.72 FEET;
 N 05° 58' 11" E, 31.83 FEET;
 N 14° 12' 21" E, 25.78 FEET;
 N 24° 11' 46" E, 56.83 FEET;
 N 38° 06' 00" W, 56.57 FEET;
 N 31° 50' 41" W, 18.42 FEET;
 N 17° 22' 25" E, 39.40 FEET;
 N 41° 43' 09" E, 53.43 FEET;
 N 47° 21' 35" E, 34.79 FEET;
 N 29° 13' 43" E, 66.38 FEET;
 N 62° 08' 53" E, 36.31 FEET;
 N 39° 40' 34" E, 51.84 FEET;
 N 33° 21' 18" E, 33.19 FEET;
 N 58° 19' 29" E, 41.62 FEET;
 N 72° 34' 03" E, 80.10 FEET;
 N 08° 08' 47" W, 43.92 FEET;
 N 15° 24' 29" W, 63.03 FEET;

CONTINUING (2)

TRACT 1

ZONING DESCRIPTION OF 169.825 ACRES

J. HORN SURVEY, ABSTRACT NO. 411
 CITY OF PROSPER
 COLLIN COUNTY, TEXAS



JOB #: LPD22001

DRAWN BY: MYOST

CHECKED BY: SRAMSEY

DATE: 4/13/2022

Page 100

Basis of Bearing is the Texas Coordinate System, North Central Zone 4202, NAD 83

EXHIBIT A

Item 7.

"Integral parts of this document"

1. Exhibit - 6 Pages

CONTINUED (2)

N 08° 58' 27" E, 33.14 FEET;
 N 40° 45' 52" E, 35.47 FEET;
 N 56° 45' 35" E, 38.42 FEET;
 N 64° 26' 42" E, 37.39 FEET;
 N 84° 32' 10" E, 47.80 FEET;
 S 82° 34' 52" E, 40.47 FEET;
 N 74° 41' 40" E, 33.22 FEET;
 N 65° 06' 07" E, 17.23 FEET;
 N 87° 26' 35" E, 199.76 FEET;
 N 50° 27' 49" E, 84.89 FEET;
 S 86° 14' 01" E, 180.77 FEET;
 S 66° 06' 30" E, 121.23 FEET;
 S 33° 51' 22" E, 55.86 FEET;
 S 78° 33' 36" E, 76.96 FEET;
 N 87° 53' 47" E, 94.52 FEET;
 N 85° 46' 30" E, 103.17 FEET;
 N 36° 50' 04" E, 49.51 FEET;
 N 11° 13' 42" E, 44.84 FEET;
 N 45° 27' 02" E, 44.51 FEET;
 N 76° 24' 32" E, 77.87 FEET;
 N 59° 59' 01" E, 41.38 FEET;
 N 16° 38' 06" E, 67.72 FEET;
 N 09° 54' 22" E, 38.28 FEET;
 N 05° 34' 15" W, 40.08 FEET;
 N 38° 19' 31" E, 23.92 FEET;
 S 89° 33' 35" E, 37.77 FEET;
 S 75° 31' 42" E, 25.96 FEET;
 S 26° 07' 59" E, 28.15 FEET;
 S 66° 22' 07" E, 15.98 FEET;
 N 24° 53' 31" E, 25.35 FEET;
 N 22° 11' 13" W, 27.27 FEET;
 N 17° 12' 57" W, 48.43 FEET;
 N 29° 08' 47" W, 89.25 FEET;
 N 38° 51' 33" W, 59.64 FEET;
 N 05° 54' 08" W, 19.00 FEET;
 N 52° 28' 24" E, 30.26 FEET;
 N 88° 47' 41" E, 50.09 FEET;
 N 62° 23' 29" E, 127.31 FEET;
 S 79° 34' 54" E, 183.33 FEET;
 N 77° 42' 52" E, 116.34 FEET;
 N 51° 13' 24" E, 176.18 FEET;
 N 84° 21' 34" E, 133.19 FEET;
 N 29° 25' 35" E, 126.77 FEET;
 N 64° 02' 03" E, 237.53 FEET;
 N 82° 05' 51" E, 226.80 FEET;
 N 77° 07' 09" E, 109.07 FEET;
 N 45° 32' 03" E, 91.02 FEET;
 N 58° 52' 55" E, 224.11 FEET TO THE WEST RIGHT-OF-WAY LINE
 OF CUSTER ROAD (A VARIABLE WIDTH RIGHT-OF-WAY);
 THENCE S 01° 33' 27" E, 149.18 FEET;
 THENCE S 30° 40' 25" E, 30.00 FEET;
 CONTINUING (3)

CONTINUED (3)

THENCE S 00° 22' 57" W, 124.21 FEET;
 THENCE S 89° 57' 33" W, 36.30 FEET;
 THENCE S 84° 54' 09" W, 61.31 FEET;
 THENCE S 78° 56' 45" W, 386.85 FEET;
 THENCE S 68° 20' 48" W, 117.72 FEET;
 THENCE S 57° 06' 56" W, 327.70 FEET;
 THENCE S 57° 54' 57" W, 510.02 FEET;
 THENCE S 01° 12' 09" W, 121.57 FEET;
 THENCE S 88° 43' 37" E, 4.85 FEET;
 THENCE S 37° 12' 42" E, 326.39 FEET;
 THENCE S 17° 46' 12" E, 480.21 FEET;
 THENCE S 24° 27' 06" W, 85.13 FEET;
 THENCE S 24° 43' 38" W, 418.79 FEET;
 THENCE S 02° 14' 15" E, 293.83 FEET;
 THENCE S 12° 39' 33" W, 87.80 FEET;
 THENCE S 89° 20' 24" W, 110.24 FEET;
 THENCE S 19° 06' 04" W, 236.78 FEET;
 THENCE S 05° 48' 40" W, 165.13 FEET;
 THENCE S 16° 25' 36" E, 275.59 FEET;
 THENCE S 01° 43' 37" W, 192.92 FEET;
 THENCE S 07° 47' 37" W, 96.29 FEET;
 THENCE S 07° 39' 08" W, 128.25 FEET;
 THENCE S 89° 06' 20" W, 1192.37 FEET;
 THENCE N 89° 48' 16" W, 2624.74 FEET;
 THENCE N 00° 03' 59" E, 750.03 FEET TO THE POINT OF BEGINNING
 AND CONTAINING 7,397,591 SQUARE FEET OR 169.825 ACRES MORE OR
 LESS.

"This document was prepared under 22 Texas Administrative Code 138.95, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

TRACT 1 ZONING DESCRIPTION OF 169.825 ACRES

J. HORN SURVEY, ABSTRACT NO. 411
 CITY OF PROSPER
 COLLIN COUNTY, TEXAS



JOB #: LPD22001

DRAWN BY: MYOST

CHECKED BY: SRAMSEY

DATE: 4/13/2022

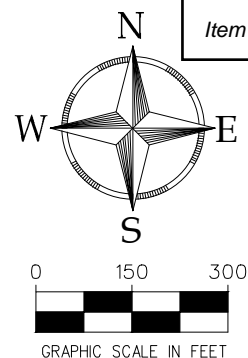
Page 101

Basis of Bearing is the Texas Coordinate System, North Central Zone 4202, NAD 83

EXHIBIT A

"Integral parts of this document"

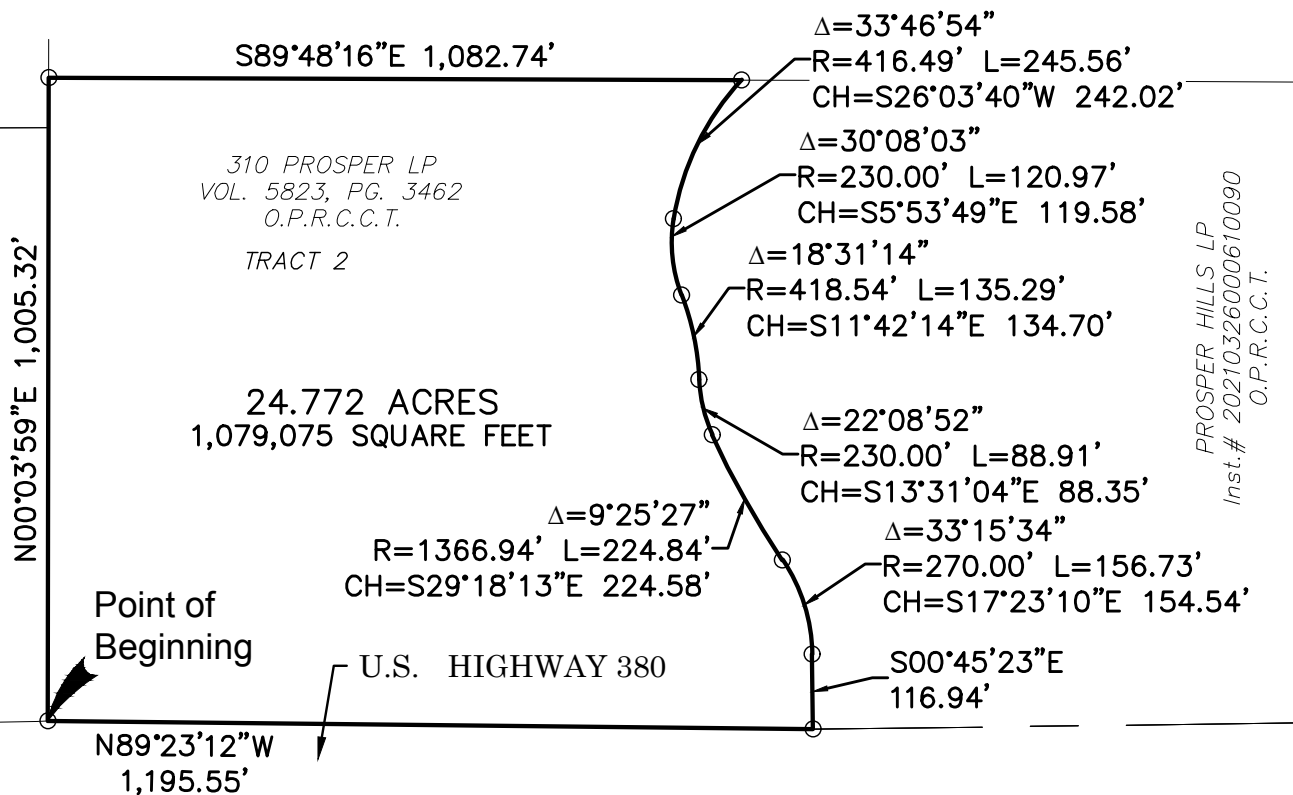
1. Exhibit - 2 Pages



Item 7.

310 PROSPER LP
VOL. 5823, PG. 3462
O.P.R.C.C.T.

J. HORN SURVEY
ABSTRACT NO. 411



TRACT 2 ZONING DESCRIPTION OF 24.772 ACRES

J. HORN SURVEY, ABSTRACT NO. 411
CITY OF PROSPER
COLLIN COUNTY, TEXAS



JOB #: LPD22001

DRAWN BY: MYOST

CHECKED BY: SRAMSEY

DATE: 4/13/2022

Page 102

Basis of Bearing is the Texas Coordinate System, North Central Zone 4202, NAD 83

EXHIBIT A

Item 7.

"Integral parts of this document"

1. Exhibit - 2 Pages

BEING THAT CERTAIN TRACT OF LAND SITUATED IN THE J. HORN SURVEY, ABSTRACT NO. 411, COLLIN COUNTY, TEXAS, AND BEING PART OF A TRACT OF LAND TO 310 PROSPER LP RECORDED IN VOLUME 5823, PAGE 3462, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID 310 PROSPER LP TRACT AND BEING IN THE NORTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY 380 (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE N 00° 03' 59" E, 1005.32 FEET;

THENCE S 89° 48' 16" E, 1082.74 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT;

THENCE WITH SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 245.56 FEET, THROUGH A CENTRAL ANGLE OF 33° 46' 54", HAVING A RADIUS OF 416.49 FEET, AND A LONG CHORD WHICH BEARS S 26° 03' 40" W, 242.02 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT;

THENCE WITH SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 120.97 FEET, THROUGH A CENTRAL ANGLE OF 30° 08' 03", HAVING A RADIUS OF 230.00 FEET, AND A LONG CHORD WHICH BEARS S 05° 53' 49" E, 119.58 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE WITH SAID NON-TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 135.29 FEET, THROUGH A CENTRAL ANGLE OF 18° 31' 14", HAVING A RADIUS OF 418.54 FEET, AND A LONG CHORD WHICH BEARS S 11° 42' 14" E, 134.70 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT;

THENCE WITH SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 88.91 FEET, THROUGH A CENTRAL ANGLE OF 22° 08' 52", HAVING A RADIUS OF 230.00 FEET, AND A LONG CHORD WHICH BEARS S 13° 31' 04" E, 88.35 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT;

THENCE WITH SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 224.84 FEET, THROUGH A CENTRAL ANGLE OF 09° 25' 27", HAVING A RADIUS OF 1366.94 FEET, AND A LONG CHORD WHICH BEARS S 29° 18' 13" E, 224.58 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE WITH SAID NON-TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 156.73 FEET, THROUGH A CENTRAL ANGLE OF 33° 15' 34", HAVING A RADIUS OF 270.00 FEET, AND A LONG CHORD WHICH BEARS S 17° 23' 10" E, 154.54 FEET;

THENCE S 00° 45' 23" E, 116.94 FEET TO THE NORTH RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY 380;

THENCE N 89° 23' 12" W, 1195.55 FEET TO THE POINT OF BEGINNING AND CONTAINING 1,079,075 SQUARE FEET OR 24.772 ACRES MORE OR LESS.

"This document was prepared under 22 Texas Administrative Code 138.95, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

TRACT 2 ZONING DESCRIPTION OF 24.772 ACRES

J. HORN SURVEY, ABSTRACT NO. 411
CITY OF PROSPER
COLLIN COUNTY, TEXAS



JOB #: LPD22001

DRAWN BY: MYOST

CHECKED BY: SRAMSEY

DATE: 4/13/2022

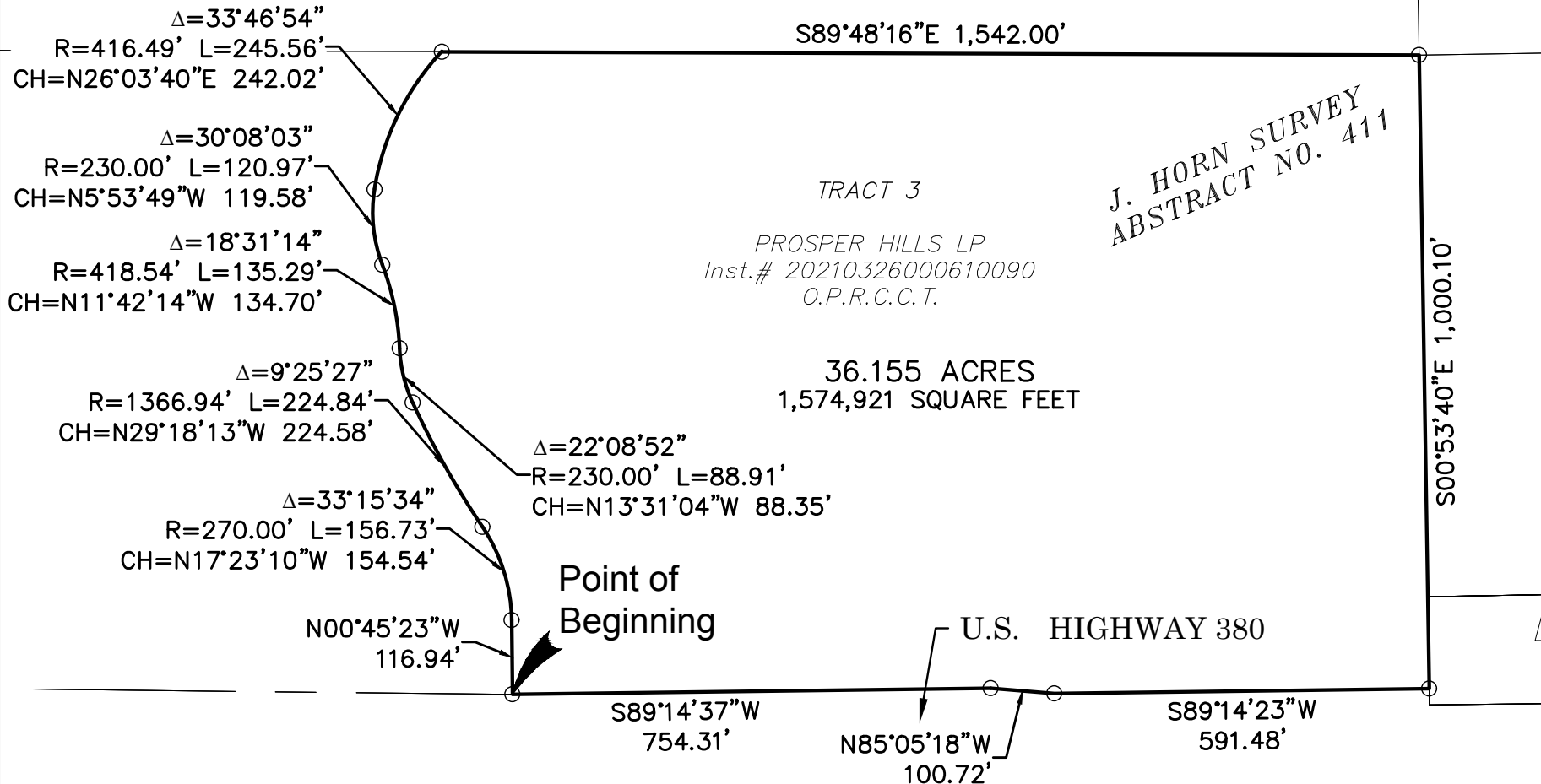
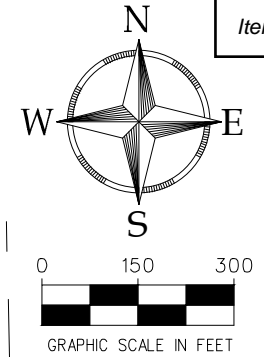
Page 103

Basis of Bearing is the Texas Coordinate System, North Central Zone 4202, NAD 83

EXHIBIT A

"Integral parts of this document"

1. Exhibit - 2 Pages



TRACT 3
ZONING DESCRIPTION OF 36.155 ACRES
J. HORN SURVEY, ABSTRACT NO. 411
CITY OF PROSPER
COLLIN COUNTY, TEXAS

Item 7.

PAGE # 1

DATE: 4/14/2022

CHECKED BY: SRAMSEY

DRAWN BY: MYOST

JOB #: LPD22001

DWG NAME: J:\JOB\LPD22001\UTRUTHERFORD_CREEK\2-SRVY\LPD22001_ZN3.DWG

PELTON
LAND SOLUTIONS
11000 FRISCO ST, SUITE 400
FRISCO, TX 75033 469-213-1600

Page 104

Basis of Bearing is the Texas Coordinate
System, North Central Zone 4202, NAD 83

EXHIBIT A

"Integral parts of this document"

1. Exhibit - 2 Pages

BEING THAT CERTAIN TRACT OF LAND SITUATED IN THE J. HORN SURVEY, ABSTRACT NO. 411, COLLIN COUNTY, TEXAS, AND BEING ALL OF A TRACT OF LAND TO PROSPER HILLS LP RECORDED IN INSTRUMENT NUMBER 20210326000610090, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID PROSPER HILLS TRACT AND BEING IN THE NORTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY 380 (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE N 00° 45' 23" W, 116.94 FEET TO THE BEGINNING OF A CURVE TO THE LEFT;

THENCE WITH SAID CURVE TO THE LEFT, AN ARC DISTANCE OF 156.73 FEET, THROUGH A CENTRAL ANGLE OF 33° 15' 34", HAVING A RADIUS OF 270.00 FEET, AND A LONG CHORD WHICH BEARS N 17° 23' 10" W, 154.54 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE WITH SAID NON-TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 224.84 FEET, THROUGH A CENTRAL ANGLE OF 09° 25' 27", HAVING A RADIUS OF 1366.94 FEET, AND A LONG CHORD WHICH BEARS N 29° 18' 13" W, 224.58 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE WITH SAID NON-TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 88.91 FEET, THROUGH A CENTRAL ANGLE OF 22° 08' 52", HAVING A RADIUS OF 230.00 FEET, AND A LONG CHORD WHICH BEARS N 13° 31' 04" W, 88.35 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT;

THENCE WITH SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 135.29 FEET, THROUGH A CENTRAL ANGLE OF 18° 31' 14", HAVING A RADIUS OF 418.54 FEET, AND A LONG CHORD WHICH BEARS N 11° 42' 14" W, 134.70 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE WITH SAID NON-TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 120.97 FEET, THROUGH A CENTRAL ANGLE OF 30° 08' 03", HAVING A RADIUS OF 230.00 FEET, AND A LONG CHORD WHICH BEARS N 05° 53' 49" W, 119.58 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE WITH SAID NON-TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 245.56 FEET, THROUGH A CENTRAL ANGLE OF 33° 46' 54", HAVING A RADIUS OF 416.49 FEET, AND A LONG CHORD WHICH BEARS N 26° 03' 40" E, 242.02 FEET;

THENCE S 89° 48' 16" E, 1542.00 FEET;

THENCE S 00° 53' 40" E, 1000.10 FEET TO SAID NORTH RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY 380;

THENCE S 89° 14' 23" W, 591.48 FEET;

THENCE N 85° 05' 18" W, 100.72 FEET;

THENCE S 89° 14' 37" W, 754.31 FEET TO THE POINT OF BEGINNING AND CONTAINING 1,574,921 SQUARE FEET OR 36.155 ACRES MORE OR LESS.

"This document was prepared under 22 Texas Administrative Code 138.95, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

TRACT 3 ZONING DESCRIPTION OF 36.155 ACRES

J. HORN SURVEY, ABSTRACT NO. 411

CITY OF PROSPER

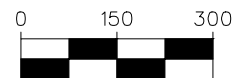
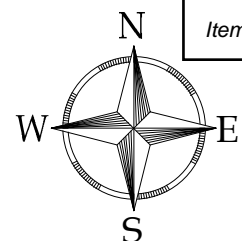
COLLIN COUNTY, TEXAS

Basis of Bearing is the Texas Coordinate System, North Central Zone 4202, NAD 83

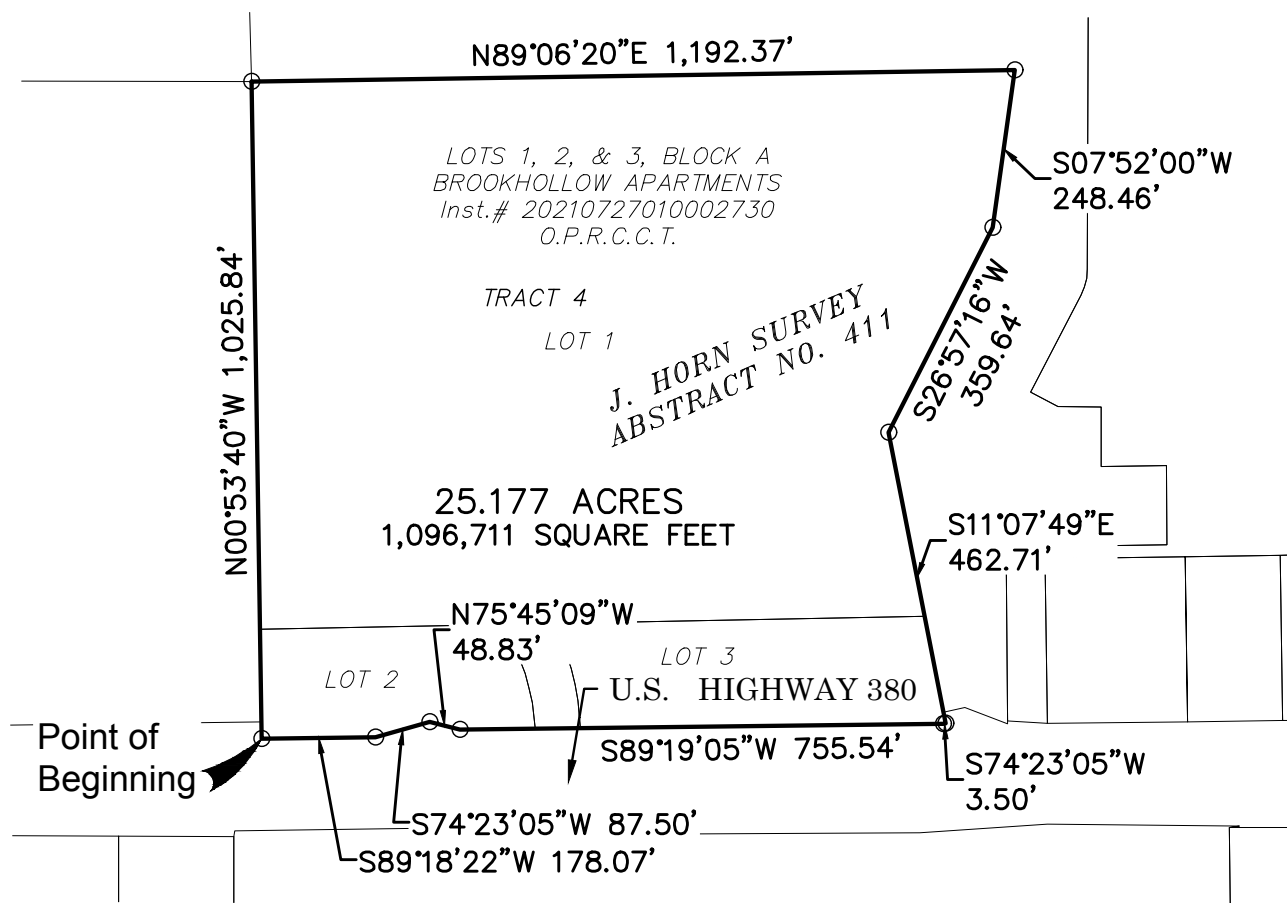
EXHIBIT A

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1. Exhibit - 2 Pages



GRAPHIC SCALE IN FEET



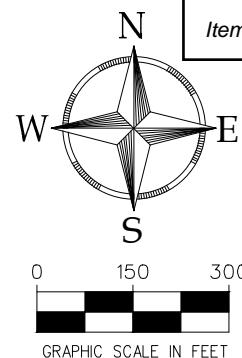
TRACT 4
ZONING DESCRIPTION OF 25.177 ACRES
J. HORN SURVEY, ABSTRACT NO. 411
CITY OF PROSPER
COLLIN COUNTY, TEXAS

Basis of Bearing is the Texas Coordinate System, North Central Zone 4202, NAD 83

EXHIBIT A

"Integral parts of this document"

1. Exhibit - 2 Pages



BEING THAT CERTAIN TRACT OF LAND SITUATED IN THE J. HORN SURVEY, ABSTRACT NO. 411, COLLIN COUNTY, TEXAS, AND BEING ALL OF A TRACT OF LAND TO BROOKHOLLOW APARTMENTS RECORDED IN INSTRUMENT NUMBER 20210727010002730, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID BROOKHOLLOW APARTMENTS TRACT AND BEING IN THE NORTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY 380 (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE N 00° 53' 40" W, 1025.84 FEET;

THENCE N 89° 06' 20" E, 1192.37 FEET;

THENCE S 07° 52' 00" W, 248.46 FEET;

THENCE S 26° 57' 16" W, 359.64 FEET;

THENCE S 11° 07' 49" E, 462.71 FEET TO SAID NORTH RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY 380;

THENCE S 74° 23' 05" W, 3.50 FEET;

THENCE S 89° 19' 05" W, 755.54 FEET;

THENCE N 75° 45' 09" W, 48.83 FEET;

THENCE S 74° 23' 05" W, 87.50 FEET;

THENCE S 89° 18' 22" W, 178.07 FEET TO THE POINT OF BEGINNING AND CONTAINING 1,096,711 SQUARE FEET OR 25.177 ACRES MORE OR LESS.

"This document was prepared under 22 Texas Administrative Code 138.95, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

TRACT 4 ZONING DESCRIPTION OF 25.177 ACRES

J. HORN SURVEY, ABSTRACT NO. 411
CITY OF PROSPER
COLLIN COUNTY, TEXAS



EXHIBIT “B”**STATEMENT OF INTENT AND PURPOSE**

The purpose of this submittal is to rezone the remaining single-family components of PD-86 to accommodate a high-quality, gated, single-family neighborhood with a design that takes advantage of the trees, creeks, and rolling topography. The subdivision design utilizes a spine road to define the boundary between custom homes on the larger lots and upper end production homes located on smaller lots. The PD also restates the development standards for the mixed-use component of PD-86 while prohibiting certain deed restricted uses. While a vast majority of the base development standards contained within PD-86 have been carried over to this new PD, modifications include:

Residential (Tract 1)

- Redistributing and redefining the residential density and lot sizes currently permitted in PD-86 by restricting the existing minimum lot sizes of 7,000 square feet and 9,000 square feet to the production home area located south and east of the spine road and requiring the lots in the custom home area located north and west of the spine road to be a minimum of at least 15,000 square feet;
- Establishing two levels of architectural design standards – one for the production home area located east of the spine road and one for the custom home area located west of the spine road;
- Allowing lots to back to Rutherford Branch in accordance with the concept plan; and
- Restating all current applicable development standards.

Mixed-Use (Tracts 2, 3, and 4)

- Creating three mixed-use tracts that are reflective of current property ownership;
- Restating all current applicable development standards applicable to Tracts 2, 3, and 4;
- Prohibiting the development of multi-family residential and single-family residential uses in Tract 3 (townhomes and commercial uses remain as permitted uses) to be consistent with deed restrictions; and
- Prohibiting the development of townhome and single-family residential uses in Tract 4 (multi-family and commercial uses remain as permitted uses) to be consistent with deed restrictions.

EXHIBIT “C”**DEVELOPMENT STANDARDS****Single-Family Residential Tract 1 (169.8+ acres)**

1. General Description. The development standards set forth for the Single-Family Residential Tract of this Planned Development District are intended to guide the development of a gated neighborhood with private streets containing custom single-family residential homes on the west side of the spine road and upper end production homes on the east side of the spine road. Development standards for these housing types are outlined below. Unless otherwise specified below, the Single-Family Residential Tract shall develop under the standards contained in the Town’s Zoning Ordinance, as it exists or may be amended.

2. Allowed Uses. Land uses permitted within the Single-Family Residential Tract 1 are as follows:
 - a. Accessory buildings incidental to the allowed use and constructed of the same materials as the main structure.
 - b. Churches / rectories
 - c. Civic facilities
 - d. Electronic security facilities, including gatehouses and control counter
 - e. Fire stations and public safety facilities
 - f. Gated communities with private streets (developed to Town Standards)
 - g. Private Recreation Center/Amenity Center
 - h. Public or Private Parks, playgrounds and neighborhood recreation facilities including, but not limited to, swimming pools, clubhouse facilities and tennis courts, to be stated on plat
 - i. Single family residential uses as described herein
 - j. Schools – public or private
 - k. Golf Course for Country Club (including clubhouse, maintenance facilities, on- course food and beverage structure, and on course restroom facilities.)
 - l. 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.
 - m. Temporary buildings of the builders and uses incidental to construction work on the premises, which shall be removed upon completion of such work.
 - n. Utility distribution lines and facilities.
 - o. Other uses as permitted in the SF-10 District.

3. Lot Types. Type A, B, an C lots may be developed within the Single-Family Residential Tract. The development standards for the Type A, B, and C lots are listed below.

	<u>Type A</u>	<u>Type B</u>	<u>Type C</u>
Minimum Lot Area (sq ft)	15,000	9,000	7,000
Maximum Lot/Building Coverage (%)	50	50	60

Minimum Lot Width (ft)	80	70	55
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Note: The minimum width of any lot shall not be less than as shown in the following table as measured at the front building line of the lot, except that lots at the terminus of a cul-de-sac or along street elbows/eyebrows may reduce the minimum width by 10 feet as measured along the arc at the front building line; provided all other requirements of this section are fulfilled.

Minimum Lot Depth (ft)	125	125	125
Minimum Front Yard (ft)	25	20	20

Note: The minimum front yard may be reduced by ten feet in the following circumstances provided the minimum front yard is no less than 15 feet.

1. For an outside swing-in garage provided the wall of the garage that faces the street contains a glass pane window with a minimum size of three feet by five feet and the height of the garage does not exceed one story; or
2. For a non-enclosed porch, stoop, or balcony, or an architectural feature, such as bay window without floor area or chimney; or
3. For a non-enclosed porch and the main structure provided:
 - a. The height of the main structure does not exceed one story;
 - b. The porch has a minimum dimension of seven feet in depth measured from stud to the front edge of the porch floor and a minimum width of 20 feet; and
 - c. The minimum front yard for a front entry garage is increased one foot for every one foot the minimum front yard for the main structure is reduced.

Note: Staggered lot setbacks are not required.

Minimum Side Yard (ft)	7	7	5
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Note: The side yard for all corner lots shall be a minimum of 15 feet. Single-family detached lots shall not side to First Street or Custer Road.

Minimum Rear Yard (ft)	20	20	20
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Note: The minimum depth of the rear yard shall be twenty feet for all lots, except that lots with "C-shaped" houses, such house configurations enclosing a courtyard space, may have a rear yard of ten feet.

Maximum Building Height	2½ stories not to exceed 45 feet		
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Note: Chimneys, antennas and other such architectural projections not used for human occupancy may extend above this height limit.

Minimum Dwelling Area (sq ft)	3,500	2,500	2,200
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4. Location and Maximum Number of Lot Types. All lots located north and west of the spine road as depicted on Exhibit D shall be developed to Type A standards. A maximum of 105 Type B lots and 145 Type C lots are permitted south and east of the spine road as depicted on Exhibit D. The overall density of Tract 1 shall not exceed 3.0 units per acre.
5. Architectural Standards.
 - a. The architectural standards contained in Exhibit C-1 are applicable to all lots located west of the spine road.
 - b. The architectural standards contained in Exhibit C-2 are applicable to all lots located east of the spine road.
6. General Conditions. Other general development requirements and standards for the Single-Family Residential Tract include the following.
 - a. Required Parking: A minimum of four (4) off-street concrete parking spaces shall be

provided for each residential unit, except townhouses where no off-street parking is required. As part of the parking requirement, at least two (2) of the off-street parking spaces shall be in an enclosed garage of at least four hundred (400) square feet. The parking of recreational vehicles, sports vehicles, boats and/or trailers on a lot facing a street is prohibited. For purposes of this Ordinance, “recreational vehicle” means any mobile unit (motorized or under tow) designed, converted, or modified for use as a sleeping, cooking, gathering, or any use other than human transport and material transport typically associated with a car, sport utility vehicle, or pick-up truck, and “sports vehicle” means a vehicle designed for or modified for off-road or other recreational use, which is not a standard car, sport utility vehicle or pick-up.

- b. Screening and Buffering: Lots backing to the central spine road shall be screened by a combination of trees, shrubs and a screening fence or wall located within a fifteen (15) foot landscape edge. All turf and landscaping areas will be irrigated. Screening fences shall be black tubular steel and walls shall be of double-faced brick or stone construction. Screening walls consisting of thin-wall brick shall not be allowed. Trees and shrubs shall be provided in accordance with the requirements of the Town’s Subdivision Ordinance, as it exists or may be amended.
- c. Concept Plan: A Concept Plan is hereby attached as Exhibit “D” and made a part of the ordinance. It establishes the most general guidelines for the district by conceptually illustrating the project boundaries, land use types, approximate thoroughfare locations, R.O.W. dedications, roads, parks, and open space. Dimensions and acreages shown on Exhibit “D” are approximations and may be modified at the time of final platting.

Minor deviations to the Concept Plan are permitted without amending this Ordinance provided that the Concept Plan still meets the purpose and intent of this Ordinance. The following changes are not considered major deviations from the Preliminary Plan:

- i. Changes that do not alter the basic relationship of the proposed development to adjacent properties;
- ii. Changes that retain the character of the development;
- iii. Changes to the roadway plan that do not significantly deviate connections to adjacent properties or the adjacent major thoroughfares;
- iv. Changes that do not degrade vehicle access and traffic circulation, pedestrian access and safety, emergency services provision, utility system effectiveness, drainage, and tree protection;
- v. Changes that do not increase the density, setbacks, height, or coverage of the site; and/or
- vi. Changes that are made to accommodate engineering considerations such as drainage, tree preservation, utility system configuration, or franchise utility infrastructure.

Major changes in the Concept Plan shall be considered the same as amendments to the Zoning Ordinance and shall be processed accordingly.

- d. Streets: The residential streets shall consist of a fifty-foot-wide right-of-way with a thirty-one-foot paving section; and drainage systems, which shall be incorporated into the street facility with concrete paving and mountable curbs. In neighborhoods where lots are alley-served, residential streets shall consist of a fifty-foot-wide right-of-way with a thirty-one-foot paving section; and drainage systems, which shall be incorporated into the street facility with concrete paving and mountable curbs. Entry streets shall be designed within a sixty-foot-wide right-of-way. The paved section for these streets shall be concrete paving thirty-one feet wide, except for the potential widening to accommodate traffic at intersections with major thoroughfares.
- e. Sidewalks: Opposed to constructing sidewalks along both side of the spine road, a single, eight-foot-wide sidewalk (meandering where possible) may be constructed. All other sidewalks shall be located and constructed in accordance with Town standards.
- f. Landscaping
 - i. Front Yard: A minimum of two four-inch caliper trees, measured at twelve inches above the root ball, shall be planted in the front yard of each residential lot. The required trees will typically be planted by the builder at the time of house construction and must be installed prior to the issuance of the certificate of occupancy for that lot and house. If pre-existing trees on the lot remain in a healthy and vigorous condition after the completion of construction on the lot, and such trees meet the caliper-inch requirement, this requirement may be waived by the Town Building Official.
 - ii. Side Yard adjacent to a Street: Two canopy trees as specified on the landscape plan, with a minimum caliper of four inches each as measured twelve inches above the root ball, shall be 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 trees will typically be planted by the builder at the time of house construction and must be installed prior to the issuance of the certificate of occupancy for that lot and house.
 - iii. Side Yard: Side yard landscaping is required on each side yard adjacent to Collector Streets within the development. Such landscaping shall include trees, shrubs, turf grass and earthen berms. Landscape beds in the yard space that abuts a street shall be limited to, and extend from, the house perimeter and walkways. Such beds shall have natural shapes. The intent of this guideline is to reinforce the continuity of the street with planting beds that visually reinforce the street edge rather than the lot. Therefore, floating beds in the yard space are prohibited. Such planting beds must run parallel to the street and create natural shapes that respond to the required trees (described above).
- g. Park Dedication Requirements: Unless modified by a development agreement with the Town, the development of Tract 1 shall provide for a dedication of a minimum of five percent (5%) of the gross platted acreage or one acre per 35 residential units, whichever is greater, to the Town for park purposes, including, but not limited to, neighborhood parks, linear parks, hike and bike trails, pocket parks, water features, creeks and natural preserve

areas, or other purposes as determined by the Park and Recreation Board. This requirement may also be fulfilled through the payment of park dedication fees in accordance with the Town's Subdivision Ordinance subject to approval of the Parks and Recreation Board and/or Town Council. All other aspects of park dedication shall comply with the Subdivision Ordinance as it presently exists or may be amended, unless modified by a development agreement with the Town. Any property dedicated in excess of the minimum five percent (5%) requirement in a development phase may be credited towards the park dedication requirements of future phases of development within this Planned Development subject to approval of the Parks and Recreation Board and/or Town Council.

- h. Mechanical Equipment: All mechanical equipment (pool, air conditioning, solar collectors, etc.) must be completely screened from public view. A combination of screens, hedges, or walls should be used to screen equipment or mechanical areas.
- i. Adjacency to Major Creeks, Floodplains, and Open Space: Development within the Single-Family Residential Tract shall not be required to comply with the creek frontage requirements contained within Section 10.03.146 of the Town's current Subdivision Ordinance. In addition, 100-year floodplain may be platted within single family lots. However, any floodplain contained within a single-family lot shall be designated on the final plat as an HOA Drainage, Floodway, and No-Build Easement to indicate that no dwelling unit or any other structure that may obstruct the natural flow of storm water may be constructed within the floodplain. General maintenance of vegetation and removal of ordinary trash and debris located within the HOA Drainage, Floodway, and No-Build Easement shall be the responsibility of the lot owner. The HOA shall keep the HOA Drainage, Floodway, and No-Build Easement clean and free of large debris that would obstruct the flow of water.

Mixed-Use Tract 2 (24.8+ acres), Tract 3 (36.2+ acres), and Tract 4 (25.2+ acres)

1. General Description: The mixed-use area (shown as Tracts 2, 3, and 4 on Exhibit D) of this Planned Development allows the development of both residential and non-residential land uses. The residential land uses are intended to supply higher density housing types to provide a buffer between the less intense residential development and U.S Highway 380 and more intense retail and commercial land uses. Non-residential land uses such as office, retail, restaurant, service, and/or commercial uses are intended to supply and serve the surrounding and nearby residential areas. Specifically, Tract 2 is limited to the development of office, retail, restaurant, service, and/or commercial uses; Tract 3 allows for the development of townhouse, office, retail, restaurant, service, and/or commercial uses; and Tract 4 allows for the development of multi-family residential, office, retail, restaurant, service, and/or commercial uses. Development standards for Tracts 2, 3, and 4 are listed below.
2. Townhouse Uses: Townhouse units shall be allowed within Tract 3. A maximum of ten units per gross acre of land shall be allowed within the mixed-use area up to a maximum of 250 townhouse units. If portions of the designated mixed-use area are developed with townhouse residential housing types, they shall be developed in accordance with the following requirements.
 - a. Exterior Façade Building Materials: All buildings within a townhouse development shall have an exterior finish of stone, stucco, brick, tile, concrete, glass, exterior

wood or similar materials or any combination thereof. The use of wood as a primary exterior building material shall be limited to a maximum of fifteen percent of the total exterior wall surfaces.

- b. Controlled Access: All townhouse developments that contain limited gated access shall locate all gate controls, card pads and intercom boxes in driveway islands in a manner that provides a minimum of one hundred feet of stacking distance from the gate. Such driveway islands shall also contain a break that allows for vehicular u-turn movements back onto a public street.
- c. Open Space Requirements: Each lot or parcel developed for townhouse uses shall provide useable open space equal to twenty percent of the total townhouse acreage.
- d. Residential development intensity: Development intensity shall be in accordance with the following table:

Development Requirement	Townhouse
Max. Gross Density	10.0 du/ac
Min. Lot Area	800 sq. ft.
Min. Lot Width	20'
Min. Lot Depth	40'
Min. Front Setback	0'
Min. Rear Setback	0'
Min. Side Setback (interior lot)	0'
Min. Side Setback (corner lot)	0'
Min. Side Setback (key lot)	n/a
Max. Lot Coverage	100%
Min. Floor Area / Dwelling Unit	1,200 sq. ft.
Max. Building Height / No. of stories*	48' / 3

* Maximum height of any building within sixty feet of a detached residential use shall be thirty-six feet and two stories.

- 3. **Multifamily Uses**: Multi-family units shall be allowed within Tract 4. A maximum of fifteen units per gross acre of land shall be allowed up to a maximum of 300 multi-family units within the mixed-use area. If portions of the designated mixed-use area are developed with multi-family residential housing types, they shall be developed in accordance with the following requirements.

- a. Required Parking: Parking requirements for multi-family development shall be one and one-half spaces per one-bedroom unit, two spaces per two-bedroom unit, two and one-half spaces per three-bedroom unit and one-half space per each additional bedroom per unit. The total required number of spaces for any multi-family development shall not be less than 1.8 spaces per dwelling unit.
- b. Exterior Façade Building Materials: All buildings within a multi-family development shall have an exterior finish of stone, stucco, brick, tile, concrete, glass, exterior wood or similar materials or any combination thereof. The use of wood as a primary exterior building material shall be limited to a maximum of

fifteen percent of the total exterior wall surfaces.

- c. Controlled Access: All multi-family developments that contain limited gated access shall locate all gate controls, card pads and intercom boxes in driveway islands in a manner that provides a minimum of one hundred feet of stacking distance from the gate. Such driveway islands shall also contain a break that allows for vehicular U-turn movements back onto a public street.
- d. Open Space Requirements: Each lot or parcel developed for multi-family uses shall provide useable open space, as defined in the Town's Zoning Ordinance, equal to thirty percent of the total multifamily acreage.
- e. Residential development intensity: Development intensity shall be in accordance with the following table:

Development Requirement	Multi-family
Max. Gross Density	15.0 du/ac
Min. Lot Area	10,000 sq.
Min. Lot Width	80'
Min. Lot Depth	120'
Min. Front Setback	25' ^b
Min. Rear Setback	15' ^b
Min. Side Setback (interior lot)	15'
Min. Side Setback (corner lot)	25' ^b
Min. Side Setback (key lot)	n/a
Max. Lot Coverage	50%
Min. Floor Area / Dwelling Unit	650 sq. ft.
Max. Building Height / No. of stories*	48' / 3

* Maximum height of any building within sixty feet of a detached residential use shall be thirty-six feet and two stories.

4. Non-residential uses

1. Allowed Uses: Non-residential land uses allowed within the mixed-use area are uses that are permitted in the Neighborhood Service, Office, and Commercial Corridor districts, listed in the Town's Zoning Ordinance. Additional allowed uses include the following:
 - Drug Stores/Pharmacies.
 - Duplicating Centers, Mailing Services, Etc.
 - Financial Institutions.
 - Independent Living Facilities.
 - Laboratory, Medical and Dental.
 - Nursing Homes.
 - Post Office Facilities.
 - Research and Development Center.
 - Winery.
 - Optical Stores – Sales and Services.
 - Mini-Warehouses Shall be allowed by SUP.

2. Required Parking: The total parking required shall be the sum of the specific parking space requirement for each use included within the mixed- use area as required by the Town's Zoning Ordinance.
3. Exterior Façade Building Materials: All main buildings shall have an exterior finish of stone, stucco, brick, tile, concrete, glass, exterior wood or similar materials or any combination thereof. The use of wood as a primary exterior building material shall be limited to a maximum of twenty percent of the total exterior wall surfaces.
4. Commercial development intensity: Development intensity for non- residential land uses shall be as follows:
 - i. Floor Area: The allowable floor area of buildings within the mixed-use area shall be unlimited, provided that all conditions described herein are met.
 - ii. Lot Area: The minimum lot area shall be 10,000 square feet.
 - iii. Lot Coverage: In no case shall the combined areas of the main buildings and accessory buildings cover more than 50% of the total lot area. Parking facilities shall be excluded from lot coverage computation.
 - iv. Lot Width: The minimum width of any lot shall be fifty feet.
 - v. Lot Depth: The minimum depth of any lot shall be ninety feet.
 - vi. Front Yard: The minimum depth of the front yard shall be thirty feet.
 - vii. Side Yard: No side yard is required unless vehicular access is provided/required, in which case the side yard shall have a depth of not less than twelve feet. A twenty-four-foot side yard shall be provided where fire lane access is required and wherever a vehicular access/fire lane easement is not available on the adjoining property. A fifty-foot side yard is required adjacent to property zoned for single-family residential uses.
 - viii. Rear Yard: No rear yard is required unless vehicular access is provided/required, in which case the rear yard shall have a depth of not less than twelve feet. A twenty-four-foot rear yard shall be provided where fire lane access is required and wherever a vehicular access/fire lane easement is not available on the adjoining property. A fifty-foot rear yard is required adjacent to property zoned for single-family residential uses.
 - ix. Building Height: Buildings shall be a maximum of two stories, not to exceed forty feet in height. Non-residential buildings may exceed this restriction provided that one additional foot shall be added to any required setback from detached residential properties for each foot that such structures exceed forty feet. Non-residential buildings may exceed this restriction using such one-to-one ratio for a total maximum height of eight stories not to exceed one hundred feet. Chimneys, antennas and other such architectural projections may extend above this height limit.

- x. Open Space Requirement for Non-Residential Uses: A minimum of ten percent of the net lot area shall be developed and maintained as landscaped open space. Landscaped open space shall not include areas specifically used for vehicular access and parking.

5. General Conditions

- a. Conformance to All Applicable Articles of the Town of Prosper Zoning Ordinance: Except as amended herein, this Planned Development District shall conform to applicable articles and sections of ordinances and regulations of the Town of Prosper, including the Town's Zoning Ordinance and the Town's Subdivision Ordinance, as they exist or may be amended. All rights-of-way as specified in the Town's Transportation Plan will be deeded to the Town at the time of development with the Final Plat.
- b. Outdoor Storage and Display Areas: Outdoor storage or/and display of any retail material will be allowed as accessory use only and screened in compliance with the Town's Zoning Ordinance as it exists or may be amended.
- c. Buffering Adjacent to Major Thoroughfares: Irrigated landscape buffer zones will be provided along major thoroughfares in conformance with the Town of Prosper Zoning and Subdivision Ordinances.
- d. Screening and Buffering Adjacent to Residential Lots: A six-foot masonry screen wall shall be installed along the length of the common boundary line between the retail and residential components of this PD. Within such wall and for a minimum depth of fifteen feet shall be an irrigated landscaped buffer zone including turf grass and three-inch caliper trees planted on thirty-foot centers. No more than 45% of such trees shall be of the same species. Alternate screening scenarios may be approved by the Planning and Zoning Commission with their approval of a Site Plan
- e. Concept Plan: A Concept Plan is hereby attached as Exhibit D and made a part of the ordinance. It establishes the most general guidelines for the district by identifying the project boundaries, land use types, approximate thoroughfare locations, R.O.W. dedications, roads, trails, drainage, all easements and illustrates the integration of these elements into a master plan for the whole district. Dimensions and acreages shown on Exhibit D are approximations and may be modified at the time of final platting.
- f. Street Intersection with Major Thoroughfares: Median openings, turn lanes and driveway locations along Custer Road and University Drive (U.S. 380) shall be subject to the TxDOT review process as required.
- g. Screening of Mechanical Equipment: All mechanical equipment located on the ground and/or rooftops including fans, vents, air conditioning units and cooling towers shall be screened so as not to be visible from the property lines at ground level or from the second story of adjacent single-family detached development. Screening may be accomplished through the use of plant materials, berming or fencing. The list of approved plant materials for such purpose shall be included in the deed restrictions filed on this project. Fencing shall be finished in a material similar to and/or painted a color similar to the building façade, trim, or roof surface.

EXHIBIT "C-1"

ARCHITECTURAL DESIGN STANDARDS FOR SINGLE-FAMILY WEST

1. ARCHITECTURE:

The exterior of homes shall be designed to be reflective of a traditional architectural style such as French Country or Provincial, English Cottage, Colonial, Tudor, Tuscan, Texas Hill Country/Texas Tuscan, Mediterranean, or Spanish. Transitional interpretations of the aforementioned architectural styles will also be permitted. Modern architecture is prohibited. While a variety of architectural styles are permitted, architectural continuity shall be provided through traditional architectural style and the use of complementary materials, as well as architectural diversity through variation of hip and gable roofs, roof pitch, building offsets, garage entrances, garage sizes, etc. While each home should complement adjacent structures, every home should have a unique identity through the use of detailing such as cast stone, wrought iron, window treatments, dormers, turrets, flat work, tree placement, brick details, natural stone, combining brick and natural stone, gas lights, landscape illumination, etc. Use of features such as the use of wood timbers, finials, decorative cornices, copper vents, cast stone decorative features, paint grip sheet metal, copper guttering and European architectural details shall be used to individualize each residence.

2. EXTERIOR MATERIALS & DETAILING:

- 2.1. With the exception of dormers and Mediterranean or Spanish style homes constructed of stucco, exterior materials shall be 100% masonry (brick, stone, and cast stone) on all walls visible from any street and 80% masonry on each individual non-visible side and rear elevations. All exposed portions of the fire breast, flu and chimney shall be clad in brick, stone or brick and stone, matching the materials used on the residence. With the exception of Transitional homes, all window headers and sills which are visible from the street or common areas shall be constructed of cast stone, natural stone, decorative shaped brick or a combination thereof. All windows will have a least 6" of exterior material between the header and fascia board. No Exterior Insulation and Finish Systems (E.I.F.S.) are permitted on any exterior elevation or chimney.
- 2.2. The entire structure shall be guttered with downspouts. All gutter and downspouts on the front of the house and any side that faces a street or common area shall be molded form of smooth round material. Gutters shall not drain across property lines.
- 2.3. All windows visible from streets and publicly accessible open space shall be casement divided lite windows.
- 2.4. Each structure shall have a minimum principal plate height of 10 feet on the first floor and a minimum plate height of 9 feet on garages.
- 2.5. A uniform house number style, house number locations, and mailbox style will be selected by the developer and implemented by the homebuilders.

- 2.6. Stone selections shall be either Granbury, Millsap, Leuders, Limestone, Auston Chalk, or similar as approved by the developer.
- 2.7. Cast Stone shall be light brown, white or cream in color with or without pitting.
- 2.8. Electrical meters shall be screened from the view of the street or common areas by solid fencing or landscape material.

3. ROOFING:

- 3.1. All roofs for French Country / European architectural style homes shall have a minimum slope of 12:12 roof pitch on any front and side visible from a street or a common area and a minimum slope of 8:12 roof pitch for rear and sides not visible from a street or a common area. Roof sections of less pitch are permitted for Texas Tuscan / Texas Hill Country and Transitional architectural style homes. Satellite Dishes shall not be installed in locations visible from the street, common areas or other residences. Solar Collectors, if used, must be integrated into the building design and constructed of materials that minimize their visual impact.
- 3.2. Roof material shall be standing seam copper, approved standing seam metal, natural slate shingles, imitation slate shingles, clay or concrete tile, or composition 30-year laminated shingles.
- 3.3. Roof forms shall be limited to gables, hip, Dutch hip or gable, or shed (in conjunction with Texas Hill Country homes).

4. WALLS / FENCING / SCREENING:

- 4.1. The following fence requirements are applicable to single-family lots.
 - a. Front: Fences extending across the front side yard from the home to the side property line shall be a six-foot (6') black wrought iron or tubular steel fence. Masonry wing walls may also be used. Where the front yard fence intersects with the side yard fence, a decorative metal corner column shall be constructed. The height of the corner column shall be twelve (12) to eighteen (18) inches greater than the fence and the width of the corner column shall be ten (10) to twelve (12) inches.
 - b. Side: Fences constructed along side property lines between lots shall be board-on-board, stained, and weather-treated with steel posts and be a minimum of six-foot (6') in height. However, a six-foot (6') length of black wrought iron or tubular steel fence shall be constructed to serve as a transition between the side yard wood fence and a wrought iron or tubular steel fence constructed across the front side yard or along the rear property line.

For corner lots, a side yard fence located adjacent to the street shall be a six-foot (6') black wrought iron or tubular steel fence. Additionally, to provide a living screen with a minimum height of six feet (6') within two (2) growing seasons, minimum five (5) gallon shrubs shall be generally planted on five (5) foot centers along the entire length of the side yard fence. Shrubs shall be selected from the following or similar species: Nellie R. Stevens Holly, Savannah Holly, Wax Myrtle, Wax Leaf Privet/Ligustrum, Photinia, or Elaeagnus.

- c. Rear: Where a rear yard of one lot abuts the rear yard of another lot, fences shall be board-on-board, stained, and weather-treated with steel posts and be a minimum of six-foot (6')

in height. Where lots back to streets, no fence shall be constructed parallel to a wrought iron or tubular steel fencing along the rear of the lot.

- d. Fencing Adjacent to Parks, HOA Open Space, and/or Hike and Bike Trails: Where lots side or back to parks, HOA open space, and/or hike and bike trails, fencing abutting the park, HOA open space, and/or hike and bike trail shall be a four-foot (4') black wrought iron or tubular steel fence. The design of the fence shall be selected by the developer and implemented by the homebuilders.
 - e. Fence Height Transitions: Where side yard fences intersect with front or rear yard fences, fences of different heights shall be transitioned so that the fences are the same height where the fences intersect.
- 4.3. Equipment, air conditioning compressors, service yards, storage piles, woodpiles, garbage receptacles, and similar items must be visually screened from streets, alleys, common areas and neighboring lots by solid screening walls that match the residence material, a redwood or cedar fence, or landscaping.
- 4.4. Retaining walls built or abutting front yards, side yards facing a greenbelt, or rear yards within a greenbelt shall be constructed of mortar-jointed brick matching the residence or mortar-jointed Millsap stone. For retaining walls in other locations, concrete and rock shall be allowed.

5. **GARAGES / DRIVEWAYS / WALKWAYS:**

All front entry driveways and sidewalks and steps leading from the public sidewalk or front driveway to the front door shall be constructed of brick pavers, stone, interlocking pavers, exposed aggregate with brick or stone borders, or stamped or salt finished concrete with brick or stone borders.

6. **EXTERIOR LIGHTING:**

Each required tree shall be down lighted with a minimum of two landscape illumination fixtures connected to an electric eye photocell. In addition, all garage doors must have one exterior light per parking space. All front entrances must have no less than one down light and a minimum of one bracket light beside each front entrance. All entrance down lights and all entrance bracket lights shall be controlled by electric eye photocells, and kept in working order at all times. All required tree lights, garage door lights, entrance down lights and entrance bracket lights shall illuminate at dusk and shall remain illuminated until sunrise.

7. **TREES:**

Landscape requirements shall include a minimum of two 4" caliper live oaks or red oaks in the front yard. Any lot with more than 70 feet of frontage to adjacent streets and park will require no less than one 5" caliper live oak or red oak tree for every 35' of street and park frontage (or portion thereof) on each lot. For example, 80 feet of frontage would require 3 trees.

EXHIBIT “C-2”**ARCHITECTURAL DESIGN STANDARDS FOR SINGLE-FAMILY EAST****1. ARCHITECTURE:**

Architectural continuity is to be provided through traditional architectural style and the use of complementary materials, as well as architectural diversity through variation of hip and gable roofs, roof pitch, building offsets, garage entrances, garage sizes, etc. While each home should complement adjacent structures, every home should have a unique identity through the use of detailing such as cast stone, wrought iron, window treatments, dormers, turrets, flat work, tree placement, brick details, natural stone, combining brick and natural stone, gas lights, landscape illumination, etc.

2. EXTERIOR MATERIALS & DETAILING:

- 2.1. With the execution of dormers and stucco homes, exterior materials shall be 100% masonry (brick, cast stone and stone) on all walls facing any street, and 80% masonry on each (not cumulative) remaining side and rear elevations. All exposed portions of the fire breast, flu and chimney shall be clad in brick, stone, brick and stone or stucco. No Exterior Insulation and Finish Systems (E.I.F.S.) are permitted on any exterior elevation or chimney.
- 2.2. The entire structure shall be guttered with downspouts. Gutters shall not drain across property lines.
- 2.3. Each structure shall have a minimum principal plate height of 10 feet on the first floor and a minimum plate height of 9 feet on garages.
- 2.4. A uniform house number style, house number locations, and mailbox style will be selected by the developer and implemented by the homebuilders.
- 2.5. Stone selections shall be either Granbury, Millsap, Leuders, Limestone, Auston Chalk, or similar as approved by the developer.
- 2.6. Cast Stone shall be light brown, white or cream in color with or without pitting.
- 2.7. Electrical meters shall be screened from the view of the street or common areas by solid fencing or landscape material.

3. ROOFING:

- 3.1. All roofs shall have a minimum slope of 10:12 roof pitch on any side visible from a street or a common area and a minimum slope of 8:12 roof pitch for rear and sides not visible from a street or a common area. Roof sections of less pitch are permitted for Texas Tuscan / Texas Hill Country and Transitional architectural style homes. Satellite Dishes shall not be installed in locations visible from the street, common areas or other residences. Solar Collectors, if used, must be integrated into the building design and constructed of materials that minimize their visual impact.
- 3.2. Roof material shall be standing seam copper, approved standing seam metal, natural slate shingles, imitation slate shingles, clay tile, or composition 30-year laminated shingles.
- 3.3. Roof forms shall be limited to gables, hip, Dutch hip or gable, or shed (in conjunction with Texas Hill Country homes).

4. WALLS / FENCING / SCREENING:

4.1. The following fence requirements are applicable to single-family lots.

- a. Front: Fences extending across the front side yard from the home to the side property line shall be a six-foot (6') black wrought iron or tubular steel fence. Masonry wing walls may also be used. Where the front yard fence intersects with the side yard fence, a decorative metal corner column shall be constructed. The height of the corner column shall be twelve (12) to eighteen (18) inches greater than the fence and the width of the corner column shall be ten (10) to twelve (12) inches.
- b. Side: Fences constructed along side property lines between lots shall be board-on-board, stained, and weather-treated with steel posts and be a minimum of six-foot (6') in height. However, a six-foot (6') length of black wrought iron or tubular steel fence shall be constructed to serve as a transition between the side yard wood fence and a wrought iron or tubular steel fence constructed across the front side yard or along the rear property line.

For corner lots, a side yard fence located adjacent to the street shall be a six-foot (6') black wrought iron or tubular steel fence. Additionally, to provide a living screen with a minimum height of six feet (6') within two (2) growing seasons, minimum five (5) gallon shrubs shall be generally planted on five (5) foot centers along the entire length of the side yard fence. Shrubs shall be selected from the following or similar species: Nellie R. Stevens Holly, Savannah Holly, Wax Myrtle, Wax Leaf Privet/Ligustrum, Photinia, or Elaeagnus.

- c. Rear: Where a rear yard of one lot abuts the rear yard of another lot, fences shall be board-on-board, stained, and weather-treated with steel posts and be a minimum of six-foot (6') in height. Where lots back to streets, no fence shall be constructed parallel to a wrought iron or tubular steel fencing along the rear of the lot.
- d. Fencing Adjacent to Parks, HOA Open Space, and/or Hike and Bike Trails: Where lots side or back to parks, HOA open space, and/or hike and bike trails, fencing abutting the park, HOA open space, and/or hike and bike trail shall be a four-foot (4') black wrought iron or tubular steel fence. The design of the fence shall be selected by the developer and implemented by the homebuilders.
- e. Fence Height Transitions: Where side yard fences intersect with front or rear yard fences, fences of different heights shall be transitioned so that the fences are the same height where the fences intersect.

4.3. Equipment, air conditioning compressors, service yards, storage piles, woodpiles, garbage receptacles, and similar items must be visually screened from streets, alleys, common areas and neighboring lots by solid screening walls that match the residence material, a redwood or cedar fence, or landscaping.

4.4. Retaining walls built or abutting front yards, side yards facing a greenbelt, or rear yards within a greenbelt shall be constructed of mortar-jointed brick matching the residence, or mortar-jointed Millsap stone. For retaining walls in other locations, concrete and rock shall be allowed.

3. GARAGES / DRIVEWAYS / WALKWAYS:

All front entry driveways and sidewalks and steps leading from the public sidewalk or front driveway to the front door shall be constructed of brick pavers, stone, interlocking pavers, exposed aggregate, or stamped or broom finished concrete with brick or stone borders.

4. EXTERIOR LIGHTING:

All front entrances must have no less than one down light and a minimum of one bracket light beside each front entrance.

5. TREES:

Landscape requirements shall include a minimum of two 4" caliper live oaks or red oaks in the front yard. In addition to the 2 required front yard trees, a minimum of two 4" caliper live oaks or red oaks shall be planted in each side yard space that abuts a street.

EXHIBIT "D"
CONCEPT PLAN

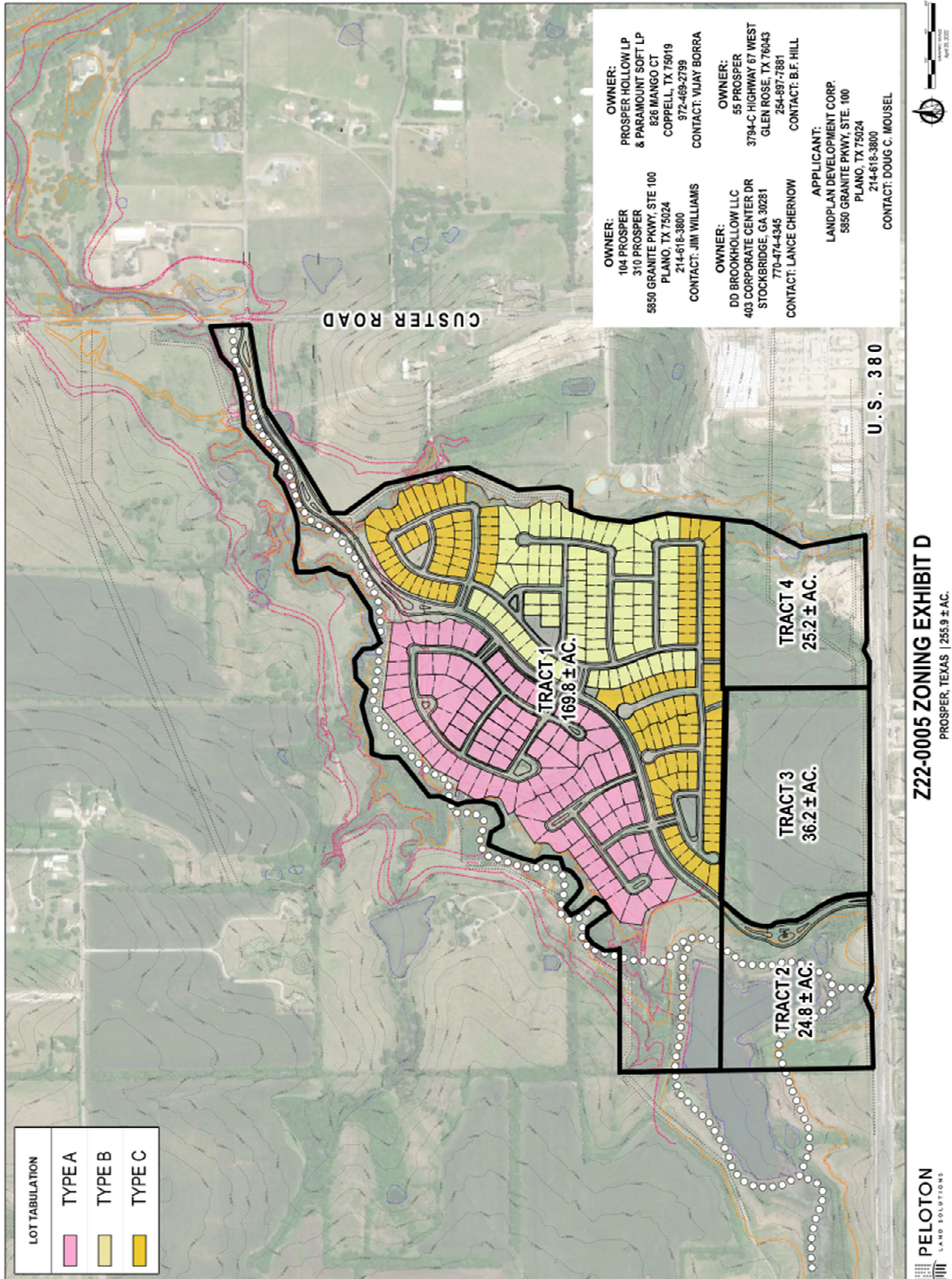


EXHIBIT “E”**DEVELOPMENT SCHEDULE**

The anticipated development schedules for the property contained within this PD are:

- Single-Family Tract 1 – commencement of first phase immediately upon Town approval of zoning, plat, and construction plans
- Mixed-Use Tract 2 – one to two years
- Mixed-Use Tract 3 – one to two years
- Mixed-Use Tract 4 – commencement upon Town approval of construction plans

Dates are approximate and are subject to change due to external forces such as market conditions.

PLANNING



To: Mayor and Town Council

From: David Soto, Planning Manager

Through: Bob Scott, Executive Director of Administrative Services
Hulon T. Webb, Jr., Interim Executive Director of Development and Infrastructure Services

Re: Town Council Meeting – August 9, 2022

Agenda Item:

Consider and act upon authorizing the Mayor execute a Development Agreement between 104 Prosper, 310 Prosper, Prosper Hollow LP & Paramount Soft LP, DD Brookhollow LLC, 55 Prosper and the Town of Prosper, Texas, related to Rutherford Creek development, located on the north side of US 380, west of Custer Road.

Description of Agenda Item:

On May 10, 2022, the Town Council approved the proposed request, by a vote of 7-0. The purpose of the Development Agreement is for the architectural building materials and certain business establishments prohibited on Lots 2, 3, and 4.

A Development Agreement has been prepared accordingly.

Legal Obligations and Review:

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

Attached Documents:

1. Development Agreement

Town Staff Recommendation:

Town staff recommends that the Town Council authorize the Mayor to execute a Development Agreement 104 Prosper, 310 Prosper, Prosper Hollow LP & Paramount Soft LP, DD Brookhollow LLC, 55 Prosper and the Town of Prosper, Texas, related to Rutherford Creek development, located on the north side of US 380, west of Custer Road.

Proposed Motion:

I move to authorize the Mayor to execute a Development Agreement between 104 Prosper, 310 Prosper, Prosper Hollow LP & Paramount Soft LP, DD Brookhollow LLC, 55 Prosper and the Town of Prosper, Texas, related to Rutherford Creek development, located on the north side of US 380, west of Custer Road.

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between the Town of Prosper, Texas ("Town"), and 104 Prosper and 310 Prosper, Prosper Hollow LP and Paramount Soft LP, DD Brookhollow LLC, and 55 Prosper (collectively, "Owners"), with the Town and Owners collectively referred to as "Parties," to be effective on the date last executed by any of the Parties (the "Effective Date").

WHEREAS, the Town is a home-rule municipal corporation, located in Collin County and Denton County, Texas, organized and existing under the laws of the State of Texas; and

WHEREAS, Owners are developing an approximate 277.6-acre tract of land generally located on the north side of U.S. Highway 380, west of Custer Road, in the Town, to be known as Rutherford Creek, more particularly described and depicted in Exhibit A, attached hereto and incorporated by reference (the "Property"); and

WHEREAS, the Property was rezoned by the Town Council on or about May 10, 2022, by Ordinance No. 2022-____, and this Agreement seeks to incorporate, in part, the negotiated and agreed upon development standards contained in said Ordinance, as may be amended, and/or this Development Agreement, to recognize Owners' reasonable investment-backed expectations in the development of the Property, as may be amended, and as more fully described herein; and

WHEREAS, subject to the terms of this Agreement, Owners agree and acknowledge that they will not lease, sell or otherwise permit or authorize on Lots 2, 3 and/or 4 of the Property any business enterprises engaging in those businesses referenced in Paragraph 1, below.

NOW, THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Parties to this Agreement agree as follows:

1. Certain Business Establishments Prohibited on Lots 2, 3 and 4. Owners agree and acknowledge that they will not lease, sell or otherwise permit or authorize on Lots 2, 3 and 4 of the Property any of the following business establishments: (1) credit access businesses, as defined in Texas Finance Code § 393.601, as amended, including but not limited to payday lending businesses, "cash for title" lenders, and credit services businesses, as defined in Texas Finance Code § 393.001, as amended); (2) body art facilities; (3) smoke or vape shops; (4) any business entity that sells drug paraphernalia; (5) any business establishment offering gaming or slot machines; (6) sex shops, including but not limited to business entities whose primary purpose is the sale of lewd merchandise; (7) pawn shops; and (8) business entities which primarily utilize outdoor storage or displays. Additionally, Owners agree and acknowledge that they will not lease, sell or otherwise permit or authorize on Lots 2, 3 and/or 4 of the Property a package liquor store, which for purposes of this Agreement is defined as any business

entity that is required to obtain a Package Store Permit (P) from the Texas Alcoholic Beverage Commission for the off-premises consumption of alcohol.

2. Building Materials and Architectural Features. For any structure built on the Property following the Effective Date, it shall comply with the requirements contained in Exhibit B, "Building Materials and Architectural Features," attached hereto and incorporated herein. The Parties agree and acknowledge that the provisions of this Paragraph shall apply to any structure constructed subsequent to the execution of this Agreement.

3. Covenant Running with the Land. The terms, conditions, rights, obligations, benefits, covenants and restrictions of the provisions of this Agreement shall be deemed covenants running with the land, and shall be binding upon and inure to the benefit of the Owners and their heirs, representatives, successors and assigns. This Agreement shall be deemed to be incorporated into each deed and conveyance of the Property or any portion thereof hereafter made by any other owners of the Property, regardless of whether this Agreement is expressly referenced therein.

4. Applicability of Town Ordinances. Owners shall construct all structures on the Property in accordance with all applicable Town ordinances and building/construction codes, whether now existing or arising prior to such construction in the future.

5. Default. No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time determined based on the nature of the alleged failure, but in no event less than thirty (30) days after written notice of the alleged failure has been given). In addition, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured. If either Party is in default under this Agreement, the other Party shall have the right to enforce the Agreement in accordance with applicable law, provided, however, in no event shall any Party be liable for consequential or punitive damages.

6. Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Collin County, Texas. Exclusive venue for any action arising under this Agreement shall lie in Collin County, Texas.

7. Notice. Any notices required or permitted to be given hereunder (each, a "Notice") shall be given by certified or registered mail, return receipt requested, to the addresses set forth below or to such other single address as either party hereto shall notify the other:

If to the Town:	250 W. First Street P.O. Box 307 Prosper, Texas 75078 Attention: Town Secretary
If to 104 Prosper or 310 Prosper:	5850 Granite Parkway, Suite 100 Plano, Texas 75024 Attention: Jim Williams
If to Prosper Hollow LP or Paramount Soft LP:	826 Mango Court Coppell, Texas 75019 Attention: Vijay Borra
If to DD Brookhollow LLC:	403 Corporate Center Drive Stockbridge, Georgia 30281 Attention: Lance Chernow
If to 55 Prosper:	3794-C Highway 67 West Glen Rose, Texas 76043 Attention: B.F. Hill

8. Prevailing Party. In the event any person initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable costs and attorney's fees (including its reasonable costs and attorney's fees on any appeal).

9. Entire Agreement. This Agreement contains the entire agreement between the Parties hereto with respect to development of the Property and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party.

10. Savings/Severability. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

11. Binding Agreement. A telecopied facsimile or pdf of a duly executed counterpart of this Agreement shall be sufficient to evidence the binding agreement of each party to the terms herein.

12. Authority to Execute. This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The Town warrants and represents that the individual executing this Agreement on behalf of the Town has full

authority to execute this Agreement and bind the Town to the same. Owners warrant and represent that the individual executing this Agreement on behalf of each Owner has full authority to execute this Agreement and bind each Owner to the same. The Town Council hereby authorizes the Town Manager of the Town to execute this Agreement on behalf of the Town.

13. Mediation. In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to non-binding mediation.

14. Notification of Sale or Transfer; Assignment of Agreement. Owners have the right (from time to time without the consent of the Town, but upon written notice to the Town) to assign this Agreement, in whole or in part, and including any obligation, right, title, or interest of any Owner under this Agreement, to any person or entity (an "Assignee") that is or will become an owner of any portion of the Property or that is an entity that is controlled by or under common control with said Owner. Each assignment shall be in writing executed by Owner and the Assignee and shall obligate the Assignee to be bound by this Agreement. A copy of each assignment shall be provided to the Town within ten (10) business days after execution. Provided that the successor owner assumes the liabilities, responsibilities, and obligations of the assignor under this Agreement, the assigning party will be released from any rights and obligations under this Agreement as to the Property that is the subject of such assignment, effective upon receipt of the assignment by the Town. No assignment by any Owner shall release said Owner from any liability that resulted from an act or omission by said Owner that occurred prior to the effective date of the assignment. Each Owner shall maintain true and correct copies of all assignments made by said Owner to any Assignee, including a copy of each executed assignment and the Assignee's Notice information.

15. Sovereign Immunity. The Parties agree that the Town has not waived its sovereign immunity from suit by entering into and performing its obligations under this Agreement.

16. Effect of Recitals. The recitals contained in this Agreement: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; (c) are legislative findings of the Town Council; and (d) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

17. Consideration. This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

18. Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile or pdf signature will also be deemed to constitute an original.

19. Exactions/Infrastructure Costs. Owners have been represented by legal counsel in the negotiation of this Agreement and been advised or have had the opportunity to have legal counsel review this Agreement and advise such Owners regarding Owners' rights under Texas and federal law. Owners hereby waive any requirement that the Town retain a professional engineer, licensed pursuant to Chapter 1001 of the Texas Occupations Code, to review and determine that the exactions, if any, required by the Town in this Agreement are roughly proportional or roughly proportionate to the proposed development's anticipated impact. Owners specifically reserve any right to appeal the apportionment of municipal infrastructure costs in accordance with § 212.904 of the Texas Local Government Code; however, notwithstanding the foregoing, Owners hereby release the Town from any and all liability under § 212.904 of the Texas Local Government Code, as amended, regarding or related to the cost of those municipal infrastructure requirements, if any, imposed by this Agreement as of the Effective Date.

20. Waiver of Texas Government Code § 3000.001 et seq. With respect to the improvements constructed on the Property pursuant to this Agreement and the building materials and architectural features referenced in Paragraph 2, Owners hereby waive any right, requirement or enforcement of Texas Government Code §§ 3000.001-3000.005.

21. Rough Proportionality. Owners hereby waive any federal constitutional claims and any statutory or state constitutional takings claims under the Texas Constitution with respect to infrastructure requirements, if any, imposed by this Agreement as of the Effective Date. Owners and the Town further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the projected impact of the terms of this Agreement, with respect to infrastructure requirements, if any, imposed by this Agreement as of the Effective Date.

22. INDEMNIFICATION. TO THE EXTENT ALLOWED BY LAW, OWNERS AGREE TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE TOWN (AND ITS OFFICERS, AGENTS, AND EMPLOYEES) FROM AND AGAINST ALL CLAIMS OR CAUSES OF ACTION FOR INJURIES (INCLUDING DEATH), PROPERTY DAMAGES (INCLUDING LOSS OF USE), AND ANY OTHER LOSSES, DEMAND, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO OR RESULTING FROM OWNERS' PERFORMANCE OR NON-PERFORMANCE UNDER THIS AGREEMENT, OR CAUSED BY THEIR NEGLIGENT ACTS OR OMISSIONS (OR THOSE OF ANY OF THEIR RESPECTIVE OFFICERS, AGENTS,

EMPLOYEES, OR ANY OTHER THIRD PARTIES FOR WHOM ANY OWNER IS LEGALLY RESPONSIBLE) IN CONNECTION WITH PERFORMING THIS AGREEMENT.

23. Approval of Counsel. In its reasonable discretion, the Town shall have the right to approve counsel to be retained by any Owner in fulfilling its obligation hereunder to defend and indemnify the Town. The Town reserves the right to provide a portion or all of its own defense, at its sole cost; however, the Town is under no obligation to do so. Any such action by the Town is not to be construed as a waiver of Owners' obligation to defend the Town or as a waiver of Owners' obligation to indemnify the Town pursuant to this Agreement. Owners shall retain Town-approved defense counsel within ten (10) business days of the Town's written notice that the Town is invoking its right to indemnification under this Agreement.

24. Survival. Paragraph 22, "Indemnification," and Paragraph 23, "Approval of Counsel," shall survive the termination of this Agreement.

25. Time. Time is of the essence in the performance by the Parties of their respective obligations under this Agreement.

26. Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the Parties do not intend to create any third-party beneficiaries by entering into this Agreement.

27. Amendment. This Agreement shall not be modified or amended except in writing signed by the Parties. A copy of each amendment to this Agreement, when fully executed and recorded, shall be provided to each Party, Assignee and successor Owners of all or any part of the Property; however, the failure to provide such copies shall not affect the validity of any amendment.

28. Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by all Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any Party shall not apply.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the date referenced herein.

TOWN:

THE TOWN OF PROSPER, TEXAS

By: _____

Name: David F. Bristol

Title: Mayor, Town of Prosper

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the ____ day of _____, 2022, by David F. Bristol, Mayor of the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

Notary Public, State of Texas

My Commission Expires: _____

OWNERS:**104 PROSPER, LP AND 310 PROSPER, LP**

By: _____

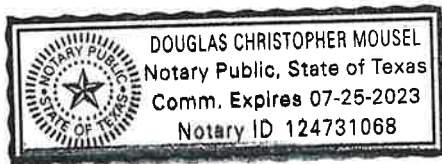


Jim Williams, Jr.

STATE OF TEXAS)

COUNTY OF Collin)


This instrument was acknowledged before me on the 25th day of July, 2022, by Jim Williams, Jr., in his capacity as Chairman of 104 Prosper, LP and 310 Prosper, LP, Texas limited partnerships, known to be the person whose name is subscribed to the foregoing instrument, and that he executed the same on behalf of and as the act of Owner.



Notary Public, State of Texas

My Commission Expires: 7-25-23

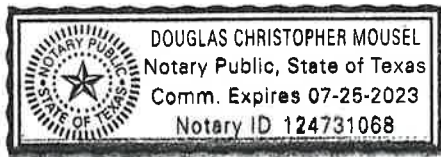
**PROSPER HOLLOW LP & PARAMOUNT
SOFT LP**

By: 
Vijay Borra

STATE OF TEXAS)

COUNTY OF Collin)

This instrument was acknowledged before me on the 25th day of July, 2022, by Vijay Borra, in his capacity as Manager of Prosper Hollow LP and Paramount Soft LP, both a Texas limited partnership, known to be the person whose name is subscribed to the foregoing instrument, and that he executed the same on behalf of and as the act of Owner.



Notary Public, State of Texas
My Commission Expires: 7-25-23

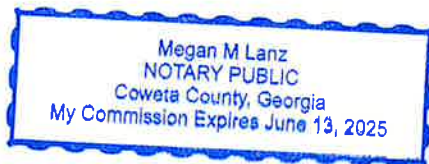
DD BROOKHOLLOW, LLC

By: Davis Development, Inc., its Manager

By: _____
Fred S. Hazel, Vice President

STATE OF GEORGIA)
)
COUNTY OF HENRY)

This instrument was acknowledged before me on the 8 day of July, 2022, by Fred S. Hazel, in his capacity as Vice President of Davis Development, Inc., Manager of DD Brookhollow LLC, a Georgia limited liability company, known to be the person whose name is subscribed to the foregoing instrument, and that he executed the same on behalf of and as the act of Owner.



Notary Public, State of Georgia
My Commission Expires: June 13, 2025

55 PROSPER, LP

By: B.F. Hill

B.F. Hill

STATE OF TEXAS)

COUNTY OF SOMERVELL)

This instrument was acknowledged before me on the 27 day of JULY, 2022, by B.F. Hill, in his capacity as MANAGER of 55 Prosper, LP, a Texas limited partnership, known to be the person whose name is subscribed to the foregoing instrument, and that he executed the same on behalf of and as the act of Owner.

Carlyn Heugatter

Notary Public, State of Texas

My Commission Expires: 9-12-2025

EXHIBIT A
(Property Description)

EXHIBIT B
(Building Materials and Architectural Features)

SINGLE-FAMILY RESIDENTIAL TRACT 1 (±169.8 ACRES)

Architectural Design Standards and Building Materials for Single-Family West of the Spine Road:

1. Architecture:

The exterior of homes shall be designed to be reflective of a traditional architectural style such as French Country or Provincial, English Cottage, Colonial, Tudor, Tuscan, Texas Hill Country/Texas Tuscan, Mediterranean, or Spanish. Transitional interpretations of the aforementioned architectural styles will also be permitted. Modern architecture is prohibited. While a variety of architectural styles are permitted, architectural continuity shall be provided through traditional architectural style and the use of complementary materials, as well as architectural diversity through variation of hip and gable roofs, roof pitch, building offsets, garage entrances, garage sizes, etc. While each home should complement adjacent structures, every home should have a unique identity through the use of detailing such as cast stone, wrought iron, window treatments, dormers, turrets, flat work, tree placement, brick details, natural stone, combining brick and natural stone, gas lights, landscape illumination, etc. Use of features such as the use of wood timbers, finials, decorative cornices, copper vents, cast stone decorative features, paint grip sheet metal, copper guttering and European architectural details shall be used to individualize each residence.

2. Exterior Materials & Detailing:

- 2.1 With the exception of dormers and Mediterranean or Spanish style homes constructed of stucco, exterior materials shall be 100% masonry (defined as brick, stone, and cast stone) on all walls visible from any street and 80% masonry on each individual non-visible side and rear elevations. All exposed portions of the fire breast, flu and chimney shall be clad in brick, stone or brick and stone, matching the materials used on the residence. With the exception of Transitional homes, all window headers and sills which are visible from the street or common areas shall be constructed of cast stone, natural stone, decorative shaped brick or a combination thereof. All windows will have a least six inches (6") of exterior material between the header and fascia board. No Exterior Insulation and Finish Systems (E.I.F.S.) are permitted on any exterior elevation or chimney.
- 2.2 The entire structure shall be guttered with downspouts. All gutter and downspouts on the front of the house and any side that faces a street or common area shall be molded form of smooth round material. Gutters shall not drain across property lines.
- 2.3 All windows visible from streets and publicly accessible open space shall be casement divided lite windows.

- 2.4. Each structure shall have a minimum principal plate height of 10 feet (10') on the first floor and a minimum plate height of 9 feet (9') on garages.
- 2.5. A uniform house number style, house number locations, and mailbox style will be selected by the developer and implemented by the homebuilders.
- 2.6. Stone selections shall be either Granbury, Millsap, Leuders, Limestone, Auston Chalk, or similar as approved by the developer.
- 2.7. Cast Stone shall be light brown, white or cream in color with or without pitting.
- 2.8. Electrical meters shall be screened from the view of the street or common areas by solid fencing or landscape material.

3. Roofing:

- 3.1. All roofs for French Country / European architectural style homes shall have a minimum slope of 12:12 roof pitch on any front and side visible from a street or a common area and a minimum slope of 8:12 roof pitch for rear and sides not visible from a street or a common area. Roof sections of less pitch are permitted for Texas Tuscan / Texas Hill Country and Transitional architectural style homes. Satellite Dishes shall not be installed in locations visible from the street, common areas or other residences. Solar Collectors, if used, must be integrated into the building design and constructed of materials that minimize their visual impact.
- 3.2. Roof material shall be standing seam copper, approved standing seam metal, natural slate shingles, imitation slate shingles, clay or concrete tile, or composition 30-year laminated shingles.
- 3.3. Roof forms shall be limited to gables, hip, Dutch hip or gable, or shed (in conjunction with Texas Hill Country homes).

4. Walls / Fencing / Screening:

- 4.1. The following fence requirements are applicable to single-family lots.
 - a. Front: Fences extending across the front side yard from the home to the side property line shall be a six-foot (6') black wrought iron or tubular steel fence. Masonry wing walls may also be used. Where the front yard fence intersects with the side yard fence, a decorative metal corner column shall be constructed. The height of the corner column shall be twelve inches (12") to eighteen inches (18") greater than the fence and the width of the corner column shall be ten inches (10") to twelve inches (12").

- b. Side: Fences constructed along side property lines between lots shall be board-on-board, stained, and weather-treated with steel posts and be a minimum of six-foot (6') in height. However, a six-foot (6') length of black wrought iron or tubular steel fence shall be constructed to serve as a transition between the side yard wood fence and a wrought iron or tubular steel fence constructed across the front side yard or along the rear property line.
 - c. Rear: Where a rear yard of one lot abuts the rear yard of another lot, fences shall be board-on-board, stained, and weather-treated with steel posts and be a minimum of six feet (6') in height. Where lots back to streets, no fence shall be constructed parallel to a wrought iron or tubular steel fencing along the rear of the lot.
 - d. Fencing Adjacent to Parks, HOA Open Space, and/or Hike and Bike Trails: Where lots side or back to parks, HOA open space, and/or hike and bike trails, fencing abutting the park, HOA open space, and/or hike and bike trail shall be a four-foot (4') black wrought iron or tubular steel fence. The design of the fence shall be selected by the developer and implemented by the homebuilders.
 - e. Fence Height Transitions: Where side yard fences intersect with front or rear yard fences, fences of different heights shall be transitioned so that the fences are the same height where the fences intersect.
- 4.3. Equipment, air conditioning compressors, service yards, storage piles, woodpiles, garbage receptacles, and similar items must be visually screened from streets, alleys, common areas and neighboring lots by solid screening walls that match the residence material, a redwood or cedar fence, or landscaping.
- 4.4. Retaining walls built or abutting front yards, side yards facing a greenbelt, or rear yards within a greenbelt shall be constructed of mortar-jointed brick matching the residence or mortar-jointed Millsap stone. For retaining walls in other locations, concrete and rock shall be allowed.

5. Garages / Driveways / Walkways:

All front entry driveways and sidewalks and steps leading from the public sidewalk or front driveway to the front door shall be constructed of brick pavers, stone, interlocking pavers, exposed aggregate with brick or stone borders, or stamped or salt finished concrete with brick or stone borders.

Architectural Design Standards and Building Materials for Single-Family East of the Spine Road:

1. Architecture:

Architectural continuity is to be provided through traditional architectural style and the use of complementary materials, as well as architectural diversity through variation of hip and gable roofs, roof pitch, building offsets, garage entrances, garage sizes, etc. While each home should complement adjacent structures, every home should have a unique identity through the use of detailing such as cast stone, wrought iron, window treatments, dormers, turrets, flat work, tree placement, brick details, natural stone, combining brick and natural stone, gas lights, landscape illumination, etc.

2. Exterior Materials & Detailing:

- 2.1 With the exception of dormers and stucco homes, exterior materials shall be 100% masonry (brick, stone, and cast stone) on all walls facing any street, and 80% masonry on each (non-cumulative) remaining side and rear elevations. All exposed portions of the fire breast, flu and chimney shall be clad in brick, stone, brick and stone, or stucco. No Exterior Insulation and Finish Systems (E.I.F.S.) are permitted on any exterior elevation or chimney.
- 2.2 The entire structure shall be guttered with downspouts. Gutters shall not drain across property lines.
- 2.3 Each structure shall have a minimum principal plate height of 10 feet (10') on the first floor and a minimum plate height of 9 feet (9') on garages.
- 2.4 A uniform house number style, house number locations, and mailbox style will be selected by the developer and implemented by the homebuilders.
- 2.5 Stone selections shall be either Granbury, Millsap, Leuders, Limestone, Auston Chalk, or similar as approved by the developer.
- 2.6 Cast Stone shall be light brown, white or cream in color with or without pitting.
- 2.7 Electrical meters shall be screened from the view of the street or common areas by solid fencing or landscape material.

3. Roofing:

- 3.1 All roofs shall have a minimum slope of 10:12 roof pitch on any side visible from a street or a common area and a minimum slope of 8:12 roof pitch for

rear and sides not visible from a street or a common area. Roof sections of less pitch are permitted for Texas Tuscan / Texas Hill Country and Transitional architectural style homes. Satellite Dishes shall not be installed in locations visible from the street, common areas or other residences. Solar Collectors, if used, must be integrated into the building design and constructed of materials that minimize their visual impact.

- 3.2. Roof material shall be standing seam copper, approved standing seam metal, natural slate shingles, imitation slate shingles, clay or concrete tile, or composition 30-year laminated shingles.
- 3.3. Roof forms shall be limited to gables, hip, Dutch hip or gable, or shed (in conjunction with Texas Hill Country homes).

4. Walls / Fencing / Screening:

- 4.1. The following fence requirements are applicable to single-family lots.

- f. Front: Fences extending across the front side yard from the home to the side property line shall be a six-foot (6') black wrought iron or tubular steel fence. Masonry wing walls may also be used. Where the front yard fence intersects with the side yard fence, a decorative metal corner column shall be constructed. The height of the corner column shall be twelve inches (12") to eighteen inches (18") greater than the fence and the width of the corner column shall be ten inches (10") to twelve inches (12").
- g. Side: Fences constructed along side property lines between lots shall be board-on-board, stained, and weather-treated with steel posts and be a minimum of six feet (6') in height. However, a six-foot (6') length of black wrought iron or tubular steel fence shall be constructed to serve as a transition between the side yard wood fence and a wrought iron or tubular steel fence constructed across the front side yard or along the rear property line.
- h. Rear: Where a rear yard of one lot abuts the rear yard of another lot, fences shall be board-on-board, stained, and weather-treated with steel posts and be a minimum of six feet (6') in height. Where lots back to streets, no fence shall be constructed parallel to a wrought iron or tubular steel fencing along the rear of the lot.
- i. Fencing Adjacent to Parks, HOA Open Space, and/or Hike and Bike Trails: Where lots side or back to parks, HOA open space, and/or hike and bike trails, fencing abutting the park, HOA open space, and/or hike and bike trail shall be a four-foot (4') black wrought iron

or tubular steel fence. The design of the fence shall be selected by the developer and implemented by the homebuilders.

- j. Fence Height Transitions: Where side yard fences intersect with front or rear yard fences, fences of different heights shall be transitioned so that the fences are the same height where the fences intersect.

- 4.3. Equipment, air conditioning compressors, service yards, storage piles, woodpiles, garbage receptacles, and similar items must be visually screened from streets, alleys, common areas and neighboring lots by solid screening walls that match the residence material, a redwood or cedar fence, or landscaping.
- 4.4. Retaining walls built or abutting front yards, side yards facing a greenbelt, or rear yards within a greenbelt shall be constructed of mortar-jointed brick matching the residence or mortar-jointed Millsap stone. For retaining walls in other locations, concrete and rock shall be allowed.

5. Garages / Driveways / Walkways:

All front entry driveways and sidewalks and steps leading from the public sidewalk or front driveway to the front door shall be constructed of brick pavers, stone, interlocking pavers, exposed aggregate, or stamped or salt finished concrete with brick or stone borders.

**ARCHITECTURAL DESIGN STANDARDS AND BUILDING MATERIALS MIXED-USE
TRACT 2 (±24.8 ACRES), TRACT 3 (±36.2 ACRES), AND TRACT 4 (±25.2 ACRES)**

1. Exterior Façade Building Materials for Townhouse Structures

All buildings within a townhouse development shall have an exterior finish of stone, stucco, brick, tile, concrete, glass, exterior wood or similar materials or any combination thereof. The use of wood as a primary exterior building material shall be limited to a maximum of fifteen percent (15%) of the total exterior wall surfaces.

2. Exterior Façade Building Materials for Multi-Family Structures

All buildings within a multi-family development shall have an exterior finish of stone, stucco, brick, tile, concrete, glass, exterior wood or similar materials or any combination thereof. The use of wood as a primary exterior building material shall be limited to a maximum of fifteen percent (15%) of the total exterior wall surfaces.

3. Exterior Façade Building Materials for Non-Residential Structures

All main buildings shall have an exterior finish of stone, stucco, brick, tile, concrete, glass, exterior wood or similar materials or any combination thereof. The use of wood as a primary exterior building material shall be limited to a maximum of twenty percent (20%) of the total exterior wall surfaces.

PLANNING



To: Mayor and Town Council

From: David Soto, Planning Manager

Through: Bob Scott, Executive Director of Administrative Services
Hulon T. Webb, Jr., Interim Executive Director of Development and Infrastructure Services

Re: Town Council Meeting – August 9, 2022

Agenda Item:

Consider and act upon an ordinance for a Specific Use Permit (SUP) for a Day Care Center (Grace Chapel), on 5.4± acres, located on the southeast corner of FM 1385 and Denton Way. (S22-0005).

Description of Agenda Item:

On June 28, 2022, the Town Council approved the proposed request, by a vote of 7-0.

A Specific Use Permit ordinance has been prepared accordingly.

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
2. Ordinance Exhibits

Town Staff Recommendation:

Town staff recommends approval of an ordinance for a Specific Use Permit (SUP) for a Day Care Center (Grace Chapel), on 5.4± acres, located on the southeast corner of FM 1385 and Denton Way. (S22-0005).

Proposed Motion:

I move to approve an ordinance for a Specific Use Permit (SUP) for a Day Care Center (Grace Chapel), on 5.4± acres, located on the southeast corner of FM 1385 and Denton Way. (S22-0005).

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2022-__

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE BY GRANTING A SPECIFIC USE PERMIT (SUP) FOR A DAY CARE CENTER LOCATED ON A TRACT OF LAND CONSISTING OF 5.27 ACRES, MORE OR LESS, SITUATED IN THE JOHN MORTON SURVEY, ABSTRACT NUMBER 793, IN THE TOWN OF PROSPER, DENTON COUNTY, TEXAS; 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 Zoning Ordinance should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request from the North Texas Conference of the United Methodist Church ("Applicant") for a Specific Use Permit (SUP) for a Day Care Center, located on a tract of land consisting of 5.27 acres of land, more or less, in the John Morton Survey, Abstract Number 793, 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

Specific Use Permit Granted. The Town's Zoning Ordinance is amended as follows: Applicant is granted a Specific Use Permit (SUP) for a Day Care Center, located on a tract of land consisting of 5.27 acres of land, more or less, in the John Morton Survey, Abstract Number 793, in the Town of Prosper, Denton County, Texas, and 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 Specific Use Permit shall conform to, and comply with the conceptual development plans, attached hereto as Exhibit "B," Exhibit "C," and Exhibit "D," which are incorporated herein for all purposes as if set forth verbatim.

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 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 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, 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 publication as required by law.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 9TH DAY OF AUGUST, 2022.

Jeff Hodges, Mayor Pro-Tem

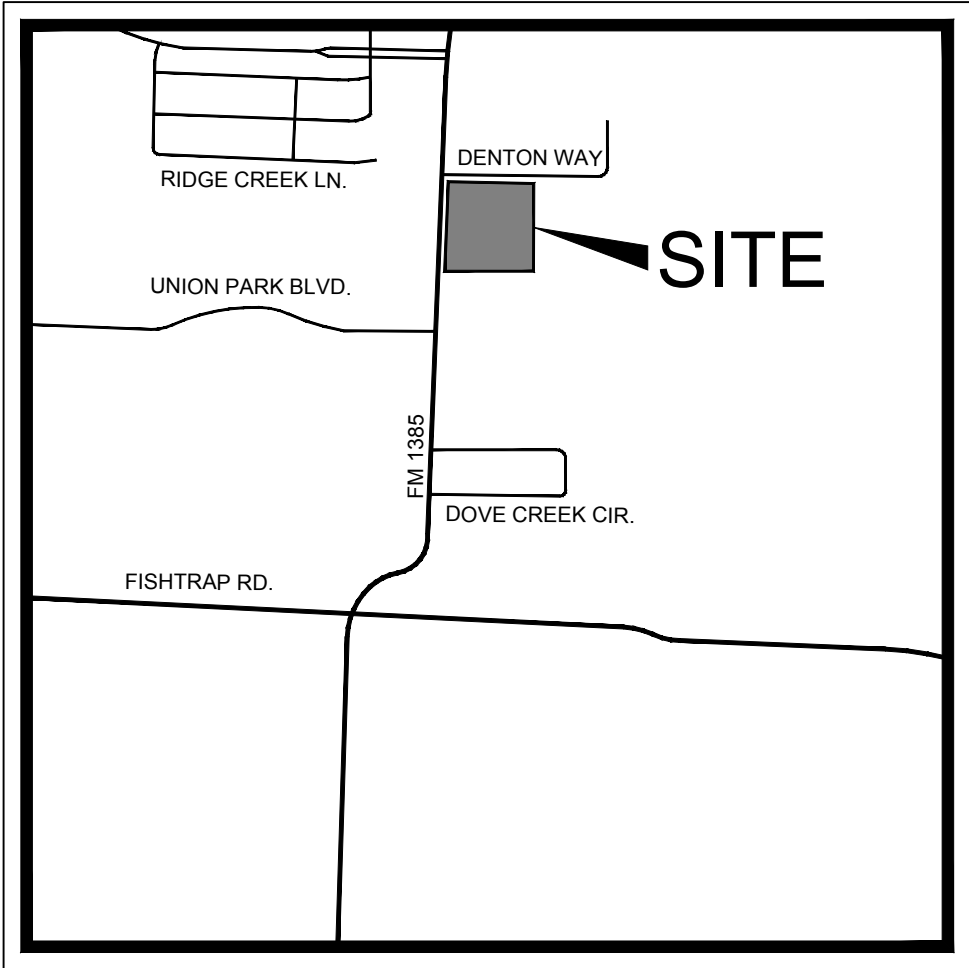
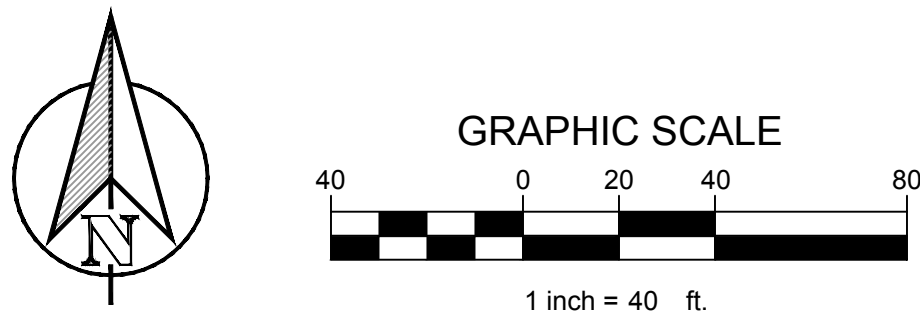
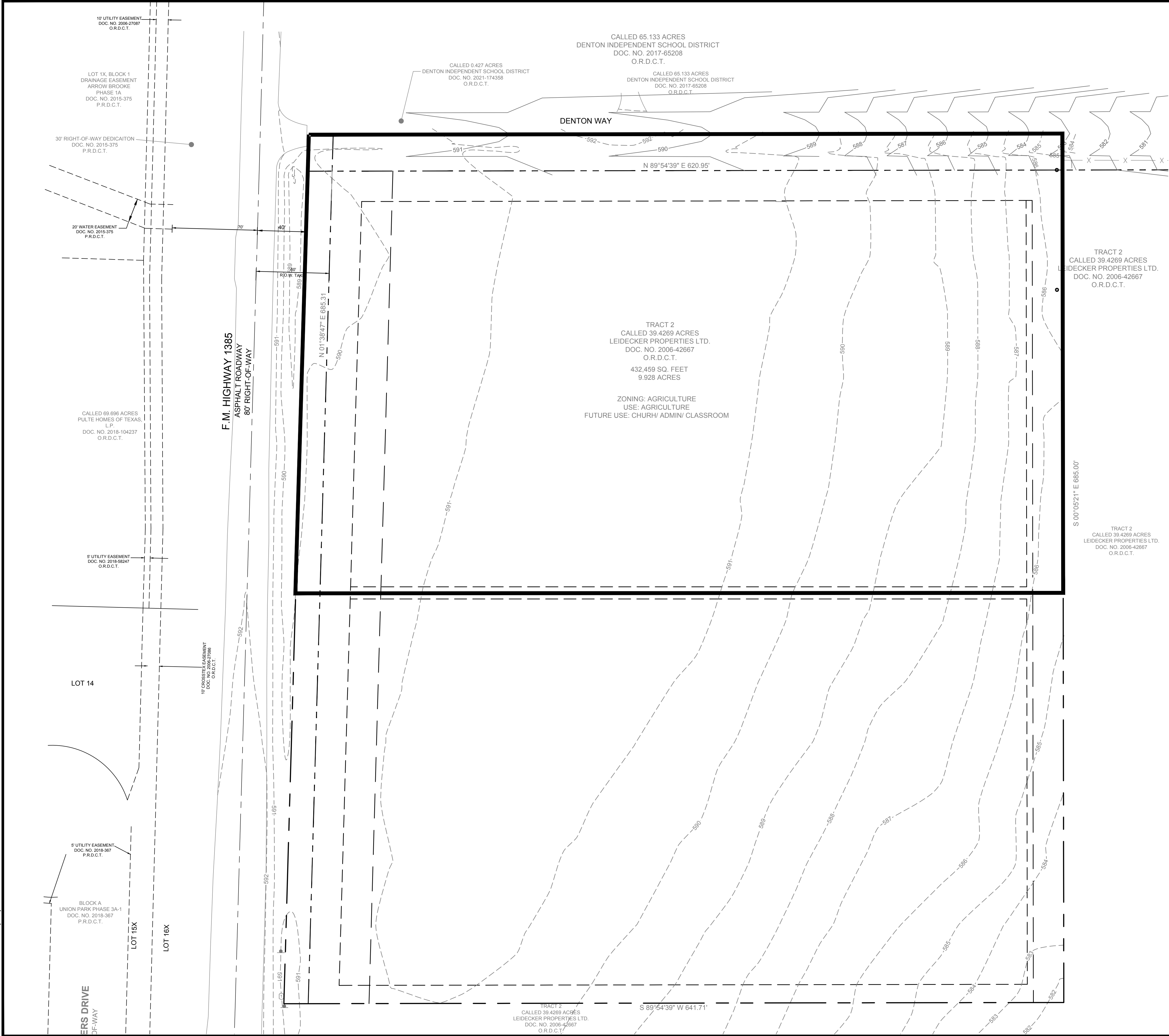
ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

PLOTTED BY: MARK TORRES
PLOT DATE: 5/23/2022 5:18 PM
LOCATION: Z:\PROJECTS\2020-064 GRACE CHAPEL PROSPER\CADD\EXHIBIT\EXHIBIT A.DWG
LAST SAVED: 5/16/2022 2:03 PM



VICINITY MAP
N.T.S.

GRACE CHAPEL PROSPER		
EXHIBIT A		
OWNER/DEVELOPER: NORTH TEXAS CONFERENCE OF THE UNITED METHODIST CHURCH PO BOX 866128 PLANO, TEXAS 75086		
CONTACT NAME: KENNETH WOLVERTON		
APPLICANT: CLAYMOORE ENGINEERING, INC. 1903 CENTRAL DRIVE, SUITE #406 BEDFORD, TX 76021 PH: 817.281.0572		
CONTACT NAME: DREW DONOSKY		
SURVEYOR: EAGLE SURVEYING, LLC 210 SOUTH ELM STREET, SUITE 104, TX 75057 PH: 940.222.3009		
CONTACT NAME: MASON DECKER		
LEGAL DESCRIPTION: LOTS 1, BLOCK A NORTH TEXAS CONFERENCE OF THE METHODIST CHURCH ADDITION GROSS AREA: 5,422 OR 236,172 SF		
CITY: TOWN OF PROSPER		STATE: TEXAS
COUNTY: DENTON	SURVEY: JOHN MORTON SURVEY	ABSTRACT NO.: 793

TEXAS REGISTRATION #14199

CLAYMOORE

ENGINEERING

1903 CENTRAL DRIVE, SUITE #406
BEDFORD, TEXAS 76021
PHONE: 817.281.0572
WWW.CLAYMOOREENGINEERING.COM

PRELIMINARY

FOR REVIEW ONLY
Not for construction purposes.

CLAYMOORE ENGINEERING
ENGINEERING AND PLANNING
CONSULTANTS
Engineer: DREW DONOSKY
P.E. No. 125651, Date: 5/23/2022

GRACE CHAPEL PROSPER
FM 1385 & DENTON WAY
PROSPER, TX

No.	DATE	REVISION	BY

EXHIBIT A

SHEET
EXH-A

File No. 2020-064

Being a 5.27 acre tract of land out of the John Morton Survey, Abstract Number 793, situated in the Town of Prosper, Denton County, Texas, and being a portion of a called 10.35 acre tract of land conveyed to Trustees Of The North Texas Conference Of The United Methodist Church by deed of record in Document Number 2020-131951 of the Official Records of Denton County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING, at a 1/2 inch iron rod with green plastic cap stamped "EAGLE SURVEYING" found in the East right-of-way line of Farm-To-Market Road No. 1385, being the Southwest corner of said 10.35 acre tract;

THENCE, N01°38'47"E, along the East right-of-way line of Farm-To-Market Road No. 1385, being the common West line of said 10.35 acre tract, a distance of 685.31 feet to a 1/2 inch iron rod with green plastic cap stamped "EAGLE SURVEYING" set at the intersection of the East right-of-way line of Farm-To-Market Road No. 1385 and South margin of Noles Road, being the Southwest corner of a called 0.427 acre tract of land conveyed to Denton Independent School District by deed of record in Document Number 2021-174358 of said Official Records;

THENCE, N89°54'39"E, along the South line of said 0.427 acre tract and the South margin of Noles Road, a distance of 620.95 feet to a 1/2 inch iron rod with green plastic cap stamped "EAGLE SURVEYING" set at the Southeast corner of said 0.427 acre tract, being the Southwest corner of a called Tract 2 – 0.070 acre tract of land conveyed to Denton Independent School District by deed of record in Document Number 2021-114016 of said Official Records;

THENCE, S00°05'21"E, leaving the South margin of Noles Road, along the East line of said 10.35 acre tract, a distance of 347.93 feet to a 1/2 inch iron rod with green plastic cap stamped "EAGLE SURVEYING" set, from which a 1/2 inch iron rod with green plastic cap stamped "EAGLE SURVEYING" found at the Southeast corner of said 10.35 acre tract bears S00°05'21"E, a distance of 337.07 feet;

THENCE, over and across said 10.35 acre tract, the following two (2) courses and distances:

1. WEST, a distance of 596.30 feet to a 1/2 inch iron rod with green plastic cap stamped "EAGLE SURVEYING" set;
2. S01°33'47"W, a distance of 338.14 feet to a 1/2 inch iron rod with green plastic cap stamped "EAGLE SURVEYING" set in the South line of said 10.35 acre tract;

THENCE, S89°54'39"W, along the South line of said 10.35 acre tract, a distance of 35.65 feet to the **POINT OF BEGINNING**, and containing an area of 5.27 acres (229,540 square feet) of land, more or less.

TOWN OF PROSPER SITE PLAN GENERAL NOTES:

DEVELOPMENT PLAN REVIEW GUIDELINES

1. THE BUILDING HEIGHT, WIDTH, LENGTH, AND SQUARE FOOTAGE SHALL BE PROVIDED FOR ALL STRUCTURES ON THE DRAWING.
2. THE CLASSIFICATION OF EACH BUILDING SHALL BE IDENTIFIED IN THE DRAWING.
3. A MINIMUM OF TWO POINTS OF ACCESS TO THE PROPERTY SPACED NO LESS THAN 140 FEET APART, AMENDMENT 503.1.4
4. FIRE LANES SHALL BE PROVIDED WITHIN 150 FEET OF ALL EXTERIOR WALLS OF ANY BUILDING FOR HOSE LAY REQUIREMENTS. AMENDMENT 503.1.1
5. THE FIRE LANE SHALL BE A MINIMUM OF 24 FEET WIDE. AMENDMENT 503.2.1
6. BUILDINGS MORE THAN 30 FEET IN HEIGHT ARE REQUIRED TO HAVE A MINIMUM OF A 26-FOOT WIDE FIRE LANE IN THE IMMEDIATE VICINITY FOR FIREFIGHTING OPERATIONS OF THE BUILDING. ONE OF THE 26-FOOT WIDE FIRE LANES SHALL BE LOCATED A MINIMUM OF 15 FEET FROM THE BUILDING AND NO MORE THAN 30 FEET. AMENDMENT 503.2.4
7. THE INSIDE TURNING RADIUS OF THE 24-FOOT FIRE LANE SHALL BE A MINIMUM OF 30 FEET. AMENDMENT 503.2.4
8. THE INSIDE TURNING RADIUS OF THE 26-FOOT FIRE LANE SHALL BE A MINIMUM OF 30 FEET. AMENDMENT 503.2.4
9. DEAD-END FIRE LANES ARE ONLY PERMITTED WITH APPROVED HAMMERHEADS.
10. FIRE HYDRANTS SHALL BE PROVIDED AT THE ENTRANCES AND INTERSECTIONS. AMENDMENT 507.5.1
11. AS PROPERTIES DEVELOP, FIRE HYDRANTS SHALL BE LOCATED AT ALL INTERSECTING STREETS, AND THE MAXIMUM SPACING SHALL BE EVERY 300 FEET (300') FOR ALL DEVELOPMENTS AND FACILITIES OTHER THAN R3. R-3 DEVELOPMENTS SHALL BE EVERY 500 FEET (500'). DISTANCES BETWEEN HYDRANTS SHALL BE MEASURED ALONG THE ROUTE THAT FIRE HOSE IS LAID BY A FIRE APPARATUS FROM A HYDRANT TO A HYDRANT, NOT AS THE "CROW FLIES." AMENDMENT 507.5.1
12. FIRE DEPARTMENT CONNECTION (FDC) FOR THE FIRE SPRINKLER SYSTEM SHALL BE LOCATED WITHIN 50 FEET OF A FIRE HYDRANT AND 50 FEET OF A FIRE LANE. 5" STORZ, 30-DEGREE DOWNWARD TURN WITH LOCKING CAP. AMENDMENT 507.5.1
13. FIRE HYDRANTS SHALL BE LOCATED 2 FOOT (2') TO 6 FOOT (6') BACK FROM THE CURB OR FIRE LANE AND SHALL NOT BE LOCATED IN THE BULB OF A CUL-DE-SAC. AMENDMENT 507.5.1
14. THERE SHALL BE A MINIMUM OF TWO (2) FIRE HYDRANTS SERVING EACH PROPERTY WITHIN THE PRESCRIBED DISTANCES LISTED ABOVE. A MINIMUM OF ONE FIRE HYDRANT SHALL BE LOCATED ON EACH LOT. AMENDMENT 507.5.1
15. A MINIMUM 10-FOOT UNOBSTRUCTED WIDTH SHALL BE PROVIDED AROUND A BUILDING FOR ADEQUATE FIRE DEPARTMENT ACCESS. A CONTINUOUS ROW OF PARKING AND LANDSCAPING SHALL BE CONSIDERED A BARRIER. AMENDMENT 503.1.1

WHILE THERE IS AN ARRAY OF BENEFITS TO EMERGENCY RESCUE AND FIREFIGHTING TACTICS, THE FOLLOWING ARE A FEW BASIC SCENARIOS TO EXPLAIN THE RATIONALE:

- 1.) LADDER ANGLE IN THE EVENT OF EMERGENCY RESCUE.
- 2.) LADDER ANGLE IN THE EVENT OF ROOF VENTILATION.
- 3.) 360° SIZE-UP IS A BASIC PROTOCOL AND PROCEDURE OF THE FIRST ARRIVING OFFICER. THIS ALLOWS FIREFIGHTERS TO SIZE UP THE DANGER(S) TO DETERMINE IF ADDITIONAL APPARATUS AND AID WILL BE NEEDED.
- 4.) HOSE LAY MANEUVERABILITY IN THE EVENT OF A HOSE ATTACK. FIREFIGHTERS MUST PULL HOSE(S). IT IS COMMON PRACTICE THROUGHOUT THE INDUSTRY. UNFORTUNATELY, THERE IS NO ORDERLY OR SINGLE APPROACH TO STRETCHING HOSE OUT WHEN A BUILDING IS ON FIRE.
- 5.) STAGING RESCUE EQUIPMENT AND VENTILATION FANS, TOOLS, THE MANEUVERABILITY OF EMS EQUIPMENT, AND SO FORTH.

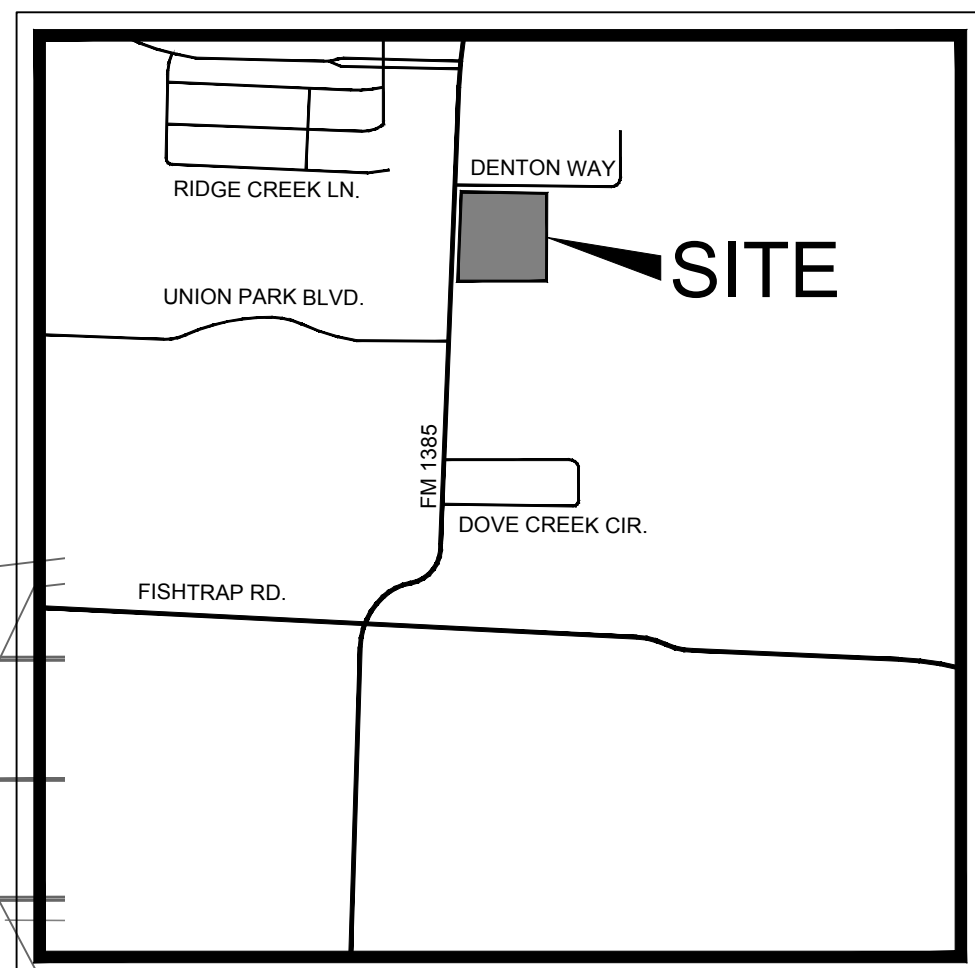
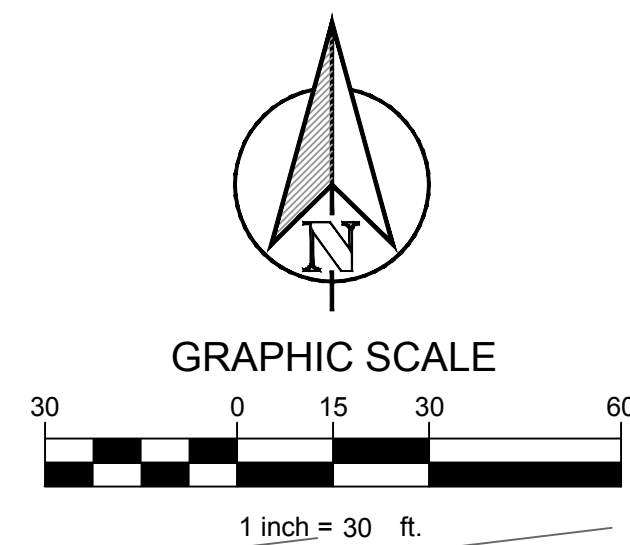
16. AN AUTOMATIC FIRE SPRINKLER SYSTEM WILL BE REQUIRED FOR THE PROPOSED BUILDINGS IF THE SQUARE FOOTAGE EXCEEDS 5,000 SQUARE FEET TO THE DRIP LINE ON EACH LOT OR THE OCCUPANT LOAD WITHIN THE ASSEMBLY OCCUPANCY EXCEEDS 100 PEOPLE. AMENDMENT 903.2.11.9.

SITE SUMMARY TABLE:

BLOCK	LOT	ZONING	PROPOSED USED	LOT AREA	BUILDING AREA	MAX BUILDING HEIGHT	COVERAGE	FLOOR AREA RATIO	PARKING REQUIRED	PARKING PROVIDED	ADA PARKING REQUIRED	ADA PARKING PROVIDED	INTERIOR LANDSCAPE REQUIRED	INTERIOR LANDSCAPE PROVIDED	IMPERVIOUS AREA	OPEN SPACE REQUIRED (7%)	OPEN SPACE PROVIDED
A	1	A - AGRICULTURE	CHURCH/ADMIN /CLASSROOM	(SF)	(AC)	(SF)	(%)						(SF)	(SF)	(SF)	(SF)	(SF)
				236,172	5,422	19,403	8.22	12.16:1	130	137	5	5	(15 SF PER SPACE) 2,145	3,490	120,409	(7% OF LOT AREA) 16,532	115,763
			Total	236,172	5,422	19,403	8.22		130	137	5	5	2,145	3,490	120,409	16,532	115,763

PARKING SUMMARY	
PARKING REQUIRED CHURCH = 300 / 3 SEATS = 100 CLASSROOM = 6"1.5 = 9 ADMIN/DAYCARE = 21 CHILDREN = 142	130 SPACES
PARKING PROVIDED	137 SPACES
ADA REQUIRED	5 SPACES
ADA PROVIDED	5 SPACES

PLAYGROUND SUMMARY	
PLAYGROUND AREA REQUIRED = 65 SF / KID = 142 KIDS * 65 SF	9,230 SF
PLAYGROUND AREA PROVIDED	9,430 SF

VICINITY MAP
N.T.S.

LEGEND	
	FIRE LANE CONCRETE PAVEMENT PER TOWN OF PROSPER STANDARDS
	HEAVY DUTY CONCRETE PAVEMENT
	DUMPSTER DUTY CONCRETE PAVEMENT
	LIGHT DUTY CONCRETE PAVEMENT
	CONCRETE SIDEWALK
	PUBLIC CONCRETE SIDEWALK PER CITY DETAILS
	PROPOSED CONCRETE CURB AND GUTTER
	PROPOSED FIRE LANE STRIPING PER CITY STANDARDS
	PARKING COUNT



GRACE CHAPEL PROSPER		
SUP SITE PLAN		
OWNER/DEVELOPER: NORTH TEXAS CONFERENCE OF THE UNITED METHODIST CHURCH PO BOX 866128 PLANO, TEXAS 75086 CONTACT NAME: KENNETH WOLVERTON		
APPLICANT: CLAYMOORE ENGINEERING, INC. 1903 CENTRAL DRIVE, SUITE #406 BEDFORD, TX 76021 PH: 817.281.0572 CONTACT NAME: DREW DONOSKY		
SURVEYOR: EAGLE SURVEYING, LLC 210 SOUTH ELM STREET, SUITE 104, TX 75057 PH: 940.222.3009 CONTACT NAME: MASON DECKER		
LEGAL DESCRIPTION: LOTS 1, BLOCK A NORTH TEXAS CONFERENCE OF THE METHODIST CHURCH ADDITION GROSS AREA: 5,422 OR 236,172 SF		
CITY: TOWN OF PROSPER	STATE: TEXAS	
COUNTY: DENTON	SURVEY: JOHN MORTON SURVEY	ABSTRACT NO. 793

DESIGN:	MKT
DRAWN:	MKT
CHECKED:	ASD
DATE:	4/12/2022
SHEET	
SUP	
File No. 2020-064	

EXHIBIT B

MARK TORRES
5/23/2022 5:18 PM
Z:\PROJECTS\2020-064 GRACE CHAPEL PROSPER\CADD\SHEETS\SUP - SITE PLANDWG
LAST SAVED: 5/16/2022 2:02 PM

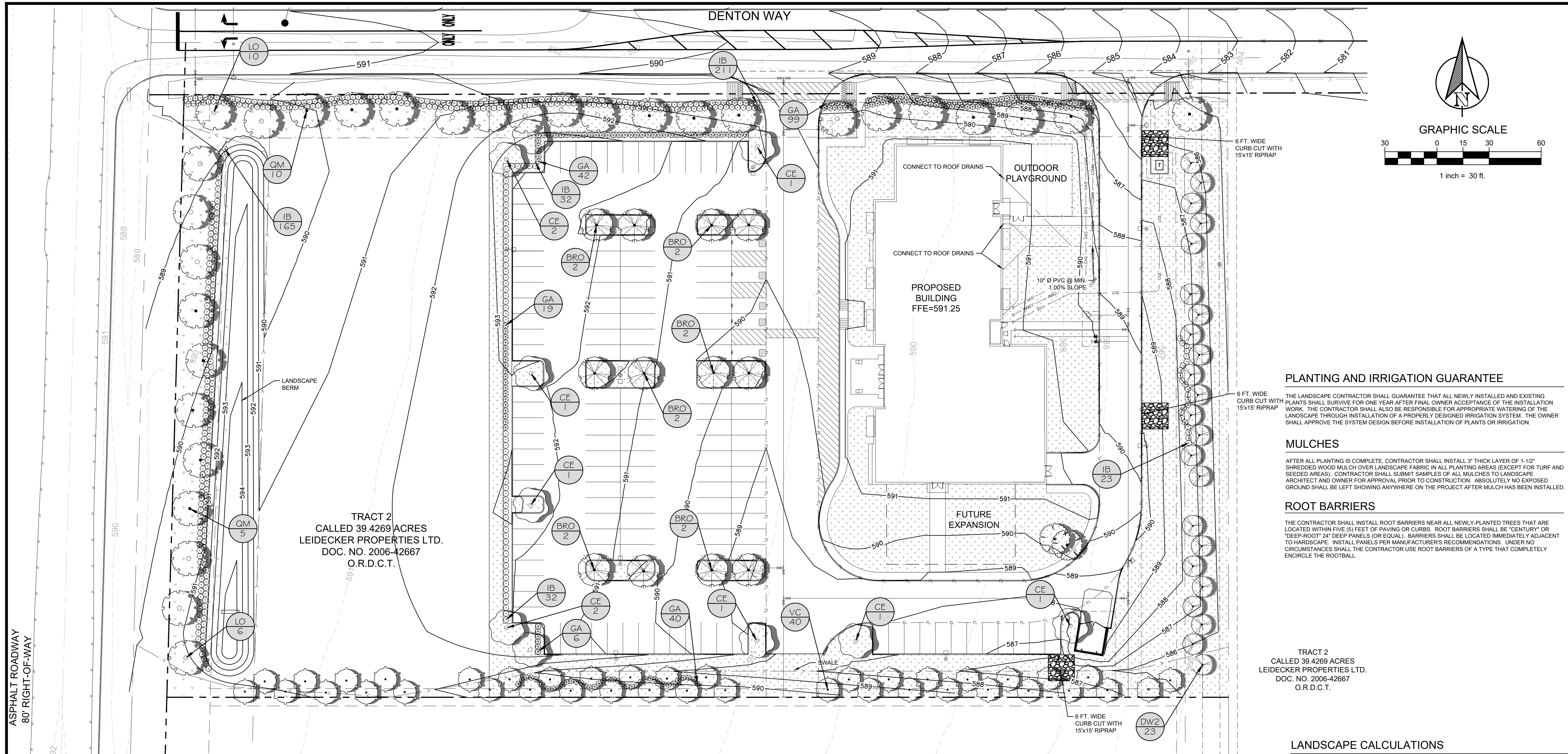
F.M. HIGHWAY 1385
ASPHALT ROADWAY
80' RIGHT-OF-WAY

WATER METER SCHEDULE

ID	TYP.	SIZE	NO.	SAN. SEWER
	DOM.	2"	2	6"
	IRR.	1"	2	N/A

FLOODPLAIN NOTE

ACCORDING TO MAP NO. 48121C0410G, DATED APRIL 18, 2011 OF THE NATIONAL FLOOD INSURANCE PROGRAM MAP, FLOOD INSURANCE RATE MAP OF COLLIN COUNTY, TEXAS. FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, THIS PROPERTY IS WITHIN ZONE "X" (UNSHADED) AND IS NOT WITHIN A SPECIAL FLOOD HAZARD AREA.

**PLANTING AND IRRIGATION GUARANTEE**

THE LANDSCAPE CONTRACTOR SHALL GUARANTEE THAT ALL NEWLY INSTALLED AND EXISTING PLANTS SHALL SURVIVE FOR ONE YEAR AFTER FINAL OWNER ACCEPTANCE OF THE INSTALLATION WORK. THE CONTRACTOR SHALL ALSO BE RESPONSIBLE FOR APPROPRIATE WATERING OF THE LANDSCAPE THROUGH INSTALLATION OF A PROPERLY DESIGNED IRRIGATION SYSTEM. THE OWNER SHALL APPROVE THE SYSTEM DESIGN BEFORE INSTALLATION OF PLANTS OR IRRIGATION.

MULCHES

AFTER ALL PLANTING IS COMPLETE, CONTRACTOR SHALL INSTALL 3" THICK LAYER OF 1-1/2" SHREDDED WOOD MULCH OVER LANDSCAPE FABRIC IN ALL PLANTING AREAS (EXCEPT FOR TURF AND SEEDED AREAS). CONTRACTOR SHALL SUBMIT SAMPLES OF ALL MULCHES TO LANDSCAPE ARCHITECT AND OWNER FOR APPROVAL PRIOR TO CONSTRUCTION. ABSOLUTELY NO EXPOSED GROUND SHALL BE LEFT SHOWING ANYWHERE ON THE PROJECT AFTER MULCH HAS BEEN INSTALLED.

ROOT BARRIERS

THE CONTRACTOR SHALL INSTALL ROOT BARRIERS NEAR ALL NEWLY-PLANTED TREES THAT ARE LOCATED WITHIN FIVE (5) FEET OF PAVING OR CURBS. ROOT BARRIERS SHALL BE "CENTURY" OR "DEEP-ROOT" 24" DEEP PANELS (OR EQUAL). BARRIERS SHALL BE LOCATED IMMEDIATELY ADJACENT TO HARDSCAPE. INSTALL PANELS PER MANUFACTURER'S RECOMMENDATIONS. UNDER NO CIRCUMSTANCES SHALL THE CONTRACTOR USE ROOT BARRIERS OF A TYPE THAT COMPLETELY ENIRCLE THE ROOTBALL.

TRACT 2
CALLED 39.4269 ACRES
LEIDECKER PROPERTIES LTD.
DOC. NO. 2006-42667
O.R.D.C.T.

LANDSCAPE CALCULATIONS**STREET FRONTAGE:**

FM 1385 346 LF

TREES @ 1 / 30 LF:

11 TREES REQUIRED

11 TREES PROVIDED

SHRUBS @ 15 / 30 LF:

165 SHRUBS REQUIRED

165 SHRUBS PROVIDED

NOLES ROAD 600 LF

1 / 30 LF:

20 TREES REQUIRED

20 TREES PROVIDED

SHRUBS @ 15 / 30 LF:

300 SHRUBS REQUIRED

300 SHRUBS PROVIDED

PARKING LOT

TOTAL PARKING SPACES: 144

REQUIRED INTERIOR LANDSCAPE AREA: 2,160 SF (15 SF / PARKING SPACE)

PROVIDED INTERIOR LANDSCAPE AREA: 3,225 SF

1 TREE PROVIDED AT THE TERMINUS OF EACH PARKING BAY

ADDITIONAL SHRUBS PROVIDED AS A SOLID LIVING SCREEN

PERIMETER LANDSCAPE

EAST PROPERTY LINE 346 LF

TREES REQUIRED

(1 ORNAMENTAL TREE / 15 LF):

23

TREES PROVIDED:

23

SHRUBS REQUIRED (1 SHRUBS/15 LF):

23

SHRUBS PROVIDED:

23

SOUTH PROPERTY LINE 600 LF

TREES REQUIRED

(1 ORNAMENTAL TREE / 15 LF):

40

TREES PROVIDED:

40


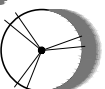








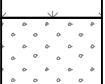
SHRUBS REQUIRED (1 SHRUBS/15 LF):

40

SHRUBS PROVIDED:

40

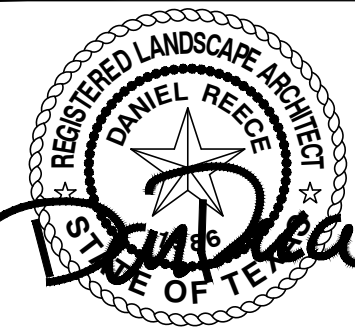
PLANT SCHEDULE

TREES	CODE	COMMON / BOTANICAL NAME	SIZE	CONTAINER	QTY
	EX	Existing Tree to Remain reference TD sheets	existing	existing	2
	DW2	Desert Willow / <i>Chilopsis linearis</i> min. 12' ht; buffer tree	CONT.	3"Cal	23
	BRO	Burr Oak / <i>Quercus macrocarpa</i> min. 12' ht; parking lot tree	CONT.	3"Cal	12
	QM	Texas Red Oak / <i>Quercus texana</i> min. 12' ht; street tree	CONT.	3"Cal	15
	LO	Live Oak / <i>Quercus virginiana</i> min. 12' ht; street Tree	CONT.	3"Cal	16
	CE	Cedar Elm / <i>Ulmus crassifolia</i> min. 12' ht; parking lot tree	CONT.	3"Cal	10
	VC	Chaste Tree / <i>Vitex agnus-castus</i> Purple; Multi-trunk	CONT.	3"Cal	40
SHRUBS	CODE	COMMON / BOTANICAL NAME	SIZE		QTY
	GA	Glossy Abelia / <i>Abelia grandiflora</i> 36" o.c.; min. 24" ht.	5 gal		206
	IB	Burford Holly / <i>Ilex cornuta</i> 'Burfordii' min. 36" ht; 30" o.c.	10 gal.		462
GROUND COVERS	CODE	COMMON / BOTANICAL NAME	SIZE		QTY
	BG	Bermuda Grass / <i>Cynodon dactylon</i>	hydro		62,888
	CD	Bermuda Grass / <i>Cynodon dactylon</i> '419'	sod		54,282

GENERAL PLANTING NOTES

- THE GENERAL CONTRACTOR IS RESPONSIBLE FOR REMOVING ALL EXISTING VEGETATION (EXCEPT WHERE NOTED TO REMAIN). BEFORE STARTING WORK, THE LANDSCAPE CONTRACTOR SHALL VERIFY THAT THE GRADE OF ALL LANDSCAPE AREAS ARE WITHIN +0.1' OF FINISH GRADE. THE LANDSCAPE CONTRACTOR SHALL NOTIFY THE OWNER IMMEDIATELY SHOULD ANY DISCREPANCIES EXIST. SEE SPECIFICATIONS FOR MORE DETAILED INSTRUCTION ON TURF AREA AND PLANTING BED PREPARATION.
- CONSTRUCT AND MAINTAIN FINISH GRADES IN LANDSCAPE AREAS AS SHOWN ON GRADING PLANS, AND CONSTRUCT AND MAINTAIN SLOPES AS RECOMMENDED BY THE GEOTECHNICAL REPORT. ALL LANDSCAPE AREAS SHALL HAVE POSITIVE DRAINAGE AWAY FROM STRUCTURES AT THE MINIMUM SLOPE SPECIFIED IN THE REPORT, AND AREAS OF POTENTIAL PONDING SHALL BE REGRADED TO BLEND IN WITH THE SURROUNDING GRADES AND ELIMINATE PONDING POTENTIAL. SHOULD ANY CONFLICTS AND/OR DISCREPANCIES ARISE BETWEEN THE GRADING PLANS, GEOTECHNICAL REPORT, THESE NOTES, AND ACTUAL CONDITIONS, THE CONTRACTOR SHALL IMMEDIATELY BRING SUCH ITEMS TO THE ATTENTION OF THE LANDSCAPE ARCHITECT, GENERAL CONTRACTOR, AND OWNER.
- ENSURE THAT THE GRADE IN SHRUB AREAS SHALL BE 2" BELOW FINISH GRADE AFTER INSTALLING SOIL AMENDMENTS, AND 1" BELOW FINISH GRADE IN SOD AREAS AFTER INSTALLING SOIL AMENDMENTS. MULCH COVER WITHIN 6" OF CONCRETE WALKS AND CURBS SHALL NOT PROTRUDE ABOVE THE FINISH SURFACE OF THE WALKS AND CURBS. MULCH COVER WITHIN 12" OF WALLS SHALL BE AT LEAST 3" LOWER THAN THE TOP OF WALL.
- INSTALL 5 OUNCE, WOVEN, NEEDLE-PUNCHED POLYPROPYLENE FABRIC (DeWitt "PRO-5" OR EQUAL) UNDER ALL MULCHED AREAS AND INDIVIDUAL TREE RINGS.
- INSTALL MULCH TOPDRESSING, TYPE AND DEPTH PER MULCH NOTE, IN ALL PLANTING BEDS AND TREE RINGS. DO NOT INSTALL MULCH WITHIN 6" OF TREE ROOT FLARE.
- INSTALL 14G, GREEN STEEL EDGING BETWEEN ALL PLANTING BEDS AND TURF AREAS, AND BETWEEN GROUNDCOVERS AND OTHER PLANTS (WHERE INDICATED ON THE PLAN).
- HYDROMULCH ALL DISTURBED AREAS OUTSIDE OF PROPERTY LIMITS (UNLESS SHOWN AS SOD).
- ALL PLANT LOCATIONS ARE DIAGRAMMATIC. ACTUAL LOCATIONS SHALL BE VERIFIED WITH THE LANDSCAPE ARCHITECT OR DESIGNER PRIOR TO PLANTING. THE LANDSCAPE CONTRACTOR SHALL ENSURE THAT ALL REQUIREMENTS OF THE PERMITTING AUTHORITY ARE MET (I.E., MINIMUM PLANT QUANTITIES, PLANTING METHODS, TREE PROTECTION METHODS, ETC.).
- THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR DETERMINING PLANT QUANTITIES; PLANT QUANTITIES SHOWN ON LEGENDS AND CALLOUTS ARE FOR GENERAL INFORMATION ONLY. IN THE EVENT OF A DISCREPANCY BETWEEN THE PLAN AND THE PLANT LEGEND, THE PLANT QUANTITY AS SHOWN ON THE PLAN (FOR INDIVIDUAL SYMBOLS) OR CALLOUT (FOR GROUNDCOVER PATTERNS) SHALL TAKE PRECEDENCE.
- NO SUBSTITUTIONS OF PLANT MATERIALS SHALL BE ALLOWED WITHOUT THE WRITTEN PERMISSION OF THE LANDSCAPE ARCHITECT.** IF SOME OF THE PLANTS ARE NOT AVAILABLE, THE LANDSCAPE CONTRACTOR SHALL NOTIFY THE LANDSCAPE ARCHITECT IN WRITING (VIA PROPER CHANNELS).
- PLANTS MAY BE INSPECTED AND APPROVED OR REJECTED ON THE JOBSITE BY THE OWNER OR OWNER'S REPRESENTATIVE.
- THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF ALL WORK SHOWN ON THESE PLANS FOR 90 DAYS BEYOND FINAL ACCEPTANCE OF ALL LANDSCAPE WORK BY THE OWNER. LANDSCAPE MAINTENANCE SHALL INCLUDE WEEKLY SITE VISITS FOR THE FOLLOWING ACTIONS (AS APPROPRIATE): PROPER PRUNING, RESTAKING OF TREES, RESETTling OF PLANTS THAT HAVE SETTLED, MOWING AND AERATION OF LAWNS, WEEDING, RESEEDING AREAS WHICH HAVE NOT GERMINATED WELL, TREATING FOR INSECTS AND DISEASES, REPLACEMENT OF MULCH, REMOVAL OF LITTER, REPAIRS TO THE IRRIGATION SYSTEM DUE TO FAULTY PARTS AND/OR WORKMANSHIP, AND THE APPROPRIATE WATERING OF ALL PLANTINGS. THE LANDSCAPE CONTRACTOR SHALL MAINTAIN THE IRRIGATION SYSTEM IN PROPER WORKING ORDER, WITH SCHEDULING ADJUSTMENTS BY SEASON TO MAXIMIZE WATER CONSERVATION.
- SHOULD SEEDED AND/OR SODDED AREAS NOT BE COVERED BY AN AUTOMATIC IRRIGATION SYSTEM, THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR WATERING THESE AREAS AND OBTAINING A FULL STAND OF GRASS AT NO ADDITIONAL COST TO THE OWNER.
- TO ACHIEVE FINAL ACCEPTANCE AT THE END OF THE MAINTENANCE PERIOD, ALL OF THE FOLLOWING CONDITIONS MUST OCCUR:
 - THE LANDSCAPE CONTRACTOR SHALL SHOW ACTIVE, HEALTHY GROWTH (WITH EXCEPTIONS MADE FOR SEASONAL DORMANCY). ALL PLANTS NOT MEETING THIS CONDITION SHALL BE REJECTED AND REPLACED BY HEALTHY PLANT MATERIAL PRIOR TO FINAL ACCEPTANCE.
 - ALL HARDSCAPE SHALL BE CLEANED PRIOR TO FINAL ACCEPTANCE.
 - SODDED AREAS MUST BE ACTIVELY GROWING AND MUST REACH A MINIMUM HEIGHT OF 1 1/2" INCHES BEFORE FIRST MOWING. HYDROMULCHED AREAS SHALL SHOW ACTIVE, HEALTHY GROWTH. BARE AREAS LARGER THAN TWELVE SQUARE INCHES MUST BE RESEEDD OR RESEEDED (AS APPROPRIATE) PRIOR TO FINAL ACCEPTANCE. ALL SODDED TURF SHALL BE NEATLY MOWED.
- SEE SPECIFICATIONS AND DETAILS FOR FURTHER REQUIREMENTS.

TEXAS FIRM #14199

GLAY MOORE
ENGINEERING1800 CENTRAL DUE SUITE 440
HOUSTON, TX 77058
PHONE 832.261.0572
WWW.GLMOORE.COM**GRACE CHAPEL PROSPER**
FM 1385 & DENTON WAY
PROSPER, TX

No. DATE REVISION BY

LANDSCAPE PLANTING

DESIGN:

DRAWN:

CHECKED:

DATE:

SHEET

LP-1

File No:



PLANTING SPECIFICATIONS

GENERAL

- A. QUALIFICATIONS OF LANDSCAPE CONTRACTOR
1. ALL LANDSCAPE WORK SHOWN ON THESE PLANS SHALL BE PERFORMED BY A SINGLE FIRM SPECIALIZING IN LANDSCAPE PLANTING.
 2. A LIST OF SUCCESSFULLY COMPLETED PROJECTS OF THIS TYPE, SIZE AND NATURE MAY BE REQUESTED BY THE OWNER FOR FURTHER QUALIFICATION MEASURES.
 3. THE LANDSCAPE CONTRACTOR MUST HOLD A VALID NURSERY AND FLORAL CERTIFICATE ISSUED BY THE TEXAS DEPARTMENT OF AGRICULTURE, AS WELL AS OPERATE UNDER A COMMERCIAL PESTICIDE APPLICATOR LICENSE ISSUED BY EITHER THE TEXAS DEPARTMENT OF AGRICULTURE OR THE TEXAS STRUCTURAL PEST CONTROL BOARD.
- B. SCOPE OF WORK
1. WORK COVERED BY THESE SECTIONS INCLUDES THE FURNISHING AND PAYMENT OF ALL MATERIALS, LABOR, SERVICES, EQUIPMENT, LICENSES, TAXES AND ANY OTHER ITEMS THAT ARE NECESSARY FOR THE EXECUTION, INSTALLATION AND COMPLETION OF ALL WORK, SPECIFIED HEREIN AND / OR SHOWN ON THE LANDSCAPE PLANS, NOTES, AND DETAILS.
 2. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH ALL APPLICABLE LAWS, CODES AND REGULATIONS REQUIRED BY AUTHORITIES HAVING JURISDICTION OVER SUCH WORK, INCLUDING ALL INSPECTIONS AND PERMITS REQUIRED BY FEDERAL, STATE AND LOCAL AUTHORITIES IN SUPPLY, TRANSPORTATION AND INSTALLATION OF MATERIALS.
 3. THE LANDSCAPE CONTRACTOR SHALL VERIFY THE LOCATION OF ALL UNDERGROUND UTILITY LINES (WATER, SEWER, ELECTRICAL, TELEPHONE, GAS, CABLE, TELEVISION, ETC.) PRIOR TO THE START OF ANY WORK.

PRODUCTS

- A. ALL MANUFACTURED PRODUCTS SHALL BE NEW.
- B. CONTAINER AND BARRIERS AND BURLAPPED PLANTS:
1. FURNISH NURSERY-GROWN PLANTS COMPLYING WITH ANSI Z60.1-2004. PROVIDE WELL-SHAPED, FULLY BRANCHED, HEALTHY, VIGOROUS STOCK FREE OF DISEASE, INSECTS, EGGS, LARVAE, AND DEFECTS SUCH AS KNOTS, SUN SCALD, INJURIES, ABRASIONS, AND DISFIGUREMENT. ALL PLANTS WITHIN A SPECIES SHALL HAVE SIMILAR SIZE, AND SHALL BE OF A FORM TYPICAL FOR THE SPECIES. ALL TREES SHALL BE OBTAINED FROM SOURCES WITHIN 200 MILES OF THE PROJECT SITE, AND WITH SIMILAR CLIMATIC CONDITIONS.
 2. ROOT SYSTEMS SHALL BE HEALTHY, DENSELY BRANCHED, FIBROUS ROOT SYSTEMS, NON-POT-BOUND, FREE FROM ENCIRCLING AND/OR GIRDLING ROOTS, AND FREE FROM ANY OTHER ROOT DEFECTS (SUCH AS J-SHAPED ROOTS).
 3. ANY PLANT DEEMED UNACCEPTABLE BY THE LANDSCAPE ARCHITECT OR OWNER SHALL BE IMMEDIATELY REMOVED FROM THE SITE AND SHALL BE REPLACED WITH AN ACCEPTABLE PLANT OF LIKE TYPE AND SIZE AT THE CONTRACTOR'S OWN EXPENSE. ANY PLANTS APPEARING TO BE UNHEALTHY, EVEN IF DETERMINED TO STILL BE ALIVE, SHALL NOT BE ACCEPTED. THE LANDSCAPE ARCHITECT AND OWNER SHALL BE THE SOLE JUDGES AS TO THE ACCEPTABILITY OF PLANT MATERIAL.
 4. ALL TREES SHALL BE STANDARD IN FORM, UNLESS OTHERWISE SPECIFIED. TREES WITH CENTRAL LEADERS WILL NOT BE ACCEPTED IF LEADER IS DAMAGED OR REMOVED. PRUNE ALL DAMAGED TWIGS AFTER PLANTING.
 5. CALIPER MEASUREMENTS FOR STANDARD (SINGLE TRUNK) TREES SHALL BE AS FOLLOWS: SIX INCHES ABOVE THE ROOT FLARE FOR TREES UP TO AND INCLUDING FOUR INCHES IN CALIPER, AND TWELVE INCHES ABOVE THE ROOT FLARE FOR TREES EXCEEDING FOUR INCHES IN CALIPER.
 6. MULTI-TRUNK TREES SHALL BE MEASURED BY THEIR OVERALL HEIGHT, MEASURED FROM THE TOP OF THE ROOT BALL.
 7. ANY TREE OR SHRUB SHOWN TO HAVE EXCESS SOIL PLACED ON TOP OF THE ROOT BALL, SO THAT THE ROOT FLARE HAS BEEN COMPLETELY COVERED, SHALL BE REJECTED.
- C. SOD: PROVIDE WELL-ROOTED SOD OF THE VARIETY NOTED ON THE PLANS. SOD SHALL BE CUT FROM HEALTHY, MATURE TURF WITH SOIL THICKNESS OF 3/4" TO 1", EACH PALLET OF SOD SHALL BE ACCOMPANIED BY A CERTIFICATE FROM SUPPLIER STATING THE COMPOSITION OF THE SOD.
- D. SEED: PROVIDE BLEND OF SPECIES AND VARIETIES AS NOTED ON THE PLANS, WITH MAXIMUM PERCENTAGES OF PURITY, GERMINATION, AND MINIMUM PERCENTAGE OF WEED SEED AS INDICATED ON PLANS. EACH BAG OF SEED SHALL BE ACCOMPANIED BY A TAG FROM THE SUPPLIER INDICATING THE COMPOSITION OF THE SEED.
- E. TOPSOIL: SANDY TO LOAM TOPSOIL, FREE OF STONES LARGER THAN 1/2 INCH, FOREIGN MATTER, PLANTS, ROOTS, AND SEEDS.
- F. COMPOST: WELL-COMPOSTED, STABLE, AND WEED-FREE ORGANIC MATTER, pH RANGE OF 5.5 TO 8; MOISTURE CONTENT 35 TO 55 PERCENT BY WEIGHT; 100 PERCENT PASSING THROUGH 3/4-INCH SIEVE; SOLUBLE SALT CONTENT OF 5 TO 10 DECISEMENS/M; NOT EXCEEDING 0.5 PERCENT INERT CONTAMINANTS AND FREE OF SUBSTANCES TOXIC TO PLANTINGS. NO MANURE OR ANIMAL-BASED PRODUCTS SHALL BE USED.
- G. PLANTING MIX: AN EQUAL PART MIXTURE OF TOPSOIL, SAND AND COMPOST.
- H. FERTILIZER: GRANULAR FERTILIZER CONSISTING OF NITROGEN, PHOSPHORUS, POTASSIUM, AND OTHER NUTRIENTS IN PROPORTIONS, AMOUNTS, AND RELEASE RATES RECOMMENDED IN A SOIL REPORT FROM A QUALIFIED SOIL-TESTING AGENCY (SEE BELOW).
- I. MULCH: SIZE AND TYPE AS INDICATED ON PLANS, FREE FROM DELETERIOUS MATERIALS AND SUITABLE AS A TOP DRESSING OF TREES AND SHRUBS.
- J. WEED FABRIC: 5 OUNCE, WOVEN, NEEDLE-PUNCHED FABRIC, SUCH AS DEWITT PROS LANDSCAPE FABRIC (OR APPROVED EQUAL).
- K. TREE STAKING AND GUYING
1. STAKES: 6' LONG GREEN METAL T-POSTS.
 2. GUY AND TIE WIRE: ASTM A 641, CLASS 1, GALVANIZED-STEEL WIRE, 2-STRAND, TWISTED, 0.106 INCH DIAMETER.
 3. STRAP CHAINING GUARD: REINFORCED NYLON OR CANVAS AT LEAST 1-1/2 INCH WIDE, WITH GROMMETS TO PROTECT TREE TRUNKS FROM DAMAGE.
- L. STEEL EDGING: PROFESSIONAL STEEL EDGING, 14 GAUGE THICK X 4 INCHES WIDE, FACTORY PAINTED DARK GREEN. ACCEPTABLE MANUFACTURERS INCLUDE COL-MET OR APPROVED EQUAL.
- M. PRE-EMERGENT HERBICIDES: ANY GRANULAR, NON-STAINING PRE-EMERGENT HERBICIDE THAT IS LABELED FOR THE SPECIFIC ORNAMENTALS OR TURF ON WHICH IT WILL BE USED. PRE-EMERGENT HERBICIDES SHALL BE APPLIED PER THE MANUFACTURER'S LABELED RATES.

METHODS

- A. SOIL PREPARATION
1. BEFORE STARTING WORK, THE LANDSCAPE CONTRACTOR SHALL VERIFY THAT THE GRADE OF ALL LANDSCAPE AREAS ARE WITHIN +/-0.1' OF FINISH GRADE. THE CONTRACTOR SHALL NOTIFY THE OWNER IMMEDIATELY SHOULD ANY DISCREPANCIES EXIST.
 2. SOIL TESTING:
 - a. AFTER FINISH GRADES HAVE BEEN ESTABLISHED, CONTRACTOR SHALL HAVE SOIL SAMPLES TESTED BY AN ESTABLISHED SOIL TESTING LABORATORY FOR THE FOLLOWING: SOIL TEXTURAL CLASS, GENERAL SOIL FERTILITY, pH, ORGANIC MATTER CONTENT, SALT (CEC), LIME, SODIUM ADSORPTION RATIO (SAR) AND BORON CONTENT. EACH SAMPLE SUBMITTED SHALL CONTAIN NO LESS THAN ONE QUART OF SOIL.
 - b. CONTRACTOR SHALL ALSO SUBMIT THE PROJECT'S PLANT LIST TO THE LABORATORY ALONG WITH THE SOIL SAMPLES.
 - c. THE SOIL REPORT PRODUCED BY THE LABORATORY SHALL CONTAIN RECOMMENDATIONS FOR THE FOLLOWING (AS APPROPRIATE): GENERAL SOIL PREPARATION AND BACKFILL MIXES, PRE-PLANT FERTILIZER APPLICATIONS, AND ANY OTHER SOIL RELATED ISSUES. THE REPORT SHALL ALSO PROVIDE A FERTILIZER PROGRAM FOR THE ESTABLISHMENT PERIOD AND FOR LONG-TERM MAINTENANCE.
 3. THE CONTRACTOR SHALL INSTALL SOIL AMENDMENTS AND FERTILIZERS PER THE SOILS REPORT RECOMMENDATIONS. ANY CHANGE IN COST DUE TO THE SOIL REPORT RECOMMENDATIONS, EITHER INCREASE OR DECREASE, SHALL BE SUBMITTED TO THE OWNER WITH THE REPORT.
 4. FOR BIDDING PURPOSES ONLY, THE SOIL PREPARATION SHALL CONSIST OF THE FOLLOWING:
 - a. TURF: INCORPORATE THE FOLLOWING AMENDMENTS INTO THE TOP 8" OF SOIL BY MEANS OF ROTOTILLING AFTER CROSS-RIPPING:
 - i. NITROGEN STABILIZED ORGANIC AMENDMENT - 4 CU. YDS. PER 1,000 S.F.
 - ii. AMMONIUM PHOSPHATE 16-20-0 - 15 LBS PER 1,000 S.F.
 - iii. AGRICULTURAL GYPSUM - 100 LBS PER 1,000 S.F.
 - b. TREES, SHRUBS, AND PERENNIALS: INCORPORATE THE FOLLOWING AMENDMENTS INTO THE TOP 8" OF SOIL BY MEANS OF ROTOTILLING AFTER CROSS-RIPPING:
 - i. NITROGEN STABILIZED ORGANIC AMENDMENT - 4 CU. YDS. PER 1,000 S.F.
 - ii. 12-12-12 FERTILIZER - 10 LBS. PER CU. YD.
 - iii. AGRICULTURAL GYPSUM - 10 LBS. PER CU. YD.
 - iv. IRON SULPHATE - 2 LBS. PER CU. YD.
 5. CONTRACTOR SHALL ENSURE THAT THE GRADE IN SOD AREAS SHALL BE 1" BELOW FINISH GRADE AFTER INSTALLING SOIL AMENDMENTS, AND 2" BELOW FINISH GRADE IN SHRUB AREAS AFTER INSTALLING SOIL AMENDMENTS. MULCH COVER WITHIN 6" OF CONCRETE WALKS AND CURBS SHALL NOT PROTRUDE ABOVE THE FINISH SURFACE OF THE WALKS AND CURBS. MULCH COVER WITHIN 12" OF WALLS SHALL BE AT LEAST 3" LOWER THAN THE TOP OF WALL.
 6. ONCE SOIL PREPARATION IS COMPLETE, THE LANDSCAPE CONTRACTOR SHALL ENSURE THAT THERE ARE NO DEBRIS, TRASH, OR STONES LARGER THAN 1" REMAINING IN THE TOP 6" OF SOIL.

GENERAL PLANTING

1. REMOVE ALL NURSERY TAGS AND STAKES FROM PLANTS.
2. EXCEPT IN AREAS TO BE PLANTED WITH ORNAMENTAL GRASSES, APPLY PRE-EMERGENT HERBICIDES AT THE MANUFACTURER'S RECOMMENDED RATE.
3. TRENCING NEAR EXISTING TREES:
 - a. CONTRACTOR SHALL DISBURT ROOTS 1-1/2" AND LARGER IN DIAMETER WITHIN THE CRITICAL ROOT ZONE (CRZ) OF EXISTING TREES, AND SHALL EXERCISE ALL POSSIBLE CARE AND PRECAUTIONS TO AVOID INJURY TO TREE ROOTS, TRUNKS, AND BRANCHES. THE CRZ IS DEFINED AS A CIRCULAR AREA EXTENDING OUTWARD FROM THE TREE TRUNK, WITH A RADIUS EQUAL TO 1" FOR EVERY 1" OF TRUNK DIAMETER-AT-BREAST-HEIGHT (4.5' ABOVE THE AVERAGE GRADE AT THE TRUNK).
 - b. ALL EXCAVATION WITHIN THE CRZ SHALL BE PERFORMED USING HAND TOOLS. NO MACHINE EXCAVATION OR TRENCING OF ANY KIND SHALL BE ALLOWED WITHIN THE CRZ.
 - c. ALTER ALIGNMENT OF PIPE TO AVOID TREE ROOTS 1-1/2" AND LARGER IN DIAMETER. WHERE TREE ROOTS 1-1/2" AND LARGER IN DIAMETER ARE ENCOUNTERED IN THE FIELD, TUNNEL UNDER SUCH ROOTS. WRAP EXPOSED ROOTS WITH SEVERAL LAYERS OF BURLAP AND KEEP MOIST. CLOSE ALL TRENCHES WITHIN THE CANOPY DRIP LINES WITHIN 24 HOURS.
 - d. ALL SEVERED ROOTS SHALL BE HAND PRUNED WITH SHARP TOOLS AND ALLOWED TO AIR-DRY. DO NOT USE ANY SORT OF SEALERS OR WOUND PAINTS.

TREE PLANTING

1. TREE PLANTING HOLES SHALL BE EXCAVATED TO MINIMUM WIDTH OF TWO TIMES THE WIDTH OF THE ROOTBALL, AND TO A DEPTH EQUAL TO THE DEPTH OF THE ROOTBALL LESS TWO INCHES.
2. SCARIFY THE SIDES AND BOTTOM OF THE PLANTING HOLE PRIOR TO THE PLACEMENT OF THE TREE. REMOVE ANY GLAZING THAT MAY HAVE BEEN CAUSED DURING THE EXCAVATION OF THE HOLE.
3. FOR CONTAINER TREES, TO REMOVE ANY POTENTIALLY GIRDLING ROOTS AND OTHER ROOT DEFECTS, THE CONTRACTOR SHALL SHAVE A 1" LAYER OFF OF THE SIDES AND BOTTOM OF THE ROOTBALL OF ALL TREES JUST BEFORE PLACING INTO THE PLANTING PIT. DO NOT "TEASE" ROOTS OUT FROM THE ROOTBALL.
4. INSTALL THE TREE ON UNDISTURBED SUBGRADE SO THAT THE TOP OF THE ROOTBALL IS TWO TO THREE INCHES ABOVE THE SURROUNDING GRADE.
5. BACKFILL THE TREE HOLE UTILIZING THE EXISTING TOPSOIL FROM ON-SITE. ROCKS LARGER THAN 1" DIA. AND ALL OTHER DEBRIS SHALL BE REMOVED FROM THE SOIL PRIOR TO THE BACKFILL. SHOULD ADDITIONAL SOIL BE REQUIRED TO ACCOMPLISH THIS TASK, IMPORT ADDITIONAL TOPSOIL FROM OFF-SITE AT NO ADDITIONAL COST TO THE OWNER.
6. THE TOTAL NUMBER OF TREE STAKES (BEYOND THE MINIMUMS LISTED BELOW) WILL BE LEFT TO THE LANDSCAPE CONTRACTOR'S DISCRETION. SHOULD ANY TREES FALL OR LEAN, THE LANDSCAPE CONTRACTOR SHALL STRAIGHTEN THE TREE, OR REPLACE IT SHOULD IT BECOME DAMAGED. TREE STAKING SHALL ADHERE TO THE FOLLOWING GUIDELINES:
 - a. 15' - 30 GAL TREES: TWO STAKES PER TREE
 - b. 45' - 100 GAL TREES: THREE STAKES PER TREE
 - c. MULTI-TRUNK TREES: THREE STAKES PER TREE MINIMUM, POSITIONED AS NEEDED TO STABILIZE THE TREE
7. UPON COMPLETION OF PLANTING, CONSTRUCT AN EARTH WATERING BASIN AROUND THE TREE COVER THE INTERIOR OF THE TREE RING WITH THE WEED BARRIER CLOTH AND TOPDRESS WITH MULCH (TYPE AND DEPTH PER PLANS).

SHRUB, PERENNIAL, AND GROUNDCOVER PLANTING

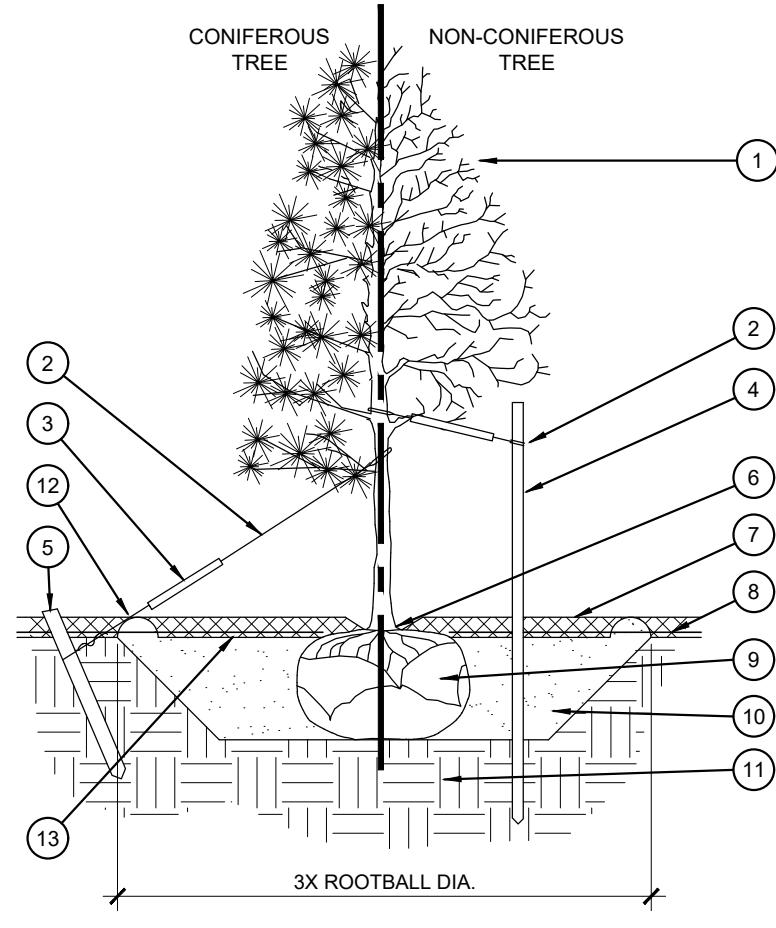
1. DIG THE PLANTING HOLES TWICE AS WIDE AND 2" LESS DEEP THAN EACH PLANT'S ROOTBALL. INSTALL THE PLANT IN THE HOLE. BACKFILL AROUND THE PLANT WITH SOIL AMENDED PER SOIL TEST RECOMMENDATIONS.
 2. INSTALL THE WEED BARRIER CLOTH, OVERLAPPING IT AT THE ENDS. UTILIZE STEEL STAPLES TO KEEP THE WEED BARRIER CLOTH IN PLACE.
 3. WHEN PLANTING IS COMPLETE, INSTALL MULCH (TYPE AND DEPTH PER PLANS) OVER ALL PLANTING BEDS, COVERING THE ENTIRE PLANTING AREA.
- E. SODDING
1. SOD VARIETY TO BE AS SPECIFIED ON THE LANDSCAPE PLAN.
 2. LAY SOD WITHIN 24 HOURS FROM THE TIME OF STRIPPING. DO NOT LAY IF THE GROUND IS FROZEN.
 3. LAY THE SOD TO FORM A SOLID MASS WITH TIGHTLY FITTED JOINTS. BUTT ENDS AND SIDES OF SOD STRIPS - DO NOT OVERLAP. STAGGER STRIPS TO OFFSET JOINTS IN ADJACENT COURSES.
 4. ROLL THE SOD TO ENSURE GOOD CONTACT OF THE SOD'S ROOT SYSTEM WITH THE SOIL UNDERNEATH.
 5. WATER THE SOD THOROUGHLY WITH A FINE SPRAY IMMEDIATELY AFTER PLANTING TO OBTAIN AT LEAST SIX INCHES OF PENETRATION INTO THE SOIL BELOW THE SOD.
- F. HYDROMULCHING
1. THE HYDROMULCH MIX (PER 1,000 SF) SHALL BE AS FOLLOWS:
 - a. WINTER MIX (OCTOBER 1 - MARCH 31)
 - 50# CELLULOSE FIBER MULCH
 - 2# UNHULLED BERMUDA SEED
 - 2# ANNUAL RYE SEED
 - 15# 15-15-15 WATER SOLUBLE FERTILIZER
 - b. SUMMER MIX (APRIL 1 - SEPTEMBER 30)
 - 50# CELLULOSE FIBER MULCH
 - 2# HULLED BERMUDA SEED
 - 15# 15-15-15 WATER SOLUBLE FERTILIZER

CLEAN UP

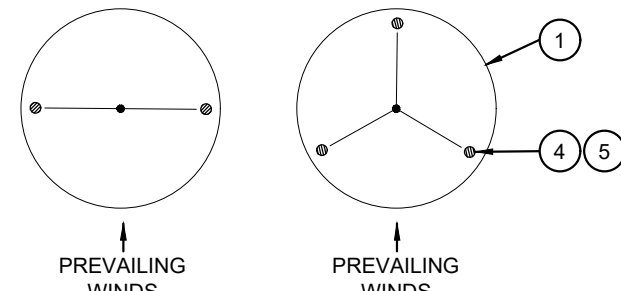
1. DURING LANDSCAPE PREPARATION AND PLANTING, KEEP ALL PAVEMENT CLEAN AND ALL WORK AREAS IN A NEAT, ORDERLY CONDITION.
 2. DISPOSED LEGALLY OF ALL EXCAVATED MATERIALS OFF THE PROJECT SITE.
- H. INSPECTION AND ACCEPTANCE
1. UPON COMPLETION OF THE WORK, THE LANDSCAPE CONTRACTOR SHALL PROVIDE THE SITE CLEAN, FREE OF DEBRIS AND TRASH, AND SUITABLE FOR USE AS INTENDED. THE LANDSCAPE CONTRACTOR SHALL THEN REQUEST AN INSPECTION BY THE OWNER TO DETERMINE FINAL ACCEPTABILITY.
 2. WHEN THE INSPECTED PLANTING WORK DOES NOT COMPLY WITH THE CONTRACT DOCUMENTS, THE LANDSCAPE CONTRACTOR SHALL REPLACE AND/OR REPAIR THE REJECTED WORK TO THE OWNER'S SATISFACTION WITHIN 24 HOURS.
 3. THE LANDSCAPE MAINTENANCE PERIOD WILL NOT COMMENCE UNTIL THE LANDSCAPE WORK HAS BEEN RE-INSPECTED BY THE OWNER AND FOUND TO BE ACCEPTABLE. AT THAT TIME, A WRITTEN NOTICE OF FINAL ACCEPTANCE WILL BE ISSUED BY THE OWNER, AND THE MAINTENANCE AND GUARANTEE PERIODS WILL COMMENCE.

LANDSCAPE MAINTENANCE

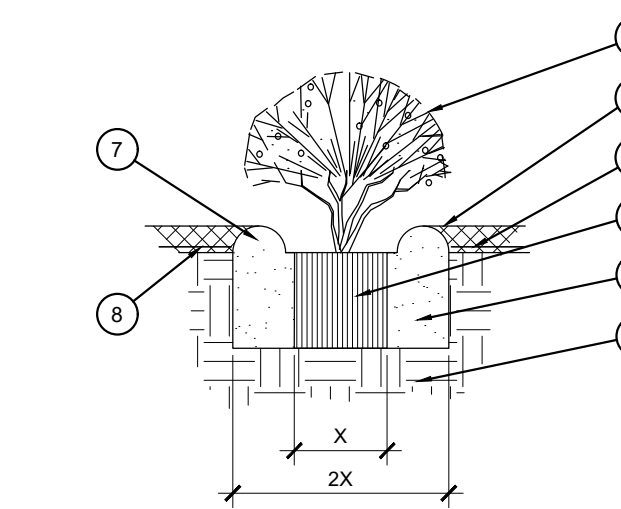
1. THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF ALL WORK SHOWN ON THESE PLANS FOR 90 DAYS BEYOND FINAL ACCEPTANCE OF ALL LANDSCAPE WORK BY THE OWNER. LANDSCAPE MAINTENANCE SHALL INCLUDE WEEKLY SITE VISITS FOR THE FOLLOWING ACTIONS (AS APPROPRIATE): PROPER PRUNING, RESTAKING OF TREES, RESETTING OF PLANTS THAT HAVE SETTLED, MOWING AND AERATION OF LAWNS, WEEDING, RESEEDING AREAS WHICH HAVE NOT GERMINATED WELL, TREATING FOR INSECTS AND DISEASES, REPLACEMENT OF MULCH, REMOVAL OF LITTER, REPAIRS TO THE IRRIGATION SYSTEM DUE TO FAULTY PARTS AND/OR WORKMANSHIP, AND THE APPROPRIATE WATERING OF ALL PLANTINGS. THE LANDSCAPE CONTRACTOR SHALL MAINTAIN THE IRRIGATION SYSTEM IN PROPER WORKING ORDER, WITH SCHEDULING ADJUSTMENTS BY SEASON TO MAXIMIZE WATER CONSERVATION.
2. SHOULD SEEDED AND/OR SODDED AREAS NOT BE COVERED BY AN AUTOMATIC IRRIGATION SYSTEM, THE LANDSCAPE CONTRACTOR SHAL BE RESPONSIBLE FOR WATERING THESE AREAS AND OBTAINING A FULL, HEALTHY STAND OF GRASS AT NO ADDITIONAL COST TO THE OWNER.
3. TO ACHIEVE FINAL ACCEPTANCE AT THE END OF THE MAINTENANCE PERIOD, ALL OF THE FOLLOWING CONDITIONS MUST OCCUR:
 - a. THE LANDSCAPE SHALL SHOW ACTIVE, HEALTHY GROWTH (WITH EXCEPTIONS MADE FOR SEASONAL DORMANCY). ALL PLANTS NOT MEETING THIS CONDITION SHALL BE REJECTED AND REPLACED BY HEALTHY PLANT MATERIAL PRIOR TO FINAL ACCEPTANCE.
 - b. ALL HARDSCAPE SHALL BE CLEANED PRIOR TO FINAL ACCEPTANCE.
 - c. SODDED AREAS MUST BE ACTIVELY GROWING AND MUST REACH A MINIMUM HEIGHT OF 1 1/2 INCHES BEFORE FIRST MOWING. HYDROMULCHED AREAS SHALL SHOW ACTIVE, HEALTHY GROWTH. BARE AREAS LARGER THAN TWELVE SQUARE INCHES MUST BE RESEDED OR RESEED (AS APPROPRIATE) PRIOR TO FINAL ACCEPTANCE. ALL SODDED TURF SHALL BE NEATLY MOWED.
4. WARRANTY PERIOD, PLANT GUARANTEE AND REPLACEMENTS
 1. THE LANDSCAPE CONTRACTOR SHALL GUARANTEE ALL TREES, SHRUBS, PERENNIALS, SOD, SEEDDED/HYDROMULCHED AREAS, AND IRRIGATION SYSTEMS FOR A PERIOD OF ONE YEAR FROM THE DATE OF THE OWNER'S FINAL ACCEPTANCE (90 DAYS FOR ANNUAL PLANTS). THE CONTRACTOR SHALL REPLACE, AT HIS OWN EXPENSE AND TO THE SATISFACTION OF THE OWNER, ANY PLANTS WHICH DIE IN THAT TIME, OR REPAIR ANY PORTIONS OF THE IRRIGATION SYSTEM WHICH OPERATE IMPROPERLY.
 2. AFTER THE INITIAL MAINTENANCE PERIOD AND DURING THE GUARANTEE PERIOD, THE LANDSCAPE CONTRACTOR SHALL ONLY BE RESPONSIBLE FOR REPLACEMENT OF PLANTS WHEN PLANT DEATH CANNOT BE ATTRIBUTED DIRECTLY TO OVERWATERING OR OTHER DAMAGE BY HUMAN ACTIONS.
5. PROVIDE A MINIMUM OF (2) COPIES OF RECORD DRAWINGS TO THE OWNER UPON COMPLETION OF WORK. A RECORD DRAWING IS A RECORD OF ALL CHANGES THAT OCCURRED IN THE FIELD AND THAT ARE DOCUMENTED THROUGH CHANGE ORDERS, ADDENDA, OR CONTRACTOR/CONSULTANT DRAWING MARKUPS.



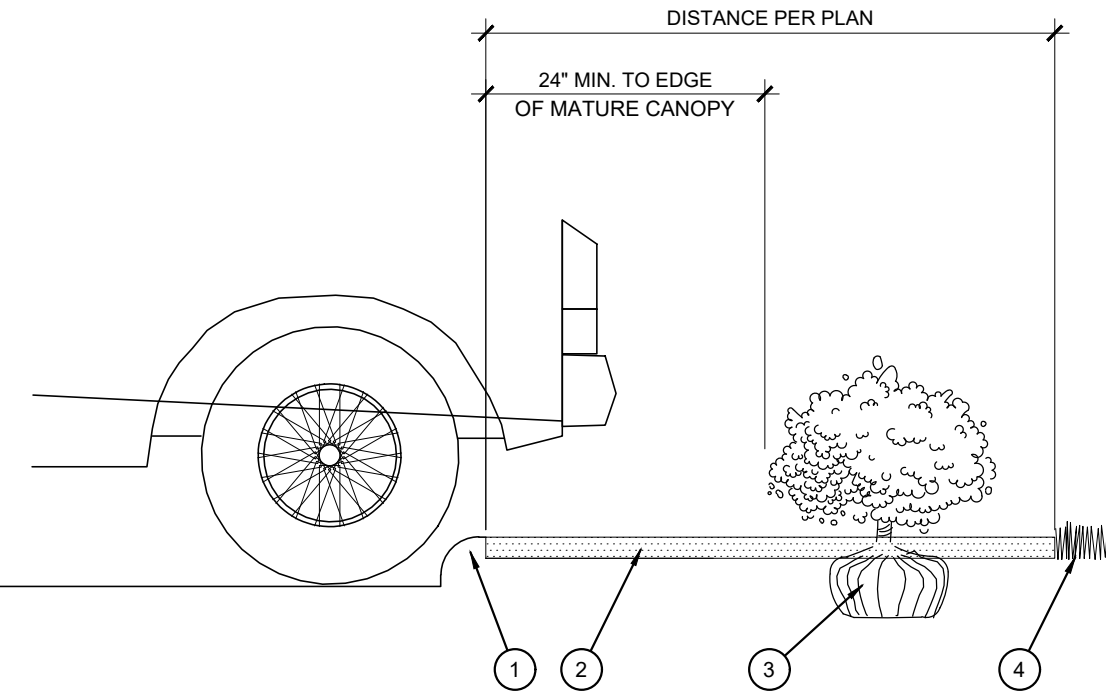
STAKING EXAMPLES (PLAN VIEW)



A TREE PLANTING
SCALE: NOT TO SCALE



B SHRUB AND PERENNIAL PLANTING
SCALE: NTS



E HEDGE PLANTING AT PARKING AREA
SCALE: NOT TO SCALE

C PLANT SPACING
SCALE: NTS

PLANT SPACING	AREA DIVIDER TO DETERMINE NO. OF PLANTS
8"	0.45
10"	0.69
12"	1
15"	1.56
18"	2.25
24"	4
30"	6.25
36"	9

EXAMPLE: PLANTS AT 18" O.C. IN 100 SF OF PLANTING AREA = 100/2.25 = 44 PLANTS



DESIGN:
DRAWN:
CHECKED:
DATE: SHEET
LP-2

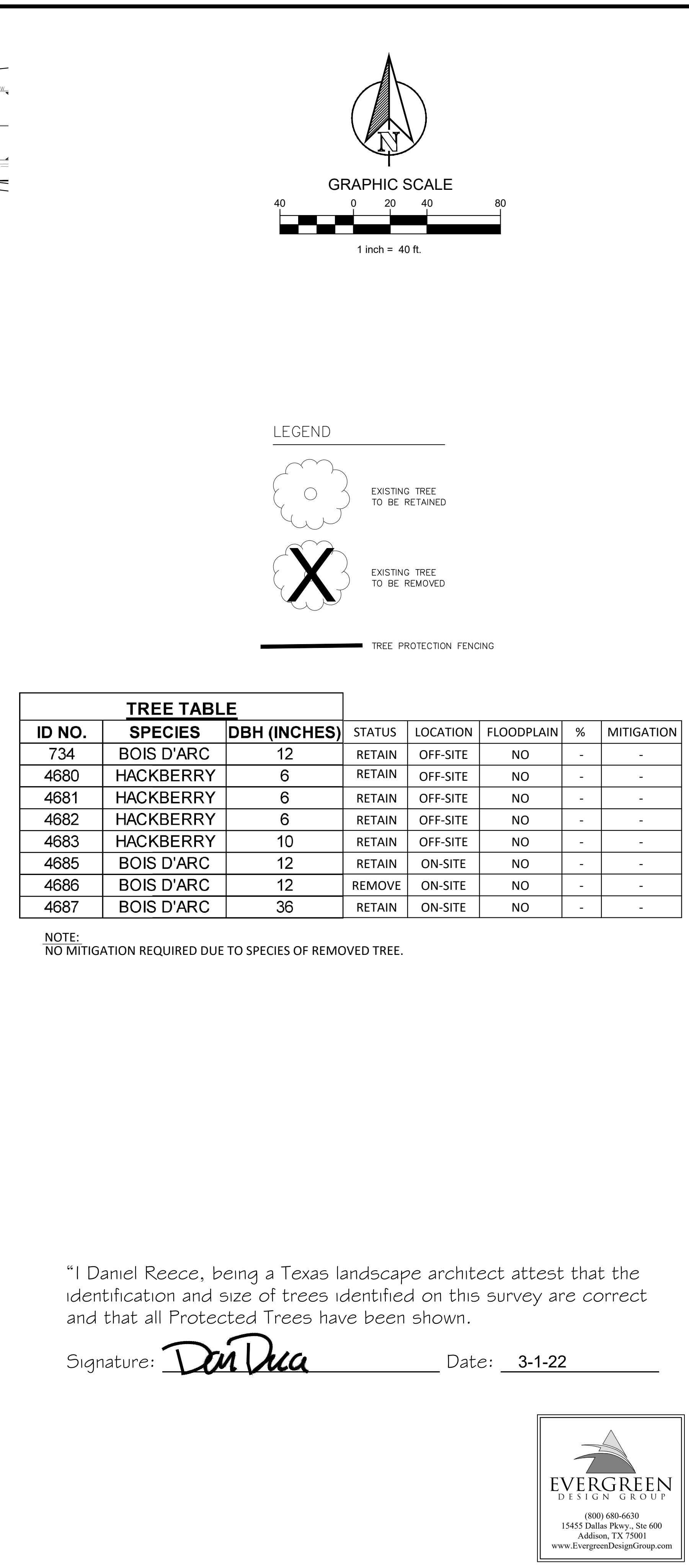
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TOWN OF PROSPER GENERAL LANDSCAPE NOTES

1. Plant material shall be measured and sized according to the latest edition of the Texas Nursery & Landscape Association (TNLA) Specifications, Grades and Standards.
2. All plant substitutions are subject to Town approval and must be specified on the approved landscape plan.
3. All surf areas to be established prior to the Certificate of Occupancy, unless otherwise approved by the Town.
4. Ground covers used in lieu of turf grass must provide complete coverage within one (1) year of planting and maintain adequate coverage as approved by the Town.
5. Trees must be planted four (4) feet or greater from curbs, sidewalks, utility lines, screening walls, and/or other healthy root growth.
6. Tree pits shall have roughened sides and be two to three times wider than the root ball of the tree in order to facilitate healthy root growth.
7. Tree pits shall be tested for water percolation. If water does not drain out of tree pit within a 24-hour period, the contractor shall provide berming, or devise alternative drainage.
8. Trees shall be planted deeper than the base of the "trunk flare".
9. The tree pit shall be backfilled with native topsoil free of rock and other debris.
10. Burlap, twine, and wire baskets must be loosened and pulled back from the trunk of tree as much as possible.
11. Trees shall not be watered to excess that results in soil saturation. If soil becomes saturated, the watering schedule shall be adjusted to allow for drainage and absorption of the excess water.
12. A 3/4" layer of mulch shall be provided around the base of the planted tree. The mulch shall be pulled back 1-2" from the trunk of the tree.
13. No person(s) or entity may use improper or malicious maintenance or pruning techniques which would likely lead to the death of the tree. Improper or malicious techniques include, but are not limited to, topping or other unsymmetrical trimming of trees, trimming trees with a chainsaw, or use of fire or poison to cause the death of a tree.
14. Topsoil shall be a minimum of eight (8) inches in depth in planting areas. Soil shall be free of stones, roots, and clods and any other foreign material that is not beneficial for plant growth.
15. All plant beds shall be top-dressed with a minimum of three (3) inches of mulch.
16. Trees overhanging walks and parking shall have a minimum clear trunk height of seven (7) feet. Trees overhanging public street pavement drive aisles and fire lanes shall have a minimum clear trunk height of fourteen (14) feet.
17. A visibility triangle must be provided at all intersections, where shrubs are not to exceed thirty (30) inches in height, and trees shall have a minimum clear trunk height of nine (9) feet.
18. Trees planted on a slope shall have the base well at the average grade of slope.
19. No shrubs shall be permitted within areas less than three (3) feet in width. All beds less than three (3) feet in width shall be grass, groundcover, or some type of fixed paving.
20. The owner, tenant, and/or their agents, if any, shall be jointly and severally responsible for the maintenance, establishment, and permanence of plant material. All landscaping shall be maintained in a neat and orderly manner at all times. This shall include, but not be limited to, mowing, edging, pruning, fertilizing, watering, and other activities necessary for the maintenance of landscaped areas.
21. All plant material shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Plant material that is damaged, destroyed, or removed shall be replaced with plant material of similar size and variety within thirty (30) days unless otherwise approved in writing by the Town of Prosper.
22. Landscape and open areas shall be kept free of trash, litter, and weeds.
23. An automatic irrigation system shall be provided to irrigate all landscape areas. Overgraze on streets and walks is prohibited. A permit from the Building Inspection Division is required for each irrigation system.
24. No plant material shall be allowed to encroach on right-of-way, sidewalks, or easements to the extent that the vision or route of travel for vehicular, pedestrian, or bicycle traffic is impeded.
25. No planting areas shall exceed 3:1 slope (3 ft horizontal to 1 ft vertical).
26. Earthen berms shall not include construction debris. Contractor must correct slippage or damage to the smooth finish grade of the berm prior to acceptance.
27. All walkways shall meet ADA and T&S requirements.
28. Contact Town of Prosper Parks and Recreation Division at (972) 559-1150 for landscape inspection. Note that landscape installation must comply with approved landscape plans prior to final acceptance by the Town and/or obtaining a Certificate of Occupancy.
29. Final inspection and approval of screening walls, irrigation, and landscape is subject to all public utilities, including but not limited to manholes, valves, water meters, cleanouts, and other appurtenances, to be accessible, adjusted to grade, and to the Town of Prosper's Public Works Department standards.
30. Prior to calling for a landscape inspection, the contractor is responsible for marking all manholes, valves, water meters, cleanouts, and other utility appurtenances with flagging for field verification by the Town.

TOWN OF PROSPER MAINTENANCE STANDARDS

- A. THE OWNER, TENANT AND/OR THEIR AGENT, IF ANY, SHALL BE JOINTLY AND SEVERALLY RESPONSIBLE FOR THE MAINTENANCE OF ALL LANDSCAPING REQUIRED BY THIS ORDINANCE. ALL PLANT MATERIAL SHALL BE PERPETUALLY MAINTAINED IN A HEALTHY AND GROWING CONDITION AS IS APPROPRIATE FOR THE SEASON OF THE YEAR. PLANT MATERIALS THAT DIE SHALL BE REPLACED BY PROPERTY OWNER, TENANT OR AGENT WITH PLANT MATERIAL OF SIMILAR VARIETY AND SIZE, WITHIN THIRTY (30) DAYS OF NOTIFICATION BY THE TOWN OR A DATE APPROVED BY THE TOWN.
- B. ALL TREES LOCATED ON TOWN PROPERTY SHALL BE CARED FOR BY THE TOWN UNLESS THAT RESPONSIBILITY IS TRANSFERRED TO ANOTHER ENTITY THROUGH A COUNCIL-APPROVED AGREEMENT. THE DIRECTOR OF THE PARKS AND RECREATION DEPARTMENT SHALL ENSURE THAT THE TOWN, OR ITS CONTRACTOR, MONITORS AND CARES FOR TREES IN A WAY THAT PROMOTES A HEALTHY AND GROWING URBAN FOREST. IS PERFORMED ACCORDING TO ANSI A300, STANDARDS FOR TREE CARE OPERATIONS, AND TREE CARE BEST MANAGEMENT PRACTICES PUBLISHED BY THE INTERNATIONAL SOCIETY OF ARBORICULTURE. IT SHALL BE UNLAWFUL TO REMOVE, PRUNE, DAMAGE OR OTHERWISE HARM TREES ON TOWN PROPERTY WITHOUT PERMISSION FROM THE DIRECTOR OF THE PARKS AND RECREATION DEPARTMENT. THE PARKS AND RECREATION DEPARTMENT SHALL BE RESPONSIBLE FOR DEVELOPING AND UPDATING AN ANNUAL WORK PLAN. THIS WORK PLAN SHALL DOCUMENT WHAT MAINTENANCE ACTIVITIES ARE BEING PERFORMED AND SCHEDULED EACH YEAR. THE PARKS AND RECREATION BOARD MAY APPPOINT AN ADVISORY COMMITTEE TO FOCUS ON ISSUES AND INITIATIVES THAT PERTAIN TO ANY URBAN FOREST THAT IS LOCATED ON PUBLIC LANDS.



NOTE:
NO MITIGATION REQUIRED DUE TO SPECIES OF REMOVED TREE.

Signature: Don Dica Date: 3-1-22


TEXAS FIRM #14199

CLAY

MOORE

ENGINEERING

PHONE 817.281.8922
1933 CENTRAL DR., SUITE 400B
BEVERLY, TX 75821
WWW.CLAYMOOREENG.COM



3-31-22

GRACE CHAPEL PROSPER
FM 1385 & DENTON WAY
PROSPER, TX

No.	DATE	REVISION	BY

TREE DISPOSITION PLAN

DESIGN: _____

DRAWN: _____

CHECKED: _____

DATE: _____

SHEET

TD-1

File No: _____

MATERIALS

- ## CONSTRUCTION METHODS

DESIGN:	
DRAWN:	
CHECKED:	
DATE:	
<p style="text-align: center;">SHEET</p> <p style="text-align: center;">TD-2</p>	
File No:	

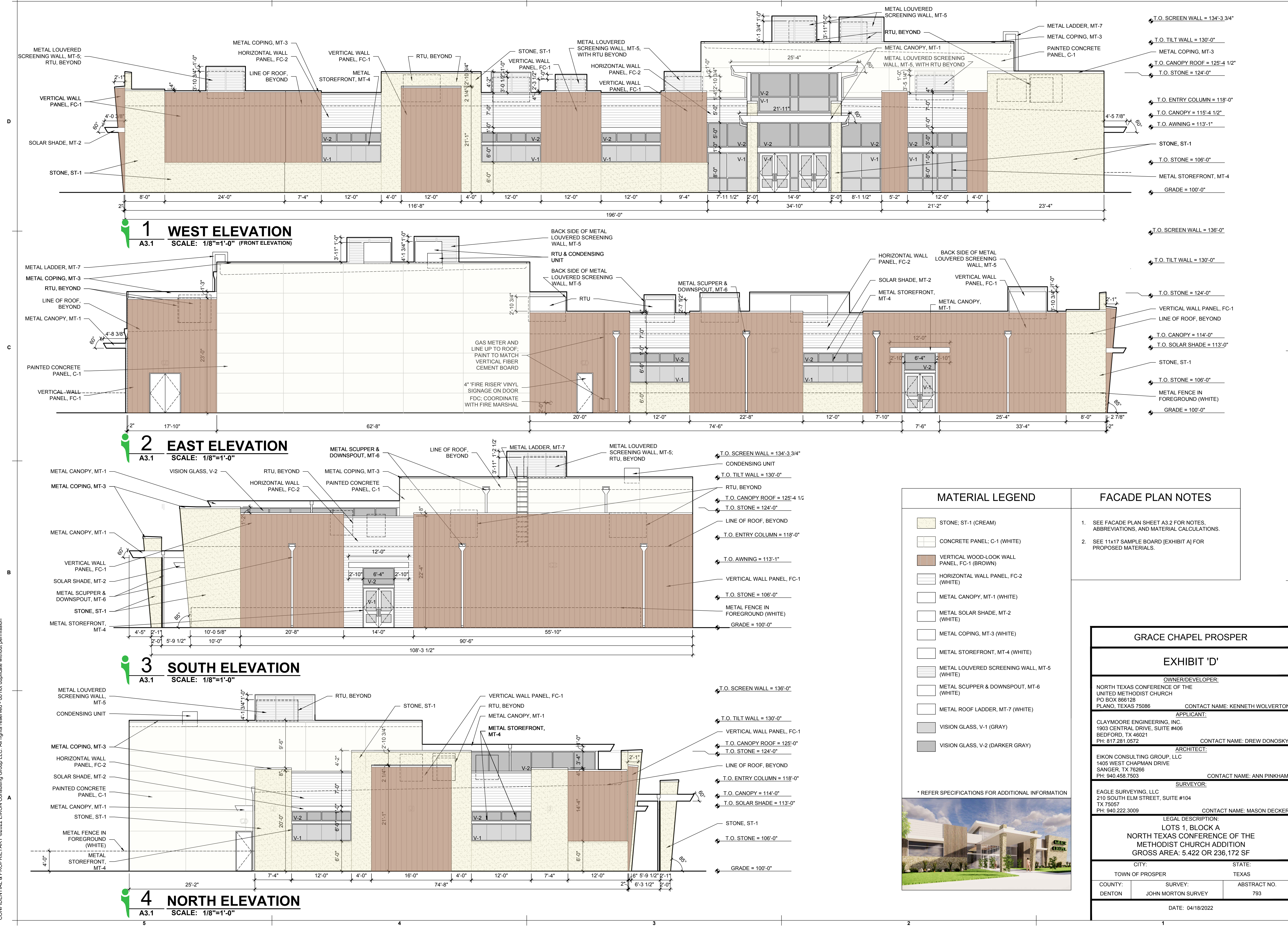
THIS DOCUMENT IS RELEASED
FOR THE PURPOSE OF
INTERIM REVIEW UNDER THE
AUTHORITY OF
ANN PINKHAM,
TX 28330
ON 01/12/2022.
IT IS NOT TO BE USED FOR
CONSTRUCTION, BIDDING, OR
PERMIT PURPOSES.

TDLR #

NOT FOR CONSTRUCTION
IN PROGRESS

EXHIBIT 'D'
FACADE PLAN

BUILDING ELEVATIONS



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PLANNING



To: Mayor and Town Council

From: David Soto, Planning Manager

Through: Bob Scott, Executive Director of Administrative Services
Hulon T. Webb, Jr., Interim Executive Director of Development and Infrastructure Services

Re: Town Council Meeting – August 9, 2022

Agenda Item:

Consider and act upon authorizing the Mayor to execute a Development Agreement between North Texas Conference of the United Methodist Church, and the Town of Prosper, Texas, related to the Grace Chapel Prosper development, located on the southeast corner of FM 1385 and Denton Way.

Description of Agenda Item:

On June 28, 2022, the Town Council approved the proposed request, by a vote of 7-0. The purpose of the Development Agreement is for the architectural building materials.

A Development Agreement has been prepared accordingly.

Legal Obligations and Review:

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

Attached Documents:

1. Development Agreement

Town Staff Recommendation:

Town staff recommends that the Town Council authorize the Mayor to execute a Development Agreement between North Texas Conference of the United Methodist Church, and the Town of Prosper, Texas, related to the Grace Chapel Prosper development, located on the southeast corner of FM 1385 and Denton Way.

Proposed Motion:

I move to authorize the Mayor to execute a Development Agreement between North Texas Conference of the United Methodist Church, and the Town of Prosper, Texas, related to the Grace Chapel Prosper development, located on the southeast corner of FM 1385 and Denton Way.

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between the Town of Prosper, Texas ("Town"), and the North Texas Conference of the United Methodist Church ("Owner") (individually, a "Party" and collectively, the "Parties") to be effective (the "Effective Date") on the latest date executed by a Party.

WHEREAS, the Town is a home-rule municipal corporation, located in Collin County and Denton County, Texas, organized and existing under the laws of the State of Texas; and

WHEREAS, Owner is developing a day care center on an approximate 5.4-acre tract at Grace Chapel, located at on the southeast corner of FM 1385 and Denton Way (the "Property"), and a depiction of the Property is attached hereto as Exhibit A and incorporated by reference; and

WHEREAS, the foregoing Property was rezoned by the Town Council on or about June 28, 2022, when the Town Council approved a specific use permit on the Property, and this Agreement seeks to incorporate, in part, the negotiated and agreed upon development standards contained in the underlying zoning ordinance, as may be amended, and/or this Development Agreement, to recognize Owner's reasonable investment-backed expectations in the Development, as may be amended, and as more fully described herein.

NOW, THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Parties to this Agreement agree as follows:

1. Development Standards. For any structure built on the Property following the Effective Date, it shall comply with the requirements contained in Exhibit B, "Building Elevation Plan" and "Façade Plan," all of which are attached hereto and incorporated herein. The Parties agree and acknowledge that the provisions of this Paragraph shall apply to any structure constructed subsequent to the execution of this Agreement. Nothing in this Agreement shall be deemed to modify or otherwise amend any zoning regulation duly adopted by the Town, previously or in the future.

2. Covenant Running with the Land. The terms, conditions, rights, obligations, benefits, covenants and restrictions of the provisions of this Agreement shall be deemed covenants running with the land, and shall be binding upon and inure to the benefit of the Owner and its heirs, representatives, successors and assigns. This Agreement shall be deemed to be incorporated into each deed and conveyance of the Property or any portion thereof hereafter made by any other owners of the Property, regardless of whether this Agreement is expressly referenced therein.

3. Applicability of Town Ordinances. Owner shall develop the Property, and construct all structures on the Property, in accordance with all applicable Town ordinances and building/construction codes.

4. Rough Proportionality. Owner hereby agrees that any land or property donated and/or dedicated to the Town pursuant to this Agreement, whether in fee simple or otherwise, including any easements (as may be reflected in any Final Plat), relative to any development on the Property is roughly proportional to the need for such land and Owner hereby waives any claim therefor that it may have. Owner further acknowledges and agrees that all prerequisites to such a determination of rough proportionality have been met, and that any costs incurred relative to said donation are related both in nature and extent to the impact of the development referenced herein. Both Owner and the Town further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the provision of roadway services to the Property.

5. Exactions/Infrastructure Costs. Both the Town and Owner have been represented by legal counsel in the negotiation of this Agreement and been advised or each has had the opportunity to have legal counsel review this Agreement and advise them, regarding Owner's and the Town's rights under Texas and federal law. Owner and the Town hereby waive any requirement that the other retain a professional engineer, licensed pursuant to Chapter 1001 of the Texas Occupations Code, to review and determine that the exactions are roughly proportional or roughly proportionate to the proposed development's anticipated impact. Owner specifically reserves its right to appeal the apportionment of municipal infrastructure costs in accordance with § 212.904 of the Texas Local Government Code and any exemptions from impact fees under current or future law; however, notwithstanding the foregoing and to the extent permitted by law, Owner hereby releases the Town from any and all liability under § 212.904 of the Texas Local Government Code, as amended, regarding or related to the cost of those municipal infrastructure requirements imposed by this Agreement.

6. Default. No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time determined based on the nature of the alleged failure, but in no event less than thirty (30) days after written notice of the alleged failure has been given). In addition, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured. If either Party is in default under this Agreement, the other Party shall have the right to enforce the Agreement in accordance with applicable law, provided, however, in no event shall any Party be liable for consequential or punitive damages.

7. Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Denton County, Texas. Exclusive venue for any action arising under this Agreement shall lie in Denton County, Texas.

8. Notice. Any notices required or permitted to be given hereunder (each, a "Notice") shall be given by certified or registered mail, return receipt requested, to the addresses set forth below or to such other single address as either party hereto shall notify the other:

If to the Town: The Town of Prosper
250 W. First Street
P.O. Box 307
Prosper, Texas 75078
Attention: Town Secretary

If to Owner: North Texas Conference of the United Methodist Church
P.O. Box 866128
Plano, Texas 75080
Attention: Keith Wolverton

9. Prevailing Party. In the event any person initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable costs and attorney's fees (including its reasonable costs and attorney's fees on any appeal).

10. Entire Agreement. This Agreement contains the entire agreement between the Parties hereto with respect to development of the Property and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party.

11. Savings/Severability. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

12. Binding Agreement. A telecopied facsimile of a duly executed counterpart of this Agreement shall be sufficient to evidence the binding agreement of each party to the terms herein, including without limitation a scanned copy sent via electronic mail by either Party.

13. Authority to Execute. This Agreement shall become a binding obligation on the Parties upon execution by all Parties hereto. The Town warrants and represents that the individual executing this Agreement on behalf of the Town has full authority to

execute this Agreement and bind the Town to the same. Owner warrants and represents that the individual executing this Agreement on behalf of Owner has full authority to execute this Agreement and bind Owner to the same. The Town Council hereby authorizes the Town Manager of the Town to execute this Agreement on behalf of the Town.

14. Filing in Deed Records. This Agreement, and any and all subsequent amendments to this Agreement, shall be filed in the deed records of Denton County, Texas.

15. Mediation. In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to nonbinding mediation.

16. Notification of Sale or Transfer; Assignment of Agreement. Except with respect to a sale or transfer to a related entity of Owner, Owner shall notify the Town in writing of any sale or transfer of all or any portion of the Property, within ten (10) business days of such sale or transfer. Owner has the right (from time to time without the consent of the Town, but upon written notice to the Town) to assign this Agreement, in whole or in part, and including any obligation, right, title, or interest of Owner under this Agreement, to any person or entity (an "Assignee") that is or will become an owner of any portion of the Property or that is an entity that is controlled by or under common control with Owner. Each assignment shall be in writing executed by Owner and the Assignee and shall obligate the Assignee to be bound by this Agreement. Except with respect to a sale or transfer to a related entity of Owner, a copy of each assignment shall be provided to the Town within ten (10) business days after execution. Provided that the successor owner assumes the liabilities, responsibilities, and obligations of the assignor under this Agreement and/or the building has been constructed on the Property as provided in this Agreement, the assigning party will be released from any rights and obligations under this Agreement as to the Property that is the subject of such assignment, effective upon such transfer. No assignment by Owner shall release Owner from any liability that resulted from an act or omission by Owner that occurred prior to the effective date of the assignment. Owner shall maintain true and correct copies of all assignments made by Owner to Assignees, including a copy of each executed assignment and the Assignee's Notice information.

17. Sovereign Immunity. The Parties agree that the Town has not waived its sovereign immunity from suit by entering into and performing its obligations under this Agreement.

18. Effect of Recitals. The recitals contained in this Agreement: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; (c) are legislative findings of the Town Council; and (d) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent

of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

19. Consideration. This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

20. Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original.

21. Amendment. This Agreement shall not be modified or amended except in writing signed by the Parties. A copy of each amendment to this Agreement, when fully executed and recorded, shall be provided to each Party, Assignee and successor owner of all or any part of the Property; however, the failure to provide such copies shall not affect the validity of any amendment.

22. Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by all Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any Party shall not apply.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the date referenced herein.

TOWN:

THE TOWN OF PROSPER, TEXAS

By: _____

Name: David F. Bristol

Title: Mayor, Town of Prosper

STATE OF TEXAS)

)

COUNTY OF COLLIN)

This instrument was acknowledged before me on the ____ day of August, 2022, by David F. Bristol, Mayor of the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

Notary Public, State of Texas

My Commission Expires: _____

OWNER:

**NORTH TEXAS CONFERENCE OF THE
UNITED METHODIST CHURCH**, a Texas non-
profit corporation

By: _____
Name: Keith Wolverton
Title: _____

STATE OF TEXAS)

COUNTY OF _____)

This instrument was acknowledged before me on the ____ day of _____, 2022, by Keith Wolverton in his capacity as _____ of the North Texas Conference of the United Methodist Church, a Texas non-profit corporation, known to be the person whose name is subscribed to the foregoing instrument, and that he executed the same on behalf of and as the act of Owner.

Notary Public, State of Texas

My Commission Expires: _____



EXHIBIT A

Item 10.

Being a 5.27 acre tract of land out of the John Morton Survey, Abstract Number 793, situated in the Town of Prosper, Denton County, Texas, and being a portion of a called 10.35 acre tract of land conveyed to Trustees Of The North Texas Conference Of The United Methodist Church by deed of record in Document Number 2020-131951 of the Official Records of Denton County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING, at a 1/2 inch iron rod with green plastic cap stamped "EAGLE SURVEYING" found in the East right-of-way line of Farm-To-Market Road No. 1385, being the Southwest corner of said 10.35 acre tract;

THENCE, N01°38'47"E, along the East right-of-way line of Farm-To-Market Road No. 1385, being the common West line of said 10.35 acre tract, a distance of 685.31 feet to a 1/2 inch iron rod with green plastic cap stamped "EAGLE SURVEYING" set at the intersection of the East right-of-way line of Farm-To-Market Road No. 1385 and South margin of Noles Road, being the Southwest corner of a called 0.427 acre tract of land conveyed to Denton Independent School District by deed of record in Document Number 2021-174358 of said Official Records;

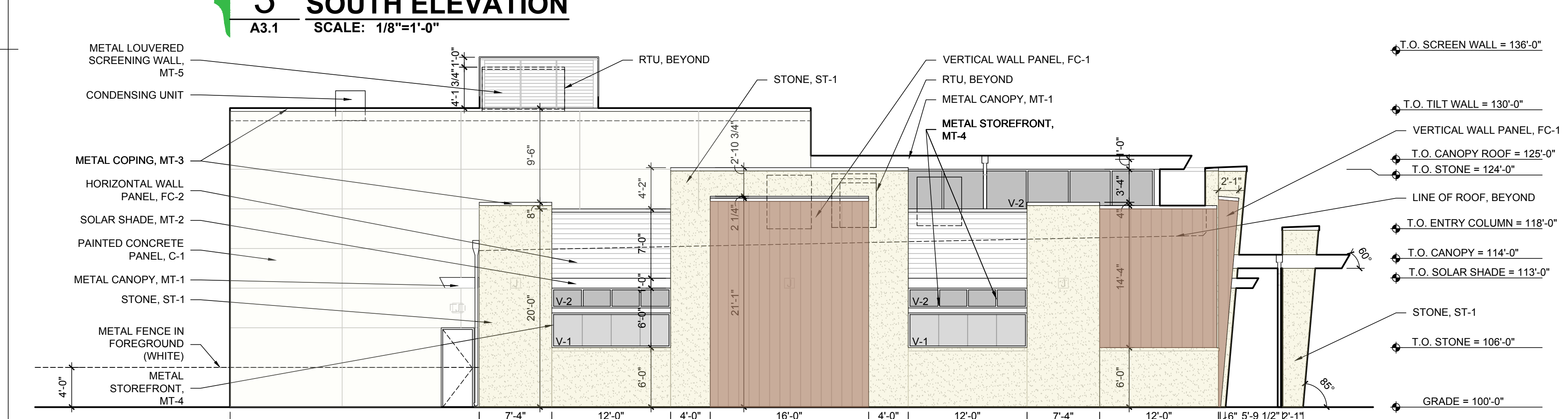
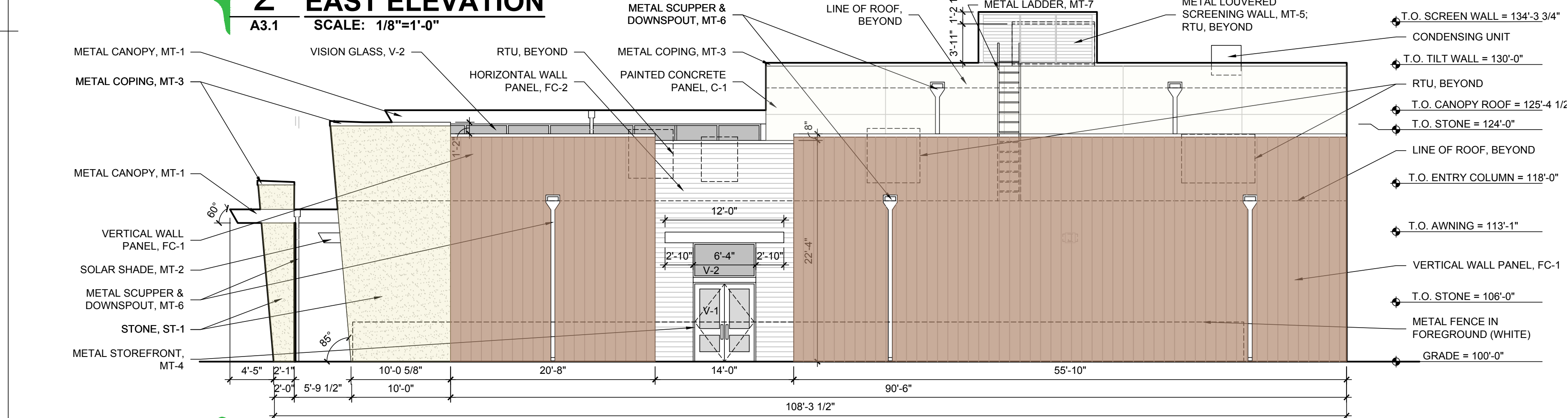
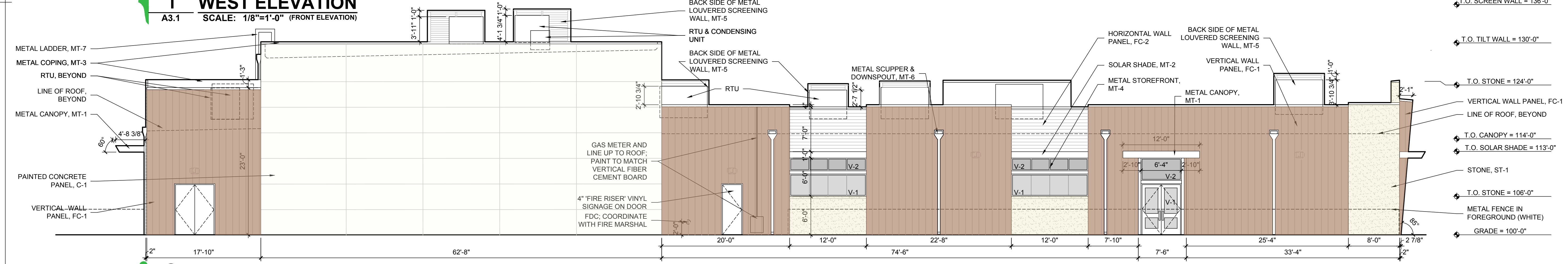
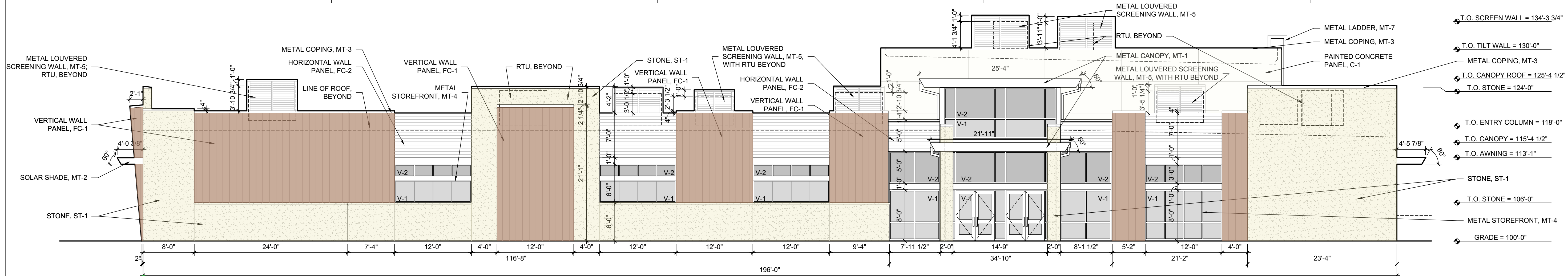
THENCE, N89°54'39"E, along the South line of said 0.427 acre tract and the South margin of Noles Road, a distance of 620.95 feet to a 1/2 inch iron rod with green plastic cap stamped "EAGLE SURVEYING" set at the Southeast corner of said 0.427 acre tract, being the Southwest corner of a called Tract 2 – 0.070 acre tract of land conveyed to Denton Independent School District by deed of record in Document Number 2021-114016 of said Official Records;

THENCE, S00°05'21"E, leaving the South margin of Noles Road, along the East line of said 10.35 acre tract, a distance of 347.93 feet to a 1/2 inch iron rod with green plastic cap stamped "EAGLE SURVEYING" set, from which a 1/2 inch iron rod with green plastic cap stamped "EAGLE SURVEYING" found at the Southeast corner of said 10.35 acre tract bears S00°05'21"E, a distance of 337.07 feet;

THENCE, over and across said 10.35 acre tract, the following two (2) courses and distances:

1. WEST, a distance of 596.30 feet to a 1/2 inch iron rod with green plastic cap stamped "EAGLE SURVEYING" set;
2. S01°33'47"W, a distance of 338.14 feet to a 1/2 inch iron rod with green plastic cap stamped "EAGLE SURVEYING" set in the South line of said 10.35 acre tract;

THENCE, S89°54'39"W, along the South line of said 10.35 acre tract, a distance of 35.65 feet to the **POINT OF BEGINNING**, and containing an area of 5.27 acres (229,540 square feet) of land, more or less.



MATERIAL LEGEND

- STONE, ST-1 (CREAM)
- CONCRETE PANEL, C-1 (WHITE)
- VERTICAL WOOD-LOOK WALL PANEL, FC-1 (BROWN)
- HORIZONTAL WALL PANEL, FC-2 (WHITE)
- METAL CANOPY, MT-1 (WHITE)
- METAL SOLAR SHADE, MT-2 (WHITE)
- METAL COPING, MT-3 (WHITE)
- METAL STOREFRONT, MT-4 (WHITE)
- METAL LOUVERED SCREENING WALL, MT-5 (WHITE)
- METAL SCUPPER & DOWNSPOUT, MT-6 (WHITE)
- METAL ROOF LADDER, MT-7 (WHITE)
- VISION GLASS, V-1 (GRAY)
- VISION GLASS, V-2 (DARKER GRAY)

* REFER SPECIFICATIONS FOR ADDITIONAL INFORMATION



FACADE PLAN NOTES

- SEE FACADE PLAN SHEET A3.2 FOR NOTES, ABBREVIATIONS, AND MATERIAL CALCULATIONS.
- SEE 11x17 SAMPLE BOARD (EXHIBIT A) FOR PROPOSED MATERIALS.

NORTH ELEVATION

SOUTH ELEVATION

EAST ELEVATION

WEST ELEVATION

OVERALL BUILDING

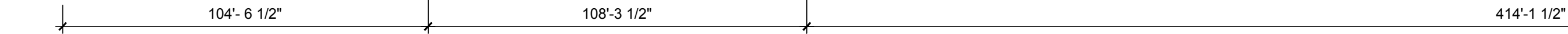
*CALCULATED PERCENTAGE AREA OF EACH MATERIAL IS CALCULATED AGAINST THE NET SURFACE AREA

* REFER SPECIFICATIONS FOR ADDITIONAL INFORMATION

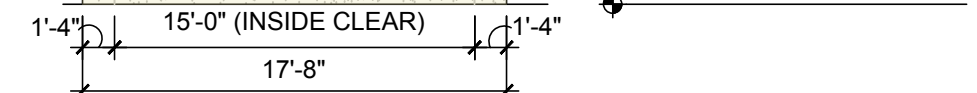
1. ABBREVIATIONS FOR ELEVATIONS:
T.O. = TOP OF REFERENCE PLANE
B.O. = BOTTOM OF REFERENCE PLANE
2. VARIATIONS IN DIMENSIONING MAY EXIST BETWEEN EDGE OF FOUNDATION AND FACE OF EXTERIOR BUILDING MATERIAL AT GRADE LEVEL. ON ELEVATIONS, THE INITIAL HORIZONTAL DIMENSION STRING IS FOR MATERIALS AND THE SECOND DIMENSION STRING TIES BACK TO THE EDGE OF FOUNDATION.
3. SIGHT LINES ARE ESTABLISHED FROM 6'-0" ABOVE GRADE AT PROPERTY LINE.
4. SEE 11x17 SAMPLE BOARD [EXHIBIT A] FOR PROPOSED MATERIALS.
5. THIS FACADE PLAN IS FOR CONCEPTUAL PURPOSES ONLY. ALL BUILDING PLANS REQUIRE REVIEW FROM BUILDING INSPECTIONS DIVISION.
6. ALL MECHANICAL EQUIPMENT SHALL BE SCREENED FROM PUBLIC VIEW. ROOFTOP MOUNTED EQUIPMENT SHALL BE SCREENED BY A PARAPET WALL OR SCREENING WALL. SCREENING WALLS SHALL BE THE SPECIFICATIONS OF THE ZONING ORDINANCE.
7. WHEN PERMITTED, EXPOSED UTILITY BOXES AND CONDUITS SHALL BE PAINTED TO MATCH THE BUILDING.
8. ALL SIGNAGE AREAS AND LOCATIONS ARE SUBJECT TO APPROVAL BY THE BUILDING INSPECTIONS DIVISION.
9. WINDOWS SHALL HAVE A MAXIMUM EXTERIOR VISIBLE REFLECTIVITY OF TEN PERCENT (10%).
10. ANY DEVIATION FROM THE APPROVED FACADE PLAN WILL REQUIRE RE-APPROVAL BY THE TOWN OF PROSPER.
11. A MINIMUM 4'-0" x 4'-0" BUILDING MATERIAL MOCK-UP BOARD MUST BE CONSTRUCTED AT WORK SITE AND INSPECTED BY THE PLANNING DIVISION PRIOR TO VERTICAL CONSTRUCTION.



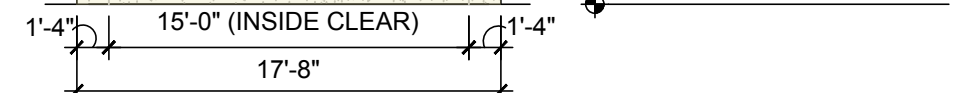
A3.2 SCALE: 1/32"= 1'-0" (LOOKING SOUTH)



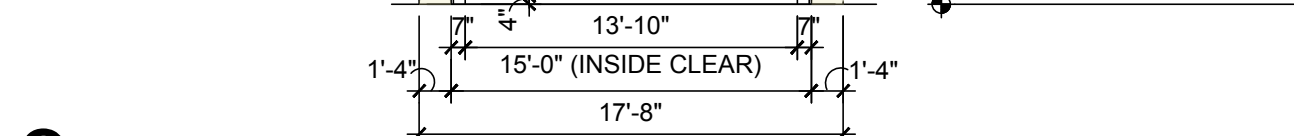
5 SOUTHWEST DUMPSTER ELEVATION



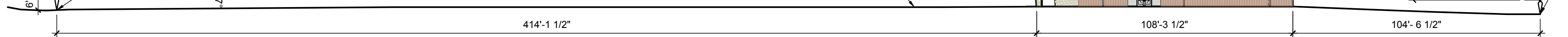
4 NORTHWEST DUMPSTER ELEVATION



3 **NORTHEAST DUMPSTER ELEVATION**
A3.2 SCALE: 1/8" = 1'-0"



2 EAST/ WEST CROSS SIGHT LINE STUDY FROM PROPERTY LINES



1 NORTH / SOUTH CROSS SIGHT LINE STUDY FROM PROPERTY LINES



GRACE CHAPEL PROSPER

EXHIBIT B

APPLICANT:

ARCHITECT:

SURVEYOR: _____

LEGAL DESCRIPTION:

CITY: _____ STATE: _____

DATE: 04/18/2022

DATE: 04/18/2022

PLANNING



To: Mayor and Town Council

From: David Soto, Planning Manager

Through: Bob Scott, Executive Director of Administrative Services
Hulon T. Webb, Jr., Interim Executive Director of Development and Infrastructure Services

Re: Town Council Meeting – August 9, 2022

Agenda Item:

Consider and act upon an ordinance to amend Planned Development-93 (PD-93), on 0.8± acres, located on the southwest corner of Broadway Street and Preston Road, in order to allow for a restaurant with drive-through services. (Z22-0006).

Description of Agenda Item:

On July 26, 2022, the Town Council approved the proposed request, by a vote of 6-0.

A Planned Development ordinance has been prepared accordingly.

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
2. Ordinance Exhibits

Town Staff Recommendation:

Town staff recommends approval of an ordinance to amend Planned Development-93 (PD-93), on 0.8± acres, located on the southwest corner of Broadway Street and Preston Road, in order to allow for a restaurant with drive-through services. (Z22-0006).

Proposed Motion:

I move to approve an ordinance to amend Planned Development-93 (PD-93), on 0.8± acres, located on the southwest corner of Broadway Street and Preston Road, in order to allow for a restaurant with drive-through services. (Z22-0006).

TOWN OF PROSPER, TEXAS**ORDINANCE NO. 2022-__**

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING THE ZONING ORDINANCE BY REZONING A TRACT OF LAND CONSISTING OF 0.81 ACRES, MORE OR LESS, SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 147, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, FROM PLANNED DEVELOPMENT-93 TO PLANNED DEVELOPMENT-93 LOT 3; 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 Town's Zoning Ordinance should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request from BG-GBT Broadway & Preston, LP ("Applicant") for a Planned Development amendment (Lot 3) for a Restaurant with Drive-Through Service, consisting of 0.081 acres of land, more or less, in the Collin County School Land Survey, Abstract No. 147, in the Town of Prosper, Collin 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

The Town's Zoning Ordinance is amended as follows: Applicant is granted an amendment to PD-93 for Lot 3 for a Restaurant with Drive-Through Service, consisting of 0.81 acres of land, more or less, in the Collin County School Land Survey, Abstract No. 147, in the Town of Prosper, Collin County, Texas, and 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 shall conform to, and comply with 1) the statement of intent and purpose, attached hereto as Exhibit "B"; 2) the planned development standards, attached hereto as Exhibit "C"; 3) the conceptual development plan requirements, attached hereto as Exhibit "D"; 4) the development schedule, attached hereto as Exhibit "E"; 5) Façade Plan, attached hereto as Exhibit "F"; and 6) Landscape Plan, attached hereto as Exhibit "G," 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.

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 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 or any provision of Prosper's Zoning Ordinance No. 05-20, or 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, 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 No. 05-20 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 9TH DAY OF AUGUST, 2022.

Jeff Hodges, Mayor Pro-Tem

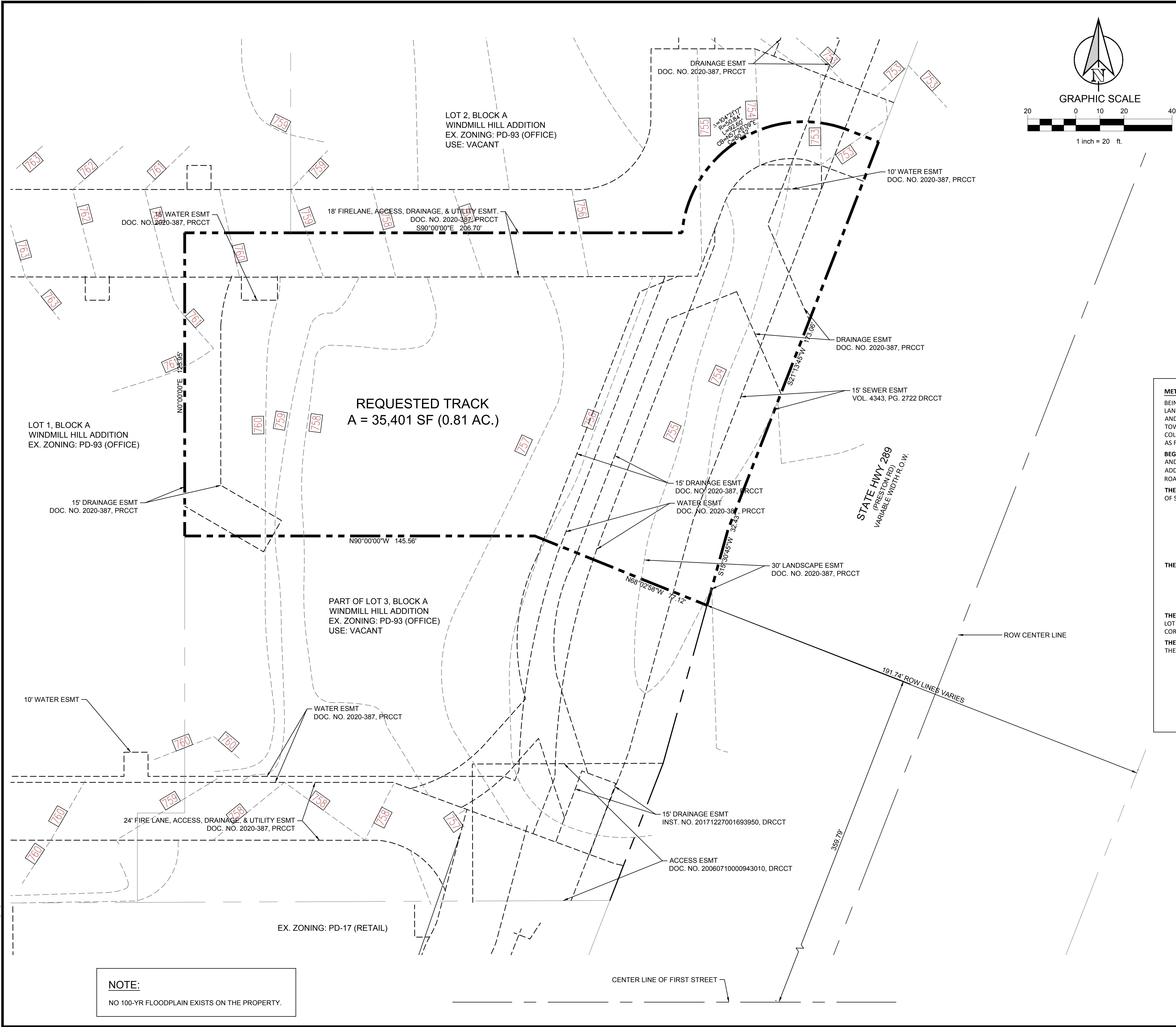
ATTEST:

Michelle Lewis Sirianni, Town Secretary

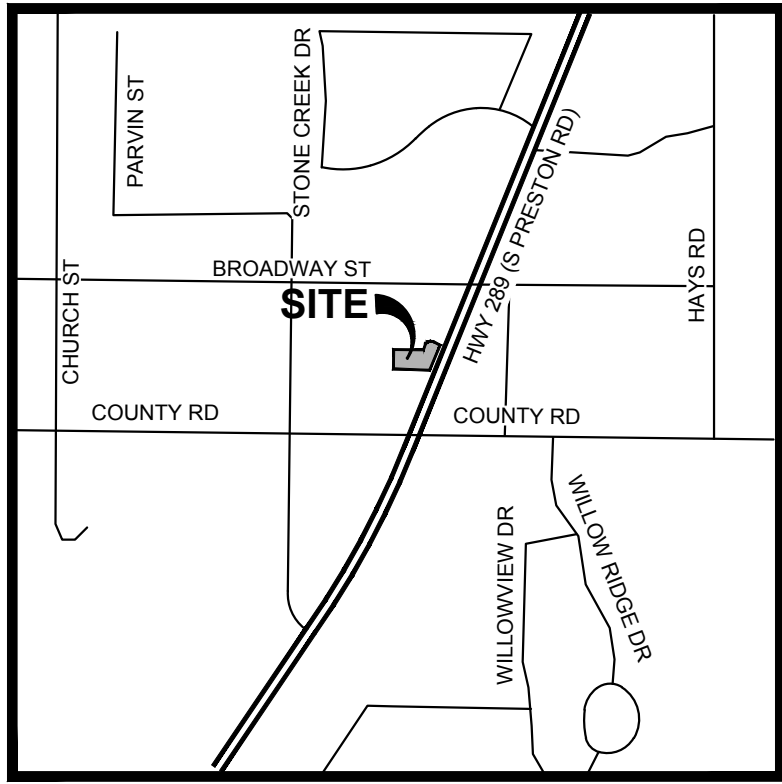
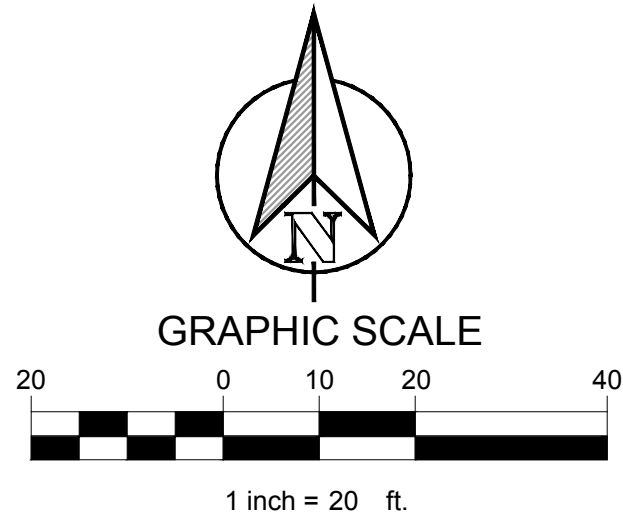
APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

PLOTTED BY: MAX LANTANO
 PLOT DATE: 4/29/2022 1:43 PM
 LOCATION: Z:\PROJECTS\MARKETING\CARY ALBERT PROSPER BLACK RIFLE\CADD\SHEETS\PROPERTY BOUNDARY - EXH. A.DWG
 LAST SAVED: 3/6/2022 10:53 PM



NOTE:
NO 100-YR FLOODPLAIN EXISTS ON THE PROPERTY.



VICINITY MAP
N.T.S.

LEGEND	
---	REQUESTED PROPERTY LINE
---	R.O.W. LINE
---	EASEMENT LINE
---	CONTOUR LINE

METES & BOUNDS:
BEING A 0.81 ACRE TRACT OR PARCEL OF LAND SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NUMBER 147 IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS AND BEING A PORTION OF LOT 3, BLOCK A OF WINDMILL HILL ADDITION AN ADDITION TO THE TOWN OF PROSPER, RECORDED IN VOLUME 2020, PAGE 387 OF THE PLAT RECORDS OF COLLIN COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:
BEGINNING AT A X-CUT FOUND IN CONCRETE AT THE NORTHEAST CORNER OF SAID LOT 3 AND THE COMMON SOUTHEAST CORNER OF LOT 2, BLOCK A OF SAID WINDMILL HILL ADDITION AND BEING IN THE WEST RIGHT-OF-WAY LINE OF STATE HIGHWAY 289 (PRESTON ROAD) A VARIABLE WIDTH RIGHT-OF-WAY;
THENCE WITH THE EAST LINE OF SAID LOT 3 AND THE COMMON WEST RIGHT-OF-WAY LINE OF SAID STATE HIGHWAY 289 THE FOLLOWING COURSES AND DISTANCES:
SOUTH 21°13'45" WEST, A DISTANCE OF 173.08 FEET TO A CAPPED 1/2" IRON ROD STAMPED "EAGLE SURVEYING" SET
SOUTH 15°30'45" WEST, A DISTANCE OF 32.41 FEET TO A CAPPED 1/2" IRON ROD STAMPED "EAGLE SURVEYING" SET FROM WHICH A PK NAIL FOUND AT THE SOUTHEAST CORNER OF SAID LOT 3 BEARS SOUTH 15°30'45" WEST, A DISTANCE OF 68.09 FEET AND SOUTH 21°13'45" WEST, A DISTANCE OF 61.17 FEET;
THENCE OVER AND ACROSS SAID LOT 3 THE FOLLOWING COURSES AND DISTANCES:
NORTH 68°03'39" WEST, A DISTANCE OF 77.11 FEET TO A CAPPED 1/2" IRON ROD STAMPED "EAGLE SURVEYING" SET;
WEST, A DISTANCE OF 145.56 FEET TO A X-CUT SET IN THE WEST LINE OF SAID LOT 3 AND THE COMMON EAST LINE OF LOT 1, BLOCK A OF SAID WINDMILL HILL ADDITION;
THENCE NORTH, WITH THE WEST LINE OF SAID LOT 3 AND THE COMMON EAST LINE OF SAID LOT 1, A DISTANCE OF 125.95 FEET TO A X-CUT FOUND IN CONCRETE AT THE NORTHWEST CORNER OF SAID LOT 3;
THENCE WITH THE NORTH LINE OF SAID LOT 3 AND THE COMMON SOUTH LINE OF SAID LOT 2 THE FOLLOWING COURSES AND DISTANCES:
EAST, A DISTANCE OF 206.70 FEET TO A X-CUT FOUND IN CONCRETE;
NORTH 21°13'45" EAST A DISTANCE OF 17.31 FEET TO A X-CUT SET IN CONCRETE;
WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 47.50 FEET, A DELTA ANGLE OF 89°56'11", A CHORD BEARING AND DISTANCE OF NORTH 66°11'50" EAST, 67.14 FEET AND AN ARC LENGTH OF 74.56 FEET TO A X-CUT SET IN CONCRETE;
SOUTH 68°50'12" EAST, A DISTANCE OF 15.05 FEET TO THE **POINT OF BEGINNING** AND CONTAINING 0.81 ACRES OF LAND MORE OR LESS.

EXHIBIT "A"		
PROPERTY BOUNDARY - BLACK RIFLE COFFEE		
TOWN PROJECT No.: _____		
OWNER: BG-GBT BROADWAY & PRESTON LP 9550 JOHN W ELLIOTT DR. SUITE 106 FRISCO, TX 75033 PH: _____		
CONTACT NAME: TEAGE GRIFFIN		
APPLICANT: CLAYMOORE ENGINEERING, INC. 1903 CENTRAL DRIVE, SUITE #406 BEDFORD, TX 76021 PH: 817.281.0572		
CONTACT NAME : DREW DONOSKY		
SURVEYOR: EAGLE SURVEYING 210 S. ELM ST., SUITE 104 DENTON, TX 76201 PH: 940.222.3009		
CONTACT: MASON DECKER		
LEGAL DESCRIPTION: LOT 3, BLOCK A OF WINDMILL HILL ADDITION AREA = 0.81 AC		
CITY: PROSPER	COUNTY: COLLIN	STATE: TEXAS
SURVEY: COLLIN COUNTY SCHOOL LAND SURVEY	ABSTRACT NO.: 147	DATE: 4/25/2022

TEXAS REGISTRATION #14199

CLAYMOORE ENGINEERING

1903 CENTRAL DR. SUITE #406
BEDFORD, TX 76021
PHONE: 817.281.0572
WWW.CLAYMOOREENR.COM

PRELIMINARY

FOR REVIEW ONLY
Not for construction purposes.

CLAYMOORE ENGINEERING
ENGINEERING AND PLANNING
CONSULTANTS

Engineer: DREW DONOSKY
P.E. No. 125651 Date: 04/29/2022

BLACK RIFLE COFFEE
PROSPER, TX 75078

No.	DATE	REVISION	BY

PROPERTY BOUNDARY

DESIGN: MBT
DRAWN: MBT
CHECKED: DD
DATE: 4/25/2022

SHEET

EXH-A

File No. 2022-XXX



Exhibit B

March 7, 2022

Town of Prosper
250 W. First Street
Prosper, Texas 75078

Re: Black Rifle Coffee
Letter of Intent

To whom it may concern,

Please let this letter serve as the Letter of Intent for the Black Rifle Coffee project to be located in Lot 3, Block A of Windmill Hill Addition. The purpose of this request is to create a new boundary for the proposed site and construct a new building for the Black Rifle Coffee project.

The proposed project site has a total area of 0.81 ac (35,401 sf). Zoning is commercial. The proposed use of this project is Restaurant with Drive Thru with a total building area of 2,540 sf.

Should you have any questions, please feel free to contact me.

Sincerely,

Claymoore Engineering, Inc.

A handwritten signature in black ink, appearing to read "Drew Donosky".

Drew Donosky, P.E.



Exhibit C – Windmill Hill Planned Development Standards

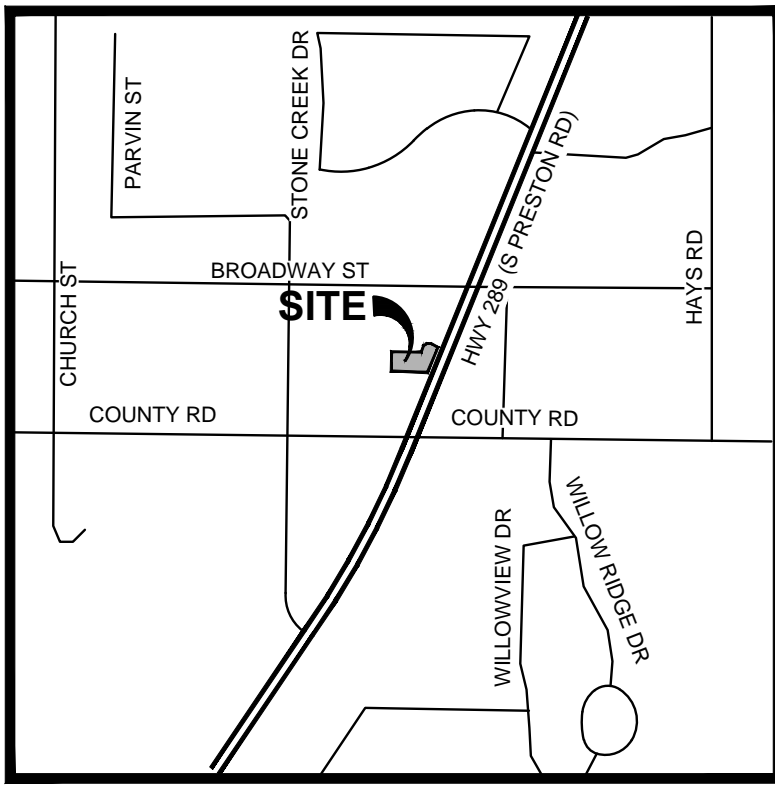
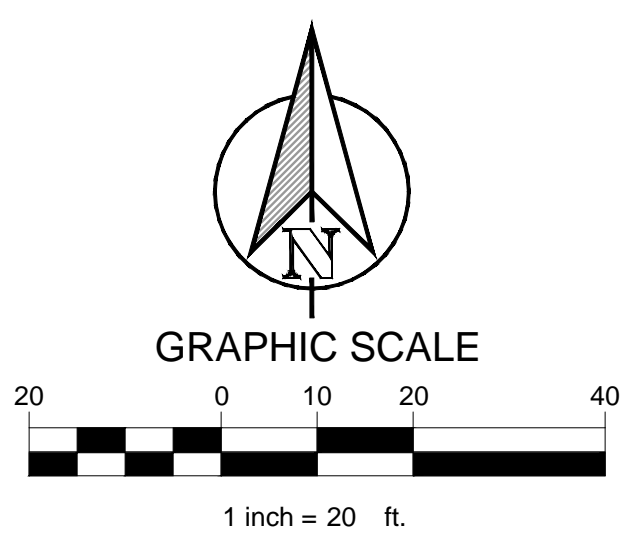
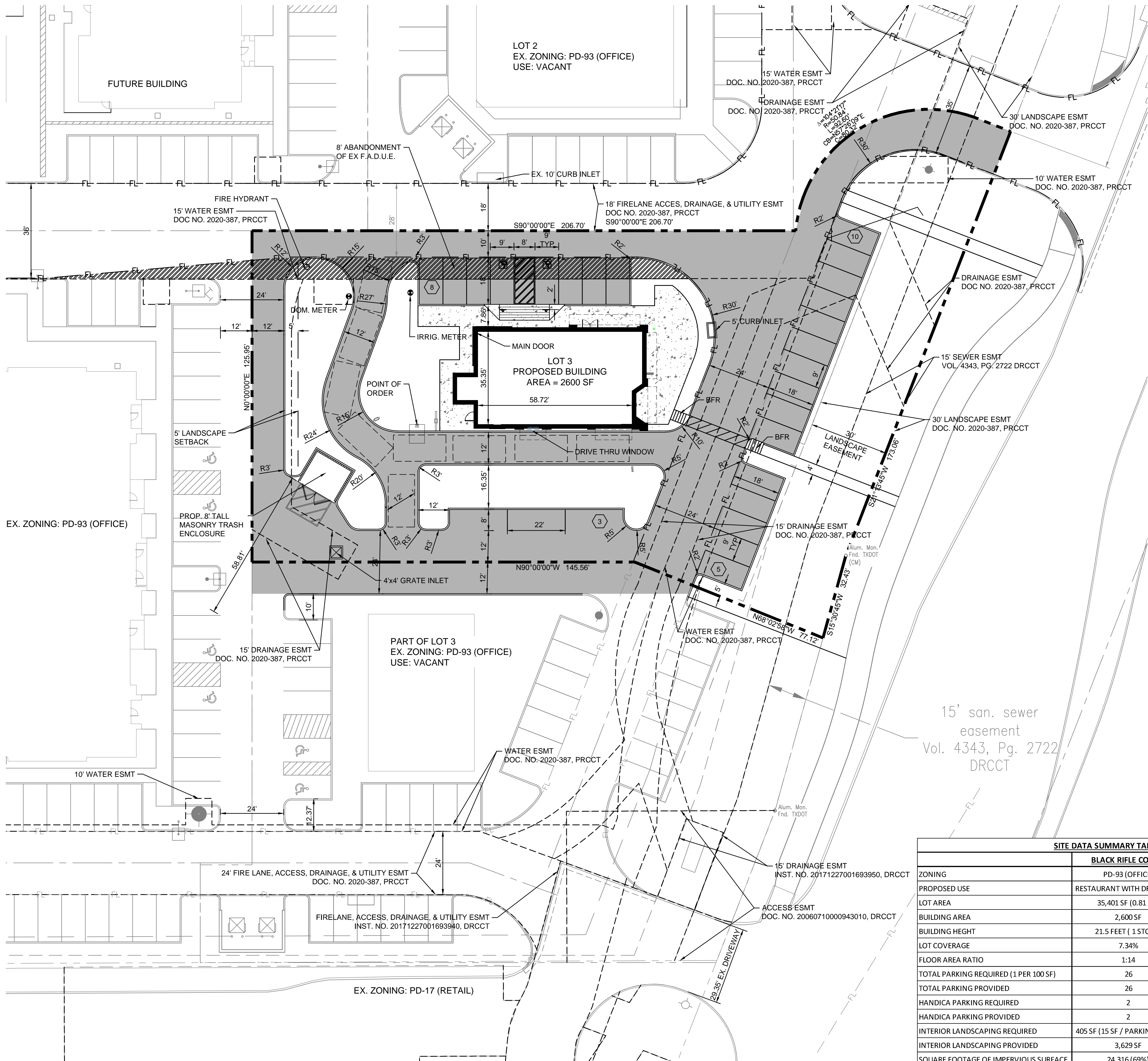
Below are the proposed development standards amended in the existing Planned Development.

Concept Plan: Amended concept plan as provided in Exhibit D

Permitted Uses: In addition to those permitted uses as allowed per the Planned Development of the Town of Prosper Zoning Ordinance, the following use shall be permitted in the retail areas indicated on Exhibit "D".

- One (1) Restaurant with Drive Thru

PLOTTED BY: SANTAGO DURAN
 PLOT DATE: 8/21/2022 9:28 AM
 LOCATION: Z:\PROJECTS\MARKETING\CARY ALBERT PROSPER BLACK RIFLE\CADD\SHEETS\SP-1 SITE PLAN.DWG
 LAST SAVED: 6/20/2022 4:47 PM



LEGEND	
	EXISTING CONCRETE PAVEMENT
	PROPOSED CONCRETE PAVEMENT
	PROPOSED CONCRETE SIDEWALK
	PROPOSED CONCRETE CURB AND GUTTER
	PROPERTY LINE
	FIRE LANE
	EASEMENT LINE
	PARKING COUNT
	ABANDONMENT OF F.A.D.U.E.

TOWN OF PROSPER SITE PLAN NOTES:

- DUMPSTERS AND TRASH COMPACTORS SHALL BE SCREENED IN ACCORDANCE WITH THE ZONING ORDINANCE.
- OPEN STORAGE, WHERE PERMITTED, SHALL BE SCREENED IN ACCORDANCE WITH THE ZONING ORDINANCE.
- OUTDOOR LIGHTING SHALL COMPLY WITH THE LIGHTING AND GLARE STANDARDS CONTAINED WITHIN THE ZONING ORDINANCE AND SUBDIVISION ORDINANCE.
- LANDSCAPING SHALL CONFORM TO LANDSCAPE PLANS APPROVED BY THE TOWN.
- ALL ELEVATIONS SHALL COMPLY WITH THE STANDARDS CONTAINED WITHIN THE ZONING ORDINANCE.
- BUILDINGS OF 5,000 SQUARE FEET OR GREATER SHALL BE 100% FIRE SPRINKLED. ALTERNATIVE FIRE PROTECTION MEASURES MAY BE APPROVED BY THE FIRE DEPARTMENT.
- FIRE LANES SHALL BE DESIGNED AND CONSTRUCTED PER TOWN STANDARDS OR AS DIRECTED BY THE FIRE DEPARTMENT.
- TWO POINTS OF ACCESS SHALL BE MAINTAINED FOR THE PROPERTY AT ALL TIMES.
- SPEED BUMPS/HUMPS ARE NOT PERMITTED WITHIN A FIRE LANE.
- 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.
- ALL SIGNAGE IS SUBJECT TO BUILDING OFFICIAL APPROVAL.
- ALL FENCES AND RETAINING WALLS SHALL BE SHOWN ON THE SITE PLAN AND ARE SUBJECT TO BUILDING OFFICIAL APPROVAL.
- ALL EXTERIOR BUILDING MATERIALS ARE SUBJECT TO BUILDING OFFICIAL APPROVAL AND SHALL CONFORM TO THE APPROVED FAÇADE PLAN.
- SIDEWALKS OF NOT LESS THAN SIX (6) FEET IN WIDTH ALONG THOROUGHFARES AND COLLECTORS AND FIVE (5) IN WIDTH ALONG RESIDENTIAL STREETS, AND BARRIER FREE RAMPS AT ALL CURB CROSSINGS SHALL BE PROVIDED PER TOWN STANDARDS.
- APPROVAL OF THE SITE PLAN IS NOT FINAL UNTIL ALL ENGINEERING PLANS ARE APPROVED BY THE ENGINEERING DEPARTMENT.
- SITE PLAN APPROVAL IS REQUIRED PRIOR TO GRADING RELEASE.
- ALL NEW ELECTRICAL LINES SHALL BE INSTALLED AND/OR RELOCATED UNDERGROUND.
- ALL MECHANICAL EQUIPMENT SHALL BE SCREENED FROM PUBLIC VIEW IN ACCORDANCE WITH THE ZONING ORDINANCE.
- 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.

SITE DATA SUMMARY TABLE		
	BLACK RIFLE COFFEE	LOT 3 REMAINDER
ZONING	PD-93 (OFFICE)	PD-93 (OFFICE)
PROPOSED USE	RESTAURANT WITH DRIVE THRU	VACANT
LOT AREA	35,401 SF (0.81 AC)	30,453 SF (0.70 AC)
BUILDING AREA	2,600 SF	2,409 SF
BUILDING HEIGHT	21.5 FEET (1 STORY)	30 FEET (1 STORY)
LOT COVERAGE	7.34%	7.91%
FLOOR AREA RATIO	1:14	1:14
TOTAL PARKING REQUIRED (1 PER 100 SF)	26	24
TOTAL PARKING PROVIDED	26	33
HANDICA PARKING REQUIRED	2	2
HANDICA PARKING PROVIDED	2	2
INTERIOR LANDSCAPING REQUIRED	405 SF (15 SF / PARKING SPACE)	495 SF (15 SF / PARKING SPACE)
INTERIOR LANDSCAPING PROVIDED	3,629 SF	2,847 SF
SQUARE FOOTAGE OF IMPERVIOUS SURFACE	24,316 (69%)	23,383 (77%)
OPEN SPACE REQUIRED	2,478 SF (7%)	2,132 SF (7%)
OPEN SPACE PROVIDED	11,085 SF (31%)	7,070 SF (23%)

OWNER: BG-GBT BROADWAY & PRESTON LP 9550 JOHN W ELLIOTT DR. SUITE 106 FRISCO, TX 75033 PH: CONTACT NAME: TEAGE GRIFFIN		
APPLICANT: CLAYMOORE ENGINEERING, INC. 1903 CENTRAL DRIVE, SUITE #406 BEDFORD, TX 76021 PH: 817.281.0572 CONTACT NAME : DREW DONOSKY		
SURVEYOR: EAGLE SURVEYING 210 S. ELM ST., SUITE 104 DENTON, TX 76201 PH: 940.222.3009 CONTACT: MASON DECKER		
LEGAL DESCRIPTION: LOT 3, BLOCK A OF WINDMILL HILL ADDITION AREA = 0.81 AC		
CITY: PROSPER	COUNTY: COLLIN	STATE: TEXAS
SURVEY: COLLIN COUNTY SCHOOL LAND SURVEY	ABSTRACT NO.: 147	DATE: 4/25/2022

CLAYMOORE ENGINEERING
ENGINEERING AND PLANNING
CONSULTANTS
Engineer: DREW DONOSKY
P.E. No. 125651 Date 04/29/2022

PRELIMINARY

FOR REVIEW ONLY
Not for construction purposes.
CLAYMOORE ENGINEERING
ENGINEERING AND PLANNING
CONSULTANTS
Engineer: DREW DONOSKY
P.E. No. 125651 Date 04/29/2022

BLACK RIFLE COFFEE
PROSPER, TX 75078

SITE PLAN

DESIGN: MBT
DRAWN: MBT
CHECKED: DD
DATE: 4/25/2022

SHEET

EXHIBIT D

File No. 2022-XXX

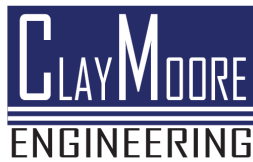


Exhibit E – Black Rifle PD Amendment

Below is an anticipated project schedule for the proposed Black Rifle Development Schedule in accordance with the submittal checklist. This schedule is conceptual and subject to change based on permitting/entitlements. Once obtained, then the permitting approvals will start with the Town.

Zoning Submittal to Town – 4/22
Zoning Approval from Town – 7/22

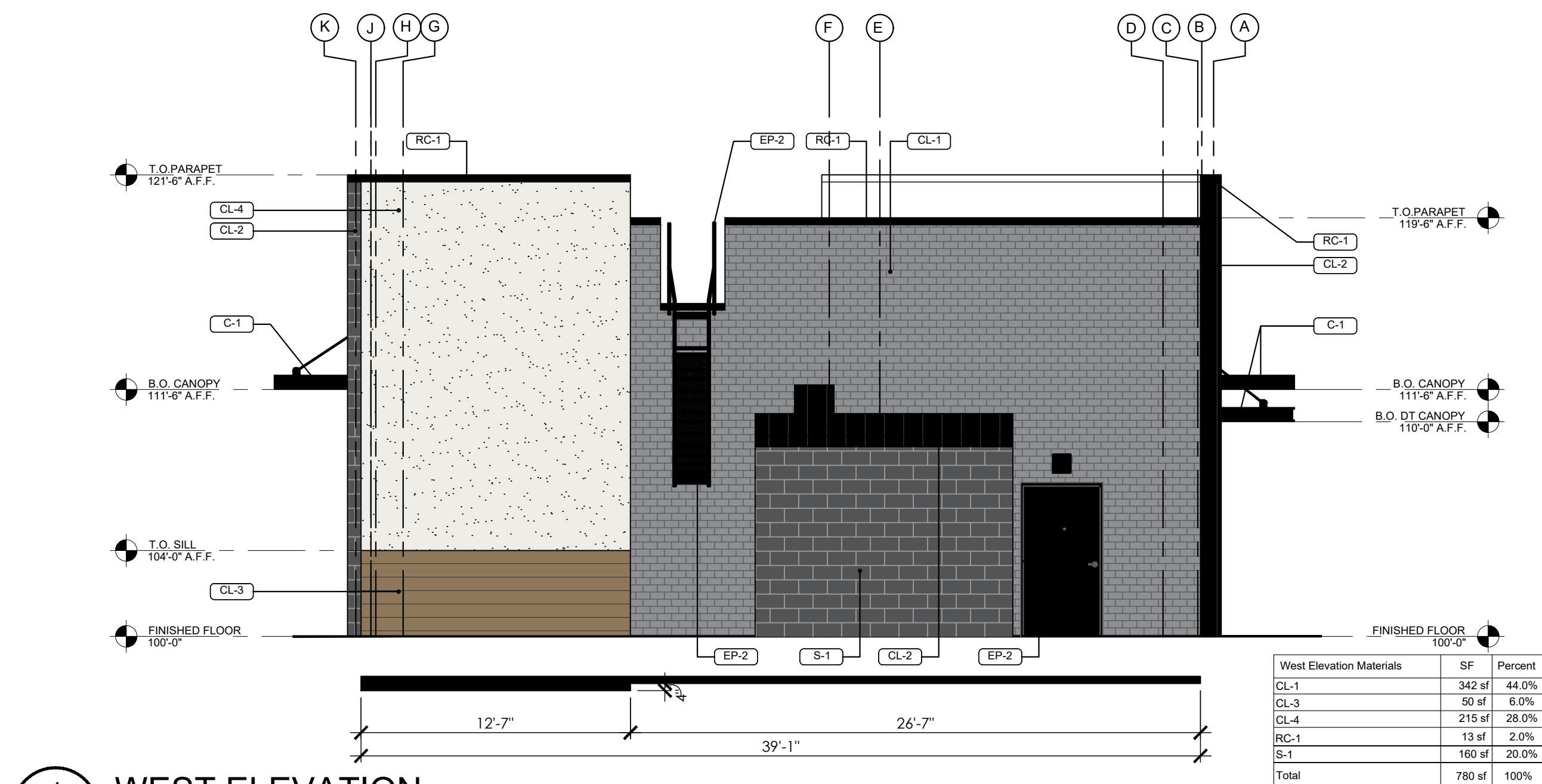
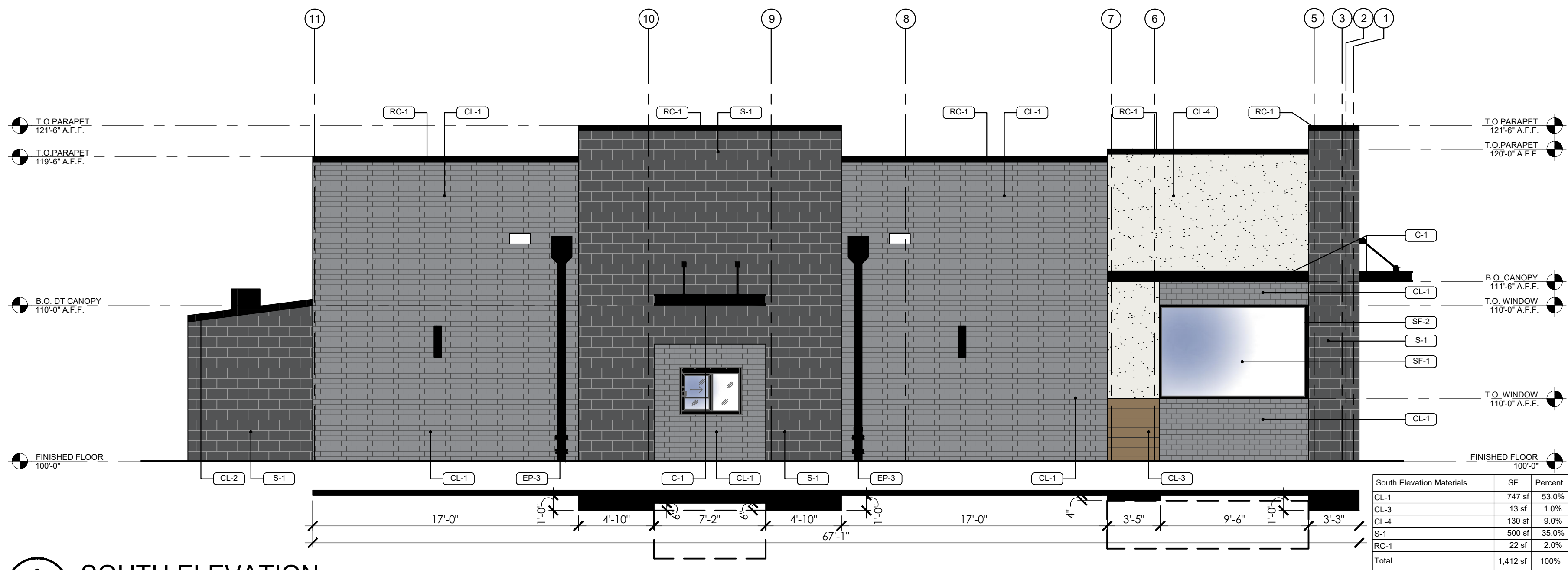
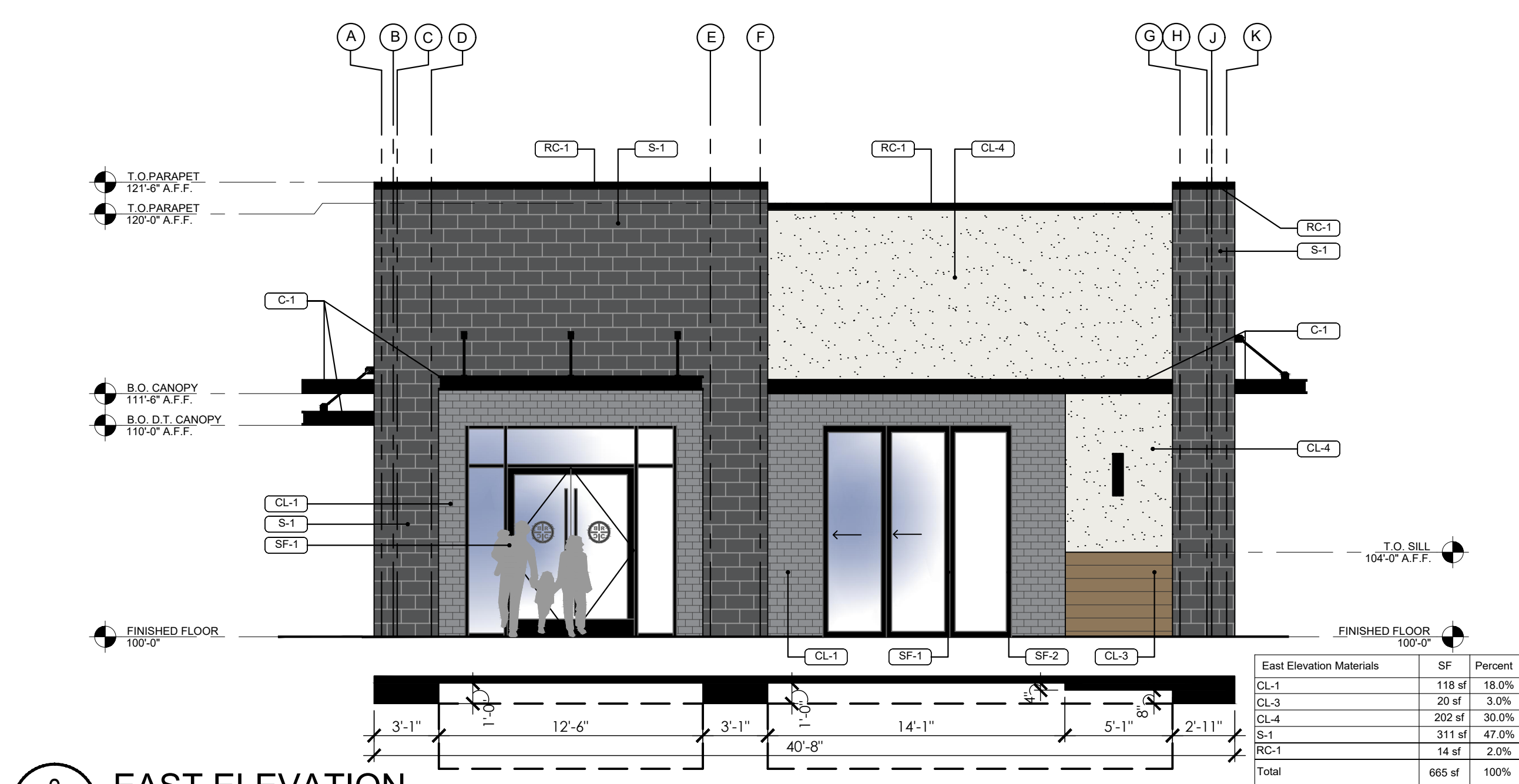
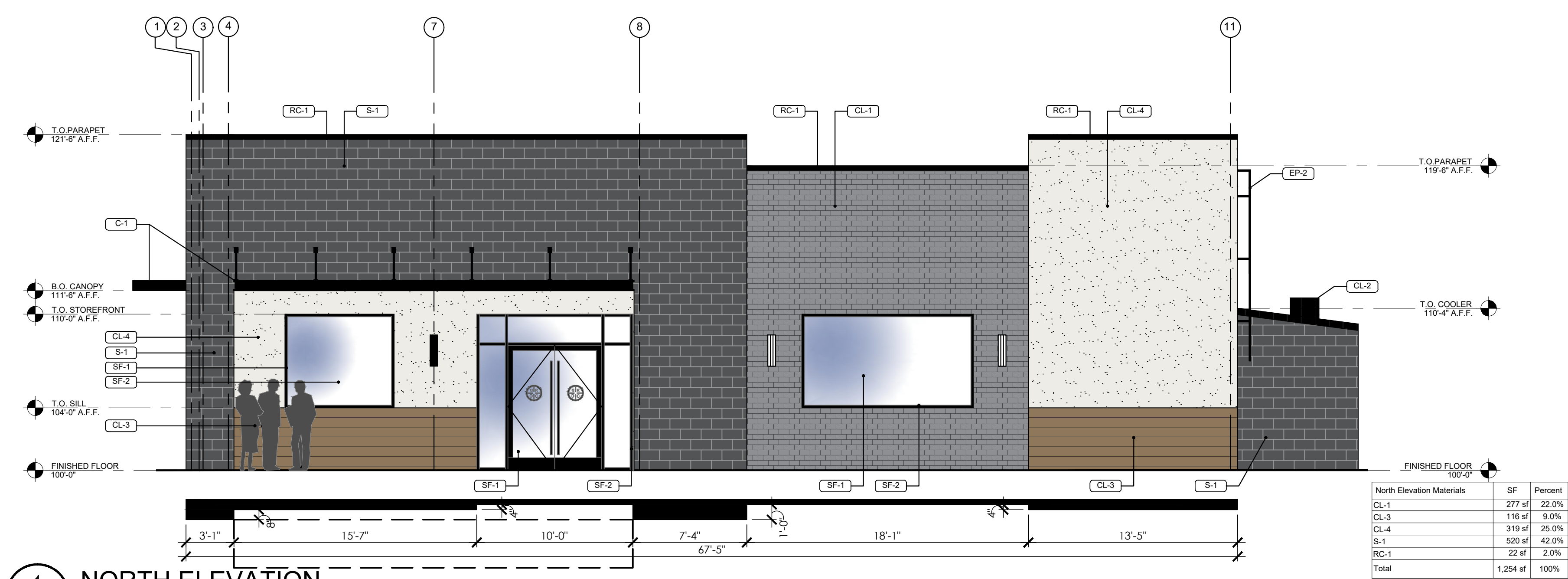
Development of the coffee shop will depend on market demands but we would anticipate that the project will proceed immediately for permit and construction given the necessary approvals.

Thank you and please call if you have any comments or need additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Matt Moore', is written over a light blue circular stamp.

Matt Moore, P.E.



3 SOUTH ELEVATION
PR-01

4 WEST ELEVATION
PR-01

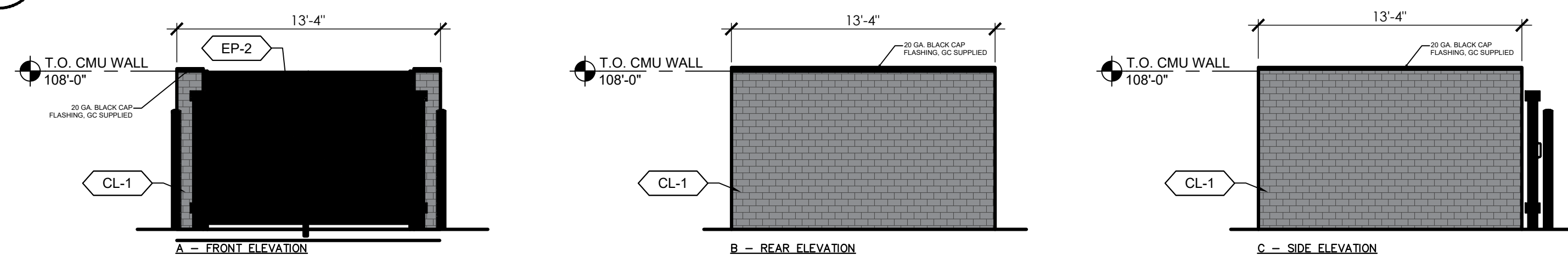
MATERIAL SCHEDULE

CL-1 THIN BRICK ACME - PACIFIC CLAY - BODEGA BAY	CL-2 PAC-CLAD METAL HIGHLINE B1 24 GA MATTE BLACK VERTICAL INSTALLATION	CL-3 TREX PANELING - TRANSCEND SQUARE EDGE DECK BOARDS HAVANA GOLD
CL-4 EIFS - DRYVIT #612 MOONLIGHT	SF-1 STOREFRONT - KAWNEER ALUMINUM STOREFRONT GLAZING	SF-2 STOREFRONT - KAWNEER - BLACK ANODIZED ALUMINUM FRAME
C-1 PREFINISHED ALUMINUM CANOPY, BLACK	RC-1 24 GAUGE GALV. SHEET METAL COPING CAP, SLOPE 1/2" PER FOOT. PRE-FINISHED TO MATCH AND OTHER METAL WORKS (SW 6258 "TRICORN BLACK")	EP-2 & EP-3 EXTERIOR PAINT SHERWIN WILLIAMS SW6258 HOLLOW METAL DOORS AND FRAMES, ROOF LADDER, SCUPPER, DUMPSTER GATES
S-1 MANUFACTURED STONE CORONADO - THIN BRICK URBANA SMOOTH - SMOKE		

EXTERIOR FINISH SCHEDULE

MARK	MATERIAL	MANUFACTURER	STYLE/COLOR	NOTES
EP-1	EXTERIOR PAINT	SHERWIN WILLIAMS	COLOR: - SW 7005 PURE WHITE SHEEN: MATTE	FINISH PER MFR RECOMMENDATIONS. PRIMER: (1) COAT - FINISH COAT: (2) COATS A-100
EP-2	EXTERIOR PAINT (FOR EIFS)	SHERWIN WILLIAMS	COLOR: - SW 6258 TRICORN BLACK SHEEN: MATTE	FINISH PER MFR RECOMMENDATIONS. PRIMER: (1) COAT - FINISH COAT: (2) COATS A-100
EP-3	EXTERIOR PAINT (FOR METAL)	SHERWIN WILLIAMS	COLOR: - SW 6258 TRICORN BLACK SHEEN: MATTE	FINISH PER MFR RECOMMENDATIONS. PRIMER: (1) COAT - FINISH COAT: (2) COATS PRO INDUSTRIAL ACRYLIC 866
EP-4	EXTERIOR PAINT (FOR WOOD)	SHERWIN WILLIAMS	COLOR: - SW 6258 TRICORN BLACK SHEEN: MATTE	FINISH PER MFR RECOMMENDATIONS. PRIMER: (1) COAT - FINISH COAT: (2) COATS PRO INDUSTRIAL ACRYLIC 866
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CL-2	METAL FASCIA	PAC-CLAD	STYLE: HIGHLINE B1 24 GA COLOR: MATTE BLACK	VERTICAL INSTALLATION. INSTALL PER MFR RECOMMENDATIONS.
CL-3	WOOD	TREX	STYLE: TRANSCEND SQUARE EDGE DECK BOARDS COLOR: HAVANA GOLD	INSTALL PER MFR. RECOMMENDATIONS. RAIN-SCREEN APPLICATION METHOD TO BE USED. MITER CORNERS.
CL-4	E.I.F.S.	DRYVIT OR APPROVED SUBSTITUTE	COLOR: #612 MOONLIGHT	INSTALL EIFS TO THICKNESS SPECIFIED ON WALL SECTIONS. INSTALL PER MFR. RECOMMENDATIONS.
RC-1	METAL ROOF COPING	ROOF MFR.	STYLE: MATCH ROOF SYSTEM COLOR: BLACK	INSTALL PER MFR. RECOMMENDATIONS. IF BLACK IS UNAVAILABLE, G.C. MAY SUBSTITUTE DARK BRONZE, CONFIRM WITH ARCHITECT BEFORE PURCHASE.
MR-1	MEMBRANE ROOFING SYSTEM	DURO-LAST	STYLE: 40 MIL SINGLE-PLY PVC ROOFING MEMBRANE COLOR: WHITE	INSTALL PER MFR. RECOMMENDATIONS.
S-1	MANUFACTURED STONE	CORONADO	THIN BRICK - URBAN SMOOTH SMOKE	INSTALL PER MFR. RECOMMENDATIONS.

5 TRASH ENCLOSURE ELEVATIONS
PR-01



GENERAL NOTES- FACADE PLAN

- ALL MECHANICAL EQUIPMENT SHALL BE SCREENED FROM PUBLIC VIEW INCLUDING ROOF TOP UNITS.
- BRCC LOGO TO BE 1" OFFSET FROM FRONT OF E.I.F.S. FINISH. PAINT INTERIOR OF LOGO EP-2. OUTER CIRCLE TO BE CENTERED ON VERTICAL HEIGHT OF E.I.F.S.
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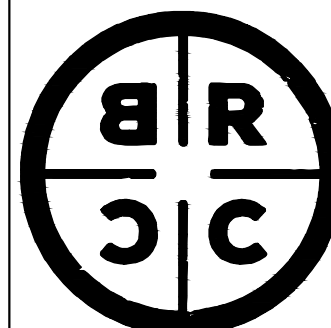
OWNER	APPLICANT	ARCHITECT
ANTHONY THOMPSON BLACK RIFLE COFFEE COMPANY 210.419.5243 anthony.thompson @blackriflecoffee.com	JULIANNE MCGEE PERMIT EXPEDITOR 682.429.6245 julianne@gmail.com	ALEXANDRA MATIS THE DIMENSION GROUP 10755 SANDHILL RD. DALLAS, TX 75238 214.343.9400 amatis@dimensiongroup.com

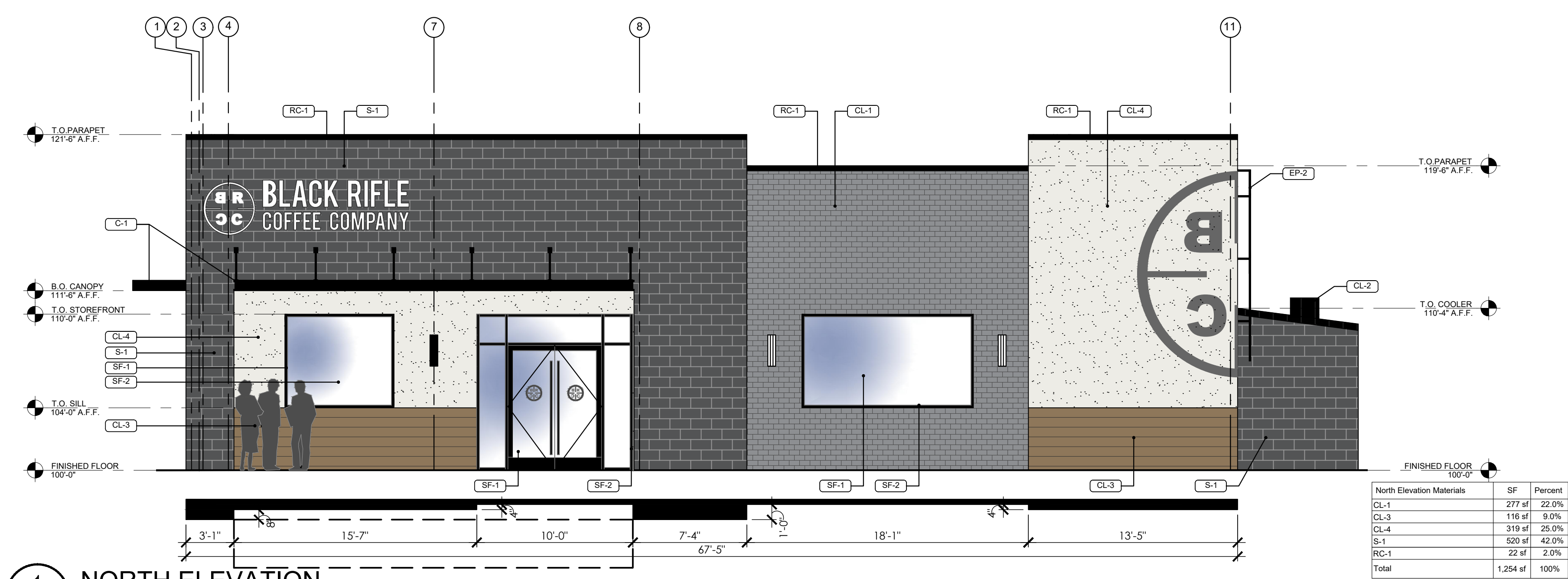
BLACK RIFLE COFFEE COMPANY
PROSPER, TX, 75078

BUILDING FACADE/
ELEVATION PLAN

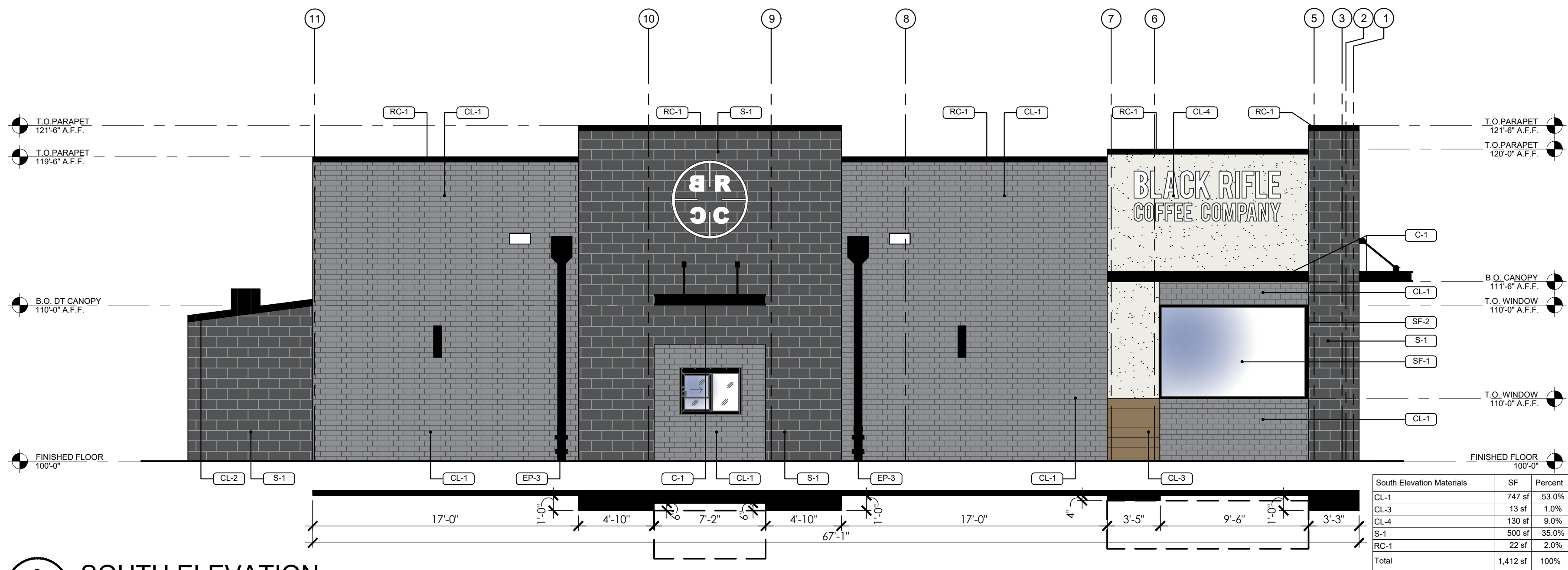
PR-01
Page 182

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Date	6/29/22
Drawn By	RP
Checked By	KS





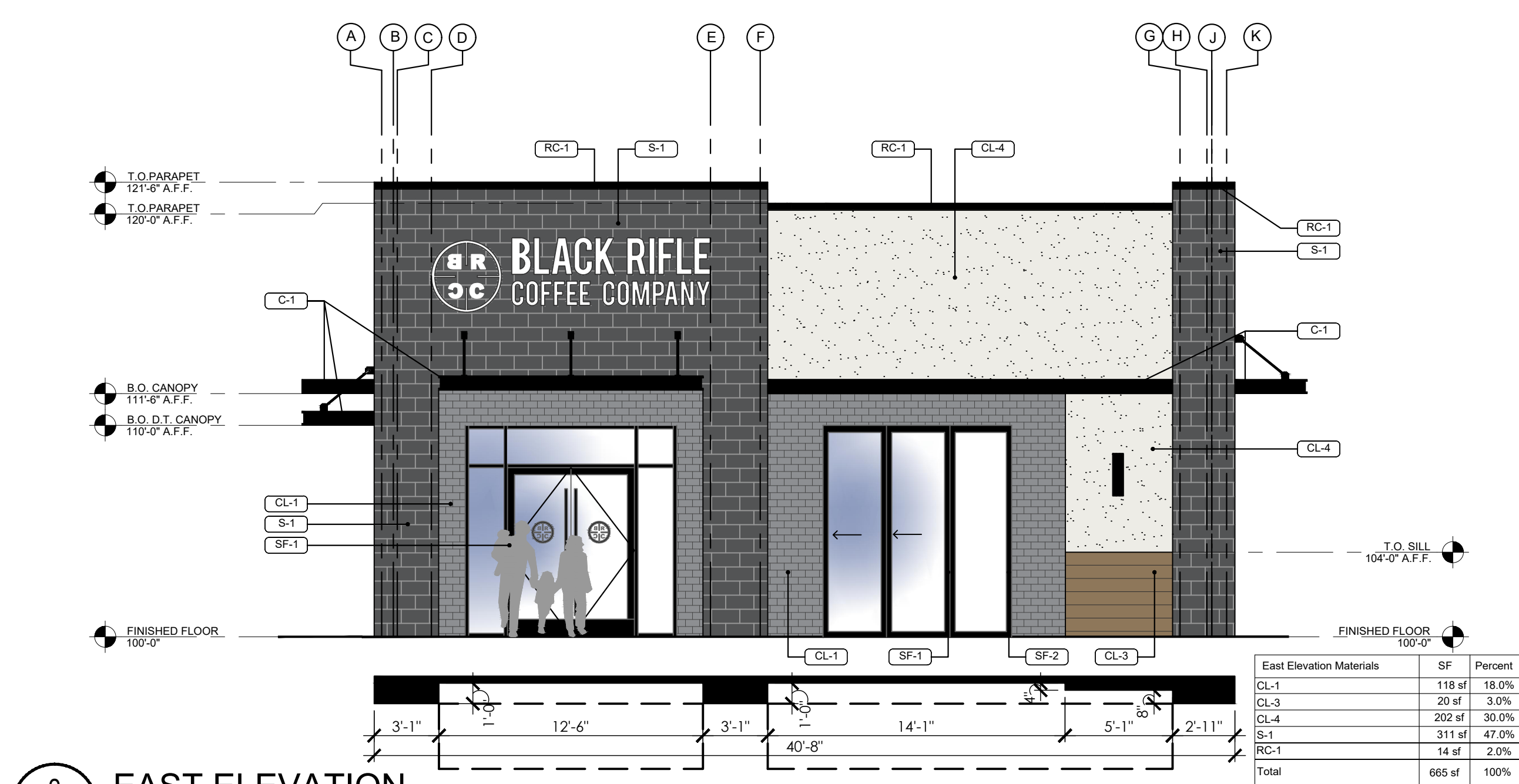
1 NORTH ELEVATION
PR-01 SCALE: 3/16" = 1'-0"



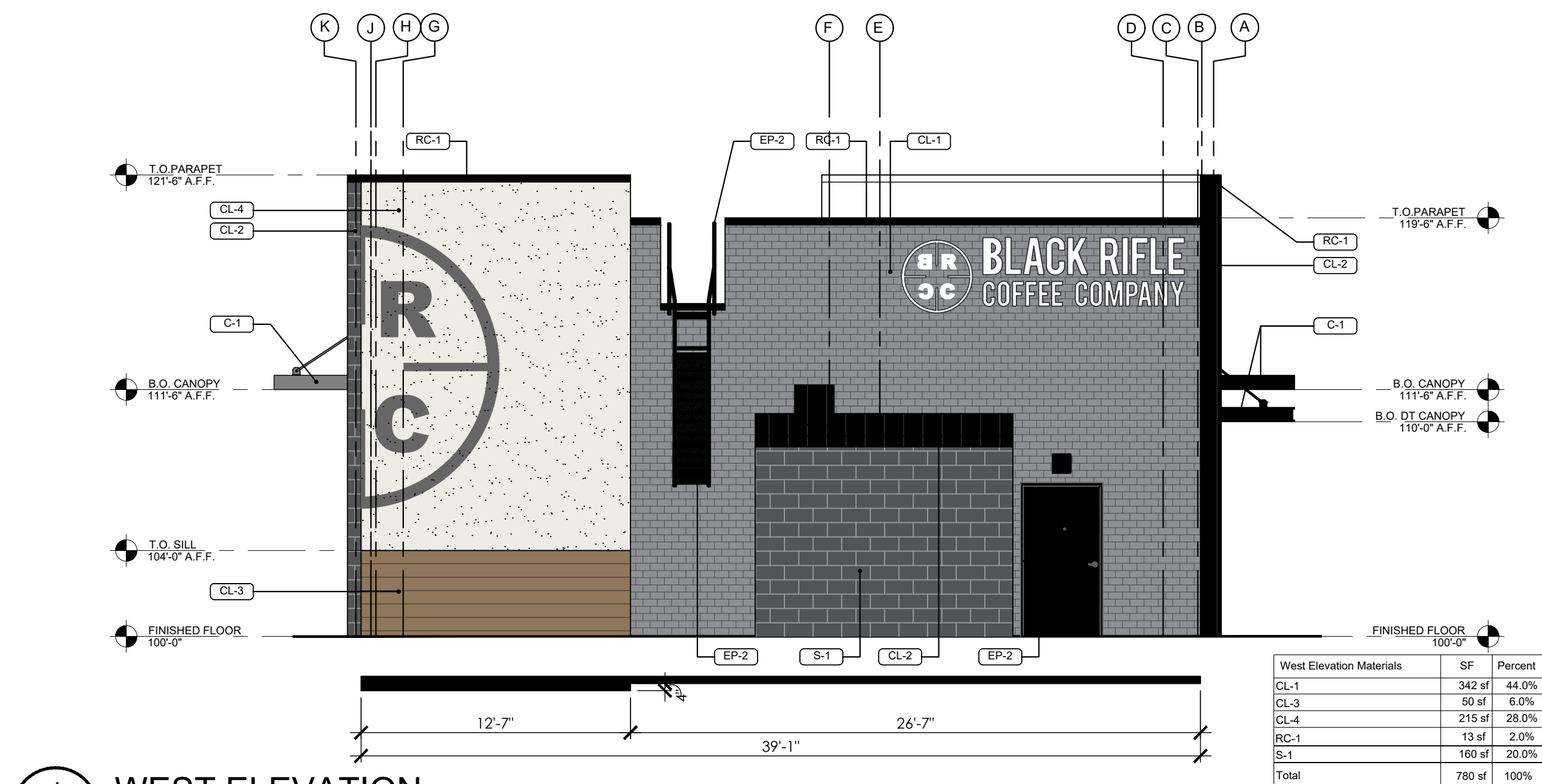
3 SOUTH ELEVATION
PR-01 SCALE: 3/16" = 1'-0"

MATERIAL SCHEDULE

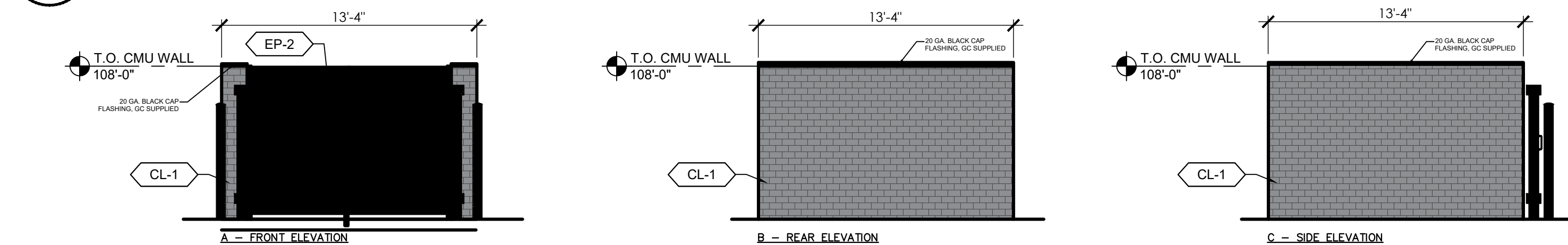
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2 EAST ELEVATION
PR-01 SCALE: 3/16" = 1'-0"



4 WEST ELEVATION
PR-01 SCALE: 3/16" = 1'-0"



5 TRASH ENCLOSURE ELEVATIONS
PR-01 SCALE: NTS

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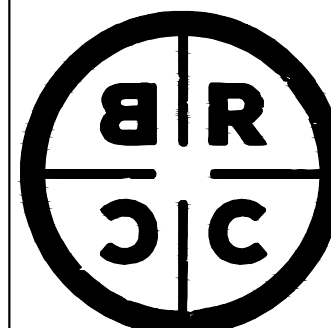
BLACK RIFLE COFFEE COMPANY
PROSPER, TX, 75078

BUILDING FACADE/
ELEVATION PLAN

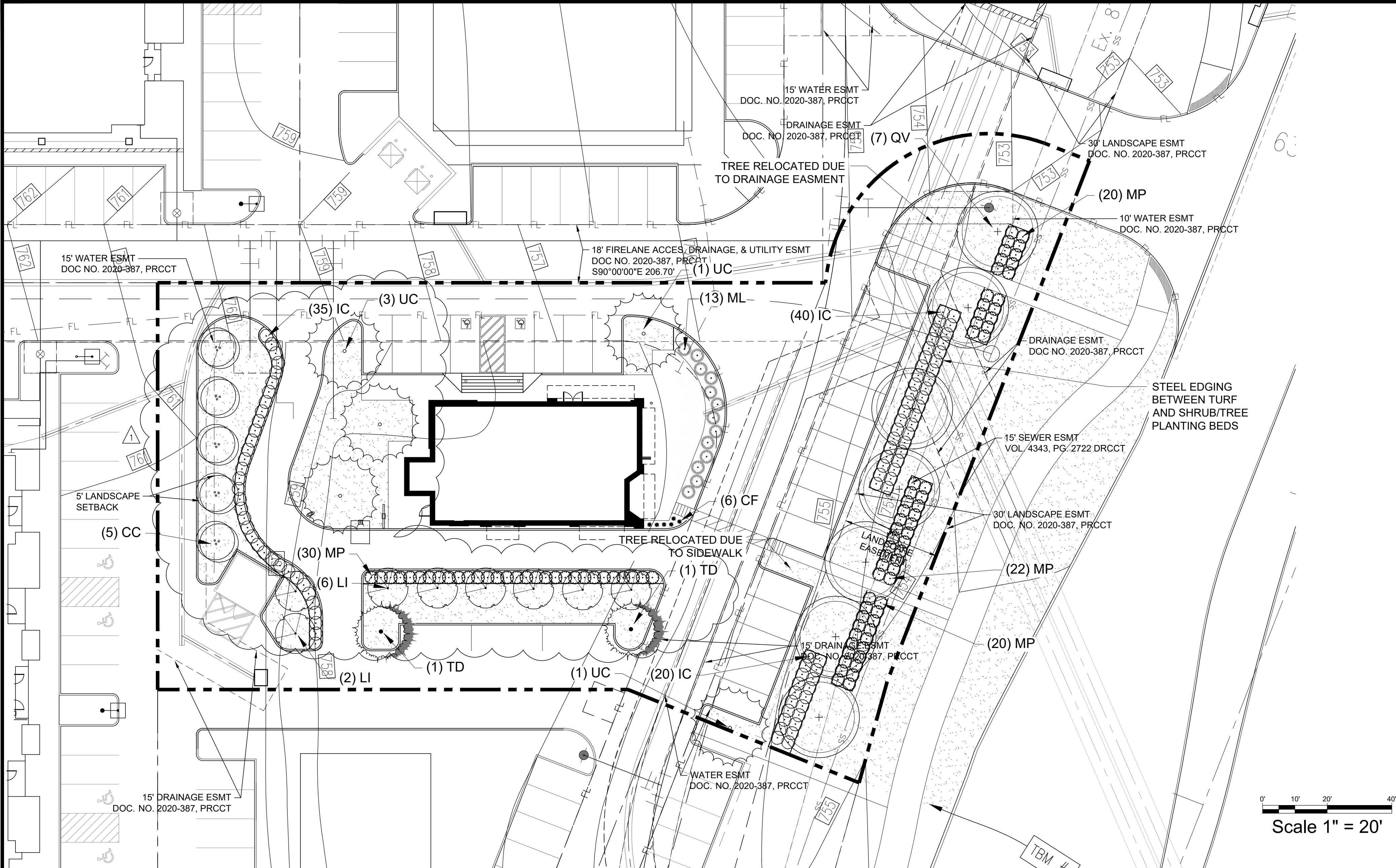
PR-01
Page 183

Job#	220-220
Scale	AS NOTED
Date	6/29/22
Drawn By	RP
Checked By	KS

THE
DIMENSION
GROUP
ARCHITECTURE-CIVIL ENGINEERING-MEP ENGINEERING
10755 SANDHILL ROAD, DALLAS, TEXAS 75238
TEL: 214-343-9400 www.dimensiongrp.com



SHEET:



PLANT_SCHEDULE

TREES	CODE	COMMON / BOTANICAL NAME	SIZE	CONTAINER	QTY
	CC	Texas Redbud / Cercis canadensis 'texensis'	min. 7' ht.	CONT. 3' Cal	5
	LI	Dallas Red Crape Myrtle / Lagerstroemia indica 'Dallas Red'	min. 7' ht.	CONT. 3' Cal	8
	UC	Cedar Elm / Ulmus crassifolia	min. 10' - 12' ht.	CONT. 3' Cal	5
	QV	Live Oak / Quercus virginiana	min. 10' - 12' ht.	CONT. 3' Cal	7
	TD	Bald Cypress / Taxodium distichum	min. 10' - 12' ht.	CONT. 3' Cal	2
SHRUBS	CODE	COMMON / BOTANICAL NAME	SIZE		QTY
	CF	Blue Zinger Sedge / Carex flacca 'Blue Zinger'	6' Tall	1 gal	6
	IC	Needlepoint Holly / Ilex cornuta 'Needlepoint'	36" o.c., min. 24" Tall, 36" in height within 1 year	5 gal	95
	ML	Muhlenbergia lindheimeri / Lindheimer Muhly Grass	36" o.c., min. 24" Tall	3 gal	13
	MP	Dwarf Wax Myrtle / Myrica pusilla	36" o.c., min. 24" Tall, 36" in height within 1 years	5 gal	92
GROUND COVERS	CODE	COMMON / BOTANICAL NAME	SIZE		QTY
	CD	Bermuda Grass / Cynodon dactylon 'tif 419'	sod		15,478 sf

NO EXISTING TREES ON SITE

TOWN OF PROSPER GENERAL LANDSCAPE NOTES

- Plant material shall be measured and sized according to the latest edition of the Texas Nursery & Landscape Association (TNLA) Specifications, Grades and Standards.
- All plant substitutions are subject to Town approval and must be specified on the approved landscape plan.
- All turf areas to be established prior to the Certificate of Occupancy, unless otherwise approved by the Town.
- Ground covers used in lieu of turf grass must provide complete coverage within one (1) year of planting and maintain adequate coverage as approved by the Town.
- Trees must be planted four (4) feet or greater from curbs, sidewalks, utility lines, screening walls, and/or other healthy root growth.
- Tree pits shall have roughened sides and be two to three times wider than the root ball of the tree in order to facilitate healthy root growth. Use of tree augers to dig tree holes are discouraged.
- Tree pits shall be tested for water percolation. If water does not drain out of tree pit within a 24-hour period, the contractor shall provide berming, or devise alternative drainage.
- Trees shall not be planted deeper than the base of the "trunk flare".
- The tree pit shall be backfilled with native topsoil free of rock and other debris.
- Burlap, twine, and wire baskets shall be removed and pulled back from the trunk of tree as much as possible.
- Trees shall not be watered to excess that results in soil saturation. If soil becomes saturated, the watering schedule shall be adjusted to allow for drainage and absorption of the excess water.
- A 3-4" layer of mulch shall be provided around the base of the planted tree. The mulch shall be pulled back 1-2" from the trunk of the tree.
- No person(s) or entity may use improper or malicious maintenance or pruning techniques which would likely lead to the death of the tree. Improper or malicious techniques include, but are not limited to, topping or other unsymmetrical trimming of trees, trimming trees with a backhoe, or use of fire or poison to cause the death of a tree.
- Topsoil shall be a minimum of eight (8) inches in depth in planting areas. Soil shall be free of stones, roots, and clods and any other foreign material that is not beneficial for plant growth.
- All plant beds shall be top-dressed with a minimum of three (3) inches of mulch.
- Trees overhanging walks and parking shall have a minimum clear trunk height of seven (7) feet. Trees overhanging public street pavement drive aisles and fire lanes shall have a minimum clear trunk height of fourteen (14) feet.
- A visibility triangle must be provided at all intersections, where shrubs are not to exceed thirty (30) inches in height, and trees shall have a minimum clear trunk height of nine (9) feet.
- Trees planted on a slope shall have the tree well at the average grade of slope.
- No shrubs shall be permitted within areas less than three (3) feet in width. All beds less than three (3) feet in width shall be grass, groundcover, or some type of fixed paving.
- The owner, tenant, and/or their agents, if any, shall be jointly and severally responsible for the maintenance, establishment, and permanence of plant material. All landscaping shall be maintained in a neat and orderly manner at all times. This shall include, but not limited to, mowing, edging, pruning, fertilizing, watering, and other activities necessary for the maintenance of landscaped areas.
- All plant material shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Plant material that is damaged, destroyed, or removed shall be replaced with plant material of similar size and variety within thirty (30) days unless otherwise approved in writing by the Town of Prosper.
- Landscape and open areas shall be kept free of trash, litter, and weeds.
- An automatic irrigation system shall be provided to irrigate all landscape areas. Overlay on streets and walks is prohibited. A permit from the Building Inspection Division is required for irrigation system.
- No plant material shall be allowed to encroach on right-of-way, sidewalks, or easements to the extent that the vision or route of travel for vehicular, pedestrian, or bicycle traffic is impeded.
- No planting areas shall exceed 3:1 slopes (3 ft Horizontal to 1 ft Vertical).
- Earthen berms shall not include construction debris. Contractor must correct slippage or damage to the smooth finish grade of the berm prior to acceptance.
- All walkways shall meet ADA and T&S requirements.
- Contact Michael @ Town of Prosper Parks and Recreation Division at (972) 679-1051 Direct Office or (972)400-0023 Cell for landscape inspection. Note that landscape installation must comply with approved landscape plans prior to final acceptance by the Town and/or obtaining a Certificate of Occupancy.
- Final inspection and approval of screening walls, irrigation, and landscape is subject to all public utilities, including but not limited to manholes, valves, water meters, cleanouts, and other appurtenances, to be accessible, adjusted to grade, and to the Town of Prosper's Public Works Department standards.
- Prior to calling for a landscape inspection, the contractor is responsible for marking all manholes, valves, water meters, cleanouts, and other utility appurtenances with flagging for field verification by the Town.

TOWN OF PROSPER MAINTENANCE STANDARDS

- THE OWNER, TENANT AND/OR THEIR AGENT, IF ANY, SHALL BE JOINTLY AND SEVERALLY RESPONSIBLE FOR THE MAINTENANCE OF ALL LANDSCAPING REQUIRED BY THIS ORDINANCE. ALL PLANT MATERIAL SHALL BE PERPETUALLY MAINTAINED IN A HEALTHY AND GROWING CONDITION AS IS APPROPRIATE FOR THE SEASON OF THE YEAR. PLANT MATERIALS THAT DIE SHALL BE REPLACED BY PROPERTY OWNER, TENANT OR AGENT WITH PLANT MATERIAL OF SIMILAR VARIETY AND SIZE, WITHIN THIRTY (30) DAYS OF NOTIFICATION BY THE TOWN OR A DATE APPROVED BY THE TOWN.
- ALL TREES LOCATED ON TOWN PROPERTY SHALL BE CARED FOR BY THE TOWN UNLESS THAT RESPONSIBILITY IS TRANSFERRED TO ANOTHER ENTITY THROUGH A COUNCIL-APPROVED AGREEMENT. THE DIRECTOR OF THE PARKS AND RECREATION DEPARTMENT SHALL ENSURE THAT THE TOWN, OR ITS CONTRACTOR, MONITORS AND CARES FOR TREES IN A WAY THAT PROMOTES A HEALTHY AND GROWING URBAN FOREST. IS PERFORMED ACCORDING TO ANSI A300 "STANDARDS FOR TREE CARE OPERATIONS," AND TREE CARE BEST MANAGEMENT PRACTICES PUBLISHED BY THE INTERNATIONAL SOCIETY OF ARBORICULTURE. IT SHALL BE UNLAWFUL TO REMOVE, PRUNE, DAMAGE OR OTHERWISE HARM TREES ON TOWN PROPERTY WITHOUT PERMISSION FROM THE DIRECTOR OF THE PARKS AND RECREATION DEPARTMENT. THE PARKS AND RECREATION DEPARTMENT SHALL BE RESPONSIBLE FOR DEVELOPING AND UPDATING AN ANNUAL WORK PLAN. THIS WORK PLAN SHALL DOCUMENT WHAT MAINTENANCE ACTIVITIES ARE BEING PERFORMED AND SCHEDULED EACH YEAR. THE PARKS AND RECREATION BOARD MAY APPOINT AN ADVISORY COMMITTEE TO FOCUS ON ISSUES AND INITIATIVES THAT PERTAIN TO ANY URBAN FOREST THAT IS LOCATED ON PUBLIC LANDS.

PLANTING AND IRRIGATION GUARANTEE

THE LANDSCAPE CONTRACTOR SHALL GUARANTEE THAT ALL NEWLY INSTALLED AND EXISTING PLANTS SHALL SURVIVE FOR ONE YEAR AFTER FINAL OWNER ACCEPTANCE OF THE INSTALLATION WORK. THE CONTRACTOR SHALL ALSO BE RESPONSIBLE FOR APPROPRIATE WATERING OF THE LANDSCAPE THROUGH INSTALLATION OF A PROPERLY DESIGNED IRRIGATION SYSTEM. THE OWNER SHALL APPROVE THE SYSTEM DESIGN BEFORE INSTALLATION OF PLANTS OR IRRIGATION.

MULCHES

AFTER ALL PLANTING IS COMPLETE, CONTRACTOR SHALL INSTALL 3" THICK LAYER OF 1-1/2" SHREDDED WOOD MULCH OVER LANDSCAPE FABRIC IN ALL PLANTING AREAS (EXCEPT FOR TURF AND SEEDED AREAS). CONTRACTOR SHALL SUBMIT SAMPLES OF ALL MULCHES TO LANDSCAPE ARCHITECT AND OWNER FOR APPROVAL PRIOR TO CONSTRUCTION. ABSOLUTELY NO EXPOSED GROUND SHALL BE LEFT SHOWING ANYWHERE ON THE PROJECT AFTER MULCH HAS BEEN INSTALLED.

ROOT BARRIERS

THE CONTRACTOR SHALL INSTALL ROOT BARRIERS NEAR ALL NEWLY-PLANTED TREES THAT ARE LOCATED WITHIN FIVE (5) FEET OF PAVING OR CURBS. ROOT BARRIERS SHALL BE "CENTURY" OR "DEEP-ROOT" 24" DEEP PANELS (OR EQUAL). BARRIERS SHALL BE LOCATED IMMEDIATELY ADJACENT TO HARDSCAPE. INSTALL PANELS PER MANUFACTURER'S RECOMMENDATIONS. UNDER NO CIRCUMSTANCES SHALL THE CONTRACTOR USE ROOT BARRIERS OF A TYPE THAT COMPLETELY ENCLOSE THE ROOTBALL.

LANDSCAPE CALCULATIONS

LOT AREA: 35,401 SF
REQUIRED OPEN SPACE: 2,478 SF (7%)
PROVIDED OPEN SPACE: 7,397 SF (20.9%)

STREET FRONTAGE

HIGHWAY 289 - 206 LF
TREES @ 1 / 30 LF:

SHRUBS @ 15 / 30 LF:

PARKING LOT

TOTAL PARKING SPACES: 26
REQUIRED INTERIOR LANDSCAPE AREA: 390 SF (15 SF / PARKING SPACE)
PROVIDED INTERIOR LANDSCAPE AREA: 5,208 SF
1 TREE PROVIDED AT THE TERMINUS OF EACH PARKING BAY
ADDITIONAL SHRUBS PROVIDED AS A SOLID LIVING SCREEN

DRIVE-THRU ISLAND LANDSCAPE

WEST PROPERTY LINE
ORNAMENTAL TREES @ 15' O.C.: REQUIRED
ORNAMENTAL TREES @ 15' O.C.: PROVIDED
SHRUBS @ 5 / 15': REQUIRED
SHRUBS @ 5 / 15': PROVIDED

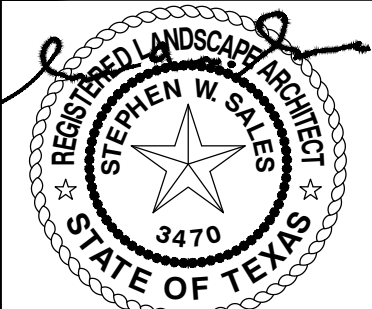
SOUTH PROPERTY LINE
ORNAMENTAL TREES @ 15' O.C.: REQUIRED
ORNAMENTAL TREES @ 15' O.C.: PROVIDED
SHRUBS @ 5 / 15': REQUIRED
SHRUBS @ 5 / 15': PROVIDED

GENERAL PLANTING NOTES

- THE GENERAL CONTRACTOR IS RESPONSIBLE FOR REMOVING ALL EXISTING VEGETATION (EXCEPT WHERE NOTED TO REMAIN). BEFORE STARTING WORK, THE LANDSCAPE CONTRACTOR SHALL VERIFY THAT THE GRADE OF ALL LANDSCAPE AREAS ARE WITHIN +0.1' OF FINISH GRADE. THE LANDSCAPE CONTRACTOR SHALL NOTIFY THE OWNER IMMEDIATELY SHOULD ANY DISCREPANCIES EXIST. SEE SPECIFICATIONS FOR MORE DETAILED INSTRUCTION ON TURF AREA AND PLANTING BED PREPARATION.
- CONSTRUCT AND MAINTAIN FINISH GRADES IN LANDSCAPE AREAS AS SHOWN ON GRADING PLANS, AND CONSTRUCT AND MAINTAIN SLOPES AS RECOMMENDED BY THE GEOTECHNICAL REPORT. ALL LANDSCAPE AREAS SHALL HAVE POSITIVE DRAINAGE AWAY FROM STRUCTURES AT THE MINIMUM SLOPE SPECIFIED IN THE REPORT, AND AREAS OF POTENTIAL PONDING SHALL BE REGRADED TO BLEND IN WITH THE SURROUNDING GRADES AND ELIMINATE PONDING POTENTIAL. SHOULD ANY CONFLICTS AND/OR DISCREPANCIES ARISE BETWEEN THE GRADING PLANS, GEOTECHNICAL REPORT, THESE NOTES, AND ACTUAL CONDITIONS, THE CONTRACTOR SHALL IMMEDIATELY BRING SUCH ITEMS TO THE ATTENTION OF THE LANDSCAPE ARCHITECT, GENERAL CONTRACTOR, AND OWNER.
- ENSURE THAT THE GRADE IN SHRUB AREAS SHALL BE 2" BELOW FINISH GRADE AFTER INSTALLING SOIL AMENDMENTS, AND 1" BELOW FINISH GRADE IN TURF AREAS AFTER INSTALLING SOIL AMENDMENTS. MULCH COVER WITHIN 6" OF CONCRETE WALKS AND CURBS SHALL NOT PROTRUDE ABOVE THE FINISH SURFACE OF THE WALKS AND CURBS. MULCH COVER WITHIN 12" OF WALLS SHALL BE AT LEAST 3" LOWER THAN THE TOP OF WALL.
- INSTALL 5 OUNCE, WOVEN, NEEDLE-PUNCHED POLYPROPYLENE FABRIC (DeWITT "PRO-5" OR EQUAL) UNDER ALL MULCHED AREAS AND INDIVIDUAL TREE RINGS.
- INSTALL MULCH TOPDRESSING, TYPE AND DEPTH PER MULCH NOTE, IN ALL PLANTING BEDS AND TREE RINGS. DO NOT INSTALL MULCH WITHIN 6" OF TREE ROOT FLARE.
- INSTALL 14G, GREEN STEEL EDGING BETWEEN ALL PLANTING BEDS AND TURF AREAS, AND BETWEEN GROUNDCOVERS AND OTHER PLANTS (WHERE INDICATED ON THE PLAN).
- HYDROMULCH ALL DISTURBED AREAS OUTSIDE OF PROPERTY LIMITS (UNLESS SHOWN AS SOD).
- ALL PLANT LOCATIONS ARE DIAGRAMMATIC. ACTUAL LOCATIONS SHALL BE VERIFIED WITH THE LANDSCAPE ARCHITECT OR DESIGNER PRIOR TO PLANTING. THE LANDSCAPE CONTRACTOR SHALL ENSURE THAT ALL REQUIREMENTS OF THE PERMITTING AUTHORITY ARE MET (I.E., MINIMUM PLANT QUANTITIES, PLANTING METHODS, TREE PROTECTION METHODS, ETC.).
- THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR DETERMINING PLANT QUANTITIES, PLANT QUANTITIES SHOWN ON LEGENDS AND CALLOUTS ARE FOR GENERAL INFORMATION ONLY. IN THE EVENT OF A DISCREPANCY BETWEEN THE PLAN AND THE PLANT LEGEND, THE PLANT QUANTITY AS SHOWN ON THE PLAN (FOR INDIVIDUAL SYMBOLS) OR CALLOUT (FOR GROUNDCOVER PATTERNS) SHALL TAKE PRECEDENCE.
- NO SUBSTITUTIONS OF PLANT MATERIALS SHALL BE ALLOWED WITHOUT THE WRITTEN PERMISSION OF THE LANDSCAPE ARCHITECT. IF SOME OF THE PLANTS ARE NOT AVAILABLE, THE LANDSCAPE CONTRACTOR SHALL NOTIFY THE LANDSCAPE ARCHITECT IN WRITING VIA PROPER CHANNELS.
- PLANTS MAY BE INSPECTED AND APPROVED OR REJECTED ON THE JOBSITE BY THE OWNER OR OWNER'S REPRESENTATIVE.
- SEE SPECIFICATIONS AND DETAILS FOR FURTHER REQUIREMENTS

NOTE TO LANDSCAPE CONTRACTOR:

- NEW INSPECTIONS WILL BE MADE FOR THE FOLLOWING:
- TREE HEIGHT, WIDTH (AT DELIVERY)
 - SHRUB HEIGHT, WIDTH & CONTAINER SIZE (AT DELIVERY)
(ANY UNDERSIZED PLANT NOT FULLY ROOTED MAY BE DENIED BY PARKS AT INSPECTION)
 - INSPECTION OF TREE PIT SIDE WALLS & DEPTH
 - INSPECT AT LEAST ONE (1) PERCOLATION TESTED PIT.



06/30/2022

BLACK RIFLE COFFEE
PROSPER, TX 75078

LANDSCAPE PLANTING

OWNER:	
BG-GBT BROADWAY & PRESTON LP 9550 JOHN W ELLIOTT DR. SUITE 106 FRISCO, TX 75033	
PH:	CONTACT NAME: TEAGE GRIFFIN
APPLICANT:	
CLAYMOORE ENGINEERING, INC. 1903 CENTRAL DRIVE, SUITE #406 BEDFORD, TX 76021	
PH: 817.281.0572	CONTACT NAME : DREW DONOSKY
SURVEYOR:	
EAGLE SURVEYING 210 S. ELM ST., SUITE 104 DENTON, TX 76201	
PH: 940.222.3009	CONTACT: MASON DECKER

DESIGN: MBT		
DRAWN: MBT		
CHECKED: DD		
DATE: 3/7/2022		
SHEET		
LP-1		
CITY: PROSPER	COUNTY: COLLIN	STATE: TEXAS
SURVEY: COLLIN COUNTY SCHOOL LAND SURVEY	ABSTRACT NO.: 147	DATE: 4/25/2022

DESIGN: MBT
DRAWN: MBT
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DATE: 3/7/2022
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Page 184

PLANTING SPECIFICATIONS

GENERAL

- A. QUALIFICATIONS OF LANDSCAPE CONTRACTOR
1. ALL LANDSCAPE WORK SHOWN ON THESE PLANS SHALL BE PERFORMED BY A SINGLE FIRM SPECIALIZING IN LANDSCAPE PLANTING.
 2. A LIST OF SUCCESSFULLY COMPLETED PROJECTS OF THIS TYPE, SIZE AND NATURE MAY BE REQUESTED BY THE OWNER FOR FURTHER QUALIFICATION MEASURES.
 3. THE LANDSCAPE CONTRACTOR SHALL HOLD A VALID NURSERY AND FLORAL CERTIFICATE ISSUED BY THE TEXAS DEPARTMENT OF AGRICULTURE, AS WELL AS OPERATE UNDER A COMMERCIAL PESTICIDE APPLICATOR LICENSE ISSUED BY EITHER THE TEXAS DEPARTMENT OF AGRICULTURE OR THE TEXAS STRUCTURAL PEST CONTROL BOARD.
- B. SCOPE OF WORK
1. WORK COVERED BY THESE SECTIONS INCLUDES THE FURNISHING AND PAYMENT OF ALL MATERIALS, LABOR, SERVICES, EQUIPMENT, LICENSES, TAXES AND ANY OTHER ITEMS THAT ARE NECESSARY FOR THE EXECUTION, INSTALLATION AND COMPLETION OF ALL WORK, SPECIFIED HEREIN AND /OR SHOWN ON THE LANDSCAPE PLANS, NOTES, AND DETAILS.
 2. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH ALL APPLICABLE LAWS, CODES AND REGULATIONS REQUIRED BY AUTHORITIES HAVING JURISDICTION OVER SUCH WORK, INCLUDING ALL INSPECTIONS AND PERMITS REQUIRED BY FEDERAL, STATE AND LOCAL AUTHORITIES IN SUPPLY, TRANSPORTATION AND INSTALLATION OF MATERIALS.
 3. THE LANDSCAPE CONTRACTOR SHALL VERIFY THE LOCATION OF ALL UNDERGROUND UTILITY LINES (WATER, SEWER, ELECTRICAL, TELEPHONE, GAS, CABLE, TELEVISION, ETC.) PRIOR TO THE START OF ANY WORK.

PRODUCTS

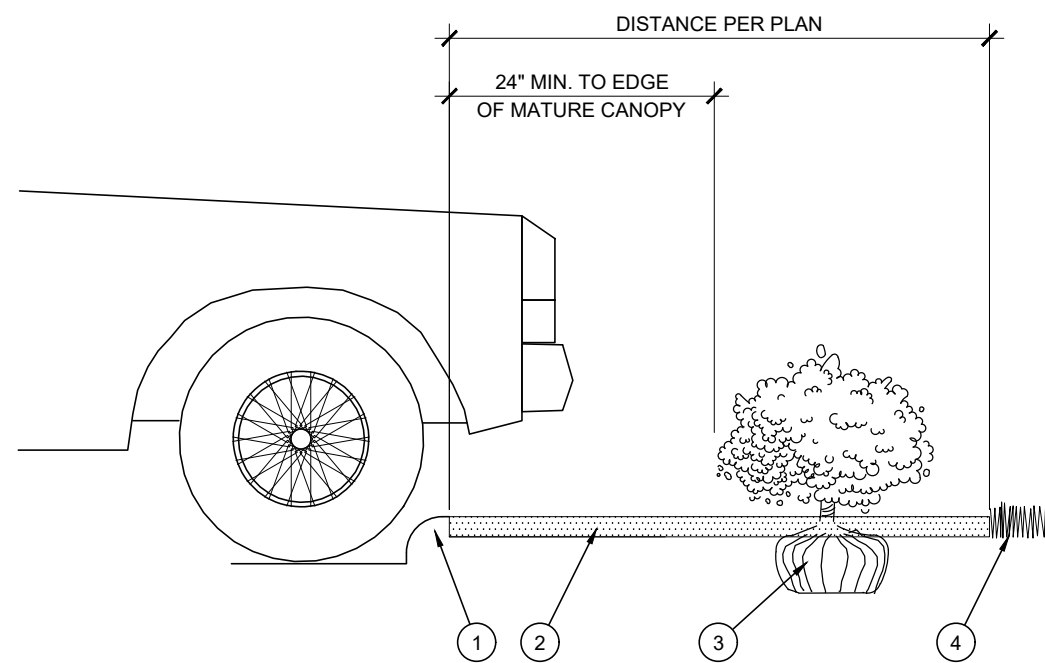
- A. ALL MANUFACTURED PRODUCTS SHALL BE NEW.
- B. CONTAINER AND BALLED-AND-BURLAPPED PLANTS:
1. FURNISH NURSERY-GROWN PLANTS COMPLYING WITH ANSI Z60.1-2014. PROVIDE WELL-SHAPED, FULLY BRANCHED, HEALTHY, VIGOROUS STOCK FREE OF DISEASE, INSECTS, EGGS, LARVAE, AND DEFECTS SUCH AS KNOTS, SUN SCALD, INJURIES, ABRASIONS, AND DISFIGUREMENT. ALL PLANTS WITHIN A SPECIES SHALL HAVE SIMILAR SIZE, AND SHALL BE OF A FORM TYPICAL FOR THE SPECIES. ALL TREES SHALL BE OBTAINED FROM SOURCES WITHIN 200 MILES OF THE PROJECT SITE, AND WITH SIMILAR CLIMATIC CONDITIONS.
 2. ROOT SYSTEMS SHALL BE HEALTHY, DENSELY BRANCHED ROOT SYSTEMS, NON-POT-BOUND, FREE FROM ENCIRCLING AND/OR GIRDLING ROOTS, AND FREE FROM ANY OTHER ROOT DEFECTS (SUCH AS J-SHAPED ROOTS).
 3. ANY PLANT DEEMED UNACCEPTABLE BY THE LANDSCAPE ARCHITECT OR OWNER SHALL BE IMMEDIATELY REMOVED FROM THE SITE AND SHALL BE REPLACED WITH AN ACCEPTABLE PLANT OF LIKE TYPE AND SIZE AT THE CONTRACTOR'S OWN EXPENSE. ANY PLANTS APPEARING TO BE UNHEALTHY, EVEN IF DETERMINED TO STILL BE ALIVE, SHALL NOT BE ACCEPTED. THE LANDSCAPE ARCHITECT AND OWNER SHALL BE THE SOLE JUDGES AS TO THE ACCEPTABILITY OF PLANT MATERIAL.
 4. ALL TREES SHALL BE STANDARD IN FORM, UNLESS OTHERWISE SPECIFIED. TREES WITH CENTRAL LEADERS WILL NOT BE ACCEPTED IF LEADER IS DAMAGED OR REMOVED. PRUNE ALL DAMAGED TWIGS AFTER PLANTING.
 5. CALIPER MEASUREMENTS FOR STANDARD (SINGLE TRUNK) TREES SHALL BE AS FOLLOWS: SIX INCHES ABOVE THE ROOT FLARE FOR TREES UP TO AND INCLUDING FOUR INCHES IN CALIPER, AND TWELVE INCHES ABOVE THE ROOT FLARE FOR TREES EXCEEDING FOUR INCHES IN CALIPER.
 6. MULTI-TRUNK TREES SHALL BE MEASURED BY THEIR OVERALL HEIGHT, MEASURED FROM THE TOP OF THE ROOT BALL.
 7. ANY TREE OR SHRUB SHOWN TO HAVE EXCESS SOIL PLACED ON TOP OF THE ROOT BALL, SO THAT THE ROOT FLARE HAS BEEN COMPLETELY COVERED, SHALL BE REJECTED.
- C. SOD: PROVIDE WELL-ROOTED SOD OF THE VARIETY NOTED ON THE PLANS. SOD SHALL BE CUT FROM HEALTHY, MATURE TURF WITH SOIL THICKNESS OF 3/4" TO 1". EACH PALLET OF SOD SHALL BE ACCOMPANIED BY A CERTIFICATE FROM SUPPLIER STATING THE COMPOSITION OF THE SOD.
- D. SEED: PROVIDE BLEND OF SPECIES AND VARIETIES AS NOTED ON THE PLANS, WITH MAXIMUM PERCENTAGES OF PURITY, GERMINATION, AND MINIMUM PERCENTAGE OF WEED SEED AS INDICATED ON PLANS. EACH BAG OF SEED SHALL BE ACCOMPANIED BY A TAG FROM THE SUPPLIER INDICATING THE COMPOSITION OF THE SEED.
- E. TOPSOIL: SANDY TO CLAY LOAM TOPSOIL, FREE OF STONES LARGER THAN 1/4 INCH, FOREIGN MATTER, PLANTS, ROOTS, AND SEEDS.
- F. COMPOST: WELL-COMPOSTED, STABLE, AND WEED-FREE ORGANIC MATTER, pH RANGE OF 5.5 TO 8; MOISTURE CONTENT 35 TO 55 PERCENT BY WEIGHT; 100 PERCENT PASSING THROUGH 3/4-INCH SIEVE; SOLUBLE SALT CONTENT OF 5 TO 10 DECISEMENS/M; NOT EXCEEDING 0.5 PERCENT INERT CONTAMINANTS AND FREE OF SUBSTANCES TOXIC TO PLANTINGS. NO MANURE OR ANIMAL-BASED PRODUCTS SHALL BE USED.
- G. FERTILIZER: GRANULAR FERTILIZER CONSISTING OF NITROGEN, PHOSPHORUS, POTASSIUM, AND OTHER NUTRIENTS IN PROPORTIONS, AMOUNTS, AND RELEASE RATES RECOMMENDED IN A SOIL REPORT FROM A QUALIFIED SOIL-TESTING AGENCY (SEE BELOW).
- H. MULCH: SIZE AND TYPE AS INDICATED ON PLANS, FREE FROM DELETERIOUS MATERIALS AND SUITABLE AS A TOP DRESSING OF TREES AND SHRUBS.
- I. WEED FABRIC: 5 OUNCE, WOVEN, NEEDLE-PUNCHED FABRIC, SUCH AS DEWITT PROS LANDSCAPE FABRIC (OR APPROVED EQUAL).
- J. TREE STAKING AND GUYING
1. STAKES: 6' LONG GREEN METAL T-POSTS.
 2. GUY AND TIE WIRE: ASTM A 641, CLASS 1, GALVANIZED-STEEL WIRE, 2-STRAND, TWISTED, 0.100 INCH DIAMETER.
 3. STRAP CHAFING GUARD: REINFORCED NYLON OR CANVAS AT LEAST 1-1/2 INCH WIDE, WITH GROMMETS TO PROTECT TREE TRUNKS FROM DAMAGE.
- M. STEEL EDGING: PROFESSIONAL STEEL EDGING, 14 GAUGE THICK X 4 INCHES WIDE, FACTORY PAINTED DARK GREEN. ACCEPTABLE MANUFACTURERS INCLUDE COL-MET OR APPROVED EQUAL.
- N. PRE-EMERGENT HERBICIDES: ANY GRANULAR, NON-STAINING PRE-EMERGENT HERBICIDE THAT IS PREPARED FOR THE SPECIFIC ORNAMENTALS OR TURF ON WHICH IT WILL BE UTILIZED. PRE-EMERGENT HERBICIDES SHALL BE APPLIED PER THE MANUFACTURER'S LABELED RATES.

METHODS

- A. SOIL PREPARATION
1. BEFORE STARTING WORK, THE LANDSCAPE CONTRACTOR SHALL VERIFY THAT THE GRADE OF ALL LANDSCAPE AREAS ARE WITHIN +0.1' OF FINISH GRADE. THE CONTRACTOR SHALL NOTIFY THE OWNER IMMEDIATELY SHOULD ANY DISCREPANCIES EXIST.
 2. SOIL TESTING:
 - a. AFTER FINISH GRADES HAVE BEEN ESTABLISHED, CONTRACTOR SHALL HAVE SOIL SAMPLES TESTED BY AN ESTABLISHED SOIL TESTING LABORATORY FOR THE FOLLOWING: SOIL TEXTURAL CLASS, GENERAL SOIL FERTILITY, pH, ORGANIC MATTER CONTENT, SALT (CEC), LIME, SODIUM ADSORPTION RATIO (SAR) AND BORON CONTENT. EACH SAMPLE SUBMITTED SHALL CONTAIN NO LESS THAN ONE QUART OF SOIL.
 - b. CONTRACTOR SHALL ALSO SUBMIT THE PROJECT'S PLANT LIST TO THE LABORATORY ALONG WITH THE SOIL SAMPLES.
 - c. THE SOIL REPORT PRODUCED BY THE LABORATORY SHALL CONTAIN RECOMMENDATIONS FOR THE FOLLOWING (AS APPROPRIATE): GENERAL SOIL PREPARATION AND BACKFILL MIXES, PRE-PLANT FERTILIZER APPLICATIONS, AND ANY OTHER SOIL RELATED ISSUES. THE REPORT SHALL ALSO PROVIDE A FERTILIZER PROGRAM FOR THE ESTABLISHMENT PERIOD AND FOR LONG-TERM MAINTENANCE.
 3. THE CONTRACTOR SHALL INSTALL SOIL AMENDMENTS AND FERTILIZERS PER THE SOILS REPORT RECOMMENDATIONS. ANY CHANGE IN COST DUE TO THE SOIL REPORT RECOMMENDATIONS, EITHER INCREASE OR DECREASE, SHALL BE SUBMITTED TO THE OWNER WITH THE REPORT.
 4. FOR BIDDING PURPOSES ONLY, THE SOIL PREPARATION SHALL CONSIST OF THE FOLLOWING:
 - a. TURF: INCORPORATE THE FOLLOWING AMENDMENTS INTO THE TOP 8" OF SOIL BY MEANS OF ROTOTILLING AFTER CROSS-RIPPING:
 - i. NITROGEN STABILIZED ORGANIC AMENDMENT - 4 CU. YDS. PER 1,000 S.F.
 - ii. AMMONIUM PHOSPHATE 16-20-0 - 15 LBS PER 1,000 S.F.
 - iii. AGRICULTURAL GYPSUM - 100 LBS PER 1,000 S.F.
 - b. TREES, SHRUBS, AND PERENNIALS: INCORPORATE THE FOLLOWING AMENDMENTS INTO THE TOP 8" OF SOIL BY MEANS OF ROTOTILLING AFTER CROSS-RIPPING:
 - i. NITROGEN STABILIZED ORGANIC AMENDMENT - 4 CU. YDS. PER 1,000 S.F.
 - ii. 12-12-12 FERTILIZER - 10 LBS. PER CU. YD.
 - iii. AGRICULTURAL GYPSUM - 10 LBS. PER CU. YD.
 - iv. IRON SULPHATE - 2 LBS. PER CU. YD.
 5. CONTRACTOR SHALL ENSURE THAT THE GRADE IN SOD AREAS SHALL BE 1" BELOW FINISH GRADE BEFORE INSTALLING SOIL AMENDMENTS, AND 2" BELOW FINISH GRADE IN SHRUB AREAS BEFORE INSTALLING SOIL AMENDMENTS. MULCH COVER WITHIN 6" OF CONCRETE WALKS AND CURBS SHALL NOT PROTRUDE ABOVE THE FINISH SURFACE OF THE WALKS AND CURBS. MULCH COVER WITHIN 12" OF WALLS SHALL BE AT LEAST 3" LOWER THAN THE TOP OF WALL.
 6. ONCE SOIL PREPARATION IS COMPLETE, THE LANDSCAPE CONTRACTOR SHALL ENSURE THAT THERE ARE NO DEBRIS, TRASH, OR STONES LARGER THAN 1" REMAINING IN THE TOP 6" OF SOIL.

GENERAL PLANTING

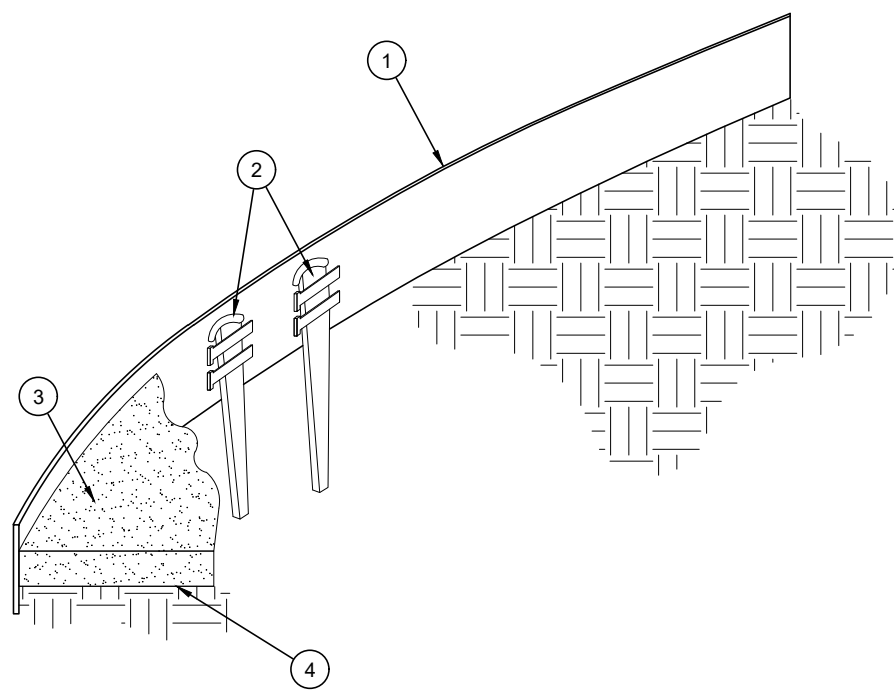
1. REMOVE ALL NURSERY TAGS AND STAKES FROM PLANTS.
2. EXCEPT IN AREAS TO BE PLANTED WITH ORNAMENTAL GRASSES, APPLY PRE-EMERGENT HERBICIDES AT THE MANUFACTURER'S RECOMMENDED RATE.
3. TRENCHING NEAR EXISTING TREES:
 - a. CONTRACTOR SHALL NOT DISTURB ROOTS 1-1/2" AND LARGER IN DIAMETER WITHIN THE CRITICAL ROOT ZONE (CRZ) OF EXISTING TREES, AND SHALL EXERCISE ALL POSSIBLE CARE AND PRECAUTIONS TO AVOID INJURY TO TREE ROOTS, TRUNKS, AND BRANCHES. THE CRZ IS DEFINED AS A CIRCULAR AREA EXTENDING OUTWARD FROM THE TREE TRUNK, WITH A RADIUS EQUAL TO 1' FOR EVERY 1" OF TRUNK DIAMETER AT-BREAST-HEIGHT (4'5" ABOVE THE AVERAGE GRADE AT THE TRUNK).
 - b. ALL EXCAVATION WITHIN THE CRZ SHALL BE PERFORMED USING HAND TOOLS. NO MACHINE EXCAVATION OR TRENCHING OF ANY KIND SHALL BE ALLOWED WITHIN THE CRZ.
 - c. ALTER ALIGNMENT OF PIPE TO AVOID TREE ROOTS 1-1/2" AND LARGER IN DIAMETER. WHERE TREE ROOTS 1-1/2" AND LARGER IN DIAMETER ARE ENCOUNTERED IN THE FIELD, TUNNEL UNDER SUCH ROOTS. WRAP EXPOSED ROOTS WITH SEVERAL LAYERS OF BURLAP AND KEEP MOIST. CLOSE ALL TRENCHES WITHIN THE CANOPY DRIP LINES WITHIN 24 HOURS.
 - d. ALL SEVERED ROOTS SHALL BE HAND PRUNED WITH SHARP TOOLS AND ALLOWED TO AIR-DRY. DO NOT USE ANY SORT OF SEALERS OR WOUND PAINTS.
3. TREE PLANTING:
 1. TREE PLANTING HOLES SHALL BE EXCAVATED TO MINIMUM WIDTH OF TWO TIMES THE WIDTH OF THE ROOTBALL, AND TO A DEPTH EQUAL TO THE DEPTH OF THE ROOTBALL LESS TWO TO FOUR INCHES.
 2. SCARIFY THE SIDES AND BOTTOM OF THE PLANTING HOLE PRIOR TO THE PLACEMENT OF THE TREE. REMOVE ANY GLAZING THAT MAY HAVE BEEN CAUSED DURING THE EXCAVATION OF THE HOLE.
 3. FOR CONTAINER AND BOX TREES, TO REMOVE ANY POTENTIALLY GIRDLING ROOTS AND OTHER ROOT DEFECTS, THE CONTRACTOR SHALL SHAVE A 1" LAYER OFF OF THE SIDES AND BOTTOM OF THE ROOTBALL OF ALL TREES JUST BEFORE PLACING INTO THE PLANTING PIT. DO NOT "TEASE" ROOTS OUT FROM THE ROOTBALL.
 4. INSTALL THE TREE ON UNDISTURBED SUBGRADE SO THAT THE TOP OF THE ROOTBALL IS TWO TO FOUR INCHES ABOVE THE SURROUNDING GRADE.
 5. BACKFILL THE TREE HOLE UTILIZING THE EXISTING TOPSOIL FROM ON-SITE. ROCKS LARGER THAN 1" DIA. AND ALL OTHER DEBRIS SHALL BE REMOVED FROM THE SOIL PRIOR TO THE BACKFILL. SHOULD ADDITIONAL SOIL BE REQUIRED TO ACCOMPLISH THIS TASK, USE STORED TOPSOIL FROM ON-SITE OR IMPORT ADDITIONAL TOPSOIL FROM OFF-SITE AT NO ADDITIONAL COST TO THE OWNER. IMPORTED TOPSOIL SHALL BE OF SIMILAR TEXTURAL CLASS AND COMPOSITION TO THE ON-SITE SOIL.
 6. THE TOTAL NUMBER OF TREE STAKES (BEYOND THE MINIMUM LISTED BELOW) WILL BE LEFT TO THE LANDSCAPE CONTRACTOR'S DISCRETION. SHOULD ANY TREES FALL OR LEAN, THE LANDSCAPE CONTRACTOR SHALL STRAIGHTEN THE TREE, OR REPLACE IT SHOULD IT BECOME DAMAGED. TREE STAKING SHALL ADHERE TO THE FOLLOWING GUIDELINES:
 - a. 1"-2" TREES TWO STAKES PER TREE
 - b. 2-1/2"-4" TREES THREE STAKES PER TREE
 - c. TREES OVER 4" CALIPER GUY AS NEEDED
 - d. MULTI-TRUNK TREES THREE STAKES PER TREE MINIMUM, QUANTITY AND POSITIONS AS NEEDED TO STABILIZE THE TREE
 7. UPON COMPLETION OF PLANTING, CONSTRUCT AN EARTH WATERING BASIN AROUND THE TREE. COVER THE INTERIOR OF THE TREE RING WITH THE WEED BARRIER CLOTH AND TOPDRESS WITH MULCH (TYPE AND DEPTH PER PLANS).
- D. SHRUB, PERENNIAL, AND GROUNDCOVER PLANTING
 1. DIG THE PLANTING HOLES TWICE AS WIDE AND 2" LESS DEEP THAN EACH PLANT'S ROOTBALL. INSTALL THE PLANT IN THE HOLE. BACKFILL AROUND THE PLANT WITH SOIL AMENDED PER SOIL TEST RECOMMENDATIONS.
 2. INSTALL THE WEED BARRIER CLOTH, OVERLAPPING IT AT THE ENDS. UTILIZE STEEL STAPLES TO KEEP THE WEED BARRIER CLOTH IN PLACE.
 3. WHEN PLANTING IS COMPLETE, INSTALL MULCH (TYPE AND DEPTH PER PLANS) OVER ALL PLANTING BEDS, COVERING THE ENTIRE PLANTING AREA.
- E. SODDING
 1. SOD VARIETY TO BE AS SPECIFIED ON THE LANDSCAPE PLAN.
 2. LAY SOD WITHIN 24 HOURS FROM THE TIME OF STRIPPING. DO NOT LAY IF THE GROUND IS FROZEN.
 3. LAY THE SOD TO FORM A SOLID MASS WITH TIGHTLY FITTED JOINTS. BUTT ENDS AND SIDES OF SOD STRIPS - DO NOT OVERLAP. STAGGER STRIPS TO OFFSET JOINTS IN ADJACENT COURSES.
 4. ROLL THE SOD TO ENSURE GOOD CONTACT OF THE SOD'S ROOT SYSTEM WITH THE SOIL UNDERNEATH.
 5. WATER THE SOD THOROUGHLY WITH A FINE SPRAY IMMEDIATELY AFTER PLANTING TO OBTAIN AT LEAST SIX INCHES OF PENETRATION INTO THE SOIL BELOW THE SOD.
- F. CLEAN UP
 1. DURING LANDSCAPE PREPARATION AND PLANTING, KEEP ALL PAVEMENT CLEAN AND ALL WORK AREAS IN A NEAT, ORDERLY CONDITION.
 2. DISPOSED LEGALLY OF ALL EXCAVATED MATERIALS OFF THE PROJECT SITE.
- G. INSPECTION AND ACCEPTANCE
 1. UPON COMPLETION OF THE WORK, THE LANDSCAPE CONTRACTOR SHALL PROVIDE THE SITE CLEAN, FREE OF DEBRIS AND TRASH, AND SUITABLE FOR USE AS INTENDED. THE LANDSCAPE CONTRACTOR SHALL THEN REQUEST AN INSPECTION BY THE OWNER TO DETERMINE FINAL ACCEPTABILITY.
 2. WHEN THE INSPECTED PLANTING WORK DOES NOT COMPLY WITH THE CONTRACT DOCUMENTS, THE LANDSCAPE CONTRACTOR SHALL REPLACE AND/OR REPAIR THE REJECTED WORK TO THE OWNER'S SATISFACTION WITHIN 24 HOURS.
 3. THE LANDSCAPE WARRANTY PERIOD WILL NOT COMMENCE UNTIL THE LANDSCAPE WORK HAS BEEN RE-INSPECTED BY THE OWNER AND FOUND TO BE ACCEPTABLE. AT THAT TIME, A WRITTEN NOTICE OF FINAL ACCEPTANCE WILL BE ISSUED BY THE OWNER, AND THE WARRANTY PERIOD WILL COMMENCE.
- H. PLANT GUARANTEE AND REPLACEMENTS
 1. THE LANDSCAPE CONTRACTOR SHALL GUARANTEE ALL TREES, SHRUBS, PERENNIALS, SOD, SEEDS/HYDROMULCHED AREAS, AND IRRIGATION SYSTEMS FOR A PERIOD OF ONE YEAR FROM THE DATE OF THE OWNER'S FINAL ACCEPTANCE (90 DAYS FOR ANNUAL PLANTS). THE CONTRACTOR SHALL REPLACE, AT HIS OWN EXPENSE AND TO THE SATISFACTION OF THE OWNER, ANY PLANTS WHICH DIE IN THAT TIME, OR REPAIR ANY PORTIONS OF THE IRRIGATION SYSTEM WHICH OPERATE IMPROPERLY.
 2. DURING THE GUARANTEE PERIOD, THE LANDSCAPE CONTRACTOR SHALL ONLY BE RESPONSIBLE FOR REPLACEMENT OF PLANTS WHEN PLANT DEATH CANNOT BE ATTRIBUTED DIRECTLY TO OVERWATERING OR OTHER DAMAGE BY HUMAN ACTIONS.
- I. PROVIDE A MINIMUM OF (2) COPIES OF RECORD DRAWINGS TO THE OWNER UPON COMPLETION OF WORK. A RECORD DRAWING IS A RECORD OF ALL CHANGES THAT OCCURRED IN THE FIELD AND THAT ARE DOCUMENTED THROUGH CHANGE ORDERS, ADDENDA, OR CONTRACTOR/CONSULTANT DRAWING MARKUPS.



1. CURB.
2. MULCH LAYER.
3. PLANT.
4. TURF (WHERE SHOWN ON PLAN).

C PLANTING AT PARKING AREA

SCALE: NOT TO SCALE

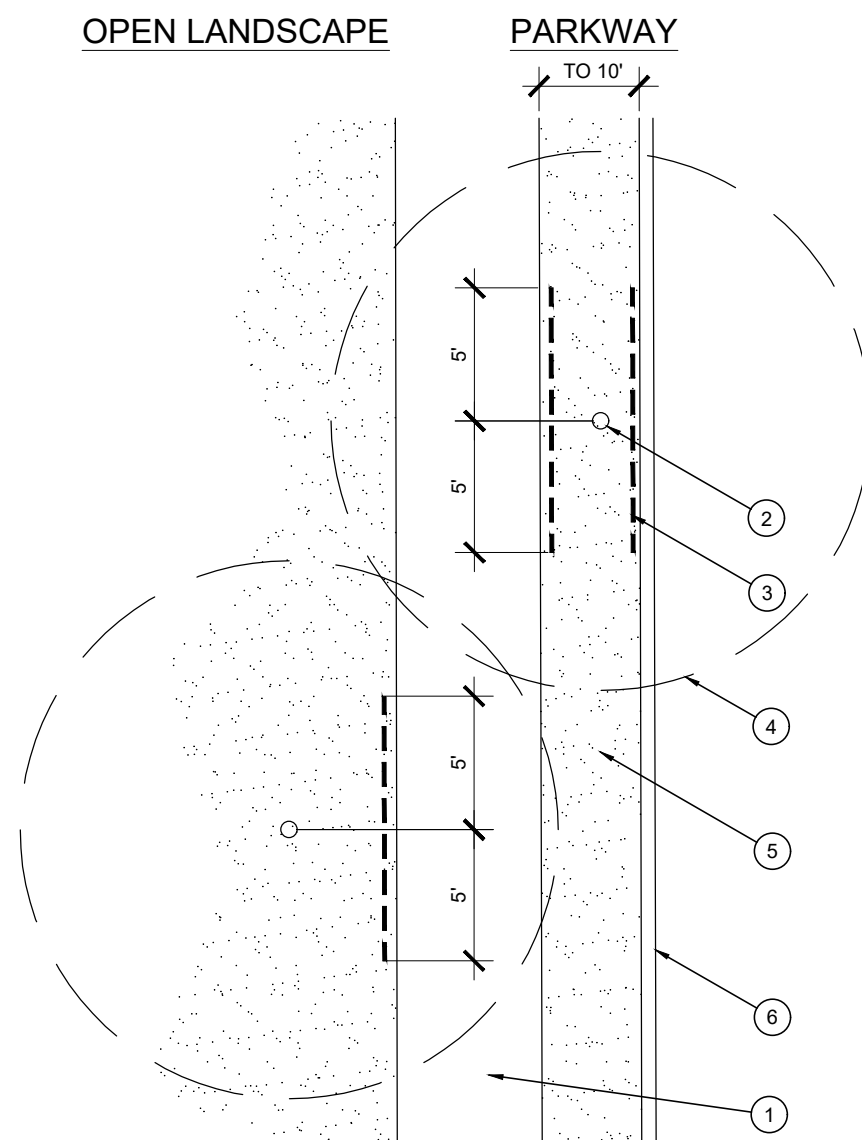


1. ROLLED-TOP STEEL EDGING PER PLANS.
2. TAPERED STEEL STAKES.
3. MULCH, TYPE AND DEPTH PER PLANS.
4. FINISH GRADE.

- NOTES:
1. INSTALL EDGING SO THAT STAKES WILL BE ON INSIDE OF PLANTING BED.
 2. BOTTOM OF EDGING SHALL BE BURIED A MINIMUM OF 1" BELOW FINISH GRADE.
 3. TOP OF MULCH SHALL BE 1" LOWER THAN TOP OF EDGING.

D STEEL EDGING

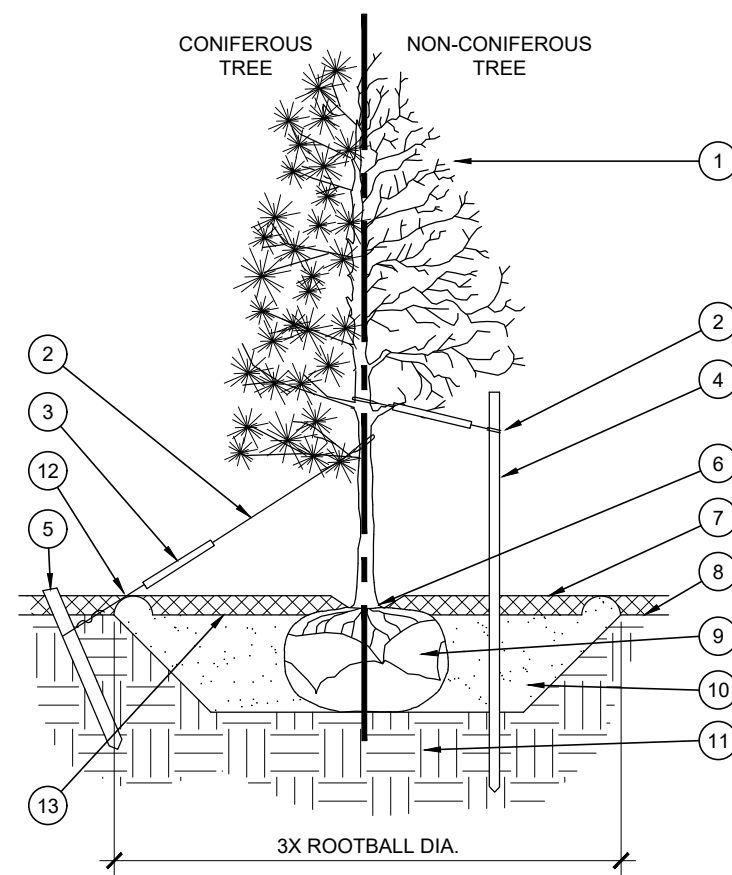
SCALE: NOT TO SCALE



1. TYPICAL WALKWAY OR PAVING
2. TREE TRUNK
3. TYPICAL SYMBOL FOR LINEAR ROOT BARRIER MATERIAL. SEE PLANTING NOTES FOR TYPE AND MANUFACTURER. INSTALL PER MANUFACTURER'S SPECIFICATIONS.
4. TREE CANOPY
5. TYPICAL PLANTING AREA
6. TYPICAL CURB AND GUTTER

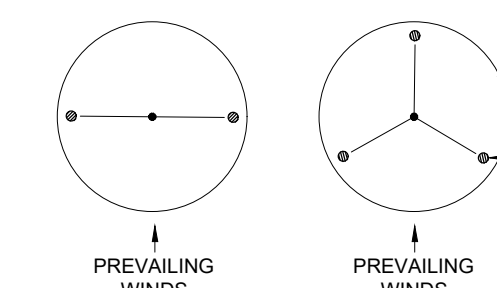
E ROOT BARRIER - PLAN VIEW

SCALE: NOT TO SCALE



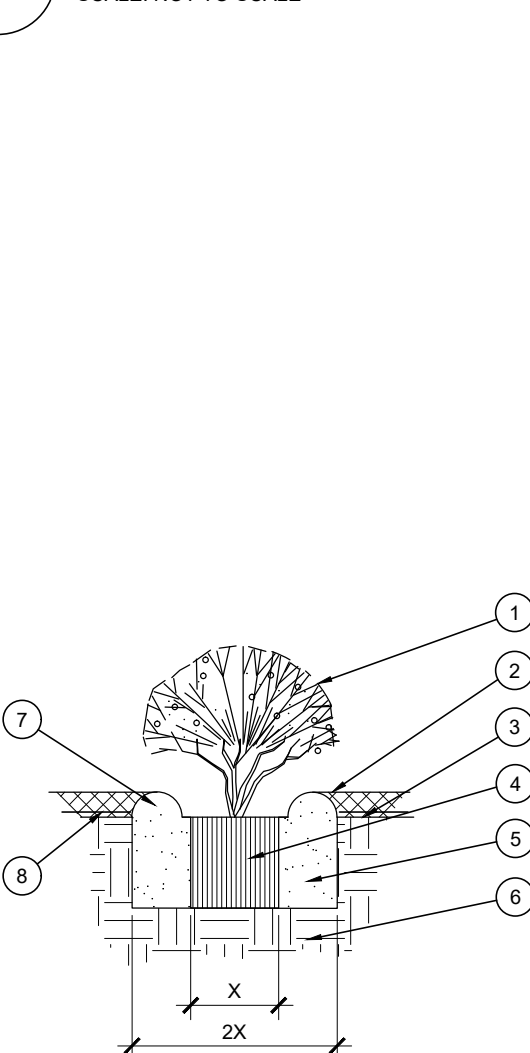
1. TREE CANOPY.
2. CINCH-TIES (24" BOX/2" CAL. TREES AND SMALLER) OR 12 GAUGE GALVANIZED WIRE WITH NYLON TREE STRAPS AT TREE AND STAKE (8" BOX/2.5" CAL. TREES AND LARGER). SECURE TIES OR STRAPS TO TRUNK JUST ABOVE LOWEST MAJOR BRANCHES.
3. 24" X 3/4" P.V.C. MARKERS OVER WIRES.
4. GREEN STEEL T-POSTS. EXTEND POSTS 12" MIN. INTO UNDISTURBED SOIL.
5. PRESSURE-TREATED WOOD DEADMAN, TWO PER TREE (MIN.). BURY OUTSIDE OF PLANTING PIT AND 18" MIN. INTO UNDISTURBED SOIL.
6. TRUNK FLARE.
7. MULCH, TYPE AND DEPTH PER PLANS. DO NOT PLACE MULCH WITHIN 6" OF TRUNK.
8. FINISH GRADE.
9. ROOT BALL.
10. BACKFILL. AMEND AND FERTILIZE ONLY AS RECOMMENDED IN SOIL FERTILITY ANALYSIS.
11. UNDISTURBED NATIVE SOIL.
12. 4" HIGH EARTHEN WATERING BASIN.
13. FINISH GRADE.

STAKING EXAMPLES (PLAN VIEW)



A TREE PLANTING

SCALE: NOT TO SCALE



1. SHRUB, PERENNIAL, OR ORNAMENTAL GRASS.
2. MULCH, TYPE AND DEPTH PER PLANS. PLACE NO MORE THAN 1" OF MULCH WITHIN 6" OF PLANT CENTER.
3. FINISH GRADE.
4. ROOT BALL.
5. BACKFILL. AMEND AND FERTILIZE ONLY AS RECOMMENDED IN SOIL FERTILITY ANALYSIS.
6. UNDISTURBED NATIVE SOIL.
7. 3" HIGH EARTHEN WATERING BASIN.
8. WEED FABRIC UNDER MULCH.

B SHRUB AND PERENNIAL PLANTING

SCALE: NTS



<u>OWNER:</u> BG-GBT BROADWAY & PRESTON LP 9550 JOHN W ELLIOTT DR. SUITE 106 FRISCO, TX 75033 PH: <u> </u>		<u>CONTACT NAME: TEAGE GRIFFIN</u>	
<u>APPLICANT:</u> CLAYMOORE ENGINEERING, INC. 1903 CENTRAL DRIVE, SUITE #406 BEDFORD, TX 76021 PH: <u>817.281.0572</u>		<u>CONTACT NAME : DREW DONOSKY</u>	
<u>SURVEYOR:</u> EAGLE SURVEYING 210 S. ELM ST., SUITE 104 DENTON, TX 76201 PH: <u>940.222.3009</u>		<u>CONTACT: MASON DECKER</u>	
<u>LEGAL DESCRIPTION:</u> LOT 3, BLOCK A OF WINDMILL HILL ADDITION AREA = 0.81 AC			
CITY: PROSPER		COUNTY: COLLIN	
STATE: TEXAS			
SURVEY: COLLIN COUNTY SCHOOL LAND SURVEY		ABSTRACT NO.: 147	DATE: 4/25/2022

TEXAS REGISTRATION #14196

Item 11.

PHONE: (817) 281-0572

WWW.CLAYMOOREENGINEERING.COM

1903 CENTRAL DRIVE, SUITE #406

BEDFORD, TX 76021

REGISTERED LANDSCAPE ARCHITECT

STEPHEN W. SALES

3470

STATE OF TEXAS

06/30/2022

BLACK RIFLE COFFEE
PROSPER, TX 75078

LANDSCAPE PLANTING
DETAILS & SPECIFICATIONS

DESIGN:	MBT
DRAWN:	MBT
CHECKED:	DD
DATE:	3/7/2022

LP-2

PLANNING



To: Mayor and Town Council

From: David Soto, Planning Manager

Through: Bob Scott, Executive Director of Administrative Services
Hulon T. Webb, Jr., Interim Executive Director of Development, and
Infrastructure Services

Re: Town Council Meeting – August 9, 2022

Agenda Item:

Consider and act upon authorizing the Mayor to execute a Development Agreement between SCSD-FINNELL, LTD, and the Town of Prosper, Texas, related to the Black Rifle Coffee development, located on the southwest corner of Broadway Street and Preston Road.

Description of Agenda Item:

On July 26, 2022, the Town Council approved the proposed request, by a vote of 6-0. The purpose of the Development Agreement is for the architectural building materials and the landscape plan.

A Development Agreement has been prepared accordingly.

Legal Obligations and Review:

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

Attached Documents:

1. Development Agreement

Town Staff Recommendation:

Town staff recommends the Town Council authorizing the Mayor to execute a Development Agreement between SCSD-FINNELL, LTD, and the Town of Prosper, Texas, related to the Black Rifle Coffee development, located on the southwest corner of Broadway Street and Preston Road.

Proposed Motion:

I move to authorizing the Mayor to execute a Development Agreement between SCSD-FINNELL, LTD, and the Town of Prosper, Texas, related to the Black Rifle Coffee development, located on the southwest corner of Broadway Street and Preston Road.

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between the Town of Prosper, Texas ("Town"), and SCSD-FINNELL, LTD., a Texas limited partnership ("Developer") (individually, a "Party" and collectively, the "Parties") to be effective (the "Effective Date") on the latest date executed by a Party.

WHEREAS, the Town is a home-rule municipal corporation, located in Collin County and Denton County, Texas, organized and existing under the laws of the State of Texas; and

WHEREAS, Developer is developing in the Town a coffee restaurant/drive through on an approximate 0.8-acre tract of land generally located at the southwest corner of Preston Road and Broadway Street (the "Property"), and a legal description of the Property is attached hereto as Exhibit A and incorporated by reference; and

WHEREAS, the foregoing Property was rezoned by the Town Council on or about July 26, 2022, when the Town Council approved an amendment to Planned Development 93 for the Property, and this Agreement seeks to incorporate, in part, the negotiated and agreed upon development standards contained in the underlying zoning ordinance, as may be amended, and/or this Development Agreement, to recognize Developer's reasonable investment-backed expectations in the Development, as may be amended, and as more fully described herein.

NOW, THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Parties to this Agreement agree as follows:

1. Development Standards. For any structure built on the Property following the Effective Date, it shall comply with the requirements contained in Exhibit B, "Building Façade/Elevation Plan," and Exhibit C, "Landscape Plan," all of which are attached hereto and incorporated herein. The Parties agree and acknowledge that the provisions of this Paragraph shall apply to any structure constructed subsequent to the execution of this Agreement. Nothing in this Agreement shall be deemed to modify or otherwise amend any zoning regulation duly adopted by the Town, previously or in the future.

2. Covenant Running with the Land. The terms, conditions, rights, obligations, benefits, covenants and restrictions of the provisions of this Agreement shall be deemed covenants running with the land, and shall be binding upon and inure to the benefit of the Developer and its heirs, representatives, successors and assigns. This Agreement shall be deemed to be incorporated into each deed and conveyance of the Property or any portion thereof hereafter made by any other Developers of the Property, regardless of whether this Agreement is expressly referenced therein.

3. **Applicability of Town Ordinances.** Developer shall develop the Property, and construct all structures on the Property, in accordance with all applicable Town ordinances and building/construction codes.

4. **Rough Proportionality.** Developer hereby agrees that any land or property donated and/or dedicated to the Town pursuant to this Agreement, whether in fee simple or otherwise, including any easements (as may be reflected in any Final Plat), relative to any development on the Property is roughly proportional to the need for such land and Developer hereby waives any claim therefor that it may have. Developer further acknowledges and agrees that all prerequisites to such a determination of rough proportionality have been met, and that any costs incurred relative to said donation are related both in nature and extent to the impact of the development referenced herein. Both Developer and the Town further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the provision of roadway services to the Property.

5. **Exactions/Infrastructure Costs.** Both the Town and Developer have been represented by legal counsel in the negotiation of this Agreement and been advised or each has had the opportunity to have legal counsel review this Agreement and advise them, regarding Developer's and the Town's rights under Texas and federal law. Developer and the Town hereby waive any requirement that the other retain a professional engineer, licensed pursuant to Chapter 1001 of the Texas Occupations Code, to review and determine that the exactions are roughly proportional or roughly proportionate to the proposed development's anticipated impact. Developer specifically reserves its right to appeal the apportionment of municipal infrastructure costs in accordance with § 212.904 of the Texas Local Government Code and any exemptions from impact fees under current or future law; however, notwithstanding the foregoing and to the extent permitted by law, Developer hereby releases the Town from any and all liability under § 212.904 of the Texas Local Government Code, as amended, regarding or related to the cost of those municipal infrastructure requirements imposed by this Agreement.

6. **Default.** No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time determined based on the nature of the alleged failure, but in no event less than thirty (30) days after written notice of the alleged failure has been given). In addition, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured. If either Party is in default under this Agreement, the other Party shall have the right to enforce the Agreement in accordance with applicable law, provided, however, in no event shall any Party be liable for consequential or punitive damages.

7. **Venue**. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Collin County, Texas. Exclusive venue for any action arising under this Agreement shall lie in Collin County, Texas.

8. **Notice**. Any notices required or permitted to be given hereunder (each, a "Notice") shall be given by certified or registered mail, return receipt requested, to the addresses set forth below or to such other single address as either party hereto shall notify the other:

If to the Town: The Town of Prosper
250 W. First Street
P.O. Box 307
Prosper, Texas 75078
Attention: Town Manager

If to Developer: SCSD-Finnell, Ltd.
Attn: Cary Albert
14114 Dallas Pkwy, Suite 670
Dallas, Texas 75254

9. **Prevailing Party**. In the event any person initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable costs and attorney's fees (including its reasonable costs and attorney's fees on any appeal).

10. **Entire Agreement**. This Agreement contains the entire agreement between the Parties hereto with respect to development of the Property and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party.

11. **Savings/Severability**. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

12. **Binding Agreement**. A telecopied facsimile of a duly executed counterpart of this Agreement shall be sufficient to evidence the binding agreement of each party to the terms herein, including without limitation a scanned copy sent via electronic mail by either Party.

13. **Authority to Execute**. This Agreement shall become a binding obligation on the Parties upon execution by all Parties hereto. The Town warrants and represents

that the individual executing this Agreement on behalf of the Town has full authority to execute this Agreement and bind the Town to the same. Developer warrants and represents that the individual executing this Agreement on behalf of Developer has full authority to execute this Agreement and bind Developer to the same. The Town Council hereby authorizes the Mayor of the Town to execute this Agreement on behalf of the Town.

14. Filing in Deed Records. This Agreement, and any and all subsequent amendments to this Agreement, shall be filed in the deed records of Collin County, Texas.

15. Mediation. In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to nonbinding mediation.

16. Notification of Sale or Transfer; Assignment of Agreement. Except with respect to a sale or transfer to a related entity of Developer, Developer shall notify the Town in writing of any sale or transfer of all or any portion of the Property, within ten (10) business days of such sale or transfer. Developer has the right (from time to time without the consent of the Town, but upon written notice to the Town) to assign this Agreement, in whole or in part, and including any obligation, right, title, or interest of Developer under this Agreement, to any person or entity (an "Assignee") that is or will become an Developer of any portion of the Property or that is an entity that is controlled by or under common control with Developer. Each assignment shall be in writing executed by Developer and the Assignee and shall obligate the Assignee to be bound by this Agreement. Except with respect to a sale or transfer to a related entity of Developer, a copy of each assignment shall be provided to the Town within ten (10) business days after execution. Provided that the successor Developer assumes the liabilities, responsibilities, and obligations of the assignor under this Agreement and/or the building has been constructed on the Property as provided in this Agreement, the assigning party will be released from any rights and obligations under this Agreement as to the Property that is the subject of such assignment, effective upon such transfer. No assignment by Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment. Developer shall maintain true and correct copies of all assignments made by Developer to Assignees, including a copy of each executed assignment and the Assignee's Notice information.

17. Sovereign Immunity. The Parties agree that the Town has not waived its sovereign immunity from suit by entering into and performing its obligations under this Agreement.

18. Effect of Recitals. The recitals contained in this Agreement: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; (c) are legislative findings of the Town Council; and (d) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent

of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

19. Consideration. This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

20. Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original.

21. Amendment. This Agreement shall not be modified or amended except in writing signed by the Parties. A copy of each amendment to this Agreement, when fully executed and recorded, shall be provided to each Party, Assignee and successor Developer of all or any part of the Property; however, the failure to provide such copies shall not affect the validity of any amendment.

22. Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by all Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any Party shall not apply.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the date referenced herein.

TOWN:

THE TOWN OF PROSPER, TEXAS

By: _____
Name: David F. Bristol
Title: Mayor

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the ____ day of August, 2022, by David F. Bristol, Mayor of the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

Notary Public, State of Texas
My Commission Expires: _____

DEVELOPER:

SCSD – FINNELL, LTD.,
a Texas limited partnership

By: SCSD-FINNELL MGMT, LLC,
a Texas limited liability company,
its general partner

By: 
Cary L. Albert, Manager

STATE OF TEXAS

§
§
§
§

COUNTY OF DALLAS

This instrument was acknowledged before me on August 2nd, 2022, by Cary L. Albert, Manager of SCSD-FINNELL MGMT, LLC, a Texas limited liability company, as general partner of SCSD – FINNELL, LTD, a Texas limited partnership, on behalf of said limited partnership.

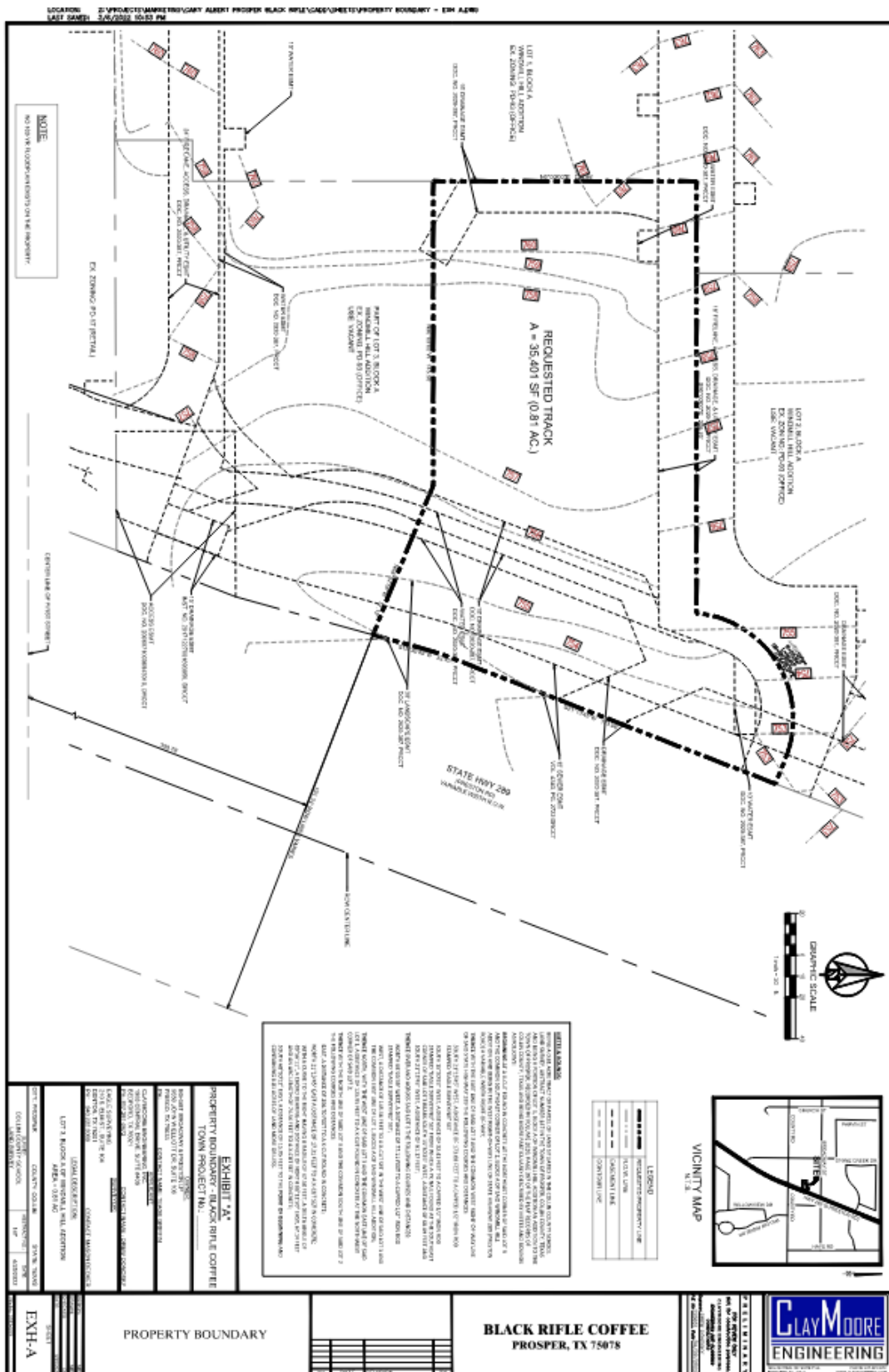


Notary Public, State of Texas

(NOTARY SEAL)



EXHIBIT A
(Property Legal Description)



(Building/Façade Elevation Plan)

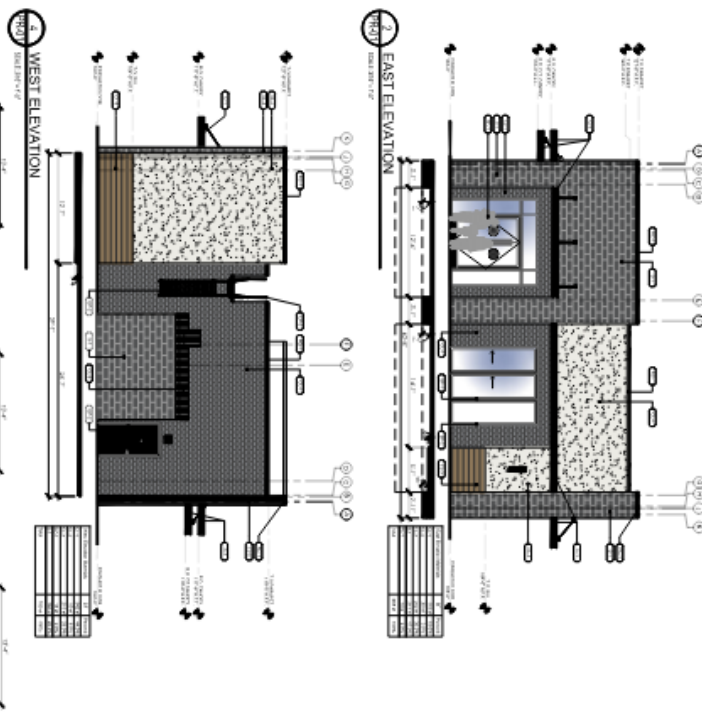
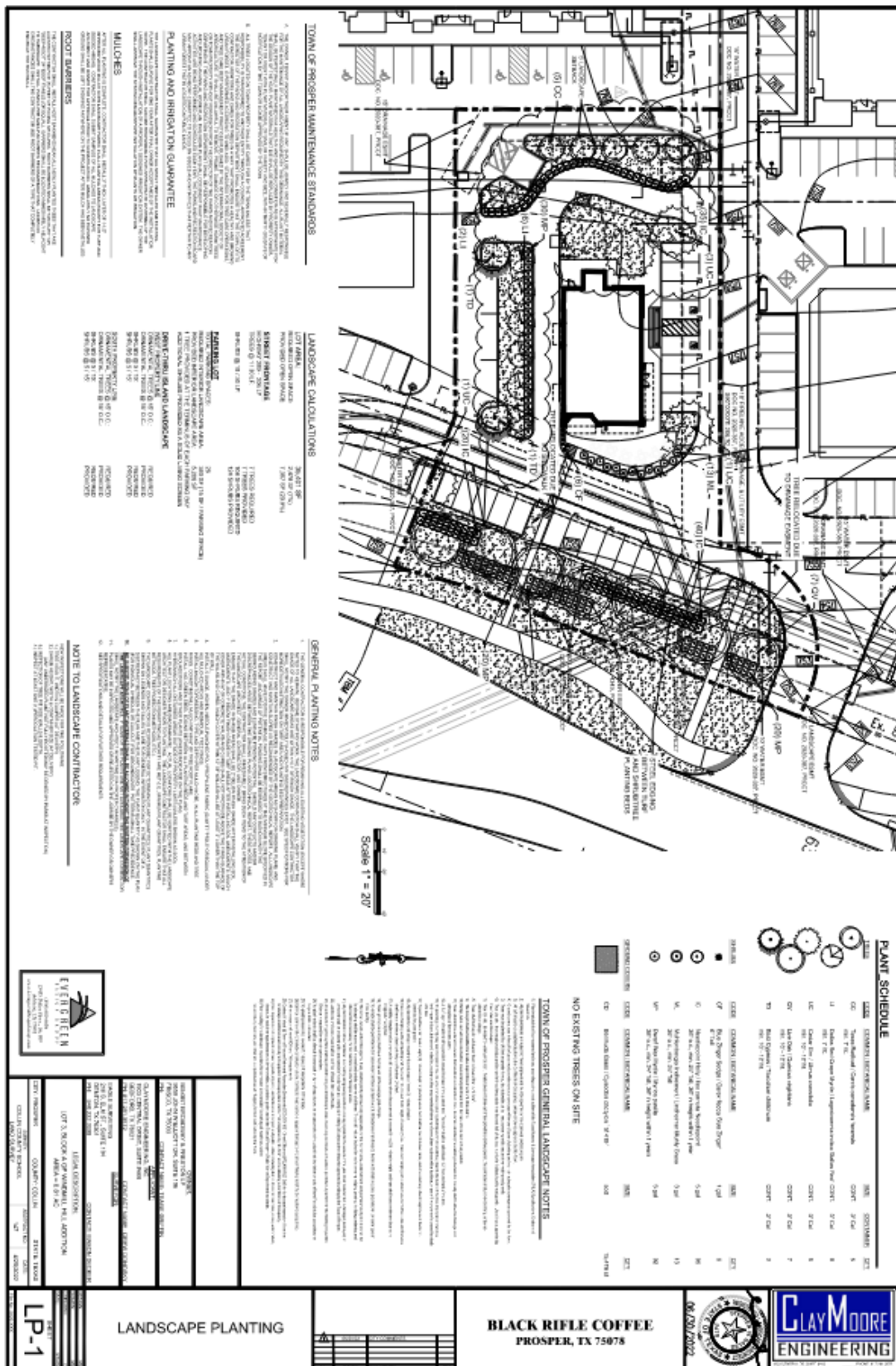
[illegible]

EXHIBIT C
(Landscape Plan)





To: Mayor and Town Council

From: David Soto, Planning Manager

**Through: Bob Scott, Executive Director of Administrative Services.
Hulon T. Webb, Jr., Interim Executive Director of Development and Infrastructure Services**

Re: Town Council Meeting – August 9, 2022

Agenda Item:

Consider and act upon an ordinance for a Specific Use Permit (SUP) for a Restaurant with Drive-Through Service, on 1.2± acres, in the Victory at Frontier development. (S22-0006).

Description of Agenda Item:

On July 26, 2022, the Town Council approved the proposed request, by a vote of 4-2.

A Specific Use Permit ordinance has been prepared accordingly.

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
2. Ordinance Exhibits

Attached Documents:

At their June 21, 2022, meeting, the Planning & Zoning Commission recommended the Town Council approve the request, by a vote of 7-0.

Town Staff Recommendation:

Town staff recommends approval of an ordinance for a Specific Use Permit (SUP) for a Restaurant with Drive-Through Service, on 1.2± acres, in the Victory at Frontier development. (S22-0006)

Proposed Motion:

I move to approve an ordinance for a Specific Use Permit (SUP) for a Restaurant with Drive-Through Service, on 1.2± acres, in the Victory at Frontier development. (S22-0006).

TOWN OF PROSPER, TEXAS**ORDINANCE NO. 2022-__**

AN ORDINANCE AMENDING PROSPER'S TOWN'S ZONING ORDINANCE; GRANTING A SPECIFIC USE PERMIT (SUP) FOR A RESTAURANT WITH DRIVE-THROUGH SERVICE CONSISTING OF 1.198 ACRES, MORE OR LESS, SITUATED IN THE SPENCER RICE SURVEY, ABSTRACT NO. 787, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS; 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 town's zoning ordinance should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request from Victory at Frontier, LP ("Applicant") for a Specific Use Permit (SUP) for a Restaurant with Drive-Through Service, consisting of 1.198 acres of land, more or less, in the Spencer Rice Survey, Abstract No. 787, in the Town of Prosper, Collin 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

Specific Use Permit Granted. The Town's Zoning Ordinance is amended as follows: Applicant is granted a Specific Use Permit (SUP) for a Restaurant with Drive-Through Service, consisting of 1.198 acres of land, more or less, in the Spencer Rice Survey, Abstract No. 787, in the Town of Prosper, Collin County, Texas, and 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 Specific Use Permit shall conform to, and comply with the conceptual development plans, attached hereto as Exhibit

“B,” Exhibit “C,” and Exhibit “D,” which are incorporated herein for all purposes as if set forth verbatim, subject to the following condition of approval by the Town Council:

1. Approval of a Development Agreement, including, but not limited to, right-of-way and/or easement dedication, and architectural building materials.

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 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 or any provision of Prosper’s Zoning Ordinance No. 05-20, or 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, 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 No. 05-20 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 9TH DAY OF AUGUST, 2022.

Jeff Hodges, Mayor Pro-Tem

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

SURVEYOR'S NOTES:

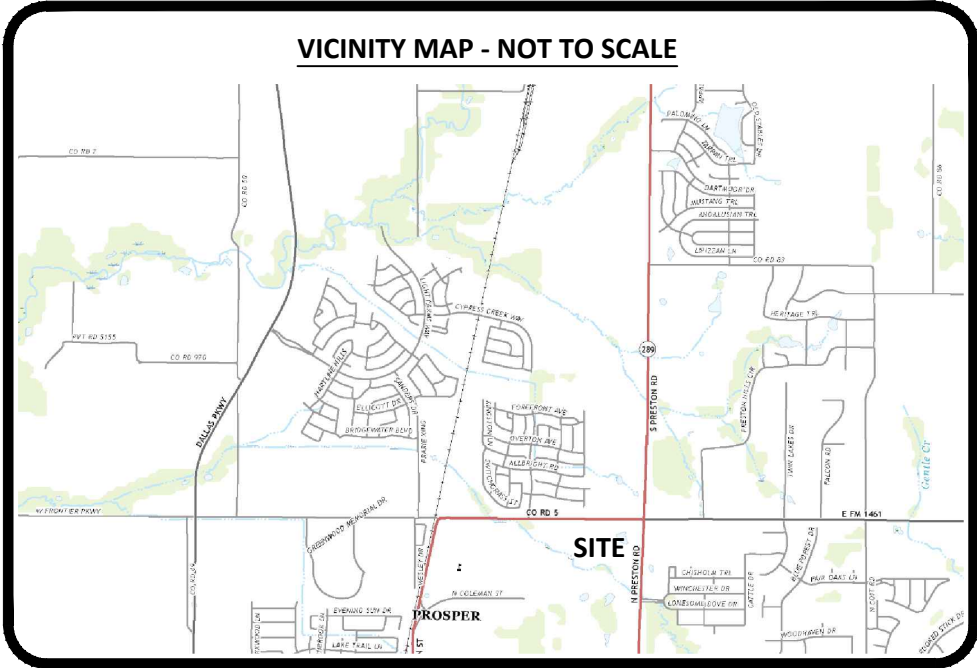
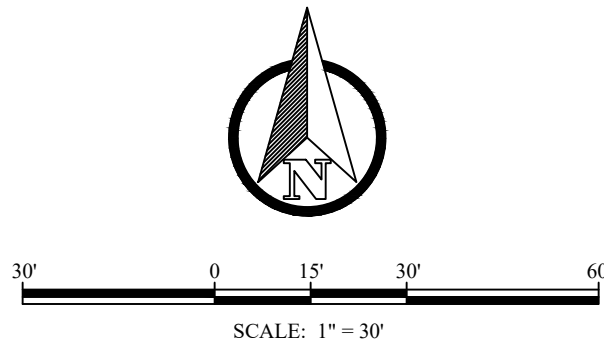
- Bearings are based on the State Plane Coordinate System, Texas North Central Zone (4202) North American Datum of 1983 (NAD '83), distances are surface with a combined scale factor of 1.00015271.
- This property lies within Zone "X" of the Flood Insurance Rate Map for Collin County, Texas and Incorporated Areas, map no. 48085C01201, with an effective date of June 2, 2009, via scaled map location and graphic plotting.
- Monuments are found unless specifically designated as set.
- Elevations (if shown) are North American Vertical Datum of 1988 (NAVD '88).

NOTE REGARDING UTILITIES

Source information from plans and markings will be combined with observed evidence of utilities pursuant to Section 5.E.iv. to develop a view of the underground utilities. However, lacking excavation, the exact location of underground features cannot be accurately, completely, and reliably depicted. In addition, in some jurisdictions, 811 or other similar utility locate requests from surveyors may be ignored or result in an incomplete response, in which case the surveyor shall note on the plat or map how this affected the surveyor's assessment of the location of the utilities. Where additional or more detailed information is required, the client is advised that excavation and/or a private utility locate request may be necessary. Utility locations are per observed evidence.

LEGEND OF ABBREVIATIONS

- D.R.C.C.T. DEED RECORDS, COLLIN COUNTY, TEXAS
- P.R.C.C.T. PLAT RECORDS, COLLIN COUNTY, TEXAS
- O.P.R.C.C.T. OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS
- DOC.# DOCUMENT NUMBER
- C.M. CONTROLLING MONUMENT
- SQ. FT. SQUARE FEET
- ROW RIGHT OF WAY
- CRS CAPPED REBAR SET



PROPERTY DESCRIPTION

BEING a portion of Lot 3 in Block A of Victory at Frontier, an addition in the Town of Prosper, Collin County, Texas, according to the plat recorded under Volume 2018, Page 699, Plat Records of Collin County, Texas, (P.R.C.C.T.), the subject tract being more particularly described by metes and bounds as follows (bearings are based on State Plane Coordinate System, Texas North Central Zone, North American Datum of 1983 (NAD '83)):

BEGINNING at a 1/2 inch rebar with pink cap stamped, "BARTON CHAPA" set (hereinafter called "capped rebar set") for the southeast corner of the herein described tract, said point being in the east line of said Lot 3;

THENCE through the interior of said Lot 3 the following calls:

- North 88 degrees 35 minutes 37 seconds West, a distance of 344.09 feet to an "X" cut in concrete set;
- North 01 degrees 24 minutes 24 seconds East, a distance of 167.98 feet to an "X" cut in concrete set;
- North 89 degrees 26 minutes 11 seconds East, a distance of 83.18 feet to an "X" cut in concrete set in the west line of Lot 2 in said Block A;

THENCE South 00 degrees 15 minutes 13 seconds West, with the west line of said Lot 2, a distance of 26.31 feet to a capped rebar set;

THENCE South 88 degrees 35 minutes 36 seconds East, with the south line of said Lot 2, a distance of 263.84 feet to a capped rebar set for the southeast corner thereof, same being a northeast corner of said Lot 3;

THENCE South 01 degrees 24 minutes 24 seconds West, with the east line of said Lot 3, a distance of 76.26 feet to a capped rebar set;

THENCE South 04 degrees 16 minutes 09 seconds West, with the east line of said Lot 3, a distance of 68.37 feet to the **POINT OF BEGINNING** and enclosing 1.198 acres (52,186 square feet) of land, more or less.

TITLE COMMITMENT NOTES

This survey was prepared without the benefit of a commitment for title insurance. Therefore, easements, agreements, or other documents, either recorded, or unrecorded may exist that affect the subject property that are not shown on this survey.

SURVEYOR'S CERTIFICATE

This is to certify that I, John H. Barton III, a Registered Professional Land Surveyor of the State of Texas, have prepared this map from an actual survey on the ground, and that this map correctly represents that survey made by me or under my direction and supervision. This survey meets the minimum requirements for a Category 1A, Condition II Land Title Survey. Fieldwork was completed on September 14, 2020.

Date of Plat/Map: **September 15, 2020**

PRELIMINARY

THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE

AND SHALL NOT BE USED, VIEWED, OR RELIED UPON AS A FINAL

SURVEY DOCUMENT September 15, 2020

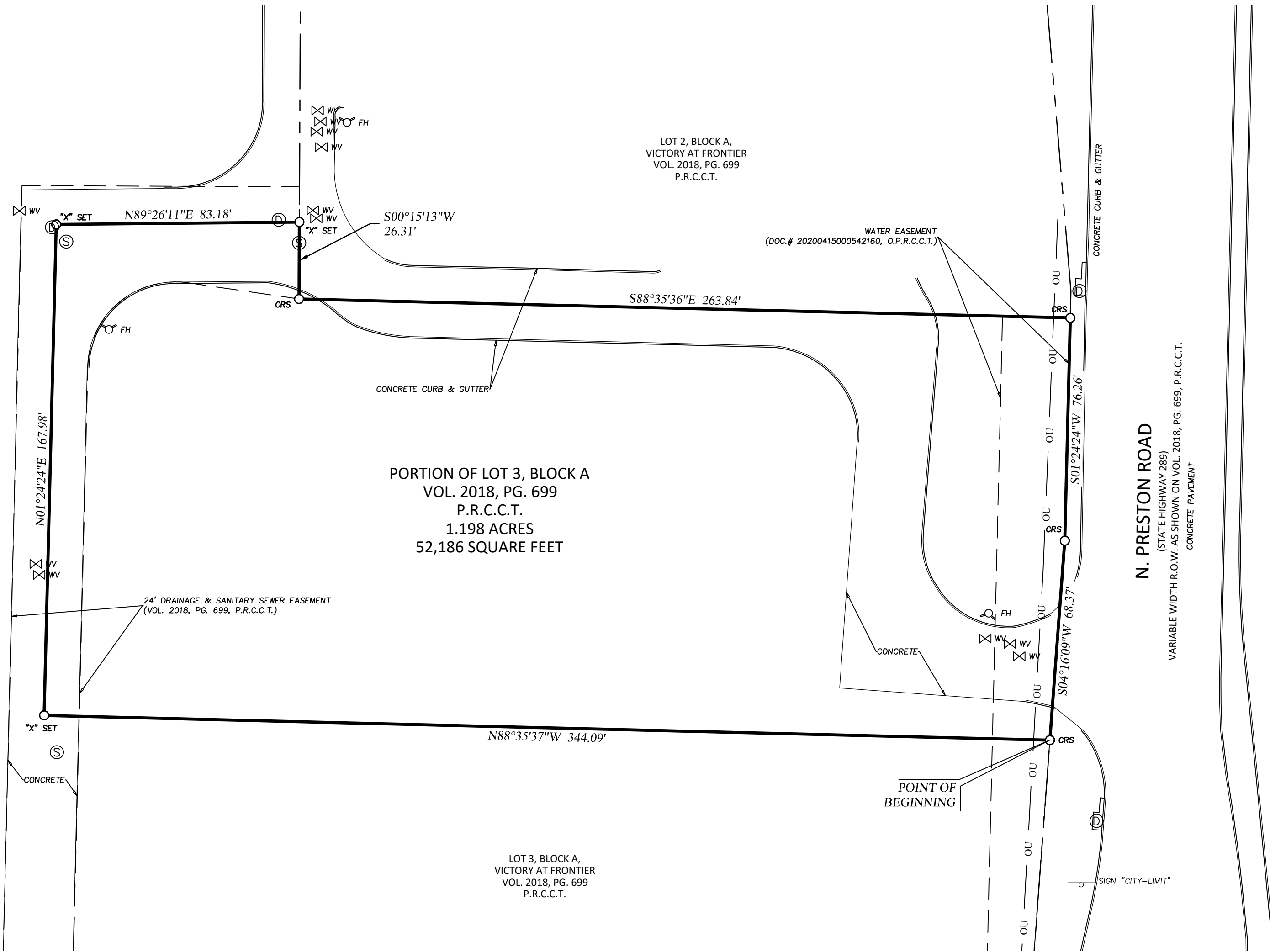
John H. Barton III, RPLS# 6737

TERMS OF ACCEPTANCE OF SURVEY

This survey is issued pursuant to a real estate transaction and is appurtenant to the title commitment referenced in the "Title Commitment Notes" This survey is issued for use in such transaction. Notwithstanding any of the above statements, the surveyor has a contractual relationship with one client or entity. Review/requested revisions by other parties must be received by or through such entity. Client is responsible for reviewing survey (including, but not limited to: notations; existence or lack of spelling/grammatical/typographical errors; certified parties; dates; instruments) within thirty (30) days of the date of plat or map. After such time has passed, client accepts survey as issued, and further revisions are not embraced by the above certification. Additional or altered commitments for title insurance will require an new or re-issued survey. Please feel free to request pricing for this at info@bcsdfw.com, or call (817) 864-1957.

LEGEND OF SYMBOLS

- air conditioning unit
- irrigation control valve
- cable tv
- electric meter
- fence or guardrail
- fire dept. connection
- fire hydrant
- bollard
- area drain
- grate inlet
- gas valve
- gas meter
- gas well
- sign
- sanitary sewer manhole
- storm water manhole
- telephone manhole
- tank fill lid
- telephone pedestal
- traffic signal pole
- utility clean out
- comm. utility cabinet
- electric utility cabinet
- comm. utility vault
- elect. utility vault
- water utility vault
- utility/service pole
- utility sign
- water shutoff
- water valve
- well
- water meter
- cable tv riser
- air release valve
- utility markings
- tree
- shrub/decorative tree or tree with diameter < 4 in.
- contour lines



CATEGORY 1A, CONDITION II LAND TITLE SURVEY

PORTION OF LOT 3, BLOCK A
VICTORY AT FRONTIER
TOWN OF PROSPER
COLLIN COUNTY, TEXAS



5200 State Highway 121
Colleyville, TX 76034
Phone: 817-488-4960

JOB NO. 2020.001.148

DRAWN: BCS

CHECKED: JHB

TABLE OF REVISIONS

DATE	SUMMARY
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VICTORY AT
FRONTIER

PROSPER,
TEXAS

SHEET:

VO1

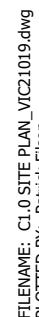
CATEGORY 1A,
CONDITION II
LAND TITLE
SURVEY

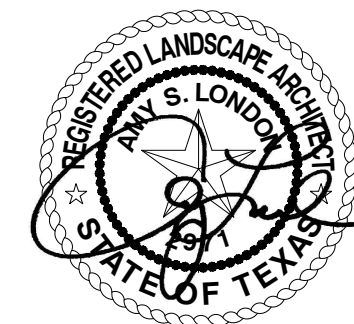
SITE PLAN
CASE NO. S22-0006

VICTORY AT FRONTIER LOT 5

1.198 ACRES
LOT 5, BLOCK A
VICTORY AT FRONTIER, LLC
(VOL. 2018, PAGE 699)
P.R.R.C.T.
TOWN OF PROSPER, COLLIN, TEXAS
PREPARATION DATE: 10/25/2021

<u>OWNER/APPLICANT</u>	<u>LANDSCAPE ARCHITECT</u>
VICTORY AT FRONTIER, LLC 6125 LUTHER LANE STE 583 DALLAS, TX 75226-6202 PH: 214-934-2566 CONTACT: BOBBY MENDOZA	LONDON LANDSCAPES P.O. BOX 28 COLLINSVILLE, TX 76233 CONTACT: AMY LONDON, RLA
<u>ENGINEER</u>	<u>SURVEYOR</u>
KIRKMAN ENGINEERING, LLC 5200 STATE HIGHWAY 121 COLLEEVILLE, TX 76034 PH: 817-488-4960 CONTACT: PATRICK FILSON, PE	BARTON CHAPA SURVEYING 5200 STATE HIGHWAY 121 COLLEEVILLE, TX 76034 PH: 817-864-1957 CONTACT: JACK BARTON, RPLS





6/9/22



6125 LUTHER LANE SUITE 583
DALLAS, TX 75225-6202
214-934-2566

VICTORY AT
FRONTIER - LOT 5
LOT 5, BLOCK A
TOWN OF PROSPER
COLLIN COUNTY, TEXAS

[illegible]

KIRKMAN ENGINEERING, LLC
5200 STATE HIGHWAY 121
COLLEYVILLE, TX 76034
TEXAS FIRM NO. 15874

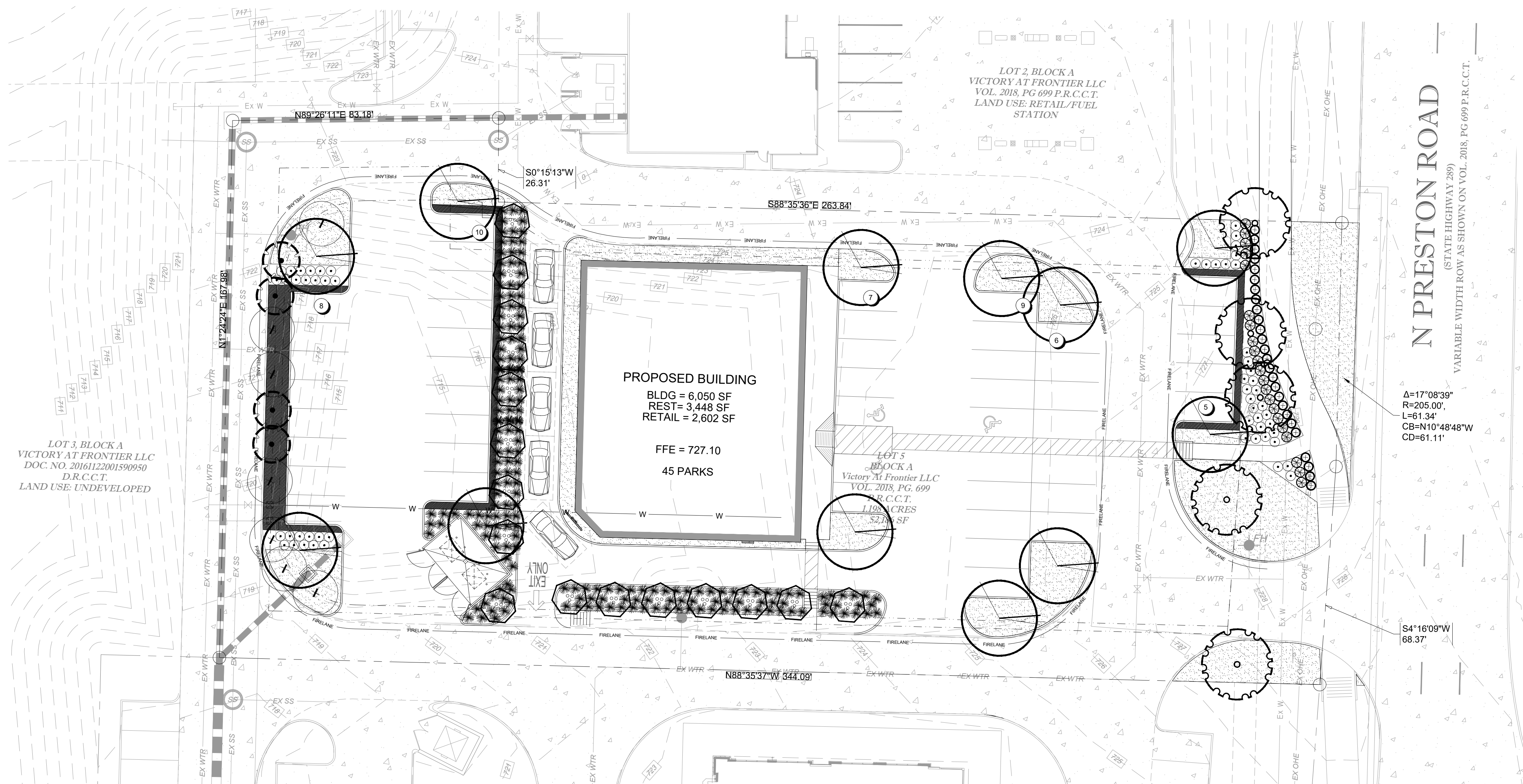
JOB NUMBER: VIC21019

ISSUE DATE: 6/9/22

EXHIBIT C
LANDSCAPE
PLAN





SHEET:

L1.00



KEY

TREES

	12	UL	Ulmus crassifolia	Cedar Elm	3" Cal. Min. Cont. Crown-65 Gal. 12"-15" Height, 6"-8" Spread Specimen
	5	QT	Quercus texana	Texas Red Oak	3" Cal. Min. Cont. Crown-65 Gal. 12"-15" Height, 6"-8" Spread Specimen
	7	CH	Chilopsis linearis	Desert Willow	3" Trunk Min. 30 Gal. Cont. Crown 1" Cal. Per Trunk, 4-5 Canes 8' Height, 5' Spread, Specimen
	4	CL	Ilex opaca	Foster Holly	3" Cal. Min. Cont. Crown - 15 Gal. Full Crown, Min. 1" Canes, Min. 7' ht. Healthy, Plant as Shown
	13	CC	Cercis canadensis	Eastern Redbud	3" Cal. Min. Cont. Crown - 15 Gal. Full Crown, Min. 1" Canes, Min. 7' ht. Healthy, Plant as Shown

SHRUBS

	58	VIB	Viburnum v. davidii 'White'	Viburnum	5 Gal. Minimum 24" – 36" Minimum height at planting Spaced per plan, matching
	21	NER	Abel x grandiflora	Glossy Abelia	5 Gal. Minimum 30" Minimum height at planting Spaced per plan, matching
	26	NDL	Nandina domestica 'Lemon Lime'	Lemon Lime Nandina	5 Gal. Minimum 4' Height at Planting Spaced per plan, matching
	200	NAN	Nandina domestica	Nandina	5 Gal. Minimum 30" Minimum height at planting Spaced per plan, matching

GROUNDCOVER

	959 SF	DC	Decomposed Granite		
	6,286 SF	500	Common Bermuda Grass	Bermuda Grass	Solid sod Sand fill joints and provide uniform coverage within 30 days of completion

LANDSCAPE CALCULATIONS

A MINIMUM 10% OF PLATTED AREA TO BE LANDSCAPED

- REQUIRED LANDSCAPE AREA: 52,186 SF X 10% = 5,218 SF
- PROVIDED: 8,069 SF

30' LANDSCAPE BUFFER ALONG PRESTON ROAD MEASURED FROM THE PROPERTY LINE

- REQUIRED: 1 CANOPY TREE FOR EVERY 30 LINEAR FEET
129.71 LF / 30 = 5 TREES
- PROVIDED: 5 TREES

- REQUIRED: A MINIMUM OF 15 SHRUBS WITH A MINIMUM SIZE OF FIVE (5) GALLONS EACH WILL BE PLANTED IN THE LANDSCAPE AREA FOR EVERY 30 LINEAR FEET OF FRONTAGE
129.71 LF / 30 = 5 X 15 SHRUBS = 75 SHRUBS
- PROVIDED: 75 SHRUBS

5' LANDSCAPE BUFFER AROUND THE PERIMETERS OF THE PROPERTY

- REQUIRED: ONE SMALL TREE AND ONE FIVE-GALLON SHRUB SHALL BE PLANTED EVERY 15 LINEAR FEET.
167.98' x 15 = 12 TREES AND 12 SHRUBS
- PROVIDED: 12 TREES AND 23 SHRUBS

INTERIOR PARKING LANDSCAPING (ALL REQUIRED AND PROVIDED)

- REQUIRED: 15 SQ. FT. OF LANDSCAPING FOR EACH PARKING SPACE SHALL BE PROVIDED WITHIN THE PAVED BOUNDARIES OF THE PARKING LOT AREA.
- PROVIDED: YES

- REQUIRED: LANDSCAPE ISLAND (160 SF & NO LESS THAN 9' WIDE AND AN EQUAL LENGTH TO THE ABUTTING PARKING SPACE) AT THE END OF EVERY PARKING ROW WITH A CANOPY TREE
- PROVIDED: YES

- REQUIRED: EVERY 15 PARKING SPACES MUST BE INTERRUPTED BY A LANDSCAPE ISLAND
- PROVIDED : YES

- REQUIRED: A CANOPY TREE WITHIN 150 FEET OF EVERY PARKING SPACE
- PROVIDED: YES

TOWN OF PROSPER NOTES TO CONTRACTOR

A NEW INSPECTION(S) WILL BE MADE FOR THE FOLLOWING:

- 1) TREE HEIGHT, WIDTH & CALIPER (AT DELIVERY)
- 2) SHRUB HEIGHT, WIDTH & CONTAINER SIZE (AT DELIVERY)
(ANY UNDERSIZED PLANT NOT FULLY ROOTED MAY BE DENIED
BY PARKS AT INSPECTION)
- 3) INSPECTION OF TREE PIT SIDE WALLS & DEPTH
- 4) INSPECT AT LEAST ONE (1) PERCOLATION TESTED PIT

This Façade Plan is for conceptual purposes only. All building plans require review and approval from the Building Inspections Division.

All mechanical equipment shall be screened from public view. Rooftop mounted equipment shall be screened by a parapet wall or screening wall. Screening walls shall be the specifications of the Zoning Ordinance.

When permitted, exposed utility boxes and conduits shall be painted to match the building.

All signage areas and locations are subject to approval by the Building Inspections Division.

Windows shall have a maximum exterior visible reflectivity of ten (10) percent.

Any deviation from the approved Façade Plan will require re-approval by the Town of Prosper.

NORTH

TOTAL FACADE:	1,615 SF
DOORS/GLAZING:	323 SF
NET FACADE:	1,292 SF 100%
MASONRY (STONE):	256 SF 20%
MASONRY (BRICK):	641 SF 49%
TOTAL MASONRY:	69%
PANELS :	320 SF 25%
METAL AWNING:	75 SF 6%

WEST

TOTAL FACADE:	1,854 SF
DOORS/GLAZING:	262 SF
NET FACADE:	1,592 SF 100%
MASONRY (BRICK):	824 SF 52%
TOTAL MASONRY:	52%
PANELS :	269 SF 17%
METAL AWNING:	66 SF 4%
STUCCO:	433 SF 27%

SOUTH

TOTAL FACADE:	1,617 SF
DOORS/GLAZING:	76 SF
NET FACADE:	1,541 SF 100%
MASONRY (STONE):	51 SF 3%
MASONRY (BRICK):	1,147 SF 74%
TOTAL MASONRY:	77%
PANELS :	277 SF 19%
METAL AWNING:	66 SF 4%

EAST

TOTAL FACADE:	2,062 SF
DOORS/GLAZING:	773 SF
NET FACADE:	1,289 SF 100%
MASONRY (STONE):	649 SF 50%
TOTAL MASONRY:	50%
PANELS :	448 SF 35%
METAL AWNING:	192 SF 15%

TOTAL FACADE:	7,148 SF
TOTAL DOORS/GLAZING:	1,434 SF

NET FACADE	5,714 SF	100%
TOTAL MASONRY:	3,568 SF	62%
TOTAL ARCHITECTURAL PANEL:	1,314 SF	23%
TOTAL AWNINGS:	399 SF	7%
TOTAL STUCCO:	433 SF	8%

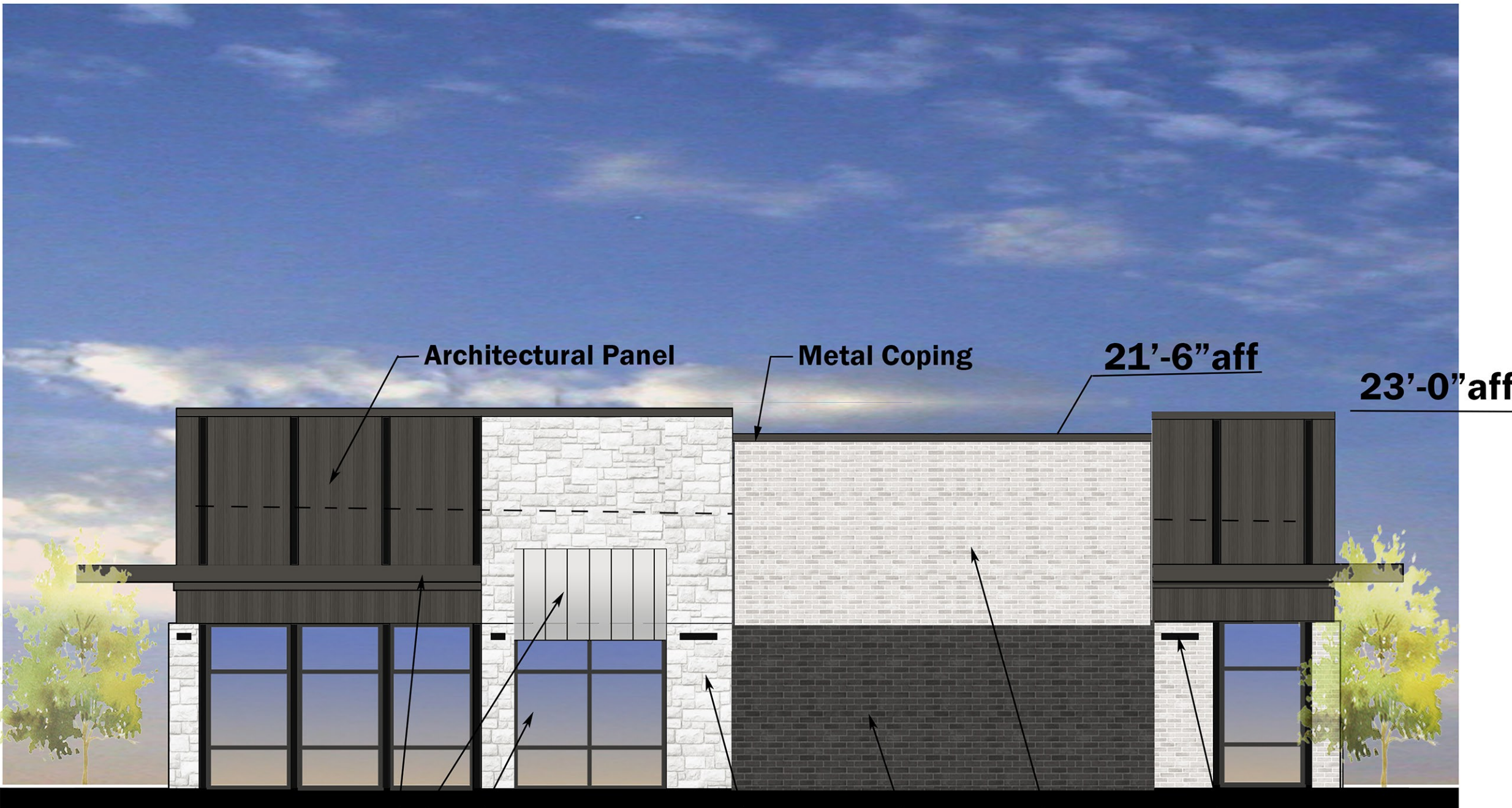
SITE PLAN

CASE NO.

VICTORY AT FRONTIER LOT 5

1.198 ACRES PART OF LOT 5 BLOCK A VICTORY AT FRONTIER, LLC (VOL. 2018, PAGE 699) P.R.R.C.T. TOWN OF PROSPER, COLLIN, TEXAS PREPARATION DATE: 09/27/2021	LANDSCAPE ARCHITECT LONDON LANDSCAPES P.O. BOX 28 COLLINSVILLE, TS 76233 CONTACT: AMY LONDON, RLA
OWNER/APPLICANT VICTORY AT FRONTIER, LLC 6125 LUTHER LANE STE 583 DALLAS, TX 75225-6202 PH: 214-954-2566 CONTACT: BOBBY MENDOZA	ENGINEER KIRKMAN ENGINEERING, LLC 5200 STATE HIGHWAY 121 COLLEYVILLE, TX 76034 PH: 817-688-4690 CONTACT: PATRICK FILSON, PE
	SURVEYOR BARTON CHAPA SURVEYING 5200 STATE HIGHWAY 121 COLLEYVILLE, TX 76034 PH: 817-684-1557 CONTACT: JACK BARTON, RPLS

Case Number: S22-0006



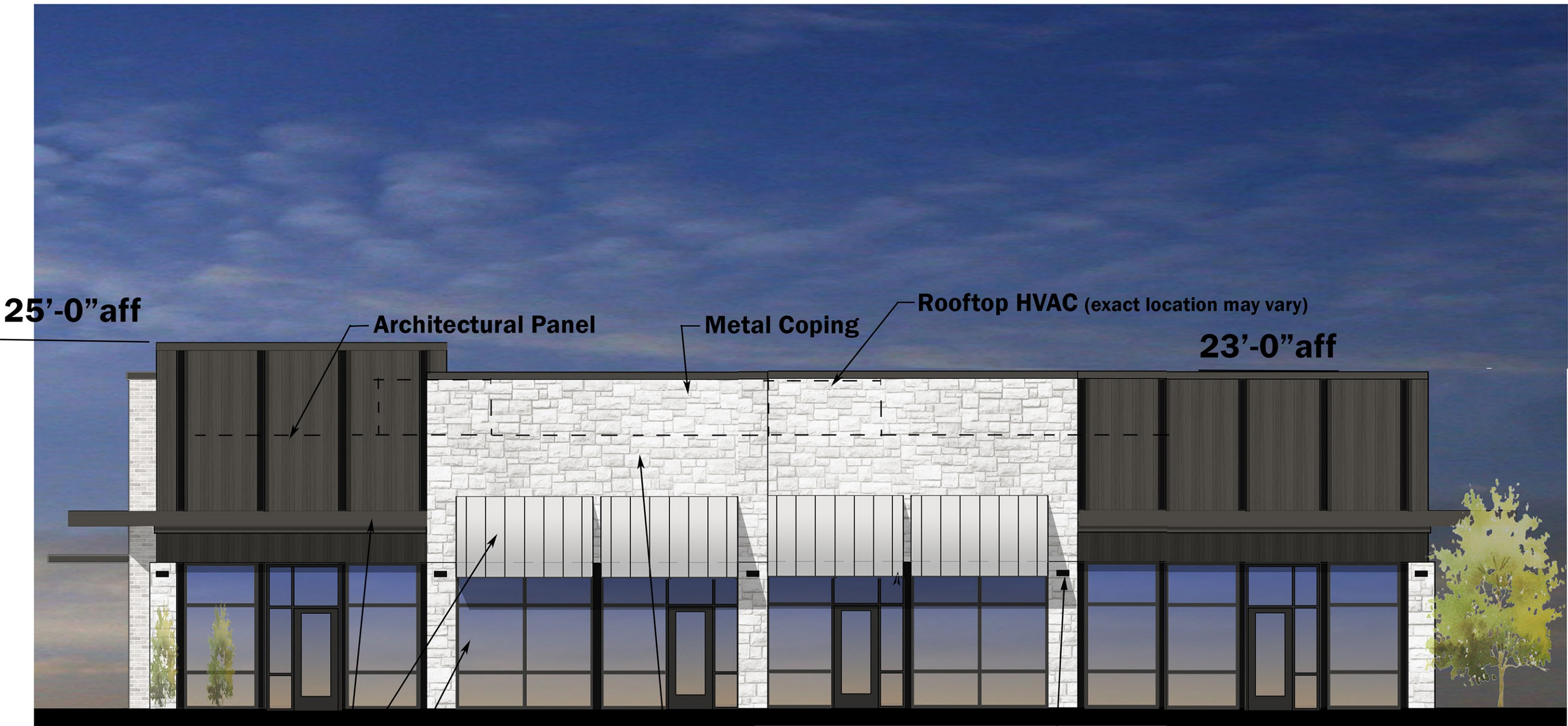
NORTH ELEVATION



WEST ELEVATION



SOUTH ELEVATION



EAST ELEVATION



20023-01 tws 06/20/22

LOT 5 VICTORY at FRONTIER

PLANNING



To: Mayor and Town Council

From: David Soto, Planning Manager

Through: Bob Scott, Executive Director of Administrative Services.
Hulon T. Webb, Jr., Interim Executive Director of Development and Infrastructure Services

Re: Town Council Meeting – August 9, 2022

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 Plans and Preliminary Site Plans, including Mav Addition, Grace Chapel (Site Plan) & Grace Chapel (Preliminary Site Plan).

Description of Agenda Item:

Attached are the site plans and preliminary site plans that were acted on by the Planning & Zoning Commission at their July 19, 2022 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:

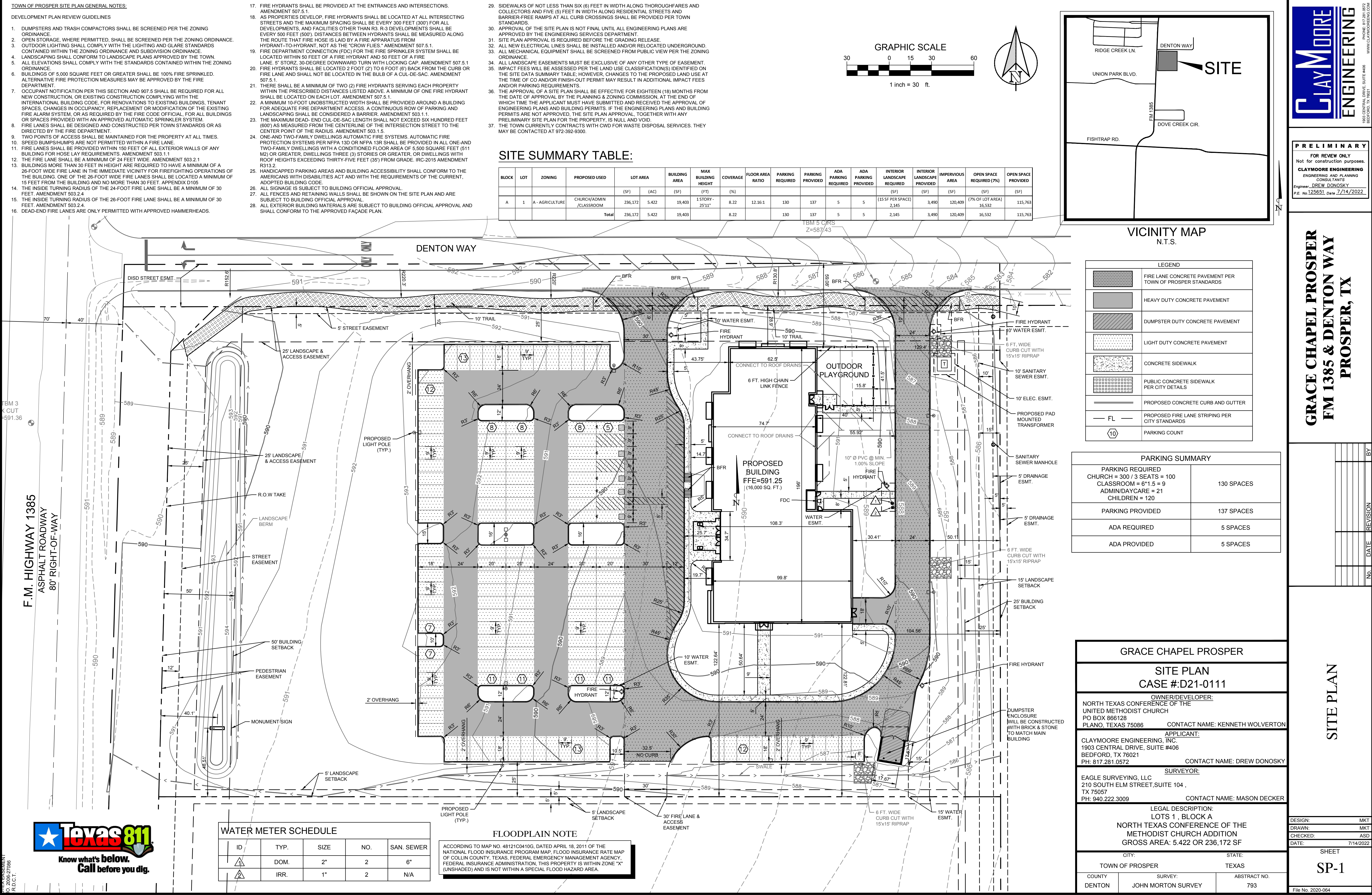
1. Mav Addition Site Plan
2. Grace Chapel Site Plan
3. Grace Chapel Preliminary Site Plan

Town Staff Recommendation:

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



Attachment 2: Grace Chapel Site Plan



MARK TORRES
7/14/2022 1:18 PM
Z:\PROJECTS\2020-064 GRACE CHAPEL PROSPER\CADD\SHEETS\SP-1 SITE PLAN.DWG
LAST SAVED: 7/12/2022 11:45 AM



TOWN OF PROSPER SITE PLAN GENERAL NOTES:

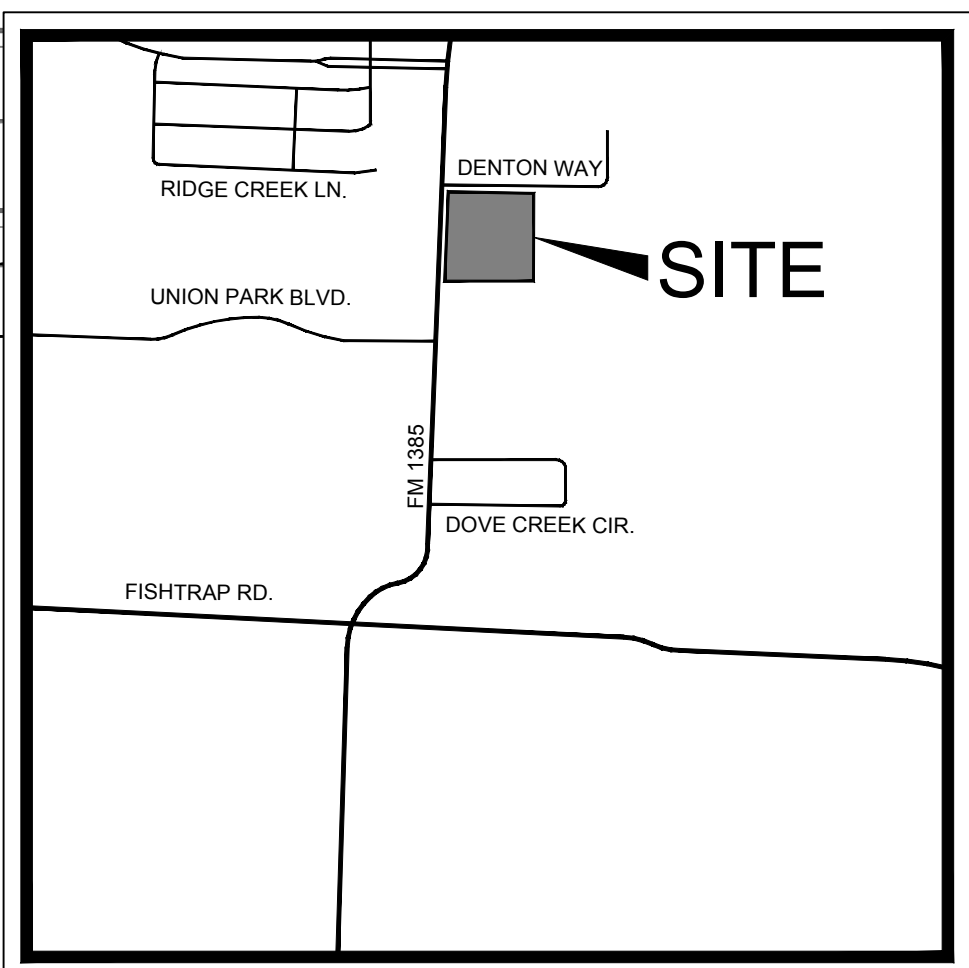
1. DUMPSTERS AND TRASH COMPACTORS SHALL BE SCREENED IN ACCORDANCE WITH THE ZONING ORDINANCE.
2. OPEN STORAGE SHALL BE PERMITTED AND BE SCREENED IN ACCORDANCE WITH THE ZONING ORDINANCE.
3. OUTDOOR LIGHTING SHALL COMPLY WITH THE LIGHTING AND GLARE STANDARDS CONTAINED WITHIN THE ZONING ORDINANCE AND SUBDIVISION 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 MEASURES MAY BE APPROVED BY THE TOWN OF PROSPER DEPARTMENT.
7. OCCUPANT NOTIFICATION PER THIS SECTION AND 907.5 S SHALL BE REQUIRED FOR ALL NEW CONSTRUCTION, OR EXISTING CONSTRUCTION OF A BUILDING OR INTERIOR OF A BUILDING CODE FOR RENOVATIONS TO EXISTING BUILDINGS, TENANT SPACES, CHANGES IN OCCUPANCY, REPLACEMENT OR MODIFICATION OF THE EXISTING FIRE ALARM SYSTEM, OR AS REQUIRED BY THE FIRE CODE OFFICIAL, FOR ALL BUILDINGS OR SPACES PROVIDED WITH AN APPROVED AUTOMATIC SPRINKLER SYSTEM.
8. FIRE LANES SHALL BE DESIGNED AND CONSTRUCTED PER THE STANDARDS OF THE TOWN OF PROSPER DEPARTMENT.
9. TWO POINTS OF ACCESS SHALL BE MAINTAINED FOR THE PROPERTY AT ALL TIMES.
10. SPEED BUMPS/HUMPS ARE NOT PERMITTED WITHIN A FIRE LANE.
11. FIRE LANES SHALL BE MAINTAINED WITHIN FEET OF ALL EXTERIOR WALLS OF ANY BUILDING FOR HOV LAY REQUIREMENTS.
AMENDMENT 503.1.1
12. THE FIRE LANE SHALL BE A MINIMUM OF 24 FEET WIDE. AMENDMENT 503.1.2
13. BUILDINGS MORE THAN 30 FEET IN HEIGHT ARE REQUIRED TO HAVE A MINIMUM OF A 26-FOOT WIDE FIRE LANE IN THE IMMEDIATE VICINITY FOR CONSTRUCTION OPERATIONS. THE MINIMUM OF THE 26-FOOT WIDE FIRE LANES SHALL BE LOCATED A MINIMUM OF 15 FEET FROM THE BUILDING AND NO MORE THAN 30 FEET. APPENDIX D105
14. THE INSIDE TURNING RADIUS OF THE 24-FOOT FIRE LANE SHALL BE A MINIMUM OF 30 FEET. AMENDMENT 503.2.1
15. THE INSIDE TURNING RADIUS OF THE 26-FOOT FIRE LANE SHALL BE A MINIMUM OF 30 FEET. AMENDMENT 503.2.4
16. DEAD-END FIRE LANES ARE ONLY PERMITTED WITH APPROVED HAMMERHEADS.
17. FIRE HYDRANTS SHALL BE PROVIDED AT THE ENTRANCES AND INTERSECTIONS. AMENDMENT 507.5.1
18. AS PROPERTIES ARE DEVELOPED, FIRE HYDRANTS SHALL BE LOCATED AT ALL INTERSECTING STREETS AND THE MAXIMUM SPACING SHALL BE EVERY 300 FEET (300') FOR ALL DEVELOPMENTS, AND FACILITIES OTHER THAN RESIDENTIAL DEVELOPMENTS. THE MAXIMUM SPACING OF THE FIRE HYDRANTS SHALL BE MEASURED ALONG THE ROUTE THAT FIRE HOSE IS LAID BY A FIRE APPARATUS FROM HYDRANT-TO-HYDRANT, NOT AS THE "CROW FLIES". AMENDMENT 507.5.1
19. FIRE DEPARTMENT SHALL BE NOTIFIED FOR THE FIRE SPRINKLER SYSTEM SHALL BE LOCATED WITHIN 50 FEET OF A FIRE HYDRANT AND 50 FEET OF A FIRE LANE. 5" STORZ, 30-DEGREE DOWNWARD TURN WITH LOCKING HOSE. AMENDMENT 507.5.1
20. FIRE HYDRANTS SHALL BE LOCATED 2 FOOT (2') TO 6 FOOT (6') BACK FROM THE CURB OR FIRE LANE AND SHALL NOT BE LOCATED IN THE BULB OF A CUL-DE-SAC. AMENDMENT 507.5.1
21. FIRE LANE SHALL BE 24 FEET WIDE. TWO FIRE HYDRANTS SERVING EACH PROPERTY WITHIN THE PRESCRIBED DISTANCES LISTED ABOVE A MINIMUM OF ONE FIRE HYDRANT SHALL BE LOCATED ON EACH LOT. AMENDMENT 507.5.1
22. A MINIMUM 10-FOOT UNOBSTRUCTED WIDTH SHALL BE PROVIDED AROUND A BUILDING FOR ADEQUATE FIRE DEPARTMENT ACCESS. A CONTINUOUS ROW OF PARKING AND LANDSCAPING SHALL BE CONSIDERED A BARRIER FOR FIRE DEPARTMENT ACCESS.
23. THE MAXIMUM DEAD- END CUL-DE-SAC LENGTH SHALL NOT EXCEED SIX HUNDRED FEET (600') AS MEASURED FROM THE CENTERLINE OF THE INTERSECTION STREET TO THE CENTER POINT OF THE RADIUS. AMENDMENT 503.1
24. ONE- AND TWO-FAMILY DWELLINGS AUTOMATIC FIRE SYSTEMS. AUTOMATIC FIRE PROTECTION SYSTEMS PER NPFA 13D OR NPFA 201 SHALL BE PROVIDED FOR ALL ONE- AND TWO-FAMILY DWELLINGS WITH A CONDITIONED FLOOR AREA OF 5,000 SQUARE FEET (5112) OR GREATER, DWELLINGS THREE (3) STORIES OR GREATER, OR DWELLINGS WITH ROOF HEIGHTS EXCEEDING THIRTY-FIVE FEET (35') FROM GRADE. ROOMS SHALL BE PROVIDED WITH SMOKE ALARMS.
25. HANDICAPPED PARKING AREAS AND BUILDING ACCESSIBILITY SHALL CONFORM TO THE AMERICANS WITH DISABILITIES ACT (ADA) AND WITH THE REQUIREMENTS OF THE 2010 INTERNATIONAL BUILDING CODE.
26. ALL SIGNAGE IS SUBJECT TO BUILDING OFFICIAL APPROVAL.
27. ALL FENCES AND RETAINING WALLS SHALL BE SHOWN ON THE PRELIMINARY SITE PLAN AND ARE SUBJECT TO BUILDING OFFICIAL APPROVAL.
28. ALL EXTERIOR BUILDING MATERIALS ARE SUBJECT TO BUILDING OFFICIAL APPROVAL AND SHALL CONFORM TO THE APPROVED FAÇADE PLAN.
29. 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 AND MAINTAINED.
30. ALL NEW ELECTRICAL LINES SHALL BE INSTALLED AND/OR RELOCATED UNDERGROUND.
31. ALL MECHANICAL EQUIPMENT SHALL BE SCREENED FROM PUBLIC VIEW IN ACCORDANCE WITH THE ZONING ORDINANCE.
32. ALL LANDSCAPE EASEMENTS MUST BE EXCLUSIVE OF ANY OTHER TYPE OF EASEMENT.
33. ALL LOT 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 CO AND/OR FINISH-OUT PERMIT MAY RESULT IN ADDITIONAL IMPACT FEES.
34. THE APPROVAL OF A PRELIMINARY SITE PLAN SHALL BE EFFECTIVE FOR A PERIOD OF TWO (2) YEARS FROM THE DATE THAT THE PRELIMINARY SITE PLAN IS APPROVED BY THE PLANNING DEPARTMENT. IF THE APPLICANT RECEIVED THE END OF WHICH TIME THE APPLICANT MUST HAVE SUBMITTED AND RECEIVED THE APPROVAL OF A SITE PLAN BY THE PLANNING & ZONING COMMISSION. IF A SITE PLAN IS NOT APPROVED WITHIN SUCH TWO (2) YEAR PERIOD, THE APPROVAL OF THE PRELIMINARY SITE PLAN AND VOID. IF SITE PLAN APPROVAL IS ONLY FOR A PORTION OF THE PROPERTY, THE APPROVAL OF THE PRELIMINARY SITE PLAN FOR THE REMAINING PROPERTY SHALL BE NULL AND VOID.

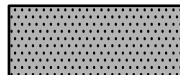

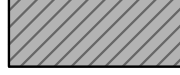






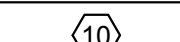
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GRAPHIC SCALE

40 0 20 40 80

1 inch = 40 ft.



LEGEND	
	FIRE LANE CONCRETE PAVEMENT PER TOWN OF PROSPER STANDARDS
	HEAVY DUTY CONCRETE PAVEMENT
	DUMPSTER DUTY CONCRETE PAVEMENT
	LIGHT DUTY CONCRETE PAVEMENT
	CONCRETE SIDEWALK
	PUBLIC CONCRETE SIDEWALK PER CITY DETAILS
	HEAVY DUTY CONCRETE PAVEMENT PER TxDOT DETAILS
	PROPOSED CONCRETE CURB AND GUTTER
	PROPOSED FIRE LANE STRIPING PER CITY STANDARDS
	PARKING COUNT

CLAYMOORE ENGINEERING
 1001 STEPHEN FORD SUITE 404
 DALLAS, TEXAS 75247-1470
 TEL: 972.346.4970
 FAX: 972.346.4970
 WWW.CLAYMOOREENGINEERING.COM

**GRACE CHAPEL PROSPER
FM 1385 & DENTON WAY
PROSPER, TX**

PRELIMINARY SITE PLAN

<p align="center">GRACE CHAPEL PROSPER</p>		
<p align="center">PRELIMINARY SITE PLAN</p> <p align="center">CASE #:D22-0034</p>		
<p align="center"><u>OWNER/DEVELOPER:</u></p> <p>NORTH TEXAS CONFERENCE OF THE UNITED METHODIST CHURCH PO BOX 866128 PLANO, TEXAS 75086</p>		
<p align="center"><u>APPLICANT:</u></p> <p>CLAYMOORE ENGINEERING, INC. 1903 CENTRAL DRIVE, SUITE #406 BEDFORD, TX 76021 PH: 817.281.0572</p>		<p align="center">CONTACT NAME: KENNETH WOLVERTON</p> <p align="center">CONTACT NAME: DREW DONOSKY</p>
<p align="center"><u>SURVEYOR:</u></p> <p>EAGLE SURVEYING, LLC 210 SOUTH ELM STREET, SUITE 104 , TX 75057 PH: 940.222.3009</p>		
<p align="center">LEGAL DESCRIPTION:</p> <p align="center">LOTS 1 & 2, BLOCK A NORTH TEXAS CONFERENCE OF THE METHODIST CHURCH ADDITION GROSS AREA: 10.35 AC OR 451,074 SF</p>		<p align="center">CONTACT NAME: MASON DECKER</p>
<p align="center">CITY:</p> <p align="center">TOWN OF PROSPER</p>	<p align="center">STATE:</p> <p align="center">TEXAS</p>	<p align="center">ABSTRACT NO.</p> <p align="center">793</p>
<p align="center">COUNTY</p> <p align="center">DENTON</p>	<p align="center">SURVEY:</p> <p align="center">JOHN MORTON SURVEY</p>	

DESIGN:	MR
DRAWN:	MR
CHECKED:	AS
DATE:	7/14/20
<p style="text-align: center;">SHEET</p> <p style="text-align: center;">PSP</p>	
File No. 2020-064	

FINANCE

To: Mayor and Town Council

From: Betty Pamplin, Finance Director

Through: Robert B. Scott, Executive Director of Administrative Services

Re: Town Council Meeting – August 9, 2022

Agenda Item:

Submission of the FY 2022-2023 Proposed Budget and Budget Message.

Description of Agenda Item:

In accordance with Town Charter, the referenced documentation completes the submission of the Proposed Budget and Budget Message for Fiscal Year 2022-2023. The FY 2022-2023 Proposed Budget, including the Budget Message, was submitted to the Town Council under separate cover.

Town Staff Recommendation:

Town staff has submitted the FY 2022-2023 Proposed Budget and Budget Message under separate cover to the Town Council for review.

FINANCE



To: Mayor and Town Council

From: Betty Pamplin, Finance Director

Through: Robert B. Scott, Executive Director of Administrative Services

Re: Town Council Meeting – August 9, 2022

Agenda Item:

Consider and act upon scheduling a public hearing on the FY 2022-2023 proposed Budget.

Description of Agenda Item:

Chapter 102 of the Texas Local Government Code requires the Town to hold a public hearing on the proposed budget and publish the notice for this meeting in addition to the notice required under Truth in Taxation guidelines.

August 23 is a regular meeting date of the Town Council. This date meets the public hearing requirements of the Local Government Code. Given the timelines for publishing in the Prosper Press, staff will be submitting the notice of the public hearings on the proposed budget to print in the August 10 Prosper Press.

Budget Impact:

Funding to cover the cost to publish the notice is budgeted in the Town Secretary's office.

Town Staff Recommendation:

Town staff recommends the Town Council schedule a public hearing on the FY 2022-2023 proposed Budget for August 23, 2022.

Proposed Motion:

I move to schedule a public hearing on the FY 2022-2023 proposed Budget for August 23, 2022, at 6:15 p.m. with the meeting taking place in the Council Chambers of Prosper Town Hall, located at 250 W. First Street, Prosper, TX.

**TOWN OF PROSPER
NOTICE OF PUBLIC HEARING**

Notice is hereby given that the Prosper Town Council will conduct one Public Hearing on the proposed Fiscal Year 2022-2023 Town of Prosper Annual Budget. The Public Hearing will be held at a Regular Meeting on **Tuesday, August 23, 2022, at 6:15 p.m.** in the Council Chambers of Prosper Town Hall, 250 W. First Street, Prosper, Texas.

This budget will raise more total property taxes than last year's budget by \$6,264,035, or 22.77%, and of that amount, \$3,055,084 is tax revenue to be raised from new property added to the tax roll this year.

Anyone wishing to speak either FOR or AGAINST the proposed Fiscal Year 2022-2023 Annual Budget is invited to attend the Public Hearing and voice his/her opinion.

For further information, contact the Finance Director, Town of Prosper, 250 W. First Street, Prosper, Texas, or by telephoning 972-569-1009.

/s/ Michelle Lewis Sirianni, Town Secretary

(To be published in the Prosper Press on Wednesday, August 10, 2022)

FINANCE

To: Mayor and Town Council

From: Betty Pamplin, Finance Director

Through: Robert B. Scott, Executive Director of Administrative Services

Re: Town Council Meeting – August 9, 2022

Agenda Item:

Consider and act upon scheduling a public hearing for the FY 2022-2023 proposed tax rate.

Description of Agenda Item:

Section 26.05(d) of the Texas Property Tax Code requires taxing entities to hold one public hearing and publish newspaper ads before adopting a tax rate that exceeds the lower of the voter-approval tax rate (\$0.527336) or the no-new-revenue tax rate (\$0.438227).

Section 26.06(d) of the Texas Property Tax Code states the governing body may vote on the proposed tax rate at the public hearing. If the governing body does not vote on the proposed tax rate at the public hearing, the governing body shall announce at the public hearing the date, time, and place of the meeting at which it will vote on the proposed tax rate.

Section 26.06(e) of the Texas Property Tax Code states that a meeting to vote on the tax increase may not be held later than the seventh day after the date of the public hearing. Due to this limitation, we are requesting to hold the public hearing and vote on the tax rate on September 13 which is a regular meeting date of the Town Council. A hearing on this date satisfies tax code requirements.

Town Staff Recommendation:

Town staff recommends that the Town Council schedule a public hearing on the proposed tax rate for September 13, 2022.

Proposed Motion:

I move to set the public hearing on the proposed tax rate for September 13, 2022, at 6:15 p.m., with the meeting taking place in the Council Chambers of Prosper Town Hall, located at 250 W. First Street, Prosper, TX.



FINANCE

To: Mayor and Town Council

From: Betty Pamplin, Finance Director

Through: Robert B. Scott, Executive Director of Administrative Services

Re: Town Council Meeting – August 9, 2022

Agenda Item:

Consider accepting submission of the 2022 no-new-revenue tax rate of \$0.438227 per \$100 taxable value and the voter-approval tax rate of \$0.527336 per \$100 taxable value.

Description of Agenda Item:

State law requires municipalities to submit to their governing boards and publish in a local newspaper a notice showing their no-new-revenue and voter-approval tax rates and the notice-and-hearing limit for the upcoming fiscal year. The no-new-revenue rate will produce the same amount of tax revenue if applied to the same properties in both years. The voter-approval rate is the highest tax rate the Town can set without holding an election to seek voter approval of the rate.

All taxing units that levied property taxes in 2021 and intend to levy them in 2022 must calculate a no-new-revenue tax rate and a voter-approval tax rate. Although the actual calculation is more detailed, the Town's no-new-revenue tax rate is generally equal to the prior year's taxes divided by the current taxable value of properties that were also on the tax roll in the prior year.

The no-new-revenue tax rate is intended to enable the public to evaluate the relationship between taxes for the current year and taxes that a proposed tax rate would produce if applied to the same properties taxed in both years.

The voter-approval tax rate is split into two separate components: an operating and maintenance rate and a debt rate. The voter-approval rate calculation allows municipalities to raise 3.5 percent of the prior year's operating and maintenance money, plus the necessary debt rate.

State law also requires municipalities to publish the no-new-revenue tax rate and a voter-approval tax rate, and to hold one public hearing if the proposed tax rate exceeds the lower of the no-new-revenue or voter-approval tax rate. Because the Town's proposed tax rate of \$0.510000 is higher than the no-new-revenue tax rate of \$0.438227, the Town is required to hold one public hearing on the tax rate.

Attached Documents:

1. 2022 Tax Rate Calculation Worksheet

Town Staff Recommendation:

Town staff recommends that the Town Council accept the submission of the 2022 no-new-revenue tax rate of \$0.438227 per \$100 taxable value and the voter-approval tax rate of \$0.527336 per \$100 taxable value.

Proposed Motion:

I move to accept the submission of the 2022 no-new-revenue tax rate of \$0.438227 per \$100 taxable value and the voter-approval tax rate of \$0.527336 per \$100 taxable value.

2022 Tax Rate Calculation Worksheet

Taxing Units Other Than School Districts or Water Districts

Form 50 Item 18.

Town of Prosper

972-346-2640

Taxing Unit Name

Phone (area code and number)

250 W. First Street, Prosper, TX 75078

www.prosper.tx.gov

Taxing Unit's Address, City, State, ZIP Code

Taxing Unit's Website Address

GENERAL INFORMATION: Tax Code Section 26.04(c) requires an officer or employee designated by the governing body to calculate the no-new-revenue (NNR) tax rate and voter-approval tax rate for the taxing unit. These tax rates are expressed in dollars per \$100 of taxable value calculated. The calculation process starts after the chief appraiser delivers to the taxing unit the certified appraisal roll and the estimated values of properties under protest. The designated officer or employee shall certify that the officer or employee has accurately calculated the tax rates and used values shown for the certified appraisal roll or certified estimate. The officer or employee submits the rates to the governing body by Aug. 7 or as soon thereafter as practicable.

School districts do not use this form, but instead use Comptroller Form 50-859 *Tax Rate Calculation Worksheet, School District without Chapter 313 Agreements* or Comptroller Form 50-884 *Tax Rate Calculation Worksheet, School District with Chapter 313 Agreements*.

Water districts as defined under Water Code Section 49.001(1) do not use this form, but instead use Comptroller Form 50-858 *Water District Voter-Approval Tax Rate Worksheet for Low Tax Rate and Developing Districts* or Comptroller Form 50-860 *Developed Water District Voter-Approval Tax Rate Worksheet*.

The Comptroller's office provides this worksheet to assist taxing units in determining tax rates. The information provided in this worksheet is offered as technical assistance and not legal advice. Taxing units should consult legal counsel for interpretations of law regarding tax rate preparation and adoption.

SECTION 1: No-New-Revenue Tax Rate

The NNR tax rate enables the public to evaluate the relationship between taxes for the prior year and for the current year based on a tax rate that would produce the same amount of taxes (no new taxes) if applied to the same properties that are taxed in both years. When appraisal values increase, the NNR tax rate should decrease.

The NNR tax rate for a county is the sum of the NNR tax rates calculated for each type of tax the county levies.

While uncommon, it is possible for a taxing unit to provide an exemption for only maintenance and operations taxes. In this case, the taxing unit will need to calculate the NNR tax rate separately for the maintenance and operations tax and the debt tax, then add the two components together.

Line	No-New-Revenue Tax Rate Worksheet	Amount/Rate
1.	2021 total taxable value. Enter the amount of 2021 taxable value on the 2021 tax roll today. Include any adjustments since last year's certification; exclude Tax Code Section 25.25(d) one-fourth and one-third over-appraisal corrections from these adjustments. Exclude any property value subject to an appeal under Chapter 42 as of July 25 (will add undisputed value in Line 6). This total includes the taxable value of homesteads with tax ceilings (will deduct in Line 2) and the captured value for tax increment financing (adjustment is made by deducting TIF taxes, as reflected in Line 17). ¹	\$ 5,967,307,930
2.	2021 tax ceilings. Counties, cities and junior college districts. Enter 2021 total taxable value of homesteads with tax ceilings. These include the homesteads of homeowners age 65 or older or disabled. Other taxing units enter 0. If your taxing unit adopted the tax ceiling provision in 2021 or a prior year for homeowners age 65 or older or disabled, use this step. ²	\$ 497,313,189
3.	Preliminary 2021 adjusted taxable value. Subtract Line 2 from Line 1.	\$ 5,469,994,741
4.	2021 total adopted tax rate.	\$ 0.510000 /\$100
5.	2021 taxable value lost because court appeals of ARB decisions reduced 2021 appraised value.	
	A. Original 2021 ARB values: \$ 143,932,326	
	B. 2021 values resulting from final court decisions: - \$ 132,457,338	
	C. 2021 value loss. Subtract B from A. ³	\$ 11,474,988
6.	2021 taxable value subject to an appeal under Chapter 42, as of July 25.	
	A. 2021 ARB certified value: \$ 10,870,790	
	B. 2021 disputed value: - \$ 1,972,176	
	C. 2021 undisputed value. Subtract B from A. ⁴	\$ 8,898,614
7.	2021 Chapter 42 related adjusted values. Add Line 5C and Line 6C.	\$ 20,373,602

¹ Tex. Tax Code § 26.012(14)

² Tex. Tax Code § 26.012(14)

³ Tex. Tax Code § 26.012(13)

⁴ Tex. Tax Code § 26.012(13)

Line	No-New-Revenue Tax Rate Worksheet	Amount
8.	2021 taxable value, adjusted for actual and potential court-ordered adjustments. Add Line 3 and Line 7.	\$ 5,490,368,343
9.	2021 taxable value of property in territory the taxing unit deannexed after Jan. 1, 2021. Enter the 2021 value of property in deannexed territory. ⁵	\$ 0
10.	2021 taxable value lost because property first qualified for an exemption in 2022. If the taxing unit increased an original exemption, use the difference between the original exempted amount and the increased exempted amount. Do not include value lost due to freeport, goods-in-transit, temporary disaster exemptions. Note that lowering the amount or percentage of an existing exemption in 2022 does not create a new exemption or reduce taxable value. A. Absolute exemptions. Use 2021 market value: \$ 2,604,754 B. Partial exemptions. 2022 exemption amount or 2022 percentage exemption times 2021 value: + \$ 210,082,613 C. Value loss. Add A and B. ⁶	\$ 212,687,367
11.	2021 taxable value lost because property first qualified for agricultural appraisal (1-d or 1-d-1), timber appraisal, recreational/scenic appraisal or public access airport special appraisal in 2022. Use only properties that qualified in 2022 for the first time; do not use properties that qualified in 2021. A. 2021 market value: \$ 5,720,030 B. 2022 productivity or special appraised value: - \$ 4,329 C. Value loss. Subtract B from A. ⁷	\$ 5,715,701
12.	Total adjustments for lost value. Add Lines 9, 10C and 11C.	\$ 218,403,068
13.	2021 captured value of property in a TIF. Enter the total value of 2021 captured appraised value of property taxable by a taxing unit in a tax increment financing zone for which 2021 taxes were deposited into the tax increment fund. ⁸ If the taxing unit has no captured appraised value in line 18D, enter 0.	\$ 145,415,055
14.	2021 total value. Subtract Line 12 and Line 13 from Line 8.	\$ 5,126,550,220
15.	Adjusted 2021 total levy. Multiply Line 4 by Line 14 and divide by \$100.	\$ 26,145,406
16.	Taxes refunded for years preceding tax year 2021. Enter the amount of taxes refunded by the taxing unit for tax years preceding tax year 2021. Types of refunds include court decisions, Tax Code Section 25.25(b) and (c) corrections and Tax Code Section 31.11 payment errors. Do not include refunds for tax year 2021. This line applies only to tax years preceding tax year 2021. ⁹	\$ 248,856
17.	Adjusted 2021 levy with refunds and TIF adjustment. Add Lines 15 and 16. ¹⁰	\$ 26,394,262
18.	Total 2022 taxable value on the 2022 certified appraisal roll today. This value includes only certified values or certified estimate of values and includes the total taxable value of homesteads with tax ceilings (will deduct in Line 20). These homesteads include homeowners age 65 or older or disabled. ¹¹ A. Certified values: \$ 7,011,772,529 B. Counties: Include railroad rolling stock values certified by the Comptroller's office: + \$ C. Pollution control and energy storage system exemption: Deduct the value of property exempted for the current tax year for the first time as pollution control or energy storage system property: - \$ 0 D. Tax increment financing: Deduct the 2022 captured appraised value of property taxable by a taxing unit in a tax increment financing zone for which the 2022 taxes will be deposited into the tax increment fund. Do not include any new property value that will be included in Line 23 below. ¹² - \$ 158,960,817 E. Total 2022 value. Add A and B, then subtract C and D.	\$ 6,852,811,712

⁵ Tex. Tax Code § 26.012(15)⁶ Tex. Tax Code § 26.012(15)⁷ Tex. Tax Code § 26.012(15)⁸ Tex. Tax Code § 26.03(c)⁹ Tex. Tax Code § 26.012(13)¹⁰ Tex. Tax Code § 26.012(13)¹¹ Tex. Tax Code § 26.012, 26.04(c-2)¹² Tex. Tax Code § 26.03(c)

Line	No-New-Revenue Tax Rate Worksheet	Amount
19.	Total value of properties under protest or not included on certified appraisal roll. ¹³	
A.	2022 taxable value of properties under protest. The chief appraiser certifies a list of properties still under ARB protest. The list shows the appraisal district's value and the taxpayer's claimed value, if any, or an estimate of the value if the taxpayer wins. For each of the properties under protest, use the lowest of these values. Enter the total value under protest. ¹⁴ \$ <u>345,202,639</u>	
B.	2022 value of properties not under protest or included on certified appraisal roll. The chief appraiser gives taxing units a list of those taxable properties that the chief appraiser knows about but are not included in the appraisal roll certification. These properties also are not on the list of properties that are still under protest. On this list of properties, the chief appraiser includes the market value, appraised value and exemptions for the preceding year and a reasonable estimate of the market value, appraised value and exemptions for the current year. Use the lower market, appraised or taxable value (as appropriate). Enter the total value of property not on the certified roll. ¹⁵ + \$ <u>0</u>	
C.	Total value under protest or not certified. Add A and B.	\$ <u>345,202,639</u>
20.	2022 tax ceilings. Counties, cities and junior colleges enter 2022 total taxable value of homesteads with tax ceilings. These include the homesteads of homeowners age 65 or older or disabled. Other taxing units enter 0. If your taxing unit adopted the tax ceiling provision in 2021 or a prior year for homeowners age 65 or older or disabled, use this step. ¹⁶	\$ <u>576,023,831</u>
21.	2022 total taxable value. Add Lines 18E and 19C. Subtract Line 20. ¹⁷	\$ <u>6,621,990,520</u>
22.	Total 2022 taxable value of properties in territory annexed after Jan. 1, 2021. Include both real and personal property. Enter the 2022 value of property in territory annexed. ¹⁸	\$ <u>0</u>
23.	Total 2022 taxable value of new improvements and new personal property located in new improvements. New means the item was not on the appraisal roll in 2021. An improvement is a building, structure, fixture or fence erected on or affixed to land. New additions to exist-ing improvements may be included if the appraised value can be determined. New personal property in a new improvement must have been brought into the taxing unit after Jan. 1, 2021 and be located in a new improvement. New improvements do include property on which a tax abatement agreement has expired for 2022. ¹⁹	\$ <u>599,036,068</u>
24.	Total adjustments to the 2022 taxable value. Add Lines 22 and 23.	\$ <u>599,036,068</u>
25.	Adjusted 2022 taxable value. Subtract Line 24 from Line 21.	\$ <u>6,022,954,452</u>
26.	2022 NNR tax rate. Divide Line 17 by Line 25 and multiply by \$100. ²⁰	\$ <u>0.438227</u> /\$100
27.	COUNTIES ONLY. Add together the NNR tax rates for each type of tax the county levies. The total is the 2022 county NNR tax rate. ²¹	\$ _____ /\$100

SECTION 2: Voter-Approval Tax Rate

The voter-approval tax rate is the highest tax rate that a taxing unit may adopt without holding an election to seek voter approval of the rate. The voter-approval tax rate is split into two separate rates:

- Maintenance and Operations (M&O) Tax Rate:** The M&O portion is the tax rate that is needed to raise the same amount of taxes that the taxing unit levied in the prior year plus the applicable percentage allowed by law. This rate accounts for such things as salaries, utilities and day-to-day operations.
- Debt Rate:** The debt rate includes the debt service necessary to pay the taxing unit's debt payments in the coming year. This rate accounts for principal and interest on bonds and other debt secured by property tax revenue.

The voter-approval tax rate for a county is the sum of the voter-approval tax rates calculated for each type of tax the county levies. In most cases the voter-approval tax rate exceeds the no-new-revenue tax rate, but occasionally decreases in a taxing unit's debt service will cause the NNR tax rate to be higher than the voter-approval tax rate.

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
28.	2021 M&O tax rate. Enter the 2021 M&O tax rate.	\$ <u>0.328000</u> /\$100
29.	2021 taxable value, adjusted for actual and potential court-ordered adjustments. Enter the amount in Line 8 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ <u>5,490,368,343</u>

¹³ Tex. Tax Code § 26.01(c) and (d)

¹⁴ Tex. Tax Code § 26.01(c)

¹⁵ Tex. Tax Code § 26.01(d)

¹⁶ Tex. Tax Code § 26.012(6)(B)

¹⁷ Tex. Tax Code § 26.012(6)

¹⁸ Tex. Tax Code § 26.012(17)

¹⁹ Tex. Tax Code § 26.012(17)

²⁰ Tex. Tax Code § 26.04(c)

²¹ Tex. Tax Code § 26.04(d)

Line	Voter-Approval Tax Rate Worksheet	Amount
30.	Total 2021 M&O levy. Multiply Line 28 by Line 29 and divide by \$100	\$ 18,008,408
31.	Adjusted 2021 levy for calculating NNR M&O rate. A. M&O taxes refunded for years preceding tax year 2021. Enter the amount of M&O taxes refunded in the preceding year for taxes before that year. Types of refunds include court decisions, Tax Code Section 25.25(b) and (c) corrections and Tax Code Section 31.11 payment errors. Do not include refunds for tax year 2021. This line applies only to tax years preceding tax year 2021. + \$ 175,901 B. 2021 taxes in TIF. Enter the amount of taxes paid into the tax increment fund for a reinvestment zone as agreed by the taxing unit. If the taxing unit has no 2022 captured appraised value in Line 18D, enter 0. - \$ 493,368 C. 2021 transferred function. If discontinuing all of a department, function or activity and transferring it to another taxing unit by written contract, enter the amount spent by the taxing unit discontinuing the function in the 12 months preceding the month of this calculation. If the taxing unit did not operate this function for this 12-month period, use the amount spent in the last full fiscal year in which the taxing unit operated the function. The taxing unit discontinuing the function will subtract this amount in D below. The taxing unit receiving the function will add this amount in D below. Other taxing units enter 0. +/- \$ 0 D. 2021 M&O levy adjustments. Subtract B from A. For taxing unit with C, subtract if discontinuing function and add if receiving function. \$ -317,467 E. Add Line 30 to 31D.	\$ 17,690,941
32.	Adjusted 2022 taxable value. Enter the amount in Line 25 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 6,022,954,452
33.	2022 NNR M&O rate (unadjusted). Divide Line 31E by Line 32 and multiply by \$100.	\$ 0.293725 /\$100
34.	Rate adjustment for state criminal justice mandate. ²³ A. 2022 state criminal justice mandate. Enter the amount spent by a county in the previous 12 months providing for the maintenance and operation cost of keeping inmates in county-paid facilities after they have been sentenced. Do not include any state reimbursement received by the county for the same purpose. \$ 0 B. 2021 state criminal justice mandate. Enter the amount spent by a county in the 12 months prior to the previous 12 months providing for the maintenance and operation cost of keeping inmates in county-paid facilities after they have been sentenced. Do not include any state reimbursement received by the county for the same purpose. Enter zero if this is the first time the mandate applies. - \$ 0 C. Subtract B from A and divide by Line 32 and multiply by \$100. \$ 0/\$100 D. Enter the rate calculated in C. If not applicable, enter 0.	\$ 0/\$100
35.	Rate adjustment for indigent health care expenditures. ²⁴ A. 2022 indigent health care expenditures. Enter the amount paid by a taxing unit providing for the maintenance and operation cost of providing indigent health care for the period beginning on July 1, 2021 and ending on June 30, 2022, less any state assistance received for the same purpose. \$ 0 B. 2021 indigent health care expenditures. Enter the amount paid by a taxing unit providing for the maintenance and operation cost of providing indigent health care for the period beginning on July 1, 2020 and ending on June 30, 2021, less any state assistance received for the same purpose. - \$ 0 C. Subtract B from A and divide by Line 32 and multiply by \$100. \$ 0/\$100 D. Enter the rate calculated in C. If not applicable, enter 0.	\$ 0/\$100

²² [Reserved for expansion]²³ Tex. Tax Code § 26.044²⁴ Tex. Tax Code § 26.0441

Line	Voter-Approval Tax Rate Worksheet	Amount
36.	Rate adjustment for county indigent defense compensation. ²⁵	
	A. 2022 indigent defense compensation expenditures. Enter the amount paid by a county to provide appointed counsel for indigent individuals and fund the operations of a public defender's office under Article 26.044, Code of Criminal Procedure for the period beginning on July 1, 2021 and ending on June 30, 2022, less any state grants received by the county for the same purpose	\$ 0
	B. 2021 indigent defense compensation expenditures. Enter the amount paid by a county to provide appointed counsel for indigent individuals and fund the operations of a public defender's office under Article 26.044, Code of Criminal Procedure for the period beginning on July 1, 2020 and ending on June 30, 2021, less any state grants received by the county for the same purpose.	\$ 0
	C. Subtract B from A and divide by Line 32 and multiply by \$100.	\$ 0/\$100
	D. Multiply B by 0.05 and divide by Line 32 and multiply by \$100.	\$ 0/\$100
	E. Enter the lesser of C and D. If not applicable, enter 0.	\$ 0/\$100
37.	Rate adjustment for county hospital expenditures. ²⁶	
	A. 2022 eligible county hospital expenditures. Enter the amount paid by the county or municipality to maintain and operate an eligible county hospital for the period beginning on July 1, 2021 and ending on June 30, 2022.	\$ 0
	B. 2021 eligible county hospital expenditures. Enter the amount paid by the county or municipality to maintain and operate an eligible county hospital for the period beginning on July 1, 2020 and ending on June 30, 2021.	\$ 0
	C. Subtract B from A and divide by Line 32 and multiply by \$100.	\$ 0/\$100
	D. Multiply B by 0.08 and divide by Line 32 and multiply by \$100.	\$ 0/\$100
	E. Enter the lesser of C and D, if applicable. If not applicable, enter 0.	\$ 0/\$100
38.	Rate adjustment for defunding municipality. This adjustment only applies to a municipality that is considered to be a defunding municipality for the current tax year under Chapter 109, Local Government Code. Chapter 109, Local Government Code only applies to municipalities with a population of more than 250,000 and includes a written determination by the Office of the Governor. See Tax Code 26.0444 for more information.	
	A. Amount appropriated for public safety in 2021. Enter the amount of money appropriated for public safety in the budget adopted by the municipality for the preceding fiscal year	\$ 0
	B. Expenditures for public safety in 2021. Enter the amount of money spent by the municipality for public safety during the preceding fiscal year.	\$ 0
	C. Subtract B from A and divide by Line 32 and multiply by \$100	\$ 0/\$100
	D. Enter the rate calculated in C. If not applicable, enter 0.	\$ 0/\$100
39.	Adjusted 2022 NNR M&O rate. Add Lines 33, 34D, 35D, 36E, and 37E. Subtract Line 38D.	\$ 0.293725/\$100
40.	Adjustment for 2021 sales tax specifically to reduce property values. Cities, counties and hospital districts that collected and spent additional sales tax on M&O expenses in 2021 should complete this line. These entities will deduct the sales tax gain rate for 2022 in Section 3. Other taxing units, enter zero.	
	A. Enter the amount of additional sales tax collected and spent on M&O expenses in 2021, if any. Counties must exclude any amount that was spent for economic development grants from the amount of sales tax spent	\$ 0
	B. Divide Line 40A by Line 32 and multiply by \$100	\$ 0/\$100
	C. Add Line 40B to Line 39.	\$ 0.293725/\$100
41.	2022 voter-approval M&O rate. Enter the rate as calculated by the appropriate scenario below. Special Taxing Unit. If the taxing unit qualifies as a special taxing unit, multiply Line 40C by 1.08. - or - Other Taxing Unit. If the taxing unit does not qualify as a special taxing unit, multiply Line 40C by 1.035.	\$ 0.304005/\$100

²⁵ Tex. Tax Code § 26.0442²⁶ Tex. Tax Code § 26.0443

Line	Voter-Approval Tax Rate Worksheet	Amount
D41.	Disaster Line 41 (D41): 2022 voter-approval M&O rate for taxing unit affected by disaster declaration. If the taxing unit is located in an area declared a disaster area and at least one person is granted an exemption under Tax Code Section 11.35 for property located in the taxing unit, the governing body may direct the person calculating the voter-approval tax rate to calculate in the manner provided for a special taxing unit. The taxing unit shall continue to calculate the voter-approval tax rate in this manner until the earlier of 1) the first year in which total taxable value on the certified appraisal roll exceeds the total taxable value of the tax year in which the disaster occurred, or 2) the third tax year after the tax year in which the disaster occurred If the taxing unit qualifies under this scenario, multiply Line 40C by 1.08. ²⁷ If the taxing unit does not qualify, do not complete Disaster Line 41 (Line D41).	\$ _____ 0 /\$100
42.	Total 2022 debt to be paid with property taxes and additional sales tax revenue. Debt means the interest and principal that will be paid on debts that: (1) are paid by property taxes, (2) are secured by property taxes, (3) are scheduled for payment over a period longer than one year, and (4) are not classified in the taxing unit's budget as M&O expenses. A. Debt also includes contractual payments to other taxing units that have incurred debts on behalf of this taxing unit, if those debts meet the four conditions above. Include only amounts that will be paid from property tax revenue. Do not include appraisal district budget payments. If the governing body of a taxing unit authorized or agreed to authorize a bond, warrant, certificate of obligation, or other evidence of indebtedness on or after Sept. 1, 2022, verify if it meets the amended definition of debt before including it here. ²⁸ Enter debt amount \$ <u>12,891,164</u> B. Subtract unencumbered fund amount used to reduce total debt. - \$ <u>0</u> C. Subtract certified amount spent from sales tax to reduce debt (enter zero if none) - \$ <u>0</u> D. Subtract amount paid from other resources - \$ <u>0</u> E. Adjusted debt. Subtract B, C and D from A.	\$ <u>12,891,164</u>
43.	Certified 2021 excess debt collections. Enter the amount certified by the collector. ²⁹	\$ <u>839,773</u>
44.	Adjusted 2022 debt. Subtract Line 43 from Line 42E.	\$ <u>12,051,391</u>
45.	2022 anticipated collection rate. A. Enter the 2022 anticipated collection rate certified by the collector. ³⁰ <u>100.00</u> % B. Enter the 2021 actual collection rate. <u>101.37</u> % C. Enter the 2020 actual collection rate. <u>101.01</u> % D. Enter the 2019 actual collection rate. <u>107.29</u> % E. If the anticipated collection rate in A is lower than actual collection rates in B, C and D, enter the lowest collection rate from B, C and D. If the anticipated rate in A is higher than at least one of the rates in the prior three years, enter the rate from A. Note that the rate can be greater than 100%. ³¹	<u>101.01</u> %
46.	2022 debt adjusted for collections. Divide Line 44 by Line 45E.	\$ <u>11,930,889</u>
47.	2022 total taxable value. Enter the amount on Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ <u>6,621,990,520</u>
48.	2022 debt rate. Divide Line 46 by Line 47 and multiply by \$100.	\$ <u>0.180170</u> /\$100
49.	2022 voter-approval tax rate. Add Lines 41 and 48.	\$ <u>0.484175</u> /\$100
D49.	Disaster Line 49 (D49): 2022 voter-approval tax rate for taxing unit affected by disaster declaration. Complete this line if the taxing unit calculated the voter-approval tax rate in the manner provided for a special taxing unit on Line D41. Add Line D41 and 48.	\$ _____ /\$100

²⁷ Tex. Tax Code § 26.042(a)²⁸ Tex. Tax Code § 26.012(7)²⁹ Tex. Tax Code § 26.012(10) and 26.04(b)³⁰ Tex. Tax Code § 26.04(b)³¹ Tex. Tax Code §§ 26.04(h), (h-1) and (h-2)

Line	Voter-Approval Tax Rate Worksheet	Amount
50.	COUNTIES ONLY. Add together the voter-approval tax rates for each type of tax the county levies. The total is the 2022 county voter-approval tax rate.	\$ 0.000000 /\$100

SECTION 3: NNR Tax Rate and Voter-Approval Tax Rate Adjustments for Additional Sales Tax to Reduce Property Taxes

Cities, counties and hospital districts may levy a sales tax specifically to reduce property taxes. Local voters by election must approve imposing or abolishing the additional sales tax. If approved, the taxing unit must reduce its NNR and voter-approval tax rates to offset the expected sales tax revenue.

This section should only be completed by a county, city or hospital district that is required to adjust its NNR tax rate and/or voter-approval tax rate because it adopted the additional sales tax.

Line	Additional Sales and Use Tax Worksheet	Amount/Rate
51.	Taxable Sales. For taxing units that adopted the sales tax in November 2021 or May 2022, enter the Comptroller's estimate of taxable sales for the previous four quarters. ³² Estimates of taxable sales may be obtained through the Comptroller's Allocation Historical Summary webpage. Taxing units that adopted the sales tax before November 2021, enter 0.	\$ 0
52.	Estimated sales tax revenue. Counties exclude any amount that is or will be spent for economic development grants from the amount of estimated sales tax revenue. ³³ Taxing units that adopted the sales tax in November 2021 or in May 2022. Multiply the amount on Line 51 by the sales tax rate (.01, .005 or .0025, as applicable) and multiply the result by .95. ³⁴ - or - Taxing units that adopted the sales tax before November 2021. Enter the sales tax revenue for the previous four quarters. Do not multiply by .95.	\$ 0
53.	2022 total taxable value. Enter the amount from Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 6,621,990,520
54.	Sales tax adjustment rate. Divide Line 52 by Line 53 and multiply by \$100.	\$ 0 /\$100
55.	2022 NNR tax rate, unadjusted for sales tax. ³⁵ Enter the rate from Line 26 or 27, as applicable, on the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 0.438227 /\$100
56.	2022 NNR tax rate, adjusted for sales tax. Taxing units that adopted the sales tax in November 2021 or in May 2022. Subtract Line 54 from Line 55. Skip to Line 57 if you adopted the additional sales tax before November 2021.	\$ 0.438227 /\$100
57.	2022 voter-approval tax rate, unadjusted for sales tax. ³⁶ Enter the rate from Line 49, Line D49 (disaster) or Line 50 (counties) as applicable, of the <i>Voter-Approval Tax Rate Worksheet</i> .	\$ 0.484175 /\$100
58.	2022 voter-approval tax rate, adjusted for sales tax. Subtract Line 54 from Line 57.	\$ 0.484175 /\$100

SECTION 4: Voter-Approval Tax Rate Adjustment for Pollution Control

A taxing unit may raise its rate for M&O funds used to pay for a facility, device or method for the control of air, water or land pollution. This includes any land, structure, building, installation, excavation, machinery, equipment or device that is used, constructed, acquired or installed wholly or partly to meet or exceed pollution control requirements. The taxing unit's expenses are those necessary to meet the requirements of a permit issued by the Texas Commission on Environmental Quality (TCEQ). The taxing unit must provide the tax assessor with a copy of the TCEQ letter of determination that states the portion of the cost of the installation for pollution control.

This section should only be completed by a taxing unit that uses M&O funds to pay for a facility, device or method for the control of air, water or land pollution.

Line	Voter-Approval Rate Adjustment for Pollution Control Requirements Worksheet	Amount/Rate
59.	Certified expenses from the Texas Commission on Environmental Quality (TCEQ). Enter the amount certified in the determination letter from TCEQ. ³⁷ The taxing unit shall provide its tax assessor-collector with a copy of the letter. ³⁸	\$ 0
60.	2022 total taxable value. Enter the amount from Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 6,621,990,520
61.	Additional rate for pollution control. Divide Line 59 by Line 60 and multiply by \$100.	\$ 0 /\$100
62.	2022 voter-approval tax rate, adjusted for pollution control. Add Line 61 to one of the following lines (as applicable): Line 49, Line D49 (disaster), Line 50 (counties) or Line 58 (taxing units with the additional sales tax).	\$ 0.484175 /\$100

³² Tex. Tax Code § 26.041(d)

³³ Tex. Tax Code § 26.041(i)

³⁴ Tex. Tax Code § 26.041(d)

³⁵ Tex. Tax Code § 26.04(c)

³⁶ Tex. Tax Code § 26.04(c)

³⁷ Tex. Tax Code § 26.045(d)

³⁸ Tex. Tax Code § 26.045(i)

SECTION 5: Voter-Approval Tax Rate Adjustment for Unused Increment Rate

The unused increment rate is the rate equal to the difference between the adopted tax rate and voter-approval tax rate before the unused increment rate for the prior three years.³⁹ In a year where a taxing unit adopts a rate by applying any portion of the unused increment rate, the unused increment rate for that year would be zero.

The difference between the adopted tax rate and voter-approval tax rate is considered zero in the following scenarios:

- a tax year before 2020;⁴⁰
- a tax year in which the municipality is a defunding municipality, as defined by Tax Code Section 26.0501(a);⁴¹ or
- after Jan. 1, 2022, a tax year in which the comptroller determines that the county implemented a budget reduction or reallocation described by Local Government Code Section 120.002(a) without the required voter approval.⁴²

This section should only be completed by a taxing unit that does not meet the definition of a special taxing unit.⁴³

Line	Unused Increment Rate Worksheet	Amount/Rate
63.	2021 unused increment rate. Subtract the 2021 actual tax rate and the 2021 unused increment rate from the 2021 voter-approval tax rate. If the number is less than zero, enter zero.	\$ 0.029436 /\$100
64.	2020 unused increment rate. Subtract the 2020 actual tax rate and the 2020 unused increment rate from the 2020 voter-approval tax rate. If the number is less than zero, enter zero.	\$ 0.013725 /\$100
65.	2019 unused increment rate. Subtract the 2019 actual tax rate and the 2019 unused increment rate from the 2019 voter-approval tax rate. If the number is less than zero, enter zero. If the year is prior to 2020, enter zero.	\$ 0 /\$100
66.	2022 unused increment rate. Add Lines 63, 64 and 65.	\$ 0.043161 /\$100
67.	2022 voter-approval tax rate, adjusted for unused increment rate. Add Line 66 to one of the following lines (as applicable): Line 49, Line D49 (disaster), Line 50 (counties), Line 58 (taxing units with the additional sales tax) or Line 62 (taxing units with pollution control).	\$ 0.527336 /\$100

SECTION 6: De Minimis Rate

The de minimis rate is the rate equal to the sum of the no-new-revenue maintenance and operations rate, the rate that will raise \$500,000, and the current debt rate for a taxing unit.⁴⁴

This section should only be completed by a taxing unit that is a municipality of less than 30,000 or a taxing unit that does not meet the definition of a special taxing unit.⁴⁵

Line	De Minimis Rate Worksheet	Amount/Rate
68.	Adjusted 2022 NNR M&O tax rate. Enter the rate from Line 39 of the <i>Voter-Approval Tax Rate Worksheet</i>	\$ 0.293725 /\$100
69.	2022 total taxable value. Enter the amount on Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 6,621,990,520
70.	Rate necessary to impose \$500,000 in taxes. Divide \$500,000 by Line 69 and multiply by \$100.	\$ 0.007550 /\$100
71.	2022 debt rate. Enter the rate from Line 48 of the <i>Voter-Approval Tax Rate Worksheet</i> .	\$ 0.180170 /\$100
72.	De minimis rate. Add Lines 68, 70 and 71.	\$ 0.000000 /\$100

SECTION 7: Voter-Approval Tax Rate Adjustment for Emergency Revenue Rate

In the tax year after the end of the disaster calculation time period detailed in Tax Code Section 26.042(a), a taxing unit that calculated its voter-approval tax rate in the manner provided for a special taxing unit due to a disaster must calculate its emergency revenue rate and reduce its voter-approval tax rate for that year.⁴⁶

Similarly, if a taxing unit adopted a tax rate that exceeded its voter-approval tax rate, calculated normally, without holding an election to respond to a disaster, as allowed by Tax Code Section 26.042(d), in the prior year, it must also reduce its voter-approval tax rate for the current tax year.⁴⁷

This section will apply to a taxing unit other than a special taxing unit that:

- directed the designated officer or employee to calculate the voter-approval tax rate of the taxing unit in the manner provided for a special taxing unit in the prior year; and
- the current year is the first tax year in which the total taxable value of property taxable by the taxing unit as shown on the appraisal roll for the taxing unit submitted by the assessor for the taxing unit to the governing body exceeds the total taxable value of property taxable by the taxing unit on January 1 of the tax year in which the disaster occurred or the disaster occurred four years ago.

³⁹ Tex. Tax Code § 26.013(a)

⁴⁰ Tex. Tax Code § 26.013(c)

⁴¹ Tex. Tax Code §§ 26.0501(a) and (c)

⁴² Tex. Local Gov't Code § 120.007(d), effective Jan. 1, 2022

⁴³ Tex. Tax Code § 26.063(a)(1)

⁴⁴ Tex. Tax Code § 26.012(8-a)

⁴⁵ Tex. Tax Code § 26.063(a)(1)

⁴⁶ Tex. Tax Code § 26.042(b)

⁴⁷ Tex. Tax Code § 26.042(f)

This section will apply to a taxing unit in a disaster area that adopted a tax rate greater than its voter-approval tax rate without holding an election in the prior year.

Note: This section does not apply if a taxing unit is continuing to calculate its voter-approval tax rate in the manner provided for a special taxing unit because it is still within the disaster calculation time period detailed in Tax Code Section 26.042(a) because it has not met the conditions in Tax Code Section 26.042(a)(1) or (2).

Line	Emergency Revenue Rate Worksheet	Amount/Rate
73.	2021 adopted tax rate. Enter the rate in Line 4 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 0.510000 / \$100
74.	Adjusted 2021 voter-approval tax rate. Use the taxing unit's Tax Rate Calculation Worksheets from the prior year(s) to complete this line. If a disaster occurred in 2021 and the taxing unit calculated its 2021 voter-approval tax rate using a multiplier of 1.08 on Disaster Line 41 (D41) of the 2021 worksheet due to a disaster, enter the 2021 voter-approval tax rate as calculated using a multiplier of 1.035 from Line 49. - or - If a disaster occurred prior to 2021 for which the taxing unit continued to calculate its voter-approval tax rate using a multiplier of 1.08 on Disaster Line 41 (D41) in 2021, complete the separate <i>Adjusted Voter-Approval Tax Rate for Taxing Units in Disaster Area Calculation Worksheet</i> to recalculate the voter-approval tax rate the taxing unit would have calculated in 2021 if it had generated revenue based on an adopted tax rate using a multiplier of 1.035 in the year(s) following the disaster. ⁴⁸ Enter the final adjusted 2021 voter-approval tax rate from the worksheet. - or - If the taxing unit adopted a tax rate above the 2021 voter-approval tax rate without calculating a disaster tax rate or holding an election due to a disaster, no recalculation is necessary. Enter the voter-approval tax rate from the prior year's worksheet.	\$ 0 / \$100
75.	Increase in 2021 tax rate due to disaster. Subtract Line 74 from Line 73.	\$ 0.510000 / \$100
76.	Adjusted 2021 taxable value. Enter the amount in Line 14 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 5,126,550,220
77.	Emergency revenue. Multiply Line 75 by Line 76 and divide by \$100.	\$ 26,145,406
78.	Adjusted 2022 taxable value. Enter the amount in Line 25 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 6,022,954,452
79.	Emergency revenue rate. Divide Line 77 by Line 78 and multiply by \$100. ⁴⁹	\$ 0 / \$100
80.	2022 voter-approval tax rate, adjusted for emergency revenue. Subtract Line 79 from one of the following lines (as applicable): Line 49, Line D49 (disaster), Line 50 (counties), Line 58 (taxing units with the additional sales tax), Line 62 (taxing units with pollution control) or Line 67 (taxing units with the unused increment rate).	\$ 0.527336 / \$100

SECTION 8: Total Tax Rate

Indicate the applicable total tax rates as calculated above.

No-new-revenue tax rate. As applicable, enter the 2022 NNR tax rate from: Line 26, Line 27 (counties), or Line 56 (adjusted for sales tax). Indicate the line number used: <u>26</u>	\$ 0.438227 / \$100
Voter-approval tax rate. As applicable, enter the 2022 voter-approval tax rate from: Line 49, Line D49 (disaster), Line 50 (counties), Line 58 (adjusted for sales tax), Line 62 (adjusted for pollution control), Line 67 (adjusted for unused increment), or Line 80 (adjusted for emergency revenue). Indicate the line number used: <u>67</u>	\$ 0.527336 / \$100
De minimis rate. If applicable, enter the 2022 de minimis rate from Line 72.	\$ 0.000000 / \$100

SECTION 9: Taxing Unit Representative Name and Signature

Enter the name of the person preparing the tax rate as authorized by the governing body of the taxing unit. By signing below, you certify that you are the designated officer or employee of the taxing unit and have accurately calculated the tax rates using values that are the same as the values shown in the taxing unit's certified appraisal roll or certified estimate of taxable value, in accordance with requirements in Tax Code. ⁵⁰

print
here

Jayna Dean

Printed Name of Taxing Unit Representative

sign
here

Jayna Dean
Taxing Unit Representative

7/29/2022

Date

⁴⁸ Tex. Tax Code §26.042(c)

⁴⁹ Tex. Tax Code §26.042(b)

⁵⁰ Tex. Tax Code §§ 26.04(c-2) and (d-2)



FINANCE

To: Mayor and Town Council

From: Betty Pamplin, Finance Director

Through: Robert B. Scott, Executive Director of Administrative Services

Re: Town Council Meeting – August 9, 2022

Agenda Item:

Consider and act upon a proposed FY 2022-2023 property tax rate.

Description of Agenda Item:

This agenda item is to set the proposed tax rate to publish for consideration. According to Section 26.05(d) of the Property Tax Code, the Town is required to hold one public hearing and publish a newspaper ad *if* proposing to consider a tax rate that exceeds the no-new-revenue rate or voter-approval rate, whichever is lower. The rate the Town finally adopts *can be lower* than the proposed and published rate, but *it cannot exceed* it without undergoing the required posting requirements and timeframes.

Budget Impact:

Cost to publish the notice is budgeted, if required.

Town Staff Recommendation:

Town staff recommends that the Town Council propose a rate of \$0.51 per \$100 in valuation.

If making your motion according to staff's recommendation, please use the following:

Proposed Motion:

I move to place a proposal to adopt a FY 2022-2023 tax rate of fifty-one cents (\$0.51) per one hundred dollars (\$100) of valuation on the September 13, 2022, Town Council Agenda.

This item requires a record vote.