



Prosper is a place where everyone matters.

AGENDA
Meeting of the Prosper Town Council
Prosper Municipal Chambers
108 W. Broadway, Prosper, Texas
Tuesday, July 8, 2014
5:00 p.m.

5:00 P.M. – EXECUTIVE SESSION

1. Call to Order/Roll Call.

2. **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:

2a. *Section 551.087 - To discuss and consider economic development incentives.*

2b. *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.*

6:00 P.M. – REGULAR MEETING

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

4. Announcements of upcoming events.

5. Proclamations.

- Presentation of a Proclamation to members of the Town's Parks and Recreation staff declaring July 2014 as *Parks and Recreation Month*.

6. **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.)

6a. Consider and act upon minutes from the following Town Council meeting. **(RB)**

- Regular Meeting – June 24, 2014

6b. 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 plan or preliminary site plan. **(CC)**

- 6c.** Consider and act upon approving the Fifth Amendment to the Development and Financing Agreement between the Town of Prosper and Blue Star Land, L.P., 183 Land Corp., and Blue Star Allen Land, L.P. **(HW)**

7. 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 Meeting Appearance Card" and present it to the Town Secretary prior to the meeting.)

Other Comments by the Public -

REGULAR AGENDA:

(If you wish to address the Council during the regular agenda portion of the meeting, please fill out a "Public Meeting Appearance Card" and present it to the Town Secretary prior to the meeting. Citizens wishing to address the Council for items listed as public hearings will be recognized by the Mayor. Those wishing to speak on a non-public hearing related item will be recognized on a case-by-case basis, at the discretion of the Mayor and Town Council.)

PUBLIC HEARINGS:

- 8.** Conduct a Public Hearing, and consider and act upon a request to rezone 33.2± acres, located on the northeast corner of Preston Road and Prosper Trail, from Single Family-15 (SF-15) to Planned Development-Retail (PD-R). (Z14-0007). **(CC)**
- 9.** Conduct a Public Hearing, and consider and act upon a request to rezone 80.7± acres, located on the southeast corner of Dallas Parkway and Frontier Parkway, from Single Family-15 (SF-15) to Planned Development-Single Family/Retail (PD-SF/R). (Z14-0006). **(CC)**

DEPARTMENT ITEMS:

- 10.** Consider and act upon authorizing the Town Manager to execute a Statement of Work and related documents between Aclara Technologies LLC, a sole source provider, and the Town of Prosper, for the upgrade and expansion of the Town's STAR® Fixed Network automated utility meter reading system. **(FJ)**

11. 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:

11a. *Section 551.087 - To discuss and consider economic development incentives.*

11b. *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.*

12. Reconvene in Regular Session and take any action necessary as a result of the Closed Session.
13. Possibly direct Town staff to schedule topic(s) for discussion at a future meeting.
 - Amendment to the Impact Fee Ordinance
14. Adjourn.

CERTIFICATION

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted on the inside window at the Town Hall of the Town of Prosper, Texas, a place convenient and readily accessible to the general public at all times, and said Notice was posted on July 3, 2014, at 5:00 p.m. and remained so posted at least 72 hours before said meeting was convened.

Robyn Battle, Town Secretary

Date Noticed 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
Regular Meeting of the
Prosper Town Council
Prosper Municipal Chambers
108 W. Broadway, Prosper, Texas
Tuesday, June 24, 2014

1. Call to Order/Roll Call.

The meeting was called to order at 5:01 p.m.

Council Members Present:

Mayor Ray Smith
Deputy Mayor Pro-Tem Kenneth Dugger
Councilmember Michael Korbuly
Councilmember Mike Davis
Councilmember Curry Vogelsang, Jr.
Councilmember Jason Dixon

Council Members Absent:

Mayor Pro-Tem Meigs Miller

Staff Members Present:

Harlan Jefferson, Town Manager
Robyn Battle, Town Secretary
Terrence Welch, Town Attorney
Hulon T. Webb, Jr., Executive Director of Development and Community Services
Chris Copple, Development Services Director
Matt Richardson, Senior Engineer
Frank Jaromin, Public Works Director
Kent Austin, Finance Director
Baby Raley, Human Resources Director
January Cook, Purchasing Agent

2. 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:

- 2a. Section 551.087 - To discuss and consider economic development incentives.**
- 2b. 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.**

The Town Council recessed into Executive Session at 5:03 p.m.

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

The Town Council reconvened the Regular Session at 6:31 p.m. No action was taken as a result of Executive Session.

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

Pastor Steven Scifers led the invocation. The pledge of allegiance and the pledge to the Texas flag were recited.

5. Announcements of upcoming events.

Councilmember Korbuly made the following announcements:

Due to the poor weather on Monday, TxDOT and Mario Sinacola have rescheduled the closure of the Broadway and Preston Road intersection for Wednesday, June 25. Asphalt crews will begin to resurface the intersection at 8:00 a.m., and the intersection should reopen by Wednesday afternoon. Crews will begin work on the asphalt transitions on Preston Road at the Prosper Trail and Frontier Parkway intersections on Wednesday afternoon as well. Weather permitting, workers are expected to complete both intersections by Thursday afternoon. Motorists should anticipate minor delays at these intersections as flaggers direct traffic through the work zones.

Weather permitting, Preston Road is scheduled to open on July 8. Beginning at 4:00 a.m., crews will begin shifting north-bound traffic to the new pavement. The traffic shift should last about two hours, and motorists should anticipate slight delays. Traffic between Prosper Trail and Frontier Parkway will be confined to two lanes until paving is completed in Celina. South-bound motorists will use the existing single lane until permanent striping can be completed. Weather permitting, the south-bound lanes are expected to open by July 14.

Prosper residents are encouraged to complete an online survey to assist the Town in updating its Parks, Recreation and Open Space Master Plan. The survey includes questions about resident preferences on park usage, park facilities, and recreational opportunities. The survey is available on the Town's website. Please contact Paul Naughton, Landscape Architect, for more information.

The Town will host an informational meeting on West Nile Virus on Monday, June 30, at 6:00 p.m. in Municipal Chambers. Residents will learn about the Town's efforts to control mosquitoes, as well as practical ways to prevent the spread of the virus. Contact Trish Eller, Code Compliance Officer, for more information.

Live & Prosper Magazine is hosting "Pride in the Sky" as part of its 2014 Summer Series. This Independence Day celebration will take place on Thursday, July 3, from 5:00 to 10:00 p.m. at Frontier Park. Activities will include a charity softball game, car show, music, food, games, and fireworks.

6. Proclamations.

- **Presentation of a Proclamation to a representative of The Initiative Cheer & Gymnastics declaring June 27, 2014, as *Olympic Day*.**

Samantha Dickey of The Initiative Cheer & Gymnastics was present to receive the Proclamation.

7. 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.)

Deputy Mayor Pro-Tem Dugger removed Item 7f from the Consent Agenda.

- 7a. Consider and act upon minutes from the following Town Council meeting. (RB)**
- **Regular Meeting – June 10, 2014**
- 7b. Receive the May 2014 Financial Report. (KA)**
- 7c. Consider and act upon authorizing the Town Manager to execute a Storm Water Management Agreement between Prosper Partners, LP, and the Town of Prosper, Texas, related to the construction of a detention pond and pump to serve the Parks at Legacy development. (HW)**
- 7d. Consider and act upon authorizing the Town Manager to execute a Reservation of Rights and Encroachment on Easement Agreement between Atmos Energy Corporation and the Town of Prosper, Texas, related to the dedication of right-of-way for Mahard Parkway. (MR)**
- 7e. Consider and act upon Ordinance No. 14-37 amending the Town's Future Land Use Plan. (CA14-0001). (CC)**

Deputy Mayor Pro-Tem Dugger made a motion and Councilmember Korbuly seconded the motion to approve Items 7a through 7e on the Consent Agenda. The motion was approved by a vote of 6-0.

- 7f. Consider and act upon Ordinance No. 14-38 amending 46.6± acres of Planned Development-40 (PD-40), located on the northeast corner of Gee Road and US 380. (Z14-0010). (CC)**

Town Attorney Terrence Welch provided an amendment to the proposed motion. Deputy Mayor Pro-Tem Dugger made a motion and Councilmember Vogelsang Seconded the motion to approve an ordinance amending 46.6± acres of Planned Development-40 (PD-40), located on the northeast corner of Gee Road and US Highway 380 (Z14-0010) subject to the following:

On Exhibit C to the proposed ordinance, Section 3(j), "Approval Process," shall be deleted and a new subsection (j) added, to read as follows: "Lighting: On-site parking

lot lighting shall include dimmers"; and a new subsection (k) added: "Screening: Developer shall maintain three-foot berms for purposes of screening along Gee Road and Windsong Ranch Parkway, and shall use best efforts to install berms along US Highway 380."

The motion was approved by a vote of 6-0.

8. 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 Meeting Appearance Card" and present it to the Town Secretary prior to the meeting.)

Other Comments by the Public –

Irwin "Cap" Parry, 850 Kingsview, Prosper, encouraged the Town Council to limit the amount of commercial development, noting that the amount of tax revenue from residential development would be comparable to that of commercial development.

REGULAR AGENDA:

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PUBLIC HEARINGS:

- 9. Conduct a Public Hearing, and consider and act upon a request to rezone 33.2± acres, located on the northeast corner of Preston Road and Prosper Trail, from Single Family-15 (SF-15) to Planned Development-Retail (PD-R). (Z14-0007). (CC)**

Mayor Smith announced that the applicants for Items 9 and 10 have requested that both items be tabled to the July 8, 2014, Town Council meeting.

Councilmember Korbuly made a motion and Deputy Mayor Pro-Tem Dugger seconded the motion to table Item 9 to the July 8, 2014, Town Council meeting. The motion was approved by a vote of 6-0.

- 10. Conduct a Public Hearing, and consider and act upon a request to rezone 80.7± acres, located on the southeast corner of Dallas Parkway and Frontier Parkway, from Single Family-15 (SF-15) to Planned Development-Single Family/Retail (PD-SF/R). (Z14-0006). (CC)**

Councilmember Korbuly made a motion and Councilmember Davis seconded the motion to table Item 10 to the July 8, 2014, Town Council meeting. The motion was approved by a vote of 6-0.

DEPARTMENT ITEMS:

11. **Consider and act upon authorizing the Town Manager to enter into contracts for employee benefits with Blue Cross Blue Shield for group medical insurance, Delta Dental for group dental insurance, EyeMed for group vision services, Mutual of Omaha for group and voluntary Life/Accidental Death and Dismemberment (AD&D)/Short-term Disability (STD)/Long-term Disability (LTD) insurance, Stanley, Hunt, Dupree & Rhine (SHDR) for section 125, Cafeteria Plan, Medical Expense Reimbursement Plan (MERP) - Health Reimbursement Account (HRA) claims administration, Allstate for voluntary work-life benefits, and Health Plan One Exchange Solutions' services for retiree exchange services. (BR)**

Baby Raley, Human Resources Director, presented this item before the Town Council. Ms. Raley reviewed the recommended providers for employee benefits for the plan year beginning August 1, 2014. Town staff, the Employee Benefits Committee, and the Council Benefits Subcommittee agreed on the chosen providers. The Town will also transition from an August 1 – July 31 plan year to a January 1 – December 31 plan year for employee benefits. To accomplish this, staff has requested proposals from all providers for the period of August 1, 2014 - December 31, 2015. Ms. Raley reviewed the medical contribution strategy for the Town and the budget impact for the upcoming plan year.

After discussion, Councilmember Korbuly made a motion and Councilmember Dixon seconded the motion to authorize the Town Manager to enter into contracts for employee benefits with Blue Cross Blue Shield for group medical insurance, Delta Dental for employee group dental insurance, EyeMed for employee group vision insurance, Mutual of Omaha for employee group Life/AD&D/LTD and voluntary STD insurance, Allstate for employee group voluntary work-life benefits, SHDR for Section 125, Cafeteria Plan, and MERP-HRA claim administration, and Health Plan One Exchange Solutions' services for retiree exchange services. The motion was approved by a vote of 6-0.

12. **Consider and act upon an alternative type of open storage screening for Warren/Avant Garde Addition, Block A, Lot 1R (The Body Shop), on 2.5± acres, located on the west side of Business Park Drive, 400± feet south of First Street. The property is zoned Commercial (C). (D14-0017). (CC)**

Chris Copple, Development Services Director, presented this item before the Town Council. The applicant is proposing to add open storage to an existing metal building, which is required to be screened from all streets and adjacent properties. Town staff and the Planning and Zoning Commission recommend approval of an alternative type of open storage screening, subject to revising the alternative type of open storage screening along the southern property line to a 6-foot ornamental metal fence. The applicant, John Rattan, addressed the Town Council, and requested a variance on the southern property line to install a wrought iron fence with landscaping. The applicant is leasing the property, so for any variance to be enforceable, a development agreement would need to be executed with the owner of the property. The applicant was agreeable to table the item until the July 22, 2014, Town Council meeting to allow time to negotiate a development agreement with the owner.

After discussion, Councilmember Korbuly made a motion and Councilmember Dixon seconded the motion to table Item 12 to the July 22, 2014, Town Council meeting. The motion was approved by a vote of 6-0.

13. Consider and act upon authorizing the Town Manager to execute Change Order #1 to JLB Contracting, LLC, related to construction services for the Prosper Road Improvements Project 2014 - Rhea Mills Pavement Replacement. (FJ)

Public Works Director Frank Jaromin presented this item before the Town Council. In April of 2014, the Town Council awarded the Prosper Road Improvements Project 2014 – Rhea Mills Pavement Replacement, to JLB Contracting, LLC. To take advantage of competitive pricing obtained with this bid, Town staff is recommending a change order to include additional concrete pavement replacement on First Street (Church Street to Craig Road). Town staff will hold neighborhood meetings for residents in the First Street and Rhea Mills neighborhoods to inform them of the road improvements plans on June 25. First Street is scheduled to be completed first, with Rhea Mills to follow.

After discussion, Councilmember Vogelsang made a motion and Councilmember Korbuly seconded the motion to authorize the Town Manager to execute Change Order #1, in the amount of \$167,980.75, to JLB Contracting, LLC, related to the construction services for the Prosper Road Improvement Project 2014 - Rhea Mills Pavement Replacement. The motion was approved by a vote of 6-0.

14. Consider and act upon authorizing the Town Manager to execute an agreement between Wier & Associates, Inc., and the Town of Prosper, Texas, related to the design of the Downtown Enhancements project. (MR)

Matt Richardson, Senior Engineer, presented this item before the Town Council. The proposed agreement is for design services related to the reconstruction of existing sidewalks, modification to parking stalls, and construction of new street lighting, landscaping, and irrigation on Broadway between Coleman Street and Crockett Street. Construction is expected to be complete in June of 2015. Mr. Richardson responded to questions from the Town Council on street grade, handicap accessibility, existing building entryways, and sidewalks. The Town will need to address underground drainage in the downtown area in the future, which may require additional construction in the area. Lighting will be installed toward the end of the project. Town staff was directed to provide a detailed construction plan of the downtown area prior to the project going to bid, which is anticipated to happen in September or October of 2014.

Mayor Smith recognized the following individual who requested to speak:

Jack Dixon, 810 Long Valley Court, Prosper, spoke in favor of enhancements in downtown Prosper, but would like to see the Town Council implement a plan for the entire downtown area, not just the items included in this proposed project.

After discussion, Councilmember Korbuly made a motion and Councilmember Dixon seconded the motion to authorize the Town Manager to execute an agreement, in the amount of \$49,500, between Wier & Associates, Inc., and the Town of Prosper,

Texas, related to the design of the Downtown Enhancements project. The motion was approved by a vote of 5-1.

15. 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:

15a. *Section 551.087 - To discuss and consider economic development incentives.*

15b. *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.*

The Executive Session was not held.

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

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

- **Presentation regarding budgeting process**

Town Manager Harlan Jefferson updated the Town Council on budget preparations for the 2014-2015 fiscal year.

- **Board and Commission appointment process**

Town Secretary Robyn Battle provided an overview and timeline for the upcoming Board and Commission appointment process.

- **SH 289 monument signage**

Hulon Webb, Executive Director of Development and Community Services, informed the Town Council that the request for monument signs along Preston Road had been denied by TxDOT. Town Manager Harlan Jefferson reiterated that TxDOT has consistently denied the placement of hardscape in medians, due to liability concerns. Mr. Webb also provided an update on TxDOT's landscape plan for the Preston Road medians, which differs slightly from the Town's standards.

18. Adjourn.

The meeting was adjourned at 7:50 p.m., on Tuesday, June 24, 2014.

These minutes approved on the 8th day of July, 2014.

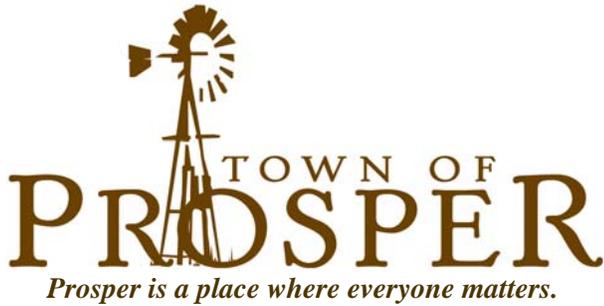
APPROVED:

Ray Smith, Mayor

ATTEST:

Robyn Battle, Town Secretary

DRAFT



PLANNING

To: Mayor and Town Council

From: Chris Copple, AICP, Director of Development Services

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – July 8, 2014

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 plan or preliminary site plan.

Description of Agenda Item:

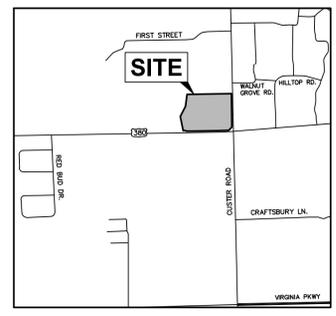
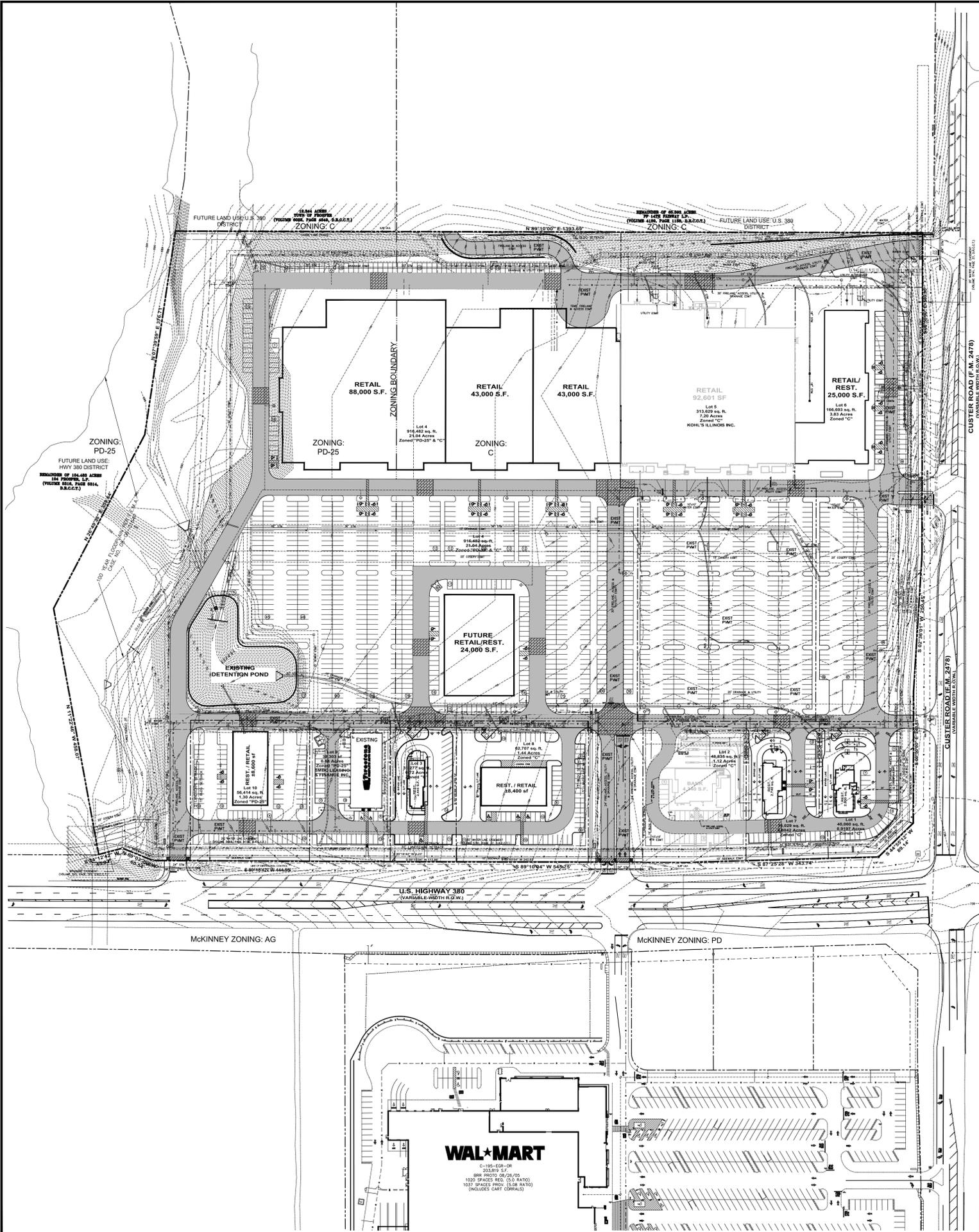
Attached are the site plans and/or preliminary site plans acted on by the Planning & Zoning Commission at their July 1, 2014 meeting. Per the Town's Zoning Ordinance, the Town Council has the ability to direct staff to submit a written notice of appeal on behalf of the Town Council to the Development Services Department for any site plan or preliminary site plan acted on by the Planning & Zoning Commission.

Attached Documents:

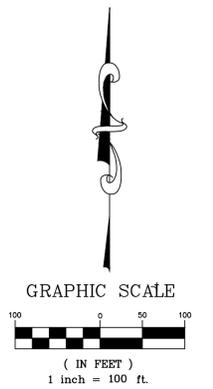
1. Preliminary site plan for Prosper Plaza, Block A, Lots 1, 3-4, 6-8, & 10.
2. Site plan for Prosper Plaza, Block, A, Lot 3 (Popeye's).
3. Preliminary site plan for St. Paul's Episcopal Church.

Town Staff Recommendation:

Town staff recommends the Town Council take no action on this item.



VICINITY MAP
NTS



SITE DATA SUMMARY TABLE - REVISED PRELIMINARY SITE PLAN, BLOCK A, LOTS 1 - 4, 6 - 8, & 10

Lot	Zoning	Use	Proposed Use			Lot Area (ac)	Bldg. Height (Maximum) (ft)	Lot Coverage	F.A.R.	Parking				Interior Landscaping Required		Impervious Area (sf)			
			Retail (sf)	Restaurant (sf)	Banking (sf)					Req	Prov	H.C. Req	H.C. Prov	Req (sf)	Prov (sf)				
1	C	Restaurant	0	2,850	0	2,850	0.92	40,090	30	1	7.1%	0.071-1	29	32	2	2	480	954	24,500
3	C & PD-25	Restaurant	0	2,445	0	2,445	0.72	31,277	40	1	7.8%	0.069-1	25	25	1	1	375	1,220	20,330
4	C & PD-25	Commercial	185,700	12,300	0	198,000	21.04	916,482	40	1	21.8%	0.216-1	866	866	18	18	12,960	14,600	637,200
6	C	Commercial	11,000	14,000	0	25,000	3.83	186,693	30	1	15.0%	0.151-1	184	184	6	6	2,760	3,500	106,800
7	C	Restaurant	0	2,740	0	2,740	0.80	35,029	40	1	8.0%	0.081-1	28	28	2	2	420	500	18,000
8	C	Commercial	3,000	5,400	0	8,400	1.44	62,707	40	1	13.4%	0.134-1	66	66	3	3	960	1,200	15,480
10	PD-25	Commercial	1,800	7,000	0	8,800	1.30	56,414	40	1	15.2%	0.082-1	77	77	4	4	1,155	1,430	36,869
Totals:			201,300	46,735	N/A	247,395	30.04	1,308,602				1,275	1,278	36	36	19,170	23,404	857,979	

NOTE: LOTS 2, 5 & 9 ARE FOR INFORMATIONAL PURPOSES ONLY AND ARE NOT INCLUDED AS PART OF THIS PRELIMINARY SITE PLAN.

SITE PLAN NOTES:

- DUMPSTERS AND TRASH COMPACTORS SHALL BE SCREENED IN ACCORDANCE WITH COMPREHENSIVE ZONING ORDINANCE.
- OPEN STORAGE, WHERE PERMITTED, SHALL BE SCREENED IN ACCORDANCE WITH COMPREHENSIVE ZONING ORDINANCE.
- OUTDOOR LIGHTING SHALL COMPLY WITH THE LIGHTING AND GLARE STANDARDS CONTAINED WITHIN THE COMPREHENSIVE ZONING ORDINANCE AND SUBDIVISION REGULATION ORDINANCE.
- LANDSCAPING SHALL CONFORM TO LANDSCAPE PLANS APPROVED BY THE TOWN.
- ALL ELEVATIONS SHALL COMPLY WITH THE TOWN'S COMPREHENSIVE ZONING ORDINANCE REQUIREMENTS.
- BUILDINGS OF 5,000 SQUARE FEET OR GREAT 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 UNIFORM 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.
- SIDEWALKS OF NOT LESS THAN SIX (6') FEET IN WIDTH AND BARRIER FREE RAMPS AT ALL CURB CROSSING SHALL BE PROVIDED PER TOWN STANDARDS.
- APPROVAL OF THE SITE PLAN IS NOT FINAL UNTIL ALL ENGINEERING PLANS ARE APPROVED.
- 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 COMPREHENSIVE ZONING ORDINANCE.

OWNER / APPLICANT (LOTS 1-4, 6-8, 10):
 QUAIL LANDING PHASE I, LP
 P.O. BOX 541208
 DALLAS, TEXAS 75354-1208
 214-902-2287 PH
 214-902-8003 FAX
 ADAM SUMRALL

ENGINEER:
 RKM & ASSOCIATES, INC.
 1700 ALMA DRIVE, SUITE 227
 PLANO, TEXAS 75075
 (469) 361-1416 PH
 (469) 361-2485 FAX
 ROBERT K. MANAOIS, P.E.

SURVEYOR:
 SURVEY CONSULTANTS, INC.
 903 N. BOWSER RD., SUITE 240
 RICHARDSON, TEXAS 75081
 (972) 424-7002 PH
 (972) 633-1702 FAX
 DOUGLAS S. LOOMIS, R.P.L.S.

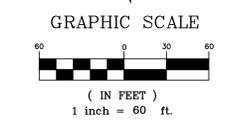
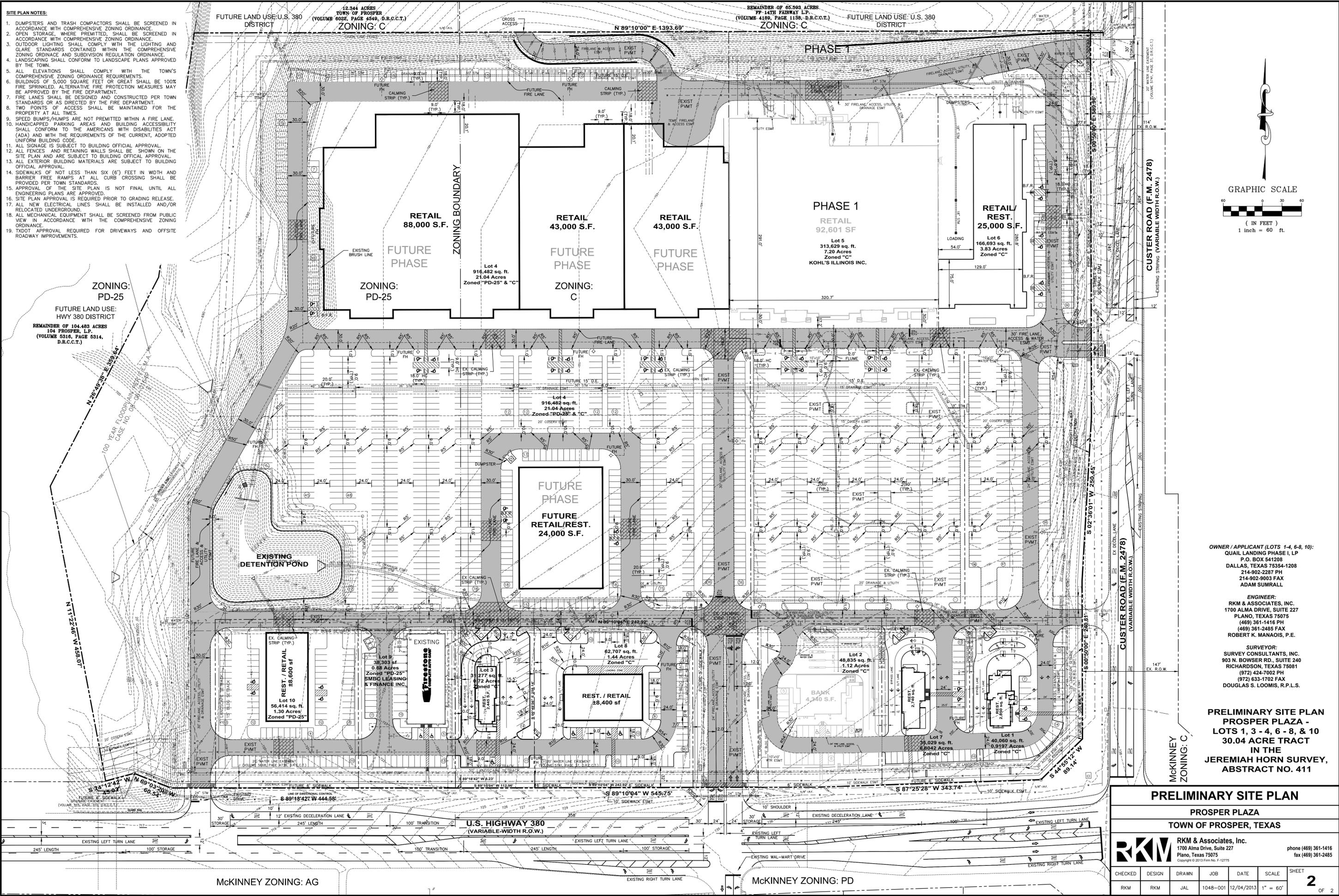
**REVISED PRELIMINARY SITE PLAN
 PROSPER PLAZA
 LOTS 1, 3 - 4, 6 - 8, & 10
 30.04 ACRE TRACT
 IN THE
 JEREMIAH HORN SURVEY,
 ABSTRACT NO. 411**

REVISED PRELIMINARY SITE PLAN
 PROSPER PLAZA
 TOWN OF PROSPER, TEXAS

RKM & Associates, Inc.
 1700 Alma Drive, Suite 227
 Plano, Texas 75075
 phone (469) 361-1416
 fax (469) 361-2485

CHECKED	DESIGN	DRAWN	JOB	DATE	SCALE	SHEET
RKM	RKM	JAL	1048-001	12/04/2013	1" = 100'	1 OF 2

- SITE PLAN NOTES:**
- DUMPSTERS AND TRASH COMPACTORS SHALL BE SCREENED IN ACCORDANCE WITH COMPREHENSIVE ZONING ORDINANCE.
 - OPEN STORAGE, WHERE PERMITTED, SHALL BE SCREENED IN ACCORDANCE WITH COMPREHENSIVE ZONING ORDINANCE.
 - OUTDOOR LIGHTING SHALL COMPLY WITH THE LIGHTING AND GLARE STANDARDS CONTAINED WITHIN THE COMPREHENSIVE ZONING ORDINANCE AND SUBDIVISION REGULATION ORDINANCE.
 - LANDSCAPING SHALL CONFORM TO LANDSCAPE PLANS APPROVED BY THE TOWN.
 - ALL ELEVATIONS SHALL COMPLY WITH THE TOWN'S COMPREHENSIVE ZONING ORDINANCE REQUIREMENTS.
 - BUILDINGS OF 5,000 SQUARE FEET OR GREAT 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 FOR THE PROPERTY AT ALL TIMES.
 - 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 UNIFORM 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.
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 - APPROVAL OF THE SITE PLAN IS NOT FINAL UNTIL ALL ENGINEERING PLANS ARE APPROVED.
 - 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 COMPREHENSIVE ZONING ORDINANCE.
 - TxDOT APPROVAL REQUIRED FOR DRIVEWAYS AND OFFSITE ROADWAY IMPROVEMENTS.



OWNER / APPLICANT (LOTS 1-4, 6-8, 10):
 QUAIL LANDING PHASE I, LP
 P.O. BOX 541209
 DALLAS, TEXAS 75354-1208
 214-902-2287 PH
 214-902-9003 FAX
 ADAM SUMRALL

ENGINEER:
 RKM & ASSOCIATES, INC.
 1700 ALMA DRIVE, SUITE 227
 PLANO, TEXAS 75075
 (469) 361-1416 PH
 (469) 361-2485 FAX
 ROBERT K. MANAOIS, P.E.

SURVEYOR:
 SURVEY CONSULTANTS, INC.
 903 N. BOWSER RD., SUITE 240
 RICHARDSON, TEXAS 75081
 (972) 424-7002 PH
 (972) 633-1702 FAX
 DOUGLAS S. LOOMIS, R.P.L.S.

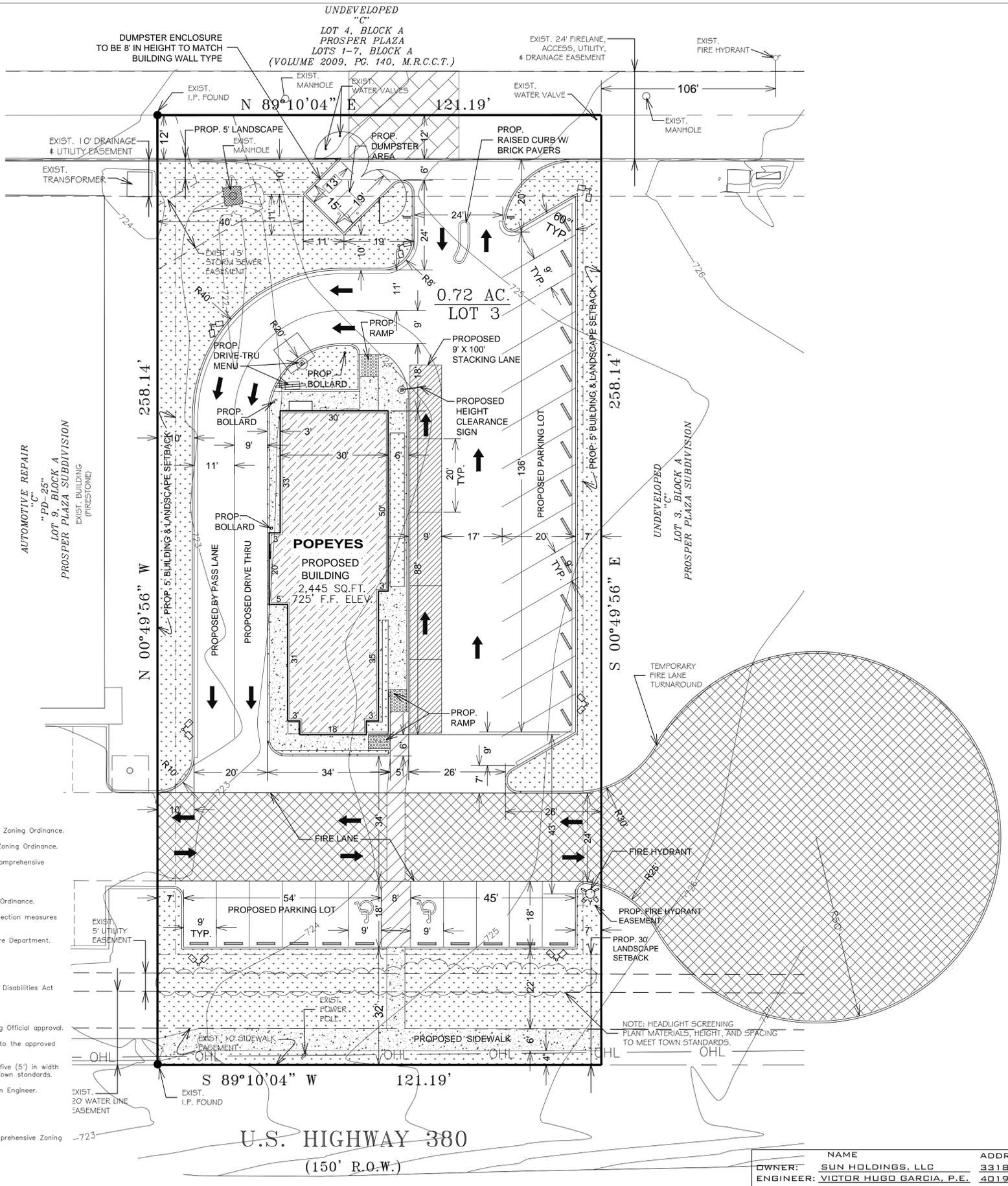
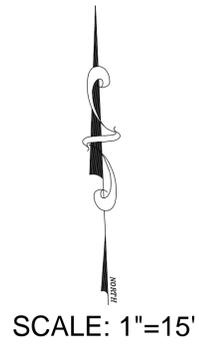
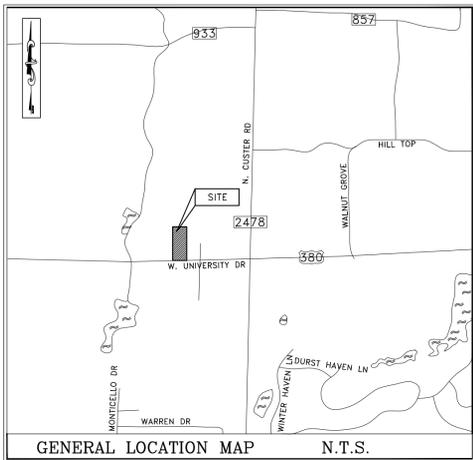
**PRELIMINARY SITE PLAN
 PROSPER PLAZA -
 LOTS 1, 3 - 4, 6 - 8, & 10
 30.04 ACRE TRACT
 IN THE
 JEREMIAH HORN SURVEY,
 ABSTRACT NO. 411**

**PRELIMINARY SITE PLAN
 PROSPER PLAZA
 TOWN OF PROSPER, TEXAS**

RKM & Associates, Inc.
 1700 Alma Drive, Suite 227
 Plano, Texas 75075
 phone (469) 361-1416
 fax (469) 361-2485

CHECKED	DESIGN	DRAWN	JOB	DATE	SCALE	SHEET
RKM	RKM	JAL	1048-001	12/04/2013	1" = 60'	2

OF 2



LEGEND

- PROPOSED BUILDING
- PROPOSED GRASS AREA
- PROPOSED CONC. SIDEWALK
- PROPOSED PARKING LOT
- PROPOSED FIRE LANE
- PROP. LIGHT POLE
- PROPOSED HANDICAP PARKING SPACE
- TRAFFIC FLOW ARROW
- PROP. FIRE HYDRANT
- EXIST. IRON PIN FOUND
- EXIST. CONTOUR LINES

SANITARY SEWER SERVICES

TYPE	SIZE	NO.
PVC	6"	1

WATER METER SCHEDULE

TYPE	SIZE	SERVICE	NO.
IRRIG.	1.5"	1.5"	1
EXIST. DOM.	1.0"	1.0"	2

SITE DATA SUMMARY

ZONING	COMMERCIAL
PROPOSED USE:	RESTAURANT W/ DRIVE THRU
LOT AREA:	31,283 Sq.Ft.
BUILDING AREA:	2,455 Sq.Ft.
BUILDING HEIGHT:	19'-4"
LOT COVERAGE:	8.0%
TOTAL PARKING REQUIRED: (1:100 sf)	25 SPACES
TOTAL PARKING PROVIDED:	25 SPACES
HANDICAP PARKING REQUIRED:	2 SPACES
HANDICAP PARKING PROVIDED:	2 SPACES
IMPERVIOUS AREA:	20,584 Sq.Ft.
OPEN SPACE REQUIRED:	7%
OPEN SPACE PROVIDED:	7.11%

*NOTE: DIMENSIONS ARE FACE OF CURB TO FACE OF CURB.

- SITE PLAN NOTES**
- Dumpsters and trash compactors shall be screened in accordance with the Comprehensive Zoning Ordinance.
 - Open storage, where permitted, shall be screened in accordance with the Comprehensive Zoning Ordinance.
 - Outdoor lighting shall comply with the lighting and glare standards contained within the Comprehensive Zoning Ordinance and Subdivision Regulation Ordinance.
 - Landscaping shall conform to landscape plans approved by the Town.
 - All elevations shall comply with the standards contained within the Comprehensive 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 facade 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 Town Engineer.
 - 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 Comprehensive Zoning Ordinance.
 - No 100 yr floodplain exists on this site.

**POPEYE'S RESTAURANT
LOT 3, BLOCK A
PROSPER PLAZA
SUBDIVISION
PROSPER, TX**

TBPE FIRM REGISTRATION NO. F-7481

VANGUARD ENGINEERING
4019 EXPRESSWAY 83
WESLACO, TX, 78596
(956) 514-5086

THIS IS THE PROPERTY OF THE PROFESSIONAL ENGINEER WHOSE SEAL APPEARS ON THIS DRAWING AND IT IS UNLAWFUL TO REUSE THIS DRAWING ON ANY OTHER PROJECT, OR TO COPY, TRACE OR IN ANY OTHER WAY, REPRODUCE ANY OR ALL PARTS OF THIS DRAWING WITHOUT THE WRITTEN CONSENT OF THE ENGINEER.

THE SEAL APPEARING ON THIS DOCUMENT IS AUTHORIZED BY VICTOR H. GARCIA, P.E.
DATE: JUNE 26, 2014

SITE PLAN

CLIENT	MCC ASSOCIATES	SHEET NO.
PROJECT NUMBER	ENG.2014.009	C-1

NAME	ADDRESS	CITY & ZIP	PHONE
OWNER: SUN HOLDINGS, LLC	3318 FOREST LN	DALLAS, TX 75234	(972)620-2287
ENGINEER: VICTOR HUGO GARCIA, P.E.	4019 E. EXPWY 83	WESLACO, TX 78596	(956) 514-5086

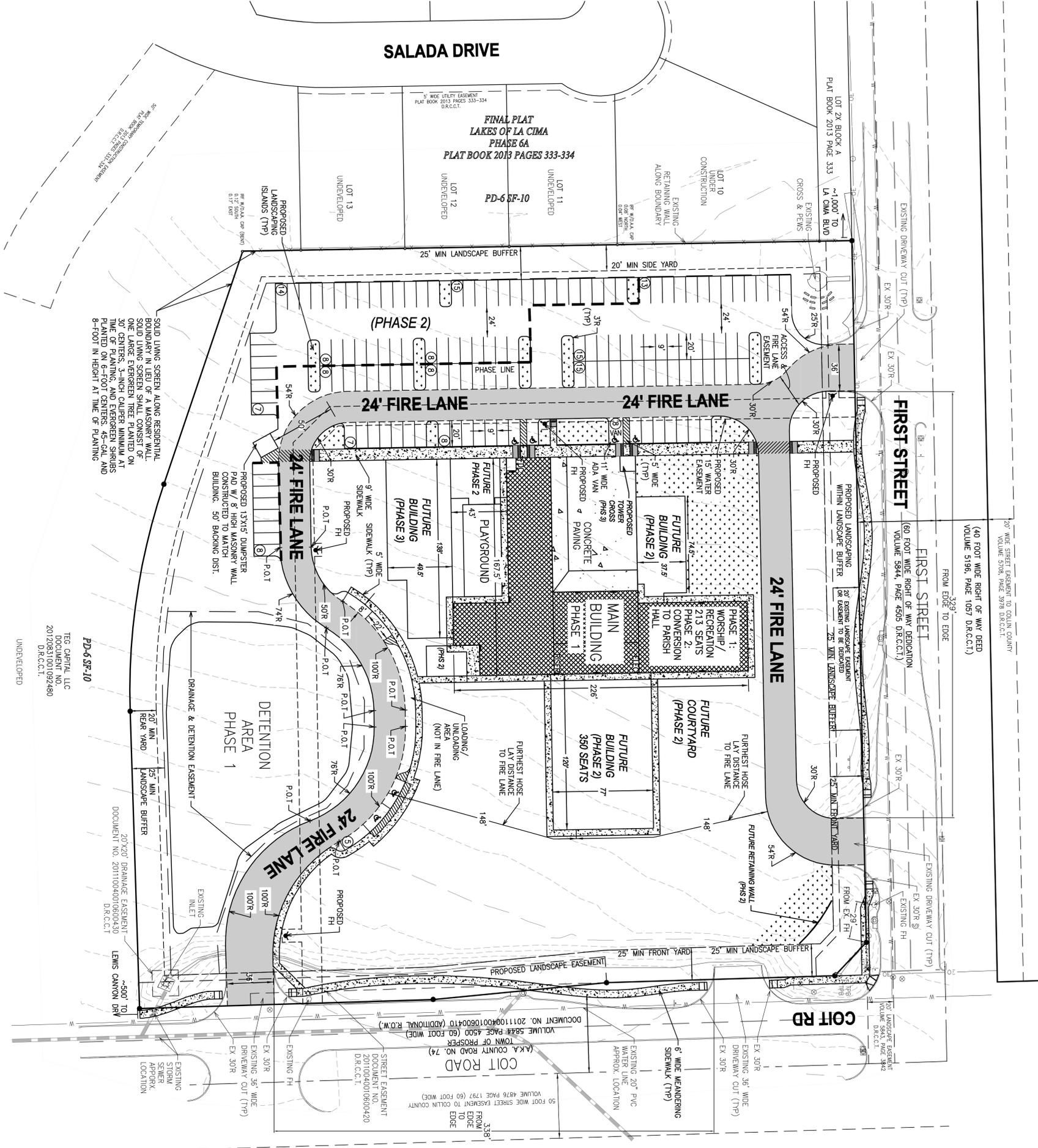
Site Data Summary Table			Total
Description	Phase 1	(Inc. Phs 2 & 3)	
Zoning	PD-6	PD-6	
Proposed Use	Daycare/House of Worship	Daycare/House of Worship	
Lot Area	7,105 acres	7,105 acres	
Building Area	16,000 sf	34,000 sf	
Building Height	42' (1 story)	42' (1 story)	
Lot Coverage	29%	41%	
Floor Area Ratio	5%	11%	
Total Parking Required	87	147	
Handicap Parking Required	4	6	
Interior Landscaping Required	1,365 sf	2,265 sf	
Interior Landscaping Provided	2,817 sf	3,697 sf	
Square foot of Concrete Paving	72,650 sf	90,350 sf	
Square foot of Impervious Surface	88,650 sf	124,350 sf	
Open Space Required	7%	7%	
Open Space Provided	40%	30%	

Parking Requirements			
Use	# of units	Parking Ratio	# of spaces required
Church	213	1:3	71
Daycare	96	children 1:10	10
Daycare	6	teacher 1:1	6
Total			87

Parking Requirements			
Use	# of units	Unit	# of spaces required
Church	350	seats	117
Daycare	128	children	110
Daycare	17	teacher	17
Total			147

STANDARD LANGUAGE

- ANY REVISION TO THIS PLAN WILL REQUIRE TOWN APPROVAL AND WILL REQUIRE REVISIONS TO ANY CORRESPONDING PLANS TO AVOID CONFLICTS BETWEEN PLANS.
- 1) DUMPSTERS AND TRASH COMPACTORS SHALL BE SCREENED IN ACCORDANCE WITH THE ZONING ORDINANCE.
 - 2) OPEN STORAGE, WHERE PERMITTED, SHALL 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 FIRE DEPARTMENT.
 - 7) FIRE LANES SHALL BE DESIGNED AND CONSTRUCTED PER TOWN STANDARDS OR AS DIRECTED BY THE FIRE DEPARTMENT.
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 - 9) SPEED BUMPS/HUMPS ARE NOT PERMITTED WITHIN A FIRE LANE.
 - 10) HANDICAPPED PARKING AREAS AND BUILDING ACCESSIBILITY SHALL CONFORM TO THE AMERICANS WITH DISABILITIES ACT (ADA) AND WITH THE REQUIREMENTS OF THE CURRENTLY ADOPTED BUILDING CODE.
 - 11) ALL SIGNAGE IS SUBJECT TO BUILDING OFFICIAL APPROVAL.
 - 12) ALL FENCES AND RETAINING WALLS SHALL BE SHOWN ON THE SITE PLAN AND ARE SUBJECT TO BUILDING OFFICIAL APPROVAL.
 - 13) ALL EXTERIOR BUILDING MATERIALS ARE SUBJECT TO BUILDING OFFICIAL APPROVAL AND SHALL CONFORM TO THE APPROVED FACADE PLAN.
 - 14) SIDEWALKS OF NOT LESS THAN SIX (6) FEET IN WIDTH ALONG HORBOUGHARES AND COLLECTORS AND FIVE (5) IN WIDTH ALONG RESIDENTIAL STREETS, AND BARRIER FREE RAMP AT ALL CURB CROSSINGS SHALL BE PROVIDED PER TOWN STANDARDS.
 - 15) APPROVAL OF THE SITE PLAN IS NOT FINAL UNTIL ALL ENGINEERING PLANS ARE APPROVED BY THE ENGINEERING DEPARTMENT.
 - 16) SITE PLAN APPROVAL IS REQUIRED PRIOR TO GRADING RELEASE.
 - 17) ALL NEW ELECTRICAL LINES SHALL BE INSTALLED AND/OR RELOCATED UNDERGROUND.
 - 18) ALL MECHANICAL EQUIPMENT SHALL BE SCREENED FROM PUBLIC VIEW IN ACCORDANCE WITH THE ZONING ORDINANCE.



Job Number
14-0030

Sheet Number
1 of 3

COLE CONSULTANTS
 CIVIL ENGINEERING / SURVEYING / PLANNING / LANDSCAPE ARCHITECTURE
 6172 Amber Street
 Dallas, TX 75236
 972.284.6000
 www.coleconsultants.com

DEVELOPER:
ST. PAUL'S EPISCOPAL CHURCH
 650 BLUFFALO SPRINGS DR
 PROSPER, TX 75078
 (409) 250-4093

OWNER:
EPISCOPAL DIOCESE OF DALLAS
 1630 N GARETT AVE
 DALLAS, TX 75206

Sheet Name
Preliminary Site Plan

DATE:
6/26/14

ST. PAUL'S EPISCOPAL CHURCH
7.105 ACRE TRACT
BEING A PORTION OF A CALLED 64.679
ACRE TRACT OF LAND
DESCRIBED IN DEED TO
SHADDOCK DEVELOPERS, LTD,
RECORDED IN
INSTRUMENT NO. 20070330000431860
BEING PART OF THE
HARRISON JAMISON SURVEY,
ABSTRACT NO. 480
TOWN OF PROSPER, TEXAS



ENGINEERING

To: Mayor and Town Council

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

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – July 8, 2014

Agenda Item:

Consider and act upon approving the Fifth Amendment to the Development and Financing Agreement between the Town of Prosper and Blue Star Land, L.P., 183 Land Corp., and Blue Star Allen Land, L.P.

Description of Agenda Item:

On March 25, 2008, the Town entered into a Development and Financing Agreement with the above stated parties in advance of the development of the “Gates of Prosper” project. Since that time, the Town Council has approved four amendments: the first on April 28, 2011, and the second on October 11, 2011, extending the agreement six months each time. The third amendment occurred on June 12, 2012, and extended the agreement to July 9, 2013. The fourth amendment occurred on July 9, 2013, allowing the parties to renegotiate the Development and Financing Agreement on or before July 9, 2014, and failing which, the parties mutually agreed to terminate the Development and Financing Agreement.

With the recent completion of the zoning on the property, Town staff has been meeting with representatives of Blue Star to update the Development and Financing Agreement. As a result of these ongoing discussions, it was deemed necessary to extend the deadline for the update of the Development and Financing Agreement from July 9, 2014, to October 14, 2014. This will allow adequate time for Town staff and Blue Star to complete negotiations on the update.

Legal Obligations and Review:

Attorney Pete Smith drafted the agreement.

Attached Documents:

1. Fifth Amendment to the Development and Financing Agreement

Town Staff Recommendation:

Town staff recommends that the Town Council consider and approve the Fifth Amendment to the Development and Financing Agreement between the Town of Prosper and Blue Star Land, L.P., 183 Land Corp., and Blue Star Allen Land, L.P.

Proposed Motion:

I move to approve the Fifth Amendment to the Development and Financing Agreement between the Town of Prosper and Blue Star Land, L.P., 183 Land Corp., and Blue Star Allen Land, L.P.

STATE OF TEXAS §
 §
 §
 COUNTY OF COLLIN §

**FIFTH AMENDMENT TO
 DEVELOPMENT AND FINANCING AGREEMENT**

This Fifth Amendment to Development and Financing Agreement (“Agreement”) is made by and among the Town of Prosper, Texas, a duly incorporated municipality of the State of Texas (the “Town”), Blue Star Land, LP, a Texas limited partnership (the “Developer”), 183 Land Corp., a Texas corporation, and Blue Star Allen Land LP, a Texas limited partnership (together the “Additional Landowners,” and collectively with the Developer, the “Landowners”), acting by and through their respective authorized officers or representatives.

RECITALS:

WHEREAS, the Parties previously entered into that certain Development and Financing Agreement dated March 25, 2008 (the “Development and Financing Agreement”); and

WHEREAS, the Parties previously entered into that certain First Amendment to Development and Financing Agreement dated May 17, 2011; and

WHEREAS, the Parties previously entered into that certain Second Amendment to Development and Financing Agreement dated October 20, 2011; and

WHEREAS, the Parties previously entered into that certain Third Amendment to Development and Financing Agreement dated June 14, 2012; and

WHEREAS, the Parties previously entered into that certain Fourth Amendment to Development and Financing Agreement dated July 9, 2013; and

WHEREAS, the Parties intended but were unable to renegotiate the Development and Financing Agreement and execute a mutually agreeable amendment thereto on or before July 9, 2014; and

WHEREAS, the Parties desire to enter into this Fifth Amendment to the Development and Financing Agreement as set forth herein to allow the Parties to renegotiate the Development and Financing Agreement on or before October 14, 2014, and failing which, the Parties mutually agree to terminate the Development and Financing Agreement.

NOW THEREFORE, in consideration of the foregoing, and other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Article I
Termination of the Development and Financing Agreement

1.1 Notwithstanding anything to the contrary in the Development and Financing Agreement the Parties hereby agree to mutually terminate the Development and Financing Agreement effective October 14, 2014, unless the Parties have entered into a mutually agreed amendment of the Development and Financing Agreement on or before October 14, 2014.

1.2 The Parties have agreed to extend the termination date of the Development and Financing Agreement for the sole purpose of: (i) the Developer and Landowners satisfying the requirements of Section 1.1 above; and (ii) for the Parties to re-negotiate the terms and conditions of the Development and Financing Agreement, and execute either a new development and financing agreement or an amendment to the Development and Financing Agreement. Notwithstanding anything to the contrary in the Development and Financing Agreement any actions taken by Developer and/or Landowners pursuant to, or in furtherance of, the Development and Financing Agreement shall be at the sole cost and expense of the Developer and Landowners, and shall not be subject to any reimbursement from or payment by Town, Prosper Economic Development Corporation, or the Tax Increment Reinvestment Zone ("TIRZ") Number One Board of Directors pursuant to the Development and Financing Agreement or from any other source of revenue, unless such reimbursement or payment is authorized pursuant to a new or amended Development and Financing Agreement, or other agreement.

Article II
Miscellaneous

2.1 Binding Agreement. The terms and conditions of this Agreement are binding upon the successors and permitted assigns of all Parties hereto. This Agreement may not be assigned without the prior written consent of all of the Parties.

2.2 Authorization. Each party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

2.3 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the address set forth below or on the day actually received as set by courier or otherwise hand delivered.

If to the Developer or the Additional Landowners: With a copy to:

Stephen Jones
Blue Star Land L.P.
One Cowboys Parkway
Irving, Texas 75063

General Counsel
Blue Star Land L.P.
One Cowboys Parkway
Irving, Texas 75063

And to:

George Mitchell
Blue Star Investment, Inc.
800 Western Parkway
Building I, Suite 100
Frisco, Texas 75034

And to:

Joe Hickman
8000 Warren Parkway
Building I, Suite 100
Frisco, Texas 75034

And to:

Barry R. Knight
Winstead PC
500 Winstead building
2728 N. Hardwood Street
Dallas Texas 75201

If to the Town:

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

With a copy to:

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith
500 North Akard
1800 Ross Tower
Dallas, Texas 75201

2.4 Entire Agreement. This Agreement is the entire Agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written Agreement between the Parties that in any manner relates to the subject matter of this Agreement, except as provided in any Exhibits attached hereto.

2.5 Governing Law. The Agreement shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in the State District Court of Collin County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

2.6 Amendment. This Agreement may be amended by the mutual written agreement of the Parties.

2.7 Legal Construction. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such

invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

2.8 Recitals. The recitals to this Agreement are incorporated herein.

2.9 Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

2.10 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

[Signature Page to Follow]

EXECUTED on this _____ day of _____, 2014.

ATTEST:

TOWN:

Town Secretary

TOWN OF PROSPER, TEXAS

APPROVED AS TO FORM:

By: _____

Peter G. Smith

Ray Smith, Mayor

Peter G. Smith

Nichols, Jackson, Dillard, Hager & Smith, LLP

EXECUTED on this 1st day of July, 2014.

DEVELOPER AND LANDOWNER:

BLUE STAR LAND, LP,
a Texas limited partnership

By: *George Mitchell*
Name: George Mitchell
Title: Asst. Treasurer

EXECUTED on this 1st day of July, 2014.

LANDOWNER:

183 LAND CORP.
a Texas limited partnership

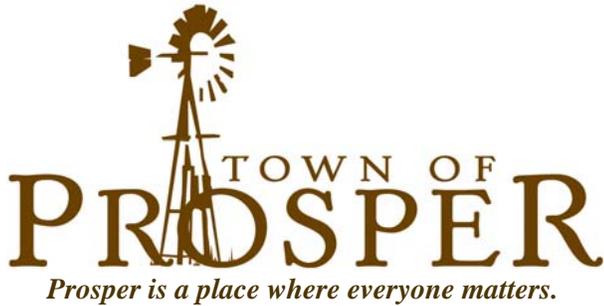
By: *George Mitchell*
Name: George Mitchell
Title: Asst. Treasurer

EXECUTED on this 1st day of July, 2014.

LANDOWNER:

BLUE STAR ALLEN LAND LP
a Texas limited partnership

By: *George Mitchell*
Name: George Mitchell
Title: Asst. Treasurer



PLANNING

To: Mayor and Town Council
From: Chris Copple, AICP, Director of Development Services
Through: Harlan Jefferson, Town Manager
Re: Town Council Meeting – July 8, 2014

Agenda Item:

Conduct a Public Hearing, and consider and act upon a request to rezone 33.2± acres, located on the northeast corner of Preston Road and Prosper Trail, from Single Family-15 (SF-15) to Planned Development-Retail (PD-R). (Z14-0007).

History:

At the June 24, 2014 Town Council meeting, this item was tabled as requested by the applicant.

Description of Agenda Item:

The zoning and land use of the surrounding properties are as follows:

	Zoning	Current Land Use	Future Land Use Plan
Subject Property	Single Family-15	Single Family Residential	Retail & Neighborhood Services
North	Single Family-15	Undeveloped	Low Density Residential
East	Single Family-15	Undeveloped	Low Density Residential
South	Single Family-15	Single Family Residential (Raewood on Preston)	Low Density Residential
West	PD-31-Office/Single Family	Undeveloped/ Single Family Residential (Saddle Creek)	Retail & Neighborhood Services and Medium Density Residential

Requested Zoning – Z14-0007 is a request rezone 33.2± acres, located on the northeast corner of Preston Road and Prosper Trail, from Single Family-15 (SF-15) to Planned Development-Retail (PD-R). The PD-R regulations are attached.

The proposed PD-R District allows for the development of a retail shopping center anchored by a big box retail building as shown on Exhibit D. Town staff has compared the proposed PD-R standards to the straight Retail (R) zoning district and the standards that significantly vary from straight R zoning are:

1. *Permitted Uses* – The PD-R District prohibits several uses from developing on the property that are permitted by right or by SUP in the straight R zoning district. The prohibited uses include, but are not limited to; Antenna and/or Antenna Support Structure, Assisted Care or Living Facility, Athletic Stadium or Field, Minor Automobile Repair, Cemetery or Mausoleum, Outdoor Commercial Amusement, Adult Day Care Center, Minor Equipment and Machinery Sales or Rental, Hospital, Mobile Food Vendor, Private Club, Recycling Collection Point, Small Engine Repair Shop, and Veterinarian Clinic and/or Kennel. The PD-R District only allows for Restaurants with a Drive-thru or a Drive-in by SUP.
2. *Outdoor Sales and Display* – The PD-R District allows for the outdoor sale and display of merchandise in the designated areas as shown on Exhibit D, subject to the conditions listed in Exhibit C, Section 1.0 (37). The Town's Zoning Ordinance requires all open storage to be screened from adjacent streets and properties.
3. *Convenience Store with Gas Pumps* – The PD-R District allows for one Convenience Store with Gas Pumps on the property, subject to the conditions listed in Exhibit C, Section 2.4. The Town's Zoning Ordinance does not allow for a Convenience Store with Gas Pumps at this intersection, since Prosper Trail is a minor thoroughfare.
4. *Building Materials* – The PD-R District allows for Architectural Structural Block, under the trade name "Quik Brik", which is a 4" manufactured concrete masonry unit that looks like a large brick, to be a permitted building material. Additional information on the material can be viewed at www.quik-brik.com. The building elevations shall substantially conform to Exhibits F1, F2, F3, and F4. The elevations and roof profiles for future retail or outparcel buildings that are not shown on Exhibits F1, F2, F3, and F4, shall be required to be approved by the Town Council.
5. *Landscape along Preston Road and Prosper Trail* – The PD-R District includes specific planting requirements along Preston Road and Prosper Trail, including berms with a minimum height of 4 feet, 4 inch caliper trees, and an increase in the planting rate of trees and shrubs. These landscape standards exceed those in the Town's Zoning Ordinance.
6. *Trees in front of the big box building and adjacent retail* – The PD-R District requires a minimum 4 inch caliper tree every 100 feet along the sidewalk in front of the big box and adjacent retail on Lots 1 and 5, as shown on Exhibit D. The Zoning Ordinance requires trees to be planted around the building, but does not specifically require they be spaced evenly along the front of the building.
7. *Lighting* – The PD-R District prohibits light poles from being located within 150 feet of the residential property line on the south side of Prosper Trail. All site lighting shall be LED and include dimmers. All light poles on the portion of the property closest to Prosper Trail shall be shielded.
8. *Lot Frontage* – The PD-R District allows for lots to have frontage on a public street or a common public access drive, which shall be dedicated as a public access, fire lane, and utility easement. The Town's Subdivision Ordinance requires every lot have frontage onto a public street.

9. *Pad Sites* – The PD-R District restricts Lots 3, 4, 6, 7, and 8 (five pad sites) to single tenant buildings. All other pad sites shall be multi-tenant buildings for office and retail use and be similar in design to the elevations provided in Exhibit F.
10. *Basket Car Corrals* – The PD-R District prohibits galvanized pipe basket cart corrals in the parking area unless otherwise approved by the Town Council.

Future Land Use Plan – The Future Land Use Plan (FLUP) recommends Retail and Neighborhood Services uses for the property. The zoning request conforms to the FLUP.

Thoroughfare Plan – The property has direct access to Preston Road, a six-lane divided thoroughfare, and Prosper Trail, a future four-lane divided thoroughfare. The zoning exhibit complies with the Thoroughfare Plan.

Water and Sanitary Sewer Service – Water and sanitary sewer service will have to be extended to the property either before or with development.

Access – Access to the property is provided from Preston Road and Prosper Trail. Adequate access is provided to the property.

Schools – This property is located within the Prosper Independent School District (PISD). It is not anticipated that a school site will be needed on this property.

Parks – It is not anticipated this property will be needed for the development of a park.

Environmental Considerations – There is no 100-year floodplain located on the property.

Legal Obligations and Review:

Notification was provided to neighboring property owners as required by state law. Town staff has received 15 public hearing notice reply forms from different property owners; with 14 being in opposition to the request. Of the 15 public hearing notice reply forms received, 7 were from property owners within two hundred feet (200') of the subject property, and all 7 were in opposition to the request. The property owners in opposition within two hundred feet (200') of the subject property represent an area greater than twenty percent (20%) of the surrounding land area. Therefore, an affirmative vote of three-fourths (3/4) of all members of the Town Council is required to approve the zoning request per state law.

Attached Documents:

1. Zoning Exhibits A, B, C, D, E, F1, F2, F3, and F4.
2. Zoning map of the surrounding area.
3. Public hearing notice reply forms.
4. Appeal letter from the applicant.

Planning & Zoning Commission Recommendation:

At their June 3, 2014, meeting, the Planning & Zoning Commission recommended the Town Council deny a request to rezone 33.2± acres, located on the northeast corner of Preston Road and Prosper Trail, from Single Family-15 (SF-15) to Planned Development-Retail (PD-R), by a vote of 7-0. At the time the Planning & Zoning Commission denied the zoning request, the zoning request did not conform to the FLUP. The Town Council approved an amendment to the FLUP on June 10, 2014.

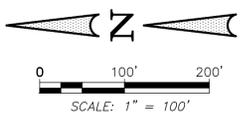
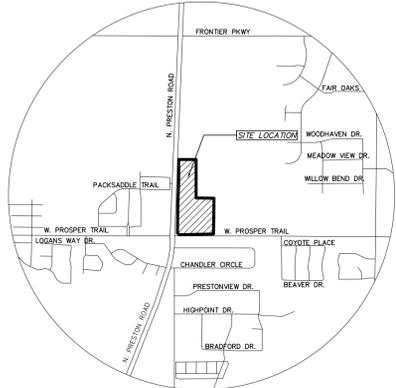
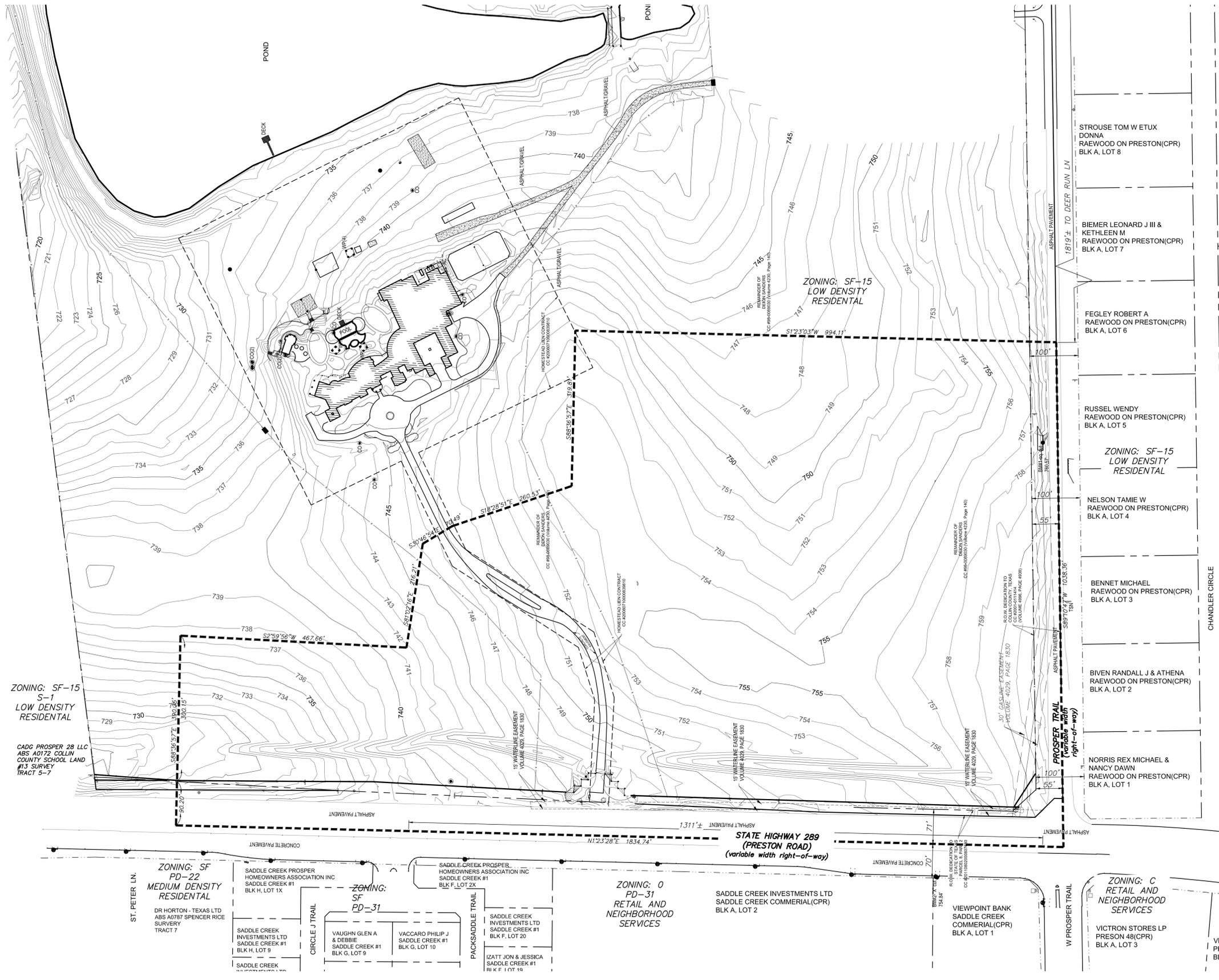
Chapter 1, Section 8.4(B) of the Zoning Ordinance states that if a proposal is denied by the Commission, the request shall not be forwarded to the Town Council unless the applicant requests an appeal to the Town Council. The applicant has requested an appeal in accordance with the Zoning Ordinance.

Town Staff Recommendation:

Town staff recommends the Town Council approve the request to rezone 33.2± acres, located on the northeast corner of Preston Road and Prosper Trail, from Single Family-15 (SF-15) to Planned Development-Retail (PD-R).

Proposed Motion:

I move to approve the request to rezone 33.2± acres, located on the northeast corner of Preston Road and Prosper Trail, from Single Family-15 (SF-15) to Planned Development-Retail (PD-R).



NOTE:
 THE THOROUGHFARE ALIGNMENT(S) SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DOES NOT SET THE ALIGNMENT. THE ALIGNMENT IS DETERMINED AT TIME OF FINAL PLAT.

LEGEND:
 - - - - - ZONING BOUNDARY

EXISTING ZONING	SF-15
PROPOSED ZONING	PLANNED DEVELOPMENT RETAIL
TOTAL GROSS	33.219 Ac
TOTAL NET	28.841 Ac.
FUTURE LAND USE	LOW DENSITY
PLAN DESIGNATION	RESIDENTIAL

- STROUSE TOM W ETUX DONNA RAEWOOD ON PRESTON(CPR) BLK A, LOT 8
- BIEMER LEONARD J III & KETHLEEN M RAEWOOD ON PRESTON(CPR) BLK A, LOT 7
- FEGLEY ROBERT A RAEWOOD ON PRESTON(CPR) BLK A, LOT 6
- RUSSEL WENDY RAEWOOD ON PRESTON(CPR) BLK A, LOT 5
- ZONING: SF-15 LOW DENSITY RESIDENTIAL**
- NELSON TAMIE W RAEWOOD ON PRESTON(CPR) BLK A, LOT 4
- BENNET MICHAEL RAEWOOD ON PRESTON(CPR) BLK A, LOT 3
- BIVEN RANDALL J & ATHENA RAEWOOD ON PRESTON(CPR) BLK A, LOT 2
- NORRIS REX MICHAEL & NANCY DAWN RAEWOOD ON PRESTON(CPR) BLK A, LOT 1

ZONING: SF-15 S-1 LOW DENSITY RESIDENTIAL
 CADG PROSPER 28 LLC ABS A0172 COLLIN COUNTY SCHOOL LAND #13 SURVEY TRACT 5-7

ZONING: PD-22 MEDIUM DENSITY RESIDENTIAL
 DR HORTON - TEXAS LTD ABS A0787 SPENCER RICE SURVEY TRACT 7

ZONING: SF PD-31
 VAUGHN GLEN A & DEBBIE SADDLE CREEK #1 BLK G, LOT 9
 VACCARO PHILIP J SADDLE CREEK #1 BLK G, LOT 10

SADDLE CREEK PROSPER HOMEOWNERS ASSOCIATION INC SADDLE CREEK #1 BLK F, LOT 1X
 SADDLE CREEK INVESTMENTS LTD SADDLE CREEK #1 BLK F, LOT 20
 IZATT JON & JESSICA SADDLE CREEK #1 BLK F, LOT 19

ZONING: 0 PD-31 RETAIL AND NEIGHBORHOOD SERVICES

SADDLE CREEK INVESTMENTS LTD SADDLE CREEK COMMERCIAL(CPR) BLK A, LOT 2

VIEWPOINT BANK SADDLE CREEK COMMERCIAL(CPR) BLK A, LOT 1

ZONING: C RETAIL AND NEIGHBORHOOD SERVICES
 VICTRON STORES LP PRESON 48(CPR) BLK A, LOT 3

CASE NO. Z14-0007
 EXHIBIT A - ZONING EXHIBIT
 KROGER TEXAS, L.P.
 1331 E. AIRPORT FREEWAY
 IRVING, TEXAS 75062
 COLLIN COUNTY SCHOOL LAND NO. 13 SURVEY, ABSTRACT NO. 172
 TOWN OF PROSPER
 COUNTY OF COLLIN

No.	DATE	REVISION	APPROVED
4.	6/13/14	4th CITY SUBMITTAL	M.B.
3.	5/9/14	3RD CITY SUBMITTAL	M.B.
2.	5/1/14	2ND CITY SUBMITTAL	M.B.
1.	4/14/14	1ST CITY SUBMITTAL	M.B.

Winkelmann & Associates, Inc.
 CONSULTING CIVIL ENGINEERS & SURVEYORS
 6720 HILLCREST PLAZA DRIVE, SUITE 325
 PROSPER, TEXAS 75080
 Phone: (972) 490-7090
 Fax: (972) 490-7099
 Texas Surveyors Registration No. 89
 Professional Seal: 100866-00
 Copyright © 2014, Winkelmann & Associates, Inc.

THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY MARIA C. SONIELLA-NICHOLS P.E. # 100106

PRELIMINARY - NOT FOR CONSTRUCTION

**EXHIBIT A - ZONING EXHIBIT
 SHOPS AT PROSPER TRAIL
 PROSPER, TEXAS**

EXHIBIT "B"

The Applicant intends to develop a shopping center anchored by a full service grocery store and will include 9 fuel pumps and kiosk. The store is currently planned to be approximately 123,000 square feet. In addition to the grocery store, the plan is to develop approximately 20,000 square feet of complimentary retail containing restaurants and typical service tenants such as a hair salon, coffee shop, dry clean "pick-up" station and other retail uses. Also, there are eight (8) planned outparcels which will contain a combination of national and regional retailers including banks, casual dining restaurants as well as established quick-service restaurants.

EXHIBIT C

PLANNED DEVELOPMENT RETAIL

Northeast Corner of Preston Road and Prosper Trail,
“The Shops at Prosper Trail”
Prosper, Texas
July 1, 2014

PLANNED DEVELOPMENT CONDITIONS

I. Statement of Effect: This property shall develop under the regulations of the Retail (R) District of the Town’s Zoning Ordinance as it exists or may be amended except as otherwise set forth herein.

II. Development Plans (Retail District):

1.0 Permitted Uses: Conditional development standards **(C)** must be met per the Zoning Ordinance, No. 05-20, as it exists, or may be amended. Uses that are permitted as a Specific Use shall be permitted with the approval of a specific use permit **(SUP)**.

List of permitted Uses:

1. Accessory Building
2. Administrative, Medical or Professional Office
3. Alcohol Beverage Sales **(C)**
4. Antique Shop
5. Artisan's Workshop
6. Auto Parts Sales, Inside
7. Bank, Savings and Loan, or Credit Union (with drive thru facilities)
8. Beauty Salon/Barber Shop
9. Bed and Breakfast Inn
10. Building Material and Hardware Sales, Major **(SUP)**
11. Building Material and Hardware Sales, Minor
12. Business Service
13. Caretaker's/Guard Residence
14. Civic /Convention Center
15. College, University, Trade or Private Boarding School
16. Commercial Amusement, Indoor
17. Community Center
18. Convenience Store with Gas Pumps as part of the shopping center (inclusive of a kiosk or convenience store) limited to one per zoning district. (see Section 2.4 for conditional development standards)

19. Day Care Center, Child **(C)**
20. Dry Cleaning, Minor
21. Farmer's Market
22. Feed Store
23. Furniture, Home Furnishings and Appliance Store
24. Governmental Office
25. Gunsmith
26. Gymnastics/Dance Studio
27. Health/Fitness Center
28. Homebuilder Marketing Center
29. House of Worship
30. Household Appliance Service and Repair
31. Insurance Office
32. Locksmith/Security System Company
33. Massage Therapy, Licensed
34. Municipal Uses Operated by the Town of Prosper
35. Museum/ Art Gallery
36. Nursery, Minor
37. Outdoor sales and display. subject to:
 - a. Designated Area as shown on Exhibit D
 - i. Within 25' of the main building of the big box user
 - ii. Within 10' of the fuel canopy and kiosk
 - b. Sidewalks cannot be blocked
 - c. Merchandise cannot impair ADA access, block doorways, driveways or fire lanes
 - d. Permitted merchandise shall be seasonal merchandise and may include but is not limited to Christmas trees, flowers, landscaping materials and outdoor furniture
 - e. Screening is not required.
38. Park or Playground
39. Pet Day Care as an accessory use **(C)**
40. Print Shop, Minor
41. Private Recreation Center
42. Private Utility, Other Than Listed
43. Restaurant or Cafeteria
44. Restaurant with a drive thru **(SUP)**
45. Restaurant , Drive-in **(SUP)**
46. Retail Stores and Shops
47. Retail/Service Incidental Use
48. School, Private or Parochial
49. School, Public
50. Stealth Antenna, Commercial **(C)**
51. Temporary Building **(C)**

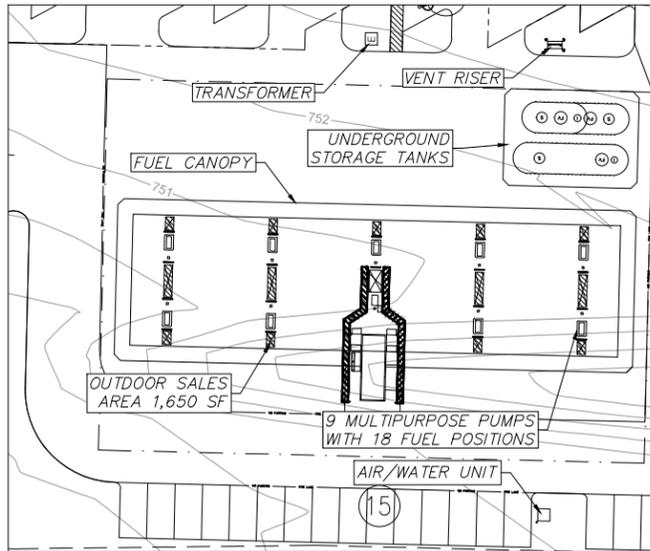
- 52. Theatre, Neighborhood
- 53. Utility Distribution/Transmission Facility **(SUP)**

- 2.0 Building: Unless otherwise specified below, the building standards in the Zoning Ordinance, as it exists or may be amended shall apply.
- 2.1 Elevations: Building Elevations shall substantially conform to the Concept Elevations provided in Exhibits F1, F2, F3 and F4. If Elevations for future retail or outparcel buildings are not provided in Exhibits F1 through F4, such additional site plans, façade elevations, roof profiles and landscape plans shall be required to be approved by the Town Council.
- 2.2 Building Materials in addition to the building materials permitted in Chapter 4, Section 8 of the Zoning Ordinance, as exists or may be amended, such materials shall also include Architectural Structural Block, under the trade name “Quik Brick” (a 4” manufactured concrete masonry unit) and cultured stone (manufactured) individually stacked, as provided in the building elevations Exhibits F1 through F4 which is a part herein.
- 2.3 Building Height: Buildings shall be a maximum of two (2) stories, not to exceed forty feet (40’) in height, excluding unoccupied architectural elements such as towers, parapets, cornices that may be up to 45 feet in height.
- 2.4 Convenience Store with Gas Pumps is subject to the following regulations:
 - a. Convenience Store with Gas Pumps is permitted only within two-hundred and fifty (250) feet of the right-of-way line of Preston Road;
 - b. Convenience Store with Gas Pumps is permitted at a maximum of one (1) location on the property;
 - c. Canopies shall have pitched roofs and use metal or tile consistent with other roofing in the shopping center;
 - d. Canopy support columns shall be entirely masonry encased; and
 - e. The canopy band face shall be a color consistent with the main structure or an accent color and may not be backlit.
 - f. Gas pumps shall be removed if permanently closed for more than six (6) months, including reclassification of fuel tanks per TCEQ Regulations.
- 2.5 Lighting: No site light poles shall be within 150’ of the residential property line across from residential property on the south side of Prosper Trail. Such light poles may be up to 29’ high. All site lighting shall be LED and have dimmers. All the lights poles on the portion of the property closest to Prosper Trail shall be shielded.
- 3.0 Landscaping: Unless otherwise specified below, the landscape regulations in the Town’s Zoning Ordinance, as it exists or may be amended, shall apply.
- 3.1 Preston Road - Tree plantings shall be provided at minimum rate of one tree of a minimum four (4) inch Caliper (at the time of planting) per thirty (30) lineal feet

on Lots 1, 2, 3 and 4. On all other parcels tree plantings shall be provided at minimum rate of one tree of a minimum four (4) inch Caliper (at the time of planting) per twenty five (25) lineal feet. Shrub plantings shall be provided at a minimum rate of 22.5 shrub plantings per thirty (30) lineal feet which shall be a minimum of five (5) gallon shrubs (at the time of planting). A berm of a minimum height of four (4) feet shall be provided within the landscape buffer along Preston Road. Trees may be grouped or clustered together to provide additional screening as an alternative to planting all at a specific distance between trees.

- 3.2 Prosper Trail. - Tree plantings shall be provided at a minimum rate of one tree of a minimum four (4) inch Caliper per twenty (20) linear feet. Shrub plantings shall be provided at a minimum rate of 20 ten (10) gallon shrubs per thirty (30) linear feet. A berm of a minimum height of four (4) feet shall be provided within the landscape buffer along Prosper Trail. Along the top of the berm, native grasses shall be planted pursuant to a plan that provides additional screening from the Prosper Trail right of way. Trees may be grouped or clustered together to provide additional screening as an alternative to planting all at a specific distance between trees.
- 3.3 Additional Landscaping The sidewalk in front of the big box on Lot 1 and the retail on Lot 5 shall have 1 tree planted for each 100 lineal feet. The trees shall be a minimum of 4" caliper and may be placed in planters.
- 4.0 Lot Frontage: Lots shall have a frontage onto a public street or a common public access drive. The common public access drive shall be dedicated as a public access, fire lane and utility easement.
- 5.0 Pad sites: The Development shall have a limit on single use parcels exclusive of Lots 1 and 2 pursuant to Exhibit D. Only Lots 3, 4, 6, 7 and 8 may be used for single-tenant buildings. All other Lots shall have retail buildings designed and built as multi-tenant buildings for office and retail use which will have materials and architectural designs consistent with the Preliminary Concept Designs as provided in Exhibit F.
- 6.0 Basket Cart Corrals: Galvanized pipe basket cart corrals shall not be permitted in parking field without approval of the Town Council.

FUEL CENTER

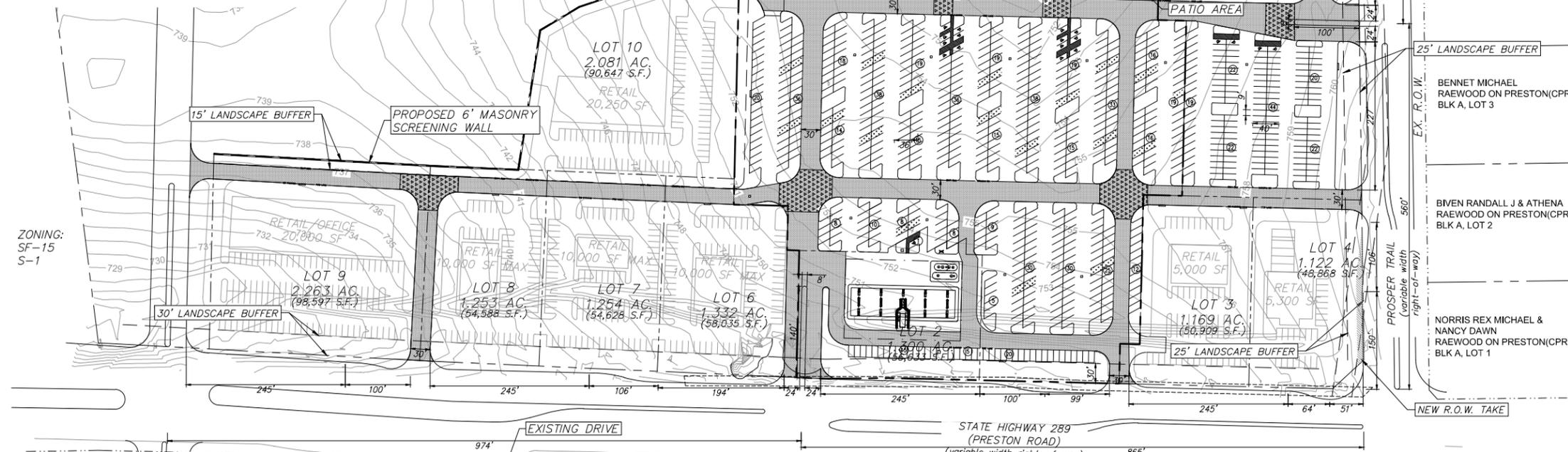


LOT NUMBER	ZONING	PROPOSED USE	LOT AREA (AC)	BUILDING AREA (SF)	BUILDING HEIGHT (FT)	LOT COVERAGE	FLOOR AREA RATIO	TOTAL PARKING REQUIRED (1:250)	TOTAL PARKING PROVIDED	HC PARKING REQUIRED	HC PARKING PROVIDED	INTERIOR LANDSCAPING REQUIRED (SF)	INTERIOR LANDSCAPING PROVIDED (SF)	SQUARE FOOTAGE OF IMPERVIOUS SURFACE (SF)
1	PD-RETAIL	GROCERY STORE	12.756	114,788	41'-8"	20.65%	0.21	460	551	12	14	83,346	89,124	482,152
1W/ EXPANSION	PD-RETAIL	GROCERY STORE	12.756	134,788	41'-8"	24.26%	0.24	540	551	12	14	83,346	89,124	482,152
2	PD-RETAIL	FUEL CENTER	1.300	180	-	1.41%	0.01	1	21	1	1	8,494	12,826	44,439
5	PD-RETAIL	RETAIL/OFFICE	4.299	45,000	-	11.60%	0.24	180	206	7	7	28,089	65,267	125,832

- PROPOSED FIRE LANE
- BASCART LOCATION
- TRAFFIC CALMING DEVICE TO MATCH FRONT OF FOOD STORE

EXISTING ZONING	SF-15
PROPOSED ZONING	PLANNED DEVELOPMENT RETAIL
TOTAL GROSS	33,219 AC.
TOTAL NET	28,841 AC.
FUTURE LAND USE PLAN DESIGNATION	LOW DENSITY RESIDENTIAL

- NOTE:
- THE THOROUGHFARE ALIGNMENT(S) SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DOES NOT SET THE ALIGNMENT. THE ALIGNMENT IS DETERMINED AT TIME OF FINAL PLAT.
 - NO 100-YEAR FLOODPLAIN EXISTS ON THE PROPERTY.
 - ALL DRIVEWAYS, TURN LANES, AND MEDIAN OPENINGS SHALL MEET THE TOWN OF PROSPER'S THOROUGHFARE DESIGN STANDARDS AND TxDOT STANDARDS.
 - ALL FIRE LANES TO MEET TOWN OF PROSPER FIRE LANE STANDARDS IN TERMS OF WIDTH AND PAVEMENT SECTION.



- CITY 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.

CASE NO. Z14-0007

EXHIBIT D - SITE PLAN

KROGER TEXAS, L.P.
1331 E. AIRPORT FREEWAY
IRVING, TEXAS 75062

COLLIN COUNTY SCHOOL LAND NO. 13 SURVEY, ABSTRACT NO. 172
TOWN OF PROSPER
COUNTY OF COLLIN

Winkelmann & Associates, Inc.
CONSULTING CIVIL ENGINEERS SURVEYORS
8700 HILLCREST PLAZA DR., SUITE 325
FARMERS BRANCH, TEXAS 75426-0300
(972) 466-7800
(972) 466-1999 FAX
CORPORATE OFFICE: 2014, Winkelman & Associates, Inc.

THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY MARIA G. BONILLA-NICHOLS P.E. # 100106

PRELIMINARY - NOT FOR CONSTRUCTION

EXHIBIT D - SITE PLAN
SHOPS AT PROSPER TRAIL
PROSPER, TEXAS

2

REVISIONS

NO.	DATE	REVISION
1.	4/14/14	M.B. 1ST CITY SUBMITTAL
2.	5/1/14	M.B. 2ND CITY SUBMITTAL
3.	5/9/14	M.B. 3RD CITY SUBMITTAL
4.	6/13/14	M.B. 4TH CITY SUBMITTAL
5.	6/24/14	M.C.D. SITE PLAN REVISIONS
6.	6/25/14	M.C.D. SITE PLAN REVISIONS
7.	07/01/14	M.C.D. SITE PLAN REVISIONS

LAST SAVED BY: SHUBACH June 25, 2014



CONSULTING CIVIL ENGINEERS * SURVEYORS
 6750 HILLCREST PLAZA DR., STE. 325
 DALLAS, TX 75230 (972) 490-7090 FAX (972) 490-7099

EXHIBIT E

PROJECTED DEVELOPMENT SCHEDULE

Shops at Prosper Trail

07/01/14

Kroger will give notice to proceed (NTP) to go out to bid. Weeks from NTP

a. Send bid documents out to bid	1 week
b. Receive Bids	4 week
c. Award Site Work Contract	8 week
d. Complete Pad	20 weeks
e. Provide temporary power and all weather access roads to the Kroger pad. and staging area	20 weeks
f. Provide fire lanes for Kroger building and Fuel Station	23 weeks

Items to be completed from Pad delivery

weeks

g. Paving complete	10 weeks
h. Provide permanent power	8 weeks
i. Monument/ Pylon signs	12 weeks

Items to be completed prior to the fuel center opening

weeks

j. Striping Critical to open Fuel center	-3 week
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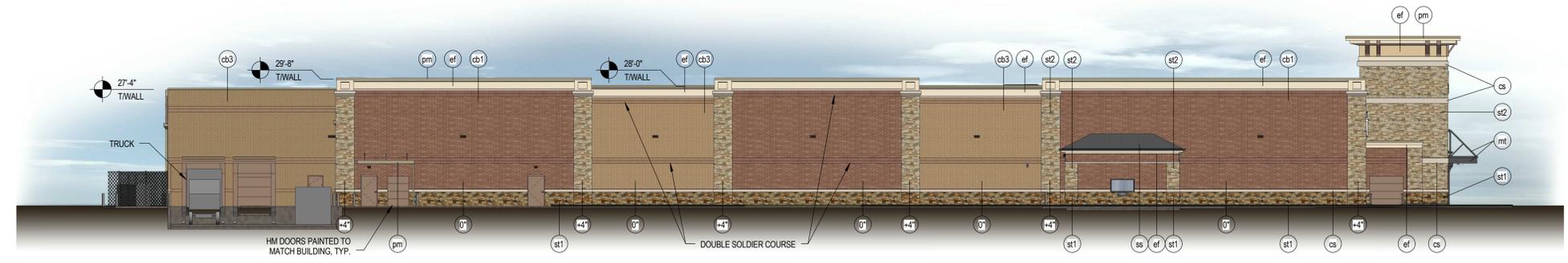
Items to be completed prior to Kroger Grand Opening

weeks

k. Kroger Opening	0
l. Landscaping	- 8 weeks
m. Striping	- 6 weeks
n. NOT	-4 weeks
o. Site work 100% punched out	- 4 weeks



WEST ELEVATION



NORTH ELEVATION

Facade Plan Checklist

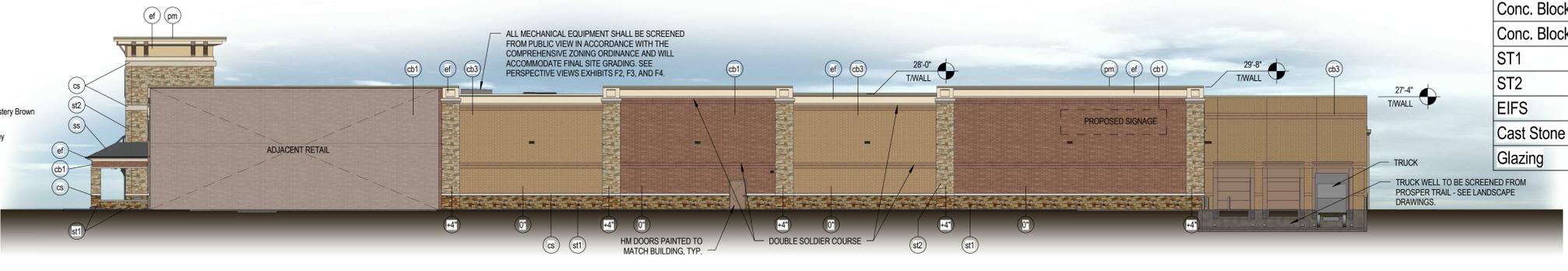
- "This Facade Plan is for conceptual purposes only. All building plans require review and approval from the Building Inspection Division"
- "All mechanical equipment shall be screened from public view in accordance with the Comprehensive Zoning Ordinance"
- "When permitted, exposed utility boxes and conduits shall be painted to match the building"
- "All signage areas and locations are subject to approval by the Building Inspection Department"
- "Windows shall have a maximum exterior visible reflectivity of ten (10) percent."



EAST ELEVATION

	Material Percentages			
	North	West	South	East
Conc. Block	59.6%	43.6%	71.2%	63.1%
Conc. Block - Split Face	0.0%	0.0%	0.0%	22.4%
ST1	8.8%	8.6%	6.9%	5.9%
ST2	11.0%	13.3%	7.5%	4.9%
EIFS	7.8%	10.0%	7.2%	0.5%
Cast Stone	2.8%	3.8%	1.8%	1.0%
Glazing	0.2%	12.3%	0.0%	0.0%

- FINISH SCHEDULE**
- st1 Concrete Stone Veneer Texas Stone Design Inc - Palo Pinto Cobble
 - st2 Concrete Stone Veneer Texas Stone Design Inc - Granbury Cobble
 - cb1 Architectural Concrete Block Oldcastle - Quik Brik - Timberland w/ Red Flash - 4"
 - cb2 Architectural Concrete Block Oldcastle - Quik Brik - Timberland w/ Red Flash - 4" split
 - cb3 Architectural Concrete Block Oldcastle - Quik Brik - Autumn Blend w/ Flash - 4"
 - cb4 Architectural Concrete Block Oldcastle - Quik Brik - Autumn Blend w/ Flash - 4" split
 - cs Cast Stone Siteworks - Natural
 - ef Reinforced E.I.F.S. Dryvit - Oyster Shell / Monastery Brown
 - me Exposed Metal Paint to match Charcoal Grey
 - pm Metal Coping Bertridge - Sierra Tan
 - sf Clear Anodized Aluminum
 - ss Standing Seam Metal Roof Bertridge - Charcoal Grey
 - g Glazing Grey Tint
 - mr Mortar Amerimix - Light Tan



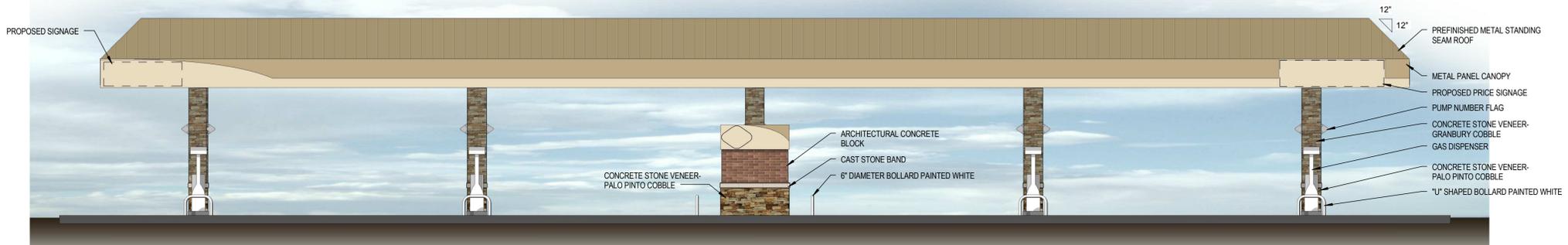
SOUTH ELEVATION

EXHIBIT F1 - CONCEPT ELEVATIONS

July 1, 2014

Prosper, TX
513501.10





WEST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION



EAST ELEVATION

ALL MECHANICAL EQUIPMENT SHALL BE SCREENED FROM PUBLIC VIEW IN ACCORDANCE WITH THE COMPREHENSIVE ZONING ORDINANCE AND WILL ACCOMMODATE FINAL SITE GRADING.

- Facade Plan Checklist**
- "This Facade Plan is for conceptual purposes only. All building plans require review and approval from the Building Inspection Division"
 - "All mechanical equipment shall be screened from public view in accordance with the Comprehensive 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 Inspection Department"
 - "Windows shall have a maximum exterior visible reflectivity of ten (10) percent."

Material Percentages				
	North	South	East	West
Architectural Concrete Block	4.62%	6.58%	0.00%	2.06%
Metal Roof	34.42%	34.42%	48.88%	48.88%
Metal Canopy	34.93%	34.93%	37.28%	37.28%
Stone-1	9.47%	11.47%	3.50%	3.50%
Stone-2	9.46%	9.46%	8.50%	7.50%
Cast Stone	2.65%	2.65%	0.84%	0.84%
Glass	3.44%	3.44%	2.10%	0.00%

EXHIBIT F2 - CONCEPT FUEL CENTER ELEVATIONS

July 1, 2014

Prosper, TX
513501.10





④ LOT 5 - NORTH ELEVATION
3/32" = 1'-0"



③ LOT 5 - EAST ELEVATION
3/32" = 1'-0"



① LOT 5 - SOUTH ELEVATION
3/32" = 1'-0"



② LOT 5 - WEST ELEVATION
3/32" = 1'-0"



EXHIBIT F3 - CONCEPT ELEVATIONS

July 1, 2014

Prosper, TX
900514.B1

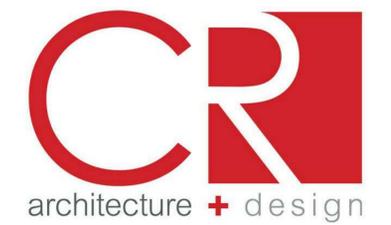




EXHIBIT F4 - CONCEPT PERSPECTIVES

July 1, 2014

Prosper, TX
900514.B1



SF-12.5

SF-15

SF-10/15
PD-22

ST. PETER LN

CIRCLE J TRL

SF
PD-31

SF
PD-31

PACKSADDLE TRL

PARADA PL

CLIPSTON DR

SF
PD-31

SADDLE CREEK DR

○
PD-31

N PRESTON RD

Z14-0007

SF-15

A

DOUBLE B TRL

E PROSPER TRL

R
PD-46

R
PD-55

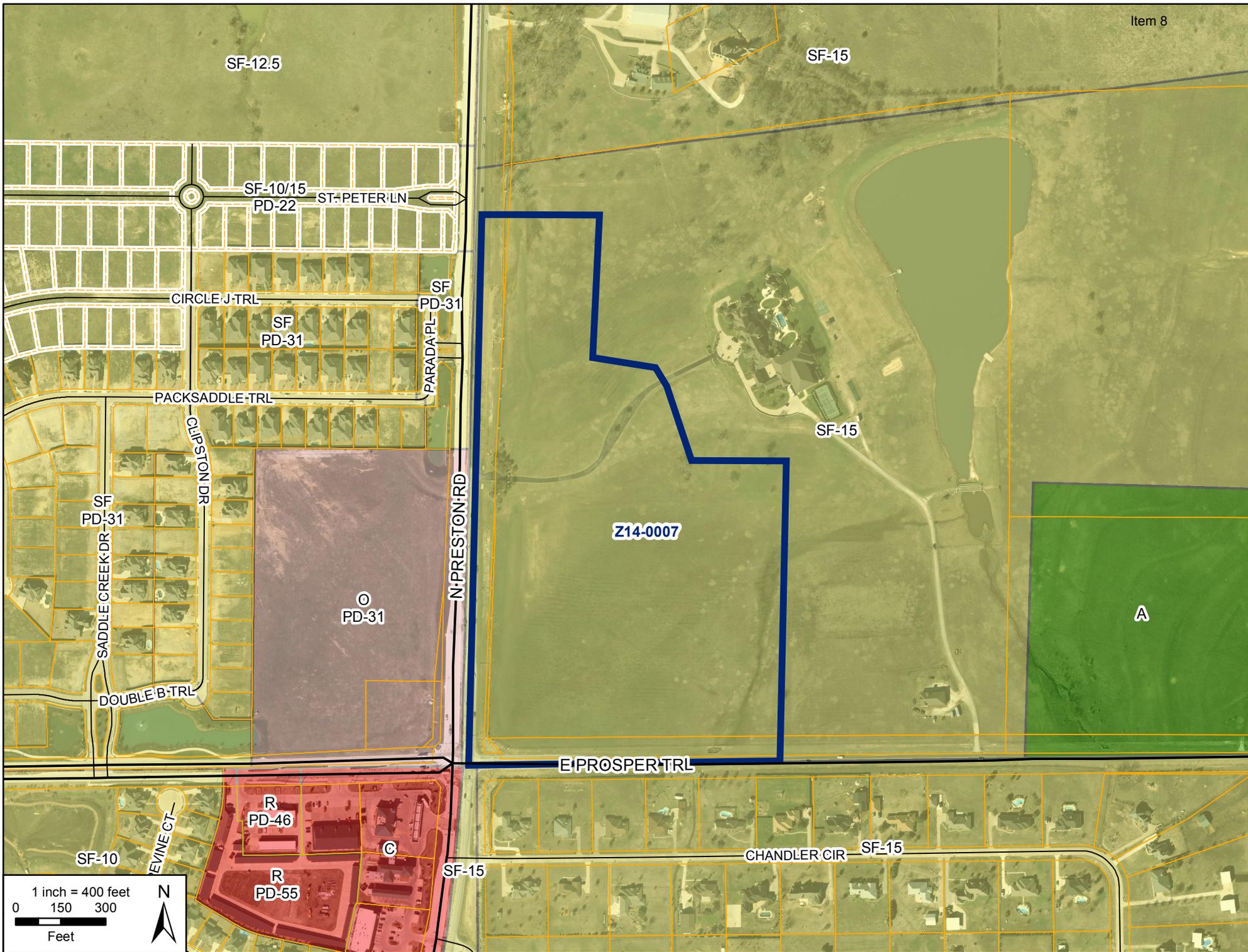
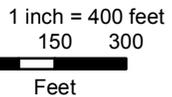
C

SF-15

CHANDLER CIR SF-15

SF-10

EVINE CT





Prosper is a place where everyone matters.

DEVELOPMENT SERVICES

DEPARTMENT
P.O. Box 307
Prosper, TX 75078
Phone: 972-346-3502
Fax: 972-347-2842

REPLY FORM

SUBJECT:

Zoning Case Z14-0007: The Town of Prosper has received a request to rezone 33.2± acres from Single Family-15 (SF-15) to Planned Development-Retail (PD-R). The Planning & Zoning Commission denied the request by a vote of 6-1 on June 3, 2014.

LOCATION OF SUBJECT PROPERTY:

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DESCRIPTION OF THE REQUEST:

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Form with checkboxes for 'I OPPOSE' and 'I DO NOT OPPOSE' the request, and a handwritten comment: 'I still oppose the zone change. I do NOT WANT RETAIL IN MY BACK YARD! That is why I moved to Prosper 14 years ago! Traffic is bad enough on Preston Road!'

Name (please print) Rex M Morris Nancy D. Morris

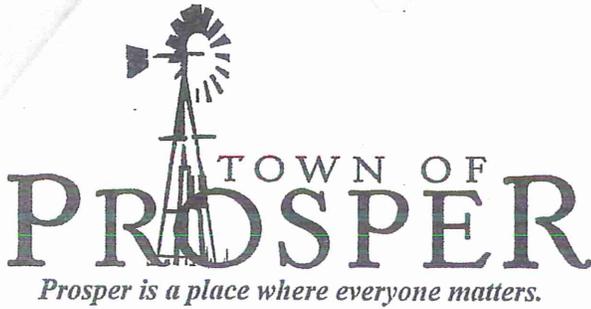
Signature [Handwritten Signature]

Address 1201 Chandler Circle

Date 6/14/14

City, State, and Zip Code Prosper, TX 75078

E-mail Address nd.norris@gmail.com



DEVELOPMENT SERVICES
DEPARTMENT
P.O. Box 307
Prosper, TX 75078
Phone: 972-346-3502
Fax: 972-347-2842

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- I **OPPOSE** the request as described in the notice of public hearing.
- I **DO NOT OPPOSE** the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): _____

Nancy D. Norris
Name (please print)

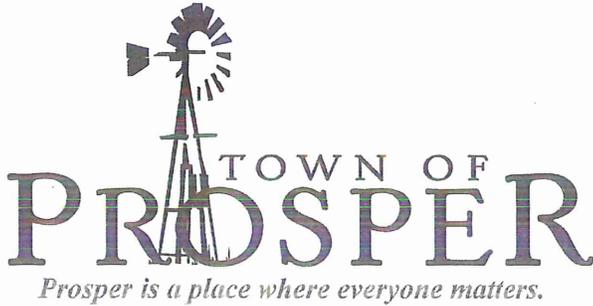
Nancy D. Norris
Signature

1201 Chandler Circle
Address

5/20/14
Date

Prosper, TX 75078
City, State, and Zip Code

nd.norris@gmail.com
E-mail Address



DEVELOPMENT SERVICES
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- I **OPPOSE** the request as described in the notice of public hearing.
- I **DO NOT OPPOSE** the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY)

Will decrease nearby Property values, i.e. my house.
Unattractive, will bring bad elements is unnecessary due to other planned stores.
Will bring a lot of traffic & noise.
Will not vote for any council member approving this!!!

Randy Bivens
 Name (please print)

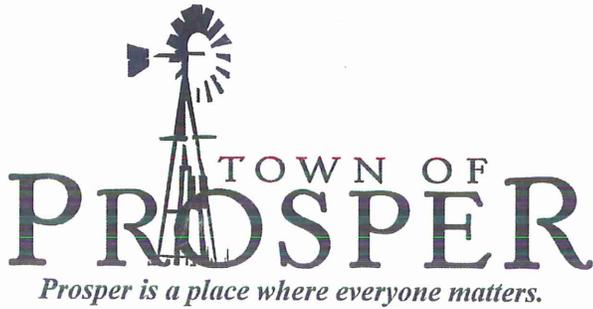
Randy Bivens
 Signature

1203 Chandler Cir
 Address

2/18/14
 Date

Prosper, TX 75078
 City, State, and Zip Code

RIBTexas@hotmail.com
 E-mail Address



DEVELOPMENT SERVICES
DEPARTMENT
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- I **DO NOT OPPOSE** the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY):

3 Shopping Centers in Prosper are not needed. The other Kroger at 380 & 423 is sufficient along with the Walmart at 380 & other nearby communities. Goes against Master Plan of no more than 2 commercial corners. Kills our residential feel & unsightly.

Randy & Athena Rivers
 Name (please print)

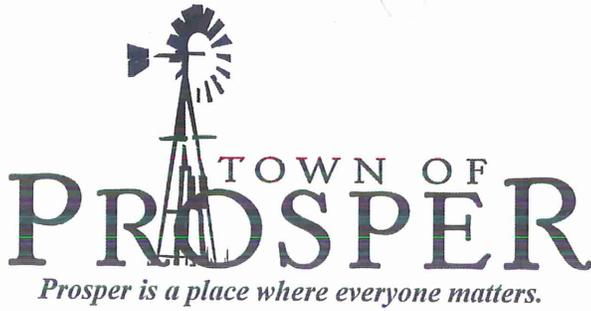
Randy Rivers Athena Rivers
 Signature

1203 Chandler Cir
 Address

5/31/14
 Date

Prosper, TX 75078
 City, State, and Zip Code

RIBTEXAS@hotmail.com
 E-mail Address
ALBANIA75075@hotmail.com



**DEVELOPMENT SERVICES
DEPARTMENT**
P.O. Box 307
Prosper, TX 75078
Phone: 972-346-3502
Fax: 972-347-2842

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COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): _____

Michael Bennett
 Name (please print)

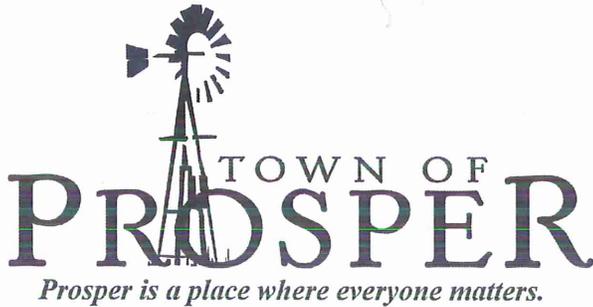
[Signature]
 Signature

1205 Chandler Cir
 Address

5/20/14
 Date

Prosper TX 75078
 City, State, and Zip Code

justluc1@yahoo.com
 E-mail Address



DEVELOPMENT SERVICES

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- I **DO NOT OPPOSE** the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): _____

Tamie W Nelson

Name (please print)

Tamie W Nelson

Signature

1207 Chandler Circle

Address

5/14/14

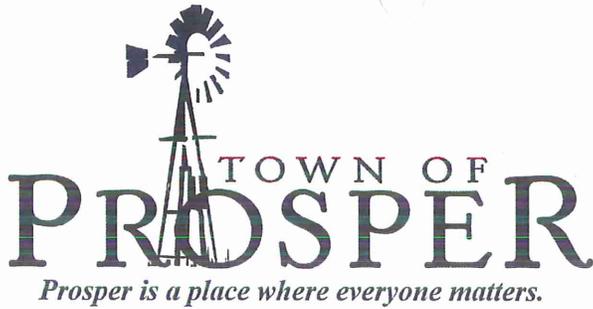
Date

Prosper, TX 75078

City, State, and Zip Code

tamiew@yahoo.com

E-mail Address



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DEPARTMENT**
P.O. Box 307
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- I **DO NOT OPPOSE** the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): _____

DO NOT WANT !!!

Wendy Russell
Name (please print)

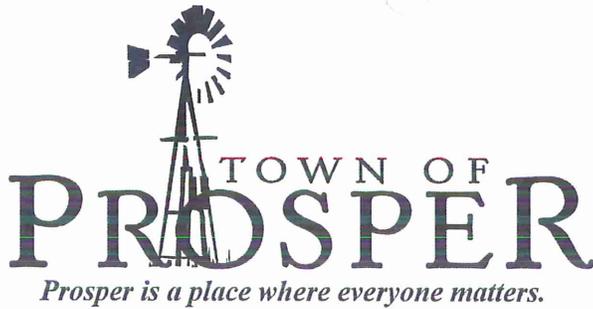
Wendy Russell
Signature

1209 Chandler Circle
Address

5/20/2014
Date

Prosper TX 75078
City, State, and Zip Code

rickandwendyle39@sbcglobal.net
E-mail Address



DEVELOPMENT SERVICES
DEPARTMENT
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 Prosper, TX 75078
 Phone: 972-346-3502
 Fax: 972-347-2842

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- I **OPPOSE** the request as described in the notice of public hearing.
 I **DO NOT OPPOSE** the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): We're concerned about
the dramatic increase of traffic on Prosper Trail, devaluation
of our property, disruption of skyline, worried about
commercial expansion along Prosper Trail behind Kroger

Kathleen & Leonard Biemer
 Name (please print)

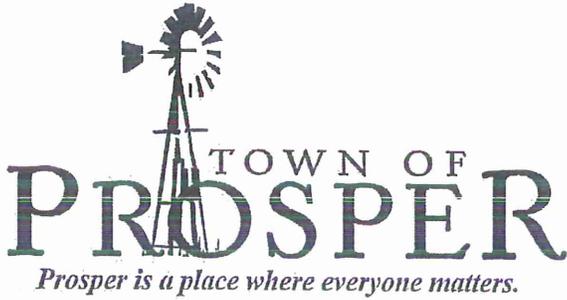
 Signature

1213 Chandler Circle
 Address

May 16, 2015
 Date

Prosper, TX 75078
 City, State, and Zip Code

Kbiemer@gmail.com
 E-mail Address



DEVELOPMENT SERVICES

DEPARTMENT
P.O. Box 307
Prosper, TX 75078
Phone: 972-346-3502
Fax: 972-347-2842

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- I **DO NOT OPPOSE** the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): See Attached Email

BRAD T BURNS
Name (please print)

Brad T Burns
Signature

6900 DALLAS PARKWAY #780
Address

5/19/14
Date

PLANO, TX 75024
City, State, and Zip Code

BBURNS9771@AOL.COM
E-mail Address

Alex Glushko

Subject: FW: Town of Prosper Zoning
Attachments: Town of Prosper Zoning.pdf

From: Brad T. Burns [mailto:bburns9771@aol.com]
Sent: Monday, May 19, 2014 3:04 AM
To: Chris Copple
Cc: Brad Burns
Subject: Fwd: Town of Prosper Zoning

Chris:

See attached below the signed form that shows my "oppose" to the rezoning of the Deion tract from residential to commercial. The comments to be attached to the signed form are found in this email. Please attach this email to my signed form when you print the same.

I oppose the Zoning Case Z14-0007 for the following reasons:

1. I oppose the size of the tract being 33 ac. I suggest the size be reduced by not allowing the 7 ac. of pad sites along Preston Rd. being pad sites designated Lots 7, 8, 9, 10, & 11. This would reduce the overall size of the commercial tract making it less dense and reduce traffic in and out of the retail corner. These additional pad sites severely impact the residential houses existing in Saddle Creek at our Preston Rd entry and hinders the marketability and sale of the remaining lots which do not have houses build on them yet. There has always been an understanding by all Saddle Creek owners that the Deion tract would be developed as currently zoned which is residential. No existing or future homeowner anticipated looking across Preston Rd at free standing commercial buildings. These additional pad sites should not be allowed.
2. I oppose the size of the tract being 33 ac because when I went to obtain my commercial zoning I was held to a 15 ac tract size and was told I could not have anything larger. I now call upon P&Z and the City Council to be fair and righteous in restricting the requested 33 ac commercial site to something more in line with what I was restricted to have. To approve anything larger puts me at a disadvantage to compete with the marketability of this requested size of commercial tract.
2. I oppose the 2 ac site being Lot 12 and suggest it be denied. This will reduce the over scale of the rezone to reduce traffic impact and keep more residential as is the current zoning.
3. I strongly oppose the designated Lot 2 which shows a full service gas station. This will impact my high end existing site plan to develop quality office/retail and resturant sites which will have to face the gas station across the street. A gas station will make it more difficult to attract and market high end users. Also, my commercial tract has several restrictions one of which is a gas station. When I got my commercial corner zoned I was told the only gas station to go at this intersection was the existing one on the southwest corner and I was not allowed to have a gas station facility. I was told no other gas stations would be allowed at this intersection. It is now only fair and right for the P&Z and City Council to honor that restriction to uphold the integrity of the intersection. I will fight the approval of this gas station. The planned grocery store does not have to have a gas station. If the city feels compelled to approve of the gas station, I strongly recommend a required high landscape berm that will hide/disguise the gas station from being visible from the planned retail and residential houses of the Saddle Creek Development.

4. The Saddle Creek commercial PD zoning has many restrictions of users which are not allowed including drive-thru facilities. I oppose any retail zoning that gives the Deion tract any preferential retail zoning while my commercial tract retains many restrictions. This will give the Deion commercial tract an advantage to potential users that are not allowed on my tract.

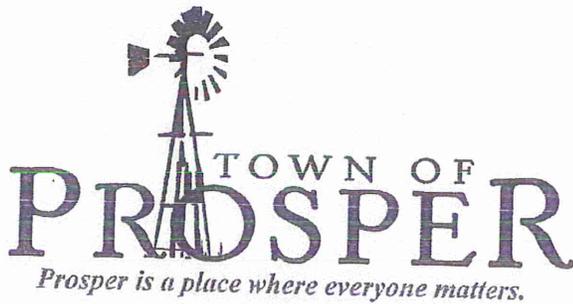
I do not mind some commercial rezone of this corner or the potential for the planned grocery store but the overall scale can be and should be reduced in size. It is the developers choice to put this large scale grocery on the northeast corner, but the P&Z and City Council should not allow all the additional bells and whistles that are being asked for to increase the size of the commercial rezone to 33 ac. All the additional pad sites and the gas station site are not necessary for a reasonable size grocery store and some additional retail space to go on the site.

I suggest the P&Z approve some substantially reduced commercial site than what is being asked for by the developer.

I respectfully submit these comments.

Brad Burns

Brad T. Burns
6900 Dallas Parkway
Suite 780
Plano, TX 75024

**DEVELOPMENT SERVICES****DEPARTMENT**

P.O. Box 307
Prosper, TX 75078
Phone: 972-346-3502
Fax: 972-347-2842

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- I OPPOSE the request as described in the notice of public hearing.
 I DO NOT OPPOSE the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY):

*Prefer the Bedroom
 Community look + don't want to have parking
 lot lights staying shining during even hours
 lighting up the rooms & area.*

Valerie Hansen / Michael Hansen
 Name (please print)

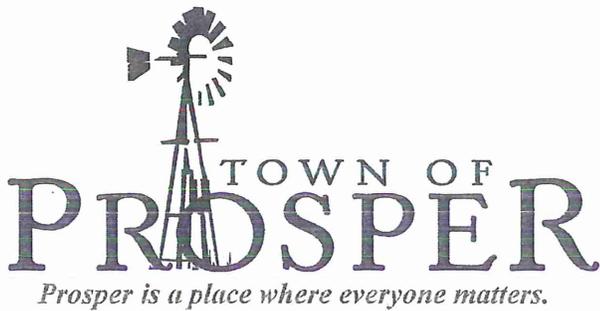
Valerie Hansen / Michael Hansen
 Signature

1222 Chandler Circle
 Address

6/23/2014
 Date

Prosper, TX 75078
 City, State, and Zip Code

valerie.hansen@hp.com
 E-mail Address

**DEVELOPMENT SERVICES**

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 I **DO NOT OPPOSE** the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): INDIVIDUALS PLAN AND PURCHASE HOMES, BASED ON THE ZONING AT TIME OF PURCHASE. NOW YOU WANT TO CHANGE ALL OF THAT. A VERY DRAMATIC CHANGE, AND CURRENT PROPERTY OWNERS ARE FORCED TO LIVE WITH YOUR NEW DECISIONS. IT IS NOT RIGHT.

Robert Weeks

Name (please print)

Robert Weeks

Signature

1253 Chandler Cir.

Address

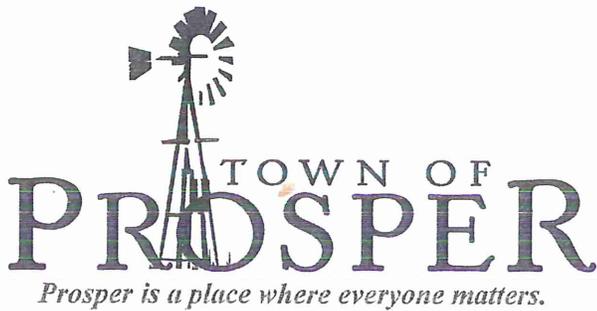
June 22, 14

Date

Prosper TX 75078

City, State, and Zip Code

E-mail Address

**DEVELOPMENT SERVICES****DEPARTMENT**

P.O. Box 307

Prosper, TX 75078

Phone: 972-346-3502

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- I **DO NOT OPPOSE** the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY):

This was never in the original master plans for Prosper. We would like to keep small town feel. We already have 6 gas stations on Preston. In fact, not necessary to have another across from each other & what that all brings to our residents!

Theresa Hanoski
Name (please print)

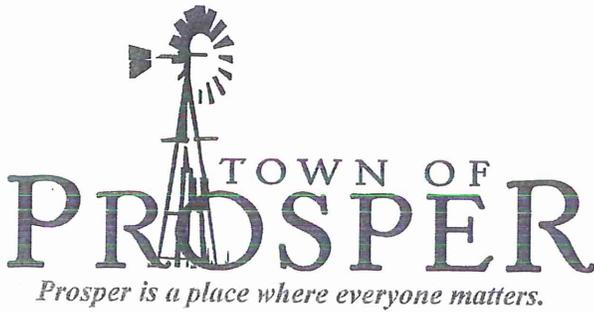
Theresa Hanoski
Signature

1263 Chandler Cr.
Address

6-19-14
Date

Prosper, TX 75078
City, State, and Zip Code

alterhan@Flash.Net
E-mail Address



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- I **DO NOT OPPOSE** the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): _____

Phyllis Wilder
Name (please print)

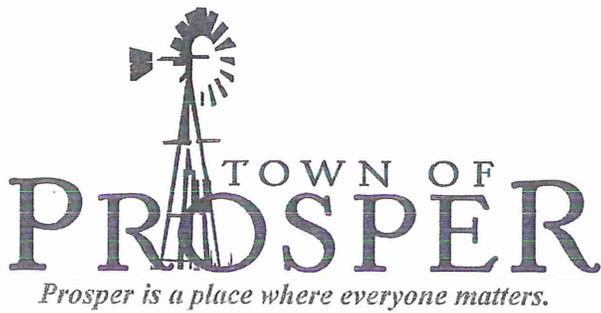
Phyllis Wilder
Signature

1201 Circle J Trail
Address

6-19-14
Date

Prosper 75078
City, State, and Zip Code

plwhite60@yahoo.com
E-mail Address



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DEPARTMENT**
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 I **DO NOT OPPOSE** the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): I believe the town of Prosper is better off keeping it zoned residential. Which is how it was zoned when we purchased our home in Saddle Creek.
Thanks

Nicholas White

Name (please print)

1211 Circle J Trail

Address

Prosper, TX 75078

City, State, and Zip Code

Nicholas White

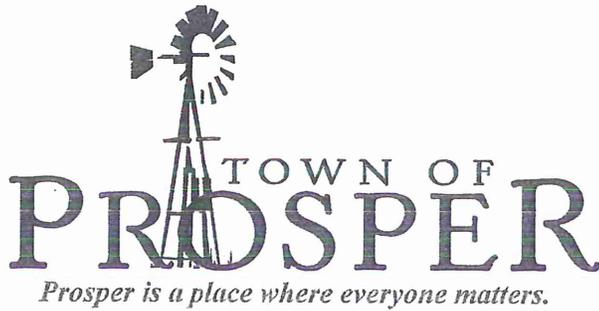
Signature

6/19/14

Date

nickw2285@aol.com

E-mail Address



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- I **OPPOSE** the request as described in the notice of public hearing.
 I **DO NOT OPPOSE** the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): We live directly across from this land - it is the view from our home. We bought our home 5 months ago and confirmed this land would be residential. We feel retail will reduce our property value and change the feel for our neighborhood.

Jon & Jessica Izatt

Name (please print)

Signature

1300 Packsaddle Trl.

Address

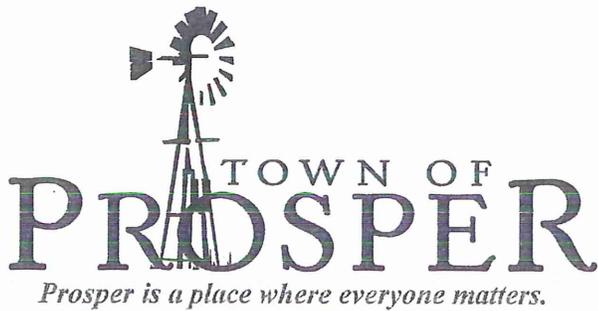
Date

Prosper, TX 75078

City, State, and Zip Code

E-mail Address

6/17/14
jessicaizatt@gmail.com

**DEVELOPMENT SERVICES**

DEPARTMENT
 P.O. Box 307
 Prosper, TX 75078
 Phone: 972-346-3502
 Fax: 972-347-2842

REPLY FORM**SUBJECT:**

Zoning Case Z14-0007: The Town of Prosper has received a request to rezone 33.2± acres from Single Family-15 (SF-15) to Planned Development-Retail (PD-R). The Planning & Zoning Commission denied the request by a vote of 6-1 on June 3, 2014.

LOCATION OF SUBJECT PROPERTY:

The property is located on the northeast corner of Preston Road and Prosper Trail.

DESCRIPTION OF THE REQUEST:

The proposed Planned Development shall generally develop in accordance with the Retail District outlined in the Town's Zoning Ordinance. The Retail District provides locations for various types of general retail and service uses for one (1) or more neighborhoods. Developments within a Retail District should utilize established landscape and buffering requirements and be limited to two (2) stories in height.

- I **OPPOSE** the request as described in the notice of public hearing.
 I **DO NOT OPPOSE** the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): the proposed Planned Development will damage our home values. there are plenty of (already zoned) commercial areas for developers to invest in. Thank you for protecting prosper residents.

Also, Against ordinance: would be too close to Prosper High School.

RICARDO GRIFFIN & STELLA

Name (please print)

PEREZ

Signature

[Handwritten Signature]

1260 CLIPSTON DR.

Address

Date

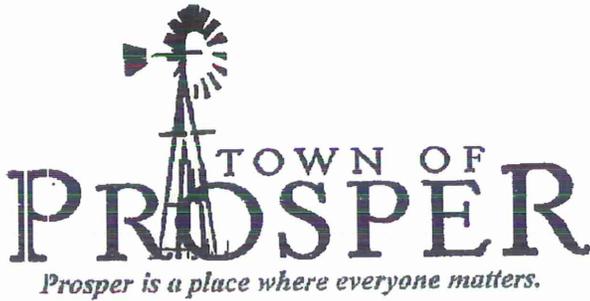
06.18.2014

PROSPER, TX, 75078

City, State, and Zip Code

E-mail Address

griffinstella@yahoo.com



DEVELOPMENT SERVICES
DEPARTMENT
P.O. Box 307
Prosper, TX 75078
Phone: 972-346-3502
Fax: 972-347-2842

REPLY FORM

SUBJECT:

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I OPPOSE the request as described in the notice of public hearing.
 I DO NOT OPPOSE the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): _____

George S. Manning
Name (please print)

Signature

1300 Clipston DR.
Address

6-18-14
Date

Prosper, TX 75078
City, State, and Zip Code

ZRIDICM@aol.com
E-mail Address



June 9, 2014

Mr. Chris Copple
Director of Development Services
Town of Prosper
P.O. Box 307
Prosper, TX 75078

RE: Appeal of Planning & Zoning Commission Vote
33.2 acres
Zoning Case Z14-0007

Dear Mr. Copple;

Pursuant to Town of Prosper ordinances, the applicant in the above referenced zoning case requests an appeal to the Town Council with regard to the denial of a recommendation to approve a zoning change for a 33.2+/- acre tract at the northeast corner of Prosper Trail and Preston Road, which vote occurred at the regularly scheduled Planning & Zoning meeting on June 3, 2014.

We request that such appeal be scheduled, noticed and considered at the Town Council meeting scheduled for June 24, 2014.

Please let me know if there is anything additional you will need for this appeal.

Thank you.

Sincerely,

MQ Realty, LLC

A handwritten signature in blue ink, appearing to read 'DL Silverman', is written over a horizontal line.

Donald L. Silverman
Managing Partner



PLANNING

To: Mayor and Town Council
From: Chris Copple, AICP, Director of Development Services
Through: Harlan Jefferson, Town Manager
Re: Town Council Meeting – July 8, 2014

Agenda Item:

Conduct a Public Hearing, and consider and act upon a request to rezone 80.7± acres, located on the southeast corner of Dallas Parkway and Frontier Parkway, from Single Family-15 (SF-15) to Planned Development-Single Family/Retail (PD-SF/R). (Z14-0006).

History:

At the June 24, 2014 Town Council meeting, this item was tabled as requested by the applicant.

Description of Agenda Item:

The zoning and land use of the surrounding properties are as follows:

	Zoning	Current Land Use	Future Land Use Plan
Subject Property	Single Family-15	Undeveloped	Medium Density Residential and Tollway District
North	City of Celina	Undeveloped	City of Celina
East	Agricultural	Town of Prosper Community Park (Frontier Park)	Medium Density Residential
South	Planned Development-8-Single Family-10 and Commercial Corridor	Single Family Residential (Lakes of Prosper North) and Undeveloped	Medium Density Residential and Tollway District
West	Commercial	Undeveloped	Tollway District

Requested Zoning – Z14-0006 is a request rezone 80.7± acres, located on the southeast corner of Dallas Parkway and Frontier Parkway, from Single Family-15 (SF-15) to Planned Development-Single Family/Retail (PD-SF/R). The PD-SF/R regulations are attached.

The proposed PD-SF/R District allows for the development of 114 single family residential lots on 45.6± acres and retail uses on 35.2± acres.

The proposed PD-SF standards that vary from straight SF-12.5 zoning are:

1. *Lot Size* – The PD allows single family lots within 300 feet of the perimeter of Tract 2 to be developed in accordance with the SF-10 district standards provided the overall single family residential density does not exceed 2.5 dwelling units per acre.
2. *Fencing* – The PD requires fencing adjacent to open space, parks, or floodplain to be ornamental metal. In addition to complying with the Town's fence ordinance, the PD requires all wooden fencing to be cedar, board-on-board with a top rail; for the development to establish a common stain color; and for fences to be located at least 10 feet behind the front elevation of the main building. The Town's fence ordinance does not require the wood fencing to be board-on-board with a top rail; for the development to establish a common stain color; or for fences to be located at least 10 feet behind the front elevation of the main building.
3. *Detention Areas* – The PD requires all detention areas to be developed as an amenity with upgrades such as landscaping, trees, trails, benches, etc., and/or as a wet detention pond (constant water level) with a fountain.
4. *Exterior Lighting* – The PD requires all homes to provide an exterior lighting package to illuminate front entrances, landscaping and trees located in the front yard and garages. These standards exceed those in the Zoning Ordinance.

The proposed PD also allows for approximately 35.2± acres of retail uses at the southeast corner of Dallas Parkway and Frontier Parkway, as shown on Exhibit A. The PD-R standards generally conform to straight Retail zoning standards. The PD-R standards allow for hotels and theaters as added permitted uses by right, and automobile sales, motorcycle sales, and research and development centers with approval of a Specific Use Permit (SUP). Hotels, office buildings, and hospitals are allowed to be a maximum height of eight stories, no greater than 100 feet, and all other uses shall have a maximum height of two stories, no greater than 40 feet. As noted on page 55 of the Comprehensive Plan, which is attached, the character of the Tollway District should include preferred uses such as office space, retail uses, and business parks, while uses such as auto sales centers were considered less desired and uncharacteristic of the Tollway District. Therefore, Town staff does not support the proposed automobile and motorcycle sales uses.

The proposed Exhibit D attached to the PD request does not include a Conceptual Development Plan, but instead requires that a Conceptual Development Plan be approved in the future by Town Council, with a recommendation by the Planning & Zoning Commission. The Conceptual Development Plan is required prior to the submittal of any development application and is only required for the general area within which development is proposed to occur, and any plans for development will be required to meet a list of criteria to ensure conformance with an approved Conceptual Development Plan.

Future Land Use Plan – The Future Land Use Plan (FLUP) recommends Medium Density Residential and Tollway District uses for the property. The FLUP recommends a maximum density of 2.5 dwelling units per acre and a minimum lot size no less than 12,500 square feet in areas designated for Medium Density Residential and a diverse mixture of office, retail, and high density residential uses in the Tollway District.

The proposed PD-SF/R District allows for the development of 114 single family residential lots on 45.6± acres and retail uses on 35.2± acres. While the rezoning request decreases the minimum lot size currently allowed in the SF-15 district from 15,000 square feet to a combination of 12,500 square foot and 10,000 square foot minimum lots, the proposed maximum density is 2.5 dwelling units per acre, which complies with the recommended density of the Medium Density Residential district. The property is also located adjacent to the Lakes of Prosper North, which includes a mixture of 9,000 square foot and 10,000 square foot lots, and Frontier Park, which includes lighted athletic fields. The applicant is requesting the 10,000 square foot lots to serve as a buffer to these existing conditions. The proposed retail uses conform to the FLUP, subject to Town staff's recommendation to delete Automobile Sales/Leasing, New, with pre-owned sales as an accessory use only, and Motorcycle Sales/Service from the list of permitted uses.

Thoroughfare Plan – The property has direct access to Dallas Parkway, an unnamed future two-lane commercial collector, and Frontier Parkway, a future six-lane divided thoroughfare. The zoning exhibit complies with the Thoroughfare Plan.

Water and Sanitary Sewer Services – Water service and sanitary sewer service will have to be extended to the property either before or with development.

Access – Access to the property is provided from existing Dallas Parkway, existing Frontier Parkway, and a future unnamed commercial collector. Adequate access is provided to the property.

Schools – This property is located within the Prosper Independent School District (PISD). Any future school sites are to be determined at the time of preliminary plat.

Parks – This property is subject to the Town's park dedication requirements as they exist or may be amended. Any future park sites and hike and bike trail locations are to be determined at the time of preliminary plat.

Environmental Considerations – There is no 100-year floodplain located on the property.

Legal Obligations and Review:

Notification was provided to neighboring property owners as required by state law. Town staff has not received any public hearing notice reply forms.

Attached Documents:

1. Zoning Exhibits A, B, C, D, and E.
2. Zoning map of the surrounding area.
3. Page 55 of the Comprehensive Plan.

Planning & Zoning Commission Recommendation:

At their June 3, 2014, meeting, the Planning & Zoning Commission recommended the Town Council approve a request to rezone 80.7± acres, located on the southeast corner of Dallas

Parkway and Frontier Parkway, from Single Family-15 (SF-15) to Planned Development-Single Family/Retail (PD-SF/R), by a vote of 6-1, subject to the following conditions:

1. Revising Exhibit C to delete Automobile Sales/Leasing, New, with pre-owned sales as an accessory use only, and Motorcycle Sales/Service from the list of permitted uses.
2. Revising Exhibit C to limit the Single Family-10 (SF-10) lots to within 300 feet of the southern and eastern sides of Tract 2, as shown on Exhibit A.

Since the Planning & Zoning Commission the applicant has revised Exhibit C to delete Automobile Sales/Leasing, New, with pre-owned sales as an accessory use only, and Motorcycle Sales/Service from the list of permitted uses.

Town Staff Recommendation:

Town staff recommends the Town Council approve the request to rezone 80.7± acres, located on the southeast corner of Dallas Parkway and Frontier Parkway, from Single Family-15 (SF-15) to Planned Development-Single Family/Retail (PD-SF/R).

Proposed Motion:

I move to approve the request to rezone 80.7± acres, located on the southeast corner of Dallas Parkway and Frontier Parkway, from Single Family-15 (SF-15) to Planned Development-Single Family/Retail (PD-SF/R).

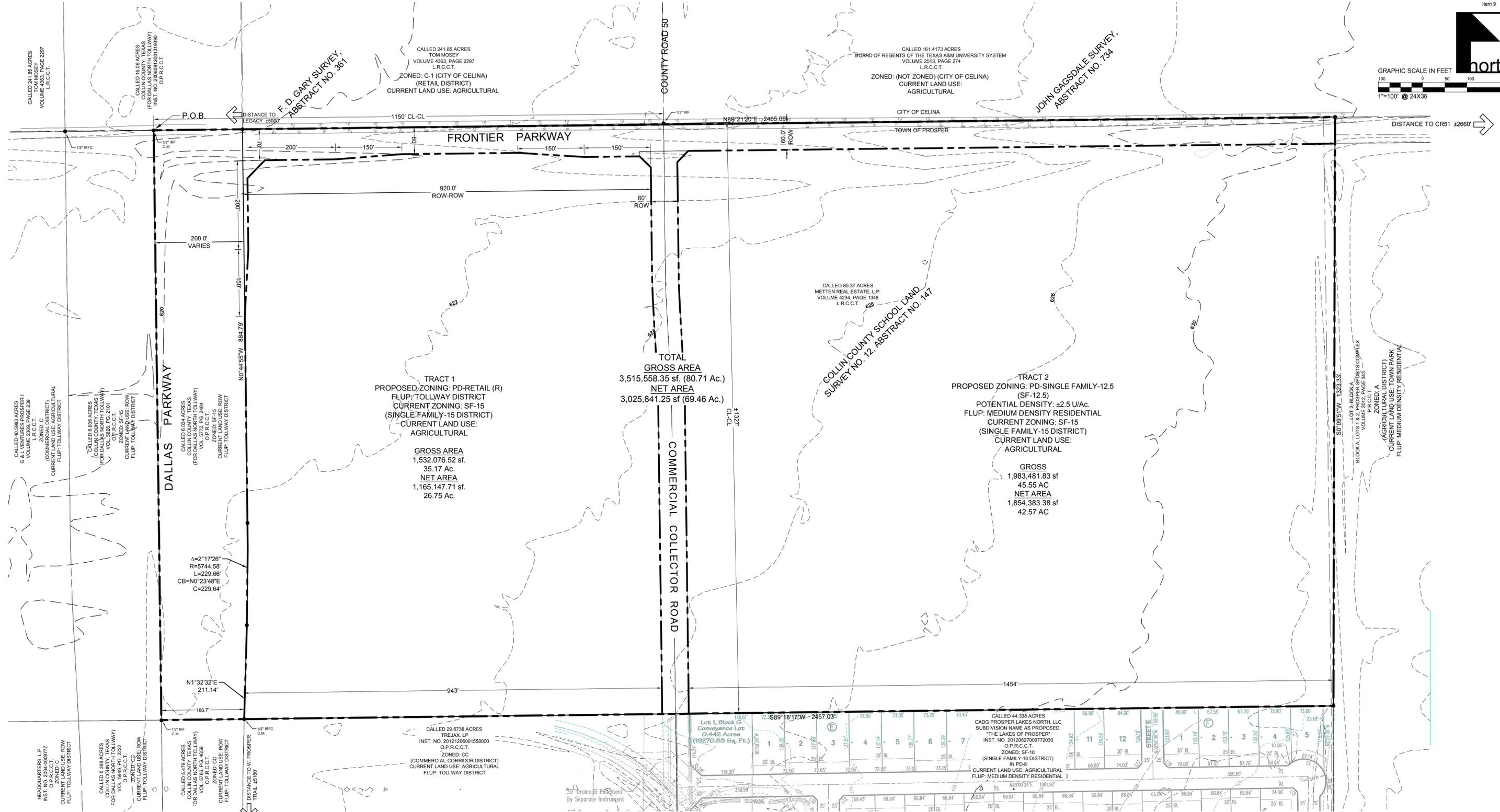


EXHIBIT A

BEING a tract of land situated in the Collin County School Land Survey No. 12, Abstract No. 147, Town of Prosper, Collin County, Texas, and being all of a called 80.37 acre tract, conveyed to Metten Real Estate, L.P., as evidenced in a Warranty Deed recorded in Volume 4234, Page 1348 of the Land Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNINGS at the northwest corner of said 80.37 acre tract and the northwest corner of a called 6.034 acre tract of land, conveyed to Collin County, Texas, as evidenced in a Special Warranty Deed recorded in Volume 5772, Page 2404 of the Official Public Records of Collin County, Texas, same also being the intersection of the centerline of future Dallas North Tollway, with the approximate centerline of Frontier Parkway;

THENCE North 89°21'20" East, along the north line of said 80.37 acre tract and generally along the centerline of said Frontier Parkway, a distance of 2,665.09 feet to the northeast corner of said 80.37 acre tract;

THENCE South 00°09'51" West, departing said Frontier Parkway, along the east line of said 80.37 acre tract and the west line of Lot 2, Block A of Block A, Lots 1 & 2, Prosper Sports Complex, an Addition to the Town of Prosper, Texas, according to the Final Plat, recorded in Volume 2012, Page 343 of the Plat Records of Collin County, Texas, a distance of 1,323.33 feet to the southeast corner of said 80.37 acre tract, same being the northeast corner of a called 44.338 acre tract, conveyed to CADG Prosper Lakes North, LLC, as evidenced in a Special Warranty Deed with Vendor's Lien recorded in Instrument No. 20120627000772030 of the Official Public Records of Collin County, Texas;

THENCE South 89°18'17" West, along the south line of said 80.37 acre tract, the north line of said 44.338 acre tract and the north line of a called 29.6736 acre tract, conveyed to Trejax, LP, as evidenced in Special Warranty Deed recorded in Instrument No. 20121206001558000 of the Official Public Records of Collin County, Texas, passing at a distance of 2,457.03 feet to a 1/2-inch capped iron rod found for the southeast corner of aforesaid 6.034 acre tract, same being on the east right of way line of aforesaid Dallas Parkway, future Dallas North Tollway, continuing for a total distance of 2,643.95 feet to a 1/2-inch iron rod found for the southwest corner of said 80.37 acre tract;

THENCE North 00°45'03" West, along the west line of said 80.37 acre tract, the west line of said 6.034 acre tract and along the centerline of future Dallas North Tollway, a distance of 1,325.54 feet to the POINT OF BEGINNING and containing 80.706 acres of land, more or less.

Bearings based upon Texas State Plane Coordinate System, NAD 1983, North Central Zone 4202.

NOTES:

- PROPERTY DOES NOT APPEAR TO BE AFFECTED BY THE 100-YEAR FLOOD PLAIN PER FEMA FLOOD INSURANCE RATE MAP PANELS 48085C0115J AND 48085C0120J JUNE 2, 2009
- ZONING BOUNDARIES ARE TO CENTERLINES OF EXISTING AND FUTURE ROADS AS SHOWN. NET ACREAGE SUBTRACTS AREAS WITHIN SAID ROAD RIGHTS OF WAY.
- THE THOROUGHFARE ALIGNMENT(S) SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DOES NOT SET THE ALIGNMENT. THE ALIGNMENT IS DETERMINED AT TIMES OF FINAL PLAT.

Michael B. Marx
Registered Professional Land Surveyor No. 5181
Kimley-Horn and Associates, Inc.
12700 Park Central Drive Suite 1800
Dallas, Texas 75251
Ph. 972-770-1300

PRELIMINARY
THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE
EXCEPT AS A PROFESSIONAL LAND SURVEY

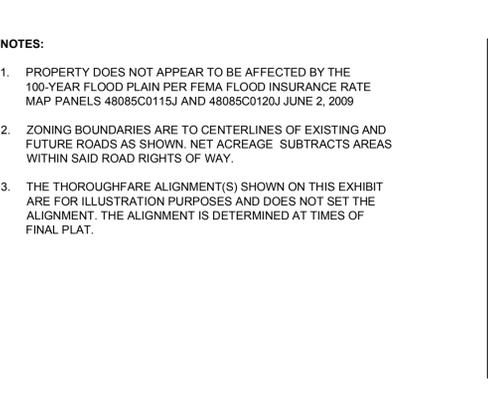


EXHIBIT A

ZONING CASE #14-0006

Metten Tract

COLLIN COUNTY SCHOOL LAND SURVEY NO. 12, ABSTRACT #147
MAY, 2014

OWNER / APPLICANT:
Metten Real Estate, L.P.
6842 Vineridge Drive
Dallas, Texas 75249
Contact: Christian Metten

ENGINEER / SURVEYOR:
Kimley-Horn and Associates
State of Texas Registration No. F-928
5750 Genesis Court, Suite 200
Frisco, TX 75034
P (972) 335-3580
F (972) 335-3779
Contact: Frank Abbott, P.E.



File Path: K:\FRI_Survey\069311700-Metten Real Estate Tract\Draw\Exhibit\Zoning Exhibit_140505.dwg
Plotted By: Bussell, Allen Date: May 05, 2014 04:44:23pm
This document, together with the concepts and designs presented herein, is an instrument of service, intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and approval by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

Exhibit B for Z14-0006
Statement of Intent and Purpose

The purpose of this planned development is to create a mix of retail and single family residential uses which are consistent with the Town's comprehensive plan. It is intended to utilize the Town's base standards and incorporate some additional uses and criteria which will better position the proposed development due to the properties proximity to the future Tollway and surrounding uses.

**Exhibit C for Z14-0006
Planned Development Standards**

Tract 1 Retail

- A. **General Description:** The areas identified as Retail will provide the ability to encourage and to accommodate the development of office and retail service centers within growth corridors located along the North Dallas Tollway extension. The property within these areas shall develop under the standards for the Retail District as contained within the Town of Prosper Zoning Ordinance, as it exists or may be amended, subject to the specific provisions contained herein below.
- B. **Permitted Uses:** In addition to those permitted uses as allowed per the Retail District of the Town of Prosper Zoning Ordinance, the following use shall be permitted in the retail areas indicated on Exhibit "D". Uses followed by an **S** are only permitted by Specific Use Permit. Uses followed by a **C** are permitted subject to the conditional standards in the Town's Zoning Ordinance:
1. Hotels - **C**
 2. Theater, Regional
 3. Research & Development Center - **S**
- C. **Max. FAR:** Max. FAR for buildings taller than two (2) stories shall be 1.5:1. Max. FAR for all other buildings shall be 0.4:1.
- D. **Building Heights:** The permitted height of all buildings within the retail areas of the Planned Development District shall be as follows:
- a. The allowed height for Hotels, Office buildings, and Hospitals located within the retail tract shall be eight (8) stories, not greater than one hundred (100) feet. All other uses shall be limited to two (2) stories, not greater than forty (40) feet.
 - b. Non-residential buildings located within one hundred fifty feet (150') of a single-family zoned area shall be limited to a maximum height of two (2) stories.
 - c. Non-residential buildings, which exceed two (2) stories in height, shall be required to have additional setbacks from single-family zoned areas. These additional setbacks will require one foot (1') of setback, beyond the aforementioned one hundred fifty feet (150'), for each additional foot of building height above two (2) stories.
- E. **Lot Area:** The minimum area of any lot shall be ten thousand (10,000) square feet.
- F. **Lot Width:** The minimum width of any lot shall be one hundred feet (100').
- G. **Lot Depth:** The minimum depth of any lot shall be one hundred (100').
- H. **Lot Coverage:** In no case shall more than sixty percent (60%) of the total lot area be covered by the combined area of the main buildings exceeding 2-stories. Parking structures and surface parking facilities shall be excluded from the coverage computations. Lot coverage is limited to forty percent (40%) excluding parking and parking structures for all structures 2-stories and less.

Tract 2 Single Family Residential

- A. The property shall be developed in accordance with the Single Family-12.5 District as outlined in the Town of Prosper Zoning Ordinance 05-20, as it exists or may be amended, unless identified below.
- B. Single Family Lots within 300' of the perimeter of Tract 2 may be developed in accordance to Single Family-10 District as long as the overall residential density does not exceed 2.5 units per acre.
- C. Fencing: Privacy fences on single family residential lots shall be located ten (10) feet behind the front elevation of the main building and shall not exceed eight (8) feet in height above grade. All fencing located on single family residential lots adjacent to open space, parks, or floodplain shall consist of ornamental metal (wrought iron or decorative tubular steel). All wood fencing shall consist of cedar, board on board with a top rail, and comply with the Town's fencing standards as they exist or may be amended. A common wood fence stain color shall be established for the development.
- D. All required detention areas shall be developed as an amenity with upgrades such as landscaping, trees, trails, benches, etc., and/or as a wet detention pond (constant water level) with a fountain.
- E. All homes shall provide an exterior lighting package to illuminate front entrances, landscaping and trees located in the front yard and garages.

Exhibit D for Z14-0006
Conceptual Development Plan

Conceptual Development Plan: Prior to application for a Preliminary Site Plan or a Preliminary Plat, a Conceptual Development Plan shall be submitted, receive a recommendation from the Planning & Zoning Commission and be approved by the Prosper Town Council. This Conceptual Development Plan shall only be required for the general area within which development is to occur. This general area shall be bounded by thoroughfares, ownership lines, creekways or other physical barriers that define a geographic boundary that separates the area of interest from other parcels.

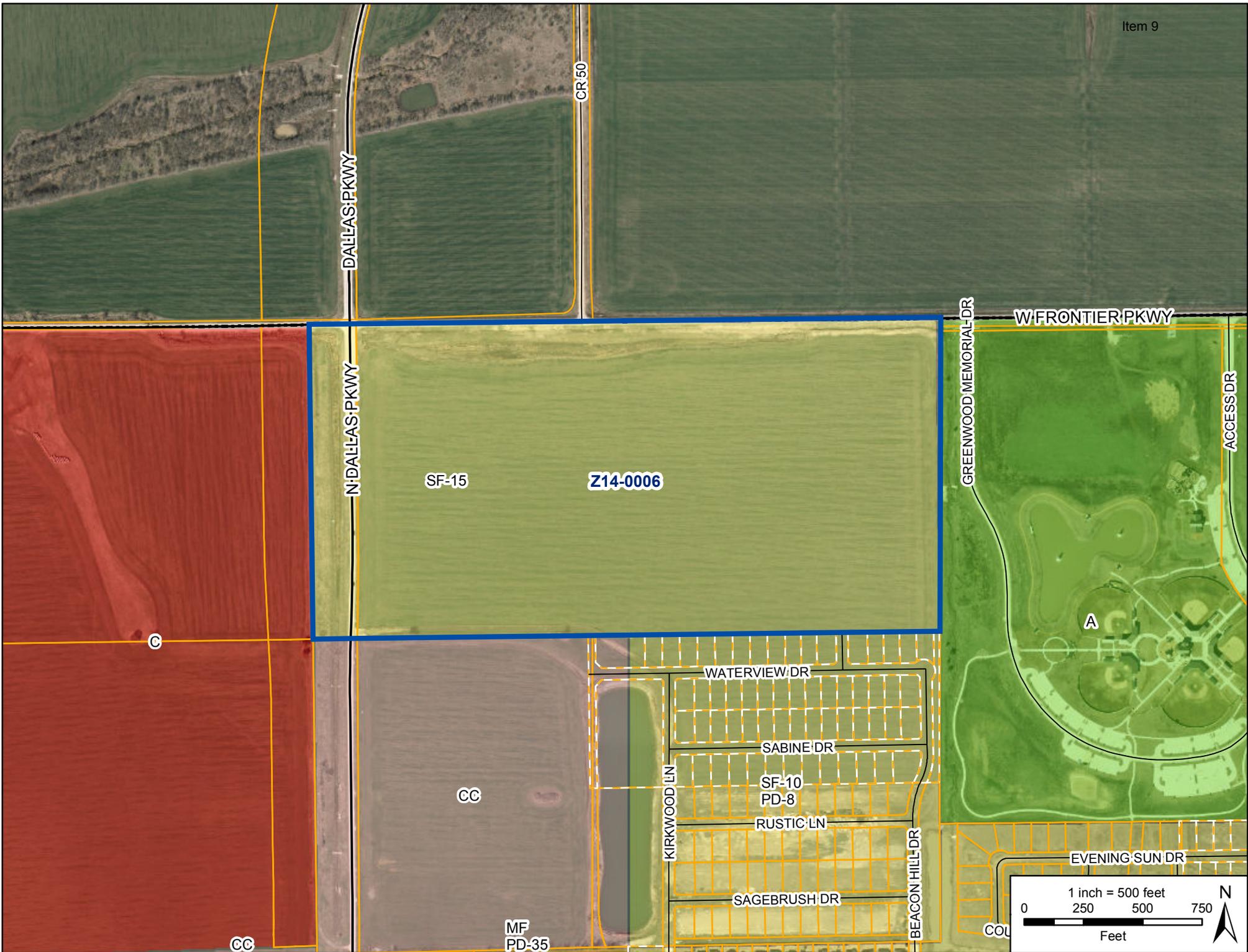
Plats and/or site plans submitted for the development of the PD District shall conform to the data presented and approved on the Conceptual Development Plan. Changes of detail on these final development plan(s) that differ from the Conceptual Development Plan may be authorized by the Planning & Zoning Commission, with their approval of the final development plan(s) and without public hearing, if the proposed changes do not:

1. alter the basic relationship of the proposed development to adjacent property,
2. alter the uses permitted,
3. increase the density,
4. increase the building height,
5. increase the coverage of the site,
6. reduce the off-street parking ratio,
7. reduce the building lines provided at the boundary of the site, or
8. significantly alter any open space plans

If the Director of Development Services or the Planning & Zoning Commission determines that the proposed changes(s) violates one (1) or more of the above eight (8) criteria, then a public hearing shall be held to adequately amend the Conceptual Development Plan that is attached to the PD District's granting ordinance prior to the Planning & Zoning Commission's approval of the final development plan(s).

**Exhibit E for Z14-0006
Development Schedule**

The development schedule will be influenced by actual market conditions. It is believed the single family residential development will occur in the next 2 to 3 years and will likely be an extension of the ongoing residential development to the south. The retail/office development will likely occur once the future improvements to Frontier Pkwy and the Dallas North Tollway are underway and/or completed.



COMMUNITY CHARACTER

Dallas North Tollway

Land Use

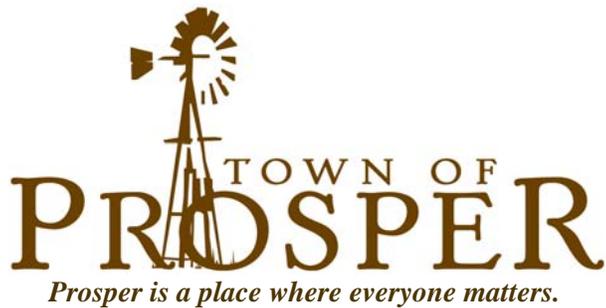
Unlike Preston Road, regional development pressures will likely be placed along the Dallas North Tollway. Feedback received from the public indicated that more intense uses would be appropriate along the corridor. Types of uses that scored relatively well included mid-rise office buildings, mixed-use development and corporate office parks, among others. Generally speaking, the DNT corridor will contain land uses that support a more regional context and will likely include office space, retail uses and business parks. High density residential is appropriate within the DNT corridor. Mixed-use lofts/apartments are the preferred style of high density residential within this district. Images depicting big box retail, auto sales centers and commercial services, such as self-storage facilities, scored the lowest along the Dallas North Tollway.



Character

The character of the Dallas North Tollway will be significantly more intense than the rest of the Town. The most intense development will be located in the southern portion of the corridor, primary around the interchange of the Dallas North Tollway and Highway 380. Development in the Northeast corner of this intersection will likely be a continuation of the Town Center district, much in the same way office uses surround Legacy Town Center in Plano. Areas on the Northwest corner of the interchange are currently identified as mixed-use. A mixture of office, retail and medium to high density residential will likely develop within this area. Floodplain on the north side of the Northwest corner will serve as a buffer between the more intense development and the low density residential neighborhoods to the north. Intensity of development should gradually decrease on the north side of the Dallas North Tollway corridor and backage roads will help to facilitate the creation of pad sites that may buffer the Tollway from residential uses.





PUBLIC WORKS

To: Mayor and Town Council

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

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – July 8, 2014

Agenda Item:

Consider and act upon authorizing the Town Manager to execute a Statement of Work and related documents between Aclara Technologies LLC, a sole source provider, and the Town of Prosper, for the upgrade and expansion of the Town's STAR® Fixed Network automated utility meter reading system.

Description of Agenda Item:

The Town has a STAR® Network Service Agreement in place with Aclara Technologies LLC, to maintain the Town's automated utility meter reading system. In January 2014, the Town was informed that due to changes in technology, our system requires upgrades.

The automated utility meter reading system is comprised of three components. The first component is the Data Collection Unit (DCU). The DCU is a receiver that automatically collects the water meter readings, and transmits the information to the main server in Town Hall using analog technology that is provided through Verizon Wireless. Verizon Wireless has upgraded to digital technology, and will no longer support analog transmission. Therefore, the Town is required to upgrade equipment. Additionally, the Town currently has 9 DCU's that are placed throughout the Town. In order to accommodate future growth in the Windsong Ranch sub-division, the Town needs to expand the current system by one DCU. The cost to upgrade and expand the DCU component of the system is \$52,500.

The remaining components of the Town's automated utility meter reading system are the host server and the software required to run/collect data through the Town's financial system for Utility Billing applications. In order to accommodate the digital technology and future growth, a more robust server and upgraded software are required. The cost to replace the host server and upgrade the software is \$16,400.

Staff obtained quotes for the host server, considering costs associated with shipping the server to Aclara Technologies LLC, for software programming. It was determined it would be more cost effective to purchase the host server directly through Aclara Technologies LLC. The remaining purchase of equipment and software falls within the definition of a procurement that is available from only one source (Chapter 252 of the Local Government Code), and is exempt from competitive bidding requirements. Aclara Technologies LLC is the sole source manufacturer of the STAR® Fixed Network automated utility meter reading system.

Budget Impact:

The total cost to upgrade and expand the automated utility meter reading system is \$68,900. The project will be paid for by the current year budget from the following account: 20-5418-50 (IT Fees).

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed the Statement of Work and related documents as to form and legality.

Attached Documents:

1. Aclara Statement of Work for DCU Upgrade and Expansion
2. Aclara Standard DCU Pricing Schedule for STAR® Fixed Network AMR System
3. Aclara Standard NCC Upgrade Pricing Schedule for STAR® Fixed Network AMR System
4. Aclara Standard Terms and Conditions of Sale for Equipment and Certain Services
5. Aclara Sole Source Letter

Town Staff Recommendation:

Town staff recommends that the Town Council authorize the Town Manager to execute a Statement of Work and related documents between Aclara Technologies LLC, a sole source provider, and the Town of Prosper, for the upgrade and expansion of the Town's STAR® Fixed Network automated utility meter reading system.

Proposed Motion:

I move to authorize the Town Manager to execute a Statement of Work and related documents between Aclara Technologies LLC, a sole source provider, and the Town of Prosper, for the upgrade and expansion of the Town's STAR® Fixed Network automated utility meter reading system.



Town of Prosper Statement of Work

For DCU Upgrade and Expansion

June 27, 2014

Aclara

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- Work Authorization 6**
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1. Scope of Work

This Statement of Work, effective the last date signed below, describes the Professional Services (Services) being provided by Aclara to carry out the following installation and implementation Services for the Town of Prosper (“Prosper”).

1.1 Project Management Coordination

Prosper has placed an order with Aclara to add one additional Verizon cellular DCU-2 to their STAR Data Collection Unit (DCU) network. In addition, Aclara will upgrade the existing 9 DCU-1’s to DCU-2’s. The DCU network will be installed, configured and validated and all tasks will be coordinated by an Aclara Project Manager.

After the DCU’s are installed, Aclara will assist Prosper with System Acceptance Testing. Aclara will create a test plan, which will include the test cases to be conducted during System Acceptance Testing. Aclara will support Prosper as they execute the System Acceptance Test cases to validate the DCU functionality. The Purchaser will provide a signed Acceptance Certificate following completion of testing signifying acceptance of the product. The signed Acceptance Certificate acknowledges that Aclara products function as expected and concludes System Acceptance Testing.

1.2 Description of work to be performed

Project Management tasks will coordinate the installation of one (1) new DCU 2. In addition, Aclara will upgrade the 9 existing DCU 1’s with DCU 2’s. These upgraded DCU’s will be replaced in the same location they are installed currently. Aclara’s Project Management tasks will be focused on the following:

- Ordering and shipment of parts/hardware
- Creation and management of Installation Schedule
- Verification of DCU II Connectivity
- Regular status updates of progress
- Execution of System Acceptance Testing to validate DCU performance

1.3 Assumptions

- The scope includes the addition of one new DCU. Prosper will be responsible for preparing the new site to meet Aclara’s DCU installation standards.
- The scope also includes upgrading 9 existing DCU 1’s to DCU 2’s. Aclara assumes these replacement DCU’s will be placed in the same location where they are currently today. Prosper will be responsible for any site modifications.
- Prosper will provide access to DCU locations when required, including any locked or secured areas, or the roofs of any buildings where a DCU is installed. Prosper will supply an escort to these locations should it be required.
- Should the Aclara DCU technician discover any unusable mounting points or unsafe conditions (including AC power supply & wiring if present) related to the DCU replacement, Prosper shall be responsible for making the site safe and viable for completion of the installation.

- It is Prosper's responsibility to dispose of existing DCUs.
- If AC-powered DCU's are a part of this installation, Prosper is required to provide AC-power that is terminated at a breaker box or switch, within six-feet (6) of the planned DCU attachment point.
- The DCU installations may be contingent upon the current weather conditions at the time of installation.
- This scope assumes all DCU installation work is done at the same time.
- No modifications to the NCC or STAR programmer handheld will be made as part of this scope of work.

1.4 Out of Scope

In the event Prosper requires Services for any work outside the scope of this SOW, Aclara could provide such additional Services through a separate Statement of Work or Change Order

2. Delivery and Scheduling

The schedule below presents a sample high level overview of the Prosper STAR Technology DCU II implementation schedule for the project. Aclara will provide Prosper an actual start date and will refine the schedule upon execution of this SOW.

Figure 1. High Level Schedule Overview

ID	WBS	Task Name	Duration	Start	Finish
1	1	City of Prosper DCU Expansion Plan	56 days	Tue 7/15/14	Tue 9/30/14
2	1.1	Project Kickoff & Planning	2 days	Tue 7/15/14	Wed 7/16/14
8	1.2	DCU Planning	7 days	Wed 7/16/14	Thu 7/24/14
11	1.3	Order & Build Product	27 days	Fri 7/25/14	Mon 9/1/14
19	1.4	DCU Deployment Planning	39 days	Thu 7/17/14	Tue 9/9/14
25	1.5	Product Shipped to Customer	3 days	Tue 9/2/14	Thu 9/4/14
28	1.6	DCU Installation & Testing	14 days	Mon 9/8/14	Thu 9/25/14
29	1.6.1	Install DCU	5 days	Mon 9/8/14	Fri 9/12/14
30	1.6.2	Verify connectivity & data transfer	2 days	Mon 9/8/14	Tue 9/9/14
31	1.6.3	Add DCU's to regular monitoring schedule	1 day	Wed 9/10/14	Wed 9/10/14
32	1.6.4	Perform 10-day RSR study	9 days	Mon 9/15/14	Thu 9/25/14
33	1.7	Product Acceptance & Transition	10 days	Wed 9/17/14	Tue 9/30/14
34	1.7.1	Verify Connectivity	3 days	Wed 9/17/14	Fri 9/19/14
35	1.7.2	Conduct SAT	5 days	Mon 9/22/14	Fri 9/26/14
36	1.7.3	Setup Transition to Support Plan	1 day	Mon 9/29/14	Mon 9/29/14
37	1.7.4	Transition Customer to Support	1 day	Tue 9/30/14	Tue 9/30/14

Work Authorization

Order Date: 6/27/14	Date of Delivery: TBD
Client Name: Town of Prosper	Aclara Contact: Sarah Tamm
Telephone: xxxxx	Telephone: (602) 418-0657

Item	Fixed Cost	Estimated Quantity	Fixed Cost
Project Management for Installation of 1 DCU II and upgrading of 9 DCU I's to DCU II's	\$9,000	1	\$9,000
Total Cost:			\$9,000

TERMS

This Statement of Work shall be governed by the Aclara Standard Terms and Conditions available on Aclara's website: <http://www.aclaratech.com/pages/terms.aspx>.

The following terms apply:

- Aclara will invoice Prosper for the fixed price cost upon execution of this Statement of Work.
- Effort is based on a careful review of available information. Should new information significantly modify the scope as proposed, such changes would be identified by an additional Statement of Work.
- Travel costs are not included for the Aclara Project Manager. If travel to Prosper's site is required of the Aclara Project Manager, the costs and expenses associated with such travel will be borne by Prosper. Unless otherwise mutually agreed, the costs and expenses shall be invoiced to include, but not be limited to airfare, lodging, meals, automobile rental, fuel, parking and associated administration fees, and will be charged to Prosper on an actual basis.

AUTHORIZATION

I hereby authorize Aclara to begin delivery of services as described.

For Client:

Signature: _____

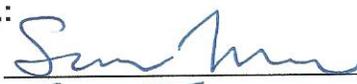
Printed Name: _____

Title: _____

Company: Town of Prosper

Date: _____

For Aclara Inc.:

Signature: 

Printed Name: Sarah Tamm

Title: Sr. Director, Professional Services

Company: Aclara Technologies LLC

Date: 6/27/14

**Attachment A
to
Statement of Work**

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A SAMPLE CHANGE ORDER FORM FOLLOWS

Change Order Procedure

Any change to a Statement of Work must be agreed upon in writing by both parties. The following procedure (whether requested by the System Owner or Aclara) will be used to control all changes. All Requests for Change ("RFC") to the applicable Statement of Work must be made in writing and shall be submitted by the appropriate Project Manager. Each request should contain the following information:

- The requested change;
- The impact, if any, on the existing work product;
- Estimated impact, if any, on Project schedule; and
- Estimated change, if any, in Services fees

The Project Manager shall review and accept or reject the RFC. If rejected, the RFC shall be returned to the submitting party with written reasons for rejection and, as appropriate, any alternatives.

All approved RFC's will be incorporated into the Change Order to this Statement of Work. Aclara will not perform any Services outside of the Statement of Work until the RFC has been signed by both parties.

1. Describe the requested change: _____

2. Define the impact, if any, on existing work product: _____

3. Define additional work product required as a result of the requested change, if any: _____

4. Define the impact, if any, to the existing Project schedule. Provide an updated Project schedule, if appropriate. _____

5. Provide an updated work product and payment schedule, if appropriate. _____

Accepted By:
Aclara Technologies LLC (Aclara)
By: SAMPLE
Print name: SAMPLE
Title: SAMPLE
Date: SAMPLE

Accepted By:
Town of Prosper
By: SAMPLE
Print name: SAMPLE
Title: SAMPLE
Date: SAMPLE



Standard Pricing Schedule
STAR® Fixed Network AMR System

Confidential for the Town of Prosper, TX
6/27/2014

Item Description	PN	Quantity	Price		Notes
			Each	Extended	
1 Pole Mount DCU - 2 way Solar Power or AC, Cellular	501-9975CDM	10	\$ 3,350.00	\$ 33,500.00	(1,2,5)
Services					
2 DCU Installation (per DCU)		10	\$ 1,000.00	\$ 10,000.00	(1,2,3,4)
3 Professional Services Project Management	n/a	1	\$ 9,000.00	\$ 9,000.00	(6)
TOTAL				\$ 52,500.00	

General Note: This Proposal/Quotation is based upon the terms and conditions set forth in the Aclara Standard Terms and Conditions of Sales for Equipment and Certain Services that are available on Aclara's website at:

<http://www.aclaratech.com/pages/terms.aspx>

Any conflicting or additional terms and conditions contained in any resulting purchase order are hereby rejected unless agreed to in writing by Aclara.

Additional Terms:

- A. **Payment Terms Net 30 Days**
- B. **Prices Firm 60 days from the date of quotation.**
- C. **All Items CPT Destination**

Notes

- 1 Actual DCU configurations may be a mixture of various mounting styles.
- 2 This price does not include installation on water towers or other custom sites. Pricing and arrangements for non-standard installations will be handled individually.
- 3 Add \$1,000.00 for 1-day Bucket Truck Rental if needed for access.
- 4 Reasonable travel and expenses are included, in the continental United States.
- 5 A detailed propagation study and site survey is needed to finalize the quantities and types.
- 6 Statement of Work for Professional Services Project Management for the system upgrade of DCU's will need to be executed.

Melissa Dame, Account Manager
Aclara Technologies LLC
440-528-7323
mdame@aclara.com



NCC Upgrade Pricing Schedule

Confidential for Town of Prosper

STAR® Fixed Network AMR System

Date: 6/27/2014

Item	Product Description	Qty	Unit	Unit Price	Extended Price
1	Network Control Computer Hardware ¹		ea		\$ -
1a	Network Control Computer Hardware (Tier 1) - Rack Mount <i>CUSTOM: H710 Controller Card and 16GB of RAM</i>	1	ea	\$ 10,200.00	\$ 10,200.00
1b	Network Control Computer Hardware (Tier 1) - Tower	0	ea		\$ -
1c	Network Control Computer Hardware (Tier 2) - Rack Mount	0	ea		\$ -
1d	Network Control Computer Hardware (Tier 2) - Tower	0	ea		\$ -
Services					
2	Database Conversion ²	1	ea	\$ 2,700.00	\$ 2,700.00
3	NCC Configuration ²	1	ea	\$ 3,500.00	\$ 3,500.00
4	Account Import Changes ^{2,5}	0	ea		\$ -
5	Billing Script Changes ^{2,5}	0	ea		\$ -
6	STAR System Installers Training Class (2-day class) ³	0	ea		\$ -
7	STAR System Operators Refresher Class (1-day class) ^{3,4}	0	ea		\$ -
TOTAL					\$ 16,400.00

General Note: This Proposal/Quotation is based upon the terms and conditions set forth in the Aclara Standard Terms and Conditions of Sales for Equipment and Certain Services that are available on Aclara's website at:

<http://www.aclaratech.com/pages/terms.aspx>

Any conflicting or additional terms and conditions contained in any resulting purchase order are hereby rejected unless agreed to in writing by Aclara.

Additional Terms:

- A. Payment Terms Net 30 Days
- B. Prices Firm 60 days from the date of quotation.
- C. All Items CPT Destination

Project Responsibilities**Aclara**

Provide a secure process for transferring the existing database to Aclara for conversion
 Provide standard OS and database configuration parameters, or complete OS and database configuration as applicable
 Complete installation and configuration of required Aclara software, transferring settings and data from the previous NCC instance as applicable
 Migrate existing Aclara interface processes to the upgraded server, ensuring drive mappings and file copy processes are included
 Transfer existing Aclara created NCC schedules and processes to the upgraded NCC server
 Applicable to upgrades including new hardware - Complete pre-cut-over testing of upgraded system to ensure DCU connectivity and reception of reads
 Complete post-cut-over testing of upgraded system to ensure DCU connectivity, reception of reads, and NCC functionality
 Provide regular status updates and communicate upgrade progress and timeline expectations
 Perform cut-over of communication to upgraded NCC system

Customer

Provide a copy of the existing NCC database through Aclara's encrypted drive transfer process
 Hold or track manual changes through the NCC front end during the conversion process. Replicate changes in the converted system if tracked. (applies to changes through the NCC GUI only, not changes made through handhelds or programming records)
 Establish security groups and/or user logins when upgrading from versions of the NCC without this functionality
 Configure firewall / network per the NCC communication requirements
 Perform end-to-end testing of the system within an established 2 day window of the upgrade and provide upgrade acceptance
 Provide communication to internal customers regarding upgrade impacts and changes
 Participate in regularly scheduled status meetings

Notes

- 1 NCC configuration based on total system size (number of MTUs and number of DCUs). Final NCC configuration will be determined by working in conjunction with IT staff. Peripherals are not included (keyboard, mouse, monitor).
- 2 Travel is not typically required for an NCC upgrade; however, at the request of a customer, travel can be scoped separately with expenses invoiced as
- 3 For Training Classes only, reasonable travel and expenses are included, in the continental United States.
- 4 STAR System Operators Training Class includes a 2-hour pre-cut-over WebEx to familiarize the operators with the new system, and 1 day of training immediately post deployment.
- 5 Changes to the Account Import and/or Billing Script are to our pre-defined standards. Customer is responsible for coordinating these changes with the CIS vendor and for any applicable charges from CIS vendor for these changes.
- 6 Additional days of testing and services support maybe purchased through a change order process if the durations specified in the upgrade plan are not sufficient for the customer's activities.
- 7 Scheduling of work will be determined once a Purchase Order has been provided.

Customer Acceptance: _____

Please sign

Date: _____

Name & Title: _____

Please print name and title

Melissa Dame, Account Manager
 Aclara Technologies LLC
 440-528-7323
mdame@aclara.com

Aclara's standard terms and conditions located at <http://www.aclaratech.com/pages/terms.aspx>."

Aclara Standard Terms and Conditions of Sale for Equipment and Certain Services

Aclara Standard Terms and Conditions of Sale for Equipment and Certain Services

1. PROPOSAL.

Aclara Technologies LLC ("Seller") agrees to sell and deliver to Buyer the goods ("Equipment") and Services described on the Proposal to which these Terms and Conditions are attached. The Proposal is expressly conditioned on Buyer's consent to these terms and conditions. Licensing of any Aclara Software and the providing of any Maintenance Services shall be performed under separate contract agreements and subject to the terms and conditions of such agreements. Buyer may issue one or more purchase orders in response to this Proposal. Any such issuance shall be deemed an acceptance of these terms and conditions; any different or additional terms, whether incorporated in Buyer's Purchase Order or otherwise, are hereby specifically rejected. The Proposal, these terms and conditions, and Buyer's acceptance constitute the "Agreement".

2. PRICE.

As payment for the Equipment and Services, Buyer shall pay the price(s) and within the times as set forth in the Proposal.

3. SHIPMENTS.

Shipment of the Equipment and performance of the Services shall be in accordance with the schedule set forth, or referenced, in the Proposal.

4. CHANGES.

Buyer may request, in writing, changes in the scope of the Proposal. Such changes shall be effected only upon Seller's concurrence with such request. If any such change causes an increase or decrease in the cost of or the time required for performance hereunder, an equitable adjustment shall be made in the price and/or delivery schedule.

5. FORCE MAJEURE.

Seller shall not be liable for delays in shipment or delivery of any items sold hereunder, or loss or damage thereto, when due to acts of God, acts of Buyer, acts of civil or military authority, governmental restrictions or embargoes, war, riot, fires, strikes, flood, epidemics, quarantine, restrictions, default or delay by supplier, breakdown in manufacturing facilities, machinery or equipment, delays in transportation or difficulties in obtaining necessary materials, labor or manufacturing facilities due to such causes, or any other cause beyond Seller's reasonable control.

6. INSPECTIONS.

Any Equipment may, at the option of the Buyer, be subject to inspection by Buyer at its cost at Seller's or Seller's contract manufacturer's factory in accordance with Seller's normal inspection system during normal business hours. All inspections by Buyer shall be performed in such manner as not to delay performance by Seller. Buyer must provide Seller with a minimum of forty-eight (48) hours prior written notice of such inspections.

7. PACKAGING.

All material and equipment to be furnished by Seller shall be packed, crated, or otherwise suitably protected to withstand shipment to its destination. Each package, crate, or container shall be marked with the name of the consignee, shipping destination, and purchase order number. Complete packing lists shall be supplied showing contents and identity of each package.

8. TITLE, SHIPPING, AND RISK OF LOSS.

CPT Destination – Carriage Paid to Destination as defined in accordance with INCOTERMS 2010. Clear title to and risk of loss of any Equipment will pass to Buyer upon the loading of the Equipment on the means of

transport of the carrier selected by Seller. Seller shall arrange for carriage on usual terms for Buyer's account and risk. Seller shall have no responsibility to arrange or pay for insurance against loss, damage or destruction upon loading of Equipment.

9. WARRANTY.

Seller warrants its products as follows:

- A) For Power-Line System Equipment, please refer to **Aclara TWACS standard warranties.**
- B) For Radio Frequency Equipment, please refer to **Aclara STAR standard warranties.**
- C) For Software products, please refer to **Aclara Software standard warranties.**
- D) For Services, please refer to **Aclara's service standard warranties.**
- E) For Cellular Base Equipment, please refer to **Metrum Cellular by Aclara standard warranties.**

10. ASSIGNMENT.

Buyer shall not assign its right, title, or interest herein, or any part thereof, to any person without the prior written consent of Seller. Such consent shall not be unreasonably withheld.

11. SUCCESSORS AND ASSIGNS.

The Agreement, subject to the provisions hereof, shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

12. PROPRIETARY DATA (SELLER).

Certain information which Seller may deliver to Buyer in connection with Seller's performance hereunder, including without limitation all Equipment specifications and drawings and operating manuals, is proprietary to Seller and will be clearly marked as confidential or proprietary by Seller (hereinafter "Seller Proprietary Data"). Buyer agrees to keep such Seller Proprietary Data confidential, to use it only in connection with Buyer's use or operation of the equipment or hardware, and not to sell, transfer, disclose, or otherwise make available any of such data to others. Buyer may disclose or otherwise make available such Seller Proprietary Data, with Seller's consent, to a third party with whom Buyer contracts for work necessary to the performance of the Agreement, provided that said third party agrees to be bound by the limitations on use and disclosure contained herein. Buyer shall be liable for any breach of the terms of this Section 12 by such third party. Notwithstanding the foregoing, Seller Proprietary Data shall not include material which: (i) at the time of disclosure is in the public domain or which, after disclosure, becomes part of the public domain by publication or otherwise; or (ii) is information which Buyer can show was in its possession at the time of disclosure and was not acquired directly or indirectly from Seller; or (iii) is information which was received by Buyer from a third entity having legal right to transmit the same.

13. PROPRIETARY DATA (BUYER).

A. All information of Buyer that Buyer considers proprietary and furnishes to Seller in connection with Seller's performance hereunder will be clearly marked as proprietary by Buyer (hereinafter "Buyer Proprietary Data"). Buyer information not so marked shall not be considered to be proprietary to Buyer. Buyer hereby grants to Seller authority to use Buyer Proprietary Data only for the purposes of this Agreement. Seller agrees to keep such Buyer Proprietary Data confidential, to use it only for work necessary to the performance of the Agreement, and not to sell, transfer, disclose, or otherwise make available any of such data to others. Seller may disclose or otherwise make available such Buyer Proprietary Data, with Buyer's consent, to a third party with whom Seller contracts for work necessary to the performance of this Agreement, provided that said third party agrees to be bound by the limitations on use and disclosure contained herein.

B. Notwithstanding the foregoing, Buyer Proprietary Data shall not include material which: (i) at the time of disclosure is in the public domain or which, after disclosure, becomes part of the public domain by publication or otherwise; or (ii) is information which Seller can show was in its possession at the time of disclosure and was not acquired directly or indirectly from Buyer; or (iii) is information which was received by Seller from a third entity having legal right to transmit the same. All information pertaining to supply/usage/load profiles shall be

recognized by Seller as proprietary information.

14. TERMINATION FOR CAUSE.

A. Buyer may terminate this Agreement upon delivery to Seller of a written notice of termination. Such notice of termination shall be given to Seller at least ten (10) days prior to the effective date of such termination. Such notice of termination may be given for any one of the following reasons: 1) If Seller shall become insolvent, commit any act of bankruptcy, make a general assignment for the benefit of creditors, or becomes the subject of any proceeding commenced under any statute or law for the relief of debtors; or 2) if a receiver, trustee or liquidator of any property or income of Seller is appointed; or 3) if Seller: a. defaults in any material manner in the performance of Seller's obligations under any of the terms, provisions, conditions or covenants contained in this Agreement and b. further fails within thirty (30) days (or as otherwise mutually agreed) after written notice thereof from Buyer to take reasonable steps to remedy such default. Buyer shall be permitted to pursue any and all rights and remedies available hereunder or at law or in equity without terminating this Agreement for cause. In the event of termination for cause by Buyer, Seller shall be paid only the portion of the compensation related to Work performed prior to the effective date of termination. Seller shall also be subject to any claim Buyer may have against Seller under other provisions of this Agreement, or as a matter of law.

Seller may also terminate this Agreement upon delivery to Buyer of a written notice of termination. Such notice of termination shall be given to Buyer at least ten (10) days prior to the effective date of such termination. Such notice of termination may be given for any one of the following reasons: 1) If Buyer shall become insolvent, commit any act of bankruptcy, make a general assignment for the benefit of creditors, or becomes the subject of any proceeding commenced under any statute or law for the relief of debtors; or 2) if a receiver, trustee or liquidator of any property or income of Buyer is appointed; or 3) if Buyer: a. defaults in any material manner in the performance of Buyer's obligations under any of the terms, provisions, conditions or covenants contained in this Agreement and b. further fails within thirty (30) days (or as otherwise mutually agreed) after written notice thereof from Seller to take reasonable steps to remedy such default.

Buyer shall also be subject to any claim Seller may have against Buyer under other provisions of this Agreement, or as a matter of law.

15. TERMINATION FOR CONVENIENCE.

Buyer reserves the right, at any time, to terminate this Agreement, or any portion of the Work, for its sole convenience. Any such termination shall be effected by delivery of a written notice of termination to Seller specifying the extent to which the Agreement and related Work have been terminated and the date upon which the termination shall be effective. The date of the effective date of termination shall be no earlier than 30 days from the receipt of the notice of termination by Seller. Upon receipt of such notice, Seller shall in good faith and using all commercially reasonable efforts, stop all work hereunder, and shall promptly take steps to cancel existing orders, contracts and subcontracts relating to the Purchase Order.

In the event of such termination, Seller shall be entitled to receive: 1) the contract price due Seller for the Work performed, the Equipment delivered, the Software licensed and the Services performed; 2) the contract price for Equipment manufactured but not delivered prior to the effective date of termination if Buyer desires to purchase such Equipment; 3) all costs reasonably incurred by Seller prior to the effective date of termination including, but not limited to, labor, materials and overhead not covered under 1) or 2), above; 4) the reasonable cost of termination reasonably incurred by Seller in accordance with Buyer's termination notice which costs shall include the reasonable cost incurred by Seller in preparing any termination settlement proposal; and 5) Fifteen percent (15%) of the amounts payable under 3) and 4), above.

No costs incurred after the effective date of the notice of termination shall be treated as a reimbursable cost unless it relates to performing the portion of the work not terminated, or taking measures reasonably required to comply with Buyer's notice of termination in a prudent and business-like manner.

16. NON-DISCRIMINATION.

During the performance of this Agreement, the Seller agrees as follows: Seller will comply with all applicable

provisions of and, if required, furnish all information and reports required by Section 503 of the Rehabilitation act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212), as amended, the Americans with Disabilities Act (ADA) including the ADA Amendments Act, the Federal Executive Order No. 11246, as amended, the regulations at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, " and of the rules, regulations, and relevant orders of the Secretary of Labor. Such acts, amendments, rules, regulations and orders are incorporated herein by reference.

17. INDEPENDENT CONTRACTOR.

Seller agrees to perform the work in connection with this Agreement as an Independent Contractor and not as a subcontractor, agent or employee of Buyer, its parent, subsidiaries or affiliates, or their respective officers, directors, agents or employees.

18. INDEMNIFICATION.

For the purpose of this Article 18 only, "Buyer Parties" shall mean Buyer, its directors, officers, agents and employees, contractors and subcontractors (other than Seller), assignees, subsidiaries and affiliates, and each of them; "Seller Parties" shall mean Seller, its directors, officers, agents and employees, contractors and subcontractors at any tier, and the subcontractor's directors, officers, agents and employees, and each of them; and "Claims" shall mean claims, demands, suits or causes of action. The Parties obligations under this Article 18 shall not be limited to their respective insurance coverage.

General Indemnity. 1) Seller shall indemnify Buyer Parties for any and all loss or liability, including the costs of settlements, judgments, damages and direct expense including reasonable attorney's fees, costs and expenses arising from Claims, whether based on statute or regulation or on theories of contract, tort, strict liability, or otherwise, which are brought against one or more Buyer Parties by or on behalf of persons other than Buyer Parties involving injuries or damages to persons or property arising from or in any manner relating to negligent acts or omissions of Seller Parties under this Agreement provided that: a. Buyer promptly notifies Seller in writing of such claims; b. Buyer fully cooperates with Seller in assisting in the defense or settlement of such claims; and c. Seller has the sole right to conduct the defense of such claim or to settle such claim. Seller shall defend at its own expense, with counsel of its choosing, but reasonably acceptable to Buyer, any suit or action brought against Buyer Parties based upon such Claims. Further, provided that Buyer promptly notifies Seller in writing of any alleged violations described below, Seller shall also indemnify Buyer Parties for any and all loss or liability for fines, fees or penalties for violations of any statutes, regulations, rules, ordinances, codes or standards applicable to the Work arising from or relating to acts or omissions of Seller Parties. Seller's obligations under this Article 18.A.1) shall be reduced to the extent of the negligence, gross negligence or willful misconduct of Buyer Parties. 2) Subject to Texas State Law, Buyer shall indemnify Seller Parties for any and all loss or liability, including the costs of settlements, judgments, damages and direct expense including reasonable attorney's fees, costs and expenses from Claims, at law or in equity, whether based on statute or regulation or on theories of contract, tort, strict liability, or otherwise, which are brought by or on behalf of persons other than Seller Parties for injuries or damages to persons or property arising from or in any manner relating to acts or omissions of Buyer Parties under this Agreement provided that: a. Seller promptly notifies Buyer in writing of such claims; b. Seller fully cooperates with Buyer in assisting in the defense or settlement of such claims; and c. Buyer has the sole right to conduct the defense of such claim or to settle such claim. Buyer shall defend at its own expense, with counsel of its choosing, but reasonably acceptable to Seller, any suit or action brought against Seller Parties based upon such Claims. Further, provided that Seller promptly notifies Buyer in writing of any alleged violations described below and subject to Texas State Law, Buyer shall also indemnify Seller Parties for any and all loss or liability for fines, fees or penalties for violations of any statutes, regulations, rules, ordinances, codes or standards applicable to the Work arising from or relating to acts or omissions of Buyer Parties. Buyer's obligations under this Article 18.A.2) shall be reduced to the extent of the negligence, gross negligence or willful misconduct of Seller Parties.

Intellectual Property Indemnity. Seller shall defend, indemnify, save and hold harmless Buyer from and against any claims, losses, damages, fees, costs and expenses incurred by Buyer arising out of or in connection with a third party's claim of infringement or alleged infringement of any United States patent, copyright, trademark, trade or business secret, service mark or any other proprietary right based solely on the use or design of any Equipment sold or the Aclara Licensed Software licensed hereunder and used by Buyer strictly in accordance with the terms of this Agreement provided that 1) in the case of Aclara Licensed Software, it is the latest released version of the Aclara Licensed Software; 2) Buyer promptly, and in any event, within ten (10) days of becoming aware of the claim, notifies Aclara in writing of such claims; 3) Buyer fully cooperates with Seller in assisting in the defense or settlement of such claims and 4) Seller has the sole right to conduct the defense of such claim or to settle such claim.

In addition, in the event any such Equipment sold or Aclara Licensed Software licensed hereunder are held in such suit to be infringing or misappropriating or their use by Buyer is enjoined or limited in any manner, or Seller believes that such holding or enjoining is likely, Seller shall at its expense: 1) procure for Buyer the right to continue use of such Equipment or Aclara Licensed Software, or 2) replace or modify the same with an equivalent non-infringing product with functionality substantially similar to the product it is replacing. Notwithstanding the foregoing, Seller shall not be liable for any claim based on the combination or use of the Equipment or Aclara Licensed Software with any other equipment or software not supplied or authorized by Seller, or any claim based on Buyer's possession or use of any altered version of the Equipment or Aclara Licensed Software unless such alteration has been performed or expressly authorized by Seller.

19. PUBLICITY.

Neither Party shall, without the express written consent of the other Party, disclose any information or make any news release, advertisement, or public communication regarding this Agreement. Notwithstanding the foregoing, nothing herein shall prevent either Party from making such public disclosures as it, in its sole judgment, may deem appropriate to satisfy such Party's (or such Party's Parent's) obligations under any applicable law or requirement of any stock exchange.

20. INSURANCE.

In the event that Seller's obligations hereunder require or contemplate performance of Services by Seller's employees, or persons under contract to Seller, to be done on Buyer's property, or property of the Buyer's customers, Seller agrees that all such work shall be done as an independent contractor and that the persons doing such work shall not be considered employees of the Buyer. Further, in such event, Seller shall maintain: A. General Liability insurance on a one million dollar (\$1,000,000), per occurrence basis; and B. Statutory workers compensation insurance. Buyer shall be named an additional insured or loss payee as its interest may appear on the policy referred to in 20.A. above.

21. LIMITATION OF LIABILITY.

Notwithstanding anything contained herein to the contrary, the total aggregate liability of Seller to the Buyer for all liability arising out of or in connection with the performance by Seller of its obligations under this Agreement shall be limited to the aggregate sum of payments made by buyer to Seller under this Agreement. IN NO CASE SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR SPECIAL DAMAGES OR FOR THE LOSS OF BENEFIT, PROFIT, REVENUE, OR DATA, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

22. TAXES AND PAYMENT.

All prices set forth in the Agreement are in United States dollars, and are exclusive of any applicable sales or use taxes. If Buyer is exempt from such taxes, Buyer will provide Seller with the necessary documentation required by the taxing authority to substantiate such exemption. Unless exempt, payment of all such taxes shall be the responsibility of Buyer.

23. INVOICING AND PAYMENT.

A. Seller will invoice Buyer for the Equipment, Software and Services as follows based upon the prices set forth in the Agreement: 1) Equipment. Seller will invoice Buyer for the Equipment purchased hereunder upon Delivery (as defined below). 2) Software. Seller will invoice Buyer for the Software license purchased hereunder upon Delivery. 3) Program Management Support and Support Services. Program Management and Support Services will be invoiced as such services are provided and after shipment of software to Buyer.

B. Payment of all such invoices shall be due and payable thirty (30) days from the date of delivery.

C. Any amounts not paid when due shall bear interest at the lesser of 1 1/2% per month or the highest amount permitted by law until paid.

D. Delivery means, (i) in the case of Equipment purchased hereunder, the loading of the equipment on the means of transport of the carrier selected by Seller pursuant to Section 8 above; (ii) in the case of Software provided hereunder, the remote installation of the Software by Seller on the Buyer-provided designated Equipment, or if applicable, upon the Delivery of the designated Equipment provided by Seller on which the Software is installed; and (iii) in the case of Services provided hereunder, the periodic performance of such Services as described herein.

24. SEVERABILITY.

In case any one or more of the provisions contained in this Agreement should be invalid, illegal or unenforceable in any respect, the remaining portions of this Agreement shall continue to be binding and enforceable.

25. DISPUTES.

Buyer and Seller agree to attempt to settle any dispute arising out of this Agreement through good faith consultations and negotiations. If those attempts fail, the parties agree that any disputes arising under, out of, or in relation to this Agreement either Party may initiate non-binding mediation of the dispute by submitting a written request to a mediator approved by both parties, with a copy to the other Party, seeking assistance in resolving the dispute. The Parties will cooperate with the mediator and each other in the mediation process. The mediation will be conducted in accordance with the applicable practices and procedures employed by the mediator. If litigation is commenced, either Party may terminate the mediation process by so notifying the mediator and the other Party. Each Party will bear its own expenses in the mediation process and will share equally the charges of the mediator and his/her sponsoring entity.

26. GOVERNING LAW.

The Agreement shall be subject to and construed in accordance with the laws of the State of Missouri, United States of America.

27. NOTICES.

Any notices required under this Agreement shall be in writing, in the English language, and shall for all purposes be deemed to be fully given and received if sent by registered or certified mail, postage prepaid, to the respective parties at the addresses set forth on face hereof. Such addresses are subject to change by the respective parties upon written notice as herein provided for.

28. SURVIVABILITY.

Notwithstanding the expiration or termination of this Agreement, the following Sections shall survive according to their terms: 9, Warranty; 12, Proprietary Data (Seller); 13, Proprietary Data (Buyer); 25, Disputes; 26, Governing Law; and 27, Notices.

29. ENTIRE AGREEMENT.

The Agreement contains the entire agreement and all representations between the parties relating to the subject matter hereof, and supersedes and cancels any prior understandings and agreements between the parties, written or verbal, relating thereto.



945 Hornet Drive
Hazelwood, MO 63042
www.Aclara.com

314.895.6400
314.895.6453 fax

June 27, 2014

January M. Cook, BPPO, CPPB
Purchasing Agent
Town of Prosper
121 W. Broadway
Prosper, TX 75078

RE: STAR Fixed Network System

Dear Ms. Cook,

This letter is to confirm that Aclara Technologies LLC is the sole source manufacturer of the STAR® Fixed Network Automatic Meter Reading System which is currently installed throughout the Town of Prosper service territory.

The STAR® Network, its Meter Transmission Unit (MTU), Data Collector Unit (DCU), Meter Transmission Unit (MTU) Programmer, and the Programmer Field Program Kit are proprietary products of Aclara which are not compatible with any other Automatic Meter Reading System.

We look forward to the opportunity to continue to support the Town of Prosper with our STAR® products.

Should you have any questions or require additional information regarding this matter, please feel free to contact me on my office telephone at (314) 895-8055 or by email at mwillis@aclara.com

Sincerely,

Marcia Willis
Sr. Contract Administrator