



*Prosper is a place where everyone matters.*

## **AGENDA**

### **Meeting of the Prosper Town Council**

Prosper Municipal Chambers  
108 W. Broadway, Prosper, Texas  
Tuesday, July 28, 2015  
6:00 p.m.

1. Call to Order/Roll Call.
2. Invocation, Pledge of Allegiance and Pledge to the Texas Flag.
3. Announcements of recent and upcoming events.

#### **4. 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.)

##### **4a. Consider and act upon minutes from the following Town Council meeting. (RB)**

- Regular Meeting – July 14, 2015

##### **4b. Consider and act upon an ordinance rezoning 12.3± acres, from Commercial (C) to Planned Development-Retail (PD-R), located on the west side of Custer Road, 200± feet north of US 380. (Z15-0009). (JW)**

##### **4c. 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. (AG)**

#### **5. 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.)

**DEPARTMENT ITEMS:**

6. Consider and act upon an ordinance amending Chapter 13, "Utilities," of the Code of Ordinances, by adding thereto a new Article 13.10, "Backflow Prevention Plan" and amending Appendix A, "Fee Schedule," to the Code of Ordinances by adding thereto a new Section XVIII, "Backflow Prevention Plan and Enforcement Fees." **(FJ)**

7. **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:

*7a. Section 551.087 – To discuss and consider economic development incentives.*

*7b. 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.*

*7c. Section 551.071 – Consultation with Town Attorney regarding legal issues associated with Article 1.10 of Chapter 1 of the Code of Ordinances, and all matters incident and related thereto*

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

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

- CIP Projects **(HW)**
  - Town Hall/Multi-Purpose Facility
  - Coleman Road Reconstruction Project
  - West Prosper Road Improvements
  - SH 289 Median Lighting and Landscaping
- Frontier Park Parking. **(HW)**

10. Adjourn.

**CERTIFICATION**

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted at Prosper Town Hall, located at 121 W. Broadway Street, Prosper, Texas 75078, a place convenient and readily accessible to the general public at all times, and said Notice was posted on July 24, 2015, 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.

**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.



*Prosper is a place where everyone matters.*

**MINUTES**  
**Regular Meeting of the**  
**Prosper Town Council**  
Prosper Municipal Chambers  
108 W. Broadway, Prosper, Texas  
Tuesday, July 14, 2015

**1. Call to Order/Roll Call.**

The meeting was called to order at 6:04 p.m.

**Council Members Present:**

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

**Council Members Absent:**

Councilmember Jason Dixon

**Staff Members Present:**

Harlan Jefferson, Town Manager  
Robyn Battle, Town Secretary  
Terrence Welch, Town Attorney  
John Webb, Director of Development Services  
Alex Glushko, Senior Planner  
Matt Richardson, Senior Engineer  
Cheryl Davenport, Finance Director  
January Cook, Purchasing Agent  
Ronnie Tucker, Fire Chief  
Stuart Blasingame, Assistant Fire Chief  
Gary McHone, Assistant Police Chief

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

Pastor Tony Ellenberg of Lighthouse Christian Fellowship led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

**3. Announcements of upcoming events.**

Councilmember Korbuly read the following announcements:

Registration is open for several Parks & Recreation Programs including Bricks 4 Kids, Archery, Tennis, and Engineering Camps, adult fitness classes, and much more. Visit the Town of Prosper website for more information on how to register.

The Parks and Recreation Department is holding a “Wild in Prosper” photo contest through July 31. Visit a Town of Prosper park, take a photo, and submit your entry to [recreation@prospertx.gov](mailto:recreation@prospertx.gov). For contest rules, see the Town website.

The Public Works Department will offer a Drip Irrigation Do-It-Yourself Course on August 10 from 6:30-8:30 p.m., at the Public Works Office, located at 601 W. Fifth Street. Contact Tristan Cisco with Public Works for more information.

Prize pickup for the Library’s 500 Minute Challenge will be held on August 1. If you have signed up to read 500 minutes over the summer, return your completed log for prizes. The program is open to everyone 13 years of age or younger.

The Town Secretary’s Office is accepting applications for the Town’s various Boards and Commissions through Friday, August 7. Applications and information are available on the Town’s website, or by contacting the Town Secretary, Robyn Battle.

Movoto, an online real estate brokerage firm, has named Prosper among the 10 best Dallas Suburbs. Criteria for this list included monthly housing costs, quality of schools, crime rate, unemployment rate, average commute time to Dallas, and median household income.

Councilmember Korbuly announced that registration for several youth sports organizations is now open.

#### 4. **Presentations.**

- **Presentation to the players, coaches and staff of the Prosper High School Baseball Team for winning the 2015 Class 5A State UIL Baseball Championship. (RB)**

The Town Council presented congratulatory letters to members of the Prosper High School Baseball team, and then presented one of three roadside signs that will be placed at key intersections within the Town declaring the team’s 2015 state championship.

#### 5. **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.)**

- 5a. **Consider and act upon minutes from the following Town Council meeting. (RB)**
  - **Regular Meeting – June 23, 2015**
  - **Special Meeting – June 30, 2015**
- 5b. **Receive the May 2015 Financial Report. (CD)**

Councilmember Dugger made a motion and Councilmember Korbuly seconded the motion to approve all items on the Consent Agenda. The motion was approved by a vote of 6-0.

**6. 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 -**

There were no Citizen Comments.

**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:**

- 7. Conduct a Public Hearing, and consider and act upon a request to amend Chapter 2, Zoning Districts and Chapter 4, Development Requirements of the Zoning Ordinance regarding Alternating Single Family Plan Elevations, Exterior Residential Masonry Construction, Impervious Coverage of Residential Front Yards, Single Family Corner Lot Landscaping, Residential Garage Standards, Residential Driveway Standards, Carports and Size of Garages; and amend Chapter 3, Building Regulations of the Code of Ordinances regarding residential fences and exterior masonry construction. (Z15-0005). (JW)**

Councilmember Vogelsang made a motion and Councilmember Korbuly seconded the motion to table Item 7 to the August 25, 2015, Town Council meeting. The motion was approved by a vote of 6-0.

Mayor Smith opened Items 8 and 9 concurrently.

- 8. Conduct a Public Hearing, and consider and act upon a request to amend the Future Land Use Plan, located on the northwest corner of Prosper Trail and future Shawnee Trail, from Medium Density Residential to Dallas North Tollway District. The property is zoned Single Family-15 (SF-15) and Commercial Corridor (CC). (CA15-0002). [Companion Case Z14-0005] (JW)**
- 9. Conduct a Public Hearing, and consider and act upon a request to rezone 67.7± acres, located on the northwest corner of Prosper Trail and Dallas Parkway, from Single Family-15 (SF-15) and Commercial Corridor (CC) to Planned**

**Development-Single Family/Office/Retail (PD-SF/O/R). (Z14-0005). [Companion case CA15-0002] (JW)**

Development Services Director John Webb presented Items 8 and 9 before the Town Council. These items were tabled at the May 26, 2015, and the June 23, 2015, Town Council meetings to give the applicant an opportunity to modify the proposed PD development standards. The request includes a 7.5-acre tract at the northwest corner of Prosper Trail and future Shawnee Trail that is currently zoned Single Family-15. The applicant desires to rezone this area for Office use, which would require an amendment to the Future Land Use Plan.

The applicant has revised some, but not all, of the requested modifications to the proposed PD development standards. The applicant has addressed the modifications related to carports, landscape buffering along Shawnee Trail and Prosper Trail, the requirement for a Specific Use Permit (SUP) for convenience store with gas pump uses, and for outdoor sales and display uses. The applicant has also relocated the northern drive on Shawnee Trail toward the northern property line, as requested.

The applicant has not met the requested modification for a minimum residential lot size of 15,000 square feet, roof pitch requirements, reconfiguration of the big box orientation, or to include the Town Council as an approval authority for proposed façade plans/architectural character elevations. The Planning & Zoning Commission recommended approval subject to several conditions. Town staff recommended approval, subject to the approval of the Future Land Use Plan, and several conditions related to lot size, approval of façade/architectural character, and limitations on drive-through restaurants.

Kathryn Edwards spoke on behalf of the applicant. She explained that instead of requiring all residential lots to be 15,000 square feet, the proposed residential lots are an average of 15,000 square feet. The applicant would prefer to retain the flexibility of façade/architectural character for the development. She reviewed some additional aspects of the proposed PD. The Town Council requested submission of a concept plan for the PD, and would like to retain approval authority for proposed façade plans and architectural standards. They also requested a minimum residential lot size of 15,000 square feet. Barry Knight, representing the applicant, stated that they would like to return to a future Council meeting with a concept plan, and would consider the requests related to roof pitch and drive-through restaurants.

Mayor Smith opened the Public Hearing.

With no one speaking, Mayor Smith closed the Public Hearing.

The Council asked if it would be possible to add an access point from Prosper Trail, however, it would require reclamation of a portion of the floodplain.

After discussion, Deputy Mayor Pro-Tem Vogelsang made a motion and Councilmember Dugger seconded the motion to table Item 8 and Item 9 to the August 25, 2015, Town Council meeting. The motion was approved by a vote of 6-0.

**10. Conduct a Public Hearing, and consider and act upon an ordinance amending Specific Use Permit-8 (SUP-8) for a Child Day Care Center, on 1.6± acres, located on the north side of Richland Boulevard, 300± feet west of Coit Road. The property is zoned Office (O). (S15-0005). (JW)**

Development Services Director John Webb presented this item before the Town Council. The applicant is proposing to increase the existing building square footage by greater than 10%, which requires an amendment to the SUP. Mr. Webb reviewed the details of the request, and the criteria staff considered to determine the validity of the request. The Planning & Zoning Commission recommended approval of the request, subject to conditions. The applicant has since revised the proposed conceptual elevation.

Mayor Smith opened the Public Hearing

Pann Sribhen with PSA Engineering spoke on behalf of the applicant. He addressed the Council on the details of the proposed changes to the SUP, including those requested by the Planning & Zoning Commission, which were intended to make the project more compatible with the existing SUP.

With no one else speaking, Mayor Smith closed the Public Hearing.

After discussion, Mayor Pro-Tem Miller made a motion and Councilmember Davis seconded the motion to approve Ordinance No. 15-40 amending Specific Use Permit-8 (SUP-8) for a Child Day Care Center, with the amended conceptual elevation, on 1.6± acres, located on the north side of Richland Boulevard, 300± feet west of Coit Road. The motion was approved by a vote of 6-0.

**11. Conduct a Public Hearing, and consider and act upon an amendment to Planned Development-38 (PD-38), on 83.6± acres, located on the northeast corner of US 380 and Coit Road. (Z15-0008). (JW)**

Development Services Director John Webb presented this item before the Town Council. The owner of the western-most tract of PD-38 desires to deviate from the development plan established by PD-38 in order to develop a CVS Pharmacy at the northeast corner of US 380 and Coit Road. Additionally, Town staff has initiated a zoning change for the remainder of the PD which would require conceptual development plans prior to the development of the remaining tracts. Notice was provided to the other property owners within the PD.

Mayor Smith opened the Public Hearing.

Barry Knight, representing the owner of the subject tract, and the developer of CVS, explained some of the details of the proposed PD, and stated that the original development standards for PD-38 would be retained with the proposed PD amendment and design of the CVS.

Douglas Mousel, 5400 Dallas Parkway, Frisco, spoke in favor of the development, with the condition that the original development standards of the PD be retained. He also inquired about the height restrictions for the development.

The Town Council expressed concern about what the entire development will look like, and wants to make sure that the design is consistent for the entire PD. Concerns were also expressed with the proposed design, which would allow three drive-through restaurants in a row on pad sites facing US 380.

Jim Williams, representing the property owners to the north and northeast, advised against developing the corner site independent of the rest of the PD, and advised a concept plan be submitted for the entire PD.

Matthew Kiran, representing the owner of the current property, stated that the original PD was intended to develop in three phases, from west to east.

Mr. Knight stated that the intent of the proposal was to follow the original development standards of PD-38, however, the site plan varies from the original PD.

The Town Council advised the applicant to return with a concept plan for the entire PD, since the proposed site plan deviates significantly from the original PD. The applicant requested that the item be tabled in order to make modifications to the request.

After discussion, Deputy Mayor Pro-Tem Vogelsang made a motion and Mayor Pro-Tem Miller seconded the motion to table Item 11 to the September 8, 2015, Town Council meeting. The motion was approved by a vote of 6-0.

**12. Conduct a Public Hearing, and consider and act upon a request to rezone 12.3± acres, from Commercial (C) to Planned Development-Retail (PD-R), located on the west side of Custer Road, 200± feet north of US 380. (Z15-0009). (JW)**

Development Services Director John Webb presented this item before the Town Council. Mr. Webb reviewed the proposed elevation, geotechnical study results, and design elements of the proposed PD for a Lowe's Home Improvement Center. Mr. Webb discussed proposed options for outdoor storage and display, as well as landscaping and screening. The Planning & Zoning Commission recommended approval of the request with conditions. Town staff recommended approval, subject to requirements for screening of open storage, foundation plantings, and landscaped parking row islands. Mr. Webb responded to questions related to the tree line and existing zoning on the north side of the property.

Mayor Smith opened the Public Hearing.

Bill Hanks, the owner of the site, spoke in favor of the project, stating that he is happy with how the property is being developed and announced some potential future additional businesses that will develop on the site. He feels comfortable with the level of existing screening on the north side of the property.

Matthew Minton, design engineering director for Lowe's, spoke in favor of the project, and feels the design of the proposed Lowe's on this property is unique, and unlike other Lowe's stores in the area. He emphasized some of the details of the proposal that exceed the Town's minimum development standards. The applicant agreed to the request for landscaped parking row islands, but requested that the Town Council

waive the requirement for screening of open storage on the north side of the building, and the requirement for foundation trees.

Doug Mousel, representing property owners to the north and west of the site, spoke in favor of the item, adding his approval of the screening along Custer Road. He advised Council to require screening on the north side of the building.

With no one else speaking, Mayor Smith closed the Public Hearing.

After discussion, Mayor Pro-Tem Miller made a motion and Councilmember Korbuly seconded the motion to approve a request to rezone 12.3± acres, from Commercial (C) to Planned Development-Retail (PD-R), located on the west side of Custer Road, 200± feet north of US 380, subject to revising the PD to require the parking row islands provide ground cover, grasses, shrubs, boulders, etc. in conjunction with decomposed granite. The motion was approved by a vote of 5-1 with Councilmember Dugger casting the opposing vote.

**DEPARTMENT ITEMS:**

Mayor Smith opened Item 13 and Item 14 concurrently.

13. **Consider all matters incident and related to the issuance and sale of the Town of Prosper, Texas General Obligation Refunding and Improvement Bonds, Series 2015, including the adoption of an ordinance authorizing the issuance of such Bonds, approving an Official Statement, a Bond Purchase Agreement, a Paying Agent/Registrar Agreement, and an engagement letter of Bond Counsel. (CD)**
14. **Consider all matters incident and related to the issuance and sale of the Town of Prosper, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Series 2015, including the adoption of an ordinance authorizing the issuance of such Certificates, approving an Official Statement, a Bond Purchase Agreement, a Paying Agent/Registrar Agreement, and an engagement letter of Bond Counsel. (CD)**

Finance Director Cheryl Davenport introduced Jason Hughes of FirstSouthwest, the Town's Financial Advisor, who reviewed the terms of the sales of the General Obligation Bonds and Certificates of Obligation.

After discussion, Deputy Mayor Pro-Tem Vogelsang made a motion and Councilmember Davis Seconded the motion to adopt all matters incident and related to the issuance and sale of the Town of Prosper, Texas General Obligation Refunding and Improvement Bonds, Series 2015, including the adoption of Ordinance No. 15-41 authorizing the issuance of such Bonds, approving an Official Statement, a Bond Purchase Agreement, a Paying Agent/Registrar Agreement, and an engagement letter of Bond Counsel. The motion was approved by a vote of 6-0.

Councilmember Davis made a motion and Deputy Mayor Pro-Tem Vogelsang seconded the motion to adopt all matters incident and related to the issuance and sale of the Town of Prosper, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Series 2015, including the adoption of Ordinance No. 15-42

authorizing the issuance of such Certificates, approving an Official Statement, a Bond Purchase Agreement, a Paying Agent/Registrar Agreement, and an engagement letter of Bond Counsel. The motion was approved by a vote of 6-0.

- 15. Consider and act upon approving a Guaranteed Maximum Price (GMP) Amendment between Pogue Construction Co., L.P., and the Town of Prosper, related to Construction Manager-At-Risk services for Prosper Fire Department Station No. 2; and authorizing the Town Manager to execute same. (RT)**

Fire Chief Ronnie Tucker presented this item before the Town Council. In March of 2014, the Town Council approved the standard form of agreement and related documents with Pogue Construction Co., LP, for the Construction Manager-At-Risk for Prosper Fire Station No. 2. In an effort to reduce costs, Pogue Construction offered the Town value management options.

Deputy Mayor Pro-Tem Vogelsang made a motion and Councilmember Korbuly seconded the motion to approve a Guaranteed Maximum Price (GMP) Amendment between Pogue Construction Co., L.P., and the Town of Prosper, related to Construction Manager-At-Risk services for Prosper Fire Department Station No. 2; and authorizing the Town Manager to execute same. The motion was approved by a vote of 6-0.

- 16. Consider and act upon an ordinance amending the FY 2014-2015 budget. (CD)**

Finance Director Cheryl Davenport presented this item before the Town Council. The budget amendment will account for a revenue increase associated with a Chapter 380 Agreement with Highland Homes, benefit payouts to the previous Finance Director and Accounting Manager, and funding for the Windsong Ranch Fire Station, and the Coleman Street – Prosper Trail to Preston Road project.

After discussion, Councilmember Korbuly made a motion and Councilmember Dugger seconded the motion to adopt Ordinance No. 15-43 amending the FY 2014-2015 Budget to increase revenues, expenditures, and transfers out in the General Fund, increase revenues and transfers in and out in the Special Revenue Fund (Escrows) and increase revenues, transfers in, and expenditures in the CIP Fund, as outlined in Exhibit "A" to the Budget Amendment Ordinance, amending the revenue for the Chapter 380 Agreement from \$15,000 to \$32,000. The motion was approved by a vote of 6-0.

- 17. Consider and act upon an amendment to the Capital Improvement Plan (CIP). (MR)**

Senior Engineer Matt Richardson presented this item before the Town Council. The CIP Amendment reallocates budgets and funding sources for multiple projects in the CIP. Mr. Richardson reviewed the list of amendments, and responded to the Town Councils' questions about specific projects, particularly related to Frontier Parkway. Town Manager Harlan Jefferson elaborated on some of the reallocated funding sources for the CIP projects, including impact fees and bond funds.

After discussion, Councilmember Dugger made a motion and Councilmember Korbuly seconded the motion to approve an amendment to the Capital Improvement Plan.

The motion was approved by a vote of 5-1, with Councilmember Davis casting the opposing vote.

**18. 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:**

**18a. *Section 551.087 – To discuss and consider economic development incentives.***

**18b. *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 9:36 p.m.

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

The Town Council reconvened the Regular Session at 9:56 p.m.

Mayor Pro-Tem Miller made a motion and Councilmember Dugger seconded the motion to authorize the Town Manager to execute a 380 agreement with Elder Living Partners, subject to the terms and conditions discussed in Executive Session. The motion was approved by a vote of 6-0.

**20. Consider and act upon a resolution of the Town of Prosper, Texas, authorizing the Town Attorney to bring a condemnation action for the purpose of obtaining right-of-way and drainage easements, consisting of approximately 4 acres of property, situated generally in the Spencer Rice Survey, Tract 4, Town of Prosper, Collin County, Texas, necessary for the construction of the Coleman Road, Phase II project, and for other public purposes permitted by law. (MR)**

Senior Engineer Matt Richardson presented this item before the Town Council. Town staff has been unable to reach an agreement with the property owner to acquire the property. The proposed resolution would give the Town authority to pursue eminent domain on any right-of-way and easements not dedicated for the Coleman Street Project. Mr. Richardson responded to questions from the Town Council on the Coleman Street expansion project.

After discussion, Deputy Mayor Pro-Tem Vogelsang made a motion and Councilmember Korbuly seconded the motion to adopt Resolution No. 15-44 authorizing the Town Attorney to bring a condemnation action for the purpose of obtaining right-of-way and drainage easements, consisting of approximately 4 acres of property, situated generally in the Spencer Rice Survey, Tract 4, Town of Prosper, Collin County, Texas, necessary for the construction of the Coleman Road, Phase II project, and for other public purposes permitted by law. The motion was approved by a vote of 6-0.

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

- **CIP Projects (HW)**

Councilmember Korbuly requested regular updates on road projects. Mr. Richardson responded that Town staff is working on improvements to the website that would provide up-to-date information on road closures and road projects.

The Town Council reported that some of the recently-planted trees on Preston Road had fallen down during the recent storms. Staff was directed to follow up to see if the trees can be staked at the time they are planted.

Mr. Jefferson reported that preconstruction meetings for the West Prosper Road Improvements project will be scheduled for July 30 or 31.

Councilmember Davis requested that an Executive Session item be added to the agenda for the next Council meeting related to the Code of Ethics.

**22. Adjourn.**

The meeting was adjourned at 10:05 p.m.

These minutes approved on the 28th day of July, 2015.

**APPROVED:**

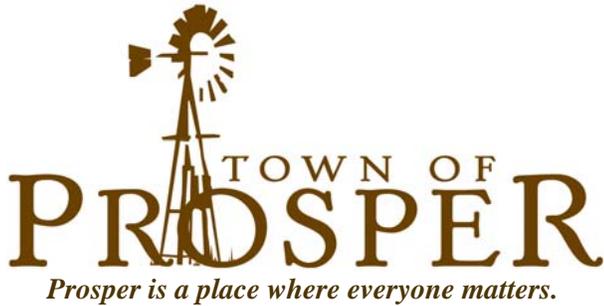
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**Ray Smith, Mayor**

**ATTEST:**

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**Robyn Battle, Town Secretary**



## PLANNING

**To:** Mayor and Town Council

**From:** John Webb, AICP, Director of Development Services

**Through:** Harlan Jefferson, Town Manager

**Re:** Town Council Meeting – July 28, 2015

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**Agenda Item:**

Consider and act upon an ordinance rezoning 12.3± acres, from Commercial (C) to Planned Development-Retail (PD-R), located on the west side of Custer Road, 200± feet north of US 380. (Z15-0009).

**Description of Agenda Item:**

On July 14, 2015, the Town Council approved zoning case Z15-0009, by a vote of 5-1, subject to revising the PD to require the parking row islands provide ground cover, grasses, shrubs, boulders, etc., in conjunction with decomposed granite. Town staff has prepared an ordinance rezoning the property.

**Legal Obligations and Review:**

Zoning Ordinance 05-20 requires that the Town Council hold a public hearing before approving a zoning request and adopting an ordinance rezoning property. A public hearing has been held and the Town Council approved the zoning case. The attached ordinance is a standard format that was previously approved by the Town Attorney, Terrence Welch of Brown & Hofmeister, L.L.P.

**Attached Documents:**

1. Ordinance

**Town Staff Recommendation:**

Town staff recommends that the Town Council adopt an ordinance rezoning 12.3± acres, from Commercial (C) to Planned Development-Retail (PD-R), located on the west side of Custer Road, 200± feet north of US 380.

**Proposed Motion:**

I move to adopt an ordinance rezoning 12.3± acres, from Commercial (C) to Planned Development-Retail (PD-R), located on the west side of Custer Road, 200± feet north of US 380.

## TOWN OF PROSPER, TEXAS

## ORDINANCE NO. 15-\_\_

**AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 12.34 ACRES, MORE OR LESS, SITUATED IN THE JEREMIAH HORN SURVEY, ABSTRACT NO. 411, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, HERETOFORE ZONED COMMERCIAL (C) IS HEREBY REZONED AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-RETAIL (PD-R); DESCRIBING THE TRACT TO BE REZONED; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVING AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**WHEREAS**, the Town Council of the Town of Prosper, Texas (the "Town Council") has investigated and determined that Zoning Ordinance No. 05-20 should be amended; and

**WHEREAS**, the Town of Prosper, Texas ("Prosper") has received a request from Lowe's Home Centers, LLC. ("Applicant") to rezone 12.34 acres of land, more or less, situated in the Jeremiah Horn Survey, Abstract No. 411, in the Town of Prosper, Collin County, Texas; and

**WHEREAS**, the Town Council has investigated into and determined that the facts contained in the request are true and correct; and

**WHEREAS**, all legal notices required for rezoning have been given in the manner and form set forth by law, and public hearings have been held on the proposed rezoning and all other requirements of notice and completion of such zoning procedures have been fulfilled; and

**WHEREAS**, the Town Council has further investigated into and determined that it will be advantageous and beneficial to Prosper and its inhabitants to rezone this property as set forth below.

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

### **SECTION 1**

Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

### **SECTION 2**

Amendments to Zoning Ordinance No. 05-20. Zoning Ordinance No. 05-20 is amended as follows: The zoning designation of the below-described property containing 12.34 acres of land, more or less, situated in the Jeremiah Horn Survey, Abstract No. 411, in the Town of Prosper, Collin County, Texas, (the "Property") and all streets, roads and alleyways contiguous and/or adjacent thereto is hereby rezoned as Planned Development-Retail (PD-R). The property as a whole and the boundaries for each zoning classification are more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes as if set forth verbatim.

The development plans, standards, and uses for the Property in this Planned Development District shall conform to, and comply with 1) the statement of intent and purpose, attached hereto as Exhibit "B"; 2) the planned development standards, attached hereto as Exhibit "C"; 3) the concept plan, attached hereto as Exhibit "D"; 4) the development schedule, attached hereto as Exhibit "E"; 5) the conceptual elevations, attached hereto as Exhibit "F", and 6) the conceptual landscape plan, attached hereto as Exhibit "G", which are incorporated herein for all purposes as if set forth verbatim, subject to the following condition of approval by the Town Council:

1. The parking row islands shall provide ground cover, grasses, shrubs, boulders, etc., in conjunction with decomposed granite.

Except as amended by this Ordinance, the development of the Property within this Planned Development District must comply with the requirements of all ordinances, rules, and regulations of Prosper, as they currently exist or may be amended.

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

- a. Two (2) copies shall be filed with the Town Secretary and retained as original records and shall not be changed in any matter.
- b. One (1) copy shall be filed with the Building Official and shall be maintained up-to-date by posting thereon all changes and subsequent amendments for observation, issuing building permits, certificates of compliance and occupancy and enforcing the zoning ordinance. Reproduction for information purposes may from time-to-time be made of the official zoning district map.

Written notice of any amendment to this District shall be sent to all owners of properties within the District as well as all properties within two hundred feet (200') of the District to be amended.

### **SECTION 3**

No Vested Interest/Repeal. No developer or property owner shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein. Any portion of this Ordinance may be repealed by the Town Council in the manner provided for by law.

### **SECTION 4**

Unlawful Use of Premises. It shall be unlawful for any person, firm or corporation to make use of said premises in some manner other than as authorized by this Ordinance, and shall be unlawful for any person, firm or corporation to construct on said premises any building that is not in conformity with the permissible uses under this Zoning Ordinance.

### **SECTION 5**

Penalty. Any person, firm, corporation or business entity violating this Ordinance or any provision of Prosper's Zoning Ordinance No. 05-20, or as amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a

separate offense. The penal provisions imposed under this Ordinance shall not preclude Prosper from filing suit to enjoin the violation. Prosper retains all legal rights and remedies available to it pursuant to local, state and federal law.

**SECTION 6**

Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

**SECTION 7**

Savings/Repealing Clause. Prosper’s Zoning Ordinance No. 05-20 shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the appeal prevent a prosecution from being commenced for any violation if occurring prior to the repealing of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 8**

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

**DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 28TH DAY OF JULY, 2015.**

\_\_\_\_\_  
**Ray Smith, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Robyn Battle, Town Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Terrence S. Welch, Town Attorney**

EISENMANN THEODORE J  
WALNUT GROVE #1,  
BLK 2, LOT 3A  
(NO ZONING-UNINCORPORATED)  
COLLIN COUNTY  
EXISTING USE: RESIDENTIAL (ESTATE)

CUSTER STORAGE CENTER, LLC  
ABS A0995 B P WORLEY SURVEY, TRACT 18  
(NO ZONING-UNINCORPORATED)  
COLLIN COUNTY  
EXISTING USE: MINI-STORAGE

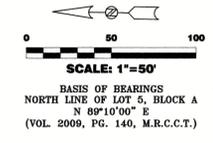
LEWIS MICHELE ANN &  
SHERIDAN ELAINE FREMMING &  
MICHAEL DOUGLAS FREMMING, JR.  
ABS A0995 B P WORLEY SURVEY, TRACT 16  
(NO ZONING-UNINCORPORATED)  
COLLIN COUNTY  
EXISTING USE: RESIDENTIAL (ESTATE)

FREMMING M D ESTATE &  
SHIRLEY GRAVES ESTATE  
ABS A0995 B P WORLEY SURVEY, TRACT 12  
(NO ZONING-UNINCORPORATED)  
COLLIN COUNTY  
EXISTING USE: RESIDENTIAL (ESTATE)

GESHER VENTURE, LTD.  
CUSTER 380 (CMC),  
BLOCK A, LOT 2  
(ZONED PD-CITY OF MCKINNEY)  
EXISTING USE: VACANT

TCG CUSTER/380 INVESTORS, LLC  
PARCEL 601 603 (CMC),  
BLK A, LOT 2R  
(ZONED PD-CITY OF MCKINNEY)

**CUSTER ROAD (F.M. 2478)**  
(VARIABLE-WIDTH R.O.W.)  
(C.C.F. No. 2006-005, D.R.C.C.T.)  
(VOLUME 2006, PAGE 262, M.R.C.C.T.)



**P.O.B.**  
TRACT A  
5/8" I.R.F.C.

**P.O.B.**  
TRACT B

7.5649 ACRES (called)  
FF 14TH FAIRWAY L.P.  
(VOLUME 4189, PAGE 1138, D.R.C.C.T.)  
ZONED: "C"  
EXISTING USE: VACANT  
FUTURE LAND USE: U.S. 380 DISTRICT

PART OF  
LOT 6, BLOCK A  
FINAL PLAT  
PROSPER PLAZA,  
LOTS 5 & 6, BLOCK A  
(VOLUME 2009, PAGE 140,  
M.R.C.C.T.)  
OWNER:  
ROSEBRIAR PROSPER PLAZA, L.P.  
C.C.F. NO. 20120906001115310  
D.R.C.C.T.

PROPOSED RESTAURANT/RETAIL  
REMAINDER OF  
LOT 6, BLOCK A  
FINAL PLAT  
PROSPER PLAZA,  
LOTS 5 & 6, BLOCK A  
(VOLUME 2009, PAGE 140,  
M.R.C.C.T.)  
OWNER:  
ROSEBRIAR PROSPER PLAZA, L.P.  
C.C.F. NO. 20120906001115310  
D.R.C.C.T.

EXISTING TACO BUENO  
LOT 1, BLOCK A  
FINAL PLAT  
PROSPER PLAZA,  
LOT 1, BLOCK A  
(VOLUME 2013, PAGE 462,  
M.R.C.C.T.)  
OWNER:  
ROSEBRIAR PROSPER PLAZA L.P.  
C.C.F. NO. 20131014010002990  
D.R.C.C.T.  
ZONED: "C"

WACHOVIA BANK NATIONAL ASSOC.  
CUSTER WAL MART (CMC),  
BLK A, LOT 4R  
(ZONED PD-CITY OF MCKINNEY)

**TRACT A**  
479,619 SQUARE FEET  
6.5673 ACRES  
CURRENT USE: VACANT  
PROPOSED USE: LOWES HOME IMPROVEMENT CENTER  
CURRENT ZONING: "C" COMMERCIAL  
PROPOSED ZONING: PLANNED DEVELOPMENT RETAIL  
FUTURE LAND USE: U.S. 380 DISTRICT

**TRACT B**  
57,866 SQUARE FEET  
1.3305 ACRES  
CURRENT USE: VACANT  
PROPOSED USE: RESTAURANT/RETAIL  
CURRENT ZONING: "C" COMMERCIAL  
PROPOSED ZONING:  
PLANNED DEVELOPMENT RETAIL  
FUTURE LAND USE: U.S. 380 DISTRICT

EXISTING BURGER KING  
LOT 7, BLOCK A  
REVISED CONVEYANCE PLAT  
PROSPER PLAZA,  
LOT 7, BLOCK A  
(VOLUME 2013, PAGE 462,  
M.R.C.C.T.)  
OWNER:  
FIREBRAND PROPERTIES L.P.  
C.C.F. NO. 20131003001384780  
D.R.C.C.T.  
ZONED: "C"

AYCO REALTY, LTD.  
CUSTER WAL MART (CMC),  
BLK A, LOT 3R  
(ZONED PD-CITY OF MCKINNEY)

PART OF  
LOT 5, BLOCK A  
FINAL PLAT  
PROSPER PLAZA, LOTS 5 & 6, BLOCK A  
(VOLUME 2009, PAGE 140, M.R.C.C.T.)  
OWNER:  
KOHL'S ILLINOIS INC.  
PROPERTY TAX DEPARTMENT  
C.C.F. NO. 20080529000646420  
D.R.C.C.T.

REMAINDER OF  
LOT 5, BLOCK A  
FINAL PLAT  
PROSPER PLAZA,  
LOTS 5 & 6, BLOCK A  
(VOLUME 2009, PAGE 140,  
M.R.C.C.T.)  
OWNER:  
KOHL'S ILLINOIS INC.  
PROPERTY TAX DEPARTMENT  
C.C.F. NO. 20080529000646420  
D.R.C.C.T.

LOT 2, BLOCK A  
REVISED CONVEYANCE PLAT  
PROSPER PLAZA, LOTS 1-4 & 7, BLOCK A  
(VOLUME 2009, PAGE 140, M.R.C.C.T.)  
OWNER: VIEWPOINT BANK  
C.C.F. NO. 20090414000434660  
D.R.C.C.T.  
ZONED: "C"  
EXISTING USE: VACANT  
FUTURE LAND USE: U.S. 380 DISTRICT

MURPHY OIL USA, INC.  
CUSTER WAL MART (CMC),  
BLOCK A, LOT 2  
(ZONED PD-CITY OF MCKINNEY)

PART OF  
LOT 4, BLOCK A  
REVISED CONVEYANCE PLAT  
PROSPER PLAZA, LOTS 1-4 & 7, BLOCK A  
(VOLUME 2009, PAGE 140, M.R.C.C.T.)  
OWNER:  
ROSEBRIAR PROSPER PLAZA, L.P.  
C.C.F. NO. 20120906001115310  
D.R.C.C.T.

REMAINDER OF  
LOT 4, BLOCK A  
REVISED CONVEYANCE PLAT  
PROSPER PLAZA, LOTS 1-4 & 7, BLOCK A  
(VOLUME 2009, PAGE 140, M.R.C.C.T.)  
OWNER:  
ROSEBRIAR PROSPER PLAZA, L.P.  
C.C.F. NO. 20120906001115310  
D.R.C.C.T.  
ZONING: C PD-25  
FUTURE LAND USE: U.S. 380 DISTRICT

REMAINDER OF  
LOT 3, BLOCK A  
REVISED CONVEYANCE PLAT  
PROSPER PLAZA, BLOCK A, LOTS 3 AND 10  
(VOLUME 2011, PAGE 49, M.R.C.C.T.)  
OWNER:  
ROSEBRIAR PROSPER PLAZA, L.P.  
C.C.F. NO. 20120906001115310  
D.R.C.C.T.  
ZONING: C  
EXISTING USE: VACANT  
FUTURE LAND USE: U.S. 380 DISTRICT

ZONING EXHIBIT "A"  
Z15-0009  
**12.341 ACRE TRACT OF LAND**  
**PART OF LOTS 4-5-6, BLOCK A**  
**PROSPER PLAZA**  
(VOLUME 2009, PAGE 140, M.R.C.C.T.)

out of  
JEREMIAH HORN SURVEY, ABSTRACT No. 411  
TOWN OF PROSPER, COLLIN COUNTY, TEXAS

**THOROUGHFARE NOTE**

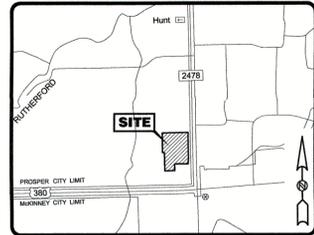
The thoroughfare alignment(s) shown on this exhibit are for illustration purposes and does not set the alignment.  
The alignment is determined at time of final plat.

**PREPARED FOR:**  
CROSSPOINT ENGINEERING  
5620 Old Bullard Road  
Suite 130  
Tyler, Texas 75703  
(903) 705-4416

**PROJECT INFORMATION**  
Date of Survey: 03/02/2015  
Job Number: 0714617  
Drawn By: W.J.J.  
G.P. No.: None  
File: Lowes-Prosper-PD Exhibit.Dwg  
**SHEET 1 OF 2**



903 N. Bowser Road, Suite 240  
Richardson, Texas 75081  
(972) 424-7002 Voice  
(972) 633-1702 Fax  
WWW.SurveyConsultantsInc.Com  
TBPUS Firm No. 10139600



LOCATION MAP  
SCALE: 1"=2000'

**LEGEND**

5/8" I.R.S.  
C.C.F. NO.  
(C.M.)  
D.R.C.C.T.  
I.R.F.  
M.R.C.C.T.  
PG.  
P.O.B.  
R.O.W.  
VOL.

5/8" IRON ROD SET WITH PLASTIC CAP STAMPED "R.P.L.S. 5199"  
COUNTY CLERK'S FILE NUMBER  
CONTROLLING MONUMENT  
DEED RECORDS, COLLIN COUNTY, TEXAS  
IRON ROD FOUND  
MAP RECORDS, COLLIN COUNTY, TEXAS  
PAGE  
POINT OF BEGINNING  
RIGHT-OF-WAY  
VOLUME

**ZONING NOTES**

Property is Zoned "C" (Commercial)

**"C" Commercial Zoning** setback requirements, height and floor area restrictions.

Minimum Front Yard: 30'  
Minimum Side Yard: 15' adjacent to a non-residential district. The minimum side yard setback may be eliminated for attached retail buildings on separate lots as shown on an approved site plan.  
40' for a one-story building adjacent to a residential district, and 60' for a two-story building adjacent to a residential district.  
Minimum Rear Yard: 30' adjacent to a street.  
15' adjacent to a non-residential district. The minimum rear yard setback may be eliminated for attached retail buildings on separate lots as shown on an approved site plan.  
40' for a one-story building adjacent to a residential district, and 60' for a two-story building adjacent to a residential district.  
Minimum Lot Size: 10,000 square feet  
Minimum Lot Width: 70'  
Minimum Lot Depth: 100'  
Maximum Height: Two stories, no greater than 40'  
Maximum Lot Coverage: 50%  
Maximum Floor Area Ratio: 0.5 to 1

**LEGAL DESCRIPTION**

**TRACT A (Proposed Lowes Tract)**

**BEING** a tract of land located in the Town of Prosper, Collin County, Texas, part of the Jeremiah Horn Survey, Abstract No. 411, and being part of Lots 4, 5 and 6, Block A, Prosper Plaza, an addition to the Town of Prosper, Collin County, Texas according to the plat thereof recorded in Volume 2009, Page 140, Map Records, Collin County, Texas and being more particularly described as follows:

**BEGINNING** at a 5/8" iron rod with plastic cap stamped "RPLS 5199" found for the northeast corner of said Lot 6, being the most southerly northeast corner of Lot 5, Block A, said Prosper Plaza Addition, being in the west right-of-way line of Custer Road (F.M. 2478, a variable width R.O.W.);

**THENCE**, along the east line of said Lot 6 and the west line of Custer Road, as follows:  
South 00 degrees 50 minutes 00 seconds East, a distance of 589.96 feet to a 5/8" iron rod with plastic cap stamped "RPLS 5199" found;  
South 02 degrees 36 minutes 01 seconds West, a distance of 138.58 feet to an "X" in concrete set;

**THENCE**, departing the west line of Custer Road, over and across said Lot 6 and Lot 5, South 89 degrees 10 minutes 04 seconds West, a distance of 351.50 feet to an "X" in concrete set;

**THENCE**, South 00 degrees 49 minutes 56 seconds East, a distance of 167.00 feet to an "X" in concrete set, being in the south line of said Lot 5 and the north line of Lot 2, Block A, Prosper Plaza, Lots 1-4 & 7, Block A as recorded in Volume 2009, Page 140, Map Records, Collin County, Texas;

**THENCE**, along the south line of said Lot 5 and the north line of said Lot 2, South 89 degrees 10 minutes 04 seconds West, a distance of 152.50 feet to an "X" in concrete set, being the northwest corner of said Lot 2 and being in the east line of said Lot 4;

**THENCE**, along the west line of said Lot 2 and the east line of said Lot 4, South 00 degrees 49 minutes 56 seconds East, a distance of 258.14 feet to a 5/8" iron rod set with plastic cap stamped "RPLS 5199", being the southwest corner of said Lot 2 and the southeast corner of said Lot 4, being in the north right-of-way line of U.S. Highway 380 (variable width R.O.W.);

**THENCE**, along the south line of said Lot 4 and the north line of U.S. Highway 380, South 89 degrees 10 minutes 04 seconds West, a distance of 51.50 feet to an "X" in concrete set;

**THENCE**, departing the north line of U.S. Highway 380, over and across said Lot 4 as follows:  
North 00 degrees 49 minutes 57 seconds West, a distance of 685.14 feet to an "X" in concrete set;  
South 89 degrees 10 minutes 04 seconds West, a distance of 47.47 feet to a 5/8" iron rod set with plastic cap stamped "RPLS 5199";  
North 00 degrees 49 minutes 56 seconds West, a distance of 468.28 feet to a 5/8" iron rod set with plastic cap stamped "RPLS 5199", being in the north line of said Lot 4 and the south line of a 7.5649 acre tract described in deed to FF 14th Fairway, L.P. as recorded in Volume 4189, Page 1138, Deed Records, Collin County, Texas;

**THENCE**, along the north line of said Lots 4, 5 and 6, and the south line of said 7.5649 acre tract, North 89 degrees 10 minutes 00 seconds East, a distance of 611.26 feet to the **POINT OF BEGINNING** and containing 479,619 square feet or 11.0105 acres of land more or less.

**LEGAL DESCRIPTION**

**TRACT B (Out-Parcel Tract)**

**BEING** a tract of land located in the Town of Prosper, Collin County, Texas, part of the Jeremiah Horn Survey, Abstract No. 411, and being part of Lots 5 & 6, Block A, Prosper Plaza, an addition to the Town of Prosper, Collin County, Texas according to the plat thereof recorded in Volume 2009, Page 140, Map Records, Collin County, Texas and being more particularly described as follows:

**BEGINNING** at an "X" in concrete found for the southeast corner of said Lot 6, being the northeast corner of Lot 1, Block A, Prosper Plaza addition as recorded in Volume 2013, Page 462, Map Records, Collin County, Texas, being in the west right-of-way line of Custer Road (F.M. Highway 2478, a variable width R.O.W.);

**THENCE**, along the south line of Lot 6, South 89 degrees 10 minutes 04 seconds West, passing at a distance of 344.80 the southwest corner of said Lot 6 and the southeast corner of said Lot 5, continuing along the south line of Lot 5 for a total distance of 344.80 feet to an "X" in concrete set;

**THENCE**, departing the south line of said Lot 5, over and across said Lots 5 & 6 as follows:  
North 00 degrees 49 minutes 56 seconds West, a distance of 167.00 feet to an "X" in concrete set;  
North 89 degrees 10 minutes 04 seconds East, passing at a distance of 165.00 feet the east line of said Lot 5 and the west line of said Lot 6, continuing for a total distance of 351.50 feet to an "X" in concrete set, being in the east line of said Lot 6 and the west right-of-way line of said Custer Road;

**THENCE**, along the east line of said Lot 6 and the west right-of-way line of Custer Road, as follows:  
South 02 degrees 36 minutes 01 seconds West, a distance of 111.87 feet to a 5/8" iron rod found;  
South 00 degrees 50 minutes 00 seconds East, a distance of 55.33 feet to the **POINT OF BEGINNING** and containing 57,956 square feet or 1.3305 acres of land more or less.

*William J. Johnson*  
William J. Johnson  
Registered Professional Land Surveyor No. 5426



**NOTICE:**  
This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

ZONING EXHIBIT "A"  
Z15-0009

**12.341 ACRE TRACT OF LAND  
PART OF LOTS 4-5-6, BLOCK A  
PROSPER PLAZA**

(VOLUME 2009, PAGE 140, M.R.C.C.T.)  
out of  
JEREMIAH HORN SURVEY, ABSTRACT No. 411  
TOWN OF PROSPER, COLLIN COUNTY, TEXAS

**PREPARED FOR:**  
CROSSPOINT ENGINEERING  
5620 Old Bullard Road  
Suite 130  
Tyler, Texas 75703  
(903) 705-4416

**PROJECT INFORMATION**  
Date of Survey: 03/02/2015  
Job Number: 0714817  
Drawn By: W.J.J.  
G.F. No.: None  
File: Lowes-Prosper PD Exhibit.Dwg  
**SHEET 2 OF 2**

**SCI**  
Survey Consultants, Inc.  
903 N. Bowser Road, Suite 240  
Richardson, Texas 75081  
(972) 424-7002 Voice  
(972) 633-1702 Fax  
WWW.SurveyConsultantsInc.com  
TBPLS Firm No. 10139600

**-Exhibit B-  
Statement of Intent & Purpose**

The Applicant intends to develop a home improvement store along with a garden center. A Kohl's Department Store was originally planned on the property along with a 25,000 sf retail development. Most of the existing infrastructure has been constructed. The proposed home improvement building is currently planned to be approximately 112,000 square feet along with a 28,000 square feet garden center. In addition to the home improvement store, the plan is to develop a 1.33 acre outparcel in the existing parking lot. The outparcel building is currently planned to be restaurant and retail with approximately 8,500 square feet.

## -Exhibit C-

### Planned Development Standards

#### Conformance with the Town's Zoning Ordinance and Subdivision Ordinance:

Except as otherwise set forth in these Development Standards, the regulations of the Town's Zoning Ordinance (Ordinance No. 05-20 as it exists or may be amended) and the Subdivision Ordinance (as it exists or may be amended) shall apply.

#### **Tract A Retail District**

- A.1 Except as noted below, the Tract shall develop in accordance with the Retail District, as it exists or may be amended.
- A.2 Development Plans
1. Concept Plan: Development shall be in conformance with the attached concept plan, set forth in Exhibit D.
  2. Elevations: Development shall be in conformance with the attached elevations, set forth in Exhibit F.
  3. Landscape Plan: Development shall be in conformance with the attached landscape plan, set forth in Exhibit G.
- A.3 Uses. Uses shall be permitted in accordance with the Retail District. A big box retail building including a home improvement store with a garden center is a permitted use. The following uses shall be prohibited:
1. Athletic Stadium or Field, Private
  2. Athletic Stadium or Field, Public
  3. Cemetery/Mausoleum
  4. Commercial Amusement, Outdoor
  5. Recycling Collection Point
  6. School District Bus Yard
  7. Sewage Treatment Plant/Pumping Station
  8. Trailer Rental
  9. Utility Distribution/Transmission Facility
  10. Water Treatment Plant
- A.4 Regulations
1. Custer Road
    - a. 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.
    - b. Shrub plantings shall be provided at a minimum rate of 25 shrub plantings per thirty (30) lineal feet which shall be a minimum of five (5) gallon shrubs (at the time of planting).
    - c. Primary screening within the landscape buffer shall be provided by Eastern Red Cedars, or a similar species as approved by the Town's Landscape Architecture, spaced on six-foot centers, a minimum 6 feet in height at the time of planting full to the ground, to screen the outdoor sales, storage and display areas.

- d. A continuous split-rail fence shall be provided.
  - e. A berm of a minimum height of three (3) feet shall be provided within the landscape buffer to provide additional screening of the outdoor sales, storage and display areas.
  - f. Trees may be grouped or clustered together to provide additional screening as an alternative to planting all at a specific distance between trees.
2. All landscaping and the perimeter berm along Custer Road shall be installed prior to the issuance of a certificate of occupancy (CO) for the home improvement store.
  3. Parking: Retail parking shall be 1 space per 400 square feet, inclusive of the garden center.
  4. Outdoor sales, display and storage: Shall be permitted but limited to a big box and subject to the following conditions:
    - a. Shall be located in the locations identified on Exhibit D.
    - b. Shall not block or impair sidewalks, ADA access, doorways or fire lanes.
  5. Foundation landscape requirements of the Zoning Ordinance shall not apply.
  6. Cart corrals shall be ornamental metal fence.
  7. Lots shall have a frontage onto a public street or a common public access drive. The common public access drives shall be dedicated as a public access, fire lane and utility easement.
  8. Screening wall requirements of the Zoning Ordinance for loading and service areas shall not apply.
  9. Open storage screening requirements of the Zoning Ordinance shall not apply to open storage on north side of the building.
  10. Interior landscaped island requirements of the Zoning Ordinance (no more than fifteen parking spaces permitted in a continuous row without being interrupted by a landscaped island) shall not apply to parking area on east side of the building in conjunction with outdoor sales, storage and display area.

### **Tract B Retail District**

- B.1 Except as noted below, the Tract shall develop in accordance with the Retail District, as it exists or may be amended.
- B.2 Development Plans
  1. Concept Plan: Development shall be in conformance with the attached concept plan, set forth in Exhibit D.

B.3 Uses. Uses shall be permitted in accordance with the Retail District with the exception of the following uses which shall be prohibited:

1. Athletic Stadium or Field, Private
2. Athletic Stadium or Field, Public
3. Cemetery/Mausoleum
4. Commercial Amusement, Outdoor
5. Recycling Collection Point
6. School District Bus Yard
7. Sewage Treatment Plant/Pumping Station
8. Trailer Rental
9. Utility Distribution/Transmission Facility
10. Water Treatment Plant

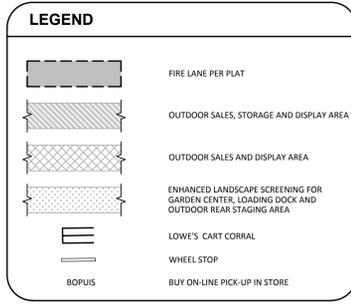
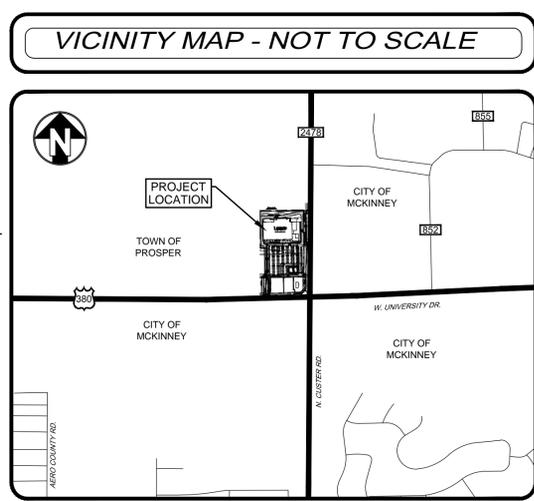
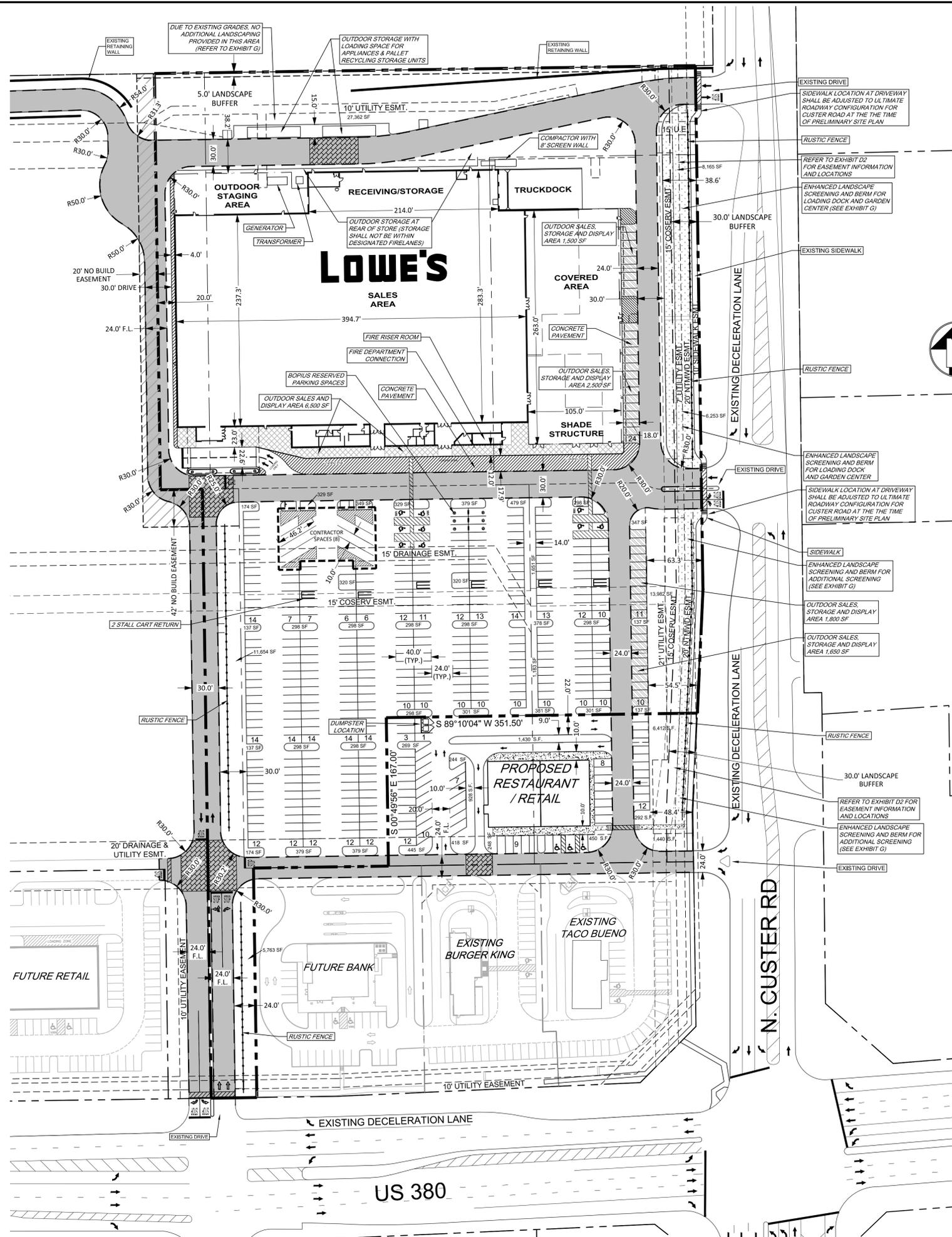
B.4 Regulations

1. A drive-through landscape island shall be a minimum of nine feet wide.
2. 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 along Custer Road.
3. Dumpster gates facing right-of-way requirements of the Zoning Ordinance shall be permitted with landscape screening primarily by Eastern Red Cedars, or a similar species as approved by the Town's Landscape Architecture, spaced on six-foot centers, a minimum 6 feet in height at the time of planting full to the ground.

PROPOSED LOWE'S EXISTING ZONING	PROPOSED OUTLOT EXISTING ZONING
C - COMMERCIAL	C - COMMERCIAL
PROPOSED ZONING	PROPOSED ZONING
PLANNED DEVELOPMENT RETAIL	PLANNED DEVELOPMENT RETAIL
TOTAL GROSS	TOTAL GROSS
11.01	1.33
TOTAL NET	TOTAL NET
11.01	1.33
FUTURE LAND USE PLAN DESIGNATION	FUTURE LAND USE PLAN DESIGNATION
US 380 DISTRICT	US 380 DISTRICT

LOT NUMBER TRACT A	LOT NUMBER TRACT B
EXISTING ZONING	EXISTING ZONING
C - COMMERCIAL	C - COMMERCIAL
PROPOSED ZONING	PROPOSED ZONING
PD - RETAIL	PD - RETAIL
LOT AREA (AC)	LOT AREA (AC)
11.01	1.33
BUILDING AREA (SF)	RESTAURANT AREA (SF)
111,234	4,500
GARDEN CENTER AREA (SF)	RETAIL AREA (SF)
27,720	4,000
TOTAL BUILDING AREA (SF)	TOTAL BUILDING AREA (SF)
138,954	8,500
BUILDING HEIGHT (FT)	BUILDING HEIGHT (FT)
38'	30'
LOT COVERAGE	LOT COVERAGE
28.97%	14.67%
FLOOR AREA RATIO	FLOOR AREA RATIO
29	15

BUILDING WITH GARDEN CENTER PARKING RATIO	RESTAURANT PARKING RATIO
1:400	1:100
TOTAL PARKING REQUIRED	RETAIL PARKING RATIO
348	1:250
TOTAL PARKING PROVIDED	TOTAL PARKING REQUIRED
355	61
HC PARKING REQUIRED	HC PARKING PROVIDED
8	3
HC PARKING PROVIDED	HC PARKING PROVIDED
9	3
TOTAL PARKING PROVIDED INCLUDING OUTDOOR SALES AND STORAGE AREA	INTERIOR LANDSCAPING PROVIDED (SF)
400	2,366
INTERIOR LANDSCAPING PROVIDED (SF)	OPEN SPACE PROVIDED (SF)
8,549	7,913
OPEN SPACE PROVIDED (SF)	TOTAL LANDSCAPING AREA (SF)
76,031	10,279
TOTAL LANDSCAPING AREA (SF)	IMPERVIOUS SURFACE AREA (SF)
84,580	47,656
IMPERVIOUS SURFACE AREA (SF)	
395,016	



- #### 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 AND SUBDIVISION ORDINANCES.
  - LANDSCAPING SHALL CONFORM TO THE 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/CHURBS 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.
  - CURB 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.
  - ALL EMERGENSIES AND ADA ARE TO THE FACE OF CURB, CENTER OR END OF STRIPE, FACE OF BUILDING OR EDGE OF PAVEMENT UNLESS NOTED OTHERWISE.

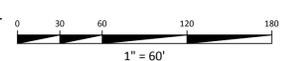
- #### GENERAL NOTES
- THE THOROUGHFARE ALIGNMENT(S) SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES ONLY AND DO NOT SET THE ALIGNMENT. THE ALIGNMENT IS DETERMINED AT THE TIME OF FINAL PLAN.
  - NO 100-YEAR FLOOD PLAN EXISTS ON THE PROPERTY.
  - ALL DRIVEWAYS, TURN LANES AND MEDIAN OPENINGS SHALL MEET THE TOWN OF PROSPER'S THOROUGHFARE DESIGN STANDARDS AND TRUCK STANDARDS.
  - ALL FIRE LANES TO MEET TOWN OF PROSPER STANDARDS IN TERMS OF WIDTH AND PAVEMENT SECTION.

**LOWE'S HOME CENTERS, LLC**  
 1605 CURTIS BRIDGE ROAD  
 WILKESBORO, NC 28697  
 (336) 658-4000

**ROSEBRIAR HOLDINGS, INC.**  
 P.O. BOX 541208  
 DALLAS, TX 75354  
 (214) 902-2287

**CROSSPOINT ENGINEERING, LLC**  
 5620 OLD BULLARD ROAD, SUITE 130  
 TYLER, TX 75703  
 (903) 705-4416

**PROSPER PLAZA**  
 JEREMIAH HORN SURVEY  
 ABSTRACT NO. 411

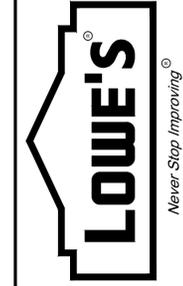


**EXHIBIT D1**  
**Z15-0009**  
**D1**

REVISIONS	
PRE-BID SET	POST-BID SET
ISSUE DATE	ISSUE DATE
DESCRIPTION	DESCRIPTION

**crosspoint engineering**  
 5620 Old Bullard Road, Suite 130 | Tyler, Texas 75703  
 903.705.4416 | TBPE Firm Reg. No. F-53395  
 cpe@cp-engineering.com

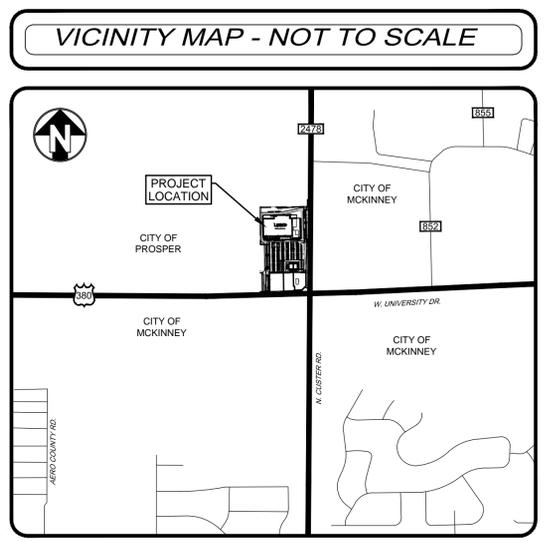
**LOWE'S HOME CENTERS, INC.**  
 1605 CURTIS BRIDGE ROAD  
 WILKESBORO, NC 28697  
 336.658.4000 (V) 336.658.2527 (F)



**EXHIBIT D1 - LOWE'S**  
**SITE PLAN**  
 LOWE'S OF:  
**PROSPER**  
 PROSPER, TEXAS  
 PROJECT No. 14-1500-051 DRAWN BY: TDG CHECKED BY: DMK

CRITERIA  
 ISSUE DATE:  
 PERMIT SET  
 ISSUE DATE:  
 CONSTRUCTION  
 SET ISSUE DATE:  
 DRAWING NUMBER:

REVISIONS	
DATE	DESCRIPTION



**LEGEND**



**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 AND SUBORDINATE ORDINANCES.
- LANDSCAPING SHALL CONFORM TO THE 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.
- TWO POINTS OF ACCESS SHALL BE MAINTAINED FOR THE PROPERTY AT ALL TIMES. DIRECTED BY THE FIRE DEPARTMENT.
- 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 SCHEDULE PLAN.
- CURB 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.
- ALL DIMENSIONS AND RACKS ARE TO THE FACE OF CURB, CENTER OR END OF STRIPE, FACE OF BUILDING OR EDGE OF PAVEMENT UNLESS NOTED OTHERWISE.

**GENERAL NOTES**

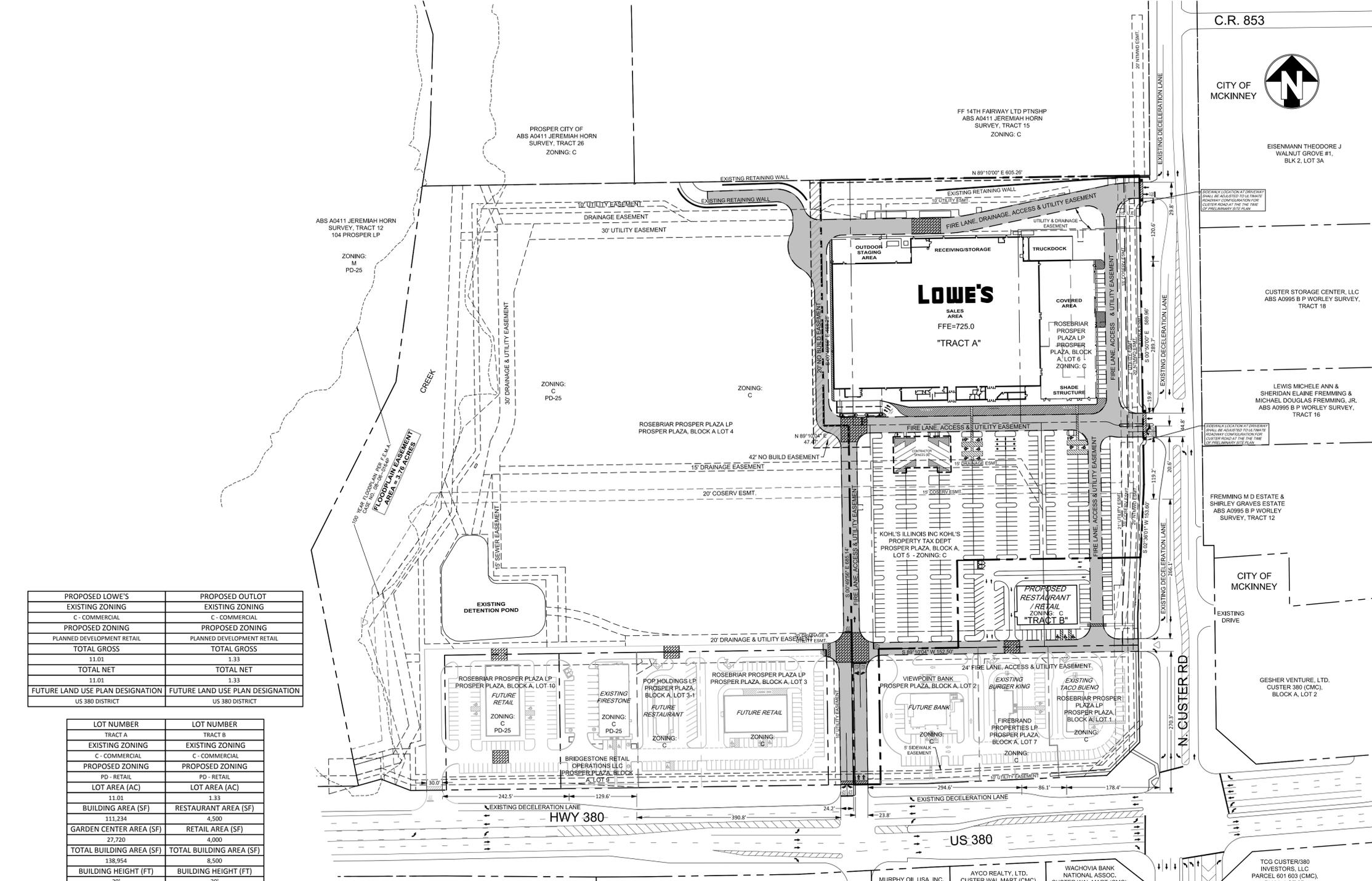
- THE THROUGHFARE ALIGNMENT(S) SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES ONLY AND DO NOT SET THE ALIGNMENT. THE ALIGNMENT IS DETERMINED AT THE TIME OF FINAL PLAT.
- NO 100 YEAR FLOOD PLAIN EXISTS ON THE PROPERTY.
- ALL DRIVEWAYS, TURN LANES AND MEDIAN OPENINGS SHALL MEET THE TOWN OF PROSPER'S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

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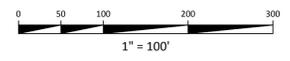
**PROSPER PLAZA**  
 JEREMIAH HORN SURVEY  
 ABSTRACT NO. 411



PROPOSED LOWE'S	PROPOSED OUTLOT
EXISTING ZONING	EXISTING ZONING
C - COMMERCIAL	C - COMMERCIAL
PROPOSED ZONING	PROPOSED ZONING
PLANNED DEVELOPMENT RETAIL	PLANNED DEVELOPMENT RETAIL
TOTAL GROSS	TOTAL GROSS
11.01	1.33
TOTAL NET	TOTAL NET
11.01	1.33
FUTURE LAND USE PLAN DESIGNATION	FUTURE LAND USE PLAN DESIGNATION
US 380 DISTRICT	US 380 DISTRICT

LOT NUMBER	LOT NUMBER
TRACT A	TRACT B
EXISTING ZONING	EXISTING ZONING
C - COMMERCIAL	C - COMMERCIAL
PROPOSED ZONING	PROPOSED ZONING
PD - RETAIL	PD - RETAIL
LOT AREA (AC)	LOT AREA (AC)
11.01	1.33
BUILDING AREA (SF)	RESTAURANT AREA (SF)
111,234	4,500
GARDEN CENTER AREA (SF)	RETAIL AREA (SF)
27,720	4,000
TOTAL BUILDING AREA (SF)	TOTAL BUILDING AREA (SF)
138,954	8,500
BUILDING HEIGHT (FT)	BUILDING HEIGHT (FT)
30'	30'
LOT COVERAGE	LOT COVERAGE
28.97%	14.67%
FLOOR AREA RATIO	FLOOR AREA RATIO
29	15

BUILDING WITH GARDEN	RESTAURANT PARKING RATIO
CENTER PARKING RATIO	1:100
1:400	RETAIL PARKING RATIO
TOTAL PARKING REQUIRED	1,250
348	TOTAL PARKING PROVIDED
TOTAL PARKING PROVIDED	61
355	TOTAL PARKING PROVIDED
HC PARKING REQUIRED	63
8	HC PARKING PROVIDED
8	3
9	HC PARKING PROVIDED
9	3
TOTAL PARKING PROVIDED INCLUDING	3
OUTDOOR SALES AND STORAGE AREA	INTERIOR LANDSCAPING PROVIDED (SF)
400	2,366
INTERIOR LANDSCAPING PROVIDED (SF)	OPEN SPACE PROVIDED (SF)
8,549	7,913
OPEN SPACE PROVIDED (SF)	TOTAL LANDSCAPING AREA (SF)
76,031	10,279
TOTAL LANDSCAPING AREA (SF)	IMPERVIOUS SURFACE AREA (SF)
84,580	47,656
IMPERVIOUS SURFACE AREA (SF)	
395,016	



**EXHIBIT D2**  
**Z15-0009**

EXHIBIT D2 - OVERALL  
 SITE PLAN  
 LOWE'S OF:  
 PROSPER, TEXAS  
 PROJECT No. 14-1500-051 DRAWN BY: TDG CHECKED BY: DDK

CRITERIA  
 ISSUE DATE:  
 PERMIT SET  
 ISSUE DATE:  
 CONSTRUCTION  
 SET ISSUE DATE:  
 DRAWING NUMBER:

**D2**

**crosspoint**  
 engineering

5620 Old Bullard Road, Suite 130 | Tyler, Texas 75703  
 903 705 4416 | TBPE Firm Reg. No. F-33385  
 cpe@cp-engineering.com

**LOWE'S HOME CENTERS, INC.**  
 1605 CURTIS BRIDGE ROAD  
 WILKESBORO, NC 28697

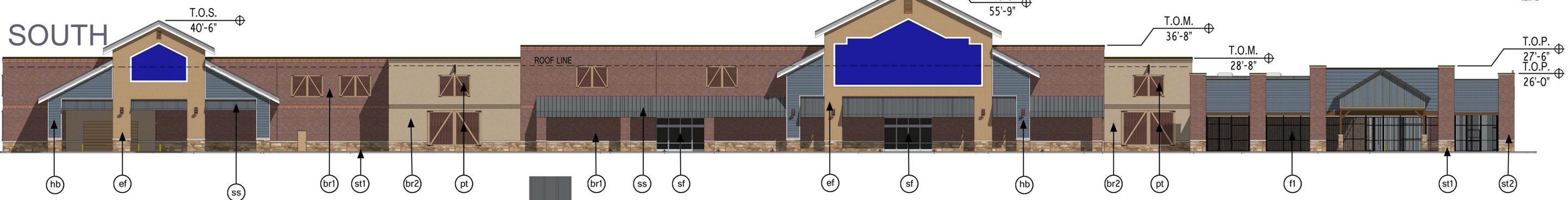
336 658 4000    336 658 2527  
 (V)                      (F)

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**LOWE'S**  
 Never Stop Improving®

**-Exhibit E-**  
**Development Schedule**

The development of this project is dependent upon market conditions. Currently the project is expected to be completed by the end of 2017.



**SOUTH FACADE (GROSS):** 19,639s.f.  
**STOREFRONT/FENCING/DOORS & OPENINGS:** 1,381 s.f.  
**SOUTH FACADE (NET):** 18,255 s.f. = 100%

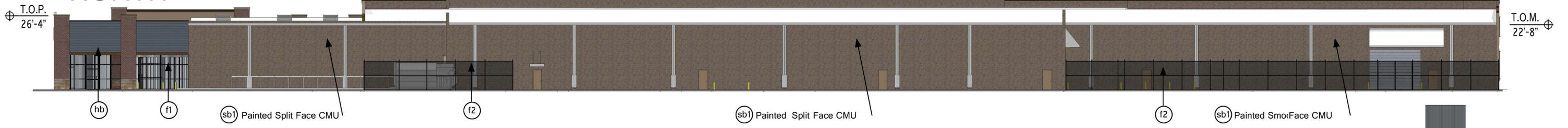
STONE	1,339s.f. = 7%
BRICK	11,593s.f. = 64%
STUCCO	2,303s.f. = 13%
METAL CANOPY	1,368s.f. = 7%
HARDY BOARD	1,652s.f. = 9%

**EAST FACADE (GROSS):** 9,968 s.f.  
**STOREFRONT/FENCING/DOORS & OPENINGS:** 2,530 s.f.  
**EAST FACADE (NET):** 7,438 s.f. = 100%

CMU	1,231s.f. = 16%
STONE	2,553s.f. = 34%
HARDY BOARD	2,364s.f. = 32%
BRICK	1,290s.f. = 17%



**NORTH**

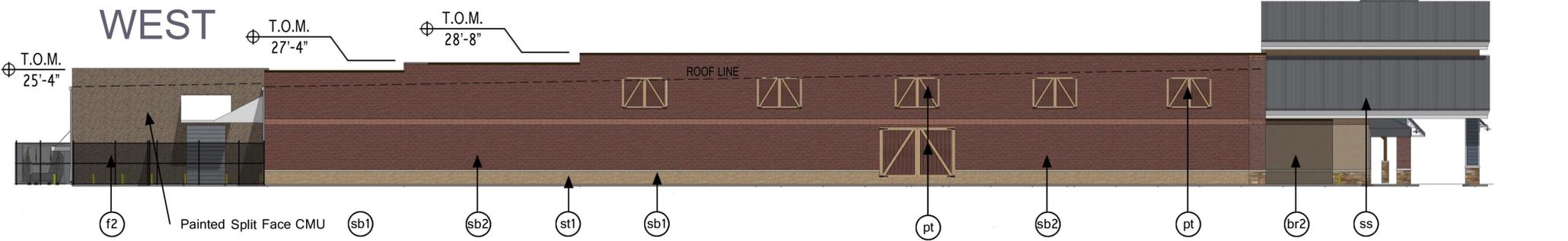


**NORTH FACADE (GROSS):** 13,235s.f.  
**STOREFRONT/FENCING/DOORS & OPENINGS:** 2,440s.f.  
**NORTH FACADE (NET):** 10,795s.f. = 100%

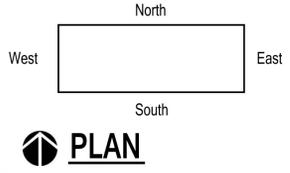
CMU	10,129s.f. = 94%
STONE	38s.f. = .3%
BRICK	230s.f. = 2%
HARDY BOARD	398s.f. = 4%

**WEST FACADE (GROSS):** 9,465s.f.  
**STOREFRONT/FENCING/DOORS & OPENINGS:** 591s.f.  
**WEST FACADE (NET):** 8874s.f. = 100%

CMU	8,067s.f. = 91%
STONE	108s.f. = 1.1%
BRICK	666s.f. = 7.5%
HARDY BOARD	33s.f. = .4%



- "THIS CONCEPTUAL ELEVATION 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 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."



**FINISH SCHEDULE**

- |   |  |
|---|--|
| (st1) Dry Stack Stone<br>DFW Stone Supply - Oklahoma Golden Chopped Stone         | (sb3) Architectural Concrete Block<br>Headwaters - Smooth Face CMU, Painted SW7693                     |
| (hb) Hardi Board Siding<br>Paint - SW 7603 Pool House                             | (pt) Paint - SW 6335 Fire Brick - "Hardi Board Siding"<br>SW 7693 Stone Barrier - "Hardi Board Siding" |
| (br1) Architectural Brick<br>Acme Brick - Cranberry Flash Ruff                    | (cs) Cast Stone<br>Siteworks - Natural   |
| (br2) Architectural Brick<br>Acme Brick - Canyon Gray                             | (ss) Standing Seam Metal Roof<br>Berridge - Galvalume  |
| (sb1) Architectural Concrete Block<br>Headwaters - Split Face CMU, Painted SW7693 | (ef) Paint SW 7693 Stone Barrier   |
| (sb2) Architectural Concrete Block<br>Headwaters - Split Face CMU, Painted SW7591 | (pm) Metal Coping<br>Berridge - Zinc Grey  |
|   | (sf) Clear Anodized<br>Aluminum  |
|   | (f1) Architectural Fence<br>Ornamental Fence W/Windscreen  |
|   | (f2) Architectural Fence<br>Chain link Fence W/Windscreen  |

**GRAPHIC REPRESENTATION ONLY/NOT FOR CONSTRUCTION**  
 Building, landscape, and site furnishing images are a graphic representation of the design intent. This may not reflect all variations in colors, materials, construction that may occur due to local material differences, and final design detailing. Landscaping shown is preliminary and does not reflect the final landscaping design that conforms with local code.



**LOWE'S OF PROSPER, TEXAS**

W. UNIVERSITY DR. @ N. CUSTER DR.  
 PROSPER, TEXAS

**EXHIBIT F**  
 ZONING: Z15-009

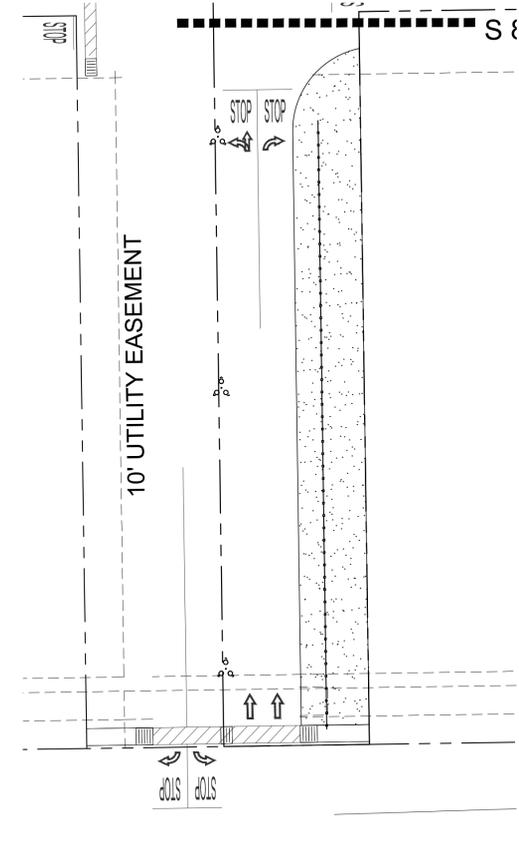
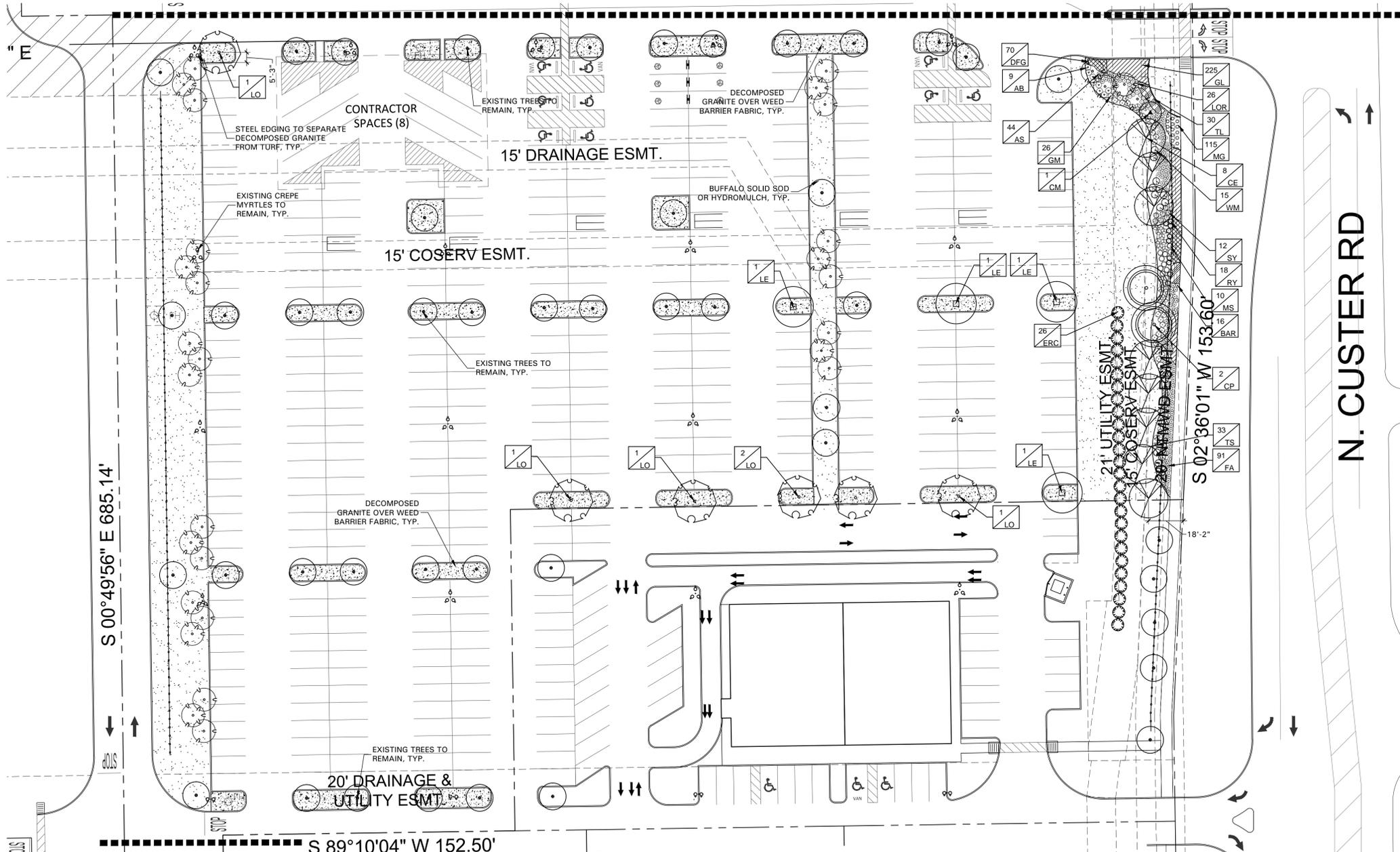
9639 McCULLOUGH AVE. PH. 210.340.2400  
 SAN ANTONIO, TEXAS 78216 FAX. 210.340.2449  
 PROJECT No. 2015006 DATE: 05/05/15





MATCHLINE: REF. L2.01

MATCHLINE: REF. 1/L2.02



MATCHLINE: REF. 2/L2.02

N. CUSTER RD

**1** LANDSCAPE PLAN  
1"=30'-0"

**2** LANDSCAPE PLAN  
1"=30'-0"

**PLANT SCHEDULE**

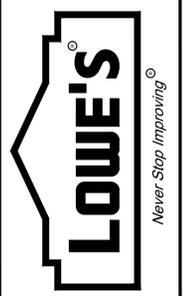
- | TREES              |                           |
|--------------------|---------------------------|
| CE                 | Cedar Elm                 |
| CM                 | Crape Myrtle              |
| CP                 | Chinese Pistache          |
| ERC                | Eastern Red Cedar         |
| LO                 | Escarpment Live Oak       |
| LE                 | Lacebark Elm              |
| SHRUBS/GROUNDCOVER |                           |
| AB                 | Edward Goucher Abelia     |
| AS                 | Autumn Sage               |
| BAR                | Crimson Pygmy Barbary     |
| DFG                | Dwarf Fountain Grass      |
| FA                 | Flame Acanthus            |
| GL                 | Giant Lirope              |
| GM                 | Gulf Muhly                |
| LOR                | Loropetalum 'Shang-lo'    |
| MG                 | Variegated Mondo Grass    |
| MS                 | Morning Light Miscanthus  |
| RY                 | Red Yucca                 |
| SY                 | Softleaf Yucca            |
| TL                 | Texas Lantana             |
| TS                 | Texas Sage 'Thundercloud' |
| WM                 | Dwarf Wax Myrtle          |
|                    | Buffalograss              |

REVISIONS	
DATE	DESCRIPTION



**crosspoint engineering**  
 5820 Old Bullard Road, Suite 301 | Tyler, Texas 75703  
 903 705 4416 | TPBE Firm Reg. No. L-35385  
 cpe-eng.com

**LOWE'S HOME CENTERS, INC.**  
 1605 CURTIS BRIDGE ROAD  
 WILKESBORO, NC 28697  
 336.658.4000 (V) 336.658.2527 (F)  
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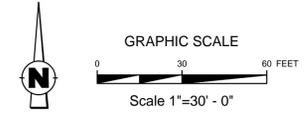
LANDSCAPE PLAN  
 LOWE'S OF:  
**PROSPER**  
 PROSPER, TEXAS  
 PROJECT No. 14-1500-06 DRAWN BY: AMR CHECKED BY: AMR

CRITERIA	
ISSUE DATE:	
PERMIT SET	
ISSUE DATE:	
CONSTRUCTION	
SET ISSUE DATE:	
DRAWING NUMBER:	

L2.02



EXHIBIT G  
 Z15-0009



AWR Designs, LLC  
 10321 Bradshaw Drive  
 Fort Worth, Texas 76108  
 awr.designs@gmail.com  
 c. 652.708.8048  
 c. 512.517.5589



## PLANNING

**To: Mayor and Town Council**

**From: Alex Glushko, AICP, Senior Planner**

**Through: Harlan Jefferson, Town Manager**

**Re: Town Council Meeting – July 28, 2015**

---

**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:**

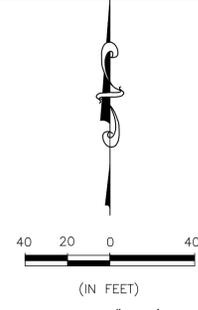
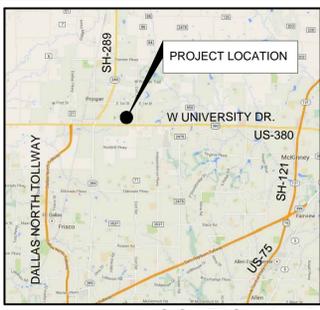
Attached is the Preliminary Site Plan and Site Plan acted on by the Planning & Zoning Commission at their July 21, 2015, meeting. Per the Town's Zoning Ordinance, the Town Council has the ability to direct staff to submit a written notice of appeal on behalf of the Town Council to the Development Services Department for any Preliminary Site Plan or Site Plan acted on by the Planning & Zoning Commission.

**Attached Documents:**

1. Preliminary Site Plan for Rogy's Learning Place
2. Site Plan for Rogy's Learning Place

**Town Staff Recommendation:**

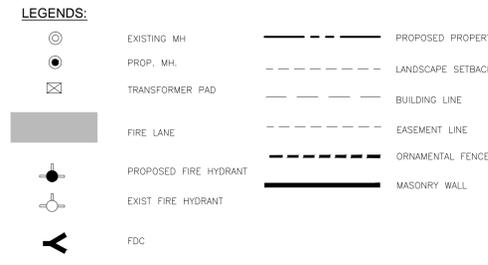
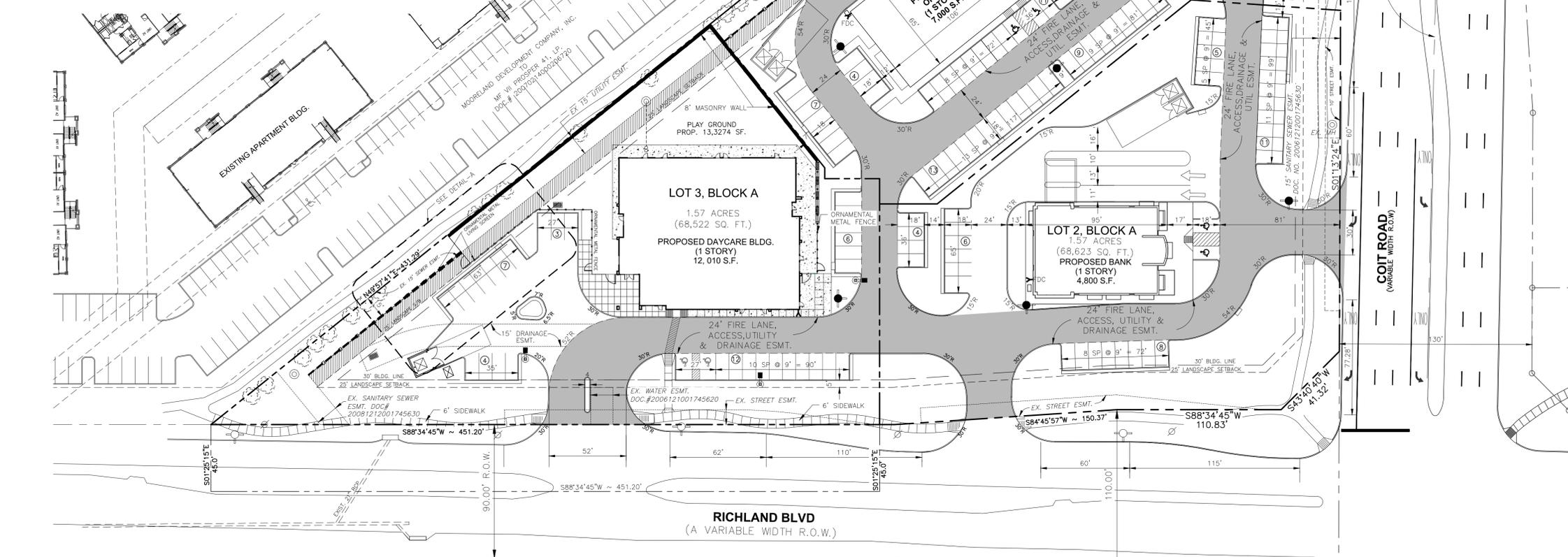
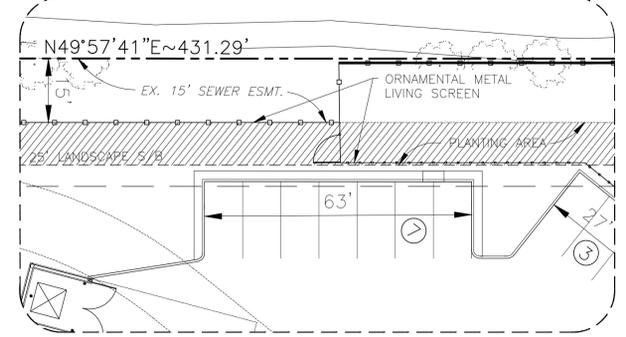
Town staff recommends that the Town Council take no action on these items.



SITE PLAN GENERAL NOTES:

- 1. DUMPSTER 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.
8. TWO POINTS OF ACCESS SHALL BE MAINTAINED FOR THE PROPERTY AT ALL TIMES.
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 CURRENT, ADOPTED BUILDING CODE.
11. ALL SIGN 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 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.
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 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.

DETAIL A



REMAINDER OF MUSTANG - MIDWAY PLANO, LTD. DOC. NO. 96-0038753 D.R.C.C.T.

NOTE: ALL DIMENSION ARE MEASURING FROM FACE OF CURB

Table with 3 columns: DESCRIPTION, LOT 1, LOT 2, LOT 3. Rows include General Site Data, Zoning, Lot Area, Building Foot Print Area, Parking, ImperVIOUS Area, and Open Space for each lot.

FOR REVIEW ONLY

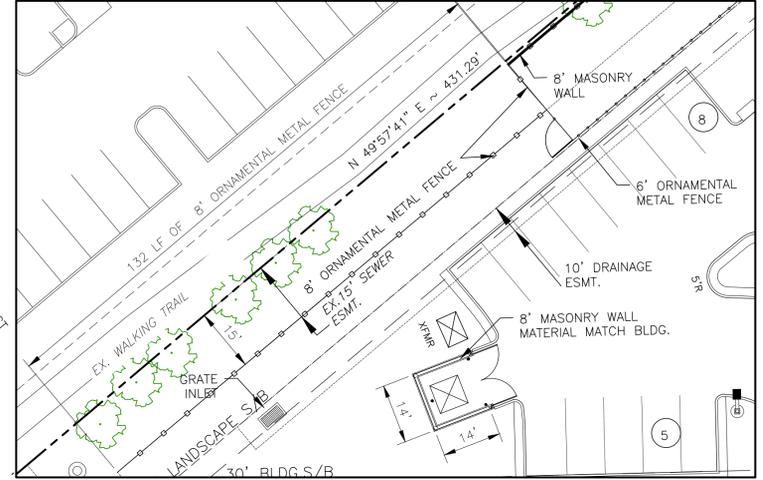
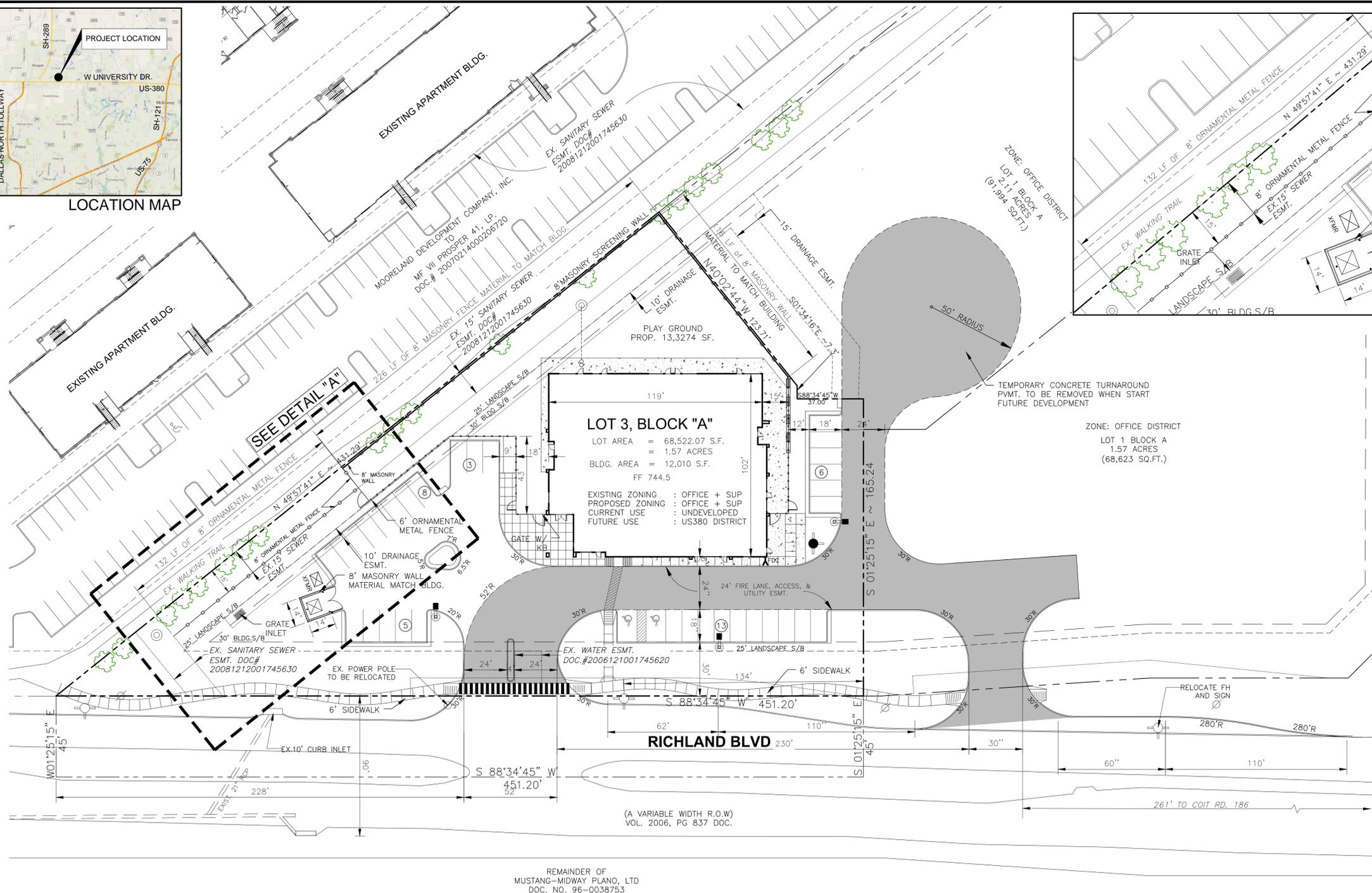
PRELIMINARY SITE PLAN

WHISPERING GABLES ADDITION LOT 1,2 AND 3, BLOCK "A" H. JAMISON SURVEY, ABSTRACT NO. 480 TOWN OF PROSPER COLLIN COUNTY, TEXAS

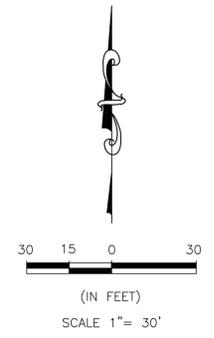
Table with columns: OWNER (MICHAEL CRISE), APPLICANT (DAWN ROGY-MEYER), PSA ENGINEERING (17819 DAVENPORT ROAD, SUITE 215 DALLAS, TX 75252), and a grid for DESIGN, DRAWN, DATE, SCALE, NOTES, FILE, NO.



LOCATION MAP



DETAIL "A" SCALE 1:20



SITE DATA SUMMARY TABLE	
DESCRIPTION	LOT 3
<b>GENERAL SITE DATA</b>	
ZONING (FROM ZONING MAP)	OFFICE DISTRICT
LAND USE ( FROM ZONING ORDINANCE )	DAY CARE
LOT AREA (SQUARE FEET & ACRES)	68,522.07 S.F. (1.57 ACRES)
BUILDING FOOT PRINT AREA (SQUARE FEET)	12,010 S.F.
TOTAL BUILDING AREA (SQUARE FEET)	12,010 S.F.
BUILDING HEIGHT (# STORES)	1 STORY
BUILDING HEIGHT (FEET-DISTANCE TO TALLEST BUILDING ELEMENT)	29 FEET
FLOOR AREA RATIO	17.53%
<b>PARKING</b>	
PARKING RATIO (STUDENTS) (FROM ZONING ORDINANCE)	1SP/10 STUDENTS
PARKING RATIO (TEACHERS) (FROM ZONING ORDINANCE)	1SP/TEACHER
REQUIRED PARKING (# SPACES) FOR 120 STUDENTS	12 SP
REQUIRED PARKING (# SPACES) FOR 10 TEACHERS	10 SP
TOTAL REQUIRED PARKING	22 SP
PROVIDED PARKING (# SPACES)	34 SP
ACCESSIBLE PARKING REQUIRED (# SPACES)	2 SP
ACCESSIBLE PARKING PROVIDED (# SPACES)	2 SP
<b>LANDSCAPE AREA (INCLUDING TURF AREAS)</b>	
LANDSCAPE EDGE AREA PROVIDED (SQUARE FEET)	11,045 S.F.
REQUIRED INTERIOR LANDSCAPE AREA (PARKING LOT LANDSCAPING) (S.F.)	3,488 S.F.
ADDITIONAL INTERIOR LANDSCAPE AREA PROVIDED (S.F.)	4,879
OTHER LANDSCAPE AREA WITHIN THE LOT INCLUDING STORM WATER AREAS (S.F.)	21,440 S.F.
TOTAL LANDSCAPE AREA (SQUARE FEET)	31,872 S.F.
<b>IMPERVIOUS AREA</b>	
BUILDING FOOT PRINT AREA (SQUARE FEET)	12,010 S.F.
AREA OF SIDEWALK, PAVEMENT & OTHER IMPERVIOUS FLATWORK (S.F.)	38,132 S.F.
OTHER IMPERVIOUS AREA	0
TOTAL IMPERVIOUS AREA	50,142 S.F.
<b>OPEN SPACE</b>	
OPEN SPACE REQUIRED (@ 7%) (SQUARE FEET)	4,797 S.F.
OPEN SPACE PROVIDED (SQUARE FEET)	5,646 S.F.
<b>PLAY GROUND AREA</b>	
PLAYGROUND AREA (65 S.F PER STUDENT) FOR 190 STUDENTS	12,350 S.F.
PLAYGROUND AREA PROVIDED	13,327 S.F.

- LEGENDS:**
- EXISTING MH
  - EXISTING FIRE HYDRANT
  - PROPOSED FIRE HYDRANT
  - PROP. FDC
  - EXIST. PROPERTY LINE
  - PROPERTY LINE
  - LANDSCAPE SETBACK LINE
  - BUILDING LINE
  - PROP. SITE LIGHTING (20 FT. HEIGHT)
  - EXISTING POWER POLE
  - INDICATE NUMBER OF PARKING SPACES
  - TRANSFORMER PAD
  - EXISTING TREE
  - PROPOSED RETAINING WALL

- SITE PLAN GENERAL NOTES:**
1. DUMPSTER 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.
  8. TWO POINTS OF ACCESS SHALL BE MAINTAINED FOR THE PROPERTY AT ALL TIMES.
  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 CURRENT, ADOPTED BUILDING CODE.
  11. ALL SIGN 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 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.
  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 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.

NOTE : THERE IS NO 100 YEAR FLOOD PLAIN ON THIS SITE

FOR REVIEW ONLY

**SITE PLAN**

**ROGY'S LEARNING PLACE**  
WHISPERING GABLES ADDITION  
LOT 3, BLOCK "A" 1.57 ACRES  
H.JAMISON SURVEY, ABSTRACT NO.480  
TOWN OF PROSPER  
COLLIN COUNTY, TEXAS

<b>OWNER</b>	<b>MICHAEL CRISE</b>	173 RIDGE ROAD, SUITE 600 MCKINNEY, TX 75070-5108 (214) 726-0468
<b>APPLICANT</b>	<b>DAWN ROGY-MEYER</b>	ROGY'S LEARNING PLACE 1619 W.LUTHY DR., FLORENZA, IL 61815 (309) 427-5090 EXT.1 (309) 369-3958 CELL

**PSA ENGINEERING**  
17819 DAVENPORT ROAD, SUITE 215 DALLAS, TX 75252 (972)248-9651  
TX T.B.P.E. REGISTRATION # F-006974 T.B.P.L.S. FIRM REGISTERED NO. 100433

DESIGN	DRAWN	DATE	SCALE	NOTES	FILE	NO.
PSA	PSA	07-08-15	AS SHOWN	PSA	21517.RLP	C-1.2



*Prosper is a place where everyone matters.*

## 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 28, 2015**

**Agenda Item:**

Consider and act upon an ordinance amending Chapter 13, "Utilities," of the Code of Ordinances, by adding thereto a new Article 13.10, "Backflow Prevention Plan" and amending Appendix A, "Fee Schedule," to the Code of Ordinances by adding thereto a new Section XVIII, "Backflow Prevention Plan and Enforcement Fees."

**Description of Agenda Item:**

The Town of Prosper currently maintains Ordinance 06-109 which established regulations for the construction and/or drilling of water wells in Prosper. The Backflow Prevention Plan is a plan to implement and promote the public health, safety, and welfare by regulations designed to:

- a) Protect the public potable water supply of the Town of Prosper from the possibility of contamination or pollution, by isolating a customer's internal distribution systems or a customer's private water systems contaminants or pollutants that could backflow into the public water system.
- b) Promote the elimination or control of existing cross connections, whether actual or potential, between a customer's in-plant potable water systems and non-potable water system(s), plumbing fixtures, and industrial piping system(s).
- c) Provide the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination or pollution of the Town's potable water system.
- d) Establish requirements for Prosper Backflow Prevention Assembly Testers; and
- e) Comply with Chapter 290, Water Hygiene, of the Texas Commission on Environmental Quality Rules and Regulations for Public Water Systems.

**Backflow prevention assemblies required.**

- a) Each service connection, from the public water system to premises having an auxiliary water supply, shall be protected against backflow of water from the premises into the public water system with a Reduced Pressure Backflow Prevention Assembly (RP).
- b) For all newly constructed premises on which a substance is handled so that it may enter the public water system, each service connection from the public water system to such premises shall be protected against the backflow of water from the premises into the public water system. This requirement shall apply to each premise on which persons handle process water and water originating from the public water system which has been subjected to deterioration in sanitary quality.

- c) For all existing premises on which a substance is handled so that it may enter the public water system, each service connection from the public water system to such premises may be required to be protected against the backflow of water from the premises into the public water system upon the determination of the Public Works Director or the Building Official. This requirement shall apply to each premise on which persons handle process waters and waters originating from the public water system which have been subjected to deterioration in sanitary quality.
- d) Backflow prevention assemblies shall be installed on a service connection to a premises: (1) having internal cross connections that cannot be permanently corrected and controlled in compliance with this Plan, (2) upon the Public Works Director or Building Official's determination that an intricate plumbing and piping arrangement exists which makes it impractical to ascertain whether cross connections exist therein, or (3) where a portion of the Premises cannot be readily accessed for inspection purposes making it impractical or impossible to ascertain whether cross connections exist. The owner or person responsible for a property or the maintenance of a property connected to or required to be connected to the public potable water system shall make all necessary arrangements, at its sole expense, to remove without delay security barriers or other obstacles to access by the Public Works Director or the Building Official.
- e) If a health hazard exists, a testable backflow prevention assembly or an air gap shall be required. The backflow prevention assemblies shall include a reduced pressure backflow prevention assembly (RP), pressure vacuum breaker (PVB) or a spill-resistant vacuum breaker (SVB). The PVB and SVB shall not be subjected to backpressure.

**Inspection, testing, and registration of backflow prevention assemblies.**

- a) Testing of backflow prevention assemblies shall be the responsibility of the owner, occupant, manager, or other person in control of any premises or the person responsible for the maintenance of the property on which, or on account of which, backflow prevention assemblies are installed. The responsible party shall have the assemblies tested by a Prosper BPAT. Backflow prevention assemblies shall be tested annually and shall also be tested immediately after installation, relocation, repair or work performed upstream of the assembly. However, upon ten (10) days after receiving written notice by the Town, the owner, occupant, manager, other person in control of the premises or the person responsible for the maintenance of the property must provide more frequent testing as required in the written notice.
- b) To report a backflow prevention assembly test, a Town of Prosper Backflow Prevention Assembly Test Report form (original form) shall be completed by a Prosper BPAT on each backflow prevention assembly tested. Each completed original form, together with the records of tests, repairs, or replacement, shall be hand delivered in person to the Public Works Department of the Town of Prosper within ten (10) calendar days after the testing, repair, replacement or work performed upstream of the assembly.
- c) Test results for a reduced pressure backflow prevention assembly shall provide a reading for both checks and have at least a three (3) PSI differential between the first check and the relief valve opening point. Only backflow prevention assembly field test procedures approved by the current edition of the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research will be accepted. If an assembly fails, the Prosper BPAT shall immediately notify the Public Works Director or his designee in person or by phone during regular business hours of the Town of Prosper Public Works Department. If an assembly failure occurs at any time other than regular business hours, the Prosper BPAT shall notify the Public Works Director or his designee on the next regular business day. Upon notification to the Public Works Director or his designee of assembly failure, the Public Works Director or his designee will notify the owner, occupant, manager or other person in control of any premises or the person responsible for the maintenance of the property of the time period that they have to repair or replace the assembly. The assembly shall be replaced or repaired

within the time period set by the Public Works Director or his designee or within five (5) calendar days from the date of assembly failure, whichever date is sooner. In the event of assembly failure, tester must contact the Public Works Director's designee.

- d) Testing Fee of \$25.00 fee shall be submitted to the Town for each backflow prevention assembly tested and shall be paid at the time the Prosper BPAT files the Backflow Prevention Assembly Test Report form with the Town.
- e) Retesting Fee of \$25.00 fee shall be submitted to the Town for each backflow prevention assembly that is required to be retested due to a deficiency or a violation of this Plan including an invalid test report.

### **Registration Fee.**

An annual registration fee in the amount of \$100.00 shall be paid at the time an application is submitted to the Public Works Director.

### **Prohibited conduct.**

- a) Installing, allowing to remain installed, or maintaining a potable water supply, piping, or part thereof in such a manner that allows used, unclean, polluted, or contaminated water, mixtures, gasses, or other substances to enter any portion of the public potable water supply by reason of back siphonage, back pressure or any other cause.
- b) Maintaining any water-operated equipment or mechanism or use of any water-treating chemical or substance if it is determined that such equipment, mechanism, chemical or substance may cause pollution or contamination of the public potable water supply. Provided, however, that such equipment or mechanism may be permitted when equipped with a backflow prevention assembly approved by the Town.
- c) Connecting, allowing to be connected, or allowing to remain connected to the public potable water system any mechanisms or systems designed to return used water to the public potable water system.
- d) Connecting, allowing to be connected, or allowing to remain connected to the public potable water system an auxiliary water system without the prior written approval of the Public Works Director or his designee.
- e) Incorrectly installing a backflow prevention assembly or allowing an incorrectly installed backflow prevention assembly to remain installed.
- f) Failing to report to the Public Works Director or his designee a backflow prevention assembly that failed a test.
- g) Falsifying any information in a backflow prevention assembly testing report submitted to the Town.
- h) Conducting a backflow assembly test without being registered with the Town.
- i) Conducting a backflow assembly test while without a valid registration.
- j) Submitting an incomplete backflow prevention assembly testing report to the Town.
- k) Disconnecting, removing, or discontinuing the use of a backflow prevention assembly without the written permission of the Public Works Director or his designee.

### **Administrative Fees:**

The Town may elect to exercise the following administrative remedies for violations of the Town Plan in lieu of pursuing criminal penalties against non-single family water account holders, such as business and professional parks, homeowners' associations, apartments, home builders, land developers, and entities other than customers residing at single family homes.

- a) The following administrative fees that will apply:
 

Backflow Registration Fee	\$100.00
Backflow Test (per device)	\$ 25.00
Retest	\$ 25.00

## b) Contesting Violations.

A non-single family water customer as defined above may request a hearing before a hearing officer(s) appointed by the Executive Director of Development and Community Services within fifteen (15) business days after the date on the Notice. The hearing officer(s) shall evaluate all information offered by the petitioner at the hearing. The customer shall bear the burden of proof to show why, by preponderance of the evidence, the administrative fee should not be assessed. The hearing officer(s) will render a decision in writing within three (3) business days of the conclusion of the hearing. A customer may appeal the decision from the hearing officer(s) in writing to the Executive Director of Development and Community Services within three (3) business days of the conclusion of the hearing. The decision by the Executive Director of Development and Community Services is final and binding.

## c) Paying Assessed Fees.

If, after the expiration of the fifteen (15) business days from the date on the Notice, the customer has not requested an administrative hearing to contest the assessment of an administrative fee or paid the administrative fee, the Town shall apply and charge the assessed administrative fee to the customer's Town Utility Bill. Unpaid assessed administrative fees related to violations of the Backflow Prevention Plan use restrictions under the Town Plan may result in termination of water service.

Prior to implementation, the following outreach program will be conducted by staff to help educate our customers:

- a) Provide all customers detailed information and direction to the Town's website within their water bills starting September 20, 2015, and again on October 20, 2015.
- b) Send letters to affected customers by August 1, 2015.
- c) Post the Backflow requirements on Social Media on or before August 1, 2015.
- d) Meet as needed with local commercial operations during August and September to help get the word out.

<b>Local Schedule of Backflow Fee Comparison</b>		
<b>Municipality</b>	<b>Registration Fee</b>	<b>Test Fee</b>
Plano	\$100	\$35
Little Elm	\$100	\$30
Wylie	\$100	\$25
Frisco	\$100	\$25
Prosper	\$100	\$25
Celina	\$75	\$25

**Legal Obligations and Review:**

Terrance Welch of Brown & Hofmeister, L.L.P., has reviewed the ordinance as to form and legality.

**Attached Documents:**

1. Ordinance
2. Backflow Prevention Plan

**Town Staff Recommendation:**

Town staff recommends that the Town Council consider and act upon an ordinance amending Chapter 13, "Utilities," of the Code of Ordinances, by adding thereto a new Article 13.10, "Backflow Prevention Plan" and amending Appendix A, "Fee Schedule," to the Code of Ordinances by adding thereto a new Section XVIII, "Backflow Prevention Plan and Enforcement Fees."

**Proposed Motion:**

I move to approve an ordinance amending Chapter 13, "Utilities," of the Code of Ordinances, by adding thereto a new Article 13.10, "Backflow Prevention Plan" and amending Appendix A, "Fee Schedule," to the Code of Ordinances by adding thereto a new Section XVIII, "Backflow Prevention Plan and Enforcement Fees."

## TOWN OF PROSPER, TEXAS

## ORDINANCE NO. 15-\_\_

**AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING CHAPTER 13, "UTILITIES," OF THE CODE OF ORDINANCES OF THE TOWN OF PROSPER, TEXAS, BY ADDING THERETO A NEW ARTICLE 13.10, "BACKFLOW PREVENTION PLAN"; ESTABLISHING A PLAN TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE PUBLIC WATER SYSTEM, INCLUDING RESTRICTIONS ON CONTROLLING CROSS CONNECTIONS; ESTABLISHING PENALTIES FOR THE VIOLATION OF AND PROVISIONS FOR ENFORCEMENT OF THESE RESTRICTIONS; AMENDING APPENDIX A, "FEE SCHEDULE," TO THE TOWN'S CODE OF ORDINANCES BY ADDING THERETO A NEW SECTION XVIII, "BACKFLOW PREVENTION PLAN AND ENFORCEMENT FEES"; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**WHEREAS**, pursuant to Chapter 341 of the Texas Health & Safety Code, the Texas Commission of Environmental Quality (TCEQ) has developed rules and regulations which govern drinking water quality and reporting requirements for public water systems; and

**WHEREAS**, the Town of Prosper, Texas (the "Town"), has investigated and determined that it would be advantageous and beneficial to the citizens of Prosper to establish a backflow prevention program of uniform regulations governing the installation, testing, maintenance and inspection of backflow prevention assemblies that will apply to all properties and registration of backflow prevention assembly testers; and

**WHEREAS**, TCEQ rules and regulations require the protection of a public water system from contaminants caused by backflow of contaminants through water service connections; and

**WHEREAS**, the Town has determined an urgent need in the best interests of the public to adopt a Backflow Prevention Plan; and

**WHEREAS**, pursuant to Chapter 54 of the Texas Local Government Code, the Town is authorized to adopt such ordinances deemed necessary by the Town to protect its water resources; and

**WHEREAS**, the Town Council has investigated and determined that it will be advantageous and beneficial to the citizens of Prosper and will protect the public health, safety and welfare to adopt a Backflow Prevention Plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:**

**SECTION 1**

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

## SECTION 2

From and after the effective date of this Ordinance, Chapter 13, "Utilities," of the Town's Code of Ordinances is amended by adding a new Article 13.10, "Backflow Prevention Plan," to read as follows:

### **ARTICLE 13.10      BACKFLOW PREVENTION PLAN**

#### **Sec. 13.10.001      Purpose**

The Town of Prosper has established regulations for the construction and /or drilling of water wells in Prosper, pursuant to Article 4.08, "Construction and/or Drilling of Water Wells," of the Town's Code of Ordinances. This Backflow Prevention Plan is a plan to implement and promote the public health, safety and welfare by regulations designed to:

- (a) Protect the public potable water supply of the Town from the possibility of contamination or pollution by isolating within a customer's internal distribution systems or a customer's private water systems contaminants or pollutants that could backflow into the public water system; and
- (b) Promote the elimination or control of existing cross connections, whether actual or potential, between a customer's in-plant potable water systems and non-potable water system(s), plumbing fixtures, and industrial piping system(s); and
- (c) Provide for the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination or pollution of the Town's potable water system; and
- (d) Establish requirements for Backflow Prevention Assembly Testers, as defined in Article 4.08 of this Code; and
- (e) Comply with the water hygiene requirements of Title 30, Part 1, Chapter 290 of the Texas Commission on Environmental Quality Rules and Regulations for Public Water Systems.

#### **Sec. 13.10.002      Backflow prevention assemblies required**

- (a) Each service connection from the public water system to premises having an auxiliary water supply shall be protected against backflow of water from the premises into the public water system with a Reduced Pressure Backflow Prevention Assembly (RP).
- (b) For all newly constructed premises on which a substance is handled so that it may enter the public water system, each service connection from the public water system to such premises shall be protected against the backflow of water from the premises into the public water system. This requirement shall apply to each premise on which persons handle process water and water originating from the public water system which has been subjected to deterioration in sanitary quality.
- (c) For all existing premises on which a substance is handled so that it may enter the public water system, each service connection from the public water system to such premises may be required to be protected against the backflow of water from the premises into the public water system upon the determination of the Public Works Director or the Building Official. This

requirement shall apply to each premise on which persons handle process waters and waters originating from the public water system which have been subjected to deterioration in sanitary quality.

(d) Backflow prevention assemblies shall be installed on a service connection to a premises: (1) having internal cross connections that cannot be permanently corrected and controlled in compliance with this Backflow Prevention Plan; (2) upon the Public Works Director or Building Official's determination that an intricate plumbing and piping arrangement exists which makes it impractical to ascertain whether cross connections exist therein; or (3) where a portion of the premises cannot be readily accessed for inspection purposes making it impractical or impossible to ascertain whether cross connections exist. The owner or person responsible for a property or the maintenance of a property connected to or required to be connected to the public potable water system shall make all necessary arrangements, at its sole expense, to remove without delay security barriers or other obstacles to access by the Public Works Director or the Building Official.

(e) If a health hazard exists, a testable backflow prevention assembly or an air gap shall be required. The backflow prevention assemblies shall include a reduced pressure backflow prevention assembly (RP), pressure vacuum breaker (PVB) or a spill-resistant vacuum breaker (SVB). The PVB and SVB shall not be subjected to backpressure.

**Sec. 13.10.003 Inspection, testing and registration of backflow prevention assemblies**

(a) Testing of backflow prevention assemblies. The owner, occupant, manager, other person in control of any premises or the person responsible for the maintenance of the property on which, or on account of which, backflow prevention assemblies are installed, shall have the assemblies tested by a Prosper BPAT. Backflow prevention assemblies shall be tested annually and shall also be tested immediately after installation, relocation, repair or work performed upstream of the assembly; however, upon ten (10) days' prior written notice by the Town to the owner, occupant, manager, other person in control of the premises or the person responsible for the maintenance of the property must provide more frequent testing as required in the written notice.

(b) Report of backflow prevention assembly test. A Town of Prosper Backflow Prevention Assembly Test Report form (original form) shall be completed by a Prosper BPAT on each backflow prevention assembly tested. Each completed original form, together with the records of tests, repairs, or replacement, shall be hand delivered in person to the Public Works Department of the Town of Prosper within ten (10) calendar days after the testing, repair, replacement or work performed upstream of the assembly.

(c) Test Results. Test results for a reduced pressure backflow prevention assembly shall provide a reading for both checks and have at least a three (3) PSI differential between the first check and the relief valve opening point. Only backflow prevention assembly field test procedures approved by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research will be accepted. If an assembly fails, the Prosper BPAT shall immediately notify the Public Works Director or his designee in person or by phone during regular business hours of the Town of Prosper Public Works Department. If an assembly failure occurs at any time other than regular business hours, the Prosper BPAT shall notify the Public Works Director or his designee on the next regular business day. Upon notification to the Public

Works Director or his designee of assembly failure, the Public Works Director or his designee will notify the owner, occupant, manager or other person in control of any premises or the person responsible for the maintenance of the property of the time period that they have to repair or replace the assembly. The assembly shall be replaced or repaired within the time period set by the Public Works Director or his designee or within five (5) calendar days from the date of assembly failure whichever date is sooner. In the event of assembly failure, tester must contact the Public Works Directors designee.

(d) Testing Fee. A \$25.00 fee shall be submitted to the Town for each backflow prevention assembly tested and shall be paid at the time that the Prosper BPAT files the Backflow Prevention Assembly Test Report form with the Town.

(e) Retesting Fee. A \$25.00 fee shall be submitted to the Town for each backflow prevention assembly that is required to be retested due to a deficiency or a violation of this Backflow Prevention Plan, including an invalid test report.

#### **Sec. 13.10.004 Annual Registration Fee**

An annual registration fee in the amount of \$100.00 shall be paid at the time an application for annual registration is submitted to the Public Works Director. This annual registration fee includes the Town's testing of the tester's equipment and tools.

#### **Sec. 13.10.005 Prohibited conduct**

The following shall be prohibited:

(a) Installing, allowing to remain installed, or maintaining a potable water supply, piping, or part thereof in such a manner that allows used, unclean, polluted, or contaminated water, mixtures, gasses, or other substances to enter any portion of the public potable water supply by reason of back siphonage, back pressure or any other cause.

(b) Maintaining any water-operated equipment or mechanism or use of any water-treating chemical or substance if it is determined that such equipment, mechanism, chemical or substance may cause pollution or contamination of the public potable water supply; provided, however, that such equipment or mechanism may be permitted when equipped with a backflow prevention assembly approved by the Town.

(c) Connecting, allowing to be connected, or allowing to remain connected to the public potable water system any mechanism(s) or system(s) designed to return used water to the public potable water system.

(d) Connecting, allowing to be connected, or allowing to remain connected to the public potable water system an auxiliary water system without the prior written approval of the Public Works Director or his designee.

(e) Incorrectly installing a backflow prevention assembly or allowing an incorrectly installed backflow prevention assembly to remain installed.

(f) Failing to report to the Public Works Director or his designee a backflow prevention assembly that failed a test.

- (g) Falsifying any information in a backflow prevention assembly testing report submitted to the Town.
- (h) Conducting a backflow assembly test without being registered with the Town.
- (i) Conducting a backflow assembly test while without a valid registration.
- (j) Submitting an incomplete backflow prevention assembly testing report to the Town.
- (k) Disconnecting, removing, or discontinuing the use of a backflow prevention assembly without the written permission of the Public Works Director or his designee.

**Sec. 13.10.006      Penalty**

Any customer, as that term is defined pursuant to Title 30, Part 1, Chapter 291 of the Texas Administrative Code, as amended, failing to comply with the provisions of the Backflow Prevention Plan shall be subject to a fine of up to two thousand dollars (\$2,000.00) per day per occurrence and/or discontinuance of water service by the Town. Proof of a culpable mental state is not required for a conviction of an offense under this section. Each day a customer fails to comply with the Backflow Prevention Plan is a separate violation. The Town's authority to seek injunctive or other relief available under the law shall not be limited by this section."

**SECTION 3**

From and after the effective date of this Ordinance, Appendix A, "Fee Schedule," to the Town's Code of Ordinances is hereby amended by adding thereto a new Section XVIII, "Backflow Prevention Plan and Enforcement Fess," read as follows:

**Sec. XVIII      Backflow Prevention Plan and Enforcement Fees**

The Town may elect to exercise the following administrative remedies for violations of the Town's Backflow Prevention Plan in lieu of pursuing criminal penalties against non-single family water account holders, such as business and professional parks, homeowners' associations, apartments, home builders, land developers, and entities other than customers residing at single family homes.

- (1) Administrative Fees. The following administrative fees that will be assessed:

Backflow Registration Fee	\$100
Backflow Test (per device)	\$ 25
Retest (per device)	\$ 25

- (2) Contesting Violations. A non-single family water customer as defined above may request a hearing before a hearing officer(s) appointed by the Executive Director of Development and Community Services within fifteen (15) business days after the date on the Notice. The hearing officer(s) shall evaluate all information offered by the petitioner at the hearing. The customer shall bear the burden of proof to show why, by preponderance of the evidence, the administrative fee should not be assessed. The hearing officer(s) will render a decision in writing within three (3) business days of the conclusion of the

hearing. A customer may appeal the decision from the hearing officer(s) in writing to the Executive Director of Development and Community Services within three (3) business days of the conclusion of the hearing. The decision by the Executive Director of Development and Community Services is final and binding.

- (3) Paying Assessed Fees. If, after the expiration of the fifteen (15) business days from the date on the Notice, the customer has not requested an administrative hearing to contest the assessment of an administrative fee or paid the administrative fee, the Town shall apply and charge the assessed administrative fee to the customer's next Town Utility Bill.

Unpaid assessed administrative fees related to violations of Backflow Prevention Plan restrictions under the Town Plan shall incur late payment penalties and may result in termination of water service."

#### **SECTION 4**

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

#### **SECTION 5**

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof regardless of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

#### **SECTION 6**

The Town Manger or his designee is hereby directed to file a copy of the Town's Backflow Prevention Plan and this Ordinance with the Commission in accordance with Title 30, Chapter 288 of the Texas Administrative Code.

#### **SECTION 7**

This Ordinance shall take effect and be in full force from and after its passage and publication, as provided by the Revised Civil Statutes of the State of Texas and the Home Rule Charter of the Town of Prosper, Texas.

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 28TH DAY OF JULY, 2015.**

**APPROVED:**

\_\_\_\_\_  
**Ray Smith, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Robyn Battle, Town Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Terrence S. Welch, Town Attorney**

**TOWN OF PROSPER  
BACKFLOW PREVENTION PLAN**

**SECTION 1: Application of Plan.**

This plan shall regulate the installation, testing, maintenance and inspection of backflow prevention assemblies as well as other measures of cross control prevention.

**Section 2: Purpose**

This is a plan to implement a Cross Connection Control Program the purpose of which is to promote the public health, safety and welfare by regulations designed to:

(a) Protect the public potable water supply of the Town of Prosper from the possibility of contamination or pollution by isolating within a customer's internal distribution systems or a customer's private water systems contaminants or pollutants that could backflow into the public water system.

(b) Promote the elimination or control of existing cross connections, whether actual or potential, between a customer's in-plant potable water systems and non-potable water system(s), plumbing fixtures, and industrial piping system(s).

(c) Provide for the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination or pollution of the Town's potable water system; and

(d) Establish requirements for Prosper Backflow Prevention Assembly Testers.

(e) Comply with Chapter 290, Water Hygiene, of the Texas Commission on Environmental Quality Rules and Regulations for Public Water Systems.

**SECTION 3: Definitions**

For the purpose of this Plan, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Other technical terms used will have the meanings or definitions listed in the 10th Edition of the *Manual of Cross Connection Control* published by the Foundation for Cross Connection Control and Hydraulic Research, University of Southern California, a copy of which is on file with the Town, or in the Third Edition of the *Recommended Practice for Backflow Prevention and Cross-Connection Control Manual M14* published by the American Water Works Association. In any case where provisions of these manuals are in conflict, the 10th Edition of the *Manual of Cross Connection Control* will prevail.

*Air gap separation (AG)* means a physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel.

*Approved water supply source* means the Town of Prosper water system.

*Atmospheric Vacuum Breaker (AVB)* means an assembly containing a float check, a check seat, and an air inlet port.

*Auxiliary water supply* means any water supply other than the Town of Prosper's approved public water supply, including water from another public water supply or from a natural source including, but not limited to, wells, cisterns, springs, rivers, streams, used waters, or industrial fluids.

*Backflow* means the reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution pipes of a potable water supply from any sources other than an approved water supply source.

*Backflow prevention assembly* means an assembly which, when properly installed between the Town water supply system and the terminus or point of ultimate use, will prevent backflow. Examples of such assemblies include, but are not limited to, reduced pressure backflow assemblies, double check valve assemblies, pressure vacuum breakers, and air gap separation.

*Backflow prevention assembly tester (BPAT)* means an individual licensed in accordance with Texas Commission on Environmental Quality rules to test backflow prevention assemblies.

*Back pressure* means any elevation of pressure in the downstream piping system (including by pump, elevation of piping, or steam and/or air pressure) above the supply pressure at the point of consideration which would cause, or tend to cause, a reversal of the normal direction of flow.

*Back siphonage* means a form of backflow caused by a reduction in system pressure resulting in the existence of a negative or sub-atmospheric pressure at a site in the water system.

*Building official* means the Building Official of the Town of Prosper or his designee.

*Chemical injection system* means a system which automatically injects fertilizer, pesticide, weed killer, etc., into an irrigation system, while the irrigation system is operating.

*Closed System* means a piping system that has no space for water to expand.

*Commission* means the Texas Commission on Environmental Quality.

*Contamination* means an impairment of the quality of the public potable water supply or a private potable water supply by the introduction or admission of any foreign substance that degrades the quality and which creates an actual hazard to the public health through poisoning or through the spread of disease by sewage, industrial fluids, or waste.

*Cross connection* means any actual or potential connection or structural arrangement between a public or consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas, or substance other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices through which or because of which backflow can occur are considered to be cross-connections.

*Customer* means a person, company, or entity contracting with the Town of Prosper to receive potable water service.

*Customer's potable water system* means that portion of the privately owned potable water system lying between the service connection and the point of use by customer. This system includes, but is not limited to, all pipes, conduits, tanks, receptacles, fixtures, equipment and appurtenances used to produce, convey, store, or utilize the potable water.

*Degree of hazard* means either a non-health or health hazard and is determined by the evaluation of the conditions within a system by the Director of Public Works, the Town of Prosper Health Department, or the Building Official.

*Director* means the Director of Public Works.

*Double check valve assembly (DC)* means an assembly composed of two independently acting approved check valves, including tightly closing resilient-seated shutoff valves, attached at each end of the assembly and fitted with properly located resilient-seated test cocks.

*Health hazard* means a cross connection, potential cross connection, or other situation involving any substance that could cause death, illness, spread of disease, or has a high probability of causing such effects if introduced into the potable drinking water supply.

*Industrial fluids* means any fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration which would constitute a health, system, pollutional, or plumbing hazard if introduced into an approved water supply. Examples of industrial fluids include, but are not limited to: polluted or contaminated used water; all types of process waters and used waters originating from the public potable water system which may deteriorate in sanitary quality; chemicals in fluid form; plating acids and alkalis; circulated cooling waters connected to an open cooling tower and/or cooling waters that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters such as from wells, springs, streams, rivers, bays, harbors, seas, irrigation canals or systems, etc.; and oils, gases, glycerin, paraffins, caustic and acid solutions and other liquid and gaseous fluids used industrially, for other processes, or for firefighting purposes.

*Material Reporting Deficiencies* shall mean inaccurate or incomplete reporting of information required in the Backflow Prevention Assembly Test Report form as noted in "Appendix A". Required information reported in section "B" is noted with an "x". Sections "C" and "D" are required in their entirety.

*Non-health hazard* means a cross connection or potential cross connection involving any substance that generally would not be a health hazard but would constitute a nuisance, or be aesthetically objectionable, if introduced into the potable water supply.

*Nonpotable water* means a water supply which has not been approved for human consumption by the Commission.

*Person* means any individual or any association, firm, partnership, joint venture, corporation or other legally recognized entity, whether for profit or not for profit.

*Plumbing hazard* means an internal or plumbing type cross connection in a customer's potable water system that may be either a pollutional or a contamination type hazard, including, but not limited to, cross connections to toilets, sinks, lavatories, wash trays, and lawn sprinkling systems.

*Pollution* means an impairment of the quality of the public potable water supply to a degree which does not create a hazard to the public health but does adversely and unreasonably affect the aesthetic qualities of such water for domestic use.

*Potable water* means any public water supply which has been investigated and approved by the Commission as satisfactory for drinking, culinary and domestic purposes.

*Premises or Property* means any property real, improved or personal that is connected to the Town of Prosper water system.

*Pressure Vacuum Breaker (PVB)* means an assembly which contains an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve with properly located resilient-seated test cocks and tightly closing resilient-seated shutoff valves attached at each end of the assembly.

*Process waters* means water used to cool any operation or manufacturing process.

*Prosper Backflow prevention assembly tester (Prosper BPAT)* means an individual licensed in accordance with Texas Commission on Environmental Quality rules and registered with the Town of Prosper Public Works Department for the purpose of testing backflow prevention assemblies.

*Public potable water supply* means any publicly or privately owned water system operated as a public utility under a health permit to supply water for domestic purposes. Such a system includes all sources, facilities and appurtenances between the source and the point of delivery such as valves, pumps, pipes, conduits, tanks, receptacles, fixtures, equipment and appurtenances used to produce, convey, treat, or store potable water for public consumption or use.

*Public Works Director* means the Public Works Director for the Town of Prosper or his designee.

*Pressure loss* means any reduction in the water pressure supplied by the Town.

*Reduced pressure backflow prevention assembly (RP)* means an assembly containing two independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The unit includes properly located resilient-seated test cocks and two tightly-closing resilient-seated shutoff valves at each end of the assembly.

*Service connection* means the terminal end of a service connection from the public potable water system (i.e., where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the customer's water system). If a meter is installed at the end of the service connection, then the service connection shall mean the downstream end of the meter.

*Spill-Resistant Pressure Vacuum Breaker (SVB)* means an assembly which contains an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve, with properly located resilient seated test cock, a properly located bleed/vent valve and tightly closing resilient seated shutoff valves attached at each end of the assembly.

*Supply pressure* means the existing pressure in the Town of Prosper water system.

*System hazard* means an actual or potential threat of severe danger to the physical properties of the public or the customer's potable water system or of a pollution or contamination which has or would have a protracted effect on the quality of the potable water in the system.

*Thermal Expansion* means heated water that does not have any space to expand.

*Town* means the Town of Prosper, Texas, and its duly authorized representatives.

*Used water* means any water supplied by a water purveyor from a public water system to a customer's water system after passing through the service connection and which is no longer controlled by the water purveyor.

*Utility* means the Town of Prosper Public Works Department.

*Utility water service area* means all locations within the Town of Prosper water system as defined by the Town's State Certificate of Convenience.

*Valid Backflow Prevention Assembly Test* shall mean test results reported by a Prosper BPAT who performed the test and reported within ten (10) calendar days of the test that meet the performance criteria located within the 10th Edition of the *Manual of Cross Connection Control* published by the University of Southern California Foundation for Cross Connection Control and Hydraulic Research for the type of backflow prevention assembly tested, unless otherwise noted within this Plan.

*Water purveyor* means the operator of a potable water system supplying at least 15 service connections or servicing at least 25 individuals at least 60 days out of the year.

**SECTION 4: Backflow prevention assemblies required.**

(a) Each service connection from the public water system to premises having an auxiliary water supply shall be protected against backflow of water from the premises into the public water system with a Reduced Pressure Backflow Prevention Assembly (RP).

(b) For all newly constructed premises on which a substance is handled so that it may enter the public water system, each service connection from the public water system to such premises shall be protected against the backflow of water from the premises into the public water system. This requirement shall apply to each premise on which persons handle process water and water originating from the public water system which has been subjected to deterioration in sanitary quality.

(c) For all existing premises on which a substance is handled so that it may enter the public water system, each service connection from the public water system to such premises may be required to be protected against the backflow of water from the premises into the public water system upon the determination of the Public Works Director or the Building Official. This requirement shall apply to each premise on which persons handle process waters and waters originating from the public water system which have been subjected to deterioration in sanitary quality.

(d) Backflow prevention assemblies shall be installed on a service connection to a premises: (1) having internal cross connections that cannot be permanently corrected and controlled in compliance with this Plan, (2) upon the Public Works Director or Building Official's determination that an intricate plumbing and piping arrangement exists which makes it impractical to ascertain whether cross connections exist therein, or (3) where a portion of the Premises cannot be readily accessed for inspection purposes making it impractical or impossible to ascertain whether cross connections exist. The owner or person responsible for a property or the maintenance of a property connected to or required to be connected to the public potable water system shall make all necessary arrangements, at its sole expense, to remove without delay security barriers or other obstacles to access by the Public Works Director or the Building Official.

(e) If an inter-street main flow may result from two or more services supplying water to the same building, structure, or premises, then a standard check valve shall be installed adjacent to the respective meters and on the owner's property. If a check valve is not adequate to protect the public water system's mains from pollution or contamination, the installation of an approved backflow prevention assembly may be required by the Public Works Director. Approval will be given if a backflow prevention assembly is functioning.

(f) If a health hazard exists, a testable backflow prevention assembly or an air gap shall be required. The backflow prevention assemblies shall include a reduced pressure backflow prevention assembly (RP), pressure vacuum breaker (PVB) or a spill-resistant vacuum breaker (SVB). The PVB and SVB shall not be subjected to backpressure.

**SECTION 5. Type of backflow prevention assembly required.**

(a) The type of backflow prevention assembly required shall be commensurate with the type of hazard that exists on the customer's premises. The minimum types of backflow prevention assemblies required to protect the Town's potable water supply are set forth in Table 1 below. However, the water user may choose a higher level of protection than required by the Town. All backflow prevention assemblies shall be from an approved list from the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research.

**Table 1**

<u>Type of Hazard</u>	<u>Minimum Type of Backflow Prevention Assembly</u>
Fire protection systems utilizing chemicals or additives (New installations or remodels of existing system)	RP- UL of FM &USC approved assemblies only
Commercial and residential fire sprinkler systems without chemicals or additives (New installations or remodels of existing systems only)	DC-UL or FM &USC approved assemblies only
Commercial and residential landscape irrigation systems utilizing chemical additives or hose connections and/or quick couplers	RP or AG only
Stationary Construction Fire Hydrant Meters	DC, RP or AG immediately adjacent to meter
Premises where any customer purchasing water for the purpose of resale or distribution	RP or AG at each service connection
Premises owned by any state, federal, or foreign government or agency	RP or AG at each service connection
Premises where there is history of cross-connections being established or re-established	RP or AG
Animal Watering Sites	AG or RP or PVB or SVB. PVB or SVB not approved where back pressure situations exist.
Non-Health Hazard	DC, PVB, SVB, or RP at point of connection to hazard or at the service connection prior to first branch line off customer's service line. PVB or SVB not approved where back pressure situations exist.
Health Hazard	AG,PVB,SVB, or RP at point of connection to hazard or at service connection prior to first branch line off customer's service line. PVB or SVB not approved where back pressure situations exist.
Carbonated Drink Machines	RP- Stainless Steel Assembly and all downstream piping shall be non-corrosive when in contact with CO2 gas.

(b) Situations which are not covered in Table 1 shall be evaluated on a case by case basis, and the required backflow prevention assembly shall be determined by the Public Works Director.

(c) Containment and/or secondary protection may be required on certain health hazard installations in accordance with the following Table 2, in addition to any other protection, identified herein, which is required to isolate equipment within a facility. The Public Works Director or Building Official may require backflow prevention assembly to be installed on other facilities with a similar degree of hazard in accordance with the Plumbing Code of the Town of Prosper, as amended, or other applicable law. These backflow prevention assemblies shall be installed in the main service line on the building side of the meter or the principle branch serving a single tenant space. The location of the backflow prevention assembly shall be approved by the Public Works Director or Building Official in accordance with the provisions contained in Section 7.

**Table 2**

<u>Health Hazard Installations</u>	<u>Type of Backflow Prevention Required</u>
Breweries	RP
Carwash	RP
Dairies	RP
Multi-story buildings 3 floors or more	RP
Animal Hospital	RP
Auxiliary Water Supply	RP
Building containing a Reclaimed Water System	RP
Chillers	RP
Commercial laundry	RP
Cooling Towers	RP
Dental Office	RP
Doctor's Office	RP
Food and Beverage processing plants	RP
Funeral home and mortuary	RP
Green house or nursery (with toxic chemicals)	RP
Hospitals (parallel system required)	RP
Laboratories (including medical, dental, and research labs, and labs at educational facilities)	RP
Manufacturing plant	RP
Meat Processing plant	RP
Metal manufacturing, cleaning, processing and fabrication plants	RP
Micro chip fabrication facilities	RP
Petroleum processing or storage facilities	RP
Photo and film processing	RP
Plants using radioactive materials	RP

**Table 2 continued**

Plating or Chemical plants	RP
Premises where inspection is restricted or exempted	RP
Private/Individual Unmonitored Wells	RP
Rainwater Harvesting Systems	RP
Rendering plant	RP
Sewage lift Stations	RP
Sewage treatment plants	RP
Steam plants	RP
Space Heating Boilers	RP

**SECTION 6. Backflow prevention assembly installation requirements.**

(a) All new, replacement, or reconditioned backflow prevention assemblies shall be installed in accordance with the International Plumbing Code, as adopted and amended by the Town of Prosper and with the following standards, unless otherwise directed or approved by the Public Works Director.

(1) Plumbing permit required. Prior to installation, a plumbing permit must be obtained from the Building Inspection Department of the Town.

(2) Installation. The assembly shall not be located in the same vault or meter box with the Town's water meter. Backflow assemblies shall not be installed within three (3) feet of a water meter box or vault. All backflow assembly installation shall be done in accordance to the approval set forth in the list of Approved Backflow Prevention Assemblies issued by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research, a copy of which is on file in the Town Public Works Department. If installed in a structure all backflow assemblies must be easily accessible for testing, repair or replacement.

(3) Location. The owner or occupant must prove to the Town that no connections or tees are located between the meter and the backflow prevention assembly. The relief valve discharge on a reduced pressure backflow assembly (RP) shall not be solidly piped into a sump, sewer, drainage ditch, etc. Test cocks shall not be used as supply connections.

(4) Air gap separation (AG). All piping from the service connection to the receiving tank shall be above grade and be entirely visible. No water use shall be provided from any point between the service connection and the air gap separation. The water inlet piping shall terminate at a distance of at least two (2) pipe diameters of the supply inlet, but in no case less than one (1) inch above the overflow rim of the receiving tank. An 'approved air gap separation' shall be at least twice the diameter of the supply pipe measured vertically above the overflow rim of the vessel and shall in no case be less than one (1) inch (2.54cm).

(5) Reduced pressure backflow assemblies (RP). Reduced pressure backflow assemblies shall be installed above ground level and shall be placed a minimum of twelve (12) inches above the finished grade to allow clearance for repair work. A freeze-proof enclosure with a concrete slab at finished grade is recommended. Where it is impractical to install the assembly outside, the installation may be made inside the building in an area not susceptible to flooding. Proper free flowing/gravity drainage must be provided for the relief valve. If the drain line is to drain outside, then the termination point must be a minimum of twelve (12) inches above finished grade.

(6) Double check valve assemblies (DC). Double check valve assemblies can be installed above finished grade in a freeze-proof enclosure or below grade in a vault. If assembly is installed below grade the test cocks must be plugged with corrosion resistant watertight plugs. Assembly shall be a minimum of twelve (12) inches above the floor.

(7) Bypass. If a bypass is installed around any approved backflow prevention assembly, the bypass must be protected from backflow/back pressure with the same type of backflow prevention assembly that it has bypassed. The backflow prevention assembly on the bypass must be installed according to the same requirements as the service line assembly.

(8) Thermal Expansion. The installation of a backflow assembly may create a closed system which may result in thermal expansion.

(9) Lost Pressure. The Town is not responsible for any pressure loss created by the installation of a backflow assembly.

## **SECTION 7. Inspection, testing and registration of backflow prevention assemblies.**

(a) Testing of backflow prevention assemblies. The owner, occupant, manager, other person in control of any premises or the person responsible for the maintenance of the property on which, or on account of which, backflow prevention assemblies are installed, shall have the assemblies tested by a Prosper BPAT. Backflow prevention assemblies shall be tested annually and shall also be tested immediately after installation, relocation, repair or work performed upstream of the assembly. However, upon ten (10) days prior written notice by the Town to the owner, occupant, manager, other person in control of the premises or the person responsible for the maintenance of the property must provide more frequent testing as required in the written notice.

(b) Report of backflow prevention assembly test. A Town of Prosper Backflow Prevention Assembly Test Report form (original form) shall be completed by a Prosper BPAT on each backflow prevention assembly tested. Each completed original form, together with the records of tests, repairs, or replacement, shall be hand delivered in person to the Public Works Department of the Town of Prosper within ten (10) calendar days after the testing, repair, replacement or work performed upstream of the assembly.

(c) Test Results. Test results for a reduced pressure backflow prevention assembly shall provide a reading for both checks and have at least a three (3) PSI differential between the first

check and the relief valve opening point. Only backflow prevention assembly field test procedures approved by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research will be accepted. If an assembly fails, the Prosper BPAT shall immediately notify the Public Works Director or his designee in person or by phone during regular business hours of the Town of Prosper Public Works Department. If an assembly failure occurs at any time other than regular business hours, the Prosper BPAT shall notify the Public Works Director or his designee on the next regular business day.

Upon notification to the Public Works Director or his designee of assembly failure, the Public Works Director or his designee will notify the owner, occupant, manager or other person in control of any premises or the person responsible for the maintenance of the property of the time period that they have to repair or replace the assembly. The assembly shall be replaced or repaired within the time period set by the Public Works Director or his designee or within five (5) calendar days from the date of assembly failure whichever date is sooner. In the event of assembly failure, tester must contact the Public Works Directors designee.

(d) Registration and maintenance of backflow prevention assemblies.

(1) Each backflow prevention assembly located on property subject to this Plan shall be registered with the Public Works Department of the Town of Prosper.

(2) The owner, occupant, manager, other person in control of the property or the person responsible for the maintenance of the property is responsible for general maintenance and upkeep of all approved backflow prevention assemblies located thereon.

(3) Backflow prevention assemblies shall be tested, repaired, and/or replaced at the expense of the owner, occupant, manager, other person in control of the property or the person responsible for the maintenance of the property whenever such assemblies are determined to be defective by the Public Works Director or Building Official. An assembly is defective if it is not a properly installed backflow prevention assembly as required by this Department.

(e) New Plumbing or Plumbing Modifications. The Building Official or Public Works Director's designee shall inspect all new backflow prevention assembly installations, which are subject to this Plan and are required by application for a plumbing permit. A Service Inspection Certification form shall be completed by the Building Official or Public Works Director on each new plumbing installation or on plumbing modifications. Each completed form shall be received by the Public Works Department within ten (10) days after the inspection.

(f) Existing properties. The Public Works Directors designee shall inspect all existing properties connected to the potable water system for the purpose of determining whether a cross-connection exists and what type of backflow prevention assembly should be installed pursuant to this Plan.

(g) Existing backflow prevention assemblies. Properties with existing backflow prevention assemblies installed in their system, which have not been registered with the Public

Works Director, as of the effective date of this Plan shall come into compliance with the provisions of this Plan within sixty (60) days of notification unless the Public Works Director finds a health hazard exists in which case the Public Works Director shall determine the appropriate time of compliance.

(h) Existing assemblies in compliance. The owner, occupant, manager or other person in control of any premises or the person responsible for the maintenance of a property with existing assemblies, which comply with the provisions of this Plan, shall provide written proof that each such assembly has been properly maintained and serviced by a Prosper BPAT. If maintenance and service records are not available, the assembly shall be tested in accordance with the requirements of this Plan.

(i) Replacement. If the assembly is not capable of being tested, identified or cannot be repaired, it must be replaced with an approved assembly in accordance with the requirements of this Plan.

(j) Testing Fee. A \$25.00 fee shall be submitted to the Town for each backflow prevention assembly tested and shall be paid at the time that the Prosper BPAT files the Backflow Prevention Assembly Test Report form with the Town.

(k) Retesting Fee. A \$25.00 fee shall be submitted to the Town for each backflow prevention assembly that is required to be retested due to a deficiency or a violation of this Plan including, an invalid test report, or one of the following;

- Falsification of Backflow Prevention Assembly Test Report form
- Incorrect serial number
- Blank or incomplete information fields on Backflow Prevention Assembly Test Report forms
- Prosper BPAT's test gauges are not registered with the Town
- Duplicate serial number on multiple Backflow Prevention Assembly Test Report forms
- Performing a Backflow Prevention Assembly Test using unapproved testing procedures
- Inappropriate registration with the Town
- BPAT is not registered with the Town of Prosper Public Works Department at the time the test(s) was performed

(l) Retest procedure. The retest(s) shall be performed in the presence of the Public Works Director or his designee. The fee shall be paid prior to the retest(s) being performed and the retest(s) shall be completed within five (5) business days from first notification. Any retest(s) required shall be performed by the Prosper BPAT or BPAT who is responsible for the deficiency or violation unless the Prosper BPAT or BPAT has resigned or lost their testing privileges. All retest(s) should be performed during normal Town business hours.

(m) Exemption. Atmospheric Vacuum Breakers are exempt from this section.

**SECTION 8. Quality assurance program.**

To assure the quality of the backflow prevention tests being performed each month at least one (1) but no more than five (5) Prosper BPATs will be randomly selected to be observed by the Public Works Director or his designee. The tester will be notified by certified mail to the address on file with the Town. When a tester has been chosen for random observation he/she shall have thirty (30) calendar days from the date of the letter to schedule and complete an approved observation with the Town Public Works department. Failure to do so shall result in the Prosper BPATs testing privileges being suspended. Testing privileges shall not be reinstated until the observation has been completed and approved.

**SECTION 9. Removal of backflow prevention assembly.**

(a) Removal. Prior written approval must be obtained from the Public Works Director before a backflow prevention assembly may be removed or relocated.

(b) Discontinued use. The use of a backflow prevention assembly may be discontinued, and the assembly removed from service, upon written approval from the Public Works Director after presentation to the Public Works Director of sufficient written evidence to verify that a hazard no longer exists and is not likely to be created in the future.

(c) Relocation. A backflow prevention assembly may be relocated following written approval from the Public Works Director or his designee after presentation to the Public Works Director or his designee of sufficient written evidence to verify that the relocation will continue to provide the required protection and satisfy installation requirements. An assembly may not be removed for relocation unless water use is discontinued, until the relocation is complete, or until the service connection is equipped with other backflow protection approved by the Public Works Director or his designee and sufficient to prevent backflow during relocation. A retest will be required following the relocation of the assembly.

(d) Repair. A backflow prevention assembly may be removed for repair and a retest will be required following the repair of the assembly. Before an assembly is removed, the Prosper BPAT shall notify the Public Works Director or his designee. The Public Works Director or his designee shall determine the time period allowed for repair of the assembly and determine whether water service will be discontinued during that time period.

(e) Replacement. An assembly may be removed and replaced. All replacement assemblies must be approved by the Public Works Director or his designee and must be commensurate with the degree of hazard involved. A retest will be required following the replacement of the assembly. Before an assembly is replaced, the Prosper BPAT shall notify the Public Works Director or his designee. The Public Works Director or his designee shall determine the time period allowed for replacement of the assembly and determine whether water service will be discontinued during that time period.

**Section 10. Requirements for Backflow Prevention Assembly Testers.**

(a) Registration. Prior to performing any testing of backflow prevention assemblies within the Town of Prosper, a backflow prevention assembly tester must be registered with the Town of Prosper.

(1) Eligibility for registration shall be conditioned upon applicant providing proof that they are currently licensed as a backflow prevention assembly tester by the Texas Commission on Environmental Quality and have not been found to be in violation of Section 12 of this Plan.

(2) Each applicant licensed as a backflow prevention assembly tester with the State shall furnish evidence to the Public Works Director to show that he/she has available the necessary tools and equipment to properly test and certify such assemblies. Serial numbers of all test gauges shall be registered with the Public Works Director. Registered serial numbers of test gauges shall be listed on tests and maintenance reports prior to being submitted to the Public Works Director. Each recorded test kit shall be tested annually for accuracy and calibrated to maintain a +/- two percent (+/-2%) accuracy factor. Failure to register the serial number or calibrate gauges annually shall be grounds for temporary suspension of a tester's registration until compliance with this requirement is attained.

(3) Registration shall remain in force provided that the tester maintains his/her eligibility for registration by complying with all requirements of this Plan and applicable State law. Evidence of renewal of the tester's TCEQ backflow prevention assembly testing license shall be furnished to the Public Works Director upon request. A tester shall advise the Public Works Director if the tester's State license is ever suspended or terminated within five (5) business days of notice to the tester of such suspension or termination.

(b) Registration Fee. An annual registration fee in the amount of \$100.00 shall be paid at the time an application for annual registration is submitted to the Public Works Director. This annual registration fee includes the Town's testing of the tester's equipment and tools.

(c) Responsibilities of Testers. Prosper BPAT's shall be responsible for performing competent tests, issuing accurate reports of backflow prevention assemblies tested, filing timely backflow prevention assembly test reports and test fees to the Town. Prosper BPAT's shall not change the design or operational characteristics of a backflow prevention assembly during repair or maintenance without prior written approval of the Public Works Director.

### **SECTION 11. Revocation of assembly tester registration.**

(a) Failure to make immediate notification of a backflow prevention assembly field test failure as required by this Department shall result in revocation of the Prosper BPAT's registration.

(b) Refusal to perform retest(s) or pay appropriate fee as required by this Department shall result in revocation of Prosper BPAT's registration

(c) Submitting a falsified test report shall result in revocation of a Prosper BPAT's registration.

(e) The Public Works Director shall send written notice to the Prosper BPAT at the last known address on file for the Prosper BPAT informing the Prosper BPAT of a revocation. The date specified on the notice shall be the effective date of the revocation.

### **SECTION 12. Prohibited conduct.**

The following actions or omissions are prohibited.

- Installing, allowing to remain installed, or maintaining a potable water supply, piping, or part thereof in such a manner that allows used, unclean, polluted, or contaminated water, mixtures, gasses, or other substances to enter any portion of the public potable water supply by reason of back siphonage, back pressure or any other cause.
- Maintaining any water-operated equipment or mechanism or use of any water-treating chemical or substance if it is determined that such equipment, mechanism, chemical or substance may cause pollution or contamination of the public potable water supply. Provided, however, that such equipment or mechanism may be permitted when equipped with a backflow prevention assembly approved by the Town.
- Connecting, allowing to be connected, or allowing to remain connected to the public potable water system any mechanisms or systems designed to return used water to the public potable water system.
- Connecting, allowing to be connected, or allowing to remain connected to the public potable water system an auxiliary water system without the prior written approval of the Public Works Director or his designee.
- Incorrectly installing a backflow prevention assembly or allowing an incorrectly installed backflow prevention assembly to remain installed.
- Failing to report to the Public Works Director or his designee a backflow prevention assembly that failed a test.
- Falsifying any information in a backflow prevention assembly testing report submitted to the Town.
- Conducting a backflow assembly test without being registered with the Town.
- Conducting a backflow assembly test while without a valid registration.
- Submitting an incomplete backflow prevention assembly testing report to the Town.
- Disconnecting, Removing, or discontinuing the use of a backflow prevention assembly without the written permission of the Public Works Director or his designee.