

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 11.222 ACRES, MORE OR LESS, SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 147, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, HERETOFORE ZONED SINGLE FAMILY-15 (SF-15) IS HEREBY REZONED AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-COMMERCIAL CORRIDOR (PD-CC); 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 555 Partners Ltd. ("Applicant") to rezone 11.222 acres of land, more or less, situated in the Collin County School Land Survey, Abstract No. 147, 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 11.222 acres of land, more or less, situated in the Collin County School Land Survey, Abstract No. 147, 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-Commercial Corridor (PD-CC). 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"; and 5) the conceptual façade rendering, attached hereto as Exhibit "F", which are incorporated herein for all purposes as if set forth verbatim. Except as amended by this Ordinance, the development of the Property within this Planned Development District must comply with the requirements of all ordinances, rules, and regulations of Prosper, as they currently exist or may be amended.

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 Planned Development District shall be sent to all property owners within two hundred feet (200') of the specific area 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 AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 25th DAY OF JANUARY, 2011.

APPROVED AS TO FORM:



Ray Smith, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:




Matthew D. Denton, TRMC
Town Secretary

DATE OF PUBLICATION: 02/05/2011, *Dallas Morning News*

EXHIBIT "A"

DESCRIPTION 11.222 Acres of Land

SITUATED in the Town of Prosper, Texas, in the Collin County School Land Survey, Abstract No. 147, being a resurvey of the 11.23 acres of land described in a deed from Bruce Miller Nursery, Inc. to 555 Partners, LTD. dated August 18th, 2010, recorded in Document No. 20100823000879160 of the Official Public Records of Collin County Texas, including the south half of the right of way of Prosper Trail, being described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron pin set at the southwest corner of said 11.23 acre tract, in the north line of the Centex Homes 50.8646 acres, ref. doc. no. 20060126000108670 and at the southeast corner of the Prosper Industrial 102 Joint Venture 20.4974 acres, ref. Vol. 5593, Pg. 2451;

Thence north 11°34'12" east, 1249.84 feet with the west line of said 11.23 acre tract, the east line of said 20.4974 acre tract and into the right of way of Prosper Trail to a point in the center of said Prosper Trail;

Thence north 89°28'12" east, 400.0 feet with the center of Prosper Trail to a point in the center of said Prosper Trail;

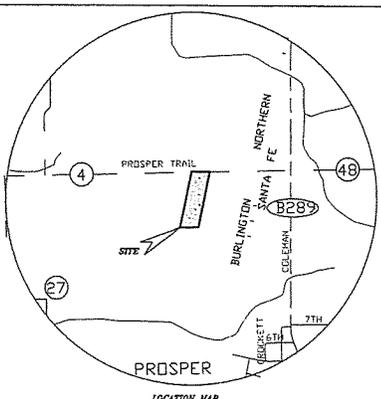
Thence south 11°34'12" west, 1249.84 feet through said right of way, with the east line of said 11.23 acre tract and the west line of the Pro-Build Real Estate Holdings, LLC 19.648 acres, Ref. Doc. No. 20060804001112910 to a 1/2 inch iron pin set at the southeast corner of said 11.23 acre tract, at the southwest corner of said 19.648 acre tract and in the north line of said 50.8646 acre tract;

Thence south 89°28'12" west, 400.0 feet with the south line of said 11.23 acre tract and the north line of said 50.8646 acre tract to the PLACE OF BEGINNING and containing 11.222 acres of land.

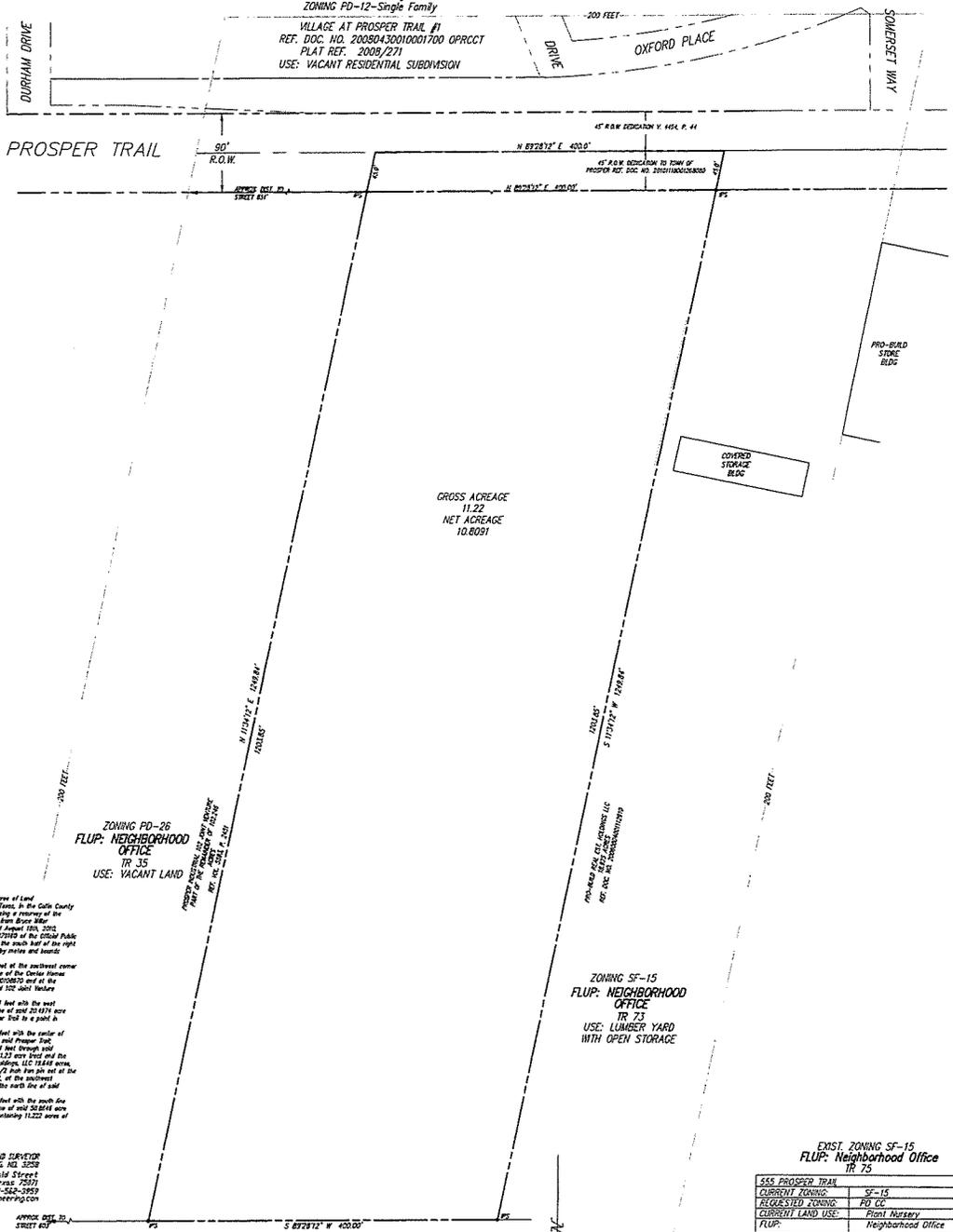


G. M. Geer, Registered Professional Land Surveyor
Tx. Reg. No. 3258
1514 North McDonald Street
McKinney, Texas 75071
Phone: 972-562-3959
www.geersurveyingandengineering.com
email: gmgeer1@sbcglobal.net





FLUP: Medium Density Residential
ZONING PD-12-Single Family
 VILLAGE AT PROSPER TRAIL #1
 REF. DOC. NO. 20050430010001700 OPRCCT
 PLAT REF. 2008/271
 USE: VACANT RESIDENTIAL SUBDIVISION



GROSS ACREAGE
 11.22
 NET ACREAGE
 10.801

ZONING PD-26
FLUP: NEIGHBORHOOD OFFICE
 TR 35
 USE: VACANT LAND

ZONING SF-15
FLUP: NEIGHBORHOOD OFFICE
 TR 73
 USE: LUMBER YARD WITH OPEN STORAGE

SECTION 1: 62000000 11.222 Acres of Land...
 SECTION 2: BEING all a 1/2 Acre...
 SECTION 3: BEING all a 1/2 Acre...
 SECTION 4: BEING all a 1/2 Acre...

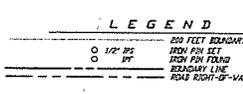
G. K. DEER, REGISTERED PROFESSIONAL LAND SURVEYOR
 TEX. REG. NO. 32528
 1014 North McDaniel Street
 McKinney, Texas 75069
 Phone: 972-542-3959
 www.gksurveying.com

EXIST. ZONING	SF-15
FLUP: Neighborhood Office	TR 75
CURRENT ZONING	SF-15
REQUESTED ZONING	PD CC
CURRENT LAND USE	Empty
FLUP:	Neighborhood Office

1 PD-CC LOT
 CASE NO. 210-0080
ZONING EXHIBIT A
PLM PROSPER
 11.222 ACRES IN THE COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 147, TOWN OF PROSPER, COLLIN COUNTY TEXAS

OWNER:
 SSS PARTNERS, LTD.
 555 PROSPER TRAIL
 PROSPER, TEXAS 75078
 PHONE: 972-741-1200
 Email: prosper@ssspartners.net
 www.ssspartners.com

SURVEYOR/DRAWER:
 G. K. DEER
 1814 NORTH BROADWAY STREET
 MCKINNEY, TEXAS 75071
 PHONE: 972-542-3959
 Email: gkdeer@gsurveying.com
 www.gsksurveying.com



ZONING PD-26
FLUP: NEIGHBORHOOD OFFICE
 TR 35
 USE: VACANT LAND

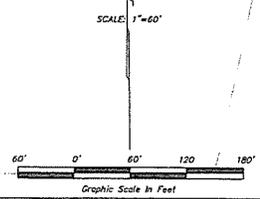


EXHIBIT "B"

555 W. Prosper Trail
Bruce Birdsong, Owner/Representative

PLM PROSPER PLANNED DEVELOPMENT DISTRICT

STATEMENT OF INTENT AND PURPOSE

PLM Prosper intends to develop this site to suit the business, which consists of residential and commercial landscaping and irrigation installation and maintenance, wholesale tree and shrub sales, tree and shrub grower. And to put forth a site that will enhance the Town of Prosper. The emphasis will be on securing the site and providing a visually pleasant appearance by use of landscaping and architectural features on the buildings and fencing. This will be accomplished beginning with the refacing of the existing building with stone and the construction of the new building with the façade being matching stone. The installation of the architectural metal fencing along the front on the east and west side of the buildings, covered storage and landscaping for this phase of the development. The west line architectural metal fencing, covered storage and landscaping for the first part of the project will also be installed. The east line landscaping along the ProBuild chainlink fence will be installed and be comprised of Knockout Roses for the front section (north) and behind the front line of the buildings to the south utilizing Abuelia Grandiflora and Ilex Burford and continue to expand with growth of the business.

As the business grows, the additional architectural metal fencing and covered storage along the west line will be built along with the screening landscaping consisting of small ornamental trees and shrubs as shown on the plan.

The proposed future parking lots on the east and west of the existing parking lot will be completed as the need arises beginning with a parking row adjoining the drives as shown on the plan and then expanding to the whole build out as shown on the plan along with accompanying landscaping as called out on the plan.

The Phase I of the site's initial improvements will develop according to this Zoning Exhibit D/site plan submitted. All landscaping, open spaces, buildings-existing and proposed, concrete parking-existing and proposed, open storage, landscape buffers, gravel drives and pond are shown on this zoning exhibit. All landscape buffers and setbacks are shown.

All open storage, graveled areas will be well screened from view both from the right of way of Prosper Trail and any neighboring properties using a combination of Architectural Metal Fencing and landscaping.

Since our business is Landscaping, we intend to outshine our neighbors in that respect and be an asset to the Town of Prosper, our chosen New Hometown.

Sincerely,

Bruce Birdsong
Owner

EXHIBIT "C"
PLM PROSPER
PD-COMMERCIAL CORRIDOR DISTRICT

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 (No. 05-20 as it currently exists or may be amended) and the Town's Subdivision Ordinance (No. 03-05 as it exists or may be amended) shall apply to the property.

1. Commercial Corridor District - PLM Prosper:

1.1 **GENERAL PURPOSE AND DESCRIPTION:**

The Commercial Corridor District is intended primarily for employment center uses such as light manufacturing, warehousing, wholesaling, office, and distribution operations that do not depend upon frequent customer or client visits, as well as service uses necessary to support such employment center uses. This tract shall be developed in accordance with the Commercial Corridor District Regulations as it exists or may be amended, except as otherwise set forth in these development standards.

1.2 **REGULATIONS:**

A. **Size of Yards:**

1. **Minimum Front Yard:** Thirty (30) feet.
2. **Minimum Side Yard:**
 - a. Five (5) feet for open storage/covered storage areas.
 - b. Twenty-five (25) feet for buildings. The minimum side yard setback may be eliminated for attached buildings on separate lots as shown on an approved site plan.
3. **Minimum Rear Yard:**
 - a. Five (5) feet for open storage/covered storage areas.
 - b. Twenty-five (25) feet for buildings. The minimum side yard setback may be eliminated for attached buildings on separate lots as shown on an approved site plan.

B. **Size of Lots:**

1. **Minimum Size of Lot Area:** Ten thousand (10,000) square feet.
2. **Minimum Lot Width:** One hundred (100) feet.
3. **Minimum Lot Depth:** One hundred (100) feet.

B. **Maximum Height for Buildings:** Two (2) stories, not greater than 40 feet.

C. **Maximum Height for outdoor open storage:** Eight (8) feet.

D. **Lot Coverage:** Sixty (60) percent.

E. **Floor Area Ratio:** Maximum 1:1

1.3 **PERMITTED USES:**

- A. **Compliance with State and Federal Law:** No uses shall be allowed which are prohibited by State law or which operate in excess of State or Federal environment or pollution standards as determined by the U.S. Environmental Protection Agency, Texas Air Control Board, Texas State Department of Health, or the Texas Water Commission, as the case.

- B. **Open Storage:** Not more than sixty-five (65) percent of the lot or tract may be used for the open storage of products such as fertilizer and bagged products, materials such as but not limited to, mulch, limited amounts of landscape stone, masonry mortar, trees, shrubs, annuals or fencing, or equipment such as lawn equipment or materials trailers, all of which shall be screened from adjoining properties or streets. The screening will consist of eight (8) feet tall Architectural Metal Fencing with small trees and shrubs along the outside on the west property line and north of the east-west eight (8) feet tall Architectural Metal Fencing as shown on Exhibit D. The east property line screening will consist of shrubs as shown on Exhibit D. South line screening will not be installed during this initial phase of development. The south property line screening landscaping and eight (8) feet tall Architectural Metal Fencing will be installed as the need to make use of the open storage area reaches southerly to approximately 200 feet north of the south property line, about inline with the south end of the existing pond. All open storage will be south of the north, east-west, eight (8) feet tall Architectural Metal Fence as shown on Exhibit D.
- C. **High Risk or Hazardous Uses:**
1. The uses listed in 1.3(D) below are permitted in the Commercial Corridor District, provided that such uses shall not disseminate dust, fumes, gas, noxious odor, smoke, glare, or other atmospheric influence beyond the boundaries of the property on which such use is located and which produces no noise exceeding the average intensity of noise of street traffic at that point and provided that such use does not create fire hazards on surrounding property.
 2. "High risk or hazardous" uses are not permitted in the Commercial Corridor District. In this section, "high risk or hazardous" use means any use whose operation, in the opinion of the Fire Chief, involves a much higher than average risk to public health and safety. These uses include but are not limited to facilities where significant amounts of radiation, radioactive materials, highly toxic chemicals or substances, or highly combustible or explosive materials are present, used, produced, stored, or disposed of.
- D. **List of Permitted Uses:** Uses followed by an **S** are permitted by Specific Use Permit. Uses followed by a **C** are permitted subject to conditional development standards. See Chapter 3, Section 1 for the conditional development standards.
- Accessory Building
 - Administrative, Medical, or Professional Office
 - Antenna and/or Antenna Support Structure, Commercial **C**
 - Antenna and/or Antenna Support Structure, Non-Commercial **C**
 - Athletic Stadium or Field, Private **S**
 - Athletic Stadium or Field, Public
 - Automobile Paid Parking Lot/Garage
 - Automobile Parking Lot/Garage
 - Automobile Repair, Minor
 - Bank, Savings and Loan, or Credit Union
 - Bottling Works
 - Building Material and Hardware Sales Major
 - Building Material and Hardware Sales Minor
 - Bus Terminal **C**
 - Business Service
 - Cabinet/Upholstery Shop
 - Car Wash **C**
 - Civic/Convention Center
 - College, University, Trade, or Private Boarding School
 - Community Center
 - Contractor's Shop and/or storage yard including a landscape contractor.

- Convenience Store with Gas Pumps **C**
- Day Care Center, Incidental **S**
- Fairgrounds/Exhibition Area **S**
- Farm, Ranch, Stable, Garden, or Orchard
- Fraternal Organization, Lodge, Civic Club, Fraternity, or Sorority
- General Manufacturing/Industrial Use Complying with Performance Standards
- Governmental Office
- Gunsmith
- Helistop **S**
- Homebuilder Marketing Center
- House of Worship
- Household Appliance Service and Repair
- Indoor Gun Range **S**
- Insurance Office
- Laundromat
- Limited Assembly and Manufacturing Use Complying with Performance Standards
- Locksmith/Security System Company
- Machine Shop
- Massage Therapy, Licensed
- Mortuary/Funeral Parlor
- Municipal Uses Operated by the Town of Prosper
- Museum/Art Gallery
- Nursery, Major
- Nursery, Minor
- Office/Showroom
- Office/Warehouse/Distribution Center
- Open Storage
- Park or Playground
- Print Shop, Major
- Print Shop, Minor
- Private Recreation Center
- Private Utility, Other Than Listed
- Recycling Center **S**
- Recycling Collection Point
- Rehabilitation Care Institution **S**
- Research and Development Center **C**
- Retail/Service Incidental Use
- School District Bus Yard **C**
- School, Private or Parochial
- Small Engine Repair Shop
- Stealth Antenna, Commercial **C**
- Storage or Wholesale Warehouse
- Taxidermist
- Telephone Exchange
- Temporary Building **C**
- Trailer Rental
- Transit Center
- Utility Distribution/Transmission Facility **S**

1.4 Exterior Appearance of Buildings: Initial Phase of development: The front façade facing Prosper Trail for both the existing building and the new building shall be required to be maximum of 80% Cultured Natural Shaped Field Stone (upper) & minimum of 20% Cultured rectangular Field Stone (lower) of contrasting colors. The roof for both existing and new buildings is sloping metal roof as shown on Exhibit F. Metal, cementitious fiber board (Hardie Siding) or masonry materials per the Town's Zoning Ordinance shall be permitted exterior materials for the side and rear elevations. Tall hedge, six (6) feet high at time of planting on the east and west sides of these buildings as shown on Exhibit D. Buildings shall comply with attached conceptual renderings (Exhibit F, attached). Two garage overhead doors will face Prosper Trail. Front canopy as shown shall meet the architectural articulation requirements as shown on Exhibit F. No architectural articulation is required on sides or rear facades.

Future Phase of development: All sides of possible new future one story buildings to be built south of the north, east-west, eight (8) feet tall Architectural Metal Fence to be composed of metal, cementitious fiber board (Hardie Siding) or masonry materials per the Town's Zoning Ordinance shall be permitted for any façade or portion thereof that is not visible from Prosper Trail. No architectural articulation shall be required for these possible future buildings south of the north, east-west, eight (8) feet tall architectural metal screening fence.

1.5 Paving materials permitted in open storage area: Gravel or crushed rock shall be permitted paving material in the open storage area located behind all screening and gates. All additional fire lanes shall be constructed of concrete and shall meet Town of Prosper's paving standards.

1.6 Perimeter Landscaping:

- **West & South Line Perimeter: Small Trees & Shrubs.** West and South line perimeter landscaping will consist of one small, thirty (30) gallon tree, six (6) to eight (8) feet high at time of planting, per every twenty-five (25) linear feet and one 3-5 gal. shrub, reaching six (6) feet high in two growing seasons, per every ten (10) linear feet along the eight (8) feet tall Architectural Metal Fence as shown in the attached renderings as each section of the fence is installed and open storage is prepared for use to the south. The existing chain-link fencing on the west and south line will be replaced with eight (8) feet tall Architectural Metal Fencing and perimeter landscaping as the open storage is expanded to the south.
- **East Line Perimeter: Three types of tall shrubs.** East line perimeter landscaping will consist of three different types of shrubs with two sections, one north of the building front and one south of the building front. This dividing line will be the north, east-west, eight (8) feet tall Architectural Metal Fence. The section north of the fence will consist of 3-5 gal. Knockout Roses, minimum three (3) feet high after 2 growing seasons, planted at a minimum of six (6) linear feet on center and the section south of the fence will consist of a mix of 3-5 gal. Abelia Grandiflora and Ilex Burford shrubs, three (3) feet high at time of planting at four (4) feet on center, the latter two being of the tall variety, reaching six (6) feet high within two growing seasons. The landscaping will be installed along the perimeter as the open storage sections are prepared for use. No trees are to be planted along the east line adjoining property owner's chain-link fencing due to the existing power lines. The existing adjoiner owned chain-link fencing would remain as it exists on the east line.
- **Prosper Trail: Small Trees & Knockout Roses.** Along Prosper Trail-North line perimeter landscaping to be installed as shown on Exhibit D. In the first phase of the parking lot development, as each section of the parking lots are installed, the trees and Knockout Roses are to be planted along with the required irrigation.

1.7 Landscaping: All requirements for 5 gal. shrubs will be amended to 3-5 gal shrubs, three (3) feet high at time of planting.

EXHIBIT "E"

555 W. Prosper Trail
Bruce Birdsong, Owner/Representative

PLM PROSPER PLANNED DEVELOPMENT DISTRICT

DEVELOPMENT SCHEDULE:

It is anticipated that the development of PLM Prosper will begin within one week after approval and issuance of building permit. Beginning with the refacing of the existing building with stone and the construction of the new building with the façade being matching stone. The installation of the architectural metal fencing along the front on the east and west side of the buildings, carports and landscaping for this phase of the development. The west line architectural metal fencing, carport and landscaping for the first part of the project will also be installed. The east line landscaping along the ProBuild chainlink fence will be installed and be comprised of Knockout Roses for the front section and behind the front line of the buildings to the south utilizing Abuelia Grandiflora and Ilex Burford and continue to expand with growth of the business.

As the business grows, the additional architectural metal fencing and carport along the west line will be built along with the screening landscaping consisting of small ornamental trees and shrubs.

The proposed future parking lots on the east and west of the existing parking lot will be completed as the need arises beginning with a parking row adjoining the drives as shown on the plan and then expanding to the whole build out as shown on the plan along with accompanying landscaping as called out on the plan.

It is anticipated that this total build out will occur within five years time.

