

AGENDA
Regular Meeting of the
Prosper Planning & Zoning Commission
108 W. Broadway St., Prosper, Texas
Town of Prosper Municipal Chambers
Tuesday, September 6, 2016, 6:00 p.m.

1. Call to Order / Roll Call.

2. Pledge of Allegiance.

3. **CONSENT AGENDA**

(Items placed on the Consent Agenda are considered routine in nature and are considered non-controversial. The Consent Agenda can be acted upon in one motion. A Planning & Zoning Commissioner may remove any item for discussion and separate action. Planning & Zoning Commissioners may vote nay on any single item without comment and may submit written comments as part of the official record.)

3a. Consider and act upon minutes from the August 16, 2016, Regular Planning & Zoning Commission meetings.

3b. Consider and act upon an Amending Plat for Gentle Creek Estates, Phase 3, Block L, Lots 8 and 9, on 0.6± acre, located at 1171 and 1181 Broken Bend Drive. This property is zoned Planned Development-1 (PD-1). (D16-0066).

REGULAR AGENDA

(If you wish to address the Planning & Zoning Commission during the regular agenda, please fill out a "Speaker Request Form" and present it to the Chair prior to the meeting. Citizens wishing to address the Planning & Zoning Commission for items listed as public hearings will be recognized by the Chair. 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 Planning & Zoning Commission.)

4. Consider and act upon the re-approval of a Final Plat of Prosper Tuscan Square, Block A, Lots 1-4, on 6.5± acres, located on the southwest corner of Prosper Trail and Coleman Street. This property is zoned Retail (R). (D14-0056).

5. Consider and act upon an extension of a Site Plan for a Convenience Store with Gas Pumps in the Westfork Crossing Development (RaceTrac), on 2.4± acres, located on the northwest corner of US 380 and Gee Road. This property is zoned Commercial (C). (D14-0072).

6. Conduct a Public Hearing, and consider and act upon a request to repeal Ordinance No. 06-77, a Specific Use Permit for a Mini-Warehouse/Public Storage Facility (SUP-2), on 4.8± acres, located on the south side of Richland Boulevard, 250± feet east of Prosper Commons Boulevard. This property is zoned Commercial (C) and Specific Use Permit-2 (SUP-2). (S16-0010).

7. Conduct a Public Hearing, and consider and act upon a request to amend Chapter 3, Permitted Uses and Definitions of the Zoning Ordinance regarding variances for distance requirements for Alcoholic Beverages. (Z16-0017).

8. Review actions taken by the Town Council and possibly direct Town Staff to schedule topic(s) for discussion at a future meeting.

9. Adjourn.

Note: The order in which items are heard on the agenda is subject to change.

CERTIFICATION

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted on the inside window at the Town Hall of the Town of Prosper, Texas, a place convenient and readily accessible to the general public at all times, and said Notice was posted on September 2, 2016, at 5:00 p.m. and remained so posted at least 72 hours before said meeting was convened.

Robyn Battle, Town Secretary

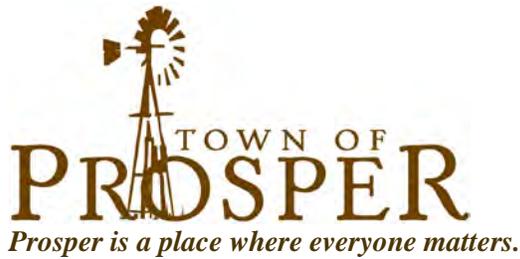
Date Notice Removed

Pursuant to Section 551.071 of the Texas Government Code, the Planning & Zoning Commission 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 Planning & Zoning Commission.

NOTICE OF ASSISTANCE AT PUBLIC MEETINGS: The Prosper Planning & Zoning Commission 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.



MINUTES
Regular Meeting of the
Prosper Planning & Zoning Commission
108 W. Broadway St., Prosper, Texas
Town of Prosper Municipal Chambers
Tuesday, August 16, 2016, 6:00 p.m.

1. Call to Order / Roll Call.

The meeting was called to order at 6:01 p.m.

Commissioners present: Vice Chair John Hema, Craig Andres, Brandon Daniel, and Bobby Atteberry

Commissioner(s) absent: Chair John Alzner, Secretary David Snyder, and Chad Robertson

Staff present: John Webb, Director of Development Services; Alex Glushko, Senior Planner; Jonathan Hubbard, Planner; and Pamela Clark, Planning Technician

2. Recitation of the Pledge of Allegiance.

3. CONSENT AGENDA

3a. Consider and act upon minutes from the August 2, 2016, Regular Planning & Zoning Commission meetings.

Motioned by Daniel, seconded by Andres, to approve the Consent Agenda. Motion approved 4-0.

REGULAR AGENDA

4. Conduct a Public Hearing, and consider and act upon a request to rezone 0.52± acre, located at 704 E. First Street, 215± feet west of Craig Road, from Single Family-15 (SF-15) to Downtown Office (DTO). (Z16-0015).

Hubbard: Summarized the request and notified Commissioners that one Public Hearing Reply Form has been received; not in opposition to the request. Recommended approval of the request.

The Public Hearing was opened by Vice Chair Hema.

Craig Sanders (Owner): Described purpose for rezoning and proposed use for the building.

There being no other speakers the Public Hearing was closed.

Commissioners voiced support for the zoning request.

Motioned by Daniel, seconded by Atteberry, to approve Item 4, subject to staff recommendations. Motion approved 4-0.

5. Discussion – Prosper Real Estate Market

Wayne Bartley (Prosper Realtor): Presented information regarding current development trends and market demands, noting the

- Home sale values averaging \$475,000 but this does not reflect direct purchases from home builders;
- The desire for half-acre lots from prospective buyers;
- Homes in subdivisions without amenity centers and amenity packages tend to take longer to sell compared to those with such features;
- The desire for less monotonous home styles and the concern that Prosper will develop without a diversity of architectural styles; and
- The desire for more affordable office rent opportunities in Prosper.

6. Review actions taken by the Town Council and possibly direct Town Staff to schedule topic(s) for discussion at a future meeting.

Webb: Discussed future development cases and development related items.

7. Adjourn.

Motioned by Atteberry, seconded by Daniel, to adjourn. Motion approved 4-0 at 6:45 p.m.

Pamela Clark, Planning Technician

David Snyder, Secretary



PLANNING

To: Planning & Zoning Commission
From: Jonathan Hubbard, Planner
Through: Alex Glushko, AICP, Senior Planner
Re: Planning & Zoning Commission Meeting – September 6, 2016

Agenda Item:

Consider and act upon an Amending Plat for Gentle Creek Estates, Phase 3, Block L, Lots 8 and 9, on 0.6± acre, located at 1171 and 1181 Broken Bend Drive. This property is zoned Planned Development-1 (PD-1). (D16-0066).

Description of Agenda Item:

The purpose of the Amending Plat is to shift the property line between Lots 8 and 9 to allow future construction on Lot 9 to meet required minimum setbacks. The Amending Plat conforms to the PD-1 development standards.

Budget Impact:

There are no significant budget implications associated with the approval of this Amending Plat.

Legal Obligations and Review:

The Amending Plat meets minimum development requirements.

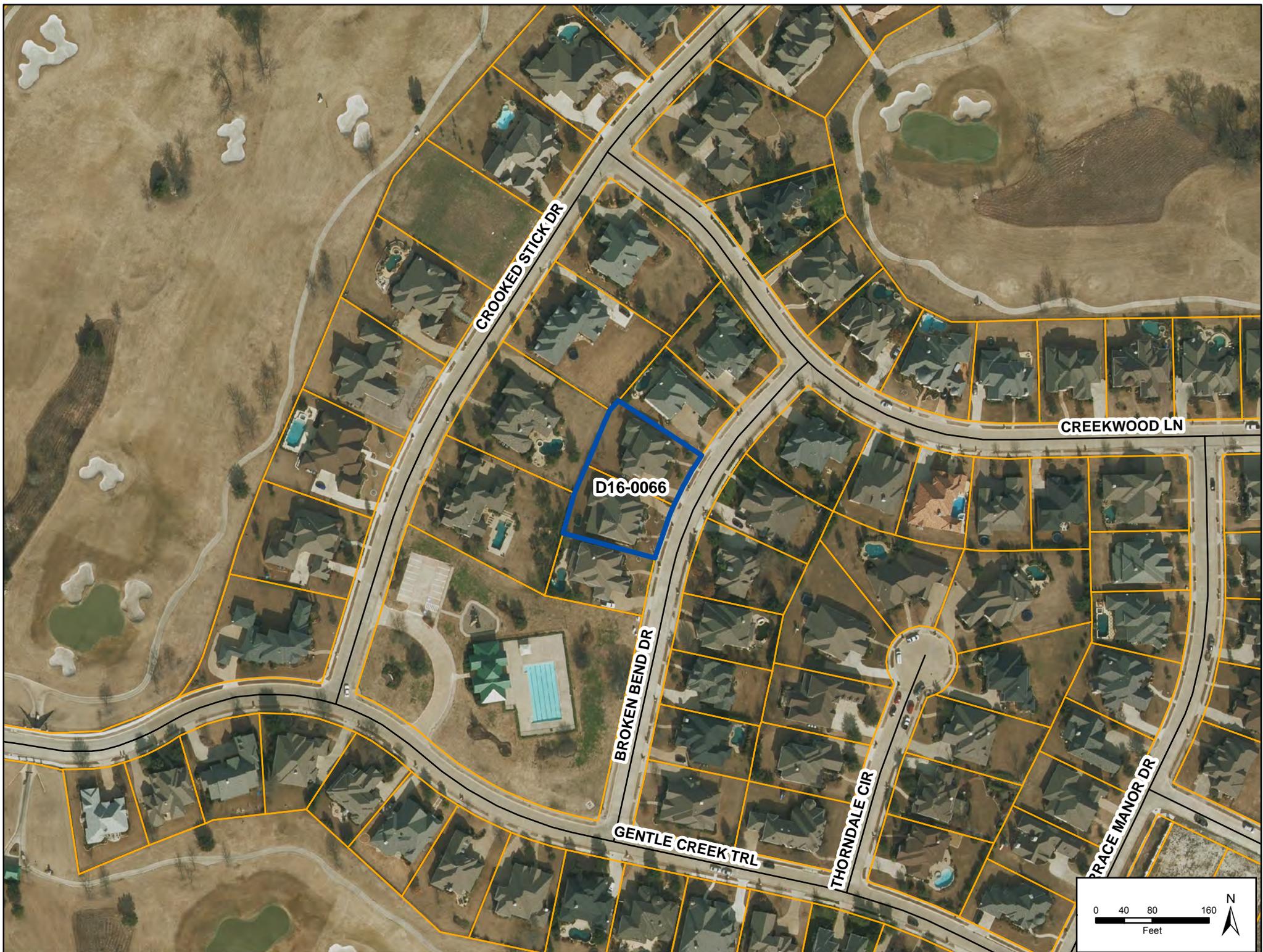
Attached Documents:

1. Location Map
2. Amending Plat

Town Staff Recommendation:

Town staff recommends approval of the Amending Plat, subject to:

1. Town staff approval of all additions and/or alterations to the Amending Plat.



D16-0066

CROOKED STICK DR

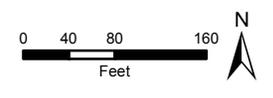
BROKEN BEND DR

GENTLE CREEK TRL

THORNDALE CIR

CREEKWOOD LN

TRACE MANOR DR



OWNER'S CERTIFICATE

STATE OF TEXAS §
COUNTY OF COLLIN §

WHEREAS Allison B. Webb and husband, Hulon T. Webb, and Michael Leggiere and Michele Leggiere, husband and wife, are the owners of the following:

BEING a tract of land situated in the A. Dyer Survey, Abstract No. 258, in the Town of Prosper, Collin County, Texas, and being all of Lots 8 and 9, Block L, of Gentle Creek Estates, Phase Three, an addition to the Town of Prosper, recorded in Cabinet N, Page 244 of the Plat Records, Collin County, Texas, with the subject tract being more particularly described as follows:

BEGINNING at a 1/2" iron rod with plastic cap found on the west line of Broken Bend Drive, for the southeast corner of Lot 9;

THENCE N 74°37'25" W, 134.78 feet to the southwest corner of Lot 9;

THENCE N 16°06'01" E, 58.03 feet;

THENCE N 23°10'18" E, passing at 43.30 feet a 5/8" iron rod found for the southwest corner of Lot 8, continue a total distance of 127.29 feet to a 5/8" iron rod with plastic cap found;

THENCE N 40°30'03" E, 18.31 feet to the northwest corner of Lot 8;

THENCE S 57°03'22" E, 140.02 feet to a 5/8" iron rod found on the west line of Broken Bend Drive, for the northeast corner of Lot 8;

THENCE along the west line thereof, around a non-tangent curve to the left having a central angle of 17°34'03", a radius of 525.00 feet, a chord of S 24°09'37" W - 160.97 feet, pass at an arc length of 80.48 feet a 5/8" iron rod with plastic cap found for the northeast corner of Lot 9, continue a total arc length of 160.97 feet to the POINT OF BEGINNING with the subject tract containing 24,982 square feet or 0.574 acres of land.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT we, Allison B. Webb and husband, Hulon T. Webb, and Michael Leggiere and Michele Leggiere, husband and wife, do hereby certify and adopt this plat designating the herein above described property as GENTLE CREEK ESTATES, PHASE THREE, LOTS 8R AND 9R, BLOCK L, an addition to the Town of Prosper, and do hereby dedicate to the public use forever, the streets and alleys shown thereon. Allison B. Webb and husband, Hulon T. Webb, and Michael Leggiere and Michele Leggiere, husband and wife, do herein certify the following:

- 1. The streets and alleys are dedicated for street and alley purposes.
2. All public improvements and dedications shall be free and clear of all debt, liens, and/or encumbrances.
3. The easements and public use areas, as shown, are dedicated for the public use forever for the purposes indicated on this plat.
4. No buildings, fences, trees, shrubs, or other improvements or growths shall be constructed or placed upon, over or across the easements as shown, except that landscape improvements may be placed in landscape easements if approved by the Town of Prosper.
5. The Town of Prosper is not responsible for replacing any improvements in, under, or over any easements caused by maintenance or repair.
6. Utility easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use to particular utilities, said use by public utilities being subordinate to the public's and Town of Prosper's use thereof.
7. The Town of Prosper and public utilities shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs, or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of their respective systems in the easements.
8. The Town of Prosper and public utilities shall at all times have the full right of ingress and egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, reading meters, and adding to or removing all or parts of their respective systems without the necessity at any time procuring permission from anyone.
9. All modifications to this document shall be by means of plat and approved by the Town of Prosper.

This plat approved subject to all platting ordinances, rules, regulations and resolutions of the Town of Prosper, Texas.

Witness our hands at Collin County, Texas, this ___ day of ___, 2016.

Allison B. Webb

Hulon T. Webb

Michael Leggiere

Michele Leggiere

STATE OF TEXAS §
COUNTY OF COLLIN §

STATE OF TEXAS §
COUNTY OF COLLIN §

BEFORE ME, the undersigned, a Notary Public in and for The State of Texas, on this day personally appeared Allison B. Webb, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ___ day of ___, 2016.

Notary Public, State of Texas

BEFORE ME, the undersigned, a Notary Public in and for The State of Texas, on this day personally appeared Michael Leggiere, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ___ day of ___, 2016.

Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF COLLIN §

STATE OF TEXAS §
COUNTY OF COLLIN §

BEFORE ME, the undersigned, a Notary Public in and for The State of Texas, on this day personally appeared Hulon T. Webb, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ___ day of ___, 2016.

Notary Public, State of Texas

BEFORE ME, the undersigned, a Notary Public in and for The State of Texas, on this day personally appeared Michele Leggiere, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ___ day of ___, 2016.

Notary Public, State of Texas

TOWN CASE NO. D16-0066
AMENDING PLAT

GENTLE CREEK ESTATES
PHASE THREE

LOTS 8R AND 9R, BLOCK L
BEING AN AMENDMENT OF LOTS 8 AND 9, BLOCK L
GENTLE CREEK ESTATES, PHASE THREE
BEING 0.574 ACRES IN THE A. DYER SURVEY, ABSTRACT NO. 258
IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS

CERTIFICATE OF APPROVAL

Approved this ___ day of ___, 2016 by the Planning & Zoning Commission of the Town of Prosper, Texas.

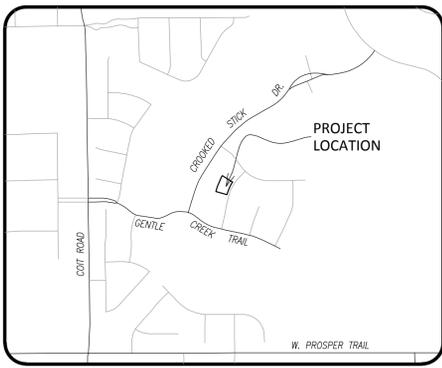
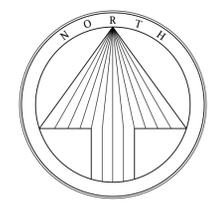
- Planning & Zoning Commission Chair
Town Secretary
Engineering Department
Development Services Department

OWNER / APPLICANT
Allison & Hulon Webb
1171 Broken Bend Dr
Prosper, TX 75078-9720
Telephone (469) 481-2397
Contact: Hulon Webb

OWNER / APPLICANT
Michael & Michele Leggiere
1181 Broken Bend Dr
Prosper, TX 75078-9720
Telephone (469) 422-8457
Contact: Michael Leggiere

ENGINEER / SURVEYOR
Spiars Engineering, Inc.
765 Custer Road, Suite 100
Plano, TX 75075
Telephone: (972) 422-0077
TBPE No. F-2121
Contact: John Spiars

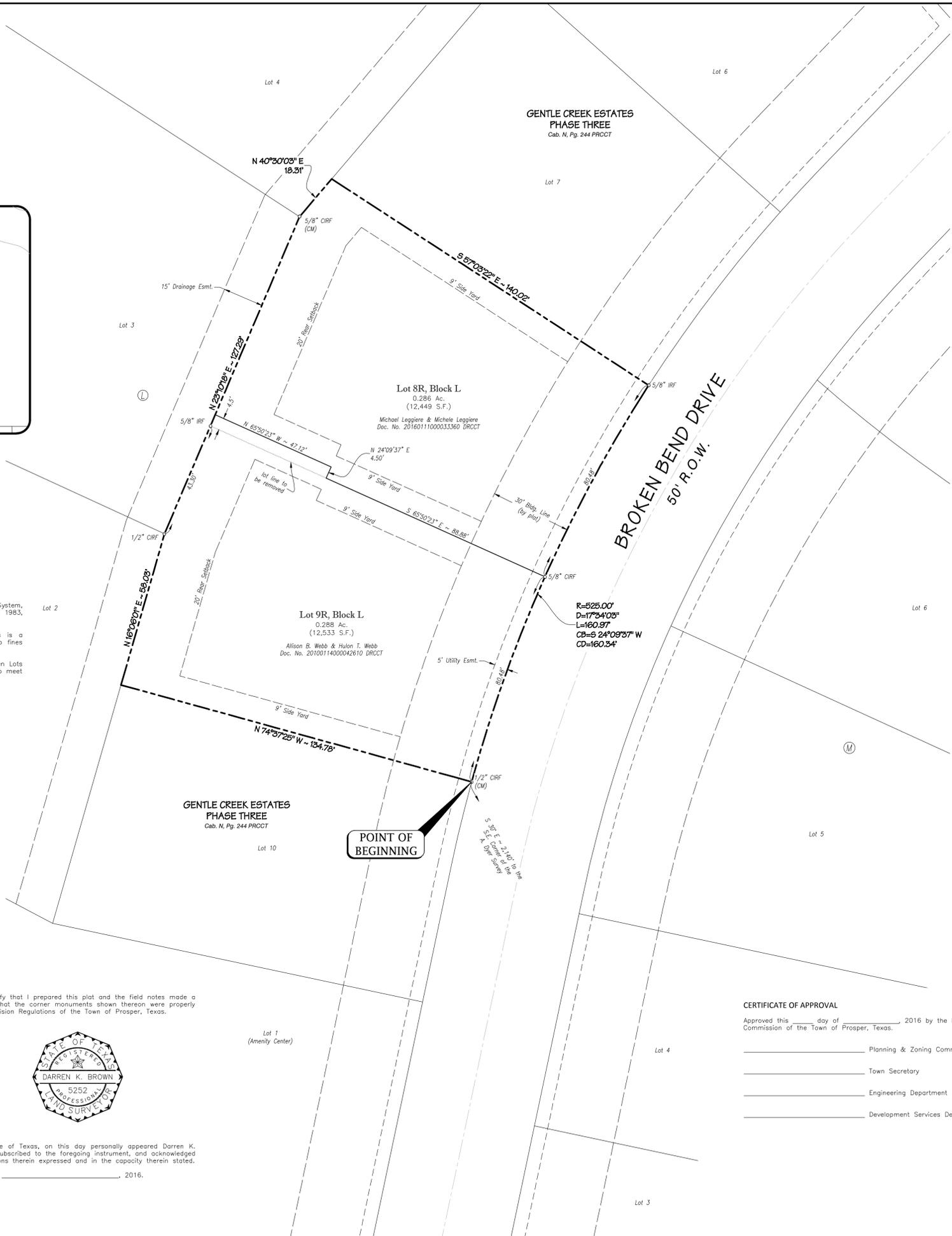
Scale: 1" = 20' August, 2016 SEI Job No. 16-107



LOCATION MAP
1" = 1000'

Table with 2 columns: Symbol and Description. Legend items include: 1/2" IRON ROD WITH PLASTIC CAP STAMPED 'SPIARSENG' SET, UNLESS OTHERWISE NOTED; IRF: IRON ROD FOUND; CIRF: CAPPED IRON ROD FOUND; CM: CONTROL MONUMENT; Esmt.: EASEMENT; DRCC: DEED RECORDS, COLLIN COUNTY, TEXAS; PRCC: PLAT RECORDS, COLLIN COUNTY, TEXAS.

- NOTES:
1. Basis of bearing derived from the State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983, (2011).
2. Selling a portion of this addition by metes and bounds is a violation of City ordinance and state law and is subject to fines and withholding of utilities and building permits.
3. The purpose of this plat is to shift the property line between Lots 8 and 9 to allow future construction of a structure Lot 9 to meet required minimum setbacks.



SURVEYOR'S CERTIFICATE

That I, Darren K. Brown, of Spiars Engineering, Inc., do hereby certify that I prepared this plat and the field notes made a part thereof from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the Subdivision Regulations of the Town of Prosper, Texas.

Dated this the ___ day of ___, 2016.

DARREN K. BROWN, R.P.L.S. NO. 5252



STATE OF TEXAS §
COUNTY OF COLLIN §

BEFORE ME, the undersigned, a Notary Public in and for The State of Texas, on this day personally appeared Darren K. Brown, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ___ day of ___, 2016.

Notary Public, State of Texas



Prosper is a place where everyone matters.

PLANNING

To: Planning & Zoning Commission

From: Pamela Clark, Planning Technician

Through: Alex Glushko, AICP, Senior Planner

Re: Planning & Zoning Commission Meeting – September 6, 2016

Agenda Item:

Consider and act upon the re-approval of a Final Plat of Prosper Tuscan Square, Block A, Lots 1-4, on 6.5± acres, located on the southwest corner of Prosper Trail and Coleman Street. This property is zoned Retail (R). (D14-0056).

Description of Agenda Item:

This Final Plat was previously approved by the Planning & Zoning Commission on September 16, 2014, but has not yet been filed. Since that approval, the off-site Fire Lane and Access Easement located in the southeast corner of the property was purchased by the applicant and will be incorporated it into Block A, Lot 4 (area highlighted on the plat). The inclusion of added acreage to the plat requires re-approval by the Planning & Zoning Commission.

The purpose of the Final Plat is to dedicate easements necessary for the development of the property. The Final Plat conforms to the Retail (R) development standards.

Budget Impact:

There are no significant budget implications associated with the approval of this Final Plat.

Legal Obligations and Review:

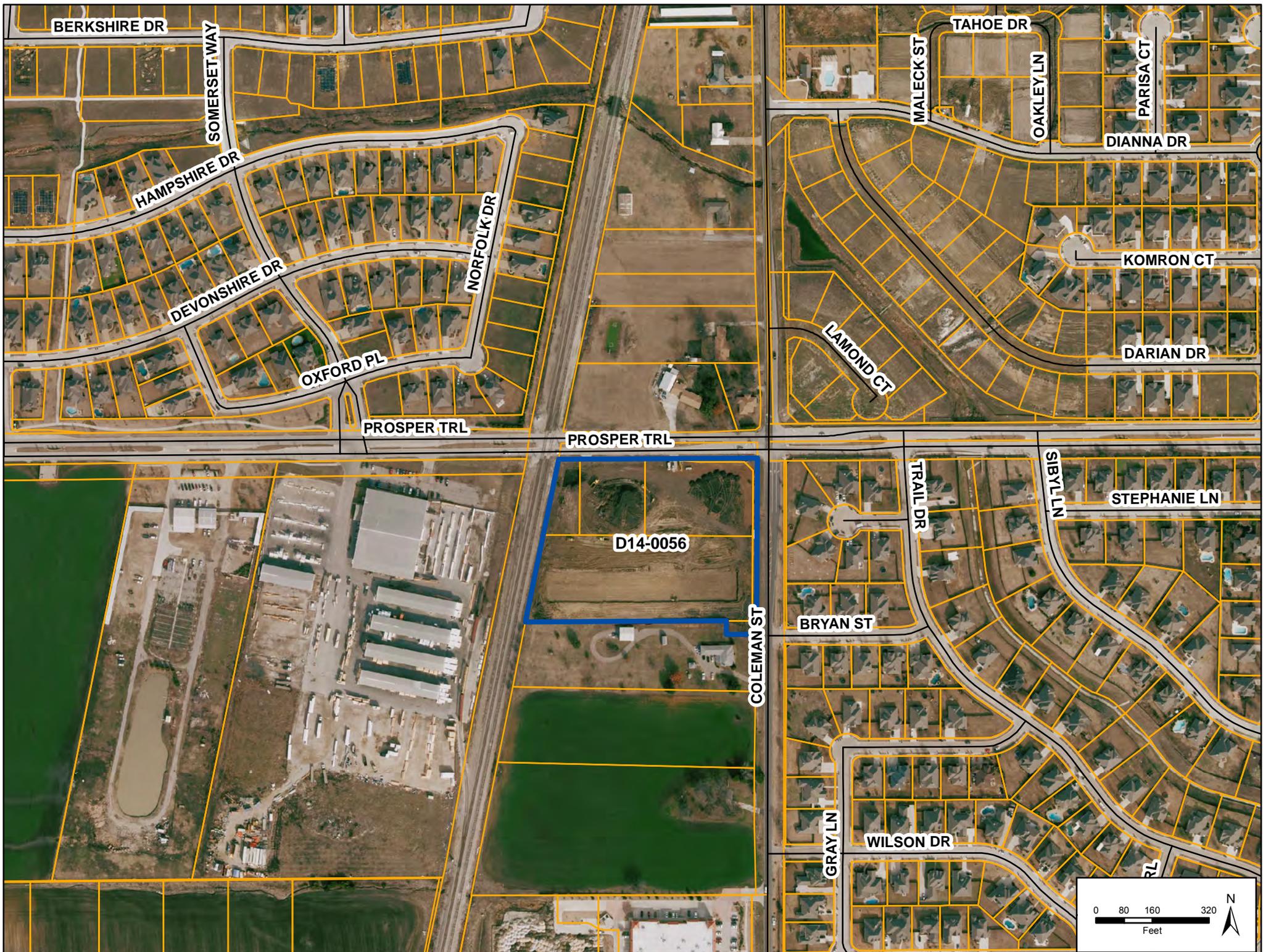
The Final Plat meets minimum development requirements.

Attached Documents:

1. Location Map
2. Previously approved Final Plat
3. Revised Final Plat

Town Staff Recommendation:

Town staff recommends re-approval of the Final Plat.



BERKSHIRE DR

SOMERSET WAY

HAMPSHIRE DR

DEVONSHIRE DR

OXFORD PL

PROSPER TRL

NORFOLK DR

PROSPER TRL

D14-0056

COLEMAN ST

TAHOE DR

MALECK ST

OAKLEY LN

PARISA CT

DIANNA DR

KOMRON CT

DARIAN DR

LAWOND CT

STEPHANIE LN

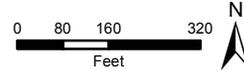
SIBYL LN

TRAIL DR

BRYAN ST

GRAY LN

WILSON DR



WHEREAS Crossmac Investments, LLC, is the owner of a tract of land situated in the Collin County School Land Survey, Abstract No. 147, Town of Prosper, Collin County, Texas, the subject tract being all of a tract conveyed by deed recorded in Document No. 2014011600047900 of the Official Public Records, Collin County, Texas (OPRCCT), the subject tract being more particularly described as follows:

BEGINNING at 1/2" iron rod with plastic cap stamped "RPLS 3694" found on the west line of North Coleman Street (a variable width right-of-way, also known as Business Highway 289) being the northeast corner of Tract One described in deed to the Rocky Manning & the Tina Peng Manning Revocable Trust dated August 23, 2007, recorded in Document No. 2011012400091060 OPRCCT, and from which a 1/2" iron rod found on the east line of said Tract One, and on the west line of North Coleman Street, bears S 00°31'32" W, 412.60 feet;

THENCE S 89°28'38" W, 654.51 feet along the common line thereof to a 1/2" iron rod with plastic cap stamped "SPIARSENG" set on the east line of the B.N.S.F. Railroad (a 100 foot right-of-way);

THENCE N 11°24'11" E, 469.72 feet along the east line of said railroad to a 1/2" iron rod with plastic cap stamped "SPIARSENG" set on the south line of Prosper Trail, a variable width right-of-way (also known as County Road 48);

THENCE N 89°30'27" E, 562.59 feet along the south line of Prosper Trail to a 1/2" iron rod with plastic cap stamped "SPIARSENG" set at the intersection of the south line of Prosper Trail with the west line of North Coleman Street;

THENCE S 00°07'09" W, 459.31 feet along the west line of North Coleman Street to the POINT OF BEGINNING with the subject tract containing 279,594 square feet or 6.419 acres of land.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT Crossmac Investments, LLC, acting herein by and through their duly authorized officers, does hereby certify and adopt this plat designating the hereinabove described property as PROSPER TUSCAN SQUARE, Block A, Lots 1-4, an addition to the Town of Prosper, Texas, and does hereby dedicate, to the public use forever, the streets and alleys shown thereon. Crossmac Investments, LLC, does herein certify the following:

- 1. The streets and alleys are dedicated for street purposes.
2. All public improvements and dedications shall be free and clear of all debt, liens, and/or encumbrances.
3. The easements and public use areas, as shown, are dedicated for the public use forever for the purposes indicated on this plat.
4. No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over or across the easements as shown, except that landscape improvements may be placed in landscape easements, if approved by the Town of Prosper.
5. The Town of Prosper is not responsible for replacing any improvements in, under, or over any easements caused by maintenance or repair.
6. Utility easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use, to particular utilities, said use by public utilities being subordinate to the public's and Town of Prosper's use thereof.
7. The Town of Prosper and public utilities shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of their respective systems in the said easements.
8. The Town of Prosper and public utilities shall at all times have the full right of ingress and egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, reading meters, and adding to or removing all or parts of their respective systems without the necessity at any time procuring permission from anyone.
9. All modifications to this document shall be by means of plat and approved by the Town of Prosper.

ACCESS EASEMENT
The undersigned covenants and agrees that the access easement(s) may be utilized by any person or the general public for ingress and egress to other real property, and for the purpose of general public vehicular and pedestrian use and access, and for the Fire Department, Police, and emergency use in, along, upon, and across said premises, with the right and privilege at all times of the Town of Prosper, its agents, employees, workmen, and representatives having ingress, egress, and regress in, along, upon, and across said premises.

FIRE LANE EASEMENT
The undersigned covenants and agrees that they shall construct upon the fire lane easements, as dedicated and shown hereon, a hard surface paved in accordance with Town standards and that they shall maintain the same in a state of good repair at all times and keep the same free and clear of any structures, fences, trees, shrubs, or other improvements or obstruction, including but not limited to parking, loading, or unloading of motor vehicles, trailers, boats, or other impediments to the access of fire apparatus. The maintenance of pavement in accordance to Town standards of the fire lane easements is the responsibility of the owner, and the owner shall post and maintain signage in accordance to Town standards in conspicuous places along the fire lanes, stating "Fire Lane, No Parking". The police or their duly authorized representative is hereby authorized to cause such fire lanes and utility easements to be maintained free and unobstructed at all times for fire department and emergency use.

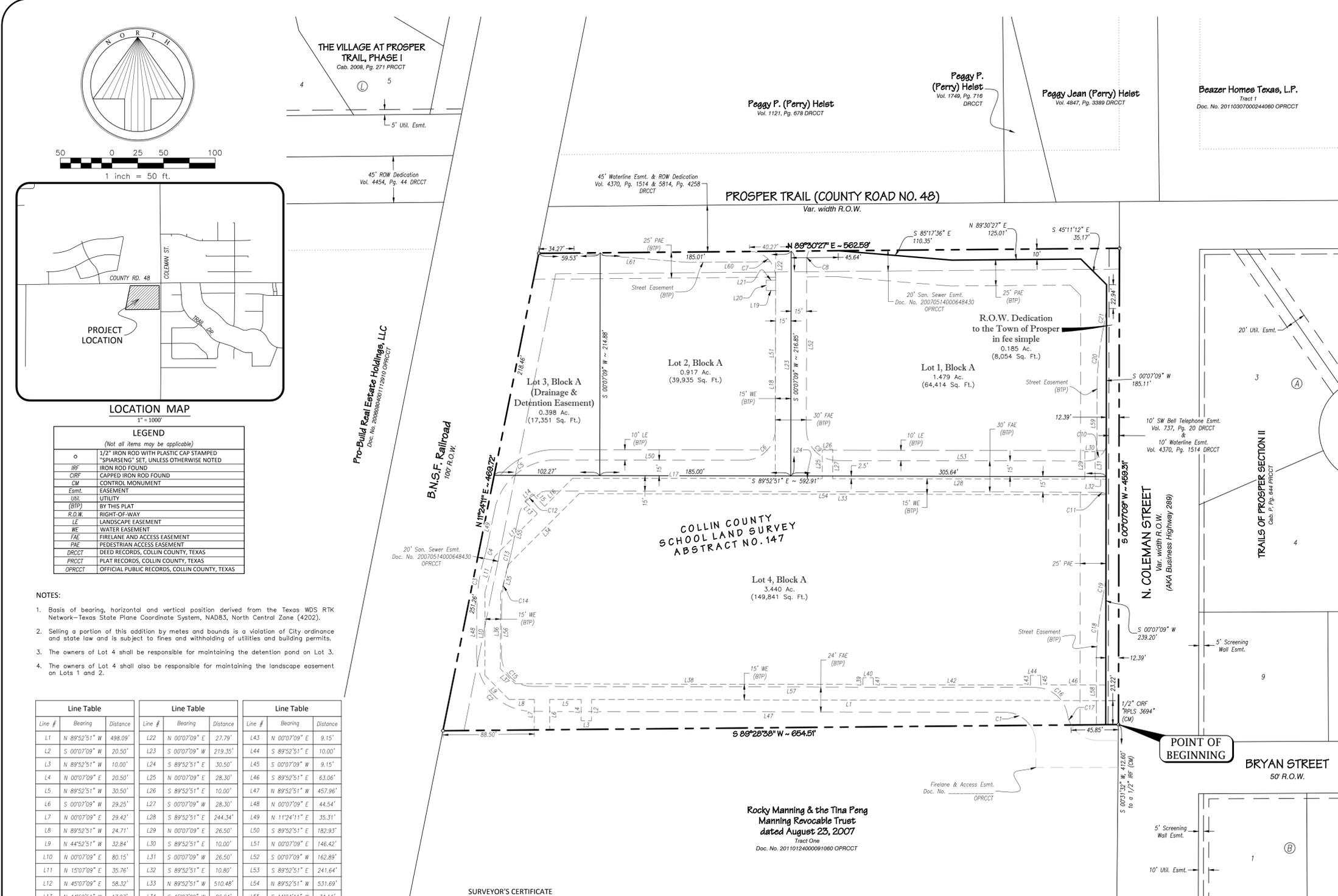
DRAINAGE AND DETENTION EASEMENT
This plat is hereby adopted by the Owners and approved by the Town of Prosper (Called "Town") subject to the following conditions which shall be binding upon the Owners, their heirs, grantees, successors and assigns: The portion of Lot 3, Block A, as shown on the plat is called "Drainage and Detention Easement". The Drainage and Detention Easement within the limits of this addition, will remain open at all times and will be maintained in a safe and sanitary condition by the owners of the lot or lots that are traversed by or adjacent to the Drainage and Detention Easement. The Town will not be responsible for the maintenance and operation of said Easement or for any damage to private property or person that results from conditions in the Easement, or for the control of erosion. No obstruction to the natural flow of storm water run-off shall be permitted by construction of any type of building, fence or any other structure within the Drainage and Detention Easement, as herein above defined, unless approved by the Town Engineer. However, it is understood that in the event it becomes necessary for the Town to erect or consider erecting any type of drainage structure in order to improve the storm drainage that may be occasioned by drainage in or adjacent to the subdivision, then in such event, the Town shall have the right to enter upon the Drainage and Detention Easement at any point, or points, to investigate, survey or to erect, construct and maintain any drainage facility deemed necessary for drainage purposes. Each property owner shall keep the Drainage and Detention Easement clean and free of debris, silt, and any substance which would result in unsanitary conditions or obstruct the flow of water, and the Town shall have the right of ingress and egress for the purpose of inspection and supervision of maintenance work by the property owner to alleviate any undesirable conditions which may occur. The natural drainage through the Drainage and Detention Easement is subject to storm water runoff and natural bank erosion to an extent which cannot be definitely defined. The Town shall not be held liable for any damages of any nature resulting from the occurrence of these natural phenomena, or resulting from the failure of any structure or structures, within the Easement.

LANDSCAPE EASEMENT
The undersigned covenants and agrees that the landscape easement and restrictions herein set forth shall run with the land and be binding on the owner(s) of the property in this subdivision, their successors and assigns, and all parties claiming by, through and under them. In the event a replat is requested on all or part of this property, the Town may require any similar or additional restrictions at its sole discretion. The sole responsibility for maintenance and replacement of landscape materials thereof shall be borne by any "homeowner's" association hereafter established for the owners of lots in this subdivision and/or the owners of the individual lots within this subdivision. Such maintenance and replacement shall be in conformance with the requirements, standards, and specifications of the Town of Prosper, as presently in effect or as may be hereafter amended. This provision may be enforced by specific performance or by any other remedy allowed by law. This Landscape Easement shall be void of utilities and other elements unless otherwise approved on the plat.

FINAL PLAT
PROSPER TUSCAN SQUARE
LOTS 1 THROUGH 4, BLOCK A
IN THE COLLIN COUNTY SCHOOL
LAND SURVEY, ABSTRACT NO. 147
TOWN OF PROSPER, COLLIN COUNTY, TEXAS
6.419 ACRES (GROSS) / 6.234 ACRES (NET)

OWNER / APPLICANT: Crossmac Investments, LLC
15954 Serenity Point
Rogers, AR 72756
Telephone: (479) 586-0433
Contact: Christopher Crossland
SURVEYOR: Spiars Engineering, Inc.
765 Custer Road, Suite 100
Plano, TX 75756
Telephone: (972) 422-0077
TBPE No. F-2121
Contact: Darren K. Brown
ENGINEER: Evolving Texas
420 Throckmorton St., Ste. 930
Fort Worth, TX 76102
Telephone: (817) 529-2700
Contact: Frank Cano, Sr.

Scale: 1" = 50' September, 2014 SEI Job No. 13-149



LEGEND
1/2" IRON ROD WITH PLASTIC CAP STAMPED "SPIARSENG" SET, UNLESS OTHERWISE NOTED
IRF IRON ROD FOUND
CIRF CAPPED IRON ROD FOUND
CM CONTROL MONUMENT
Esmt. EASEMENT
Util. UTILITY
(BTP) BY THIS PLAT
R.O.W. RIGHT-OF-WAY
LE LANDSCAPE EASEMENT
WE WATER EASEMENT
FAE FIRELANE AND ACCESS EASEMENT
PAE PEDESTRIAN ACCESS EASEMENT
DRCCT DEED RECORDS, COLLIN COUNTY, TEXAS
PRCCT PLAT RECORDS, COLLIN COUNTY, TEXAS
OPRCCT OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS

- NOTES:
1. Basis of bearing, horizontal and vertical position derived from the Texas WGS RTK Network-Texas State Plane Coordinate System, NADB3, North Central Zone (4202).
2. Selling a portion of this addition by metes and bounds is a violation of City ordinance and state law and is subject to fines and withholding of utilities and building permits.
3. The owners of Lot 4 shall be responsible for maintaining the detention pond on Lot 3.
4. The owners of Lot 4 shall also be responsible for maintaining the landscape easement on Lots 1 and 2.

Line Table
Line # Bearing Distance
L1 N 89°52'51" W 498.09'
L2 S 00°07'09" W 20.50'
L3 N 89°52'51" W 10.00'
L4 N 00°07'09" E 20.50'
L5 N 89°52'51" W 30.50'
L6 S 00°07'09" W 29.25'
L7 N 00°07'09" E 29.42'
L8 N 89°52'51" W 24.71'
L9 N 44°52'51" W 32.84'
L10 N 00°07'09" E 80.15'
L11 N 15°07'09" E 35.76'
L12 N 45°07'09" E 58.32'
L13 N 44°52'51" W 17.07'
L14 N 45°07'09" E 10.00'
L15 S 44°52'51" E 17.07'
L16 N 45°07'09" E 38.56'
L17 S 89°52'51" E 196.05'
L18 N 00°07'09" E 181.40'
L19 N 89°52'51" W 9.00'
L20 N 00°07'09" E 10.00'
L21 S 89°52'51" E 9.00'

Curve Table
Curve # Length Radius Delta Chord Bearing Chord Dist.
C1 28.49' 30.00' 54°24'24" N 62°40'40" W 27.43'
C2 84.82' 54.00' 90°00'00" N 44°52'51" W 76.37'
C3 52.07' 175.00' 170°2'58" N 08°38'37" E 51.88'
C4 10.06' 100.00' 5°45'56" N 14°17'08" E 10.06'
C5 82.43' 60.00' 78°42'58" N 50°45'40" E 76.10'
C6 47.12' 30.00' 90°00'00" N 45°07'09" E 42.43'
C7 39.54' 25.00' 90°36'42" N 45°11'12" W 35.54'
C8 9.49' 20.00' 27°12'01" S 13°43'09" W 9.41'
C9 47.12' 30.00' 90°00'00" S 44°52'51" E 42.43'

SURVEYOR'S CERTIFICATE
That I, Darren K. Brown, of Spiars Engineering, Inc., do hereby certify that I prepared this plat and the field notes made a part thereof from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the Subdivision Regulations of the Town of Prosper, Texas.



Dated this ___ day of ___, 2014.
Darren K. Brown, R.P.L.S. No. 5252

STATE OF TEXAS §
COUNTY OF COLLIN §
BEFORE ME, the undersigned, a Notary Public in and for The State of Texas, on this day personally appeared Darren K. Brown, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ___ day of ___, 2014.

Notary Public, State of Texas

Witness our hands at Benton County, Arkansas, this ___ day of ___, 2014.
CROSSMAC INVESTMENTS, LLC

By: Christopher Crossland, Manager

STATE OF ARKANSAS §
COUNTY OF BENTON §

BEFORE ME, the undersigned, a Notary Public in and for The State of Arkansas, on this day personally appeared Christopher Crossland, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ___ day of ___, 2014.

Notary Public, State of Arkansas

Previously Approved

OWNER'S CERTIFICATE

WHEREAS Crossmac Investments, LLC, is the owner of a tract of land situated in the Collin County School Land Survey, Abstract No. 147, City of Prosper, Collin County, Texas, the subject tract being all of a tract (hereinafter described as the "First Tract") conveyed by deed recorded in Document No. 2014011600047900 of the Official Public Records, Collin County, Texas (OPRCCT), and all of a tract (hereinafter described as the "Second Tract") conveyed by deed recorded in Document No. 20141027001170340 OPRCCT, with the subject tract being more particularly described as follows:

BEGINNING at 1/2" iron rod with plastic cap stamped "RPLS 3694" found on the west line of North Coleman Street (a variable width right-of-way, also known as Business Highway 289) for the southeast corner of the First Tract and the northeast corner of the Second Tract;

THENCE S 00°31'32" W, 39.40 feet along the west line of North Coleman Street and the east line of the Second Tract to a 1/2" iron rod with plastic cap stamped "SPIARSEN" set, and from which a 1/2" iron rod found on the east line of a tract described as Tract One by deed to the Rocky Manning & the Tina Peng Manning Revocable Trust dated August 23, 2007, recorded in Document No. 20110124000091060 OPRCCT, and on the west line of North Coleman Street, bears S 00°31'32" W, 373.20 feet;

THENCE N 89°52'41" W, 85.84 feet along the south line of the Second Tract to a 1/2" iron rod with plastic cap stamped "SPIARSEN" set;

THENCE N 00°07'35" E, 38.43 feet along the west line of the Second Tract to a 1/2" iron rod with plastic cap stamped "SPIARSEN" set on the south line of the First Tract;

THENCE S 89°28'38" W, 654.51 feet along the common line thereof to a 1/2" iron rod with plastic cap stamped "SPIARSEN" set on the east line of the B.N.S.F. Railroad (a 100 foot right-of-way);

THENCE N 11°24'11" E, 469.72 feet along the east line of said railroad to a 1/2" iron rod with plastic cap stamped "SPIARSEN" set on the south line of Prosper Trail, a variable width right-of-way (also known as County Road 48);

THENCE N 89°30'27" E, 562.59 feet along the south line of Prosper Trail to a 1/2" iron rod with plastic cap stamped "SPIARSEN" set at the intersection of the south line of Prosper Trail with the west line of North Coleman Street;

THENCE S 00°07'09" W, 459.31 feet along the west line of North Coleman Street to the POINT OF BEGINNING with the subject tract containing 282,940 square feet or 6.495 acres of land.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT Crossmac Investments, LLC, acting herein by and through their duly authorized officers, does hereby certify and adopt this plat designating the hereinabove described property as PROSPER TUSCAN SQUARE, Block A, Lots 1-4, an addition to the Town of Prosper, Texas, and does hereby dedicate, to the public use forever, the streets and alleys shown thereon. Crossmac Investments, LLC, does hereby certify the following:

- 1. The streets and alleys are dedicated for street purposes.
2. All public improvements and dedications shall be free and clear of all debt, liens, and/or encumbrances.
3. The easements and public use areas, as shown, are dedicated for the public use forever for the purposes indicated on this plat.
4. No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over or across the easements as shown, except that landscape improvements may be placed in landscape easements, if approved by the Town of Prosper.
5. The Town of Prosper is not responsible for replacing any improvements in, under, or over any easements caused by maintenance or repair.
6. Utility easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use to particular utilities, said use by public utilities being subordinate to the public's and Town of Prosper's use thereof.
7. The Town of Prosper and public utility entities shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of their respective systems in the said easements.
8. The Town of Prosper and public utilities shall at all times have the full right of ingress and egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, reading meters, and adding to or removing all or parts of their respective systems without the necessity at any time procuring permission from anyone.
9. All modifications to this document shall be by means of plat and approved by the Town of Prosper.

Witness our hands at Benton County, Arkansas, this ___ day of ___, 2016.

CROSSMAC INVESTMENTS, LLC

By: Christopher Crossland, Manager

STATE OF ARKANSAS & COUNTY OF BENTON

BEFORE ME, the undersigned, a Notary Public in and for the State of Arkansas, on this day personally appeared Christopher Crossland, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ___ day of ___, 2016.

Notary Public, State of Arkansas

SURVEYOR'S CERTIFICATE

I, Darren K. Brown, of Spiars Engineering, Inc., do hereby certify that I prepared this plat and the field notes made a part thereof from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the Subdivision Regulations of the Town of Prosper, Texas.

Dated this the ___ day of ___, 2016.



DARREN K. BROWN, R.P.L.S. NO. 5252

STATE OF TEXAS & COUNTY OF COLLIN

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared Darren K. Brown, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

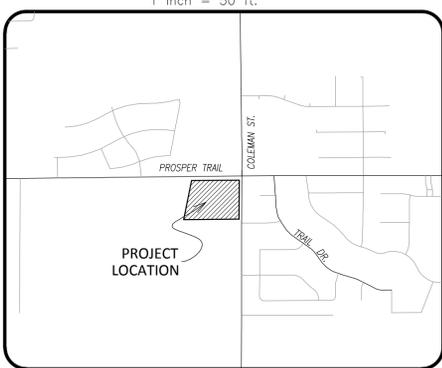
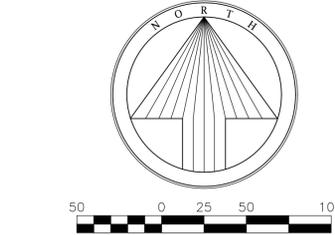
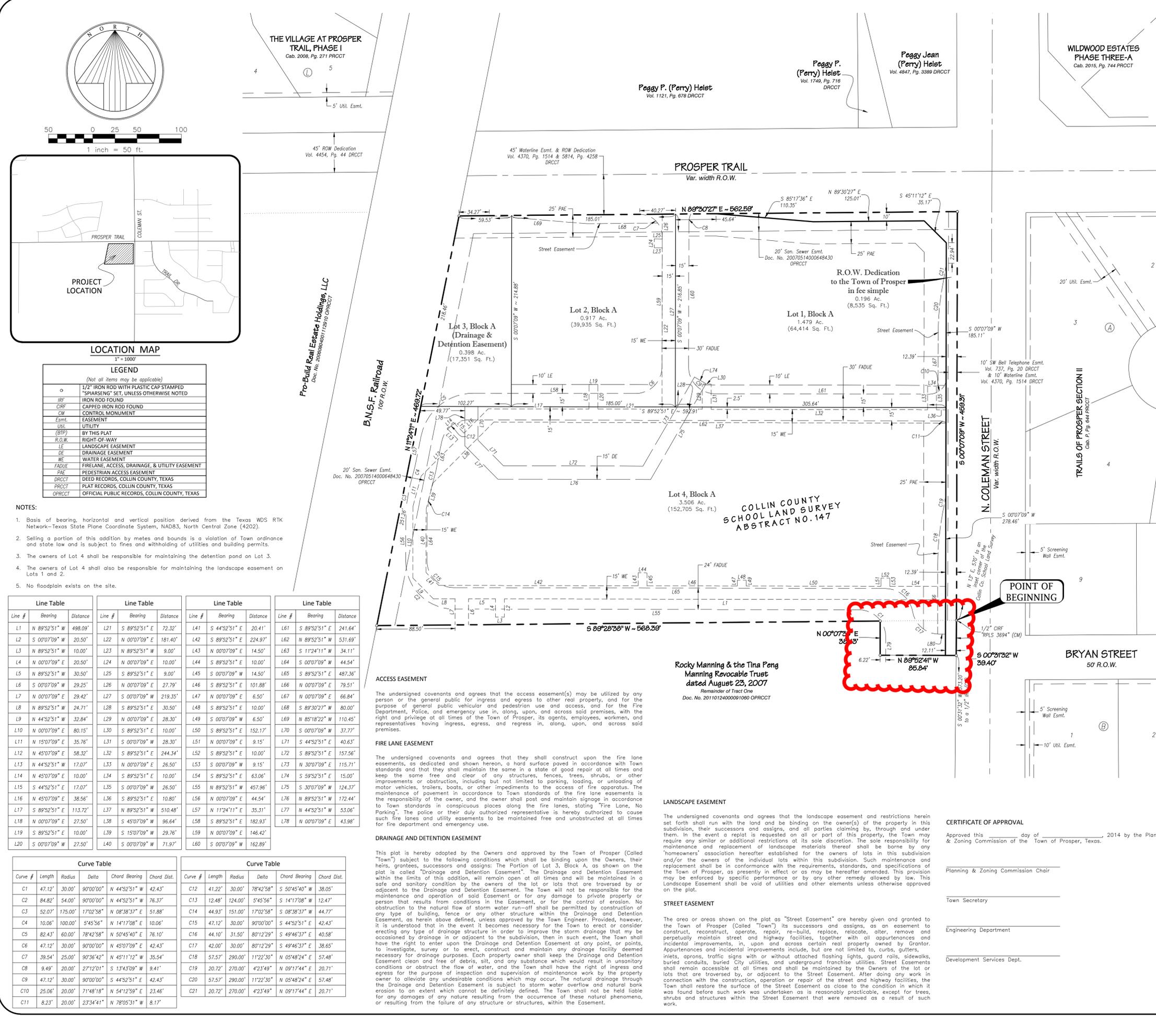
GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ___ day of ___, 2016.

Notary Public, State of Texas

FINAL PLAT

PROSPER TUSCAN SQUARE
LOTS 1 THROUGH 4, BLOCK A
IN THE COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 147
TOWN OF PROSPER, COLLIN COUNTY, TEXAS
6.495 ACRES (GROSS) / 6.299 ACRES (NET)

OWNER / APPLICANT: Crossmac Investments, LLC
SURVEYOR: Spiars Engineering, Inc.
ENGINEER: Evolving Texas



LEGEND table with symbols for iron rods, easements, and other survey features.

- NOTES: 1. Basis of bearing, horizontal and vertical position derived from the Texas WGS RTK Network... 2. Selling a portion of this addition by metes and bounds is a violation of Town ordinance...

Line Table with columns for Line #, Bearing, and Distance for lines L1 through L20.

Curve Table with columns for Curve #, Length, Radius, Delta, Chord Bearing, and Chord Dist. for curves C1 through C21.

ACCESS EASEMENT, FIRE LANE EASEMENT, DRAINAGE AND DETENTION EASEMENT, LANDSCAPE EASEMENT, STREET EASEMENT sections.

Rocky Manning & the Tina Peng Manning Revocable Trust dated August 23, 2007

POINT OF BEGINNING

CERTIFICATE OF APPROVAL: Approved this ___ day of ___, 2014 by the Planning & Zoning Commission of the Town of Prosper, Texas.

Planning & Zoning Commission Chair, Town Secretary, Engineering Department, Development Services Dept.



PLANNING

To: Planning & Zoning Commission
From: Jonathan Hubbard, Planner
Through: Alex Glushko, Senior Planner
Re: Planning & Zoning Commission Meeting – September 6, 2016

Agenda Item:

Consider and act upon an extension of a Site Plan for a Convenience Store with Gas Pumps in the Westfork Crossing Development (RaceTrac), on 2.4± acres, located on the northwest corner of US 380 and Gee Road. This property is zoned Commercial (C). (D14-0072).

History:

On March 7, 2015, the Planning & Zoning Commission approved the Site Plan for RaceTrac. Chapter 4, Section 1.6 of the Zoning Ordinance states:

“The approval of a site plan shall be effective for a period of eighteen (18) months from the date of approval by the Planning & Zoning Commission, at the end of which time the applicant must have submitted and received approval of engineering plans and building permits. If the engineering plans and building permits are not approved, the site plan approval, together with any preliminary site plan for the property, is null and void.” Chapter 4, Section 1.8 of the Zoning Ordinance states, “A property owner, or his/her representative, may request extension of an approved site plan if such request is submitted to the Director of Planning, or his/her designee at least thirty (30) days prior to lapse of such plan as provided by these regulations. Site plans may be extended up to six (6) months.”

An application for the extension of this Site Plan was received on August 8, 2016, and a letter from the applicant detailing the purpose for the requested extension is attached. The applicant indicated that the delay in constructing the facility is due to the TxDOT reconstruction of US 380. Staff recommends approval of the requested Site Plan extension.

Description of Agenda Item:

The Site Plan shows a 5,488 square foot convenience store with gas pumps. Access is provided from US 380 and Gee Road. Adequate parking has been provided. The Site Plan conforms to the Commercial development standards.

Budget Impact:

There are no significant budget implications associated with the extension of this Site Plan.

Legal Obligations and Review:

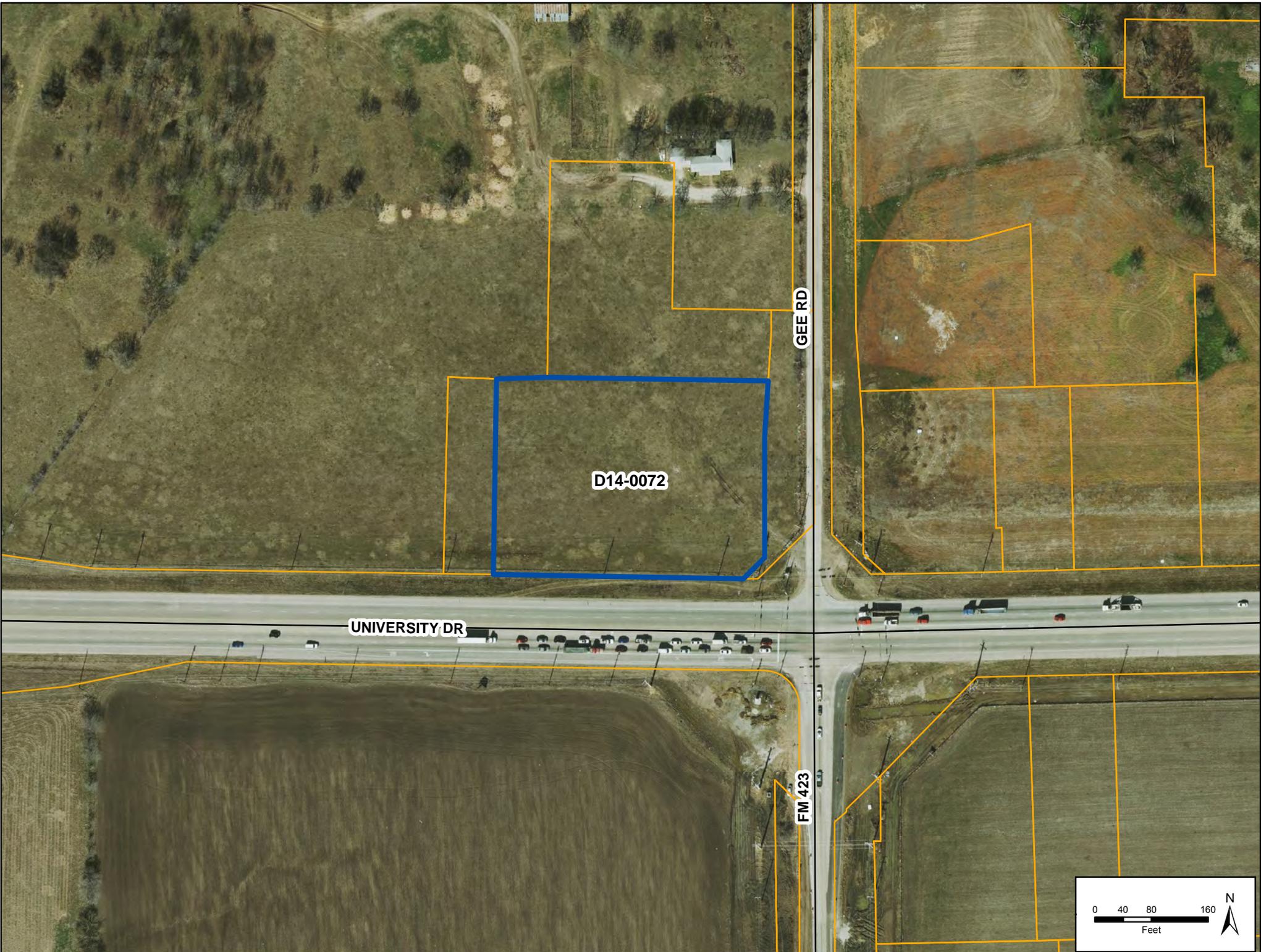
The Site Plan meets minimum development requirements.

Attached Documents:

1. Location Map
2. Purpose Letter
3. Site Plan

Town Staff Recommendation:

Town staff recommends approval of the extension of the Site Plan.

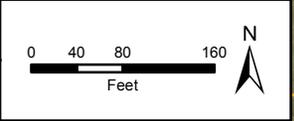


D14-0072

GEE RD

UNIVERSITY DR

FM 423





Town of Prosper – Development Services Department
407 East 1st Street
Prosper, TX 75078
August 31, 2016

Re: Site Plan Extension - RaceTrac

To Whom It May Concern:

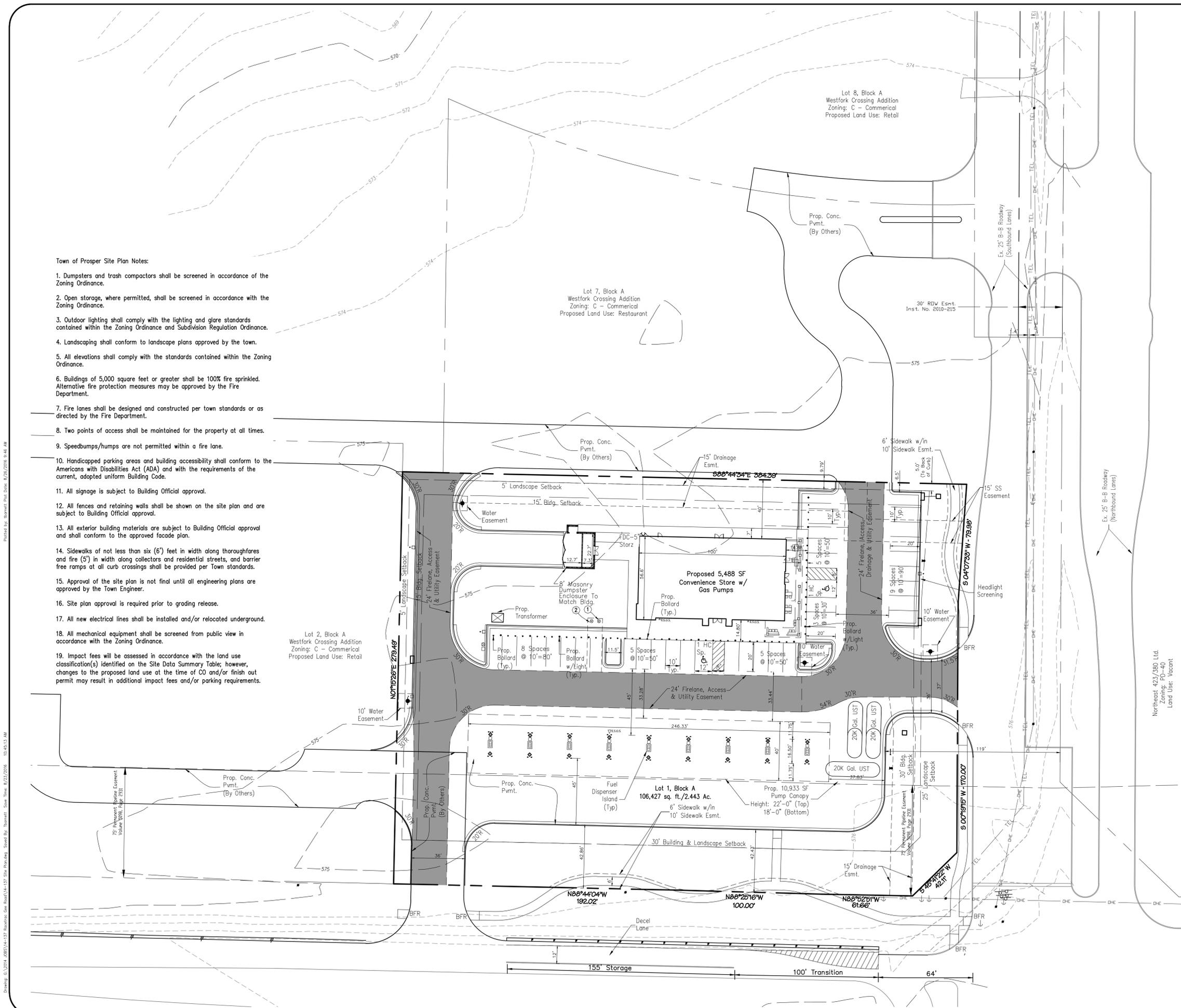
RaceTrac requests an extension of our site plan approval for our proposed store on the Northwest corner of Hwy 380 and Gee Road. There has been a slight delay in our project due to the TxDOT realignment of 380, and the additional coordination that required. We are hopeful that we can start construction in January or early February of 2017, and it is my understanding that an extension of the site plan approval would allow us to meet those timelines. I appreciate all of the Town's help in this process.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Cunningham".

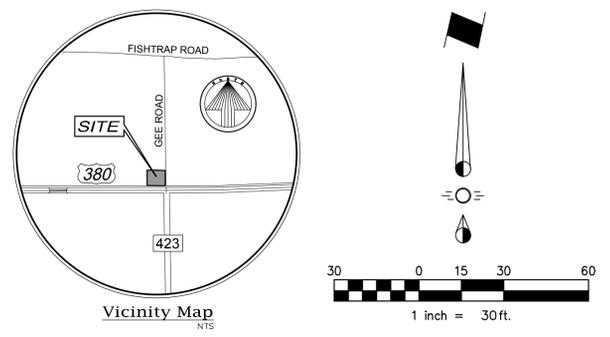
Drew Cunningham
Engineering Project Manager

RECEIVED:
AUGUST 31, 2016



Town of Prosper Site Plan Notes:

- Dumpsters and trash compactors shall be screened in accordance of the Zoning Ordinance.
- Open storage, where permitted, shall be screened in accordance with the Zoning Ordinance.
- Outdoor lighting shall comply with the lighting and glare standards contained within the Zoning Ordinance and Subdivision Regulation Ordinance.
- Landscaping shall conform to landscape plans approved by the town.
- All elevations shall comply with the standards contained within the Zoning Ordinance.
- Buildings of 5,000 square feet or greater shall be 100% fire sprinkled. Alternative fire protection measures may be approved by the Fire Department.
- Fire lanes shall be designed and constructed per town standards or as directed by the Fire Department.
- Two points of access shall be maintained for the property at all times.
- Speedbumps/humps are not permitted within a fire lane.
- Handicapped parking areas and building accessibility shall conform to the Americans with Disabilities Act (ADA) and with the requirements of the current, adopted uniform Building Code.
- All signage is subject to Building Official approval.
- All fences and retaining walls shall be shown on the site plan and are subject to Building Official approval.
- All exterior building materials are subject to Building Official approval and shall conform to the approved facade plan.
- Sidewalks of not less than six (6) feet in width along thoroughfares and fire (5') in width along collectors and residential streets, and barrier free ramps at all curb crossings shall be provided per Town standards.
- Approval of the site plan is not final until all engineering plans are approved by the Town Engineer.
- Site plan approval is required prior to grading release.
- All new electrical lines shall be installed and/or relocated underground.
- All mechanical equipment shall be screened from public view in accordance with the Zoning Ordinance.
- Impact fees will be assessed in accordance with the land use classification(s) identified on the Site Data Summary Table; however, changes to the proposed land use at the time of CO and/or finish out permit may result in additional impact fees and/or parking requirements.



Site Data Summary Table	
General Site Data	
Zoning	C-Commercial
Proposed Use	Conv. Store w/ Gas Pumps
Lot 1 Area	106,427 Sq. Ft./2.443 Ac.
Conv. Store Area (Square Feet)	5,488
Conv. Store Height (Feet)	27'
Pump Canopy Building Area (Square Feet)	10,933
Pump Canopy Height (Top)	22'
Pump Canopy Height (Bottom/Clearance)	18'
Lot Coverage (Percent)	15.4
Floor Area Ratio	0.154:1
Total Required Parking	
5,488 Sq. Ft. Conv. Store (1 Sp. Per 250 Sq. Ft.) = 22 Spaces	
Total Provided Parking (Number Of Spaces)	37 Sp. (Incl. HC)
Required Handicap Parking (Number Of Spaces)	2 (Incl. 1 Van)
Provided Handicap Parking (Number Of Spaces)	2 (Incl. 1 Van)
Interior Landscape Required (Square Feet)	555
Interior Landscape Provided (Square Feet)	1,330
Impervious Area (Square Feet)	75,925
Open Space Required (Square Feet)	7,450
Open Space Provided (Square Feet)	17,850

- Notes:**
- No floodplain exists on this site.
 - All fire hydrants to have 5" downward turn Storz connection.
 - No open storage on site.
 - All dimensions are to the Face of Curb or Face of Building unless otherwise noted.

Water Meter & Sewer Schedule					
I.D.	Type	Size	No.	6"	Remarks
①	Domestic	1 1/2"	1	6"	Proposed
②	Irrigation	1"	1	N/A	Proposed

- LEGEND**
- Firelane, Access, & Utility Easement
 - UST
 - BFR
 - E.S.O.S.
 - Existing Overhead Electric
 - Existing Utility Pole
 - Existing Guy Wire

SHEET 1 OF 1
FINAL SITE PLAN
OF
WESTFORK CROSSING ADDITION
BLOCK A, LOT 1
2.443 ACRE TRACT
situated in the
M.E.P. RAILROAD SURVEY ~ ABSTRACT 1476
TOWN OF PROSPER, DENTON COUNTY, TEXAS

Owner/Applicant:
RaceTrac Petroleum, Inc.
3225 Cumberland Blvd.
Atlanta, GA 30339
Telephone (770) 431-7600
Contact: Drew Cunningham

Engineer/Surveyor:
Spiars Engineering, Inc.
765 Custer Road, Suite 100
Plano, Texas 75075
Telephone (972) 422-0077
TBPE No. F-2121
Contact: Kevin Wier

Scale 1"=30' April 2016 SEI No. 14-137

Drawing: C:\2014\02051154-137\Revised\Site\Sheet\14-137_Site_Plan.dwg Saved By: tboren11 Scan Time: 6/23/2016 10:45:13 AM
 Printed by: tboren11 Plot Date: 6/29/2016 9:46 AM



Prosper is a place where everyone matters.

PLANNING

To: Planning & Zoning Commission

From: Alex Glushko, AICP, Senior Planner

Through: John Webb, AICP, Director of Development Services

Re: Planning & Zoning Commission Meeting – September 6, 2016

Agenda Item:

Conduct a Public Hearing, and consider and act upon a request to repeal Ordinance No. 06-77, a Specific Use Permit for a Mini-Warehouse/Public Storage Facility (SUP-2), on 4.8± acres, located on the south side of Richland Boulevard, 250± feet east of Prosper Commons Boulevard. This property is zoned Commercial (C) and Specific Use Permit-2 (SUP-2). (S16-0010).

Description of Agenda Item:

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

	Zoning	Current Land Use	Future Land Use Plan
Subject Property	Commercial and Specific Use Permit-2 (Mini-Warehouse/Public Storage)	Vacant	US 380 District
North	Planned Development-2-Multifamily	Multifamily (Orion)	US 380 District
East	Planned Development-2-Corridor	Vacant	US 380 District
South	Commercial and Specific Use Permit-4 (Mini-Warehouse/Public Storage)	Mini-Warehouse/Public Storage (Advantage Storage)	US 380 District
West	Commercial	Vacant	US 380 District

Requested Zoning – The purpose of this request is to repeal Ordinance No. 06-77, a Specific Use Permit-2 (SUP-2), for a Mini-Warehouse/Public Storage Facility, which was adopted by Town Council in 2006.

The subject property, including the western adjacent portion zoned Commercial (C), was recently purchased to allow for the development of a Veterinarian Clinic and/or Kennel. Per an interpretation of Ordinance No. 06-77 by the Town Attorney, SUP-2 only permits Mini-Warehouse/Public Storage uses, in accordance with the associated exhibits incorporated into the enacting ordinance. If repealed, the subject property would retain the underlying Commercial zoning designation, which would permit all uses within that zoning district, including Veterinarian Clinic and/or Kennel uses.

With the development of the mini-warehouse facility to the south (Advantage Storage), staff believes the area would benefit from a diversity of land uses. This is supported by the US 380 District recommendations of the Comprehensive Plan, which states the US 380 District will contain “a variety of different uses.” Staff supports the repeal of SUP-2.

Future Land Use Plan – The Future Land Use Plan recommends US 380 District uses for the property.

Conformance to the Thoroughfare Plan – The property has direct access to Richland Boulevard, an existing four-lane divided thoroughfare.

Water and Sanitary Sewer Services – Water and sanitary sewer services have been extended to the property.

Access – Direct access is provided from Richland Boulevard.

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

Parks – The property will not be needed for a park.

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

Legal Obligations and Review:

Notification was provided to neighboring property owners as required by state law. Town staff has received one Public Hearing Notice Reply Form; not in opposition to the request.

Attached Documents:

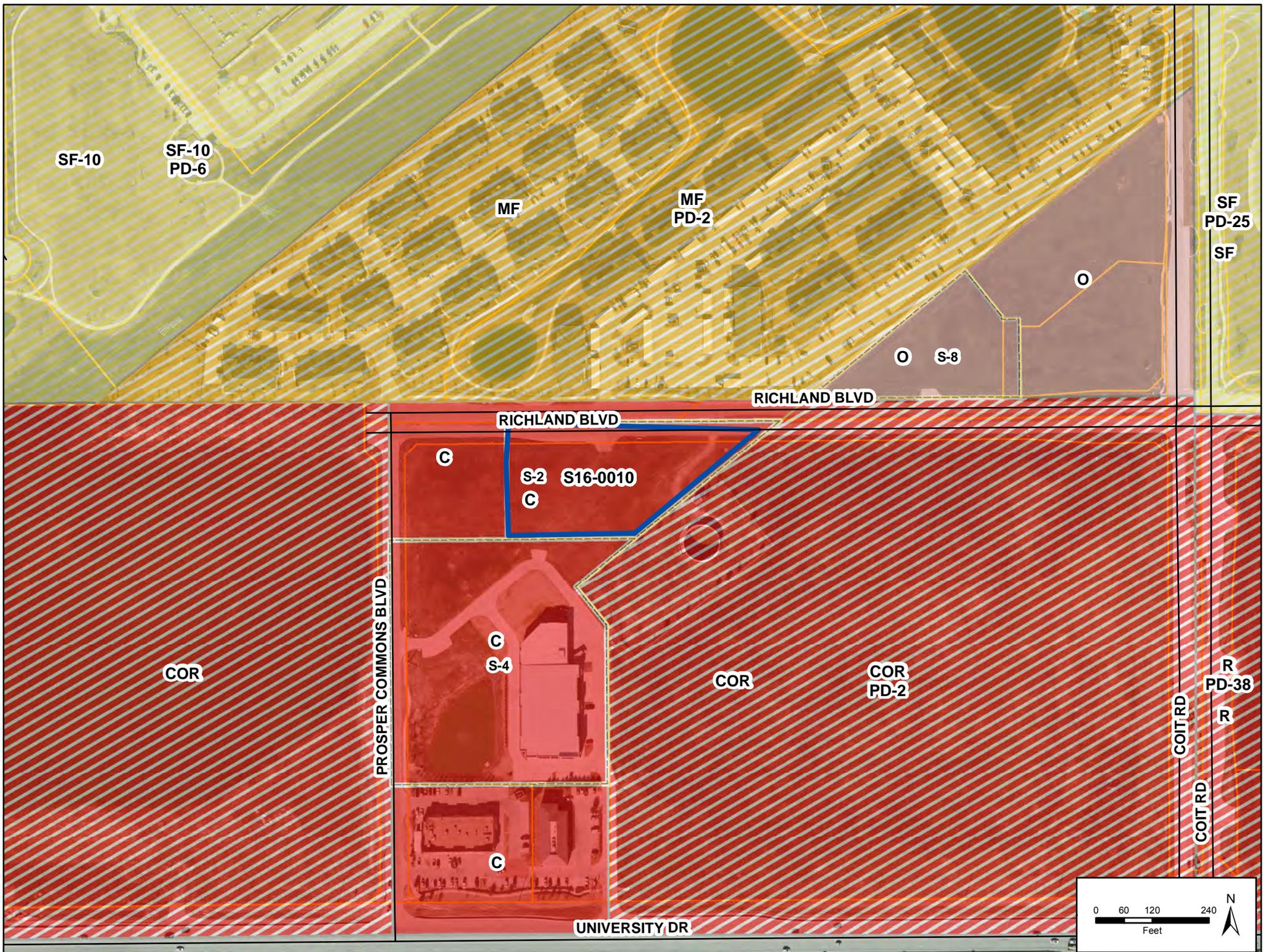
1. Zoning map of surrounding area
2. Repeal Request Letter
3. Existing SUP-2 Ordinance
4. Public Hearing Notice Reply Form

Town Staff Recommendation:

Town staff recommends the Planning & Zoning Commission repeal Ordinance No. 06-77 (SUP-2).

Town Council Public Hearing:

Upon a recommendation by the Planning & Zoning Commission, a Public Hearing for this item will be scheduled for the Town Council at their Regular meeting on September 27, 2016.



SF-10

SF-10
PD-6

MF

MF
PD-2

SF
PD-25
SF

O

S-8

O

RICHLAND BLVD

RICHLAND BLVD

C

S-2 S16-0010

C

C

S-4

COR

COR

COR
PD-2

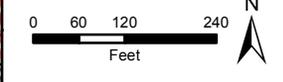
R
PD-38
R

PROSPER COMMONS BLVD

COIT RD

COIT RD

UNIVERSITY DR



8-26-2016

Town of Prosper
c/o Alex Glushko, AICP
Senior Planner
409 E. First St.
Prosper, TX 75078

Authorization to initiate the repeal of Specific Use Permit "S-2" zoning pertaining to 2.9 acres located at the southeast corner of Richland Blvd. and Prosper Commons Blvd.(Lot 2 Block A Prosper Commons)

Dear Mr. Glushko,

I, Jason Whitworth, the owner of 2.9 acres located at the southeast corner of Richland Blvd. and Prosper Commons Blvd. (Lot 2 Block A Prosper Commons) hereby authorize the Town of Prosper to as expeditiously as possible initiate the repeal of the Specific Use Permit "S-2" zoning that pertains to the eastern portion of my property. Such repeal shall result in a base zoning of "Commercial" under the current city zoning designation that will allow commercial development.

As we have discussed, I will proceed under the commercial zoning district applicable to my property. I am well into engineering and construction estimates in order to complete my project. I respectfully request this effort be addressed and completed as soon as possible by the City.

I sincerely appreciate your attention.



Dr. Jason Whitworth
Total Care Animal Hospital
2111 E University Dr. #60
Prosper TX 75078
972-347-9849

RECEIVED

AUG 26 2016

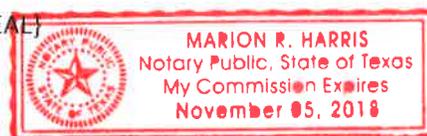
TOWN OF PROSPER
DEVELOPMENT SERVICES

SWORN AND SUBSCRIBED before me this 26th day of AUGUST, 2016.



NOTARY PUBLIC

{SEAL}



TOWN OF PROSPER, TEXAS

ORDINANCE NO. 06-77

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 4.832 ACRES, MORE OR LESS, SITUATED IN THE HARRISON JAMISON SURVEY, ABSTRACT NO. 480, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, HERETOFORE ZONED COMMERCIAL (C) DISTRICT IS HEREBY REZONED TO COMMERCIAL DISTRICT WITH SPECIFIC USE PERMIT (SUP) FOR MINI-WAREHOUSE/PUBLIC STORAGE USES; 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 Mooreland Development Company ("Applicant") to rezone 4.832 acres of land, more or less, situated in the Harrison Jamison Survey No. 12, Abstract No. 480, 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 property containing 0.161 acre of land, more or less, situated in the Harrison Jamison Survey No. 12, Abstract No. 480, Town of Prosper, Collin County, Texas, (the "Property") and all streets, roads and alleyways contiguous and/or adjacent thereto is hereby rezoned as Commercial (C) District with Specific Use Permit (SUP) for Mini-Warehouse/Public Storage

Uses. The Property is more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes as if set forth verbatim.

All development plans, standards, and uses for the Property within this Specific Use Permit must conform to the Conceptual Development Plan attached hereto as Exhibit "B", which is incorporated herein for all purposes as if set forth verbatim. Except as amended by this Ordinance, the development of the Property within this Specific Use Permit shall comply fully with the requirements of all ordinances, rules, and regulations of the Town 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 Inspector 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 AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 25th DAY OF JULY, 2006.

APPROVED AS TO FORM:

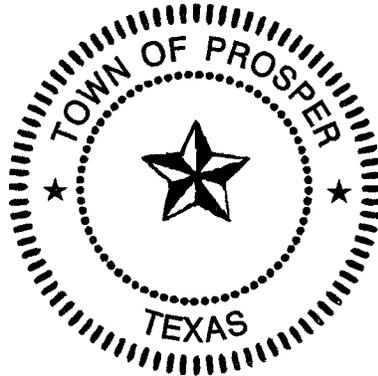


Charles Niswanger, Mayor

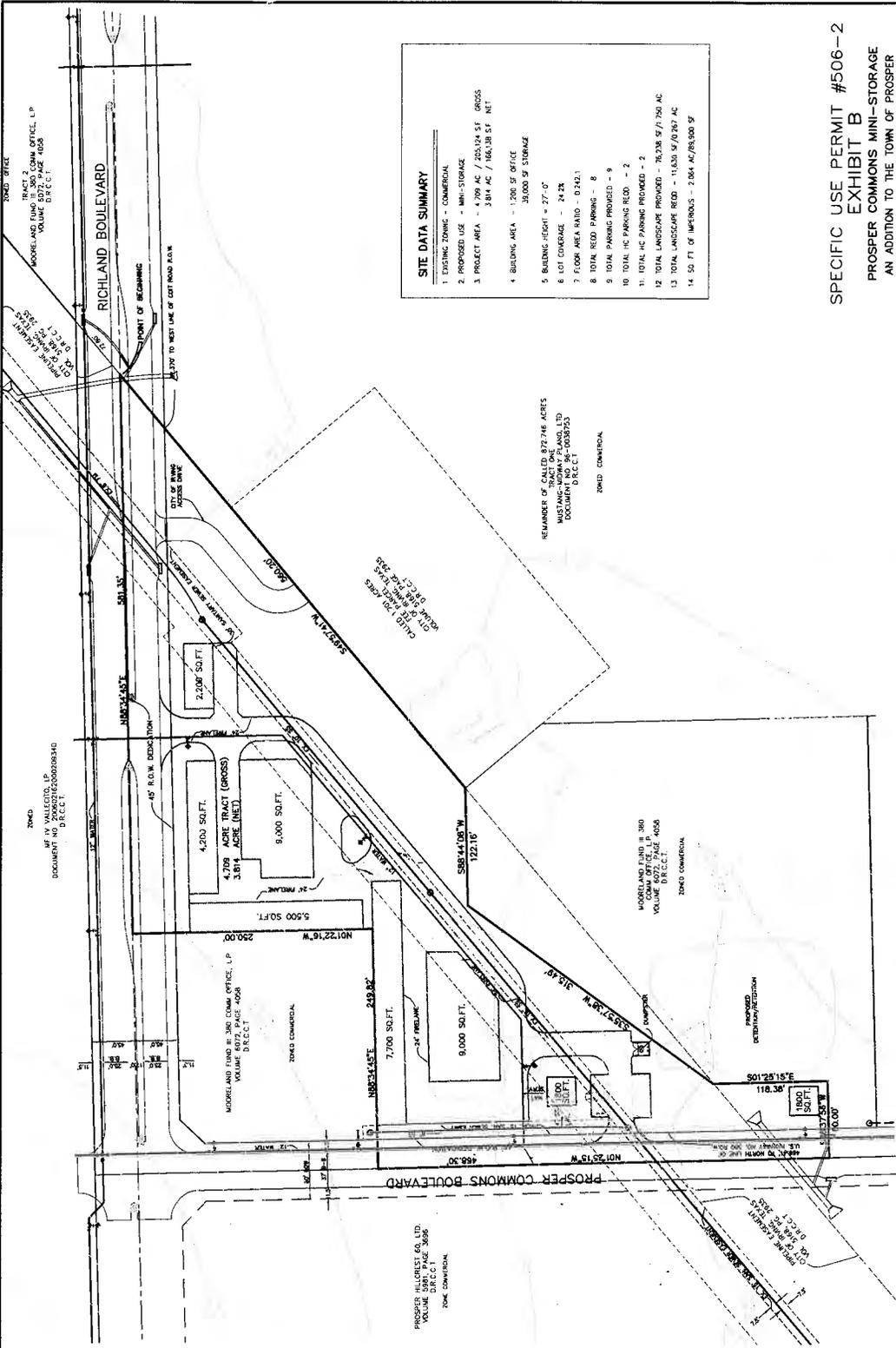
ATTESTED TO AND
CORRECTLY RECORDED BY:



Matthew Denton, Town Secretary



DATE OF PUBLICATION: Aug 1 & AUG 3, 2006, Dallas Morning News – Collin County
Addition



SITE DATA SUMMARY

1. EXISTING ZONING - COMMERCIAL
2. PROPOSED USE - MINI-STORAGE
3. PROJECT AREA - 6,789 AC / 283,124 SF GROSS
3,814 AC / 164,138 SF NET
4. BUILDING AREA - 1,206 SF OFFICE
39,000 SF STORAGE
5. BUILDING HEIGHT - 27'-0"
6. LOT COVERAGE - 24.2%
7. FLOOR AREA RATIO - 0.242:1
8. TOTAL REED PARKING - 8
9. TOTAL PARKING PROVIDED - 9
10. TOTAL HC PARKING PROVIDED - 2
11. TOTAL HC PARKING PROVIDED - 2
12. TOTAL LANDSCAPE PROVIDED - 76,208 SF/1,750 AC
13. TOTAL LANDSCAPE RECD - 11,630 SF/262 AC
14. 50' FT OF IMPERVIOUS - 2,884 AC/63,500 SF

**SPECIFIC USE PERMIT #506-2
EXHIBIT B**

PROSPER COMMONS MINI-STORAGE
AN ADDITION TO THE TOWN OF PROSPER
H. JAMISON SURVEY ABSTRACT NO.480
COLLIN COUNTY, TEXAS

APRIL 21, 2006 SCALE: 1" = 50'
REVISED: JUNE 29, 2006
OWNER/DEVELOPER
MOORELAND FUND III 3RD COMM OFFICE, L.P.
4516 Lower Loop Suite 350
Prosper, TX 75077
(972) 599-0852 FAX (972) 599-0856

ENGINEER/SURVEYOR
COMBINE ANDERSON AND ASSOCIATES, INC.
5025 W. Oldham Drive
Plano, Texas 75093 972-831-0894
W.O. 05128-SUP

REMAINDER OF CALLED 872.746 ACRES
TRACT ONE HUNDRED
MUSTANG TOWNSHIP, TARRANT COUNTY, TEXAS
DOCUMENT NO. 96-0038753
D.R.C.C.T.

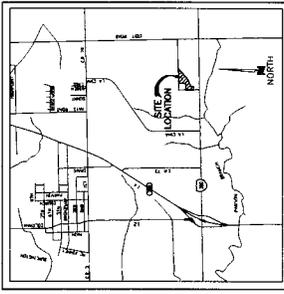
ZONED COMMERCIAL

MOORELAND FUND III 3RD
COMM OFFICE, L.P.
VOLUME 8772 PAGE 4056
D.R.C.C.T.
ZONED COMMERCIAL

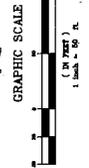
PROSPER HILLCREST 60, LTD.
VOLUME 8772 PAGE 3056
D.R.C.C.T.
ZONED COMMERCIAL

ZONED
45' IV VALLEJO, L.P.
DOCUMENT NO. 200422600039340
D.R.C.C.T.

- NOTES:
1. THE FLOODPLAIN ALIGNMENT COLUMN ON THIS EXHIBIT IS FOR ILLUSTRATION PURPOSES AND DOES NOT SET THE ALIGNMENT. THE ALIGNMENT IS DETERMINED AT TIME OF FINAL PLAN.
 2. NO 100-YEAR FLOODPLAIN EXISTS ON THIS SITE.



LOCATION MAP
NOT TO SCALE
DATE: 04/20/06



- SEE PLAN NOTES**
- 1) The site shall be screened in accordance with the Comprehensive Zoning Ordinance.
 - 2) The site shall be screened in accordance with the Comprehensive Zoning Ordinance.
 - 3) Outdoor lighting shall comply with the lighting and glare requirements of the Comprehensive Zoning Ordinance and Subdivision Regulation Ordinance.
 - 4) Landscaping shall conform to landscape plans approved by the town.
 - 5) All elevations shall comply with the Town's Corridor District Ordinance.
 - 6) Buildings of 5,000 square feet or greater shall be 100% fire protected in accordance with the Fire Department.
 - 7) The lot shall be designed and constructed per town.
 - 8) The site shall be designed and constructed per town.
 - 9) The points of access shall be maintained for the property at all times.
 - 10) Staked bumps/bumps are not permitted within a five foot setback from the property line.
 - 11) All signage is subject to Building Official approval and shall comply with the requirements of the current adopted Uniform Building Code.
 - 12) All signage shall be subject to Building Official approval and shall comply with the requirements of the current adopted Uniform Building Code.
 - 13) Signage of not less than four (4) feet in width and barrier height shall be provided for all access points to the site.
 - 14) Signage of not less than four (4) feet in width and barrier height shall be provided for all access points to the site.
 - 15) Approval of the site plan is not final until all engineering plans are approved.
 - 16) Site plan approval is required prior to grading, rework, or construction.
 - 17) Electrical lines shall be installed and/or relocated underground.
 - 18) No 100 Y. Floodplain exists on this site.



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

REPLY FORM

SUBJECT:

Specific Use Permit Case S06-0002: The Town of Prosper has received a request from the property owner to repeal Specific Use Permit-2 (S-2) for a Mini-Warehouse/Public Storage Development, on 2.9± acres. The property is zoned Commercial (C).

LOCATION OF SUBJECT PROPERTY:

The property is located on the south side of Richland Boulevard, 300± feet east of Prosper Commons Boulevard. (See exhibit on the next page).

DESCRIPTION OF THE REQUEST:

Mini-Warehouse/Public Storage uses are building(s) containing separate, individual self-storage units for rent or lease. Mini-Warehouse/Public Storage uses require approval of a Specific Use Permit (SUP) in a C District. A SUP for Mini-Warehouse/Public Storage uses was approved in 2006. The applicant is proposing to repeal the SUP to allow for development in accordance with the C District.

- I OPPOSE the request as described in the notice of public hearing. Please provide a reason for opposition.
 I DO NOT OPPOSE the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): _____

Jason Whitworth

Name (please print)

4221 Wilson Creek Trail

Address

Prosper, TX 75078

City, State, and Zip Code

214-578-0371

Phone Number (Optional)

[Signature]

Signature

8/29/16

Date

jwhitworth73@gmail.com

E-mail Address

RECEIVED
8/30/2016



PLANNING

To: Planning & Zoning Commission

From: John Webb, AICP, Director of Development Services

Re: Planning & Zoning Commission Meeting – September 6, 2016

Agenda Item:

Conduct a Public Hearing, and consider and act upon a request to amend Chapter 3, Permitted Uses and Definitions of the Zoning Ordinance regarding variances for distance requirements for Alcoholic Beverages. (Z16-0017).

Background and Purpose of the Proposed Amendment:

The Texas Alcoholic Beverage Code (TABC) permits, but does not require, municipalities to establish 300-foot distance requirements between establishments that sell alcohol beverages for on-premise or off-premise consumption and churches, hospitals, and schools including day care facilities. The distance between an establishment and a church or hospital is measured from the front door of the establishment to the front of the church or hospital. The distance between an establishment and a public school, private school or day care is measured in a direct line from the property line of the establishment to the property line of the school.

TABC also permits the governing body of a municipality to grant a variance to the distance requirement on a case-by-case basis. However, the Prosper Zoning Ordinance specifically states that no variances shall be considered. Due to unique situations, staff anticipates scenarios whereby a variance to the distance requirement may be warranted without negatively impacting a church, hospital or school.

The proposed amendment to the Zoning Ordinance removes the restriction on considering variances to the distance requirement for "Alcoholic Beverage Sales" (grocery stores).

Staff is not recommending that restaurants which serve alcohol for on-premise consumption or "Alcoholic Beverage Establishments," which are establishments that on a quarterly basis derive 75% or more of its gross revenue from the sale of alcoholic beverages (bars) be permitted to seek a variance from distance requirements.

Per advice of the Town Attorney, the process for the Town Council's consideration of specific distance variance requests should be established in the Code of Ordinances, not the Zoning Ordinance. While that process is not part of this Zoning Ordinance amendment, staff has attached the draft staff report and draft ordinance for your reference.

Proposed Amendments to the Zoning Ordinance:

The specific, proposed amendment to the Zoning Ordinance is, Amend #16, "Alcoholic Beverage Sales" of the Conditional Development Standards, by deleting sub-paragraph (j) as noted below:

"16. Alcoholic Beverage Sales

Alcoholic Beverage Sales, as defined by the Prosper Zoning Ordinance, as amended, shall mean any establishment, place of business or person engaged in the selling of Alcoholic Beverages, as defined in the Texas Alcoholic Beverage Code, as amended, to the general public for off-premise personal or household consumption.

- a) Alcoholic Beverage Sales shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended, and any applicable local option elections.
- b) Alcoholic Beverage Sales are permitted only in the NS, DTR, R, DTC, C, CC and I zoning districts.
- c) Beer sales are not permitted in residential zoning districts.
- d) Pursuant to the Town Charter, the sale of liquor, as defined in the Texas Alcoholic Beverage Code, as amended, shall be prohibited by a person or entity holding a package store permit, as described in the Texas Alcoholic Beverage Code, as amended, in any zoning district which allows, in whole or in part, residential development in the Town.
- e) The regulations herein applicable to a public school shall also apply to a day-care center or a child-care center as provided in Section 109.331, Texas Alcoholic Beverage Code, as amended.
- f) Alcoholic Beverage Sales shall not be located within the following:
 1. Three hundred feet (300') from a church, public school, private school, and/or public hospital. However, Alcoholic Beverage Sales may be located within three hundred feet (300') of a private school if minors are prohibited from entering the place of business, as required by Section 109.53, Texas Alcoholic Beverage Code, as amended; or
 2. One thousand feet (1,000) from a private school if the Town Council receives a request for this additional spacing requirement from the board of the private school, and the Town Council adopts the additional spacing requirements by resolution. But, the Town Council may not adopt this additional spacing requirement if: (i) minors are prohibited from entering the place of business engaged in Alcoholic Beverage Sales, pursuant to Section 109.53, Texas Alcoholic Beverage Code, as amended; (ii) the holder of a retail off-premise consumption permit or license if less than fifty percent (50%) of the gross receipt for the premises, excluding the sale of items subject to the motor fuels are from the sale or service of alcoholic beverages; or (iii) the holder of a license or permit issued under Chapter 27, 31 or 72, Texas Alcoholic Beverage Code, as amended, who is operating on the premises of a private school.
- g) Measurement of the distance between the place of business engaged in Alcoholic Beverage Sales and the church or public hospital shall be along the property line of the street fronts, from front door to front door, and in a direct line across intersections. Measurement for the distance between the place of business engaged in Alcoholic Beverage Sales and a public or private school shall be:
 1. In a direct line from the Property Line of the public or private school to the Property Line of the place of business, and in a direct line across intersections; or
 2. If Alcoholic Beverage Sales are located on or above the fifth (5th) story of a multistory building, in a direct line from the Property Line of the public or private school to the Property Line of the place of business, in a direct line across intersections, and vertically up the building at the Property Line to the base floor on which Alcoholic Beverage Sales are located.

- h) In accordance with Section 109.33, Texas Alcoholic Beverage Code, as amended, in this Paragraph 16, "private school" means a private school, including a parochial school, that:
 - 1. Offers a course of instruction for students in one or more grades from kindergarten through grade twelve; or
 - 2. Has more than one hundred (100) students enrolled and attending courses at a single location.
- i) If at any time an original Alcoholic Beverage permit or license is granted by the Texas Alcoholic Beverage Commission to an establishment, place of business, or person and the establishment, place of business or person satisfies the requirements regarding the distance requirements in this Paragraph 16, then the same shall be deemed to satisfy the distance requirements for all subject renewals of the license or permit. This shall not be the case if the Texas Alcoholic Beverage Commission revokes the license or permit.
- j) ~~There shall be no variances considered with regard to the regulations set forth herein."~~

Legal Obligations and Review:

Zoning is discretionary. Therefore, the Planning & Zoning Commission is not obligated to recommend approval the request. Notice of the Planning & Zoning Commission Public Hearing was provided in the newspaper as required by the Zoning Ordinance and state law. To date, Town staff has not received any correspondence.

Attached Documents:

- 1. Draft staff report and proposed Amendment to the Code of Ordinance establishing distance variance process.

Town Staff Recommendation:

Town staff recommends the Planning & Zoning Commission approve the requested amendments to the Zoning Ordinance as submitted.

Town Council Public Hearing:

A Public Hearing for this item has been be scheduled for the Town Council at their Regular meeting on September 13, 2016.



PLANNING

To: Mayor and Town Council

From: John Webb, AICP, Director of Development Services

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – September 13, 2016

Agenda Item:

Consider and act upon an ordinance amending Section 4.02, “Alcoholic Beverages,” of Chapter 4, “Business Regulations,” of the Town’s Code of Ordinances by establishing a process for considering a variance to the distance requirement between establishments which sell alcoholic beverages and hospitals, schools, and churches; and amending Appendix A, “Fee Schedule,” of the Town’s Code of Ordinances by establishing an application fee for the consideration of a variance to the distance requirements between establishments which sell alcoholic beverages and hospitals, schools, and churches.

Description of Agenda Item/Background:

The Texas Alcoholic Beverage Code (TABC) permits, but does not require, municipalities to establish 300-foot distance requirements between establishments that sell alcohol beverages for on-premise or off-premise consumption and churches, hospitals, and schools including day care facilities (protected uses). The distance between an establishment and a church or hospital is measured from the front door of the establishment to the front of the church or hospital. The distance between an establishment and a public school, private school or day care is measured in a direct line from the property line of the establishment to the property line of the school.

Due to factors such as building orientation, access, lot layout, physical and manmade barriers, staff anticipates scenarios whereby a variance to the distance requirement may be warranted without negatively impacting the protected use on a case-by-case basis.

Currently, the Zoning Ordinance states that that no variances to the distance requirements for “Alcoholic Beverage Sales” (grocery store) shall be considered. A companion case on the September 13, 2016 Town Council agenda is a request to amend the Zoning Ordinance to remove restriction for considering distance variances for “Alcoholic Beverage Sales.” Staff is not recommending to change the prohibition of considering distance variances for restaurants and “Alcoholic Beverage Establishments,” which are establishments that on a quarterly basis derive 75% or more of its gross revenue from the sale of alcoholic beverages (bars).

Proposed Amendments:

The proposed ordinance amends the “Alcoholic Beverages” section of Chapter 4, “Business Regulations” of the Code of Ordinances by creating a new application and review process for Town Council to consider requests for variance to the distance requirements on a case-by-case basis for any retail structure over fifty thousand (50,000) square feet where the primary tenant

occupies at least eighty percent (80%) of the structure. The structure size requirement is to ensure that variance requests are limited to grocery stores or big box stores that offer the sale of groceries. The attached ordinance contains the following process and establishes an application fee of \$500.00.

Sec. 4.02.004 Alcoholic Beverage Sales Distance Variance Requirements

- (a) Pursuant to Section 109.33(e) of the Texas Alcoholic Beverage Code, a variance to the distance requirements prescribed by Section 4.02.002 and Section 1.4(16) of Chapter 3 of the Zoning Ordinance, as amended, may be requested and granted in accordance with the following procedures, for any retail structure over fifty thousand (50,000) square feet where the primary tenant occupies at least eighty percent (80%) of the structure.
- (1) An application shall be submitted to the Town on a form provided by the Department of Development Services.
 - (2) The application shall contain all required information on the form.
 - (3) The Department of Development Services shall set a date for a public hearing by the Town Council.
 - (4) No less than ten (10) days before the date of consideration by the Town Council, the Director of Development Services or his or her designee shall provide notice to the protected use that creates the need for the variance. For purposes of this section, "protected use" shall mean a church, public or private school, hospital, day-care center, or child-care facility as defined by the Zoning Ordinance, as amended.
 - (5) In considering the application for a variance to any distance requirement, the Town Council shall consider if the distance requirement in the particular instance:
 - i. is not in the best interest of the public;
 - ii. constitutes waste or inefficient use of land or other resources;
 - iii. creates an undue hardship on an applicant for an alcohol permit;
 - iv. does not serve its intended purpose;
 - v. is not effective or necessary; or
 - vi. for any other reason that the Town Council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.
 - (6) The Town Council may impose reasonable conditions on the granting of a variance.
- (b) A variance granted pursuant to this subsection is valid for subsequent renewals for the alcohol permit. A distance variance granted pursuant to this subsection may not be transferred to another location or to another alcohol permit holder.

Legal Obligations and Review:

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

Attached Documents:

1. Ordinance

Town Staff Recommendation:

Town staff recommends the Town Council approve the ordinance amending the Code of Ordinances as submitted.

Proposed Motion:

I move to approve an ordinance amending Chapter 4, "Business Regulations," of the Code of Ordinances by adding a new article 4.02.004, "Alcoholic Beverage Sales Distance Variance Requirements for Certain Retail Structures," and amending Appendix A, "Fee Schedule," of the Code of Ordinances by adding a new Development Fee Section V(1)(O), "Alcoholic Beverage Sales Distance Variance Requirements."

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 16-

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING CHAPTER 4, "BUSINESS REGULATIONS," OF THE CODE OF ORDINANCES OF THE TOWN OF PROSPER, TEXAS, BY ADDING THERETO A NEW ARTICLE 4.02.004, "ALCOHOLIC BEVERAGE SALES DISTANCE VARIANCE REQUIREMENTS FOR CERTAIN RETAIL STRUCTURES"; AMENDING APPENDIX A, "FEE SCHEDULE," TO THE CODE OF ORDINANCES OF THE TOWN OF PROSPER, TEXAS, BY ADDING A NEW DEVELOPMENT FEE SECTION V(1)(O), "ALCOHOLIC BEVERAGE SALES DISTANCE VARIANCE"; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the Town of Prosper, Texas (the "Town"), recognizes the need to continue to regulate the distance between establishments that sell alcohol beverages for on-premise or off-premise consumption and churches, hospitals, and schools in accordance with the Texas Alcoholic Beverage Code; and

WHEREAS, the Town further recognizes that due to unique circumstances, the Town may desire to consider variances to the distance requirements, as authorized by the Texas Alcoholic Beverage Code, on a case-by-case basis for certain large retail structures, as delineated herein; and

WHEREAS, the Town desires to establish procedures for considering applications for a variance for certain large retail structures to the distance requirements; 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 procedures for applications for a variance for certain large retail structures to the distance requirements.

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, Article 4.02, "Alcoholic Beverages" of Chapter 4, "Business Regulations," of the Code of Ordinances of the Town of Prosper, Texas, is hereby amended by adding thereto a new Article 4.02.004, "Alcoholic Beverage Sales Distance Variance Requirements for Certain Retail Structures," to read as follows:

“Sec. 4.02.004 Alcoholic Beverage Sales Distance Variance Requirements for Certain Retail Structures

- (a) Pursuant to Section 109.33(e) of the Texas Alcoholic Beverage Code, a variance to the distance requirements prescribed by Section 4.02.002 and Section 1.4(16) of Chapter 3 of the Zoning Ordinance, as amended, may be requested and granted in accordance with the following procedures, for any retail structure over fifty thousand (50,000) square feet where the primary tenant occupies at least eighty percent (80%) of the structure.
 - (1) An application shall be submitted to the Town on a form provided by the Department of Development Services.
 - (2) The application shall contain all required information on the form.
 - (3) The Department of Development Services shall set a date for consideration of the application by the Town Council.
 - (4) No less than ten (10) days before the date of consideration by the Town Council, the Director of Development Services or his or her designee shall provide notice to the protected use that creates the need for the variance. For purposes of this section, “protected use” shall mean a church, public or private school, hospital, day-care center, or child-care facility as defined by the Zoning Ordinance, as amended.
 - (5) In considering the application for a variance to any distance requirement, the Town Council shall consider if the distance requirement in the particular instance:
 - i. is not in the best interest of the public;
 - ii. constitutes waste or inefficient use of land or other resources;
 - iii. creates an undue hardship on an applicant for an alcohol permit;
 - iv. does not serve its intended purpose;
 - v. is not effective or necessary; or
 - vi. for any other reason that the Town Council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.
 - (6) The Town Council may impose reasonable conditions on the granting of a distance variance.
- (b) A variance granted pursuant to this section is valid for any subsequent renewals for the alcohol permit. A distance variance granted pursuant to this section may not be transferred to another location or to another alcohol permit holder.

Sec. 4.02.005—4.02.030 Reserved.”

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 Development Fee Section V(1)(O), “Alcoholic Beverage Sales Distance Variance,” to read as follows:

“Sec. V Development Fees

- (1) Development Fees

* * *

(O) Alcoholic Beverage Sales Distance Variance: \$500.00”

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

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town of 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.

SECTION 6

This Ordinance shall become effective from and after its adoption and publication as required by law.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 13TH DAY OF SEPTEMBER, 2016.

APPROVED:

Ray Smith, Mayor

ATTEST:

Robyn Battle, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney



Prosper is a place where everyone matters.

RESULTS

AGENDA

Meeting of the Prosper Town Council
Prosper Municipal Chambers
108 W. Broadway, Prosper, Texas
Tuesday, August 23, 2016
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. Presentations.
 - Presentation of the Texas Sustainable Cities Award to the Town of Prosper by Rudy Garza of the Texas Masonry Council. **(JW)**
5. **CONSENT AGENDA: All items approved, 7-0**

(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 meetings. **(RB)**
 - Regular Meeting – August 9, 2016
- 5b. Consider and act upon approving the purchase of two LIFEPAK 15 defibrillators for the Fire Department, from Physio-Control, Inc., that will be utilized on two new fire engines, and authorize the Town Manager to execute the quote for same. **(SB)**
- 5c. Consider and act upon adopting the FY 2016-2017 Prosper Economic Development Corporation budget. **(JW)**

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.

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.

RESULTS

PUBLIC HEARINGS:

7. Conduct a Public Hearing, and consider and act upon a request for a Special Purpose Sign District for Windsong Ranch Marketplace, on 46.6± acres, located on the northeast corner of US 380 and Gee Road. (MD16-0002). **(JW) Tabled to September 27, 2016**
8. Conduct a Public Hearing, and consider and act upon a request to rezone a portion of Planned Development-65 (PD-65) and a portion of Planned Development-48 (PD-48), on 198.4± acres, located on the southeast and southwest corners of existing and future Prairie Drive and Legacy Drive, to allow for the development of a single family detached, senior living development and to modify lot type requirements. (Z16-0011). **(JW) Tabled to September 27, 2016**
9. Conduct a Public Hearing to consider and discuss the FY 2016-2017 Budget, as proposed. **(HJ) No action required**
10. Conduct a Public Hearing to consider and discuss a proposal to increase total tax revenues from properties on the tax roll in the preceding tax year by 8.6 percent. **(HJ) No action required**

DEPARTMENT ITEMS:

11. Consider and act upon a Site Plan for a retail shell building in the Shops at Prosper Trail, on 1.3± acres, located on the east side of Preston Road, 175± feet north of Prosper Trail. This property is zoned Planned Development-68 (PD-68). (D16-0018). **(JW) Approved, 7-0**
12. Consider and act upon a request for an ornamental metal fence within the required front yard, on 2.4± acres, located at 3181 Brookhollow Court, in Whispering Farms, Phase 2. (MD16-0009). **(JW) Approved, 7-0**
13. Consider and act upon request for a masonry wall in lieu of open fencing adjacent to open space, located at 1400 Copper Point Drive, in Montclair. (MD16-0010). **(JW) Approved, 6-0 (Mayor Smith not voting)**
14. Consider and act upon a request for a Façade Exception for the Tribute Memory Care Facility in the Prosper Town Center development, located on the west side of Hays Road, 900± feet north of First Street. (MD16-0006). **(JW) Approved, 7-0**

15. EXECUTIVE SESSION:

Recess into Closed Session in compliance with Section 551.001 et seq. Texas Government Code, as authorized by the Texas Open Meetings Act, to deliberate regarding:

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

RESULTS

- 15b.** *Section 551.072 – To discuss and consider purchase, exchange, lease or value of real property for municipal purposes and all matters incident and related thereto.*
- 15c.** *Section 551.074 – To discuss appointments to the Board of Adjustment/Construction Board of Appeals, Parks & Recreation Board, Library Board, Prosper Economic Development Corporation Board, and Planning & Zoning Commission.*
- 16.** Reconvene in Regular Session and take any action necessary as a result of the Closed Session.
- 17.** Possibly direct Town staff to schedule topic(s) for discussion at a future meeting.
- 18.** Adjourn.