

**TOWN OF PROSPER, TEXAS****ORDINANCE NO. 16-06**

**AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, ADOPTING AND APPROVING A SPECIAL PURPOSE SIGN DISTRICT, PURSUANT TO SECTION 3.14.012 OF THE TOWN'S CODE OF ORDINANCES, AS AMENDED, FOR A 13.957-ACRE TRACT OF LAND, MORE OR LESS, COMMONLY KNOWN AS SHOPS AT PROSPER TRAIL (KROGER); MAKING FINDINGS; 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**, Section 3.14.012 of the Town's Code of Ordinances, as amended, provides for the approval by the Town Council of the Town of Prosper, Texas (the "Town Council"), of a special district that exclusively addresses sign regulations; and

**WHEREAS**, the special district, if approved by the Town Council, is designated a Special Purpose Sign District ("SPSD"), and in general, the purposes of an SPSP are to (1) promote consistency among signs within a development, thus creating visual harmony between signs, buildings, and other components of the property; (2) enhance the compatibility of signs with the architectural and site design features within a development; (3) encourage signage that is in character with planned and existing uses, thus creating a unique sense of place; and (4) encourage multi-tenant commercial uses to develop a unique set of sign regulations in conjunction with development standards; and

**WHEREAS**, an application has been submitted to the Town for a SPSP for a 13.957-acre tract of land, more or less ("the Property"), commonly known as Shops at Prosper Trail (Kroger), generally located on the east side of Preston Road, 500± north of Prosper Trail in the Town; and

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

**WHEREAS**, the Town Council has further investigated and determined that it will be advantageous and beneficial to Prosper and its inhabitants to adopt a SPSP on the aforementioned property, subject to the terms and conditions as set forth herein.

**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**

There is hereby created and approved a Special Purpose Sign District on the Property. All signage on the Property shall be subject to the Statement of Intent and Purpose, attached

hereto as Exhibit A and incorporated by reference, the boundary survey, attached hereto as Exhibit B and incorporated by reference, the detailed elevations, attached hereto as Exhibits C-1, C-2, C-3, and C-4 and incorporated by reference, and the sign schedule, attached hereto as Exhibit D and incorporated by reference. Any signage not specifically addressed in the attachments to this Special Purpose Sign District Ordinance shall comply with the Town's Sign Ordinance, contained in Article 3.14, "Signs," of Chapter 3, "Building Regulations," of the Town's Code of Ordinances, as amended.

### **SECTION 3**

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**

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 signage that is not in conformity with this Ordinance.

### **SECTION 5**

Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Five Hundred (\$500.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the Town from filing suit to enjoin the violation. The Town retains all legal rights and remedies available to it pursuant to local, state and federal law.

### **SECTION 6**

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**

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**

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

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE  
TOWN OF PROSPER, TEXAS, ON THIS 12TH DAY OF JANUARY, 2016.

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

ATTEST:

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

APPROVED AS TO FORM AND LEGALITY:

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



7110 Burns Street  
Richland Hills, TX 76118  
Phone 817.222.0033  
Fax 817.222.1329

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11/30/2015

Exhibit 'A'

We are requesting a Special Purpose Sign District for (3) signs for the new Kroger located at 1250 North Preston Road. The increased height of the signs would increase visibility from the road and be proportionate to the building size.

Wall Sign 4 on Exhibit C-1 and C-2 - Kroger logo with Pharmacy above one of the two main entries is 8 feet 6 inches in height verses the 5 feet maximum height which states in the ordinance; Wall Sign 5 on Exhibit C-1 and C-3 - Kroger with Marketplace above one of the two main entries is 12 feet 6 inches in height verses the 5 feet maximum height stated in the ordinance; Wall Sign 9 on Exhibit C-1 and C-4 - Kroger with Marketplace next to it on the south elevation is 12 feet 6 inches in height verses the 5 feet maximum height stated in the ordinance. The total Kroger signage on the front facade is 10% and the total Kroger signage on the south facade is 2%, and the ordinance allows a total of 50% of signage of the total wall area. All of the other building signs will comply with the Town of Prosper's sign ordinance.

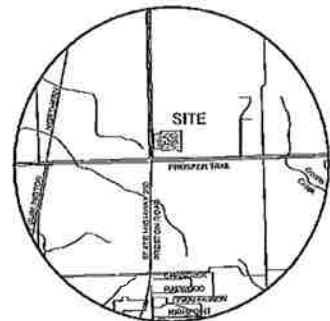
Thank You,

Tara Swofford

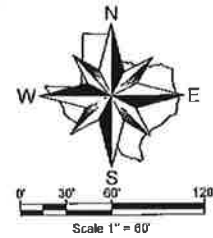
817-222-0033

# ABBREVIATION LEGEND

ABBR.	DEFINITION
IRF	IRON ROD FOUND
CIRS	IRON ROD SET w/CAP STAMPED "WAI"
CIRF	IRON ROD FOUND w/CAP
XCS	"X" CUT IN CONCRETE SET
XCF	"X" CUT IN CONCRETE FOUND
PKS	PK NAIL SET
PKF	PK NAIL FOUND
PP	POWER POLE
GW	GUY WIRE
MH	MANHOLE
WV	WATER VALVE
TP	TELEPHONE PEDESTAL
WM	WATER METER
FH	FIRE HYDRANT
ICV	IRRIGATION CONTROL VALVE
CO	CLEANOUT
AC	AIR CONDITIONER
SB	SIGNAL BOX
SP	SIGNAL POLE
SN	SIGN
SS	SANITARY SEWER
SW	STORM SEWER
TPAD	TRANSFORMER PAD
GM	GAS METER
GMK	GAS MARKER
TMK	TELEPHONE MARKER
TSN	TRAFFIC SIGN
UGC	UNDERGROUND CABLE MARKER
EB	ELECTRIC BOX
EM	ELECTRIC METER
CC#	COUNTY CLERK'S INSTRUMENT No.
CM	CONTROLLING MONUMENT
GI	GRATE INLET
IN	INLET
HC	HANDICAPPED
MP	METAL POST
MB	MAIL BOX
BILLB	BILLBOARD
GL	GROUND LIGHT
LP	LIGHT POLE
GR	GAS RISER
PF	PIN FLAG - color and/or name noted



VICINITY MAP  
NOT TO SCALE



## FLOOD NOTE

According to the Federal Emergency Management Agency, Flood Insurance Rate Map Community Panel Nos. 48085C0120J and 48085C0235J, dated June 2, 2009, this property is within Flood Zone X.

Zone X - Areas determined to be outside the 0.2% annual chance floodplain. (Areas determined to be outside the 500-year floodplain.)

This flood statement does not imply that the property and/or the structure thereon will be free from flooding or flood damage. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This flood statement shall not create liability on the part of the surveyor.

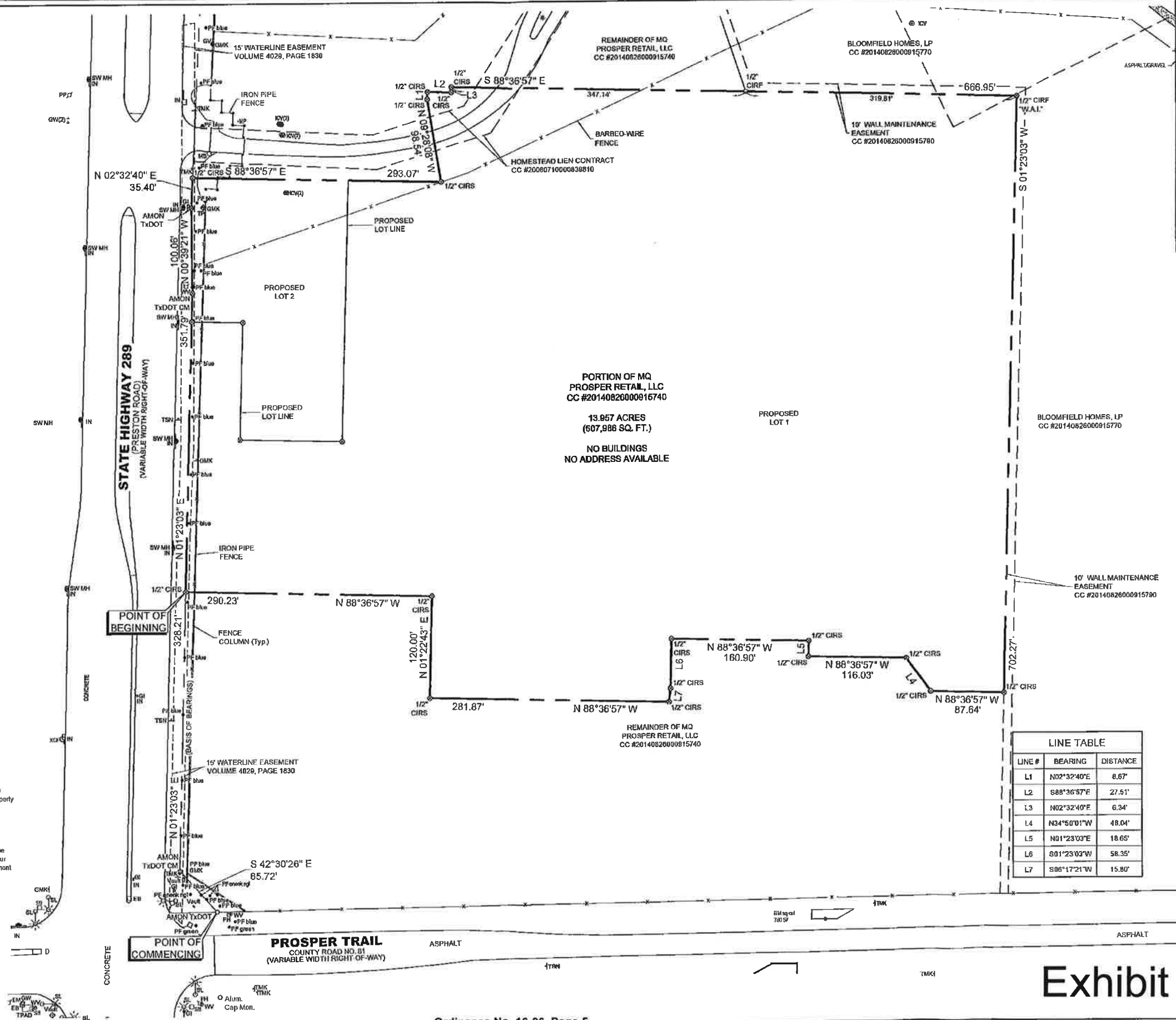
## BENCH MARKS:

BM #1 - Square cut on the top, middle of a concrete headwall, north side of Prosper Trail, ±713.5 feet west of the POINT OF COMMENCING.

ELEVATION = 769.57 feet

BM #2 - "X" cut on the back, southwest corner of a concrete curb inlet, west side of State Highway 289, ±203.8 feet northwest of the POINT OF COMMENCING.

ELEVATION = 754.84 feet



LINE #	BEARING	DISTANCE
L1	N02°32'40"E	8.67'
L2	S88°36'57"E	27.51'
L3	N02°32'40"E	6.34'
L4	N34°50'01"W	49.04'
L5	N01°23'03"E	18.65'
L6	S01°23'03"W	58.35'
L7	S06°17'21"W	15.80'

## ALTA/ACSM LAND TITLE SURVEY

13.957 ACRES

COLLIN COUNTY SCHOOL LAND NO. 13 SURVEY;

ABSTRACT NO. 172

CITY OF PROSPER, COUNTY OF COLLIN

KROGER TEXAS, L.P.

1331 E. AIRPORT FREEWAY

IRVING, TEXAS 75082

Date: 03/19/14

Scale: 1" = 60'

File: 34264-ALTA-KROGER

Project No.: 34264-00

SHEET  
1  
2

Exhibit B

STATE OF TEXAS                    6  
COUNTY OF COLLIN                6

COMMENCING at a TxDOT (Texas Department of Transportation) aluminum capped monument found for corner at the Southerly end of a corner clip at the intersection of the North right-of-way of County Road No. 81 (Prosper Trail), a 100 foot right-of-way, as established by deed to County of Collin recorded in County Clerk's Instrument No. 2001-0111414 (Volume 4986, Page 4938), Official Public Records, Collin County, Texas, with the East right-of-way of State Highway No. 289 (Presper Road), a variable width right-of-way, as established in deed to the State of Texas (Parcel 8, Part 2) as recorded in County Clerk's Instrument No. 2011080200807680, Official Public Records, Collin County, Texas, sold point being the most Southerly Southeast corner of said Parcel 8, Part 2;

THENCE North 01 deg 23 min 03 sec East, along said East right-of-way of State Highway No. 289 and the West line of said MQ Prosper Retail Tract, a distance of 328.21 feet to a 1/2-inch iron rod with a red plastic cap stamped "W.A.I." set for corner, said point being the POINT OF BEGINNING;

THENCE North 01 deg 23 min 03 sec East, continuing along said East right-of-way of State Highway No. 289 and the West line of said MQ Prosper Retail tract, a distance of 351.79 feet to a 1/2-inch iron rod with a red plastic cap stamped "W.A.I." set for corner;

THENCE North 00 deg 39 min 21 sec West, continuing along said East right-of-way of State Highway No. 289 and the West line of said MQ Prosper Retail tract, a distance of 100.06 feet to a TxDOT aluminum capped monument found for corner;

THENCE North 02 deg 32 min 40 sec East, continuing along said East right-of-way of State Highway No. 288 and the West line of said MQ Prosper Retail tract, a distance of 35.40 feet to a 1/2-inch iron rod with a red plastic cap stamped "W.A.I." set for corner;

THENCE departing said East right-of-way of State Highway No. 288, over and across said MQ Prosper Retail tract, the following courses and distances:

South 88 deg 36 min 57 sec East, a distance of 293.07 feet to a 1/2-inch iron rod with a red plastic cap stamped "W.A.L." set for corner.

North 09 deg 28 min 08 sec West, a distance of 98.54 feet to a 1/2-inch iron rod with a red plastic cap stamped "W.A.I." set for corner.

North 02 deg 32 min 40 sec East, a distance of 8.67 feet to a 1/2-inch iron rod with a red plastic cap stamped "W.A.I." set for corner.

South 88 deg 36 min 57 sec East, a distance of 27.51 feet to a 1/2-inch iron rod with a red plastic cap stamped "W.A.I." set for corner;

North 02 deg 32 min 40 sec East, a distance of 8.34 feet to a 1/2-inch iron rod with a red plastic cap stamped "W.A.I." set for corner.

THENCE South 88 deg 36 min 57 sec East, continuing over and across said MO Prosper Retail tract, passing a 1/2-Inch iron rod with a red plastic cap stamped "W.A.L." found for corner on the Western line of a tract of land described in deed to said H. H. Hensley, et al., recorded in County Clerk's Instrument No. 20140526000915770, Official Public Records, Collin County, Texas, at a distance of 347.14 feet, continuing an additional 319.81 feet, a total distance of 666.95 feet to a 1/2-Inch iron rod with a red plastic cap stamped "W.A.L." found for the most Easly Northernmost corner of said MO Prosper Retail tract;

THENCE South 01 deg 23 min 03 sec West, along the Easterly line of said MQ Proper Retail tract and the Westerly line of said Bloomfield Homes tract, a distance of 702.27 feet to a 1/2-inch iron rod with a red plastic cap stamped "W.A.I." set for corner;

THENCE departing the Westerly line of said Bloomfield Homes tract, over and across said MQ Prosper Retail tract, the following courses and distances:

North 88 deg 36 min 57 sec West, a distance of 87.64 feet to a 1/2-inch Iron rod with a red plastic cap stamped "W.A.I." set for corner;

North 34 deg 50 min 01 sec West, a distance of 46.04 feet to a 1/2-inch iron rod with a red plastic cap stamped "W.A.I." set for corner.

North 88 deg 36 min 57 sec West, a distance of 116.03 feet to a 1/2-inch iron rod with a red plastic cap stamped "W.A.I." set for corner.

North 01 deg 23 min 03 sec East, a distance of 18.65 feet to a 1/2-inch iron rod with a red plastic cap stamped "W.A.I." set for corner;

North 88 deg 36 min 57 sec West, a distance of 160.90 feet to a 1/2-inch iron rod with a red plastic cap stamped "W.A.I." set for corner;

South 01 deg 23 min 03 sec West, a distance of 58.35 feet to a 1/2-inch iron rod with a red plastic cap stamped "W.A.I." set for corner;

South 06 deg 17 min 21 sec West, a distance of 15.80 feet to a 1/2-inch iron rod with a red plastic cap stamped "W.A.I." set for corner.

North 68 deg 38 min 57 sec West, a distance of 281.87 feet to a 1/2-inch iron rod with a red plastic cap stamped "W.A.I." set for corner;

North 01 deg 22 min 43 sec. East, a distance of 120.00 feet to a 1/2-inch iron rod with a red plastic cap stamped "W.A.L." set for corner;

THENCE North 88 deg 38 min 57 sec West, a distance of 290.23 feet to the POINT OF BEGINNING.

CONTAINING within these metes and bounds 607,986 square feet or 13.957 acres of land, more or less. Bearings shown hereon are based upon an on-the-ground Survey performed in the field on the 18th day of March, 2014, utilizing the Geosack virtual reference network NAD83 (grid).

(Tract 2: per Title Commitment)

Being non-exclusive easements as created by Reciprocal Easement Agreement (the "REA") between MQ Property Rural, LLC, and Kroger Texas L.P., dated 10/1/2014, filed 10/2/14, in the Real Property Records, Collin County, Texas, (i) over the Common Area of Parcels 3 - 10 for access, parking, and utilities, and for temporary occupancy to facilitate construction or maintenance of improvements; (ii) over Parcels 4, 5, and 6 for Shopping Center Signs; and (iii) over Parcel 5 for encroachment of building improvements not to exceed twelve (12) linear inches into Parcel 5.

(Tract 3: per Title Commitment)

Being a non-exclusive easement for access as created by Detention Pond Maintenance Easement Agreement by and between Bloomfield Homes, L.P. and MQ Prosper Retail, LLC, dated 08/25/2014, filed 08/26/2014, recorded in cd# 20140826000915800, Real Property Records, Collin County, Texas.

(Tract 4; per Title Commitment)

Being a non-exclusive easement for access as created by Wall Construction and Maintenance Easement Agreement by and between Bloomfield Homes, L.P. and MQ Prosper Retail, LLC, dated 08/25/2014, filed 08/26/2014, recorded in cc# 20140826000915790, Real Property Records, Collin County, Texas.

**SCHEDULE "B" NOTES**

Items corresponding to the Commitment for Title Insurance issued October 21, 2014 by First American Title Insurance Company bearing an effective date of October 02, 2014, GF# 1002-87212-RTT.

1. Property subject to restrictive covenants contained in Reciprocal Easement Agreement recorded in County Clerk's Instrument No. 2014 ———, Official Public Records, Collin County, Texas.
- 2-9. Intentionally omitted by the Surveyor.
- 10.a. Easement to Denton County Electric Cooperative recorded in Volume 468, Page 142, Official Public Records, Collin County, Texas. (Due to the age and generalities, this easement could not be plotted but may affect the Subject Property)
- 10.b. Easement to the Town of Prosper recorded in Volume 4029, Page 1830, Official Public Records, Collin County, Texas. (Affects the subject property as shown)
- 10.c. Intentionally omitted by the Surveyor.
- 10.d. Intentionally omitted by the Surveyor.
- 10.e. Terms, provisions, conditions, and temporary easements contained in Development Agreement recorded in County Clerk's Instrument No. 2014082600915780, Official Public Records, Collin County, Texas. (Affects the Subject Property.)
- 10.f. Terms, provisions, and conditions of Well Construction and Maintenance Easement Agreement recorded in County Clerk's Instrument No. 2014082600915790, Official Public Records, Collin County, Texas. (Affects the Subject Property.)
- 10.g. Terms, provisions, and conditions of Detention Pond Maintenance Easement Agreement recorded in County Clerk's Instrument No. 2014082600915800, Official Public Records, Collin County, Texas. (Affects the Subject Property.)
- 10.h. Terms, provisions, conditions, and easements contained in Reciprocal Easement Agreement by and between MO Prosper Retail, LLC, and Fropex Texas L.P. recorded in County Clerk's Instrument No. 2014 ———, Official Public Records, Collin County, Texas.
- 10.i. Intentionally omitted by the Surveyor.
- 10.j. Intentionally omitted by the Surveyor.

The Surveyor has not abstracted the record title and/or easements of the subject property. The Surveyor prepared this survey with the benefit of a title commitment described above and assumes no liability for any easements, right of way dedications or other title matters affecting the subject property which may have been filed in the real property records but are not disclosed in said title commitment.



**SURVEYOR'S CERTIFICATION**

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM and The Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 5, 7(a), (b)(1), 9, 11(a), 13 and 14 of Table A thereof. The field work was completed on 03/18/2014.

Leonard J. Luoker (Original signature in red ink)  
Registered Professional Land Surveyor  
Texas Registration No. 5714  
Winkelmann & Associates, Inc.  
6750 Hillcrest Plaza Drive, Suite 325  
Dallas, Texas 75230  
(972) 490-7090  
l.luoker@winkelmann.com

Please note that the use of the word "CERTIFY" or "CERTIFICATE" used herein constitutes an expression of professional opinion regarding those facts or findings which are the subject of the certification, and does not constitute a warranty or guarantee, either expressed or implied.

## Exhibit B



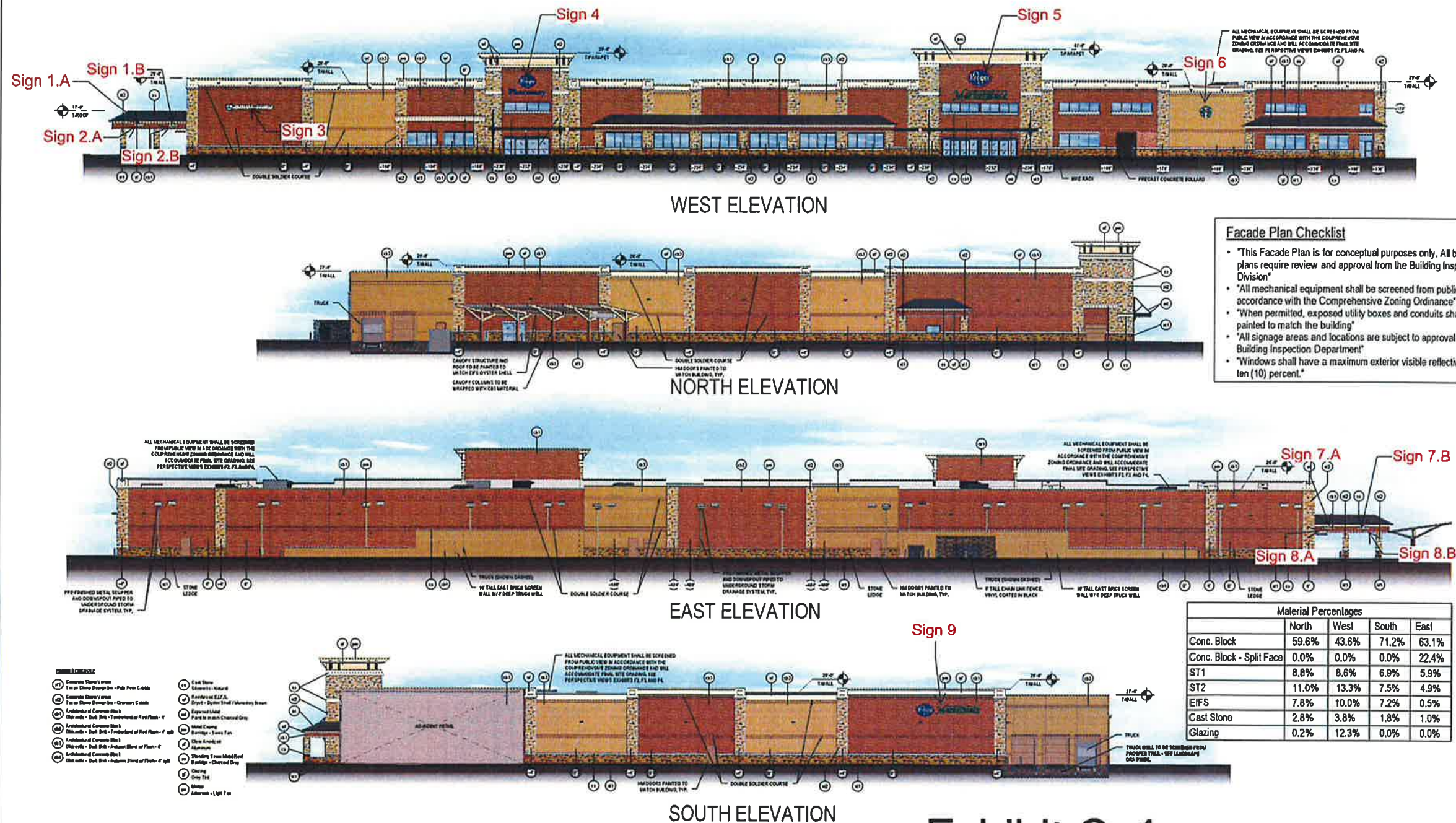


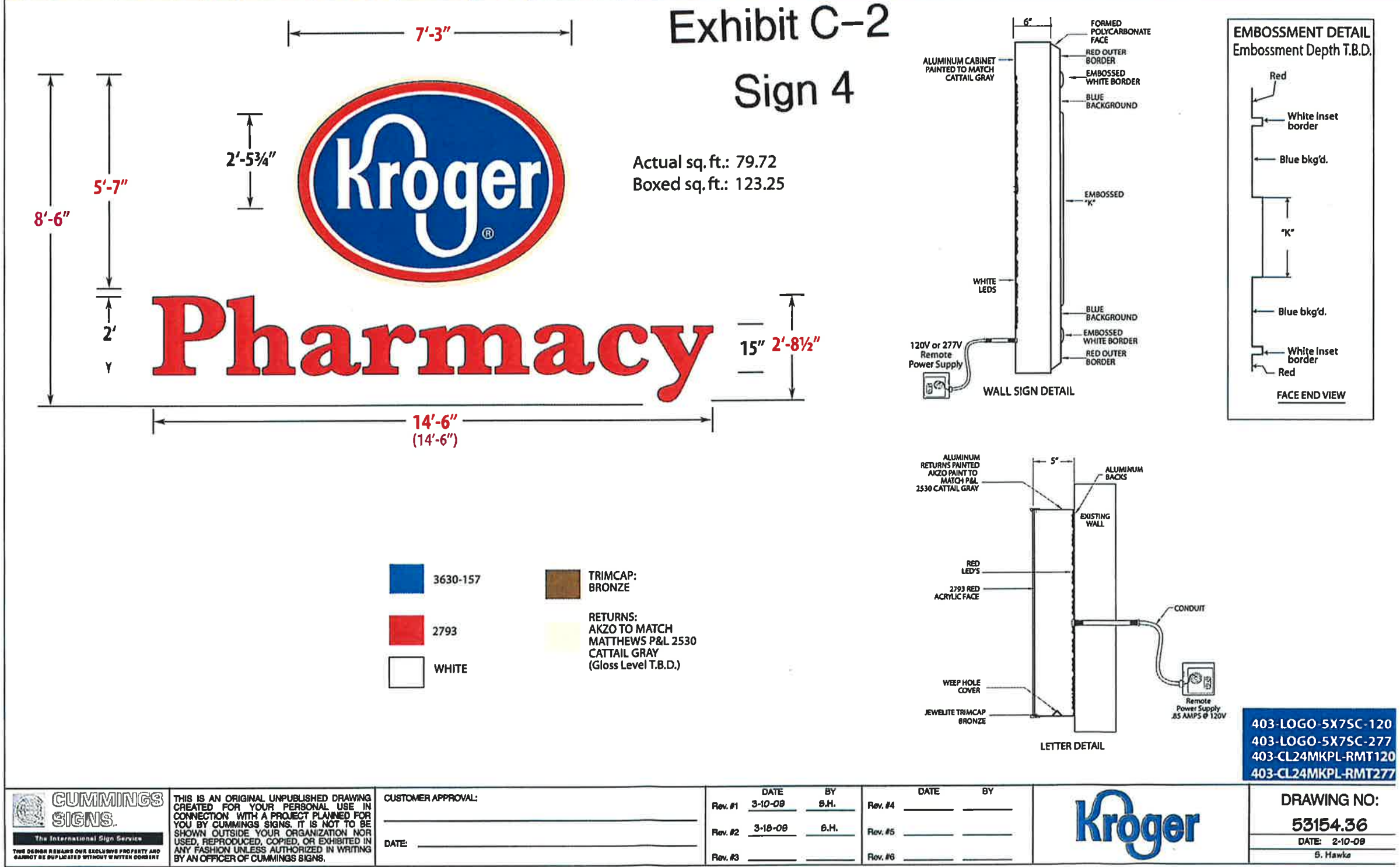
EXHIBIT F1 - CONCEPT ELEVATIONS

November 2, 2015

Exhibit C-1









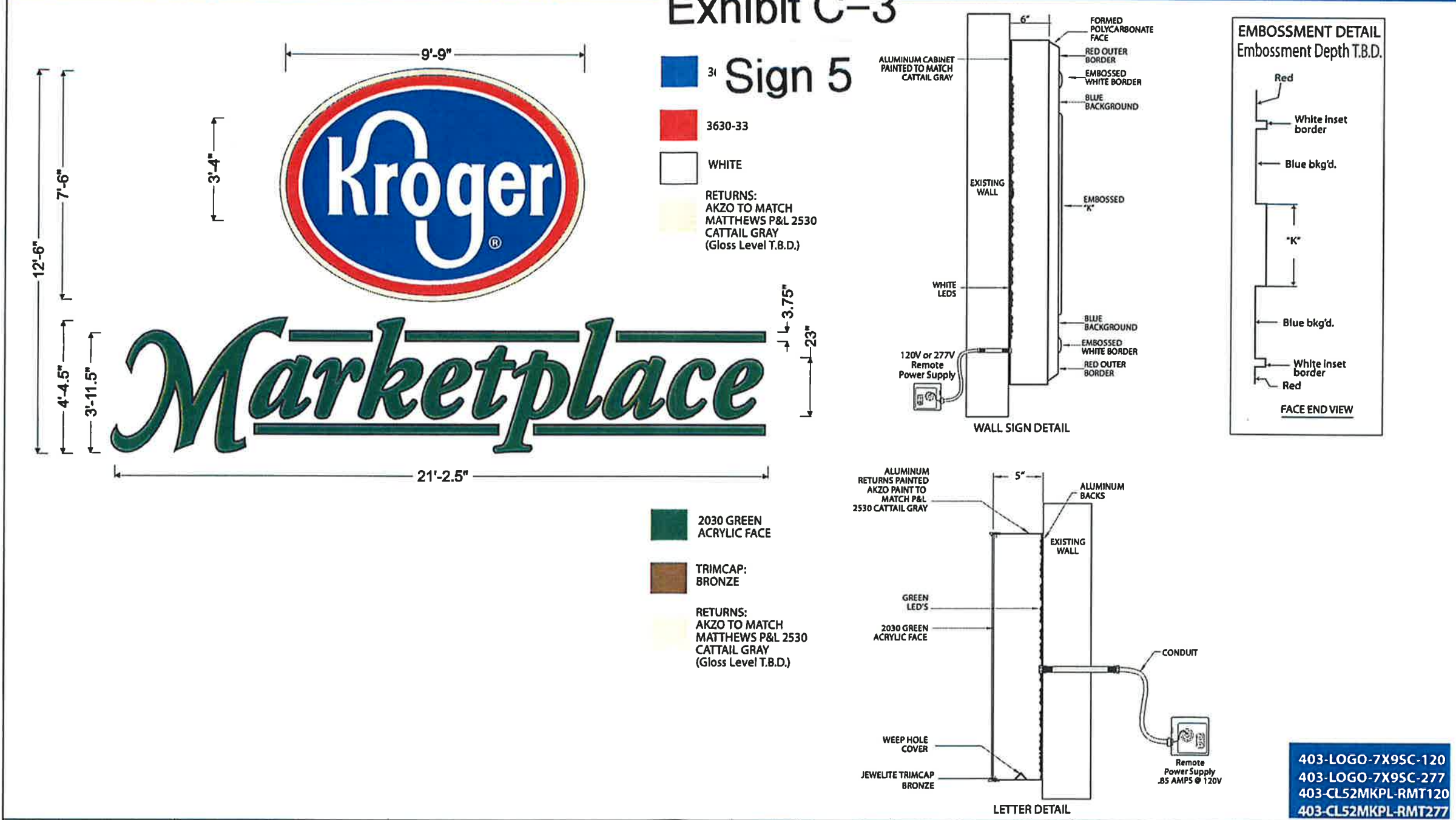
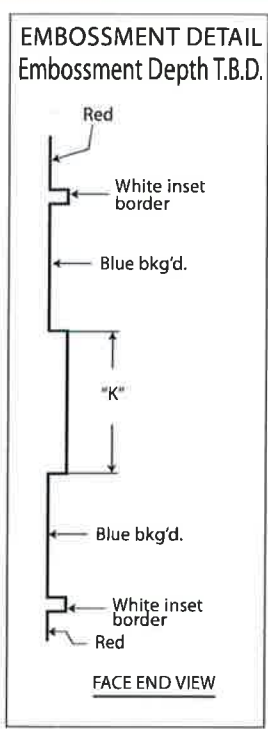
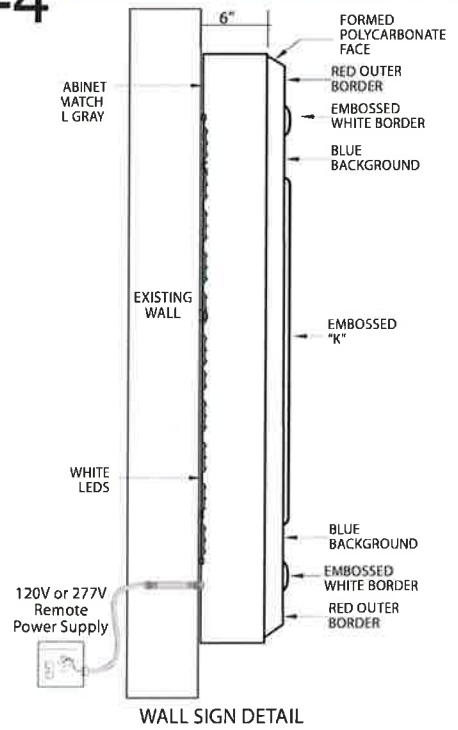
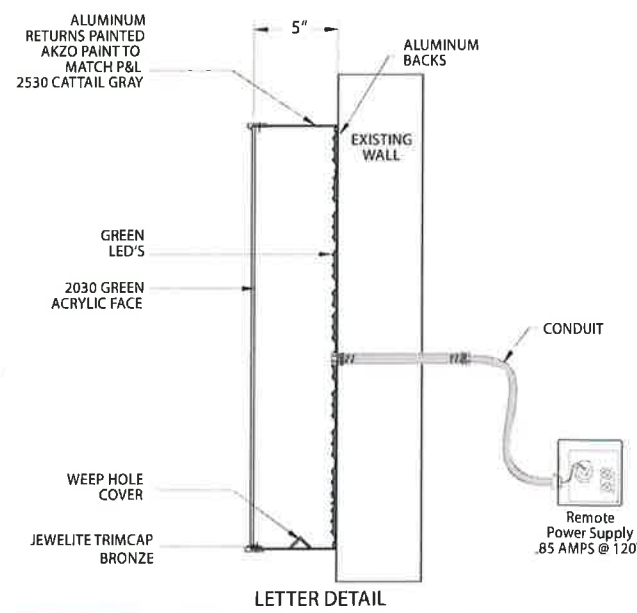


Exhibit C-4

Sign 9





- 2030 GREEN ACRYLIC FACE
- TRIMCAP: BRONZE
- RETURNS: AKZO TO MATCH MATTHEWS P&L 2530 CATTAIL GRAY (Gloss Level T.B.D.)



SIGNAGE SQ. FOOTAGE: 265.25 (BOXED)  
SIGNAGE SQ. FOOTAGE: 165.91 (ACTUAL)

403-LOGO-7X9SC-120  
403-LOGO-7X9SC-277  
403-CL52MKPL-RMT120  
403-CL52MKPL-RMT277

 <small>THIS IS AN ORIGINAL UNPUBLISHED DRAWING CREATED FOR YOUR PERSONAL USE IN CONNECTION WITH A PROJECT PLANNED FOR YOU BY CUMMINGS SIGNS. IT IS NOT TO BE SHOWN OUTSIDE YOUR ORGANIZATION NOR USED, REPRODUCED, COPIED, OR EXHIBITED IN ANY FASHION UNLESS AUTHORIZED IN WRITING BY AN OFFICER OF CUMMINGS SIGNS.</small>	CUSTOMER APPROVAL:  DATE: _____	Rev. #1 Rev. #2 Rev. #3	DATE 3-18-09 _____ _____ _____	BY S.H. _____ _____ _____	Rev. #4 Rev. #5 Rev. #6	DATE _____ _____ _____ BY _____ _____ _____		DRAWING NO: 53154.34
								DATE: 2-9-09
								S. Hawke

**Exhibit "D"**

**Sign Schedule / Development Standards**

<b>Sign Number</b>	<b>Type</b>	<b>Does Not Comply With:</b>	<b>Section</b>
1.A	Wall Sign (Exit)	Not Applicable	
1.B	Wall Sign (Exit)	Not Applicable	
2.A	Wall Sign (Do Not Enter)	Not Applicable	
2.B	Wall Sign (Do Not Enter)	Not Applicable	
3	Wall Sign (Drive Thru)	Not Applicable	
4	Wall Sign (Kroger Pharmacy)	Maximum Wall Height	1.09 N.2.c.4
5	Wall Sign (Kroger Marketplace)	Maximum Wall Height	1.09 N.2.c.4
6	Wall Sign (Starbucks Logo)	Not Applicable	
7.A	Wall Sign (Enter)	Not Applicable	
7.B	Wall Sign (Enter)	Not Applicable	
8.A	Wall Sign (Open/Close LED)	Not Applicable	
8.B	Wall Sign (Open/Close LED)	Not Applicable	
9	Wall Sign (Kroger Marketplace)	Maximum Wall Height	1.09 N.2.c.4