

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 18-15

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE; GRANTING A SPECIFIC USE PERMIT (SUP) FOR A TEMPORARY WIRELESS COMMUNICATION AND SUPPORT STRUCTURE, LOCATED ON A TRACT OF LAND CONSISTING OF 0.005 ACRES, MORE OR LESS, IN THE C. SMITH SURVEY, ABSTRACT NO. 1681, IN THE TOWN OF PROSPER, DENTON COUNTY, TEXAS; 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 the Zoning Ordinance should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request from TVG Texas I, LLC ("Applicant") for a Specific Use Permit (SUP) for a temporary wireless communication and support structure, on a tract of land zoned Planned Development-40-Townhome, consisting of 0.05 acres of land, more or less, in the C. Smith Survey, Abstract No. 1681, in the Town of Prosper, Denton County, Texas, and being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes; and

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

WHEREAS, all legal notices required to grant a Specific Use Permit (SUP) have been given in the manner and form set forth by law, Public Hearings have been held, and all other requirements of notice and completion of such 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

Specific Use Permit Granted. The Town's Zoning Ordinance is amended as follows: Applicant is granted a Specific Use Permit (SUP) for a temporary wireless communication and support structure, on a tract of land zoned Planned Development-40-Townhome, consisting of 0.05 acres of land, more or less, in the C. Smith Survey, Abstract No. 1681, in the Town of Prosper, Denton County, Texas, and being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes as if set forth verbatim.

The development plans, standards, and uses for the Property in this Specific Use Permit shall conform to, and comply with 1) the concept plan, attached hereto as Exhibit "B" and 2) the concept elevations, attached hereto as Exhibit "D"; which are incorporated herein for all purposes as if set forth verbatim. Approval of the Specific Use Permit is subject to the following conditions:

1. Expiration of the Specific Use Permit one-year following the date of Town Council Approval.
2. Removal of the wireless communication & support structure, all associated ground-mounted equipment, and gravel access drive, prior to expiration of the Specific Use Permit; and
3. Painting of the antennas and brackets to match the color of the main pole support structure.

All development plans, standards, and uses for the Property 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.

Two (2) original, official, and identical copies of the zoning exhibit map are hereby adopted and shall be filed and maintained as follows:

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

SECTION 3

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

SECTION 4

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

SECTION 5

Penalty. Any person, firm, corporation or business entity violating this Ordinance or any provision of Prosper's Zoning Ordinance No. 05-20, or as amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Prosper from filing suit to enjoin the violation. Prosper retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 6

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

SECTION 7


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

SECTION 8

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

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 27TH DAY OF FEBRUARY, 2018.

ATTEST



Robyn Battle

Robyn Battle, Town Secretary

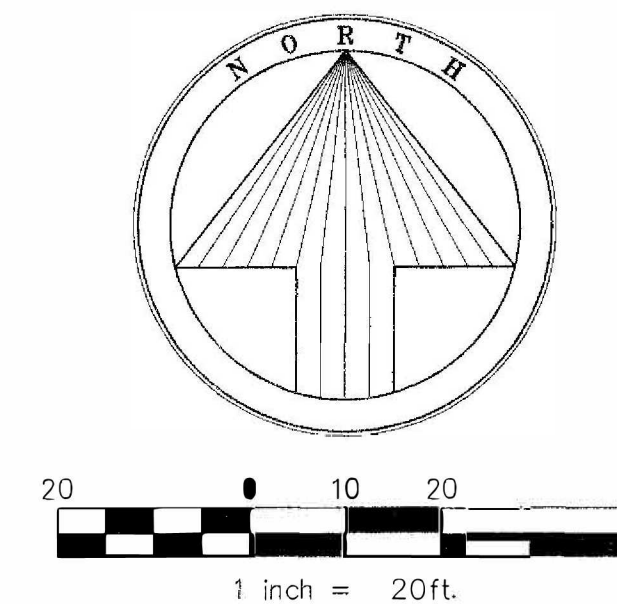
Ray Smith

Ray Smith, Mayor

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch

Terrence S. Welch, Town Attorney



STATE OF TEXAS §
COUNTY OF DENTON §

BEING a tract of land situated in the C. Smith Survey, Abstract No. 1681, Town of Prosper, Denton County, Texas, the subject tract being a portion of a tract conveyed to TVG Texas I, LLC according to the deed recorded in Document No. 2012-59927 of the Deed Records, Denton County, Texas, with the subject tract being more particularly described as follows:

COMMENCING at a 1/2" iron rod found on the south right-of-way of Pine Leaf Lane and the northeast corner of Lot 3, Block B, Windsong Ranch Phase 2D-1, an addition to the Town of Prosper recorded in Document No. 2016-168 of the Plat Records, Denton County, Texas;

THENCE N 50°53'32 E, a distance of 110.48 feet to the POINT OF BEGINNING;

THENCE N 20°08'07" E, a distance of 10.00 feet, to a 1/2" iron rod with a plastic cap stamped "SPIARSEN" set;

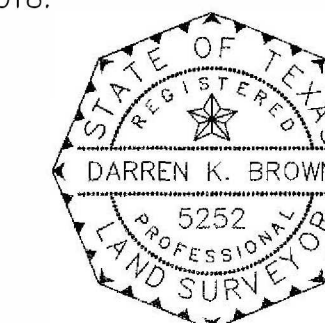
THENCE S 69°51'53" E, a distance of 20.00 feet, to a 1/2" iron rod with a plastic cap stamped "SPIARSEN" set;

THENCE S 20°08'07" W, a distance of 10.00 feet, to a 1/2" iron rod with a plastic cap stamped "SPIARSEN" set;

THENCE N 69°51'53" W, a distance of 20.00 feet to THE POINT OF BEGINNING with the subject tract containing 200.00 square feet or 0.005 acres of land.

That I, Darren K. Brown, of Spiers 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 _____, 2018.



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

Notes:

1. No 100 year floodplain exists on this site.

TOWN OF PROSPER S18-0001
Exhibit A - PROPERTY SURVEY

Page 1 of 1

BEING 0.005 ACRES OF LAND
In The C. Smith Survey ~ Abstract No. 1681
TOWN OF PROSPER
DENTON COUNTY, TEXAS

OWNER / APPLICANT
TVG TEXAS I, LLC
2242 Good Hope Road
Prosper, Texas 75078
Telephone (469) 532-0611
Contact: David Blom

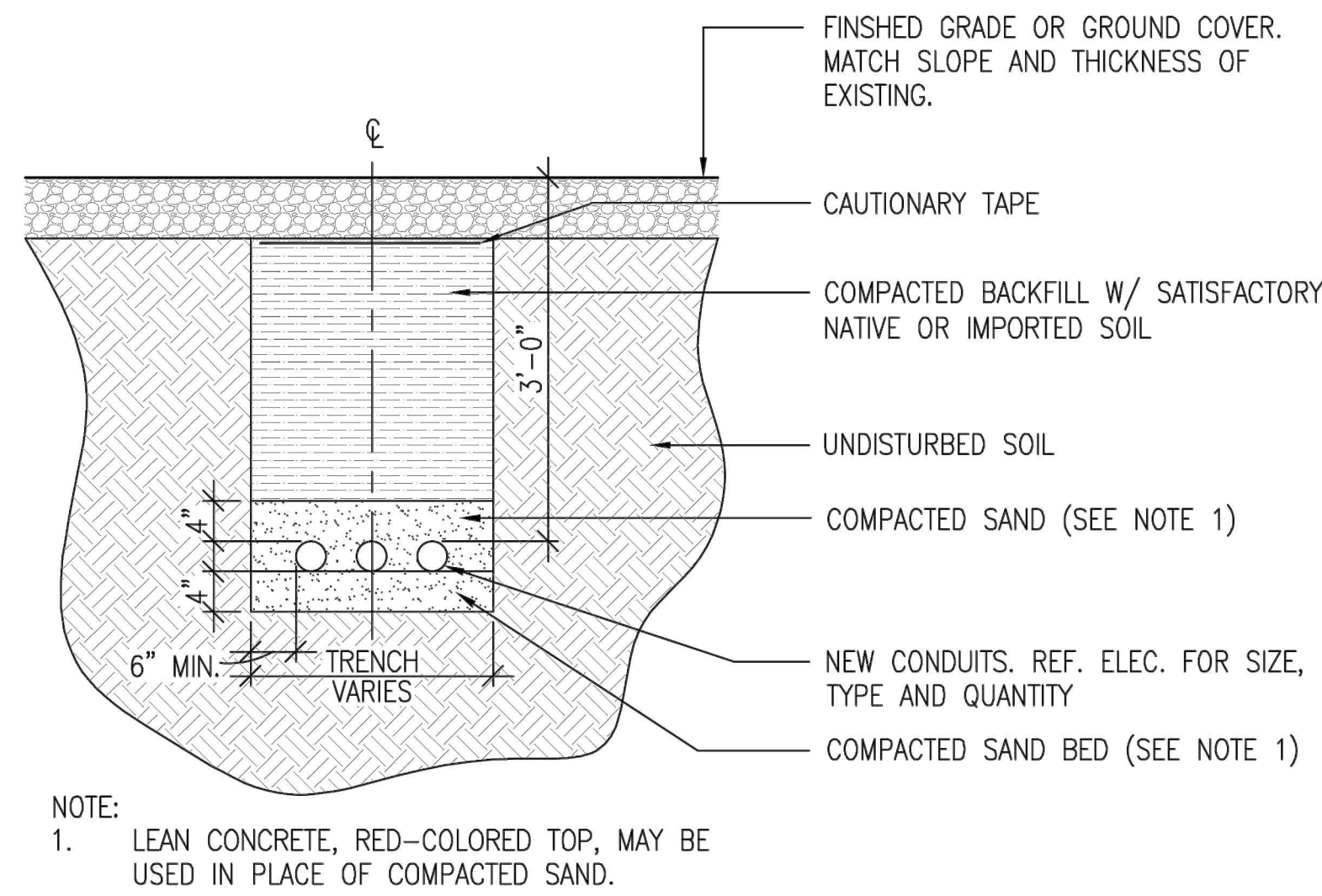
ENGINEER / SURVEYOR
Spiars Engineering, Inc.
765 Custer Road, Suite 100
Plano, TX 75075
Telephone: (972) 422-0077
TBPE No. F-2121
Contact: Matt Dorsett

BENCH MARKS:

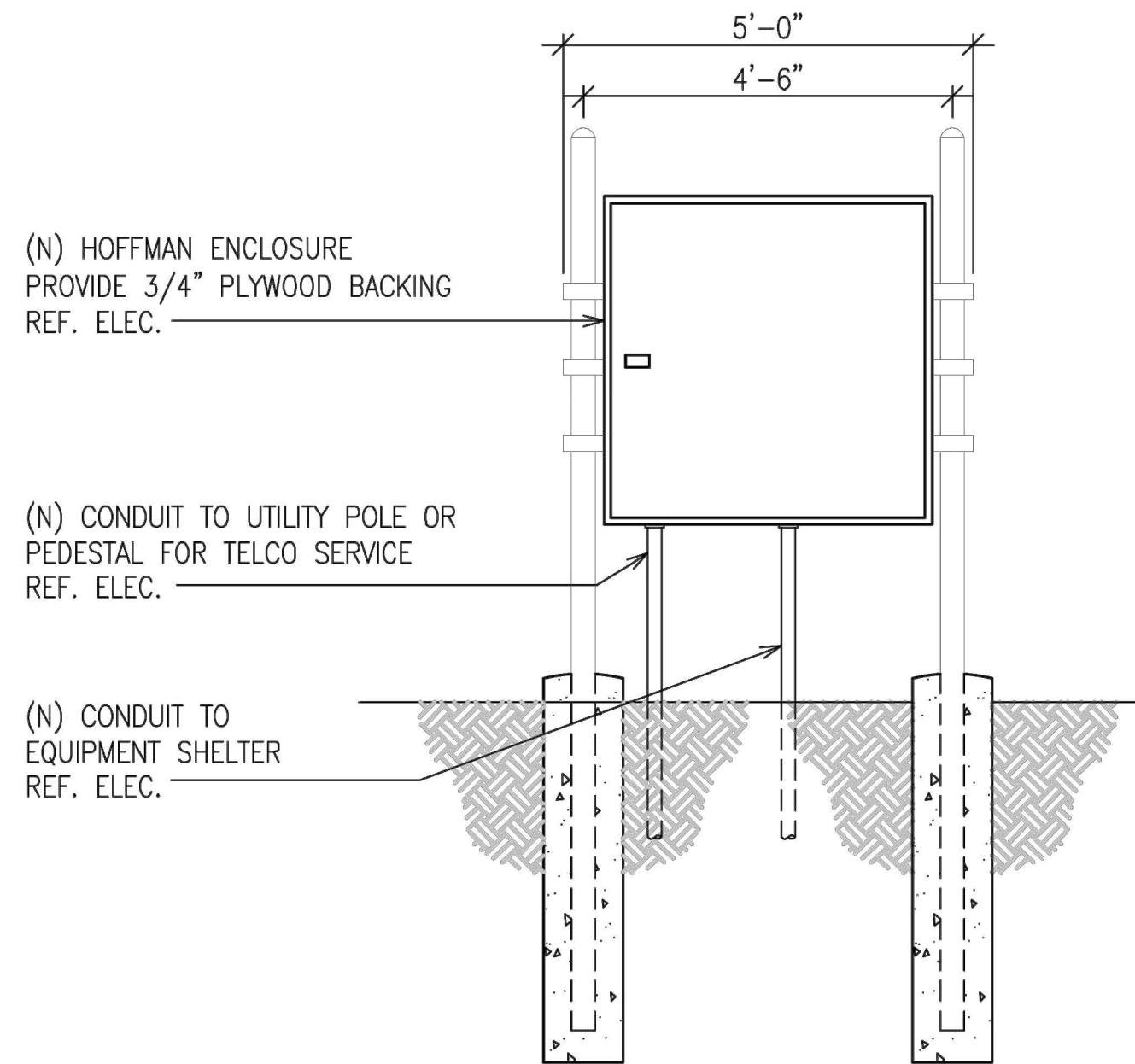
- BENCH MARKS:
1. 'PK' Nail found at the centerline intersection of Fishtrap Road and Good Hope Road. Elev.=568.86
 2. Rail Road Spike found at the centerline intersection of Fishtrap Road and Gee Road. Elev.=546.55

Scale: 1"=20' January, 2018 SEI Job No. 15-042

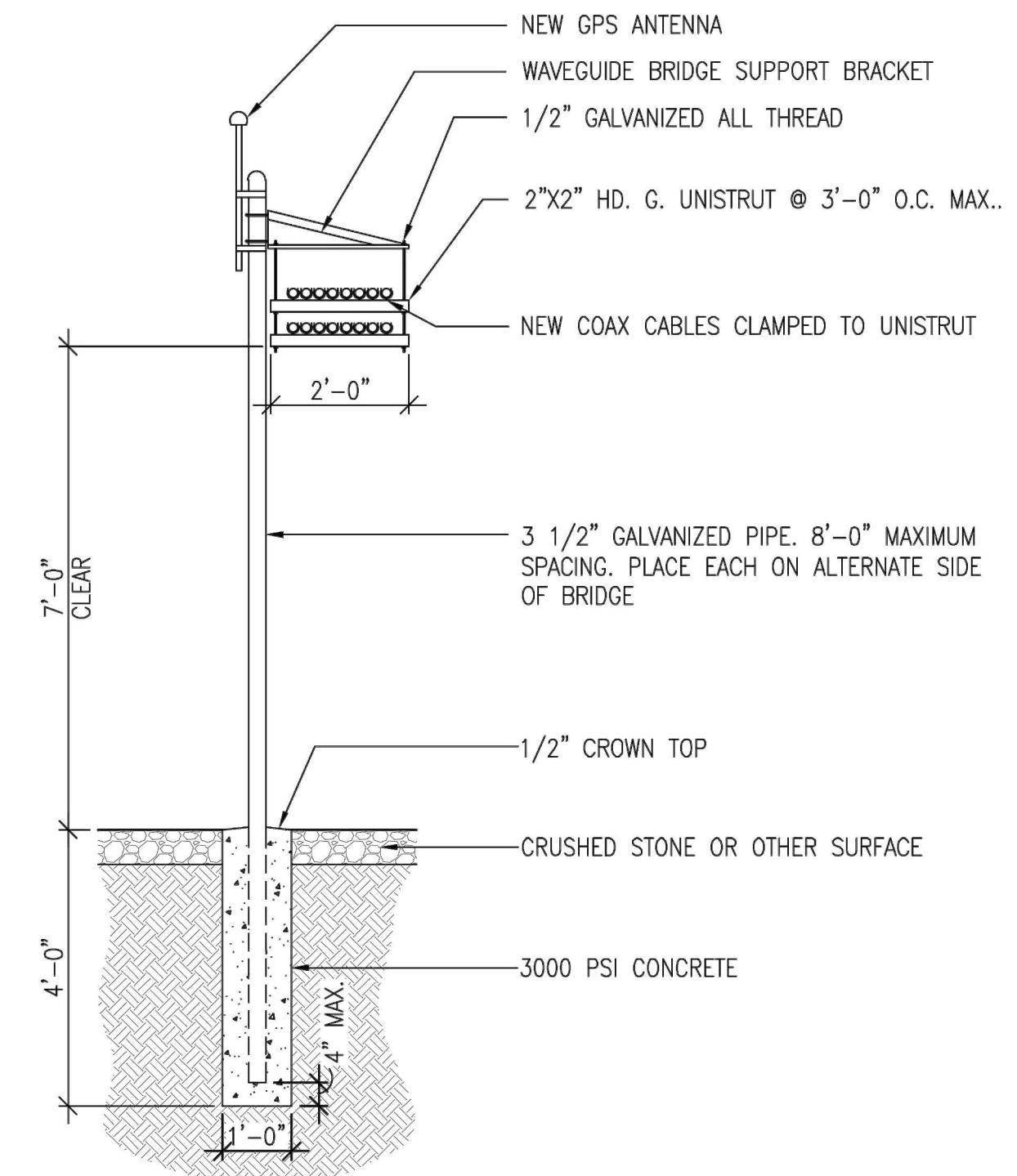
Drawn: 01/2018 JDB/SL/10-102 WindSong Ranch Phase 2C-1 USCA/AT&T CELL TOWER EXHIBIT D - Elevations
Printed by: Upstream Plot Date: 1/21/2018 12:02 PM
Date: 1/21/2018 12:02 PM



4 UTILITY TRENCH DETAIL
SCALE: NTS

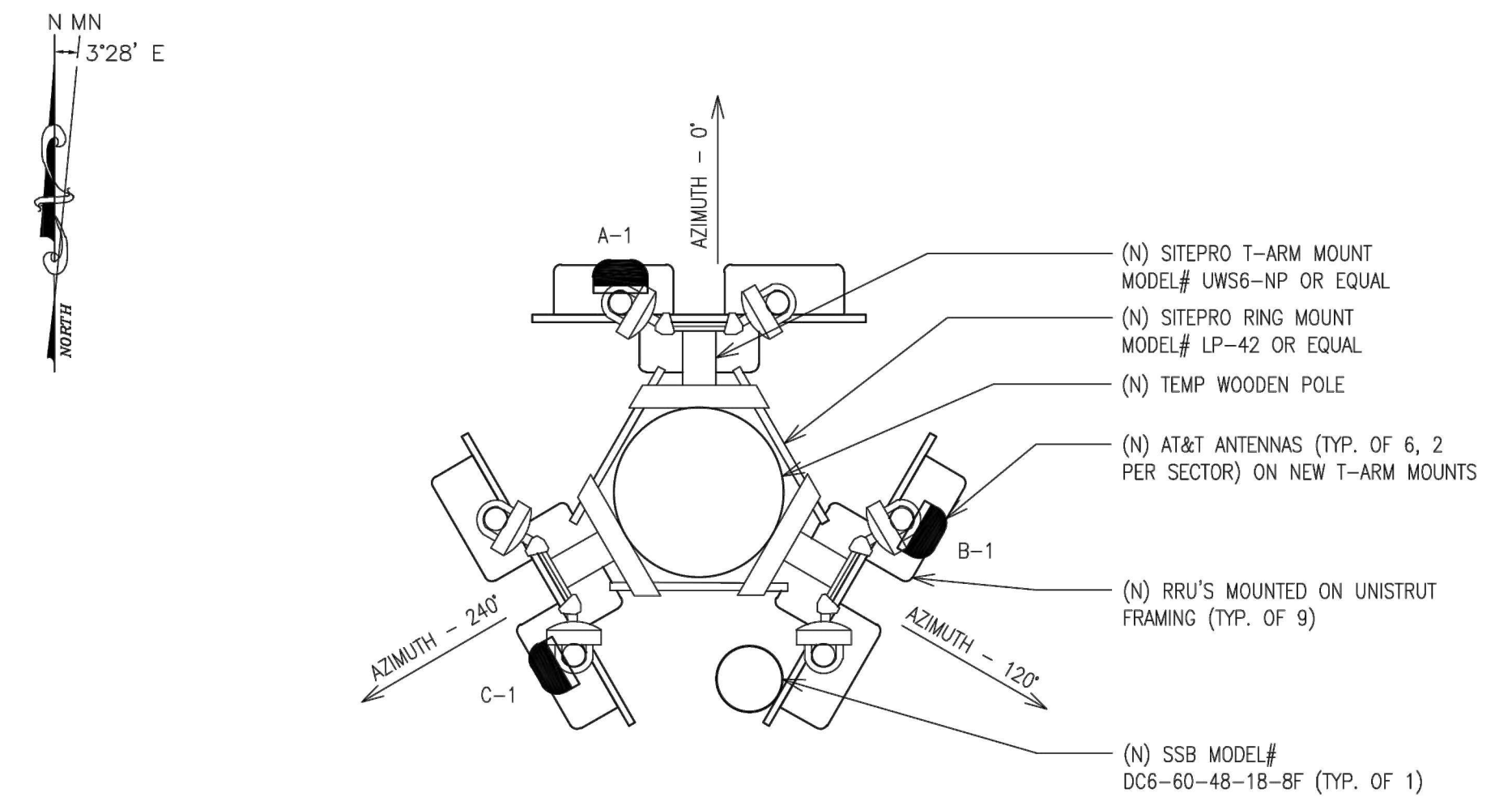


5 UTILITY RACK (REAR)
SCALE: NTS



1 ICE BRIDGE DETAIL
SCALE: NTS

NOTE:
BEFORE INSTALLING ANY EQUIPMENT CONTRACTOR MUST CHECK WITH AT&T PROJECT MANAGER AND AT&T RF ENGINEER FOR MOST RECENT RF CONFIGURATION SHEET.



2 ANTENNA ORIENTATION
SCALE: NTS

TOWN OF PROSPER S18-0001
Exhibit D - Elevations

Sheet 1 of 1

WINDSONG RANCH TEMPORARY WIRELESS COMMUNICATION AND SUPPORT STRUCTURE

BEING 0.005 ACRES OF LAND
In The C. Smith Survey ~ Abstract No. 1681
TOWN OF PROSPER
DENTON COUNTY, TEXAS

OWNER / APPLICANT
TVG TEXAS I, LLC
2242 Good Hope Road
Prosper, Texas 75078
Telephone (469) 532-0681
Contact: David Blom

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

January, 2018 SEI Job No. 15-042