

## TOWN OF PROSPER, TEXAS

## ORDINANCE NO. 18-66

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE; GRANTING A SPECIFIC USE PERMIT (SUP) FOR A RESTAURANT WITH DRIVE-THROUGH, CONSISTING OF 2.47 ACRES, MORE OR LESS, IN THE S. RICE SURVEY, ABSTRACT NO. 787, IN THE TOWN OF PROSPER, COLLIN 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 Victory Shops at Frontier, LLC ("Applicant") for a Specific Use Permit (SUP) for a restaurant with drive-through, consisting of 2.47 acres of land, more or less, in the S. Rice Survey, Abstract No. 787, in the Town of Prosper, Collin 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 restaurant with drive through, consisting of 2.47 acres of land, more or less, in the S. Rice Survey, Abstract No. 787, in the Town of Prosper, Collin 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 site plan, attached hereto as Exhibit "B", 2) the

landscape plan, attached hereto as Exhibit "C", and 3) the façade plan, attached hereto as Exhibit "D", which is incorporated herein for all purposes as if set forth verbatim.

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 28TH DAY OF AUGUST, 2018.**

**ATTEST:**



The seal of the Town of Prosper, Texas, is circular with a five-pointed star in the center. The words "TOWN OF PROSPER" are written in a circle around the star, and "TEXAS" is written at the bottom. The seal is partially obscured by the signature of Robyn Battle.

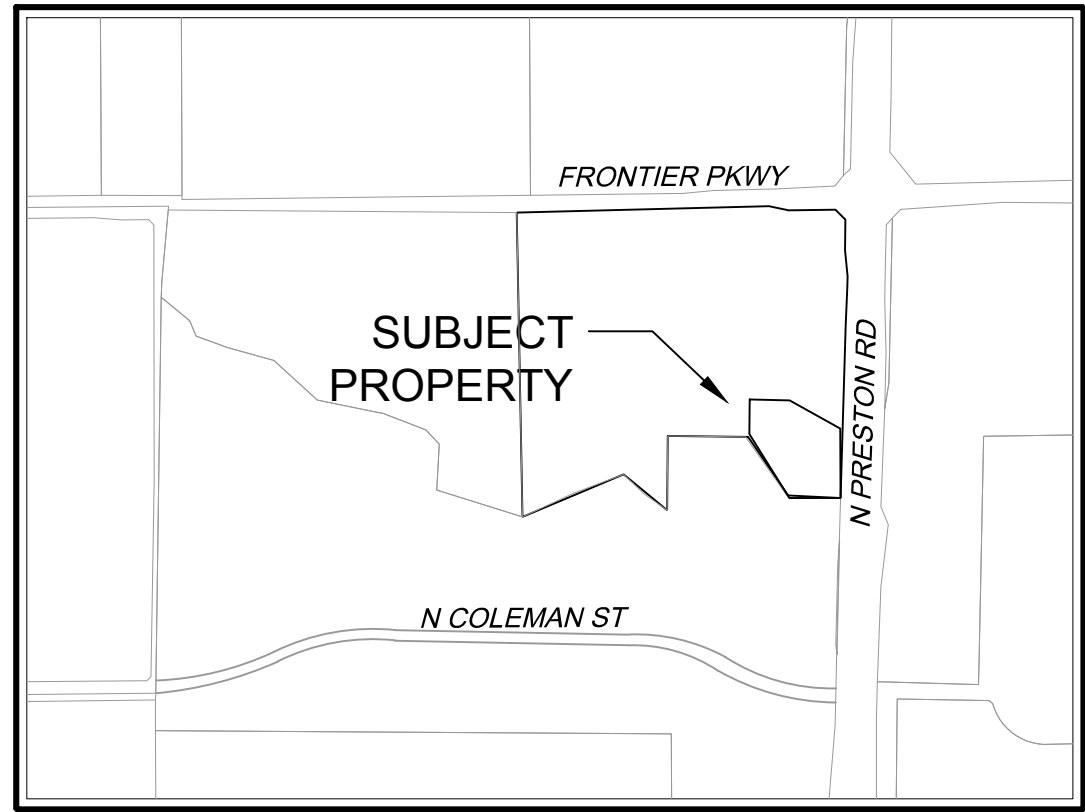
  
Robyn Battle, Town Secretary

  
Ray Smith, Mayor

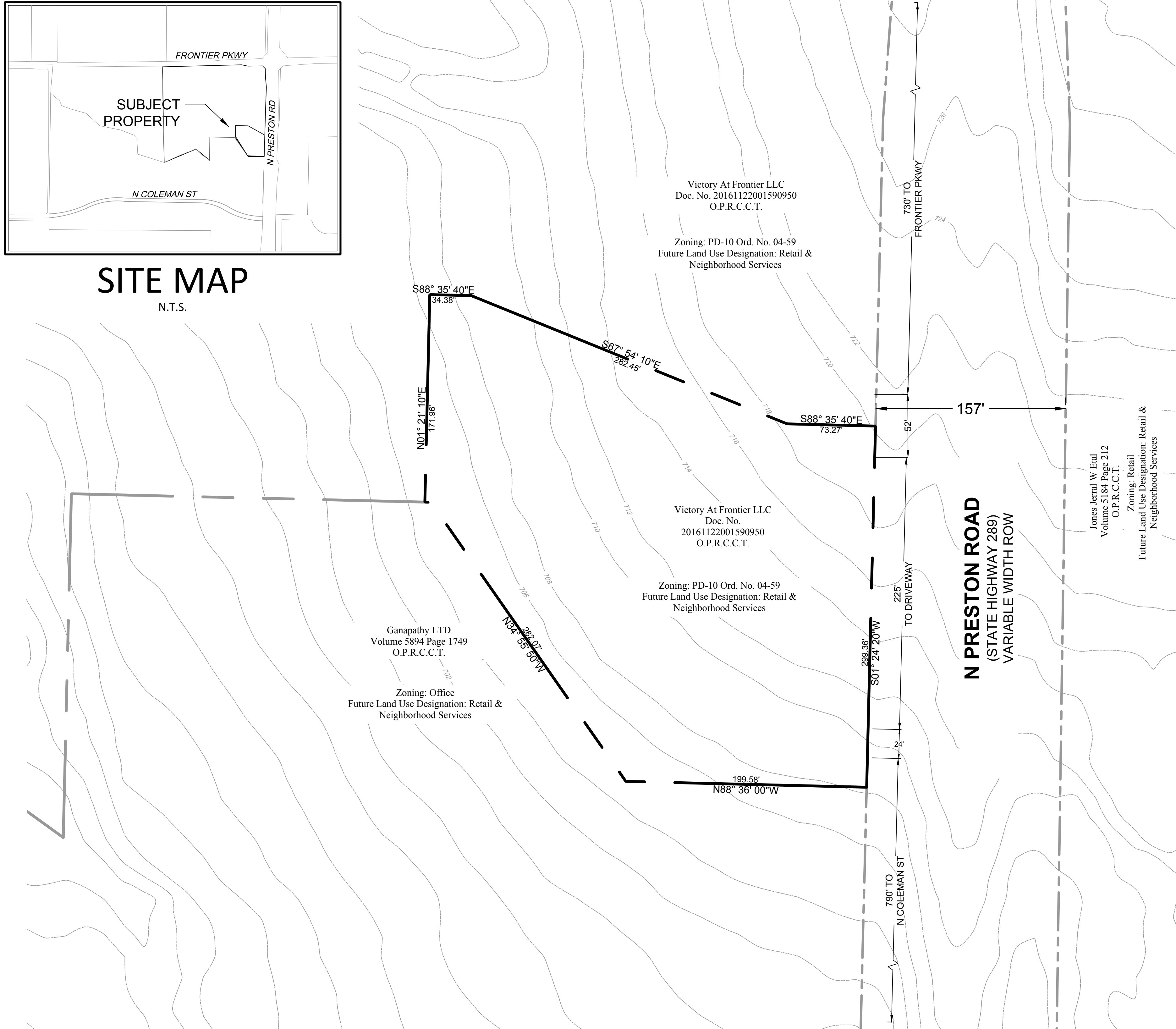
**APPROVED AS TO FORM AND LEGALITY:**

  
Terrence S. Welch, Town Attorney





SITE MAP  
N.T.S.



LEGAL DESCRIPTION:

**WHEREAS**, Victory at Frontier, LLC is the owner of a 2.474 acre tract of land situated in the Spencer Rice Survey, Abstract No. 787, in the Town of Prosper, Collin County, Texas, being a part of that same tract of land conveyed to Victory at Frontier, LLC by deed recorded in Document No. 20161122001590950 of the Deed Records of Collin County, Texas, and being more particularly described by metes and bounds as follows (Bearings and distances are based on the State Plane Coordinate System, Texas North Central Zone (4202) North American Datum of 1983 (NAD 83)(US Foot) with a combined scale factor of 1.000152710):

**COMMENCING** at a TXDOT monument found for the easternmost Northeast corner of said Victory at Frontier, LLC tract, at the southerly end of a corner clip at the intersection of the South right-of-way line of Frontier Parkway (variable width right-of-way) and the West right-of-way line of N. Preston Road (State Highway 289) (variable width right-of-way);

**THENCE**, with the West right-of-way line of said N. Preston Road, the following courses and distances:

1. South 01 Degrees 23 Minutes 32 Seconds West, a distance of 117.44 feet to a TXDOT monument found;
2. South 04 Degrees 45 Minutes 06 Seconds East, a distance of 100.58 feet to a 5/8 inch rebar found;
3. South 01 Degrees 24 Minutes 24 Seconds West, a distance of 85.46 feet to a 5/8 inch rebar found;
4. South 04 Degrees 16 Minutes 09 Seconds West, a distance of 200.25 feet to a TXDOT monument found;
5. South 01 Degrees 24 Minutes 24 Seconds West, a distance of 254.82 feet to a 1/2 inch rebar with cap stamped "Windrose" set for corner for the POINT OF BEGINNING;

**THENCE** South 01 Degrees 24 Minutes 24 Seconds West, continuing with the West right-of-way line of said N. Preston Road, a distance of 299.36 feet to a 5/8 inch rebar found for the Northeast corner of a tract of land conveyed to Ganapathy Ltd. by deed recorded in Volume 5894, Page 1749 of the Deed Records of Collin County, Texas, same being the Southeast corner of said Victory at Frontier, LLC tract;

**THENCE**, departing the West right-of-way line of said N. Preston Road, and with the perimeter and to the corners of said Ganapathy Ltd. tract, the following courses and distances:

1. North 88 Degrees 36 Minutes 03 Seconds West, a distance of 199.57 feet to a 5/8 inch rebar found for corner;
2. North 34 Degrees 55 Minutes 47 Seconds West, a distance of 282.07 feet to a 5/8 inch rebar found for corner;
3. North 88 Degrees 38 Minutes 52 Seconds West, a distance of 5.00 feet to a 1/2 inch rebar with a cap stamped "Windrose" set for corner;

**THENCE** North 01 Degrees 21 Minutes 08 Seconds East, departing the North line of said Ganapathy Ltd. tract, over, across and through said Victory at Frontier, LLC tract, a distance of 171.96 feet to a 1/2 inch rebar with a cap stamped "Windrose" set for corner;

**THENCE** South 88 Degrees 35 Minutes 36 Seconds East, continuing through said Victory at Frontier, LLC tract, a distance of 34.38 feet to a 1/2 inch rebar with a cap stamped "Windrose" set for corner;

**THENCE** South 67 Degrees 54 Minutes 10 Seconds East, continuing through said Victory at Frontier, LLC tract, a distance of 282.43 feet to a 1/2 inch rebar with a cap stamped "Windrose" for corner;

**THENCE** South 88 Degrees 35 Minutes 36 Seconds East, continuing through said Victory at Frontier, LLC tract, a distance of 73.27 feet to the POINT OF BEGINNING and containing 107,770 square feet or 2.474 acres of land, more or less.

OWNER

Victory at Frontier, LLC  
8001 LBJ Freeway, Suite 400  
Dallas, Texas 75251  
Telephone 972-707-9555  
Contact: Kris Ramji

ENGINEER/APPLICANT

Kirkman Engineering  
4821 Merlot Ave., Suite 210  
Grapevine, Texas 76051  
Telephone (817) 488-4960  
TBPE No. 15874  
Contact: Patrick Filson, P.E.

CASE NO. S17-0005

EXHIBIT A  
VICTORY SHOPS AT  
FRONTIER

2.47 ACRES SITUATED IN THE  
SPENCER RICE SURVEY, ABS. NO. 787  
IN THE TOWN OF PROSPER,  
COLLIN COUNTY, TEXAS



4821 Merlot Avenue, Suite 210  
Grapevine, Texas 76051  
Phone: 817-488-4960

DEVELOPER/OWNER



JOB NUMBER: VIC17007\_FRONTIER

DESIGNED BY:

DRAWN BY:

CHECKED BY:

ISSUE DATE: 01-03-18

REV:

Kirkman Engineering, LLC  
Texas Firm No: 15874

VICTORY SHOPS  
AT FRONTIER

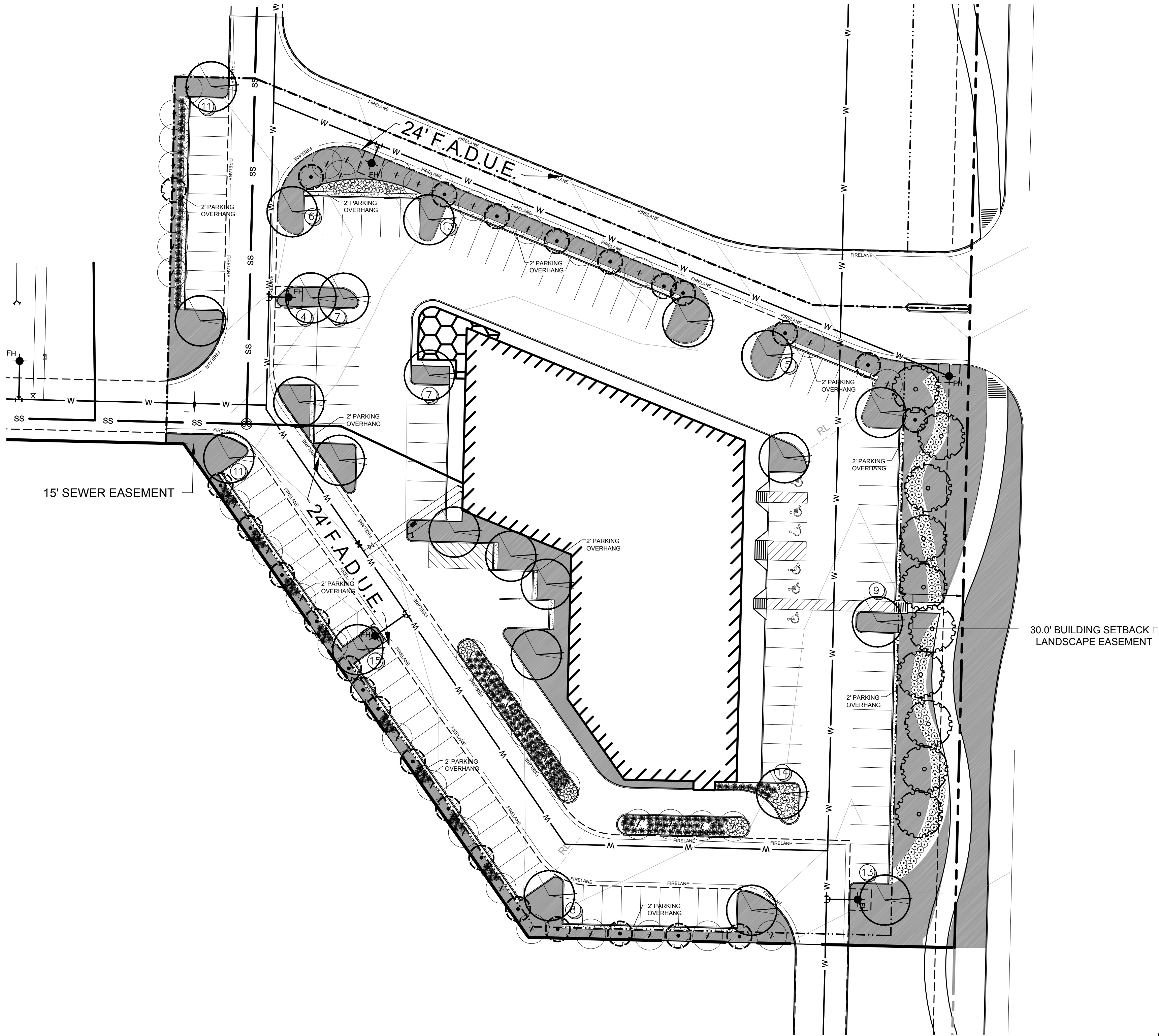
PROSPER,  
TEXAS

SHEET:



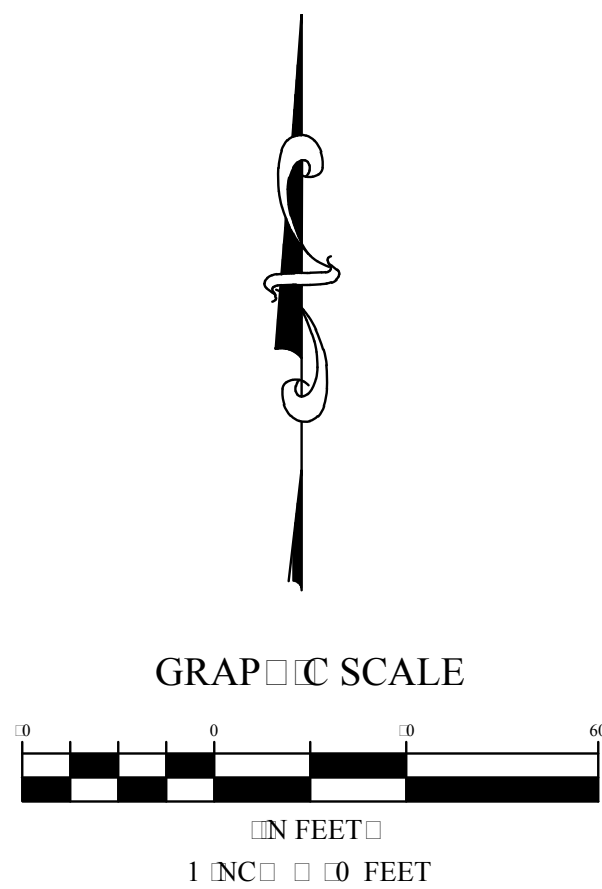






**IRRIGATION NOTE**  
ALL LANDSCAPED AREAS MUST BE IRRIGATED BY AN AUTOMATIC UNDERGROUND IRRIGATION SYSTEM EQUIPPED WITH OPERATING RAIN AND FREEZE SENSORS.

**TREE MITIGATION NOTE:**  
NO TREE MITIGATION IS REQUIRED.



**BENCHMARKS**

1. AN "X" CUT SET ON A CURB INLET WHICH BEARS S13° 47'E, 84.93' FROM THE SOUTHEAST PROPERTY CORNER. ELEVATION :708.16'
2. AN "X" CUT SET WHICH BEARS S02°38'W, 458.75' FROM THE SOUTHWEST PROPERTY CORNER. ELEVATION :704.14
3. AN "X" CUT ON THE SOUTH NOSE OF AN ISLAND AT THE NORTH SIDE OF THE CENTERLINE INTERSECTION OF FRONTIER PARKWAY WITH PRESTON ROAD WHICH BEARS N49°13'E 177.47' FROM THE NORTHERNMOST CORNER OF A CORNER CLIP. ELEVATION :730.04'



P.O. BOX 28 COLLINSVILLE, TEXAS 76233  
WWW.LONDON-LANDSCAPES.NET

**KEY**

**TREES**

	23	UL	Ulmus crassifolia	Cedar Elm	3" Cal. Min. Cont. Grown-65 Gal. 12'-15' Height, 6'-8' Spread Specimen
	10	QT	Quercus texana	Texas Red Oak	3" Cal. Min. Cont. Grown-65 Gal. 12'-15' Height, 6'-8' Spread Specimen
	43	CH	Chilopsis linearis	Desert Willow	3" Trunk Min. 30 Gal. Cont. Grown 1" Cal. Per Trunk, 4-5 Cones 8' Height, 5' Spread, Specimen
	27	JV	Juniperus virginiana	Eastern Red Cedar	3" Trunk Min. 30 Gal. Cont. Grown 8' Height, 5' Spread, Specimen

**SHRUBS**

	56	HES	Hesperaloe parviflora	Red Yucca	5 Gal. Minimum 18" Minimum height at planting Spaced per plan, matching
	150	HES	Raphiopalms indica 'Snow White'	Dwarf Indian Hawthorne	5 Gal. Minimum 18" Minimum height at planting Spaced per plan, matching
	190	MUL	Muhlenbergia 'Pink Flamingo'	Pink Flamingo Muhly Grass	5 Gal. Minimum 30" Minimum height at planting Spaced per plan, matching

**GROUND COVER**

	202 SY	DG	Decomposed Granite		
	2,000 SY	SOD	Common Bermuda Grass	Bermuda Grass	Solid sod Sand fill joints and provide uniform coverage within 30 days of completion

**LANDSCAPE CALCULATIONS**

A MINIMUM 10% OF PLATTED AREA TO BE LANDSCAPED  
PROVIDED LANDSCAPE AREA: 2,600 SY

**30' LANDSCAPE BUFFER ALONG PRESTON ROAD MEASURED FROM THE PROPERTY LINE**

- REQUIRED: 1 CANOPY TREE FOR EVERY 30 LINEAR FEET  
300 LF ÷ 30 = 10 TREES
- PROVIDED: 10 TREES
- REQUIRED: A MINIMUM OF 15 SHRUBS WITH A MINIMUM SIZE OF FIVE (5) GALLONS EACH WILL BE PLANTED IN THE LANDSCAPE AREA FOR EVERY 30 LINEAR FEET OF FRONTAGE  
300 LF ÷ 30 = 10 X 15 SHRUBS = 150 SHRUBS
- PROVIDED: 150 SHRUBS

**5' LANDSCAPE BUFFER AROUND THE PERIMETERS OF THE PROPERTY**

- REQUIRED: ONE SMALL TREE AND ONE FIVE-GALLON SHRUB SHALL BE PLANTED EVERY 15 LINEAR FEET.  
687 LF ÷ 15 = 45 TREES AND 45 SHRUBS
- PROVIDED: 59 TREES AND 90 SHRUBS

**INTERIOR PARKING LANDSCAPING (ALL REQUIRED AND PROVIDED)**

- REQUIRED: 15 SQ. FT. OF LANDSCAPING FOR EACH PARKING SPACE SHALL BE PROVIDED WITHIN THE PAVED BOUNDARIES OF THE PARKING LOT AREA.
- PROVIDED: YES
- REQUIRED: LANDSCAPE ISLAND (160 SF ± NO LESS THAN 9' WIDE AND AN EQUAL LENGTH TO THE ABUTTING PARKING SPACE) AT THE END OF EVERY PARKING ROW WITH A CANOPY TREE
- PROVIDED: YES
- REQUIRED: EVERY 15 PARKING SPACES MUST BE INTERRUPTED BY A LANDSCAPE ISLAND
- PROVIDED: YES
- REQUIRED: A CANOPY TREE WITHIN 150 FEET OF EVERY PARKING SPACE
- PROVIDED: YES

**ALL USES CONTAINING A DRIVE-IN OR DRIVE THRU SHALL BE SUBJECT TO THE FOLLOWING STANDARDS**

- REQUIRED: LANDSCAPE ISLAND SHALL CONTAIN EVERGREEN OR DECIDUOUS TREES (3" CALIPER) EVERY 15' ON CENTER WITH SHRUBS (MINIMUM 5 GALLON) EVERY 3' ON CENTER  
153 LF ÷ 15 = 10 TREES      153 LF ÷ 3 = 51 SHRUBS
- PROVIDED: 10 TREES AND 129 SHRUBS



4821 Merlot Avenue, Suite 210  
Grapevine, Texas 76051  
Phone: 817-488-4960

DEVELOPER/OWNER



JOB NUMBER: VIC17007

DESIGNED BY: ASL

DRAWN BY: ASL

CHECKED BY: ASL

ISSUE DATE: 8/11/18

REV:



8/2/18

Kirkman Engineering, LLC  
Texas Firm No: 15874

**VICTORY AT  
FRONTIER RETAIL 1**

**PROSPER,  
TEXAS**

**EXHIBIT C**

**LANDSCAPE  
PLAN**

SHEET:

**L1.00**



