

**AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE; GRANTING A SPECIFIC USE PERMIT (SUP) FOR A WIRELESS COMMUNICATIONS AND SUPPORT STRUCTURE, LOCATED ON A TRACT OF LAND CONSISTING OF 0.086 ACRE, MORE OR LESS, IN THE COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 147, 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 AT&T ("Applicant") for a Specific Use Permit (SUP) for a wireless communications and support structure, on a tract of land zoned Single Family-15 (SF-15), consisting of 0.086 acre of land, more or less, in The Collin County School Land Survey, Abstract No. 147, 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 wireless communications and support structure, on a tract of land zoned Single Family-15 (SF-15), consisting of 0.086 acre of land, more or less, in the Collin County School Land Survey, Abstract No. 147, 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", and 2) the elevations, attached hereto as Exhibit "C", which are incorporated herein for all purposes as if set forth verbatim, subject to the following conditions of approval by the Town Council:

1. Town Council approval of a lease agreement to allow for the use of facilities on Town property;

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 22<sup>nd</sup> DAY OF SEPTEMBER, 2020.**

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

**ATTEST:**

  
\_\_\_\_\_  
Melissa Lee, Town Secretary

**APPROVED AS TO FORM AND LEGALITY:**

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









TITLE INSURANCE COMMITMENT NOTE

I HAVE REVIEWED COMMITMENT FOR TITLE INSURANCE, UNDERWRITTEN BY U.S. TITLE SOLUTIONS, WITH A DATE OF THIS REPORT MAY 2, 2019, FILE NO. 63196–TX1904–5030, REFERENCE NO: DXL07761 – PARCEL 2, AND FIND AS FOLLOWS WITH RESPECT TO THE EXCEPTIONS LISTED IN SCHEDULE B OF SAID COMMITMENT:

SCHEDULE B

THIS IS NOT A COMMITMENT OR PRELIMINARY REPORT OF TITLE TO ISSUE A POLICY OR POLICIES OF TITLE INSURANCE. THE EXHIBITS SET FORTH HEREIN ARE INTENDED TO PROVIDE YOU WITH NOTICE OF MATTERS AFFECTING TITLE TO THE LAND DESCRIBED IN THIS REPORT.

1. Taxes, tax liens, tax sales, water rates, sewer and assessments set forth in schedule herein. GENERAL EXCEPTIONS, NOT THE TYPE TO BE DEPICTED HEREON.

2. Mortgages returned herein. (–0–). See Separate Mortgage Schedule. GENERAL EXCEPTIONS, NOT THE TYPE TO BE DEPICTED HEREON.

3. Any state of facts which an accurate survey might show or survey exceptions set forth herein. GENERAL EXCEPTIONS, NOT THE TYPE TO BE DEPICTED HEREON.

4. Rights of tenants or person in possession. GENERAL EXCEPTIONS, NOT THE TYPE TO BE DEPICTED HEREON.

(Judgments)

5 None of Record. GENERAL EXCEPTIONS, NOT THE TYPE TO BE DEPICTED HEREON.

(Covenants/Restrictions)

6. Buffer Zone Easement (Restrictive Covenant Agreement) by Mahard Egg Farm, Inc. date as of 6/20/1997 recorded 6/24/1997 in book 3939 page 447. DOES AFFECT PARENT PARCEL AND TOWER LEASE. DOES NOT AFFECT A/U EASEMENT. AS SHOWN HEREON IN PARENT TRACT INSERT.

(Easements and Rights of Way)

7. Easement by J. C. Holbrook, and wife, M.C. Holbrook to Texas Power & Light Company, dated 10/13/1924 recorded 12/1/1924 in book 252 page 357.  
Notes: Easement  
DOES NOT AFFECT PARENT PARCEL, TOWER LEASE, OR A/U EASEMENT.

8. Easement by J. C. Holbrook, and wife, M.C. Holbrook to Texas Power & Light Company, dated 10/13/1924 recorded 12/1/1924 in book 252 page 358.  
Notes: Easement  
DOES NOT AFFECT PARENT PARCEL, TOWER LEASE, OR A/U EASEMENT.

9. Warranty Deed by J.A. Hughes and wife, Hattie Hughes to Town of Prosper, dated 3/10/1955 recorded 3/11/1955 in book 355 page 556.  
Notes: Easement  
DOES AFFECT PARENT PARCEL, TOWER LEASE, AND A/U EASEMENT. DESCRIBES 5.0 ACRE PARENT PARCEL. AS SHOWN HEREON IN PARENT TRACT INSERT.

10. Agreement by J. A. Hughes and wife, Hattie Hughes to Lone Star Gas Company, a Corporation, dated 8/15/1955 recorded 12/16/1955 in book 507 page 354.  
Notes: Easement  
NO SPECIFIC LOCATIVE INFORMATION GIVEN.

11. Agreement by Jack Hughes to Texas Power & Light Company, dated 12/4/1959 recorded 2/5/1960 in book 562 page 227.  
Notes: Easement  
NO SPECIFIC LOCATIVE INFORMATION GIVEN.

12. Agreement by Mahard Egg Farm, Inc. to The County of Collin, dated 2/18/1994 recorded 3/2/1994 in Instrument No :94–0020099.  
Notes: Easement  
DOES NOT AFFECT PARENT PARCEL, TOWER LEASE, OR A/U EASEMENT.

13. Utility Easement by Mahard Egg Farm, Inc. to The Town of Prosper, dated 9/22/1996 recorded 5/2/1997 in book 3903 page 219.  
Notes: Easement  
DOES NOT AFFECT PARENT PARCEL, TOWER LEASE, OR A/U EASEMENT.

14. Waterline Easement by Mahard Egg Farm, Inc. to The Town of Prosper, dated 3/8/1999 recorded 3/10/1999 in book 4370 page 1506.  
Notes: Easement  
DOES NOT AFFECT PARENT PARCEL, TOWER LEASE, OR A/U EASEMENT.

15. Waterline Easement by Mahard Egg Farm, Inc. to The Town of Prosper, dated 3/8/1999 recorded 3/10/1999 in book 4370 page 1510.  
Notes: Easement  
DOES NOT AFFECT PARENT PARCEL, TOWER LEASE, OR A/U EASEMENT.

16. Sanitary Sewer Easement by Mahard 2003 Partnership, LP, a Texas limited partnership to The Town of Prosper, dated 3/2/2007 recorded 5/14/2007 in Instrument No :20070514000648370.  
Notes: Easement  
DOES AFFECT PARENT PARCEL. DOES NOT AFFECT TOWER LEASE OR A/U EASEMENT. AS SHOWN HEREON IN PARENT TRACT INSERT.

17. Sanitary Sewer Easement & Temp. Construction Easement by Mahard 2003 Partnership, L.P. to The Town of Prosper, Texas, a Texas home–rule municipality, dated 12/15/2016 recorded 2/22/2017 in Instrument No :20170222000232910.  
Notes: Easement  
DOES AFFECT PARENT PARCEL. DOES NOT AFFECT TOWER LEASE OR A/U EASEMENT. AS SHOWN HEREON IN PARENT TRACT INSERT.

18. Drainage Easements & Temporary Construction Easement by The Mahard 2003 Partnership, L.P. to The Town of Prosper, Texas, a Texas home–rule municipality, dated 1/31/2019 recorded 2/4/2019 in Instrument No :20190204000116940.  
Notes: Easement  
DOES NOT AFFECT PARENT PARCEL, TOWER LEASE, OR A/U EASEMENT.

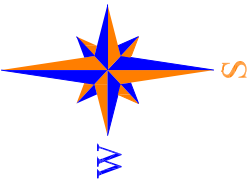
SURVEYOR'S CERTIFICATE}

The undersigned does hereby certify that a survey was made on the ground of the property legally described hereon prepared by the undersigned and is true and correct to the best of my knowledge; the survey correctly shows the location of all buildings, structures and other improvements situated on the property; that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or rights-of–way except as shown on the plat hereon; that subject property has access to a public roadway; and the plat hereon is a true, correct and accurate representation of the property described hereinabove. Furthermore, the undersigned hereby certifies that he has calculated the quantity of land or acreage contained within the tract shown on this plat of survey and described hereon and certifies that the quantity of land shown hereon is correct. This survey meets the applicable requirements for land surveys as defined by the "Texas Society of Professional Surveyors Manual of Practice for Land Surveying in Texas".

RONALD D. WIMBERLEY  
R.P.L.S. #6005

WIMBERLEY SURVEYING PROFESSIONALS

GREENVILLE, TEXAS 75404



SURVEY

PROSPER LIFT STATION  
DXL07761

601 CENTURY PARK DRIVE  
PROSPER TX, 75078

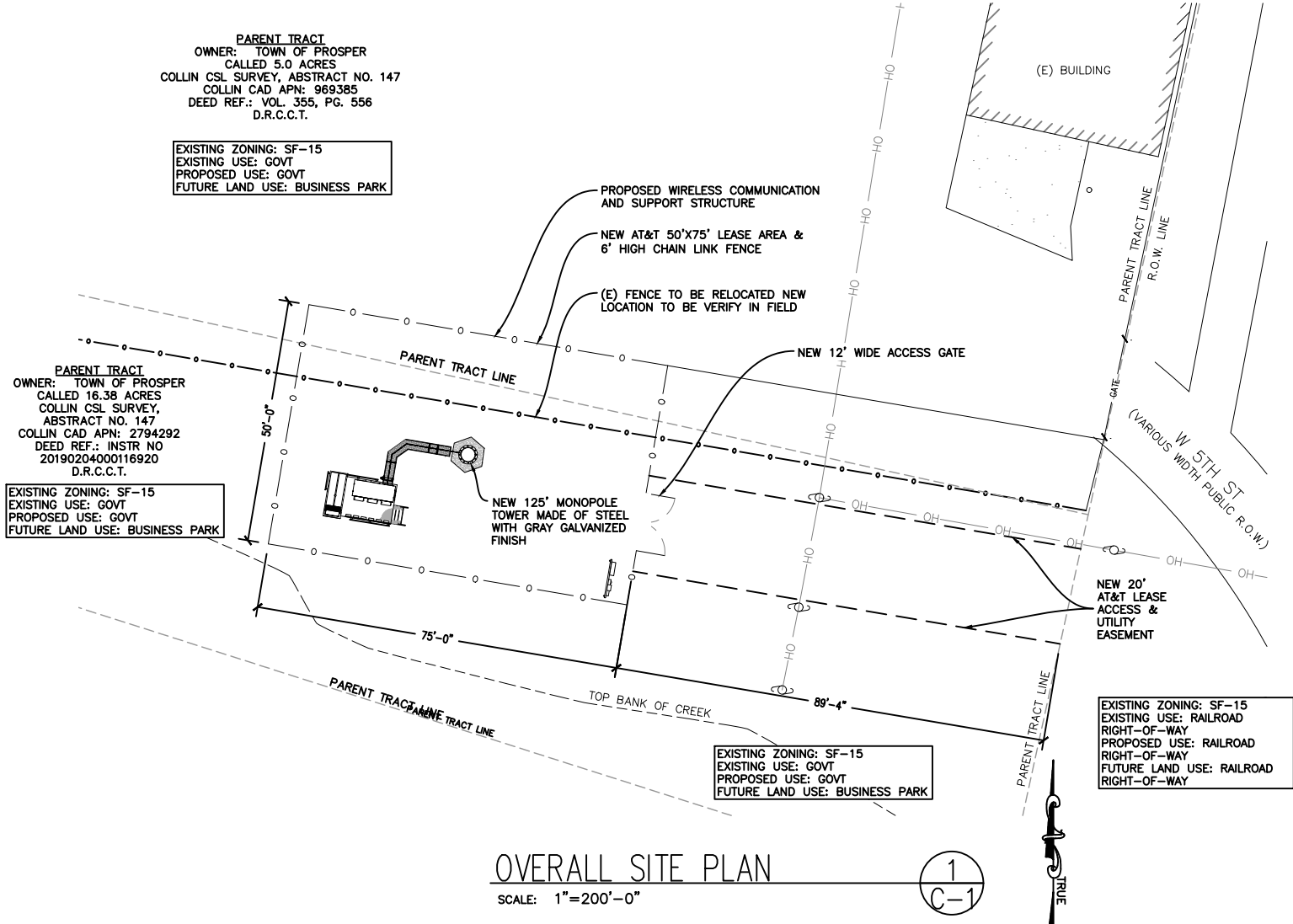
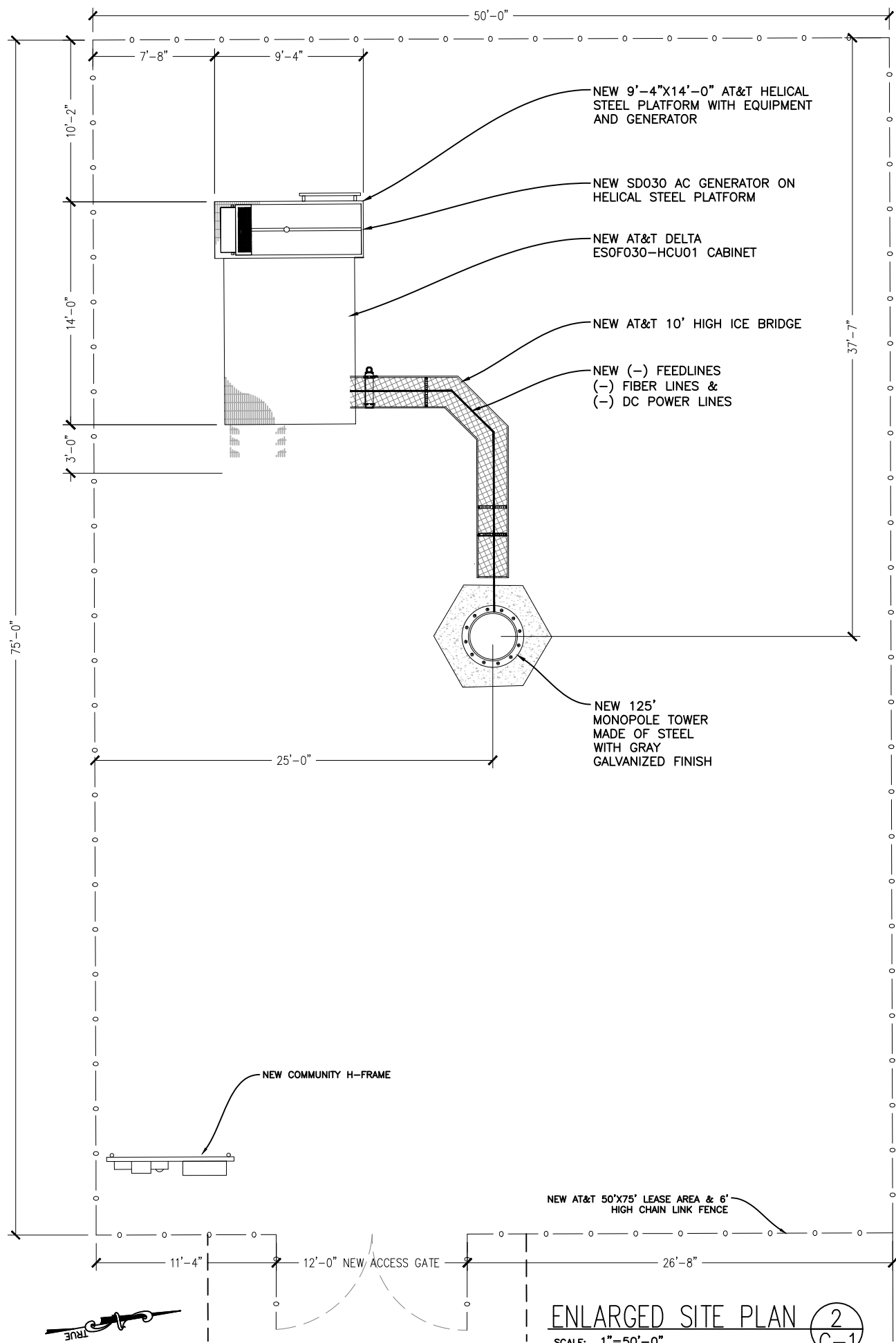


DRWN: DJ  
CK: RDW

NO:	DESCRIPTION:		DATE:	1	2	3	4	5	6	7
	DATE OF SURVEY	ISSUED								
1	04-08-19									
2	04-24-19									
3	5-31-19	REVISION								
4	6-17-19	REVISION								
5	6-19-19	REVISION								
6	8-20-19	REVISION								
7	9-5-19	REVISION								

EXHIBIT A

CASE #S19–0001

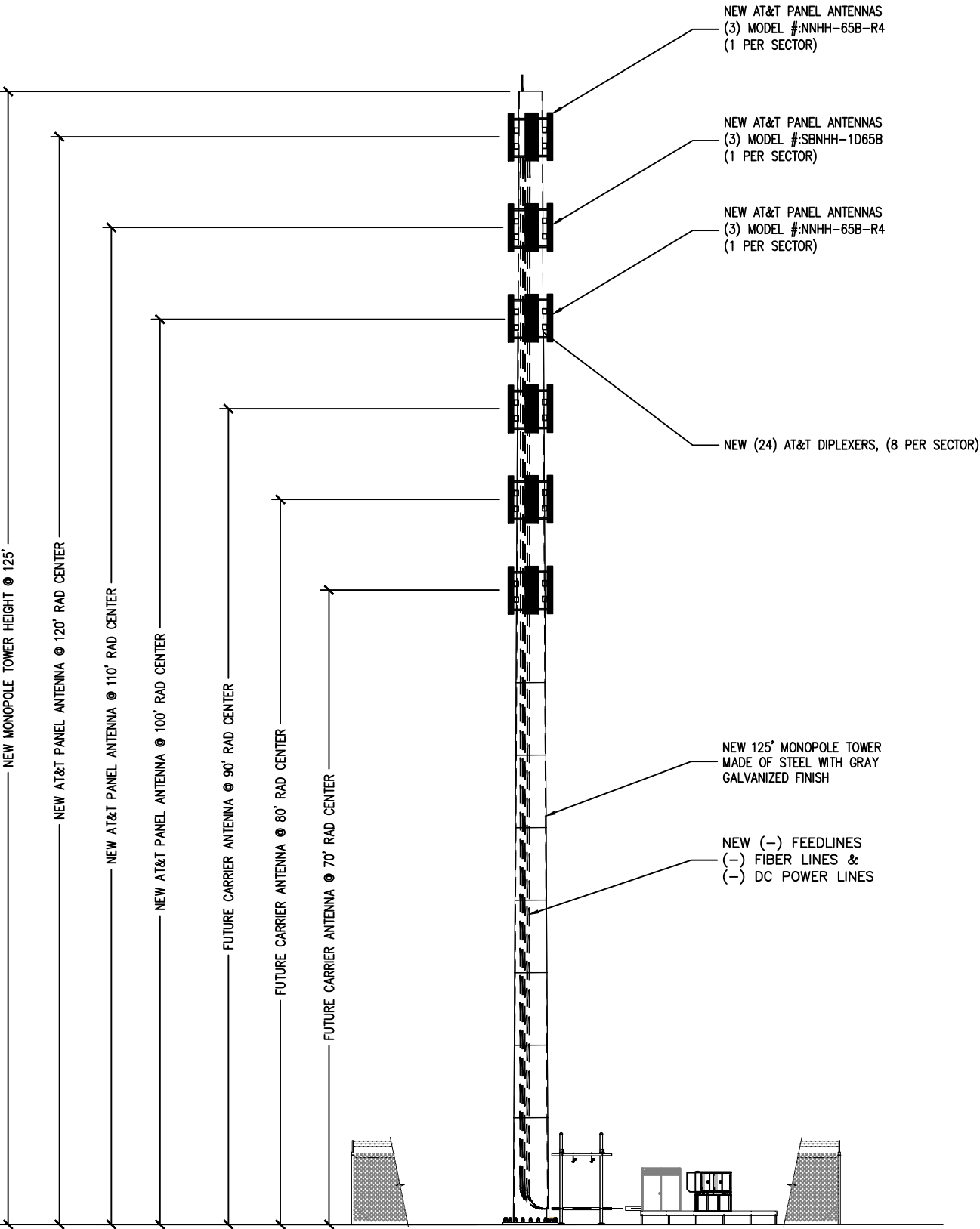


SITE DATA SUMMARY TABLE	
ZONING:	SF-15
PROPOSED USE:	PROPOSED CELL TOWER SITE
LOT AREA, EXCLUDING RIGHT-OF-WAY:	3,750.00 S.F. & 0.086 AC.
BUILDING AREA:	N/A
BUILDING HEIGHT:	N/A
LOT COVERAGE:	N/A
FLOOR AREA RATIO (FOR NON-RESIDENTIAL ZONING):	N/A
TOTAL PARKING REQUIRED (WITH RATIO):	N/A
TOTAL PARKING PROVIDED:	N/A
HANDICAP PARKING REQUIRED, INCLUDING VAN ACCESSIBLE:	N/A
HANDICAP PARKING PROVIDED, INCLUDING VAN ACCESSIBLE:	N/A
INTERIOR LANDSCAPING REQUIRED:	N/A
INTERIOR LANDSCAPING PROVIDED:	N/A
SQUARE FOOTAGE OF IMPERVIOUS SURFACE:	N/A
OPEN SPACE REQUIRED:	N/A
OPEN SPACE PROVIDED:	N/A

- STANDARD NOTES**
- 1) DUMPSTERS AND TRASH COMPACTORS SHALL BE SCREENED IN ACCORDANCE WITH THE ZONING ORDINANCE.
  - 2) OPEN STORAGE, WHERE PERMITTED, SHALL BE SCREENED IN ACCORDANCE WITH THE ZONING ORDINANCE.
  - 3) OUTDOOR LIGHTING SHALL COMPLY WITH THE LIGHTING AND GLARE STANDARDS CONTAINED WITHIN THE ZONING ORDINANCE AND SUBDIVISION ORDINANCE.
  - 4) LANDSCAPING SHALL CONFORM TO LANDSCAPE PLANS APPROVED BY THE TOWN.
  - 5) ALL ELEVATIONS SHALL COMPLY WITH THE STANDARDS CONTAINED WITHIN THE ZONING ORDINANCE.
  - 6) BUILDINGS OF 5,000 SQUARE FEET OR GREATER SHALL BE 100% FIRE SPRINKLED. ALTERNATIVE FIRE PROTECTION MEASURES MAY BE APPROVED BY THE FIRE DEPARTMENT.
  - 7) FIRE LANES SHALL BE DESIGNED AND CONSTRUCTED PER TOWN STANDARDS OR AS DIRECTED BY THE FIRE DEPARTMENT.
  - 8) TWO POINTS OF ACCESS SHALL BE MAINTAINED FOR THE PROPERTY AT ALL TIMES.
  - 9) SPEED BUMPS/HUMPS ARE NOT PERMITTED WITHIN A FIRE LANE.
  - 10) HANDICAPPED PARKING AREAS AND BUILDING ACCESSIBILITY SHALL CONFORM TO THE AMERICANS WITH DISABILITIES ACT AND WITH THE REQUIREMENTS OF THE CURRENT, ADOPTED BUILDING CODE.
  - 11) ALL SIGNAGE IS SUBJECT TO BUILDING OFFICIAL APPROVAL.
  - 12) ALL FENCES AND RETAINING WALLS SHALL BE SHOWN ON THE SITE PLAN AND ARE SUBJECT TO BUILDING OFFICIAL APPROVAL.
  - 13) ALL EXTERIOR BUILDING MATERIALS ARE SUBJECT TO BUILDING OFFICIAL APPROVAL AND SHALL CONFORM TO THE APPROVED FAÇADE PLAN.
  - 14) SIDEWALKS OF NOT LESS THAN SIX (6) FEET IN WIDTH ALONG THOROUGHFARES AND COLLECTORS AND FIVE (5) FEET IN WIDTH ALONG RESIDENTIAL STREETS, AND BARRIER FREE RAMPS AT ALL CURB CROSSINGS SHALL BE PROVIDED PER TOWN STANDARDS.
  - 15) APPROVAL OF THE SITE PLAN IS NOT FINAL UNTIL ALL ENGINEERING PLANS ARE APPROVED BY THE ENGINEERING DEPARTMENT.
  - 16) SITE PLAN APPROVAL IS REQUIRED PRIOR TO GRADING RELEASE.
  - 17) ALL NEW ELECTRICAL LINES SHALL BE INSTALLED AND/OR RELOCATED UNDERGROUND.
  - 18) ALL MECHANICAL EQUIPMENT SHALL BE SCREENED FROM PUBLIC VIEW IN ACCORDANCE WITH THE ZONING ORDINANCE.
  - 19) ALL LANDSCAPE EASEMENTS MUST BE EXCLUSIVE OF ANY OTHER TYPE OF EASEMENT.
  - 20) 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.

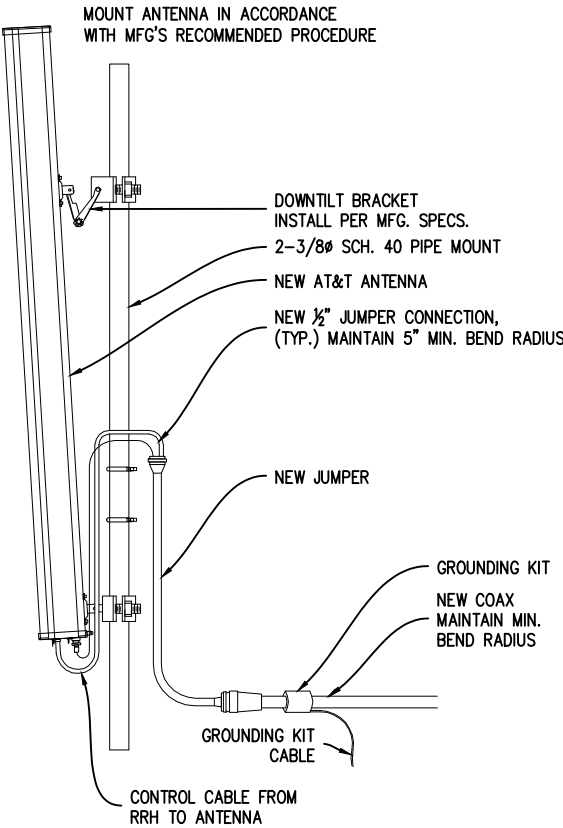


ANALYSIS AND DESIGN OF STRUCTURE AND FOUNDATION BY OTHERS. REFER TO SEPARATE SHEET FOR MORE INFORMATION. NO MODIFICATION OF STRUCTURE AND FOUNDATION SHALL BE MADE WITHOUT APPROVAL OF STRUCTURAL ENGINEER.



ELEVATION VIEW  
SCALE: NOT TO SCALE

1  
C-2



ANTENNA/RRU MOUNT  
SCALE: NOT TO SCALE

2  
C-2

DRAWN BY: JAW	REVIEWED BY: ELG
SITE NUMBER: DXL07761	
REV	DESCRIPTION
PCD	REV A PRELIM CDS
PCD	REV B PRELIM CDS
PCD	REV C PRELIM CDS
PCD	REV D PRELIM CDS
DATE	
06/27/19	
07/31/19	
08/20/20	
08/25/20	



4 COUNTRY PLACE CIRCLE  
DALWORTHINGTON GARDENS  
TEXAS 76016



208 S AKARD ST  
DALLAS, TX 75202



JACOB GORALSKI, PLLC

CONSULTING ENGINEER  
TX PE No. 116873  
FIRM No. F-17021  
1106 COLBI STREET  
KENNEDALE, TX 76060  
(817) 456-2621

SITE NUMBER:  
DXL07761

SITE NAME:  
PROSPER LIFT STATION  
(UNOFFICIAL)

SITE ADDRESS:  
601 W. FIFTH STREET  
PROSPER, TEXAS 75078

SHEET NAME:  
ELEVATION &  
ANTENNA MOUNT

SHEET #:  
EX-C