

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2021-58

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; GRANTING A SPECIFIC USE PERMIT (SUP) FOR A NURSERY, MAJOR CONSISTING OF 3.198 ACRES, MORE OR LESS, SITUATED IN THE BEN RENISON SURVEY, ABSTRACT NO. 755, 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 Zoning Ordinance No. 05-20 should be amended; and

**WHEREAS**, the Town of Prosper, Texas ("Prosper") has received a request from GOP #2, LLC ("Applicant") for a Specific Use Permit (SUP) for a Nursery, Major, consisting of 3.198 acres of land, more or less, in the Ben Renison Survey, Abstract No. 755, 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 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**

Specific Use Permit Granted. The Town's Zoning Ordinance is amended as follows: Applicant is granted a Specific Use Permit (SUP) for a Nursery, Major consisting of 3.198 acres of land, more or less, in the Ben Renison Survey, Abstract No. 755, 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 the conceptual development plans, attached hereto as Exhibit "B", Exhibit "C", and Exhibit "D", which are 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.

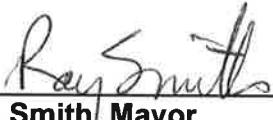
## SECTION 7

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 12TH DAY OF OCTOBER, 2021.**

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

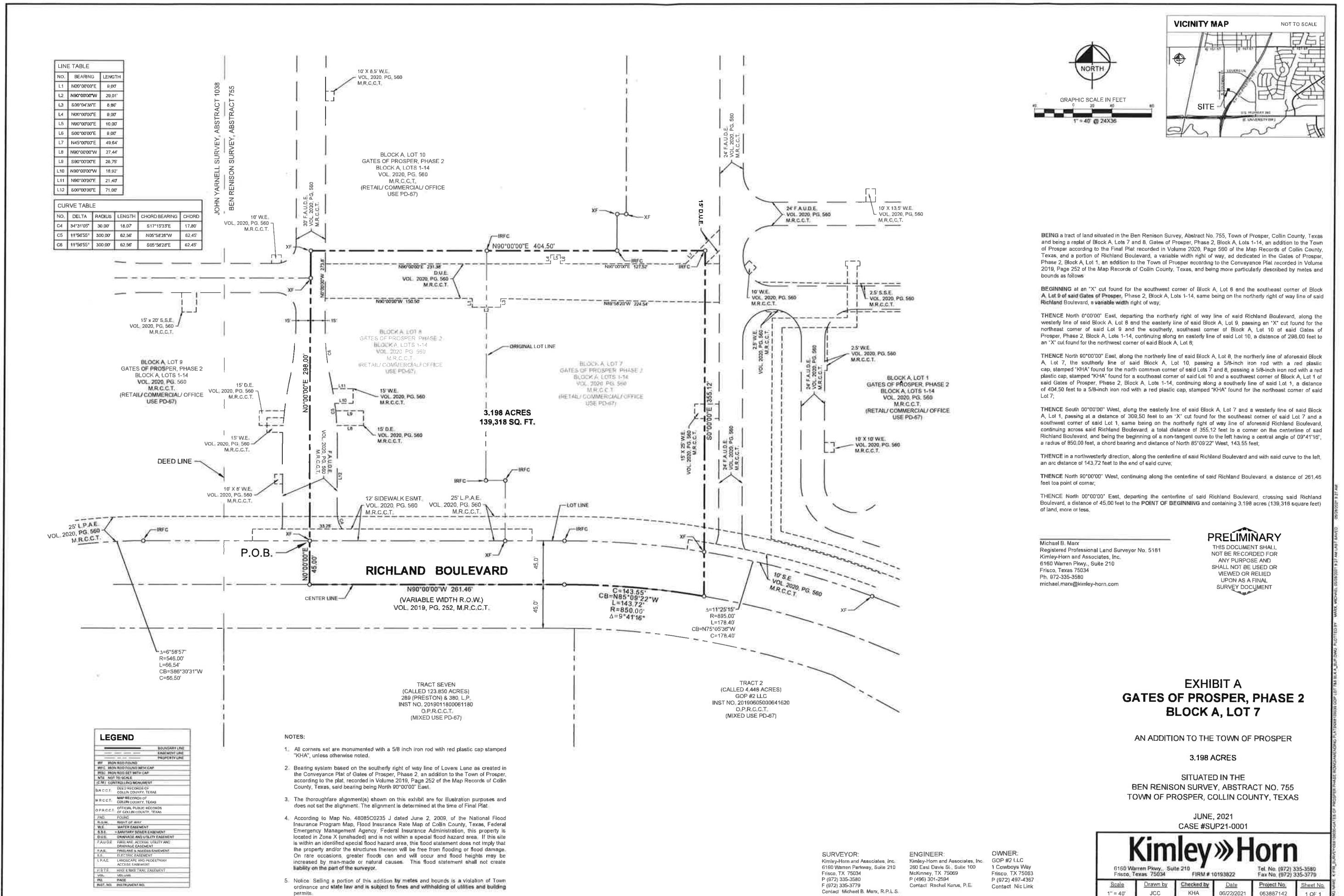
ATTEST:

  
\_\_\_\_\_  
Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

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







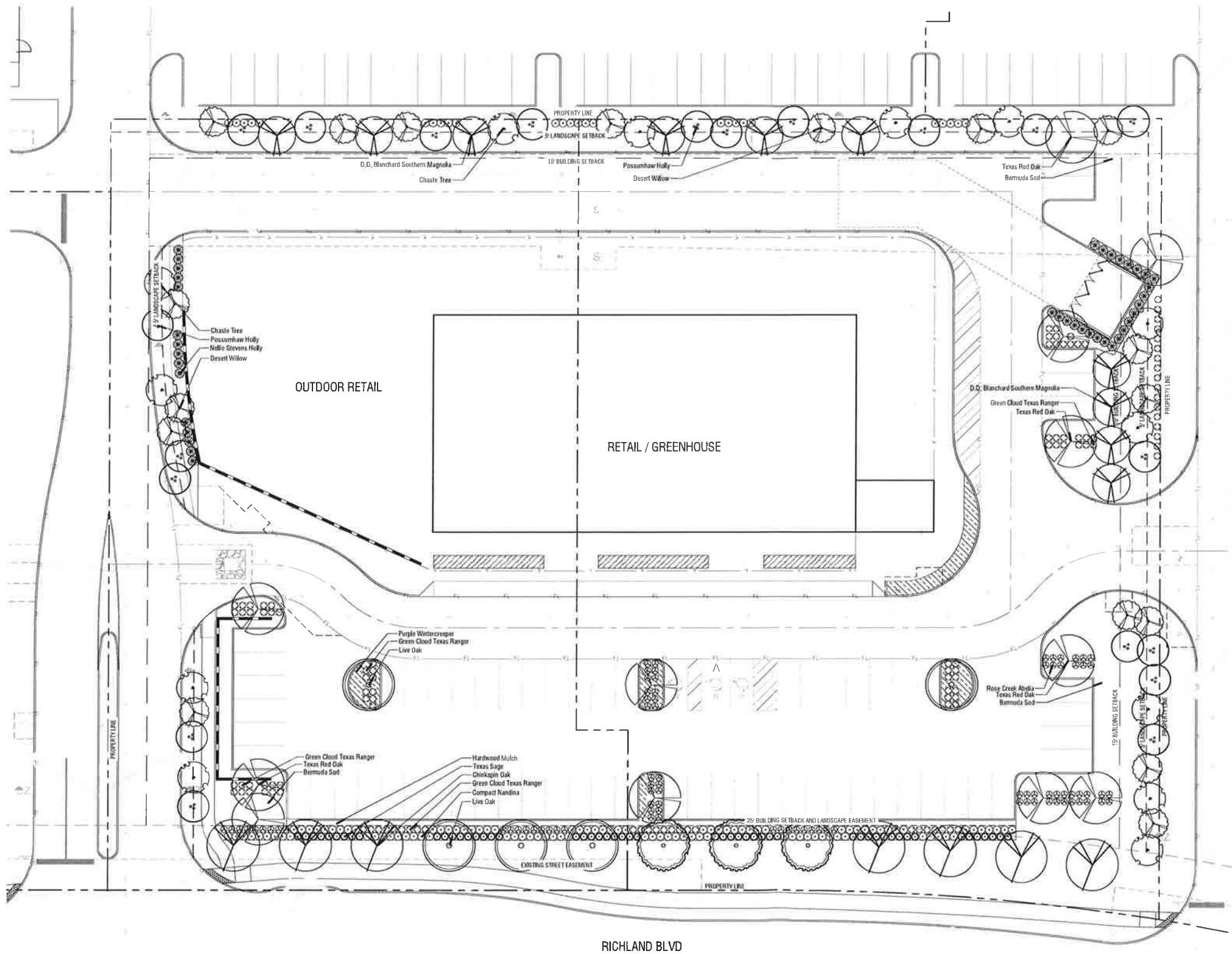


EXHIBIT C - LANDSCAPE PLAN  
PAD SITE R  
GATES OF PROSPER, PHASE 2  
BLOCK A, LOTS 7 & 8  
SUP21-0001  
Being 2.76 Acres Out Of The  
N RENNISON SURVEY Abstract No. 755  
IN YARNELL SURVEY Abstract No. 1038  
N COUNTY SCHOOL LAND NO. 12 SURVEY  
Abstract No. 147  
own of Prosper, Collin County, Texas

Owner:  
GOP #2 LLC  
Cowboys Way  
Frisco, Texas 75034  
Contact: Nicholas Link  
Phone: (972) 497-4854

**Landscape Architect:**  
Amley-Horn and Associates, Inc.  
60 East Davis Street, Suite 100  
McKinney, Texas 75069  
Contact Courtney Smith, PLA  
Phone (469) 452-2497

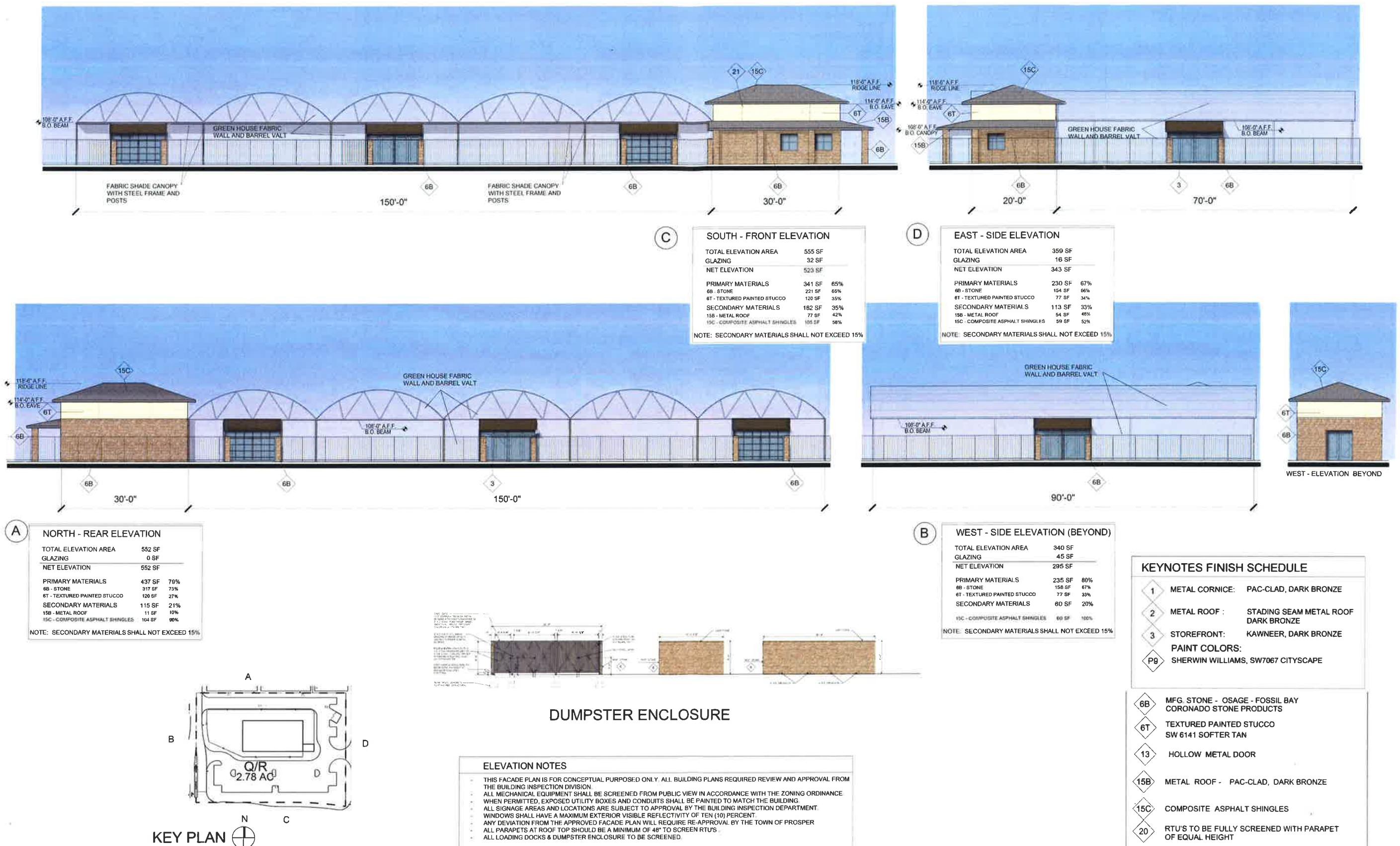
This document, together with the schedule and exhibits thereto, may be an instrument of conveyance, and may be used, produced, relied upon, or referred to, in the administration of the Relationship and Settlement by the parties hereto and their successors and assigns.



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1515 DAVIS STREET, SUITE 100, MCKINNEY, TX 75065  
PHONE: 469-301-2580 FAX: 972-239-3820  
[WWW.KIMLEY-HORN.COM](http://WWW.KIMLEY-HORN.COM) TX F-928

PLANTING PLAN		PAD SITE R	
 <b>PROSPER</b> <small>TOWN OF</small>		 <b>Horn</b> <small>REGISTERED LANDSCAPE ARCHITECTS</small>	
SHEET NUMBER <b>L5.01</b>		DATE 08/03/2021	
SCALE AS SHOWN	DESIGNED BY CLS	DRAWN BY CLS	CHECKED BY AJB
PROSPER, TEXAS		 <b>COURTHNEY SMITH</b> <b>LESLIE BROWN</b> <b>3325</b> <b>STATE OF TEXAS</b> <b>REGISTERED LANDSCAPE ARCHITECTS</b> <b>3325</b>	
PLANTING PLAN		<small>© 2018 KIMLEY-HORN AND ASSOCIATES, INC.</small> <small>260 EAST DAVIS STREET, SUITE 100, MCKINNEY, TX 75069</small> <small>PHONE: 469-301-2580 FAX: 972-238-3220</small> <small>WWW.KIMLEY-HORN.COM TX-F928</small>	
		<small>No. <span style="border-bottom: 1px solid black; display: inline-block; width: 100px; height: 15px; vertical-align: middle;"></span> REVISIONS</small>	
		<small>DATE <span style="border-bottom: 1px solid black; display: inline-block; width: 100px; height: 15px; vertical-align: middle;"></span> BY</small>	



Gates of Prosper - Phase II

Developer :: Blue Star & Lincoln Property Company

Prosper, TX

SURVEYOR / APPLICANT  
KIMLEY-HORN AND ASSOCIATES, INC.  
260 EAST DAVIS STREET, SUITE 100  
MCKINNEY, TEXAS 75069  
CONTACT: JOE RICCIARDI, P.E.  
PHONE: (469) 301-2580

OWNER  
GOP #2 LLC  
1 COWBOYS WAY  
FRISCO, TEXAS 75034  
CONTACT: NICHOLAS LINK  
PHONE: (972) 497-2580  
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Case No. SUP21-0001  
EL 19 - BLDG "Q&R"

Date: 08.11.2021  
Scale 1/8" = 1'-0"

EX. D

