

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; GRANTING A SPECIFIC USE PERMIT (SUP) FOR A RESTAURANT WITH DRIVE-THROUGH SERVICE CONSISTING OF 1.198 ACRES, MORE OR LESS, SITUATED IN THE SPENCER 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 Zoning Ordinance No. 05-20 should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request from Victory at Frontier, LP ("Applicant") for a Specific Use Permit (SUP) for a Restaurant with Drive-Through Service, consisting of 1.198 acres of land, more or less, in the Spencer 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 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 Restaurant with Drive-Through Service, consisting of 1.198 acres of land, more or less, in the Spencer 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 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, subject to the following condition of approval by the Town Council:

1. Approval of a Development Agreement, including, but not limited to, right-of-way and/or easement dedication, and architectural building materials.

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.

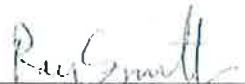
SECTION 7

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.

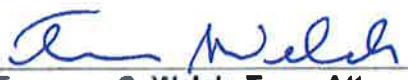
**DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE
TOWN OF PROSPER, TEXAS, ON THIS 11TH DAY OF JANUARY 2022.**


Ray Smith, Mayor

ATTEST:


Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:


Terrence S. Welch, Town Attorney



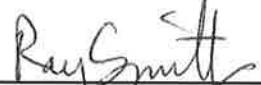
SECTION 7

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

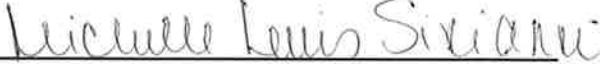
Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 11TH DAY OF JANUARY 2022.



Ray Smith, Mayor

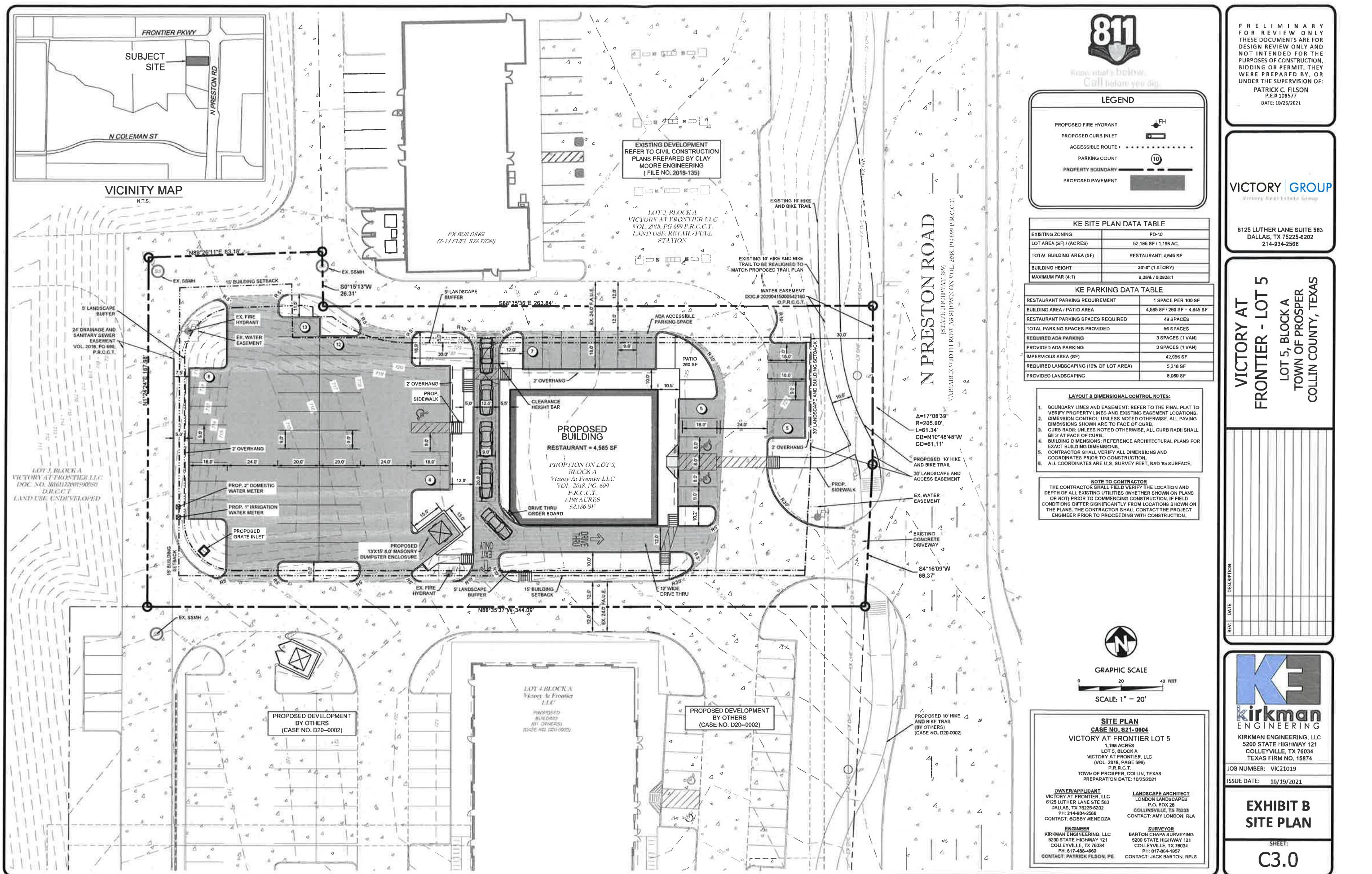
ATTEST:


Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney



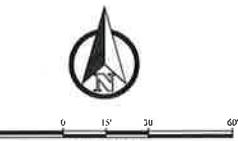


SURVEYOR'S NOTES:

- Bearings are based on the State Plane Coordinate System, Texas North Central Zone (4202) North American Datum of 1983 (NAD '83), distances are surface with a combined scale factor of 1.00015271.
- This property lies within Zone "X" of the Flood Insurance Rate Map for Collin County, Texas and Incorporated Areas, map no. 48085CD120, with an effective date of June 2, 2009, via scaled map location and graphic plotting.
- Monuments are found unless specifically designated as set.
- Elevations (if shown) are North American Vertical Datum of 1988 (NAVD '88).

LEGEND OF ABBREVIATIONS

- D.R.C.C.T. DEED RECORDS, COLLIN COUNTY, TEXAS
- P.R.C.C.T. PLAT RECORDS, COLLIN COUNTY, TEXAS
- O.P.R.C.C.T. OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS
- DOC.# DOCUMENT NUMBER
- C.M. CONTROLLING MONUMENT
- SQ. FT. SQUARE FEET
- ROW RIGHT OF WAY
- CRS CAPPED REBAR SET



PROPERTY DESCRIPTION

BEING a portion of Lot 3 in Block A of Victory at Frontier, an addition in the Town of Prosper, Collin County, Texas, according to the plat recorded under Volume 2018, Page 699, Plat Records, Collin County, Texas, (P.R.C.C.T.), the subject tract being more particularly described by metes and bounds as follows (bearings are based on State Plane Coordinate System, Texas North Central Zone, North American Datum of 1983 (NAD '83)):

BEGINNING at a 1/2 inch rebar with pink cap stamped, "BARTON CHAPA" set (hereinafter called "capped rebar set") for the southeast corner of the herein described tract, said point being in the east line of said Lot 3;

THENCE through the interior of said Lot 3 the following calls:

1. North 88 degrees 35 minutes 37 seconds West, a distance of 344.09 feet to an "X" cut in concrete set;

2. North 01 degrees 24 minutes 24 seconds East, a distance of 167.98 feet to an "X" cut in concrete set;

3. North 89 degrees 26 minutes 11 seconds East, a distance of 83.18 feet to an "X" cut in concrete set in the west line of Lot 2 in said Block A;

THENCE South 00 degrees 15 minutes 13 seconds West, with the west line of said Lot 2, a distance of 26.31 feet to a capped rebar set;

THENCE South 88 degrees 35 minutes 36 seconds East, with the south line of said Lot 2, a distance of 263.84 feet to a capped rebar set for the southeast corner thereof, same being a northeast corner of said Lot 3;

THENCE South 01 degrees 24 minutes 24 seconds West, with the east line of said Lot 3, a distance of 76.26 feet to a capped rebar set;

THENCE South 04 degrees 16 minutes 09 seconds West, with the east line of said Lot 3, a distance of 68.37 feet to the POINT OF BEGINNING and enclosing 1.198 acres (52,186 square feet) of land, more or less.

TITLE COMMITMENT NOTES

This survey was prepared without the benefit of a commitment for title insurance. Therefore, easements, agreements, or other documents, either recorded, or unrecorded may exist that affect the subject property that are not shown on this survey.

SURVEYOR'S CERTIFICATE

This is to certify that I, John H. Barton III, a Registered Professional Land Surveyor of the State of Texas, have prepared this map from an actual survey on the ground, and that this map correctly represents that survey made by me or under my direction and supervision. This survey meets the minimum requirements for a Category 1A, Condition II Land Title Survey. Fieldwork was completed on September 14, 2020.

Date of Plat/Map: September 15, 2020

PRELIMINARY

THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE
AND SHALL NOT BE USED, VIEWED, OR RELIED UPON AS A FINAL

SURVEY DOCUMENT September 15, 2020

John H. Barton III, RPLS# 6737

TERMS OF ACCEPTANCE OF SURVEY

This survey is issued pursuant to a real estate transaction and is appurtenant to the title commitment referenced in the "Title Commitment Notes" This survey is issued for use in such transaction. Notwithstanding any of the above statements, the surveyor has a contractual relationship with one client or entity. Review/requested revisions by other parties must be received by or through such entity. Client is responsible for reviewing survey (including, but not limited to: notations; existence or lack of spelling/grammatical/typographical errors; certified parties; dates; instruments) within thirty (30) days of the date of plat or map. After such time has passed, client accepts survey as issued, and further revisions are not embraced by the above certification. Additional or altered commitments for title insurance will require an new or re-issued survey. Please feel free to request pricing for this at info@bcfdfw.com, or call (817) 864-1957.



5200 State Highway 121
Colleyville, TX 76034
Phone: 817-488-4960

JOB NO. 2020.001.148

DRAWN: BCS

CHECKED: JHB

TABLE OF REVISIONS

DATE SUMMARY

VICTORY AT FRONTIER

**PROSPER,
TEXAS**

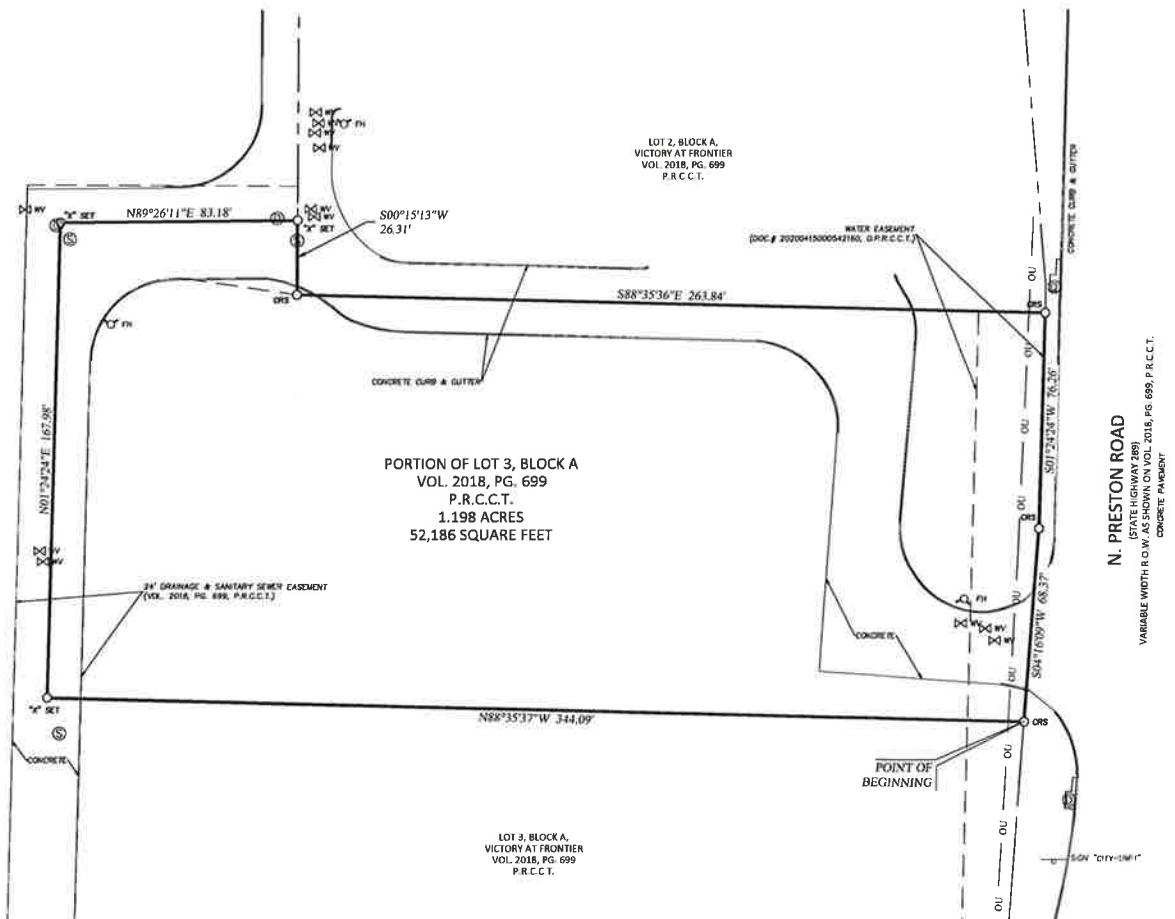
VO1

**CATEGORY 1A,
CONDITION II
LAND TITLE
SURVEY**

Exhibit "A"

CATEGORY 1A, CONDITION II LAND TITLE SURVEY

PORTION OF LOT 3, BLOCK A
VICTORY AT FRONTIER
TOWN OF PROSPER
COLLIN COUNTY, TEXAS



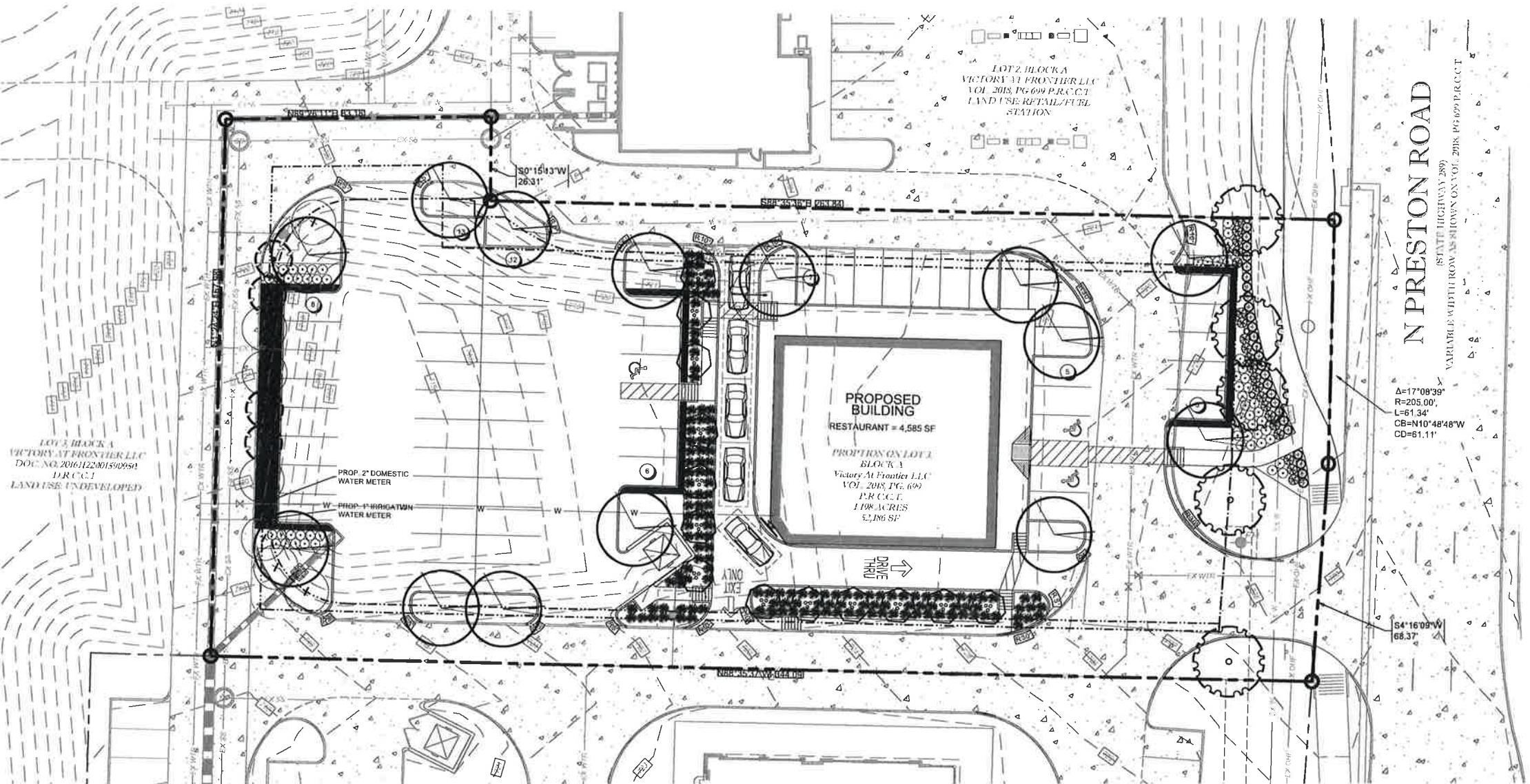


VICTORY GROUP
Victory Real Estate Group

6125 LUTHER LANE SUITE 503
DALLAS, TX 75225-6202
214-934-2566

VICTORY AT FRONTIER - LOT 5
LOT 5, BLOCK A
TOWN OF PROSPER
COLLIN COUNTY, TEXAS

GRAPHIC SCALE
(IN FEET)
1 INCH = 20 FEET



KEY

TREES

	18	UL	Ulmus crassifolia	Cedar Elm	3" Cal. Min. Cont. Green - 85 Gal. 12'-15' Height, 6'-8' Spread Specimen
	5	OT	Quercus texana	Texas Red Oak	3" Cal. Min. Cont. Green - 85 Gal. 12'-15' Height, 6'-8' Spread Specimen
	7	CH	Chionanthus linearis	Desert Willow	3" Trunk Min. 30 Gal. Cont. Green 1" Cal. Per Trunk, 4-5 Canes 8' Height, 5' Spread, Specimen
	4	CL	Frax opaca	Eastern Holly	3" Cal. Min. Cont. Green - 15 Gal. Full Crown, Min. 1" Canes, Min. 7' Ht. Healthy Plant as Shown
	13	EC	Cercis canadensis	Eastern Redbud	3" Cal. Min. Cont. Green - 15 Gal. Full Crown, Min. 1" Canes, Min. 7' Ht. Healthy Plant as Shown

SHRUBS

	58	VB	Viburnum x davidii 'White'	Viburnum	5 Gal. Minimum 24" Minimum height at planting Spaced per plan, matching
	21	NER	Abelia x grandiflora	Glossy Abelia	5 Gal. Minimum 30" Minimum height at planting Spaced per plan, matching
	26	NOL	Nonzia domestica 'Lemon Lime'	Lemon Lime Nonzia	5 Gal. Minimum 30" Minimum height at planting Spaced per plan, matching
	146	NAN	Nonzia domestica	Nonzia	5 Gal. Minimum 30" Minimum height at planting Spaced per plan, matching

GROUNDCOVER

	957 SF	DG	Decomposed Granite		
	5,880 SF	SOD	Common Bermuda Grass	Bermuda Grass	Solid sod Seed all points and provide uniform coverage within 30 days of completion

LANDSCAPE CALCULATIONS

A MINIMUM 10% OF PLATTED AREA TO BE LANDSCAPED

- REQUIRED LANDSCAPE AREA: 52,186 SF X 10% = 5,218 SF
- PROVIDED: 8,068 SF

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

- REQUIRED: 1 CANOPY TREE FOR EVERY 30 LINEAR FEET
129.71 LF / 30 = 5 TREES
- PROVIDED: 5 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 FRONTRAGE 129.71 LF / 30 = 5 X 15 SHRUBS = 75 SHRUBS

- PROVIDED: 75 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.
167.98 x 15 = 12 TREES AND 12 SHRUBS
- PROVIDED: 12 TREES AND 23 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 8' 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

KE
kirkman
ENGINEERING

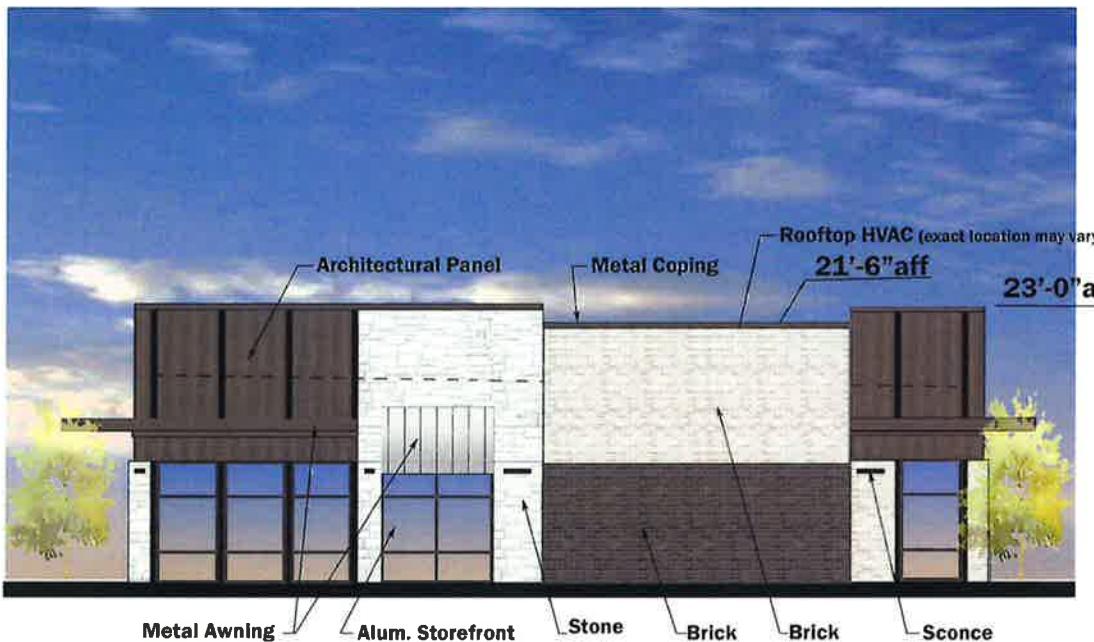
KIRKMAN ENGINEERING, LLC
5200 STATE HIGHWAY 121
COLLEYVILLE, TX 76034
TEXAS FIRM NO. 15874

JOB NUMBER: VIC21019
ISSUE DATE: 10/26/21

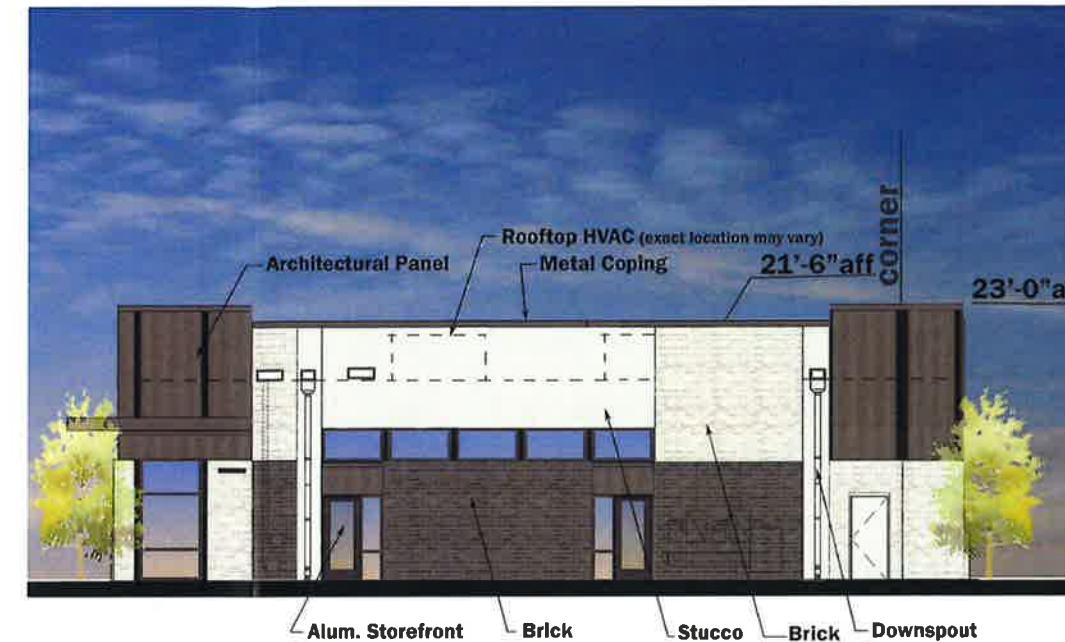
EXHIBIT C
LANDSCAPE
PLAN

SHEET:
L1.00

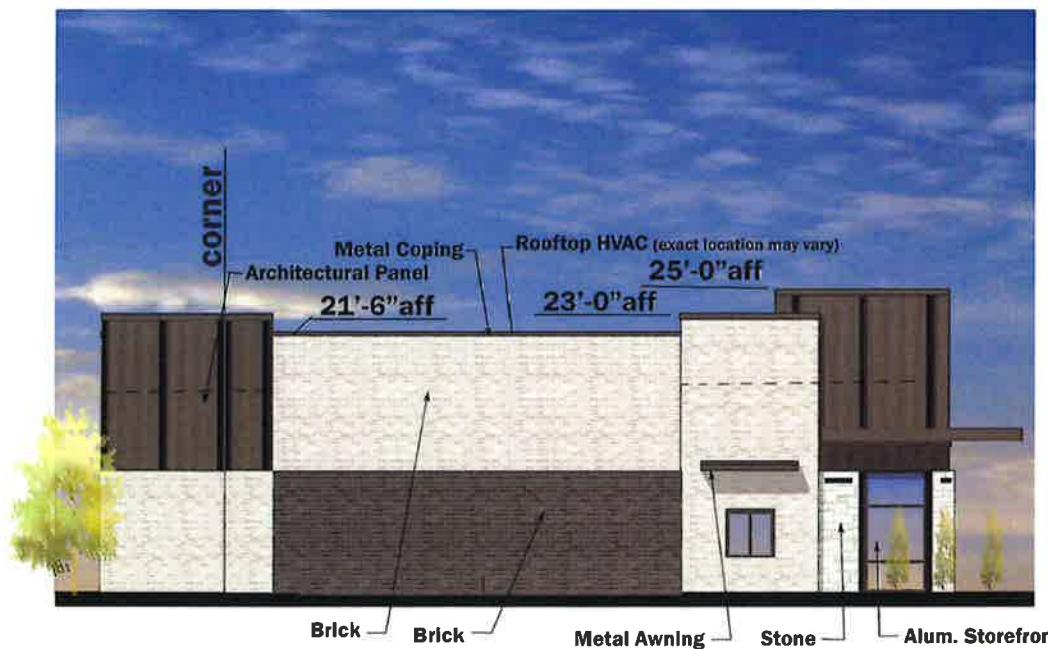
Exhibit "D"



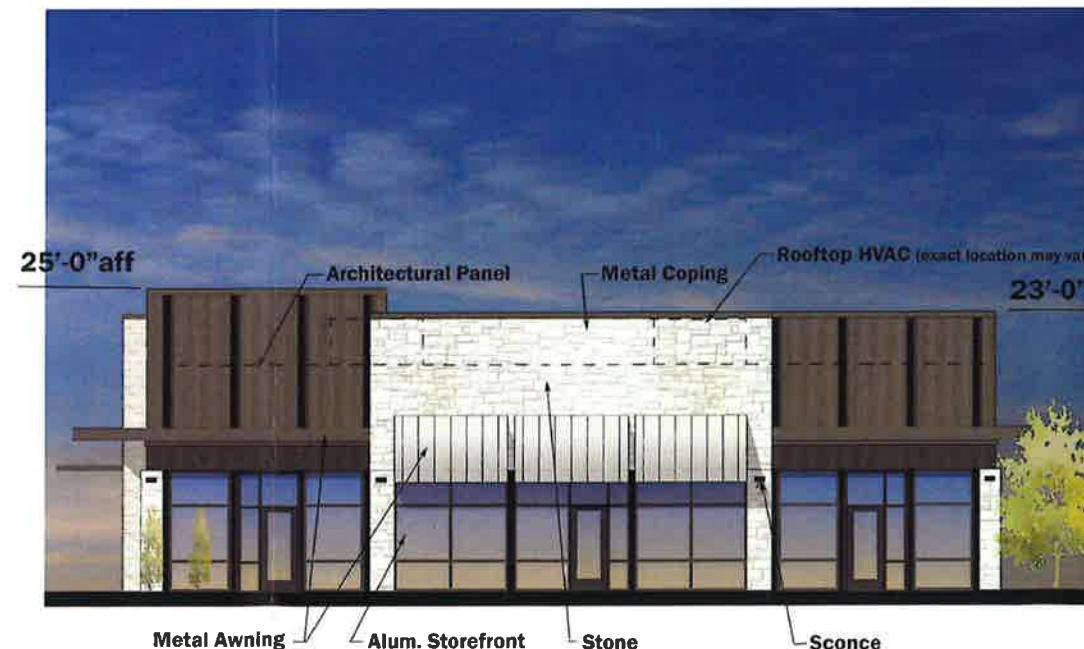
NORTH ELEVATION



WEST ELEVATION



SOUTH ELEVATION



EAST ELEVATION

FACADE NOTES

This Façade Plan is for conceptual purposes only. All building plans require review and approval from the Building Inspections Division.

All mechanical equipment shall be screened from public view. Rooftop mounted equipment shall be screened by a parapet wall or screening wall. Screening walls shall be the specifications of the Zoning Ordinance.

When permitted, exposed utility boxes and conduits shall be painted to match the building.

All signage areas and locations are subject to approval by the Building Inspections Division.

Windows shall have a maximum exterior visible reflectivity of ten (10) percent.

Any deviation from the approved Façade Plan will require re-approval by the Town of Prosper.

NORTH

TOTAL FAÇADE: 1,594 SF
DOORS/GLAZING: 323 SF
NET FAÇADE: 1,271 SF 100%
MASONRY (STONE): 256 SF 20%
MASONRY (BRICK): 620 SF 49%
TOTAL MASONRY: 69%
PANELS: 320 SF 25%
METAL AWNING: 75 SF 6%

SOUTH

TOTAL FAÇADE: 1,596 SF
DOORS/GLAZING: 76 SF
NET FAÇADE: 1,520 SF 100%
MASONRY (STONE): 51 SF 3%
MASONRY (BRICK): 1,126 SF 74%
TOTAL MASONRY: 77%
PANELS: 277 SF 19%
METAL AWNING: 66 SF 4%

WEST

TOTAL FAÇADE: 1,512 SF
DOORS/GLAZING: 184 SF
NET FAÇADE: 1,328 SF 100%
MASONRY (BRICK): 803 SF 60%
TOTAL MASONRY: 60%
PANELS: 255 SF 19%
METAL AWNING: 66 SF 5%
STUCCO: 214 SF 16%

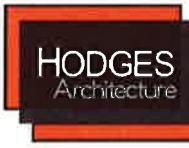
EAST

TOTAL FAÇADE: 1,671 SF
DOORS/GLAZING: 624 SF
NET FAÇADE: 1,047 SF 100%
MASONRY (STONE): 479 SF 46%
TOTAL MASONRY: 46%
PANELS: 376 SF 36%
METAL AWNING: 192 SF 18%

TOTAL FAÇADE: 6,373 SF
TOTAL DOORS/GLAZING: 1,207 SF

NET FAÇADE 5,166 SF 100%
TOTAL MASONRY: 3,325 SF 64%
TOTAL ARCHITECTURAL PANEL: 1,228 SF 24%
TOTAL AWNINGS: 399 SF 7%
TOTAL STUCCO: 214 SF 5%

Case Number: S21-0004



2023-01 tws 10/29/21 updated
2023-01 tws 10/27/21 updated
2023-01 tws 10/22/21

PAD 6 VICTORY at FRONTIER