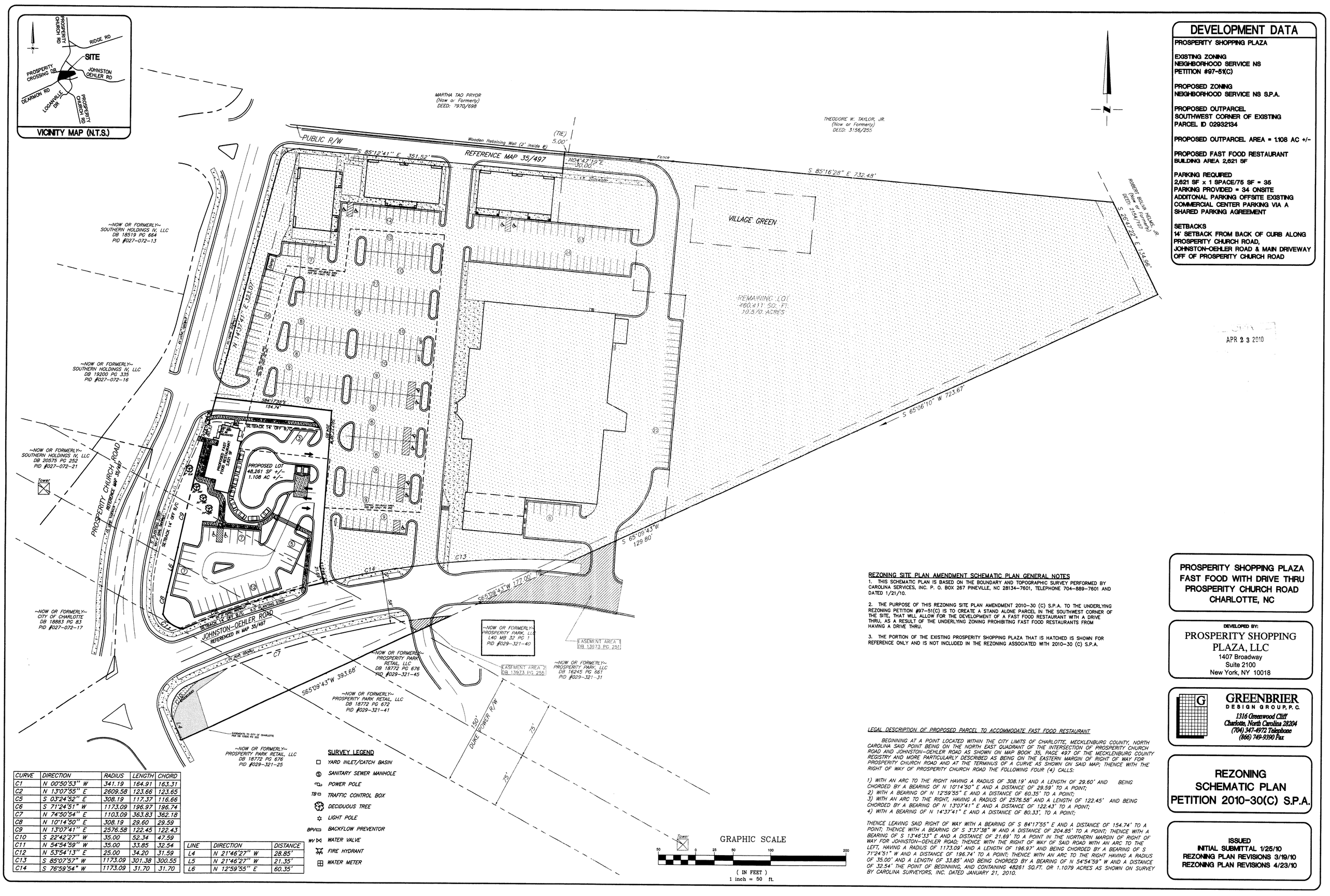



## DEVELOPMENT DATA

PROSPERITY SHOPPING PLAZA

EXISTING ZONING
NEIGHBORHOOD SERVICE NS
PETITION #97-51(C)

PROPOSED ZONING
NEIGHBORHOOD SERVICE NS S.P.A.

PROPOSED OUTPARCEL
SOUTHWEST CORNER OF EXISTING
PARCEL ID 02932134

PROPOSED OUTPARCEL AREA = 1.108 AC +/-

PROPOSED FAST FOOD RESTAURANT
BUILDING AREA 2,621 SF

PARKING REQUIRED
2,621 SF x 1 SPACE/75 SF = 35
PARKING PROVIDED = 34 ONSITE
ADDITONAL PARKING OFFSITE EXISTING COMMERCIAL CENTER PARKING VIA A SHARED PARKING AGREEMENT

SETBACKS
14' SETBACK FROM BACK OF CURB ALONG PROSPERITY CHURCH ROAD, JOHNSTON-OEHLER ROAD & MAIN DRIVEWAY OFF OF PROSPERITY CHURCH ROAD

APR 23 2010

| CURVE | DIRECTION | RADIUS | LENGTH | CHORD |
|---|---|---|---|---|
| C1 | N 00°50'53" W | 341.19 | 164.91 | 163.31 |
| C2 | N 13°07'55" E | 2609.58 | 123.66 | 123.65 |
| C5 | S 03°24'52" E | 308.19 | 117.37 | 116.66 |
| C6 | S 71°24'51" W | 1173.09 | 196.97 | 196.74 |
| C7 | N 74°50'54" E | 1103.09 | 363.83 | 362.18 |
| C8 | N 10°14'50" E | 308.19 | 29.60 | 29.59 |
| C9 | N 13°07'41" E | 2576.58 | 122.45 | 122.43 |
| C10 | S 22°42'27" W | 35.00 | 52.34 | 47.59 |
| C11 | N 54°54'59" W | 35.00 | 33.85 | 32.54 |
| C12 | N 53°54'13" E | 25.00 | 34.20 | 31.59 |
| C13 | S 85°07'57" W | 1173.09 | 301.38 | 300.55 |
| C14 | S 76°59'54" W | 1173.09 | 31.70 | 31.70 |

| LINE | DIRECTION | DISTANCE |
|---|---|---|
| L4 | N 21°46'27" W | 28.85' |
| L5 | N 21°46'27" W | 21.35' |
| L6 | N 12°59'55" E | 60.35' |

### SURVEY LEGEND

- YARD INLET/CATCH BASIN
- SANITARY SEWER MANHOLE
- POWER POLE
- TRAFFIC CONTROL BOX
- DECIDUOUS TREE
- LIGHT POLE
- BPV — BACKFLOW PREVENTOR
- WV — WATER VALVE
- FIRE HYDRANT
- WATER METER

### REZONING SITE PLAN AMENDMENT SCHEMATIC PLAN GENERAL NOTES

1. THIS SCHEMATIC PLAN IS BASED ON THE BOUNDARY AND TOPOGRAPHIC SURVEY PERFORMED BY CAROLINA SERVICES, INC. P. O. BOX 267 PINEVILLE, NC 28134-7601, TELEPHONE 704-889-7601 AND DATED 1/21/10.

2. THE PURPOSE OF THIS REZONING SITE PLAN AMENDMENT 2010-30 (C) S.P.A. TO THE UNDERLYING REZONING PETITION #97-51(C) IS TO CREATE A STAND ALONE PARCEL IN THE SOUTHWEST CORNER OF THE SITE, THAT WILL ALLOW FOR THE DEVELOPMENT OF A FAST FOOD RESTAURANT WITH A DRIVE THRU, AS A RESULT OF THE UNDERLYING ZONING PROHIBITING FAST FOOD RESTAURANTS FROM HAVING A DRIVE THRU.

3. THE PORTION OF THE EXISTING PROSPERITY SHOPPING PLAZA THAT IS HATCHED IS SHOWN FOR REFERENCE ONLY AND IS NOT INCLUDED IN THE REZONING ASSOCIATED WITH 2010-30 (C) S.P.A.

### LEGAL DESCRIPTION OF PROPOSED PARCEL TO ACCOMMODATE FAST FOOD RESTAURANT

BEGINNING AT A POINT LOCATED WITHIN THE CITY LIMITS OF CHARLOTTE, MECKLENBURG COUNTY, NORTH CAROLINA SAID POINT BEING ON THE NORTH EAST QUADRANT OF THE INTERSECTION OF PROSPERITY CHURCH ROAD AND JOHNSTON-OEHLER ROAD AS SHOWN ON MAP BOOK 35, PAGE 497 OF THE MECKLENBURG COUNTY REGISTRY AND MORE PARTICULARLY DESCRIBED AS BEING ON THE EASTERN MARGIN OF RIGHT OF WAY FOR PROSPERITY CHURCH ROAD AND AT THE TERMINUS OF A CURVE AS SHOWN ON SAID MAP; THENCE WITH THE RIGHT OF WAY OF PROSPERITY CHURCH ROAD THE FOLLOWING FOUR (4) CALLS:

1) WITH AN ARC TO THE RIGHT HAVING A RADIUS OF 308.19' AND A LENGTH OF 29.60' AND BEING CHORDED BY A BEARING OF N 10°14'50" E AND A DISTANCE OF 29.59' TO A POINT;
2) WITH A BEARING OF N 12°59'55" E AND A DISTANCE OF 60.35' TO A POINT;
3) WITH AN ARC TO THE RIGHT, HAVING A RADIUS OF 2576.58' AND A LENGTH OF 122.45' AND BEING CHORDED BY A BEARING OF N 13°07'41" E AND A DISTANCE OF 122.43' TO A POINT;
4) WITH A BEARING OF N 14°37'41" E AND A DISTANCE OF 80.33', TO A POINT;

THENCE LEAVING SAID RIGHT OF WAY WITH A BEARING OF S 84°17'55" E AND A DISTANCE OF 154.74' TO A POINT; THENCE WITH A BEARING OF S 3°37'38" W AND A DISTANCE OF 204.85' TO A POINT; THENCE WITH A BEARING OF S 13°46'33" E AND A DISTANCE OF 21.69' TO A POINT IN THE NORTHERN MARGIN OF RIGHT OF WAY FOR JOHNSTON-OEHLER ROAD; THENCE WITH THE RIGHT OF WAY OF SAID ROAD WITH AN ARC TO THE LEFT, HAVING A RADIUS OF 1173.09' AND A LENGTH OF 196.97' AND BEING CHORDED BY A BEARING OF S 71°24'51" W AND A DISTANCE OF 196.74' TO A POINT; THENCE WITH AN ARC TO THE RIGHT HAVING A RADIUS OF 35.00' AND A LENGTH OF 33.85' AND BEING CHORDED BY A BEARING OF N 54°54'59" W AND A DISTANCE OF 32.54' THE POINT OF BEGINNING, AND CONTAINING 48261 SQ.FT. OR 1.1079 ACRES AS SHOWN ON SURVEY BY CAROLINA SURVEYORS, INC. DATED JANUARY 21, 2010.

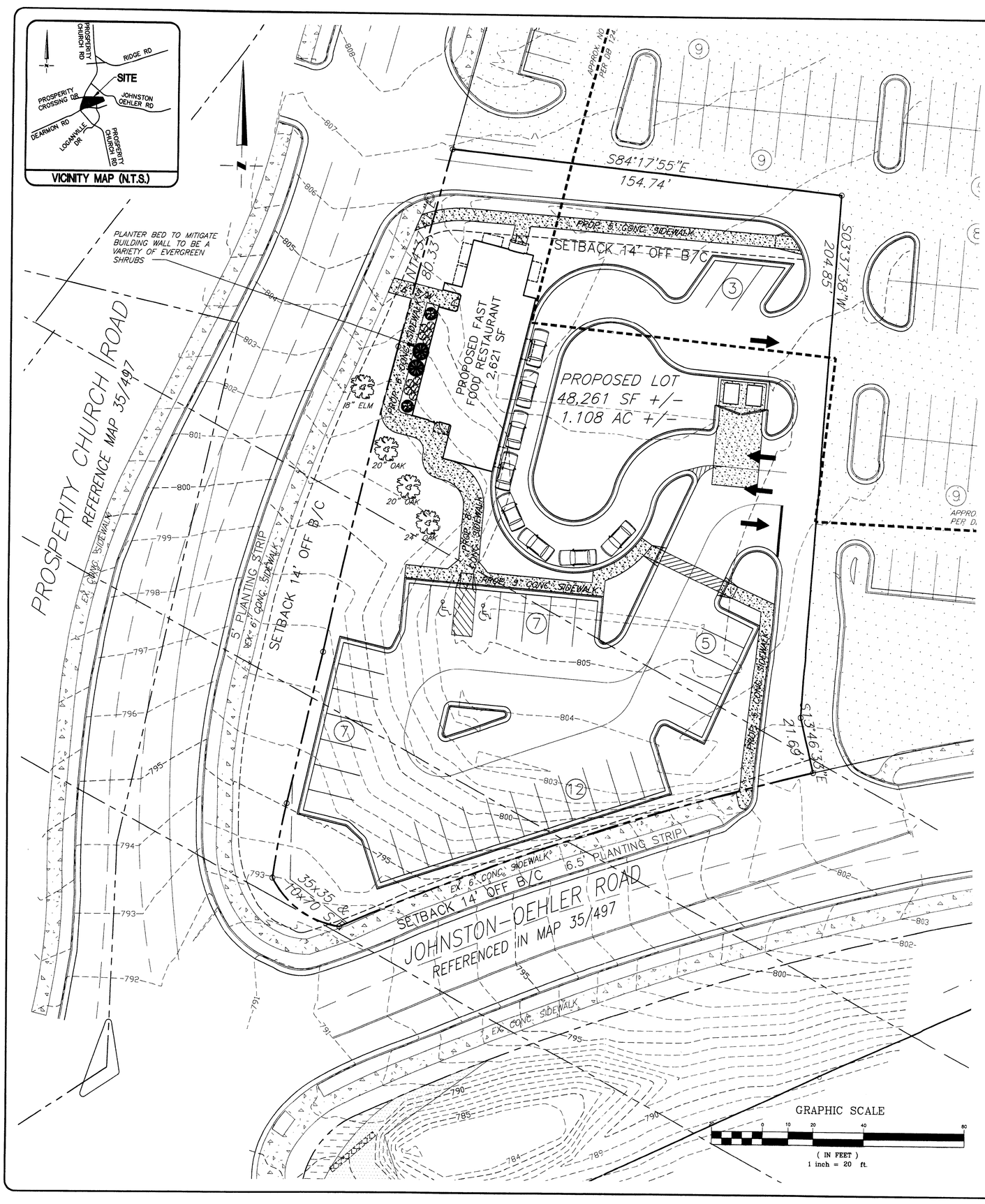
**PROSPERITY SHOPPING PLAZA**
**FAST FOOD WITH DRIVE THRU**
**PROSPERITY CHURCH ROAD**
**CHARLOTTE, NC**

DEVELOPED BY:
PROSPERITY SHOPPING PLAZA, LLC
1407 Broadway
Suite 2100
New York, NY 10018

GREENBRIER DESIGN GROUP, P.C.
1316 Greenwood Cliff
Charlotte, North Carolina 28204
(704) 347-4972 Telephone
(866) 749-9390 Fax

**REZONING SCHEMATIC PLAN PETITION 2010-30(C) S.P.A.**

ISSUED
INITIAL SUBMITTAL 1/25/10
REZONING PLAN REVISIONS 3/19/10
REZONING PLAN REVISIONS 4/23/10




### CONDITIONAL SITE PLAN NOTES FROM THE UNDERLYING REZONING PETITION 97-51(C)

1. The proposed Site Plan represents the general schematic arrangement of buildings and parking/circulation areas. However, modifications pertaining to the size, shape and arrangement of buildings, as well as the parking and circulation layout, are permitted as a matter of right subject to the design concepts Prosperity Church Road/I-485 interchange and "village center" as envisioned by the adopted Northeast District Plan and Note 10 listed below. In no event, though, shall there be any decrease in depth of setback/yard dimensions nor any increase in the amount of building square footage permitted on the Site.

2. The proposed development shall comply with all applicable Mecklenburg County regulations pertaining to off-street parking, signage, landscaping, screening, erosion control, etc. All requirements pertaining to Neighborhood Service Zoning District (NS) shall be complied with.

3. Vehicular circulation and access associated with the proposed development shall be arranged as conceptually depicted by the Site Plan. This arrangement is based upon providing convenient and safe ingress and egress to the Site by the existing alignment of Prosperity Church Road and Dearmon Road as well as anticipated future alignment of these roads and other new streets as shown The precise location of driveway curb exists may be altered to fit specific development/construction plans.

4. Maximum building height shall be limited to two stories. Buildings shall not exceed 40 feet in height.

5. Maximum building square footage for the entire Site shall be limited to a maximum of 120,000 square feet. A total of 70,000 square feet shall be permitted in Phase One.

6. Future 70' thoroughfares shall be constructed to applicable standards, including 15 foot wide outside lanes for the accommodation of bicycles.

7. All mechanical equipment including roof top units, shall be screened from view from adjoining properties and adjoining public streets.

8. All dumpster areas will be screened in accordance with zoning ordinance requirements. Each dumpster shall be located within an enclosed structure with a gate.

9. No building construction may begin on the site until the new alignment of Prosperity Church Road associated with the site has been determined by Kubilins Traffic Consulting (as Mecklenburg County consultant studying the bridge design associated with I-485 at Prosperity Church Road) or 4 months from the date of the approval of the rezoning by Mecklenburg County, whichever occurs first. At the time of Phase One development on the Site, the Petitioner shall dedicate the portion of the Village Green associated with the Site, the right-of-way portion of the new realignment of Prosperity Church Road which passes through the Site as well as the Dearmon Oehler connection which passes through the Site. Furthermore, the Petitioner shall construct the portion Dearmon Oehler connection associated with the site as shown in Phase One on the Site Plan as well as a private driveway along the northerly edge of the Site as shown.

10. The Petitioner understands that the "village center" is predicated on a design for the I-485/Prosperity Church Road interchange which facilitates the establishment urban design/street network as envisioned by the Northeast District Plan for the site and general area. To promote and implement this goal, the petitioner's conditional Site Plan is composed of two Site Plan documents, the Site Plan and the Concept Plan/Urban Design/Street Network, which combine to form the Site Plan development conditions and overall design concept for the entire site.

The purpose of the conditional Site Plan is 1)to provide the design guidelines for the Phase One portion of the development in the manner which will relate the proposed buildings and parking/circulation Plan to the existing street network and other associated development restrictions and regulations and; 2) provide the overall buildout scenario for the Site taking into account the potential future road realignments and/or near public right-of-way and the preferred design relationships of proposed buildings to the new street network, which is based upon the design goals found in the Northeast District Plan's section entitled "Outer Loop Interchange Areas/Prosperity Church Road Interchange".

The village center is anticipated to be a compact, pedestrian-oriented place where a variety of land uses are offered. Important design concepts for the village center are "traditional" features which design buildings and other features at a pedestrian scale by incorporating pedestrian-friendly features, such as locating buildings closer to the street, building scale, tree-lined streets, sidewalks, building/pedestrian orientation to the street (i.e.: the use of exterior doors and window displays, etc.) and the like.

The proposed Concept Plan/Urban Design/Street Network Plan provides the general basis for including these urban design features into the overall Plan for this Site. As such, the Concept Plan will be used as a conceptual design guideline for the ultimate build-out scenario for the Site.

The Petitioner has proceeded with good faith towards the goal of accommodating the village concept and associated street network anticipated by the Northeast District Plan. The Conditional Site Plan is offered by the Petitioner, therefore, as the anticipated alignment for the potential new street network associated with the site. This rezoning is predicated upon the approval of said Site Plan as offered by the Petitioner and it is agreed, therefore, that any future adopted plans for the areas and Site will not adversely impact the ability of the Petitioner to develop the Site as shown(i.e.: total square footage, ingress/egress, parking, etc.). Accordingly, Phase One development shall establish this concept as depicted on the Site Plan, which will include the construction of sidewalks and planting strips as shown along Johnston-Oehler and the northerly public street.

11. The Petitioner shall only be required to adhere to the provisions of the village center concept conditions as long as the Board of County Commissioners (or other body which might have zoning jurisdiction over the Site) does not approve rezoning for another site that would allow development within one mile of this Site without also adhering to the standards similar to those complied with herein by the Petitioner under this rezoning Plan to facilitate the village center envisioned by the Northeast District Plan.

12. All utilities shall be constructed underground.

13. The maximum height of detached lighting shall be 30 feet.

14. No storm water detention will be located in the required setback areas.

15. Phase One development contains limited instances where portions of a service driveway are located within the right-of-way of a street. These driveways shall be relocated as shown during Phase Two construction.

16. Although current standards prohibits on-street parking along thoroughfares, if future standards and/or urban village center concept allow it, then on-street parking shall be permitted, though not illustrated on this Plan.

17. Fast food restaurants, if any, shall not be permitted to have a drive-thru window.

[NOTE 17 FROM THE CONDITIONAL SITE PLAN NOTES FROM THE UNDERLYING REZONING PETITION 97-51(C) IS SHOWN FOR INFORMATION ONLY AND IS THE PRIMARY REASON THE PETITIONER OF THE CURRENT REZONING REQUEST 2010-30 (C) S.P.A. TO SEEK APPROVAL OF THIS SITE PLAN AMENDMENT.]

18. All Phase One buildings shall be constructed within 6 years of the date of the initial building permit associated with the proposed development.

19. At the time of Phase One construction, the Petitioner agrees to comply with the applicable improvement requirements along the Site's existing Prosperity Church Road frontage, which also includes the potential change in street classification regarding Prosperity Church Road. In the event of said change in classification, the Petitioner shall widen along the Site's Prosperity Church Road frontage by 3 feet.

20. An area 30 feet wide along the northerly edge of the Site is reserved for future public right-of-way as shown. During Phase One development, the Petitioner shall construct a private drive in this area in accordance with the requirements of the NS zoning district pertaining to setback, sidewalk, planting strip, etc. The Petitioner shall dedicate this 30 foot area for public right-of-way purposes at the time the adjacent property to the north of the Site is developed (which shall complete the required 60 foot right-of-way dimension) or upon request of city, county or state officials.

### DEVELOPMENT STANDARDS REZONING PETITION 2010-30 (C) S.P.A.

GENERAL PROVISIONS
1. The acknowledgment of the Conditional Site Plan Notes From Underlying Rezoning Petition 97-51(C) in the current rezoning petition 2010-30 (C) S. P. A. does not imply that with approval of the current rezoning request the petitioner is required to bring any elements of the underlying rezoning approval up to compliance or to remedy any deficiencies.

STORM WATER
1. The Petitioner shall comply with the Charlotte City Council approved and adopted Post Construction Control Ordinance for the development associated with the proposed outparcel. Any use by the proposed outparcel site of any off-site detention facilities to satisfy portions or all of the criteria of the PCCO must be demonstrated at the time of plan review to be sufficient for these purposes. Any off-site storm water facilities, if utilized, must also be properly recorded as a regional detention basin.

2. No storm water detention will be located in the required setbacks.

EXTERIOR LIGHTING
1. No "wall pack" type lighting will be allowed. All lighting will be full cutoff fixture.

2. Wall mounted sconce lighting on the exterior of the building will be permitted.

BUILDING
1. The building will not exceed two stories and shall have a maximum building height of 40 feet.

2. The building facade will be similar in materials and appearance to the existing commercial center, refer to the building elevations provided in this rezoning submittal package.

3. All mechanical equipment including roof top units shall be screened from view of adjoining properties and adjoining public streets.

4. All dumpster facilities will be screened in accordance with the Zoning Ordinance requirements. Each dumpster shall be located within an enclosed structure matching the materials used for the proposed building and shall be equipped with a gate.

5. Large expanses of exterior walls exceeding 20 feet on all sides of the building will be avoided by using varied brick color and patterns.

6. The proposed building shall not exceed 2,621 square feet on the proposed 1.108 acre outparcel and the maximum allowable building area of 70,000 square feet for Phase 1 of the Prosperity Shopping Plaza will remain unchanged.

SIGNAGE
1. The existing sign serving the overall Prosperity Shopping Plaza is within the proposed building footprint and will be relocated to the opposite side of the existing driveway connection to Prosperity Church Road.

2. Detached signage for the proposed fast food restaurant shall be limited to 32 SF and a maximum height of 4 FT in compliance with the Zoning Ordinance.

LANDSCAPE & TREE SAVE
1. Every reasonable effort will be made to save the existing trees along Prosperity Church Road.

2. The proposed parking area along Johnston-Oehler Road shall be 5 FT behind the existing public sidewalk to allow for code required screening.

3. The site will comply with Chapter 21 - Tree Ordinance including tree preservation and tree planting. Two rows of trees may be required along Prosperity Church Road, one in the planting strip between the back of curb and the existing sidewalk and a second behind the sidewalk.

4. Site lighting will not be allowed in tree islands. Conflicts between trees and lighting will result in relocation of light poles.

5. Existing trees outside the proposed development area may be credited to the tree requirements.

6. An 8 foot planting strip and a 6 foot sidewalk (existing) will be provided along Prosperity Church Road and Johnston-Oehler Road. Where an 8 foot planting strip can not be provided due to limited open space, the planting strip will be equipped with irrigation and sub-drainage facilities.

PARKING
1. A permanent shared parking agreement shall be established as needed to account for the parking required for the fast food restaurant should the minimum required parking not be sited on the proposed outparcel site.

2. Parking shall be screened from view along Prosperity Church Road and Johnston-Oehler Road.

TRANSPORTATION
1. The Petitioner maintains that less than 1,000 trips per day at buildout will result with the approval of this rezoning request and that the westernmost existing driveway connection to Johnston-Oehler Road will not considerably reduce the efficiency of the existing signalized intersection at Prosperity Church Road and Johnston-Oehler Road or the future traffic circle.

2. The Petitioner is in ongoing discussions with Michael Davis with CDOT regarding alternatives related to maintaining the existing westernmost driveway to Johnston-Oehler Road in an effort to provide the most efficient ingress and egress to the proposed outparcel, to minimize impact to the existing parking aisles serving the Prosperity Shopping Plaza immediately east of the proposed fast food restaurant and minimize impact to the existing driveway connection to Johnston-Oehler Road. it is understood that a right in-right out only driveway connection to Johnston-Oehler Road would require road widening and a raised concrete median be constructed in Johnston-Oehler Road. One alternative that is being considered is modification of the existing driveway to create a single egress lane drive connecting to Johnston-Oehler Road in the current location. The Petitioner will continue discussions with CDOT during the rezoning process but all access and circulation issues will be resolved no later than during the permitting process.

3. If significant reconfiguration of the existing westernmost driveway connection to Johnston-Oehler Road is required which warrants minor incidental change to the acreage of the proposed outparcel that modification will be permitted with no requirement to go back thorough the rezoning process.

4. Any fence or wall constructed along or adjacent to any sidewalk or street right-of-way requires a certificate issued by CDOT.

5. A right-of-way encroachment agreement is required for the installation for any non-standard item(s) (irrigation systems, decorative concrete pavement, brick pavers, etc.) within a proposed/existing City maintained street right-of-way by a private individual, group, business or homeowners/business association. An encroachment agreement must be approved by CDOT prior to the construction/installation of the non-standard item(s).

6. Further consideration will be given to the location of the solid waste dumpster to improve loading maneuver as any modification to the driving aisles parking areas is warranted with respect to the existing driveway connection to Johnston-Oehler Road.

**PROSPERITY SHOPPING PLAZA**
**FAST FOOD WITH DRIVE THRU**
**PROSPERITY CHURCH ROAD**
**CHARLOTTE, NC**

DEVELOPED BY:
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Suite 2100
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**REZONING TECHNICAL DATA SHEET PETITION 2010-30(C) S.P.A.**

ISSUED
INITIAL SUBMITTAL 1/25/10
REZONING PLAN REVISIONS 3/19/10
REZONING PLAN REVISIONS 4/23/10