

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING CHAPTER 11 (THE LAND USE PLAN) OF THE TOWN OF PROSPER'S COMPREHENSIVE PLAN, ORDINANCE NO. 04-103; ADDING CRITERIA TO ALLOW FOR RESIDENTIAL OR NON-RESIDENTIAL DEVELOPMENT TO DEVIATE FROM THE FUTURE LAND USE PLAN; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the Town Council of the Town of Prosper, Texas ("Town Council") has investigated and determined that Chapter 11 (The Land Use Plan) of the Town of Prosper, Texas ("Prosper") Comprehensive Plan, Ordinance No. 04-103 should be amended; and

WHEREAS, Prosper has complied with all notices and public hearings as required by law; and

WHEREAS, the Town Council finds that it will be advantageous, beneficial and in the best interest of the citizens of Prosper to amend a portion of the Comprehensive Plan 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: Amendment to Prosper's Comprehensive Plan, Ordinance No. 04-103. Chapter 11 of Prosper's Comprehensive Plan, Ordinance No. 04-103 is hereby amended to read as follows:

Chapter 11 – The Land Use Plan

G. Criteria to consider in evaluating whether to allow residential or non-residential development to deviate from the Future Land Use Plan.

The zoning for a property that is designated residential may be considered by the Town for non-residential uses based upon an evaluation of all of the following criteria, among any other criteria deemed appropriate by the Town:

- The property is physically appropriate for non-residential uses.
- The rezoning will not create a situation where non-residential traffic will negatively impact established and proposed residential development, schools, and/or parks.
- The rezoning will not leave any residual tracts of residentially zoned property or an area designated for residential use on the Future Land Use Plan.
- The rezoning should provide an appropriate transition between non-residential and residential uses.
- The rezoning will not create a negative impact on the Town's existing or future infrastructure (water, sanitary sewer, drainage, or thoroughfares)
- The rezoning will not create a negative impact on the Town's existing or future public services (schools, fire and police, library, parks, or sanitation).
- The rezoning conforms to the goals and objectives of the Town's Comprehensive Plan.
- The rezoning enhances the health, public safety, and welfare of the Town of Prosper.

The zoning for a property that is designated non-residential may be considered by the Town for residential uses based upon an evaluation of all of the following criteria, among any other criteria deemed appropriate by the Town:

- The property is physically appropriate for residential uses.
- The rezoning will not create a situation where non-residential traffic will negatively impact established and proposed residential development, schools, and/or parks.
- The rezoning will not result in a shortage of land designated for non-residential development.
- The rezoning will not diminish the land base considered prime for future economic development.
- The rezoning will not leave any residual tracts of non-residentially zoned property which will not conform to the Future Land Use Plan or which will negatively affect the proposed residential use.
- The rezoning should provide an appropriate transition between residential and non-residential uses.
- The rezoning will not create a negative impact on the Town's existing or future infrastructure (water, sanitary sewer, drainage, or thoroughfares)
- The rezoning will not create a negative impact on the Town's existing or future public services (schools, fire and police, library, parks, or sanitation).
- The rezoning conforms to the goals and objectives of the Town's Comprehensive Plan.
- The rezoning enhances the health, public safety, and welfare of the Town of Prosper.

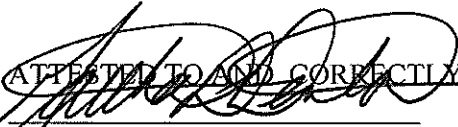
SECTION 3: Savings/Repealing Clause: Prosper's Comprehensive Plan, Ordinance No. 04-103 shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinance shall remain in full force and effect.

SECTION 4: 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 5: Effective Date: This Ordinance shall become effective immediately upon its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS on this 13th day of February, 2007.

ATTESTED TO AND CORRECTLY RECORDED BY:


Matthew Denton, TRMC
Town Secretary

