

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 04-47

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 84-16; REZONING A TRACT OF LAND CONSISTING OF 157.98 ACRES, MORE OR LESS, SITUATED IN THE J. YARNALL SURVEY, ABSTRACT NO. 1038, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS HERETOFORE ZONED SINGLE-FAMILY RESIDENCE DISTRICT-1 (SF-1) IS HEREBY REZONED AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-RETAIL (PD-R); 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. 84-16 should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request from Charles Angel, Jr. ("Applicant") to rezone 157.98 acres of land, more or less, situated in the J. Yarnall Survey, Abstract No. 1038, in the Town of Prosper, Collin County, Texas; 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: Amendments to Zoning Ordinance No. 84-16. Zoning Ordinance No. 84-16 is amended as follows: The zoning designation of the below-described property containing

157.98 acres, more or less, situated in the J. Yarnall Survey, Abstract No. 1038 in the Town of Prosper, Collin County, Texas, (the "Property") and all streets, roads and alleyways contiguous and/or adjacent thereto is hereby rezoned as Planned Development-Retail (PD-R). The property as a whole and the boundaries for each zoning classification are 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 Planned Development District shall conform to, and comply with 1) the statement of intent and purpose, attached hereto as Exhibit "B"; 2) the planned development standards, attached hereto as Exhibit "C"; and 3) the conceptual plan, attached hereto as Exhibit "D"; and 4) the development schedule, attached hereto as Exhibit "E"; each of which is incorporated herein for all purposes as if set forth verbatim. Except as amended by this Ordinance, the development of the Property within this Planned Development District must comply with the requirements of all ordinances, rules, and regulations of Prosper, as they currently exist or may be amended.

Three original, official and identical copies of the zoning exhibit map are hereby adopted and shall be filed and maintained as follows:

- a. Two (2) copies shall be filed with the Town Secretary and retained as original records and shall not be changed in any matter.
- b. One (1) copy shall be filed with the building inspector 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.

Written notice of any amendment to this Planned Development District shall be sent to all property owners within two hundred feet (200') of the specific area to be amended.

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. 84-16, or as amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Two Thousand Dollars (\$2000.00). 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.

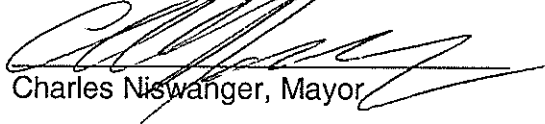
SECTION 7: Savings/Repealing Clause. Prosper's Zoning Ordinance No. 84-16 shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such 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.

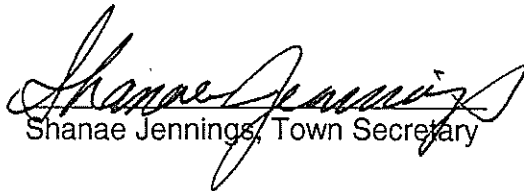
SECTION 8: Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 28th DAY OF April, 2004.

APPROVED AS TO FORM:


Charles Niswanger, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:


Shanae Jennings, Town Secretary

DATE OF PUBLICATION: May 6, 2004 & May 7, 2004 Dallas Morning News – Collin County Addition

EXHIBIT "A"

Being a tract of land out of the J. Yarnall Survey, Abstract No. 1038 and the Collin County School Land, Abstract No. 147 in the Collin County, Texas and being a part of the 8.10 acre tract of land described as the First Tract in deed to Charles Allen Angel, Jr., recorded in Volume 672, Page 395 of the Deed Records of Collin County, Texas, a part of the 157.7 acre tract of land described as the Second Tract in deed to Charles Allen Angel, Jr., recorded in Volume 672, Page 395 of the Deed Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a point for the intersection of the north right-of-way line of U.S. Highway No. 380 (a variable width public right-of-way) with the east right-of-way line of Burlington Northern Railroad (100' right-of-way);

THENCE along the said east right-of-way line of Burlington Northern Railroad, North $11^{\circ}21'55''$ East, a distance of 2584.92 feet to a point for the southwest corner of the 125.926 acre tract of land described as Tract Six in deed to 183 Land Corporation, Inc., recorded in Collin County Clerk File's No. 97-0005168 of the Land Records of Collin County, Texas;

THENCE with the south line of the said 125.926 acre tract, North $89^{\circ}28'32''$ East, a distance of 2455.02 feet to a point in the center of Business Highway No. 289 in the west line of the 123.850 acre tract of land described as Tract Seven in deed to 183 Land Corporation, Inc., recorded in Collin County Clerk File's No. 97-0005168 of the Land Records of Collin County, Texas for the southeast corner of the 125.926 acre tract;

THENCE with the west line of the said 123.850 acre tract, South $00^{\circ}10'00''$ East, a distance of 1833.93 feet to a point in the northwesterly line of the 1.840 acre tract of land described in deed to the State of Texas for Preston Road, also known as State Highway No. 289 (a variable width public right-of-way), recorded in Volume 628, Page 322 of the Deed Records of Collin County, Texas;

THENCE with the northwesterly right-of-way line of said Preston Road, as follows:

--South $87^{\circ}51'54''$ West, a distance of 29.76 to a point for corner;

--South $10^{\circ}07'00''$ West, a distance of 262.18 feet to a point for corner;

--South $42^{\circ}08'00''$ West, a distance of 435.82 feet to a point for corner;

--South $12^{\circ}27'00''$ West, a distance of 142.84 feet to a point for most northerly corner of the corner clip at the intersection of the westerly right-of-way line of Preston Road with the northerly right-of-way line of U.S. Highway No. 380;

THENCE with the said corner clip, South 50°37'00" West, a distance of 62.97 feet to a point in the northerly right-of-way line of U.S. Highway No. 380 for most westerly corner of the corner clip at the intersection of the westerly right-of-way line of Preston Road with the northerly right-of-way line of U.S. Highway No. 380;

THENCE with the said northerly right-of-way line as follows;

--South 88°37'00" West, a distance of 807.14 feet to a point for corner;

--South 84°20'01" West, a distance of 92.97 feet to a point for most easterly corner 17,621 square foot tract of land described in deed to the State of Texas for U.S. Highway No. 380 (a variable width public right-of-way), recorded in Collin County Clerk File's No. 96-0038330 of the Land Records of Collin County, Texas;

THENCE with the northerly right-of-way line of said U.S. Highway No. 380, as follows;

--South 89°34'00" West, a distance of 430.54 feet to a point for corner;

--North 88°31'27" West, a distance of 300.17 feet to a point for corner;

--North 84°43'22" West, a distance of 703.49 feet to a point for corner;

--South 89°34'00" West, a distance of 191.50 feet to the **POINT OF BEGINNING** and containing 157.98 acres of land, more or less. This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.



EXHIBIT B

ANGEL PROPERTY STATEMENT OF INTENT AND PURPOSE

The purpose and intent of this Planned Development (PD) District is to provide a high quality regional retail center at the southern gateway into the Town of Prosper Texas. As shown on the Future Land Use Plan, this property will be part of a designated Town Center with a mix of urban-scale uses and densities. In the absence of an existing mixed-use zoning district, this PD is expected to establish a base-level of non-residential zoning in order to allow the property to be effectively marketed to the limited number of national retail developers, beginning with the Spring 2004 conference of the International Council of Shopping Centers (ICSC). Through the cooperative efforts of Town Center property owners and the Town of Prosper in developing mixed-use development standards, it is anticipated that this PD will be refined, enhanced, or replaced with a thorough set of special district implementing documents which prescribe allowable land uses, their magnitudes, and development standards to assure a quality development.

EXHIBIT C

ANGEL PROPERTY PLANNED DEVELOPMENT STANDARDS.

The property within this Planned Development (PD) District represents the key tract within a proposed Town Center mixed-use development area as envisioned by the Future Land Use Plan. The base zoning of this tract shall be Retail as defined in Zoning Ordinance 84-16, as it exists or may be amended. Development standards to govern the implementation of this Town Center vision are not yet fully developed. It is anticipated that such standards will be developed through the cooperative efforts of the affected Town Center property owners and the Town of Prosper. No development shall take place on this property until this Planned Development (PD) District is amended by ordinance or replaced by ordinance through the standard zoning process outlined in Zoning Ordinance 84-16, as it exists or may be amended, in order to adopt a Concept Plan and specify such comprehensive Development Standards.

EXHIBIT D

**ANGEL PROPERTY
CONCEPT PLAN**

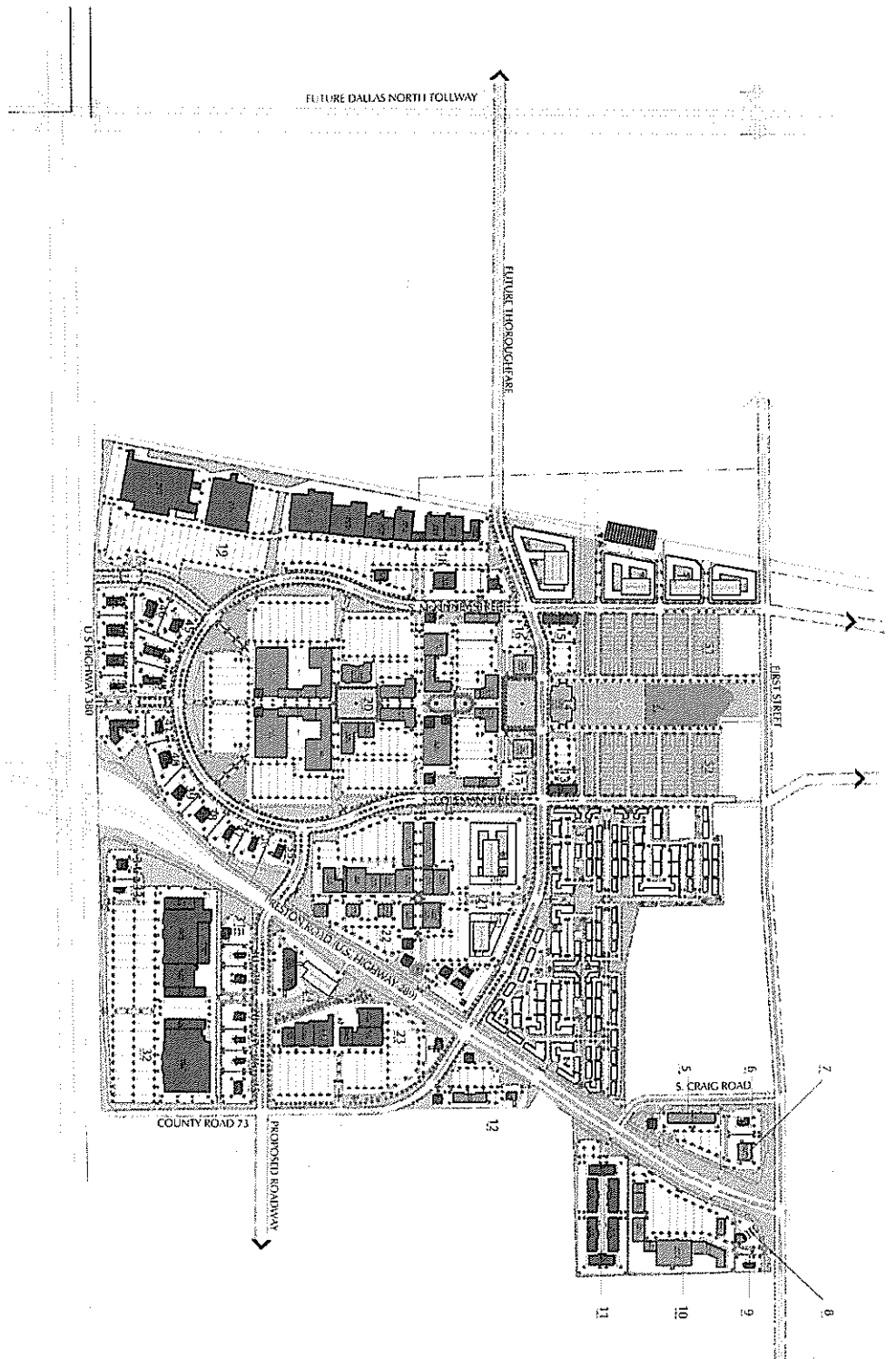
This page / Section / Exhibit is intentionally left blank. It is reserved for the future adoption of a Concept Plan as outlined in Exhibit "C".

EXHIBIT E

ANGEL PROPERTY DEVELOPMENT SCHEDULE

The development of this 157.098 acre property is expected to be phased over the next ten (10) to fifteen (15) years in response to market demands. Regional retail centers typically take at least five (5) years for the selection of a specific national retail developer and the marketing and attraction of key anchor tenants. This process will begin upon approval of zoning, and will be diligently pursued as market conditions dictate.

**PROPOSED IMPROVEMENTS
CONCEPTUAL MASTER PLAN
GATES OF PROSPER
PROSPER, TEXAS**



GOOD FULTON & FARRELL

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