

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 05-78

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 71.07 ACRES, MORE OR LESS, SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 147, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, HERETOFORE ZONED SINGLE FAMILY-15 (SF-15) IS HEREBY REZONED AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-OFFICE & INDUSTRIAL (PD-O & I); 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 Prosper Industrial 102 Joint Venture ("Applicant") to rezone 71.07 acres of land, more or less, situated in the Collin County School Land Survey, Abstract No. 147, 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. 05-20. Zoning Ordinance No. 05-20 is amended as follows: The zoning designation of the below-described property containing 71.07 acres of land, more or less, situated in the Collin County School Land Survey, Abstract No. 147, 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-Office & Industrial (PD-O & I). 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 Development Schedule, attached hereto as Exhibit "D"; which are 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. 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.

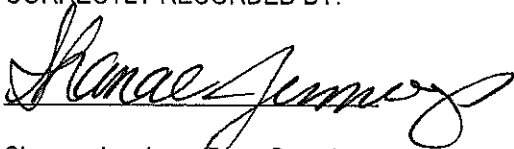
SECTION 8: Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 25th DAY OF OCTOBER, 2005.

APPROVED AS TO FORM:


Charles Niswanger, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:



Shanae Jennings, Town Secretary

DATE OF PUBLICATION: 10/29/05 & 10/31/05, Dallas Morning News – Collin County Addition

EXHIBIT "A"
PROPERTY DESCRIPTION
71.07 ACRES

BEING a tract or parcel of land situated in the Collin County School Survey, Abstract Number 147, City of Prosper, Collin County, Texas. Same being a portion of that certain tract described to Tomlin Properties, Trustee, by instrument of record in Volume 2949, Page 46, Deed Records, Collin County, Texas, said tract or parcel being more particularly described by metes and bounds as follows:

COMMENCING at a Railroad Spike found at the intersection of the centerline of County Road No. 4 and the West right-of-way line of the B.N.S.F. Railroad (a 100' right-of-way), said Railroad Spike also being the Northeast corner of the Hope Lumber tract;

THENCE along the West right-of-way line of said railroad, South $11^{\circ}57'00''$ West a distance of 1250.00 feet to THE PLACE OF BEGINNING;

THENCE continuing along said railroad, South $11^{\circ}57'00''$ West a distance of 1445.64 feet to a $5/8''$ iron rod set for corner;

THENCE departing said railroad right-of-way line, North $89^{\circ}40'28''$ West a distance of 1428.45 feet to a $5/8''$ iron rod set for corner;

THENCE North $00^{\circ}47'13''$ East a distance of 2629.91 feet to a $5/8''$ iron rod set for corner, said iron rod also being on the centerline of said County Road No. 4;

THENCE along centerline of County Road No. 4, South $89^{\circ}59'12''$ East, a distance of 850.39 feet to a $5/8''$ iron rod set for corner;

THENCE leaving said centerline of County Road No. 4, South $11^{\circ}56'28''$ West, a distance of 1249.84 feet to a $5/8''$ iron rod set for corner;

THENCE South $89^{\circ}59'00''$ East a distance of 1099.88 feet to the west line of said railroad and the PLACE OF BEGINNING and CONTAINING 71.07 acres of land.



THIS TRACT OR SURVEY ALIQUOT SUBDIVISION ON THE
 COUNTY IS FOR ILLUSTRATION PURPOSES AND DOES NOT
 FINAL ALIGNMENT. THE ALIGNMENT WILL BE DETERMINED
 AT TIME OF FINAL PLAN.

NO 100 YEAR FLOOD PLAIN ON SITE

PROPERTY DESCRIPTION
 71.07 ACRES

BEING a tract or parcel of land situated in the Collin County School Survey, Abstract Number 147, City of Prosper, Collin County, Texas, being a portion of the certain tract described to Terrell Properties, Inc. in an instrument of record in Volume 2949, Page 46, Deed Records, Collin County, Texas, said tract or parcel being more particularly described by metes and bounds as follows:

COMMENCING at a Railroad Spike found at the intersection of the centerline of County Road No. 4 and the West right-of-way line of the B.L.S.F. Railroad (a 100' right-of-way), said Railroad Spike also being the Northwest corner of the Hope Lumber Tract;

THENCE along the West right-of-way line of said railroad, South 11°57'00" West a distance of 1250.00 feet to THE PLACE OF BEGINNING;

THENCE continuing along said railroad, South 11°57'00" West a distance of 1445.64 feet to a 5/8" iron rod set for corner;

THENCE departing said railroad, right-of-way line, North 89°40'25" West a distance of 1428.45 feet to a 5/8" iron rod set for corner;

THENCE North 00°47'15" East a distance of 2609.91 feet to a 5/8" iron rod set for corner, said iron rod also being on the centerline of said County Road No. 4;

THENCE along centerline of County Road No. 4, South 89°59'12" East, a distance of 850.35 feet to a 5/8" iron rod set for corner;

THENCE leaving said centerline of County Road No. 4, South 11°56'28" West, a distance of 1249.84 feet to a 5/8" iron rod set for corner;

THENCE South 89°59'00" East a distance of 1099.88 feet to the west line of said railroad and the PLACE OF BEGINNING and CONTAINING 71.07 acres of land.

ZONING EXHIBIT "A"
 COOK ADDITION ZONING
 Z 05 - 12

COLLIN COUNTY SCHOOL SURVEY
 ABSTRACT NUMBER 147
 TOWN OF PROSPER
 COLLIN COUNTY, TEXAS

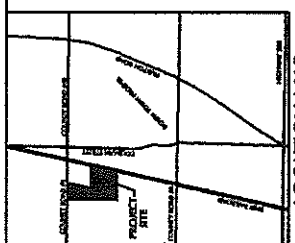
EXISTING ZONING = SF-15
 PROPOSED ZONING = PD-OFFICE

ZONING EXHIBIT
 FOR
 ZONING CASE #Z05-12
 PROSPER INDUSTRIAL 102 JV
 CITY OF PROSPER, TEXAS

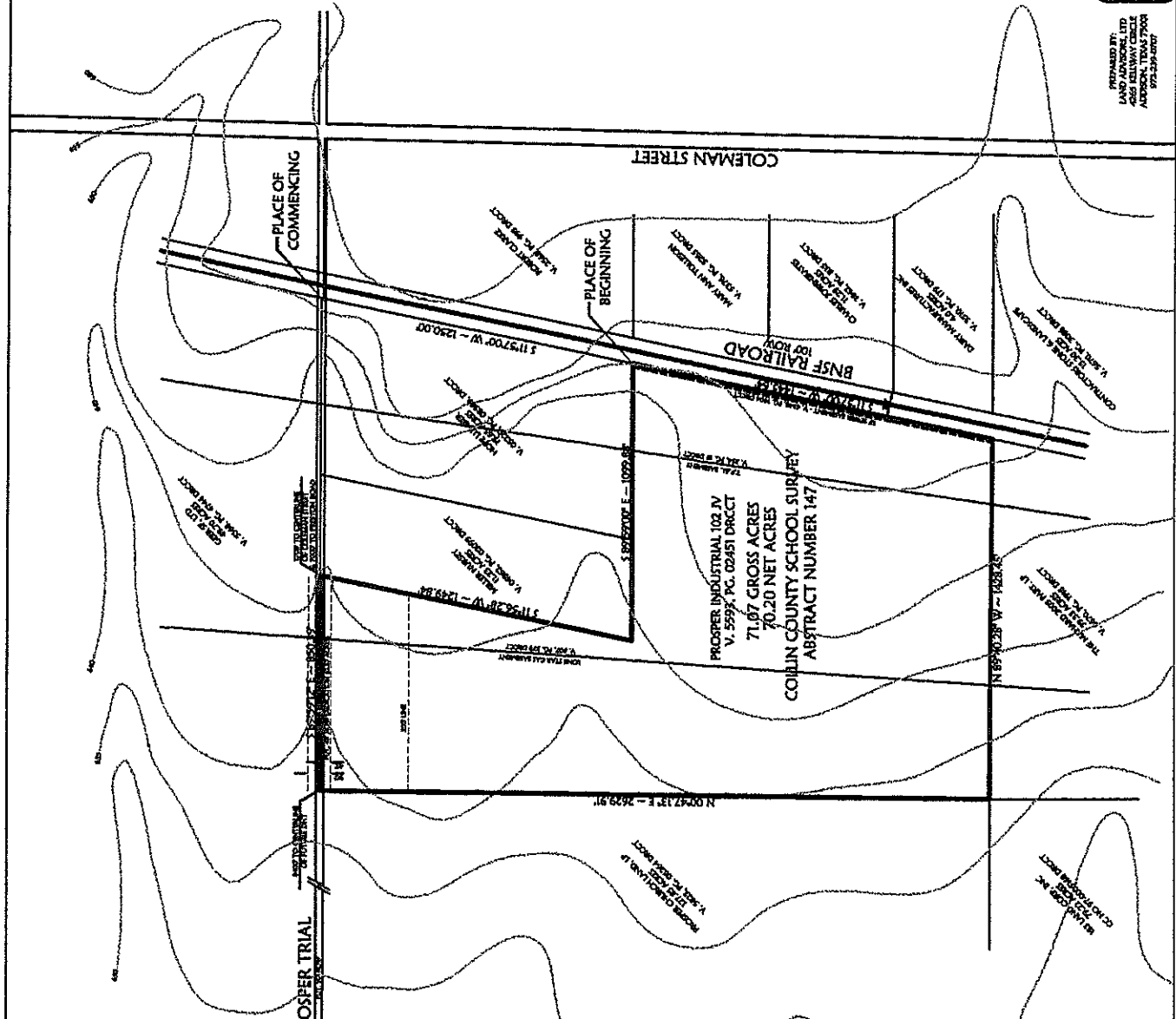
LAND ADVISORS, LTD.

2500 COLONY CIRCLE
 ADDISON, TEXAS 75001
 (972) 234-0707
 FAX: (972) 234-0707
 PREP: 1-2007
 SHEET: 1

PREPARED BY:
 LAND ADVISORS, LTD.
 2500 COLONY CIRCLE
 ADDISON, TEXAS 75001
 (972) 234-0707



LOCATION MAP



PROSPER INDUSTRIAL 102 JV
 V. 5594 P.C. 02451 DIRECT
 71.07 GROSS ACRES
 70.20 NET ACRES
 COLLIN COUNTY SCHOOL SURVEY
 ABSTRACT NUMBER 147

PLACE OF COMMENCING

PLACE OF BEGINNING

COLEMAN STREET

PROSPER TRIAL

FUTURE DNT

Town of Prosper
Planned Development
Office

Exhibit "B"

The purpose for this Planned Development district is to provide the flexibility of an integrated development area that will include assembly, retail, office, commercial, manufacturing, medical office, uses that serve the regional area. The focus of the Planned Development is to provide an integrated development between the Dallas North Tollroad (DNT) corridor and the Burlington-Santa Fe Rail Road corridor supporting the vitality of the Town of Prosper, this mixture of office and industrial uses is not necessarily appropriate for other locations and other corridors with in the Town. The intent of such areas is to maximize the regional resources provided by the two transportation facilities benefiting the Town by providing and area for both office and commercial uses with on site assembly and distribution of finished products. Such uses do require accessibility to major highways, rail lines or other means of transportation.

EXHIBIT “C”**PLANNED DEVELOPMENT
OFFICE & INDUSTRIAL****GENERAL PURPOSE AND DESCRIPTION:**

This tract shall develop under the requirements of the Office District as contained in Zoning Ordinance No. 05-20 exists or may be amended, subject to the following alterations. Where there is a conflict between Zoning Ordinance N. 05-20 and this Planned Development District, the regulations of this Planned Development District shall apply.

Location: Southwest quadrant of Prosper Trail (CR 4) and the Burlington Santa Fe Rail Road.

Acreage: 71.5± acres

1.0 REGULATIONS:**A. Size of Yards:**

1. **Minimum Front Yard:** Fifty (50) feet; 30 Feet where parking is eliminated between the building and the public right-of-way.
2. **Minimum Side Yard:**
 - a. Thirty (30) feet adjacent to a nonresidential district.
 - b. Sixty (60) feet adjacent to a residential district.
 - c. Fifty (50) feet adjacent to a street.
 - d. None where buildings are constructed with appropriate fire ratings to provide for contiguous / adjoined buildings.
3. **Minimum Rear Yard:**
 - a. Twelve (12) feet adjacent to a nonresidential district. (Fire Lane 24 feet)
 - b. Fifty (50) feet adjacent to a residential district.
 - c. None where adjacent to rail road track.
4. **Additional Setback** - For structures requiring railroad access, setback requirements from the centerline of the railroad right-of-way shall be in accordance with applicable State law.

B. Size of Lots:

1. **Minimum Size of Lot Area:** Ten thousand (10,000) square feet.
2. **Minimum Lot Width:** Forty-five (45) feet where intersecting public right of way.
3. **Minimum Lot Depth:** One hundred (100) feet.

- C. Maximum Height:** Eight (8) stories, not greater than one hundred ten (110) feet. Unless separated by rail road from residential. Where buildings or structures exceed forty (40) feet in height, such buildings or structures shall be setback a minimum of five hundred (500) feet from Prosper Trail and shall not be located closer to any residential district boundary line than a distance equal to the sum of the required side or rear yard specified plus twice the height of the building above forty (40) feet. Applicable state laws will be the governing regulations possibly allowing taller buildings near the boundary of the

property.

D. Maximum Lot Coverage: Seventy-five (75) percent of gross acreage

E. Floor Area Ratio: Maximum 2:1

2.0 SPECIAL RESTRICTION:

- A. Compliance with State and Federal Law:** No uses shall be allowed which are prohibited by State law or which operate in excess of State or Federal environment or pollution standards as determined by the U.S. Environmental Protection Agency, Texas Air Control Board, Texas State Department of Health, or the Texas Water Commission, as the case.
- B. High Ceiling Construction:** The first floors of any office building can include two consecutive stories with floor heights (area between finished floors) of up to 18 feet. Atriums and other high ceiling formats will be allowed according to the applicable building codes. Light industrial, manufacturing and assembly buildings can incorporate interior ceiling heights and mezzanines necessary to accommodate equipment, office and high-rack storage necessary for interior operations.
- C. Open Storage:** Not more than eighty (80) percent of the gross acreage of the lot or tract may be used for the open storage of products, materials, or equipment, all of which shall be screened solid living screen from adjoining properties or public streets.
1. Open storage adjacent to Rail Road tracks adjacent to eastern boundary of zoning district shall incorporate living screen elements to screen eastern side of rail road tracks to the extent the operator of the railroad does not consider such screening a safety risk. The intention of this requirement is to provide a visual buffer while still allowing full and safe rail access.
- D.** Delivery and dock doors visible from public streets shall be recessed thirty (30) feet beyond the Front of the building or screened (per zoning ordinance) from view of Prosper Trail. Dock high doors will be screened (per zoning ordinance) from view from public street within 300 feet of the center line of Prosper Trail.
- E.** Trash containers shall be screened from view of public streets.
- F.** Minimum of 100% masonry construction will be on utilized on walls (per zoning ordinance) facing public street or adjacent residential zoning or area designation district. Residential separation requirements are exempt from properties that have been annexed in to the City and have not been rezoned from the residential designation automatically received upon completion of annexation process.
- G.** Buildings or portions of buildings within Three Hundred 350 feet of center line of Prosper Trail at the northern edge of the zoning district will be 100% masonry construction.
- H. Visual Esthetics:**
1. A five (5) foot meandering sidewalk will be constructed along all public streets as the adjacent properties are developed.
 2. Undulating topography is encouraged along public street frontage to assist with screening and aesthetics. Earthen berms shall be required to assist with screening and aesthetics adjacent to Prosper Trail.
 3. A solid living screen shall be used for all required screening within the zoning district.

I. Access:

1. Cross access will not be required where properties are located on undivided thoroughfares or public streets.
2. Curb return radius of drive-way will be a minimum of forty (40)' radius to accommodate semi-truck traffic on drives accessing delivery and dock areas.
3. Gates across Fire Lanes are permitted with approval of Fire Department with Opticom and Knox Box.
4. Divided entry drives extending to intersecting driveways will be allowed as two point of access for Fire Protection calculations allowing for gated secure facilities.
5. Multi-level parking structures adjoining main buildings will provide fourteen (14) clear heights allowing first level access for Fire Protection.

J. High Risk or Hazardous Uses:

1. The uses listed below are permitted in this Planned Development District, provided that such uses shall not disseminate dust, fumes, gas, noxious odor, smoke, glare, or other atmospheric influence beyond the boundaries of the property on which such use is located and provided that such use does not create fire hazards on surrounding property.
2. A "high risk or hazardous industrial use" is permitted by specific use permit only. In this section, "high risk or hazardous industrial use" means any use whose operation, in the opinion of the Fire Chief, involves a much higher than average risk to public health and safety. These uses include but are not limited to facilities where significant amounts of radiation, radioactive materials, highly toxic chemicals or substances, or highly combustible or explosive materials are present, used, produced, stored, or disposed of.

K. Hours of Operation: Multi-shift operations allowed.**L. List of Permitted Uses:**

1. Uses followed by an **S** are permitted by Specific Use Permit. Uses followed by a **C** are permitted subject to conditional development standards. See Zoning Ordinance No. 05-20, Chapter 3, Section 1 for the conditional development standards.
 - Accessory Building
 - Administrative, Medical, or Professional Office
 - Airport/Heliport **S**
 - Antenna and/or Antenna Support Structure, Commercial **C**
 - Antenna and/or Antenna Support Structure, Non-Commercial **C**
 - Assisted Care or Living Facility
 - Athletic Stadium or Field, Public
 - Auto Parts Sales, Inside
 - Automobile Paid Parking Lot/Garage
 - Automobile Parking Lot/Garage
 - Automobile Repair, Major- Outdoor storage of vehicles shall be screened from view of public street
 - Automobile Repair, Minor
 - Automobile Sales, Used
 - Automobile Sales/Leasing, New
 - Automobile Storage

- Bank, Savings and Loan, or Credit Union
- Beer & Wine Package Sales **C**
- Bus Terminal **C**
- Business Service
- Car Wash
- Caretaker's/Guard's Residence
- Civic/Convention Center
- College, University, Trade, or Private Boarding School
- Commercial Amusement, Indoor
- Commercial Amusement, Outdoor **S**
- Community Center
- Dry Cleaning, Major (Including Plant)
- Dry Cleaning, Minor
- Fairgrounds/Exhibition Area **S**
- Farm, Ranch, Stable, Garden, Orchard, or Nursery
- Feed Store
- Furniture Restoration –Indoor Only
- Golf Course and/or Country Club
- Governmental Office
- Gunsmith
- Health/Fitness Center
- Helistop **S**
- House of Worship
- Household Appliance Service and Repair
- Indoor Gun Range
- Insurance Office
- Locksmith/Security System Company
- Mini-Warehouse/Public Storage **S**
- Mortuary/Funeral Parlor
- Motorcycle Sales/Service
- Municipal Uses Operated by the Town of Prosper
- Museum/Art Gallery
- Office and Storage Area for Public/Private Utility
- Office/Showroom
- Open Storage - Open Storage must be screened from view of a public street
- Park or Playground
- Print Shop, Major
- Print Shop, Minor
- Private Recreation Center
- Private Utility, Other Than Listed
- Recycling Collection Point
- Rehabilitation Care Institution **S**
- Research and Development Center **C**
- Restaurants or Cafeteria
- Retail/Service Incidental Use
- School District Bus Yard **C**
- Small Engine Repair Shop
- Stable, Commercial
- Stealth Antenna, Commercial **C**
- Taxidermist
- Telephone Exchange

- Temporary Building **C**
- Theater, Drive In **S**
- Theater, Regional
- Transit Center
- Utility Distribution/Transmission Facility **S**
- Veterinarian Clinic and/or Kennel, Indoor
- Veterinarian Clinic and/or Kennel, Outdoor
- Winery

2. **Additional Permitted Uses:**

These uses are permitted within the Planned Development District provided an additional set back of three hundred fifty (350) foot from the center line of Prosper Trail

- Bottling Works
- Building Material and Hardware Sales, Major
- Building Material and Hardware Sales, Minor
- Cabinet/Upholstery Shop
- Car Wash, Self-Serve
- Contractor's Shop and/or Storage Yard
- Concrete/Asphalt Batching Plant, Permanent **S**
- Distribution Center
- Electric Power Generating Plant **S**
- Equipment and Machinery Sales and Rental, Major – Indoor or screened from public street
- General Manufacturing/Industrial Use Complying with Performance Standards
- Limited Assembly and Manufacturing Use Complying with Performance Standards
- Machine Shop – Indoor only
- Miscellaneous Hazardous Industrial Uses **S**
- Office/Warehouse/Distribution Center
- Recreational Vehicle Sales and Service, New/Used – Outdoor Storage must be screened from view of a public street
- Recreational Vehicle/Truck Parking Lot or Garage – Outdoor Storage must be screened from view of a public street
- Recycling Center
- Storage or Wholesale Warehouse
- Trailer Rental
- Truck Sales, Heavy Trucks
- Truck/Bus Repair
- Truck Terminal

Town of Prosper
Planned Development
Office

Exhibit "D"

The development of the Planned Development is anticipated to be a multi-phased development including the first phase of construction to be in conjunction with a rail spur for access to the Burlington Northern / Santa Fe Rail Road adjacent to the eastern boundary for the zoning district. The additional extension of water, sewer and roadways will play a roll in the development of the area within the district. It is anticipated that the first phase of development will occur in 2006 with subsequent phases over the next 10 years for completion with in 15 years.