

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 84-16; REZONING A TRACT OF LAND CONSISTING OF 44.613 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 RESIDENCE DISTRICT-1 (SF-1) UPON ITS ANNEXATION REZONED PLANNED DEVELOPMENT; 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 of Prosper, Texas ("Prosper") has received a request from Tom Clark to rezone 44.613 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 ("Prosper"); and

WHEREAS, the Town Council of Prosper (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: The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: The zoning designation of the below-described property containing 44.613 acres, 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 District.

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 developer or property owner shall have 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: 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 PROVISION. 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: All ordinances in conflict herewith are repealed to the extent they are in conflict. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 8: This Ordinance shall become effective from and after its adoption and publications as required by the Town Charter and by law.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE
TOWN OF PROSPER, TEXAS on this 30th day of September, 2002.

APPROVED AS TO FORM:



Jim Dunmire, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:



Amber Phillips, Town Secretary

DATE OF PUBLICATION: October 4, McKinney Courier Gazette

EXHIBIT "A"
PLANNED DEVELOPMENT STANDARDS

1.0 **PLANNED DEVELOPMENT (PD) – THE PURPOSE OF THIS PD IS TO CREATE COMMERCIAL MIXED USE WITH RETAIL FOCUS ON THE WESTERN HALF AND COMMERCIAL FOCUS ON THE EASTERN HALF**

1.01 **General Description:** This Commercial Planned Development will provide the ability to encourage and to accommodate a quality development along State Highway 289 and County Road 78.

1.02A **Permitted Uses:** The following uses shall be permitted within this Planned Development:

- Antique Shops – Indoor Display Only
- Appliance Stores
- Artist Materials and Supplies
- Auto Laundries/Car Wash Facilities
- New Auto Parts Sales – No Outdoor Storage/Display
- Auto Service
- Baby Shops
- Bakery and Confectionery Shops (not to exceed 10,000 sq. ft. in size)
- Banks, Savings and Loan and Credit Unions
- Banks, Savings and Loan and Credit Unions – With Drive-Thru Services
- Barber/Beauty Shops
- Beverage Stores – In accordance with other applicable City of Prosper, Texas Ordinances as they presently exist or may be amended
- Billboard and Advertising Signs – Permitted in compliance with the City of Prosper, Texas Sign Ordinance as it presently exists or may be amended
- Book and Stationery Shops
- Bus Stops (Excluding Commercial Bus Terminal)
- Business Services (accounting, Tax Services, Computer Service, Cellular or Business Service Sales)
- Cafeterias
- Camera Shops
- Candy and Cake Shops (Retail as a Primary Use)
- Catering Establishments (not to exceed 15,000 sq. ft. unless as part of a Grocery)
- Churches/Rectories
- Cleaning, Dyeing, Pressing, Pick-up and Collection Agencies
- Clothing and Apparel Stores
- Clothing, Footwear and Textile Centers (No Manufacturing as Primary Use – Custom Manufacturing for retail is allowed)
- Computer Sales and Repairs
- Computer Training Facilities
- Convenience Stores
- Convenience Stores – With Gas Service

- Copy Services (i.e. Quick Copy)
- Cell Towers & Antennas Properly Screened or Disguised
- Corporate and Professional Office Facilities and Headquarters
- Curio and Gift Shops
- Dairy Products Store or Ice Cream Stores
- Day Care Centers for Children
- Delicatessens
- Drapery Shops
- Dress Shops
- Drug Stores/Pharmacies
- Dry Good Stores
- Electronic Product Sales
- Electronic Security Facilities
- Feed Stores (with screened outside storage)
- Financial Institutions (Retail in Character)
- Fitness and Health Centers
- Florist and Garden Shops
- Fraternal Organizations, Lodges and Civic Clubs
- Furniture and Upholstery Centers – Including Repairs
- Retail Furniture, Home Furnishings and Equipment Showrooms and Sales
- Furniture Stores
- General Merchandise Stores
- Governmental and Utility Agencies, Offices and Facilities – No outside storage unless screened
- Retail Greenhouse and Nursery Facilities – Sales Permitted
- Grocery Stores and Supermarkets
- Guard and Patrol Services
- Hardware and Building Materials Stores – No outside storage unless screened
- Health Product Sales
- Hospitals and Emergency Centers
- Household Appliance Services and Repairs
- Interior Decorating Stores
- Jewelry Stores
- Key Shops/Locksmiths
- Laundry and Dry Cleaning Establishments
- Retail Leather Goods Shops
- Meat Markets – No Slaughter Houses or Packing Plants
- Medical Equipment Showrooms
- Medical and Health Care Facilities/Clinics (Retirement, Diagnostic, Day Surgery, Cosmetics, MRI or Other)
- Medical Offices
- Messenger/Courier and Telegraph Services
- Municipal Buildings and Facilities
- Museums, Libraries, Art Schools and Art Galleries
- Musical Instrument Sales

- Newspaper and Magazine Sales
- Novelty/Notion Stores
- Offices – Professional, Administrative and General Offices – Including but not limited to, doctors, optometrists, psychiatrists, attorneys, architects, engineers, planners, travel agents, advertising, insurance and real estate offices
- Office Showroom Facilities – Sales Permitted
- Office Businesses (Sales and Installation)
- Office Equipment Repairs and Maintenance
- Office Supplies and Sales (not to exceed 50,000 sq. ft. in size)
- Optical Stores – Sales and Services
- Paint Stores
- Parks, Playgrounds, Recreational Facilities and Community Centers
- Pet Grooming and Supplies
- Pet Shops (not to exceed 40,000 sq. ft. in size)
- Retail Photographic Services
- Play Equipment – Sales and Display
- Post Office Facilities
- Printing and Duplicating Establishments
- Private Club Facilities – In accordance with other applicable City of Prosper, Texas Ordinances as they presently exist or may be amended
- Radio and Television Sales and Services
- Recreation Centers – Public and Private
- Restaurants
- Restaurants – With Drive-In/Drive-Thru Service
- Retail Sales
- Retail Shops and Stores
- Schools
- Scientific/Research Facilities – Emissions of hazardous or toxic chemicals shall be prohibited
- Securities and Commodities Offices – Including, but not limited to, brokers, dealers, underwriters, exchange offices and similar offices
- Service Stations Full Service (Including Bays)
- Service Stations – Self Service
- Sewing Machine Sales and Services
- Shoe and Boot Sales and Repair Stores
- Sign Sales, Sign installation to be in compliance with the City of Prosper, Texas Sign Ordinance as it presently exists or may be amended
- Small enclosed Machinery Sales and Services – Service and repair facilities to be under roof and enclosed on East Side of Property Only
- Specialty Shops and Boutiques
- Sporting Good Sales
- Studios – Art, Photography, Music, Dance, Gymnastics, Health, etc.
- Tailor Shops
- Theaters – Indoor
- Theatrical Performing Arts Centers

- Tire Dealers – No Outdoor Storage
- Toy Stores
- Trade and Commercial Schools (East Half of Property Only)
- Travel Bureaus
- Trophies and Awards Shops
- Utility Distribution Systems and Facilities
- Variety Stores
- Veterinarian Clinics and Kennels – (No outside Runs)
- Watch Making Shops
- Accessory buildings and uses customarily incidental to the permitted uses
- Temporary buildings and uses incidental to construction work on the premises to be removed upon completion or abandonment of construction work
- Uses similar to the above-mentioned permitted uses provided the Prosper City Council approves said uses prior to the issuance of a building permit.

1.02B Non Permitted Uses/ Noxious Uses: The following uses shall not be permitted within this Planned Development:

- *Manufacturing Fabrication with outside storage*
- *Uses that produce excessive Noise, Smell, Light and/or Vibration, whereby Contiguous Uses are rendered uninhabitable under normal/average market Conditions*
- *Businesses that emit Toxic Discharges by TNRCC Standards outside of the business*
- *High Tech Manufacturing*
- *Theaters with more than 14 screens*
- *Gasoline Sales Facilities as a primary use in excess of two locations*
- *Sexually Oriented Businesses*
- *Pawn Shops*
- *Thrift Store such as Goodwill, and/or Salvation Army and associated pick Up stations*
- *Tattoo Parlor*
- *Auto related businesses, including Gasoline Sales Facilities, in excess of four (4) locations*
- *Drive Thru Food Facilities (free standing) in excess of 10 locations. Anymore would Require Council Approval*
- *Vet Clinic with outside Dog Runs*
- *Bail Bonds*
- *Salvage Yards*
- *Used Auto Parts*
- *Mini Warehouses*
- *Auto Dealers (with New Car Sales as primary) in excess of two (2) locations unless City Hall is constructed on property, then limited to one (1)*
- *Bakery in excess of 10,000 sq. ft.*
- *Multi-family unless incorporated in an urban village (i.e. ground floor retail*

- with lofts on second or third floor and approved by Town Council
- Heavy Machinery Sales
- Trailer or Mobile Home Sales
- Animal Feedlot
- Auction House unless an accessory to Antique Mall or Art Gallery
- Agricultural Growing Facility with no retail operation (after first building permit is issued).
- Used Cars as a sole use
- Bingo Hall
- Gaming Arcade as a sole or primary use requires Council Approval
- Bait Ship
- Rodeo Grounds
- Dog Track
- Day Care Center with frontage to Preston Road
- Assistant or Retirement Community on Western Half of the Property
- Hotels in excess of two (2) locations
- No Self Service Car Washes as a Principal Use (ok with gas station after first building permit is issued)
- Check Cashing as a Primary Use
- Tire Retread or Recap
- Bottling Works
- Farm, Orchard or Truck Garden (not to preclude these uses as an interim Or Temporary use)
- Sale of distilled spirits unless approved by the Town Council.

1.02 **Density:** Allowed density shall be as follows.

The allowed floor area ratio for buildings shall be the greater of 4:1 or that which is allowed in the Corridor District Ordinance.

1.03 **Required Parking:** Parking shall be provided in accordance with Section 1.7.2 of Zoning Ordinance No. 99-24 for the City of Prosper, Texas ("Corridor District Ordinance"), as it presently exists. Parking shall be permitted within all required yard areas.

1.04 **Off-Street Parking and Loading Conditions:** Off-Street Parking and Loading Conditions shall be provided in accordance with Section 1.8 of Corridor District Ordinance, as it presently exists. Off-street parking and loading shall be permitted within all required yard areas. Any Shared Parking Agreements must be accompanied by written consent by all participating parties and approval by City Staff.

1.05 **Shared Parking:** All owners or parties involved must submit shared parking agreements, in writing to the City of Prosper. The agreement must be approved by the City of Prosper, Texas. If approved, the reduction shall be tied to the uses listed in the shared agreement. If any of the uses change, a reassessment of the shared parking agreement will be required. The City of Prosper, Texas shall not

permit new uses until another agreement is approved by the City of Prosper, Texas or the individual parking requirements are met.

- 1.06 **Building Design:** Building Design Conditions shall be provided in accordance with Section 1.9 of Corridor District Ordinance, as it presently exists. **Architectural compatibility and development shall be maintained.**
- 1.07 **Screening:** Screening shall be provided in accordance with Section 1.10 of Corridor District Ordinance, as it presently exists.
- 1.08 **Landscaping:** Landscaping shall be provided in accordance with Section 1.11 of Corridor District Ordinance, as it presently exists.
- 1.09 **Lighting:** Glare and Illumination protection shall be provided in accordance with Section 1.12 of Corridor District Ordinance, as it presently exists.
- 1.10 **Lot Area:** The minimum area of any lot shall be twelve thousand five hundred (12,500) square feet.
- 1.11 **Lot Width:** The minimum width of any lot shall be one hundred feet (100').
- 1.12 **Lot Depth:** The minimum depth of any lot shall be one hundred twenty-five feet (125').
- 1.13 **Lot Coverage:** In no case shall more than fifty percent (50%) of the total lot area be covered by the combined area of the main buildings. Parking structures and surface parking facilities shall be excluded computations.
- 1.14 **Front Yard:** There shall be a front yard having a depth of not less than thirty feet (30'). Front yard setbacks are required on both streets for corner lots
- 1.15 **Side Yard:** Side yard requirements for commercial areas shall be as follows
 - a. No side yard shall be required where commercial structures are attached.
 - b. A ten foot (10') side yard shall be required where commercial structures are located adjacent to one another and where vehicle access is not required.
 - c. A twenty-four foot (24') side yard shall be provided where fire lane access is required and provision for a vehicular access/fire lane easement is not available on the adjoining property.
 - d. A twenty-five foot (25') side yard is provided adjacent to single family zoned district.
 - e. A thirty foot (30') side yard shall be provided adjacent to a dedicated street.

- a. No rear yard shall be required where commercial structures are attached.
- b. A ten foot (10') rear yard shall be required where commercial structures are located adjacent to one another and where vehicle access is not required.
- c. A twenty-four foot (24') rear yard shall be provided where fire lane access is required and provision for a vehicular access/fire lane easement is not available on the adjoining property.
- d. A twenty-five foot (25') rear yard shall be provided adjacent to a single family zoned district.
- e. A thirty foot (30') rear yard shall be provided adjacent to a dedicated street.

2.0 PLANNED DEVELOPMENT – GENERAL CONDITIONS

2.01 **General Compliance:** Except as amended by these conditions, development of property within this Planned Development must comply with the requirements of all ordinances, rules and regulations of the City of Prosper, Texas as they presently exist.

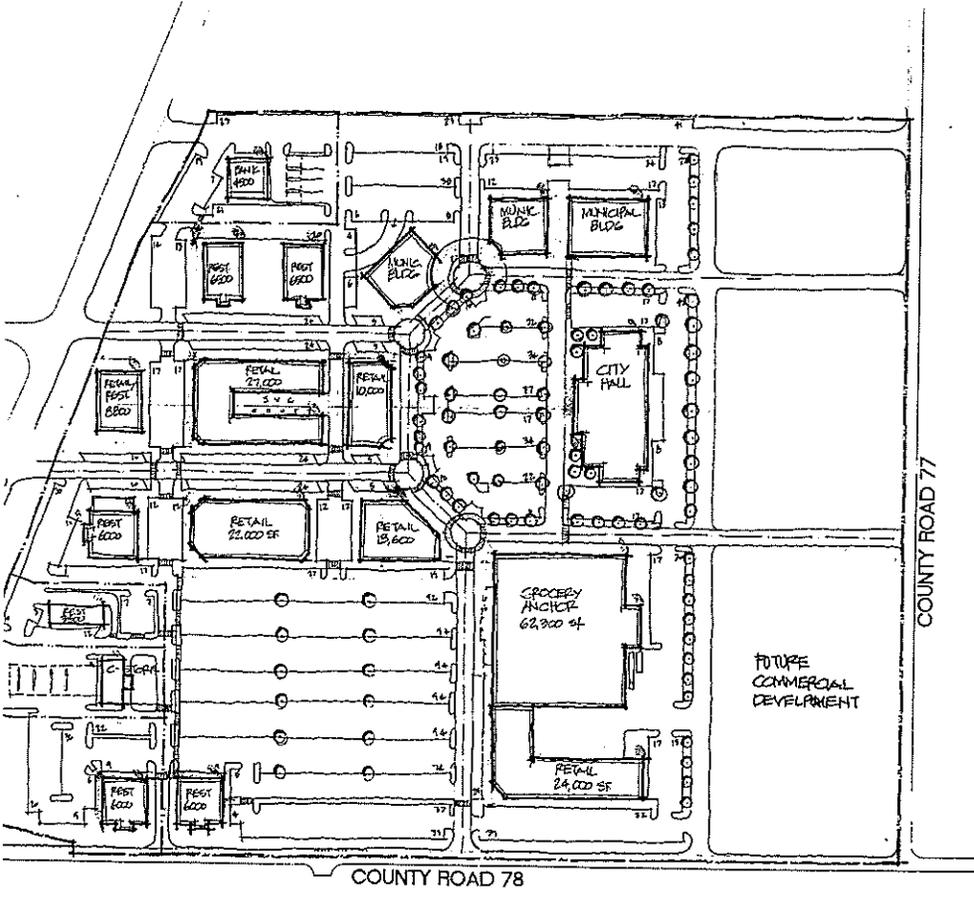
- a. All paved areas, permanent drives, streets and drainage structures must be constructed in accordance with the standard City of Prosper, Texas specifications as they presently exist or may be amended.
- b. The Building Inspector shall not issue a building permit or a certificate of occupancy for a use in a phase of this Planned Development District until there has been full compliance with these codes and all other rules and regulations of the City of Prosper, Texas as they presently exist or may be amended and area applicable to that phase.

2.02 **Maintenance of Facilities:** The Owner(s) shall establish, with each development plan submittal, a property owner's association, or other designation that will be responsible for the improvement and maintenance of common areas and/or common facilities designated on the development plan.

2.03 **Site Plan Approval:** Prior to issuance of a building permit on a lot, a Site Plan shall be submitted for the lot development in accordance with Section 19 of the City's Zoning Ordinance (84-16) as it currently exists. **Site Plan Approval will be Required for All Structures in this PD.**

2.04 **Exceptions Authorized:** The City Council shall have authority to authorize reasonable exceptions to strict conformity with these regulations upon request of a property owner, when it is shown the requested exceptions (1) are not contrary to the public interest or the spirit of the Planned Development, (2) do not cause injury to other properties in the area, and (3) allow for the development in a manner contemplated by the Planned Development.

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1000 100-000



TABLATIONS	BLDG AREA	PARK'G REQ'D
ANCHOR	62,300	312
RETAIL	94,600	483
RESTAURANTS	43,300	433
BANK	45,00	23
TOTAL	206,700	1251
PARKING PROVIDED		1320
SITE AREA		
PAD SITE		

