

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 84-16; REZONING A TRACT OF LAND CONSISTING OF 61.7 ACRES, MORE OR LESS, SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY NUMBER 12, ABSTRACT NO. 147, 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-SINGLE FAMILY-2 (PD-SF-2); 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 Skorburg Company ("Applicant") to rezone 61.7 acres of land, more or less, situated in the Collin County School Land Survey Number 12, 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. 84-16. Zoning Ordinance No. 84-16 is amended as follows: The zoning designation of the below-described property containing 61.7 acres, more or less, situated in the Collin County School Land Survey Number 12, 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-Single Family-2 (PD-SF-2). 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"; 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 (\$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. 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.

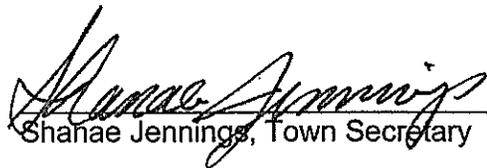
SECTION 8: Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 9TH DAY OF December, 2003.

APPROVED AS TO FORM:


Charles Niswanger, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:


Shanae Jennings, Town Secretary

DATE OF PUBLICATION: Dec. 13, 2003 & Dec. 15, 2003, Dallas Morning News – Collin County Addition

Exhibit A

Legal Description

All that certain tract or parcel of land lying and being situated in Collin County, Texas, a part of the Collin County School Land Survey Number 12, Abstract Number 147, and being out of and a part of that certain tract said to contain 64.62 acres, more or less, as described in a deed to Thomas D. Bull, and wife, Inez Bull, recorded in Volume 726, Page 106, of the Deed Records of Collin County, said tract or parcel of land is herein described as follows; to – wit:

BEGINNING at ½ inch iron rod set for the Northwest corner of said called 64.62 acre tract, said corner being on the East line of a record 81.25 acre tract described in a deed to Massad and Massad Investments, Ltd., recorded Volume 4255, Page 2342, of the Land Records of Collin County, said corner also being the Southwest corner of a record 101.953 acre tract described in a deed to Massad and Massad Investments, Ltd., recorded Volume 4579, Page 2768, of the Land Records of Collin County;

THENCE South 89 degrees 38 minutes 27 seconds East 2233.00 feet to a ½ inch iron rod set on the West line of the Burlington Northern and Santa Fe Railroad right-of-way for the Northeast corner hereof, said corner being the Southeast corner of the Massad and Massad record 101.953 acre tract;

THENCE along the West line of said Railroad right-of-way, South 12 degrees 19 minutes 25 seconds West 1311.37 feet to a 5/8 inch iron rod set for the Northeast corner of a tract said to contain 2.02 acres, more or less, as described in a deed from Thomas D. Bull and wife, Inez Bull, to County of Collin, Texas, and recorded in Volume 4454, Page 47, of the Land Records of Collin County, said corner being the Southeast corner hereof;

THENCE along a line parallel with, 45 feet normal distance from and Northerly of the South line of said called 64.62 acre tract (same being the approximate centerline of County Road No.4), North 89 degrees 36 minutes 11 seconds West 1959.19 feet to a ½ inch iron rod set on the West line of said called 64.62 acre tract for the Northwest corner of said record 2.02 acre tract and the Southwest corner hereof, a 3/8 inch iron rod found in said County Road No. 4 bears South 00 degrees 16 minutes 17 seconds West 45.00 feet;

THENCE North 00 degrees 16 minutes 17 seconds East a distance of 1281.60 feet to the Place of Beginning and containing 61.70 acres of land.

Exhibit B

Statement of Intent and Purpose

The purpose of this Planned Development District is to permit the development of a single-family residential neighborhood with development standards that are consistent and compatible with those of the Town of Prosper and nearby residential development.

Exhibit C

Planned Development Standards

Section 1 - General Purpose

- 1.1 This Planned Development District permits the development of a single-family residential neighborhood with development standards that are consistent and compatible with those of the Town of Prosper and nearby residential development. The development will include an approximately four and one half acre park that will be owned and maintained by the HOA and will include park area, an Amenity Center, and drainage channel with associated detention. The Concept Plan (Exhibit "D") establishes the general street layout, circulation pattern, lot layout and park area. The exact location and form of each of these elements will be modified upon Platting and final engineering of the site.
- 1.2 A maximum number of 168 single-family residential lots are permitted within the District.

Section 2 - Permitted Land Uses

- 2.1 Permitted land uses within the District shall be those permitted as uses within the Single-Family Residence District -2 (SF-2) of the Zoning Ordinance of the Town of Prosper, Texas (Ordinance 84-15) as it exists or may be amended.

Section 3 - Residential Area and Dimensional Requirements

- 3.1 Except as modified herein by this section, single-family residential lot area and dimensional requirements within this Planned Development District shall be in accordance with the requirements of the Single-Family Residence District -2 (SF-2) of the Zoning Ordinance of the Town of Prosper, Texas (Ordinance 84-15) as it exists or may be amended.
- 3.2 Two types of residential lots shall be permitted within the district:
 - Type 1 shall have a minimum lot area of 10,000 square feet; and
 - Type 2 shall have a minimum lot area of 9,000 square feet.
- 3.3 Lot Distribution by Type:
 - The number of residential lots with a minimum lot area of 10,000 square feet shall not be not less ninety percent (90%) of the total number of residential lots; and
 - The number of residential lots with a lot area between 9,000 square feet and 10,000 shall not exceed ten percent (10%) of the total number of residential lots.
- 3.4 Residential Area and Dimensional Requirements:

The Village at Prosper Trail Area and Dimensional Requirements	
Minimum Lot Area – Type 1 (sq. ft.)	10,000
Minimum Lot Area – Type 2 (sq. ft.)	9,000
Minimum Lot Width at Building Line (ft.)*	65
Minimum Lot Depth (ft.)	110
Minimum Front Yard (ft.)**	35
Minimum Side Yard – Interior (ft.)	7
Minimum Side Yard – Corner (ft.)	15
Minimum Side Yard – Key Lot (ft.)***	20
Rear Yard – Primary Structure (ft.)	20
Rear Yard – Accessory Structure (ft.)	5
Maximum Building Height (stories)	2 ½
Minimum Dwelling Area (sq. ft.)	1,800

*The minimum lot width on cul-de-sacs, eyebrows, and knuckles shall be fifty feet at the building line.

**Porches, porte-cocheres, and eaves may extend up to ten feet (10') into the required front yard.

***Fences adjacent to streets shall be located at or behind the building line along to the street.

Section 4 - Residential Development Standards

4.1 Except as modified herein by this section, single-family residential development standards within this Planned Development District shall be in accordance with the requirements of the Single-Family Residence District –2 (SF-2) of the Zoning Ordinance of the Town of Prosper, Texas (Ordinance 84-15) as it exists or may be amended.

4.2 Other Parking Requirements:

In addition to the required garage parking, parking shall be provided at the rate of a minimum of 2 vehicle spaces for each dwelling unit. The parking of recreational vehicles, sports vehicles, boats and/or trailers on a lot facing a street is prohibited. For purposes of this Ordinance, recreational vehicle means any mobile unit (motorized or under tow) designed, converted, or modified for use as a sleeping, cooking, gatherings, or any use other than human transport and material transport typically associated with a car, sport utility vehicle, or pick-up truck and sport utility vehicle means a vehicle designed for or modified for off-road or other recreational use, which is not a standard car, sport utility vehicle or pick-up.

4.3 Exterior Façade Building Materials:

4.3.1 Surface Area Façade. The surface area of the first floor exterior wall (exclusive of openings for windows and doors) and second story walls in the same vertical plane as the first floor wall shall be veneered with minimum coverage of a unit masonry material as follows:

4.3.1.1 Front Façade: 100%

- Excluded are wall areas that are architecturally enclosed, including, but not limited to roofed porches, roofed porte-cochere, and entries that are recessed within the exterior wall a minimum of 2.5 feet.

4.3.1.2 Side façade facing a street: 70%

- The masonry veneer from the front façade shall “wrap” the corner that connects the front and side façades a minimum of 6 feet, so long as a vertical masonry line that intersects with window openings is not created.

4.3.1.3 Side façade: 65%

- The masonry veneer from the front façade shall “wrap” the corner that connects the front and side façades a minimum of 6 feet, so long as a vertical masonry line that intersects with window openings is not created.

4.3.1.4 Rear façade: 65%

4.3.2 In general, where the second floor is offset from the first floor (the wall plane of the second floor is not in the same vertical wall plane (typically because it projects or is set in from that plane), no masonry veneer is required. In addition, walls or portions of walls that protrude in front of or are recessed behind the vertical wall plane of the first floor wall (including dormers) shall not be included in calculations of wall area to determine the required percentage of masonry.

4.3.3 Unit Masonry Veneer. Unit Masonry Veneer is any brick, natural stone, or concrete cast stone (or combination of these materials) laid up by unit and set in mortar. To facilitate enforcement of this standard, all plan submittals must indicate the wall areas of those walls subject to the above masonry requirements.

4.4 Mechanical Equipment:

All mechanical equipment (pool, air conditioning, satellite dish antennae, and solar collectors) must be completely screened from public view. A combination of screens, hedges, or walls should be used to screen equipment or mechanical areas.

Section 5 - District Development Standards

5.1 Maintenance of Facilities:

The Developer shall establish a Home Owner’s Association (“HOA”) that will be responsible for operation and maintenance of all common areas and/or common facilities contained within the area of the Planned Development District. The HOA will be created and each phase shall be included in the association. The Developer shall construct all specified facilities and transfer ownership to the HOA upon completion of each facility. The Town Council shall approve the HOA agreement and covenants regarding the maintenance of the facilities; all of which will be included in the deed restrictions filed on this property providing that the HOA cannot be dissolved or amend its maintenance obligations without Town Council approval.

5.2 Landscape Buffer Areas. The Developer shall provide landscape buffer areas as depicted on Exhibit “D”:

5.2.1 Landscape Buffer Area “A” shall be provided adjacent to County Road No. 4 (Prosper Trail) and shall be not less than 40 feet in width.

- A five (5) foot wall maintenance easement will be established by final plat of Phase I on the individual lots along the north boundary line of Buffer Area “A”. Within the five foot (5’) wall maintenance easement, the Developer will deed restrict the fencing to the following standards: The fencing shall be a combination of masonry columns at the rear lot corners, with board on board wood fencing between columns.

- There will be a combination of earthen berms containing turf grass, shrubs and trees planted at a rate of one canopy tree per 50 linear feet or the equivalent number of trees in cluster. Canopy trees shall be a minimum of three (3) caliper inches and accent or ornamentals shall be a minimum of 1 ½ total caliper inches, all as measured at, all as measured twelve (12) inches above the root ball. All turf and landscaping areas will be irrigated.

5.2.2 Landscape Buffer Area "B" shall be provided adjacent to the BNSF Rail corridor and shall be not less than 30 feet in width. The Developer will use a combination of earthen berms, canopy trees and evergreens to reduce the affects of the railroad. All turf and landscaping areas will be irrigated.

5.3 Trails. The Developer shall provide trails as depicted on Exhibit "D":

5.3.1 Trail "A" shall be provided within the landscape buffer area along the north side of County Road No. 4 (Prosper Trail) to facilitate pedestrian traffic along the road. Upon approval of the final plat for Phase I, the Developer will escrow to the Town a sum of money equal to the cost of a four (4) foot concrete sidewalk, four (4) inch depth for a future Town trail in Landscape Buffer Area "A". The HOA will be required to maintain Landscape Buffer Area "A" until the Town expands and improves County road 4.

5.3.2 Trail "B" (8 feet in width) shall be constructed by the Developer within the gas line easement generally running north and south through the District to facilitate pedestrian traffic within the neighborhood and to provide pedestrian linkages to adjacent residential development. Trail "B" will be dedicated at platting by the Developer and owned and maintained by the HOA as provided herein.

5.3.3 Trail "C" (8 feet in width) shall be constructed by the Developer within the open space corridor generally running east and west through the District to facilitate pedestrian traffic within the neighborhood and to provide pedestrian linkages to adjacent residential development. Trail "C" will be dedicated at platting by the Developer and owned and maintained by the HOA as provided herein.

5.4 Streets:

5.4.1 Right-of-way and all necessary easements shall be dedicated and provided on any and all adjacent street or road sections to conform to the approved Thoroughfare Plan of the Town as identified on Exhibit "D".

5.4.2 Curb and gutter may be a mountable or lay-down design if approved by the Town engineer.

5.4.3 Residential streets shall consist of a 50-foot right-of-way with a 31-foot (back-to-back) paving section. All streets shall be dedicated as public streets.

5.4.4 Drainage systems shall be incorporated into the street facility with concrete paving.

5.5 Sidewalks:

Except as amended in this Ordinance, a sidewalk 4 feet in width shall be located on each side of the street, 2 feet from each street right-of-way line. All single-family residential lots, including corner lots shall meet this sidewalk requirement. All public streets, sidewalks and crossings shall comply with the Americans With Disabilities Act. In locations where open space, common or HOA areas exist, sidewalks shall be extended to connect with adjacent walks or trails.

5.6 Mailboxes:

The Developer will deed restrict the property to require a standard mailbox design that will be required and maintained by the property owner or HOA for a consistent look throughout the development. Each mailbox will be iron; wrought iron or cast alloy posts or stand and all mailboxes will match in color and style. Brick mailboxes are not allowed.

5.7 Irrigation:

All Landscape Buffer Areas and trails depicted on Exhibit "D" will be grassed and irrigated.

5.8 Trees on Single Family Lots:

5.8.1 Corner Side Yard. A minimum of one (1) three (3) inch caliper canopy trees, measured at twelve (12) inches above the root ball shall be planted in each side yard between the building line and the street right of way line and shall be planted generally parallel to the street, preferably at the edge of the street right of way. Trees shall be approved by the Town.

5.8.2 Front and Rear Yard. A minimum of two (2) – three (3) inch canopy or six (6) one and one-half (1 ½) inch accent or ornamental trees shall be planted in each front yard and one (1) – three (3) inch canopy or three (3) one and one-half (1 ½) inch accent or ornamental tree in each rear yard in the single-family development. Trees shall be approved by the Town.

5.8.3 Substitution of Trees: For purposes of determining the number of trees to be planted, three (3) ornamental trees are equal to one (1) canopy tree.

Exhibit E

Development Schedule

It is anticipated that "*The Village at Prosper Trail*" will be developed in two phases

- Phase 1 will consist of approximately 111 residential lots south of the east-to-west open space corridor (drainage area) that runs through the property.
- Phase 2 will consist of those approximately 57 residential lots north of the open space corridor that runs east-to-west through the property.