PD-17

TOWN OF PROSPER, TEXAS ORDINANCE NO. 04-99

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 84-16; REZONING A TRACT OF LAND CONSISTING OF 17.46 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-1 (SF-1) IS HEREBY REZONED AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-RETAIL & OFFICE (PD-R&O); 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 Prosper State Bank and C. Winikates etal ("Applicant") to rezone 17.46 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. 84-16. Zoning Ordinance No. 84-16 is amended as follows: The zoning designation of the below-described property containing 17.46 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-Retail & Office (PD-R&O). 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 the planned development standards, attached hereto as Exhibit "B"; 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 28th DAY OF SEPTEMBER, 2004.

APPROVED AS TO FORM:

Charles Niswanger, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:

Shanae Jennings, Town Secretary

DATE OF PUBLICATION: 10/2/04 & 10/4/04, *Dallas Morning News – Collin County Addition*

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RETAIL DISTRICT

ZONING EXHIBIT FOR 16.27 ACRE TRACT

BEING a tract of land situated in the Collin County School Land Survey, Town of Prosper, Collin County, Texas, Abstract No. 147 and being part of a 12.234 acre tract described in Deed from Charles J. Winikates to TEXMO Corporation recorded in Volume 685, Page 99 of the Collin County Deed Records and part of a 2.749 acre tract described in a Deed from Prosper State Bank to TEXMO Corporation recorded in Volume 1300, Page 111 of the Collin County Land Records, and being the same property described as 16.168 acre tract in Volume 663, Page 551, Deed Records Collin County, Texas and all of a 3.9 acre tract described in Volume 684, Page 178, Deed Records Collin County, Texas and being more fully described as follows:

BEGINNING at a point in the centerline of Broadway Street (FM 1193) (a 100' ROW), and the centerline of State Highway No. 289 (a variable width ROW);

THENCE S 20ø 36' 08" W, 987.36 feet along the centerline of said State Highway No. 289 to a point for corner in the centerline of First Street (a variable width ROW);

THENCE S 89ø 10' 59" W, 579.68 feet along the centerline of First Street to a point for corner;

THENCE N 00ø 51' 00" W, 258.22 feet to a point for corner;

THENCE S 89ø 09" 00"W, 20.00 feet to a point for corner;

THENCE N 00ø 51' 00" W, 654.42 feet to a point in the centerline of said Broadway Street;

THENCE N 88ø 48' 00" E, 960.80 feet along the centerline of said Broadway Street to the PLACE OF BEGINNING and containing 16.27 acres of land.

DISCLAIMER

THIS IS FOR ZONING EXHIBIT ONLY. IT DOES NOT IN ANYWAY CONSTITUTE A SURVEY.

September 1, 2004

J. L. LANE
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 2509

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OFFICE DISTRICT

ZONING EXHIBIT FOR 1.19 ACRE TRACT

BEING a tract of land situated in the Collin County School Land Survey, Town of Prosper, Collin County, Texas, Abstract No. 147 and being part of a 12.234 acre tract described in Deed from Charles J. Winikates to TEXMO Corporation recorded in Volume 685, Page 99 of the Collin County Deed Records and part of a 2.749 acre tract described in a Deed from Prosper State Bank to TEXMO Corporation recorded in Volume 1300, Page 111 of the Collin County Land Records, and being the same property described as 16.168 acre tract in Volume 663, Page 351, Deed Records Collin County, Texas and all of a 3.9 acre tract described in Volume 684, Page 178, Deed Records Collin County, Texas and being more fully described as follows:

BEGINNING at a point in the centerline of Craig Road (a variable width ROW), and the centerline of First Street (a variable width ROW):

THENCE N 00ø 51' 00" W, 258.22 feet along the centerline of said Craig Road to a point for corner;

THENCE N 89ø 09' 00" E, 200.00 feet to a point for corner;

THENCE S 00ø 51' 00"" E, 258.22 feet to a point for corner in the centerline of First Street (a variable width ROW);

THENCE S 89ø 10' 59" W, 200.00 feet along the centerline of said First Street PLACE OF BEGINNING and containing 1.19 acres of land.

DISCLAIMER

THIS IS FOR ZONING EXHIBIT ONLY. IT DOES NOT IN ANYWAY CONSTITUTE A SURVEY.

September 1, 2004

J. L. LANE
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 2509

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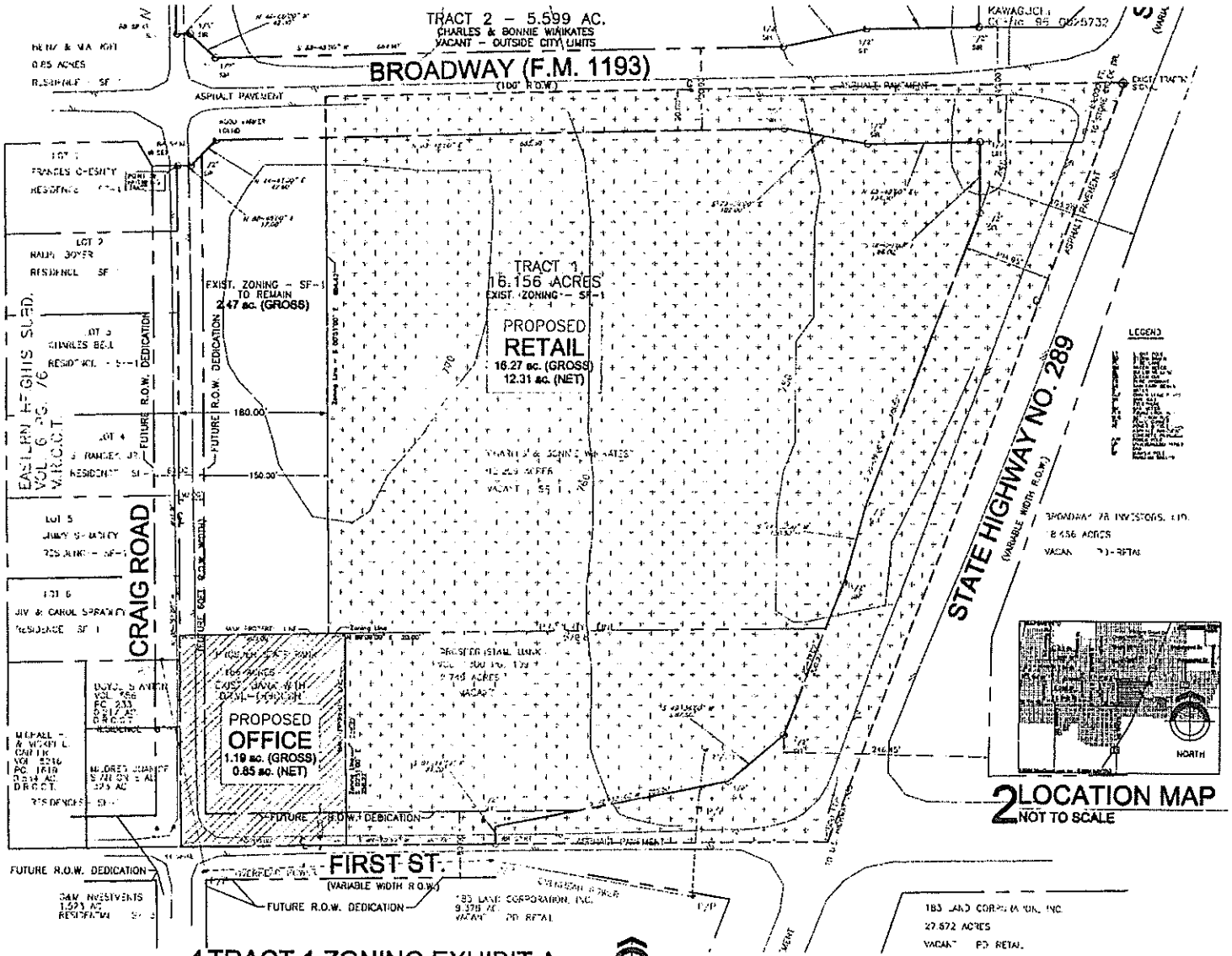

1 TRACT 1 ZONING EXHIBIT A
SCALE: 1" = 60'-0"

2 LOCATION MAP
NOT TO SCALE

ZONING CASE #Z04-12 JULY 2004

ZONING EXHIBIT FOR 1.19 ACRE TRACT

ZONING EXHIBIT FOR 16.27 ACRE TRACT

ZONING CASE #Z04-12 JULY 2004

OWNERS:
CHARLES AND BONNIE WINIKATES
5948 MELSHIRE DRIVE
DALLAS, TX 75230

PROSPER STATE BANK
P.O. BOX 10
PROSPER, TX 75078
972-335-1122

APPLICANT:
JEFF CARROLL
CALLAWAY CARROLL ARCHITECTS
17770 PRESTON ROAD
DALLAS, TX 75252
972-732-6085

SURVEYOR:
LANE'S SOUTHWEST SURVEYING, INC.
2717 MOTLEY DRIVE
SUITE B
MESQUITE, TX 75150
972-681-4442

6/28/04

REVISIONS:
8/10/04 Council Mtg.
Re-sub. for 9/14/04

CALLAWAY CARROLL ARCHITECTS
17770 Preston Road
Dallas, Texas 75252
972.732.6085
972.732.6085
Contact: Jeff Carroll

RE-ZONING OF TRACT 1
(PROPOSED PROSPER STATE BANK DEVT.)
COLLIN COUNTY SCHOOL LAND SURVEY
SWC S.H. 289 and BROADWAY STREET
PROSPER, TX

DRAWN BY: CHECKED JC
JOB NO. 3002.0

(ZONING) EXHIBIT A

SHEET
Z-SP-1

EXHIBIT "B"
PLANNED DEVELOPMENT STANDARDS

1.0 Tract 1: Retail

The tract may be developed under the regulations of the Retail (R) District as outlined in the Town of Prosper Zoning Ordinance 84-16 as it exists or may be amended, subject to the following amendments:

A. The maximum building height for structures in the Retail tract shall be thirty (30) feet. Architectural features may extend above the thirty (30) foot limit but shall not exceed forty (40) feet

B. The minimum side and rear yard setbacks for structures in the Retail tract adjacent to a residential zoning district shall be forty (40) feet.

C. A landscape buffer a minimum width of fifteen (15) feet shall be provided along the side and rear property lines adjacent to a residential zoning district. Large evergreen trees shall be planted within this landscape buffer every twenty (20) feet on center. These trees shall be a minimum three (3) inch caliper and a minimum eight (8) feet in height at the time of planting.

D. A six (6) foot masonry screening wall shall be provided by the developer of the Retail tract along the side and rear property lines adjacent to a residential zoning district. The screening wall shall be brick and/or stone to match the building.

E. The uses permitted in the Retail tract shall be those permitted in the Retail District as contained in Zoning Ordinance 84-16 as it exists or may be amended, subject to the following amendment:

   Convenience Stores with Gas Pumps shall be subject to the following development standards:

   1. Permitted only at either the corner of Preston Road and First Street or Preston Road and Broadway Street. The corner shall be determined when development plans are submitted for the property. Gas pumps shall not be located further than two hundred feet (200') from the right-of-way lines of the intersecting thoroughfares;
   2. The building and the canopy shall have pitched roofs;
   3. Canopy support columns shall be entirely masonry encased;
   4. The canopy band face shall be a single color consistent with the main structure or an accent color and may not be backlit;
   5. Use shall be removed if closed for more than six (6) months.

F. Structures on the Retail tract shall have a minimum of ninety (90) percent unit masonry on the façade. Unit masonry shall include brick, natural stone or manufactured stone. The structures shall maintain an equal architectural finish on the sides and rear as on the front.

G. No wall signs shall be permitted to face any residentially zoned property located directly adjacent to the Retail tract.

2.0 Tract 2: Office

The tract may be developed under the regulations of the Office (O) District as outlined in the Town of Prosper Zoning Ordinance 84-16 as it exists or may be amended.