

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 05-34

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 248.248 ACRES, MORE OR LESS, SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 147, AND IN THE SPENCER RICE SURVEY, ABSTRACT NO. 787, 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-SINGLE FAMILY-10/15 (PD-SF-10/15); 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 Shaddock Developers, Ltd. ("Applicant") to rezone 248.248 acres of land, more or less, situated in the Collin County School Land Survey, Abstract No. 147, and in the Spencer Rice Survey, Abstract No. 787, 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 248.248 acres of land, more or less, situated in the Collin County School Land Survey, Abstract No. 147, and in the Spencer Rice Survey, Abstract No. 787, 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-10/15 (PD-SF-10/15). 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.

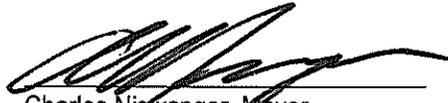
SECTION 6: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper 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.

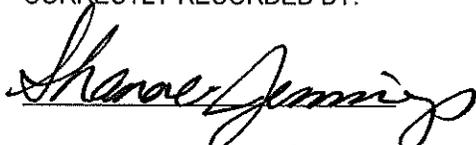
DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 14th DAY OF JUNE, 2005.

APPROVED AS TO FORM:



Charles Niewanger, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:



Shanae Jennings, Town Secretary

DATE OF PUBLICATION: 6/23/05 & 6/24/05 Dallas Morning News – Collin County Addition

**ZONING EXHIBIT "A": FOR Z# 05-3
LEGAL DESCRIPTION**

BEING a tract of land situated in the Collin County School Land Survey, Abstract No. 147 and the Spencer Rice Survey, Abstract No. 787, Collin County, Texas and also being all of that tract of land as described to Shaddock Developers, LTD. as recorded in Volume 5826, Page 00013 of the Deed Records of Collin County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod found for corner at the northeast corner of said Collin County School Land Survey, said iron rod being at the northeast corner of said 146.42 acre tract, said iron rod also being in State Highway No. 439;

THENCE South 00°46'18" East a distance of 36.39 feet to a point for corner;
THENCE South 00°47'38" East a distance of 250.43 feet to a point for corner;
THENCE South 00°40'50" East a distance of 438.07 feet to a point for corner;
THENCE South 00°29'42" East a distance of 591.78 feet to a point for corner;
THENCE South 00°42'17" East a distance of 705.39 feet to a point for corner;
THENCE South 00°44'21" East a distance of 686.18 feet to a point for corner;
THENCE DUE EAST a distance of 40.49 feet to a point for corner;
THENCE South 00°41'43" East a distance of 480.15 feet to a point for corner;
THENCE North 89°51'19" East a distance of 2507.42 feet to a point for corner;
THENCE North 88°22'49" East a distance of 60.00 feet to a point for corner;
THENCE South 01°37'11" East a distance of 64.33 feet to a point for corner;
THENCE South 00°50'02" West a distance of 288.30 feet to a point for corner;
THENCE North 89°09'58" West a distance of 60.00 feet to a point for corner;
THENCE South 89°51'19" West a distance of 2542.40 feet to a point for corner;
THENCE South 00°59'54" East a distance of 437.46 feet to a point for corner;
THENCE South 89°26'50" West a distance of 186.59 feet to a point for corner;
THENCE South 89°26'50" West a distance of 6.18 feet to a point for corner;

**ZONING EXHIBIT "A": FOR Z# 05-3
LEGAL DESCRIPTION**

THENCE South 89°04'18" West a distance of 215.60 feet to a point for corner;

THENCE South 89°34'05" West a distance of 325.90 feet to a point for corner;

THENCE South 88°55'27" West a distance of 432.32 feet to a point for corner;

THENCE South 88°52'26" West a distance of 409.81 feet to a point for corner;

THENCE South 89°35'50" West a distance of 608.01 feet to a point for corner;

THENCE South 88°51'29" West a distance of 463.74 feet to a 1/2 inch iron rod found for corner in State Highway 439;

THENCE North 01°11'17" West, following State Highway 439 a distance of 1316.36 feet to a point for corner;

THENCE North 88°56'36" East a distance of 9.60 feet to a 1/2 inch iron rod found for corner in State Highway 439;

THENCE North 01°00'41" West a distance of 149.30 feet to a 1 1/2 inch iron pipe found for corner in the east right-of-way line of Burlington Northern Railroad (100 foot wide right-of-way);

THENCE North 10°47'02" East, following the east right-of-way line of said Burlington Northern, a distance of 2548.77 feet to a 1/2 inch iron rod found for corner in County Road No.#5;

THENCE North 88°49'38" East, following County Road No. 5 and passing a curve in S.H. No. 439 and continuing along the centerline of S.H. No. 439, a distance of 2143.36 feet to the POINT OF BEGINNING and containing 248.248 acres of land, more or less.

**ZONING EXHIBIT "B": FOR Z# 05-3
STATEMENT OF INTENT AND PURPOSE**

The intent and purpose of this Planned Development is to create a high quality mixed-use single-family residential development that is compatible with the land and adjacent properties.

**ZONING EXHIBIT "C": FOR Z# 05-3
PLANNED DEVELOPMENT STANDARDS
FOR THE SHANAHAN TRACT**

This property shall be developed and comply with the standards as outlined in Zoning Ordinance 05-20 as it currently exists or may be amended, subject to the following conditions:

1. The maximum number of single-family residential units to be developed on this 248.248 acre tract shall not exceed 571 units, based on an average lot size of 12,500 square feet yielding 2.3 units/acre.
2. Not more than 59.5% of the tract area in each phase shall be Single Family-10 (SF-10) and not less than 40.5% of the tract area in each phase shall be Single Family-15 (SF-15) to ensure that the average lot size exceeds 12,500 square feet in each phase.
3. Single Family-10 (SF-10) lots shall be developed under the standard for SF-10 zoning as outlined in Zoning Ordinance 05-20 as it currently exists or may be amended, subject to the following conditions:
 - 3.1 Minimum Lot Depth
 - The minimum depth of any residential lot shall be 135 feet (One Hundred Thirty-Five Feet), except that a lot at the terminus of a cul-de-sac or along street elbows/eyebrows may have a minimum lot depth, measured at midpoint on front and rear lot lines, of 120 feet (One Hundred Twenty Feet); provided all other requirements of this section are fulfilled.
 - 3.2 Minimum Lot Area
 - The minimum area of any residential lot shall be equal to or greater than 10,800 square feet.
4. Single Family-15 (SF-15) lots shall be developed under the standards for SF-15 zoning as outlined in Zoning Ordinance 05-20 as it currently exists or may be amended.
5. An Amenity Center, to be owned and maintained by a Home Owners Association (HOA), shall be provided on a minimum 1-acre (One Acre) tract within the limits of this 248.248 acre tract, and shall include a pool and playground.

**ZONING EXHIBIT "D": FOR Z# 05-3
DEVELOPMENT SCHEDULE**

It is the intent of the developer to begin the approximate two hundred forty-eight (248) acre three-phase development within the next year, with subsequent phases scheduled every two (2) years following the first phase. Phasing lines and the number of lots have not been determined. The development schedule is approximate and is subject to change based on, but not limited to, such variables as final design and market conditions.