

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 05-79

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 43.42 ACRES, MORE OR LESS, SITUATED IN THE ED BRADLEY SURVEY, ABSTRACT NO. 86, 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-RETAIL & COMMERCIAL CORRIDOR (PD-R & CC); 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 Carol TSAI LP ("Applicant") to rezone 43.42 acres of land, more or less, situated in the Ed Bradley Survey, Abstract No. 86, 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 43.42 acres of land, more or less, situated in the Ed Bradley Survey, Abstract No. 86, 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 & Commercial Corridor (PD-R & CC). 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

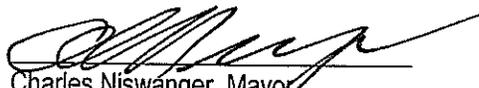
passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

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.

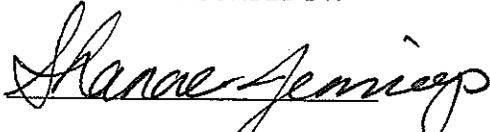
SECTION 8: Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

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 FOR Z05-
LEGAL DESCRIPTION
43.34 ACRES**

BEING a tract of land out of the ED BRADLEY SURVEY, Abstract No. 86, in the Town of Prosper, Collin County, Texas being all of the 41.16 acre tract of land described in deed to Carol Tsai, L.P. recorded in Volume 4976, Page 3953 of the Land Records of Collin County, Texas and being more particularly described as follows:

BEGINNING at a point in the south line of a tract of land described in deed to Jobe Properties, Ltd., recorded in Volume 4705, Page 3351 of the Land Records of Collin County, Texas and being the northeast corner of said 41.16 acre tract;

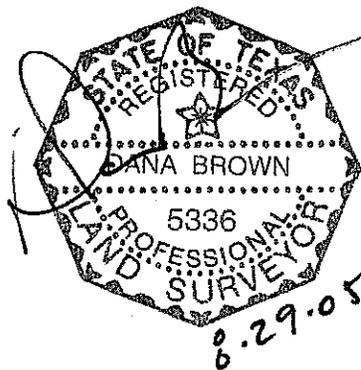
THENCE with the east line of said 41.16 acre tract, South 01°43'04" East, a distance of 1122.26 feet to a point in U.S. Highway 380 being in the City Limits line of the Town of Prosper and being 5.00 feet north of the centerline of said U.S. Highway 380;

THENCE with said City Limits line, South 88°39'42" West, a distance of 1687.56 feet to a point for corner;

THENCE leaving said City Limits line and along County Road 72 , North 01°16'52" West, a distance of 1120.88 feet to the northwest corner of said 41.16 acre tract;

THENCE with the south line of said Jobe Properties, Ltd. Tract, North 88°36'56" West, a distance of 1679.00 feet to the **POINT OF BEGINNING** and containing 43.42 acres of land.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.



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Exhibit B

STATEMENT OF INTENT AND PURPOSE

The purpose of this zoning is to create a planned development district, as indicated on the Zoning Exhibit and PD Exhibit "C", to allow for the opportunity to develop the subject property for mixed uses, as shown on the attached exhibits. This Planned Development District is intended to provide for development standards for an approximately 43.34 acre area of land to allow for commercial and residential development, integrated as one master planned community.

Tract 1: This tract shall be developed in accordance with the "CC- Commercial Corridor" District and/or "R-Retail" regulations of the Town of Prosper Zoning Ordinance 05-20, and as amended.

Tract 2: This tract shall be developed in accordance with the "CC- Commercial Corridor" District regulations of the Town of Prosper Zoning Ordinance 05-20, and as amended.

Tract 3: This tract shall be developed in accordance with the "CC- Commercial Corridor" District regulations of the Town of Prosper Zoning Ordinance 05-20, and as amended.

Exhibit "C"
General Planned Development Standards
For Approximately 43.34 Acres
In the Town of Prosper, Texas

I. Purpose and Intent

This Planned Development District is intended to provide for development standards for an approximately 43.34 acre area of land to allow for commercial development, integrated as one master planned community.

II. Special Provisions

This Planned Development District includes the development standards as stated below and the attached zoning exhibit. The subject property shall be generally developed per the attached zoning exhibit. The Director of Planning may approve minor adjustments. Any significant deviation from the attached zoning exhibit, beyond what the Director of Planning may approve, will require re-approval of a zoning exhibit by the Planning and Zoning Commission. Where the Planned Development District standards are silent, the Town of Prosper Zoning Ordinance 05-20 shall apply.

III. Development Standards

A. R – Retail and CC - Commercial Corridor – Tract 1

1. Tract 1 is approximately 14.06 gross acres (approximately 12.35 net acres), generally located on the subject property as shown on the attached concept plan. This tract shall be developed in accordance with the "CC- Commercial Corridor" District and/or "R – Retail" District regulations of the Town of Prosper Zoning Ordinance 05-20, and as amended.

B. CC - Commercial Corridor – Tract 2

1. Tract 2 is approximately 10.28 gross acres (approximately 8.05 net acres), generally located on the subject property as shown on the attached concept plan. This location presents the opportunity for the creation of a strong commercial and office development. This tract shall be developed in accordance with the "CC- Commercial Corridor" District regulations of the Town of Prosper Zoning Ordinance 05-20, and as amended.

C. CC - Commercial Corridor – Tract 3

1. Tract 3 is approximately 19 gross acres (approximately 16.2 net acres), generally located on the subject property as shown on the attached concept plan. This tract shall be developed in accordance with the “CC- Commercial Corridor” District regulations of the Town of Prosper Zoning Ordinance 05-20, and as amended.

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Exhibit D

DEVELOPMENT SCHEDULE

It is anticipated that the development of the subject tract will begin within 20 years after approval and signing of the zoning ordinance. During this time period, prior to the initial stages of more permanent development, it is foreseen that plans and studies will be prepared for development and marketing of the property.

Progress of more permanent development improvements will primarily depend on time frames established for construction of thoroughfares, utilities and market trends/demands for the area.

It is anticipated that the development of the subject tract, excluding total construction of all structures, will be completed within 25 to 30 years of zoning approval.