

**AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20 AND ORDINANCE NO. 00-09 (PLANNED DEVELOPMENT-2); REZONING A TRACT OF LAND CONSISTING OF 80.685 ACRES, MORE OR LESS, SITUATED IN THE H. JAMISON SURVEY, ABSTRACT NO. 480, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, HERETOFORE ZONED PLANNED DEVELOPMENT-2 (PD-2) IS HEREBY REZONED AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-2 (PD-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. 05-20 and Ordinance No. 00-09 (Planned Development-2) should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request from Hunter 380 Prosper, LP ("Applicant") to rezone 80.685 acres of land, more or less, situated in the H. Jamison Survey, Abstract No. 480, 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 Ordinance No. 00-09. Ordinance No. 00-09, is amended as follows: The zoning designation of the below-described property containing 80.685 acres of land, more or less, situated in the H. Jamison Survey, Abstract No. 480, 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-2 (PD-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 the planned development standards, attached hereto as Exhibit "C". Except as amended by this Ordinance, the development of the Property within this Planned Development District must comply with the requirements of Ordinance No. 00-09 and 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 Official 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.

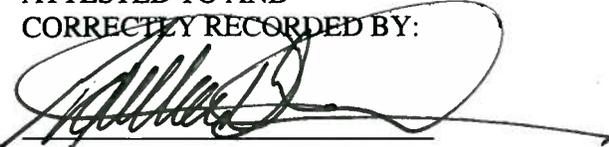
SECTION 8: Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 10<sup>TH</sup> DAY OF FEBRUARY, 2009.

APPROVED AS TO FORM:

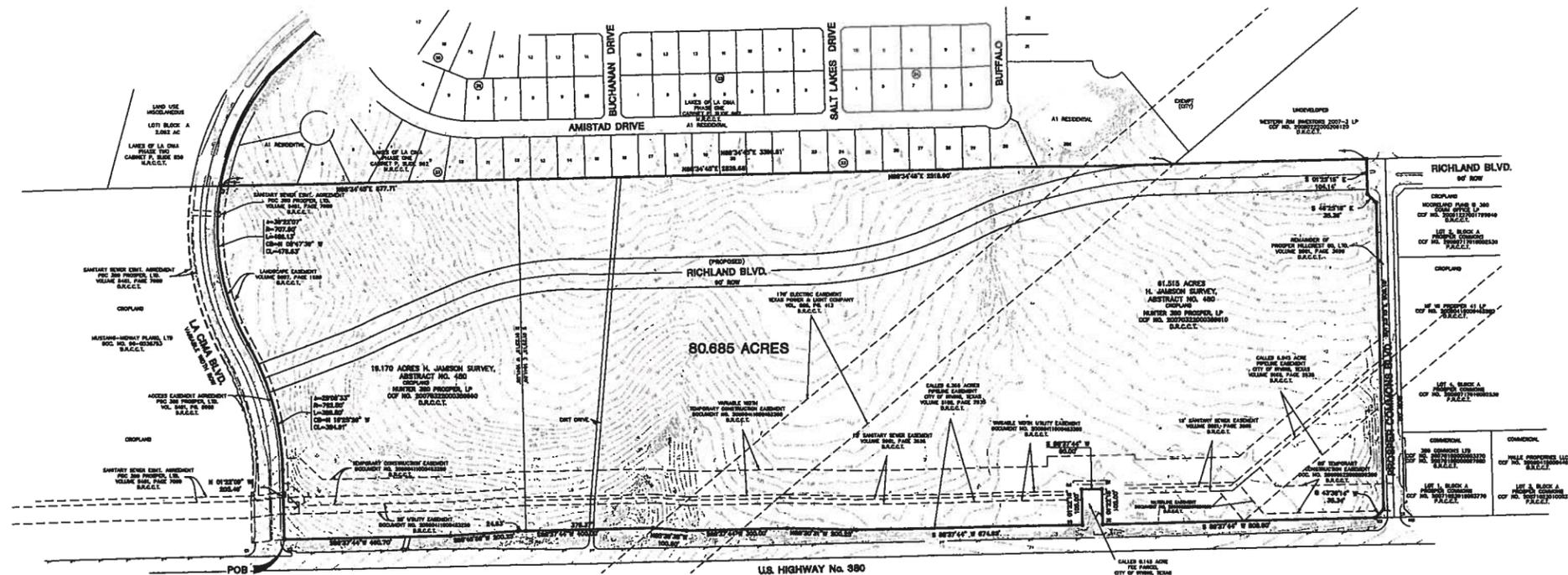
  
\_\_\_\_\_  
Charles Niswanger, Mayor

ATTESTED TO AND  
CORRECTLY RECORDED BY:

  
\_\_\_\_\_  
Matthew D. Denton, TRMC  
Town Secretary

DATE OF PUBLICATION: FEBRUARY 20, 2009, *Dallas Morning News - Collin County*  
*Addition*





VICINITY MAP  
(NOT TO SCALE)



**METES AND BOUNDS**

BEING a parcel or tract of land situated in the H. Jamison Survey, Abstract Number 480, in the Town of Prosper, Collin County, Texas, being all of those tracts of land described to Hunter 380 Prosper LP by deeds recorded in County Clerk's File No. 20070322000389660 and County Clerk's File No. 20070322000389640, Deed Records, Collin County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at the Southwesterly corner of said Hunter 380 Prosper LP tract recorded in County Clerk's File No. 20070322000389660, being at the intersection of Easterly line of La Cima Boulevard (variable width right-of-way) and the Northerly line of U.S. Highway No. 380 (variable width right-of-way)

THENCE North 01 deg. 22 min. 09 sec. West, departing the Northerly line of said U.S. Highway No. 380 and following the Easterly line of said La Cima Boulevard, a distance of 205.46 feet to a point for corner of the beginning of a tangent curve to the left whose chord bears North 15 deg. 25 min. 26 sec. West, 384.91 feet;

THENCE in a Northerly and Northwesterly direction along the Easterly line of said La Cima Boulevard and said curve to the left having a central angle of 28 deg. 06 min. 33 sec., a radius of 792.50 feet, and an arc length of 388.80 feet to a point for corner at the beginning of tangent curve to the right whose chord bears North 09 deg. 47 min. 39 sec. West, 476.63 feet;

THENCE in a Northwesterly and Northerly direction along the Easterly line of said La Cima Boulevard and said curve to the right having a central angle of 39 deg. 22 min. 07 sec., a radius of 707.50 feet, and an arc length of 486.13 feet to a point for corner, said point being the Southwesterly corner of Tract 1X, Block 23 of Lakes of La Cima Phase One, according to the plat thereof recorded in Cabinet P, Slide 982, Map Records, Collin County, Texas;

THENCE North 88 deg. 34 min. 45 sec. East, departing the Easterly line of said La Cima Boulevard, following the Southerly line of said Lakes of La Cima Phase One, passing the Southeastly corner of said Lakes of La Cima Phase One and the Southwesterly corner of a tract of land described to Western Rim Investors 2007-3 LP, by deed recorded in County Clerk's File No. 2008022000209120, Deed Records, Collin County, Texas, at a distance of 2826.68 feet, in all a total distance of 3396.60 feet to a point for corner in the Westerly line of Prosper Commons Boulevard (60 foot right-of-way);

THENCE departing the Southerly line of said Western Rim Investors 2007-3 LP tract, following the Westerly line of said Prosper Commons Boulevard the following courses and distances to wit:

South 01 deg. 25 min. 15 sec. East a distance of 104.14 feet to a point for corner;

South 46 deg. 25 min. 15 sec. East a distance of 35.36 feet to a point for corner;

South 01 deg. 25 min. 15 sec. East a distance of 909.16 feet to a point for corner;

South 43 deg. 36 min. 14 sec. West a distance of 35.34 feet to a point for corner in the Northerly line of said U.S. Highway No. 380;

THENCE South 88 deg. 37 min. 44 sec. West, a distance of 808.90 feet to a point for corner at the Southeastly corner of a tract of land described to the City of Irving by deed recorded in Volume 5168, Page 2935, Deed Records, Collin County, Texas;

THENCE North 01 deg. 22 min. 16 sec. West, departing the Northerly line of said U.S. Highway No. 380, following the Easterly line of said City of Irving tract, a distance of 105.00 feet to a point for corner;

THENCE South 88 deg. 37 min. 44 sec. West, following the Northerly line of said City of Irving tract, a distance of 60.00 feet to a point for corner;

THENCE South 01 deg. 22 min. 16 sec. East, following the Westerly line of said City of Irving tract, a distance of 105.00 feet to a point for corner in the Northerly line of said U.S. Highway No. 380;

THENCE following the Northerly line of said U.S. Highway No. 380 the following courses and distances to wit:

South 88 deg. 37 min. 44 sec. West a distance of 674.65 feet to a point for corner;

North 88 deg. 30 min. 31 sec. West a distance of 200.25 feet to a point for corner;

South 88 deg. 37 min. 44 sec. West a distance of 300.00 feet to a point for corner;

North 85 deg. 39 min. 38 sec. West a distance of 100.50 feet to a point for corner;

South 88 deg. 37 min. 44 sec. West a distance of 400.00 feet to a point for corner;

South 85 deg. 45 min. 59 sec. West a distance of 200.25 feet to a point for corner;

South 88 deg. 37 min. 44 sec. West a distance of 490.70 feet to the POINT OF BEGINNING and containing 80.685 acres of land, more or less.

**BASIS OF BEARING**

Bearing based on the Southerly line of Lakes of La Cima Phase One, according to the plat thereof recorded in Cabinet P, Slide 982, Map Records, Collin County, Texas.

**FLOOD NOTE:**

Inherent inaccuracies of FEMA or Flood Insurance Rate Maps preclude a surveyor from certifying to the accuracies of locations based on such maps.

All flood plain information on this survey is for graphical depiction only, as scaled off of firm panel map #48085c0260 g for Collin County, Texas.

Subject property appears to be situated within FEMA Zone (X) defined as areas determined to be outside 500-year floodplain.

**NOTE:**

The thoroughfare alignment shown on this exhibit for illustration and does not set the alignment. The alignment is determined at time of final plat.

**LEGEND:**

CCF No.	COUNTY CLERK FILE NUMBER
POB	POINT OF BEGINNING
ROW	RIGHT-OF-WAY
D.R.C.C.T	DEED RECORDS, COLLIN COUNTY, TEXAS
M.R.C.C.T	MAP RECORDS, COLLIN COUNTY, TEXAS



Date: 12/03/08

#208-19  
EXHIBIT A  
**HUNTER GATEWAY CENTRE**  
BEING 80.685 ACRES  
OUT OF  
H. JAMISON SURVEY, A-480  
IN THE TOWN OF PROSPER  
COLLIN COUNTY, TEXAS  
DECEMBER, 2008

OWNER / APPLICANT  
HUNTER 380 PROSPER LP  
3890 W. NORTHWEST HWY. SUITE 100  
DALLAS, TEXAS 75220  
PHONE: (214) 558-1200  
FAX: (214) 688-4466

SURVEYOR:  
COTTON SURVEYING  
COMPANY  
3030 LBJ FREEWAY, SUITE 910  
DALLAS, TEXAS 75234  
PHONE: (972) 488-0440  
FAX: (972) 488-3882

ENGINEER:  
J.C. JONES & CARTER, INC.  
ENGINEERS-PLANNERS-SURVEYORS  
3030 LBJ FREEWAY, SUITE 910  
DALLAS, TEXAS 75234  
PHONE: (972) 488-3880  
FAX: (972) 488-3882

## Exhibit C

### Hunter Gateway Centre Planned Development-2 Amendment

#### Planned Development Standards

Except as otherwise set forth in these development standards, the property, as described in Exhibit A, shall develop under Ordinance No. 00-09 as adopted by the Town of Prosper Town Council on May 9, 2000.

1.05 **Building Height:** The maximum permitted building height of all buildings located north of Richland Boulevard shall be two (2) stories, no greater than forty (40) feet. The maximum permitted building height of all buildings located south of Richland Boulevard shall remain the same as is currently allowed, which is outlined in Section 11, Height Regulations, of Ordinance No. 84-16.

1.10 **Screening:** An eight (8) foot screening wall shall be provided between areas developed for single family residential uses adjacent to non-residential uses. The non-residential user shall be responsible for the construction and maintenance of the eight (8) foot screening wall. This screening wall shall be constructed at the time a non-residential property is developed and shall only be required adjacent to the specific non-residential property that is being developed.

The above referenced eight (8) foot screening wall shall be constructed of stone, brick, stucco, or split faced concrete block (CMU).

In addition to the eight (8) foot screening wall, living screening shall be provided between areas developed for single family residential uses and adjacent non-residential uses. The non-residential user shall be responsible for the planting and maintenance of the living screening. The living screening shall be planted at the time a non-residential property is developed and shall only be required adjacent to the specific non-residential property that is being developed.

The above referenced living screening shall consist of large evergreen trees selected from the Town's Required Plant Materials list (Chapter 4, Section 2.7 of the Town's Zoning Ordinance No. 05-20) installed at a rate of one (1) tree for every thirty (30) feet of adjacency to the property line of single family residential uses. There shall be a fifteen (15) foot landscape buffer on the north side of the non-residential property where it abuts the property line of single family uses, and the trees shall be planted on thirty (30) foot centers within the fifteen (15) foot landscape buffer. These trees shall be a minimum three (3) inch caliper at the time of planting.

1.12 **Parking:** Parking shall be required per the Town's Zoning Ordinance No. 05-20, as it currently exists on the effective date of this amendment.