

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 06-116

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 255.86 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-15 (SF-15) IS HEREBY REZONED AND PLACED IN THE ZONING CLASSIFICATION OF SINGLE FAMILY-10 (SF-10), SINGLE FAMILY-12.5 (SF-12.5), COMMERCIAL CORRIDOR (CC), OFFICE (O), AND PLANNED DEVELOPMENT-MULTIFAMILY (PD-MF); 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 Prosper Joint Venture ("Applicant") to rezone 255.86 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. 05-20. Zoning Ordinance No. 05-20 is amended as follows: The zoning designation of the below-described property containing 255.86 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 Single Family-10 (SF-10), 77.93 acres, Single Family-12.5 (SF-

12.5), 75.59 acres, Commercial Corridor (CC), 50.34 acres, Office (O), 23.79 acres, and Planned Development Multifamily (PD-MF) 28.20 acres. 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 28.20 acres in the Planned Development-Multifamily District shall conform to, and comply with 1) the planned development standards, attached hereto as Exhibit "B". Except as amended by this Ordinance, the development of the 28.20 acres within the Planned Development-Multifamily 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 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 Ordinance 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.

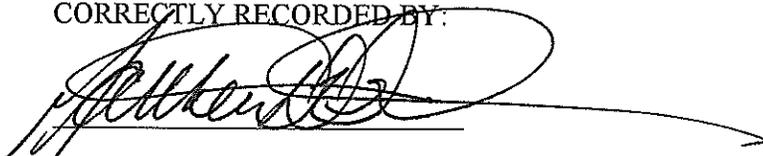
SECTION 8: Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 14th DAY OF NOVEMBER, 2006.

APPROVED AS TO FORM:


Charles Niswanger, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:


Matthew Denton, Town Secretary



DATE OF PUBLICATION: Nov. 20th, 2006, Dallas Morning News - Collin County
Addition



JAMES R. MORGAN et al
CC#98-000219
Vol. 4181 Pg. 2385
Vol. 4123 Pg. 1500
called 18.1500 acres

CARLOS H. MEDRIZ
Vol. 1187 Pg. 6143
called 18 acres

PROSPER JOINT VENTURE
CC#93-002174
called 85.810 acres

PROSPER JOINT VENTURE
CC#93-0021704
called 85.810 acres

S 88°50'47" E ~1611.63'

PROSPER TRAIL

POB-"SF10"

PROSPER JOINT VENTURE
CC#93-0021704
called 125.58 acres

"SF-10" TRACT
77.93 ACRES

LES LAND CORPORATION, INC.
CC#97-0005162
called 29.987 acres

"MF" TRACT
28.20 ACRES

LES LAND CORPORATION, INC.
CC#97-0005164
called 1811.2 acres

CHARLES E. COOKIN and
CARMEN D. COOKIN
Vol. 4780 Pg. 1257
called 87.999 acres

"B-"SF12.5"

N 88°44'53" W
587.49'
S 88°44'53" E
587.49'

A=08°09'22"
R=2480.00'
T=176.81'
L=353.03'

S 01°04'35" W
358.35'

A=32°21'26"
R=1500.00'
T=435.18'
L=847.11'

N 31°16'51" W
161.41'

A=06°08'05"
R=1400.00'
T=75.02'
L=149.90'

A=100°02'35"
R=450.00'
T=536.70'
L=785.74'

S 70°02'36" W
518.10'
N 70°02'36" E
518.10'

S 65°03'51" W
218.28'
N 88°34'25" W
215.37'

POB-"MF"

POB-"CC"

N 88°33'15" W ~819.60'

A=11°19'27"
R=1500.00'
T=148.72'
L=296.47'

S 31°16'51" E
161.41'

A=26°21'44"
R=450.00'
T=105.39'
L=207.05'

S 88°34'25" E
215.37'

"SF-12.5" TRACT
75.59 ACRES

"CC" TRACT
50.34 ACRES

A=54°56'42"
R=1400.00'
T=727.94'
L=1342.56'

A=48°36'00"
R=1400.00'
T=632.12'
L=1187.52'

PROSPER JOINT VENTURE
CC#93-0021704
called 120.43 acres

N 66°20'09" W
77.91'

S 66°20'09" E
77.91'

N 88°47'38" W ~990.15'

PROSPER COMMERCIAL JV
CC#93-0021705
called 10.03 acres

N 87°31'36" W ~1328.50'
S 87°31'36" E ~1328.50'

"O" TRACT
23.79 ACRES

S 01°49'21" W
765.95'

MARILYN RICHTER
CC#98-0011985
called 10.0111 acres

HARVEY DEY
GROUP, LP
Vol. 5290 Pg. 2551
called 10.029 acres

LINDA HOODON
Vol. 3275 Pg. 215
called 10.0394 acres

N 01°48'43" E ~1323.37'

COUNTY ROAD NO. 27
S 01°46'53" W ~1325.14'

LILIA KOVCE VERBAS, et al
Vol. 4635 Pg. 1690
called 40 acres

N 02°07'52" E ~791.97'

COUNTY ROAD NO. 3
N 88°38'51" W ~1332.73'

POB-"O"

N 88°29'06" W
329.99'

LILIA KOVCE VERBAS, et al
Vol. 4635 Pg. 1690
called 5.00 acres

PROSPER TOWNHOMES PARTNERSHIP
CC#93-0005141
called 50.00 acres

M.A.H.G. PARTNERSHIP
CC#92-0012827
called 92.30 acres

BEVERLY GAY DAVIDSON
Vol. 3660 Pg. 570
called 16.150 acres

ZONING EXHIBIT "A" PROSPER JOINT VENTURE AND PROSPER COMMERCIAL JV CC - MF - O - SF10 - SF12.5 TRACTS

Boundary Description Exhibit "A"
Prosper Joint Venture
"SF-10" Tract
77.93 Acres

A tract or parcel of land situated in the Collin County School Land Survey, Abstract 147, in Collin County, Texas, being part of the called 125.580 acre tract described in the deed to Prosper Joint Venture recorded in file number 93-0021704 in the CCDR and being more particularly described as follows:

BEGINNING at a found ½ inch iron rod at the northwest corner of said 125.58 acre tract said point also being the northeast corner of the called 87.99 acre tract described in the deed to Donald Godwin recorded in Volume 4790, Page 1632 in the CCDR; said point also being on the centerline of County Road 4;

THENCE South 88°50'47" East, 1611.63 feet along County Road 4, to a found ½ inch iron rod, said point also being the northeast corner of said 125.58 acre tract, said point also being the northwest corner of a called 29.98 acre tract described in deed to 183 Land Corp. Inc. as recorded in CCDR No. 97-0005168;

THENCE South 01°04'35" West, 1300.11 feet and along the east line of said 125.58 acre tract to a found ½ inch iron rod set for corner, said point also being the southwest corner of said 29.98 acre tract;

THENCE South 01°04'35" West, 358.35 feet to a point for corner, said point being the beginning of a tangent curve to the left having a central angle of 21°01'59", a radius of 1500.00', and an tangent of 278.46';

THENCE along said curve to the left a distance of 550.64 feet to a point for corner;

THENCE South 70°02'36" West, 518.10 feet to a point for corner, said point being the beginning of a tangent curve to the right having a central angle of 100°02'35", a radius of 450.00', and an tangent of 536.70';

THENCE along said curve to the right a distance of 785.74 feet to a point for corner, said point being the beginning of a tangent curve to the right having a central angle of 08°09'22", a radius of 2480.00', and an tangent of 176.81';

THENCE along said curve to the right a distance of 353.03 feet to a point for corner;

THENCE North 88°44'53" West, 587.49 feet to a point for corner, said point being on the west line of said 128.58 acre tract and said point also being on the east line of said 87.99 acre tract;

THENCE North 01°15'07" East, 1698.75 feet to the POINT OF BEGINNING and CONTAINING 77.93 acres of land, more or less.

Boundary Description Exhibit "A"
Prosper Joint Venture
"SF-12.5" Tract
75.59 Acres

A tract or parcel of land situated in the Collin County School Land Survey, Abstract 147, in Collin County, Texas, being part of the called 125.580 acre tract described in the deed to Prosper Joint Venture recorded in file number 93-0021704 in the CCDR and being part of the called 120.43 acre tract described in the deed to Prosper Joint Venture recorded in file number 93-0021704 in the CCDR and being more particularly described as follows:

COMMENCING at a found ½ inch iron rod at the northwest corner of said 125.58 acre tract said point also being the northeast corner of the called 87.99 acre tract described in the deed to Donald Godwin recorded in Volume 4790, Page 1632 in the CCDR; said point also being on the centerline of County Road 4;

THENCE South 01°15'07" West, 1698.75 feet along west property line of said 125.58 acre tract and east property line of said 87.99 acre tract to the POINT OF BEGINNING;

THENCE South 88°44'53" East, 587.49 feet to a point for corner, said point being the beginning of a non-tangent curve to the left having a central angle of 08°09'22", a radius of 2480.00', and an tangent of 176.81';

THENCE along said curve to the left a distance of 353.03 feet to a point for corner, said point being the beginning of a tangent curve to the left having a central angle of 100°02'35", a radius of 450.00', and an tangent of 536.70';

THENCE along said curve to the left a distance of 785.74 feet to a point for corner;

THENCE North 70°02'13" East, 518.10 feet to a point for corner, said point being the beginning of a non-tangent curve to the left having a central angle of 11°19'27", a radius of 1500.00', and an tangent of 148.72';

THENCE along said curve to the left a distance of 296.47 feet to a point for corner;

THENCE South 31°16'51" East, 161.41 feet to a point for corner, said point being the beginning of a tangent curve to the right having a central angle of 54°56'42", a radius of 1400.00', and an tangent of 727.94';

THENCE along said curve to the right a distance of 1342.56 feet to a point for corner;

THENCE South 66°20'09" East, 77.91 feet to a ½ iron rod found, said point being on the northwest corner of the called 10.04 acre tract described in the deed to Marilyn Richter recorded in file number 98-0011955 in the CCDR;

THENCE South 01°49'21" West, 547.84 feet to a point for corner, said point being on the west property line of said 10.04 acre tract and on the east line of the said 120.43 acre tract;

THENCE North 87°31'36" West, 1328.50 feet to a point for corner, said point being on the west property line of said 120.43 acre tract and on the east line of the said 87.99 acre tract;

THENCE North 02°07'52" East, 1851.59 feet along the west line of said 120.43 acre tract to a ½ inch iron found;

THENCE North 88°33'15" West, 819.60 feet along the south line of said 120.43 acre tract to a ½ inch iron rod found;

THENCE North 01°15'07" East, 876.82 feet to the POINT OF BEGINNING and CONTAINING 75.59 acres of land, more or less.

Boundary Description Exhibit "A"
Prosper Joint Venture
"O" Tract
23.79 Acres

A tract or parcel of land situated in the Collin County School Land Survey, Abstract 147, in Collin County, Texas, being part of the called 120.43 acre tract described in the deed to Prosper Joint Venture recorded in file number 93-0021704 in the CCDR and being more particularly described as follows:

BEGINNING at a found ½ inch iron rod at the southwest corner of said 120.43 acre tract said point also being the southeast corner of the called 87.99 acre tract described in the deed to Donald Godwin recorded in Volume 4790, Page 1632 in the CCDR; said point also being on the centerline of County Road 3;

THENCE North 02°07'52" East, 791.97 feet along west property line of said 120.43 acre tract and east property line of said 87.99 acre tract to a point for corner;

THENCE South 87°31'36" East, 1328.50 feet to a point for corner, said point being on the east line of said 120.43 acre tract, said point also being on the west property line of a called 10.04 acre tract described in deed to Marilyn Richter as recorded in file number 98-0011955;

THENCE South 01°49'21" West, 765.95 feet along east line of said 120.43 acre tract to a found ½ iron rod, said point also being the southeast corner of the said 120.43 acre tract and the southwest corner of the said 10.04 acre tract, said point also being in the centerline of County Road 3;

THENCE North 88°38'51" West, 1332.73 feet along the centerline of County Road 3 and the south property line of said 120.43 acre tract to the POINT OF BEGINNING and CONTAINING 23.79 acres of land, more or less.

Boundary Description Exhibit "A"
Prosper Joint Venture and Prosper Commercial JV
"CC" Tract
50.34 Acres

A tract or parcel of land situated in the Collin County School Land Survey, Abstract 147, in Collin County, Texas, being part of the called 120.425 acre tract described in the deed to Prosper Joint Venture recorded in file number 93-0021704 in the Collin County Deed Records (CCDR), and also including the called 10.05 acre tract described in the deed to Prosper Commercial JV in the file number 93-0021705 and being more particularly described as follows:

BEGINNING at a found 1/2 inch iron rod at the northeast corner of said 120.43 acre tract, said point also being on the centerline of County Road 27, said point also being the northwest corner of the called 40.0 acre tract described in the deed to Elmer L. Templin recorded in Volume 1227, Page 172 in the CCDR;

THENCE South $01^{\circ}46'53''$ West, 1319.66 feet along County Road 27, to a found 1/2 inch iron rod, said point also being the northeast corner of said Prosper Commercial JV tract and the northwest corner of a called 40.0 acre tract described in deed to Lelia Weems as recorded in Volume 4635, Page 1690 in the CCDR;

THENCE South $01^{\circ}46'53''$ West, 1325.14 feet and continuing along County Road 27 to a found 1/2" iron rod, said point also being on the intersection of County Road 27 and County Road 3;

THENCE North $88^{\circ}29'06''$ West, 329.99 feet along County Road 3 to a found 1/2" iron rod, said point also being the southwest corner of said Prosper Commercial tract;

THENCE North $01^{\circ}48'43''$ East, 1323.37 feet along the west line of said Prosper Commercial tract and along the east side of the called 10.04 acre tract described in the deed to Linda L. Hooton recorded in Volume 3275 Page 219 in the CCDR, to a found 1/2 iron rod;

THENCE North $88^{\circ}47'38''$ West, 1313.79 feet along the north side of said Hooton tract and a called 10.04 acres tract described in the deed to Nursery Development Group L.P. recorded in Volume 5290 Page 5251 in the CCDR, and the called 10.0411 acres tract described in the deed to Marilynn Richter recorded in file number 98-0011955 in the CCDR to a found 1/2 inch iron rod;

THENCE North $66^{\circ}20'09''$ West, 77.91 feet to a point for corner, said point being the beginning of a non-tangent curve to the left having a central angle of $48^{\circ}36'00''$, a radius of 1400.00' and a tangent of 632.12';

THENCE along said curve to the left a distance of 1187.52 feet to a point for corner;

THENCE North $65^{\circ}03'51''$ East, 218.28 feet to a point for corner, said point being the beginning of a tangent curve to the right having a central angle of $26^{\circ}21'44''$, a radius of 450.00' and a tangent of 105.39';

THENCE along said curve to the right a distance of 207.05 feet to a point for corner;

THENCE South 88°34'25" East, 215.37 feet to a found ½ iron rod, said point being in the centerline of County Road 27, said point also being the southwest corner of said Templin tract.

THENCE South 88°34'25" East, 830.43 feet along County Road 27 to the POINT OF BEGINNING and CONTAINING 50.34 acres of land, more or less.

Boundary Description Exhibit "A"
Prosper Joint Venture
"MF" Tract
28.20 Acres

A tract or parcel of land situated in the Collin County School Land Survey, Abstract 147, in Collin County, Texas, being part of the called 120.425 acre tract described in the deed to Prosper Joint Venture recorded in file number 93-0021704 in the Collin County Deed Records (CCDR), and also including the called 125.58 acre tract described in the deed to Prosper Joint Venture in the file number 93-0021704 and being more particularly described as follows:

COMMENCING at a found 1/2 inch iron rod at the northeast corner of said 120.43 acre tract, said point also being on the centerline of County Road 27, said point also being the northwest corner of the called 40.0 acre tract described in the deed to Elmer L. Templin recorded in Volume 1227, Page 172 in the CCDR;

THENCE North 88°34'25" West, 830.43 feet along County Road 27, to the POINT OF BEGINNING, said point also being the southwest corner of said Templin tract;

THENCE South 88°34'25" West, 215.37 feet to a point for corner, said point being the beginning of a tangent curve to the left having a central angle of 26°21'44", a radius of 450.00' and a tangent of 105.39';

THENCE along said curve to the left a distance of 215.37 feet to a point for corner;

THENCE South 65°03'51" West, 218.28 feet to a point for corner, said point being the beginning of a non-tangent curve to the left having a central angle of 06°08'05", a radius of 1400.00' and a tangent of 75.02';

THENCE along said curve to the left a distance of 149.90 feet to a point for corner;

THENCE North 31°16'51" West, 161.41 feet to a point for corner, said point being the beginning of a tangent curve to the right having a central angle of 32°21'26", a radius of 1500.00' and a tangent of 435.18';

THENCE along said curve to the right a distance of 847.11 feet to a point for;

THENCE North 01°04'35" East, 358.35 feet to a found 1/2 inch iron rod, said point also being the southwest corner of a called 81.11 acre tract described in the deed to 183 Land Corp. recorded in file number 97-0005168 in the CCDR,

THENCE South 88°53'29" East, 1003.53 feet along the south side of said 183 Land Corp. tract to a found 1/2 iron rod, said point also being on the centerline of County Road 27;

THENCE South 00°56'43" West, 1292.23 feet along County Road 27 to the POINT OF BEGINNING and CONTAINING 28.20 acres of land, more or less.

Exhibit B
Planned Development - Multifamily

- Location: 850 feet west of the Dallas Parkway, approximately 1,300 feet south of Prosper Trail (CR 4).
- Purpose: The intended purpose for the Planned Development-Multifamily District is to provide an eight foot (8') hike and bike trail along the frontage of the western parallel thoroughfare as shown on the Master Thoroughfare Plan.
- Acreage: 28.20 acres

This property shall be developed under the regulations of the Multifamily District as outlined in the Town of Prosper Comprehensive Zoning Ordinance 05-20 as is exists or may be amended, subjects to the following amendments:

1. Fifty percent (50%) of the Right-of-way dedication for the thoroughfare paralleling and on the west side the Dallas North Tollroad as shown on the Master Thoroughfare Plan shall be dedicated from the multifamily tract.
2. An eight foot (8') wide hike and bike trail shall be constructed along the frontage of the parallel thoroughfare for the length of frontage for the property.

AFFIDAVIT OF PUBLICATION

STATE OF TEXAS

COUNTY OF DALLAS

Before me, a Notary Public in and for Dallas County, this day personally appeared Lynda Black, Legal Advertising Representative for the DALLAS MORNING NEWS being duly sworn by oath, states the attached advertisement of:

Town of Prosper

as published in The Dallas Morning News – Collin County Edition

November 20, 2006

November 21, 2006

Legal Bids & Notices

Legal Notices

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Legal Notices

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Subscribed and sworn to before me this

Lynda Black
(Lynda Black)

November 21, 2006, A.D

Sherry J. Chasteen
(Sherry J. Chasteen)