

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 06-117

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 71.914 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 COMMERCIAL CORRIDOR (CC) 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 71.914 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 71.914 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 Commercial Corridor (CC), 43.97 acres and Planned Development Multifamily (PD-MF) 27.94 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 27.94 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 27.94 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 enforce

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.

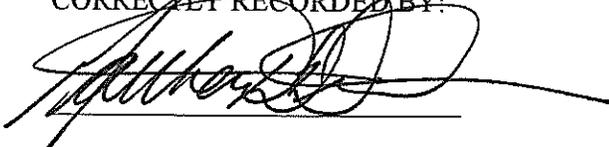
SECTION 8: Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

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:

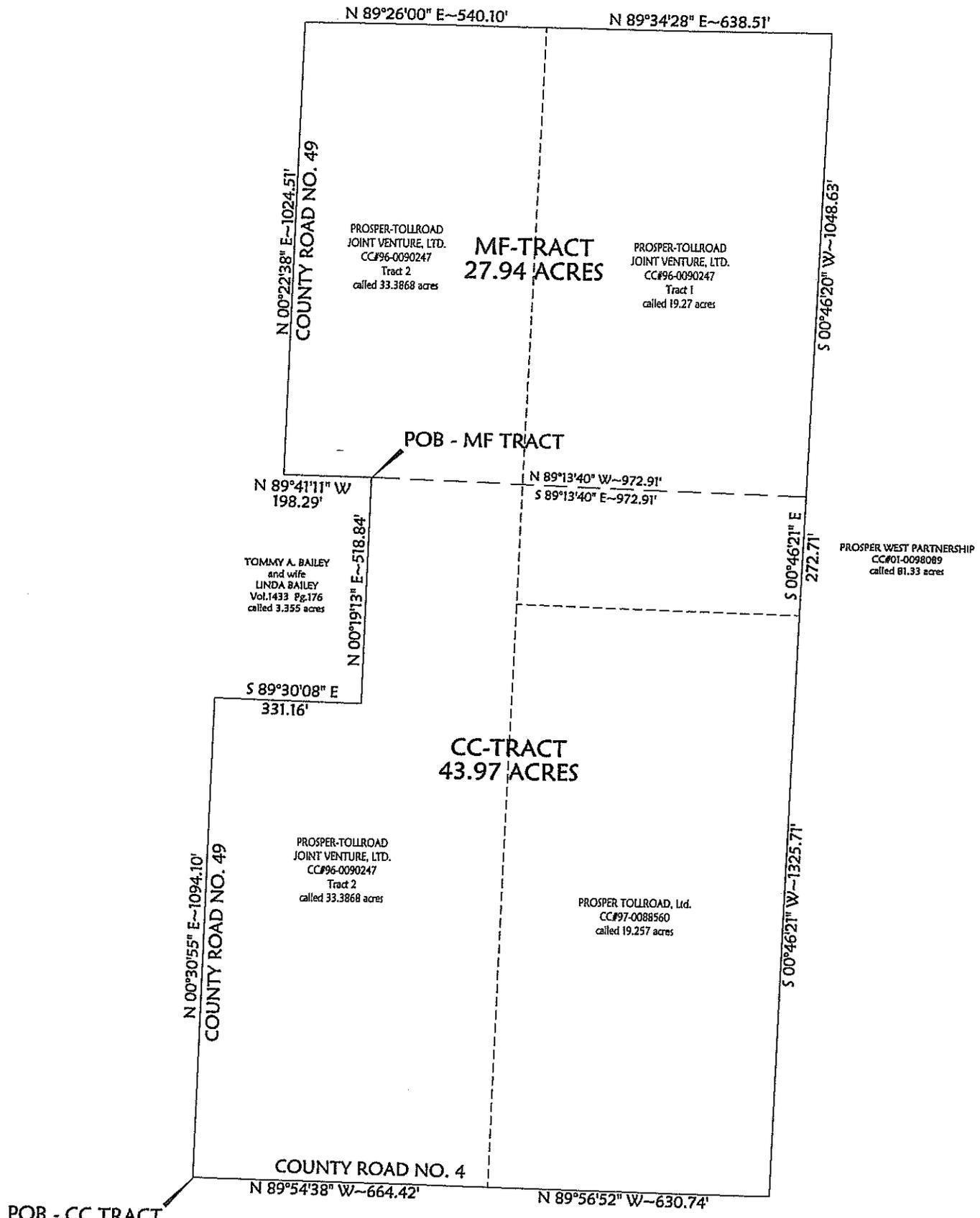


Matthew Denton, Town Secretary

DATE OF PUBLICATION: Nov. 20, 21, 2006, Dallas Morning News, Tarrant County
Addition



PROSPER 80, LTD.
CC#2002-0021571
called 79.52 acres



ZONING EXHIBIT "A"
PROSPER TOLLROAD JOINT VENTURE LTD.
AND PROSPER TOLLROAD LTD.
CC TRACT AND MF TRACT

DONALD E. GODWIN and
 CARMEN Q. GODWIN
 Vol.4745 Pg.1799
 called 127.829 acres

Boundary Description Exhibit "A"
Prosper Tollroad JV. Ltd. and Prosper Tollroad Ltd.
"CC" Tract
43.97 Acres

A tract or parcel of land situated in the Collin County School Land Survey, Abstract No. 147, in Collin County, Texas, being a combination of three tracts (A) the called 19.27 acres tract described in the deed to Prosper Tollroad Joint Venture, Ltd. In file number 96-0090247 in the CCDR and (B) the called 33.3868 acre tract described in the deed to Prosper-Tollroad Joint Venture, Ltd. recorded in file number 96-0090247 in the Collin County Deed Records, and (C) the called 19.257 acres tract described in the deed to Prosper Tollroad, Ltd. recorded in file number 97-0088560 in the CCDR, and being more particularly described as follows:

BEGINNING at a found ½ inch iron rod in the intersection of the centerline of County Road 4 and the centerline of County Road 49 at the southwest corner of said (B) tract;

THENCE North 00°30'55" East, 1094.10 feet along the centerline of County Road 49 to a found ½ inch iron rod, said point also being the southwest corner of a called 3.4 acre tract described in the deed to Tommy A. Bailey as recorded in Volume 1433, Page 176 in the CCDR;

THENCE South 89°30'08" East, 331.16 feet departing the centerline of County Road 49 and along south property line of said Bailey tract to a found iron rod, said point being the southeast corner of said bailey tract;

THENCE North 00°19'13" East, 518.84 feet along the east property line of said Bailey tract to a found ½ inch iron rod, said point also being the northeast corner of said Bailey tract;

THENCE South 89°13'40" East, 972.91 feet to a point for corner, said point also being on the east line of said (A) tract and the west property line of a called 81.3 acre tract described in deed to Prosper West Partnership as recorded in CCDR No. 01-0098089;

THENCE South 00°46'20" West, 272.95 feet to a found ½ inch iron rod, said point also being the southeast corner of the said (A) tract and the northeast corner of said (C) tract;

THENCE South 00°46'21" West, 1325.71 feet to a found ½ iron rod in the centerline of County Road 4, said point also being the southeast corner of said (C) tract;

THENCE North 89°56'52" West, 630.74 feet along the centerline of County Road 4 to a found ½ inch iron rod, said point also being the southwest corner of said (C) tract and the southeast corner of said (B) tract;

THENCE North 89°54'38" West, 664.42 feet continuing along the centerline of County Road 4 to the POINT OF BEGINNING and CONTAINING 43.97 acres of land, more or less.

Boundary Description Exhibit "A"
Prosper Tollroad JV. Ltd.
"MF" Tract
27.94 Acres

A tract or parcel of land situated in the Collin County School Land Survey, Abstract No. 147, in Collin County, Texas, being a combination of two tracts (A) the called 19.27 acres tract described in the deed to Prosper Tollroad Joint Venture, Ltd. In file number 96-0090247 in the CCDR and (B) the called 33.3868 acre tract described in the deed to Prosper-Tollroad Joint Venture, Ltd. recorded in file number 96-0090247 in the Collin County Deed Records and being more particularly described as follows:

COMMENCING at a found ½ inch iron rod in the intersection of the centerline of County Road 4 and the centerline of County Road 49 at the southwest corner of said (B) tract;

THENCE North 00°30'55" East, 1094.10 feet along the centerline of County Road 49 to a found ½ inch iron rod, -said point also being the southwest corner of a called 3.4 acre tract described in the deed to Tommy A. Bailey as recorded in Volume 1433, Page 176 in the CCDR;

THENCE South 89°30'08" East, 331.16 feet departing the centerline of County Road 49 and along south property line of said Bailey tract to a found ½ inch iron rod, said point being the southeast corner of said bailey tract;

THENCE North 00°19'13" East, 518.84 feet along the east property line of said Bailey tract to the POINT OF BEGINNING, said point also being the northeast corner of said Bailey tract;

THENCE North 89°41'11" West, 198.29 feet to a found ½ iron rod in centerline of County Road 49, said point also being on the northwest corner of said Bailey tract;

THENCE North 00°22'38" East, 1024.51 feet along the centerline of County Road 49 to a found ½ inch iron rod, said point also being the northwest corner of the said (B) tract and said point also being on the south line of a called 79.5 acre tract described in the deed to Prosper 80, Ltd. as recorded in CCDR No. 2002-0021571;

THENCE North 89°26'00" East, 540.10 feet to a found ½ iron rod, said point also being the northeast corner of said (B) tract and the northwest corner of said (A) tract;

THENCE North 89°34'28" East, 638.51 feet to a found ½ iron rod, said point also being the northeast corner of said (A) tract and the northwest corner of a called 81.3 acre tract described in deed to Prosper West Partnership as recorded in CCDR No. 01-0098089;

THENCE South 00°46'20" West, 1048.63 feet along west line of said 81.3 acre tract and the east line of said (A) tract to a point for corner;

THENCE North 89°13'40" West, 972.91 feet to the POINT OF BEGINNING and CONTAINING 27.94 acres of land, more or less.

Exhibit B
Planned Development - Multifamily

Location: East side of the Dallas North Tollroad, approximately 1,325 feet north of Prosper Trail (CR 4)

Purpose: The intended purpose for the Planned Development District is to provide additional screening and separation between the future Multifamily dwelling and the single family dwelling proposed on the adjacent property to the east.

Acreage: 27.94 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. One hundred percent (100%) of the right-of-way dedication for the thoroughfare paralleling the Dallas North Tollroad as shown on the Master Thoroughfare Plan shall be dedicated from the multifamily tract.
 - A. Should the right-of-way be sixty feet (60'), a fifty foot (50') set back on the road frontage will be required between the parking and the street right-of-way.
 - B. Should the right-of-way be one hundred feet (100') a standard set back will be required.
2. A six (6') to eight foot (8') berm shall be provided along the eastern road frontage to provide for parking lot screening.
3. A double row of trees shall be incorporated on the berm for screening purposes. One row shall be of evergreen trees like in nature to Lyland Cypress and the second row shall be of large deciduous trees like in nature to Oaks. Planting size for evergreen trees shall be seven feet (7') in height upon planting and deciduous trees shall be a minimum of 5" in diameter upon planting.
4. A third row of trees to be approved in species and type by the Town of Prosper shall be planted on the east side of the dedicated right-of-way near the rear lot line of the single family homes. The spacing should be approximately 35 feet on center for the length of the frontage of the multi family tract (1,320 feet).
5. 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

Legal Notices

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November 20, 2006
November 21, 2006

Lynda Black
(Lynda Black)

ne this

November 21, 2006, A.D

CHASTEEN
Notary Public, State of Texas
My Commission Expires
June 10, 2009

Sherry J. Chasteen
(Sherry J. Chasteen)